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PROCEEDINGS AND DEBATES OF THE 102th CONGRESS, SECOND SESSION

HOUSE OF REPRESENTATIVES—*Thursday, September 17, 1992*

The House met at 8:30 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O gracious God, as You have called us to be good stewards of our lives and devoted to the welfare of the people, may we be faithful to that calling and steadfast in our responsibilities.

On this day we remember the diligent work and service of our colleague and friend, WALTER JONES. We recall with appreciation his long devotion to the people that he represented and to this institution, and for his friendship and his good will toward those about him.

May Your blessing, O God, be with him and his family and may Your benediction be ever with us. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from South Carolina [Mr. DERRICK] please come forward and lead the House in the Pledge of Allegiance?

Mr. DERRICK led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. After consultation with the minority, the Chair announces it will receive no 1-minute requests.

WAIVING ALL POINTS OF ORDER AGAINST S. 12, CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 571 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 571

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (S. 12) to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read when called up for consideration.

The SPEAKER. The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 571 waives all points of order against the conference report on S. 12, the Cable Television Consumer Protection and Competition Act of 1992 and against its consideration. The resolution also provides that the conference report will be considered as read.

Mr. Speaker, the Cable Television Consumer Protection and Competition Act of 1992 protects consumers by preventing unreasonable rates, by improving the cable industry's customer-service practices, and by sparking the development of a competitive marketplace.

Briefly, the conference agreement requires cable operators in areas where there is no effective competition to provide a basic level of service at rates determined by the Federal Communications Commission to be reasonable. The FCC would also have the authority to prosecute cable providers that charge unreasonable rates.

The legislation promotes competition by prohibiting a local franchising authority from refusing to grant additional cable franchises in the local community. In addition, it prohibits cable programmers who are affiliated with cable operators from granting exclusive contracts to cable operators if the FCC determines such contracts not be in the public interest.

The legislation also requires the FCC to set certain minimum customer-service standards. Local authorities, however, would be allowed to require stricter customer-service standards if they were part of a franchise agreement.

Overall, the conference agreement on S. 12 is fair and balanced legislation that will provide increased consumer protection and promote increased competition in cable television and related markets.

Mr. Speaker, House Resolution 571 will allow the House to consider this conference agreement. I urge my colleagues to support the rule and the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from South Carolina for yielding me half of his time.

Mr. Speaker, I see five Members on the floor here. We are about to sock it to the users of cable television across this country, and I would advise Members if they are anywhere around their offices to turn on their TV sets and find out what is in this conference report. Nobody knows what is in this legislation except perhaps the five Members here on the floor.

Mr. Speaker, I rise today in strong opposition to this rule, the rule for the highly controversial Cable Television Consumer Protection and Competition Act. This rule waives all points of order against the conference report and against its consideration.

Mr. Speaker, I am well aware of the strict time constraints that we are all under as the target adjournment date for the 102d Congress draws near. I think if we get out of here by October 2, there are only 8 legislative days left.

I realize that in certain circumstances it may be necessary to waive some points of order against con-

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• This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

ference reports in order to expedite matters, and I am willing to go along with that. But I have to warn my colleagues wherever they are right now at 8:30 in the morning that this conference report on the cable bill is loaded with scope violations and germaneness problems. To bend the House rules, and to rush this terribly important legislation through, is going to have dire consequences.

At the meeting of the Committee on Rules last Tuesday we had a very distinguished and very engaging panel testify on the pros and cons about this conference report. I must admit I was very impressed with what the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], and the chairman of the Subcommittee on Telecommunications and Finance, the gentleman from Massachusetts [Mr. MARKEY], had to say in support of the rule and the conference report. They have both done an incredible amount of work on this legislation and they deserve a lot of credit. As matter of fact, they did such a good job that I voted for this bill when it was passed by the House a few weeks ago.

I was also impressed by the arguments against the conference report as conveyed by the ranking member of the Committee on Energy and Commerce, my good friend, the gentleman from New York [Mr. LENT], who is retiring, and the second ranking member of the committee, the gentleman from California [Mr. MOORHEAD]. But I was especially moved by the testimony of the chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS], and the chairman of the Subcommittee on Intellectual Property and Judicial Administration, the gentleman from New Jersey [Mr. HUGHES], who I see has come to the floor.

The Committee on the Judiciary was unjustly bypassed on the highly controversial issue of retransmission consent. To add insult to injury, under this rule no debate time has been set aside for the Committee on the Judiciary, no debate time on this very, very important issue. Their testimony reaffirms my opposition to what I believe is a concerted effort by a select few around here to skirt and evade the rules of this House.

Last July, the House passed a good cable bill, and, as I just said a minute ago, I supported that cable bill, which did not contain this contentious retransmission consent provision. I supported the bill because it would reregulate the cable industry and control rates. That bill was passed with over 300 votes for it and only a handful against.

The gentleman from Michigan [Mr. DINGELL] was concerned about infringing on the Judiciary Committee's jurisdiction, and he personally went to great lengths to leave the retransmission consent provision out of his bill when it was passed by the House in July.

□ 0840

The Senate version, however, did include this retransmission consent provision. And now we learn that the conference report also includes this extremely controversial language.

Mr. Speaker, this is a dangerous precedent and one that I absolutely must oppose in trying to defend the committee structure that we have operated under for 200 years. The House needs to study the implications of this retransmission consent provision which, by the broadcasters' own admission, listen to this, will bring them revenues of over $1 to $3 billion. And I can tell my colleagues, if the broadcasters admit that this provision is going to bring in revenues of up to $3 billion, we can bet it is going to be double that.

I ask my colleagues, who is going to pay for that cost? Who is going to pay for that, whether it is $1 billion or $3 billion or $6 billion? I am betting my colleagues right now it will be $6 billion. Who is going to pay for it? Is the cable industry going to pay for it? No. They are not going to pay for it. The costs will be passed on to the American family that uses cable service. And I hope my colleagues are as aggravated about what has been happening as I am.

I have in my district an expanse of 10,000 square miles with 187 little villages and towns. Many of them are nestled back in the mountains. Many of them cannot get broadcasts from stations other than on cable.

I believe we need to have some regulation over the cable industry because the cable companies are a licensed monopoly. So they have to be regulated, and that is what we did in July. We passed a bill to reregulate them.

But by the same token, the broadcasters are a licensed monopoly as well who are already paid by their advertising clients, whether it is Anheuser-Busch or Ivory Soap or whomever. They have tremendous revenues coming in, revenues that pay the huge salaries of Dan Rather and Tom Brokaw in millions of dollars. They already have their revenue coming in from the monopolistic franchise issued to them by the FCC, which gives them the license to send out that signal, a legal monopoly.

I cannot go into competition and put up a television station right next to theirs, because they have the franchise. They have the monopoly. To allow them to charge a mandatory fee to the cable companies who will then pass it on to the consumers, my colleagues, is dead wrong. But we are not even going to have a chance to debate and vote on this particular issue.

This is a frightening prospect to every Member of this body, to all five of us on the floor right now. It is dangerous to set a precedent which would allow this House to pass this kind of important legislation without the remotest semblance of proper legislative procedure.

I just do not know what is going on around here.

The gentleman from Texas, Chairman BROOKS, is a member of the Democrat Party, and a very respected member. He is a former marine. That is why I like him.

But the gentleman from Texas, Chairman BROOKS, came to the Committee on Rules, requesting that at least 1 hour of debate be given to his committee, the Committee on the Judiciary, so that it could alert Members about the problems retransmission consent will cause. Why would the gentleman from Texas, JACK BROOKS, come up to the Rules Committee and almost beg us for time, an additional hour to present his side of this? Because a debate time extension is consistent with the rule we adopted on the family and medical leave conference report. In that rule, we allowed 90 minutes, equally divided between three committees of jurisdiction. Remember that? That is what we did.

In this instance, while the Committee on the Judiciary was not a party to the conference, the retransmission consent provision included in the conference report is within the jurisdiction of the Committee on the Judiciary. And had the provision either been reported from the House Committee on Energy and Commerce or at least adopted on the floor of the House, the Committee on the Judiciary would have clearly been included as a party to the conference.

To not grant the Committee on the Judiciary the courtesy of 1 extra hour of debate, is just an outrage. It really is. We ought to be ashamed of ourselves.

It means that Members of this House are going to be voting on this legislation without the slightest idea of what it may do. An increase in monthly cable rates by as much as 20 to 30 percent is possible. That is the $6 billion I was talking about. Somebody is going to pay for that.

I have a memo distributed by the Parliamentarian's Office listing the scope violations in this bill. There are two egregious violations on pages 80 and 81. I think we all ought to read this, if we have time. Of course, there will not be any time because we do not have adequate debate time. I think every Member should think carefully, Mr. Speaker, before voting in favor of this rule that protects major violations such as those I have just mentioned. And I would just hope that if we defeat the rule, we will come back here with a rule that at least is going to allow the customary 1 hour of debate given to the Committee on Energy and Commerce and another 1 hour of debate given to the gentleman from Texas, JACK BROOKS.

Let the American people know what we are voting on. But even more important than that, let us know what we are voting on ourselves. I do not believe there are 10 Members out of 435 who know what is in this conference report.

I spent most of the night reading everything I could, and I am still confused myself. Imagine what the rest of the Members are.

Mr. Speaker, I now include for the RECORD the memo by the Parliamentarian's Office to which I referred.

S. 12—CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT

Scope violations:

Page 80 of the joint statement of managers: Equal employment opportunities provisions—House language applies only to cable companies. Conference agreement applies new standards to TV licensees.

Page 81 of the joint statement of managers: Describes FCC Media Bureau (new matter).

Questions raised on the following:

Page 16 of the joint statement of managers: Definitions. Conference agreement states that some may be deleted in their entirety.

Page 28 of the joint statement of managers: Definition of cable programming is rewritten to permit installment or rental of equipment (may have been implied in the bill; however, this is an explicit delineation.

Page 46, first full paragraph: Have they written in one new rule on retransmission?

Page 58: In the clarifying language, it appears to add a new safeguard.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 8 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I thank the gentleman for yielding time to me. I thank the Committee on Rules, the gentleman from South Carolina [Mr. DERRICK] and the gentleman from Massachusetts [Mr. MOAKLEY] for giving us the opportunity to debate this important issue out here on the floor in such a timely fashion.

This is without question one of the most important issues that will be before the Congress this year. It will be the most important consumer protection issue that is debated on the floor of the Congress in 1992.

As a result, the Members should pay very careful attention to the debate and to the arguments which are made from both sides of the aisle.

The Consumer Federation of America, the AFL-CIO, the American Association of Retired Persons want a "yes" vote on the cable reregulation bill. They know that there has been an annual overcharge of $6 billion on the part of the cable industry, which has been shouldered by consumers across this country.

A vote for the cable bill today has the effect of giving a $6 billion tax cut to Americans across this country. And make no mistakes about it, when the Consumer Federation of America, the AFL-CIO, and every elderly group in America are on one side and the cable industry is on the other side, there is no question as to whether or not rates are going to be lowered, whether or not the consumer is going to be given a break, if this legislation passes.

So just look at who is wearing which uniform in the course of this debate.

We accomplish a number of very important things in this legislation. We first of all create a formula which puts tight controls over the basic rates of cable in this country. We also ensure that local communities will be able to do something about the renegade cable operators in this country that take the upper tiers that consumers across this country are so familiar with and double, triple, and quadruple the rates year after year for those upper tiers.

We give now, finally, since 1984, some opportunity for local communities to appeal those rate increases. The 1984 Deregulation Act stripped local cities and towns of that right. We reinvest authority with them in order to protect consumers.

As well, we also impose for the first time since 1984 tough service standards on the cable industry. People across this country are just fed up with calling their local cable company and having that phone just ring and ring and ring. And once it is answered, waiting days and days for the cable repairman to do something about their system, about their own home set.

□ 0850

This bill reinvests the authority and will make it possible for consumers to have some accountability from their local cable system.

Second, what we do as well is to ensure that there will be some competition in the cable industry. Since 1984, when the Act was passed, we have been operating under a presumption that at some point in time cable companies would begin to compete against another cable company. So if we had a cable company in our town, our city, and many, many people were unhappy with it, our thought was another cable company will move into town and if we are unhappy with cable company A, cable company B would be there.

However, in 99 percent of the communities in America that have cable, there is only one cable company. Cable companies do not compete against other cable companies. If we do not buy from one cable company, that is it. We will not have cable in our local community. That is not competition.

What we do in this legislation is, we build in competition. We build in the guarantee that over the next half a decade, no longer, that there will be a massive introduction of competition at the local level so that if we are unhappy with the local cable company, we would be able to find another way in which to gain access to cable.

Third, what we do is, we ensure that local broadcasters, the same as HBO, the same as ESPN, the same as CNN, the same as any other cable programming, will be compensated from the cable industry for the use of their signal.

Remember this, every time we turn on the cable TV set right now we are paying, we are paying for the local broadcasting channels, except the money goes to the cable industry. It does not go to the local broadcasters.

What we do now is, we make sure that within that set of revenues that already exists, that revenues will now flow to the local broadcaster. The free over-the-air television that 40 percent of all Americans—and remember, 40 percent of all Americans do not even subscribe to cable, and we are seeing a constant diminution in the overall quality of that programming.

We will not continue to see the undermining of that quality at the same rate that we have seen over the last decade when this legislation passes, because we will have shored up their ability to have local news, to have locally originated programming, to have public affairs programming, to have children's programming at the local level that will go to the lower socioeconomic part of our economic spectrum that does not subscribe to cable.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I am glad to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, as the gentleman knows, I have great respect for him and for the gentleman from Michigan [Mr. DINGELL], and for the hard work they did on the bill. I agree with just about everything the gentleman said, and that is why I supported the bill that he drafted, which was passed by this House overwhelmingly a few weeks ago.

However, if what the gentleman says is true, if this conference report, with the retransmission provision in it, will reduce rates, what would happen if we took out retransmission? Would that not reduce rates even further?

Mr. MARKEY. Mr. Speaker, I would say to the gentleman, that is not necessarily so.

Mr. SOLOMON. If the gentleman would continue to yield, if there is a new charge put in, somebody has to pay for that.

If we take out retransmission, which creates a cost of $3 billion, that should mean a saving. That is why the gentleman does not support retransmission; he would rather see it out of this bill because he did not put it in the first place; is that right?

Mr. MARKEY. Reclaiming my time, Mr. Speaker, I would say again, because there is a lot of misinformation on this subject, what we do is we ensure that no longer will the consumers of America have to rent their clicker every single month for $4 or $5. If we multiply that by 12 months, multiply it by 10 years, we are paying $600 to rent this clicker over a decade.

The same thing is true of the converter box. We ensure that we are always protected against rate gouging on the converter box. We go down this whole list, and what we do is, we dramatically reduce the cost, up to $6 billion of charges to the consumer.

What we do on the other side is, we say that the broadcasters should be compensated the same way the sci-fi channel or the comedy channel or any of the other new channels that we are trying to introduce, Nashville, all the way down the line, are reimbursed.

If they have to pay Nashville a little bit less, to pay the sci-fi channel a little bit less, to pay some of these other channels a little less in order to get revenues over to Channel 4, 5, 7, and 9 so that the local children's programming, the local news and public affairs programming that the rest of us watch on free television is there, fine.

It is meant to be within the same existing pool of money; no additional moneys that are going to the cable industry or to the broadcasters; it is the same pool of money.

There is a complete misunderstanding about this. In the course of the morning I think it is going to be quite clear that the consumers are benefitted, or else the Consumer Federation of America would not want a "yes" vote on this bill.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume. In yielding to the gentleman from Texas, let me just read a paragraph that was in the New York Times yesterday. It quotes my good friend, the gentleman from Massachusetts [Mr. MARKEY]. The article says:

> The reality is probably less dramatic than either side portrays it. Representative Edward J. Markey (Democrat) of Massachusetts, the bill's sponsor in the House, said today that, "Rates would merely go up less than they would if we had no legislation altogether."

If we took out retransmission, that means they should go down. That is what we are arguing about today.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Texas [Mr. BARTON], a member of the committee.

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman from New York for yielding time to me.

Mr. Speaker, we are here today to debate an issue, quite frankly, that should have died in subcommittee or full committee earlier this year. The rhetoric is that we are here to try to protect the cable consumer and lower their rates. That is the rhetoric, but that is not the reality. I am on the Subcommittee of Telecommunications and Finance, and I am on the full Committee on Energy and Commerce. I have been involved with this issue for over a year.

Let me tell the Members that this bill is not about lowering cable rates, and it is not even about freezing cable rates. What the issue is really about is an economic tug-of-war between our cable owners and our over-the-air broadcasters on something called retransmission consent "Must carry."

Retransmission consent is the issue that says a television broadcaster has created a product—that is, local news—and they should have the right to negotiate with the cable system to retransmit that signal and should receive some remuneration, either financial remuneration or a special channel position or something of this kind.

"Must carry" is an idea that says if one owns a television station, the cable system must carry the signal. The Federal courts have twice ruled that "Must carry" is unconstitutional, so "Must carry" is going to be kicked out at some point, anyway.

Retransmission consent is an idea that really does need to be debated as a stand-alone issue, and I think, quite frankly, that the broadcasters have quite a bit of merit on their side. However, we do not need to reregulate the entire cable industry again to get the retransmission consent.

The facts are that since we deregulated cable in the early 1980's, the average cost per cable channel has remained constant, at about 50 cents a channel. However, the average cable system, instead of having 10 or 12 or 13 cable channels, now has 30 or 40 or 50 or 60. There has been an explosion is cable programming: TNT, CNN, the Discovery Channel, the Weather Channel, to name just a few examples. However, the average cost per channel has not gone up. It is still about 50 cents a channel.

The average cable bill today, if we do not take premium channels, such as HBO or Cinemax, is a little under $20 a month.

Mr. Speaker, the bill before us today, it is estimated, would raise rates somewhere from $2 a month to as much as $6 a month to the average cable subscriber. There is a very good article about this in yesterday's Washington Times, and I would encourage the Members of this body to read that article.

Another point: If we vote for this bill, in my opinion we are going to be in the same situation that we were 2 or 3 years ago when we had the great hue and cry to protect our senior citizens with catastrophic health care insurance. The Members of the body that were in the Chamber at that time remember how that was pitched as a proconsumer senior citizens issue. We just had to do it. So a majority of the House voted for it. Within a year the senior citizens were raising holy cain. We came back and we repealed it.

These are the letters and cablegrams that I received in my office the last day and a half from people saying, "Do not vote to reregulate cable. Do not vote to raise my cable rates." This is just 1½ days' sample.

I would encourage every Member of this body, before we vote on this bill today, to read their mail, to study the issue, and to vote "no."

□ 0900

Mr. DERRICK. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise in support of the rule and in support of the bill.

Mr. Speaker, I would like to engage in a brief colloquy with the manager of this bill, the gentleman from Massachusetts, Mr. MARKEY.

It is my understanding that under this bill, local television stations may elect to have the right to grant retransmission consent of their signal to local cable operators or the right to signal carriage "Must carry," but not both. Is this true?

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, the gentleman from Missouri has an absolutely correct understanding of the legislation's intent.

Mr. SOLOMON. Mr. Speaker, I yield whatever time he might consume to the gentleman from New York [Mr. LENT], who is the senior ranking member of the Committee on Energy and Commerce.

Mr. LENT. Mr. Speaker, let me just say that I want to second the remarks of the previous speaker, the gentleman from Texas, when he said that this is going to drive up the costs of cable rates.

I am just going to take a minute to quote from a number of America's great newspapers on what they have to say about this particular conference report.

The Wall Street Journal today says:

> The cost of two tickets to a Broadway show is more than $100. The $5 movie ticket is a thing of the past in most cities. But is anyone calling for Federal price controls on Broadway or the movies? There just isn't anyone.

And we do not regulate the price of baseball tickets, and here we are going to be regulating now the price of what people pay for MTV, for ESPN, for Showtime and for HBO.

The Chicago Tribune looks at this legislation and says:

> Congress is wielding such a heavy hand that instead of reducing rates, it could end up costing cable subscribers.

The Cincinnati Post:

> Public discontent with cable prices hardly justifies the quasi-nationalization of a whole industry.

The St. Paul Pioneer Press:

> * * * this bill still includes provisions that are anything but consumer protection. They are, in fact, requirements that consumers subsidize cable television's competitors.

The Atlanta Journal:

> The cable reregulation bill has become a consumer's nightmare.

The Boston Globe:

> With cable companies likely to pass through any charges, consumers would be the ultimate victims of the Senate plan.

The New York Times:

> The threat is that costly regulations will force local authorities to grant large rate hikes, or force cable companies to cut service and put off investment in new service.

Colleagues in the House, we have had many experiences with regulation and deregulation and reregulation. We all remember the ICC was one of the biggest organizations in the Government. We finally deregulated the railroad industry, and we shrunk down the cost of maintaining the Interstate Commerce Commission, and the railroad industry took off and is a very successful industry today.

We had rate regulations on natural gas. We finally got rid of them, and the price of natural gas has come down.

Here we are doing exactly the kind of thing that Boris Yeltsin is eliminating in the Soviet Union: intense over-regulation of an industry. And we are going in exactly the opposite direction, and we are reregulating an industry that has been doing very well. And I think it is the wrong way to go.

The FCC tells us they do not want this responsibility. We are going to have to triple the budget of the FCC in order to give them the manpower in order to regulate every single cable station in America.

I think it is the wrong way to go. I know it is election time. I know we are all out there looking and hungry for votes. But I think the voters are in an ugly mood. There is no question about it. But this is not the way to try to get votes, because I think the voters are smart enough to recognize that reregulating this entire industry is going to raise, not lower, their cable rates.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I want to thank my friend from South Carolina for yielding me the time. I rise in support of the rule and I rise in support of the bill. I think the conferees, with one exception, did an excellent job. That exception is the retransmission consent, which I will speak about momentarily. But otherwise, the bill is a good, solid, procosumer bill and ought to pass.

Among the reasons I support the bill, and announced my support of the bill earlier in debate here on the floor a few months ago, and also back home in Louisville and Jefferson County before the cable commission, is because this bill reintroduces local government into the ratemaking business. Since 1984, when the cable industry was deregulated, local government has been sort of, to use that term, a potted palm alongside of the table. It does not really do anything, and it cannot.

This bill gives them power to oversee the ratemaking function and to protect cable consumers.

This bill spurs competition. There is no more exclusive franchise. No longer can a local authority grant a cable operator exclusive coverage of the area.

Under the Tauzin amendment there is access to cable-originated programming, on an equal basis, given to cable's competitors. This does also open up the possibility down the line of allowing telephone companies into the cable business so that there would be further competition which generally yields better service and lower prices to the consumer.

Consumer service and consumer protection for cable subscriber are provided for in this bill. The FCC establishes these standards. Local government can make these standards tougher, but at least our people will from now on have their phone calls answered and have their billing procedures explained to them by cable companies.

The negative in the bill is retransmission consent. It could possibly be that this will lead to additional costs to the consumers because the local broadcasters could, in fact, demand payment for the cable company to carry that signal. I do not think this is a wise move. I think we will have to revisit this in the years ahead.

But on the whole, this is an excellent piece of work. I support it, and I hope this House will.

The conference report before us today is very similar to H.R. 4850, the cable reregulation bill which passed the House—with my full support—on July 23 except that it includes the Senate's retransmission consent provision language about which I have serious reservations.

The conference report allows broadcast stations to choose either that their signals be carried by the cable system under the must-carry provision, or to negotiate with the cable system over the terms and conditions under which the station's signal will be retransmitted.

In the end, retransmission negotiations between broadcast stations and cable franchise may mean the cable subscriber will pay higher fees for the signals. This goes against the spirit of the rest of the bill, which is to promote competition among and between cable, broadcasters and noncable carriers so that subscriber and viewer prices will be reduced even as quality and range of programming improves. Accordingly, Congress may have to revisit the retransmission consent provision at a later date.

But, for now, Mr. Speaker, this conference report is worthy of passage by this Congress and worthy of the President's signature into law. I hope the President does not veto this bill. But, if he does, we need to pass this reasonable and responsible consumer legislation into law over his veto.

Lastly, I wish to include in the RECORD a statement I made recently before the Lousiville/Jefferson County Cable Television Commission which I hope our colleagues find of interest.

STATEMENT OF CONGRESSMAN RON MAZZOLI BEFORE THE LOUISVILLE-JEFFERSON COUNTY CABLE TV COMMISSION

Mr. Chairman and Members of the Commission: This is the third time I have appeared before your distinguished Commission—in person or by representative—to discuss cable legislation pending in Congress and cable activities here at home. I thank you, Mr. Chairman, for according me these opportunities.

Since my last appearance much has happened at the federal level affecting cable television. But, before I discuss these activities, let me say a few words about the Louisville/Jefferson County Cable TV Commission.

Since the cable industry was deregulated by Congress in 1984, prices have soared nationally and in the Louisville and Jefferson County area. The Cable Deregulation Act was aimed at relieving the cable television industry—a fledgling industry at the time—of the conflicting, confusing, hodge-podge, crazy-quilt pattern of local government control of cable franchises.

In its place was to be a more harmonized monitoring by the Federal Communication Commission (FCC) of local cable franchises both for rates charged, programming offered and service provided to the customers coupled with vigorous enforcement of federal antitrust laws to protect cable's subscribers and the local franchising authority from anti-competitive and monopolistic market and pricing practices by the cable operators.

But, that has failed to work. The Justice Department and the FCC allowed the 1980's to be a time of frenzied, highly-leveraged (debt laden) takeovers and buyouts and mergers of cable systems. Many industry observers argue that today's cable rate increases result not from increased programming costs, but from heavy costs of overhead and debt-service.

As we know, the Louisville/Jefferson County Cable TV Commission was created by Ordinance in 1980 and, until the federal law became effective in 1985, the Commission awarded franchises and ruled upon proposed cable rate increases. The remaining powers of the Commission—now composed of both elected officials and citizens—were ably outlined by Chairman Magre in a letter to the editor which appeared in the Sunday, August 16, Courier-Journal.

Despite the fact that local Boards of Aldermen and Fiscal Courts and City Councils can no longer regulate cable system rates structures, the Commission—to its great credit—is doing a good job in representing cable subscribers and all the residents of Louisville and Jefferson County.

For example, I commend and applaud the Commission for initiating this year a survey to ascertain customer attitudes concerning Storer's service and programming, and Storer's handling of customer telephone calls.

The findings, which this Commission well knows, were:

More than half of the respondents "strongly agree" that cable television should be reregulated;

Approximately 70% of the respondents who canceled service said they had done so because of increased costs;

While approximately 80% of the respondents were satisfied with Storer's service, more than half of these respondents were only "somewhat" satisfied

It is precisely these expressed concerns—cost of cable signals and customers service—which drive the several cable reregulation proposals now before House and Senate.

A tide of consumer dissatisfaction with cable has washed across Capitol Hill in the last few years. Each year the tide rises higher and the dissatisfactions become more profound.

In both the current and the last two Congresses cable legislation has been introduced, debated and acted upon by one or both Chambers. No final action, however, has been taken so far, though such action is possible this year despite the President's expressed opposition to cable legislation.

In January, the Senate overwhelmingly passed its cable bill, S. 12. By a resounding vote of 340 to 73—and with my strong support—the House passed its cable bill, H.R. 4850. The House bill is similar in many respects to S. 12 and incorporates elements of both H.R. 1303 and H.R. 3560, other cable bills I have co-sponsored this Congress. House and Senate Conferees have been appointed and they soon will start work readying a final cable bill which can then go to the President for his action. (Incidentally, were the President to veto the bill, I believe the veto would be overridden, and I would work to that end.)

H.R. 4850 is a good bill which briefly, promotes the following goals:

Placing Local Franchise Authorities Back Into The Rate-Making Process.—The Federal Communications Commission would be permitted to regulate cable rates where there is no "effective competition" defined as situations in which: (1) fewer than 30% of local households subscribe to cable service; (2) at least two multichannel video programming distributors offer services to 50% of local households and whose services are subscribed to by at least 15% of local households; or (3) a multichannel video operator, owned by the franchise authority, offers services to 50% of local households. The local franchise authority would not set rates but would oversee the rates set by the cable operator and could appeal to the FCC any rate increases or charges felt to be unreasonable. The FCC would make the final decisions of unreasonableness.

Affordable Basic Cable Service.—Under H.R. 4850 the FCC would establish a formula for determining the maximum rates cable operators could charge for a basic tier of cable service. The basic tier of service would include—at a minimum—all over-the-air broadcast stations and all public access channels. Local governments would enforce the cable operators' implementation of these FCC standards.

Enhanced Consumer Protection.—FCC would establish uniform customer service standards and set maximum permissible rates the cable system could charge for installation, additional hook-ups, converter boxes and remote controls. Local governments would be permitted to enact additional and enhanced customer service and consumer protection requirements which the cable system would then have to meet.

Enhanced Local Competition.—Local franchise authority would be prohibited from granting exclusive cable franchises and local governments would be permitted to establish and operate competing cable systems. H.R. 4850 also includes language added during debate on the House floor—language I supported—requiring cable systems to offer cable-originated programming, at affordable prices, to competing systems such as direct broadcast satellite (disk antenna) and microwave. I also feel allowing telephone systems to add television signals to their wiring would add to the competition and would likely reduce subscriber costs and increase program offerings.

Continued Carriage by Cable Systems Of Local Signals.—Cable franchises would be required to reserve up to one third of their channel capacity to carry local commercial broadcast channels as well as noncommercial educational television signals. This is the "must carry" rule.

H.R. 4850 is a good bill but it falls short in one respect, however. It does not provide local cable authorities with as much authority over cable television operations within their jurisdictions as I feel they should possess.

I continue to favor the approach taken in H.R. 3560—which I have co-sponsored—which empowers local governments to regulate cable rates but allows cable operators to appeal what they feel to be unreasonable local rate regulations to the FCC. The bill now in Conference places the burden of challenging unreasonable rates on the local authority.

I anticipate a successful House-Senate cable Conference this autumn. I should also add this caveat, however. A successful Conference may not be possible unless Congress can beat back the hoards of cable, broadcast, entertainment and sports lobbies who, for one reason or another, do not want a cable bill or want to twist it to their special liking.

This argues for the passage of campaign finance reform legislation to reduce the stranglehold the special interests have on Congress by reducing the money they can contribute to political campaigns. This would serve to return government and the political process to the people where they belong.

I again thank you, Mr. Chairman and Members of the Commission for inviting me to testify and look forward to working with you in the future.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Speaker, I rise in support of the legislation. I, too, wish to have a colloquy with the gentleman from Massachusetts [Mr. MARKEY].

Section 624A(b)(1) of S. 12 requires that the FCC, in consultation with representatives of the cable industry and the consumer electronics industry, report to Congress and issue regulations to assure compatibility between televisions and video cassette recorders and cable systems. A major purpose is to ensure that consumers reap the benefits of new and innovative technologies. Does the committee intend for the Commission also to consult with representatives of franchising authorities, who are on the frontline in ensuring that cable subscribers receive quality consumer friendly service, in preparing the report and drafting the regulations?

Mr. MARKEY. Mr. Speaker, if the gentleman will yield. Yes. In addition to such consultations, we expect the Commission to institute rulemaking and inquiry proceedings that give all interested parties the opportunity to express their views on these compatibility issues.

Mr. SCHUMER. Section 617(e) of S. 12 governs the time period that a franchising authority may consider a cable operator's transfer request, stating that the authority has 120 days to act on such a request that, "contains or is accompanied by such information as is required in accordance with Commission regulations and by the franchising authority." By this, is it the committee's intent that the time period not begin to toll until the transfer request is accompanied by information required by both the FCC and the franchising authority?

Mr. MARKEY. If the gentleman will yield. Yes. In addition, it is the committee's intention that this 120-day clock not start ticking until a franchising authority has received all requested information, regardless of whether this information is required by the FCC regulations. Otherwise, it would be possible for the 120-day period to expire and the transfer deemed granted under this section before a franchising authority even had received the information it requested from the operator regarding the transfer.

Mr. SCHUMER. Mr. Speaker, I thank the gentleman.

☐ 0910

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I rise in support of the conference report. This is not a perfect bill, but it is a good bill for consumers and it merits our support.

While we were home over the August recess, our cable operators launched a full scale assault against the cable bill. Ironically, they enlisted in this fight the very same people who have been clamoring for reregulation for years—cable subscribers.

In recent monthly bills across the country, the cable companies advised customers that Congress was poised to pass legislation that would raise cable rates. This charge from the champion of rate increases is another irony. It is a red herring and it just is not true.

The cable companies do not want to be regulated and that is understandable. Customers who are tired of unwarranted and uncontrollable increases want us to provide some regulation. The conference report addresses consumer interests in two ways. First, it controls unreasonable increases in basic cable rates. Second, it allows for competition to the cable industry.

These are not the features the cable industry is citing to customers. For the most part, cable companies are pointing to retransmission consent as a sure-fire price increase. Even if retransmission consent were taken in a separate context and not included with the regulatory provisions, it is questionable that rates would rise. But it is in this package and any increases will be fully offset by rated regulations.

I would also urge our constituents and my colleagues to remember what local broadcast stations provide. They give us local news and related community services that are very expensive to produce. In a society that receives most of its news from television, it is frightening to think of the day when our access to the news is limited to the network anchors' interpretation of events.

Mr. Speaker, I urge my colleagues to support the conference report.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2½ minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, there is a lot of confusion unfortunately created by the cable monopoly on this issue. Let me help clear it up just a bit today.

If you do not know what upper tears and lower tears are, let me explain to you. Upper tears are the tears we shed over those high premium channel rates and those pay-per-viewer rates that we increasingly have to pay for programs that we used to get for free. And lower tears are the tears we shed over basic cable rates that have gone up three times the rate of inflation, because monopoly cable has been unrestrained for 8 years.

The bill we have before us today is a bill to give consumers a break. Make no mistake about it. It is a bill to save in communities where there is no competition. We are going to restrain the appetite for monopoly cable to gouge us the way they have been doing for 8 years. In the communities where competition does come, the regulations will go away.

The second part of the bill says that there will be competition in America, that cable can no longer refuse to sell its programs to the satellite distributors, to microwave distributors, who are struggling to bring competition to the marketplace.

Sixty-five communities in America have competition out of 11,000. Guess what our General Accounting Office found in a study when it looked at those 65 communities, and do not let the monopoly cable companies lie to you, in those 65 communities, cable rates fell 35 percent.

You want cable rates to go down? This is your bill. You want satellite television in rural areas? This is your bill. You want competition over regulation? This is your bill. This is the kind of bill America has been waiting for. We ought to pass it.

Let me assure you that those who take this floor in opposition to this conference report want to vote for the monopoly cable position. They will use the retransmission-consent provision as an excuse. It does not amount to a hill of beans. Retransmission consent only says that your local broadcaster, if he wants to, can tell the cable company, "You have been carrying my program. You have been charging people for it. I want some of those revenues."

Now, which of your local broadcasters is in a position that he can tell the cable company, "I do not want to be carried on your cable; I insist that you pay me to carry me"? Which of them has that kind of clout? Which of them could afford not to be on cable? The answer is very few.

This retransmission-consent thing is not a big deal. It is certainly not the kind of big deal anybody can hide behind, but there will be people coming to this floor hiding behind retransmission consent, because they want to vote for the monopoly cable position.

If you want to vote for consumers, vote for this bill. Vote for the resolution to bring it up. Give consumers a break. Give them some restraint on cable rates. Give them some competition. Give American consumers what they have been begging for.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before yielding to the next speaker, let me just point to the title of this bill which reads, "The Television Consumer Protection and Competition Act." I just heard some talk about competition.

Yet when I spent half the night trying to read the conference report, I was looking for the Senate provision that allows telephone companies in municipalities of less than 10,000 people, and I represent over 100 of them, to compete with the cable companies. That provision is missing. I would hope somebody on the majority side of the aisle would explain why that is not in this conference report.

That provision would truly promote competition.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MOORHEAD], the distinguished dean of the California delegation and the ranking subcommittee member.

Mr. MOORHEAD. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in opposition to the rule.

I regret to have to oppose the rule being requested by my chairman, but I do so for two reasons. One is procedural in that the proposed rule would waive all points of order.

Second, this conference report has a serious copyright repercussion, and the Committee on the Judiciary has been denied the opportunity to have any input into it.

If the committee system means anything at all, this requested rule should not pass.

This proposed rule is defective in that we need additional time to determine the actual costs to the taxpayer and to the consumer. I believe that is pretty basic.

The conference bill reregulates the cable industry. It does so at a substantial cost to the Federal Government and the State government.

But I support the bill as it originally came out of the House of Representatives. I believe that we need reregulation of cable. I think we have to have controls on the prices that cable charges.

But during the conference committees, this bill was hijacked by the broadcast industry. They are spending millions and millions of dollars on radio and television, each and every hour you turn the radio on at the present time, because they know the billions of dollars they will get out of this bill in its present form if it is passed.

We have heard a lot of rhetoric about retransmission consent meaning nothing. Why then are the broadcast industries spending so much money in fighting for it? Of course it means billions of dollars to them. It is important to them that they get it.

I do not care really what we do to reregulate cable. They deserve whatever we do. But this cost is going to the general public, the people that buy cable programming.

As we reregulate cable, we give cable the right in the reregulation of the price they charge to recoup whatever cost their costs are from the public. Their prices will be raised as they have to pay more money for their programming, and if, as has been said by a previous speaker, there will be no cost to them, why in the heck are they fighting so much for it? Of course there is cost, and it is going to cost the public $1 to $3 billion.

I want this bill, but I want it without the retransmission consent.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the distinguished gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, first, let me thank my friend and distinguished colleague for yielding me this time.

Mr. Speaker, I rise in opposition to the rule and in opposition to the conference report.

I want to congratulate the gentleman from Massachusetts. I think overall he did a very good job, and I supported the bill when it left the House.

□ 0920

But it came back from conference with provisions that are just totally unacceptable. My colleague, the gentleman from California, ranking Republican on my committee, says that the broadcasters are spending billions of dollars on this bill. So are the cable people; I mean, they have ads on every hour, because there is billions and billions of dollars at stake.

Let me tell you, this will go down, I think, in history as the broadcasters' great train robbery because it was hijacked in conference. What is at stake is anywhere from $1 to $8 billion that the consumer is going to pick up.

My colleagues, $1 to $8 billion.

That is why you cannot turn on the tube or listen to the radio and not hear some advertising about this bill.

I have no sympathy for the cable industry. They have monopolized, they have conspired basically to take advantage of their unique position as a local distribution company, and they need to be regulated. That is why I supported this bill.

Retransmission consent, however—and, unfortunately, we are not going to have time to explain it in any detail because we were not given the time, just 1 hour of debate—retransmission consent gives the broadcasters an open-ended right to demand basically what they believe the market will bear, what they want, with somebody else's product. You do not turn on the television to look at a signal, you turn on the television to look at programming.

That is the copyright owners that produce the programming that we all watch. They have been left out of this equation. Frankly, not only are we going to suffer domestically but internationally; we are going to suffer because if we do not put any value on that creativity, that creativity that we get copyright for, what do you think the international community is going to do?

You know, the broadcasters want open competition, but this bill does not do that. What it does, it provides basically deregulation for them, for the broadcasters, but they want to keep the cable systems under regulation, under compulsory license, where they are paid—copyright owners are paid—perhaps a fraction of what the value is because we set rates through a mechanism to reward the copyright owners.

So, what we have, in essence, is deregulation for the broadcasters, but regulation for the cable systems. We are going to regret the day that we voted to pass this out of this House, believe me.

I urge my colleagues to vote against the rule, send it back, and vote against the conference report.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DREIER], a very distinguished member of the Committee on Rules.

Mr. DREIER of California. I thank my friend for yielding, and I would like to join in congratulating all the hard-working members of the Committee on Energy and Commerce who clearly do want to bring about a solution to what is obviously a problem.

Mr. Speaker, it seems to me incredibly ironic that as we observed over the past 3 or 4 years the crumbling of the Berlin Wall, the demise of communism, the emergence of democracy and freedom, that we are here, following that, reregulating an industry which clearly played an integral role in that expanded communication of freedom throughout the world. We have seen a wider range of choices provided to the American consumer. It is obvious that we all recognize that there is a problem.

Tragically, this legislation moves in the opposite direction from where we are trying to go.

There are some of us who believe that the best way to deal with the problem that exists, that of increased costs, is to encourage competition. Tragically, the retransmission fee, the one thing that is actually mandated in this bill, increases by billions of dollars the fee that will be charged to that cable subscriber.

We see the opportunity for people to enjoy 40, 50, 60 channels, and we also see the opportunity for our broadcasters to advertise for thousands of dollars a minute on commercial over-the-air television.

So, why should this fee be imposed, not on the cable industry, but on the cable subscriber? It seems to me that we should oppose this rule and we should oppose this legislation and we should come back with a bill which can, in fact, bring about a greater degree of competition for the American consumer.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker, let me briefly thank my colleagues for this opportunity. There has been a lot of misinformation here. I feel it is a little bit like a candidates night, for those of you who can identify with and understand that experience. You have heard a lot of things that you just do not recognize.

My colleague from New York, Mr. LENT, quoted three newspapers' positions on the cable bill. What he did not tell you was that those three newspapers are owned by companies that own cable television systems.

Are we surprised they editorialized against it? Of course not.

My colleague from New York, Mr. LENT, quoted the New York Times. He did not tell you, though, that the New York Times embraced the bill and urged the Congress to support it.

The fact of the matter is that there is a disturbing trend here of disinformation and misinformation about this bill and what it will cost.

I noted with a great deal of interest the comments by my other colleague from New York, Mr. SOLOMON, claiming that there was no debate, no vote on retransmission consent. And the Committee on the Judiciary's objections that their concerns were not made part of the bill.

The fact of the matter is that retransmission consent was solely referred to the Committee on Energy and Commerce; the fact of the matter is that the Committee on the Judiciary asked the Rules Committee that it not be discussed; and the Committee on Rules did not make retransmission consent in order, Mr. SOLOMON. So do not come out here and complain that we did not get a chance to vote, when the gentleman from New York would not give us a chance to vote.

I begged for an opportunity to present this case. I demanded an opportunity to debate it and was willing to measure my position against the Committee on the Judiciary's position, and was denied that opportunity.

Mr. SOLOMON. Mr. Speaker, will the gentleman from Ohio yield to me briefly, and I will yield him some extra time, since my name was mentioned?

Mr. ECKART. I would be glad to yield to the gentleman from New York.

Mr. SOLOMON. I thank the gentleman for yielding.

I just want the gentleman to know that I introduced the motion for an open rule, which would have allowed the gentleman from Ohio to do exactly what he wants. So, please do not point fingers over here. I was for the gentleman from Ohio. It was the other side that denied him his rights, his own party's members on the Rules Committee.

Mr. ECKART. Well, the fact of the matter is that the Committee on Rules did not make in order a position that the Committee on Rules now asserts is the reason why you should defeat this rule on this bill. That is just inconsequential when it comes to me.

Now, as to the debate on the substance, my colleague, the gentleman from Texas [Mr. FIELDS], and I were prepared to stand in contrast to copyright reform; in fact, I think it may be needed and necessary. But we were not given the opportunity. Unfortunately, the consumers will be protected—Mr. Speaker, do I have time remaining?

The SPEAKER pro tempore. The time of the gentleman from Ohio [Mr. ECKART] has expired.

Mr. SOLOMON. Mr. Speaker, if I might, I would yield 1 minute to the gentleman so that he may yield to the gentleman from Texas [Mr. FIELDS].

Mr. ECKART. I thank the gentleman for yielding, and I yield to my friend, the gentleman from Texas [Mr. FIELDS].

Mr. FIELDS. First of all I want to compliment the gentleman in the well on the work that he has done on this issue. But going back to the history of this issue, the issue really goes back to 1927, when Congress gave broadcasters control over their signal, a proprietary right. In 1959 the FEC made an exception for a fledging cable industry. Today we have a $2 to $3 billion cable monopoly.

So what I wanted to ask the gentleman: What we are talking about in retransmission consent is basically a restoration of Congress' original intent. That was one of the motivating reasons that got me involved in this issue, me working with the gentleman, for the concept of retransmission consent.

Mr. ECKART. The local broadcaster is, the gentleman correctly asserts, the neighborhood, the front porch. It is the local broadcaster whose signal tells the folks about whether schools will be open tomorrow, or the flood or the hurricane. It is the local broadcaster who really is the competition in the marketplace. It is a signal which the cable companies say they stole fair and square. They are paying for it as a consumer now. All we are saying is that the local broadcaster has the right to protect their property as any other property right in America should be protected.

□ 0930

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Alabama [Mr. HARRIS].

Mr. HARRIS. Mr. Speaker and colleagues, I am disgusted with the latest round of cable propaganda on television.

I guess the most misleading part of the ads that we have seen is the deep concern the cable industry is displaying for consumers, the very ones they have been gouging for the last 8 years, as we have seen the rates increased 3 times more than the rate of inflation.

If they are so concerned about rates, where have they been?

Do not be fooled. They are not interested in protecting the cable television watching public from higher rates. They are afraid of regulations which will put an end to their runaway rate hikes.

Heaven help them when a bill like S. 12 actually promotes competition, ending cable's monopoly stranglehold.

This cable bill is exactly as it is named. It protects consumers and it encourages competition.

If your constituents call you, misled by these ads, you tell them to consider the source of their information. It will be printed on their cable bills right next to the latest rate increase.

As evidence of what I am speaking, in Birmingham, AL, in an article in the Post-Herald on Wednesday of this week, it says that on the outside of your Birmingham cable bill, it tells them, their constituents, or consumers, to fight national legislation or face increases in your cable charge.

On the inside, however, they are telling the consumer that they are raising the price of their service.

I ask you to support the rule and support the bill.

Mr. Speaker, I include the article from the Birmingham Post-Herald, as follows:

[From the Birmingham Post-Herald, Wednesday, Sept. 16, 1992]

CONGRESS READIES FOR CABLE TV VOTE

(By Nancy Bereckis)

On the outside of your Birmingham Cable bill, the company tells you to fight national legislation or face increases in your cable charge.

On the inside, however, Birmingham Cable tells you it is raising the price of your service.

It would seem the cable company is failing to practice what it preaches.

But Birmingham Cable Communications president Michael D'Ambra said yesterday there is nothing contradictory about lobbying against raising rates while raising them.

"These are two separate and distinct issues. Our price increase is justifiable because we need the money to pay for a new station (Video Hits-1) and other operational costs that have gone up," he said of the hike in the charge of basic service from $18.95 to $20.35 per month.

"If the bill in Congress passes, the price of cable will increase three or four dollars a month and it won't be justifiable."

That bill, which Congress has scheduled a final vote on tomorrow, would reregulate cable television, giving cities like Birmingham more power in deciding how much cable companies can charge customers.

And depending on whom you talk to, it will either result in much higher rates or much lower ones.

Industry experts, including D'Ambra, say a provision in the bill requiring cable companies to pay fees to carry commercial TV stations that are now carried for free would result in higher bills for customers.

But the other side, which includes the National Association of Broadcasters, and Birmingham City Councilman Roosevelt Bell, say the passage of the federal bill will result in rates dropping by up to 30 percent.

"When the cable industry was regulated before 1986, we kept rates down," Bell said. "But now our hands are tied. We raise hell every time they raise rates, but that's about all we can do."

When the cable industry was regulated, the city council would vote on whether Birmingham Cable could raise rates.

Now the city has a non-exclusive franchise agreement with Birmingham Cable. The agreement requires Birmingham Cable to pay 5 percent of its profits for use of the city's right-of-ways, such as streets and alleys. It gives no power to the city to regulate rates.

If another cable company wanted to compete with Birmingham Cable, theoretically it could. But another company would have an uphill fight for two reasons, Bell said.

First, Birmingham Cable already has recouped its initial loss for installing the actual wires. Second, Birmingham Cable has an advantage because it is owned by the multimedia giant Time Warner Inc.

For fiscal year 1991, Time Warner reported that its cable companies brought in $872 million, an increase of $103 million from the year before.

D'Ambra said Birmingham Cable does not add substantially to Time Warner's cable profits, although he refused to disclose how much money his company has made.

"I can say that we are very price sensitive because we realize that we need to keep prices low or our customers won't be able to afford cable," he said.

But Bell said Birmingham Cable's price hikes are evident that the company is abusing its growing and largely unregulated monopoly on the city's cable television market.

"We have a cable commission but it has no power," he said. "Just look at how much rates have increased since deregulation (in 1986) and you'll see."

When Birmingham Cable began operating in the city in 1976, the charge for basic services was $7. In 1985, the year before then-President Ronald Reagan successfully pushed through the bill to deregulate the cable industry. Birmingham Cable charged $10 for basic service.

In the six years since, Birmingham Cable has raised its rates almost yearly. D'Ambra said the company did not raise rates one year. The last rate increase was in October 1991.

The new rate hike, which goes into effect with the October billing, will go to pay not only for the new music video channel but will also pay for an increase in Alabama Power's charge to Birmingham Cable for use of its poles.

"I don't think there is a more cost-efficient form of entertainment than cable television," D'Ambra said.

But despite his claim, the city of Birmingham's law department confirmed it is looking at ways to bring another cable franchise into the city to compete with Birmingham Cable.

CABLE COSTS

The price of cable varies greatly depending on where you live. Here is a sampling of monthly cable costs in the Birmingham area. (The prices listed are excluding specials. The cost of basic service is the price for all cable stations except movie channels.)

BIRMINGHAM CABLE COMMUNICATIONS

Serves—Birmingham and Irondale.

Basic service—$20.35 (as of October billing)

Installation—$25

One movie channel such as Home Box Office—$10.95

Extra fees—remote control, $4; additional outlet, $3.75

BESSEMER CABLE COMMUNICATIONS

Serves—Bessemer and some unincorporated Jefferson County

Basic service—$18.49 inside city limits; $18.85 outside city

Installation—$25

One movie channel such as HBO—$10.95

Extra fees—converter box, $15; remote control, $4

CENCOM CABLE TELEVISION

Serves—Fultondale, Gardendale, Pelham, Alabaster, Helena, Cahaba Valley, Forestdale, Adamsville, Graysville, Trussville, parts of Jefferson County

Basic service—$22.95

Installation—$50

One movie channel such as HBO—with basic cable, $32.90; installation drops to $30 when ordering with one movie channel

Extra fees—None

MOUNTAIN BROOK CABLEVISION INC.

Serves—Mountain Brook

Basic service—$25.45

Installation—$35, apartment; $45, house

One movie channel such as HBO—$12.95

Extra fees—Remote control, $4; remote control without volume control, $2; other outlets, $7.50

SHELBY CABLE INC.

Serves—North Shelby County along the U.S. 280 corridor from Interstate 459, including Inverness, Meadow Brook and Brook Highland subdivision

Basic service—$24.90

Installation—$35, apartment; $45, house; $65 for new house that has never had cable

One movie channel such as HBO—$12.95
Extra fees—Remote control, $4; remote control without volume control, $2.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker and my colleagues, Abraham Lincoln used to say that calling a tail a leg does not make it one.

We keep hearing about cable being a monopoly and the need to regulate monopolies, but no one in support of the conference report deals with the fact that a proconsumer bill that passed this House and the conference committee all of a sudden put in a provision totally unregulated, with no price protection for the consumers, that totally defied the whole logic of copyrights law, that provides the broadcasters with a major loophole, a proconsumer bill for strategic advantage only, was turned into an anticonsumer bill to help one particular industry at the expense of another industry.

It is a deal, pure and simple. While there is nothing untoward about this kind of a deal, there is something about the sanctimonious nature of the proconsumer arguments from people who came back from a conference committee having accepted a provision that never should have been in this legislation in the first place, which weakens its proconsumer protection, which provides an unregulated potential price increase to the consumers of cable televisions, and which essentially, as I mentioned earlier, makes an arrangement with one particular industry at the expense of another particular industry.

The key impetus for this bill was a widely accepted notion that it was time to remove some of the exemptions and protections earlier enacted by Congress to prop up a fledgling cable industry; but retransmission consent by allowing broadcasters to withhold their signals from cable, but not permitting copyright owners to do likewise with their programming, in essence repeals the cable compulsory license for broadcasters, but not for program owners.

It is inequitable. It is both unfair to an industry and unfair to the consumers, and I urge the conference report on this bill be defeated.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER], a distinguished member of the committee.

Mr. RITTER. Mr. Speaker, I think we have heard a good deal about the way the rule does not allow the House to vote on a very important addition to this conference report, one that will cost consumers considerably. The rule essentially muzzles the House on this issue of retransmission consent, which adds to the cost of the bill. There are no two ways about it.

The gentleman from Massachusetts [Mr. MARKEY] and the gentleman from Michigan [Mr. DINGELL] both have stated that the costs to consumers from this bill would rise.

The economy is suffering from an overdose of taxation, regulation, and litigation, and we have a highly regulatory bill here. We have a bill that goes into micromanaging one of America's more successful stories of the last decade.

You know, people talk about increases in the costs of cable and they talk about multiples of the inflation rate, but the reality is that on a per-channel basis the costs have essentially been level with inflation and probably somewhat less.

The reality is that we have C-SPAN. We have CNN, and we have the Discovery Channel. We have Arts and Entertainment and we have so much added to our platter since 1984.

You know, in a sense, this bill is a punishment bill. This bill punished cable for being successful. We need more success stories like the cable industry in our economy.

From 1978 through 1990, jobs increased in this industry from 23,000 to 100,000.

We could have a much more limited approach. We could stimulate "Must carry." We could stimulate some more competition, and we could maybe do something positive, but this bill is negative to the American people.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 1½ minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. First of all, Mr. Speaker, I want to thank my good friend, the gentleman from South Carolina [Mr. DERRICK], for having yielded me this time.

Second, I want to commend him and the Rules Committee for the way they have crafted this rule expeditiously to allow the House properly to consider the business before it.

Third, I want to urge my colleagues in the strongest way possible to vote for the rule.

You have heard a number of complaints about the copyright laws, and it is quite possible that the copyright laws are not working. Those are not within the jurisdiction of the Commerce Committee.

I would urge that my good friends from the Judiciary Committee put those matters before us at an appropriate time.

I would point out to my colleagues that Hollywood has not been hurt by this legislation. Indeed, had the Judiciary Committee accepted the three conferees they were offered, they would very successfully have achieved active participation in a conference. They could very well not only have achieved what they wanted, but could have achieved deadlock had they so desired.

I would point out to my colleagues something else that is very important, and that is that we should listen to the people, not to the special interests.

Look at the list of those who support the legislation and then look at the list of those who oppose it.

The American people are fed up with rapidly escalating and outrageous cable television bills, bills from an unregulated monopoly that has one purpose, to maximize its profits at the expense of the American consumer.

Look at the roster of those who support the bill, those in opposition to the views of Hollywood and the cable people.

The Consumer Federation of America, the AFL-CIO, the UAW, the American Association of Retired Persons, and the rural electric co-ops, the League of Cities, the attorneys general of the States, and of course, the satellite broadcasters who will achieve a measure of competition.

I urge my colleagues to vote for the rule and for the conference report.

Mr. SOLOMON. Mr. Speaker, let me just call your attention to a time back in December 1980. Do you know what we did in that lameduck session? We just about ruined America.

□ 0940

Do my colleagues remember when this House overwhelmingly passed a bill in the middle of the night, in a lameduck session, with no hearings? We raised the Federal deposit insurance guarantee from $40,000 per individual up to $100,000 per account. In effect, we said to multimillionaires across this country: "You can gamble on every deadbeat financial institution across this country because the Federal Government is going to guarantee every one of your deposits, not just your first $40,000." We are faced with a similar procedure here today. We are being compelled to vote on a very important concept with far-reaching implications, without any benefit of hearings or debate.

Mr. Speaker, I just want my colleagues to remember something. When 5 years go by, I want their constituents to call them every time cable rates go up, because they are going to go up. We have not dealt with that problem. Nobody knows what this bill is going to do.

And, Mr. Speaker, as soon as this debate time is over, I am going to ask unanimous consent that the gentleman from Texas [Mr. BROOKS] and the gentleman from New Jersey [Mr. HUGHES], be given 1 hour to enlighten this House on just how bad this bill really is and what it will do to the cable users of America.

Mr. Speaker, I yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, most of us think that it is better to keep the Federal Government out of as much regulation as we can, but I think we all further understand that there are times that it is in the best interests of the consumer that we do regulate. We certainly learned that about the S&L situation during the 1980s.

As my colleagues know, when the cable business started out, and they were an infant industry, and they needed some help, and that help was not to regulate them at the time until they could gain a foothold; well, they have gained a foothold, and they are in 60 percent of the homes in this country today, and it is a monopoly, just like the telephone company was a monopoly and other things are a monopoly. And it is time for the Congress to do something for the consumer.

I do not criticize the cable people. They have done exactly what they were supposed to do, and they have been very successful at it. But, just from a personal stand, look at my rates in South Carolina and Washington, and they do go up without any sort of notice to me particularly or without any reason.

As my colleagues know, I think the bottom line on this is to look at who supports this legislation and who does not. The cable industry is against it. That is for sure. But the AARP, the largest organization to represent the elderly in this country, and the elderly people are the ones that look at so much of our cable TV, and the elderly people on fixed incomes are those that really have a hard time paying those cable bills, not only to mention most of the major consumer groups in this country, support this legislation.

Mr. Speaker, we hope that this is going to bring cable rates down, or at least not allow them not go up as fast as they have in the past, so I advocate our voting for the rule and for the passage of the bill.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

Mr. SOLOMON. Mr. Speaker, I was on my feet asking to be recognized before the gentleman from South Carolina [Mr. DERRICK] moved the previous question on the resolution. I think a little fairness is in order here.

The SPEAKER pro tempore (Mr. LUKEN). The gentleman from South Carolina has moved the previous question, which takes precedence.

The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOLOMON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 263, nays 134, not voting 35, as follows:

[Roll No. 397]

YEAS—263

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Applegate
Aspin
Bacchus
Bateman
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (IL)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Erdreich
Espy
Evans
Ewing
Fazio
Feighan
Fields
Flake
Foglietta
Ford (MI)
Ford (TN)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilman
Glickman
Gonzalez
Grandy
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Hutto
Inhofe
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McMillan (NC)
McMillen (MD)
McNulty
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morrison
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Rinaldo
Roe
Roemer
Rogers
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schumer
Serrano
Sharp
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waxman
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (FL)

NAYS—134

Allard
Allen
Barrett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Camp
Campbell (CA)
Clinger
Coble
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Fawell
Fish
Frank (MA)
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gingrich
Goodling
Goss
Gradison
Green
Hamilton
Hancock
Archer
Armey
Hansen
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hughes
Hunter
Hyde
Jacobs
James
Johnson (CT)
Johnson (TX)
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Marlenee
Martin
McCandless
McCollum
McDade
McEwen
Meyers
Miller (OH)
Molinari
Moorhead
Myers
Nichols
Nussle
Oakar
Oxley
Packard
Baker
Ballenger
Paxon
Porter
Regula
Rhodes
Richardson
Ridge
Riggs
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Shaw
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weldon
Wilson
Zeliff
Zimmer

NOT VOTING—35

Anthony
Atkins
AuCoin
Barnard
Beilenson
Boxer
Brewster
Broomfield
Chandler
Collins (MI)
Conyers
Early
Engel
English
Fascell
Gordon
Hayes (LA)
Hertel
Huckaby
Ireland
Kennedy
McCrery
McHugh
Morella
Owens (UT)
Perkins
Pickle
Savage
Scheuer
Solarz
Towns
Traxler
Waters
Weber
Young (AK)

□ 1007

Mr. GUNDERSON and Mrs. PATTERSON changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. EARLY. Mr. Speaker, during rollcall vote No. 397 on House Resolution 571, I was unavoidably detained. Had I been present, I would have voted "aye."

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 4551. An act to amend the Civil Liberties Act of 1988 to increase the authorization for the Trust Fund under that Act, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 2532), an act entitled the "Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act," agrees to the conference asked by the House of Representatives on the disagreeing votes of the two Houses thereon, and appoints from the Committee on Foreign Relations: Mr. PELL, Mr. BIDEN, Mr. SARBANES, Mr. CRANSTON, Mr. LUGAR, Mrs. KASSEBAUM, and Mr. PRESSLER; from the Committee on Agriculture, Nutrition, and Forestry for matters solely within their jurisdiction: Mr. LEAHY, Mr. KERREY, and Mr. LUGAR; from the Committee on Banking, Housing, and Urban Affairs, for matters solely within their jurisdiction and for matters within the shared jurisdiction of that committee and the Foreign Relations Committee: Mr. RIEGLE, Mr. SARBANES, and Mr. GARN; to be the conferees on the part of the Senate.

CONFERENCE REPORT ON S. 2344, VETERANS' MEDICAL PROGRAMS AMENDMENTS OF 1992

Mr. MONTGOMERY submitted the following conference report and statement on the Senate bill (S. 2344) to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes:

CONFERENCE REPORT (H. REPT. 102–871)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2344), to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Medical Programs Amendments of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code, and to Secretary of Veterans Affairs.

TITLE I—HEALTH CARE

PART A—GENERAL HEALTH CARE

Sec. 101. Increase in limit on certain grants for home structural alterations for disabled veterans.
Sec. 102. Submission of reports of Geriatrics and Gerontology Advisory Committee.
Sec. 103. Authority to hold joint title to medical equipment.
Sec. 104. Quality assurance activities.
Sec. 105. Advisory Committee on Prosthetics and Special-Disabilities Programs.
Sec. 106. Prosthetic services report.
Sec. 107. Services for homeless veterans.

PART B—MENTAL HEALTH PROVISIONS

Sec. 121. Marriage and family counseling for Persian Gulf War veterans.
Sec. 122. Post-traumatic stress disorder research and reports.
Sec. 123. Post-traumatic stress disorder program planning.

TITLE II—HEALTH-CARE PERSONNEL

Sec. 201. Cap on certain rates of pay.
Sec. 202. Minimum period of service for scholarship recipients.
Sec. 203. Authority to purchase items of nominal value for recruitment purposes.
Sec. 204. Special pay for certain physicians and dentists based on board certification.
Sec. 205. Authority to appoint non-physician directors to the office of the Under Secretary for Health.
Sec. 206. Expansion of director grade of the physician and dentist pay schedule.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Authorization requirement for construction of new medical facilities.
Sec. 302. Redesignation of certain positions within the Department of Veterans Affairs.
Sec. 303. Attorney fees in connection with certain Department of Veterans Affairs proceedings.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE, AND TO SECRETARY OF VETERANS AFFAIRS.

(a) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(b) REFERENCES TO SECRETARY.—Except as otherwise expressly provided, any reference in this Act to "the Secretary" is a reference to the Secretary of Veterans Affairs.

TITLE I—HEALTH CARE

PART A—GENERAL HEALTH CARE

SEC. 101. INCREASE IN LIMIT ON CERTAIN GRANTS FOR HOME STRUCTURAL ALTERATIONS FOR DISABLED VETERANS.

(a) INCREASE.—Section 1717(a)(2) is amended by striking out "$2,500" and "$600" and inserting in lieu thereof "$4,100" and "$1,200", respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to a veteran who first applies for benefits under section 1717(a)(2) of title 38, United States Code, after December 31, 1989.

(c) APPLICABILITY.—A veteran who exhausts such veteran's eligibility for benefits under section 1717(a)(2) of title 38, United States Code, before January 1, 1990, is not entitled to additional benefits under such section by reason of the amendments made by subsection (a).

SEC. 102. SUBMISSION OF REPORTS OF GERIATRICS AND GERONTOLOGY ADVISORY COMMITTEE.

Paragraph (2) of section 7315(c) is amended to read as follows:

"(2) Whenever the Committee submits a report to the Secretary under paragraph (1), the Committee shall at the same time transmit a copy of the report in the same form to the appropriate committees of Congress. Not later than 90 days after receipt of a report under that paragraph, the Secretary shall submit to the appropriate committees of Congress a report containing any comments and recommendations of the Secretary with respect to the report of the Committee.".

SEC. 103. AUTHORITY TO HOLD JOINT TITLE TO MEDICAL EQUIPMENT.

(a) IN GENERAL.—(1) Chapter 81 is amended by adding at the end of subchapter IV the following new sections:

"§8157. Joint title to medical equipment

"(a) Subject to subsection (b), the Secretary may enter into agreements with institutions described in section 8153(a) of this title for the joint acquisition of medical equipment.

"(b)(1) The Secretary may not pay more than one-half of the purchase price of equipment acquired through an agreement under subsection (a).

"(2) Any equipment to be procured under such an agreement shall be procured by the Secretary. Title to such equipment shall be held jointly by the United States and the institution.

"(3) Before equipment acquired under such an agreement may be used, the parties to the agreement shall arrange by contract under section 8153 of this title for the exchange or use of the equipment.

"(4) The Secretary may not contract for the acquisition of medical equipment to be purchased jointly under an agreement under subsection (a) until the institution which enters into the agreement provides to the Secretary its share of the purchase price of the medical equipment.

"(c)(1) Notwithstanding any other provision of law, the Secretary may transfer the interest of the Department in equipment acquired through an agreement under subsection (a) to the institution which holds joint title to the equipment if the Secretary determines that the transfer would be justified by compelling clinical considerations or the economic interest of the Department. Any such transfer may only be made upon agreement by the institution to pay to the Department the amount equal to one-half of the depreciated purchase price of the equipment. Any such payment when received shall be credited to the applicable Department medical appropriation.

"(2) Notwithstanding any other provision of law, the Secretary may acquire the interest of an institution in equipment acquired under subsection (a) if the Secretary determines that the acquisition would be justified by compelling clinical considerations or the economic interests of the Department. The Secretary may not pay more than one-half the depreciated purchase price of that equipment.

"§8158. Deposit in escrow

"(a) To facilitate the procurement of medical equipment pursuant to section 8157 of this title, the Secretary may enter into escrow agreements with institutions described in section 8153(a) of this title. Any such agreement shall provide that—

"(1) the institutions shall pay to the Secretary the funds necessary to make a payment under section 8157(b)(4) of this title;

"(2) the Secretary, as escrow agent, shall administer those funds in an escrow account; and

"(3) the Secretary shall disburse the escrowed funds to pay for such equipment upon its delivery or in accordance with the contract to procure the equipment and shall disburse all accrued interest or other earnings on the escrowed funds to the institution.

"(b) As escrow agent for funds placed in escrow pursuant to an agreement under subsection (a), the Secretary may—

"(1) invest the escrowed funds in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(2) retain in the escrow account interest or other earnings on such investments;

"(3) disburse the funds pursuant to the escrow agreement; and

"(4) return undisbursed funds to the institution.

"(c)(1) If the Secretary enters into an escrow agreement under this section, the Secretary may enter into an agreement to procure medical equipment if one-half the purchase price of the equipment is available in an appropriation or fund for the expenditure or obligation.

"(2) Funds held in an escrow account under this section shall not be considered to be public funds.".

(2) The table of sections at the beginning of chapter 81 is amended by inserting after the item relating to section 8156 the following new items:

"8157. Joint title to medical equipment.
"8158. Deposit in escrow.".

(b) REPORT.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's plans for implementation of this section. The report shall include an identification and discussion of—

(1) the instructions the Secretary proposes to issue to medical facilities to guide the development of proposals for procurement of medical equipment under this section, including instructions for ensuring equitable arrangements for use of the equipment by the Department and the co-purchasers of the equipment;

(2) the criteria by which the Secretary plans to evaluate proposals to procure medical equipment under this section;

(3) the means by which the Secretary will integrate the process of procuring equipment under this section with the policies and procedures governing health care planning by the Veterans Health Administration; and

(4) the criteria by which determinations to transfer title to equipment under section 8157(c) of title 38, United States Code, as added by subsection (a), would be made.

SEC. 104. QUALITY ASSURANCE ACTIVITIES.

Effective on October 1, 1992, programs and activities which (1) the Secretary carries out pursuant to section 7311(a) of title 38, United States Code, or (2) are described in section 201(a)(1) and 201(a)(3) of Public Law 100–322 (102 Stat. 508) shall be deemed to be part of the operation of hospitals, nursing homes, and domiciliary facilities of the Department of Veterans Affairs, without regard to the location of the duty stations of employees carrying out those programs and activities.

SEC. 105. ADVISORY COMMITTEE ON PROSTHETICS AND SPECIAL-DISABILITIES PROGRAMS.

(a) STATUS AND NAME OF COMMITTEE.—The Federal advisory committee established by the Secretary and known as the Prosthetics Service Advisory Committee shall after the date of the enactment of this Act be known as the Advisory Committee on Prosthetics and Special-Disabilities Programs and shall operate as though such committee had been established by law. Notwithstanding any other provision of law, the Committee may, upon the enactment of this Act, meet and act on any matter covered by subsection (b) of section 543 of title 38, United States Code, as added by subsection (b) of this section.

(b) STATUTORY ESTABLISHMENT.—(1) Chapter 5 is amended by adding at the end of subchapter III the following new section:

"§543. Advisory Committee on Prosthetics and Special-Disabilities Programs

"(a) There is in the Department an advisory committee known as the Advisory Committee on Prosthetics and Special-Disabilities Programs (hereinafter in this section referred to as the 'Committee').

"(b) The objectives and scope of activities of the Committee shall relate to—

"(1) prosthetics and special-disabilities programs administered by the Secretary;

"(2) the coordination of programs of the Department for the development and testing of, and for information exchange regarding, prosthetic devices;

"(3) the coordination of Department and non-Department programs that involve the development and testing of prosthetic devices; and

"(4) the adequacy of funding for the prosthetics and special-disabilities programs of the Department.

"(c) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee on the matters described in subsection (b).

"(d) Not later than January 15 of 1993, 1994, and 1995, the Committee shall submit to the Secretary and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the effectiveness of the prosthetics and special-disabilities programs administered by the Secretary during the preceding fiscal year. Not more than 60 days after the date on which any such report is received by the Secretary, the Secretary shall submit a report to such committees commenting on the report of the Committee.

"(e) As used in this section, the term 'special-disabilities programs' includes all programs administered by the Secretary for—

"(1) spinal-cord-injured veterans;

"(2) blind veterans;

"(3) veterans who have lost or lost the use of extremities;

"(4) hearing-impaired veterans; and

"(5) other veterans with serious incapacities in terms of daily life functions.".

(2) The table of sections at the beginning of chapter 5 is amended by adding at the end the following new item:

"543. Advisory Committee on Prosthetics and Special-Disabilities Programs.".

SEC. 106. PROSTHETIC SERVICES REPORT.

Not later than six months after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(1) the Secretary's evaluation of the reasons for the backlog that occurred in the procurement of prosthetic appliances in fiscal year 1989, and for the failure to furnish prosthetic appliances in accordance with the priority established in section 1712(i) of title 38, United States Code; and

(2) a description of the actions that the Secretary has taken and plans to take to prevent a recurrence of—

(A) the accumulation of a significant backlog in the procurement of prosthetic appliances; and

(B) the failure to furnish prosthetic appliances in accordance with such priority, including a schedule for any such planned actions.

SEC. 107. SERVICES FOR HOMELESS VETERANS.

(a) PROGRAM DEVELOPMENT.—The Secretary shall assess all programs developed by facilities of the Department of Veterans Affairs which have been designed to assist homeless veterans. To the maximum extent practicable, the Secretary shall seek to replicate at other facilities of the Department those programs that have as a goal the rehabilitation of homeless veterans and which the Secretary has determined to be successful in achieving that goal by fostering reintegration of homeless veterans into the community and employment of such veterans.

(b) ASSESSMENT AND COORDINATION.—(1) In carrying out subsection (a), the Secretary shall require the director of each medical center or the director of each regional benefits office to make an assessment of the needs of homeless veterans living within the area served by the medical center or regional office, as the case may be.

(2) Each such assessment shall be made in coordination with representatives of State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations that have experience working with homeless persons in that area.

(3) Each such assessment shall identify the needs of homeless veterans with respect to the following:

(A) Health care.

(B) Education and training.

(C) Employment.

(D) Shelter.

(E) Counseling.

(F) Outreach services.

(4) Each assessment shall also indicate the extent to which the needs referred to in paragraph (3) are being met adequately by the programs of the Department, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations.

(5) Each assessment shall be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

(c) PLANNING.—In furtherance of subsection (a), the Secretary shall require the director of each medical center and the director of each regional benefits office, in coordination with representatives of State and local governments, other Federal officials, and nongovernmental organizations that have experience working with homeless persons in the areas served by such facility, to—

(1) develop a list of all public and private programs that provide assistance to homeless persons or homeless veterans in the area concerned, together with a description of the services offered by those programs; and

(2) seek to encourage the development by the representatives of such entities, in coordination with the director, of a plan to coordinate among such public and private programs the provision of services to homeless veterans.

(d) SERVICES.—In furtherance of subsection (a), the Secretary shall require the director of each medical center or regional benefits office, in carrying out such director's responsibilities under title 38, United States Code, to take appropriate action to—

(1) meet, to the maximum extent practicable through existing programs and available resources, the needs of homeless veterans that are identified in the assessment conducted under subsection (b); and

(2) attempt to inform homeless veterans whose needs the director cannot meet under paragraph (1) of the services available to such veterans within the area served by such center or office.

(e) AUTHORITY TO ACCEPT DONATIONS FOR CERTAIN PROGRAMS.—The Secretary may accept donations of funds and services for the purposes of providing one-stop, non-residential services and mobile support teams and for expanding the medical services to homeless veterans eligible for such services from the Department of Veterans Affairs.

(f) DEFINITIONS.—As used in subsections (a) through (e):

(1) The term "medical center" means a medical center of the Department of Veterans Affairs.

(2) The term "regional benefits office" means a regional benefits office of the Department of Veterans Affairs.

(3) The term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

(4) The term "homeless" has the meaning given such term in section 103(a), as limited by section 103(c), of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(a)).

(g) EXTENSION OF CERTAIN PROGRAMS FOR HOMELESS VETERANS.—Section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628; 102 Stat. 3257) is amended—

(1) in subsection (a), by striking out "to the Veterans' Administration" and all that follows through the period and inserting in lieu thereof the following: "to the Department of Veterans Affairs $50,000,000 for fiscal year 1993 for medical care of veterans. Funds appropriated pursuant to this section shall be in addition to any funds appropriated pursuant to any other authorizations (whether definite or indefinite) for medical care of veterans."; and

(2) in subsections (b) and (c), by striking out "Of the amount appropriated pursuant to subsection (a), 50 percent" and inserting in lieu thereof "The amounts appropriated pursuant to subsection (a)".

(h) Extension of Program for Mentally Ill Homeless Veterans.—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "1992" and inserting in lieu thereof "1994".

(i) Report.—Not later than February 1, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing an evaluation of the programs referred to in subsections (a) and (e).

Part B—Mental Health Provisions

SEC. 121. MARRIAGE AND FAMILY COUNSELING FOR PERSIAN GULF WAR VETERANS.

(a) Requirement.—Subject to the availability of funds appropriated pursuant to the authorization in subsection (g), the Secretary shall conduct a program to furnish to the persons referred to in subsection (b) the marriage and family counseling services referred to in subsection (c). The authority to conduct the program shall expire on September 30, 1994.

(b) Persons Eligible for Counseling.—The persons eligible to receive marriage and family counseling services under the program are—

(1) veterans who were awarded a campaign medal for active-duty service during the Persian Gulf War and the spouses and children of such veterans; and

(2) veterans who are or were members of the reserve components who were called or ordered to active duty during the Persian Gulf War and the spouses and children of such members.

(c) Counseling Services.—Under the program, the Secretary may provide marriage and family counseling that the Secretary determines, based on an assessment by a mental-health professional employed by the Department and designated by the Secretary (or, in an area where no such professional is available, a mental-health professional designated by the Secretary and performing services under a contract or fee arrangement with the Secretary), is necessary for the amelioration of psychological, marital, or familial difficulties that result from the active duty service referred to in subsection (b) (1) or (2).

(d) Manner of Furnishing Services.—(1) Marriage and family counseling services shall be furnished under the program—

(A) by personnel of the Department of Veterans Affairs who are qualified to provide such counseling services;

(B) by appropriately certified marriage and family counselors employed by the Department; and

(C) by qualified mental health professionals pursuant to contracts with the Department, when Department facilities are not capable of furnishing economical medical services because of geographical inaccessibility or are not capable of furnishing the services required.

(2) The Secretary shall establish the qualifications required of personnel under subparagraphs (A) and (C) of paragraph (1) and shall prescribe the training, experience, and certification required of appropriately certified marriage and family counselors under subparagraph (B) of such paragraph.

(3) The Secretary may employ licensed or certified marriage and family counselors to provide counseling under paragraph (1)(B) and may classify the positions in which they are employed at levels determined appropriate by the Secretary, taking into consideration the training, experience, and licensure or certification required of such counselors.

(e) Contract Counseling Services.—(1) Subject to paragraphs (2) and (4), a mental health professional referred to in subsection (d)(1)(C) may furnish marriage and family counseling services to a person under the program as follows:

(A) For a period of not more than 15 days beginning on the date of the commencement of the furnishing of such services to the person.

(B) For a 90-day period beginning on such date if—

(i) the mental health professional submits to the Secretary a treatment plan with respect to the person not later than 15 days after such date; and

(ii) the treatment plan and the assessment made under subsection (c) are approved by an appropriate mental health professional of the Department designated for that purpose by the Under Secretary for Health.

(C) For an additional 90-day period beginning on the date of the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period) if—

(i) not more than 30 days before the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period), the mental health professional submits to the Secretary a revised treatment plan containing a justification of the need of the person for additional counseling services; and

(ii) the plan is approved in accordance with the provisions of subparagraph (B)(ii).

(2)(A) A mental health professional referred to in paragraph (1) who assesses the need of any person for services for the purposes of subsection (c) may not furnish counseling services to that person.

(B) The Secretary may waive the prohibition referred to in subparagraph (A) for locations (as determined by the Secretary) in which the Secretary is unable to obtain the assessment referred to in that subparagraph from a mental health professional other than the mental health professional with whom the Secretary enters into contracts under subsection (d)(1)(C) for the furnishing of counseling services.

(3) The Secretary shall reimburse mental health professionals for the reasonable cost (as determined by the Secretary) of furnishing counseling services under paragraph (1). In the event of the disapproval of a treatment plan of a person submitted by a mental health professional under paragraph (1)(B)(i), the Secretary shall reimburse the mental health professional for the reasonable cost (as so determined) of furnishing counseling services to the person for the period beginning on the date of the commencement of such services and ending on the date of the disapproval.

(4) The Secretary may authorize the furnishing of counseling in an individual case for a period shorter than the 90-day period specified in subparagraph (B) or (C) of paragraph (1) and, upon further consideration, extend the shorter period to the full 90 days.

(5)(A) For the purposes of this subsection, the term "treatment plan", with respect to a person entitled to counseling services under the program, must include—

(i) an assessment by the mental health professional submitting the plan of the counseling needs of the person described in the plan on the date of the submittal of the plan; and

(ii) a description of the counseling services to be furnished to the person by the mental health professional during the 90-day period covered by the plan, including the number of counseling sessions proposed as part of such services.

(B) The Secretary shall prescribe an appropriate form for the treatment plan.

(f) Cost Recovery.—For the purposes of section 1729 of title 38, United States Code, marriage and family counseling services furnished under the program shall be deemed to be care and services furnished by the Department under chapter 17 of such title, and the United States shall be entitled to recover or collect the reasonable cost of such services in accordance with that section.

(g) Authorization of Appropriations.—There is authorized to be appropriated $10,000,000 for each of fiscal years 1993 and 1994 to carry out this section.

(h) Report.—Not later than July 1, 1994, the Secretary shall submit to Congress a report on the program conducted pursuant to this section. The report shall contain information regarding the persons furnished counseling services under the program, including—

(1) the number of such persons, stated as a total number and separately for each eligibility status referred to in subsection (b);

(2) the age and gender of such persons;

(3) the manner in which such persons were furnished such services under the program; and

(4) the number of counseling sessions furnished to such persons.

(i) Definitions.—For the purposes of this section, the terms "veteran", "child", "active duty", "reserve component", "spouse", and "Persian Gulf War" have the meanings given such terms in paragraphs 101 (2), (4), (21), (27), (31), and (33) of section 101 of title 38, United States Code, respectively.

SEC. 122. POST-TRAUMATIC STRESS DISORDER RESEARCH AND REPORTS.

(a) Research Priority.—In carrying out research and awarding grants under chapter 73 of title 38, United States Code, the Secretary shall assign a high priority to the conduct of research on mental illness, including research regarding (1) post-traumatic stress disorder, (2) post-traumatic stress disorder in association with substance abuse, and (3) the treatment of those disorders.

(b) Updates of Reports Under Section 110(c) of Public Law 98-528.—(1) Not later than October 1, 1992, and October 1, 1993, the Special Committee on Post-Traumatic-Stress Disorder established pursuant to section 110(b)(1) of the Veterans' Health Care Act of 1984 (38 U.S.C. 1712A note) shall concurrently submit to the Secretary and the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing information updating the reports submitted to the Secretary under section 110(e) of the Veterans' Health Care Act of 1984, together with any additional information the Special Committee considers appropriate regarding the overall efforts of the Department of Veterans Affairs to meet the needs of veterans with post-traumatic stress disorder and other psychological problems in readjusting to civilian life.

(2) Not later than 90 days after receiving each of the reports under paragraph (1), the Secretary shall submit to the committees any comments concerning the report that the Secretary considers appropriate.

SEC. 123. POST-TRAUMATIC STRESS DISORDER PROGRAM PLANNING.

(a) Plan.—The Secretary shall develop a plan—

(1) to ensure, to the maximum extent practicable, that veterans suffering from post-traumatic stress disorder related to active duty are provided appropriate treatment and rehabilitative services for that condition in a timely manner;

(2) to expand and improve the services available for veterans suffering from post-traumatic stress disorder related to active duty;

(3) to eliminate waiting lists for inpatient treatment and other modes of treatment for post-traumatic stress disorder;

(4) to enhance outreach activities carried out to inform combat-area veterans of the availability of treatment for post-traumatic stress disorder; and

(5) to ensure, to the extent practicable, that there are Department post-traumatic stress disorder treatment units in locations that are readily accessible to veterans residing in rural areas of the United States.

(b) CONSIDERATIONS.—In developing the plan referred to in subsection (a), the Secretary shall consider—

(1) the numbers of veterans suffering from post-traumatic stress disorder related to active duty, as indicated by relevant studies, scientific and clinical reports, and other pertinent information;

(2) the numbers of veterans who would likely seek post-traumatic stress disorder treatment from the Department if waiting times for treatment were eliminated and outreach activities to combat-area veterans with post-traumatic stress disorder were enhanced;

(3) the current and projected capacity of the Department to provide appropriate treatment and rehabilitative services for post-traumatic stress disorder;

(4) the level and geographic accessibility of inpatient and outpatient care available through the Department for veterans suffering from post-traumatic stress disorder across the United States;

(5) the desirability of providing that inpatient and outpatient post-traumatic stress disorder care be furnished in facilities of the Department that are physically independent of general psychiatric wards of the medical facilities of the Department;

(6) the treatment needs of veterans suffering from post-traumatic stress disorder who are women, of such veterans who are ethnic minorities (including Native Americans, Native Hawaiians, Asian-Pacific Islanders, and Native Alaskans), and of such veterans who suffer from substance abuse problems in addition to post-traumatic stress disorder; and

(7) the recommendations of the Special Committee on Post-Traumatic-Stress Disorder with respect to (A) specialized inpatient and outpatient programs of the Department for the treatment of post-traumatic stress disorder, and (B) with respect to the establishment of educational programs that are designed for each of the various levels of education, training, and experience of the various mental health professionals involved in the treatment of veterans suffering from post-traumatic stress disorder.

(c) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the plan developed pursuant to subsection (a). The report shall include specific information relating to the consideration given to the matters described in subsection (b).

(d) DEFINITIONS.—For the purposes of this section:

(1) The term ''active duty'' has the meaning given that term in section 101(21) of title 38, United States Code.

(2) The term ''veteran'' has the meaning given that term in section 101(2) of such title.

(3) The term ''combat-area veteran'' means a veteran who served on active duty in an area at a time during which hostilities (as defined in section 1712A(a)(2)(B) of such title) occurred in such area.

TITLE II—HEALTH-CARE PERSONNEL

SEC. 201. CAP ON CERTAIN RATES OF PAY.

Section 7455(c) is amended—

(1) by inserting ''(1)'' after ''(c)'';

(2) by inserting ''by two times'' after ''exceed'' the first place it appears; and

(3) by adding at the end the following:

''(2) Whenever the amount of an increase under subsection (a) results in a rate of basic pay for a position being equal to or greater than the amount that is 94 percent of the maximum amount permitted under paragraph (1), the Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the increase and the amount thereof.''.

SEC. 202. MINIMUM PERIOD OF SERVICE FOR SCHOLARSHIP RECIPIENTS.

(a) MINIMUM SERVICE REQUIREMENT.—Section 7612(c)(1) is amended by striking out the period at the end of subparagraph (B) and inserting in lieu thereof '', but for not less than two years.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to scholarship agreements entered into after the date of the enactment of this Act.

SEC. 203. AUTHORITY TO PURCHASE ITEMS OF NOMINAL VALUE FOR RECRUITMENT PURPOSES.

Section 7423 is amended by adding at the end the following new subsection:

''(f) The Secretary may purchase promotional items of nominal value for use in the recruitment of individuals for employment under this chapter. The Secretary shall prescribe guidelines for the administration of the preceding sentence.''.

SEC. 204. SPECIAL PAY FOR CERTAIN PHYSICIANS AND DENTISTS BASED ON BOARD CERTIFICATION.

(a) IN GENERAL.—Section 7437(e) is amended by striking out ''only for the special-pay'' and all that follows through the period in paragraphs (1)(C) and (2)(C) and inserting in lieu thereof ''for no special-pay factors other than primary, full-time, length of service, and specialty or board certification.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as if enacted with the amendment made by section 102 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Public Law 102–40; 105 Stat. 187).

(c) AVAILABILITY OF FUNDS.—Expenses incurred for periods before October 1, 1991, by reason of the amendments made by subsection (a) may be charged to fiscal year 1992 appropriations available for the same purpose.

SEC. 205. AUTHORITY TO APPOINT NON-PHYSICIAN DIRECTORS TO THE OFFICE OF THE UNDER SECRETARY FOR HEALTH.

Section 7306(a) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

''(7) Such directors of such other professional or auxiliary services as may be appointed to suit the needs of the Department, who shall be responsible to the Under Secretary for Health for the operation of their respective services.''.

SEC. 206. EXPANSION OF DIRECTOR GRADE OF THE PHYSICIAN AND DENTIST PAY SCHEDULE.

Section 7404(b)(2) is amended in the first sentence by inserting '', or comparable position'' before the period.

TITLE III—MISCELLANEOUS

SEC. 301. AUTHORIZATION REQUIREMENT FOR CONSTRUCTION OF NEW MEDICAL FACILITIES.

(a) AUTHORIZATION REQUIREMENT.—(1) Paragraph (2) of section 8104(a) is amended to read as follows:

''(2) No funds may be appropriated for any fiscal year, and the Secretary may not obligate or expend funds (other than for advance planning and design), for any major medical facility project or any major medical facility lease unless funds for that project or lease have been specifically authorized by law.''.

(2) Paragraph (3)(B) of that section is amended—

(A) by inserting ''new'' before ''medical facility'' the second place it appears; and

(B) by striking out ''$500,000'' and inserting in lieu thereof ''$300,000''.

(3) Subsection (c) of section 8104 is amended by striking out ''resolution'' both places it appears and inserting in lieu thereof ''law''.

(b) APPLICABILITY.—The amendments made by subsection (a) shall not apply with respect to any project for which funds were appropriated before the date of the enactment of this Act.

SEC. 302. REDESIGNATION OF CERTAIN POSITIONS WITHIN THE DEPARTMENT OF VETERANS AFFAIRS.

(a) REDESIGNATION OF POSITION OF CHIEF MEDICAL DIRECTOR.—The position of Chief Medical Director of the Department of Veterans Affairs is hereby redesignated as Under Secretary for Health of the Department of Veterans Affairs.

(b) REDESIGNATION OF POSITION OF CHIEF BENEFITS DIRECTOR.—The position of Chief Benefits Director of the Department of Veterans Affairs is hereby redesignated as Under Secretary for Benefits of the Department of Veterans Affairs.

(c) TITLE 38 CONFORMING AMENDMENTS.—(1) Title 38, United States Code, is amended by striking out ''Chief Medical Director'' and ''Chief Benefits Director'' each place they appear (including in headings and tables but not including the sentences added by paragraphs (2) and (3)) and inserting in lieu thereof ''Under Secretary for Health'' and ''Under Secretary for Benefits'', respectively.

(2) Section 7301(a) is amended by adding after the last sentence the following: ''The Under Secretary for Health may be referred to as the Chief Medical Director.''.

(3) Section 7701(b) is amended by adding after the last sentence the following: ''The Under Secretary for Benefits may be referred to as the Chief Benefits Director.''.

(d) EXECUTIVE SCHEDULE CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by striking out the following:

''Chief Medical Director, Department of Veterans Affairs.

''Chief Benefits Director, Department of Veterans Affairs.'';

and inserting in lieu thereof the following:

''Under Secretary for Health, Department of Veterans Affairs.

''Under Secretary for Benefits, Department of Veterans Affairs.''.

(e) REFERENCES IN OTHER LAWS.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Department of Veterans Affairs—

(1) to the Chief Medical Director of the Department of Veterans Affairs shall be deemed to refer to the Under Secretary for Health of the Department of Veterans Affairs; and

(2) to the Chief Benefits Director of the Department of Veterans Affairs shall be deemed to refer to the Under Secretary for Benefits of the Department of Veterans Affairs.

SEC. 303. ATTORNEY FEES IN CONNECTION WITH CERTAIN DEPARTMENT OF VETERANS AFFAIRS PROCEEDINGS.

(a) IN GENERAL.—Section 5904(c) is amended—

(1) By striking out ''In'' at the beginning of paragraph (1) and inserting in lieu thereof ''Except as provided in paragraph (3), in''; and

(2) by adding at the end the following new paragraph:

"(3) A reasonable fee may be charged or paid in connection with any proceeding before the Department in a case arising out of a loan made, guaranteed, or insured under chapter 37 of this title. A person who charges a fee under this paragraph shall enter into a written agreement with the person represented and shall file a copy of the fee agreement with the Secretary at such time, and in such manner, as may be specified by the Secretary.".

(b) EFFECTIVE DATE.—Paragraph (3) of section 5904(c) of title 38, United States Code, as added by subsection (a), shall apply with respect to services of agents and attorneys provided after the date of the enactment of this Act.

And the House agree to the same.

G.V. MONTGOMERY,
DON EDWARDS,
J. ROY ROWLAND,
BOB STUMP,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

ALAN CRANSTON,
JOHN D. ROCKEFELLER,
ARLEN SPECTER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the Senate and the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2344) to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes, submit the following joint statement to the Senate and House in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. For each provision of the conference report, the differences between the provisions of the Senate bill, the House amendment, and the substitute agreed to in conference are noted below (followed by a statement showing changes made in existing law) except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—GENERAL HEALTH

Part A—General Health Care

INCREASE IN LIMIT ON CERTAIN GRANTS FOR HOME STRUCTURAL ALTERATIONS FOR DISABLED VETERANS

Current law

Section 1717(a)(2) of title 38, United States Code, authorizes VA to furnish, as part of medical services furnished to a veteran under section 1712(a) of title 38, improvements and structural alterations as necessary to assure the continuation of treatment for the veterans' disability or to provide the veteran access to the home or to essential lavatory and sanitary facilities. The cost of (or reimbursement for) the improvements and alterations may not exceed (a) $2,500 in the case of medical services furnished under section 1712(a)(1) of title 38, *i.e.*, services furnished (1) to a veteran for a service-connected disability, (2) for any disability of a veteran who has a service-connected disability rated at 50 percent or more, or (3) to any veteran for a disability for which the veteran is in receipt of compensation under section 1151 of title 38; or (b) $600 in the case of medical services furnished under any other provision of section 1712 of title 38.

Senate bill

Section 202, effective on the date of enactment, would (a) increase the maximum amount of reimbursement for such home modifications to $5,000 in the case of medical services furnished under section 1712(a)(1) of title 38; and (b) $1,200 in the case of medical services furnished under any other provision of section 1712.

House amendment

Section 101 would amend section 1717(a)(2) to increase, as of the date of enactment, the maximum amount of reimbursement for such home modifications to (a) $3,300 in the case of medical services furnished under section 1712(a)(1) of title 38; or (b) $1,200 in the case of medical services furnished under any other provision of section 1712.

Conference agreement

Section 101 would (a) increase the maximum amount of reimbursement for home modifications to (1) $4100 in the case of medical services furnished under section 1712(a)(1); (2) $1200 in the case of medical services furnished under any other provision of section 1712; (b) provide that the new rates would be effective in any case of a veteran who first applies for the grant benefit on or after January 1, 1990; and (c) clarify that a veteran who, prior to January 1, 1990, received the maximum amount of reimbursement authorized under the current limits of section 1717 is not entitled to additional monetary benefits by reason of the amendments.

SUBMISSION OF REPORTS OF GERIATRICS AND GERONTOLOGY ADVISORY COMMITTEE

Current law

Section 7315 of title 38(a) requires the Secretary to establish a Geriatrics and Gerontology Advisory Committee (GGAC); (b) sets forth the GGAC's duties; (c) requires the GGAC to submit to the Secretary, through the Chief Medical Director, such reports as the GGAC considers appropriate; and (d) requires the Secretary to transmit any GGAC reports, together with the Secretary's comments and recommendations thereon, to the House and Senate Committees on Veterans' Affairs not later than 90 days after receipt from the GGAC.

Senate bill

No provision.

House amendment

Section 103 would amend section 7315 to add a requirement that any reports issued by the GGAC be submitted simultaneously to the Secretary and the Congressional Committees on Veterans' Affairs.

Conference agreement

Section 102 follows the House provision.

AUTHORITY TO HOLD JOINT TITLE TO MEDICAL EQUIPMENT

Current law

Section 8153(a) of title 38 authorizes the Secretary of Veterans Affairs to make arrangements, by contract or other form of agreement, for the sharing of specialized medical resources, including medical equipment, between VA health-care facilities and non-VA facilities for the mutual use, or exchange of use, of specialized medical resources when such an agreement will obviate the need for a VA health-care facility to provide a similar resource, or when specialized VA medical resources, while justified on the basis of veterans' care, are not utilized by VA to their maximum effective capacity. This section does not contain a specific authority for the joint procurement of medical equipment.

Senate bill

No provision.

House amendment

Section 105 would amend chapter 81 to add new sections 8157 and 8158 which would (a) permit the Secretary to enter into agreements with non-VA institutions described in section 8153(a) of title 38 for the acquisition of medical equipment where (1) the Secretary pays not more than one-half of the purchase price of equipment acquired, (2) the Secretary procures the equipment, (3) the Secretary and the chief executive of the non-VA institution arrange by contract, before the equipment is used, for the exchange of use of the equipment, and (4) the Secretary does not contract for the acquisition of such equipment until the non-VA institution provides its share of the purchase price of the equipment to the Secretary; (b) permit the Secretary, notwithstanding any other provision of law, to (1) transfer VA's interest in equipment acquired through a joint agreement to the non-VA institution holding joint title to the equipment if (A) the Secretary determines that the transfer would be justified by compelling clinical considerations or the economic interest of VA, and (B) the institution agrees to pay VA one-half of the depreciated purchase price of the equipment, and (2) acquire the interest of the non-VA institution in the equipment if (A) the Secretary determines that the acquisition would be justified by the considerations specified in (b)(1), above, and (B) VA pays no more than one-half of the depreciated price of the equipment; (c) permit the Secretary to enter into an escrow agreement with the non-VA institution which would (1) require that institution to pay to the Secretary the funds necessary to make a payment under a joint-funding acquisition agreement, (2) require the Secretary, as escrow agent, to administer those funds in an escrow account, and (3) require the Secretary to disburse those funds to pay for the equipment upon its delivery or in accordance with the procurement contract and disburse all accrued interest or other earnings on the escrowed funds to the non-VA institution; (d) permit the Secretary, as escrow agent, to (1) invest the escrowed funds in obligations which are insured or guaranteed by the Federal Government, (2) retain in the escrow account interest or other earnings on the investments, (3) disburse the funds pursuant to the escrow agreement, and (4) return undisbursed funds to the non-VA institution; (e) permit the Secretary, if the Secretary enters into an escrow agreement, to enter into a joint-funding acquisition agreement, if one-half of the purchase price of the equipment is available in an appropriation of funds for the expenditure or obligation; (f) require that funds held in an escrow account not be considered public funds; and (g) require the Secretary, not later than 45 days after the date of enactment, to submit to the House and Senate Committees on Veterans' Affairs a report on the Secretary's plans for implementation of this provision, along with identification and discussion of (1) the instructions the Secretary proposes to issue to medical facilities for the development of proposals for jointly funded procurement of medical equipment, including instructions for ensuring equitable arrangements for use of the equipment by VA and the non-VA sharing partner, (2) the criteria the Secretary plans to use to evaluate proposals, (3) the means by which the Secretary will integrate the process of procuring equipment with policies and procedures governing health-care planning for VHA, and (4) the criteria by which determinations regarding the transfer of title to equipment would be made.

Conference agreement

Section 103 follows the House provision.

QUALITY ASSURANCE ACTIVITIES

Current law

Section 7311 of title 38 (a) requires the Secretary to (1) establish and conduct a comprehensive program to monitor and evaluate the quality of VA health-care services, and (2) delineate the responsibilities of the Chief Medical Director with respect to the quality assurance program; (b) specifies the types of information that the Chief Medical Director must evaluate as part of the quality assurance program; (c) requires the Chief Medical Director to make such recommendations as the Chief Medical Director considers appropriate on the basis of evaluations conducted pursuant to the quality assurance program; (d) requires (1) the Secretary to allocate sufficient resources (including sufficient personnel with the necessary skills and qualifications) to enable the Veterans Health Administration to carry out its responsibilities under section 7311 of title 38, and (2) the Inspector General to allocate sufficient resources (including sufficient personnel with the necessary skills and qualifications) to enable the Inspector General to monitor the quality assurance program.

Senate bill

No provision.

House amendment

Section 106 would require that, effective October 1, 1992, all quality assurance programs and activities carried out by the Secretary within the Veterans Health Administration be deemed to be part of the operation of hospitals, nursing homes, and domiciliary facilities, without regard to the locations of the duty stations of the employees carrying out those programs and activities, and thus would be funded through the Medical Care account.

Conference agreement

Section 104 follows the House provision.

ADVISORY COMMITTEE ON PROSTHETICS AND SPECIAL-DISABILITIES PROGRAMS

Current law

On September 4, 1991, the Secretary administratively established a Prosthetics Services Advisory Committee with twelve members.

Senate bill

Section 205 would require the Secretary to establish an Advisory Committee on Prosthetics and Special-Disabilities Programs with membership including representatives of veterans-prosthetics users, recognized experts in the field of prosthetics engineering, and individuals engaged in prosthetics research, rehabilitative medicine, and relevant clinical treatment. The function of the Committee would be to advise the Secretary on all matters related to prosthetics and special-disabilities programs administered by the Secretary; the coordination of programs of the Department for the development and testing of, and for information exchange regarding, prosthetics devices; the coordination of Department and non-Department programs that involve the development and testing of prosthetics devices; and the adequacy of funding for the prosthetics and special-disabilities programs of the Department. The Committee would be required to submit concurrently to the Congressional Committees on Veterans' Affairs and the Secretary three annual reports beginning on June 15, 1992. Not later than 30 days after receiving each report, the Secretary would be required to submit a report to the Congressional Committees on Veterans' Affairs commenting on the Advisory Committee's report.

House amendment

Section 107 is similar to the Senate provision with amendments such that the provision would (a) require the existing VA Prosthetics Services Advisory Committee—the charter of which was filed on September 4, 1990—to adhere to the objectives and scope set forth in the Senate provision; and (b) with respect to the Advisory Committee annual reports (1) require the reports on January 15 of 1993, 1994, and 1995, and (2) require that the Secretary submit commentary on the Advisory Committee's annual reports to the Committees not later than 60 days after the date on which any such report is received by the Secretary.

Conference agreement

Section 105 follows the House amendment.

PROSTHETIC SERVICES REPORT

Senate bill

Section 209 would require the Secretary to submit to the Congressional Committees on Veterans' Affairs by July 15, 1992, a report containing (a) an evaluation of the reasons for the accumulation of the backlog in VA's provision of prosthetic appliances that grew to $10.6 million in FY 1989 and for the failure to observe, in connection with the provision of prosthetic appliances, the statutory priorities established in section 1712(i)(1) of title 38, and (b) a description of the actions that the Secretary has taken and is planning to take to prevent such a recurrence of these problems.

House amendment

No provision.

Conference agreement

Section 106 follows the Senate bill with an amendment which changes the due date of the report to six months after the date of enactment of this Act.

SERVICES FOR HOMELESS VETERANS

Assessment of the needs of homeless veterans and available services

Senate bill

Section 203(a)(1) would require each VA medical center (VAMC) or regional benefits office (RO) (in consultation with all VA facilities serving veterans in the appropriate service area and with existing community-based organizations that have experience in working with homeless persons) to make an assessment of the needs of homeless veterans in that facility's catchment area for health care, education, training, employment, shelter, counseling, and outreach services and the extent to which these needs are being met by VA programs, other government programs, and private programs.

Section 203(a)(2) would require each VAMC, in conjunction with the appropriate RO and the Director of Veterans Employment and Training in the State, to develop a plan for each of FYs 1993, 1994, and 1995 for the provision of outreach and other comprehensive services to homeless veterans in that VAMC/RO catchment are and, in developing such a plan, to attempt, to the maximum feasible extent to meet, within existing authorities and available resources, needs identified in the assessment as unmet and to coordinate with other Federal, State, and local programs that provide services to homeless persons or homeless veterans. Each plan would be required to include a list of all local, private, and governmental programs that offer assistance to homeless persons or homeless veterans and identify the services offered by those programs.

Section 203(a)(3) would require the director of each VAMC to be responsible for carrying out the plan for that VAMC's catchment area and taking appropriate steps to seek to inform each homeless veteran, and each veteran who is at risk of becoming homeless, of the services available to the veteran within that area.

Section 203(a)(4) would require each VAMC director to disseminate to all other government agencies, local governments, and private entities that provide services to homeless veterans information regarding services provided to homeless veterans by the VAMC or other VA facilities.

House amendment

No provision.

Conference agreement

Section 107 generally follows the Senate bill with amendments such that the compromise agreement would require the Secretary to (a) assess all programs developed by facilities of the Department which have been designed and established to assist homeless veterans; (b) to the maximum extent practicable, seek to replicate at other facilities of the Department those programs which have as a goal the rehabilitation of homeless veterans and which the Secretary has determined to be successful in achieving that goal by fostering reintegration of such veterans in the community and the employment of such veterans; (c) require directors of VA medical centers and regional benefits offices, in coordination with non-VA organizations with experience working with local homeless persons, to develop lists of all programs assisting homeless persons and encourage the cooperative development of local plan for coordinating services for homeless veterans and (d) require directors of VA medical centers and regional benefits offices to meet, to the maximum extent practicable through existing programs and available resources, the identified needs of homeless veterans and attempt to inform homeless veterans whose needs cannot be met of services available in the area.

Extension of homeless chronically mentally ill (HCMI) veterans program

Current law

Under section 115 of Public Law 100–322, the Veterans' Benefits and Services Act of 1988, VA was required, in FYs 1988 and 1989, to conduct a pilot program to provide care, treatment, and rehabilitative services (directly or by contract) in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities to homeless chronically mentally ill (HCMI) veterans who are eligible for care under section 1710(a)(1) of title 38. Public Law 100–628, the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (McKinney Act II), authorized appropriations of $30 million for each of FYs 1989 and 1990 and required that 50 percent of the funds so appropriated in each of those years be available for the HCMI program and 50 percent be available for the Domiciliary Care for Homeless Veterans

(DCHV) program (discussed below). Public Law 101-237 extended the authority for the HCMI program through FY 1992, and Public Law 101-645 authorized appropriations of $31.5 million for FY 1991 and $33.075 million for FY 1992 to be divided equally between the HCMI and DCHV programs.

Senate bill

Section 203(e) would (a) extend through FY 1993 the authorization of HCMI appropriations and increase the authorized levels of appropriations to $35 million for FY 1992 and $40 million for FY 1993; and (b) extend the HCMI program's authority by two years, through FY 1994.

House amendment

No provision.

Conference agreement

Section 107(g) extends the HCMI program's authority through FY 1994 and increases the authorized level of appropriations for the HCMI and DCHV programs to $50 million for FY 1993, with funds appropriated in that year to be allocated between those two programs at the Secretary's discretion.

Extension of domiciliary care for homeless veterans (DCHV) program

Current law

Public Law 100-71, the Supplemental Appropriations Act of 1987, authorized VA to implement the DCHV program and appropriated $15 million for the conversion to domiciliary-care beds of underutilized space located in facilities in urban areas in which there are significant numbers of homeless veterans. Subsequent authorizations of appropriations of $15 million for FYs 1989 and 1990 were enacted in McKinney Act II, and authorizations of $15.75 million for 1991 and $16.54 million for FY 1992 were enacted in Public Law 101-645.

Senate bill

Section 203(e) would extend through FY 1993 the authorization of DCHV appropriations and increase the authorized level of appropriations to $22.5 million for FY 1992 and $25 million for FY 1993.

House amendment:

No provision.

Conference agreement

As noted above, section 107(g) authorizes the appropriation of $50 million for the HCMI and DCHV programs for FY 1993, with funds appropriated in that year to be allocated between those two programs at the Secretary's discretion.

Authority to accept donations for certain programs

Current law

Section 8301 of title 38 authorizes the Secretary to accept devises, bequests, and gifts with respect to which the donor has indicated a desire that the property be used for the benefit of veterans or a veterans' hospital or home. The Secretary may also accept, for use in carrying out all laws administered by the Secretary, gifts, devises, and bequests which will enhance the Secretary's ability to provide services and benefits.

Senate bill

Section 203(c) would authorize VA to accept donations for the purposes of establishing one-stop, non-residential service centers and mobile support teams and expanding the health services available to homeless veterans eligible for VA benefits and services.

House amendment

No provision.

Conference agreement

Section 107(e) follows the Senate bill.

Report

Senate bill

Section 203(f) would require the Secretary to submit by February 1, 1994, a report of an evaluation of certain programs relating to homeless veterans, specifically the assessment of the needs of homeless veterans, the pilot program for contract domiciliary care for homeless veterans, and the authority to accept donations for certain programs for homeless veterans.

House amendment

No provision.

Conference agreement

Section 107(i) follows the Senate bill, with a modification to limit the evaluation to the Secretary's replication of homeless veterans programs at other VA facilities and the authority to accept donations for certain programs.

Part B—Mental Health Provisions

MARRIAGE AND FAMILY COUNSELING FOR PERSIAN GULF WAR VETERANS

Current law

Under sections 1701(6)(B), 1712(b)(2), and 1712A(b)(2) of title 38, VA has limited authority to provide counseling services to family members of eligible veterans. Counseling of family members may be provided only if it is either necessary for the effective treatment or rehabilitation of a service-connected disability of a veteran, part of a necessary follow-up treatment of a veteran, part of a necessary follow-up treatment of a veteran who has been hospitalized, or essential to the effective treatment or readjustment of a veteran receiving mental health services under VA's readjustment counseling authority.

Senate bill

Sections 131 through 134 include provisions that would establish a program of marriage and family counseling for certain veterans of the Persian Gulf War and the spouses and families of such veterans, as follows:

Basic requirement

Section 131(a) would require VA to establish, within 30 days after enactment and subject to the availability of appropriations, a program of marriage and family counseling for certain Persian Gulf War veterans and their families. The authority for this program would expire on September 30, 1994.

Persons eligible for counseling

Section 131(b) would authorize VA to provide, either directly or by contract, marriage and family counseling to (a) veterans who were awarded campaign medals for active-duty service during the Persian Gulf War and their spouses, children, and parents, and (b) veterans who are or were members of reserve components—including the Reserve and National Guard forces—who were called to active duty during the war and their spouses, children, and parents.

Counseling services

Section 131(c) would permit VA to provide only marriage and family counseling that the Secretary determines—based on an assessment by a mental-health professional designated by the Secretary—is necessary for the amelioration of psychological, marital, or familial difficulties that resulted from the veteran's active duty service.

Manner of furnishing services

Section 131(d) would (a) require that the marriage and family counseling be furnished either (1) directly by VA personnel, including marriage and family counselors employed by VA, whom the Secretary determines are either appropriately certified or otherwise qualified, or (2) through contract arrangements with mental health professionals whom the Secretary determines are appropriately qualified; and (b) authorize VA to employ certified marriage and family counselors to provide counseling under the program and pay them at the rates prevailing for such counseling among non-VA professionals in the same locality.

Contract counseling services

Section 131(e) would in the case of contract counseling (a) require the provider to submit to VA within 15 days of the start of the treatment, on a form prescribed by the Secretary, a treatment plan which includes how many visits are expected. In a case in which a treatment plan is disapproved, require VA to reimburse the mental health professional for the reasonable cost (as determined by the Secretary) of furnishing counseling services to the person for the period beginning on the date of the commencement of such services and ending on the date of the disapproval; (b) provide that, when counseling is provided under a contract with VA, no care may be provided more than 90 days after the counseling was initiated (or after the end of a previously approved period of care) unless approved by the Secretary on the condition that counseling is needed as a result of active-duty service and is provided pursuant to an updated treatment plan submitted not more than 30 days before the end of the 90-day period (or before the end of the previously approved period of care); and (c) provide that, in the case of contract counseling, if a non-VA mental health professional determines that counseling is needed to ameliorate psychological difficulties resulting from active-duty service, that same mental health professional generally may not provide the services. The Secretary would be authorized to waive this prohibition for locations in which the Secretary is unable to obtain the assessment by a mental health professional other than the one with whom the Secretary contracts for the furnishing of counseling services.

Cost recovery

Section 131(f) would provide that the third-party reimbursement provisions in section 1729 of title 38, United States Code, under which VA is authorized, under certain circumstances, to collect from insurers the cost of care provided by VA, would apply to services provided under the pilot program.

Authorization of appropriations

Section 133 would authorize the appropriation of $10 million for each of fiscal years 1993 and 1994.

Reports

Section 134 would require the Secretary to submit (a) by April 1, 1993, an interim report describing the number of individuals who have received care under the program and the numbers of visits that the individuals made, with breakdowns showing the numbers who were reservists, other veterans, spouses, children, or parents and the numbers of individuals who received direct VA services as opposed to contract services; and (b) by January 1, 1994, a report that includes updates of those data and a description and evaluation of the program and any recommendations that the Secretary considers appropriate.

House amendment

No provision.

Conference agreement

Section 121 follows the Senate bill with amendments that (a) change the due date of the Secretary's initial report on the program to July 1, 1994, and eliminate the January 1, 1994, final report requirement; (b) strike the 30-day requirement for implementation of the program; (c) change the program expiration date to September 30, 1994; (d) exclude parents from eligibility for counseling under the program; (e) authorize VA to establish a personnel classification specifically for marriage and family counselors; and (f) clarify that any contract arrangements are subject to the same provisions as set forth in section 1703 of title 38 which permits VA to contract for medical and rehabilitative services only when VA facilities are not capable of furnishing economical services because of geographic inaccessibility or are not capable of furnishing the required services.

POST-TRAUMATIC STRESS DISORDER RESEARCH AND REPORTS

Senate bill

Section 106(a)(6)(B) would require the Secretary, as part of the reporting requirement in section 106, to provide information on the Secretary's efforts to give research relating to PTSD a high priority in the allocation of funds available to VA for research related to mental health.

House amendment

Section 109 would require that the Secretary in carrying out research and awarding grants under chapter 73 of title 38, assign a high priority to the conduct of research on mental illness including research on PTSD, PTSD in association with substance abuse, and the treatment of those disorders.

Conference agreement

Section 122(a) follows section 109 of the House amendment.

SPECIAL COMMITTEE ON POST-TRAUMATIC STRESS DISORDER

Current law

Under section 110(e) of the Veterans' Health Care Act of 1984 (Public Law 98-528), the Secretary is required to submit to the Congressional Committees on Veterans' Affairs annual reports, not later than February 1 of 1986, 1987, 1988, and 1989, regarding the Department's efforts regarding PTSD and to include in such reports the views of the Department's Special Committee on PTSD. Section 210(e) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237) required the Special Committee to submit concurrently to the Department and the Congressional Committees by February 1, 1990, a report updating the earlier reports. Section 204 of the Department of Veterans Affairs Nurse Pay Act of 1990 (Public Law 101-366) requires the Special Committee to submit a report concurrently to the Department and the Congressional Committees by February 1, 1991.

Senate bill

Section 107 would (a) require the Special Committee, not later than January 1, 1994, to submit its evaluation of the 1988 study on the postwar psychological problems of Vietnam veterans and (b) extend for two years, through January 1994, the reporting requirements of VA's Special Committee on PTSD and require the reports to be submitted concurrently to VA and the Congressional Committees.

House amendment

No provision.

Conference agreement

Section 122(b) requires the Special Committee to submit two additional reports, not later than October 1, 1992, and October 1, 1993, updating earlier Special Committee reports.

POST-TRAUMATIC STRESS DISORDER PROGRAM PLANNING

Senate bill

Section 105 would require that, not later than June 1, 1992, the Secretary (a) devise and initiate implementation of a plan to increase, to levels commensurate with the needs of veterans suffering from PTSD related to active-duty service, PTSD treatment provided in specialized inpatient and outpatient treatment programs, including PTSD/substance abuse programs, and in Vet Centers; and (b) enhance outreach activities to combat veterans and encourage such veterans to participate in treatment.

In developing this plan, the Secretary would be required to consider (a) the level and geographic accessibility of inpatient and outpatient care for veterans suffering from PTSD, (b) the desirability of furnishing inpatient care in facilities that are physically independent of general VA psychiatric wards, and (c) the treatment needs of veterans with PTSD who are women or who are members of ethnic minorities.

In implementing the plan, the Secretary would be required to (a) prescribe a schedule for implementation, (b) prescribe appropriate criteria for the selection and training of staff necessary to increase the availability of treatment and enhance outreach, and (c) provide facilities, personnel, funds, and other resources necessary to carry out the plan.

Section 106 would require that, not later than 90 days after the date of enactment, the Secretary submit to the Congressional Committees on Veterans' Affairs a report on the plan described in section 105. The report would be required to include (a) a description of the plan; (b) a description of the resources necessary to increase treatment availability for PTSD and enhance outreach; (c) a description of VA's efforts to make such resources available; (d) an estimate of the availability of community-based residential treatment for PTSD and the impact of such availability on the increased availability of such treatment by VA; (e) an assessment of the need for, and potential benefit of, providing scholarships or other educational assistance to improve the training of individuals providing PTSD treatment; (f) recommendations to improve the availability of PTSD treatment; (g) a description of the efforts by the Secretary to implement the recommendations of the Special Committee on PTSD with respect to (1) establishing educational programming directed to each of the various levels of education, training, and experience of the various mental health professionals involved in the treatment of veterans suffering from PSTD, and (2) giving PTSD-related research a priority in VA mental-health research funding; and (h) any other proposals and recommendations that the Secretary considers appropriate to increase the availability of PTSD treatment.

House amendment

Section 110 would (a) require the Secretary, in consultation with the Chief Medical Director's Special Committee on PTSD, to assess the need for treatment and rehabilitative services for veterans with PTSD and develop a plan for delivery of PTSD treatment and rehabilitation based on (a) the Secretary's estimate of the numbers of veterans who suffer from PTSD who are likely to seek care from VA and are entitled by law to such care; (b) the current and projected capacity to provide services; and (c) the Secretary's evaluation of existing programs.

Section 110(c) would require that, not later than August 30, 1993, the Secretary submit to the Congressional Committees on Veterans' Affairs a report on the needs assessment and plan as described in section 110(a) and (b).

Conference agreement

Section 123 requires the Secretary to (a) develop a plan to (1) ensure to the maximum extent practicable that veterans suffering from PTSD related to active duty are provided appropriate treatment and rehabilitative services for that condition in a timely manner, (2) expand and improve the services available for veterans suffering from PTSD related to active duty, (3) eliminate waiting lists for inpatient and other modes of treatment for PTSD, (4) enhance outreach activities to inform combat-area veterans of the availability of treatment for PTSD, and (5) ensure, to the extent practicable, that there are Department PTSD units in locations readily accessible to veterans residing in rural areas of the United States. The Secretary would also be required to consider, in developing the plan described above, (1) the numbers of veterans suffering from PTSD related to active duty, as indicated by relevant studies, scientific and clinical reports, and other pertinent information, (2) the numbers of veterans who would likely seek PTSD treatment from the Department if waiting times for treatment were eliminated and outreach activities to combat-area veterans with PTSD were enhanced, (3) current and projected capacity to provide appropriate treatment and rehabilitative services for PTSD, (4) the level and geographic accessibility of inpatient and outpatient care for veterans suffering from PTSD across the United States, (5) the desirability of providing inpatient and outpatient PTSD care in Department facilities that are physically independent of general psychiatric wards at the Department's medical facilities, (6) the treatment needs of such veterans who are women, of such veterans who are ethnic minorities (including Native Americans, Native Hawaiians, Asian-Pacific Islanders, and Native Alaskans) and of such veterans who suffer from substance abuse problems in addition to PTSD, and (7) the recommendations of the Special Committee on PTSD with respect to specialized inpatient and outpatient programs of the Department for the treatment of PTSD and the establishment of educational programming that is directed to each of the various levels of education, training, and experience of the various mental health professionals involved in the treatment of veterans suffering from PTSD. The Secretary would be required to submit to the Congressional Committees on Veterans' Affairs and report on the plan as described above not later than six months from the date of enactment.

TITLE II—HEALTH-CARE PERSONNEL

CAP ON CERTAIN RATES OF PAY

Current law

Section 7455 of title 38 (a) authorizes the Secretary to increase the minimum, intermediate, or maximum rates of basic pay for certain health-care personnel and VHA police officers on a nationwide, local, or other geographic basis; (b) requires that increases in rates of basic pay pursuant to this authority be made only in order to (1) provide salaries competitive with, but not in excess of, salaries paid to the same category of personnel at non-Federal facilities in a VA facility's local labor market, (2) achieve adequate staffing at particular facilities, or (3) recruit personnel with specialized skills; and (c) provides that (1) the amount of any increase under this authority in the maximum rate of basic pay for any grade may not exceed (except in the case of nurse anesthetists and licensed physical therapists) the amount by which the maximum for that grade exceeds the minimum rate of pay for that grade, and (2) the maximum rate as so increased may not exceed the rate paid for individuals serving in the position of Assistant Chief Medical Director.

Senate bill

Section 222 would amend subsection (c) of section 7455 so as to (a) authorize the Secretary to increase the maximum rate under the special rates authority for any grade to two times the difference between the minimum and maximum rate of pay for that grade and (b) require the Secretary to notify the two Committees on Veterans' Affairs whenever an increased rate is equal to or greater than 94 percent of the maximum rate authorized.

House amendment

Section 201 contains the same provision.

Conference agreement

Section 201 contains this provision.

MINIMUM PERIOD OF SERVICE FOR SCHOLARSHIP RECIPIENTS

Current law

Section 7612 of title 38 sets forth criteria for participation in the Health Professional Scholarship Program, established pursuant to section 7611 of title 38, which include a requirement that an agreement between the Secretary and a scholarship recipient include (a) the Secretary's agreement to provide the recipient with a scholarship for a specified number (from one to four) of school years, and (b) the recipient's agreement to serve as a full-time VA employee for one calendar year for each school year or part thereof for which the recipient participated in the scholarship program.

Senate bill

No provision.

House amendment

Section 202 would amend section 7612(c)(1)(B) so as to require participants who enter into scholarship agreements after the date of enactment to serve as full-time employees in VHA for a minimum of two years.

Conference agreement

Section 202 follows the House provision.

AUTHORITY TO PURCHASE ITEMS OF NOMINAL VALUE FOR RECRUITMENT PURPOSES

Current law

Under current law, VA has no specific authority to purchase promotional items of nominal value for use in the recruitment of individuals for employment.

Senate bill

No provision.

House amendment

Section 203 would (a) authorize the Secretary to purchase promotional items of nominal value for use in the recruitment of individuals for employment in VA health-care positions, and (b) require the Secretary to prescribe guidelines for the administration of the procurement and use of such items.

Conference agreement

Section 203 follows the House provision.

SPECIAL PAY FOR CERTAIN PHYSICIANS AND DENTISTS BASED ON BOARD CERTIFICATION

Current law

Section 7437(e) of title 38 requires (a) that, in the case of a physician or dentist who was employed in the Veterans Health Administration (VHA) on a full-time basis on July 13, 1991, the day before the effective date of the Department of Veterans Affairs Physician and Dentist Recruitment and Retention Act of 1991, title I of Public Law 102-40, and on that date was being paid only for the special-pay factors of primary, full-time, and length of service, that physician or dentist shall continue to be paid special pay at a rate not less than the rate of special pay paid to him or her on that date; and (b) that a physician or dentist who was employed in VHA on a part-time basis on July 13, 1992, and on that date was being paid only for the special-pay factors of primary and length of service shall continue to be paid special pay at a rate not less than the rate paid to the physician or dentist on that date.

Senate bill

Section 225 would amend section 7437(e) to require that a physician or dentist who was employed in VHA on July 13, 1991, and who was being paid special pay for no special pay factors other than primary, full-time, length of service, or specialty or board certification shall continue to be paid special pay at an annual rate no lower than the rate at which the physician or dentist was paid on that date.

House amendment

No provision.

Conference agreement

Section 204 follows the Senate provision.

AUTHORITY TO APPOINT NON-PHYSICIAN DIRECTORS TO THE OFFICE OF THE UNDER SECRETARY FOR HEALTH

Current law

Section 7306(a) of title 38 authorizes the Secretary to appoint individuals to positions in the Office of the Under Secretary for Health and, pursuant to section 7404 of title 38, pay such individuals under the title 38 authority.

Senate bill

Section 226 would amend section 7306(a) to authorize the Secretary to appoint all non-physician directors of clinical support services within VHA under the title 38 personnel appointment authority.

House amendment

Section 204 contains the same provision.

Conference agreement

Section 205 contains this provision.

EXPANSION OF DIRECTOR GRADE OF THE PHYSICIAN AND DENTIST PAY SCHEDULE

Current law

Section 7404(b) of title 38 (a) establishes pay schedules for physicians and dentists, registered nurses, and clinical podiatrists and optometrists employed by the Veterans Health Administration; (b) limits the use of the director grade of the physician and dentist schedule to physicians and dentists serving as directors of hospitals, domiciliaries, centers, or independent outpatient clinics; and (c) limits the use of the executive grade of the physician and dentist schedule to physicians and dentists serving as chiefs of staff at a hospital, or independent outpatient clinic, or in a comparable position.

Senate bill

Section 227 would amend section 7404(b)(2) to authorize the use of the director grade of the physician and dentist pay schedule for a physician or dentist serving in a position comparable to that of a director of a hospital, domiciliary, center, or independent outpatient clinic.

House amendment

Section 205 contains the same provision.

Conference agreement

Section 206 contains this provision.

AUTHORIZATION REQUIREMENT FOR CONSTRUCTION OF NEW MEDICAL FACILITIES

Current law

Section 8104(a)(2) of title 38 provides that it is not in order in the Senate or in the House to consider a bill, resolution, or amendment that would make an appropriation for any fiscal year for a major medical facility project or a major medical facility lease unless (a) the bill, resolution, or amendment specifies the amount to be appropriated for that project or lease, (b) the project or lease has been approved in a resolution adopted by the Committee on Veterans' Affairs of that House, and (c) the amount to be appropriated for that project or lease is no more than the amount specified in that resolution for that project or lease for that fiscal year. Section 8104(a)(3) defines a "major medical facility project" as a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2 million and a "major medical facility lease" as a lease for space for use as a medical facility at an average annual rental of more than $500,000.

Senate bill

No provision.

House amendment

Section 301 would amend section 8104(a) to provide, with respect to projects as to which no funds have been appropriated before the date of enactment, that (a) no funds may be appropriated for any fiscal year, and the Secretary of Veterans Affairs may not obligate or expend funds (other than for advance planning and design), for any major medical project or any major medical facility lease unless funds for that project or lease have been specifically authorized by law; (b) a "major medical facility lease" is a lease of space for use as a new medical facility; and (c) a covered lease is one with an average annual rent of more than $300,000.

Conference agreement

Section 301 follows the House provision.

REDESIGNATION OF CERTAIN POSITIONS WITHIN THE DEPARTMENT OF VETERANS AFFAIRS

Current law

Sections 305 and 306 of title 38 designate the heads of the Veterans Health Administration and the Veterans Benefits Administration of the Department of Veterans Affairs as the Chief Medical Director and Chief Benefits Director, respectively.

Senate bill

No provision.

House amendment

Section 302 would redesignate the positions of Chief Medical Director and Chief Benefits Director as the Under Secretary for Health and the Under Secretary for Benefits, respectively.

Conference agreement

Section 302 follows the House provision.

CLARIFICATION OF PROHIBITION ON PAYMENT OF ATTORNEYS' FEES

Current law

Section 5904(c)(1) of title 38 provides that, in connection with a proceeding before VA with respect to benefits under laws administered by VA, a fee may not be charged, allowed, or paid for services of agents or attorneys with respect to services provided before the date on which the Board of Veterans' Appeals first makes a final decision in the case.

Senate bill

Section 401 would amend section 5904(c) to clarify that the prohibition against the payment of attorneys' fees for representation in a proceeding before VA relating to VA benefits does not apply in the case of a veteran or other person involved with an administrative debt-collection proceeding brought by VA or in other situations in which no claim for benefits is involved.

House amendment

No provision.

Conference agreement

Section 303 follows the Senate bill with an amendment containing the language of section 2 of H.R. 939, as passed by the House on March 3, 1992, to permit attorneys to represent veterans and charge a reasonable fee only in connection with any waiver or debt collection proceeding before the Department in a case arising out of a loan made, guaranteed, or insured under chapter 73 of title 38.

CHANGES IN EXISTING LAW MADE BY THE CONFERENCE AGREEMENT ON S. 2344

Changes in existing law made by the conference agreement are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 5—UNITED STATES CODE

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PART III—EMPLOYEES

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Subpart D—Pay and Allowances

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CHAPTER 53—PAY RATES AND SYSTEMS

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SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

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§5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

* * * * *

[Chief Medical Director, Department of Veterans Affairs.

Chief Benefits Director, Department of Veterans Affairs.]

Under Secretary for Health, Department of Veterans Affairs.

Under Secretary for Benefits, Department of Veterans Affairs.

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TITLE 38—UNITED STATES CODE

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PART I—GENERAL PROVISIONS

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CHAPTER 5—AUTHORITY AND DUTIES OF THE SECRETARY

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SUBCHAPTER III—ADVISORY COMMITTEES

541. Advisory Committee on Former Prisoners of War.
542. Advisory Committee on Women Veterans.
543. Advisory Committee on Prosthetics and Special-Disabilities Programs.

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SUBCHAPTER III—ADVISORY COMMITTEES

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§543. Advisory Committee on Prosthetics and Special-Disabilities Programs

(a) There is in the Department an advisory committee known as the Advisory Committee on Prosthetics and Special-Disabilities Programs (hereinafter in this section referred to as the "Committee").

(b) The objectives and scope of activities of the Committee shall relate to—

(1) prosthetics and special-disabilities programs administered by the Secretary;

(2) the coordination of programs of the Department for the development and testing of, and for information exchange regarding, prosthetic devices;

(3) the coordination of Department and non-Department programs that involve the development and testing of prosthetic devices; and

(4) the adequacy of funding for the prosthetics and special-disabilities programs of the Department.

(c) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee on the matters described in subsection (b).

(d) Not later than January 15 of 1993, 1994, and 1995, the Committee shall submit to the Secretary and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the effectiveness of the prosthetics and special-disabilities programs administered by the Secretary during the preceding fiscal year. Not more than 60 days after the date on which any such report is received by the Secretary, the Secretary shall submit a report to such committees commenting on the report of the Committee.

(e) As used in this section, the term "special-disabilities programs" includes all programs administered by the Secretary for—

(1) spinal-cord-injured veterans;

(2) blind veterans;

(3) veterans who have lost or lost the use of extremities;

(4) hearing-impaired veterans; and

(5) other veterans with serious incapacities in terms of daily life functions.

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PART II—GENERAL BENEFITS

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CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

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SUBCHAPTER II—HOSPITAL, NURSING HOME OR DOMICILIARY CARE AND MEDICAL TREATMENT

* * * * *

§1717. Home health services; invalid lifts and other devices

(A)(1) * * *

(2) Improvements and structural alterations may be furnished as part of such home health services only as necessary to assure the continuation of treatment for the veteran's disability or to provide access to the home or to essential lavatory and sanitary facilities. The cost of such improvements and structural alterations (or the amount of reimbursement therefor) under this subsection may not exceed—

(A) **[$2,500]** *$4,100* in the case of medical services furnished under paragraph (1) of section 1712(a) of this title; or

(B) **[$600]** *$1,200* in the case of medical services furnished under any other provision of section 1712 of this title.

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PART IV—GENERAL ADMINISTRATIVE PROVISIONS

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CHAPTER 59—AGENTS AND ATTORNEYS

* * * * *

§5904. Recognition of agents and attorneys generally

(a) * * *

* * * * *

(c)(1) **[In]** *Except as provided in paragraph (3), in* connection with a proceeding before the Department with respect to benefits under laws administered by the Secretary, a fee may not be charged, allowed, or paid for services of agents and attorneys with respect to services provided before the date on which the Board of Veterans' Appeals first makes a final decision in the case. Such a fee may be charged, allowed, or paid in the case of services provided after such date only if an agent or attorney is retained with respect to such case before the end of the one-year period beginning on that date. The limitation in the preceding sentence does not apply to services provided with respect to proceedings before a court.

* * * * *

(3) A reasonable fee may be charged or paid in connection with any proceeding before the Department in a case arising out of a loan made, guaranteed, or insured under chapter 37 of this title. A person who charges a fee under this paragraph shall enter into a written agreement with the person represented and shall file a copy of the fee agreement with the Secretary at such time, and in such manner, as may be specified by the Secretary.

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PART V—BOARDS, ADMINISTRATIONS, AND SERVICES

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CHAPTER 73—VETERANS HEALTH ADMINISTRATION—ORGANIZATION AND FUNCTIONS

* * * * *

SUBCHAPTER I—ORGANIZATION

§7301. Functions of Veterans Health Administration: in general

(a) There is in the Department of Veterans Affairs a Veterans Health Administration. The **[Chief Medical Director]** *Under Secretary for Health* is the head of the Administration. *The Under Secretary for Health may be referred to as the Chief Medical Director.*

* * * * *

§7306. Office of the Chief Medical Director

(a) * * *

(1) * * *

* * * * *

(7) Such directors of such other professional or auxiliary services as may be appointed to suit the needs of the Department, who shall be responsible to the Under Secretary for Health for the operation of their respective services.

[7] *(8)* Such other personnel as may be authorized by this chapter.

* * * * *

SUBCHAPTER II—GENERAL AUTHORITY AND ADMINISTRATION

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§7315. Geriatrics and Gerontology Advisory Committee

(a) * * *

* * * * *

(c)(1) * * *

* * * * *

[(2) Not later than 90 days after receipt of a report submitted under paragraph (1), the

Secretary shall transmit the report, together with the Secretary's comments and recommendations thereon, to the appropriate committees of the Congress.]

(2) Whenever the Committee submits a report to the Secretary under paragraph (1), the Committee shall at the same time transmit a copy of the report in the same form to the appropriate committees of Congress. Not later than 90 days after receipt of a report under that paragraph, the Secretary shall submit to the appropriate committees of Congress a report containing any comments and recommendations of the Secretary with respect to the report of the Committee.

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CHAPTER 74—VETERNS HEALTH ADMINISTRATION—PERSONNEL

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SUBCHAPTER I—APPOINTMENTS

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§7404. Grades and pay scales

(a) * * *

(b)(1) * * *

(2) A person may not hold the director grade in the Physician and Dentist Schedule unless the person is serving as a director of a hospital, domiciliary, center, or outpatient clinic [(independent).] *(independent), or comparable position.* A person may not hold the executive grade in that Schedule unless the person holds the position of chief of staff at a hospital, center, or outpatient clinic (independent), or comparable position.

* * * * *

SUBCHAPTER II—COLLECTIVE BARGAINING AND PERSONNEL ADMINISTRATION

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§7423. Personnel administration: full-time employees

(a) * * *

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(f) The Secretary may purchase promotional items of nominal value for use in the recruitment of individuals for employment under this chapter. The Secretary shall prescribe guidelines for the administration of the preceding sentence.

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SUBCHAPTER III—SPECIAL PAY FOR PHYSICIANS AND DENTISTS

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§7437. Special pay: general provisions

(a) * * *

* * * * *

(e)(1) A physician or dentist shall be paid special pay under this subchapter at a rate not less than the rate of special pay the physician or dentist was paid under section 4118 of this title as of the day before the effective date of this subchapter if the physician or dentist—

(A) is employed on a full-time basis in the Veterans Health Administration;

(B) was employed as a physician or dentist on a full-time basis in the Administration on the day before such effective date; and

(C) on such effective date was being paid [only] for *no* [the] special-pay factors [of] *other than* primary, full-time, [and] length of [service.] *service, and specialty or board certification.*

(2) A physician or dentist shall be paid special pay under this subchapter at a rate not less than the rate of special pay the physician or dentist was paid under section 4118 of this title as of the day before the effective date of this subchapter if the physician or dentist—

(A) is employed on a part-time basis in the Veterans Health Administration;

(B) was employed as a physician or dentist on a part-time basis in the Administration on the day before such effective date; and

(C) on such effective date was being paid [only] for *no* [the] special-pay factors [of primary and] *other than primary, full-time,* length of [service.] *service, and specialty or board certification.*

SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

* * * * *

§7455. Increases in rates of basic pay

(a)(1) * * *

* * * * *

(c)*(1)* The amount of any increase under subsection (a) in the maximum rate for any grade may not (except in the case of nurse anesthetists and licensed physical therapists) exceed *by two times* the amount by which the maximum for such grade (under applicable provisions of law other than this subsection) exceeds the minimum for such grade (under applicable provisions of law other than this subsection), and the maximum rate as so increased may not exceed the rate paid for individuals serving as Assistant Chief Medical Director.

(2) Whenever the amount of an increase under subsection (a) results in a rate of basic pay for a position being equal to or greater than the amount that is 94 percent of the maximum amount permitted under paragraph (1), the Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the increase and the amount thereof.

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CHAPTER 76—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM

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SUBCHAPTER II—SCHOLARSHIP PROGRAM

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§7612. Eligibility; application; agreement

(a)(1) * * *

* * * * *

(c)(1) An agreement between the Secretary and a participant in the Scholarship Program shall (in addition to the requirements set forth in section 7604 of this title) include the following:

(A) The Secretary's agreement to provide the participant with a scholarship under this subchapter for a specified number (from one to four) of school years during which the participant is pursuing a course of education or training described in section 7602 of this title.

(B) The participant's agreement to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the "period of obligated service") of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the Scholarship [Program.] *Program, but for not less than two years.*

* * * * *

CHAPTER 77—VETERANS BENEFITS ADMINISTRATION

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SUBCHAPTER I—ORGANIZATION; GENERAL

§7701. Organization of the Administration

(a) * * *

(b) The Veterans Benefits Administration is under the [Chief Benefits Director,] *Under Secretary for Benefits* who is directly responsible to the Secretary for the operations of the Administration. *The Under Secretary for Benefits may be referred to as the Chief Benefits Director.*

* * * * *

PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

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CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

* * * * *

SUBCHAPTER IV—SHARING OF MEDICAL FACILITIES, EQUIPMENT, AND INFORMATION

8151. Statement of congressional purposes.
8152. Definitions.
8153. Specialized medical resources.
8154. Exchange of medical information.
8155. Pilot programs; grants to medical schools.
8156. Coordination with health services development activities carried out under the National Health Planning and Resources Development Act of 1974.
8157. Joint title to medical equipment.
8158. Deposit in escrow.

* * * * *

SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

* * * * *

§8104. Congressional approval of certain medical facility acquisitions

(a)(1) * * *

[(2) It shall not be in order in the Senate or in the House of Representatives to consider a bill, resolution, or amendment which would make an appropriation for any fiscal year which may be expended for a major medical facility project or a major medical facility lease unless—

[(A) such bill, resolution, or amendment specifies the amount to be appropriated for that project or lease,

[(B) the project or lease has been approved in a resolution adopted by the Committee on Veterans' Affairs of that House, and

[(C) the amount to be appropriated for that project or lease is no more than the amount specified in that resolution for that project or lease for that fiscal year.]

(2) No funds may be appropriated for any fiscal year, and the Secretary may not obligate or expend funds (other than for advance planning and design), for any major medical facility project or any major medical facility lease unless funds for that project or lease have been specifically authorized by law.

(3) For the purpose of this subsection:

(A) The term "major medical facility project" means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2,000,000, but such term does not include an acquisition by exchange.

(B) The term "major medical facility lease" means a lease for space for use as a *new* medical facility at an average annual rental of more than [$500,000.] *$300,000.*

* * * * *

(c) Not less than 30 days before obligating funds for a major medical facility project approved by a [resolution] *law* described in subsection (a)(2) of this section in an amount that would cause the total amount obligated for that project to exceed the amount specified in the [resolution] *law* for that project (or would add to total obligations exceeding such specified amount) by more than 10 percent, the Secretary shall provide the committees with notice of the Secretary's intention to do so and the reasons for the specified amount being exceeded.

* * * * *

SUBCHAPTER IV—SHARING OF MEDICAL FACILITIES, EQUIPMENT, AND INFORMATION

* * * * *

§8157. Joint title to medical equipment

(a) Subject to subsection (b), the Secretary may enter into agreements with institutions described in section 8153(a) of this title for the joint acquisition of medical equipment.

(b)(1) The Secretary may not pay more than one-half of the purchase price of equipment acquired through an agreement under subsection (a).

(2) Any equipment to be procured under such an agreement shall be procured by the Secretary. Title to such equipment shall be held jointly by the United States and the institution.

(3) Before equipment acquired under such an agreement may be used, the parties to the agreement shall arrange by contract under section 8153 of this title for the exchange or use of the equipment.

(4) The Secretary may not contract for the acquisition of medical equipment to be purchased jointly under an agreement under subsection (a) until the institution which enters into the agreement provides to the Secretary its share of the purchase price of the medical equipment.

(c)(1) Notwithstanding any other provision of law, the Secretary may transfer the interest of the Department in equipment acquired through an agreement under subsection (a) to the institution which holds joint title to the equipment if the Secretary determines that the transfer would be justified by compelling clinical considerations or the economic interest of the Department. Any such transfer may only be made upon agreement by the institution to pay to the Department the amount equal to one-half of the depreciated purchase price of the equipment. Any such payment when received shall be credited to the applicable Department medical appropriation.

(2) Notwithstanding any other provision of law, the Secretary may acquire the interest of an institution in equipment acquired under subsection (a) if the Secretary determines that the acquisition would be justified by compelling clinical considerations or the economic interests of the Department. The Secretary may not pay more than one-half the depreciated purchase price of that equipment.

§8158. Deposit in escrow

(a) To facilitate the procurement of medical equipment pursuant to section 8157 of this title, the Secretary may enter into escrow agreements with institutions described in section 8153(a) of this title. Any such agreement shall provide that—

(1) the institutions shall pay to the Secretary the funds necessary to make a payment under section 8157(b)(4) of this title;

(2) the Secretary, as escrow agent, shall administer those funds in an escrow account; and

(3) the Secretary shall disburse the escrowed funds to pay for such equipment upon its delivery or in accordance with the contract to procure the equipment and shall disburse all accrued interest or other earnings on the escrowed funds to the institution.

(b) As escrow agent for funds placed in escrow pursuant to an agreement under subsection (a), the Secretary may—

(1) invest the escrowed funds in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

(2) retain in the escrow account interest or other earnings on such investments;

(3) disburse the funds pursuant to the escrow agreement; and

(4) return undisbursed funds to the institution.

(c)(1) If the Secretary enters into an escrow agreement under this section, the Secretary may enter into an agreement to procure medical equipment if one-half the purchase price of the equipment is available in an appropriation or fund for the expenditure or obligation.

(2) Funds held in an escrow account under this section shall not be considered to be public funds.

VETERANS' BENEFITS AND SERVICES ACT OF 1988

(Public Law 100–322 as amended by §201(c) of Public Law 101–237, May 20, 1988)

* * * * *

TITLE I—HEALTH-CARE PROGRAMS

* * * * *

Part B—Pilot Programs and Reports

* * * * *

SEC. 115. PILOT PROGRAM OF COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL AND OTHER VETERANS.

(a) * * *

* * * * *

(d) Duration of Program.—The authority for the pilot program authorized by this section expires on September 30, [1992.] *1994.*

* * * * *

STEWART B. McKINNEY HOMELESS ASSISTANCE AMENDMENTS ACT OF 1988

(Public Law 100–628, November 7, 1988)

* * * * *

TITLE VIII—VETERANS PROGRAMS

SEC. 801. MEDICAL PROGRAMS.

(a) Authorization of Appropriations.—There is hereby authorized to be appropriated to the [Veterans' Administration for each of fiscal years 1989 and 1990, in addition to any funds appropriated pursuant to any other authorization (whether definite or indefinite) of appropriations for those fiscal years, the sum of $30,000,000 for the medical care of veterans by the Veterans' Administration.] *Department of Veterans Affairs $50,000,000 for fiscal year 1993 for medical care of veterans. Funds appropriated pursuant to this section shall be in addition to any funds appropriated pursuant to any other authorizations (whether definite or indefinite) for medical care of veterans.*

(b) Domiciliary Care.—[Of the amount] *The amounts* appropriated pursuant to subsection [(a), 50 percent] *(a)* shall be available for—

(1) converting to use for domiciliary care beds the underused space located in facilities under the jurisdiction of the Administrator of Veterans' Affairs in urban areas in which there are significant numbers of homeless veterans; and

(2) furnishing domiciliary care in such beds to eligible veterans (primarily homeless veterans) who are in need of such care.

(c) Chronically Mentally Ill Homeless Veterans.—[Of the amount] *The amounts* appropriated pursuant to subsection [(a), 50 percent] *(a)* shall be available for furnishing care and treatment and rehabilitative services under section 115 of the Veterans Benefits and Services Act of 1988. (Public Law 100–322; 102 Stat. 501) to homeless veterans who have a chronic mental illness disability. Not more than $500,000 of the amount available under the preceding sentence shall be used for the purpose of monitoring the furnishing of such care and services and, in furtherance of such purpose, maintaining in the Veterans' Administration the equivalent of 10 full-time employees.

* * * * *

G.V. Montgomery,
Don Edwards,
J. Roy Rowland,
Bob Stump,
John Paul
Hammerschmidt,
Managers on the Part of the House.

Alan Cranston,
John D. Rockefeller,
Arlen Specter,
Managers on the Part of the Senate.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4542

Mr. SUNDQUIST. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 4542.

The SPEAKER pro tempore (Mr. Luken). Is there objection to the request of the gentleman from Tennessee?

There was no objection.

CONFERENCE REPORT ON S. 12, CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992

Mr. MARKEY. Mr. Speaker, pursuant to House Resolution 571, I call up the conference report on the Senate bill (S. 12) to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rate, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Monday, September 14, 1992, at page 24598.)

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. Markey] will be recognized for 30 minutes, and the gentleman from New York [Mr. Lent] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. Markey].

☐ 1010

Mr. MARKEY. Mr. Speaker, I yield myself 1½ minutes.

Mr. Speaker, the cable industry is a monopoly. That is why we are here today. It has absolutely no competition across this country. As a result, Mr. Speaker, consumers are left to the mercy of the cable industry, which has resulted in a three times the rate of inflation increase in their rates every year for the last 8 years in a row. This bill puts an end to that.

The Consumer Federation of America, the American Association of Retired People, the AFL-CIO, argue that we will save $6 billion a year for consumers in this country, a $6 billion tax cut, for consumers across this country, that goes into the pockets of ordinary people, a $6 billion tax cut for ordinary people.

Mr. Speaker, the FCC says that if there was competition for the cable industry, that it would reduce rates by $5.3 billion. This bill gives real competition to the cable industry. As a result, it will reduce rates by $5.3 billion, even using the FCC's arguments.

The debate is really between whether it is going to be a $5 billion or a $6 billion benefit. The real argument is whether we are going to have a $5 billion or $6 billion benefit for the consumers of this country.

For the cable industry to be arguing now, at this late moment, with their crocodile tears that they are concerned about the consumers of this country, is to engage in the most disingenuous of arguments.

This is a very simple debate. A yes vote is for the consumer, a no vote is for the cable industry, make no bones about it. That is how the voters of this country are going to use this issue in November.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to the conference report to S. 12, the so-called Cable Television Consumer Protection and Competition Act. This is a truly misleading title for this legislation, because if there is anything this bill lacks it is consumer protection and competition. The saddest irony is that we had an opportunity to pass legislation that would have provided cable subscribers with some protection and would have increased competition in the cable industry.

But that opportunity has long since passed. Unfortunately, the bill before us today perpetrates a cruel hoax on the American people; it is a cable rate-raising measure masquerading as a cable subscriber cure all. Mark my words, if this bill is enacted, it will raise cable rates and subscribers will be screaming that the remedy is far worse than the disease. And they will know who to thank for this supposed gift.

Mr. Speaker, when we first considered legislation to examine an essentially deregulated cable industry 4 years ago, we focused narrowly on the key consumer concerns: rates and services. And we passed a bill in 1990 that addressed those problems. I would have hoped that bill would have been our starting point this year. But that was not to be.

Instead, we were told that things have changed—that is, the cable industry's record has been so dismal over the last 2 years that a more stringent and regulatory bill is appropriate. Never mind that no record was ever developed in the Energy and Commerce Committee to justify such a bill. Sadly, we have come to understand exactly what was meant by things have changed—politics.

In the Energy and Commerce Committee and on the House floor, I have previously urged my colleagues to support a moderate, responsible approach to the cable rates and service issues. But we have consistently seen the triumph of politics over substance. This leads me to the conclusion that I must oppose the cable legislation before us today.

Mr. Speaker, there has been a raging debate over whether this bill will save or cost cable customers money and how much. On that score, let me simply point out that the method of establishing cable subscribers rates under the bill is essentially a traditional cost plus formula. Thus, the cable operator will simply total up the costs of providing a basic tier of cable service, and pass these costs on with a reasonable profit.

The structure of the basic tier under this bill, the cable equipment compatibility requirements, and the excessive prescriptions and regulations in this bill—all add up to an expensive price tag. It has been estimated that the cost of reregulation could be up to about $3 billion annually. Assuming all of this cost is passed onto cable subscribers—which it would be under this bill—it could add over $50 annually to the cable bill of America's 55 million cable subscribers.

Even key proponents of the bill have publicly stated that this bill could very well end up raising, not lowering, customer rates. On behalf of the thousands of cable subscribers who have contacted Congress to express concern about this bill, let me say the following: Thanks, but no thanks.

This bill microregulates the cable industry. As a colleague and good friend recently observed, we regulate just about everything but where the subscriber places the television set in the home. And to what end? Not to help consumers, that's for certain. Onerous regulation will lead to a very natural reaction from the industry: less cable programming, fewer cable packaging options, and less investment in equipment upgrades to provide new cable services. In sum, less consumer choice.

What will this legislation mean for one of the crown jewel industries in this country? One that invests over $3.5 billion annually in new programming and directly and indirectly employs nearly one-half million people? Suffice it to say, this bill is not good news—jobs will both not be created and will be lost at home, and our trade balance will also be harmed. The cable industry has consistently provided a net trade surplus, but we are placing this in jeopardy as well.

The bill that emerged from the House-Senate cable conference has adopted some of the most onerous and regulatory features of both bills. Consequently, we are today considering a conference report that demonstrably and unavoidably will raise cable subscriber rates and diminish future consumer choice.

I mentioned earlier the irony of the word "competition" in the title of the bill. We had an opportunity to create meaningful competition to cable in rural communities covering a significant portion of this country. The Senate bill included a provision to allow telephone companies to provide cable in communities up to 10,000 people. But that provision, probably the most procompetitive feature of the cable legislation, was unceremoniously dropped in the conference. So much for any real competition in this bill.

For all these reasons, I urge my colleagues to adopt the only responsible course of action available, and reject this conference report and the threat it poses of higher cable rates.

Mr. Speaker, I reserve the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I rise today in support of the conference report on S. 12, the Cable Television Consumer Protection and Competition Act of 1992. It is my view that the root of the complaints about cable rates and cable service is the consumer's lack of competitive alternatives to cable television. I support this conference report because it promotes competition in the cable industry, especially in the key area of providing fair access to television programming.

The conference report stops cable operators from denying competitors unfettered access to the full range of cable programming. This is critical in a rural district like my own where many of my constituents rely on satellite dishes for their television programming. Right now some cable programmers refuse to even sell programming to home satellite dish distributors and those that do charge the distributors an average of 500-percent more than they charge cable operators for the exact same programming. Cable programmers get away with this because they have no real competition. But when this bill goes through, the people in my district will have better cable television because cable operators won't be allowed to restrain their competition from providing the programming consumers want.

The major change from the House-passed bill is the conference report's inclusion of retransmission-consent provisions. These provisions trouble me because they conflict with my notions of intellectual property rights. However, the bill provides a 1-year phase-in period for retransmission consent during which time Congress can revisit the issue.

I urge my colleagues to adopt the conference report and promote real competition in the cable industry.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. RINALDO], the distinguished ranking member of the Subcommittee on Telecommunications and Finance of the Committee on Energy and Commerce.

Mr. RINALDO. Mr. Speaker, the conference report before the House of Representatives this morning is the culmination of literally years of work by Members of the House and Senate.

I want to note the work of the subcommittee chairman, Representative ED MARKEY, on this legislation. He and I first put together a cable bill over 2 years ago, and we were able to gain strong, bipartisan support for that bill. In the last few months, we have disagreed on several issues, but throughout the process he has been fair, he has been committed to helping consumers, and in the view of this Member he has distinguished himself and done credit not only to the Energy and Commerce Committee but to this Chamber.

The task before the committee was not easy.

We enacted the Cable Communications Policy Act in 1984, and rates were deregulated in 1986.

Since then, the Telecommunications Subcommittee has carefully examined the cable industry, the complaints of customers, the recommendations of consumer groups and competitors to cable, and we have compiled an extensive record on both the failures and the successes in the industry.

That record provides clear evidence that there have been numerous instances of abusively high rates and poor customer service.

After 1986, some cable operators took advantage of deregulation to raise rates above what was justified.

Unfortunately, in far too many instances, cable TV customers had no other cable company to turn to. It was all or nothing with the only franchise in town.

What we really need is additional competition, and the way to do it would be to allow Telco entry into cable.

At the same time, far too many cable operators were not ready for the number of homes who signed up.

Customer service was woefully poor in many areas. And it was far below the minimum level that rising cable prices demanded.

There have also been repeated complaints from other industries—including DBS, MMDS, TVRO and others—that the cable industry was refusing to provide programming to potential competitors.

On the one hand, cable operators were given freedom from price regulation, and on the other hand they were stifling any potential competition by locking up programming.

Nearly 3 years ago, I laid out a challenge to leaders of the cable industry. I told them the facts of life in Congress, and I said that if they were unwilling to clean up problems in their industry, Congress would do it for them.

I laid out a six-point plan for customer service, which included a restraint on rises in cable TV rates, hiring more customer service representatives, adding additional telephone lines if necessary. In short, I told them to do the job they should have been doing all along.

Not long after that, Chairman DINGELL, Chairman MARKEY, Congressman LENT, and I put together a responsible piece of legislation. It had broad, bipartisan support and it passed the House of Representatives overwhelmingly 2 years ago.

Today, just as 2 years ago, we were guided by one simple principle:

Deregulation was not an unqualified failure. In fact, it brought tremendous success to the cable TV industry.

Approximately 90 percent of American homes now have access to cable TV, and more than 60 percent now subscribe.

In many areas throughout the country, cable customers have access not just to dozens but to scores of cable channels.

C-SPAN and CNN have literally changed the way Americans receive information about politics, government, and local, national, and international events.

The goal of the committee was not to undermine that success. It was to build upon it. In essence, we had three goals:

First, we wanted to address the primary concerns of consumers—rates and service.

Second, we wanted to reinstate the must carry rules in a fair manner that would pass constitutional muster.

Third, we wanted to inject a greater degree of competition to the industry.

My goal, and the goal of my colleagues, has not been to bash the cable industry. It has been to stimulate competition, to hold down excessive rate increases and to improve service for cable TV consumers.

The conference report now under consideration accomplishes those goals, but it is also true, as its critics point out, that it does more.

The language in this legislation on access to programming is much stronger than approved by the House 2 years ago.

The provisions on rate regulation are much more extensive than the bipartisan bill of 2 years ago.

The open basic tier included in the legislation is far different from the Markey-Rinaldo bill of the last Congress.

In fact, this conference report embodies a whole host of recommendations that were approved by the Senate in January that I view as objectionable and not in the best interest of the consumer.

We tried to deal with these issues in conference, and in fact we were rejected several controversial proposals.

We did not include language blacking out baseball games on superstations when those same games are broadcast on superstations.

We moderated the buy-through provisions to lessen the impact of the bill.

We eliminated mandatory carriage of superstations on the basic tier.

We removed the foreign ownership restrictions.

Mr. Speaker, this is not a perfect bill.

This is not the legislation I would prefer. I have underscored my concerns and objections to my colleagues, and I have worked as hard as possible to have the legislation reflect those concerns.

But this is the final vote: This is the last chance in this Congress to address excesses in the cable industry.

While I still have serious concerns about the measure, I believe that on balance it does deal with demonstrated problems in the industry, and I intend to vote in favor of the conference report.

□ 1020

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Washington [Mr. SWIFT].

(Mr. SWIFT asked and was given permission to revise and extend his remarks.)

Mr. SWIFT. Mr. Speaker, consumers have endured increasingly high cable rates and increasingly bad cable service ever since cable was deregulated in 1984. This bill will do something about it.

But there are those who say that this bill will raise rates. Who says that? Why, the cable industry does.

What are we to make of that? I would like to share with my colleagues portions of an article written by columnist Don Hannula of the Seattle Times in responding to the bill-stuffer campaign of the cable industry. Mr. Hannula said:

> Don't believe the flyer. It's garbage. Throw it out with the grapefruit rinds.

He continues:

> If cable television was interested in holding down rates, it would have done it on its own—and there wouldn't have been a consumer clamor for Congress to reregulate the industry.
>
> Rates for the most popular cable service rose 61 percent nationwide in the 4 years

> after deregulation became effective in 1986. That was triple the rate of inflation over the same time span.

And Mr. Hannula points out:

> A Consumer Report survey also showed cable satisfaction was the lowest it had found in 16 years of rating service industries. The magazine lamented that cable operators had been able to get away with poor service because they had a captive audience.

He concludes:

> If you think cable companies are losing sleep over rising rates, believe the green flyer of the National Cable Television Association. If you don't, don't.

I think Mr. Hannula has it right. If you believe in the tooth fairy, Elvis sightings, and cable's newfound concern for their long-suffering customers, then vote against this conference report. If not, then take cable's propaganda and put it with the grapefruit rinds.

I urge my colleagues to vote for this cable reform legislation.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON], a member of the committee.

Mr. HASTERT. Mr. Speaker, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Illinois.

Mr. HASTERT. Mr. Speaker, I rise in opposition to the bill.

I rise today in opposition to the cable bill conference report. Quite simply, this bill will not do what the authors of the bill allege.

This bill is not proconsumer. It is my belief and that of others who are experts in this field that this bill will at best keep cable rates relatively flat. That is right, just keep cable rates flat, but at what cost? This bill's regulatory scheme will unquestionably adversely affect the quality and quantity of programming available to consumers. Simply, it will restrict choice. At a time when the American consumer is looking for greater program choices, we do not need to be restricting choices with excessive regulation. Lastly, and most perversely, this bill will raise rates. I can tell you that my constituents do not want this bill because it will raise their rates. I urge Members to read their mail and to listen to what their constituents say about this bill. Under this bill the FCC would have to set cable rates. I can tell you that it does not want this responsibility, does not think it is required and furthermore thinks the cost of regulating the cable industry would be so much it would eclipse its other responsibilities. The FCC estimates that this regulation will cost between $22 million and $54.7 million per year.

This brings us to the second fatal flaw of S. 12. It is not procompetition. It is not procompetition because the cable policy envisioned in this bill refuses to acknowledge the potential benefits to American consumers of real competition in the cable industry. One aspect of competition that is not addressed in this bill is the prospect of local exchange telephone companies owning and delivering cable programming, under appropriate regulation, in their respective service areas. Ironically, the only provision in either bill dealing with telephone competition and enfranchising of many potential small town and rural customers—by expanding the rural exemption from 2,500 to 10,000 people—was eliminated by the conferees.

Congress can not ignore the issue of telco-cable entry and video programming any longer. Beyond that, the key competitive element of encouraging telephone companies to provide fiber optic highways, or other modern broadband technology is greatly lacking in the proposed legislation. What is more, if this wrong-headed legislation does not become law, we will probably not be in a position to deal with the issue of true competition for another decade or so.

Let us not act precipitously and pretend the future is not already at hand. Let us not pass this conference report which is, unfortunately, both anticonsumer and anticompetition.

Mr. RICHARDSON. Mr. Speaker, there is a great deal of confusion surrounding what the conference report does on equal employment opportunities for minorities and women. I want to set the record straight on this issue.

When H.R. 4850 passed the House in July, it had a strong EEO provision. The House put its support behind a policy that strengthened EEO rules on the cable industry and extended these standards to the television broadcasting industry. That was good policy. That policy had the support of the Energy and Commerce Committee and the full House because we decided to do something finally about the under-representation of minorities and women in the mass media area.

The House now has before it, in this conference report, a very different EEO policy. In fact, it has two EEO policies. Minorities and women get one set of EEO rules if they work at a cable company, and they get a different set of EEO rules if they work at a television broadcast station.

The conference report has a solid EEO policy with respect to cable. It will subject the cable industry to new requirements and tougher FCC enforcement. This change is a much needed improvement to existing EEO cable rules, and I strongly support these additional measures.

The conference report, however, severely weakens the EEO policy with respect to the broadcast industry. Instead of agreeing to the House-passed version on EEO, conferees choose to simply codify the FCC's existing rules on equal opportunity in employment.

There's a big difference between the House-passed EEO provision and just simply codifying what is already required by FCC regulation. Codification is simply putting the status quo into the Federal statute. The conference report has stripped away important requirements that would have:

First, directed the FCC to annually certify broadcaster compliance with EEO obligations.

Second, instructed the FCC to review broadcaster performance as part of the license renewal process.

Third, encouraged broadcasters to take affirmative steps to do business with minority and female entrepreneurs.

Fourth, expanded the listing of job categories on the annual statistical report to 15 categories in an effort to better define the representation of minorities and women who really work in decisionmaking positions.

Members of the House should know that all we are doing on broadcast EEO is putting existing FCC rules into the statute. There will be no change in the EEO policies and programs of television broadcast stations. None.

Mr. Speaker, as a legislator, I recognize the need to compromise. But we should not accept compromises when they really serve as nothing more than an excuse. Supporters of the conference report are going to try and assuage those House Members who are upset about the changes made on broadcast EEO with the usual talk about the need to compromise. Some are going to make the following argument to us, "well, at least we got something. The Senate wanted to do nothing, but we fought to get you what you already have and put the existing broadcast EEO rules into the statute."

Mr. Speaker, I would respond to that by saying it is ironic that in a bill where the broadcasting industry has refused to compromise on all their top priorities—retransmission consent, one-third set-aside for must-carry stations, no minimum viewing standards, channel positioning—that the House is asking minorities and women to compromise on something that is a priority for them: meaningful equal employment opportunity [EEO] rules for minorities and women who work in the broadcast industry.

Mr. Speaker, the House normally adheres to a different standard. When the House passed the 1984 Cable Act, we told the cable industry that if it wanted the benefits of legislation, then it would have to accept social responsibilities of adopting detailed and meaningful EEO policies. That was the correct standard and it led to the creation of EEO statutory requirements.

Now, in 1992, we have legislation that will clearly benefit the broadcasting industry. For all the talk about consumers, the real engine behind this bill is the broadcasting industry, not surprising, since this legislation gives the broadcasters virtually everything they have ever asked for. So I think it is only fair and consistent for the House to tell the broadcasting industry the same thing it told the cable industry in 1984: "If you want the benefits of legislation, then you have an obligation to accept a meaningful EEO policy."

Mr. Speaker, there is no policy justification to maintain, much less to put into the Federal statute, this double standard on EEO. This conference report is saying it's OK for cable operators to play by one set of EEO rules and for television broadcast stations to play by a different and much weaker set of EEO obligations.

The whole reason behind the adoption of equal employment opportunity policies in the media industry is that Congress and the courts consider the participation and the employment of minorities and women in decisionmaking positions to be integral to the larger principle of diversity of views in electronic media. That is the public policy justification for EEO, and it has been upheld by the courts.

If we are fully committed to achieving that goal of diverse views and viewpoints in the cable industry, which by the way reaches just 60 percent of the homes in the country, then why is it that Congress is less committed, in this conference report, to those principles when they apply to the broadcast industry, which reaches every home in the country and thus has a much larger impact of the expression of viewpoints and the shaping of public opinion.

Mr. Speaker, I ask that the following letters be inserted into the RECORD. They shed some light on this important debate and about what happened in the conference committee.

NATIONAL ASSOCIATION OF
BLACK OWNED BROADCASTERS,
Washington, DC, September 15, 1992.

Re Cable Television Act of 1992.

Hon. ERNEST HOLLINGS,
Senate Russell Office Building,
Washington, DC.

Hon. DANIEL INOUYE,
Senate Hart Office Building,
Washington, DC.

Hon. JOHN DINGELL,
Rayburn House Office Building,
Washington, DC.

Hon. EDWARD MARKEY,
Rayburn House Office Building,
Washington, DC.

GENTLEMEN: NABOB thanks you for the hard work and dedication you have shown in developing the Cable Television Act of 1992, which will be going to the floor in both chambers in the immediate future.

We have read that the President is threatening to veto the legislation. Therefore, we feel that it is important that we go on record in support of your efforts.

As you are aware, NABOB was particularly concerned with the must-carry provisions of the bill. Without must-carry rights African American owners of television stations would find it virtually impossible to compete against larger television stations and cable systems. We are pleased to see that the bill will provide must-carry rights for most African American owned television stations immediately, and should lead to the remaining African American owned television stations being carried in the near future, after the FCC completes its investigation of commercial matter carried by television stations.

This portion of the legislation is important, and we commend the conferees for including it in the bill.

We are aware, however, that the House version of the bill contained provisions concerning EEO enforcement which were more extensive than those which were adopted. We fully understand and support the reasons which led to adoption of the House EEO amendment. As African American broadcasters, we are acutely aware of the gross underrepresentation of minorities in the management ranks of the broadcast industry. Most minorities in the industry must look only to minority owned stations for an opportunity to enter the ranks of management. We, on the other hand, can rarely look to the ranks of the majority station owners to find minorities who have gained management experience which they can bring to our stations. The problem is not a lack of qualifications on the part of the minority employees, but a lack of commitment on the part of the majority station owners to promote them to management level positions.

Thus, we appreciate and agree with the ideals and objectives of the EEO amendment which was in the House bill. However, we do not agree that the bill should be rejected because all of those proposals were not carried over into the final bill.

The conference bill includes a codification of the FCC's EEO rules. Codification of the FCC's EEO rules has been a legislative objective of NABOB for many years. Up until now, aggressive enforcement of the FCC's EEO requirements has been a discretionary policy decision of the FCC. With this legislation, aggressive enforcement by the FCC will be statutorily required. This is a significant addition to the Communications Act.

Additionally, the bill imposes new EEO requirements on the cable industry. The cable industry has not been subjected to the degree of FCC enforcement in the EEO area which has been imposed on the broadcast industry. The application of new EEO requirements to the cable industry is another positive accomplishment of the bill.

Therefore, NABOB supports the bill's overall accomplishments in the areas of must-carry and EEO. We hope that the Senate and House will pass the bill with a large enough majority to override the threatened veto.

We thank you again for your efforts.

Sincerely,

JAMES L. WINSTON.

Re Cable legislation alert.
To: INTV members.
From: David L. Donovan.
Date: September 1, 1992.

I trust you had an enjoyable summer. The wheels of government have been churning in August, albeit slowly. Unfortunately, as a result of a deal with Senator Bob Dole and the Republicans, the Senate did not appoint members to the conference committee until the day Congress adjourned for the summer. However, the staff of the House and Senate Communications Committees met in an attempt to iron out differences between S. 12 and H.R. 4850.

At this point, there are several major issues which remain unresolved. First, there has been no formal agreement to add retransmission consent to the final bill. Frankly, I believe Chairman John Dingell is using this as a bargaining chip for other issues. Ultimately, retransmission consent will be added to the final bill.

Another point of contention is EEO. As you know H.R. 4850 added new and tougher EEO requirements. We have been working with members of the Conference Committee, especially the Senate to have these provisions deleted from the final bill. Nevertheless, I expect some EEO requirements to be included in the final bill. Our fall-back position is to simply codify the existing FCC regulations.

At this point in time the must-carry and channel positioning provisions have been non-controversial. The Senate is expected to accept the additional channel positioning option (carriage on the channel and occupied on January 1, 1992) contained in H.R. 4850.

There is a significant difference between the rate regulation provisions in S. 12 and H.R. 4850. This issue has not been resolved.

While we are not entirely sure of the exact provisions of the final conference cable bill, you should begin your lobbying efforts now? In July we sent you a list of key Senators. The cable industry has targeted the same Senators. Cable knows that these Senators hold the key to both final passage and the potential for a presidential veto. If the conference bill passes by a sufficient margin, President Bush will have a difficult time vetoing the legislation.

If your Senator appears on this list, I strongly urge you to contact his office. Tell your Senator to vote for final passage of the joint House/Senate conference cable bill. Follow up the letter with a telephone call.

We will be meeting with these Senators in the next two weeks. It would be very helpful if they already received your letters. Enclosed you will find a list of key Senators and a draft letter.

We are almost over the goal line. However, cable has launched a massive media campaign and is bringing in the heavy guns to lobby. We must counteract this effort.

Please contact me if you have any questions. Also, please send me a copy of the letters you send to the Senators.

BLACK ENTERTAINMENT TELEVISION,
Washington, DC, September 16, 1992.

Hon. BILL RICHARDSON,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN RICHARDSON: There are several reasons to vote against the conference report on S. 12, such as the must carry provision which gives broadcast stations preferential carriage over black-owned cable networks like BET. However, my primary reason for opposing this legislation is the double standard which it promotes for the treatment of minorities and women in two of our nation's leading media industries—cable and broadcasting.

The cable and broadcasting industries currently operate under two completely different EEO standards. For cable, Congress imposed statutory EEO requirements with the passage of the Cable Act in 1984. However, Congress has not extended similar statutory EEO obligations to any other media industry: the broadcasters' only specific EEO obligation to enhance the employment of women and minorities stems from Federal Communications Commission rules.

There are a number of significant differences between the cable industry's statutory EEO obligations and the broadcasters' FCC rules. For example, cable operators are required to: (1) disseminate their EEO programs to subcontractors; (2) encourage minority and female entrepreneurs to do business with cable operators; and (3) annually certify compliance with the EEO laws. The broadcasters' EEO rules do not contain any comparable provisions. Similarly, cable operators are expressly barred from discriminating against any person on the basis of age; broadcasters are not. Consequently, the Senate's position that Congress should merely codify existing FCC rules for broadcasters does not guarantee women and minorities in that industry the same opportunities for advancement and employment as the cable industry.

To accomplish the goal of promoting diversity of ownership and the expression of different voices in our nation's media, it is necessary for Congress to enact the same statutory EEO requirements for both the cable and broadcast industries. The House bill, H.R. 4850, accomplished these goals. Sadly, the conference report on S. 12 does not, since conferees agreed to weaken statutory EEO obligations for broadcasters while expanding them for cable companies. This creates an indefensible double standard and runs counter to the broadcasters' argument that they need S. 12 to "level the playing field" with cable companies.

The conference report on S. 12 undermines Congress' commitment to creating equal employment opportunities for all Americans. I urge you to repudiate the EEO language in S. 12 and to vote against the conference report.

Sincerely yours,

ROBERT L. JOHNSON,
President.

NATIONAL ASSOCIATION OF
MINORITIES IN CABLE,
Cerritos, CA, September 16, 1992.

HON. BILL RICHARDSON: We are deeply disturbed in reference to the changes made by the House and Senate conferees to the equal employment opportunity (EEO) section of the cable bill. These changes are a step back. Meaningful EEO guidelines do work. . . .

The Conference Report S. 12 eliminates the single positive aspect of H.R. 4850 as passed by the House of Representatives in July. To literally cancel out the positive strides in EEO for the Broadcast Industry that H.R. 4850 established, and dilute The Conference Report is beyond our comprehension.

Minorities should be treated equitably, and equal opportunity in the Broadcast Industry in hiring, and promotions, and contracting serves the public interest. If EEO is good in one industry, then why isn't it good in another.

We cannot allow the Congress to enact this bill and its double standard. A strong message must be heard in the best interest of minorities, and women who have a need for professional advancement, and representation in the Broadcast Industry.

We urge you to vote no on the Conference Report on S. 12.

Sincerely,

DOUGLAS V. HOLLOWAY,
President, NAMIC Board of Directors.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, as we decide how to vote on this very important legislation, I hope we do so with one basic fact in mind, and that is what has happened to cable rates in this country over the last 5 to 6 years. As Members have heard here today, cable rates in this country have been increasing at three times the rate of inflation.

The question before us today, my friends, is are we prepared to do something about that, yes or no.

Is this legislation perfect? No, it is not, and there are some provisions in it that this gentleman does not particularly care for. But I will say this, I think we have a fundamental obligation to try and slow down the rate of increase in cable rates across this country, and this legislation will do that.

And I have to tell Members that I categorically reject the claims of the cable television industry that our constituents are being exposed to on commercials all across this country. Those commercials would lead our constituents to believe that with the passage of this legislation their rates are going up dramatically. That is absolutely wrong. The fact is that rates are going to probably go up a little bit with or without this legislation. The question is how much are they going to go up, and I contend they are going to go up much less with the passage of this legislation.

And for those who may be worried about the regulatory burden that we are going to place on small businesses, those small businesses in this country that own small cable systems, keep in mind we have an exemption in this legislation for systems with 1,000 subscribers or less. And that will significantly reduce the regulatory burden on those small systems all across the country.

Last of all, every Member of this body that cares as I do about the future of rural America should be supporting this legislation, and supporting it enthusiastically. This legislation requires the vertically integrated monopolies in this country, the cable television operations, to market their programming to other individual businesses like satellite owners. Without this legislation, my friends, those constituents of ours, those Americans who live in areas that do not have cable television are not going to have access to the programming that people have in the urban areas of this country that do have cable service. So my friends, if you care about rural America, if you care about competition, if you care about keeping consumer costs down in this country, support this conference committee report enthusiastically.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. RITTER], a member of the Committee on Energy and Commerce.

□ 1030

Mr. RITTER. Mr. Speaker, I thank the gentleman for yielding me the time.

When last we debated this legislation, I cautioned my colleagues that, in our zeal to reregulate the cable industry, we should be careful not to lose the opportunity to pass meaningful and lasting cable legislation that would both protect consumers and preserve the record of growth and innovation which the cable industry had forged since 1984.

I stand before my colleagues today to report that we have squandered our opportunity. And it is our constituents who will pay the price for our failure.

Once again, the Congress has chosen the heavy hand of regulation over true competition. It is true that this bill expresses the preference for competition and that is good. But the substance behind the claim is much more illusory than real.

For instance, the conference committee could have provided for quick competition by allowing phone companies to provide competitive cable service in rural areas with populations under 10,000. That proposal was defeated.

This bill is a vortex of unintended consequences, the most significant of which, of course, is an increase in basic cable rates. There have been claims and controversies on this issue. There have been massive ad campaigns. Many of our constituents simply do not know what to believe. And once again, our constituents are absolutely right.

No one who takes a good hard look at this bill knows what to believe—because no one knows just how this legislation will affect rates or service. Rates will go up.

Even the proponents of the bill, as quoted in Broadcasting magazine, say that the cable industry may be right when it says the rates will go up. Mr. MARKEY was quoted in the New York Times as saying that consumer rates will go up under this bill. Some studies say that the rates will go as high as $3 billion.

The regulatory burden of this bill is a nightmare. Eighteen rulemakings in 180 days. A cost to Federal and local governments of $100 to $300 million over 5 years, which will be passed on to the taxpayers and the cable subscribers. There will be other expenses, like fees for the attorneys who will argue the cable rate cases—and more litigation is the last thing we need in this country.

The Lehigh Valley is one of the few areas in the Nation that today has competitive cable service, even as it is denied under this act.

And it is precisely because the Lehigh Valley has competitive cable that it is important to this debate. For it is a minilaboratory of what is to come for the rest of the country should the avowed goal of this bill—cable competition—ever come to pass.

Under this legislation, a cable system is no longer subject to rate regulation once it is subject to effective competition. Presumably, at that point, rates are set by market forces and that is generally good.

But this bill now contains the so-called retransmission consent provision, which would require a cable operator to pay a broadcaster who had opted out of must carry for the right to retransmit the television station's signal.

I don't care how you cut it, this is an extra cost which, when paid by the cable system, will be passed on to the consumer through a higher rate.

But this is only one marketplace result. A cable company could elect not to pay the retransmission consent and not carry the station's signal. Or one cable company might start a bidding war with its competitor for the exclusive right to retransmit the station's signal, either because it wants the signal for itself or because it simply wants its competitor to pay a ruinous price for it.

In the first instance, there is a diminution of service; in the second, rates may go even higher as the result of a bidding war. Neither result benefits the consumer. And so, through an act of Congress, free television will no longer be free simply because a subscriber chooses to view it over the local cable system. Explain that one to your constituents.

So rates will go up because of payments to broadcasters, and rates will also go up because the buy-through provisions require additional equipment so that different levels of service can be provided. These costs will be passed on to the consumer, and in the Lehigh Valley, the consumer will suffer.

And so, in conclusion, I repeat those questions which I posed to you back in July: In the last analysis, what benefit would the consumer receive from this bill? Lower rates? Emphatically, I say no.

The consumer will experience higher rates and the thing that will gall him or her the most is that they will have received no value for their money. They will not have received new programming. They will not have received new or better services.

They will, however, have received the protection of a new and unseen bureaucracy which they never sought and which they do not need.

I supported reregulation of the industry through the Lent substitute because I believed it protected consumers and promoted competition in the cable market. This bill, I fear, does neither for the cable subscribers of the Lehigh Valley and I urge my colleagues to reject the conference report.

Mr. Speaker, I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. Harris].

Mr. HARRIS. Mr. Speaker, I am here to express my strong support for the conference report on S. 12. I believe that this conference is an even better product than even the House or Senate bills. It answers all of the complaints I have received from my constituents over the past 8 years of deregulation.

This bill contains adequate rate regulation of the basic tier of service; it provides a means to rein in renegade cable operators from charging excessive rates in the upper tiers of cable service; it guarantees an acceptable level of customer service; it prevents cable operators from making consumers pay a hundred times over for remote control channel changers and other equipment; and provides incentives for cable operators to upgrade their systems. The bottom line is it ensures that the cable programming that viewers want to watch will be available at reasonable prices.

I believe that most of you will agree with me that genuine competition in the marketplace is always preferable to regulation. Regulation of cable rates will never adequately substitute for it. For that reason, I am particularly pleased that this conference report contains the program access language that our colleague BILLY TAUZIN worked so hard to make possible. The program access provisions of this bill prohibits cable programmers from discriminating in price, terms, and conditions in offering their programming to other multivideo providers. In other words, meaningful program access promotes competition in the video marketplace so that television viewers will have the opportunity to choose among competing cable companies, wireless cable providers, C-band satellite, direct broadcast satellite, and any other new program distribution technology. Rural Americans will soon be able to fully participate in the information age and not at grossly inflated prices.

Finally, I would like to address the campaign of disinformation that the cable industry has embarked on about retransmission consent. Retransmission consent is not a surcharge on cable ratepayers as the industry claims. Instead it merely gives local, and I emphasize, local broadcasters the right to negotiate in good faith for their sole product—their broadcast signal. This is a basic right that local broadcasters have been denied since cable was in its infancy and nothing more than an antenna service. Well, cable is now a $21 billion industry which creates and owns much of the programming which goes out over its wires. It no longer deserves the subsidy which local broadcasters have been providing it and local broadcasters can no longer afford it. If this inequity is not corrected soon, local broadcasters may be forced to cut back further on locally originated programming in news, weather, public affairs, and service—that is certainly not in the best interest of our communities.

Despite the deceptive mailing your constituents may have received or the misleading ads they may have seen, this bill does exactly as its title claims. It protects the viewing public from cable rate hikes and promotes competition in the multivideo marketplace. Support S. 12 and take home a cable bill that groups like the AARP, the Rural Electric Cooperatives, the Consumer Federation of America, and the AFL-CIO have endorsed.

Vote "yes."

Mr. LENT. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. FIELDS], a member of the Committee on Energy and Commerce.

Mr. FIELDS. Mr. Speaker, we have heard a lot of emotionally charged rhetoric about the cable legislation we will vote on today. And while compelling arguments will be made as to whether the bill will or will not lead to lower rates for cable customers, I would like to spend the brief time I have addressing the gross misrepresentation that is being made by opponents of S. 12 on the issue of retransmission consent.

In all my years of serving in Congress, I have never, ever seen such a calculated and deliberate effort to distort any single issue. I deeply regret that opponents of this cable bill are so desperate that they have taken the most competitive, proconsumer provision in the bill and used it as the scapegoat for killing this legislation.

Oftentimes, when we debate legislation in the House the facts get distorted and we confuse rhetoric with reality. Let me underscore the facts on the issue of retransmission consent.

First, retransmission consent will not drive up rates. Nothing in the legislation requires the cable company to pay the local broadcaster. The bill simply requires that the cable operator negotiate with the broadcaster on the terms and conditions of carrying the broadcaster's signal. Under this scenario, many broadcasters will negotiate for an additional channel to program a 24-hour news, sports, or weather service. Retransmission consent does not force the cable operator to pay the broadcaster for use of his signal. Further, under the legislation, the FCC is directed to ensure that retransmission consent will not have a significant impact on rates. And finally, what is probably most offensive about cable's charge that retransmission consent will effect rates is the fact that cable currently only pays abut $3 a month for its programs, but charges the cable customer $20 month—and they claim that they won't be able to absorb the additional costs of retransmission consent.

Second, retransmission consent has absolutely nothing to do with copyright law. This legislation is designed to recognize the value of the broadcaster's signal. Hollywood program producers are already fully compensated when they sell their programs to broadcasters. Hollywood and the Judiciary Committee have no legitimate place in this debate. Ironically, they have tried to kill retransmission consent at every turn, yet they have been unsuccessful in their efforts to win approval for their own measure. They even turned down the opportunity to participate in the cable conference. In my opinion, their arguments are shallow and totally unfounded.

Finally, retransmission consent is a marketplace, procompetitive approach to the competitive imbalances which exist today between the local broadcaster and the local cable operator. If we fail to address this issue, then we may very well see the demise of the only real competitor the cable operator has today, the local broadcaster. If this happens, then those who cannot afford cable—the poor, the elderly, and the unemployed—will be denied a viewing alternative. Simply put, without enacting some kind of corrective measure, we risk having a two-tier society of information haves and have nots.

Mr. Speaker, I hope my colleagues won't be swayed by the crocodile tears of those who oppose retransmission consent. Enactment of retransmission consent is essential if we are to ensure the future of free, quality, community-based television programming.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Speaker, the consequences of this debate for the C-SPAN audience are enormous as well as for other cable programming that we enjoy watching. The consequences are also enormous if you have a satellite dish, because in the 97 percent of American TV markets which have no competition, basic cable rates are about $20, but in the 3 percent of American cable markets which do have competition, where if you do not like cable company A, you can pick cable company B, guess what, rates are more likely to be in the $10 a month range.

If you aggregate the savings we could achieve nationwide, the Wall Street Journal and the Consumer Federation of America estimate we could be saving as much as $6 billion a year of our taxpayers' money, of our consumers' money, of the money of the folks back home, if we do this right.

Now, I will have to admit this conference report is good, but it is not a perfect measure. I would like to see it go farther. I am for cable telco entry. I think that we need telephone companies in the cable TV business, and I think we need cable companies in the telephone business, but this before you is a great bill that we should still support. It will offer our consumers relief, much-needed relief, long-overdue relief.

There is another issue at stake in this debate today, and that is the integrity of this body. We have witnessed one of the most unscrupulous lobbying campaigns of modern times. Every cable customer has gotten a misleading flier, and there have been countless cable ads that are terribly misleading. We need to stand up for the truth in this body. We need to stand up for competition. We need to stand up for the conference report.

I would urge my colleagues on the Republican side of the aisle to follow the lead of the gentleman from Illinois [Mr. MICHEL] and the gentleman from New Jersey [Mr. RINALDO], follow their lead, and on the Democratic side, follow the lead of the chairman, the gentleman from Massachusetts [Mr. MARKEY], and the chairman, the gentleman from Michigan [Mr. DINGELL].

This is legislation we need to pass today.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY], a member of the committee.

Mr. OXLEY. Mr. Speaker, I stand in opposition to this legislation as I have been consistently through the process.

This bill is about two things: Politics and money. The politics are quite obvious as to what we are trying to do or what the proponents are trying to accomplish here. But the deep, hidden secret behind this whole thing is a thing called retransmission consent, something that the House did not have a chance to work its will on. It was inserted back into the conference committee.

Hardly anybody other than my friend, the gentleman from Texas, who spoke immediately before me, hardly anybody said that this is actually going to save money. The chairman of the subcommittee in testimony before the Committee on Rules, the chairman of the full committee, in testimony before the Committee on Rules, said, yes, retransmission consent is going to cost money. We are not sure how much, but it is going to cost money. The argument is not about whether we are going to save the consumer any money or not. The question is how much higher the rates are going to go because of retransmission consent.

□ 1040

Why do you think Hollywood is so interested? They can smell the money; they know how much money is going to be raised by this. So they come in and lobby against the bill because they understand exactly what this means. It essentially means that my consumer constituent who has cable is going to have his pocket picked to make certain that CBS does not lose too much money on some of the terrible business decisions they made, like major league baseball, for $1 billion, so they can pay banjo-hitting shortshops half a million dollars a year to sit on the bench. That is essentially what it is all about. It is about money.

I for one think it is impossible to try to explain, for the proponents, to go back to their constituents and say, "Hey, we saved you a lot of money," when in fact it is just quite the opposite.

Make no mistake about it, Mr. Speaker, the President of the United States, in a letter that was dated today, sent to all Members of Congress, made it very clear that he will veto this legislation. He talks about his vision for the future, which includes competition. Competition is the answer.

I would suggest, when we come back here next session after this bill is vetoed and we sustain that veto, that we get with it and talk about a competitive mode, that we take away the cable-telco crossownership ban and really get at competition instead of overregulation, which is what we have got in this particular piece of legislation.

So I urge the defeat of the conference report and a vision in the future, next session, to look at the competitive mode, the Oxley-Boucher bill, as a starter. I think that we can save the consumer money and at the same time provide competition in this industry.

Mr. MARKEY. Mr. Speaker, I yield myself 30 seconds at this point just to remind the House that the legislation we are dealing with right now is the Senator from Missouri, JACK DANFORTH's, a Republican, his legislation. This is not a bill which is a Democrat or a Republican bill, this is a bipartisan piece of legislation produced in the House and the Senate. The Senate, Senator DANFORTH working with Senator HOLLINGS and Senator INOUYE, put it together; on our side, Mr. DINGELL and I with Mr. RINALDO, working with many other minority Members, put it together. It is a bipartisan piece of legislation, not Democrat or Republican.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in support of this legislation which includes many of the important consumer protection provisions in H.R. 4850, the House version of the cable bill which passed in July.

In spite of what the cable industry has proclaimed, this legislation could lead to greater competition in an industry that has had a virtual monopoly and lower cable rates. Since 1987, cable rates have skyrocketed and the industry has been without monitoring by a public body.

In July, I was successful in getting strong equal employment opportunity language in H.R. 4850, the House cable bill which could lead to increased opportunities for minorities and women. This bill does exactly that. This conference report also has minority programming provisions that will increase access for qualified minority programming services.

I am, however, deeply disappointed that the conference report does not include the strong equal employment opportunity rules that were approved for cable television for broadcast television. Anyone who feels as I do would have to consider this a mistake.

Some would have you believe this bill does not go far enough to remedy the underrepresentation of minorities and women in the mass media, but I am confident that this bill will assure improved equal employment opportunities in both the cable and broadcast television industries, and definitely leaves the door open so that in the near future we will get EEO requirements to cover broadcast television.

As the National Association of Black-Owned Broadcasters said in a recent letter:

> We appreciate and agree with the ideals and objectives of the EEO amendment which was in the House bill. However, we do not agree that the bill should be rejected because all of those proposals were not carried over into the final bill.

This bill expands from 9 to 15 the job categories for which employee information is required—corporate officers, general manager, chief technician, comptroller, general sales manager, and production manager. These are all top management positions.

The FCC will be mandated to prescribe the methods by which entities are required to compute and report the number of minorities and women in these job categories.

Further, the report codifies the FCC-EEO rules for the first time. That is a good step forward. I, for one, will continue to fight to have stronger EEO regulations extended to the broadcast industry. The bill will create an FCC Mass Media Bureau program of mid-license term review of television broadcast stations' work force employment profiles.

The FCC will compare the station's work force data with its area labor force but for those who see quotas behind every EEO effort, they should understand that this procedure is not intended in any way to establish a hiring quota.

I realize there are those who would have you believe this is not a strong bill and doesn't go far enough to remedy the underrepresentation of minorities and women in the mass media, but I am confident that this bill will assure that equal employment opportunities are afforded by cable television and will lead to improvements in broadcast television.

Mr. Speaker, I urge my colleagues to support this conference report.

Mr. LENT. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. UPTON], a member of the committee.

Mr. UPTON. I thank the gentleman.

Mr. Speaker, this bill is not perfect, but it does a whole number of things, which will cap rates, which have gone up three times higher than inflation since 1987. People are sick and tired of rate increases. This bill will allow people to pay for what they watch. And what is wrong with that? My household watches C-SPAN, ESPN, CNN, WGN, and a bunch of other local stations. Why should households that watch other stations pay for what I watch? And vice versa. It is sort of like when you go to the grocery store to get only skim milk, you do not buy every single dairy product on the shelf—eggs, whole milk, half-and-half, margarine. No. If you did, you would go broke.

That is what the consumer is mad about. And that is why virtually every consumer group in the country is in favor of this bill.

Mr. Speaker, I urge my colleagues to do something about cable rates. I urge my colleagues to vote for this bill.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, I support this conference report.

Years ago State and local governments gave away cable franchises creating government-sanctioned regional monopolies and making millionaires out of cable franchise owners.

Then Congress decided, in 1984, to deregulate those regional monopolies, making cable franchise owners multimillionaires. They were able to become multimillionaires because they have no competition and no regulation. Unchecked, prices went up significantly. And they will keep going up unless we do something about it.

This bill will do something about it. It will encourage competition and provide for modest regulation. Now, wireless multichannel TV and satellite multichannel TV will have access to the same programs cable companies have access to so they can compete with cable on an equal basis.

Republicans want competition; this bill does it. But it also will provide some regulation to make sure in the shortrun prices do not go up too much more.

I salute the committee on the work it has done and I urge my colleagues to vote for this bill.

The SPEAKER pro tempore (Mr. LUKEN). The gentleman from Massachusetts [Mr. MARKEY] has 17 minutes remaining, and the gentleman from New York [Mr. LENT] has 14 minutes remaining.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. SCHAEFER].

Mr. SCHAEFER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I yield briefly to the gentleman from Virginia.

Mr. BLILEY. Mr. Speaker, I rise in opposition to the conference report.

Mr. Speaker, many of the same people were here with me 8 years ago when we deregulated the cable industry. We deregulated it because most local franchising authorities had placed rates at such an unbearably low level that it was impossible for the industry to invest in upgraded equipment and technology and to improve its programming.

We deregulated the industry because the American consumer wanted more. So we crafted legislation that freed the industry to invest and the result has been 8 years of rapid growth in programming choices and a tremendous increase in the number of living rooms in which cable television is now available across the country.

Yet as these opportunities increased, we began to start hearing from our constituents about spotty service and rapidly rising rates in the cable industry. Many of us are cable subscribers and have witnessed these rising rates ourselves. But as we consider this bill today, I urge my colleagues to keep in mind that where these rates have risen, there has been a direct reflection in the quality and variety of programming we, the consumer, have been able to receive in our living rooms.

Since the 1987 effective date of the deregulation of cable, the General Accounting Office has conducted three studies on cable rates and services. These studies found that the price of basic service has increased, but has done so hand in hand with a similar increase in the number and variety of programming choices available to the consumer. GAO found that the average price per basic channel increased from 44 cents in 1986 to 53 cents by 1991. This 20-percent increase may seem surprising at first glance, yet becomes less startling when one finds that the Consumer Price Index, during the same period, increased 22.5 percent. Further, the GAO report seems to indicate that the catch-up period following deregulation seems to have come to a halt. In 1990, the average cable consumer's bill rose 4.2 percent while inflation during 1990 rose almost 2 percentage points more; by 6.1 percent.

While cable rates have been rising, however, cable programming has improved significantly. We can all agree that the quality, creativity, and diversity of cable programming has improved dramatically. In 1984, for example, cable programmers spent about $300 million in basic cable programming; today that figure is over $1 billion and has led to the availability and quality of such networks like Discovery Channel, Nickelodeon, ESPN, CNN, and Black Entertainment Television, to name only a few. This is a direct result of one of the central features of the Cable Communications Policy Act put in place in 1984: rate deregulation.

There are those here today who will make the argument that the rising cable prices and spotty customer service are a result of the monopolistic situation in which the industry finds itself. There are those who will also state that the solution to this monopolistic situation is not through more needless regulation. I certainly agree.

The legislation before us today would only work to stifle the creativity and diversity that have come with deregulation. We would be unwise to saddle the industry at this point with more needless regulation, unprecedented restrictions in the sale of their products and the use of their technology. I ask my colleagues to consider that the issues which led us to deregulate cable in the first place are still relevant today. For these reasons, I urge my colleagues to keep these thoughts in mind as we consider this legislation.

Mr. SCHAEFER. Mr. Speaker, I rise in strong opposition to the conference report, and in doing so I take great relief from the fact that I need not defend it, if enacted.

We are talking about an industry that has only been deregulated for 5 years, and now we are talking about an industry that we have to come back and reregulate again. I think it would be extremely difficult to explain to our constituents our higher cable rates resulted from a bill promising to lower them. Or why legislation intended to benefit cable consumers actually led to fewer programming choices. And why a measure with competition in its title did little or nothing to bring it about.

Thankfully, by voting against this conference report, I will not have to face these questions in the future.

Instead, opponents of this legislation can speak of lost opportunities where consensus was sacrificed for political gain. How we knew all along that the regulatory overkill and Government micromanagement put forth by this bill would indeed stifle investment and plant operations and equipment improvements.

□ 1050

In that we were right in arguing that not only competition could bring about the promises made by the conference report, but lower cable rates and a vibrant video marketplace. It was not too long ago that this body remembers we passed what was called the catastrophic health care bill. I was proud to have voted against it.

What happened? We came around and repealed it shortly after because the American people rose up against it.

I predict that is what is going to happen if this particular piece of legislation passes.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I thank the committee chairman for yielding me this time.

Mr. Speaker, Reaganomics has failed. The deregulation of the television industry has failed. And the time is now to protect our consumers against a cable TV industry which has raised its rates nationally by 61 percent in the last 5 years—three times as high as inflation.

Mr. Speaker, in my own State of Vermont, cable rates since 1986 have gone up by 58 percent in Bennington, 123 percent in Montpelier, and 110 percent in St. Johnsbury, among other towns. This is not a perfect bill, but it finally tells the cable TV monopolies that they cannot simply raise their rates to any level they wish.

When consumers deal with a monopoly, and have no choice with regard to competition from another company, it is appropriate and it is right for the Government to regulate cable TV rates, channel tiers, and equipment fees—and that is what this bill does.

Mr. Speaker, the cable TV industry has been running an extremely dishonest ad campaign in opposition to this bill. They are using bogus figures in order to defeat it. Understandably, they want to be left alone so that they can continue to raise their rates as high as they want, no matter what impact this has on the consumer.

Tragically, President Bush is once again defending the big money interests and is threatening to veto this bill, which has the support of every major consumer organization, the largest senior citizens' organizations, and the U.S. Conference of Mayors, among many other groups.

Mr. Speaker, we were sent down here to represent ordinary Americans and not the big money interests. Let us pass this conference report, and override the veto when it comes.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. HUGHES], the distinguished second ranking member of the Committee on the Judiciary.

Mr. HUGHES. Mr. Speaker, first let me thank the gentleman from New York for yielding this time to me.

Mr. Speaker, I rise in strong opposition to this bill.

My colleague, the gentleman from Massachusetts [Mr. MARKEY], I thought, did a good job overall. I had some problems with the bill when it left the House, but I voted for it because the cable industry has enjoyed a monopoly. They have exercised that monopoly power. The service has been arrogant, and we need to regulate. There is no question about that.

But what happened in conference was the bill was bushwhacked by the broadcasters, broadcasters who see the pot of gold at the end of the rainbow.

Retransmission consent, my colleagues, if you vote for this, is going to come back to bite you, because it is going to cost consumers billions and billions of dollars.

The President of CBS, Larry Tisch, acknowledges it might be $1 billion. He does not think it is going to be $3 billion.

Let me tell you, friends, we do not know. Nobody can tell you what it is going to cost.

Retransmission consent basically says this: The broadcasters will be able to demand from the cable systems whatever they feel the market will bear for somebody else's product. We do not buy a signal. We buy a program. That is what we buy when we turn on the television set. We look at a program or programs.

The copyright owners are left out of the equation. What we have in this bill is the right of the broadcasters to demand whatever they want to demand for their signal, but we are going to continue to regulate the cable industry under compulsory license. That means what we are going to have is not a free marketplace. We are going to have a regulated marketplace for some, for the cable systems, but we are going to have a deregulated system for the broadcasters. It is going to cost us billions and billions of dollars, and it is unbalanced.

We did not work our will in conference on the copyright issues that would have given this balance, and that is unfortunate. You cannot fix the problems without doing that. It is going to cost us domestically.

It is going to cost us internationally because we are net exporters of film and everything else, signals, movies. What we are saying to the international community is that really what the broadcasters are selling, our programs, are not worth anything really in the international marketplace.

I urge you to vote against the conference report.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding me this time. I salute him and the gentleman from Michigan on a job very well done.

Let me say, Mr. Speaker, I support this bill because it gives cities like Louisville and Jefferson County a chance to reregulate and to reintroduce themselves into the ratemaking functions for cable activities.

I also support the bill because it spurs competition. No longer can the local authority give out an exclusive franchise to a cable operator. There is cable programming access provided by the Tauzin amendment. There is the possibility, later of letting telephone companies get into the cable operations, delivering a cable signal over phone lines.

This bill also sets a minimum standard of consumer service and customer protection. How often do we hear from people who cannot get their telephones answered or the billing procedure described.

I am not happy with the retransmission provision, but there is a 1-year transition period before the full effects of that will be noted.

I just do not think it is rational or responsible to drop overboard this excellent piece of consumer protection legislation because we happen not to agree with one provision. Let us revisit that provision. Let us make all the changes we need in retransmission consent, but let us not kill this bill today. It is too important.

Mr. Speaker, I hope that this House supports S. 12 by a very, very wide and large margin.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTON], a distinguished member of the committee.

Mr. BARTON of Texas. Mr. Speaker, let us tell the whole truth about this bill. Much has been made of the fact that rates have gone up since cable has been deregulated, and that is a true statement; but let us tell the rest of the story. The rest of the story is that the average number of channels per cable system has gone from 6 to 35. That is a 600-percent increase.

The average basic service rate, basic tier one service rate for cable today is $18.84 a month. That is not a cable number. That is a GAO study report. We have gone from six channels to 35 and the average tier one basic service rate is $18.84 a month.

People want to get more than that, so they then subscribe to HBO, Cinemax, maybe an all-sports channel or whatever. That is a discretionary decision on their part. That is not something they have to do.

Rates are not going to go down under this bill. The proponents of the bill do not say rates are going to go down, because they know they are not. Rates are going to go up.

According to a story in the Washington Times yesterday, at a minimum rates are going to go up somewhere between $2.50 a month to $6.48 a month.

This is an entertainment medium. This is not a public necessity. As the Wall Street Journal pointed out this morning in an editorial, we do not regulate the price of Redskin football tickets. We do not regulate the price of Broadway plays. We do not regulate the price of a movie ticket at your local theater.

Under existing FCC regulations, if you are in a market that has less than six over-the-air television stations, your cable system is subject to rate regulation today.

If the local franchise authority feels that those rates being charged are unfair, why is not the FCC being beseiged with petitions to regulate? Because in point of fact the rates are not unfair. The quality of service has gone up, the quantity of service has gone up, and people are basically happy.

Mr. Speaker, vote no on this bill.

□ 1100

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, there is no stronger endorsement of this proconsumer bill than the millions of dollars cable monopolies have spent to try to defeat it. Their slick ad campaign, my colleagues, complete with scare tactics, has played fast and loose with the facts and with the truth. Consumers are not buying those scare tactics, and neither should this House. Since 1986, price gouging cable monopolies have hiked their rates more than twice the rate of the national inflation, and that is only the national average. For some Oregonians increases have surpassed 130 percent. If someone on that side wants to say consumers are happy with that, they ought to come out and talk to the people in Salem, OR, where that regulation has occurred.

Mr. Speaker, cable deregulation is a snapshot of the Reagan-Bush economic debacle. The big cable companies are cash cows, and consumers are the goat. It is time we dump those policies. It is time we voted yes on this conference report and gave consumers real protection against price gouging monopolies.

Vote yes on this conference report.

Mr. MARKEY. Mr. Speaker, I yield one-half minute to the gentleman from Minnesota [Mr. SIKORSKI].

Mr. SIKORSKI. Mr. Speaker, I thank the gentleman for yielding the time.

I rise in support of the conference bill and to recognize the conferees for their diligent efforts. I am particularly pleased with section 19, the program access provision, that increases the availability of programming to all multichannel video program distributors, while providing to them no lesser rights to exclusivity than are afforded cable operators with regard to the programming covered under that section.

Mr. MARKEY. Mr. Speaker, I yield 3 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, I want to speak first to the conservatives in this body, particularly my friends on the Republican side who, in a large majority, voted for this bill when it left the House. There are two things that happened to it in conference committee neither one of which ought to trouble them.

The first thing that happened to it was that the conference committee adopted the procompetition features that we won after a good fight on this House floor, the Tauzin amendment. It is now part of this conference report.

The second thing that happened in the conference committee, too, is that some of the regulatory features of the House bill were changed so that the bill is less regulatory, more competitive, than when the bill left the House.

So I say to my colleagues, "Those of you who are conservative and believe in competitive market forces rather than regulation, whether you're a conservative Democrat or Republican, this is a good bipartisan improvement of the bill since it left the House."

Second, the conference committee adopted this thing called retransmission consent. Now for those out there in the audience who believe that consumers in a fair marketplace ought to have a say-so about what they see, and how they see it, and when they see it, I want them to think about the net effect of this retransmission consent provision. What it says, in effect, is not that the cable companies are all of a sudden going to start charging for broadcast programs. They are already doing that. They are currently taking the broadcast signal from the local broadcaster who is going out into the marketplace and bidding to cover sporting events, for example, and they are taking those signals, putting them on that cable and reselling them to us. In effect we are paying for them twice. We are paying for them commercially in the products that we buy; that is, the commercially sponsored broadcast programs. We are paying for it again when cable charges us a basic cable rate. But without this provision in the bill called retransmission consent we are paying for those programs, but cable keeps all the money. It does not share any of that money with the broadcasters.

Now my colleagues say, "Well, why has that been allowed?" That has been allowed because broadcasters wanted to be on that cable. They were willing to put that signal for free on that cable because they need to be on that cable. That does not change. They still need to be on the cable.

But the question should be not whether we are going to pay for the programs, but who gets the money and who pays for it. If we do not change the law soon, as the conference committee has recommended we change it, the money stays with the cable company. What does it do with that money? It goes out into the marketplace and bids against the broadcaster for the same sports that we have enjoyed on basic cable for all this while that we have enjoyed on the network signal. They take that sports programming and bring it back to the cable, and guess what? They elevate it to pay per view. So, we not only pay for it once and twice, we are now paying for it three times.

Mr. Speaker, I suggest to my colleagues both of these changes: less regulation, more competition, and this fairer treatment for these broadcast signals are in the interest of consumers in a good marketplace.

Mr. MARKEY. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker and my colleagues, there has been a lot of anger expressed at cable TV today on this floor. I do not think we should be angry. After all, they are a monopoly, and what they are doing is the American way. They are doing what monopolies do. They are gouging their customers. They are digging deep into their subscribers' pockets, and their political tactics reflect the political tactics of monopolies. They do not want a change because a change for them means more competition and less profits.

One of my colleagues said a few moments ago, "This is about money. Why can't we really just pass a modest bill?

Let's just expose that fallacy for what it is.

Let me remind my colleagues that in 1990, on a voice vote coming from this Chamber on the Suspension Calendar, we passed a modest cable bill. It was agreed to here by the cable industry, and then it went to the Senate, and the cable companies killed it. We tried a modest bill, and cable said, "No."

We have tried a vigorous bill. Cable still says no because the monopolists want to continue to line their pockets.

This debate is Orwellian. Up is down, peace is war, and the fact of the matter is that what we stand for is local broadcasters having the right to control their programming, local government having a say in the contracts in which they participate and the opportunity for subscribers to have a say in something for them that has become a necessity.

Now this bipartisan bill, organized in the Senate by Mr. DANFORTH, and supported by the gentleman from New Jersey [Mr. RINALDO], the gentleman from Michigan [Mr. UPTON], the gentleman from Connecticut [Mr. SHAYS] and the gentleman from Texas [Mr. FIELDS] who spoke very eloquently about retransmission consent, really is about a bipartisan effort to address the real problems that customers and consumers face. It is about an effort to say that this Congress is not out of touch, that this Congress is not in the pocket of the special interests, that this Congress has heard the cries of consumers all across America and is willing to stand up and be counted.

As my colleagues know, Time Warner, one of the big cable giants, really does not want this bill to be passed. They make a lot of money from their cop-killer lyrics, and they will make more money off of their bill-killer tactics. If this Congress caves in to the monopolists, if this Congress caves in to those who seek to deprive real opportunity for local government and local broadcasters to have their say about the kinds of entertainment and information that goes into their communities, then it is a shame on this House.

Mr. Speaker, I think the bipartisan effort that we have assembled here is truly based upon the recommendations of a wide variety of individuals that will continue rural opportunities, that will create real competition, will tell the folks that this Congress has heard its wakeup call, this Congress respects the people, this Congress stands for competition.

Mr. MARKEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Maryland [Mr. MCMILLEN].

□ 1110

Mr. MCMILLEN of Maryland. Mr. Speaker, I rise in support of S. 12, the cable conference report, and commend both Chairman MARKEY and Chairman DINGELL for their efforts on this legislation.

Let us be clear, the bill we pass today provides protection for cable consumers. The bill also gives greater power to regulatory authorities to ensure that service is responsive and prices reasonable.

While I have strong concerns over any increased regulation, the bill only regulates the cable operator in the absence of effective competition.

As a New York Times editorial mentioned earlier this year:

> Until the day that customers can pick and choose among multi-channel providers, reregulation is needed.

I would briefly like to comment on two provisions which were adopted as amendments in committee and which are in this bill.

The first amendment increases the amount of educational programming offered by cable companies. It allows cable operators to substitute high-quality educational programming for unused channels currently set aside for public or leased access.

Many of these access channels currently are underutilized. The provision in the conference report will ensure that there is sufficient access for educational programming, while at the same time alleviating the problem of wasted channel space.

Television has been described as a wasteland. To offset this trend, it is important that positive, educational programming is available to everyone and be as accessible as possible.

The second amendment calls for a study to review the migration of sporting events from over the air to pay TV. The amendment requires the FCC to study the migration of programming, taking into consideration the economic and social consequences of this movement. The study will determine the effect of pay-per-view sports programming on the consumer as well as the various sports organizations. This study is an important first step toward assuring the accessibility of televised sports—especially local sports on broadcast stations.

Again, I commend both the chairman of the full committee and the chairman of the subcommittee for all their efforts in developing this legislation.

Mr. LENT. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia [Mr. BLILEY], a member of the committee.

Mr. BLILEY. Mr. Speaker, the supporters of this legislation say that this legislation is needed to bring reasonable cable subscription rates and better service to the consumer. Now I am all for that goal. In fact, I strongly supported a bill that would have done that by establishing a system in which abuses in the cable industry could be corrected. Unfortunately the first time around the House passed a bill that was too heavy-handed that would actually have raised cable rates and stifled innovation and creativity. But if you think the first attempt is bad, this conference report is worse. If the first bill was petty theft; this bill is tantamount to a carjacking.

This conference report has the distinction of choosing the most extreme measures from both the House and Senate bill. What we have before us is a regulatory Christmas tree that has been trimmed with countless number of unnecessary items. The result—higher prices, less innovation, less creativity. And the kicker in the conference report is the direct tax on cable subscribers to help prop-up the broadcasters. Retransmission consent is nothing but a transfer of wealth from the poor cable subscriber to the Larry Tisch's of the world. Ladies and gentlemen, the supporters of this bill are talking about regulation, equity and the public good. But as Senator Russel Long once said: "It doesn't matter what they are talking about, they are talking about money." This is not a cable subscriber protection bill—this is about taking money from the consumer and giving it to the broadcasters.

Mr. MARKEY. Mr. Speaker, I yield 30 seconds to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am voting for the conference report on regulation of cable television today because I agree that something must be done to stop some unwarranted rate increases that have occurred in some parts of this country.

I have also supported and will continue to support the program access provisions of this legislation which will help customers in rural America who rely on satellite dishes for their programming to get that programming at nondiscriminatory costs.

However, even though I am voting for the bill, I do have some concerns about how the bill will treat cable operators in the smaller markets, and especially in rural States. Many of these cable operators have not abused their market positions, they have not increased rates above inflation, and they have delivered quality services to their customers.

Some of the regulations that might make perfect sense for urban areas where you have large cable operations may not be fair to a rural cable system, and I want to be sure that we are not going to impose an undue regulatory burden upon these smaller systems.

I am concerned about provisions in the legislation that will get down to the detail of even prescribing certain office hours for cable systems. I don't think that makes much sense for the smaller system where there's never been a problem in those areas.

Also, unlike the House bill that we passed, this conference report allows cable subscribers to challenge rates. That might be acceptable for large cable systems with larger budgets and staffs, and they might easily be able to absorb the time and money needed to defend themselves from those challenges, but I don't think that's the case with the smalltown cable providers.

I'd like some assurances that these smaller cable providers, whose rates have not risen in any unreasonable way during recent years, will not have to spend most of their time justifying their rates through costly and expensive processes.

In the area of regulatory burden, there is one independent cable operator in North Dakota who serves 9,000 subscribers in 8 different communities. In one community, for example, he has told me he has only 34 subscribers. The question is, Under the customer service standards in this legislation, will this cable operator be forced to open a service office with hours, staff, telephones, and other facilities in the community in which he has only 34 subscribers, even though it would not be economically feasible for him to do so? One would expect the regulations not to include that, but when Federal regulators get their arms around this bill, you never know what's going to happen and that's my concern.

I've talked to the subcommittee chairman and asked that we in Congress hold oversight hearings on the regulatory burden to determine how this might or might not affect smaller systems. He has given me a commitment to do that, and I just wanted to say that while I'm going to vote for this conference report because I think it's needed, I am concerned about some provisions of it, and I'm going to push very hard on behalf of the smaller cable systems that they not be subjected to unreasonable and unwarranted and unjustifiable regulatory intrusions.

Mr. Speaker, I yield 30 seconds to the gentleman from Texas [Mr. HALL].

Mr. HALL of Texas. Mr. Speaker, as a member of the conference committee which completed its consideration of this legislation last week, I rise in support of the final agreement. This is not to say that I'm an ardent supporter of increasing the regulatory burden on the cable industry—I'm not. When Congress approved the Cable Act of 1984, many Members, including myself, took for granted that deregulation would foster competition in cable services, with consumers being the ultimate beneficiaries. Eight years later, however, most communities in America are still waiting for that promise of competition.

The legislation before us today would reregulate cable services in those communities which continue to have only one cable provider. As soon as effective competition in cable services develops in any given community, then cable operators in that community would once again be deregulated, and the cost and quality of service would be determined by the marketplace. I should note that the programming access amendment put forward by the gentleman from Louisiana [Mr. TAUZIN] would go a long way toward ensuring that real competition has a fair chance to develop.

I want to assure my colleagues and my constituents that it is my belief this legislation will not cause rates to increase—rather, this bill is designed to reintroduce some local government control over cable rates. With respect to the retransmission consent proposal in the bill, this simply gives a local broadcast station the option to negotiate for carriage of its signal on a cable system.

I would remind my colleagues that it was Congress that, in 1976, created the so-called compulsory license which allows cable operators to use local broadcast signals without prior consent from the broadcast station, and without compensation to that broadcast station. Congress established the compulsory license in order to give the infant cable industry a chance to grow and compete. That was 16 years ago and it did work—no one can now say that the cable industry is still a small, struggling entity requiring a special protection in the law.

This legislation gives broadcast stations a choice of two options when dealing with a local cable operator. The station can either elect to operate under must carry, in which case the station is automatically carried on the cable system for a 3-year period without compensation, or the broadcast station can choose retransmission consent, and enter into negotiations with the cable system. Nothing in this bill sets the terms for these negotiations, and nothing requires a cable system to accept the demands of a broadcast station that elects retransmission consent. If an agreement cannot be reached between the two parties, then the broadcast station is off the cable system for a 3-year period. Despite the various cost figures being offered today which suggest that cable rates will increase by $1 to $5 billion per year as a result of this legislation, no one knows with any real certainty how these negotiations between broadcast stations and cable systems will play out. This is because each negotiation will be unique—just like any other business negotiations. Many broadcast stations, in fact, are interested in arrangements that go beyond simple financial compensation—such as joint ventures, joint advertising, good channel positioning, et cetera. Without any further governmental interference, the cable industry and the broadcasters can and, I hope, will make this basic idea of business negotiation work in the marketplace.

Mr. Speaker, my point is simply this—any entity should be entitled to maintain control over who uses its own product. I strongly support the idea of retransmission consent, and I sincerely hope this Congress will turn this proposal into reality. I urge my colleagues to support this conference report.

Mr. LENT. Mr. Speaker, may I inquire how much time is remaining on both sides?

The SPEAKER pro tempore (Mr. LUKEN). The gentleman from New York [Mr. LENT] has 6 minutes remaining, and the gentleman from Massachusetts [Mr. MARKEY] has 6½ minutes remaining.

Mr. LENT. Mr. Speaker, before yielding that time, I would ask unanimous consent that statements by the gentleman from Massachusetts [Mr. MARKEY] and I be placed in the RECORD next to each other with the remarks of the gentleman from Massachusetts following mine.

The SPEAKER pro tempore. Without objection, those statements which are not in the form of a colloquy may be inserted in the RECORD.

There was no objection.

Mr. LENT. I ask for clarification on four issues from the distinguished Congressman from Massachusetts about the new provisions in the bill reported by the conference affecting home shopping stations. H.R. 4850 contained a provision which would deny mandatory must carry to those stations which are utilized predominantly for sales presentations or program length commercials, a provision which I and a number of my colleagues opposed as discriminatory and of questionable constitutional merit. I draw attention now to new provisions on this issue contained in the bill reported by the conference. The issue of whether these stations serve the public interest is now referred to the Federal Communications Commission for appropriate proceedings and the earlier discrimination against these stations applies only pending the completion of this proceeding which the FCC is required to complete within 270 days after the date of enactment of this section.

I ask my distinguished colleague now for some clarifications of this amended provision. First, it is correct, is it not, that the revised section leaves to the FCC the authority to determine the nature of the proceeding it conducts as long as the Commission meets the section's requirement for appropriate notice and opportunity for public comment?

Second, I would also like to ask about the effect of the 270-day deadline established in the conference report. It is my understanding that the new provision means that the FCC can decide this issue, assuming it meets the public comment requirement, whenever it feels it has completed its analysis as long as it does not take more than 270 days for the process. In other words, it can complete its proceeding in a much shorter period of time if it so decides.

Third, let me seek assurance on another critical point. I understand that under the terms of this provision, when the FCC makes its determination, whether in 270 days or less, those stations which it decides serve the public interest will be promptly certified as local commercial television stations and will be treated the same as other local commercial television stations under the mandatory must carry provisions of the act, provided they meet the other must carry requirements of the act.

Finally, under the new provision, it is my understanding that if the FCC determines that a station does not serve the public interest, it will have a reasonable period within which to provide different programming. In addition, such stations will not be denied a license renewal solely because their programming consists predominantly of sales presentations or program length commercials. In other words, the new proceeding on public service for these predominantly sales stations is undertaken solely for determination as to qualification under the mandatory must carry provisions, and for no other purpose.

Mr. MARKEY. Mr. Speaker, I have examined the statement of the gentleman from New York [Mr. LENT] and the gentleman's four interpretations are correct.

Mr. LENT. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Texas [Mr. BROOKS], the chairman of the Committee on the Judiciary.

Mr. BROOKS. Mr. Speaker, it is with great reluctance that I rise in opposition to the conference report on S. 12, the Cable Television Protection Act. I was pleased to vote in favor of this bill when it was approved by the House in July. The House version offered the promise of providing well-deserved relief from skyrocketing monthly bills to cable subscribers across the Nation.

But, something happened to a good piece of legislation in conference. The conferees decided to tack on to this bill a concept called retransmission consent, a matter that is inextricably linked to the Judiciary Committee's jurisdiction over copyright matters. Mr. Speaker, this is an issue with far-reaching economic and legal consequences. Yet, it has not been subject to 1 single minute of debate on the floor of the House. At every step of the process in this body, a conscious effort was made to keep retransmission consent away from the cable bill. Then, lo and behold, the conferees magically rediscovered retransmission consent, just in time to tuck it into the conference report and send it back here to the floor of the House. So now the Members of this body are being asked to swallow retransmission consent on the basis of the assurances of our conferees that it will be good for us and our constituents. On that, I have some doubts.

Mr. Speaker, the sole purpose of the concept of retransmission consent is to provide broadcasters with what they call a new revenue stream. One of the most ardent proponents of the concept has estimated that this stream will in fact be a rushing river of revenue for the broadcasters, to the tune of $1 to $3 billion. You don't have to be a Nobel laureate in economics to figure out that it will be the cable subscribers who will be forced to pay the passed-on cable costs. I am afraid that it will take a flight of rhetoric worthy of William Jennings Bryan for us to explain to our cable-using constituents how a bill that started out as a measure to lower cable fees somehow came back to the floor of this House with this billion-dollar transfer of wealth attached to it.

Another very disturbing aspect of retransmission consent is its effect on the rights of the holders of copyrights to television programming. These legally vested rights aren't going to vanish into thin air simply by waving the magic wand of retransmission consent. As a result, what we will be doing if we enact the bill in this form is to set the stage for interminable and inevitable litigation.

Mr. Speaker, I believe that there is a way that the principles of both retransmission consent and copyright can be harmonized, and that it can be done in a way that protects the interests of cable subscribers. This bill doesn't do the job. If we defeat this conference report, we can come back in the future and work on a bill that does the job right. For these reasons, I have to urge my colleagues to vote "no" on this conference report.

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Mr. MARKEY. Mr. Speaker, I yield the balance of our time, 6½ minutes, to the gentleman from Michigan [Mr. DINGELL], the chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Speaker, I begin by paying my greatest respect and affection to the distinguished gentleman from Texas [Mr. BROOKS], my dear friend, who is one of the finest men that I know, and a man with whom I have had great pride in serving.

I wanted to say that I am reminded today, as I speak, of the mighty Achilles, who sulked in his tent outside the walls of Troy and did not participate in the battle which took place. Never would I say that my dear friend from Texas had sulked in his tent, but I think it is time for us to recognize that he awakes from a rather deep sleep in a somewhat ill mood, because he had a full opportunity to name three conferees. He chose not to do so.

Had those three conferees appeared, together with the four Republican conferees, the matter would have been deadlocked and the result would have been very, very different than that which we see before us.

So I would urge my colleagues to not think that there was anything done in the dark of night here. The harsh fact of the matter is that retransmission consent has been reviewed by everybody in sight. As my good friend from Texas has observed to the House, he would anticipate that Hollywood will have full opportunity to have this question reviewed and certainly the copyright laws are within the purview of the jurisdiction of the Committee on the Judiciary. I fully anticipate, my dear friend, to look to those laws as this matter develops.

The cost estimate has been made on this bill with retransmission consent. Consumers Federation of America recognizes and says, in a study which I would show my colleagues here, that there will be a savings to American consumers of $6 billion, if this legislation is passed. The FCC recognizes that the savings to consumers is going to be $5.3 billion. That is big money. That includes retransmission consent.

Let us look then at some of the other things. This legislation passed the House by a vote of 340 to 73. It passed the Senate by 73 to 18. It is very clear that there is strong support for this legislation, and I would urge my colleagues to recognize that.

Let me tell my colleagues about something else we are finding. This is a year when people are concerned about the special interests running the Congress of the United States. Listen to those people. They are telling us that they are dissatisfied with service, which is so bad that the city of New York had to amend the charter of the cable company which serves them to assure that that cable company would simply answer the phone.

This legislation requires service improvements. It requires protection of consumers from outrageous rate increases.

Look at who opposes this bill: The cable industry, an unregulated monopoly. They want to stay an unregulated monopoly. Is that surprising? No; there is enormous economic advantage for them. Hollywood, which sees an opportunity to increase their revenue stream.

Who favors this bill? The Consumer Federation of America, the AFL-CIO, the UAW, the American Association of Retired Persons, the League of Cities, the mayors of the communities that we serve, the National Association of Rural Co-ops, the Association of State Attorneys General, and Consumers Against Special Interests.

The answer here is to listen to the people that we serve, and if we do not listen to them in an election year, listen to our pollsters. They are telling us, the people are fed up with these special interests pressuring the Congress into unwise legislation that does not serve their interests.

Control prices, assure improved service, and put reasonable restraints on monopolists.

Mr. MARKEY. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Massachusetts.

Mr. MARKEY. Mr. Speaker, let us make no bones about what this debate is over. The Committee on the Judiciary had plenty of opportunity to bring that amendment out on the floor to help Hollywood and get more revenues for Hollywood back in July. They chose not to bring the amendment out on the floor.

I do not know why they did not want to defend Hollywood in the well of the House.

Mr. DINGELL. Mr. Speaker, they chose not to participate in the conference, where they had an opportunity to have conferees appointed to carry out their views.

Mr. MARKEY. Mr. Speaker, if the gentleman will continue to yield, again the gentleman from Michigan is correct. Judiciary conferees were named to the conference committee, and yet they never showed up to fight for Hollywood to get them more revenues.

Do my colleagues know what this debate is over? This is as though Hurricane Andrew hit every consumer in America. Now we are building a tent to protect the consumers, and the broadcasters are inside. Hollywood wants to get inside, too, so they can get more revenues. In order to ensure that they get inside the tent and get more revenues, Hollywood producers are going to blow down the whole tent and give no protection to the consumers of our country against the $6 billion overcharges which the cable industry imposes every single year.

If we want to make sure that this bill is killed so that Hollywood can go back and get more of the money which they think is going to the broadcasters, more than they think they deserve, but it will still go into their pocket, not back to the consumers, then, fine, vote no. But if we want to protect the consumers in this country, make sure that we vote yes on this bill because that is the only way we are going to protect the consumers.

Mr. DINGELL. Mr. Speaker, we have a simple choice here. The consuming public of the American people want this bill. The cable industry, an unregulated monopoly, does not. The Consumer Federation of America, the AFL-CIO, the League of Cities, the Attorneys General, they want this bill.

Why? Because they know it is going to save them money and improve the service. The result of passage of this bill is that the consumers will receive needed protections. Defeat of this bill assures that the special interests will profit, will enjoy increased revenues and will, of course, be very grateful to all of those who have provided them this needed assistance.

Mr. KLECZKA. Mr. Speaker, I urge my colleagues on both sides of the aisle to vote for passage of S. 12, the cable television agreement.

By now all of us are familiar with the litany of woes arising from deregulation of the cable industry in 1984. While this action was supposed to promote competition to cable, and keep rates reasonable, it had the opposite effect. The General Accounting Office [GAO] reports cable rates rose 61 percent during this period—more than three times the inflation rate. The Justice Department found price hikes were approximately 50 percent more than they would have been in a genuinely competitive market. Perhaps most telling of all, the Consumers Federation of America [CFA] estimates the cable industry overcharges subscribers $6 billion a year.

The rate hikes, it should be emphasized, are not a result of Government action. In my view, they are due, in part, to Government inaction on behalf of consumers.

Enough is enough. The agreement before us today would restore much needed balance to the cable industry by reregulating rates and promoting competition in a meaningful way.

At least 95 percent of the cable systems operating today have little to no competition from other multichannel sources of video broadcasting. The cable agreement takes effective steps to stabilize prices. Under the conference bill, the Federal Communications Commission [FCC] must develop a procedure to determine the maximum rate allowable for the basic tier of cable service. This rate must be reasonable for subscribers, and cannot surpass what would be charged if cable systems faced real competition. The CFA estimates this provision will lower monthly rates at least 30 percent. In addition, cable operators who continue charging excessive rates would be forced to refund the overcharge amount to subscribers, and lower rates. It should be noted that once a cable system faces meaningful competition, FCC rate regulation would no longer apply.

Another key feature of the agreement would, for the first time, limit what cable operators may charge for remote control devices, converter boxes, and the installation of other home cable equipment.

The agreement does require cable operators, also for the first time, to obtain permission from local broadcasters to retransmit their programming to cable subscribers. Broadcasters, however, are not required to charge them a fee to retransmit these programs. The conference bill is flexible, allowing broadcasters to ask for benefits on the cable system, rather than forcing them to demand fees. During House and Senate hearings on cable reregulation, many local broadcasters indicated they would ask for benefits on the cable system, instead of charging fees.

While the provision is not a perfect solution to the thorny problem of retransmission, I seriously doubt it will have the effect of raising cable rates, as critics predict. If monthly bills do indeed rise, I suspect the cable companies will be doing so simply to ensure a self-fulfilling prophecy.

The cable television agreement is a responsible policy. It would rein in unfair price hikes for basic service and open the industry to competition, driving rates still lower. I urge my colleagues to vote for passage of this important proconsumer bill, and to override a veto if the need to do so arises.

Mr. LAGOMARSINO. Mr. Speaker, I will not support legislation that increases cable rates for my constituents.

I agree that Congress needs to address the problems facing cable television customers. However, I do not agree that this legislation is the right answer.

In many areas of my congressional district, my constituents do not have a choice between cable television and so-called free television. Instead, the choice is between cable television, usually from only one source, or virtually no television at all. In other words, many of my constituents have no choice at all.

In considering this legislation supposedly aimed at consumer protection and competitiveness, we must ask ourselves these important questions: Does this legislation create any more choices for the cable customer? Will this legislation protect cable customers from higher rates, or will it actually cause rates to increase? Does this legislation increase competition in the cable industry?

Clearly, the retransmission provisions of this conference report will increase the costs of doing business for cable operators. However, in the absence of effective competition among cable operators, these increased costs will get passed directly to cable customers. That means higher monthly bills and still leaves cable customers with nowhere else to turn.

I urge my colleagues to join me in rejecting this legislation that increases regulation and rates, and instead, work for the passage of a bill that increases fairness and choice for cable customers.

Mr. ROGERS. Mr. Speaker, I rise in support of the conference report on S. 12, the Cable Television Consumer Protection Act of 1992.

I believe that the cable operators in my region of Kentucky have been trying to provide the best possible service for the lowest possible cost. They generally deliver a good product and they care about their customers.

In other cases, however, I have been the recipient of many complaints from those who object to increasing rates, limited channels, or poor service. I also know that in many other parts of the Nation, these problems are more severe.

S. 12 will hopefully address those cases in which unfair rates or inadequate service are standard operating practice. The Federal Communications Commission will ensure that rates for basic cable service, as well as for the equipment used, are reasonable for the customer. Minimum service standards also will be written, so customers can count on phone calls being answered and problems solved promptly. Good cable operators—like many of mine—should not be harmed by the cable bill or the regulations which implement it. Those that fail these price and service tests will have to measure up.

Mr. Speaker, this is a tough measure, to be sure. It will require companies to control rates that have risen dramatically since deregulation. At the same time, it generally requires cable operators to carry local commercial and public television signals. Another provision prevents cable systems from forcing customers to buy a whole tier of service in order to get one or two premium channels. So the terms are tough, and I would overall favor a milder version. In fact, I supported the Lent substitute when the House first considered this issue in July. But when the Lent substitute failed, I felt compelled to support the bill on final passage.

In response to this bill, the cable industry has recently, and suddenly, expressed concerns about the higher rates it might be forced to charge customers. But there is little question that without this bill, rates would definitely increase. With this bill, we can expect the price trend to reverse, and our constituents to pay less.

The rural impact of this bill is an important consideration. Like the House version of the cable bill, the conference report requires that the FCC reduce the impact of its regulations on small operators. I would have preferred even milder treatment for very small cable operators; however, the bill does require the FCC to write rate regulations which reduce the costs of compliance for operators with 1,000 or fewer customers.

Finally, many of my constituents cannot receive cable service at all; their homes are too remote to be wired by the local cable franchise, leaving those who can afford it to purchase a home satellite dish. S. 12 helps satellite dish owners by making sure that video program producers do not overcharge satellite delivery systems for programs they provide to cable operators.

Television is an important source of entertainment and education in eastern Kentucky. Our elderly, our homebound, and our children all should be able to receive cable television, affordably and without constant service headaches.

I support this bill because, on balance, it will bring some long needed relief and an important product to cable customers, throughout Kentucky and across the Nation.

Mr. GALLO. Mr. Speaker, in July, when the House considered its cable reregulation legislation, H.R. 4850, I supported that bill because it contained a number of meaningful consumer protection provisions and opened the door to competition, which in turn should result in lower rates and greater choices for consumers.

Today, we are considering a much different piece of legislation—one which will result either in rate increases or a reduction in community services now provided by our local cable companies.

The difference is a provision, known as retransmission consent, which places an unfair burden on every cable customer by requiring payments to broadcast stations and/or contractual agreements that run counter to the original intent of our legislation.

The consumers of this country have made their priorities quite clear. They want reliable service at reasonable rates. Our senior citizens and individuals on fixed incomes are particularly concerned.

I have heard from hundreds of my constituents—many of them seniors—over the last 2 weeks, urging me to vote no on this conference report.

They are opposed because they see retransmission consent for what it is—an anticonsumer provision that will cost them money in the long run.

Once again, Congress has taken a good idea and has turned it around. As a result, a proconsumer proposal has become a bill that consumers fear, because they have lost faith in Congress to do what it promises to do.

Mr. Speaker, I support meaningful consumer protection, but this conference report is not proconsumer.

Mr. LEVINE of California. Mr. Speaker, I rise in opposition to the conference report on S. 12, I do so reluctantly, because I strongly support many of the provisions of this bill.

There is little question that reregulation of the cable industry is in the public interest. While many exciting technologies hold great promise for injecting some meaningful competition into the cable business, those technologies are still in their infancy and are not yet ready to go toe to toe with the existing cable systems.

Far too many cable companies have taken advantage of the monopolies they hold to raise rates and offer shoddy service. Hardly a day goes by without my office being contacted by a constituent to complain about one of the cable companies which serve my district.

As much as I would like to support S. 12 I cannot, because of a glaring inequity in the conference report.

During conference the conferees added retransmission consent provision which will allow local broadcasters to charge cable companies to carry their signal. It has been estimated that this will result in a windfall profit of up to $1 billion for broadcasters. In fact, it has been estimated that this provision alone will raise cable rates by as much as $6 a month.

Yet, the networks are little more than a conduit and a compiler for programming. They are not the creative force behind the programs, nor do they take the financial risks involved with developing a series. The way this legislation is drafted only the networks will derive any money from the retransmission consent section.

Yet, the bill, as written, does not allow copyright holders to share in these revenues. This means that the broadcasters, who merely deliver the programming, are the only parties who will profit from the work of the thousands of men and women in my home State of California who earn their living in the television production industry.

Not only is this blatantly unfair, it could also complicate trade negotiations in Europe and elsewhere. How can our trade negotiators demand that European broadcasters compensate American copyright holders for programming when we do not do so ourselves?

Exports of television programs and movies make a significant contribution to reducing our international trade deficit. Loss of this revenue could be devastating to television studios and add to a rapidly increasing imbalance of payments abroad.

Legislation was pending before the House Judiciary Committee which would have solved this inequity while limiting cable rate increases to 20 cents a month. Unfortunately this alternative was not considered by the conference committee.

I am deeply disappointed that I am not able to support this legislation. However, this bill, in its current form is fatally flawed and must be fixed before it is allowed to become law.

I urge my colleagues to join with me and oppose this conference report and I hope that Congress can pass an equitable consumer protection bill during the current session.

Mr. MATSUI. Mr. Speaker, I reluctantly oppose the conference report before us.

The Cable Television Consumer Protection Act that we are considering today contains many important provisions which, if enacted, would improve the level of service provided by individual cable companies. Rate regulation, the promotion of competition within the cable industry, and consumer protection provisions are vitally important, and I am certainly not opposed conceptually to regulating the cable industry to make improvements in delivery. In fact, in July, I voted for the House cable bill because I, like so many of my colleagues, feel that it is time to put some constraints on cable operators.

My colleagues on the House Energy and Commerce Committee crafted a bill that would help cable consumers and give a boost to some potential competitors to cable. But the conference report that is before us today differs in a significant respect from the cable bill that the House passed this summer. It contains a provision known as retransmission consent, which I believe changes the balance that had been struck in the House legislation.

Retransmission consent is intended to provide a second revenue stream to broadcasters. But that revenue stream would have to come from somewhere—and I fear it might very well come from the pocketbooks of the same consumers this bill is intended to protect.

I am also concerned by the way the conference report values television signals without recognizing the value of the programs that give those signals their appeal. The reality of the modern television marketplace is that when we turn on the television set, our focus is the program, not the carrier. Viewers' allegiance is to "Cheers" and "The Cosby Show," not the station on which that program is being carried.

Yet retransmission consent allows the local broadcaster to negotiate with cable for the right to negotiate with cable for the right to carry the TV signal, but does not give the copyright owner the same opportunity. The copyright owner will continue to be compelled to give his show to cable without compensation.

I believe such a policy decision would skew the reality of the TV marketplace and send a horrible message to our trading partners overseas. U.S.-made TV shows are one of our strongest exports. America's production community generates $3.5 billion trade surplus. If this provision becomes a model all over the globe, retransmission consent revenues will flow to foreign broadcasters instead of to the copyright owners who created the programs enjoyed by foreign audience. It could cost this country millions of dollars that would flow straight to the bottom line of the U.S. trade balance.

Therefore, Mr. Speaker, I must oppose the cable conference report. It is my hope that we will have the opportunity to revisit the issue of cable regulation either this session of Congress or early in the next session so that we can pass meaningful legislation that will not be unnecessarily injurious to consumers and our trade posture.

Mr. FAZIO. Mr. Speaker, I am a strong supporter of efforts to enact proconsumer legislation to protect cable television subscribers from unreasonable rates and poor customer service. I voted for the House of Representatives' cable rate regulation bill 2 months ago, and voted for similar legislation in 1990. There is no doubt that in the absence of real competition in the cable industry, consumers need protection to ensure they are not taken advantage of by cable monopolies.

However, it is with regret that I must oppose the conference report on S. 12. When the conference committee met on this bill, a controversial provision was added which could have a devastating impact on a major industry based in my home State of California. This provision has nothing to do with bringing about reasonable cable rates or improving service. This issue was never even debated on the House floor.

The conferees agreed to a retransmission consent language, a provision which would require cable operators to negotiate with local braodcasters in order to retransmit their signal. There is indeed some merit to the arguments that broadcasters deserve compensation for the use of their broadcast signals. However, under the provisions of this conference report, the people who produce television programs would not even have a seat at the bargaining table while their copyrighted product is bought and sold.

In its current version, this provision would seriously threaten one of our biggest industries in California and the tens of thousands of Californians who earn their living in television production. At a time when our State is struggling with record high unemployment rates and an increasing budget crunch, this legislation deals one of our key industries a low blow.

This precedent could have serious repercussions worldwide. The motion picture and television industry provides us with one of our countries biggest exports, showing one of the largest positive trade balances. The current cable bill would give foreign governments the green light to disregard U.S. copyright owners rights, resulting in the potential loss of tens of millions of dollars annually in foreign cable royalties. Our unique cultural trade asset would suffer a severe blow, ultimately damaging our State's economy and our Nation's balance of trade.

Mr. Speaker, I repeat, I will continue to support legislation to protect cable consumers. But I believe we can develop a cable bill that will be fair to both consumers and an industry so vital to the well-being of California.

Mr. GOSS. Mr. Speaker, when this House voted on July 23 overwhelmingly in support of H.R. 4850, the Cable Television Consumer Protection and Competition Act, we voted for the consumer, we voted for reasonable rates, and we voted to promote competition in the industry. It is important to keep in mind that we are being asked to vote for the very same principles today without allowing the sideshow between the cable industry and the broadcasters to steal the spotlight from the true issues.

I had my reservations in July, when I voted to reregulate the industry, and I still have my reservations today because normally I oppose Government regulation. But my vote reflects the grave concern of my constituents that without effective competition and local control against abusive practices, some elements of the cable industry will never exercise self discipline. Customers have reason for concern—over the years, there have been instances of excessive rate hikes and unresponsive customer service. Opponents to this measure argue that costs associated with reregulation will eventually drive up the cost of cable service. Depending on the source, the predictions regarding rate increases vary drastically. At this point, no one really knows what kind of increases we are talking about, if any. It is all based on hypotheses. But one thing we do know for sure is that without this measure we have every reason to believe some cable operators will continue a history of heaping unannounced and unreasonable rate increases on the consumer.

The threat of reregulation came as no surprise to the cable industry, and perhaps cable's biggest mistake was not taking the threat seriously. In my opinion, the cable industry had ample opportunity to corral its bad operators and prove to the consumers that it had the inclination and the ability to regulate itself. But the industry as a whole did not live up to this challenge. Because of this and the strong message of my constituents, the cable industry has left me no choice but to vote for the conference report.

Mr. HOUGHTON. Mr. Speaker, the cable bill has brought about strong emotions and expensive advertising. I supported the bill. The cable bill can be broken into two issues: Price and access. This legislation, I hope, will make prices more competitive. It will provide cable programming, at reasonable rates, for rural residents who now have access to cable.

A little bit of background. Cable rates were deregulated by Congress, in 1984, to help cable companies produce a reasonable return on their significant investment. As a result, the cable companies were allowed to set their own prices with no Government intervention. But this was a solution to only half the problem. Congress did not take the second step. It did not provide a competitive alternative, or access for others to enter the market.

My preference is and will continue to be to open the market. This is the proven American way to restrain price excesses. But that was not to be. The bill that emerged is far from perfect, but it is a step forward, tc correct certain features from the 1984 bill—allowing cable companies to operate with no oversight.

This bill asks the cable programming companies to share programs at a reasonable price. This will help those people in rural areas of the southern tier and Finger Lakes regions where cable is not available, since their only alternative is to install a satellite dish.

Mr. CAMP. Mr. Speaker, I rise in opposition to the conference report because this is not the bill I voted for 2 months ago.

The bill I voted for protected consumers, this bill does not. The bill voted for encouraged competition, this bill discourages competition. The bill I voted for lowered cable rates for cable customers, this bill will raise rates.

A Detroit Free Press article quotes the bill's sponsor, Congressman MARKEY as saying the bill will not lower rates, but that "rates would only go up less than without this legislation."

What has happened over the last 2 months is the classic bait-and-switch tactic. This bill as advertised 2 months ago was a good bill. But suddenly, the bill we will vote on today isn't what we bargained for.

Now we have a bill that will force consumers to pay for programs they now get for free. Now we have a bill that has become a Washington bureaucrat's dream, and nightmare for rural cable consumers.

This bill, by failing to provide regulatory relief for small, rural cable companies, and by imposing retransmission consent, will force cable consumers in rural America to pay much more for cable service or receive none at all.

Even worse, retransmission consent will drive small cable companies out of business, leaving huge cable operators to step in and buy them out.

In my rural mid-Michigan district, consumers in rural counties and townships like Isabella, Broomfield, and Woodland are served by cable companies that provide service to less than 100 customers.

These consumers don't want their service provided by some big, unresponsive, cable company giant.

But that's what this bill will do. It will drive out of business small cable firms that can't pay retransmission consent or keep up with the regulatory paperwork blizzard this bill will create.

My friends, retransmission consent will do to cable what slotting allowances have done to air travel, kill competition and allow a few huge companies to drive up costs and buy out smaller competitors.

Again, that's not what was advertised 2 months ago.

I urge my colleagues to vote against this conference report. Defeat this defective bill, send it back to conference, and send a message to the conferees that we won't stand for bait and switch, we want what every consumer wants—the product that was advertised 2 months ago.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LENT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quroum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 280, nays 128, answered "present" 1, not voting 23, as follows:

[Roll No. 398]

YEAS—280

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Applegate
Aspin
AuCoin
Bacchus
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Boucher
Brewster
Browder
Brown
Bruce
Bryant
Bunning
Byron
Callahan
Cardin
Carper
Carr
Chapman
Clay
Clement
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frost
Gallegly
Gaydos
Gejdenson
Gephardt
Geren
Gilchrest
Gilman
Glickman
Gonzalez
Goss
Grandy
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Houghton
Hoyer
Hubbard
Hutto
Inhofe
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones
Jontz
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Klug
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowey (NY)
Machtley
Manton
Markey
Marlenee
Martinez
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey

Olver
Ortiz
Owens (NY)
Pallone
Panetta
Patterson
Payne (VA)
Pease
Pelosi
Peterson (FL)
Petri
Porter
Poshard
Price
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Rinaldo
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schiff
Schulze
Schumer
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waxman
Wheat
Whitten
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—128

Allard
Allen
Andrews (NJ)
Archer
Armey
Baker
Ballenger
Barton
Berman
Bliley
Boehner
Borski
Brooks
Burton
Bustamante
Camp
Campbell (CA)
Campbell (CO)
Clinger
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
de la Garza
DeLay
Dickinson
Dixon
Doolittle
Dornan (CA)
Dreier
Edwards (OK)
Fawell
Fazio
Feighan
Fields
Frank (MA)
Franks (CT)
Gallo
Gekas
Gibbons
Gillmor
Gingrich
Goodling
Gradison
Hall (OH)
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Horton
Hughes
Hunter
Hyde
Ireland
James
Johnson (CT)
Johnson (TX)
Kanjorski
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
Lagomarsino
Laughlin
Lent
Levine (CA)
Lewis (CA)
Lowery (CA)
Martin
Matsui
McCandless
McDade
McEwen
Miller (OH)
Moorhead
Murphy
Myers
Olin
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (NJ)
Penny
Peterson (MN)
Pickett
Pursell
Regula
Rhodes
Richardson
Ridge
Ritter
Rohrabacher
Roukema
Roybal
Russo
Santorum
Saxton
Schaefer
Schroeder
Sensenbrenner
Shuster
Skaggs
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Stump
Thomas (CA)
Torres
Vander Jagt
Vucanovich
Walker
Weldon
Wilson
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Luken

NOT VOTING—23

Anthony
Atkins
Barnard
Boxer
Broomfield
Chandler
Conyers
Fascell
Gordon
Hayes (LA)
Huckaby
Kennedy
McCrery
Murtha
Owens (UT)
Perkins
Pickle
Riggs
Savage
Scheuer
Towns
Waters
Weber

☐ 1149

The Clerk announced the following pairs:

On this vote:

Mr. Riggs for, with Mr. Barnard against.

Mr. Hayes of Louisiana for, with Mr. McCrery against.

Mr. WILSON changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LUKEN. Mr. Speaker, I have recently entered into a contract, which will be effective January 4, 1993, with a broadcasting company which has a substantial interest in both the broadcasting and cable industries. For this reason I have voted "present" on the conference report for S. 12, the Cable Television Consumer Protection Act in order to avoid the appearance of a conflict of interest.

☐ 1150

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the conference report on the Senate bill, S. 12.

The SPEAKER pro tempore [Mr. LUKEN]. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

APPOINTMENT OF MEMBERS TO ATTEND THE FUNERAL OF THE LATE HONORABLE WALTER B. JONES

The SPEAKER pro tempore (Mr. LUKEN). Pursuant to House Resolution 567, the Chair, without objection, appoints the following Members on the part of the House as members of the funeral committee of the late WALTER B. JONES:

Mr. ROSE of North Carolina;
Mr. FOLEY of Washington;
Mr. GEPHARDT of Missouri;
Mr. BONIOR of Michigan;
Mr. HOYER of Maryland;
Mr. HEFNER of North Carolina;
Mr. NEAL of North Carolina;
Mr. VALENTINE of North Carolina;
Mr. COBLE of North Carolina;
Mr. MCMILLAN of North Carolina;
Mr. BALLENGER of North Carolina;
Mr. LANCASTER of North Carolina;
Mr. PRICE of North Carolina;
Mr. TAYLOR of North Carolina;
Mr. ROSTENKOWSKI of Illinois;
Mr. PICKLE of Texas;
Mr. DE LA GARZA of Texas;
Mr. ALEXANDER of Arkansas;
Mr. ANDERSON of California;
Mr. ROE of New Jersey;
Mr. LENT of New York;
Mr. STUDDS of Massachusetts;
Mr. DERRICK of South Carolina;
Mr. HUBBARD of Kentucky;
Mr. HUGHES of New Jersey;
Mr. DICKS of Washington;
Mr. JENKINS of Georgia;
Mr. VOLKMER of Missouri;
Mr. DAVIS of Michigan;
Mr. HUTTO of Florida;
Mr. STENHOLM of Texas;
Mr. TAUZIN of Louisiana;
Mr. FIELDS of Texas;
Mr. HERTEL of Michigan;
Mr. BATEMAN of Virginia;
Mr. BORSKI of Pennsylvania;
Mr. CARPER of Delaware;
Mr. ROWLAND of Georgia;
Mr. TALLON of South Carolina;
Mrs. BENTLEY of Maryland;
Mr. CALLAHAN of Alabama;
Mr. TRAFICANT of Ohio;
Mr. HOCHBRUECKNER of New York;
Mr. PICKETT of Virginia;
Mr. RAVENEL of South Carolina;
Mr. GOSS of Florida;
Mr. LAUGHLIN of Texas;
Mr. MCNULTY of New York;
Mr. TAYLOR of Mississippi;
Mr. JEFFERSON of Louisiana;
Mr. BLACKWELL of Pennsylvania; and
Mr. FALEOMAVAEGA of American Samoa.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 1-minute speeches.

NEBRASKA VERSUS WASHINGTON CONTEST WILL DISAPPOINT CORNHUSKERS

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, I am pleased and honored to join my great friend and colleague from Nebraska, PETER HOAGLAND, in apprising the House of an important athletic rematch that will be taking place this Saturday evening in Seattle. The co-national champion University of Washington Husky football team will be hosting the Nebraska Cornhuskers this year, following the Husky's stunning 36 to 21 win last fall in Lincoln. I know that it's been a long year in the Cornhusker State since the humiliating fourth-quarter collapse that the team suffered against the Huskies. And I know that the team has come to Seattle single-mindedly for revenge in this nationally televised contest. I accept Congressman HOAGLAND's contention that his team has grown in character and experience through its defeat last year, but I am afraid that more growth is in store for the team this Saturday night. The University of Washington Huskies, well on their way to a repeat national championship, will generously provide another character-building lesson in humility and send the men from Lincoln back to the flatlands emptyhanded. My confidence in my alma mater is unwavering, moving me to offer to my friend from Nebraska the wager of a bushel of the world's best and the most nutritious Washington State apples to match his ill-advised, though well-intentioned, offer. The Nebraska State motto is "Equality Before the Law," but I just want to warn my colleague that at Husky Stadium the motto is "There Are No Equals." Mr. Speaker, I thank the Chair for providing me with the opportunity to apprise and advise the Members of the House of Representatives about this important upcoming event.

NEBRASKA VERSUS WASHINGTON CONTEST WILL DISAPPOINT HUSKIES

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker and colleagues, I am more than pleased to be here today and to enter into this agreement with my great friend, the gentleman from Washington [Mr. DICKS], about the football game.

Now, the Huskers are going to Washington Saturday night to beat the Huskies. Last year they beat us in Lincoln, but this year we are going to even the score in the State of Washington.

I will tell you, I am so confident the Cornhuskers are going to win this game that even if NORM DICKS himself suited up again as a middle linebacker as he used to years ago, I know that we would still win the game.

What we have decided to do is wager a crate of oranges against a bushel of apples. The reason we are wagering a crate of oranges is because we are confident we are going to go to the Orange Bowl to represent the Big Eight this year. As a matter of fact, last night I visited with a member of the selection committee from the Orange Bowl and have some information for Tom Osborne, Coach Osborne, about that conversation.

But let me tell you that comparing the Huskers with the Huskies this year is like comparing apples and oranges. There is really no comparison. Just this morning the Associated Press predicted that Nebraska would prevail on a score of 27 to 24. Personally I think that is too conservative. I think we are going to prevail by a much wider margin than that.

In any event, I am pleased to accept the challenge. We look forward to the game, the televised game, Saturday night.

PRIORITY REFORMS FOR A NEW HOUSE

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SOLOMON. Madam Speaker, considering the debacle that just took place on this floor, you might be interested in this statement.

Madam Speaker, in a bipartisan spirit of overhauling the antiquated and gridlocked legislative machinery of this body, I yesterday introduced the Priority Reforms for a New House Resolution of 1992.

This is a series of some 14 amendments to House rules designed to make the legislative process in this body more orderly, accountable, and deliberative.

Let us face it, Madam Speaker, we are partly responsible for the problem of legislative gridlock because of the archaic procedures and bureaucracy that have built-up like barnacles in this body.

We can hardly oversee and control the executive bureaucracy when we remain enmeshed in our own legislative bureaucracy of tangled jurisdictions, multiple referrals, multitudinous subcommittees and staff, and a duplicative and a topsy-turvy process of authorizing, appropriating and budgeting.

The time has come for us to resolve to do the people's business in a more business-like manner of orderly scheduling, focused responsibilities, and deliberative legislating.

Among other things, my reforms would—

Reduce the number of subcommittees, member assignments and staff;

Abolish proxy voting, one-third quorums, and multiple referrals;

Abolish select committees;

Require a clear legislative schedule each year and early committee organization;

Require the adoption of committee oversight agendas; and

Require the reporting of authorizations by May 15.

I appeal to my colleagues on both sides of the aisle: Let us make the new House work from the start. Adopt my priority reforms for a new House.

If you do not, the voters are liable to clean House.

INTRODUCTION OF THE PROFESSIONAL TRADE SERVICE CORPS LEGISLATION

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Madam Speaker, today the U.S. trade deficit again rang in at over $7.82 billion in the red, the worst performance in over 20 months, another flood of imports coming onto our shores and only a trickle of U.S. goods made here sent abroad.

Those numbers represent a loss of another 180,000 jobs in this country.

One key reform essential to stemming the hemorrhage in our U.S. marketplace is to upgrade the skill level of our U.S. trade negotiators to move our products into foreign markets and to assure that our trade negotiators are trustworthy.

The bill I am introducing today, the professional trade service corps, would accomplish these goals by creating an elite professional body of American trade negotiators. Just like diplomats in our Foreign Service, our trade representatives are America's conveyors of our Nation's economic and political interests.

We would not allow graduates of West Point to lead foreign armies against our country. We should not allow trade negotiators trained at taxpayer expense to leave Government service and represent foreign interests against the best interests of our Government. We must treat this situation as seriously as any international conflict.

Train our trade representatives accordingly, and hold them accountable.

Please join me in cosponsoring the Professional Trade Service Corps of 1992.

INTRODUCING A RESOLUTION CALLING FOR AN ETHICS PROBE

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. COMBEST. Madam Speaker, it is my intention on Friday to call up as a question of privilege pursuant to rule IX (rule 9) of the rules of the House, a resolution calling for an investigation by the Committee on Standards of Official Conduct into possible unauthorized disclosures by Banking Committee Chairman HENRY GONZALEZ of classified information in violation of the rules of the House. This resolution updates House Resolution 539, introduced on August 4, by the minority leader, BOB MICHEL. This update was necessitated by Chairman GONZALEZ' latest disclosure on September 14.

It is my hope that the majority leadership will allow a full and open debate on this question, which I consider to have both national and international ramifications. Madam Speaker, I am inserting a copy of my resolution for the RECORD at this point, as follows:

H. RES. —

Whereas on March 2, 1992, Representative Henry B. Gonzalez knowingly and willfully inserted in the Congressional Record documents of the Executive Branch bearing markings indicating that they were classified for reasons of national security;

Whereas on July 7, 1992, Representative Gonzalez willfully disclosed information from a purported Central Intelligence Agency intelligence document which he publicly acknowledged at that time to be classified;

Whereas on September 14, 1992, Representative Gonzalez willfully disclosed information from a Central Intelligence Agency document classified as "Secret" in its entirety, which he acknowledged is still classified;

Whereas the Director of Central Intelligence, Robert M. Gates, has indicated in writing that Representative Gonzalez's "statement in the Congressional Record on 7 July 1992 included information from a TOP SECRET compartmented and particularly sensitive document" to which the Central Intelligence Agency had given his committee staff access;

Whereas the Director of Central Intelligence further stated in writing to Representative Gonzalez, regarding his July 7, 1992, statement in the Congressional Record, that, "Because of the sources and methods underlying that information, I will ask for a damage assessment to determine the impact of the disclosure. I regret that you chose to discuss information from classified documents without attempting to determine if we could work out a way to satisfy . . . our need to protect intelligence sources and methods";

Whereas the Acting Director of Central Intelligence, Admiral William O. Studeman, has confirmed in writing to Representative Gonzalez that portions of statements in the Congressional Record by Representative Gonzalez on July 21 and 27, 1992, "were drawn from classified intelligence documents, some of which are Top Secret, compartmented, and particularly sensitive";

Whereas the Acting Director of Central Intelligence has stated in writing to Representative Gonzalez, regarding his statements in the Congressional Record of July 21 and 27, 1992, that, "I have asked the Office of Security of the Central Intelligence Agency to undertake a review of your statements in order to determine the impact of the disclosures of intelligence information on intelligence sources and methods";

Whereas the Department of State has confirmed in writing that, over a number of days, Representative Gonzalez "inserted into the Congressional Record the full text of at least fourteen classified documents generated by the Department of State," and the Department of State indicated further that those documents "contain classified information involving sensitive diplomatic discussions";

Whereas the Treasury Department has indicated in writing "very serious concerns" over Representative Gonzalez's "disclosures of classified information in the Congressional Record" which included information from a classified Treasury Department document;

Whereas on numerous other occasions Representative Gonzalez has knowingly and willfully disclosed in the Congressional Record information from Executive Branch documents which are apparently classified for reasons of national security;

Whereas the classified documents in question were apparently made available to the Committee on Banking, Finance and Urban Affairs by Executive Branch agencies in good faith cooperation with a committee investigation and with the expectation that access would be restricted to persons with appropriate security clearances;

Whereas the public disclosure of information from the classified documents in question was not necessary for legitimate legislative oversight, and the Committee on Banking, Finance and Urban Affairs apparently has not voted to disclose publicly those classified documents;

Whereas the public disclosure of the contents of the classified documents in question appears to be detrimental to the national security and foreign policy interests of the United States;

Whereas the conduct of Representative Gonzalez raises serious questions of possible violations of Clauses 1 and 2 of Rule XLIII (Code of Official Conduct) and possibly of Clause 2(k)(7) of Rule XI (Rules of Procedures for Committee) of the House;

Whereas the knowing, unilateral and unauthorized disclosure of classified information by Representative Gonzalez seriously imperils the spirit of mutual cooperation and trust between the Congress and the Executive Branch so critical to effective legislative oversight;

Whereas the nature and gravity of the conduct of Representative Gonzalez is such that the reputation and dignity of the House as an institution and the integrity of its proceedings, especially its oversight activities, may well be adversely affected;

Whereas Representative Gonzalez willfully continues to disclose publicly information from classified documents; and

Whereas in the interest of a prompt and fair resolution of the serious questions raised regarding the apparent unauthorized disclosure of classified information in seeming violation of the Rules of the House of Representatives: Now, therefore, be it

Resolved, That the Committee on Standards of Official Conduct is directed to investigate whether Representative Gonzalez has, during the Second Session of the One Hundred and Second Congress, publicly disclosed classified information in the Congressional Record, and in so doing violated the Rules of the House of Representatives or any duly constituted committees. All other committees, and all Members, officers, or employees of the House who may have information relevant to this investigation are directed to cooperate promptly with the Committee on Standards subject to procedures the Committee shall adopt necessary to protect from unauthorized disclosure classified information which may be transmitted to the Committee pursuant to this investigation. The Committee on Standards of Official Conduct shall promptly report its findings and any recommendations to the House.

□ 1200

PRESIDENT BUSH SHOULD NOT VETO THIS CABLE LEGISLATION

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Madam Speaker, today the House, with a large majority, finally admitted that it made a mistake in the 1980's when it accepted the arguments of the Reagan administration and totally deregulated the monopoly cable industry. Rates skyrocketed, service deteriorated, and the promised era of competition never happened.

This cable bill will restore local authority to control cable rates in 95 percent of the television markets where they now have a monopoly power, it will promote multichannel competitors to cable television, and let the market take over once real competition exists.

The bill has been opposed by the cable companies, who actually lied in inserts enclosed in the bill to all of their customers. This bill explicitly gives local government the authority to lower cable rates, and rates will be lowered in the future if this bill is signed by the President.

That is the big question mark: Will the President admit that he too made a mistake, that he should side for once with the consumers and not the special interests; or will he side with his son, the same one who bankrupted the savings and loan in Colorado, who is now a special consultant for the cable television industry, who is whispering in his father's ear, "Veto this bill. You don't care about consumers. These people will fill your coffers with money come the election."

This is a vote for the American people, a proud day in the House of Representatives, and we have a chance to stand the President down on this issue.

HAPPY BIRTHDAY TO PEGGY C. SAMPSON

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Alaska. Madam Speaker, listening to my colleagues and to all the sadness in this great world of ours and in this Nation, today is a happy day, it is a day where we can wish a happy birthday to Peggy Sampson.

Peggy, as you know, is one of our great workers on this floor, who not only takes care of each one of us in our trials and tribulations, delivers our phone messages, and takes care of our pages, she is the protector of those pages and does an excellent job. In fact, she could be called "mom."

She provides guidance to us many times as to what is going on on this floor. She is a great help to us, and I just wanted to wish Peggy Sampson a happy birthday today.

RECESS

The SPEAKER pro tempore (Ms. HORN). Pursuant to the order of the House of Wednesday, September 16, 1992, the Chair declares the House in recess subject to the call of the Chair. Bells will be rung 15 minutes before the House reconvenes.

Accordingly (at 12 o'clock and 2 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1805

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore [Mr. GEPHARDT] at 6 o'clock and 5 minutes p.m.

PERMISSION TO PASS OVER SENATE AMENDMENT NO. 57 TO CONFERENCE REPORT ON H.R. 5373, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1993

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that Senate amendment numbered 57 be passed over and that at that time the House proceed to the disposition of the final amendment in disagreement, amendment numbered 58, and further that consideration of Senate amendment numbered 57 be in order when subsequently called up by the manager.

The SPEAKER pro tempore (Mr. GEPHARDT). Is there objection to the request of the gentleman from Alabama?

There was no objection .

GENERAL LEAVE

Mr. BEVILL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on the bill, H.R. 5373, as well as the Senate amendments reported in disagreement, and that I may include extraneous material and tables.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

CONFERENCE REPORT ON H.R. 5373, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1993

Mr. BEVILL. Mr. Speaker, pursuant to the unanimous-consent agreement of Wednesday, September 16, 1992, I call up the conference report on the bill (H.R. 5373) making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the order of the House of Wednesday, September 16, 1992, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of September 15, 1992, at page 25019.)

The SPEAKER pro tempore. The gentleman from Alabama [Mr. BEVILL] will be recognized for 30 minutes, and the gentleman from Indiana [Mr. MYERS] will be recognized for 30 minutes.

Mr. SLATTERY. Mr. Speaker, I am opposed to the conference committee report in its present form, and I request the time be apportioned to an opponent of the conference report under clause 2 of rule XXVIII.

The SPEAKER pro tempore. Is the gentleman from Indiana [Mr. MYERS] opposed to the conference report.

Mr. MYERS of Indiana. Mr. Speaker, I am not.

The SPEAKER pro tempore. In that case, each Member will be recognized for one-third of the time of 60 minutes. The gentleman from Alabama [Mr. BEVILL] will be recognized for 20 minutes, the gentleman from Kansas [Mr. SLATTERY] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. MYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present the conference report on the fiscal year 1993 Energy and Water Development appropriations bill for your favorable consideration. Our colleagues will recall that debate on this bill occurred in the House on June 17, and the bill was passed by a vote of 365 to 51. The Senate passed the bill by voice vote on August 3.

Mr. Speaker, our conference committee meeting was held on Tuesday, September 15. I wish to compliment our friends from the other body, particularly the Senator from Louisiana [Mr. JOHNSTON], the chairman of the Senate subcommittee, and the Senator from Oregon [Mr. HATFIELD], the ranking minority member, for the fine spirit of compromise displayed in the conference meeting. I also wish to thank my colleagues, the House conferees, for their support and their valuable contributions during the conference deliberations.

Now I would like to comment on various aspects of the conference agreement.

In total the conference agreement is about $400 million below the President's budget request.

Mr. Speaker, for the various agencies and programs under the jurisdiction of the Energy and Water Development Subcommittee, the committee of conference recommends $22,079,547,000 in new budget authority. This amount is $386,391,000 below the budget request, $681,579,000 above the House bill and $197,000 above the Senate bill.

For defense programs, the funding is just $4,000 less than the budget request of $12,131,629,000. For domestic programs, the bill is $386,387,000 below the budget request of $10,334,309,000.

The conference agreement we present to you today is the culmination of many months of effort on the part of the House committee and the same review by the Senate committee. During this period we have heard testimony from hundreds of witnesses—contained in eight hearing volumes of thousands of pages.

The House considered the energy and water development appropriations bill on the floor in 1 day. The Senate had a total of 59 numbered amendments to the bill. But, within those 59 amendments, there were over 400 individual items in disagreement. The conference agreement represents the best efforts of the House and Senate conferees to achieve consensus on each of those items. Many items had to be reduced or changed to accomplish agreement with the Senate. In addition, we had to keep in mind the need to have a bill that was acceptable to the administration.

Your House conferees did their best to maintain the House position. However, to bring back a conference report that is within the budget allocation for the energy and water development programs, a great many items had to be compromised.

We would like more money for energy and the water projects. But, we have only limited funds for these items, and therefore, we cannot provide all of the funds for all of the programs and projects to the extent we would like.

Mr. Speaker, the conference agreement contains $3,667,133,000 in title I for the Army Corps of Engineers. This is $3,463,000 higher than the bill as passed by the House and $34,603,000 more than the Senate-passed bill. These funds will finance 510 water resources projects in the planning or construction phase, and provide for urgently needed operation and maintenance activities at completed projects.

For title II, the Bureau of Reclamation, the conferees recommend a total of $816,715,000 which is $9,110,000 less than the House-passed bill and $9,384,000 more than the Senate-passed bill. This will fund 116 water resources projects in the planning or construction phase and provide funds for operation and maintenance of 37 projects.

In my view, the conference agreement provides for a financially prudent and environmentally sound water resources development program.

The conference agreement contains $17,158,759,000 for the Department of Energy programs in title III. This includes $3,015,793,000 for energy supply, research and development activities; $384,529,000 for power marketing administrations; $275,071,000 for the nuclear waste disposal fund; and $1,417,784,000 for general science and research activities. The energy accounts include $254,000 for solar, geothermal, hydropower, and electric energy systems and storage; $311,454,000 for nuclear energy; $339,710,000 for magnetic fusion; and $859,700,000 for basic energy sciences. In addition, funding of $517,000,000 has been provided for the superconducting super collider. The conference agreement provides a total of $12,118,625,000 for atomic energy defense activities. Within this bill, $5,541,241,000 is provided for defense and nondefense environmental restoration and cleanup activities which is an increase of $1,258,074,000 over the fiscal year 1992 funding level.

Mr. Speaker, the conference agreement includes $363,036,000 for eight independent agencies and commissions in title IV, including the Appalachian Regional Commission, the Nuclear Regulatory Commission, and the Tennessee Valley Authority.

Mr. Speaker, there is also a provision in this bill pertaining to a nuclear weapons test ban. It provides for a short moratorium in fiscal year 1993, limits the number of tests which can be conducted over the next 4 years, permits congressional disapproval of the President's annual test plan, limits testing after September 30, 1996, unless another country has conducted a nuclear weapons test which is counter to the security interests of the United States, and outlines a process by which the President could propose to the Congress to conduct a nuclear explosive testing after 1996 if it is in the urgent national interest for the purpose of safety only.

The administration has not yet agreed to the nuclear weapons test ban provision included in the conference agreement. We will continue to work on this issue to arrive at a compromise which is agreeable to both the Congress and the administration.

Mr. Speaker, I strongly urge the Members to support the hard work of my subcommittee and pass the conference report and amendments which will be presented to the House.

Mr. Speaker, at this point I would like to insert a table in the RECORD which summarizes the financial aspects of the conference agreement.

I would like to call the Members' attention to several minor printing errors in the conference report printed in the September 15, 1992, CONGRESSIONAL RECORD.

On page H8466, column three, under amendment No. 9, "Harlem, Kentucky" should be "Harlan, Kentucky"

On page H8469, column two, under amendment No. 22, section 103, "to conducted" should be "be conducted".

On page H8518, column one, under amendment No. 37, "$3,105,739,000" should be "$3,015,793,000".

On page H8573, column three, under amendment No. 57, the word "reaction" in subparagraph (h) should be "section".

Mr. Speaker, I reserve the balance of my time.

Energy and Water Development (H.R. 5373)

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
TITLE I - DEPARTMENT OF DEFENSE - CIVIL						
DEPARTMENT OF THE ARMY						
Corps of Engineers - Civil						
General investigations	194,427,000	169,745,000	177,831,000	156,450,000	175,780,000	-18,647,000
Construction, general	1,284,142,000	1,230,488,000	1,325,502,000	1,363,937,000	1,360,503,000	+76,361,000
Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee	353,437,000	347,722,000	365,432,000	351,182,000	351,182,000	-2,255,000
Operation and maintenance, general	1,535,229,000	1,524,534,000	1,551,905,000	1,522,961,000	1,541,668,000	+6,439,000
Regulatory program	86,000,000	92,565,000	86,000,000	86,000,000	86,000,000	....
Flood control and coastal emergencies	15,000,000	15,000,000	15,000,000	10,000,000	10,000,000	-5,000,000
General expenses	142,000,000	156,717,000	142,000,000	142,000,000	142,000,000	....
Total, title I, Department of Defense - Civil, new budget (obligational) authority	3,610,235,000	3,536,771,000	3,663,670,000	3,632,530,000	3,667,133,000	+56,898,000
TITLE II - DEPARTMENT OF THE INTERIOR						
Bureau of Reclamation						
General investigations	13,554,000	12,680,000	13,700,000	12,390,000	12,540,000	-1,014,000
Construction program	564,209,000	460,634,000	470,568,000	466,334,000	470,568,000	-93,641,000
Operation and maintenance	258,685,000	274,760,000	284,010,000	269,760,000	274,760,000	+16,075,000
Loan program	2,890,000	1,000,000	2,802,000	4,102,000	4,102,000	+1,212,000
(Limitation on direct loans)	(3,240,000)	(2,060,000)	(5,060,000)	(6,000,000)	(8,000,000)	(+4,760,000)
General administrative expenses	53,745,000	56,850,000	53,745,000	53,745,000	53,745,000	....
Emergency fund	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	....
Working Capital fund	5,900,000	....	....	....	....	-5,900,000
Colorado River Dam fund (by transfer, permanent authority)	(-5,465,000)	(-6,563,000)	(-6,563,000)	(-6,563,000)	(-6,563,000)	(-1,098,000)
Total, Bureau of Reclamation	899,983,000	806,924,000	825,825,000	807,331,000	816,715,000	-83,268,000
Total, title II, Department of the Interior:						
New budget (obligational) authority	899,983,000	806,924,000	825,825,000	807,331,000	816,715,000	-83,268,000
(By transfer)	(-5,465,000)	(-6,563,000)	(-6,563,000)	(-6,563,000)	(-6,563,000)	(-1,098,000)
TITLE III - DEPARTMENT OF ENERGY						
Energy Supply, Research and Development Activities:						
Operating expenses	2,648,508,000	2,797,417,000	2,553,927,000	2,577,877,000	2,527,287,000	-121,221,000
Plant and capital equipment	313,395,000	391,036,000	393,706,000	393,706,000	488,506,000	+175,111,000
Total	2,961,903,000	3,188,453,000	2,947,633,000	2,971,583,000	3,015,793,000	+53,890,000
Uranium Supply and Enrichment Activities:						
Operating expenses	1,220,876,000	1,307,457,000	1,251,457,000	1,237,457,000	1,202,457,000	-18,419,000
Plant and capital equipment	92,724,000	83,863,000	83,863,000	83,863,000	83,863,000	-8,861,000
Subtotal	1,313,600,000	1,391,320,000	1,335,320,000	1,321,320,000	1,286,320,000	-27,280,000
Gross revenues	-1,547,000,000	-1,462,000,000	-1,462,000,000	-1,462,000,000	-1,462,000,000	+85,000,000
Net appropriation	-233,400,000	-70,680,000	-126,680,000	-140,680,000	-175,680,000	+57,720,000
General Science and Research Activities:						
Operating expenses	825,074,000	845,062,000	656,262,000	759,162,000	726,162,000	-98,912,000
Plant and capital equipment	647,415,000	807,622,000	342,622,000	701,622,000	691,622,000	+44,207,000
Total	1,472,489,000	1,652,684,000	998,884,000	1,460,784,000	1,417,784,000	-54,705,000
Nuclear Waste Disposal Fund	275,071,000	391,976,000	275,071,000	275,071,000	275,071,000	....
Isotope production and distribution fund	8,500,000	1,500,000	5,000,000	5,000,000	5,000,000	-3,500,000
Environmental Restoration and Waste Management:						
Defense function	(3,680,672,000)	(4,805,492,000)	(4,603,009,000)	(4,802,047,000)	(4,831,547,000)	(+1,150,875,000)
Non-defense function	(602,495,000)	(706,974,000)	(709,694,000)	(709,694,000)	(709,694,000)	(+107,199,000)
Total	(4,283,167,000)	(5,512,466,000)	(5,312,703,000)	(5,511,741,000)	(5,541,241,000)	(+1,258,074,000)
Atomic Energy Defense Activities						
Weapons Activities:						
Operating expenses	4,075,800,000	4,059,359,000	3,975,709,000	3,964,709,000	4,010,209,000	-65,591,000
Plant and capital equipment	547,628,000	562,730,000	573,040,000	558,540,000	558,540,000	+10,912,000
Total	4,623,428,000	4,622,089,000	4,548,749,000	4,523,249,000	4,568,749,000	-54,679,000
New Production Reactor:						
Operating expenses	142,835,000	130,800,000	141,510,000	141,510,000	34,028,000	-108,807,000
Plant and capital equipment	372,665,000	-126,772,000	30,290,000	28,518,000	....	-372,665,000
Total	515,500,000	4,028,000	171,800,000	170,028,000	34,028,000	-481,472,000

Energy and Water Development (H.R. 5373), continued

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
Defense Environmental Restoration and Waste Management:						
Operating expenses	3,108,914,000	4,045,715,000	3,892,918,000	4,044,990,000	4,074,490,000	+965,576,000
Plant and capital equipment	571,758,000	759,777,000	710,091,000	757,057,000	757,057,000	+185,299,000
Total	3,680,672,000	4,805,492,000	4,603,009,000	4,802,047,000	4,831,547,000	+1,150,875,000
Materials Production and Other Defense Programs:						
Operating expenses	2,613,843,000	2,301,343,000	2,152,174,000	2,132,574,000	2,193,574,000	-420,269,000
Plant and capital equipment	534,557,000	385,677,000	398,727,000	390,727,000	390,727,000	-143,830,000
Total	3,148,400,000	2,687,020,000	2,550,901,000	2,523,301,000	2,584,301,000	-564,099,000
Defense Nuclear Waste Disposal	....	....	....	100,000,000	100,000,000	+100,000,000
Total, Atomic Energy Defense Activities	11,968,000,000	12,118,629,000	11,874,459,000	12,118,625,000	12,118,625,000	+150,625,000
Departmental Administration:						
Operating expenses	399,114,000	439,796,000	398,794,000	398,794,000	398,794,000	-320,000
Plant and capital equipment	6,862,000	9,225,000	6,862,000	6,862,000	6,862,000	....
Subtotal	405,976,000	449,021,000	405,656,000	405,656,000	405,656,000	-320,000
Miscellaneous revenues	-284,352,000	-318,381,000	-318,381,000	-318,381,000	-318,381,000	-34,029,000
Net appropriation	121,624,000	130,640,000	87,275,000	87,275,000	87,275,000	-34,349,000
Office of the Inspector General	31,431,000	30,362,000	30,362,000	30,362,000	30,362,000	-1,069,000
Power Marketing Administrations						
Operation and maintenance, Alaska Power Administration	3,218,000	3,577,000	3,577,000	3,577,000	3,577,000	+359,000
Operation and maintenance, Southeastern Power Administration	23,869,000	24,635,000	32,411,000	32,411,000	32,411,000	+8,542,000
Operation and maintenance, Southwestern Power Administration	28,464,000	21,907,000	21,907,000	21,907,000	21,907,000	-6,557,000
Construction, rehabilitation, operation and maintenance, Western Area Power Administration	306,478,000	347,151,000	326,634,000	336,634,000	326,634,000	+20,156,000
(By transfer, permanent authority)	(5,465,000)	(6,563,000)	(6,563,000)	(6,563,000)	(6,563,000)	(+1,098,000)
Total, Power Marketing Administrations	362,029,000	397,270,000	384,529,000	394,529,000	384,529,000	+22,500,000
Federal Energy Regulatory Commission						
Salaries and expenses	141,071,000	163,639,000	142,801,000	158,639,000	158,639,000	+17,568,000
Revenues Applied	-141,071,000	-163,639,000	-142,801,000	-158,639,000	-158,639,000	-17,568,000
Geothermal Resources Development Fund						
Geothermal loan guarantee and interest assistance program	....	-4,000,000	....	....	....	....
Total, title III, Department of Energy:						
New budget (obligational) authority	16,967,647,000	17,836,834,000	16,476,533,000	17,202,549,000	17,158,759,000	+191,112,000
(By transfer)	(5,465,000)	(6,563,000)	(6,563,000)	(6,563,000)	(6,563,000)	(+1,098,000)
TITLE IV - INDEPENDENT AGENCIES						
Appalachian Regional Commission	190,000,000	100,000,000	185,000,000	190,000,000	190,000,000	....
Defense Nuclear Facilities Safety Board	11,500,000	13,000,000	13,000,000	13,000,000	13,000,000	+1,500,000
Delaware River Basin Commission:						
Salaries and expenses	300,000	325,000	325,000	325,000	325,000	+25,000
Contribution to Delaware River Basin Commission	475,000	475,000	475,000	475,000	475,000	....
Total, Delaware River Basin Commission	775,000	800,000	800,000	800,000	800,000	+25,000
Interstate Commission on the Potomac River Basin:						
Contribution to Interstate Commission on the Potomac River Basin	510,000	485,000	485,000	485,000	485,000	-25,000
Nuclear Regulatory Commission:						
Salaries and expenses	508,810,000	545,415,000	535,415,000	535,415,000	535,415,000	+26,605,000
Revenues	-488,848,000	-524,315,000	-514,315,000	-514,315,000	-514,315,000	-25,467,000
Subtotal	19,962,000	21,100,000	21,100,000	21,100,000	21,100,000	+1,138,000
Office of Inspector General	3,690,000	4,585,000	4,585,000	4,585,000	4,585,000	+895,000
Revenues	-3,690,000	-4,585,000	-4,585,000	-4,585,000	-4,585,000	-895,000
Subtotal	....	....	....	....	....	....
Total, Nuclear Regulatory Commission	19,962,000	21,100,000	21,100,000	21,100,000	21,100,000	+1,138,000

Energy and Water Development (H.R. 5373), continued

	FY 1992 Enacted	FY 1993 Estimate	House	Senate	Conference	Conference compared with enacted
Susquehanna River Basin Commission:						
Salaries and expenses	284,000	301,000	301,000	301,000	301,000	+17,000
Contribution to Susquehanna River Basin Commission	310,000	290,000	290,000	290,000	290,000	-20,000
Total, Susquehanna River Basin Commission	594,000	591,000	591,000	591,000	591,000	-3,000
Tennessee Valley Authority: Tennessee Valley Authority Fund	135,000,000	100,723,000	135,000,000	135,000,000	135,000,000	
Nuclear Waste Technical Review Board	3,294,000	2,060,000	2,060,000	2,060,000	2,060,000	-1,234,000
Total, title IV, Independent agencies, new budget (obligational) authority	361,635,000	238,759,000	358,036,000	363,036,000	363,036,000	+1,401,000
Grand total:						
New budget (obligational) authority	21,839,500,000	22,419,288,000	21,324,064,000	22,005,446,000	22,005,643,000	+166,143,000
(By transfer)						

□ 1810

Mr. Speaker, I reserve the balance of my time.

Mr. WHITTEN. Mr. Speaker, I rise in strong support of this Energy and Water Development appropriations conference agreement. It's a good agreement. I want to pay tribute to the gentleman from Alabama [Mr. BEVILL] and the gentleman from Indiana [Mr. MYERS], and my other colleagues on this subcommittee for the great job they have done.

This bill takes care of our real health, our country itself. It is a national bill. This subcommittee and those who worked with it have shown good, sound judgment in investment in our own country on which all the rest depends.

This is a major bill for looking after the physical resources of our country itself—which is our real wealth. Along with the bill for agriculture, it is the foundation of our economy. Not only does this bill provide for such worthwhile programs as the Appalachian Regional Commission and the TVA, but it also funds various Corps of Engineers projects and takes care of our waterways and the many flood control projects.

Mr. Speaker, in my district and State, there are many national projects which are sound investment expenditures for our Nation.

For the Foothills Joint Demonstration Erosion Control Program, funds are included for work on Batupan Bogue, Otoucalofa Creek, Hotophia Creek, Hickahala and Senatobia Creeks, Long Creek, Black Creek, Burney Branch, Town Creek-Charleston, Sherman Creek, Abiaca Creek, Toby Tubby Creek, Pelucia Creek, Cane-Mussacuna Creeks, Hurricane-Wolf Creeks, and the Coldwater River.

For other ongoing construction, funds are included for the Nonconnah Creek project, the Sardis Dam—dam safety assurance, the Tombigbee River and tributaries project, the Tennessee-Tombigbee Waterway—purchase of mitigation lands, the Horn Lakes Creek and tributaries project, and the Gulfport harbor project. Funding is also included to continue the Jackson metro area study, and for the East Fork and Tennessee-Tombigbee Waterway operation and maintenance. Language is also included providing that operations and maintenance funding for Yazoo basin lakes shall be available for maintenance of roads and trails.

For the Yazoo basin, funding is provided to continue construction on the big sunflower project, the demonstration erosion control projects, the tributaries project, the Upper Yazoo projects, and for backwater mitigation lands. The reformulation study—Yazoo basin projects—is also funded as well as operation and maintenance for all completed Yazoo basin projects.

For the Tennessee Valley Authority, rural development activities are funded at $135 million. Efforts are directed at helping to eliminate the economic hardships in the valley's rural areas.

The agreement provides $190 million for the Appalachian Regional Commission for its highway program and for economic development. Within this amount for the Appalachian Regional Commission is $5 million for an access road in Holly Springs for the local industrial park.

Funding in this conference agreement also continues a cooperative agreement between Jackson State University, Lawrence Berkely Laboratory, and Ana G. Mendez Educational Foundation, an ongoing program.

Mr. Speaker, this is a good agreement, and I urge that it be adopted.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as usual our chairman, the gentleman from Alabama [Mr. BEVILL], has done an excellent job of explaining this conference report. As the chairman has said, it was 3 months ago today that the House passed this Energy and Water appropriations bill.

Since that time we have been working with the other body. They passed their version of this in August. We went to conference the day before yesterday.

It was not an easy conference. It seems that each year the conferences get more and more difficult. But through the fine work of our staff, which has already been explained, the staff, headed by the very capable Hunter Spillan, and the other fine staff members, and each member of this subcommittee working with the other body, after many hours of deliberation, give and take both ways, we do have a conference report that I think is acceptable to all.

Especially this year I think we should show our appreciation to three members of our conference who we now know will not be back next year: Mr. DWYER of New Jersey, Mr. THOMAS of Georgia, and Mr. PURSELL of Michigan, three Members who have already announced their retirement and will not be returning.

The committee, the House, the country will miss the services of these three very valued members of the Committee on Appropriations and also members of this Subcommittee on Energy and Water.

Mr. Speaker, the chairman has very well presented this. But the bill, the conference report that we do bring, of that $12 billion is for national defense. This is something many Members of this body do not realize, that a large proportion of this Energy and Water Development appropriations bill is for national defense, research for national defense, particularly in the nuclear field. Only $9,900,000,000, or $10 billion roughly, is for nondefense items.

The increase in the conference report over the House-passed bill is $437 million in domestic discretionary and $244 million in defense function 050.

Of the funds in this bill, $4.5 billion is for America's water projects. We have more than 25,000 miles of inland waterways and major deep ports in our country which are provided funds to maintain and operate in this bill; $4.5 billion is provided for these functions.

The remaining $17.5 billion is for many programs, science, research, energy for the future, and research for development of medical devices, particularly in the nuclear field.

Many projects which are in research which could be developed to make America more competitive in the future are in the programs in this field.

The bill is not on the President's list of possible vetoes. As the chairman has said, there is one area where the President does disagree. This has to do with the nuclear weapons testing moratorium. We hope in the meantime over the weekend, when our Secretary of Defense gets back, that we will be able to work out the differences that we have with the White House on this particular item.

By then maybe we can bring this bill in its complete form and send it on to the President. As we all know, there is only 1 bill of the required 13 that has gone to the President and has been signed. We hope this will be the second one, early next week.

Mr. Speaker, I reserve the balance of my time.

Mr. SLATTERY. Mr. Speaker, I rise in opposition and yield myself such time as I may consume.

First, let me say that it is never fun to come to the floor and oppose my good friend, the gentleman from Alabama [Mr. BEVILL], who is chairman of the subcommittee, and the gentleman from Kentucky [Mr. NATCHER], acting chairman of the full committee, a man for whom I have a great deal of respect.

But on this occasion I do not have any other choice.

Mr. Speaker, I must inform my colleagues that the conference includes $517 million for the superconducting super collider. This is $34 million more than even the Department of Energy said that they needed to continue the project in the upcoming fiscal year.

But as you will recall, this body, on June 17 of this year, voted to terminate funding for the super collider by a vote of 232 to 181.

Mr. Speaker, the House-passed version of this bill contained only $34 million for shutdown costs of the SSC. The 232 Members of this body who voted as I voted might be surprised to learn that not one of the members of the conference committee voted with the House majority on the SSC vote, not one, my friends.

In other words, the House majority position was not defended at the conference committee. Needless to say, Members like myself, who spent countless hours trying to save the taxpayers $10 billion by terminating the super collider, do not find this operation very humorous.

Sadly, the people's will and the taxpayers' will—and I would observe that the taxpayers in this country are angry these days—was freely expressed in the earlier 232-to-181 vote in this body. And that view was totally ignored in this conference.

□ 1820

Mr. Speaker, the Members of this body should reject this conference committee report. We should demand that the taxpayers' position be represented and defended in the conference consistent with the position that this body took.

With regard to the merits: We thoroughly debated this issue earlier this year. Nothing of substance has changed. Absolutely nothing of substance has changed, except that the deficit is much larger.

For those who want to cut spending and reduce the deficit, I would say this is one of the big votes of the year. We are talking again about $10 billion. If we stand our ground and do not cave in to the other body and the President, we can save the taxpayers this year about $500 million, and as I have just said, $10 billion over 10 years. This is a lot of money and it is darn sure worth fighting over and it is worth fighting to defend the position of this body that was not represented in the conference.

Let us not forget that money spent on the super collider is money that will not be available for other very important practical and urgently needed research that is going unfunded.

Think about this. With $500 million a year, which we are talking about with the super collider, we could make available to all 50 States $10 million a year to fund scientific research at colleges and universities all over this country.

This kind of support for small science projects might lead to a cure for Alzheimer's disease or AIDS or cancer or heart disease. It may help us develop the technology necessary to compete in this global economy with new alternative energy sources and new alternative fuel vehicles.

The bottom line also is that when we have a $400 billion deficit, we cannot afford this kind of extravagant spending.

For those who say, well, how in the world can we say no to this project at a time when the economy is depressed and there are 6,000 jobs at stake, I concede that; but let us look at the other side of the picture. The other side is, what are these jobs costing us?

If you do just a little bit of math, you will see that even if you take $500 million divided by 6,000, you are talking about an annual cost per job of $80,000 per year.

This is a ridiculous jobs program if you are concerned about jobs in this country.

So my friends, I urge you to join me in rejecting this conference report. I intend to offer a motion to recommit with instructions to the conference that it stick to the position that this body so responsibly took earlier this year.

Mr. Speaker, I reserve the balance of my time.

Mr. BEVILL. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. FROST].

Mr. FROST. Mr. Speaker, I rise in support of the Energy and Water appropriations conference report.

I am particularly pleased that the conference report contains $517 million for the superconducting super collider. We have made significant progress in the last few months on the SSC—magnets have been successfully tested, support facilities have been completed, and excavation has begun. It is critical that we continue funding in order to maintain this progress and keep moving forward to the time when the SSC will be completed and operational. Terminating this important project now would have been a major mistake, and I am glad that the conferees agreed to fund it.

Let us be clear about what the SSC means for America. It is a symbol of our Nation's commitment to scientific leadership in this century and the next. It is an investment in the future, as it will enhance our Nation's competitiveness by yielding exciting discoveries and technological innovations. Finally, it will serve as a training ground for the next generation of scientists, engineers, and physicists, men and women who will lead the way in helping improve our quality of life through advances in science medicine. At a time when fiscal constraints require prudent spending decisions, this is precisely the type of investment that merits our support.

Chairman BEVILL and all the House conferees did an outstanding job, and they should be commended for their hard work in completing the conference and bringing this bill to the House floor. Chairman BEVILL has always displayed strong leadership in guiding the Energy and Water appropriations bill in the past, and this year is no different.

The SSC is no longer merely a dream, but is now in fact a concrete and steel reality. Buildings are going up, dirt is being moved, and developmental work is advancing at a steady clip. Let us continue the progress on this investment in America's future. I urge my colleagues to join me in voting for this conference report.

Mr. MYERS of Indiana. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. MCDADE], the distinguished ranking Republican member of the Committee on Appropriations.

Mr. MCDADE. Mr. Speaker, I thank my friend, the gentleman from Indiana, for yielding me this time.

Mr. Speaker, I rise in very strong support of this conference report which the conferees have labored long and hard to bring back to the House and the Senate so that it can be enacted into law.

I want to pay strong commendation to my distinguished friend, the gentleman from Alabama, for the manner in which he conducted the procedure on this bill. He has done a superb job, as has my dear friend, the gentleman from Indiana [Mr. MYERS], the ranking Republican.

I want to say to my colleagues, by any test, whether you lay down the 602(b) allocation for domestic, this bill is within it. If you lay down the 602(b) for defense, this bill is within it, and if you lay down the other tests, that is to say the newest recommendations that came up from the President with respect to spending levels, this bill fits within that test. By any measure, Mr. Speaker, this bill deserves our strong support.

Mr. SLATTERY. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. BOEHLERT], who has been tireless on this project.

Mr. BOEHLERT. Mr. Speaker, for years the Supreme Court of the United States has been wrestling with the definition of obscene. They have not succeeded, but the conferees have. It is obscene that we are being asked today here in this Chamber to vote for funding $517 million, just one installation for the superconducting super collider.

Let me give you some reasons why we should not do it.

Reason No. 1. It is not a high-priority science project. It is a good project; cannot quarrel with that, but it is not a high priority science project.

Mr. Speaker, this is a time that demands that the Congress consider only priority projects.

Reason No. 2. This is taking away money from other very important science projects. We now have at the National Institutes of Health and the National Science Foundation the highest percentage of unfunded worthy applications in a generation. Scientists across America who have a good idea and are coming to their Government for a modest grant to continue very important research, cancer research, AIDS research, a whole wide range of very important research activities, and the scientists with outstanding credentials are saying to our Government, "Give me $100,000 as a research stipend so that I can make some progress, and hopefully find a better, safer way for all Americans to live."

Reason No. 3. This Chamber by an overwhelming margin of 232 to 181 voted to terminate funding for the superconducting super collider.

Reason No. 4. This body by overwhelming previous votes has said the Federal taxpayers should not be expected to go one penny beyond $5 billion in the Federal contribution for this project.

Now, that is not small potatoes. We are not nickeling and diming it. We said $5 billion and no more. Well, it is well beyond that in terms of the Federal contribution.

As a matter of fact, this project started out with a projected cost of $4.4 billion. Do you know where we are now, Mr. Speaker? We are up to almost $12 billion. If you think we are going to get it for one penny less than $15 billion, I have got a bridge in Brooklyn that I will offer to sell to you.

The next reason. We have been told not to worry. The American taxpayers are not going to foot the whole bill. This is an international project.

□ 1830

Mr. Speaker, we are told that people come from all around the world to get a piece of the action. They are all excited about this. Guess what, my colleagues? We do not have the first dime yet from any nation around the world.

Oh, I have been told, "Wait until the Japanese cough up their contribution." Well, that was a very appealing argument.

So, I went to Japan, and I met with the leadership of the Government, including the president of Japan's science council, including members of the Diet, including key people in the Ministry of Science, Culture, and Education. They are not interested in participating. They are having a study group take a look at it.

Mr. Speaker, there no compelling reasons for proceeding at this juncture with this project at this cost to the American taxpayer. But there are good and sufficient reasons to say no here and now. We simply cannot afford to continue the way we are. We have a $4 trillion national debt. We are spending every single day $866 million just in interest on that debt.

My colleagues, now is the time to stop. Here and now.

Mr. BEVILL. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman from Alabama [Mr. BEVILL] for yielding this time to me, and I congratulate him and my friend, the gentleman from Indiana [Mr. MEYERS], on the excellent work they have done on the bill.

I will talk about two or three matters which are included in the bill, but I think very important to note is that by whatever calculation one applies to this bill, it does fall within the approved guideline. The 602(b) allocation for domestic or for defense; the bill fits within that. It also fits the President's expressed mandate or expressed wish of what our appropriations bill should look like. Now whether the President should be permitted that leeway can be argued, but the bill fits within his figure.

There are four programs involving our community in Louisville in Jefferson County, KY, which are included in this bill, and I thank the chairman for finding room for them.

There is $1.9 million for preconstruction and engineering for the eventual construction of a 1,200-foot lock at the McAlpine Dam where currently an outmoded, archaic 600-foot lock exists. And, eventually, in 1995, we will have twin 1200-foot locks at the McAlpine Dam in Louisville.

In this bill also is $534,000 for a reconnaissance study for the Bear Grass Creek flood control project, as well as $364,000 for completion of the engineering and the economic study for the Pond Creek flood control project. Both Pond Creek and Bear Grass Creek are very important projects for the protecting of homes and businesses in Louisville.

And last, but not least, Mr. Speaker, there is a half million dollars, $500,000, for a study of the Ohio River Greenway, which is to improve access to the Ohio River attractions, which would include the McAlpine Dam, which would include the Falls of Ohio, that great rock formation, the Devonian rock formation which is becoming such a tourist attraction. It would also include access to the skyline of Louisville, and also our several bridges.

So, Mr. Speaker, I want to thank the gentleman from Alabama [Mr. BEVILL] and the gentleman from Indiana [Mr. MYERS] for their excellent work. I rise in very strong support of this conference report.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. KOLBE], a distinguished member of the Committee on Appropriations.

Mr. KOLBE. Mr. Speaker, I rise in strong support of the fiscal year 1993 energy and water appropriations bill. Facing severe budget constraints, the subcommittee has produced a fair and responsible bill.

The bill is $414 million below the President's request, and falls within the subcommittee's 602(b) allocation. To get to this point, the subcommittee had to make some painful decisions.

Many important projects were not funded in the bill, including a number in my home State and district. The bill, however, does include funding for the Central Arizona project and needed safety of dams work, as well as other important water resource and energy projects in Arizona and the country.

The conferees hammered out a tough compromise on nuclear weapons testing. I urge my colleagues to support the conference report and to defeat any attempt to adopt the more restrictive Senate version. The need for nuclear weapons is—thank God—less today than any time since the invention of this horrifying weapon. But we still have nuclear weapons, and as long as we do, we must test them for their safety. The Senate version is too restrictive and was rightfully discarded by the conferees. I urge my colleagues to do the same.

This has been a difficult process for the subcommittee members.

What has emerged from that process is a bill that is fiscally responsible and fair. At a time when the country is calling out for leadership, this subcommittee has shown it. I commend the chairman, Mr. BEVILL, and the ranking member, JOHN MYERS, for their leadership and the entire subcommittee for their work. This is only the second fiscal year 1993 appropriations conference report to be considered by this body, and I am hopeful that it will serve as a model for how to make the tough, fiscally responsible, and fair decisions dictated by our severe budget constraints. I urge my colleague to support it.

Mr. SLATTERY. Mr. Speaker, I yield 1½ minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Speaker, I rise to oppose the conference report on the energy and water appropriations bill. I am pleased that the conference report includes a moratorium on nuclear weapons testing, and I will support the motion to accept the stronger moratorium language which was passed by the Senate. But in other respects, this report falls far short of the change in priorities which we should be making, now that the cold war is over.

The Soviet Union and the Warsaw Pact, our enemies for almost half a century, have disintegrated. Russia is now asking for foreign aid. And yet over half the money in this bill—$12 billion out of $21 billion—still goes for nuclear weapons activity. Some of this money is to clean up the dangerous mess at our nuclear weapons plants, but almost $5 billion is to develop and produce new nuclear weapons, even though we no longer have an enemy to fire them at.

The bill also spends over half a billion dollars on that enormous boondoggle, the superconducting super collider. Just a few months ago, when we voted to cut out the money for the SSC, it was hailed as a sign that Congress had finally decided to stand up against pork-barrel spending and set some real priorities. But now, that victory has silently evaporated.

Mr. Speaker, this bill represents a budget for the cold war, not for the economic crisis of the 1990's. I urge my colleagues to vote "no" on it.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. PURSELL], a member of the subcommittee who will not be returning next year.

Mr. PURSELL. Mr. Speaker, I do not know if the gentleman from Indiana [Mr. MYERS] was saying that with appreciation or sincerity, but I say to him, "Thank you, JOHN."

Mr. Speaker, the gentleman from Indiana [Mr. MYERS] has been my leader on this committee for so many years, and I have appreciated his personal leadership and his personal friendship, and I wish him and his wife the best of health and know what he has gone through the last couple years.

In addition, Mr. Speaker, I want to thank the gentleman from Alabama [Mr. BEVILL] and the staff of the committee for their great leadership. I think it is one of the most respected staff groups that I have ever had the opportunity to work with.

My first love is with my great chairman, the gentleman from Kentucky [Mr. NATCHER] who is my ranking on Labor-HEW, and, as the ranking Republican on that committee, Mr. Speaker, I have had the honor to serve there. I say to the gentleman from Kentucky, "My heart is in your committee, BILL."

But I have also enjoyed the Committee on Energy and Commerce.

This bill is only 1 percent over last year. It is practically at a freeze level. So I think, regardless of which side my colleagues are on in terms of the super collider, I happen to support it. I supported it for Michigan, and I am not going to flip-flop because it is going to Texas.

But I think, in all due respects to my colleague, the gentleman from New York [Mr. BOEHLERT], if it was good enough for the international community, whether or not they finance it or not, and they anticipate that we will take the leadership, I am glad that the Nation is taking the national world leadership in high energy physics. It is not a military project. It is not for defense. It is for the best in terms of collegiate, and university and academic research that will bring about new science research in the civilian application process which we desperately need throughout the world.

□ 1840

I want to thank the committee personally. It has been an enjoyable committee to serve on over the years. I wish them the best. I think one of the great future problems of this committee is going to be how do we maintain our water civil engineering projects. We have some new projects in this bill, not very much, but I think the long-range problem of maintaining our infrastructure is going to be a severe, serious problem in financing, and maybe our committee should hold some hearings on that next year to look at the opportunity to be able to maintain our great bridges and harbors and infrastructure that is desperately needed.

So again, thank you. It has been a pleasure serving on this committee, and I wish the best to all of you. Thank you very much.

Mr. SLATTERY. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. WOLPE].

Mr. WOLPE. Mr. Speaker, I have enormous respect for the chairman of the committee, the gentleman from Alabama [Mr. BEVILL], and his ranking member, the member from Indiana [Mr. MYERS], and for the conferees that were involved in this particular discussion. But I must say there is absolutely no way that the outcome of this conference can be justified before the House.

We had a very full and thorough debate about the merits of the super collider project, and the consequence of that debate before this House was an overwhelming rejection of the super collider by a vote of 232 to 181.

The product that has come back before us does not sustain the House position. But even more remarkably, not only did the House conferees fail to represent the House position, which was one of opposition to the SSC, but they agreed to even more SSC funding than they had originally proposed before the House voted to cut the program. There is simply no way that that can be justified as a rational or fair outcome of this conference agreement.

In the course of that debate a number of points were made about the super collider: It has been a terribly managed project; it is over cost; all of the promises that have been made about foreign contributions have remained unfulfilled.

But I must tell you as chairman of the Subcommittee on Investigations and Oversight that undertook some very sensitive hearings, the most disturbing element of this entire project from my vantage point was the pattern of deceit and deception in which the Department of Energy engaged in order to block our efforts at finding out the truth of the mismanagement that had occurred.

There was constantly an enormous gap between what we were told in public session, on the one hand, and what was reveled in the documentary material that our committee eventually received, on the other. And there was absolutely no way that the claims of the Department of Energy that this was a project that was meritorious could be sustained by that documentary material.

This is really a moment of truth for this House. Either we are serious about fighting wasteful spending, or we are going to first vote to cut a project, and then very quietly vote to put the money back in so we can all go back home and say, "See, we opposed it at least once."

I ask my colleagues in this instance to reject this conference report so that we may really affirm the determination of this House to make the kind of tough choices that need to be made this year, to eliminate a project that is one of the least meritorious of the Department of Energy's initiatives—a conclusion reached by the Department's own Office on Policy.

Mr. MYERS of Indiana. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. GALLO], a hard-working member of the subcommittee.

Mr. GALLO. Mr. Speaker, I thank my ranking member for yielding time to me.

Mr. Speaker, I rise today in support of the conference report on Energy and Water Development appropriations for fiscal year 1993. As a member of this subcommittee, I would like to thank Chairman TOM BEVILL and ranking member JOHN MYERS for their leadership and direction. I would also like to express my appreciation to the subcommittee staff, Hunter Spillan, Bob Schmidt, Aaron Edmondson, Jeanne Wilson, and Lori Whipp for all their hard work.

Unfortunately, this year the subcommittee will lose three of its valued and dedicated members to retirement. CARL PURSELL, BARNEY DWYER, and LINDSAY THOMAS will be greatly missed for their expertise and insight on this subcommittee. I wish all of them well.

Mr. Speaker, I am proud of the fact that we have crafted a bill that will continue to move this country closer to a comprehensive energy policy. In spite of a tight fiscal budget, I believe that with this bill we have made a significant long-term commitment to the development of new energy sources for our Nation's future energy needs.

The immediate goal of an energy policy must be a balanced approach that deals with conservation and alternative fuels as well as conventional sources of energy. We must not shortchange our research and development programs and I believe this bill provides adequate funding to keep new and proven technologies on the right course.

The bill also provides funding for a number of critical flood control projects throughout the United States. These important projects will help to prevent property damage in areas with recognized flooding problems and even more importantly help save countless lives.

In my State of New Jersey, the conferees agreed to accept the funding levels for two New Jersey flood control projects that will allow the projects to remain on track.

These critical flood control projects must move forward in order to protect the public safety in the Passaic and Raritan River basins. With the additional funds for the Passaic flood tunnel, engineering and design of the entire project, including the Newark bank restoration portion has taken a closer step toward completion.

I will never forget the fear and apprehension expressed by the people in the

Passaic River basin after April flooding in 1984 took three lives and caused $355 million in damage. Eight years have passed since that event and thankfully we have not been hit with a devastating flood to this point. While no one can accurately predict what the future will bring, we can be sure that time is not on our side, based on past experience.

Unfortunately, as memories of the 1984 flood continue to fade, they are being replaced with pie-in-the-sky proposals for inadequate flood control measures based on inaccurate information.

This bill also contains funding for several energy development projects that benefit New Jersey. I was happy that we, as conferees agreed to fund fusion research at $339.7 million. Fusion research is one of the programs that will move this country toward energy independence. Fusion energy is good science and I am happy to support the program.

In addition, the bill includes funding for solar and other renewable energy research. I have always been an active supporter for increased funding in renewable sources and was pleased that the subcommittee provided this critical funding.

It was a long and thorough process and I am happy to rise in support of this conference report.

Mr. SLATTERY. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Speaker, 3 months ago today I spoke to the House of Representatives from this same spot and asked that we kill, bury, do away with, and forget forever the super collider, and apparently most of us felt the same way as I did, because we decided by a vote of 232 to 181 to delete all funding for the SSC.

That outcome pleased me. But somehow I felt that like the phoenix, this thing would rise again. And sure enough, it has. And it would be seeking more and more money. And, friends, that day has come.

Now, many people have stood up here and congratulated the conference committee. Congratulate them? Heck. They did not express the will of the House. They caved in. They did not come back to us with a compromise. They came back to us with more money than went out of here in the consideration of this.

Despite the fact that we have twice voted to kill this project, here it is again to the tune of $517 million. How many times do we have to say no before this boondoggle goes away?

I should also point out that the conferees deleted a successful amendment of the gentleman from Pennsylvania [Mr. WALKER] that the President certifies foreign contributions to this project before the future funding was released. They must have felt that the foreign contributions were not going to come in, and indeed, they were not going to come in, so they just did away with that.

Now we have an all-American project that we can completely fund with billions of taxpayer dollars for an uncertain goal.

Mr. Speaker, I do not know how the rest of the Members feel about this provision, but I believe this particular section is a slap in the face to every Member of the House.

Join with me in rejecting this conference report. Let us send a message to the conference committee that when they go out of here to do conferences, we expect for them to fight for the will of the House and at least come back with a compromise.

□ 1850

Mr. BEVILL. Mr. Speaker, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, it pains me to do this because the gentleman from Alabama is such a wonderful gentleman and I do not say this in a patronizing way; it is in a very true way.

The fact that the superconducting super collider is still in this bill, over $500 million, at a time when this country is bleeding to death with high deficits, just means, in my judgment, that I have to vote against this bill. And there are many good things in it, but this country has to make choices.

One of these days we are going to have to decide, are we going to fund this or are we going to fund health care. Are we going to fund this or are we going to fund Social Security.

I mean, it is as simple as that. The choices are going to have to be made. This is a pretty easy choice in my judgment to say no to. It is a choice for scientific reasons and for a whole sort of budget reasons that we can find other alternatives. So while it pains me to disagree with the distinguished chairman of the subcommittee, I think for fiscal sanity, we must say no to the superconducting super collider.

I urge a no vote on the bill.

Mr. MYERS of Indiana. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise in support of the Energy and Water appropriations conference report and to specifically commend my colleagues for crafting a bill that is not only below the budget caps set in the 1990 agreement but also—and more importantly—is only 0.75 percent greater than last year's bill.

This is particularly important to my constituents, Mr. Speaker, because many of them are out of work and cannot afford to send additional tax dollars to Washington. Those who are working are not enjoying raises or bonuses, so I am especially pleased that the spending levels in this conference report are well below inflation.

The people of this country deserve our best efforts to rein in government spending: in so-called discretionary accounts as well as in the sacred cows of entitlements. Everyone—except those on the lowest rungs of the economic ladder—has to share the pain of these hard economic times.

Let me also commend the President for his leadership and firm hand, in working with the Congress to focus on holding these spending bills down. Unless the Congress—which controls all Federal spending—can develop consistent disciplined spending practices, we will never see the end of $300 billion deficits nor pass on to our children a vital America.

Mr. SLATTERY. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. MYERS of Indiana. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

The SPEAKER pro tempore. The gentleman from Indiana [Mr. BURTON] is recognized for 2 minutes.

Mr. BURTON of Indiana. Mr. Speaker, my good friend just said that this is a process of consensus building. We are always building consensus around here, and we keep getting deeper and deeper and deeper and deeper in debt. The projected deficit in the next 7½ years is going to be $13.5 trillion. We are already at $4 trillion. Ten years ago we were at $1 trillion. And spending is totally out of control.

We will not even be able to pay the interest on the debt in 7½ more years, and that means this whole economy is going to come unraveled.

We have to make hard choices, and we have to do it now. This conference committee report is $682 million above that which left the House.

We tried to kill the super collider, which I supported in the past. And we tried to kill it. I voted against it this time because we simply did not have the money.

We have to prioritize, and here it comes back again, $483 million more than that which left the House.

If we did not even include that, we have an almost $200 million in additional spending, not including the super collider.

Let me just say that this is also $166.143 million above fiscal year 1992. This is only the second appropriations bill that is going to pass both Houses in the conference committees. The first one was $8 billion over fiscal year 1992 and $1.64 billion above the House-passed bill. And this is $680-some million above the House-passed bill.

When are we going to start making the hard choices?

The problem is, we can pay now or we can pay later. We either control spending now and pinch a few toes or in 7½ years we are going to see people on fixed incomes, Social Security, welfare, food stamps, pay $40 to $50 for a quart of milk or a loaf of bread because of hyperinflation, when the Federal Reserve Board has to monetize the debt.

We have to come to grips with this. The time is now. I hope we will defeat this conference committee report.

The SPEAKER pro tempore (Mr. COX of Illinois). The Chair will advise the Members that the gentleman from Alabama [Mr. BEVILL] has 9 minutes remaining, the gentleman from Kansas [Mr. SLATTERY] has 3 minutes remaining, and the gentleman from Indiana [Mr. MYERS] has 5 minutes remaining.

Mr. SLATTERY. Mr. Speaker, I yield 1 minute to the gentleman from Connecticut [Mr. SHAYS].

Mr. SHAYS. Mr. Speaker, I rise in opposition to the conference report.

The SSC, the superconducting super collider, is a colossal waste of money. It is a giant public works project we do not need and cannot afford.

America is a science-creating machine without parallel. The Japanese and the Asian nations are science-consuming machines without parallel. They are going to take what we learned and use their money to put it to practical use.

We have a budget crisis. A few months ago this Congress voted overwhelmingly for a balanced budget amendment, but we are not willing to take practical steps to balance the budget. If we are not willing to cut defense, eliminate the Space Station, the SSC and other expensive projects, if we are not willing to cut the budget in other areas and we are not willing to raise taxes, how in the world are we going to balance our budgets?

Mr. BEVILL. Mr. Speaker, I yield such time as he may consume to our colleague and friend, the chairman of the Committee on Science, Space, and Technology, the gentleman from California [Mr. BROWN].

Mr. BROWN. Mr. Speaker, I thank the gentleman for yielding time to me.

I rise in support of the conference report. I want to explain why I think that this is a good conference report, although I am not in complete agreement with every aspect of it.

I have worked closely with the distinguished chairman for many months in this particular cycle to provide input to this bill, and basically I think it meets the needs of the country. It has some controversial things in it.

The one that is being discussed here, the superconducting super collider, has vexed me as it has many others over the years.

I came to the conclusion that it was in the best interest of the country for us to proceed with the funding of this massive, large science project. And I did it for many reasons.

I participated from the beginning in discussions of this in our Committee on Science, Space, and Technology. There is no question of its scientific validity. The main questions having to do with it are whether or not at this time of budget crisis we ought to continue. I weighed that argument very, very carefully. I felt that the House was wrong when they acted on this bill, when it first came before us in June, to strike out the superconducting super collider. I recognized that in the heat of the emotions at that particular time that it was the popular thing to do, but I think that the conference committee has acted properly in restoring some of that funding.

I want to compliment the chairman for his willingness to do that, recognizing that it would be controversial.

I want to say also just a word about a problem which I have discussed with the chairman many times, and that is to accept, as an amendment in disagreement, certain additions which the Senate places on this bill. I made a point that this is not good public policy for a number of years. I have spoken to the distinguished gentleman on the other side, the chairman of their appropriations subcommittee, and I have found no response to their tendency to do this.

□ 1900

I think it is contrary to the best interests of science and to the public to continue doing this, and I do not think that the House should yield. I suspect in the desire to move this bill along promptly that the House may approve of that this year, but I am going to have to oppose that, and I expect to lose, I might say, because the projects, a mere $100 million, more or less, are all meritorious in themselves. They just have not been included in either bill in the House or Senate until it got to conference, and then they were earmarked for specific projects.

I oppose this in principle. I oppose it so much that I am making a serious effort to amend the rules of the House to prevent this from happening. I want to bring this to the attention of the membership. However, in spite of all these possible difficulties with the bill, on balance I think that we should proceed with it. I think we should approve it, the conference report, move it up to the President in order that we may continue with the very valuable programs that are contained in there.

Mr. Speaker, I just wanted the House to understand the difficult predicament that some aspects of this bill place me in. I thank the chairman for yielding me this time.

Mr. SLATTERY. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Speaker, in college, George Orwell in "1984" must have had this conference committee in mind in his book when he told us all that "war is peace, hate is love, up is down," because the fact of the matter is that we are told that this conference report represents a compromise, a consensus.

There indeed is a consensus around this place, and that is to keep spending money we do not have on projects we do not need. I admire the resiliency of this conference committee. Why, just a few months ago they told us that we could not spend more than $483 million on the super collider. The House in its wisdom cut that to $35 million, and then they stood strong for the House position and agreed to spend $35 million more in this conference report than just 3 months ago they said this project could sustain. My God, how is that for standing up for the House position?

We have test ban treaty limits in here, and $34 million on top of the test ban treaty goes to a new program aimed at developing new facilities for the production of nuclear weapons. We are going to spend money on weapons systems that we are not going to test, the same way we are going to spend money on a super collider that we do not need. George Orwell was right.

Let us be honest about it. The fix is in. When the conferees were appointed, not a single conferee on behalf of the leadership stood for the position of this House. The rules of this House require that the conferees reflect the position taken by the Committee of the Whole, but that was not going to happen, the same way it did not happen when the Committee on Rules constructed a rule that did not allow those who had objections to raise those objections.

Nothing new has happened, no foreign dollars, no foreign contractors, no foreign participation. One thing has happened in those 4 months, they have poured more concrete. That is what we are going to do if we do not at least cast a vote of protest and tell the folks that business as usual just will not work any more. Resist this. Defeat the conference report.

Mr. MYERS of Indiana. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], a member of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Speaker, we are getting pretty close to the end of the session. I think fewer than 9 legislative days is the plan. We have still 12 out of 13 appropriation bills to pass and send to the President, to find out if he is going to sign them, and if he is not going to sign them, then to consider overrides. That does not even consider all of the other bills that might find their way to this floor.

Mr. Speaker, we have a perfectly good conference report right here. We have delegated our representatives on the conference to meet with the other body's representatives on the conference to pound out an agreement that was within the budget limitations. They have done so. They have weighed the priorities. They have come back and they have given us a plan to live within those budget requirements and send it on to the President so we can address the problems of this country.

Mr. Speaker, it seems to me that we are going to not only waste a great deal of time, but in the long run, do ourselves a great disservice if we reject this conference report. I would urge that it be adopted.

Mr. Speaker, there are flood control measures, wetlands conservation, navigation aids, port maintenance funds, funds for the Department of Energy, research, cleanup, and environmental cleanup; all of this within our budget limitations.

The Members can argue the merits or the demerits of the super collider. I happen to think it is a great project, and that the benefits of that project will redound to future generations for many, many years to come. The point is, our conference committee has done their job. Now let us adopt the conference report. Let us move on to other matters. Vote "aye."

The SPEAKER pro tempore (Mr. COX of Illinois). The time of the gentleman from Kansas [Mr. SLATTERY] has expired.

Mr. MYERS of Indiana. Mr. Speaker, I yield 1 minute to our friend, the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman from Indiana for yielding time to me.

Mr. Speaker, sometimes in this body we have to agree to disagree agreeably, and with all sincerity I wish to say that I am going to miss the gentleman from Ohio [Mr. ECKART] and the gentleman from Michigan [Mr. WOLPE] next year when they are not here to attack the super collider as we come for our annual battle.

I am not so sure the citizens of Ohio will miss the gentleman from Ohio [Mr. ECKART] quite as much, since there is $107 million in this bill for Corps of Engineers projects in Ohio, including $6 million in his city of Cleveland, which I am sure they do support.

What the debate on the super collider is, is the modern-day equivalent of turning swords into plowshares. We are turning missiles into magnets. It is about science supremacy in the world in the 21st century. It is a good project. I commend the conference committee for meeting the Senate conference committee partway in funding the project.

Mr. MYERS of Indiana. Mr. Speaker, I yield back the balance of my time.

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge everyone to vote for this conference report. This conference report represents many, many months, many weeks, many days and hours of work and negotiations. There are over 800 projects and programs in this bill, or affected by this bill.

We realize that in this are one, two, or three with which you may disagree. Frankly, I could find more than one, two, or three that I do not like in the bill, but this represents agreements worked out after many, many hours of negotiations with the other body. I urge the Members to accept this conference report and vote for it.

Mr. FAZIO. Mr. Speaker, I rise in strong support of the conference report on the energy and water development appropriations for fiscal year 1993. This is a good and balanced bill, and I urge my colleagues to support it.

Mr. Speaker, this was, beyond any doubt, the toughest bill that I have been involved in my 12 years on the committee.

Nonetheless, we have managed to continue funding, at reasonable rates, our on-going priorities for the Corps of Engineers, the Bureau of Reclamation, the Department of Energy, and the other independent agencies within our jurisdiction.

And we have maintained these on-going programs in a manner that is not only within the 602(b) allocations but over $400 million under the President's budget request.

It is true that no one is completely happy with our product here, but again, it is a fair, balanced, and responsible bill.

One of the priorities that we have been able to maintain and strengthen is our commitment to solar and renewable energy programs.

While I certainly was among those who advocated a higher funding level, these programs were funded at above the President's budget request.

I would also like to point out that the conference report as it comes before the House contains significant investments in much-needed flood control and water supply projects which are critical to communities throughout our Nation.

Mr. Speaker, I would also like to take this opportunity to commend the good work of the chairman of the Energy and Water Subcommittee, Mr. BEVILL; Mr. MYERS, the ranking minority member; and the subcommittee's dedicated staff. They have done an outstanding job over the years in defending the interests of the House, and this year is no different.

Mr. Speaker, I would especially like to thank Mr. BEVILL and Mr. MYERS for their assistance in defending the many varied needs of California. As in the past, the other body removed many of the projects of critical need to my State. But with the help and leadership of the chairman and Mr. MYERS, nearly all of our projects were restored.

For example, the conference report continues to support the efforts of the Corps of Engineers to address the flood threat to Sacramento and parts of Yolo County. The conference report contains funds that will help us improve the operation of the massive Central Valley project in California, making the project more protective of the environment and thereby helping to ensure that the CVP can continue to meet its critical flood control and water supply purposes.

And the bill continues to support a strong role for the Corps of Engineers in wetlands restoration, particularly in the Central Valley of California, where we have seen 98 percent of the historical wetlands destroyed over the years.

The bill—through its support for the SSC, general science, and other nuclear and high energy physics research—will also help maintain our Nation's position as a world leader in science and technology.

And we have made every effort to ensure that adequate funds are available to continue the cleanup of toxic and hazardous materials from our DOE facilities across the country.

Again, Mr. Speaker, I thank Mr. BEVILL and Mr. MYERS for their cooperation and support, and their sensitivity to the many water development and energy-related problems facing the Nation. I urge my colleagues to support the conference report.

Mr. GRADISON. Mr. Speaker, as Congress rushes to complete legislation prior to adjournment in a few weeks, fast-moving bills and conference agreements may have budget enforcement implications that Members should note. I have pointed out several of these instances already in statements in the CONGRESSIONAL RECORD, most recently on September 15 at page E2628. Taken separately, these infractions may seem small. Added together, it is possible that they could have substantive enforcement consequences.

The bill I wish to discuss today is H.R. 5373, the energy and water development appropriations bill for fiscal year 1993. This bill appears to breach the firewall between defense and domestic spending.

It shifts $64.5 million for research in particle physics from the Department of Energy's general science account to the Defense budget. The money in question would go to the Los Alamos Meson Research Facility, which the Department of Energy plans to close. This research has no military application. Funding the site through Defense accounts makes way for spending on domestic programs. I can see no reason for this transfer other than to avoid making hard choices on domestic discretionary spending.

The firewall between defense and domestic spending was established only 2 years ago and was resoundingly reaffirmed by the House in March. Breaching the firewall has a price. The funding contained in this conference agreement is below the President's request on both the domestic and defense sides, even with this breach. But the Office of Management and Budget indicates that it will continue to score the Los Alamos facility as domestic spending. Most of the domestic appropriations bills are still awaiting final action. Unless these remaining bills recognize that the $64.5 million will be scored by OMB as domestic discretionary spending, an end-of-session sequester could be triggered in early November.

Mr. PENNY. Mr. Speaker, I rise in opposition to the energy and water appropriations bill for two simple reasons. First, the spending levels in this measure are $700 million higher than the amount approved by the House of Representatives just a few months ago. Second, this measure restores funding, almost $600 million, for the superconducting super collider, a project which the House had voted to cancel.

We need to reduce the deficit and make tough choices. This bill moves us in the wrong direction. I urge a "no" vote.

Mr. RAHALL. Mr. Speaker, I rise in strong support of H.R. 5373, the fiscal year 1993 energy and water appropriations conference report.

While I may not be perfectly happy with the spending level finally agreed to in conference, I do understand the constraints under which our able chairman, and my esteemed friend Mr. BEVILL, and his colleagues were working during final deliberation on the conference agreement.

To be specific, when this bill left the House, it called for $22 billion in spending, but it was $700 million short when it came back to us from conference with the other body. Nevertheless, I understand also the spirit of comity and compromise that go into reaching agreements on appropriations bills, especially when we have so little, it seems, to spend against such enormous need. Again, let me state my gratitude for the yoeman's work that went into the agreement, and let me say that I am grateful for what it will be able to do for West Virginia and the Nation as a whole.

I shall begin my brief overview of the conference agreement by expressing my deep appreciation for the level funding for the Appalachian Regional Commission [ARC], which gained $5 million between leaving the House and getting through conference. ARC will be funded at $190 million under this bill, the same as last year, and will go far toward helping the Nation's poverty pocket, known as Appalachia, come into the mainstream of America—both through economic development and through a highway system intended to provide access and linkages with the U.S. Interstate System as well as other primary arteries within the 13 Appalachian States. The $190 million, while it freezes ARC at the fiscal year 1992 appropriation level, is still a far cry from a massive cut of $100 million for ARC, as recommended by the President.

I was privileged, Mr. Speaker, to testify before the Subcommittee on Energy and Water Development this year, on behalf of projects in my district in West Virginia.

I testified on a number of projects managed by the Corps of Engineers which are of vital importance to my district, projects which span the range of the construction process from authorized studies to operations and maintenance.

The first project, the Kanawha River Basin comprehensive study, and the second, the West Virginia comprehensive study are of prime importance, and I deeply appreciate their inclusion in this bill.

The Kanawha River Basin comprehensive study affects the Kanawha River Basin in West Virginia, Virginia, and North Carolina. The project needed $700,000 in order to bring about early completion of the project and, since this is an ongoing project, I deeply appreciate the approval of a $500,000 allowance under this bill for its continuation at a time when resources are so scarce.

As a result of public hearings held by the Corps of Engineers, two additional areas of interest evolved, expanding the original scope of the study to determine the feasibility of creating a series of intermodal ports and industrial parks.

I am pleased also to note that an additional $500,000 is provided for the West Virginia port development comprehensive study along the West Virginia side of the Ohio River, focusing on the counties of Cabell, Wayne, Wood, and Ohio, and the West Virginia side of the Big Sandy River.

The second part of the expanded study, which would be covered by the increased funding for the West Virginia comprehensive study, involves examining the feasibility of developing the Virginia Point Recreation Area located in Kenova, WV, in Wayne County, the result of corps' hearings and workshops which led to local sponsors giving their commitment to share in the costs of the study. The corps reestimated that with $500,000 they would be able to accommodate the enlarged study scope to include a reconnaissance riverport development study of the West Virginia side of the Ohio River, focusing on the riverfronts of the cities of Parkersburg, Point Pleasant, Virginia Point, and Wheeling, WV.

Mr. Speaker, riverfront development is one of the keys to unlocking the economic development potential that exists along the Big Sandy and the Ohio Rivers, and this additional $1 million total funding will permit us to move forward into the next critical phase of the process.

H.R. 5373 has provided well for my State and district with respect to expanded studies described above, and will go far toward developing this historic and natural area for potential recreational as well as commercial use.

Aside from the expanded studies recommended by the corps, there is one other project in its construction phase, and it is of particular importance to my district—the Tug Fork project. H.R. 5373 has proposed to spend $67,450,000 for the Levisa and Tug Forks and Upper Cumberland River construction projects in West Virginia, Kentucky, and Virginia.

H.R. 5373 also allows $25 million for the Gallipolis Locks and Dams for West Virginia and Ohio, and $38.5 million for the Winfield Lock and Dam in West Virginia, which is sorely needed.

Further, I am pleased to note that the following Corps of Engineers general investigations and planning projects have been funded in my district and State, in addition to those outlined above:

Island Creek at Logan, WV (planning)	$304,000
Kanawha River Navigation, WV (investment)	1,050,000
Moorefield, WV (planning)	585,000

Mr. Speaker the $304,000 for the island Creek PED at Logan, WV, can be used to complete the project there, and is of utmost importance to that area which is located in my district.

It pleases me also to note that Corps of Engineers' operations and maintenance projects for the coming fiscal year include:

Beech Fork Lake, WV	$679,000
Bluestone Lake, WV	1,278,000
Burnsville Lake, WV	1,241,000
East Lynn Lake, WV	1,052,000
Elk River Harbor, WV	314,000
Elkins, WV	6,000
Kanawha River Locks and Dams, WV	8,829,000
Ohio River Locks and Dams, Huntington, WV	14,196,000
Ohio River Open Channel Work, Huntington, WV	1,833,000
R.D. Bailey Lake, WV	1,322,000
Stonwall Jackson Lake, WV	892,000
Summersville Lake, WV	1,476,000
Sutton Lake, WV	1,750,000
Tygart Lake, WV	1,078,000

Mr. Speaker, the funding for Beech Fork Lake in West Virginia and for East Lynn, R.D. Bailey, and Bluestone Lakes, will serve the needs of several flood control projects. The significant funding levels for the Ohio River Locks and Dams and for open channel work in Huntington, WV, are critically needed and I deeply appreciate their inclusion in H.R. 5373.

Again, let me express my strong support for H.R. 5373 and to congratulate my esteemed friend and colleague, TOM BEVILL, the distinguished chairman of the Energy and Water Appropriations Committee, and his able colleagues, for bringing back to us this conference agreement, containing vital continuation funding for critically needed flood control, navigation, operations and maintenance of water resources development projects throughout the United States.

I urge my colleagues to join with me in strong support of the conference agreement on H.R. 5373, and hope that the bill do pass.

Mr. EMERSON. Mr. Speaker, I rise today in strong support of the conference report to the energy and water development appropriations for fiscal year 1993, and I applaud the commendable job done by the Subcommittee on Water Development.

This bill provides crucial funding for the Department of Energy and the Department of the Interior's Bureau of Reclamation, as well as for the Corps of Engineers, in keeping our rivers, harbors, lakes, and coastlines safe and operational.

Moreover, this piece of legislation addresses an issue that remains of utmost importance to me and my constituents in the Eighth District of Missouri—this being flood control. Throughout my district, problems with flood control continue to hamper agricultural production and stifle economic development. However, no part of this country is invulnerable to the problem associated with water—whether it be too much or too little. This bill provides the needed funding for a number of critical flood control projects throughout the United States, as well as for rescue work, repair, and restoration to areas threatened or destroyed by floods.

I am pleased to see that this bill recognizes the many diverse needs relating to flood control and navigation, while acknowledging the fiscal restraints in which we find ourselves. I believe this bill is a further investment in improving our infrastructure, and I urge its passage.

Mr. DORGAN of North Dakota. Mr. Speaker, I voted against the conference report on Energy and Water because the conference added $483 million in spending for the super collider.

We voted earlier in the House to kill the spending for the super collider. But the conference has caved in to the Senate and allowed $483 million of additional spending for a project of questionable value.

Our country is $4 trillion in debt with a deficit this year of over $400 billion. We simply can't continue this kind of spending if we are going to make any progress to control these deficits.

I regret I cannot vote for this bill because there are some important projects in it including funding for the Garrison diversion project in North Dakota and many other useful and important projects. But my support for those parts of the bill is not justification for voting for $483 million more of spending for something that our country doesn't need.

Mr. BEREUTER. Mr. Speaker, this Member regretfully opposes the energy and water appropriations conference report for H.R. 5373 for fiscal year 1993. Although this conference report contains funding for many important projects—including projects that I have strongly supported, this Member cannot vote for its passage.

By including $517 million in funding for the superconducting super collider, conferees have totally ignored the mandate of the House to eliminate funding for this overbudget project which consumes far more than its fair share of precious science funds. In fact the amount of the appropriations exceeds the amount for the SSC in the bill originally brought to the House floor. It came to the House at a level of $484 million. The House rejected it by recorded vote but it came back to us at $517 million; that is outrageous. Therefore, this Member cannot support the energy and water appropriations conference report for fiscal year 1993, and I would refer back to my statements in opposition to the superconducting super collider as printed in the CONGRESSIONAL RECORD on June 17, 1992, at page 15171.)

CONFERENCE REPORT ON H.R. 5373, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1993

SPEECH OF

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. MINETA. Mr. Speaker, I rise today in strong support of the fiscal year 1993 Energy and Water Appropriations Conference Report. This conference report contains funding for some of northern California's most important flood control projects: the Gaudalupe River Project, the Coyote and Berryessa Creek projects, and the upper Guadalupe River plan.

For 50 years, Santa Clara Valley has tried to control the flooding of homes and businesses when the Gaudalupe River spilled over its banks. And for 50 years, the citizens of the valley have asked Congress for assistance to help control the river.

I've been working on this project for 25 years from the time I served on the San Jose City Council, through my 4 years as mayor, and today as a Representative in Congress. Had it not been for consistent support and help of our colleague, Mr. EDWARDS, throughout this time, the valley might be faced with another 50 years of flooding. But with the passage of this appropriations legislation, flood control is assured.

Part of the vision of flood control in the valley is beautiful parkland, a greenbelt for downtown San Jose. If Washington beancounters had had their way, San Jose would have been forced to build slabs of grey concrete where green grass and a public park will be. But this legislation will provide San Jose with the flood control its needs, and in a way that will enhance our public space.

Congress can take great pride in this victory. This conference report will help build the America we need for the 21st century. I urge the support of our colleagues for this legislation.

Mr. BEVILL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the conference report.

There was no objection.

MOTION TO RECOMMIT OFFERED BY MRS. VUCANOVICH

Mrs. VUCANOVICH. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the conference report?

Mrs. VUCANOVICH. In its present form, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mrs. VUCANOVICH moves to recommit the conference report on the bill, H.R. 5373, to the committee of conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BURTON of Indiana. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 245, nays 143, not voting 44, as follows:

[Roll No. 399]

YEAS—245

Abercrombie
Ackerman
Alexander
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Aspin
Bacchus
Baker
Barton
Bateman
Bentley
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bryant
Bunning
Bustamante
Byron
Callahan
Camp
Cardin
Carper
Carr
Chapman
Clinger
Coleman (TX)
Combest
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Derrick
Dickinson
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan (CA)
Downey
Durbin
Dwyer
Edwards (OK)
Edwards (TX)
Emerson
Engel
Erdreich
Espy
Evans
Fawell
Fazio
Fields
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gonzalez
Grandy
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Herger
Hertel
Hobson
Hochbrueckner
Hopkins
Houghton
Hoyer
Hubbard
Hughes
Hunter
Hyde
Inhofe
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Kolbe
Kopetski
Kyl
LaFalce
Lagomarsino
LaRocco
Laughlin
Leach
Lehman (CA)
Lewis (CA)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Mink
Mollohan
Montgomery
Moody
Moorhead
Moran
Morrison
Murtha
Myers
Nagle
Natcher
Nowak
Oakar
Oberstar
Olin
Ortiz
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ray
Regula
Rhodes
Rinaldo
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Rowland
Russo
Sabo
Sangmeister
Santorum
Sarpalius
Savage
Saxton
Schaefer
Schiff
Schulze
Serrano
Sharp
Shuster
Skaggs
Skeen
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (TX)
Stallings
Stenholm
Stokes
Sundquist
Swift
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Unsoeld
Vander Jagt
Visclosky
Volkmer
Walker
Walsh
Whitten
Williams
Wilson
Wise
Wylie
Yates
Young (AK)
Young (FL)

NAYS—143

Allard
Allen
Andrews (ME)
Armey
Ballenger
Barrett
Beilenson
Bennett
Bereuter
Blackwell
Boehlert
Bruce
Burton
Campbell (CA)
Clay
Clement
Coble
Coleman (MO)
Collins (IL)
Collins (MI)
Condit
Coughlin
Crane
Dannemeyer
Dellums
Dorgan (ND)
Dreier
Duncan
Dymally
Early
Eckart
Edwards (CA)
English
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Gillmor
Glickman
Goodling
Goss
Gradison
Gunderson
Hancock
Hastert
Hayes (IL)
Hefley
Hefner
Henry
Hoagland
Horn
Hutto
Jacobs
James
Johnson (TX)
Johnston
Jontz
Kanjorski
Klug
Kolter
Kostmayer
Lancaster
Lantos
Lent
Levin (MI)
Lewis (FL)
Lewis (GA)
Lipinski
Luken
Machtley
Markey
Martin
McCollum
McCurdy
McEwen
McGrath
McMillan (NC)
Mfume
Moakley
Molinari
Morella
Murphy
Neal (MA)
Neal (NC)
Nichols
Nussle
Obey
Olver
Orton
Owens (NY)
Oxley
Panetta
Patterson
Pease
Penny
Petri
Porter
Ramstad
Ravenel
Reed

Ritter
Roberts
Roth
Roukema
Roybal
Sanders
Sawyer
Schroeder
Schumer
Sensenbrenner
Shays
Sikorski
Sisisky
Slattery
Smith (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stark
Stearns
Studds
Stump
Swett
Synar
Tallon
Tanner
Upton
Valentine
Vento
Vucanovich
Waters
Waxman
Weldon
Wheat
Wolf
Wolpe
Wyden
Zeliff
Zimmer

NOT VOTING—44

Anthony
Applegate
Archer
Atkins
AuCoin
Barnard
Boxer
Broomfield
Campbell (CO)
Chandler
Conyers
Donnelly
Ewing
Fascell
Gingrich
Gordon
Hayes (LA)
Holloway
Horton
Huckaby
Ireland
Jones
Kennedy
Lehman (FL)
Levine (CA)
Manton
Marlenee
Mavroules
McCrery
Mrazek
Owens (UT)
Pelosi
Pickle
Richardson
Ridge
Riggs
Scheuer
Shaw
Solarz
Thomas (CA)
Traxler
Washington
Weber
Yatron

□ 1931

The Clerk announced the following pair:

On this vote:

Mr. Pickle for, with Mr. Washington against.

Mrs. COLLINS of Michigan, Mrs. COLLINS of Illinois, and Messrs. WYDEN, HEFNER, CLAY, SMITH of Oregon, MOAKLEY, and LANCASTER changed their vote from "yea" to "nay."

Mr. DORNAN of California and Mr. WILSON changed their vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER pro tempore (Mr. COX of Illinois). Pursuant to the order of the House of Wednesday, September 16, 1992, the amendments in disagreement and motions printed in the joint explanatory statement of the committee of conference to dispose of amendments in disagreement are considered as read.

The Clerk will designate the first amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 2: Page 2, strike out all after line 22 over to and including "building" in line 12 on page 7, and insert:

Los Angeles County Drainage Area Water Conservation and Supply, California, $200,000;

Rancho Palos Verdes, California, $400,000;

Miami River Sediments, Florida, $50,000;

Casino Beach, Illinois, $110,000;

Chicago Shoreline, Illinois, $400,000;

McCook and Thornton Reservoirs, Illinois, $2,000,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $170,000;

Mississippi River, Vicinity of St. Louis, Missouri, $250,000;

Ste. Genevieve, Missouri, $300,000;

Passaic River Mainstem, New Jersey, $3,000,000; and

Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, $1,000,000:

Provided further, That using $320,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the cost-shared feasibility study of the Calleguas Creek, California, project based on the reconnaissance phase analyses of full intensification benefits resulting from a change in cropping patterns to more intensive crops within the floodplain. The feasibility study will consider the agricultural benefits using both traditional and nontraditional methods, and will include an evaluation of the benefits associated with the environmental protection and restoration of Mugu Lagoon: *Provided further*, That using $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a cost-shared feasibility study for flood control at Norco Bluffs, California, based on flood related flows and channel migration which have caused bank destabilization and damaged private property and public utilities in the area: *Provided further*, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to expand the study of long-term solutions to shoaling problems in Santa Cruz Harbor, California, by incorporating the study of erosion problems between the harbor and the easterly limit of the City of Capitola, particularly beach-fill type solutions which use sand imported from within or adjacent to the harbor: *Provided further*, That using $210,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to include the study of Alafia River as part of the Tampa Harbor, Alafia River and Big Bend, Florida, feasibility study: *Provided further*, That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a feasibility study of the Muddy River, Boston, Massachusetts: *Provided further*, That using $50,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake feasibility phase studies for the Clinton River Spillway, Michigan, project: *Provided further*, That using $600,000 of the funds appropriated herein and $900,000 of the funds appropriated under this heading in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the St. Louis Harbor, Missouri and Illinois, project: *Provided further*, That using $4,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the Raritan River Basin, Green Brook Sub-Basin, New Jersey, project in accordance with the design directives for the project contained in Public Law 100–202: *Provided further*, That using $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to review and evaluate the plan prepared by the City of Buffalo, New York, to relieve flooding and associated water quality problems in the north section of the city and to recommend other cost-effective alternatives to relieve the threat of flooding: *Provided further*, That using $150,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake a reconnaissance study of the existing resources of the Black Fox and Oakland Spring wetland areas in Murfreesboro, Tennessee, and examine ways to maintain and exhibit the wetlands, including an environmental education facility: *Provided further*, That using $950,000 of the funds appropriated under this heading in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the Richmond Filtration Plant, Richmond, Virginia, project: *Provided further*, That using $2,800,000 of the funds appropriated herein, the Secretary of the Army is authorized, in partnership with the Department of Transportation, and in coordination with other Federal agencies, including the Department of Energy, to evaluate the results of completed research and development associated with an advanced high speed magnetic levitation transportation system and to prepare and present documents summarizing the research findings and supporting the resultant recommendations concerning the Federal role in advancing United States maglev technology: *Provided further*, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate the feasibility phase of the study of the Devil's Lake Basin, North Dakota and shall address the needs of the area for water management; stabilized lake levels, to include inlet and outlet controls; water supply; water quality; recreation; and enhancement and conservation of fish and wildlife: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize up to $100,000, within available funds, to initiate studies to determine the necessary remedial measures to restore the environmental integrity of the lake area and channel depths necessary for small recreational boating in the vicinity of Drakes Creek Park on Old Hickory Lake, Tennessee: *Provided further*, That using $500,000 of available funds, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate preconstruction engineering and design; and environmental studies for the Kaumalapau Harbor, Lanai, Hawaii project.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 2 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert:

Los Angeles County Drainage Area Water Conservation and Supply, California, $200,000;

Los Angeles River Watercourse Improvement, California, $300,000;

Rancho Palos Verdes, California, $400,000;

Miami River Sediments, Florida, $50,000;

Monroe County (Smathers Beach), Florida, $500,000;

Casino Beach, Illinois, $110,000;

Chicago Shoreline, Illinois, $600,000;

McCook and Thornton Reservoirs, Illinois, $3,500,000;

Lake George, Hobart, Indiana, $260,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $170,000;

Mississippi River, Vicinity of St. Louis, Missouri, $500,000;

Ste. Genevieve, Missouri, $750,000;

Passaic River Mainstem, New Jersey, $10,000,000; and

Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, $2,800,000: *Provided further*, That using $320,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the cost-shared feasibility study of the Calleguas Creek, California, project based on the reconnaissance phase analyses of full intensification benefits resulting from a change in cropping patterns to more intensive crops within the floodplain. The feasibility study will consider the agricultural benefits using both traditional and nontraditional methods, and will include an evaluation of the benefits associated with the environmental protection and restoration of Mugu Lagoon: *Provided further*, That using $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a cost-shared feasibility study for flood control at Norco Bluffs, California, based on flood related flows and channel migration which have caused bank destabilization and damaged private property and public utilities in the area: *Provided further*, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to expand the study of long-term solutions to shoaling problems in Santa Cruz Harbor, California, by incorporating the study of erosion problems between the harbor and the easterly limit of the City of Capitola, particularly beach-fill type solutions which use sand imported from within or adjacent to the harbor: *Provided further*, That using $210,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to include the study of Alafia River as part of the Tampa Harbor, Alafia River and Big Bend, Florida, feasibility study: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake a study of a greenway corridor along the Ohio River in new Albany, Clarksville, and Jeffersonville, Indiana, using $125,000 of the funds appropriated under this heading in Public Law 101–101 for Jeffersonville, Indiana, $127,000 of the funds appropriated under this heading in Public Law 101–514, and $250,000 of the funds appropriated under this heading in Public Law 102–104: *Provided further*, That using $450,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the development of a comprehensive waterfront plan for the White River in central Indianapolis, Indiana: *Provided further*, That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a feasibility study of the Muddy River, Boston, Massachusetts: *Provided further*, That using $50,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake feasibility phase studies for the Clinton River Spillway, Michigan, project: *Provided further*, That using $600,000 of the funds appropriated herein and $900,000 of the funds appropriated under this heading in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the St. Louis Harbor, Missouri and Illinois, project: *Provided further*, That using $3,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the Raritan River Basin, Green Brook Sub-Basin, New Jersey, project in accordance with the design directives for the project contained in Public Law 100–202: *Provided further*, That using $440,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to review and evaluate the plan prepared by the City of Buffalo, New York, to relieve flooding and associated water quality problems in the north section of the city and to recommend other cost-effective alternatives to relieve the threat of flooding: *Provided further*, That using $150,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake a reconnaissance study of the existing resources of the Black Fox and Oakland Spring wetland areas in Murfreesboro, Tennessee, and examine ways to maintain and exhibit the wetlands, including an environmental education facility: *Provided further*, That using $950,000 of the funds appropriated under this heading in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the Richmond Filtration Plant, Richmond, Virginia, project: *Provided further*, That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the study of the disposition of the current Walla Walla, Washington, District headquarters including preparation of the environmental assessment and design work associated with demolition of the building: *Provided further*, That using $2,800,000 of the funds appropriated herein, the Secretary of the Army is authorized, in partnership with the Department of Transportation, and in coordination with other Federal agencies, including the Department of Energy, to evaluate the results of completed research and development associated with an advanced high speed magnetic levitation transportation system and to prepare and present documents summarizing the research findings and supporting the resultant recommendations concerning the Federal role in advancing United States maglev technology: *Provided further*, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate the feasibility phase of the study of the Devil's Lake Basin, North Dakota, and shall address the needs of the area for water management; stabilized lake levels, to include inlet and outlet controls; water supply; water quality; recreation; and enhancement and conservation of fish and wildlife: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize up to $100,000, within available funds, to initiate studies to determine the necessary remedial measures to restore the environmental integrity of the lake area and channel depths necessary for small recreational boating in the vicinity of Drakes Creek Park on Old Hickory Lake, Tennessee: *Provided further*, That using $500,000 of available funds, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate preconstruction engineering and design; and environmental studies for the Kaumalapau Harbor, Lanai, Hawaii, project

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 3: Page 7, line 12, after "building" insert ": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to utilize up to $500,000, within available funds, to undertake a reconnaissance level study on flooding problems associated with the sanitary landfill on the Salt River Pima-Maricopa Indian Reservation in the vicinity of the Salt River, Arizona".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 3, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 4: Page 7, line 12, after "building" insert ": *Provided further*, That using $500,000 appropriated herein, to remain available until expended, the Secretary of the Army acting through the Chief of Engineers, is directed to continue preconstruction, engineering and design for the Kentucky Lock addition in accordance with the Report of the Chief of Engineers, dated June 1, 1992".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 4, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 6: Page 7, line 12, after "building" insert ": *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers is directed to use $5,000,000 of available funds to carry out the purposes of section 411 of Public Law 101–640".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 6 and concur therein with an amendment, as follows: In lieu of the sum named in said amendment, insert: "$1,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 7: Page 7, line 22, strike out "$1,235,502,000" and insert: "$1,233,937,000".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recedes from its disagreement to the amendment of the Senate numbered 7 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert: "$1,230,503,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 8: Page 7, line 25, strike "Fund" and insert: "Fund, for one half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the following projects: Mississippi River, Lock and Dam 13, Illinois and Iowa; Mississippi River, Lock and Dam 15, Illinois and Iowa; Illinois Waterway, Brandon Road, Dresden Island, Marseilles, and Lockport Locks and Dams, Illinois".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 8, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 9: Page 8, strike out all after line 3 to and including "projects" in line 13 on page 14, and insert:

O'Hare Reservoir, Illinois, $3,000,000;

Des Moines Recreational River and Greenbelt, Iowa, $1,000,000;

Red River Basin Chloride Control, Texas and Oklahoma, $6,000,000; and

Wallisville Lake, Texas, $500,000:

Provided further, That using $7,653,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the project to correct seepage problems at Beaver Lake, Arkansas, and all costs incurred in carrying out that project shall be recovered in accordance with the provisions of section 1203 of the Water Resources Development Act of 1986: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, shall expend $500,000 of the funds appropriated herein and additional amounts as required from previously appropriated funds to continue plans and specifications, environmental documentation, and the comprehensive hydraulic modeling necessary to achieve to the maximum extent practicable in fiscal year 1993 the project to restore the riverbed gradient at Mile 206 of the Sacramento River in California, for purposes of stabilizing the level of the river and establishing the proper hydraulic head to facilitate new fish protection facilities, the planning, design and implementation of which are integrally related to the planning, design and implementation of the project to restore the flood-damaged riverbed gradient: *Provided further*, That, using $660,000 in funds previously appropriated in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to develop a floodplain management planning model for the Yolo Bypass and adjacent areas as deemed appropriate, except, as provided in section 321 of Public Law 101–640, such funds shall not be subject to cost-sharing requirements. The one-time construction of operation and maintenance facilities shall be included as part of project costs with appropriate cost-sharing: *Provided further*, That using $4,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the San Timoteo feature of the Santa Ana River Mainstem, California, project: *Provided further*, That, using funds available in this Act or any previous appropriations Act, the Secretary of the Army shall undertake at Federal expense such actions as are necessary to ensure the safety and integrity of the work performed under Contract Number DACW05–86–C–0101 for the Walnut Creek, California, flood control project: *Provided further*, That using $700,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on project modifications for the improvement of the environment, as part of the Anacostia River Flood Control and Navigation project, District of Columbia and Maryland, under the authority of section 1135 of Public Law 99–662, as amended: *Provided further*, That using $3,000,000 of the funds appropriated under this heading in Public Law 101–514, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete real estate appraisals and make offers to willing sellers for the purchase of land at Red Rock Lake and Dam, Iowa, no later than October 31, 1993, in accordance with Public Law 99–190: *Provided further*, That with $22,500,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Barbourville, Kentucky, and the Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public law 96–367: *Provided further*, That with $20,565,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with Matewan, West Virginia, element of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland River project authorized by section 202 of Public Law 96–367: *Provided further*, That with $23,000,000 of prior year appropriations to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Lower Mingo County, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367: *Provided further*, That with $1,500,000 of the funds appropriated herein to remain available until expended, the Secretary of the army, acting through the Chief of Engineers, is directed to initiate and complete construction using continuing contracts construction of the Hatfield Bottom, West Virginia, element of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland River project authorized by section 202 of Pubic Law 96–367: *Provided further*, That with $1,195,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to expedite completion of specific project reports for McDowell County, West Virginia, Upper Mingo County, West Virginia, Wayne County, West Virginia, Upper Tug Fork Tributaries, West Virginia, Tug Fork, West Virginia, and Pike County, Kentucky: *Provided further*, That no fully allocated funding policy shall apply to construction of the Matewan, West Virginia, Lower Mingo County, West Virginia, Hatfield Bottom, West Virginia, Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland river project; and specific project reports for McDowell County, West Virginia, Upper Mingo County, West Virginia, Wayne County, West Virginia, Tug Fork Tributaries, West Virginia, Upper Tug Fork, West Virginia, and Pike County, Kentucky: *Provided further*, That using $7,700,000 of the funds appropriated herein and $4,300,000 of the funds appropriated in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to incorporate parallel protection along the Orleans and London Avenue Outfall Canals into the authorized Lake Pontchartrain and Vicinity, Louisiana, Hurricane Protection project and award continuing contracts for construction of this parallel protection to be cost shared as part of the overall project, not separately, in accordance with the cost sharing provisions outlined in Public Law 89–298 and Public Law 102–104. Therefore, agreements executed prior to 1 June 1992 between the Federal Government and the local sponsors for the authorized project shall suffice for this purpose and will not require any additional local cost sharing agreements or supplements: *Provided further*, That using $4,400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue design and construction of the Ouachita River levees, Louisiana, project in an orderly but expeditious manner including rehabilitation or replacement at Federal expense of all deteriorated drainage structures which threaten the security of this critical protection: *Provided further*, That the project for flood control, Sowashee Creek, Meridian, Mississippi, authorized by the Water Resources Development Act of 1986 (Public Law 99–662) is modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct the project with an expanded scope recreation plan, as described in the Post Authorization Change Report of the Chief of Engineers dated August 1991, and at a total project cost of $31,994,000 with an estimated first Federal cost of $19,706,000 and an estimated non-Federal cost of $12,288,000. The Federal share of the cost of the recreation features shall be 50 percent exclusive of lands, easements, rights-of-way and relocations: *Provided further*, That using $175,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to provide sewage disposal hookup for the Crosswinds Marina at the B. Everett Jordan Dam and Lake, North Carolina, project: *Provided further*, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the Feature Design Memorandum for Forest Ridge Peninsula Recreation Area at the Falls Lake, North Carolina, project: *Provided further*, That using $5,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the New York Harbor Collection and Removal of Drift, New York and New Jersey, project including the continuation of engineering and design of the remaining portions of the Brooklyn 2, Kill Van Kull, Shooters Island, Bayonne, and Passaic River Reaches, the completion of the design memoranda for the Arthur Kill, New York, and Arthur Kill, New Jersey, reaches, the continuation of construction on the Weehawken-Edgewater, New Jersey and Brooklyn 2A reaches, and the completion of construction on the Jersey City North 2 reach: *Provided further*, That using $2,000,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to pay such sums or undertake such measures as are necessary to compensate for costs of repair, relocation, restoration, or protection of public and private property and facilities in Washington and Idaho damaged by the drawdown undertaken in March 1992 by the United States Army Corps of Engineers at the Little Goose and Lower Granite projects in Washington: *Provided further*, That using not to exceed $2,000,000 of the funds appropriated herein for the Columbia River Juvenile Fish Mitigation, Washington project, the Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake advanced planning and design of modifications to public and private facilities that may be affected by operation of John Day Dam at minimum operating pool (elevation 257 feet): *Provided further*, That using $2,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed upon dissolution of the injunction by the United States District Court, to conduct the necessary engineering and design, and prepare the plans and specifications to resume construction of the Elk Creek Dam in Oregon: *Provided further*, That the Secretary of the Army is directed to permit the non-Federal sponsor of recreation facilities at Willow Creek Lake in Oregon to contribute, in lieu of cash, all or any portion of its share of the project with work in-kind, including volunteer labor and donated materials and equipment: *Provided further*, That with $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake further construction aspects of the Bethel, Alaska Bank Stabilization Project as authorized by Public Law 99–662 including but not limited to the installation of steel whalers and additional rock toe protection to the pipe pile, bulkheads and other areas vulnerable to collapse: *Provided further*, That no fully allocated funding policy shall apply to construction of the Bethel, Alaska Bank Stabilization Project and to the greatest extent possible the work described herein should be compatible with the authorized project: *Provided further*, That using funds made available in this Act or any previous appropriation Act, the Secretary of the Army shall construct a project for streambank protection along 2.2 miles of the Tennessee River adjacent to Sequoyah Hills Park in Knoxville, Tennessee, at a total cost of $600,000, with an estimated first Federal cost of $450,000 and an estimated first non-Federal cost of $150,000 and an estimated first non-Federal cost of $150,000: *Provided further*, That with $3,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers is authorized and directed to excavate the St. George Harbor entrance to 20 MLLW in accordance with the cost sharing provisions in Public Law 99–662.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The test of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the senate numbered 9 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert:

Kissimmee River, Florida, $8,000,000;
O'Hare Reservoir, Illinois, $3,000,000;
Des Moines Recreational River and Greenbelt, Iowa, $2,500,000;
Red River Basin Chloride Control, Texas and Oklahoma, $6,000,000;
Wallisville Lake, Texas, $500,000; and
LaConner, Washington, $870,000:

Provided further, That using $7,653,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the project to correct seepage problems at Beaver Lake, Arkansas, and all costs incurred in carrying out that project shall be recovered in accordance with the provisions of section 1203 of the Water Resources Development Act of 1986: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to base all economic analyses of the Sacramento River Flood Control (Deficiency Correction), California, project on the benefits of the entire project, rather than the benefits of individual increments of the project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, shall expend $500,000 of the funds appropriated herein and additional amounts as required from previously appropriated funds to continue plans and specifications, environmental documentation, and the comprehensive hydraulic modeling necessary to achieve to the maximum extent practicable in fiscal year 1993 the project to restore the riverbed gradient at Mile 206 of the Sacramento River in California, for purposes of stabilizing the level of the river and establishing the proper hydraulic head to facilitate new fish protection facilities, the planning, design and implementation of which are integrally related to the planning, design and implementation of the project to restore the flood-damaged riverbed gradient: *Provided further*, That using $660,000 in funds previously appropriated in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to develop a floodplain management planning model for the Yolo Bypass and adjacent areas as deemed appropriate, except, as provided in section 321 of Public Law 101–640, such funds shall not be subject to cost-sharing requirements. The one-time construction of operation and maintenance facilities associated with the Yolo Basin Wetlands, Sacramento River, California, project shall be included as part of project costs for the purposes of cost-sharing authorized by law: *Provided further*, That using $4,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the San Timoteo feature of the Santa Ana River Mainstem, California, project: *Provided further*, That using funds available in this Act or any previous appropriations Act, the Secretary of the Army shall undertake at Federal expense such actions as are necessary to ensure the safety and integrity of the work performed under Contract Number DACW05–85–C–0101 for the Walnut Creek, California, flood control project: *Provided further*, That using $700,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on project modifications for the improvement of the environment, as part of the Anacostia River Flood Control and Navigation project, District of Columbia and Maryland, under the authority of section 1135 of Public Law 99–662, as amended: *Provided further*, That using $3,000,000 of the funds appropriated under this heading in Public Law 101–514, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete real estate appraisals and make offers to willing sellers for the purchase of land at Red Rock Lake and Dam, Iowa, no later than October 31, 1993, in accordance with Public Law 99–190; *Provided further*, That with $22,500,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Barbourville, Kentucky, and the Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367; *Provided further*, That with $20,565,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Matewan, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367; *Provided further*, That with $23,000,000 of prior year appropriations to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Lower Mingo County, West Virginia, element of the Levisa and Tug Forks of the Big

Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367; *Provided further*, That with $1,500,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete construction, using continuing contracts, of the Hatfield Bottom, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367; *Provided further*, That with $1,195,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to expedite completion of specific project reports for McDowell County, West Virginia, Upper Mingo County, West Virginia, Wayne County, West Virginia, Upper Tug Fork Tributaries, West Virginia, Tug Fork, West Virginia, and Pike County, Kentucky; *Provided further*, That no fully allocated funding policy shall apply to construction of the Matewan, West Virginia, Lower Mingo County, West Virginia, Hatfield Bottom, West Virginia, Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project; and specific project reports for McDowell County, West Virginia, Upper Mingo County, West Virginia, Wayne County, West Virginia, Tug Fork Tributaries, West Virginia, Upper Tug Fork, West Virginia, and Pike County, Kentucky; *Provided further*, That using $400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Salyersville cut-through as authorized by Public Law 99-662, section 401(e)(1), in accordance with the Special Project Report for Salyersville, Kentucky, concurred in by the Ohio River Division Engineers on or about July 26, 1989; *Provided further*, That using $7,700,000 of the funds appropriated herein and $4,300,000 of the funds appropriated in Public Law 102-104, the Secretary of the Army, acting through the Chief of Engineers, is directed to incorporate parallel protection along the Orleans and London Avenue Outfall Canals into the authorized Lake Pontchartrain and Vicinity, Louisiana, Hurricane Protection project and award continuing contracts for construction of this parallel protection to be cost-shared as part of the overall project, not separately, in accordance with the cost-sharing provisions outlined in Public Law 89-298 and Public Law 102-104. Therefore, agreements executed prior to June 1, 1992, between the Federal Government and the local sponsors for the authorized project shall suffice for this purpose and will not require any additional local cost-sharing agreements or supplements: *Provided further*, That using $4,400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue design and construction of the Ouachita River levees, Louisiana, project in an orderly but expeditious manner including rehabilitation or replacement at Federal expense of all deteriorated drainage structures which threaten the security of this critical protection: *Provided further*, That the project for flood control, Sowashee Creek, Meridian, Mississippi, authorized by the Water Resources Development Act of 1986 (Public Law 99-662) is modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct the project with an expanded scope recreation plan, as described in the Post Authorization Change Report of the Chief of Engineers dated August 1991, and at a total project cost of $31,994,000 with an estimated first Federal cost of $19,706,000 and an estimated non-Federal cost of $12,228,000. The Federal share of the cost of the recreation features shall be 50 percent exclusive of lands, easements, rights-of-way and relocations: *Provided further*, That using $175,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to provide sewage disposal hookup for the Crosswinds Marina at the B. Everett Jordan Dam and Lake, North Carolina, project: *Provided further*, That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the Feature Design Memorandum for the Forest Ridge Peninsula Recreation Area at the Falls Lake, North Carolina, project: *Provided further*, That using $5,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the New York Harbor Collection and Removal of Drift, New York and New Jersey, project including the continuation of engineering and design of the remaining portions of the Brooklyn 2, Kill Van Kill, Shooters Island, Bayonne, and Passaic River Reaches, the completion of the design memoranda for the Arthur Kill, New York, and Arthur Kill, New Jersey, reaches, the continuation of construction on the Weehawken-Edgewater, New Jersey and Brooklyn 2 reaches, and the completion of construction on the Jersey City North 2 reach: *Provided further*, That using $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the project for flood control, Molly Ann's Brook, New Jersey, in compliance with cost-sharing provided in section 1062 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240): *Provided further*, That using $2,000,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to pay such sums or undertake such measures as are necessary to compensate for costs of repair, relocation, restoration, or protection of public and private property and facilities in Washington and Idaho damaged by the drawdown undertaken in March 1992 by the United States Army Corps of Engineers at the Little Goose and Lower Granite projects in Washington: *Provided further*, That using not to exceed $2,000,000 of the funds appropriated herein for the Columbia River Juvenile Fish Mitigation, Washington, project, the Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake advanced planning and design of modifications to public and private facilities that may be affected by operation of John Day Dam at minimum operating pool (elevation 257 feet): *Provided further*, That using $2,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed upon dissolution of the injunction by the United States District Court, to conduct the necessary engineering and design, and prepare the plans and specifications to resume construction of the Elk Creek Dam in Oregon: *Provided further*, That the Secretary of the Army is directed to permit the non-Federal sponsor of recreation facilities at Willow Creek Lake in Oregon to contribute, in lieu of cash, all or any portion of its share of the project with work in-kind, including volunteer labor and donated materials and equipment: *Provided further*, That with $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake further construction aspects of the Bethel, Alaska, Bank Stabilization Project as authorized by Public Law 99-662 including but not limited to the installation of steel whalers and additional rock toe protection to the pipe pile, bulkheads and other areas vulnerable to collapse: *Provided further*, That no fully allocated funding policy shall apply to construction of the Bethel, Alaska, Bank Stabilization Project and to the greatest extent possible the work described herein should be compatible with the authorized project: *Provided further*, That using funds made available in this Act or any previous appropriations Act, the Secretary of the Army shall construct a project for streambank protection along 2.2 miles of the Tennessee River adjacent to Sequoyah Hills Park in Knoxville, Tennessee, at a total cost of $600,000, with an estimated first Federal cost of $450,000 and an estimated first non-Federal cost of $150,000: *Provided further*, That with $3,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to excavate the St. George Harbor, Alaska, entrance to −20 MLLW in accordance with the cost-sharing provisions in Public Law 99-662.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 10: Page 14, line 13, after "projects" insert "*: Provided further*, That using $250,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to demolish and remove the India Point Railroad Bridge in the Seekonk River, Providence, Rhode Island as authorized by section 1166(c) of Public Law 99-662".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 10, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 11: Page 14, line 13, after "projects" insert ": *Provided further*, That with $600,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, to correct a design deficiency at the Falls Lake, North Carolina project, is authorized and directed to implement Plan 5 as described in the Design Memo Supplement dated November 1988, concurred in by the South Atlantic Division Engineer in March 1989, or any modifications to Plan 5 that would require raising the spillway only, or that minimize or eliminate the need for land acquisition by the Corps, provided such modifications are agreeable to the North Carolina Division of Water Resources and do not compromise the projected water supply levels, with cost sharing as prescribed in the referenced report for this design deficiency".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 11, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 17: Page 17, line 3, strike out all after "programs" over to and including "project" in line 10 on page 18, and insert ": *Provided*, That not to exceed $7,000,000 shall be available for obligation for national emergency preparedness programs: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use up to $1,200,000 of available funds to undertake high priority recreation improvements at the Skiatook Lake, Oklahoma project: *Provided further*, That using $1,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on measures needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River below Fort Peck Dam, Montana, as authorized by section 33 of the Water Resources Development Act of 1988: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to work with the U.S. Environmental Protection Agency to begin the immediate cleanup of the Ashtabula River, Ohio: *Provided further*, That using $600,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to update the project Master Plan for the Raystown Lake, Pennsylvania, project: *Provided further*, That, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to use up to $5,000,000 of available funds to undertake necessary maintenance of the Kentucky River Locks and Dams 5-14, Kentucky prior to transfer of such facilities to the Commonwealth of Kentucky pursuant to the Memorandum of Understanding executed in 1985 concerning the Kentucky River Locks and Dams 5-14: *Provided further*, That using $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to construct and maintain bank stabilization measures along the west bank of the Calcasieu River Ship Channel in Louisiana from mile 11.5 through mile 15.5".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate number 17 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert: *Provided further*, That $2,285,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreational facilities at Hansen Dam, California: *Provided further*, That $2,000,000 of the funds appropriated herein, to remain available until expended, shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreational facilities at Sepulveda Dam, California: *Provided further*, That using $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the repair and rehabilitation of the Flint River, Michigan, flood control project: *Provided further*, That $40,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the project for removal of silt and aquatic growth at Sauk Lake, Minnesota: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use up to $1,200,000 of available funds to undertake high priority recreational improvements at the Skiatook Lake, Oklahoma, project: *Provided further*, That using $1,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on measures needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River below Fort Peck Dam, Montana, as authorized by section 33 of the Water Resources Development Act of 1988: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is authorized to operate and maintain at Federal expense the Passaic River flood warning system element of the Passaic River Mainstem Project, New Jersey, prior to construction of the project, and using $350,000 of the funds appropriated herein, the Secretary shall operate and maintain such element: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to work with the U.S. Environmental Protection Agency of begin the immediate cleanup of the Ashtabula River, Ohio: *Provided further*, That using $600,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to update the project Master Plan for the Raystown Lake, Pennsylvania, project: *Provided further*, That using $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to plan, design, and dredge an access channel and berthing area for the vessel NIAGARA at Erie Harbor, Pennsylvania, in an area known as the East Canal: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to use up to $5,000,000 of available funds to undertake necessary maintenance of the Kentucky River Locks and Dams 5-14, Kentucky, prior to transfer of such facilities to the Commonwealth of Kentucky pursuant to the Memorandum of Understanding executed in 1985 concerning the Kentucky River Locks and Dams 5-14: *Provided further*, That using $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to construct and maintain bank stabilization measures along the west bank of the Calcasieu River Ship Channel in Louisiana from mile 11.5 through mile 15.5

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment is disagreement.

The text of the amendment is as follows:

Senate amendment No. 18: Page 18, line 10, after "project" insert ": *Provided further*, That the Secretary is directed during fiscal year 1993 to maintain a minimum conservation pool level of 475.5 at Wister Lake in Oklahoma".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein with an amendment, as follows: In lieu of "475.5" named in said amendment, insert: "475.6".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 19: Page 18, after line 14, insert:

None of the funds in this Act shall be used to identify or delineate any land as a "water of the United States" under the Federal Manual for Identifying and Delineating Jurisdictional Wetlands that was adopted in January 1989 (1989 Manual) or any subsequent manual not adopted in accordance with the requirements for notice and public comment of the rule-making process of the Administrative Procedure Act.

In addition, regarding Corps of Engineers ongoing enforcement actions and permit application involving lands which the Corps or EPA has delineated as waters of the United States under the 1989 Manual, and which have not yet been completed on the date of enactment of this Act, the landowner or permit applicant shall have the option to elect a new delineation under the Corps of 1987 Wetland Delineation Manual, or completion of the permit process or enforcement action based on the 1989 Manual delineation, unless the Corps of Engineers determines, after investigation and consultation with other appropriate parties, including the landowner or permit applicant, that the delineation would be substantially the same under either the 1987 or the 1989 Manual.

None of the funds in this Act shall be used to finalize or implement the proposed regulations to amend the fee structure for the Corps of Engineers regulatory program which were published in Federal Register, Vol. 55, No. 197, Thursday, October 11, 1990.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

None of the funds in this Act shall be used to identify or delineate any land as a "water of the United States" under the Federal Manual for Identifying and Delineating Jurisdiction Wetlands that was adopted in January 1989 or any subsequent manual adopted without notice and public comment.

Furthermore, the Corps of Engineers will continue to use the Corps of Engineers 1987 Manual, as it has since August 17, 1991, until a final wetlands delineation manual is adopted.

None of the funds in this Act shall be used to finalize or implement the proposed regulations to amend the fee structure for the Corps of Engineers regulatory program which were published in Federal Register, Vol. 55, No. 197, Thursday, October 11, 1990.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 21: Page 19, after line 4, insert:

"Funds are provided for the management and direction of the United States Army Corps of Engineers Civil Works Program, except that such funds shall not be used to close any district office of the Corps of Engineers. To futher a more efficient headquarters and division office structure, the Secretary may transfer not to exceed $7,000,000 from other appropriations under this title to be merged with, and remain available for the same time period as, this appropriation: *Provided*, That this appropriation shall not be increased by more than 5 per centum by any such transfers, and the Committees on Appropriations of the House and Senate shall be promptly advised of such proposed transfers.".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 21, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Amendment No. 22: Page 19, after line 22, insert:

GENERAL PROVISIONS

SEC. 101. Public Law 101-302 (104 Stat. 213) is amended by striking the words "to meet the present emergency needs" under the General Expenses appropriation title of Corps of Engineers—Civil.

SEC. 102. Any funds heretofore appropriated and made available in Public Law 99-88 for construction of facilities at the Mill Creek recreation area of the Tioga-Hammond Lakes, Pennsylvania, project; in Public Law 100-71 for initiation of land acquisition activities as described in section 1114 of Public Law 99-662; and in Public Law 101-101 for construction of the Satilla River Basin, Georgia, project, and for acquisition of an icebreaking boat and equipment for the Kankakee River, Illinois, project, may be utilized by the Secretary of the Army in carrying out projects and activities funded by this Act.

SEC. 103. The Secretary of the Army, acting through the Chief of Engineers is directed to maintain in caretaker status the navigation portion of the Fox River System in Wisconsin. The Assistant Secretary of the Army for Civil Works shall take over negotiations with the State of Wisconsin for the orderly transfer of ownership and operation of the Fox River Lock System to a nonfederal entity. These negotiations shall commence immediately, be conducted in good faith, and be completed as soon as possible. The terms of a negotiated settlement shall be presented to Congress immediately upon the completion of these negotiations. The settlement shall include provisions for both the logistics and timing of the transfer of the Lock System, as well as a negotiated recommendation for monetary compensation to the nonfederal entity for the repair and rehabilitation of damage and deterioration associated with all appropriate portions of the Fox River System which are being transferred.

SEC. 104. Notwithstanding the requirements of section 103 of Public Law 99-662, the projects for flood control, Moorefield, West Virginia, and Petersburg, West Virginia, authorized by section 101 of the Water Resources Development Act of 1990, are modified to provide that the local sponsors may satisfy the cost-sharing requirements of section 103 of said law by contributing after January 1, 1990, land or other assets unrelated to the project site, at its appraised value.

SEC. 105. None of the funds appropriated in this Act shall be used to implement the proposed rule for the Army Corps of Engineers amending regulations on "ability to pay" (33 CFR Part 241), published in the Federal Register, vol. 56, No. 114, on Thursday, June 13, 1991.

SEC. 106. Notwithstanding the provisions of Public Law 95-269, the Secretary of the Army is directed to place the Federal hopper dredge fleet, excluding the Essayons and the Yaquina which shall be stationed and operated within the jurisdiction of the North Pacific Division, in a standby status for a period of one year from the date of enactment of this Act and to make all the material scheduled to be dredged by the vessels placed in standby, available for competitive bidding by the private dredging industry. Notwithstanding the preceding sentence, the Secretary shall mobilize any standby vessels or any part of the Federal dredge fleet to respond to emergency or national defense needs, or if the Secretary determines that the private dredging industry cannot perform the scheduled dredging at a reasonable price and in a timely manner. No later than 24 months after the date of enactment of this Act, the Secretary shall submit a report to Congress evaluating the capability of the private dredging industry to perform the work of the Federal hopper dredges placed in standby status. The study shall include an analysis of the cost-effectiveness of having the private dredging industry perform such work; the incremental cost to the Federal Government of maintaining these vessels in a standby status; and the cost of retiring each vessel placed in standby status in this Act.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 22 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. Public Law 101-302 (104 Stat. 213) is amended by striking the words "to meet the present emergency needs" under the General Expenses appropriation title of Corps of Engineers—Civil.

SEC. 102. Any funds heretofore appropriated and made available in Public Law 99-88 for construction of facilities at the Mill Creek recreation area of the Tioga-Hammond Lakes, Pennsylvania, project; in Public Law 100-71 for initiation of land acquisition activities as described in section 1114 of Public Law 99-662; and in Public Law 101-101 for construction of the Satilla River Basin, Georgia, project, and for acquisition of an icebreaking boat and equipment for the Kankakee River, Illinois, project, may be utilized by the Secretary of the Army in carrying out projects and activities funded by this Act.

SEC. 103. The Secretary of the Army, acting through the Chief of Engineers, is directed to maintain in caretaker status the navigation portion of the Fox River System in Wisconsin. The Assistant Secretary of the Army for Civil Works shall take over negotiations with the State of Wisconsin for the orderly transfer of ownership and operation of the Fox River Lock System to a non-Federal entity. These negotiations shall commence immediately, be conducted in good faith, and be completed as soon as possible. The terms of a negotiated settlement shall be presented to Congress immediately upon the completion of these negotiations. The settlement shall include provisions for both the logistics and timing of the transfer of the Lock System, as well as a negotiated recommendation for monetary compensation to the non-Federal entity for the repair and rehabilitation of damage and deterioration associated with all appropriate portions of the Fox River System which are being transferred.

SEC. 104. The requirements of section 103(a)(1)(A) of the Water Resources Development Act of 1986 (33 U.S.C. 2213), as pertains to the Moorefield and Petersburg, West Virginia, flood protection projects, are deemed satisfied, in consideration of the transfer of Grandview State Park by the State of West

Virginia to the National Park Service for inclusion in the New River Gorge National River.

SEC. 105. None of the funds appropriated in this Act shall be used to implement the proposed rule for the Army Corps of Engineers amending regulations on "ability to pay" (33 CFR Part 241), published in the Federal Register, vol. 56, No. 114, on Thursday, June 13, 1991.

SEC. 106. In fiscal year 1993, the Secretary shall advertise for competitive bid at least 7,500,000 cubic yards of the hopper dredge volume accomplished with government-owned dredges in fiscal year 1992.

Notwithstanding the provisions of this section, the Secretary is authorized to use the dredge fleet of the Corps of Engineers to undertake projects when industry does not perform as required by the contract specifications or when the bids are more than 25 percent in excess of what the Secretary determines to be a fair and reasonable estimated cost of a well equipped contractor doing the work or to respond to emergency requirements.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 27: Page 23, line 20, after "$48,000,000" insert: *Provided further*, That pursuant to Section 406(c)(2) of Public Law 101-628, the Secretary of the Interior is directed to reimburse, in an amount not to exceed $800,000, the City of Prescott, Arizona for funding advanced by Prescott, Arizona to the Bureau of Reclamation for hydrological studies required by Section 406(c)(1) of Public Law 101-628".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows:

In lieu of the matter inserted by said amendment, insert ": *Provided further*, That pursuant to section 406(c)(2) of Public Law 101-628, the Secretary of the Interior is directed to reimburse, in an amount not to exceed $800,000, the City of Prescott, Arizona, for funding advanced by Prescott, Arizona, to the Bureau of Reclamation for hydrological studies required by section 406(c)(1) of Public Law 101-628: *Provided further*, That the prohibition against obligating funds for construction until after sixty days from the date the Secretary transmits a report to the Congress in accordance with section 5 of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is waived for the Bitter Root Project, Como Dam, Montana, to allow for an earlier start of emergency repair work".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 31: Page 25, line 20, strike out "$5,060,000" and insert: "$6,000,000".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert: "$8,000,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 34: Page 30, after line 5, insert:

"None of the funds made available in this Act may be expended to implement the transfer of title or ownership of the Central Valley Project to the State of California, unless subsequently authorized by Congress.".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 34 and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

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The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The test of the amendment is as follows:

Senate Amendment Number 35: Page 32, after line 13, insert:

"SEC. 206. Subsection (a) of section 7 of the Federal Water Project Recreation Act (79 Stat. 216 16 U.S.C. 4601-18) is amended by deleting the Proviso from the first sentence and by changing the semicolon after the word purposes to a period.".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 35 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"SEC. 206. Subsection (a) of section 7 of the Federal Water Project Recreation Act (79 Stat. 216 16 U.S.C. 4601-18) is amended by deleting the Proviso from the first sentence and by changing the colon after the word "purposes" to a period.".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 36: Page 32, after line 13, insert:

"SEC. 207. Utilizing processes required under the National Environmental Policy Act, the Secretary of the Interior is directed to conduct a formal analysis, by no later than March 31, 1994, of alternatives for the design, construction, and operation of the Sykeston Canal as a functional replacement for Lonetree Reservoir, pursuant to section 8(a)(1) of Public Law 89-108, as amended by the Garrison Diversion Reformulation Act of 1986, Public Law 99-294. The resulting Definite Plan Report/Environmental Impact Statement shall be utilized by the Secretary for the development of a Record of Decision which is to contain the Secretary's recommendation for proceeding with the final design and construction of the Sykeston Canal, consistent with the provisions of the Garrison Diversion Reformulation Act, the National Environmental Policy Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, and the Boundary Waters Treaty of 1909. For purposes of this section, the Secretary shall take into account the results of studies conducted by the Secretary of the Army with respect to the stabilization of Devils Lake, North Dakota.".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 36, and concur therein.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 37: Page 33, line 4, strike out all after "only)," down to and including "research" in line 9 and insert "$2,971,583,000, to remain available until expended, of which $300,000 shall be available only for planning funds for the Bishop Science Center, State of Hawaii; the Ambulatory Research and Education Building, Oregon Health Sciences University; and the Center for Energy and Environmental Resources, Louisiana State University, Baton Rouge, Louisiana, and of which $4,000,000 shall be derived by transfer from the Geothermal Resources Development Fund".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 37 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert "$3,015,793,000 to remain available until expended, of which $94,800,000 shall be available only for the Bishop Science Center, State of Hawaii; the Ambulatory Research and Education Building, Oregon Health Sciences University; the Center for Energy and Environmental Resources, Louisiana State University, Baton Rouge, Louisiana; the Advanced Technologies Institute, University of Connecticut; the Biomedical Research Facility, University of Alabama at Birmingham; the Cancer Treatment Facility for the Indiana University School of Medicine at Indianapolis, Indiana; the Cancer Institute of New Jersey; the Northeast Environmental Resource and Renewal Facility, Mayfield, Pennsylvania; Center for Advanced Industrial Process, Washington State University, Washington; and the Hahnemann University Ambulatory Care and Teaching Center in Philadelphia, Pennsylvania.".

Mr. BROWN. Mr. Speaker, I am opposed to the motion and I ask for 20 minutes of the time allotted for debate.

The SPEAKER pro tempore (Mr. COX of Illinois). Is the gentleman from Indiana [Mr. MYERS] opposed to the motion?

Mr. MYERS of Indiana. Mr. Speaker, I am not opposed.

The SPEAKER pro tempore. The gentleman from Alabama [Mr. BEVILL] will be recognized for 20 minutes, the gentleman from California [Mr. BROWN] will be recognized for 20 minutes, and the gentleman from Indiana [Mr. MYERS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Alabama [Mr. BEVILL].

Mr. BEVILL. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California [Mr. BROWN].

Mr. BROWN. Mr. Speaker, may I say at the outset that I am profoundly apologetic to my good friends, the gentleman from Alabama [Mr. BEVILL] and the gentleman from Indiana [Mr. MYERS] for interrupting the smooth flow of this legislation.

As I indicated earlier during general debate, I support this bill and the conference report.

I have, of course, an understanding that it represents a compromise in many ways, but on this particular issue, represented by amendment No. 37, I have been making a personal crusade for a number of years to change the situation, and I will explain what is represented here.

I do not feel in good conscience that I can let this amendment in this bill go through without making it clear to all the Members why I am opposed to this particular amendment. I beg the indulgence of my friends for doing this. I recognize that the hour is late and they desire to go home and this troubles me, but I want to make clear the position I am taking here.

Mr. Speaker, this is the language of the amendment which Chairman BEVILL's motion proposes to accept. It is that $94,800,000 shall be available—of a larger $3 billion item—shall be available only for the Bishop Science Center, State of Hawaii; the Ambulatory Research and Education Building, Oregon Health Sciences University; the Center for Energy and Environmental Resources, Louisiana State University, Baton Rouge, LA; the Advanced Technologies Institute, University of Connecticut; the Biomedical Research Facility, University of Alabama; the Cancer Treatment Facility for the Indiana University School of Medicine at Indianapolis; the Cancer Institute of New Jersey; the Northeast Environmental Resource and Renewal Facility, Mayfield, PA; the Center for Advanced Industrial Process, Washington State University; and the Hahnemann University Ambulatory Care and Teaching Center in Philadelphia.

With a minor exception or two, each of these is allocated $10 million. In the House-passed bill, there was no money for any of these. In the Senate-passed bill, there was only $300,000 to study them. In the conference report, that $300,000 study has grown to the figure that I mentioned, $94,800,000 for 10 carefully described projects scattered throughout the United States.

It is this process by which unreviewed, unrequested projects are inserted into the conference that I have been objecting to for years without avail. It is such a serious matter that I have even proposed to the various committees studying the rules of the House that we revise the rules of the House to make this more difficult.

Now, I understand why they are in there. Somebody requested them. Most of those somebodies were on the Appropriations Committee.

They are worthy projects. I am not arguing with the merits of them, but nobody has reviewed the merits of them, except the person who suggested them to the appropriations conference committee.

They did not come up in the original bill in either House, as I have indicated before.

Mr. Speaker, this process is wrong. This process denies the Members of the House who are not on the Appropriations Committee any opportunity to secure worthy projects through the normal processes of authorization, peer review and so on.

Now, I know that many times those of us on authorization committees go to the Appropriations Committee and ask them to do things like this. I have been guilty of it myself. None of us are without sin; but to refuse to confront the reality that this is a distortion of the democratic process is wrong.

I think the only way I can make that point is to do what I am doing here today. I apologize again for delaying this bill, but I think it is absolutely essential that we do this.

Now, I would be happy at this point to recognize any other sinner who would like to confess and take a few moments of time on this matter.

Mr. FAWELL. Mr. Speaker, will the gentleman yield?

Mr. BROWN. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I commend the gentleman from California very much.

What we have here is $94.8 million of the taxpayers' money being added and appropriated by a conference committee for 10 new—and it is described this way—energy, educational and/or medical facilities, when neither the House nor the Senate bill which went into conference contained any such appropriations.

Now, obviously no authorizing committee ever reviewed them, or so far as I know, no authorizing committee has ever even heard of these 10 new building projects or facilities. Nobody really knows specifically what they are about. There has been no peer review, no competitive bidding, and especially in science and technology this, I think, is where we should certainly draw the line.

Mr. Speaker, we do have pork that has creeped in; yet the taxpayers are expected to pay for them without the rest of Congress even knowing what the specific kinds of facilities are that are being purchased, or their respective merits.

Officeholders of any local government will be run out of town if they tried this kind of irresponsible behavior. I am a former attorney of many local taxing districts. It is just unheard of that you would take the taxpayers' money and at the last minute in a conference committee where neither bill had any mention of any such construction projects or facilities, whatever they are, and then to plug them in at the last minute and expect the rest of us to accept it, especially at this time in the history of this Nation. I am not going to go over all the problems of the deficit. We're all aware of the burgeoning $4 trillion debt.

□ 1950

But for the conference committee to add these appropriations at this time I think would be terribly unreasonable, and the people of this Nation certainly will have a right, once again, to chalk up a good grievance against this body.

Now I defer, certainly, to the gentleman from California [Mr. BROWN]. He is the chairman of the Committee on Science, Space, and Technology. I, frankly, had hoped he would have presented an amendment that would simply delete all of these appropriations altogether, and the gentleman, in his good nature and the sound person that he is, has suggested that, well, the money will still be appropriated, but it will go on the basis of peer review, on the basis of authorization, and on the basis of study and competitive bidding, via the authorizing committees of this body and if not the appropriations—totaling $94.8 million will simply lapse.

Well, if we are going to spend that kind of money, that is the way it ought to be, and this is no attack upon the projects themselves. Maybe they will live up to, and survive the regular committee process, and ultimately be approved.

Mr. BROWN. Mr. Speaker, the gentleman from Illinois [Mr. FAWELL] raised a subject that I neglected to cover in my initial remarks.

Procedurally, Mr. Speaker, it is necessary, under these circumstances, as I understand it, and I ask for a correction if I am wrong, to defeat the chairman's, the gentleman from Alabama [Mr. BEVILL], motion for the previous question when we complete this debate in order that I may offer a motion to amend, and my motion to amend will not strike the money, although the gentleman from Illinois [Mr. FAWELL] indicated that he would have preferred that. It will merely have the following language. It will strike all of the earmarks and insert in lieu thereof: Making competitive merit review awards to academic research facilities to the extent otherwise authorized by law.

In other words, Mr. Speaker, the money remains, the projects can go forward, if they are authorized and peer reviewed, and the overall amount of money in the bill will remain the same.

Now I think that was the least difficult, most positive way to deal with this problem, and I hope that the chairman in his generosity would accept this amendment. But I doubt he will.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman from California [Mr. BROWN] for yielding this time to me.

Mr. Speaker, this is actually a pretty good bill overall. It is within the President's spending limit, and it is having good effect on the Congress to deal with that kind of thing. It also follows the House authorization on energy R&D priorities fairly honestly, with the exception of the amendment we are dealing with here. It provides a critical boost for some hydrogen research which I think is one of the energies of the future, and I think that is a good thing. It funds some important futuristic programs like SP-100 and some others, and, as a matter of fact, the bill is, in my mind, good enough.

Mr. Speaker, I voted for it. I do not vote for many bills of this type, and I voted for this one. It is kind of unusual. But I will tell my colleagues that I think the moderate approach which the gentleman from California [Mr. BROWN] has taken on this particular amendment is exactly right.

What we have here is another process where, not only have they authorized a bunch of projects and appropriated the money at the same time without any kind of review of those projects, but they have also taken the bill well out of scope.

Now this bill is about, in this particular section, $150 million out of scope because of the additions that were put in in the conference. We have projects that are not authorized. We have had no hearings on these projects in our committee, or in any committee, authorizing committee. Some of us have never even heard of these projects. We do not know if they are good projects or not. We are going to spend $95 million for some projects that seem to have as their main merit that somebody on the conference committee got $10 million for their project, and everybody else took $10 million for theirs.

Mr. Speaker, that is not the way to get good science done in this country, and I would suggest that the chairman, the gentleman from California [Mr. BROWN], has given us the right approach. What he is saying is, "Let's keep the money. Let's say that the money should go for good projects. But let's make certain the projects are good by having them reviewed. Let's have an authorization project where they get reviewed, or let's have a merit review process. But let's make certain that the $95 million that we're spending for these projects buys us good projects."

Mr. Speaker, we have no assurance of that here this evening. Support Chairman BROWN. He is going in the right direction.

Mr. BROWN. Mr. Speaker, I think I understand the tactics of the gentleman from Alabama [Mr. BEVILL] and the gentleman from Indiana [Mr. MYERS]. I understand their desire to move the bill as quickly as possible and to use the minimum amount of time that they desire. And of course I would like to cooperate with them on this in every way that I can.

I am not anxious to delay this either, but I would like to have every Member here clear as to the procedure, and, after I clarify that, I will yield to the gentleman from Minnesota [Mr. PENNY] for a brief time.

In order to get to my amendment, Mr. Speaker, it will be necessary to defeat a motion for the previous question on the amendment before us offered by the gentleman from Alabama, and I am, therefore, requesting all of the Members to vote "no" on the previous question. If the previous question is defeated, I will then offer my amendment, not to strike the money, but merely to say that the specific earmarks are removed and the funds will be allocated according to a peer review process.

Mr. Speaker, I want that to be clear in the minds of all the Members.

Mr. Speaker, I yield 1 minute to the distinguished gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, this is a classic example of pork barrel spending. Items show up in a conference report that were not specifically funded, neither in the House, nor the Senate, version of this legislation. The gentleman from California [Mr. BROWN] has eloquently made the case for striking these projects. Voters want their elected leaders to stop with politics as usual. I understand not even one of the conference committee members found this particular provision objectionable.

The bottom line, Mr. Speaker, is we should all object to this kind of practice, especially at this time when we are trying to convey to the American public that we are finally taking this deficit more seriously, and for that reason, Mr. Speaker, I would urge support for the motion offered by the gentleman from California [Mr. BROWN].

Mr. BEVILL. Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I would take issue with the last speaker, the gentleman from Minnesota [Mr. PENNY], and say this is not politics as usual. This is the exact opposite.

I can remember sitting in this hall a year ago when the President gave us his State of the Union message, and he talked about the new world order. He talked about how things had changed, and at that time he thanked the men and women in uniform, as he should, for what they had done to bring about the collapse of the Soviet Union and the end of the cold war. And he also thanked the taxpayers, as he should have, for paying for the weaponry that were deterrents so that we never would have that terrible nuclear war that we so dreaded. But not a word, not anything, no plan, not even a line, let alone a paragraph, about how we were going to deal in this new world order, how we were going to keep our skilled workers, the highly trained individuals who had given their adult life to make these weapons is their life work, and how they would go on to pay the mortgage, to take care of their families, to educate their children.

So, yes, there are some projects in this bill tonight. The gentleman from Alabama [Mr. BEVILL], the chairman, of course would not let projects that were not worthwhile into his bill. Every one of us on both sides of the aisle know that the days of the Lawrence Welk projects are over, pork is over. But we have to begin to fight back to keep our skilled workers employed. Most of these projects are university projects. These are projects, and I will speak to particularly the one that I am interested in Connecticut. I am proud to say I am interested in it for it will retrain our engineers and provide needed high-skill jobs.

Mr. Speaker, Connecticut is a small State, but the fourth State dependent on defense and it made our Nation strong so that we could win that cold war. This project is a provision manufacturing institute, a joint effort of the schools of engineering and business, an institute of materials and science. The goal is to advance precision manufacturing and technology. The Advanced Technology Institute at our University of Connecticut will help the economy of New England rebound through this time of change, but, more importantly, is the only research and development center in Connecticut and one of the few in the Nation.

□ 2000

Mr. Speaker, we have to fight back. We have to keep our trained workers, our skilled workers employed for new challenges. We have to do new and innovative things in high technology so that we will remain and continue to be the Nation that everyone looks to for technology and as a world order. We cannot do it unless we pay for it. We pay for it in this way with university research because we have to go on to excel in high technology and continue as a proud Nation.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the words "peer review" have been thrown around here rather frequently this evening. What do they mean? How many Members have examined the peer review process we are discussing here?

What it really means is that a group of college presidents, in most cases, or maybe professors, get together and decide among themselves which university will get money. Part of it is corporate money, and I have no objection to the peer review process there. If it is corporate money or privately raised money, of course, they are the ones that should decide where that money goes.

What we are doing here with your money, the taxpayers' money, is deciding that these universities, which may not be one of the 20 or 30 or 40 most prestigious universities in the country, who are standing in need of funds like this to do the job we are providing for here.

Let us look at what this money does. It is not money to operate these facilities. It is construction money to build a facility. The university will then use that peer process to decide what shall be done in those universities in their research. All of the money for these universities is for research.

Let us examine just what this is. We have the environment. Certainly I think every Member here is concerned about the environment. Some may be more than others. But one of these projects is to help study the environment, how we may work and still protect the environment. How we can do a better job to be competitive in the world.

One out of four people in this country living today will personally experience cancer sometime in their life. One out of nine women will experience breast cancer. Those numbers are growing. Heart disease is the largest killer of people in this country, much higher than AIDS and all of these other things. These are things that would be done in one of the university projects.

Cancer has touched everyone in this room either directly through their own family, a very close friend, or some other family member.

Research for things like this is going to make life easier. We do not know the answer yet for cancer. We do not know what causes it. We have found some cures for cancer, fortunately. Some types of cancers can be cured. But not because someone did not make an investment. And this is what we are doing here.

We did not go through this willy-nilly. It is true we did not have any research dollars or any money for these facilities in our bill that passed the House. It was austere. The other body added certain projects.

But we examined these very closely, and we concurred with them. We are arguing today that they should be protected.

Technology transfer. We are still on the leading edge in the world as far as technology and development. Better ways to manufacture, building a better product so that we can be competitive with the rest of the world.

But somehow we do not transfer that technology out to industry or businesses so they can use it. Part of these research dollars will go for technology transfer so that American workers can be competitive in the rest of the world.

The gentleman from Illinois [Mr. FAWELL] mentioned that he would run people out of local government if they did something like this.

I never served in local government, but I have been helping other county commissioners. And if a county commissioner wants to build a new bridge, I do not think he goes to a college professor or a college president to decide where that bridge shall be built or how it shall be built. They have to raise the money; they decide how it is spent. That is exactly what we are doing here.

The word "futuristic" was used by the gentleman from Pennsylvania [Mr. WALKER]. What are we describing here? The future of our children, so we can find jobs for them, so we can protect their health, so we can do the things that we were not able to do. These are the futuristic things that this committee is bringing forth here now, and we have examined them.

To my conservative friends—well, I do not see many of them on the floor right now—but to my conservative friends who are concerned about balancing the budget, we are not saving one penny here.

The amendment of the gentleman from California [Mr. BROWN], our friend, if he is successful, will offer an amendment to keep the money in, but turn the decision over which one of these projects shall be built and where they shall be built to someone else who does not raise the money.

Let us take one last thing here. Back in 1985, 20 universities received more than 55 percent of the money through the peer review process. Most of those universities are under examination right now for fraudulent use of the peer process money that they received.

So we are not protecting anything here. If we were, we would all be supporting it. I would certainly be leading the pack here today.

In closing, we are not saving one penny by the amendment of the gentleman from California [Mr. BROWN]. It is going to be spent, except it is going to be spent somewhere else in the country. And some process at some elite college someplace, the same people making the decisions there are controlling where the dollars are going. And it is going to be their universities that get it.

So please support the motion of the gentleman from Alabama [Mr. BEVILL]. That is the proper way to administer the funds that we have here in this program.

Mr. Speaker, I reserve the balance of my time.

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of my motion and urge a vote for it. I would like to point out that the proposed amendment does not strike the money; it strikes the projects. In other words, what it does is lets the administration decide what to do with the money.

I think Congress ought to make that decision. I think we should make that decision. I do not think we should give that right to someone else.

Mr. Speaker, we hear all about this peer system. I can tell you about the peer system. The late Dr. Frank Rose, the president of the University of Alabama, used to be one of the peers. He told me, "I will tell you how the peer system works. Universities that have the peers are the ones that get the projects, and they are the ones that make the decisions."

I do not think we should pass this out and tell someone else to make the decisions that Congress should make. This is our decision.

The committees of the two houses have agreed on these projects. I know one, the University of Alabama, is to complete a science research building with laboratory equipment. That is the same campus that developed the world's first artificial artery, a plastic artery that made it possible to save thousands and thousands of lives all over the world. This was the first in the world.

I am so glad we did not have at that time, the rule of my good friend, the gentleman from California [Mr. BROWN], which he wants to put in here.

As a matter of fact, this is the process we have followed for over 100 years. There is a good reason for this. Many of the requests that we get on appropriations, come from members of the authorization committees. We receive requests from the chairmen of the authorizing committees for one reason or the other, maybe the other body would not go along with their particular project, they come and say would you put this project on your appropriation bill.

This building is critical to my university.

Certainly that is a one-time expenditure. So we do this. These are projects that do not have an authorization.

Certainly, we go before the Committee on Rules. We go through this. They give us a rule on these matters.

So we are asking Members to let us let this Congress make those decisions. Support your committees. Do not get into this peer business and do not get into this business of letting the administration decide where these projects are going to go.

The money is going to be in here. This does not knock out the money. I just want to call that to the attention of Members.

Mr. Speaker, I would appreciate an aye vote on my motion.

Mr. BROWN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have deliberately refrained in my discussion here from questioning the value of any of these 10 projects. I know that they are very dear to the hearts of the Members who sponsored them. I do not question the motives of any of the Members who have suggested those projects. I regret that the distinguished chairman inadvertently, I am sure, misstated my amendment, which requires that these projects be authorized.

The fundamental law with regard to the Department of Energy states that all appropriations shall be made in accordance with annual authorizations. Annual authorizations are the only way that Members of Congress have a voice in these projects.

My amendment does not turn this over to the department or the administration. It requires that we abide by the law requiring authorizations.

☐ 2010

The gentleman from Alabama [Mr. BEVILL] will point out quite correctly that we have not passed such authorizations recently. I have had long discussions with him and with the distinguished chairman of the counterpart subcommittee in the Senate, suggesting that we cooperate in getting authorizations.

I regret to say that I have been met by a stone wall with regard to that. The distinguished chairman in the other body says it is a prerogative of the Senate in accordance with their rules to do what we see done on this bill.

Now, is it fair to the Congress that of these 10 projects, they go to eight States and that seven of these States have important members on the Committee on Appropriations in either the House or the Senate? Is that allowing the Congress, the Members of the Congress an opportunity to participate in this process?

There is no person I have higher respect for than the distinguished gentleman from Alabama. He is right when he says that he is forced into doing some of the things that he is doing. He did not originate these projects. They were originated largely in the other body.

We have not passed an authorization, but this House passed the Organic Act requiring annual authorizations, and this year passed the Department of Energy bill, which in part came from the committee that I have the honor to chair, which required that there be authorizations.

And the conferees on the other side have refused to agree to that provision in the House-passed bill. The House has spoken. They want authorizations. But we cannot get them for a variety of reasons that we do not need to go into here tonight. But it is not true to say that my amendment proposes to turn this over to anybody except those disenfranchised Members of the House who today have no voice in the way these projects are established.

There is no partisanship in this. I have carefully looked at the names of the Members that I think I can identify with these projects, and they are about half Democrats and half Republicans.

Mr. FAWELL. Mr. Speaker, will the gentleman yield?

Mr. BROWN. I yield to the gentleman from Illinois.

Mr. FAWELL. Mr. Speaker, may I just add one point. I know it is late.

Think of the precedent that we will be setting tonight. We all know what has happened. Some privileged Members sitting on a conference committee feel they can just take these types of liberties with the taxpayers' money, when we do not have the slightest idea as to what it is for. They are not even identified. Everybody gets $10 million except for two, right down the line. We do not even know if it is the beginning of a big construction project or a little construction project.

If ever we are going to take a stand, it should be here. We are not going to take the money away. We only say, use the rules of the Congress, some semblance of fairness.

Do not set a precedent where we just simple say, "This can happen, every conference committee, don't worry, you can break the rules of relevancy or whatever," and come back and expect us to put a stamp on it.

Congress has to stand up once in a while and say, "No, we will not stand for this."

Mr. BROWN. Mr. Speaker, let me conclude by repeating what I just said. We are not turning over our responsibilities to anybody else. We are redeeming our responsibilities as equal Members of the House of Representatives and demanding that we have a voice provided by laws that we have passed, to have a voice in what is going on on this matter.

It is not trivial. This has been going on over a decade. The total amount of earmarks in the annual appropriations is not just this $95 million. It approaches a half a billion dollars or more.

It is truly significant. It is truly important that we as individual Members of this House have a voice in how the taxpayers' money is spent and that it be spent in order to achieve the public objectives as determined by the public's representatives.

I ask for a "no" vote on the motion to terminate debate and a "yes" vote on my amendment.

Mr. MYERS of Indiana. Mr. Speaker, I yield myself such time as I may consume.

Listening to the arguments, I have come to the conclusion there is just one question here: Who constitutes the peer? Was it this committee or some other committee of this Congress? That is the only argument we have here tonight.

Members of this committee were elected by the people, just like the authorizing committees are. We have used our judgment. We have examined them, same as the authorizing committees.

We never criticize the authorizing committees. I understand the peer question they raise here tonight. I think we all do. But that is an old issue.

Mr. Speaker, I yield back the balance of my time.

Mr. BEVILL. Mr. Speaker, I yield myself such time as I may consume.

I am not going to use all my time. I just want to urge my colleagues to vote aye on my motion.

We have this come up frequently. We work with the authorization committees. We do get a vote on this. The rules require a vote. We want a vote. We want our colleagues to vote on it. We are not trying to slip anything through.

The other body is going to vote on it. So nobody is getting harmed. But the authorization committees, for one reason or another, frequently, do not pass an authorization bill that reaches the President's desk.

We have projects that we need throughout the country. We cannot sit back and let only the peers decide what we need.

I am just telling my colleagues, that system does not work. It is up to them. This is their vote. This is their privilege, and it should be. Nobody wants anything slipped through without their vote.

I just think that we ought to give a chance to those young men and women, those bright young men and women out there that want to go into science. Let us not discourage it. Let us encourage them and furnish them the labs and the places to work. This is what it is all about.

Every one of these projects is related to and part of the lab work in this country. We need these projects.

I urge my colleagues to vote aye on my motion.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The SPEAKER pro tempore (Mr. COX of Illinois). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BEVILL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present. The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 157, nays 203, not voting 72, as follows:

[Roll No. 400]

YEAS—157

Abercrombie
Ackerman
Anderson
Andrews (NJ)
Applegate
Baker
Barton
Bateman
Bentley
Berman
Bevill
Bilbray
Bliley
Bonior
Borski
Boucher
Brooks
Browder
Bryant
Bustamante
Callahan
Carr
Chapman
Clement
Coleman (TX)
Coughlin
Coyne
Cramer
de la Garza
DeFazio
DeLauro
DeLay
Derrick
Dicks
Dingell
Dixon
Downey
Dwyer
Dymally
Eckart
Edwards (TX)
Erdreich
Fazio
Foglietta
Ford (MI)
Franks (CT)
Frost
Gallo
Gejdenson
Gonzalez
Hall (OH)
Hamilton
Hammerschmidt
Harris
Hefner
Hertel
Hoagland
Hobson
Hochbrueckner
Houghton
Hoyer
Hughes
Jefferson
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kopetski
LaFalce
Lancaster
Lantos
Laughlin
Lehman (CA)
Lewis (CA)
Lightfoot
Livingston
Lloyd
Long
Lowey (NY)
Matsui
Mazzoli
McCloskey
McDade
McHugh
McNulty
Michel
Miller (OH)
Mineta
Mink
Moakley
Mollohan
Montgomery
Morrison
Murtha
Myers
Nagle
Natcher
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Pallone
Panetta
Parker
Payne (NJ)
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Price
Pursell
Quillen
Rahall
Rangel
Regula
Rhodes
Roe
Roemer
Rogers
Rose
Rostenkowski
Sabo
Sarpalius
Saxton
Schumer
Sharp
Skeen
Slaughter
Smith (IA)
Smith (NJ)
Spratt
Stokes
Swift
Taylor (MS)
Thornton
Torres
Torricelli
Unsoeld
Visclosky
Volkmer
Vucanovich
Walsh
Whitten
Wilson
Wise
Wolf
Wyden
Wylie
Yates

NAYS—203

Allard
Allen
Andrews (ME)
Andrews (TX)
Armey
Aspin
Ballenger
Barrett
Beilenson
Bennett
Bereuter
Bilirakis
Blackwell
Boehlert
Boehner
Brewster
Brown
Bruce
Bunning
Burton
Byron
Camp
Campbell (CA)
Cardin
Carper
Clay
Coble
Coleman (MO)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Cox (CA)
Cox (IL)
Crane
Cunningham
Dannemeyer
Dellums
Dickinson
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Early
Edwards (CA)
Emerson
Engel
English
Espy
Evans
Ewing
Fawell
Feighan
Fields
Fish
Gallegly
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Goodling
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hayes (IL)
Hefley
Henry
Herger
Hopkins
Horn
Hubbard
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Johnson (CT)
Johnson (TX)
Kasich
Kennedy
Klug
Kostmayer
Kyl
Lagomarsino
LaRocco
Leach
Levin (MI)
Lewis (FL)
Lewis (GA)
Lipinski
Luken
Machtley
Markey
Marlenee
Martinez
McCandless
McCollum
McDermott
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Molinari
Moody
Moorhead
Morella
Murphy
Nichols
Nussle
Olver
Orton
Owens (NY)
Oxley
Packard
Pastor
Patterson
Paxon
Payne (VA)
Pease
Penny
Petri
Porter
Poshard
Ramstad
Ravenel
Ray
Reed
Ridge
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal
Russo
Sanders
Sangmeister
Santorum
Sawyer
Schaefer
Schiff
Schroeder
Sensenbrenner
Serrano
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skelton
Smith (FL)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Staggers
Stallings
Stark
Stearns
Stenholm
Stump
Sundquist
Swett
Synar
Tanner
Tauzin
Taylor (NC)
Thomas (WY)
Towns
Traficant
Upton
Valentine
Vander Jagt
Vento
Walker
Waters
Weldon
Wheat
Williams
Wolpe
Young (FL)
Zeliff
Zimmer

NOT VOTING—72

Alexander
Annunzio
Anthony
Archer
Atkins
AuCoin
Bacchus
Barnard
Boxer
Broomfield
Campbell (CO)
Chandler
Clinger
Conyers
Darden
Davis
Donnelly
Edwards (OK)
Fascell
Flake
Ford (TN)
Frank (MA)
Gaydos
Gephardt
Gingrich
Gordon
Green
Guarini
Hatcher
Hayes (LA)
Holloway
Horton
Huckaby
Ireland
Jenkins
Johnson (SD)
Johnston
Jones
Lehman (FL)
Lent
Levine (CA)
Lowery (CA)
Manton
Martin
Mavroules
McCrery
McCurdy
Moran
Mrazek
Neal (MA)
Owens (UT)
Pickle
Richardson
Riggs
Rinaldo
Rowland
Savage
Scheuer
Schulze
Shaw
Slattery
Solarz
Studds
Tallon
Thomas (CA)
Thomas (GA)
Traxler
Washington
Waxman
Weber
Yatron
Young (AK)

☐ 2039

Ms. WATERS and Messrs. COOPER, KASICH, MARTINEZ, SCHAEFER, and OLVER changed their vote from "yea" to "nay."

Messrs. BUSTAMANTE, JONTZ, SCHUMER, WALSH, and THORNTON changed their vote from "nay" to "yea."

So the previous question was not ordered.

The result of the vote was announced as above recorded.

☐ 2040

AMENDMENT OFFERED BY MR. BROWN TO THE MOTION OFFERED BY MR. BEVILL

Mr. BROWN. Mr. Speaker, I offer an amendment to the motion offered by the gentleman from Alabama [Mr. BEVILL] on amendment No. 37.

The SPEAKER pro tempore (Mr. COX of Illinois). The Clerk will report the amendment to the motion.

The Clerk read as follows:

Amendment offered by Mr. BROWN to the motion offered by Mr. BEVILL: Strike "the Bishop Science Center" and all that follows through "Philadelphia, Pennsylvania" and insert in lieu thereof "making competitive, merit-review awards to academic research facilities, to the extent otherwise authorized by law".

The SPEAKER pro tempore. The gentleman from California [Mr. BROWN] is recognized for 1 hour.

PARLIAMENTARY INQUIRY

Mr. MYERS of Indiana. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. MYERS of Indiana. Mr. Speaker, a Member in opposition to this motion is not entitled to half the time?

The SPEAKER pro tempore. On an amendment to a motion, the hour is controlled by the proponent of the amendment.

Mr. MYERS of Indiana. I thank the Chair.

Mr. BROWN. Mr. Speaker, would the gentleman from Indiana [Mr. MYERS] like to have one-half hour?

Mr. MYERS of Indiana. Mr. Speaker, no. Well, yes, I would then; by popular demand, I accept.

Mr. BROWN. It is not my intention to use this hour in debate. I merely want to explain the parliamentary situation, and I will yield back the remainder of my hour.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield? I would like to be recognized for 5 minutes.

Mr. BROWN. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Speaker, I thank my colleague, the gentleman from California, for yielding me this time.

I regret that we are taking the time at this late hour. I apologize to the membership. But I think there is a lot of misunderstanding of what we are doing here.

I know some people came on the floor and thought they were saving $100 million. That is not the case.

As I spoke earlier when many of you were not here, this does not save one penny. It is a peer fight is actually what it is, and you are going to turn the decision of how the money that is appropriated in this bill, in this provision, will go, whether it goes to the Members of the House of Representatives who have to tax the American people to pay for it, who are going to be taxed already, or you turn it over to a peer group, somebody no one will ever see or hear except that they themselves will ever know. So if you are concerned about saving the American taxpayers the money, your vote now will be against the motion offered by our colleague, the gentleman from California.

These were good projects. They are still good projects. But I doubt that very many of them will ever make it through the peer process when the big elite 20 or 30 universities decide among themselves, "Which is this, your turn to go to this university?" "No. I think I got the last one." "OK, we will give it to somebody else." This is the way the peer process that we are talking about here will be run.

So if you are concerned about saving dollars, one more time, my colleagues who voted, and some of you came on the floor and did not ask the members of the committee, but went over to somebody else and said, "What is the issue here," "pork." Well, the pork is still in. It is just where the pork is going to be located. So a no vote is a conservative vote.

Mr. BROWN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am just going to take a minute to respond to the gentleman, because I think inadvertently he misspoke himself as my dear friend, the gentleman from Alabama [Mr. BEVILL], did earlier. This is not a question over peer review. This is a question over whether the House will authorize a project, and it so states. It says, "This money will be spent in making awards to the extent authorized by law," and that means that every Member of this House will have the opportunity to decide instead of that very elite group for whom I have the greatest admiration who sit on Appropriations conference committees. Nine of these ten projects are in the States or districts represented by the conference committee. I admire every one of them. They are wonderful people. The projects are great people.

We are not fighting over peer review. We are fighting over the right of the Members of Congress to have a say in how the taxpayers' money is spent. That is the question, and I think everyone who came in and voted on the previous question understood that.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. BROWN. I am happy to yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, now, which committee would be the authorizing committee?

Mr. BROWN. The committees that would have jurisdiction over the facility in question, if it is a scientific research project outside of the field of medicine, it would be the Committee on Science, Space, and Technology. If it is an agriculture project, the Committee on Agriculture; if it is a health project, the Committee on Energy and Commerce. Every Member of the House who is on an authorizing committee ought to be concerned with this kind of language.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. BROWN. I am happy to yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding.

I will be very brief and very quick. I want to thank the gentleman for offering his amendment. This amendment is about due process and equal access to the process of having your projects considered on an equal footing with everybody else in this body irrespective of your committee assignment. It is about the extent to which a project anyplace in the country will be judged on its merit relative to other projects. It is about this body setting priorities rather than individuals.

For my part, when I am back in my district and people ask me if I oppose individual parochial projects being slipped into bills in conference by privileged Members, I say yes.

If you agree with me that that is the answer we ought to give our constituents, then I would say vote for the amendment offered by the gentleman from California [Mr. BROWN].

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. BROWN. I am happy to yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, I appreciate and thank the gentleman for yielding.

Several of these projects are already under construction. Two of them are complete that I am aware of. So it is not reauthorization or new authorization. Several of these are already under construction. They have been appropriated in previous years. So we are finishing two or three of these. So that is really not the argument.

Mr. BROWN. Mr. Speaker, I mentioned earlier that this process has been going on for years. We have become comfortable with it. We love and respect our colleagues on the Committee on Appropriations. We know that they try to listen to us.

Unfortunately it still happens that most of these projects are in their districts. Now, I will tell you all that in the next session of the Congress with a third new Members, they are not going to feel so comfortable about delegating their rights as representatives of the people to a clique of distinguished elder Members no matter how much we love and respect them, and we might as well prepare for that day now.

Mr. GLICKMAN. Mr. Speaker, will the gentleman yield?

Mr. BROWN. I am happy to yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Speaker, I support my colleague, the gentleman from California, but I am concerned that even with his motion we will be obligating ourselves to spend dollars that if we were going to zero out would not be spent at all. I wonder if he could comment on that.

Mr. BROWN. Only if these are authorized in due process by the appropriate committee of Congress will this money be spent.

Mr. GLICKMAN. If the gentleman will yield further, so no dollars are being appropriated today for any specific projects in the gentleman's amendment?

Mr. BROWN. The gentleman is correct.

Mr. Speaker, I ask for a "yea" vote on my amendment.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. BROWN] to the motion offered by the gentleman from Alabama [Mr. BEVILL].

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. MYERS of Indiana. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 250, nays 104, not voting 78, as follows:

[Roll No. 401]

YEAS—250

Ackerman
Allard
Allen
Andrews (ME)
Andrews (TX)
Applegate
Armey
Aspin
Ballenger
Barrett
Barton
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilbray
Bilirakis
Blackwell
Boehlert
Boehner
Boucher
Brewster
Brown
Bruce
Bunning
Burton
Camp
Campbell (CA)
Cardin
Carper
Clay
Clement
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Cox (CA)
Cox (IL)
Crane
Cunningham
Dannemeyer
de la Garza
Dellums
Derrick
Dickinson
Dicks
Dingell
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Early
Eckart
Edwards (CA)
Emerson
Engel
English
Espy
Evans
Ewing
Fawell
Feighan
Fields
Fish
Ford (MI)
Frank (MA)
Gallegly
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Goss
Gradison
Grandy
Gunderson
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hochbrueckner
Hopkins
Horn
Hubbard
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Johnson (CT)
Johnson (TX)
Jontz
Kasich
Kennedy
Kildee
Kleczka
Klug
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Levin (MI)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Lowey (NY)
Luken
Machtley
Markey
Marlenee
Martinez
Matsui
McCandless
McCollum
McCurdy
McDermott
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (WA)
Moakley
Molinari
Moody
Moorhead
Morella
Morrison
Murphy
Neal (NC)
Nichols
Nowak
Nussle
Oberstar
Olver
Orton
Owens (NY)
Oxley
Packard
Panetta
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Penny
Peterson (MN)
Petri
Pickett
Porter
Poshard
Price
Quillen
Ramstad
Rangel
Ravenel
Ray
Reed
Rhodes
Ridge
Ritter
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal
Russo
Sanders
Sangmeister
Santorum
Sawyer
Schaefer
Schiff
Schumer
Sensenbrenner
Serrano
Shays
Sikorski
Sisisky
Skaggs
Skelton
Slaughter
Smith (FL)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Studds
Stump
Sundquist
Swett
Swift
Synar
Tanner
Taylor (MS)
Taylor (NC)
Thomas (WY)
Torricelli
Towns
Traficant
Upton
Valentine
Vento
Volkmer
Walker
Weldon
Wheat
Williams
Wolpe
Young (FL)
Zimmer

NAYS—104

Abercrombie
Anderson
Andrews (NJ)
Baker
Bateman
Bevill
Bliley
Bonior
Borski
Brooks
Browder
Bryant
Bustamante
Callahan
Carr
Chapman
Coughlin
Coyne
Cramer
DeFazio
DeLauro
DeLay
Dixon
Dwyer
Edwards (TX)
Erdreich
Fazio
Foglietta
Franks (CT)
Frost
Gallo
Gejdenson
Gonzalez
Goodling
Hammerschmidt
Harris
Hobson
Houghton
Hoyer
Hughes
Jefferson
Kanjorski
Kaptur
Kennelly
Kolbe
Kopetski
Laughlin
Lewis (CA)
Lightfoot
Livingston
Long
Mazzoli
McCloskey
McDade
McHugh
McNulty
Miller (OH)
Mineta
Mink
Mollohan
Montgomery
Murtha
Myers
Nagle
Natcher
Oakar
Obey
Olin
Ortiz
Pallone
Parker
Pastor
Pelosi
Perkins
Peterson (FL)
Pursell
Rahall
Regula
Roe
Roemer
Rogers
Rose
Rostenkowski
Sabo
Sarpalius
Saxton
Schroeder
Skeen
Smith (IA)
Smith (NJ)
Stokes
Torres
Unsoeld
Visclosky
Vucanovich
Walsh
Waters
Whitten
Wilson
Wise
Wolf
Wyden
Wylie
Yates

NOT VOTING—78

Alexander
Annunzio
Anthony
Archer
Atkins
AuCoin
Bacchus
Barnard
Boxer
Broomfield
Byron
Campbell (CO)
Chandler
Clinger
Conyers
Darden
Davis
Donnelly
Dymally
Edwards (OK)
Fascell
Flake
Ford (TN)
Gaydos
Gephardt
Gingrich
Gordon
Green
Guarini
Hall (OH)
Hatcher
Hayes (LA)
Holloway
Horton
Huckaby
Ireland
Jenkins
Johnson (SD)
Johnston
Jones
Lehman (FL)
Lent
Levine (CA)
Lowery (CA)
Manton
Martin
Mavroules
McCrery
Moran
Mrazek
Neal (MA)
Owens (UT)
Pickle
Richardson
Riggs
Rinaldo
Rowland
Savage
Scheuer
Schulze
Sharp
Shaw
Shuster
Slattery
Solarz
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Thornton
Traxler
Vander Jagt
Washington
Waxman
Weber
Yatron
Young (AK)
Zeliff

□ 2108

So the amendment to the motion was agreed to.

The result of the vote was announced as above recorded.

The motion, as amended, was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 39: Page 33, line 22, strike out "$1,335,320,000" and insert: "$1,321,320,000".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 39 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert: "$1,286,320,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 43: Page 36, strike out all including line 1 over to and including line 3 on page 38, and insert:

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $275,071,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided*, That of the amount herein appropriated, within available funds, not to exceed $5,000,000 may be provided to the State of Nevada, for the sole purpose in the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended: *Provided further*, That of the amount herein appropriated, not more than $6,000,000 may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further*, That the distribution of the funds herein provided among the affected units of local government shall be determined by the Department of Energy (DOE) and made available to the State and affected units of local government by direct payment: *Provided further*, That within 90 days of the completion of each Federal fiscal year, each entity shall provide certification to the DOE, that all funds expended from such direct payment monies have been expended for activities as defined in Public Law 97-425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further*, That none of the funds herein appropriated may be used for litigation expenses: *Provided further*, That grant funds are not to be used to support multistate efforts or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further*, That no funds herein appropriated from this Fund shall be used by the State of Nevada or by the Department of Energy for public relations, media, advertising or similar activities that are not related to scientific oversight of activities of the Department of Energy in furtherance of characterization studies: *Provided further*, That of the amount appropriated herein, up to $3,700,000 shall be available for infrastructure studies, mobile sampling platform and monitoring work and other research and development work to be carried out by the University of Nevada, Las Vegas (UNLV) and the University of Nevada, Reno. Funding to the universities will be administered by the DOE through a cooperative agreement.

In paying the amounts determined to be appropriate as a result of the decision in Consolidated Edison Company of New York v. Department of Energy 870 F.2d 694 (D.C. Cir. 1989), the Department of Energy shall pay interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Nuclear Waste Fund. Such payments may be made by credits to future utility payments into the Fund.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows.

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 43 and concur therein with an amendment, as follows: In lieu of the matter stricken and inserted by said amendment, insert:

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $275,071,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided*, That of the amount herein appropriated, within available funds, not to exceed $5,000,000 may be provided to the State of Nevada, for the sole purpose in the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended: *Provided further*, That of the amount herein appropriated, not more than $6,000,000 may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further*, That the distribution of the funds herein provided among the affected units of local government shall be determined by the Department of Energy (DOE) and made available to the State and affected units of local government by direct payment: *Provided further*, That within 90 days of the completion of each Federal fiscal year, each entity shall provide certification to the DOE, that all funds expended from such direct payment monies have been expended for activities as defined in Public Law 97-425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further*, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further*, That none of the funds herein appropriated may be used for litigation expenses: *Provided further*, That grant funds are not to be used to support multistate efforts or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further*, That of the amount appropriated herein, up to $3,700,000 shall be available for infrastructure studies and other research and development work to be carried out by the Universities in Nevada, Reno, and Las Vegas, and the Desert Research Institute, and at least $750,000 to continue funding for the Mobile Sampling Platform developed and operated by the Environmental Research Center at the University of Nevada, Las Vegas. Funding to the universities will be administered by the DOE through a cooperative agreement.

In paying the amounts determined to be appropriate as a result of the decision in Consolidated Edison Company of New York v. Department of Energy 870 F.2d 694 (D.C. Cir. 1989), the Department of Energy shall pay interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Nuclear Waste Fund. Such payments may be made by credits to future utility payments into the Fund.

Mrs. VUCANOVICH. Mr. Speaker, I rise in opposition to amendment No. 43.

The SPEAKER pro tempore. The gentlewoman from Nevada [Mrs. VUCANOVICH] is recognized for 1 hour.

Mrs. VUCANOVICH. Mr. Speaker, I rise in opposition to amendment No. 43.

The House version of H.R. 5373 would have allocated $5,750,000 to the State of Nevada to do parallel site characterization studies; and $6,250,000 to affected local governments for socioeconomic studies of the impacts of the civilian high-level nuclear waste repository to the counties.

The amounts included in amendment No. 43 are substantially lower than what was a fair allowance for the legitimate parallel studies included in the original House version. Unfortunately, the other body felt the parallel studies are of less importance.

Because of the highly politicized process in which Yucca Mountain was designated as the only site to be characterized, it is essential that Congress gives Nevada an opportunity to fully participate.

Simply, Nevada's parallel site characterization studies are vital to the credibility and safety of the program and must continue to be adequately funded.

The original House amounts represent a level higher than the conferees' recommendation. I am opposed to these lower funding levels.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 44: Page 39, strike out all after line 7 over to and including line 14 on page 40, and insert: $4,523,249,000, to remain available until expended: *Provided*, That none of the funds appropriated or otherwise made available for the Department of Energy for fiscal year 1993 may be obligated to implement the reconfiguration of nonnuclear activities of the Department of Energy until the occurrence of the following:

(1) The Secretary of Energy submits a report to the Committees on Appropriations that contains an analysis of the projected costs and benefits of the proposed nonnuclear reconfiguration and an analysis of the alternatives considered. The analyses shall take into account all relevant costs and benefits and shall include a discounted cash flow analysis of each alternative.

(2) The Secretary of Energy certifies to the Committees on Appropriations that the discounted cash flow analysis demonstrates that the proposed nonnuclear reconfiguration is cost-effective on a plant by plant basis.

(3) A period of 90 days has elapsed after the later of the submission of the report and the certification by the Secretary of Energy.

Nothing in this provision prohibits the obligation of funds for studies, analysis, or preparation of conceptual designs that are necessary to assess the cost-effectiveness or feasibility of nonnuclear reconfiguration.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 44 and concur therein with an amendment, as follows: In lieu of $4,523,249,000 named in said amendment, insert: "$4,568,749,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Page 40, line 24, strike out "$171,800,000" and insert: "$170,028,000".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert: "$34,028,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Page 41, line 17, strike out "$4,603,009,000" and insert: "$4,802,047,000".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 46 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert: "$4,831,547,000'.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

□ 2110

The SPEAKER pro tempore (Mr. COX of Illinois). The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 47: Page 42, line 13, strike out "$2,550,901,000" and insert: "$2,523,301,000".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein with an amendment, as follows: In lieu of the sum stricken and inserted by said amendment, insert: "$2,584,301,000".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. The Clerk will designate the next amendment in disagreement.

The text of the amendment is as follows:

Senate amendment No. 48: Page 42, after line 14, insert:

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97—425, as amended, including the acquisition of real property or facility construction or expansion, $100,000,000, to remain available until expended, all of which shall be used in accordance with the terms and conditions of the Nuclear Waste Fund appropriation of the Department of Energy contained in this title.

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 48, and concur therein.

Mrs. VUCANOVICH. Mr. Speaker, I object and strongly oppose amendment 48.

The SPEAKER pro tempore. Does the gentleman from Indiana oppose the motion?

Mr. MYERS of Indiana. I do not, Mr. Speaker.

The SPEAKER pro tempore. The gentlewoman from Nevada [Mrs. VUCANOVICH] is recognized for 20 minutes.

Mrs. VUCANOVICH. Mr. Speaker, I object to and strongly oppose amendment 48, which would move $100 million from the Defense Nuclear Waste Disposal Program and place it into the civilian high-level nuclear waste site characterization studies at Yucca Mountain, NV.

Before I explain my reasons, I would like to quote the conference report pertaining to amendment 43.

The conferees continue to be concerned with the spiralling cost estimates for the characterization of Yucca Mountain. The conferees believe these excessive costs stem in large part from a misallocation of emphasis away from Yucca Mountain * * * the conferees believe that the Department's budget submission requests more money than is necessary for the monitored retrievable storage facility and the waste transportation program.

In other words, Mr. Speaker, the conferees are not pleased with DOE's site characterization management practices and massive spending spree. Yet, in the same bill, the conferees agree to give DOE $100 million more.

So which is it? "Good job, DOE, keep up the good work?" Or, "we are concerned this is becoming the next Government boondoggle?"

It seems to me that this conference report is trying to have it both ways. Amendment 43 expresses the Members' concern about mismanagement, misspending, and a misallocation of the Nation's resources. Conversely, amendment 48 pats DOE on the back and hands the Department another $100 million on top of the over $275 million it is already receiving for the site characterization program.

Mr. Speaker, I submit that, in these times of economic and fiscal chaos, this $100 million would be better spent servicing this country's debt. Instead, the conferees' have elected to sink more and more into the Yucca Mountain money pit.

By the conferees' own admission, DOE has mishandled the program. Why continue to support it?

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Does the gentleman from Alabama [Mr. BEVILL] wish to seek time?

Mr. BEVILL. No, Mr. Speaker.

The SPEAKER pro tempore. Does the gentleman from Indiana [Mr. MYERS] wish to seek time?

Mr. MYERS of Indiana. No, Mr. Speaker.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

The SPEAKER pro tempore. Pursuant to the order of the House of today, consideration of Amendment numbered 57 is postponed.

The Clerk will designate the last amendment in disagreement.

The text of the amendment is as follows:

Senate Amendment No. 58: Page 57, after line 23, insert:

"SEC. 508. Notwithstanding any other provision of this Act, $5,000,000 of the funds appropriated in Title I or Title II shall be available for the Central Maine Water Supply Project, to remain available until September 30, 1993, and to become available only upon enactment into law of authorizing legislation.".

MOTION OFFERED BY MR. BEVILL

Mr. BEVILL. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. BEVILL moves that the House recede from its disagreement to the amendment of the Senate numbered 58 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

"SEC. 508. Notwithstanding any other provision of this Act, $5,000,000 of the funds appropriated in Title I shall be available for the Central Maine Water Supply Project, to remain available until September 30, 1993, and to become available only upon enactment into law of authorizing legislation.".

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama [Mr. BEVILL].

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the conference report and on the several motions was laid on the table.

PERSONAL EXPLANATION

Mr. CLINGER. Mr. Speaker, I was unavoidably absent from the Chamber when two rollcall votes were taken. Had I been present, I would have voted "no" on rollcall No. 400, to defeat the previous question, and "yes" on rollcall No. 401, to adopt the Brown amendment to remove earmarks from nearly $95 million in the fiscal year 1993 energy and water appropriations bill.

COMMUNICATION FROM THE HONORABLE CHARLIE ROSE, CHAIRMAN OF THE COMMITTEE ON HOUSE ADMINISTRATION

The SPEAKER pro tempore laid before the House the following communication from the Honorable CHARLIE ROSE, chairman of the Committee on House Administration:

COMMITTEE ON HOUSE ADMINISTRATION,
Washington, DC, September 17, 1992.

Hon. TOM S. FOLEY,
Speaker of the House, H-204, The Capitol, Washington, DC.

DEAR MR. SPEAKER, I have previously notified you that a member of the staff of my Committee has been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel to the Clerk, I have determined that compliance with the subpoena is not inconsistent with the privileges and precedents of the House.

Sincerely,

CHARLIE ROSE,
Chairman.

ROTC CHIEF FEARS DRAFT-DODGING PRESIDENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, I come to the floor of the House again, for about the sixth time this year, to discuss a very unpleasant subject, the Governor of Arkansas and draft dodging.

Today in at least one of our Nation's newspapers the full text of the letter of Col. Eugene Holmes, written just 10 days ago, is presented to the American people on the subject of Bill Clinton and the University of Arkansas ROTC Program. The headline above this is: ROTC Chief Fears Draft Dodging President.

Mr. Speaker, I was stunned to learn that Colonel Holmes, who I have discussed in this well, was a survivor of the Bataan Death March and 3½ years of brutal Japanese warlord imprisonment, that his older brother, Bob, had died in the European Theater of combat and is buried at the American Cemetery at Cambridge, just a stone's throw away from another of Great Britain's great universities, Oxford, where Bill Clinton was organizing demonstrations in a foreign country against his Nation's foreign policy in that part of the cold war which we won called Vietnam.

□ 2120

Here is the letter, notarized on all pages, from the colonel:

BILL CLINTON AND THE UNIVERSITY OF ARKANSAS ROTC PROGRAM

There have been many unanswered questions as to the circumstances surrounding Bill Clinton's involvement with the ROTC department at the University of Arkansas. Prior to this time I have not felt the necessity for discussing the details. The reason I have not done so before is that my poor physical health (a consequence of participation in the Bataan Death March and the subsequent 3½ years internment in Japanese POW camps) has precluded me from getting into what I felt was unnecessary involvement. However, present polls show that there is the imminent danger to our country of a draft dodger becoming the Commander-in-Chief of the Armed Forces of the United States. While it is true, as Mr. Clinton has stated, that there were many others who avoided serving their country in the Vietnam war, they are not aspiring to be the President of the United States.

The tremendous implications of the possibility of his becoming Commander-in-Chief of the United States Armed Forces compels me now to comment on the facts concerning Mr. Clinton's evasion of the draft.

This account would not have been imperative had Bill Clinton been completely honest with the American public concerning this matter. But as Mr. Clinton replied on a news conference this evening (September 5, 1992) after being asked another particular about his dodging the draft, "Almost everyone concerned with these incidents are dead. I have no more comments to make". Since I may be the only person living who can give a first hand account of what actually transpired, I am obligated by my love for my country and my sense of duty to devulge what actually happened and make it a matter of record.

Bill Clinton came to see me at my home in 1969 to discuss his desire to enroll in the ROTC program at the University of Arkansas. We engaged in an extensive, approximately two (2) hour interview. At no time during this long conversation about his desire to join the program did he inform me of his involvement, participation and actually organizing protests against the United States involvement in South East Asia. He was shrewd enough to realize that had I been aware of his activities, he would not have been accepted into the ROTC program as a potential officer in the United States Army.

The next day I began to receive phone calls regarding Bill Clinton's draft status. I was informed by the draft board that it was of interest to Senator Fulbright's office that Bill Clinton, a Rhodes Scholar, should be admitted to the ROTC program. I received several such calls. The general message conveyed by the draft board to me was that Senator Fulbright's office was putting pressure on them and that they needed my help. I then made the necessary arrangements to enroll Mr. Clinton into the ROTC program at the University of Arkansas.

I was not "saving" him from serving his country, as he erroneously thanked me for in his letter from England (dated December 3, 1969). I was making it possible for a Rhodes Scholar to serve in the military as an officer.

In retrospect I see that Mr. Clinton had no intention of following through with his agreement to join the Army ROTC program at the University of Arkansas or to attend the University of Arkansas Law School. I had explained to him the necessity of enrolling at the University of Arkansas as a student in order to be eligible to take the ROTC program at the University. He never enrolled at the University of Arkansas, but instead enrolled at Yale after attending Oxford. I believe that he purposely deceived me, using the possibility of joining the ROTC as a ploy to work with the draft board to delay his induction and get a new draft classification.

The December 3rd letter written to me by Mr. Clinton, and subsequently taken from the files by Lt. Col. Clint Jones, my executive officer, was placed into the ROTC files so that a record would be available in case the applicant should again petition to enter into the ROTC program. The information in that letter alone would have restricted Bill Clinton from ever qualifying to be an officer in the United States Military. Even more significant was his lack of veracity in purposefully defrauding the military by deceiving me, both in concealing his anti-military activities overseas and his counterfeit intentions for later military service. These actions cause me to question both his patriotism and his integrity.

When I consider the calibre, the bravery, and the patriotism of the fine young soldiers whose deaths I have witnessed, and others whose funerals I have attended * * *. When I reflect on not only the willingness but eagerness that so many of them displayed in their earnest desire to defend and serve their country, it is untenable and incomprehensible to me that a man who was not merely unwilling to serve his country, but actually protested against its military, should ever be in the position of Commander-in-Chief of our Armed Forces.

I write this declaration not only for the living and future generations, but for those who fought and died for our country. If space and time permitted I would include the names of the ones I knew and fought with, and along with them I would mention my brother Bob, who was killed during World War II and is buried in Cambridge, England (at the age of 23, about the age Bill Clinton was when he was over in England protesting the war).

I have agonized over whether or not to submit this statement to the American people. But, I realize that even though I served my country by being in the military for over 32 years, and having gone through the ordeal of months of combat under the worst of conditions followed by years of imprisonment by the Japanese, it is not enough. I'm writing these comments to let everyone know that I love my country more than I do my own personal security and well-being. I will go to my grave loving these United States of America and the liberty for which so many men have fought and died.

Because of my poor physical condition this will be my final statement. I will make no further comments to any of the media regarding this issue.

Mr. Speaker, no matter how many empty chairs the camera tries to show to belittle these special orders, there are 1 million people watching us.

Mr. Speaker, along with the letter I submit Clinton's infamous, disgraceful letter of December 3, 1969.

[From the Washington Times, September 17, 1992]

TEXT OF BILL CLINTON'S LETTER TO ROTC COLONEL

The text of the letter Bill Clinton wrote to Col. Eugene Holmes, director of the ROTC program at the University of Arkansas, on Dec. 3, 1969:

I am sorry to be so long in writing. I know I promised to let you hear from me at least once a month, and from now on you will, but I have had to have some time to think about this first letter. Almost daily since my return to England I have thought about writing, about what I want to and ought to say.

First, I want to thank you, not just for saving me from the draft, but for being so kind and decent to me last summer, when I was as low as I have ever been. One thing which made the bond we struck in good faith somewhat palatable to me was my high regard for you personally. In retrospect, it seems that the admiration might not have been mutual had you known a little more about me, about my political beliefs and activities. At least you might have thought me more fit for the draft than for ROTC.

Let me try to explain. As you know, I worked for two years in a very minor position on the Senate Foreign Relations Committee. I did it for the experience and the salary but also for the opportunity, however small, of working every day against a war I opposed and despised with a depth of feeling I had reserved solely for racism in America before Vietnam. I did not take the matter lightly but studied it carefully, and there was a time when not many people had more information about Vietnam at hand than I did.

I have written and spoken and marched against the war. One of the national organizers of the Vietnam Moratorium is a close friend of mine. After I left Arkansas last summer, I went to Washington to work in the national headquarters of the Moratorium, then to England to organize the Americans here for demonstrations Oct. 15 and Nov. 16.

Interlocked with the war is the draft issue, which I did not begin to consider separately until early 1968. For a law seminar at Georgetown I wrote a paper on the legal arguments for and against allowing, within the Selective Service System, the classification of selective conscientious objection for those opposed to participation in a particular war, not simply to "participation in war in any form."

From my work I came to believe that the draft system itself is illegitimate. No government really rooted in limited, parliamentary democracy should have the power to make its citizens fight and kill and die in a war they may oppose, a war which even possibly may be wrong, a war which, in any case, does not involve immediately the peace and freedom of the nation.

The draft was justified in World War II because the life of the people collectively was at stake. Individuals had to fight, if the nation was to survive, for the lives of their countrymen and their way of life. Vietnam is no such case. Nor was Korea an example where, in my opinion, certain military action was justified but the draft was not, for the reasons stated above.

Because of my opposition to the draft and the war, I am in great sympathy with those who are not willing to fight, kill and maybe die for their country (i.e. the particular policy of a particular government) right or wrong. Two of my friends at Oxford are conscientious objectors. I wrote a letter of recommendation for one of them to his Mississippi draft board, a letter which I am more proud of than anything else I wrote at Oxford last year. One of my roommates is a draft resister who is possibly under the indictment and may never be able to go home again. He is one of the bravest, best men I know. His country needs men like him more than they know. That he is considered a criminal is an obscenity.

The decision not to be a resister and the related subsequent decisions were the most difficult of my life. I decided to accept the draft in spite of my beliefs for one reason: to maintain my political viability within the system. For years I have worked to prepare myself for a political life characterized by both practical political ability and concern for rapid social progress. It is a life I still feel compelled to try to lead. I do not think our system of government is by definition corrupt, however dangerous and inadequate it has been in recent years. (The society may be corrupt, but that is not the same thing, and if that is true, we are all finished anyway.)

When the draft came, despite political convictions, I was having a hard time facing the prospect of fighting a war I had been fighting against, and that is why I contacted you. ROTC was the one way left in which I could possibly, but not positively, avoid both Vietnam and resistance. Going on with my education, even coming back to England, played no part in my decision to join ROTC. I am back here, and would have been at Arkansas Law School because there is nothing else I can do. In fact, I would like to have been able to take a year out perhaps to teach in a small college or work on some community action project and in the process to decide whether to attend law school or graduate school and how to begin putting what I have learned to use.

But the particulars of my personal life are not nearly as important to me as the principles involved. After I signed the ROTC letter of intent, I began to wonder whether the compromise I had made with myself was not more objectionable than the draft would have been, because I had no interest in the ROTC program in itself and all I seemed to have done was to protect myself from physical harm. Also, I began to think I had deceived you, not by lies—there were none—but by failing to tell you all the things I'm writing now. I doubt that I had the mental coherence to articulate them then.

At that time, after we had made our agreement and you had sent my 1-D deferment to my draft board, the anguish and loss of my self-regard and self-confidence really set in. I hardly slept for weeks and kept going by eating compulsively and reading until exhaustion brought sleep. Finally, on Sept. 12 I stayed up all night writing a letter to the chairman of my draft board, saying basically what is in the preceding paragraph, thanking him for trying to help in a case where he really couldn't, and stating that I couldn't do the ROTC after all and would he please draft me as soon as possible.

I never mailed the letter, but I did carry it on me every day until I got on the plane to return to England. I didn't mail the letter because I didn't see, in the end, how my going in the Army and maybe going to Vietnam would achieve anything except a feeling that I had punished myself and gotten what I deserved. So I came back to England to try to make something of this second year of my Rhodes scholarship.

And that is where I am now, writing to you because you have been good to me and have a right to know what I think and feel. I am writing too in the hope that my telling this one story will help you to understand more clearly how so many fine people have come to find themselves still loving their country but loathing the military, to which you and other good men have devoted years, lifetimes, of the best service you could give. To many of us, it is no longer clear what is service and what is disservice, or if it is clear, the conclusion is likely to be illegal.

Forgive the length of this letter. There was much to say. There is still a lot to be said, but it can wait. Please say hello to Col. Jones for me.

Merry Christmas.

Sincerely,

BILL CLINTON.

INTRODUCTION OF LEGISLATION TO TRANSFER FEMA TO THE DEPARTMENT OF DEFENSE

The SPEAKER pro tempore (Mr. HARRIS). Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, today I am introducing legislation to abolish the Federal Emergency Management Agency [FEMA] and transfer its functions to the Department of Defense.

Three strikes and you're out. Hurricane Hugo, the Loma Prieta earthquake, and the first 4 days of Hurricane Andrew in south Florida—they were all terrible disasters and FEMA's response to them was a disaster. Their response was a blizzard of redtape, a hurricane of hot air, but no avalanche of help—more like a glacial mountain of delay.

California faces future severe earthquakes. Estimates of future damage run as high as $60 billion with thousands buried in rubble, dying unless relief is massive and quick. I'd like to see help in the future coming from a mission-oriented unit of the Pentagon, and not from the political hacks of the FEMA dumping ground. When California gets hit with the big one, I'd like to see someone like Stormin' Norman come to the rescue, not a bunch of political donors holding down fancy-titled jobs. The civil servants at FEMA try, but the leadership is so bad, that it just doesn't work.

One could try to reform FEMA. But Mr. Speaker, after working with FEMA following the October 1989 earthquake that so badly hurt Oakland, I've decided that agency's swamp is too big and too deep. Some agencies are star crossed and snake bit. Some agencies just have a morale problem that is so bad you need to start over.

Let's start over. Let's put disaster relief under the military. The commanding officer in charge will be promoted or demoted based on his or her performance in coming to the rescue, not their politics.

As the disaster relief director for Dade County said, "where's the cavalry?"

Let's give the job to the cavalry from the start.

JOHN E. FISHER INDUCTED INTO THE INSURANCE HALL OF FAME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. WYLIE] is recognized for 5 minutes.

Mr. WYLIE. Mr. Speaker, one of the emoluments of this office I will miss is the opportunity it affords me to take special recognition of exceptional people who have done extraordinary things. John E. Fisher, who I am pleased to call one of my best friends, is one of those people. At the International Insurance Society, Insurance Hall of Fame meeting in Toronto, Canada on July 6, 1992 John E. Fisher was inducted into the Insurance Hall of Fame. The citation read: The Society recognizes John E. Fisher as a renowned executive, insurance innovator, international spokesman, community leader, and humanitarian.

John Fisher has become widely recognized as a leader in both the property-liability and life-health insurance industries in the United States as well as internationally.

John has served from 1981 to the present as general chairman and chief executive officer of the Nationwide Insurance Enterprise. He has served in industry leadership roles as chairman of the board of trustees of the American Institute for Property and Liability Underwriters in 1986 and 1987 and as chairman of the American Council of Life Insurance in 1989 and 1990. He holds professional designations in both fields—chartered property casualty underwriter [CPCU] and chartered life underwriter [CLU].

Because of his strong personal commitment to continuing education and professionalism, Nationwide's board of directors named their national study facility the John E. Fisher Nationwide Training Center, where 7,000 of their staff members prepare each year for improved insurance knowledge and performance.

The Nationwide Insurance Enterprise is broader in scope than most insurance organizations because of its strong cooperative heritage extending back to its beginnings in 1926 as the Ohio Farm Bureau Insurance Co. This organization was founded as a parallel or companion institution to the rapidly growing international cooperative movement in Europe early in this century.

Nationwide's cooperative heritage mandates that the enterprise reach out—both nationally and globally. In this regard, John Fisher is well known as a world leader in international cooperative insurance circles. He served for many years on the executive committee of the International Cooperative Insurance Federation and as its chairman from 1985 to 1990. This organization is a voluntary federation of 120 cooperative insurers in 43 countries with a combined annual premium volume of 25 billion pounds sterling.

John's humanitarian and community service commitments have become legendary. His numerous contributions to society and to his local community include key leadership roles with the Boy Scouts of America's local council, self-help training programs for the unemployed, food banks for the needy, and health-cost containment programs; service on boards of trustees of three colleges, on local hospital boards and on the Grace Commission—appointed by the President to find ways to reducing waste in Government—as well as scores of other activities which represent John Fisher's outstanding leadership qualities and his total commitment to improving the society he serves.

A fine example of his altruism and leadership qualities is the key role he has played for many years in the U.S. Medicare Program. He recognized early in the program that a strong bond of cooperation between Government and private industry was an indispensable element to an efficient, cost-contained national Medicare Program which pays a portion of the health care costs of elderly and disabled people.

John has vigorously promoted and ensured the continuing commitment of Nationwide Insurance organization to the Nation's Medicare Program on a not-for-profit basis. This commitment involves serving over 1.85 million eligible recipients in Ohio and West Virginia at a level of benefit payments totaling over $1.5 billion in 1991. Over 1,000 staff members of Nationwide are assigned to the task of checking and paying these Medicare claims delivered to the recipients at a minimum cost to the Government for the service.

Truly, John E. Fisher is deserving of his Insurance Hall of Fame Award.

Marjorie and I want to congratulate and commend John and his lovely and very supportive wife Eloise on behalf of ourselves and on behalf of a grateful community.

LOS ANGELES TRANSIT COMMISSION SHOULD AWARD RAILCAR CONTRACT TO LOW BIDDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, a few months ago I spoke out on the floor of the House and other places against the Los Angeles Transit Commission's award of a railcar contract to a Japanese company over a qualified American company which was the low bidder. I did that because $5 million could be saved by going with the low bidder, and I do not believe government money should be wasted, especially today when governments at all levels are running up such huge debts.

□ 2130

However, even more importantly, the commission's decision was going to cost 3,100 American jobs, and we certainly do not need our Government agencies shifting jobs overseas, especially during a recession or weak economic times.

I called for an investigation then, but a few days later, the commission reversed its decision and canceled the higher cost contract. And I was pleased and was content to let the whole matter drop.

However, I take the floor tonight because people continue to contact my office and send clippings and reports of other abuses and wasteful and ridiculous spending by the Los Angeles Transit Commission.

Why should I be concerned about this? Well, as I said a few months ago, billions of dollars for this Los Angeles rail system are coming from or will come from Federal tax money. Whether we like it or not, taxpayers all over the country are helping foot the bill for this project, which has been described as the largest public works project in the Nation at this time.

The U.S. Department of Transportation estimates that this system will ultimately cost $184 billion.

The Wall Street Journal, in an editorial entitled "The Subway That Ate L.A." said this about the system and the $3.8 billion cost of just one portion:

> The $3.8 billion figure is a rough one because the project has run 20% over budget since ground was broken five years ago. By the 21st century, when this wonderful dream of urban politicians and planners is complete, who knows what the tab will run.
>
> U.S. taxpayers should care about this, though the odds are they will never experience the system even if they visit L.A. (It follows few sightseers' paths.) That's because half of the cost of the core Red Line is coming from Portland and Pensacola and Peoria. Last year's transit bill opened up the purse strings again.

The Wall Street Journal article continues:

> Los Angeles transit is a nest of overlapping agencies, lucrative contracts and personal perquisites for the unelected officials in charge. Its monumental failure, so predictable and yet so inexorable, screams for sanity in the loud caverns snaking beneath the center city.
>
> Once transit elephants such as L.A.'s are built they have to be operated. That's where even bigger dollars are wasted.

The Los Angeles Times, in one editorial, said this:

> Money is too tight to mention, except at the Los Angeles County Transportation Commission, where it has been flowing as freely as house wine at happy hour.
>
> It had been a bit of party, all right, for the LACTC staff. During a recent 18-month period, the agency's nearly 500 staffers spent at least $2.9 million on travel, meals, entertainment and automobile expenses, according to records obtained by The Times. The examples cited by staff writer Jane Fritsch are as numerous as they are ridiculous—take, for instance, the 6,000 taxpayer dollars spent on doughnuts.
>
> After The Times requested explanations of his purchases, Executive Director Neil Peterson reimbursed the agency $1,267 for personal charges he had made on a commission credit card. One bill was from a school in Arizona—a golfing school.
>
> An ex-official, Thomas Tanke, bought $1,588 in bicycles with an agency credit card, which he repaid after auditors traced the transaction.
>
> A few other hair-raising statistics; $194,000 for catered lunches, $1,000 in late fees for delinquent credit card accounts, more than $4,000 for a 1990 Christmas party and $800,000 for the opening ceremonies for the Long Beach-to-Los Angeles Blue Line.

The Los Angeles Times says:

> An independent review is in order.

Another story reported that a consulting firm, which has been paid millions of dollars thus far, charged taxpayers for expenses ranging from vacation trips to England to mortgage payments on an employee's house to $17,000 for an employee's near daily commute from Los Angeles to his home in the San Francisco area.

The Los Angeles Observer accused the commission of "wild binge spending" which it referred to as reprehensible and said its executives were "too busy vacationing, golfing, and partying" to watch the store. The Observer called for a long overdue investigation.

The Federal Government has recently provided or is obligated to provide $1.3 billion for this project so far. Much more will be requested in the future. Most of this money will have to come through the Committee on Public Works and Transportation, of which I am a member.

Based on the reports thus far, I do not believe we should provide one additional penny for this system. Like the Wall Street Journal, I believe that taxpayers all over this Nation should be concerned about this. Like the Los Angeles Times and other publications, I believe this whole mess should be thoroughly investigated.

I have requested that the General Accounting Office look into this to see if tax money is being wasted. Others believe that there may have been criminal violations.

If these investigations show outright fraud or corruption, as some have alleged, the FBI should look into this, too.

VACATING OF SPECIAL ORDER AND REINSTATEMENT OF SPECIAL ORDER

Mr. HOAGLAND. Mr. Speaker, I ask unanimous consent to vacate my 60-minute special order tonight and, in lieu thereof, be permitted to address the House for 5 minutes.

The SPEAKER pro tempore (Mr. HARRIS). Is there objection to the request of the gentleman from Nebraska?

There was no objection.

INSURING THE VIABILITY OF THE ECONOMY AND THE ENVIRONMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. HOAGLAND] is recognized for 5 minutes.

Mr. HOAGLAND. Mr. Speaker, as the economy becomes increasingly global and as we gain understandings of the impact of one nation's activities on another, we must make sure we have the modern-day tools to develop a healthy economy and a healthy natural resource base. The Nation's economy is dependent today in large part on the international economy, and more and more buying and selling crosses countries' traditional boundaries. Likewise, environmental degradation does not respect arbitrary borders, as, for example, air and water pollution and migratory animals, move long distances.

Many authorities have called the 1990's the critical decade for revitalizing our Nation's economy and for reversing trends of biological degradation.

Current Government policies may not be sufficient to meet this challenge. The bill I introduce today would create a national body to address that very question.

What is wrong with current policies? In the case of natural resource use and management, traditionally, many Federal programs have emphasized commodity production as the only demand on our resources. Traditional economic strategies do not recognize the value of natural resources. In the case of Federal environmental laws, we now have at least 29 Federal laws addressing conservation and resource management and those laws, generally, have three problems: First, many confine natural resource management to one specific resource, for example, migratory birds, wetlands, air, marine mammals, perhaps too narrow an approach. Second, Federal policies are too often crisis-oriented, rather than preventive, addressing the threat of extinction of a species when it is almost too late rather than developing a system to avoid threatening a species. Third, Federal management practices may overemphasize production or scenic values, at the expense of other values. Mostafa Tolba, executive director of the U.N. Environmental Program, has written:

> We have no tools because we are wedded to the economic and legal forms of the 17th and 18th centuries. Environmental protection is still reactive rather than preventive. Under the present system it takes a crisis—some event so shocking that it cannot be ignored—to stimulate a serious interest.

A HEALTHY RESOURCE BASE BREEDS A HEALTHY ECONOMY

As we attempt to reinvigorate the nation's economy and give every American who seeks it a good job at a good wage, we must also evaluate the adequacy of our current policies to provide for the sustainable use of our natural resources.

Good management of resources has economic payoffs. For example, in my home state of Nebraska, the Platte River is 30 percent its original size. Much of the $8.8 billion Nebraska agriculture industry, which no doubt spins off millions more in economic benefits, is dependent on an adequate water supply from the Platte. Local municipalities use the Platte as their water supply, as do many industries. Last year, Minnesota Corn Processors, a company with a wet corn-milling process, rejected Grand Island, NE, as a site for its $57 million plant because they said the Platte does not have enough water to dilute the plant's effluent. While fortunately this company located in Columbus, NE, Grand Island lost jobs, because of the Platte's lack of flows.

Let's look at wetlands: Less than 10 percent of Nebraska's wetlands remain, yet wetlands help purify and recharge groundwater and clean ground water is critical to productive croplands.

And there is the example of prairies. Less than 3 percent of Nebraska's tallgrass prairie remains. But prairies help maintain the fertility of soil and water quality, while preventing soil erosion, also critical to agriculture.

I am sure that a country as rich in natural and human resources as the United States has it within our means to make economic and other development sustainable, as defined by the World Commission on Environment and Development, "to ensure that it meets the needs of the present without compromising the ability of future generations to meet their own needs." We must make sure the planet maintains the carrying capacity to support all of our people and our activities.

THE NATIONAL COMMISSION ON THE SUSTAINABLE USE OF NATURAL RESOURCES

I am introducing a bill, H.R. 5969, to create a National Commission on the Sustainable Use of Natural Resources to develop policies to better conserve biological resources while sustaining the viability of our economy. This blue ribbon group would have a broad mission to develop policies to promote the conservation, sustainable use and resilience of the biological resources on which human life depends. It would be composed of 16 distinguished members appointed by the House of Representatives, the Senate, and the President. My intent is that a wide range of perspectives be brought to bear on the commission's deliberations and the bill requires that commissioners be chosen from among scientists, private industry experts, academics, environmental specialists, nongovernmental organizations and governmental representatives who are knowledgeable about natural resource management.

The Commission would be directed to, first, develop a plan for conducting an inventory of the biological resources of the United States; second, to develop strategies to enable all levels of government and private landowners to sustainably manage our biological resources; and third, to make recommendations for criteria that can be used for the conservation of biological resources. A summary of the bill appears at the end of my statement. The Commission would send periodic reports to Congress and the President and a final report in 3 years. Public participation is required.

I chose the approach of a national commisson because the problems are complex and the solutions are far reaching. The answers require that we bring the best and the brightest from all sectors together to work together. A prestigious national commission can help demonstrate to the public and the policymakers the seriousness of the problems and the magnitude of the solutions. We had, for example, a National Advisory Committee on Clean Air and the U.S. Bipartisan Commission on Comprehensive Health Care which led the way for major public policy discussions and problem solving. No one commission can do everything; but piecemeal approaches, including piecemeal lawmaking at multiple levels of government, are not now working.

THE 1990'S: A CRITICAL DECADE

Scientists around the globe are telling us that we are experiencing unprecedented declines in natural resources. Species are being lost at something like 1,000 times the normal rate.

Here are some examples: 80 to 290 species have become extinct in the United States in the last several hundred years. In the past decade alone, 38 species have been added to the United States threatened and endangered species list.

More than half the varieties of the world's 20 most important food crops that existed at the beginning of this century have been lost, including rice, wheat, corn, oats, barley, potatoes, beans, and peas. Three-fourths of the world's bird species are declining or threatened. In this country, ducks that breed in prairies and parkland regions dropped 18 percent between 1979 and 1986.

Less than half of our country's original wetlands acreage remains. We lose 300,000 to 500,000 acres every year.

More than 95 percent of the virgin forest in the lower 48 States has been lost. We have 13 percent of our ancient forests left. Our original forest cover has been reduced from 438 million hectares to 296 million hectares.

Scientists say that the equilibrium of the oceans is endangered by overfishing and coastal development. Seaside development and its attendant pollution despoil the bays and estuaries where fish breed. American oysters, once numerous, have declined by 99 percent since 1870, destroying numerous jobs for Chesapeake Bay families.

In 1850, the passenger pigeon was the most common vertebrate in North

America, accounting for 40 percent of all birds on the continent. This bird is now extinct.

In my part of the country, the Midwest, the picture is similar:

Nebraska has seen a 36 percent decline in neotropical migratory birds from 1980 to 1989.

Less than 3 percent of Nebraska's original tallgrass prairie remains. The October 1991 issue of the American Horticulturalist reports:

> For thousands of years, midland America was a natural garden. Native plants and wildlife lived in biological harmony, nurtured by sunshine, rain, wind and occasional wildfires. From April until November, a changing kaleidoscope of color swept over the landscape . . . Native Americans took advantage of what were probably the richest hunting grounds in the world with a biodiversity that rivaled the tropical forests.

Only remnants of America's prairies remain today and that is usually in graveyards and along railroad lines.

The wet meadows along the Platte River are teeming with many species of plant and animal life, but along the Platte, 73 percent of native grasslands and wetland meadows are gone; the river's width has been reduced by 70 percent.

Nebraska has fens, habitats that are among the Nation's unique natural resources and which support a great variety and number of species. They were thousands of years in the making. According to Nebraskaland magazine, Nebraska's sandhill fens harbor 12 rare plant species.

Nebraska's Platte River, which some have called a "river under siege," is home to several endangered or threatened species: the least tern, the piping plover, and the prairie fringed orchid.

WHY DO WE NEED SUSTAINABLE PRACTICES?

Human survival depends on clean water and air, fertile soils and productive seas, in short, healthy biological systems. Our food, much of our clothing, and many of the things we use daily are the products of diverse and healthy ecosystems.

More than half of all our medicines can be traced to naturally occurring organic compounds, including one-quarter of all prescriptions written in the United States. Over 3,000 antibiotics, including penicillin and tetracycline, are derived from micro-organisms. The purple prairie cornflower, a native Nebraska plant, is now being researched for its anticancer potential.

Sustainable use of resources has economic payoffs. Forests that are managed sustainably provide an ongoing supply of timber for timber-dependent communities. Likewise, healthy fisheries provide continuing jobs; depleted fisheries do not. Healthy soil supports agriculture; eroded, infertile soil does not.

But we must be concerned about more than just those species that have immediate health or economic benefits. Maintaining the diversity of life provides future generations with options for new products and services. More important still, maintaining this diversity ensures the maintenance of healthy, productive, and stable ecosystems today. Clean water, productive agriculture, sustainable timber harvest, and bountiful fish harvests are all at risk if we overtax the biological systems on which these resources are based.

DEVELOPING SUSTAINABLE APPROACHES

The Commission can develop a comprehensive, integrated strategy and demonstrate to the world the United States' commitment to sustainably use and conserve our common biotic wealth. If indeed the 1990's are the crucial decade for stopping degradation, we must act now.

When Capt. John Smith sailed up the Potomac River in 1607, he observed that it was a "fruitful and delightsome land." He observed, "the soil to be lusty and very rich * * * all along the shores great plenty of pines and firs * * *." He wrote, "In summer no place affordeth more plenty of sturgeon, nor in winter more abundance of fowl * * * the river exceedeth with abundance of fish." He described it as "wilderness as God first made it." We do not see much left of the world of John Smith as we travel up the Potomac today.

It may be human nature to use up resources available to us today without regard to their availability in the future, but it does not have to be that way. As our population grows, consuming more and more resources, we continue to use them up. The pressure placed on our resources by humans, as we consume space, housing, food, and energy, will only increase. And our ingenuity in shaping the world's resources to our needs will only increase as our numbers increase. There need not be a conflict between the sustained use of the resources of the earth and the needs of humans. In most areas, these can be reconciled.

Lester Brown, in "Building a Sustainable Society" writes, "Efforts to protect the biological systems that support the economic system deserve to be high on humanity's political agenda."

As James Gustave Speth, founder and president of World Resources Institute has put it, "Next to the human mind, the Earth's biological wealth is the greatest thing about this planet." Let's save it.

SUMMARY OF H.R. 5969 THE COMMISSION ON THE CONSERVATION OF BIOLOGICAL RESOURCES ACT OF 1992

The bill's purpose is to develop Federal policies to promote the conservation, integrity, and resilience of biological resources.

The bill would establish the National Commission on the Conservation of Biological Resources to be composed of 16 members. They would be appointed as follows: two by the President; five by the President pro tempore of the Senate from recommendations by the majority leader and two from recommendations by the minority leader; five by the Speaker of the House of Representatives and two by the minority leader of the House.

Commission members would be scientists; academics; environmental specialists; persons knowledgeable about environmental sciences, conservation or land use; representatives of local, State and Federal governments, including Members of Congress; private industry representatives.

The Commission would be directed to, among other duties, plan for a systematic inventory of U.S. biological resources; identify policies and practices for improving management of public lands; identify mechanisms for coordinating government and the private sector in promoting sustainable use of biological resources; create a system for establishing priorities for Federal action needed to conserve biological resources; identify mechanisms for helping communities bear the economic costs of plans to conserve resources.

The Commission would be required to submit a report to the President and to Congress, including legislative recommendations, within three years of enactment and would terminate 60 days after submitting the report.

□ 2140

SERIOUS QUESTIONS FOR THE AMERICAN PEOPLE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. CUNNINGHAM] is recognized for 5 minutes.

Mr. CUNNINGHAM. Mr. Speaker, many of us participated this afternoon in reviewing Col. Eugene Holmes' claim that Governor Clinton had lied about draft evasion. He did so point by point. The gentleman from Texas, the great SAM JOHNSON, presented a salient point. He said that the President of the United States must take an oath, and that oath goes, "I pledge to defend the Constitution against all enemies, domestic and foreign."

How can Governor Clinton do that after electing to deceive his own draft board by stating that he would go into the ROTC, and when he was not drafted, saying:

> By the way, I am not going to do that, either. I am going to become a Jane Fonda-Tom Hayden antiwar draft dodger.

Jane Fonda and Tom Hayden at least had the courage to stand up for their convictions. Governor Brown and others did the same. However, Governor Clinton has lied, has deceived the American public long enough.

I had a young Democrat who asked me after the meeting, he said:

> Mr. Cunningham, I did not serve in the military. Does that mean that I should not

> be eligible to serve as President of the United States?

And our answer was:

> Absolutely not. You did not decide to deceive. You didn't use political influence. You didn't lie, and cowardly, move out of the war and let someone else take your place.

By the way, that young Democrat is voting for President Bush.

I would have a hard time, Mr. Speaker, supporting a man after being, myself, shot down over North Vietnam in May of 1972, to be head of our armed services.

I would ask all Members, and everyone associated with the armed services, to take a serious look at the lies that Governor Clinton has put out to the American people.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to my great colleague, the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, I think, instead of having the gentleman from California [Mr. CUNNINGHAM] graciously rushing over here from another meeting and letting me finish the letter, and I repeat this, there are about 1 million people watching tonight. The letter is going in the RECORD in its entirety, both the letter from then-Clinton, aged 23, to Colonel Holmes, thanking him for saving him from the draft, and the Colonel resented that expression because he says:

> I was not saving him from serving his country, as he erroneously thanked me in his letter from England dated December 3, 1969. I was making it possible for a Rhodes Scholar to serve in the military as a United States officer.

Since both the letters will be in, anybody can now call their Congressman and he can bring it up on his screen in regular bold print, 8½ by 10 inch page, and get it from their own Congressman.

What I would like to do is just a little colloquy with the gentleman on something that we discussed out there on the lawn to the American press, and at least CNN ran it.

I believe if Colonel Holmes had written this letter on February 7, of this year, instead of September 7, and today, by the way, is the 205th anniversary date of the Constitution of the United States. It was ratified 205 years ago today. I have a granddaughter, Erin Mary Griffin. It is her birthday today. She was 5.

Mr. CUNNINGHAM. Mr. Speaker, the Preamble to the Constitution says, "provide for the common defense."

Mr. DORNAN of California. Mr. Speaker, we would not be here today without this Constitution. There would not be a Presidency, there would not be a Supreme Court, there would not be a U.S. Senate.

Here we are, discussing this 10 days after the Colonel wrote the letter. If this had come out, as I believe one of the Senators over there who holds a Medal of Honor said, "He will be opened up like a soft peanut in the general election."

That has not happened yet. I think this letter would have precluded his winning any of those Democrat primaries. People were giving him the benefit of the doubt because he was the most charming and appealing of the candidates, but I believe someone else would have won that process, or there would have been a draft movement at the convention.

The sad thing is that half of our country is willing to overlook this, and at this point, according to the polls, make a draft-dodger President and Commander in Chief.

I think people owe it to themselves and the history of our country, and teaching kids to memorize Washington, Adams, Jefferson, Adams, Monroe, John Quincy Adams.

Mr. CUNNINGHAM. Mr. Speaker, they had a term in 1940 for this type of individual. They called them chickenhawks.

Mr. DORNAN of California. It will all be in the RECORD, Mr. Speaker.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3298, FARM CREDIT BANKS AND ASSOCIATIONS SAFETY AND SOUNDNESS ACT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–876) on the resolution (H. Res. 573) providing for the consideration of the bill (H.R. 3298) to enhance the financial safety and soundness of the banks and associations of the Farm Credit System, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 918, MODIFYING REQUIREMENTS APPLICABLE TO LOCATABLE MINERALS ON PUBLIC DOMAIN LANDS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–877) on the resolution (H. Res. 574) providing for the consideration of the bill (H.R. 918) to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF SENATE AMENDMENTS TO H.R. 5620, SUPPLEMENTAL APPROPRIATIONS, TRANSFERS, AND RESCISSIONS ACT, 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–878) on the resolution (H. Res. 575) providing for the consideration of Senate amendments to the bill (H.R. 5620) making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes, which was referred to the House Calendar and ordered to be printed.

BRAZEN INTELLECTUAL PIRACY

The SPEAKER pro tempore (Mr. HARRIS). Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, American newspapers recently reported a story described as a feud between the Mexican Government and an American archeologist, Dr. Jeffrey Wilkerson. It is not a feud, but is an expropriation of Dr. Wilkerson's archeological sites, which is a cultural ecology project on the Bobos/Nautla River.

This story is a tragedy for several reasons, and I might point out, Mr. Speaker, that the reason that I am particularly interested in it is that Dr. Wilkerson happened to have grown up in my district. His mother, Merlene Wilkerson, lives in my district today, as do his two sisters, Diane and Sandra. They live in the Second Congressional District in Maryland.

Mr. Speaker, there is a lot of interest in this story that should show what is happening between Mexico and the United States today.

First and most importantly, it is sad for all concerned as to how this area now will be developed. The archeological sites are potentially among the most important on the North American Continent, and the region is a treasure of information revealing a highly developed ancient civilization in Mexico. If this area is desecrated by commercialization for tourism, then its information and value to this generation, and future generations will be forever lost.

Located in Veracruz, some of the sites may be 2,000 years old and some may be substantially older. I can just see a Denny's or McDonald's perched on the perimeter of the area. Club Med and the latest fashion shops are inappropriate for such a site, and a five-star hotel is also inappropriate. Commercializing this site is sheer vandalism of history and archeology of the worst kind.

Traditionally, these sites are important to all the citizens of Mexico, but the treatment of Dr. Wilkerson, who is one of the leading Meso-American scholars in this hemisphere, baffles me. It makes no sense.

The Christian Science Monitor quoted Mexican officials in describing Dr. Wilkerson's project, that this mammoth restoration project is "the most important and ambitious * * * in recent decades." A year ago, the Government originally gave academic approval for the project, and Dr. Wilkerson and his group of scholars, mostly from Mexico, were waiting patiently for the permit to begin work when suddenly this August, Mexican Government officials reversed their position, grabbing the project from Dr. Wilkerson.

I might add—Dr. Wilkerson has been in Mexico for 29 years. He is a highly respected archeologist and ecologist who has trained many of the young people now working in the field. Dr. Wilkerson has been backed by the National Geographic Society in other projects, and is affiliated with the Smithsonian Institution. Certainly these two American institutions have a world-class standing of impeccable credentials, so it is amazing to me that the Mexican Government would suddenly find these premier institutions lacking in academic credentials.

Second, and equally important for the United States, this ripping off of confidential papers in Dr. Wilkerson's proposal is a concern for many firms because of the North American Free-Trade Agreement [NAFTA] and the need to protect intellectual property or secret trade information. If it can happen to a major scientific project, it can to any commercial endeavor.

The chronology of how this happened is interesting—and from that I will let you draw your own conclusions from the chronology—but I think you will end up agreeing that this raises a serious question on how Anmerican firms and scientists will be treated under NAFTA.

Please remember as you listen that Dr. Wilkerson tried repeatedly in June and July to get an appointment with the appropriate officials of Mexico's National Institute of Anthropology and History [INAH] when he found his life's work being taken away, but was refused an appointment.

In 1972, on a postdoctoral fellowship from Harvard, Dr. Wilkerson proposed in a paper at that time, that a cultural corridor linked great pre-Hispanic cities of the central Mexican highlands with coastal civilizations in tropical Veracruz. Actually, he first visited the area in 1963 and began work in 1968.

Dr. Wilkerson is well qualified for this work. He was born in Baltimore, MD, and received his B.A. from Franklin and Marshall College and his Ph.D. in anthropology from Tulane University. He held various scholarships from these institutions as well as national Woodrow Wilson and NDEA fellowships. In addition to working on projects in Mexico, Dr. Wilkerson also had a postdoctoral fellowship for the study of pre-Columbian art from Yale University in addition to his Harvard fellowship. He also was named a research associate by the R.S. Peabody Foundation and has been appointed a collaborator of the Smithsonian Institution.

Over many years he has worked and lectured in Mexico and presently directs a nonprofit research foundation, the Institute for Cultural Ecology of the Tropics. He has undertaken projects in various parts of Mexico, Guatemala, Belize, Puerto Rico, France, and the United States. He has over 70 publications.

This is no Johnny come lately to archeology and cultural ecology. His colleagues have credited Dr. Wilkerson for establishing an 8,000-year chronology for Mexico's gulf coast as well as being the first to ascribe major archeological significance to the site in the Bobos/Nautla River corridor.

Excited over the site, Dr. Wilkerson immediately proceeded to formulate a project and plan, and proceeded in June 1991, with the complicated application process from the National Institute of Anthropology and History [INAH], which controls all archeology projects in Mexico. He received the academic approval in September 1991, assembled a full international crew to begin work, and was waiting for the final permit to begin work. That changed abruptly last month.

As you follow this chronology, please keep in mind, that Dr. Wilkerson has had a number of projects in Mexico and has never had a problem with them. This difficulty has confounded him as well as the intellectuals in Mexico who know his work well

On July 31, 1992, Mari Carmen Serra Puche, the new president of INAH and the sister of Commerce Minister Jaime Serra Puche, the chief Mexican negotiator on NAFTA, wrote Wilkerson that "in the same area that you propose to work, there already exists a project in which the Mexican Government is participating." Therefore, she said, Wilkerson would be denied permission to carry out his proposed project.

The stated reason to deny Dr. Wilkerson was that he lacked the backing of the Smithsonian and because National Geographic wanted to publish the results of his study. Despite formal letters from these institutions to the contrary, INAH forced Dr. Wilkerson to go back for further clarification of his backing.

One of the people involved with the additional letter writing from an American institution, said in a conversation with my staff, "We fully back him, how much more can we say?" Historically, you should know that currently there are six National Geographic projects functioning in Mexico and dozens of previous ones, including some of Dr. Wilkerson's, which have never been challenged on these points.

On August 5, the North American Free-Trade Agreement was announced in Mexico and the same day, Mari Carmen Serra Puche, sister of Jamie Serra Puche, the NAFTA negotiator, announced she was taking over Dr. Wilkerson's project.

According to the New York Times, on the instructions of President Carlos Salinas de Gortari, federal culture officials and the government of Veracruz announced that the most ambitious Mexican archeological restoration project in recent years would begin immediately at the sites. The only problem with this, is much of Dr. Wilkerson's documentation for his project was leaked and used by the Government and others.

When questioned, Mari Carmen Serra Puche, said such scientific work was not regarded as confidential. This infuriated scholars and intellectuals in both Mexico and the United States.

The Christian Science Monitor quoted an archeologist and researcher at the National Autonomous University of Mexico, that he—

> Was surprised to learn that project submissions to the Archaeology Council are not confidential. If they weren't confidential, nobody would present a detailed project. That's intellectual property. If it's not confidential, there would be a great quantity of projects being duplicated.

After the announcement, there was a meeting the first of September at INAH with Mari Carmen Serra Puche and her surrogates with Dr. Wilkerson, at which time, he was asked to repudiate a newspaper story about his project. But the main point of the meeting was for Dr. Wilkerson to accept a new zone that he would work.

Around this time, Dr. Wilkerson was shown letters from the Mexican Embassy to the Washington Post and individuals who had contacted the Embassy on the archaeological project issue. The letters, which were based on a document prepared by INAH, were factually inaccurate.

There was also an article in the Washington Post that the matter was settled about Dr. Wilkerson's project. Which was not so.

The latest event in this saga, was a press conference by INAH in Mexico City on September 14. The INAH Filibobos project was reannounced. Remember, the project was originally announced by August 5, and encompassed exactly the area of Dr. Wilkerson's project.

The Excelsior newspapers in Mexico City reported that Dr. Wilkerson can collaborate in their project if he presents academic institution endorsements.

It also described the press conference as polemical and that the participants were "unable to offer concrete answers about what is the importance of salvage work in this area for which they do not have a large amount of data * * * and it appears that INAH's interest was awakened by the personal project of the American researcher in the study area."

To me, that means they announced a project, but had not the foggiest notion what it was.

The newspaper account also stated:

> Not even the Director of the work, Mari Carmen Serra Puche could clarify what is the interest of INAH in salvaging this zone in which they do not know exactly what their aims are, nor why they are calling it the most ambitious project in the last decade.

The newspaper quotes it as saying that INAH will open the sites to the public and then only afterward discuss the academic value.

A curious part of the story was the statement about Filibobos being a valuable opportunity to create an infrastructure of services and ecological reserve. My understanding is this is entirely outside the normal authority of INAH—that it has no legal basis for participation in commericial infrastructure. According to announcements from various sources, there are plans for building roads and bridges through this study area which is an important ecological region.

Remember that Mari Carmen Serra Puche is simultaneous director of the National Museum of Anthropology, president of the Council of Archaeology, and director of the Filibobos project.

You should also know that this may be the first time that someone has been appointed from outside INAH as the director of the museum, and no one else has three titles of position within INAH. She is also the sister of the Secretary of Commerce, Jaime Serra Puche, who negotiated NAFTA in which they supposedly are guaranteeing intellectual property rights and trade secrets.

To me, this whole affair casts some very serious doubts on the intentions of Mexico to follow through on its guarantees, especially on intellectual property, which is so important to American business and our academics.

Also at question is how a Mexican Government institution can and will arbitrarily change the rules on a scientific endeavor so important not only to Mexico, but to the whole continent. In additon the question remains how they can commercialize such a site and ignore or relegate its academic importance to a secondary position?

To me this site is important, and it is an absolute wonder because of its age and cultural significance. Most of us have wondered as children, how a civilization can disappear, or how cities and buildings can be covered over or lost. We tend to think our time is the most important time, but it is always a surprise to find that other ages existed where people carried on extensive business and religious activities in an area that is partially wilderness. We need to know about this.

Instead of commercializing our wonders, why not look at them as Dr. Wilkerson does, as man's relation with his environment. I believe he says it best for all of us in one of his letters to his family.

In viewing the Bobos/Nautla site he wrote:

> Perhaps the present is not as sophisticated as we would like to think. Unless we learn the value of preserving the past in its own setting we too will inevitably follow the same cycle. Those plants, animals, buildings, artifacts, and the unique valley which shelters them, are a part of the heritage of all men—if we choose to recognize them. For the moment, but probably not for many more moments, this splendid valley and its extraordinary testimonies to ancient grandeur are still hidden in the wilderness of time.

If INAH has its way and commercializes the project, it certainly will not be hidden in time—it will be forever lost—and we will all be the losers.

Once again, I want to salute Dr. Jeffery Wilkerson, who grew up in the second District of Maryland, and express my appreciation to his mother Merlene Wilkerson, my constituent who wrote me about this tragedy. I am certain many of my colleagues will want to join me in pressuring the Mexican Government on this matter.

□ 2200

INTRODUCTION OF RESOLUTION REQUESTING IMMEDIATE INVESTIGATION BY HOUSE ETHICS COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. COMBEST] is recognized for 60 minutes.

Mr. COMBEST. Mr. Speaker, there has been a considerable amount of time spent by the gentleman from Texas, the chairman of the House Banking Committee, in the investigation of United States/Iraq relations prior to Iraq's invasion of Kuwait. During this process, he has intentionally and systematically made unauthorized disclosures of classified and top secret State Department and CIA documents into the CONGRESSIONAL RECORD. This clear violation of House rules and possibly Federal law has been ignored by the Speaker, leaving no other option but to file this resolution asking for an immediate investigation by the House Ethics Committee.

Although Chairman GONZALEZ has denied the disclosure of any classified material, some of the documents that he has inserted in the CONGRESSIONAL RECORD in their entirety, still bear the classifications of "secret" or "confidential" on their faces. Furthermore, the chairman has stated on the floor "the American people have a right to know them [the facts], and piddling, phony charges about national security won't stop me."

Mr. Speaker, I want to set the record straight and provide letters for the RECORD that establish a chronology of events that will provide the complete story that Mr. GONZALEZ has not told. I want to make it very clear that I do not question the authority of the gentleman from Texas in his role as chairman of the Banking Committee to investigate to the full extent concerns he may have that come under the prerogative of his committee. I support the ability of investigators to receive the necessary information from the administration to complete full investigation. I am not questioning his investigation; I am questioning the intentional and unauthorized release of classified and top secret material. Clause 7 of House rule 48 prohibits the disclosure of such information in the Intelligence Committee's possession without a vote of the committee. This provision mandates an investigation by the Committee on Standards of Official Conduct and a report of its finding and recommendations. Under rule 48, those recommendations specifically may include censure, removal from committee membership, or expulsion from the House.

Like Chairman GONZALEZ, I do not always agree with the classification of material we on the Intelligence Committee review and from time to time I feel we have too much material classified. But the decision to ignore that classification is not up to me or any other Member. There is a clear process that members must go through in an attempt to declassify material.

If a Member truly believes an issue is important enough that the House should debate it, and some of the information he deems necessary for debate remains classified, the Member can invoke rule 29. The House can then consider the matter, and the classified information involved, freely in an executive session. Pursuant to this rule, the House may vote to make all or part of the transcript of those secret proceedings public. I believe that any leaks of classified information should be strongly dealt with. Furthermore, in these instances more harm is done than is often apparent on the surface.

Mr. GONZALEZ cavalierly dismisses concerns that the documents he placed in the RECORD "in no way harmed the national security." Of course, it is practically impossible for laymen to grasp all of the possible ramifications which may result from the disclosure of classified information just from looking at its face, let alone the impact of releasing numbers of sensitive documents.

After classified information had been made public by the gentleman from

Texas, the minority leader, Mr. MICHEL, expressed his concerns in a letter to the Speaker on May 15, 1992. I quote from that letter.

> Chairman Gonzalez is publicly disclosing classified information in the Congressional Record during the course of delivering those orders. This information was made available by executive branch agencies to the Banking Committee in cooperation with a committee investigation. In some cases, he has inserted in the Record documents which clearly state that they are classified "secret" or "confidential."
>
> In a letter to our colleague, Congressman Shuster, the State Department indicated that as of April 24, Chairman Gonzalez had "inserted in the Congressional Record the full texts of at least fourteen classified documents generated by the Department of State."
>
> The documents have not been declassified. Moreover, when the State Department gave the committee access to these documents, it was the Department's understanding that access would be restricted to persons with appropriate security clearances, that they would not be duplicated and that the documents would be returned when the committee completed its relevant legislative activities.

To date, that letter has not been answered or acknowledged. The Republican leader wrote to the Speaker again on July 24, 1992 and has yet to receive a response. In a letter to Chairman GONZALEZ on July 24, 1992 the Director of the Central Intelligence Agency, Robert Gates said:

> We also have determined that your statement in the Congressional Record on 7 July 1992 included information from a top secret compartmented and particularly sensitive document dated 4 September 1989 to which we gave your staff access. Because of the sources and methods underlying that information, I will ask for a damage assessment to determine the impact of the disclosure.
>
> I regret that you chose to discuss information from classified documents without attempting to determine if we could work out a way to satisfy both our need to protect intelligence sources and methods, as well as your need to make public information concerning the development of U.S. policy toward Iraq.
>
> I must also take strong exception to your statement in the Record that, "the lack of CIA cooperation with the prosecutors in Atlanta was a calculated administration effort to conceal the true nature of the BNL scandal and to hide the level of Iraqi government complicity in the scandal. In fact, the CIA has cooperated completely with the prosecutors in Atlanta. We received and responded to several Department of Justice requests for information beginning in late summer 1990 providing, among other things, directorate of intelligence finished intelligence reports; raw intelligence reports; copies of articles from the foreign press; and foreign broadcast information service reports. We also provided special briefings for senior Department of Justice attorneys and have provided additional responsive information as it has become available. Although we are unable to determine the value of CIA information to the prosecutor, the facts will show that we have been completely responsive to all requests we have received.
>
> This agency's consistent policy has been to cooperate when requested to do so, with all Department of Justice prosecutions. If evidence to the contrary has come to light during the course of your investigation, I ask that you provide me with facts sufficient to permit inquiry into whether a violation of agency policy has occurred. If no such evidence exists, I urge that the Record be promptly corrected.

In a July 28, letter to Mr. GONZALEZ from Acting Director of Central Intelligence, Admiral Studeman, he wrote:

> As director Gates' response to your letter of 7 July indicates, we have been making every effort to cooperate with your requests for access to intelligence reports available for you to use in public statements. We are prepared to work with you to continue reviewing our reports to determine what may be made available to the public.
>
> We have reviewed your statements published in the Congressional Records of 21 and 27 July. We have determined that portions of your statements were drawn from classified intelligence documents, some of which are top secret, compartmented, and particularly sensitive. I have asked the Office of Security of the Central Intelligence Agency to undertake a review of your statements in order to determine the impact of the disclosures of intelligence information on intelligence sources and methods.

The lack of a response and further disclosures of classified information led Mr. MICHEL to introduce House Resolution 539 on August 4, 1992, and in addition to that resolution, I also include his statement at this time which reads: in part:

> Mr. Speaker, I introduce this resolution with great reluctance. But quite frankly I don't know what else to do. Over two and a half months ago, in an effort to keep this above politics, I quietly wrote the speaker about my concerns over the unauthorized disclosures by chairman Gonzalez, urging quick and decisive action. I got no response * * *.

Today I am introducing House Resolution 572 directing the Committee on Standards of Official Conduct to conduct an investigation regarding the possible unauthorized disclosure of classified information.

As had been referenced in Director Gates' letter, Chairman GONZALEZ indicated there was an effort to hide behind classifications and not produce the documents. I want to read portions of an August 28, letter to Intelligence Committee Chairman DAVE MCCURDY in which Assistant Attorney General W. Lee Rawls outlines a proposal to submit all of the requested information to the House Intelligence Committee.

> I am writing on behalf of the administration to advise you that the administration will be delivering or, consistent with established security procedures, making available to the House Permanent Select Committee on Intelligence copies of classified documents that are responsive to the requests for information set forth in the subpoenas that were recently served on a number of departments and agencies by the House Committee on Banking, Finance and Urban Affairs.
>
> The administration is compelled to respond in this manner because of Chairman Gonzalez's disclosures of classified information on the floor of the House of Representatives and in the Congressional Record.
>
> On May 15, 1992, the attorney general wrote to Chairman Gonzalez to advise him that the administration would not provide him or the Committee on Banking, Finance and Urban Affairs with any more classified information until specific assurances are received from the chairman that classified information provided to him and the committee will receive such security protection. Because we have not received such assurances from Chairman Gonzalez, the administration is following the procedure set forth in the attorney general's May 15, 1992 letter to the Speaker of the House of Representatives.

The Speaker declined that offer. [letter submitted] Following that decline, Assistant Attorney General Rawls wrote this September 4, letter to members of the Banking Committee.

> This letter concerns the requests for information set forth in the subpoenas that the committee recently served on a number of departments and agencies and, specifically, the protection of classified documents responsive to those requests.
>
> The administration is compelled to address this issue because of Chairman Gonzalez's disclosure of classified information on the floor of the House of Representatives and in the Congressional Record.
>
> On May 15, 1992, the attorney general wrote to Chairman Gonzalez to advise him that the administration would not provide him with any more classified information until specific assurances were received from the chairman that classified information provided to him and the committee would receive such security protection. To date, we have not received such assurances.
>
> Therefore, in a further effort to meet the legitimate needs of the committee, consistent with the administration's constitutional and statutory responsibilities, the administration intends to comply with the requests by permitting individual members of the committee, other than the chairman, and their appropriate staff with requisite security clearances to view responsive, classified documents in their offices or at the offices of the appropriate department or agency.
>
> The administration remains committed to providing the committee with the information it needs to perform its legislative responsibilities. We can only do so, however, if the provision of that information does not undermine the administration's constitutional and statutory responsibilities to protect classified information from unauthorized disclosure.

Mr. Speaker, I think the record is clear. There is every indication that the administration is making every effort to comply with Chairman GONZALEZ' investigation, and if not, let us see the list of things that have been requested that have been flatly denied. Let the investigation continue but, Mr. Speaker, the intentional leaks must stop.

OFFICE OF THE REPUBLICAN LEADER,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, May 15, 1992.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: As you may know, our colleague Henry Gonzalez, Chairman of the Committee on Banking, Finance and Urban Affairs, has taken a series of special orders regarding U.S. policy toward Iraq and the role of the Banco Nazionale de Lavoro.

Chairman Gonzalez is publicly disclosing classified information in the Congressional

Record during the course of delivering those orders. This information was made available by Executive Branch agencies to the Banking Committee in cooperation with a committee investigation. In some cases, he has inserted in the Record documents which clearly state that they are classified "Secret" or "Confidential."

In a letter (see attached) to our colleague Congressman Shuster, the State Department indicated that (as of April 24), Chairman Gonzalez had "inserted in the Congressional Record the full texts of at least fourteen classified documents generated by the Department of State." According to that letter, those documents "contain classified information involving sensitive diplomatic discussions and * * * disclose sensitive high-level internal deliberations." The Treasury Department has also expressed concern about publication of classified documents it provided to the Banking Committee.

The documents have not been declassified. Moreover, when the State Department gave the Committee access to these documents, it was the Department's understanding that access would be restricted to persons with appropriate security clearances, that they would not be duplicated and that the documents would be returned when the Committee completed its relevant legislative activities.

It is my understanding that the Banking Committee has never voted to disclose publicly any of these sensitive classified documents. These repeated, unilateral disclosures of classified information raise serious questions of possible violations of House Rules, at least Clauses 1 and 2 and Rule XLIII (Code of Official Conduct). Also, these actions appear to violate the spirit and the letter of Clause 2(k)(7) of Rule XI. I do not know whether the Committee voted to subpoena these documents in executive session. However, the information in these classified documents is required by Executive Order to be protected from disclosure to unauthorized persons, which would certainly seem to include the public. When a Member or committee wishes to bring classified Executive Branch information before the House, Rule XXIX provides the vehicle of a secret session to do so. The information so imparted must continue to be protected unless the House votes to disclose it. Similarly, classified information sent by a committee to the Archives is protected from public disclosure by Clause 5(a) of Rule XXXVI.

Even if the classified documents at issue here were not technically requested in executive session, they should be considered to be de facto executive session information requiring, at a minimum, that the committee authorize their public disclosure. To take the contrary view and accept the implication that any member may unilaterally disclose classified information received by a committee outside of executive session would be blatantly inconsistent with the protective treatment of classified information under Rules XXIX and XXXVI. Clearly, no Rule of the House authorizes such unilateral disclosures.

Two of the Executive Branch departments involved, State and Treasury, have indicated in writing that these unauthorized disclosures have significantly damaged the spirit of close cooperation between the Executive and Legislative Branches. The State Department has expressed its concern about the adverse effects such disclosures have on our ability to conduct our foreign relations. They also noted the grave concerns expressed by our Ambassador to Italy as to the chilling effects these disclosures may have on our relations with that close ally.

My level of concern is further heightened by my understanding that the Banking Committee has also been given access to some sensitive intelligence information. If this trend of disclosing classified information continues, it may be only a matter of time until that information is published in the Record, potentially compromising sensitive intelligence sources and methods. To condone such a pattern of conduct could readily lead to widespread resistance by the Executive Branch to House requests for classified information and to disruptive confrontations in the courts.

Finally, I sincerely believe that the reputation of the House is being seriously damaged by this highly questionable practice. Therefore, in this connection and mindful of Rule XLVIII, I earnestly request and urge you, Mr. Speaker, to look into this serious situation immediately and take whatever corrective actions are necessary to resolve this troublesome matter.

Sincerely,

ROBERT H. MICHEL,
Republican Leader.

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, July 24, 1992.

Hon. HENRY GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In response to your letter of 7 July, we have reviewed the memorandum entitled "Iraq-Italy: Repercussions of the BNL-Atlanta Scandal" to determine whether it can be declassified. We have determined that nearly all of the document can be declassified, although we have had to make some very limited exclusions to protect sensitive intelligence sources and methods. The sanitized document is enclosed. We have done this as part of a continuing effort to cooperate with your committee.

We also have determined that your statement in the Congressional Record on 7 July 1992 included information from a TOP SECRET compartmented and particularly sensitive document dated 4 September 1989 to which we gave your staff access. Because of the sources and methods underlying that information, I will ask for a damage assessment to determine the impact of the disclosure.

I regret that you chose to discuss information from classified documents without attempting to determine if we could work out a way to satisfy both our need to protect intelligence sources and methods, as well as your need to make public information concerning the development of US policy toward Iraq.

I must also take strong exception to your statement in the Record that, "The lack of CIA cooperation with the prosecutors in Atlanta was a calculated administration effort to conceal the true nature of the BNL scandal and to hide the level of Iraqi Government complicity in the scandal." In fact, the CIA has cooperated completely with the prosecutors in Atlanta. We received and responded to several Department of Justice requests for information beginning in late summer 1990 providing, among other things, Directorate of Intelligence finished intelligence reports; raw intelligence reports; copies of articles from the foreign press; and Foreign Broadcast Information Service reports. We also provided special briefings for senior Department of Justice attorneys and have provided additional, responsive information as it has become available. Although we are unable to determine the value of CIA information to the prosecutor, the facts will show that we have been completely responsive to all requests we have received.

This Agency's consistent policy has been to cooperate, when requested to do so, with all Department of Justice prosecutions. If evidence to the contrary has come to light during the course of your investigation. I ask that you provide me with facts sufficient to permit inquiry into whether a violation of Agency policy has occurred. If no such evidence exists, I urge that the record be promptly corrected.

Sincerely,

ROBERT M. GATES,
Director.

OFFICE OF THE REPUBLICAN LEADER,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, July 24, 1992.

Hon. THOMAS S. FOLEY,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I regret that I have to write you again relative to our colleague Henry Gonzalez, Chairman of the Committee on Banking, Finance, and Urban Affairs, who on July 7th and July 21st, disclosed during special orders classified information provided to the Banking Committee by the Executive Branch. Previously, as you may recall, he disclosed classified documents of the State Department and Treasury. On July 7th, he disclosed information purportedly from a classified Central Intelligence Agency document which he indicated is entitled "Iraq-Italy, Repercussions of the BNL-Atlanta Scandal." On July 21st, he disclosed information from two top secret, compartmented CIA intelligence documents.

These unilateral disclosures are improper and neither authorized by, nor consistent with, the Rules of the House, as I pointed out in my letter of May 15, 1992. [See Attachment] It is not up to the capricious inclinations of one Member whether to disclose classified information made available by the Executive Branch to a House committee. Such conduct serves no legitimate legislative oversight needs. Instead, it strikes at the very heart of the mutual trust between branches which is crucial to effective oversight. This information was furnished to the Banking Committee in support of its oversight responsibilities and with the expectation that it would be properly protected from unauthorized disclosure.

This steady stream of leaks by a senior Member of this body reflects very badly on the public reputation and dignity of the House as an institution, quite apart from any consideration of the merits of Chairman Gonzalez's speculations on the meaning and significance of the information he has been disclosing. Moreover, for the leadership of the House to continue to countenance this highly questionable behavior has other far-reaching and disturbing ramifications. It feeds what I fear is a growing and very troubling perception of the relative ease with which any Member may disclose with impunity classified information in virtually any committee's files. Equally seriously, continued inaction on these habitual disclosures will have injurious effects on intelligence assets. Repeated disclosures of classified information are bound to make them more and more hesitant to risk their lives and safety by cooperating with U.S. intelligence agencies. I believe the July 7th incident is the first instance in which Chairman Gonzalez disclosed information from a CIA document he openly acknowledged to be classified. This disclosure, coupled with his leaks of July 21st, suggest an ominous trend. I say that because I understand that for nearly a year now the CIA has been giving Banking Committee staff access to many classified intelligence documents in cooperation with that committee's oversight inquiries.

Frankly, I am puzzled and disappointed that you have not yet responded to or acknowledged my original letter of May 15th on this egregious matter. It is time for action. Every day of inaction risks further disclosures and further damage to national security interests and to the vitality and effectiveness of the legislative oversight process. Mr. Speaker, I therefore urge you again to take whatever steps are required to put an end to these continuing, unauthorized, unilateral disclosures.

Sincerely,

ROBERT H. MICHEL,
Republican Leader.

CENTRAL INTELLIGENCE AGENCY,
Washington, DC, July 28, 1992.

Hon. HENRY GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As Director Gates' response to your letter of 7 July indicates, we have been making every effort to cooperate with your requests for access to intelligence information. We have appropriately declassified intelligence reports available for you to use in public statements. We are prepared to work with you to continue reviewing our reports to determine what may be made available to the public.

We fully respect your obligation to discharge the oversight responsibilities assigned to your Committee. I hope that you understand our obligation to protect intelligence sources and methods through careful review of information before it is released to the public.

We have reviewed your statements published in the Congressional Records of 21 and 27 July. We have determined that portions of your statements were drawn from classified intelligence documents, some of which are Top Secret, compartmented, and particularly sensitive. I have asked the Office of Security of the Central Intelligence Agency to undertake a review of your statements in order to determine the impact of the disclosures of intelligence information on intelligence sources and methods.

Very respectfully,

W.O. STUDEMAN,
Admiral, U.S. Navy, Acting Director of Central Intelligence.

STATEMENT BY ROBERT H. MICHEL, INTRODUCING A RESOLUTION CALLING FOR AN ETHICS PROBE OF CHAIRMAN GONZALEZ, AUGUST 4, 1992

Mr. Speaker, I introduce this resolution with great reluctance. But quite frankly I don't know what else to do. Over two and a half months ago, in an effort to keep this above politics, I quietly wrote the Speaker about my concerns over the unauthorized disclosures by Chairman Gonzalez, urging quick and decisive action. I got no response, even through Attorney General Barr indicated in a letter to the Speaker that because of Mr. Gonzalez' unauthorized disclosures, the administration must cease furnishing him classified information

Eleven days ago in another letter to the Speaker, I reiterated my concerns, and noted that since my original letter, there had been more unauthorized disclosures by Mr. Gonzalez that were drawn from very sensitive and highly classified CIA documents. These latest disclosures prompted letters to House Leaders from the Director of Central Intelligence, Robert Gates, and Admiral William Studeman, who is temporarily serving as the acting Director of Central Intelligence.

Both Gates and Studeman have indicated that Mr. Gonzalez has unilaterally disclosed classified Intelligence information. So have representatives of the State Department and Treasury Department with respect to classified information emanating from their agencies which they gave Chairman Gonzalez in a good faith effort to comply with this requests.

Mr. Speaker, the information that Mr. Gonzalez has been disclosing was furnished to him with the understanding that it be properly protected. The key to successful oversight of intelligence matters is trust. Without it, the whole process breaks down. Failure to act on this matter provides the Executive Branch with a legitimate reason to withhold information—information that is crucial to meaningful oversight.

Failure to address this problem immediately will also cause serious damage to our Intelligence activities overseas. Put yourself in the shoes of a friendly country or third parties who have been helping our Intelligence Officers carry out their mission. Letting this go on unaddressed creates the perception that Congress is a sieve and we are unconcerned about the security interests of our allies and the lives of our Intelligence Officers and their agents.

We must remember that in this highly interdependent world we can't go it alone. Terrorism is a case in point. Most terrorism against U.S. Citizens occurs overseas. To combat it, we need the cooperation of our allies. That kind of cooperation is going to dry up—if we continue to let leaks like this go unpunished.

Failure of the House to hold Mr. Gonzalez accountable places him above the law. Moreover, this steady stream of leaks by a senior member of this body reflects very badly on the public reputation and dignity of the House as an institution, quite apart from any consideration of the merits of Chairman Gonzalez' speculations on the meaning and significance of the information he has been disclosing. For the Leadership of the House to continue to tolerate this highly questionable behavior has other far-reaching and disturbing ramifications. It feeds what I fear is a growing and very troubling perception of the relative ease with which any Member can disclose classified information with impunity.

Mr. Speaker, every member of this institution must abide by our rules and procedures. When a member of a committee wishes to bring classified Executive Branch information before the House, Rule 29 provides the vehicle of a secret session to do so. That information must remain protected unless the House votes to disclose it. In short, I believe that Mr. Gonzalez' conduct does not reflect creditably on the House and violates Clause 1 of House Rule 43, which deals with Members' code of conduct. It also violates Clause 2 of House Rule 43, which enjoins all members to adhere to the spirit and the letter of the rules of this body.

It is against this backdrop, Mr. Speaker, that I introduce this Resolution today. Enough is enough. It is time for action. Every day of inaction risks further disclosures and further damage to national security interests and to the vitality and effectiveness of the legislative oversight process.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, August 28, 1992.

Hon. DAVE MCCURDY,
Chairman, Permanent Select Committee on Intelligence, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing on behalf of the Administration to advise you that the Administration will be delivering or, consistent with established security procedures, making available to the House Permanent Select Committee on Intelligence copies of classified documents that are responsive to the requests for information set forth in the subpoenas that were recently served on a number of departments and agencies by the House Committee on Banking, Finance and Urban Affairs.

The Administration is compelled to respond in this manner because of Chairman Gonzalez's disclosures of classified information on the floor of the House of Representatives and in the Congressional Record. The executive order on national security information precludes us from disseminating classified information "outside the executive branch except under conditions that ensure that the information will be given protection equivalent to that afforded within the executive branch." E.O. 12356, Section 4.1(c), 47 Fed. Reg. 14874, 14881 (1982). On May 15, 1992, the Attorney General wrote to Chairman Gonzalez to advise him that the Administration would not provide him or the Committee on Banking, Finance and Urban Affairs with any more classified information until specific assurances are received from the Chairman that classified information provided to him and the Committee will receive such security protection. Because we have not received such assurances from Chairman Gonzalez, the Administration is following the procedure set forth in the Attorney General's May 15, 1992 letter to the Speaker of the House of Representatives.

Consistent with the Administration's constitutional and statutory responsibilities, until such time as Chairman Gonzalez provides the executive branch with specific assurances that classified information will remain protected, the Administration intends to respond to subpoenas and other requests for information from Chairman Gonzalez or the Committee that call for the production of classified documents by delivering or, in appropriate circumstances, making such documents available to the House Permanent Select Committee on Intelligence. We are following this procedure on the understanding that the House Permanent Select Committee on Intelligence will act as the custodian of the classified documents in question, and that the Speaker will control access to the documents to ensure that they are disclosed only to persons who provide specific assurances that they will accord the documents security protection consistent with that afforded such documents within the executive branch, that is, protection from unauthorized disclosure, with access provided only to persons with appropriate security clearances and a need to know the classified information contained therein.

Enclosed are copies of the Attorney General's letters of May 15, 1992 and my letters to today's date to Chairman Gonzalez and the Speaker.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

HOUSE OF REPRESENTATIVES,
Washington, DC, September 2, 1992.

DEAR MR. ATTORNEY GENERAL: In an August 28 letter, Mr. Lee Rawls, the Assistant

Attorney General for Legislative Affairs, has written to inform me that copies of certain classified documents responsive to supoenas issued by the Committee on Banking, Finance and Urban Affairs are to be delivered or made available to the Permanent Select Committee on Intelligence. He further indicates that the Administration intends to continue to provide classified documents requested by the Banking Committee to the Intelligence Committee and ask that I, as Speaker, act to control access to such documents subject to security criteria set forth in his letter.

The Parliamentarian informs me that he knows of no precedent for the issuance of such a directive by the Speaker. Neither committee has requested this arrangement, nor was it the subject of any agreement between the Administration and me.

After careful consideration of Mr. Rawl's letter, and further consultation with the Parliamentarian, I have determined that I have no authority to impose the conditions the Administration seeks. I therefore suggest that the Administration discuss with the Banking Committee the manner in which it will comply with these subpoenas. It is my view that it is not appropriate for either the Intelligence Committee or me as Speaker to unilaterally interpose ourselves between the Banking Committee and the Administration with respect to what constitutes effective compliance with the Committee's subpoenas.

With high personal regard, I am

Sincerely,

THOMAS S. FOLEY,
The Speaker.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, September 4, 1992.

Hon. HENRY B. GONZELEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter concerns the requests for information set forth in the subpoenas that the Committee recently served on a number of departments and agencies and, specifically, the protection of classified documents responsive to those requests. In a letter dated September 2, 1992, the Speaker of the House of Representatives has advised the Administration that, under the circumstances, he has no authority to control access to classified documents placed in the custody of the House Permanent Select Committee on Intelligence in response to requests for information issued by the Committee on Banking, Finance, and Urban Affairs.

As the Administration has previously advised you, classified documents are subject to the binding restrictions set forth in the executive order on national security information, which precludes departments and agencies from disseminating classified information "outside the executive branch except under conditions that ensure that the information will be given protection equivalent to that afforded within the executive branch." E.O. 12356, Section 4.1(c), 47 Fed. Reg. 14874, 14831 (1992). By letter dated May 15, 1992, the Attorney General informed you on behalf of the Administration that "in light of your recent disclosures [of classified information], the executive branch will not provide any more classified information to you until specific assurances are received from you that classified information provided to you and the Committee will receive the same security protection provided by the executive branch, that is, protection from unauthorized disclosure, with access provided only to persons with appropriate security clearances." To date, we have not received such assurances.

Accordingly, the Administration will deliver or, in appropriate circumstances, make available to you responsive, classified documents only on the condition that you provide the Administration with specific assurances that classified information provided to you will receive the same security protection provided by the executive branch, that is, protection from unauthorized disclosure, with access provided only to persons with appropriate security clearances. If you provide the Administration with such assurance, the Administration will, consistent with its constitutional and statutory responsibilities, deliver or make available to you responsive, classified documents forthwith.

Until you provide such assurances, and consistent with the Administration's constitutional and statutory responsibilities, the Administration intends to comply with the requests for information set forth in the subpoenas by permitting individual members of the Committee and their appropriate staff with requisite security clearances to view responsive, classified documents in their offices or at the offices of the appropriate department or agency. Requests to view classified documents should be directed to departments and agencies that indicate that they have custody or control of classified documents responsive to the Committee's requests. Viewing arrangements will be made promptly, and will be carried out in accordance with established security procedures.

The Administration remains committed to providing the Committee with the information it needs to perform its legislative responsibilities. We can only do so, however, if the provision of that information does not undermine the Administration's constitutional and statutory responsibilities to protect classified information from unauthorized disclosure. We look forward to working with you to resolve this matter in a mutually satisfactory and responsible manner.

If you have any questions, please do not hesitate to contact me at 514-2141 or Faith Burton, Acting Deputy Assistant Attorney General, at 514-1653.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, September 4, 1992.

Members of the Committee on Banking, Finance, and Urban Affairs,
U.S. House of Representatives, Washington, DC.

DEAR COMMITTEE MEMBER: This letter concerns the requests for information set forth in the subpoenas that the Committee recently served on a number of departments and agencies and, specifically, the protection of classified documents responsive to those requests.

The Administration is compelled to address this issue because of Chairman Gonzalez's disclosures of classified information on the floor of the House of Representatives and in the Congressional Record. The executive order on national security information precludes us from disseminating classified information "outside the executive branch except under conditions that ensure that the information will be given protection equivalent to that afforded within the executive branch." E.O. 12356, Section 4.1(c), 47 Fed. Reg. 14874, 14881 (1982). On May 15, 1992, the Attorney General wrote to Chairman Gonzalez to advise him that the Administration would not provide him with any more classified information until specific assurances were received from the Chairman that classified information provided to him and the Committee would receive such security protection. To date, we have not received such assurances.

Accordingly, on August 28, 1992, I wrote to Chairman Gonzalez to advise him that the Administration would deliver or, in appropriate circumstances, make available responsive classified documents to the House Permanent Select Committee on Intelligence. The Administration elected to follow this procedure on the understanding that the House Permanent Select Committee on Intelligence would act as the custodian of the classified documents, and that the Speaker of the House of Representatives would control access to the documents to ensure that the documents would be disclosed only to persons who would accord the documents security protection consistent with that afforded such documents within the executive branch, that is, protection from disclosure, with access provided only to persons with appropriate security clearances. On September 2, 1992, the Speaker of the House of Representatives wrote the Attorney General to advise him that, under the circumstances, he has no authority to control access to classified documents placed in the custody of the House Permanent Select Committee on Intelligence in response to requests for information issued by the Committee on Banking, Finance, and Urban Affairs.

Therefore, in a further effort to meet the legitimate needs of the Committee, consistent with the Administration's constitutional and statutory responsibilities, the Administration intends to comply with the requests by permitting individual members of the Committee, other than the Chairman, and their appropriate staff with requisite security clearances to view responsive, classified documents in their offices or at the offices of the appropriate department or agency. Requests to view classified documents should be directed to departments and agencies that indicate that they have custody or control of classified documents responsive to the Committee's requests. Viewing arrangements will be made promptly, and will be carried out in accordance with established security procedures.

The Administration remains committed to providing the Committee with the information it needs to perform its legislative responsibilities. We can only do so, however, if the provision of that information does not undermine the Administration's constitutional and statutory responsibilities to protect classified information from unauthorized disclosure.

Enclosed are copies of the Attorney General's letters to Chairman Gonzalez and the Speaker dated May 15, 1992, my letters to Chairman Gonzalez and the Speaker dated August 28, 1992, and the Speaker's letter to the Attorney General dated September 2, 1992. If you have any questions about this matter, please do not hesitate to contact me at 514-2141 or Faith Burton, Acting Deputy Assistant Attorney General, at 514-1653.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

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Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. COMBEST. I am happy to yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding to me.

I just wanted to say that I was in my office and listened to the gentleman's words and came over to the floor because I thought that what he was saying is extremely important.

I think too many of us begin to develop an idea about the people who are impacted and affected by the leaking or the displaying of classified documents that evidence the fact that we do not understand how absolutely critical it is that we maintain confidentiality and that the lives of people who work for the United States are affected and at times endangered because of the actions of Members of Congress who take it into their own hands to decide what will be classified and what will not be classified.

I just wanted to say to the gentleman that the men and women of the nonuniformed services who work in our intelligence operations around the world, who risk their lives on a daily basis, who do not get praise when they come home, like our Desert Storm troopers, and who sometimes die in small and quiet places, have a real interest in what the gentleman is saying, and in this body adopting, and that includes all the Members, some of whom have betrayed that confidentiality and that trust, adopting a discipline, because if we do not adopt a new discipline, we are going to see lives lost.

Mr. Speaker, I thank the gentleman for taking time from his busy schedule to come down and say the words he has given us today.

Mr. COMBEST. Mr. Speaker, I appreciate the comments of the gentleman.

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. COMBEST. I am happy to yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, I thank the gentleman for yielding to me.

My remarks will be very circumspect, because I sit on the Ethics Committee, and the gentleman from Texas has called for action by that committee, so in order not to prejudge anything and be entirely fair, I will be very cautious in what I say; however, I could not let this opportunity pass without saying that I think it is necessary that some action come forward, because I think some critically essential principles are at stake in front of us.

I happen to come from the Sunshine State, the State of Florida, where we have government in the sunshine, we cherish the public's right to know and the public's access to information; but we also know that some matters are withheld from the public for security reasons, whether it is national security or other bonafide purposes, and they are out there.

Matters are classified according to degrees of sensitivity, subject to special procedures, rules of handling, we know that. We know these things. It is part of being a Congressperson.

Some quarrel with classifications, and I would agree there are times they should be challenged, whether a report or a document has got the right classification or is classified for the right reasons is debatable; but that is not the issue here in any way. There are procedures to deal with that.

I would say that in some very special circumstances, there are ways to get special access to classified material or waivers of classified material. Again, those are not the issues here.

I do not know of a single event, not any event, and certainly there should be no event where there is any latitude for an individual Member of Congress to unilaterally and deliberately expose classified material. I do not see how any Member of Congress has the experience to make that judgment and substitute his or her preference over the judgment of professionals who have made the classification.

Now, on its face, based on what I have heard this evening, it appears that one Member of this body has willfully, repeatedly and significantly, released clearly classified information on several occasions, despite warnings to desist, if I have understood it properly.

I think it is alleged that damage has been done or may have been done to our national interests, to this institution and to the ability of this institution to work in a cooperative and friendly spirit with the executive branch, an efficient spirit; but for me tonight, and the reason I am speaking is not about this individual, it is about the principle involved, because it is a professional principle, and let me try this for a thought.

Were I a doctor or a lawyer, I believe that anybody would understand the client privilege between an attorney and his client. I think anybody would understand the special relationship between the doctor and his patient and the right to privacy. I think those are clear things.

Well, I happen to be a former intelligence officer. I will tell you that that profession depends on respect and privacy of sensitive matters, and they cannot be breached without serious effect.

It is a matter of professionalism. I would suggest that our professional intelligence efforts, on which we spend many hours, would be reduced to chaos and rubble if we tolerate unauthorized disclosure of privileged information by a Member of Congress because it is some kind of a right or privilege we afford to a Member of Congress.

Besides, we all know it is against the rules.

In fact, it turns out that matters are not quite finished in Iraq. We have got some very difficult decisions ahead in that country. We have got some very difficult decisions ahead with our partners to get compliance with the U.N. resolution. Leaks, willful or otherwise about Iraq, will affect our Intelligence gathering capability negatively. It is not in our Nation's best interests, certainly not now, and certainly not about Iraq. This is serious business.

If all the things that I have heard are true, I would suggest that it would be prosecutable and where it is not, perhaps there is a debate going on about whether a Member might be able to hide behind the speech and debate clause. I gather that is not resolved yet, anyway. There is some case law on it.

Some I know will say that this is all partisan politics. It is not so; anyway, not for me, it is not so. I have spoken from the well twice before on this issue. I have written an op-ed piece about it. I believe I have experience that is somewhat unique in this body as a former intelligence officer in the clandestine services; so I feel very strongly about it and this goes beyond partisan politics.

Unauthorized disclosure of classified information is wrong. It is harmful to our Nation's best interests, and I believe the gentleman from Texas [Mr. COMBEST] said it well when he said our first order of business is this must be stopped. Then perhaps we can get to the question of whether rules were broken, whether or not some punitive efforts are necessary; but meanwhile, I plead, Mr. Speaker, please stop the leaks now.

Mr. COMBEST. Mr. Speaker, I appreciate the comments of the gentleman, and again emphasize that they come from the experience of the years that he spent as an intelligence officer and understands the pressure those people are under in a very sensitive and certainly very dangerous position.

Mr. Speaker, I have no further request for time or any further statement.

GENERAL LEAVE

Mr. COMBEST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on the subject of my special order tonight.

The SPEAKER pro tempore (Mr. HARRIS). Is there objection to the request of the gentleman from Texas?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. OWENS of Utah (at the request of Mr. GEPHARDT), for today, on account of personal business.

Mr. PICKLE (at the request of Mr. GEPHARDT), for today, on account of death of friend.

Mr. BARNARD (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of illness.

Mr. GORDON (at the request of Mr. GEPHARDT), for today, on account of death in family.

Mr. WASHINGTON (at the request of Mr. GEPHARDT), for today after 6 p.m. and the balance of the week, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. COMBEST, for 60 minutes, today.

Mr. WYLIE, for 5 minutes today, and for 60 minutes on September 22.

Mr. MILLER of Ohio, for 60 minutes, on September 22.

Mr. DORNAN of California, for 60 minutes, on September 18, 22, 23, 24, 30 and October 1, 2, 3, 4, and 5, and for 5 minutes, today.

Mr. EDWARDS of Oklahoma, for 60 minutes, on September 23.

Mr. COBLE, for 60 minutes, on September 22.

Mr. DUNCAN, for 5 minutes, today.

(The following Members (at the request of Mr. FRANK of Massachusetts) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ROSE, for 60 minutes, on September 22.

Mr. GONZALEZ, for 60 minutes each day, on September 29 and 30, October 1, 2, 3, 4, 5, and 6.

Mr. OWENS of New York, for 60 minutes each day, on October 1, 2, 3, 4, 5, and 6.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DUNCAN) and to include extraneous matter:)

Mr. LAGOMARSINO.

Mr. FISH.

Ms. ROS-LEHTINEN.

Mr. MCCOLLUM.

Mr. SOLOMON.

Mr. BOEHLERT.

Mr. MICHEL.

Mr. CRANE.

Mrs. MORELLA.

Mr. GREEN of New York.

Mr. WEBER.

Mr. LOWERY of California.

Mr. SOLOMON.

Mr. GRADISON.

(The following Members (at the request of Mr. FRANK of Massachusetts) and to include extraneous matter:)

Mr. STARK in three instances.

Mr. HOYER in two instances.

Mr. HOCHBRUECKNER.

Mr. CONDIT.

Mr. YATRON.

Mr. MANTON.

Mrs. KENNELLY.

Mr. MINETA.

Mr. GUARINI.

Mr. ROE.

Mr. MATSUI.

Mr. LAFALCE.

Mr. KANJORSKI.

Mr. STENHOLM.

Mr. LEVINE of California.

Mr. MAVROULES.

Mr. SARPALIUS.

ADJOURNMENT

Mr. COMBEST. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 28 minutes p.m.), the House adjourned until tomorrow, Friday, September 18, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4267. A communication from the President of the United States, transmitting an amendment to the fiscal year 1993 request for appropriations for the Department of Defense, the Asian Development Bank, and the Asian Development Fund, pursuant to 31 U.S.C. 1107 (H. Doc. No. 102–391); to the Committee on Appropriations and ordered to be printed.

4268. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to relieve the regulatory burden on depository institutions and credit unions that are doing business or that seek to do business in an emergency or major disaster area, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

4269. A letter from the Secretary of Health and Human Services, transmitting a copy of the 1991 edition of "Health, United States," which presents data in four areas: Costs and financing of health care, distribution of health care resources, and the health of the Nation's people; in addition it contains the fifth triennial "Prevention Profile," pursuant to 42 U.S.C. 242m(a)(2)(A); to the Committee on Energy and Commerce.

4270. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Korea for defense articles and services (Transmittal No. 92–39), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4271. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to Turkey for defense articles and services (Transmittal No. 92–43), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4272. A letter from the Deputy Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Greece for defense articles and services (Transmittal No. 92–41), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4273. A communication from the President of the United States, transmitting a report on the status of efforts to obtain compliance by Iraq with the resolutions adopted by the U.N. Security Council, pursuant to Public Law 102–1, section 3 (105 Stat. 4) (H. Doc. No. 102–390); to the Committee on Foreign Affairs and ordered to be printed.

4274. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refund of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4275. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

4276. A letter from the Attorney General of the United States, transmitting the annual report for fiscal year 1991 on the private counsel debt collection pilot project, pursuant to 31 U.S.C. 3718(c); to the Committee on the Judiciary.

4277. A letter from the Secretary of the Interior, Secretary of Commerce, transmitting the 11th report on activities of the Department of Interior and the Department of Commerce with respect to the emergency stripped bass research study, pursuant to 16 U.S.C. 757g(b); to the Committee on Merchant Marine and Fisheries.

4278. A letter from the Administrator, General Services Administration, transmitting an informational copy of a lease prospectus, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4279. A letter from the Secretary, Department of Defense, transmitting the 1992 report on allied contributions to the common defense, pursuant to 22 U.S.C. 1928 note; jointly, to the Committees on Armed Services and Foreign Affairs.

4280. A letter from the Deputy Secretary of Energy, transmitting a copy of a report entitled, "Transporting U.S. Oil Imports: The Impact of Oil Spill Legislation on the Tanker Market"; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee of Conference. Conference report on S. 2344 (Rept. 102–871). Ordered to be printed.

Mr. CONYERS: Committee on Government Operations. H.R. 5798. A bill to authorize payments to units of general local government for fiscal years 1992 and 1993; with an amendment (Rept. 102–872). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 3204. A bill to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes; with an amendment (Rept. 102–873, Pt. 1). Ordered to be printed.

Mr. BROOKS: Committee on the Judiciary. H.R. 4841. A bill granting the consent of the Congress to the New Hampshire-Maine Interstate School Compact (Rept. 102–874). Referred to the House Calendar.

Mr. BROOKS: Committee on the Judiciary. H.R. 5452. A bill granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority (Rept. 102–875). Referred to the House Calendar.

Mr. FROST: Committee on Rules. House Resolution 573. Resolution providing for the consideration of the bill (H.R. 3298) to enhance the financial safety and soundness of the banks and associations of the Farm Credit System (Rept. No. 102–876).

Ms. SLAUGHTER: Referred to the House Calendar. Committee on Rules. House Resolution 574. Resolution providing for the consideration of the bill (H.R. 918) to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes (Rept. 102–877). Referred to the House Calendar.

Mr. BONIOR: Committee on Rules. House Resolution 575. Resolution providing for the consideration of Senate amendments to the bill (H.R. 5620) making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes (Rept. 102–878). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RAHALL (for himself, Mr. Miller of California, and Mr. Studds):

H.R. 5962. A bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BEREUTER:

H.R. 5963. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate all or any portion of their income tax refund to reduce the public debt: to the Committee on Ways and Means.

By Mr. ERDREICH:

H.R. 5964. A bill to direct the Secretary of Education to make a grant to Jefferson State Community College in Birmingham, AL, for construction of a business and technology center; to the Committee on Education and Labor.

By Ms. KAPTUR (for himself and Mr. Guarini):

H.R. 5965. A bill to provide for the establishment of a Professional Trade Service Corps, and for other purposes; jointly, to the Committees on Ways and Means, Post Office and Civil Service, and the Judiciary.

By Mr. LaFALCE:

H.R. 5966. A bill to amend the Bankruptcy Act to make small business investment companies and specialized small business investment companies ineligible to file bankruptcy, and for other purposes; to the Committee on the Judiciary.

By Mr. SMITH of Oregon:

H.R. 5967. A bill to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Oregon; to the Committee on Energy and Commerce.

By Mr. STARK:

H.R. 5968. A bill to transfer the functions of the Director of the Federal Emergency Management Agency to the Secretary of Defense; jointly, in the Committees on Armed Services and Public Works and Transportation.

By Mr. HOAGLAND:

H.R. 5969. A bill to establish a National Commission on the Conservation of Biological Resources; to the Committee on Merchant Marine and Fisheries.

By Mr. JOHNSON of Texas (for himself, Mr. Kyl, Mr. Riggs, Mr. Thomas of Wyoming, Mr. Doolittle, and Mr. Nichols):

H.R. 5970. A bill to improve the access of all Americans to health care; jointly, to the Committees on Ways and Means, Energy and Commerce, and the Judiciary.

By Mr. KOSTMAYER:

H.R. 5971. A bill to authorize the Administrator of the National Highway Traffic Safety Administration to make grants for the purpose of promoting the use of bicycle helmets by children under the age of 16; to the Committee on Public Works and Transportation.

By Mr. RAMSTAD:

H.R. 5972. A bill to amend title 18, United States Code, to strengthen the Federal prohibitions against assaulting children; to the Committee on the Judiciary.

By Mrs. SCHROEDER (for herself, Mr. Wheat, Mr. Gilman, Mr. Green of New York, Mr. Lehman of Florida, Mr. Martinez, Mrs. Collins of Michigan, and Mr. Downey):

H.R. 5973. A bill to grant employees family and temporary medical leave, to treat the costs of the Head Start Program and other programs for children as emergency funding requirements, to provide aid to parents in providing the best possible learning environment for children, to promote investments in child welfare and family preservation, to reduce violence and improve the safety of children and their families, and for other purposes; jointly, to the Committees on Education and Labor, House Administration, Post Office and Civil Service, and Ways and Means.

By Mr. COMBEST:

H. Res. 572. Resolution directing the Committee on Standards of Official Conduct to conduct an investigation regarding possible unauthorized disclosures of classified information in violation of the Rules of the House of Representatives; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 53: Mr. Blaz and Mr. Hoagland.

H.R. 384: Mr. Sikorski.

H.R. 576: Mr. Blaz and Mrs. Vucanovich.

H.R. 856: Ms. Oakar.

H.R. 961: Mrs. Byron.

H.R. 1218: Mr. Campbell of California.

H.R. 1472: Mr. McHugh and Mr. Dickinson.

H.R. 1473: Mr. Rose and Mr. Gekas.

H.R. 2089: Mr. Martinez and Mr. Boehlert.

H.R. 3030: Mr. Dornan of California and Mr. Lehman of California.

H.R. 3142: Mr. Wilson.

H.R. 3545: Mr. Holloway.

H.R. 3598: Mr. Peterson of Florida, Mr. Chapman, and Mr. Wise.

H.R. 3627: Mr. Cooper, Mr. Nagle, Mr. Weldon, and Mr. Shays.

H.R. 3735: Mr. Cox of California.

H.R. 3764: Mr. Abercrombie.

H.R. 3808: Mr. Erdreich, Ms. DeLauro, and Mr. Roe.

H.R. 4288: Mr. Doolittle.

H.R. 4333: Mr. Fish.

H.R. 4507: Mr. Darden.

H.R. 4695: Mr. Schaefer.

H.R. 4909: Mr. Abercrombie.

H.R. 4962: Mr. Williams and Mrs. Lowey of New York.

H.R. 4963: Mrs. Lowey of New York and Mr. Hoagland.

H.R. 5000: Mr. Gaydos.

H.R. 5014: Mr. Kildee.

H.R. 5025: Mr. Washington.

H.R. 5153: Mr. McCollum and Mr. Hefley.

H.R. 5208: Mr. Coyne.

H.R. 5258: Mr. Gunderson, Mr. Bliley, Mr. Ramstad, Mr. Schaefer, Mr. Coleman of Texas, Ms. Slaughter, Mr. Sawyer, and Mr. Waxman.

H.R. 5299: Mr. Hamilton.

H.R. 5317: Mr. Evans, Mr. Valentine, and Mr. LaFalce.

H.R. 5367: Mr. Hutto, Mr. McEwen, Mr. Coleman of Texas, Mr. Gilchrest, Mrs. Collins of Illinois, Mr. Jacobs, and Mr. Goss.

H.R. 5424: Mr. Hyde and Mr. Cox of Illinois.

H.R. 5512: Mr. Smith of Florida, Mr. Traficant, Mr. Lancaster, Mr. Weldon, and Mr. Manton.

H.R. 5556: Mr. Sanders.

H.R. 5559: Mr. Miller of Washington.

H.R. 5593: Mr. Colorado.

H.R. 5758: Mr. Espy, Mr. Gunderson, Mr. Hayes of Illinois, Mr. Holloway, Mr. Jenkins, Mr. Johnson, of South Dakota, Mr. Sanders, and Mr. Dorgan of North Dakota.

H.R. 5773: Mr. Gekas, Mr. Doolittle, Mr. Kolbe, and Mr. Nussle.

H.R. 5775: Mr. LaRocco.

H.R. 5776: Mr. Horton and Mr. Solomon.

H.R. 5790: Mr. Gilchrest, Mr. Coleman of Texas, Mr. Schumer, Mr. Frank of Massachusetts, Mr. Solomon, Mr. Glickman, and Mr. Moran.

H.R. 5798: Mr. Coyne, Mrs. Kennelly, Mr. Savage, Mr. Torres, Ms. DeLauro, Mr. Coleman of Texas, Mr. Dymally, and Mr. Flake.

H.R. 5823: Mr. Frank of Massachusetts and Mr. Lewis of Florida.

H.R. 5828: Mr. Burton of Indiana, Mr. Glickman, and Mr. McMillan of North Carolina.

H.R. 5851: Mr. Zimmer, Mr. McNulty, Ms. Norton, and Mr. Fawell.

H.R. 5872: Mr. Neal of Massachusetts, Mr. Ritter, Ms. Norton, Mr. Lipinski, and Mr. Walsh.

H.J. Res. 22: Mr. Armey, Mr. Doolittle, and Mr. Lagomarsino.

H.J. Res. 399 Mr. Bunning, Mr. Mineta, Mr. Packard, Mr. Owens of New York, Mr. Towns, and Mr. Ford of Tennessee.

H.J. Res. 468: Ms. Kaptur and Mr. Gillmor.

H.J. Res. 476: Mr. Condit, Mr. Lewis of Georgia, Mr. Whitten, and Mr. Slattery.

H.J. Res. 503: Mr. Davis, Mr. Bryant, and Mr. Abercrombie.

H.J. Res. 523: Mr. McCollum, Mr. Hammerschmidt, Mr. McCrery, Mr. Moorhead, Mr. Bryant, Mr. Ray, Ms. Oakar, Mr. Jontz, Mr. Natcher, and Mr. Price.

H.J. Res. 531: Mrs. Patterson, Mr. Dymally, Mr. Dooley, Mr. Savage, Mr. Yatron, Mr. Moody, Mr. Machtley, Mr. Dixon, Mr.

RAHALL, Mr. CARDIN, Mr. WALSH, Ms. DELAURO, and Mr. SOLOMON.

H.J. Res. 532: Mr. CONYERS.

H.J. Res. 538: Mr. PAYNE of New Jersey, Ms. DELAURO, Mr. OBERSTAR, Mr. MCNULTY, Mr. TOWNS, Mr. DEFAZIO, Mr. GEJDENSON, Mrs. BOXER, Ms. WATERS, Mr. MILLER of Washington, Mr. DIXON, and Mr. SABO.

H.J. Res. 540: Mr. BURTON of Indiana and Mr. LIPINSKI.

H.J. Res. 546: Mr. MARTIN, Mrs. JOHNSON of Connecticut, Mr. MCCLOSKEY, Mr. INHOFE, Mr. MCGRATH, Mrs. MEYERS of Kansas, Mr. MILLER of Ohio, Mr. MATSUI, Mr. MORAN, Mr. NEAL of Massachusetts, Mr. MILLER of California, Mr. OWENS of New York, Mr. OWENS of Utah, Mr. MOORHEAD, Mr. PAXON, Mr. SAWYER, Ms. NORTON, Mr. PAYNE of New Jersey, Mr. PURSELL, Mr. QUILLEN, Mr. RAVENEL, Mr. SAVAGE, Mr. SAXTON, Mr. SABO, Mr. RUSSO, Mr. ERDREICH, Mr. LEVINE of California, Mr. SHAYS, Mrs. BOXER, Mr. DYMALLY, Mr. MFUME, Mr. MACHTLEY, Mr. SKEEN, Mr. LEWIS of California, Mr. BLAZ, Mr. MINETA, Ms. KAPTUR, Mr. RANGEL, Mr. DEFAZIO, Mr. MARTINEZ, Mr. YOUNG of Alaska, Mr. TRAXLER, Mr. TOWNS, Mr. TRAFICANT, Mr. VANDER JAGT, Mr. VENTO, Ms. WATERS, Mr. AUCOIN, Mr. BILBRAY, Mr. BILIRAKIS, Mr. CONYERS, Mr. DICKINSON, Mr. EVANS, Mr. FLAKE, Mr. FORD of Tennessee, Mr. HATCHER, Mr. GREEN of New York, Ms. HORN, Mr. MAVROULES, Mr. MURPHY, Mr. PANETTA, Mr. RIGGS, Mr. ROBERTS, Ms. OAKAR, Mr. GILMAN, Mr. NAGLE, Mr. SCHUMER, Mr. SMITH of New Jersey, Mr. GUNDERSON, Mr. YATRON, Mr. TALLON, Mr. TAUZIN, Mr. SWETT, Mr. WOLPE, Mr. SOLOMON, Ms. DELAURO, Mr. NOWAK, Mr. LAFALCE, Mr. MCDADE, Mr. COBLE, Mr. KLUG, and Mr. KLECZKA.

H. Con. Res. 223: Mr. DURBIN, Mrs. UNSOELD, and Mr. YATRON.

H. Con. Res. 344: Mrs. COLLINS of Michigan.

H. Res. 399: Mr. PICKETT and Mr. STUDDS.

H. Res. 565: Mr. PACKARD.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4542: Mr. SUNDQUIST.

SENATE—*Thursday, September 17, 1992*

(Legislative day of Tuesday, September 8, 1992)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable **HERB KOHL**, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Cast thy burden upon the Lord, and he shall sustain thee * * *.—Psalm 55:22.

Commit thy way unto the Lord; trust also in him; and he shall bring it to pass.—Psalm 37:5.

Gracious God of love and patience, one exasperation leadership must endure is to have to listen to solutions invented by those who don't have to solve the problems. It is so easy to know what to do when one does not have to do it. Washington seems crowded with those who have no responsibility for the issues with which the Senate struggles, yet who have all the answers. Give Your servants grace and patience as they must tolerate these Monday morning quarterbacks who are always offering their remedies for others' problems.

We pray especially for our leadership as the pressure increases exponentially these closing days of the 102d Congress. And we remember our families who often pay a terrible price during times of pressure in the Senate. Bind them together in patience, understanding, and forgiveness. Let there be daily healing as tension in relationships causes rupture, and fill their hearts with love for each other.

We pray in the name of Him who is Love incarnate. Amen.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order the leadership time is reserved.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of H.R. 5677, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5677) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Helms amendment No. 3002 (to committee amendment on page 23, line 12), to prevent the use of tax dollars to support efforts by charitable organizations to compel the Boy Scouts of America to accept, as members or leaders, homosexuals, or other individuals who reject the Boy Scout's oath of allegiance to God and country.

Domenici amendment No. 3004, to provide additional funding for the National Institutes of Mental Health for the Health Care for the Homeless Program.

AMENDMENT NO. 3004

The ACTING PRESIDENT pro tempore. The pending question is on the Domenici amendment No. 3004, on which there shall be 20 minutes of debate equally divided in the usual form.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time?

On the pending amendment, the remaining time is controlled by the Senator from Iowa.

Mr. DURENBERGER. Mr. President, I ask the Senator from Iowa if he might yield me 2 minutes.

Mr. HARKIN. Yes, I will be happy to yield.

Mr. DOMENICI. Mr. President, before you proceed, might I ask Senator HARKIN—I do not have any objection, either—but that time that was running under the quorum call would all come off my side.

I wonder if the Senator would object to a unanimous-consent request that the time used in that quorum call not be charged to either side.

Mr. HARKIN. I have no objection, Mr. President.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Minnesota.

OPPOSITION TO BREAKING THE FIREWALLS

Mr. DURENBERGER. Mr. President, I thank the Chair very much, and I thank the managers of the bill. I appreciate the difficulty they are presented with here this morning.

I particularly appreciate the opportunity to rise and make a brief comment about several votes that I took yesterday, along with the rest of the Members, in breaking down the so-called firewall; in effect, votes that I took in opposition to—and a majority of Members took in opposition to—the motion to waive the Budget Act.

In addition to the arguments that have been made on this floor relative to the difficulty of doing business within the parameters of budget deals made in previous years, when the politics were different and the policy pressures were different, I wanted to make a comment on the relativity between spending money and accomplishing needed purposes.

A lot of the things that this particular appropriations subcommittee has to deal with are critical issues. The way in which we on the authorizing committees ask them to deal with them are not always appropriate, nor are they applicable to a particular time. I think the subcommittees on both sides of the aisle are to be complimented for doing an incredibly good job in a very difficult situation.

And I must rise, therefore, to say that just spending more money in one area or the other does not necessarily equate with doing more good.

A good example of this is the area of breast cancer. I have literally thousands of constituents, primarily women, who are desperate to spend more money to find a cure for breast cancer.

My own response to them is that my own wife died of breast cancer. I wish we had been able to do in 1967 what we are able to do today.

But I also know, from spending 14 years in this position, that money alone does not solve the problem. And if you expand the amount you are going to spend exponentially, you do not quicken the pace of knowledge, and certainly it is not appropriate wisdom to do that.

I think that this subcommittee has done a great job on breast cancer. The authorizing committee has done a terrific job. Senator HARKIN and I both serve on that committee.

The National Cancer Institute agrees that this is an appropriate amount of increase. And as much as we would like to spend more, and we would like to hasten the pace of this, I believe that what we are doing in the authorizing committee, what this body has decided to do in conjunction with the House, and what this particular appropriations bill does is going to move us substantially forward in finding a cure, and cures based both on the diagnostic

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

side and the prevention side, and on the remedy side, for a real killer of so many American women. I ask unanimous consent that a relevant portion of the fiscal year 1993 budget estimate for the National Cancer Institute be printed in the RECORD. This bypass budget is prepared and submitted directly to the President of the United States in accordance with legislation contained within the National Cancer Act. It reflects the best professional judgment of the Institute, and represents a realistic appraisal of the scientific opportunities currently available for cancer research.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PREFACE

The By-Pass Budget is prepared and submitted directly to the President of the United States in accordance with legislation contained within the National Cancer Act. The purpose of this document is two-fold. It conveys the accomplishments that have been achieved by the National Cancer Program to date, and also presents the challenges that remain and the resources necessary to take full advantage of today's exceptional opportunities in order to successfully attain these goals.

The By-Pass Budget reflects the professional judgment of the Institute, and represents a realistic appraisal of the scientific opportunities currently available. Given the achievements to date and the challenges ahead, it represents a unique opportunity for continued progress in the prevention and treatment of cancer.

This budget document has been organized by the 10 major Research Programs of the Institute, distinguished by the Progress and the Plans for 1993. The Resource Development areas of Cancer Centers Support, Research Manpower Development and Construction as well as Cancer Prevention and Control are similarly described.

In addition, narratives on special areas of scientific opportunity and achievement have been included. Topics include Women's Health Issues, Cancer and Poverty, Cancer and the Population Age 65 and Over, Information Dissemination, Cancer Vaccines and Novel Approaches to Cancer Therapy.

WOMEN'S HEALTH ISSUES—EXECUTIVE SUMMARY

The National Cancer Institute (NCI) pursues a multi-faceted and coordinated plan of research and applications for health issues of women. The intersection of many public health concepts, for example the impact of physiologic hormonal changes and exogenous hormones (such as estrogen) on cancer, heart disease and osteoporosis, requires an integrated, multidisciplinary approach.

To this end, NCI supports the concept of a large-scale effort that embraces the expertise of essentially every categorical Institute within the National Institutes of Health, in order to meet the challenge of providing and maintaining health for women of all ages. The Director of the National Institutes of Health (NIH) has developed a major women's health initiative. This will involve longitudinal studies, community-based research and specific clinical trials to develop new strategies for preventing and treating cancer (particularly cancer of the breast but also cancers of the reproductive tract, lung and colon), heart disease, stroke and osteoporosis.

The By-Pass Budget reflects the commitment of the National Cancer Program to women's health and specifically to the eradication of death and suffering from cancers that affect the length and quality of survival of women. NCI faces this challenge from malignancies of the breast and female reproductive organs (cervix, uterus, ovary) and from other diseases such as lung and colon cancers and AIDS which, while not uniquely women's health issues, have a significant impact on women's survival.

The table below summarizes the progress and challenge of NCI's mission in women's cancers.

CHANGE IN CANCER MORTALITY 1973–88

[Percent change]

Cancer	Age group		
	All ages	<50	50+
Breast	1.8	−10.5	4.8
Cervix	−41.5	−34.8	−44.2
Uterus	−22.2	−47.7	−20.1
Ovary	−8.1	−41.6	−1.3

Among the many diverse areas of high priority for NCI in cancers in women, those of surpassing importance are:

The development and implementation of prevention clinical trials for breast cancer, examining the role for tamoxifen chemosuppression in certain postmenopausal and high-risk women. The NCI will also examine the efficacy of prevention strategies with dietary reductions of daily fat intake and/or supplementation of micronutrients such as calcium and vitamin A derivatives;

The accessibility and delivery of health care to women who, for reasons of age, race, education, or most importantly poverty and lack of resources, are medically underserved;

The clinical development, procurement and availability of promising new therapies, for example taxol, a chemically complex natural product with a unique mechanism of action and important activity in refractory or relapsing ovarian and breast cancers.

Breast cancer epitomizes the challenge of NCI's mission in women's health. It is widely prevalent and takes a tragically large toll on women's lives. It is responsible for 32 percent of all cancers in women with an estimated 175,000 new diagnoses (for a lifetime risk of occurrence of one in every nine women) and 44,500 deaths per year. Yet breast cancer is increasingly curable, steadily yielding to the insights gained through basic and clinical investigation. There are realistic prospects for its ultimate prevention and eradication. The strategies that NCI has designed to foster translation of basic biologic discovery into targeted clinical innovations in the arenas of treatment and prevention will serve as a template for the laboratory and clinical response to other malignancies.

Within the scope of the By-Pass Budget, NCI proposes a multidisciplinary approach to breast cancer that integrates all facets of intramural and extramural resource. In particular, a new type of cancer center grant (P50) within the framework of the Cancer Centers Program, the Specialized Programs Of Research Excellence for breast cancer, will support investigator-initiated research in all disciplines of breast cancer investigation—tumor etiology, biology, diagnosis, therapy, quality of life, cancer education, community outreach, and cancer prevention including vaccine development. This funding instrument will also support career development and innovative cutting-edge clinical research. This Specialized Programs Of Research Excellence for breast cancer represents a unified effort to bring the advances in basic scientific knowledge from the laboratory to the bedside to change the outlook for this cancer.

NATIONAL CANCER INSTITUTE 1993 BY-PASS BUDGET

[In millions]

Women's health issues	1989 actual	1990 actual	1991 estimate	1992 President's budget	1993 by-pass budget
Breast cancer	$74.5	$81.0	$90.2	$102.7	$220.0
Cervical cancer	16.5	21.9	23.1	24.1	100.0
Ovarian cancer	7.9	10.5	11.8	12.3	70.0
Uterine cancer	6.4	6.5	6.9	7.2	20.0
Vaginal cancer	1.7	.6	.7	.7	10.0
Other genital system	2.6	3.0	3.2	3.4	10.0
Subtotal	109.6	123.5	135.9	150.4	430.0
Women and AIDS	2.6	7.7	8.2	8.4	20.0
Lung cancer (women only)	20.7	21.5	22.4	23.0	50.0
Total	132.9	152.7	166.5	181.8	500.0

Mr. DURENBERGER. Mr. President, the transfer amendment holds out the promise of additional Federal funds for cancer research, breast cancer screening, AIDS care, and a host of other social ills. Sponsors of this amendment have drummed up support from a number of grassroots organizations deeply committed to these causes.

The implication that has been raised is that opposition to this transfer amendment is tantamount to opposition to these worthy causes. A further implication is that this money is simply lying dormant unobligated and that it is simple matter to put it to good use.

As a Senator committed to a healthy America, and fully committed to medical research and treatment, I am distressed by those assumptions. Mr. President, I believe that this approach is playing politics with the hopes and fears of the American people. This is nothing more than a budgetary sleight of hand.

Supporters of this amendment may not be aware of the serious consequences of this proposal. Most people probably do not know that this so-called transfer requires us to violate the budget agreement—an agreement that took the Congress months to hammer out. The agreement, while not perfect, is fiscally responsible.

I would like to address, specifically, the transfer to support breast cancer research. In fiscal year 1992, the National Cancer Institute will spend approximately $133 million on research targeted toward breast cancer. This is in addition to funds for basic, untargeted research that may well advance our knowledge of breast cancer or other cancers. Basic research accounts for approximately 50 percent of the budget of the National Cancer Institute and provides our best hope for new breakthroughs against breast cancer.

For fiscal year 1993, the House has provided an increase of one-third over the fiscal year 1992 level, for a total of approximately $177 million. The Senate bill would further increase funding for breast cancer to $220 million. The Senate level represents the best professional judgment of the National Cancer Institute about what good science should be funded. We should not second guess these experts who are working so strenuously to solve the problem of breast cancer, which has touched all of our lives.

Clearly, Mr. President, every worthy project could use greater funding. But, the ends of this amendment simply do not justify the means. This is fiscal politics not fiscal responsibility.

Mr. President, I yield the floor and suggest the absence of a quorum.

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. The Senator from Iowa controls the floor.

Who yields time?

Mr. HARKIN. Mr. President, is the situation that there is now 20 minutes of debate equally divided on the Domenici amendment?

The ACTING PRESIDENT pro tempore. The time used by the Senator from Minnesota was charged against that 20 minutes.

Mr. HARKIN. How much time do we have remaining?

The ACTING PRESIDENT pro tempore. The Senator from Iowa has 7 minutes remaining.

Mr. HARKIN. Seven minutes.

How much time does the Senator from New Mexico have remaining?

The ACTING PRESIDENT pro tempore. Ten minutes.

Mr. DOMENICI. Mr. President, I wonder if the Senator from Iowa agrees with this statement.

Since Senators are wondering about whether we are going to have to have a rollcall vote, it seems to me we most probably will be able to work this amendment out; is that right?

Mr. HARKIN. I am not certain if we can work this out, Mr. President. We have been discussing this.

I want to accommodate the Senator from New Mexico, but we are in a very tight budget situation. I am not certain how we are going to work this out. Obviously, I have to consult with my ranking member, and if he agrees, then I think we can work something out.

Mr. DOMENICI addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from New Mexico.

AMENDMENT NO. 3004

Mr. DOMENICI. The amendment which I sent to the desk last night is not the appropriate amendment. It is in error. We are now drafting the appropriate amendment.

Nonetheless, I will take about 5 minutes to explain the thrust of the amendment, because essentially we all, here on the floor, those involved in this, understand what the Senator from New Mexico is going to do when he offers the appropriate amendment.

I will withdraw the other and substitute the appropriate one after I show the amendment to the manager and to the ranking Republican member.

It will have a different set of offsets than I contemplated yesterday, and for that reason it is not ready.

Having said that, Mr. President, just last week a rather extraordinary event occurred in Washington. About 2,000 Americans from all over the country came here for a national convention. They belonged to an organization called the National Alliance for the Mentally Ill.

The Senate has already heard the Senator from New Mexico describe that marvelous group of Americans. They are tied together. Their link together is that they either have family members or close friends who have one of the severe mental illnesses; that is schizophrenia, manic depression, bipolar disease, or one of those very, very serious, significant mental illnesses. They are part of a group representing people with severe mental illness.

Mr. President, as they met here—they are concerned about many things, but two things bothered them the most. They came and spoke to Senators. And we had a very, very interesting response from Senators about the problems they represent in Main Street America and in the homes of our people.

First, they wanted to make sure that when we reform health care we do not deal them out by having some inordinate cap on what you can spend for schizophrenia or manic depression, but do not have the same cap for cancer or heart disease or kidney disease. We have reached a point where schizophrenia is a severe mental illness or disease.

So the point is, do not tell parents of these kinds of people, or spouses, you can only have $50,000 worth of health coverage and let the other one have health coverage that is substantially different. It is time for equity and nondiscrimination.

The other point was they came to thank Congress for dramatically increasing the funding for the National Institutes of Mental Health, the premier organization that is directing research dollars into the hands of the best scientists in the country who are now joining this cause, because they, for once, see some continuity of funding, because over the last 5 years the National Institutes of Mental Health have had dramatic increases, thanks to a number of people in this Senate—thanks to this chairman and this ranking member who are here on the floor, because they have helped with it. Thanks to Senator RUDMAN who helped this Senator. That fund has been going up.

Now this year the President asked for a specific amount, not extraordinary, and we have underfunded that in the bill before us by $21 million in budget authority, something like $10 million in outlays. So we are under the President in funding for the National Institutes of Mental Health. This fund is what is used principally for the universities and other research activities and in-house research activities that, as part of the Decade of the Brain, are making giant strides in diagnosis and cure and medication and ways of caring for those people with severe mental illnesses.

I could talk on indefinitely about the strides that are being made and how bad things were when we had all of these people in mental institutions called asylums. But let me suggest that until we get on with sustained research we are never going to get the mentally ill off the streets and they will be 40 percent of the homeless.

There is a time when we would wish that would no longer be, so today we do not want to let that funding and that institute fall back. It is on an increasing spiral which puts it in an appropriate position, alongside of other great National Institutes of Health activities. We have just created the National Institutes of Mental Health as a freestanding institute now.

I want to close these opening remarks by telling the Senate that we now have pretty good documentary evidence that we are not funding, even with the last 5 or 6 years of accelerated expenditures and grants—we are not funding the research for people with severe mental illness adequately. Let me just read what the Office of Technology Assessment has said. If you use $100 a year as the costs of mental illness disorders, we are spending about 30 cents on research.

In comparison, use the same $100 basis, we are spending 73 cents, twice as much, on heart research; and for every $100 cost in cancer, we are spending five times, almost six times as much, $1.63 versus 30 cents.

That is because there was always a stigma about this illness and we were not quite sure that it was a real illness. So now we are getting it built up. This amendment essentially asks to bring it to the President's number by adding $23 million in budget authority and about $9.5 million in outlays. That is the essence of it. I yield the floor at this point.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. DECONCINI. Mr. President, I ask unanimous consent, if the Senator will yield me 1 minute?

Mr. SPECTER. OK.

Mr. HARKIN. How much time do we have remaining, Mr. President?

The ACTING PRESIDENT pro tempore. The Senator from Iowa has 7 minutes.

Mr. HARKIN. How much time does the Senator from New Mexico have?

The ACTING PRESIDENT pro tempore. The Senator from New Mexico has 2½ minutes.

Mr. HARKIN. I yield 1 minute to the Senator.

The ACTING PRESIDENT pro tempore. The Senator from the State of Arizona is recognized.

Mr. DECONCINI. I thank the Chair.

(The remarks of Mr. DECONCINI pertaining to the introduction of S. 3239 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DECONCINI. Mr. President, this is an interesting debate. I have been trying to follow it on the road driving in. I think I support the amendment of the Senator but I missed what the offset is. Is someone going to explain it? Is the Senator from Iowa going to do that?

I am going to sit and see what the offset is and see if the managers can agree to the amendment because I think the Senator from New Mexico has a very important subject matter here that needs addressing.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. HARKIN. Mr. President, I yield myself a couple of minutes—2 minutes.

We tried in our subcommittee to meet all the requests of Senators. We tried our best to have a balanced bill. I would support wholeheartedly what the Senator from New Mexico is trying to do in any other circumstance. We have provided strong support for NIMH; a 28-percent increase in the last 3 years. And we are proud of that. Senator SPECTER and I worked very hard to do that. In terms of percentages that is, perhaps, the largest increase of any institute in our bill.

This bill provides a $13.5 million increase over last year for NIMH. Is that the highest of NIMH? No. I figured out there are about eight higher and eight lower. So it is right in the middle of the increases we gave for all the institutes in our bill.

I would love to give more money to NIMH. This is the Decade of the Brain. We are making progress. But the offset, as I understand it, is going to come from the Health Resources and Services Administration.

So where will the cuts come from? Homeless health care? Maternal and child health care block grants? Family planning? Nursing education? Ryan White AIDS? I can go down the list.

I have mixed feelings about this amendment, I will tell you the truth, Mr. President. I want to support the Senator. We ought to have more money in NIMH. But I do not know that I can support taking it out of these other programs, and that is the dilemma we find ourselves in.

I reserve the remainder of my time. How much time do I have left?

The ACTING PRESIDENT pro tempore. The Senator has 4 minutes.

Who yields time?

Mr. DOMENICI. I yield 2 minutes to the Senator from Pennsylvania. How much time do I have?

The ACTING PRESIDENT pro tempore. The Senator has 2 minutes and 30 seconds.

Mr. DOMENICI. I yield 2 minutes to Senator SPECTER.

Mr. SPECTER. Mr. President, I support the amendment by the distinguished Senator from New Mexico, with some reluctance, because of the reasons articulated by the distinguished Senator from Iowa [Mr. HARKIN]. I do not like to see money come out of the Health Resources and Services Administration account because none of those items, really can stand the cut. But in establishing priorities, I think Senator DOMENICI has made a valid point, when you compare 30 cents in research for $100 expended for mental illness compared with 73 cents for heart and $1.63 for cancer.

In supporting Senator DOMENICI's amendment, what I seek to do in conference is to find a way to accommodate the other interests who will be taking $21 million out of the pool of almost $2.6 billion, which is a relatively small amount. Having said that, I again acknowledge, I do not want to see any of those other accounts cut, but as I listen to the discussion today and know the problems of mental illness, my evaluation is that it is appropriate on the setting of priorities at this point to reallocate $21 million and then in conference to work through to see to it that the minimal amount of hurt is done to these other very important projects.

I thank the Chair and I thank my colleague from New Mexico for the time.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, if I could have the attention of Senator HARKIN, I have had Senator WELLSTONE ask if he could speak for a couple of minutes. I think I only have 30 seconds. I wonder if he would have any objection to my asking that each side get an additional 5 minutes before we resolve this issue?

Mr. HARKIN. How much time do I have left, Mr. President?

The ACTING PRESIDENT pro tempore. Four minutes.

Mr. HARKIN. I will be glad to yield some of my time to Senator WELLSTONE. I yield 3 minutes of my time to Senator WELLSTONE.

Mr. WELLSTONE. Mr. President, I thank the Senator from New Mexico. I just came in and did not know the amendment was coming up right away, so as I speak on the floor, these are definitely extemporaneous remarks.

I just want to say that I support the amendment offered by the Senator from New Mexico. I support it I think for good reasons.

Yesterday, I spoke for the transfer amendment and I spoke for the transfer amendment because I think we are faced with this outrageous situation of still close to $290 billion for the Pentagon unwilling to transfer 1.5 percent of those resources to domestic programs and therefore we get into these tradeoffs, whether you are going to have money for homeless people, Head Start, mental health and all the rest.

This amendment is about equity and about fairness. I think that if there is a group of citizens that you can point to in our country that have really had to carry too much stigma, a group of citizens that have almost been without a voice and without a presence in the U.S. Senate and the House of Representatives, it is really those who suffer from mental illness.

What the Senator from New Mexico is trying to say in this amendment is that there has to be some equity, there has to be some fairness. We have to follow through with a commitment, and he is trying to restore some funding in this area. I believe the amendment is a very important amendment and is the right thing for us to do.

I have to tell you that some of the reports that have come out most recently about the number of people suffering from mental illness who are incarcerated, who should not be in jail, the number of people suffering from mental illness that I personally have met in visiting homeless shelters who should not be in those shelters, the number of people suffering from mental illness who are not receiving the support and not receiving the care they should receive has led me to the conclusion that this amendment is a very, very important amendment. I really think and I hope that my colleagues will support it. I thank the Senator from New Mexico.

Mr. HARKIN. Mr. President, I understand the Senator is prepared to send his amendment to the desk. In consultation with him, as I understand the amendment, it will now read that the offset will come from the Health Resources Services Administration, but that no account could be cut below its 1992 level unless the committee itself has already cut below that level. I ask the Senator if that is correct?

Mr. DOMENICI. The Senator is correct.

AMENDMENT NO. 3005

Purpose: To provide additional funding for the National Institute of Mental Health

Mr. DOMENICI. Mr. President, I send the amendment to the desk on behalf of myself, Senators RUDMAN, MCCAIN and WELLSTONE, and I ask unanimous consent that the previous one, which is in error, be withdrawn.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The previous amendment is withdrawn.

The amendment (No. 3004) was withdrawn.

The ACTING PRESIDENT pro tempore. The clerk will report the new amendment.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. RUDMAN, Mr. MCCAIN, and Mr. WELLSTONE, proposes an amendment numbered 3005.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 25, line 8, strike "$574,803,000" and insert in lieu thereof "596,098,000: *Provided*, That the level of funding for the Health Resources and Services Administration shall not exceed $2,564,466,000.".

AMENDMENT NO. 3005, AS MODIFIED

Mr. DOMENICI. Mr. President, I ask unanimous consent that the amendment at the desk that is pending be modified to include language that I will send to the desk which is, as indicated by Senator HARKIN, that none of the programs within this would be reduced below last year's level unless the bill itself has already done that. I send that to the desk and ask that it be added to the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 25, line 8, strike "$574,803,000" and insert in lieu thereof "596,098,000: *Provided*, That the level of funding for the Health Resources and Services Administration shall not exceed $2,564,466,000: *Provided further*, That no program, project, or activity be reduced below the fiscal year 1992 level unless it is already reduced in the bill.".

Mr. DOMENICI. Mr. President, I have only 30 seconds. I want to thank the Senators who support this. This will now add $21 million to the research at the National Institutes of Mental Health, bringing it to the President's requested level, and this money will come out of a series of programs that amounts to $2.68 billion, so it will be a very small fraction. Some of those programs have been increased substantially more than we are increasing the NIMH. In any event, it appears to this Senator that this is fair.

I thank the manager and the ranking member for their support. I yield the floor.

Mr. HARKIN. Mr. President, on this side we are willing to accept the amendment as has been redrafted and so modified.

Mr. DURENBERGER. Mr. President, my colleague and friend, Senator DOMENICI, is a champion for people with mental illness. He understands the difficulties they face, and he does everything he can to improve their lives.

People with mental illness suffer not only from the illness but also from the stigma that needlessly comes with it. That stigma, that lack of empathy for what another human is going through, reflects ignorance about what mental illness is and where it comes from.

Mr. President, on Tuesday I heard testimony before the Labor and Human Resources Committee that was among the most moving and the most compelling that I have heard in my years in the Senate. Brave, selfless people told the committee their personal stories about suffering from mental illness over periods of decades.

But their real pain was not what made the impression on me. What made the impression on me was that in each case these people went misdiagnosed for years—years in which they were told it was all in their heads, in which if they received treatment it was the wrong treatment, in which symptons that could have been relieved were not relieved.

In the last 30 years researchers have made great strides in understanding the biological foundations of major mental illnesses and in developing drugs to treat them. With this increased knowledge among researchers has come increased understanding and compassion among everyday people about what life is like when you have a mental illness.

But there is so much more to do, as was emphasized to me by what I heard at Tuesday's hearing and at a hearing on rural mental health problems that I attended last year in Marshall, MN. Until we know more about what causes mental illness and what are the most effective ways to treat it, far too many people with mental illness will continue to suffer from inappropriate care.

Senator DOMENICI has proposed an increase in funding for research on mental illness, to bring the appropriation back up to the level the President proposed. Had I been on the Appropriations Committee I would have done my best to make sure the appropriation level was never reduced below the President's request. It is a minimum. We should support this amendment.

Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3005), as modified, was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DECONCINI addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. DECONCINI. Mr. President, What is the parliamentary procedure?

Mr. HARKIN. I think the bill is now open for amendments.

Mr. DECONCINI. I ask unanimous consent that the pending amendment be laid aside so I may speak for a few minutes and offer an amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 3006

(Purpose: To increase appropriations for the National Youth Sports Program)

Mr. DECONCINI. Mr. President, on behalf of Senator GORTON from Washington, Mr. REID, Mr. BIDEN, Mr. ADAMS, Mr. COCHRAN, Mr. SEYMOUR, Mr. SASSER, Mr. WARNER, Mr. BRADLEY, Mr. CRAIG, Mr. STEVENS, Mr. KASTEN, Mr. DURENBERGER, Mr. SANFORD, Mr. KOHL, Mr. NICKLES, Mr. HOLLINGS, and Mr. BINGAMAN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. DECONCINI], for himself, Mr. GORTON, Mr. REID, Mr. BIDEN, Mr. ADAMS, Mr. SEYMOUR, Mr. SASSER, Mr. WARNER, Mr. BRADLEY, Mr. COCHRAN, Mr. CRAIG, Mr. STEVENS, Mr. KASTEN, Mr. DURENBERGER, Mr. SANFORD, Mr. KOHL, Mr. NICKLES, Mr. HOLLINGS, and Mr. BINGAMAN, proposes an amendment numbered 3006.

On page 40, line 4 strike "$450,642,000" and insert in lieu thereof "$457,642,000".

On page 40, line 5, strike out "$35,115,000" and insert in lieu thereof "$42,115,000".

On page 40, line 6, insert after the comma the following: "including $12,000,000 shall be for carrying out the National Youth Sports Program,".

On page 40, line 10, insert before the period the following: "*Provided*, That notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1993 shall, during fiscal year 1993, obligate and expend funds for consulting services in excess of an amount equal to 95.9 percent of the amount estimated to be obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1993: *Provided further*, That notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1993 is reduced by an amount equal to 4.1 percent of the amount expected to be expended by such department, agency or instrumentality during fiscal year 1993 for consulting services. As used in the preceding two provisos, the term 'consulting services' includes any services with the definition of 'Advisory and Assistance Services' in the Office of Management and Budget Circular A—120, dated January 4, 1988.".

Mr. DECONCINI. Mr. President, I rise together with Senator GORTON and others to offer an amendment to restore full funding to the National Youth Sports Program. This program gives hope to at-risk boys and girls, many of whom have no hope. It gives opportunity to high-risk youth, many of whom face dead-end lives.

The Senate Appropriations Committee is recommending cutting the National Youth Sports Program by almost 60 percent, from its current level of funding of $12 to $5 million in fiscal year 1993. I want to emphasize to all my colleagues that the National Youth Sports Program was created in 1968 as a response to the riots in Los Angeles in an effort to assist at-risk youth. Now, 27 years after Watts, this country has once again experienced bloody riots in the streets of Los Angeles. Mr. President, this is no time to cut support for poor children in the urban ghettos of this Nation—or anywhere else in this country for that matter.

The National Youth Sports Program is much more than a sports enrichment program. Participating boys and girls receive job and education counseling. They receive intense instruction in alcohol and drug abuse prevention. They get free meals and free medical exams. It is not unusual for these exams to turn up undiscovered medical conditions, because many of these kids just do not have the money to see a doctor.

The NYSP educates youngsters on important issues like AIDS, teen pregnancy, gangs, and suicide prevention. The program gives many of these boys and girls an opportunity—perhaps their only opportunity—to see a college campus for the first time in their lives. It may very well offer the motivation they need to stay in school. This past summer the program served over 70,000 high-risk youth in 173 colleges and universities across the country.

To repeat: The committee wants to cut the program by $7 million. It says we should fund the NYSP with private dollars. The fact is, private sources already pay two-thirds of the costs of the NYSP. Many of these dollars come from businesses in the community. But the lion's share comes from the National Collegiate Athletic Association through its participating colleges and universities. The NCAA donates staff, buildings, and equipment and operates the program free of charge. This year the NCAA increased its contribution by 15 percent. I understand the NCAA will further increase its contribution in fiscal year 1993.

I ask my colleagues to consider what a $7 million cut would do:

A cut this big would slash the number of participating colleges and universities by half, from 173 to 86. All remaining program budgets would shrink.

A cut this size would close the door on 35,000 at-risk youth. This is half the number of kids who participated in the NYSP this past summer.

A cut this big would wipe out the extended NYSP, which now operates from October through May in 45 colleges and universities. The program is a safety net for youngsters throughout the entire school year.

And this is not all. The NYSP Math/Science Program—which is consistent with our Nation's education goals for the year 2000—would be eliminated.

In order to pay for our amendment we would cut funding for consulting services by 4.1 percent in the Departments of Labor, Health and Human Services, Education, and related agencies. According to the Office of Management and Budget, these agencies have estimated they will spend in excess of $151 million on consulting contracts in fiscal year 1993. Let me emphasize that agencies frequently deflate what they actually spend on hiring consultants, and this $151 million figure may actually prove to be much higher. The DeConcini-Gorton amendment would take a very small amount out of this considerable pot—less than $5 million in outlays—to help at-risk kids improve their future.

I would like to take the opportunity here to acknowledge the yeoman's work done by Senator PRYOR over the years in trying to control the astronomical amount of money the Government spends on consultants. To give you an idea of how big a pot this is, one source estimates we now spend between $4 and $20 billion every year contracting out work the Government has traditionally done itself.

Mr. President, the National Youth Sports Program has worked successfully for 24 years. Many of the youngsters it helps live in public housing projects or on Indian reservations. All of them must meet the poverty income guidelines established by the Department of Health and Human Services. We all know how successful Head Start is. Many of the youngsters who participate in Head Start go on to participate in the NYSP.

In closing, let me remind my colleagues that we have a children's crisis in America. In city after city, babies are going to bed hungry at night, youth are replacing families with gangs, children are dropping out of school and dropping out of sight. The latest FBI figures are in, and juvenile crime jumped an incredible 27 percent over the last decade.

Mr. President, it is ridiculous at a time when juvenile crime is escalating in America to think of eliminating one of the solutions. For some youngsters, the National Youth Sports Program may be the only alternative they know to drugs and crime during the summer months—the time when crime rates are highest. For many, it may be the only way they know to a better life.

It is my great hope that we do not slash this program at the 11th hour, when the school year has already begun. It is my hope we do not go to a vote on this. This is a program that gives at-risk youngsters across this Nation hope for a better future.

Mr. BIDEN. Mr. President, I rise in strong support of this amendment to increase funding for the National Youth Sports Program. This amendment restores the 50-percent cut proposed by the administration. In its starkest terms, this cut means that 35,000 children won't be involved in this antidrug and anticrime program and they will be on the streets—in everyday danger of falling prey to drugs and crime.

Children in my home State of Delaware are helped by this partnership program—both Delaware State College and the University of Delaware have committed their staff, facilities, and energy to helping children through the Youth Sports Program.

In Delaware, as across the country, these programs have brought the children most at-risk of turning to drugs and crime out of the neighborhoods hardest hit by drugs and crime. The Youth Sports Program in Delaware works with these children throughout the summer—involving them in sports and recreation activities, drug prevention programs, as well as educational activities.

Mr. President, Delaware State College and the University of Delaware—along with 170 colleges and universities across the Nation—have made a significant commitment to this program. Through their efforts, the program is a vital, working part of the Nation's continuing fight against drugs and crime among our youth.

This amendment simply keeps our end of the bargain by maintaining Federal support at its current level. I urge its immediate adoption.

Finally, I would like to acknowledge Senator DECONCINI's longstanding commitment to this program. It is through his efforts and those of many others literally thousands of children have been given the chance they desperately need in their fight to stay away from drugs and crime.

I yield the floor.

Mr. HARKIN. Mr. President, the committee print includes $5 million, the same as the President's request for the National Youth Sports Program. The House provided $5.94 million, and last year's level is $12 million. For the past 5 years Federal funding for this program has doubled, from $6.3 million in fiscal year 1988. The money goes by sole source contract to the National Collegiate Athletic Association, otherwise known as the NCAA, primarily for sports instruction for disadvantaged youth, using otherwise idle college facilities during the summer months.

The administration has stated it intends to find private sponsors to replace Federal funding for this program. Already more than half the program is privately funded. Many services are donated by sports enterprises, the medical profession and the NCAA itself.

There is no doubt about it, Mr. President, this is a good program. But again we have to set priorities for scarce Federal funding. We cannot afford to do it all.

I think this program is a prime candidate for funding by the colleges and by the NCAA. I am wondering if perhaps they might not pick up some of the load themselves.

We offered to restore $3.5 million with the corporate offset for a total of $8.5 million. However, Senator DECON-

CINI and others who have been strong supporters of this program have come up with an offset that comes out of consulting services.

I do not know all the ramifications of this right now, but it would restore the funding to $12 million for the National Youth Sports Program, offset by cutting consultant services.

Again, I want to accommodate the Senator and others who feel very strongly about this program. We will accept it. We will take it to conference and see what happens there.

But I must be quite frank. I do not know what the impact will be on the consulting services. Quite frankly, I agree with the Senator. They are probably getting too much money anyway, and so will accept the amendment in good faith, and take it to conference with that understanding.

Mr. REID. Mr. President, I rise today to express my strong support of Senator DECONCINI's amendment and for the National Youth Sports Program. We have the opportunity today to invest in the future of our young Americans—the future of our Nation. The National Youth Sports Programs provides at-risk and disadvantaged youth an opportunity to better themselves and their prospects for the future. The program provides each participant with a free medical exam and a daily meal provided by the USDA. Participants engage in sports activities of all types, expanding their physical skills and fitness while helping to boost self-esteem. This program, however, is much more than just a sports program. It also provides educational opportunities with counseling on health and nutrition, higher education, and careers. Instruction also includes drug education, suicide prevention, antigang strategies, cultural awareness, and AIDS education.

Despite the value of these programs, Congress has proposed to decrease funding for the National Youth Sports Program by 50 percent. The potential impact of such cuts would be the exclusion of over 35,000 at-risk youth. These cuts would also force the elimination of the Extended National Youth Sports Program which extends the program into the school year providing a more intensely focused program promoting continued drug education, community support, and alternative and positive activities. Another valuable service that would be eliminated is the Math and Science Program. Instruction that seeks to motivate young people into pursuing careers in math and science. They provide the students with hands-on experience, career counseling, and assistance in developing analytical and critical thinking skills. Mr. President, can we really afford to let these programs fall by the wayside? Our Nation is currently suffering from an increase in violent crime, especially gang violence and drug-related offenses. The numbers of young people involved in these crimes is astronomical. Today, not only are our streets unsafe, but so are our schools. We can begin prevention now. By acting today we can avoid mandatory spending for more prisons, drug rehabilitation, and welfare tomorrow. Let us step in now and lend these young people a hand in directing their future in a positive direction, providing them the support, education, and self-esteem they need.

In my home State of Nevada, the University of Nevada, Las Vegas participates in the National Youth Sports Program—a program that brings the local community and State and Federal agencies together in providing Nevada's young people with the chance to develop their physical and social skills as well as providing them the support they need to make informed decisions and pursue a positive path for the future. I have seen firsthand the benefits of this program, and I commend UNLV for their efforts on behalf of the young people in our State. I urge you now to show your support for the National Youth Sports programs in your States and the talented and dedicated staff that make this program possible. Join me and Senator DECONCINI and our other colleagues in leading our young people into a bright and positive future.

Mr. SPECTER. Mr. President, I will not disagree with the judgment of the distinguished chairman. I compliment Senator DECONCINI for his customary tenacity on a worthwhile project. There is no doubt about it being worthwhile. The only question arises on a scale of priorities, with so many other items which we have to consider.

When you take a look at the last amendment, for example, on mental health, and funding for LIHEAP and breast cancer, et cetera, it is just hard to establish this as a priority above those.

I know the distinguished Senator from Arizona understands that fully, as we approach the conference issue.

AMENDMENT NO. 3005

Mr. President, I ask unanimous consent that Senator MCCAIN be listed as an original cosponsor of the Domenici amendment (No. 3005).

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 3006

The ACTING PRESIDENT pro tempore. Without objection, the amendment will be in order in its present form.

Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 3006) was agreed to.

Mr. DECONCINI. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, here we are on the floor now, and we are ready to take amendments. We came in at 9 o'clock this morning. We have dispensed with two amendments so far. We have not had a record vote.

Last night, the majority leader and minority leader had a unanimous consent agreement on the list of amendments. I am going to read those. I hope Senators who have these amendments will come over so we are not here all day. We can dispense with these amendments if Senators will please come to the floor.

We have an amendment listed here for Senator D'AMATO; an amendment by Senator CRANSTON; Senator PRYOR has a couple; an amendment by Senator HOLLINGS; Senator DOMENICI—we took care of Senator DOMENICI already; Senator BUMPERS; Senator KASSEBAUM; Senator PELL; Senator SIMON; Senator LUGAR; Senator COCHRAN; Senator BENTSEN; Senator BINGAMAN; Senator KENNEDY; Senator SHELBY; Senators EXON, ADAMS, and DANFORTH; Senators DOLE and GLENN; Senator PELL; Senator SEYMOUR; Senator HATCH; Senator NICKLES; Senator HELMS; Senator MCCAIN; Senator LOTT; Senator WALLOP; Senator RUDMAN; and Senator WELLSTONE.

All of these Senators are on this list for amendments, and we are ready to start dealing with these amendments right now.

Mr. WELLSTONE. Mr. President, will the Senator yield?

Mr. HARKIN. Yes, I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I am persuaded by the Senator from Iowa. I am trembling. I am ready.

I will be sending an amendment to the desk right now.

Mr. EXON. Mr. President, will the Senator from Minnesota yield 30 seconds for me to ask a question of the managers of the bill?

Mr. WELLSTONE. I certainly will.

Mr. EXON. I hope this will not interrupt the sending to the desk of an amendment by my friend from Minnesota, and I thank him.

When the Senator from Iowa read the list of amendments, did he mention and list the amendment that may be offered by the Senator from Nebraska? Was that on the list?.

Mr. HARKIN. I did, Mr. President.

Mr. EXON. I simply advise the Senator from Iowa that the matter that I have reserved the right to propose is legislation on an appropriations bill. Few people pay attention to the rules around here, but I will not offer that amendment, as I indicated indirectly last night when the majority leader formed this unanimous consent request. I cannot offer the amendment right now.

There is a meeting going on right now that might make it not necessary to vote on this, on this particular bill. But I simply say that this Senator probably will not offer my amendment because it is legislation on an appropriations bill, unless other Senators offer amendments that are legislation on an appropriations bill. And if they do so, then I think that opens up Pandora's box, and would further delay and make it more difficult for the managers of the bill to move this along.

I say that is the reason I am not offering the amendment at this time.

Mr. HARKIN. Mr. President, I thank the Senator, and I hope other Senators follow his good example to the maximum extent possible.

Mr. EXON. Mr. President, I thank the Senator.

My point is, I hope Senators will not do it. If some are offered, I may likely go ahead with mine. The manager has every right, as he should, to oppose legislation on an appropriations bill. More Senators should do it.

Mr. HARKIN. I appreciate the Senator's indulgence.

AMENDMENT NO. 3007

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE], for himself, Mr. SIMON, and Mr. HARKIN, proposes an amendment numbered 3007.

On page 62, line 17, strike "*Provided further*" and all that follows through "basis:" on line 22.

Mr. WELLSTONE. Mr. President, I offer this amendment on behalf of myself and Senators SIMON and HARKIN.

Mr. President, I also would like, just for a moment, to thank Sherry Ellison, who helped me work on this amendment. This is a real important amendment, I believe, Mr. President. What this amendment does is it would restore the provision in the higher education bill we worked very hard on in this authorization that would enable college students going to school, less than half-time students, to be eligible for Pell grant assistance. This is a basic equity issue, and one I think is pretty important.

I think the Presiding Officer probably experienced the same thing in Wisconsin. I was a teacher for many years, but I have come to realize that students now in higher education are not necessarily 18 and living in a dorm. Many of these are the nontraditional students, and there are many nontraditional students. I am not so sure the nontraditional are not becoming the traditional students. They may become the majority of students in these times.

What you find is many students are older; many are single parents; many of them are women going back to school. And in order to be able to go back to school, they have to work part time. Therefore, they can only go to school part time, or less than part time.

These are the very students who are most in need of some Pell grant assistance. So what this amendment assures is that these students will be eligible for Pell grant assistance. I want to point out that I think, if the rhetoric counts, we have the support of the President himself, who on April 16, 1992, said he had the following recommendation: Extend Pell grant to guaranteed student loan eligibility to provide the opportunity for lifelong learning to less than half-time students.

So I think this is a bipartisan amendment, and I think it is a very important one. As one who taught for many years, I think it is extremely important that we take this action.

I thank both managers, Senator HARKIN and also Senator SPECTER, for their cooperation. I believe I have a strong commitment from the Senator from Iowa to keep this in conference committee. It is very important that we provide Pell grant assistance for many of our students in the United States. And, again, the face of the students is changing. It is a different student now, and we have to make sure that we understand that.

I thank the Chair very much. I yield the remainder of my time.

Mr. HARKIN. Mr. President, this provision was begun in the fiscal year 1990 appropriations bill, and I understand the Senator's concern and, quite frankly, he is right on the merits of this. We have just had some communication from the authorizing committee, however, on this aspect of the amendment, and I am going to have to suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. LIEBERMAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask unanimous consent that the pending business be set aside so that we can move ahead and consider another amendment, to better use our time not in a quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3008

(Purpose: To express the sense of Congress concerning the funding of Federal drug demand and drug supply reduction activities and continuation of the Office of National Drug Control Policy)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 3008.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. . SENSE OF CONGRESS CONCERNING THE FUNDING OF DRUG DEMAND AND DRUG SUPPLY REDUCTION ACTIVITIES AND CONTINUATION OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY.

It is the sense of Congress that—

(1) the second budget submitted by the President to the Congress under section 1105 of title 31, United States Code, after the date of enactment of this Act should provide for the funding of activities to reduce the demand for drugs (including anti-drug education programs and treatment) in an aggregate amount that is equal to the aggregate amount of funding for activities to reduce the supply of drugs (including law enforcement uses, law enforcement grants, border control and customs efforts, prison construction and maintenance, and international eradication efforts;

(2) the Director of National Drug Control Policy should be assigned authority to implement and oversee the distribution of funds for drug demand and drug supply reduction activities in accordance with paragraph (1); and

(3) section 1009 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1506) should be amended to continue the existence of the Office of National Drug Control Policy beyond the current termination date of November 18, 1993.

Mr. SPECTER. Mr. President, this amendment is a sense-of-the-Congress amendment to alter the allocation of the approximately $12 billion now spent in the war on drugs, to have an even split of $6 billion on the so-called supply side, $6 billion on the so-called demand side. By way of further elaboration, the supply side moneys are spent on interdiction from foreign countries, on street crime in the United States; whereas, the demand side is spent on education and rehabilitation.

In making this suggestion, Mr. President, it is with some reluctance that I see any money taken away from law enforcement, but I believe as a matter of priority that the Nation would be better served if we emphasize more especially education and also rehabilitation than the law enforcement aspect. I say that with some experience, having been a district attorney of a big city with a major drug problem, as the distinguished Presiding Officer has been the Attorney General of a northeastern State with a major drug problem.

I believe law enforcement is vital and, in line with that, I have offered the armed career criminal bill, which has been a cornerstone in dealing with major drug dealers and also took the initiative on a special strike force in the eastern district of Pennsylvania on legislation back in 1986 which has become a model for the Nation on Operation Trigger Lock which has been implemented by the Department of Justice around the country, and I have also been active on the interdiction issue from foreign countries, having offered amendments to use the U.S. military along those lines.

Having said that, it is my judgment that an even split between enforcement and prevention, or rehabilitation, is a better allocation of funds. In articulating this proposition, I have discussed this at a number of hearings of the Judiciary Committee and the appropriations subcommittee with the drug czar, with the Attorney General, and with the Secretary of Health and Human Services, to try to have more emphasis placed upon the so-called demand side.

In offering this amendment, I realize it has no binding effect. It is technically not legislation on an appropriations bill because, as the Parliamentarian has explained, it does not include a wherefore clause or a referral and it does not obligate anyone to do anything. But I think it is an important expression of sentiment in a building process to try to get a reallocation of this priority.

I now yield the floor to my distinguished colleague, the chairman of the subcommittee.

The PRESIDING OFFICER. Is there further debate?

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa, Mr. HARKIN.

Mr. HARKIN. Mr. President, we have no objection to the amendment offered by the Senator from Pennsylvania. In fact I think it is a good amendment. I think it correctly focuses on the problem that we have had, of the need to put more into education and preventive care, preventive resources, education, and rehabilitation. And that is what his amendment seeks to do to even that out. As he stated it is not legislation on an appropriation, it is a sense of the Senate, and in that light we will accept it.

Mr. SPECTER. Mr. President, the two magic words, as I understand it, which precludes it being legislation on an appropriation bill are the words "whereas" and "resolved."

Mr. President, I do not make an inquiry to that effect. I merely make a statement as to my understanding of the rules and I ask that the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (No. 3008) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida [Mr. GRAHAM].

1992 BASELINE LEVELS

Mr. GRAHAM. Mr. President, over the past several weeks I have offered a series of amendments to appropriations bills to decrease salaries and expenses to the fiscal year 1992 baseline levels for each Federal agency.

These amendments were intended to freeze the overhead costs of Federal executive agencies at their 1992 level. I consider these amendments to be a first step in our Government's crucial responsibility to reduce the deficit.

As of today, these amendments have cut approximately $122 million in overhead costs. In the time of the growing budget deficit, it is appropriate to take small steps to restrain Federal spending. We have started this process in the salary and expense accounts of Federal agencies as that first step.

The bill we have before us today already cuts salary and expense accounts to fiscal year 1992 baseline levels and in several areas goes much further.

I commend the distinguished chairman for his responsible efforts at deficit reduction.

I would like to explain the nature of these cuts, as I understand them and also to enter into a colloquy with the chairman in order to further articulate the rationale for the reduction.

Section 517 of the bill, or the attrition provision, reduces the salaries and expenses of the Department of Labor, Department of Health and Human Services, and Department of Education by a total of $120 million by requiring that as vacancies occur in full-time positions, no more than half of the vacancies shall be filled.

Section 217 of the appropriations bill reduces salaries and expenses of the Department of Health and Human Services [HHS] by $125 million, providing that the aggregate employment level for agencies funded is limited to the actual level provided in fiscal year 1992.

The cut was across the board because most programs funded under HHS do not separate salaries and expenses from program costs. I commend the chairman for his efforts to protect the few programs which do indicate salaries and expenses with this provision.

I would like to briefly explain the nature of the Department of Labor cuts.

Within the Department of Labor, the committee has recommended freezing the executive management and the administration and management functions within the overall departmental management account.

In fiscal year 1992, the executive direction function of departmental management was funded at $21,419,000.

The committee recommends the same level for fiscal year 1993.

The committee bill recommends a small decrease—$72,000—from the fiscal year 1992 funding level for the administration and management function.

I applaud the committee for its austerity in the Department of Labor departmental management account.

The committee has increased the program administration account at the Department of Education [USDE] enough to allow for approximately a $6 million increase for the executive direction subcategory of program administration.

I am satisfied, however, that the $5 million attrition cut imposed on the U.S. Department of Education elsewhere in the bill, if applied primarily to the central administrative expenses of the Department, will hold the spending for executive direction to a level sufficiently close to its fiscal year 1992 base.

Applying the cuts to executive direction would be consistent with congressional intent, according to the colloquy into which I will shortly enter with the distinguished chairman of the subcommittee.

I ask the chairman of the subcommittee if he would respond to a series of questions.

I would like to engage in a colloquy with the chairman to discuss congressional intent regarding these reductions.

Mr. President, if I could direct a series of questions to the chairman of the subcommittee.

It is my feeling that the cuts should come from administrative expenses, specifically, from central offices located here in Washington, DC. Service delivery should not be affected by these cuts.

Mr. HARKIN. If the Senator will yield, I share this concern with the Senator from Florida and fear that the across-the-board cut will ultimately hurt the quantity and quality of service levels. As chairman of the Labor, HHS, and Education Appropriations Subcommittee, I will work to protect service delivery and ensure that adequate oversight accompanies the administrative decrease.

Mr. GRAHAM. I thank the chairman. I am very pleased and recognize the diligence with which he has and will continue to provide oversight to the agencies within his responsibility.

In the future, I ask the Chairman, will agency budget justifications identify specifically amounts for executive direction?

Mr. HARKIN. Yes; the appropriations bill we are considering today requires that the fiscal year 1994 budget justification specify amounts budgeted for administrative costs with comparisons to fiscal year 1993 comparable amounts. It is already in the bill.

Mr. GRAHAM. I am very pleased at that, because with that greater definition it will be possible for Congress to provide more specific oversight and budgetary direction relative to the central administration of the various departments.

Finally, I want to comment on section 517 of the bill, the attrition provision. This section reduces the salaries and expenses of the related departments by a total of $120 million by requiring that as vacancies occur in full-time, permanent positions, no more than 50 percent shall be filled.

Does the chairman anticipate that this attrition be spread across departments or occur within each program element of the department?

Mr. HARKIN. Mr. President, if the Senator will yield, each department would implement the attrition provision across the department. Again, it is my hope that the departmentwide cuts would not effect smaller, hands on programs in a disproportionate manner.

Let me also further say that what we have done in this bill—we have frozen these levels of personnel. In addition, for every two people who retire, resign, or quit in the next fiscal year, only one person could be hired to replace those two.

Within the personnel freeze itself, however, we have not put an absolute cap on each separate agency. They may want to increase one, but if they do that, that has to be offset with a decrease. So it is departmentwide.

Mr. GRAHAM. I am very pleased to hear the chairman's statement of the intent for the implementation of this attrition provision. While I was Governor of Florida and the State was in a position that forced sharp spending reductions, there was a proposal for an agency-by-agency "thou shalt not fill vacant positions" policy. What was immediately recognized was that in those departments that provided the most hands-on, direct client services such as in a State mental hospital, those programs had the highest rates of turnover and therefore if you administered the attrition program on a unit-by-unit basis, you would have very severe adverse effects on citizens in greatest need. Therefore, the policy was applied on a departmental level, which had the effect of focusing the reductions on the central office, the management functions rather than the delivery of service functions.

I am very pleased that the Senator contemplates a similar approach to the implementation of this attrition provision.

I again compliment the chairman and ranking member of this subcommittee for the responsible provisions which have been included in the fiscal year 1993 Labor, HHS, and Education Appropriations bill which I think will make a contribution toward responsible fiscal policy and deficit reduction.

I commend the chairman for his efforts.

Mr. HARKIN. Mr. President, I thank the Senator from Florida for his comments and for his diligence in pursuing this aspect of trying to cut Government spending. He has been here for, I think, every bill that has come up to seek to implement these kinds of restraints on personnel growth; to make sure that we get the moneys and the services out in the field where they are actually being delivered.

He has done a great job and I am thankful for his comments that this bill reflects the kind of work he has been pursuing for so many years, first as Governor and now as a distinguished Senator from Florida. I, too, want to compliment the Senator from Florida for all of his efforts in cutting Government spending.

The PRESIDING OFFICER. The Chair, acting in his capacity as a Senator from Connecticut, suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I ask unanimous consent that the pending amendments before the Senate at this time be laid aside in order that I may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, in a moment I will offer an amendment. Before I do I would like to speak for a few moments to my colleagues about the subject matter of this particular amendment.

I am almost embarrassed to speak on this issue. I am almost embarrassed to speak on this particular issue this morning because I have, for 14 years, spoken on the floor of the U.S. Senate about the abusive use of consultants and contractors within the Federal Government. I have talked for these 14 years about the enormous dependence of this Government upon consultants and contractors to perform the inherent functions of our Federal system of Government. I think most Members of the Senate realize that I have spent a lot of time investigating the way the Government hires consultants and utilizes contractors. But now we must look once again at the tremendous amount of money that we spend today in the Federal budget on consulting and contracting.

For the past 14 years I have asked one simple question, the same question that today remains unanswered. I have asked this question: How much money does the U.S. Government spend on consultants?

No one has been able to give this Senator or any of my colleagues an answer to that question. For 14 years I have asked the OMB directors, under three administrations, to give us a definition of consultants; or to give us an answer as to why consultants are so widely used and what criteria the various agencies of the Government use in hiring consultants and contractors.

During these 14 years, Mr. President, the Office of Management and Budget, on some nine occasions, has stated that changes are not necessary. In August 1980 Karen Hastie Williams, Office of Federal Procurement Policy, stated:

> We believe that the administrative actions taken to date are indicative of the continuing efforts of this administration to control the use of consulting services and that these actions will produce lasting and positive reforms.

That was August 1980, 12 years ago, under the Carter administration.

A year later, David Sowle, Office of Federal Procurement Policy, in opposing the Consulting Reform Act that I had introduced, stated that two new "directives would solve the problem."

In 1981, Mr. Sowle said:

> OMB fully intends to take proper steps to insure the Government's use of consulting services is not abused. We believe that agency management, operating within guidelines already established by OMB and those additional instructions proposed, should be given the flexibility to use consultants to meet unusual management needs.

That was 1981.

In June 1988, Joe Wright, Deputy Director, OMB, said that OMB is opposing statutory change and promised that a new definition of "consulting services would be in place in 90 days." That was June 1988, Mr. President. The bottom line is that this has not been done. It has not been an easy area to establish clear-cut policies.

In November 1989, Allen Burman, Director of the Office of Federal Procurement Policy, stated that OFPP policy letters would now solve the problems with consulting services. Nothing has been done.

In 1991, Allen Burman of OFPP states two additional policy letters are now necessary. None of these policy letters have been issued.

During all this time, Mr. President, you might say, well, maybe we are not using as many consultants and contractors as we did in the past. Maybe some of these promises by Directors of OMB under Democratic and Republican administrations, perhaps some of those reforms that they speak of have, in fact, slowed down the use of consultants and contractors.

Let us look at the facts of the matter. In 1980, the Federal Government was using approximately $47.6 billion a year in consultants and private contractors. OK, let us think about that: 1980, $47.6 billion. To do traditional Federal functions, our Government was going outside the Federal payroll and ignoring the Federal civil servant to perform these functions.

In 1982, we spent $66 billion. This was when then President Reagan was saying, "We are going to freeze the number of Federal employees; in fact, we are going to cut back the number of Federal positions." But what was happening was we were going outside the Government and spending an additional $20 billion, only 2 years later, for private contractors.

In 1984, $75 billion; 1986, $82 billion; 1988, $87.9 billion; 1989, $88 billion; 1990, $91 billion.

Mr. President, one of the fastest growing increases in the obligations of the Federal taxpayer is not necessarily interest on the national debt, it is not military spending, it is not Social Security, it is not retirees benefits; it is the private contracting firms who are getting these Federal contracts and doing the work of the Federal Government. This is happening at the same time our Presidents are saying we are going to cut the number of Federal employees, but they do not tell us how much they are spending on contractors and consultants.

By the way, these are not my figures. These are the figures of the Office of Management and Budget, OMB. Those figures indicate that from 1980 to 1990, we have seen a 90-percent increase—90-percent increase—in the dollars that we spend to hire private consultants and contractors.

Mr. President, I have tried on many, many occasions, as I stated, to get some simple answers as to why we have to have this dependence on these consultants and contractors. As I have said, I met with the OMB Directors. We have held nine hearings in the past 3 years alone. We have conducted innumerable investigations. We have sent, for example, our staff from the Governmental Affairs Committee down to the agencies of Government. We have actually watched the contractors come and go. We have researched the records as to who these contractors are, what other clients they have, and what other interests they actually represent at the same time they are representing, or allegedly representing, the Government agency that has hired them.

Mr. President, today I am taking a very simple approach in this amendment. In the next amendment that is going to be following, it is not quite so simple. I do not know if this amendment is going to be acceptable or not. I hope it will be. I think it is a good approach. After watching these changes for the past 14 years, Mr. President, and seeing that nothing is getting better, only worse, that we have increased the use of consultants and contractors by 90 percent in 12 years to over $90 billion, I am offering an amendment which would have a very simple function. For the first time in the Federal budget, my amendment would create a line item for consultants. I am going to repeat that. For the first time in our Federal budget, we are going to have a line item for consultants. This would require every agency that uses consultants to report exactly how much they plan to expend and how much they spent the year before.

This amendment defines consultants as people or companies that provide management and professional services; studies, analyses, evaluation; engineering, and technical services—I would like to add, not including routine engineering services, Mr. President;—and research and development. This definition is not some outlandish restrictive definition. It is taken from the recent OMB guidelines. It encompasses almost all of the consultants whom I have found create significant problems.

Once again, we are not talking about a small amount of money. We are talking about $90.6 billion in 1990 spent on all contracting services. At least one-fifth of these contracting dollars and probably more, about $20 billion, was spent on consultants for advice, for studies, for analyses, et cetera.

These consultants do not only advise agencies about the Congress, these consulting firms are writing testimony. For example, testimony given in March 1989 was drafted by the Bruce Co. of Washington, DC.

It was the testimony of not some low-ranking individual down in one of the agencies. It was the Assistant Administrator, Linda J. Fisher, Policy, Planning and Evaluation, U.S. Environmental Protection Agency, when she appeared before the Committee on Environment and Public Works of the U.S. Senate.

Did her staff draft this statement? Did Ms. Fisher draft this statement? No. A consulting firm drafted this statement given to our colleagues on that particular committee.

On April 3, 1989—Adm. James D. Watkins, the Secretary of Energy, appeared before the defense nuclear facilities panel in the House of Representatives. Mr. President, which firm has probably more contracts with the Department of Energy than just about any consulting firm that we know of? Well, that firm is known as BDM. They get millions and millions of dollars, not only from the Department of Energy, but from EPA, the Department of Defense, and many others.

Who, Mr. President, would you imagine wrote the testimony regarding our policy in the defense nuclear world for Secretary Watkins? Who wrote that testimony? BDM wrote the testimony. This was brought out in my hearing that Secretary Watkin's testimony was written by BDM, enunciating our policy in nuclear defense areas. It was enunciated by a contracting company that has millions of dollars of contracts not only with DOD, but with the Department of Energy.

Mr. President, I must say that Secretary Watkins admitted that he gave this testimony to the House of Representatives, but at that time he did not know it had been written by a consulting company.

Mr. President, here's another example once again at the U.S. Environmental Protection Agency. I will put all of these examples in the RECORD, Mr. President. This is an enforcement letter sent from EPA to a company that evidently had violated some waste disposal and management rules of EPA.

Who wrote this letter to the particular company saying that they are in violation? Did EPA? Did some of the attorneys for EPA? They have hundreds down there. No. A consulting company that has a contract with EPA is doing this type of work, which is, of course, a function inherent to the mission of that particular agency.

Mr. President, another example, also from 1989. The General Accounting Office did a report about one of the agencies of our Government. Well, the General Accounting Office does this report on EPA and the EPA, after this report was issued, hired a consulting company to respond to the findings of the General Accounting Office. A consulting company was hired to respond to a GAO report.

In most instances, Mr. President, I have discussed this on many occasions, when my colleagues, when the distinguished occupant of the chair, the distinguished junior Senator from Connecticut writes a letter to the EPA, the Department of Energy, maybe the IRS, about a constituent, that agency does not respond to this letter written by a Senator. They hire a consulting company. They hire a contractor to respond to the letter.

Mr. President, it has gotten so ridiculous, it has gotten so abusive that let me cite my dear departed colleague from the other body, the late Mendel Rivers of South Carolina. I believe he was chairman of the House Armed Services Committee, quite a flamboyant character. One day I heard him in debate in the other body, I have always remembered it, that "This matter has gotten so ridiculous it is ridiculous." And this has gotten so ridiculous, Mr. President, that it is ridiculous.

I have tried very long and very hard to make some common sense out of this. I have tried on many occasions to cut back the funding. I have tried on many occasions to bring more sunshine to the issue. I am going to try maybe later this morning, maybe this afternoon, maybe this evening, something that all of the contracting firms, all of the consultants inside and around the beltway are writing and wiring and coming to see our colleagues about; that is, the contracting licensing amendment that I am going to offer next. But this amendment does not go that far.

This is a simple amendment. It is a simple approach. It is simply to establish a line-item in our appropriations bills that will be known as consultant services. The definition of consultants is set out in the amendment. It is not radical. It uses OMB language and commits this to statute.

I think, Mr. President, for the first time it is going to give us a real opportunity to get hold of this issue of consultants. I truly hope that it will meet with the approval of the committee, that it will ultimately meet with the approval of my colleagues in the Senate and in the other body, and be signed into law by the President.

Mr. President, at this time, I think for the moment, I will yield the floor.

Mr. WELLSTONE. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The pending amendments have been laid aside for consideration of an amendment to be offered by the Senator from Arkansas which has not yet been offered.

Mr. WELLSTONE. Mr. President, I do not think the Senator from Arkansas has offered his amendment actually yet in which case I thought the pending amendment was the Wellstone amendment.

Mr. PRYOR. Mr. President, the Senator from Minnesota is correct to the extent that the Senator from Arkansas has not yet offered the amendment. I would be glad to offer the amendment at this time or I would be glad to delay offering it.

Mr. WELLSTONE. I know the manager wants to keep things moving. I think our amendment is being accepted and ready to go; whatever the managers' pleasure is.

Mr. HARKIN. Mr. President, as I understand it, the pending amendment was set aside. We are ready for Senator PRYOR to send his amendment to the desk.

The PRESIDING OFFICER. The Senator is correct. The pending amendment was set aside by unanimous consent.

AMENDMENT NO. 3009

(Purpose: To provide that the Office of Management and Budget shall establish a separate line item for funding of consulting services for budget requests, the annual budget, and for other purposes)

Mr. PRYOR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] proposes an amendment numbered 3009.

Mr. PRYOR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 87, insert between lines 15 and 16 the following:

SEC. 518. (a) Beginning in fiscal year 1994, and in each fiscal year thereafter, the Office of Management and Budget shall establish the funding for consulting services for each department and agency as a separate line item in—

(1) each department and agency request for funding in my budget proposal submitted for inclusion in the annual budget of the United States Government submitted by the President to the Congress;

(2) each such budget proposal; and

(3) each budget annually submitted to the Congress under section 1105 of title 31, United States Code.

(b) For purposes of this section consulting services include—

(1) management and professional support services;

(2) studies, analyses, and evaluations;

(3) engineering and technical services (excluding routine engineering services such as automated data processing and architect and engineering contracts); and

(4) research and development.

Mr. HARKIN. Mr. President, might I inquire of the Senator from Arkansas? Is this amendment in essence the new line item for consulting services?

Mr. PRYOR. That is correct.

Mr. HARKIN. That is all that is in this amendment?

Mr. PRYOR. That is correct.

If I might respond, I think what the distinguished Senator from Iowa, the manager of this legislation, might be asking is that he does not want our colleagues to be confusing this amendment with a later amendment that I plan to offer requiring the consultants and contractors to get a license before they can have a Government contract. The current amendment specifically establishes a line item for consulting services.

Mr. HARKIN. Mr. President, we have no problem with the amendment. We accept the amendment on this side. I understand that the minority side has accepted this amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment offered by the Senator from Arkansas.

The amendment (No. 3009) was agreed to.

Mr. PRYOR. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PRYOR. I thank the distinguished Senator from Iowa.

AMENDMENT NO. 3007

The PRESIDING OFFICER. The pending amendment is the amendment offered by the Senator from Minnesota [Mr. WELLSTONE].

Mr. WELLSTONE. Mr. President, I urge adoption of my amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. HARKIN. Mr. President, we have no objection on this side to the amendment, and the other side has stated they will accept it.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 3007) was agreed to.

Mr. WELLSTONE. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3002

The PRESIDING OFFICER. The pending amendment now is the Helms amendment.

Mr. HARKIN. Mr. President, again, we are here on the floor, and we are ready to take amendments. If Senators in their offices are watching, if they have amendments, please come over and offer them. We are ready to roll. There is not much we can do, unless Senators come offer their amendments.

Mr. PRYOR. Mr. President, I would like to respond to the Senator from Iowa and promise to offer my amendment. I would like to have about 5 minutes for a little preparation, if I could, and if I might suggest the absence of a quorum for 5 or so minutes, I will come back and offer the amendment, with the agreement that I will be recognized to offer the amendment when the quorum call is called off.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I had stepped off the floor momentarily, but I wanted the RECORD to show that the distinguished chairman and I had discussed the amendment by the Senator from Minnesota [Mr. WELLSTONE] on part-time Pell Grant students, and that was acceptable to this side of the aisle.

Similarly, we had discussed the amendment by the distinguished Senator from Arkansas [Senator PRYOR] concerning the line item on consultants and, similarly, that was acceptable on this side of the aisle.

AMENDMENT NO. 3010

Mr. HARKIN. Mr. President, I ask unanimous consent that the pending amendment be laid aside, and I send an amendment to the desk on behalf of Senator LUGAR and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment will be laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. LUGAR, proposes an amendment numbered 3010.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 23, line 11 before the period, insert: "*Provided further*, That $100,000 shall be available for the National Institute for Occupational Safety and Health to update the mortality study of the workers at the capacitor facility in Bloomington, Indiana".

Mr. HARKIN. The amendment has been cleared on this side, Mr. President.

Mr. SPECTER. Mr. President, that looks like a good amendment to this side. I commend by distinguished colleague from Indiana, Senator LUGAR. It is agreed to here.

The PRESIDING OFFICER. The question is on agreeing to the amendment by the Senator from Indiana.

The amendment (No. 3010) was agreed to.

AMENDMENT NO. 3011

(Purpose: To require the use of certain appropriations to carry out the duties of the Glass Ceiling Commission)

Mr. SPECTER. Mr. President, I ask unanimous consent that the pending amendment be set aside, and on behalf of Senator DOLE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside, and the clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for Mr. DOLE, proposes an amendment numbered 3011.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 16, insert after "Act," the following: "and to carry out related activities,"

On page 3, line 2, strike "and".

On page 3, line 5, insert after "of the Act" the following: ", and $750,000 shall be to carry out the duties of the Glass Ceiling Commission under title II of the Civil Rights Act of 1991".

Mr. SPECTER. Mr. President, this amendment provides for $750,000 to be set aside to carry out the duties of the Glass Ceiling Commission which is designed to have appropriate assurances that women are treated fairly in the workplace. This amendment has been discussed with the distinguished chairman of this subcommittee, Senator HARKIN.

I might note, Mr. President, for those watching, if anybody is, on C–SPAN II, the difficulty of the proceedings with consultations being conducted all the time. As I had said, I discussed this with Senator HARKIN, and this is agreed to by both sides. I await the concurrence of my distinguished colleagues for the RECORD.

Mr. HARKIN. Mr. President, we have examined this amendment. It is a great amendment on further studies on the effectiveness of the glass ceiling keeping women out of executive positions. We accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3011) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3012

(Purpose: To amend the Higher Education Amendments of 1992 to provide an effective date for changes made by such Act to the annual loan limits under the Perkins loan program)

Mr. HARKIN. Mr. President, I ask unanimous consent that the pending amendment be set aside for the consideration of the amendment I send to the desk on behalf of Senator PELL.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The Senator from Iowa [Mr. HARKIN], for Mr. PELL, proposes an amendment numbered 3012.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 72, between lines 22 and 23, insert the following:

SEC. . ANNUAL LOAN LIMITS.

(a) AMENDMENT.—Section 468 of the Higher Education Amendments of 1992 is amended—

(1) in paragraph (3), by striking "and" after the semicolon;

(2) in paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) the changes made in section 464(a)(2)(A), relating to annual loan limits, shall be effect for award years beginning on or after July 1, 1993.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on July 23, 1992.

Mr. HARKIN. Mr. President, I understand this amendment has been cleared on both sides.

Mr. SPECTER. This amendment is being offered by the chairman of the authorizing committee. So we shall overlook any issue of legislating on an appropriations bill, and we agree to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3012) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Arkansas [Mr. PRYOR].

Mr. PRYOR. Mr. President, what is the pending business of the Senate?

The PRESIDING OFFICER. The pending business is the amendment offered by the Senator from North Carolina, Mr. HELMS.

Mr. PRYOR. Mr. President, I ask unanimous consent that the pending amendment be set aside in order that I may offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I have another amendment. I want to again thank the distinguished managers for accepting the previous amendment offered. This amendment is not quite as simple, and I am sure it may be a little bit more controversial than the last. As another attempt to bring about some much-needed reform to the Government's use of consultants, I am offering S. 2928, the Contractor Licensing Reform Act of 1992, as an amendment to the Labor-HHS appropriations bill.

Mr. President, I would like to take a moment to discuss this amendment, because there has been a lot of activity by the consulting industry to try to convince my colleagues that we have here in the Senate a licensing idea that would bring the Federal Government to a halt.

This year, Mr. President, OMB estimates—once again I am going to go to my chart—OMB estimates that the Federal Government is going to spend over $90 billion on contracts. In 1990, for example, we spent $90.6 billion.

I imagine we are probably going to be spending about $93 or $94 billion in the next fiscal year.

This is a 90-percent increase, 90-percent increase, during the Reagan and Bush administrations in spending and in the dependency on contractors and consultants.

Where does all of this money go? I have tried to find out for some 14 years and I have yet to find a good answer to that question.

I have found that a large part of this $90 billion goes to consulting services, though estimates vary from $9 to $20 billion. I have found that far too much of this money goes actually into what I call an open money sack that receives very, very little review. Some of my colleagues have asked why it matters whether this work of the Federal Government be performed by contractors or Federal workers.

I would like today to try to provide some answers as to why it matters. We have contracted out the basic responsibility to run the Government to an invisible bureaucracy over which we have lost control. We have lost control, Mr. President, of the shadow Government. We have lost control of an invisible bureaucracy that we have created that sucks up some $90 billion a year of the taxpayers' money.

I am not talking about the contractors that cut the grass at the local Air Force base. I am talking about the contractors who do the planning, the budgeting, and the management work of the U.S. Government. These are functions that in the past have been historically reserved to the employees of the Federal Government and today we are contracting these services out.

Contractors today write congressional testimony. They answer the letters from Senators and House Members. They appear in Cabinet meetings and other singular administration functions. Contractors today are helping to oversee the contracting office at a number of Federal agencies. Contractors today are drafting agency budget presentations that are sent to Congress and, yes, Mr. President, contractors today are performing studies and analyses for the Government to see whether or not those particular agencies are using too many contractors. Of course, we know what their answer is going to be.

Mr. President, to emphasize another point: It costs more to use private contractors. It cost more to use private contractors than to perform this basic work of Government in-house. The General Accounting Office, and the Department of Defense IG, have reported that it cost from 25 to 40 percent more to hire contractors instead of using Federal employees.

Mr. President, many of these same contractors that help to plan and manage these programs and draft regulations also work for private clients who stand to benefit from the Government work. The only system presently in place to guard against these conflicts amount to no more than a massive paper shuffle. For example, the EPA allows contractors with ties to polluters to draft Federal regulations that affect these industries.

Mr. President, I have tried a number of approaches to correct these problems. First I have held hearings and asked the agencies OMB and OPM to correct these abuses and, if not correct them, at least to tell us how many consultants and contractors they are hiring and why we are becoming or have become so dependent upon their services.

Second, I have tried to address these problems in the past years by utilizing the power of the purse. For 2 years I have successfully amended virtually every appropriations bill with first a reduction and then a cap on consulting services spending. However, in May 1991, a GAO review found that poor accounting and the lack of a definition—if we can believe it—for consulting services made these amendments unenforceable.

Finally, I amended the Defense appropriation bill in fiscal year 1989 to create a system of consultant registration to deal with this problem. While that is resulting in maybe a modest improvement in the regulations, there is still no effective governmentwide system to deal with these problems of excessive costs, conflicts of interest or loss of accountability.

Mr. President, I think now it is time for a new approach. For the first time in the history of our Federal budget system, should the amendment that has just been passed establishing a line item for consultants be approved by the other body and by the President, we are going to see a line item in our federal system for consulting services. It is now time to carry this a step further. This is why I am offering today as an amendment S. 2928, which I introduced last month.

The amendment establishes a requirement that each and every contractor who wants to provide certain types of services to the Federal Government apply for and receive a license. That sounds, Mr. President, pretty simple. This amendment, the Contractor Licensing Reform Act of 1992, would establish within the Department of Treasury the Office of Contractor Licensing. This office would establish and maintain a licensing system for the registration, issuance and review of a license. The consultants that would be covered are as follows: management and professional services; studies, evaluations and analyses; engineering and technical services, excluding routine engineering services, like building a bridge or designing a computer system; and research and development.

Once again, Mr. President, the language is simple and the purpose is equally simple. Each applicant who wants to do consulting work for the Federal Government would be required to simply submit to the Office information identifying the principal officers and employees of the applicant, disclosures of whether the applicant is a registered foreign agent, disclosure of any tax delinquencies, disclosures of any conviction of the applicant for a misdemeanor or felony in any Federal or State court, all clients for the past 2 years, promotional business material, such as annual reports, marketing brochures, and any other relevant information required by the office.

That is what my amendment would do. The Office would them make a determination if the applicant who is about to receive Federal tax dollars is in compliance with procurement, contracting, and ethics laws; and then, at that time, the Office may issue a license.

Agency contracting offices will be required to review the license and information disclosed by the license holder before they make a contract award.

Further, Mr. President, this bill lists certain functions that are inherently governmental in nature and could not be performed by contractors. This is something that is long overdue. This language is consistent with OMB proposed guidance, but placing this language in statute will ensure that we have accountability in these agencies.

Another provision would require that agencies conduct a cost comparison before awarding a contract. As I stated earlier, Mr. President, although it costs 25 to 40 percent more to use outside contractors, agencies do not even check first in our Federal system to see if their present employees are able to perform the work at less cost.

We have become so totally dependent that we pick up the phone and ask a consulting company or a contractor to perform a function when, at the next desk, a Federal employee could do the same function at 25 to 40 percent less.

Finally, Mr. President, this bill prohibits reimbursing contractors for frivolous expenditures for entertainment and efforts to boost their employees' morale. The GAO has recently uncovered numerous cases of thousands of dollars being spent by contractors on parties and alcohol. None of these costs should be borne by the taxpayers and this provision would change the current system that permits contractors to pass these unreasonable costs along to the Government.

Mr. President, I hope my colleagues are going to accept this amendment. It is a very modest, but I think very important, reform in one aspect of our Federal spending. It certainly should allow some sunshine into this system, because for too long agencies have been hiring contractors, not knowing who else they work for, or whatever potential conflicts these contracting or consulting firms might have.

Mr. President, I have just been handed a letter from the Project on Government Oversight, a letter signed by Liz Galtney, the project director in Washington, DC, offering their support for this initiative to have contractors at least receive a license before they do business with the Federal Government.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PROJECT ON GOVERNMENT OVERSIGHT,
Washington, DC, September 16, 1992.
Senator DAVID PRYOR,
Federal Services Subcommittee, Hart Building, Washington, DC.

DEAR SENATOR PRYOR: We are writing to express our organization's support for your efforts to bring some sunshine into government procurement. Specifically, our organization supports your initiative to create a licensing office that would collect relevant information on contractors seeking to provide consulting services to the federal government.

It is my understanding that your licensing requirement would involve very little paperwork for contractors, who already provide the same information to the government each time they bid for a contract. The advantage of this reform measure is that it would for the first time provide a centralized source of information on a very important group of contractors.

We hope that Congress approves your initiative since we believe it is only a small step toward improved government accountability. Particularly in this election year, when there is widespread consensus that the government must work better, your effort is definitely one reform that would improve the federal government's use of consultants.

Sincerely,
LIZ GALTNEY,
Project Director.

Mr. PRYOR. Mr. President, architects, if they have a Government contract, must have a license. Doctors or nurses, if they work in a military hospital, must be licensed. We even have to have a license for landscape architects.

But, Mr. President, there is about $20 billion, or maybe more, of Federal dollars going out today to those who do not have to have a license. They do not have to state their qualifications. They are under no rules or regulations with regard to ethics laws. They are totally free. This is an unaccounted-for system that has truly grown out of control.

Mr. President, we have come across, for example, in several of the hearings that we have been holding on consultants and contractors, one particular company, PRC. They do work with EPA. They have enormous contracts worth $220 million, 2 years ago, our most recent figure. Here is their brochure they send out to potential stockholders for PRC. They list their current clients. They include U.S. and international governments, States, industries, professional service firms, et cetera:

> Through our involvement in policy development and innovative technology evaluation, PRC offers clients expertise in the forefront of the environmental field.

And here it states, in this prospectus, I guess you would call it:

> Under contract to United States EPA, PRC has conducted hundreds of regulatory compliance inspections, giving us in-depth experience with what regulators are looking for.

Mr. President, what they are basically saying is: If you will hire us, we also work for the Government, and we know what these regulators are going to be investigating and attempting to regulate. If you will hire us, we will see to it that you are given the advice, maybe, on how to even skirt those regulations.

Mr. President, we found in another recent hearing another company that we thought might be of interest. This is a company called Roy F. Weston. In 1990, for example, Roy F. Weston had 13 contracts with EPA worth over $100 million.

Once again, I guess this is a prospectus to clients. Weston says, "So that we can represent either the regulated or the regulator."

This is what the company is holding out they can do: To represent the regulated or the regulator.

Mr. President, that in itself is a conflict of interest, and should this contracting licensing amendment be passed, we would see who else Roy F. Weston represents. We would see who else PRC represents.

But today, under the present system, Mr. President, we have almost no knowledge of who else they represent and what potential conflicts of interest they, in fact, actually have.

Mr. President, at this point, I have concluded my statement.

I understand the Senator from Iowa may have a question. I will be glad to respond.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Iowa.

Mr. HARKIN. Mr. President, has the Senator sent the amendment to the desk yet?

Mr. PRYOR. I have not.

Mr. HARKIN. Mr. President, I have listened to the comments of the Senator from Arkansas. Quite frankly, I have heard him talk about this issue for many years now, since I have been here. I believe he is right on target; he is right on course; he is correct in everything he says. The legislation that he is talking about, I believe, is needed, and I would support it.

But I must say, Mr. President, that I would have to resist this because, first of all, the amendment or the legislation that the Senator is talking about really pertains to the Department of the Treasury. This is an appropriations bill for the Departments of Labor, Health, and Human Services, and Education. We have no jurisdiction over the Department of the Treasury.

I would suggest to the Senator that this amendment might be more aptly applied to the Treasury appropriations bill, and not this one.

Second, while we have certainly bent the rules once in awhile for legislation on an appropriations bill to change an effective date, for example, or insert a new line item, these are minor variations in the prohibition against legislation on appropriations bills. Mr. President, this is 12 pages of legislation.

As I said, I agree with the Senator from Arkansas. He is right on target on this. But this should be put on an authorization bill, not an appropriations bill. This is 12 pages of legislation.

So, in good faith, I would like to ask the Senator from Arkansas if he might not want to, hopefully, think about putting this amendment on an authorization or perhaps the appropriate appropriations bill. I cannot speak for the chairman of that Appropriations Subcommittee on what he might want to do. But this totally breaks any rule against legislation on an appropriations bill. It is 12 pages of legislation—good legislation, legislation that ought to be passed, I might add. But certainly we could not accept this on this bill.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, responding to my good friend from Iowa, if I might, I would like to first thank him for his support of the concept that I am proposing today. Second, I would like to respond by saying, yes, this does apply to the Department of Treasury, but it also applies to every other Department and agency of the Federal Government. It applies to HHS. It applies to DOD. It applies to IRS. It applies across the board, throughout our Federal system.

I do not know, for example, if this is legislation on an appropriations bill. I will just be honest, I do not know. It could be; it could not be. But knowing we only have about 3 weeks or maybe 2½ weeks left in the session, and not knowing what is going to be happening to other legislation that will be brought before the Senate, this might just be the last opportunity that this Senator from Arkansas has this year to offer something that will help to curb the spiraling costs and abusive costs of consultants and contractors within the Federal Government.

Mr. HARKIN. If the Senator will yield?

Mr. PRYOR. I am glad to yield.

Mr. HARKIN. As the Senator knows, I fully support this legislation. I would like to have the opportunity at some time to vote for it, support it, and see it passed. Under the rules, as I understand the agreement we have in the Senate now, when this appropriations bill is finished, we will proceed to the defense authorization. It is an authorization bill. Certainly, this type of legislation would be more appropriate—excuse the play on words—more germane, for example, to the Defense authorization bill.

Mr. PRYOR. The Senator from Iowa is exactly right, Mr. President. One of the problems is the practical problem in basic politics 101. When I saw the 12 members of the Senate Armed Services Committee opposed to this bill, I decided the DOD bill might not be the best bill to try to put it on. So I am pretty practical when it comes to considerations like this.

If this, as legislation on an appropriations bill, should come down, or if

I should withdraw this amendment or not actually send it to the desk, then I would probably have no other option than to go to the Department of Defense authorization bill because I do not know a vehicle that might work other than that for the remainder of this session.

If the distinguished Senator from Iowa could educate the Senator from Arkansas on that, I would certainly appreciate it.

Mr. HARKIN. If the Senator will yield, I think there are plenty of conference reports coming down the pike that are fully amendable when the conference reports are here. This Senator does not know all of them, but I think there are a bunch of them, and I think they would be amendable by this legislation.

Mr. PRYOR. Mr. President, the distinguished majority leader and Speaker of the House and the minority leaders, it is my understanding, have come to the conclusion that on October 4 we are going to be gone from here. I hope that is the case. I think the American public would love to see us gone from here. I hope we will be gone.

But today I would like to state that I think this amendment is critical and I think we not only have conflicts of interest, we have abuses in authority. We have, once again, a shadow government that is out of control. And I think it is very, very necessary that, in the new year, we have the opportunity to try a new approach. I think this is a new approach that we should try.

But, Mr. President, in view of this, I am at this point going to state that I am not at this moment, on this bill, going to go forward with this amendment. But I am going to go forward with this amendment on a subsequent bill or some vehicle before we leave on October 4.

I want to express once again my deep appreciation to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the Senator from Arkansas for his restraint in offering this amendment because it is good legislation. I just might respond by saying I hope there will be an opportunity for him to offer it this year. The distinguished Senator from Arkansas has been working on this issue for over a decade. He has put in a lot of time and effort. Perhaps next year with a new administration we can get something like this done for the American people.

Mr. PRYOR. I thank my friend from Iowa.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I have been familiar with the work of the Senator in this area over many years. We have stood, regrettably, toe-to-toe on this type of legislation. I assure the Senator that at such time as he seeks the opportunity to bring this up, this Senator—and I hope others will join in—will be strongly opposing this.

Men and women across this country every morning get up and go out and try to work in the private sector in hopes that their Government, be it the executive or the legislative branch, tries to provide an environment in which they can work. In the last 24 hours we have witnessed one of the most remarkable chapters in the financial history not only of this country but the whole world. This type of legislation, again, begins to challenge their ability to go into the workplace, be it here in the United States or in the world market, and compete.

I say to my good friend, we have to, as a Government, and particularly as a Congress, begin to recognize the difficulty, the increasing difficulty of the workplace, the challenge to those who get up every day to go out and apply their brains and their commitment and their courage to provide jobs, to provide America with a competitive product in the world market. And this piece of legislation, in my judgment, further hinders their effort to do that.

So we shall have, I say to my good friend at such time as he selects, a good, old-fashioned debate on this piece of legislation.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, not wishing to take additional time—and I apologize to my colleagues for taking so much time already this morning on this and other matters—to my friend from Virginia I say I am sorry he was not here earlier when I held up this chart of what we have spent from 1980 to 1990. We have increased the amount spent on private contractors and consulting by 90 percent—90 percent. So the workplace we have created is about a $92 or $93 billion workplace environment, subject to almost no accountability, I say to my friend; subject to no ethics laws.

And, Mr. President, speaking of a workplace, if I were a Federal employee doing a mission or performing a job and the person at the next desk to me was a private contractor making 40 percent more or 25 percent more for doing the same or less work—when we talk about the difficulty of the workplace, then I say to my friend from Virginia, that is a difficult situation for anyone in any workplace. I am trying merely to license the people who get contracts from the Government.

Mr. WARNER. Mr. President, I will withhold further comment.

Mr. PRYOR. Mr. President, I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. Mr. President, I ask unanimous consent that the pending Helms amendment be set aside for purposes of offering an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3013

(Purpose: To grant the power to the President to reduce budget authority)

Mr. McCAIN. Mr. President, I have an amendment at the desk on behalf of myself and Senator COATS, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows;

The Senator from Arizona [Mr. McCAIN], for himself and Mr. COATS, proposes an amendment numbered 3013.

Mr. McCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . LEGISLATIVE LINE ITEM VETO ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Legislative Line Item Veto Act of 1991".

(b) ENHANCEMENT OF SPENDING CONTROL BY THE PRESIDENT.—The Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"PART A—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"GRANT OF AUTHORITY AND CONDITIONS

"SEC. 1101. (a) IN GENERAL.—Notwithstanding the provisions of part B of title IX and subject to the provisions of part B of this title, the President may rescind all or part of any budget authority, if the President—

"(1) determines that—

"(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

"(B) such rescission will not impair any essential Government functions; and

"(C) such rescission will not harm the national interest; and

"(2)(A) notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturday, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations Act or a joint resolution making continuing appropriations providing such budget authority; or

"(B) notifies the Congress of such rescission by special message accompanying the submission of the President's budget to Congress and such rescissions have not been proposed previously for that fiscal year.

The President shall submit a separate rescission message for each appropriations bill under paragraph (2)(A).

"(b) RESCISSION EFFECTIVE UNLESS DISAPPROVED.—(1)(A) Any amount of budget authority rescinded under this title as set forth in a special message by the President shall be deemed canceled unless during the period described in subsection (B), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

"(B) The period referred to in subparagraph (A) is—

"(i) a Congressional review period of 20 calendar days of session under part B, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;

"(ii) after the period provided in clause (i), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

"(iii) if the President vetoes the rescission disapproval bill during the period provided in clause (ii), an additional 5 calendar days of session after the date of the veto.

"(2) If a special message is transmitted by the President under this section during any Congress and the last session of such Congress adjourns sine die before the expiration of the period described in paragraph (1)(B), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in paragraph (1)(B) (with respect to such message) shall run beginning after such first day.

"DEFINITIONS

"SEC. 1102. For purposes of this title the term 'rescission disapproval bill' means a bill or joint resolution which only disapproves a rescission of budget authority, in whole, rescinded in a special message transmitted by the President under section 1101.

"PART B—CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS

"PRESIDENTIAL SPECIAL MESSAGE

"SEC. 1111. Whenever the President rescinds any budget authority as provided in section 1101, the President shall transmit to both Houses of Congress a special message specifying—

"(1) the amount of budget authority rescinded;

"(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(3) the reasons and justifications for the determination to rescind budget authority pursuant to section 1101(a)(1);

"(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

"(5) all facts, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

"TRANSMISSION OF MESSAGES; PUBLICATION

"SEC. 112. (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under sections 1101 and 1111 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

"(b) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under sections 1101 and 1111 shall be printed in the first issue of the Federal Register published after such transmittal.

"PROCEDURE IN SENATE

"SEC. 1113. (a) REFERRAL.—(1) Any rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

"(2) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this section.

"(b) FLOOR CONSIDERATION IN THE SENATE.—

"(1) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(2) Debate in the Senate on any debatable motion or appeal in connection with such a bill shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(3) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specific number of days, not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

"(c) POINT OF ORDER.—(1) It shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission of budget authority transmitted by the President under section 1101.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission disapproval bill.

"(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.".

Mr. MCCAIN. Mr. President, on this particular issue that I am bringing up again, there is a previous unanimous-consent agreement of 1 hour equally divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. MCCAIN. Mr. President, I may not even use all of that time because this issue has been debated all across the Nation. I brought this amendment up several times in the past, and I will say to the Members of this body that I will continue to bring up this amendment until it is passed in one form or another because I am convinced that an overwhelming majority of the American people are deeply concerned, in fact in some cases frightened, about what the Federal deficit is doing to them, their lives, their families, and their futures.

It is my view, I think the correct one, of the overwhelming majority of the American people that one of the cures for this terrible disease, called out-of-control spending, is the line-item veto. This amendment provides the President of the United States with what is known as a line-item veto, which means that the President has the ability to selectively veto expenditures from a massive appropriations bill without having to veto the entire piece of legislation.

I remind my colleagues that 43 out of 50 Governors in America have the line-item veto. I think it is of interest that the Presidential candidates of both parties, both President Bush and Governor Clinton, have unequivocally stated their support for the line-item veto. As I said before, poll after poll shows that significant numbers of the American people support the line-item veto.

Mr. President, our debt has increased $3.5 trillion since 1974; 1974 was when the Congressional Budget Control and Impoundment Act was passed. Fifty-six times in the last 30 years we have raised taxes on the American people. On only one occasion in the last 30 years have we had a balanced budget. What is even more alarming is the dramatic escalation in the deficit since the enactment of the 1974 Budget Act.

I would like to make another point today that I have not made in the past on this issue. That is that there is now widespread belief throughout the Nation, and certainly by many in this body as well as throughout the country and the media, that the only possible way to bring the deficit under control is to cut entitlements. Entitlement is an interesting word. What it really means in many cases is the difference between poverty and a decent existence for many Americans, the difference between being able to obtain a minimum level of health care and suffering terrible physical or mental disabilities.

Mr. D'AMATO. Mr. President, I wonder if my colleague will possibly yield for a 5-second unanimous-consent request.

Mr. MCCAIN. It is always a pleasure to yield to my friend from New York.

Mr. D'AMATO. Mr. President, I apologize to my distinguished colleague.

PRIVILEGE OF THE FLOOR

Mr. D'AMATO. Mr. President, I ask unanimous consent that Charlotte Whitenight, a congressional fellow in my office, be permitted on the floor during the consideration of the Labor-HHS appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, let me thank my colleague and friend and tell him I am going to join him in support of his amendment.

Mr. MCCAIN. Mr. President, I thank my friend from New York.

As I was saying, it is the difference between being able to enjoy at least a part of the American dream, or despair, poverty, neglect, and a very bleak future.

My point is that it borders, in my view, on hypocrisy to go to the American people and tell them that we are going to have to cut their entitlement programs without first getting under control the outrageous spending practices that have become the order of the day, such as bovine flatulence studies, Abraham Lincoln research and interpretive centers, unauthorized spending not noted with particularity in reports, projects that demonstrate methods of eliminating traffic congestion, or even a $41 million grant for a university that has a $14 million annual budget and 1,400 students.

I urge my colleagues, Mr. President, in fact all Americans, to obtain a copy of a booklet put out by Citizens Against Government Waste called "The Pork List." "The Pork List" is a document that will make most Americans laugh and cry. They will laugh because of the incredible things that we spend their tax dollars on, and they will cry because it is their hard-earned tax dollars that are being spent.

Sooner or later it has to come to a stop or we will reach a financial crisis in this country of unprecedented proportions. I know of no economist who does not view the deficit as the number one reason why we have lacked competitiveness with foreign countries, why we are unable to reach higher levels of economic growth and more jobs. Nineteen cents out of every dollar is spent to pay interest on the national debt.

This year, for the first time, the American taxpayer will pay more of their tax dollars to pay interest on the national debt than they will to defend this Nation. We will spend more money on interest on the debt than we will on national defense. If I had said that several years ago, it would have been a very outrageous statement. Unfortunately, today the outrageous has become a reality.

This amendment is a small step, but a step in the right direction. As my colleague, Senator HOLLINGS, stated near the conclusion of last February's debate on the line-item veto, "it is time to stop splitting hairs and get this valuable tool to the President."

I would like to mention one other reason why I am bringing this issue up again. Because Senate rule 16, state that any appropriation must be described "with particularity" in the report. In other words, a description of that appropriation must be provided within the legislation itself. I brought forward an objection to a violation, on September 9, 1992, because I believed that a report was in violation of rule 16, by spending $319.2 million for which there was no description whatsoever. I was ruled against by a parliamentary ruling of the Chair. Only in Washington, DC, can $319.2 million be spent with a three-word description and that be interpreted as "with particularity."

I think it is another example of a system that is basically out of control.

Mr. President, I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. McCAIN. Mr. President, we have to begin deficit reduction by eliminating Government waste, whether it is $6.3 billion in unauthorized pork in the 1992 defense appropriations, $48.1 million in ignored rescissions since 1974, or the $70 billion that the General Accounting Office identified that would have been saved between 1984 and 1989 by a President armed with a line-item veto.

The waste and inefficiency must be eliminated. We cannot go before the American people and ask them to sacrifice their entitlements until we get this kind of wasteful and unnecessary spending under control.

I would like to add, Mr. President, that there have been and will be accusations leveled at me that there have been pork-barrel projects for my State. Obviously, the characterization of many of these projects are in the eye of the beholder. I would plead guilty if that would make my accusers feel better. What I am trying to change here is not the individual appropriations. What we need to change is the system itself which has failed the Congress and the American people by continually spending beyond our means.

Mr. President, I yield the floor. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Arizona controls 30 minutes; the floor manager, the Senator from Iowa controls the other 30 minutes.

Mr. SPECTER. I would ask my colleague from Arizona to yield me 3 minutes to support his amendment.

Mr. McCAIN. I yield 3 minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, I support the principle of the line-item veto. I compliment Senator McCAIN for his tenacity on this issue. One day we will have a line-item veto for the President to strike a given item from the budget when it is excessive and not in the public interest. I think that it is long overdue.

I have supported legislation to this effect, and am in support of the constitutional amendment which would provide for a line-item veto where the Congress could overrule by a simple majority but to pass these items in the daylight so people can see what they are instead of being comprehended in thick legislative proposals where no one knows what is being enacted, reserving of course the two-thirds override for major legislative bills.

Mr. President, I joined recently in cosigning a letter offered by the distinguished Senator from Kansas [Mr. DOLE] urging the President to exercise the line-item veto based on his current constitutional authority. It is my legal judgment that the President has authority at the present time to exercise the line-item veto, and let the matter be carried forward to a judicial challenge. I think the chances are excellent that the Supreme Court of the United States would uphold an exercise by the President of the line-item veto.

But until that happens, until we have a constitutional amendment, if the President does not exercise the line-item veto, I am pleased to join with Senator McCAIN, compliment him again for his tenacity and persistence on this issue, and predict that one day this effort will be successful.

I yield the remainder of my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, I ask unanimous consent that the call of the quorum be equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. I yield whatever time the Senator from Indiana requires.

Mr. HARKIN. Mr. President, if the Senator will yield, I inquire how much time remains on both sides.

The PRESIDING OFFICER. The Senator from Iowa has approximately 20 minutes, and the Senator from Arizona [Mr. McCAIN] has approximately 10 minutes.

The Senator from Indiana [Mr. COATS] is recognized.

Mr. COATS. Mr. President, I thank my colleague from Arizona for yield time. I was tied up in some meetings and did not realize we were operating under a time agreement.

Mr. President, for the second time this year, Congress has the opportunity to substantially curb wasteful and unnecessary Government expenditures by allowing the President the power of the line-item veto.

Since our discussion on the line-item veto last February, the mid-session estimates for the deficit for fiscal year 1992 have declined somewhat from the levels anticipated early this year to $333.5 billion.

This decline is in no way the result of any kind of fiscal restraint on the part of Congress with regard to special interest projects. The primary reason we will see a $333 billion deficit rather than a $400 billion deficit is the result of less than anticipated allocations to the Resolution Trust Corporation.

I might add that the slower than expected economic growth as a result of the failure of Congress to pass a sound and effective economic growth package and veer away from its infatuation with tax increases is expected to add an additional $2.1 billion to the deficit.

We should not be proud of these new numbers. A $333 billion deficit is shocking. We should be ashamed of such an extremely poor fiscal record.

We are fast approaching the $4 trillion point for our Federal debt. The Federal Government is borrowing $1 billion per day and our debt service at $306 billion per year was the second largest item in last year's budget. Next year our interest payments are expected to become the largest single item in the budget, and $40 billion of this amount will go to foreign creditors.

In fact, a June GAO report on the budget notes that net interest payments will exceed $1 trillion by the year 2020 if we do nothing to reverse our current spending habits.

This same GAO report adds that—

> The Nation's long-term economic future depends in large part upon budget and investment decisions made today. Failure to reverse [current] trends in fiscal policy and the composition of Federal spending will doom future generations to a stagnating standard of living, damage U.S. competitiveness and influence in the world, and hamper our ability to address pressing national trends.

Is this the legacy that we want to leave our children and grandchildren?

Think of what we, as a responsible Congress, could do with those hundreds of billions we are paying annually in debt service. For one thing, we could raise the personal exemption for individuals and families to the level it should be to rightfully account for annual costs of living.

For the duration of my 12 years in Congress, we have failed to keep our spending under control despite repeated miracle budget agreements, forced budget caps and ceaseless wailing on the part of so many Members of both bodies who refuse to back up their words of outrage with substantive action to cut waste.

And we cannot place the onus of the blame for the debt on the President. If Congress is going to continue to claim responsibility over the power of the purse we must also assume responsibility for the endless litany of studies and projects that the Federal Government has no business funding.

In the course of this year alone, as we have debated fiscal year 1993 appropriations bills, Congress has allocated funds for:

A study on striped bass;

Millions for capital improvement projects in Palau;

A million dollars to relocate a road at a fish hatchery;

A kickoff of a smokey bear celebration;

The sum of $700,000 for a new road and parking lot, boat dock, and composting toilet at the Tennessee-Tombigbee Waterway;

Apple research, bee research, acoustics research, dwarf bunt research, filbert blight research, and locoweed research;

A Department of Treasury fitness facility;

A bicycle transportation demonstration project;

Funding for an international coffee organization and an international jute organization;

An international office of the vine and wine; and the list goes on and on.

I personally have been working for 12 years on behalf of a line-item veto, and I know my colleague, Senator MCCAIN, has devoted a similar amount of his time to its passage. I was especially pleased with the strong endorsement the line-item veto received in the President's State of the Union Speech this year.

I might add that the Democratic nominee for President, Governor Clinton, has also endorsed the concept of a line-item veto.

In fact, he claims that he will save close to $10 billion over 4 years with a line-item veto. I am not sure if he has paused to reflect on the fact that his budget plan already appears to be $10 billion off because the majority of his own party which controls Congress won't allow a line-item veto to be enacted.

Frankly, I believe line-item veto savings could be considerably higher than those predicted by Governor Clinton.

Earlier this year the General Accounting Office completed a study that found that had the President had the power of a line-item veto from 1984 through 1989, some $70 billion in Federal spending would have been saved.

Think of what $70 billion over 5 years could cover. It could easily pay for WIC and Head Start and then some; $70 billion could cover a doubling of the personal to $4,000 for dependents under age 18 for 5 years; $70 billion would come close to paying for the entire student loan program for 5 years—and we all agreed during the debate on the higher education bill last week that we need to expand access and get aid to more students; $70 billion could take the recently approved extension of unemployment benefits and stretch it over a 12-year period—although I sincerely hope this would not be necessary.

Or we could apply $70 billion to the debt and reduce our interest obligations.

I believe that, given an assurance that rescissions will have some chance of passage, the number proposed by the President on an annual basis would increase dramatically.

As we all know, many special interest projects that have never gone through any kind of oversite or authorization process are routinely tucked into large appropriations bills that often must be passed by the end of the fiscal year.

Despite the existence of a specific procedure for the authorization and appropriation of taxpayer's dollars for worthy endeavors, the passage of special interest projects or pork surreptitiously included in appropriations bills has become the status quo.

An amendment that I offered to the so-called dire emergency supplemental appropriations bill last March clearly illustrates business as usual port practices that are now so common in this distinguished body.

I proposed to delete specified funding for a ship overhaul. Not only did the Navy strongly oppose the extensive overhaul that was mandated, but the project had been tucked into the appropriations bill without any discussion whatsoever in either of the House or Senate Armed Services Committees. I pointed out that the merits of this rather sizable project should receive some review by the appropriate committees before it was approved.

A good number of my colleagues agreed and my amendment passed with a health majority of 56 votes. Yet when the doors closed on the conference committee, the funding was quietly restored to the bill without debate.

I don't mean to point fingers at specific Members of Congress, Mr. President. We all do it. We all work with the Appropriations Committee to support projects of varying importance for our home States.

Clearly the tens of billions that could be saved with a line-item veto will not resolve all of our debt troubles. Entitlement spending is growing at phenomenal rates, and I expect that in the next several years serious consideration will be given to means by which we can add greater efficiency to our entitlement programs.

This will be a long and complicated procedure, however, in contrast to the simplicity of ensuring good congressional fiscal behavior with a line-item veto.

The McCain-Coats line-item veto amendment puts the onus of fiscal responsibility back on Congress by insisting that a vote to disapprove any rescissions must occur, or they go into effect.

In 1974, the President's power to impound or cancel appropriated funds was curbed by Congress. The Budget Control and Impoundment Act weakened the President's hand by allowing Congress the right to say no to rescissions by inaction.

Under current law, the President sends up his recommended cuts, and if Congress does not act to approve them, they become meaningless. The cuts simply die on the vine as Congress spends more and more and accuses everyone but themselves of fearing tough spending choices.

Over the years, the congressional attitude toward Presidential rescissions has become one of nearly total neglect. In 1991, President Bush proposed 47 rescissions for a possible savings of $5.55 billion. Only one rescission was approved by Congress. We saved $2.1 million—a drop in the bucket.

If this amendment passes, the President would send up rescissions with his annual budget submission and Congress would have 20 days to react. If they do not pass a disapproval resolution, the rescissions would go into effect. Thus the burden is on Congress to say no to cutting funds for specific projects, and they must do it publicly.

The McCain-Coats amendment also gives the President power to rescind appropriated funds within 20 days of signing a spending bill. Congress then again has 20 days to say "no," or the cuts are made.

This would give the President the same power that 43 of our Governors now regularly employ. It would also let the President cut the pork from huge continuing resolutions or dire emergency supplemental appropriations bills fattened by last minute goodies added by Congress.

In both cases, Congress would have to pass a resolution of disapproval that could not be amended at any point, and like any other bill, could be vetoed by the President. Since no amendments are allowed, the Congress would be faced with an all or nothing proposition. They would either take the cuts or reject them, with no haggling over the details. Expedited procedures would ensure that both the legislative and executive branches act fast.

This proposal puts the ball in Congress' court and allows the President to have another tool with which to trim the bloated Federal deficit. No longer can the Congress simply ignore the President's spending priorities and then blame the growing deficit on him, adding insult to injury.

Mr. President, as the American public focuses on the operations of our Government in this election year, let's send them a clear message that we do strive to improve. That we are willing to do what is necessary to regain their respect as the bodyguards of their tax dollars.

Mr. President, this is not a new subject to this Chamber. In fact, we are visiting it for the second time this year. I have, along with the Senator from Arizona, on numerous occasions in the past 3½ years attempted to raise this issue before this body and discuss and debate it in an effort to provide the President of the United States with a management tool that in my opinion is absolutely necessary if we are going to exert any fiscal discipline over the way in which our current budget is determined to spend the money that we do spend in this country. We all know the horrendous figures that apply to the budget deficit and the impact that it has had on our economy and the decisions that we would and need to make in this Chamber relative to a whole range of issues.

We have cited the statistics over and over relative to the size of the budget deficit, the impact that this has on our economy, the impact that this has on our future, the ability of our businesses and industries to be competitive, the ability of the United States to produce products at a competitive price to sell both here and abroad. The budget deficit is something that has to be addressed.

I do not pretend nor have I ever pretended that a line-item veto is the sole tool necessary to address the enormity of the current budget deficit. I have said over and over that only when this body enacts a constitutional amendment requiring a balanced budget will we be able to once and for all gain control of our budget. Until then, as long as the Federal Government has the ability to float debt to cover expenses, and to cover spending, we will find ourselves constantly finding ways to provide the latest loophole, the latest exception, the latest deficit spending opportunity, to meet needs—some legitimate, some questionable—that this Government addresses on a year-to-year basis.

The line-item veto is a way of restoring some balance in the process of how we make decisions in terms of our spending. Currently, the Congress is the one branch of Government which operates on the basis of determining for the President and for the executive branch and for the American people without any realistic check and balance other than a Presidential veto of the entire piece of legislation presented to him.

Unlike the power exercised by 43 Governors of our States, unlike the power exercised by the chief executive officer or president of financial officer of every business corporation in America, unlike the power exercised by the head of every household in America, it is only at the Federal Government level and it is only the President of the United States that does not have the power to say I will accept most of this spending proposal, but I have reservations about a few of the items, and I am exercising my power of line-item veto to tell you, the legislative branch, that I neither want nor can I spend adequately the funds that you have provided in this piece of legislation.

We all know how the process works. We all know when popular spending bills come along, when necessary spending bills come along, attached to those bills are provisions for expenditures of money that have not been justified through the authorization process, that have not seen the light of public hearing and public debate, that are not voted on up or down on their merits, and we all know that they are presented to the President with a take it all or reject it all proposal. What line-item veto does is simply give the President the right to say I will take most, I will take some, but I cannot accept this item, that item, or another item.

If the President had that power, I believe we would exercise considerably more restraint in fashioning the appropriations bills, in fashioning the spending bills, urgent supplemental appropriations, and others that are forwarded to the President for signing. Every Member of this body knows that you wait for a popular vehicle to come along, a must-pass piece of legislation, and that is the opportunity to attach to it your particular item of unauthorized, in many cases, pieces of spending and particularly spending that has not been subject to public debate and a vote up or down by the Members.

No one is denying Congress the right to overturn what the President does. The proposal that Senator MCCAIN and I are offering, the enhanced rescission proposal, gives Congress the right to overturn the decisions made by the President, but it simply does so in a way that the President has some say in determining how funds are going to be spent.

The GAO study has often been cited. The GAO studied the effect of what a line-item veto power to the President might have on our spending. And over a 5-year period of time, in the mid to late eighties, they calculated that up to $70 billion could have been saved; not small change.

Would it solve the entire budget deficit problem? No; it would not. Would it substantially impact the budget deficit problem that we currently face? Absolutely.

So I hope that my colleagues will continue to look at this effort as an effort to inject some type of balance, some type of fiscally responsible tool in the executive branch that will exert some discipline in terms of the way we spend the taxpayers' dollars, and will support the efforts Senator MCCAIN and I have now attempted over the past 3½ years to pass line-item veto authority—or in this case, enhanced rescission authority—to the President of the United States.

I think instinctively, I think experientially, each one of us understands why this is necessary. In a sense, it saves us from ourselves. It removes the temptation to simply pass unauthorized, unnecessary, nice to have but not absolutely necessary to have—particularly at a time of significant deficit—items of spending that certainly could wait for better economic times, certainly could wait for better budget times, and, in some cases, certainly would never pass muster with this body or with the American people were they subjected to light-of-day debates and up-or-down votes by the Members.

What we are calling for here is openness, sunshine, honesty in budgeting, integrity in the appropriations process, and exposing all spending to the scrutiny of the public in terms of whether or not that ought to be included in our appropriations.

Mr. President, I see we have a colleague who wishes to speak, so I yield back whatever time may be remaining.

The PRESIDING OFFICER (Mr. KERREY). All time has expired.

Mr. BYRD. Mr. President, how much time remains?

The PRESIDING OFFICER. Twenty minutes remains to the Senator from West Virginia.

Mr. BYRD. Mr. President, I have been in an appropriations markup with respect to the Department of Defense appropriations bill, and have just arrived on the floor.

The distinguished Senators, Mr. MCCAIN and Mr. COATS, were unaware, of course, that I was tied up in the appropriations markup. So I do not fault them for going ahead with the amendment.

I wonder, however, if I might have some additional time, should I need it, over and above the 20 minutes. I had agreed, I believe, to an hour to a side. I do not know how much of that hour I would use normally, but I will not take that much today, even if I am granted additional time.

But I wonder if I might have some additional time, in the event I need it.

Mr. MCCAIN. Will the Senator yield?

Mr. BYRD. Yes.

Mr. MCCAIN. I say to my friend from West Virginia, the time allotted was 1 hour equally divided.

But I have no objection to such additional time as the Senator from West Virginia chooses to take. I will agree to any unanimous-consent agreement. I know how strongly the Senator feels about this issue.

Mr. BYRD. I thank the distinguished Senator for his courtesy and understanding. I deeply appreciate his response.

Mr. President, this amendment is not a line-item veto amendment. A careful reading of the amendment will indicate that it is a rescissions amendment, an enhanced rescissions amendment, which is far different from a line-item veto amendment.

A line-item veto amendment, if it were enacted into law, would permit the Congress still to exercise its authorities and powers to package an appropriations bill in such a way that there could be very, very few line items to which a President could get with his veto pen.

But an enhanced rescissions amendment is a far more dangerous amendment. There is some question as to whether a line-item veto, as enacted by legislation, would be constitutional. There is some question.

There is no question in my mind that if this type of amendment, dealing with enhanced rescissions, were enacted into law, it would be constitutional. The legislation that is presently on the books with respect to rescissions is certainly constitutional. And that was enacted by the Congress as a statute.

This amendment would still deal with rescissions, but would turn the present law on its head in that, under the present law, if the President proposes rescissions of appropriations, the Congress has, I believe, 45 days within which to respond. And if the Congress just sits on its hands, the rescissions, under the present law, that are recommended by the President would automatically not become effective. The obligations of the funds must go forward if the Congress does nothing.

The Congress, on the other hand, can act, as the Congress did earlier this year, in approving all of the President's rescissions, part of the President's rescissions, or none of the President's rescissions and substituting its own proposed rescissions. And that is precisely what Congress did earlier this year. The President had threatened to send over 1,300 separate items to be rescinded. And it was publicly by some that it was expected that there would be a rollcall vote, on each of those rescissions.

I took the position that we ought to take a look at the President's proposals; agree with some of them, if they were justified, and disagree if, in our judgment, they were not justified; and, at the same time, propose some rescissions of our own. That was done, and we passed a bill.

The President requested $7.9 billion in rescissions, and the bill that was passed by Congress provided for $8.2 billion in rescissions. So the current law has been working. But now, here is what would happen if this amendment were to be agreed to.

Careful reading of the amendment clearly states, on page 2, "Title XI—Legislative Line-Item Veto Rescission Authority. Part A—Legislative Line-Item Veto Rescission Authority."

And, in part, the amendment reads as follows, and I shall just read excerpts in the interest of time:

> * * * The President may rescind all or part of any budget authority if the President—
>
> * * * notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations Act or a joint resolution making continuing appropriations providing such budget authority; or
>
> * * * notifies the Congress of such rescission by special message accompanying the submission of the President's budget to Congress and such rescissions have not been proposed previously for that fiscal year.
>
> The President shall submit a separate rescission message for each appropriations bill under Paragraph (2)(A).

Then there is the following paragraph entitled "Rescission Effective Unless Disapproved." It reads as follows:

> * * * Any amount of budget authority rescinded under this title as set forth in a special message by the President shall be deemed canceled unless during the period described in subparagraph (B), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

And then under subparagraph (B) it is stated that the Congress has a—

> * * * review period of 20 calendar days of session under part B, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval * * *.
>
> * * * an additional 10 days (not including Sundays) [are provided] during which the President may exercise his authority to sign or veto the rescission disapproval bill; and
>
> * * * if the President vetoes the rescission disapproval bill during the period provided * * * an additional 5 calendar days of session after the date of the veto.

So, Mr. President, what we have here is a proposal that would give the President the power to propose certain rescissions. He would do this within a 20-day period following the enactment of a regular or supplemental appropriations bill, or by special message when he submits his annual budget to Congress.

If the Congress takes no action within the specified time of 20 days then all of the President's proposals for rescissions would automatically go into effect and the funds appropriated by the Congress would be rescinded.

Whereas, under the present law, if Congress takes no action, the obligation of the funds must go forward. If Congress did take action and passed a bill rejecting the President's proposals in whole or in part, the President could veto that bill, of course, and it would take two-thirds of both Houses to override his veto. In other words, with one-third plus one of either body, the President could veto the Congress' disapproval of his rescissions.

So the present law is made to stand on its head. All of the advantages are placed in the hands of the President—of any President—under this amendment. I know there are some Senators who are for the line-item veto, but they are against enhanced rescissions, and I hope they understand that this amendment provides for enhanced rescissions—not a line-item veto. And once Congress ever passes legislation of this kind, the horses are out of the barns because any effort on the part of Congress then to wrest that authority and power that it will have given to any President and recoup that power and authority would have to run the obstacle course of a Presidential veto.

So, once we transfer this power to the President—if we ever transfer this power—Congress will never get it back unless it is able to pass a measure so doing over a Presidential veto. And it would require two-thirds of both Houses to recoup that power, and it would be quite unlikely that we could get the two-thirds needed.

So, enhanced rescission would be far more invasive than an item veto. Item veto would apply only to separately enumerated items in an appropriations bill, but enhanced rescissions could reach every dollar of every appropriation except mandatory appropriations. Only rarely would Congress overturn a Presidential rescission under this amendment. A determined President could tie the Congress in procedural knots. These would not be the kind of knots that Alexander, with his sword, severed in the year 330, circa, B.C., the Gordian knot.

It would take many votes in each House to retain an appropriation. Once the House and the Senate passed an appropriation and the conference report, the President could veto it. The Congress could override the veto and thus the measure would become law. But, under this amendment, the President could still rescind the items in the appropriations bill. Then the House and the Senate would have 10 days to pass a bill disapproving the President's rescissions. The President could then veto that bill and, finally, the Congress could override that veto if it could muster a two-thirds majority.

In any event, we can see that the Congress would have to, in certain instances, adopt an appropriation a number of times—and, in two instances, by super majorities—before that appropriation could be finally nailed down into law.

Congress would be in constant turmoil passing appropriations bills, trying to override the President's veto; passing disapproval resolutions or bills and trying to override the President's veto of the disapproval measures. The deck would be loaded against the peoples' representatives in Congress in their efforts to fund needed programs.

As I have indicated, today Congress can pick and choose among rescissions proposed by the President. Amendments can be made to rescission bills. This amendment would remove both of those rights. It also would require an up-or-down vote on the whole of the President's rescission message without amendment—without amendment—unless a three-fifths vote can be mustered to waive these requirements.

Mr. President, these arguments have been gone over in considerable measure before. I have pointed out that enhanced rescission power is really a Trojan horse which the President would use in fiscal battles with the Congress.

In actual practice, enhanced rescission power would allow the President to coerce the Congress into supporting his priority programs. Any Senator opposed to the President's program would likely find enhanced rescissions imposed upon that Senator's programs for his own State, the people he represents. The obvious result would be to pass the President's spending priorities, in some instances, on top of Congress' spending priorities. That could result, in some instances, in more Federal spending rather than less.

The PRESIDING OFFICER. The Senator's 20 minutes has expired.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for an additional 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, those who wish to balance the budget by granting enhanced rescission power to the President should note that two-thirds of every dollar of Federal budget authority would stand outside the reach of this enhanced rescission limit.

Mr. President, this chart represents the composition of the 1993 CBO January baseline budget authority. That total circle represents $1,612.5 trillion; $1,612.5 trillion. Of that total, the items such as net interest, Medicare, Social Security, deposit insurance, and a denomination here that is designated "all other," these are mandatory, automatic programs, entitlements, all of these are not controlled by the Appropriations Committees. The Appropriations Committees have no control over these. They are mandatory, they are required by law, they are met by formulas within the law. And so we have to abide by the laws. There is not a thing that the Appropriations Committees can do to reduce them.

So the remaining portion of the entire budget of $1,612.5 trillion, the remaining portion which is now being pointed out, over which the Appropriations Committees do have control, are defense and international—in this instance, amounting to $399.9 billion, or 19.2 percent of the total budget—and domestic discretionary, $205.1 billion or 12.7 percent of the total, both of which amount to 31.9 percent.

So the Appropriations Committees have control over only 31.9 percent of the total. That is it—lock, stock, and barrel. That is parks, U.S. forests, law enforcement, education, health services, the war on drugs, water and sewer grants, Indian schools—you name it, the bread and butter items, the appropriations that affect all the peoples of this country in one way or another every day.

So under this amendment, the President, in rescinding moneys, could only rescind the moneys that are under the control of the Appropriations Committees; in other words, 31.9 percent of the total budget. Those two items, defense and international, $309 billion and domestic discretionary, $205 billion would amount to $514 billion. But the President would not ordinarily be rescinding defense appropriations. He will be rescinding domestic discretionary which amounts to a total of only $205 billion. All we have for discretionary domestic items is $205 billion. So if the President rescinded all of it—all of it—the whole thing, $205 billion—if he rescinded the entire $205 billion, every dollar and every dime, he would be reducing the budget deficit for this year by only about one-half.

At the same time, the Government would come to a stop because the moneys for the Government's operations are right here in the little piece on the chart that represents a total of $205 billion. Everything would come to a halt. The judiciary would not have any money on which to operate. Law enforcement would come to a complete stop. The executive branch would have to stop its operation; close down.

So it does not make sense, Mr. President. It is obvious that this amendment, at best, could do little to wipe out the budget deficit, which is almost $400 billion for this year.

Those who like to say: Oh, it is the Congress' fault. The President is always saying give me a line-item veto, give me what 43 Governors have.

We are not talking about a line-item veto here today. We are talking about enhanced rescission authority. Forty-three Governors may have some kind of line-item veto, and it varies from State to State. The States do not balance their budgets, really. Mr. Clinton does not balance his budgets. Mr. Reagan did not balance his in California. Mr. Carter did not balance his in Georgia. Why? They were helped by the Federal Government.

That Federal funds pipeline runs directly from this floor to the capital of Arkansas, the capital of West Virginia, the capital of California. That Federal pipeline carries a lot of Federal moneys without which those Governors would fall very short in balancing their budgets.

They boast about how they balance their budgets. Cut out that Federal money, cut off that Federal pipeline, and they will be meeting us as we come off the elevators out here. They will not be able to balance their budgets.

So the President is just blowing smoke when he indicates that if Congress would give him a line-item veto or enhanced rescissions, he will balance the Federal budget. But I would be very fearful of giving Mr. Bush or any President enhanced rescissions for the reasons I have already explained. Once we ever give that power to any President, it will be like that old song, "I am going down this road and I ain't comin' back." We will never get that power over the purse back from the President.

It is the power of the people we are talking about, the power of the purse which belongs to the people.

We know, and the founders of our Republic knew, and those who wrote the Constitution knew, that Englishmen had struggled to wrest from tyrannical monarchs over many centuries that power over the purse and place it in the hands of the people through their representatives in the legislative branch. The British House of Commons probably originated during the Parliaments of 1339–1341 when the knights and burgesses broke away from the lords and started meeting separately.

That was in Edward III's time. Edward III reigned from 1327 to 1377. So it was during his time that appropriations, as we know them, began to be made when Parliament would make grants under certain conditions and would specify what those grants were to be spent for. They were not to be spent for anything other than for what the Commons had specified.

The English people did not really and finally nail down this control of the power over the purse by their elected representatives until William of Orange and Mary, assumed the throne in 1689.

I ask unanimous consent to proceed for another 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Our forebears who wrote this Constitution and who gave the power over the purse to the people through their elected Representatives in Congress knew the history of the English struggle, and knew that it extended over many centuries. Englishmen had shed their blood and had won this power over the purse for the elected representatives of the people by dint of the sword and the threat of the sword, and our forebears were not about to place that power over the purse in the hands of any President, any monarch, any king.

So, they set forth in the Constitution where the power over the purse would lie, and that is specifically in the legislative branch. Mr. President, we should not give that away.

Before we get too partisan in our struggle over enhanced rescission power, I urge those who might vote for this amendment to consider what would happen if the present administration is voted out of office in November.

If we look at the polls today, there is a good likelihood that the present occupant of the Oval Office will not be there after next January 20 and there will be a new President. Therefore, I suggest to those, my friends—most of whom support this amendment are on the other side of the aisle—that they stop, look, and listen carefully before they cast their vote for an amendment providing enhanced rescission power for the President.

I would say to my dear friends on the Republican side of the aisle, if Mr. Clinton is the President after next January 20, they will rue, the day that they voted for this amendment. And I will be opposed to it in his administration—if the Lord lets me live—I will be opposed to it in his administration just as strongly as I am opposed to it in the Bush administration and was opposed to it under the Reagan administration.

So I would suggest that my Republican friends think long and hard about what they may be about to do on this amendment.

Mr. President, I close by referring to some ancient history.

Mr. President, under the Roman empire the Roman consuls, the Roman generals would from time to time be voted a triumph by the Roman Senate. They were voted a triumph because of their victories over barbarian armies, or other armies, or kings. In a triumph, the Roman general would ride a chariot. He would be surrounded by his children and wife in the chariot, and he would be accompanied on foot by the general, the ministers, and the high officials of state of the country which had been defeated.

As in the case of Jugurtha, for example, the general who had lost, or the king who had been defeated, would march in the procession with a bell around his neck. It was customary for those who were condemned to be executed to wear a bell so that Roman citizens would not contaminate themselves by touching the defeated general or king. And then, of course, walking with that defeated general or king would be his wife, his children, his ministers; they would all be humiliated. And they knew that they were on their way to their deaths. They would be scourged with whips, with rods, and then executed. But in that chariot with the general who was enjoying the triumph which had been voted in his honor by the Roman Senate, was a slave, and that slave would be continually whispering in his ear: "Look behind, look at what comes after."

There was a bell and a whip fastened to the chariot to remind the triumphant general or consul, when he looked behind him, that there might come a time when he himself could be condemned and subjected to the rods and execution.

So I say to my friends on the other side: Look at what comes after. Fortune may not always smile upon you as it is smiling today when you have a President of your own party in the White House. Fortune is subject to change, and fortune may smile upon another party after the November election, in which case you undoubtedly would not want that President to have enhanced rescissions authority.

Mr. HOLLINGS addressed the Chair.

Mr. BYRD. I yield to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. HOLLINGS. Mr. President, I rise today in support of legislation which enables the President to control wasteful and unnecessary appropriations and thereby reduce the Federal deficit. This amendment, a statutory, separate enrollment line-item veto is identical to a measure previously considered by the 99th Congress as well as legislation reported favorably by a bipartisan vote out of the Senate Budget Committee on July 25, 1990.

Mr. President, currently, 43 States have, in one form or another, a line-item veto allowing the chief executive to limit legislation spending. As a former Governor who inherited a budget deficit in a poor State, I can testify that a line-item veto is invaluable in imposing fiscal restraint.

Mr. President, the fiscal problems of our Nation are well-known. We face annual deficits now approaching $500 billion and a total debt of $3.8 trillion. For years now, we have been toying with freezes, asset sales and sham summits, but the deficit and debt continue to grow.

Mr. President, the taxpayer, as well as the Congress, have grown weary of the smoke and mirrors and are past ready for a serious deficit reduction package. If ever there was a problem that needed to be attacked from every possible angle, it is this deficit. The President said in his State of the Union Address that he was willing to take the heat and make tough decisions with a line-item veto. Let us hold him to that commitment and make the line-item veto part of a deficit reduction measure.

Mr. President, this amendment provides that each item shall be enrolled as a separate bill and sent to the President for his approval. Therefore, each item of an appropriations bill would be subject to veto or approval, just like any other bill, and the override provisions found in article I of the Constitution would apply in the case of a veto. "Item" is defined as "any numbered section and any unnumbered paragraph" of an appropriations bill. The enrolling clerk would merely break an appropriations bill down into its component parts and send each separately enrolled provision to the President.

Mr. President, this legislation also contains a 2-year sunset provision allowing for a reasonable testing period and requiring an evaluation of the line-item veto's success. I have no question but that it will be demonstrated to be a modest, but effective, method of restraining fiscal profligacy.

I ask unanimous consent that a copy of the amendment I was going to offer be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, The Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

TITLE XI—LEGISLATIVE LINE-ITEM VETO SEPARATE ENROLLMENT AUTHORITY LEGISLATIVE LINE-ITEM VETO

SEC. 1101. (a)(1) Notwithstanding any other provision of law, when any general or special appropriation bill or any bill or joint resolution making supplemental, deficiency, or continuing appropriations passes both Houses of the Congress in the same form, the Secretary of the Senate (in the case of a bill or joint resolution originating in the Senate) or the Clerk of the House of Representatives (in the case of a bill or joint resolution originating in the House of Representatives) shall cause the enrolling clerk of such House to enroll each item of such bill or joint resolution as a separate bill or joint resolution, as the case may be.

(2) A bill or joint resolution that is required to be enrolled pursuant to paragraph (1)—

(A) shall be enrolled without substantive revision,

(B) shall conform in style and form to the applicable provisions of chapter 2 of title 1, United States Code (as such provisions are in effect on the date of the enactment of this Act), and

(C) shall bear the designation of the measure of which it was an item prior to such enrollment, together with such other designation as may be necessary to distinguish such bill or joint resolution from other bills or joint resolutions enrolled pursuant to paragraph (1) with respect to the same measure.

(b) A bill or joint resolution enrolled pursuant to paragraph (1) of subsection (a) with respect to an item shall be deemed to be a bill under clauses 2 and 3 of section 7 of article 1 of the Constitution of the United States and shall be signed by the presiding officers of both Houses of the Congress and presented to the President for approval or disapproval (and otherwise treated for all purposes) in the manner provided for bills and joint resolutions generally.

(c) For purposes of this concurrent resolution, the term "item" means any numbered section and any unnumbered paragraph of—

(1) any general or special appropriation bill, and

(2) any bill or joint resolution making supplemental, deficiency, or continuing appropriations.

(d) The provisions of this Act shall apply to bills and joint resolutions agreed to by the Congress during the two-calendar-year period beginning with the date of the enactment of this Act.

Mr. HOLLINGS. Mr. President, I also ask unanimous consent that the full Budget Committee report on my statutory line-item veto bill, which was passed in the committee by an affirmative vote of 13–6 in 1990, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Senate Report 101–518]

LEGISLATIVE LINE ITEM VETO SEPARATE ENROLLMENT AUTHORITY ACT

Mr. Hollings, from the Committee on the Budget, submitted the following report together with additional and minority views

I. SUMMARY OF THE LEGISLATION

On a motion by Senator Ernest F. Hollings, by a vote of 13 to 6, the Committee reported an original bill, the "Legislative Line Item Veto Separate Enrollment Authority Act." This amendment to the Congressional Budget Act provides that each "item" in an appropriation bill shall be enrolled as a separate bill and sent to the President for his approval. Consequently, each "item" of an appropriations bill would be subject to veto or approval just like any other bill, and the override provisions found in Article I of the Constitution[1] would apply in the case of a veto.

II. NEED FOR LEGISLATION

This legislation offers an important opportunity to revise the budget process by enabling the President to control wasteful and unnecessary appropriations and thereby reduce the Federal deficit. Under current law, a specific appropriations item can be cancelled only through a cumbersome rescission process that has proved to be largely ineffective. Indeed, the President's proposed rescission can be thwarted simply by congressional inaction. In fact a substantial majority of Presidential rescissions submitted since the present law was enacted in 1974 have never been acted upon.[2]

This legislation would rectify this problem by permitting the President, in effect, to rescind appropriations items on an "up front" basis by being able to approve or veto specific items in an appropriations bill. This simple but important change in the law will permit the President more effective control of various components of the Federal budget.

III. LEGISLATIVE HISTORY

Legislative line item veto is not a new idea. Indeed until the Congressional Budget Act of 1974[3] was enacted, the President had broad impoundment authority. This power was sometimes used by the President to block appropriations deemed contrary to his budget policies.[4]

Furthermore, line item veto is not an untested idea. Forty-three states already give a similar power to their Governors, who generally regard it as a constructive tool of budget control at the State level.

United States Presidents since Ulysses S. Grant have sought the line item veto, but until now Congress has refused to cede the power of the purse and with considerable justification, because earlier Congresses seldom adopted budgets that were unbalanced. Deficits have increased in earlier decades, during wartime or recessions, yet Congress always managed to bring these deficits back to balance. However, the budget has not been balanced or shown a surplus since 1974.

Twelve measures introduced in the 100th Congress would grant the President the authority to veto a part, rather than all of an appropriations bill. In the 101st Congress, hearings on the legislative line item veto were held by the Senate Judiciary Subcommittee on the Constitution on April 11, 1989. On June 8, 1989, the Constitution Subcommittee voted to report without recommendation, two measures, S.J. Res. 14 and S.J. Res. 23, to the full committee without recommendation. On April 26, 1990, the Committee approved S.J. Res. 14 and S.J. Res. 23. Tables I and II note recent Congressional actions on legislative line item veto and other related measures.[5]

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[1] Section 7. Clause 1. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other Bills.

Clause 2. Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approves he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by Yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays expected) after it shall have been presented to him, the Same shall be a law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return in which Case it shall not be a Law.

Clause 3. Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives my be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitation prescribed in the Case of a Bill. "Constitution of the United States of America"

[2] Rescission of Budget Authority, Pub.L. 93-344, Title X, §1012, July 12, 1974, 88 Stat. 333. (codified as amended at 2 U.S.C. §683).

[3] Congressional Budget and Impoundment Control Act of 1974, Pub. L. No. 93-344, 88 Stat. 297 (July 12, 1974) (codified as amended at 2 U.S.C. §§601–688) [hereinafter the Congressional Budget Act].

[4] In President Richard Nixon's Annual Budget Message to the Congress on January 29, 1971, he discussed reforming the budget process:

"Reform of the budget process is long overdue. Fifty years have passed since the Federal budget system currently in use was adopted. The system was a major step forward in 1921. Because of congressional inaction, it has become a travesty a half century later.

"Enactment of appropriations 6 months or more after the start of the fiscal year they are supposed to cover is evidence of a major weakness. I have sent two budgets to the Congress. In each, I have had to formulate budget proposals for the year ahead without knowing what the Congress would provide in its action on the prior year's budget, which was transmitted 11 months earlier. Even now, as this message is being written, action on last year's appropriations request for one department has not been completed.

"I have, therefore, had to act on parts of the budget without knowing the totals that would result. This is an intolerable situation, but one that the Congress seems to accept as the normal way of doing business. It completes action on appropriation bills over a 10- to 12-month period without any goal or determination of the total expenditures that will result after the last bill is passed.

"Excess in the number and detail of appropriations often diverts attention to minutiae. It also impairs the ability of agency heads to manage their agencies responsibly and economically.

"The budget is our principal instrument for coordinated management of Federal programs and finances. Close cooperation between the executive and legislative branches is needed now to make the budget an efficient and effective instrument for this purpose. Therefore we must seek a more rational, orderly budget process. The people deserve one, and our Government, the largest fiscal unit in the free world, requires it.

"Furthermore, Federal credit programs which the Congress has placed outside the budget-guaranteed and insured loans, or loans by federally sponsored enterprises—escape regular review by either the executive or the legislative branch. The evaluation of these extra budgetary programs has not been fully consistent with budget items. Their effects on fiscal policy have not been rigorously included in the overall budget process. And their effects on overall debt management are not coordinated well with the overall public debt policy. For these reasons, I will propose legislation to enable these credit programs to be reviewed and coordinated along with other Federal programs." *Public Papers of the Presidents of the United States—Richard Nixon: Containing the Public Messages, Speeches, and Statements of the President—1971*, The United States Government Printing Office, p. 87 (1971).

[5] "Budget Process Reform Legislation Introduced in the 101st Congress: Selected Listing", CRS Report for Congress, *James* v. *Saturno*, December 22, 1989.

TABLE I.—ITEM VETO PROPOSALS INTRODUCED IN THE 101ST CONGRESS

Measure	Sponsor	Date introduced	Committee(s) of referral
H.R. 61	Archer	January 3, 1989	Judiciary.
H.R. 62[1]	Archer	do	Do.
H.R. 1261[1]	Penny	March 2, 1989	Do.
H.R. 1262	Penny	do	Rules; Government Operations.
H.R. 2936	Upton	do	Do.
H.J. Res. 12[1]	Bennett	January 3, 1989	Judiciary.
H.J. Res. 29[1]	Solomon	do	Do.
H.J. Res. 50[1]	Emerson	do	Do.
H.J. Res. 110[1]	Thomas	do	Do.
H.J. Res. 181[1]	Stump	March 8, 1989	Do.
H.J. Res. 313[1]	Jerry Lewis	June 22, 1989	Do.
H.J. Res. 384	Gillmor	August 2, 1989	Do.
H.J. Res. 422[1]	Poshard	October 18, 1989.	Do.
S. 21	Roth	January 25, 1989.	Budget; Government Affairs.
S. 33	Humphrey	do	Do.
S. 354	Exon	do	Do.
S.J. Res. 14[1]	Thurmond	do	Judiciary.
S.J. Res. 23[1]	Dixon	do	Do.
S.J. Res. 31[1]	Dixon	do	Do
H. Res. 297		do	Do.

[1] Indicates that the measure is a proposal for a constitutional amendment.

TABLE II.—SELECTED VOTES ON OR RELATING TO MEASURES TO PROVIDE ITEM VETO OR ENHANCED RESCISSION AUTHORITY, 98TH–101ST CONGRESSES

Congress	Bill number	Sponsor	Date/Place	Vote	Type of proposal
101st	Amendment No. 1955 to S. 341	McCain	June 6, 1990 Senate	43–50 (Waiver)	Enhanced. Rescission.
101st	Amendment No. 1092 to H.R. 3015	Coats et al	November 9, 1989 Senate	40–51 (Waiver)	Enhanced. Rescission.
100th	Amendment No. 650 to H.J. Res. 324	Evans	July 31, 1987 Senate	41–48	Separate. Enrollment.
100th	Amendment No. 1294 to H.J. Res. 395	Evans	December 11, 1987 Senate	44–51	Separate. Enrollment.
99th	S. 43	Mattingly et al	July 18, 1985 Senate	57–42 (Cloture)	Item Veto.
99th	S. 43	Mattingly et al	July 24, 1985 Senate	58–40 (Cloture)	Item Veto.
99th	Amendment No. 2853 to S. 2706	Quayle/Exon	September 19, 1986 Senate	34–62 (Waiver)	Enhanced. Rescission.
98th	Amendment to H.R. 2165	Gramm	January 24, 1984 House	131–245	Item Veto.
98th	Amendment to H.R. 2878	Gingrich	January 31, 1984 House	144–248	Item Veto.
98th	Amendment to H.R. 2708	Gekas	February 23, 1984 House	145–243	Separate Enrollment (variation)
98th	Amendment No. 2625 to H.J. Res. 308	Armstrong	November 16, 1983 Senate	49–46 (to table)	Enhanced Rescission.
98th	Amendment No. 3045 to H.R. 2163	Mattingly	May 3, 1984 Senate	56–34 (out of Order)	Item Veto.

One measure introduced in the 101st Congress similar to this legislation has been referred to the Senate Committee on Rules and Administration. Senator Humphrey offered S. 3 in an attempt to achieve results similar to granting an item veto authority by requiring that each item in an appropriations measure be separately enrolled.

In addition, Senator Roth offered S. 21, a proposal to grant the President item veto authority rather than enhanced rescission power. S. 21 amends Title X of the Congressional Budget and Impoundment Control Act. Still another measure offered by Congressman Campbell, H.R. 297, asserts that the Constitution already grants the President item veto power, and encourages him to exercise this power.

In summary, there have been numerous legislative line item veto proposals entertained in the last several Congresses. Such proposals will continue to attract Congressional attention given the desire to exercise greater fiscal control over ever-increasing budget deficits.

IV. HOW THE PROPOSAL WORKS

This legislation provides that each "item" of any appropriation bill shall be enrolled as a separate bill for presentation to the President. The President would then be able to sign or veto separate pieces of legislation. Any vetoed "item" would have to be returned, along with the President's objections, to the House in which it originated. As mandated in the Constitution, any vetoed measure could be overridden by a two-thirds vote of each House.

This legislation defines "item" as any and all paragraphs and numbered sections contained in appropriation bills. The legislation contains a "sunset" provision under which the line item veto authority will expire in two years unless specifically renewed by Congress.

This last provision is important. The automatic sunset provision gives an insurance policy against potential abuses in the use of the line item veto. It may be invoked if circumstances arise that make it clear that it is not providing a reasonable restraint on excessive federal spending.

V. ROLL-CALL VOTE IN COMMITTEE

Senator Hollings offered an original bill to amend the Congressional Budget Act that would create a legislative line item veto separate enrollment authority.

The Committee agreed to the Hollings motion to report the Legislative Line Item Veto Separate Enrollment Authority Act by a vote of 13 Yeas to 6 Nays.

YEAS

Mr. Hollings, Mr. Exon, Mr. Simon, Mr. Conrad, Mr. Robb, Mr. Domenici,* Mr. Armstrong, Mr. Boschwitz, Mr. Symms, Mr. Grassley, Mr. Kasten, Mr. Nickles, Mr. Bond.

NAYS

Mr. Sasser, Mr. Riegle,* Mr. Lautenberg, Mr. Sanford, Mr. Wirth, Mr. Rudman.*

*This vote was made by proxy.

VI. JOINT REFERRAL UNDER THE STANDING ORDER

The Committee on the Budget has jurisdiction over the matter in the Legislative Line Item Veto Separate Enrollment Authority Act by virtue of the standing order on the referral of budget-process legislation into which the Senate entered on August 4, 1977. Upon the reporting of the Act, the Presiding Officer will refer it to the Committee on Governmental Affairs pursuant to the standing order, with instructions that the Committee on Governmental Affairs shall have 30 days to report or be discharged.

VII. REGULATORY IMPACT

Paragraph 11(b)(1) of rule XXVI of the Standing Rules of the Senate requires that each report accompanying a bill evaluate "the regulatory impact which would be incurred in carrying out the bill."[6] The enactment of this legislation would not have significant regulatory impact.

VIII. COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 22, 1990.

Hon. JIM SASSER,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed a bill that would provide for a legislative line item veto through separate enrollment authority, as ordered reported by the Senate Committee on the Budget, July 25, 1990. We estimate that the bill would result in no significant cost to the federal government and in no cost to state and local governments.

The bill would require the Secretary of the Senate and the Clerk of the House to direct the enrolling clerk of each body to enroll each item of any appropriation bill or resolution as a separate bill or resolution. This would allow the President to sign or veto each appropriation item as a separate act. Under current practice, the President can sign or veto an entire appropriation bill, but cannot deal separately with individual items in such a bill. The legislation would apply to bills and joint resolutions agreed to by the Congress during the next two calendar years.

We do not expect the government to incur any significant increased cost from enrolling appropriation bills as specified in this legislation. It is possible that the availability of the line item veto could result in some savings starting in fiscal year 1991, but there is no basis for predicting how much the President would use it or how often the Congress would override such vetoes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is James Hearn, who can be reached at 226-2860.

Sincerely,

ROBERT F. HALE
(For Robert D. Reischauer, Director).

IX. ADDITIONAL VIEWS

ADDITIONAL VIEWS OF SENATOR HOLLINGS

On July 25th, 1990, the Committee voted to report favorably my statutory line-item veto proposal. Currently, 43 states have, in one form or another, a line-item veto which allows the Chief Executive to limit legislative spending. As a former Governor who inherited a budget deficit in a poor state, I can testify that a line-item veto is invaluable in imposing fiscal restraint.

The fiscal problems confronting this country are well known, and are, in fact, surging, not receding. We face actual deficits in excess of $400 billion. For years, we have been toying with freezes, asset sales and sham summits, but the deficit and debt continue to grow. The taxpayer, as well as the Congress, have grown weary of the smoke and mirrors, and it is time to enact a serious deficit reduction package. If ever there was a problem that needed to be attacked from every possible angle, it is this deficit. The President has said he will take heat and make the tough decisions with a line-item veto. Let's hold him to that commitment and make the line-item veto part of a deficit reduction measure.

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[6] Standing Rules of the Senate, rule XXVI(11)(b)(1) (1990).

The bill approved by the Committee is a statutory, separate enrollment line-item veto with a two year sunset provision that is identical to a bill considered by the Senate in the 99th Congress. It provides that each "item" shall be enrolled as a separate bill and sent to the President for his approval. Therefore, each "item" of an appropriations bill would be subject to veto or approval just like any other bill, and the override provisions found in Article I of the Constitution would apply in the case of a veto.

"Item" is defined as "any numbered section and any unnumbered paragraph" of an appropriations bill. The Enrolling Clerk would merely break an appropriations bill down into its component parts and send each separately enrolled provision to the President.

The bill also contains a two year sunset provision. This will allow for a reasonable testing period and require an evaluation of how well the line-item veto has worked. I have no question but that it will be demonstrated to be a modest, but effective, method of restraining fiscal profligacy.

Finally, I would like to make a part of the record a history of the line-item veto found in the June-July issue of Congressional Digest. It provides a thorough discussion of the origins and development of the concept at the federal level.

ERNEST F. HOLLINGS.

LINE ITEM VETO

*He Who Decides a Case Without Hearing the Other Side * * * Tho He Decide Justly, Cannot Be Considered Just*—Seneca.

FOREWORD

The United States Constitution provides that the President may sign a measure into law or veto it in its entirety. The proposed line item veto would grant authority to the President to veto specific items within appropriations bills while approving the remainder. With this alternative, the President could remove one or more features of a particular bill.

The question of whether or not the President should be given such power has been the subject of a longstanding controversy. The line item veto first appeared in the Constitution of the Confederate States in 1861. Later, Ulysses S. Grant became the first President to call for such an expansion of the veto. Since then, hundreds of line item veto measures have been introduced in Congress, but none has been approved.

Discussion of the line item veto has persisted, especially in light of the mounting concern over the size of the Federal deficit. Along with proposals to balance the Federal budget, the line item veto has been promoted by many as an essential means of bringing Federal spending under control.

The appropriations process begins in the House. Each year, the 13 House appropriations subcommittees prepare spending bills to meet the budget needs of the agencies within their jurisdictions. These include "Defense," "Interior," "Labor, Health and Human Services and Education," and other broad areas. Appropriations bills start with the budget requests submitted to the Congress by the agencies themselves. The subcommittees review these requests, assess the programs involved and report their bills with any recommended changes to the full Appropriations Committee, which then reports the bills to the full House. Following House passage, each appropriations bill is referred to the Senate, where the process of committee review and floor action is repealed.

If action has not been completed on one or more regular appropriations bills by the start of the fiscal year, Congress may pass a "continuing resolution" to provide temporary budget authority for the affected agencies. Congress can also pass a supplemental appropriations bill at any time to provide budget authority beyond the original estimates for certain programs.

More and more, Congress has been criticized for formulating omnibus appropriations measures that cover wide areas and comprise much detail. In addition, the appropriations "rider" (a provision amending existing law) increasingly has become a device for changing Federal programs through the appropriations process.

The proponents of the line item veto, therefore, argue that the President's authority has been thwarted by these practices, and that expanded veto power would help to keep Congress in check. They further contend that the line item veto is needed to help reduce Federal spending and lower the deficit.

Opponents argue against the line item veto on the grounds that it would lessen congressional responsibility for making budgetary decisions and heighten the President's legislative role—leading to an unwarranted expansion of the power of the Executive over Congress. They also express concern that the line item veto in effect would give the President the ability to punish or coerce individual Members into supporting his policies, and that this might damage a Member's ability to properly represent the interests of his or her constituents in matters of local interest.

The two proposals reported by the Senate Judiciary Committee call for a constitutional amendment to grant line item veto authority to the President. Thus, either would require passage by two-thirds of both the House Senate as well as ratification by three-fourths of the States.

EVOLUTION OF FEDERAL BUDGET POLICY

The current budget process has evolved from a set of informal procedures during the early years of the Republic into the complex system in use today. The addition of presidential line item veto authority would constitute still another significant change in our Federal financial policy.

Early Federal Debt Policy

A major controversy in the First Congress was over whether the new U.S. Government should assume the debts contracted by the States during the War of Independence. The State debts were assumed. Together with other Federal debts owed to both foreign and domestic lenders, they comprised a total of under $100 million.

The banking system and the amount of Federal revenue to be raised were principal policy issues of the pre-Civil War era. The main source of Federal revenue was from import duties.

Income Tax and The Depression

The national debt had remained at some $1 billion from the turn of the century until World War I. By 1919, wartime expenditures has raised it to $25 billion. The adoption in 1913 of an amendment to the Constitution authorizing the income tax opened a new source of Federal revenue.

The Bueau of the Budget was created by an act of Congress in 1921. It was located in the Treasury Department, but under the immediate direction of the President. The Act established the procedure for creating a budget consisting of revenue and expenditure estimates, to be submitted annually by the President to the Congress.

The national debt was reduced by some $1 billion annually in the 1920s until 1930 when it became $16 billion. International and national financial policy was drastically altered by the global depression. Central to the controversies during the Roosevelt era were the New Deal "pump-priming" programs intended to improve the economy. The Natonal debt rose to $51 billion by 1940.

President Roosevelt transferred the Bureau of the Budget from the Treasury to the White House in 1939. Federal finance had, in effect, become an instrument of policy beyond administering governmental expenses.

Post World War II

By 1946, war expenditures had forced the Federal debt to $271 billion.

Under a Nixon Administration reorganization plan, the Bureau of the Budget was designated the Office of Management and Budget in 1970. The expansion of the Federal Government and strains between a Democratic-controlled Congress and the Republican Nixon Administration led to the enactment of legislation creating the present budget process. By the early 1980s, the expenditures of the Vietnam war, combined with those of the "Great Society" programs, established an annual level of expenditures over $200 billion.

The 1974 Budget Act

The purpose of the Congressional Budget and Impoundment Act of 1974 was "to provide Congress with the procedures, analytical capabilities and the authority to make the Federal budget a more useful tool of national economic policy." The Act provided for congressional overview of the Federal budget and curtailed the power of the President to impound or rescind funds for Federal programs. Under the Act the Congress focuses on overall budget totals and relates individual appropriations actions to one another within a general set of spending priorities.

THE PRESIDENTIAL VETO

The following language from the Constitution of the United States of America grants veto power to the President.

The Constitution of the United States Article I, Section 7

"Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a law, be presented to the President of the United States; if he approves he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a law. But in all cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each House respectively.

"If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

"Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill."

THE VETO RECORD OF U.S. PRESIDENTS, 1969–1988

[Number of vetoes]

President	Regular	Pocket	Total	Number overridden
Nixon, R	26	17	43	7
Ford, G	48	18	66	12
Carter, J	13	18	31	2
Reagan, R	39	39	78	9
Total	126	92	218	30

Source: Congressional Research Service, Library of Congress.

THE BUDGET PROCESS AND THE PRESIDENT

The following is excerpted from an April 1990 report of the Library of Congress' Congressional Research Service on "The President and the Budget Process."

Summary

Conflicting budget priorities, along with concern over the size of the Federal deficit, have accentuated the institutional tensions between the Executive and Legislative branches inherent in the Federal budget process.

Congress exercises its "power of the purse" by enacting appropriations measures, but the President has broad authority as chief executive in the implementation stage of the budget process. It is at this stage that the budget authority provided by Congress is actually spent by the Federal Government.

Impoundment, whereby the President withholds or delays the spending of appropriated funds, provides one important mechanism for budgetary control during the execution stage, but Congress retains oversight responsibilities at this stage as well.

The Impoundment Control Act of 1974 established two categories of impoundments: deferrals, or temporary delays in funding availability; and rescissions, or permanent cancellation of the designated budget authority.

The 1974 law also stipulated different procedures for congressional review and control of the two types of impoundment. With a rescission, the funds must be made available for obligation unless both Houses of Congress take action to approve the rescission request (forwarded in a message from the President) within 45 days of "continuous session."

Consideration of impoundment reform has become increasingly joined with that of an item veto for the President.

The Constitution provides that the President may sign a bill into law or veto the measure in its entirety. Depending on specific provisions, rescission may be viewed as approaching a functional equivalence with an item veto: the President identifies certain items in an appropriations law for possible elimination by sending an impoundment message to Congress.

Background and Analysis

The recent report of the National Economic Commission, among other commentaries, has suggested that the "balance of power on budget issues has swung too far from the Executive toward the Legislative branch."

Debate about the appropriate relationship between the branches in the Federal budget process seems endemic, given the constitutional necessity of shared power in this sphere.

Under the Constitution, Congress possesses the "power of the purse" ("No money shall be drawn from the Treasury but in consequence of appropriations made by law"), but the President enjoys broad authority as the chief executive who "shall take care that the laws be faithfully executed."

Federal budget documents refer to three main stages in the budget process: (1) executive formulation and transmittal of the President's budget recommendations; (2) congressional action and (3) budget execution and control.

Budget execution involves the actual spending of funds as appropriations laws and implemented. Impoundment for funds by the President represents an important component in budget execution.

History of Impoundment

Impoundment of Federal funds refers to Executive action to withhold or delay the spending of appropriated funds.

A variety of occurrences come under the impoundment rubric.

One useful distinction among impoundment actions, which received statutory recognition in the 1974 Impoundment Control Act, focuses on duration, whether the President's intent is permanent cancellation of the funds in question (rescission) or merely a temporary delay in availability (deferral).

Another useful contrast distinguishes impoundment for routine administrative reasons from impoundment for deliberate policy motives.

Virtually all Presidents have impounded funds in a routine manner as an exercise of Executive discretion to accomplish efficiency in management. The creation of budgetary reserves as a part of the apportionment process required by the Antideficiency Acts provided formal structure for such routine impoundments, which originated with an administrative regulation issued in 1921 by the Bureau of the Budget, and then received a statutory base in 1950. Impoundments for policy reasons, whether short-term or permanent, have proved far more controversial.

In the 1950s and 1960s, disputes over the impoundment authority resulted from the refusal of successive Presidents to fund certain weapons systems to the full extent authorized by Congress.

These confrontations between the President and Congress revolved around the constitutional role of Commander-in-Chief and tender to focus on relatively narrow issues of weapons procurement. President Johnson made broader use of his power to impound by ordering the deferral of billions of dollars of spending during the Vietnam war in an effort to restrain inflationary pressure in the economy. While some of these impoundment actions before the time of President Nixon were motivated by policy concerns, they typically involved temporary spending delays, with the President acting in consultation with congressional leaders, so that a protracted conformation between the branches was avoided.

Conflict over the use of impoundments greatly increased during the Nixon Administration, and eventually involved the courts as well as Congress and the President. In the 92nd and 93rd Congresses (1971–1974), the confrontation intensified as the President sought to employ the tool of impoundment to reorder national priorities and alter programs previously approved by Congress.

Following President Nixon's reelection in 1972, the Administration announced major new impoundment actions, affecting a variety of domestic programs.

For example, a moratorium was imposed on subsidized housing programs, community development activities were suspended and disaster assistance was reduced. Several farm programs were likewise targeted for elimination.

Perhaps the most controversial of the Nixon impoundments involved the Clear Water Act funds. Court challenges eventually reached the Supreme Court, which in early 1975 decided *Train* v. *City of New York*, on narrower grounds that the extent of the president's impoundment authority.

During these impoundment conflicts of the Nixon years, Congress responded not only with ad hoc efforts to restore individual programs, but also with gradually more restrictive appropriations language. Arguably, the most authoritative response was the enactment of the Congressional Budget and Impoundment Control Act of 1974 (ICA).

In order to effect a needed compromise in comference, the ICA differentiated two categories of impoundments: deferrals, or temporary delays in funding availability; and rescissions, or permanent cancellations of designated budget authority.

The 1974 law also required the President to inform Congress of all proposed rescissions and deferrals and to submit specified information regarding each action.

The ICA further required the Comptroller General to oversee Executive compliance with the law and to notify Congress if the President failed to report an impoundment or imporperly classified an action. Before 1974, the "rescission" and "deferral" terms did not appear central to the impoundment debate.

While the accumulation of budgetary reserves under the Antideficiency Act provided an antecedent to deferrals, the earlier laws limited deferrals to routine administrative functions.

Congressional Review of Rescissions

In the case of a rescission, the ICA provided that the funds must be made available for obligation unless both Houses of Congress take action to approve the rescission request with 45 days of "continuous session" (recesses of more than three days not counted).

In practice, this usually means that funds proposed for rescission not approved by Congress must be made available for obligation after about 60 calendar days, although the period can extend to 75 days or longer.

Congress may approve all or only a portion of the funds requested for rescission. Congress may also choose after the 45-day period to rescind funds previously requested for rescission by the President.

It is also possible for Congress to rescind funds never proposed for rescission by the President, but such action is not subject to the ICA procedures. The ICA makes no mention of procedures for congressional disapproval of a rescission request during the 45-day period. However, some administrations have voluntarily followed a policy of releasing funds before the expiration of the review period, if either the House or the Senate authoritatively indicates that it does not intend to approve the rescission.

In the fall of 1987, as a component of legislation to raise the limit on the public debt (P.L. 100–119), Congress enacted several budget process reforms. Section 207 involved the rescission authority of the President. It provides a statutory prohibition against the practice, sometimes used by Presidents when Congress failed to act on a rescission proposal within the allotted period, of resubmitting as new rescission proposal covering identical or very similar matter.

By using such resubmissions repeatedly, with accompanying delays of 45 days or more, the President might continue to tie up funds even though Congress, by its inaction, had already rejected virtually the same proposal. The prohibition against such seriatim rescission proposals (contained in the 1987 law) applies for the duration of the appropriation, so that it may remain in effect for two or more fiscal years.

Reviews of Deferrals

The original provisions of Title X allowed a deferral to continue in effect for the period proposed by the President (not to extend beyond the end of the fiscal year so as to become a de facto rescission), unless either the House or the Senate took action to disapprove it. This procedure, known as a one-House legislative veto, was invalidated by the 1983 Supreme Court decision in *I.N.S.* v. *Chadha*.

Initially, however, the impact of the 1983 decision on impoundment control appeared modest. For one thing, Congress had previously adopted the practice of rejecting deferrals through language in appropriation bills, subject to the full legislative process, rather than by one-House resolutions.

Another factor facilitating accommodation between Congress and the President was the restraint exercised by the Office of Management and Budget in the initial aftermath of the *Chadha* decision. However, the President's budget for Fiscal Year 1987, submitted early in 1986, proposed substantial amounts for deferral, especially targeting housing programs.

The National League of Cities, joined by several other organizations and four Members of Congress, challenged the legality of such "policy" deferrals (as distinguished from deferrals for routine administrative purposes previously authorized by the Antideficiency Act).

In May of 1986, a Federal district court ruled that the President's deferral authority under the ICA was no longer available, since it was inseverable from the one-House veto provision in the law, previously held unconstitutional by the Supreme Court; in January of 1987, the decision was affirmed on appeal (*City of New Haven* v. *United States*).

Section 206 of the Balanced Budget Reaffirmation Act of 1987 (P.L. 100-199) served to codify the Appeals Court decision in the *New Haven* case. The provisions in the ICA as amended no longer sanction policy deferrals.

Rather, deferrals are now permissible only for contingencies, for efficiency or as specifically provided for by law. Section 206 also reaffirmed certain provisions of the 1974 law relating to enforcement responsibilities of the Comptroller General, who is empowered to sue the Executive for violations of the ICA. Early in 1990, the use of deferrals again engendered controversy when the President submitted to Congress an impoundment message covering 19 deferrals, amounting to over $2.19 billion, in the DOD budget for FY 1990. The justification for each deferral cited "changes in requirements in view of promsing developments in the Soviet Union and Eastern Europe." Most deferrals involved congressional "add ons" to the Administration's budget request; the President favored the transfer of funds being deferred to other accounts.

After reviewing the deferral actions, GAO reported to Congress March 6, 1990, that 17 of the 19 deferrals (involving almost $1.77 billion) were made for policy reasons and were not authorized under the Impoundment Control Act. In a letter dated March 28, 1990, the OMB Director informed Congress that the Administration no longer intended to withhold the funds included in these deferrals. Thereupon the funds became available for obligation, and a possible confrontation in the courts was avoided.

GAO is empowered to sue for release of funds withheld without authority by the Executive Branch.

VETO PROCEDURES IN THE STATES

The following is based on an appraisal of the line item veto prepared by the House Committee on the Budget.

Currently, some 43 States allow item vetoes in appropriations bills. Several States, including Indiana, Maine, Nevada, New Hampshire, Rhode Island and Vermont, authorize general vetoes of bills but do not authorize item vetoes. North Carolina does not permit its governor to veto any legislative bills.

Many States revised their constitutions after the Civil War to respond to the practice of adding legislative riders to appropriations measures and to provide their governors more power to fulfill State constitutional mandates for State budgets to be in balance.

State practices

Although most States have amended their constitutions to include line item power for their chief executive, the practices adopted vary widely.

In Alabama, for example, the governor may veto a major budget bill entirely or offer executive amendments, which may delete or add figures and language. In Illinois, the governor has reduction veto power on a particular line item. The amount he or she may approve becomes law unless his or her veto is overridden by the State legislature. In Indiana, on the other hand, a court has ruled that the governor—in vetoing items—must veto a complete section and only in an appropriations bill.

Mechanisms differ

The mechanisms used by States also differ with respect to legislative language accompanying appropriations.

In Colorado, for example, the governor can veto accompanying language only if he or she deems it unconstitutional. In Illinois, the State constitution prohibits substantive language in an appropriations measure.

In Michigan, the governor may veto distinct items of appropriations. The rule has been that when a line item is vetoed, the language accompanying that line item is also vetoed. In Wisconsin, substantive program language contained in the budget bill can be item vetoed apart from appropriation figures.

Constitutional provisions

Constitutional provisions again differ widely from State to State, especially with regard to the manner in which executive vetoes may be overridden by the legislature.

The vetoes required in each house to pass appropriations and revenue bills or items over the governor's veto include: majority elected (e.g. Arkansas), three-fifths elected (Maryland), two-thirds present (Texas), and two-thirds elected (Mississippi).

State and Federal differences

There are certain areas of distinction between the Federal and State budgetary processes. The comparisons are cited by both proponents and opponents of the proposal to give the President line item veto authority.

Balanced budget. A balanced budget is required in 49 States. The 43 governors authorized to veto items in State bills all operate in this context. Since it is an accepted practice, the balanced budget concept is not a prominent issue in the States.

Although a balanced Federal budget is a sought-after goal, there have been times when the Federal budget has been used for purposes of impacting the national economy, a usage beyond the function of financing government operations. In addition, such items as national defense, for example, are Federal, not State, responsibilities.

GOVERNORS' ITEM VETO AUTHORITY OVER APPROPRIATIONS

State	Governor can veto amount	Governor can reduce amount	Governor can veto language	Votes needed in each house to override
Alabama	X		X	Majority elected.
Alaska	X	X		Two-thirds elected [1].
Arizona	X			Do.
Arkansas	X			Majority elected.
California	X	X		Two-thirds elected.
Colorado	X		X	Do.
Connecticut	X			Do
Delaware	X			Three-fifths elected.
Florida	X		X	Two-thirds elected.
Georgia	X			Do.
Hawaii	X	X		Do.
Idaho	X			Do.
Illinois	X	X		Three-fifths elected [1].
Indiana				Majority elected.
Iowa	X		X	Two-thirds elected.
Kansas	X			Do.
Kentucky	X			Majority elected.
Louisiana	X		X	Two-thirds elected.
Maine				Two-thirds present.
Maryland	[2] X		X	Three-fifths elected.
Massachusetts	X	X	X	Two-thirds present.
Michigan	X		X	Two-thirds elected and serving.
Minnesota	X			Two-thirds elected.
Mississippi	X		X	Do.
Missouri	X	X		Do.
Montana	X		X	Two-thirds present.
Nebraska	[3] X			Three-fifths elected.
Nevada				Two-thirds elected.
New Hampshire				Do.
New Jersey	X	X		
New Mexico	X			Two-thirds present.
New York	X			Two-thirds elected.
North Carolina		The Governor has no veto power		Do.
North Dakota	X	X	X	Do.
Ohio	X		X	Three-fifths elected.
Oklahoma	X			Two-thirds elected [4].
Oregon	X		X	Two-thirds present.
Pennsylvania	X	X		Two-thirds elected.
Rhode Island				Three-fifths present.
South Carolina	X		X	Two-thirds present.
South Dakota	X		X	Two-thirds elected.
Tennessee	X	X		Majority elected.
Texas	X			Two-thirds present.
Utah	X			Two-thirds elected.
Vermont				Two-thirds present.
Virginia	X		X	Two-thirds present [5].
Washington	X		X	Do.
West Virginia	X	X	X	Majority elected [4].
Wisconsin	X		X	Two-thirds present.
Wyoming	X			Two-thirds elected.

[1] Different number of votes required for revenue and appropriations bills. Alaska—¾ elected. Illinois—appropriations reductions, majority elected. Oklahoma—emergency bills, ¾ vote.

[2] Item veto on supplementary appropriations bill and capital construction bills only.

[3] No appropriation can be made in excess of the recommendations contained in the Governor's budget except by a ⅔ vote. The excess is not subject to veto by the Governor.

[4] Different number of votes required for revenue and appropriations bills. West Virginia—budget and supplemental appropriations, ⅔ elected.

[5] Must include majority of elected members.

Source: The Book of States 1988–89 by the Council of State Governments.

X. MINORITY VIEWS OF SENATOR SASSER

The Hollings proposal for a line-item veto conflicts with the separation of powers. Giving the President this line-item veto would yield additional fiscal powers to an already powerful Presidency. The line-item veto proposal would also threaten the Constitutional principle that the power of the purse—one of the few checks and balances[7] on the Presidency short of impeachment—is vested in the Congress.

The President already has considerable power over the budget process. He proposes the budget and he can focus national attention on the budget in a way that no legislature composed of 535 members can. The President exercises extensive power to defer expenditures. He can and does propose various rescissions which are sometimes agreed to by the Congress. Finally, the President retains his Constitutional power to veto appropriation bills—a power which can significantly shape the appropriations process.

The Constitution gives Congress the power to write laws. It gives the President the power to veto a bill in its entirety or to sign a bill in its entirety. With the enactment of this legislation, the President would be granted undue power to change the shape of appropriations legislation. The ability to strike sections of an appropriations bill is in effect a right to amend without check or balance. This is contrary to the separations of powers contained in Article I of the Constitution.

Therefore, I must strongly oppose the Hollings Legislative Line Item Veto Separate Enrollment Authority Act. For as the Federalist Papers[8] noted so well, "the accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny."[9]

XI. CHANGES IN EXISTING LAW

Pursuant to paragraph 12 of rule XXVI of the Standing Rules of the Senate, this committee finds no changes in existing law caused by the passage of this measure, the Legislative Line Item Veto.

Mr. BYRD. Mr. President, it is my understanding that the distinguished Senator from South Carolina supports a line-item veto but opposes enhanced rescission.

Mr. HOLLINGS. I support the enhanced rescission right now.

Mr. BYRD. All right. I am sorry.

Mr. SASSER. Mr. President, I ask my distinguished colleague from West Virginia, are we ready to make a point of order?

Mr. BYRD. Yes; does the Senator wish to make a point of order.

Mr. SASSER. Has all time been yielded back?

The PRESIDING OFFICER. Thirty-seven seconds remain.

Mr. BYRD. Mr. President, I yield my time.

Mr. SASSER. Mr. President, has all time been yielded back on both sides?

The PRESIDING OFFICER. The Chair did not hear the President pro tempore. Did he yield back all his time?

Mr. BYRD. Yes, Mr. President. I will state once again that this is not a line-item veto amendment. This is an enhanced rescissions amendment. I hope that Senators will reject it. I hope they will support the point of order. The motion will be made to waive the Budget Act, and I hope they will vote against waiving the Budget Act.

I yield the remainder of my time.

Mr. SASSER. Mr. President, all time having been yielded back on both sides, under section 306 of the Congressional Budget Act of 1974, a point of order lies against legislation dealing with a matter within the Budget Committee's jurisdiction if the Budget Committee had not reported it out. Under section 904(c) of that act, the votes of 60 Senators would be necessary to waive that point of order.

So, Mr. President, I raise a point of order that the pending amendment violates section 306 of the Congressional Budget Act of 1974.

Mr. McCAIN. Mr. President, I move to waive section 306 of the Budget Act, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to waive.

The clerk will call the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. SANFORD], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oklahoma [Mr. NICKLES] is necessarily absent.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 40, nays 56, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—40

Bond
Boren
Brown
Burns
Chafee
Coats
Craig
D'Amato
Danforth
Dole
Exon
Garn
Gorton
Graham
Gramm
Grassley
Hatch
Helms
Hollings
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Packwood
Pressler
Robb
Roth
Seymour
Shelby
Simpson
Smith
Specter
Symms
Thurmond
Wallop
Warner

NAYS—56

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bradley
Breaux
Bryan
Bumpers
Burdick, Jocelyn
Byrd
Cochran
Cohen
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Ford
Fowler
Glenn
Harkin
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Reid
Riegle
Rockefeller
Rudman
Sarbanes
Sasser
Simon
Stevens
Wellstone
Wofford

NOT VOTING—4

Gore
Nickles
Sanford
Wirth

The PRESIDING OFFICER. On this question the yeas are 40, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The Chair recognizes the Senator from Vermont.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I yield for that, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The McCain amendment contains matter within the jurisdiction of the Committee on the Budget and has been offered to a bill that has not been referred to or discharged from that committee. As a result, the amendment violates section 306 of the Congressional Budget Act. The point of order is sustained, and the amendment falls.

The Senator from Vermont [Mr. LEAHY].

Mr. LEAHY. Mr. President, I would like to, first off, commend the managers of the bill, commend them for their efforts to increase funding for women's health research. I also want to commend the managers of this bill for the special attention paid to the issue of breast cancer.

I am particularly pleased they have included my language directing the National Cancer Institute to conduct a study to find out why breast cancer hits women in Vermont and the Eastern States the hardest of any place in this country. We know that breast cancer is more devastating in Vermont, in the eastern United States, than any other part of the country, but we do not know why. No studies have been done to determine why. But now, with the inclusion of my language in this bill, we are taking a giant step forward to find out just why that has happened.

This needed study is part of legislation that Congressman SANDERS, of Vermont, and I introduced this year. In fact, we passed it this year, but the President rejected it when he vetoed the National Institutes of Health reauthorization bill. I understand the politics in that veto, but the veto was a bitter disappointment to me and to millions of Americans across the country. I believe it sent, in many ways, a signal: Election year politics are more important than women's lives.

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[7] "Checks and balances represents a more positive way of protecting against tyranny: By requiring the cooperation of more than a single branch to take action, tyranny is harder to do." Eskridge's Consitutional Law Materials (I), Professor William Eskridge, Fall Term, 1990.

[8] The Federalist, The New York Packet, Friday, February 1, 1788, from Eskridge's Constitutional Law Materials (I), Professor William Eskridge, Fall Term, 1990.

[9] The Federalist, p. 7–4.

Mr. President, breast cancer is killing our mothers and our wives, our sisters and our daughters. Every 3 minutes another American woman is going to be diagnosed with this disease. Every 12 minutes another woman in the United States of America will die. And despite decades of research and experimentation, there is still no certain cure for it. In fact, there is no known cause of breast cancer. It is time to wage war on this disease and put a stop to it. We have to know what causes breast cancer. We have to know why it strikes women in the eastern part of the United States more than the rest of the country. And we have to know what cure there could be for breast cancer.

The $220 million in breast cancer research funds contained in this bill finally gives this disease the attention it deserves. It is going to expedite our researchers' race for a cure. It says the U.S. Senate and the U.S. Congress recognize we have a disease which is reaching, in some parts of the country, nearly epidemic proportion, a disease which has been ignored for too long and one we will now face up to.

The Leahy-Sanders breast cancer study will target the specific concerns of women in Vermont and either other States that have the highest breast cancer mortality rates. This will not bring about a cure for those women who have contracted breast cancer, but it will at least say, in those eight States, we will try to find out why this disproportionate number of cases has occurred and then take the steps that are at all possible to stop it from happening to others.

I have heard from women throughout my State, both those who have suffered from breast cancer and those who fear the possibility of it, saying it is time to act. Some of these letters have been the most gripping letters I have read. I have met with many of the women. Within the past few weeks a very good friend and supporter of mine died of breast cancer. I have another close friend of my wife and mine who suffers from this and heroically works day after day to help others with breast cancer. It is time we respond to them, not just in Vermont but throughout the country.

So, Mr. President, I applaud Congressman SANDERS for his relentless devotion to keeping this issue alive, going to Democrats and Republicans alike in the House to get their support. He and I are determined to work for the passage of the Cancer Registries Act, but the women in Vermont should not have to wait another day wondering when we are going to have answers to the important questions about the cause of breast cancer.

We should also note we have come this far in this legislation because in this body Republicans and Democrats have worked together to support this legislation. I thank the Senators in both parties who have joined with me on this. I think we will give hope to millions of women in this country. Certainly we will give answers to those women in Vermont and the other eight States most heavily hit by this scourge.

I thank the managers for their courtesy in letting me step in to say this at this time. I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming [Mr. WALLOP].

Mr. WALLOP. Mr. President, I ask for the yeas and nays on the Helms amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COCHRAN. Mr. President, for the purpose of offering another amendment, I ask unanimous consent that the pending Helms amendment be temporarily laid aside.

The PRESIDING OFFICER. Is there objection?

Mr. HARKIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Iowa reserves the right to object.

Mr. HARKIN. I have no objection.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

AMENDMENT NO. 3014

(Purpose: To provide $2,000,000 for the Children's Television Workshop literacy project entitled "Ghostwriter")

Mr. COCHRAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. COCHRAN], for himself and Mr. INOUYE, proposes an amendment numbered 3014.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 68, line 1, insert "and $2,000,000 for the Children's Television Workshop literacy project entitled 'Ghostwriter'" before the semicolon.

Mr. COCHRAN. Mr. President, I am offering this amendment in behalf of the distinguished Senator from Hawaii [Mr. INOUYE] and myself. It deals with funds already provided in the bill. It directs the Department of Education to spend the funds allocated by the Appropriations Committee's bill for a multimedia literacy project. I am advised that the amendment has been considered by both sides of the aisle, and I trust that it will be accepted.

The PRESIDING OFFICER. Is there further debate?

Mr. INOUYE. Mr. President, the amendment which Senator COCHRAN and I are proposing today would codify in bill language the intent of our committee during the past 3 years. It would provide $2 million to the Department of Education for the production of a new nationwide multimedia project designed to improve children's reading and writing skills.

Mr. President, giving our children the ability to read with comprehension and write with coherence is one of our Nation's crucial educational challenges. We are fortunate that the Children's Television Workshop, producers of the national public television treasure, "Sesame Street," has undertaken to meet this challenge. Their program is called "Ghostwriter," and is the most ambitious national educational media project since "Sesame Street."

"Ghostwriter" has been designed with the guidance of a distinguished panel of American educators to put exciting, appealing literacy activities into the hands of millions of children via their local PBS station. In addition, 20 million minimagazines and 80,000 activity guides will be distributed to youngsters and youth organizations, including Girls, Inc., Boys and Girls Clubs of America, 4-H Youth Development Education, and the YMCA of the United States. The American Library Association and the United States Postal Service are also actively assisting "Ghostwriter."

The workshop has assembled an unprecedented public/private partnership to fund the $20.8 million cost of this project. It includes $7.5 million from the workshop itself, $5 million from NIKE, Inc., largest private contribution ever for a children's educational media project, and grants from the John D. and Catherine T. MacArthur Foundation, the Pew Charitable Trust, the Mary Reynolds Babcock Foundation, and from PBS and the Corporation for Public Broadcasting.

Over the past 3 years, the workshop has worked with the Department of Education to enlist them as a major partner in "Ghostwriter," as they have been in every major workshop educational project since "Sesame Street." While the Department has been supportive of the concept, they have been short of funds. Finally, just weeks ago, the Department made a grant of $300,000 to "Ghostwriter," as much as they are able to do absent a substantial specific appropriation. A $2 million appropriation to the Department for this project will be about 10 percent of the cost of this major national literacy initiative, a prudent investment which leverages nearly 10 times that much toward the total project.

We are pleased that the Senate Labor and Human Resources Committee has included an authorization for this project in its pending office of educational research and improvement bill.

Mr. President, inclusion of this appropriation will be an effective major contribution to the location of our Nation's children, and we urge its support.

The PRESIDING OFFICER. Is there further debate? The Chair recognizes the Senator from Iowa [Mr. HARKIN].

Mr. HARKIN. Mr. President, the amendment does not add funds to the bill and therefore does not require any offsetting cut. This amendment simply strengthens the Appropriations Committee position by directing the Department of Education to spend the funds allocated by the committee for a multimedia literacy project. It is a good amendment. We have no objections to it on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment 3014 offered by the Senator from Mississippi.

The amendment (No. 3014) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HARKIN. Mr. President, we are making some progress, not as rapidly as I had hoped. We took a lot of time on the line-item rescission amendment of Senator MCCAIN, and before that we had a long discussion on an amendment that was not offered by Senator PRYOR.

There are a lot of amendments yet to be offered, Mr. President, and I hope Senators will come over and offer them. We are here. We have a list of amendments that was agreed to last night, and I hope that Senators will come over. Otherwise, we are going to be here until 10, 11, or 12 o'clock tonight.

So, Mr. President, we are here, ready to take amendments. With that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Mr. President, I also ask unanimous consent that I may proceed as if in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

CABLE TELEVISION

Mr. BURNS. Mr. President, as you know, we have been watching the actions of the House. They have just passed a conference report on the cable reregulation bill. I was very interested in the numbers over there as passed this time.

Mr. President, we will be considering that piece of legislation and that conference report in this body in the near future. I just wanted to remind my colleagues as the debate opens up that there are some features and some fundamental differences as we get into the debate on the reregulation of cable television. I just want to throw out some of these figures so that over the weekend, until we get into the debate on this. that should be considered; and, maybe some questions, to ask some questions about just where we should be going as far as setting policy with regard to cable television.

Cable television has been one of the great growth stories in the last 5 years. It has only been deregulated basically since 1986. It has performed tremendous services and brought great advances to most of our communities here in the United States, and we should not overlook that; that there are people receiving television programming now who until that happened never would have had access to it before.

Currently, there are 76 program networks in this country, programs like Cable News Network, the Arts and Entertainment Channel, Learning Channel, Family Channel, Disney Channel, the National Work Channel, Black Entertainment Channel, Court TV, Comedy Central, the Weather Channel, Nickelodeon, local access channels, community access channels, and like C-SPAN II we are seen on now, and we also have C-SPAN I. The list goes on.

It has created nearly 70,000 new jobs during the 1980's; in 1991 alone over 4,000 new jobs. These are not just little minimal jobs. These are high paying jobs. That is not counting the industries that are allied with the cable industry when you talk about all of the support manufacturing, distribution, construction materials, and this type thing. But they are high paying jobs.

In my State of Montana, cable industry pays nearly double the average wage. I have to take a look at that and understand what this Congress does and how it will affect that.

What is Congress' response to all of this, all of this industry that has created all of these jobs and has phenomenal growth in a time when we had a so-called slow growth? Our answer is to impose stifling regulations on that industry, which, in turn, will discourage investment, which, in turn, will discourage the employment outlook and job opportunities in each and every neighborhood in America. It will say "no" to innovative programming, to new transmission technologies like fiber optics all of which are essential for job creation in the years ahead and on and on into the 21st century.

The issue, Mr. President, is quite simple. Congress wants to dictate, and wrap around the cable industry to the point that new jobs and programming creation stops. I think this is bad news for our economy. It is bad news for our consumers. Frankly, reregulation is the wrong answer.

We would switch over to the competition channel, we should anyway, to the competition channel and try to find some of our solutions for some of the concerns that we have now about the cable industry. Competition, not reregulation, will create the most substantial benefits for consumers, and the greatest opportunity for jobs in America.

What are we asking about? What have we been talking about on this floor? Where has our economy gone?

No. 1, it is not that bad.

No. 2, we keep shutting the doors on job creation to jump start an economy that, yes, this Congress should be trying just as hard to do as our President.

Competition, not reregulation, will drive down rates and improve service quality while promoting industry development and technological development. Competition, not reregulation, will bring the best service at the best price to the consumer.

So I believe that competition, not regulation, should be the philosophy that drives this economy. It always has been. Competition protects the consumer here at home and also has quite a lot to do with the way we perform in the international markets.

Minority Leader DOLE and Senator GORE have introduced legislation which would allow telephone company entry into cable programming as a viable competitor. Telephone company entry into cable programming is supported by President Bush and the Federal Communications Commission, but yesterday Congressman JOHN DINGELL, chairman of the House Energy and Commerce Committee, indicated his desire to allow telephone company entry into cable programming as a way to introduce new competition into the cable television industry during this session of Congress if this cable reregulation fails.

So there are those out there that are looking at ways to provide competition and not reregulation.

So when this bill, this conference report comes before this body, I plan to do everything that I can do to stop this anticonsumer, anticompetitive bill—to improve rates and services for consumers and to create jobs in America. We should then work to foster competition in this industry or in any other industry.

I hope my colleagues will join this debate. It will be long, and I think there will be a lot of give and take on this issue. But it is very important that we do not forget the basic philosophy that American enterprise works better when it works in a free market.

Mr. President, I have a couple of items that I would like printed in the RECORD.

I ask unanimous consent that today's editorial out of the Wall Street Journal, and also a very strong letter from the President indicating that if the conference report on S. 12 passes, he would veto it, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Sept. 17, 1992]

CABLE KIBOSH

The cost of two tickets to a Broadway show is now more than $100. The $5 movie ticket is a thing of the past in most cities. But is anyone calling for federal price controls on Broadway or the movies? Yet that's precisely what Congress will do to cable television if it passes a bill to reapply 1970s-style regulation to the industry.

Voters are in an ugly mood, and incumbents are desperate to show effort for the folks back home. It's no surprise Congress has seized on cable TV rates, which have gone up faster than the rate of inflation and are a sore point in many of the 60 percent of American homes with cable. But rather than find ways to make the industry more price competitive, Congress is on the verge of short-circuiting a new, promising technology for short-term political gain.

More troubling, there are rumblings that the Bush administration will take a pass on a long-promised veto. That's because House Minority Leader Bob Michel has gone over with the re-regulators (and the broadcasters), calling into question a veto-override vote.

The bill before Congress is a nightmarish morass of rules that can only impede the development of cable technology and new programming. Venture capitalists won't want to become hostage investors in cable under a provision requiring them to wait three years after purchasing a system before they can sell. The bill so micromanages cable companies that it even specifies the number of phone lines they must have to handle complaints.

The cable industry, for all its lobbying and moaning, isn't particularly credible because of its record of defending local cable monopolies. After the industry secured the deregulation of cable-service prices from Congress in 1984, it continued to insist that cable was a natural monopoly and that cities should grant just one franchise per city. This ignored the record of the 65 cities that allow more than one cable operator. In those more competitive areas, cable TV prices fell an average of 25 percent, and subscribers had fewer service complaints.

By seeking to protect their noncompetitive franchises while defending their right to run up prices, the cable industry invited Congress to re-evaluate its 1984 decision to deregulate. Defenders of the cable bill before Congress claim it will work against monopolies by barring cities from awarding "exclusive" cable franchises, but that is legal gobbledygook. Few cities award explicitly exclusive franchises, and no one thinks the bill will affect any of their cozy deals with local cable firms.

If Congress would only resist the temptation to keep changing the signals it sends on cable TV, emerging new technologies will make many of the complaints about the industry moot. Local telephone companies will soon be able to transmit TV signals using digital and fiber-optic technologies. Computers will be linked with TV monitors to offer a variety of viewing choices that will make today's cable systems as outdated as a rabbit-ears antenna. But there is no way the benefit of these emerging technologies can be fully realized if Congress insists on second-guessing the process every step of the way.

THE WHITE HOUSE,
Washington, September 17, 1992.

Hon. ROBERT DOLE,
Republican Leader, U.S. Senate, Washington, DC.

DEAR SENATOR DOLE: I am writing to express my strong opposition to the Conference Report to accompany S. 12 (Cable Television Consumer Protection and Competition Act of 1992), which the House and Senate will consider in the next several days.

This legislation will hurt Americans by imposing a wide array of costly, burdensome, and unnecessary requirements on the cable industry and the government agencies that regulate it. The heavy-handed provisions of this bill will drive up cable industry costs, resulting in higher consumer rates, not rate reductions as promised by the supporters of the bill.

The bill will also restrain continued innovation in the industry, cost the economy jobs, reduce consumer programming choices, and retard the deployment of growth-oriented investments critical to the future of our Nation's communications infrastructure.

My vision for the future of the communications industry is based on the principles of greater competition, entrepreneurship, and less economic regulation. This legislation fails each of these tests and is illustrative of the Congressional mandates and excessive regulations that drag our economy down.

Congress would best serve consumer welfare by promoting vigorous competition, not massive re-regulation.

For these reasons I will veto S. 12 if it is presented to me, and I urge its rejection when the House and Senate consider the Conference Report.

Sincerely,

GEORGE BUSH.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, I wanted to encourage my colleagues on this side of the aisle to let us know if they have any amendments to the pending legislation, the Labor-HHS appropriations bill. The managers are here prepared to do business.

I say to my colleagues that there is still hope that we can finish this, I hope, by 4 o'clock this afternoon so we might then turn to the DOD authorization bill to accommodate a couple of our colleagues, at least one colleague on this side of the aisle who has a problem on tomorrow; and also, to accommodate a number of colleagues on both sides of the aisle who have already made plans on Saturday. The majority leader has indicated there will be a Saturday session unless we finish this bill, and the DOD authorization bill by some time tomorrow night or throughout the night tomorrow.

We have a number of amendments on this side.

I have one myself which I understand is now being looked at to see if it can be worked out; Senator D'AMATO has an amendment; Senator HATCH has two amendments, combined into one; Senator HELMS has six amendments; Senator KASSEBAUM has an amendment; Senator LOTT; Senator NICKLES, has two amendments; Senator RUDMAN has an amendment; Senator SEYMOUR; and Senator WALLOP has an amendment on Davis-Bacon. That will be 12 amendments on this side. I am not certain how many of the amendments will be offered or whether or not any of the amendments offered will bring about rollcall votes.

But it is my understanding that many of these amendments are in the process of resolution, and that perhaps maybe one out of the 12—maybe more, I am not certain. The manager, Senator HARKIN, would know—everybody I talked to would like to be adjourned on October 3, if not before. This is a bill that I think both sides want to pass.

Senator SPECTER and Senator HARKIN have done a good job on this particular bill. They would like to get to conference, and we would like to move on to the DOD authorization bill and hopefully finish that by tomorrow night, so we can avoid a Saturday session and avoid disrupting plans that many of my colleagues on each side of the aisle have had in the works for weeks and months.

So, again, if you could let us know by 2:15 if you intend to offer the amendment, the managers could make plans on how to deal with those amendments.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I thank the Republican leader for his help in attempting to complete work on this bill. He has been very helpful in trying to get people together to get their amendments over here. I request that Senators on our side to do the same. We have a call going out to Senators, and we are asking if you have an amendment, let us know by 2:15 if you want to offer it. If not, if there is more than a moderate lull in the proceedings over here, I would ask the Republican leader and the ranking member, Senator SPECTER, if we could sit down and hope the Chair would go to a third reading of the bill.

Those Senators on the list who have amendments include: Senators CRANSTON, HOLLINGS, BUMPERS, SIMON, BENTSEN, BINGAMAN, KENNEDY, SHELBY, and PELL. If they want to offer the amendments, let us know by 2:15 and come over and offer the amendments.

AMENDMENT NO. 3015

(Purpose: To provide needed funds for programs providing services to older Americans)

Mr. DOLE. Mr. President, I ask unanimous consent that the pending amendment be laid aside. After a discussion with the manager of the bill, Senator HARKIN, I send an amendment to the desk on behalf of Senator NICKLES, Senator SEYMOUR, Senator COATS, and Senator MCCAIN and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment will be set aside.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE], for Mr. NICKLES (for himself, Mr. SEYMOUR, Mr. COATS, and Mr. MCCAIN, proposes an amendment numbered 3015).

Mr. DOLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, line 14, strike "$844,316,000" and insert the following: "$850,693,000: *Provided*, That notwithstanding any other provision of this Act, the figure that appears on page 87, line 10 shall be deemed to be $106,737,000".

Mr. NICKLES. Mr. President, I rise in support of this amendment, which would increase funding for programs authorized under the Older Americans Act to the level requested by the administration.

The Older Americans Act is the major source of funding for federally supported nutrition and social services for the elderly. Since these programs were instituted a quarter of a century ago, millions of seniors have benefited from services provided under this act, such as Meals-on-Wheels, employment services, nursing home ombudsmen, and programs designed to prevent elder abuse.

On Tuesday evening, the Senate unanimously adopted S. 3008, the Older Americans Act Amendments of 1992. This important legislation created new programs and increased authorization levels for many existing ones.

Unfortunately, the bill that is now before us proposes to fund several of these programs at levels lower than the President requested. The committee bill would level fund grants to States for supportive services and centers, ombudsmen services, and elder abuse prevention. The administration proposed raising the funding for these three programs by a total of $783,000. The committee bill would cut funding for aging research, training and special projects by $1.4 million below the current level. In all, the committee bill provides $6.4 million less than the President proposed for Older Americans Act programs.

What is worse, Mr. President, is that the House bill would provide even less for these important programs. The House version of H.R. 5677 would cut OAA programs—including nutrition programs—by 1 percent. This would result in cuts in services for congregate and home-delivered meals and in-home services for the frail elderly.

Let's look at these programs that would be cut:

AGING SUPPORTIVE SERVICES AND SENIOR CENTERS

This program funds community-based, comprehensive and coordinated services. Seniors receive in-home care and legal services under this program. Funds are allocated to the States on a formula basis. If this program is funded at the requested level, Oklahoma will get a little over $4 million. If the program is funded at the Senate or House level, we will get less.

OMBUDSMAN SERVICES

This program funds investigations of complaints made on behalf of older individuals residing in nursing homes. Oklahoma will receive $53,000 for this program under the President's budget, less under either the Senate or House bill.

PREVENTION OF ELDER ABUSE AND NEGLECT

State efforts under this program have focused on public education related to elder abuse. Oklahoma will receive just under $60,000 if the program is funded at the requested level, less under either the House or Senate bills.

Mr. President, we cannot allow funding for these important programs to be reduced. This amendment would increase funding for OAA programs to the requested level of $850.7 million. That represents an increase of $6.4 million over the committee's recommendation.

The amendment would pay for this increase by reducing spending for salaries and expenses at the Department of Health and Human Services by the same amount. I am aware that the committee bill already reduces the HHS account for salaries and expenses by a substantial sum, $225 million. The Management and Budget Office at HHS estimates that the Department will spend about $5.45 billion next year on salary and expenses.

Some of these funds—by no means all—will provide salaries and benefits for members of the Senior Executive Service [SES]. According to the Office of Personnel Management, the executive branch employs nearly 8,000 people at the ES-6 level, the highest career classification in the Federal Government. Their average salary: $112,000. Salaries for other SES employees range from $90,000 to $108,300.

By contrast, let us look at the people who are served by these programs. Many are on fixed incomes. Many are frail. Many are poor. According to the Administration on Aging, 1.27 million participants in the congregate nutrition program—47 percent of all who benefited from these services in fiscal year 1990—were poor.

Further reductions in salaries and expenses will certainly not be painless. But they will be far less painful than reductions in these vital programs for older Americans.

It is my intention that these additional funds be used to increase the committee bill's allocation for congregate meals by $2 million; for home-delivered meals by $2 million; for grants to Native Americans by $405,000; for supportive services and centers by $762,000; for ombudsman services by $10,000; for prevention of elder abuse by $11,000; for in-home services for frail elderly by $500,000; and for aging research, training and special projects by $689,000.

Mr. President, this amendment would restore these reductions, and raise funding for programs under the Older Americans Act to the requested levels. It is a crucially important amendment, important to older Americans who rely on services authorized by the Older Americans Act and important to their families as well, and I urge its adoption.

Mr. COATS. Mr. President, Tuesday night, the Senate finally passed vital legislation to reauthorize the Older Americans Act. I was pleased that agreement was finally reached on this act which is so crucial to meeting the special problems and needs of our Nation's older population. The Older Americans Act has served as an effective vehicle for the delivery of supportive nutrition and other social services to millions of elderly citizens across our Nation, since its inception in 1965.

Due to my strong support for the programs authorized under the Older Americans Act, I was disappointed to learn that the appropriations bill before us today, H.R. 5677, cuts funding for this important act. Under H.R. 5677, the Administration on Aging would receive $844 million—this represents a level $6.3 million below the administration's request for fiscal year 1993 and $2.2 million below the fiscal year 1992 funding level. The House bill provides even less funding, falling about $12 million below the administration's request.

As Senator NICKLES pointed out, the Senate version of this bill would keep funding at current levels for three important grant programs: supportive services and centers, ombudsman services, and prevention of elder abuse programs. The administration had requested an increase in funding of $783,000 for these three programs, which are relied upon by States and local communities to help them meet the needs of our Nation's senior population.

Aging supportive services and senior centers serve an important role in local communities by facilitating the development of comprehensive and coordinated systems of services. About 7 million older Americans receive supportive services under this program. Of these 7 million, 18.5 percent are minority older persons, and 37.1 percent are low-income older persons.

Ombudsman services assist with the investigation and resolution of complaints on behalf of older individuals residing in long-term care facilities. Recent reports by the Office of the Inspector General, GAO, HHS, and others concluded that this program needed to be expanded and strengthened. In fiscal year 1990, 154,119 complaints were received, compared to 134,509 in fiscal year 1989—an increase of about 20,000 cases. Without the increased funding requested by the administration, the capacity of States and communities to implement the OIG recommendations, especially in light of the caseload increases, will be greatly impaired.

In regard to elder abuse, estimates indicate that between 1.5 and 2 million older persons are victims of elder abuse. The magnitude of this problem warrants increased attention. These three programs are just a few examples of why the administration's funding request levels are needed to accomplish the goals of the Older Americans Act.

For these reasons, I rise today to urge my colleagues to support this amendment to ensure that the essential programs authorized under the OAA receive adequate funding. This amendment would simply increase funding for these programs to the level requested by the administration for fiscal year 1993. These funding increases would be offset by a reduction in the levels for salaries and expenses at the Department of Health and Human Services.

I commend Senator NICKLES for his work on this important amendment and urge my colleagues to join us in supporting this amendment.

Mr. HARKIN. Mr. President, we have examined the amendment. It is a good one. We have no objections on this side, and we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3015) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HARKIN. Mr. President, I ask unanimous consent to set aside the pending committee amendments for the purpose of offering an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3016

(Purpose: Funding for National Commission on Private Pension Plans)

Mr. HARKIN. Mr. President, I send an amendment to the desk on behalf of Mr. BENTSEN, Mr. METZENBAUM, and Mr. PRYOR and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. BENTSEN (for himself, Mr. METZENBAUM, and Mr. PRYOR), proposes an amendment numbered 3016.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, before the period at the end of line 13, insert ": *Provided*, That $600,000 shall be available for the National Commission on Private Pension Plans if an Act authorizing such Commission is enacted into law".

Mr. HARKIN. Mr. President, this amendment has been cleared by the other side. It provides $600,000 for a private pension plan commission, if it becomes authorized. This amendment is for Senators BENTSEN, METZENBAUM, and PRYOR. The commission would study the private pension system. The offset is within available funds from the Pension Welfare Benefit Administration.

The PRESIDING OFFICER. Is there further debate?

The question is on agreeing to the amendment.

The amendment (No. 3016) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DODD). Without objection, it is so ordered.

AMENDMENT NO. 3017

Mr. HELMS. Mr. President, I send an amendment to the desk, which is on the list, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 3017.

At the appropriate place add the following: "None of the funds appropriated under this Act may be expended by the Occupational Safety and Health Administration to implement or administer the regulations affecting mandatory seat belt use, mandatory motorcycle helmet use, and mandatory employer driver safety awareness programs, to be codified or proposed to be codified at parts 1910, 1915, 1917, 1918, 1926 and 1928, title 29 of the Code of Federal Regulations."

Mr. HELMS. Mr. President, I have submitted this amendment on behalf of more than 500,000 small business men and women across this country. The amendment pending at the desk proposes to correct another case of bureaucratic over-reach by preventing the Occupational Safety and Health Administration—OSHA, as it is known—from using funds provided by this bill to implement regulations affecting mandatory use of seat belts or motorcycle helmets, and mandatory driver safety awareness programs.

This amendment has the endorsement of the National Federation of Independent Business. It was offered in the House by the distinguished member from Louisiana, Mr. LIVINGSTON, on July 28, and after being brought to the floor of the House of Representatives on a procedural vote of 215 to 188, it was passed on a voice vote.

Mr. President, let me explain a little bit in detail what is involved here. OSHA has dreamed up more red tape to choke American business. In July 1990, OSHA first proposed the Occupant Protection in Motor Vehicles Regulation. The final regulations could be issued at any moment. These new regulations will include two new mandates: One, employer accountability for employee seatbelt use; and two, employer-sponsored driver training programs. Once in place, these regulations will affect every business in America whose employees are required to drive on the job.

Let us look at what these regulations will do to small business. Employers will:

First, face the cost of providing driver education for each employee who drives on the job. This could include the purchase of a driver training video and/or the hiring of an expert.

Second, employers will lose productivity and sales for employee time devoted to the driver education program.

Third, possible employer fines for employees' failure to wear seat belts or motorcycle helmets, and,

Fourth, possible fines for employers' failure to implement driver education programs.

The bureaucrats will insist, Mr. President, that the seatbelt laws and helmet laws save lives. But the last time I looked, every State already had auto safety laws and motorcycle helmet laws, which are doing just fine.

Thirty-eight States already have mandatory seatbelt and helmet laws. In my own State of North Carolina, to receive a license to drive, an individual must complete significant classwork in driver education. For each type of vehicle, the State of North Carolina requires a different test. In order to drive a schoolbus, you must have a bus driver's license; to drive any type of van, you need a chauffeur's license. And so on, down the line.

But here comes the Federal Government, nosing in where it is not needed, with its own bureaucracy, telling the States and the employers of those States that there is not already enough oversight of drivers and driving safety; that's not what the American businessman needs Washington to do. It doesn't need Washington to duplicate the job already being ably done by the States.

If anybody thinks we need more bureaucrats, I'll sell them some swampland down in eastern North Carolina. Somebody put it this way: This is "nonsense on stilts" for OSHA to propose to get in where it is not needed, and where it is not wanted, at additional cost to small businessmen.

Mr. President, as I say, these regulations will hold employers liable for their employees' seatbelt use. How on Earth can the employer monitor seatbelt use when their employees are on the road? How can they do that?

They cannot do it. Employers should concern themselves with running their businesses, not playing traffic cop. We already have State laws and regulations, and merely duplicating State laws with rules on the Federal level that punish employers for their employees' actions will not save one life.

All these regulations will do is enhance the job market for the Trial Lawyers of America. They will be the real winners, as more injured third parties discover that the driver that hit them was not trained in strict accordance with a poorly planned and poorly conceived OSHA regulation.

We should not allow OSHA to make this rule final. I urge my colleagues to stand up for the small businessman and restore some balance and sanity to the regulatory system.

I could go on at some length about this thing, but I know we are trying to finish this bill.

Mr. President, I ask unanimous consent that a letter from the president of the National Federation of Independent Business, Mr. John Motley, to Secretary of Labor Lynn Martin and a "Dear Colleague" from Representative BOB LIVINGSTON be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF
INDEPENDENT BUSINESS,
Washington, DC, February 24, 1992.

Hon. LYNN MARTIN,
Secretary, Department of Labor,
Washington, DC.

DEAR SECRETARY MARTIN: On behalf of the over 500,000 members of the National Federation of Independent Business (NFIB), I urge you to stop or significantly modify the Occupant Protection in Motor Vehicles rule.

While NFIB members support motor vehicle safety, they strongly object to the two mandates expected to be included in the regulation—employer accountability for employee set belt use and an employer-sponsored driver education program for employees.

Under the proposed rule, an employer could be fined if any employee fails to wear a seat belt or motorcycle helmet. In effect, the Occupational Safety and Health Administration [OSHA] is holding the employer liable for the employee's actions, even though it is virtually impossible for the employer to oversee the employee's behavior off the job site.

Designing and implementing a driver safety program adds an equally burdensome requirement for small business owners trying to operate in a sluggish economy. If such safety programs are necessary for on-the-job driving, they should be administered by state governments which already provide similar safety training and certification for truck drivers through the commercial drivers license testing program. Under this program, drivers must demonstrate knowledge and skill for certification. These license examination programs could offer the experience and expertise in driver training that a small employer would not be able to provided.

In effect, the proposed sweeping driver training and seat belt regulation will negatively affect every small business in America whose employees are required to drive on the job. Some of the consequences small businesses will face as a result of this regulation are as follows:

Cost burden of providing driver education for each employee who drives on the job;

Possible employer fines for employees' failure to wear seat belts or motorcycle helmets;

Possible fines for employers' failure to implement driver safety programs;

Lost productivity and sales for employee time devoted to on-the-job driver education programs.

At a time of economic recession, this regulation would hinder small employers' ability to create jobs. Thank you for moving quickly to address this very important issue affecting small business.

Sincerely,

JOHN J. MOTLEY III,
Vice President,
Federal Governmental Relations.

HOUSE OF REPRESENTATIVES
Washington, DC, July 27, 1992.

DEAR COLLEAGUES: On Tuesday, July 28th, 1992, I will offer an amendment to the Labor/HHS Appropriations bill to prevent OSHA from mandating employer accountability for employee seatbelt use and employer-sponsored driver training programs.

OSHA first proposed the Occupant Protection in Motor Vehicles regulation in July, 1990 and final regulations could be issued at any time. These outrageous regulations will require employers to become driver training program designers, driver education instructors, law enforcement officers, and potential defendants in liability cases.

Like most Federal redtape, the regulations are well-intentioned, but disastrous in application. It is true that seatbelt and helmet laws save lives. But should employers be held responsible for their employee's seat belt use? Employees live longer if they eat healthy foods. Should employers be fined if their employees eat Twinkies and smoke cigarettes?

Driver training and licensing should remain the purview of state government. Thirty-six states have already enacted safety belt use laws. Merely duplicating state laws with rules that punish employers for their employees' actions will not save lives.

This rule would spawn more litigation as injured third parties discover that the driver that hit them was not trained in strict accordance with a loosely-written OSHA regulation.

OSHA has consistently overestimated the savings and underestimated the costs of this rule. OSHA estimates that employer-provided driver training will cost no more than $18.75 per employee. How will the employer interpret the rules, design and implement a driver training program, and keep records for less than $20? If the 19 million businesses in our nation each spend only $100 per year on driver training, we're looking at over $1 billion a year in costs to employers.

OSHA admits that typical seat belt and motorcycle helmet laws apply to operators, but the proposed OSHA standard is applicable to employers, not employee/drivers. The regulations will turn employers into government agents who enforce traffic violations. When will the employer find time to run a business?

The employers in my district cannot afford the time and expense required by these burdensome regulations. Let's stop the regulatory reach of Big Brother by passing my amendment limiting the use of funds to implement this ill-advised rule.

If I am prevented from offering the funding limitation amendment before the Committee of the Whole rises, I urge my colleagues to oppose the motion to rise so that I may offer my amendment.

Sincerely,

ROBERT L. LIVINGSTON,
Member of Congress.

Mr. HELMS. Mr. President, I am willing to have this considered on a voice vote.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. METZENBAUM. Mr. President, I rise to oppose the Senator from North Carolina's amendment to kill an important OSHA regulation.

This OSHA rule would save thousands of lives by offering protection for employee occupants of motor vehicles while they are on the job.

It addresses three major areas:

First, safety belt use;

Second, motorcycle helmet use; and

Third, driver safety awareness.

Motor vehicle accidents are the single largest cause of occupational injuries and fatalities.

In the manufacturing sector more workers are killed each year in crashes than by fixed machinery.

Each year approximately 2,100 fatalities and 91,000 lost workday injuries occur due to occupational motor vehicle crashes among employees.

Motor vehicle fatalities account for more than 35 percent of all occupational fatalities.

The national safety council testified that occupational motor vehicle accidents cost $16.2 billion in 1989 alone. It is incredible to me that the Senator from North Carolina thinks these simple rules are not worth saving so much money, as well as saving lives.

It is estimated that the OSHA regulations on the use of safety belts and drive safety awareness training alone could save 684 employee lives and 31,635 lost-workday injuries annually.

Unfortunately, the Senator from North Carolina seems to think taking a driving course and wearing a seatbelt is too burdensome requirement to save those lives and lost workdays.

I know the Senator does not like OSHA, but one would think the tragedy in his own State, in Hamlet, NC, would have changed that view. By all accounts better OSHA enforcement could have saved those lives. But the Senator from North Carolina seems to find OSHA's role a burden rather than a help.

This OSHA regulation was not arrived at lightly. Over 500 written comments were received by the public—over 2000 pages of public testimony were offered for the record.

Elizabeth Dole personally supported this regulation and was convinced of its merit.

It is strongly supported by the following groups:

These groups strongly support this OSHA rule:

National Highway Transportation Safety Administration.

National Institute for Occupational Safety and Health.

National Safety Council.

National Association of Fleet Administrators.

National Electrical Contractors Association, Inc.

Chemical Manufacturers Association.

Dow Chemical.

Industrial Truck Association.

Automobile Club of Southern California.

Motor Vehicle Manufacturers Association.

Alliance of American Insurers.

Insurance Institute for Highway Safety.

Indiana Bell Co.

American Federation of State, County and Municipal Employees.

Service Employees International Union.

AFL–CIO.

Traffic Safety Now.

National Commission Against Drunk Driving.

Mr. DURENBERGER. Mr. President, I would like to indicate my support for the amendment of my colleague, Senator HELMS. The Helms amendment prohibits the Department of Labor from utilizing appropriate funds to implement or administer regulations affecting mandatory seat belt use, mandatory motorcycle helmet use, and mandatory employer driver safety awareness programs.

Mr. President, I am not a newcomer to this issue. I have been involved in motor vehicle safety and motorcycle helmet regulation for past several years. Although I strongly favor the Occupational Safety and Health Administration's [OSHA] attempt in other areas to promote workplace safety. I also believe that the Federal Government should not be micromanaging individual conduct. For instance, during the highway bill debate last year, I opposed mandatory motorcycle helmet laws. The was not because I opposed the use of motorcycle helmets—on the contrary, I think that they are a good idea.

But I do not believe that the Federal Government should force the men and women of this country to wear motorcycle helmets. Life involves choices, and in a free society, individuals should have the power to choose whether they wish to wear safety helmets.

Mr. President, in addition, I question what role the Department of Labor should play in motor vehicle safety issues. We know that the Department of Transportation [DOT] conducts studies and issues extensive regulations on motor vehicle safety issues. Should the Department of Labor be promulgating regulations that address motor vehicle safety? I wonder what the Department of Labor knows that the Department of Transportation does not know about motor vehicle safety.

In short, we run the risk of inconsistent and overlapping Federal regulations in this area. The Congress needs to give more thought to the respective roles of Federal agencies in regulating vehicular safety. Until we come to some satisfactory consensus about the best way to addressing this problem, I believe it is appropriate to delay the Department of Labor's regulatory approach. Accordingly, I will support the Helms amendment.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, inasmuch as the managers want to hasten this bill along, while they are considering the pending amendment, I wonder if they would wish for me to ask consent to lay aside this pending amendment so I can offer another one that is on the list.

Mr. SPECTER. Mr. President, I thank our colleague from North Carolina for that suggestion. I think it is a good idea and would be pleased to see him proceed to do that.

Mr. HELMS. We could save some time that way, Mr. President. Let me put the unanimous-consent request to you as stated.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request?

If not, it is so ordered.

AMENDMENT NO. 3018

Mr. HELMS. Mr. President, I have another amendment which is on the list, which I send to the desk and ask it be stated.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 3018.

At the appropriate place add the following: "Notwithstanding any other provision of law, none of the funds made available under this Act or an amendment made by this Act shall be allocated to any State, metropolitan area or rural area, if such State, metropolitan area or rural area, carries out any program for the distribution of sterile needles for the hypodermic injection of any illegal drugs, unless the President of the United States certifies that such programs are effective in stopping the spread of HIV and do not contribute to the use of illegal drugs."

Mr. HELMS. I thank the clerk.

Mr. President, this amendment really is a question posed to the Members of the U.S. Senate. The amendment is asking Senators if they—we—believe that Federal dollars should be used to aid and abet an activity which is illegal in every State and under Federal law.

This amendment has been endorsed by the Director of the National Drug Control Policy, Bob Martinez. This amendment would put the Senate on record as opposing the distribution of hypodermic needles for the injection of illegal drugs unless the President of the United States certifies that such distribution does nothing to encourage the abuse of narcotics. That is what the amendment says. Nothing more, nothing less.

You can see for yourself that the amendment would permit the President to resume needle distribution if he certifies that such a program is effective in halting the spread of the AIDS virus. And to answer a question which I know may be asked by some Senator, probably my good friend from Massachusetts, Mr. KENNEDY, the Helms amendment does not contain a provision about the distribution of bleach to drug addicts.

Mr. President, I think that most Americans would agree that drug abuse is one of the great dangers facing this Nation today. It is not the greatest, but it is a great abuse and a great danger.

Not only are drugs destroying the young people of this country, but the young people are the primary reason why the streets of our country have become war zones, and nobody knows that better than those of us who live in or near Washington, DC. President Bush declared a "war on drugs" shortly after he entered office and most agree that progress has been made—not enough, but some has been made. Yet just as we are about to turn the corner, here come the liberal politicians saying we need to hand out needles to drug addicts. Well, that does not even make good nonsense.

So if any Senator thinks this is an off-the-wall proposal, let me identify some of the people and organizations supporting this amendment: The Office of National Drug Control Policy, the National Association of State Alcohol and Drug Abuse Directors, the National District Attorneys Association, the chairman of the House Select Committee on Narcotics, the House Republican Leadership, the Secretary of Health and Human Services, Dr. Louis Sullivan, and the former Secretary of Education, Bill Bennett.

There are many others, but these are some typical ones. These organizations and distinguished leaders believe, as I do, that making sterile needles available to drug addicts only encourages more use of illicit drugs. I do not think I need to say anything more about this issue because we have been around the horn three or four times on this issue for the last 3 or 4 years.

If Senators want to vote to encourage drug use, vote against this amendment. If Senators think handing out free needles is needed to fight AIDS, vote against this amendment. I do not think many will vote no, but at least we will see who is serious about combating drugs and who is not.

Again, Mr. President, I am perfectly willing to have this matter considered on a voice vote.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, after conferring with the distinguished Senator from North Carolina. I just talked with him in the cloakroom and secured his agreement. He is willing to set aside his pending amendments so that while they are being considered we do not use up valuable time on a quorum call.

The distinguished Senator from New York is ready to offer an amendment. I have consulted with Senator HARKIN's staff. The Senator is off the floor for the moment, but I ask at this point unanimous consent to set aside the pending business in order to take up the amendment by the distinguished Senator from New York [Mr. D'AMATO].

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMNT NO. 3019 TO COMMITTEE AMENDMENT BEGINNING AT PAGE 2, LINE 24

(Purpose: To increase the amounts available for carrying out programs of cancer research)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 3019.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 1, strike "under the Job Training Partnership Act" and insert "authorized by the Job Training Partnership Act, *Provided*, That an amount of $214,000,000 is appropriated for carrying out section 301 and title IV of the Public Health Service Act with respect to breast cancer research, in addition to any other amount appropriated under this Act: *Provided further*, That—

"(1) of the funds appropriated or otherwise made available to the Department of Defense in any appropriations Act making funds available to the Department of Defense in fiscal years before fiscal year 1993 for research and development, $214,000,000 of the remaining balances are rescinded; and

"(2) notwithstanding section 601(a)(2) of the Congressional Budget Act of 1974—

"(A) the fiscal year 1993 discretionary spending limit for the domestic category, as adjusted under section 251 of such Act, is increased by $214,000,000 in budget authority and $98,000,000 in outlays; and

"(B) the fiscal year 1993 discretionary spending limit for the defense category, as adjusted under section 251 of such Act, is decreased by budget authority and outlay reductions resulting from paragraph (1)".

Mr. D'AMATO. Mr. President, breast cancer is a deadly epidemic. It is an epidemic that strikes over 180,000 women each year. It will kill more than 46,000 women this year alone. My amendment will provide the resources we need to mount a truly all-out attack on this devastating disease.

It is not a complicated amendment. It simply provides the full level of funding for breast cancer research at the National Cancer Institute which has been recommended by the Nation's leading breast cancer experts. These experts—and I am talking about some of the most highly-credentialed researchers currently working in the field—met this past February in Washington to determine the amount of money that they actually needed for breast cancer research in 1993.

Why do I say that? Because this is not a figure that I have picked out the air, in terms of seeking adequate resources. Our leading cancer experts concluded that an additional $300 million, over and above the current $133.7 million, could be immediately used, without waste; so as to jump start our national breast cancer research program. My amendment fully funds this increase by adding $214 million to the $220 million provided by the committee.

Let me say the committee did make every attempt it could within the bounds of its limited resources, and did come up with $80 million-plus, but it is not enough.

My colleagues may ask why do we need more funding for breast cancer, as opposed to more funding for other cancers? Why for research? Why now?

Let me just touch on several reasons. Breast cancer has reached an epidemic proportion. There is no known cause and no known cure for breast cancer. Breast cancer research has been underfunded. The mortality from breast cancer has not changed in decades. An investment now has the potential to exploit new research technology and make a very significant difference.

Breast cancer has reached an epidemic proportion. Stop and listen to this. In 1960, 30-plus years ago, 1 out of 14 women developed breast cancer in her lifetime; 1 out of 14. Last year that figure had moved about 40 percent, and it was 1 out of 10.

This year, if we want to talk about an epidemic, there is another 10 percent movement in the wrong direction. This year that figure is 1 in 9. If we want to talk about epidemics, this may be a silent one but it is raging throughout America. It is ravaging American families. It has become an incredible crisis of tremendous dimensions. And we are operating as if in the stone age as it relates to the allocable resources.

I hope in a few minutes to touch on just how backward we are in terms of providing the necessary resources and doing the elementary work needed to attempt to define how it is we have this increased incidence and this epidemic raging along, while we take little, if any, real action to deal with it.

I suggest, when we talk about the AIDS epidemic—this is an epidemic. We talk about the wars that are going on—46,000 women will die this year and 180,000-plus will be diagnosed with breast cancer. And next year it may be another 10 percent higher. This is clearly an epidemic as big as any war we've ever faced—but the people we are losing in this war are our wives, our sisters, and our daughters.

Every 4 minutes another women is diagnosed with breast cancer. Every 12 minutes another woman dies of breast cancer. Every woman lives with fear of mutilation, and her family—of death from this killer. The breast cancer mortality rate has not changed in decades, notwithstanding the improvements in treatment and so-called early detection.

Why do I say so-called early detection? Because even the mammograms are behind the times, in terms of what we can and should be doing. With men, last year we had a significant breakthrough as it related to prostate cancer. Blood tests now give us earlier warning to deal with this form of cancer, holding out the promise of a greatly reduced mortality rate for prostate cancer in the future. Not so with women. Not so.

Yet, when cancerous breast tumors are first detected by way of the mammogram, leading experts say that those cancers may have been present 6 to 7 years before the mammogram reveals them.

Mr. President, it simply is unacceptable for us to continue to do business as usual. Indeed, I hope the general public and my colleagues in the Congress will begin to get a better sense of the proportion and magnitude of this danger.

Let me tell you something incredible. We do not have a national registry as it relates to breast cancer. Why? We do not have a tissue bank as it relates to breast cancer. Why? We should be working to see to it that we can develop a blood test that can give the true early warning to deal with this monstrous disease that has such a profound impact not only on the people it strikes directly but on every single one of their family members and friends, and which causes such devastation to families and loved ones.

There is no question that fighting breast cancer is absolutely essential. That is why I have brought forth this amendment. I am not happy that I have to seek to break down a firewall, and I understand the great reluctance that so many will have in piercing this wall. If anything, I have been criticized for maybe voting for too much in the way of defense. But I have to tell you, if we are going to talk about defending this Nation and meeting our obligations, I cannot think of a more important reason for which to breakthrough that wall, than to allocate the funds necessary to mount an all-out battle on this leading cancer killer of our Nation's women.

We are on the verge of being able to provide an opportunity to do the kind of research that can save millions of our loved ones. I am convinced that if we make available these resources, we can achieve the kind of breakthroughs that we have seen in other areas of early cancer detection and prevention.

We are on the verge of very exciting discoveries in the field of breast cancer. These are based on new techniques in molecular biology which have revolutionized our abilities to detect the very earliest changes in genes that lead to breast cancer. It has been compared to the enormous changes in computer technology, like moving from a room size UNIVAC computer to a laptop. The scientific methods that used to take years and high-level scientific effort can now be done by a graduate student in an afternoon. We desperately need to exploit all these advances if we are going to make real progress in battling this disease.

Many will hear this and say, "but I thought the breast cancer problem was taken care of with the mammogram." Unfortunately, mammograms alone are not the answer. The mammogram is an important tool of detection. It has made a difference in some women, but the mammogram is not prevention. Doctors tell me that most breast cancers have been present for 8 to 10 years by the time a lump can be felt, and 6 to 7 years by the time it can be seen on a mammogram. As a result, some 30 percent of cancers detectable only through mammograms will have spread by the time of diagnosis. That is the difference.

We need better methods of detection. We need a blood test which will finally detect breast cancer early on. The same kind of blood test should be developed for breast cancer that has been developed to detect prostate cancer.

We do not know what causes breast cancer. We know that all cancers start with mutated genes but we have no idea what causes the mutations. Some people have blamed it on diet, but our parents ate diets higher in fat than we do. It is not just fat but maybe the carcinogens and the pesticides and the hormones that are deposited in this fat. There is little to no research on the environmental aspects of this disease. One Connecticut study showed that women with breast cancers have higher levels of PCB's in their breast tissue than women who do not have the disease. This research is vital and yet it is not adequately addressed in the current budget.

Our current method of treatment is not a cure. Today's treatments for breast cancer are very crude. We treat women with poison and radiation and surgery hoping that we will kill the cancer and not the patient. This is similar to dropping an old-style atomic bomb. What we need is a smart bomb for breast cancer. Something which will specifically kill the breast cancer cells without causing destruction to the rest of the woman's body and immune system. Exploiting the molecular biological aspects of the disease will give the tools for this type of specific and subtle treatment.

Another vital need which is not included in the $220 million level is a national breast tumor registry and tissue bank. We desperately need a national registry of women with breast cancer. We need to know why there are hot spots such as Long Island. We need data on where and how breast cancer occurs in this country. Registries will allow us to spot local trends and to develop the exact statistical profiles to identify and to battle breast cancer.

And, Mr. President, did you know that scientists cannot easily grow breast cancer cells? They do not have enough tissues to do their research. I did not know this until the other day. Surgeons are removing breast tissues every day and this tissue is generally discarded. We desperately need to develop a national tissue bank which can store this tissue for scientific research purposes.

Finally, we need to recruit more scientists and new ideas into this field. This money will jump-start the research. Scientists will see that there is now, finally, adequate funding for breast cancer research and start to address these very fundamental issues.

This funding needs to be enough today, and it needs to be ongoing, or we are never going to get a change in the most common cancer in women. By setting aside, as this amendment does, roughly one-half of 1 percent of the research and development budget of the Department of Defense, we can fund a meaningful and effective defense of women's lives. Nineteen ninety-two has been said to be the Year of The Woman. Let us make it the year that we take on this battle on behalf of our wives, daughters, granddaughters, and friends.

Mr. President, I understand the difficult dilemma that this amendment creates in the minds of many of my colleagues. It means that we have to break through the firewall. I cannot think of a more important purpose and reason for taking this extraordinary course of action, and that is why I have undertaken this amendment and this initiative.

I have not heretofore ever sponsored an amendment that would do this, but if we are going to give meaning to, and recognize, the Year of The Woman, then let us meet this basic responsibility and see to it that this program is adequately funded.

Mr. President, I am prepared to go to a vote on this, and I will seek a rollcall vote. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I ask my distinguished colleague from New York for 5 minutes.

Mr. D'AMATO. Certainly.

Mr. SPECTER. Mr. President, I support this amendment. I do so because I think that the additional funds being directed to breast cancer and taken from unobligated funds from the Department of Defense is a good investment for the future health of America. There is no doubt about the serious problem of breast cancer in our country today. This problem was first made aware to me many, many years ago when a good friend in her late twenties developed breast cancer and it proved fatal by her early thirties.

I have seen the concern for the problem, the threat of breast cancer in my own household and believe that more can and should be done to find funds to undertake responsible research on this important subject.

Within the subcommittee itself, the distinguished chairman and I have made very substantial increases since 1989 when Senator HARKIN became chairman and I became ranking. I believe the statistic is that there had been a 46 percent increase on funding for breast cancer from 1989 through the current fiscal year. And in the course of allocations on this budget, we had raised the total to $220 million, which constituted an $87.3 million or a 63 percent increase over 1992. And, candidly, the chairman and I have searched in the budget to try to bring the figure to a total of $300 million.

It is hard to say just what funding level would produce the maximum benefit. But the distinguished Senator from New York [Mr. D'AMATO], has offered this amendment which increases the funding to a total of $434 million. It is a $300 million increase over last year, and it is an increase in excess of $100 million over this year. I believe, considering the offset from unobligated funds from the Department of Defense, it is worthwhile.

I further think it is worthwhile in terms of the principle of eliminating the so-called firewall between defense and this kind of spending because the situation in the world is vastly different from what it was at the time the firewall was established. There are very substantial unobligated funds in DOD procurement, and it seems to this Senator this amendment makes sense for those reasons.

So I am glad to support my colleague from New York.

I thank the Chair. I yield the floor.

I yield back the remainder of my time.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York [Mr. D'AMATO] is recognized.

Mr. D'AMATO. If I might just spend a few moments, I want my colleagues to know that I believe the committee chairman and the ranking member did everything they possibly could in terms of dealing with such a tight budget as related to HHS. I also want my colleagues to know that I decided to structure this amendment as I did, using defense research and development as an offset, only after very carefully considering any and every alternative option. I found there simply are no other options that will yield the increase we need for breast cancer research without decimating other vital health or educational initiatives.

So this amendment avoids the problem of pitting one disease against another disease, or one form of cancer against another form of cancer.

I have never offered an amendment to breach the walls in the past. I am under no illusion that the reductions, as minimal as we have tried to make them, will be painless. But when I consider that of the nearly 2 million American women who have been diagnosed with breast cancer, 46,000 of these women will die this year alone, I know this is the right thing to do.

When I consider the area that I live in, come from—Long Island—in certain areas we have what we call hotspots where the incidence of cancer as it relates to the rest of the State is 25 to 30 percent higher. We have people living in fear, in terror, so it is not only for the victim who actually contracts the disease, it is for those who know them, their loved ones, and those who fear the unknown. It is about time we found out what that unknown was and how we can deal with it. That is what we attempt to do.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HARKIN. Mr. President, how much time is remaining on the amendment?

The PRESIDING OFFICER. There is no time agreement on this amendment.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

Mr. STEVENS. Mr. President, will the Senator withhold that.

Mr. HARKIN. I will be glad to withhold.

The PRESIDING OFFICER. The Senator from Alaska [Mr. STEVENS] is recognized.

Mr. STEVENS. As one who has suffered from cancer, and my grandfather and father and brother all died from cancer, I am sad to have to make this statement. But the chairman, the Senator from Pennsylvania, and the committee have raised the amounts for breast cancer by $43.5 million already. This is an increase of $87.3 million over the current fiscal year. For breast and cervical cancer screening, it has been raised from $70 to $73 million. Again, that is a $23 million increase over fiscal year 1992.

I am constrained under the current circumstances, Mr. President, to state that the pending amendment pertains to matters which are within the jurisdiction of the Budget Committee. Although I am not a member of that committee, I have been asked, pursuant to Section 306 of the Congressional Budget Act, to raise a point of order against the pending amendment, and I do raise that point of order.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Alaska has made a point of order under section 306 of the Budget Act.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. I move to waive the Budget Act in consideration of this amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE], the Senator from North Carolina [Mr. SANFORD], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Oklahoma [Mr. NICKLES] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 43, nays 53, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—43

Adams
Akaka
Biden
Bond
Bradley
Bryan
Burdick, Jocelyn
Burns
Conrad
D'Amato
Daschle
DeConcini
Dixon
Ford
Gorton
Harkin
Hatch
Hatfield
Hollings
Kennedy
Kerry
Lautenberg
Leahy
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Packwood
Pell
Pressler
Reid
Riegle
Rockefeller
Roth
Sarbanes
Seymour
Simon
Specter
Symms
Warner
Wellstone
Wofford

NAYS—53

Baucus
Bentsen
Bingaman
Boren
Breaux
Brown
Bumpers
Byrd
Chafee
Coats
Cochran
Cohen
Craig
Cranston
Danforth
Dodd
Dole
Domenici
Durenberger
Exon
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Heflin
Helms
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kerrey
Kohl
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Nunn
Pryor
Robb
Rudman
Sasser
Shelby
Simpson
Smith
Stevens
Thurmond
Wallop

NOT VOTING—4

Gore
Nickles
Sanford
Wirth

The PRESIDING OFFICER. On this veto, the yeas are 43, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative the motion is rejected.

The pending D'Amato amendment addressed the establishment of mandatory ceilings on spending and appropriations and thus the process by which Congress annually establishes the appropriate levels of budget authority and outlaws. Consequently, the amendment deals with matter within the jurisdiction of the Committee on the Budget, and this bill has been reported by or discharged from that committee. As a result, the amendment violates section 306 of the Congressional Budget Act of 1974.

The point of order is sustained. The amendment falls.

Mr. D'AMATO. Mr. President, it is unfortunate that our amendment narrowly lost. However, the $87 million increase in the bill is a 65-percent increase over last year's funding. Although we narrowly lost in our effort to raise the total funding level an additional $214 million, I want it to be known that this fight is far from over. I will continue to pursue the full level of funding needed to fight and win the battle against this devastating disease.

The Senator from Massachusetts.

Mr. KENNEDY. What is the pending business?

The PRESIDING OFFICER. The pending amendment is an amendment No. 3018 offered by the Senator from North Carolina.

AMENDMENT NO. 3020 TO AMENDMENT NO. 3018

(Purpose: To limit funding for programs that distribute sterile needles for the hypodermic injection of illegal drugs)

Mr. KENNEDY. Mr. President, I send to the desk an amendment to that amendment and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. WELLSTONE). The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 3020 to amendment No. 3018.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the first word in the amendment and add the following: "any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the Surgeon General of the United States determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs, except that such funds may be used for such purposes in furtherance of demonstrations or studies authorized in the ADAMHA Reorganization Act (Public Law (102-321).".

Mr. KENNEDY. Mr. President, I oppose the Helms amendment. It is unwise policy and a blatant attempt to use the appropriations process to overrule recently enacted authorizing legislation.

I have offered a second-degree amendment that reiterates the agreement we enacted as authorizing legislation.

Just 2 months ago, Congress passed and the President signed into law the ADAMHA Reorganization Act. That authorizing legislation squarely resolved the question that the pending amendment has brought back before the Senate.

The ADAMHA bill was a bipartisan initiative to improve the Federal Government's role in research, treatment and prevention of mental illness and substance abuse. Senator HATCH and I introduced the bill in June 1991 and on August 2, 1991, the bill passed the Senate by unanimous consent.

That bill provided for a ban on the use of Federal block grant money for needle exchange programs unless the Surgeon General certified that such programs would be effective in reducing both drug abuse and the transmission of the AIDS virus. It did not bar studies or demonstrations pertaining to the needle exchange model.

At the conference on the ADAMHA bill, the House conferees insisted on repealing the ban on needle exchange altogether. But the full House voted to recommit the bill to conference with instructions to insert the Senate language on needle exchange programs. The motion to recommit was offered by Congressman GINGRICH after extensive consultation with the Bush administration.

It is significant that the Gingrich motion did not seek a complete ban on the use of Federal funds for needle exchange, but instead supported the Senate provision.

The conferees complied precisely with the explicit demand of the Gingrich motion.

The Senate language limiting the use of block grant funds for needle exchange was adopted by the conferees, and the amended conference report was passed overwhelmingly by both Houses of Congress. The Senate vote was 86 to 8, and the House vote was 358 to 60. President Bush signed the bill on July 10, just 2 months ago.

But today, the Senate is asked to use this appropriations bill to reverse that action. There is no reason for the Senate to reverse itself. We considered the issue thoroughly on the authorizing bill, and we settled it 2 months ago. We all know that our debates are often duplicative and much more time consuming than they should be. But this is ridiculous.

The policy adopted by this body when it passed the ADAMHA bill was a reasonable accommodation of competing interests. We can not apply a one-size-fits-all approval to this complex question of public health. A wide array of research suggests that needle exchange in some circumstances is the best public health strategy for combating the spread of disease and persuading addicts to enter treatment.

The measures twice passed by the Senate resolved this issue by prohibiting the general distribution of Federal funds for needle exchange, but permitting the Federal Government to study the effectiveness of such programs through demonstrations and other means.

The available evidence clearly justifies the Senate's position.

In New Haven, CT, a needle exchange program has resulted in a 33-percent reduction in the spread of AIDS. A program in Toronto, Canada, reported a 17-percent decline in AIDS. Similar success has been reported by pilot programs in Tacoma, WA, and Vancouver, Canada.

Contrary to the suggestion of Senator HELMS, this is solid evidence that needle exchange facilitates drug treatment not drug use. These programs bring addicts in contact with health authorities. In New Haven, 26 percent of participants requested drug treatment and 57 percent of them have either successfully completed treatment or are still participating in a treatment program.

In the District of Columbia, only addicts who are on a waiting list for treatment may participate in the needle program.

AIDS is a costly epidemic that has struck this country with devastating force. Strategies which reduce its transmission are enormously cost-effective.

New Haven estimates that it saved more than $8 million as a result of its $150,000 study of needle exchange. That is a cost-effectiveness ratio of 50 to 1. The President's Commission on AIDS and the National Association of State Alcohol and Drug Abuse Directors have endorsed needle exchange programs, because they understand their benefit in appropriate cases.

I have offered a second-degree amendment that will basically restate the authorizing legislation on this subject that we passed 2 months. A vote for my amendment is a vote to ban the general use of funds for needle exchange programs, but to permit controlled studies by Federal researchers.

Members will therefore have an opportunity to cast a vote against the indiscriminate use of this controversial public health strategy, but in favor of further study.

I urge the adoption of the Kennedy second-degree amendment.

Mr. President, just very briefly, I want also to make a brief comment on the underlying amendment.

The Helms amendment is also exceedingly over-broad. It does not just bar the use of Federal funds for the needle exchange programs, instead it bars every State and locality in the country from using its own funds for this purpose if it chooses to do so.

Currently nine States have needle distribution programs operating in their cities. They are New York, California, Colorado, Connecticut, Hawaii, Massachusetts, Oregon, Rhode Island, and Washington. All of these States, or the localities within these States, would have to choose between giving up this public health measure that they are spending their own money on, or face the loss of Federal funds in wide areas: Head Start Program and all the other programs that are funded by this appropriation.

Under the Helms amendment, they would not only lose all Federal drug-abuse funds, they would lose all Federal funds provided under this bill, and that would include all education money, all Head Start money, all job training money, maternal and child health care, and many others. That is an awfully harsh sanction for a State or city that simply wants to use its own money to experiment with a public health measure that may actually save lives by reducing the spread of AIDS.

If the Federal Government chooses not to spend its money for this activity through the block grant, that is fine. That is the decision we made in the authorizing legislation, and that is the decision that is contained in my amendment.

But there is nothing wrong with letting States fund this activity with their own money, and there is nothing wrong with having the Federal Government study the issue further.

A vote for my amendment is a vote for State discretion and for appropriate study of this issue.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 3021 TO AMENDMENT NO. 3017

Mr. LOTT. Mr. President, I call for the regular order to return to amendment 3017.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] proposes an amendment numbered 3021 to Amendment No. 3017.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

Mr. KENNEDY. Mr. President, parliamentary inquiry.

Mr. HARKIN addressed the Chair.

Mr. LOTT. Mr. President, was further reading of the amendment dispensed with?

The PRESIDING OFFICER. No; the reading has not been dispensed with.

Mr. LOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the word "None" and add the following: "of the funds appropriated under this Act may be expended by the Occupational Safety and Health Administration to implement or administer the regulations affecting mandatory seatbelt use, mandatory motorcycle helmet use, and mandatory employer driver safety awareness programs, to be codified or proposed to be codified at parts 1910, 1915, 1917, 1918, 1926 and 1928 title 29 of the Code of Federal Regulations."

This section shall become effective one day after the date of enactment.

Mr. KENNEDY. Mr. President, what is the matter before the Senate at this time?

The PRESIDING OFFICER. The question before the Senate is amendment No. 3021 to amendment No. 3017.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I demand the regular order with regard to the first committee amendment.

The PRESIDING OFFICER. The first committee amendment is now pending.

Mr. HELMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. Will the Senator from North Carolina please repeat his statement? The Senator from Ohio could not hear. Would the Senator from North Carolina please repeat the request.

AMENDMENT NO. 3022 TO COMMITTEE AMENDMENT ON PAGE 2, LINE 24.

(Purpose: To prohibit the use of Drug-Free Schools and Communities Act funds to provide homosexual support, outreach, or educational services to elementary or secondary school students)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 3022.

At the appropriate place in the first committee amendment insert the following:

"Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this Act or any other Act shall be used by any recipient of funds under this Act or any other Act to pay for homosexual educational, counseling, or support services in elementary or secondary schools, or to promote or encourage, either directly or indirectly, intravenous drug abuse or homosexual, bisexual, or heterosexual activity, whether pre-marital or extra-marital, in elementary or secondary schools. No youth shall be deemed at risk of substance abuse, for purposes of funding under this Act, solely on the basis of the youth's homosexuality.".

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, we have not seen the amendment, and we would like a little time to take a look at it.

Mr. HELMS. Sure.

Mr. HARKIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KERRY). Without objection, it is so ordered.

Mr. HARKIN. Mr. President, while we are waiting for these other amendments that are pending, we have some amendments that we have agreed to on both sides. We would like to go ahead and finish those.

I ask unanimous consent that the pending amendments be laid aside at this point for a number of amendments, that is, only the amendments that have been agreed to on both sides between Senator SPECTER and this side.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3023

(Purpose: To provide $40,000,000 in additional funding for Community Health Centers in fiscal year 1993)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. HOLLINGS, for himself, Mr. HARKIN, Mr. RUDMAN, Mr. BOND, Mr. MCCAIN, Mr. KOHL, Mr. CHAFEE, Mr. LEAHY, Mr. AKAKA, Mr. DOMENICI, Mr. CRANSTON, Mr. BOREN, Mr. REID, Mr. LOTT, Mr. RIEGLE, Mr. ADAMS, and Mr. SPECTER, proposes an amendment numbered 3023.

Mr. HARKIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, line 24, before the "." insert the following: ": *Provided further*, That of the funds made available for evaluation pursuant to section 2711 of the Public Health Service Act, $40,000,000 shall be made available for community health centers funded under sections 329 and 330 of the Public Health Service Act".

Mr. HARKIN. Mr. President, this amendment which I am offering for Senator HOLLINGS, myself and Senators BOND, DOMENICI, RUDMAN, LEAHY, AKAKA, CHAFEE, KOHL, MCCAIN, CRANSTON, BOREN, REID, LOTT, RIEGLE, ADAMS, and SPECTER would increase funding for community health centers by $40 million.

The funds would come from an account otherwise used for evaluation and studies.

I believe the funds are going to be put to better use if this amendment is passed. I had personally wanted to add $100 million for community health care programs in my transfer amendment that I offered, but since that amendment was not approved, this is the best we can do.

An additional $40 million for community health centers will provide essential health services for thousands of Americans.

I understand this amendment has been cleared by the minority side also.

Mr. HOLLINGS. Mr. President, I rise to thank Chairman HARKIN for working with me to help provide comprehensive health care to 400,000 more people this year through the Community Health Centers Program. With this amendment, we will add $40 million to community health centers, bringing the total Senate increase to $50.6 million.

Arthur Vandenberg said that, due to our Nation's vital interests, in foreign policy politics stops at the water's edge. Today, in the face of a crisis in the availability of basic, affordable health care to millions of Americans, politics similarly is giving way to unified action. More than 40 Senators of both parties have cosponsored health reform plans which propose significant expansions of community health centers. Indeed, taken with other bills that would expand health centers, 70 percent of the Senate is on record for expansion.

These Senators are responding to hard facts. According to the inspector general of the Department of Health and Human Services, community health centers provide comprehensive health services to more than 6 million Americans for an average, yearly, preclient cost of $249. Ask anyone who does not have health insurance if this is not a good public investment. In fact, ask anyone who does have health insurance if this is not a good deal.

Besides compelling cost figures, these centers provide the services neighborhoods need. Centers are run by community boards composed mostly of consumers. They are open to anyone who walks in, and services are provided on a sliding fee scale.

In short, Mr. President, these centers represent cost-effective government that is in touch with the most vital needs of people today. Again, I am glad that the Senate can move forward in the fight for access to health care by bringing a much-needed $50 million increase for health centers to conference with the House, and I thank the chairman for his efforts.

Mr. HARKIN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I join my distinguished colleague in urging adoption of this amendment. We have labored mightily to find an appropriate offset. I think this is a very important funding addition.

I talked to Senator HOLLINGS, Senator BOND and Senator DOMENICI about it. They are all very anxious to move it forward. I think it is appropriate. We are going to have to move these offsets as we go through the conference process. But I think it does make sense.

Mr. DOMENICI. Mr. President, I am very proud to cosponsor this amendment to add $40 million to community health center funding and provide primary health care to perhaps 400,000 more needy Americans.

I introduced a bill last year—S. 1912—that would double the funding of these centers over a 5-year period.

That is what we need to do to ensure rural and low-income Americans can get primary health care in this country.

I am very pleased that the President requested a 16-percent increase in his budget for these centers, roughly following the path I set out in my bill.

But the Congress so far seems unwilling to make this a priority, despite all of the rhetoric about health care needs. In the House, they cut health center funding below the 1992 level.

And the committee-reported bill would provide less than a 2-percent increase.

This amendment would increase funding for these centers by 9 percent over 1992, far below what is needed to take care of all the unmet needs.

Nonetheless, this amendment would allow some 400,000 more Americans who might otherwise not get any care at all to get primary health care through these centers.

Community health centers are ready and waiting for us to provide them with the resources they need to do the whole job.

These centers already provide essential primary care services to some 6 million Americans.

And in New Mexico, there are 37 health centers providing care to over 100,000 New Mexicans every year.

Without these centers, literally tens of thousands of New Mexicans living in rural communities would have to travel 100 miles or more to see a doctor if their child got sick.

And there is simply no more cost-effective means to bring good primary health care to rural and poor Americans.

If we tried to provide access to care for these people through the Medicaid program, it would cost 6 times as much.

Unfortunately, with so many Americans going without health insurance and with rural communities losing more and more physicians and hospitals, the need for primary care services is far greater than current funding levels will support.

In New Mexico alone, 28 percent of the State's residents are not covered by health insurance, over half of the State's counties are medically underserved, and there are no physicians practicing in at least one county in the State.

These health centers provide those services we all need to stay healthy—prenatal care for pregnant women and their babies, childhood immunizations, screening tests for signs of poor health or diseases, treatment of common illnesses before they become more serious, and sound direction from a doctor about healthy behavior.

Yet our health care system underinvests in these basic services while pouring resources into new high-tech medicine that is often only marginally beneficial and very expensive.

I believe we need to reorient our priorities by investing more of our public funding in primary and preventive health care.

That way, Americans can stay healthy and avoid the costly treatment provided in the hospital emergency room.

Mr. BOND. Mr. President, in medically undeserved urban areas, getting adequate health care is an important part of life and the health care safety net is an important part of the community. We need to ensure that families in our urban and rural areas have access to health care care through one the best, most cost-effective, public funded means possible today—our community health centers [CHC]. Health centers across the Nation are already providing primary and preventive care, emergency health services, preventive dental services, and more to those who need medical care and cannot afford it. We need to increase funding for the community health centers so that they can provide access to health care in our Nation's medically undeserved areas. I strongly believe that providing health insurance is not the whole answer to our health access problems. Providing a Medicaid card to everyone will not provide the doctors and clinics needed to provide that care in the inner city. For the people in these communities there should be a community health center there for them.

The community health centers already provide health care to 25 percent of the Nation's medically indigent—5.8 million Americans. But, we must do better. Communities with a CHC have seen their infant mortality rates decline by as much as 40 percent and their premature birth rate decline by as much 29 percent compared to communities without a CHC.

Patients who use community health centers receive more preventive care and have hospitalization rates that are 50 percent lower compared to those who use hospital outpatient clinics or emergency rooms as their primary source of care. Total hospital days are cut by as much as 62 percent and average length of hospital stay decreases by as much as 34 percent. CHC patients' costs for laboratory, x ray, and pharmacy services are two-thirds the national average for this population. Overall, Medicaid payments for CHC patients are reduced by over 40 percent per year.

We must strengthen the health safety net for those who fall through the cracks of the system and I believe the community health centers are clearly the best approach and they provide top quality health care for urban America.

I urge my colleagues to support this amendment which will provide $40 million in additional funding for community health centers. It is an important effort to restore funding in the bill for community health centers. I supported the Harkin transfer amendment in part because it would have increased funding for CHC's by $100 million and I'm disappointed that we are not now able to increase CHC funding by that amount.

America needs more health centers. This amendment will help us improve access to health care in our underserved areas and that is an effort that every Member should support.

The PRESIDING OFFICER. Is there further debate?

Hearing none, the question is on agreeing to the amendment.

The amendment (No. 3023) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3024
AMENDMENT NO. 3025
AMENDMENT NO. 3026

Mr. HARKIN. Mr. President, I send to the desk three amendments and ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The Senator from Iowa [Mr. HARKIN] proposes amendment numbers 3024, 3025, and 3026, en bloc.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT No. 3024

On page 38, line 20, strike out the second "for" and insert in lieu thereof "in".

AMENDMENT No. 3025

On page 42, line strike out "with respect to" and insert in lieu thereof "as a result of".

On page 42, lines 1 and 2, strike out "of the requirements".

On page 42, line 2, strike out "at issue" and insert in lieu thereof "involving failure to recover overpayments from the Mercado family following the decision".

AMENDMENT No. 3026

On page 28, line 20, change the "period" to a "colon" and add the following: *Provided further*, that the Director of the National Institutes of Health is authorized, notwithstanding the provision of any other law, but consistent with the requirements of 42 CFR 46, for the purpose of research only, to authorize physicians licensed to practice medicine to use any medicine or medical procedure for which there is no evidence or reason to believe that such medicine or medical procedure is unsafe for the investigation of such medicine or medical procedure. Any physician so authorized by the Director may proceed with such medicine or medical procedure only if the patient is fully informed and provides written consent.

Mr. HARKIN. Mr. President, these changes were suggested by the Department of Health and Human Services to clarify congressional intent. All three have been cleared by the other side.

The first amendment clarifies our intent that LIHEAP funding for the transition period October 1, 1993 to June 30, 1994 not be available for obligation until fiscal year 1994.

The second amendment clarifies our intent that relief be provided for the Mercado family only and not a broader class of AFDC recipients. The administration supports this amendment to prevent forcing Mrs. Mercado to turn over to the State of Connecticut $10,000 she saved for college education while on welfare.

The third amendment inserts language which was left out of the bill inconsistent with the intent expressed in the report regarding alternative medicine.

I urge adoption of the amendments.

Mr. SPECTER. I support the statements and associate myself with the comments of the distinguished Senator from Iowa. They are acceptable on this side of the aisle.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendments, en bloc.

The amendments (Nos. 3024, 3025, and 3026) were agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3027

(Purpose: To fund section 3(e) of the Impact Aid Statute)

Mr. SPECTER. Mr. President, I send to the desk an amendment on behalf of the distinguished Senator from New Hampshire [Mr. RUDMAN].

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for Mr. RUDMAN, proposes an amendment numbered 3027.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 6 strike "$187,700,000" and insert in lieu thereof: "$187,480,000".

On page 33, line 3 strike "$2,166,642,000" and insert in lieu thereof: "$2,165,062,000".

On page 54, line 23 after "section 2," insert the following: "$1,800,000, to remain available until expended, which shall be for payments under section 3(e) to local educational agencies funded under such section for fiscal year 1992,".

Mr. SPECTER. Mr. President, this amendment is designed to take care of a school district in New Hampshire which was the only State left out. The amendment is for a relatively modest sum of $1.8 million. We have worked through the offsets and as usual the offsets are difficult, but the proposal is for Medicare contracts for $1.5 million and $220,000 for summer youth.

I was concerned about the summer youth and still am, although it is a relatively small sum. But I think it should be noted that the Senate mark is $95.295 million above the House mark, so that this is a place where we have considerable negotiating room and it is our best suggestion that that would accommodate all the competing interests and appropriate allocation priorities.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 3027) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, I ask unanimous consent that the distinguished Senator from Missouri [Mr. DANFORTH] be added as a cosponsor of the Hollings amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3028

(Purpose: To provide that up to $1,000,000 of National Cancer Institute funds may be used for the National Superconducting Cyclotron Laboratory facility for proton radiation therapy treatment of cancer patients)

Mr. HARKIN. Mr. President, I ask the pending amendment be set aside and I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. LEVIN, for himself and Mr. RIEGLE, proposes an amendment numbered 3028.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

In the appropriate place in title II insert the following new section:

Of the $2,010,439,000 provided for the National Cancer Institute, up to $1,000,000 may be used for expansion of an existing superconducting cyclotron at the National Superconducting Cyclotron Laboratory for proton radiation therapy treatment of cancer patients.

Mr. HARKIN. Mr. President, I offer this amendment on behalf of Senators LEVIN and RIEGLE. The amendment provides that up to $1 million of the moneys appropriated for the National Cancer Institute may be used for expansion of an existing superconducting cyclotron at the National Superconducting Cyclotron Laboratory. This proposed expansion has nationwide implications as thousands of cancer patients are expected to benefit from this proton therapy.

Mr. LEVIN. Mr. President, my amendment provides that up to $1 million of National Cancer Institute funds may be used for the expansion-project for cancer treatment by the consortium of Michigan State University's National Superconducting Cyclotron Laboratory; Wayne State University, and the University of Michigan. The expansion-project proposes to convert the present K-500 super-conducting cyclotron of the National Superconducting Cyclotron Laboratory [NSCL] into a 250-MeV proton synchrocyclotron solely dedicated to proton cancer therapy. The planned conversion includes a building for an outpatient treatment facility with additional shielded radiation rooms and ancillary equipment.

Mr. President, the success of this proposed expansion has nationwide implications as thousands of cancer patients are expected to benefit from this proton therapy. According to medical experts, this life-saving technology is gaining acceptance for treatment in certain cases of inoperable prostate, bone, and soft tissue cancers, and for some salivary gland tumors. In September of last year, the first few patients on which the technology was used had advanced-stage malignant melanomas or head and neck tumors that were unlikely to respond to other types of therapies. Months later, the NSCL and medical team at Detroit's Harper Hospital expanded the protocols to include renal cell carcinomas, prostate cancers, and more hand and neck cancers.

Dr. Arthur T. Porter, chief of the Gershenson Radiation Oncology Center at Harper Hospital, and Chair of Wayne State University School of Medicine in Detroit has made particular note of the technological features which enhance the tumor-killing properties of neutrons without bringing harm to noncancerous tissue. According to Dr. Porter, and the other team of experts within the consortium, of all the ways of delivering radiation, proton beams have been shown to be the best in giving the most dose to the tumor and the least dose to the surrounding normal tissues. This allows the best chance of obtaining tumor destruction without complications.

Dr. Henry G. Blosser, professor of physics at the NSCL/MSU and inventor of the new cyclotron says another one of its significant features is the fact that it is "considerably smaller, lighter, more energy efficient, and easier to operate than a conventional cyclotron."

The consortium contributes unique and valued data to the project. This consortium has a proven track record in the field of particle radiation and will bring this important therapy to those patients who can best benefit from its use. An executive committee consisting of representatives from each participant organization will provide direction to the project.

Mr. President, NSCL is nationally and internationally recognized as the leading scientific resource for the development of superconducting cyclotron technology having developed the world's first superconducting cyclotron, the world's highest energy superconducting cyclotron, and the world's first medical superconducting cyclotron.

Mr. President, this joint project between the Gershenson Radiation Oncology Center at Harper Hospital/Wayne State University and NSCL/Michigan State University is a most worthy endeavor and deserves the support of this body.

I am pleased to have Senator RIEGLE as a cosponsor of the amendment.

Mr. HARKIN. I ask that the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate?

Mr. SPECTER. Mr. President, we examined the issue and it is acceptable.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3028) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to and I move to lay it on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3029

(Purpose: To amend the Higher Education Act of 1965 to restore institutions that have obtained candidacy status from recognized accrediting agencies or associations to the definition of an institution of higher education)

Mr. HARKIN. Mr. President, I ask the pending amendment be set aside and I send an amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. BUMPERS, proposes an amendment numbered 3029.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 72 after line 22 insert the following:

SEC. . DEFINITION OF INSTITUTION OF HIGHER EDUCATION.

Section 1201(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)(5) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and "or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.".

(b) EFFECTIVE DATE. The amendment made by this section shall be effective on October 1, 1992.

Mr. HARKIN. Mr. President, I send this amendment to the desk on behalf of Senator BUMPERS. It has been cleared on the other side. The amendment restores the candidacy status as a qualification for Federal financial aid.

Mr. SIMON. Mr. President, I want to express my strong support for this effort to fix an error in the Higher Education Amendments of 1992.

I first learned of this problem when the president of Heartland Community College in Bloomington, IL, met with me a couple of weeks ago in Chicago. The Department of Education has interpreted a change that we made in the higher education bill to mean that new schools that have been granted candidacy status by an accrediting agency are no longer eligible for Federal financial aid. This week the Department sent letters to 232 schools across the country informing them that they are no longer eligible.

In order to achieve candidacy status, schools must go through a rigorous review very similar to actual accreditation. In making changes to the Higher Education Act, we did not intend to eliminate these schools from financial aid eligibility.

I also strongly favor the amendment to eliminate the restriction on financial aid officer discretion. Schools need to be able to make adjustments for students in special situations such as displaced homemakers and students with extraordinary medical and dental expenses.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 3029) was agreed to.

Mr. SPECTER. I understand this is a technical amendment, which relates to the authorization bill and it is all right on this side of the aisle.

The PRESIDING OFFICER. The amendment has been agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3030

(Purpose: To restore financial aid administrator discretion with respect to the Pell grant program)

Mr. HARKIN. Mr. President, I ask unanimous consent that the pending amendment be set aside and I send an amendment to the desk that has been cleared on both sides. The amendment is offered on behalf of Mr. PELL, Mrs. KASSEBAUM, Mr. KENNEDY, Mr. COCHRAN, Mr. ADAMS, and Ms. MIKULSKI.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mrs. KASSEBAUM, for herself, Mr. PELL, Mr. KENNEDY, Mr. COCHRAN, Mr. ADAMS, and Ms. MIKULSKI proposes an amendment numbered 3030.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 62, line 1, strike "*Provided further*" and all that follows through "Act:" on line 11.

Mr. HARKIN. Mr. President, this amendment restores financial aid administrator discretion with respect to the Pell grant program.

Mr. PELL. Mr. President, as my colleagues know, we only recently reauthorized the Higher Education Act. In fact, it is safe to say that the ink on the new law is barely dry.

One of the major accomplishments in reauthorization was a complete overhaul and simplification of the student aid application process. As a part of simplification, we strengthened the discretion of financial aid officers to use their professional judgment to determine the eligibility of students and families who face unusual circumstances in several key areas.

If you are an unemployed worker, if you are a displaced homemaker, if you have unusual and unexpected medical and dental expenses, if you are disabled and have increased educational expenses, or if you are a family with children in private elementary and secondary schools, financial aid officer discretion is critical. In each of those categories, your eligibility to receive a Pell grant will be determined in whole or in part through the discretion of the financial aid officer. Previously, these categories were covered on the application; they are now to be determined by the financial aid officer.

Unfortunately, the pending appropriations bill strikes financial aid officer discretion in the Pell Grant Program. In so doing, it strikes an unfair and unreasonable blow to unemployed workers at the very time they need our help most. For a nation in the midst of a deep recession, this is the wrong step at the wrong time.

Striking financial aid officer discretion also hurts women who heretofore may have been homemakers, and suddenly find themselves—through death, divorce or economic circumstances—needing education to prepare them to enter the work force.

If this provision remains a part of the bill, there will be no way for families who encounter sudden and unexpected medical expenses to have those expenses considered in determining their Pell grant eligibility.

Disabled individuals may face a higher cost of education because of their disability, and yet without financial aid officer discretion there will be no way to recognize those expenses and help them.

And, without financial aid discretion, families who send their children to private elementary and secondary schools will no longer be able to have the amount they pay in tuition considered in figuring their student aid eligibility.

Mr. President, I cannot emphasize too strongly how important it is that we remove the provision that strikes financial aid officer discretion. Accordingly, I urge my colleagues to join me in supporting this amendment to strike this language from the pending bill.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this is an important amendment to provide discretion to financial aid officers in determining eligibility for student financial aid. The concern has been that it could cost $40 million. We have worked it out so that it is budget neutral and an offset is not required. The financial aid officer's discretion is to raise but there also is discretion to reduce the grant award according to the authorization statute. An offset is not required under these conditions. I think it is an appropriate amendment and is acceptable.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3030) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3031

(Purpose: Language to redistribute unspent SLIAG funds at the end of the program)

Mr. HARKIN. Mr. President, I ask to set the pending amendment aside.

I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. CRANSTON, for himself, Mr. SEYMOUR, and Mr. GRAHAM, proposes an amendment numbered 3031.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, after line 24, add the following: "Section 204(b)(4) of the Immigration Reform and Control Act of 1986 is amended by adding the following:

"Any funds not expended by States by December 30, 1994, shall be reallocated by the Secretary to States which had expended their entire allotments, based on each State's percentage share of total unreimbursed legalized alien costs in all States. Funds made available to a State pursuant to the preceding sentence of this paragraph shall not remain available after June 30, 1995."

Mr. HARKIN. Mr. President, this amendment on behalf of Senators CRANSTON, SEYMOUR, and GRAHAM will reallocate any State Legalization Impact Assistance Grants Program funds not expended by States by December 30, 1994, to States which have exhausted their SLIAG allotments. It is estimated at the end of the SLIAG Program many States will have a surplus of program funds, however some States will have a shortfall in funds. Under current law the surplus funds would be returned to the Treasury. States which have expended their SLIAG allocation will have no recourse to satisfy their unreimbursed costs. This amendment would simply reallocate the surplus SLIAG funds to States that will exhaust their SLIAG allotment.

Mr. GRAHAM. As a cosponsor of this amendment regarding the State Legalization Impact Assistance Grant Program, I want to clarify its intent with the sponsor of the amendment, Senator CRANSTON, and with the distinguished chairman of the subcommittee, Senator HARKIN.

The amendment would allow any remaining allocated funds, at the end of the SLIAG Program after fiscal year 1994, to be reallocated. The affected States have virtually all endorsed the idea of reallocation once the SLIAG Program has expired, so I am pleased that we have adopted this amendment today.

Nevertheless, there has also been almost unanimous opposition among the affected States to any reallocation before the program has run its entire course. Although we have all been sensitive to the needs of States which have faced immediate shortfalls, the uncertainty of available new funding from year to year has led most States, in addition to the National Governors Association and the American Public Welfare Association, to oppose mid-program reallocation.

Now, the language in the amendment is quite clear: funds would not be reallocated until the end of the SLIAG Program. But I inquire of the Senator from California whether his intention is to seek reallocation at any time prior to that written in this amendment.

Mr. CRANSTON. No, my intention in offering this amendment is strictly to ensure that reallocation take place at the conclusion of the SLIAG Program. In the spirit of the cooperative relationship we have established over the years in support of SLIAG funding, I will oppose any effort to alter the language in such a way that it would cause reallocation to take place at any time sooner than the end of fiscal year 1994.

Mr. GRAHAM. I appreciate that commitment, and I want to say that I have greatly valued the cooperative spirit to which the Senator has referred.

I would also like to pose a similar question to the chairman, particularly since the Senators from California and Florida will not be present in the conference on this bill.

Is it the Senator from Iowa's understanding that the Senate's intent in including this amendment in the Labor-HHS appropriations bill is to do nothing more than allow remaining funds at the conclusion of the SLIAG Program—that is, after fiscal year 1994—to be reallocated?

Mr. HARKIN. Yes; that was my understanding in agreeing to accept the amendment.

Mr. GRAHAM. I thank the chairman, and I hope he will hold firm to that language in the conference.

Mr. HARKIN. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. SPECTER. It is acceptable on this side of the aisle, Mr. President.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3031) was agreed to.

AMENDMENT NO. 3032

Mr. HARKIN. Mr. President, I ask the pending amendment be set aside and I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. SIMON, proposes an amendment numbered 3032.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, line 10, after the DeConcini amendment No. 3006, the following: "*Provided further*, That notwithstanding any other provision of the United States Government receiving appropriated funds under this Act for fiscal year 1993 shall, during fiscal year 1993, obligate and expend funds for consulting services in excess of an amount equal to 92 percent of the amount estimated to be obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1993: *Provided further*, That notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1993 is reduced by an amount equal to 8 percent of the amount expected to be expended by such department, agency or instrumentality during fiscal year 1993 for consulting services. As used in the preceding two provisos, the term 'consulting services' includes any services within the definition of 'Advisory and Assistance Services' in the Office of Management and Budget Circular A-120, dated January 4, 1988.".

On page 54, line 18, strike "$570,540,000" and insert "$576,540,000", and on line 15, strike "$751,756,000" and insert "$757,756,000".

Mr. HARKIN. This amendment adds $6 million to impact aid payments in general to the fund. It is offset with a 4-percent reduction in consultant services. I offer this amendment for Senator SIMON and urge its adoption.

Mr. SPECTER. No objection from this side of the aisle.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3032) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BLS

Mr. HARKIN. Mr. President, I want to inform the Senate that the conference on the Labor-HHS bill may in addition to the amendments agreed to, consider the question of the prohibition of using funds by the Bureau of Labor statistics to use numbers or estimates adjusted by the Census Bureau on the basis of the postenumeration survey. Considerable concern has been raised over the accuracy of using statistics from the postenumeration survey. Use of those questionable numbers for the very important work of the Bureau of Labor Statistics is of great concern to this Senator and a number of others who have contacted me.

Mr. SPECTER. Mr. President, I agree with Senator HARKIN's concern about the Bureau of labor Statistics use of postenumeration survey based statistics. There are very real concerns about the inaccuracy of these numbers. I intend to work with Senator HARKIN to see if an acceptable provision can be developed in the conference that would assure that the Bureau of Labor not use these questionable statistics.

GENERAL CLINICAL RESEARCH CENTERS

Mr. HEFLIN. Mr. President, I seek recognition in order to discuss with the distinguished manager of the bill a concern that I have about the funding of certain programs at the National Institutes of Health. I am referring specifically in this context to the General Clinical Research Centers and the Biomedical Research Technology Program at the National Center for Research Resources at NIH.

As I am sure the Senator from Iowa is well aware, the GCRC's provide NIH-supported investigators at more than 70 universities across the country a mechanism to apply the knowledge gained in their basic research to the needs of real patients suffering from illness or injury. The BRTP Program, on the other hand, supports the development of technology—both the creation of new technologies applicable to biomedical research and the further improvement of already existing technology.

Both the GCRC and BTRP Programs are critical, in my view, to the maintenance of a strong infrastructure capable of supporting efficient and cost-effective programs of biomedical research and providing the technological means to keep these programs at the cutting edge. However, I am informed that the funding for these programs has not been keeping pace, particularly with the rest of NIH, in recent years. It is striking to me how this trend seems to confirm criticisms that are often voiced about the American economy in general—that our failure to invest is resulting in the decay of our national infrastructure; that we fall short when it comes to translating the knowledge gained from basic research into practical applications that are relevant to the marketplace; and that our industries often overlook the importance of critical technologies to manufacturing and other processes.

In view of these considerations, I hope that my good friend from Iowa would agree with these concerns and join with me in indicating to Dr. Healy that she do everything possible within her discretionary authority to maintain our capacity for cost-effective clinical research and to ensure that we continue our world leadership in biomedical research technology.

Mr. HARKIN. Mr. President, I want to respond to my good friend from Alabama and also to other colleagues who have expressed similar thoughts. I know that the Senator is aware of the difficult circumstances which we on the Committee on Appropriations faced in putting this bill together. We simply did not have enough money and, under these circumstances, there was a strong consensus that the highest priority at NIH must be given to research project grants.

Having said that, I do agree that more could be well spent to the clinical research or to technology development activities at the National Center for Research Resources. Accordingly, I am happy to join with him in indicating to the NIH Director that she should pay careful attention to these matters, both in managing NIH in 1993 and in the preparation of the budget request for 1994. In this regard, I want to assure the Senator from Alabama that the NIH strategic plan, currently under development, does address the matter of critical technologies. Thus, I do expect that we on the committee will receive good support next year from the NIH administration in this area and that this will help us be more responsive to the Senator's concern.

Mr. HEFLIN. I thank my good friend from Iowa, and I look forward to working with him next year to do what I can to help ensure that we develop a strong infrastructure for our biomedical research programs.

AIDS CLINICAL TRIAL GROUP PROGRAM

Mr. JOHNSTON. In fiscal year 1992, 35 AIDS clinical trial group centers for adults are receiving support from the National Institute for Allergy and Infectious Diseases [NIAID] to conduct studies to test the efficacy of potential drugs and drug combinations for the treatment of HIV infection and illnesses in adults and in children. Twenty-eight of the centers received funding through the competitive selection process. This decision provides funding for these centers for the next 4 years. Seven centers which had previously been funded but were not selected received funding from NIAID subsequent to this competition to continue their important programs and serve enrolled patients through December 31, 1992.

Each of these seven centers, as NIAID Director and renowned researcher Dr. Anthony Fauci pointed out to me in a letter dated February 28, 1992, "* * * submitted meritorious applications and received good technical evaluation scores during peer review." There was in fact no scientific reasons these units were discontinued. Instead, the only reason was budgetary: there simply were not enough funds available to fund them, particularly in light of the directive adopted last year to expand the number of pediatrics units from 15 to 24 within the existing pot of money for these programs.

As I understand it, it will require an additional $12.1 million for NIAID to support 35 adult centers—the current number—in fiscal year 1993 if no other allocations are changed. Under the committee's recommended funding levels and allocations, at best 30 such units can receive support—perhaps 5 less than are now supported.

I certainly understand the severe funding constraints the chairman is facing, and as he knows I strongly supported efforts he and others made earlier this year to shift funds from defense to domestic accounts so that we would not face reductions in critical domestic programs like this one.

Unfortunately, we did not win that battle. As I recall, we fell 10 votes short of the required 60 we needed, much to my disappointment.

While I understand the stark situation we are facing in domestic spending, and particularly with this bill, I am compelled to point out the consequences which the budget recommended for the Clinical Trials Group Program will have. As the chairman knows, under the committee's recommendation and accompanying report directives, a minimum of five of the seven adult centers which received a reprieve will go out of operation as of December 31, 1992. This means that those adults currently receiving treatment at these centers for AIDS will not have access to the cutting-edge experimental drugs and treatment therapies they now have, unless they can get to and be accepted into NIH in Bethesda, MD, or 1 of the other 30 adult ACTU centers.

Many of these patients have been very ill for a long time. For many of them the money and stamina required to relocate near, or travel to, another center is so great that they will drop out of the trials program altogether.

This is particularly a concern for those adult patient now being served at a center in New Orleans, located at the Tulane and LSU Medical Schools. On average since its establishment in 1987, this adult unit has been serving 135 active patients at all times, many of whom receive all their medical care from the center's research time. I'd also note that these patients come from throughout the southern Gulf State region—many from Louisiana, but also from Mississippi, southern Alabama, and the Florida panhandle region. If this unit in New Orleans closes, the nearest alternative treatment centers for these patients will be centers in Birmingham, AL—some 340 miles away—and in Galveston, TX—over 350 miles away. There is simply no close alternative for them.

This situation may also be true for some patients currently served at the other six defunded centers at Duke University, Penn State's Hershey Medical Center, St. Luke's Roosevelt Hospital in New York City, SUNU-Stony Brook on Long Island, the University of Cincinnati and the University of Massachusetts Medical School in Worcester.

All seven of these centers have developed a large staff of physicians, researchers, nurses and other health professionals over the past 5 years with highly specialized skills and expertise in the treatment of AIDS. These researchers, doctors and nurses will now have to relocate to another center to continue their work on AIDS, or seek other less comprehensive support for their work. There is a good chance that some may refocus on other areas altogether.

If any of these centers close and patients or researchers leave the program, we will lose valuable data from their research efforts, something we surely all want to avoid.

Let me also point out that even though demographic considerations were a part of the competitive selection process, the seven defunded centers have enrolled more females, minorities, and IV drug users than is the average enrollment of these vulnerable group at all centers. The New Orleans Center, for example, has enrolled African-Americans into clinical trials at twice the average rate, 22 percent versus 12 percent.

I appreciate the committee's report directive to NIAID to "reallocate the necessary funds in 1993 for support of not less than two additional adult clinical trial units"—for a total of 30 such units—but I am very concerned that the remaining 5 will necessarily drop out. I wonder if the chairman would consider amending this directive to NIAID to a reallocation to continue seven additional adult units?

Mr. HARKIN. I certainly understand the concern of the Senator from Louisiana, and recognize his particular concern about the fate of the New Orleans center, which he has brought to my attention on several occasions.

I am also aware of the growing problem of AIDS in the southern gulf region, which this center serves. Louisiana ranks ninth in the country in the incidence of AIDS, and the Centers for Disease Control have reported an increase of 4.1 percent in the number of HIV-infected individuals in the Gulf South, with the sharpest rise among women and minorities.

Therefore, I am willing to take to conference an expanded directive to NIAID to fund at least two and up to an additional seven adult centers in fiscal year 1993.

Mr. JOHNSTON. I thank the chairman and believe this is a very fair solution. I believe it will also leave the issue open in conference, and I hope very much that additional funds can be allocated to NIAID as the conference works through the many issues it must, so that you will be able to provide sufficient funds to mandate that seven additional adult units be funded in fiscal year 1993.

In this respect I point out that although the adult clinical trials program is only 5 percent of the overall NIAID budget, many of the most important breakthroughs in AIDS research have come through this program. It would be a tragedy to lose these centers' expertise and promise for further progress. It would also be devastating to those who now have access to the hope these programs provide as they fight this debilitating disease to be cut off from this hope at the end of the year.

So I urge the Chairman, the conferees, and NIAID to try to find a way to see that enough resources are available for these centers to reapply for seven slots, so they will have a good chance of being continued beyond December 1992.

Mr. HARKIN. I can assure the Senator that we will try very hard to find additional funds to mandate that an additional seven adult centers are funded in fiscal year 1993 and I thank him for bringing his concerns about these centers and the patients they serve to my attention.

Mr. COCHRAN. Mr. President, I support the Labor-HHS-Education funding bill we are considering. Nearly 4 years ago, on February 9, 1989, President Bush made his first address to the Nation after his inauguration. In his speech we expressed a commitment to education that I share. The President said:

> * * * I believe the best thing we can do is invest in our young people.* * * Education is critical to our future, both individually and as a nation. If we are to improve our standard of living, protect and defend our democratic freedoms, and strengthen our moral character as a nation, nothing is more important than education.

In the 4 years since that statement was made Federal education funding has increased by $10 billion, a 40-percent increase. Since 1989 State, local, and Federal spending combined has risen from $331.5 to $410 billion. The Senate's fiscal year 1993 bill provides $31.5 billion for education, which shows a tremendous Federal commitment to education. This bill is actually $700 million below the administration's request.

There are many positive aspects of the bill on the floor today. It increases funding for Federal education programs by $2 billion over fiscal year 1992. It provides funding to help illiterate adults learn to read through various programs, including programs in our community libraries, and to make educational opportunities available to preschool children who are at greatest risk.

I am pleased that the committee was able to provide an increase for the Chapter 1 Program. This program is extremely important to the State of Mississippi. Chapter 1 has successfully provided remedial reading and math programs to preschool, elementary and secondary students living in poor areas who are having difficulty keeping up with others. Statistics show that these children are at greatest risk of dropping out of school early. The Chapter 1 Program has not only helped these students achieve competency in basic skills, but it has also helped build self-esteem and provide a foundation for a productive future. Currently, the program serves over 5 million students in 14,000 school districts across the country.

The bill also provides a generous increase for the Star Schools Program. This program has brought state-of-the-art technology to many poor, rural school districts across the country. Through interactive communication technology students now have opportunities to study subjects that were previously not available to many school districts. In Mississippi, children residing in some of the poorest school districts in the country have had an opportunity to study such subjects as Japanese and advanced physics by some of the Nation's best teachers. I would like to thank the committee for their support for the Star Schools Program.

In addition, the bill provides a $600 million increase for the Head Start Program, the same figure requested by the administration for this important preschool program. The program gives disadvantaged children a better chance to build a solid foundation for learning.

The bill continues to support programs to strengthen historically black colleges and universities and other developing institutions of higher education. Support for this program continues to be a personal priority of mine.

I would like to thank the distinguished managers of the bill, Mr. HARKIN and Mr. SPECTER, for recommending funds for the third year to support teacher training programs of the National Writing Project. This program was authorized in 1991 to provide teachers of every discipline, grades kindergarten through college, with an opportunity to participate in summer and in-school writing clinics to help improve the teaching of writing in the Nation's schools and to emphasize the importance of writing in a student's ability to think and learn. The National Writing Project developed a teachers-teaching-teachers model which is now widely used for teacher enrichment. Federal funds are used to support the National Writing Project's 160 local sites, in 45 States which are affiliated with institutions of higher education.

Federal support has enabled the National Writing Project to expand to 11 new sites and to reactivate 2 sites which had closed due to lack of funding. For every Federal dollar invested in the writing project, 5 additional dollars are leveraged from State, university, school district, and other sources. Last year, 106,423 teachers participated in the program at a cost to the Federal Government of $18.34 per teacher. Approximately 7,506,500 American students of all ethnic and linguistic backgrounds benefited from Federal dollars for the National Writing Project.

Although I would have preferred higher levels of funding for some programs, in particular the Pell Grant Program, I believe this bill represents a commitment to education and the future of our Nation's young people. It has been crafted to make the best use of Federal resources in a time of tight budget constraints. Many important and worthy education programs are expanded by this legislation. The goal of the committee has been to increase the number of students served and to enhance the quality of these programs. The $31.5 billion increase this bill provides for education is one of the best investments we can make.

SMALL STATES TEACHING INITIATIVE

Mr. INOUYE. Mr. President, I rise in support of H.R. 5677, the fiscal year 1993 Labor, Health and Human Services, and Education appropriation bill and to speak on behalf of the small States teaching initiative, an exciting new educational improvement program which was authorized earlier this year in the Higher Education Act Amendments of 1992. Under the small States teaching initiative, the Secretary of Education was directed to provide funding to designated institutions in the Nation's 10 least-populated States to establish centers of excellence in teacher education.

In the State of Hawaii the small States teaching initiative is the product of the visionary work being conducted at the University of Hawaii. This institution believes that education reform must be initiated at the grassroots level and engage all of the stakeholders in a community: Parents, teachers, students, administrators, researchers, and elected officials. These institutions also believe that small States present ideal laboratory settings for experiments in educational innovation, and that land-grant extension models can best be used to stimulate the process of reform.

I know that as a result of severe fiscal constraints, the subcommittee was unable to provide fiscal year 1993 funding to support this program, or, in fact, any of the programs newly authorized in the Higher Education Act. I would hope that my friend and colleague from Iowa, the chairman of the subcommittee, will make every effort to find the resources to support this worthy program and eventually provide an appropriate level of funds to all of the new programs authorized in this year's Higher Education Act in this bill for fiscal year 1994.

Mr. GORTON. Mr. President, this evening the Senate is expected to pass the appropriations bill for fiscal year 1993 for the Departments of Labor, Health and Human Services, Education, and related agencies. As a member of the subcommittee, I am well aware of the difficult decisions that had to be made by the Senator from Iowa who serves as the chairman of the subcommittee and the Senator from Pennsylvania who serves as the ranking member.

This bill provides $245.03 billion in new budget authority for the departments, a 12-percent increase over fiscal year 1992. Of that amount, approximately $8.2 billion is recommended for the programs within the Department of Labor, $207 billion was recommended for the Department of Health and Human Services, and $28.5 billion was recommended for the Department of Education. However, it is noteworthy that almost 75 percent of the funds available in this bill are automatic, that is, they are nondiscretionary amounts that fund entitlement programs.

Those numbers do not fully express the priorities for the people of Washington State that I advocated this year. They include $571 million for a dislocated worker assistance program the Department of Labor, much of which will help the distressed timber communities in Washington State that have suffered under the impacts of the Endangered Species Act. Also within the Department of labor, approximately $960 million was recommended for Job Corps which already has centers in Sedro Woolley, Moses Lake, and Fort Simcoe that serve disadvantaged Washingtonians between the ages of 16 and 21 by providing basic education, vocational training, job placements, medical support, and other services in a residential setting. The subcommittee recommendation includes funds for four new centers. Job Corps is the best chance that many kids have for jobs and economic opportunities, and it is my hope that the Seattle-Tacoma area will compete for and build a new center.

Within the Department of Health and Human Services, $544 million was recommended for community health centers and report language urging the Human Resources and Services Administration to consider rural areas in the Pacific Northwest when deciding new sites for community health centers. Approximately 30 nonprofit community health centers and migrant health centers operate in Washington State at over 50 health services delivery sites. A typical community health centers offers routine primary medical services, after hours on-call service and arrangements for hospitalization and approximately 200,000 Washingtonians where served by community and migrant health centers in 1990. Almost 50 percent of those had no health insurance and 22 percent were on Medicaid. Still, certain areas in Washington State are desperate for community health centers. Specifically, the Southwest Washington Health District serving Clark, Klickitat, and Skamania Counties has neither a community health center nor a migrant health center. In Clark County, there exists only 1.05 physicians of all specialities per 1,000 people, less than half the State average. It is my hope that this increase in funding for community health centers will provide services to Washington State families in need.

Another priority of mine in the area of rural health concerns funding for title VII, section 786 of the Public Health Service Act which funds family medicine residencies. The University of Washington School of Medicine is the central medical training institute for Washington, Alaska, Montana, and Idaho [WAMI]. Adequate funding for this program is essential for the encouragement of desperately needed family medicine personnel in the largely rural and undeserved WAMI region. In 1992, 20 percent of the University of Washington School of Medicine graduates selected family practice residency training programs, almost twice the national average of 11 percent. I am pleased that the subcommittee agreed to recommend last year's funding level of $36 million for this invaluable program which benefits Washington State families in rural and underserved areas.

The childhood immunization program is essential to preventing childhood diseases which can be avoided simply by making access to immunizations convenient and desirable for parents; $344 million was recommended for this crucial program that prevents childhood diseases and protects Washington State families.

One of my highest priorities this year was adequate funding for injury schools and trauma prevention. More than 150,000 Americans die from injuries each year and injury is the fourth leading cause of death behind cancer, heart diseases, and stroke. It is the leading cause of death through age 44 and is responsible for the excess child mortality in the United States. According to the CDC report, "Cost of Injury in the U.S.," the cost to our society from injuries amounts to $150 billion each year. I believe the time has come to make a serious commitment to preventing trauma.

The division of injury control within the center for environmental health and injury control funds 10 injury control research centers around the Nation. Harborview Medical Center in Seattle, WA., has an injury control research center that is known throughout the world for its studies on babywalker injuries, bicycle helmet safety, and the impact of firearms. Harborview receives approximately $700,000 annually in extramaural grants from the division of injury control. The Washington State Department of Health also receives a State capacity building grant to establish a statewide injury control program with a special emphasis on childhood injury prevention. Finally, children hospital and medical center receives a research project grant to conduct research on childhood head injuries.

I was pleased to learn that the division of injury control will finally receive independent, center status in fiscal year 1993. In order to support that new center and the dozen university-based research centers across the country, $34 million has been recommended by the subcommittee. I will continue to make injury control a major priority in order to eventually lessen the number of preventable deaths due to injury in Washington State.

A continuing priority of mine is adequate cancer funding. The National Cancer Act of 1971 committed the Nation to addressing cancer research as a national priority. Today there are over 8 million cancer survivors due to early detection and research. The overall survival rate from cancer has increased from 39 to 52 percent and nearly 70 percent of all children with cancer survive. The Fred Hutchinson Cancer Research Center located in Seattle, WA, is known throughout the world for its pioneering work in the area of bone-marrow transplants. Federal support of these cancer centers must continue if we are to provide hope to millions of cancer victims in the future. This year, I am pleased that the subcommittee has recommended over $2 billion for cancer research.

The State of Washington continues to receive a heavy refugee population that strains existing social services. The office of refugee resettlement [ORR] administers the Refugee Assistance Program which provides a comprehensive program of cash and medical assistance and social services for refugees. If Federal support of State agencies continues to erode in high immigrant States like Washington, the result will be the removal of a safety net for new refugees who risk their lives to begin anew in the United States. Private and State agencies already under pressure from dwindling Federal support will not be able to provide needed services. During the House-Senate conference on this appropriations bill I will fight to maintain the higher Senate recommendation of $405 million for refugee assistance.

Within the Department of Education, my priorities include impact aid which compensates school districts for the costs of educating children when enrollments and the availability of revenues from local sources have been adversely affected by the presence of Federal activities. Included in this program are: payments for "a" children; payments for "b" children; payments for Federal property (section 2); construction; and payments to school districts who are experiencing the closing of military bases. The average funding level for "a" payments to Washington State from 1988 to 1990 was about $21.3 million; behind only Alaska, Arizona, California, and New Mexico. The average funding level for "b" payments to Washington State from 1988 to 1990 was about $5.2 million; behind only California, New York, North Carolina, Texas, and Virginia. The Clover Park School District near Fort Lewis in Washington State is among the Nation's top recipients of impact aid money and will require more assistance as personnel and their families from closed California military bases transfer to Fort Lewis. The subcommittee has recommended $752 million for impact aid this year and, most importantly, there is report language to expedite the desperately needed renovation needed at schools on military bases, such as Fort Lewis in Washington State, that are owned by the Department of Education. I will continue to fight for adequate funding for impact aid school districts in Washington State and ensure that the Federal Government fulfills its obligations to impact aid students in Washington State.

Within the related agencies, the Corporation for Public Broadcasting serves an essential role in educating Americans of all ages. Stations such as KCTS in Seattle, WA, have the talent and the infrastructure to contribute to adult literacy, to prepare preschool children for school, to provide course materials and equity for K–12 students, and to involve our communities in solving the country's major educational and social problems. In rural areas of Washington State, the CPB provides access to otherwise impossible learning opportunities. I am pleased that the subcommittee recommended $310 million for this vital educational service to Washington State families.

Finally, Mr. President, I wish to thank the Members of the Senate for supporting the amendment that the Senator from Arizona [Mr. DECONCINI] and I introduced on the floor to restore the funding of the National Youth Sports Program [NYSP] to last year's level of $12 million. In 1992, 173 institutions of higher education served over 70,000 disadvantaged youths. NYSP is located in 44 States and 155 cities nationwide. In Washington State, the NYSP is in Pullman at Washington State University, in Spokane at Whitworth College and in Yakima at Yakima Valley Community College. The Yakima Valley Community College began last June and has provided needed services to 250 previously unserved low-income youths. Whitworth College began its program in June 1989 and over 1,000 youths have participated. This program includes health care personnel who identify preexisting medical conditions and ensure that youths receive medical care. The NYSP at Whitworth also transports youths from low-income areas onto the college campus. Since 1989, over 900 kids have participated in the program at Washington State University in Pullman.

Youngsters participate in a rigorous program of skills instruction and competition in a minimum of three sports, including the lifetime sport of swimming. The NYSP philosophy embraces the concept that mind and body must be nurtured together—a daily education component is a critical part of each NYSP project. NYSP is far more than a recreation program. Instruction is provided in alcohol and other drug abuse prevention, math/science education, personal health and nutrition, educational and career opportunities, and such subjects as teen pregnancy, AIDS, gangs, and suicide prevention to promote personal responsibility for health and social fitness. I am pleased this Senate has decided to support this invaluable program and I will continue to fight for its support during the Senate-House conference.

Mr. President, these programs that were priorities of mine are all worthy and necessary investments in the well-being of citizens of Washington State. The Job Corps provides jobs and economic opportunities; community health centers and family medicine residencies provide access to health in rural and underserved areas; the new Center for Injury Control and the National Cancer Institute provides lifesaving research; and impact aid and the corporation for public broadcasting offer better education: These programs have my support because they directly serve Washington State families and communities. I wish to thank again the chairman of the Appropriations Committee, the Senator from West Virginia, and the ranking member, Senator HATFIELD, as well as the chairman of the subcommittee, Senator HARKIN, and ranking member, Senator SPECTER, for their commitment to this difficult appropriations bill. I look forward to working together with them in the upcoming House-Senate conference.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Mr. President. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBSTANCE ABUSE TREATMENT AND PREVENTION GRANTS FOR PREGNANT AND POST PARTUM WOMEN

Mr. DODD. Mr. President, I would like to ask for clarification of report language accompanying the appropriations for grants for treatment and prevention of substance abuse in pregnant and post partum women. These grants were originally administered by the Office of Substance Abuse Prevention [OSAP] within the Alcohol, Drug Abuse, and Mental Health Administration [ADAMHA]. However, in reauthorizing this and other programs and reorganizing ADAMHA, Public Law 102–321 restructured these grants to emphasize residential treatment in which women and their infants can stay together. While existing grants would continue to be administered by the successor to OSAP, new appropriations and any funds made available by expiring grants would be administered through the new Center for Substance Abuse Treatment [CSAT].

It is my understanding that the authorizing language now requires that any appropriations over the 1992 level—which was $52.6 million—would have to be used to fund residential treatment programs for pregnant and post partum women. However, any available funds under that ceiling could be used either for residential treatment or for outpatient/prevention programs. These funds would become available as existing grants expire. I ask the Senator from Iowa if that is his understanding as well.

Mr. HARKIN. I agree with the interpretation of the Senator from Connecticut.

Mr. DODD. Then, Mr. President, I ask the Senator if he would clarify language regarding this program contained in the committee report accompanying the appropriations bill. That language directs all new grants be awarded for residential treatment. Such a scenario would mean that, as the old OSAP grants phase out, no funds could be used to support outpatient and prevention programs that are critical to a balanced approach to the problem of substance abuse among pregnant women. I believe CSAT should be directed to use all funds above the 1992 ceiling for residential treatment, as the authorizing legislation requires, but that it should be recognized that CSAT would have discretion to use funds that become available under the ceiling for outpatient and prevention programs.

Mr. HARKIN. I agree with the Senator that CSAT should be so directed and should have discretion over funds under the ceiling.

Mr. DODD. I further note, Mr. President, that prior to the reorganization mandated in the reauthorizing legislation, OSAP had approved several worthy proposals for funding but had not actually funded them. After being told that they would receive funds, these programs will now be forced to go through the entire application and approval process again, because the program has been shifted to CSAT. This will only delay further the delivery of services to a population sorely in need of them. I believe these proposals should be given priority in the new approval process, provided they meet the new requirements for funding eligibility. I ask the Senator from Iowa for his thoughts on this subject.

Mr. HARKIN. I agree with the Senator from Connecticut that, as long as the approved projects are eligible under the new authorizing language, the director of the treatment center may give them priority in awarding funds available for that type of project.

Mr. DODD. I thank the Senator from Iowa.

FUNDING FOR BIRTH DEFECTS PREVENTION AND IMPLEMENTING RECOMMENDATIONS BY THE U.S. PUBLIC HEALTH SERVICE RELATING TO FOLIC ACID USE IN PREVENTING NEURAL TUBE DEFECTS

Mr. BOND. Mr. President, efforts to prevent birth defects are desperately needed. Just listen to the following sad story of an outbreak of birth defects that may have needlessly cost innocent lives. About 1 year ago, health professionals in Texas observed that six infants were born with anencephaly over a 6-week period. Anencephaly is a fatal neural tube birth defect characterized by an absence of brain tissue. After this information was reported to the Texas Department of Health, a subsequent study revealed that since 1989, at least 30 infants in south Texas had been born without most of their brains.

The tragic situation in south Texas underlines the need for a coordinated national effort to discover the causes of birth defects and develop prevention strategies. Without a birth defects registry, it is quite possible that somewhere in America today, infants are being born with serious birth defects that could have been prevented.

But today, I am here to urge that funding be made available for the implementation of the new recommendations by the U.S. Public Health Service urging all U.S. women of childbearing age to consume 0.4 mg. of folic acid daily to reduce their risk of having a pregnancy affected by spina bifida or other neural tube defects. Each year, 2,500 infants are born with spina bifida and anencephaly. Spina bifida is the leading cause of paralysis. The Centers for Disease Control estimates that implementation of this new recommendation will decrease neural tube defects by 50 percent. This action will save thousands of children and families the emotional cost associated with neural tube defects and prevent a terrible tragedy.

Mr. President, I ask unanimous consent that a copy of a summary of the recommendation by the U.S. Public Health Service be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

RECOMMENDATIONS FOR THE USE OF FOLIC ACID TO REDUCE THE NUMBER OF CASES OF SPINA BIFIDA AND OTHER NEURAL TUBE DEFECTS

SUMMARY

Spina bifida and anencephaly are common and serious birth defects. Available evidence indicates that 0.4 mg (400 µg) per day of folic acid, one of the B vitamins, will reduce the number of cases of neural tube defects (NTDs). In order to reduce the frequency of NTDs and their resulting disability, the United States Public Health Service recommends that:

All women of childbearing age in the United States who are capable of becoming pregnant should consume 0.4 mg of folic acid per day for the purpose of reducing their risk of having a pregnancy affected with spina bifida or other NTDs. Because the effects of higher intakes are not well known but include complicating the diagnosis of vitamin B_{12} deficiency, care should be taken to keep total folate consumption at <1 mg per day, except under the supervision of a physician. Women who have had a prior NTD-affected pregnancy are at high risk of having a subsequent affected pregnancy. When these women are planning to become pregnant, they should consult their physicians for advice.

Mr. BOND. Mr. President, funding is included in the bill to continue the research on spina bifida to study the use of folic acid to prevent neural tube defects. Further study on the use of folic acid is still needed, but, clearly, priority should go to taking steps to prevent the neural tube defects like spina bifida and I urge CDC to use some of its spina bifida moneys for an initiative in its disability prevention program to implement the new recommendations on folic acid.

Mr. HARKIN. I have seen the recommendations by the Centers for Disease Control. As a matter of fact, I included the funding for the study in spina bifida that has produced these results and I added $2 million in the fiscal year 1992 Labor-HHS bill to initiate the disabilities prevention program at CDC. I concur with my distinguished colleague that we should be doing more at home and will work with CDC to expand the Disabilities Prevention Program.

Mr. BOND. I thank the Senator from Iowa [Mr. HARKIN] for his assistance in this matter and I would also like to take this opportunity to thank him for his efforts to fund birth defects prevention efforts in the bill. His support of these efforts has been so important and he should be commended for recognizing the need to eliminate the terrible tragedy of birth defects. His support has permitted important activities at the Centers for Disease Control to move forward and has made a significant difference in the Federal Government's efforts to prevent the leading cause of infant mortality.

LIHEAP

Mr. DODD. Mr. President, there are several matters regarding the LIHEAP Program that I would like to clarify with the distinguished Senator from Iowa. The first has to do with helping the States cope with the delayed availability of much of the program's funding. Over half of LIHEAP's funds would not be available until October 1993. Last year, we also had some delayed funding, and many States found it difficult to cope. In some States, utilities and Governors failed to agree on arrangements by which the LIHEAP Program could secure energy supplies for needy households on the basis of the State's pledge of payment by October 1.

While not the optimal situation, we can deal with the delayed funding if States and utilities work closely together. Utilities receive nearly $1 billion in LIHEAP funds directly. The effort and extension of credit involved in providing families with energy services pending State payment is of minimal cost compared to the value of the Federal benefits to the industry. All the vendors who accept these public moneys should participate, as does Northeast Utilities in Connecticut, in a plan to consider any LIHEAP benefits guaranteed to them in the future when billing LIHEAP clients.

In 1993, such cooperative arrangements will be crucial to the ability of families who depend on LIHEAP to make it through the winter. The uneven cooperation across States that occurred last year would be disastrous in the coming year. We, therefore, need strong leadership from the Secretary of Health and Human Services to help ensure that utilities across the country take part in such arrangements. I strongly urge the Secretary to meet with the chief executive officers of the major public utility organizations to encourage energy suppliers to serve eligible households while waiting for delayed State payments.

In addition, the Secretary should emphasize the importance of the utilities joining in partnerships to leverage additional LIHEAP resources. Once again this year, the committee has set aside $25 million for the LIHEAP leveraging program included in the 1990 LIHEAP reauthorization. States that leverage additional non-Federal resources for LIHEAP can receive incentive payments that ultimately benefit the utilities as well. We need a concerted effort from the top to get large energy providers involved. I ask the Senator from Iowa if he concurs in these objectives.

Mr. HARKIN. I agree with the Senator from Connecticut that it is critical that the Secretary exercise vigorous leadership in working with the States and utilities in the manner described by the Senator to achieve a level of cooperation that will ensure that families depending on LIHEAP are not hurt. I also concur with the Senator that the Secretary should take the lead in encouraging utilities and other energy providers to participate in leveraging activities which can stretch scarce Federal dollars.

Mr. DODD. Mr. President, while utilities generally can absorb funding delays, incurring small carrying costs, only the largest of bulk fuel suppliers has a cash-flow that permits acceptance of a State promissory note on behalf of low-income households. Bulk fuels include fuel oil, bottled natural gas, and kerosene. Delayed funding, while necessary in light of budget realities, can only help clients of cooperating utilities and large energy companies keep the heat on in winter. The money provided October 1 is the only hope for most bulk fuel users.

In numerous States in New England and some in the South, bulk fuels comprise more than half the home energy used by the poor. Late payments cannot help these families when it most counts. The delay of over half of LIHEAP funding will put many New Englanders in particular at extreme risk.

It is my hope that the House-Senate conference can add outlays to the final measure so that at least 71 percent of funds can be delivered on time, as was the case in fiscal year 1992. However, if this is not possible, I would ask that the Senator consider developing report language in conference providing for distributing the funds available on October 1, 1992, based on States' bulk fuel usage and distributing the delayed funds to provide the balance of allotments in all States. Without such a measure, many LIHEAP families will literally be left out in the cold. I ask the Senator from Iowa for his thoughts on this problem.

Mr. HARKIN. I am aware of the precarious position bulk fuel users are in because of the delayed funding and will consider the suggestion of the Senator from Connecticut as we move through conference. We would have to look at this issue closely and obtain data from HHS about the problem and how various States are affected.

Mr. DODD. Finally, Mr. President, I ask the Senator from Iowa to clarify the terms of the $600 million in contingency funds that may be released on the President's submission of a formal budget request designating the need as an emergency. It is my understanding that this is not an all or nothing proposition. That is, the President could request less than $600 million if the situation warranted. I inquire of the Senator if that indeed was the committee's intent.

Mr. HARKIN. The Senator from Connecticut is correct. The committee intends that the President may request emergency funds in any amount up to and including $600 million.

Mr. DODD. I thank the Senator from Iowa.

IMPACT AID

Mr. SIMON. I would like to compliment the Senator from Iowa on all his hard work on the appropriations bill—especially in a year in which resources are so scarce. I share his concern about having to cut funding for important educational program.

One program that has been cut is impact aid, which is intended to defray the cost of educating military-dependent schoolchildren since many military personnel are tax-exempt. Impact aid is designed to ensure that communities affected by Federal activity have equal educational opportunity, but this need is not being met. While it is unfortunate that this program was cut, it is significant that the committee recommended $219 million more than the President's budget provided for this program of critical importance to military families.

I want to thank Senator HARKIN for accepting my proposal to increase the impact aid section (a) appropriation by bringing the Senate bill a full $10 million over the House bill for the section (a) program. It is my intent that this money be used to help North Chicago District 187 and Highland District 111. These districts are suffering from severe financial difficulties as a result of impact aid funding shortfalls. For example, 48 percent of North Chicago's students are from the Great Lakes Naval Training Center, but impact aid funds provide only 10 percent of their budget. This shortfall costs the district an additional $3 million per year and threatens its very existence.

This increase in the appropriation will provide the Senate conferees with the ability to fashion a compromise addressing the needs of these districts.

Mr. HARKIN. I thank the Senator for his kind comments and would like to compliment him on his tenacious efforts to protect school districts in his State. I particularly share his concern about the situation facing North Chicago District 187. This particularly needy district is losing up to $4,000 per year for each military child—despite passing a referendum to raise property taxes to one of the highest rates in Illinois.

I understand that inadequate impact aid funding forced North Chicago to cut 45 of 140 teachers in order to meet payroll. Highland Park and other Illinois districts, as well as school districts throughout the country, face similar problems. These students deserve better.

While I am sympathetic to the needs of these districts, I know that the Senator from Illinois is aware that this subcommittee has a policy against earmarks for specific districts. But I hope that this additional appropriation for the Impact Aid Program will provide the Department of Education with the means to assist financially strapped school districts that simply cannot survive without it.

Mr. SIMON. As the Senator knows, the House bill contains a proposal for $10 million to be set aside for schools that meet three criteria. The Chair of the House Education and Labor Committee had attempted to block this proposal for reasons similar to those outlined by the Senator from Iowa. I am pleased that Chairman FORD agreed to withdraw his objections after I discussed this issue with him.

This additional allocation for impact aid in the Senate bill will provide the conferees with flexibility to address this issue in conference.

I would also like to thank my colleague from Illinois, Senator DIXON, for his support of this amendment and his efforts to help the North Chicago and Highland Park school districts. Senator DIXON has sponsored a very important provision on the defense authorization bill that would shift responsibility for paying for the education of military children to the Defense Department. That change is long overdue.

Mr. HARKIN. I agree that this responsibility must be shifted to the Defense Department. Once again, I compliment the Senator from Illinois for his dedication to this issue.

SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE

Mr. KENNEDY. I would like to engage the chairman in a colloquy regarding funding for the Special Projects of National Significance or SPNS Program in title II of the Ryan White Act.

Mr. HARKIN. I am delighted to engage in a colloquy with the senior Senator from Massachusetts about the committee's intent with regard to this important program.

Mr. KENNEDY. As the chairman knows, this program is critical to our national efforts to develop the best and most cost-effective systems of care for the HIV-infected population. Under title II of the Ryan White Act, the Health Resources and Services Administration [HRSA] is permitted to take up to 10 percent of the funds available in title II for these special national demonstration projects.

It was the intent of the Senate Labor Committee, in drafting this provision, to give HRSA and the department some funds with which they could develop and model for the Nation new and innovative AIDS service programs. These funds have constituted the only discretionary to serve special populations such as women and children, incarcerated persons, native Americans, and rural individuals. This program has helped to fill in the gaps in services and develop the next generation of AIDS programs.

Mr. HARKIN. Yes; the committee was aware of the important work the SPNS projects now have underway. In fiscal year 1992, $5.7 million is being used to fund 26 projects around the country. Projects have been funded in North Carolina, Michigan, Indiana, New Mexico, Maryland, and New Jersey. By contrast, HRSA reviewed almost 150 grant applications in this area, a number which suggests the extent of the need for model AIDS service programs to address the needs of women, children, rural residents, and native Americans. Forty-five of these applications were approved for funding but due to budget constraints, less than half, or 22, were actually supported.

Mr. KENNEDY. In Massachusetts, we have two projects which are wonderful examples of the important work undertaken with these funds. The Massachusetts AIDS discrimination initiative located in Newton but serving the entire State works to inform individuals from diverse linguistic and cultural backgrounds who may experience HIV-related discrimination about their civil rights and to refer them to advocacy agencies that can assist them in resolving discrimination complaints and accessing needed services.

As the Senator knows, with the passage of the Americans With Disabilities Act, which you courageously sponsored, people with HIV infections are now protected from discrimination in employment, public accommodations, and the like. Through this model program Cambodian, Latino Portuguese, and Chinese-Americans with HIV as well as low-income disenfranchised black Americans are being educated about their rights under the ADA and other statutes and they are being connected with the legal resources and other social services they may need.

The other SPNS Program in my home State, which is known as the "No One Alone with HIV" or NOAH project, helps poor and disenfranchised families to cope with the psychological problems related to HIV infection. Unfortunately, to date, mental health issues have largely been ignored by the Federal Government in any comprehensive fashion in the context of AIDS. This project, however, which works through the Boston Department of Health and Hospitals and community-based clinics focuses on teaching doctors and nurses to address the emotional devastation of their patients, thereby improving the quality of the overall care.

These are the kind of powerful stories that are being told in communities across the country, made possible by the availability of SPNS funding.

Furthermore, the chairman mentions a figure of $5.7 million for these critical efforts, but that is not the full amount of funds made available by the Appropriations Committee for fiscal year 1992 under the SPNS set-aside in the Ryan White Act, is it?

Mr. HARKIN. No; the Senator is right. Based on the authorizing legislation, a total of $10.6 million or 10 percent of the Ryan White title II appropriation in fiscal year 1992 was available for SPNS projects. At the direction of the Congress in the appropriations process, however, $4.9 million was allocated to reimburse dental schools for their uncompensated AIDS care. Under this so-called dental SPNS Program dental schools submit reimbursement claims for AIDS-related care services by dental schools and that reimbursement claim is then paid by HRSA. Unlike the SPNS Program authorized by Congress in Ryan White, this is not a peer review, merit-based program. In 1992, 78 dental schools around the country received an average reimbursement of $53,000 under this program. Was it the intent of the authorizing committee that these critical projects should undergo peer review and that prospective grants should address cutting edge issues on HIV infection?

Mr. KENNEDY. Yes, it was.

MATERNAL AND CHILD HEALTH BLOCK GRANT

Mr. DURENBERGER. Mr. President, the maternal and child health block grant has served as the backbone to our maternal and child health system across the country. As the distinguished chairman of the subcommittee has noted in the fiscal year 1993 appropriations report for the Department of Health and Human Services, we must invest in programs that support children.

The maternal and child health block grant is the country's core support for mothers and children. The MCH block grant provides funds to States to allow for a Federal/State partnership with each State developing its own program for improving the health of mothers and children, including adolescents, using a variety of approaches that allow for differences within and between States.

At least 24 States are currently using MCH block grant funds to support school-based health services. Since the 1930's, these funds have provided resources to support basic school health programs in most States. In my own State of Minnesota, both the Minneapolis and St. Paul School Districts have made school-based clinics a high priority for a number of years. The Health Start Program opened the doors to the first school-based clinic in St. Paul in 1973 and it now serves over 3,000 students in its school-based clinics. This program provides a one-step shopping model of comprehensive health and social services based on the needs of each school's community. For the past several years, the State of Minnesota has funded a grant program to encourage colocation of services in schools. And, colocation of services is also a high priority for "Minnesota 2000," our State's response to President Bush's "America 2000" initiative.

Mr. President, the chairman of the Labor-HHS Subcommittee has always been a strong advocate for our children. I want to ask the Senator whether he agrees that the MCH block grant should be used to promote school health services and to design integrated school health systems?

Mr. HARKIN. Mr. President, I share the Senator's concern about increasing the availability of health services for children. Providing services through schools seems like an efficient and effective way to reach children, and the MCH block grant is certainly an effective vehicle for providing these services under the current authority.

I know the Senator is trying to raise the authorization levels for the MCH program. As chairman of the Labor-HHS Subcommittee, I have worked to increase appropriations for the block grant. I added $100 million for the MCH block to my strategic children's initiative transfer amendment.

Mr. DURENBERGER. I thank the subcommittee chairman. I hope this will serve to acknowledge the importance of the MCH block grant and will encourage states to utilize their MCH block grant funds to help support school health services.

AGENCY STAFFING

Mr. HARKIN. Mr. President, I want to clarify, with technically correct terminology, the two provisions in the bill aimed at reducing agency staffing. The first provision freezes staffing at last year's levels. In fiscal year 1993, aggregate departmental full time equivalent levels shall not exceed fiscal year 1992 actual usage levels. The second implements the 1 for 2 attrition policy recommended in this year's budget resolution. Only 50 percent of the vacancies occurring in full time permanent positions of the Departments of Labor, HHS and Education will be filled. Together, these provisions save $325 million which we have devoted toward valuable program areas throughout the bill.

However, I wish to reiterate committee report language that provides an exception to this policy only in those cases where specific FTE's are added and funded by the committee, and when employee salaries are reimbursed by other organizations.

> In those instances where positions have been specifically added by the Committee, the one-for-two hiring restriction will not apply until the positions have been filled, after which these positions will be subject to the hiring restrictions. The hiring restrictions would not apply to any positions qualifying as ceiling-exempt, or any special training program positions with limited appointments not to exceed 2 years.

EARLY CHILDHOOD STAFF TRAINING

Mr. ADAMS. Mr. President, I want to commend Senator HARKIN and his staff on their work on the Labor, Health and Human Services, Education and related agencies appropriations bill. Because of the size of the subcommittee's allocation, it was not possible this year to provide new line item appropriations to new programs.

I know the Senator cares deeply about child care, as I do. He was a cosponsor of my bill, the early childhood staff training and professionalization grants, which was included in the Higher Education Amendments of 1992. Those demonstration grants will allow States to plan and implement cohesive, service-integrated systems for training early childhood staff and for linking such training to career ladders that will keep good staff in the field. Quality of early childhood programs depends on quality staff. Quality early childhood programs will help us reach the first national education goal of school readiness.

Mr. HARKIN. The Senator is correct that I am a strong supporter of programs that will improve early childhood education and child care. This is a program that I would gladly support funding in a year when there are funds for new programs. As chairman of the subcommittee that appropriates funds for education programs, I will try very hard next year to appropriate adequate funds for this important education program.

FISCAL YEAR 1993 VOCATIONAL EDUCATION APPROPRIATIONS BASIC EDUCATION GRANTS

Mr. INOUYE. Mr. President, I want to take this opportunity to clarify the intent of the committee regarding the Department of Education's vocational education basic grants program which is required by the 1990 Carl D. Perkins Vocational and Applied Technology Education Act to make 0.25 percent of its basic allocation available to native Hawaiian programs. I bring this to your attention, because I understand that the Department of Education in its fiscal year 1993 budget request proposes to eliminate the $2,452,000 made available to native Hawaiian programs in fiscal year 1992 in this upcoming fiscal year.

The administration suggests that, "Consistent with the Department's position on other programs that focus solely on Hawaiian natives, no funding is requested for the Hawaiian natives set-aside." The Department of Education further notes that this population is counted in formula allocations under the basic State grants, community based organizations, and tech-prep programs and that native Hawaiians can receive services through those programs.

Mr. President, this is simply not the case. Program set-asides for Indian and native Hawaiian programs, particularly in the Department of Education, have been authorized under the chapter I programs, drug free schools and Communities Act programs, and the Bilingual Education Act, because State-funded programs rarely provided services to native people nor do they interact with Indian and native Hawaiian programs. This is because it is generally assumed by States that Federal resources are made directly available to Indian and native Hawaiian populations. The vocational education needs of Indians and native Hawaiians would clearly not be addressed if it were not for these statutorily-based formula allocations.

Mr. HARKIN. Mr. President, Senator INOUYE is accurate in his statement regarding the administration's recommendation to eliminate funding for the native Hawaiian vocational education programs. Under the existing law, the amount which is required to be distributed for the native Hawaiian vocational education programs is 0.25 of the overall allocation. The amount which is recommended by our subcommittee for the basic grant would make $2,555,850 available to native Hawaiian vocational education programs in fiscal year 1993. I will work with Senator INOUYE to reserve at least the statutorily required amount for the native Hawaiian community in the fiscal year 1993.

Mr. INOUYE. I thank my esteemed colleague. By reserving the amount which is explicitly authorized under Public Law 101-392, we will be addressing the vocational education needs of the native Hawaiian community whose families comprise 30 percent of those receiving welfare in the State of Hawaii and who have double the unemployment rate of the State.

SLIAG FUNDING LEVEL

Mr. CRANSTON. Mr. President, I am very concerned about the funding level for the State legalization impact assistance grants, [SLIAG], programs. The Immigration Reform and Control Act of 1986, [IRCA], provided a total of $4 billion to be appropriated between fiscal year 1988 and fiscal year 1991 to reimburse State and local governments for the costs of health care, public assistance, literacy and education training for newly legalized aliens.

Last year the Labor, Health and Human Services, Education conference committee deferred $1.123 billion from fiscal year 1992 to fiscal year 1993. Despite this action, the conferees affirmed their support for SLIAG and expressed their intention to fund the program in fiscal year 1993:

> The deferral was based on the need to achieve outlay savings in 1992, and does not represent a permanent reduction in funds available to States. The conferees are also in agreement that further deferral of SLIAG funds would be detrimental to the objectives of the program and would place in jeopardy newly legalized aliens and their ability to complete the requirements of citizenship. Therefore, the conferees agree to provide sufficient funds for SLIAG in 1993, and direct the Secretary to distribute these funds no later than October 15, 1992.

Mr. President, I am extremely disappointed to find that the Senate has again failed to honor its commitment of last year. This year, the Senate has appropriated $150 million for SLIAG. This is $441 million lower than the House recommendation and $150 million lower than the President's budget recommendation.

California alone expects a shortfall of $675 million through fiscal year 1993. Therefore, the committee's recommendation is woefully inadequate to cover the unreimbursed SLIAG costs.

Cutting or further deferring SLIAG funds does not cause the demand for services or the related costs to disappear. Instead, it shifts the burden unfairly and inappropriately to State and local governments. Entire communities, not just the newly legalized community, suffer because the demand for services outpaces the combined ability of State and local governments to fund essential programs.

It is time the Federal Government honor its obligation under IRCA and I hope that the distinguished chairman of the Labor, Health and Human Services subcommittee can give me some assurances that the committee will work toward adopting the House recommendation for SLIAG funding of $561 million.

Mr. HARKIN. The Senator may be assured that in conference I will work with my colleagues in the House to increase the fiscal year 1993 funding level for the SLIAG programs. I understand States such as California are facing difficult budgetary constraints that will force them to cut other vital programs if funding for SLIAG is inadequate.

EDUCATION

Mr. CRANSTON. Mr. President, I would like to clarify with the distinguished chairman of the Labor, Health and Human Services Appropriations Subcommittee another issue relating to the expenditures of SLIAG funds.

The Immigration Reform and Control Act of 1986 provides that States use not less than 10 percent of their SLIAG grants for payments to State educational agencies. Although States have the authority to reallocate SLIAG funds among the various categories authorized for funding, there has always been a clear intent that some SLIAG funds be allocated for educational services. Is that the understanding of the Senator from Iowa.

Mr. HARKIN. The Senator from California is correct.

Mr. CRANSTON. Is it the committee's intention that SLIAG funds appropriated in the fiscal year 1993 bill be allocated by States to each of the three statutory categories consistent with the requirement of IRCA.

Mr. HARKIN. It is the intention of the committee that these funds be allocated consistent with the requirements of IRCA.

PRIORITIZATION OF SLIAG FUNDING REIMBURSEMENTS

Mr. CRANSTON. Mr. President, I would like to further clarify the prioritization of SLIAG funding reimbursements with the distinguished floor manager. Is the Senator from Iowa in agreement with House report language that all providers, State and local, are in an equal position with respect to reimbursements of costs incurred prior to October 1, 1992, and, therefore, prior year State and local costs will be fully reimbursed before reimbursing State and local costs for fiscal year 1993.

Mr. HARKIN. Yes, I am in agreement with the House report language regarding the prioritization of SLIAG program reimbursements.

Mr. CRANSTON. I thank the distinguished Senator from Iowa for making assurances and these clarifications regarding SLIAG and hope that you will work with the conferees to further increase funding for SLIAG and clarify these matters in the conference report.

TARGETED TRAINING GRANTS

Mr. MITCHELL. Mr. President, as you know, within the Department of Labor's Occupational Safety and Health Administration Compliance Assistance Program, $1.2 million was provided for targeted training grants. This amount was included in the budget request, in the House bill and in the Senate bill. The Targeted Training Grants Program is an excellent program, and I am pleased the administration and the Congress realize its importance.

In 1991, a pilot worker safety program for people employed in the logging industry was established as one of the targeted training grants. This program has been very successful and was continued in 1992. Wisconsin, Maine, Mississippi, Idaho, and more recently, Alaska and Washington, have benefited from awards made under this program. Coming from a State whose single largest industry is wood products, I know how critically important safety education is to the logging industry. I urge the chairman to continue this program in 1993, and clarify whether $400,000 of the funds made available for targeted training grants in the fiscal year 1993 Labor, Health and Human Services, and Education appropriations bill are to be used for a third round of competitive awards under the worker safety program for people employed in the logging industry. I am not requesting that additional funds be provided—just a clarification of what specific training grants the $1.2 million provided will support.

Mr. HARKIN. I appreciate the majority leader bringing the importance of this program to my attention and requesting a clarification. I agree that OSHA's targeted training grants program is very important, and that the worker safety program he is referring to, for people involved in the logging industry, has benefited many people involved in the logging industry across the country.

It should be emphasized that this is a competitive award, not an earmark, and is supported by the administration, the House, and the Senate. It is clear that OSHA should continue to provide funding for such a program in fiscal year 1993, and it was the committee's intent that this program be continued.

Mr. MITCHELL. I appreciate the distinguished chairman's clarification of this issue, and his willingness to recognize the importance of this program to the logging industry.

NORTHERN MARIANA ISLANDS' APPAREL INDUSTRY

Mr. SANFORD. Mr. President, I bring to the Senate's attention the labor practices in the Northern Mariana Islands which I find to be very alarming and disturbing. Within the Commonwealth of the Northern Mariana Islands [CNMI] a territory of the United States, there exist labor conditions and practices that are in violation of the Commonwealth's laws and of basic human rights.

The garment and apparel industry in the CNMI is importing and exploiting Chinese laborers to work in the factories under deplorable conditions, and is allowing their products to be marketed in the United States with the "Made in the U.S.A." label. It has been documented by the Department of Labor that in the Tan family garment factories in Saipan, imported Chinese laborers work between 14–18 hour days, 7 days a week, at a wage which is below the $2.15 minimum wage established in the CNMI. The alien workers are housed in overcrowded, filthy barracks. I have two concerns. Primarily, I am outraged that such exploitation takes place under the protection of the United States flag.

I also have a concern for the effect on our American workers. The Amalgamated Textile and Clothing Workers Union maintains that the long hours and long weeks of the Saipan workers are the equivalent of some 12,000 to 20,000 jobs in the United States. I do not want our American textile workers to risk losing their jobs to the torturous garment factories of the CNMI.

I am very proud of the garment industry employees who work very diligently in North Carolina to produce clothing to which they proudly add the "Made In the U.S.A." label. I want them to continue to do so in North Carolina, and I resent, as I am sure many other North Carolinians do, too, that textile products manufactured in the CNMI, under such horrific conditions, can also bear the same "Made in the U.S.A." label.

The garment industry in the CNMI has grown significantly from 1985 to 1991. In 1985 the industry grossed $5.4 million; in 1991 that grew to $253 million. I am sure this industry has been able to thrive in the CNMI through its exploitation of its labor force.

We cannot allow this exploitation to continue. I urge the Department of Labor to step up its enforcement of the labor practices in the garment and apparel factories in the CNMI. I understand that there is currently only one Department of Labor official responsible for both Guam and the CNMI. The Department of Labor must provide for another wage and hour inspector solely for the CNMI. I would like to quote the U.S. attorney for Guam, Frederick A. Black, from his letter to the Department of Labor, February 13, 1992:

> For years we have had only one labor investigator for the two Asian-Pacific jurisdictions to which U.S. laws apply. I note that every day the local newspapers carry front page * * * a scandals regarding labor problems and violations. It appears that compliance to labor laws is the rare exception. One labor investigator, albeit a diligent and active one, cannot accomplish the necessary task of bringing these jurisdictions into compliance.

An additional Department of Labor wage and hour investigator is critically needed if we expect to ensure that the CNMI will begin to comply with labor regulations. I hope that the distinguished chairman of the Labor, HHS, and Education Appropriation Subcommittee shares my concern and my desire to see this problem corrected.

Mr. HARKIN. I want to thank the Senator from North Carolina for bringing this matter to the attention of the Senate and I want to give him my assurance that I will join him in strongly urging the Secretary of Labor to employ a second full-time hour and wage investigator in the Guam and CNMI region. The labor conditions which the Senator from North Carolina has described are intolerable. Any garment made in a CNMI factory under such conditions is definitely not deserving of the "Made in the U.S.A." label.

Mr. SANFORD. I thank the chairman and I appreciate his support for the textile workers of North Carolina.

OSHA STANDARDS ON BLOODBORNE PATHOGENS

Mr. COHEN. Mr. President, I wish to raise an issue with the distinguished chairman of the Labor, Health and Human Services, Education Subcommittee.

I understand that the committee report language for H.R. 5677 directs OSHA to revisit its bloodborne pathogen standard with respect to dentists. Specifically, the language states that "[m]any dentists feel that the standard intrudes into the area of professional judgment and the dentist's ability to provide care in the best possible manner." Dentists are not the only group that have expressed concern about OSHA's standard.

Today, for example, I met with representatives from Uplift, a group in Maine that provides services to individuals with developmental disabilities. While they expressed concern about the safety of their employees, they are also concerned that OSHA's standard poses an excessive burden on agencies serving people with developmental disabilities in part due to incorrect information about people with developmental disabilities. I would like to inquire if this issue was brought to the attention of the committee during consideration of the bill?

Mr. HARKIN. I do not believe so. Although we discussed reexamination of

OSHA's standard with respect to dentists, we did not discuss its potential impact on the provision of services to people with developmental disabilities.

Mr. COHEN. I urge OSHA to also look at the standard as it applies to the field of developmental disabilities.

Mr. HARKIN. I also urge OSHA to look at the standard as it applies to developmental disabilities.

Mr. COHEN. I thank the chairman of the subcommittee.

BUREAU OF LABOR STATISTICS

Mr. HARKIN. Mr. President, I want to inform the Senate that the conference on the Labor-HHS bill may in addition to the amendments agreed to, consider the question of the prohibition of using funds by the Bureau of Labor Statistics to use numbers or estimates adjusted by the Census Bureau on the basis of the post-enumeration survey. Considerable concern has been raised over the accuracy of using statistics from the post-enumeration survey. Use of those questionable numbers for the very important work of the Bureau of Labor Statistics is of great concern to this Senator and a number of others who have contacted me.

Mr. SPECTER. Mr. President, I agree with Senator HARKIN's concern about the Bureau of Labor Statistics use of post-enumeration survey based statistics. There are very real concerns about the inaccuracy of these numbers. I intend to work with Senator HARKIN to see if an acceptable provision can be developed in the conference that would assure that the Bureau of Labor not use these questionable statistics.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3022

Mr. HELMS. Mr. President, what is the pending business? Is it the first committee amendment?

The PRESIDING OFFICER (Mr. LAUTENBERG). It is the Helms amendment No. 3022, a second-degree amendment to the first committee amendment. Is there further debate?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, may we have a clarification as to exactly what it is that is about to be voted on, a one- or two-word description? Is this the Boy Scouts amendment or the OSHA amendment?

Mr. HELMS. Mr. President, we do not have a quorum. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I want to be sure about the numbers. I am going to send the clerk a copy of the amendment I think he is talking about to see if that is the pending amendment. We have so many amendments flying around here. This is the outreach amendment.

The PRESIDING OFFICER. The Chair will review the amendment to see if it is the same amendment.

The clerk reports that this is amendment No. 3022.

Mr. HELMS. I believe the managers of the bill are prepared to accept the amendment.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I am prepared to accept this amendment, as I understand—well, I will let Senator SPECTER speak for himself.

Mr. METZENBAUM addressed the Chair.

Mr. HARKIN. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Iowa has the floor.

Mr. HARKIN. Mr. President, we have looked at this amendment. Quite frankly, it comports basically with what is taking place right now. Maybe it clarifies it a little bit more. But I see no problems with it, and we accept the amendment.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. Is there further debate?

Mr. SPECTER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, under a complicated agreement which has been worked out heretofore, this side of the aisle raises no objection to this amendment.

Mr. HELMS. Mr. President, the pending amendment is identical to the amendment that the Senate adopted by voice vote February 20 on the Higher Education Act reauthorization bill, S. 1150. The amendment was subsequently dropped in the conference between the House and the Senate and, therefore, was not a part of that bill when it was signed by the President on July 23.

The amendment posed a clearcut question last February and it still does: Should the taxpayers' dollars authorized by Congress to fight drug abuse be misused to fund in our public schools so-called homosexual outreach projects which promote the homosexual lifestyle among our children and recruit junior and senior high school students into homosexuality?

I trust that all Senators will agree that funds authorized for fighting drug abuse should be used to fight drugs, not to promote homosexuality among schoolchildren.

But that is precisely what is going on in San Francisco, New York, and Ohio where Federal funds intended for substance-abuse prevention programs under the Drug Free Schools and Communities Act are being used instead to promote homosexuality in the schools. This flagrant misuse of Federal funds may be going in other States as well and the Department of Education is still looking into it.

Mr. President, New York City alone has diverted almost a half million dollars in Federal money intended for drug-abuse prevention to a homosexual group which, among its many disgusting activities, sponsors after-school parties for high school students at the local homosexual community center. A staff member of the group says the parties are meant to—I quote—"enable older gay activists [to meet] teenagers recruited from the New York City public schools."

San Francisco's school district, on the other hand, uses the Federal drug education money to pay the salary of a so-called director of support services for gay and lesbian youth who is tasked with the job of promoting homosexuality in each and every junior and senior high school in the city.

So-called homosexual support programs in the schools usually require students to attend mandatory seminars, often without their parents' knowledge, where they are told—falsely—that 1 in 10 of them is homosexual and that homosexuality is a perfectly acceptable lifestyle. Teachers are taught to accept homosexuality as not only normal, but desirable. They are also taught how to weave homosexual and lesbian literature and issues into their course subjects.

The San Francisco program—subsidized by the Federal Government—requires junior and senior high school librarians and counseling offices to keep on hand approving reading lists from the homosexual lobby about sexuality, homosexuality, and bisexuality as well as a list of prohomosexual community groups. Every school is also required to have a gay and lesbian sensitive adult available to counsel all students with questions related to sexuality.

Since Senators may find it difficult to believe that school officials are diverting Federal funds out of drug abuse programs and into homosexual propaganda, let me describe for them the three examples that the Department of Education has documented for me so far.

It came to my attention in late 1991 that the San Francisco Unified School District had used $12,000 in Federal Drug-Free Schools Act funding—plus $8,000 from other Federal programs—to subsidize the salary of a so-called director of support services for gay and lesbian youth.

In a memo to the entire district, the superintendent of San Francisco's schools stated that the purpose of the district's federally subsidized Gay and Lesbian Youth Program was, among other things—now get this, Mr. President—to:

(1) Demystify sexuality and homosexuality, and recognize the contribution of Gay and Lesbian persons to our culture and history;

(2) Educate all school personnel and students on the intent and content of the district's anti-slur policy and assist in the enforcement of it; and

(3) To link Gay and Lesbian students and their families with culturally appropriate community resources.

Mr. President, as the little girl in the comic pages used to say: "I may frow up." I think a lot of American taxpayers will feel the same way about it.

Now, the project director—who is paid from Federal funds—has the following duties as spelled out in the superintendent's memo:

(1) To support designated Gay and Lesbian Sensitive Adults at each high school."

(2) To set up a telephone switchboard for information "on support services for Gay and Lesbian Youth."

(3) To respond to the need of middle and high school students related to gender identity.

Mr. President that's the first time I ever knew there were students who could not identify his or her own gender. I continue:

(4) Prepare an approved reading list about sexuality, homosexuality, and bisexuality;

(5) Distribute a list of homosexual community groups to every middle and high school library and counseling office.

The school system's memo also requires the program to consult with a group called the Bay Area Network of Gay and Lesbian Educators. I might add parenthetically and disgustedly, they are using Federal funds to pay for this—Federal funds intended to fight drugs—which have been taken from your constituents and mine.

However, as bad as San Francisco is, the misuse of Federal drug fighting subsidies in the New York City schools is far worse. In July 1991, the Washington Times reported that the New York Governor's office had given the Gay and Lesbian Community Center in New York more than $500,000 since 1988 to run a program called—now get this—Youth Enrichment Services, which uses the acronym YES. The motto on the YES project's promotional brochure states that the project "Lets you say YES to being young and gay."

And from where, Mr. President, do the funds come to pay for this project? Well, the New York Governor's office acknowledges that most of the $500,000 came from the Federal Drug-Free Schools and Communities Program. They also admit that the project's purpose is to reach homosexual youth as young as age 13. But it gets worse.

With the help of funds taken from the taxpayers in North Carolina and every other State in the Union, the YES project sponsored after-school activities at the Gay and Lesbian Center in Manhattan that included events such as "Bridge the Gap Intergenerational Play Day" and "Coming Out, Then and Now," and "Intergenerational Pride Bunch," and finally, "Lesbian and Gay Pride Celebration."

This same Gay and Lesbian Center that received over half a million dollars in Federal drug education fund offers its adult clientele—at the same facility used by the teenage students—seminars such as the titled "101 Ways to Tie a Man to a Bed." Many of the center's activities revolve around an onsite cash bar, which is hardly consistent with the running of a taxpayer-funded program supposedly directed at preventing substance abuse.

Mr. President, when asked about these events, YES project staff members told the New York Guardian, a monthly statewide newspaper, that the "International Play Day" event was meant to—and I quote the staff person—"enable older gay activists [to meet] teenagers recruited from the New York City public schools." Let me emphasize that the staff member said they were "recruiting" teenagers from the public schools.

More importantly when the Guardian's reporters rightfully asked a YES staff member about possible sexual improprieties involving the teenage students at the federally subsidized seminars and parties, she brazenly asserted that "It can be the kids that are the pursuers and, oftentimes, is."

Mr. President, is there a child molester in this country that has not used that exact excuse to justify his crime? And again, this is going on with the help of taxes taken from the decent law abiding people of this Nation.

Mr. President, the Governor's office in the State of Ohio also diverted thousands of dollars in Federal drug-free school funds to support a so-called gay and lesbian high-risk youth prevention project at the Alphatha Healing Center in Columbus. The Governor's office justified misusing the funds by claiming that all the students served by the program are—get this—"victims of psychological abuse [as of result of] living in a straight society and having to deal with one's own sexuality."

Mr. President, how did this travesty of diverting funds meant to combat drugs into programs to promote homosexuality in the schools come about?

When Congress passed the Drug-Free Schools and Communities Act of 1986, it certainly was my understanding from reading the legislation that Congress' intent was to educate students about the dangers of using illegal drugs.

Special attention was focused on students at the greatest risk of becoming drug users themselves, and in section 5122, as slightly modified in the Anti-Drug-Abuse Act of 1988, the 1986 act applied the term "high-risk youth" to such students and defined it to include only young people who are: school dropouts, pregnant, economically disadvantaged, repeated school failures, children of drug abusers, victims of physical or psychological abuse, suicidal, or who have experienced mental-health problems or long-term physical pain, or are violence-prone delinquents.

I do not see any mention of homosexuality. But, the law's detailed definition of high risk students did not stop the San Francisco school system; no, sir. The San Francisco school system—and this is a matter of record—circumvented Congress' definition of high-risk youth by unilaterally expanding the definition to include students at risk of HIV infection and those disproportionately at risk of verbal and physical assaults.

I think I understand the King's English, or simple English at least. Yet, the Department of Education in two letters to my office says Congress has given the Department no control over how school districts spend the tax dollars they receive under the Drug-Free Schools and Communities Act.

This is somewhat puzzling Mr. President, because in the same letters the Department of Education acknowledges in their letters that, under the act—and this is what they wrote—"local drug prevention programs must be 'directly' related to alcohol and drug abuse education and prevention." Yet, the Department inexplicably fails to explain how these so-called homosexual education programs meet that requirement.

Mr. President, it is time to slam the door and say no more of this Mr. Government Bureaucrat or Governor or whoever, of whatever State. These tax dollars should not—and shall not, if I have anything to do with it—be used to encourage homosexuality.

And that, Mr. President, is what brings this Senator to the floor. It must be made perfectly clear to the Department of Education, the State education agencies, and all 50 Governor's offices, that in authorizing substance-abuse education funding under the Drug-Free Schools Act, Congress never meant for the funds to be hijacked and used to support homosexual school outreach programs.

If Senators want to pay for homosexual support programs in the schools, then let them propose a specific authorization and let us have a vote on it—and those Senators can answer for such a vote to the citizens back home.

But unless Congress is willing to specifically authorize spending for such programs in the schools, then the homosexual lobby should not be allowed to do it by stealing funds intended to help fight drug abuse.

Mr. President, Congress never intended or envisioned that the Drug-Free Schools and Communities Act would be used to support so-called homosexual school outreach programs.

The pending amendment would ensure that those funds would once again be limited to drug abuse prevention and education programs as Congress originally intended them to be.

I urge the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3022) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is now on agreeing to the committee amendment.

The committee amendment, as amended, was agreed to.

Mr. SPECTER. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. HELMS. Mr. President, at this point, in order to clarify for myself and possibly for other Senators, I want to ask the Parliamentarian and the distinguished occupant of the chair at this point, I am correct that the next order of business will be the Kennedy second-degree amendment.

Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. And that will be a rollcall vote. And then following that will be a freestanding amendment that I have pending, and a rollcall vote on that will be ordered.

Is that correct?

AMENDMENT NO. 3020

The PRESIDING OFFICER. The pending amendment is the Kennedy amendment, on which the yeas and nays have been ordered—the second-degree amendment. The amendment is numbered 3020. And upon disposition of that amendment, the Senate will proceed with consideration of the Lott amendment, which is numbered 3021. It is second degree to the Helms amendment numbered 3017.

Mr. HARKIN. Mr. President, if the Senator will yield——

Mr. HELMS. Very well. I just want to be sure to get the yeas and nays ordered on my first-degree amendment, to which Senator KENNEDY has offered a second-degree amendment.

I ask that it be in order that I ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. HELMS. Mr. President, I have not finished my parliamentary inquiry. And I apologize to the Chair.

As I understand it, the order of business will be the Kennedy second-degree amendment, and there will be a rollcall vote on that. Then there will be my freestanding amendment, on which the yeas and nays have been ordered. Then comes the Lott second-degree amendment.

Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. And No. 4 will be a freestanding on OSHA. Is that correct?

The PRESIDING OFFICER. Upon disposition of the Lott amendment, then the Helms amendment will be the pending question.

Mr. HELMS. Very well, Mr. President. And finally, there will be the Boy Scout amendment that caused so much controversy. That will be the end of the agreement.

Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. Is that the Senator's understanding?

Mr. HARKIN. I was just hoping, if the Senator will yield——

Mr. HELMS. Oh, yes; certainly.

Mr. HARKIN. I was hoping we might take that amendment now, since that is the regular order, which is the first amendment the Senator offered last night. If we can take that right now and dispose of that, then we can get on to all the other amendments on which I guess votes are going to be held.

Mr. HELMS. The Senator is talking about the Boy Scout amendment?

Mr. HARKIN. Yes.

Mr. HELMS. Very well. I am agreeable with that, if other Senators are.

Mr. HARKIN. Let us take that now. I ask for the regular order.

AMENDMENT NO. 3002

The PRESIDING OFFICER. The present order of business is the Helms amendment 3002, which is an amendment to the first remaining committee amendment.

Is there further debate?

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I am not clear what it is that we are about to vote on. Is this the so-called Boy Scout amendment?

Mr. HARKIN. The Senator is correct; this is the so-called Boy Scout amendment.

AMENDMENT NO. 3002

Mr. KENNEDY. Mr. President, this amendment is blatantly unconstitutional. It would set an ominous precedent for intrusive government regulation of private charities. I urge the Senate to reject it.

The amendment would require the Office of Personnel Management to drop from the Combined Federal Campaign any charity that has withdrawn support for the Boy Scouts because that organization bars homosexuals and atheists.

And regardless of how Members feel about the admissions rules of the Boy Scouts, we should not tell private charities like the United Way that they must continue to fund organizations which they have determined to be in violation of their own agency's antidiscrimination policy.

Let us understand clearly that the Combined Federal Campaign is designed to allow Federal employees to decide for themselves which charities their contributions will support.

If Federal employees disagree with the views or actions of a particular charity, they simply need not designate that charity. There is no Federal mandate of any kind that funds go to any particular charity.

For purposes of administering the Combined Federal Campaign, the Federal Government has no business dictating the specific policies and views of these charities—only in making sure that they are bona fide foundations. That is the spirit and purpose of the CFC. That principle is at the very heart of the freedom of expression and association protected by the first amendment.

In the 1985 case of Cornelius versus NAACP Legal Defense Fund, the Supreme Court ruled on a challenge to an Executive order barring legal defense and political advocacy organizations from the CFC. The Justices held that the campaign could adopt reasonable restrictions on the kinds of charities that could be included. But at the same time, they made it clear that the first amendment prohibits the campaign from discriminating against charitable organizations on the basis of the viewpoints of those organizations.

In her opinion for the Court, Justice Sandra Day O'Connor stated that—and I quote—"the Government violates the first amendment when it denies access to a speaker solely to suppress the point of view he espouses."

The pending amendment clearly violates that fundamental first amendment principle. Indeed, it directs the Office of Personnel Management and the CFC to flaunt the Constitution by excluding from the campaign charities that express their disagreement with the Boy Scouts' admission policy by withholding contributions.

This amendment would set an unsatisfactory precedent. Private charities support important social causes—often long before they enjoy universal acceptance; they should not be placed in fear that they will be excluded from a major fundraising drive like the Combined Federal Campaign for doing so. If we force the Untied Way out of the CFC, what charity will be safe? Whose beliefs will be next?

Federal employees contribute $250 million annually to the CFC—more than 50 percent of which goes to the United Way. These funds are making a critical difference in communities across this country—feeding the homeless, caring for the elderly, playing a major role in supporting hurricane victims in Florida, Louisiana, or Hawaii.

Is the Senate now prepared to deny this organization access to CFC funds simply because they have a policy of nondiscrimination?

Charities should be free to decide for themselves to whom they will contribute, free from Government interference. Indeed OPM regulations forbid the CFC to discriminate against charities on the basis of the political affiliation of the organization. OPM must include in the campaign any organization that meets the eligibility criteria.

The Helms amendment is flatly inconsistent with this rule and with the principle underlying the entire CFC program.

Finally, let me say to my colleagues that the time for the Senate to complete its business this year is short. There is still much important business to be done.

The pending amendment is a transparent effort to bog down this legislation with a controversial political issue. It seeks to stir popular prejudice, to divide us, and to distract us from the work that remains.

I urge the Senate to reject this amendment.

The PRESIDING OFFICER. Is there further debate? Hearing none, the question is on agreeing to the amendment.

The amendment (No. 3002) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The question is now on the committee amendment, as amended.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, what is the amendment before the Senate at the moment?

The PRESIDING OFFICER. It is the first committee amendment, as amended by the Helms amendment.

Mr. METZENBAUM. And is this the so-called OSHA amendment? Will the manager of the bill be good enough to explain?

Mr. HARKIN. If I might.

Mr. HELMS. Please do.

Mr. HARKIN. Mr. President, the pending amendment right now that will be before us in order will be the amendment in the second degree proposed by Senator KENNEDY to the amendment offered by Senator HELMS. That would be the first in order that we would take up right now, as I understand it.

I understand, Mr. President, we have to dispose of the first committee amendment on which——

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. The last amendment was attached, and when we dispense with that, we can move on. So I call for the regular order on that.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment, as amended.

The first committee amendment, as amended, was agreed to.

AMENDMENT NO. 3020

The PRESIDING OFFICER. The question is on agreeing to the Kennedy amendment No. 3020.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. I understand that is now open for debate.

Am I correct, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. So, again, for the information of Senators, the first vote will be on the Kennedy amendment, a second-degree amendment. On disposing of that, then the vote will occur on the Helms first-degree amendment.

After that, the vote then would occur on the Lott second-degree amendment to the Helms first-degree amendment. Then after that, of course, would be the vote on the underlying first-degree amendment by Senator HELMS. The first amendment on which there is a pending Kennedy amendment has to do with needles, sterile needles, a shorthand way of defining it. The second amendment that Senator LOTT has amended has to deal with OSHA regulations.

So I think now we are ready to proceed, hopefully, with votes on those amendments.

Mr. HELMS. I am certainly ready.

VOTE ON AMENDMENT NO. 3020

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Massachusetts. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 69, nays 29, as follows:

{Rollcall Vote No. 212 Leg.}

YEAS—69

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick, Jocelyn
Byrd
Chafee
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gorton
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mack
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Specter
Wellstone
Wofford

NAYS—29

Bond
Brown
Burns
Coats
Cochran
Craig
Danforth
Dole
Domenici
Garn
Gramm
Grassley
Hatch
Helms
Kasten
Lott
Lugar
McCain
McConnell
Murkowski
Nickles
Pressler
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—2

Gore
Wirth

So the amendment (No. 3020) was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate is not in order.

The Senator will withhold. Clear the well.

Bring the Senate in order.

Senators holding discussion in the well please discontinue the same and take it to the Cloakroom.

The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, you have done a masterful job. You have shut up about half of the U.S. Senate temporarily.

Let me say something to Senators, and I say this with all the grace that I possess. This vote is an illustration of what Mark Twain meant when he gave the advice that if you love the law, and if you like sausage, do not watch either one of them being made.

Senators walked in here and, through rote, they voted for an amendment they knew nothing about. I bet if you took Senators into a closet and said now tell me what this amendment was, not three of them could tell you what was in it.

I will take my sausage and eggs tomorrow morning. It is a good thing the President is going to veto this bill, because it is an utter disaster.

Let me tell you what you have just done. The question before the Senate with the two amendments regarding needles, was whether Senators believe we should use taxpayers' money to hand out needles to drug addicts or whether we believe it is time to get serious about drug abuse. Everybody is against illicit drugs, but then they say let us go out and create programs to give away needles and encourage more and more use of drugs by addicts.

In that regard, Senator KENNEDY's amendment tells the Government to hand out needles, under the cover of calling such a giveaway a demonstration project.

And my amendment certainly did not favor that. But that did not make the difference.

So what is the difference between the approach of Senator KENNEDY and the approach of this Senator on the subject of needles? The Senator thinks and says, and I admire him for standing up for what he believes, he thinks it is legitimate to set up programs where hypodermic needles are given to addicts, and I do not. His amendment gives up the war on drugs to fight AIDS and that is not acceptable.

Dr. Sullivan does not support this Kennedy approach. Now I was the only Senator who voted against Dr. Sullivan, before anybody brings that subject up, but he certainly changed my mind because of the law and order positions he has taken. Dr. Sullivan of HHS and Bob Martinez—the drug czar—say that Senator KENNEDY's suggestion cannot and will not work. Senator KENNEDY is plain wrong.

But he is right about one thing. The Helms amendment is tough. And I meant for it to be tough. I also meant for people to read what it said. Most Senators on this side of the aisle read it; none on the other side of the aisle did.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. HELMS. No, I do not.

Mr. BYRD. Will the Senator please yield?

Mr. HELMS. To my fellow North Carolinian, yes.

Mr. BYRD. Mr. President, I just want to tell my friend that I take umbrage at what he said about sausage. I am an old meat cutter. I have made lots of sausage in my life. I was a meat cutter. I was a young meat cutter at that time. I made lots of sausage.

May I say to the Senator, the sausage I made, I would be glad to make it right out in public view, which I did. And more than that, sausage is my favorite breakfast meat.

So I hope that Senators will not be misled with respect to good pork sausage. And right now, my wife goes to the store and buys Jimmy Dean's pork sausage.

So I hope the Senator will not repeat what he just said about sausage. That is the thing that gives me umbrage.

Mr. HELMS. If it will please my friend, I cook Jimmy Dean pork sausage for Mrs. Helms every Saturday morning to go with her grits.

Mr. BYRD. But the Senator does like sausage.

Mr. HELMS. Yes. I say to my able friend though that there is an issue here we can't laugh about. If you aid and abet the drug trade by handing out needles, you lose under the Helms amendment, which is no longer viable because the second-degree amendment of Mr. KENNEDY just passed.

I cannot stand by and sanction any money going to hand out needles to addicts no matter what fancy words may be used to cover the addicts.

Mr. President, no matter what face you put on it, it is still unlawful.

There is no point in taking the Senate's time in voting twice on what amounts to be the same amendment. So I ask unanimous consent that the yeas and nays on the first-degree amendment, as modified by the second-degree amendment, be vitiated.

The PRESIDING OFFICER. Is there objection?

Hearing none, the yeas and nays are vitiated.

Mr. HELMS. I thank the Senate, and I thank the Senators.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I will not take the Senate's time very long, but I do want to respond to the point that has been made by the Senator from North Carolina.

The Senate has just voted for the position that has been embraced by the President of the United States when he signed the ADAMHA Act. President Bush effectively has supported this position that the Senate now went on record on; overwhelmingly the Senate went on record on.

It is a response to an amendment that was offered by a Republican from Georgia, Mr. GINGRICH, after consultation with the Bush administration and the Centers for Disease Control, after considerable negotiations with the administration, and as a result of the conference on its ADAMHA proposal.

Mr. President, we have done exactly, exactly, what the Senator from North Carolina has stated. We have prohibited the use of any Federal funds in this legislation, unless there is going to be a specific finding by the Surgeon General about the health implications and the prevention of AIDS or the health implications in terms of the drug use.

Now, there are nine different States or communities that at the present time have research programs. But this is what would happen in your State, those that care about the States, under the amendment of the Senator from North Carolina:

> Notwithstanding any other provision of law, none of the funds made available under this Act or an amendment made by this Act shall be allocated to any State, metropolitan area or rural area, if such State, metropolitan area or rural area, carries out any program for the distribution of sterile needles * * *.

What you are basically saying is, if a State or local community makes a judgment, in their own judgment, that they want to do something about experimentation and research, then, under the Helms amendment, they are prohibited, they are prohibited from participating in the Head Start Program, job training programs, all the others, if the State or local community does so.

Mr. President, that is a far reach from either limiting the existing fund under the existing law.

The fact is, in some States, in some local communities, the District of Columbia, for example, you are not permitted to have an exchange unless you are enrolled in a treatment program. And they have seen an important reduction in the incidence of AIDS.

New Haven has estimated their savings to the local community has been $8 million for a $150,000 research program.

Mr. President, I think we have provided the kind of protections here which I think all of us are very much concerned about. But I think, on the other hand, the kind of public health considerations should not be effectively prohibited. If this is going to be judged in terms of the public health by the Surgeon General, a research program that is offering some hope, some opportunity in terms of the reductions of substance abuse or AIDS, why should we be blocking it? That is basically what we have done.

The President of the United States never objected to it. He signed that law. The conference was passed overwhelmingly here in the U.S. Senate.

And, Mr. President, I think it really reflects the best public health policy. We did not have the opportunity, we talked earlier about this matter, but the vote did come quickly.

I appreciate the indulgence of the Members of the Senate about this bill.

I thank the Chair.

AMENDMENT NO. 3018, AS AMENDED

The PRESIDING OFFICER. The question is on the Helms amendment, as amended.

The amendment (No. 3018), as amended, was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SIMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3021

Mr. LOTT. Mr. President, I believe it would be in order for me at this point to ask for the yeas and nays on my amendment, No. 3021.

So at this point, moving right along without further discussion, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment of the Senator from Mississippi [Mr. LOTT].

The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

The result was announced—yeas 43, nays 55, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—43

Bentsen
Biden
Bond
Brown
Bryan
Burns
Coats
Cochran
Cohen
Conrad
Craig
Dixon
Domenici
Durenberger
Ford
Garn
Gramm
Grassley
Hatch
Helms
Kassebaum
Kasten
Kohl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Rudman
Sanford
Seymour
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—55

Adams
Akaka
Baucus
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick, Jocelyn
Byrd
Chafee
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Dole
Exon
Fowler
Glenn
Gorton
Graham
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Riegle
Robb
Rockefeller
Sarbanes
Sasser
Shelby
Simon
Specter
Wellstone
Wofford

NOT VOTING—2

Gore
Wirth

So the amendment (No. 3021) was rejected.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

Mr. METZENBAUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SARBANES). The Chair recognizes the Senator from Iowa, the manager of the bill.

Mr. HARKIN. Mr. President, I understand that there is an underlying amendment.

The PRESIDING OFFICER. The question now is on agreeing to the underlying amendment No. 3017.

The amendment (No. 3017) was rejected.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

AMENDMENT NO. 3033

(Purpose: To provide additional resources to the Health Care for the Homeless Program)

Mr. HARKIN. Mr. President, I have a couple of amendments that have been agreed to by the other side. The first is an amendment by Senator DOMENICI. I ask that the pending amendment be laid aside for reconsideration of an amendment I send to the desk on behalf of Senator DOMENICI.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the pending amendment is set aside. The clerk will report the amendment sent to the desk.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for Mr. DOMENICI, proposes an amendment numbered 3033.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, line 4, strike "$2,585,761,000" and insert in lieu thereof "$2,591,761,000; *Provided*, That the funding level for the National Institute of General Medical Sciences shall not exceed $824,529,000.".

Mr. HARKIN. Mr. President, this amendment puts an additional $6 million into health care for the homeless. Mr. DOMENICI used as an offset $6 million from the National Institute for General Medical Sciences, and we have accepted it on this side. I believe it has been accepted on the other side. I urge adoption.

HEALTH CARE FOR THE HOMELESS PROGRAM

Mr. DOMENICI. Mr. President, I rise to offer an amendment to the pending appropriations bill that will restore critical funds to the ongoing Health Care for the Homeless Program.

My amendment will restore this very important program to aid those who are homeless halfway to the level of the President's budget request for fiscal year 1993.

This amendment will add $6 million in budget authority and $3.3 million in outlays to the bill for health care services to homeless persons. In doing so, it will increase the program above essentially a freeze level approved by both the Senate and House Appropriations Committees.

Mr. President, the Health Care for the Homeless Program has been one of the most successful and effective of the Stewart B. McKinney-funded programs.

Nationwide, over 400,000 homeless adults and children every year receive a wide range of comprehensive health services with linkages to mental health, substance abuse, and entitlement programs.

This very basic care and focused treatment of illnesses that directly contribute to homelessness is a critical component of our Federal program to aid States and localities with the problem of homelessness.

Without the Health Care for the Homeless Program, already overloaded emergency rooms would be flooded with homeless people not knowing where else to turn for even routine health problems.

At a time when the appropriations committees are proposing to freeze this program, many of our cities are experiencing an increase in the number of people seeking help. A continuation of existing funding will significantly limit available services.

Because many of these programs depend upon charitable donations as well, it is often a struggle to keep the doors open five days a week.

When these doors close, the medical services, substance abuse programs, mental health case managers, social workers, dentists, and even our outreach efforts to homeless children are canceled.

Mr. President, this is not the first year that I have been before the Senate seeking to uphold the Congress' commitment to aid the homeless as embodied in the Stewart B. McKinney Homeless Act.

It has been an ongoing effort to keep these programs up and running, but a continued trend of level funding these programs cannot be sustained. These very dedicated community programs are the front lines against homelessness. They desperately need our support.

I hope my colleagues will adopt my amendment to fund the homeless health centers program at $61.7 million for fiscal year 1993. These funds will provide critical ongoing support for existing projects and allow them to serve the homeless who seek this most basic assistance.

This amendment would be offset by a reduction in the National Institute of General Medical Sciences, which would still be $9.4 million above the fiscal year 1992 level.

Mr. President, I want to thank Senator HARKIN and Senator SPECTER for their assistance in getting this amendment passed. It should be obvious that we ought to maximize our efforts in health care for the homeless. This will put it up the President's level. Otherwise, it would be about $6 million and it really would put a very, very big damper on that program.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3033) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote and to lay it on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. We now revert to the committee amendment on page 39, line 23.

AMENDMENT NO. 3034

Mr. HARKIN. Mr. President, I ask that the pending amendment be set aside for an amendment that I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection? Hearing no objection, the pending amendment is set aside. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment number 3034.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 33 strike the provision beginning on line 20, and on page 51, line 20, strike "$125,000,000" and insert "$140,000,000".

Mr. HARKIN. Mr. President, this amendment is a technical amendment to accommodate the Finance Committee. Inadvertently, there was a portion of the Finance Committee's jurisdiction that was included in this bill. I say it was totally inadvertent. It was brought to our attention just a few moments ago. It was in the amount of $15 million. I need not go into all the details. But we then took that $15 million out that is within the jurisdiction of the Finance Committee. The offset that we used is in personnel attrition to allow for that $15 million offset that rightfully belongs in the purview of the Finance Committee.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3034) was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote and to lay it on the table.

The motion to lay on the table was agreed to.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that the remaining committee amendments be agreed to en bloc, with the exception of the committee amendment on page 52, lines 9 through 23; and that the bill as thus amended be considered as original text for the purpose of further amendment, provided that no point of order be waived by reason of this agreement.

Mr. SPECTER. Mr. President, I associate myself with the remarks of the distinguished chairman. That is agreeable on this side of the aisle.

The PRESIDING OFFICER. Without objection, the amendments, with the exception of the one indicated by the Senator from Iowa, are agreed to, en bloc.

The committee amendments were agreed to en bloc, with the exception of excepted committee amendment on page 52, lines 9 through 23.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 52, LINES 9 THROUGH 23

The PRESIDING OFFICER. The pending question now before the Senate is the committee amendment on page 52, lines 9 through 23.

Mr. SPECTER. Mr. President, on behalf of Senator DOLE I send an amendment to the desk.

The PRESIDING OFFICER. Does the Senator ask unanimous consent that the pending amendment be set aside?

Mr. SPECTER. Mr. President, I do ask unanimous consent that the pending amendment to set aside so that we may consider this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3035

(Purpose: To strike section 215)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for Mr. DOLE, proposes an amendment numbered 3035.

Beginning with page 50 line 12, strike all through page 51, line 8.

Mr. SPECTER. The provision would strike a provision the Department of Health and Human Services requested to implement the Social Security Act provisions regarding material relating to living and dead beneficiaries.

This provision was included in the House bill but is being stricken because of concerns raised by the authorizing committee. The amendment has been cleared on both sides, and is offered by me on behalf of Senator DOLE.

Mr. HARKIN. Mr. President, we understand the amendment. It is a good amendment. I concur with the remarks made by the distinguished Senator from Pennsylvania. We accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3035) was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The business of the Senate now returns to the committee amendment on page 52, lines 9 through 23.

Mr. HARKIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 73, LINE 14 REINSTATED

Mr. HARKIN. Mr. President, a few moments ago when we received the unanimous consent to adopt en bloc the remaining committee amendments, one committee amendment was excepted. That was the one on page 52, lines 9 through 23, which is the pending business before the Senate right now. Inadvertently included in that en bloc consent agreement was a committee amendment on page 73, line 14.

Mr. President, I ask unanimous consent that the committee amendment on page 73, line 14, be excepted from the adoption en bloc; that it be reinstated; and that it be in order after the adoption of the committee amendment on page 52, lines 9 through 23.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

STATE LEGALIZATION IMPACT ASSISTANCE GRANTS

Mr. SEYMOUR. Mr. President, I come to the floor to appeal to the Senate's sense of fairness. The Senate as an institution, is often referred to as the world's greatest deliberative body.

In one area, I think the Congress missed the mark and perhaps unknowingly, it has foisted a great fiscal burden onto the shoulders of a few states. I am talking about the Immigration Reform and Control Act of 1986 or IRCA. And the reason I am standing here today is because of the State Legalization Impact Assistance Grant Program [SLIAG].

In fact, it seems like just yesterday that I came to the floor to offer an amendment to a Labor-HHS appropriations bill to help the Senate—and the Federal Government—make good on the promise that was made to the States in that landmark immigration bill.

I had intended to offer an amendment to boost the woefully inadequate number in this bill—$150 million—up to the number the House provides, $561 million. But, again, I can count. There are just a handful of States that are adversely affected by the cuts they have taken in SLIAG. It's clear I don't have the votes to shift $411 million from other programs. This is a tight bill. I understand the realities of reducing from valued programs that help the elderly, the frail, kids and other needy groups, even if it is done in the name of fairness.

Ironically, it's a shame people don't understand that the SLIAG funds serve these populations too. Some say that when you stand for fairness, you stand alone. On this issue, I know that feeling.

I think it's important that my colleagues understand the history behind the SLIAG Program. Mr. President, this was an integral part of the compromise that led to enactment of the Immigration Reform and Control Act of 1986.

IRCA's legalization provisions have awarded the benefit of legal residency in the United States to an approximate 3.1 million persons. The California Department of Health and Welfare estimates that some 1.6 million amnesty recipients reside in California. Recall that amnesty recipients—eligible legalized aliens—are not illegal aliens. Through amnesty, they now have legal status.

Mr. President, the senior Senator from Florida [Mr. GRAHAM] would agree that the States and local governments were hesitant to agree to a sweeping amnesty program absent some assurance that the costs associated with this new population—costs for public assistance, health care, and education services—would be reimbursed by the Federal Government.

As the lead negotiator for the Nation's Governors, he negotiated a good deal and the States and local governments have kept faith. States and local governments have carried out their end of the deal, and they continue to provide the services envisioned under IRCA.

The States, were hesitant to embrace any amnesty program that did not protect them from the spiraling costs associated with this new population. Serving in the California Senate at the time, I recall vividly the internal debate. Home to a growing population of illegal immigrants, we saw the merits of providing amnesty. On the other hand, we feared the fiscal impact of such a policy. There were similar debates in other States.

In establishing SLIAG, the Congress recognized that this newly legalized population would pose a major cost consequence for State and local governments. Moreover, Congress affirmatively stated through the SLIAG provision that the Federal Government has a role to play in alleviating this fiscal impact.

So here's what the SLIAG compromise said: The law provided for $1 billion in each of fiscal years 1988 through 1992 for a total of $4 billion. The compromise also provided that any remaining balances—any unexpended SLIAG funds would be available to the States through fiscal year 1994. In other words, $4 billion would be available over a 7-year period. And as I stated earlier, States and communities moved forward to provide the essential services for this new population. But they did so counting on SLIAG for reimbursement. After all, that was the deal. That was the Federal Government's promise. That is the law.

This second component of the SLIAG agreement, the carryforward authority, expressly acknowledged the fact that as a reimbursement program, not all claims for services provided would be forthcoming in the first few years. That's where California and other similarly situated States find themselves today. We are now in the outyears of the program, but we have not seen claims for bona fide services disappear. In fact, they are increasing just as IRCA's legislative history anticipated, just as the law anticipated.

The demand for SLIAG-related services are there. Under the law, they must be provided, and—also under law—they should be reimbursed through SLIAG. That's what the States and local governments rightly expect. That's the deal they agreed to back in 1985 and 1986 when IRCA was debated and enacted. Again, that was the Federal Government's promise. That is the law.

So far so good. But there is one major problem associated with the enactment of any legislation and that is the implementation process through regulations. In all fairness to HHS, this was a major task. It takes time to draft, implement and work out the kinks of new regulations, especially regulations of this magnitude.

Well, there was a slow startup period and States were unable to begin drawing down their SLIAG funds as quickly as had been thought. After all States had to put into place their own systems for documenting costs and programs associated with the newly legalized population. As a consequence, by September 1989, there was a balance in the SLIAG account. After all, this is a reimbursement program.

And beginning with the fiscal year 1990 Labor-HHS appropriations bill, Congress decided to dip into the SLIAG fund and use it to fund all sorts of purposes. In fact, one Member who offered an amendment using SLIAG as an offset explained to the Senate, "We are just not finding that this money is necessary * * *."

No one bothered to check with the States and local governments who rely on SLIAG and were providing an entire array of services that under law were to be offset through SLIAG. No one wanted to recall that the program had only been up and running for 15 months.

So what happened next? Well, Mr. President, to put it mildly, the Senate went on a feeding frenzy, and cut $551 million from SLIAG. At the insistence of Senator GRAHAM of Florida and others, the Senate agreed to increase the following year SLIAG appropriation by this same amount, about $551 million.

In other words, the Senate, the Congress as a whole, said, we understand your problem, so we'll defer the money and take care of you next year. Well, Mr. President, next year has come and gone on two separate occasions. And during that time, a total of $1.123 billion owed to the SLIAG Program have been deferred. California alone faces a $576 million shortfall.

I came to the floor last year to try to reverse that trend. And I spent a goodly amount of time reciting all the reasons why the SLIAG Program should be funded. But California's pleas fell on deaf ears. No one cared. No one cared that the Governor and the legislature had just taken action to reduce California's $15 billion budget deficit. No one cares that California local governments are cutting programs and laying off workers to make ends meet.

It was obvious I did not have the votes to increase funding for the program, so I deferred offering that amendment in the hope that the issue could be resolved in the conference.

So the issue went to conference, and here's what the conferees to the fiscal year 1992 Labor-HHS appropriations bill said, and I quote:

> The bill includes language which defers $1,122,992,000 in funds appropriated for the State Legalization Impact Assistance Grant (SLIAG) Program from fiscal year 1992 to fiscal year 1993. The deferral was based on the need to achieve outlay savings in 1992, and does not represent a permanent reduction in funds available to states. The Conferees are aware that three states are going to experience a SLIAG funding shortfall in fiscal year 1992 and that additional states will run out of funds in fiscal year 1993. The Conferees are also aware that the deferral of fiscal year 1992 funds could result in cut-backs in financial, medical and educational assistance to newly legalized aliens. The Conferees are also in agreement that further deferral of SLIAG funds would be detrimental to the objectives of the program and would place in jeopardy newly legalized aliens and their ability to complete the requirements for citizenship. Therefore, the Conferees agree to provide sufficient funds in fiscal year 1993 and direct the Secretary to distribute the funds no later than October 15, 1992. This action will result in a five month deferral in the availability of funding for these states in the program as current allotments are expected to be sufficient through the end of 1992. State and local service providers should therefore be reassured by this action and should not diminish in any way activities to fully meet the needs of persons eligible for SLIAG services. The Conferees further note that the fiscal year 1993 appropriations may be used to reimburse costs incurred by

States and local service providers on or after October 1, 1989.

So the conferees decided to defer all SLIAG funds, $1.123 billion. But they explicitly state that this will have an adverse impact on three States. Those States by the way are California, Colorado, and New York.

The conferees express their concern that this action—the deferral—will have an adverse effect on the newly legalized aliens themselves, that it "would place in jeopardy newly legalized aliens and their ability to complete the requirements for citizenship."

But the conferees agree to provide sufficient funds in fiscal year 1993, hence the bill before us, which I want to add only provides $150 million—this amount won't even cover the State of California's costs. California and other States are looking at immediate shortfalls.

This doesn't count county needs which are projected at $190 million in the upcoming year. So we have a grand total of $536 million, and that's just for California. It doesn't consider the needs of the other States. Well, I think we have established that $150 million doesn't come even close to covering the tab.

But let me get back to the conference report language to underline one other area where the Congress once again demonstrated its resolve to help States in this area. The language I cited earlier goes on to state—State and local service providers should therefore be reassured by this action and should not diminish in any way activities to fully meet the needs of persons eligible for SLIAG services. This is an insult to the people out there who are struggling to make this program work.

In other words, Mr. President, last year's bill says, "keep on serving those people, we know it's tough, but we'll be there next year to help you. We'll keep our promise." There's another way to say this—the check is in the mail. Maybe it's a check drawn from the House bank.

But once again, State and local service providers moved ahead to provide these needed services. After all, as anyone from local government can attest, States and local governments in good conscience cannot turn their backs on providing basic, survival services to these people.

So here we are today, Mr. President. Nothing has really changed except for the fact that States like California are out even more money, more services are being cut. Of course, the backdrop for this action in my State is the recently concluded budget in the State of California which, based on the report language cited above, assumes SLIAG funding. So, right off the bat, California is looking at an immediate shortfall.

Members of this body need to understand that State and local governments are powerless to protect themselves from the consequences of Federal immigration policy which is, by law, the sole responsibility of the Federal Government.

And I want Members to keep one thought in mind. California is home to more than half of the 2.7 million men, women, and children who were granted amnesty. In Los Angeles County alone, more than 1 out of every 10 residents—850,000 persons applied for amnesty. Let's put this number in perspective. This is about four times the population of Des Moines, IA. I do not mean this in a mean-spirited way, but it puts this dire need in perspective.

State and local governments have to balance their budgets. They can't throw their responsibilities onto others. They can't put off their promises until another day. That is why SLIAG funding is so important and essential to the fiscal sanity of the State of California, and others who have counted on and budgeted based on the SLIAG promise. But today, once again, the Congress is deferring its responsibility—breaking its promise and breaking the backs of local governments in my State. I have already indicated that the $150 million just doesn't work.

Mr. President, in 1990 the California Department of Education released a study regarding amnesty recipients. Here's what they found:

Some 86 percent of this population is functioning below the literacy benchmark for the State welfare population.

Many do not speak English and about one-third are illiterate in their own language.

The majority of amnesty recipients and 70 percent of seasonal agricultural workers did not have health coverage. In the event of a catastrophic need, it is the local publicly supported health care facility that bears the cost.

This is hardly the profile of a population that will not need continued assistance. To assert that these individuals will not need services because they will have lived and worked in the United States for more than 10 years is wrong. But again, the affected States are not asking for anymore than their fair share.

I mentioned the impact on the State, briefly. Let me talk about Los Angeles County for a moment. Due to the State of California's budget problems, the county's budget situation is dire. There is an over 10 percent unemployment rate in the country, in large part owing to the recent riots, which riveted the Nation's attention, and the loss of tens of thousands of defense-related and aerospace sector jobs. A loss of defense contracts has cut deeply into the country's revenue base.

Even without the loss of SLIAG, the county currently faces across-the-board cuts averaging 10 percent and the potential layoff of up to 12,000 county employees.

Let me add that the county has been a partner with the State. Together, they are fulfilling their end of the bargain; they do so daily in emergency rooms and hospitals, schools, community based organizations, and in other areas. In Los Angeles County alone, SLIAG cuts will force a major reduction in county health services, including major reductions in outpatient clinics and medical and surgical beds.

Moreover, the impact to communities statewide will be enormous. For instance, consider some of the following:

Pregnant women will not receive prenatal care, health education, nutrition, and child health services so critical to our next generation of Americans and Americans yet unborn.

Consider the fact, Mr. President, that over 20 percent of all hospital admissions in Los Angeles County last year were legalized aliens. And one of every 200 babies born in this county is born to an amnesty applicant in one Los Angeles County hospital.

Cutting SLIAG funds does not cause the demand for services or the related costs to disappear. It merely shifts the burden—unfairly and inappropriately—to a few States and local governments. When hospitals cannot be reimbursed, when people cannot receive the language training they need, when outlays for public assistance programs go unreimbursed, it is not a simple case of a legalized alien not receiving a service. There is a ripple effect. Entire communities are being penalized.

If we are to cut these funds, then we must be prepared to acknowledge the fact that we are creating an underclass of citizens who will not have the tools to fully participate in and benefit our society. How can you expect someone who is illiterate in their native language to become proficient in English with but 40 hours instruction? How can we expect healthy babies or basic health care when hospitals and clinics, absent reimbursement, will be forced to close down?

While rhetorical, these are very real questions that we must confront and for which we will be accountable should we not fulfill the Federal Government's promise under IRCA. I am not sure, Mr. President, that any Member in this Chamber would like to take credit for that.

Cutting SLIAG gives the Federal Government just one more opportunity to foist yet another fiscal burden onto the shoulders of States and local governments. And that's a bottom line of which no one can be proud.

Let's just assume the House number of $561 million is enacted into law. Under that scenario, four States will still end up with a shortfall in 1993: California stands to lose $302.8 million; Kansas would still lose $463,000; Colorado will lose $3.2 million and New York will lose over $55.5 million. The numbers are obviously worse under the Senate mark, and I ask that a table detailing states's shortfalls appear in the RECORD at this point. This chart shows who the losers are, and they are many, under the Senate bill.

These states should not be left holding an empty bag.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1993 SLIAG ALLOCATIONS AND DEFICITS ASSUMING $150,000,000 IN TOTAL FUNDING

State	Fiscal year 1993—			
	Estimated SLIAG grants	Projected surplus	Projected deficit	Percent share
Arizona	$3,338,119	$8,966,762	0	2.26
Arkansas	77,942	879,888	0	.05
California	98,487,794	0	578,256,043	86.53
Colorado	1,380,741	0	7,052,384	.93
Connecticut	153,918	815,100	0	.10
D.C.	150,259	1,050,241	0	.10
Florida	0	44,255,363	0	.00
Georgia	882,138	4,793,349	0	.38
Hawaii	97,118	96,888	0	.07
Idaho	280,459	2,148,885	0	.19
Illinois	7,214,129	8,877,036	0	4.875
Indiana	128,827	389,907	0	.09
Iowa	62,167	36,323	0	.04
Kansas	180,076	0	963,870	.12
Louisiana	209,961	0	121,389	.14
Maryland	501,561	2,151,838	0	.34
Massachusetts	1,080,349	878,983	0	.71
Michigan	177,807	1,967,898	0	.12
Minnesota	260,005	2,008,119	0	.18
Missouri	0	791,422	0	.00
Nebraska	85,654	673,618	0	.08
Nevada	974,781	0	436,536	.56
New Hampshire	8,072	150,118	0	.01
New Jersey	1,212,,328	12,454,344	0	.82
New Mexico	899,463	3,907,123	0	.61
New York	5,751,257	0	31,517,287	3.89
North Carolina	723,985	3,108,816	0	.49
Ohio	16,041	1,260,012	0	.01
Oklahoma	16,970	2,777,084	0	.01
Oregon	1,525,017	0	2,097,911	1.03
Pennsylvania	288,625	(81,048)	61,048	.20
Puerto Rico	319,152	3,482,042	0	.22
Rhode Island	153,264	0	142,886	.10
South Carolina	107,224	883,218	0	.07
Tennessee	15,920	968,455	0	.01
Texas	17,893,927	0	11,441,749	12.09
Utah	319,791	0	230,533	.22
Virginia	608,323	4,798,074	0	.41
Washington	2,211,993	4,258,090	0	1.49
West Virginia	0	145,799	0	.00
Wisconsin	275,047	176,408	0	.19
Wyoming	0	334,513	0	.00
Total	148,000,000	117,030,412	630,321,804	100.00

Note.—Grant amount excludes $2 million for Federal administration.

Mr. SEYMOUR. Mr. President, I had intended to offer an amendment that, quite simply, sought to target scarce SLIAG funds to the neediest States, those States who will, or already have, exhaust their SLIAG allocations. The chart I just referred to shows 11 losers. My amendment would have targeted all fiscal year 1993 SLIAG funds to the neediest States. But there is not even sufficient support for that in this body.

I won't offer my amendment. I know where the votes are. I cannot overstate the need for the conferees to once and for all stand up to this issue and solve it, as the law promises—It's time they kept their word.

I yield the floor, Mr. President.

BLOODBORNE PATHOGENS

Mr. BROWN. Mr. President, a year ago by a vote of 99–1 the Senate voted on an amendment to the fiscal year 1992 Labor-HHS-Education appropriations bill which required OSHA to implement a final rule on occupational exposure to bloodborne pathogens, such as the AIDS virus and hepatitis B. These regulations are now in effect.

The Senate Appropriations Committee report on the fiscal year 1993 Labor-HHS-Education appropriations bill H.R. 5677 states problems exist in complying with the regulations.

The committee specifically refers to difficulties rural health care providers in such remote regions as Alaska are having. Many of these areas do not have adequate water and sewer or commercial laundry services that would be necessary to comply with the laundry requirements of the regulations. For example, health care providers are required to bag any contaminated laundry at the location it is soiled, and then send it to a commercial laundry for washing. A lab coat worn during a visit by a dentist would fall under this classification. This makes it extremely difficult for health care providers in remote areas, that may have neither commercial laundries or running water, to comply. These communities are most often served by visiting health care professionals who drive or fly in to provide medical attention for serious problems. And, of course there are many communities in other parts of rural America that do not have ready access to commercial laundries.

The committee also directs OSHA to review the regulations as they apply to dentistry, citing the following concerns: First, restrictions that may be imposed on the dentist's ability to exercise professional judgment as it affects patient care; second, the medical records requirements; third, the use and laundry of personal protective equipment; fourth, whether or not dental saliva is classified as an infectious material; fifth, the need for a medical opinion on the necessity of administering hepatitis B vaccine; and the employer's obligation relating to the provision of the hepatitis B vaccination and postexposure evaluation and followup.

Not one of these areas, with the possible exception of dental saliva classification, is unique to the area of dentistry.

I have heard from many individuals, and health care organizations in Colorado and around the country concerning their difficulty in complying with the regulations. For example, Leonard Farr, CEO of the Penrose-St. Francis Healthcare System, wrote me:

> This rule is very unreasonable in its proposals and is a perfect example of bureaucratic overreaction. For example, as these rules are now written, it is my understanding that anyone dealing with any type of human fluids, any blood waste, et cetera, would have to be donned in protective coverings, including face shields * * * does this mean a nurse removing a patient off a bed pan would have to be gowned, gloved, and wearing a face shield before undertaking this task?

According to the American Society of Internal Medicine [ASIM], physicians are being overwhelmed by the ambiguity and the excessive amount of paperwork required by the regulations. For example, they have to keep a record of every time the table is cleansed between patients, the time and length of time the instruments are sterilized, and how often a trash can is cleaned out.

ASIM members also state that it is unclear what type of personal protective equipment is necessary for low-risk procedures. A procedure, such as an inflexible sigmodoscopic examination, may have minimal risk of blood exposure, yet in theory may require not just gloves but gowns, masks, and goggles as well.

The American College of OB-GYN's has had many calls from members asking questions such as: When is a piece of equipment—such as a nondisposable speculum—considered disinfected?

How long must it soak in disinfectant before it is sterile and ready for reuse?

What protective garments is an OB-GYN required to wear when performing in-office procedures such as a pap smear and what does the nurse who is holding the slide need to be wearing? Gloves and gown?

Is it acceptable for a physician to conduct the employee training of his or her staff? Can the physician use a video to help explain the regulations?

According to the Medical Group Management Association, OSHA has seriously underestimated the time and personnel necessary to comply with the regulations, including the written exposure control plan, the detailed policies and procedures, and the extensive staff training the regulations require employees to undertake.

For example, many small group practices have not had the staff available to dedicate to the approximately 50-60 hours necessary to complete the extensive manuals and implement the recordkeeping required by the regulation.

A cottage industry has sprung up to provide materials, equipment, seminars, et cetera, sometimes at considerable expense, to "ensure" that confused and frustrated physicians are in compliance.

According to the American Society of Internal Medicine, the regulations do not appropriately reflect the low risk factor associated with many procedures performed in physician offices. A general practitioner from California said:

> In my judgment, these new OSHA recommendations impose an unnecessary burden on an office where the most dangerous infectious disease we deal with is the common cold and where in 30 years of practice not one occupational illness has ever affected any of my employees.

The National Association of Community Health Centers has expressed concern over what constitutes reasonable anticipation of exposure to diseases such as hepatitis B. Because of this ambiguity many offices have been forced to vaccinate additional people in the office such as the clerical staff. Hepatitis B vaccine costs between $150 and $500 per person.

I had intended to offer a "sense of the Senate" amendment to the Labor-HHS appropriations bill to urge OSHA to solicit public comment on these regulations to make revisions that might be necessary.

While some problems are becoming obvious, the regulations have not been in place long enough to know their full effect. It is my hope that the conferees would include language in the committee report expanding its directive to OSHA to include all medical personnel, not just dentists, in its review of the bloodborne pathogens standard.

D'AMATO AMENDMENT NO. 3019

Mr. BIDEN. Mr. President, this is not the first time I have addressed the Senate on the issue of breast cancer—and I fear it will not be the last. But, I address the Senate today because the amendment before us is important to bring closer the day when we have a cure for a leading killer of our Nation.

Breast cancer is killing our mothers, our wives, and our daughters. One in nine American women is diagnosed with the disease, and indications are that those figures will worsen. Put another way: every 12 minutes in this country, a women dies of breast cancer; and every 3 minutes, a women is diagnosed with the disease. I regret to say, my State of Delaware has the highest breast cancer mortality rate in the Nation. Breast cancer is, simply, a public health crisis.

That is why I am supporting efforts to find better methods of detection, better treatments, and eventually a cure. I am a cosponsor of legislation to study why women in the Northeast, including Delaware, have a higher breast cancer mortality rate than the rest of the Nation. I am a cosponsor of a resolution urging insurance companies to cover the cost of mammograms, which is critical for early detection. And, I am a cosponsor of a bill to suspend the import duty on tamoxifen—a drug that has proved successful in preventing a recurrence of the disease.

But, we should not pretend that these steps represent the ultimate solution to this threat. Today, the Senate has the opportunity to make another step—a big step, but only a step—in finding that solution.

This amendment transfers $214 million from defense spending to breast cancer research. This would nearly double the funding level recommended by the Appropriations Committee, which was itself a significant increase over last year's funding. If this amendment is adopted, funding for breast cancer research in fiscal year 1993 will the historic level of $434 million.

While such a level, if adopted, will be a milestone, in many ways, it is also a tragedy. Tragic that such levels are needed. Tragic that 180,000 women will be diagnosed with the disease and that 46,000 will die this year alone. Tragic that a cure has proven so elusive. But, historic levels of breast cancer require nothing short of a historic research effort.

I urge my colleagues to support this increase in breast cancer research funding. I urge my colleagues to say to all women of America—because, frankly, all women are at risk—that our Nation is committed to facing this crisis, solving this problem, and curing this disease.

CORPORATION FOR PUBLIC BROADCASTING

Mr. KENNEDY. Mr. President, the public broadcasting system in our country has been one of the great successes of public/private partnerships. Federal money has provided essential funds for program development and production. Private foundations and corporations have made significant contributions, and individual viewers have phoned in their own generous pledges in a shared commitment to ensure that the quality and integrity that is the hallmark of public broadcasting will continue.

One of the reasons public broadcasting has become such a popular success in homes across America is the series of local public stations that exist in the cities and towns in all corners of the Nation. These stations are locally based and exist to serve their own communities. They cannot survive without the support of local viewers, so their programs reflect the needs, values and qualities of their own neighborhoods and communities.

Not long ago, we debated the reauthorization for the Corporation for Public Broadcasting here in the Senate. At that time, we offered a solid vote of support for CPB—publicly acknowledging the exceptional shows that Americans—young and old alike—have come to expect of public broadcasting.

After all, it is public broadcasting that has brought us shows with enduring appeal for children, such as Seasame Street, Mr. Rogers Neighborhood, Carmen Sandiego, Reading Rainbow, and Anne of Green Gables.

I would venture to say that every child in America will keep a special place in their young lives for Big Bird and the other residents of 123 Sesame Street.

Public broadcasting has also brought quality adult viewing, with a wide range of programming in opera, dance, documentaries, and drama. Many Americans who are unable to attend live theater performances have been able to see "Great Performances" solely because of public broadcasting. It is exactly this possibility for such cherished experiences that is the promise of public broadcasting.

Some of the new cable signals do provide similar quality programming through Bravo, and Arts and Entertainment. But only 60 percent of households subscribe to cable—and public broadcasting is available to any household with a television set.

Appropriate guidelines currently exist to govern grant-making decisions of the CPB. These ensure that awards are made competitively. The determining factors are excellence and the highest broadcasting standards. CPB is able to fund only a small number of applicants who seek support. With limited Federal funds we cannot support all worthy programs. But good public policy demands that we commit available resources to this worthwhile effort that means so much to the quality of life in our Nation.

CPB has a proud and honorable record. It has earned the respect and affection of teachers, parents, and children for its commitment to quality educational and entertaining programming.

It is time for the Senate to make a renewed commitment to CPB. The funds provided in this bill are wisely invested, and will be repaid a hundredfold.

It is a pleasure to speak in support of one of the great successes of the television age—public broadcasting.

NATIONAL YOUTH SPORTS PROGRAM

Mr. BINGAMAN. Mr. President, I rise in strong support of the amendment offered by the Senator from Arizona Mr. DECONCINI. I urge my colleagues to join us in swiftly approving this modest but worthwhile measure, which would restore funding for the National Youth Sports Program to the fiscal year 1992 level of $12 million.

For a number of years, I have been a great fan and advocate of the National Youth Sports Program. The skills the program helps our youth develop—in health, fitness, and problem solving—are exactly the skills they need to stay healthy and compete effectively in the 21st century.

Each year, this program—which is funded through the Department of Health and Human Services, in cooperation with the National Collegiate Athletic Association and 175 colleges and universities—provides thousands of at-risk youth, ages 10–16, with expert instruction in age-appropriate sports, health and nutrition, career planning, drug counseling, and a host of other important topics. In my own State of New Mexico this year, the NYSP served 600–700 children in Albuquerque, 281 children in Espanola, and 600 children in Las Vegas.

Mr. President, if this amendment is reject and the NYSP is funded at the committee-recommended level, more than 50 percent of the schools currently participating in the program—and thousands of deserving children—will be turned away this year. At a time when financially-strapped school districts are unable to adequately fund after-school and summer recreation programs, it is imperative that we do all we can to perpetuate the success of programs like the National Youth Sports Program. I strongly urge my colleagues to support this amendment and restore this program to its fiscal year 1992 level.

HIGH SCHOOL DROPOUTS

Mr. DODD. Mr. President, this morning an article appeared in the Washington Post that should be one more warning bell for our Nation as we head toward the 21st century. That article described a new study that showed that more than 1 in 10 young people, ages 16 to 19 years, is a high school dropout. But in some of our cities—including the capital of this Nation and the cities of Hartford and Bridgeport in my own State of Connecticut—the rate is as much as one in five. As we struggle to remain competitive internationally, these findings do not bode well for our need to have a well-prepared work force in the future. The prospects of the young people themselves are even more bleak.

We should keep in mind that these statistics are a snapshot in time. When we look at one particular age group, in this case ninth graders, and follow them over time, we find that 30 percent do not complete high school within 4 years. While some will finish school later, many are left without the tools they need for today's job market, much less tomorrow's.

When a young person drops out, his or her earnings prospects plummet. A high school dropout earns three-quarters the salary of a high school graduate. The unemployment rate for dropouts is twice that of high school graduates. The economic drain is staggering—just one class of dropouts costs $240 billion in lost earnings and taxes.

This is what dropouts can expect now. The future is even more dismal. By the year 2000, less than 1 percent of all new jobs will be available to those with less than a high school diploma. In fact, even that credential will not be enough for many jobs. By the turn of the century, three-quarters of new jobs will require education beyond high school.

Clearly, the students who are dropping out are not the only ones who lose. As a nation, we cannot hope to compete in the international economy if our young people are not adequately prepared to fill the demands of the workplace of the future.

Mr. President, these statistics underscore the need for the education reform. We need the innovations it would encourage, innovations that grow from the local community, to turn our schools around and make them places young people turn to for guidance, not turn away from in boredom. We need to start even earlier. As chairman of the Subcommittee on Children, Family, Drugs, and Alcoholism, I have looked extensively at the need for early intervention programs that can make a real difference in a child's later life. Programs such as prenatal care and expanded access to Head Start may seem a far cry from the high technology workplace of the future, but in reality they are the foundation on which the work force to fill those jobs will be built. So, these discouraging statistics should wake us up to the critical importance of the appropriations bill we have been debating for the Departments of Labor, Health and Human Services, and Education, as well as the Elementary and Secondary Reform Act, S. 2, for which I hope we will soon be considering a conference report.

IMPACT AID IN OKLAHOMA SCHOOLS

Mr. BOREN. Mr. President, Senator NICKLES and I would like to call the attention of our colleagues to a problem we foresee for the State of Oklahoma relative to future funding of Public Law 81–874 impact aid in Oklahoma schools. Oklahoma is a large recipient of impact aid funds, receiving approximately $25.5 million each year. A major portion of these reimbursements is for educating children who reside on Indian lands. However, a problem has come to light within the last few months relative to the definition of Indian lands in our State.

The Indian Housing Authority [IHA] in Oklahoma primarily builds its housing units only on lands to which it can secure a clear deed. This means that when the IHA wants to build a mutual self-help home on Oklahoma Indian lands, it insists that the Indian family deed them the land the house is built on. The Bureau of Indian Affairs removes the title from restricted status and gives it to the IHA. The reason for this is clear: The IHA must be able to repossess the home if the Indian family defaults on their loan. When the IHA home is paid for in full, the title on the land reverts to restricted Indian property.

Since 1965, Oklahoma and the U.S. Department of Education [ED] have been considering these IHA titled lands as Indian lands under impact aid. This is obviously in accordance with congressional intent: IHA titled lands are not taxed, Indian students still reside on these lands, and simply because these lands do not meet ED's strict definition as either trust or restricted, they are still Indian lands as prior designated tribal property. Even so, ED now wants to stop Indian lands impact aid funding on these IHA titled lands because they are temporarily non-Indian trust or restricted. Mr. President, that change in funding could cost Oklahoma schools a devastating $12.7 million a year.

Although the current Labor/HHS appropriations bill protects Oklahoma for this year, we must have a change in definition to keep impact aid funding safe. I would like to stress the fact that we are not asking for any new money. In fact, the amendment Senator NICKLES and I were going to propose would have been completely budget neutral. We simply want to correct a problem that occurred because of the unique way Oklahoma's Indian lands are held in trust.

Mr. NICKLES. Mr. President, I want to echo the concerns of Senator BOREN on this issue. I understand that Senator HARKIN does not want to include legislative language on the Labor/HHS appropriations bill. Senator BOREN and I simply want to ensure that Senator PELL and other members of the Labor/HHS Authorization Committee understand how anxious we are to resolve this problem of definition and express our desire to work with them to resolve this issue.

Mr. PELL. Mr. President, I would like to thank the Senators from Oklahoma for their remarks. I appreciate their restraint in not offering an amendment at this time. I want to assure them that the Authorizing Education Subcommittee understands the nature of what we believe is a unique problem. It is my hope that we will resolve this issue next Congress when we reauthorize the Impact Aid Program.

Mr. CHAFEE. Mr. President, I rise in strong opposition to this amendment which would prohibit the Occupational Safety and Health Administration to expend funds for the purpose of implementing or administering regulations affecting safety belt and motorcycle helmet use.

I commend the Appropriations Committee and the leadership of the Senator from Iowa [Mr. HARKIN], the chairman of the Subcommittee on Labor, Health and Human Services, and Education for striking this prohibition from the House bill.

The use of safety belts and motorcycle helmets save lives and reduces the severity of injuries. At my request and that of the distinguished chairman of the Environment and Public Works Committee, the General Accounting Office [GAO] evaluated the research studies that have been done on the effectiveness of safety belts and motorcycle helmets.

GAO's conclusion was that the research literature showed that safety belt use reduced both the fatality rate and the serious injury rate significantly; that State laws requiring safety belt and motorcycle helmet use reduced both fatalities and serious injuries; and that costs were reduced where crash victims used safety belt and motorcycle helmets.

Clearly, the use of safety belts and motorcycle helmets also saves employers money. Traffic crashes are the No. 1 killer of employees. Each fatality costs employers an estimated $110,500 in workers' compensation and a similar additional amount for uninsured costs. Injuries cost thousands more in health care costs and lost productivity. Employers pay for over 15 million days of lost time every year because of motor vehicle crashes. The National Highway Traffic Safety Administration [NHTSA] estimates that automobile crashes cost employers over $1.9 billion each year.

Businesses of any size, but particularly small businesses, cannot afford these costs in a healthy, growing economy. They certainly cannot afford them in the current economy. NHTSA, working together with the business community has found that each dollar invested in a corporate safety belt program yields a $105 return on investment.

I urge the Senate to defeat this amendment and allow OSHA to go forward with, at a minimum, implementing that portion of the rule which would require employees to use safety belt and motorcycle helmets while on the job. This rule will save lives and save money.

IN OPPOSITION TO THE D'AMATO AMENDMENT

Mr. MACK. Mr. President, I reluctantly must oppose the amendment offered by my colleague from New York. There is no question that additional funding for research into the causes of breast cancer and the establishment of a national breast cancer registry and tissue bank are desperately needed. The numbers alone speak to the problem. This year, one in nine American women will be diagnosed as having breast cancer.

Like many American families, my family has been touched by cancer. I am a cancer survivor, having been successfully treated for a malignant melanoma. During the past year, my wife, Priscilla underwent a mastectomy and 6 months of chemotherapy following breast cancer. Our daughter is a survivor of cervical cancer, and my mother is a survivor of breast cancer. There is, naturally, an inclination to support doing whatever is necessary to increase the funding for breast cancer research.

The defense budget is not simply another pot of money to fund domestic programs.

Defense spending accounts have been under the microscope for several years, and Congress has decided to significantly reduce military spending. The process of careful, albeit substantial, reductions in defense spending will continue when the DOD authorization bill comes before the Senate this evening. It is just wrong to arbitrarily cut defense spending.

Let me reiterate that I support increased funding for breast cancer research. If Congress determines breast cancer research is a priority, and I think it should be a priority, then it must make the tough decisions on where to find the funding within this $240 billion appropriations bill. We simply cannot tap into the defense budget every time we run short of funds for domestic programs.

Therefore, as much as I support increased funding for research into a disease which has impacted millions of American women, I must oppose the D'Amato amendment.

Mr. McCONNELL. Mr. President, I rise today to compliment the Armed Services Committee on the Defense authorization bill reported to the Senate on July 24. In a year when slashing the defense budget is popular rhetoric, the committee has generated legislation to provide a smooth transition from a cold war defense structure and satisfy U.S. security needs.

I am particularly pleased the committee has decided to include $10 million for the development of a training program at the U.S. Army Armor Center in Kentucky. This initiative will allow National Guard soldiers to take advantage of the state-of-the-art tank and fighting vehicle simulators at Fort Knox. As the country increasingly relies on Reserve and Guard units, we need to guarantee they are well-trained, and that's the step we take in this bill. I am proud of the men and women of Fort Knox who serve our Nation and view it as a real tribute to them that the committee has decided to expand their mission.

Two years ago, I introduced a resolution in this body emphasizing the vital role of the Armor Center at Fort Knox in preparing our forces for combat. Language was included in the 1991 Defense authorization bill expressing the Senate's commitment to make Fort Knox the Nation's Armor Center.

I hope this body will move quickly on the Defense authorization bill and continue to provide ample funds for U.S. national security. I also hope this $10 million program is the first in a series of steps to make Fort Knox the country's principal focus for armor training and development.

The committee amendment on page 73, line 14, is excluded from the request that the amendments be adopted en bloc, making two committee amendments pending, first on page 52, line 9 through 23, and then on page 73, line 14.

Mr. HARKIN. Do I understand correctly that the pending business is the committee amendment at page 52, lines 9 through 23?

The PRESIDING OFFICER. The Senator is correct.

Mr. HARKIN. Mr. President, I urge adoption of the excepted committee amendment.

The PRESIDING OFFICER. The question is on the excepted committee amendment.

The excepted committee amendment, on page 52, lines 9 through 23, was agreed to.

Mr. SPECTER. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXCEPTED COMMITTEE AMENDMENT ON PAGE 73, LINE 14

The PRESIDING OFFICER. The business now before the Senate is the committee amendment on page 73, line 14.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the only amendments remaining in order to this bill, in addition to the excepted committee amendment, be the following:

An amendment by Senator HATCH regarding Healthy Start; an amendment by Senator HATCH regarding labeling; and amendment by Senator LOTT regarding CPB; and that all other provisions of the existing consent agreement governing consideration of this bill remain in effect.

The PRESIDING OFFICER. Is there objection?

Mr. HATCH. Reserving the right to object, and I will not object, the second amendment is not just labeling. It would provide for a year moratorium, so the FDA could not interfere in overregulating the sale of vitamins and minerals and herbal preparations, and so forth. I wanted to make that clear.

Mr. MITCHELL. Mr. President, I thank my colleague for his clarification.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the agreement governing consideration of the Labor-HHS appropriations bill be modified to remove from the list of amendments remaining in order the amendment by Senator LOTT regarding CPB.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I now ask for the regular order with respect to the Department of Defense authorization bill.

NATIONAL DEFENSE AUTHORIZATION ACT

The PRESIDING OFFICER. Pursuant to the request for the regular order, the clerk will state the Department of Defense authorization bill by title.

The assistant legislative clerk read as follows:

A bill (S. 3114) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

(1) Sasser/Bumpers/Jeffords modified amendment No. 2918, to reduce the amount provided for the Strategic Defense Initiative.

(2) Bumpers modified amendment No. 2919 (to amendment No. 2918), of a perfecting nature.

The Senate resumed consideration of the bill, which had been reported from the Committee on Armed Services as follows:

S. 3114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1993".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Funding Authorizations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense Agencies.
Sec. 105. Defense Inspector General.
Sec. 106. Reserve components.
Sec. 107. Chemical Demilitarization Program.

Subtitle B—Army Programs

Sec. 111. AH-64 Apache helicopter modifications.
Sec. 112. Armored vehicle upgrades.
Sec. 113. Limitation regarding chemical agent monitoring program.

Subtitle C—Navy Programs

Sec. 121. Shipbuilding and conversion.
Sec. 122. AN/SLQ-32 electronic warfare systems.
Sec. 123. Airborne self protection jammer.
Sec. 124. AV-8B Harrier radar upgrade program.
Sec. 125. Modification of F-14 aircraft.
Sec. 126. Strategic sealift report.

Subtitle D—Air Force Programs

Sec. 131. C-17 aircraft program.
Sec. 132. Correction of fuel leaks on C-17 production aircraft.
Sec. 133. F-16 spare parts and support equipment.

Subtitle E—Defense Agency Programs

Sec. 141. Funding for certain tactical intelligence programs.
Sec. 142. MH-47E/MH-60K helicopter modification programs.

Subtitle F—Strategic Programs

Sec. 151. Trident II missile.
Sec. 152. Nonstealthy heavy bomber modernization.
Sec. 153. B-2 bomber aircraft program.
Sec. 154. Space systems investment strategy.
Sec. 155. Ground wave emergency network.

Subtitle G—Chemical Demilitarization Program

Sec. 161. Chemical weapons stockpile disposal program.
Sec. 162. Physical and chemical integrity of the chemical weapons stockpile.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorizations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for basic research and exploratory development.
Sec. 203. Manufacturing technology development.
Sec. 204. Strategic Environmental Research and Development Program.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. V-22 Osprey Aircraft Program.
Sec. 212. Report on V-22 Osprey Aircraft Program.
Sec. 213. Special operations variant of the V-22 Osprey aircraft.
Sec. 214. Shipboard electronic warfare programs.

Subtitle C—Missile Defense Program

Sec. 221. Missile Defense Act amendments.
Sec. 222. Strategic Defense Initiative funding.
Sec. 223. Development and testing of anti-ballistic missile systems or components.

Subtitle D—Other Matters

Sec. 231. Medical countermeasures against biowarfare threats.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorizations of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Humanitarian assistance.
Sec. 305. Support for the 1994 World Cup Games.
Sec. 306. Transfer authority.

Subtitle B—Environmental Provisions

Sec. 311. Evaluation of use of chlorofluorocarbons and halons by the Department of Defense.
Sec. 312. Removal of requirements for use of ozone-depleting substances in certain military procurements.
Sec. 313. Risk sharing in environmental restoration contracts of the Department of Defense.
Sec. 314. Requirement for identification of land on which no hazardous substances or petroleum products or their derivatives were stored, released, or disposed of.
Sec. 315. Clarification of covenant warranting that remedial action has been taken.
Sec. 316. Requirement to notify States of certain leases.
Sec. 317. Indemnification of transferees of closing defense property.
Sec. 318. Prohibition on use of environmental restoration funds for payment of fines and penalties.
Sec. 319. Modification of contract indemnification authority.
Sec. 320. Extension of authority to issue surety bonds for certain environmental programs.
Sec. 321. Prohibition on the purchase of surety bonds and other guaranties for the Department of Defense.
Sec. 322. Legacy Resource Management Fellowship Program.
Sec. 323. Supplemental authorization of appropriations for fiscal year 1992.

Subtitle C—Defense Economic Diversification, Conversion, and Stabilization

Sec. 331. Revision of authorities relating to the Economic Adjustment Committee.
Sec. 332. Authorizations of appropriations for certain defense stabilization activities.

Sec. 333. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.

Subtitle D—Department of Defense Civilian Personnel Transition Initiatives

Sec. 341. Reemployment in the competitive service.
Sec. 342. Reemployment assistance.
Sec. 343. Reduction-in-force notification requirements.
Sec. 344. Alleviation of adverse effects of base closures on employees at the base.
Sec. 345. Other employee assistance.
Sec. 346. Continued health benefits.
Sec. 347. Thrift Savings Plan benefits of employees separated by a reduction in force.
Sec. 348. Skill training programs in the Department of Defense.

Subtitle E—Other Matters

Sec. 351. Limitations on the use of Defense Business Operations Fund.
Sec. 352. Limitation on obligations against Defense Business Operations Fund.
Sec. 353. Annual report on security and control of supplies.
Sec. 354. Repeal of requirement for guidelines for future reductions of civilian employees of industrial-type or commercial-type activities.
Sec. 355. Promotion of civilian marksmanship.
Sec. 356. Purchase of items not exceeding $100,000.
Sec. 357. Extension of authority for aviation depots and naval shipyards to engage in defense-related production and services.
Sec. 358. Repeal of requirement for competition pilot program for depot-level maintenance of materials.
Sec. 359. Optional defense dependents' summer school programs.
Sec. 360. Review of military flight training activities at civilian airfields.
Sec. 361. Sale to Korea of obsolete ammunition from war reserve stocks.
Sec. 362. Cooperative agreements with allies.
Sec. 363. Preference for procurement of energy efficient electric equipment.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Waiver and transfer authority.
Sec. 403. Authority to adjust end strengths.
Sec. 404. Repeal of requirements for minimum numbers of medical personnel.
Sec. 405. Limited exclusion of joint service requirements from a limitation on the strengths for general and flag officers on active duty.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the reserve components.

Subtitle C—Military Training Student Loads

Sec. 421. Authorization of training student loads.

Subtitle D—Funding Authorization

Sec. 431. Authorization of appropriations.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Reserve Component Matters

Sec. 501. Realignment of certain active Army combat support and combat service support positions to reserve components.
Sec. 502. Limitation on reduction in number of reserve component medical personnel.
Sec. 503. One-year extension of certain reserve officer management programs.
Sec. 504. Reenlistment eligibility of certain former reserve officers.

Subtitle B—Service Academies

Sec. 511. Limitation on assignment of general officers.
Sec. 512. Academy preparatory schools.
Sec. 513. Composition of academy faculties.
Sec. 514. Academy bands.
Sec. 515. Noninstructional staff.
Sec. 516. Major training command jurisdiction.

Subtitle C—Officer Personnel Policy

Sec. 521. Officer personnel management plans.
Sec. 522. Evaluation of effects of officer strength reductions on officer personnel management systems.
Sec. 523. Test assignment of female members to combat aircraft positions.
Sec. 524. Selective early retirement.
Sec. 525. Retirement of certain limited duty officers of the Navy.

Subtitle D—Active Forces Transition Enhancements

Sec. 531. Encouragement for continuing public and community service.
Sec. 532. Teacher certification credit for military experience.
Sec. 533. Program of educational leave relating to continuing public and community service.
Sec. 534. Temporary early retirement authority.
Sec. 535. Increased early retirement retired pay for public or community service.
Sec. 536. Opportunity for certain active-duty personnel to enroll in Montgomery GI bill program while being voluntarily separated from service.
Sec. 537. Elimination of recoupment requirement for reserve duty.
Sec. 538. Authorization of appropriations for certain employment, job training, and other assistance.
Sec. 539. Continued health coverage for members and dependents upon the separation of the members from active duty and for emancipated children of members.

Subtitle E—Guard and Reserve Transition Initiatives

Sec. 541. Force reduction transition period defined.
Sec. 542. Member of Selected Reserve defined.
Sec. 543. Restriction on reserve force reduction.
Sec. 544. Transition plan requirements.
Sec. 545. Inapplicability to certain discharges and transfers.
Sec. 546. Force reduction period retirements.
Sec. 547. Retirement with 15 years of service.
Sec. 548. Separation pay.
Sec. 549. Waiver of continued service requirement for Montgomery GI bill benefits.
Sec. 550. Commissary and exchange privileges.
Sec. 551. Temporary continuation of Servicemen's Group Life Insurance.
Sec. 552. Applicability and termination of benefits.

Subtitle F—Other Matters

Sec. 561. Retention on active duty of enlisted members within two years of eligibility for retirement.
Sec. 562. Limitations on enlisted aides.
Sec. 563. Limitation relating to permanent changes of stations.
Sec. 564. Reductions in number of personnel carrying out recruiting activities.
Sec. 565. Junior Reserve Officer Training Corps.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Military pay raise for fiscal year 1993.
Sec. 602. Temporary rates of basic pay for certain noncommissioned officers and warrant officers and for certain colonels and Navy captains.
Sec. 603. Extensions of authorities relating to payment of certain bonuses and other special pay.

Subtitle B—Other Matters

Sec. 611. Requirement for proposal on concurrent payment of retired or retainer pay and veterans' disability compensation.
Sec. 612. Expansion of reimbursable adoption expenses.
Sec. 613. Prohibition on the assertion of liens on personal property being transported at Government expense.
Sec. 614. Advance payments in connection with evacuations of personnel.
Sec. 615. Increase in recomputed retired pay for certain enlisted members credited with extraordinary heroism.
Sec. 616. Authorized benefits under special separation benefits programs.
Sec. 617. Retired pay for persons who were Reserves of an armed force before August 16, 1945.
Sec. 618. References relating to travel and transportation benefits.
Sec. 619. Subsistence reimbursement relating to escorts of foreign arms control inspection teams.

TITLE VII—HEALTH CARE PROVISIONS

Sec. 701. Appointment of chiropractors as commissioned officers.
Sec. 702. Revisions to dependents' dental program under CHAMPUS.
Sec. 703. Sense of Congress regarding health care policy for the uniformed services.
Sec. 704. Military health care for persons reliant on health care facilities at bases being closed and realigned.
Sec. 705. Programs relating to the sale of pharmaceuticals.
Sec. 706. Annual beneficiary survey.
Sec. 707. Maximum annual amount for deductibles and copayments.
Sec. 708. Continuation of CHAMPUS coverage for certain medicare participants.
Sec. 709. Home health services under CHAMPUS.
Sec. 710. Medicare reimbursement to Department of Defense.

Sec. 711. Study on risk-sharing contracts for health care.
Sec. 712. Comprehensive study of the military medical care system.
Sec. 713. National claims processing center for CHAMPUS.
Sec. 714. Alternative health care delivery methodologies.
Sec. 715. Medical and dental care for certain incapacitated dependents.
Sec. 716. Reproductive health services in medical facilities of the uniformed services outside the United States.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Defense Conversion Policy for the National Defense Technology and Industrial Base

Sec. 801. National defense technology and industrial base policies and planning.
Sec. 802. Defense dual-use technology research and development programs.
Sec. 803. Establishment of Office of Technology Transition.
Sec. 804. Defense dual-use manufacturing technology programs.
Sec. 805. National defense technology and industrial base dual-use assistance extension programs.
Sec. 806. Additional statutory reorganization.
Sec. 807. Small business innovation research program in the Department of Defense.
Sec. 808. Dual-use defense conversion priority.
Sec. 809. Statutory charter for the Advanced Research Projects Agency.

Subtitle B—Acquisition Assistance Programs

Sec. 811. Small Business Administration certificate of competency program.
Sec. 812. Test program for negotiation of comprehensive small business subcontracting plans.
Sec. 813. Extension of test program of contracting for printing-related services for the Department of Defense.
Sec. 814. Contract goal for disadvantaged small businesses and certain institutions of higher education.
Sec. 815. Pilot Mentor-Protege Program.
Sec. 816. Procurement Technical Assistance Cooperative Agreement Program.

Subtitle C—Miscellaneous Acquisition Policy Matters

Sec. 821. Extension of program for use of master agreements for procurement of advisory and assistance services.
Sec. 822. Major defense acquisition program reports.
Sec. 823. Revision of rules concerning severance pay for foreign nationals.
Sec. 824. Prohibition on purchase of United States defense contractors by entities controlled by foreign governments.
Sec. 825. Prohibition on award of certain Department of Defense and Department of Energy contracts to companies owned by an entity controlled by a foreign government.
Sec. 826. Department of Defense invention disposition policy.
Sec. 827. Certification of claims for shipbuilding contracts.
Sec. 828. Authority for the Department of Defense to share equitably the costs of claims under international armaments cooperation programs.
Sec. 829. Advance notification of contract performance outside the United States.
Sec. 830. Allowable costs.
Sec. 831. Science and technology fellowship program.
Sec. 832. Advisory and assistance services for operational test and evaluation.
Sec. 833. Regulations relating to substantial changes in the participation of a military department in a joint acquisition program.
Sec. 834. Restriction on purchase of sonobuoys.
Sec. 835. Shipbuilding total program reporting.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—General Matters

Sec. 901. Report of the Chairman of the Joint Chiefs of Staff on roles and missions of the Armed Forces.
Sec. 902. Vice Chairman of the Joint Chiefs of Staff.
Sec. 903. Assistant to the Chairman of the Joint Chiefs of Staff for National Guard and Reserve Affairs.
Sec. 904. Organization of the Office of the Chief of Naval Operations.
Sec. 905. Certifications relating to the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict and the Special Operations Command.
Sec. 906. Joint officer personnel policy.
Sec. 907. Joint duty credit for equivalent duty in Operations Desert Shield and Desert Storm.
Sec. 908. CINC Initiative Fund.
Sec. 909. Deputy Assistant Secretary of Defense for Equal Opportunity.
Sec. 910. Delivery of legal services within the Department of Defense.
Sec. 911. Commission on the Conduct and Review of Investigations in the Department of Defense.
Sec. 912. Sense of Congress on cooperation between the Army and the Marine Corps.
Sec. 913. National Guard and reserve component operational support airlift study.
Sec. 914. Continuing requirement for reporting on operational activities.
Sec. 915. Limitation regarding submission of the roles and missions report of the Chairman of the Joint Chiefs of Staff.

Subtitle B—Drug Interdiction and Counter-Drug Activities

Sec. 921. Additional support for counter-drug activities.
Sec. 922. Maintenance and operation of equipment.
Sec. 923. Extension of authority to transfer excess personal property.
Sec. 924. Counter-drug sensor mix study.
Sec. 925. Demand reduction program.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

Sec. 1001. Transfer authority.
Sec. 1002. Restatement of requirement for mission budget.
Sec. 1003. Additional transition authority regarding closing appropriation accounts.

Subtitle B—Supplemental Authorization of Appropriations for Operation Desert Storm

Sec. 1011. Extension of supplemental authorizations.
Sec. 1012. Authorization of appropriations for fiscal year 1992.
Sec. 1013. Authorization of appropriations for fiscal year 1993.
Sec. 1014. Relationship to other authorizations.

Subtitle C—Defense Maritime Logistical Readiness

Sec. 1021. Findings.
Sec. 1022. Transportation of Department of Defense cargoes by water.
Sec. 1023. Modernizing other programs.

Subtitle D—Technical Amendments

Sec. 1031. Amendments to title 10, United States Code.
Sec. 1032. Codification of recurring provision relating to subcontracting with certain nonprofit agencies.
Sec. 1033. Amendments to other laws.
Sec. 1034. Miscellaneous technical and clerical amendments.

Subtitle E—Miscellaneous Matters

Sec. 1041. Report on the United States strategic posture in the Middle East and Persian Gulf region.
Sec. 1042. Study of providing forward presence of naval forces during peacetime.
Sec. 1043. Prohibition on contracting with supporters of the secondary Arab boycott of Israel.
Sec. 1044. Employment authority regarding civilian faculty members of the Defense Language Institute Foreign Language Center.
Sec. 1045. Election of leave or lump-sum payment for certain employees who moved between nonappropriated fund employment and Department of Defense or Coast Guard employment before April 16, 1991.
Sec. 1046. Federal charter for Military Order of World Wars.
Sec. 1047. Federal charter for Retired Enlisted Association, Incorporated.
Sec. 1048. Program to commemorate World War II.
Sec. 1049. Elimination of reports required by law.
Sec. 1050. Limitation on use of excess construction or fire equipment from Department of Defense stocks in foreign assistance or military sales programs.
Sec. 1051. Restriction on obligation of funds for new museums.
Sec. 1052. Army military history fellowship program.
Sec. 1053. Transfer of certain vessels.
Sec. 1054. Repeal of requirement for construction of combatant and escort vessels in Navy yards.
Sec. 1055. Cooperative military airlift agreements.
Sec. 1056. Special operations forces.
Sec. 1057. Permanent authority to pay certain expenses of personnel of developing countries for attendance at bilateral or regional cooperation conferences.
Sec. 1058. United States Court of Military Appeals amendments.
Sec. 1059. Amendments to the Uniform Code of Military Justice.

Sec. 1060. Civil-Military Cooperative Action Program.
Sec. 1061. National Guard Civilian Youth Opportunities Pilot Program.
Sec. 1062. United Nations peacekeeping and enforcement report.
Sec. 1063. Clarification of scope of authorizations.

TITLE XI—DEMILITARIZATION OF THE FORMER SOVIET UNION

Subtitle A—Short Title

Sec. 1101. Short title.

Subtitle B—Findings and Program Authority

Sec. 1111. Demilitarization of the independent states of the former Soviet Union.
Sec. 1112. Authority for programs to facilitate demilitarization.

Subtitle C—Administrative and Funding Authorities

Sec. 1121. Administration of demilitarization programs.

Subtitle D—Reporting Requirements

Sec. 1131. Prior notice of obligations to Congress.
Sec. 1132. Quarterly reports on programs.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Sec. 2001. Short title.

TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.
Sec. 2102. Family housing.
Sec. 2103. Defense access roads.
Sec. 2104. Improvements to military family housing.
Sec. 2105. Authorization of appropriations, Army.
Sec. 2106. Increase in limitation on leasing of military family housing worldwide by the Department of the Army.

TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.
Sec. 2202. Family housing.
Sec. 2203. Improvements to military family housing units.
Sec. 2204. Authorization of appropriations, Navy.
Sec. 2205. Power plant relocation, Navy Public Works Center, Guam.
Sec. 2206. Revised authorizations for certain Marine Corps projects.
Sec. 2207. Defense access roads, Naval Station Pascagoula, Mississippi.

TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
Sec. 2302. Family housing.
Sec. 2303. Improvements to military family housing units.
Sec. 2304. Authorization of appropriations, Air Force.
Sec. 2305. Child development center relocation, Buckley Air National Guard Base, Colorado.
Sec. 2306. Authorized family housing lease projects.
Sec. 2307. Authorized military housing rental guarantee projects.
Sec. 2308. Termination of authority to carry out certain projects.

TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
Sec. 2402. Authorization of appropriations, Defense Agencies.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Sec. 2501. Authorized NATO construction and land acquisition projects.
Sec. 2502. Authorization of appropriations, NATO.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

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SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

SEC. 4. GENERAL LIMITATION.

Notwithstanding any other provision of this Act, the total amount authorized to be appropriated for fiscal year 1993 under the provisions of this Act is $273,936,615,000, of which the total amount authorized to be appropriated for fiscal year 1993 under the provisions of—

(1) division A is $252,993,321,000;

(2) division B is $8,908,330,000; and

(3) division C is $12,034,964,000.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Funding Authorizations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Army as follows:

(1) For aircraft, $1,328,909,000.

(2) For missiles, $1,037,893,000.

(3) For weapons and tracked combat vehicles, $839,841,000.

(4) For ammunition, $764,280,000.

(5) For other procurement, $3,033,720,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for procurement for the Navy as follows:

(1) For fiscal year 1993 for aircraft, $5,950,477,000.

(2) For fiscal year 1993 for weapons, $3,538,948,000.

(3) For shipbuilding and conversion:

(A) For fiscal year 1993, $5,526,463,000.

(B) For fiscal year 1994, $482,200,000.

(4) For fiscal year 1993 for other procurement, $5,722,283,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Marine Corps in the amount of $690,127,000.

(c) TRANSFER AUTHORITY.—(1) To the extent provided in appropriations Acts, the Secretary of the Navy may transfer, out of the unobligated balance of the appropriations for the Navy for fiscal year 1992 for shipbuilding and conversion that remain available for obligation, $666,609,000 to the appropriations for the Navy for fiscal year 1993 for shipbuilding and conversion. The transfer authority under this subsection shall not extend the period of availability for obligation of amounts transferred pursuant to such authority.

(2) The transfer authority provided in paragraph (1) is in addition to any other transfer authority provided in this or any other Act.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Air Force as follows:

(1) For aircraft, $9,274,999,000.

(2) For missiles, $4,125,590,000.

(3) For other procurement, $8,100,970,000.

SEC. 104. DEFENSE AGENCIES.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Defense Agencies in the amount of $2,538,963,000.

SEC. 105. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Inspector General of the Department of Defense in the amount of $500,000.

SEC. 106. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $130,000,000.

(2) For the Air National Guard, $255,100,000.

(3) For the Army Reserve, $75,000,000.

(4) For the Naval Reserve, $75,000,000.

(5) For the Air Force Reserve, $40,000,000.

(6) For the Marine Corps Reserve, $55,000,000.

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521 note), in the amount of $517,300,000.

Subtitle B—Army Programs

SEC. 111. AH-64 APACHE HELICOPTER MODIFICATIONS.

Section 113 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1304) is repealed.

SEC. 112. ARMORED VEHICLE UPGRADES.

(a) TANK UPGRADES.—Notwithstanding any other provision of law, to the extent provided in appropriations Acts, funds received from the sale of tanks by the United States under the Arms Export Control Act during fiscal years 1990 and 1991 and sales of tanks by the United States under that Act after fiscal year 1992 shall be available, until expended, for the upgrading of tanks for fielding to the Army.

(b) INFANTRY VEHICLE UPGRADES.—Notwithstanding any other provision of law, to the extent provided in appropriations Acts, funds received from the sale of infantry fighting vehicles or armored personnel carriers by the United States under the Arms Export Control Act during fiscal years 1990 and 1991 and from the sale of such vehicles by the United States under that Act after fiscal year 1992 shall be available, until expended, for the upgrading of infantry fighting vehicles or armored personnel carriers for fielding to the Army.

SEC. 113. LIMITATION REGARDING CHEMICAL AGENT MONITORING PROGRAM.

The Improved Chemical Agent Monitor (ICAM) may not be procured for the Armed Forces until the Secretary of the Army—

(1) completes an analysis of the initial production test results of the Chemical Agent Monitor (CAM);

(2) submits to Congress a report containing a discussion of the reliability and consistency of the laboratory-tested and field-tested Chemical Agent Monitor; and

(3) determines, and notifies Congress in writing, that all design and production deficiencies of the Chemical Agent Monitor have been identified and corrected before the resumption of obligation of funds for procurements under the Chemical Agent Monitoring Program.

Subtitle C—Navy Programs

SEC. 121. SHIPBUILDING AND CONVERSION.

(a) CERTAIN PROGRAMS.—(1) Amounts authorized to be appropriated under section 102(a)(3) shall be available for the aircraft carrier replacement program as follows:

(A) For fiscal year 1993, $350,000,000.

(B) For fiscal year 1994, $482,200,000.

(2) Amounts authorized to be appropriated under section 102(a)(3)(A) shall be available for shipbuilding and conversion programs as follows:

For the CVN aircraft carrier refueling overhaul advance procurement program, $6,800,000.

For the CGN cruiser refueling overhaul advance procurement program, $30,439,000.

For the ARLEIGH BURKE guided missile destroyer program, $3,369,643,000.

For the LHD–1 amphibious assault ship program, $1,205,000,000.

For the sealift program, $225,000,000.

For the MHC–1 coastal minehunter program, $246,205,000.

For the oceanographic ship conversion program, $19,500,000.

For the service craft program, $126,028,000.

For outfitting, $385,321,000.

For post-delivery, $223,105,000.

For first destination transportation, $6,031,000.

(b) UNDISTRIBUTED REDUCTION.—The sum of the amounts provided under subsection (a) for fiscal year 1993 for the programs referred to in that subsection is reduced by $666,609,000 in order to be within the total amount authorized to be appropriated for that fiscal year under section 102(a)(3)(A).

(c) LIMITATION.—None of the funds authorized to be appropriated for fiscal year 1994 pursuant to section 102(a)(3)(B) may be obligated for advance procurement for the aircraft carrier replacement program until the Secretary of Defense—

(1) submits to the congressional defense committees the national defense technology and industrial base assessment required by section 2263 of title 10, United States Code, as added by section 801(a) of this Act; and

(2) submits to the Congress the next report (after the date of the enactment of this Act) relating to roles and missions of the Armed Forces that the Chairman of the Joint Chiefs of Staff is required to submit to the Secretary under section 153(b) of title 10, United States Code.

SEC. 122. AN/SLQ-32 ELECTRONIC WARFARE SYSTEMS.

None of the funds appropriated pursuant to section 102(a)(4) may be obligated for the AN/SLQ-32A (V)3 system until the Commander, Operational Test and Evaluation Force, has determined that such system has been proven to be operationally effective during operational testing.

SEC. 123. AIRBORNE SELF PROTECTION JAMMER.

None of the funds appropriated pursuant to an authorization of appropriations contained in this Act and made available for the procurement of the Airborne Self Protection Jammer system or related support equipment may be obligated until the Director of the Office of Operational Test and Evaluation of the Department of Defense certifies to the Secretary of Defense that the Airborne Self Protection Jammer system is operationally suitable and effective.

SEC. 124. AV-8B HARRIER RADAR UPGRADE PROGRAM.

No funds appropriated or otherwise made available to the Department of Defense for fiscal year 1993 may be obligated for the AV-8B radar upgrade program or for the remanufacture of AV-8B aircraft requiring installation of a new fuselage.

SEC. 125. MODIFICATION OF F-14 AIRCRAFT.

The unobligated balance of the funds appropriated to the Navy for fiscal year 1992 and made available for modification of F-14 aircraft may be obligated for the modification of existing F-14 aircraft with new engines, subject to such limitations as may be provided in appropriations Acts.

SEC. 126. STRATEGIC SEALIFT REPORT.

(a) REPORT.—The Secretary of Defense shall submit to the Congress a report on the specific purposes for which the Secretary intends to obligate during fiscal year 1993 the funds available for the procurement of strategic sealift. The information in the report shall be presented by program, project, and activity.

(b) LIMITATION.—Funds appropriated to the Navy for procurement for shipbuilding and conversion and available for strategic sealift may not be obligated during fiscal year 1993 until 30 days after the date on which the Secretary of Defense submits the report required by subsection (a).

Subtitle D—Air Force Programs

SEC. 131. C-17 AIRCRAFT PROGRAM.

(a) FUNDING FOR PROGRAM.—Of the amount appropriated pursuant to section 103(1), not more than $1,829,540,000 shall be available for the C-17 aircraft program, of which—

(1) not more than $1,623,935,000 shall be available for procurement other than advance procurement and procurement of spare parts; and

(2) not more than $205,605,000 shall be available for advance procurement.

(b) LIMITATION.—None of the funds provided under subsection (a) for the C-17 aircraft program (other than funds for advance procurement) may be obligated before—

(1) the Secretary of Defense submits to the congressional defense committees the report referred to in section 133(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1310);

(2) the Air Force has accepted delivery of the fifth production aircraft under that program;

(3) the Director of Operational Test and Evaluation of the Department of Defense—

(A) has evaluated the performance of the C-17 aircraft with respect to critical operational issues after the first 50 flight hours of flight testing conducted during initial operational testing and evaluation of the aircraft; and

(B) has provided to the Secretary of Defense and to the congressional defense committees an early operational assessment of the aircraft regarding overall suitability of the aircraft and deficiencies in the aircraft relative to (i) the initial requirements and specifications for the aircraft, and (ii) the current requirements and specifications for the aircraft;

(4) the Secretary of the Air Force—

(A) has convened the Scientific Advisory Board—

(i) to determine the technical feasibility of carrying out a service life extension program for the C-141 aircraft fleet; and

(ii) to review programmed depot maintenance policies and practices for the C-141 aircraft fleet; and

(B) has taken action to limit the retirement of any operationally capable C-141 aircraft until a decision is made concerning a service life extension for the C-141 fleet;

(5) the Secretary of Defense has convened a special Defense Acquisition Board to review the C-17 aircraft program;

(6) the special Defense Acquisition Board has submitted to the Secretary of Defense a report on the C-17 aircraft program, including the matters described in subsection (c); and

(7) the Secretary of Defense has submitted the report of that board, including the material referred to in subsection (c), to the congressional defense committees.

(c) MATTERS TO BE INCLUDED IN REVIEW.—The review (referred to in subsection (b)(5)) that is conducted by the special Defense Acquisition Board shall include—

(1) an assessment by the Joint Requirements Oversight Council (JROC) of the adequacy of the requirements for the C-17 aircraft;

(2) an analysis by a federally funded research and development center of the cost and operational effectiveness of the C-17 aircraft program taking into consideration complementary mixes of other aircraft; and

(3) an affordability assessment of the program, performed by the Cost Analysis Improvement Group in the Office of the Assistant Secretary of Defense for Program Analysis and Evaluation.

(d) PROHIBITION RELATING TO PRODUCTION CAPABILITY.—None of the funds provided under subsection (a) for the C-17 aircraft program may be used to increase the current rate at which the contractor could produce C-17 aircraft.

(e) INITIATIVE ON COST, PERFORMANCE, AND MANAGEMENT.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish an initiative to maintain control over costs, contractor performance, and management performance within the C-17 aircraft program.

(2) The initiative shall include the following elements:

(A) The establishment of a management plan which provides for the decisions to commit to specified levels of production to be linked to progress in meeting specified program milestones, including testing milestones of such critical performance elements as—

(i) maximum range and maximum payload performance;

(ii) short airfield performance;

(iii) ground mobility in restricted airfield conditions;

(iv) low altitude parachute extraction capability;

(v) air drop capability; and

(vi) sustainable utilization rate performance.

(B) The establishment of a program for promoting increased interaction between the prime contractor and major program subcontractors on management and performance issues.

(C) The establishment of a senior management review group to report directly to the Under Secretary of Defense for Acquisition on the status of aircraft capability, program management, schedule, and cost.

(D) The establishment of a full performance matrix.

(3) Not later than April 1, 1993, the Secretary of Defense shall submit to the congressional defense committees a report on the initiative. The report shall include a description of the measures taken to implement the initiative, including actions taken with respect to each of the elements specified in paragraph (2), and a description of the criteria and milestones to be used in evaluating actual program performance against specified program performance.

(f) ADDITIONAL AMOUNT.—(1) Of the amounts appropriated for the Air Force for fiscal year 1993 for the procurement of aircraft pursuant to the authorization in section 103(1), $232,000,000 may be made available for the C-17 aircraft program in addition to amounts provided under subsection (a).

(2) Funds made available pursuant to paragraph (1) shall be subject to the limitation in subsection (b) and the prohibition in subsection (d).

(3) None of the funds made available pursuant to paragraph (1) may be obligated unless the Inspector General of the Department of Defense certifies to the congressional defense committees that the Air Force—

(A) took delivery of the fifth production aircraft not later than December 31, 1992; and

(B) has taken delivery of all C-17 aircraft in production lot III and has flown all of those aircraft from the final assembly site on or before August 31, 1993.

SEC. 132. CORRECTION OF FUEL LEAKS ON C-17 PRODUCTION AIRCRAFT.

(a) CERTIFICATION OF CONTRACTOR CORRECTION UNDER WARRANTY.—The Secretary of Defense shall (except as otherwise provided under subsection (b)) certify to the congressional defense committees that the repair of the fuel leaks on production C-17 aircraft will be carried out by the contractor (under the warranty provisions of the production contract for such aircraft) at no additional cost to the Government and with no additional consideration to the contractor for production aircraft under the C-17 program by reason of the repair of the C-17 fuel leaks.

(b) ALTERNATIVE TO CERTIFICATION.—If the Secretary of Defense is unable to make the certification referred to in subsection (a), the Secretary—

(1) shall carry out the repair of the fuel leaks at an Air Logistics Center in the United States; and

(2) shall submit to the congressional defense committees a report notifying the

committees that the Secretary is unable to make such a certification and setting forth a schedule for conducting the repair of the fuel leaks pursuant to paragraph (1).

SEC. 133. F-16 SPARE PARTS AND SUPPORT EQUIPMENT.

Notwithstanding any other provision of law, the Secretary of the Air Force may sell any component, part, assembly, or material procured with funds appropriated for fiscal year 1990, 1991, or 1992 for advance procurement for F-16 aircraft and made available for the 24 F-16 aircraft identified for procurement in fiscal year 1993 by the Department of Defense in the document entitled "Procurement Programs (P-1)," dated January 29, 1992. The proceeds of the sale of such components, parts, assemblies, and material shall be available for the procurement of spare parts and support equipment for F-16 aircraft and for the liquidation of any liability of the Federal Government resulting from the termination of production of F-16 aircraft.

Subtitle E—Defense Agency Programs

SEC. 141. FUNDING FOR CERTAIN TACTICAL INTELLIGENCE PROGRAMS.

(a) AUTHORIZATION.—Of the funds authorized to be appropriated under section 104, $166,700,000 shall be available for modernizing EP-3 Aries aircraft or RC-135 Rivet Joint aircraft.

(b) ELECTION OF SYSTEM.—The Secretary of Defense shall determine whether to use all of the funds provided under subsection (a) for modernizing EP-3 Aries aircraft or to use all of such funds for modernizing RC-135 Rivet Joint aircraft. Such funds may not be used for modernizing both such aircraft systems.

(c) TRANSFER AUTHORITY.—(1) To the extent provided in appropriations Acts, and subject to the limitation in paragraph (2), the Secretary of Defense may transfer $166,700,000 to the Navy for procurement of aircraft or to the Air Force for procurement of aircraft.

(2) The Secretary of Defense may not transfer any funds under paragraph (1) until the date 30 days after the date on which the Secretary submits to the congressional defense committees a report containing the Secretary's determination on which of the two aircraft systems referred to in subsection (a) is better for meeting the tactical intelligence requirements of the commanders of the combatant commands.

(3) The transfer authority in paragraph (1) is in addition to any other transfer authority provided in this or any other Act.

SEC. 142. MH-47E/MH-60K HELICOPTER MODIFICATION PROGRAMS.

(a) REQUIRED TESTING.—Notwithstanding the requirements of subsections (a)(2) and (b) of section 2366 of title 10, United States Code, and the requirements of subsection (a) of section 2399 of such title—

(1) operational test and evaluation and survivability testing of the MH-60K helicopter under the MH-60K helicopter modification program shall be completed prior to full materiel release of the MH-60K helicopters for operational use; and

(2) operational test and evaluation and survivability testing of the MH-47E helicopter under the MH-47E helicopter modification program shall be completed prior to full materiel release of the MH-47E helicopters for operational use.

(b) REPEAL OF SUPERSEDED LAW.—Section 143 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-109; 105 Stat. 1313) is repealed.

Subtitle F—Strategic Programs

SEC. 151. TRIDENT II MISSILE.

(a) LIMITATION.—None of the funds appropriated pursuant to the authorization in section 102(a)(2) and made available for the advance procurement of Trident II missiles may be obligated until the report described in subsection (b), which was to have been submitted to the congressional defense committees not later than March 1, 1992, has been submitted to those committees.

(b) COVERED REPORT.—The report referred to in subsection (a) is the report, referred to in Senate Report No. 102-113, 102d Congress, 1st session, on the cost savings that could be obtained through multiyear procurement of the balance of the Trident II missiles to be produced at rates of 48, 60, and 72 missiles per year.

SEC. 152. NONSTEALTHY HEAVY BOMBER MODERNIZATION.

(a) SURVIVABILITY AND EFFECTIVENESS TESTING.—(1) The Secretary of Defense shall prepare and implement a plan for testing of the survivability and operational effectiveness of nonstealthy heavy bombers against a set of defenses and defended target arrays that are representative of a broad range of potential targets and defenses that such bombers might encounter during conventional conflicts during the next 20 years.

(2) The Secretary shall carry out paragraph (1) with the assistance of the Secretary of the Air Force, the Vice Chairman of the Joint Chiefs of Staff, the Director of Operational Test and Evaluation of the Department of Defense, and the independent panel established pursuant to section 121(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1379).

(3) The aircraft to be tested under the testing plan required under paragraph (1) include—

(A) B-52H bombers;

(B) B-1B bombers containing the current version of the ALQ-161 electronic countermeasures suite; and

(C) subject to paragraph (5), the one B-1B that contains an electronic countermeasures suite modified to the "CORE" configuration.

(4) The testing plan shall—

(A) be designed to encompass—

(i) cued and uncued defenses;

(ii) individual air defense systems as well as multiple air defenses; and

(iii) survivability and operational effectiveness with and without external assets for suppression or disruption of simulated enemy air defenses;

(B) require quantitative measurements that are adequate to permit extrapolation of test data to untested scenarios with reasonable confidence levels;

(C) be designed to permit the evaluation of alternative tactics for bomber penetration and weapons delivery and alternative tactics for defenses; and

(D) be designed to permit the evaluation of the contribution of advanced conventional munitions currently under development to the survivability and effectiveness of the aircraft.

(5) The Secretary may exempt the B-1B referred to in paragraph (3)(C) from testing under the testing plan if the Secretary determines, before implementing the testing plan, to terminate the procurement of the CORE electronics countermeasures system.

(b) REPORTING REQUIREMENTS.—(1) Upon the conclusion of the testing program provided for in the testing plan, the Secretary of Defense shall submit to the congressional defense committees a report, in unclassified and classified forms, on—

(A) the results of the testing and the implications of those results for—

(i) the future force structure requirements for nonstealthy heavy bombers, taking into account the capabilities of other weapon systems;

(ii) advanced conventional munitions capabilities; and

(iii) cost-effective measures, modifications, and upgrades for enhancing the survivability and operational effectiveness of the nonstealthy heavy bombers to be retained in the force structure; and

(B) the deficiencies in the numbers, performance, capability, and fidelity of air defense threats and threat simulators available for the operational testing, together with a detailed analysis of the cost and lead-times necessary for obtaining for testing purposes an adequate representation of current and likely future air defenses.

(2) Within 60 days after the date of the submission of the report under paragraph (1), the Comptroller General of the United States shall review the report and the recommendations in the report and shall provide the congressional defense committees with his views on the report.

(c) FUNDING.—Of the funds made available pursuant to section 103 for fiscal year 1993, not more than $50,200,000 shall be available for modification of the B-1B bomber program, not more than $50,000,000 shall be available for interim contractor support, and not more than $70,000,000 shall be available for modifications of B-52 bomber aircraft.

(d) LIMITATION ON EXPENDITURE OF B-1B BOMBER FUNDS.—The Secretary of Defense may not obligate funds for the procurement of the "CORE" electronic countermeasures system until—

(1) the report required under subsection (b) is submitted to the congressional defense committees and a period of 60 days after the date of the submission elapses; and

(2) the Secretary certifies in writing to the congressional defense committees that the Director of Operational Test and Evaluation of the Department of Defense has reviewed the CORE electronic countermeasures system proposed to be acquired and has determined that the system is operationally suitable and operationally effective in meeting all B-1B defensive avionics system requirements.

SEC. 153. B-2 BOMBER AIRCRAFT PROGRAM.

(a) AMOUNT FOR PROGRAM.—Of the amount authorized to be appropriated pursuant to section 103(1), not more than $2,686,572,000 may be obligated for procurement for the B-2 bomber aircraft program.

(b) B-2 BUYOUT AND CURTAILMENT.—The funds referred to in subsection (a) may be obligated only for the purpose of completing procurement for the B-2 bomber aircraft program and paying all curtailment costs under the B-2 aircraft program.

(c) LIMITATION ON NUMBER OF B-2 AIRCRAFT.—A total of not more than 20 deployable B-2 bomber aircraft plus 1 test aircraft may be procured.

(d) LIMITATION ON OBLIGATION OF FUNDS.—None of the funds referred to in subsection (a) may be obligated unless and until—

(1) the Secretary of Defense submits to the congressional defense committees—

(A) the reports and certifications referred to in section 131(b)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1306);

(B) the report under subsection (e); and

(C) the report under subsection (f); and

(2) 30 days have elapsed since the date of the submission of the reports under subsections (e) and (f).

(e) REPORT ON LOW OBSERVABILITY AND SURVIVABILITY.—The report referred to in subsection (d)(1)(B) is a report submitted by the Secretary of Defense to the congressional defense committees that contains the following matters:

(1) The Secretary's assessment of the extent to which the B-2 aircraft will meet the original operational performance objectives that were established for the B-2 aircraft in order to ensure the high survivability of the aircraft, including an accounting of the specific low observability objectives that were not fulfilled in a B-2 flight test conducted during July 1991 and the effect on survivability (if any) of the currently projected low observable characteristics of the B-2 aircraft.

(2) A full description of the information upon which the assessment required by paragraph (1) is based, including all relevant flight test data.

(3) A full description of any actions planned to be taken to improve the B-2 aircraft's low observability capabilities beyond the capabilities that have been demonstrated in flight testing before the date of the submission of the report under this subsection, and the associated costs and benefits.

(4) A quantitative assessment by the Secretary of Defense of the likelihood that a B-2 aircraft having the low observable characteristics projected for the aircraft can survive in the execution in the future of its primary mission as a penetrating nonnuclear bomber as compared to the likelihood that a B-2 aircraft meeting all of the specifications contained in the current development contract can survive in the execution of such a mission.

(f) REPORT ON COST OF PROGRAM FOR 20 B-2 AIRCRAFT.—The report referred to in subsection (d)(1)(C) is a report submitted by the Secretary of Defense to the congressional defense committees that describes the total amount of the research, development, test, and evaluation costs, procurement costs, and other acquisition costs that are associated with a B-2 aircraft program to result in 20 deployable aircraft, including the costs of all planned modifications and retrofits, tooling, preplanned product improvements, support equipment, interim contractor support, initial spares, and any Government liability associated with curtailment.

(g) GAO REVIEW.—(1) The Comptroller General of the United States shall—

(A) review each report submitted pursuant to subsection (e) and (f); and

(B) provide the congressional defense committees with his comments on such reports.

(2) The Secretary of Defense shall transmit a copy of the reports to the Comptroller General at the same time that he transmits the reports to the congressional defense committees.

SEC. 154. SPACE SYSTEMS INVESTMENT STRATEGY.

(a) COST REDUCTION STRATEGY.—The Secretary of Defense shall develop a strategy for achieving substantial reductions in the cost of developing, acquiring, and supporting space systems operated by the Department of Defense.

(b) OPTIONS TO BE CONSIDERED.—In developing the strategy, the Secretary shall consider options to achieve reductions by fiscal year 2000 to amounts that are up to 25 percent below the costs incurred for such space systems in fiscal year 1992, measured in constant dollars.

(c) REPORT REQUIRED.—At the earliest practicable date, but not later than March 1, 1993, the Secretary shall submit to the congressional defense committees a report on the strategy required under subsection (a) and any recommendations that the Secretary considers appropriate regarding such strategy.

SEC. 155. GROUND WAVE EMERGENCY NETWORK.

Section 132 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1501) is amended by striking out "October 1, 1992" and inserting in lieu thereof "October 1, 1993".

Subtitle G—Chemical Demilitarization Program

SEC. 161. CHEMICAL WEAPONS STOCKPILE DISPOSAL PROGRAM.

(a) CHANGE IN STOCKPILE ELIMINATION DEADLINE.—Section 1412(b)(5) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(b)(5)), is amended by striking out "July 31, 1999" and inserting in lieu thereof "December 31, 2004".

(b) EVALUATION OF ALTERNATIVE TECHNOLOGIES.—Not later than December 31, 1993, the Secretary of the Army shall submit to Congress a report on the potential alternatives to the use of the Army's baseline disassembly and incineration process for the disposal of lethal chemical agents and munitions. The report shall include the following:

(1) An analysis of the report of the Committee on Alternative Chemical Demilitarization Technologies of the National Research Council of the National Academy of Science.

(2) Any recommendations that the National Academy of Sciences makes to the Army regarding the report of that committee and the Secretary's evaluation of those recommendations.

(3) A comparison of the baseline disassembly and incineration process with each alternative technology evaluated in the report of such committee that the National Academy of Sciences recommends for use in the Army Chemical Stockpile Disposal Program, taking into consideration each of the following factors:

(A) Safety.

(B) Environmental protection.

(C) Cost effectiveness.

(4) For each alternative technology recommended by the National Academy of Sciences, the date by which the Army could reasonably be expected to systematize, construct, and test the technology, obtain all necessary environmental and other permits necessary for using that technology for the disposal of lethal chemical agents and munitions, and have the technology available for full-scale chemical weapons destruction and demilitarization operations.

(5) A description of alternatives to incineration that are being developed by Russia for use in its chemical demilitarization program and an assessment of the extent to which such alternatives could be used to destroy lethal chemical weapons in the United States inventory of such weapons.

(c) LIMITATION.—(1) Except as provided in paragraphs (2) and (3), the Army may not carry out any site preparation for or construction of a disassembly and incinerator chemical agents disposal facility until the report required under subsection (b) is submitted to Congress.

(2) The limitation in paragraph (1) does not apply to any disassembly and incineration chemical agent disposal facility (of the 8 such facilities identified in the Army Chemical Stockpile Disposal Program) at which site preparation or construction has commenced before the date of the enactment of this Act.

(3) The limitation in paragraph (1) does not apply to:

(A) Facility design activities.

(B) The obtaining of environmental permits.

(C) Project planning.

(D) Procurement of equipment for installation in a facility.

(d) DESTRUCTION OF NONSTOCKPILE CHEMICAL MATERIAL.—(1)(A) Not later than February 1, 1993, the Secretary of the Army shall submit to Congress a report setting forth the Army's plans for destroying all chemical warfare material of the United States not covered by section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), that would be required to be destroyed if the United States became a party to a chemical weapons convention described in subparagraph (B).

(B) The chemical weapons convention referred to in subparagraph (A) is a chemical weapons convention that is substantially the same as the final draft of the proposed international Chemical Weapons Convention (CWC) tabled by the Chairman of the United Nations Conference on Disarmament Ad Hoc Committee on Chemical Weapons on June 22, 1992 (CD/CW/WP.400/Rev.1).

(2) The chemical warfare material covered by the report shall include the following:

(A) Binary chemical munitions.

(B) Buried chemical munitions.

(C) Chemical munitions recovered from ranges.

(D) Chemical weapons production facilities.

(E) All other chemical warfare material referred to in paragraph (1).

(3) The report shall include the following:

(A) A list of all suspected locations (including ranges) of buried or unexpended chemical munitions.

(B) An estimate of the number of such munitions and, of that number, how many of such munitions are planned to be destroyed.

(C) An inventory of the former chemical weapons production facilities and previously contaminated storage containers and the plans for destroying those facilities and containers.

(D) An inventory of the binary chemical munitions and the plans for destroying those munitions.

(E) The locations at which the chemical warfare materials and facilities referred to subparagraphs (A) through (D) will be destroyed.

(F) A description of the use, if any, that will be made of the Chemical Agent and Munitions Disposal System (CAMDS) facility in the destruction of those chemical warfare materials, as well as possible future uses of that facility for the destruction of conventional munitions or for research and development of possible alternative technologies for the destruction of chemical munitions.

(G) For the chemical warfare materials that cannot be destroyed in place or on site, a description of the means to be used for transporting the materials to disposal facilities.

(H) An estimate of the cost of destroying such chemical warfare materials and facilities.

(I) An estimate of the time that will be necessary to destroy such chemical warfare materials and facilities and the Secretary's determination of the likelihood that such materials and facilities can be destroyed by December 31, 2004.

(J) A determination as to whether it is a realistic option to transport chemical agents and munitions currently stored at low-volume disposal sites to other locations for destruction instead of destroying those munitions at those sites, taking into consideration safety, cost effectiveness, and the potential obligations of the United States under a chemical weapons convention to transport substantial quantities of chemical warfare munitions and materials not in the United States stockpile of lethal chemical agents and munitions to various locations for destruction.

(4) As used in paragraph (3)(J), the term "low-volume disposal site" means any chemical agent disposal site identified in the Army Chemical Stockpile Disposal Program where 5 percent or less of the total United States stockpile of unitary chemical weapons is stored.

SEC. 162. PHYSICAL AND CHEMICAL INTEGRITY OF THE CHEMICAL WEAPONS STOCKPILE.

(a) REPORT REQUIRED.—Not later than May 1, 1993, the Secretary of the Army shall submit to Congress a report on the physical and chemical integrity of the existing chemical weapons that are contained in the chemical weapons stockpile of the United States and are stored within the 8 chemical weapons storage sites within the continental United States.

(b) CONTENT OF REPORT.—The report shall include the following matters:

(1) A critical analysis of the near-term, mid-term, and long-term storage life of all chemical materials and chemical munitions contained within the storage sites referred to in subsection (a).

(2) For each class of chemical munitions and chemical agents, an analysis of the overall frequency of leaks of the munitions and agents and the frequency of leaks of the munitions and agents at each storage site.

(3) For each class of munition and agent and for each storage site, a description of the finite risks and potential harm to human health and environmental quality that are associated with such catastrophic events as container breach, spontaneous munition ignition, and leak.

(4) A critical analysis of the risks associated with the storage of the chemical munitions and chemical agents in each class of chemical munitions and chemical agents that are stored at each storage site through December 31, 2004.

(5) A discussion of actions that could be taken to minimize or eliminate the risks identified in paragraphs (1) through (4), including a discussion of actions to relocate or destroy chemical weapons at regional disposal facilities.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorizations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army, $5,303,744,000.

(2) For the Navy, $8,921,805,000.

(3) For the Air Force, $14,070,731,000.

(4) For the Defense Agencies, $10,645,659,000, of which—

(A) $261,707,000 is authorized for the activities of the Deputy Director, Defense Research and Engineering (Test and Evaluation); and

(B) $12,983,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC RESEARCH AND EXPLORATORY DEVELOPMENT.

(a) FISCAL YEAR 1993.—Of the amounts authorized to be appropriated by section 201, $4,179,179,000 shall be available for basic research and exploratory development projects.

(b) BASIC RESEARCH AND EXPLORATORY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research and exploratory development" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

SEC. 203. MANUFACTURING TECHNOLOGY DEVELOPMENT.

Of the amounts authorized to be appropriated by section 201, $433,600,000 shall be available for manufacturing technology development as follows:

(1) For the Army, $61,000,000.

(2) For the Navy, $108,400,000.

(3) For the Air Force, $146,200,000.

(4) For the Office of the Secretary of Defense, $118,000,000.

SEC. 204. STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM.

Of the amounts authorized to be appropriated by section 201, $200,000,000 shall be available for the Strategic Environmental Research and Development Program.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. V-22 OSPREY AIRCRAFT PROGRAM.

(a) FISCAL YEAR 1993 FUNDING.—Of the funds authorized to be appropriated pursuant to section 201 or otherwise made available for the Navy for fiscal year 1993 for research, development, test, and evaluation, $755,000,000 may be used only for development, manufacture, and operational testing of 3 production representative V-22 Osprey aircraft in addition to the 3 production representative V-22 Osprey aircraft for which funds were authorized to be appropriated, and were appropriated, for fiscal year 1992.

(b) USE OF FUNDS FOR CURRENT AND PRIOR FISCAL YEARS.—The amount made available for fiscal year 1993 for the V-22 Osprey aircraft program pursuant to subsection (a) and the unobligated balances of the amounts that were authorized to be appropriated, and were appropriated, for preceding fiscal years and made available for the V-22 Osprey aircraft program may be used only for—

(1) the development and manufacture of a total of 6 production representative aircraft for operational testing; and

(2) the operational testing of such aircraft.

SEC. 212. REPORT ON V-22 OSPREY AIRCRAFT PROGRAM.

(a) REPORT REQUIRED.—The Commandant of the Marine Corps shall submit to the congressional defense committees a report on the crash of the V-22 Osprey prototype aircraft that occurred on July 20, 1992.

(b) CONTENT OF REPORT.—The report shall include a discussion of the following matters:

(1) The cause or causes of the crash.

(2) The extent to which a redesign of a system might be required to correct the condition or conditions that caused the crash.

(3) The effects of the crash on the cost, schedule, and technical risk of the V-22 Osprey development and testing program.

(c) SUBMITTAL DATE.—The Commandant shall submit the report on or before September 1, 1992. If the Commandant expects to be unable to submit the report by that date, the Commandant shall notify the congressional defense committees of that expectation not later than August 16, 1992. The Commandant shall include in the notification the date on which he expects to submit the report.

(d) LIMITATION.—Not more than 50 percent of the amount appropriated for the Navy for fiscal year 1993 and made available for the V-22 Osprey aircraft program may be obligated until the Commandant has submitted the report required by subsection (a).

SEC. 213. SPECIAL OPERATIONS VARIANT OF THE V-22 OSPREY AIRCRAFT.

Of the amounts authorized to be appropriated pursuant to section 201(4), $15,000,000 shall be available for research, development, test, and evaluation in connection with the special operations variant of the V-22 Osprey aircraft.

SEC. 214. SHIPBOARD ELECTRONIC WARFARE PROGRAMS.

The Secretary of Defense shall specify in the Department of Defense budget request for fiscal year 1994 a separate program element for electronic warfare programs involving ship self-defense.

Subtitle C—Missile Defense Program

SEC. 221. MISSILE DEFENSE ACT AMENDMENTS.

(a) IMPLEMENTATION OF GOAL.—Section 233 of the Missile Defense Act of 1991 (part C of title II of Public Law 102-190; 10 U.S.C. 2431 note) is amended in subsection (b) by striking out "(b)" and all that follows through the end of paragraph (2) and inserting in lieu thereof the following:

"(b) ACTIONS OF THE SECRETARY OF DEFENSE.—

"(1) THEATER MISSILE DEFENSE SYSTEMS.—The Secretary of Defense shall develop advanced theater missile defense systems for deployment.

"(2) INITIAL ABM DEPLOYMENT.—The Secretary shall develop for deployment a cost-effective, operationally effective, and ABM Treaty-compliant antiballistic missile system at a single site as the initial step toward deployment of an antiballistic missile system described in section 232(a)(1) designed to protect the United States against limited ballistic missile threats, including accidental or unauthorized launches or Third World attacks. The system components to be developed shall include—

"(A) 100 ground-based interceptors, the design of which is to be determined by competition and downselection for the most capable interceptor or interceptors;

"(B) fixed, ground-based, antiballistic missile battle management radars; and

"(C) optimum utilization of space-based sensors, including sensors capable of cueing ground-based antiballistic missile interceptors and providing initial targeting vectors, and other sensor systems that are not prohibited by the ABM Treaty, including specifically the Ground Surveillance and Tracking System.".

(b) FOLLOW-ON TECHNOLOGY RESEARCH.—Subsection (c) of section 234 of such Act is amended to read as follows:

"(c) TRANSFER OF MANAGEMENT RESPONSIBILITY FOR RESEARCH AND DEVELOPMENT OF FAR-TERM FOLLOW-ON TECHNOLOGIES.—

"(1) TRANSFER REQUIRED.—

"(A) IN GENERAL.—As the Strategic Defense Initiative Organization (SDIO) transitions from a broadly based research organization to a focused acquisition agency, maintaining responsibility for research and development of far-term follow-on technologies in that organization could distract management and result in funding shortfalls as the Strategic Defense Initiative Organization's priorities increasingly center on near-term deployment architectures. Accordingly, the Secretary of Defense shall transfer management and budget responsibility for research and development of all far-term follow-on technologies currently under the Strategic Defense Initiative Organization to the Defense Advanced Research Projects Agency (DARPA) or the appropriate military department, unless he determines and certifies to the congressional defense committees that transfer of a particular far-term follow-on technology currently under the Strategic Defense Initiative Organization would not be in the national security interests of the United States.

"(B) Definition.—In subparagraph (A), the term 'far-term follow-on technology' means a technology not likely to be incorporated into a weapon system within 10 to 15 years after the date of the enactment of this Act.

"(2) Report required.—

"(A) In general.—Not later than 90 days after the date of enactment of the National Defense Authorization Act for Fiscal Year 1993, the Secretary of Defense shall submit to the congressional defense committees a report identifying—

"(i) those programs, projects, and activities under the Other Follow-On Technologies program element for fiscal year 1993 which he is transferring to a military department or the Defense Advanced Research Projects Agency; and

"(ii) those programs, projects, and activities under the Other Follow-On Technologies program element which the Secretary certifies are necessary in the national security interests of the United States to maintain under the Strategic Defense Initiative Organization.

"(B) Definition.—In subparagraph (A), the term 'programs, projects, and activities under the Other Follow-On Technologies program element for fiscal year 1993' means the programs, projects, and activities listed under the Other Follow-On Technologies program element for fiscal year 1993 in the report submitted to the congressional defense committees on July 2, 1992 pursuant to section 233(b)(3) of this Act.".

(c) Research, Development, Test, and Evaluation Objectives for SDI Program Elements.—Section 236 of such Act is amended—

(1) in subsection (a), by striking out "by fiscal year 1996" in the second sentence;

(2) in subsection (b)(1), by striking out all after "United States,"; and

(3) in subsection (d), by inserting "but which are not likely to be incorporated into weapons within 10 to 15 years after the date of the enactment of this Act" before the period at the end.

(d) Review of Follow-On Deployment Options.—Section 238 of such Act is amended by striking out "of fiscal year 1996" in the first sentence.

SEC. 222. STRATEGIC DEFENSE INITIATIVE FUNDING.

(a) Total Amount.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $4,300,000,000 may be obligated for the Strategic Defense Initiative, as follows:

(1) Of the amounts appropriated pursuant to title I for fiscal year 1993 or otherwise made available to the Department of Defense for procurement for fiscal year 1993, not more than $62,500,000 may be obligated for the Strategic Defense Initiative.

(2) Of the amounts appropriated pursuant to section 201 for fiscal year 1993 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1993, not more than $4,237,500,000 may be obligated for the Strategic Defense Initiative.

(b) Specific Amounts for the Program Elements.—Of the amount set forth in subsection (a)—

(1) not more than $2,090,000,000 shall be available for programs, projects, and activities within the Limited Defense System program element;

(2) not more than $997,500,000 shall be available for programs, projects, and activities within the Theater Missile Defenses program element;

(3) not more than $350,000,000 shall be available for programs, projects, and activities within the Space-Based Interceptors program element;

(4) not more than $400,000,000 shall be available for programs, projects, and activities within the Other Follow-On Systems program element; and

(5) not more than $400,000,000 shall be available for programs, projects, and activities within the Research and Support Activities program element.

(c) Transfer Authorities.—(1) Before the submission of the report required under subsection (e) and notwithstanding the limitations set forth in subsection (b), the Secretary of Defense may transfer funds among the program elements named in subsection (b).

(2) The total amount that may be transferred to or from any program element named in subsection (b)—

(A) may not exceed 10 percent of the amount provided in such subsection for the program element from which the transfer is made; and

(B) may not result in an increase of more than 10 percent of the amount provided in such subsection for the program element to which the transfer is made.

(3) Transfer authority may not be used for a decrease in funds identified in subsection (b)(2) for Theater Missile Defenses.

(4) Amounts transferred pursuant to paragraph (1) shall be merged with and be available for the same purposes as the amounts to which transferred.

(d) Construction of Authority in Relation to User Operational Evaluation System.—Nothing in this Act shall be construed to authorize the exercise of any option to fabricate or field elements of a User Operational Evaluation System at the initial anti-ballistic missile defense site.

(e) Reporting Requirement.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the allocation of funds appropriated for the Strategic Defense Initiative for fiscal year 1993. The report shall specify the amount of such funds allocated for each program, project, and activity under each program element.

SEC. 223. DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS.

(a) Use of Funds.—(1) Funds appropriated to the Department of Defense for fiscal year 1993, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1993 or for any fiscal year before 1993, may not be obligated or expended—

(A) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the development and testing described in the July 1992 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the July 1992 SDIO Report.

(2) The limitation under paragraph (1) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1993 if the transfer is made in accordance with section 1001 of this Act.

(b) Definition.—In this section, the term "July 1992 SDIO Report" means the report entitled, "1992 Report to Congress on the Strategic Defense Initiative," prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives by the Secretary of Defense pursuant to section 224 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1398; 10 U.S.C. 2431 note).

Subtitle D—Other Matters

SEC. 231. MEDICAL COUNTERMEASURES AGAINST BIOWARFARE THREATS.

(a) Funding.—Of the amounts appropriated pursuant to section 201 for fiscal year 1993, not more than $59,670,000 shall be available for the medical component of the Biological Defense Research Program (BDRP) of the Department of Defense.

(b) Limitations.—(1) Funds appropriated or otherwise made available for the Department of Defense for fiscal year 1993 may be obligated and expended for product development, and for research, development, testing, and evaluation, of medical countermeasures against biowarfare threat agents only in accordance with this section.

(2) Of the funds made available pursuant to subsection (a), not more than $10,000,000 may be obligated or expended for research, development, testing, or evaluation of medical countermeasures against far-term validated biowarfare threat agents.

(3) Of the funds made available pursuant to subsection (a) and not made available pursuant to paragraph (2) for the purpose set out in that paragraph—

(A) not more than 80 percent may be obligated and expended for product development, or for research, development, testing, or evaluation, of medical countermeasures against near-term validated biowarfare threat agents; and

(B) not more than 20 percent may be obligated or expended for product development, or for research, development, testing, or evaluation, of medical countermeasures against mid-term validated biowarfare threat agents.

(c) Definitions.—In this section:

(1) The term "validated biowarfare threat agent" means a biological agent that—

(A) is named in the biological warfare threat list published by the Defense Intelligence Agency (DIA); and

(B) is identified as a biowarfare threat by the Deputy Chief of Staff of the Army for Intelligence in accordance with Army regulations applicable to intelligence support for the medical component of the Biological Defense Research Program.

(2) The term "near-term validated biowarfare threat agent" means a validated biowarfare threat agent that has been, or is being, developed or produced for weaponization within 5 years, as assessed and determined by the Defense Intelligence Agency.

(3) The term "mid-term validated biowarfare threat agent" means a validated biowarfare threat agent that is an emerging biowarfare threat, is the object of research by a foreign threat country, and will be ready for weaponization in more than 5 years and less than 10 years, as assessed and determined by the Defense Intelligence Agency.

(4) The term "far-term validated biowarfare threat agent" means a validated biowar-

fare threat agent that is a future biowarfare threat, is the object of research by a foreign threat country, and could be ready for weaponization in more than 10 years and less than 20 years, as assessed and determined by the Defense Intelligence Agency.

(5) The term "weaponization" means incorporation into usable ordnance or other militarily useful means of delivery.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorizations of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army, $14,191,715,000.

(2) For the Navy, $20,371,281,000.

(3) For the Marine Corps, $1,453,515,000.

(4) For the Air Force, $16,876,477,000.

(5) For the Defense Agencies, $8,384,605,000.

(6) For the Army Reserve, $1,033,773,000.

(7) For the Naval Reserve, $878,792,000.

(8) For the Marine Corps Reserve, $74,821,000.

(9) For the Air Force Reserve, $1,213,887,000.

(10) For the Army National Guard, $2,251,213,000.

(11) For the Air National Guard, $2,512,475,000.

(12) For the National Board for the Promotion of Rifle Practice, $2,700,000.

(13) For the Defense Inspector General, $125,500,000.

(14) For Drug Interdiction and Counter-Drug Activities, Defense, $1,263,400,000.

(15) For the Court of Military Appeals, $5,893,000.

(16) For Environmental Restoration, Defense, $1,513,200,000

(17) For Humanitarian Assistance, $25,000,000.

(18) For the Defense Health Program, $9,507,072,000.

(19) For support for the 1996 Summer Olympics, $2,000,000.

(20) For support for the 1993 World University Games, $6,000,000.

(21) For support for the 1994 World Cup Games, $9,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

There is hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for the Defense Business Operations Fund, $1,123,800,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 1993 from the Armed Forces Retirement Home Trust Fund the sum of $62,728,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. HUMANITARIAN ASSISTANCE.

(a) Purpose.—(1) Funds appropriated pursuant to the authorization in section 301(17) shall be available for the purposes of section 2551 of title 10, United States Code, including the transportation of humanitarian relief for the people of Afghanistan and Cambodia.

(2) Of the funds authorized to be appropriated for fiscal year 1993 pursuant to section 301(17) for such purpose, not more than $3,000,000 shall be available for distribution of humanitarian relief supplies to displaced persons or refugees who are noncombatants, including those affiliated with the Cambodian non-Communist resistance, at or near the border between Thailand and Cambodia.

(b) Authority To Transfer Funds.—Under section 2551(b) of title 10, United States Code, the Secretary of Defense may transfer not more than $3,000,000 of the funds referred to in subsection (a)(1).

(c) Codification of Authority and Administrative Provisions.—(1) Chapter 151 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2551. Humanitarian assistance

"(a) Authorized Assistance.—To the extent provided in defense authorization Acts, funds authorized to be appropriated to the Department of Defense for a fiscal year for humanitarian assistance shall be used for the purpose of providing transportation of humanitarian relief and for other humanitarian purposes worldwide.

"(b) Authority To Transfer Funds.—To the extent provided in defense authorization Acts for a fiscal year, the Secretary of Defense may transfer to the Secretary of State funds appropriated for the purpose of this section to provide for—

"(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

"(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

"(c) Transportation of Humanitarian Relief.—(1) Transportation for humanitarian relief provided with funds appropriated for the purposes of this section shall be provided under the direction of the Secretary of State.

"(2) Transportation for humanitarian relief provided with funds appropriated for the purposes of this section shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the armed forces.

"(d) Availability of Funds.—Funds appropriated for humanitarian assistance for the purposes of this section shall remain available until expended, to the extent provided in appropriation Acts.

"(e) Status Reports.—(1) The Secretary of Defense shall submit (at the times specified in paragraph (2)) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report on the provision of humanitarian assistance pursuant to this section.

"(2)(A) Whenever there is enacted a defense authorization Act that contains an authorization of appropriations for humanitarian assistance, a report referred to in paragraph (1) shall be submitted as provided in that paragraph not later than 60 days after the date of the enactment of that Act.

"(B) In addition to reports submitted as provided in subparagraph (A), a report shall be submitted under paragraph (1) not later than June 1 of each year.

"(3) Each report required by paragraph (1) shall cover all provisions of law, contained in defense authorization Acts, that authorize appropriations for humanitarian assistance to be available for the purposes of this section. A report submitted after all amounts appropriated pursuant to such a provision of law have been obligated shall not cover that provision of law.

"(4) Subject to paragraph (3), a report required by paragraph (1) shall contain (as of the date on which the report is submitted) the following information:

"(A) The total amount of funds obligated for humanitarian relief under this section.

"(B) The number of scheduled and completed flights for purposes of providing humanitarian relief under this section.

"(C) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of this title.

"(f) Report Regarding Relief for Unauthorized Countries.—In any case in which the Secretary of Defense provides for the transportation of humanitarian relief to a country to which the transportation of humanitarian relief has not been specifically authorized by law, the Secretary shall notify the Committees on Appropriations and on Armed Services of the Senate and House of Representatives of the Secretary's intention to transport humanitarian relief to that country. The notification shall be submitted not less than 15 days before the commencement of the transportation of the humanitarian relief to that country.

"(g) Definition.—In this section, the term 'defense authorization Act' means an Act that authorizes appropriations for one or more fiscal years for military activities of the Department of Defense, including the activities described in paragraph (7) of section 114(a) of this title.".

(2) The table of sections at the beginning of chapter 151 of such title is amended by adding at the end the following new item:

"2551. Humanitarian assistance.".

(d) Repeal of Superseded Reporting Requirement.—Section 304 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1333) is amended by striking out subsection (f).

SEC. 305. SUPPORT FOR THE 1994 WORLD CUP GAMES.

(a) Authority To Provide Support.—The Secretary of Defense may provide logistical support and personnel services in connection with the 1994 World Cup Games to be held in the United States.

(b) Pay and Nontravel-Related Allowances.—(1) Except as provided in paragraph (2), the costs for pay and nontravel-related allowances of members of the Armed Forces for the support and services referred to in subsection (a) may not be charged to appropriations made pursuant to the authorization in section 301(21).

(2) Paragraph (1) does not apply in the case of members of a reserve component called or ordered to active duty to provide logistical support and personnel services for the 1994 World Cup Games.

SEC. 306. TRANSFER AUTHORITY.

(a) Authority.—The Secretary of Defense, to the extent provided in appropriations Acts, may transfer funds as provided in this section during fiscal year 1993.

(b) From the Defense Business Operations Fund.—(1) Not more than $3,054,000,000 may be transferred from the Defense Business Operations Fund to appropriations for operations and maintenance for fiscal year 1993 in amounts as follows:

(A) For the Army, $2,229,000,000.

(B) For the Navy, $94,500,000.

(C) For the Marine Corps, $58,500,000.

(D) For the Air Force, $672,000,000.

(2) A transfer under this subsection may be made only—

(A) to the extent that the military department concerned has received credit on the books of the Defense Business Operations Fund for unneeded secondary items returned to the Fund by that military department; or

(B) if the Secretary of Defense certifies to the congressional defense committees that the military department concerned has, to the greatest extent practicable, returned for credit on the books of the Defense Business Operations Fund all secondary items not needed by that military department that were under the control of such military department on October 1, 1992.

(c) FROM THE NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.—Not more than $612,000,000 may be transferred from the National Defense Stockpile Transaction Fund to appropriations for operation and maintenance of Defense Agencies for fiscal year 1993.

(d) TREATMENT OF TRANSFERS.—Amounts transferred under this section—

(1) shall be merged with and be available for the same purposes and the same period as the amounts in the accounts to which transferred;

(2) shall be deemed to increase the amount authorized to be appropriated for the account to which the amount is transferred by an amount equal to the amount transferred; and

(3) may not be expended for an item that has been denied authorization of appropriations by Congress.

(e) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—An increase under subsection (d)(2) in an amount authorized to be appropriated is in addition to an increase in that amount that results from a transfer of an authorization of appropriations pursuant to section 1001.

Subtitle B—Environmental Provisions

SEC. 311. EVALUATION OF USE OF CHLOROFLUOROCARBONS AND HALONS BY THE DEPARTMENT OF DEFENSE.

(a) EVALUATION.—The Director of the Defense Logistics Agency shall evaluate the use of class I substances by the military departments and Defense Agencies. In carrying out the evaluation, the Director shall—

(1) determine the quantity of each class I substance that—

(A) is held in the inventory of each military department and Defense Agency on December 31, 1992;

(B) will be used by each military department and Defense Agency during 1992; and

(C) will be used by each military department and Defense Agency in each of 1993, 1994, and 1995;

(2) determine the quantity of each class I substance in the inventory of the military departments and Defense Agencies in each of 1993, 1994, and 1995 that can be reclaimed or recycled and reused by the military departments and Defense Agencies;

(3) determine the type and quantity of class I substances whose use will be critical to the missions of the military departments and Defense Agencies after 1995;

(4) determine the type and quantity of class I substances that must be stockpiled after 1995 in order to ensure the availability of such substances for the missions referred to in paragraph (3);

(5) review the plans, if any, to reclaim, recycle, reuse, and maintain the stockpile referred to in paragraph (4); and

(6) identify each specific site, facility, or vessel in connection with which the President will seek an exemption pursuant to section 604(f) of the Clean Air Act (42 U.S.C. 7671c(f)) to permit the continued production or use of class I substances, and the type and quantity of each class I substance that will be produced or used in connection with the site, facility, or vessel.

(b) REPORT.—The Director of the Defense Logistics Agency shall submit to the congressional defense committees a report on the status of the evaluation not later than April 1, 1993.

(c) DEFINITIONS.—In this section, the term "class I substance" means any substance listed under section 602(a) of the Clean Air Act (42 U.S.C. 7671a(a)).

SEC. 312. REMOVAL OF REQUIREMENTS FOR USE OF OZONE-DEPLETING SUBSTANCES IN CERTAIN MILITARY PROCUREMENTS.

(a) PROHIBITION ON CONTRACTS REQUIRING USE OF OZONE-DEPLETING SUBSTANCES.—(1) No Department of Defense contract awarded, modified, amended, or extended on or after June 1, 1993, may include a specification or standard that requires the use of an ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard in the contract is approved by the senior acquisition official for the procurement covered by the contract. The senior acquisition official may grant the approval only if the senior acquisition official determines (based upon the certification of an appropriate technical representative of the official) that a suitable substitute for the ozone-depleting substance is not currently available.

(2) The senior acquisition official authorized to grant an approval under paragraph (1) shall be determined under regulations prescribed by the Secretary of Defense. A senior acquisition official may not delegate the authority provided in such paragraph.

(3) Beginning on October 1, 1993, each official who grants an approval authorized under paragraph (1) shall submit to the Secretary of Defense a quarterly report on all approvals granted during the quarter. The report shall include a brief description of the specifications or standards so approved.

(4) The Secretary shall promptly transmit to the Committees on Armed Services of the Senate and House of Representatives a compilation of the reports for each quarter that are submitted to the Secretary under paragraph (3). The Secretary shall transmit the compilation in classified and unclassified forms.

(b) COST RECOVERY.—In any case in which a Department of Defense contract is modified or a specification or standard for such a contract is waived at the request of a contractor in order to permit the contractor to use in the performance of the contract a substitute for an ozone-depleting substance or an alternative technology for a technology involving the use of an ozone-depleting substance, the Secretary of Defense may reimburse the contractor for the reasonable direct and indirect costs incurred by the contractor in the use of such substitute or alternative technology, including research and development costs, costs to justify and obtain the modification or waiver, and costs of converting to the use of the substitute substance or alternative technology for the performance of that contract. Reimbursements under this subsection shall be consistent with the Federal Acquisition Regulation.

(c) DEFINITION.—In this section, the term "ozone-depleting substance" means any class I substance listed under section 602(a) of the Clean Air Act Amendments of 1990 (42 U.S.C. 7671a(a)).

SEC. 313. RISK SHARING IN ENVIRONMENTAL RESTORATION CONTRACTS OF THE DEPARTMENT OF DEFENSE.

(a) AUTHORITY UNDER NATIONAL DEFENSE CONTRACTS PROVISIONS.—Environmental restoration activities at military installations and former military installations shall be deemed to be functions that facilitate the national defense under the provisions of Public Law 85-804 (50 U.S.C. 1431).

(b) REQUIREMENT FOR RISK SHARING.—Under regulations prescribed by the Secretary of Defense, the Secretary of a military department shall ensure, when appropriate, that contracts entered into by the Secretary of a military department for environmental restoration activities at military installations and former military installations provide for the military department and the contractors, subcontractors, and sureties on the contracts (and subcontracts under such contracts) to share the risk of liability resulting from such activities.

(c) AUTHORITY FOR CONTRACT PROVISION.—To carry out the requirement in subsection (b), the Secretary of a military department shall—

(1) identify the proposed contracts for environmental restoration activities at military installations and former military installations, or the portions of such proposed contracts, for which it is advisable to provide for the indemnification of the contractors, subcontractors, or sureties on the contracts (and any subcontractors of such contractors or subcontractors);

(2) include in the solicitations for proposals or bids for such contracts a clear statement that the United States will provide such indemnification to such contractors, subcontractors, and sureties; and

(3) in the event that the Secretary enters into such contracts, provide such indemnification.

(d) IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) prescribe regulations to carry out the requirements of this section; and

(2) submit to the Committees on Armed Services of the Senate and House of Representatives a plan for the implementation of such requirements.

(e) DEFINITION.—In this section, the term "military installation" has the meaning given such term in section 2687(e)(1) of title 10, United States Code.

SEC. 314. REQUIREMENT FOR IDENTIFICATION OF LAND ON WHICH NO HAZARDOUS SUBSTANCES OR PETROLEUM PRODUCTS OR THEIR DERIVATIVES WERE STORED, RELEASED, OR DISPOSED OF.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) is amended by adding at the end the following new paragraph:

"(4) IDENTIFICATION OF UNCONTAMINATED PROPERTY.—(A) In the case of real property owned by the United States that is part of a military installation on which is located a site listed on the National Priority List and on which the United States plans to terminate military operations, the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall identify the real property on which neither hazardous substances nor petroleum products or their derivatives were stored for 1 year or more, are known to have been released, or were disposed of. Such identification shall be based on an investigation of the real property to determine or discover the presence or likely presence of a release or threatened release of any hazardous substance or any petroleum product and its derivative, including aviation fuel and motor oil, on the real property. The identification shall consist, at a minimum, of—

"(i) a completed preliminary assessment and site investigation; or

"(ii) a review of each of the following sources of information concerning the current and previous uses of the real property:

"(I) A detailed search of Federal Government records pertaining to the property.

"(II) The recorded chain of title documents regarding the real property.

"(III) Aerial photographs that may reflect prior uses of the real property and that are reasonably obtainable through State or local government agencies.

"(IV) A visual inspection of the real property and any buildings, structures, equipment, pipe, pipeline, or other improvements on the real property, and a visual inspection of properties immediately adjacent to the real property.

"(V) A physical inspection of property adjacent to the real property, to the extent permitted by owners or operators of such property.

"(VI) Reasonably obtainable Federal, State, and local government records of each adjacent facility where there has been a release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, and which is likely to cause or contribute to a release or threatened release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property.

"(VII) Interviews with current or former employees involved in operations on the real property.

Such identification shall also be based on sampling, if appropriate under the circumstances. The results of the identification shall be provided immediately to the Administrator and State and local government officials and made available to the public.

"(B) The identification required under subparagraph (A) shall not be complete until concurrence in the results of the identification is obtained from the Administrator and from the appropriate State official.

"(C) The identification required under subparagraph (A) shall be made not later than 18 months after the military installation is selected for closure pursuant to the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note) or within 1 year after the date of enactment of this section, whichever is later. The concurrence from an appropriate State official required under subparagraph (B) shall be deemed to be obtained if, within 90 days after receiving a request for the concurrence, the State official has not acted (by either concurring or declining to concur) on the request for concurrence.

"(D) In the case of the sale of or transfer of title of any parcel of real property identified under subparagraph (A), the deed entered into for the sale or transfer of such property by the United States to any other person or entity shall contain—

"(i) a covenant warranting that any response action or corrective action found to be necessary as a result of the discovery, after the date of such sale or transfer, of previously unidentified hazardous substances or petroleum derivatives that were released or disposed of as a result of the actions of previous Federal Government operations, shall be conducted by the United States; and

"(ii) a clause granting the United States access to the property in any case in which a response action or corrective action is found to be necessary after such date at such property, or such access is necessary to carry out a response action or corrective action on adjoining or other property.

"(E) The head of the department, agency, or instrumentality of the United States with jurisdiction over the real property subject to this section may sell, lease, or otherwise transfer any right, title, or interest to the real property identified under subparagraph (A) without regard to whether the real property is or has been listed as a site on the National Priorities List.

"(F) Nothing in this paragraph shall affect, preclude, or otherwise impair the termination of Federal Government operations on real property owned by the United States.

"(G) In this paragraph, the term 'military installation' has the meaning given that term in section 2687(e)(1) of title 10, United States Code.".

SEC. 315. CLARIFICATION OF COVENANT WARRANTING THAT REMEDIAL ACTION HAS BEEN TAKEN.

(a) CLARIFICATION.—Paragraph (3) of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) is amended by adding after the last sentence the following: "For purposes of subparagraph (B)(i), all remedial action described in such subparagraph has been taken if the construction and installation of an approved remedial design has been completed and the Administrator has determined that the remedy is operating properly and successfully. The carrying out of long-term pumping and treating, or operation and maintenance, after the Administrator has determined the remedy is operating properly and successfully, does not preclude the transfer of the property.".

(b) ACCESS TO PROPERTY.—Paragraph (3) of such section is further amended—

(1) by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof "; and"; and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) a clause granting the United States access to the property in any case in which a response action is found to be necessary at such property after the date of such transfer, or such access is necessary to carry out a response action on adjoining or other property after such date.".

SEC. 316. REQUIREMENT TO NOTIFY STATES OF CERTAIN LEASES.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), as amended by section 314, is further amended by adding at the end the following new paragraph:

"(5) NOTIFICATION OF STATES REGARDING CERTAIN LEASES.—In the case of real property owned by the United States and used as a military facility on which any hazardous substance or any petroleum product or its derivatives (including aviation fuel and motor oil) was stored for one year or more, is known to have been released, or was disposed of, and on which the United States plans to terminate military operations, the head of the department, agency, or instrumentality of the United States having jurisdiction over the property shall notify the State in which the property is located of any lease entered into by the United States that will encumber the property beyond the date of termination of operations on the property. Such notification shall be made to the State at least 90 days before entering into the lease and shall include the length of the lease, the name of the person to whom the property is leased, and a description of the uses that will be allowed under the lease of the property and buildings and other structures on the property.".

SEC. 317. INDEMNIFICATION OF TRANSFEREES OF CLOSING DEFENSE PROPERTY.

(a) IN GENERAL.—(1) Except as provided in subsection (b), the Secretary of Defense shall hold harmless, defend, and indemnify in full the persons and entities described in paragraph (2) from and against all suits, claims, demands or actions, liabilities, judgments, and costs and other fees arising out of, or in any manner predicated upon, the release or threatened release of any hazardous substance or pollutant or contaminant as a result of Department of Defense activities at any military installation (or portion thereof) that is closed pursuant to a base closure law.

(2) The persons and entities described in this paragraph are the following:

(A) Any State (including any officer, agent, or employee of the State) that acquires ownership or control of any facility at a military installation (or any portion thereof) described in paragraph (1).

(B) Any political subdivision of a State (including any officer, agent, or employee of the State) that acquires such ownership or control.

(C) Any other person or entity that acquires such ownership or control.

(D) Any successor, assignee, transferee, lender, or lessee of a person or entity described in subparagraphs (A) through (C).

(b) EXCEPTION.—(1) The Secretary of Defense shall not hold harmless, defend, or indemnify any person or entity described in subsection (a)(2) from any suit, claim, demand or action, liability, judgment, or cost or other fee arising out of a release or threatened release described in subsection (a)(1) to the extent that such person or entity (or any officer, agent, or employee of the entity) caused or contributed to such release or threatened release.

(2) No indemnification may be afforded under this provision which is not subject to and consistent with chapter 171 of title 28, United States Code, including any procedural requirements or defense.

(c) DEFINITIONS.—In this section:

(1) The terms "facility", "hazardous substance", "release", and "pollutant or contaminant" have the meanings given such terms under paragraphs (9), (14), (22), and (33) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, respectively (42 U.S.C. 9601 (9), (14), (22), and (33)).

(2) The term "military installation" has the meaning given such term under section 2687(e)(1) of title 10, United States Code.

(3) The term "base closure law" means the following:

(A) The Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note).

(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note).

(C) Section 2687 of title 10, United States Code.

(D) Any provision of law authorizing the closure or realignment of a military installation enacted on or after the date of the enactment of this Act.

SEC. 318. PROHIBITION ON USE OF ENVIRONMENTAL RESTORATION FUNDS FOR PAYMENT OF FINES AND PENALTIES.

None of the funds appropriated for fiscal year 1993 pursuant to the authorization of appropriations in section 301(16) may be used for the payment of fines or penalties unless the act or omission for which a fine or penalty is imposed arises out of activities funded by that appropriation.

SEC. 319. MODIFICATION OF CONTRACT INDEMNIFICATION AUTHORITY.

(a) MODIFICATION OF AUTHORITY.—Subsection (a) of section 2354 of title 10, United States Code, is amended by inserting "or any contract or contract under a program (including contracts for activities other than research and development) carried out under chapter 160 of this title," after "or both,".

(b) PAYMENT AUTHORITY.—Subsection (d)(2) of such section is amended by inserting "or for contracts or programs carried out under chapter 160 of this title, as the case may be," after "or both,".

SEC. 320. EXTENSION OF AUTHORITY TO ISSUE SURETY BONDS FOR CERTAIN ENVIRONMENTAL PROGRAMS.

(a) TITLE 10.—Section 2701(j) of title 10, United States Code, is amended by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

(b) CERCLA.—Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended—

(1) in subsection (e)(2)(C), by striking out "January 1, 1993" and inserting in lieu thereof "January 1, 1996,"; and

(2) in subsection (g)(5), by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

SEC. 321. PROHIBITION ON THE PURCHASE OF SURETY BONDS AND OTHER GUARANTIES FOR THE DEPARTMENT OF DEFENSE.

(a) PROHIBITION.—No funds appropriated or otherwise made available to the Department of Defense for fiscal year 1993 may be obligated or expended for the purchase of surety bonds or other guaranties of financial responsibility in order to guarantee the performance of any direct function of the Department of Defense.

(b) TECHNICAL AMENDMENT.—Section 335 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1342) is amended by striking out "or fiscal year 1993".

SEC. 322. LEGACY RESOURCE MANAGEMENT FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—There is established the Legacy Fellowship Program in Natural and Cultural Resource Management (in this section referred to as the "Legacy Fellowship Program"). The Legacy Fellowship Program is a part of the Legacy Resource Management Program established pursuant to section 8120 of the Department of Defense Appropriations Act, 1991 (Public Law 101–511; 104 Stat. 1905).

(b) PURPOSES.—The purposes of the Legacy Fellowship Program are as follows:

(1) To support the purposes of the Legacy Resource Management Program set forth in section 8120(b) of such Act.

(2) To provide training to civilian personnel and military personnel in the management of natural and cultural resources.

(c) FELLOWS.—(1) The Legacy Fellowship Program shall be composed of not less than 3 fellows who shall be appointed by the Deputy Assistant Secretary of Defense for Environment. Such fellows shall be appointed from among qualified persons in the military and civilian sectors.

(2)(A) Each fellow who is an officer or employee of the United States shall serve without compensation in addition to that received for the services as an officer or employee of the United States. Any such service shall be without interruption or loss of civil service status or privilege.

(B) The Deputy Assistant Secretary of Defense shall fix (in an amount the Deputy Assistant Secretary determines appropriate) the compensation of the fellows, if any, who are not officers or employees of the United States. Such fellows shall not be considered employees of the Federal Government other than for purposes of chapter 81 of title 5, United States Code.

(3) Fellows shall serve for a term of one year and may be reappointed for an additional term of one year.

(4) The Deputy Assistant Secretary of Defense shall assign the fellows to an agency, office, or other entity (other than the Office of the Deputy Assistant Secretary of Defense for Environment) that is responsible for the implementation of the Legacy Resource Management Program in the Department of Defense. Upon assignment, the fellow shall assist the agency, office, or entity in carrying out the purposes of the Legacy Resource Management Program.

(d) FUNDING.—Of the funds authorized to be appropriated in fiscal year 1993 for the Department of Defense and made available for the Legacy Resource Management Program, $100,000 may be used for the Legacy Fellowship Program. Such funds shall be available for obligation without fiscal year limitation.

SEC. 323. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.

In addition to the amounts otherwise authorized to be appropriated for fiscal years 1992 and 1993 in this Act there is authorized to be appropriated for such fiscal years—

(1) for Environmental Restoration, Defense, the total amount of $447,500,000; and

(2) for the Department of Defense Base Closure Account 1990 the total amount of $35,000,000.

Subtitle C—Defense Economic Diversification, Conversion, and Stabilization

SEC. 331. REVISION OF AUTHORITIES RELATING TO THE ECONOMIC ADJUSTMENT COMMITTEE.

(a) PERMANENT CHAIRMAN.—Subsection (b) of section 4004 of the Defense Economic Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101–510; 10 U.S.C. 2391 note) is amended to read as follows:

"(b) CHAIRMAN.—The Secretary of Defense shall be the Chairman of the Committee.".

(b) EXECUTIVE COUNCIL.—Section 4004 of such Act is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new subsection (c):

"(c) EXECUTIVE COUNCIL.—The Chairman shall establish an Executive Council of the Committee from appropriate representatives of the Department of Defense, the Department of Commerce, the Department of Labor, and the Small Business Administration. Under the direction of the Chairman, the Executive Council shall develop policies and procedures to ensure that communities, businesses, and workers substantially and seriously affected by reductions in defense expenditures are advised of the assistance available to such communities, businesses, and workers under programs administered by such departments and that agency.".

(c) NOTIFICATION OF ECONOMIC ADJUSTMENT PLANNING.—Section 4101(a) of such Act is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(3) by striking out "or" at the end of paragraph (1) (as so redesignated);

(4) by striking out the period at the end of paragraph (2) (as so redesignated) and inserting in lieu thereof "; or"; and

(5) by adding at the end the following new paragraph (3):

"(3) the lack of any follow-on contracts or other defense-related contract activity.".

SEC. 332. AUTHORIZATIONS OF APPROPRIATIONS FOR CERTAIN DEFENSE STABILIZATION ACTIVITIES.

(a) ASSISTANCE THROUGH THE ECONOMIC DEVELOPMENT ADMINISTRATION.—Section 4103(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2391 note) is amended by inserting "and for fiscal year 1993 $150,000,000" after "$50,000,000".

(b) DEFENSE CONVERSION ADJUSTMENT.—Section 4203(a) of such Act (10 U.S.C. 2391 note) is amended by inserting "and $50,000,000 for fiscal year 1993" after "fiscal year 1991".

SEC. 333. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Defense, in consultation with the Secretary of Education, shall provide financial assistance to local educational agencies in States as provided in this section.

(b) SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—(1) The Secretary of Defense shall provide financial assistance to an eligible local educational agency if, without such assistance, that agency will be unable (as determined by the Secretary of Defense in consultation with the Secretary of Education) to provide the students in the schools of the agency with a level of education that is equivalent to the minimum level of education available in the schools of the other local educational agencies in the same State.

(2) A local educational agency is eligible for assistance under this subsection for a fiscal year if—

(A) at least 30 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools of that agency in that fiscal year are military dependent students described in section 3(a) or 3(b) of Public Law 81–874 (20 U.S.C. 238(a)); or

(B) by reason of a consolidation or reorganization of local educational agencies, the local educational agency is a successor of a local educational agency that, for fiscal year 1992—

(i) was eligible to receive payments in accordance with Department of Defense Instruction 1342.18, dated June 3, 1991; and

(ii) satisfied the requirement in subparagraph (A).

(c) ADJUSTMENT PAYMENTS RELATED TO BASE CLOSURES AND REALIGNMENTS.—To assist communities in making adjustments resulting from reductions in the size of the Armed Forces, the Secretary of Defense shall transfer to the Secretary of Education funds to make payments to local educational agencies that are entitled to receive under section 3 of Public Law 81–874 (20 U.S.C. 238) payments adjusted in accordance with subsection (e) of such section by reason of conditions described in subparagraphs (A) through (C) of paragraph (1) of such subsection that result from closures and realignments of military installations.

(d) REPORT ON IMPACT OF BASE CLOSURES ON EDUCATIONAL AGENCIES.—(1) Not later than February 15 of each of 1993, 1994, and 1995, the Secretary of Defense, in consultation with the Secretary of Education, shall submit to Congress a report on the local educational agencies affected by the closures and realignment of military installations and by redeployments of members of the Armed Forces.

(2) Each report shall contain the following:

(A) The number of dependent children of members of the Armed Forces or civilian employees of the Department of Defense who entered the schools of the local educational agencies during the preceding school year as a result of closures, realignments, or redeployments.

(B) The number of dependent children of such members or employees who withdrew from the schools of the local educational agencies during that school year as a result of closures, realignments, or redeployments.

(C) The amounts paid to the local educational agencies during that year under Public Law 81-874 (20 U.S.C. 236 et seq.) or any other provision of law authorizing the payment of financial assistance to local communities or local educational agencies on the basis of the presence of dependent children of such members or employees in such communities and in the schools of such agencies.

(D) The projected transfers of such members and employees in connection with closures, realignments, and redeployments during the 12-month period beginning on the date of the report, including—

(i) the installations to be closed or realigned;

(ii) the installations to which personnel will be transferred as a result of closures, realignments, and redeployments; and

(iii) the effects of such transfers on the number of dependent children who will be included in determinations with respect to the payment of funds to each affected local educational agency under subsections (a) and (b) of section 3 of Public Law 81-874 (20 U.S.C. 238).

(e) DEFINITIONS.—In this section:

(1) The term "local education agency" has the meaning given that term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

(2) The term "State" has the meaning given that term in section 3(d)(3)(D)(i) of Public Law 81-874 (20 U.S.C. 238(d)(3)(D)(i)).

(3) The term "military dependent student" means a student that is a dependent child of a member of the Armed Forces.

(f) FUNDING.—Of the amounts appropriated for the Department of Defense for operation and maintenance in fiscal year 1993 pursuant to the authorization of appropriations in section 301—

(1) $50,000,000 shall be available for providing assistance to local educational agencies under subsection (b); and

(2) $8,000,000 shall be available for making payments to local educational agencies under subsection (c).

Subtitle D—Department of Defense Civilian Personnel Transition Initiatives

SEC. 341. REEMPLOYMENT IN THE COMPETITIVE SERVICE.

(a) REEMPLOYMENT AFTER REDUCTION IN FORCE.—Subchapter I of chapter 35 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 3505. Reemployment after reduction in force for certain employees

"(a) For purposes of this section, the term—

"(1) 'employee' means an employee of the Department of Defense, including each military department, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months; and

"(2) 'Secretary concerned' means—

"(A) the Secretary of the Army with respect to employees of the Department of the Army;

"(B) the Secretary of the Navy with respect to employees of the Department of the Navy;

"(C) the Secretary of the Air Force with respect to employees of the Department of the Air Force; and

"(D) the Secretary of Defense with respect to all other employees of the Department of Defense.

"(b) Subject to the provisions of subsection (c), if the Secretary concerned separates an employee from employment under regulations for a reduction in force under section 3502(a) of this title, and within 2 years after the date of such separation—

"(1) seeks to employ a person for a position in the competitive area which was the employee's competitive area at the time of the separation and the separated employee is qualified for appointment to that position, the Secretary shall offer the separated employee reemployment in such position before offering employment to any other person for such position; or

"(2) seeks to employ a person for the position from which such employee was separated or to perform the duties performed by such employee, the Secretary may not employ a contract employee or a temporary employee for such position or to perform the duties which were performed by the separated employee.

"(c) If the Secretary concerned separates employees from employment in positions in a competitive area under regulations for a reduction in force under section 3502(a) of this title, and within 2 years after the date of the last such separation seeks to employ persons in all or some of such positions, but not in a sufficient number to result in the reemployment of all such separated employees, the Secretary, before offering employment in any of those positions to any other persons, shall offer such separated employees (if qualified) reemployment in accordance with sections 3309 through 3317 of this title (and any other provision of law relating to the employment of preference eligibles) and on the basis of seniority in Federal Service.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 35 of title 5, United States Code, is amended by inserting after the item relating to section 3504 the following:

"3505. Reemployment after reduction in force for certain employees.".

SEC. 342. REEMPLOYMENT ASSISTANCE.

(a) REQUIREMENT THAT A GOVERNMENT-WIDE LIST OF VACANT POSITIONS BE MAINTAINED.—(1)(A) Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

"§ 3329. Government-wide list of vacant positions

"(a) For the purpose of this section, the term 'agency' means an Executive agency, excluding the General Accounting Office and any agency (or unit thereof) whose principal function is the conduct of foreign intelligence or counterintelligence activities, as determined by the President.

"(b) The Office of Personnel Management shall establish and keep current a comprehensive list of all announcements of vacant positions in the competitive service within each agency that are to be filled by appointment for more than one year and for which applications are being (or will soon be) accepted from outside the agency's work force.

"(c) Included for any position listed shall be—

"(1) a brief description of the position, including its title, tenure, location, and rate of pay;

"(2) application procedures, including the period within which applications may be submitted and a contact point for additional information; and

"(3) any other information which the Office considers appropriate.

"(d) The list shall be available to members of the public.

"(e) The Office shall prescribe such regulations as may be necessary to carry out this section. Any requirement under this section that agencies notify the Office as to the availability of any vacant positions shall be designed so as to avoid any duplication of information otherwise required to be furnished under section 3327 of this title or any other provision of law.".

(B) The table of sections at the beginning of chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3328 the following:

"3329. Government-wide list of vacant positions.".

(2) No later than 120 days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall begin providing the information on the list referred to in section 3329 of title 5, United States Code (as added by this subsection) by means of a toll-free telephone number (commonly referred to as an 800 number).

(b) TEMPORARY MEASURES TO FACILITATE REEMPLOYMENT OF CERTAIN DISPLACED FEDERAL EMPLOYEES.—(1) For the purpose of this subsection—

(A) the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code), excluding the General Accounting Office and the Department of Defense; and

(B) the term "displaced employee" means any individual who is—

(i) an employee of the Department of Defense who has been given specific notice that such employee is to be separated due to a reduction in force; or

(ii) a former employee of the Department of Defense who was involuntarily separated therefrom due to a reduction in force.

(2) In accordance with regulations which the Office of Personnel Management shall prescribe, consistent with otherwise applicable provisions of law, an agency shall, in filling a vacant position for which a qualified displaced employee has applied in timely fashion, give full consideration to the application of the displaced employee before selecting any applicant for employment from outside the agency for the position.

(3) A displaced employee is entitled to consideration in accordance with this subsection for the 12-month period beginning on the date such employee receives the specific notice referred to in paragraph (1)(B)(i), except that, if the employee is separated pursuant to such notice, the right to such consideration shall continue through the end of the 12-month period beginning on the date of separation.

(4)(A) This subsection shall apply to any individual who—

(i) became a displaced employee within the 12-month period ending immediately before the date of enactment of this Act; or

(ii) becomes a displaced employee on or after the date of enactment of this Act and before October 1, 1997.

(B) In the case of a displaced employee described in subparagraph (A)(i), for purposes of computing any period of time under paragraph (3), the date of the specific notice described in paragraph (1)(B)(i) (or, if the employee was separated as described in paragraph (1)(B)(ii) before the date of enactment of this Act, the date of separation) shall be deemed to have occurred on such date of enactment.

(C) Nothing in this subsection shall be considered to apply with respect to any position—

(i) which has been filled as of the date of enactment of this Act; or

(ii) which has been excepted from the competitive service because of its confidential, policy-determining, policy-making or policy-advocating character.

SEC. 343. REDUCTION-IN-FORCE NOTIFICATION REQUIREMENTS.

(a) IN GENERAL.—Section 3502 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) Except as provided in subsection (e), an employee may not be released from employment due to a reduction in force, unless—

"(A) such employee and such employee's exclusive representative for collective-bargaining purposes (if any) are given written notice, in conformance with the requirements of paragraph (2), at least 60 days before such employee is so released; and

"(B) if the reduction in force would involve the separation of a significant number of employees, the requirements of paragraph (3) are met at least 60 days before any employee is so released.

"(2) Any notice under paragraph (1)(A) shall include—

"(A) the personnel action to be taken with respect to the employee involved;

"(B) the effective date of the action;

"(C) a description of the procedures applicable in identifying employees for release;

"(D) the employee's ranking relative to other competing employees, and how that ranking was determined; and

"(E) a description of any appeal or other rights which may be available to the employee.

"(3) Notice under paragraph (1)(B)—

"(A) shall be given to—

"(i) the appropriate State dislocated worker unit or units (referred to in section 311(b)(2) of the Job Training Partnership Act (29 U.S.C. 1661(b)(2)); and

"(ii) the chief elected official of such unit or each of such units of local government as may be appropriate; and

"(B) shall consist of written notification as to—

"(i) the number of employees to be separated from service due to the reduction in force (broken down by geographic area or on such other basis as may be required under the regulations prescribed pursuant to paragraph (4));

"(ii) when those separations shall occur; and

"(iii) any other matter which might facilitate the delivery of rapid response assistance or other services under the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

"(4) The Office shall prescribe such regulations as may be necessary to carry out this subsection. The Office shall consult with the Secretary of Labor on matters relating to the Job Training Partnership Act.

"(e)(1) Subject to paragraph (3), upon request submitted under paragraph (2), the President may, in writing, shorten the period of advance notice required under subsection (d)(1) (A) and (B), with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable.

"(2) A request to shorten notice periods shall be submitted to the President by the head of the agency involved and shall indicate the reduction in force to which the request pertains, the number of days by which the agency head requests that the periods be shortened, and the reasons why the request is necessary.

"(3) No notice period may be shortened to less than 30 days under this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any personnel action taking effect on or after the last day of the 90-day period beginning on the date of enactment of this Act.

SEC. 344. ALLEVIATION OF ADVERSE EFFECTS OF BASE CLOSURES ON EMPLOYEES AT THE BASE.

(a) 1990 CLOSURE AND REALIGNMENT ACT.—Section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(e) ASSISTANCE FOR ADVERSELY AFFECTED EMPLOYEES.—(1) Unless a civilian employee of the Department of Defense employed at a military installation being closed or realigned under this part earlier receives an actual notice of termination, the date determined by the Secretary of Defense under paragraph (2) shall be considered to be the date of notice of termination to the employee for purposes of determining the employee's eligibility for assistance under the defense conversion adjustment program under section 325 of the Job Training Partnership Act (29 U.S.C. 1662d).

"(2) The date referred to in paragraph (1) is the date that is 12 months before the date on which the military installation is to be closed or the realignment of the installation is to be completed, as the case may be.".

(b) 1988 CLOSURE AND REALIGNMENT ACT.—Section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (title II of Public Law 100–526; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(d) ASSISTANCE FOR ADVERSELY AFFECTED EMPLOYEES.—(1) Unless a civilian employee of the Department of Defense employed at a military installation being closed or realigned under this part earlier receives an actual notice of termination, the date determined by the Secretary of Defense under paragraph (2) shall be considered to be the date of notice of termination to the employee for purposes of determining the employee's eligibility for assistance under the defense conversion adjustment program under section 325 of the Job Training Partnership Act (29 U.S.C. 1662d).

"(2) The date referred to in paragraph (1) is the date that is 12 months before the date on which the military installation is to be closed or the realignment of the installation is to be completed, as the case may be.".

SEC. 345. OTHER EMPLOYEE ASSISTANCE.

(a) DEPARTMENT OF DEFENSE EMPLOYEE SEPARATION BENEFITS.—(1) Subchapter IX of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§5597. Employee separation benefits for certain employees

"(a) For purposes of this section, the term—

"(1) 'employee' means an employee of the Department of Defense, including each military department, serving under an appointment without time limitation who has been currently employed for a continuous period of at least 12 months; and

"(2) 'Secretary concerned' means—

"(A) the Secretary of the Army with respect to an employee of the Department of the Army;

"(B) the Secretary of the Navy with respect to an employee of the Department of the Navy;

"(C) the Secretary of the Air Force with respect to an employee of the Department of the Air Force; and

"(D) the Secretary of Defense with respect to all other employees of the Department of Defense.

"(b) The Secretary concerned may authorize the payment of a civilian employee separation benefit to an employee who separates voluntarily from employment, by retirement or resignation, in accordance with the provisions of this section and any regulations prescribed by such Secretary.

"(c) Subject to subsection (g), a civilian employee separation benefit under this section may be offered to—

"(1) all employees at an installation or organization of the Department of Defense that is to be closed or reduced in force;

"(2) all employees in one or more occupational series or grades, or combinations or subdivisions thereof, at an installation or organization of the Department of Defense, when the Secretary concerned determines that the voluntary separation of such employee would—

"(A) increase placement opportunities for other employees affected by the closure or reorganization of installations or organizations of the Department of Defense;

"(B) reduce the need for involuntary separations as a result of such closure or reorganization; or

"(C) otherwise serve the personnel management needs of the Department of Defense.

"(d) An offer of a civilian employee separation benefit under this section shall be limited to a specific period of time, and the benefit shall be payable only to an employee whose voluntary separation, by resignation, or retirement, is effective during such period.

"(e) A civilian employee separation benefit under this section shall be paid in a lump sum, and shall be the lesser of—

"(1) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of this title if the employee were entitled to payment under such section; or

"(2) $20,000.

"(f)(1) The Secretary concerned shall take such actions as may be necessary to ensure that any employee to whom a civilian employee separation benefit is offered under this section is able to consider such offer freely without duress or coercion of any kind.

"(2) A declination of an offer of a civilian employee separation benefit under this section shall not have any effect on an employee's rights and benefits under any other provision of law.

"(g) An employee who retires entitled to an immediate annuity under section 8336 or 8412 of this title is not eligible to receive a separation benefit under this section.

"(h) The Secretary concerned may prescribe such regulations as he determines necessary for the administration of this section.

"(i) No civilian employee separation benefit may be paid under this section with respect to a separation occurring after December 31, 1997.".

(2) The table of sections at the beginning of chapter 55 of title 5, United States Code, is

amended by inserting after the item relating to section 5596 the following:

"5597. Employee separation benefits for certain employees.".

(b) RESTORATION OF CERTAIN LEAVE.—Section 6304(d) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(3) For the purpose of this subsection, the closure of an installation of the Department of Defense, during the period beginning on October 1, 1992, and ending on December 31, 1997, shall be deemed to create an exigency of the public business and any leave that is lost by an employee of such installation by operation of this section (regardless of whether such leave was scheduled) shall be restored to the employee and shall be credited and available in accordance with paragraph (2).".

(c) REPORT.—At the end of each of fiscal year 1993 through fiscal year 1998, the Secretary of Defense shall submit to the President, the Congress, and the Director of the Office of Personnel Management a report on the effectiveness and costs of carrying out the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of enactment of this Act.

SEC. 346. CONTINUED HEALTH BENEFITS.

(a) IN GENERAL.—Section 8905a(d) of title 5, United States Code, is amended—

(1) in paragraph (1)(A) by striking "An individual" and inserting "Except as provided in paragraph (4), an individual";

(2) in paragraph (2) by striking "in accordance with paragraph (1))" and inserting "in accordance with paragraph (1) or (4), as the case may be)"; and

(3) by adding at the end the following:

"(4)(A) If the basis for continued coverage under this section is an involuntary separation from a position in or under the Department of Defense due to a reduction in force—

"(i) the individual shall be liable for not more than the employee contributions referred to in paragraph (1)(A)(i); and

"(ii) the agency which last employed the individual shall pay the remaining portion of the amount required under paragraph (1)(A).

"(B) This paragraph shall apply with respect to any individual whose continued coverage is based on a separation occurring on or after the date of enactment of this paragraph and before—

"(i) October 1, 1997; or

"(ii) February 1, 1998, if specific notice of such separation was given to such individual before October 1, 1997.".

(b) SOURCE OF PAYMENTS.—Any amount which becomes payable by an agency as a result of the enactment of subsection (a) shall be paid out of funds or appropriations available for salaries and expenses of such agency.

SEC. 347. THRIFT SAVINGS PLAN BENEFITS OF EMPLOYEES SEPARATED BY A REDUCTION IN FORCE.

(a) BENEFITS.—Section 8433(b) of title 5, United States Code, is amended by inserting "any employee who separates from Government employment pursuant to regulations under section 3502(a) of this title or procedures under section 3595(a) of this title in a reduction in force," after "chapter 81 of this title,".

(b) PROTECTIONS FOR SPOUSES.—Section 8435(c)(2)(A) of title 5, United States Code, is amended by inserting ", or who separates from Government employment pursuant to regulations under section 3502(a) of this title or procedures under section 3595(a) of this title in a reduction in force," after "8451 of this title".

(c) APPLICATION TO CIVIL SERVICE RETIREMENT SYSTEM EMPLOYEES.—Section 8351(b)(4) of title 5, United States Code, is amended by inserting ", separates from Government employment pursuant to regulations under section 3502(a) of this title or procedures under section 3595(a) of this title in a reduction in force," after "section 8337 of this title)".

SEC. 348. SKILL TRAINING PROGRAMS IN THE DEPARTMENT OF DEFENSE.

(a) AUTHORITY.—(1) Under regulations prescribed by the Secretary of Defense, the Secretaries of the military departments, and the Secretary of Defense with respect to employees of Department of Defense other than employees of the military departments, may provide not more than one year of training in training facilities of the Department to civilian employees of the Department of Defense who are separated from employment as a result of a reduction in force or a closure or realignment of a military installation.

(2) Training may be provided under this subsection during the period beginning on October 1, 1992, and ending on September 30, 1995.

(b) REGISTER OF TRAINING PROGRAMS.—Not later than February 1, 1993, the Secretary of Defense, in consultation with the Secretary of Labor and the Director of the Office of Personnel Management, shall publish a register of the skill training programs carried out by the Department of Defense. The register shall—

(1) include a list of the skill training programs;

(2) provide information on the location of such programs, the training provided under such programs, and the number of persons who may receive training under such programs; and

(3) identify the programs that provide training in skills that are useful to employees in the civilian work force.

Subtitle E—Other Matters

SEC. 351. LIMITATIONS ON THE USE OF DEFENSE BUSINESS OPERATIONS FUND.

(a) EXTENSION OF LIMITATION ON PERIOD OF MANAGEMENT.—Section 316(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1338; 10 U.S.C. 2208 note) is amended by striking out "the date of the enactment of this Act and ending on April 15, 1993" and inserting in lieu thereof "December 5, 1991, and ending on April 15, 1994".

(b) TECHNICAL AMENDMENTS.—(1) Section 316(a) of such Act is further amended by inserting "(in this section referred to as the 'Fund')" before the period at the end of the first sentence.

(2) Paragraphs (1) and (2) of section 316(b) of such Act are amended by striking out "the date of the enactment of this Act" and inserting in lieu thereof "December 5, 1991".

SEC. 352. LIMITATION ON OBLIGATIONS AGAINST DEFENSE BUSINESS OPERATIONS FUND.

(a) LIMITATION.—(1) The Secretary of Defense may not incur obligations against the supply management divisions of the Defense Business Operations Fund of the Department of Defense during fiscal year 1993 in a total amount in excess of 65 percent of the total amount derived from sales from such divisions during that fiscal year.

(2) For purposes of determining the amount of obligations incurred against, and sales from, such divisions during fiscal year 1993, the Secretary shall exclude obligations and sales for fuel, commissary and subsistence items, retail operations, repair of equipment, and the cost of operations.

(b) EXCEPTION.—The Secretary of Defense may waive the limitation described in subsection (a) if the Secretary determines that such waiver is critical to the national security of the United States. The Secretary shall immediately notify Congress of any such waiver and the reasons for such waiver.

SEC. 353. ANNUAL REPORT ON SECURITY AND CONTROL OF SUPPLIES.

(a) ANNUAL REPORT.—Subsection (a) of section 2891 of title 10, United States Code, is amended by striking out "for each of fiscal years 1989, 1990, and 1991" and inserting in lieu thereof "for each of fiscal years 1992, 1993, and 1994".

(b) CONTENT OF REPORT.—Subsection (b) of such section is amended by adding at the end the following new paragraphs:

"(9) A summary description of the cases determined by the Secretary of Defense to be cases of major thefts of Department of Defense supplies during the fiscal year preceding the fiscal year in which the report is submitted, including any case involving a loss in an amount greater than $1,000,000 or a loss of sensitive or classified items.

"(10) The value, and an analysis, of in-transit losses that occurred during the fiscal year preceding the fiscal year in which the report is submitted.".

SEC. 354. REPEAL OF REQUIREMENT FOR GUIDELINES FOR FUTURE REDUCTIONS OF CIVILIAN EMPLOYEES OF INDUSTRIAL-TYPE OR COMMERCIAL-TYPE ACTIVITIES.

(a) REPEAL.—Section 1597 of title 10, United States Code, is repealed.

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to section 1597.

SEC. 355. PROMOTION OF CIVILIAN MARKSMANSHIP.

(a) AUTHORITY OF THE SECRETARY OF THE ARMY.—(1) Section 4308 of title 10, United States Code, is amended to read as follows:

"§ 4308. Promotion of civilian marksmanship: authority of the Secretary of the Army

"(a) PROGRAM REQUIRED.—(1) The Secretary of the Army, under regulations approved by him upon the recommendation of the National Board for the Promotion of Rifle Practice, shall provide for—

"(A) the operation and maintenance of indoor and outdoor rifle ranges and their accessories and appliances;

"(B) the instruction of citizens of the United States in marksmanship, and the employment of necessary instructors for that purpose;

"(C) the promotion of practice in the use of rifled arms, the maintenance and management of matches or competitions in the use of those arms, and the issue (without cost to the United States) of the arms, ammunition, targets, and other supplies and appliances necessary for those purposes to gun clubs under the direction of the National Board for the Promotion of Rifle Practice that provide training in the use of rifled arms to youth, the Boy Scouts of America, 4–H Clubs, Future Farmers of America, and other youth-oriented organizations for training and competition;

"(D) the award to competitors of trophies, prizes, badges, and other insignia;

"(E) the loan or sale at fair market value of caliber .30 rifles, caliber .22 rifles, and air rifles, and the sale of ammunition at fair market value, to gun clubs that—

"(i) are under the direction of the National Board for the Promotion of Rifle Practice; and

"(ii) provide training in the use of rifled arms;

"(F) the sale at fair market value of arms (including surplus M–1 Garand rifles), ammunition, targets, and other supplies and appliances necessary for target practice to citizens of the United States over 18 years of age who are members of a gun club under the direction of the National Board for the Promotion of Rifle Practice;

"(G) the maintenance of the National Board for the Promotion of Rifle Practice, including provision for its necessary expenses and those of its members and for the Board's expenses incidental to the conduct of the Board's annual meetings;

"(H) the procurement of necessary supplies, appliances, trophies, prizes, badges, and other insignia, clerical and other services, and labor; and

"(I) the transportation of employees, instructors, and civilians to give or to receive instruction or to assist or engage in practice in the use of rifled arms, and the transportation and subsistence, or an allowance instead of subsistence, of members of teams authorized by the Secretary to participate in matches or competitions in the use of rifled arms.

"(2) Under the authority of paragraph (1)(C), the Secretary of the Army may issue for use in training and marksmanship competitions caliber .22 ammunition and caliber .30 ammunition to gun clubs that—

"(A) are under the direction of the National Board for the Promotion of Rifle Practice; and

"(B) provide training in the use of rifled arms to youth or to such youth-oriented organizations as the Boy Scouts of America, 4-H clubs, and Future Farmers of America.

"(b) ADDITIONAL AUTHORITY.—The Secretary may—

"(1) provide personnel services (in addition to pay and nontravel-related allowances for members of the armed forces) in carrying out the Civilian Marksmanship Program; and

"(2) impose reasonable fees for persons and gun clubs participating in any program conducted by the Secretary for the promotion of marksmanship among civilians.

"(c) AMOUNTS COLLECTED.—Amounts collected by the Secretary under the Civilian Marksmanship Program, including the proceeds from the sale of arms, ammunition, targets, and other supplies and appliances under subsection (a), shall be credited to the appropriation available for the support of the Civilian Marksmanship Program and shall be available to carry out such program.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each fiscal year such sums as may be necessary to pay the personnel costs and other expenses of the Civilian Marksmanship Program in such fiscal year to the extent that the amounts available out of the revenues collected under the program are insufficient to defray such costs and expenses.

"(e) DEFINITION.—In this section, the term 'Civilian Marksmanship Program' means the program carried out by the Secretary of the Army under this section and sections 4310 through 4312 of this title and includes the National Matches and small-arms firing schools referred to in section 4312 of this title.".

(2) The table of sections at the beginning of chapter 401 of such title is amended by striking out the item relating to section 4308 and inserting in lieu thereof the following:

"4308. Promotion of civilian marksmanship: authority of the Secretary of the Army.".

(b) AVAILABILITY OF RIFLE RANGES FOR ARMED FORCES AND CIVILIANS.—(1) Section 4309 of title 10, United States Code, is amended to read as follows:

"§4309. Rifle ranges: availability for use by members and civilians

"(a) RANGES AVAILABLE.—All rifle ranges constructed in whole or in part with funds provided by the United States may be used by members of the armed forces and by persons capable of bearing arms.

"(b) MILITARY RANGES.—(1) In the case of a rifle range referred to in subsection (a) that is located on a military installation, the Secretary concerned may establish reasonable fees for the use by civilians of that rifle range to cover the material and supply costs incurred by the armed forces to make that rifle range available to civilians.

"(2) Fees collected pursuant to paragraph (1) in connection with the use of a rifle range shall be credited to the appropriation available for the operation and maintenance of that rifle range and shall be available for the operation and maintenance of that rifle range.

"(3) Use of a rifle range referred to in paragraph (1) by civilians may not interfere with the use of the range by members of the armed forces.

"(c) REGULATIONS.—Regulations to carry out this section with respect to a rifle range shall be prescribed, subject to the approval of the Secretary concerned, by the authorities controlling the rifle range.".

(2) The table of sections at the beginning of chapter 401 of such title is amended by striking out the item relating to section 4309 and inserting in lieu thereof the following:

"4309. Rifle ranges: availability for use by members and civilians.".

(c) PAYMENT OF EXPENSES FOR NATIONAL MATCH COMPETITORS.—(1) Section 4313 of title 10, United States Code, is amended to read as follows:

"§4313. National matches and small-arms school: expenses

"(a) JUNIOR COMPETITORS.—(1) Junior competitors at National Matches, small-arms firing schools, and competitions in connection with National Matches and special clinics under section 4312 of this title may be paid a subsistence allowance in such amount as the Secretary of the Army shall prescribe.

"(2) A junior competitor referred to in paragraph (1) may be paid a travel allowance, in such amount as the Secretary of the Army shall prescribe, instead of travel expenses and subsistence while traveling. The travel allowance for the return trip may be paid in advance.

"(3) For the purposes of this subsection, a junior competitor is a competitor who is under 18 years of age or is a member of a gun club organized for the students of a college or university.

"(b) RESERVE COMPONENT PERSONNEL.—Appropriated funds available for the Civilian Marksmanship Program (as defined in section 4308 of this title) may be used to pay the personnel costs and travel and per diem expenses of a member of a reserve component for any active duty performed by the member in a fiscal year in support of the program after the end of that member's scheduled period of annual training for that fiscal year.".

(2) The item relating to section 4313 in the table of sections at the beginning of chapter 401 of such title is amended by striking out "rifle".

(d) EFFECTIVE DATE.—(1) This section and the amendments made by this section shall take effect on the earlier of—

(A) the date of the enactment of this Act; or

(B) October 1, 1992.

(2) If under paragraph (1) the amendments made by this section take effect before October 1, 1992, the amendments made by section 328 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1533) shall not take effect.

(3) If under paragraph (1) the amendments made by this section take effect on October 1, 1992, the amendments made by this section shall be considered executed immediately following the amendments made by section 328 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1533).

SEC. 356. PURCHASE OF ITEMS NOT EXCEEDING $100,000.

Funds appropriated pursuant to the authorization of appropriations in section 301 may be used to purchase items not exceeding $100,000 for each item.

SEC. 357. EXTENSION OF AUTHORITY FOR AVIATION DEPOTS AND NAVAL SHIPYARDS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES.

Section 1425(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1684) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

SEC. 358. REPEAL OF REQUIREMENT FOR COMPETITION PILOT PROGRAM FOR DEPOT-LEVEL MAINTENANCE OF MATERIALS.

Subsection (b) of section 314 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1337; 10 U.S.C. 2466 note) is repealed.

SEC. 359. OPTIONAL DEFENSE DEPENDENTS' SUMMER SCHOOL PROGRAMS.

Section 1402 of the Defense Dependents' Education Act of 1978 (title XIV of Public Law 95-561; 20 U.S.C. 921) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of Defense may provide optional summer school programs in the defense dependents' education system.

"(2) The Secretary shall provide in regulations for fees to be charged for the students enrolling in a summer school program under this subsection in amounts determined on the basis of family income.

"(3) The amounts received by the Secretary in payment of the fees shall be available to the Department of Defense for defraying the costs of conducting summer school programs under this subsection.".

SEC. 360. REVIEW OF MILITARY FLIGHT TRAINING ACTIVITIES AT CIVILIAN AIRFIELDS.

(a) REVIEW REQUIRED.—The Secretary of Defense shall provide for a review of the practices and procedures of the military departments regarding the use of civilian airfields in flight training activities of the Armed Forces.

(b) PURPOSE.—The purpose of the review is to determine whether the practices and procedures referred to in subsection (a) should be modified to better protect the public safety while meeting training requirements of the Armed Forces.

(c) SPECIAL REQUIREMENT.—In the conduct of the review, particular consideration shall be given to the practices and procedures regarding the use of civilian airfields in heavily populated areas.

SEC. 361. SALE TO KOREA OF OBSOLETE AMMUNITION FROM WAR RESERVE STOCKS.

Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the Secretary of Defense is authorized to sell to the Republic of Korea, at a price negotiated by the Secretary, all or any part of obsolete ammunition in the inventory of the Department of Defense which is intended for use as reserve stocks for Korea and is located in a stockpile in the Republic of Korea on the date of the enactment of this Act. Obsolete ammunition sold under the authority of this section shall be sold for not less than its salvage value, minus the costs of salvage.

SEC. 362. COOPERATIVE AGREEMENTS WITH ALLIES.

(a) ACQUISITION OF LOGISTICS SUPPORT, SUPPLIES, AND SERVICES FROM ALLIES.—Section 2341 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "in Europe and adjacent waters" and inserting in lieu thereof "outside the United States"; and

(2) in paragraph (2)—

(A) by striking out "in which elements of the armed forces are deployed (or are to be deployed)"; and

(B) by striking out "in such country or in the military region in which such country is located" and inserting in lieu thereof "outside the United States".

(b) LIMITATIONS ON AMOUNTS THAT MAY BE OBLIGATED OR ACCRUED BY THE UNITED STATES.—Section 2347 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out "North Atlantic Treaty Organization" and inserting in lieu thereof "armed forces"; and

(B) by inserting "with other member countries of the North Atlantic Treaty Organization and subsidiary bodies of the North Atlantic Treaty Organization" after "(before the computation of offsetting balances)";

(2) in subsection (a)(2)—

(A) by striking out "in the military region affecting" and inserting in lieu thereof "involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with"; and

(B) by striking out "the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with such country";

(3) in subsection (b)(1)—

(A) by striking out "North Atlantic Treaty Organization" and inserting in lieu thereof "armed forces"; and

(B) by inserting "with other member countries of the North Atlantic Treaty Organization and subsidiary bodies of the North Atlantic Treaty Organization" after "(before the computation of offsetting balances)"; and

(4) in subsection (b)(2)—

(A) by striking out "in the military region affecting a country referred to in paragraph (1)" and inserting in lieu thereof "involving the armed forces"; and

(B) by striking out "from such country (before the computation of offsetting balances)" and inserting in lieu thereof "(before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to acquisitions of logistics support, supplies, and services under chapter 138 of title 10, United States Code, that are initiated on or after the date of enactment of this Act.

SEC. 363. PREFERENCE FOR PROCUREMENT OF ENERGY EFFICIENT ELECTRIC EQUIPMENT.

(a) REQUIREMENT FOR PREFERENCE.—(1)(A) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410c. Preference for energy efficient electric equipment

"(a) When cost effective, in establishing a new requirement for electric equipment referred to in subsection (b) and in procuring electric equipment referred to in that subsection, the Secretary of a military department or the head of a Defense Agency, as the case may be, shall provide a preference for the procurement of the most energy efficient electric equipment available that meets the requirement or the need for the procurement, as the case may be.

"(b) Subsection (a) applies to the following electric equipment:

"(1) Electric lamps.

"(2) Electric ballasts.

"(3) Electric motors.

"(4) Electric refrigeration equipment.".

(B) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2410b the following new item:

"2410c. Preference for energy efficient electric equipment.".

(2) The amendments made by paragraph (1) shall apply to procurements for which solicitations are issued on or after the date that is 120 days after the date of the enactment of this Act.

(b) ELECTRIC LIGHTING DEMONSTRATION PROGRAM.—(1) The Secretary of Defense shall conduct a demonstration program for using energy efficient electric lighting equipment.

(2) The Secretary shall designate 50 facilities owned or leased by the Department of Defense for participation in the demonstration program under this subsection.

(3) The head of each facility designated pursuant to paragraph (2) and the Director of the Defense Logistics Agency shall jointly audit the electric lighting equipment at the facility in order—

(A) to identify any potential improvements that would increase the energy efficiency of electric lighting at that facility; and

(B) to determine the costs of, and the savings that would result from, such improvements.

(4) Except as provided in subsection (d)(4), on the basis of the results of the audit the head of the facility shall promptly convert to the use of electric lighting equipment at the facility that is more energy efficient than the existing electric lighting equipment to the extent that the conversion is cost effective.

(5) Energy efficient electric lighting equipment used under the demonstration program may include compact fluorescent lamps, energy efficient electric ballasts and fixtures, and other energy efficient electric lighting equipment.

(c) REFRIGERATION EQUIPMENT DEMONSTRATION PROGRAM.—(1) The Secretary of Defense shall conduct a demonstration program for using energy efficient refrigeration equipment.

(2) The Secretary shall designate 50 facilities owned or operated by the Department of Defense for participation in the demonstration program under this subsection.

(3) The head of each facility designated pursuant to paragraph (2) and the Director of the Defense Logistics Agency shall jointly audit the refrigeration equipment at the facility in order—

(A) to identify any potential improvements that would increase the energy efficiency of the refrigeration equipment at that facility; and

(B) to determine the costs of, and the savings that would result from, such improvements.

(4) Except as provided in subsection (d)(4), on the basis of the results of the audit the head of the facility shall promptly convert to the use of refrigeration equipment at the facility that is more energy efficient than the existing refrigeration equipment to the extent that the conversion is cost effective.

(d) GENERAL PROVISIONS FOR DEMONSTRATION PROGRAMS.—(1) The Secretary of Defense shall make the designations under subsections (b)(2) and (c)(2) not later than 180 days after the date of the enactment of this Act.

(2) The Secretary of Defense may designate a facility described in subsections (b)(2) and (c)(2) for participation in the demonstration program under subsection (b) and the demonstration program under subsection (c).

(3) The audits required by subsections (b)(3) and (c)(3) shall be completed not later than January 1, 1994.

(4) The head of a facility may not carry out a conversion described in subsection (b)(4) or (c)(4) if the conversion prevents the head of the facility from carrying out others improvements relating to energy efficiency that are more cost effective than that conversion.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

(a) The Armed Forces are authorized strengths for active duty personnel as of September 30, 1993, as follows:

(1) The Army, 598,900, of whom not more than 88,855 shall be commissioned officers.

(2) The Navy, 535,800, of whom not more than 67,455 shall be commissioned officers.

(3) The Marine Corps, 181,900, of whom not more than 18,440 shall be commissioned officers.

(4) The Air Force, 449,900, of whom not more than 84,970 shall be commissioned officers.

SEC. 402. WAIVER AND TRANSFER AUTHORITY.

(a) WAIVER AUTHORITY.—The Secretary of Defense may waive an end strength prescribed in section 401 for any of the Armed Forces to the extent that the Secretary considers the waiver necessary to prevent personnel imbalances that would impair the long term combat readiness of that armed force.

(b) TRANSFER AUTHORITY.—(1) Upon determination by the Secretary of Defense that such action is necessary in order to prevent involuntary separations from the Armed Forces that would otherwise be necessary solely for the purpose of reducing the size of the Armed Forces below the authorized end strengths provided in section 401, the Secretary may transfer amounts appropriated to the Department of Defense pursuant to authorizations of appropriations in this division for fiscal year 1993. Amounts so transferred shall be merged with and be available for the same purposes as the appropriations to which transferred.

(2) A transfer made from one appropriation account to another under the authority of this section shall be deemed to increase the amount authorized for the appropriation account to which transferred by the amount transferred.

(3) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

SEC. 403. AUTHORITY TO ADJUST END STRENGTHS.

Subsection (c) of section 115 of title 10, United States Code, is amended to read as follows:

"(c)(1) Subject to paragraphs (1) and (2), the strength of an armed force at the end of a fiscal year may vary from the end strength authorized for that armed force pursuant to paragraph (1) or (2) of subsection (a) for such fiscal year to the extent that the Secretary of Defense determines that the variance is in the national interest.

"(2) The strength of the active-duty personnel of an armed force at the end of a fiscal year shall be within 0.5 percent below and 0.5 percent above the end strength authorized for that armed force pursuant to subsection (a)(1) for that fiscal year.

"(3) The strength of the Selected Reserve personnel of a reserve component at the end of a fiscal year shall be within 2 percent below or 2 percent above the end strength authorized for the Selected Reserve of that reserve component pursuant to subsection (a)(2) for that fiscal year.".

SEC. 404. REPEAL OF REQUIREMENTS FOR MINIMUM NUMBERS OF MEDICAL PERSONNEL.

The following provisions of law that limit reductions in the number of medical personnel of the Department of Defense are repealed:

(1) Section 711 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 115 note).

(2) Section 718(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 115 note).

SEC. 405. LIMITED EXCLUSION OF JOINT SERVICE REQUIREMENTS FROM A LIMITATION ON THE STRENGTHS FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.

(a) Exclusion.—Section 526 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) Limited Exclusion for Joint Duty Requirements.—(1) The Chairman of the Joint Chiefs of Staff may designate up to 8 general officer and flag officer positions within joint duty requirements for exclusion from the limitations in subsection (a) that are applicable on and after October 1, 1995. General officers and flag officers in positions so designated may not be counted for the purposes of such limitations.

"(2) This subsection shall cease to be effective on October 1, 1998."

(b) Technical Amendment.—Subsection (b) of such section is amended by striking out "(b)" and inserting in lieu thereof "(b) Authorized Increase.—".

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) In General.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1993, as follows:

(1) The Army National Guard of the United States, 425,450.

(2) The Army Reserve, 296,230.

(3) The Naval Reserve, 141,545.

(4) The Marine Corps Reserve, 42,230.

(5) The Air National Guard of the United States, 119,400.

(6) The Air Force Reserve, 82,400.

(7) The Coast Guard Reserve, 15,150.

(b) Adjustments.—Section 115 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The end strengths prescribed by law for the Selected Reserve of any reserve component for any fiscal year shall be proportionately reduced by—

"(A) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of that fiscal year; and

"(B) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of that fiscal year.

"(2) Whenever such units or such individual members are released from active duty, the end strength prescribed for the Selected Reserve of such reserve component for the fiscal year in which released shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.".

(c) Temporary Prohibition on Eliminating Reserve Component Units.—(1) Except as provided in paragraph (2), no unit in the Selected Reserve of the Army, Navy, Air Force, or Marine Corps may be inactivated during fiscal year 1993.

(2) Paragraph (1) does not apply to the following:

(A) An inactivation of a unit which is the direct result of the closure or realignment of a military installation required pursuant to law.

(B) An inactivation of a reinforcing unit in the Naval Reserve that is associated directly with a decommissioned unit in the active component of the Navy.

(C) An inactivation of an aviation unit as a direct result of the phasing out of a weapon system from the active components and the reserve components by the end of fiscal year 1993.

(3) A unit of the Selected Reserve of the Army, Navy, Air Force, or Marine Corps may not be inactivated pursuant to an exception in paragraph (2) until the Secretary of Defense has submitted to the Committees on Armed Services of the Senate and House of Representatives the rationale for the proposed inactivation of that unit and the specific exception that applies.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1993, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 24,860.

(2) The Army Reserve, 12,862.

(3) The Naval Reserve, 22,055.

(4) The Marine Corps Reserve, 2,282.

(5) The Air National Guard of the United States, 9,081.

(6) The Air Force Reserve, 636.

Subtitle C—Military Training Student Loads

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS.

(a) Active Forces.—For fiscal year 1993, the Armed Forces are authorized average military training loads for active forces as follows:

(1) The Army, 60,269.

(2) The Navy, 51,405.

(3) The Marine Corps, 19,016.

(4) The Air Force, 27,971.

(b) Reserve Components.—For fiscal year 1993, the Armed Forces are authorized average military training loads for reserve component forces as follows:

(1) The Army Reserve, 12,583.

(2) The Army National Guard, 10,529.

(3) The Naval Reserve, 1,892.

(4) The Marine Corps Reserve, 3,418.

(5) The Air Force Reserve, 1,529.

(6) The Air National Guard, 3,048.

(c) Adjustments.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in subtitles A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

Subtitle D—Funding Authorization

SEC. 431. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces for military personnel in the total amount of $77,316,200,000.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Reserve Component Matters

SEC. 501. REALIGNMENT OF CERTAIN ACTIVE ARMY COMBAT SUPPORT AND COMBAT SERVICE SUPPORT POSITIONS TO RESERVE COMPONENTS.

(a) Finding.—The Congress finds that the force structure of the active component of the Army contains approximately 19,000 positions for personnel having missions to provide combat support and combat service support to inactivated Army units formerly stationed in Europe.

(b) Realignment Required.—The Secretary of Defense shall ensure that, not later than September 30, 1993, the missions referred to in subsection (a) are transferred to the reserve components of the Army.

SEC. 502. LIMITATION ON REDUCTION IN NUMBER OF RESERVE COMPONENT MEDICAL PERSONNEL.

(a) Limitation.—The Secretary of Defense may not reduce the number of medical personnel in the Army National Guard of the United States or the Army Reserve below the number of such personnel in those reserve components on September 30, 1992.

(b) Definition.—In subsection (a), the term "medical personnel" has the meaning given that term in section 115a(g)(2) of title 10, United States Code.

SEC. 503. ONE-YEAR EXTENSION OF CERTAIN RESERVE OFFICER MANAGEMENT PROGRAMS.

(a) Grade Determination Authority for Certain Reserve Medical Officers.—Sections 3359(b) and 8359(b) of title 10, United States Code, are each amended by striking "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(b) Promotion Authority for Certain Reserve Officers Serving on Active Duty.—Sections 3380(d) and 8380(d) of such title are each amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(c) Years of Service for Mandatory Transfer to the Retired Reserve.—Section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(d) Effective Date.—The amendments made by this section shall take effect as of September 30, 1992.

SEC. 504. REENLISTMENT ELIGIBILITY OF CERTAIN FORMER RESERVE OFFICERS.

(a) Limitation for the Army.—Section 3258 of title 10, United States Code, is amended—

(1) by striking out the last sentence;

(2) by inserting "(a)" before "Any"; and

(3) by adding at the end the following new subsection (b):

"(b) A person is not entitled to be reenlisted under subsection (a) if—

"(1) the person was discharged or released from active duty as a Reserve officer on the basis of a determination of—

"(A) misconduct;

"(B) moral or professional dereliction;

"(C) duty performance below prescribed standards for the grade held; or

"(D) retention being inconsistent with the interests of national security; or

"(2) the person's former enlisted status and grade was based solely on the participation by that person in a precommissioning program that resulted in the Reserve commission held by that person during the active duty from which the person was released or discharged.".

(b) LIMITATION FOR THE AIR FORCE.—Section 8258 of such title is amended—

(1) by striking out the last sentence;

(2) by inserting "(a)" before "Any"; and

(3) by adding at the end the following new subsection (b):

"(b) A person is not entitled to be reenlisted under subsection (a) if—

"(1) the person was discharged or released from active duty as a Reserve officer on the basis of a determination of—

"(A) misconduct;

"(B) moral or professional dereliction;

"(C) duty performance below prescribed standards for the grade held; or

"(D) retention being inconsistent with the interests of national security; or

"(2) the person's former enlisted status and grade was based solely on the participation by that person in a precommissioning program that resulted in the Reserve commission held by that person during the active duty from which the person was released or discharged.".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall apply to persons discharged or released from active duty as commissioned officers in the Army Reserve or the Air Force Reserve, respectively, after the date of the enactment of this Act.

Subtitle B—Service Academies

SEC. 511. LIMITATION ON ASSIGNMENT OF GENERAL OFFICERS.

(a) UNITED STATES MILITARY ACADEMY.—(1)(A) Chapter 403 of title 10, United States Code, is amended by inserting after section 4337 the following new section 4338:

"§ 4338. Limitations on faculty, staff, and support personnel

"(a) GENERAL OFFICERS.—Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of more than one general officer to permanent duty at the Academy at any time or to support the assignment of any general officer in a grade above major general to permanent duty at the Academy.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4337 the following new item:

"4338. Limitations on faculty, staff, and support personnel.".

(2) Subsection (c) of section 4335 of such title is repealed.

(b) UNITED STATES AIR FORCE ACADEMY.—(1)(A) Chapter 903 of such title is amended by inserting after section 9337 the following new section 9338:

"§ 9338. Limitations on faculty, staff, and support personnel

"(a) GENERAL OFFICERS.—Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of more than one general officer to permanent duty at the Academy at any time or to support the assignment of any general officer in a grade above major general to permanent duty at the Academy.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 9337 the following new item:

"9338. Limitations on faculty, staff, and support personnel.".

(2) Section 9334 of such title is amended—

(A) by striking out subsection (b); and

(B) in subsection (a), by striking out "(a)".

(c) EFFECTIVE DATE AND TRANSITION PROVISION.—(1) The amendments made by subsections (a) and (b) shall take effect on April 1, 1993.

(2) General officers who, on the date of the enactment of this Act, are assigned to permanent duty positions at the United States Military Academy and the United States Air Force Academy in excess of the number of such officers permitted by the amendments made by subsections (a) and (b) shall be reassigned before the effective date of such amendments.

(3) The Chairman of the Joint Chiefs of Staff may direct that one or more of the general officer positions referred to in paragraph (2) be allocated to meet unsatisfied requirements for general officer joint duty positions.

SEC. 512. ACADEMY PREPARATORY SCHOOLS.

Not later than April 1, 1993, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a plan for implementing the recommendations contained in the report of the Comptroller General of the United States, dated March 13, 1992, regarding the preparatory schools of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy.

SEC. 513. COMPOSITION OF ACADEMY FACULTIES.

Not later than April 1, 1993, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and House of Representatives recommended legislation for—

(1) establishing at the United States Military Academy and the United States Air Force Academy a faculty composed of approximately equal numbers of civilian and Armed Forces personnel; and

(2) phasing out the assignment of Armed Forces personnel as permanent professors at those academies.

SEC. 514. ACADEMY BANDS.

(a) UNITED STATES MILITARY ACADEMY.—Section 4338 of title 10, United States Code (as added by section 511(a)), is amended by adding at the end the following:

"(b) ENLISTED BANDS.—Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of any enlisted personnel for permanent duty in a military band for the Academy.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Section 6969 of such title is amended to read as follows:

"§ 6969. Naval Academy Band

"(a) Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of any enlisted personnel for permanent duty in the Naval Academy Band.

"(b) In determining years of service for the purpose of retirement, enlisted members of the Navy who have previously been assigned as leaders or second leaders of the Naval Academy Band shall be treated as if they had not been so assigned.".

(2) The item relating to such section in the table of sections at the beginning of chapter 603 of such title is amended to read as follows:

"6969. Naval Academy Band.".

(c) UNITED STATES AIR FORCE ACADEMY.—Section 9338 of such title (as added by section 511(b)) is amended by adding at the end the following:

"(b) ENLISTED BANDS.—Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of any enlisted personnel for duty in a military band for the Academy.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1993.

SEC. 515. NONINSTRUCTIONAL STAFF.

(a) UNITED STATES MILITARY ACADEMY.—Section 4338 of title 10, United States Code (as added by section 511(a) and as amended by section 514(a)), is further amended by adding at the end the following:

"(c) NONINSTRUCTIONAL STAFF.—Funds appropriated or otherwise made available for pay of armed forces personnel may not be used to pay armed forces personnel in noninstructional positions at the Academy who are not certified by the Inspector General of the Department of Defense as being directly involved in the administration of the faculty or cadets or in the maintenance of Academy facilities or equipment.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of such title is amended by adding at the end the following new section:

"§ 6975. Limitations on faculty, staff, and support personnel

"Funds appropriated or otherwise made available for pay of armed forces personnel may not be used to pay armed forces personnel in noninstructional positions at the Academy who are not certified by the Inspector General of the Department of Defense as being directly involved in the administration of the faculty or midshipmen or in the maintenance of Academy facilities or equipment.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6974 the following new item:

"6975. Limitations on faculty, staff, and support personnel.".

(c) UNITED STATES AIR FORCE ACADEMY.—Section 9338 of such title (as added by section 511(b) and as amended by section 514(c)), is further amended by adding at the end the following:

"(c) NONINSTRUCTIONAL STAFF.—Funds appropriated or otherwise made available for pay of armed forces personnel may not be used to pay armed forces personnel in noninstructional positions at the Academy who are not certified by the Inspector General of the Department of Defense as being directly involved in the administration of the faculty or cadets or in the maintenance of Academy facilities or equipment.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1993.

SEC. 516. MAJOR TRAINING COMMAND JURISDICTION.

(a) UNITED STATES MILITARY ACADEMY.—Section 4331(a) of title 10, United States

Code, is amended by adding at the end the following: "The Academy is under the supervision and control of the commander of the major Army command having jurisdiction over Army officer training programs.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Section 6951 of such title is amended by adding at the end the following: "The Academy is under the supervision and control of the major Navy command having jurisdiction over Navy officer training programs.".

(2)(A) The heading of such section is amended to read as follows:

"§ 6951. Location and administration".

(B) The item relating to that section in the table of sections at the beginning of chapter 603 of title 10, United States Code, is amended to read as follows:

"6951. Location and administration.".

(c) UNITED STATES AIR FORCE ACADEMY.—Section 9331(a) of such title is amended by adding at the end the following: "The Academy is under the supervision and control of the commander of the major Air Force command having jurisdiction over Air Force officer training programs.".

Subtitle C—Officer Personnel Policy

SEC. 521. OFFICER PERSONNEL MANAGEMENT PLANS.

(a) REPORT ON PLANNED OFFICER ACCESSIONS.—(1) Not later than April 1, 1993, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the plans of the military departments for the procurement of officer personnel during each of fiscal years 1993 through 1997.

(2) The report shall contain for each fiscal year for each military department the following:

(A) For each program of officer training resulting in a commission, the number of persons to be commissioned.

(B) Of the persons to be commissioned under the Reserve Officer Training Corps program, the number of persons receiving scholarships under that program and the number of persons not receiving scholarships under the program.

(C) Of the number of persons to be commissioned—

(i) the number necessary to meet immediate needs for active component personnel;

(ii) the number necessary to meet immediate needs for personnel for the Selected Reserve of the Ready Reserve of the reserve components; and

(iii) the number that will be assigned directly into the Individual Ready Reserve of the reserve components.

(b) REPORT ON PLANNED OFFICER ASSIGNMENTS.—Not later than April 1, 1993, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the types of assignments that the military departments plan for the commissioned officers who commence active duty for their initial period of obligated active duty service during each of fiscal years 1993 through 1997 after being commissioned upon completion of an officer training program, stated by officer training program. The report shall contain an analysis of the number of officers that are to be assigned for skills training and the number of officers that are to be assigned directly to occupational positions.

SEC. 522. EVALUATION OF EFFECTS OF OFFICER STRENGTH REDUCTIONS ON OFFICER PERSONNEL MANAGEMENT SYSTEMS.

(a) REQUIREMENT FOR REVIEW.—The Secretary of Defense shall provide for a federally funded research and development center that is independent of the military departments to review the officer personnel management system of each of the military departments and to determine and evaluate the effects of the post-Cold War officer strength reductions on that officer personnel management system.

(b) MATTERS TO BE CONSIDERED.—The review and evaluation shall include, for the officer personnel management system of each military department, the effects of the officer strength reductions on the following:

(1) The timing and opportunities for officer promotions.

(2) The expected lengths of officer careers.

(3) Other features of the officer personnel management system under the Defense Officer Personnel Management Act (Public Law 96-513; 94 Stat. 2835) and the provisions of law added and amended by that Act.

(4) Any other aspects of the officer personnel management system that the federally funded research and development center personnel conducting the review and evaluation consider appropriate or as directed by the Secretary of Defense.

(c) REPORT.—Not later than December 31, 1993, the federally funded research and development center shall submit to the Secretary of Defense a report on the results of the review and evaluation. Within 60 days after receiving the report, the Secretary shall transmit the report to the congressional defense committees. The Secretary may submit to such committees any comments that the Secretary considers appropriate regarding the matters contained in the report.

(d) FUNDING.—Funds appropriated for fiscal year 1993 pursuant to title II and made available for federally funded research and development centers shall be available for the conduct of the review and evaluation under this section.

SEC. 523. TEST ASSIGNMENT OF FEMALE MEMBERS TO COMBAT AIRCRAFT POSITIONS.

Section 550 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (105 Stat. 1370; 10 U.S.C. 113 note) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection (b):

"(b) ASSIGNMENTS TO COMBAT AIRCRAFT.—The Secretary of Defense shall require the conduct of test assignments of female members of each armed force to duty in combat aircraft of that armed force."; and

(3) in subsection (c), as redesignated by paragraph (1), by inserting "and pursuant to subsection (b)" after "subsection (a)".

SEC. 524. SELECTIVE EARLY RETIREMENT.

Section 638a(c) of title 10, United States Code, is amended by adding at the end the following:

"(3) In the case of an action under subsection (b)(2), the Secretary of the military department concerned may submit to a selection board convened pursuant to that subsection—

"(A) the names of all eligible officers described in that subsection in a particular grade and competitive category; or

"(B) the names of all eligible officers described in that subsection in a particular grade and competitive category who are also in particular year groups, specialties, or retirement categories, or any combination thereof, within that competitive category.".

SEC. 525. RETIREMENT OF CERTAIN LIMITED DUTY OFFICERS OF THE NAVY.

(a) REGULAR NAVY COMMANDERS.—Section 633 of title 10, United States Code, is amended by adding at the end the following: "During the period beginning on July 1, 1993, and ending on October 1, 1995, the preceding sentence shall not apply to an officer of the Navy designated for limited duty to whom section 6383 of this title applies.".

(b) REGULAR NAVY CAPTAINS.—Section 634 of title 10, United States Code, is amended by adding at the end the following: "During the period beginning on July 1, 1993, and ending on October 1, 1995, the preceding sentence shall not apply to an officer of the Regular Navy designated for limited duty to whom section 6383(a)(4) of this title applies.".

(c) MAXIMUM TENURE.—Subsection (a) of section 6383 of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraphs:

"(2) Except as provided in subsection (i), each regular officer of the Navy designated for limited duty who is serving in the grade of commander, has failed of selection for promotion to the grade of captain for the second time, and is not on a list of officers recommended for promotion to the grade of captain shall—

"(A) if eligible for retirement as a commissioned officer under any provision of law, be retired under that provision law on the date requested by the officer and approved by the Secretary of the Navy, except that the date of retirement may not be later than the first day of the seventh month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed for promotion to the grade of captain for a second time; or

"(B) if not eligible for retirement as a commissioned officer, be retired on the date requested by the officer and approved by the Secretary of the Navy after the officer becomes eligible for retirement as a commissioned officer, except that the date of retirement may not be later than the first day of the seventh calendar month beginning after the month in which the officer becomes eligible for retirement as a commissioned officer.

"(3) Except as provided in subsection (i), if not retired earlier, a regular officer of the Navy designated for limited duty who is serving in the grade of commander and is not on a list of officers recommended for promotion to the grade of captain shall be retired on the last day of the month following the month in which the officer completes 35 years of active naval service, exclusive of active duty for training in a reserve component.

"(4) Except as provided in subsection (i), each regular officer of the Navy designated for limited duty who is serving in the grade of captain shall, if not retired sooner, be retired on the last day of the month following the month in which the officer completes 38 years of active naval service, exclusive of active duty for training in a reserve component.

"(5) Paragraphs (2) through (4) shall be effective only during the period beginning on July 1, 1993, and ending on October 1, 1995.".

(d) LIMITATION ON DEFERRED RETIREMENT.—Subsection (i) of section 6383 of such title is amended by adding at the end the following: "During the period beginning on July 1, 1993, and ending on October 1, 1995, an officer of the Navy in the grade of commander or captain whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond age 62 or, if earlier, 28 years of active commissioned service if in the grade of commander or 30 years of active commissioned service if in the grade of captain.".

Subtitle D—Active Forces Transition Enhancements

SEC. 531. ENCOURAGEMENT FOR CONTINUING PUBLIC AND COMMUNITY SERVICE.

(a) Permanent Program.—(1) Chapter 58 of title 10, United States Code, is amended by inserting after section 1143 the following new section:

"§1143a. Encouragement of postseparation public and community service: Department of Defense

"(a) In General.—The Secretary of Defense shall implement a program to encourage members and former members of the armed forces to enter into public and community service jobs after discharge or release from active duty.

"(b) Personnel Registry.—The Secretary shall maintain a registry of members and former members of the armed forces discharged or released from active duty who request registration for assistance in pursuing public and community service job opportunities. The registry shall include information on the particular job skills, qualifications, and experience of the registered personnel.

"(c) Registry of Public Service and Community Service Organizations.—The Secretary shall also maintain a registry of public service and community service organizations. The registry shall contain information regarding each organization, including its location, its size, the types of public and community service positions in the organization, points of contact, procedures for applying for such positions, and a description of each such position that is likely to be available. Any such organization may request registration under this subsection and, subject to guidelines prescribed by the Secretary, be registered.

"(d) Assistance To Be Provided.—(1) The Secretary shall actively attempt to match personnel registered under subsection (b) with public and community service job opportunities and to facilitate job-seeking contacts between such personnel and the employers offering the jobs.

"(2) The Secretary shall offer personnel registered under subsection (b) counselling services regarding—

"(A) public service and community service organizations; and

"(B) procedures and techniques for qualifying for and applying for jobs in such organizations.

"(3) The Secretary may provide personnel registered under subsection (b) with access to the interstate job bank program of the United States Employment Service if the Secretary determines that such program meets the needs of separating members of the armed forces for job placement.

"(e) Consultation Requirement.—In carrying out this section, the Secretary shall consult closely with the Secretary of Labor, the Secretary of Veterans Affairs, the Secretary of Education, the Director of the Office of Personnel Management, appropriate representatives of State and local governments, and appropriate representatives of businesses and nonprofit organizations in the private sector.

"(f) Delegation.—The Secretary, with the concurrence of the Secretary of Labor, may designate the Secretary of Labor as the executive agent of the Secretary of Defense for carrying out all or part of the responsibilities provided in this section. Such a designation does not relieve the Secretary of Defense from the responsibility for the implementation of the provisions of this section.

"(g) Definitions.—In this section, the term 'public service and community service organization' includes the following organizations:

"(1) Any organization that provides the following services:

"(A) Elementary, secondary, or postsecondary school teaching or administration.

"(B) Support of such teaching or school administration.

"(C) Law enforcement.

"(D) Public health care.

"(E) Social services.

"(F) Any other public or community service.

"(2) Any nonprofit organization that coordinates the provision of services described in paragraph (1).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1143 the following new item:

"1143a. Encouragement of postseparation public and community service: Department of Defense.".

(b) Department of Veterans Affairs Responsibilities.—Section 1142(b)(4) of title 10, United States Code, is amended by inserting before the period at the end the following: ", including the public and community service jobs program carried out under section 1143a of this title".

(c) Preseparation Assistance by the Department of Labor.—Section 1144(b) of such title is amended by adding at the end the following new paragraph:

"(8) Provide information regarding the public and community service jobs program carried out under section 1143a of this title.".

SEC. 532. TEACHER CERTIFICATION CREDIT FOR MILITARY EXPERIENCE.

(a) Uniform State Standards and Procedures.—(1) The Secretary of Defense shall—

(A) develop proposed uniform standards and procedures for the granting of appropriate credit for service in the Armed Forces under State teacher certification or licensing procedures; and

(B) coordinate with appropriate agencies of each State to encourage the incorporation of such uniform standards and procedures into the State's teacher certification or licensing requirements.

(2) The uniform standards should reflect the value to the teaching profession of relevant skills and experience derived from service in the Armed Forces.

(b) Delegation to the Secretary of Education.—The Secretary, with the concurrence of the Secretary of Education, may designate the Secretary of Education as the executive agent of the Secretary of Defense for carrying out all or part of the responsibilities provided in subsection (a). Such a designation does not relieve the Secretary of Defense from the responsibility for the implementation of such subsection.

SEC. 533. PROGRAM OF EDUCATIONAL LEAVE RELATING TO CONTINUING PUBLIC AND COMMUNITY SERVICE.

(a) Program.—Under regulations prescribed by the Secretary of Defense after consultation with the Secretary of Transportation and subject to subsections (b) and (c), the Secretary concerned may grant to an eligible member of the Armed Forces a leave of absence for a period not to exceed one year for the purpose of permitting the member to pursue a program of education or training (including an internship) for the development of skills that are relevant to the performance of public and community service. A program of education or training referred to in the preceding sentence includes any such program that is offered by the Department of Defense or by any civilian educational or training institution.

(b) Eligibility Requirement.—(1) A member may not be granted a leave of absence under this section unless the member agrees in writing—

(A) diligently to pursue employment in public service and community service organizations upon the separation of the member from active duty in the Armed Forces; and

(B) to serve in the Ready Reserve of an armed force, upon such separation, for a period of 4 months for each month of the period of the leave of absence.

(2)(A) A member may not be granted a leave of absence under this section until the member has completed any period of extension of enlistment or reenlistment, or any period of obligated active duty service, that the member has incurred under section 708 of title 10, United States Code.

(B) The Secretary concerned may waive the limitation in subparagraph (A) for a member who enters into an agreement with the Secretary for the member to serve in the Ready Reserve of a reserve component for a period equal to the uncompleted portion of the member's period of service referred to in that subparagraph. Any such period of agreed service in the Ready Reserve shall be in addition to any other period that the member is obligated to serve in a reserve component.

(c) Treatment of Leave of Absence.—A leave of absence under this section shall be subject to the provisions of subsections (c) and (d) of section 708 of title 10, United States Code.

(d) Exclusion From End Strength Limitation.—A member of the Armed Forces, while on leave granted pursuant to this section, may not be counted for purposes of any provision of law that limits the active duty strength of the member's armed force.

(e) Definitions.—In this section:

(1) The term "Secretary concerned" has the meaning given such term in section 101 of title 10, United States Code.

(2) The term "eligible member of the Armed Forces" means a member of the Armed Forces who is eligible for an educational leave of absence under section 708(e) of such title.

(3) The term "public service and community service organization" has the meaning given such term in section 1143a of such title (as added by section 531(a)).

(f) Expiration.—The authority to grant a leave of absence under subsection (a) shall expire on September 30, 1995.

SEC. 534. TEMPORARY EARLY RETIREMENT AUTHORITY.

(a) Retirement for 15 to 20 Years of Service.—(1) The Secretary of the Army may, upon the member's request, retire a member of the Army who has the following years of service:

(A) In the case of a regular or reserve commissioned officer, between 15 and 20 years of service computed under section 3926 of title 10, United States Code.

(B) In the case of an enlisted member, between 15 and 20 years of service computed under section 3925 of such title.

(C) In the case of a warrant officer, between 15 and 20 years of active service computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(2) The Secretary of the Navy may, upon the member's request, retire a member of the Navy or Marine Corps who has the following years of active service:

(A) In the case of a commissioned officer or enlisted member, between 15 and 20 years.

(B) In the case of a warrant officer, between 15 and 20 years computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(3) The Secretary of the Air Force may, upon the member's request, retire a member of the Air Force who has the following years of service:

(A) In the case of a regular or reserve commissioned officer, between 15 and 20 years of service computed under section 8926 of title 10, United States Code.

(B) In the case of an enlisted member, between 15 and 20 years of service computed under section 8925 of such title.

(C) In the case of a warrant officer, between 15 and 20 years of active service computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(b) ADDITIONAL ELIGIBILITY REQUIREMENT.—In order to be eligible for retirement under subsection (a), a member of the Armed Forces shall register on the registry maintained under section 1143a(b) of title 10, United States Code (as added by section 531(a)) and receive counselling regarding public and community service job opportunities from the Secretary of Defense or another source approved by the Secretary.

(c) COMPUTATION OF RETIRED PAY.—A member or former member of the Armed Forces retired under subsection (a) shall be entitled to retired pay computed under the provisions of chapter 71, 371, 571, or 871 of title 10, United States Code, that would be applicable to such member or former member if—

(1) the member or former member had been retired under section 1293 (in the case of a retired warrant officer), 3911 (in the case of a retired commissioned Army officer), 3914 (in the case of a retired enlisted member of the Army), 6323 (in the case of a retired commissioned officer of the Navy), 8911 (in the case of a retired commissioned Air Force officer), or 8914 (in the case of a retired enlisted member of the Air Force) of such title upon completion of 20 years of service creditable for purposes of eligibility for retirement; or

(2) in the case of a retired enlisted member of the Regular Navy or Regular Marine Corps, the retired enlisted member had been retired under section 6326 of such title upon completion of 30 years of active service in the Armed Forces creditable for purposes of eligibility for retirement.

(d) FUNDING.—(1) Notwithstanding section 1463 of title 10, United States Code, and to the extent provided in appropriations Acts, the Secretary of each military department shall provide in accordance with this section for the payment of retired or retainer pay payable during the fiscal years covered by the other provisions of this subsection to members of the armed force under the jurisdiction of that Secretary who are being retired under the authority of this section.

(2) In each fiscal year in which the Secretary of a military department retires a member of the Armed Forces under the authority of this section, the Secretary shall credit to a subaccount (which the Secretary shall establish) within the appropriation account for that fiscal year for pay and allowances of active duty members of the armed force under the jurisdiction of that Secretary such amount as is necessary to pay the retired or retainer pay payable to such member for the entire initial period (determined under paragraph (3)) of the entitlement of that member to receive retired or retainer pay.

(3) The initial period applicable under paragraph (2) in the case of a retired member referred to in that paragraph is the number of years (and any fraction of a year) that is equal to the difference between 20 years and the number of years (and any fraction of a year) of service that were completed by the member (as computed under the provision of law referred to in subsection (a) that is applicable to that member) before being retired under this section.

(4) The Secretary shall pay the member's retired or retainer pay for such initial period out of amounts credited to the subaccount under paragraph (2). The amounts so credited with respect to that member shall remain available for payment for that period.

(e) COORDINATION OF BENEFITS.—A member of the Armed Forces retired under this section is not entitled to benefits under section 1174, 1174a, or 1175 of title 10, United States Code.

(f) TERMINATION OF AUTHORITY.—The authority under subsection (a) shall terminate on October 1, 1995.

SEC. 535. INCREASED EARLY RETIREMENT RETIRED PAY FOR PUBLIC OR COMMUNITY SERVICE.

(a) RECOMPUTATION OF RETIRED PAY.—(1) If a member or former member of the Armed Forces retired under section 534(a) or any other provision of law authorizing retirement from the Armed Forces (other than for disability) before the completion of at least 20 years of active duty service (as computed under the applicable provision of law) is employed by a public service or community service organization listed on the registry maintained under section 1143a(c) of title 10, United States Code (as added by section 531(a)), within the period of the member's enhanced retirement qualification period, the member's or former member's retired or retainer pay shall be recomputed effective on the first day of the first month beginning after the date on which the member or former member attains 62 years of age.

(2) For purposes of recomputing a member's or former member's retired pay—

(A) the years of the member's or former member's employment by a public service or community service organization referred to in paragraph (1) during the member's or former member's enhanced retirement qualification period shall be treated as years of active duty service in the Armed Forces; and

(B) in applying section 1401a of title 10, United States Code, the member's or former member's years of active duty service shall be deemed as of the date of retirement to have included the years of employment referred to in subparagraph (A).

(3) Section 1405(b) of title 10, United States Code, shall apply in determining years of service under this subsection.

(4) In this subsection, the term "enhanced retirement qualification period", with respect to a member or former member retired under a provision of law referred to in paragraph (1), means the period beginning on the date of the retirement of the member or former member and ending the number of years (including any fraction of a year) after that date which when added to the number of years (including any fraction of a year) of service credited for purposes of computing the retired pay of the member or former member upon retirement equals 20 years.

(b) SBP ANNUITIES.—(1) Effective on the first day of the first month after a member or former member of the Armed Forces retired under a provision of law referred to in subsection (a)(1) attains 62 years of age or, in the event of death before attaining that age, would have attained that age, the base amount applicable under section 1447(2) of title 10, United States Code, to any Survivor Benefit Plan annuity provided by that member or former member shall be recomputed. For the recomputation the total years (including any fraction of a year) of the member's or former member's active service shall be treated as having included the member's or former member's years (including any fraction of a year) of employment referred to in subsection (a)(1) as of the date when the member or former member became eligible for retired pay under this section.

(2) In this subsection, the term "Survivor Benefit Plan" means the plan established under subchapter II of chapter 73 of title 10, United States Code.

SEC. 536. OPPORTUNITY FOR CERTAIN ACTIVE-DUTY PERSONNEL TO ENROLL IN MONTGOMERY GI BILL PROGRAM WHILE BEING VOLUNTARILY SEPARATED FROM SERVICE.

(a) IN GENERAL.—(1) Subchapter II of chapter 30 of title 38, United States Code, is amended by inserting after section 3018A the following new section:

"§3018B. Opportunity for certain active-duty personnel to enroll while being voluntarily separated from service

"(a) Notwithstanding any other provision of law, an individual who—

"(1) is voluntarily discharged from the Armed Forces with an honorable discharge, or voluntarily released from active duty under honorable conditions (as characterized by the Secretary concerned), pursuant to a request for separation approved under section 1174a or 1175 of title 10,

"(2) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree,

"(3) in the case of any individual who has made an election under section 3011(c)(1) of this title, withdraws such election pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section,

"(4) in the case of any person enrolled in the educational benefits program provided by chapter 32 of this title makes an irrevocable election, pursuant to procedures referred to in paragraph (3) of this subsection, to receive benefits under this section in lieu of benefits under such chapter 32, and

"(5) elects to receive assistance under this section pursuant to regulations referred to in paragraph (3) of this subsection,

is entitled to basic educational assistance under this chapter.

"(b) An election or withdrawal of election permitted under subsection (a) of this section is not effective unless—

"(1) in the case of an individual separated from active duty more than 90 days after the date of the enactment of this section, the individual makes the election or withdrawal before the separation;

"(2) in the case of an individual separated from active duty on or after the date of the enactment of this section and within 90 days after that date, the individual makes the election or withdrawal within 90 days after the separation; and

"(3) in the case of an individual separated from active duty before the date of the enactment of this section, the individual makes the election or withdrawal within 90 days after such date.

"(c)(1) An individual described in subsection (a) of this section who makes a withdrawal referred to in subsection (a)(3) of this section shall pay $1,200 to the Secretary of Veterans Affairs. In the case of an individual who makes the withdrawal of election before being separated, any portion of the obligation to pay $1,200 may be discharged by reduction of that individual's basic pay.

"(2) Amounts received by the Secretary pursuant to paragraph (1) shall be credited to the appropriation available for the fiscal year in which received for the Department of Veterans Affairs for the payment of readjustment benefits.

"(d) A withdrawal of election referred to in subsection (a)(3) of this section is irrevocable.

"(e)(1) Except as provided in paragraph (3) of this subsection, an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (a)(4) of this subsection shall be disenrolled from such chapter 32 program as of the date of such election.

"(2) For each individual who is disenrolled from such program, the Secretary shall refund—

"(A) as provided in section 3223(b) of this title, to the individual the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title; and

"(B) to the Secretary of Defense the unused contributions (other than contributions made under section 3222(c) of this title) made by such Secretary to the Account on behalf of such individual.

"(3) Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to section 3222(c) of this title on behalf of any individual referred to in paragraph (1) of this subsection shall remain in such Account to make payments of benefits to such individual under section 3015(e) of this title.".

(2) The table of sections at the beginning of chapter 30 of such title is amended by inserting after the item relating to section 3018A the following new item:

"3018B. Opportunity for certain active-duty personnel to enroll while being voluntarily separated from service.".

(b) CONFORMING AMENDMENTS.—(1) Section 3013(d) of such title is amended by inserting "or 3018B" after "section 3018A".

(2) Section 3015(e) of such title is amended by inserting "or 3018B" after "section 3018A".

(3) Section 3035(b)(3) of such title is amended—

(A) in the matter above subparagraph (A), by inserting "or 3018B" after "section 3018A"; and

(B) in subparagraph (B), by inserting "or 3018B(a)(3)" after "section 3018A(a)(3)".

SEC. 537. ELIMINATION OF RECOUPMENT REQUIREMENT FOR RESERVE DUTY.

Paragraph (2) of section 1175(e) of title 10, United States Code, is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B), a member entitled to voluntary separation incentive payments who is also entitled to basic pay for active service shall forfeit an amount of voluntary separation incentive payable for the same period that is equal to the total amount of basic pay received.

"(B) Subparagraph (A) does not apply with respect to—

"(i) annual training; or

"(ii) active duty for training that is not active duty for a period of more than 30 days.".

SEC. 538. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN EMPLOYMENT, JOB TRAINING, AND OTHER ASSISTANCE.

Section 1144(e) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "$4,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$11,000,000 for fiscal year 1993 and $8,000,000 for each of fiscal years 1994 and 1995."; and

(2) in paragraph (2), by striking out "$1,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$6,500,000 for each of fiscal years 1993, 1994, and 1995.".

SEC. 539. CONTINUED HEALTH COVERAGE FOR MEMBERS AND DEPENDENTS UPON THE SEPARATION OF THE MEMBERS FROM ACTIVE DUTY AND FOR EMANCIPATED CHILDREN OF MEMBERS.

(a) MEMBERS AND EMANCIPATED CHILDREN.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1078 the following new section:

"§1078a. Continued health benefits coverage

"(a) PROVISION OF CONTINUED HEALTH COVERAGE.—The Secretary of Defense and the Director of the Office of Personnel Management shall jointly carry out a program in accordance with this section to provide persons described in subsection (b) with temporary health benefits under the program of continued health benefits coverage provided for former civilian employee of the Federal Government and other persons under section 8905a of title 5.

"(b) ELIGIBLE PERSONS.—The persons referred to in subsection (a) are the following:

"(1) A member of the armed forces who—

"(A) is discharged or released from active duty (or full-time National Guard duty), whether voluntarily or involuntarily, under other than adverse conditions, as characterized by the Secretary concerned;

"(B) immediately preceding that discharge or release, is entitled to medical and dental care under section 1074(a) of this title (except in the case of a member discharged or released from full-time National Guard duty); and

"(C) after that discharge or release and any period of transitional health care provided under section 1145(a) of this title, would not otherwise be eligible for any benefits under this chapter.

"(2) A person who—

"(A) ceases to meet the requirements for being considered an unmarried dependent child of a member or former member of the armed forces under section 1072(2)(D) of this title;

"(B) on the day before ceasing to meet those requirements, was covered under a health benefits plan under this chapter or transitional health care under section 1145(a) of this title as a dependent of the member or former member; and

"(C) would not otherwise be eligible for any benefits under this chapter.

"(c) NOTIFICATION OF ELIGIBILITY.—(1) The Director, in consultation with the Secretary of Defense, shall prescribe regulations to provide for persons described in subsection (b) to be notified of eligibility to receive health benefits under this section.

"(2) In the case of a member who becomes (or will become) eligible for continued coverage under subsection (b)(1), the regulations shall provide for the Secretary concerned to notify the member of the member's rights under this section as part of preseparation counseling conducted under section 1142 of this title or any other provision of other law.

"(3) In the case of a child of a member who becomes eligible for continued coverage under subsection (b)(2), the regulations shall provide that—

"(A) the member may submit to the Secretary concerned a written notice of the child's change in status (including the child's name, address, and such other information as the Director may require); and

"(B) the Secretary concerned shall, within 14 days after receiving that notice, inform the child of the child's rights under this section.

"(d) ELECTION OF COVERAGE.—In order to obtain continued coverage under this section, an appropriate written election (submitted in such manner as the Director may prescribe) shall be made as follows:

"(1) In the case of a member described in subsection (b)(1), the written election shall be submitted to the Director before the end of the 60-day period beginning on the later of—

"(A) the date of the discharge or release of the member from active duty;

"(B) the date on which the period of transitional health care applicable to the member under section 1145(a) of this title ends; or

"(C) the date the member receives the notification required pursuant to subsection (c).

"(2) In the case of a person described in subsection (b)(2), the written election shall be submitted to the Director before the end of the 60-day period beginning on the later of—

"(A) the date on which the person first ceases to meet the requirements for being considered an unmarried dependent child under section 1072(2)(D) of this title, or

"(B) the date the person receives the notification pursuant to subsection (c),

except that if the Secretary concerned determines that the person's parent has failed to provide the notice referred to in subsection (c)(3)(A) with respect to the person in a timely fashion, the 60-day period under this paragraph shall be based only on the date under subparagraph (A).

"(e) COVERAGE OF DEPENDENTS.—A person eligible under subsection (b)(1) to elect to receive coverage may elect coverage either as an individual or, if appropriate, for self and dependents. A person eligible under subsection (b)(2) may elect only individual coverage.

"(f) CHARGES.—(1) Under arrangements satisfactory to the Director, a person receiving continued coverage under this section shall be required to pay into the Employees Health Benefits Fund established under section 8909 of title 5 an amount equal to the sum of—

"(A) the amount determined under section 8905a(d)(1)(A)(i) of title 5;

"(B) an amount, not in excess of 10 percent of the amount referred to in subparagraph (A), that is necessary for administrative expenses, as determined under regulations prescribed by the Director; and

"(C) such additional amount determined by the Director to be necessary to ensure that outlays from the Fund as a result of the program established under this section do not exceed amounts paid under this paragraph.

"(2) If a person elects to continue coverage under this section before the end of the applicable period under subsection (d), but after the person's coverage under this chapter (including any transitional extensions of coverage) expires, coverage shall be restored retroactively, with appropriate contributions (determined in accordance with paragraph (1)) and claims (if any), to the same extent and effect as though no break in coverage had occurred.

"(g) CONTRIBUTION.—Subject to the availability of appropriations for the purpose of this section, if the basis for continued coverage under this section for a member of the armed forces under subsection (b)(1) is involuntary separation approved under section 1174a or 1175 of this title, contributions shall be made in accordance with subsection (f)(1), except that—

"(1) the amount to be paid by the member shall be equal to the employee contribution referred to in section 8905a(d)(1)(A)(i) of title 5; and

"(2) the Secretary of Defense shall pay into the Employees Health Benefits Fund, under arrangements satisfactory to the Director of the Office of Personnel Management, an amount equal to—

"(A) the agency contribution referred to in section 8905a(d)(1)(A)(i) of title 5; and

"(B) the amount described in subsection (f)(1)(B).

"(h) PERIOD OF CONTINUED COVERAGE.—(1) Continued coverage under this section may not extend beyond—

"(A) in the case of a member described in subsection (b)(1), the date which is 18 months after the date the member ceases to be entitled to care under section 1074(a) of this title and any transitional care under section 1145 of this title, as the case may be; and

"(B) in the case of a person described in subsection (b)(2), the date which is 36 months after the date on which the individual first ceases to meet the requirements for being considered an unmarried dependent child under section 1072(2)(D) of this title.

"(2) Notwithstanding paragraph (1)(B), if a person ceases to meet the requirements for being considered an unmarried dependent child of a member described in subsection (b)(1) during a period of continued coverage of that member for self and dependents under this section, extended coverage of that person under this section may not extend beyond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078 the following new item:

"1078a. Continued health benefits coverage.".

(b) TRANSITIONAL PROVISIONS.—The Director of the Office of Personnel Management shall provide a period for the enrollment for health benefits coverage under this section by members and former members of the Armed Services for whom the availability of transitional health care under section 1145(a) of title 10, United States Code, expires before section 1078a of such title, as added by subsection (a), is implemented.

(c) TERMINATION OF APPLICABILITY OF OTHER CONVERSION HEALTH POLICIES.—(1) No person may purchase a conversion health policy under section or 1145(b) of title 10, United States Code, on or after the date on which the Director of the Office of Personnel Management announces that section 1078a of such title is implemented. A person covered by such a conversion health policy on that date may cancel that policy and enroll in a health benefits plan under section 1078a of such title.

(2) No person may be covered concurrently by a conversion health policy under such section 1145(b) of title 10, United States Code, and a health benefits plan under section 1078a of such title.

(d) EFFECTIVE DATE.—Section 1078a of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1992.

Subtitle E—Guard and Reserve Transition Initiatives

SEC. 541. FORCE REDUCTION TRANSITION PERIOD DEFINED.

In this subtitle, the term "force reduction transition period" means the period beginning on October 1, 1991, and ending on September 30, 1995.

SEC. 542. MEMBER OF SELECTED RESERVE DEFINED.

In this subtitle, the term "member of the Selected Reserve" means—

(1) a member of a unit in the Selected Reserve of the Ready Reserve; and

(2) a Reserve designated pursuant to section 268(b) of title 10, United States Code.

SEC. 543. RESTRICTION ON RESERVE FORCE REDUCTION.

(a) IN GENERAL.—During the force reduction transition period, no unit in the Selected Reserve of the Ready Reserve of the Armed Forces may be inactivated and no member of the Selected Reserve may be involuntarily discharged from a reserve component of the Armed Forces or involuntarily transferred from the Selected Reserve before the Secretary of Defense has promulgated, implemented, and transmitted to the Committees on Armed Services of the Senate and House of Representatives regulations that govern the treatment of members of the Selected Reserve assigned to such units and members of the Selected Reserve that are being subjected to such actions.

(b) SAVINGS PROVISION.—Subsection (a) shall not apply to actions completed before the date of the enactment of this Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the prohibition in section 411(c).

SEC. 544. TRANSITION PLAN REQUIREMENTS.

(a) PURPOSE OF PLAN.—The purpose of the regulations referred to in section 543 shall be to ensure that the members of the Selected Reserve are treated with fairness, with respect for their service to their country, and with attention to the adverse personal consequences of Selected Reserve unit inactivations, involuntary discharges of such members from the reserve components of the Armed Forces, and involuntary transfers of such members from the Selected Reserve.

(b) SCOPE OF PLAN.—The regulations shall include—

(1) such provisions as are necessary to implement the provisions of this subtitle and the amendments made by this subtitle; and

(2) such other policies and procedures for the recruitment of personnel for service in the Selected Reserve of the Ready Reserve, and for the reassignment, retraining, separation, and retirement of members of the Selected Reserve, as are appropriate for satisfying the needs of the Selected Reserve together with the purpose set out in subsection (a).

(c) MINIMUM REQUIREMENTS FOR PLAN.—The regulations shall include the following:

(1) The giving of a priority to personnel referred to in section 543(a) for reassignment to Selected Reserve units not being inactivated.

(2) The giving of a priority to such personnel for transfer among the reserve components of the Armed Forces in order to facilitate reassignment to such units.

(3) A requirement that the Secretaries of the military departments take diligent actions to ensure that members of the reserve components of the Armed Forces are informed in easily understandable terms of the rights and benefits conferred upon such personnel by this subtitle, by the amendments made by this subtitle, and by such regulations.

(4) Such other protections, preferences, and benefits as the Secretary of Defense considers appropriate.

(d) UNIFORM APPLICABILITY.—The regulations shall apply uniformly to the Army, Navy, Air Force, and Marine Corps.

SEC. 545. INAPPLICABILITY TO CERTAIN DISCHARGES AND TRANSFERS.

The protections, preferences, and benefits provided for in regulations prescribed in accordance with this subtitle do not apply with respect to a member of the Selected Reserve who is discharged from a reserve component of the Armed Forces or is transferred from the Selected Reserve to another category of the Ready Reserve, to the Standby Reserve, or to the Retired Reserve—

(1) at the request of the member unless such request was made and approved under a provision of this subtitle or section 1331a of title 10, United States Code (as added by section 547);

(2) because the member no longer meets the qualifications for membership in the Selected Reserve set forth in any provision of law as in effect on the day before the date of the enactment of this Act;

(3) under adverse conditions, as characterized by the Secretary of the military department concerned; or

(4) if the member—

(A) is immediately eligible for retired pay based on military service under any provision of law;

(B) is serving as a military technician, as defined in section 8401(30) of title 5, United States Code, and would be immediately eligible for an unreduced annuity under the provisions of subchapter III of chapter 83 of such title, relating to the Civil Service Retirement and Disability System, or the provisions of chapter 84 of such title, relating to the Federal Employees' Retirement System; or

(C) is eligible for separation pay under section 1174 of title 10, United States Code.

SEC. 546. FORCE REDUCTION PERIOD RETIREMENTS.

(a) TEMPORARY SPECIAL AUTHORITY.—During the period referred to in subsection (b), the Secretary concerned may grant a member of the Selected Reserve under the age of 60 years the annual payments provided for under this section if—

(1) as of October 1, 1991, that member has completed at least 20 years of service computed under section 1332 of title 10, United States Code, or after that date and before October 1, 1995, such member completes 20 years of service computed under that section;

(2) the member satisfies the requirements of paragraphs (3) and (4) of section 1331(a) of title 10, United States Code; and

(3) the member applies for transfer to the Retired Reserve—

(A) in the case of a member who has not received the notice required by section 1331(d) of that title before the date of the enactment of this Act, within one year after receiving such notice; and

(B) in the case of a member who received such a notice before the date of the enactment of this Act, within one year after that date.

(b) Period of Applicability.—The period referred to in subsection (a) is, with respect to a member of the Selected Reserve, the force reduction transition period, the period provided under paragraph (3) of that subsection for the member to submit an application, and the period necessary for taking action on that application.

(c) Annual Payment Period.—An annual payment granted to a member under this section shall be paid for 5 years, except that if the member attains 60 years of age during the 5-year period the entitlement to the annual payment shall terminate on the member's 60th birthday.

(d) Computation of Annual Payment.—(1) The annual payment for a member shall be equal to the amount determined by multiplying the product of 12 and the applicable percent under paragraph (2) by the monthly basic pay to which the member would be entitled if the member were serving on active duty as of the date the member is transferred to the Retired Reserve.

(2)(A) Subject to subparagraph (B) the percent applicable to a member for purposes of paragraph (1) is 5 percent plus 0.5 percent for each full year of service, computed under section 1332 of title 10, United States Code, that a member has completed in excess of 20 years before transfer to the Retired Reserve.

(B) The maximum percent applicable under this paragraph is 10 percent.

(e) Applicability Subject to Needs of the Service.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary concerned may limit the applicability of this section to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a).

(f) Nonduplication of Benefits.—A member transferred to the Retired Reserve under the authority of section 1331a of title 10, United States Code (as added by section 547), may not be paid annual payments under this section.

(g) Funding.—To the extent provided in appropriations Acts, payments under this section in a fiscal year shall be made out of amounts available to the Department of Defense for that fiscal year for the pay of reserve component personnel.

(h) Health Care Benefits.—A member of the Retired Reserve receiving annual payments under this section shall be treated as a member of the uniformed services entitled to retired or retainer pay for the purposes of the provisions of chapter 55 of title 10, United States Code.

SEC. 547. RETIREMENT WITH 15 YEARS OF SERVICE.

(a) Authority.—Chapter 67 of title 10, United States Code, is amended by inserting after section 1331 the following new section:

"§ 1331a. Temporary special retirement qualification authority

"(a) Retirement With At Least 15 Years of Service.—For the purposes of section 1331 of this title, the Secretary of a military department may—

"(1) during the period described in subsection (b), determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

"(A) as of October 1, 1991, has completed at least 15, and less than 20, years of service computed under section 1332 of this title; or

"(B) after that date and before October 1, 1995, completes 15 years of service computed under that section; and

"(2) upon the request of the member submitted to the Secretary within one year after the date of the notification referred to in paragraph (1), transfer the member to the Retired Reserve.

"(b) Period of Authority.—The period referred to in subsection (a)(1) is the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993 and ending on October 1, 1995.

"(c) Applicability Subject to Needs of the Service.—(1) The Secretary of the military department concerned may limit the applicability of subsection (a) to any category of personnel defined by the Secretary in order to meet a need of the armed force under the jurisdiction of the Secretary to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

"(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a) of the National Defense Authorization Act for Fiscal Year 1993.

"(d) Exclusion.—This section does not apply to persons referred to in section 1331(c) of this title.

"(e) Regulations.—The authority provided in this section shall be subject to regulations prescribed by the Secretary of Defense.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1331 the following new item:

"1331a. Temporary special retirement qualification authority.".

SEC. 548. SEPARATION PAY.

(a) Eligibility.—Subject to section 545, a member of the Selected Reserve who, after completing at least 6 years of service computed under section 1332 of title 10, United States Code, and before completing 15 years of service computed under that section, is involuntarily discharged from a reserve component of the Armed Forces or is involuntarily transferred from the Selected Reserve is entitled to separation pay.

(b) Amount of Separation Pay.—(1) The amount of separation pay which may be paid to a person under this section is 15 percent of the product of—

(A) the years of service credited to that person under section 1333 of title 10, United States Code; and

(B) 62 times the daily equivalent of the monthly basic pay to which the person would have been entitled had the person been serving on active duty at the time of the person's discharge or transfer.

(2) In the case of a person who receives separation pay under this section and who later receives basic pay, compensation for inactive duty training, or retired pay under any provision of law, such basic pay, compensation, or retired pay, as the case may be, shall be reduced by 75 percent until the total amount withheld through such reduction equals the total amount of the separation pay received by that person under this section.

(c) Relationship to Other Service-Related Pay.—Subsections (g) and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section.

(d) Regulations.—The Secretary of Defense shall prescribe regulations, which shall be uniform for the Army, Navy, Air Force, and Marine Corps, for the administration of this section.

SEC. 549. WAIVER OF CONTINUED SERVICE REQUIREMENT FOR MONTGOMERY GI BILL BENEFITS.

(a) In General.—The eligibility of a person referred to in subsection (b)—

(1) to be provided educational assistance under chapter 106 of title 10, United States Code, may not be terminated under section 2134(2) of that title or

(2) to be provided educational assistance under chapter 30 of title 38, United States Code, may not be terminated under section 3012(a) of that title,

on the basis of the termination of that person's status as a member of the Selected Reserve under the circumstances described in subsection (b).

(b) Applicability.—Subsection (a) applies to a member of the Selected Reserve who, before completing the years of service in the Selected Reserve agreed to under section 2132(a) of title 10, United States Code, or the years of service required by section 3012(a) of title 38, United States Code, as the case may be, ceases to be a member of the Selected Reserve during the force reduction transition period by reason of the inactivation of his unit of assignment or by reason of involuntarily ceasing to be designated as a member of the Selected Reserve pursuant to section 268(b) of title 10, United States Code.

SEC. 550. COMMISSARY AND EXCHANGE PRIVILEGES.

The Secretary of Defense shall prescribe regulations to authorize a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period to continue to use commissary and exchange stores in the same manner as a member of the Selected Reserve for a period of one year after the later of—

(1) the date on which that person ceases to be a member of the Selected Reserve; or

(2) the date of the enactment of this Act.

SEC. 551. TEMPORARY CONTINUATION OF SERVICEMEN'S GROUP LIFE INSURANCE.

(a) Continued Coverage.—For the purposes of section 1968(a) of title 38, United States Code, the 120-day period of coverage provided for under paragraph (4) of such section shall be extended to a 365-day period of coverage in the case of a former member of the Selected Reserve referred to in subsection (b).

(b) Eligibility.—Subsection (a) applies to a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period and is ready, willing, and able to perform the training described in section 1965(5)(B) of title 38, United States Code.

(c) Payment of Premiums.—The total amount of the cost attributable to insuring a person under this section shall be paid from any funds available to the Department of Defense for the pay of reserve component personnel that the Secretary of Defense determines appropriate.

(d) Implementation.—The Secretary of Veterans Affairs shall take any contracting and other actions that are necessary to ensure that the provisions of this section are implemented promptly.

SEC. 552. APPLICABILITY AND TERMINATION OF BENEFITS.

(a) Applicability Subject to Needs of the Service.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may limit the applicability of a benefit provided under sections 548 through 551 to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a).

(b) Inapplicability to Certain Separations and Reassignments.—Sections 548 through 551 do not apply with respect to personnel who cease to be members of the Selected Reserve under adverse conditions, as characterized by the Secretary of the military department concerned.

(c) Termination of Benefits.—The eligibility of a member of a reserve component of the Armed Forces (after having involuntarily ceased to be a member of the Selected Reserve) to receive benefits and privileges under sections 548 through 551 terminates upon the involuntary separation of such member from the Armed Forces under adverse conditions, as characterized by the Secretary of the military department concerned.

Subtitle F—Other Matters

SEC. 561. RETENTION ON ACTIVE DUTY OF ENLISTED MEMBERS WITHIN TWO YEARS OF ELIGIBILITY FOR RETIREMENT.

(a) In General.—Chapter 59 of title 10, United States Code, is amended by adding at the end the following new section:

"§1176. Enlisted members: retention after completion of 18 or more, but less than 20, years of service

"(a) Regular Members.—A regular enlisted member who is selected to be involuntarily separated, or whose term of enlistment expires and who is denied reenlistment, and who on the date on which the member is to be discharged is within two years of qualifying for retirement under section 3914 or 8914 of this title, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, shall be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, unless the member is sooner retired or discharged under any other provision of law.

"(b) Reserve Members.—A reserve enlisted member serving on active duty who is selected to be involuntarily separated, or whose term of enlistment expires and who is denied reenlistment, and who on the date on which the member is to be discharged or released from active duty is entitled to be credited with at least 18 but less than 20 years of service computed under section 1332 of this title, may not be discharged or released from active duty without the member's consent before the earlier of the following:

"(1) If as of the date on which the member is to be discharged or released from active duty the member has at least 18, but less than 19, years of service computed under section 1332 of this title—

"(A) the date on which the member is entitled to be credited with 20 years of service computed under section 1332 of this title; or

"(B) the third anniversary of the date on which the member would otherwise be discharged or released from active duty.

"(2) If as of the date on which the member is to be discharged or released from active duty the member has at least 19, but less than 20, years of service computed under section 1332 of this title—

"(A) the date on which the member is entitled to be credited with 20 years of service computed under section 1332 of this title; or

"(B) the second anniversary of the date on which the member would otherwise be discharged or released from active duty.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1176. Enlisted members: retention after completion of 18 or more, but less than 20, years of service.".

SEC. 562. LIMITATIONS ON ENLISTED AIDES.

(a) Limitation on Number.—Subsection (b) of section 981 of title 10, United States Code, is amended by striking out "300" and inserting in lieu thereof "240".

(b) Limitation on Assignments.—Section 981 of such title is amended by adding at the end the following new subsection:

"(c) An enlisted member may be assigned or otherwise detailed to duty as an enlisted aide on the personal staff of an officer only if the officer is serving in the position of a commander.".

(c) Conforming Amendments.—(1) The heading for such section is amended to read as follows:

"§981. Limitations on enlisted aides".

(2) The item relating to that section in the table of sections at the beginning of chapter 49 is amended to read as follows:

"981. Limitations on enlisted aides.".

(d) Effective Date.—The amendments made by this section shall take effect on April 1, 1993.

SEC. 563. LIMITATION RELATING TO PERMANENT CHANGES OF STATIONS.

Of the funds appropriated to the Department of Defense for fiscal year 1993 for military personnel, not more than $2,863,110,000 is authorized to be made available for the costs of permanent changes of station.

SEC. 564. REDUCTIONS IN NUMBER OF PERSONNEL CARRYING OUT RECRUITING ACTIVITIES.

The average daily number of members of the Armed Forces serving on full-time active duty or full-time National Guard duty who, as a primary duty, carry out personnel recruiting activities during fiscal year 1994 may not exceed the number equal to 90 percent of the average daily number of members of the Armed Forces who, as a primary duty, carried out personnel recruiting activities while serving on full-time active duty or full-time National Guard duty during fiscal year 1992. The Secretary of Defense shall ensure that the number of such personnel who, as a primary duty, carry out such activities is reduced appropriately in fiscal year 1993 to achieve the reduction required for fiscal year 1994.

SEC. 565. JUNIOR RESERVE OFFICER TRAINING CORPS.

(a) Reorganization of Text.—Subsection (a) of section 2031 of title 10, United States Code, is amended by redesignating the first, second, and third sentences as paragraphs (1), (3), and (4), respectively.

(b) Purpose of Program.—Subsection (a) of such section, as amended by subsection (a) of this section, is further amended by inserting after paragraph (1) the following new paragraph (2):

"(2) It is a purpose of the Junior Reserve Officers' Training Corps to instill in students in United States secondary educational institutions the values of citizenship, service to the United States, and personal responsibility, and an appreciation of self-worth.".

(c) Increased Limitation on Number of Units.—Paragraph (3) of section 2031(a) of title 10, United States Code, as designated by subsection (a) of this section, is amended to read as follows:

"(3) The total number of units which may be established and maintained by all of the military departments under authority of this section may not exceed 3,500.".

(d) Waiver of Pay Contribution by Schools.—Section 2031(d)(1) of such title is amended by adding at the end the following: "The Secretary of the military department concerned may pay the entire additional amount to an institution if the Secretary determines that such action is in the national interest and in the interest of the community of that institution.".

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1993.

(a) Waiver of Section 1009 Adjustment.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1993 shall not be made.

(b) Increase in Basic Pay, BAS, and BAQ.—Effective as of January 1, 1993, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3.7 percent.

SEC. 602. TEMPORARY RATES OF BASIC PAY FOR CERTAIN NONCOMMISSIONED OFFICERS AND WARRANT OFFICERS AND FOR CERTAIN COLONELS AND NAVY CAPTAINS.

(a) Rates of Pay.—For months beginning after December 31, 1992, and before October 1, 1995, the rate of monthly basic pay for a member of the uniformed services (entitled to such pay under section 204 of title 37, United States Code) in pay grade E–7, E–8, E–9, W–4, W–5, or O–6 with over 24, but under 26, years of service (computed under section 205 of such title) shall be as follows:

(1) For pay grade E–7, $2,359.30.
(2) For pay grade E–8, $2,639.70.
(3) For pay grade E–9, $2,977.70.
(4) For pay grade W–4, $3,430.90.
(5) For pay grade W–5, $3,827.30.
(6) For pay grade O–6, $5,417.70.

(b) Adjustments.—The rates of monthly basic pay established under subsection (a) shall be adjusted in accordance with section 1009 of title 37, United States Code.

SEC. 603. EXTENSIONS OF AUTHORITIES RELATING TO PAYMENT OF CERTAIN BONUSES AND OTHER SPECIAL PAY.

(a) Reenlistment Bonus for Critical Skills.—Section 308(g) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(b) Enlistment Bonus for Critical Skills.—Section 308a(c) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(c) Aviator Retention Bonus.—Section 301b(a) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(d) Extension of Bonus Authorities for Reserve Enlistments, Reenlistments, Affiliations, and Extensions.—Sections 308b(f), 308c(e), 308e(e), 308h(g), and 308i(i) of title 37, United States Code, are each amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(e) Extension of Special Pay for Enlisted Members of the Selected Reserve Assigned to High Priority Units.—Section 308d(c) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(f) Repayment of Education Loans for Certain Health Professionals Who Serve in the Selected Reserve.—Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1992" and inserting in lieu thereof "October 1, 1993".

(g) Accession Bonus for Registered Nurses.—Section 302d(a) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(h) Nurse Candidate Accession Program.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(i) Special Pay for Nurse Anesthetists.—Section 302e(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(j) Effective Date.—The amendments made by this section shall take effect as of September 30, 1992.

Subtitle B—Other Matters

SEC. 611. REQUIREMENT FOR PROPOSAL ON CONCURRENT PAYMENT OF RETIRED OR RETAINER PAY AND VETERANS' DISABILITY COMPENSATION.

The Secretary of Defense shall—

(1) submit to the congressional defense committees the Secretary's recommendations for legislation—

(A) to permit the concurrent payment to members and former members of the Armed Forces of full retired or retainer pay and full compensation for service-connected disabilities payable under laws administered by the Secretary of Veterans Affairs; or

(B) to ensure by some other means that members and former members of the Armed Forces entitled to retired or retainer pay are not financially penalized by being entitled to compensation for service-connected disabilities payable under such laws; and

(2) reserve in the legislative contingency fund of the Department of Defense a sufficient amount to ensure the concurrent payment of full retired or retainer pay to members and former members entitled to disability compensation referred to in paragraph (1) in fiscal year 1994 in the event that such legislation is enacted.

SEC. 612. EXPANSION OF REIMBURSABLE ADOPTION EXPENSES.

(a) Department of Defense Program.—Section 1052(g) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking out "through adoption or by" and inserting in lieu thereof "through adoption, by"; and

(ii) by inserting ", or through a private placement" before the period at the end; and

(B) by striking out the second sentence;

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The term 'qualifying adoptions expenses' does not include any expense incurred—

"(A) for any travel performed outside the United States by an adopting parent, unless such travel—

"(i) is required by law as a condition of a legal adoption in the country of the child's origin, or is otherwise necessary for the purpose of qualifying for the adoption of a child;

"(ii) is necessary for the purpose of assessing the health and status of the child to be adopted; or

"(iii) is necessary for the purpose of escorting the child to be adopted to the United States or the place where the adopting member of the armed forces is stationed; or

"(B) in connection with an adoption arranged in violation of Federal, State, or local law."; and

(4) in paragraph (3), as redesignated by paragraph (2)—

(A) by striking out "and" at the end of subparagraph (C); and

(B) by striking out subparagraph (D) and inserting in lieu thereof the following new subparagraphs:

"(D) medical expenses, including hospital expenses of a newborn infant, for medical care furnished the adopted child before the adoption, and for physical examinations for the adopting parents;

"(E) expenses relating to pregnancy and childbirth for the biological mother, including counseling, transportation, and maternity home costs;

"(F) temporary foster care charges when payment of such charges is required to be made immediately before the child's placement; and

"(G) except as provided in paragraph (2), transportation expenses relating to the adoption.".

(b) Coast Guard Program.—Section 514(g) of title 14, United States Code, is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking out "through adoption or by" and inserting in lieu thereof "through adoption, by"; and

(ii) by inserting ", or through a private placement" before the period at the end; and

(B) by striking out the second sentence;

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The term 'qualifying adoptions expenses' does not include any expense incurred—

"(A) for any travel performed outside the United States by an adopting parent, unless such travel—

"(i) is required by law as a condition of a legal adoption in the country of the child's origin, or is otherwise necessary for the purpose of qualifying for the adoption of a child;

"(ii) is necessary for the purpose of assessing the health and status of the child to be adopted; or

"(iii) is necessary for the purpose of escorting the child to be adopted to the United States or the place where the adopting member of the Armed Forces is stationed; or

"(B) in connection with an adoption arranged in violation of Federal, State, or local law."; and

(4) in paragraph (3), as redesignated by paragraph (2)—

(A) by striking out "and" at the end of subparagraph (C); and

(B) by striking out subparagraph (D) and inserting in lieu thereof the following new subparagraphs:

"(D) medical expenses, including hospital expenses of a newborn infant, for medical care furnished the adopted child before the adoption, and for physical examinations for the adopting parents;

"(E) expenses relating to pregnancy and childbirth for the biological mother, including counseling, transportation, and maternity home costs;

"(F) temporary foster care charges when payment of such charges is required to be made immediately before the child's placement; and

"(G) except as provided in paragraph (2), transportation expenses relating to the adoption.".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect as of October 1, 1990, and shall apply to qualifying adoption expenses incurred on or after that date for adoption proceedings initiated on or after that date.

SEC. 613. PROHIBITION ON THE ASSERTION OF LIENS ON PERSONAL PROPERTY BEING TRANSPORTED AT GOVERNMENT EXPENSE.

(a) Title 37.—Section 406 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(n) No carrier, port agent, warehouseman, freight forwarder, or other person involved in the transportation of property may have any lien on, or hold, impound, or otherwise interfere with, the movement of baggage and household goods being transported under this section.".

(b) Title 10.—Section 2634 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) No carrier, port agent, warehouseman, freight forwarder, or other person involved in the transportation of property may have any lien on, or hold, impound, or otherwise interfere with, the movement of a motor vehicle being transported under this section.".

SEC. 614. ADVANCE PAYMENTS IN CONNECTION WITH EVACUATIONS OF PERSONNEL.

(a) Expanded Authority.—Section 1006(c) of title 37, United States Code, is amended by striking out the first and second sentences and inserting in lieu thereof the following: "Under regulations prescribed by the Secretary concerned, an advance of pay to a member of a uniformed service who is on duty outside the United States, or other place designated by the President, of not more than 2 month's basic pay may be made to a member if the member or his dependents are ordered evacuated by competent authority. An advance of pay under this subsection is not subject to the conditions under which advances of pay may be made under subsection (a) or (b). An advance may be made on the basis of the evacuation of a member's dependents only if all dependents of members of the uniformed services are ordered evacuated from the place where the member's dependents are located. In the case of a member with dependents, the payment may be made directly to dependents previously designated by the member.".

(b) Applicability.—The amendment made by subsection (a) shall apply with respect to evacuations on or after June 1, 1991.

SEC. 615. INCREASE IN RECOMPUTED RETIRED PAY FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.

(a) Members Initially Accessed Before September 8, 1980.—Section 1402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) In the case of a member who is entitled to recompute retired pay under this section upon release from active duty served after retiring under section 3914 or 8914 of this title, the member's retired pay as recomputed under another provision of this section shall be increased by 10 percent of the amount so recomputed if the member has been credited by the Secretary concerned with extraordinary heroism in the line of duty during any period of active duty service in the armed forces.

"(2) The amount of the retired pay as recomputed under another provision of this section and as increased under paragraph (1) may not exceed the amount equal to 75 percent of the monthly rate of basic pay upon which the recomputation of such retired pay is based.

"(3) The determination of the Secretary concerned as to extraordinary heroism is conclusive for all purposes.".

(b) MEMBERS INITIALLY ACCESSED AFTER SEPTEMBER 7, 1980.—Section 1402a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) ADDITIONAL 10 PERCENT FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.—(1) In the case of a member who is entitled to recompute retired pay under this section upon release from active duty served after retiring under section 3914 or 8914 of this title, the member's retired pay as recomputed under another provision of this section shall be increased by 10 percent of the amount so recomputed if the member has been credited by the Secretary concerned with extraordinary heroism in the line of duty during any period of active duty service in the armed forces.

"(2) The amount of the retired pay as recomputed under another provision of this section and as increased under paragraph (1) may not exceed the amount equal to 75 percent of the retired pay base upon which the recomputation of such retired pay is based.

"(3) The determination of the Secretary concerned as to extraordinary heroism is conclusive for all purposes.".

(c) PROSPECTIVE APPLICABILITY.—No benefits shall accrue for months beginning before the date of the enactment of this Act by reason of the amendments made by this section.

SEC. 616. AUTHORIZED BENEFITS UNDER SPECIAL SEPARATION BENEFITS PROGRAMS.

(a) TRAVEL AND TRANSPORTATION BENEFITS.—Subsection (b)(2)(B) of section 1174a of title 10, United States Code, is amended by inserting after "chapter 58 of this title" the following: ", sections 404 and 406 of title 37, and section 503(c) of the National Defense Authorization Act for Fiscal Year 1991 (104 Stat. 1558; 37 U.S.C. 406 note)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of December 5, 1991.

SEC. 617. RETIRED PAY FOR PERSONS WHO WERE RESERVES OF AN ARMED FORCE BEFORE AUGUST 16, 1945.

(a) ELIGIBILITY FOR RETIRED PAY FOR NONREGULAR SERVICE.—Section 1331(c) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(3) he performed at least 20 years of service (computed under section 1332 of this title) after August 15, 1945.".

(b) EXCLUSION OF CERTAIN SERVICE FOR PURPOSES OF DETERMINING ENTITLEMENT FOR RETIRED PAY.—Section 1332(b) of such title is amended by adding at the end the following new paragraph:

"(8) Service before August 16, 1945, if eligibility for retired pay is based on section 1331(c)(3) of this title.".

(c) EXCLUSION OF CERTAIN SERVICE FOR PURPOSES OF COMPUTING RETIRED PAY.—Section 1333 of such title is amended—

(1) by striking out "For" and inserting in place thereof "(a) Except as provided in subsection (b), for"; and

(2) by adding the following new subsection:

"(b) Service before August 16, 1945, may not be counted under subsection (a) if eligibility for retired pay is based on section 1331(c)(3) of this title.".

SEC. 618. REFERENCES RELATING TO TRAVEL AND TRANSPORTATION BENEFITS.

Section 404(e) of title 37, United States Code, is amended—

(1) by striking out "Military Airlift Command" and inserting in lieu thereof "Air Mobility Command"; and

(2) by striking out "or Naval Aircraft Ferrying Squadrons," and inserting in lieu thereof "Naval Aircraft Ferrying Squadrons, or any other unit determined by the Secretary concerned to be performing duties similar to the duties performed by such command or squadrons,".

SEC. 619. SUBSISTENCE REIMBURSEMENT RELATING TO ESCORTS OF FOREIGN ARMS CONTROL INSPECTION TEAMS.

(a) TRAVEL ALLOWANCE.—(1) Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 434. Subsistence reimbursement relating to escorts of foreign arms control inspection teams

"(a) Under uniform regulations prescribed by the Secretaries concerned, a member of the armed forces may be reimbursed for the reasonable cost of subsistence incurred by the member while performing duties as an escort of an arms control inspection team of a foreign country, or any member of such a team, while the team or the team member, as the case may be, is engaged in activities related to the implementation of an arms control treaty or agreement.

"(b) The authority under subsection (a) applies to the period during which the inspection team, pursuant to authority specifically provided in the applicable arms control treaty or agreement, is in the country where inspections and related activities are being conducted by the team pursuant to that treaty or agreement.

"(c) The authority under subsection (a) applies to a member of the armed forces whether the duties referred to in that subsection are performed at, near, or away from the member's permanent duty station.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by adding at the end the following new item:

"434. Subsistence reimbursement relating to escorts of foreign arms control inspection teams.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to duty performed on or after the date of the enactment of this Act.

TITLE VII—HEALTH CARE PROVISIONS

SEC. 701. APPOINTMENT OF CHIROPRACTORS AS COMMISSIONED OFFICERS.

(a) ARMY.—(1) Section 3068(a)(5) of title 10, United States Code, is amended—

(A) by striking out "and" at the end of subparagraph (D);

(B) by redesignating subparagraph (E) as subparagraph (F); and

(C) by inserting after subparagraph (D) the following new subparagraph:

"(E) the Chiropractic Section; and".

(2)(A) Chapter 335 of title 10, United States Code, is amended by inserting after section 3283 the following new section 3284:

"§ 3284. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Army may be appointed a regular commissioned officer in the Medical Service Corps of the Army.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3283 the following new item:

"3284. Appointment of chiropractors as commissioned officers.".

(3)(A) Chapter 337 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 3397. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Army may be appointed a reserve commissioned officer in the Medical Service Corps of the Army.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3396 the following new item:

"3397. Appointment of chiropractors as commissioned officers.".

(b) NAVY.—(1) Chapter 539 of such title is amended by inserting after the table of sections for such chapter the following new section 5571:

"§ 5571. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Navy may be appointed a regular commissioned officer or a reserve commissioned officer in the Medical Corps of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by inserting above the item relating to section 5582 the following new item:

"5571. Appointment of chiropractors as commissioned officers.".

(c) AIR FORCE.—(1) Section 8067 of such title is amended—

(A) by redesignating subsections (g), (h), and (i) as subsections (h), (i), and (j), respectively; and

(B) by inserting after subsection (f) the following new subsection (g):

"(g) Chiropractic functions in the Air Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary and who are designated as chiropractic officers.".

(2)(A) Chapter 835 of title 10, United States Code, is amended by inserting after section 8281 the following new section 8284:

"§ 8284. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Air Force may be appointed a regular commissioned officer in the Air Force for designation as a chiropractic officer.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8281 the following new item:

"8284. Appointment of chiropractors as commissioned officers.".

(3)(A) Chapter 837 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 8397. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Air Force may be appointed a reserve commissioned officer in the Air Force for designation as a chiropractic officer.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8396 the following new item:

"8397. Appointment of chiropractors as commissioned officers.".

(4) Section 8579 of such title is amended—

(A) by striking out "or biomedical sciences officer" and inserting in lieu thereof "biomedical sciences, or chiropractic officer"; and

(B) by striking out "or (i) of section 8067" and inserting in lieu thereof "(g), or (j) of section 8067".

(5) Section 8848(b) of such title is amended by striking out "section 8067 (a)-(d) or (g)-(i)" and inserting in lieu thereof "any of subsections (a) through (d) or (g) through (j) of section 8067".

SEC. 702. REVISIONS TO DEPENDENTS' DENTAL PROGRAM UNDER CHAMPUS.

(a) REPEAL OF AUTHORITY TO ESTABLISH SUPPLEMENTAL PLANS.—Section 1076a of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out "and supplemental" in the first sentence; and

(B) by striking out the last sentence;

(2) in subsection (b), by striking out paragraph (3);

(3) in subsection (d)—

(A) by striking out paragraph (2);

(B) by striking out "(1)" before "A basic"; and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(4) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) COPAYMENTS.—A member whose spouse or child receives care under a basic dental benefits plan shall—

"(1) pay no charge for care described in subsection (d)(1); and

"(2) pay 20 percent of the charges for care described in subsection (d)(2).".

(b) PREMIUM INCREASE.—Subsection (b)(2) of such section is amended by striking out "$10" and inserting in lieu thereof "$20".

(c) IMPROVEMENT IN BENEFITS.—Subsection (d) of such section, as amended by subsection (a)(3) of this section, is further amended by adding at the end the following new paragraph:

"(3) Orthodontic services, crowns, gold fillings, bridges, and complete or partial dentures.".

(d) COPAYMENT FOR ADDITIONAL BENEFITS.—Subsection (e) of such section, as amended by subsection (a)(4) of this section, is further amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(3) pay a percentage of the charges for care described in subsection (d)(3) that is determined appropriate by the Secretary of Defense, after consultation with the other administering Secretaries.".

(e) PROGRAM OF IMPROVED DEPENDENTS' DENTAL BENEFITS.—(1) The Secretary of Defense, after consulting with the other administering Secretaries, shall devise and implement a program for the improvement of the provision of dental benefits to dependents of members of the Armed Forces under the Civilian Health and Medical Program of the Uniformed Services.

(2) In this subsection:

(A) The term "administering Secretaries" has the meaning given such term in section 1072(3) of title 10, United States Code.

(B) The term "Civilian Health and Medical Program of the Uniformed Services" has the meaning given that term in section 1072(4) of such title.

(3) Of the funds appropriated pursuant to the authorization of appropriations in section 301, $80,000,000 shall be available to the Secretary of Defense for carrying out paragraph (1).

(f) EFFECTIVE DATES AND SAVINGS PROVISION.—(1) The amendments made by subsections (a) and (b) shall take effect on the first day of the first month that begins after the date of the enactment of this Act. The amendments made by subsections (c) and (d) shall take effect on the date of the enactment of this Act.

(2) Spouses and children who, on the day before the date of the enactment of this Act, are covered by enrollments in supplemental dental benefits plans established under section 1076a of title 10, United States Code, may continue to receive benefits under such plan until the first day of the sixth month that begins after such date, subject to the premium requirement provided in paragraph (3) of section 1076a of title 10, United States Code, as such paragraph was in effect on the day before the effective date of the amendments made by subsection (a).

SEC. 703. SENSE OF CONGRESS REGARDING HEALTH CARE POLICY FOR THE UNIFORMED SERVICES.

It is the sense of Congress that—

(1) members and former members of the uniformed services, and their dependents and survivors, should have access to health care under the health care delivery system of the uniformed services regardless of the age or health care status of the person seeking the health care;

(2) such health care delivery system should include a comprehensive managed care plan;

(3) the comprehensive managed care plan should involve medical personnel of the uniformed services (including reserve component personnel), civilian health care professionals of the executive agency of such uniformed services, medical treatment facilities of the uniformed services, contract health care personnel, and the medicare system;

(4) the Secretary of Defense, the Secretary of Health and Human Services, and the Secretary of Transportation should continue to provide active duty personnel of the uniformed services with free care in medical treatment facilities of the uniformed services and to provide the other personnel referred to in paragraph (1) with health care at minimal cost to the recipients of the care; and

(5) the Secretaries referred to in paragraph (4) should offer additional health care options to the personnel referred to in paragraph (1) including, in the case of persons eligible for medicare under title XVIII of the Social Security Act, options providing for—

(A) the reimbursement of the Department of Defense by the Secretary of Health and Human Services for health care services provided such personnel at medical treatment facilities of the Department of Defense; and

(B) the sharing of the payment of the costs of contract health care by the Department of Defense and the Department of Health and Human Services, with one such department being the primary payer of such costs and the other such department being the secondary payer of such costs.

SEC. 704. MILITARY HEALTH CARE FOR PERSONS RELIANT ON HEALTH CARE FACILITIES AT BASES BEING CLOSED AND REALIGNED.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a joint services working group on the provision of military health care to persons who rely for health care on health care facilities at military installations being closed or realigned.

(b) MEMBERSHIP.—The members of the working group shall include the Assistant Secretary of Defense for Health Affairs, the Surgeon General of the Army, the Surgeon General of the Navy, the Surgeon General of the Air Force, or a designee of each such person, and one independent member appointed by the Secretary of Defense from among private citizens whose interest in matters within the responsibility of the working group qualify that person to represent all personnel entitled to health care under chapter 55 of title 10, United States Code.

(c) DUTIES.—(1) In the case of each closure or realignment of a military installation that will adversely affect the accessibility of health care in a facility of the uniformed services for persons entitled to such health care under chapter 55 of title 10, United States Code, the working group shall solicit the views of such persons regarding suitable substitutes for the furnishing of health care to those persons under that chapter.

(2) In carrying out paragraph (1), the working group—

(A) shall conduct meetings with persons referred to in that paragraph, or representatives of such persons;

(B) may use reliable sampling techniques;

(C) shall visit the areas where closures and realignments of military installations will adversely affect the accessibility of health care in a facility of the uniformed services for persons referred to in paragraph (1) and shall conduct public meetings; and

(D) shall ensure that members of the uniformed services on active duty, members and former members of the uniformed services entitled to retired or retainer pay, and dependents and survivors of such members and retired personnel are afforded the opportunity to express views.

(d) RECOMMENDATIONS.—With respect to each closure and realignment of a military installation referred to in subsection (c), the working group shall submit to the Congress and the Secretary of Defense the working group's recommendations regarding the alternative means for continuing to provide accessible health care under chapter 55 of title 10, United States Code, to persons referred to in that subsection.

(e) APPLICATION OF ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the joint services working group established pursuant to this section.

SEC. 705. PROGRAMS RELATING TO THE SALE OF PHARMACEUTICALS.

(a) PHARMACEUTICALS BY MAIL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense, in consultation with the administering Secretaries, shall—

(1) establish a program that permits eligible persons to obtain prescription pharmaceuticals by mail in connection with medical care furnished to such persons under chapter 55 of title 10, United States Code; and

(2) conduct the program in two or more regions selected by the Secretary, each of which consists of two or more States.

(b) RETAIL PHARMACY NETWORK.—(1) Not later than 18 months after such date, the Secretary of Defense, in consultation with the administering Secretaries, shall carry out the demonstration project described in paragraph (2).

(2) Under the demonstration project, the Secretary shall enter into one or more contracts or otherwise provide for the supply of prescription pharmaceuticals to eligible persons through a network of local retail pharmacies. The Secretary shall carry out the demonstration project in a region (selected by the Secretary) consisting of two or more States.

(c) ELIGIBLE PERSONS.—A person eligible to obtain pharmaceuticals under the program under subsection (a) or the demonstration project under subsection (b) is any person living in a State covered by the program or project who—

(1) is entitled to medical care under a contract for medical care entered into by the Secretary of Defense under section 1079 or 1086 of title 10, United States Code; or

(2) is over 65 years of age and resides in an area (as determined by the Secretary) that is affected by the closure of a health care facility of the uniformed services as a result of the closure or realignment of the military installation at which such facility is located.

(d) PURCHASE FEES.—(1) The Secretary of Defense, in consultation with the administering Secretaries, shall determine for the program and the demonstration project—

(A) subject to paragraph (2), the pharmaceuticals that may be obtained by eligible persons under the program or the demonstration project; and

(B) an appropriate fee, charge, or copayment to be paid by such persons for such pharmaceuticals obtained under the program or demonstration project.

(2) The Secretary shall, to the maximum extent practicable, ensure that the pharmaceuticals obtained under the program and the project are generic pharmaceuticals. The Secretary may provide that name brand pharmaceuticals be obtained in such circumstances as the Secretary of Defense determines appropriate.

(e) REPORT.—Not later than 2 years after the establishment of the program under subsection (a) and the demonstration project under subsection (b), the Secretary of Defense shall submit to Congress a report on the following:

(1) In the case of the program, the results of the program, recommendations, if any, for revision of the program, and a plan (including a schedule) for implementing the program throughout the United States.

(2) In the case of the demonstration project, the results of the project and the recommendations of the Secretary with respect to the advisability of making the project permanent.

(f) DEFINITIONS.—In this section, the terms "uniformed services" and "administering Secretaries" have the meanings given those terms in section 1072 of title 10, United States Code.

SEC. 706. ANNUAL BENEFICIARY SURVEY.

The administering Secretaries referred to in section 1072 of title 10, United States Code, shall conduct annually a formal survey of persons receiving health care under chapter 55 of such title in order to determine the following:

(1) The availability of health care services to such persons through the health care system provided for under that chapter, the types of services received, and the facilities in which the services were provided.

(2) The familiarity of such persons with the services available under that system and with the facilities in which such services are provided.

(3) The health of such persons.

(4) The level of satisfaction of such persons with that system and the quality of the health care provided through that system.

(5) Such other matters as the administering Secretaries determine appropriate.

SEC. 707. MAXIMUM ANNUAL AMOUNT FOR DEDUCTIBLES AND COPAYMENTS.

(a) REDUCED MAXIMUM ANNUAL AMOUNT.—Section 1086(b)(4) of title 10, United States Code, is amended by striking out "$10,000" and inserting in lieu thereof "$7,500".

(b) APPLICABILITY AFTER FISCAL YEAR 1992.—The amendment made by subsection (a) shall apply with respect to fiscal years beginning after September 30, 1992.

SEC. 708. CONTINUATION OF CHAMPUS COVERAGE FOR CERTAIN MEDICARE PARTICIPANTS.

(a) INCLUSION OF END STAGE RENAL DISEASE PATIENTS.—Section 1086(d)(2)(A) of title 10, United States Code, is amended by inserting before the semicolon the following: "or section 226A(a) of such Act (42 U.S.C. 426-1(a))".

(b) COVERAGE OF CARE PROVIDED SINCE SEPTEMBER 30, 1991.—The amendment made by subsection (a), and the amendment made by section 704(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1401), shall apply with respect to health care benefits or services received after September 30, 1991, by a person described in subsection (d)(2) of section 1086 of title 10, United States Code, if such benefits or services would have been covered under a plan contracted for under such section 1086.

(c) CONFORMING AMENDMENTS.—(1) Section 704 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1401) is amended by striking out subsection (c).

(2) Section 8097 of the Department of Defense Appropriations Act, 1992 (Public Law 102-172; 105 Stat. 1197), is repealed.

SEC. 709. HOME HEALTH SERVICES UNDER CHAMPUS.

(a) ELIGIBILITY.—Section 1079(a) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (15):

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(17) home health services and other services (including services described in paragraphs (1) through (16)) in connection with extraordinary physical or psychological conditions may be provided only through a program of individualized case management established by the Secretary of Defense and in a manner determined (under regulations prescribed by the Secretary) to be cost-effective and appropriate.".

(b) CONFORMING AMENDMENT.—Section 1077 of such title is amended—

(1) by adding at the end of subsection (a) the following new paragraph:

"(15) Home health services."; and

(2) in subsection (b), by striking out "The following" and inserting in lieu thereof "Except as provided in subsection (a)(15), the following".

SEC. 710. MEDICARE REIMBURSEMENT TO DEPARTMENT OF DEFENSE.

(a) DEMONSTRATION PROJECT REQUIRED.—The Secretary of Defense and the Secretary of Health and Human Services shall jointly conduct a demonstration project that provides for the Secretary of Health and Human Services to reimburse the Department of Defense for health care services furnished to medicare-eligible persons at a health care facility of the Department of Defense under chapter 55 of title 10, United States Code.

(b) REIMBURSEMENT AMOUNT.—The amount of the reimbursement paid under the demonstration project for any item or service provided at a health care facility of the Department of Defense may not exceed 85 percent of the amount of the reimbursement that would be paid to a provider of services for the applicable diagnosis-related group under title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

(c) SOURCE OF REIMBURSEMENT PAYMENTS.—Payments under the demonstration project shall be made out of the Federal Hospital Insurance Trust Fund.

(d) PROJECT REQUIREMENTS.—(1) The demonstration project shall be conducted for a period of 4 years.

(2) At least 3, and not more than 7, health care facilities referred to in subsection (a) shall participate in the demonstration project.

(e) USE OF REIMBURSEMENTS.—The amounts paid to the Department of Defense under the demonstration project for health care services furnished at a health care facility of the department shall be available to the commander of that facility for the fiscal year in which the reimbursement is received and the following fiscal year. Such amounts shall be available for—

(1) furnishing health care services at that facility;

(2) expanding the amount and types of health care services furnished at that facility; and

(3) improving the efficiency of the use of space at that facility.

(f) REPORT.—(1) The Secretary of Defense and the Secretary of Health and Human Services shall provide by contract for a person outside the Federal Government to evaluate the results of the demonstration project.

(2) Not later than 1 year before the termination of the demonstration project, the person performing the evaluation required by paragraph (1) shall submit to Congress a report on the results of the project. The report shall contain—

(A) a discussion of the results of the projects;

(B) the person's conclusions regarding the advisability of providing for permanent implementation of a reimbursement procedure for health care services furnished at a health care facility of the Department of Defense similar to the procedure tested under the demonstration project; and

(C) any recommendations for legislation that the person considers appropriate.

(g) DEFINITION.—In this section:

(1) The term "medicare-eligible person" means a person who is eligible for benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

(2) The term "provider of services" has the meaning given that term in section 1079(j)(2) of title 10, United States Code.

SEC. 711. STUDY ON RISK-SHARING CONTRACTS FOR HEALTH CARE.

Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall—

(1) carry out a study of the feasibility and advisability of entering into risk-sharing contracts with eligible organizations de-

scribed in section 1876 of the Social Security Act (42 U.S.C. 1395mm) to furnish health care services to persons entitled to health care in a facility of a uniformed service under section 1074(b) or 1076(b) of title 10, United States Code;

(2) if the Secretary determines that entry into such contracts is feasible and advisable, develop a plan for the entry into such contracts in accordance with the Secretary's determinations under the study; and

(3) submit to Congress a report on the results of the study and on the plan.

SEC. 712. COMPREHENSIVE STUDY OF THE MILITARY MEDICAL CARE SYSTEM.

Section 733 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 1071 note) is amended—

(1) in subsection (b), by inserting after paragraph (2) the following new paragraph:

"(3) A comprehensive review of the Federal employees health benefits program under chapter 89 of title 5, United States Code, in order to determine whether furnishing health care under a similar program to persons entitled to health care under chapter 55 of title 10, United States Code, would result in the effective provision of health care to such persons and would be cost effective."; and

(2) in subsection (d)—

(A) by redesignating paragraph (12) as paragraph (13); and

(B) by inserting after paragraph (11) the following new paragraph (12):

"(12) A discussion of the results of the review under subsection (b)(3) and the Secretary's recommendations of the basis of those results.".

SEC. 713. NATIONAL CLAIMS PROCESSING CENTER FOR CHAMPUS.

(a) REQUIREMENT.—(1) The Secretary of Defense, in consultation with the administering Secretaries, shall provide by contract for the operation of a claims processing center to be known as the "National Centralized Claims Processing System for CHAMPUS". The contract shall provide for the center to commence operations not later than 5 years after the date of the enactment of this Act.

(2) The Secretary shall use competitive procedures for entering into the contract under paragraph (1).

(b) CENTER ACTIVITIES.—The claims processing center shall—

(1) maintain in electronic and written form appropriate information on health care services provided to covered beneficiaries by or through third parties under CHAMPUS or any alternative CHAMPUS program or demonstration project, including information on—

(A) the services to which such beneficiaries are entitled or eligible under an insurance plan, medical service plan, or health plan under CHAMPUS;

(B) the insurers, medical services, or health plans that provide such services; and

(C) the services available to beneficiaries under each insurance plan, medical service plan, or health plan, and the payment required of the beneficiaries and the insurer, medical service, or health plan for such services under the plan;

(2) receive in electronic or written form claims submitted by insurers, medical services, and health plans for services provided to covered beneficiaries;

(3) process, adjudicate, and pay (by electronic or other means) such claims; and

(4) provide the information described in paragraphs (1) and (2) and information on the matters referred to in paragraph (3) by telephone or other electronic means to covered beneficiaries, insurers, medical services, and health plans.

(c) ADDITIONAL REQUIREMENT.—The Secretary shall ensure, to the maximum extent practicable, that claims submitted as described in subsection (b)(2) conform to the requirements applicable to claims submitted to the Secretary of Health and Human Services with respect to medical care provided under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

(d) IDENTIFICATION CARD.—The Secretary shall take appropriate actions to determine whether the use by covered beneficiaries of a standard identification card containing electronically readable information will enhance the capability of the claims processing center to carry out the matters set forth in subsection (b).

(e) DEFINITIONS.—In this section:

(1) The terms "administering Secretaries" and "covered beneficiary" have the meanings given such terms in paragraphs (3) and (5) of section 1072 of title 10, United States Code, respectively.

(2) The term "CHAMPUS" means the Civilian Health and Medical Program of the Uniformed Services, as defined in paragraph (4) of that section.

SEC. 714. ALTERNATIVE HEALTH CARE DELIVERY METHODOLOGIES.

(a) CONTINUATION OF HEALTH CARE REFORM INITIATIVES.—(1) During fiscal years 1993 through 1996, the Secretary of Defense shall continue to test a broad array of reform options for furnishing health care to persons who are eligible to receive health care under chapter 55 of title 10, United States Code.

(2) The health care reform options tested in accordance with paragraph (1) shall include CHAMPUS alternatives, the CHAMPUS Reform Initiative, catchment area management, coordinated care, and such other options as the Secretary of Defense considers appropriate.

(3) During fiscal year 1994, the Secretary shall conduct a study of the health care reform options tested as described in paragraph (1). The study shall compare the cost effectiveness of such options and the extent to which the persons who received health care under those options are satisfied with that health care. The Secretary shall report the results of the study to Congress.

(b) CONTINUATION OF CHAMPUS REFORM INITIATIVE IN HAWAII AND CALIFORNIA.—(1) The Secretary of Defense shall ensure that a replacement or successor contract for the CHAMPUS Reform Initiative contract applicable to California and Hawaii is awarded in sufficient time for the contractor to begin to provide health care in California and Hawaii under the replacement or successor contract not later than August 1, 1993.

(2) The Secretary shall use competitive procedures for awarding a replacement or successor contract under paragraph (1).

(3)(A) Not later than June 1, 1994, the Secretary of Defense shall provide by contract for a person outside the Federal Government to perform an evaluation of the conduct of the CHAMPUS Reform Initiative in Hawaii and California. The evaluation shall cover each of the fiscal years during which the initiative is carried out in such States under the replacement or successor contract referred to in paragraph (1) and under the predecessor contracts. The evaluation shall include a comparison of the cost savings and claims experience resulting in each such fiscal year from carrying out the initiative in such States.

(B) Not later than 1 year after the date on which the contract for evaluation is entered into under subparagraph (A), the person making the evaluation shall submit to the Secretary of Defense and to Congress a report on the results of the evaluation.

(c) INCLUSION OF POSITIVE INCENTIVES FOR ENROLLMENT UNDER THE COORDINATED CARE PROGRAM.—(1) The Secretary of Defense shall modify the Policy Guidelines on the Department of Defense Coordinated Care Program to provide covered beneficiaries with additional positive incentives to enroll in the coordinated care program of the Department of Defense.

(2) The incentives may include—

(A) a reduction of the copayment and deductibles prescribed under sections 1079 and 1086 of title 10, United States Code, for covered beneficiaries who enroll in the coordinated care program;

(B) alternative cost-sharing requirements for certain types of care; and

(C) an expansion of the benefits provided under the coordinated care program beyond the benefits authorized under CHAMPUS.

(2) The modifications required under paragraph (1) shall permit health care demonstration projects in existence on the date of the enactment of this Act (including the CHAMPUS Reform Initiative, the catchment area management projects, the CHAMPUS select fiscal intermediary program in the Southeast Region, and the managed health care programs established in the Tidewater region of Virginia) and future managed care health care incentives undertaken by the Department of Defense to offer covered beneficiaries not enrolled in the coordinated care program the opportunity to use a preferred provider network of health care providers.

(3) In determining what level and types of positive incentives are likely to induce covered beneficiaries to enroll in the coordinated care program, the Secretary shall take into consideration the extent to which covered beneficiaries not enrolled in the program are permitted to choose health care providers without prior referral or approval.

(4) Subject to the availability of space and facilities and the capabilities of the medical or dental staff, the Secretary of Defense may not deny access to military treatment facilities to covered beneficiaries who do not enroll in the coordinated care program. However, the Secretary may establish reasonable admission preferences for covered beneficiaries enrolled in the program as an incentive to encourage enrollment.

(d) DEFINITIONS.—In this section:

(1) The term "CHAMPUS" has the meaning given the term "Civilian Health and Medical Program of the Uniformed Services", as defined in section 1072(4) of title 10, United States Code.

(2) The term "covered beneficiary" has the meaning given that term in section 1072(5) of such title.

(3) The term "CHAMPUS Reform Initiative" has the meaning given that term in section 702(d)(1) of the Department of Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 1073 note).

(4) The term "catchment area management" means the methodology provided for demonstration in accordance with section 731 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (10 U.S.C. 1092 note).

(5) The term "Policy Guidelines on the Department of Defense Coordinated Care Program" means the Policy Guidelines on the Department of Defense Coordinated Care Program that were issued by the Assistant Secretary of Defense for Health Affairs on January 8, 1992.

SEC. 715. MEDICAL AND DENTAL CARE FOR CERTAIN INCAPACITATED DEPENDENTS.

(a) EXCLUSION OF CERTAIN INCAPACITATED DEPENDENTS FROM CHAMPUS COVERAGE.—Section 1086(c) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "and 1072(2)(I)" after "section 1072(2)(E)"; and

(2) in paragraph (2), by inserting "or 1072(2)(I)" after "section 1072(E)".

(b) APPLICABILITY OF EXCLUSION.—Section 1072(2) of title 10, United States Code, is amended—

(1) by striking out subparagraph (D) and inserting in lieu thereof the following:

"(D) an unmarried legitimate child, including an adopted child or stepchild, who—

"(i) has not passed his twenty-first birthday;

"(ii) has not passed his twenty-third birthday, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary and is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support; or

"(iii) is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a member or former member under clause (i) or (ii) and is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support;";

(2) by striking out "and" at the end of subparagraph (G);

(3) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof a semicolon and "and"; and

(4) by inserting after subparagraph (H) the following new subparagraph:

"(I) an unmarried legitimate child, including an adopted child or stepchild, who is incapable of self-support because of a mental or physical incapacity that did not exist while the child was a dependent of a member or former member under subparagraph (D)(i) or (D)(ii) and is, or was at the time of the member's or former member's death, dependent on him for over one-half of his support.".

SEC. 716. REPRODUCTIVE HEALTH SERVICES IN MEDICAL FACILITIES OF THE UNIFORMED SERVICES OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1074c the following new section:

"§ 1074d. Reproductive health services in medical facilities of the uniformed services outside the United States

"(a) PROVISION OF SERVICES.—A member of the uniformed services who is on duty at a station outside the United States (and any dependent of the member who is accompanying the member) is entitled to the provision of any reproductive health service in a medical facility of the uniformed services outside the United States serving that duty station in the same manner as any other type of medical care.

"(b) PAYMENT FOR SERVICES.—(1) In the case of any reproductive health service for which appropriated funds may not be used, the administering Secretary shall require the member of the uniformed service (or dependent of the member) receiving the service to pay the full cost (including indirect costs) of providing the service.

"(2) If payment is made under paragraph (1), appropriated funds shall not be considered to have been used to provide a reproductive health service under subsection (a). The amount of such payment shall be credited to the accounts of the facility at which the service was provided.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1074c the following new item:

"1074d. Reproductive health services in medical facilities of the uniformed services outside the United States.".

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Defense Conversion Policy for the National Defense Technology and Industrial Base

SEC. 801. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE POLICIES AND PLANNING.

(a) POLICIES AND PLANS FOR THE NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE.—Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 134 the following new chapter 135:

"CHAPTER 135—NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE

"Subchapter	Sec.
"I. Policies and Planning	2261
"II. Dual-Use Technologies	2271
"III. Manufacturing Technology	2281
"IV. Miscellaneous Technology Base Policies and Programs	2291
"V. Definitions	2300

"SUBCHAPTER I—POLICIES AND PLANNING

"Sec.
"2261. Policy.
"2262. National Defense Technology and Industrial Base Council.
"2263. National defense technology and industrial base assessment.
"2264. National defense technology and industrial base plan.
"2265. National Defense Center for Analysis of the Technology and Industrial Base.

"§ 2261. Policy

"(a) POLICY OBJECTIVES FOR THE NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE.—It is the policy of Congress that the national defense technology and industrial base be capable of meeting the following national security objectives:

"(1) Supplying and equipping the force structure of the armed forces that is necessary to achieve the objectives set forth in the national security strategy report submitted to Congress by the President pursuant to section 104 of the National Security Act of 1947 (50 U.S.C. 404a), the policy guidance of the Secretary of Defense provided pursuant to section 113(g) of this title, and the multiyear defense program submitted to Congress by the Secretary of Defense pursuant to section 114a of this title.

"(2) Sustaining production, maintenance, repair, and logistics for operations of various durations and intensity.

"(3) Maintaining advanced research and development activities to provide the armed forces with systems capable of ensuring technological superiority over potential adversaries.

"(4) Reconstituting within a reasonable period the capability to develop and produce supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a major war, major national emergency, or major mobilization of the armed forces before the commencement of that war, national emergency, or mobilization.

"(b) POLICY OBJECTIVES RELATING TO DEFENSE CONVERSION.—It is the policy of Congress that the United States seek to achieve the national defense technology and industrial base objectives set forth in subsection (a) through enhanced opportunities for conversion of defense-dependent businesses and industrial and technology base sectors to dual-use capabilities.

"(c) CIVIL-MILITARY INTEGRATION POLICY.—It is the policy of Congress that the United States attain the national defense technology and industrial base objectives set forth in subsection (a) through acquisition policy reforms that have the following objectives:

"(1) Relying, to the maximum extent practicable, upon the commercial national defense technology and industrial base that is required to meet the national security needs of the United States.

"(2) Reducing the reliance of the Department of Defense on technology and industrial sectors that are economically dependent on Department of Defense business.

"(3) Reducing Federal Government barriers to the use of commercial products, processes, and standards.

"§ 2262. National Defense Technology and Industrial Base Council

"(a) ESTABLISHMENT.—There is a National Defense Technology and Industrial Base Council.

"(b) COMPOSITION.—The Council is composed of the following members:

"(1) The Secretary of Defense, who shall serve as Chairman.

"(2) The Secretary of Energy.

"(3) The Secretary of Commerce.

"(c) RESPONSIBILITIES.—The Council shall have the following responsibilities:

"(1) To provide overall policy guidance and direction to the military departments and the Defense Agencies, to ensure effective cooperation among departments and agencies of the Federal Government, and to provide advice and recommendations to the President, the Secretary of Defense, and the Secretary of Energy concerning—

"(A) the capabilities of the national defense technology and industrial base to meet the national security objectives of the United States;

"(B) programs for achieving the defense conversion objectives set forth in section 2261(b) of this title; and

"(C) changes in acquisition policy that strengthen the national defense technology and industrial base.

"(2) To prepare annually the assessment and plan required by sections 2263 and 2264 of this title, respectively.

"§ 2263. National defense technology and industrial base assessment

"(a) COMPREHENSIVE ASSESSMENT.—The National Defense Technology and Industrial Base Council shall prepare a comprehensive annual assessment of the capability of the national defense technology and industrial base to attain each of the objectives set forth in section 2261 of this title.

"(b) SECTOR CAPABILITY ANALYSIS.—(1) The annual assessment shall include a sector capability analysis composed of the following matters:

"(A) An analysis of the role of each sector in attaining each of the objectives set forth in section 2261 of this title.

"(B) An analysis of the current and projected capability of each sector to attain each such objective for each of the following periods:

"(i) The fiscal year during which the assessment is submitted to Congress pursuant to section 2264(1) of this title.

"(ii) The following fiscal year.

"(iii) The multiyear period covered by the multiyear defense program submitted under section 114a of this title during the fiscal year referred to in clause (i).

"(2) The analysis required by paragraph (1)(B) shall include, for each sector for each period described in paragraph (1)(B), an analysis of the present and projected capabilities of prime contractors, subcontractors, the Defense Industrial Reserve under section 2292 of this title, and departments and agencies of the Federal Government with respect to each of the following:

"(A) Research and development, including research and development regarding the critical technologies identified under subsection (f).

"(B) Application of critical technologies to the production of goods and the furnishing of services.

"(C) Test and evaluation.

"(D) Low rate production.

"(E) High volume production.

"(F) Repair and maintenance.

"(G) Design and prototyping.

"(H) Work force skills and capabilities.

"(c) Foreign Dependency Considerations.—In the preparation of the annual assessment the Council shall consider, for each sector, the following factors:

"(1) The availability of essential raw materials, special alloys, composite materials, components, subsystems, production equipment, facilities, special tooling, and production test equipment for—

"(A) the sustained production of systems fully capable of meeting the performance objectives established for those systems;

"(B) the uninterrupted maintenance and repair of such systems; and

"(C) the sustained operation of such systems.

"(2) The identification of items specified in paragraph (1) that are available only from sources outside the national defense technology and industrial base.

"(3)(A) The availability of alternatives for obtaining such items from within the national defense technology and industrial base if such items become unavailable from sources outside the national defense technology and industrial base.

"(B) An analysis of any military vulnerability that could result from the lack of reasonable alternatives.

"(4) The effects on the national defense technology and industrial base that result from foreign acquisition of firms in the United States.

"(d) Financial Condition Analysis.—(1) The assessment shall include an analysis of the present and projected financial condition of each sector, for each period described in subsection (b)(1)(B).

"(2) In the analysis of the financial condition of each sector, the Council shall specifically consider the following matters:

"(A) Trends in the following:

"(i) Profitability.

"(ii) Levels of capital investment.

"(iii) Expenditures on research and development.

"(iv) Levels of debt.

"(B) The effects of actual and potential commercial sales.

"(C) The consequences of mergers, acquisitions, and takeovers.

"(D) The effects of Department of Defense financial policies, including the following:

"(i) Policies relating to progress payments or other financing by the Department of Defense.

"(ii) Policies relating to the return on contractor investment.

"(iii) Policies relating to the allocation of contract risk between the Department of Defense and a contractor.

"(E) The effects of expenditures in the sector by departments and agencies of the Federal Government other than the Department of Defense and the Department of Energy (for national security programs).

"(F) The analysis required by subsection (e).

"(e) Analysis of Impact of Department of Defense Reductions.—(1) The annual assessment shall include an analysis of the impact of the terminations and significant reductions of major research and development programs and procurement programs of the Department of Defense on the capability of each sector to attain each of the objectives set forth in section 2261 of this title.

"(2) The programs referred to in paragraph (1) are those programs in which a termination or significant reduction in expenditures—

"(A) has taken place in the fiscal year before the fiscal year in which the annual assessment is submitted to Congress pursuant to section 2264(l) of this title; or

"(B) is provided for—

"(i) in the budget submitted pursuant to section 1105(a) of title 31 in that fiscal year; and

"(ii) in the multiyear defense program submitted with such budget pursuant to section 114a of this title.

"(3) In this subsection, the term 'significant reduction', with respect to expenditures for a program for a fiscal year, means that the amount provided for that program for that fiscal year in the budget, Acts authorizing appropriations, appropriations Acts, or the multiyear defense program for that fiscal year is less than the amount provided for that program for the preceding fiscal year in the budget, Acts authorizing appropriations, appropriations Acts, or the multiyear defense program, respectively, for that preceding fiscal year by at least—

"(A) the greater of—

"(i) the amount equal to 10 percent of the amount provided for that preceding fiscal year; or

"(ii) $5,000,000; or

"(B) a lesser amount determined significant by the Secretary of Defense or the Council.

"(f) Critical Technology Analysis.—(1) The annual assessment shall include a critical technology analysis that identifies the product and process technologies that are most critical for attaining the technology and industrial base objectives set forth in section 2261 of this title. The number of technologies so identified may not exceed 20. The analysis shall be prepared in consultation with the Critical Technologies Institute.

"(2) For each technology, the analysis shall include the following:

"(A) The reasons for selection of that technology as a technology critical to the Department of Defense.

"(B) The potential dual-use applications of that technology.

"(C) The relationship between the activities of the Department of Defense and other Federal agencies in the development of that technology.

"(D) The potential contributions that the private sector can be expected to make from its own resources in connection with the development of civilian applications for such technology.

"(E) A comparison of the position of the United States to the positions of other nations in the development of that technology, including the potential contributions that other nations can make to meeting the needs of the United States for that technology.

"(g) Sector Viability Analysis.—(1) The annual assessment shall include an analysis, for each of the periods described in subsection (b)(1)(B), of the following matters:

"(A) The extent to which each sector is—

"(i) dependent on defense expenditures to ensure continued viability;

"(ii) dependent on a mix of defense and nondefense Federal Government expenditures to ensure continued viability;

"(iii) dependent on a mix of Federal Government expenditures and other Federal Government programs to ensure continued viability; and

"(iv) sufficiently integrated with the commercial marketplace to ensure continued viability regardless of the level of Federal Government expenditures in the sector.

"(B) The extent to which each sector is capable of—

"(i) ongoing production with a present capability for high volume production;

"(ii) maintenance of a production base that can be converted to high volume production within a reasonable period of time; or

"(iii) reconstitution of a production base that can reinstate high volume production within a reasonable period of time.

"(2) The analysis shall specifically identify any sectors and any entities within sectors that should be considered for inclusion in the Defense Industrial Reserve under section 2292 of this title.

"(3) In this section:

"(A) The term 'defense expenditure' means an expenditure by—

"(i) the Department of Defense; or

"(ii) the Department of Energy for a national security program.

"(B) The term 'continued viability' means the capability to attain the technology and industrial base objectives set forth in section 2261 of this title.

"(h) Issuance.—The Secretary of Defense shall prescribe by regulation a schedule for the completion of the annual assessment that ensures sufficient time for the consideration of the assessment in the preparation of the annual national defense technology and industrial base plan required by section 2264 of this title.

"§ 2264. National defense technology and industrial base plan

"(a) In General.—The National Defense Technology and Industrial Base Council shall prepare an annual plan for ensuring, to the maximum extent practicable, that the policies and programs of the Department of Defense, the Department of Energy, and other departments and agencies of the Federal Government are planned, coordinated, funded, and implemented in a manner designed to attain each of the technology and industrial base objectives set forth in section 2261 of this title. The Council shall take into account the annual national defense technology and industrial base assessment prepared pursuant to section 2263 of this title in preparing the annual plan.

"(b) Sector Viability Guidance.—The plan shall provide specific guidance, including goals, milestones, and priorities, for each of the following:

"(1) Programs and policies of the Federal Government that are necessary to ensure the continued viability of each sector that is identified in the annual assessment as being economically dependent in whole or in part upon Federal Government programs or policies.

"(2) Programs and policies of the Federal Government that are necessary in each such sector—

"(A) to reduce each economic dependency of such sector on foreign sources that could create a military vulnerability; and

"(B) to provide for alternative sources in the event that the foreign sources become unavailable.

"(3) The composition and management of the Defense Industrial Reserve under section 2292 of this title.

"(c) Manufacturing Technology Guidance.—The plan shall provide specific guidance, including goals, milestones, and priorities, for the following:

"(1) The National Defense Manufacturing Technology Program established under section 2281 of this title.

"(2) The support of manufacturing extension programs under section 2283 of this title.

"(3) Programs to enhance basic research in scientific disciplines relating to manufacturing technology through—

"(A) encouraging research in colleges and universities in the United States and in associated centers of excellence; and

"(B) establishing technology transfer mechanisms, and technology education and training mechanisms, that ensure that the results of such research are readily available to United States industry.

"(4) Programs for encouraging the use of computer-integrated manufacturing to improve manufacturing quality, reduce manufacturing costs, reduce production lead times, and improve maintenance.

"(5) Programs for enhancing Department of Defense use of concurrent engineering practices in the design and development of weapon systems.

"(6) Programs providing incentives for firms in the national defense technology and industrial base to use advanced manufacturing technology and processes and to invest in improved productivity.

"(d) Critical Technologies Guidance.—For each defense critical technology, the plan shall contain the following:

"(1) Specific guidance, including goals, milestones, and priorities, with respect to the development of the technology.

"(2) The specific funding requirements of the Department of Defense, the Department of Energy, and other departments and agencies of the Federal Government for the development of the technology for the 5 fiscal years following the fiscal year in which the plan is submitted pursuant to subsection (l).

"(3) A designation of the lead organization within the Department of Defense or the Department of Energy to be responsible for the development of the technology.

"(4) A summary description of the lead organization's plan for the development of the technology, including the milestone goals.

"(e) Integrated Financing Guidance.—The plan shall provide specific guidance, including goals, milestones, and priorities, to ensure that the financial policies of the Department of Defense and Department of Energy (for national security programs), including the policies identified in section 2263(d)(2)(D) of this title, are designed to meet the industrial and technology base policies set forth in section 2261 of this title.

"(f) Civil-Military Integration Guidance.—The plan shall provide specific guidance, including goals, milestones, and priorities, to encourage the effective integration of commercial products and processes into Federal Government acquisition practices with respect to the following:

"(1) Expanding the use of commercial specifications in place of Federal Government specifications.

"(2) Increasing the use of commercial manufacturing processes instead of processes specified by the Federal Government.

"(3) Reducing the extent of unique government regulatory requirements relating to accounting and acquisition.

"(4) Identifying and ensuring the effective application by the Department of Defense and the Department of Energy (for national security programs) of research, technologies, products, information, and practices developed by other departments and agencies of the Federal Government, State and local governments, colleges and universities, nonprofit organizations, and commercial enterprises.

"(5) Identifying effective mechanisms for transferring technology and related information, to the maximum extent practicable, from the Department of Defense and Department of Energy to other departments and agencies of the Federal Government, State and local governments, colleges and universities, nonprofit organizations, and commercial enterprises.

"(6) Ensuring, to the maximum extent practicable, that technology and related information are so transferred.

"(g) Defense Conversion Guidance.—The plan shall provide specific guidance, including goals, milestones, and priorities, for providing sectors and businesses at least partially dependent economically on national security expenditures with Federal Government assistance to convert from that dependence to economic viability without such dependence.

"(h) Technology and Industrial Base Work Force Guidance.—The plan shall provide specific guidance, including goals, milestones, and priorities, to enhance the skills and capabilities of the work force in the national defense technology and industrial base.

"(i) Major Program Acquisition Guidance.—The plan shall provide specific guidance, including goals, milestones, and priorities, for enhancing the effectiveness of the major defense acquisition program regulations prescribed pursuant to section 2439 of this title.

"(j) Acquisition Reform Guidance.—(1) The plan shall include any recommended legislation that the Council considers appropriate for eliminating any adverse effect of Federal law on the capability of the national defense technology and industrial base to attain the objectives set forth in section 2261 of this title.

"(2) The plan shall provide specific guidance to ensure that maximum use is made of authority to waive regulations or conduct test programs in pursuit of such objectives.

"(k) Funding.—The plan shall ensure effective implementation of the guidance issued under this section by establishing funding priorities for each area of guidance identified under subsections (b) through (h) for each of the periods described in section 2263(b)(1)(B) of this title.

"(l) Issuance.—(1) The Secretary of Defense shall provide the annual plan to the Secretaries of the military departments and the heads of the other elements of the Department of Defense not later than the date on which the Secretary provides such officials with the guidance required by section 113(g)(1) of this title. The Secretary of Energy and the Secretary of Commerce shall provide such guidance to appropriate officials within their respective departments.

"(2) The Secretary of Defense shall transmit to Congress, not later than March 31 of each year—

"(A) the plan prepared under this section, including any changes necessary to reflect the budget submitted by the President during that year under section 1105 of title 31; and

"(B) the national defense technology and industrial base assessment prepared pursuant to section 2263 of this title that pertains to such plan and budget.

"(3) The plan and assessment shall be submitted to Congress in classified and unclassified forms. Proprietary information that may be withheld from disclosure under section 552 of title 5 shall be provided only in the classified version.

"§ 2265. National Defense Center for Analysis of the Technology and Industrial Base

"(a) Establishment.—(1) The National Defense Technology and Industrial Base Council shall establish a federally funded research and development center to be known as the 'National Defense Center for Analysis of the Technology and Industrial Base'.

"(2) The Center shall be an element of the defense acquisition university structure established under section 1746 of this title.

"(3) As determined by the Chairman of the Council, the Center shall be—

"(A) administered as a separate entity by an organization managing another federally funded research and development center; or

"(B) incorporated as a nonprofit membership corporation consisting of a consortium of other federally funded research and development centers and other nonprofit entities.

"(4) The Chairman shall ensure that there is appropriate consultation and coordination between the Center and the Critical Technologies Institute.

"(b) Operating Committee.—The Center shall have an operating committee composed of 3 members as follows:

"(1) The Under Secretary of Defense for Acquisition, or his designee, who shall serve as Chairman of the operating committee.

"(2) An official designated by the Secretary of Energy.

"(3) An official designated by the Secretary of Commerce.

"(c) Duties.—The duties of the Center shall include, with respect to the national defense technology and industrial base, the following:

"(1) The assembly of timely and authoritative information.

"(2) Initiation of studies and analyses.

"(3) Provision of technical support and assistance to—

"(A) the Council in the preparation of the annual assessment required by section 2263 of this title and the annual plan required by section 2264;

"(B) the defense acquisition university structure and its elements; and

"(C) other departments and agencies of the Federal Government in accordance with guidance established by the Council.

"(4) Dissemination, through the National Technical Information Service of the Department of Commerce, of unclassified information and assessments for further dissemination within the Federal Government and to the private sector.".

(b) Technology and Industrial Base Planning for Major Defense Programs.—(1) Chapter 144 of title 10, United States Code, is amended by inserting after section 2438 the following new section:

"§ 2439. Major programs: technology and industrial base plans

"(a) Acquisition Plan Requirements.—The Secretary of Defense shall prescribe regulations requiring consideration of the national defense technology and industrial base in the development and implementation of acquisition plans for each major defense acquisition program.

"(b) CONTENT OF ACQUISITION PLANS.—The acquisition plan for each major defense acquisition program shall include provisions for the following:

"(1) An analysis of the capabilities of the national defense technology and industrial base to develop, produce, maintain, and support such program, including consideration of the factors set forth in section 2263(c) of this title.

"(2) Consideration of requirements for efficient manufacture during the design and production of the systems to be procured under the program.

"(3) The use of advanced manufacturing technology, processes, and systems during the research and development phase and the production phase of the program.

"(4) To the maximum extent practicable, the use of contract solicitations that encourage competing offerors to acquire, for use in the performance of the contract, modern technology, production equipment, and production systems (including hardware and software) that increase the productivity of the offerors and reduce life-cycle costs.

"(5) Encouragement of investment by United States domestic sources in advanced manufacturing technology production equipment and processes through—

"(A) recognition of the contractor's investment in advanced manufacturing technology production equipment and processes in the development of the contract objective; and

"(B) increased emphasis in source selections on the efficiency of production.

"(6) Expanded use of commercial manufacturing processes rather than processes specified by the Department of Defense.

"(7) Elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under Department of Defense contracts.

"(8) Expanded use of commercial products as set forth in section 2325 of this title.".

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 2438 the following new item:

"2439. Major programs: technology and industrial base plans.".

(c) IMPLEMENTATION.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including milestones for actions, to ensure the timely and thorough collection of information, completion of assessments, and issuance of plans required by the provisions of subchapter I of chapter 135 of title 10, United States Code, as added by subsection (a).

(2)(A) The first annual assessment required by section 2263 of such title shall be completed not later than September 30, 1993.

(B) The first annual plan required by section 2264 of such title shall be completed not later than November 15, 1993.

(C) The Secretary may prescribe regulations authorizing the presentation of information in a preliminary form in the first annual assessment and the first annual plan to the extent that the necessary information cannot reasonably be collected, analyzed, or presented in accordance with section 2263 or 2264, respectively, of title 10, United States Code, by the dates specified in subparagraphs (A) and (B).

(3) The National Defense Technology and Industrial Base Council shall establish the National Defense Center for Analysis of the Technology and Industrial Base not later than 6 months after the date of the enactment of this Act. The Secretary of Defense shall ensure that a contract solicitation is issued and a contract is awarded in a timely manner to facilitate the establishment of the Center within the period set forth in the preceding sentence.

SEC. 802. DEFENSE DUAL-USE TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAMS.

(a) DEFENSE DUAL-USE TECHNOLOGIES.—(1) Chapter 135 of title 10, United States Code (as added by section 801(a)), is amended by adding after subchapter II the following:

"SUBCHAPTER II—DUAL-USE TECHNOLOGIES

"Sec.
"2271. Defense dual-use critical technology partnerships.
"2272. Commercial-military integration partnerships.
"2273. Regional technology alliances assistance program.
"2274. Office for Foreign Defense Critical Technology Monitoring and Assessment.
"2275. Overseas foreign critical technology monitoring and assessment financial assistance program.
"2276. Encouragement of technology transfer.".

(2) Section 2523 of title 10, United States Code, (relating to defense dual-use critical technology partnerships) is—

(A) transferred to subchapter II of chapter 135 of such title (as added by paragraph (1));

(B) inserted following the table of sections; and

(C) redesignated as section 2271.

(3) Subchapter II of such chapter, as added by paragraph (1) and amended by paragraph (2), is further amended by inserting after section 2271 the following new section:

"§ 2272. Commercial-military integration partnerships

"(a) ESTABLISHMENT OF PARTNERSHIPS.—The Secretary of Defense shall conduct a program providing for the establishment of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between the Department of Defense and entities referred to in section 2271(b) of this title in order to encourage and provide for research, development, and application of technologies to attain the national defense technology and industrial base objectives set forth in section 2261 of this title.

"(b) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, and enter into cooperative agreements and other transactions pursuant to section 2371 of this title in order to establish the partnerships.

"(2) The Secretary may not enter into a partnership under this section for a period longer than 5 years.

"(3) The Secretary may provide a partnership with technical and other assistance to facilitate the achievement of the purposes of this section, subject to the limitations in subsection (c).

"(c) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The Secretary shall ensure that the amount of funds provided by the Secretary under a partnership does not exceed maximum authorized percentage of the total cost of partnership activities.

"(2) The maximum authorized percentage of Federal Government funding referred to in paragraph (1) for each year of a partnership is as follows:

"(A) 50 percent in the first year.
"(B) 40 percent in the second year.
"(C) 30 percent in the third year.
"(D) 20 percent in the fourth year.
"(E) 10 percent in the fifth year.

"(3)(A) The Secretary shall prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a partnership for the purpose of determining the share of the partnership costs that has been or is being undertaken by such participants.

"(B) The regulations shall also ensure that the in-kind contributions of nonprofit institutions and small businesses are considered included, to the maximum extent practicable, in the non-Federal Government share of the cost of the partnership.

"(d) SELECTION PROCESS.—Competitive procedures shall be used in the establishment of partnerships.

"(e) SELECTION CRITERIA.—The criteria for the selection of a proposed partnership for establishment under this section shall include the following:

"(1) The extent to which the program proposed to be conducted by the partnership advances and enhances the national defense industrial and technology base objectives set forth in section 2261 of this title.

"(2) The technical excellence of the program proposed to be conducted by the partnership.

"(3) The qualifications of the personnel proposed to participate in the partnership's research activities.

"(4) A likelihood that there will not be timely private sector investment in activities to achieve the goals and objectives of the proposed partnership other than through the partnership.

"(5) The potential effectiveness of the partnership in the further development and application of each technology proposed to be developed by the partnership for the industrial and technology base.

"(6) The extent of the financial commitment of the eligible firms to the proposed partnership.

"(7) The likelihood that the partnership will develop technologies that are sufficiently viable in the commercial sector so that such technologies will be available to meet the future reconstitution requirements and other needs of the Department of Defense described in the annual national defense technology and industrial base plan prepared under section 2264 of this title.

"(8) The likelihood that, within 5 years after the establishment of the partnership (or a lesser period established by the Secretary), Federal Government funding of the partnership will not be necessary.

"(9) Such other criteria as the Secretary prescribes.

"(f) DELEGATION OF AUTHORITY.—Subject to the authority, direction, and control of the Secretary of Defense and the Under Secretary of Defense for Acquisition, the Director of Defense Research and Engineering shall perform the duties of the Secretary of Defense under this section.".

(4) Section 2524 of title 10, United States Code (relating to critical technology application centers) is—

(A) transferred to subchapter II of chapter 135, as added by paragraph (1) and amended by paragraphs (2) and (3);

(B) inserted at the end of that subchapter; and

(C) amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"§ 2273. Regional technology alliances assistance program";

(ii) by striking out "regional critical technology application centers" in subsection (a) and inserting in lieu thereof "regional technology alliances";

(iii) by striking out "regional critical technology application center" in subsection (b) and inserting in lieu thereof "regional technology alliance";

(iv) by striking out "critical technology application center" and "center" each time such terms appear and inserting in lieu thereof "regional technology alliance"; and

(v) by striking out "2523" in subsection (g) and inserting in lieu thereof "2271".

(5) Section 2525 of title 10, United States Code (relating to the Office for Foreign Defense Critical Technology Monitoring and Assessment), and section 2526 of such title (relating to the overseas foreign critical technology monitoring and assessment financial assistance programs) are—

(A) transferred to subchapter II of chapter 135 of such title, as added by paragraph (1) and amended by paragraphs (2) through (4);

(B) inserted at the end of that subchapter; and

(C) redesignated as sections 2274 and 2275, respectively.

(6) Subsection (a) of section 2274 of such title (as redesignated by paragraph (5)) is amended by inserting "Critical" after "Foreign Defense".

(7) Section 2363 of title 10, United States Code (relating to encouragement of technology transfer), is—

(A) transferred to subchapter II of chapter 135 of such title, as added by paragraph (1) and amended by paragraphs (1) through (5);

(B) inserted at the end of that subchapter; and

(C) redesignated as section 2276.

(b) FUNDING.—Of the amounts authorized to be appropriated under section 201—

(1) $100,000,000 shall be available for defense dual-use critical technology partnerships;

(2) $50,000,000 shall be available for commercial-military integration partnerships;

(3) $100,000,000 shall be available for defense regional technology alliances; and

(4) $2,000,000 shall be available for the overseas critical technology monitoring and assessment financial assistance program.

SEC. 803. ESTABLISHMENT OF OFFICE OF TECHNOLOGY TRANSITION.

(a) ESTABLISHMENT.—(1) Subchapter II of chapter 135 of title 10, United States Code (as added by section 802), is amended by adding at the end the following:

"§ 2277. Office of Technology Transition

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish within the Office of the Secretary of Defense an Office of Technology Transition.

"(b) PURPOSE.—The purpose of the Office shall be to ensure, to the maximum extent practicable, that technology developed for national security purposes is integrated into the private sector of the United States in order to enhance the national defense technology and industrial base.

"(c) SPECIFIC DUTIES.—The head of the Office shall ensure that the Office—

"(1) monitors all research and development activities that are carried out by or for the military departments and Defense Agencies, including research and development that is conducted by or for—

"(A) the Strategic Defense Initiative Organization;

"(B) the Advanced Research Projects Agency; and

"(C) the Defense Nuclear Agency;

"(2) identifies all such research and development activities that use technologies, or result in technological advancements, having potential nondefense commercial applications;

"(3) serves as a clearinghouse for, coordinates, and otherwise actively facilitates the transition of such technologies and technological advancements from the Department of Defense to the private sector;

"(4) conducts its activities in consultation and coordination with the Department of Energy; and

"(5) provides private firms with assistance to resolve problems associated with security clearances, proprietary rights, and other legal considerations involved in such a transition of technology.

"(d) REPORTING REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives an annual report on the activities of the Office at the same time that the budget is submitted to Congress by the President pursuant to section 1105 of title 31. The report shall contain a discussion of the accomplishments of the Office during the fiscal year preceding the fiscal year in which the report is submitted.".

(2) The table of sections at the beginning of subchapter II of such chapter (as added by section 802) is amended by inserting after the item relating to section 2276 the following:

"2277. Office of Technology Transition.".

(b) SCHEDULE FOR ESTABLISHMENT.—The Office of Technology Transition shall commence operations within 180 days after the date of the enactment of this Act.

(c) REPORTING REQUIREMENTS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the establishment of the Office of Technology Transition. The report shall contain a description of the organization of the Office, the staffing of the Office, and the activities undertaken by the Office.

(2) Notwithstanding section 2277(d) of title 10, United States Code (as added by subsection (a))—

(A) the first report under that section shall be submitted not later than 1 year after the date of the enactment of this Act; and

(B) no additional report is necessary under that section in the fiscal year in which such first report is submitted.

SEC. 804. DEFENSE DUAL-USE MANUFACTURING TECHNOLOGY PROGRAMS.

(a) NATIONAL DEFENSE MANUFACTURING TECHNOLOGY PROGRAM.—(1) Chapter 135 of title 10, United States Code, as added by section 801(a) and amended by sections 802 and 803, is further amended by adding after subchapter II the following new subchapter:

"SUBCHAPTER III—MANUFACTURING TECHNOLOGY

"Sec.
"2281. National Defense Manufacturing Technology Program.
"2282. Defense advanced manufacturing technology partnerships.
"2283. Manufacturing extension programs.

"§ 2281. National Defense Manufacturing Technology Program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall establish a National Defense Manufacturing Technology Program to—

"(1) provide centralized guidance and direction, including goals, milestones, and priorities, to the military departments and the Defense Agencies on all matters relating to manufacturing technology;

"(2) direct the development and implementation of Department of Defense plans, programs, projects, activities, and policies that promote the development and application of advanced technologies to manufacturing processes, tools, and equipment;

"(3) improve the manufacturing quality, productivity, technology, and practices of businesses providing goods and services to the Department of Defense;

"(4) promote dual-use manufacturing processes;

"(5) disseminate to such businesses information concerning improved manufacturing improvement concepts, including information on such matters as best manufacturing practices, product data exchange specifications, computer-aided acquisition and logistics support, and rapid acquisition of manufactured parts;

"(6) sustain and enhance the skills and capabilities of the manufacturing work force; and

"(7) ensure appropriate coordination between the manufacturing technology programs and industrial preparedness programs of the Department of Defense and similar programs undertaken by other departments and agencies of the Federal Government or by the private sector.

"(b) RELATIONSHIP TO NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE PLAN.—The Secretary shall ensure that the program is developed and implemented in accordance with the manufacturing technology guidance set forth in the national defense technology and industrial base plan prepared under section 2264 of this title.

"(c) ANNUAL REVISIONS.—The Secretary shall revise the program not later than March 15 of each year. Each revision shall identify each manufacturing technology program, project, or activity of the Department of Defense and the amounts provided for each such program, project, and activity in the budget submitted by the President under section 1105 of title 31 for the fiscal year beginning in that year.

"(d) PROGRAM LIMITATION.—A manufacturing technology program, project, or activity of the Department of Defense may be conducted only to the extent provided for in the National Defense Manufacturing Technology Program. However, such a program, project, or activity may be conducted in excess of the limitation in the preceding sentence if it is designated by the Secretary of Defense as a higher priority matter.

"(e) DELEGATION OF AUTHORITY.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform the duties of the Secretary of Defense under this section.".

(2) Section 203(d) of the National Defense Authorization Act for Fiscal Year 1992 and 1993 (Public Law 102–190; 105 Stat. 1315) is repealed.

(b) DEFENSE ADVANCED MANUFACTURING TECHNOLOGY PARTNERSHIPS.—(1) Section 2518 of title 10, United States Code (relating to defense advanced manufacturing technology partnerships), is—

(A) transferred to subchapter III of chapter 135 of such title, as added by subsection (a)(1);

(B) inserted at the end of that subchapter;

(C) redesignated as section 2282; and

(D) amended in subsection (d)(1) by striking out "section 2523(f)" and inserting in lieu thereof "section 2271(f)".

(2) Of the amounts made available pursuant to section 203(4), $25,000,000 shall be

available for defense advanced manufacturing technology partnerships under section 2282 of title 10, United States Code, as transferred and redesignated by paragraph (1).

(c) MANUFACTURING TECHNOLOGY EXTENSION PROGRAMS.—(1) Section 2517 of title 10, United States Code (relating to manufacturing extension programs), is—

(A) transferred to subchapter III of chapter 135 of such title, as added by subsection (a)(1) and amended by subsection (b);

(B) inserted at the end of that subchapter; and

(C) redesignated as section 2283.

(2) Of the amounts authorized to be appropriated under section 201, $100,000,000 shall be available for support of manufacturing technology extension programs under section 2283 of title 10, United States Code, as transferred and redesignated by paragraph (1).

(d) DEFENSE MANUFACTURING EDUCATION PROGRAMS.—Of the amounts authorized to be appropriated under section 201—

(1) $25,000,000 shall be available for defense manufacturing engineering education grants under section 2196 of title 10, United States Code, and

(2) $5,000,000 shall be available for the manufacturing managers in the classroom program under section 2197 of such title.

SEC. 805. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE DUAL-USE ASSISTANCE EXTENSION PROGRAMS.

(a) EXTENSION PROGRAMS.—Chapter 135 of title 10, United States Code, as added by section 801(a) and as amended by sections 802, 803, and 804, is further amended by adding at the end the following:

"SUBCHAPTER IV—MISCELLANEOUS TECHNOLOGY BASE POLICIES AND PROGRAMS

"Sec.

"2291. Defense dual-use assistance extension program.

"2292. Defense Industrial Reserve.

"§ 2291. Defense dual-use assistance extension program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense, in consultation and coordination with the Secretary of Energy and the Secretary of Commerce, shall establish a program to achieve the national defense technology and industrial base objectives set forth in section 2261 of this title by providing support to entities referred to in subsection (b) for programs described in that subsection.

"(b) PROGRAMS SUPPORTED.—The Secretary may provide support under this section for programs sponsored by the Federal Government, regional entities, States, local governments, and private entities and nonprofit organizations that assist businesses economically dependent on Department of Defense business to acquire dual-use capabilities through the provision under those programs of the following services:

"(1) Assistance in converting from government-oriented management, production, training, and marketing practices to commercial practices.

"(2) Assistance in acquiring and using public and private sector resources, literature, and other information concerning—

"(A) research, development, and production processes and practices;

"(B) identification of technologies and products having the potential for defense and nondefense commercial applications;

"(C) marketing practices and opportunities;

"(D) identification of potential suppliers, partners, and subcontractors;

"(E) identification of opportunities for government support, including support through grants, contracts, partnerships and consortia;

"(F) enhancement of work force skills and capabilities; and

"(G) trade and export assistance.

"(c) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, enter into cooperative agreements and other transactions pursuant to section 2371 of this title, and transfer funds to another department or agency of the Federal Government in carrying out this section.

"(2) Subject to subsection (d), the Secretary may provide a program referred to in subsection (b) with technical and other assistance.

"(d) FINANCIAL COMMITMENT OF NON-DEPARTMENT OF DEFENSE PARTICIPANTS.—(1) The Secretary shall ensure that the amount of funds provided by the Department of Defense for a program under this section does not exceed the maximum authorized percentage of the combined amount provided by the Department of Defense and all other sources of funding for the program for any year.

"(2) The maximum authorized percentage of Department of Defense funding referred to in paragraph (1) for each year of Department of Defense assistance for a program under this section is as follows:

"(A) 50 percent in the first year.

"(B) 40 percent in the second year.

"(C) 30 percent in the third and following years.

"(e) SELECTION PROCESS.—Competitive procedures shall be used in the selection of programs to receive assistance under this section.

"(f) SELECTION CRITERIA.—The criteria for the selection of a program to receive assistance under this section shall include the following:

"(1) The extent to which the program advances and enhances the national defense industrial and technology base objectives set forth in section 2261 of this title.

"(2) The technical excellence of the program.

"(3) The qualifications of the personnel proposed to participate in the partnership's research activities.

"(4) A likelihood that there will not be timely private sector investment in activities that is sufficient to achieve the goals and objectives of the programs.

"(5) The potential effectiveness of the program in the conversion of businesses from capabilities that make the companies economically dependent on Department of Defense business to capabilities having defense and nondefense commercial applications.

"(6) The ability of the program to assist businesses adversely affected by significant reductions in Department of Defense spending.

"(7) The extent of the financial commitment by sources other than the Department of Defense.

"(8) The extent to which the program would supplement, rather than duplicate, other available services.

"(9) The likelihood that, within 5 years after the commencement of assistance for a program under this section (or a lesser period established by the Secretary), Department of Defense assistance will not be necessary to sustain the program.

"(10) Such other criteria as the Secretary prescribes.

"(g) DELEGATION OF AUTHORITY.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform the duties of the Secretary of Defense under this section.

"(h) TERMINATION OF AUTHORITY.—This section shall cease to be effective on September 30, 1997.".

(b) FUNDING.—(1) Of the amounts authorized to be appropriated under section 201, $200,000,000 shall be available for defense dual-use extension programs under section 2291 of title 10, United States Code (as added by subsection (a)), of which not less than $50,000,000 shall be made available to regional, State, and local government programs.

(2) Of funds authorized to be appropriated to the Department of Defense for fiscal year 1993 by this Act, the Secretary may transfer not more than $50,000,000 to the appropriations made available for the support of defense dual-use extension programs under such section 2291. Amounts so transferred shall be merged with, and be available for the same purpose and the same period as, the appropriations to which transferred. The authority to transfer funds under this paragraph is in addition to any other transfer authority provided for the Secretary of Defense under this or any other Act.

SEC. 806. ADDITIONAL STATUTORY REORGANIZATION.

(a) TECHNOLOGY AND INDUSTRIAL BASE AMENDMENTS.—(1)(A) Subchapter IV of chapter 135 of title 10, United States Code, as added by section 805, is amended by adding at the end, without text, the following new section:

"§ 2292. Defense Industrial Reserve".

(B) The text of section 2 of the Defense Industrial Reserve Act (50 U.S.C. 451) is—

(i) transferred to section 2292;

(ii) inserted below the section heading; and

(iii) amended by striking out "In enacting this Act, it" and inserting in lieu thereof the following: "(a) DECLARATION OF PURPOSE AND POLICY.—It".

(C) The text of section 4 of that Act (50 U.S.C. 453) is—

(i) transferred to section 2292;

(ii) inserted following subsection (a), as designated in the amendment made by subparagraph (B)(iii); and

(iii) amended—

(I) by striking out "(a) To execute the policy set forth in this Act," and inserting in lieu thereof the following: "(b) POWERS AND DUTIES OF THE SECRETARY OF DEFENSE.—(1) To execute the policy set forth in this section,";

(II) by striking out "(1) determine" and inserting in lieu thereof "(A) determine";

(III) by striking out "(2) designate" and inserting in lieu thereof "(B) designate";

(IV) by striking out "(3) establish" and inserting in lieu thereof "(C) establish";

(V) by striking out "(4) direct" and inserting in lieu thereof "(D) direct";

(VI) by striking out "(5) direct" and inserting in lieu thereof "(E) direct";

(VII) by striking out "(6) authorize" and inserting in lieu thereof "(F) authorize";

(VIII) by striking out "(7) authorize" and all that follows through "(B) such institution" and inserting in lieu thereof "(G) authorize and regulate the lending of any such property to any nonprofit educational institution or training school whenever (i) the program proposed by such institution or school for the use of such property will contribute materially to national defense, and (ii) such institution";

(IX) by striking out "(b)(1) The Secretary" and inserting in lieu thereof "(2)(A) The Secretary";

(X) by striking out "(A) storage" and inserting in lieu thereof "(i) storage";

(XI) by striking out "(B) repair" and inserting in lieu thereof "(ii) repair";

(XII) by striking out "(C) overhead" and inserting in lieu thereof "(iii) overhead"; and

(XIII) by striking out "(2) The Secretary of Defense shall prescribe regulations" and inserting in lieu thereof "(B) The Secretary of Defense shall prescribe regulations".

(D) The text of section 3 of that Act (50 U.S.C. 452) is—

(i) transferred to section 2292;

(ii) inserted following subsection (b), as designated in the amendment made by subparagraph (C)(iii)(I); and

(iii) amended by striking out "As used in this Act—" and inserting in lieu thereof "(c) DEFINITIONS.—In this section:".

(2) Chapter 135 of title 10, United States Code, as added by section 801(a) and amended by sections 802, 803, 804, and 805 and by paragraph (1), is further amended by inserting at the end the following subchapter:

"SUBCHAPTER V—DEFINITIONS

"Sec.

"2300. Definitions.

"§ 2300. Definitions

"In this chapter:

"(1) The term 'national defense technology and industrial base' means the persons and organizations that are engaged in research, development, production, or maintenance activities the majority of which are conducted within the United States and Canada.

"(2) The term 'dual-use' with respect to products, services, standards, processes, or acquisition practices, means products, services, standards, processes, or acquisition practices, respectively, that are capable of meeting requirements for private sector commercial acquisitions as well as public sector acquisitions.

"(3) The term 'dual-use critical technology' means a critical technology that has military applications and nonmilitary commercial applications.

"(4) The terms 'technology and industrial base sector' and 'sector' mean a group of public or private persons and organizations that engage in, or are capable of engaging in, similar research, development, or production activities.

"(5) The terms 'Federal laboratory' and 'laboratory' have the meaning given the term 'laboratory' in section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)).

"(6) The term 'critical technology' means a technology that is—

"(A) a national critical technology; or

"(B) a defense critical technology.

"(7) The term 'national critical technology' means a technology that appears on the list of national critical technologies contained in the most recent biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)).

"(8) The term 'defense critical technology' means a technology that appears on the list of critical technologies contained, pursuant to subsection (f) of section 2263 of this title, in the most recent national defense technology and industrial base assessment submitted to Congress by the Secretary of Defense pursuant to section 2264(l) of this title.

"(9) The term 'eligible firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) conducts a significant level of its research, development, engineering, and manufacturing activities in the United States; and

"(B) is a company or other business entity the majority ownership or control of which is by United States citizens or is a company or other business of a parent company that is incorporated in a country the government of which—

"(i) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations; and

"(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

Such term includes a consortium of such companies or other business entities, as determined by the Secretary of Commerce.

"(10) The term 'manufacturing technology' means techniques and processes designed to improve manufacturing quality, productivity, and practices, including quality control, shop floor management, inventory management, and worker training, as well as manufacturing equipment and software.

"(11) The term 'manufacturing extension program' means a public or private, nonprofit program for the improvement of the quality, productivity, and performance of United States-based small manufacturing firms in the United States.

"(12) The term 'United States-based small manufacturing firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) engages in manufacturing;

"(B) has less than 500 employees; and

"(C) is an eligible firm.".

(3) The annual national defense technology and industrial base assessment submitted to Congress pursuant to section 2264(l) of title 10, United States Code (as added by section 801(a)), during each year through 1995 shall include a specific assessment of the capability of the domestic textile and apparel industrial base of the United States to support national defense mobilization requirements. Each such assessment shall include the following:

(A) An identification of textile and apparel mobilization requirements of the Department of Defense that cannot be satisfied on a timely basis by domestic industries.

(B) An assessment of the effect that any inadequacy in the textile and apparel industrial base would have on a mobilization.

(C) Recommendations for ways to alleviate any such inadequacy that the Secretary considers critical to national defense mobilization requirements.

(b) CONFORMING REORGANIZATION OF TITLE 10.—(1) Part IV of subtitle A of title 10, United States Code, is amended—

(A) by redesignating the chapter 135 (relating to encouragement of aviation) in effect on the day before date of the enactment of this Act as chapter 151; and

(B) by transferring such chapter, as so redesignated, within part IV of such subtitle so as to appear in sequence immediately before chapter 152.

(2) Such chapter is amended as follows:

(A) Sections 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, and 2279 are redesignated as 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, and 2539, respectively.

(B) Subsection (a) of section 2532, as so redesignated, is amended by striking out "section 2271" and inserting in lieu thereof "section 2531".

(C) Subsection (a) of section 2533, as so redesignated, is amended by striking out "section 2272" and inserting in lieu thereof "section 2532".

(D) Subsection (b) of section 2534, as so redesignated, is amended by striking out "sections 2272(f) and 2279 of this title but are not subject to section 2271(a)-(d) and 2272(a)" and inserting in lieu thereof "sections 2532(f) and 2539 of this title but are not subject to section 2531(a)-(d) and 2532(a)".

(c) TRANSFERS OF SECTIONS.—(1) Section 2504 of title 10, United States Code, is—

(A) transferred to subchapter II of chapter 138 of such title;

(B) inserted at the end of that subchapter;

(C) redesignated as 2350j; and

(D) amended in subsection (a)(1) by striking out "defense industrial base" and inserting in lieu thereof "defense technology and industrial base".

(2) Section 2505 of such title is—

(A) transferred to chapter 141 of such title, as amended by section 363 of this Act;

(B) inserted at the end of that chapter; and

(C) redesignated as section 2410d.

(3) Section 2507 of such title is—

(A) transferred to chapter 141 of such title, as amended by paragraph (2);

(B) inserted at the end of that chapter; and

(C) amended—

(i) by striking out subsection (c); and

(ii) by striking out the section heading and inserting in lieu thereof the following:

"§ 2410e. Miscellaneous limitations on the procurement of goods other than United States goods".

(4)(A) Section 2506 of such title is amended—

(i) in subsection (a)—

(I) by striking out "(a) Funds" and inserting in lieu thereof "(c) PROCUREMENT OF NON-AMERICAN GOODS GENERALLY.—(1) Funds";

(II) by striking out "(as defined in subsection (c))" in the matter above paragraph (1); and

(III) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as subparagraphs (A), (B), (C), (D), (E), (F), and (G), respectively;

(ii) in subsection (b), by striking out "(b) Consideration of the matters referred to in paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "(2) Consideration of the matters referred to in subparagraphs (A) through (F) of paragraph (1)"; and

(iii) in subsection (c)—

(I) by striking out "(c) In this section," and inserting in lieu thereof "(3) In this subsection,"; and

(II) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) The text of such section, as so amended, is transferred to section 2410e of title 10, United States Code, as added by paragraph (3), and is inserted following subsection (b) of that section.

(d) CONFORMING REPEALS.—(1) Section 2330 of title 10, United States Code, is repealed.

(2)(A) Part IV of subtitle A of such title is amended by striking out chapters 148, 149, and 150.

(B) The tables of chapters at the beginning of subtitle A of such title and part IV of such subtitle are amended by striking out the items relating to chapters 148, 149, and 150.

(3) The Defense Industrial Reserve Act (50 U.S.C. 450 et seq.) is repealed.

(e) TABLES OF SECTIONS.—(1) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2330.

(2) The table of sections at the beginning of subchapter II of chapter 138 of such title is amended by adding at the end the following:

"2350j. Defense memoranda of understanding and related agreements.".

(3) The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2363.

(4) The table of sections at the beginning of chapter 141 of such title, as amended by section 363 of this Act, is further amended by adding at the end the following:

"2410d. Offset policy: notification.
"2410e. Miscellaneous limitations on the procurement of goods other than United States goods.".

SEC. 807. SMALL BUSINESS INNOVATION RESEARCH PROGRAM IN THE DEPARTMENT OF DEFENSE.

(a) AMOUNTS AVAILABLE.—For each fiscal year after fiscal year 1993, funds authorized to be appropriated to a military department or a Defense Agency of the Department of Defense for research, development, test and evaluation shall be available for research activities and for research and development activities under the Small Business Innovation Research Program in amounts as follows:

(1) For fiscal year 1993, 1.5 percent of the extramural budget of such military department or Defense Agency for such activities for that fiscal year.

(2) For fiscal year 1994, 2 percent of the extramural budget of such military department or Defense Agency for such activities for that fiscal year.

(3) For fiscal year 1995, and each fiscal year thereafter, 2.5 percent of the extramural budget of such military department or Defense Agency for such activities for that fiscal year.

(b) LIMITATION ON PROGRAM AWARDS.—Amounts paid to a small business concern by the Department of Defense under the Small Business Innovation Research Program for a project—

(1) in phase I under the program may not exceed $100,000; and

(2) in phase II under the program may not exceed $750,000.

(c) COMMERCIAL APPLICATIONS STRATEGY.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Administrator of the Small Business Administration, shall develop and issue a strategy for effectuating the transition of successful projects under the Small Business Innovation Research Program from phase II under the program into phase III under the program.

(d) PROGRAM MANAGEMENT.—The Director of Defense Research and Engineering and the Director of the Office of Small and Disadvantaged Business Utilization of the Department of Defense shall be responsible for the participation of the military departments and Defense Agencies in the Small Business Innovation Research Program.

(e) EXTENSION OF PROGRAM.—Section 5 of Public Law 97-219 (15 U.S.C. 638 note) is amended—

(1) by striking out "Effective October 1, 1993, paragraphs" and inserting in lieu thereof "Paragraphs"; and

(2) by striking out "are repealed" and inserting in lieu thereof "shall cease to be effective with respect to departments and agencies of the Federal Government other than the Department of Defense on October 1, 1993, and are repealed effective October 1, 2000".

(f) DEFINITIONS.—In this section:

(1) The term "Small Business Innovation Research Program" means the Small Business Innovation Research Program carried out pursuant to paragraphs (4) through (7) of subsection (b) of section 9 of the Small Business Act (15 U.S.C. 638) and subsections (e) through (k) of such section.

(2) The term "extramural budget" has the meaning given that term in subsection (e)(1) of such section.

(3) The term "phase I", with respect to the Small Business Innovation Research Program, means the first phase described in subsection (e)(4)(A) of such section.

(4) The term "phase II", with respect to the Small Business Innovation Research Program, means the second phase described in subsection (e)(4)(B) of such section.

(5) The term "phase III", with respect to the Small Business Innovation Research Program, means the third phase described in subsection (e)(4)(C) of such section.

(g) EFFECTIVE DATE AND APPLICABILITY.—This section shall take effect on October 1, 1992.

SEC. 808. DUAL-USE DEFENSE CONVERSION PRIORITY.

During fiscal year 1993, the Secretary of Defense shall give priority in the allocation of funds under subchapters II, III, and IV of chapter 135 of title 10, United States Code (as added by sections 802 through 805) and the Small Business Innovation Research Program referred to in section 807, to the maximum extent practicable, to programs, projects, and activities that provide significant assistance for converting the capabilities of businesses that are economically dependent on Department of Defense business to capabilities having defense and nondefense commercial applications.

SEC. 809. STATUTORY CHARTER FOR THE ADVANCED RESEARCH PROJECTS AGENCY.

(a) STATUTORY CHARTER.—(1) Subchapter II of chapter 8 of title 10, United States Code, is amended by adding at the end the following:

"§ 203. Advanced Research Projects Agency

"(a) IN GENERAL.—The Advanced Research Projects Agency is a Defense Agency.

"(b) DIRECTOR.—(1) The head of the agency is the Director.

"(2) The Director is appointed by the President, by and with the advice and consent of the Senate. The Secretary of Defense shall recommend persons for appointment to the position of Director.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Director shall perform the functions and duties provided in subsection (d).

"(c) DEPUTY DIRECTOR.—(1) There is a Deputy Director of the agency who is appointed by the Director with the approval of the Secretary of Defense.

"(2) The Deputy Director shall perform such duties and exercise such authority as may be prescribed by the Director with the approval of the Secretary of Defense.

"(3) When there is a vacancy in the office of Director or in the absence or disability of the Director, the Deputy Director shall act as Director and perform the duties, and exercise the authority, of the Director until a successor is appointed or the absence or disability ceases.

"(d) FUNCTIONS AND DUTIES.—(1) The Advanced Research Projects Agency is the central research and development organization of the Department of Defense. It is a primary responsibility of the agency to maintain the technological superiority of the United States over the potential adversaries of the United States.

"(2) The agency shall—

"(A) together with United States industry, Federal laboratories, and colleges and universities, pursue—

"(i) imaginative and innovative research and development projects having significant potential for both military and commercial applications; and

"(ii) imaginative and innovative research and development projects having significant potential solely for military applications;

"(B) support and stimulate a national technology base that—

"(i) serves both civilian and military purposes through enhanced technology sharing and otherwise; and

"(ii) by so serving both purposes, increases the productivity of both the civilian and military sectors;

"(C) manage and direct the conduct of basic and applied research and development that exploits scientific breakthroughs and demonstrates the feasibility of revolutionary approaches for improved cost and performance of advanced technology having future military applications, including advanced technology also having future civilian applications; and

"(D) stimulate increased emphasis on prototyping in defense systems and subsystems—

"(i) by conducting prototype projects embodying technology that might be incorporated in joint programs, programs in support of deployed forces, or selected programs of the military departments; and

"(ii) on request of the Secretary of a military department, by assisting that military department in any prototyping program of the military department.

"(3) The agency may, when requested and supported by a department or agency of the Federal Government not primarily involved in the performance of national security functions, manage and direct the conduct of basic and applied research and development of any other advanced technology that can be applied to increase the capability of that department or agency to attain mission objectives of the department or agency.

"(e) OTHER DUTIES.—The agency shall perform any additional duties that the Secretary of Defense assigns.".

(2) The table of sections at the beginning of subchapter II of such chapter is amended by inserting at the end the following:

"203. Advanced Research Projects Agency.".

(b) RELATED AND OTHER DEFENSE RESEARCH AMENDMENTS.—(1)(A) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director, Advanced Research Projects Agency, Department of Defense.".

(B) Section 5316 of such title is amended by striking out the following:

"Director, Advanced Research Projects Agency, Department of Defense.".

(2)(A) Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Director of Defense Research and Engineering, Department of Defense.".

(B) Section 5315 of such title is amended by striking out the following:

"Director of Defense Research and Engineering.".

(3) Section 101(44)(B) of title 10, United States Code, is amended by inserting "by law or" after "designated".

(4) Section 2371(a) of such title is amended by striking out "Defense Advanced Research Projects Agency" and inserting in lieu thereof "Advanced Research Projects Agency".

(c) REFERENCE IN OTHER LAW.—Any reference in any other law to the Defense Advanced Research Projects Agency shall be deemed to refer to the Advanced Research Projects Agency.

Subtitle B—Acquisition Assistance Programs

SEC. 811. SMALL BUSINESS ADMINISTRATION CERTIFICATE OF COMPETENCY PROGRAM.

Section 8(b)(7) of the Small Business Act (15 U.S.C. 637(b)(7)) is amended by striking out the sentence following subparagraph (C) and inserting in lieu thereof the following:

"In the case of a contract entered into pursuant to the provisions of chapter 137 of title 10, United States Code, other than pursuant to simplified procedures referred to in section 2304(g) of such title, the Government procurement officer entering into the contract is not required to refer a determination of nonresponsibility made by that officer to the Administration unless the small business concern requests a determination of its responsibility, and the issuance of a certificate of responsibility, by the Administration. The solicitation for the contract shall contain a notice of the right of a small business concern to request the Administration to make a determination of its responsibility. For the purposes of that contract, the Administration is not required to process a request for certification of responsibility of a small business concern that is not submitted by that small business concern.".

SEC. 812. TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.

(a) EXTENSION OF PROGRAM.—Subsection (e) of section 834 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (15 U.S.C. 637 note) is amended by striking out "September 30, 1993" in the second sentence and inserting in lieu thereof "September 30, 1994".

(b) FISCAL YEAR 1994 PARTICIPANTS.—Such section is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) FISCAL YEAR 1994 PARTICIPANTS.—Only those contracting activities and contractors who negotiated subcontracting plans under demonstration projects conducted under the test program before October 1, 1993, may participate in demonstration projects conducted under the test program in fiscal year 1994.".

SEC. 813. EXTENSION OF TEST PROGRAM OF CONTRACTING FOR PRINTING-RELATED SERVICES FOR THE DEPARTMENT OF DEFENSE.

(a) EXTENSION OF AUTHORITY.—Section 843(e) of the National Defense Authorization Act, Fiscal Year 1989 (44 U.S.C. 502 note) is amended by striking out "October 1, 1993" and inserting in lieu thereof "October 1, 2000".

(b) SECTION HEADING.—The heading of section 843 of such Act is amended to read as follows:

"SEC. 843. CONTRACT GOAL FOR DISADVANTAGED SMALL BUSINESSES IN PRINTING-RELATED SERVICES.".

SEC. 814. CONTRACT GOAL FOR DISADVANTAGED SMALL BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

(a) EXTENSION OF REQUIREMENT.—Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) is amended—

(1) in subsection (a), by striking out "and 1993" and inserting in lieu thereof "1993, 1994, 1995, 1996, 1997, 1998, 1999, and 2000"; and

(2) by striking out subsection (h).

(b) ACTIONS TO ATTAIN GOAL.—Subsection (e) of such section is amended—

(1) in the matter above paragraph (1), by striking out "subsection (a)—" and inserting in lieu thereof "subsection (a):";

(2) in paragraph (1), by striking out the period at the end and inserting in lieu thereof the following: "and shall actively monitor and assess the progress of the military departments, Defense Agencies, and prime contractors of the Department of Defense in attaining such goal. In making the assessment, the Secretary shall evaluate the extent to which use of the authority provided in paragraphs (2) and (3) and compliance with the requirement in paragraph (4) is effective for facilitating the attainment of the goal."; and

(3) in paragraph (3)—

(A) by inserting "(A)" after "(3)"; and

(B) by adding at the end the following new subparagraph:

"(B) Under procedures prescribed by the Secretary of Defense, a person may request the Secretary to determine whether the use of small disadvantaged business set asides by a contracting activity of the Department of Defense has caused a particular industry category to bear a disproportionate share of the progress made toward attainment of the goal established for that contracting activity for the purposes of this section. Upon making a determination that there has been that result, the Secretary shall take appropriate actions to limit the contracting activity's use of set asides in awarding contracts in that particular industry category.".

(c) SECTION HEADING.—The heading for such section is amended to read as follows:

"SEC. 1207. CONTRACT GOAL FOR DISADVANTAGED SMALL BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION.".

(d) FUNDING.—Of the amounts authorized to be appropriated for fiscal year 1993 pursuant to title II of this Act, $15,000,000 shall be available for such fiscal year for infrastructure assistance to historically Black colleges and universities and minority institutions under section 1207(c)(3) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note).

SEC. 815. PILOT MENTOR-PROTEGE PROGRAM.

(a) FUNDING.—Of the amounts authorized to be appropriated for fiscal year 1993 pursuant to title I of this Act, $55,000,000 shall be available for the pilot Mentor-Protege Program established pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note).

(b) MAJOR DEFENSE ACQUISITION PROGRAMS.—Of the amount provided in subsection (a), $25,000,000 shall be available for the direct reimbursement of developmental assistance costs incurred by mentor firms under major defense acquisition programs (as defined in section 2430 of title 10, United States Code) in the participation of such firms in the pilot Mentor-Protege Program.

(c) REGULATIONS.—(1) Congress finds that the Secretary of Defense—

(A) has not published the Department of Defense policy for the pilot Mentor-Protege Program as required by the amendment made to section 831(k) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) by section 814(b)(4) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1425); and

(B) has not prescribed regulations for the reimbursement of the costs a mentor firm may incur under section 831(g)(2) of that Act.

(2) Congress expects the Secretary of Defense to publish the policy and prescribe the regulations.

(3) Within 15 days after the date of the enactment of this Act, the Secretary shall publish in the Department of Defense Supplement to the Federal Acquisition Regulation the Department of Defense policy for the pilot Mentor-Protege Program and the regulations, directives, and administrative guidance pertaining to such program as such policy, regulations, directives, and administrative guidance existed on December 6, 1991. Proposed modifications to that policy and any amendments of the matters published pursuant to the preceding sentence that are proposed in order to implement any of the amendments made by this section shall be published for public comment within 60 days after the date of the enactment of this Act and shall be published in final form within 120 days after such date.

(d) DETERMINATIONS OF ELIGIBILITY.—Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is amended by adding at the end the following new subsections:

"(o) ELIGIBILITY OF PROTEGE FIRMS FOR CERTAIN ASSISTANCE.—Notwithstanding any other provision of law, the Small Business Administration may not determine a disadvantaged small business concern to be ineligible to receive any assistance authorized under the Small Business Act on the basis that such business concern has participated in the Mentor-Protege Program or has received assistance pursuant to any developmental assistance agreement authorized under such program.

"(p) LIMITATION ON DUPLICATIVE REVIEW.—Notwithstanding any other provision of law, the Small Business Administration may not require a firm that is entering into, or has entered into, an agreement under subsection (e) as a protege firm to submit the agreement, or any other document required by the Secretary of Defense in the administration of the Mentor-Protege Program, to the Small Business Administration for review, approval, or any other purpose.".

(e) STATUS DETERMINATIONS.—Section 831(c)(3) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is amended by striking out the second sentence and all that follows through "Administration" in the third sentence and inserting in lieu thereof the following: "The Secretary of Defense shall determine the status of such business concern as a disadvantaged small business concern pursuant to regulations prescribed by the Secretary. If at any time the business concern is determined by the Secretary".

(f) NONAFFILIATION TREATMENT.—Subsection (h) of section 831 the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is repealed.

SEC. 816. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM.

(a) AVAILABILITY OF AUTHORIZED APPROPRIATIONS.—Of the amounts authorized to be appropriated pursuant to section 301(5), $9,000,000 shall be available for fiscal year 1993 for carrying out the provisions of chapter 142 of title 10, United States Code.

(b) SPECIFIC PROGRAMS.—Of the amounts provided for in subsection (a), $600,000 shall be available for fiscal year 1993 for the purpose of carrying out programs sponsored by eligible entities referred to in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas referred to in subparagraph (B) of section 2411(2) of such title. If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow for effective use of the funds made available in accordance with this subsection in such areas, the funds shall be allocated among the

Defense Contract Administration Services regions in accordance with section 2415 of such title.

Subtitle C—Miscellaneous Acquisition Policy Matters

SEC. 821. EXTENSION OF PROGRAM FOR USE OF MASTER AGREEMENTS FOR PROCUREMENT OF ADVISORY AND ASSISTANCE SERVICES.

Section 2304(j) of title 10, United States Code, is amended in paragraph (5) by striking out "at the end of" and all that follows and inserting in lieu thereof "on September 30, 1994.".

SEC. 822. MAJOR DEFENSE ACQUISITION PROGRAM REPORTS.

(a) SELECTED ACQUISITION REPORTS FOR CERTAIN PROGRAMS.—Section 127(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (101 Stat. 1044; 10 U.S.C. 2432 note) is amended by striking out "at the end of each fiscal year quarter" and inserting in lieu thereof "in accordance with the provisions of subsection (b) of section 2432 of title 10, United States Code,".

(b) MINIMUM AMOUNT CRITERIA FOR MAJOR DEFENSE ACQUISITION PROGRAMS.—Section 2430 of title 10, United States Code, is amended—

(1) by designating the existing text as subsection (a);

(2) in paragraph (2) of that subsection, as so designated—

(A) by striking out "$200,000,000" and inserting in lieu thereof "$300,000,000";

(B) by striking out "1980" both places it appears and inserting in lieu thereof "1990"; and

(C) by striking out "$1,000,000,000" and inserting in lieu thereof "$1,800,000,000"; and

(3) by adding at the end the following new subsection:

"(b) The Secretary of Defense may adjust the amounts (and the base fiscal year) provided in subsection (a)(2) on the basis of Department of Defense escalation rates. An adjustment under this subsection shall be effective after the Secretary transmits a written notification of the adjustment to the Committees on Armed Services of the Senate and House of Representatives.".

(c) SELECTED ACQUISITION REPORTS.—(1) Subsection (a) of section 2432 of title 10, United States Code, is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) The term 'major contract', with respect to a major defense acquisition program, means each of the six largest prime, associate, or Government-furnished equipment contracts under the program that is in excess of $40,000,000.".

(2) Subsection (b) of such section is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) The Secretary of Defense may waive the requirement for submission of Selected Acquisition Reports for a program for a fiscal year if—

"(i) the program has not entered full scale development or engineering and manufacturing development;

"(ii) a reasonable cost estimate has not been established for such program; and

"(iii) the system configuration for such program is not well defined.

"(B) The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a written notification of each waiver under subparagraph (A) for a program for a fiscal year not later than 60 days before the President submits the budget to Congress pursuant to section 1105 of title 31 in that fiscal year.".

(3) Subsection (c)(2) of such section is amended by striking out the last sentence and inserting in lieu thereof the following: "The Secretary of Defense may approve changes in the content of the Selected Acquisition Report if the Secretary provides such Committees with written notification of such changes at least 60 days before the date of the report that incorporates the changes.".

(4) Subsection (c)(3)(C) of such section is amended by striking out clauses (i) through (vii) and inserting in lieu thereof the following:

"(i) Specification of the baseline production rate, defined as the rate or rates to be achieved at full rate production as assumed in the decision to proceed with production (commonly referred to as the 'Milestone III' decision).

"(ii) Specification, for each of the two budget years of production under the program, of the minimum sustaining production rate, defined as the production rate for each budget year that is necessary to keep production lines open while maintaining a base of responsive vendors and suppliers.

"(iii) Specification, for each of the two budget years of production under the program, of the maximum production rate, defined as the production rate for each budget year that is attainable with the facilities and tooling programmed to be available for procurement under the program or otherwise to be provided with Government funds.

"(iv) Specification, for each of the two budget years of production, of the current production rate, defined as the production rate for each budget year for which the report is submitted, based on the budget submitted to Congress pursuant to section 1105 of title 31.

"(v) Estimation of any cost variance—

"(I) between the budget year procurement unit costs at the production rate specified pursuant to clause (iv) and the budget year procurement unit costs at the minimum sustaining production rate specified pursuant to clause (ii); and

"(II) between the total remaining procurement cost at the production rate specified pursuant to clause (iv) and the total remaining procurement cost at the minimum sustaining production rate specified pursuant to clause (ii).

"(vi) Estimation of any cost variance—

"(I) between the budget year procurement unit costs at the current production rate specified pursuant to clause (iv) and the budget year procurement unit costs at the maximum production rate specified pursuant to clause (iii); and

"(II) between the total remaining procurement cost at the current production rate specified pursuant to clause (iv) and the total remaining procurement cost at the maximum production rate specified pursuant to clause (iii).

"(vii) Estimation of quantity variance—

"(I) between the budget year quantities assumed in the minimum sustaining production rate specified pursuant to clause (ii) and the current production rate specified pursuant to clause (iv); and

"(II) between the budget year quantities assumed in the maximum production rate specified pursuant to clause (iii) and the current production rate specified pursuant to clause (iv).".

(d) UNIT COST REPORTS.—(1) Subsection (a)(4)(C) of section 2433 of title 10, United States Code, is amended by striking out "(e)(2)(B)(ii)" and inserting in lieu thereof "(e)(2)(B)".

(2) Subsection (b) of such section is amended by striking out "7 days (excluding Saturdays, Sundays, and legal public holidays)" in the second sentence and inserting in lieu thereof "30 calendar days".

(3) Paragraphs (1)(A), (1)(B), (2)(A), and (2)(B) of subsection (c) of such section are amended by striking out "more than" each place it appears and inserting in lieu thereof "at least".

(4) Subsection (d) of such section is amended—

(A) by striking out "more than" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "at least"; and

(B) in paragraph (3) of such subsection—

(i) by striking out "more than" each place it appears and inserting in lieu thereof "at least"; and

(ii) by striking out "program within 30 days" and all that follows and inserting in lieu thereof "program. In the case of a determination based on a quarterly report submitted in accordance with subsection (b), the Secretary shall submit the notification to Congress within 45 days after the end of the quarter. In the case of a determination based on a report submitted in accordance with subsection (c), the Secretary shall submit the notification to Congress within 45 days after the date of that report. The Secretary shall include in the notification the date on which the determination was made.".

(5) Subsection (e) of such section is amended—

(A) in paragraph (1), by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) Except as provided in subparagraph (B), whenever the Secretary concerned determines under subsection (d) that the program acquisition unit cost or the current procurement unit cost of a major defense acquisition program has increased by at least 15 percent, a Selected Acquisition Report shall be submitted to Congress for the first fiscal-year quarter ending on or after the date of the determination or for the fiscal-year quarter which immediately precedes the first fiscal-year quarter ending on or after that date. The report shall include the information described in section 2432(e) of this title and shall be submitted in accordance with section 2432(f) of this title.";

(B) in paragraph (2), by striking out "current program acquisition cost" and inserting in lieu thereof "program acquisition unit cost or current procurement unit cost"; and

(C) in paragraph (3), by striking out "more than" each place it appears and inserting in lieu thereof "at least".

SEC. 823. REVISION OF RULES CONCERNING SEVERANCE PAY FOR FOREIGN NATIONALS.

(a) WAIVER AUTHORITY.—Section 2324(e) of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3)(A) Pursuant to regulations prescribed by the Secretary and subject to the availability of appropriations, the head of an agency awarding a covered contract may waive the application of the provisions of paragraphs (1)(M) and (1)(N) to that contract if the head of the agency determines that—

"(i) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for members of the armed forces stationed or deployed outside the United States;

"(ii) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

"(iii) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

"(B) The head of an agency shall include in the solicitation for a covered contract a statement regarding whether a waiver has been granted under subparagraph (A) in the case of that contract.

"(C) Subparagraph (A) does not apply with respect to a contractor that is owned or controlled directly or indirectly by citizens or nationals of a foreign country, as determined by the head of the agency awarding the contract to such contractor. The head of the agency shall make such determination in accordance with the criteria and policy guidance referred to in paragraph (2)(C).".

(b) APPLICABILITY.—(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to covered contracts (as defined in section 2324 of title 10, United States Code) that are entered into on or after that date.

(2) Notwithstanding paragraph (1), if the applicable head of an agency makes the determinations referred to in paragraph (3)(A) of section 2324(e) of title 10, United States Code (as amended by subsection (a)), with respect to a covered contract that was in force during the period beginning on October 1, 1991, and ending on the date of the enactment of this Act, the provisions of paragraphs (1)(M) and (1)(N) of such section shall not apply to the costs, if any, incurred by the contractor for the payment under the contract of severance pay to foreign national employees whose employment under the contract was terminated during such period.

(c) REPORT ON USE OF WAIVER AUTHORITY.—Not later than March 15 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the use of the waiver authority provided in section 2324(e)(3)(A) of title 10, United States Code (as added by subsection (a)), during the preceding year.

SEC. 824. PROHIBITION ON PURCHASE OF UNITED STATES DEFENSE CONTRACTORS BY ENTITIES CONTROLLED BY FOREIGN GOVERNMENTS.

(a) IN GENERAL.—No entity controlled by a foreign government may purchase or otherwise acquire a company engaged in interstate commerce in the United States that—

(1) is performing a Department of Defense contract, or a Department of Energy contract under a national security program, that cannot be performed satisfactorily unless that company is given access to information in a proscribed category of information; or

(2) during the previous fiscal year, was awarded—

(A) Department of Defense prime contracts in an aggregate amount in excess of $500,000,000; or

(B) Department of Energy prime contracts under national security programs in an aggregate amount in excess of $500,000,000.

(b) INAPPLICABILITY TO CERTAIN CASES.—The limitation in subsection (a) shall not apply to a purchase or other acquisition if—

(1) the Secretary of Defense determines that the purchase or other acquisition is necessary in order to ensure the availability of critical supplies or services that would not otherwise be reasonably available to the Department of Defense;

(2) the Secretary of Defense determines that the purchase or other acquisition is not detrimental to the national security interests of the United States; and

(3) the purchase or other acquisition is not suspended or prohibited pursuant to section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170).

(c) DEFINITIONS.—In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government, and

(B) any individual acting on behalf of a foreign government,

as determined by the President.

(2) The term "proscribed category of information" means a category of information that—

(A) with respect to Department of Defense contracts—

(i) includes special access information;

(ii) is determined by the Secretary of Defense to include information the disclosure of which to an entity controlled by a foreign government is not in the national security interests of the United States; and

(iii) is defined in regulations prescribed by the Secretary of Defense for the purposes of this section; and

(B) with respect to Department of Energy contracts—

(i) is determined by the Secretary of Energy to include information described in subparagraph (A)(ii); and

(ii) is defined in regulations prescribed by the Secretary of Energy for the purposes of this section.

SEC. 825. PROHIBITION ON AWARD OF CERTAIN DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY CONTRACTS TO COMPANIES OWNED BY AN ENTITY CONTROLLED BY A FOREIGN GOVERNMENT.

(a) IN GENERAL.—A Department of Defense contract or Department of Energy contract under a national security program may not be awarded to a company owned by an entity controlled by a foreign government if it is necessary for that company to be given access to information in a proscribed category of information in order to perform the contract.

(b) WAIVER AUTHORITY.—The Secretary may waive the application of subsection (a) to a contract award if the Secretary determines that the waiver is essential to the national security interests of the United States.

(c) DEFINITIONS.—In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government, and

(B) any individual acting on behalf of a foreign government,

as determined by the Secretary concerned.

(2) The term "proscribed category of information" means a category of information that—

(A) with respect to Department of Defense contracts—

(i) includes special access information;

(ii) is determined by the Secretary of Defense to include information the disclosure of which to an entity controlled by a foreign government is not in the national security interests of the United States; and

(iii) is defined in regulations prescribed by the Secretary of Defense for the purposes of this section; and

(B) with respect to Department of Energy contracts—

(i) is determined by the Secretary of Energy to include information described in subparagraph (A)(ii); and

(ii) is defined in regulations prescribed by the Secretary of Energy for the purposes of this section.

(3) The term "Secretary concerned" means—

(A) the Secretary of Defense, with respect to Department of Defense contracts; and

(B) the Secretary of Energy, with respect to Department of Energy contracts.

SEC. 826. DEPARTMENT OF DEFENSE INVENTION DISPOSITION POLICY.

(a) POLICY.—To the extent permitted by law, the policy of the Department of Defense with respect to the disposition of any invention usable in the manufacture of products that is made in the performance of a federally funded research and development contract, grant, or cooperative agreement award shall be the same or substantially the same as is applied to small business firms and nonprofit organizations under chapter 18 of title 35, United States Code.

(b) WAIVER.—In awards not subject to chapter 18 of title 35, United States Code, any of the rights of the Federal Government or obligations of the performer described in sections 202 through 204 of that title may be waived or omitted if, under regulations prescribed by the Secretary of Defense, it is determined that—

(1) the interests of the United States and the general public will be better served by the waiver or omission, including such cases as when the waiver or omission is necessary to obtain a uniquely or highly qualified performer; or

(2) the award involves cosponsored, cost-sharing, or joint venture research and development, and the performer, cosponsor, or joint venturer is making a substantial contribution of funds, facilities, or equipment to the work performed under the award.

(c) REQUIREMENT FOR CONFIDENTIALITY.—The Secretary of Defense should protect the confidentiality of invention disclosure, patent applications, and utilization reports required in performance or in consequence of awards to the extent permitted by section 205 of title 35, United States Code, or other applicable laws.

SEC. 827. CERTIFICATION OF CLAIMS FOR SHIPBUILDING CONTRACTS.

(a) CERTIFICATION.—Section 2405 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) If a certification referred to in subsection (b) with respect to a shipbuilding contract is determined to be deficient because of the position, status, or scope of authority of the person executing the certification, the contractor may resubmit the certification. The resubmitted certification shall be based on the supporting data that existed when the original certification was submitted. The appropriateness of the person executing the resubmitted certification shall be determined on the basis of applicable law in effect at the time of the resubmission.

"(2) If a certification is resubmitted pursuant to paragraph (1) within 30 days after the date on which the contracting officer for the contract notifies the contractor in writing of the deficiency in the original certification, the resubmitted certification shall be deemed to have been submitted at the time the original certification was submitted.".

(b) APPLICABILITY.—(1) Except as provided in paragraph (2) the amendment made by subsection (a) shall apply to certifications determined to be deficient on or after the date of the enactment of this Act.

(2) In the case of a certification referred to in subsection (b) of section 2405 of title 10, United States Code, that has been determined to be deficient for a reason set forth in subsection (c)(1) of that section (as added by subsection (a)) before the date of the enactment of this Act, a certification resubmitted pursuant to such subsection (c)(1) within 180 days after that date shall be deemed to have been submitted on the date of the submission of the original certification.

SEC. 828. AUTHORITY FOR THE DEPARTMENT OF DEFENSE TO SHARE EQUITABLY THE COSTS OF CLAIMS UNDER INTERNATIONAL ARMAMENTS COOPERATION PROGRAMS.

(a) AMENDMENT TO THE ARMS EXPORT CONTROL ACT.—Section 27(c) of the Arms Export Control Act (22 U.S.C. 2767(c)) is amended in the second sentence by striking out "and administrative costs" and inserting in lieu thereof "costs, administrative costs, and costs of claims".

(b) AMENDMENTS TO TITLE 10.—(1) Section 2350a(c) of title 10, United States Code, is amended by inserting "(including the costs of claims)" after "project" the second place it appears.

(2) Section 2350d(c) of such title is amended by inserting "and costs of claims" after "administrative costs".

SEC. 829. ADVANCE NOTIFICATION OF CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES.

(a) NOTIFICATION REQUIRED.—(1) Chapter 141 of title 10, United States Code, as amended by section 806, is further amended by adding at the end the following new section:

"§ 2410f. Advance notification of contract performance outside the United States

"(a) NOTIFICATION.—(1) A firm that is performing a Department of Defense contract for an amount exceeding $10,000,000, or is submitting a bid or proposal for such a contract, shall notify the Department of Defense in advance of any intention of the firm or any subcontractor of the firm to perform outside the United States any part of the contract that exceeds $500,000 in value and could be performed inside the United States.

"(2) If a firm submitting a bid or proposal for a Department of Defense contract is required to submit a notification under this subsection, the notification shall be included in the bid or proposal.

"(b) RECIPIENT OF NOTIFICATION.—The firm shall transmit the notification—

"(1) in the case of a contract of a military department, to such officer or employee of that military department as the Secretary of the military department may direct; and

"(2) in the case of any other Department of Defense contract, to such officer or employee of the Department of Defense as the Secretary of Defense may direct.

"(c) AVAILABILITY OF NOTIFICATIONS.—The Secretary of Defense shall ensure that the notifications (or copies) are maintained in compiled form for a period of 5 years and are available for use in the preparation of the national defense technology and industrial base assessment carried out under section 2263 of this title.

"(d) INAPPLICABILITY TO CONSTRUCTION CONTRACTS.—This section shall not apply to contracts for military construction.".

(2) The table of sections at the beginning of such chapter, as amended by section 806, is further amended by adding at the end the following new item:

"2410f. Advance notification of contract performance outside the United States.".

(b) EFFECTIVE DATE.—Section 2410d of title 10, United States Code (as added by subsection (a)), shall take effect 90 days after the date of the enactment of this Act.

SEC. 830. ALLOWABLE COSTS.

(a) PENALTIES.—Section 2324 of title 10, United States Code, is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a) The Secretary of Defense shall require that a covered contract provide that if the contractor submits to the Department of Defense a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation or the Department of Defense Supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

"(b)(1) If the Secretary determines that a cost submitted by a contractor in its proposal for settlement is expressly unallowable under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs, the Secretary shall assess a penalty against the contractor in an amount equal to—

"(A) the amount of the disallowed costs allocated to covered contracts; plus

"(B) interest (to be computed based on regulations issued by the Secretary) to compensate the United States for the use of any funds which the contractor has been paid in excess of the amount to which the contractor was entitled.

"(2) If the Secretary determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such contractor before the submission of such proposal, the Secretary shall assess a penalty against the contractor in an amount equal to two times the amount of the disallowed cost allocated to covered contracts.

"(c) The Secretary shall prescribe regulations providing for a penalty under subsection (b) to be waived in the case of a contractor's proposal for settlement of indirect costs when—

"(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal; or

"(2) the amount of unallowable costs subject to the penalty is insignificant.

"(d) An action of the Secretary under subsection (a) or (b)—

"(1) shall be considered a final decision for the purposes of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605); and

"(2) is appealable in the manner provided in section 7 of such Act (41 U.S.C. 606).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply, as provided in regulations prescribed by the Secretary of Defense, with respect to proposals for settlement of indirect costs for contractor fiscal years for which the Federal Government has not formally initiated an audit of the proposals before that date.

SEC. 831. SCIENCE AND TECHNOLOGY FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Defense shall carry out a science and technology fellowship program in accordance with this section in order to enhance the ability of the Department of Defense to recruit and retain employees who are highly qualified in fields of science and technology.

(b) NUMBER OF FELLOWSHIPS.—The Secretary of Defense may designate up to 25 employees of the Department of Defense as science and technology fellows.

(c) COVERED POSITIONS.—In order to be eligible for designation as a science and technology fellow, an employee shall be serving in a science or technology position in the Department of Defense that involves the performance of duties likely to result in significant restrictions under law on the employment activities of that employee after leaving Government service.

(d) SUPPORT FOR 2-YEAR PERIOD OF RESEARCH AND TEACHING.—After a science and technology fellow completes 2 years of Federal Government service as an employee in a science or technology position in the Department of Defense, the Secretary of Defense shall support the employment of the fellow, in accordance with subsection (e), in research or teaching in a field related to Federal Government science and technology policy for 2 years.

(e) FORMS OF SUPPORT.—(1) If the fellow engages in research or teaching referred to in subsection (d) in the defense acquisition university structure of the Department of Defense or any other institution of professional education of the Federal Government, the Secretary of Defense shall continue the fellow as an employee of the Department of Defense in a grade or level at least equal to the grade or level of the position in which the fellow served in the Department of Defense as a fellow before undertaking such research or teaching.

(2) If the fellow terminates employment as a Federal employee and engages in research or teaching referred to in subsection (d) in a nonprofit institution of higher education, the Secretary of Defense shall pay the fellow a stipend at least equal to the rate of pay and the equivalent of the employee benefits that the fellow would have received under paragraph (1) if the fellow were engaging in that research or teaching in an institution of professional education of the Federal Government.

SEC. 832. ADVISORY AND ASSISTANCE SERVICES FOR OPERATIONAL TEST AND EVALUATION.

Paragraph (3) of section 2399(e) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following new subparagraph:

"(B) The limitation in subparagraph (A) does not apply to a contractor that has participated in such development, production, or testing solely as a representative of the Federal Government.".

SEC. 833. REGULATIONS RELATING TO SUBSTANTIAL CHANGES IN THE PARTICIPATION OF A MILITARY DEPARTMENT IN A JOINT ACQUISITION PROGRAM.

(a) REGULATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

(b) CONTENT OF REGULATIONS.—The regulations shall include the following provisions:

(1) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termi-

nation or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

(2) A provision that authorizes the Under Secretary of Defense for Acquisition to require a military department approved for termination or substantial reduction in participation in a joint acquisition program to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.

SEC. 834. RESTRICTION ON PURCHASE OF SONOBUOYS.

(a) LIMITATION.—The Secretary of Defense may not procure a sonobuoy manufactured in a foreign country unless United States firms that manufacture sonobuoys are permitted to compete on an equal basis with foreign manufacturing firms for the sale of sonobuoys in that foreign country.

(b) WAIVER AUTHORITY.—The Secretary may waive the limitation in subsection (a) with respect to a particular procurement of sonobuoys if the Secretary determines that such procurement is in the national security interests of the United States.

(c) DEFINITION.—In this section, the term "United States firm" has the meaning given such term in section 2505(d)(1) of title 10, United States Code.

SEC. 835. SHIPBUILDING TOTAL PROGRAM REPORTING.

Section 2431 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) In the application of subsection (b)(2) to reports regarding a shipbuilding program, the term 'units to be procured until procurement is completed' means the greater of—

"(1) the number of ships used in the cost and operational effectiveness analysis that supports a Milestone I decision for the program;

"(2) the number of ships used in the cost and operational effectiveness analysis that supports a Milestone II decision for the program; or

"(3) the total number of ships that would be procured under the program if the latest multiyear defense program submitted under section 114a of this title were implemented.".

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—General Matters

SEC. 901. REPORT OF THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF ON ROLES AND MISSIONS OF THE ARMED FORCES.

(a) REPORT.—(1) The Secretary of Defense shall transmit to Congress a copy of the first report relating to the roles and missions of the Armed Forces that is submitted to the Secretary by the Chairman of the Joint Chiefs of Staff under section 153(b) of title 10, United States Code, after January 1, 1992.

(2) The Secretary shall transmit the report, together with his views on the report, within 30 days after receiving the report.

(b) ADDITIONAL MATTERS.—In addition to the matters required under such section 153(b), the Chairman shall include in the report referred to in subsection (a) the Chairman's comments and recommendations regarding the following matters:

(1) The extent to which the efficiency of the Armed Forces in carrying out its roles and missions can be enhanced by the elimination or reduction of duplication in the capabilities of, or by the consolidation or streamlining of organizations and activities within, the military departments and Defense Agencies.

(2) Changes in the operational tempo of forces stationed in the continental United States and changes in deployment patterns and operational tempo of forces deployed outside the United States.

(3) Changes in the readiness status of units based upon time-phased force deployment plans.

(4) Transfers of functions from the active components of the Armed Forces to the reserve components of the Armed Forces.

SEC. 902. VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF.

(a) DESIGNATION AS A MEMBER OF THE JOINT CHIEFS OF STAFF.—Section 151(a) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Vice Chairman.".

(b) CONFORMING AMENDMENTS.—(1) Section 154 of such title is amended—

(A) in subsection (c), by striking out "such" and inserting in lieu thereof "the duties prescribed for him as a member of the Joint Chiefs of Staff and such other";

(B) by striking out subsection (f); and

(C) by redesignating subsection (g) as subsection (f).

(2) Section 155(a)(1) of such title is amended by striking out "and the Vice Chairman."

SEC. 903. ASSISTANT TO THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF FOR NATIONAL GUARD AND RESERVE AFFAIRS.

Section 155 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) ASSISTANT FOR NATIONAL GUARD AND RESERVE AFFAIRS.—(1) The Chairman of the Joint Chiefs of Staff shall establish on the Joint Staff the position of Assistant to the Chairman of the Joint Chiefs of Staff for National Guard and Reserve Affairs.

"(2) The Assistant to the Chairman shall be a commissioned officer in the reserve components.

"(3) The Assistant to the Chairman shall be the principal adviser to the Chairman of the Joint Chiefs of Staff on matters concerning the reserve components.

"(4) The staff of the Assistant to the Chairman shall be members of the reserve components within the end strengths authorized by law for the number of Reserves serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components.".

SEC. 904. ORGANIZATION OF THE OFFICE OF THE CHIEF OF NAVAL OPERATIONS.

(a) CONSOLIDATION OF NAVY HEADQUARTERS MANAGEMENT STRUCTURE.—The Secretary of the Navy shall consolidate and streamline the Navy headquarters establishments within the Office of the Chief of Naval Operations to reflect changes in the roles and missions of the Department of the Navy.

(b) ASSISTANT CHIEF OF NAVAL OPERATIONS FOR EXPEDITIONARY WARFARE.—(1) Section 5037 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) One of the Assistant Chiefs of Naval Operations shall be the Assistant Chief of Naval Operations for Expeditionary Warfare who shall be detailed from officers on the active-duty list of the Marine Corps.

"(2) An officer assigned to the position of Assistant Chief of Naval Operations for Expeditionary Warfare, while so serving, has the grade of lieutenant general without vacating his permanent grade. The Assistant Chief of Naval Operations for Expeditionary Warfare shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position.

"(3) The principal duty of the Assistant Chief of Naval Operations for Expeditionary Warfare shall be to supervise the performance of all responsibilities of the Chief of Naval Operations regarding expeditionary warfare, including responsibilities regarding amphibious lift, mine warfare, naval fire support, aviation support, and other missions essential to supporting expeditionary warfare.".

(2) The Chief of Naval Operations shall transfer duties, responsibilities, and staff from other personnel within the Office of the Chief of Naval Operations as necessary to fully support the Assistant Chief of Naval Operations for Expeditionary Warfare.

(3) Paragraph (4) of section 525(b) of title 10, United States Code, is amended—

(A) in subparagraph (A), by inserting "or referred to in subparagraph (C)" after "subparagraph (B)"; and

(B) by adding at the end the following new subparagraph:

"(C) Subparagraph (C) applies to the Assistant Chief of Naval Operations for Expeditionary Warfare in addition to officers designated under subparagraph (B).".

SEC. 905. CERTIFICATIONS RELATING TO THE ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT AND THE SPECIAL OPERATIONS COMMAND.

(a) CERTIFICATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall (except as otherwise provided under subsection (b)) certify to the congressional defense committees the following:

(1) That the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict and the commander of the special operations command established pursuant to section 167 of title 10, United States Code, have been assigned the duties and functions specified for the Assistant Secretary and that commander, respectively, under law, the Unified Command Plan, and Department of Defense Directive No. 5138.3 (dated January 4, 1988).

(2) That the Assistant Secretary and the special operations command have been authorized the number of personnel necessary for the Assistant Secretary and the commander of the special operations command to perform such respective duties and functions.

(b) ALTERNATIVE TO CERTIFICATION.—If the Secretary of Defense is unable to make the certifications referred to in subsection (a) within the 120-day period provided in that subsection, the Secretary shall submit to the congressional defense committees a report notifying the committees that the Secretary is unable to make such certifications and setting forth the actions that the Secretary will take in order to enable the Secretary to make such certifications after the expiration of that period.

SEC. 906. JOINT OFFICER PERSONNEL POLICY.

(a) FIVE-YEAR EXTENSION OF AUTHORITY RELATING TO JOINT DUTY ASSIGNMENT AS PREREQUISITE FOR PROMOTION TO GENERAL OR FLAG OFFICER.—Section 619(e) of title 10, United States Code, is amended by striking out "January 1, 1994" in paragraphs (1) and (2)(E) and inserting in lieu thereof "January 1, 1999".

(b) EDUCATION AND EXPERIENCE REQUIREMENTS.—Section 661(c)(1)(A) of such title is amended by inserting before the semicolon the following: "or successfully completes a program at a civilian institution of higher education leading to the award of a master's or higher degree".

(c) LENGTH OF JOINT DUTY ASSIGNMENTS.—(1) Subsection (f) of section 664 of such title is amended to read as follows:

"(f) FULL TOUR OF DUTY.—An officer shall be considered to have completed a full tour of duty in a joint duty assignment upon the successful completion by that officer of a joint duty assignment, or of an assignment within the officer's military department, if the officer is certified as having gained significant experience in joint matters in that assignment by—

"(1) in the case of an assignment in a unit or organization in a combatant command, the commander of the combatant command;

"(2) in the case of an assignment in a Defense Agency, the head of that Defense Agency; or

"(3) in the case of any other assignment, the Chairman of the Joint Chiefs of Staff.".

(2) Subsection (d)(1)(D) of that section is amended to read as follows:

"(D) a reassignment for unusual personal reasons (including extreme hardship and medical conditions) beyond the control of the officer or the armed forces or a reassignment to another joint duty assignment.".

(d) CONFORMING AMENDMENTS.—(1) Section 664 of such title is amended by striking out paragraph (3) of subsection (d) and subsections (g) and (h).

(2) Section 668(b)(1) of such title is amended by striking out "exclude—" and all that follows through the period at the end and inserting in lieu thereof "exclude assignments for joint training or joint education.".

SEC. 907. JOINT DUTY CREDIT FOR EQUIVALENT DUTY IN OPERATIONS DESERT SHIELD AND DESERT STORM.

(a) IN GENERAL.—(1) The Secretary of Defense, upon a recommendation made in accordance with paragraph (3), shall credit an officer of the Armed Forces of the United States who has completed service described in paragraph (2) as having completed a full tour of duty in a joint duty assignment for the purposes of chapter 38 of title 10, United States Code.

(2) Paragraph (1) applies to any officer who, after August 1, 1990, and before October 1, 1991, performed service in an assignment in the Persian Gulf combat zone that—

(A) provided significant experience in joint matters; or

(B) involved frequent professional interaction of that officer with (i) units and members of any of the armed forces other than the officer's armed force, or (ii) an allied armed force.

(3) The Secretary shall take action under paragraph (1) in the case of any officer if that action is recommended, with the concurrence of the Chairman of the Joint Chiefs of Staff, by the Chief of Staff of the Army (for an officer in the Army), the Chief of Naval Operations (for an officer in the Navy), the Chief of Staff of the Air Force (for an officer in the Air Force), or the Commandant of the Marine Corps (for an officer in the Marine Corps).

(b) INAPPLICABILITY OF CERTAIN REPORTING AND POLICY REQUIREMENTS.—Officers for whom joint duty credit has been granted pursuant to subsection (a) shall not be counted for the purposes of paragraphs (7), (8), (9), (11), or (12) of section 667 of title 10, United States Code, and subsections (a)(3) and (b) of section 662 of such title.

(c) INFORMATION ON EXERCISE OF AUTHORITY TO BE INCLUDED IN FISCAL YEAR 1993 ANNUAL REPORT.—The annual report submitted to Congress by the Secretary of Defense for fiscal year 1993 under section 113(c) of title 10, United States Code, shall include the following information:

(1) The total number of officers granted joint duty credit pursuant to subsection (a).

(2) The total number of such officers for each armed force.

(3) The total number of officers in each grade and each occupational specialty who have been granted joint duty credit pursuant to subsection (a).

(4) For each armed force, the total number of such officers in each grade and each occupational specialty who have been granted such credit.

(d) DEFINITIONS.—In this section:

(1) The term "joint matters" has the meaning given such term in section 668(a) of title 10, United States Code.

(2) The term "Persian Gulf combat zone" means the area designated by the President as the combat zone for Operation Desert Shield, Operation Desert Storm, and related operations for purposes of section 112 of the Internal Revenue Code of 1986.

SEC. 908. CINC INITIATIVE FUND.

(a) AUTHORIZED RECIPIENTS OF FUNDS.—Subsection (a) of section 166a of title 10, United States Code, is amended in the first sentence by striking out "funds, upon request," and all that follows through the period and inserting in lieu thereof "funds to the commander of a combatant command, upon the request of the commander, or to the Director of the Joint Staff with respect to an area or areas not within the area of responsibility of a commander of a combatant command.".

(b) AUTHORIZED ACTIVITIES.—Subsection (b)(7) of such section is amended by inserting "(including transportation, translation, and administrative expenses)" before the period at the end.

(c) PRIORITY.—Subsection (c) of such section is amended by inserting before the period at the end the following:

"(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund or the provision of funds to the Director of the Joint Staff under subsection (a), should give priority consideration to—

"(1) requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds; and

"(2) the provision of funds to be used for activities with respect to an area or areas not within the area of responsibility of a commander of a combatant command that would reduce the threat to, or otherwise increase, the national security of the United States.".

(d) LIMITATIONS.—Subsection (e)(1)(C) of such section is amended to read as follows:

"(C) not more than $5,000,000 may be used to provide military education and training (including transportation, translation, and administrative expenses) to military and related civilian personnel of foreign countries as authorized by subsection (b)(7).".

SEC. 909. DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR EQUAL OPPORTUNITY.

(a) REQUIREMENT FOR REESTABLISHMENT OF POSITION.—The Secretary of Defense shall reestablish within the Office of the Secretary of Defense the position of Deputy Assistant Secretary of Defense for Equal Opportunity and provide for the official in that position to carry out the same or similar duties that were formerly carried out by the Deputy Assistant Secretary of Defense for Equal Opportunity before that position was abolished.

(b) STAFF SUPPORT.—The Secretary shall provide staff for the Deputy Assistant Secretary of Defense for Equal Opportunity in a sufficient number and with sufficient qualifications to enable the Deputy Assistant Secretary of Defense to perform the duties of the position effectively.

(c) USE OF RESOURCES AVAILABLE.—The Secretary shall carry out the requirements of this section with the existing resources available to the Department of Defense.

SEC. 910. DELIVERY OF LEGAL SERVICES WITHIN THE DEPARTMENT OF DEFENSE.

Not later than 10 days after the date of the enactment of this Act, the Secretary of Defense shall rescind or revise the memorandum of the Deputy Secretary of Defense entitled "Ensuring Execution of the Laws and Effective Delivery of Legal Services", dated March 3, 1992.

SEC. 911. COMMISSION ON THE CONDUCT AND REVIEW OF INVESTIGATIONS IN THE DEPARTMENT OF DEFENSE.

(a) ESTABLISHMENT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish a Commission on the Conduct and Review of Investigations in the Department of Defense.

(b) MEMBERSHIP.—The Commission shall be composed of 11 persons who have significant experience in the conduct or review of major investigations, as follows:

(1) Five officials of the Department of Defense, one of whom shall be the Inspector General of the Department of Defense and one of whom shall be the General Counsel of the Department of Defense.

(2) Three former officials of the Department of Defense who, during their Department of Defense service, had substantial responsibility for the conduct or review of major investigations.

(3) Three individuals who, during current or past service in the Federal Government, have had significant experience in the conduct or review of major investigations primarily involving Federal agencies other than the Department of Defense.

(c) DUTIES.—The Commission shall—

(1) review Department of Defense policies, procedures, and practices concerning the conduct and review of investigations; and

(2) in accordance with subsection (e)(1), make any recommendations for changes in such policies, procedures, and practices that the Commission considers appropriate.

(d) REVIEW.—The matters reviewed by the Commission shall include the following:

(1) The training and qualifications of investigative personnel.

(2) The division of responsibilities among organizations with investigative, audit, and inspection functions within the Department of Defense.

(3) The coordination of activities among such organizations.

(4) Procedures for ensuring that such organizations are capable of, and responsive to, the needs of the unified combatant commands, the Defense Agencies, and other joint organizations.

(5) Procedures for ensuring that prompt and thorough investigations are conducted of allegations of misconduct concerning classified matters, operational matters, and the performance of persons in the chain of command.

(6) Procedures for ensuring that investigative organizations are not subject to improper command influence while also ensuring that such organizations are responsive to the investigative and inspection needs of the chain of command.

(7) Procedures for ensuring that there is timely and thorough coordination between organizations conducting investigations and officials within the chain of command who will be responsible for acting on the results of such investigations.

(8) Procedures for ensuring that there is a timely determination as to whether an investigation should be undertaken by a court of inquiry or other formal administrative board procedure.

(9) Procedures for ensuring that the rights of persons under the Uniform Code of Military Justice, administrative procedures, and other applicable laws and regulations are protected during the course of an investigation and subsequent review procedures.

(10) Guidance for ensuring that military and civilian officials in the chain of command receive timely instruction and advice on the procedures for undertaking appropriate management actions during the pendency of an investigation without interfering with the investigation or engaging in unlawful command influence.

(11) Procedures for ensuring that investigative materials are organized and presented in a manner that facilitates timely action by reviewing authorities.

(12) Such other matters related to the duties of the Commission as may be specified by the Secretary of Defense or the Commission.

(e) REPORT.—(1) Not later than November 15, 1993, the Commission shall transmit to the Secretary of Defense a report containing the results of its review under subsection (c) and its recommendations in accordance with that subsection.

(2) The Secretary shall transmit the report of the Commission, together with his comments and recommendations, to the congressional defense committees not later than December 15, 1993.

SEC. 912. SENSE OF CONGRESS ON COOPERATION BETWEEN THE ARMY AND THE MARINE CORPS.

(a) FINDINGS.—With respect to the roles and missions of the Army and Marine Corps, the Congress makes the following findings:

(1) Both the Army and the Marine Corps have long and proud traditions of service to the United States in times of war and peace.

(2) The Marine Corps and the Army provide complementary military capabilities that are necessary for carrying out the national military strategy of the United States.

(3) Operation Desert Shield and Operation Desert Storm demonstrated the complementary nature of those capabilities and the substantial degree to which the Army and the Marine Corps can effectively coordinate their activities and cooperate with each other.

(4) The availability of future Federal budget resources for the Army and the Marine Corps is likely to be significantly more limited than the Federal budget resources currently available for the Army and the Marine Corps.

(b) SENSE OF CONGRESS.—(1) It is the sense of Congress that the Army and the Marine Corps should intensify efforts to eliminate unnecessary duplication, to improve interservice coordination, and to specialize in areas in which each has a comparative advantage.

(2)(A) The Congress encourages the Chairman of the Joint Chiefs of Staff to examine whether—

(i) the Army should provide the Marine Corps with armor and heavy fire support needed for mid-intensity and high-intensity combat; or

(ii) the Marine Corps should be equipped with the armor, heavy artillery, and other weapons and sustainability needed to engage in mid-intensity and high-intensity combat independent of the other military services.

(B) In conducting the examination, the Chairman should consider the following actions:

(i) Designating Army artillery battalions equipped with the Multiple Launch Rocket System to support Marine amphibious forces afloat.

(ii) Designating Army tank battalions to support Marine amphibious forces afloat.

(iii) Equipping Maritime Prepositioning Ships with Multiple Launch Rocket System launchers and M1 tanks to be manned by Army units in support of Marine forces.

(iv) Transferring management of all prepositioning shipping on behalf of all of the Armed Forces to the Marine Corps.

(v) Transferring Army shipping and lighterage to the Navy.

(C) In the consideration of the actions referred to in subparagraph (B), the Chairman should evaluate the logistics, training, and operational implications of each action.

(D) If the Chairman recommends that the Marine Corps be equipped with the armor, heavy artillery, other weapons, and sustainability necessary for engaging in mid-intensity and high-intensity combat independent of the other services, the Chairman should determine, as part of the examination under this paragraph, the following:

(i) What additional procurement requirements and costs are necessary to equip the Marine Corps to meet the demands of mid-intensity and high-intensity combat.

(ii) The adequacy of current prepositioning programs, mine warfare capability, naval fire support, and night fighting capability to meet the demands of mid-intensity and high-intensity combat.

(3) The Chairman should consider the matters set forth in paragraphs (1) and (2) and the options for streamlining the roles and missions of the Army and the Marine Corps in the performance of his responsibilities under section 153(b) of title 10, United States Code.

SEC. 913. NATIONAL GUARD AND RESERVE COMPONENT OPERATIONAL SUPPORT AIRLIFT STUDY.

(a) STUDY REQUIRED.—The Secretary of Defense shall undertake a study of operational support airlift aircraft and administrative transport airlift aircraft operated by the National Guard and the reserve components.

(b) STUDY REQUIREMENTS.—The study required by subsection (a) shall include the following:

(1) An inventory of all operational support airlift aircraft and administrative transport airlift aircraft that are operated by the reserve components.

(2) The peacetime utilization rate of such aircraft.

(3) The wartime mission of such aircraft.

(4) The need for such aircraft for the future base force.

(5) The current age, projected service life, and programmed retirement date for such aircraft.

(6) A list of aircraft programmed in the fiscal year 1994 future years defense program to be purchased for the reserve components or to be transferred from the active components to the reserve components.

(7) The funds programmed in the fiscal year 1994 future years defense program for procurement of replacement operational support and administrative transport airlift aircraft, and the acquisition strategy proposed for each type of replacement aircraft so programmed.

(c) DEFINITION.—In this section, the term "future years defense program" means the multiyear defense program submitted to Congress pursuant to section 114a of title 10, United States Code.

SEC. 914. CONTINUING REQUIREMENT FOR REPORTING ON OPERATIONAL ACTIVITIES.

(a) IN GENERAL.—Chapter 2 of title 10, United States Code, is amended by inserting after section 116 the following new section 117:

"§117. Continuing requirement for reporting on operational activities

"(a)(1) The Secretary of Defense shall ensure that the Committees on Armed Services of the Senate and House of Representatives are fully and currently informed of all operational activities carried out by members of the armed forces or employees of the Department of Defense.

"(2) Matters covered by the War Powers Resolution (50 U.S.C. 1541 et seq.) shall be reported in accordance with the provisions of that resolution.

"(b) The head of any other department or agency (including the head of any independent establishment) of the Federal Government shall submit to the Committees on Armed Services of the Senate and the House of Representatives any information requested by either such committee relating to any operational activity referred to in subsection (a)(1).

"(c) Information required to be submitted under subsection (a) or (b) may not be withheld from a committee referred to in such subsection on the grounds that such information would constitute the unauthorized disclosure of classified information.

"(d) In this section, the term 'operational activity' means an activity that involves the introduction of a unit or units of the armed forces into the territory, including the airspace and waters, of another country for other than traditional peacetime military activities or routine support of such activities.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 116 the following new item:

"117. Continuing requirement for reporting on operational activities.".

SEC. 915. LIMITATION REGARDING SUBMISSION OF THE ROLES AND MISSIONS REPORT OF THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF.

(a) LIMITATION.—Not more than 50 percent of the total amount appropriated pursuant to an authorization of appropriations contained in title I or II of this Act that is made available for a program referred to in subsection (b) may be obligated for such program until 60 days after the Secretary of Defense—

(1) has submitted to Congress the budget request for fiscal year 1994 for the Department of Defense; and

(2) has submitted to the congressional defense committees a copy of the first report on assignment of roles and missions of the armed forces that the Chairman of the Joint Chiefs of Staff submits to the Secretary of Defense pursuant to section 153(b) of title 10, United States Code, after January 1, 1992.

(b) APPLICABILITY.—Subsection (a) applies to the following programs:

(1) The F-22 Advanced Tactical Fighter program.

(2) The F-18E/F fighter program.

(3) The AX/ATA attack aircraft program.

(4) The Patriot Product Improvement Program.

(5) The Hawk Product Improvement Program.

Subtitle B—Drug Interdiction and Counter-Drug Activities

SEC. 921. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES.

Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 374 note) is amended—

(1) in subsection (a), by striking out "and 1993," and inserting in lieu thereof "1993, and 1994,"; and

(2) by adding at the end of subsection (b) the following new paragraphs:

"(9) Detection, monitoring, and communication of the movement of traffic at, near, and outside the geographic boundaries of the United States.

"(10) Linguist and intelligence analysis services.".

SEC. 922. MAINTENANCE AND OPERATION OF EQUIPMENT.

Section 374(b)(2)(A) of title 10, United States Code, is amended by inserting "and land traffic at, near, and outside the geographic boundaries of the United States" before the period at the end.

SEC. 923. EXTENSION OF AUTHORITY TO TRANSFER EXCESS PERSONAL PROPERTY.

Section 1208(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 10 U.S.C. 372 note) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1997".

SEC. 924. COUNTER-DRUG SENSOR MIX STUDY.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Secretary of Defense shall—

(1) conduct a study of the land-based, sea-based, and air-based systems used by the Department of Defense in carrying out activities relating to the reconnaissance, detection, and monitoring of drug traffic; and

(2) submit to Congress a report on the results of the study.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) An assessment of the capabilities, strengths, and weaknesses of the systems referred to in subsection (a).

(2) An evaluation of the feasibility and desirability of using airships to carry out the activities referred to in subsection (a).

(3) Recommendations regarding the optimal and most cost-effective combination of use of such systems to carry out such activities.

(c) LIMITATION ON OBLIGATION OF FUNDS.—(1) Except as provided in paragraph (2), none of the funds appropriated or otherwise made available for the Department of Defense for fiscal year 1993 pursuant to an authorization of appropriations in this Act may be obligated or expended for the procurement or upgrading of a counter-drug reconnaissance, detection, and monitoring system, for research and development with respect to such a system, or for the lease or rental of such a system until the Secretary submits to Congress the report required under subsection (a).

(2) Paragraph (1) shall not prohibit obligations or expenditures of funds for any procurement, upgrading, research and development, or lease of a system that is necessary to carry out the study required under subsection (a).

SEC. 925. DEMAND REDUCTION PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) The flow of illegal drugs into the United States has not declined appreciably in recent years.

(2) While interdiction of illegal drugs helps to reduce the flow of such drugs into the United States, reduction of demand for such drugs in the United States is the most effective way to reduce that flow.

(3) Members of the Armed Forces have been more successful than persons in other segments of society in reducing their use of illegal drugs.

(4) The active and reserve components of the Armed Forces have conducted a successful outreach program to reduce demand for illegal drugs in the vicinity of military installations and National Guard facilities.

(5) It is in the interest of the United States that, to the maximum extent practicable, the outreach program be expanded to include regions beyond the vicinity of military installations and National Guard facilities and to focus on youths, in general, and inner-city youths, in particular.

(b) DEMAND REDUCTION ACTIVITIES.—The Secretary of Defense shall conduct an outreach program in order to reduce demand for illegal drugs among youths. The Secretary shall conduct the program as follows:

(1) By providing travel and living allowances to members of the Armed Forces to permit such members to carry out the current demand reduction outreach program in areas beyond the vicinity of military installations and National Guard facilities.

(2) By establishing and operating camps for youths (including providing food and lodging) to provide programs and activities that encourage reduction in the demand by such youths for illegal drugs.

(3) By providing for opportunities in which appropriate personnel of the Armed Forces act as role models for youths.

(4) By providing self-worth, self-esteem, motivational, and basic skills training to youths.

(5) By providing substance abuse counseling and treatment services.

(6) By providing support for community drug treatment and prevention programs.

(7) By providing appropriate training to substance abuse counselors.

(8) By carrying out such other activities as the Secretary determines advisable to encourage the reduction in demand for illegal drugs among members of the civilian population of the United States.

(c) FUNDING.—Notwithstanding any other provision of law, funds available to the Department of Defense for drug interdiction and counter-drug activities may be used for carrying out the program described in subsection (b).

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1993 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $1,500,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1002. RESTATEMENT OF REQUIREMENT FOR MISSION BUDGET.

(a) IN GENERAL.—(1) Section 114a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) MULTIYEAR MISSION BUDGET.—(1) The Secretary of Defense shall submit to Congress a multiyear budget for the Department of Defense with the budget submitted pursuant to section 1105 of title 31. The multiyear budget shall be consistent with the multiyear defense plan required under subsection (a). In the multiyear budget the military programs within the Department of Defense shall be organized on the basis of major roles, missions, or forces of the Department of Defense.

"(2) The requirement in paragraph (1) is in addition to the requirements in any other provision of law regarding the format for the presentation regarding military programs of the Department of Defense in the budget submitted pursuant to section 1105 of title 31.".

(2) The amendment made by subsection (a) shall apply with respect to the budgets submitted to Congress under section 1105 of title 31, United States Code, for fiscal years after fiscal year 1993.

(b) CONFORMING REPEAL.—Section 1404 of the National Defense Authorization Act of Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1675; 10 U.S.C. 114a note) is repealed.

SEC. 1003. ADDITIONAL TRANSITION AUTHORITY REGARDING CLOSING APPROPRIATION ACCOUNTS.

Section 1405(b) of the National Defense Authorization Act for Fiscal Year 1991 (31 U.S.C. 1551 note) is amended by inserting after paragraph (7) the following new paragraph:

"(8) OBLIGATIONS AND ADJUSTMENTS OF OBLIGATIONS FOR EXPIRED BUT NOT CLOSED ACCOUNTS.—(A) Subject to subparagraphs (B) and (C), in the case of an appropriation account for a fiscal year before fiscal year 1992 for which the period of availability for obligation has expired but which has not been closed under the provisions of section 1552(a) of title 31, United States Code, or paragraph (4) of this section, an obligation and an adjustment of an obligation may be charged to any current appropriation account of the Department of Defense that is available for the same purpose as the expired account if—

"(i) the obligation would have been properly chargeable to the expired account before the end of the period of availability of that account; and

"(ii) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense.

"(B) The total amount charged to a current appropriation account under subparagraph (A) may not exceed an amount equal to the lesser of—

"(i) one percent of the total amount of the appropriations for that account; or "(ii) one percent of the total amount of the appropriations for the expired account.

"(C) No obligation or adjustment of an obligation may be charged pursuant to the provisions of this paragraph until the congressional defense committees are notified of the intent to make such a charge and a period of 30 days elapses after the notification is submitted.".

Subtitle B—Supplemental Authorization of Appropriations for Operation Desert Storm

SEC. 1011. EXTENSION OF SUPPLEMENTAL AUTHORIZATIONS.

Sections 101, 102(c), and 106 of Public Law 102-25 (105 Stat. 78) are each amended by striking out "fiscal years 1991 and 1992" each place it appears and inserting in lieu thereof "fiscal years 1991, 1992, and 1993".

SEC. 1012. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Defense for fiscal year 1992 in accordance with subsection (a) of section 101 of Public Law 102-25 (105 Stat. 78), to be available under subsection (b)(1) of such section, the sum of $429,000,000 for military personnel as follows:

(1) ARMY.—For the Army, $399,000,000.

(2) NAVY.—For the Navy, $30,000,000.

(b) INCREASED LIMITATION ON AUTHORITY FOR TRANSFER OF FISCAL YEAR 1992 AUTHORIZATIONS.—The total amount of the transfer authority provided for the Secretary of Defense for fiscal year 1992 in Public Law 102-190 or any other Act is increased by the amounts of the funds appropriated pursuant to subsection (a) that are transferred to fiscal year 1992 appropriations accounts pursuant to sections 101 and 102(c) of Public Law 102-25, as amended by section 1011.

SEC. 1013. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1993.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Defense for fiscal year 1993 in accordance with subsection (a) of section 101 of Public Law 102-25 (105 Stat. 78), to be available under subsection (b) of such section, the sum of $87,700,000 for military personnel as follows:

(1) ARMY.—For the Army, $29,300,000.

(2) NAVY.—For the Navy, $35,300,000.

(3) MARINE CORPS.—For the Marine Corps, $3,100,000.

(4) AIR FORCE.—For the Air Force, $20,000,000.

(b) INCREASED LIMITATION ON AUTHORITY FOR TRANSFER OF FISCAL YEAR 1993 AUTHORIZATIONS.—The amount of the transfer authority provided in section 1001 is increased by the amounts of the funds appropriated pursuant to subsection (a) that are transferred to fiscal year 1993 appropriations accounts pursuant to sections 101 and 102(c) of Public Law 102-25, as amended by section 1011.

SEC. 1014. RELATIONSHIP TO OTHER AUTHORIZATIONS.

The authorizations of appropriations in sections 1012 and 1013 are in addition to the amounts otherwise authorized to be appropriated to the Department of Defense for fiscal year 1992 and for fiscal year 1993 by any other provision of this Act or by any other Act enacted before the date of the enactment of this Act.

Subtitle C—Defense Maritime Logistical Readiness

SEC. 1021. FINDINGS.

The Congress finds that it is in the national security and economic interests of the United States for the United States to have a strong and economically viable industry of commercial oceangoing and intermodal transportation that uses privately owned and operated merchant vessels documented under the laws of the United States.

SEC. 1022. TRANSPORTATION OF DEPARTMENT OF DEFENSE CARGOES BY WATER.

(a) USE OF PRIVATELY OWNED UNITED STATES FLAG VESSELS.—Chapter 157 of title 10, United States Code, is amended—

(1) by striking out section 2631;

(2) by striking out the item relating to that section in the table of sections for such chapter;

(3) by inserting above the table of sections the following:

"SUBCHAPTER II—MISCELLANEOUS"; and

(4) by inserting below the chapter heading the following:

"Subchapter	Sec.
"I. Transportation of Cargoes by Water	2631
"II. Miscellaneous	2632

"SUBCHAPTER I—TRANSPORTATION OF CARGOES BY WATER

"Sec.
"2631. Purposes.
"2631a. Definitions.
"2631b. Procurement regulations and practices.
"2631c. Contingency planning.
"2631d. Vessels used.
"2631e. Transportation contracts.
"2631f. Logistics readiness agreements.
"2631g. Charges.

"§ 2631. Purposes

"The purposes of this subchapter are—

"(1) to clarify when it is necessary for privately owned and operated United States flag vessels to be used for transporting Department of Defense cargoes by water;

"(2) to establish standards for the procurement and pricing of services for the transportation of Department of Defense cargoes by water and for the distribution of the cargoes so transported;

"(3) to reduce to a minimum the number of cargo transportation vessels owned, chartered, controlled, or operated by or for the United States Government that are used for transporting Department of Defense cargoes in peacetime in competition with privately owned and operated commercial vessels;

"(4) to encourage and promote the development and maintenance of a financially strong, privately owned and operated fleet of United States flag merchant vessels;

"(5) to make the greatest practicable use of the transportation capacity and services of operators of privately owned United States flag merchant vessels for the transportation of Department of Defense cargoes by water; and

"(6) to limit the acquisition, for ownership by the United States Government, of cargo vessels that would duplicate the shipping capacity of the privately owned United States flag merchant vessels.

"§ 2631a. Definitions

"In this subchapter:

"(1) The term 'Department of Defense cargo' means any supplies, goods, or other cargo owned, leased, or provided to, for, or by the armed forces that are transported by water or by intermodal service including a water segment, except that such term does not include military cargo designated by the Secretary of Defense as sensitive when private contractors proposing to carry such cargo do not have the security clearances necessary for carrying such cargo.

"(2) The term 'supplies', with respect to transportation, means all property, except land and interests in land, that at the time of transportation is readily identifiable for eventual use by the armed forces. Such term includes public works, buildings and facilities, ships, floating equipment, and vessels of every character, type, and description (together with parts, subassemblies, accessories, equipment, machine tools, and related material), stores of all kinds, and end items.

"(3) The term 'goods' includes property of armed forces personnel and items intended for eventual sale within a commissary or exchange store.

"(4) The term 'other cargo' includes any item that is provided by, arranged by, donated by, sold at less than market value by, or funded or purchased on credit provided or guaranteed by, or for which the transportation is funded or financially supported by, the Department of Defense for any other department or agency of the Federal Government, any foreign government, any international organization, or any person.

"§ 2631b. Procurement regulations and practices

"The Secretary of Defense shall prescribe regulations (including procedures) and establish practices for the procurement of transportation by water and related distribution services for Department of Defense cargoes. The regulations and practices shall carry out section 2631 of this title and the purposes set forth in that section. The Secretary shall administer the implementation of the regulations and the required practices.

"§ 2631c. Contingency planning

"(a) CONSIDERATION OF PRIVATE CAPABILITIES.—The Secretary of Defense shall ensure that all studies and reports of the Department of Defense, and all actions taken in the Department of Defense, concerning sealift and related intermodal transportation requirements take into consideration the full range of the transportation and distribution capabilities that are available from operators of privately owned United States flag merchant vessels.

"(b) PRIVATE CAPACITIES PRESENTATIONS.—The Secretary shall afford each operator of a vessel referred to in subsection (a), not less often than annually, an opportunity to present to the Department of Defense information on its port-to-port and intermodal transportation capacities.

"(c) PRIVATE PARTICIPATION IN STUDIES AND REPORTS.—The Secretary shall ensure that each operator of a vessel referred to in subsection (a) is afforded an opportunity to participate in the development of studies referred to in that subsection and the preparation of reports referred to in that subsection.

"(d) CERTIFICATION REQUIREMENT.—The Secretary shall submit to the Secretary of Transportation, not less often than annually, a certification of compliance with the requirements of subsections (b) and (c).

"§ 2631d. Vessels used

"(a) PROHIBITION.—Except in time of war, in time of a national emergency declared by the President or Congress, or as provided in subsection (b)(3), vessels owned by the United States may not be operated in competition with privately owned United States flag commercial merchant vessels.

"(b) VESSELS TO BE USED.—(1) Department of Defense cargoes shall be transported on privately owned and operated United States flag commercial merchant vessels whenever such vessels are available with reasonable timeliness.

"(2) A privately owned United States flag merchant vessel under time charter or voyage charter to, or engaged under a contract of affreightment by, the United States may be used for the transportation of a Department of Defense cargo to the extent that vessels described in paragraph (1) are not available with reasonable timeliness.

"(3) A United States flag vessel owned, demise chartered, or otherwise controlled by the United States Government may be used for the transportation by water of Department of Defense cargoes to the extent that vessels described in paragraphs (1) and (2) are not available with reasonable timeliness.

"(4) Foreign flag vessels may be used for the transportation of Department of Defense cargoes to the extent that vessels described in paragraphs (1), (2), and (3) are not available with reasonable timeliness or when operated as a feeder ship in conjunction with a privately owned and operated United States flag liner vessel.

"(5) The availability of vessels with reasonable timeliness shall be determined in accordance with regulations prescribed by the Secretary of Defense.

"§ 2631e. Transportation contracts

"(a) PROHIBITED CONTRACT PROVISIONS.—(1) A contract for the transportation of Department of Defense cargoes by water, or for intermodal service that includes transportation by water, by a common carrier may not include terms or conditions which impair the ability of the contractor to own or operate foreign flag vessels in addition to the United States flag merchant vessels.

"(2) Except as provided in section 2631f(a) of this title and except in time of war or in time of a national emergency declared by the President or Congress, the contract may not include terms or conditions which interfere with the contractor's ability to meet its common carrier obligations to the general public.

"(b) INAPPLICABILITY OF FEE LIMITATION.—Section 2306(d) of this title shall not apply to contracts referred to in subsection (a).

"§ 2631f. Logistics readiness agreements

"(a) AGREEMENTS REQUIRED.—The Secretary of Defense shall enter into logistics readiness agreements with the contractors holding contracts referred to in section 2631e(a) of this title. The agreement with a contractor shall contain the terms and conditions under which the contractor shall, in time of war, national emergency, or foreign crisis, provide services to meet the transportation requirements projected under subsection (d). The agreement may also include provisions for the contractor to meet surge or other transportation requirements.

"(b) CAPACITY PROCURED.—(1) Except as provided in paragraph (2), the Secretary shall enter into logistics readiness agreements for capacity equal to at least the entire requirement projected under subsection (d).

"(2) The total capacity covered by logistics readiness agreements may be less than the capacity required by paragraph (1) to the extent that the contractors referred to in subsection (a) do not offer sufficient capacity to meet the entire requirement.

"(c) REQUIRED PROVISIONS.—A logistics readiness agreement shall contain the following provisions:

"(1) The basic terms for providing transportation and distribution services for Department of Defense cargoes.

"(2) The capacity and services guaranteed, including—

"(A) vessel transportation, intermodal services, and shoreside services; and

"(B) computer-tracking capabilities.

"(3) Provision for the negotiation, as needed, of additional terms and specific rates and charges for transportation and distribution services that become necessary to meet specific conditions of a war, national emergency, or foreign regional crisis.

"(d) COORDINATION OF POST-SURGE TRANSPORTATION REQUIREMENTS WITH THE SECRETARY OF TRANSPORTATION.—The Secretary of Defense shall submit to the Secretary of Transportation at least annually the Department of Defense projections of weekly post-surge requirements, in excess of normal peacetime requirements, for the transportation of Department of Defense cargoes to meet logistic and war fighting requirements in the event of war or other national emergency or in response to foreign regional crises.

"§ 2631g. Charges

"Notwithstanding any other provision of law, freight charges and other charges for services under a contract referred to in section 2631e of this title or a logistics readiness agreement referred to in section 2631f of this title shall be earned upon tender to and acceptance of the cargo by the contractor. If such amounts are not paid within 30 days after the submission of the contractor's invoice to the Department of Defense, a late payment charge shall accrue beginning on the thirty-first day after the date of the submission. The late payment charge shall accrue at the rate then in effect for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611).".

(b) TRANSITION REQUIREMENT.—Within 30 days after the date of the enactment of this Act, the Secretary of Defense shall commence negotiations with contractors holding contracts referred to in subsection (a) of section 2631e of title 10, United States Code (as added by subsection (a)), for the purpose of entering into logistics readiness agreements referred to in section 2631f of such title (as added by subsection (a)). Within 180 days after that date, the Secretary shall enter into such agreements as are mutually acceptable to the Secretary and the contractors concerned. Each agreement entered into pursuant to this subsection shall be for an initial term of not less than 5 years.

SEC. 1023. MODERNIZING OTHER PROGRAMS.

(a) REQUIRED ACTIONS.—The Secretary of Defense and the Secretary of Transportation shall promptly take such actions as are appropriate to modernize, update, revise, or eliminate the current Sealift Readiness Program consistent with this subtitle and the amendments made by section 1022(a).

(b) PROHIBITED ACTIONS.—No agency of the United States Government may require a party to a logistics readiness agreement referred to in section 2631f of title 10, United States Code (as added by section 1022(a)), to enter into or remain enrolled in the Sealift Readiness Program or any similar program as a condition for being awarded a contract to provide transportation or distribution services, whether or not such contract is covered by section 2631e of such title.

Subtitle D—Technical Amendments

SEC. 1031. AMENDMENTS TO TITLE 10, UNITED STATES CODE.

(a) AMENDMENTS.—Title 10, United States Code, is amended as follows:

(1) The table of sections at the beginning of subchapter II of chapter 21 is amended by inserting "Sec." above "431.".

(2) Section 571(a) is amended by inserting a period at the end of each item in the table.

(3) Section 574(d)(3) is amended by striking out "active duty list" and inserting in lieu thereof "active-duty list".

(4) The heading of section 578 is amended by striking out the first semicolon and inserting in lieu thereof a colon.

(5) Section 581(d)(2) is amended by striking out "Board" both places it appears and inserting in lieu thereof "board".

(6) The table of sections at the beginning of chapter 33A is amended—

(A) by inserting "to be" in the item relating to section 576 after "Information"; and

(B) by striking out the first semicolon in the item relating to section 578 and inserting in lieu thereof a colon.

(7) Section 615 is amended—

(A) in subsection (b)(5), by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)"; and

(B) in subsection (d), by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(8) Sections 616(a), 617(a), 618(a)(1), and 618(a)(2) are each amended by striking out "section 615(a)" and inserting in lieu thereof "section 615(b)".

(9) Section 618(b) is amended by striking out "section 615(b)" in paragraphs (2)(A) and (4) and inserting in lieu thereof "section 615(c)".

(10) Section 628(b)(1) is amended by striking out "section 558" and inserting in lieu thereof "section 573".

(11) Section 945(a)(1) is amended by striking out "section 943(e)(1)(B) of this title (art. 143(e)(1)(B))" and inserting in lieu thereof "section 942(e)(1)(B) of this title (article 142(e)(1)(B))".

(12) Section 1052(b) is amended by inserting a close parenthesis before the period at the end.

(13) Section 1079(j)(2)(B) is amended by inserting a close parenthesis after "1395x(dd)(2)".

(14) Section 1104 is amended—

(A) by striking out "section 5011 of title 38" in subsections (a), (b), and (c) and inserting in lieu thereof "section 8011 of title 38"; and

(B) by striking out "section 5011A of title 38" in subsection (d) and inserting in lieu thereof "section 8011A of title 38".

(15) Section 1174a(c)(2) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "December 5, 1991".

(16) Section 1175 is amended—

(A) in subsection (a), by striking out "Reserve component" and inserting in lieu thereof "reserve component"; and

(B) in subsection(d)(1), by striking out "prior to the time this provision is enacted" and inserting in lieu thereof "before December 5, 1991".

(17) Section 1263(a) is amended by striking out "564 note" and inserting in lieu thereof "580 note".

(18) Section 1401(a) is amended by striking out "564" in the column in the table under the heading "For sections" and inserting in lieu thereof "580".

(19) Section 1581(b) is amended by striking out "the date of the enactment of this section" in paragraphs (1) and (2) and inserting in lieu thereof "December 5, 1991,".

(20) Section 1592 is amended by inserting "section" after "established under".

(21) Section 1733(b)(1)(B)(ii) is amended by striking out "1736(a)(3)" and inserting in lieu thereof "1737(a)(3)".

(22) Chapter 106 is amended—

(A) in section 2131(c)—

(i) by striking out "section 1795 of title 38" in paragraph (2) and inserting in lieu thereof "section 3695 of title 38";

(ii) by striking out "of this subparagraph, his or her" in paragraph (3)(B)(ii) and inserting in lieu thereof ", the individual's"; and

(iii) by striking out "of this paragraph." in paragraph (3)(C) and inserting in lieu thereof a period;

(B) in section 2133(b)—

(i) by striking out "section 1431(f) of title 38" in paragraph (2) and inserting in lieu thereof "section 3031(f) of title 38"; and

(ii) by striking out "section 1431(d) of title 38" in paragraph (3) and inserting in lieu thereof "section 3031(d) of title 38"; and

(C) in section 2136—

(i) by striking out "sections 1670" in subsection (b) and all that follows through "1792)" and inserting in lieu thereof "sections 3470, 3471, 3473, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3680(c), 3686(a), 3687, and 3692)"; and

(ii) by striking out "section 1673(b) of title 38)" in subsection (c)(1) and inserting in lieu thereof "section 3473(b) of title 38)".

(23) Section 2304(j)(3)(A) is amended by striking out "section 8(e) of the Small Business Act (15 U.S.C. 637(e))" and inserting in lieu thereof "section 8(d) of the Small Business Act (15 U.S.C. 637(d))".

(24) Section 2307(e) is amended by striking out "(1)" after "(e)" and inserting in lieu thereof "(1)".

(25)(A) Section 2322 is repealed.

(B) The table of sections at the beginning of chapter 137 is amended by striking out the item relating to section 2322.

(26) Section 2324 is amended—

(A) by striking out subsection (f)(5); and

(B) in subsection (l)—

(i) by striking out "subsection (e)(2)(C)" in paragraph (2) and inserting in lieu thereof "paragraph (3)"; and

(ii) by adding at the end the following new paragraph:

"(3) The committees named in this paragraph are—

"(A) the Committees on Armed Services and on Government Operations of the House of Representatives; and

"(B) the Committees on Armed Services and on Governmental Affairs of the Senate.".

(27) Section 2372(e)(1) is amended by striking out "on the day before" and all that follows through the semicolon and inserting in lieu thereof "on December 4, 1991;".

(28) Section 2391(b)(1)(C) is amended by striking out "publicly-announced" and inserting in lieu thereof "publicly announced".

(29) Section 2397(a)(1) is amended by striking out "that contract" and inserting in lieu thereof "that the contract".

(30) Section 2409 is amended by striking out subsection (d).

(31) Section 2503(6) is amended by striking out "section 2508" and inserting in lieu thereof "section 2522".

(32) Section 2507(d)(3)(A) is amended by striking out "government-owned" and inserting in lieu thereof "Government-owned".

(33) Section 2509(b) is amended—

(A) in paragraph (1), by striking out "section 2508" and inserting in lieu thereof "section 2522"; and

(B) in paragraph (5)(B)(ii), by striking out "five-year defense program" and inserting in lieu thereof "multiyear defense program".

(34) Section 2701(j) is amended by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1992 and 1993" and inserting in lieu thereof "December 5, 1991,".

(35) Section 2708 is amended—

(A) in subsection (b)(1)—

(i) by striking out "all contracts" and inserting in lieu thereof "each contract"; and

(ii) by striking out "all subcontracts under such contracts" and inserting in lieu thereof "any subcontract under any such contract"; and

(B) in subsection (d), by striking out "For purposes of" and inserting in lieu thereof "In".

(36) Section 2801(d) is amended by striking out "sections 2828(g) and 2830" and inserting in lieu thereof "sections 2830 and 2835".

(37) Section 2902(b)(9) is amended by striking out "non-voting" and inserting in lieu thereof "nonvoting".

(38) Section 6325(b) is amended by striking out "section 602 or 5721" and inserting in lieu thereof "section 602 (as in effect before February 1, 1992) or section 5721".

(39) Section 8252 is amended—

(A) by striking out "(a) Except as provided in subsection (b), in" and inserting in lieu thereof "In"; and

(B) by striking out subsection (b).

(b) EFFECTIVE DATE.—(1) Except as provided paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The amendment made by paragraph (30) of subsection (a) shall take effect as if enacted immediately following the enactment of Public Law 102-25 (105 Stat. 75).

SEC. 1032. CODIFICATION OF RECURRING PROVISION RELATING TO SUBCONTRACTING WITH CERTAIN NONPROFIT AGENCIES.

(a) POLICY.—Section 2301 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) It is also the policy of Congress that qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to provide approved commodities and services as subcontractors and suppliers under contracts awarded by the Department of Defense.

"(2) In this subsection:

"(A) The term 'qualified nonprofit agency for the blind or other severely handicapped' means—

"(i) a qualified nonprofit agency for the blind, as defined in section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3)); and

"(ii) a qualified nonprofit agency for other severely handicapped, as defined in section 5(4) of such Act (41 U.S.C. 48b(4)).

"(B) The terms 'approved commodity' and 'approved service' mean a commodity and a service, respectively, that has been determined by the Committee for Purchase from the Blind and Other Severely Handicapped under section 2 of such Act (41 U.S.C. 47) to be suitable for procurement by the Federal Government.

"(C) The term 'Javits-Wagner-O'Day Act' means the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46-48c), commonly referred to as the Wagner-O'Day Act, that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), commonly referred to as the Javits-Wagner-O'Day Act.".

(b) CREDIT UNDER SMALL BUSINESS SUBCONTRACTING PLAN.—(1) Chapter 141 of title 10, United States Code, as amended by section 829, is further amended by adding at the end the following new section:

"§2410g. Subcontracting plans: credit for certain purchases

"(a) PURCHASES BENEFITING SEVERELY HANDICAPPED PERSONS.—In the case of a business concern that has negotiated a small business subcontracting plan with a military department or a Defense Agency, purchases made by that business concern from qualified nonprofit agencies for the blind or other severely handicapped shall count toward meeting the subcontracting goal provided in that plan.

"(b) DEFINITIONS.—In subsection (a):

"(1) The term 'small business subcontracting plan' means a plan negotiated pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) that establishes a goal for the participation of small business concerns as subcontractors under a contract.

"(2) The term 'qualified nonprofit agency for the blind or other severely handicapped' shall have the meaning given that term in section 2301(d)(2) of this title.

"(c) TERMINATION.—This section shall cease to be effective at the end of September 30, 1994.".

(2) The table of sections at the beginning of such chapter, as amended by section 829, is further amended by adding at the end the following new item:

"2410g. Subcontracting plans: credit for certain purchases.".

SEC. 1033. AMENDMENTS TO OTHER LAWS.

(a) PUBLIC LAW 102-190.—Effective as of December 5, 1991, the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190) is amended as follows:

(1) Section 232(b)(2) (105 Stat. 1321) is amended by striking out "United States and" and inserting in lieu thereof "United States and the".

(2) Section 234(a) (105 Stat. 1323) is amended by striking out "Follow-on" and inserting in lieu thereof "Follow-On".

(3) Section 702(b)(1)(C) (105 Stat. 1401) is amended by striking out "(15)(D)" and inserting in lieu thereof "(15)".

(4) Section 803(a)(1) (105 Stat. 1414) is amended by inserting open quotation marks at the beginning of the unquoted paragraphs (1), (2), and (3) (within the quoted material in such section).

(5) Section 806(c) (105 Stat. 1419) is amended by inserting a close parenthesis before the period at the end.

(6) Section 822(d)(1) (105 Stat. 1435) is amended by striking out "To the extent provided" and inserting in lieu thereof "Subject to such limitations as may be provided".

(7) Section 1049(b) (105 Stat. 1469) is repealed.

(8) Section 1063(d)(1) (105 Stat. 1476) is amended by striking out "of Public Law 101-25" and inserting in lieu thereof "of Public Law 102-25".

(9) Section 2870(2) (105 Stat. 1562) is amended by inserting "through" after "and all that follows".

(b) PUBLIC LAW 102-25.—Section 361(d) of Public Law 102-25 (105 Stat. 93) is amended by striking out "section 4108(e) of title 38," and inserting in lieu thereof "section 7423(e) of title 38,".

(c) MENTOR-PROTEGE PILOT PROGRAM.—Section 831(m) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is amended—

(1) in paragraph (2)(C), by striking out "637(a)(13)" and inserting in lieu thereof "637(a)(15)";

(2) by redesignating the second paragraph (6) and paragraph (7) as paragraphs (7) and (8), respectively; and

(3) in paragraph (8), as so redesignated, by striking out "section 46 of title 41, United States Code," and inserting in lieu thereof "the first section of the Act of June 25, 1938 (41 U.S.C. 46; popularly known as the 'Wagner-O'Day Act'),".

(d) TITLE 31, UNITED STATES CODE.—

(1) The items relating to sections 1551 and 1552 in the table of sections at the beginning of chapter 15 of title 31, United States Code, are amended to read as follows:

"1551. Definitions; applicability of subchapter.
"1552. Procedure for appropriation accounts available for definite periods.".

(2) The heading of section 1551 of such title is amended to read as follows:

"§ 1551. Definitions; applicability of subchapter".

(e) PUBLIC LAW 101–533.—Section 3(c)(2) of Public Law 101–533 (22 U.S.C. 3142) is amended by striking out "section 2368 of title 10" and inserting in lieu thereof "section 2522 of title 10".

SEC. 1034. MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 301d(c) is amended—

(A) in paragraph (2), by striking out "owned" and inserting in lieu thereof "owed"; and

(B) in paragraph (3), by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1991" and inserting in lieu thereof "November 5, 1990".

(2) Section 303a(b) is amended by striking out "301d," after "such sections".

(3) Section 406(g)(1)(A) is amended by inserting a semicolon after "title 10".

(4) Section 406b(d) by striking out "Section 420" and inserting in lieu thereof "Section 421".

(5) Section 559(c)(3)(A)(i) is amended by striking out "of this subparagraph".

(6) Section 1007(i)(3) is amended by striking out "and warrant officers" and inserting in lieu thereof ", warrant officers, and limited duty officers".

(b) REPEAL OF OBSOLETE PROVISION.—Section 301b of title 37, United States Code, is amended—

(1) by striking out subsection (j); and

(2) by redesignating subsection (k) as subsection (j).

(c) BASE CLOSURE ACT.—The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) in section 2903(c)(4)—

(A) by striking out "(4)" the first place it appears; and

(B) by striking out the first sentence; and

(2) in section 2906, by striking out "(d) ACCOUNT" and inserting in lieu thereof "(e) ACCOUNT".

Subtitle E—Miscellaneous Matters

SEC. 1041. REPORT ON THE UNITED STATES STRATEGIC POSTURE IN THE MIDDLE EAST AND PERSIAN GULF REGION.

(a) REQUIREMENT FOR REPORT.—Not later than February 1, 1993, the Secretary of Defense shall submit to the congressional defense committees a report on the United States strategic posture in the Middle East and Persian Gulf region.

(b) CONTENT OF REPORT.—The report shall include a description of the following matters:

(1) The adequacy of United States power projection forces, strategic lift, forward deployed forces, prepositioned materiel, and force sustainability capabilities for protecting United States strategic interests in the Middle East and the Persian Gulf region and to ensure the security of Israel, Egypt, and Persian Gulf states friendly to the United States.

(2) United States policy, plans, and programs for ensuring Israel's military and technological superiority over potential threats.

(3) United States capabilities for assisting Israel in a military emergency and the adequacy of United States military assistance and technology transfer for ensuring that Israel has the capability to deter war and to defend its territory with minimal risk and loss of life.

(4) The state of strategic cooperation between the United States and Israel, including—

(A) a thorough assessment of options for prepositioning in Israel appropriate defense articles for use by the United States in the region; and

(B) an assessment of United States policies, plans, and programs for ensuring that maximum advantage is taken of Israel's strategic location and Israel's ability to provide unique options regarding military technologies and production.

(5) The adequacy of United States power projection forces, military assistance, arms transfers, and cooperation arrangements for ensuring that Egypt, as the leading Arab democracy and a key partner in the Camp David accords, is secure against outside threats and can play a major role in regional security efforts with the United States.

(6) The adequacy of United States power projection forces, military assistance, and arms transfers for protecting the Gulf Cooperation Council States.

(7) The adequacy of the capabilities of the United States and countries friendly to the United States for deterring and defending against long-range missile threats and the use of weapons of mass destruction in the Middle East and the Persian Gulf region.

(c) INTELLIGENCE ASSESSMENT.—As part of the report submitted pursuant to subsection (a), the Secretary of Defense shall provide a military threat assessment for the Middle East and Persian Gulf region. The intelligence assessment shall include a description of—

(1) the overall military threat to United States strategic interests in the Persian Gulf region;

(2) the overall military threat to Israel and the military threats to Israel from individual countries, including an assessment of the Arab-Israeli military balance and a discussion of the changes taking place in that balance;

(3) the military threats to Egypt;

(4) the military threats to the Gulf Cooperation Council States; and

(5) the threats to United States interests and to regional States friendly to the United States that result from the proliferation of long-range missiles and weapons of mass destruction.

(d) FORM OF REPORT.—The report may be submitted in classified and unclassified forms.

SEC. 1042. STUDY OF PROVIDING FORWARD PRESENCE OF NAVAL FORCES DURING PEACETIME.

(a) ANALYSIS REQUIRED.—The Secretary of Defense shall conduct an analysis of options for providing forward presence of naval forces during peacetime. The analysis shall include an evaluation of the following considerations:

(1) The requirements of the commanders of the combatant commands for providing naval forces for forward peacetime presence.

(2) The capacity of alternative groups of naval forces, including aircraft carriers, large amphibious ships, and large surface combatants, to fulfill the forward presence mission.

(3) Potential locations and associated costs for homeporting additional aircraft carriers or other naval forces overseas.

(4) Estimated operations cost differentials for supporting forward naval operations.

(5) Estimated investment cost differentials for supporting forward naval operations.

(6) Potential availability of facilities for supporting forward naval operations.

(7) Potential host nation support or other offset contributions.

(b) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report on the analysis required by subsection (a). Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1994 may not be obligated for the aircraft carrier replacement program until the Secretary of Defense submits the report to the congressional defense committees.

SEC. 1043. PROHIBITION ON CONTRACTING WITH SUPPORTERS OF THE SECONDARY ARAB BOYCOTT OF ISRAEL.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, as amended by section 1032, is further amended by adding at the end the following new section:

"§ 2410h. Prohibition on contracting with supporters of the secondary Arab boycott of Israel

"(a) Under section 3(5)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2402(5)(A)), it is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person.

"(b)(1) Consistent with the policy referred to in subsection (a), no Department of Defense prime contract in excess of the small purchase threshold, as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), may be awarded to a foreign person, foreign company, or other foreign entity unless that person, company, or entity certifies to the Secretary of Defense that it does not comply with the secondary Arab boycott of Israel.

"(2) The Secretary of Defense may waive the prohibition in paragraph (1) in specific instances when the Secretary determines that the waiver is necessary in the national security interests of the United States. Within 15 days after the end of each calendar quarter, the Secretary shall submit to Congress a report identifying each contract for which a waiver was granted under this paragraph during such quarter.

"(c) Subsection (b) does not apply to contracts for consumable supplies, provisions, or services that are intended to be used for the support of the United States or of allied forces in a foreign country, or to contracts pertaining to the use of any equipment, technology, data, or services for intelligence or classified purposes, or to the acquisition or lease of any such equipment, technology, data, or services, by the United States Government in the interests of national security.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of such chapter, as amended by section 1032, is further amended by inserting after the item relating to section 2410d the following:

"2410h. Prohibition on contracting with supporters of the secondary Arab boycott of Israel.".

SEC. 1044. EMPLOYMENT AUTHORITY REGARDING CIVILIAN FACULTY MEMBERS OF THE DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER.

(a) IN GENERAL.—Section 4021 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "or the United States Army Command and General Staff College" and inserting in lieu thereof ", the United States Army Command and General Staff College, and the Defense Language Institute Foreign Language Center"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) APPLICATION TO CERTAIN FACULTY MEMBERS.—This section shall not apply with respect to professors, instructors, and lecturers employed at the Army War College or the United States Army Command and General Staff College if the duration of the principal course of instruction offered at the respective college is less than 10 months.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 4021. Army War College, United States Army Command and General Staff College, and Defense Language Institute Foreign Language Center: civilian faculty members"

(2) The item relating to such section in the table of sections for chapter 373 of such title is amended to read as follows:

"4021. Army War College, United States Army Command and General Staff College, and Defense Language Institute Foreign Language Center: civilian faculty members.".

(c) APPLICABILITY.—(1) Except as provided in paragraph (2), section 4021 of title 10, United States Code, shall not apply to a person who was employed as a professor, instructor, or lecturer at the Army War College or the United States Army Command and General Staff College before February 28, 1990.

(2) In the case of a person referred to in paragraph (1) who terminates employment as a professor, instructor, or lecturer at an institution referred to in that paragraph on or after February 28, 1990, section 4021 of title 10, United States Code, shall apply with respect to the employment of such person after that date as a professor, instructor, or lecturer at an institution other than the institution or institutions where that person was employed before that date.

(d) SAVINGS PROVISION.—In the case of a person who, on the day before the date of the enactment of this Act, is employed as a professor, instructor, or lecturer at the Defense Language Institute Foreign Language Center, the Secretary of the Army shall afford the person an opportunity to elect to be paid under the compensation plan authorized by subsection (b) of section 4021 of title 10, United States Code, or to continue to be paid under the General Schedule (with no reduction in pay) under section 5332 of title 5, United States Code.

SEC. 1045. ELECTION OF LEAVE OR LUMP-SUM PAYMENT FOR CERTAIN EMPLOYEES WHO MOVED BETWEEN NONAPPROPRIATED FUND EMPLOYMENT AND DEPARTMENT OF DEFENSE OR COAST GUARD EMPLOYMENT BEFORE APRIL 16, 1991.

(a) ELECTION OF LEAVE OR PAYMENT.—An employee referred to in subsection (b) of section 6308 of title 5, United States Code, who moved between a position referred to in the first sentence of that subsection and a position referred to in the second sentence of that subsection after December 31, 1986, and before April 16, 1991, shall be permitted to elect—

(1) to repay the lump-sum payment received under section 5551(a) of that title in lieu of annual leave and have the annual leave recredited to the employee's leave account; or

(2) to keep the lump-sum payment in lieu of that annual leave.

(b) DEADLINE FOR ELECTION.—An employee shall make an election authorized by subsection (a) within 90 days after receiving a written notification of the provisions of this section from the head of the agency currently employing the employee. An employee who does not make the election within that 90-day period shall be considered to have elected to keep the lump-sum payment.

(c) REPAYMENT OF LUMP-SUM PAYMENT.—An employee who elects to repay the lump-sum payment shall make the repayment not later than 2 years after the date of the election. The repayment by an employee shall be made in one payment of the entire amount of the lump-sum payment received by that employee in lieu of annual leave.

(d) LEAVE CREDITS.—Upon repayment of the lump-sum payment received by an employee, the employee shall be recredited with the annual leave associated with the lump-sum payment. The accounting for the recredited leave shall be separate from the accounting for other leave. Recredited annual leave shall be available until the first day of the third leave year following the leave year in which the leave is recredited.

SEC. 1046. FEDERAL CHARTER FOR MILITARY ORDER OF WORLD WARS.

(a) FEDERAL CHARTER.—The Military Order of the World Wars, a nonprofit corporation organized under the laws of the District of Columbia (in this section referred to as the "corporation"), is recognized as such and is granted a Federal charter.

(b) OBJECTS AND PURPOSES.—The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include the following:

(1) Promoting military service associations.

(2) Promoting patriotic education and military, naval, and air science.

(3) Defending the honor and integrity of the Federal Government and the Constitution.

(4) Fostering fraternal relations among all branches of the Armed Forces.

(5) Encouraging the adoption of a suitable policy of national security.

(6) Encouraging the commemoration of military service and the establishment of war memorials.

(c) PROHIBITION AGAINST DISCRIMINATION.—In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

(d) RESTRICTIONS.—(1) The corporation may not make any loan to any officer, director, or employee of the corporation.

(2) The corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

(3) The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities.

(e) AUDIT OF FINANCIAL TRANSACTIONS.—The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following:

"(75) The Military Order of World Wars.".

(f) ANNUAL REPORT.—The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by subsection (e). The report shall not be printed as a public document.

(g) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this section shall expire.

(h) TERMINATION.—The charter granted by this section shall expire if the corporation fails to comply with—

(1) any restriction or other provision of this section;

(2) any provision of its bylaws or articles of incorporation; or

(3) any provision of the laws of the District of Columbia that apply to corporations such as the corporation recognized under this section.

SEC. 1047. FEDERAL CHARTER FOR RETIRED ENLISTED ASSOCIATION, INCORPORATED.

(a) FEDERAL CHARTER.—The Retired Enlisted Association, Incorporated, a nonprofit corporation organized under the laws of the State of Colorado, is recognized as such and is granted a Federal charter.

(b) POWERS.—The Retired Enlisted Association, Incorporated, (in this section referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

(c) OBJECTS AND PURPOSES.—The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include—

(1) upholding and defending the Constitution of the United States;

(2) promoting health, prosperity, and scholarship among its members and their dependents and survivors through benevolent programs;

(3) assisting veterans and their dependents and survivors through a service program established for that purpose;

(4) improving conditions for retired enlisted service members, veterans, and their dependents and survivors; and

(5) fostering fraternal and social activities among its members in recognition that cooperative action is required for the furtherance of their common interests.

(d) SERVICE OF PROCESS.—With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

(e) MEMBERSHIP.—Except as provided in subsection (h), eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the articles of incorporation and bylaws of the corporation.

(f) BOARD OF DIRECTORS.—Except as provided in subsection (h), the composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

(g) OFFICERS OF CORPORATION.—Except as provided in subsection (h), the positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

(h) PROHIBITION AGAINST DISCRIMINATION.—In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of the directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

(i) RESTRICTIONS.—(1) No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this paragraph shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(2) The corporation may not make any loan to any officer, director, or employee of the corporation.

(3) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(4) The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities by virtue of this section.

(j) LIABILITY.—The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

(k) BOOKS AND RECORDS.—The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this subsection shall be construed to contravene any applicable State law.

(l) AUDIT OF FINANCIAL TRANSACTIONS.—The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101), as amended by section 1046 of this Act, is further amended by adding at the end the following:

"(76) The Retired Enlisted Association, Incorporated.".

(m) ANNUAL REPORT.—The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 2 of the Act referred to in subsection (l). The report shall not be printed as a public document.

(n) RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.—The right to alter, amend, or repeal this section is expressly reserved to the Congress.

(o) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this section shall expire.

(p) EXCLUSIVE RIGHTS TO NAMES.—The corporation shall have the sole and exclusive right to use the names "The Retired Enlisted Association, Incorporated", "The Retired Enlisted Association", "Retired Enlisted Association", and "TREA", and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this subsection may be construed to conflict or interfere with rights that are established or vested before the date of the enactment of this Act.

(q) TERMINATION.—If the corporation fails to comply with any of the restrictions or provisions of this section, the charter granted by this section shall expire.

(r) DEFINITION.—For purposes of this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

SEC. 1048. PROGRAM TO COMMEMORATE WORLD WAR II.

(a) IN GENERAL.—The Secretary of Defense may, during fiscal years 1993 through 1995, conduct a program to commemorate the 50th anniversary of World War II and to coordinate, support, and facilitate other such commemoration programs and activities of the Federal Government, State and local governments, and other persons.

(b) USE OF FUNDS.—During fiscal years 1993 through 1995, funds appropriated to the Department of Defense for operation and maintenance of Defense Agencies shall be available to conduct the program referred to in subsection (a).

(c) PROGRAM ACTIVITIES.—The program referred to in subsection (a) may include activities and ceremonies—

(1) to provide the people of the United States with a clear understanding and appreciation of the lessons and history of World War II;

(2) to thank and honor veterans of World War II and their families;

(3) to pay tribute to the sacrifices and contributions made on the home front by the people of the United States;

(4) to foster an awareness in the people of the United States that World War II was the central event of the 20th century that defined the postwar world;

(5) to highlight advances in technology, science, and medicine related to military research conducted during World War II;

(6) to inform wartime and postwar generations of the contributions of the Armed Forces of the United States to the United States;

(7) to recognize the contributions and sacrifices made by World War II allies of the United States; and

(8) to highlight the role of the Armed Forces of the United States, then and now, in maintaining world peace through strength.

(d) AUTHORITY OF THE SECRETARY.—(1) The Secretary of Defense may, in accordance with regulations prescribed by the Secretary, authorize the manufacture, reproduction, use, sale, or distribution of logos, trademarks, seals, and similar items for the program referred to in subsection (a), and grant exclusive or nonexclusive licenses for such purposes.

(2) The Secretary may, in furtherance of the program referred to in subsection (a) and in accordance with regulations prescribed by the Secretary, grant exclusive or nonexclusive licenses for any copyrighted material for which the Secretary holds an exclusive license or owns the copyright as transferred through assignment, bequest, or otherwise. Notwithstanding any other provision of law, any proceeds received as a result of these activities shall be deposited into the account established by subsection (e).

(e) ESTABLISHMENT OF ACCOUNT.—(1) There is established in the Treasury of the United States an account to be known as the "Department of Defense 50th Anniversary of World War II Commemoration Account" which shall be administered by the Secretary of Defense as a single account. There shall be deposited into the account all proceeds derived from activities described in subsection (d).

(2) The Secretary may use the funds in the account established in paragraph (1) only for the purpose of conducting the program referred to in subsection (a).

(3) Not later than 60 days after the termination of the authority of the Secretary to conduct the commemoration program referred to in subsection (a), the Secretary shall transmit to the Committees on Armed Services of the Senate and House of Representatives a report containing an accounting of all the funds deposited into and expended from the account or otherwise expended under this section, and of any amount remaining in the account. Unobligated funds which remain in the account after termination of the authority of the Secretary under this section shall be held in the account until transferred by law after the Committees receive the report.

(f) PROVISION OF VOLUNTARY SERVICES.—(1) Notwithstanding section 1342 of title 31, United States Code, the Secretary of Defense may accept from any person voluntary services to be provided in furtherance of the program referred to in subsection (a).

(2) A person providing voluntary services under this subsection shall be considered an employee of the Federal Government for the purpose of chapter 81 of title 5, United States Code, relating to compensation for work-related injuries, and for the purpose of chapter 176 of title 28, United States Code, relating to tort claims. Such a person who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purpose by reason of the provision of such services.

(3) The Secretary of Defense may provide for reimbursement of incidental expenses which are incurred by a person providing voluntary services under this subsection. The Secretary of Defense shall determine which expenses are eligible for reimbursement under this paragraph.

SEC. 1049. ELIMINATION OF REPORTS REQUIRED BY LAW.

(a) UNDER TITLE 10.—(1) Section 673(b) of title 10, United States Code, is amended by striking out the last sentence.

(2) Section 2362 of such title is amended—

(A) by striking out subsection (c); and

(B) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(3) Section 2401 of such title is amended—

(A) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) The Secretary may make a contract described in subsection (a)(1) if—

"(1) the Secretary has been specifically authorized by law to make the contract; and

"(2) the Secretary determines that such a lease is warranted based on an analysis of the cost to the United States (including lost tax revenue) of any such lease or charter arrangement compared with the cost to the United States of direct procurement of the aircraft or naval vessel by the United States.";

(B) by striking out subsection (e); and

(C) by redesignating subsection (f) as subsection (e).

(4) Section 2672a(b) of such title is amended by striking out the last sentence.

(5) Section 2823 of such title is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(6) Section 2854 of such title is amended—

(A) in subsection (a), by striking out "(a) Subject to subsection (b), the Secretary" and inserting in lieu thereof "The Secretary"; and

(B) by striking out subsection (b).

(7)(A) Section 2861 of such title is repealed.

(B) The table of sections at the beginning of chapter 169 of such title is amended by striking out the item relating to section 2861.

(8) Section 2864(b) of such title is amended by striking out "after the 21-day period" and all that follows and inserting in lieu thereof a period.

(9) Section 7308 of such title is amended by striking out subsection (c).

(10) Section 7309(b) of such title is amended by striking out the last sentence.

(b) REPEAL OF COMPARABLE BUDGETING REQUIREMENT.—(1) Section 2217 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2217.

(c) UNDER TITLE 37.—Section 1008(a) of title 37, United States Code, is amended by striking out the last sentence.

(d) UNDER OTHER LAWS.—(1) Section 18(a) of the Military Selective Service Act (50 U.S.C. App. 468(a)) is amended by striking out ", except that no order" in the first sentence and all that follows through the end of the second sentence and inserting in lieu thereof a period.

(2) Section 112 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1037) is amended by striking out subsection (c).

(3) Section 1309 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 10 U.S.C. 113 note) is repealed.

SEC. 1050. LIMITATION ON USE OF EXCESS CONSTRUCTION OR FIRE EQUIPMENT FROM DEPARTMENT OF DEFENSE STOCKS IN FOREIGN ASSISTANCE OR MILITARY SALES PROGRAMS.

(a) LIMITATION.—Excess construction or fire equipment from the stocks of the Department of Defense may be transferred to any foreign country or international organization pursuant to part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2301 et seq.) or section 21 of the Arms Export Control Act (22 U.S.C. 2761) only if—

(1) no department or agency of the Federal Government other than the Department of Defense and no State submits to the Defense Reutilization and Marketing Service a request for such equipment during the period for which the Defense Reutilization and Marketing Service accepts such a request; or

(2) the President determines that the transfer is necessary in order to respond to an emergency for which the equipment is especially suited.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to limit the authority to transfer construction or fire equipment under section 2547 of title 10, United States Code.

(c) DEFINITION.—In this section, the term "construction or fire equipment" includes tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, pumpers, fuel and water tankers, crash trucks, utility vans, rescue trucks, ambulances, hook and ladder units, compressors, and miscellaneous fire fighting equipment.

SEC. 1051. RESTRICTION ON OBLIGATION OF FUNDS FOR NEW MUSEUMS.

(a) PROHIBITION ON OBLIGATION OF FUNDS FOR CERTAIN NEW MUSEUMS.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense for fiscal year 1992 may not be obligated for the purposes of—

(1) the construction or capitalization of—

(A) the National D-Day Museum;

(B) the Airborne and Special Operations Museum; or

(C) the Naval Undersea Museum; or

(2) the renovation of the submarine U.S.S. Blueback for the Oregon Museum of Science and Industry.

(b) EXCEPTION.—The funds referred to in subsection (a) may be obligated for the purpose specified for a museum referred to in that subsection if, with respect to that museum, the Secretary of Defense certifies to Congress that—

(1) the use of Department of Defense funds for that museum is of a higher priority than the use of such funds for the expansion of any existing Department of Defense museum;

(2) in authorizing construction of a new Department of Defense museum, the Secretary would select that museum as one of the Secretary's first four choices for the construction of such a new museum; and

(3) the use of Department of Defense funds for that purpose would make a unique contribution to the mission of the military departments.

SEC. 1052. ARMY MILITARY HISTORY FELLOWSHIP PROGRAM.

(a) IN GENERAL.—Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4316. Military history fellowships

"(a) FELLOWSHIPS.—The Secretary of the Army shall prescribe regulations under which the Secretary may award fellowships in military history of the Army to the persons described in subsection (b).

"(b) ELIGIBLE PERSONS.—The persons eligible for awards of fellowships under this section are citizens and nationals of the United States who—

"(1) are graduate students in United States military history;

"(2) have completed all requirements for a doctoral degree other than preparation of a dissertation; and

"(3) agree to prepare a dissertation in a subject area of military history determined by the Secretary.

"(c) REGULATIONS.—The regulations prescribed under this section shall include—

"(1) the criteria for award of fellowships;

"(2) the procedures for selecting recipients;

"(3) the basis for determining the amount of a fellowship; and

"(4) the total amount that may be awarded as fellowships during an academic year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 4315 the following:

"4316. Military history fellowships.".

SEC. 1053. TRANSFER OF CERTAIN VESSELS.

The Secretary of the Navy shall transfer to the Department of Transportation the following vessels, to be assigned as training ships to Texas A&M University at Galveston, Texas, and to the Maine Maritime Academy at Castine, Maine, on the date of the decommissioning of such vessels:

(1) The U.S.N.S. Chauvenet (T–AG–29).

(2) The U.S.N.S. Harkness (T–AG–32).

SEC. 1054. REPEAL OF REQUIREMENT FOR CONSTRUCTION OF COMBATANT AND ESCORT VESSELS IN NAVY YARDS.

(a) REPEAL.—Subsection (a) of section 7299a of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—Subsections (b), (c), and (d) of section 7299a of title 10, United States Code, are redesignated as subsections (a), (b), and (c), respectively.

SEC. 1055. COOPERATIVE MILITARY AIRLIFT AGREEMENTS.

(a) LIQUIDATION OF CREDITS AND LIABILITIES.—Section 2350c(a)(2) of title 10, United States Code, is amended by striking out all after "liquidated" and inserting in lieu thereof "as agreed upon by the parties. Liquidation shall be either by direct payment to the country that has provided the greater amount of transportation or by the providing of in-kind transportation services to that country. The liquidation shall occur on a regular basis, but not less often than once every 12 months.".

(b) COUNTRIES ELIGIBLE FOR COOPERATIVE AGREEMENTS.—Section 2350c(e)(1) of such title is amended by striking out "or New Zealand" and inserting in lieu thereof ", New Zealand, Japan, and the Republic of Korea".

SEC. 1056. SPECIAL OPERATIONS FORCES.

(a) GRADE FOR CERTAIN COMMANDERS.—Section 1311(e) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 167 note) is amended by inserting after "the United States Pacific Command," the following: "the United States Southern Command, the United States Central Command,".

(b) REPEAL OF DUPLICATIVE PROVISIONS.—Subsections (c), (d), and (e) of section 9115 of Public Law 99–500 and subsections (c), (d), and (e) of section 9115 of Public Law 99–591 are repealed.

SEC. 1057. PERMANENT AUTHORITY TO PAY CERTAIN EXPENSES OF PERSONNEL OF DEVELOPING COUNTRIES FOR ATTENDANCE AT BILATERAL OR REGIONAL COOPERATION CONFERENCES.

Subsection (e) of section 1051 of title 10, United States Code, is repealed.

SEC. 1058. UNITED STATES COURT OF MILITARY APPEALS AMENDMENTS.

(a) UNIFIED FEDERAL RETIREMENT FOR JUDGES.—(1) Section 945 (article 145) of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) A person appointed as a judge of the United States Court of Military Appeals shall be subject to the Federal Employees' Retirement System as of the date of the appointment.

"(2) Section 302 of the Federal Employees' Retirement System Act of 1986 (5 U.S.C. 8331 note) shall apply to a judge of the United States Court of Military Appeals who is subject to the Civil Service Retirement and Disability System on the day before the date on which the judge becomes subject to the Federal Employees' Retirement System under this section. In the application of section 302 of that Act to such judge, the judge shall be treated as having made an election under section 301 of that Act to become subject to the Federal Employees' Retirement System effective as of that date.

"(3) In this section:

"(A) The term 'Federal Employees' Retirement System' means the provisions of chapter 84 of title 5.

"(B) The term 'Civil Service Retirement and Disability System' means the provisions of subchapter III of chapter 83 of title 5.".

(2) The amendment made by paragraph (1) shall apply to persons who are appointed as judges of the United States Court of Military

Appeals on or after the date of the enactment of this Act.

(3)(A) The amendment made by paragraph (1) shall also apply in accordance with this paragraph to judges of the United States Court of Military Appeals who served in regular active service as such on or after November 29, 1989, and before the date of the enactment of this Act.

(B) Except as provided in subparagraph (C), a judge referred to in subparagraph (A) shall be subject to the Federal Employees' Retirement System as of the later of November 29, 1989, or the date of the judge's appointment as a judge of the United States Court of Military Appeals.

(C) A judge referred to in subparagraph (B) who, on the day before the date as of which the judge would become subject to the Federal Employees' Retirement System under that subparagraph, was subject to the Civil Service Retirement and Disability System may elect to continue to be subject to the Civil Service Retirement and Disability System instead of the Federal Employees' Retirement System. A judge making that election shall submit the election in writing to the Director of the Office of Personnel Management within 10 days after the date of the enactment of this Act. The election is irrevocable.

(D) A judge who does not make an election pursuant to subparagraph (C)—

(i) shall receive a lump sum refund from the Civil Service Retirement and Disability Fund equal to the difference between the total amount deducted and withheld from the pay of the judge under section 8334 of title 5, United States Code, during the service as a judge of the court on and after November 29, 1989, and before the date of the enactment of this Act and the total amount that would have been deducted and withheld from the pay of the judge under section 8422 of such title during that service if the judge had been subject to the provisions of chapter 84 of that title during such service; and

(ii) may, within 2 years after the date of the enactment of this Act, deposit in the Thrift Savings Fund any amount not exceeding the difference between the total amount that the judge could have contributed to the Fund under section 8432(a) of title 5, United States Code, during the service referred to in clause (i) and the amount, if any, that was contributed to the Fund by the judge under section 8351 of such title during that service.

(E) A lump sum contribution shall be made to the Thrift Savings Fund in accordance with section 8432(c) of title 5, United States Code, for a deposit made by a judge pursuant to subparagraph (D)(ii). The amount of the contribution shall be equal to the total amount of the contribution that would have been made under that section during the service covered by the deposit if the total amount deposited had been deducted and withheld from the pay of the judge for contribution to the Thrift Savings Fund under section 8432(a) of that title in equal amounts monthly during that service. The lump sum contribution shall be made out of funds available for the pay of judges of the United States Court of Military Appeals for the fiscal year in which the deposit is made.

(F) Amounts deposited in the Thrift Savings Fund pursuant to subparagraphs (D)(ii) and (E) shall be deemed not to cause the contributions made to that Fund by or for a judge in the year of the deposit to exceed any limitation referred to in section 8432(d) or 8440(a)(3) of title 5, United States Code.

(G) In this paragraph:

(i) The term "Federal Employees' Retirement System" means the provisions of chapter 84 of title 5, United States Code.

(ii) The term "Civil Service Retirement and Disability System" means the provisions of subchapter III of chapter 83 of such title.

(b) CHIEF JUDGE.—(1) Section 943(a) (article 143(a)) of title 10, United States Code, is amended to read as follows:

"(a) CHIEF JUDGE.—(1) The chief judge of the United States Court of Military Appeals shall be the judge of the court in regular active service who is senior in commission among the judges of the court who—

"(A) have served for one or more years as judges of the court; and

"(B) have not previously served as chief judge.

"(2) In any case in which there is no judge of the court in regular active service who has served as a judge of the court for at least one year, the judge of the court in regular active service who is senior in commission and has not served previously as chief judge shall act as the chief judge.

"(3) Except as provided in paragraph (4), a judge of the court shall serve as the chief judge under paragraph (1) for a term of 5 years. If no other judge is eligible under paragraph (1) to serve as chief judge upon the expiration of that term, the chief judge shall continue to serve as chief judge until another judge becomes eligible under that paragraph to serve as chief judge.

"(4)(A) The term of a chief judge shall be terminated before the end of 5 years if—

"(i) the chief judge leaves regular active service as a judge of the court; or

"(ii) the chief judge notifies the other judges of the court in writing that such judge desires to be relieved of his duties as chief judge.

"(B) The effective date of a termination of the term under subparagraph (A) shall be the date on which the chief judge leaves regular active service or the date of the notification under subparagraph (A)(ii), as the case may be.

"(5) If a chief judge is temporarily unable to perform his duties as a chief judge, the duties shall be performed by the judge of the court in active service who is present, able and qualified to act, and is next in precedence.".

(2) For purposes of section 943(a) of title 10, United States Code, as amended by paragraph (1)—

(A) the person serving as the chief judge of the United States Court of Military Appeals on the date of the enactment of this Act shall be deemed to have been designated as the chief judge under such section; and

(B) the 5-year term provided in paragraph (3) of such section shall be deemed to have begun on the date on which such judge was originally designated as the chief judge under section 867(a) or 943 of title 10, United States Code, as the case may be, as that provision of law was in effect on the date of the designation.

SEC. 1059. AMENDMENTS TO THE UNIFORM CODE OF MILITARY JUSTICE.

(a) JURISDICTION.—Section 803(a) (article 3(a)) of title 10, United States Code, is amended to read as follows:

"(a) Subject to section 843 of this title (article 43), a person who is in a status in which the person is subject to this chapter and who committed an offense against this chapter while formerly in a status in which the person was subject to this chapter is not relieved from amenability to the jurisdiction of this chapter for that offense by reason of a termination of that person's former status.".

(b) CERTAIN ADJUDICATIONS AND POSTPONEMENTS OF SENTENCES.—(1) Section 857 (article 57) of such title is amended by adding at the end the following new subsection:

"(e)(1) In any case in which a court-martial sentences a person referred to in paragraph (2) to confinement, the convening authority may postpone the service of the sentence to confinement, without the consent of that person, until after the person has been permanently released to the armed forces by a State or foreign country referred to in that paragraph.

"(2) Paragraph (1) applies to a person subject to this chapter who—

"(A) while in the custody of a State or foreign country is temporarily returned by that State or foreign country to the armed forces for trial by court-martial; and

"(B) after the court-martial, is returned to that State or foreign country under the authority of a mutual agreement or treaty, as the case may be.

"(3) In this subsection, the term 'State' means a State of the United States, the District of Columbia, a Territory, and a possession of the United States.".

(2) Section 863 (article 63) of such title is amended—

(A) by striking out "imposed" in the second sentence and inserting in lieu thereof "approved"; and

(B) by inserting "approved" in the third sentence after "the pretrial agreement, the".

(c) OFFENSES.—(1)(A) Section 911 (article 111) of such title is amended to read as follows:

"§911. Art. 111. Drunken or reckless operation of a vehicle, aircraft, or vessel

"Any person subject to this chapter who—

"(1) operates or physically controls any vehicle, aircraft, or vessel in a reckless or wanton manner or while impaired by a substance described in section 912a(b) of this title (article 112a(b)), or

"(2) operates or is in actual physical control of any vehicle, aircraft, or vessel while drunk or when the alcohol concentration in the person's blood or breath is 0.10 grams of alcohol per 100 milliliters of blood or 0.10 grams of alcohol per 210 liters of breath, as shown by chemical analysis,

shall be punished as a court-martial may direct.".

(B) The item relating to section 911 in the table of sections at the beginning of subchapter X of chapter 47 of such title is amended to read as follows:

"911. 111. Drunken or reckless operation of a vehicle, aircraft, or vessel.".

(2) Section 918(3) (article 118(3)) of such title is amended by striking out "others" and inserting in lieu thereof "another".

(3) Section 920(a) (article 120(a)) of such title is amended—

(A) by striking out "with a female not his wife"; and

(B) by striking out "her".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to offenses committed on or after that date.

SEC. 1060. CIVIL-MILITARY COOPERATIVE ACTION PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) Many of the skills, capabilities, and resources that the Armed Forces have developed to meet military requirements can assist in meeting the civilian domestic needs of the United States.

(2) Members of the Armed Forces have the training, education, and experience to serve as role models for United States youth.

(3) As a result of the reductions in the Armed Forces resulting from the ending of the Cold War, the Armed Forces will have fewer overseas deployments and lower operating tempos, and there will be a much greater opportunity than in the past for the Armed Forces to assist civilian efforts to address critical domestic problems.

(4) The United States has significant domestic needs in areas such as health care, nutrition, education, housing, and infrastructure that cannot be met by current and anticipated governmental and private sector programs.

(5) There are significant opportunities for the resources of the Armed Forces, which are maintained for national security purposes, to be applied in cooperative efforts with civilian officials to address these vital domestic needs.

(6) Civil-military cooperative efforts can be undertaken in a manner that is consistent with the military mission and does not compete with the private sector.

(b) ESTABLISHMENT OF CIVIL-MILITARY COOPERATIVE ACTION PROGRAM.—Chapter 20 of title 10, United States Code, is amended—

(1) by adding at the end the following new subchapter:

"SUBCHAPTER II—CIVIL-MILITARY COOPERATION

"Sec.

"410. Civil-Military Cooperative Action Program.

"§410. Civil-Military Cooperative Action Program

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a program to be known as the 'Civil-Military Cooperative Action Program'. Under the program, the Secretary may, in accordance with other applicable law, use the skills, capabilities, and resources of the armed forces to assist civilian efforts to meet the domestic needs of the United States.

"(b) PROGRAM OBJECTIVES.—The program shall have the following objectives:

"(1) To enhance individual and unit training and morale in the armed forces through meaningful community involvement of the armed forces.

"(2) To encourage cooperation between civilian and military sectors of society in addressing domestic needs.

"(3) To advance equal opportunity.

"(4) To enrich the civilian economy of the United States through education, training, and transfer of technological advances.

"(5) To improve the environment and economic and social conditions.

"(6) To provide opportunities for disadvantaged citizens of the United States.

"(c) ADVISORY COUNCILS.—(1) The Secretary of Defense shall encourage the establishment of advisory councils on civil-military cooperation at the regional, State, and local levels, as appropriate, in order to obtain recommendations for projects and activities under the program and guidance for the program from persons who are knowledgeable about regional, State, and local conditions and needs.

"(2) The advisory councils should include officials from relevant military organizations, representatives of appropriate local, State, and Federal agencies, representatives of civic and social service organizations, business representatives, and labor representatives.

"(3) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to such councils.

"(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the provision of assistance under the program. The regulations shall include the following:

"(1) Rules governing the types of assistance that may be provided.

"(2) Procedures governing the delivery of assistance that ensure, to the maximum extent practicable, that such assistance is provided in conjunction with, rather than separate from, civilian efforts.

"(3) Procedures for appropriate coordination with civilian officials to ensure that the assistance—

"(A) meets a valid need; and

"(B) does not duplicate other available public services.

"(4) Procedures for the provision of assistance in a manner that does not compete with the private sector.

"(5) Procedures to minimize the extent to which Department of Defense resources are applied exclusively to the program.

"(6) Standards to ensure that assistance is provided under this section in a manner that is consistent with the military mission of the units of the armed forces involved in providing the assistance.

"(e) CONSTRUCTION OF PROVISION.—Nothing in this section shall be construed as authorizing—

"(1) the use of the armed forces for civilian law enforcement purposes; or

"(2) the use of Department of Defense personnel or resources for any program, project, or activity that is prohibited by law."; and

(2) by inserting below the chapter heading the following:

"Subchapter	Sec.
"I. Humanitarian Assistance	401
"II. Civil-Military Cooperation	410

"SUBCHAPTER I—HUMANITARIAN ASSISTANCE".

SEC. 1061. NATIONAL GUARD CIVILIAN YOUTH OPPORTUNITIES PILOT PROGRAM.

(a) PROGRAM AUTHORITY.—During fiscal years 1993 through 1995, the Chief of the National Guard Bureau may conduct a pilot program to be known as the "National Guard Civilian Youth Opportunities Program".

(b) PURPOSE.—The purpose of the pilot program is to provide a basis for determining—

(1) whether the life skills and employment potential of civilian youth who cease to attend secondary school before graduating can be significantly improved through military based training provided by the National Guard; and

(2) whether it is feasible and cost effective for the National Guard to provide military based training to such youth for the purpose of achieving such improvements.

(c) CONDUCT OF PROGRAM IN 10 NATIONAL GUARD JURISDICTIONS.—The Chief of the National Guard Bureau may provide for the conduct of the pilot program in any 10 of the States, the Territories, the Commonwealth of Puerto Rico, or the District of Columbia.

(d) PROGRAM AGREEMENTS.—(1) To carry out the pilot program in a State, a Territory, the Commonwealth of Puerto Rico, or the District of Columbia, the Chief of the National Guard Bureau shall enter into an agreement with the Governor of the State, Territory, or Commonwealth or with the commanding general of the District of Columbia National Guard, as the case may be.

(2) Each agreement shall provide for the Governor or, in the case of the District of Columbia National Guard, the commanding general to establish, organize, and administer a National Guard civilian youth opportunities program.

(3) The agreement may provide for the Chief of the National Guard Bureau to reimburse the State, Territory, Commonwealth of Puerto Rico, or the District of Columbia, as the case may be, for civilian personnel costs attributable to the use of civilian employees of the National Guard in the conduct of the program.

(e) ELIGIBLE PARTICIPANTS.—(1) Persons referred to in subsection (b)(1) shall be eligible to participate in a National Guard civilian youth opportunities program under the pilot program.

(2) The Chief of the National Guard Bureau shall prescribe the standards and procedures for selecting the participants from among applicants for the program.

(f) AUTHORIZED BENEFITS FOR PARTICIPANTS.—To the extent provided in an agreement entered into in accordance with subsection (d) and subject to the approval of the Chief of the National Guard Bureau, the persons selected for training in a National Guard civilian youth opportunities program under the pilot program may receive the following benefits in connection with that training:

(1) Allowances for travel expenses, personal expenses, and other expenses.

(2) Quarters.

(3) Subsistence.

(4) Transportation.

(5) Equipment.

(6) Clothing.

(7) Recreational services and supplies.

(8) Other services.

(9) A temporary stipend upon the successful completion of the training, as characterized in accordance with procedures provided in the agreement.

(g) PROGRAM PERSONNEL.—(1) Personnel of the National Guard of a State, a Territory, the Commonwealth of Puerto Rico, or the District of Columbia in which a National Guard civilian youth opportunities program is conducted under the pilot program may serve on full-time National Guard duty for the purpose of providing command, administrative, training, or supporting services for that program. For the performance of those services, any such personnel may be ordered to duty under section 502(f) of title 32, United States Code, for not longer than the period of the program.

(2) Personnel so serving may not be counted for the purposes of—

(A) any provision of law limiting the number of personnel that may be serving on full-time active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components; or

(B) section 524 of title 10, United States Code, relating to the number of reserve component officers who may be on active duty or full-time National Guard duty in certain grades.

(3) A Governor participating in the pilot program and the commanding general of the District of Columbia National Guard (if the District of Columbia National Guard is participating in the pilot program) may procure by contract the temporary full-time services of such civilian personnel as may be necessary to augment National Guard personnel in carrying out a National Guard civilian youth opportunities program under the pilot program.

(4) Civilian employees of the National Guard performing services for such a program and contractor personnel performing such services may be required, when appropriate to achieve a program objective, to be members of the National Guard and to wear the military uniform.

(h) EQUIPMENT AND FACILITIES.—(1) Equipment and facilities of the National Guard, including military property of the United States issued to the National Guard, may be used in carrying out the pilot program.

(2) Activities under the pilot program shall be considered noncombat activities of the National Guard for purposes of section 710 of title 32, United States Code.

(i) STATUS OF PARTICIPANTS.—(1) A person receiving training under the pilot program shall be considered an employee of the United States for the purposes of the following provisions of law:

(A) The Internal Revenue Code of 1986.

(B) Title II of the Social Security Act (relating to Federal old-age, survivors, and disability insurance benefits).

(C) Subchapter I of chapter 81 of title 5, United States Code (relating to compensation of Federal employees for work injuries).

(D) Section 1346(b) and chapter 171 of title 28, United States Code, and any other provision of law relating to the liability of the United States for tortious conduct of employees of the United States.

(2) In the application of the provisions of law referred to in paragraph (1)(C) to a person referred to in paragraph (1)—

(A) the person shall not be considered to be in the performance of duty while the person is not at the assigned location of training or other activity or duty authorized in accordance with a program agreement referred to in subsection (d), except when the person is traveling to or from that location or is on pass from that training or other activity or duty;

(B) the person's monthly rate of pay shall be deemed to be the minimum rate of pay provided for grade GS-2 under the General Schedule under section 5332 of title 5, United States Code; and

(C) the entitlement of a person to receive compensation for a disability shall begin on the day following the date on which the person's participation in the pilot program is terminated.

(3) A person referred to in paragraph (1) may not be considered an employee of the United States for any purpose other than a purpose set forth in that paragraph.

(j) FUNDING.—(1) To the extent provided in appropriations Acts, funds described in paragraph (2) shall be available for the pilot program.

(2) The funds referred to in paragraph (1) are as follows:

(A) Funds appropriated for pay, allowances, clothing, subsistence, gratuities, travel and related expense for personnel of the National Guard while on active duty or full-time National Guard duty.

(B) Funds appropriated for the National Guard for operation and maintenance.

(k) SUPPLEMENTAL RESOURCES.—(1) To carry out a National Guard civilian youth opportunities program under the pilot program, the Governor of a State, a Territory, or the Commonwealth of Puerto Rico or the commanding general of the District of Columbia National Guard, as the case may be, may supplement any funding made available pursuant to subsection (j) out of other resources (including gifts) available to the Governor or the commanding general.

(2) The provision of funds authorized to be appropriated for the pilot program shall not preclude a Governor participating in the pilot program, or the commanding general of the District of Columbia National Guard (if the District of Columbia National Guard is participating in the pilot program), from accepting, using, and disposing of gifts or donations of money, other property, or services for the pilot program.

(l) REPORT.—(1) Within 90 days after the end of the 1-year period beginning on the first day of the pilot program, the Chief of the National Guard Bureau shall submit to the congressional defense committees a report on the design, conduct, and effectiveness of the pilot program during that 1-year period. The report shall include an assessment of the matters set forth in paragraphs (1) and (2) of subsection (b).

(2) In preparing the report required by paragraph (1), the Chief of the National Guard Bureau shall coordinate with the Governor of each State, Territory, and the Commonwealth of Puerto Rico in which a National Guard civilian youth opportunities program is carried out under the pilot program and, if such a program is carried out in the District of Columbia, with the commanding general of the District of Columbia National Guard.

(m) DEFINITIONS.—In this section, the terms "Territory" and "full-time National Guard duty" have the meanings given those terms in section 101 of title 32, United States Code.

(n) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized to be appropriated under section 301, $50,000,000 shall be available for the pilot program for fiscal year 1993.

SEC. 1062. UNITED NATIONS PEACEKEEPING AND ENFORCEMENT REPORT.

(a) REPORT REQUESTED.—Not later than the date on which the President submits to Congress the budget for fiscal year 1994 under section 1105 of title 31, United States Code, the President shall transmit to Congress a report on the proposals of the Secretary General of the United Nations contained in his report to the Security Council entitled "Preventive Diplomacy, Peacemaking and Peacekeeping", dated June 19, 1992.

(b) CONTENT OF PRESIDENT'S REPORT.—The President's report shall contain a comprehensive analysis and discussion of the proposals of the Secretary General, including, in particular, the following:

(1) The proposal that contributions for peacekeeping and related enforcement activities be funded out of the National Defense function of the budget rather than the "Contributions to International Peacekeeping Activities" account of the Department of State.

(2) The assignment of responsibilities within the Executive branch if such contributions are funded, in whole or in part, out of the National Defense function.

(3) The proposal that the United States and other member states of the United Nations negotiate special agreements under Article 43 of the United Nations Charter to provide for those states to make armed forces, assistance, and facilities available to the Security Council of the United Nations for the purposes stated in Article 42 of that Charter, not only on an ad hoc basis but on a permanent on-call basis for rapid deployment under Security Council authorization.

(4) The proposal that member states of the United Nations commit to keep equipment specified by the Secretary General available for immediate sale, loan, or donation to the United Nations when required.

(5) The proposal that member states of the United Nations make airlift and sealift capacity available to the United Nations free of cost or at lower than commercial rates.

(6) Such other information as may be necessary to inform Congress on matters relating to the Secretary General's proposals.

SEC. 1063. CLARIFICATION OF SCOPE OF AUTHORIZATIONS.

No funds are authorized to be appropriated under this Act for the Federal Bureau of Investigation.

TITLE XI—DEMILITARIZATION OF THE FORMER SOVIET UNION

Subtitle A—Short Title

SEC. 1101. SHORT TITLE.

This title may be cited as the "Former Soviet Union Demilitarization Act of 1992".

Subtitle B—Findings and Program Authority

SEC. 1111. DEMILITARIZATION OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

The Congress finds that it is in the national security interest of the United States—

(1) to facilitate, on a priority basis—

(A) the transportation, storage, safeguarding, and destruction of nuclear and other weapons of mass destruction of the independent states of the former Soviet Union;

(B) the prevention of proliferation of weapons of mass destruction and destabilizing conventional weapons of the independent states of the former Soviet Union, and the establishment of verifiable safeguards against the proliferation of such weapons;

(C) the prevention of diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries; and

(D) other efforts designed to reduce the military threat from the former Soviet Union;

(2) to support the conversion of the massive defense-related industry and equipment of the independent states of the former Soviet Union for civilian purposes and uses; and

(3) to expand military-to-military contacts between the United States and the independent states of the former Soviet Union.

SEC. 1112. AUTHORITY FOR PROGRAMS TO FACILITATE DEMILITARIZATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized, in accordance with this title, to establish and conduct programs described in subsection (b) to assist the demilitarization of the independent states of the former Soviet Union.

(b) TYPES OF PROGRAMS.—The programs referred to in subsection (a) are limited to—

(1) transporting, storing, safeguarding, disabling, and destroying nuclear, chemical, and other weapons of the independent states of the former Soviet Union, as described in section 212(b) of the Conventional Forces in Europe Treaty Implementation Act of 1991 (Public Law 102-228);

(2) establishing verifiable safeguards against the proliferation of such weapons;

(3) preventing diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries;

(4) facilitating the conversion of military technologies and capabilities and defense industries of the former Soviet Union into civilian activities;

(5) establishing science and technology centers in the independent states of the former Soviet Union for the purpose of engaging weapons scientists and engineers previously involved with nuclear, chemical, and other weapons of mass destruction in productive, nonmilitary undertakings; and

(6) expanding military-to-military contacts between the United States and the independent states of the former Soviet Union.

(c) RESTRICTIONS.—United States assistance authorized by subsection (a) may not be provided unless the President certifies to the Congress, on an annual basis, that the proposed recipient country is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons of mass destruction, if such recipient has an obligation under treaty or other agreement to destroy or dismantle any such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons;

(4) facilitating United States verification of any weapons destruction carried out under section 212 of the Conventional Forces in Europe Treaty Implementation Act of 1991 (Public Law 102-228);

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

Subtitle C—Administrative and Funding Authorities

SEC. 1121. ADMINISTRATION OF DEMILITARIZATION PROGRAMS.

(a) FUNDING.—(1) In recognition of the direct contributions to the national security interests of the United States of the activities specified in section 1112, funds transferred under sections 108 and 109 of Public Law 102-229 (105 Stat. 1708) are authorized to be made available to carry out subtitle B.

(2) Section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228; 105 Stat. 1695) is amended—

(A) by striking "fiscal year 1992" and inserting "fiscal years 1992 and 1993"; and

(B) by striking out "$400,000,000" and inserting in lieu thereof "$650,000,000".

(3) Section 221(e) of such Act is amended—

(A) by inserting "for fiscal year 1992 or fiscal year 1993" after "under part B";

(B) by inserting "for that fiscal year" after "for that program"; and

(C) by striking out "for fiscal year 1992" and inserting in lieu thereof "for that fiscal year".

(b) TECHNICAL REVISIONS TO PUBLIC LAW 102-229.—Public Law 102-229 is amended—

(1) in section 108 (105 Stat. 1708), by striking out "contained in H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "(title II of Public Law 102-228)"; and

(2) in section 109 (105 Stat. 1708)—

(A) by striking out "H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "Public Law 102-228 (105 Stat. 1696)"; and

(B) by striking "of H.R. 3807".

Subtitle D—Reporting Requirements

SEC. 1131. PRIOR NOTICE OF OBLIGATIONS TO CONGRESS.

Not less than 15 days before obligating any funds made available for a program under subtitle B, the President shall transmit to the Congress a report on the proposed obligation. Each such report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance under subtitle B for which the President plans to obligate such funds.

SEC. 1132. QUARTERLY REPORTS ON PROGRAMS.

Not later than 30 days after the end of the last fiscal year quarter for fiscal year 1992 and each fiscal year quarter for fiscal year 1993, the President shall transmit to the Congress a report on the activities carried out under subtitle B. Each such report shall set forth, for the preceding fiscal year quarter and cumulatively, the following:

(1) The amounts expended for such activities and the purposes for which they were expended.

(2) The source of the funds obligated for such activities, specified by program.

(3) A description of the participation of all United States Government departments and agencies in such activities.

(4) A description of the activities carried out under subtitle B and the forms of assistance provided under that part.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the programs authorized under subtitle B.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1993".

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

ARMY: INSIDE THE UNITED STATES

State	Installation or location	Amount
Alabama	Anniston Army Depot	$105,300,000
	Fort McClellan	$4,200,000
Arizona	Fort Huachuca	$5,300,000
Arkansas	Pine Bluff Arsenal	$26,800,000
California	Sierra Army Depot	$2,450,000
Georgia	Fort Gillem	$2,700,000
	Fort Gordon	$23,000,000
	Fort McPherson	$10,200,000
	Hunter Army Airfield	$5,400,000
Hawaii	Schofield Barracks	$23,300,000
Kansas	Fort Riley	$13,200,000
Louisiana	Fort Polk	$7,400,000
Maryland	Aberdeen Proving Ground	$3,400,000
New Jersey	Fort Monmouth	$3,550,000
New Mexico	White Sands Missile Range	$6,000,000
New York	United States Military Academy, West Point	$1,600,000
Oklahoma	Fort Sill	$1,500,000
Pennsylvania	Letterkenny Army Depot	$5,400,000
Texas	Fort Hood	$33,000,000
	Red River Army Depot	$3,600,000
Utah	Tooele Army Depot	$9,200,000
Virginia	Fort Belvoir	$1,200,000
	Fort Pickett	$5,800,000
CONUS Various	Classified Location	$2,700,000
	Classified Location	$700,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

ARMY: OUTSIDE THE UNITED STATES

Country	Installation or location	Amount
Germany	Grafenwoehr	$11,600,000
Kwajelein Atoll	Kwajalein	$52,800,000
OCONUS Classified	Classified Location	$1,000,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(6)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

ARMY: FAMILY HOUSING

State	Installation	Purpose	Amount
Hawaii	Oahu Various	200 units	$23,000,000
Kentucky	Fort Campbell	96 units	$8,200,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(6)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $8,940,000.

SEC. 2103. DEFENSE ACCESS ROADS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(3), the Secretary of the Army may make advances to the Secretary of Transportation for design and construction of defense access roads under section 210 of title 23, United States Code, in the total amount of $2,400,000.

SEC. 2104. IMPROVEMENTS TO MILITARY FAMILY HOUSING.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(6)(A), the Secretary of the Army may improve existing military family housing in an amount not to exceed $155,860,000.

SEC. 2105. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,200,317,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $306,900,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $65,400,000.

(3) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $2,400,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $3,800,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $112,300,000.

(6) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $196,000,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,380,517,000, of which not more than $358,241,000 may be obligated or expended for the leasing of military family housing worldwide.

(7) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $133,000,000, to remain available until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2106. INCREASE IN LIMITATION ON LEASING OF MILITARY FAMILY HOUSING WORLDWIDE BY THE DEPARTMENT OF THE ARMY.

Section 2105(a)(6)(B) the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1512) is amended by striking out "$360,783,000" and inserting in lieu thereof "$395,783,000".

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

NAVY: INSIDE THE UNITED STATES

State	Installation or location	Amount
Alaska	Adak Naval Air Station	$8,750,000
California	Camp Pendleton, Marine Corps Base	$25,500,000
	Lemoore, Naval Air Station	$680,000
	Port Hueneme, Naval Construction Battalion Center	$14,300,000
	Seal Beach, Naval Weapons Station	$2,150,000
	Twentynine Palms, Marine Corps Air-Ground Combat Center	$4,600,000
Connecticut	New London, Naval Submarine Base	$12,500,000
Florida	Cecil Field, Naval Air Station	$5,850,000
Georgia	Albany, Marine Corps Logistics Base	$6,800,000
Hawaii	Barking Sands, Pacific Missile Range Facility	$4,580,000
	Honolulu, Naval Communication Area Master Station, Eastern Pacific	$1,400,000
	Pearl Harbor, Naval Supply Center	$6,700,000
	Pearl Harbor, Navy Public Works Center	$24,900,000
Maryland	Indian Head, Naval Ordnance Station	$5,600,000
Mississippi	Gulfport, Naval Construction Battalion Center	$4,650,000
North Carolina	New River, Marine Corps Air Station	$3,600,000
	Cherry Point, Marine Corps Air Station	$4,680,000
Rhode Island	Newport, Naval Education and Training Center	$540,000
South Carolina	Charleston, Naval Weapons Station	$1,110,000
Tennessee	Memphis, Naval Air Station	$14,110,000
Texas	Corpus Christi, Naval Air Station	$4,900,000
	Kingsville, Naval Air Station	$20,120,000
Virginia	Dam Neck, Fleet Combat Training Center	$19,427,000
	Fort Story, Naval Station Annex	$5,650,000
	Little Creek, Naval Amphibious Base	$13,300,000
	Norfolk, Naval Air Station	$3,450,000
	Norfolk, Naval Station	$880,000
	Norfolk, Naval Supply Center	$12,400,000
	Oceana, Naval Air Station	$3,190,000
	Quantico, Marine Corps Combat Development Center	$5,000,000
	Yorktown, Naval Weapons Station	$1,100,000
Washington	Bangor, Trident Refit Facility	$1,550,000
	Bremerton, Puget Sound Naval Shipyard	$14,800,000
	Bremerton, Naval Inactive Ship Maintenance Facility	$1,200,000
	Everett, Naval Station	$5,600,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

NAVY: OUTSIDE THE UNITED STATES

Country	Installation or location	Amount
Greece	Souda Bay, Naval Support Activity	$7,600,000
Various Locations	Host Nation Infrastructure Support	$3,000,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

NAVY: FAMILY HOUSING

State	Installation	Purpose	Amount
California	Camp Pendleton Marine Corps Base	300 units	$30,600,000
	San Diego Navy Public Works Center	300 units	$30,400,000
Connecticut	New London, Naval Submarine Base	100 units	$11,850,000
Hawaii	Kauai, Pacific Missile Range Facility	13 units	$2,330,000
	Oahu, Barbers Point Naval Air Station	70 units	$18,500,000
	Oahu, Kanehoe, Marine Corps Air Station	300 units	$96,800,000
	Oahu, Lynch Park	42 units	$7,000,000
	Oahu, Miller Park	114 units	$18,400,000
	Oahu, Moana Lua	100 units	$11,800,000
	Oahu, Pearl City Peninsula	132 units	$30,000,000
New Jersey	Earle, Naval Weapons Station	Community Center	$1,100,000
Washington	Bangor/Bremerton Naval Complex	200 units	$19,500,000
West Virginia	Sugar Grove, Naval Radio Station	8 units	$930,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $14,200,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in the amount of $198,340,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,542,036,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $265,567,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $10,600,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $5,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $72,942,000.

(5) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $491,750,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $696,177,000, of which not more than $104,470,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2205. POWER PLANT RELOCATION, NAVY PUBLIC WORKS CENTER, GUAM.

Section 2201(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2097) is amended—

(1) in the matter under the heading "GUAM" by striking out the item relating to the Navy Public Works Center and inserting in lieu thereof the following:

"Navy Public Works Center, $34,490,000."; and

(2) in the matter under the heading "PHILIPPINES" by striking out the item relating to the Navy Public Works Center, Subic Bay, and inserting in lieu thereof the following:

"Navy Public Works Center, Subic Bay, $570,000.".

SEC. 2206. REVISED AUTHORIZATIONS FOR CERTAIN MARINE CORPS PROJECTS.

(a) REVISED AUTHORIZATION.—Section 2201(a) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2095) is amended in the matter under the heading "NORTH CAROLINA" by striking out the items relating to Marine Corps Air Station, Cherry Point, and inserting in lieu thereof the following:

"Marine Corps Air Station, Cherry Point, $24,100,000.

(b) CONFORMING AMENDMENTS.—Section 2205(a) of such Act (102 Stat. 2099) is amended—

(1) by striking out "$2,369,875,000" and inserting in lieu thereof "$2,361,555,000"; and

(2) in paragraph (1), by striking out "$1,296,450,000" and inserting in lieu thereof "$1,288,770,000".

SEC. 2207. DEFENSE ACCESS ROADS, NAVAL STATION PASCAGOULA, MISSISSIPPI.

Using amounts appropriated pursuant to the authorization of appropriations in section 2205(a)(5) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1519), the Secretary of the Navy shall expend such amounts as the Secretary determines necessary for planning and design for defense access roads that are critical for access to Naval Station Pascagoula, Mississippi, as determined by the Secretary of the Navy.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

AIR FORCE: INSIDE THE UNITED STATES

State	Installation or location	Amount
Alabama	Gunter Air Force Base	$960,000
	Maxwell Air Force Base	$9,900,000
Alaska	Clear Air Force Station	$2,250,000

AIR FORCE: INSIDE THE UNITED STATES—Continued

State	Installation or location	Amount
	Eielson Air Force Base	$40,950,000
	Elmendorf Air Force Base	$22,550,000
	Galena Airport	$4,850,000
	King Salmon Airport	$6,400,000
	Shemya Air Force Base	$3,350,000
Arizona	Davis-Monthan Air Force Base	$3,500,000
	Libby Air Force Base	$15,300,000
	Luke Air Force Base	$2,950,000
Arkansas	Little Rock Air Force Base	$3,860,000
California	Beale Air Force Base	$1,250,000
	Edwards Air Force Base	$24,500,000
	March Air Force Base	$2,250,000
	McClellan Air Force Base	$2,900,000
	Travis Air Force Base	$880,000
	Vandenberg Air Force Base	$26,250,000
Colorado	Peterson Air Force Base	$3,500,000
	United States Air Force Academy	$2,610,000
Delaware	Dover Air Force Base	$25,160,000
Florida	Cape Canaveral Air Force Station	$40,800,000
	Eglin Air Force Base	$1,680,000
	Homestead Air Force Base	$1,200,000
	Patrick Air Force Base	$7,700,000
Georgia	Moody Air Force Base	$4,380,000
	Robins Air Force Base	$11,500,000
Illinois	Scott Air Force Base	$960,000
Kansas	McConnell Air Force Base	$960,000
Louisiana	Barksdale Air Force Base	$29,120,000
Maryland	Andrews Air Force Base	$820,000
Massachusetts	Hanscom Air Force Base	$4,200,000
Mississippi	Keesler Air Force Base	$3,900,000
Missouri	Whiteman Air Force Base	$62,270,000
Montana	Malmstrom Air Force Base	$1,100,000
Nebraska	Offutt Air Force Base	$6,190,000
Nevada	Nellis Air Force Base	$6,980,000
New Jersey	McGuire Air Force Base	$8,970,000
New Mexico	Holloman Air Force Base	$11,420,000
North Carolina	Pope Air Force Base	$22,130,000
	Seymour Johnson Air Force Base	$5,230,000
North Dakota	Grand Forks Air Force Base	$6,500,000
	Minot Air Force Base	$8,650,000
Ohio	Wright-Patterson Air Force Base	$12,170,000
Oklahoma	Tinker Air Force Base	$21,280,000
	Vance Air Force Base	$2,350,000
South Carolina	Charleston Air Force Base	$32,150,000
	Shaw Air Force Base	$2,380,000
South Dakota	Ellsworth Air Force Base	$3,880,000
Texas	Brooks Air Force Base	$9,000,000
	Dyess Air Force Base	$7,300,000
	Goodfellow Air Force Base	$3,250,000
	Kelly Air Force Base	$21,360,000
	Lackland Air Force Base	$1,000,000
	Laughlin Air Force Base	$6,000,000
	Randolph Air Force Base	$1,250,000
	Sheppard Air Force Base	$6,990,000
Utah	Hill Air Force Base	$1,500,000
Virginia	Langley Air Force Base	$7,050,000
Washington	Fairchild Air Force Base	$2,510,000
	McChord Air Force Base	$2,540,000
Wyoming	F.E. Warren Air Force Base	$1,050,000
Various and Classified Locations	Various Locations	$3,300,000
	Various Locations	$3,900,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and may carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

AIR FORCE: OUTSIDE THE UNITED STATES

Country	Installation or location	Amount
Ascension Island	Ascension Island	$22,000,000
Germany	Rhein-Main Air Base	$3,100,000
Greenland	Thule Air Base	$24,900,000
Guam	Andersen Air Force Base	$3,090,000
Portugal	Lajes Field	$8,450,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

AIR FORCE: FAMILY HOUSING

State or Country	Installation	Purpose	Amount
California	Beale Air Force Base	Housing office	$306,000
	March Air Force Base	320 units	$25,351,000
Florida	Patrick Air Force Base	250 units	$22,500,000
Georgia	Moody Air Force Base	Housing maintenance facility	$290,000
	Robins Air Force Base	55 units	$3,153,000
Illinois	Scott Air Force Base	1,068 units	$60,000,000
Louisiana	Barksdale Air Force Base	Housing maintenance and storage facility	$443,000

AIR FORCE: FAMILY HOUSING—Continued

State or Country	Installation	Purpose	Amount
New Mexico	Cannon Air Force Base	361 units	$32,951,000
	Cannon Air Force Base	Housing office	$480,000
North Dakota	Minot Air Force Base	Housing maintenance and storage facility	$286,000
South Carolina	Shaw Air Force Base	Housing office	$351,000
Utah	Hill Air Force Base	82 units	$6,353,000
Portugal	Lajes Field	Water wells	$865,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $7,457,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $227,824,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,064,428,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $604,990,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $61,540,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $12,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $95,000,000.

(5) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $348,610,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $942,288,000, of which not more than $150,800,000 may be obligated or expended for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $40,000,000 (the balance of the amount authorized for construction of family housing at Scott Air Force Base, Illinois).

SEC. 2305. CHILD DEVELOPMENT CENTER RELOCATION, BUCKLEY AIR NATIONAL GUARD BASE, COLORADO.

Section 2301(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1770) is amended in the matter under the heading "COLORADO" by striking out the item relating to Lowry Air Force Base and inserting in lieu thereof the following:

"Buckley Air National Guard Base, $4,550,000.".

SEC. 2306. AUTHORIZED FAMILY HOUSING LEASE PROJECTS.

Subject to section 2835 of title 10, United States Code, the Secretary of the Air Force may enter into contracts for the lease of family housing units in the number of units shown, and at the net present value shown, for the following installations:

(1) Bolling Air Force Base, District of Columbia, 550 units, $54,200,000.

(2) Andrews Air Force Base, Maryland, 550 units, $54,200,000.

SEC. 2307. AUTHORIZED MILITARY HOUSING RENTAL GUARANTEE PROJECTS.

Subject to section 2836 of title 10, United States Code, the Secretary of the Air Force may enter into rental guarantee agreements for military housing in the number of units shown for the following installations:

(1) Elmendorf Air Force Base, Alaska, 302 units.

(2) Homestead Air Force Base, Florida, 308 units.

(3) Patrick Air Force Base, Florida, 409 units

(4) Offutt Air Force Base, Nebraska, 400 units.

SEC. 2308. TERMINATION OF AUTHORITY TO CARRY OUT CERTAIN PROJECTS.

(a) FISCAL YEAR 1992 PROJECTS.—(1) Section 2301 of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102-190; 105 Stat. 1521) is amended—

(A) under the heading "ALASKA", by striking out the item relating to Shemya Air Force Base and inserting in lieu thereof the following:

"Shemya Air Force Base, $10,300,000.";

(B) under the heading "ARIZONA", by striking out the item relating to Luke Air Force Base and inserting in lieu thereof the following:

"Luke Air Force Base, $6,000,000.";

(C) by striking out the following:

"MONTANA

"Conrad Strategic Training Range Site, $700,000.

"Havre Strategic Training Range Site, $700,000.";

(D) under the heading "NEW YORK", by striking out the item relating to Griffiss Air Force Base and inserting in lieu thereof the following:

"Griffiss Air Force Base, $1,500,000.";

(E) under the heading "SOUTH DAKOTA", by striking out the item relating to Ellsworth Air Force Base and inserting in lieu thereof the following:

"Ellsworth Air Force Base, $2,040,000."; and

(F) under the heading "TEXAS", by striking out the item relating to Sheppard Air Force Base and inserting in lieu thereof the following:

"Sheppard Air Force Base, $16,250,000.".

(2) Section 2305(a) of such Act (105 Stat. 1525) is amended—

(A) by striking out "$2,089,303,000" and inserting in lieu thereof "$2,054,713,000"; and

(B) in paragraph (1), by striking out "$778,970,000" and inserting in lieu thereof "$744,380,000".

(b) FISCAL YEAR 1991 PROJECTS.—(1) Section 2301 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101-510; 104 Stat. 1769) is amended—

(A) under the heading "GEORGIA", by striking out the item relating to Robins Air Force Base and inserting in lieu thereof the following:

"Robins Air Force Base, $8,700,000.";

(B) under the heading "MICHIGAN", by striking out the item relating to K.I. Sawyer Air Force Base and inserting in lieu thereof the following:

"K.I. Sawyer Air Force Base, $1,400,000."; and

(C) under the heading "OKLAHOMA", by striking out the item relating to Tinker Air Force Base and inserting in lieu thereof the following:

"Tinker Air Force Base, $53,350,000.".

(2) Section 2302(a) of such Act (104 Stat. 1773) is amended by striking out the item relating to Myrtle Beach Air Force Base, South Carolina.

(3) Section 2304(a) of such Act (104 Stat. 1773) is amended—

(A) by striking out "$1,922,733,000" and inserting in lieu thereof "$1,905,075,000";

(B) in paragraph (1), by striking out "$742,255,000" and inserting in lieu thereof "$724,855,000"; and

(C) in paragraph (7)(A), by striking out "$182,965,000" and inserting in lieu thereof "$182,707,000".

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2402(a)(1) and, in the case of the projects described in paragraphs (2), (3), and (4) of section 2402(c), other amounts appropriated pursuant to authorizations enacted after this Act for such projects, the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

DEFENSE AGENCIES: INSIDE THE UNITED STATES

Agency	Installation or location	Amount
Defense Logistics Agency	Defense Reutilization and Marketing Office, March Air Force Base, California	$630,000
	Defense Reutilization and Marketing Office, Hill Air Force Base, Utah	$1,700,000
	Defense General Supply Center, Richmond, Virginia	$12,400,000
Defense Medical Facility Office	Elmendorf Air Force Base, Alaska	$160,000,000
	March Air Force Base, California	$18,000,000
	Fort Leonard Wood, Missouri	$3,000,000
	Fort Bragg, North Carolina	$250,000,000
	Millington Naval Air Station, Tennessee	$15,000,000
Defense Nuclear Agency	Eglin Air Force Base, Florida	$64,000,000
National Security Agency	Fort Meade, Maryland	$6,700,000
Strategic Defense Initiative Organization	Barking Sands, Hawaii	$2,500,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2402(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

DEFENSE AGENCIES: OUTSIDE THE UNITED STATES

State	Installation or location	Amount
Defense Medical Facilities Office	Classified Location	$8,000,000
Defense Nuclear Agency	Johnston Island	$1,500,000
National Security Agency	Classified Locations	$9,590,000
Strategic Defense Initiative Organization	Kwajelein	$22,000,000

SEC. 2402. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $2,496,896,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $112,200,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $41,090,000.

(3) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987 (division B of the National Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 4035)), $27,000,000.

(4) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1640)), $16,000,000.

(5) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $12,508,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(7) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $61,818,000.

(8) For conforming storage facilities constructed under the authority of section 2404(a) of the Military Construction Authorization Act, 1987 (100 Stat. 4037), $3,580,000.

(9) For base closure and realignment activities as authorized by the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note), $440,700,000.

(10) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2687 note)), $1,743,600,000.

(11) For military family housing functions (including functions described in section 2833 of title 10, United States Code), $28,400,000, of which not more than $23,559,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) AUTHORIZATION OF UNOBLIGATED FUNDS.—Funds appropriated to the Department of Defense for fiscal years before fiscal year 1993 for military construction functions of the Defense Agencies that remain available for obligation on the date of enactment of this Act are hereby authorized to be made available, to the extent provided in appropriation Acts, for military construction projects authorized in section 2401(a) for the Defense Logistics Agency.

(c) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and subsection (b);

(2) $32,000,000 (the balance of the amount authorized for the construction of the Climatic Test Chamber at Eglin Air Force Base, Florida);

(3) $240,000,000 (the balance of the amount authorized for construction of the Army Medical Center at Fort Bragg, North Carolina); and

(4) $135,000,000 (the balance of the amount authorized for construction of the hospital at Elmendorf Air Force Base, Alaska).

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501, in the amount of $221,200,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1992, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $136,778,000; and

(B) for the Army Reserve, $36,505,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $15,715,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $224,110,000; and

(B) for the Air Force Reserve, $34,353,000.

SEC. 2602. REDUCTIONS IN CERTAIN PRIOR YEAR AUTHORIZATIONS OF APPROPRIATIONS FOR AIR FORCE RESERVE MILITARY CONSTRUCTION PROJECTS.

(a) FISCAL YEAR 1989.—Section 2601(3)(B) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2114) is amended by striking out "$63,600,000" and inserting in lieu thereof "$62,440,000".

(b) FISCAL YEAR 1990.—Section 2601(3)(B) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1645) is amended by striking out "$35,600,000" and inserting in lieu thereof "$29,050,000".

(c) FISCAL YEAR 1991.—Section 2601(3)(B) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1781) is amended by striking out "$37,700,000" and inserting in lieu thereof "$33,930,000".

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER 3 YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 1995; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 1996.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before the later of—

(1) October 1, 1995; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 1996 for military construction contracts, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Infrastructure program.

SEC. 2702. EFFECTIVE DATES.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall be in effect as of October 1, 1992, or the date of enactment of a Military Construction Authorization Act for Fiscal Year 1993, whichever is later.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. AUTHORITY TO CARRY OUT ENERGY CONSERVATION CONSTRUCTION PROJECTS.

(a) AUTHORITY.—Section 2865 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) The Secretary of Defense may carry out a military construction project for energy conservation not previously specifically authorized by law if funds previously authorized to be appropriated for military construction were authorized to be made available for such project. Such project shall be carried out using funds appropriated or otherwise made available for military construction projects.".

(b) TECHNICAL AMENDMENT.—Subsection (e) of such section, as so redesignated, is amended by striking out "Beginning with fiscal year 1991 and by no later than December 31, 1991, and of each year thereafter," and inserting in lieu thereof "Not later than December 31 of each year,".

SEC. 2802. CLARIFICATION OF AUTHORITY TO LEASE NON-EXCESS PROPERTY.

Section 2667(b)(4) of title 10, United States Code, is amended by inserting ", in the case of the lease of real property," after "shall provide".

SEC. 2803. INCREASED THRESHOLD FOR MINOR CONSTRUCTION CARRIED OUT WITH OPERATION AND MAINTENANCE FUNDS.

(a) INCREASED THRESHOLD.—Subsection (c) of section 2805 of title 10, United States Code, is amended in paragraph (1) by inserting "or for any unspecified military construction project commenced in fiscal year 1993, 1994, or 1995, not more than $1,000,000" before the period at the end.

(b) REPORT RELATING TO CONSTRUCTION.—Such subsection is amended by adding at the end the following new paragraph:

"(3) Not later than January 15 of the year following each of fiscal years 1993, 1994, and 1995, the Secretary of Defense shall submit to the Congress a report on any military construction projects carried out under this subsection during the preceding fiscal year whose cost exceeded $300,000.".

SEC. 2804. MORATORIUM ON OBLIGATION OF FUNDS FOR CONSTRUCTION OR ACQUISITION OF MILITARY FAMILY HOUSING.

(a) RESTRICTION.—None of the funds appropriated or otherwise made available to a military department in fiscal year 1993 may be expended for contracts referred to in subsection (b) until the Secretary of that military department has solicited bids for the following:

(1) Contracts for the lease of military family housing units under section 2835 of title 10, United States Code, for—

(A) projects authorized under section 2207 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1519); and

(B) projects authorized under section 2307 of such Act (105 Stat. 1526).

(2) Military housing rental guarantee agreements under section 2836 of such title, for—

(A) projects authorized under section 2107 of such Act (105 Stat. 1512);

(B) projects authorized under section 2208 of such Act (105 Stat. 1520); and

(C) projects authorized under section 2308 of such Act (105 Stat. 1527).

(b) APPLICABILITY.—The limitation in subsection (a) applies to contracts for the construction, acquisition, or lease of military family housing (other than contracts for the replacement of existing Government-owned housing or the renewal of an expiring lease) that are entered into on or after October 1, 1992.

SEC. 2805. AUTHORITY TO CONSTRUCT REPLACEMENT FAMILY HOUSING UNITS.

(a) AUTHORITY TO CONSTRUCT REPLACEMENT UNITS.—Section 2825 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new subsection (c):

"(c)(1) The Secretary concerned may construct a replacement for a single family housing unit if—

"(A) the improvement of that housing unit has been authorized by law;

"(B) the Secretary determines that the improvement is no longer cost-effective by reason of a change in circumstances or in requirements relating to the unit; and

"(C) a period of 21 days elapses after the date on which the Secretary submits to the committees referred to in subsection (b)(1) a notice of the determination of the Secretary under subparagraph (B) and an economic analysis demonstrating that the construction under this subsection will be cost effective.

"(2) The amount that may be expended to construct a replacement unit under this subsection may not exceed the amount that is otherwise available to carry out the previously authorized improvement of the unit.".

(b) CONFORMING AMENDMENT.—Section 2822(b) of such title is amended by adding at the end the following new paragraph:

"(5) Housing units constructed under section 2825(c) of this title.".

Subtitle B—Defense Base Closure and Realignment

SEC. 2821. BASE CLOSURE ACCOUNT MANAGEMENT FLEXIBILITY.

(a) MANAGEMENT FLEXIBILITY UNDER 1988 ACT.—(1) Section 207(a)(2) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note) is amended—

(A) by inserting "(A)" after "(2)";

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(C) by amending clause (ii), as so redesignated, to read as follows:

"(ii) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose or funds contained in the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); and"; and

(D) by adding at the end the following new subparagraph:

"(B) The Secretary shall transmit written notice of, and justification for, each transfer under subparagraph (A)(ii) to the appropriate committees of Congress.".

(2) Section 207(a)(3)(A) of such Act is amended by striking out "204(a)" and inserting in lieu thereof "204".

(3)(A) Section 207(a)(5) of such Act is amended by striking "the authority of the Secretary to carry out a closure or realignment under this title" and inserting in lieu thereof "environmental restoration, community economic adjustment assistance, and disposal of property at bases selected for closure under this title".

(B) Section 207(a)(6) of such Act is amended by striking out "the authority of the Secretary to carry out a closure or realignment under this title," and inserting in lieu thereof "the activities referred to in paragraph (5),".

(b) MANAGEMENT FLEXIBILITY UNDER 1990 ACT.—(1) Section 2906(a)(2) of the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(A) by inserting "(A)" after "(2)";

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(C) by amending clause (ii), as so redesignated, to read as follows:

"(ii) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose or funds contained in the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note); and"; and

(D) by adding at the end the following new subparagraph:

"(B) The Secretary shall transmit written notice of, and justification for, each transfer under subparagraph (A)(ii) to the congressional defense committees.".

(2) Section 2906(b)(1) of such Act is amended by striking out "2905(a)" and inserting in lieu thereof "2905".

(3)(A) Section 2906(c)(2) of such Act is amended by striking out "after the termination of the Commission" and inserting in lieu thereof "after the termination of environmental restoration, community economic adjustment assistance, and disposal of property at bases selected for closure under this part".

(B) Section 2906(c)(3) of such Act is amended by striking out "after the termination of the Commission" and inserting in lieu thereof "after the termination of the activities referred to in paragraph (2)".

SEC. 2822. USE OF PROCEEDS OF THE TRANSFER OR DISPOSAL OF COMMISSARY STORE AND OTHER FACILITIES AND PROPERTY.

(a) BASE CLOSURES UNDER 1988 ACT.—Section 204(b)(4)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note) is amended to read as follows:

"(C)(i) If any real property or facility acquired, constructed, or improved (in whole or in part) with commissary store funds or nonappropriated funds is transferred or disposed of in connection with the closure or realignment of a military installation under this title, a portion of the proceeds of the transfer or other disposal of property on that installation shall be deposited in a reserve account established in the Treasury to be administered and used by the Secretary for the purpose of acquiring, constructing, and improving—

"(I) commissary stores; and

"(II) real property and facilities for nonappropriated fund instrumentalities.

"(ii) The amount deposited under clause (i) shall be equal to the depreciated value of the investment made with such funds in the acquisition, construction, or improvement of that particular real property or facility. The depreciated value of the investment shall be computed in accordance with regulations prescribed by the Secretary of Defense.

"(iii) As used in this subparagraph:

"(I) The term 'commissary store funds' means funds received from the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of title 10, United States Code.

"(II) The term 'nonappropriated funds' means funds received from a nonappropriated fund instrumentality.

"(III) The term 'nonappropriated fund instrumentality' means an instrumentality of the United States under the jurisdiction of the Armed Forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.".

(b) BASE CLOSURES UNDER 1990 ACT.—Section 2906(d) of the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510; 10 U.S.C. 2687 note) is amended to read as follows:

"(d) DISPOSAL OR TRANSFER OF COMMISSARY STORES AND PROPERTY PURCHASED WITH NONAPPROPRIATED FUNDS.—(1) If any real property or facility acquired, constructed, or improved (in whole or in part) with commissary store funds or nonappropriated funds is transferred or disposed of in connection with the closure or realignment of a military installation under this part, a portion of the proceeds of the transfer or other disposal of property on that installation shall be deposited in the reserve account established under section 204(b)(4)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note).

"(2) The amount so deposited shall be equal to the depreciated value of the investment made with such funds in the acquisition, construction, or improvement of that particular real property or facility. The depreciated value of the investment shall be computed in accordance with regulations prescribed by the Secretary of Defense.

"(3) The Secretary may use amounts in the account (in such an aggregate amount as is provided in advance in appropriation Acts) for the purpose of acquiring, constructing, and improving—

"(A) commissary stores; and

"(B) real property and facilities for nonappropriated fund instrumentalities.

"(4) As used in this subsection:

"(A) The term 'commissary store funds' means funds received from the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of title 10, United States Code.

"(B) The term 'nonappropriated funds' means funds received from a nonappropriated fund instrumentality.

"(C) The term 'nonappropriated fund instrumentality' means an instrumentality of the United States under the jurisdiction of the Armed Forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.".

SEC. 2823. AUTHORITY TO TRANSFER FUNDS TO HOMEOWNERS ASSISTANCE PROGRAM.

Section 2832(b) of title 10, United States Code, is amended to read as follows:

"(b)(1) Subject to paragraphs (2) and (3), and notwithstanding subsection (i) of section 1013 of the Act referred to in subsection (a), the Secretary of Defense may transfer to the fund established pursuant to subsection (d) of such section 1013 any funds available for obligation from—

"(A) the Department of Defense Base Closure Account established by section 207 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note); and

"(B) the Department of Defense Base Closure Account 1990 established by section 2906 of the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510; 10 U.S.C. 2687 note).

"(2) Any funds transferred under this subsection shall be available for obligation and expenditure for the same purposes that funds appropriated to the fund established under subsection (d) of such section 1013 are available.

"(3) Amounts may be transferred under paragraph (1) only after the date on which the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives receive from the Secretary written notice of, and justification for, the transfer.".

SEC. 2824. DEMONSTRATION PROJECT FOR THE USE OF A NATIONAL RELOCATION CONTRACTOR TO ASSIST THE DEPARTMENT OF DEFENSE.

(a) USE OF NATIONAL RELOCATION CONTRACTOR.—Subject to the availability of appropriations therefor, the Secretary of Defense shall enter into a 1-year contract with a private relocation contractor operating on a nationwide basis in order to test the cost-effectiveness of using national relocation contractors to administer the Homeowners Assistance Program.

(b) REPORT ON CONTRACT.—Not later than 1 year after the date on which the Secretary of Defense enters into a contract under subsection (a), the Comptroller General shall submit to Congress a report containing the Comptroller General's evaluation of the effectiveness of using the national contractor for administering the program referred to in subsection (a). The report shall compare the cost and efficiency of such administration with the cost and efficiency of (1) the program carried out by the Corps of Engineers using its own employees, and (2) the use of contracts with local relocation companies at military installations being closed or realigned.

SEC. 2825. REVISION OF REQUIREMENTS RELATING TO BUDGET DATA ON BASE CLOSURES.

(a) COVERED FUNDING REQUESTS.—(1) Subsection (a) of section 2822 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1546; 10 U.S.C. 2687 note) is amended—

(A) by striking out "each military construction project" and inserting in lieu thereof "military construction relating to the closure or realignment of the installation"; and

(B) by striking out "the cost of such project" and inserting in lieu thereof "the cost of such construction".

(2) Subsection (b) of such section is amended—

(A) by striking out "of a military construction project" and inserting in lieu thereof "of military construction relating to the closure or realignment of an installation"; and

(B) by striking out "the project" and inserting in lieu thereof "the construction".

(b) INVESTIGATION BY INSPECTOR GENERAL.—Subsection (c) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "each military construction project" and inserting in lieu thereof "the military construction"; and

(B) by striking out "the project" and inserting in lieu thereof "such construction"; and

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph (2):

"(2) The Inspector General shall submit to the congressional defense committees a report describing the results of each investigation conducted under paragraph (1).".

SEC. 2826. CHANGE IN DATE OF REPORT OF COMPTROLLER GENERAL TO CONGRESS AND DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

Section 2903(d)(5)(B) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by striking out "May 15 of each year" and inserting in lieu thereof "April 15 of each year".

SEC. 2827. TREATMENT OF PROPOSALS RELATING TO THE DEFENSE FINANCE AND ACCOUNTING SERVICE UNDER BASE CLOSURE LAWS.

The Secretary of Defense and the Defense Base Closure and Realignment Commission may not, with respect to any military installation, recommend a realignment of functions and personnel of the Defense Finance and Accounting Service under section 2903 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note). The Secretary may provide for such a realignment in accordance with section 2687 of title 10, United States Code.

SEC. 2828. ANNUAL REPORT RELATING TO OVERSEAS MILITARY FACILITY INVESTMENT RECOVERY ACCOUNT.

Section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(e) REPORT ON SPECIAL ACCOUNT.—(1) Not later than January 15 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the operations of the Department of Defense Overseas Military Facility Investment Recovery Account during the preceding fiscal year. The report shall include the following:

"(A) The amount of each deposit in the Account during that fiscal year, and the source of the amount.

"(B) The balance in the Account at the end of that fiscal year.

"(C) The amounts expended from the Account by each military department during that fiscal year.

"(D) With respect to each military installation for which money was deposited in the Account as a result of the release of real property or improvements of the installation to a host country during that fiscal year—

"(i) the total amount of the investment of the United States in the installation, expressed in terms of constant dollars of that fiscal year;

"(ii) the depreciated value (as determined by the Secretary of a military department under regulations prescribed by the Secretary of Defense) of the real property and improvements that were released; and

"(iii) the explanation of the Secretary for any difference between the amount paid to the United States for the real property and improvements and the depreciated value (as so determined) of that real property and improvements.

"(2) The Secretary of Defense shall prescribe regulations to carry out this subsection.".

Subtitle C—Land Transactions

SEC. 2831. MODIFICATION OF LAND EXCHANGE, SAN DIEGO, CALIFORNIA.

Section 837 of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1529) is amended—

(1) in subsection (a) by striking out "or the San Diego Energy Recovery Project, a joint powers agency of the city and county of San Diego (hereinafter in this section referred to as 'SANDER'),";

(2) by striking out subsection (c);

(3) by redesignating subsections (d) and (e) as subsections (f) and (g), respectively;

(4) by inserting after subsection (b) the following new subsections:

"(c)(1) In lieu of the conveyance of the 120 acres of land referred to in subsection (b) as consideration for the conveyance under subsection (a), the Secretary of the Navy may permit the City—

"(A) to convey to the Secretary other real property suitable for use, as determined by the Secretary, for military family housing;

"(B) to pay the Secretary an amount sufficient to satisfy the requirement referred to in the first sentence of subsection (d); or

"(C) to make both the conveyance described in subparagraph (A) and a payment described in subparagraph (B).

"(2) The Secretary may permit the alternative conveyance under paragraph (1) only if the Secretary determines that the City will use the 120 acres of land for purposes associated with the clean water program of the City that are compatible with the mission and operations of the adjacent Naval Air Station, Miramar.

"(d) The total value of the consideration provided to the United States under subsections (b) and (c) shall be at least equal to the fair market value of the lands conveyed under subsection (a), as determined by the Secretary. The City shall pay any difference to the United States.

"(e)(1) The Secretary may use any amounts received under this section solely for the purpose of acquiring in the area of San Diego, California, a suitable site for military family housing or for the purpose of constructing or acquiring by direct purchase not more than 200 units of military family housing in that area.

"(2) Any funds received by the Secretary under this section and not so used within 30 months after receipt shall be deposited into the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)),"; and

(5) in subsection (e), as redesignated by paragraph (3), by striking out "or SANDER or by the City and SANDER".

SEC. 2832. LAND ACQUISITION AND EXCHANGE, MYRTLE BEACH AIR FORCE BASE AND POINSETT WEAPONS RANGE, SOUTH CAROLINA.

(a) LAND CONVEYANCE.—The Secretary of the Air Force may convey to the State of South Carolina all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 3,744 acres and comprising the Myrtle Beach Air Force Base, South Carolina, or any portion of that parcel, together with any improvements thereon.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the State of South Carolina shall—

(A) convey to the United States all right, title, and interest of the State of South Carolina in and to the parcels of land (together with any improvements thereon) described to in paragraph (2); and

(B) pay to the United States an amount equal to the amount, if any, by which the fair market value of the land conveyed under subsection (a) exceeds the fair market value of the land conveyed under subparagraph (A).

(2) The parcels of land referred to in paragraph (1) are the following:

(A) The Poinsett Weapons Range, a parcel consisting of approximately 8,358 acres that is located in Sumter County, South Carolina, and is currently leased by the Air Force from the State of South Carolina.

(B) Other parcels contiguous to the Poinsett Weapons Range that—

(i) are owned by the State of South Carolina, including parcels acquired by the State of South Carolina for the purposes of satisfying the requirements of this subsection; and

(ii) the Secretary determines are necessary for the Air Force to improve or enlarge the configuration of the Poinsett Weapons Range to suit the needs of the Air Forces as a bombing range.

(c) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the parcels of real property to be conveyed pursuant to subsections (a) and (b)(1)(A). Such determinations shall be final.

(d) USE OF FUNDS.—Any funds paid to the Secretary under subsection (b)(1)(B) shall be deposited in the Department of Defense Base Closure Account 1990 established under section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2687 note)) and shall be available for use in accordance with subsection (b) of such section 2906.

(e) RESERVATION FOR HARVESTING FOREST PRODUCTS.—The Secretary may accept the conveyance of the parcel of real property referred to in subsection (b)(1)(A) subject to a reservation permitting the harvesting of forest products on the parcel by the South Carolina State Forestry Commission. A reservation granted under this subsection shall be subject to such conditions as the Secretary may prescribe.

(f) DESCRIPTIONS OF PROPERTY.—The exact acreages and legal descriptions of the parcels of real property to be conveyed pursuant to subsections (a) and (b)(1)(A) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the State of South Carolina.

(g) REVERSIONARY INTEREST.—The major portion of the land to be conveyed by the State of South Carolina under subsection (b)(2) was originally conveyed to the South Carolina State Forestry Commission by the United States under the Bankhead-Jones Farm Tenant Act (50 Stat. 522; 7 U.S.C. 1000 et seq.), subject to reservation of mineral rights and subject also to a reversion of title if the State ceased to use such properties for public purposes. The conveyance of such land to the United States under subsection (b)(2) shall be deemed to be in compliance with the public purpose covenants imposed upon conveyance to the South Carolina State Forestry Commission.

(h) AUTHORITY TO ACQUIRE ADDITIONAL LAND.—Subject to section 2662(a) of title 10, United States Code, and to the extent provided in appropriations Acts, the Secretary may acquire such additional parcels of land in the vicinity of Poinsett Weapons Range, South Carolina, as the Secretary determines are necessary to enhance the usefulness of the Poinsett Weapons Range as a bombing range.

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the conveyances under this section that the Secretary determines appropriate to protect the interests of the United States.

SEC. 2833. MODIFICATION OF LAND EXCHANGE, BURLINGTON, VERMONT.

Section 2387 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1800) is amended—

(1) in subsection (b), by striking out "the Burlington, Vermont, area" and inserting in lieu thereof "the State of Vermont";

(2) in subsection (c)(1)(A), by striking out "$800,000" and inserting in lieu thereof "$600,000, with such payment to be made (before the date of the conveyance authorized by subsection (a)) in a lump sum, in yearly installments, or under such other terms and conditions as the Secretary determines to be in the interest of the United States";

(3) in subsection (c)(2), by striking out "January 1, 1993," and inserting in lieu thereof "June 1, 1995,"; and

(4) by adding at the end of subsection (c) the following new paragraph:

"(3) The Secretary may permit the City of Burlington, Vermont, to make alterations or improvements to the property referred to in subsection (a) before the Secretary conveys the property to the City. The making of such alterations and improvements pursuant to this paragraph shall be subject to terms and conditions that the Secretary determines to be appropriate and shall be subject to the prior approval of the Secretary.".

SEC. 2834. LEASE OF PROPERTY, NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease to the Union Pacific Railroad Company (in this section referred to as the "Company") not more than 15 acres of real property, together with improvements thereon, located at the Naval Supply Center, Oakland, California.

(b) TERM OF LEASE; RESTRICTIONS ON USE.—The lease (1) shall be for an initial period of not more than 25 years, (2) shall contain an option for the Company to extend the lease for an additional period of not more than 25 years, and (3) shall contain the restriction that the Company use the leased property only for freight transportation purposes.

(c) CONSIDERATION.—(1) As consideration for the lease of the real property under subsection (a), the Company—

(A) shall pay to the Navy the long-term fair market rental value of the leased property; and

(B) may be required to furnish additional consideration as provided in paragraph (2).

(2) The Secretary may require that the lease include a provision for the Company—

(A) to pay the Navy an amount (as determined by the Secretary) for the costs of replacing at the Naval Supply Center, Oakland, California, the facilities vacated by the Navy on the leased property or to construct the replacement facilities for the Navy; and

(B) to pay the Navy an amount (as so determined) for the costs of relocating Navy operations from the vacated facilities to the replacement facilities.

(d) USE OF FUNDS.—(1) Section 2667(d) of title 10, United States Code, shall apply to amounts paid under subsection (c)(1)(A) of this section.

(2) The Secretary may use amounts received under subsection (c)(2) to pay for constructing new facilities, or making modifications to existing facilities, that are necessary to replace facilities vacated by the Navy on the leased property and for relocating operations of the Navy from the vacated facilities to the replacement facilities.

(e) AUTHORITY TO DEMOLISH.—The Secretary may authorize the Company to demolish existing facilities on the leased property and, consistent with the restriction required by subsection (b)(3), construct new facilities on the property for the use of the Company.

(f) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the lease authorized under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2835. AUTHORITY TO LEASE PROPERTY AT NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease to the City of Oakland, California, or the Port of Oakland, California (in this section referred to as the "City" and the "Port", respectively), not more than 195 acres of real property, together with improvements thereon, located at the Naval Supply Center, Oakland, California.

(b) TERMS OF LEASE; RESTRICTION ON USE.—The lease (1) shall be for an initial period of not more than 25 years, (2) shall contain an option to extend the lease for an additional period of not more than 25 years, and (3) shall contain the restriction that the City or the Port (as the case may be) use the leased property in a manner consistent with Navy operations conducted at the Naval Supply Center.

(c) CONSIDERATION.—(1) As consideration for the lease of the real property under subsection (a), the City or the Port (as the case may be)—

(A) shall pay to the Navy the long-term fair market rental value of the leased property; and

(B) may be required to furnish additional consideration as provided in paragraph (2).

(2) The Secretary may require that the lease include a provision for the City or the Port (as the case may be)—

(A) to pay the Navy an amount (as determined by the Secretary) for the costs of replacing at the Naval Supply Center, Oakland, California, the facilities vacated by the Navy on the leased property or to construct the replacement facilities for the Navy; and

(B) to pay the Navy an amount (as so determined) for the costs of relocating Navy operations from the vacated facilities to the replacement facilities.

(d) LIMITATION ON ENTRY INTO LEASE.—The Secretary may not enter into the lease authorized by subsection (a) until 21 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of the terms of the proposed lease and a description of the consideration that the Secretary expects to receive under the lease.

(e) USE OF FUNDS.—(1) Section 2667(d) of title 10, United States Code, shall apply to amounts paid under subsection (c)(1)(A) of this section.

(2) The Secretary may use amounts received under subsection (c)(2) to pay for constructing new facilities, or making modifications to existing facilities, that are necessary to replace facilities vacated by the Navy on the leased property and for relocating operations of the Navy from the vacated facilities to the replacement facilities.

(f) AUTHORITY TO DEMOLISH.—The Secretary may authorize the City or the Port (as the case may be) to demolish existing facilities on the leased property and, consistent with the restriction required by subsection (b)(3), construct new facilities on the property for the use of the City or the Port.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the lease authorized by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(h) REPEAL OF SUPERSEDED AUTHORITY.—Section 2338 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1225) is repealed.

SEC. 2836. GRANT OF EASEMENT AT NAVAL AIR STATION MIRAMAR, SAN DIEGO, CALIFORNIA.

(a) AUTHORITY TO GRANT EASEMENT.—Subject to subsection (b), the Secretary of the Navy may grant to San Diego Gas and Electric Company (in this section referred to as "SDG&E") an easement on a parcel of real property consisting of approximately 120 acres that is located in the northeast portion of Naval Air Station Miramar, California (in this section referred to as the "Air Station"). The purpose of the easement is to enable SDG&E to construct, operate, and maintain an electric transmission substation and associated electric transmission lines.

(b) CONSIDERATION.—(1) In consideration for the grant of an easement to SDG&E under subsection (a), SDG&E shall pay to the United States an amount that is not less than the fair market value of that easement, as determined by the Secretary.

(2) The Secretary may accept from SDG&E, in lieu of payment of up to 50 percent of the agreed consideration, the following:

(A) The establishment of an alternative source of 12 kilovolts of electric power for the Air Station.

(B) Such improvements to the electrical distribution system of the Air Station as the Secretary designates for the purposes of this paragraph.

(c) USE OF PROCEEDS.—(1) The amounts of consideration paid under subsection (b) shall be deposited in the special account established for the Department of the Navy under section 2667(d)(1)(A) of title 10, United States Code.

(2) To the extent provided in appropriations Acts, of the sums in such account—

(A) there shall be available for facility maintenance and repair and for environmental restoration by the Department of the Navy the amount equal to 50 percent of the total agreed consideration for the grant of the easement under subsection (a); and

(B) there shall be available for facility maintenance and repair or environmental restoration of the Air Station, the amount equal to the excess (if any) of 50 percent of such total consideration over the amount equal to the sum of—

(i) the total cost incurred by SDG&E for the establishment of the alternative power source pursuant to subsection (b)(2)(A); and

(ii) the total cost of the improvements made by SDG&E pursuant to subsection (b)(2)(B).

(d) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property subject to the easement granted under this section shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by SDG&E.

(e) ADDITIONAL TERMS.—The Secretary may require any additional terms and conditions in connection with the grant of an easement under this section that the Secretary considers appropriate to protect the interests of the United States.

SEC. 2837. LAND CONVEYANCE, NAVAL RESERVE CENTER, SANTA BARBARA, CALIFORNIA.

(a) CONVEYANCE.—The Secretary of the Navy may convey to the City of Santa Barbara, California (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property consisting of approximately one acre, including improvements thereon, the location of the Santa Barbara Naval Reserve Center.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the

City shall pay to the United States an amount equal to the lesser of—

(1) $2,400,000; or

(2) the cost incurred by the Secretary in constructing a naval reserve center to replace the naval reserve center conveyed under subsection (a).

(c) Conditions of Conveyance.—The conveyance authorized under subsection (a) shall be subject to the following conditions:

(1) That the City enter into an agreement with the Secretary of Transportation for the City—

(A) to permit, at no cost to the Federal Government, the Coast Guard to remain in the space currently occupied by the Coast Guard in the facility referred to in subsection (a); or

(B) to provide the Coast Guard, at no cost to the Federal Government, with space in a facility acceptable to the Secretary of Transportation that is sufficient to replace the space referred to in subparagraph (A) from which the Coast Guard is displaced by the City.

(2) That the City enter into an agreement with the Administrator of the National Oceanic and Atmospheric Administration for the City—

(A) to permit, at no cost to the Federal Government, the National Oceanic and Atmospheric Administration (in this section referred to as "NOAA") to remain until May 1, 1993 (or a later date agreed to by the City and the Administrator of the National Oceanic and Atmospheric Administration), in the space currently occupied by NOAA in the facility referred to in subsection (a); or

(B) to provide NOAA until such date, at no cost to the Federal Government, with space in a facility acceptable to the Administrator of the National Oceanic and Atmospheric Administration that is sufficient to replace the space referred to in subparagraph (A) from which NOAA is displaced by the City.

(3) That the City enter into an agreement with the Secretary of the Navy for the City to permit the Navy to use, at no cost to the Federal Government, the naval reserve center referred to in subsection (a) until the replacement facility to be constructed in accordance with subsection (d) is suitable for occupancy by the Navy, as determined by the Secretary.

(d) Replacement Center.—The Secretary of the Navy shall use the amount paid by the City under subsection (b) to construct a naval reserve center to replace the naval reserve center conveyed pursuant to subsection (a). Such replacement center shall be constructed at the Naval Construction Battalion Center, Port Hueneme, California, or at another location determined by the Secretary to be suitable for such a center.

(e) Description of Property.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary of the Navy. The cost of such survey shall be borne by the City.

(f) Additional Terms and Conditions.—The Secretary of the Navy may require such additional terms and conditions in connection with the conveyance and agreements under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2838. CONVEYANCE OF WASTE WATER TREATMENT PLANT, FORT RITCHIE, MARYLAND.

(a) In General.—The Secretary of the Army may convey to the Washington County, Maryland, Sanitary District (in this section referred to as the "Sanitary District") all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 4.5 acres, including a waste water treatment facility and other improvements located thereon, located at Fort Ritchie, Maryland.

(b) Consideration.—As consideration for the conveyance under subsection (a) the Sanitary District shall provide the Army with disposal services, waste water treatment services, and other related services at the facility. The value of the services provided the Army shall be equal to the fair market value of the property conveyed pursuant to subsection (a), as determined jointly by the Secretary and the Sanitary District.

(c) Conditions.—The conveyance authorized under subsection (a) shall be subject to the following conditions:

(1) That the Sanitary District reserve 70 percent of the operating capacity of the waste water treatment facility referred to in subsection (a) for use by the Army in the event that such use is necessitated by a realignment of, or change in the operations of, the Army at Fort Ritchie, Maryland.

(2) That the Sanitary District ensure the compliance of the waste water treatment facility with applicable environmental laws, including the construction of any improvement and the satisfaction or any permit or license requirements that may be necessary to ensure such compliance.

(3) That the cost of the construction of the improvements referred to in paragraph (2) be borne by the Sanitary District and the Army according to the pro rata share of the operating capacity of the waste water treatment facility reserved to the Army and the Sanitary District, respectively.

(d) Description of Property.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the Sanitary District.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2839. ACQUISITION OF INTERESTS IN LAND, NAVAL RADIO STATION, JIM CREEK, WASHINGTON.

(a) Authority To Acquire.—The Secretary of the Navy may acquire all right, title, and interest (including timber rights) of any party in and to a parcel of land consisting of approximately 225 acres, or any portion of the parcel, located in Snohomish County, Washington, and comprising a portion of Naval Radio Station, Jim Creek, Washington.

(b) Consideration.—(1) As consideration for an interest acquired by the Secretary pursuant to the authority in subsection (a), the Secretary—

(A) shall pay the person conveying that interest, out of funds available to the Secretary for the acquisition of interests in real property (including funds available for the Legacy Resource Management Program), the amount determined under paragraph (2);

(B) shall, with the consent of that person, convey to such person all right, title, and interest of the United States in and to a quantity of merchantable timber at the Naval Radio Station, Jim Creek, determined under paragraph (2); or

(C) shall, with the consent of such person, make such a payment and such a conveyance to that person.

(2) The total of the amount paid a person pursuant to paragraph (1)(A), if any, and the fair market value of the quantity (to the extent of the interest) of merchantable timber conveyed to that person pursuant to paragraph (1)(B), if any, shall be equal to the fair market value of the property interest acquired from that person under subsection (a).

(c) Option To Purchase.—The Secretary may purchase an option to purchase a property interest authorized to be acquired under subsection (a). The Secretary may use funds referred to in subsection (b)(1)(A) for the purchase of such an option.

(d) Determinations of Fair Market Value.—The Secretary shall determine the fair market value of the property interests acquired under subsection (a) and the merchantable timber, if any, conveyed under subsection (b). Such determinations shall be final.

(e) Description of Property.—The exact acreage and legal description of each parcel of real property an interest in which is acquired under subsection (a) or conveyed under subsection (b) shall be determined by a survey that is satisfactory to the Secretary and is conducted at no cost to the United States (except that the Secretary shall bear such cost in the case of a gift to the United States).

(f) Additional Terms and Conditions.—The Secretary may require any additional terms and conditions in connection with the acquisitions authorized under subsection (a) and the conveyances, if any, authorized under subsection (b) that the Secretary determines necessary to protect the interests of the United States.

SEC. 2840. LAND CONVEYANCE, WILLIAMS AIR FORCE BASE, ARIZONA.

(a) In General.—(1) The United States may acquire by condemnation or otherwise—

(A) all right, title, and interest of the State of Arizona (including any mineral rights) in and to the trust lands of the State of Arizona described in paragraph (2); and

(B) any trust mineral estate of the State of Arizona located beneath the surface estates of the United States in the lands described in paragraph (3).

(2) The trust lands referred to in paragraph (1)(A) are as follows:

(A) A parcel or parcels consisting of approximately 81,121 acres located in the Goldwater Aerial Gunnery Range, Yuma County and Maricopa County, Arizona, and used by the Air Force for activities relating to aerial gunnery and bombing practice.

(B) A parcel or parcels consisting of approximately 7,563 acres located in the Yuma Test Station, Yuma County, Arizona, and used by the Army for activities relating to field artillery testing.

(C) A parcel or parcels consisting of approximately 1,537 acres located in the Fort Huachuca East Range, Cochise County, Arizona, and used by the Army for activities relating to field training exercises.

(D) A parcel or parcels consisting of approximately 133 acres located in Davis-Monthan Air Force Base, Tucson, Arizona.

(E) A parcel consisting of approximately five acres located in section 14, T4N, R3E of the State of Arizona, Phoenix, Arizona, and used as part of the Arizona National Memorial Cemetery.

(3) The lands referred to in paragraph (1)(B) are as follows:

(A) A parcel or parcels consisting of approximately 50,355 acres located in the Goldwater Aerial Gunnery Range, Arizona.

(B) A parcel or parcels consisting of approximately 12,781 acres located in the Yuma Test Station, Arizona.

(C) A parcel or parcels consisting of approximately 12,943 acres located in the Fort Huachuca East Range, Arizona.

(b) CONSIDERATION.—As consideration for the acquisition by the United States of Arizona trust lands under paragraph (1)(A) of subsection (a) and any mineral rights under paragraph (1)(B) of that subsection, the Secretary of the Air Force shall convey to the State of Arizona all right, title, and interest of the United States in and to a parcel of real property located at Williams Air Force Base, Arizona, together with any improvements thereon, that is approximately equal in fair market value to the fair market value of the property and mineral rights acquired under that subsection.

(c) CONDITIONS.—The Secretary of the Air Force may make the conveyance described in subsection (b) only if—

(1) the fair market value of the real property and mineral rights acquired by the United States under subsection (a) is at least equal to the fair market value of the property conveyed by the Secretary of the Air Force under subsection (b);

(2) the conveyance of the Secretary of the Air Force to the State of Arizona under subsection (b) is accepted as full consideration for the conveyance of property and mineral rights to the United States under subsection (a) and terminates all right, title, and interest of all parties other than the United States in and to the property and mineral rights conveyed to the United States under subsection (a); and

(3) the Secretary of the Air Force has complied with all environmental protection, remediation, and restoration laws that are applicable to the disposal of the real property at Williams Air Force Base, Arizona, that is conveyed to the State of Arizona under subsection (b).

(d) RESTRICTION ON USE OF CERTAIN PROPERTY.—The Secretary of Veterans Affairs shall use as a cemetery any property referred to in paragraph (2)(E) of subsection (a) that is acquired by the United States under that subsection. Such use shall be subject to the provisions of chapter 24 of title 38, United States Code.

(e) LIMITATION ON CONVEYANCE AUTHORITY.—The conveyance of real property described in subsection (b) may not be made until adequate prior opportunity has been provided for the disposition of such property as provided in section 2905(b) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), except the requirement for disposition by public advertising.

(f) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary of the Air Force shall determine the fair market value of the parcels of real property to be acquired pursuant to subsection (a)(1)(A), the mineral rights to be acquired pursuant to subsection (a)(1)(B), and the parcel of real property to be conveyed pursuant to subsection (b). Such determinations shall be final.

(g) DESCRIPTIONS OF PROPERTY.—The exact acreages and legal descriptions of the parcels of real property to be acquired pursuant to subsection (a)(1)(A), the parcels of real property referred to in subsection (a)(1)(B), and the parcels of real property conveyed pursuant to subsection (b) shall be determined by surveys that are satisfactory to the Secretary of the Air Force and the State of Arizona. The cost of such surveys shall be borne by the State of Arizona.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require any additional terms and conditions in connection with the conveyance and acquisitions under this section that the Secretary determines appropriate to protect the interests of the United States.

SEC. 2841. REAL PROPERTY CONVEYANCE, NAVAL STATION PUGET SOUND, EVERETT, WASHINGTON.

(a) IN GENERAL.—(1) The Secretary of the Navy may convey to any person all right, title, and interest of the United States in and to the parcels of land described in paragraph (2).

(2) The parcels of land referred to in paragraph (1) are the following parcels of land located in the State of Washington:

(A) A parcel of land consisting of approximately 68 acres and comprising the naval family housing area at Paine Field, Snohomish County, Washington, together with improvements thereon.

(B) A parcel of land consisting of approximately 11 acres and comprising a portion of the naval family housing area at Pier 91, Seattle, Washington, together with improvements thereon.

(C) A parcel of land consisting of approximately 1 acre and comprising a portion of the naval family housing area at Pier 91, Seattle, Washington, that is not contiguous to the parcel referred to in subparagraph (B), together with improvements thereon.

(b) CONSIDERATION.—(1) In consideration for the conveyance of a parcel of land authorized in subsection (a), the person accepting the conveyance shall—

(A) pay the Secretary an amount equal to the fair market value of the parcel and any improvements located thereon; or

(B) convey to the United States of all right, title, and interest of the person in and to a parcel of land, together with any improvements thereon, located in the area of the Naval Station Puget Sound, Everett, Washington, that the Secretary determines to be suitable for family housing for Naval Station Puget Sound and, if the fair market value of the parcel conveyed by the United States exceeds the fair market value of the parcel conveyed to the United States, pay to the Secretary the amount equal to such excess.

(2) The Secretary shall determine the fair market value of the parcels of land conveyed pursuant to subsection (a)(1) and the parcels of land, if any, conveyed pursuant to paragraph (1)(B).

(c) NOTICE TO COMMITTEES.—The Secretary may not enter into a conveyance or sale of real property, as the case may be, under this section until the Secretary has notified the congressional defense committees of the details of the proposed conveyance or sale, as the case may be, and a period of 21 days has elapsed following the day on which the committees receive the notification.

(d) USE OF FUNDS.—(1) To the extent provided in appropriations Acts, the Secretary shall use any amounts paid to the Secretary under subsection (b)(1) for the following purposes:

(A) Acquiring in the vicinity of Naval Station Puget Sound land that is suitable (as determined by the Secretary) for family housing for Naval Station Puget Sound.

(B) Acquiring or constructing not more than 350 units of family housing for Naval Station Puget Sound.

(2) If amounts referred to in paragraph (1) remain unexpended after the acquisition or construction of the family housing referred to in that paragraph, the Secretary shall deposit such unexpended amounts in the account established under section 204(h)(2) of the Federal Property and Administrative Services Act (40 U.S.C. 485(h)(2)).

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal descriptions of the parcels of land conveyed pursuant to this section shall be determined by surveys satisfactory to the Secretary.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2842. CONVEYANCE OF HASTINGS RADAR BOMB SCORING SITE, NEBRASKA.

(a) CONVEYANCE.—The Secretary of the Air Force may convey to Central Community College, Hastings Nebraska (in this section referred to as the "College"), all right, title, and interest of the United States in and to three parcels of property located in Hastings, Nebraska, which have served as a support complex for the Hastings Radar Bomb Scoring Site.

(b) CONSIDERATION.—In consideration for the conveyance under subsection (a), the College shall pay to the United States an amount equal to the fair market value of the land conveyed under subsection (a), as determined by the Secretary.

(c) USE OF PROCEEDS.—The Secretary shall deposit the proceeds of the sale of property authorized by this section in the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the College.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2843. LAND CONVEYANCE, ABBEVILLE, ALABAMA.

(a) IN GENERAL.—The Secretary of the Army may convey, without consideration, to the City of Abbeville, Alabama, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 4 acres, together with improvements thereon, the site of a proposed Army Reserve Center, Abbeville, Alabama.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the City of Abbeville, Alabama.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the conveyance under this section that the Secretary determines appropriate to protect the interests of the United States.

Subtitle D—Transfer of Jurisdiction of Rocky Mountain Arsenal

SEC. 2851. DEFINITIONS.

In this subtitle:

(1) The term "Arsenal" means the Rocky Mountain Arsenal in the State of Colorado.

(2) The term "hazardous substance" has the meaning given such term in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)).

(3) The term "refuge" means the Rocky Mountain Arsenal National Wildlife Refuge established pursuant to this subtitle.

SEC. 2852. TRANSFER OF JURISDICTION OVER ROCKY MOUNTAIN ARSENAL.

(a) MANAGEMENT PENDING TRANSFER.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Army and the Secretary of the Interior shall enter into a memorandum of understanding under which—

(1) the Secretary of the Army shall transfer to the Secretary of the Interior, without reimbursement, all responsibility to manage for wildlife and public use purposes the real property comprising the Rocky Mountain Arsenal in the State of Colorado, except the property and facilities described in subsection (c) or designated for disposal under section 2855; and

(2) the Secretary of the Interior shall establish and manage the real property described in paragraph (1) as a unit of the National Wildlife Refuge System.

(b) TRANSFER UPON COMPLETION OF REMEDIATION MEASURES.—

(1) IN GENERAL.—Upon the certification of the Administrator of the Environmental Protection Agency that the cleanup and remediation measures required at the Arsenal under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) have been completed (except for operation and maintenance associated with the measures), the Secretary of the Army shall transfer to the Secretary of the Interior jurisdiction over the real property comprising the Arsenal, except the property and facilities described in subsection (c) or designated for disposal under section 2855.

(2) COST.—The transfer shall be made without cost to the Secretary of the Interior.

(3) IMPROVEMENTS.—The transfer shall include any improvement on the property made by the Secretary of the Army if the Secretary of the Interior requests in writing that the improvement be transferred for refuge management purposes.

(4) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property subject to transfer under this subsection shall be determined by a survey that is satisfactory to the Secretary of the Army and the Secretary of the Interior. The Secretary of the Army shall bear any costs related to the survey.

(c) PROPERTY AND FACILITIES EXCLUDED FROM MEMORANDUM AND TRANSFER.—

(1) PROPERTY REQUIRED TO BE RETAINED BY THE SECRETARY OF THE ARMY.—

(A) IN GENERAL.—The Secretary of the Army shall retain jurisdiction, authority, and control over all real property at the Arsenal used for water treatment, the disposition of hazardous substances, or other purposes related to cleanup and remediation activities at the Arsenal.

(B) CONSULTATION WITH SECRETARY OF THE INTERIOR.—The Secretary of the Army shall—

(i) consult with the Secretary of the Interior regarding the identification and management of all real property retained under this paragraph; and

(ii) ensure that activities carried out by the Department of the Army on that property are, to the extent practicable, compatible with the wildlife and public use purposes of the real property at the Arsenal managed by the Secretary of the Interior.

(2) DISPOSITION FOR COMMERCIAL, HIGHWAY, OR OTHER PUBLIC PURPOSES.—The Secretary of the Army shall dispose of real property designated in subsection (a) of section 2855 in the manner provided for in such section.

(3) CONTINUATION OF LEASE OF PUBLIC FACILITIES.—

(A) IN GENERAL.—Nothing in this subtitle shall affect the validity or continued operation of leases of the Department of the Army in existence on the date of enactment of this subtitle that involve the real property at the Arsenal described in subparagraph (B).

(B) PROPERTY.—The property referred to in subparagraph (A) is—

(i) a parcel consisting of approximately 12.08 acres containing the South Adams County Water Treatment Plant and described in Department of the Army lease No. DACA 45-1-87-6121; and

(ii) a parcel consisting of approximately 63.04 acres containing a United States Postal Service facility and described in Department of the Army lease No. DACA 45-4-71-6185.

SEC. 2853. CONTINUATION OF JURISDICTION AND LIABILITY OF THE SECRETARY OF THE ARMY FOR ENVIRONMENTAL REMEDIATION.

(a) JURISDICTION OVER CLEANUP AND REMEDIATION ACTIVITIES.—

(1) IN GENERAL.—Notwithstanding the memorandum of understanding required under section 2852(a), the Secretary of the Army shall retain jurisdiction, authority, and control over the management of the real property at the Arsenal that is subject to the memorandum for purposes of conducting cleanup and remediation activities relating to environmental remediation of that property under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and other applicable laws.

(2) MANAGEMENT OF REFUGE.—The management by the Secretary of the Interior of the refuge established pursuant to section 2854 shall be subject to any cleanup and remediation activities relating to the environmental remediation of the property carried out by the Secretary of the Army under the laws referred to in paragraph (1).

(b) RESPONSIBILITY TO CONDUCT CLEANUP AND REMEDIATION ACTIVITIES.—Nothing in this subtitle shall relieve, and no action may be taken under this subtitle to relieve, the Secretary of the Army or any non-Federal party from any obligation or other liability to carry out or provide for the environmental remediation of the Arsenal under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and other applicable laws. Nothing in this subtitle is intended to restrict or define the level of cleanup on the Arsenal to be carried out under applicable laws.

(c) ADMINISTRATION OF UNITED STATES LIABILITY.—

(1) IN GENERAL.—All liability of the United States under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and other environmental laws for existing conditions, both known and unknown, at the Arsenal as of the date of enactment of this subtitle shall be the sole responsibility of those Federal agencies that had operations on the Arsenal resulting in the introduction of hazardous substances before the date of enactment of this Act.

(2) AFTER FINAL TRANSFER.—After final transfer under section 2852(b), the Secretary of the Army shall retain environmental liability as set forth in this section and shall be accorded all easements and access as may be reasonably required to carry out obligations arising out of the liability.

(d) CONSULTATION.—In carrying out environmental remediation activities with respect to the Arsenal, the Secretary of the Army shall consult with the Secretary of the Interior to ensure that the remediation is carried out in a manner consistent with the purposes for which the refuge is established under section 2854(c).

SEC. 2854. ESTABLISHMENT OF THE ROCKY MOUNTAIN ARSENAL NATIONAL WILDLIFE REFUGE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Interior shall establish a national wildlife refuge, to be known as the Rocky Mountain Arsenal National Wildlife Refuge, that consists of the real property required to be transferred under section 2852(b).

(2) NOTICE.—The Secretary of the Interior shall publish a notice of the establishment of the refuge in the Federal Register.

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of the Interior shall manage the refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and other applicable laws.

(2) CONSULTATION.—In developing plans for the management of fish and wildlife at, and public use of, the refuge, the Secretary of the Interior shall—

(A) consult with the head of the Colorado Department of Natural Resources and the heads of units of local government adjacent to the refuge; and

(B) provide an opportunity for public comment on the plans.

(c) PURPOSES OF THE REFUGE.—The refuge shall be established for the purposes of—

(1) conserving and enhancing populations of fish, wildlife, and plants within the refuge, including populations of waterfowl, raptors, passerines, marsh and water birds, and species presently or in the future listed as threatened or endangered;

(2) providing maximum fish and wildlife oriented public uses at levels compatible with the conservation and enhancement of wildlife and wildlife habitat;

(3) providing opportunities for compatible scientific research;

(4) providing opportunities for compatible environmental and land use education;

(5) conserving and enhancing the land and water of the refuge in a manner that will conserve and enhance the natural diversity of fish, wildlife, plants, and their habitats;

(6) protecting and enhancing the quality of aquatic habitat within the refuge; and

(7) fulfilling international treaty obligations of the United States with respect to fish and wildlife and their habitats.

(d) LIMITATIONS.—

(1) CLEANUP AND REMEDIATION ACTIVITIES.—

(A) IN GENERAL.—The management of the refuge by the Secretary of the Interior shall be subject to those cleanup and remediation activities relating to the environmental remediation of the Arsenal that are carried out by the Secretary of the Army under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and other applicable laws.

(B) EFFECT OF ESTABLISHMENT OF REFUGE.—The establishment of the refuge shall not limit, restrict, or modify in any way the ongoing environmental remediation conducted pursuant to applicable law at the Arsenal and surrounding areas, including—

(i) the substance or performance of any remedial investigation and feasibility study or endangerment assessment;

(ii) the contents and conclusions of any remedial investigation and feasibility study or endangerment assessment report; and

(iii) the selection of remedial actions for the Arsenal and surrounding areas.

(2) PROHIBITION AGAINST ANNEXATION.—Notwithstanding section 4(a)(2) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(2)), the Secretary

of the Interior shall not permit the annexation of lands within the refuge by any unit of general local government.

(3) PROHIBITION AGAINST THROUGH ROADS.—Public roads may not be constructed through the refuge.

SEC. 2855. DISPOSAL OF CERTAIN REAL PROPERTY AT THE ARSENAL FOR COMMERCIAL, HIGHWAY, OR OTHER PUBLIC USE.

(a) PROPERTY DESIGNATED FOR DISPOSAL.—

(1) IN GENERAL.—The areas of real property at the Arsenal that are described in paragraph (2) are designated for disposal under this section for commercial, highway, or other public use purposes.

(2) PROPERTY.—The areas referred to in paragraph (1) are—

(A) a parcel of real property consisting of approximately 815 acres located at the Arsenal, the approximate legal description of which is section 9, T3S–R67W, the W2W2 of section 4 and the W4E2W2 of section 4, T3S–R67W, and the SW4SW4 of section 33, the W4E2W2 of section 33, and the W2NW4 of section 33, T2S–R67W, except for—

(i) a parcel consisting of approximately 63.04 acres containing a United States Postal Service facility and described in Department of the Army lease No. DACA 45-4-71-6185, which shall be subject to section 2852; and

(ii) the water wells located in buildings 385, 386, and 387 at the Arsenal and associated facilities and easements necessary to operate and maintain the water wells, which shall be subject to section 2852; and

(B) to permit the widening of existing roads, a parcel of real property of not more than 100 feet inside the boundary of the Arsenal on—

(i) the Northwest side of the Arsenal adjacent to Colorado Highway No. 2;

(ii) the Northern side of the Arsenal adjacent to 96th Avenue; and

(iii) the Southern side of the Arsenal adjacent to 56th Avenue.

(b) DISPOSAL.—

(1) DETERMINATION.—Not later than 180 days after the completion of remedial design for the Arsenal, the Secretary of the Army, with the concurrence of the Secretary of the Interior and after providing an opportunity for public comment, shall determine which parcels, if any, within the real property described in subsection (a)(2) shall be retained by the Secretary for cleanup and remediation measures.

(2) DISPOSAL.—After making the determination described in paragraph (1), the Secretary of the Army shall dispose of the remaining parcels in the manner provided for in this section. As cleanup and remediation measures on the retained parcels are completed, the Secretary of the Army shall dispose of the retained parcels in the same manner.

(3) NOTIFICATION.—The Secretary of the Army shall notify the State of Colorado and appropriate units of local government, including the City of Commerce City, Colorado, of the proposed and final determinations made under this subsection.

(c) TRANSFER FOR HIGHWAY PURPOSES.—The Secretary of the Army shall convey those parcels of real property described in subsection (a)(2)(B) and available for disposal under subsection (b) to the State or the appropriate unit of general local government at no cost in order to allow for the improvement of public roads in existence on the date of the enactment of this subtitle or for the provision of alternative means of transportation.

(d) TRANSFER FOR SALE.—The Secretary of the Army shall transfer to the Administrator of General Services those parcels of the area of real property described in subsection (a)(2)(A) and available for disposal under subsection (b). The transferred property shall be sold in advertised sales as surplus property under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), except that the provisions of such section relating to reduced-cost or no-cost transfers to other governmental entities shall not apply to the property.

(e) LIMITATIONS.—

(1) PERPETUAL RESTRICTIONS.—The disposal of real property under this section shall be subject to perpetual restrictions that—

(A) are attached to any deed to the property; and

(B) prohibit—

(i) the use of the property for residential or industrial purposes;

(ii) the use of groundwater located under, or surface water located on, the property as a source of potable water;

(iii) hunting and fishing on the property, except for hunting and fishing for nonconsumptive use subject to appropriate restrictions; and

(iv) agricultural use of the property, including all farming activities such as the raising of livestock, crops, or vegetables, but excluding agricultural practices used as part of environmental remediation activities or erosion control.

(2) DISPOSAL IN ACCORDANCE WITH ENVIRONMENTAL LAWS.—The disposal of property under this section shall be subject to the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(f) USE OF PROCEEDS.—Notwithstanding section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)), any amounts realized by the United States from the sale of property as described in subsection (d) shall be transferred to the Director of the United States Fish and Wildlife Service to be used, to the extent provided for in appropriations Acts, to supplement the funds otherwise available for the construction of a visitor and education center at the refuge.

Subtitle E—Miscellaneous

SEC. 2861. ENERGY SAVINGS AT MILITARY INSTALLATIONS.

Section 2865(b) of title 10, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) may, subject to paragraph (4), authorize the Secretary of a military department having jurisdiction over a military installation to enter into agreements with gas or electric utilities to design and implement cost-effective demand and conservation incentive programs (including energy management services, facilities alterations, and the installation and maintenance of energy saving devices and technologies by the utilities) to address the requirements and circumstances of the installation."; and

(2) by adding at the end the following new paragraph:

"(4)(A) If an agreement under paragraph (3)(C) provides for a utility to advance financing costs for the design or implementation of a program referred to in that paragraph to be repayed by the United States, the cost of such advance may be recovered by the utility under terms no less favorable than those applicable to its most favored customer.

"(B) Subject to the availability of appropriations, repayment of costs advanced under subparagraph (A) shall be made from funds available to a military department for the purchase of utility services.

"(C) An agreement under paragraph (3)(C) shall provide that title to any energy-saving device or technology installed at a military installation pursuant to the agreement vest in the United States. Such title may vest at such time during the term of the agreement, or upon expiration of the agreement, as determined to be in the best interests of the United States.".

SEC. 2862. NAVY MINE COUNTERMEASURE PROGRAM.

(a) EVALUATION.—(1) Not later than December 31, 1992, the Secretary of the Navy shall submit to the congressional defense committees and the Comptroller General of the United States a detailed report on actions and plans of the Navy for consolidation and centralization of control over forces assigned to the mine countermeasure mission. The report shall evaluate all facets of the mine countermeasure mission, including—

(A) proposed location of vessels, helicopters, and explosive ordinance detachment units;

(B) proposed command structure;

(C) proposed training policies; and

(D) proposed vessel procurement policies.

(2) The Comptroller General shall evaluate the report submitted under paragraph (1) and, not later than 30 days after the date of the submittal of the report, submit to the congressional defense committees an evaluation of the report.

(b) EVALUATION OF HOMEPORTS FOR MINE COUNTERMEASURES PROGRAM.—The report under subsection (a)(1) shall include a detailed evaluation and analysis of the use of Ingleside, Texas, as the planned homeport for all mine warfare ships, and a comparison of various alternative homeports for mine warfare ships (including an evaluation of the use of bases on the Atlantic Coast and the Pacific Coast as homeports for such ships).

(c) SUSPENSION OF CERTAIN ACTIVITIES PENDING RECEIPT OF REPORT.—The Secretary of the Navy may not take any action to relocate the functions and personnel of the Mine Warfare Command, the Fleet Mine Warfare School, the Mine Warfare Training Center, or any mine countermeasure helicopter squadron until 90 days after the date of the submittal of the report required under subsection (a)(1).

SEC. 2863. PROHIBITION ON EXPANSION OF CERTAIN MILITARY OPERATIONS AREAS.

In designating expanded military operations areas for training operations of aircraft of the Air National Guard and Air Force Reserve under training airspace modification initiatives implemented after the date of the enactment of this Act, the Secretary of the Air Force shall provide for such military operations areas within the geographic boundaries of areas that have been approved for tactical training on such date.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) OPERATING EXPENSES.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses incurred in carrying out weapons activities necessary for national security programs in the amount of $4,016,909,000, to be allocated as follows:

(1) For research and development, $1,283,900,000.

(2) For weapons testing, $309,500,000.

(3) For production and surveillance, $2,122,600,000.

(4) For program direction, $300,909,000.

(b) PLANT PROJECTS.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto) that are necessary for national security programs and are associated with weapons activities for which appropriations are authorized under subsection (a), as follows:

Project GPD-101, general plant projects, various locations, $27,650,000.

Project GPD-121, general plant projects, various locations, $26,350,000.

Project 93-D-122, life safety upgrades, Y-12 Plant, Oak Ridge, Tennessee, $2,700,000.

Project 93-D-123, complex-21, various locations, $26,000,000.

Project 92-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase IV, various locations, $35,000,000.

Project 92-D-122, health physics/environmental projects, Rocky Flats Plant, Golden, Colorado, $5,300,000.

Project 92-D-123, plant fire/security alarm systems replacement, Rocky Flats Plant, Golden, Colorado, $8,700,000.

Project 92-D-126, replace emergency notification systems, various locations, $10,900,000.

Project 91-D-127, criticality alarm and production annunciation utility replacement, Rocky Flats Plant, Golden, Colorado, $6,300,000.

Project 90-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $50,120,000.

Project 90-D-126, environmental, safety, and health enhancements, various locations, $9,200,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $34,400,000.

Project 88-D-122, facilities capability assurance program, various locations, $87,100,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, South Carolina, $4,865,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, $3,610,000.

(c) CAPITAL EQUIPMENT.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for capital equipment not related to construction for weapons activities that is necessary for national security programs in the amount of $219,535,000.

(d) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (c) reduced by—

(1) $73,000,000 for reductions in weapons requirements;

(2) $78,200,000 for prior year balances; and

(3) $9,350,000 for departmental administration.

SEC. 3102. NEW PRODUCTION REACTORS.

(a) OPERATING EXPENSES.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses incurred in carrying out new production reactor activities necessary for national security programs in the amount of $141,510,000.

(b) PLANT PROJECTS.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto) that are necessary for national security programs and are associated with new production reactor activities for which appropriations are authorized under subsection (a), as follows:

Project 88-D-154, new production reactor capacity, various locations, $149,290,000.

(c) CAPITAL EQUIPMENT.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for capital equipment not related to construction for new production reactor activities that is necessary for national security programs in the amount of $6,000,000.

(d) ADJUSTMENTS FOR SAVINGS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (c) reduced by—

(1) $125,000,000 for prior year balances; and

(2) $1,722,000 for departmental administration.

SEC. 3103. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) OPERATING EXPENSES.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses incurred in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $4,108,452,000, to be allocated as follows:

(1) For corrective activities—environment, $2,431,000.

(2) For corrective activities—defense programs, $7,386,000.

(3) For environmental restoration, $1,448,427,000.

(4) For waste management, $2,252,037,000.

(5) For technology development, $330,700,000.

(6) For transportation management, $19,335,000.

(7) For program direction, $48,136,000.

(b) PLANT PROJECTS.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto) that are necessary for national security programs and are associated with environmental restoration and waste management activities for which appropriations are authorized under subsection (a), as follows:

Project GPD-171, general plant projects, various locations, $83,285,000.

Project 93-D-172, electrical upgrade, Idaho National Engineering Laboratory, Idaho, $1,000,000.

Project 93-D-174, plant drain waste water treatment upgrades, Y-12 Plant, Oak Ridge, Tennessee, $1,800,000.

Project 93-D-175, industrial waste compaction facility, Y-12 Plant, Oak Ridge, Tennessee, $2,200,000.

Project 93-D-176, Oak Ridge reservation storage facility, K-25, Oak Ridge, Tennessee, $4,000,000.

Project 93-D-177, disposal of K-1515 sanitary water treatment plant waste, K-125, Oak Ridge, Tennessee, $1,500,000.

Project 93-D-178, building 374 liquid waste treatment facility, Rocky Flats Plant, Golden, Colorado, $2,700,000.

Project 93-D-180, environmental monitoring-RCRA groundwater monitoring installation, Richland, Washington, $8,700,000.

Project 93-D-181, radioactive liquid waste line replacement, Richland, Washington, $350,000.

Project 93-D-182, replacement of cross-site transfer system, Richland, Washington, $4,495,000.

Project 93-D-183, multi-tank waste storage facility, Richland, Washington, $10,300,000.

Project 93-D-184, 325 facility compliance/renovation, Richland, Washington, $1,500,000.

Project 93-D-185, landlord program safety compliance, Phase II, Richland, Washington, $849,000.

Project 93-D-186, 200 area unsecured core area fabrication shop, Richland, Washington, $1,000,000.

Project 93-D-187, high-level waste removal from filled waste tanks, Savannah River, South Carolina, $2,000,000.

Project 93-D-188, new sanitary landfill, Savannah River, South Carolina, $2,000,000.

Project 92-D-171, mixed waste receiving and storage facility, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,000,000.

Project 92-D-172, hazardous waste treatment and processing facility, Pantex Plant, Amarillo, Texas, $1,900,000.

Project 92-D-173, nitrogen oxide abatement facility, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $7,000,000.

Project 92-D-177, tank 101-AZ waste retrieval system, Richland, Washington, $3,000,000.

Project 92-D-180, inter-area line upgrade, Savannah River, South Carolina, $3,170,000.

Project 92-D-181, fire and life safety improvements, Idaho National Engineering Laboratory, Idaho, $8,000,000.

Project 92-D-182, sewer system upgrade, Idaho National Engineering Laboratory, Idaho, $3,700,000.

Project 92-D-183, transportation complex, Idaho National Engineering Laboratory, Idaho, $5,860,000.

Project 92-D-184, Hanford infrastructure underground storage tanks, Richland, Washington, $3,700,000.

Project 92-D-185, road, ground, and lighting safety improvements, 300/1100 areas, Richland, Washington, $6,500,000.

Project 92-D-187, 300 area electrical distribution, conversion, and safety improvements, Phase II, Richland, Washington, $1,724,000.

Project 92-D-188, waste management, ES&H, and compliance activities, various locations, $1,000,000.

Project 92-D-402, sanitary sewer system rehabilitation, Lawrence Livermore National Laboratory, California, $5,500,000.

Project 92-D-403, tank upgrades project, Lawrence Livermore National Laboratory, California, $10,100,000.

Project 91-EM-100, environmental and molecular sciences laboratory, Richland, Washington, $28,500,000.

Project 91-D-171, waste receiving and processing facility, module 1, Richland, Washington, $21,800,000.

Project 91-D-172, high-level waste tank farm replacement, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $57,530,000.

Project 91–D–173, hazardous low-level waste processing tanks, Savannah River, South Carolina, $15,300,000.

Project 91–D–175, 300 area electrical distribution, conversion, and safety improvements, Phase I, Richland, Washington, $981,000.

Project 90–D–103 environmental, safety, and health improvements, various locations, Los Alamos National Laboratory, Los Alamos, New Mexico, $6,315,000.

Project 90–D–174, decontamination laundry facility, Richland, Washington, $7,442,000.

Project 90–D–175, landlord program safety compliance–I, Richland, Washington, $4,753,000.

Project 90–D–176, transuranic (TRU) waste facility, Savannah River, South Carolina, $5,000,000.

Project 90–D–177, RWMC transuranic (TRU) waste characterization and storage facility, Idaho National Engineering Laboratory, Idaho, $41,700,000.

Project 89–D–122, production waste storage facilities, Y–12 Plant, Oak Ridge, Tennessee, $4,200,000.

Project 89–D–172, Hanford environmental compliance, Richland, Washington, $44,950,000.

Project 89–D–173, tank farm ventilation upgrade, Richland, Washington, $7,000,000.

Project 89–D–174, replacement high-level waste evaporator, Savannah River, South Carolina, $15,795,000.

Project 89–D–175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $7,900,000.

Project 88–D–173, Hanford waste vitrification plant, Richland, Washington, $81,471,000.

Project 87–D–181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $1,904,000.

Project 87–D–180, burial ground expansion, Savannah River, South Carolina, $8,800,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, California, $2,755,000.

Project 83–D–148, nonradioactive hazardous waste management, Savannah River, South Carolina, $10,330,000.

Project 81–T–105, defense waste processing facility, Savannah River, South Carolina, $32,600,000.

(c) CAPITAL EQUIPMENT.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for capital equipment not related to construction for environmental restoration and waste management activities that is necessary for national security programs in the amount of $153,198,000, to be allocated as follows:

(1) For corrective activities—defense programs, $1,120,000.

(2) For waste management, $132,749,000.

(3) For technology development, $16,200,000.

(4) For transportation management, $465,000.

(5) For program direction, $2,664,000.

(d) ADJUSTMENTS FOR SAVINGS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (c) reduced by $13,137,000 for program savings and departmental administration.

(e) USE OF FUNDS.—From funds authorized to be appropriated pursuant to subsection (a) to the Department of Energy for environmental restoration and waste management activities, the Secretary of Energy may reimburse the cities of Westminster, Broomfield, Thornton, and Northglen, in the State of Colorado, $40,000,000 for the cost of implementing water management programs. Reimbursements for the water management programs shall not be considered a major Federal action for purposes of 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

SEC. 3104. DEFENSE MATERIALS PRODUCTION AND OTHER DEFENSE PROGRAMS.

(a) OPERATING EXPENSES.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses incurred in carrying out nuclear materials production and other defense programs necessary for national security programs as follows:

(1) For defense materials production, $1,375,475,000.

(2) For verification and control technology, $250,215,000.

(3) For nuclear safeguards and security, $96,837,000.

(4) For security investigations, $58,289,000.

(5) For Office of Security evaluations, $5,150,000.

(6) For nuclear safety, $25,490,000.

(7) For naval reactors development, including enrichment materials, $711,400,000.

(8) For education programs, $22,400,000.

(b) PLANT PROJECTS.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto) that are necessary for national security programs and are associated with new nuclear materials production activities and other defense programs for which appropriations are authorized under subsection (a), as follows:

(1) For defense materials production:

Project GPD–146, general plant projects, various locations, $32,260.

Project 93–D–147, domestic water system upgrade, Phase I, Savannah River, South Carolina, $1,000,000.

Project 93–D–148, replace high-level drain lines, Savannah River, South Carolina, $800,000.

Project 93–D–152, environmental modification for production facilities, Savannah River, South Carolina, $2,000,000.

Project 93–D–153, uranium recovery hydrogen fluoride system upgrade, Y–12 Plant, Oak Ridge, Tennessee, $2,400,000.

Project 92–D–140, F and H canyon exhaust upgrades, Savannah River, South Carolina, $12,500,000.

Project 92–D–141, reactor seismic improvement, Savannah River, South Carolina, $5,000,000.

Project 92–D–142, nuclear material processing training center, Savannah River, South Carolina, $11,700,000.

Project 92–D–143, health protection instrument calibration facility, Savannah River, South Carolina, $8,000,000.

Project 92–D–150, operations support facilities, Savannah River, South Carolina, $4,100,000.

Project 92–D–153, engineering support facility, Savannah River, South Carolina, $3,500,000.

Project 90–D–141, Idaho chemical processing plant fire protection, Idaho National Engineering Laboratory, Idaho, $1,553,000.

Project 90–D–149, plantwide fire protection, Phases I and II, Savannah River, South Carolina, $39,685,000.

Project 90–D–150, reactor safety assurance, Phases I, II, and III, Savannah River, South Carolina, $4,210,000.

Project 89–D–140, additional separations safeguards, Savannah River, South Carolina, $13,104,000.

Project 89–D–148, improved reactor confinement system, Savannah River, South Carolina, $4,240,000.

Project 86–D–149, productivity retention program, Phases I, II, III, IV, V, and VI, various locations, $11,651,000.

Project 86–D–152, reactor electrical distribution system, Savannah River, South Carolina, $5,647,000.

Project 85–D–145, fuel production facility, Savannah River Site, South Carolina, $17,000,000.

(2) For verification and control technology:

Project 90–D–186, center for national security and arms control, Sandia National Laboratories, Albuquerque, New Mexico, $10,000,000.

(3) For nuclear safeguards and security:

Project GPD–186, general plant projects, Central Training Academy, Albuquerque, New Mexico, $2,000,000.

(4) For naval reactors development:

Project GPN–101, general plant projects, various locations, $8,500,000.

Project 93–D–200, engineering services facilities, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,200,000.

Project 92–D–200, laboratories facilities upgrades, various locations, $7,500,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $13,600,000.

Project 90–N–103, advanced test reactor off-gas treatment system, Idaho National Engineering Laboratory, Idaho, $500,000.

Project 90–N–104, facilities renovation, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,900,000.

(c) CAPITAL EQUIPMENT.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for capital equipment not related to construction for nuclear materials production and other defense programs that is necessary for national security programs as follows:

(1) For defense materials production, $80,900,000.

(2) For verification and control technology, $11,500,000.

(3) For nuclear safeguards and security, $5,327,000.

(4) For naval reactors development, $60,400,000.

(d) ADJUSTMENTS.—The total amount that may be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (c) reduced by—

(1) $400,000,000 for recovery of overpayment to the Savannah River Pension Fund;

(2) $27,082,000 for anticipated savings;

(3) $70,000,000 for reductions in production requirements; and

(4) $2,341,000 for departmental administration.

SEC. 3105. FUNDING USES AND LIMITATIONS.

(a) INERTIAL CONFINEMENT FUSION.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses and plant and capital equipment, $220,300,000 shall be available for the defense inertial confinement fusion program.

(b) FIRE PROTECTION AND COOLING OR REFRIGERATION SYSTEMS.—None of the funds appropriated or otherwise made available for the Department of Energy for fiscal year 1993 may be obligated for the design, purchase, or installation of any fire protection system or cooling or refrigeration system that utilizes Class I chlorofluorocarbons (as listed under section 602(a) of the Clean Air Act (42 U.S.C.

7671a(a)) unless the Secretary of Energy determines that an alternative system meeting the operational requirements of the Department of Energy is not commercially available.

(c) RECONFIGURATION OF NONNUCLEAR ACTIVITIES.—(1) None of the funds appropriated or otherwise made available for the Department of Energy for fiscal year 1993 may be obligated for the implementation of the reconfiguration of any nonnuclear activities of the Department of Energy until—

(A) the Secretary of Energy submits a report to the congressional defense committees that—

(i) contains an analysis of the projected costs and benefits of the proposed reconfiguration and any proposed alternatives to such reconfiguration (including the alternative of not reconfiguring such activities); and

(ii) sets forth an analysis of (I) the lifecycle costs and benefits of the reconfiguration, and (II) the discounted cash flow of such proposed alternatives;

(B) the Secretary certifies to the congressional defense committees that a discounted cash flow analysis demonstrates that the closure of each Department of Energy nonnuclear defense facility or activity identified for closure and each transfer of a nonnuclear activity is cost effective;

(C) the Secretary certifies to the congressional defense committees that the reconfiguration of nonnuclear activities of the Department of Energy will not increase technological, environmental, safety, or health risks relating to the operation of the nuclear weapons facilities of the Department; and

(D) 60 days have elapsed after the later of—

(i) the date of the submittal of the report under subparagraph (A); and

(ii) the date of the certification under subparagraph (B).

(2) This subsection may not be construed to prohibit the obligation of funds for the purpose of conducting any study or analysis that the Secretary determines necessary for assessing the cost-effectiveness, practicability, or feasibility of reconfiguring the activities of the Department of Energy to nonnuclear purposes.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may not be taken until—

(A) the Secretary of Energy has submitted to the congressional defense committees a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by sections 3101, 3102, 3103, and 3104, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such actions necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY.

Funds appropriated pursuant to this title may be transferred to other agencies of Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN.

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary of Energy may carry out advance planning and construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In the case of any project in which the total estimated cost for advance planning and design exceeds $300,000, the Secretary shall notify the congressional defense committees in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such planning and design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—In addition to funds authorized to be appropriated for advance planning and construction design under sections 3101, 3102, 3103, and 3104, the Secretary of Energy may use any other funds available to the Department of Energy to perform planning, design, and construction activities for any Department of Energy defense activity construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, meet the needs of national defense, or protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b) does not apply to emergency planning, design, and construction activities conducted under this section.

(d) REPORT.—The Secretary of Energy shall promptly report to the congressional defense committees any exercise of authority under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated for operating expenses, plant, or capital equipment may remain available until expended.

Subtitle C—Miscellaneous

SEC. 3131. USE OF FUNDS FOR PAYMENT OF PENALTY ASSESSED AGAINST FERNALD ENVIRONMENTAL MANAGEMENT PROJECT.

The Secretary of Energy may pay to the Environmental Protection Agency, from funds appropriated to the Department of Energy for environmental restoration and waste management activities pursuant to section 3103, a stipulated civil penalty in the amount of $100,000 assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) against the Fernald Environmental Management Project.

SEC. 3132. PROHIBITION ON ENTRY INTO CERTAIN CONTRACTS FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

Notwithstanding any other provision of law, the Secretary of Energy may not enter into a contract or other agreement for the performance of environmental restoration or waste management activities with any person who has been convicted of, has pleaded guilty to, or has otherwise been determined by a court of competent jurisdiction to have committed a criminal violation in connection with activities at a Department of Energy facility of any of the following laws:

(1) The Clean Air Act (42 U.S.C. 7401 et seq.).

(2) The Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(3) The Safe Drinking Water Act (42 U.S.C. 300f et seq.).

SEC. 3133. REQUIREMENT OF ANNUAL AUTHORIZATION OF APPROPRIATIONS FOR FUNDS FOR CERTAIN DEPARTMENT OF ENERGY NATIONAL SECURITY ACTIVITIES.

(a) REQUIREMENT.—Chapter 9 of the Atomic Energy Act of 1954 (42 U.S.C. 2121 et seq.) is amended by adding at the end the following new section:

"SEC. 93. ANNUAL AUTHORIZATION OF APPROPRIATIONS.—

"(a) No funds may be appropriated for any fiscal year to or for the use of the Department of Energy for national security programs of the Department, and no funds appropriated to or for the use of the Department of Energy for such programs may be obligated or expended for—

"(1) procurement of goods or services,

"(2) research, development, test or evaluation, or procurement or production related thereto,

"(3) nuclear weapons testing,

"(4) construction,

"(5) operation and maintenance of any defense nuclear facility, or

"(6) operation of the Department of Energy central office,

unless funds therefor have been specifically authorized by law.

"(b) In this section, the term 'defense nuclear facility' means—

"(1) a production or utilization facility under the control or jurisdiction of the Secretary of Energy that is operated for national security purposes, other than a facility that does not conduct atomic energy defense activities;

"(2) a nuclear waste storage or disposal facility under the control or jurisdiction of the Secretary; and

"(3) a nuclear weapons research facility under the control or jurisdiction of the Secretary (including the Lawrence Livermore, Los Alamos, and Sandia National Laboratories).".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such Act is amended by inserting after the item relating to section 92 the following new item:

"Sec. 93. Annual authorization of appropriations.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act and shall apply to fiscal years after fiscal year 1992.

SEC. 3134. FUNDS AVAILABLE FOR OVERSIGHT.

Of the funds available to the Secretary of Energy for fiscal year 1993 for program management, including travel, $150,000 shall be available only for the purposes set forth in section 1108(g) of title 31, United States Code.

SEC. 3135. DEPARTMENT OF ENERGY CITIZEN ADVISORY GROUPS.

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Energy shall establish a citizen advisory group for each Department of Energy defense nuclear facility.

(b) MEMBERSHIP.—Each advisory group shall be composed of the following members:

(1) Five or more members appointed by the Secretary of Energy, of whom—

(A) at least one shall be an individual who lives in a community near the facility for which the advisory group is established;

(B) at least one shall be a member of an affected Indian tribe;

(C) at least one shall be a representative of a nationally recognized environmental organization;

(D) at least one shall be a representative of an environmental organization from the area in which the facility is located; and

(E) at least one shall be an individual having technical expertise in environmental restoration, waste management, or health care matters related to such restoration or waste management.

(2) Two members appointed by the Governor of the State in which the facility is located.

(3) Two members appointed by the Governor of any other State which is located within 50 miles of the facility.

(c) DUTIES.—Each advisory group shall, with respect to the Department of Energy defense nuclear facility for which it is established—

(1) review and evaluate the performance by the Department of Energy of environmental restoration, waste management, and health-related activities at the facility, including the adherence of the Department with any milestones or deadlines with respect to such activities that were agreed to by the Secretary of Energy in interagency agreements entered into with other Federal agencies;

(2) review and evaluate the adequacy of any oversight activities carried out with respect to the facility by the Environmental Protection Agency, the environmental agency of the State in which the facility is located, and other appropriate Federal and State agencies, including the adequacy of—

(A) any actions taken by such agencies to ensure the adherence of the Department of Energy with any milestones or deadlines that were agreed to by the Secretary in interagency agreements entered into with other Federal agencies;

(B) any actions taken by appropriate Federal and State agencies to ensure compliance by the Department of Energy with Federal or State laws requiring the performance of relevant health-related activities at the facility; and

(C) any existing or on-going health-related activities undertaken by the Department of Energy and other Federal and State agencies with respect to the facility;

(3) provide, at least once annually, to the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the heads of other appropriate Federal and State agencies—

(A) an evaluation of the policy and technical considerations of any significant decisions made by such agencies with respect to environmental restoration, waste management, and health-related activities at the facility, including decisions on the selection of waste management treatment technology, the selection of cleanup remedies for environmental restoration, and the design and conduct of health assessments; and

(B) recommendations on policy and technical matters with respect to the facility based upon the evaluation conducted under subparagraph (A);

(4) provide to the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the Governor of the State in which the facility is located the views of persons in communities and regions located near, or effected by, the facility on the environmental restoration, waste management, and health activities conducted at the facility;

(5) submit annually to the Governor of the State in which the facility is located and to Congress a report on the activities of the advisory group during the preceding year, including the findings, assessments, and conclusions of the advisory group, and any recommendations of the advisory group on policy or technical matters based upon such findings, assessments, and conclusions; and

(6) perform any other activity the advisory group considers necessary to carry out its duties under this section.

(d) TECHNICAL ASSISTANCE.—The Secretary of Energy shall provide funding to each advisory group to permit the group to hire the technical, advisory, and support staff that the group determines necessary to carry out its duties under this section. The amount of such funding in any year may not exceed $250,000 per group.

(e) FUNDING.—Of the funds authorized to be appropriated in fiscal year 1993 for the Department of Energy for national security programs, $5,000,000 may be used to carry out this section.

(f) DEFINITION.—In this section, the term "Department of Energy defense nuclear facility" means—

(1) a production or utilization facility under the control or jurisdiction of the Secretary of Energy that is operated for national security purposes, other than a facility that does not conduct atomic energy defense activities;

(2) a nuclear waste storage or disposal facility under the control or jurisdiction of the Secretary; and

(3) a nuclear weapons research facility under the control or jurisdiction of the Secretary (including the Lawrence Livermore, Los Alamos, and Sandia National Laboratories).

SEC. 3136. NUCLEAR WEAPONS COUNCIL MEMBERSHIP.

Section 179(a)(1) title 10, United States Code, is amended to read as follows:

"(1) The Under Secretary of Defense for Acquisition.".

SEC. 3137. REVISED OFFSET FOR PAYMENTS FOR INJURIES BELIEVED TO ARISE OUT OF ATOMIC WEAPONS TESTING PROGRAM.

(a) REVISED OFFSET.—Section 6(c)(2)(B) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended by striking out the following: "The amount of the offset under this subparagraph with respect to payments described in clauses (i) and (ii) shall be the actuarial present value of such payments.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to claims filed pursuant to section 4(a) of the Radiation Exposure Compensation Act before, on, or after the date of the enactment of this Act.

SEC. 3138. REPORTS ON THE DEVELOPMENT OF NEW PRODUCTION REACTOR CAPACITY.

(a) REPORT BY THE SECRETARY OF ENERGY.—(1) The Secretary of Energy shall annually submit to the congressional defense committees a report on the new production reactor program of the Department of Energy.

(2) The annual report shall include the following:

(A) An estimate of the date by which new production reactor capacity will be necessary in order to maintain the active and reserve stockpile of nuclear weapons of the United States.

(B) An estimate of the date on which construction of such capacity should begin in order to maintain the active and reserve stockpile.

(C) An assessment of the technical adequacy of the methods available for the production of tritium, including an assessment of the risk that each method may fail to produce tritium on a reliable basis within the period necessary for meeting the requirements of the United States.

(D) An assessment of the capability of the potential industrial suppliers of new production reactor capacity to design and construct such capacity by the date estimated pursuant to subparagraph (A).

(3)(A) The Secretary shall submit the annual report in 1993 and each year thereafter until the construction of the new production reactor is completed. The Secretary shall submit the report not later than 60 days after the date on which the President submits the budget to Congress under section 1105 of title 31, United States Code.

(b) PROGRAM OFFICE.—The Secretary shall maintain a program office for the new production reactor program until the new production reactor capacity becomes operational.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the technology chosen for new production reactor capacity shall be the technology that has the highest probability of successfully sustaining operation, the lowest risk of operational failure, and the lowest cost of construction and operation (including any revenues accruing to the United States from such operation).

SEC. 3139. TECHNOLOGY TRANSFER.

(a) EXPEDITED REVIEW OF AGREEMENTS WITH SMALL BUSINESSES.—Section 12(c)(5) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(5)) is amended—

(1) in subparagraph (C)(i), by striking out "Any agency" and inserting in lieu thereof "Except as provided in subparagraph (D), any agency"; and

(2) by adding at the end the following new subparagraph:

"(D)(i) Any non-Federal entity that operates a laboratory pursuant to a contract with a Federal agency shall submit to the head of the agency any cooperative research and development agreement that the entity proposes to enter into with a small business firm and the joint work statement required with respect to that agreement.

"(ii) A Federal agency that receives a proposed agreement and joint work statement under clause (i) shall review and approve, request specific modifications to, or disapprove the proposed agreement and joint work statement within 30 days after such submission. The agreement and joint work statement shall provide a 30-day period within which such action must be taken beginning on the date of the submittal of the agreement and joint work statement to the head of the agency.

"(iii) In any case in which an agency which has contracted with an entity referred to in clause (i) disapproves or requests the modification of a cooperative research and development agreement or joint work statement submitted under that clause, the agency shall transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.".

(b) TECHNOLOGY TRANSFER TO SMALL BUSINESSES.—(1) The Secretary of Energy shall establish a program to facilitate and encourage the transfer of technology to small businesses and shall issue guidelines relating to the program not later than May 1, 1993.

(2) For the purposes of this subsection, the term "small business" means a business concern that meets the applicable size standards prescribed pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(c) PROVISION OF INFORMATION ON COOPERATIVE RESEARCH.—The Secretary of Energy and the Secretary of Defense shall provide appropriate federally funded technology transfer centers with information on cooperative research and development agreements or other arrangements entered into with respect to laboratories of the Department of Energy and other departments and agencies of the Federal Government. The Secretaries shall provide such information within 60 days after the date on which such agreements are received and within 60 days after such agreements become effective.

(d) FUNDING.—Funds authorized to be appropriated to the Department of Energy and made available for laboratory directed research and development shall be available for cooperative research and development agreements or other arrangements applicable to laboratories of the Department of Energy and other departments and agencies of the Federal Government.

SEC. 3140. EXPANSION OF AUTHORITY TO LOAN PERSONNEL AND FACILITIES.

(a) AUTHORITY TO LOAN PERSONNEL.—Subsection (a)(1) of section 1434 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2074) is amended—

(1) by inserting "(A)" after "(1)";

(2) in the first sentence, by striking out "or construction management at the Hanford Reservation, Washington," and all that follows through the period, and inserting in lieu thereof the following: "or construction management—

"(i) at the Hanford Reservation, Washington, to loan personnel in accordance with this section to the community development organization known as the Tri City Industrial Development Council serving Benton and Franklin Counties, Washington; and

"(ii) at the Idaho National Engineering Laboratory, Idaho, to loan personnel in accordance with this section to any community-based organization."; and

(3) by striking out the second sentence and inserting in lieu thereof the following:

"(B) Any loan under subparagraph (A) shall be for the purpose of assisting in the diversification of the local economy by reducing reliance by local communities on national security programs at the Hanford Reservation and the Idaho National Engineering Laboratory.".

(b) FUNDING.—Subsection (a)(3) of such section is amended by inserting after the first sentence the following: "In each of fiscal years 1993 and 1994, the Secretary of Energy may not obligate or expend for loans of personnel under this section more than $250,000 with respect to the Hanford Reservation and more than $250,000 with respect to the Idaho National Engineering Laboratory.".

(c) AUTHORITY TO LOAN FACILITIES.—Subsection (b) of such section is amended by inserting "or the Idaho National Engineering Laboratory, Idaho," after "Hanford Reservation, Washington,".

(d) DURATION OF PROGRAM.—Subsection (c) of such section is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1994".

Subtitle D—Defense Nuclear Work Force Restructuring

SEC. 3151. DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES WORK FORCE RESTRUCTURING PLAN.

(a) IN GENERAL.—(1) Subject to subsections (b) through (e) and not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall develop, issue, and commence implementation of a plan for the restructuring of the employee work force at Department of Energy defense nuclear facilities described in paragraph (2).

(2) The plan shall apply to—

(A) each Department of Energy defense nuclear facility the primary mission of which changes from weapons production and related activities to environmental restoration and waste management; and

(B) each Department of Energy defense nuclear facility that is scheduled for closure.

(b) PLAN REQUIREMENTS.—In developing and implementing the plan referred to in subsection (a), the Secretary shall provide—

(1) that any changes in the functions or missions of facilities referred to in subsection (a)(2)(A) and any closures of facilities referred to in subsection (a)(2)(B) be carried out by means that minimize the economic effects of such changes or closures on Department of Energy employees at such facilities, including the provision of notice of such changes or closures not later than 120 days before the commencement of such changes or closures to such employees and the communities in which such facilities are located and the use of retraining, early retirement, attrition, and other similar means to minimize the number of terminations of employment that result from such changes or closures;

(2) that the employees whose employment in positions at such facilities will be terminated as a result of the restructuring plan receive first preference in any hiring by the Department of Energy (consistent with applicable employment seniority plans or practices of the Department of Energy and with section 3152 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1682)) after the issuance of the plan;

(3) that such employees be retrained as necessary and in a timely fashion for work in environmental restoration and waste management activities at such facilities or other facilities of the Department of Energy;

(4) that the Department of Energy provide relocation assistance to such employees who are transferred to other Department of Energy facilities as a result of the plan;

(5) that, in the case of any employee who expresses in writing an intent to seek employment outside the Department of Energy, the Department of Energy provide appropriate employment retraining, education, and reemployment assistance (including employment placement assistance) to such employee before the terminations of the employee's employment with the Department of Energy; and

(6) that the Department of Energy provide local impact assistance to communities that are affected by the restructuring plan and coordinate the provision of such assistance with—

(A) programs carried out by the Department of Labor pursuant to the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(B) programs carried out pursuant to the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (division D of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2391 note)); and

(C) programs carried out by the Department of Commerce pursuant to title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241 et seq.).

(c) PLAN UPDATES.—Not later than 1 year after issuing the plan referred to in subsection (a) and on an annual basis thereafter, the Secretary shall issue an update of the plan. Each updated plan under this subsection shall—

(1) satisfy the requirements set forth in subsection (b), taking into account any changes in the function or mission of the Department of Energy defense nuclear facilities and any other changes in circumstances that the Secretary determines to be relevant;

(2) contain an evaluation by the Secretary of the implementation of the plan during the year preceding the report; and

(3) contain such other information and provide for such other matters as the Secretary determines to be relevant.

(d) CONSULTATION.—(1) In developing the plan referred to in subsection (a) and any updates of the plan under subsection (c), the Secretary shall consult with the Secretary of Labor, labor organizations or other appropriate representatives of local and national collective-bargaining units of Department of Energy employees, appropriate representatives of departments and agencies of State and local governments, appropriate representatives of State and local institutions of higher education, and appropriate representatives of community groups in communities affected by the restructuring plan.

(2) The Secretary shall determine appropriate representatives of the units, governments, institutions, and groups referred to in paragraph (1).

(e) SUBMITTAL TO CONGRESS.—The Secretary shall submit the plan referred to in subsection (a) to Congress.

SEC. 3152. PROGRAM TO MONITOR DEPARTMENT OF ENERGY WORKERS EXPOSED TO HAZARDOUS AND RADIOACTIVE SUBSTANCES.

(a) IN GENERAL.—The Secretary of Energy shall establish and carry out a program for the identification and on-going medical evaluation of current and former Department of Energy employees who are subject to significant health risks as a result of the exposure of such employees to hazardous or radioactive substances during such employment.

(b) IMPLEMENTATION OF PROGRAM.—(1) The Secretary shall, with the concurrence of the Secretary of Health and Human Services, issue regulations to implement the program. Such regulations shall permit the Secretary of Energy, to the extent practicable, to—

(A) identify the hazardous substances and radioactive substances to which current and former Department of Energy employees may have been exposed as a result of such employment;

(B) determine the levels of exposure to such substances that present such employees with significant health risks;

(C) determine the appropriate number, scope, and frequency of medical evaluations and laboratory tests to be provided to such employees to permit the Secretary to evaluate fully the extent, nature, and medical consequences of such exposure;

(D) identify employees referred to in subparagraph (A) who received a level of exposure referred to in subparagraph (B); and

(E) make available the evaluations and tests referred to in subparagraph (C) to the employees referred to in subparagraph (D).

(2)(A) In determining the most appropriate means of carrying out the activities referred to in subparagraphs (A) through (E) of paragraph (1), the Secretary shall consult with the Secretary of Health and Human Services under the agreement referred to in subsection (c).

(B) The Secretary of Health and Human Services shall carry out the responsibilities of that Secretary under this subparagraph with the assistance of the Director of the Centers for Disease Control and the Director of the National Institute for Occupational Safety and Health.

(3) In prescribing the guidelines referred to in paragraph (1), the Secretary of Energy shall consult with representatives of the following entities:

(A) The American College of Occupational and Environmental Medicine.

(B) The National Academy of Sciences.

(C) The National Council on Radiation Protection.

(D) Any labor organization or other collective bargaining agent authorized to act on the behalf of employees of a Department of Energy defense nuclear facility.

(4) The Secretary shall notify each employee identified under paragraph (1)(D) and provided with any medical examination or test under paragraph (1)(E) of the identification and the results of any such examination or test. Each notification under this paragraph shall be provided in a form that is readily understandable by the employee.

(5) The Secretary shall collect and assemble information relating to the examinations and tests carried out under paragraph (1)(E).

(6) The Secretary shall commence carrying out the program described in this subsection not later than 1 year after the date of the enactment of this Act.

(c) AGREEMENT WITH SECRETARY OF HEALTH AND HUMAN SERVICES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall enter into an agreement with the Secretary of Health and Human Services relating to the establishment of the program required under this section.

SEC. 3153. DEFINITIONS.

In this subtitle:

(1) The term "Department of Energy defense nuclear facility" means—

(A) a production facility or utilization facility (as that term is defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014)) that is under the control or jurisdiction of the Secretary of Energy and is operated for national security purposes (including the tritium loading facility at Savannah River, South Carolina, the 236 H facility at Savannah River, South Carolina; and the Mound Laboratory, Ohio), but the term does not include any facility that does not conduct atomic energy defense activities;

(B) a nuclear waste storage or disposal facility that is under the control or jurisdiction of the Secretary;

(C) a nuclear weapons research facility that is under the control or jurisdiction of the Secretary (including the Lawrence Livermore, Los Alamos, and Sandia National Laboratories); or

(D) any facility described in subparagraphs (A) through (C) that—

(i) is no longer in operation;

(ii) was under the control or jurisdiction of the Department of Defense, the Atomic Energy Commission, or the Energy Research and Development Administration; and

(iii) was operated for national security purposes.

(2) The term "Department of Energy employee" means any employee of the Department of Energy employed at a Department of Energy defense nuclear facility, including any employee of a management and operations contractor (or a subcontractor of such contractor) of the Department of Energy employed at such a facility.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD AUTHORIZATION

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1993, $13,000,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Subtitle A—Changes in Stockpile Amounts

SEC. 3301. AUTHORIZATION OF DISPOSALS.

(a) AUTHORITY.—The National Defense Stockpile Manager may dispose of materials in the National Defense Stockpile in accordance with this section. Such disposal may be made only as specified in subsection (b).

(b) MATERIALS AUTHORIZED TO BE DISPOSED.—Any disposal under subsection (a) shall be made from quantities of materials in the National Defense Stockpile previously authorized for disposal by law or, in the case of materials in the National Defense Stockpile that have been determined to be excess to the current requirements of the stockpile, in accordance with the following table:

Materials	Unit	Quantity
Aluminum	ST	62,800
Aluminum Oxide, Abrasive	ST	51,022
Aluminum Oxide, Fused Crude	ST	249,867
Analgesics	AMA LB	68,703
Asbestos, Chrysotile	ST	3,004
Bauxite, Metallurgical Jamaican	LDT	12,457,740
Bauxite, Metallurgical Surinam	LDT	5,299,597
Bauxite, Refractory	LCT	207,067
Beryl Ore	ST	17,729
Beryllium Copper Master Alloy	ST	7,387
Bismuth	LB	1,825,955
Cadmium	LB	6,328,570
Chromite Chemical Grade	SDT	208,414
Chromite Metallurgical Grade	SDT	1,511,356
Chromium Ferro	ST	576,526
Cobalt	LB CO	12,741,489
Copper	ST	29,651
Diamond Industrial Bort	KT	4,001,344
Diamond Dies Small	PC	25,473
Diamond Stones	KT	2,422,075
Fluorspar Acid Grade	SDT	892,856
Fluorspar Metallurgical Grade	SDT	410,822
Germanium	KG	715
Graphite Natural Malagasy	ST	10,573
Graphite Natural Other	ST	2,803
Iodine	LB	5,835,022
Jewel Bearings	PC	51,778,337
Lead	ST	601,053
Manganese Battery Grade Natural	SDT	68,226
Manganese Battery Grade Synthetic	SDT	3,011
Manganese Ferro	ST	938,285
Manganese Metallurgical Grade	SDT	1,627,425
Manganese Metal	ST	14,172
Mercury	FL	128,026
Mica Phlogopite Splittings	LB	963,251
Nickel	ST	37,214
Platinum—Iridium	TR OZ	5,000
Platinum—Palladium	TR OZ	250,000
Platinum—Platinum	TR OZ	50,000
Quartz Crystals, Natural	LB	400,000
Rutile	SDT	39,186
Sapphire & Ruby	KT	16,305,502
Sebacic Acid	LB	5,009,697
Silicon Carbide	ST	28,774
Silver	TR OZ	83,951,492
Tin	MT	141,278
Vanadium	ST	721
Vegetable Tannin, Chestnut	LT	4,976
Vegetable Tannin, Quebracho	LT	28,832
Vegetable Tannin, Wattle	LT	14,998
Zinc	ST	378,768

(c) GENERAL LIMITATION.—The National Defense Stockpile Manager may not dispose of any materials under the authority of this section during fiscal year 1993 until the manager has submitted to Congress a revised annual materials plan for that fiscal year that complies with the requirements of section 10(a)(3) of the Strategic and Critical Materials Stock Piling Act, as amended by section 3315(3).

(d) SPECIAL LIMITATION: SILVER.—(1) The disposal of silver under subsection (a) may only occur in the form of coins or, subject to paragraph (2), as material furnished by the

Federal Government to a contractor for the use of the contractor in the performance of a Federal Government contract.

(2) A contractor receiving silver as Government furnished material shall pay the Federal Government the amount equal to the fair market value of the silver, as determined by the National Defense Stockpile Manager. The amount paid shall be credited to the National Defense Stockpile Transaction Fund.

(e) Special Limitation: Chromite and Manganese.—The disposal of chromite ores and manganese ores under subsection (a) may be made only for consumption within the United States and the territories and possessions of the United States.

(f) Special Limitation: Chromium Ferro and Manganese Ferro.—The disposal of chromium ferro and manganese ferro under subsection (a) may not commence before October 1, 1993.

(g) Relationship to Other Disposal Authority.—The disposal authority provided in subsection (a) is in addition to any other disposal authority provided by law.

SEC. 3302. AUTHORIZATION OF ACQUISITIONS.

(a) Acquisitions.—During fiscal year 1993, the National Defense Stockpile Manager may obligate $100,000,000 out of funds of the National Defense Stockpile Transaction Fund (subject to such limitations as may be provided in appropriations Acts) for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

(b) Research and Development Programs.—Of the amount specified in subsection (a), $25,000,000 may be obligated for materials development and research under subparagraph (G) of such section.

SEC. 3303. CONFORMING AMENDMENTS.

Part A of title XXXIII of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1583) is amended—

(1) in subsections (a) and (d) of section 3301 (50 U.S.C. 98d note) and subsection (a) of section 3302, by striking out "fiscal years 1992 and 1993" and inserting in lieu thereof "fiscal year 1992"; and

(2) in subsections (a) and (d) of section 3301 and subsection (b) of section 3302, by striking out "each of such fiscal years" and inserting in lieu thereof "such fiscal year".

Subtitle B—Programmatic Changes

SEC. 3311. QUANTITY TO BE STOCKPILED.

(a) Applicable Standard.—Section 2(c)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a(c)(2)) is amended to read as follows:

"(2) The quantities of materials to be stockpiled under this Act shall be sufficient to meet the needs of the United States during a period of national emergency that requires a significant level of mobilization of the economy of the United States under the planning assumptions used by the Secretary of Defense under section 14(b) of this Act.".

(b) Applicable Assumptions.—Section 14(b) of such Act (50 U.S.C. 98h-5(b)) is amended in the first sentence by striking out ", based upon" and all that follows through "three years".

SEC. 3312. PROCEDURES FOR CHANGING OBJECTIVES FOR STOCKPILE QUANTITIES ESTABLISHED AS OF THE END OF FISCAL YEAR 1987.

Section 3(c) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(c)) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following new paragraph (2):

"(2) Subject to paragraph (3), the President shall notify Congress in writing of any change proposed to be made in a quantity referred to in paragraph (1). The President may make the change effective on or after the 30th day following the date of the notification. The President shall include a full explanation and justification for the change in the next annual materials plan submitted to Congress under section 11(b) after the date of the notification.".

SEC. 3313. AUTHORITY FOR STOCKPILE OPERATIONS.

(a) Waiting Period for Proposed Significant Stockpile Transaction Changes.—Subsection (a)(2) of section 5 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d) is amended by striking out the second sentence.

(b) Elimination of Disposal Restriction Relating to National Defense Stockpile Transaction Fund Balance.—Subsection (b) of such section is amended—

(1) by striking out "(1)"; and

(2) by striking out "law," and all that follows and inserting in lieu thereof "law.".

SEC. 3314. AUTHORIZED PURPOSES FOR EXPENDITURES FROM THE NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) Maintenance and Disposal of Materials.—Subparagraph (A) of section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)) is amended—

(1) by inserting ", maintenance, and disposal" after "acquisition"; and

(2) by striking out "section 6(a)(1)" and inserting in lieu thereof "section 6(a)".

(b) Expenses Incidental to Any Stockpile Transaction.—Subparagraph (B) of such section is amended by striking out "such acquisition" and inserting in lieu thereof "any stockpile transaction".

SEC. 3315. MARKET IMPACT COMMITTEE.

Section 10 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–1) is amended—

(1) by redesignating subsection (a) as subsection (b) and, in that subsection (as so redesignated), by inserting "(1)" after "(b)";

(2) by redesignating subsection (b) as paragraph (2) and, in that paragraph (as so redesignated), by striking out "subsection (a)" and inserting in lieu thereof "paragraph (1)"; and

(3) by inserting after "Sec. 10." the following:

"(a)(1) The President shall appoint a Market Impact Committee composed of representatives from the Department of Agriculture, the Department of Commerce, the Department of Defense, the Department of Energy, the Department of the Interior, the Department of State, the Department of the Treasury, and the Federal Emergency Management Agency, and such other persons as the President considers appropriate. The representatives from the Department of Commerce and the Department of State shall be Cochairmen of the Committee.

"(2) The Committee shall advise the manager of the stockpile on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile that are proposed to be included in the annual materials plan submitted to Congress under section 11(b), or in any revision of such plan, and shall submit to the manager the Committee's recommendations regarding those acquisitions and disposals.

"(3) The annual materials plan or the revision of such plan, as the case may be, shall contain the views of the Committee on such effects, the recommendations submitted by the Committee, and, for each acquisition or disposal provided for in the plan or revision that is inconsistent with a recommendation of the Committee, a justification for the acquisition or disposal.".

TITLE XXXIV—CIVIL DEFENSE

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $152,565,000 for fiscal year 1993 for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

TITLE XXXV—PANAMA CANAL COMMISSION

SEC. 3501. SHORT TITLE.

This title may be cited as the "Panama Canal Commission Authorization Act for Fiscal Year 1993".

SEC. 3502. AUTHORIZATION OF EXPENDITURES.

(a) In General.—Subject to subsection (b), for fiscal year 1993 the Panama Canal Commission is authorized to make such expenditures and, without regard to fiscal year limitations, to enter into such contracts and commitments, within the limits of funds and borrowing authority available to it in accordance with law, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1993. Expenditures in accordance with this title may be made from funds in the Panama Canal Revolving Fund.

(b) Limitation on Reception and Representation Expenses.—For fiscal year 1993, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than $51,156,000 for administrative expenses, of which not more than—

(1) $12,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) $6,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) $34,000 may be used for official reception and representation expenses of the Administrator of the Commission.

(c) Purchase of Passenger Vehicles.—Funds available to the Panama Canal Commission may be used for the purchase of passenger motor vehicles (including large heavy-duty vehicles) to be used to transport Commission personnel across the Isthmus of Panama. A passenger motor vehicle may be purchased with such funds only as necessary to replace another passenger motor vehicle of the Commission. No passenger motor vehicle may be purchased with such funds for a price in excess of $18,000.

SEC. 3503. HEALTH CARE.

Section 1321(e)(1) of the Panama Canal Act of 1979 (22 U.S.C. 3731) is amended by inserting after "health care services" the following: "provided by medical facilities licensed and approved by the Republic of Panama (and not operated by the United States)".

SEC. 3504. VESSEL TONNAGE MEASUREMENT.

Section 1602(a) of the Panama Canal Act of 1979 (22 U.S.C. 3792) is amended in the first sentence by inserting ", or its equivalent," after "net vessel tons of one hundred cubic feet each of actual earning capacity".

SEC. 3505. GENERAL PROVISIONS.

Expenditures authorized under this title may be made only in accordance with the Panama Canal Treaties of 1977 and laws of the United States implementing those treaties.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia.

Mr. NUNN. Mr. President, what is the pending business?

The SPEAKER pro tempore. The pending business is amendment No. 2919, which has been offered by the Senator from Arkansas.

Mr. NUNN. Mr. President, I am pleased that the Senate is now back on S. 3114, the National Defense Authorization Act for fiscal year 1993.

It is absolutely essential that we complete action on this bill as soon as possible, because if we do not finish this bill very shortly, then we will not have time to have a conference and get the bill passed before we leave for the year. I want our colleagues to understand what this bill contains and that there would not be any kind of continuing resolution if this bill indeed does not pass and does not get conferenced and does not become law.

In addition to the authorization required in law for the activities of the Department of Defense, the Department of Energy nuclear weapons programs, and civil defense activities, this bill contains a number of specific provisions and initiatives that are very important for our Nation's security.

This bill incorporates the vast majority of the defense convention and transition recommendations made by the two Senate task forces earlier this year—one headed by Senator PRYOR, and the other headed by Senator RUDMAN.

This bill has all of the provisions related to the special help we are giving to communities. As I stated, Mr. President, this bill incorporates the Pryor task force and Rudman task force recommendations, and at least those of us on our committee and I think the broad majority on both sides of the aisle, feel are absolutely essential to help our military people in uniform make the transition—many of them are losing what they thought was a career in the military—to help our communities that are being impacted by the loss of bases, or the loss of defense industries; to make adjustments, and to help those people in uniform who do not have job training, to acquire that and skill acquisition before they leave the military, so they are not out on the job market without any opportunity to even display a talent for the purpose of being hired.

These are absolutely essential provisions. In addition, the bill includes provisions to help active duty and Reserve military members and DOD employees who lose their jobs, as we reduce the size of the defense establishment.

In addition, this bill contains the 3.7 percent military pay raise, effective January 1, 1993, and the extension of the key bonus authorities that expire September 30, 1992.

We also provide in this bill for the National Guard and Reserve Forces. We express the congressional view that we should reduce the levels of National Guard and Reserves at a more moderate and modest rate than that proposed by the Defense Department.

This bill includes certain protections for National Guard and Reserve units and personnel until DOD submits a comprehensive report on the Active/Reserve Force mix and implements the transition provisions for National Guardsmen and reservists proposed by the committee.

There are many people in the Guard and Reserve that are not going to have the positions they thought they were going to have. We are not going to have the size Guard and Reserve that had been anticipated. Many of them will lose their Guard and Reserve positions—but not nearly as many under this bill as would happen if we took the administration's recommendation. Nevertheless, there will be some. And we want to make sure they, too, are treated fairly, and this bill takes those steps.

This bill contains a number of initiatives to improve the efficiency and reduce the costs of the Defense Department operations. We have a major initiative in this bill to improve inventory management in DOD that will save $3.2 billion in 1993 alone.

The Defense authorization bill contains a major initiative to stimulate and encourage a thorough review of the assignment of roles and missions within the Defense Department. In my view, a top-to-bottom roles and missions review has the potential of saving more money than any other initiative proposed by the Pentagon or the Armed Services Committee for many years.

S. 3114 also establishes a new Civil-Military Cooperative Action Program in the Department of Defense. This program will provide authorization for DOD and the military services, consistent with their military mission, to take on such civilian projects that address critical domestic problems in areas such as health care, nutrition, education, and infrastructure, the most recent example being the magnificent job that both our Guard Forces and our Active Forces are doing to help the people of Florida in the hurricane, and I am sure they are also present in the tragedy that occurred in Hawaii.

Finally, Mr. President, we should not forget the large number of military construction projects affecting virtually every State in the Union. Under title 10, and many of our colleagues do not realize this, no funds can be spent for individual military construction projects unless the projects have been authorized by law. Without the necessary authorization contained S. 3114, in fiscal year 1993 military construction appropriations cannot be spent for specific projects.

So, even if we have a continuing resolution—and of course we will have to have one if this bill does not pass—and if an appropriations bill does not pass, we will not have military construction appropriations being spent.

Mr. President, we currently have pending an amendment by Senator SASSER and Senator BUMPERS to reduce the level of funding authorized for SDI in fiscal year 1993 from $4.3 billion to $3.3 billion. Before we went on the recess and before this bill was drawn down, because we had an impasse and we had a delaying motion, delaying activity, a motion to table this amendment was defeated by a vote of 49 to 43.

Under the unanimous-consent agreement reached before the August recess, following disposition of the Sasser-Bumpers amendment, the Senate will take up an amendment by Senator PRYOR concerning SDI contracting. There is no time agreement on this amendment. But I hope we can enter into a relatively short-time agreement.

Following disposition of the Bumpers-Sasser amendment and the Pryor amendment, the Senate will take up an amendment on the B-2 bomber funding by Senator LEAHY and Senator LEVIN. There is no time agreement on this amendment either at this time but those two Senators have indicated to me that they would be willing to have a relatively brief time agreement since this issue has been debated and debated and debated on the floor of the Senate in past debates.

This is a familiar issue, and I hope that we can dispose of this one also tonight.

Once these amendments have been disposed of we will turn to others hopefully under time agreements.

We cannot pass this bill in the time that is going to be allocated to this bill unless we have time agreements, and they are going to have to be relatively short-time agreements. Those Senators who want to bring up an amendment, I would urge them to come and talk to us about the amendment itself, the substance, and also time agreements.

I have canvassed people on every amendment that I know about in terms of the time agreement; that is, amendments that do not appear to be acceptable to both sides. Those that will require debate and rollcall votes, I am hopeful that we will be able to enter into those agreements either this evening or tomorrow morning.

Mr. President, when the Senate halted its debate on the Defense authorization bill last month, we had just voted 43 to 49 against a motion to table an amendment by Senators SASSER and BUMPERS. That amendment would have reduced SDI funding to a level of $3.3 billion next year; that is, to a level of $1 billion below the billion dollars cut already taken by the Armed Services Committee. We were unable, however, after the motion to table failed, to get an up-or-down vote on the amendment itself.

Had all absent Senators been here and had we been able to vote up or down on that amendment, it is my view that the amendment would have been very close. I believe that the likelihood is that the Bumpers-Sasser amendment would have passed at that time.

We did have a number of absentees, and the amendment, had all Senators been present, would have been very close. Since then, we had, I think, a rather significant change in the atmosphere, because the Senate Appropriations Committee has marked up the 1993 Defense appropriation bill and agreed to provide $3.8 billion for the strategic defense initiative in next year's budget. That level is $500 million above the amount that was proposed in the Sasser-Bumpers amendment, but it is $500 million below the level the Armed Services Committee originally recommended in its bill.

I believe the Appropriations Committee has accurately engaged where the consensus of the Senate lies on this important funding issue. Accordingly, if the Sasser-Bumpers amendment is defeated—and it is my hope that we can have a vote on that amendment—I would prefer to have an up-or-down vote or if a tabling motion is in order, it is my understanding the second-degree amendment is the normal order or the regular order, the way I would like to proceed. And I suggest we proceed to have a vote after a reasonable period of discussion, which I hope will be a brief period, because we have already debated this very thoroughly, and I hope that we would then go to an up-or-down vote on the Bumpers-Sasser amendment. If that amendment is adopted, it is my hope we will move then to the Pryor amendment, and then we will move from the Pryor amendment to Leahy-Levin amendment on B-2.

So that is the order that I would like to proceed to tonight. If we can do those three amendments tonight, then that would be a long way, in terms of giving this bill momentum. It is also my hope that we can put in a full day tomorrow on this bill, and with that full day tomorrow, I think we will handle a great number of amendments with the possibility of even completing action late tomorrow night.

The majority leader has assured me that we are going to stay on this bill—perhaps we are going back to the HHS bill for a brief period of time—but that we are going to stay on this bill and conclude this bill before we depart for the weekend. I am hopeful that a long Saturday session will not be necessary. But it is my determination to stay here on Saturday and complete this bill this weekend—Saturday if possible, and Sunday if necessary.

If we do not get through with this bill in the next 2 days, then we have no chance on the complicated and complex base, the defense conversion provisions—with the House having several hundred pages of defense conversion measures of their own; we have several hundred pages in our bill—to try to reconcile all of those and get all the differences ironed out and to handle it is going to be impossible in the timeframe before we adjourn for the session, if we adjourn on October 3, or 4, unless we get this bill passed in the next 2 or 3 days.

Mr. President, it is my intention, if the Sasser-Bumpers amendment is not passed either on an up-or-down vote or on a tabling motion, then it would be my intention then to offer an amendment which would be in the nature of a second-degree amendment to the first-degree amendment, the underlying amendment, and that second-degree amendment that I would offer would propose the same level, the same level on SDI funding as has now passed the Appropriations Committee. This would put us on the same course with the Appropriations Committee.

It would put the Senate on record and we would not be having this debate all over again, I would hope, when the Appropriation Committee bill comes up probably sometime next week.

Mr. President, it is important I believe for the Senate to agree to the $3.8 billion compromise. The $3.8 billion as I have mentioned would be $500 million below the committee mark. It would be significantly below the President's request which was originally $5.3 billion. So that if this $3.8 billion passes, we would be cutting the committee mark at $4.3 billion by $500 million and cutting the President's original request on SDI by $1.5 billion, a rather significant cut.

Mr. President, in addition to setting the total amount of money available for SDI next year at $3.8 billion, the amendment that I would intend to offer, if the Bumpers-Sasser amendment is not passed, will retain the five separate SDI program element lines as specified in the bill recommended by the Armed Services Committee.

I will point out to my colleagues that the SDI funding approved by the Appropriations Committee does not have these five subceilings. There is just a lump sum of $3.8 billion.

As a result, the Strategic Defense Initiative office would be free, as a technical matter, to put as much of this as it wants to in any program it would like, whether it is Brilliant Pebbles or any other program. There are no restrictions.

In my view, it is important that we contain the authorization language in the direction of this bill and the priorities contained in the authorization bill, which represent a continuation of consensus that we reached last year on the overall limited defense system.

Mr. President, I will not debate this matter further at this point in time. It is my hope that we can have, as I indicated, a rather brief debate, so we do not have to rehash everything that has been said in a very lengthy debate we had about 3½ weeks ago. I hope, within the next 30 or 40 minutes, we would be able to move to a vote on this amendment and proceed with other amendments this evening.

Mr. President, I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Virginia.

Mr. WARNER. Mr. President, the chairman has very carefully and thoroughly revised the posture of this matter at this time. It would be my intention to join with him on that amendment that he mentioned here about the SDI. It would be a joint one on behalf of both of us at the appropriate time.

I hope that the hallmark of this Senator, and, indeed, as many who will listen to me, is brevity. The sooner we can move this matter, the sooner we can press on, in the limited time we have in the Senate, with other important pieces of legislation.

So we will try to seek as much brevity as possible.

I yield the floor

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, I just want to offer a couple of comments to commend the chairman of the committee for his efforts in bringing this measure back to the floor.

A number of articles have been written about what is wrong with this country and what is wrong with Congress. A recent article appeared in the National Journal called "Demo-Sclerosis," a fusion of the two words "democracy" and "sclerosis" to really reflect the kind of gridlock that currently exists in this country, and especially in our political process.

The chairman spent a good deal of his opening remarks talking about the amount of money that is authorized for defense conversion purposes. And that is something we ought not lose sight of.

I am, in fact, holding a public hearing on Saturday, hopefully, in Maine with hundreds, if not more, attending, because of the many, many jobs that have been lost and will be lost in the future because of this downsizing of the defense budget.

If we do not produce an authorization bill, it is my judgment we will not be successful in producing an appropriations bill, and it is a very real prospect we may end up going on a very short continuing resolution.

And for those who are concerned about having any kind of stability in a very turbulent world today, especially for budgetary planning purposes, the worst thing we could do would be to pass a short-term, a 5- or 6-month, continuing resolution that has an impact upon the defense structure and military personnel and their futures.

So I hope, Mr. President, that we can move forward on this measure. I did not support the amendment that was offered by the Senator from Arkansas and the Senator from Tennessee. I do not intend to support it tonight.

But I do think we ought to vote on it, and we ought to vote as quickly as we can. The arguments have been made very passionately and in some cases very persuasively on the other side. But at least we ought to vote and dispose of it.

We ought to go forward with the other amendments, especially that of the B-2. It has been 3 years now that I have led an effort within the committee to terminate the program. I see no reason why we have to postpone that vote until tomorrow or Saturday or Sunday or Monday. We can move really quickly on the B-2 amendment. It has been debated for the past 3 years. We know exactly where we stand on it. Whether it prevails or fails should not be the critical test, but, rather, moving forward.

We ought to complete this measure, hopefully, by tomorrow night, and then let us go to conference with the other body to resolve it.

Mr. President, I yield the floor.

Mr. McCAIN. Mr. President, there are several key aspects of this bill we must still debate. One is the funding of SDI. Another is whether to terminate the B-2 at 20 aircraft. These are serious issues, and I hope that they will be resolved in a way that takes account of the need for strategic capability as well as the desire for added peace dividends.

We face very real economic problems, and we have very real domestic social needs. We cannot, however, act as if the need for a strong national defense ended with the cold war. The break up of the Soviet Union and the Warsaw Pact mark a great watershed in history. They allow us to reduce defense spending and they mean that we no longer have to live under a nuclear sword of Damocles or maintain a war fighting capability for Europe. Reduced defense, however, does not mean no defense, and it does not mean that defense can arbitrarily be cut to fund domestic programs.

The United States and the free world do not live in a kind and gentle world, and cannot be secure without a strong America. Events in Yugoslavia and Iraq have made it painfully clear that we still need powerful, forward deployed power projection capabilities, and the contingency capability to deploy active and reserve forces from the United States that can fight high intensity combat against modern armored and air forces. While we have delayed Iraq's acquisition of nuclear weapons, nations like Algeria, India, Iran, Libya, North Korea, Pakistan, and Syria are acquiring weapons of mass destruction and long range missiles.

We do not face an end to strategy, any more than we face an end to history. In fact, we must change our strategy from a threat-driven strategy to a capability-driven or power projection strategy. We must change our force posture from a nuclear and Europe-oriented force posture to one based on maintaining key power projection capabilities.

Most of the reductions we can make in our present forces are reflected in the fiscal year 1993 Defense Authorization Act. We are making major cuts in our forces for strategic nuclear conflict and for NATO. We are terminating many procurement programs, slowing others, and delaying production of new weapons systems. We are cutting our conventional forces by roughly 25 percent, with significant cuts in each service.

As a result, the fiscal year 1993 Defense Authorization Act reflects the fact that we are producing a massive peace dividend out of these cuts in defense expenditure. At the height of the Reagan buildup, we were spending $376 billion a year in budget authority on the Department of Defense in constant fiscal year 1993 dollars. We spent only $286.6 billion in fiscal year 1992, and if we compare the decline in spending relative to the fiscal year 1985 level over the period from fiscal year 1985 to fiscal year 1992, this produces a cumulative peace dividend of $330.4 billion.

We must, however, be very careful about going further. We are proposing a fiscal year 1993 Defense Authorization Act that is $7.3 billion less than the level the President has proposed, and the House is proposing an act that is $10.5 billion below the President's request. The President requested $281.6 in total defense BA. The budget resolution called for $277.4 billion. We, however, are providing only $247.2 billion, a further cut of 3 percent, and the House proposes $271.1 billion, a cut of 4 percent.

We need to remember that President Bush had already cut defense spending by 7 percent below the fiscal year 1992 level in making his fiscal year 1993 budget request. He had already planned for prudent further cuts in each year of his future year defense program. His proposed program for fiscal year 1993–fiscal year 1997 already reduced defense spending to only $237.5 billion by fiscal year 1997. It already produced another peace dividend of $177 billion relative to the fiscal year 1992 level of defense spending. It produced a peace dividend of $622.7 billion relative to the fiscal year 1985 level of spending.

Equally important, the Bush program reduced the burden of defense spending to a percentage of our GNP and Federal budget that we can sustain indefinitely. The Bush program would reduce defense spending from 27 percent of the Federal budget in fiscal year 1985 to only 16 percent in fiscal year 1997, and from 6.3 percent of our GNP to only 3.4 percent.

Given the fact that we have already used military force more than 200 times since the end of World War II to deal with contingencies that have had nothing to do with NATO and the Warsaw Pact, it seems hard to argue that we should not spend at least 15 percent of total Federal spending, and around 3 to 3.5 percent of our GNP, on defense.

We also need to understand that these Bush defense spending levels are far below the spending levels that General Powell and Secretary Cheney projected when they developed the base force concept in August 1990. Even if we make the most stringent possible economies, we will be hard pressed to maintain the minimal power projection capabilities we need if we make any additional major cuts in the Bush defense spending program.

We already plan to cut our forces from 18 active divisions to 12 by 1995, keeping our Reserve Force at 10 divisions, plus two cadre divisions. We plan to cut our naval forces—which were once supposed to be part of a 600-ship navy—from 545 to 451 ships; our carriers from 15 to 12, and our naval air wings from 15 to 13. We plan to cut our strategic bombers from 268 to 181, and our tactical fighter wings from 36 to 26.

Given the cuts in defense spending that President Bush has already called for, and the additional cuts already made by Congress, we will probably have to cut our forces by another 20 percent by the late 1990's. This means only 8 to 10 active divisions, substantial cuts in reserve divisions, a Navy closer to 350 ships, 8 to 10 carriers, a much smaller strategic bomber force built around roughly 120 modern B-1's and B-2's, and 20 to 22 tactical fighter wings.

At the same time, if we are to continue to be a great power and forward deploy our forces, we must keep capable units in Europe and Asia, and have a major power projection force that can deploy anywhere in the world. We must stop gutting readiness to pay for pork, and stop moving back toward the hollow forces of the 1970's. We must stabilize our military manning levels—which are already planned to drop by 360,000 actives, 271,000 Reserves, and several hundred thousand defense civilians.

We also cannot rest on the capabilities we already have. We never funded adequate power projection capabilities during the Cold War because we gave priority to strategic deterrence and NATO. We must now buy more modern strategic sealift and airlift, and better amphibious capability and prepositioning. We must give the U.S. Army added firepower and mobility to compensate for smaller forces and the ability to rapidly deploy heavy divisions. We must keep the Marine Corps at three MEFs, and give it better amphibious capability, more modern firepower, and theater mobility.

We must keep as many carriers active as possible, and provide a modern long range strike-attack aircraft to replace the A-6. We must buy mine warfare capability, and ensure that we can deal with the antiship missiles and conventional submarine threat in the Third World. We must give the Air Force a significant stealth strike capability, and ensure it has absolute technical superiority in air-to-air and air-to-ground combat. This means funding and deploying the F-22 and A-X. Finally, we must acquire fully adequate antiballistic missile defense capabilities, and the ability to fight against Third World countries armed with chemical and biological weapons.

It is easy to advance plans to cut defense spending in an election year, but unless we maintain these capabilities we will have the image of power without the reality. Unfortunately, however, this is precisely where the current defense debate has become decoupled from reality.

Far too many legislators and candidates are proposing defense cuts they cannot define and cannot safely deliver. They may talk about maintaining the capability we need, but they ignore the real world costs of providing that capability. Governor Clinton, for example, talks vaguely about $50 billion worth of savings by cutting SDI, reducing troop levels by another 200,000; having 10 carriers rather than 12, and limiting European troop levels to 75,000 to 100,000, rather than 150,000.

The problem is that these kinds of savings are already implicit in the outyears of the Bush program, and that program never included waste like spending billions of dollars on unnecessary *Seawolf* submarines. It never anticipated that the Congress would reject some $7.7 billion in necessary fiscal year 1992 budget recissions, radically increase the cost of programs the Joint Chiefs of Staff did not request by up to $24 billion, or cut up to $28 billion out of the programs that the Joint Chiefs did not request.

The Bush program never anticipated the strong congressional belief that you can reprogram defense spending to create or preserve jobs in areas where defense spending is not needed, and not lose defense jobs in areas where defense spending is needed. It never anticipated the congressional belief that you can fight the recession by taking money away from high-technology jobs that are critical to preserving the Nation's defense industrial base to fund defense conversion that will take months or years to create lower paid and less necessary jobs—if such jobs are ever created at all.

In all frankness, the Bush program made no allowance for the added budget cuts a Democrat-controlled Congress has aleady made in the fiscal year 1992 budget request. It counted on $7 billion worth of recissions in fiscal year 1992 that Congress has often failed to support, and it made no allowance for the billions of dollars worth of pork, defense conversion, and special interest programs that same Congress has added to the fiscal year 1993 budget.

Vague, meaningless, wish lists which call for detailed domestic spending efforts, but talk only about total savings or total expenditures over a long period of time ignore these realities. So do the number games of most candidates or legislators who have issued detailed critiques of the Bush program.

The one thing all of these plans have in common is that they are spending savings President Bush has already made, and they cannot preserve the capabilities and forces we really need. They all play with numbers that disguise the fact that the kind of savings they call for, at the rate and times they call for them, cannot be achieved without threatening our security. They all disguise the fact that we will give up jobs we need for uncertain plans to preserve or create lower paid jobs.

They all talk in sound bites that hide strategic realities, and the fact that the only way they can get the kind of added domestic spending they claim without controlling domestic spending is to sacrifice the security of the United States.

In short, Mr. President, we have gone as far in cutting this year's defense budget as we can go without hurting both our security and our ability to recover from a recession. We can make further cuts at the pace President Bush recommends, and perhaps go somewhat further if our strategic situation so permits, but we cannot move down a path in future years that looks only at dollars and not at defense.

If we do so, we not only will give up real jobs and real capabilities, we will repeat the critical mistake we committed after World War II, Korea, and Vietnam. We will slash defense only to have our weakness lead us into new crises and conflicts, and then have to rebuild our capabilities on a crash basis at vast expense and under conditions where any conflict will mean a massive increase in American casualties.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, the distinguished chairman of the committee is correct. We did vote on this matter almost a month ago. At that time, there was a motion to table the amendment offered by the distinguished Senator from Arkansas and myself by the opponents of our amendment. They failed to table our amendment by a vote of 49 to 43.

A simple calculation at that time would indicate that even if all Senators were present and voting, and you took into consideration those who were not present and not voting who had opposed the SDI Program in times past and had voted for sums much less than $3.3 billion, then it is clear that the opponents of the Sasser-Bumpers amendment could not have prevailed.

We wanted to move on to the underlying amendment immediately and simply vote the Sasser-Bumpers amendment up or down. We had a time agreement at that time that was acceptable to the managers on both sides of the aisle. It was acceptable to the leadership on both sides. It was certainly acceptable to Senator BUMPERS and myself.

But the Senator from Wyoming objected to any time agreement on the ground that he did not like the almost inevitable outcome that the Senate would approve the Sasser-Bumpers amendment and that the SDI Program would be reduced to a more reasonable expenditure level in the view of a majority of the U.S. Senate.

Now that outcome seemed inevitable because the will of the U.S. Senate was clear as crystal. It was clear for everyone to see. We supported a $3.3 billion funding level, not the $4.3 advocated by the committee for the strategic defense initiative. We all had our reasons for supporting a lower rate or lower amount.

Some Senators would have preferred to vote for a much lower amount than $3.3 billion. Some Senators expressed to me the wish to terminate the whole program. But we came to the level of $3.3 billion because in times past the Senate had expressed its view on SDI and had said that we should move forward with a Strategic Defense Initiative Program.

So Senator BUMPERS and I took the will of the Senate, and we did not try to obstruct the clearly stated purpose of this body on other votes. We simply tried to craft an amendment that would carry out the SDI Program in a more economical, cost-efficient manner that would save money in this time of great fiscal problems.

We did so because our fiscal circumstances are very dire. And what we were confronted with was what we perceived to be a mindless speedup of the project that would cost billions and billions and billions of dollars over a period of time.

We were not killing the program. We were not damaging it. We were simply making it more rational.

I think it would be useful if a copy of the Senate vote on the Sasser-Bumpers amendment, recorded just over a month ago, were included in the RECORD at this point.

I will send such a copy of the RECORD vote to the desk, and ask unanimous consent it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TEMPORARY SENATE VOTING RECORD NO. 182

AUGUST 7, 1992.

DOD AUTHORIZATIONS

Bill No.: S. 3114; amendment No.: 2918.

Title: "National Defense Authorization Act for Fiscal Year 1993".

Subject: Warner motion to table the Sasser, et al., modified amendment which limits the obligation of funds for the Strategic Defense Initiative (SDI) in FY 1993 to $3.3 billion of which no more than $62.5 million can be used for procurement, and no more than $3.2 million can be used for RDT&E; and provides funding for the following SDI program elements: Theater Missile Defense—$1.1 billion, Limited Defense System—$1.5 billion, Space-Based Interceptors program—$100 million, other follow-on systems—$325 million, and research and support activities—$325 million.

S. 3114: Vote Nos. 181, 182.

Result: Motion to table failed.

YEAS (43)

Democrats (9 or 17%): Bentsen, Bingaman, Dixon, Exon, Heflin, Hollings, Inouye, Nunn, Shelby.

Republicans (34 or 87%): Bond, Brown, Burns, Coats, Cochran, Cohen, Craig, D'Amato, Danforth, Dole, Domenici, Durenberger, Gorton, Gramm, Lott, Lugar, Mack, McCain, McConnell, Murkowski, Nickles, Packwood, Pressler, Roth, Rudman, Seymour, Simpson, Smith, Specter, Stevens, Symms, Thurmond, Wallop, Warner.

NAYS (49)

Democrats (44 or 83%): Adams, Akaka, Baucus, Biden, Boren, Bradley, Breaux, Bryan, Bumpers, Byrd, Conrad, Cranston, Daschle, DeConcini, Dodd, Ford, Fowler, Glenn, Graham, Harkin, Johnston, Kennedy, Kerrey, Kerry, Kohl, Lautenberg, Leahy, Levin, Lieberman, Metzenbaum, Mikulski, Mitchell, Moynihan, Pell, Pryor, Reid, Riegle, Robb, Rockefeller, Sanford, Sarbanes, Sasser, Simon, Wofford.

Republicans (5 or 13%): Chafee, Grassley, Hatfield, Jeffords, Kassebaum.

NOT VOTING (8)

Democrats (4):
Burdick—2
Gore—2
Wellstone—2AN
Wirth—2
Republicans (4):
Garn—2
Hatch—4AY
Helms—3AY
Kasten—2AY

EXPLANATION OF ABSENCE

1—Official Business
2—Necessarily Absent
3—Illness
4—Other

SYMBOLS

AY—Announced Yea
AN—Announced Nay
PY—Paired Yes
PN—Paired Nay

Mr. SASSER. Mr. President, Senator BUMPERS and I took the approach that the Senate had worked its will as far as SDI is concerned. It had clearly expressed that it wanted a strategic defense initiative. We responded by saying: All right; we lost on the question of whether we ought to expend tens of billions of dollars—indeed, some say hundreds of billions of dollars—over the course of this project. We lost our battle in not going forward. But we are going to offer a rational amendment.

We won on that amendment by all counts. And we were confronted at that point with a threat of filibuster, that the bill would be talked to death by obstruction, by a very small minority here in the U.S. Senate.

They were willing to defeat the whole bill, to be obstructionists, to defeat the will of the U.S. Senate, simply because a small minority did not have their way.

That is the reason we have the gridlock that the public is so upset about. And that is the reason we have such difficulty getting something done in this body.

A month has passed, and there have been all sorts of negotiations, arm twisting, deal cutting—all kinds of machinations, I am sure. Now there is discussion of a compromise.

Senator BUMPERS and I have never been talked to about a compromise. You would think if there was going to be a compromise, the proponents of the amendment that prevailed, for all practical purposes, would have been included in the negotiations and included in the compromise. It appears to me this is a compromise hammered out among the proponents of SDI, those who favored the higher funding. And what they are saying is: We could not get our way on the $4.3 billion, so we are going to come with the next best number, and that is $3.8 billion.

So what we are being asked to do today is to add $500 million to the level, above the level that the Senate indicated by a majority vote a month ago was proper. The Senate is being asked to reverse itself—or will be asked to reverse itself—from the position that it took a month ago.

Does that make sense? What has changed to make this program worth an additional $500 million? I submit nothing has changed since the majority of this body voted for the lower $3.3 billion figure. Nothing has changed except that the Washington Post yesterday published a front-page article about an extremely illuminating study that the General Accounting Office had done relative to the strategic defense initiative and the success of the preliminary tests. The headline says it all:

> SDI Success Said To Be Overstated. Four "Star Wars" Tests Fall Short, GAO Finds.

That is what the Washington Post reported about the General Accounting Office study. The performance of the SDI technology, the research and development testing, has been consistently inflated by the Strategic Defense Initiative Organization, says the General Accounting Office. That GAO report confirms what many of us had suspected. The failures of the tests in SDI had either been hidden or misrepresented.

The copies of this Post story are on the desk of each Senator. I urge each Senator to get a copy of the GAO report. The only fair conclusion I can draw from GAO's findings is that perhaps the $3.3 billion funding level proposed in the Sasser-Bumpers amendment is too generous.

Mr. SARBANES. Mr. President, will the Senator yield for a question?

Mr. SASSER. I will be pleased to yield to my friend from Maryland.

Mr. SARBANES. Mr. President, I would like to know if the Senator is referring to this article that starts off saying:

> Officials responsible for developing an antimissile system to defend the United States have repeatedly exaggerated the achievements of space experiments and flight tests meant to demonstrate the success of their research effort, a report by congressional auditors has concluded.
>
> Following a one-year study, the report by the General Accounting Office said four tests between January 1990 and last March were not as successful as officials in the Strategic Defense Initiative program claimed in a series of news releases, briefings and reports to Congress.

Mr. SASSER. Yes; that is precisely the news account I am referring to that appeared in yesterday's editions of the Washington Post, which was based on an exhaustive evaluation by the General Accounting Office.

Mr. SARBANES. A 1-year study, I take it?

Mr. SASSER. A 1-year study, I say to my friend from Maryland; a fairly exhaustive study. Well, a 40-page study here, of SDI, in which they headline:

> Some Claims Overstated by Early Flight Tests of Interceptors.

Mr. SARBANES. I thank the Senator.

Mr. SASSER. As the Senator is aware, Mr. President, the General Accounting Office has the reputation of being the so-called watchdog of Congress. And when many of us here in the Congress want an objective evaluation of programs or policies or agencies in the executive department, or other objective evaluations, we turn consistently to the General Accounting Office and the expertise that resides there.

Mr. SARBANES. Mr. President, I take it the Senator is making the point that the only thing that is new information since we last had a vote in the Senate on this program that has come to light in the intervening period is this information about the failed tests and, in effect, the repeated exaggerations we have received about this program, which actually would provide additional support for the position the Senator took in August, and which the Senate supported?

Mr. SASSER. The Senator is quite correct. It would not only provide additional support for the position that Senator BUMPERS and I took in August, along with the majority of the Senate present and voting at that time; it would also indicate that perhaps even the $3.3 billion contained in the Sasser-Bumpers amendment might be too generous if it were based on reports coming from the Strategic Defense Initiative Organization about the success rate of their tests to date.

Mr. SARBANES. I thank the Senator.

Mr. SASSER. I think the Senator from Maryland, Mr. President, in his usual perceptive way, makes the point that there is simply nothing that has occurred in the last 30 days that would encourage any Senator—any Senator—who looks at this thing rationally to change his vote or her vote and support a higher funding level for the strategic defense initiative.

That would simply fly in the face of reason to do that in view of the General Accounting Office report, which indicates, I say to my friend from Arkansas, that they have been overstating or falsifying the success of the testing of the SDI program to date.

The new information that the General Accounting Office brings to us and which was reported in yesterday's edition of the Washington Post indicates that research and development on the SDI Program is proceeding more slowly than we thought, that there are more glitches than we thought, and officials of the Strategic Defense Initiative Office are less trustworthy than we thought.

Part of the underpinning of the amendment that the distinguished Senator from Arkansas and I offered was that we were simply trying to push too much money through too small a pipeline at the SDI Organization too fast, and we cited, as support for our position, statements that came from no less than Dr. Chu, the Assistant Secretary at the Pentagon with responsibility for developing and overseeing the program. He is the Under Secretary or Assistant Secretary for Program Analysis and Evaluation in the Department of Defense.

The funding level that we were faced with, either the 4.3 or the alternate 3.8, will put this program on an accelerated level of development in which you are liable to have more glitches and you are going to have more problems and spend more money in a less cost efficient way that will waste more money than if you went forward in this program with a more considered approach using the type of techniques and procedures that have been used in other programs similar to SDI.

It appears to me that the Washington Post seems to be ready to accept the objectivity of the General Accounting Office report based on their story. Just let me quote one paragraph from the Post article:

> One of the experiments involved the sole, full space test so far of an antimissile interceptor known as a "Brilliant Pebble," the centerpiece of the Bush administration's concept for missile defense. SDI program managers had described the test "a 90 percent success," but the GAO report disclosed that a sensor failed to collect useful data, a gyroscope did not operate properly and the interceptor failed to move properly or accurately track its target.

In the face of the fact that the gyroscope did not operate on the interceptor, that the sensor on the interceptor failed to collect useful data, and that the interceptor component failed to accurately track its target, the SDI organization termed the task a 90-percent success. I wonder what they would term a failure over there at the SDI organization?

The rest of the General Accounting Office report records a history that is consistent with a mixture of ineffectual technology and public duplicity. The General Accounting Office's very disturbing findings come on top of our complete inability to find a threat commensurate with this multiple billion dollar weapon that we are developing.

We have had a full debate, Mr. President, on the SDI issue already. It is part of a long series of debates we have had on this whole system over the years. But I say to my colleagues that to this Senator it seems outrageous, it seems absolutely absurd that, on the heels of another highly critical report on the strategic defense initiative, we would come forward and propose an additional $500 million on top of what we deemed appropriate a month ago.

I wonder what some of the proponents of the SDI Program would say and what their position would be if we had a General Accounting Office report which indicated that some of the programs of the Department of Labor dealing with training or retraining disadvantaged poor workers were subject to this type of overstatement, to this type of manipulation which the General Accounting Office found in the SDI report on their tests.

What would they say to us if we were to come forward then and suggest a very substantial increase in funding for that program in the Department of Labor to train poor unskilled workers if we were faced with this kind of report from the General Accounting Office? Clearly, we know what they would say. They would say, first, the program's funding probably ought to be decreased and certainly we ought not to increase funding or even continue the program until we can get a better fix on it and determine whether or not the taxpayers' dollars are being spent in a cost-efficient way and whether or not the public and the Congress are being reported to accurately by those who manage the program.

But that is not what we hear with regard to SDI. What we are going to be confronted with is an effort to raise the Sasser-Bumpers amendment by half a billion dollars.

For those who voted not to table the Sasser-Bumpers amendment a month ago, there simply can be no policy rationale for voting to give SDI $3.8 billion now. If you voted, in essence, to fund SDI at the $3.3 billion level a month ago, how in the world, in the face of this General Accounting Office report, can you now come in and say, "I want to increase it by $500 million?" It actually defies all logic.

What are the grounds for the shift? Has the Soviet Union reemerged? Of course not. Are the Eastern European countries silently merging into a new Communist threat? Of course not. They are flying apart, most of them. Has the budget deficit diminished? Of course not; it has become worse.

As a result of the overspending of this Government in the United States, our inability to do something about our own economic condition as a result of that overspending, the fact that we are not recovering from this recession the way we should because we cannot afford any economic stimulus, we see chaos in the European currency market.

So clearly the budget deficit has not diminished.

We might ask ourselves, has the Federal Treasury experienced some sort of windfall so that we can now take $500 million and add that to the $3.3 billion that the Senate already in essence voted to spend on SDI a month ago? No. The truth is we are broke. We are having to shell out for natural emergencies, hurricanes, as if money was going out of style. We passed a $10 billion supplemental appropriations bill the other day to deal with Hurricane Andrew, and we are going to be called on for more money, I venture to say, before this Congress adjourns to deal with the problems in Hawaii and perhaps additional moneys to deal with the problems in Guam.

We are borrowing money, declaring emergencies to deal with these natural disasters, these acts of God over which no one has any control that have occurred since we voted 30 days ago on the Sasser-Bumpers amendment.

How in the world, in the face of that, can we rationally explain a vote for an additional $500 million?

As I said a moment ago, the world financial markets are in chaos. Our own people feel an acute economic anxiety. And here we are proceeding to go down the road of committing tens of billions of dollars essentially to defend ourselves against the one enemy that no longer threatens us. In fact, they are no longer an enemy.

I was interested to read the other day that in addition to the fact that the United States has joined with other nations in economic and technical aid to the former Soviet Union—a former enemy—we have even gone to the point that the President of the United States is dispatching his personal physician to Russia to counsel and consult on the treatment of the mother of the President of Russia, Mrs. Yeltsin. Interesting, interesting.

Now, I simply cite that to say what is the hurry on this SDI? Who in the world is threatening us? Why should we move forward at an expedited funding level, which is what this so-called compromise will amount to?

Now, with regard to the action of the Appropriations Committee today, I think it is important that the Senators understand what really occurred, where that bill stands with regard to SDI.

The bill contains $3.8 billion in funding for this coming fiscal year, $500 million more than the amendment before us now, and $500 million less than was contained in the authorization bill.

But that action of the Appropriations Committee was not definitive in any way. In the full Appropriations Committee this morning, Senator BUMPERS and I offered our amendment to fund SDI at $3.3 billion. A motion was made to table our amendment, and it failed. It failed on a 14-14 vote. The amendment was later voted on up or down and it also failed 14 to 14.

So the Appropriations Committee of the Senate, with one seat being vacant now—I might say the seat vacated by a beloved deceased colleague who had supported reductions in SDI in the past—essentially said nothing. It simply tied on the question of whether or not SDI should be funded at $3.8 billion.

The full Appropriations Committee is in limbo with regard to SDI funding. I brought up that amendment this morning, along with my able colleague from Arkansas, Mr. BUMPERS, Knowing full well that we were not going to prevail. But I wanted to demonstrate to the Senate precisely where the full Appropriations Committee stood on the question of funding SDI at the so-called compromise level of $3.8 billion.

There is no agreement in the Appropriations Committee on that. It is split right down the middle. Even the chairman of the full Appropriations Committee, Senator BYRD, voted in opposition to the $3.8 level of funding, while the chairman of the subcommittee, Senator INOUYE, voted in favor of it. That is virtually unprecedented, as I recall, in my years on the Appropriations Committee.

So it is not a statement one way or the other as to where the Appropriations Committee stands on the $3.8 billion funding. And that is precisely the reason Senator BUMPERS and I brought that amendment up this morning, because we did not want it to be represented to our colleagues on the floor of the Senate that there had been any kind of mandate, or even majority vote, emanating from the Appropriations Committee saying that it was a favor of funding SDI at a $3.8 billion level.

Let me just recapitulate for a moment for those who might be interested at this late hour. Senator BUMPERS and I are not proposing to eliminate this program. We decided not to do that, or try to do it because the Senate had already spoken on the issue. We are not permanently disabling the program at all. We are not even really slowing down research and development of SDI.

The truth is that the $1 billion cut in this amendment before the body today only effectuates a shift of what is now an accelerated timetable for acquisition to a standard timetable. And again we must ask ourselves, what is the rush? Why do we want to move forward and spend additional moneys to develop SDI on an accelerated level when the experts tell us it cannot be done?

The body is on record against tabling. That is certainly a more prudent approach. I urge my colleagues to be consistent. There is no excuse for adding $500 million a month later after voting for $3.3 billion.

Mr. President, I will have more to say on this later. But I see my friend from Arkansas is on the floor. I do not want to dominate the discussion here this evening.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I thank the Senator from Tennessee for his usual eloquent, concise, and precise analysis of what this vote is about.

It has been a little over a month ago since the Senate refused to table the amendment of mine and the Senator from Tennessee to cut SDI from $4.3 billion to $3.3 billion, by $1 billion.

Let me start off by saying, Mr. President, one of the most ironic things about this debate is at that point we had been led to believe that the flight tests in the SDI Program, seven of them, had been howling successes.

First of all, if it had not been for Dr. Chu, who is Assistant Secretary of Defense for Program Analysis and Evaluation—if it had not been for his memo on May 15 of this year, we would be just happy as a pig in the sunshine, appropriating $5 billion a year headed toward deploying this whole antiballistic missile system in North Dakota in 1996.

Dr. Chu had the courage and the integrity to blow the whistle on this program and say that this is absolutely absurd to start deploying this thing in 1996 because you are going to be deploying systems that have not been properly tested. You are going to be deploying a system that is probably going to fail.

Then yesterday morning you pick up the Washington Post, and here is a front-page story on a General Accounting Office study that not only fortifies what Dr. Chu said back in May but says they have been lying about the success of these tests. They have been telling us how flawless these tests were, and how everything was just going swimmingly. And the General Accounting Office says of the seven tests they have conducted, that they told us were just perfect, they had misled and deliberately deceived us on four of them.

Yet we are still happy as a pig in the sunshine just giving them every nickel they ask for. What would it take, Mr. President, to change somebody's mind around here about this program?

I want you to think about this. Here are the seven tests that the General Accounting Office studied on SDI's flights. These flight tests have strange names. The first one is called Kite 1. In that, SDIO said the shroud design was validated. GAO says that is totally inaccurate.

ERIS 1, they say target discrimination achieved. They say that their interceptors were able to distinguish between decoys and real warheads. Do you know what GAO says? That is wrong. That is inaccurate. Of course, they did not do it.

The third flight, Leap 1, SDIO said altitude and accuracy goals met. GAO says that is inaccurate. That is not true.

BP-2, here are SDIO's claims on BP-2: 90 percent successful. GAO says inaccurate. And increasingly sophisticated tests, GAO says that is inaccurate.

Completion of phase I testing, GAO says that is inaccurate.

Mr. President, I read a story in this morning's paper that the Watergate prosecution is prepared to wrap up its investigation. Do you know what that was all about, why we spent millions of dollars on that? Because members of the executive branch lied to congressional committees. It has gone on too long. They spent too much money on it.

But, Mr. President, I am telling you a democracy is threatened when the people from the executive branch of Government come to the U.S. Congress and lie to us.

Do you know what I worry more about in the intelligence community than anything else? That the intelligence community is politicized, that we get bad information for political reasons, and we act on it. And we make bad decisions because we get bad information.

Mr. JOHNSTON. Mr. President, will the Senator yield? I know the Senator has a good head of steam. But I just had a point that came to me.

Not too long ago the family of a friend of mine had a problem of alcoholism in the family. They were telling me about what they call a confrontation where they bring up the alcoholic and they confront him. And we had this long conversation about it. I really learned some things.

They told me about people that they call enablers, with respect to alcoholics. They are those people, whether they be wives or family members, who by never confronting the alcoholic, enable his condition to be perpetuated on and on and on.

And it strikes me that the question really before the Senate tonight is whether the Senate will continue to be an enabler with respect to SDI, having invested $30 billion, and with so many Senators saying, you know, let us not confront this, we want to build, it might be vetoed, let us not have a confrontation and $30 billion down the drain on SDI because we have so many enablers here who know better but who will not confront the problem.

Does the Senator sort of see the problem of enabling here? I am not talking about those Senators who definitely believe in SDI. I am talking about those who know better but who enable this problem to go on from year to year with $30 billion down the rathole and they want another, lord knows what they want. But I mean almost $4 billion that was in the defense appropriations, $3.8 billion, and no hardware yet.

We do not know what this thing would look like. They do not have rockets that are designed and ready to deploy. They do not know what kind of machines, what kind of hardware, what kind of architecture as they call it, they do not know how many sites within the United States.

The Senator is aware of that, is he not, that they have not specified how many sites, one or more sites, land based, space based, we do not know what we are defending against?

Is not the real issue whether we Senators who know better are going to face up to this problem and risk a veto and risk a confrontation with the President of the United States because we know better, we know that this country has higher priorities than to put another $30 billion down this SDI rathole. Do I resonate with the Senator?

Mr. BUMPERS. Just 100 percent.

The thing that is most poignant is the comparison with the alcoholic. That is an absolutely perfect analogy in my opinion.

Can you believe that Senator SASSER and I won a tentative victory a month ago when a motion was made to table our amendment, and we prevailed on that motion and it was not tabled by a vote of 43 to 49? A little over a month later we have a GAO report telling us that SDIO, the organization that runs this research project, has been deceiving Congress, and that of the seven flight tests they conducted, they deceived us on four of them. They tried to make us believe that this thing had been able to differentiate between decoys and real warheads. The GAO said they did not achieve that.

Mr. JOHNSTON. If the Senator will yield, as the Senator knows, I have fought this SDI battle in the past. I have joined with the Senator from Arkansas. I have joined with the Senator from Tennessee.

I have led the fight. I have joined with others over a period of years. And I can tell you that over the period of years, from the time this program started, it has been nothing but pure hype.

I remember that when it started, President Reagan said it is going to be an astrodome over the country. Everybody knew that was not true except maybe President Reagan. And that pretty soon was disposed of as a myth, and the myths are perpetuated today. We have gone through so many generations of space-based equipment. The latest is Brilliant Pebbles. You do not hear much about it because, apparently, it has not worked out very well.

We had other versions of a bus that carried a lot of little rockets up there, and they did away with that. We do not know what the architecture is. They keep saying this thing is working great. It is just around the corner.

This reminds me of something. Do you remember shale oil, when they used to say if the price of crude oil would go up another dollar, then shale oil will be economically feasible? The price of crude oil went up to over $41, and it always was $2 more.

That is the way this is. It is always just around the corner. There is always a lot of hype to go with it, and there is never an architecture, never a defined danger, and there is never a defined number of sites or a defined price. There is never a real purpose to SDI, other than some ideological hangup.

I mean, it is like religion. We can look at these religious fights over there, whether it be the Serbs and the Croats, or the Bosnians, or whoever, and we think how can those people be so crazy as to get wrapped up in this religiosity, this ideology? Can they not see any better than that? I swear it seems to me that way about SDI.

After all these years and $30 billion, not to have a purpose or a threat defined, not to have a number of sites defined, not to have cost parameters, when the country is going broke and we have over $300 billion in deficit, and this President is going to cut taxes and says we ought to go ahead with this expensive program which always dances right beyond the imagination as to how much it will cost. When is the country going to wake up and come to its senses?

I think it is time to confront this thing, to no longer be an enabler. If it takes a veto and staying here in October, I think we ought to do it. If there is ever an issue on which we ought to draw a clear line of demarcation between the two candidates—I think this country would like to decide this election on the SDI; do you want, on the one hand, tax cutting George Bush—and if you believe that part about the tax cut, just read his lips—who will give you an SDI? Or a Bill Clinton, who is going to rein in SDI and the $50 billion or $100 billion?

I say that is a great issue to decide this election on, and I think we ought to give it to them right now, tonight. Or if it is not tonight, if we cannot get a Defense appropriations bill, put it on the continuing resolution.

That is the way we do continuing resolutions. A lot of people think with a continuing resolution, that means you have to accept last year's level—and we never accept last year's level. We will say, continue the operations of Government at the rates as specified in such and such, or maybe in the Defense appropriations bill, or the Defense authorization bill. We can pick those levels that we want to.

If we have a veto, and the veto is overridden—I mean, if we cannot override it, we will just wait it out. Let us no longer be an enabler. Let us stand up for what we know is right.

Mr. NUNN. Will the Senator yield for a brief observation and question?

Mr. JOHNSTON. The Senator from Arkansas has the floor.

Mr. BUMPERS. Mr. President, I think I still have the floor.

I yield to the Senator from Georgia for the purpose of asking a question of the Senator from Louisiana.

Mr. NUNN. I will make it very brief. Is the Senator from Louisiana aware that Governor Clinton has also endorsed the Missile Defense Act and has done so explicitly, and that he has also said he will slow down the Brilliant Pebbles part of that overall program which is exactly what the Missile Defense Act does, removing it from the initial architecture, and also this year there is $210 million less in the Brilliant Pebbles line than there was last year?

So this bill the Senator is opposed to, or the amount in this bill, or in the amendment that would be in lieu thereof, is pretty much in line with what Governor Clinton has said. I am not sure there is going to be much in the way of a Presidential issue.

Mr. JOHNSTON. Frankly, I was not aware that the President-to-be, Clinton, has endorsed this act.

Mr. NUNN. He has not endorsed the GPALS system; I will make that clear. The Missile Defense Act, last year, moved away from the GPALS system and went to a very limited system with the design in mind and architecture in mind set forth in the statute of protecting against accidental launch, against unauthorized launch, or against third country launch. That is what he endorsed, not the GPALS system.

Mr. JOHNSTON. I say to my friend that I have read the act, and you can find in it anything you want. You can find one location. You can find multiple locations, and you can find ground based.

Mr. NUNN. Sounds like a compromise on the energy bill.

Mr. JOHNSTON. Exactly, except this is SDI.

The point the Senator is making is that if the President signed on to anything, I do not know what he signed on to, because that act—I think the Senator from Georgia did a brilliant job of getting that act out. The way he did, I believe, from my reading of it, is to put a little bit of everything in there so you can look and see in it what you wanted. I think Governor Clinton can look at this act and he can say, well, this is an R&D act, and maybe we will have a Patriot system coming from that.

Mr. NUNN. It sets forth very clear goals and parameters for those goals. I would not agree with that. They are carefully worded provisions.

Mr. JOHNSTON. Well, they are carefully worded to mean all things to all people.

Mr. NUNN. Well, I will close further by saying that I wanted to know if the Senator was aware that the Governor has endorsed this.

Mr. JOHNSTON. I really was not. I will score a point for the Senator from Georgia for bringing that out, as far as the debate is concerned.

What the Governor meant by endorsing this model of ambiguity, I do not know. That is one of the reasons I am so dead set against these high levels of funding for SDI, because, as I have been saying here, it does not define its goal, its cost, its architecture.

The Senator would agree with me that there is no architecture decided upon, or in being, or fully tested, even in the eye of the SDI beholders, is there?

Mr. NUNN. I say to the Senator from Louisiana that as far as the Strategic Defense Initiative Office is concerned, I have been one of the leading critics. They have never had an architecture. This is why we passed the act last year, and we gave them a clear direction.

In my opinion, they did not follow that direction very well. In my opinion, they are on notice now that either they follow the intent of Congress last year, which I differ with the Senator on. I think the intent is very clear. I think either they follow that, or any hope of consensus in the future is dissipated. I am agreeing with the Senator in part and disagreeing in part.

Mr. JOHNSTON. I thank the Senator for that.

Is the Senator supporting this amendment, as far as the funding level?

Mr. NUNN. I do not support the Bumpers-Sasser amendment. I do support the compromise reached in the Appropriations Committee that was 3.8, and I intend to offer that if this amendment is voted down.

So I hope the Senator from Louisiana, being a Member of the Appropriations Committee, and always respecting the Appropriation Committee position even when he differs with them in committee, will vote at the 3.8 level with us.

Mr. JOHNSTON. You see the difference on this one.

Mr. BUMPERS. If I may get back into this, I do want to make one technical correction on what the Senator from Georgia just said. The Appropriations Committee did not reach a compromise. What we reached was a 14–14 tie vote whether we should have $3.3 or $3.8 billion. Everybody understands that.

I might also say to the Senator from Georgia—and he might comment on this, because I have heard the Senator from Georgia many times since we have been in the Senate together make the argument on the floor of the Senate that we have to go to conference with the House, and usually the Senator from Georgia correctly says we have to compromise. If we go to conference with the Sasser-Bumpers amendment of $3.3 billion and the House is $1 billion higher, $4.3 billion, everybody here agrees, including the Senator from Tennessee and me, that we are going to come out of that conference with $3.8 billion and we are not going to contest that conference report.

If we adopt the substitute of the Senator from Georgia tonight at $3.8 billion and you go to conference with the House at $4.3 billion; a billion dollars apart, then they are going to compromise with a split between $3.8 and $4.3 or $4.05 billion.

The Senator from Georgia might say to this body, and I expect he is willing to say that he will do his best to champion the Senate's position and come out of that conference at $3.8 billion, but the Senator from Georgia knows as well as I do that the House is a player in this thing; they are the other body. They have rights too.

And if we maintain our position and say we are not going to recede to the House, the House will say, "That is just it," can the Senator be with us if we go for a continuing resolution? I know the Senator from Georgia will attempt to hold the Senate position on this but neither he nor the ranking member, my distinguished friend from Virginia, can guarantee the U.S. Senate will prevail in that position.

So, Mr. President, that is what is troubling to us.

There is one other thing and I just want to get this off my chest. I stood on the floor of the Senate for the last 2½ months trying to talk about fiscal responsibility, doing something, doing just anything to give the people of this Nation some hope that the U.S. Congress, insofar as we are concerned, the U.S. Senate, that we are going to start acting responsibly on spending and getting this deficit on a downward slope. I cannot tell you what that would do for the stock market, for the bond market, but above all for the morale of American people.

I tried to kill the super collider. There is $20 to $30 billion over the next 25 years. Zap. It does not make any difference what the experts say if you do not agree with them, we only quote experts around here when they agree with us.

The space station is surely going to cost $200 billion. Zap. We could not get that passed. The mining bill. There is not a Senator in the U.S. Senate who does not understand precisely what the issue is that the mining companies are taking billions-and-billions of dollars' worth of gold and silver off Federal lands and not paying a nickel for it. You do not have to have a third-grade education to understand that. And I received 42 votes.

Now we come up here and finally the Senator from Tennesee and I win this very small limited battle, to cut $1 billion.

Mr. President, the deficit for this year is $400 billion, and one of the reasons it is $400 billion is because of the mentality that is developed in the U.S. Congress of what is a billion dollars. I can tell you it is a pretty good piece of change where I come from.

Until we begin to understand that no item is too small to be considered and no project too near and dear to be scrutinized, we are not ever going to restore confidence in this body to the American people.

As I said a moment ago, and I cannot emphasize it too strongly, I want somebody to tell me what we are going to get out of SDI at $3.8 billion that we are not going to get at $3.3 billion. I want somebody to tell me what part of the flight test, what part of the research are we cutting out if we appropriate $3.3 billion rather than $4.3 or $3.8 billion? Nobody here can answer that. Nobody here can tell you with any degree of assurance that program suffers one iota.

Let me tell you this. This is really an interesting point. I hope my colleagues who are here and those who are watching will pay particular attention to this: On May 6, 1992, this body, the U.S. Senate, voted to cut SDI by $1.3 billion. When the President sent that big $7.8 billion rescission bill—the Senator from Tennessee remembers that well—and he says I want you to cut $7.8 billion. And Congress, to its credit said, Mr. President, we will see it and raise you, and we raised it to $8.2 billion. We recommended that we cut SDI for this year, 1992, by $1.3 billion. And the justification for it, the justification for it was that Brilliant Pebbles is probably a failure, that we cannot continue to spend all this money on these futuristic programs and we cut SDI to $2.85 billion for this year.

The Senate did vote. The staff advises me that the Senate voted 61–38 in favor of cutting $1.3 billion out of SDI, cutting it back to $2.85 billion.

Now you would believe that the dome of this building is going to fall off if we do not give them the entire $3.8 or $4.5 billion.

Mr. SASSER. Mr. President, will the Senator yield for a question?

Mr. BUMPERS. I am happy to yield.

Mr. SASSER. I commend the Senator for his effort to reduce the deficit and reduce the deficit financing that is going on in the U.S. Government now.

I was pleased to join with my friend from Arkansas in efforts to do away with the so-called superconducting super collider. That would have been a fine pure science project in another day and another time. If the U.S. Government had been in the same fiscal condition it was in 1960, perhaps we could have afforded the luxury of a pure science project such as the superconducting super collider.

But my friend from Arkansas was perceptive enough to understand that the U.S. Government is broke, that we could not afford to mortgage the future of generations to come just on a purely scientific project that is highly expensive, that may or may not bring us anything.

On the question of the space station, I was pleased to join with my friend from Arkansas in sponsoring an amendment to do away with the space station, to terminate funding, and save literally tens of billions of dollars over the next few years.

There is a country that has a space station and that country used to be called the Soviet Union. I do not know who has actual title to the space station now, because the Soviet Union is broken apart. I suppose Russia does. But the Soviet Union had to have a space station. They had to have an expensive space program. They had to have all of the most exotic weapons systems, coming down the pike. They had to keep on building just as we are building them now. And they are bankrupt. They are bankrupt.

Make no mistake about it, I say to my friends, it was not communism that took the Soviet Union down.

It was not the extraordinary expenditure that this country made in 1980 on a military budget. It was the mindless, bureaucratic inertia that kept them moving forward, spending enormous amounts of treasure that they did not have on exotic projects like the space station.

They have had the good sense now, because they are broke, to cut back on their version of the strategic defense initiative. And I suppose when we are bankrupt, when we have no credit, when we cannot feed our people, then perhaps we will wake up and do the same thing.

But I want to commend my friend from Arkansas for having the courage to come out on this floor and propose actual reductions in unnecessary spending. I want to say to my friend from Arkansas that he is performing a service for the American people, an he is performing a service for future American citizens that are not even born yet when he does that.

I want to ask my friend from Arkansas: Does he not find it somewhat incongruent when Senators will come out here and vote multiples of billions of dollars for a space station, multiples of billions of dollars for a superconducting super collider, multiples of billions of dollars for this exotic strategic initiative, knowing we are running a budget deficit of over $350 billion this year alone, and then come out on the floor and vote for an amendment to balance the budget?

What kind of foolishness that, I ask my friend from Arkansas? Does he not find a basic inconsistency here? And what could be the rationale for that?

(Mr. AKAKA assumed the chair.)

Mr. BUMPERS. Mr. President, I say to the Senator, I hate to be crass, but in the language that we call the mother tongue, English, that is called hypocrisy.

Mr. WARNER. Will the Senator yield for a brief question?

Mr. BUMPERS. I am happy to yield.

Mr. WARNER. I thank my good friend.

The record will reflect that I stood side by side with my good friend from Arkansas on both of those amendments, the super collider and the space station. And believe me, I caught some severe criticism from 1600 Pennsylvania Avenue and the Commonwealth of Virginia, which was affected by the cut of those programs.

I want to join him in the future on comparable cuts. But I ask, in return for doing that, could we have some estimate of how long we might continue this debate? Because I would like very much to work with my good friend, but at the same time, to kind of get this bill moving forward.

Mr. BUMPERS. Mr. President, first of all, before I answer my good friend from Virginia, I want to commend him for his wisdom in joining with me on all of those amendments. And I know that he did it at considerable personal sacrifice on that side of the aisle. I know he caught considerable criticism. And I want to commend him for it.

He is not one of the people around here who gets awfully pious about a constitutional amendment to balance the budget which does not balance the budget. And the Senator knows, if we had such an amendment, we are still back to square one debating these very same issues.

As much as I want to accommodate my good friends, both the Senator from Virginia and the Senator from Georgia, I do not really want to prolong this. But, you know, as I said earlier, this "ain't" beanbags. This is billions of dollars we are talking about.

I would like to believe that what I am fearful of will not take place: That some people are going to change their votes from last month.

And I want to make the point as cogently and as pointedly as I can that not only has nothing happened to cause people to change their votes, but the GAO report fortifies their good judgment in voting 1 month ago with the Senator from Tennessee and me. The only thing under the sun that has happened since we voted the last time was the General Accounting Office said that SDIO has been deceiving and misleading Congress about the success of this program.

And, you know, normally we would call for a prosecutor; we would call for an indepth investigation; we would say: We are going to cut your money off until you come in here and level with us.

And here we are tonight saying that, even though the GAO report just came out the day before yesterday: SDIO, we want to give you some more money for deceiving Congress.

Mr. WARNER. Will the Senator entertain just one more question?

Mr. BUMPERS. Yes; I am happy to.

Mr. WARNER. Mr. President, the Senator said the only thing that has happened is the GAO report. I respectfully say to my good friend, one other very significant thing is about to happen, and that is the chairman of the Armed Services Committee and I are going to offer an amendment that would recognize the fact that this program should be cut by another half billion dollars.

We have met the Senator halfway. And that is the spirit in which we do business in this distinguished body. We have recognized the strength of your convictions; the strength of your argument.

We respectfully disagree.

So there is another significant thing that is about to happen. And that is that we will offer that amendment.

Mr. BUMPERS. As long as we are in this colloquy, Mr. President, let me ask the Senator from Virginia, the distinguished ranking member of the Armed Services Committee, does he not agree with me that if we adopt the amendment of the Senator from Georgia and fund this program at $3.8 billion, has it not been customary and would not the Senator from Virginia fully expect to have to concede further to the House, which is still another half billion dollars higher than that?

Mr. WARNER. Mr. President, I would not want to forecast what will take place in this conference. I would, in clear honesty, say to my good friend that I would so argue that the Senate figure be raised.

It is ironic that this is the first time in my memory—and I have for 14 years been privileged to be a Member of this institution—but on this program, throughout its life—and I think it dates back to 1983, if I am not mistaken—the Senate has always been at a figure higher than the House. And this will be the first time that the Senate would be at a lower figure.

So, the Senator is correct. In all likelihood, that conference will have before it a proposal by which the $3.8 billion figure would be raised. And I say that in complete honesty to my friend.

Mr. BUMPERS. So, Mr. President, the Senator is telling the U.S. Senate that in the SASSER-BUMPERS amendment to cut SDI by $1 billion, the understanding is that when you go to conference, you will raise that to $3.8 billion to compromise with the House? The Senator from Virginia is saying that if we adopt the amendment, which puts in $3.8 billion, the Senator would still vote to raise that figure in the conference with the House; is that what he is saying?

Mr. WARNER. That is correct. I am speaking only for the Senator from Virginia.

Mr. BUMPERS. I understand that. But the Senator is the ranking member on that committee, and the Senator is saying that he would raise that. Would he consider a split to about $4.050 billion, then?

Mr. WARNER. Mr. President, I am at this time not able to address that. Because, as the Senator well knows, in a conference, there are those final four or five points on which there is considerable disagreement. And eventually, those four or five points, of which I believe this will be one, are reconciled.

What the dollar figure will be in the end, I cannot predict. But I would say to my good friend, as the Senator speaks in terms of the Sasser-Bumpers or Bumpers-Sasser amendment—there are two—at $1 billion, in reality, it is $2 billion below the President's mark.

So this cut that the Senator from Georgia and I will soon propose is $1.5 billion below that which our President thought—in his judgment, and that of the Secretary of Defense and, indeed, the Chairman of the Joint Chiefs—was necessary for this program.

So we have reached, I think, a very substantial reduction in this program, to the great dissatisfaction of many Members on this side of the aisle.

So again, I would urge my colleagues that given that I think we have met the Senator halfway, it seems to me that we should move forward tonight and accept the fact that this will be voted by this body; and that, therefore, we can go on and take up other matters in this field.

Mr. BUMPERS. Mr. President, let me just say, in the conclusion of our colloquy, that the Senator has made my point very precisely, and it is this. If you defeat the amendment that the Senator from Tennessee and I are offering tonight of $3.3 billion, which is by far the biggest research project in the entire Defense Department, if you defeat that and when you turn around and vote for the amendment of the Senator from Georgia at $3.8 billion, or a half billion more than the Senator from Tennessee and I are offering, you go into conference with the House, you are going to split it still further, and the ranking member of the committee says he is going to support an increase above the $3.8 billion that we adopt tonight.

Mr. President, let me catalog something. We were going along here, as I said earlier, just like a pig in the sunshine, happy as we could be, funding SDI at an exorbitant level assuming that somehow or other we were either going to put Brilliant Pebbles or something in space or on the ground that would protect us against an incoming missile from outer space, and we were going to do it by 1996. We were going to put money in it as though money would accomplish this by 1996 whether we got the technology or not.

Thank God for David Chu, Assistant Secretary of Defense, who had the courage to say this is crazy, we cannot even come close to deploying this system by 1996. He says we will be lucky to be able to deploy it between the year 2002 or 2003. But if it had not been for the courage of an Assistant Secretary, we would still be appropriating billions of dollars tonight in anticipation of the deployment of this system in 1996.

So everybody says that is terrible, is it not? We have been deceived. SDIO has been telling us, sure, they could do it by 1996, and finally they said, well, make it 1997. And when Dr. Chu comes out and says that is totally unrealistic, too, we cannot do it before well after the turn of the century—there is a guy who ought to get the Congressional Medal. Well, maybe not the Congressional Medal, but he ought to get some kind of award.

You think about what we do here. You cannot say anything, you cannot reveal anything. And then the GAO comes out the day before yesterday and says they have been lying to us about all of these things.

We said, "That is terrible; we are going to give you another $4 billion. We really appreciate your coming over here and deceiving us about these flight tests. Do not ever worry about whether you tell Congress the truth or not, we are going to give you the money anyway." That is what is happening, and yet this Congress goes blithely on funding programs like this in the face of a $400 billion deficit and a $4 trillion debt.

What else happened? Here is what else happened. This morning—yesterday morning it was the GAO report; Wednesday morning, front page New York Times, "Executives Urge Focus on Deficit." I will just read a piece of this, Mr. President. I ask unanimous consent this full story from the New York Times, as well as one from the Washington Post, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, September 16, 1992]

SDI SUCCESS SAID TO BE OVERSTATED

(By R. Jeffrey Smith)

Officials responsible for developing an antimissile system to defend the United States have repeatedly exaggerated the achievements of space experiments and flight tests meant to demonstrate the success of their research effort, a report by congressional auditors has concluded.

Following a one-year study, the report by the General Accounting Office said four tests between January 1990 and last March were not as successful as officials in the Strategic Defense Initiative program claimed in a series of news releases, briefings and reports to Congress.

One of the experiments involved the sole, full space test so far of an antimissile interceptor known as a "Brilliant Pebble," the centerpiece of the Bush administration's concept for missile defense. SDI program managers had described the test as "a 90 percent success," but the GAO report disclosed that a sensor failed to collect useful data, a gyroscope did not operate properly and the interceptor failed to maneuver properly or accurately track its target.

In another instance, program managers claimed that a protective cover for a different kind of interceptor was properly jettisoned during the early stages of a test; in reality, pieces of the shroud broke off, disintegrated and damaged the interceptor, forcing the shroud's redesign.

A third type of interceptor was said by officials after another test to have distinguished between real enemy missiles and missile decoys, meeting one of SDI's most vexing technical challenges. But, in fact, the interceptor had no such capability, according to the GAO report.

The report added, however, that three other tests during the period studied were correctly depicted by the SDI agency, an arm of the Pentagon, as either complete failures or of limited success.

While the auditors drew no conclusion abut why the test achievements had been exaggerated, the chairman of the House Government Operations Committee, Rep. John Conyers Jr. (D-Mich.), charged in a written statement that SDI officials had sought to cover up test failures in order to claim "great berakthroughs" and thus "justify annual budgets of four to five billion dollars."

"Now we've caught them in the act," said Conyers, an opponent of the SDI program who commissioned the GAO study and provided a copy to The Washington Post.

SID Director Henry F. Cooper said that overall, he does not believe the GAO report is "fair in its presentation," partly because it does not mention that unexpectedly useful data has been obtained on some tests that went awry.

He said the report was written as if "these guys were assigned a job and they went off and did it."

Disclosure of GAO's conclusions comes at a sensitive moment for the controversial antimissile program.

The Senate Appropriations subcommittee on defense is expected to begin deliberations today on a Bush administration proposal to boost funding for the SDI program, which is already the largest U.S. military research endeavor.

After two years of rising congressional support for antimissile work, bolstered by the widespread impression of successful Patriot interceptions of Iraqi Scud missiles in the 1991 Persian Gulf War, Congress is beginning to have second thoughts about the "Star Wars" program.

Last month, a majority of the Senate supported a proposal by Sens. Jim Sasser (D-Tenn.) and Dale Bumpers (D-Ark.) to trim the current SDI budget of $3.95 billion by 20 percent.

Republican senators who supported the Bush administration's proposal for a 37 percent boost in Star Wars spending responded by blocking a vote on legislation authorizing the 1993 defense budget—a stalemate that may be broken by compromise later this week.

While the bulk of the $27 billion spent on SDI over the past nine years has gone for laboratory research and analysis, flight tests have routinely been conducted to prove that prototypes can work and to provide visible, politically potent symbols of the program's technical progress.

No major flight tests of interceptor prototypes like those now being considered for deployment were conducted prior to the period studied by GAO, according to an SDI spokesman.

Two flight tests have been conducted since the study was completed, including one in which the interceptor was judged "flawless," although it failed to hit its target due to a problem with communications gear.

The seven tests studied by GAO each cost between $12 million and $50 million, excluding the hardware and engineering development costs, according to an SDI spokesman.

The report's analysis indicates that while important research has been conducted by these tests, more questions about the design and performance of proposed ground-based and space-based antimissile interceptors remain unanswered than SDI officials have publicly acknowledged.

The portion of the GAO report that could sow the most alarm among SDI supporters on Capitol Hill deals with a 1991 test of a Brilliant Pebbles prototype.

The Bush administration wants to spend $449 million next year to continue development of the rockets, nicknamed for their sophistication and relatively small size. It declared in June that up to 1,000 of the interceptors should be orbited beginning in the year 2001; from there, the rockets would be in position to collide with enemy missiles during the first few minutes after launch.

Critics of the Star Wars program have recently trained most of their fire on Brilliant Pebbles, arguing that deployment of such interceptors would be unnecessary, costly and perhaps unworkable.

The House voted this summer to eliminate funding for Brilliant Pebbles, while the Senate Armed Services Committee voted to reduce the Pebbles effort so more work can be done on interceptors that would be deployed on the ground.

An initial Brilliant Pebbles space test, held in August 1990, largely failed when key parts of the missile were prematurely separated 81 seconds after launch from Wallops Island, Va.

As a result of this failure—which SDI acknowledged at the time—and various equipment and computer software problems, SDI officials decided a few weeks before a second test in April 1991 to drop or scale back many of their published goals for the experiment.

Air Force Col. Roland Worrell, director of the Brilliant Pebbles program, told reporters at a Pentagon news conference the day after the launch that the test was "all in all . . . about a 90 percent success," noting it had met all but one goal.

Similarly, SDI director Cooper told a skeptical Conyers at a hearing the following month that the test "accomplished all of the main objectives," a claim he reiterated in a June 16 letter.

But according to the GAO report, neither Worrell nor Cooper mentioned the goals had been revised. the omission left a broad impression that the weapon had met such key demands as correctly sighting its target and maneuvering precisely to intercept it, when in fact it had not, according to the GAO report.

"When compared to the original goals . . . the 90 percent success statement significantly overstated test results," the GAO report said. "Nothing was obtained for one' [original] goal and the other three goals were only partially satisfied."

An SDI news release about the test falsely claimed that it was more complicated than previous tests, and Worrell incorrectly indicated that the test's success warranted moving to a new phase of research, according to the original test plan, the report said.

"The revised test was of a less capable prototype, tested over a more limited range of operation than originally intended," the GAO report said. "The program has not progressed as intended."

Conyers, citing Cooper's testimony before his committee, said the SDI director "has been less than truthful. . . . This report shows how he twisted the truth to claim successes where none, in fact, existed."

Cooper responded in an interview that while he regrets not mentioning the experiment's revised goals in his letter to Conyers, he still feels the experiment was "a success."

He said Worrell's claim of "90 percent success is a generic kind of a statement. I don't believe anybody was thinking about a quantitative assessment when they said 90 percent. . . . It probably shouldn't have been given out."

Responding to the, GAO claim that the results of a January 1991 test of a ground-based interceptor known as ERIS had been misrepresented by the Army Strategic Defense Command—an SDI partner—Cooper said "there were some people [in the Army] who had an incorrect view" of the interceptor's ability to distinguish between real and fake missiles.

The Army claimed the interceptor had shown such ability in the test; the GAO report said ERIS failed to meet this key goal:

Following a test of another interceptor known as HEDI, Army officials claimed that the design of its protective shroud had been validated; once GAO began asking questions, however, the Army issued a new fact sheet on the flight that omitted the claim without explaining its earlier error.

"People try to be fair with what is presented," Cooper said. "On occasions, there are people who get too exuberant."

[From the New York Times, Sept. 17, 1992]

EXECUTIVES URGE FOCUS ON DEFICIT

(By Steven Greenhouse)

WASHINGTON, SEPTEMBER 16.—A group of business executives and academic leaders chided the two Presidential candidates today for failing to make substantial proposals to cut the budget deficit and said tax increases would probably be necessary.

The group, headed by A.W. Clausen, chairman of the executive committee of BankAmerica's board, urged the Government to eliminate the deficit in five to ten years, saying the United States had to nurse its economy back to health to strengthen its world leadership role.

The group, the Council for Economic Development, said slashing the deficit "should be the highest domestic economic priority." It said the deficit had helped reduce the nation's savings rate to a paltry 2 percent and was limiting the amount of money available for the private investment needed to make the economy more competitive.

"The United States should get its own house in order by eliminating the structural deficit within the next decade and cutting its savings rate to 8 percent," Mr. Clausen said.

IMPORTANCE OF TAX INCREASES

The committee said deficit reduction should focus on cutting spending, looking especially at military expenditures, but also pointed to the importance of tax increases. The report said "carefully designed tax increases that do not discourage private savings and investment will do less harm to the economy than persistent" deficits.

During a news conference today in Washington, committee members said President Bush and Gov. Bill Clinton, the Democratic nominee, had not addressed deficit reduction seriously.

The committee includes Harold A. Poling, chairman of Ford Motor; Richard D. Wood, chairman of Eli Lilly; Robert C. Winters, chairman of Prudential Insurance; James J. Renier, chairman of Honeywell; Owen B. Butler, retired chairman of Procter & Gamble; Donna E. Shalala, chancellor of the University of Wisconsin-Madison, and Arnold R. Weber, president of Northwestern University.

Calling for a consumption tax, Mr. Clausen said taxes that discouraged investment would be unwise.

"We need government policies that provide a more appropriate environment for investing in the future," he said. "The U.S. consumes far more of what it creates than other major industrial countries and reinvests less than 5 percent in our future. Other countries—Germany and Japan—are consuming far less of what they create and investing a lot more in their future."

ROLE OF WORLD LEADER

Urging the nation not to shirk its international responsibilities in this time of economic troubles, the business group said the United States was the only nation that could play the role of world leader to foster international cooperation to promote growth and security.

"We need to become a rallier of nations, a catalyst helping to define international priorities and motivating cooperative action," Mr. Clausen said. "In this new world, only the United States has the unique mix of attributes—economic power, military might, political dexterity and moral statute—necessary to lead."

To strengthen America's position as world leader, the report said Washington should increase foreign aid outlays, continue pushing to eliminate trade barriers and honor its monetary commitments to the United Nations and other international organizations. The report urged Washington to move the issue of family planning back onto the international agenda because fast population growth slows per-capita income growth in many developing nations.

The report made numerous proposals to improve America's competitiveness, calling for education reform, increased Federal support for business investment in training, and removing regulations that discourage joint research.

Leonard Silk, a former economics columnist for The New York Times, was the chief author of the report.

Mr. BUMPERS. The committee said deficit reduction should focus on cutting spending, looking especially at military expenditures. During a news conference today in Washington, the committee members said "President Bush and Gov. Bill Clinton, the Democratic nominee, had not addressed the deficit reduction seriously."

Who are these people? Why, they are conservative Chamber of Commerce presidents of the biggest corporations in America. "Sorry, presidents of the big corporations of America, do not try to tell us how to run this country. We want to have a missile defense system, antiballistic missile system to build in North Dakota."

The Senator from Tennessee has very eloquently pointed out what happened to the Soviet Union. They wanted a space station, so they built it. They tried to stay in the living room with us on defense expenditures, and look at them; they are broke. Mr. President I want to repeat again, the verdict is still out on us.

Mr. PRYOR. Mr. President, I wonder if my distinguished colleague from Arkansas will yield for a question.

Mr. BUMPERS. I will be happy to yield.

Mr. PRYOR. Mr. President, it is my understanding—I have not been able to find this figure—but just talking to individuals in the Chamber this evening about this particular figure I am looking for, I am trying to ascertain as to what the figure might be for the unobligated balance of the SDI Program that now remains unexpended from former years, from last year's appropriation.

Mr. BUMPERS. Mr. President, the unobligated balance—the only figure I have is June 30—is $1 billion in unobligated balances.

Mr. PRYOR. Mr. President, it is my understanding, I respond to my friend from Arkansas, that this would be about one-fourth. About one-fourth of the entire SDI Program, here on the eve of the new fiscal year, is unobligated. So it appears to me, it appears to this Senator that the SDI Program is awash in money with $1 billion unobligated and now about to get another several billion dollars on top of that.

Mr. SASSER. Will the Senator yield further for a question?

Mr. BUMPERS. I will be happy to yield to the Senator for a question.

Mr. SASSER. In response to the question propounded by the Senator from Arkansas, is the Senator aware that David Chu, who had been mentioned earlier, the Assistant Secretary of Defense said, "I do not believe it is possible to construct an acquisition program for initial deployment in 1997 that has acceptable cost and performance risk?"

In other words, no matter how much money you throw at it, you cannot construct an acquisition program for initial deployment in fiscal year 1997 that has acceptable costs and performance risk.

Mr. NUNN. Mr. President, will the Senator yield for a brief procedural question?

Mr. SASSER. Yes. I might say I do not have the floor at this point. The Senator from Arkansas does.

Mr. BUMPERS. Mr. President, I yield to the Senator from Georgia for the purposes of asking a question of the Senator from Tennessee.

Mr. NUNN. I thank the Senator from Arkansas. I will just pose a question to both Senators. I would like very much to bring this to a vote, as I said at the beginning. I personally would favor an up-or-down vote as soon as we can.

Have the Senators an estimate about how much longer it would be before they would be prepared for a vote?

Mr. BUMPERS. Mr. President, I can speak for myself. I am coming down to the conclusion of what I had to say. I cannot speak for the Senator from Tennessee or the Senator from Arkansas, my colleague from Arkansas. Certainly, I assume the Senator from Wyoming would want to speak also, but that is on the Senator's side. I can say I am about out of snuff here on mine.

Mr. NUNN. Would the Senator from Tennessee be willing to set a time certain for a vote? There are people who are not on the Hill. I know they would like to be given notice. If we can set a time certain to vote, say at quarter to 9, 15 minutes?

Mr. SASSER. There are other Senators, at least one other Senator over here who expressed a desire to speak on this amendment. I do not want to preclude him by setting a time certain.

The Senator from Arkansas indicates he is winding down. I think I am, too. Perhaps we could just go on here, and then at some juncture I think we can do that.

Mr. NUNN. I thank the Senator.

Mr. BUMPERS. Mr. President, I personally, and this is a personal opinion, believe that Adm. Bill Crowe was the best Chairman of the Joint Chiefs in my lifetime. It takes nothing away from General Powell or others. I have the utmost respect for Colin Powell, but I just found Admiral Crowe to be an exceptionally candid person, unusually candid for his position.

I used to make a speech about how I wish people would tell us on the front end what they really believe rather than in their exit interview. I always thought what a wonderful thing it would have been had Dwight Eisenhower told us "beware of the military industrial complex" when he took office rather than when he left. And David Jones, one of the predecessors as Chairman of the Joint Chiefs of Staff to Admiral Crowe said in his exit interview, you do not know what it is like to be chairman and just sit over there and referee interservice rivalries. You cannot design a sensible defense structure when every time you give the Air Force $2 billion, you have to give the Navy $2 billion, and when you give the Navy $2 billion, you have to give the Army $2 billion. He said, "All I did was serve as referee."

How refreshing it would have been had he told that to us the first year he served. That is not to denigrate David Jones. I have the utmost respect for him. How many times have you seen that happen? Admiral Crowe was pretty candid all the time he was chairman. Maybe he is just a tad more candid now because he just recently made a speech, June 24, to the Armed Forces Communications and Electronics Association and he gets down to SDI. Here is what he said:

> I must admit that the case for a credible SDI mission, in my mind, grows weaker every day.
>
> The probability of unauthorized or accidental launches can be decreased to near zero by cooperation in the installation of PAL's and some kind of encrypted post-launch destruction system which can be disabled in case of an authorized launch.
>
> At present the United States is vulnerable to nuclear missile strikes from Russia and the three still-nuclear former Republics: China, France, and the United Kingdom. We take no precautions against launches of any kind by French or British forces, although it seems likely that they, too, could have accidents with their nuclear forces. By the end of the century the United States will be vulnerable to nuclear missile strikes from * * * the same nations and no others. At some point near the end of the first decade of the next century we might be vulnerable to attack by Israel and India, although attack from those quarters seems highly unlikely. In essence, I believe the threat case has been stretched to the limit by some rather fanciful scenarios. It is time to return to sanity.

Mr. President, he goes on to say, $2 billion annually would be an appropriate research amount for this system.

Mr. SASSER. Will the Senator yield on that point?

Mr. BUMPERS. I will be happy to yield.

Mr. SASSER. Mr. President, I am delighted that my friend from Arkansas reminded the body this evening of the distinguished career of Admiral Crowe. And I must say that I am enormously persuaded by the statement of this very distinguished warrior-statesman, I think perhaps the finest Chairman of the Joint Chiefs of Staff, the finest military Chief of the Pentagon probably since George C. Marshall occupied the position of Chief of Staff during the Second World War.

I am enormously persuaded by his statement that $2 billion would be sufficient to fund this SDI initiative. I am reminded, and I will ask the Senator from Arkansas if I have ever told him this story, of some years ago when Caspar Weinberger was the Secretary of Defense and Bill Crowe had not been Chief of Staff but for a short period of time. I was invited over to the Pentagon, along with others of our colleagues, to have breakfast with the Secretary of Defense, Mr. Weinberger, in his dining room. I had the great fortune to be seated next to Adm. Bill Crowe, whom I did not know at that time. My colleagues will recall the propensity on the part of Secretary Weinberger to bring out these very elaborate charts on a moment's notice or at the drop of a hat to tell us about the enormous threat of the Soviet Union, this enormous military threat, the evil empire just over the horizon whose every thought was of devouring this democracy and our way of life.

We sat there eating the bacon and eggs and listening to this. Finally, I could not restrain myself any longer and I voluntarily said to myself, "My God, how we overstate the Soviet threat." And then from the side a moment later, I heard Admiral Crowe say softly, "Yes, I think you are right."

What a statement to be made by the Chairman of the Joint Chiefs of Staff. And it was only 2 or 3 years thereafter that it became evident that the Soviet Union was unraveling; that its economy was on the verge of collapse.

I will remind my friend from Arkansas, in case he has forgotten and I do not think he has, that we were getting no such warnings from the Central Intelligence Agency, getting no such warning from these highly vaunted intelligence-gathering organizations that the people of the United States of America spent $30 billion on every year, according to the newspapers—$30 billion, I might add, that we did not have, that we had to borrow. But was my friend aware of that incident and the fact that Adm. Bill Crowe knew, I think, intuitively what an overstatement was being made?

It was Bill Crowe, as Chairman of the Joint Chiefs of Staff, over the objection of the State Department, who entered into a dialogue with General Akhromeyev, his counterpart, chief of the Soviet general staff. And they exchanged visits. Admiral Crowe went to the Soviet Union and saw exhibitions of Soviet military strength and procedures and weapons that no representative of the so-called free world at that time had ever had access to. General Akhromeyev came to the United States at Admiral Crowe's request and went to various U.S. military installations, saw military demonstrations, was aboard a United States nuclear aircraft carrier and was enormously impressed, according to Admiral Crowe, by the proficiency he saw there of naval aviators.

Admiral Crowe took General Akhromeyev to his hometown in Oklahoma. That was the kind of warrior-statesman that Bill Crowe was. That is why I say that he was the finest military leader we have had in that high office, I think, since George C. Marshall sat there as Chief of Staff. Bill Crowe knew we had to change. He knew we could not continue to devote enormous quantities of our national treasure to nothing more than the construction of weapons of destruction.

He had the foresight and the wisdom to open up a dialog with his counterpart, who commanded the Soviet military forces, over the objection of the State Department, over the objection, that was related to me, of the Secretary of State. What an enormous benefit it was to his country. Bill Crowe did more for his country by opening up that dialog and that element of trust between ourselves and the Soviet military than all the expenditures that will ever be made for the strategic defense initiative, and that includes hundred of billions that are going to be spent if we continue down the same road.

So I am enormously persuaded when my friend from Arkansas refers to the recommendation of this great American who enjoyed I think one of the finest careers that we have seen in the military.

I just wanted to ask my friend if he was aware of that incident?

Mr. BUMPERS. I was not aware of that, I say to the Senator. I found it most interesting. If I may, just to fill out the record on what I was saying about Admiral Crowe, here is the concluding paragraph of that same speech:

> In any event, I would argue for a throttled back effort on SDI which seems to accord more with both economic and military reality, perhaps in the neighborhood of $2 billion annually, to keep the program moving and our knowledge ahead of our competitors.

Here is the top military man of this country for 8 years under Ronald Reagan saying it is time to return to sanity, and yet it falls on deaf ears, it seems.

Mr. President, I just want to make a couple of observations. I have been amazed at what seems to me to be something of an inconsistency when the President announces to the world that he is going to veto any appropriations bill that is above his budget request.

Now, all of the appropriations bills collectively are well below his request, but he does not want a collection of all those bills and how much they are below his request. He wants each and every one of them to be below. And that is just fine with me. I think for once we can cooperate with the President and cut some more spending. I certainly am not going to vote for it. But is it not interesting that he says if you send this bill to me with this single item in it that the Senator from Arkansas and the Senator from Tennessee have proposed, I will veto the entire bill of $250 billion.

Now, on the one hand, he is going to veto any bill that does not comport with his budget request because he is trying to convince the American people of his sincere desire to do something about the deficit, and on the other hand he is saying if you do not put money back in there, I am going to veto it.

Now, Mr. President, I have talked to some of my colleagues today——

Mr. SASSER. Will the Senator yield for a question on that particular point?

Mr. BUMPERS. Yes, I am happy to yield.

Mr. SASSER. It was amazing to me, as we sat in the Appropriations Committee this morning, to have one of our senior Republican colleagues, who supports funding of the SDI at a level a minimum of $500 million below that level which the Senate impliedly endorsed 30 days ago, say that if the President does not get $3.8 billion in this defense appropriations bill, he is going to veto the whole bill. In other words, if he does not get more money, if he does not increase the deficit more to fund SDI by an additional $500 million, he is going to veto the whole bill.

It was interesting to see the reaction of the distinguished President pro tempore of the Senate, Senator BYRD, when that revelation came to the Senate Appropriations Committee. He stated, I am willing—paraphrasing now. This is not exactly what the distinguished President pro tempore, the chairman of the Appropriations Committee, said, but paraphrasing, he said I am willing to conform the amount of the appropriations bills to the spending limits that the President has requested, but I reject any effort by the President to veto a bill because it does not spend enough, because it does not spend enough.

Now, that is the determination that ought to be made by the Appropriations Committee and by the Senate as a whole. But I think the point which my friend from Arkansas makes is crystal clear. I find it difficult to accept such inconsistency—that the President on the one hand would make such a big fuss over the fact that he is going to veto appropriations bills that exceed the amount he thinks they ought to exceed, but then he is going to come along and veto appropriations bills that might be below the amount he thinks they ought to be.

Now, I ask my friend from Arkansas, where is the logic, where is the consistency in that, and what could be in that other than just the crassest of political motives?

Mr. BUMPERS. Mr. President, in that connection, could the Senator tell me what SDIO is going to do with $3.8 billion that they are not going to do if they only get $3.3 billion?

Mr. SASSER. I would have to confess to my friend from Arkansas that based on the report from the General Accounting Office, which said that the progress reports of SDI had been falsified, or at least were misleading, and based on the statement of Admiral Crowe that $2 billion would certainly be an adequate funding level for SDI, that it was time to throttle back on it, and based on the statements made by Dr. Chu to the effect that we simply could not spend the money as fast in essence as it is coming, his statement that the administration's SDI proposal, and I quote, "Contains excessive risk of cost growth and schedule slippage due to a compressed design phase, uniform buy flight, and system testing," there is no conceivable way that you could get more for your money by appropriating an additional $500 million.

Now, it might be possible, I say to my friend from Arkansas, to waste it. You might be able to put contracts all across the country which really are not coordinated in such a way that they are going to produce a meaningful result.

Maybe that is what it is all about. We have seen that in so many of these programs. I first saw it, the Senator from Arkansas will recall, in the B-1 bomber. The B-1 bomber had a very troubled development phase, but the contractors and the Reagan administration, even after Carter killed the B-1, were determined they were going to build it. So how did they go about it? They promised contracts to build a little portion of the B-1 bomber in almost every congressional district in the United States of America. So that every Congressman and every Senator almost would have a constituency in his or her district or his or her State that would say: "Well, how about supporting the B-1 bomber. If you do not, we are not going to get these jobs."

So that became the modus operandi, That became the standard operating procedure by which you made dubious and doubtful programs protect them from the action of the Congress. The B-1 bomber really broke the ground on that. And look at the B-1 bomber. I think we may have 97, 96 of them left; a disastrous waste of taxpayers' money.

Mr. BUMPERS. If I may, on that point, I reluctantly interrupt the Senator's train of thought. But he will recall we spent $6 billion back when $6 billion was $6 billion, in North Dakota, Grand Forks, to build an antiballistic missile system back in 1964 or 1965, somewhere in that timeframe, and they completed it in 1975. I was here, my first year in the Senate, when we voted to disassemble the thing almost the day it was completed because we knew it was not going to work—$6 billion right down the tube. Here we have already spend $27 billion, and nobody can report on one single technology that is going to do what we want it to do.

Mr. SASSER. The Senator is quite correct. What we are seeing here in the SDI program I fear is a repeat performance of the B-1 bomber. When we go down the list of these marvelous weapons systems that performed so well in the Persian Gulf war—they did perform very well—what we were not told is that most of those weapons systems were conceived in the R&D and most of the procurement begun in the years of Jimmy Carter, the same Jimmy Carter that others have called weak on defense, and the same President Jimmy Carter who had the wisdom to kill the B-1 bomber, and said it is a costly albatross that we do not need and cannot use; and that was resuscitated in the early years of the Reagan administration using this standardized approach that was conceived there of putting a piece of it in every congressional district in every State in the United States.

We have 96 or 97 B-1 bombers around the country at airfields sitting there leaking their vital fluids on the runways, and who knows how many hundreds of billions of dollars was spent on a weapons system that to this day is essentially useless.

I well remember the distinguished chairman of the Armed Services Committee warning us. He warned this body. He said I do not know if we can afford—this is when we were debating the B-1 bomber program—the B-1 bomber and the Stealth bomber. Of course, none of us knew anything about the Stealth bomber then. That was the black program I knew nothing about, and I dare say the Senator from Arkansas did not. But the distinguished chairman of the Armed Services Committee did know the parameters of the program. I judge from his statement that he knew of the expense. But my point is this: The B-1 bomber program was the beginning of this concept of spreading it around the country, using these dubious projects as jobs programs, as port barrel, if you will, to sustain their viability.

We see it now—my friend from Arkansas knows this very well—in the space station. How many of our colleagues say to us, well, I know we do not need that space station or I know we probably ought to be spending the money somewhere else but you know, part of it is built in my State and I have all of these people who are going to lose jobs, contractors who are going to lose contracts. We are right in the same thing with SDI.

You ask the question what more will $500 million do? $500 million, according to Dr. Chu, as I read him, could not be spent efficiently and effectively. According to Admiral Crowe, $2 billion is enough. We need to throttle back even though we have $3.3 billion in our amendment.

So if we come with another $500 million on top of the $3.3 billion the only conceivable expenditure that I can see for it is to strew more contracts across the country, get more people involved, get more universities involved so the chairman of the physics department goes to the chancellor or the president of the university and says call Senator X because we have this project over here at the physics department on this SDI money and we need to keep it coming. How many Senators have gotten calls or letters from presidents of universities who are getting money carrying out physics projects on SDI? This might be fine, basic research but essentially it is not producing. It has not produced much to this point. We have a General Accounting Office report which states in black and white that the SDIO, Strategic Defense Initiative Organization, has been exaggerating and overstating the success of the task so far.

So the Senator asked me what in the world can we do with an additional $500 million that we could not do with the $3.3 billion? As far as SDI is concerned, nothing. As far as the rest of this Government is concerned, my first preference would be to use that $500 million to help lower the deficit because we are going to have to borrow that $500 million, to borrow another $500 million, if we take that out of Treasury.

But if our colleagues do not want to do that, perhaps we could find some other program to use it in. It would be my wish to use it in education, cancer research, in conversion from defense industry to civilian industry. Some of that cannot be done because of the so-called wall. But, frankly, I think, I say to my friend from Arkansas, rather than putting the additional $500 million into SDI, I would rather put it into some area of the defense budget because I think we would get more out of it.

Mr. BUMPERS. Does the Senator mean that, second to reducing the deficit?

Mr. SASSER. I mean that as a very poor third. My first preference is to reduce the deficit. My second preference would be to try to use it in some way that it would enhance and revitalize the productive capacity of this economy and the American people, or to deal in some way with the very serious economic and social problems we have in this country.

Is my friend from Arkansas aware that since President Bush took office 72,000 people have been murdered in this country by gunfire? I am not saying that is President Bush's fault. I am not trying to lay that at his doorstep. But what I am saying, perhaps if we had had $500 million to spend somewhere on education programs, on drug rehabilitation programs, even on psychiatric counseling, on better law enforcement, I daresay that thousands of our fellow citizens would not have met their death by gunfire.

So there are many, many uses that these funds could be put to, for a better and higher use, I say to my friend from Arkansas, by than increasing the funding for the SDI by $500 million.

Mr. NUNN. Mr. President, will the Senator yield?

I had anticipated that we might vote around 9 o'clock. There are a number of people that believe that is going to be the hour. We do not have any agreement. But I would like to get some sense from the Senator from Arkansas and the Senator from Tennessee if we can wrap up the debate and go ahead and vote on this amendment because we have other amendments that we must take up. Even if have to be in Saturday, we are going to have a real challenge of discipline to get this bill completed. Are we ready to vote?

Mr. BUMPERS. Let me say that I do not want to prolong this any longer. I would like to make a couple of points and I am finished.

The point I want to make first is that the Senator talked about how the Defense Department and NASA have developed the dispersion of contracts to all the different States in order to coopt a hundred Senators on these projects.

They made it an art form to make sure that nothing is ever stopped. But there is another argument that is made around here, and in the past 10 years it has been absolutely unassailable. Nobody can refute it. I will tell you what it is. It is that we have gone too far. We have already put too much money into it to turn back now, no matter how foolish; it can be "the height of folly," as Barbara Tuchman said in her book. The art of it is that on SDI, we have $27 billion invested.

I will tell you about one of the long, long battles. The Senator from Tennessee was on the other side of that one at the time. I fought for 5 long years in the U.S. Senate to kill the Clinch River breeder reactor. I know that conjures up memories to the Senator from Tennessee. At that time, the majority leader in the Senate was Howard Baker from the great State of Tennessee, a fine man, leader and Senator.

Every time I would get close, Senator Baker, as the majority leader, would just pull out two more votes, and every year I think, "now I have him this year," and at the last moment, he would have a couple votes he would pull out and defeat me. But the argument was that we had already spent a billion dollars on that Clinch River breeder. The Senate gathered up its collective nerve and killed it. There has not been one single ounce of remorse or regret since.

Before I got here, this body almost decided to build a supersonic jet transport. And by one vote—by one vote—the U.S. Senate killed it. So there was a time in this body when people had the courage and the spine and the sanity to do the right thing.

My closing point is this, and it is not meant in a derogatory manner at all. But I have talked to some Senators today who I guess are going to change their votes. Some Senators have said, "Dale, I am afraid if I do not support the Senator from Georgia on his amendment, we will not get a bill." Think of that. We will not get a bill. Here we are supposed to be the world's greatest democracy, the longest democracy in existence, trying to work the will of the people and the U.S. Congress, and because the Senator from Tennessee and I get one little, microscopic victory here in trying to curb what everybody would have to agree in his innermost thoughts is an outrage, and after we prevailed the other night 49 to 43, a couple Senators on the other side of the aisle said the filibuster has begun. That is what it amounted to.

The Senator from Georgia had to pull the bill down. They could not stand it because we had prevailed in cutting $1 billion. People say, well, the President is going to veto the bill, or there is going to be a filibuster if you prevail, so I cannot support you. What kind of a Senate is that? Mr. President, I implore my colleagues tonight to do exactly what Bill Crowe said when he said it is time to return to sanity and cast a vote of conscience, not about the validity and the propriety and desirability of SDI in Fargo, ND; cast a vote for the project, but for fiscal sanity at the same time.

I yield the floor, Mr. President.

Mr. NUNN. Mr. President, I would like very much to be able to wind this up and vote. The Senators from Tennessee and Arkansas have made their case and, as always, they have made their case very well and very articulately. We have to move on. The Senator from Arkansas [Mr. PRYOR], has another amendment on SDI, which I hope we can handle this evening, and I hope we can start on the B-2 amendment, perhaps even finish it this evening, or at least start on it.

We have an amendment—if this amendment in the second degree is not agreed to—that I will put forward, and it will not take very long. There should be virtually no debate. We have already debated it. It will be for $3.8 billion in funding for SDI, which is what the Appropriations Committee came up with. And that is in between what is in our bill now and what would be in the Sasser-Bumpers amendment.

So, Mr. President, I would ask the Senators—I am prepared to recommend that we have an up-or-down vote on their amendment and am prepared to ask for the yeas and nays. I would prefer not to move to table the amendment and, yet, I am compelled to move in one direction or the other, because we have to move on if we have any chance at all of finishing this bill.

So I ask the Senator from Tennessee and the Senator from Arkansas if they are prepared and ready to vote on their amendment.

Mr. SASSER. Let me say to my friend from Georgia that I was prepared to vote on this amendment 30 days ago. A lot of water has gone under the bridge since then. We were prevented from voting on this amendment 30 days ago by a small minority on the other side of the aisle. Senator BUMPERS and I have waited for a long time to get a vote. It appears that this evening, when we want to discuss this issue further, we are being pushed and pushed and pushed, and saying we want to have a vote. We do not want to discommode our colleagues. We did not want to discommode our colleagues 30 days ago, but it was a small, willful minority who chose to discommode this body 30 days ago—not myself, and not Senator BUMPERS.

During that 30 days, a lot has gone down here. A lot of statements have been made to Senators; and it is not an accident, I submit, that the chairman of the Defense Appropriations Subcommittee put out the number $3.8 billion which, I might add, he could not get ratified by the full Appropriations Committee. As I said earlier today, the Appropriations Committee failed on a Stevens motion to table the Sasser-Bumpers amendment in the Appropriations Committee.

Mr. NUNN. I will repeat my question. Is the Senator prepared to vote? I might say, as a prelude, that I was prepared to vote 30 days ago, too, and urged our colleagues to vote then, as the Senator from Tennessee well knows. I was prepared to vote at any time. I am prepared to vote now. I am prepared to accept the outcome, whatever it is, and I am prepared to move on. I believe the Senate has to move on. I repeat my question to the Senators from Tennessee and Arkansas. I prefer not to move to table, that if I cannot go to an up-or-down vote without consent, it would be my intent to move to table the pending amendment. So is the Senator prepared to vote up our down?

Mr. SASSER. Mr. President, I might be prepared to vote in a short period of time. I wanted to make a few more comments here. Of course, we cannot prevent the Senator from Georgia from doing so, if he wishes to move to table.

Mr. NUNN. I intended to give the Senators an up-or-down vote, which I thought they desired. If they prefer a motion to table, I will be glad to do that. I would like to accommodate them as best I can, but I must, as the manager of the bill, move on one way or the other, win, lose, draw, whatever it is.

(Mr. WOFFORD assumed the chair.)

Mr. NUNN. Mr. President, will the Senator be prepared to vote at 9:20? Would the Senator want 10 additional minutes, or 5 additional minutes?

Mr. SASSER. I think 10 additional minutes would be sufficient.

Mr. NUNN. Mr. President, I ask unanimous consent that there be an up-or-down vote on the pending amendment at 9:20, with the time between now and then equally divided.

Is that satisfactory? Are 5 minutes enough?

Mr. WARNER. Give them all of it.

Mr. SASSER. That is fine; 10 minutes equally divided.

Mr. NUNN. I ask unanimous consent that the Senator from Tennessee be yielded 7 minutes, and our side 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. SASSER. Mr. President, I yield myself such time as I may consume, up to 5 minutes.

Mr. President, the distinguished Senator from Arkansas made a very cogent case a moment ago on the whole question of how something gets started, and then it continues on through its own momentum; something gets started, and we can never stop it.

I think SDI is a classic example. Some of the other projects that we have sought to curtail and make substantial savings to the Treasury with these past few months also are examples.

But we are about to embark, I say to my friend from Arkansas, on another new start here in this bill. We will discuss this at a later date. But I wanted to respond to a point that was raised by the Senator from Arkansas.

This bill contains $350 million for long-lead items on a new aircraft carrier.

The U.S. Navy currently has 14 aircraft carriers that are operational, plus 1 aircraft carrier for training. That is 15.

The Navy is scheduled to take delivery of a new carrier this year, a nuclear aircraft carrier, the *George Washington*. It has two other aircraft carriers in the pipeline, both nuclear carriers: The *John C. Stennis* and the *United States*.

We are going to fund in this bill the long-lead items for another aircraft carrier. It makes no difference that it appears that nobody else in the world has any aircraft carriers. Oh, the French and the British may have one or two old tubs that were left over from World War II that clank around occasionally. But that is about it.

I say to my friend from Arkansas, we are going to be confronted here next year, when we deal with the question of the aircraft carriers then, they are going to say: Well, now we have so much invested that we cannot afford not to go forward.

That is going to be the argument that is made. And that is how we get these things started.

You can bet your bottom dollar that that is one of the arguments that is raised time and again when we start talking about the strategic defense initiative: We have so much money invested in it, we have so much here at stake; how can we afford to turn back now?

And all the Senator from Arkansas and myself are suggesting to our colleagues this evening is to follow the admonition of Dr. Chu at the Pentagon: Let us not move forward with this project at an accelerated rate. It cannot be completed by 1997, even if we do. We will only end up spending additional money to get the same result that we would get in the year 2001 or 2002, if we went at it in a more rational and reduced program that would make more sense.

That is what Dr. Chu said.

Adm. Bill Crowe, the former Chairman of the Joint Chiefs of Staff, indicates that we need to throttle back and fund this program at $2 billion.

So I plead with my colleagues this evening: Let us save this money. Let us save $500 million; let us save one-half billion dollars of taxpayers' money. That can be done without diminishing this program at all—at all. It is just good common sense.

I hope that none of my colleagues who voted 30 days ago, in essence, to fund this program at a level of $3.3 billion, will not turn and renounce that vote and go in another direction.

Mr. President, I ask unanimous consent that the Washington Post article and the General Accounting Office report also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 16, 1992]

SDI SUCCESS SAID TO BE OVERSTATED

(By R. Jeffrey Smith)

Officials responsible for developing an antimissile system to defend the United States have repeatedly exaggerated the achievements of space experiments and flight tests meant to demonstrate the success of their research effort, a report by congressional auditors has concluded.

Following a one-year study, the report by the General Accounting Office said four tests between January 1990 and last March were not as successful as officials in the Strategic Defense Initiative program claimed in a series of news releases, briefings and reports to Congress.

One of the experiments involved the sole, full space test so far of an antimissile interceptor known as a "Brilliant Pebble," the centerpiece of the Bush administration's concept for missile defense. SDI program managers had described the test as "a 90 percent success," but the GAO report disclosed that a sensor failed to collect useful data, a gyroscope did not operate properly and the interceptor failed to maneuver properly or accurately track its target.

In another instance, program managers claimed that a protective cover for a different kind of interceptor was properly jettisoned during the early stages of a test; in reality, pieces of the shroud broke off, disintegrated and damaged the interceptor, forcing the shroud's redesign.

A third type of interceptor was said by officials after another test to have distinguished between real enemy missiles and missile decoys, meeting one of SDI's most vexing technical challenges. But, in fact, the interceptor had no such capability, according to the GAO report.

The report added, however, that three other tests during the period studied were correctly depicted by the SDI agency, an arm of the Pentagon, as either complete failures or of limited success.

While the auditors drew no conclusion about why the test achievements had been exaggerated, the chairman of the House Government Operations Committee, Rep. John Conyers Jr. (D-Mich.), charged in a written statement that SDI officials had sought to cover up test failures in order to claim "great break-throughs" and thus "justify annual budgets of four to five billion dollars."

"Now we've caught them in the act," said Conyers, an opponent of the SDI program who commissioned the GAO study and provided a copy to The Washington Post.

SDI Director Henry F. Cooper said that overall, he does not believe the GAO report is "fair in its presentation," partly because it does not mention that unexpectedly useful data has been obtained on some tests that went awry.

He said the report was written as if "these guys were assigned a job, and they went off and did it."

Disclosure of GAO's conclusions comes at a sensitive moment for the controversial antimissile program.

The Senate Appropriations subcommittee on defense is expected to begin deliberations today on a Bush administration proposal to boost funding for the SDI program, which is already the largest U.S. military research endeavor.

After two years of rising congressional support for antimissile work, bolstered by the widespread impression of successful patriot interceptions of Iraqi Scud missiles in the 1991 Persian Gulf War, Congress is beginning to have second thoughts about the "Star Wars" program.

Last month, a majority of the Senate supported a proposal by Sens. Jim Sasser (D-Tenn.) and Dale Bumpers (D-Ark.) to trim the current SDI budget of $3.95 billion by 20 percent.

Republican senators who supported the Bush administration's proposal for a 37 percent boost in Star Wars spending responded by blocking a vote on legislation authorizing the 1993 defense budget—a stalemate that may be broken by compromise later this week.

While the bulk of the $27 billion spent on SDI over the past nine years has gone for laboratory research and analysis, flight tests have routinely been conducted to prove that prototypes can work and to provide visible, politically potent symbols of the program's technical progress.

No major flight tests of interceptor prototypes like those now being considered for deployment were conducted prior to the period studied by GAO, according to an SDI spokesman.

Two flight tests have been conducted since the study was completed, including one in which the interceptor was judged "flawless," although it failed to hit its target due to a problem with communications gear.

The seven tests studied by GAO each cost between $12 million and $50 million, excluding the hardware and engineering development costs, according to an SDI spokesman.

The report's analysis indicates that while important research has been conducted by these tests, more questions about the design and performance of proposed ground-based and space-based antimissile interceptors remain unanswered than SDI officials have publicly acknowledged.

The portion of the GAO report that could sow the most alarm among SDI supporters on Capitol Hill deals with a 1991 test of a Brilliant Pebbles prototype.

The Bush administration wants to spend $449 million next year to continue development of the rockets, nicknamed for their sophistication and relatively small size. It declared in June that up to 1,000 of the interceptors should be orbited beginning in the year 2001; from there, the rockets would be in position to collide with enemy missiles during the first few minutes after launch.

Critics of the Star Wars program have recently trained most of their fire on Brilliant Pebbles, arguing that deployment of such interceptors would be unnecessary, costly and perhaps unworkable.

The House voted this summer to eliminate funding for Brilliant Pebbles, while the Senate Armed Services Committee voted to reduce the Pebbles effort so more work can be done on interceptors that would be deployed on the ground.

An initial Brilliant Pebbles space test, held in August 1990, largely failed when key parts of the missile were prematurely separated 81 seconds after launch from Wallops Island, Va.

As a result of this failure—which SDI acknowledged at the time—and various equipment and computer software problems, SDI officials decided a few weeks before a second test in April 1991 to drop or scale back many of their published goals for the experiment.

Air Force Col. Roland Worrell, director of the Brilliant Pebbles program, told reporters at a Pentagon news conference the day after the launch that the test was "all in all . . about a 90 percent success," noting it had met all but one goal.

Similarly, SDI director Cooper told a skeptical Conyers at a hearing the following month that the test "accomplished all of the main objectives," a claim he reiterated in a June 16 letter.

But according to the GAO report, neither Worrell nor Cooper mentioned the goals had been revised. The omission left a broad impression that the weapon had met such key demands as correctly sighting its target and maneuvering precisely to intercept it, when in fact it had not according to the GAO report.

"When compared to the original goals . . .the 90 percent success statement significantly overstated test results," the GAO report said. "Nothing was obtained for one [original] goal and the other three goals were only partially satisfied."

An SDI news release about the test falsely claimed that it was more complicated than previous tests, and Worrell incorrectly indicated that the test's success warranted moving to a new phase of research, according to the original test plan, the report said.

"The revised test was of a less capable prototype, tested over a more limited range of operation than originally intended," the GAO report said. "The program has not progressed as intended."

Conyers, citing Cooper's testimony before his committee, said the SDI director "has been less than truthful. . . This report shows how he twisted the truth to claim successes where none, in fact, existed."

Cooper responded in an interview that while he regrets not mentioning the experiment's revised goals in his letter to Conyers, he still feels the experiment was "a success."

He said Worrell's claim of "90 percent success is a generic kind of a statement. I don't believe anybody was thinking about a quantitative assessment when they said 90 percent. . . . It probably shouldn't have been given out."

Responding to the GAO claim that the results of a January 1991 test of a ground-based interceptor known as ERIS had been misrepresented by the Army Strategic Defense Command—an SDI partner—Cooper said "there were some people [in the Army] who had an incorrect view" of the interceptor's ability to distinguish between real and fake missiles.

The Army claimed the interceptor had shown such ability in the test; the GAO report said ERIS failed to meet this key goal.

Following a test of another interceptor known as HEDI, Army officials claimed that the design of its protective shroud had been validated; once GAO began asking questions, however, the Army issued a new fact sheet on the flight that omitted the claim without explaining its earlier error.

"People try to be fair with what is presented," Cooper said, "On occasions, there are people who get too exuberant."

[U.S. General Accounting Office, Report to the Chairman, Legislation and National Security Subcommittee, Committee on Government Operations, House of Representatives, September 1992]

STRATEGIC DEFENSE INITIATIVE: SOME CLAIMS OVERSTATED FOR EARLY FLIGHT TESTS OF INTERCEPTORS

EXECUTIVE SUMMARY

Purpose: The Strategic Defense Initiative program is developing a family of kinetic kill interceptors to destroy missiles by colliding with them. From January 1990 through March 1992, the Strategic Defense Initiative Organization (SDIO) conducted seven flight tests of early experimental versions. The Chairman, Legislation and National Security Subcommittee, House Committee on Government Operations, asked GAO to determine the accuracy of SDIO's claims for these tests.

Background: Kinetic kill interceptors use head-on collisions up to 30,000 miles an hour to destroy targets. SDIO is developing three types of kinetic kill interceptors that would attack a ballistic missile at different points in its flight path. Brilliant Pebbles, a space-based interceptor, would attack targets above the earth's atmosphere (exoatmospheric). Finally, a different ground-based interceptor would attack targets after they have reentered atmosphere (endoatmospheric). Each uses different technologies that SDIO must develop and then demonstrate through flight testing (see fig. 1.1.)

Results in Brief: SDIO claimed that five of the seven flight tests were successes and the other two were failures. GAO concluded that SDIO inaccurately described some results of four of the seven tests.

TABLE 1: ACCURACY OF SDIO'S TESTING CLAIMS

Flight test	SDIO claims about test	GAO's conclusions
Tests with some Inaccurate claims:		
KITE 1	Shroud design validated	Inaccurate.
Window cooling system validated	Accurate.	
ERIS 1	Successful test	Accurate.
Target discrimination achieved	Inaccurate.	
LEAP 1	Successful test	Accurate.
Altitude and accuracy goals met	Inaccurate.	
BP 2	90-percent successful	Inaccurate.
Increasingly sophisticated tests	Do.	
Completion of Phase I testing	Do.	
Tests with accurate claims:		
KITE 2	Failure	Accurate.
ERIS 2	Limited success	Do.
BP 1	Failure	Do.

GENERAL ACCOUNTING OFFICE, NATIONAL SECURITY AND INTERNATIONAL AFFAIRS DIVISION,
Washington, DC, September 8, 1992.

B-223094

Hon. JOHN CONYERS, Jr.,
Chairman, Legislation and National Security Subcommittee, Committee on Government Operations, House of Representatives.

DEAR MR. CHAIRMAN: This report responds to your request that we review the accuracy of the Strategic Defense Initiative Organization's claims about the results of flight tests of kinetic kill interceptors. As agreed, we reviewed all seven flight tests conducted from January 1990 through March 1992.

As arranged with your office, unless you publicly announce this report's contents earlier, we plan no further distribution of it until 30 days after its issue date. At that time, we will send copies to appropriate congressional committees; the Secretaries of Defense and the Army; and the Directors, Strategic Defense Initiative Organization and Office of Management and Budget. We will also make copies available to others upon request.

This report was prepared under the direction of Brad Hathaway, Associate Director, who may be reached on (202) 275-4265 if you or your staff have any questions concerning this report. Major contributors to this report are listed in appendix I.

Sincerely yours,

FRANK C. CONAHAN,
Assistant Comptroller General.

[Charts and graphs not reproducible in Record:]

PRINCIPAL FINDINGS

One KITE Flight Test Claim Not Supported by Test Results: The goal of the Kinetic Kill Vehicle Integrated Technology Experiment (KITE) is to demonstrate key technologies for a ground-based interceptor. It would destroy enemy nuclear warheads as they reenter the upper part of the earth's atmosphere, about 62 miles (100 kilometers) above the earth. An optical sensor is inside the interceptor, which has a window for the sensor to look through to find the target. (See fig. 2.1.) During the first 5 to 10 seconds of flight, a protective shroud covers the window. Then the shroud must be removed without damaging the interceptor. Due to the severe heating of the window by the atmosphere, the window would become opaque unless cooled. If the window were opaque, the optical sensor could not see through it to find the target. The purpose of the KITE-1 flight test was to show that the shroud and the window cooling system worked properly.

The Army Strategic Defense Command's news release claimed that the KITE-1 flight test in January 1990 validated the design of the shroud. Test reports show it did not. The shroud broke off in pieces and hit the vehicle. SDIO redesigned the shroud using a different material and plans to flight test it again. The news release also claimed that the flight test validated the window cooling system design. Test reports show it did.

The Army Strategic Defense Command said that the KITE-2 flight test in September

1991 was a failure. The interceptor was destroyed by the premature detonation of the flight termination system explosives while the interceptor was starting to move from the launch pad.

One Exoatmospheric Interceptor Flight Test Claim Not Supported: The purpose of the Exoatmospheric Reentry Vehicle Interceptor Subsystem (ERIS) program is to resolve technical issues associated with development of a ground-based interceptor to destroy warheads above the earth's atmosphere. The most difficult problem is that the interceptor may have to pick out the target among various decoys. SDIO has conducted two ERIS flight tests. Although the first test in January 1991 successfully achieved its planned goals as claimed, SDIO and the Army Strategic Defense Command also claimed that target "discrimination" was demonstrated. This claim is inaccurate. The second ERIS flight test in March 1992 failed to intercept the target. SDIO and Army Strategic Defense Command press releases explained why the intercept did not occur and claimed that the test achieved all the other major goals. GAO found that this claim is accurate.

Lightweight Exoatmospheric Projectile Claims Overstate Success: The Lightweight Exoatmospheric Projectile (LEAP) is a technology program to develop the smallest, lightest, kinetic kill interceptor possible. The first flight test in February 1992 was a dress rehearsal to check out test support hardware and procedures. The test used an older projectile in place of a new expensive LEAP projectile.

SDIO claimed, based on preliminary flight test information, that the checkout test was successfully completed. SDIO said that the experiment had reached the required altitude, had accurately positioned the target and projectile for a test, and had wrung out all procedures necessary for future LEAP tests.

GAO agrees that the test was successful in satisfying its general goal of eliminating problems in the test setup. However, test information available at the time of the press release showed that the experiment had not reached the altitude claimed. Also, information available at that time on the relative positions of the target and projectile did not provide the accuracy to positively conclude that they were positioned correctly. Preliminary information indicated that the articles may have been positioned properly, but this could only be verified later, using detailed test data.

Some Brilliant Pebbles Flight Test Claims Overstated: SDIO is developing Brilliant Pebbles to destroy ballistic missiles early in their flight. SDIO's Integrated Test Plan had four test goals for the first two flight tests. The first test in August 1990 failed when a malfunction 81 seconds after launch ended collection of information. This prevented transmission and recording of performance information from the interceptor. SDIO's statements to the press and Congress said that the test failed to collect useful information on the interceptor's performance. The second test in April 1991 repeated the first test's scenario. It was partially successful. However, SDIO made several statements that overstated the test results and technical progress represented by the test.

In a press briefing the day after the test, SDIO characterized the test as about a 90-percent success. When challenged by the Chairman of the Legislation and National Security Subcommittee during a hearing on May 16, 1991, about SDIO's claim of success, the SDIO Director repeated the 90-percent success claim and said that the test "accomplished all of the main objectives of the test." A few weeks later in a letter to the Chairman he said that he stood by SDIO's characterization of the experiment's success and that the Committee's questions about the claim of 90-percent success did not reflect a complete understanding of the four test goals as further defined in the Mission Experiment Description. There was nothing in the letter explaining that there were significant reductions in test goals, other than the phrase "further defined." The Mission Experiment Description set forth six revised goals that were significantly different from the original four goals with respect to the technical performance that was to be demonstrated. SDIO did not adequately disclose the reduced goals outside SDIO.

During GAO's review, the Brilliant Pebbles Test Director said that the 90-percent success statement was his qualitative assessment of how well the test went when compared with the revised set of six goals. Brilliant Pebbles program officials said the test met five of the six goals, which would be an 83-percent success if all the goals were equally important. This was a reasonably accurate claim if measured against the substantially reduced test goals.

SDIO also said this flight test completed the second in a series of successively more difficult tests and that this completed Phase I of their test program. These statements gave the inaccurate impression that, with the completion of the first two tests, SDIO had achieved the technical goals it had set for these tests. If the first two tests had been done as planned and had been successful, SDIO would be in a position to begin the next phase with minimum risk. The actual test results accomplished much less than planned. First, the acquisition and tracking software that is essential for intercepting a target was never tested, although it was supposed to be on both tests. Development of the software was behind schedule and was not available for testing. In addition, because acquisition and tracking did not occur, other test goals were not accomplished. Finally, the more difficult second test in daytime against the earth background was never done. SDIO instead repeated the first test that failed, which was at night against a space background.

AGENCY COMMENTS

GAO discussed its preliminary work results with responsible SDIO officials and has included their comments where appropriate. These officials raised concerns that GAO had not adequately explained its methodology for comparing Brilliant Pebbles test results with test goals as discussed in chapter 5. GAO has included additional information in chapter 5 to reflect SDIO's belief that a revised set of goals should have been used to evaluate the claim of 90-percent success for flight test 2. As requested, GAO did not obtain written comments on a draft of this report.

CHAPTER 1—INTRODUCTION

From January 1990 through March 1992, the Strategic Defense Initiative Organization (SDIO) conducted seven flight tests of three types of kinetic kill interceptors, two ground based and one space based. The purpose of these flight tests was to show that critical technology issues were being successfully resolved. SDIO claimed that five of the tests were generally successful.

SDIO is developing various technologies for building kinetic kill interceptors, which use the energy of motion to destroy an object. According to a senior project engineer, the combined speed of the interceptor and the target in a head-on collision would be up to 30,000 miles an hour, which creates enormous destructive power. Different types of kinetic kill interceptors are needed depending on where the target is intercepted during its ballistic flight path.

The flight of a ballistic missile consists of four phases: boost, post-boost, midcourse, and terminal. (See fig. 1.1.) The boost and post-boost phases refer to the first few minutes of a missile's flight after launch until the reentry vehicles and decoys are deployed. Midcourse is the longest period of time, when the reentry vehicles and decoys are coasting along their ballistic trajectories in space above the earth's atmosphere. The terminal phase is the final minute or so when the reentry vehicles reenter the earth's atmosphere near their targets.

[Figures are not reproducible for the RECORD]

Types of kinetic kill interceptors

SDIO is developing three types of interceptors for destroying enemy missiles. One type of interceptor, called Brilliant Pebbles, would be deployed in space. It is designed to intercept targets during their boost and post-boost phases above the earth's atmosphere. (See fig. 1.1.)

A second type of interceptor would be launched from the ground to intercept targets during the midcourse phase. This type of interceptor is called an exoatmospheric (outside the atmosphere) interceptor. The most difficult problem is picking out (discriminating) the target from among various decoys that might be used to look like the target and confuse the interceptor. SDIO has begun two series of flight tests, one called the Exoatmospheric Reentry Vehicle Interceptor Subsystem (ERIS) and the other called the Lightweight Exoatmospheric Projectile (LEAP). The goal is to develop the technology for building an interceptor.

A third type of interceptor, which would also be launched from the ground, is being developed to intercept targets during the terminal phase within the earth's atmosphere, as shown in figure 1.1. This type is called an endoatmospheric (inside the atmosphere) interceptor. The atmosphere presents a heating problem for the interceptor as it speeds through the air to intercept the target. The Kinetic Kill Vehicle Integrated Technology Experiment (KITE) program is to show that this problem can be overcome.

Objectives, scope, and methodology

The Chairman, Legislation and National Security Subcommittee, House Committee on Government Operations, requested that we review the accuracy of SDIO's statements about the results of flight tests of kinetic kill interceptors. As agreed, we reviewed all seven flight tests of interceptors, which were conducted from January 1990 through March 1992. All of the interceptor tests covered in this report represented very early experimental versions of kinetic kill interceptors.

Our objective was to determine the accuracy of claims made by officials representing SDIO and the Army Strategic Defense Command regarding the results of these tests. The Army Strategic Defense Command conducted the flight tests of the ground-based interceptors for SDIO. The Lawrence Livermore National Laboratory conducted the Brilliant Pebbles flight tests for SDIO. SDIO conducted the LEAP test.

We met with officials from SDIO, the Army Strategic Defense Command, and contractors working on these programs. We examined congressional hearings, SDIO reports to Congress, official news releases, press briefings, and other pertinent documentation to identify claims made regarding these tests. We reviewed test plans to find specific goals for each test and test reports to obtain actual results of the tests. We then compared actual test results, in view of the test goals, to the claims made regarding these tests to determine whether the claims accurately portrayed the test results. A professional engineer consultant provided technical assistance.

We performed our review between July 1991 and July 1992 in accordance with generally accepted government auditing standards. We discussed our preliminary work results with responsible SDIO officials and have included their comments where appropriate. These officials raised concerns that we had not adequately explained our methodology for comparing Brilliant Pebbles test results with test goals as discussed in chapter 5. We have included additional information in chapter 5 to reflect SDIO's belief that a revised set of goals should have been used to evaluate one of the Brilliant Pebbles claims for flight test 2. As requested, we did not obtain written comments on a draft of this report.

CHAPTER 2.—KINETIC KILL VEHICLE INTEGRATED TECHNOLOGY EXPERIMENT FLIGHT TESTS CLAIMS

Two KITE flight tests (Kite-1 and Kite-2) were conducted at the White Sands Missile Range in New Mexico. Based on our comparison of official claims with the actual test results, one of the two KITE-1 claims made about the results was inaccurate. The Army Strategic Defense Command claimed that the test results validated the shroud design. They did not. The shroud, which protects the front of the missile from high temperatures, was to open and peel away from the interceptor without hitting or damaging it. It did not and had to be redesigned with different material.

No claims of success for the Kite-2 test were made. The interceptor exploded a fraction of a second after rocket ignition, as it was moving off the launch pad, and the Army Strategic Defense Command accurately said that the test was a failure.

System description

Since January 1986, SDIO and the Army Strategic Defense Command have been working to develop a ground-based interceptor that can hit and kill enemy nuclear warheads after they reenter the upper limits of the earth's atmosphere, an altitude of about 62 miles[1] (100 kilometers). Intercept could occur down to about 25 miles (40 kilometers). Attacking a target after it is in the earth's atmosphere requires the interceptor's optical-homing sensor system to function while the interceptor is traveling through the atmosphere at speeds up to 13,000 miles per hour. This speed creates extreme high pressure on, and high temperatures in the body of the interceptor.

The optical-homing sensor system is inside the interceptor, which has a window for the sensor to look through and find the target. During the initial part of the interceptor's flight through the densest part of the atmosphere, a shroud covers the interceptor's nose and window. The shroud protects the nose and window against the excessive heat generated by friction of the high-speed interceptor traveling through the lower atmosphere.

At 5 to 10 seconds into the flight, the interceptor's shroud is unfastened and peeled away by the air pressure to uncover the nose and window. Simultaneously with the removal of the shroud, the interceptor's cooling system is started. Without this cooling, the severe heating would make the window appear opaque to the optical sensor. As a result, it could not see through the window to find the target.

Comparison of test goals, results, and claims for first flight test

The Kite-1 flight test, conducted on January 26, 1990, had 12 goals. Of these, the two key technology goals were proper shroud separation and a window cooling experiment (see fig. 2.2). The purpose was to show that the shroud and the window cooling system would work properly in the earth's upper atmosphere.

The other 10 goals related primarily to achieving the proper test environment rather than resolving key technology issues. One of those 10 goals was verification of the flight termination system. The flight termination system detonated prematurely, limiting the length of the test to about 6.9 seconds.

Claim that shroud design was validated

An Army Strategic Defense Command news release issued 3 days after the Kite-1 test claimed that the flight test validated the design of the nose cone shroud. "All the critical test functions worked perfectly during the flight: the shroud came off clean and didn't impinge on the rest of the missile."

Subsequently, the Army Strategic Defense Command issued two fact sheets, one in July 1991 and the other in October 1991, still claiming that the flight test had validated the shroud design. When we discussed this matter with Strategic Defense Command project officials, they were surprised this claim was in the fact sheet. In June 1992, a new fact sheet was issued that deleted any reference to the validation of the shroud design.

This test was to demonstrate proper separation of the shroud from the kill vehicle. To meet this goal, the shroud covering the nose and simulated window of the kill vehicle was to open and peel away from the kill vehicle without hitting or damaging it.

During the flight test, the shroud separated on command. However, instead of the shroud petals "peeling back" and moving away from the nose cone without hitting and damaging the kill vehicle, the petals broke off close to the hinges attaching them to the kill vehicle and disintegrated. The pieces struck the kill vehicle.

The shroud design was not validated on the Kite-1 test claimed, because the shroud did not separate from the kill vehicle without hitting it. The contractor's April 1990 test report for Kite-1 concluded that the shroud goal was only partially achieved since the shroud did not eject from the nose of the interceptor as required. This anomaly required a redesign of the shroud using stainless steel instead of composite material. Army project officials told us that the new design was to have been tested on the second flight test on September 23, 1991. However, as discussed below, the second flight test failed.

Project officials said that the new shroud design was successfully tested in a wind tunnel after the redesign and that they are confident the new design will operate successfully in flight.

Claim that window cooling system was validated

The Army Strategic Defense Command news release also claimed that the Kite-1 flight test validated the design of the window to withstand the intense heat generated by the high-velocity launch. It said, "All the critical test functions worked perfectly during the flight: the cooling began as planned." Finally, the Army claimed that the flight test validated the adequacy of the cooling system.

At 5.3 seconds after launch, the shroud separated and the planned 6-second cooling experiment began. The goals were to cool the window and to gather information to characterize the performance of the cooling system.

The experiment involved varying the flowrate of the coolant (gaseous nitrogen) over a simulated window, which was a steel plate. This steel plate made it possible to mount sensors to collect test information at key locations on the window. This experiment was to validate the window cooling system design and to determine the amount of coolant needed to reduce and maintain the temperature of the window below 260 degrees Fahrenheit. This is the temperature needed to keep a sapphire window transparent so the optical sensor can see through it. Project officials said this information would enable SDIO to design an efficient window cooling system for an operational interceptor and would allow the least possible amount of coolant to be carried on an interceptor. The effect would be a smaller, lighter, and less costly interceptor.

Test results show that the window was instantly cooled from 800 degrees Fahrenheit to well below the required 260 degrees. It remained cool throughout the experiment. Although the experiment was to gather information from many gauges on the surface of the simulated window for 6 seconds, most gauges were lost at shroud separation. Also, the premature detonation of flight termination system explosives destroyed the missile at 1.6 seconds into the cooling experiment (6.9 seconds into the flight test).

Although the experiment was shorter than planned, Army project engineers and their consulting engineer are confident that the cooling experiment provided sufficient information to justify concluding that the experiment was successful. The contractor's final test report assessed the window cooling experiment a success. The project engineers stated that they received sufficient information during the 1.6 seconds of the experiment to validate their computerized window cooling model and provided documents to support their position. They also said that they obtained adequate information from the KITE-1 test to design an efficient cooling system for future interceptor flights.

The Army's consulting engineer stated that although the simulated window lost many temperature and pressure gauges, the remaining gauges, especially those located along the center line of the simulated window, worked properly throughout the experiment and collected the most essential information. We have no reason to question the engineers' position that sufficient information was obtained to validate the window cooling system design.

Comparison of test goals, results, and claims for second flight test

The KITE–2 flight test was launched at the White Sands Missile Range on September 23, 1991. The missile was destroyed by the premature detonation of the flight termination system explosives while the interceptor was starting to move from the launch pad. The Army Strategic Defense Command acknowledged that the test was a failure.

This test had seven primary goals. Of these, the four key goals were to (1) verify successful shroud separation, (2) demonstrate the capability of the sapphire window to withstand stress from shroud separation, (3) verify the seeker's ability to acquire and track a normal infrared target at the outer edges of the earth's atmosphere, and (4) gather information to support characterization of boresight error and line-of-sight angle measurement noise in its operational environment.

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[1] There is not a precise altitude where the atmosphere ends, but it is generally agreed to be about 62 miles or 100 kilometers.

Boresight error is the difference between the apparent line of sight and the true line of sight between the seeker and the target. The error is caused by the light bending due to the shock field, turbulence, and coolant flow over the window when the interceptor is traveling at extremely high speeds. The error constantly changes throughout the flight due to differences in air density, attitude, and speed. The information gathered would allow an interceptor's onboard computer to be programmed to compensate for the boresight error in future interceptors.

CHAPTER 3.—EXOATMOSPHERIC REENTRY VEHICLE INTERCEPTOR SUBSYSTEM FLIGHT TEST CLAIMS

The ERIS program has conducted two flight tests above the earth's atmosphere (exoatmospheric). SDIO and the Army Strategic Defense Command made three claims about the results of these tests that we consider significant. Based on our analyses, we believe that one of these claims was inaccurate. Specifically, while the first test successfully achieved its planned goals as claimed, the claim that target "discrimination" was demonstrated is inaccurate.

The second ERIS flight test failed to intercept the target. SDIO's press releases explained why the intercept did not occur and claimed that all major goals were achieved except for intercept of the target. Our analyses of test plans and test results showed that this claim was accurate.

System description

The purpose of the ERIS program is to identify and resolve critical technology issues associated with the use of a ground-based interceptor to kill reentry vehicles above the earth's atmosphere. The ERIS program has conducted two flight tests. In these tests, ERIS was to intercept a mock enemy reentry vehicle in a threat cluster containing the target and decoys (either one or two balloons), using different target selection techniques.

Discrimination is the process of distinguishing reentry vehicles from nonthreatening objects. A single missile may release a cluster of objects containing both. Discrimination has long been a challenging technology hurdle in missile defense. SDIO plans to use an external target acquisition and tracking sensor, such as Brilliant Eyes,[2] to do discrimination. This would permit the interceptor to operate with relatively simple seekers. It would be guided toward the target by the external sensor (e.g., Brilliant Eyes) and would be told which object in its field of view is the actual target.

An external sensor and the battle management command, control, and communications system would pass target tracks and discrimination information to the interceptor. To date, none of the sensor programs have progressed into integrated demonstration and validation tests to validate the ability to discriminate.

The sequence of functions for employment of an operational ground-based interceptor is illustrated in figures 3.1 and 3.2. Figure 3.1 represents the system functions delegated to the yet-to-be-developed external sensor and battle management system. Figure 3.2 illustrates the interceptor functions tested in the ERIS flight tests.

External sensor and battle management center functions

An external targeting sensor, such as Brilliant Eyes, would be cued by an early warning system to expect a threat cluster.[3] It then would find the threat cluster, generate track information on the target, and provide the information to the battle management center that would launch an interceptor toward a predicted intercept point.

The external sensor would continue tracking the location and direction of the cluster and pass updates through the battle management center to the interceptor during its flight toward the threat cluster.

The external sensor also would collect information on the threat cluster to decide which objects are targets and which are decoys. The information may be either in the from of (1) a threat object map that shows relative positions of the reentry vehicle and decoys or (2) a message that the "hotter" or "cooler" infrared signal in a cluster is the target. The battle management center passes the information to the interceptor in flight. (See fig. 3.1.)

Kinetic kill interceptor functions

Program officials said that when the interceptor nears the threat cluster, the infrared seeker in the nose of the missile begins collecting information about the relative positions or infrared signatures of the individual objects in the cluster. The interceptor then uses the appropriate technique to select a target.

If a threat object map based on position geometry were used, the interceptor would select as the target the object that, for example, is the middle object in the cluster. If the relative signal strength of the targets were used, the interceptor would select as the target the object that, for example, has the lowest or the highest infrared signature. It would then maneuver into the path of the incoming target it has selected. A successful intercept would culminate in impact and destruction of the target.

Comparison of test goals, results, and claims for first flight test

The major test goals for the first ERIS flight were to demonstrate the (1) handoff of target information from a simulated battle management center to ERIS during flight, (2) target selection by ERIS using a preprogrammed threat object map, (3) ERIS' ability to select an aimpoint on the target and maneuver to it, and (4) destruction of the target.

The ERIS interceptor was launched on January 28, 1991, from the Kwajalein Missile Test Range in the Central Pacific to intercept a mock reentry vehicle accompanied by two decoy balloons launched from Vandenberg Air Force Base in California.

To provide target track information that would stimulate what would be provided by an external tracking sensor, the test used information from the Global Positioning System.[4] This information was passed through the simulated battle management center to ERIS. The interceptor used this tracking information to maneuver into the vicinity of the predicted intercept point.

Simulating the functioning of the external sensor, a preprogrammed threat object map was placed in the interceptor's computer memory. The map replicated the scene the interceptor was expected to see with its infrared sensor, which functions as its eyes. Using the threat object map that provided the relative positions of the threat cluster objects and designated the middle object as the target, the interceptor should intercept the middle object in the target cluster.

During the last few seconds of the test, two decoy balloons deployed, one on each side of the target. The interceptor compared this scene, which it saw with its infrared sensor, to the preprogrammed threat-object-map scene in its computer memory. Once the interceptor's computer made a "best fit" of the scene it viewed versus the scene in its memory, it selected the predesignated target, maneuvered into its path, and destroyed it.

Claim that test was successful

In a January 31, 1991, news release by the Army Strategic Defense Command, the Deputy Ground-Based Interceptor Project Manager stated that "the test flight was an unqualified success" and "we have yet to find a single objective, test or parameter that was not achieved."

Our examination of test plans, post-flight analyses, and test reports confirmed that ERIS successfully achieved all of the major goals planned for this test.

Claim that discrimination was accomplished

The Army Strategic Defense Command's news release also said that "the successful interception of the reentry vehicle . . . was accomplished in the presence of decoys. . . . We asked this kill vehicle not just to pass by and see that target, but to pick one out and destroy it. And it did that."

SDIO's reports to Congress have talked about testing and demonstrating discrimination with the ERIS flight tests. Prior to the ERIS test, in the "1990 Report to the Congress on the Strategic Defense Initiative" issued in May 1990, the ERIS flight test was described as testing ERIS "discrimination and intercept." After the ERIS test, the "1991 Report to the Congress on the Strategic Defense Initiative" issued in May 1991 stated that "this extremely successful flight experiment validates the concept of performing midcourse intercepts using basic discrimination techniques, and enhances confidence in the Ground-Based Interceptor's ability to perform more advanced discrimination."

In a videotape produced by the Army's Strategic Defense Command for release after the test, the narrator stated the following:

"Decoy balloons were released, to test the interceptor's discrimination capability. Although a successful intercept was important, of greater importance is the demonstration and confirmation of the Army's primary test objectives, involving * * * target discrimination and acquisition."

In a May 16, 1991, statement before the Chairman, Legislation and National Security Subcommittee, House Government Operations Committee, SDIO's Director stated that ERIS "did its own thing in * * * determining which of the targets to go after, whether the decoy or the target vehicle. * * * The principal algorithms we have to prove can work in doing the discrimination task I think were effectively proven as part of that test." In follow-up clarifications to the Chairman in June 1991, SDIO said that ERIS' role in target selection "did not constitute discrimination—which in a system employing an ERIS interceptor would be accomplished by sensors external to ERIS."

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[2] Brilliant Eyes is a space-based sensor that will be designed to do surveillance, tracking, and discrimination during the post-boost and midcourse phases.

[3] A threat cluster contains the reentry vehicles and penetration aids deployed at virtually the same time from a post-boost vehicle.

[4] The Global Positioning System is a precision navigation network providing precise positioning and navigation data for military services.

In this test, discrimination was not a test goal, nor was it a capability of ERIS. The interceptor was not capable of discrimination targets from decoys. A program official said that the interceptor was preprogrammed to hit the middle object in the target complex, to show it could select and home in on a geometrically specified target. Thus, if the target complex had not deployed as planned and one of the balloons had been positioned as the middle object instead of the reentry vehicle, ERIS would have attempted to intercept the balloon, since it cannot discriminate a reentry vehicle from a decoy on its own. Therefore, the claim of discrimination was an overstatement of what occurred.

Comparison of test goals, results, and claims for second flight test

A second ERIS interceptor was launched on March 13, 1992, from the Kwajalein Missile Test Range in the Central Pacific to intercept a mock enemy reentry vehicle launched from Vandenberg Air Force Base in California. The test's major goals were to demonstrate (1) receipt by ERIS of target track information in flight; (2) ERIS' ability to distinguish between two closely spaced objects, based on their relative temperatures registered on ERIS' infrared sensor; (3) ERIS' ability to select an aimpoint on the target and maneuver to it; (4) destruction of the mock reentry vehicle. Goals 1, 3, and 4 had been successfully demonstrated under somewhat different conditions in the first ERIS test.

The new goal in this test, compared to the first flight, was testing the interceptor's ability to distinguish between closely spaced objects based on their relative infrared temperatures. The balloon was to remain close enough to the reentry vehicle so as to appear as one object when first seen by the interceptor. As the interceptor flew closer to the two closely spaced objects, its sensor would get within range to be able to resolve two images, detect their relative temperatures, and home in to hit the one it was programmed to assume was the reentry vehicle.

Program officials explained that this test assumed that the battle management center would have known whether the hotter or colder of the objects was likely to be the reentry vehicle, based on certain known conditions, and tell the interceptor. For this test, the interceptor was preprogrammed to intercept the object with the lower infrared signature, or temperature.

The second flight test was also designed to gather two-color infrared[5] data for use in developing future discrimination techniques.

During the last few seconds of the interceptor's flight, the sensor "opened its eyes" and saw two objects as one object. As the interceptor got closer to the threat cluster, it (1) saw two objects rather than one, (2) measured the infrared signatures of the objects, and (3) chose the object with the lower infrared signature (reentry vehicle) using one-color infrared data.

Then the interceptor, as programmed, began gathering two-color infrared data on the two objects. It did this for 0.8 seconds as planned and then diverted toward the reentry vehicle using one-color data. Although the interceptor maneuvered toward the reentry vehicle, it missed the target by approximately 14 feet.

Claim that three of four goals were met

An SDIO information paper on the ERIS flight test said that all goals were met except for the final body-to-body impact of the reentry vehicle.

An Army Strategic Defense Command news release on March 18, 1992, stated the following:

"The ERIS kill vehicle performed exactly as designed. . . . It missed the target because of an anomalous target deployment and test gathering constraints. Every test and experiment is a compromise between a full test and gathering important data. If we hadn't been interested in data gathering, we would have nailed the target. The sensors correctly identified the dummy warhead all the way in a decoy environment."

An Army Strategic Defense Command news release dated March 20, 1992, stated the following:

"A self-imposed requirement for the interceptor to collect maximum data, pre-intercept, for utilization across the National Missile Defense Segment of [Global Protection Against Limited Strikes], required a delay in the final divert maneuver. This delay, coupled with the particular, unexpected geometry of this target complex, proved to be just enough to preclude an actual intercept. Had the interceptor not been directed to collect this data (not required for this test), there is no doubt that an intercept would have occurred even with the unexpected target complex geometry."

Three things contributed to the failure of ERIS to intercept the target. First, the balloon deployment was abnormal in that it moved away from the reentry vehicle at a faster speed than anticipated. This anomaly placed the balloon farther from the reentry vehicle than planned. The second anomaly was a boresight misalignment caused by improper calibration. Lastly, a two-color data gathering requirement delayed the final divert maneuver of the interceptor. As a result of these three things, the interceptor was unable to divert in time to intercept the target.

During the tracking phase, the interceptor's sensor successfully distinguished the reentry vehicle from the balloon using one-color infrared data and shifted its aimpoint to the center of the target complex. The interceptor then diverted its attention from the reentry vehicle and successfully collected the two-color infrared data on both objects.

The program manager said that the test design was set up poorly because collection of the two-color infrared data interfered with the primary test goals. The collection should have been "event driven" rather than "time driven." Then the interceptor would have collected the two-color data only until the last possible moment that a successful divert could have been accomplished. However, because the two-color data collection experiment was set up to use a finite amount of time, and because of the two test anomalies mentioned above, the interceptor missed the target.

Our analysis indicates that SDIO's claims properly represented the test results. The ultimate goal of the test (intercept of a reentry vehicle) was not achieved, but the other three test goals were successfully accomplished.

CHAPTER 4.—LIGHTWEIGHT EXOATMOSPHERIC PROJECTILE FLIGHT TEST CLAIMS

The LEAP program conducted a "dress rehearsal" flight test to check out test hardware, software, and instrumentation without using a new interceptor. Because this flight was not to test LEAP technology, an older projectile was used.

An SDIO press release claimed that the test was successful. Our analysis of test goals and test results indicates that this checkout flight was successful in identifying problems that needed to be corrected before the next test. SDIO also claimed that altitude and accuracy requirements were met. They were not.

System description

LEAP is a technology program to develop the smallest, lightest, kinetic kill, exoatmospheric interceptor that emerging technology permits. The LEAP projectile has an infrared seeker, attitude control system, and small divert thrusters for steering the interceptor. The goals are to develop advanced technology; to use it to build smaller, lighter projectiles; and to test them in ground tests, hover tests, and space-flight tests. According to a LEAP program official, this technology will be used as it emerges from the program to build future ground-based interceptors.

Three different contractors are building LEAP projectiles to be used for flight testing. An Army contractor is building a version that is 6 inches in diameter, 14 inches long, and weighs about 13 pounds with fuel. Two Air Force contractors are building two other versions that weigh about 22 pounds and 40 pounds. The Army and Air Force are conducting flight tests at the White Sands Missile Range in New Mexico before conducting tests at the Kwajalein Test Range in the Central Pacific. According to a LEAP program official, the results of these LEAP tests provide risk reduction for the Ground-Based Interceptor and continue technology development for exoatmospheric interceptors.

Comparison of test goals, results, and claims for first flight test

The LEAP-1 flight test was conducted on February 18, 1992, at the White Sands Missile Range in New Mexico. The test was a dress rehearsal to reduce risk for future LEAP tests. The purpose was to show that the test team could deliver the projectile and target to the required altitude and the necessary proximity to each other. Because this was a dress rehearsal, an older projectile was used in place of a new expensive LEAP projectile.

Claim that test was successful

An SDIO press release dated February 21, 1992, announced "the successful completion of the . . . LEAP program's Mission Operations Checkout flight test." A Queries and Answers paper SDIO released after the test stated that "the LEAP-1 Mission Operations Checkout flight wrung out all the procedures and techniques necessary to set up the very complex laboratory in space. . . ."

Based on our analysis of test results and discussions with SDIO officials we agree that the test was generally successful. Although some anomalies occurred, program officials said they understand the probable causes of the problems and made fixes for the LEAP-2 flight test.

Claim that altitude and accuracy requirements were met

The press release also stated that the experiment was lifted to an altitude of 334 kilometers. (See fig. 4.1.) It further claimed that "preliminary data . . . indicates the target was delivered to a point within 75 meters of its intended position, far tighter than the 400-meter [radius] envelope required for a successful mission.'' The Queries and Answers paper released by SDIO repeated these altitude and proximity figures. These statements to the press were not supported by the final test results. Furthermore, the statement about altitude was not supported by information immediately available after the test.

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[5] Color refers to the infrared wavelength. Two color means gathering data for two wavelengths. One color means one wavelength.

First, the projectile did not reach the 334-kilometer altitude. This altitude was needed so that the test could occur above the atmosphere at about 94 kilometers before the projectile and target fall back into the earth's atmosphere. The test report shows that the LEAP did not reach 334 kilometers, but only 319 kilometers. Altitude information was accurately known during the test, according to a test range official. A program official could not explain why the incorrect altitude was noted in the press release.

Second, the target was not delivered within the 400-meter radius volume of space at a specified distance away from the bus and projectile as claimed. The test manager was uncertain of the origin for the claim that the target was within 75 meters of its intended position. Post-flight analysis, not available at the time of the press release, showed the target was 18 meters outside the 400-meter radius volume of space.

Had SDIO been conducting an actual test rather than the dress rehearsal, the test would have been unsuccessful. A successful flight test depended on the projectile and target reaching the required altitude and then being accurately positioned relative to each other by a particular time in the flight. Neither happened. Therefore, by the time the test vehicles had been correctly positioned for the experiment, the test vehicles had fallen back into the atmosphere to an altitude of about 67 kilometers. At this altitude a successful test of an exoatmospheric projectile would have been unlikely.

Since the primary purpose of the flight test was to reduce risk for future LEAP flight tests, the LEAP-1 served its purpose of identifying problems before further testing. LEAP program and test officials said that analyses of the problems identified probable causes. Fixes were implemented for the next flight test. Program officials decided in May 1992 that risks in the LEAP-2 test setup had been reduced to a level acceptable to proceed with that test. After the flight, SDIO officials said that none of the anomalies seen on LEAP-1 reoccurred on LEAP-2. We did not review the results of LEAP-2.

CHAPTER 5.—BRILLIANT PEBBLES FLIGHT TEST CLAIMS

Brilliant Pebbles is a space-based interceptor that is being designed to detect and destroy ballistic missiles during their boost and post-boost flight phases. If developed and deployed, hundreds of interceptors would orbit the earth.

Brilliant Pebbles space experiments were conducted in August 1990 and April 1991. The first test ended soon after launch. A malfunction in launch equipment precluded satisfying any major test goals. In a press release 2 days after the test, SDIO noted the malfunction and indicated that some useful information was obtained. We agree.

The second flight test was partially successful. However, we believe that the three SDIO claims about the success of the test were overstated. One of those three claims, if measured against the reduced goals in the Mission Experiment Description rather than the original goals in the Integrated Test Plan, would be reasonably accurate. Development problems precluded meeting the original goals and schedule. However, SDIO did not disclose that it had reduced the goals of the test. Instead, it continued to refer to the original goals in the Integrated Test Plan rather than the reduced goals in the Mission Experiment Description, which was prepared shortly before the flight test. Therefore, we have evaluated the accuracy of SDIO's claims against the goals in the Integrated Test Plan.

Test Description and Goals

SDIO, with Lawrence Livermore National Laboratory, had planned to do 12 flight tests grouped into 4 phases, to demonstrate that Brilliant Pebbles was ready to enter engineering and manufacturing development. Flight tests 1 and 2, which made up Phase I of the test series, were to have been tested using two different scenarios. The first test would be at night with the sensor looking into deep space. The second test would be in daylight with the sensor looking at the earth. Both tests were launched from Wallops Island, Virginia, out over the Atlantic Ocean.

The Secretary of Defense, in the May "1990 Report to the Congress on the Strategic Defense Initiative" said that "the Brilliant Pebbles tests this summer will demonstrate the capability to acquire and track an object." SDIO's Director, in a June 1990 presentation to the Defense Acquisition Board, said that the first two tests would emphasize the critical technical issues of target acquisition, target tracking, and control of the interceptor through its computer and software.

The Integrated Test Plan, updated by SDIO in July and December 1990, had four goals for the first two Brilliant Pebbles flight tests.

1. Demonstrate the ability to acquire stars, navigate, and stabilize the interceptor using the attitude control system.
2. Demonstrate the ability of the interceptor to detect, acquire, and track an accelerating target's rocket plume.[6]
3. Gather data with infrared and ultraviolet sensors.
4. Demonstrate basic hardware performance versus design requirements in a realistic environment.

After the first test failure, program officials said they imposed more management discipline and realism on the test, including documenting more realistic test expectations than the Integrated Test Plan contained. SDIO prepared a Mission Experiment Description for flight 2 shortly before the test that listed significantly reduced goals for that test. SDIO said its claim of 90-percent success was based on these goals rather than the original goals. The goals were reduced due to two problems. First, SDIO had learned from testing that the performance of some hardware components was less than originally expected. Second, and more importantly, according to SDIO's Test Director, software development was difficult and slow, and was behind schedule. Program officials said they proceeded with tests with the less capable software and hardware to contain schedule slippage and cost growth and to obtain basic data on performance of attitude control system components in space.

However, the original goals remained in the Integrated Test Plan published for the sixth time in December 1990, between flights 1 and 2. We have used these goals to evaluate the accuracy of SDIO claims for the first two flight tests. However, we include SDIO's comments concerning the reduced goals following our evaluation of SDIO's claims against the original goals.

Comparison of test goals, results, and claims for first flight test

The first flight test was launched on August 25, 1990. The test's usefulness ended when an explosive bolt released prematurely 81 seconds after launch. This prevented transmission and recording of performance information from the interceptor. No information was collected on how the interceptor performed against its test goals. SDIO reported the malfunction and stated that some useful information was obtained on how the launch vehicle and test range instrumentation worked. We agree.

Comparison of test goals, results, and claims for second flight test

The second flight was launched on April 17, 1991. There were four test phases, as shown in figure 5.1. The figure also shows the goals that the test was to meet. Phase one of the flight test involved launching the booster with the target and the interceptor to the proper altitude, deploying the target and interceptor on their individual flight paths, and turning the interceptor 180 degrees so its sensors could observe the target. The interceptor was then tested during phases two through four. Of the four goals, one was not met and the other three were partially met.

Demonstrate attitude control system performance

This goal called for the interceptor to acquire stars, navigate, and stabilize itself during test phases two, three, and four while using the complete attitude control system to control the movement of the interceptor. Accurate control of the interceptor is essential to successfully kill reentry vehicles carrying nuclear warheads. The system includes the star tracker, computer and software, inertial measurement unit, and cold gas thrusters. We believe this goal was only partially achieved. The attitude control system was not successfully demonstrated in test phases two and three, but was demonstrated with some degree of success during test phase four.

During test phase two, the attitude control system was to be tested while acquiring and tracking a target. Because the interceptor never acquired and tracked the target, this portion of the attitude control system test was not successful.

During test phase three, the attitude control system was to be tested by performing several large angle maneuvers. Although these maneuvers were done, they were not accomplished with the expected degree of accuracy. The test report attributed the accuracy problem to the inertial measurement unit's errors, which were worse than expected. The interceptor's maneuvers were made using only input from the inertial measurement unit, uncorrected by data from the star tracker. The complete attitude control system was not integrated during this phase as the Integrated Test Plan required.

The planned test of the fully integrated attitude control system was done only during small angle maneuvers in test phase four. Although the interceptor's stability was improved, the turns performed still did not meet expectations with regard to accuracy. During this phase, the interceptor software used data from the star tracker and partially corrected the errors from the inertial measurement unit's gyros, allowing the interceptor to improve its stability. However, the attitude control system software did not work as intended when using data from the star tracker. The software mixed the data from two scenes of stars it actually saw to create a composite third star scene, which it then used for directing the interceptor. The Livermore test director said that this problem accounted for only a small part of the inaccuracy in the small angle turns.

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[6] The plume is the visible and invisible exhaust from a rocket engine.

In addition, the software could not estimate future errors of the gyros because the performance of the gyros was so poor. As a result, continuous utilization of star tracker data would have been necessary to satisfy the Brilliant Pebbles stability requirement over time. Independent test evaluators noted that the ability of the interceptor to utilize star tracker data while tracking a target was limited due to computer capacity.

Demonstrate interceptor can acquire and track target

This goal was not met. During phase two of the flight test, the interceptor was to demonstrate that it could acquire and track a target, but it did not. The failure to execute the 180-degree turn accurately during test phase one meant the interceptor never had the opportunity to test acquisition and tracking capabilities because the target was not within the field of view of the sensor.

The goal in the Integrated Test Plan was to have the interceptor detect, acquire, and track the target's rocket plume using predictive tracking software. However, when software development difficulties arose, predictive tracking software was deleted from the test. As a result, even if the interceptor had tracked the target, the goal of demonstrating the predictive tracking software could not have been met.

Gather infrared and ultraviolet data

Test results show that this goal was partially met. The Integrated Test Plan called for collecting data on the target and background with the infrared and ultraviolet target acquisition and tracking sensors during phases two, three, and four of the flight test.

One part of the goal was to collect scene data on what the target rocket's plume looked like to the infrared and ultraviolet target acquisition and tracking sensors during test phase two. This would be useful in designing and validating target tracking software. Since the target was not acquired and tracked, this part of the goal was not met. In addition, the ultraviolet sensor was not turned on during this phase of the test.

Another part of the goal was to collect background data with these sensors. This was to occur during the remainder of phase two and all of phases three and four. Some background data were obtained by the infrared sensor, but the ultraviolet sensor recorded only its own noise.

Demonstrate basic hardware performance

This goal was partially met. Although no criteria were established for assessing hardware performance, the test report said that useful data were obtained and some hardware performed to expectations and some did not.

Performance of the inertial measurement unit was unacceptable, due to unpredictable errors in the gyros used. Although SDIO knew before the flight that performance of the inertial measurement unit might be marginal, actual performance was worse than expected. This inertial measurement unit had been selected to meet the original, expedited decision schedule the President had mandated for the program. It was to be replaced with a better unit in subsequent tests. The test report concluded that these gyros "were not sufficiently stable to provide adequate reference for the experiment."

The ultraviolet target tracking sensor was never turned on during test phase two as planned. The primary function of this sensor was to observe the solid rocket plume. However, the revised test plan eliminated this test of the ultraviolet sensor. The sensor was turned on after the acquisition and tracking phase was completed, but recorded only its own noise levels.

The infrared target tracking sensor also was not tested in its primary function of acquiring and tracking a target. Although the sensor was turned on during test phase two, the target was never acquired and tracked. As a result, measurements of the sensor's performance when tracking a target were not obtained.

The star tracker performed above expectation, according to the test report. The cold gas attitude control thrusters and the mechanical structure all operated nominally (satisfactorily), according to the report.

Claims of success overstated

We believe the following statements made to the public and Congress overstated the test results and technical progress represented by the test:

The test was a 90-percent success and all test objectives were fully achieved except for the acquisition and tracking of the target.

The test was the second in a series of increasingly sophisticated tests. This test completed Phase I testing.

90-percent success

SDIO characterized the test as 90-percent successful. However, when compared to the original goals in the Integrated Test Plan, the 90-percent success statement significantly overstated test results. Nothing was obtained for one goal and the other three goals were only partially satisfied. While the calculation of a percentage depends on assumptions made about relative importance, or "weights" of the goals, results did not reasonably indicate that 90 percent could be supported. SDIO officials explained that the 90-percent success claim was based on the reduced goals for the flight test in the Mission Experiment Description and not the goals in the Integrated Test Plan

In the press briefing the day after the test, the Program Manager characterized the test as "all in all . . . about a 90-percent success." When challenged by the Chairman of the Legislation and National Security Subcommittee during a hearing on May 16, 1991, about SDIO's claim, the SDIO Director reiterated the claim and said that the test" accomplished all of the main objectives of the test."

In a letter to the Chairman a few weeks later, he provided additional information in further response to the Subcommittee's concerns that SIIO was misleading Congress about test results. The Director said that he stood by SDIO's characterization of the experiment's success. He said that the Committee's questions about the claim did not reflect a complete understanding of the four test goals as further defined in the Mission Experiment Description. He acknowledged that SDIO had not always explained in detail its test objectives and how its experiments met those objectives and that this could create confusion and misunderstanding about SDIO's claims of success. There was nothing in the letter explaining that there were significant reductions in test goals, other than the phrase "further defined." Instead, the Director's letter reiterated the four test goals of the Integrated Test Plan.

As part of our review of the accuracy of the claim, we asked SDIO for its basis for the claim. The Brilliant Pebbles Test Director told us that the 90-percent success statement was his qualitative assessment of how well the test went when compared with a revised set of goals documented shortly before the second test to reflect more realistic expectations than were in the Integrated Test Plan. He said the statement conveyed that the test was highly successful in terms of the information SDIO then expected to obtain from the test. After the first test failed, the Test Director explained that SDIO had time to formally document what he considered to be realistic goals for the next test. He said the goals as described in the Integrated Test Plan were not realistic using the hardware and software then available. The Mission Experiment Description was prepared and distributed to the test team with a substantially revised set of six goals. Brillant Pebbles program officials said the test met five of the six goals, which was an 83-percent success. This was probably a reasonably accurate claim if measured against the substantially reduced test goals. However, the goals were never adequately disclosed outside SDIO.

We found these six revised goals to be significantly different than the original four goals in terms of what technical performance was to be demonstrated. The goals were reduced to accommodate software and hardware problems in the experimental prototype interceptor. The revised test was of a less capable prototype, tested over a more limited range of operation than originally intended. In addition, criteria for assessing success in meeting goals were dropped for five of six goals, so that simply measuring performance was defined as successfully meeting the goal.

Increasingly sophisticated tests

The press release the day after the test also said that this "was the second in a series of suborbital experiments with each increasing in performance and sophistication." We believe that this is an inaccurate description of the tests that had been conducted. If the first two tests had been conducted as planned, this statement would have been true. However, SDIO decided to repeat the first test rather than do the second test.

SDIO had planned to do 12 flight tests grouped into Phases I, II, III, and IV. Flight tests one and two, which made up Phase I, were to have been tested using two different test scenarios. The first test would be at night with the sensor looking into deep space. The second test would be in daylight with the sensor looking at the earth. The second test would have been more difficult than the first. Because the first test yielded no data, the second flight instead repeated the first flight's nighttime plan.

Completion of phase I

During the same press briefing in which the above claims were made, the Program Manager said, "This completes Phase I of our experiment program." His statement indicated that the program had proceeded successfully through Phase I and was ready to begin Phase II of testing. However, we believe these statements could give a false impression of the progress the program had made to date. We believe that Phase I was completed only in the sense that SDIO had decided to proceed into Phase II.

Phase I accomplishments were significantly less than planned. A primary focus of the Phase I test series was to demonstrate in each test that the interceptor could track a target using the predictive tracking software. This was not done because the predictive tracking software could not be developed in time to use on either test. In addition, testing against increasingly difficult viewing backgrounds was not done. According to the Integrated Test Plan, these capabilities were to be demonstrated before proceeding into Phase II and attempting to intercept a target. These capabilities will now be demonstrated during Phase II. As a result, the program has not progressed as intended during Phase I.

APPENDIX I.—MAJOR CONTRIBUTORS TO THIS REPORT

National Security and International Affairs Division, Washington, D.C.: J. Klein Spencer, Assistant Director, Charles A. Walter, III, Assignment Manager.

Atlanta Regional Office: Robert M. Crowl, Regional Management Representative, W. Carl Christian, Jr., Evaluator-in-Charge, Thomas L. Gordon, Evaluator, John M. Ortiz, II, Evaluator.

Mr. SASSER. Mr. President, I see my friend from Arkansas. Does he wish time?

Mr. BUMPERS. I do not wish any additional time.

Mr. SASSER. I yield the floor, Mr. President.

Mr. NUNN. Mr. President, I believe our side has 3 minutes.

I yield 3 minutes to the Senator from Nebraska.

Mr. EXON. Mr. President, I thank the distinguished chairman of the committee. I have been listening with great interest to many of the excellent points that were made by another chairman with whom I have the privilege to serve, the chairman of the Budget Committee, Senator SASSER, and my old and very dear friend, the senior Senator from the State of Arkansas.

I would simply like to point out that the amendment to the measure that is going to be offered by the chairman of the Armed Services Committee is $3.8 billion, a roughly $500 million savings from the previous mark offered by the Armed Services Committee.

So it is quite clear that we in the Armed Services Committee are trying to make some legitimate cuts in the research and development program of SDI, and focus what money is left, to do what we can to make something in the end for the good of the national security interests of the United States, with the money that we have spent on SDI.

I point out that if the amendment that is going to be offered by the chairman of the committee becomes law, we have cut billions of dollars off the figure requested in the defense budget by the President—some $5.4 billion, in the President's request, as I remember it; down to the $3.8 billion figure that will be offered here as a compromise by the Senator from Georgia.

You know, as we talk about these various things, one would seem to think that all the champions of good government are on one side, and all the champions of spending are on the other.

The debate here, then, basically is not about whether we are going to eliminate the SDI Program. The question is whether we are going to reduce the funding for that program, which is going to be down—primarily, I agree with the thrust of the amendment of the Senator from Tennessee—down from $4.3 billion, as originally recommended by the Armed Services Committee, down to $3.8 billion.

It is true that if we go along with the Senator from Tennessee, there would be an additional $500 million savings. And we can talk all day and all night, but it comes down to a judgment matter as to how best we should spend this money to get the most out of a program. And I think we all can agree generally with the fact that we have spent an awful lot of money.

We have an obligation, I think, now to make a timely, less expensive investment in this program, to see what we can eventually recoup for the national security interests of the United States out of the SDI Program.

I yield back any remaining time that I have, and I yield the floor.

Mr. WARNER. Mr. President, the Director of SDIO has responded in some detail to the views expressed in the GAO report. Incidentally, the GAO was instructed not to seek the views of the DOD during the drafting of this report, which is the customary practice, before this final draft was released. The Ambassador's response, in my opinion, rebuts many of the points of criticism expressed in the GAO report. Since some of these points were raised tonight, I ask unanimous consent that the SDIO brief be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF DEFENSE, STRATEGIC DEFENSE INITIATIVE ORGANIZATION,
Washington, DC, September 16, 1992.

MEMORANDUM FOR DISTRIBUTION

Subject: SDIO Response to the GAO Report Entitled, "Some Claims Overstated for Early Flight Test of Interceptors".

The issues raised in this report have either already been acknowledged and corrected by SDIO, or represent a difference in interpretation of preliminary test data between SDIO and GAO reviewers. SDIO has never intentionally provided false or misleading statements to Congress or the public as implied by the GAO.

The GAO report entitled, "Some Claims Overstated for Early Flight Test of Interceptors" alleges that SDIO has misrepresented or overstated test results and technical progress" in seven flight tests conducted from January 1990 through March 1992.

The language in this report and the analysis suggests that the GAO fundamentally does not understand the difference of an experiment; designed to gain new knowledge or a better understanding of the technology; and a test where a well characterized system must perform against established requirements. The level of knowledge gained is the proper measure for the success of an experiment—not a pass/fail criterion used by the GAO.

The Kinetic Kill Vehicle Integrated Technology Experiment (KITE), Exoatmospheric Reentry Vehicle Interceptor Subsystem (ERIS), the Lightweight Exoatmospheric Projectile (LEAP), and the Brilliant Pebbles Flight Experiment 2 (FE-2) accomplished the majority of the stated goals and provided a wealth of performance data to support continuing development of a kinetic kill capability. In any experiment as opposed to a test, generally some degree of failure is anticipated. However, any degree to which data can be retrieved from the flight which provides a better understanding of the unknown and mitigates characterizing an experiment as a total success or failure.

GAO Allegation: SDIO claimed that target discrimination was accomplished.

SDIO Position: SDIO previously acknowledged and publicly cautioned against drawing excessive conclusions from the ERIS test. Specifically, in a June 6, 1991 letter to Rep. Conyers, prior to the outset of the subject GAO review, Ambassador Cooper indicated that the ERIS successful destruction of a target vehicle did not constitute discrimination.

GAO Allegation: One KITE flight test claim was not supported by test results.

SDIO Position: The press releases by the Army Strategic Defense Command stating that the shroud design was validated on the first KITE test was in error. All subsequent releases and reports relative to the KITE-1 flight tests have correctly reported the test results. Design changes were made to the shroud after KITE-1 based on the data gathered during the flight and ground tests. A new shroud design was validated on a highly successful KITE-2A.

GAO Allegation: SDIO claims that the LEAP vehicle reached the required test altitude.

SDIO Position: The SDIO LEAP-1 press release in February 1992, shortly after the test, indicated that altitude accuracy goals had been met. However, the press release specifically stated that the data cited was preliminary in nature. Later analysis showed that the interceptor fell 4 percent short of reaching its 334 Km altitude goal and about 4 percent outside of its 400 meter accuracy goal. Subsequent references and responses to queries pertaining to LEAP-1 have accurately reflected these results.

GAO Allegation: Brilliant Pebbles Flight Experiment 2 (FE-2) was incorrectly characterized as a 90% success.

SDIO Position: Based upon preliminary data, FE-2 was described during a press briefing "as about a 90% success." FE-2 achieved five of the six published (Mission Experiment Description, April 12, 1991) test objectives and was 83.3% successful by that count. As indicated in Ambassador Cooper's June 6, 1991 letter to Mr. Conyers, much of the data associated with meeting this objective was to have been redundant with data actually obtained in meeting other goals. The overall goals of the test were clearly stated in the Integrated Test Plan and defined in some detail and were clearly presented at the post-flight press briefing. The Mission Experiment Description, issued prior to the flight test, has the same overall goals but differed only in how goals would be achieved, based upon the realistic test expectations and state of development for the various components and subsystems. Additionally, the GAO never recognized the importance of other results such as the flight experiment performing far deeper into the atmosphere than previously believed possible.

GAO Allegation: SDIO did not provide an accurate characterization of FE-2 test objectives.

SDIO Position: The Integrated Test Plan was developed by SDIO to assist in organizing and managing the Brilliant Pebbles test program as well as support the selection of Pre-Engineering and Manufacturing Development contractors. The Integrated Test Plan was never intended to be an inflexible specification for achievement of experiment objectives. The Mission Experiment Description for the FE-2 was the detailed planning document which accurately reflected FE-2 mission objectives and procedures. The Mission Experiment Description published on April 12, 1991 accurately characterized the experiment before it was conducted and these goals were included in the program manager press briefing.

GAO Allegation: GAO found these six revised goals to be significantly different than the original four goals in terms of what technical performance was to be demonstrated.

SDIO Position: There is no significant difference in the test objectives referenced in the Mission Experiment Description (MED) and the summary objectives found in Ambassador Cooper's June 6, 1991 letter to Mr. Conyers and the Brilliant Pebbles Integrated Test Plan (ITP). The December 14, 1990 ITP referenced by the GAO lists the following test objectives that are directly traceable to the MED:

JUNE 6, 1991, LETTER TO MR. CONYERS

a. Demonstrate basic hardware performance versus design requirements in realistic environment.

b. Demonstrate the ability to acquire stars, navigate and stabilize the system using the BP startracker computer and attitude control system (ACS).

c. Gather infrared and ultraviolet sensor data.

d. Demonstrate the ability to detect acquire and track an accelerating target plume.

APRIL 12, 1991, MED

4. Demonstrate Power System Design
5. Validate FE-2 Mechanical Design
6. Validate FE-2 Thermal Design
1. Demonstrate ACS operation
3a. Acquire startracker data
3b. Acquire phenomenology data
2. Demonstrate centroid tracking capability

GAO Allegation: GAO disputes that the SDIO Brilliant Pebbles flight experiments are increasing in sophistication.

SDIO Position: The comment that "this was the second in a series of suborbital experiments with each increasing in performance and sophistication" was made in the context that FE-2 was the second of a series of flight tests and that its performance was clearly better than FE-1 which had failed. The GAO has interpreted the remark out of context and without benefit of the accompanying press conference. The post flight press conference and material provided to correspondents clearly identified that FE-2 was the second flight in an originally conceived series of 12 experiments increasing in difficulty as the hardware design evolved. Furthermore, SDIO indicated that experiment planning intentionally developed sufficient test redundancy that a failure on any one or two experiments was not a major hindrance to the Brilliant Pebbles program. The press conference also clearly identified that FE-2 objectives were similar to the FE-1 flight which failed in the first 80 seconds of flight. The next programmed flight experiment FE-3 is planned to be of greater sophistication than previous flights.

GAO Allegation: The program managers statement that "this completes phase I of our experiment program" gives a false impression of progress.

SDIO Position: Again, the GAO has taken a sentence out of the press briefing and misrepresented its meaning without regard to the supporting dialog which transpired during the briefing. This statement was made at the conclusion of the post FE-2 press conference after a lengthy discussion from the program manager where it was clearly stated that all of the goals had not been met on either FE-1 or FE-2. However, the decision to proceed was made after careful consideration of progress in systems engineering and results of ground and flight experiments. At no time during the press conference was there any intent by SDIO to create false impression of test results or progress. Nor could false conclusions be reached by any logical person who listened to the entire briefing.

AMBASSADOR COOPER'S REACTION TO GAO REPORT

Mr. Conyers' opposition to our program is well known; this is just his latest missile in time to attempt to influence congressional debate on our budget.

Most if not all of the GAO arguments are old news—if they were ever news at all. I personally acknowledged and responded to two of the charges some fifteen months ago in a June 1991 four page detailed letter to Mr. Conyers—prior to the time we were informed that GAO review was being initiated.

I stated that the highly successful ERIS test, which indeed did prove out the functional capabilities of a kinetic energy interceptor with mid-1980s technology, did not demonstrate a capability to discriminate decoys from a real RV.

I refuted a variety of the same arguments, on the Brilliant Pebbles test, that the recent GAO report continues to propagate (then made by Mr. Conyers and his staff before the subject GAO review was initiated) and I stand by my written response.

The GAO report, itself, exposes the extent to which Mr. Conyers will go to maintain his negative bias against the program; contrary to virtually every other GAO review, Mr. Conyers "requested GAO [to] not obtain written comments on a draft of this report [from SDIO]." And, therefore, no balance to the one-sided view of Mr. Conyers was permitted in the report.

The inaccurate press reports on the KITE shroud are regrettable. However, I am not aware of any attempt to mislead the public or the Congress, and I believe a review of the trade press would turn up stories, based on interviews with SDIO and SDC technical personnel, that describe the shroud failure—and that the recent highly successful follow-on experiment has rectified that problem.

Yes, later analysis of the range data showed the LEAP interceptor fell about 4 percent short of reaching its 334 kilometer altitude objective and fell about 4 percent outside its objective 400-meter basket. The initial GAO draft report included estimates that were also in error—and they had months to analyze the data before exposing their independent work to us. Again there has been no attempt to mislead the press or keep our successes and failures a secret.

The lesson of this year-long experience with the GAO has been that we must be extremely careful in what we tell the press to avoid this kind of a witch hunt in which the focus is on finding nits and nats to criticize. In all these cases we were midstream in what were very successful experimental programs by any reasonable measure (two of which are complete). We are in a very deliberate way demonstrating that current technologies can make possible a defense for the American people in this decade, if Congress provides the funds.

CBO REPORT ON THE ADMINISTRATION'S PLAN FOR DEPLOYMENT OF THEATER AND NATIONAL BALLISTIC MISSILE DEFENSES

Mr. THURMOND. Mr. President, on Friday, August 7, the last time we debated the SDI program, several Senators quoted liberally from a CBO report commenting on the administration's plan for deployment of theater and national ballistic missile defenses. Since that report was also dated Friday, August 7, it obviously was not available for review by either Senators for the administration prior to that time.

During the debate, Senator WALLOP provided some immediate reaction to the report. My office subsequently requested a review of this CBO report by the Director of the SDIO, Ambassador Cooper. I received his response and want to share with you some of his findings.

Senator WALLOP argued that the CBO report was biased and misleading—clearly not an objective assessment of the administration's plan. Ambassador Cooper's review provides some further evidence. Let me briefly summarize what I conclude from his key points.

First, the CBO report mis- characterizes the administration's plan. The CBO report states the administration is not clear as to when a decision is to be made to begin production. Yet, Ambassador Cooper quotes from page 23 of the DOD report a clear statement that there would be "a production decision in the year 2000".

Second, the CBO report used a trumped up date, 1997, as a basis for making its arguments about concurrency—alleging that the administration's plan involved high concurrency. Yet, if the administration's stated plan to make a production decision in the year 2000 were used, there would be low concurrency by the CBO's own definition.

Third, the CBO report ignored the DOD plan's clear intent to separate contingency fielding options its baseline acquisition strategy, and in so doing corrupted both the useful concept of employing prototypical hardware, as we learned from JSTARS in the Gulf war, and the baseline acquisition strategy—which is a low concurrency strategy by the CBO's own standards.

Fourth, the CBO report's focus on 1997, rather than including other options—for example, 1998 and 1999—spelled out in the DOD report exaggerated the concurrency between the fabrication of 60 Dem/Val missiles and phase 1 IOT&E testing, even in the administration's plan for providing a contingency capability should it be needed.

Fifth, the CBO made an extraordinary effort to characterize a May 15 internal DOD memorandum written by

Dr. Chu as a timely authoritative statement of both Dr. Chu's current position and a standard against which to measure the administration's plan. But Dr. Chu coordinated on the administration's baseline plan of June 1992 and supports its evet-driven acquisition strategy which cquld provide an initial operating capability in 2002 or 2003—just as he had sought in his May 15 internal memorandum. Should the administration's June report to Congress not be taken at face value as being Dr. Chu's preferred option?

Sixth, the CBO alleges, to the contrary, that its own Alternative III somehow is equivalent to Dr. Chu's preferred option—but somehow different than the administration's plan on which had coordinated. Only dimly can one discern the waffling statement that certain CBO assumptions "were not discussed in Dr. Chu's memo." Yet it seems clear that whatever Dr. Chu's assumptions were on May 15, they would have been tested and accepted or rejected by the time the DOD report was finalized in late June—and concurred in by all the key DOD personnel responsible for acquisition matters, not just Dr. Chu. The fact is that the CBO's Alternative III has been subjected to no such scrutiny and at this point any similarity to Dr. Chu's "preferred option" would be purely coincidental.

Finally, the CBO cost estimates of its Alternative III allege to represent Dr. Chu's preferred option without any validation whatsoever. Dr. Chu's preferred option is imbedded in the administration's baseline plan. The CBO openly states that its estimates are not independently derive, rather they are derived from manipulating the administration's cost estimates. And Ambassador Cooper says he cannot reconcile gross discrepancies between the CBO's estimates and those presented in the June 1992 report to Congress. In view of these discrepancies, how can we presume that cutting over $2 billion from the President's request will have no impact of achieving an initial operational capability in 2002? I want to emphasize that over $1.3 billion of this cut directly affects the development of a limited defense system.

I am inclined to agree with Ambassador Cooper's bottom line that:

> In short, the CBO Alternative III, which the CBO most recently, masquerades as Dr. Chu's "low concurrency" program, is a fraud. It is not Dr. Chu's acquisition program; it is not a serious acquisition program at all. It is a guaranteed recipe for failure. To support it is to support no active defense for the American people.

Mr. HEFLIN. Mr. President, I rise in strong opposition to this amendment that would cut $1 billion in funding from the strategic defense initiative.

I believe there are strong reasons to maintain robust SDI funding, and to keep on track toward deployment of a limited defense system. We have invested billions of dollars in research and are now ready to move into engineering development. The proponents of this amendment seem to be arguing that by never allowing the program to proceed past the research stage, you will save the taxpayer money. I think that American people deserve more. Our investment in the strategic defense initiative is to give us what its name implies, give us a defense.

Right now, the world seems relatively peaceful to the average U.S. citizen. The civil wars in the former Soviet Union have no direct effect on us, and to some, the reasons for the United States to continue spending billions on defense seem tenuous at best. I implore my colleagues, however, to remember that after every war we have been too quick to cut, too quick to assume we have entered an era of world peace. We entered into World War II, Korea, and Vietnam totally unprepared; and after watching our young men and women die in those foreign lands, you would think every American would say never again will we send our boys to war unprepared. Instead, America is in danger of becoming consumed by short term measures, driven by a crisis mentality.

Mr. President, Members of Congress are not called to be weather vanes, they're called to be statesmen, men who understand the long/term implications of their acts. You don't have to be a prophet to know that one day, perhaps only a few years from now, the wolf will again be at our door. Why then are so many of my colleagues pose to begin dismantling our defenses, brick by brick, leaving only a house of straw to protect us?

There are currently 36 wars and rebellions going on in the world. Match this fact with the economic situation in Russia and their need for hard capital, and you have a recipe for disaster. The Russians have announced that they will sell SS–19 missile boosters on the open market. The Russians claim this booster is excellent for launching satellites, but they actually designed it to launch nuclear warheads at the United States. There is no more need to worry about Third World nations developing their own ballistic missiles. Now they can simply buy the very best long range ICBMs from the Russians. They can purchase these missiles and arm them with nuclear warheads designed by hired Russian engineers, using stolen fissionable material. Certainly there has never been a clearer, stronger case for the deployment of strategic defenses. SDI was the only program the President spoke in support of during his State of the Union Address, and I believe his priorities could not be better placed.

Mr. President, the Soviet Union had superpower status for years because of its vast nuclear arsenal, but has now learned that a strong Army doesn't make a strong country. Kuwait is a nation of riches, but learned that economic strength won't preserve its borders. The United States is now at a crossroads in history, and the decisions we make today will shape the world's future.

Proponents of this amendment have said we don't have to worry about the former Soviet Union because they are selling off all their weapons, their soldiers are going unfed and unhoused, and their defense industries are in dire straits and soon will go out of business. Futhermore, it seems every month there are new cuts in the number of nuclear warheads in both sides' arsenals. I suppose we can just disregard the fact that Russia has yet to destroy a single warhead.

Frankly, Mr. President, thoughts of the former Soviets arming the Third World and of the economic instability in their countries brings me no comfort. It is our responsibility as Senators to recognize that we are in a period of great hope, but also of great uncertainty. The strategic defense initiative is geared to offer us protection from the one threat that there currently is no protection from. During World War II the British stopped the Germans at the Channel, and eventually managed to keep German planes from their skies, but they had no defense against the first ballistic missile, the German V–2. Though it is little known, American forces came under ballistic missile atack at Antwerp. This one Belgian town was hit by 1,610 V–2 missiles and almost 4,000 Allied lives were lost. Keep in mind that when World War II started just a few years earlier, no nation on earth had ballistic missiles in production. I also hope my colleagues realize that ballistic missiles like the V–2, and the atomic bomb for that matter, were cutting edge technologies during the 1940's, 50 years ago.

We were fortunate that more men and women were not killed by the scud missiles during the Persian Gulf war. The Patriot, designed to defend against aircraft, performed well but served only as a point defense. Had Saddam Husein put chemical agents in the scud warheads, I hesitate to even guess the number of lives that would have been lost.

Mr. President, the military is the sorcerer's apprentice who let the genies out of the bottle, never to be recaptured. Gunpowder, the Maxim machinegun, ballistic missiles, the atomic bomb; each was a weapon held originally only by one army. Today they or their descendants are spread across the face of the Earth. Who can stand before this body today and say that only 5 countries have long range ballistic missiles and no other country ever will? A much safer statement would be to say that we will need strategic defenses in the future, and if we are to have them, we must invest today.

I implore my colleagues to join with me today to defeat this effort to cut SDI funding.

Mr. GRASSLEY. Mr. President, I rise today in support of the amendment offered by the Senator from Tennessee [Mr. SASSER] and the Senator from Arkansas [Mr. BUMPERS].

Nearly a decade ago, in March 1983, then-President Reagan, unable to gain an understanding with the Soviet leadership in nuclear weapons reductions through arms control negotiations, proposed the strategic defense initiative.

Many hailed the initiative as a major step toward the common defense of the American people from deliberate nuclear attack by the Soviet Union or any other nuclear power.

Substantial funds were authorized for an intensive research and development program to explore the feasibility of such space-based defenses and the best means to make preparation for initial deployment. Of course, SDI has had its outright opponents as well. They based their objections on the premise that the relative parity in nuclear forces at the time would be jeopardized, thus compromising the status quo in the sensitive balancing act of the nuclear nightmare commonly referred to as mutual assured destruction—or MAD.

Since I have never found favor with the concept of holding the people of our Nation as hostages to nuclear weapons, I felt compelled to thoroughly explore each avenue offered through the SDI effort to end the nuclear arms race.

For years, now, debate has raged over questions of the purpose, merit, feasibility, legality, and practicality of SDI, among other considerations.

Throughout that period, research and development has continued as new alternatives were pondered.

The Pentagon's current plan calls for deployment first of defenses against short-range theater missiles. A new generation of theater defenses are to be fielded, presumably, by 1996, and to guard against the threat of long-range missiles, the initial site of an interceptor system is to be established in North Dakota by 1997.

While I still recognize the potential value of a missile defense system and the role it might play in national defense, to proceed toward such accelerated deployment objectives begs many questions.

Do our current and anticipated threats to national security warrant such hasty deployment? Will this expedited schedule permit sufficient testing of vital components prior to their application in the field? Does the state of the U.S. economy allow us to rightfully devote such resources to SDI in the near term?

Today we are called upon to examine the SDI Program relative to these and other considerations. We have been entrusted by our constituents to maintain a strong national defense, but we are being challenged to do so in a responsible fashion.

The reality, of course, is that as we consider the funding level for SDI this year, we do so in the absence of the Soviet threat.

The reality is also that as we consider the funding level for SDI this year, we do so in the presence of a record Federal deficit and national debt.

And the further reality as stated by SDIO Director, Henry Cooper, is that to achieve the 1996 deployment target envisioned by the funding level in this bill would require engineers to manufacture components of the ground-based system before prototype models could be fully tested.

This high-risk buy-before-you-fly procurement strategy simply cannot be justified in the current world or budget environment.

The Senator from Arkansas has proposed a funding level which the Congressional Budget Office confirms is sufficient to proceed toward initial deployment of a limited defense system by the year 2002, a level which allows for full testing of all components which are to be deployed at an initial site, and a level of funding which recognizes the budget realities of the day.

I believe this amendment charts a responsible course of action, both in terms of national security concerns and budgetary concerns, and I encourage its adoption.

Mr. DODD. Mr. President, I rise today in support of the amendment offered by the distinguished Senator from Tennessee [Mr. SASSER].

As the senior Senator from Tennessee has so eloquently stated, the world has changed, and we as a nation need to address those changes. Likewise, as we consider future spending authorizations for the Department of Defense, we must not only reflect on those changes, but act on them accordingly.

This is not a debate about dollars. This is a debate about how this Nation should proceed in the changing global environment. The facts are clear, the threat of nuclear attack has diminished. Our primary adversary has agreed to unprecedented nuclear weapons reductions. Discussions continue regarding further bilateral reductions which may provide even greater cooperation between our two nations. It is obvious that our cold war deterrent strategy has prevailed, and the time has come to honestly assess our overall spending on strategic defense systems.

Mr. President, this amendment is not unreasonable. My distinguished colleague has presented a very compelling and concise argument which I believe accurately addresses two important points.

First, this amendment seeks to bring fiscal year 1993 strategic defense initiative spending levels in line with reductions imposed on other research and development programs. We are all painfully aware that funding levels for many programs must be reduced. To ask the American taxpayer to proceed with what amounts to increased levels of funding as presented in the committee report seems unreasonable.

Second, this measure directly addresses the mounting evidence that this program is not on track. In the past 8 months there have been no less then six separate GAO and CRS studies reviewing various aspects of the proposed SDI Program. In each and every one of those studies the conclusions remain the same: SDI is behind schedule, grossly over budget, and badly out of line with the roles and missions requirement of our changing military structure.

Of even greater concern to me is the self admission by the Strategic Defense Initiative Office [SDIO] that the date for initial deployment of SDI is questionable if not unobtainable.

I believe that technology research is critical to the lifeblood of our Nation's productivity. Our history as a world leader in emerging aerospace technologies is self-evident. We need to maintain that leadership role, but not at the expense of necessary and prudent reductions in our military force structure.

Our roles and missions have changed. I believe the distinguished chairman of the Armed Services Committee, Senator NUNN, has provided this body with a positive roadmap for the changing needs and requirements for our national defense. And I believe the changes proposed by my colleague, Senator SASSER, support that plan through restraint in spending during a difficult period of budgetary debate.

Mr. President, the distinguished Senator from Tennessee has presented prudent reductions that directly answer the needs of our national security budget. For this reason, I urge my colleagues to support this amendment.

SDI: AN EXPENSIVE FAILURE

Mr. WELLSTONE. Mr. President, I rise to express my strong support for further deep cuts in funding for the Strategic Defense Initiative [SDI]. In my view, SDI has been an expensive failure, and reducing significantly its funding today would be an important step towards controlling the rising costs of this far-fetched program. I think it is shameful that just yesterday, this body refused to transfer less than one-half of 1 percent of the defense budget from wasteful and unnecessary defense spending to critical domestic programs. And that now, some of my colleagues are reluctant to reduce SDI funding to $3.3 billion.

I am particularly outraged that we would even consider such a decision in the wake of a report released just 1 week ago from the General Accounting

Office, which concluded that the SDI Office in the Pentagon has made a series of false and exaggerated claims for this system. The report concluded that SDI officials have covered up a series of test failures with misleading statements to Congress, including outright false claims of success.

For example, GAO found that the recent Brilliant Pebbles tests were not "90 percent successful," as the Pentagon had claimed. Nor did they represent increasingly sophisticated tests, nor a completion of the first phase of the testing goals, as was claimed. Further, the various tests of interceptor systems failed to work as planned. In fact, the program has been riddled with serious problems for a long time. At this point, I would like to include for the RECORD a copy of an article from yesterday's Washington Post, which outlines the findings of GAO.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 16, 1992]

SDI SUCCESS SAID TO BE OVERSTATED

(By R. Jeffrey Smith)

Officials responsible for developing an antimissile system to defend the United States have repeatedly exaggerated the achievements of space experiments and flight tests meant to demonstrate the success of their research effort, a report by congressional auditors has concluded.

Following a one-year study, the report by the General Accounting Office said four tests between January 1990 and last March were not as successful as officials in the Strategic Defense Initiative program claimed in a series of news releases, briefings and reports to Congress.

One of the experiments involved the sole, full space test so far of an antimissile interceptor known as a "Brilliant Pebble," the centerpiece of the Bush administration's concept for missile defense. SDI program managers had described the test as "a 90 percent success," but the GAO report disclosed that a sensor failed to collect useful data, a gyroscope did not operate properly and the interceptor failed to maneuver properly or accurately track its target.

In another instance, program managers claimed that a protective cover for a different kind of interceptor was properly jettisoned during the early stages of a test; in reality, pieces of the shroud broke off, disintegrated and damaged the interceptor, forcing the shroud's redesign.

A third type of interceptor was said by officials after another test to have distinguished between real enemy missiles and missile decoys, meeting one of SDI's most vexing technical challenges. But, in fact, the interceptor had no such capability, according to the GAO report.

The report added, however, that three other tests during the period studied were correctly depicted by the SDI agency, an arm of the Pentagon, as either complete failures or of limited success.

While the auditors drew no conclusion about why the test achievements had been exaggerated, the chairman of the House Government Operations Committee, Rep. John Conyers Jr. (D-Mich.), charged in a written statement that SDI officials had sought to cover up test failures in order to claim "great break-throughs" and thus "justify annual budgets of four to five billion dollars."

"Now we've caught them in the act," said Conyers, an opponent of the SDI program who commissioned the GAO study and provided a copy to The Washington Post.

SDI Director Henry F. Cooper said that overall, he does not believe the GAO report is "fair in its presentation," partly because it does not mention that unexpectedly useful data has been obtained on some tests that went awry.

He said the report was written as if "these guys were assigned a job, and they went off and did it."

Disclosure of GAO's conclusions comes at a sensitive moment for the controversial antimissile program.

The Senate Appropriations subcommittee on defense is expected to begin deliberations today on a Bush administration proposal to boost funding for the SDI program, which is already the largest U.S. military research endeavor.

After two years of rising congressional support for antimissile work, bolstered by the widespread impression of successful Patriot interceptions of Iraqi Scud missiles in the 1991 Persian Gulf War, Congress is beginning to have second thoughts about the "Star Wars" program.

Last month, a majority of the Senate supported a proposal by Sens. Jim Sasser (D-Tenn.) and Dale Bumpers (D-Ark.) to trim the current SDI budget of $3.95 billion by 20 percent.

Republican senators who supported the Bush administration's proposal for a 37 percent boost in Star Wars spending responded by blocking a vote on legislation authorizing the 1993 defense budget—a stalemate that may be broken by compromise later this week.

While the bulk of the $27 billion spent on SDI over the past 9 years has gone for laboratory research and analysis, flight tests have routinely been conducted to prove that prototypes can work and to provide visible, politically potent symbols of the program's technical progress.

No major flight tests of interceptor prototypes like those now being considered for deployment were conducted prior to the period studied by GAO, according to an SDI spokesman.

Two flight tests have been conducted since the study was completed, including one in which the interceptor was judged "flawless," although it failed to hit its target due to a problem with communications gear.

The seven tests studied by GAO each cost between $12 million and $50 million, excluding the hardware and engineering development costs, according to an SDI spokesman.

The report's analysis indicates that while important research has been conducted by these tests, more questions about the design and performance of proposed ground-based and space-based antimissile interceptors remain unanswered than SDI officials have publicly acknowledged.

The portion of the GAO report that could sow the most alarm among SDI supporters on Capitol Hill deals with a 1991 test of a Brilliant Pebbles prototype.

The Bush administration wants to spend $449 million next year to continue development of the rockets, nicknamed for their sophistication and relatively small size. It declared in June that up to 1,000 of the interceptors should be orbited beginning in the year 2001; from there, the rockets would be in position to collide with enemy missiles during the first few minutes after launch.

Critics of the Star Wars program have recently trained most of their fire on Brilliant Pebbles, arguing that development of such interceptors would be unnecessary, costly and perhaps unworkable.

The House voted this summer to eliminate funding for Brilliant Pebbles, while the Senate Armed Services Committee voted to reduce the Pebbles effort so more work can be done on interceptors that would be deployed on the ground.

An initial Brilliant Pebbles space test, held in August 1990, largely failed when key parts of the missile were prematurely separated 81 seconds after launch from Wallops Island, Va.

As a result of this failure—which SDI acknowledged at the time—and various equipment and computer software problems, SDI officials decided a few weeks before a second test in April 1991 to drop or scale back many of their published goals for the experiment.

Air Force Col. Roland Worrell, director of the Brilliant Pebbles program, told reporters at a Pentagon news conference the day after the launch that the test was "all in all * * * about a 90 percent success," noting it had met all but one goal.

Similarly, SDI director Cooper told a skeptical Conyers at a hearing the following month that the test "accomplished all of the main objectives," a claim he reiterated in a June 16 letter.

But according to the GAO report, neither Worrell nor Cooper mentioned the goals had been revised. The omission left a broad impression that the weapon had met such key demands as correctly sighting its target and manuevering precisely to intercept it, when in fact it had not, according to the GAO report.

"When compared to the original goals * * * the 90 percent success statement significantly overstated test results," the GAO report said. "Nothing was obtained for one [original] goal and the other three goals were only partially satisfied."

An SDI news release about the test falsely claimed that it was more complicated than previous tests, and Worrell incorrectly indicated that the test's success warranted moving to a new phase of research, according to the original test plan, the report said.

"The revised test was of a less capable prototype, tested over a more limited range of operation than originally intended," the GAO report said. "The program has not progressed as intended."

Conyers, citing Cooper's testimony before his committee, said the SDI director "has been less than truthful. * * * This report shows how he twisted the truth to claim successes where none, in fact, existed."

Cooper responded in an interview that while he regrets not mentioning the experiment's revised goals in his letter to Conyers, he still feels the experiment was "a success."

He said Worrell's claim of "90 percent success is a generic kind of a statement. I don't believe anybody was thinking about a quantitative assessment when they said 90 percent. * * * It probably shouldn't have been given out."

Responding to the GAO claim that the results of a January 1991 test of a ground-based interceptor known as ERIS had been misrepresented by the Army Strategic Defense Command—an SDI partner—Cooper said "there were some people [in the Army] who had an incorrect view" of the interceptor's ability to distinguish between real and fake missiles.

The Army claimed the interceptor had shown such ability in the test; the GAO report said ERIS failed to meet this key goal.

Following a test of another interceptor known as HEDI, Army officials claimed that the design of its protective shroud had been validated; once GAO began asking questions, however, the Army issued a new fact sheet on the flight that omitted the claim without explaining its earlier error.

"People try to be fair with what is presented," Cooper said. "On occasions, there are people who get too exuberant."

Mr. WELLSTONE. Even in the face of this most recent evidence, I cannot believe that we are still willing to throw money at this program! I think this is a truly breathtaking demonstration of our unwillingness to take into account new post-cold-war realities.

Let's be clear about the scope of this program. SDI has consumed over $30 billion since its inception in 1983—a spending rate of $100 per second for the last 9 years. We must scale back this program now before the SDI program consumes billions of dollars more. It is time to put a stop to this wasteful and unnecessary spending spree—right now. Even Adm. William Crowe, former Chairman of the Joint Chiefs of Staff, has called for cutting back the SDI budget to $2 billion annually. And we're unwilling to cut the program back to even $3.0 or $3.3 billion? We must change course now. We simply cannot continue to spend these huge amounts of money on fantastically expensive defense programs.

President Bush's plan calls for spending over $27 billion more over the next 4 years—an outrageously extravagant amount. Some experts have calculated that the total cost of the SDI program could be $120 billion by the time it is completed. In this era of declining defense budgets, it only makes sense to decrease SDI funding significantly.

Perhaps the most basic and compelling reason to support these cuts is this: the collapse of the former Soviet Union removes the threat against which SDI was originally supposed to defend. Without such a technologically advanced adversary it does not make sense to spend limited resources on an expensive and wasteful program which has failed to produce any results. I urge my colleagues in the strongest possible terms to support this modest effort to reduce SDI funding.

The PRESIDING OFFICER. There is no remaining time.

Mr. SASSER. Mr. President, I yield to the majority leader such time he may consume, as I have remaining.

Mr. MITCHELL. Mr. President, I have 2 minutes.

The PRESIDING OFFICER. The majority leader has 2 minutes.

Mr. MITCHELL. Mr. President, Members of the Senate, 5 weeks ago, by a vote of 49 to 43, the Senate expressed its support for the amendment offered by Senators SASSER and BUMPERS. Not a single material fact has changed since that day. Not a single reason exists for any Senator who supported the Sasser-Bumpers amendment 5 weeks ago to reverse that position this evening.

The compelling arguments made by the Senators from Arkansas and Tennessee 5 weeks ago are just as compelling today. We have to start to reduce unnecessary expenditures if we are ever to bring the budget deficit under control.

This Senate has been drowned in a sea of oratory about fiscal responsibility, balanced budgets, reducing spending. Here is an opportunity for the Senate for once to have deeds match words, for once to have reality catch up with rhetoric.

Forty-nine to 43 was the margin in support of the Sasser-Bumpers amendment 5 weeks ago. That ought to be the same margin today, because every single reason which existed then to support that amendment exists today.

I urge my colleagues to vote for the Sasser-Bumpers amendment.

The PRESIDING OFFICER. All time has expired.

Mr. NUNN. Mr. President, I assume the Senator wants the yeas and nays.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

The question is on agreeing to the amendment.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

The result was announced—yeas 48, nays 50, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—48

Adams
Akaka
Baucus
Biden
Bradley
Breaux
Bryan
Bumpers
Burdick, Jocelyn
Byrd
Chafee
Conrad
Cranston
Daschle
DeConcini
Dodd
Ford
Fowler
Glenn
Grassley
Harkin
Hatfield
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Pressler
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wofford

NAYS—50

Bentsen
Bingaman
Bond
Boren
Brown
Burns
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dixon
Dole
Domenici
Durenberger
Exon
Garn
Gorton
Graham
Gramm
Hatch
Heflin
Helms
Hollings
Inouye
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Robb
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—2

Gore
Wirth

So the amendment (No. 2919), as modified, was rejected.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3036 TO AMENDMENT NO. 2918

(Purpose: To amend the amount provided for the strategic defense initiative)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of myself, Senator WARNER and Senator EXON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself, Mr. WARNER, and Mr. EXON, proposes an amendment numbered 3036 to the amendment No. 2918.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On the first page, line 4, strike out "AMOUNT.—" and all that follows and insert in lieu thereof the following:

AMOUNT.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $3,800,000,000 may be obligated for the Strategic Defense Initiative, as follows:

(1) Of the amounts appropriated pursuant to title I for fiscal year 1993 or otherwise made available to the Department of Defense for procurement for fiscal year 1993, not more than $62,500,000 may be obligated for the Strategic Defense Initiative.

(2) Of the amounts appropriated pursuant to section 201 for fiscal year 1993 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1993, not more than $3,737,500,000 may be obligated for the Strategic Defense Initiative.

(b) SPECIFIC AMOUNTS FOR THE PROGRAM ELEMENTS.—Of the amount set forth in subsection (a)—

(1) not more than $2,090,000,000 shall be available for programs, projects, and activities within the Limited Defense System program element;

(2) not more than $997,500,000 shall be available for programs, projects, and activities within the Theater Missile Defenses program element;

(3) not more than $350,000,000 shall be available for programs, projects, and activities within the Space-Based Interceptors program element;

(4) not more than $400,000,000 shall be available for programs, projects, and activities within the Other Follow-On Systems program element; and

(5) not more than $400,000,000 shall be available for programs, projects, and activities within the Research and Support Activities program element.

Mr. GLENN. Mr. President, I wish to clarify my vote on the Nunn second-degree amendment to the underlying Sasser amendment on SDI funding.

I had earlier supported the Sasser amendment, which would have reduced funding for SDI by $1 billion from the SASC mark of $4.3 billion. When this amendment failed, I decided to vote for the Nunn second-degree amendment reducing the SASC mark on SDI by $500 million. I did so because I felt that in light of the previous vote, this represented the only realistic opportunity to decrease the funding level of SDI on the Senate floor. While I believe that $3.8 billion still represents too high a level for SDI funding, it is preferable to the original committee mark of $4.3 billion.

Mr. BUMPERS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. NUNN. Mr. President, who has the floor?

The PRESIDING OFFICER. Senators are available for recognition, the Senator from Georgia having called up an amendment.

Mr. BUMPERS. Parliamentary inquiry. I want to know what is the sequence of what the Senator proposes.

Mr. NUNN. What I propose to do is vote on the amendment that is now pending that has just been read. That amendment would provide for $3.8 billion funding for SDI which is a $500 million cut from the $4.3 billion in the bill, but this is in the nature of a second-degree amendment to the first-degree amendment which is the Bumpers or the Sasser amendment. That one provides for a $3.3 billion level of funding. So viewed from the point of view of parliamentary procedure, this would be adding $500 million to the $3.3 billion that is now pending, giving a $3.8 billion total to SDI funding for this fiscal year, but it would be a $500 million cut from the $4.3 billion that is now in the bill. Overall, it would be a cut of $1.6 billion from the President's original request.

Mr. BUMPERS. Will the Senator enlighten all of us further, what does he intend to do after that and what kind of timeframe are we looking at?

Mr. NUNN. I thank the Senator from Arkansas. It had been my hope we could do B-2 tonight, but at this late hour and on the basis of another amendment we are going to take up, because of that I recommend we do B-2 first thing in the morning. And I hope this will be the last rollcall vote.

The Senator from Arkansas [Mr. PRYOR] has an amendment that I have gone over with him and it is my recommendation we accept that amendment. I do not know whether it has been cleared on the other side, but if it has been cleared, we will not require a rollcall vote on that amendment.

Mr. DOLE. If he does not talk.

Mr. NUNN. Mr. President, if that is the case, then what we will have is a rollcall vote on this amendment, followed by a very brief description of the Pryor amendment which we have heard before. I think he has talked about it several times on the floor, and I know exactly what the amendment does. I think it should be adopted. Then what we will do I hope is lay down the B-2 amendment tonight. That will be the pending business tomorrow morning.

We hope to get, and I will inform Senators, an hour and a half time limit on the B-2 before we leave tonight. That is not entered yet, but I will be propounding that, which means we will vote on the B-2 amendment at about 10 o'clock tomorrow morning. I also invite Senators who have other amendments they believe has been worked out to stay here tonight and let us take care of as many as those amendments as we possibly can. We will stay in business for those Senators who have amendments that have been worked out.

Mr. COHEN. Will the Senator yield?

Mr. NUNN. Yes.

Mr. COHEN. Mr. President, I will indicate that I believe the majority leader is going to make a unanimous-consent request, but following the vote on the B-2 amendment, we will move directly to an amendment dealing with nuclear testing, and Senator HATFIELD, Senator MITCHELL, and myself have proposed to agree to a 90-minute time limitation on that debate as well.

Mr. NUNN. That is my understanding. The Senator is correct on that. That will be in the unanimous-consent request to be proposed tonight.

Mr. JOHNSTON. Will the Senator yield?

Mr. NUNN. I believe I have the floor. Mr. President, do I have the floor?

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. NUNN. Mr. President, I yield for a question to the Senator from Louisiana.

Mr. JOHNSTON. Did the Senator say there was a time limit on the Cohen amendment with respect to a moratorium on nuclear testing?

Mr. COHEN. We are proposing to reach a time agreement. The majority leader is going to propound the unanimous-consent request following disposition of the Nunn amendment.

Mr. JOHNSTON. Is the amendment in writing?

Mr. COHEN. Mine is in writing. I believe mine would be amended by the Senator from Oregon and the majority leader. I have not seen their amendment in the second degree, but I will be happy to furnish an amendment to the Senator.

Mr. JOHNSTON. As the Senator from Maine knows, I am most anxious to support his activities, but I would appreciate the courtesy of seeing a copy of all of these in writing if we are going to agree to a time limit.

Mr. COHEN. I believe my staff has been working closely with the Senator's staff for the past several days on this issue.

Mr. MITCHELL. Mr. President, the amendment to be offered in the second degree by the Senator from Oregon will be identical to the amendment which 68 Senators including the Senator from Louisiana voted for a few weeks ago.

Mr. LEAHY. Mr. President, will the Senator yield for a question?

Mr. NUNN. Mr. President, I yield for a question.

Mr. LEAHY. Mr. President, I apologize. I heard reference to the B-2 and I was in a conversation with another Senator.

What is the state of play, working with the distinguished chairman, to try to work out a time?

Mr. NUNN. Mr. President, I say to my friend from Vermont that we would hope to bring the B-2 and lay it on the table as the pending business tonight and begin on that tomorrow morning at 8:30 and conclude it at 10 o'clock. That is not an entered agreement yet. That would be what I would propound.

Mr. LEAHY. Might I recommend to my distinguished friend from Georgia, Mr. President, that maybe what we could do is be here at 8:30, lay it down at 8:30, and go immediately into it, do it in 1½ hours with the understanding, certainly on my side, that if we did not need the time, yield back time so that the vote might even occur before 10.

But also I am thinking of the distinguished leaders who have to determine where we are going to go on this. This would guarantee that sometime between, say, the hour of 9:30 and 10 there would be a rollcall vote, so that the leadership in planning and alerting people, wherever they might be would know.

I mention that only so that as we do more things staff could go home; they do not need to be here for that. If either laying it down tonight or in the morning, if we have a unanimous-consent agreement, will not make a minute's difference, why not do it that way?

Mr. NUNN. The Senator is correct; it will not make any difference. But the unanimous-consent agreement already has a sequence of amendments, and I understand the unanimous consent already agreed to in August provides, when the Pryor amendment is disposed of, which is our intention tonight, then the pending amendment would become the B-2 amendment because of the previous unanimous consent. So it will be the pending business tonight. But the result will be the same. We still will not begin on the amendment until tomorrow morning.

Mr. LEAHY. I thank the Senator. I appreciate that.

Mr. NUNN. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I just want to say to my colleagues, if anybody is having any pangs of conscience about voting in error a moment ago, here is a chance to rectify it. All you have to do is vote no on this amendment.

I yield the floor.

Mr. WALLOP. Mr. President, I rise with reluctance to express my support for the compromise amendment offered by Senator NUNN and others. I do not believe that $3.8 billion is adequate funding for the SDI Program if we are serious about implementing the Missile Defense Act of last year. I will vote in favor of this level only because it is an improvement over the pending amendment by the Senators from Tennessee and Arkansas.

Mr. President, the senate does indeed face a fundamental choice about SDI. The alternative offered by the Senator from Tennessee and the Senator from Arkansas would transform the SDI into a program to develop and deploy theater defenses for overseas while denying the American people the right to a similar degree of defense at home. At $3.3 billion, the SDI budget will only support research and development for national missile defense. If the senate were to endorse this level of funding we would be putting off defense for the American homeland beyond the year 2010. No objective assessment of future ballistic missile threats warrants such delay.

Mr. President, I make an appeal to my colleagues: stop wasting money on SDI. If we are serious about defending the American people then let's get behind the program. If we do not believe that the American people need or deserve a defense against ballistic missiles, then let's be honest about it. In any case, we should stop cutting SDI funding in such a way that a deployable system remains just beyond our reach.

Mr. President, on August 7th, when we first debated the amendment to cut SDI funding to $3.3 billion, I characterized as unprofessional the report by the Congressional Budget Office which was the basis for the recommended cut. I stand by that assessment. As I said in August, the CBO's definition of concurrency is thoroughly without credibility and their proposals regarding SDI funding would undermine our ability to deploy a defense of the United States much before the year 2010.

Mr. President, I ask unanimous consent to include in the RECORD a letter from the Director of CBO, Mr. Reischauer, to me, and a letter from SDIO director, Henry Cooper commenting on this letter. I also ask unanimous consent to include in the RECORD a letter by Ambassador Cooper to Senator WARNER that further discredits the CBO position. Finally, Mr. President, I ask unanimous consent to include in the RECORD a speech by Ambassador Cooper at the Heritage Foundation that puts the SDI debate into sharper focus.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 18, 1992.
Hon. MALCOLM WALLOP,
U.S. Senate, Washington, DC.

DEAR SENATOR: In a speech on the Senate floor on August 7, 1992, you were highly critical of the Congressional Budget Office (CBO), stating that this agency is biased and unprofessional. The criticism related to answers that responded to specific questions from Senators Sasser and Levin concerning cost growth and concurrency in the Strategic Defense Initiative (SDI) program. I take issue with your criticisms, which I believe are based on a misrepresentation of our answers.

Your main criticism was that we had "concocted" a definition of concurrency to suit the answers provided to Senators Sasser and Levin. In fact, as noted in our response to the Senators, the definition was the same one used in a 1988 CBO study of concurrency in major weapon programs. That study considered various definitions before selecting the one at issue. We believe that our choice captures the essence of concurrency—that is, production of a weapon that begins before operational testing is complete.

You also stated that no one else uses CBO's definition. You should know, however, that the Department of Defense (DoD) uses essentially the same definition. After CBO's 1988 report was issued, the Congress directed DoD to define concurrency and to measure it for major weapon programs. In a report submitted in April 1990, DoD defined concurrency based on the portion of initial operational testing that is completed before production begins, the same definition used by CBO in its 1988 report and in the answers provided to the Senators.

Nor is CBO's definition of concurrency "foxy," as you state, because it leads to the conclusion that "virtually every program is 100 percent concurrent." Actually, under the CBO and DoD measures, a program has concurrency of 100 percent only if no operational testing has begun before production begins. Relatively few programs feature that sort of plan.

In our answer to the Senators, we noted that CBO's 1988 study found no strong relationship between concurrency and two possible measures of the success of a weapon program: cost growth and schedule slippage. There are both advantages and disadvantages to concurrency, which may explain the weak relationship. Rather than "admitting" the absence of a strong relationship, as you assert, our answer included this finding to ensure that readers were aware that the evidence regarding the effects of concurrency is mixed.

Finally, you argue that we analyzed the "wrong" SDI program because our answers focused on the current Administration plan rather than on the plan proposed by the Senate Armed Services Committee. Actually, we did what we were asked to do. Senators Sasser and Levin requested that we focus on the current Administration proposal, which includes the detailed testing schedule that is necessary to estimate concurrency in quantitative terms. The Senators also requested that we discuss, in qualitative terms, the effects on concurrency of two alternative approaches to SDI. One of those alternatives is similar to the Committee proposal, at least in terms of 1993 funding. Compared with the Administration's plan, we note that this version of the SDI program would feature less concurrency.

For all these reasons, I think you seriously misrepresented our analysis. Our answers were accurate and professionally prepared. They responded in an even-handed manner to the questions posed by Senators Sasser and Levin.

Sincerely,
ROBERT D. REISCHAUER,
Director.

DEPARTMENT OF DEFENSE, STRATEGIC DEFENSE INITIATIVE ORGANIZATION,
Washington, DC, September 11, 1992.
Hon. MALCOLM WALLOP,
U.S. Senate, Washington, DC.

DEAR SENATOR WALLOP: Thank you for the opportunity to comment on Mr. Reischauer's August 18, 1992, letter to you which alleged to support the August 7 Congressional Budget Office (CBO) mis-characterizations of concurrency in the SDI program as a reason to stretch our program and reduce its funding. The CBO falsely claimed that the DoD uses the same definition for concurrency as applied in the August 7, 1992, CBO analysis of our program. They base this claim on a 1988 CBO report and an outdated April 1990 report from the DoD. While there is some similarity between the 1988 CBO and the April 1990 DoD report's definitions of concurrency, the latter is not by any stretch of the imagination a reference guide for DoD. In fact, it took my staff two days to locate a copy of that report, which, as best I can tell, has no current status in the Department.

The most recent (February 1991) DoD systems acquisition regulations define concurrency as "the degree of overlap between the development and production processes of an acquisition program," as did the FY1990-1991 DoD Authorization Act. This would track the CBO definition if the point of "initiating production" were properly define. The CBO concurrency definition, however, is based on the contention that production starts with the authorization of low rate initial production (LRIP). This CBO definition is not consistent with Congressional direction provided through Title 10 of the U.S. Code, which includes operational testing with LRIP hardware to support the production decision.

Today, with rare exception, the DoD Operational Test and Evaluation community requires LRIP hardware to satisfy Title 10 requirements for initial operational test and evaluation (IOT&E) prior to the beginning of production. Therefore, the CBO definition of production as starting with the authorization of LRIP would indicate every such program is 100 percent concurrent—which would be absurd! On the other hand, if production were defined to begin at Milestone III (as explicitly stated in the SDIO Report To Congress describing our plan to implement the Missile Defense Act—and as is generally the case for the acquisition of DoD systems according to the DoD systems acquisition regulations), the CBO's own formula would indicate zero concurrency in the Administration's core or baseline program.

The issues of concurrency within the Demonstration/Validation (Dem/Val) development process were discussed in my May 20 testimony and in the SDIO Report to Congress, as related to the User Operational

Evaluation System (UOES) options which involve pre-LRIP (or Dem/Val) prototype hardware. While there is a common sense concern about concurrency and risk involved in using UOES to provide different options for early contingency defense capability in response to the Missile Defense Act, the concern has been fully addressed by the three options to field UOES in the SDIO Report to Congress. (There is no cost discriminant between these options prior to 1995, when the initial decision must be made as to whether to field an initial UOES site by late 1997). Such concerns, in any case, should have no bearing on judging the concurrency of the Administration's event-driven, core or baseline program. For completeness, I have also attached a copy of my August 10, 1992, letter to Senator Warner which provides additional comments on the CBO report.

Thank you again for the opportunity to comment in a timely way on these important issues.

Sincerely,

HENRY F. COOPER,
Director.

DEPARTMENT OF DEFENSE, STRATEGIC DEFENSE INITIATIVE ORGANIZATION,
Washington, DC, August 10, 1992.

Hon. JOHN WARNER,
Ranking Minority Member, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: Thank you for the opportunity to comment on the August 7 CBO report regarding issues of concurrency and cost estimates for the SDI program—particularly those estimates that allege to support a 2003 deployment of an initial ground-based interceptor site. Let me discuss these two issues in turn.

CONCURRENCY

I must say that I am surprised by the lack of understanding in the CBO's discussion on concurrency and characterization of our program as presented in our June 1992 Report to Congress on our Plan for Deployment of Theater and National Ballistic Missile Defenses. For example, the CBO report states that its definition of concurrency depends on the date at which production begins—and then alleges that this date is not clearly defined by the Administration's plan. Yet our report clearly states that production begins at Milestone III (as in every standard acquisition program), which occurs in our plan in the year 2000—as shown on Figures 5 and 7 and as explicitly stated on page 23. Here, in discussing our acquisition strategy as illustrated by Figure 5, the report indicates that the Administration plan employs "a normal acquisition strategy involving a robust five-year Dem/Val program with heavy user involvement, followed by a three year EMD phase and concluding with a production decision in the year 2000 for items produced in quantity."

Thus in our baseline program, a production decision for the "1000" interceptor missiles of the CBO report would be made after completion of IOT&E Phase 1 and Phase 2, as shown in Figure 7 of our 180-day Report to Congress. The Administration's baseline plan is, therefore, a "low concurrency" program by the CBO's own definition.

It is hard to imagine how the CBO could misunderstand our acquisition strategy—or why they would choose to characterize our plan solely in terms of an option to field contingency capability in 1997 using Dem/Val hardware as a 1997 production decision, which it certainly is not. In fact, our plan considered three contingency fielding options, none of which involve production hardware—they all involve 60 Dem/Val interceptor missiles, with fabrication of those Dem/Val missiles beginning at some future time (as early as 1966), pending evaluation of progress in our baseline program and our perception then of the evolving threat. "Concurrency" for the 60 Dem/Val missiles would vary depending on which of the three options, if any, is selected in conjunction with IOT&E Phase 1:

Option 1 (High Concurrency) leading to an initial contingency capability as early as 1997 would initiate fabrication of the initial 12 Dem/Val missiles after 2 tests; the next 24 Dem/Val missiles after 6 tests; and the final 24 Dem/Val missiles after 8 tests.

Option 2 (Moderate Concurrency) leading to an initial contingency capability as early as 1998 would initiate fabrication of the initial 12 Dem/Val missiles after 6 tests; the next 24 Dem/Val missiles after 8 tests; and the final 24 Dem/Val missiles after all 11 tests.

Option 3 (Low Concurrency) leading to an initial contingency capability as early as 1999 would initiate fabrication of the initial 12 Dem/Val missiles after 8 tests; and the remaining 48 Dem/Val missiles after all 11 tests.

In this analysis, I have used the CBO estimate of 11 IOT&E Phase 1 tests. We may actually conduct more (or less) testing, but the basic point will be the same. Meeting the dates above depends on funding and technical programs, but our overall strategy is "event driven", and the conclusions regarding concurrency would not be affected by schedule slips. I would also observe that, if one of the above options is exercised, the 60 Dem/Val interceptor missiles composing an interim contingency capability will be replaced later by normal production missiles, produced after Milestone III, which is planned for the year 2000.

In any case, it should also be kept in mind that the Committee Bill pending action on the floor makes no decision to proceed with any of the above options to field an early initial contingency capability. In fact, no such decision is called for even under the Administration's plan for several years. The central issue of concern is the Administration's and the Committee's baseline plan leading to a production decision in the year 2000. That baseline program involves low concurrency by the CBO's own definition.

I would note, with some humor, that in their discussion on concurrency, which builds upon a premise that low concurrency is better, the CBO notes that in a 1988 study, they found "no strong relationship between concurrency and the two measures associated with the success or failure of weapon programs: cost and schedule delay". This obscure comment suggests that too much is being made of the risks associated with concurrency.

The more important variable, I would suggest has to do with the robustness of the baseline development program, including sound risk mitigation efforts. It is therefore ironic that the CBO report couples its allegations of high concurrency in our Dem/Val program, which is, by any reasonable measure, a robust testing effort to mitigate risk, with suggestions that cutting severely the support for those very risk mitigation activities would achieve lower concurrency and lower risk in our baseline program aimed at an initial operational capability in 2002-3. This is an absurd proposition on its face.

COSTS

In fact, the CBO cost estimates, which adopt the analysis in their May 1992 report on Costs of Alternative Approaches to SDI are simply fallacious. In the first place that report states that the GAO reflects the Administration's current estimates of cost—but I simply cannot reconcile the gross discrepancies between our cost estimates, as presented in our June 1992 180-day Report to Congress, and the CBO estimates. For example, there is a difference of almost $900 million in FY1993 for the Limited Defense System line item alone—not to mention—discrepancies of over $400 million for work in the Other Follow-On and Research and Support line items that support the Limited Defense System and Theater Missile Defense line items—as I discussed in my hearings before the SASC and as discussed in our June 180-day Report to Congress.

Second, the CBO report is factually very wrong in stating that $3.3 billion in FY1993 would support "Dr. Chu's preferred approach". Dr. Chu supports the baseline event-driven strategy described in the June 1992 DoD 180-day Report to Congress, which leads to a Milestone III decision in FY2000 and in initial capability with production interceptors in the 2002-2003 time frame—provided the technical progress stays on schedule. Less near-term funding than in the DoD plan will slow progress, delay the key events and stretch the schedule beyond that alleged to be achievable with the CBO's Alternative III.

Thus, the CBO makes a gross understatement in qualifying that the CBO cost estimates for "Alternative III" (which CBO characterizes as Dr. Chu's option) makes assumptions "not discussed in Dr. Chu's memo". I would like to have Dr. Chu and his staff subject the CBO's Alternative III to the same scrutiny applied to the SDIO plans before he concurred in them, as reflected by our June Report to Congress. There is no chance that the CBO option would survive any serious scrutiny by the DoD acquisition community.

The fact is that Alternative III of the May 1992 CBO report has nothing to do with the baseline program presented in the Secretary's 180-day Report to Congress to which Dr. Chu (and every other senior DoD official with acquisition responsibilities) concurred and which called for $5.4 billion in FY1993. In fact, the $1.1 billion cut by the SASC jeopardizes the schedule for meeting a 2002 initial operating capability—regardless of whether an early contingency capability using Dem/Val hardware is sought in the future. An additional $1 billion cut would be devastating—leaving no viable SDI development program beyond Theater Missile Defenses.

I would note that on page 36 of our June Report to Congress, this baseline program is judged by the DoD acquisition community to be "moderate risk", primarily because of the complexity of integrating a system of systems. The CBO suggested cuts would clearly turn it into a high risk program. In my judgement, it would destroy our ability to mitigate risk in meeting any preassigned schedule.

In short, the CBO Alternative III, which the CBO most recently masquerades as Dr. Chu's "low concurrency" program, is naive and grossly misleading. It is not Dr Chu's acquisition program; it is not a serious acquisition program at all. It is a guaranteed recipe for failure. To support it is to support no active defense for the American people.

I have also enclosed a copy of my response to Senator Levin's question for the record following my April 9 hearing regarding the May 1992 CBO report.

HENRY F. COOPER,
Director.

[From The Heritage Foundation, Washington, DC]

THE HERITAGE LECTURES—CONGRESSIONAL MISPERCEPTIONS AND THE SDI BATTLE OF THE BUDGET

(By Ambassador Henry F. Cooper)

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I welcome the opportunity to talk with you at this critical time in our program, in view of the upcoming continuation of the debate in the Congress, and in the Senate in particular, on the President's FY 1993 budget request for the SDI program. This is a continuation of the many contentious debates in several quarters regarding SDI throughout its history.

Generally I have categorized our efforts to advance the SDI objectives in terms of three categories of negotiations: (1) with Congress, (2) within the Pentagon, and (3) with the Soviets, and now the Russians. It is hard to keep the progress in these key areas uniform. It seems rather normal that we take two steps forward and one step back—and this is a very complicated process to manage since the three areas of activity are coupled, and yet they are not being conducted in any sort of a synchronous fashion.

CONGRESSIONAL BACKSLIDING

Witness the performance of the Congress over the past year. Last year, the Missile Defense Act of 1991 was an enormously important step forward, and now the congressional debate is over how far to regress from that very positive step. The Bumpers-Sasser Amendment, which is the principal issue to be taken up if the Senate does move the Defense Authorization Bill back on the floor, is potentially lethal to our program. If it becomes law, it would scuttle any meaningful defense for the United States.

You should understand that the Bumpers-Sasser amendment is not only premised on a $3.3 billion budget this year—a cut of $2.1 billion from the President's FY 1993 budget request, but it is derived from a flawed plan put forward by the Congressional Budget Office (CBO) which would essentially cut the President's planned budget in half for the out years. In my judgment, that plan would leave us with no executable program for defending the United States against ballistic missile attack. We would have a viable program for theater defense, but everything else would be research only. There is some argument, I would suspect, as to whether the CBO-proposed level of funding for the non-theater defense program is sustainable—it is clearly sub-critical for a serious development activity, and it may not be sustainable as a research activity during the current time of severe budget pressures.

During the Senate debate in August, some Senators (particularly Senators Sasser and Levin) alleged that with these reduced funding levels one could proceed with a program aimed at deployment in the 2002 time frame. In fact, as I will discuss in some detail in a moment, that is just simply not the case.

If this major cut were approved, it would be particularly disappointing given the progress that we have made over the past year in the other two problem areas; i.e., in negotiating our way through the Pentagon acquisition process and in our discussions with the former Soviet Union, notably with Russia. Let me review our progress in those areas and then discuss in more detail the flawed Congressional Budget Office analysis and assumptions, which I think are a major cause of misperception on Capitol Hill.

PROGRESS IN THE PENTAGON

Probably the most important thing that has happened in the Pentagon's battle over SDI since the advent of the program was the 180-day Report to Congress describing the Secretary's plan for implementing the Missile Defense Act of 1991. I want to emphasize that this plan, signed out by Secretary Cheney on July 2, was coordinated from the bottom up through the various staffs of the Pentagon. It was fully coordinated with all of the key acquisition officials, who signed on to that report. There were disagreements along the way. But at the end of the day, we had a Department report and not just simply the Secretary's report mandated from the top to be executed somehow later.

So, now we have a serious acquisition plan. It is an event-driven plan—and through the demonstration/validation phase over the next five years, we have thought through the specifics of the program to identify and schedule specific key events, in many cases test events, where successful performance is necessary to take the next programmatic step. If Congress doesn't provide the money to do the testing or to go through these events, obviously the program will be delayed.

Let me say just a word or two about our baseline acquisition plan, which I think is misunderstood. Assuming that the President's budget request is honored—and that is an important premise, our acquisition plan begins with five years of a highly intensive demonstration and validation (Dem/Val) testing program with heavy involvement of the user, followed by a three-year engineering and manufacturing development (EMD) phase, which leads to a normal production decision in the year 2000. This normal progression of the program, in turn, would lead to the initial site capability in around the year 2002, or 2003, and a fully operationally capable system, including both Brilliant Eyes and Brilliant Pebbles by the year 2006. That is the baseline plan.

These schedules were included in my testimony to Congress, and they are explicitly provided in the 180-day Report to Congress as well. The reason I'm making a point of these dates is that the CBO has misrepresented our planned schedule, as I will describe to you in a moment.

Now, under a normal program, the first site initial operational capability, or IOC, would be around the year 2002. However, in order to be responsive to the Missile Defense Act by providing an early fielding option for an initial site, we have pursued a plan to field prototype hardware developed in the demonstration and validation phase of the program as early as late 1977. This date, which coincides roughly with the end of the demonstration and validation phase, is as early as we believe is possible in conjunction with our event-driven strategy. I want to emphasize that this fielding activity does not result from production in any normal meaning of the term. We would field prototypical hardware, trying to plan from the outset of the acquisition program to do what we did with JSTARS in the Gulf War. If our program is fully funded, such an initial site capability could be achieved as early as 1997—as Deputy Secretary Atwood testified—but 1998 would be a more likely date for achieving such a contingency capability.

In any case, there would be no dollar implications associated with making such a decision before 1995. The program in 1993 and 1994, under the normal demonstration and validation program, is the same whether this option is exercised or not. If the option is exercised, there will be a dollar impact in the 1995 time frame to begin the necessary activities to field the prototypical hardware and have a contingency defense capability by the end of 1997.

This idea of fielding early prototypical hardware is a new acquisition approach that we have injected through the SDI program. Most notably, I consider our successful advocacy for THAAD, or Theater High-Altitude Area Defense, to be a major victory in our battles to overcome business-as-usual attitudes. After some considerable debate in the acquisition community, the Pentagon powers-that-be agreed to buy on to this idea, and the THAAD contract was let, as you probably know, last Friday. The Lockheed team that won the THAAD contract is now working on a program that will give us an early fielding option in the 1996 time period using prototypical hardware.

My point here is that our efforts with THAAD represent real progress in the way SDI programs are being done in a fully coordinated way in the Pentagon. When the truth is all out on THAAD sometime in the future, you'll find just about everybody got into the act before that contract was awarded. So SDI is not a loose cannon in the Pentagon. We are, in fact, executing a coordinated acquisition program.

I might say that the THAAD contract award was the culmination of a 24-month effort. Some of you may recall the early days when I started talking about THAAD and the idea of using prototypical hardware as a part of our acquisition strategy. While I never met resistance in this audience, I can tell you I met considerable resistance in the Pentagon. So THAAD is a major victory, in my judgment.

My main point though is, as I said earlier, that the key Pentagon officials agreed on our plan to implement the Missile Defense Act. Secretary Cheney's July 2 cover letter to the Congress indicated that he had given instructions to the Pentagon to execute the plan as a top national priority. So in the Missile Defense Act, the Congress in effect said, "That is what we want you to do; these are the priorities we want to take," and the Department's plan was fully responsive to execute the program that Congress had laid out.

And, as I said earlier, to satisfy the acquisition process of the Pentagon, our plan calls for an event-driven program. If Congress cuts out events, or we fail events or we delay events, because of budget cuts or whatever, then the whole program slips—and I'll come back to the importance of that point in a moment.

PROGRESS WITH THE RUSSIANS

I think we can also point to a great deal of progress in our discussion with Russia and the other republics of the former Soviet Union, and with our allies. This progress has been steady over the last eighteen months. I consider that there was a real watershed when President Yeltsin, at the end of January, spoke at the U.N., calling for cooperation on a joint global defense system—and it was absolutely clear to me that he was talking about the kinds of things that we wanted to do. He said he wanted to redirect the SDI program to take advantage of Russian technology—and we are sympathetic to his proposal. Since then, I think we have made a great deal of progress in moving in the direction advocated by President Yeltsin—which was entirely consistent with President Bush's redirection of the SDI program a year earlier.

In June, at the Washington Summit, President Bush and President Yeltsin gave impetus to the discussions by agreeing to establish a very high level group to agree on how to create such a Global Protection System. Dennis Ross, now Assistant to the President for Policy Planning, is leading the group on our side, and Deputy Foreign Minister Georgi Mamedov is leading on the Russian side.

There was a High Level Group meeting in Moscow in July at which time three working groups were established: one to thrash out the specifics of what is meant by the concept of a Global Protection System, one to deal with the area of technology cooperation, and one to deal with the agreed problem area involving the proliferation of missile technology and weapons of mass destruction. The High Level Group will also deal with any new agreements or changes to existing agreements as necessary to bring a Global Protection System into existence. We are anticipating a follow-up meeting here in Washington very shortly, and I am counting on there being progress at this coming meeting.

I can't help but note a meeting I attended in Erice, Sicily, a couple of weeks ago when Academician Yevgeni Velikhov came in wearing an SDI tie. Now Dr. Velikhov is Chairman of the Russian Academy of Science, as he was of the Soviet Academy of Science. In the early days of SDI, he co-authored papers with a number of people that were very, very negative on what they were trying to do. That was their Party line in a different era of confrontation; whereas today we are seeking to reflect an underlying principle of cooperation. Accordingly, he has changed his position considerably. He is a member of the Mamedov group, I might add.

At the Erice meeting, Velikhov said that we should replace Mutual Assured Destruction with Mutual Assured Protection as the underlying principle upon which we design our national security interest. It was clear from his discussion that he was thinking in terms of cooperation on a Global Protection System under a new arms control regime which would be multi-national in its basic framework—such a defense system could provide protection on a global basis for the entire world community, and we might operate it more as partners than as adversaries in some kind of an arrangement involving a joint command center, perhaps patterned after the model used in NATO or in NORAD where our Canadian friends participate directly with us in various command and control activities.

It was made clear that he was thinking in terms of space elements in the Global Protection System—both sensors and interceptors, and that this Global Protection System would be accomplished in consultation with our allies, as I said earlier, in a multi-national framework.

This development was very hopeful. This Erice conference was an informal meeting in an informal setting, of course. When Deputy Foreign Minister Mamedov comes to Washington, I'm not sure exactly what he will have to say. But, that will be when Russian statements will really count because the High Level Group is the official government to government forum for such discussions; and I look forward to the outcome of those sessions with hopeful anticipation.

I think it is somewhat sad that Congress is threatening to pull the rug out from under us at just the time when the negotiations show the most promise that they have shown in nine years for moving toward a negotiated outcome and a settlement to many very contentious issues that have to do with the political perceptions surrounding the ABM Treaty and other related matters. And I know something about the hard times in the past negotiations—I spent five years in Geneva, and before then I worked these issues at the Arms Control and Disarmament Agency, in backstopping all of our negotiations with the former Soviet Union. I can say with authority that we have the first real opportunity of ending up with agreements on how we will proceed together to build and operate a Global Protection System.

This does not mean we're going to give away the family jewels; that's not going to happen—and need not happen in order to work cooperatively to mutually benefit from a Global Protection System. I believe that, toward this end, we could agree on doing joint experiments, joint simulations to understand and work through solutions for the conceptual issues, modifications to the ABM Treaty regime that will be satisfactory to both sides—and I think such an agreement may be relatively close at hand.

WHY THE CONGRESSIONAL BACKSLIDING?

So I have to ask myself, in coming back to the original point of my talk, "Why is Congress now attacking our program? Why are they backing away from the Missile Defense Act at this juncture?"

I think there are two sources of the reason why. There may be an ideological reason that underlies the entire problem for some in Congress—but there are two logical reasons whose merits can be debated.

A REDUCED SENSE OF URGENCY

First, there is a reduced sense of urgency this year, that's clear. We are no longer on the heels of the Gulf War. And Bob Gates, the Director of Central Intelligence, in his testimony indicated that it was unlikely that there would be any new threat to the Continental United States within ten years. He said it two ways: within this decade and within ten years. But if you take ten years, 2002 becomes a magic target—and that is a piece of the litany in the current congressional debate.

From my own personal perspective, I don't believe the analyses that underpin Director Gates' testimony take into account what the situation would be like if the proliferation issues become different over the next ten years than they were in the past ten years. And I refer not only to the proliferation of technology, but also of the technical know-how as citizens of the former Soviet Union deal with their rather severe economic pressures and where they have such a highly marketable skill.

I don't mean to throw rocks at our new friendly colleagues and potential collaborators in a Global Protection System in bringing this up. In fact, it is a problem that they willingly acknowledge and are concerned about themselves.

So I think that many in the Congress have developed a false sense of security—perhaps like the sense of security that many had before the Gulf War based on the rather commonly held judgment that Saddam Hussein could not develop nuclear weapons any time soon. And we found out how wrong we were. Speaking personally, I am very uncomfortable with taking a relaxed attitude in this regard when considering the proliferation problem.

But I would point out, as I said earlier, that the year 2002, or 2003, is a sound estimate for the IOC for the first site under the President's baseline plan anyway, assuming that we don't exercise the option to deploy prototypical hardware. Budget cuts will delay this IOC for the baseline program.

I pointed out earlier that there are no budget requirements for at least two years to provide early fielding options, so there is no FY 1993 budget impact if this option is decided upon now—either way. Our strategy fundamentally defers that decision to a time, at least two years hence, when we can see how the threat develops, and how the testing progresses. Budget cuts now delay all options, including especially these early fielding options.

FLAWED CBO ANALYSIS

Now I want to come to the second cause for congressional backsliding: the CBO Report. I think the August 7 report, which draws from an earlier May report, is the root cause of many of our problems. The CBO alleges that with $3.3 billion in FY 1993 (that is, a cut of $2.1 billion from the President's request) and cutting our out-year budget in half (and I think it is important that you understand that is part of their proposal), we can still deploy the initial site in the year 2002—the same as is planned under the Administration's plan. And not only do they allege that we can deploy at the same time frame as under the Administration's plan for half the funding, but that we can do so with less risk and less concurrency.

It is incredible to me that such a naive and misleading masquerade for serious analysis could be given the weight that this report is being given. And I'm more than a little suspicious that it was published on the 7th of August just in time for its use in the floor debate on that date as the Bumpers-Sasser Amendment was tabled.

Attached is a copy of a letter I sent to Senator Warner and Senator Nunn at Senator

Warner's request evaluating the flawed analysis in the August 7 CBO Report. But let me go through here, in perhaps more detail even in some cases than is in that letter, some of my problems with that badly flawed analysis.

Fundamentally, if you believe you can cut over $2 billion from our FY 1993 budget and cut a half, some $20 billion, out of the FY 1993 through 1997 five-year budget and deliver on the same schedule, and with less concurrency and less risk than the Administration's program, then after the meeting I want to talk to you over on the side; I have this bridge and I would like to solicit your investment in purchasing it as a group venture.

The CBO Report falsely represents the Administration program. It claims, for example, that the budget called for in the out years would lead to deployment of the full GPALS program in the year 2000. And, as I told you earlier, we anticipate that year would be 2006 with the Administration plan and budget. That was presented in my congressional testimony which the CBO had before they wrote their report—I checked it this morning. They have no excuse for this misrepresentation. They cannot justify this gross error by saying they didn't know because our Report to Congress was not published until early July.

So they falsely claimed we planned a fully deployed system by the year 2000—that way, you see, they could allege to stretch the program to "after 2005" while cutting our budget.

They also pursued a contorted analysis implying that we planned to deploy the initial site in 1997 based on an earlier "production" decision, whereas, as I described it earlier, we planned options to fabricate and field prototypical hardware that could be exercised if the threat develops, and if our testing shows it's warranted. As discussed in our 180-Day Report to Congress, we could field prototypical hardware in 1997, 1998, or 1999 under the President's budget depending on decisions to be made at least two years hence. But, such decisions to field prototypical hardware for a contingency capability would not involve a production decision or process. We would make a production decision in the year 2000 in any case, and could have an IOC in the year 2002, or 2003, if none of those options was exercised. I emphasize that we clearly stated our plan to make a production decision in the year 2000—that was in our Report to Congress.

But they mis-characterized our plan. They called the Administration's possible decision to exercise the earliest of these options to fabricate prototypical hardware a "production decision" and used that in a very trumped up definition to achieve a high concurrency estimate. They totally ignored the fact that in our report we explicitly stated that the production decision would be made in the year 2000. Of course, if they had accepted the Administration's clearly defined production decision, then their definition of concurrency would lead to zero concurrency in the Administration's program—and they apparently sought to characterize the Administration's plan as involving a lot of concurrency so they could justify stretching the program and to allege to be reducing concurrency.

This is particularly intriguing when you learn from their fine print in a footnote that they defined as "production" a decision at Milestone II to build low-rate initial production, or LRIP, equipment for testing in full-scale development or engineering and manufacturing development. This is most curious, because we are directed by law and Administration directives to use LRIP equipment in Initial Operational Test and Evaluation (IOT&E) prior to making a production decision. And IOT&E normally occurs during the engineering and manufacturing development phase after Milestone II. With their definition, one always gets 100 percent concurrency for a normal acquisition program. Our innovation of including a Phase I of IOT&E in our demonstration and validation program, meant that they only could come up with 64 percent concurrency for us even with this trumped up analysis. So they resorted to backing up further into the Dem/Val phase of the program, referring to the possible fabrication of prototypes as a production decision to suggest an even higher level of concurrency.

Now this is more than a little curious way to define concurrency. But it goes beyond that. They are basically dishonest in claiming that their definition for production is the DoD definition. And it is absolutely outrageous to characterize the fabrication of prototypical hardware as a production decision when it was made explicitly clear in our Report to Congress that the production decision is the year 2000, and that we could decide earlier to fabricate prototypes if we think we need them on the basis of demonstrated capability and the developing threat. Of course, if they had admitted that our production decision was in the year 2000, their false suggestion that our full system would be deployed in the year 2000 would have been apparent.

Now they went further with more nonsense to justify their arbitrary budget cuts. For example, they falsely rationalized the deep cuts in such activities as system engineering and integration, test and evaluation, and risk mitigation by alleging that such critical activities are unessential, or as they said, and I quote, ". . . relate only indirectly to the system to be deployed." Give me a break! This really is utter nonsense.

Since when does anyone build a system without system engineering and integration? And since when does one cut out the funds for the risk mitigation and create a less risky program?

Finally, I should let David Chu speak for himself, but I think to suggest, as the CBO does, that their $3.3 billion plan would support his preferred option is grossly unprofessional. I'd love to have David and his staff subject the CBO plan to the same scrutiny that they gave SDIO's plan. I can guarantee you it would not survive one day's serious look in the Pentagon.

This all leads me to make a half-serious suggestion that some of our friends in Congress ask for a GAO review of the CBO's Report. They should have some fun with that, especially if such a review were done honestly.

The only good thing I can say about this CBO report is that it included some fine print disclaiming responsibility for what I think is a pretty foul portion of magic elixir befitting the snake oil salesmen of another era. It basically says, "Let the buyer beware." So if you read the report, look long and hard, you'll eventually find disclaimers about their schedules; that their plan might, in fact, not cost less, but more, after all is said and done; that concurrency may not be all that important anyway; and so on.

The fact is that the CBO option touted by the Bumpers-Sasser Amendment and masqueraded as Dr. Chu's low concurrency option is fundamentally a product of unprofessional analysis. It is not Chu's option. In fact, it is no serious acquisition program at all. It is a guaranteed recipe for failure—and would provide no effective defense for the American people.

THERE IS A VIABLE PLAN, BUT WILL CONGRESS SUPPORT IT?

The President's request of $5.4 billion supports a low-concurrency, moderate risk program—and we judged moderate risk because we are dealing with a complex system of systems—not because the program for any of the system elements themselves, taken singly, is risky. Otherwise it would be a low risk program on an item-by-item basis.

The President's plan is to reach an IOC, if conducted in the normal way, in the year 2002 or 2003. It provides options for fielding prototypical hardware earlier, as early as 1997 and more likely in 1998, but decisions to exercise these options are to be made at least 2 years hence.

Our acquisition strategy is event driven. And I'll repeat again, if congress cuts our budget, they will delay key events, and that will delay the schedule—and probably increase overall costs. The $1.1 billion cut, as suggested by the Senate Armed Services Committee or by the House Armed Services Committee, would end up causing delay in the dates I've just given you. Certainly, it would cause a year's delay in our ability to exercise a prototypical hardware option, and the 2002 date would also be at risk.

The $2.1 billion cut called for by the Bumpers-Sasser Amendment would leave no viable acquisition program beyond Theater Missile Defense. Senator Nunn, during the August 7 floor debate, referred to the $3.3 billion plan and said, that this budget "would stretch out the program to such a degree it would render implausible any claim by the Congress that we are on a steady course toward deployment. . . ." I can only say "Hear, hear!" Indeed, the $3.3 billion would support only Theater Defense and R&D; we could have defense for allies but not for Americans.

CLOSURE

Finally, let me just say that in 1988 George bush, campaigning for the Presidency at that time, stated that the technology is here to support strategic defenses; the issue is political will to take things out of the laboratory and to move them to deployment. He promised that he would pick the architecture in his first term, and that he ultimately would not leave America defenseless.

I would submit that he has fulfilled his part of the bargain. The GPALS, or Global Protection Against Limited Strikes, idea, which is his architecture, folds directly into the Global Protection system subsequently proposed by President Yeltsin and now being advocated by our new friends in Russia as well as ourselves. The Missile Defense Act of 1991 adopts all of the key elements of the President's program with a shift in priorities, which was acceptable to the President last year—that is, to move ahead with deploying the ground-based defense so long as there is robust funding for developing space-based interceptors. Unfortunately, Congress is now apparently playing around with welshing on this aspect of the deal this year.

In the final analysis, Congress now holds the fate of the program in its hands. They provide the funds—that's the way our system works. I have no reason to suggest changing our system, and I only hope that for the good of all Americans that Congress does the right thing this time around.

DEPARTMENT OF DEFENSE, STRATEGIC DEFENSE INITIATIVE ORGANIZATION, *Washington, DC, August 10, 1992.*

Hon. JOHN WARNER,
Ranking Minority Member, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: Thank you for the opportunity to comment on the August 7 CBO report regarding issues of concurrency and cost estimates for the SDI program—particularly those estimates that allege to support a 2003 deployment of an initial ground-based interceptor site. Let me discuss these two issues in turn.

CONCURRENCY

I must say that I am surprised by the lack of understanding in the CBO's discussion on concurrency and characterization of our program as presented in our June 1992 Report to Congress on our Plan for Deployment of Theater and National Ballistic Missile Defenses. For example, the CBO report states that its definition of concurrency depends on the date at which production begins—and then alleges that this date is not clearly defined by the Administration's plan. Yet our report clearly states that production begins at Milestone III (as in every standard acquisition program), which occurs in our plan in the year 2000—as shown on Figures 5 and 7 and as explicitly stated on page 23. Here, in discussing our acquisition strategy as illustrated by Figure 5, the report indicates that the Administration plan employs

"a normal acquisition strategy involving a robust five-year Dem/Val program with heavy user involvement, followed by a three year EMD phase and concluding with a production decision in the year 2000 for items produced in quantity."

Thus in our baseline program, a production decision for the "1000" interceptor missiles of the CBO report would be made after completion of IOT&E Phase 1 and Phase 2, as shown in Figure 7 of our 180-day Report to Congress. The Administration's baseline plan is, therefore, a "low concurrency" program by the CBO's own definition.

It is hard to imagine how the CBO could misunderstand our acquisition strategy—or why they would choose to characterize our plan solely in terms of an option to field contingency capability in 1997 using Dem/Val hardware as a 1997 production decision, which it certainly is not. In fact, our plan considered three contingency fielding options, none of which involve production hardware—they all involve 60 Dem/Val interceptor missiles, with fabrication of those Dem/Val missiles beginning at some future time (as early as 1996), pending evaluation of progress in our baseline program and our perception then of the evolving threat. "Concurrency" for the 60 Dem/Val missiles would vary depending on which of the three options, if any, is selected in conjunction with IOT&E Phase 1:

Option 1 (High Concurrency) leading to an initial contingency capability as early as 1997 would initiate fabrication of the initial 12 Dem/Val missiles after 2 tests; the next 24 Dem/Val missiles after 6 tests; and the final 24 Dem/Val missiles after 8 tests.

Option 2 (Moderate Concurrency) leading to an initial contingency capability as early as 1998 would initiate fabrication of the initial 12 Dem/Val missiles after 6 tests; the next 24 Dem/Val missiles after 8 tests; and the final 24 Dem/Val missiles after all 11 tests.

Option 3 (Low Concurrency) leading to an initial contingency capability as early as 1999 would initiate fabrication of the initial 12 Dem/Val missiles after 8 tests; and the remaining 48 Dem/Val missiles after all 11 tests.

In this analysis, I have used the CBO estimate of 11 IOT&E Phase 1 tests. We may actually conduct more (or less) testing, but the basic point will be the same. Meeting the dates above depends on funding and technical progress, but our overall strategy is "event driven", and the conclusions regarding concurrency would not be affected by schedule slips. I would also observe that, if one of the above options is exercised, the 60 Dem/Val interceptor missiles composing an interim contingency capability will be replaced later by normal production missiles, produced after Milestone III, which is planned for the year 2000.

In any case, it should also be kept in mind that the Committee Bill pending action on the floor makes no decision to proceed with any of the above options to field an early initial contingency capability. In fact, no such decision is called for even under the Administration's plan for several years. The central issue of concern is the Administration's and the Committee's baseline plan leading to a production decision in the year 2000. That baseline program involves low concurrency by the CBO's own definition.

I would note, with some humor, that in their discussion on concurrency, which builds upon a premise that low concurrency is better, the CBO notes that in a 1988 study, they found "no strong relationship between concurrency and the two measures associated with the success or failure of weapon programs: cost and schedule delay". This obscure comment suggests that too much is being made of the risks associated with concurrency.

The more important variable, I would suggest has to do with the robustness of the baseline development program, including sound risk mitigation efforts. It is therefore ironic that the CBO report couples its allegations of high concurrency in our Dem/Val program, which is, by any reasonable measure, a robust testing effort to mitigate risk, with suggestions that cutting severely the support for those very risk mitigation activities would achieve lower concurrency and lower risk in our baseline program aimed at an initial operational capability in 2002–3. This is an absurd proposition on its face.

COSTS

In fact, the CBO cost estimates, which adopt the analysis in their May 1992 report on Costs of Alternative Approaches to SDI are simply fallacious. In the first place that report states that the CBO reflects the Administration's current estimates of cost—but I simply cannot reconcile the gross discrepancies between our cost estimates, as presented in our June 1992 180-day Report to Congress, and the CBO estimates. For example, there is a difference of almost $900 million in FY1993 for the Limited Defense System line item alone—not to mention discrepancies of over $400 million for work in the Other Follow-On and Research and Support line items that support the Limited Defense System and Theater Missile Defense line items—as I discussed in my hearings before the SASC and as discussed in our June 180-day Report to Congress.

Secondly, the CBO report is factually very wrong in stating that $3.3 billion in FY1993 would support "Dr. Chu's preferred approach". Dr. Chu supports the baseline event-driven strategy described in the June 1992 DoD 180-day Report to Congress, which leads to a Milestone III decision in FY2000 and an initial capability with production interceptors in the 2002–2003 time frame—provided the technical progress stays on schedule. Less near-term funding than in the DoD plan will slow progress, delay the key events and stretch the schedule beyond that alleged to be achievable with the CBO's Alternative III.

Thus, the CBO makes a gross understatement in qualifying that the CBO cost estimates for "Alternative III" (which CBO characterizes as Dr. Chu's option) makes assumptions "not discussed in Dr. Chu's memo". I would like to have Dr. Chu and his staff subject the CBO's Alternative III to the same scrutiny applied to the SDIO plans before he concurred in them, as reflected by our June Report to Congress. There is no chance that the CBO option would survive any serious scrutiny by the DoD acquisition community.

The fact is that Alternative III of the May 1992 CBO report has nothing to do with the baseline program presented in the Secretary's 180-day Report to Congress to which Dr. Chu (and every other senior DoD official with acquisition responsibilities) concurred and which called for $5.4 billion in FY1993. In fact, the $1.1 billion cut by the SASC jeopardizes the schedule for meeting a 2002 initial operating capability—regardless of whether an early contingency capability using Dem/Val hardware is sought in the future. An additional $1 billion cut would be devastating—leaving no viable SDI development program beyond Theater Missile Defenses.

I would note that on page 36 of our June Report to Congress, this baseline program is judged by the DoD acquisition community to be "moderate risk", primarily because of the complexity of integrating a system of systems. The CBO suggested cuts would clearly turn it into a high risk program. In my judgement, it would destroy our ability to mitigate risk in meeting any preassigned schedule.

In short, the CBO Alternative III, which the CBO most recently masquerades as Dr. Chu's "low concurrency" program, is naive and grossly misleading. It is not Dr. Chu's acquisition program; it is not a serious acquisition program at all. It is a guaranteed recipe for failure. To support it is to support no active defense for the American people.

I have also enclosed a copy of my response to Senator Levin's question for the record following my April 9 hearing regarding the May 1992 CBO report.

HENRY F. COOPER,
Director.

Mr. WALLOP. Mr. President, I would make note to my colleagues that this wonderful institution we have which is supposed to be so nonpartisan, the General Accounting Office, inevitably has the report to be made just before the Senate votes and inevitably the report is in the Washington Post just before the vote, and it is a mystically, wonderful coincidence it has nothing to do with the partisan nature or the nonpartisan nature of the GAO. But somehow or another, it does not matter whether we are talking about SDI or B–2 or Stealth fighters or any other kind of thing, that mystically, nonpartisan organization called the GAO has a leaked report that is available for all of us, to not influence our judgement but perhaps tailor it.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The yeas and nays having been ordered, the clerk will call the roll.

The assistant bill clerk called the roll.

Mr. FORD. I announced that the Senator from Tennessee [Mr. GORE] and the Senator from Colorado [Mr. WIRTH], are necessarily absent.

The PRESIDING OFFICER (Mr. BREAUX). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—52

Bentsen
Bingaman
Bond
Boren
Brown
Burns
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dixon
Dole
Domenici
Durenberger
Exon
Garn
Glenn
Gorton
Graham
Gramm
Hatch
Heflin
Helms
Hollings
Inouye
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Robb
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NAYS—46

Adams
Akaka
Baucus
Biden
Bradley
Breaux
Bryan
Bumpers
Burdick, Jocelyn
Byrd
Chafee
Conrad
Cranston
Daschle
DeConcini
Dodd
Ford
Fowler
Grassley
Harkin
Hatfield
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Pell
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wofford

NOT VOTING—2

Gore
Wirth

So the amendment (No. 3036) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2918, AS AMENDED

The PRESIDING OFFICER. The question is on agreeing to the Sasser amendment, as amended.

The amendment (No. 1918), as amended, was agreed to.

Mr. NUNN. Mr. President, what is the pending business?

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas is to be recognized for the purpose of offering an amendment.

The Senator from Arkansas is recognized.

AMENDMENT NO. 3037

(Purpose: To limit the amount that may be expended by the Strategic Defense Initiative Organization for the procurement of support services)

Mr. PRYOR. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. PRYOR] proposes an amendment numbered 3037.

Mr. PRYOR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 62, below line 22, insert the following:

SEC. 224. LIMITATION REGARDING SUPPORT SERVICES CONTRACTS OF THE STRATEGIC DEFENSE INITIATIVE ORGANIZATION.

(a) LIMITATION.—Of the amounts that are appropriated to the Department of Defense for fiscal year 1993 pursuant to the authorizations of appropriations contained in this Act and are made available for the Strategic Defense Initiative Organization, not more than $100,000,000 may be expended for the procurement of support services.

(b) DEFINITION.—In subsection (a), the term "support services" means—

(1) professional, administrative, and management support services;

(2) special studies and analyses; or

(3) services contracted for under section 3109 of title 5, United States Code.

Mr. PRYOR. Mr. President, this is going to be very, very brief, and I would like to mention to my colleagues, in case any of them might not have received word, that it is my understanding that this amendment will be accepted. I certainly hope it will, and it appears there will be no recorded vote on this amendment.

I appreciate both of the managers accepting this amendment, and I hope it will be very constructive.

In a paragraph or two, Mr. President, last year, SDIO, the administrative office of the SDI Program, spent $165 million for consulting contracts and consultants. Mr. President, this amendment is very simple. It limits to no more than $100 million what the SDIO office can expend in consulting contracts during the next fiscal year.

Mr. President, I think the amendment is self-explanatory. I think it will save about $65 million, I hope, or maybe even more, over the next fiscal year.

Mr. President, I am here today to discuss an amendment that I had offered to the authorization bill before the bill was withdrawn from consideration. My amendment is simple and clear: It caps the amount the Strategic Defense Initiative Organization [SDIO] can spend on consultant services at $100 million. I am pleased that the chairman of the Armed Services Committee, Senator NUNN, has expressed his support for my amendment.

I have been closely examining the use of consultants by SDIO and I revealed my findings at a Governmental Affairs Committee hearing earlier this year. I found and reported that there are a number of jobs performed by contractors that are either inappropriate for contractors or are simply not essential to SDIO's mission. For example:

A contractor developed the SDIO directive on unsolicited proposals;

A contractor prepared SDIO competition advocate directive;

A contractor's staff member, acts as a coordinator for SDIO participation in a NASA program;

A contractor has continued to develop the procurement package, including the statement of work, the Commerce Business Daily notice, and the acquisition plan;

A contractor searched the SDIO budget to find $900,000 in R&D funds to buy kitchen equipment;

A contractor prepared the hearing statement for the Deputy for Program Operations for his appearance before the Senate Armed Services Committee;

A contractor prepared the sole source contract with the United Kingdom;

A contractor prepared the response to the Senate Armed Services Committee language restricting LPX on Wake Island; and

A contractor wrote thank you letters to a colonel in appreciation for his presentation.

Mr. President, these examples show that we have contracted out many of the most basic management functions of one of our most costly Government programs. I cannot believe that SDIO needs to hire contractors to perform these jobs and I cannot believe my amendment would adversely affect SDIO.

At my hearing on July 24, Ambassador Henry Cooper, Director of SDIO, told me that contractors embellished the descriptions of the jobs they do for SDIO. In fact, he called it "puffery." Well, Mr. President, the examples I listed above came from the contracts themselves. The Government pays the contractors based on the jobs described in these reports. There are only 2 conclusions to be drawn from this situation, Mr. President, either we are paying contractors for jobs they are not really doing—in which case the Government deserves a refund—or we have turned SDIO over to an army of private contractors.

At my July SDI hearing, Ambassador Cooper testified that it costs above one-third more to hire contractors for these services. He remarks were consistent with findings by GAO, the Department of Energy, and the DOD inspector general who have all reported that it costs between 25 and 40 percent more to contract out this type of work.

An objection was raised to my amendment last month that I would have to statutorily increase the number of FTE's or full time employees working at SDIO if my amendment were approved. Well, Mr. President, as I have just shown, must of this work is unnecessary. And, in addition, DOD currently has the authority to increase the number of employees in the SDI office. In the fiscal year 1985 DOD appropriations bill, Congress removed civilian employment ceilings. According to the DOD Inspector General, in 1986, DOD adopted a ceiling free management policy. Therefore, Mr. President, DOD already has the flexibility to move employees as DOD's needs change and no statutory revision is necessary.

Another objection raised to my amendment is that it would somehow adversely affect or target 8(a) minority or women owned firms. Mr. President, I was truly startled by this charge. My amendment will not in any way affect the manner in which 8(a) contracts are awarded. However, if this is a real concern, I am willing to modify my amendment to set aside a certain percentage of the $100 million SDIO contracts for women- or minority-owned businesses.

Mr. President, I believe I have made the case for my amendment with facts drawn from the files of SDIO itself. I urge my colleagues to support my amendment.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I wonder if I could briefly get the attention of the distinguished Senator from Arkansas, who offered the amendment, to clarify something.

Is it the intention of the author, the Senator from Arkansas, in offering this amendment here, to direct this amendment at the office of SDIO here in Washington, rather than at the strategic defense command, which happens to be in my home State?

Mr. PRYOR. Well, the intent of the amendment, I respond to my colleague from Alabama, would be simply to take the administrative office here, SDIO—

Mr. SHELBY. Take the fat out.

Mr. PRYOR. Takes the fat out of the bureaucracy and make them become more efficient in hiring consultants and contractors.

Mr. SHELBY. If the Senator will yield further, my assumption is that this amendment is not directed at the strategic defense command?

Mr. PRYOR. I say to my friend that his assumption is correct, that it is not directed at that. In fact, it is not directed anywhere near Birmingham, AL, or Huntsville, AL.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3037) was agreed to.

Mr. PRYOR. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Chair will observe, under the previous order, the Senator from Vermont was to be recognized to offer an amendment on the B-2.

Mr. NUNN. Mr. President, I ask unanimous consent that there be a 1½ hour time limit on the Leahy-Levin B-2 amendment, which is now the pending amendment, with no second-degree amendment in order and the vote occur on or in relation to the amendment no later than 10 a.m. and that it be in order to start the B-2 debate on 8:30 a.m. on September 18, 1992, which is tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I also ask unanimous consent that it be in order to take up further amendments tonight, temporarily setting aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma.

Mr. BOREN. Mr. President, I ask unanimous consent that the pending amendment be set aside so I might send an amendment to the desk for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3038

(Purpose: To provide for a Civilian Community Corps Demonstration Project together with the National Guard Civilian Youth Opportunities Pilot Program)

Mr. BOREN. Mr. President, on behalf of myself, Mr. KENNEDY, Mr. DOLE, Mr. NUNN, Mr. WARNER, Mr. WOFFORD, Ms. MIKULSKI, Mr. SIMON, Mr. DOMENICI, Mr. REID, Mr. DIXON, Mr. MCCAIN, and Mr. SEYMOUR, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. BOREN], for himself, Mr. KENNEDY, Mr. NUNN, Mr. DOLE, Mr. WARNER, Mr. WOFFORD, Ms. MIKULSKI, Mr. SIMON, Mr. DOMENICI, Mr. REID, Mr. DIXON, Mr. MCCAIN, and Mr. SEYMOUR, proposes an amendment numbered 3038.

Mr. BOREN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 487, between lines 12 and 13, insert the following:

Subtitle F—Civil-Military Youth Service Programs

SEC. 1081. NATIONAL GUARD CIVILIAN YOUTH OPPORTUNITIES PILOT PROGRAM.

(a) PROGRAM AUTHORITY.—During fiscal years 1993 through 1995 the Chief of the National Guard Bureau may conduct a pilot program to be known as the "National Guard Civilian Youth Opportunities Program".

(b) PURPOSE.—The purpose of the pilot program is to provide a basis for determining—

(1) whether the life skills and employment potential of civilian youths who cease to attend secondary school before graduating can be significantly improved through military based training provided by the National Guard; and

(2) whether it is feasible and cost effective for the National Guard to provide military based training to such youths for the purpose of achieving such improvements.

(c) CONDUCT OF PROGRAM IN 10 NATIONAL GUARD JURISDICTIONS.—The Chief of the National Guard Bureau may provide for the conduct of the pilot program in any 10 of the States, the Territories, the Commonwealth of Puerto Rico, or the District of Columbia.

(d) PROGRAM AGREEMENTS.—(1) To carry out the pilot program in a State, a Territory, the Commonwealth of Puerto Rico, or the District of Columbia, the Chief of the National Guard Bureau shall enter into an agreement with the Governor of the State, Territory, or Commonwealth or with the commanding general of the District of Columbia National Guard, as the case may be.

(2) Each agreement shall provide for the Governor or, in the case of the District of Columbia National Guard, the commanding general to establish, organize, and administer a National Guard civilian youth opportunities program.

(3) The agreement may provide for the Chief of the National Guard Bureau to reimburse the State, Territory, Commonwealth of Puerto Rico, or the District of Columbia, as the case may be, for civilian personnel costs attributable to the use of civilian employees of the National Guard in the conduct of the program.

(e) ELIGIBLE PARTICIPANTS.—(1) Persons referred to in subsection (b)(1) shall be eligible to participate in a National Guard civilian youth opportunities program under the pilot program.

(2) The Chief of the National Guard Bureau shall prescribe the standards and procedures for selecting the participants from among applicants for the program.

(f) AUTHORIZED BENEFITS FOR PARTICIPANTS.—(1) To the extent provided in an agreement entered into in accordance with subsection (d) and subject to the approval of the Chief of the National Guard Bureau, the persons selected for training in a National Guard civilian youth opportunities program under the pilot program may receive the following benefits in connection with that training:

(A) Allowances for travel expenses, personal expenses, and other expenses.

(B) Quarters.

(C) Subsistence.

(D) Transportation.

(E) Equipment.

(F) Clothing.

(G) Recreational services and supplies.

(H) Other services.

(I) A temporary stipend upon the successful completion of the training, as characterized in accordance with procedures provided in the agreement.

(2) A person may not receive a temporary stipend under paragraph (1)(I) while the person is a member of the Civilian Community Corps under subtitle H of title I of the National and Community Service Act of 1990 (as added by section 1082(a)). A person may not receive both that stipend and benefits under subsection (f) or (g) of section 195G of that Act (as so added).

(g) PROGRAM PERSONNEL.—(1) Personnel of the National Guard of a State, a Territory, the Commonwealth of Puerto Rico, or the District of Columbia in which a National Guard civilian youth opportunities program is conducted under the pilot program may serve on full-time National Guard duty for the purpose of providing command, administrative, training, or supporting services for that program. For the performance of those services, any such personnel may be ordered to duty under section 502(f) of title 32, United States Code, for not longer than the period of the program.

(2) Personnel so serving may not be counted for the purposes of—

(A) any provision of law limiting the number of personnel that may be serving on full-time active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components; or

(B) section 524 of title 10, United States Code, relating to the number of reserve component officers who may be on active duty or full-time National Guard duty in certain grades.

(3) A Governor participating in the pilot program and the commanding general of the District of Columbia National Guard (if the District of Columbia National Guard is participating in the pilot program) may procure by contract the temporary full time services of such civilian personnel as may be necessary to augment National Guard personnel in carrying out a National Guard civilian youth opportunities program under the pilot program.

(4) Civilian employees of the National Guard performing services for such a program and contractor personnel performing such services may be required, when appropriate to achieve a program objective, to be members of the National Guard and to wear the military uniform.

(h) EQUIPMENT AND FACILITIES.—(1) Equipment and facilities of the National Guard, including military property of the United States issued to the National Guard, may be used in carrying out the pilot program.

(2) Activities under the pilot program shall be considered noncombat activities of the National Guard for purposes of section 710 of title 32, United States Code.

(i) STATUS OF PARTICIPANTS.—(1) A person receiving training under the pilot program shall be considered an employee of the United States for purposes of the following provisions of law:

(A) The Internal Revenue Code of 1986.

(B) Title II of the Social Security Act (relating to Federal old-age, survivors, and disability insurance benefits).

(C) Subchapter I of chapter 81 of title 5, United States Code (relating to compensation of Federal employees for work injuries).

(D) Section 1346(b) and chapter 171 of title 28, United States Code, and any other provision of law relating to the liability of the United States for tortious conduct of employees of the United States.

(2) In the application of the provisions of law referred to in paragraph (1)(C) to a person referred to in paragraph (1)—

(A) the person shall not be considered to be in the performance of duty while the person is not at the assigned location of training or other activity or duty authorized in accordance with a program agreement referred to in subsection (d), except when the person is traveling to or from that location or is on pass from that training or other activity or duty;

(B) the person's monthly rate of pay shall be deemed to be the minimum rate of pay provided for grade GS-2 of the General Schedule under section 5332 of title 5, United States Code; and

(C) the entitlement of a person to receive compensation for a disability under such provisions of law shall begin on the day following the date on which the person's participation in the pilot program is terminated.

(3) A person receiving a stipend pursuant to subsection (f)(1)(I) shall be considered an employee for purposes of the provisions of law referred to in subparagraphs (A) and (B) of paragraph (1).

(4) A person referred to in paragraph (1) or (3) may not be considered an employee of the United States for any purpose other than a purpose set forth in that paragraph.

(j) FUNDING.—(1) To the extent provided in appropriations Acts, funds described in paragraph (2) shall be available for the pilot program.

(2) The funds referred to in paragraph (1) are as follows:

(A) Funds appropriated for pay, allowances, clothing, subsistence, gratuities, travel and related expense for personnel of the National Guard while on active duty or full-time National Guard duty.

(B) Funds appropriated for the National Guard for operation and maintenance.

(k) SUPPLEMENTAL RESOURCES.—(1) To carry out a National Guard civilian youth opportunities program under the pilot program, the Governor of a State, a Territory, or the Commonwealth of Puerto Rico or the commanding general of the District of Columbia National Guard, as the case may be, may supplement any funding made available pursuant to subsection (j) out of other resources (including gifts) available to the Governor or the commanding general.

(2) The provision of funds authorized to be appropriated for the pilot program shall not preclude a Governor participating in the pilot program, or the commanding general of the District of Columbia National Guard (if the District of Columbia National Guard is participating in the pilot program), from accepting, using, and disposing of gifts or donations of money, other property, or services for the pilot program.

(*l*) REPORT.—(1) Within 90 days after the end of the 1-year period beginning on the first day of the pilot program, the Chief of the National Guard Bureau shall submit to the congressional defense committees a report on the design, conduct, and effectiveness of the pilot program during that 1-year period. The report shall include an assessment of the matters set forth in paragraphs (1) and (2) of subsection (b).

(2) In preparing the report required by paragraph (1), the Chief of the National Guard Bureau shall coordinate with the Governor of each State, Territory, and the Commonwealth of Puerto Rico in which a National Guard civilian youth opportunities program is carried out under the pilot program and, if such a program is carried out in the District of Columbia, with the commanding general of the District of Columbia National Guard.

(m) DEFINITIONS.—In this section, the terms "Territory" and "full-time National Guard duty" have the meanings given those terms in section 101 of title 32, United States Code.

(n) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized to be appropriated under section 301, $50,000,000 shall be available for the pilot program for fiscal year 1993.

SEC. 1082. CIVILIAN COMMUNITY CORPS.

(a) CIVILIAN COMMUNITY CORPS.—(1) Title I of the National and Community Service Act of 1990 (42 U.S.C. 12510 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle H—Civilian Community Corps

"SEC. 195. PURPOSE.

"It is the purpose of this subtitle to establish a Civilian Community Corps to provide a basis for determining—

"(1) whether residential service programs administered by the Federal Government can significantly increase the support for national service and community service by the people of the United States;

"(2) whether such programs can expand the opportunities for willing young men and women to perform meaningful, direct, and consequential acts of community service in a manner that will enhance their own skills while contributing to their understanding of civic responsibility in the United States; and

"(3) whether retired members and former members of the Armed Forces of the United States, members and former members of the Armed Forces discharged or released from active duty in connection with reduced Department of Defense spending, members and former members of the Armed Forces discharged or transferred from the Selected Reserve of the Ready Reserve in connection with reduced Department of Defense spending, and other members of the Armed Forces not on active duty and not actively participating in a reserve component of the Armed Forces can provide guidance and training under such programs that contribute meaningfully to the encouragement of national and community service.

"SEC. 195A. ESTABLISHMENT OF DEMONSTRATION PROGRAM.

"(a) IN GENERAL.—The Commission on National and Community Service shall establish the Civilian Community Corps Demonstration Program to carry out the purpose of this subtitle.

"(b) PROGRAM COMPONENTS.—Under the Civilian Community Corps Demonstration Program the members of a Civilian Community Corps shall receive training and perform service in at least one of the following 2 program components:

"(1) A national service program.

"(2) A summer national service program.

"(c) RESIDENTIAL PROGRAMS.—Both program components are residential programs. The members of the Corps in each program shall reside with other members of the Corps in Corps housing during the periods of the members' agreed service.

"SEC. 195B. NATIONAL SERVICE PROGRAM.

"(a) IN GENERAL.—Under the national service program, high school graduates and other youths between 17 and 25 years of age who are from economically, geographically, and ethnically diverse backgrounds shall work in teams on Civilian Community Corps projects.

"(b) PERIOD OF PARTICIPATION.—Persons desiring to participate in the national service program shall enter into an agreement with the Director to participate in the Corps for a period of not less than 9 months and not more than 1 year, as specified by the Director, and may renew the agreement for not more than 1 additional such period.

"SEC. 195C. SUMMER NATIONAL SERVICE PROGRAM.

"(a) IN GENERAL.—Under the summer national service program, a diverse group of youth between 14 and 18 years of age who are from urban or rural areas shall work in teams on Civilian Community Corps projects.

"(b) NECESSARY PARTICIPANTS.—The participants in the summer national service program shall include a significant number of economically disadvantaged youths.

"(c) SEASONAL PROGRAM.—The training and service of Corps members under the summer national service program in each year shall be conducted after April 30 and before October 1 of that year.

"SEC. 195D. CIVILIAN COMMUNITY CORPS.

"(a) DIRECTOR.—The Civilian Community Corps shall be under the direction of the Director of the Civilian Community Corps appointed pursuant to section 195H(c)(1).

"(b) MEMBERSHIP IN CIVILIAN COMMUNITY CORPS.—

"(1) PARTICIPANTS TO BE MEMBERS.— Persons participating in the national service program or the summer national service program shall be members of the Civilian Community Corps.

"(2) SELECTION OF MEMBERS.—The Director or the Director's designee shall select individuals for membership in the Corps.

"(3) APPLICATION FOR MEMBERSHIP.—To be selected to become a Corps member an individual shall submit an application to the Director or to any other office as the Director may designate, at such time, in such manner, and containing such information as the Director shall require. At a minimum, the application shall contain information about the work experience of the applicant and sufficient information to enable the Director, or the superintendent of the appropriate camp, to determine whether selection of the applicant for membership in the Corps is appropriate.

"(c) ORGANIZATION OF CORPS INTO UNITS.—

"(1) UNITS.—The Corps shall be divided into permanent units. Each Corps member shall be assigned to a unit.

"(2) UNIT LEADERS.—The leader of each unit shall be selected from among persons in the permanent cadre established pursuant to section 195H(c)(2). The designated leader shall accompany the unit throughout the period of agreed service of the members of the unit.

"(d) CAMPS.—

"(1) UNITS TO BE ASSIGNED TO CAMPS.—The units of the Corps shall be grouped together as appropriate in camps for operational, support, and boarding purposes. The Corps camp for a unit shall be in a facility or central location established as the operational headquarters and boarding place for the unit. Corps members may be housed in the camps.

"(2) CAMP SUPERINTENDENT.—There shall be a superintendent for each camp. The superintendent is the head of the camp.

"(3) ELIGIBLE SITE FOR CAMP.—A camp may be located in a facility referred to in section 195K(a)(3).

"(e) DISTRIBUTION OF UNITS AND CORPS.— The Director shall ensure that the Corps units and camps are distributed in urban areas and rural areas in various regions throughout the United States.

"(f) STANDARDS OF CONDUCT.—

"(1) IN GENERAL.—The superintendent of each camp shall establish and enforce standards of conduct to promote proper moral and disciplinary conditions in the camp.

"(2) SANCTIONS.—Under procedures prescribed by the Director, the superintendent of a camp may—

"(A) transfer a member of the Corps in that camp to another unit or camp if the superintendent determines that the retention of the member in the member's unit or in the superintendent's camp will jeopardize the enforcement of the standards or diminish the opportunities of other Corps members in that unit or camp, as the case may be; or

"(B) dismiss a member of the Corps from the Corps if the superintendent determines that retention of the member in the Corps will jeopardize the enforcement of the standards or diminish the opportunities of other Corps members.

"(3) APPEALS.—Under procedures prescribed by the Director, a member of the Corps may appeal to the Director a determination of a camp superintendent to transfer or dismiss the member. The Director shall provide for expeditious disposition of appeals under this paragraph.

"SEC. 195E. TRAINING.

"(a) COMMON CURRICULUM.—Each member of the Civilian Community Corps shall be provided with between 3 and 6 weeks of training that includes a comprehensive service-learning curriculum designed to promote team building, discipline, leadership, work, training, citizenship, and physical conditioning.

"(b) ADVANCED SERVICE TRAINING.—

"(1) NATIONAL SERVICE PROGRAM.—Members of the Corps participating in the national service program shall receive advanced training in basic, project-specific skills that the members will use in performing their community service projects.

"(2) SUMMER NATIONAL SERVICE PROGRAM.— Members of the Corps participating in the summer national service program shall not receive advanced training referred to in paragraph (1) but, to the extent practicable, may receive other training.

"(c) TRAINING PERSONNEL.—

"(1) IN GENERAL.—Members of the cadre appointed under section 195H(c)(2) shall provide the training for the members of the Corps, including, as appropriate, advanced service training and ongoing training throughout the members' periods of agreed service.

"(2) COORDINATION WITH OTHER ENTITIES.— Members of the cadre may provide the advanced service training referred to in subsection (b)(1) in coordination with vocational or technical schools, other employment and training providers, existing youth service programs, or other qualified individuals.

"(d) FACILITIES.—The training may be provided at installations and other facilities of the Department of Defense, and at National Guard facilities, identified under section 195K(a)(3).

"SEC. 195F. SERVICE PROJECTS.

"(a) PROJECT REQUIREMENTS.—The service projects carried out by the Civilian Community Corps shall—

"(1) meet an identifiable public need;

"(2) emphasize the performance of community service activities that provide meaningful community benefits and opportunities for service learning and skills development;

"(3) to the maximum extent practicable, encourage work to be accomplished in teams of diverse individuals working together; and

"(4) include continued education and training in various technical fields.

"(b) PROJECT PROPOSALS.—

"(1) DEVELOPMENT OF PROPOSALS.—

"(A) SPECIFIC EXECUTIVE DEPARTMENTS.— The Secretary of Agriculture, the Secretary of the Interior, and the Secretary of Housing and Urban Development shall develop proposals for Corps projects pursuant to guidance which the Director of the Civilian Community Corps shall prescribe.

"(B) OTHER SOURCES.—Other public and private organizations and agencies, including representatives of local communities in the vicinity of a Corps camp, may develop proposals for projects for a Corps camp. Corps members shall also be encouraged to identify projects for the Corps.

"(2) CONSULTATION REQUIREMENTS.—The process for developing project proposals under paragraph (1) shall include consultation with the Commission on National and Community Service, representatives of local communities, and persons involved in other youth service programs.

"(c) PROJECT SELECTION, ORGANIZATION, AND PERFORMANCE.—

"(1) SELECTION.—The superintendent of a Corps camp shall select the projects to be performed by the members of the Corps assigned to the units in that camp. The superintendent shall select projects from among the projects proposed or identified pursuant to subsection (b).

"(2) INNOVATIVE LOCAL ARRANGEMENTS FOR PROJECT PERFORMANCE.—The Director shall encourage camp superintendents to negotiate with representatives of local communities, to the extent practicable, innovative arrangements for the performance of projects. The arrangements may provide for cost-sharing and the provision by the communities of in-kind support and other support.

"SEC. 195G. AUTHORIZED BENEFITS FOR CORPS MEMBERS.

"(a) IN GENERAL.—The Director of the Civilian Community Corps shall provide for members of the Civilian Community Corps to receive benefits authorized by this section.

"(b) LIVING ALLOWANCE.—The Director shall provide a living allowance to members of the Corps for the period during which such members are engaged in training or any activity on a Corps project. The Director shall establish the amount of the allowance at any amount not in excess of the amount equal to 100 percent of the poverty line that is applicable to a family of two (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(c) OTHER AUTHORIZED BENEFITS.—While receiving training or engaging in service projects as members of the Civilian Community Corps, members may be provided the following benefits:

"(1) Allowances for travel expenses, personal expenses, and other expenses.

"(2) Quarters.

"(3) Subsistence.

"(4) Transportation.

"(5) Equipment.

"(6) Clothing.

"(7) Recreational services and supplies.

"(8) Other services.

"(d) SUPPORTIVE SERVICES.—To the extent practicable and as the Director determines appropriate, the Director shall provide each member of the Corps with health care services, child care services, counseling services, and other supportive services.

"(e) POST SERVICE BENEFITS.—Upon completion of the agreed period of service with the Corps, a member shall elect to receive the educational assistance under subsection (f) or the cash benefit under subsection (g).

"(f) EDUCATIONAL ASSISTANCE.—

"(1) AUTHORITY.—

"(A) CORPS MEMBERS COMPLETING AGREED SERVICE.—The Director shall provide educational assistance to each Corps member who—

"(i) completes a period of agreed service in the Corps; and

"(ii) elects to receive the assistance.

"(B) CORPS MEMBERS NOT COMPLETING AGREED SERVICE.—The Director may provide educational assistance to a Corps member who—

"(i) does not complete the period of agreed service; and

"(ii) requests the assistance.

"(2) AMOUNT.—

"(A) NATIONAL SERVICE PROGRAM.—The amount of the educational assistance provided to a Corps member under paragraph (1)(A) shall be—

"(i) in the case of a Corps member in the National Service Program, $5,000 for each period of agreed service in the Corps; and

"(ii) in the case of a Corps member in the Summer National Service Program, $1,000 for each period of agreed service in the Corps.

"(B) Prorated amount for incomplete service.—The amount of the educational assistance provided to a Corps member under paragraph (1)(B) shall be determined by multiplying—

"(i) the amount that would be applicable to the member under subparagraph (A) if the member had completed the agreed period of service, by

"(ii) the percentage determined by dividing the period of the Corps member's service by the period of the Corps member's agreed period of service.

"An amount that is not an even multiple of $1 shall be rounded down to the next lower even multiple of $1.

"(C) Adjustment of amount.—To the extent provided in appropriations Acts, whenever the maximum permissible grant amount for a year under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.) is increased, the amount of the educational assistance payment under subparagraph (A)(i) shall be increased to the amount equal to the sum of that maximum permissible grant amount (as increased) plus $2,500.

"(3) Uses of assistance.—Educational assistance provided for a person under this subsection may be used only for—

"(A) payment of any student loan, whether from a Federal source or a non-Federal source; or

"(B) tuition, room and board, books and fees, and other costs of attendance (determined in accordance with section 472 of the Higher Education Act of 1965 (20 U.S.C. 108711)) that are associated with attendance at an institution of higher education on a full-time basis.

"(4) Application.—To receive educational assistance under this section, a person shall submit to the Director such information and documentation as the Director may require. In the case of use of the educational assistance for expenses referred to in paragraph (3)(B), the information submitted to the Director shall include, as a minimum, the academic program and institution of higher education at which the educational assistance is to be used.

"(g) Cash Benefit.—

"(1) In general.—The Director shall provide a cash benefit to each Corps member electing to receive the cash benefit.

"(2) Amount.—The amount of the cash benefit payable to a member of the Corps shall be equal to 50 percent of the amount of the educational assistance that the member would have been entitled to receive under subsection (f) if the member had elected to receive the educational assistance.

"(h) Other Post Service Benefits.—To the extent the Director considers appropriate, upon a Corps member's completion of the agreed period of service with the Corps, the Director shall provide the member with—

"(1) assistance for the member to pursue a high school diploma or the equivalent;

"(2) in addition to any educational assistance under subsection (f), other assistance for the member to pursue a degree at an institution of higher education; or

"(3) assistance for the member to obtain employment and support services as necessary and appropriate.

"SEC. 195H. ADMINISTRATIVE PROVISIONS.

"(a) Board.—The Board shall monitor and supervise the administration of the Civilian Community Corps Demonstration Program established under this subtitle. In carrying out this section, the Board shall—

"(1) approve such guidelines, recommended by the Director, for the design, selection of members, and operation of the Civilian Community Corps as the Board considers appropriate;

"(2) evaluate the progress of the Corps in providing a basis for determining the matters set forth in section 195; and

"(3) carry out any other activities determined appropriate by the Board.

"(b) Executive Director.—The Executive Director of the Commission on National and Community Service shall—

"(1) monitor the overall operation of the Civilian Community Corps;

"(2) coordinate the activities of the Corps with other youth service programs administered by the Commission; and

"(3) carry out any other activities determined appropriate by the Board.

"(c) Staff.—

"(1) Director.—

"(A) Appointment.—The Board, in consultation with the Executive Director, shall appoint a Director of the Civilian Community Corps. The Director may be selected from among retired commissioned officers of the Armed Forces of the United States.

"(B) Duties.—The Director shall—

"(i) design, develop, and administer the Civilian Community Corps programs;

"(ii) be responsible for managing the daily operations of the Corps; and

"(iii) report to the Board through the Executive Director.

"(C) Authority to employ staff.—The Director may employ such staff as is necessary to carry out this subtitle. The Director shall, to the maximum extent practicable, utilize in staff positions personnel who are detailed from departments and agencies of the Federal Government and, to the extent the Director considers appropriate, shall request and accept detail of personnel from such departments and agencies in order to do so.

"(2) Permanent cadre.—

"(A) Establishment.—The Director shall establish a permanent cadre of supervisors and training instructors for Civilian Community Corps programs.

"(B) Appointment.—The Director shall appoint the members of the permanent cadre.

"(C) Employment considerations.—In appointing individuals to cadre positions, the Director shall—

"(i) give consideration to retired, discharged, and other inactive members and former members of the Armed Forces recommended under section 195K(a)(2);

"(ii) give consideration to former VISTA, Peace Corps, and youth service program personnel;

"(iii) ensure that the cadre is comprised of males and females of diverse ethnic, economic, professional, and geographic backgrounds; and

"(iv) consider applicants' experience in other youth service programs.

"(D) Community service credit.—Service as a member of the cadre shall be considered as a community service opportunity for purposes of section 534 of the National Defense Authorization Act for Fiscal Year 1993 and as employment with a public service or community service organization for purposes of section 535 of that Act.

"(3) Inapplicability of certain civil service laws.—The Director, the members of the permanent cadre, and the other staff personnel shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The rates of pay of such persons may be established without regard to the provisions of chapter 53 of such title.

"(4) Voluntary services.—Notwithstanding any other provision of law, the Director may accept the voluntary services of individuals. While away from their homes or regular places of business on the business of the Corps, such individuals may be allowed travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent, as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

"SEC. 195I. STATUS OF CORPS MEMBERS AND CORPS PERSONNEL UNDER FEDERAL LAW.

"(a) In General.—Except as otherwise provided in this section, members of the Civilian Community Corps shall not, by reason of their status as such members, be considered Federal employees or be subject to the provisions of law relating to Federal employment.

"(b) Work-Related Injuries.—

"(1) In general.—For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, members of the Corps shall be considered as employees of the United States within the meaning of the term 'employee', as defined in section 8101 of such title.

"(2) Special rule.—In the application of the provisions of subchapter I of chapter 81 of title 5, United States Code, to a person referred to in paragraph (1), the person shall not be considered to be in the performance of duty while absent from the person's assigned post of duty unless the absence is authorized in accordance with procedures prescribed by the Director.

"(c) Tort Claims Procedure.—A member of the Corps shall be considered an employee of the United States for purposes of chapter 171 of title 28, United States Code, relating to tort claims liability and procedure.

"SEC. 195J. CONTRACT AND GRANT AUTHORITY.

"(a) Programs.—The Director may, by contract or grant, provide for any public or private organization to perform any program function under this subtitle.

"(b) Equipment and Facilities.—

"(1) Federal and national guard property.—The Director shall enter into agreements, as necessary, with the Secretary of Defense, the Governor of a State, territory or commonwealth, or the commanding general of the District of Columbia National Guard, as the case may be, to utilize—

"(A) equipment of the Department of Defense and equipment of the National Guard; and

"(B) Department of Defense facilities and National Guard facilities identified pursuant to section 195K(a)(3).

"(2) Other property.—The Director may enter into contracts or agreements for the use of other equipment or facilities to the extent practicable to train and house members of the Civilian Community Corps and leaders of Corps units.

"SEC. 195K. RESPONSIBILITIES OF OTHER DEPARTMENTS.

"(a) Secretary of Defense.—

"(1) Liaison office.—

"(A) Establishment.—The Secretary of Defense shall establish an office to provide for liaison between the Secretary and the Civilian Community Corps.

"(B) DUTIES.—The office shall—

"(i) in order to assist in the recruitment of personnel for appointment in the permanent cadre, make available to the Director information in the registry established by section 531 of the National Defense Authorization Act for Fiscal Year 1993;

"(ii) provide other assistance in the coordination of Department of Defense activities with the Corps; and

"(iii) encourage Armed Forces recruiters to inform potential applicants for the Corps regarding service in the Corps as an alternative to service in the Armed Forces.

"(2) CORPS CADRE.—

"(A) LIST OF RECOMMENDED PERSONNEL.—The Secretary of Defense, in consultation with the liaison office established under paragraph (1) shall develop a list of individuals to be recommended for appointment in the permanent cadre of Corps personnel. Such personnel shall be selected from among members and former members of the Armed Forces referred to in section 195(3) who are commissioned officers, noncommissioned officers, former commissioned officers, or former noncommissioned officers.

"(B) RECOMMENDATIONS REGARDING GRADE AND PAY.—The Secretary of Defense shall recommend to the Director an appropriate rate of pay for each person recommended for the cadre pursuant to this paragraph.

"(C) CONTRIBUTION FOR RETIRED MEMBER'S PAY.—If a listed individual receiving retired or retainer pay is appointed to a position in the cadre and the rate of pay for that individual is established at the amount equal to the difference between the active duty pay and allowances which that individual would receive if ordered to active duty and the amount of the individual's retired or retainer pay, the Secretary of Defense shall pay, by transfer to the Commission on National and Community Service from amounts available for pay of active duty members of the Armed Forces, the amount equal to 50 percent of that individual's rate of pay for service in the cadre.

"(3) FACILITIES.—The Secretary of Defense, in consultation with the liaison office established under paragraph (1), shall identify, with the concurrence of the Secretary of the military department concerned, military installations and other facilities of the Department of Defense and, with the concurrence of the Chief of the National Guard Bureau, National Guard facilities that may be used, in whole or in part, by the Civilian Community Corps for training or housing Corps members. The installations and facilities need not be excess capacity or excess or surplus property.

"(b) SECRETARY OF LABOR.—The Secretary of Labor shall identify and assist in establishing a system for the recruitment of persons to serve as members of the Civilian Community Corps. In carrying out this subsection, the Secretary of Labor may utilize the Employment Service Agency or the Office of Job Training.

"SEC. 195L. ADVISORY BOARD.

"(a) ESTABLISHMENT AND PURPOSE.—There is established a Civilian Community Corps Advisory Board to advise the Director of the Civilian Community Corps concerning the administration of this subtitle and to assist in the development and administration of the Corps.

"(b) MEMBERSHIP.—The Advisory Board shall be composed of the following members:

"(1) The Secretary of Labor.

"(2) The Secretary of Defense.

"(3) The Secretary of the Interior.

"(4) The Secretary of Agriculture.

"(5) The Secretary of Education.

"(6) The Secretary of Housing and Urban Development.

"(7) The Chief of the National Guard Bureau.

"(8) Individuals appointed by the Director from among persons who are broadly representative of educational institutions, voluntary organizations, industry, youth, and labor unions.

"(9) The Chair of the Commission on National and Community Service.

"(c) INAPPLICABILITY OF TERMINATION REQUIREMENT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Board.

"SEC. 195M. ANNUAL EVALUATION.

"Pursuant to the provisions for evaluations conducted under section 179, and in particular subsection (g) of such section, the Commission on National and Community Service shall conduct an annual evaluation of the Civilian Community Corps programs under this subtitle.

"SEC. 195N. FUNDING LIMITATION.

"The Commission, in consultation with the Director, shall ensure that no amounts appropriated under section 501 are utilized to carry out this subtitle.

"SEC. 195O. DEFINITIONS.

"In this subtitle:

"(1) BOARD.—The term 'Board' means the Board of Directors of the Commission on National and Community Service.

"(2) CORPS.—The term 'Corps' means the Civilian Community Corps established under the Civilian Community Corps Demonstration Program.

"(3) CORPS CAMP.—The term 'Corps camp' means the facility or central location established as the operational headquarters and boarding place for particular Corps units.

"(4) CORPS MEMBERS.—The term 'Corps members' means persons receiving training and participating in projects under the Civilian Community Corps Demonstration Program.

"(5) DIRECTOR.—The term 'Director' means the Director of the Civilian Community Corps.

"(6) EXECUTIVE DIRECTOR.—The term 'Executive Director' means the Executive Director of the Commission on National and Community Service.

"(7) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(8) PROGRAM.—The term 'Program' means the Civilian Community Corps Demonstration Program established under section 195A.

"(9) SERVICE LEARNING.—The term 'service learning', with respect to Corps members, means a method—

"(A) under which Corps members learn and develop through active participation in thoughtfully organized service experiences that meet actual community needs;

"(B) that provides structured time for a Corps member to think, talk, or write about what the Corps member did and saw during an actual service activity;

"(C) that provides Corps members with opportunities to use newly acquired skills and knowledge in real life situations in their own communities; and

"(D) that helps to foster the development of a sense of caring for others, good citizenship, and civic responsibility.

"(10) SUPERINTENDENT.—The term 'superintendent', with respect to a Corps camp, means the head of the camp under section 195D(d).

"(11) UNIT.—The term 'unit' means a unit of the Corps referred to in section 195D(c).".

(2) TABLE OF CONTENTS.—The table of contents in section 1(b) of the National and Community Service Act of 1990 is amended by inserting after the item relating to section 190 the following:

"SUBTITLE H—CIVILIAN COMMUNITY CORPS

"Sec. 195. Purpose.
"Sec. 195A. Establishment of demonstration program.
"Sec. 195B. National service program.
"Sec. 195C. Summer national service program.
"Sec. 195D. Civilian Community Corps.
"Sec. 195E. Training.
"Sec. 195F. Service projects.
"Sec. 195G. Authorized benefits for Corps members.
"Sec. 195H. Administrative provisions.
"Sec. 195I. Status of Corps members and Corps personnel under Federal law.
"Sec. 195J. Contract and grant authority.
"Sec. 195K. Responsibilities of other departments.
"Sec. 195L. Advisory board.
"Sec. 195M. Annual evaluation.
"Sec. 195N. Funding limitation.
"Sec. 195O. Definitions.".

(b) REPORT AND STUDY REQUIREMENTS.—(1) Not later than 180 days after the date of the enactment of this Act, the Commission on National Community Service shall prepare and submit to the appropriate committees of Congress a progress report on the implementation of the provisions of subtitle I of the National and Community Service Act of 1990 (as added by subsection (a)). The progress report shall include an assessment of the activities undertaken in establishing and administering Civilian Community Corps camps and an analysis of the level of coordination of Corps activities with activities of other departments or agencies of the Federal Government.

(2) Not later than 90 days after the end of the 1-year period beginning on the first day of the Civilian Community Corps Demonstration Program established pursuant to section 195A of the National and Community Services Act of 1990 (as added by subsection (a)), the Board of Directors of the Commission on National and Community Service and the Director of the Civilian Community Corps shall prepare and submit to the appropriate committees of Congress a report concerning the desirability and feasibility of establishing the Civilian Community Corps as an independent agency of the Federal Government.

(c) FUNDING.—Of the amount authorized to be appropriated for fiscal year 1993 in section 301, $50,000,000 shall be available for the Civilian Community Corps Demonstration Program established pursuant to section 195A of the National and Community Service Act of 1990 (as added by subsection (a)).

SEC. 1083. COORDINATION OF PROGRAMS.

(a) COORDINATED ADMINISTRATION.—To the maximum extent practicable, the Chief of the National Guard Bureau, the Board of Directors and Executive Director of the Commission on National and Community Service, and the Director of the Civilian Community Corps shall coordinate the National Guard Youth Opportunities Program established pursuant to section 1081 and the Civilian Community Corps Demonstration Program established pursuant to section 195A of the National and Community Service Act of 1990 (as added by section 1082(a)).

(b) OBJECTIVES.—The officials referred to in subsection (a) shall ensure that—

(1) the programs referred to in subsection (a) are conducted in such a manner in relationship to each other that the public benefit of those programs is maximized;

(2) to the maximum extent appropriate to meet the needs of program participants, persons who complete participation in the National Guard Youth Opportunities Program and are eligible and apply to participate in the Civilian Community Corps under the Civilian Community Corps Demonstration Program are accepted for participation in that Program; and

(3) the programs referred to in subsection (a) are conducted simultaneously in competition with each other in the same immediate area of the United States only when the population of eligible participants in that area is sufficient to justify the simultaneous conduct of such programs in that area.

SEC. 1084. OTHER PROGRAMS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE.

(a) INCREASED COMMISSION ACTIVITIES.—It is the purpose of this section to increase the ability of the Commission on National and Community Service to expand non-residential programs that perform worthwhile urban and rural community projects that assist in the economic transition of localities affected by Department of Defense conversion. The Commission may also explore the potential for developing a program that would permit members of the Civilian Community Corps established under subtitle H of title I of the National and Community Services Act of 1990, as added by section 1082, to provide training to such participants at residential facilities and return them to their local communities for the service portion of their period of agreed service. To the extent practicable, such effort shall be coordinated with the National Guard Civilian Youth Opportunities Program authorized by section 1801 and with the Civilian Community Corps Demonstration Program established under section 195A the National and Community Services Act of 1990, as added by section 1082.

(b) FUNDING AND USE OF FUNDS.—(1) Of the amount authorized to be appropriated for fiscal year 1993 in section 301, $50,000,000 shall be available to the Board of Directors of the Commission on National and Community Service for activities under subtitles B, C, D, E, F, and G of the National and Community Service Act of 1990 (42 U.S.C. 12510 et seq.). Such amount shall be in addition to, and not a substitute for, amounts authorized to be appropriated under section 501 of such Act (42 U.S.C. 12681).

(2) In the use of the funds made available under paragraph (1), the Commission shall give special consideration to—

(A) programs located in communities where facilities of military installation (as defined in section 2687(e)(1) of title 10, United States Code) have been closed;

(B) programs that employ retired, inactive, or discharged military personnel;

(C) programs that involve military personnel participating in volunteer services;

(D) programs that test whether a non-residential, community based youth service corps can engender in young men and women a commitment to civic responsibility and involvement in their communities;

(E) programs that test whether such nonresidential corps permit young people who have received military-based training to use their skills and knowledge to improve their communities; and

(F) programs that test whether retired, discharged or inactive members and former members of the Armed Forces can play a meaningful role in service-learning by acting as mentors, teachers, counselors and role models.

On page 477, strike out line 14 and all that follows through page 485, line 13.

SEC. 1085. LIMITATION ON OBLIGATION OF FUNDS.

(a) CIVILIAN COMMUNITY CORPS DEMONSTRATION PROGRAM.—Funds made available pursuant to section 1082(c) may not be obligated during fiscal year 1993 for the Civilian Community Corps Demonstration Program under subtitle H of title I of the National and Community Service Act of 1990 (as added by section 1082(a)), unless expenditures for that program during fiscal year 1993 have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) OTHER COMMISSION ON NATIONAL AND COMMUNITY SERVICE PROGRAMS.—Funds made available pursuant to section 1084(b) may not be obligated during fiscal year 1993 for activities under subtitles B, C, D, E, F, and G of the National and Community Service Act of 1990 (42 U.S.C. 12510 et seq.), unless expenditures for such activities during fiscal year 1993 have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

Mr. BOREN. Mr. President, world events in the past few years have presented this country with challenges and opportunities. One of the challenges is the economic and social dislocation associated with the conversion of the defense sector of our economy to civilian purposes. The opportunity presented to us is to use the talents, skills, and knowledge of our military servicepersons in innovative ways that will strengthen our country in the long run. A provision in the defense conversion portion of this bill allows us to harness this substantial human resource to instill in our Nation's youth a commitment to national service.

One of the lessons of the violence in Los Angeles was that many of our country's youth feel alienated and hopeless. Without a sense of purpose, without a feeling that they belong, they turn to violence, drugs, and gangs. We now understand that personal responsibility and self-esteem cannot simply be taught, they have to be earned. It is a scandal that we sit by while another generation of inner-city young people drop out of school and into the streets, joblessness, drugs, and dependency systems of welfare and prisons. American's inner-city poor do not want to be viewed as a danger, as the enemy, but rather as a resource, as talent ready to make a difference. In that way, they are no different than the millions of other young people who search for ways they can contribute to the success of our country.

So, Mr. President, we have two pools of immense human resources: The talented servicemen and women whose skills are no longer needed in the military, and the enthusiasm and promise of our Nation's youths who are seeking for a way to contribute to their society. A few generations ago, the country faced a similar situation. During the Great Depression, we had scores of unemployed adults with knowledge and skills that they wanted to share, and we had a new generation eager to learn. We therefore addressed an economic and social crisis with a straightforward, action-oriented approach that used both these groups: the Civilian Conservation Corps.

The CCC of the 1930's took 3 million young people and put them to work on the land. They became the innovators of the largest conservation and natural resource revitalization program in the history of the United States, working in the Nation's parks, forests, national monuments, wilderness, and private lands. In the space of 9 years, the CCC developed more than 800 State and national parks, 4,000 historical structures, 60,000 buildings, 38,500 bridges, and 97,000 miles of roads. They planted 4 billion trees, stocked 2 billion fish, stopped erosion on 200 million acres of land, and spent 4 million man days fighting fire and floods. Perhaps most importantly to this Senator from Oklahoma, they helped restore the dust bowl to the Nation's bread basket.

Is it any wonder, in light of all these statistics, that the CCC has been termed "the silver lining of the Great Depression"? It would have taken 50 years for the same amount of work to be completed without the help of the CCC. Although we are all familiar with the role of youth in the CCC, many of us are less aware that veterans of the armed services also played a vital role in the Conservation Corps. Indeed, the corps included over 250,000 veterans of World War I in its ranks.

Mr. President, I ask that several letters among the hundreds I have received from Americans who participated in the Depression-era CCC be placed in the RECORD at this time. These letters vividly reveal the scene of pride, the sense of community, that the CCC provided these people—pride that has lasted for decades and is revived every time a corpsmember walks past a building or a park that he helped build. This same spirit is revealed by the comment of a high school dropout now involved in a present-day service corps in Philadelphia. He understands that with productive work, he not only helps his community, he helps himself. "I got tired," he said, "of people coming to do good against me, trying to help me all the time. This corps asked me to do the helping. Now, I'm making a difference."

Thus, the idea of the CCC continues to resonate, and it represents an inspiring example of the good that Americans can do when presented with a challenge and an opportunity. Accordingly, I have proposed to create a new CCC—a Civilian Community Corps—designed to offer our Nation's youth a chance to develop their sense of national pride and designed to allow military personnel a vital role in this process as mentors and teachers. This proposal has broad bipartisan support. Moreover, polls have shown that 80 percent of Americans favor the idea of national service. I believe the proposal touches a chord in the American spirit and represents hope for the country.

This bill creates a federally run, residential CCC demonstration program in the Commission on National and Community Service. It authorizes enough funding to establish several CCC camps throughout the country, each one housing and teaching 200 to 300 young people. These camps will be located at military bases that either are closed or have excess capacity as a result of the defense conversion. As my colleague from Virginia, Senator WARNER, has observed:

> Why not fill those empty bunks and dormitory barracks with young people who need a chance to work and whose talents are needed to rebuild America?

The CCC offers those talented military people who are being forced into early retirement because of changes in the world to take up leadership roles again. The CCC will be led by a retired military officer and other professionals who can provide leadership to the cadre of teachers, many drawn from a pool of retired, discharged, or inactive servicepersons, and to the youth corpsmembers. The Director will receive advice and resources from a variety of Federal entities, including the Department of Defense and the Department of Labor. In addition, the Director will draw on the advice and experience of many who have been involved in the youth service movement on the local level. Moreover, the National Guard will be involved in the CCC, in part because the CCC will provide an opportunity for participants in the National Guard Military Youth Corps to continue their national service.

The CCC will instill a sense of community in the young corpsmembers by adopting a curriculum of service learning where participants work in teams on specific and meaningful community projects. The teams will first receive advanced service training, taught by military personnel, to learn basic skills and receive physical training. They will then go out into the communities, again as members of a unified team, and work on important projects that will contribute to their understanding of civic responsibility and national involvement. These projects will range from urban renewal to environmental protection. The Nation thus benefits doubly—from the results of the work and from the effect of the work on the young people and on their teachers.

Because they work in teams and because they live together in dormitories, they will be able to establish links with their peers and with their mentors that will allow them to feel part of a greater experience. This team spirit, resulting from the corps organization, will, along with the military-style training, teach discipline and cooperative effort. Because they will be brought together with other young people from different parts of the country and from different ethnic groups, they will learn to appreciate the diversity that is the strength of this great country, and they will share different perspectives with each other. Only a national program that combines a team approach with a residential component offers this unique experience for our Nation's youths.

The CCC includes two programs. The year-long program is designed for a diverse service corps of male and female youths aged 17 to 26. Participants will be drawn from a variety of economic, geographic, and ethnic backgrounds. In addition, the CCC establishes a shorter summer program that is targeted at disadvantaged high school students who are offered an opportunity for national service by participating in projects located primarily in the rural areas of the country.

Not only is a sense of national community important for young people, a sense of the importance of education is also vital. Accordingly, military instructors, and others, will provide corpsmembers with continued educational and training programs in a variety of technical fields. Moreover, corpsmembers can elect to receive educational credits when they successfully complete their service in the CCC.

Although I am convinced that a federally run, residential program provides our young people a significant opportunity to contribute their talents and enthusiasm to the country, I also believe that there are other ways to encourage national service. The Commission on National and Community Service currently grants money to fund youth service programs through schools, through full-time youth service corps, and through demonstration projects. The service opportunities funded by the Commission develop discipline, responsibility, teamwork, problem-solving skills, and self esteem—all qualities of good citizens and productive workers.

The Commission is therefore the ideal entity to oversee the development and implementation of another demonstration project. This program would establish several nonresidential youth corps that would allow young people, who had received training either in the National Guard Civilian Youth Opportunities Program or in the CCC, to return to their communities and participate in service projects. These projects will serve more than this worthwhile goal, however. The Commission is instructed to fund projects that will also assist in the economic transition of localities affected by the defense conversion. The Commission will particularly consider programs that rely on retired, inactive, or discharged military personnel to provide training, teaching, and mentoring for the young corpsmembers.

Thus, this bill will test two models of national service: The CCC, a residential program that draws together young people from all areas of the country in a year-long experience of training and service; and nonresidential programs administered by the Commission that will allow young people to contribute to their communities, particularly to those locales profoundly affected by the defense conversion. Both models receive equal funding so that neither overshadows the other. Both allow meaningful involvement by both young people and military service persons.

Mr. President, too often we talk about problems, instead of simply taking action to solve them. We are faced today with two problems of substantial proportions: the social challenge of the hopelessness of our Nation's young people and the economic challenge of the defense conversion. We need to act on these problems. We need immediate and sustained action. America's youth worked their way out of the problems of the Great Depression and toward the ideal of national service in the 1930's. If we have the national commitment, we can do it again today.

Mr. President, I ask unanimous consent to have printed in the RECORD letters and statistical material.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ADAIR CO.,
Watts, OK, September 9, 1992.

Senator DAVID BOREN.

SIR: I applaud your efforts to get our people back to work, and the 30's concept is right on target. Becoming a tax-payer is much prefered to becoming a tax-recipient.

I spent a couple of years in the C.C.C's during the 30's and learned a good trade along with doing some meaningful work.

I was a heavy equipment operator and we were engaged in soil conservation service work.

I made a career out of heavy construction and made a good living also.

Keep promoting the 1930–1940 concept of work for pay. There is much work to be done throughout the U.S.A. Let's just at it!

Sincerely,

———.

———

At the time of my enrollment in CCC I lived in Sulphur Springs, Texas, and the Chamber of Commerce sent us to enroll at Paris, Texas, in May, 1933.

I was attending high school in Sulphur Springs and was working 2 or 3 part-time jobs, playing football, and trying to study.

The CCC sign-up time was only for 6 months and I decided to try it. I did this without graduating from high school.

We lived in town and my father did day work. Wages were very low and jobs were scarce. So joining CCC was an opportunity to help me and my family. Beginning pay was $30.00 per month and $25.00 was sent home to your family.

I reported to Paris, Texas, with other boys from Sulphur Springs. We caught the train at Paris and crossed Red River into Terrell, Oklahoma, and the conductor came thru and said a bridge was out and we had to spend the night at the depot there—some of us slept in the depot that night. Tracks were repaired the next day and we arrived at Ft. Sill, Oklahoma where we stayed 3 weeks, taking shots and doing exercises. Here in Ft. Sill, Co. 869 was organized with only Texas boys. This was May 1933. All of the officers were members of the Army Reserve.

We were shipped to Farmersville, Texas, which is in the farm belt of Texas, the latter part of May 1933. This Co. was under the Soil Conservation Service. We lived in tents on the city lake until January 1934 when barracks were completed.

I was on a surveying crew and our job was to run terraces, strip cropping, and to set grades for terrace outlets. In 3 months the 1st Sgt., Mess Sgt., and Supply Sgt. were replaced by CCC boys. In 3 more months most of the group left the camp and got out of CCC. One man was allowed to stay (me) and I was made 1st Sgt. Then I made $45.00 a month and $25.00 was sent home. As these left CCC, new recruits from around the area were brought in to bring the Company number to 200.

One day in 1934, the Co. officer called me in and told me the Governor of Texas, Jimmy Allred and his party would be there next day for lunch and he said, "I want you to be the one to welcome them to our Camp." So I did.

In June 1935, Co. 869 moved to Kaufman, Texas, during a terrible rainy season causing extremely high waters over the roads. Here in Kaufman we had 6-man barracks, but it was difficult to tell if they were barracks or houseboats for they were standing in water. Of all the men who started out in this Co. in Ft. Sill, OK., Paul Thurman was the only one still there. We did the same type work here except we also started building fences. A 25-man crew could build about a mile a day (from scratch).

About 80% of my time in Camp was as 1st Sgt., and about 15% was on a surveying crew, and 5% was on a construction crew.

I met my future wife, Alta Earl Williams, in Kaufman, and we married June 10, 1939. I got out CCC in April 1940.

One of my first jobs after leaving CCC was at the State Hospital in Terrell, Texas. Then I took a job with Gifford Hill Pipe Co. in Grand Prairie. Then I went to work at North American Aviation Plant building P-51 Mustang fighter planes and A-T-6 trainer planes. I put the stars on the wings and fuselage in the paint dept. I was deferred because of this defense plant work.

When the war ended I worked for Luscomb Aircraft Co. in Garland which built private small planes.

In 1946 I went to work for Lone Star Gas Co. in Dallas. My job was to adjust Servel refrigerators. Our son had asthma and we went to Tucson, Arizona, where I worked for Coca Cola Bottling Co. in 1947, our daughter was born in Tucson. We stayed there about 3 years. We moved to Midland, Texas in 1950 and I worked for Halliburton Oil Co. for about 4 years.

In 1954 we moved back to Dallas and I worked for Lone Star Gas again until retirement in 1977.

The experiences I had in CCC enabled me to get some of the jobs I held. My background in surveying, map drawing, time keeper, etc. helped me in many ways on other civilian jobs.

The CCC taught me self-discipline, responsibility, leadership, respect for others, how to supervise men, and how to deal with life's situations. In other words, it taught me many things that helped me in later life.

I thank God for seeing me through the low as well as the high times of my life. I am still happily married to the same wife for 53 years now and we have 2 children and 2 grandchildren.

A CCC organization might work today if enough people without work would volunteer for this type of work. If the economy in the U.S. gets much worse or as it was in the '30's, the CCC organization might fill a need.

CIVILIAN CONSERVATION CORPS—Continental United States and Outlying Possessions

[Total work completed during the period April 1933—June 30, 1942]

Type of job or project classification	Class no.	Unit	New work	Maintenance
Structural improvements				
Bridges:				
Foot and horse	101	Number	8,304.0	1,060.0
Vehicle	104	Number	38,550.0	9,510.0
Buildings, other than CCC Camp:				
Barns	105	Number	1,162.0	633.0
Bathhouses	106	Number	395.0	116.0
Cabins, overnight	107	Number	2,496.0	220.0
Combination buildings	108	Number	519.0	270.0
Dwellings	110	Number	4,249.0	6,548.0
Equip./sup. stor. houses	111	Number	3,359.0	1,812.0
Garages	112	Number	2,848.0	844.0
Latrines and toilets	113	Number	12,086.0	4,405.0
Lodges and museums	114	Number	204.0	117.0
Lookout houses	115	Number	1,187.0	928.0
Lookout towers	116	Number	3,116.0	1,884.0
Shelters	119	Number	2,290.0	508.0
Other buildings	120	Number	29,699.0	16,139.0
Cribbing, including filling	121	Cu. yd.	561,470.0	24,042.0
Impounding and large diversion dams	122	Number	7,622.0	3,405.0
Fences	131	Rods	28,717,304.5	7,119,518.9
Guard rails	132	Rods	263,824.2	10,951.0
Levees, dikes, jetties, and groins	133	Cu. yd.	21,195,138.2	3,097,142.0
Power lines	134	Miles	877.5	1,070.1
Incinerators	137	Number	606.0	89.0
Sewage and waste-disposal systems	139	Number	5,935.0	1,282.0
Telephone lines	140	Miles	88,883.5	271,615.3
Water supply systems:				
Fountains, drinking	141	Number	1,865.0	76.0
Open ditches	142	Lin. ft.	13,128,471.4	475,809.0
Pipe or tile lines	143	Lin. ft.	9,560,557.7	922,934.0
Storage facilities (thous)	145	Gallons	308,260.1	8,995.0
Wells, pumps & p'houses	146	Number	8,065.0	5,345.0
Miscellaneous	147	Number	43,464.0	8,834.0
Other structural improvements:				
Camp stoves/fireplaces	148	Number	31,196.0	5,058.0
Cattle guards	149	Number	5,319.0	426.0
Corrals	150	Number	1,509.0	261.0
Seats	152	Number	21,951.0	405.0
Signs, markers/monuments	153	Number	405,037.0	25,775.0
Stone walls	154	Rods	39,101.6	6,694.0
Table bench combinations	155	No.	60,599.0	13,533.0
Tool boxes	156	Number	15,671.0	125,690.0
Miscellaneous	157	Number	392,769.0	17,778.0
Radio stations	158	Number	116.0	282.0
Springs	159	Number	12,346.0	2,398.0
Waterholes	160	Number	3,311.0	3,299.0
Small reservoirs	161	Number	9,805.0	1,778.0
Landing docks and piers	162	Number	532.0	18.0
Transportation improvements				
Airplane landing fields	201	Number	80.0	88.0
Truck trails or minor roads	202	Miles	126,230.5	580,995.5
Trails:				
Foot	206	Miles	13,172.3	41,270.2
Horse or stock	207	Miles	14,915.5	72,743.0

CIVILIAN CONSERVATION CORPS—Continental United States and Outlying Possessions—Continued

[Total work completed during the period April 1933—June 30, 1942]

Type of job or project classification	Class no.	Unit	New work	Maintenance
Erosion control				
Stream and lake bank protection	301	Sq. yd.	154,620,149.0	12,470,789.0
Treatment of gullies:				
Bank sloping	303	Sq. yd.	10,781,749.5	2,872,912.6
Check dams, permanent	304	Number	318,076.0	31,080.0
Check dams, temporary	305	Number	6,341,147.0	148,791.0
Seeding and sodding	306	Sq. yd.	478,499,555.0	22,332,119.0
Tree planting, gully	307	Sq. yd.	463,830,313.0	125,862,616.0
Ditches, diversion	308	Lin. ft.	67,285,388.7	7,188,850.0
Terracing	309	Miles	33,087.2	4,703.5
Terrace outleting:				
Channel construction	310	Lin. ft.	45,351,549.0	2,311,353.0
Outlet structures	311	Number	431,321.0	27,448.0
Planting, seed., or sodding	313	Sq. yd.	139,447,648.0	30,430,052.0
Sheet erosion planting	314	Acres	638,473.4	37,660.2
Limestone:				
Quarrying for	315	Ton	2,622,513.7	726.0
Crushing liming	316	Tons	1,485,215.8	214.0
Hauling soil	317	Tons	805,859.3	805.0
Contour forrows and ridges	319	Miles	156,923.9	27,340.6
Preparation for strip cropping	320	Acres	218,075.9	2,165.1
Road erosion demonstration	321	Miles	1,073.7	183.1
Wind erosion area treated	322	Acres	26,028.5	615.8
Water spreaders (rock, brush, wire)	323	Lin. ft.	7,521,032.0	273,685.0
Water spreaders (terrace type)	324	Lin. ft.	7,293,175.0	522,199.0
Flood control, irrigation, and drainage				
Clearing & cleaning:				
Channels and levees	401	Sq. yd.	76,502,776.0	450,638,443.0
Res., pond & lake sites	402	Acres	206,994.0	5,512.9
Lining of waterways	403	Sq. yd.	2,225,119.0	1,731,353.0
Excav., chan., canals, ditches:				
Earth	404	Cu. yd.	29,316,403.0	74,786,964.0
Rock	405	Cu. yd.	1,224,517.0	85,832.0
Pipe lines, tile lines, and conduits	406	Lin. ft.	3,057,772.0	2,032,375.0
Riprap or paving:				
Rock or concrete	407	Sq. yd.	4,121,694.0	106,096.0
Bush or willows	408	Sq. yd.	1,219,072.0	177,858.0
Water control structures other than dams	411	Number	50,802.0	6,713.0
Concretecore walls other than dams	412	Cu. yd.	9,981.0	12.0
Leveling of spoil banks	414	Cu. yd.	1.942,764.0	13,204,633.0
Forest culture				
Field planting or seeding (Trees)	501	Acres	2,355,587.5	288,213.0
Forest stand improvement	502	Acres	4,094.,003.0	16,755.0
Nurseries Man	503	Man-days	6,111,258.2	516,921.0
Tree seed collection:				
Conifers (cones)	504	Bushels	875,970.7	
Hardwood	505	Pounds	13,643,415.0	
Collection of tree seedlings	506	Number	14,623,074.0	
Forest protection				
Fighting forest fires	601	Man-days	6,459,403.1	
Fire breaks	602	Miles	68,882.6	57,384.1
Fire hazard reduction:				
Road & trailside	603	Miles	80,399.5	4,089.5
Other	605	Acres	2,158,946.6	6,796.7
Fire presuppression	606	Man-days	5,750,311.0	27,603.0
Fire prevention	607	Man-days	725,556.5	1,412.0
Tree and plant disease control	608	Acres	7,955,707.8	718,059.7
Tree insect pest control	609	Acres	13,099,701.0	178,973.3
Landscape and recreation				
Beach improvement	701	Acres	3,462.5	313.9
General clean-up	703	Acres	515.990.2	46,328.8
Landscaping, undifferentiated	705	Acres	233,793.8	14,793.0
Moving and planting trees and shrubs	706	Number	44,927,339.0	4,940,812.0
Parking areas and parking overlooks	710	Sq. yd.	8,152,529.0	397,745.0
Public camp ground development	711	Acres	52,319.6	39,457.5
Public picnic ground development	712	Acres	10,398.7	5,431.0
Razing undesired struct. & obliterations	713	Man-days	2,094,713.0	2,065.0
Seed collection, other than tree	714	Pounds	3,729,443.0	
Seed or sodding	715	Acres	195,338.4	38,207.9
Soil prep'n t. soiling, fertil., fitg., etc	716	Acres	207,599.5	3,152.3
Vista or other selective cutting	717	Acres	31,248.7	92.6
Walks, concrete, gravel, cinder, etc	718	Lin. ft.	1,410,634.0	191,615.0
Range				
Elimination of predatory animals	801	Number	370,953.0	—
Range revegetation	802	Acres	814,323.0	21,086.5
Stock driveways	803	Miles	3,298.1	645.5
Pasture sodding	804	Acres	288,318.5	19,788.1
Pasture and range terracing	805	Acres	3,528.6	806.2
Wildlife				
Fish rearing ponds	901	Number	4,622.0	1,171.0
Food and cover planting & seeding	902	Acres	112,912.6	7,423.3
Lake and pond development	903	Man-days	933,507.0	10,477.0
Stocking fish	904	Number	972,203,910.0	—
Stream development (wildlife)	905	Miles	6,966.7	491.5
Other wildlife activities	906	Man-days	1,301,945.0	12,594.0
Wildlife feeding	907	Man-days	116,384.0	37.0
Wildlife shelters	908	Number	32,148.0	690.0
Other activities				
Educ., guide, cont. station work	1001	Man-days	767,079.0	123.0
Emergency work	1003	Man-days	2,079,440.0	—
Erad. of pos., weed, or exotic plants	1004	Acres	1,023,155.4	—
Experimental plots	1005	Number	57,965.0	7,950.0
Fighting coal fires	1006	Man-days	201,739.0	—
Insect pest control	1007	Acres	6,161,742.7	47,400.6
Maps and models	1009	Man-days	620,345.0	1,844.0
Marking boundaries	1010	Miles	35,442.1	3,529.6
Mosquito control	1011	Acres	248,904.0	97,843.5
Preparation and transp. of materials	1012	Man-days	9,005,407.0	17,636.0
Recommaissance and investigation:				
(Archaeological	1014	Man-days	230,296.0	—

CIVILIAN CONSERVATION CORPS—Continental United States and Outlying Possessions—Continued

[Total work completed during the period April 1933—June 30, 1942]

Type of job or project classification	Class no.	Unit	New work	Maintenance
(Other	1015	Man-days	1,067,300.0	4,763.0
Restoration of historic structures	1016	Number	3,980.0	10.0
Rodent and predatory animal control	1017	Acres	39,732,356.3	761,191.0
Surveys	1023	Man-days	4,827,421.0	285,713.0
Timber estimating	1024	Acres	35,495,621.7	65,170.9
Tree preservation	1025	Man-days	389,852.0	64,845.0
Equipment, repair of construction	1026	Man-days	1,627,995.0	—
Hydraulic research	1027	Man-days	179,159.0	14,229.0
Warehousing	1028	Man-days	430,253.0	6,660.0
Technical service cp bldg.	1029	Number	96,477.0	33,843.0
Central repair shop labor	1030	Man-days	232,921.0	10,022.0
Gas pipe lines	1031	Man-days	105,245.0	11,050.0
Unclassifiable	1035	Man-days	26,646.0	10,830.0
Dyles, water-spreading[1]	133A	Lin. ft.	26,684.0	—
Planting, for bank protection[1]	313A	Lin. ft.	6,780,500.0	22,016.0
Miscellaneous erosion control work[1]	318	Man-days	1,091,117.0	12,096.0
CLearing and cleaning-channel	402A	Lin.yds.	494,027.8	200.0
Other public camp ground facilities[1]	711A	Number	46,683.8	5,194.5
Model and relief maps[1]	1009A	Sq. ft.	32,510.0	—
Mosquito control, ditching[1]	1011A	Lin. yds.	2,096,799.0	1,206,141.0
Mosquito control, staking[1]	1011B	Lin. yds.	1,461,670.0	—
Railroads, narrow guage[1]	1013	Man-days	2,838.0	7,170.0

[1] No longer reported under this heading, or work discontinued on this type of project.

Mr. BOREN. Mr. President, this amendment, as I understand it, has been cleared by managers on both sides of the aisle.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I want to make sure the Senator from Oklahoma agrees with my understanding of this amendment, because we worked very carefully with him. I think it is a good amendment, and I support the amendment, and I hope we can accept the amendment. But as I understand it, what this amendment does is, first of all, it, I think, reincorporates the National Guard Youth Opportunities Pilot Program that is in our bill. It restates that and builds on it but reincorporates that in it and puts it together in a coherent form building his amendment into that amendment.

Mr. BOREN. The Senator is correct. It reincorporates it, builds on it, and I have other provisions that are very complementary to that program.

Mr. NUNN. I further request of my friend from Oklahoma that the amendment would establish a companion demonstration program for a civilian community corps that would have both a residential and a nonresidence component and the bill would further have a program or programs that are designed to provide a military as well as a civilian-based framework for rescuing at-risk youth by teaching them life skills and motivating them to become productive members of society through a program of training in the community service.

Mr. BOREN. My colleague from Georgia, the distinguished chairman, stated it very well. His understanding of the provisions of the program tracks this provision.

Mr. NUNN. As I understand, the program would be established initially in 10 States and administered by the National Guard Bureau in cooperation with the Governors of the participating States.

Mr. BOREN. Yes, the National Guard would be involved with it as well.

Mr. NUNN. And the program would also be administered by the Commission on National Community Service, and the residential component would be conducted by a civilian community corps that is established by the amendment. The nonresidential component would be conducted under the existing National Service Program?

Mr. BOREN. That is correct. We worked very, very closely and cooperatively on this not only with the National Guard, as the chairman has indicated, but also with the National Commission, the leadership of the Commission, and with the leaders of many of the already existing programs at the local level. There are some very fine programs at the local level that are existing, such as the one in the chairman's home community of Atlanta, excellent programs in Boston, New York, California, and other areas, and we have built on those. The National Commission would, of course, not directly operate the residential CCC Program. It would be operated as a pilot program, as I have indicated, and principally use retired military personnel, but it would evaluate that program. It would evaluate that residential program while it would not operate it just as it evaluates the local programs to which it gives grants.

Mr. NUNN. Mr. President, I think this is a good amendment. It complements what is being done in the National Service Program. I think it also weaves in a very important new component of the National Guard youth opportunities pilot project we had in our bill, and I recommend it be accepted by the Senate.

Mr. BOREN. Mr. President, I thank the Chair.

Mr. KENNEDY. Mr. President, I am pleased to cosponsor the Boren amendment to the Department of Defense authorization for fiscal year 1993. Senators NUNN, WARNER, BOREN, WOFFORD, DOLE, SIMON, MIKULSKI, DOMENICI, REID, and I have worked together on this proposal, which will help ease the pain of economic conversion, and at the same time expand opportunities to perform vital community service.

This amendment recognizes that the military can play an important role in encouraging domestic national service, in meeting critical national needs, and in developing a greater sense of public purpose in our Nation's youth and our future leaders. Recent changes in the world allow us to shift defense resources and manpower to solving national problems here at home.

In the 1930's, in the depths of the Depression, President Franklin Roosevelt created the Civilian Conservation Corps. Over the course of that program's 9-year life, the CCC provided jobs for more than 3 million young men on forestry, environmental, and conservation projects. These projects made an invaluable contribution to the preservation of our natural resources. The work of the young men of the CCC made it possible for Americans to continue to enjoy the natural beauty of our country for a generation. The CCC of the thirties has been called "One of the most amazing social action successes ever registered by the Federal Government."

In the spirit of this successful Federal Social Action Program, this amendment creates a new CCC, the Civilian Community Corps.

The CCC of the 1990's will again offer young Americans—this time both men and women—the chance to serve their country. These young citizens from diverse ethnic, economic, and geographic backgrounds, will be answering the same challenge that President Kennedy issued to the Nation over 30 years ago, to do something for their country. The CCC will appeal to the best of our national character—the idea that as Americans we share not just rights and privileges of citizenship, but also obligations and responsibilities—to give something back to America in return for all that our country has given to us.

The new Civilian Community Corps builds on the successful model of the old CCC. The military played a vital administrative role then, and it can do the same in the updated CCC. But our Nation's needs today are different from the needs of the thirties, and this new program reflects these differences.

Urban areas, in addition to rural ones, will benefit from the work of the corps. Projects for the new CCC will be developed and proposed by the Department of Housing and Urban Development, in addition to the Departments of Agriculture and the Interior.

Local communities will also be encouraged to assess their unmet needs and develop project proposals.

The amendment also develops important links between the National Guard Civilian Youth Opportunities Pilot Program, which Senator NUNN deserves great credit for advancing, and the new CCC. The National Guard Pilot Program will offer disadvantaged youth, many of them high school dropouts, the opportunity to participate in military-based training, and then apply their training to community service projects.

Graduates of the National Guard Program will then have the opportunity to continue their commitment to national and community service by joining the new CCC, along with other young Americans from diverse backgrounds.

The Civilian Community Corps will be implemented by the Commission on National and Community Service, the independent government agency created in 1991, which has been doing an impressive and commendable job of expanding national and community service opportunities to Americans of all ages, especially young Americans.

Through its grants program, the Commission is encouraging national and community service through elementary and secondary schools, colleges and universities, and youth service corps in communities across America. The creation of the new CCC and the additional resources that this amendment makes available to the Commission's existing programs, represent an important new step toward achieving the goal of offering all Americans a realistic and appealing opportunity to serve their country here at home.

I want to commend several colleagues for making this advance in national and community service possible. The leadership of Senator BOREN, Senator WOFFORD, and Senator DOLE was indispensable. Without their tireless dedication to the renewal of the CCC idea, this legislation would not have been possible. Senator MIKULSKI gave her expertise with Youth Service Corps to the development of this idea, and Senator NUNN and Senator WARNER provided effective leadership in fashioning this landmark tie, made possible by the end of the cold war, between our military power and our domestic needs.

It is heartening to see such a diverse group of Senators united around an idea that presents so much hope and promise for the future of our youth and our Nation. I look forward to working with them next year on the reauthorization of the National and Community Service Act, and to building on the progress we have made this year. In the long run, this amendment may turn out to be the most important action of the entire 102d Congress, and I urge the Senate to accept it.

Mr. WARNER. Mr. President, as a cosponsor I join in complimenting our distinguished colleague from Oklahoma.

Mr. President, I am an original cosponsor of legislation to establish a Civilian Community Corps to help the young people of our Nation, and I rise to support this amendment, which provides for a demonstration pilot program for the CCC.

I believe that young people who have a willingness to serve their nation can benefit greatly from this initiative. The principles of discipline, group interaction, and work ethics are inherent to such a program.

This program provides for a cadre to supervise the young people who choose to participate in this program. This cadre will be made up primarily of former military personnel—those who are retiring or being discharged as a result of the military drawdowns currently underway.

I believe these personnel, with their military experience and background, can play an extremely valuable service in the CCC Program as instructors, leaders, and positive role models.

In my view, the projects undertaken by the young people in the CCC can be of significant value to the communities involved in this program, but the most important outcome of such a program is the positive impact on our young people. The lessons they will learn about life, work, cooperation, sense of accomplishment and character-building are, by far, the most important aspects.

In the 1930's, the CCC, Civilian Conservation Corps, of that era provided not only badly needed jobs and wages for thousands of young people, but very positive learning experiences also. The majority of that CCC were among the first to volunteer for military service at the outbreak of World War II. I am old enough to have witnessed this chapter in our history. I believe that a new CCC for the 1990's can make an important contribution to helping solve America's problems of today.

I hope all my colleagues will support this amendment.

A CALL TO THE NATION'S YOUNG: THE FORMATION OF THE CIVIL-MILITARY YOUTH SERVICE PROGRAMS

Mr. WOFFORD. Mr. President, President Roosevelt stated in his inaugural address that "This nation asks for action, and action now. Our greatest primary task is to put people to work."

When President Roosevelt delivered his inaugural remarks on March 4, 1933, he proposed the formation of the Civilian Conservation Corps as a means of creating opportunity and work. On March 31, 1933, less than 1 month later, the President signed into law a two-page Emergency Conservation Act creating the Civilian Conservation Corps. By July 1, 1933 over 1,300 CCC camps were in place across the country putting over 270,000 able-bodied young men to work. Between 1933 and 1942, over 3 million young people worked on worthwhile and lasting projects before the program was phased out amidst the beginning of WWII.

Roosevelt believed as I do, and I have often urged this distinguished body, that we must promote work, not welfare in our policies, and we can and must begin by applying this principle to our young. Work and service to others are at the core of human dignity, and they are key elements of our attacking and breaking the cycles of dependency and of self-centered civic indifference that entrap too many of our youth.

In the early 1960's, when I was working with President John Kennedy and Sargent Shriver to plan the Peace Corps, from the very, very beginning, we all imagined that there should be a "Peace Corps to America" on a much larger scale. After the first thousands of Peace Corps volunteers came back, President Kennedy, at one point, talked about there ought to be 100,000 Peace Corps volunteers overseas and a million young people in America, of all ages and backgrounds, who, for a full-time period, worked to address the problems we face at home. The best spirit of John Kennedy was summed up in his asking all of us to serve our Nation. And for John Kennedy, "asking" was intended to be a very powerful verb.

Sixty years after Roosevelt, our Nation again asks for action now. And now, some 30 years after Kennedy, as Governor Clinton so passionately indicated last week at the University of Notre Dame, millions of Americans again await a summons to serve and to be asked anew to help rebuild our communities.

The recent events in Los Angeles underscore vividly the choices we face as a nation. The rioters were not all black, Korean, white, nor Hispanic. But they were all young. We can reclaim our youth and challenge them to lend their talents and energies to solving our pressing domestic issues through service, or we can continue our present benign neglect and await their continued frustration and anger at opportunities lost.

Today, we, on both sides of the aisle, seek to recreate what worked with

FDR: not the dole, not welfare but work. Today we act with a same sense of urgency and common purpose. Today, through this amendment, we seek to ask anew that all Americans, but especially our young people, build up and not tear down. Today, we move beyond partisan bickering to respond to our Nation's plea for action now and to reclaim our Nation's youth.

Mr. President, today, I, along with Senators KENNEDY, BOREN, NUNN, MIKULSKI, SIMON, DOLE, WARNER, REID, DOMENICI, and MCCAIN are proposing the establishment of a national service corps for America's youth—to bring the idea of service-learning to a whole generation of young people and to practice civic responsibility, cooperation, discipline and hard work. We call this effort the Civilian Community Corps.

I have long believed, and seen first hand, in my involvement with youth service corps in Pennsylvania, City Year in Boston, and corps across the country, that the young want the opportunity to work, to serve, not be served, but to learn and to earn. I have also been witness to the countless benefits of national and community service—both to the participants in the service corps and to those who are benefactors of their efforts.

Mr. President, after years of good intentions and many attempts, we now understand that personal responsibility and self-esteem can't simply be taught, they have to be earned. In a society with children who need care, roads and homes that need repair, and communities that need assistance, we simply cannot afford to let our young people stand idle. America's inner-city and rural poor do not want to be viewed as a threat, as the enemy, but rather as a resource, as talent ready to make a difference. Contrary to popular myth, our young people aren't lost or lazy or apathetic. They are just waiting for us to ask them to serve and for an opportunity to lead.

That is why we have stepped forward today in a very strong bipartisan effort to give the young women and men in this country the opportunity to work and develop valuable skills; the opportunity to learn first-hand the positive and productive power that exists when a group of people work together for a common cause; and the opportunity to earn self-respect, a sense of civic responsibility, as well as modest educational and monetary benefits.

This amendment is divided into three sections. First, this - amendment authorizes $50 million for the creation of the National Guard Civilian Youth Opportunities Pilot Program. Second, it will provide $50 million for the establishment of a Civilian Conservation Corps demonstration program under the Commission of National and Community Service. And third, it will authorize $50 million to the Commission on National and Community Service in an effort to strengthen the Commission's work in areas negatively impacted by military downsizing.

The first element in this amendment will designate $50 million to the National Guard Bureau to establish the National Guard Civilian Youth Opportunities Pilot Program. At this time, I would like to acknowledge the special efforts of Senator NUNN and his staff who have been the driving force behind this program that seeks to use the talents and skills of the National Guard to aid disadvantaged youth who so desperately need role models and an opportunity to serve.

The Civilian Community Corps demonstration program is modeled after the New Deal Civilian Conservation Corps and will be administered in a similar manner. The Commission on National and Community Service will appoint a Director of the Civilian Community Corps [CCC] who will design, develop and administer the CCC. In order to ensure the diversity and effectiveness of the CCC, the Director will establish an advisory board made up of the Secretaries of Labor, Defense, Interior, Agriculture, Education, and Housing and Urban Development, as well as the Chief of the National Guard Bureau and the Chairman of the Commission on National and Community Service. Also, the Director may appoint highly qualified individuals who are representative of educational institutions, voluntary organizations, industry, youth and labor unions.

In an effort to help the Corps with the development and training of corps personnel, the Department of Defense will set up a Liaison Office to the CCC. The Departments of Interior and Agriculture will submit project proposals to the Director. The Department of Labor and Defense will assist in the recruitment of both corps officers and members. Many of the corps officers, camp superintendents and personnel will come from a pool of retired, discharged or inactive military officers who have a wealth of experience in leading and training young people.

There are two divisions of our new CCC, both of which are residential and attempt to make use of excess capacity in military bases and closed facilities. One division is the Summer National Service Program which gives young people between the ages of 14 and 18, primarily from disadvantaged families, the opportunity to work for a few months on projects that will benefit the community. In return, they can receive room, board, a living allowance, and either an educational credit up to a maximum of $1,000, or half that amount in a postservice cash benefit.

The second division is called the National Service Program. In the National Service Program, a diverse group of young people between the ages of 17 and 25—from all over the country of all races, classes, creeds, and socioeconomic backgrounds—will work on valuable community projects for 9 months to 1 year. They will also receive advance service training to master project-specific skills that will allow them to tackle more difficult and challenging assignments of greater community benefit. The commitment is greater, but so are the rewards. Like the Summer National Service Program, the National Service Program also provides room, board and a living allowance. Young men and women who decide to participate in this more traditional approach to national service will be eligible for an educational credit worth $5,000 for each year of service. The credit is usable at any college or university of higher learning, including vocational and trade schools. Those who do not wish to utilize the educational credit will receive half the amount in a cash benefit. Moreover, this legislation has provisions to help corps members make the transition back to regular life by offering graduates assistance in locating employment or in furthering their education.

As Vernon E. Jordan, Jr., former president of the National Urban League, stated in 1978, "The creativity and productivity of our young people are major national assets, resources that must be developed to the fullest." The Civilian Community Corps begins to do just this. And here today I would like to press this body to go further than this first step and set a goal to place at the very least 100,000 young people to work in service to our country within the next 5 years.

The final piece of our amendment that I would like to discuss is the additional $50 million going to the Commission on National and Community Service to assist in areas that have been negatively impacted by defense conversion made necessary by the end of the cold war. With these funds the Commission will, to the maximum extent possible, attempt to fund non-residential models that involve and employ retired, inactive or discharged military personnel and/or that test whether such individuals can play a meaningful role in service-learning by acting as mentors, teachers, counselors and role models. As I have often stated, this nonpartisan Commission is an outstanding Federal agency that was created by one of the most innovative pieces of legislation in recent history. In its first year of operation, with only $67.5 million available to distribute, the Commission was besieged with requests for funding totaling over $220 million from 49 States and numerous Indian tribes.

I would also ask unanimous consent to insert into the RECORD at the end of my statement the full text of two excellent articles on the CCC.

Finally, I would like to close with the words of Robert Kennedy which best sum up what this amendment we offer today is all about. In his "Day of Affirmation" address delivered on June 6, 1966, he said:

> Our answer is the world's hope: it is to rely on youth. The cruelties and obstacles of this swiftly changing planet will not yield to obsolete dogmas and outworn slogans. It cannot be moved by those who cling to a present which is already dying, who prefer the illusion of security to the excitement of danger. This world demands the qualities of youth; not a time of life but a state of mind, a temper of the will, a quality of the imagination, a predominance of courage over timidity, of the appetite for adventure over the love of ease.

As the cold war ends and our Nation calls for change, let us act boldly to unleash the potential of our "world's hope" and "to rely on our youth." My friends, I urge your support of this amendment "of affirmation."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Youth Policy Institute]

REKINDLING THE FLAME: THE CCC AND ITS LESSONS FOR TODAY

(By Matthew S. Cullinan and Carla Pratt)

Youth service has become an increasingly viable and favorable solution to the myriad of problems faced by young people and our nation today. The growing number of service and conservation corps evinces this trend. Today, over 50 service and conservation corps in the U.S. successfully instill the ethics of service and citizenship, as well as adding to the education and job skills of participating young people. Unfortunately, most corps remain relatively small (30-200 persons) and depend on a combination of federal, state and local funding to support their operations. As a result, no corps has been able to engage large numbers of young people in these worthwhile endeavors.

The idea of service (other than military) to one's community and country is hardly new. In 1910 William James proposed a young people's campaign of national service—"the moral equivalent of war."[1] He envisioned obligatory service on a large, organized scale, to fill the country's needs and equip its youth with greater discipline and maturity. Though voluntary in nature, Franklin Delano Roosevelt's Civilian Conservation Corps (CCC) recognized James's dream of employing great numbers of youth in service to their nation.

The CCC serves as an historical antecedent for today's service and conservation corps and also offers valuable lessons for building a modern program capable of serving thousands of young people. At its peak the CCC enrolled over 500,000 young men and set them to work on conservation projects throughout the United States. It is the only corps ever to engage young people in service on such a large scale. The CCC shows that such an operation can be effective and popular, and it provides unique and valuable lessons for similar efforts in the future. People who desire a return to large-scale federally funded service initiatives should look to the CCC for guidance and inspiration.

Undeniably the U.S. needs a major program aimed at helping its young people. A significant portion of America's youth are considered "at risk"—socio-economically disadvantaged, English-deficient, and physically and mentally handicapped.[2] Substance abuse, violence, delinquency, isolation and disillusionment also jeopardize young people from all socio-economic levels, placing them "at risk." Though the need for assistance is clear, some remaining questions hinder federal aid. In an era of federal, state, and local fiscal crisis, who can sponsor and run a program that would be the nation's "moral equivalent of war"?

In seeking answers to questions about the problems facing young people today, this paper will complete an historical analysis of the Civilian Conservation Corps in order to glean lessons concerning large-scale, federally sponsored service programs; discuss the problems faced by young people today; and explore the feasibility and design of a modern youth service corps modeled on the CCC, yet relevant to the unique demands of the '90s.

I. THE CIVILIAN CONSERVATION CORPS

Challenges faced by young men in the Depression Era were significant. The unemployment situation, bad in 1930, got worse during the first few years of the decade, and reached crisis proportions by 1933. In that year, the percentage of the total labor force left unemployed was up 21.7 percentage points from 1929. Youth were particularly hard hit. Census figures show that in 1930, 6.4 percent of all gainful male workers aged 10–19 were unable to find employment and 6.9 percent of males aged 20–24 were unemployed and seeking employment. These percentages are higher than those of any other age group. (Employment for men aged 25–70 ranged from 4.6 percent to 5.8 percent and averaged 5.26 percent.[3])

A number of socially devastating problems ensued from the nation's unemployment woes. People were simply too poor to provide the basics of food and shelter for their families. Idleness led to increasing crime, vagrancy and drunkenness among young men. A loss of self-esteem and ambition threatened a generation of youth with severely limited opportunities.[4] These young people and their families began to lose hope for themselves and faith in the United States. They could not be blamed for having little, if any, sense of citizenship or gratitude to their nation.

Franklin Roosevelt conceived the Civilian Conservation Corps, as his solution to three domestic problems of the United States.The CCC would relieve unemployment by putting young men to work nationwide. Simultaneously it would make great strides in soil and forest conservation, which would create future wealth for the nation. Above and beyond material gains, Roosevelt believed the Corps would conserve America's human resources. He foresaw the "[elimination] to some extent at least [of] the threat that enforced idleness brings to spiritual and moral stability."[5] In addition to U.S. needs, the CCC also appealed to several popular national philosophies: William James's notion of the "moral equivalent of war," as well as the environmental conservation concerns inherited from FDR's cousin Theodore Roosevelt and the great agrarian myth dating from Thomas Jefferson.

Despite conservative concern that the CCC was a wasteful and expensive program which might cancel existing federal programs, the Corps received congressional approval. FDR established the CCC on April 5, 1933. With some difficulty Roosevelt persuaded the secretaries of War, Agriculture, the Interior and Labor to help the CCC director with some aspects of Corps administration and operation. Most reluctant to participate was the Department of War, for the army shied from assuming a responsibility not in line with its stated mission—defense of the country. Eventually though, the army did support the CCC especially when the army learned Corps camps would provide active duty position for army reserve officers.[6]

In nearly three months the Department of War completed the largest peacetime mobilization to date, building 1300 camps nationwide to house the 275,000 recruits.[7] Yet this was only the beginning. At its peak, the Corps enrolled 500,000 young men in more than 2,000 camps nationwide.

The Corps accomplished all kinds of conservation efforts. For example, in 1940 alone the men planted 287,117 acres of trees (at a thousand trees per acre), built 5,949 miles of telephone lines, constructed 907 reservoirs, built 3,666 buildings for public use, fought fires, moved shrubs and trees to improve the land etc.[8] This work brought untold benefit to the United States, greatly improving and conserving its natural resources.

In fact, benefits of the CCC extended to most parties involved with young people. For parents the CCC provided a $25/month increase in income, as well as the knowledge that their boys were safe and bettering themselves under the guidance of a respectable organization. Committees benefited from the unemployment relief, subsequent decrease in crime, and conservation projects affected the Corps. Finally politicians heartily endorsed the CCC, in view of the program's success and the bit of "pork barrel" it secured for their districts.

Another less tangible benefit to the United States nationally and on a local level, was the "Americanizing" influence of CCC on its members.[9] The camps brought together individuals of different communities and home environments. Boys' horizons broadened due to their experiences at camp and their interaction with other enrollees. As a result, many young men became involved and interested in national problems.

The greatest beneficiaries of the CCC program were the enrollees themselves. The benefits of the camp far exceeded the basic essentials provided—food, shelter, and employment. Young men acquired intangible rewards of discipline, structure, and a sense of purpose. They learned how to obey orders, to cooperate with others. As one enrollee remarked, "I joined because I thought it might make a man of me, and it did all right."[10]

The concrete success and productivity of the conservation camps boosted Corps morale. As enrollees completed various projects they gained confidence in their own abilities and pleasure from the knowledge that their work would benefit others. Of course, such employment had numerous practical advantages as well. The young men gained a wide variety of work experiences and skills that would help later in their job searches. As the CCC reputation grew, many former CCC enrollees found themselves welcomed by employers. From July 1940 to June 1941, about 390,000 Corps members completed their training and left the camp for civilian employment; 57,581 junior enrollees received jobs even before completing their training; and 14,291 enrollees joined the armed forces.[11] Employers and vocational experts voiced approval of the Corps as a training agency.[12]

Corps members also benefited from the emphasis on education, later added to the CCC program, and from life skills training they received at the camps. Camp life often transformed enrollees from weak undernourished youth to well-muscled, healthy men. At camp the men ate nutritious food; exercised

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Footnotes at end of article.

regularly, on and off the job; and received training in health care, first aid and safety. Camp administrators made sure the enrollees maintain personal hygiene, understood and practiced safety regulations, and appreciated the importance of health maintenance. Corps members also enjoyed the recreational and athletic activities provided at camp. Special efforts were made to ensure that youth had the time and facilities for leisure time activities. At some camps, the enrollees planned and ran the activities themselves. Various kinds of activities were encouraged: physical, craft work, rhythmic and dramatic, literary discussion, nature study, social and civic.[13]

The CCC proved enormously successful, yet was not without its failures. Future youth program planners should consider various aspects of the CCC to determine which components might still be useful, and which should be changed and set aside. Much will be learned by examining several facets of camp operation in detail.

Organization and Administration

From its start, the CCC bore characteristics of an organization "doing an emergency job with resources which were to a considerable extent already on hand."[14] The Director, Robert Fechner, and his personal staff were the only independent operators with authority over the CCC. Others involved were linked to the Departments of War, Agriculture, the Interior, or Labor. These executive agencies had been in operation for some years already, and each brought its own methods, traditions and biases to the Corps. Final decisions on major policy aspects of the CCC were left to President Roosevelt.

The duties of each department were clearly established and divided to avoid most friction between administrators; yet, inevitably, a few problems resulted from the CCC's organization. Roosevelt was too heavily burdened with other concerns to devote sufficient time to matters of the Corps. Though FDR made notable efforts to attend to the affairs of the Corps, the CCC probably would have benefited either if Roosevelt had more time for the program or if the CCC's director had been given the bureaucratic muscle to enforce decisions. (By the time final authority for CCC activities was transferred to the director, other events had combined to bring the Corps to its end.) Some friction and departmental jealousy existed among CCC advisors. Each agency at some time or other thought the Corps would be better run if under its sole direction. This tension also tainted the agencies' relationship with Fechner. In particular, the director and the army were often at odds over CCC policy and administration. Fechner's efforts to centralize authority angered the other players in CCC programming and contributed to the Corps' destruction. In retrospect, a leadership more unified at the outset might have been more effective.

The actual operations of camps was performed by federal, state and local units. For instance, while the Department of Labor supervised the selection of enrollees, state relief organizations interviewed and selected youth to participate in the Corps. Each camp had a staff to direct its projects. The army often filled its staffing positions with army reserve soldiers. The Departments of Agriculture and the Interior had no such reserve of trained officials, and thereafter chose civilians to fill staffing slots. Technical staffers nominally were chosen based on their technical competence, but in reality most were selected because of their political influence; they had to receive recommendations from state congressmen. Foresters almost unanimously opposed this criterion for selections.[15] Many objected that the quality of the technical staff was sacrificed to political considerations. (Congressmen, of course, wholeheartedly approved of the setup.) Some who were opposed to the political factor argued that educational personnel, selected solely on the basis of merit, were a better lot. Notwithstanding political considerations or competence, low salaries and government refusal to provide employees with civil service status played the biggest role in limiting the Corps' appeal to qualified personnel.

Curriculum

The education component of the program was added on November 22, 1933 after George Zook, the U.S. Commissioner of Education, campaigned for its inclusion. Education's exclusion from the original design of the CCC indicates its tertiary role in the program. It is significant that camp education was supervised by the War Department who had little interest in educating CCC participants. Camp administrators paid lip service to education's importance, but it was implemented unevenly; as a result, education is widely considered one of the CCC's shortcomings. This is true also because education was never one of the director's priorities. In a hearing before the House Committee on Labor, Fechner commented that the program had "two principal objectives—the relief of unemployment and the accomplishment of useful work."[16] No educator had a direct voice in shaping Corps policy; the national education director, working in advisory capacity to the army, never held a seat on the CCC director's advisory council.[17]

The Office of Education provided teaching materials and outlines of instruction for camp leaders to follow. It appointed an educational advisor for each camp, and enrollees chose their own educational assistants. The program sought "to develop in each man his powers of self-expression . . . his pride in cooperative endeavors . . . . and his understanding of social and economic conditions," and to improve his health habits, vocational abilities, and appreciation of nature.[18] The Education Office hoped men would emerge from the camps better able to work together, find employment, be productive citizens and live happy lives.

Despite many hurdles, the education program did manage to teach illiterates to read and write, help some enrollees to continue high school or college work, and encourage craft and vocational work. One particularly successful component of the education program taught enrollees work skills on-the-job; a usually well organized program of instruction sought to ensure that Corps members understood what they were doing and why. Some have criticized that not every opportunity for on-the-job instruction was seized, but this was true only rarely, and no matter how well or poorly executed, the program always proved valuable.[19] However, the effect of the education program off-the-job was not what it should have been. Its goals were good, but its execution was lacking. The program would have been more successful had it been incorporated earlier and viewed by all involved as an important CCC priority.

CCC Enrollment Practices

The CCC enrolled men, primarily those between the ages of 18 and 23 (92% of enrollees were under 20.)[20] Around nine percent of youth enrolled were black, and a number of men from other national backgrounds also participated. Most enrollees came from poor families and had little or no work experience. Fifty-six percent of enrollees came from rural environments; others were from small or large (only 16%) urban centers.[21] Educational backgrounds varied, some youth having no experience in school, others having completed high school, and a handful having finished college. The primary goal of CCC interviewers was to admit those youth capable of being trained and profiting from Corps training. Eligible youth possessed adequate (usually average) intelligence and emotional stability.

Roosevelt also used entrance into the CCC to placate unemployed and disgruntled WWI veterans. This proved to be an important political move, even though the CCC was not meant for veterans who were much older than the average enrollee. Roosevelt's action was appreciated by many, and political support for the CCC increased. Local men with experience in conservation also were included to help with camp operations; this aided in building local support for the program.

In 1935, after he was appointed head of the Works Progress Administration, Harry Hopkins convinced Roosevelt to require that all future enrollees and employees of the CCC be taken from public relief roles.[22] This became the point of contention for numerous debates about CCC policy. The CCC director as well as most members of Congress did not want to limit enrollment to those on relief. This requirement increased bureaucratic infighting significantly, as well as hurt Corps recruitment and the popular perception of the CCC's mission. Because of the requirement, many developed a too-narrow view of the Corps as a "relief agency." When the country's need for relief expired, so did the CCC.

Problems Widely Recognized, and Factors Contributing to the Demise of the CCC

The CCC desertion rate averaged up to 20 percent. This was a problem never addressed adequately and one that could have been helped through certain measures: more careful selection of youth, use of more accurate prediction scales and better consideration of the particular camps' needs; more careful assignment to camps, to fit enrollees' interest and talents; and individual and effective guidance for enrollees, including a comprehensive camp adjustment program.

The CCC was slow to develop a coordinated employment agency. Therefore, unemployment of former enrollees continued to be a problem longer than necessary. Eventually the nation's economy and employment needs picked up of its own accord.

Black enrollees in camps were treated well, by most accounts. A number of camps were racially mixed, and blacks and whites shared quarters and camp activities. However, the number of blacks appointed as camp officials was low, when qualified candidates seemed to exit.

The CCC gradually became outmoded. It came to be viewed as a "relief organization," when the country no longer needed employment agencies. Furthermore, the CCC never had a permanent identity; its structure had a temporary look, its goals were at times unclear (even to its administrators), and its enrollment was limited to a politically weak sector of the population, which many of the middle and upper classes viewed as lacking some morals or a work ethic. Any future youth program will have to avoid the pitfall of being targeted or serving exclusively a constituency with little political voice, namely the poor and the disadvantaged. Without a middle-class constituency, an initiative, regardless of its merits, is bound to suffer from inconsistent funding and be labeled a "poverty" program.

II. THE DILEMMA OF AMERICAN YOUTH TODAY

The United States again faces a crisis among its youth. As did many during the Depression, young people today face innumerable obstacles to successful and fulfilling lives. Some challenges include drugs, crime, poverty, and inadequate education. Hindered by their environment and misfortune, many youth lack the skills, opportunity, incentive, and possibly the self-confidence necessary to beccome self-sufficient and productive citizens. With little hope in their futures, these youth never acquire a sense of citizenship or a notion of service to their community and country. Thus they lack the spirit which holds America together. Increasing anger, violence and social tension—a rift among young American people—is the result of their growing discontent.

Health Risks

Life and health-threatening factors are of serious concern for all young people. Though decreased in the last decade, the number of accident-related deaths remains high, especially for youth. The deaths of young people in accidents totaled 15,227 in 1986. In the same year, 5,522 youth died in homicides or legal interventions, and 5,120 youth committed suicide. The increased suicide rate is associated almost universally with "competitive pressures for success, to the decline of the nuclear family, and, more generally to ennui—an increased sense of aloneness and depression in our society."[23]

Of the challenges that threaten youth every day, drugs are most prevalent; they have made serious inroads to youth culture at every socio-economic level. Crack/cocaine, marijuana and alcohol lead the list of most abused drugs. In a 1985 survey, over five percent of young people 12 to 17 years old admitted using cocaine, 23.7 percent had used marijuana, and 55 percent had drunk alcohol. While fewer youth in the population as a whole are using these drugs than did ten years ago, drugs continue to pose a sobering threat.[24] Crack use has become epidemic among inner-city, minority populations.[25] While not as well-publicized, marijuana use is still widespread, with more than seven million youth admitting recent use of marijuana.

These drugs and others threaten the very fabric of society and family structure, and often have adverse legal and medical consequences as well. During 1987, "350,000 (youth) were arrested for drug abuse violations and an estimated 150,000 were in jail, prison or juvenile correction facilities for drug-related offenses."[26] In 1986, hospitals treated more that 35,000 youth for medical emergencies linked to drug use.[27] Furthermore, the correlation between drug use and suicide is becoming more and more evident.

Less sensational but still serious, is our country's alcohol problems. In 1988, 63.9 percent of high school seniors admitted to having drunk alcohol within the previous thirty days. 4.2 percent said they drank daily. Alcohol use is associated with a host of personal and behavioral problems, and it is frequently identified with illegal activity as well. Arrests often are made for "liquor law violations, drunkenness, or driving under the influence."[28] Though increased public awareness and more severe penalties have lessened the number of drunk driving incidents, they—and other effects of alcohol abuse—continue to pose a notable threat to all society.

Crime

Young people in the United States are more likely to perpetrate a crime or be involved in a crime than any other segment of American society. In 1987 alone, nearly 1.3 million youths were arrested for serious crimes (murder, rape, robbery, aggravated assault, and arson included). Of those incarcerated for various crimes, the majority are poor, male, from urban environments, and less educated than the population as a whole.[29] Minorities compose a significant portion of those arrested. Recent studies have shown that one in four black men between the ages of 20 and 29 is currently in prison, on parole, or on probation.[30]

More often youth are the victims. In fact, "more than one of every six 16 to 24-year olds were victimized during 1987, or nearly twice the proportion (experienced by) persons over 25 years of age."[31] Crimes range from petty theft to violent crimes, such as rape and assault. Their numbers are significant: in 1987, more than 2.2 million violent crimes were completed or attempted against youth.[32]

Poverty

Nearly 17 percent of all youth ages 15 to 21 live in poverty. This is tragic because of the problems associated directly with poverty, such as hunger and appalling living conditions, as well as other difficulties associated indirectly, including a much lower rate of school completion, a greater number of births out-of-wedlock, and an increased likelihood of crime or substance abuse. A racial dimension to the problem is evident. Over 35 percent of black youth and 27 percent of Hispanic youth live below the poverty level, as compared to 12.1 percent of white young people.[33] Single parent families are hardest hit, especially those led by minority women.

Poverty among today's youth affects the lives of tomorrow's families; the affliction finds an end only rarely. A 1987 study concluded that "more than one of every four young families and sub-families lives below the poverty line. Among those headed by a person under age 25, over one-third live below the poverty line." This was the result of a steady deterioration of young families' incomes, evident over the previous two decades.[34]

Education

Today's young adults are much more likely to complete high school—and even college—than the youth of the Depression Era. Since that time, rates of school completion have improved dramatically; however, these rates have leveled somewhat since 1975, and an end to the problem of dropouts is far from over. The number of dropouts remains high, and young people who do not complete high school have many fewer opportunities today than even twenty years ago.

Now, in a single year nearly one million youth drop out of school.[35] Minority populations sustain the greatest percentages of high school dropouts. In the fall of 1986, over one-third of Hispanic youth age 18 to 24 were dropouts, about 17 percent of black youth, and 13.5 percent of whites. Generally, males from low-income and less educated families are most likely to quit school before earning a diploma.[36]

Implications of the U.S. dropout rate spell disaster for individuals, their families, and the nation. One study points out that by the year 2000, roughly 10 million of todays preschool and school-age population will become dropouts. Yet projections are that in nine years all new jobs will require a work force with a median education level of 13.5 years.[37] That means most young people who have left school early will be unqualified to fill available employment positions. Currently, unemployment rates reflect the imprudence of leaving school early: a staggering 20 percent of all dropouts are unemployed—nearly 38 percent of young black dropouts.[38] They will fall farther and farther behind the job market as American industry becomes more service- and technology-oriented. Without decent job opportunities, these youth will be especially susceptible to other problems and temptations confronting young people, such as crime and drug use.

A U.S. underclass is beginning to form, as incomes of high school dropouts are declining. From 1973 to 1984, the real mean earnings of 20- to 24-year-old dropouts declined 41.6 percent (from $11,210 to $6,552). The decline for young black males was significantly higher—61.3 percent. (It is interesting to note that in the same period, black male college graduates raised their income by 16.6 percent. The ever-increasing gap between our society's richest and poorest is easily understood in light of these figures.) The economic loss of young dropouts is incredible. For example, the 973,000 high school dropouts of 1981 will lose $228 billion in personal lifetime savings, which will cost society $68.4 billion in tax revenues.[39] The drain on the U.S. economy caused by underskilled, employable high school dropouts will only become worse as fewer job opportunities are available for a growing number of dropouts.

In Sum

It is hardly surprising, given the problems all young people face, that many have lost the connection between being a citizen of the United States (with all the potential benefits attached to that) and the obligation one has to maintain or improve the opportunities available in our nation. Feeling they reap no benefits of U.S. citizenship, or that they are being hurt or slighted by the system, young people today feel no gratitude nor obligation to their country. The lack of active citizenship among young adults is evident in their declining voter participation and decreasing confidence in governmental institutions. Indeed, the value of service to the nation and to others is becoming alien to many young people, as money and material riches have become the preeminent measures of success in our society.

The breakdown of individual citizenship is mirrored in the breakdown in American society. As communities start to lose members, the whole of society begins to fall apart, torn by mistrust and misunderstanding. A growing gap exists between races, as well as the rich and the poor. Events in Brooklyn, Bensonhurst, Washington, DC, Louisiana, and elsewhere point to the increasing tensions between whites and blacks, as well as other ethnic groups. Despite the progress of the past twenty-five years, the prejudicial and communication barriers, plus frustration born of severe, conditions, continue to prevent an absolute healing.

Regardless of socio-economic background, young people today can benefit from a shared experience of serving their communities and country. Just as the CCC helped young men during the Depression, a new version could help inculcate youth with an ethic of citizenship and service, and the demands and duties related to both.

III. A CORPS FOR TODAY'S YOUTH

The United States needs a nationwide, coordinated program to address the problems of today's young people. A large, federally sponsored youth corps like the CCC should be our aim.

What would the Civilian Conservation Corps look like in the 1990s? Would its goals need to differ much, to address the social ills of this generation of youth? Compared to the 1930s, contemporary problems are more concentrated in cities, more focused on education needs (because of the increasing relation between education and employment options), and perhaps more serious. Fundamentally, though, they are similar. Unemployment and poverty are widespread, and crime, substance abuse, and hopelessness plague youth of today, as they did during the Depression. Finally, a renewed sense of citizenship and national service among youth is necessary now, as much as it was in the 1930s.

Therefore the goals of a modern corps would be similar to those of the CCC. Citizenship, discipline, and various work skills could be taught today through a program much like that of Roosevelt's Corps. Education would be an early emphasis and priority. Corps members' continuation of education or employment in a worthwhile job would be an important post-program goal, essential to the program's impact on enrollees and their communities. These two efforts were not pursued wholeheartedly by the CCC, and are sometimes considered its failures.

The community service aspect of the CCC was a tremendous success. Conservation efforts by Corps members had extensive and far-reaching benefits. Any youth corps today would do well to adopt a variety of service projects which would profit and build support in its community, as well as imbue enrollees with an appreciation for serving others and their nation.

How long would it take to instill youth with values of citizenship and national service, as well as help fit them for healthy, productive and self-sufficient lives? How should a new national youth corps be structured? The CCC had rolling admissions; enrollees stayed with the Corps for various lengths of time, from a few months to a couple years. Yet the CCC had, at times, a 20-percent dropout rate. It had been said that more enrollees might have persisted with the program if they'd had a better orientation or adjustment course. Entry period advising certainly is necessary; a program established so that all enrollees begin and end together might also prove advantageous. Such a structure might help enrollees encourage each other to finish and undoubtedly would foster corps esprit as well.

The length of the program could be set almost anywhere from six months to a year. Young people sometimes have trouble committing themselves to a lengthy program, but the period of activity must be long enough to teach them something substantial. A nine-month program, set up like a school year, might be best to attract a diverse group; it would allow some high school graduates to participate before going on to college.

CCC enrollees received a low wage for their labor. Since participants' living expenses would be covered by a similar modern corps, corps members would not need to be paid much money during the program. Perhaps a portion of their wages could be withheld until the end of the program, then given as a scholarship for work, education, or other pursuits.

Administration

The CCC was administered by four executive agencies, as well as its own director's board. As we have seen, this sometimes proved difficult. The Corps probably would have benefited from a more simplified structure which would eliminate interagency rivalry.

Military administration, which proved effective for the CCC, could work well for a youth corps today, also. The military services offer the best potential for building a large-scale program. The services are among the only organizations which have existing facilities, manpower, and training experience on a national scale. Furthermore, a quasi-military program could provide unique benefits associated with military prestige and discipline.

If a branch of the services were to assume responsibility for a youth corps, it probably would facilitate operations if the director of the program were chosen from military ranks. The CCC might have run more smoothly if one department had provided sole direction for the Corps and had done all the hiring and programming. With their experience producing an all-volunteer force, the military services hold promise as the group most capable of operating a large-scale, volunteer service organization. While bureaucratic in-fighting certainly has not decreased in Washington, a new version of the CCC would benefit programmatically and politically from input by the Departments of Education, Health and Human Services, and Labor. Nevertheless, the clear lesson of the CCC is that an executive agency with sufficient capabilities and political weight should oversee the program.

When considering the four active services (Army, Navy, Air Force and Marines), the National Guard and the Reserves, we found the National Guard particularly well suited for operating a national program for youth. While the Guard serves an important national security purpose, it also has a unique philosophy of social responsibility and working ties with communities throughout the country. The Federal, State and local character of the National Guard, as well as its wide range of facilities, make it an ideal oversight agency for a new CCC.

Curriculum

As CCC planners concluded, educational activity too much like that found in a classroom is doomed to fail. Yet education should be a central part of any corps' activity, considering the import of one's education on future employment options. Youth corps educators of today can take their cue from CCC planners and design a program which seizes every opportunity for on-the-job training. This has proven very effective in a number of circumstances. Other efforts should ensure literacy among enrollees and help for interested students to pursue their education.

Enrollment

The CCC accepted young men of a wide range of ages, races, and educational backgrounds, though most enrollees came from rural environments and had little or no work experience. Practically, a modern corps could plan to enroll youth who were out of school legally and unemployed. Youth would become eligible at sixteen. Perhaps a new program could target youth ages 16 to 22.

A future corps probably would not want to limit itself to "at-risk" youth. The CCC's similar restrictions to applicants from U.S. relief roles caused significant problems for admissions officials (who could not find suitable applicants in sufficient numbers) and for the Corps itself. If a modern corps were to employ only "at-risk" youth, it would risk being labeled a "welfare" or "relief" organization—this is part of what led to the CCC's downfall. The twin misfortunes of such a label are its failure to describe the function of the corps fully, and the idea that "at-risk" youth, if they are told constantly they are "at-risk," will remain so. In reality, the CCC's goal was not merely employment or relief; it also sought to instill Corps members with the important values of service and citizenship, and to perform work of value to the community. A corps that fulfills these latter goals will confer privilege and honor to its members. The new CCC would do well to employ a mix of youth for these reasons, since it then would have the benefit of exposing and educating youth to the worth of those from different backgrounds; thus it would begin to heal the rifts of modern society. The CCC did this by bringing together youth of both urban and rural backgrounds, and, in some cases, whites, blacks and Native Americans.

Unless it sought to be or fit in with a rehabilitation program, the corps would not want to enroll youth who were caught up in the legal system or who currently were involved with drugs. As with the CCC, any modern corps should seek participants who can be expected to complete the period of training.

Post-Program Goals

After leaving the CCC, several benefits were extended to past enrollees. They were better fitted for employment—self-confident, skilled in a variety of jobs, disciplined, and accustomed to working with others. Furthermore, the Corps had a good reputation as a training agency, which made employers more willing to hire its graduates. Any modern corps should strive to pass similar benefits to its enrollees.

A new program could improve upon the CCC's post-program assistance. A contemporary corps should make a better effort to place its graduates in jobs or educational programs. Perhaps some sort of agreement with local employers could make a number of jobs available to corps graduates. Local schools and vocational training centers might reserve slots in their classes for corps graduates. The corps could establish a mentor program, which would begin during corps training and continue afterwards, to assist corps graduates with their work and personal development plans. Again, the National Guard's network of citizen-soldiers could provide both strong mentors and job opportunities for the program. Special efforts should be made to match mentors and corps members who share ethnicities.

The U.S. cannot neglect the problems of its youth. The dilemmas of this segment of the population are already impacting the well-being of the whole of society, thus damaging U.S. national interest. The U.S. can and should learn from its history; our experience proves that something can be done to help today's youth, through an agency such as the CCC. Those who seek a solution to the problems of American youth should take heart and take action. A national youth corps is the right answer.

Policy Questions on Future of Youth Service Prepared for the Youth Policy Institute

1) Who participates in youth service programs? What is the target group, if any, and why?

This bears directly on the issue of diversity in youth service corps and targeted versus non-targeted programs.

2) Should the objective of youth service and conservation corps be service and citizenship or employment and training? Are the two sides exclusive?

3) Can the U.S. afford large-scale service programs in this era of large deficits?

Are there economies of scale?

What are the benefits of large vs. small organizations?

Can we restructure existing budget priorities to fund such a program? Why this type of program instead of some other?

4) How can programs integrate service and education in a more coordinated fashion?

FOOTNOTES

[1] William James, *Memories and Studies*, (New York: 1912), 290–291.

[2] "America's Shame, America's Hope: Twelve Million Youth at Risk," MDC for the Charles Stewart Mott Foundation, July, 1988, 3.

[3] "Percent of Gainful Workers in Unemployment Classes A and B, Color, Nativity and Age, for the United States: 1930," Table 8, Abstract of the 1930 Census—Unemployment, 473.

[4] Salmond, John A., *The Civilian Conservation Corps, 1933–1942: A New Deal Case Study*, (Durham, NC: Duke University Press: 1967), 3, 4, 112.

[5] Kenneth Holland and Frank Ernest Hill, *Youth In the CCC*, (Washington, DC: American Council on Education, 1942), 13.

[6] Roosevelt Papers, Roosevelt to Fechner, April 12, 1935.

[7] Salmond, *The Civilian Conservation Corps*, 47–48.

[8] Holland and Hill, *Youth In the CCC*, 114.

[9] Salmond, *The Civilian Conservation Corps*, 130.

[10] Holland and Hill, *Youth In the CCC*, 124.

[11] Ibid.

[12] Ibid., 241.

[13] Ibid., 207–208.

[14] Ibid., 30.

[15] Ibid., 119.

[16] Hearings before the House Committee on Labor on H.R. 6180, 75th Congress, First Session, 98.

[17] Holland and Hill, *Youth In the CCC*, 101.

[18] Civilian Conservation Corps Regulations, War Department, (Washington, DC: Government Printing Office), 1937, 164–165.

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[20] Ibid., 60.

[21] Ibid., 61.

[22] Salmond, *The Civilian Conservation Corps*, 60.

[23] Wetzel, James R., "American Youth: A Statistical Snapshot," The William T. Grant Foundation Commission on Work, Family and Citizenship, August 1989, 30–31.

[24] Ibid.

[25] "1988 National Household Survey on Drug Abuse," National Institute on Drug Abuse.

[26] "Crime in the United States," Federal Bureau of Investigation, (Washington, DC: USGPO, 1988), 180.

[27] Wetzel, "American Youth," 31.

[28] Ibid., 30.

[29] Ibid., 34–35.

[30] Harrison, Rainie, "Black and White in America," *U.S. News and World Report*, July 22, 1991, p. 19.

[31] Wetzel, "American Youth," 33.

[32] Ibid.

[33] Ibid., 6.

[34] *The Forgotten Half*, 18–22.

[35] "America's Shame, America's Hope," 3.

[36] Wetzel, "American Youth," 13–14.

[37] "America's Shame, America's Hope," 2.

[38] Wetzel, "American Youth," 20–21.

[39] Ibid., 2–5.

[From the Philadelphia Inquirer, Aug. 26, 1992]

VETERANS OF 1930's PROGRAM SAY IT COULD WORK TODAY

(By Russell E. Eshleman, Jr.)

GREENTOWN, PA.—No money, no job. Just trouble and temptation awaited Eddie Bowman at every street corner in Philadelphia's Fishtown, Kensington and Frankford sections.

Like thousands of young men in the city and millions across the country, Bowman had dropped out of school and was spending more time getting on his parent's nerves than getting on with his life.

"I had the hat turned over the ear. I was a smart Philly punk. My father said, 'I figured you'd end up in jail,'" he said.

Crime. Despair. Hopelessness. People roaming aimlessly with no money for food and no place to live.

The conditions might sound similar to 1992, but the time was more than a half-century ago, during the Great Depression.

The good news is Bowman, now 70 and a Bristol resident, didn't go to jail. He went through the rigors of the Civilian Conservation Corps (CCC), the New Deal program that took young men off the streets and gave them jobs building parks and recreation areas across the country.

There were more than 100 CCC camps in Pennsylvania, including one here at Promised Land State Park, where 27 alumni gathered last weekend to celebrate the corps' 59th anniversary.

Between 1933 and 1942, roughly three million, mostly men between 17 and 25, lived and worked at 4,500 camps nationwide, planting 2.4 billion trees, building 126,000 miles of trails and roads and installing 89,000 miles of telephone line.

In Pennsylvania alone, 194,572 men worked for the CCC. Their handiwork can be seen from the Gettysburg battlefield to Fort Indiantown Gap to numerous parks and recreation areas.

Their achievements also were impressive: 3,273 miles of trails and roads constructed, 59.8 million trees planted and many other services performed.

Operated in military style with military officers in charge, the CCC provided the men, who signed up for six-month hitches, with food, clothing, shelter and tools. They also paid them $30 a month—$25 of which had to be sent home to their families.

"You never had as much money in all your life," recalled Bowman.

At last weekend's reunion, alumni praised the CCC as one of the most memorable and invaluable parts of their lives. But their opinions were mixed as to whether a CCC—in something close to its 1930s form—could work now.

Before Congress is a measure that would essentially replicate the CCC, which many people believe would not only improve the nation's infrastructure but also provide young people with jobs and training and instill them with a sense of responsibility.

"The kids today aren't as bad as they're made out to be," said John Kochan, 67, of Northampton, who entered the CCC as a teenager and worked at three camps—Laporte, Pa., Gouldsboro, Md., and Priest Lake, Idaho.

"It would give them a sense of purpose and pride," Kochan said. "The youngsters today are looking for something."

Not all alumni—Joe Krajcirik, 71, of Lansford, Carbon County, for instance—were as optimistic.

"It wouldn't work because these kids today have too much. I don't think they'd cut it. They'd have to have their televisions, their cars."

Krajcirik, one of 11 children, quit school after the 10th grade. He said he applied to enter the CCC because, quite literally, he was "hungry."

"Let me put it this way. When I went into the CCCs in July 1938, I was 130 pounds. When I came home Labor Day, I was 165," he said.

Marty Bucha, 75, of Allentown, worked for the CCC at Promised Land and at camps in Maryland and Virginia, beginning in 1935. He supports a new CCC, if for no other reason than to trim the public assistance rolls.

"You get something like that going on and you'd get those guys who're on welfare," he said. "Get them to work."

While the original CCC has been gone a half-century—it ended as jobs became more plentiful and the country braced for World War II—many imitations have cropped up.

For instance, the Philadelphia Youth Service Corps, which began in 1988, offers older teenagers and young adults physical training, education and work projects, such as cleaning up blighted neighborhoods.

The Pennsylvania Conservation Corps also is designed to help economically disadvantaged young adults. They work on projects for the state Department of Environmental Resources, the Pennsylvania Historical and Museum Commission and other governmental entities. The 18-to-25-year-olds who qualify sign up for six month hitches and are paid $4.25 an hour to start.

Since it began in 1984, the PCC, operated by the Department of Labor and Industry, has employed more than 9,000 people, who have worked on 500 projects throughout the state, including cleaning up graffiti in Philadelphia.

But to CCC alumni, a new national CCC is what the nation needs to instill in young people pride and respect for themselves and their country.

Legislation, sponsored by Sen. David L. Boren (D., Okla.)—with Sen. Harris Wofford (D., Pa.) a prime advocate—would combine much of the old CCC with some 1990s ideas.

Possibly to be considered as part of other bills scheduled to move through Congress this fall, the CCC legislation would include $50 million to set up six or seven demonstration projects to employ men and women between the ages of 17 and 26 from ethnically diverse backgrounds.

Provided room, board and a small allowance, the participants would also receive $5,000 in credits for future educational pursuits or, if they choose not to pursue further education, $2,500 in cash.

In a March speech, Wofford sought to enlist his colleagues' support for the new CCC.

"In the postwar years, we lost the spirit of the Civilian Conservation Corps—the spirit that says that when society is in need of public service work, there must be jobs available for people who are ready to work," Wofford said. "This bill reclaims that tradition of work, not welfare, and a society in which no one is without work."

Mr. SEYMOUR. Mr. President, I rise to commend the distinguished Senator from Oklahoma, Senator BOREN, the distinguished Republican Leader, Senator DOLE, and the distinguished Senator from Virginia [Mr. WARNER], for their commitment to this important program, and I am pleased that a bipartisan effort resulted in this important amendment. I ask unanimous consent that I be listed as an original cosponsor of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (No. 3038) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further amendments?

The Senator from Kentucky.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 786. William Bailey, to be a member of the National Council on the Arts;

Calendar 788. Shirley W. Ryan, to be a member of the National Council on Disability;

Calendar 789. Helen B. Crouch, to be a member of the National Institute Board for the National Institute for Literacy;

Calendar 790. Sharon Darling, to be a member of the National Institute Board for the National Institute for Literacy;

Calendar 791. Benita C. Somerfield, to be a member of the National Institute Board for the National Institute for Literacy;

Calendar 792. Susan Ann Vogel, to be a member of the National Institute Board for the National Institute for Literacy;

Calendar 793. William J. Byron, to be a member of the Board of Directors of the Commission on National and Community Service;

Calendar 794. Thomas Ehrlich, to be a member of the Board of Directors of the Commission on National and Community Service;

Calendar 795. George W. Romney, to be a member of the Board of Directors of the Commission on National and Community Service;

Calendar 796. Johnnie M. Smith, to be a member of the Board of Directors of the Commission on National and Community Service; and

Calendar 797. Glen W. White, to be a member of the Board of Directors of the Commission on National and Community Service.

I further ask unanimous consent that the Senate proceed to immediate consideration, and that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

William Bailey, of Connecticut, to be a member of the National Council on the Arts.

NATIONAL COUNCIL ON DISABILITY

Shirley W. Ryan, of Illinois, to be a member of the National Council on Disability.

NATIONAL INSTITUTE FOR LITERACY

Helen B. Crouch, of New York, to be a member of the National Institute Board for the National Institute for Literacy.

Sharon Darling, of Kentucky, to be a member of the National Institute Board for the National Institute for Literacy.

Benita C. Somerfield, of New York, to be a member of the National Institute Board for the National Institute for Literacy.

Susan Ann Vogel, of Illinois, to be a member of the National Institute Board for the National Institute for Literacy.

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

William J. Byron, of the District of Columbia, to be a member of the Board of Directors of the Commission on National and Community Service.

Thomas Ehrlich, of Indiana, to be a member of the Board of Directors of the Commission on National and Community Service.

George W. Romney, of Michigan, to be a member of the Board of Directors of the Commission on National and Community Service.

Johnnie M. Smith, of South Carolina, to be a member of the Board of Directors of the Commission on National and Community Service.

Glen W. White, of Kansas, to be a member of the Board of Directors of the Commission on National and Community Service.

U.S. CAPITOL POLICE JURISDICTION REFORM ACT

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1766.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House disagree to the amendment of the Senate to the amendments of the House to the bill (S. 1766) entitled "An Act relating to the jurisdiction of the United States Capitol Police," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Rose, Ms. Oakar, Mr. Panetta, Mr. Thomas of California, and Mr. Roberts of Kansas be the managers of the conference on the part of the House.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate recede from its amendment and that it be in order to move to concur on the House amendments with further amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3039

(Purpose: To strike section 102 of the House amendments)

Mr. FORD. Mr. President, I move that the Senate concur in the House amendments with further amendments which I send to the desk on behalf of myself.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The amendment will be stated.

The assistant bill clerk read as follows:

The Senator from Kentucky [Mr. FORD], proposes an amendment numbered 3039.

Beginning with page 3, line 9, strike all through page 4, line 12.

On page 4, line 13, strike "SEC. 103." and insert "SEC. 102.".

On page 5, line 4, strike "SEC. 104." and insert "SEC. 103.".

On page 5, line 8, strike "SEC. 105." and insert "SEC. 104.".

On page 5, line 10, strike "103" and insert "102".

U.S. CAPITOL POLICE JURISDICTION REFORM ACT

Mr. FORD. Mr. President, last September, I introduced S. 1766, the Capitol Police Jurisdiction Act, which would have expanded the jurisdiction of the Capitol Police to a zone around the existing Capitol Buildings and Grounds. The zone was intended to encompass a several block area that includes a number of congressional facilities that are now located outside the traditional Capitol Buildings and Grounds.

The purpose of S. 1766 was to provide the police with authority commensurate with their responsibilities to provide protection to legislative branch personnel and facilities in an area that had expanded beyond the original jurisdiction of the Capitol Police.

The House amended the Senate bill in July of this year to add arrest authority for the Capitol Police within the District of Columbia for crimes of violence committed within the Capitol Buildings and Grounds, for crimes of violence committed in the presence of members of the Capitol Police performing official duties, and to prevent imminent loss of life or injury to persons or property if the member of the Capitol Police is in the performance of his or her official duties at the time the authority is exercised.

The House amendment also added several other provisions, including a provision on the administration of the pay of the Capitol Police and the composition of the Capitol Police Board. The Senate amended the House version to further expand the jurisdiction of the Capitol Police, but now recedes from that amendment.

The present Senate amendment to the House amendment strikes the provision on the composition of the Capitol Police Board, but makes no other changes in the House amendment. Under the Senate bill, the Capitol Police Board would consist, as it has since 1946, of the Sergeant at Arms of each House and the Architect of the Capitol.

As presently amended, the Capitol Police Jurisdiction Reform Act divides the jurisdiction of the Capitol Police into three areas: the Capitol Buildings and Grounds, a several block zone surrounding the Capitol Buildings and Grounds, and the remainder of the District of Columbia. Within each area, both the authority and responsibilities of the Capitol Police differ.

1. WITHIN THE CAPITOL BUILDINGS AND GROUNDS

Within the Capitol Buildings and Grounds, the Capitol Police have the obligation under section 9A of the 1946 act to police the premises and the power to make arrests for the violations of any law of the United States, any State, and the District of Columbia. The authority to make arrests for the violation of State laws was included in 1946 to prevent persons who commit violations outside of the Capitol Grounds from "securing immunity from arrest therefor within the Capitol Buildings and Grounds." (S. Rept. No. 1709, 79th Cong., 2d Sess. 4 (1946).)

The Capitol Police are the primary law enforcement body within the Capitol Buildings and Grounds, while the metropolitan police play a secondary role. The metropolitan police have authority to make arrests, but they need the authority of the Capitol Police Board to enter buildings or to patrol the Grounds.

2. WITHIN A LIMITED ZONE SURROUNDING THE CAPITOL BUILDINGS AND GROUNDS

Subsection (b) of new section 9(b) of the 1946 act would establish a limited zone around the Capitol Buildings and Grounds to embrace ancillary buildings and lots used by the Congress. The expansion of jurisdiction to this area will provide the Capitol Police with arrest authority within an area that their responsibilities to protect legislative branch personnel and property now frequently take them. The ancillary buildings and lots are not located in places that suggest a perfect geometric shape, so the zone has been drawn with straight, as opposed to irregular, boundaries on three sides in order to make it more clear to officers and others what streets are within the zone. Also, for buildings near the outside boundaries of the zone, the zone is drawn to provide for an additional area of about a block to enable the Capitol Police to protect the immediate environs of those buildings.

Because the zone immediately surrounds the Capitol Buildings and Grounds, and police move through it frequently on their daily rounds, the bill would not make it an element of the arrest authority that the officer be engaged in the performance of official duties. Instead, there is a statutory presumption, fairly based on experience, that officers are engaged in official duties when in the zone, as is the case when officers are on the Capitol Grounds. Neither would arrest authority be limited to crimes of violence. Instead, the Capitol Police would have the authority—except the authority to arrest for State crimes—to arrest for the violation of any Federal or district law.

Subsection (c) provides that new section 9B of the 1946 act affect "does not affect the authority of the metropolitan police force of the District of Columbia with respect to the area" within the zone. This provision makes clear that within the zone surrounding the Capitol Buildings and Grounds, the Metropolitan Police force would retain its primary responsibility to be the principal provider of police services in the area. While the Capitol Police would have the authority to make arrests or otherwise enforce the laws, it would not undertake to generally patrol the area for crime prevention purposes.

3. WITHIN THE DISTRICT OF COLUMBIA, OUTSIDE OF THE CAPITOL BUILDINGS AND GROUNDS, AND THE SURROUNDING ZONE

Within the District of Columbia and outside of the Capitol Buildings and Grounds and the surrounding zone, apart from arrests for crimes of violence committed within the Capitol Grounds, law enforcement action by the Capitol Police would be strictly controlled. First, it must be predicated on the officer being in a particular location as a consequence of his or her official duties. Even then, as a matter of authority under section 9B, law enforcement actions may be taken only in two circumstances. One is when a crime of violence has been committed in an officer's presence. The other is when an officer needs to act to prevent imminent loss of life or injury.

In addition to expanding the jurisdiction of the Capitol Police, the amendment also provides for the establishment of a unified system of payroll administration of the Capitol Police force. At present, because the pay of some members of the Capitol Police is administered by the House of Representatives and the pay of some members in administered by the Senate, pay administration is cumbersome. It is intended that a unified pay administration system will reduce inefficiencies and costs. For purposes of prior existing law and rules, including the Senate Code of Conduct and the Government Employee Rights Act of 1991, with respect to members of the Capitol Police paid out of Senate funds, the Secretary of the Senate remains the disbursing officer. This provision relates solely to the administration of that disbursing function.

I urge the House to concur with the Senate amendment and resolve the jurisdiction issue as quickly as possible.

Mr. President, I ask unanimous consent that a letter from Assistant Attorney General W. Lee Rawls be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, September 8, 1992.

Hon. WENDELL H. FORD,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: This letter presents the views of the Department of Justice on S. 1766, the "U.S. Capitol Police Jurisdiction Reform Act." The Department believes that the bill as adopted by the Senate raises serious constitutional problems, and therefore recommends that the bill be amended or that the Senate adopt the House version of this legislation.

The bill, as passed by the Senate on July 21, 1992, (the "Senate bill") would extend the arrest authority of the Capitol Police beyond the grounds of the Capitol. Under section 3 of the bill, amending 40 U.S.C. §212a(a)(2), the Capitol Police would be authorized to make arrests within the District of Columbia but outside the grounds of the Capitol for any violations of the laws or regulations of the United States or the District of Columbia. The bill as passed by the House would also extend the authority of the Capitol Police to make arrests outside the Capitol grounds, but only in limited circumstances and in the course of the officer's official duties. The Senate bill contains no such limitations, and therefore appears to authorize Capitol Police to make arrests wholly unrelated to their duties.

Making arrests is generally an executive function. The members of the Capitol Police, however, are not accountable to any Executive Branch official. *See* 40 U.S.C. §206 (members are selected by Sergeants at Arms of the House and Senate). Therefore, vesting them with arrest authority raises a question under the doctrine of separation of powers. *See Bowsher* v. *Synar*, 478 U.S. 714, 726 (1986) (the Constitution does not "permit the execution of the laws to be vested in an officer answerable only to Congress"). Current law recognizes that the Capitol Police may exercise certain arrest authority, without being viewed as executing the laws, in order to safeguard the members and operations of the Legislative Branch. *See* 40 U.S.C. §§212a (arrests on Capitol grounds), 212a-2(c) (arrests in the course of protecting members and officers of Congress). However, the authority that the Senate bill would grant to the Capitol Police to make arrests, regardless of their relationship to the operations of Congress, within the District of Columbia would be an impermissible "encroachment 'beyond the legislative sphere.'" *Metropolitan Washington Airports Auth.* v. *Citizens for the Abatement of Aircraft Noise, Inc.*, 111 S.Ct. 2298, 2311 (1991).

Further, the bill raises a question under the Appointments Clause of the Constitution, art. II, §2, cl. 2. Persons who perform a "significant governmental duty exercised pursuant to a public law" are officers of the United States, and as such must be appointed pursuant to the Appointments Clause. *Buckley* v. *Valeo*, 424 U.S. 1, 126, 141 (1976). Vesting general authority in members of the Capitol Police to enforce the law by making arrests for any violations of federal or district law within the District of Columbia may violate the Appointments Clause because the Capitol Police are not subject to the control or supervision of an officer of the United States.

We believe that arrests by Capitol Police off the Capitol grounds pursuant to the Senate bill, as currently drafted, would be open to constitutional challenge on the grounds described above. Accordingly, the Department of Justice opposes enactment of S. 1766 as passed by the Senate. We believe that the bill as adopted by the House presents the better approach.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the presentation of this report.

Sincerely,

W. LEE RAWLS,
Assistant Attorney General.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,033,874,337,540.24 as of the close of business on September 15, 1992.

Anybody familiar with the U.S. Constitution knows that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on Federal spending approved by Congress—spending over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes $15,704.63—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

TRIBUTE TO NATHAN E. COOK

Mr. DECONCINI. Mr. President, on Wednesday, September 16, 1992, an interment at the Arizona National Veterans Cemetery marked the end of an era. Our Nation's oldest living veterans, Nathan E. Cook, was buried with full military honors by his beloved Navy and veterans.

Nathan's life spanned more than 10 decades with death claiming him a month short of his 107th birthday. His military service covered a significant portion of our Nation's history of modern warfare from 1901 until 1945. That career was exemplary in every way, in every aspect, from the Boxer Rebellion to World War II. Throughout his life, Nathan never swerved from the proudest ideals of the naval service and our Nation.

During his 10 years in residence at the Carl T. Hayden Department of Veterans Affairs Medical Center, he was the most popular and respected resident of the facility. I will never forget his reverent embrace and kiss when our Nation's flag was presented to him at the 100th birthday celebration held in his honor.

Nathan's memory will live forever in the hearts of his family, friends, and the veterans of Arizona.

WILLIAM YOST

Mr. WOFFORD. Mr. President, it is with sorrow that I bring before the Senate the case of William Yost, a former Peace Corps volunteer and staff officer from Pennsylvania who died on August 15 while awaiting deportation from Mexico to the United States. Mr. Yost allegedly committed suicide after being taken into police custody for driving an improperly registered vehicle.

The circumstances surrounding this tragedy are described in an August 29 Washington Post article by Tod Robberson, and I ask unanimous consent that this article be printed in its entirety at the conclusion of these remarks. The article also raises several questions about the events of August 15 and the investigation of those events.

I extend my deepest sympathy to the Yost family, and assure them that I will make every effort to ensure that this matter is properly and thoroughly investigated. I understand that the Mexican police will issue a final report shortly, and I look forward to reading it and to hearing the assessment by the United States Ambassador to Mexico, John Negreponte.

Mr. President, the United States and Mexico, who are so important to each other in economic relations, must strive to cooperate equally closely on all matters of mutual concern, including humanitarian issues such as this one.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 29, 1992]

D.C. MAN'S FAMILY DISPUTES HIS ALLEGED SUICIDE IN MEXICAN CUSTODY

(By Tod Robberson)

MEXICO CITY, August 28.—The death of a Washington man while in the custody of Mexican immigration authorities two weeks ago has led to accusations by his family and friends that U.S. and Mexican officials are trying to cover up the circumstances of the death to avoid diplomatic friction.

Officials of both countries say William Lewis Yost, 44, a Washington-based Peace Corps worker and U.S. citizen, died of a self-inflicted gunshot wound to the mouth while in Mexican custody Aug. 15, a day after he was detained and fined for having improperly registered his vehicle with Mexican customs.

But Yost's mother, father and siblings say they are not getting answers to fundamental questions surrounding the case. After initially heeding U.S. government requests not to discuss the matter with the news media, they have decided to go public with their concerns.

"We were told by the Peace Corps not to make any statement to the media," Yost's sister, Susan Yost Straley, said in a telephone interview. "We were told to direct everything to the Peace Corps press agency. They said there was a recent trade agreement and they didn't want any adverse publicity, and because there was a Republican convention going on. . . . I'm at the point where I figure we have nothing left to lose."

The United States, Mexico and Canada initialed the North American Free Trade Agreement on Aug. 12. The pact must be approved by the three legislatures, a process that in the United States is subject to a political debate about such issues as whether Mexico is a reliable partner.

The U.S. Embassy here has declined to answer questions about the case, saying it is the Mexican government's job to explain the circumstances leading to Yost's death and the subsequent investigation.

Mexican authorities, who declined to be identified, said that since Yost was a U.S. citizen, it is the job of the U.S. Embassy to issue details about his death. They also have declined to answer questions about the circumstances of the case, saying they are protecting the privacy of Yost's family.

Yost set out Aug. 8 from Washington and drove to Mexico with the intention of heading south to Guatemala to pick up a friend. He was arrested Aug. 14 in the southern state of Oaxaca for having violated Mexican laws regarding importation of a personal vehicle, official sources said.

They said Yost, who had been granted a transit visa only to drive to Guatemala, was arrested in Oaxaca for driving his truck northward, back toward the United States, without permission. He reportedly had parked his truck at the Mexican border with Guatemala to meet his friend, a Dominican named Wildin Rodriguez Matos.

According to Yost's family, Yost had befriended Rodriguez and his relatives while serving with the Peace Corps in the Dominican Republic during the 1980s, and it was Yost's intention to bring Rodriguez back to the United States with him on this trip as an illegal immigrant.

According to a written report by U.S. Ambassador John Negroponte, Rodriguez lacked proper documents for entering the interior of Mexico, and Mexican authorities "suspected that [Yost] was involved in alien smuggling." However, according to all accounts, Yost was never charged or placed under arrest for this alleged offense.

After being detained overnight in Oaxaca, where he was fined $1,400, apparently for failing to properly register his vehicle, Yost was taken in his own truck to Mexico City, accompanied by two immigration officials. According to various sources, Rodriguez was left in Oaxaca.

Shortly after his arrival in Mexico City pending what Mexican officials said were deportation proceedings, Yost was found dead in a room in an immigration authority detention center described by the Interior Ministry as an office and by the U.S. Embassy as a cell.

U.S. and Mexican officials said Yost died of a self-inflicted gunshot wound to the mouth. They said he used his own 9mm Taurus pistol, registered in Pennsylvania, which he carried with him on the trip in apparent violation of Mexican law. Yost's friends and family acknowledged that he owned the gun but described as ludicrous the explanation that he committed suicide while in official custody.

Diego Zavala, who investigates human rights abuses in Mexico for Amnesty International, said there have been numerous cases in Mexico in which people have died in police custody and the deaths have been attributed to suicide.

Mexican authorities, for instance, are investigating the death of a California resident who police said committed suicide on June 6 while under arrest in the town of Rosarita, in Baja, California. Despite an autopsy report stating that the man, Mario Vicente Amada, showed signs of internal bleeding consistent with a severe, disabling beating, the official police report stated that he died after hanging himself with his sweater in his jail cell.

A U.S. Embassy spokesman confirmed the circumstances of that case today and said there has been "high-level communication" and at least two diplomatic letters sent by the embassy to the Mexican government regarding the death.

Friends and family of Yost pointed to circumstances in his case that, they said, argue against suicide. Some Mexican officials also acknowledged that aspects of the case run contrary to suicide, but they refused to speak for the record. Among the discrepancies, Yost family members say, are the following:

Neither the U.S. Embassy, Yost's family nor his office was notified of his arrest while he was in Mexican custody. The embassy was told of his arrest only after he was found dead.

Despite having been in custody for a full day, guarded by at least two immigration officials and held at least for one night in a Oaxaca detention center, Yost's belongings were never searched for a weapon, officials said. They said he was able to smuggle his own weapons into his detention facility. Officials, who declined to speak for the record, said Yost was not searched because authorities feared they would be accused of violating his rights.

Mexican and U.S. officials initially reported that the weapon that killed Yost was a .38-caliber pistol. Members of Yost's family said it was only after they informed U.S. consular officials that he had owned a 9mm automatic pistol that the official account was amended to read that Yost was killed with a 9mm pistol.

Yost had already paid a fine of at least $1,400—a high sum for a vehicle registration offense in Mexico—that he was allowed to charge to his Visa credit card in Oaxaca. Officials said he did not face further penalties but was taken to Mexico City only for deportation proceedings. Yost's family and friends questioned whether he would have felt his situation sufficiently hopeless—even after having paid a hefty fine and being told he would be asked to leave the country—that he would have killed himself.

Further, family, friends and coworkers said, Yost was in good spirits before he left on his trip, had never shown any sign of depression and had never indicated an inclination toward suicide.

A U.S. vice consul in Mexico, Joe Ripley, reportedly viewed the body shortly after Yost's death. According to Yost's parents and siblings, Ripley was unable to answer basic questions about the entry wound, the trajectory of the bullet, or other markings associated with a gunshot explosion to the face.

Yost's father, brother and sister said it was clear from his comments that Ripley had never viewed the entry wound. And yet, they said, he concurred with Mexican authorities that Yost died of a self-inflicted wound.

Ripley acknowledged having spoken, to the Yost family but said he could not comment on their allegations. A U.S. Embassy spokesman said Ripley did not attempt to view the entry wound and reported that he did not see an exit wound. He checked other parts of the body for signs of injury and reported that none were evident, the spokesman said.

A copy of the one-page autopsy report, made available to The Washington Post today, stated that gunpowder burns were found inside Yost's mouth and that a bullet pierced the soft palate and pharynx. The bullet apparently fragmented after striking a vertebra, with parts lodging in portions of the lower brain. Despite the fact that the autopsy was performed a day after Yost's death, the report made no mention of swelling in any part of the neck, head or face. The names of the two doctors who prepared the report were not legible.

Despite Negroponte's written account to the family that Yost died Aug. 15 "about 60 minutes after your son had been placed in the detention cell," U.S. consular documents stated that Yost died Aug. 14. Those documents accompanied Yost's body to his family home in Belleforte, Pa. Other documents provided by the Mexican physician who prepared the body for the trip stated Yost died Aug. 16.

Although Mexican officials insisted that Yost had never been under arrest, his brother, John Yost, said the body's wrists bore bruises and cuts that appeared to be the markings of having been handcuffed or tightly bound.

Frank Wetzler, the funeral director who handled Yost's body when it arrived in Pennsylvania, said Yost's face "was in perfect condition" and bore not a single bruise, cut or abrasion. In about 100 other cases Wetzler had seen of people who died as Yost allegedly did, the face showed signs of swelling and bruising, he said. It is impossible for a bullet to explode inside the mouth and enter the cranium without causing facial bruising and swelling, especially around the eyes, he said.

Greg Tate, who shared a Mount Pleasant apartment with Yost and worked with him at the Peace Corps, said he had spoken for five to seven hours by telephone with Ripley and said the vice consul appeared to be constructing a psychological profile of Yost.

Tate said Ripley appeared to be attempting to justify the Mexican finding on the cause of death, even to the point of constructing a hypothetical scenario involving intimate details of Yost's personal life that suggested he was depressed enough to kill himself rather than face the prospect of remaining in a Mexican jail.

TRIBUTE TO CHARLES A. POELLNITZ IV

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Charles Augustus Poellnitz IV, who passed away recently. He was a prominent member of the legal community in Alabama, and a close personal friend of mine.

Charles was a native of Greensboro, AL, where he was born in 1908 to Dr. Charles A. Poellnitz III and Annie Roulhac Poellnitz. He graduated from the Alabama Military Institute in Anniston in 1926 and then enrolled at the University of the South, located in Sewanee, TN. He subsequently attended the law school at the University of Alabama. While a student, Charles was involved in all facets of campus life. He received many awards and honors for his leadership, was president of his senior class at Sewanee, active in many honor societies, and was an avid outdoorsman.

After law school, Charles moved to Florence, AL, where he began practicing law with the late George Bliss Jones in the law firm Jones and Poellnitz. Mr. Jones left the firm to become executive secretary to Gov. Chauncey Sparks. Later, Charles joined with Will Mitchell, one of Alabama's most distinguished lawyers, to form the firm of Mitchell and Poellnitz.

The firm grew to be one of the State's most renowned law firms. At the time of his death, it was known by the name of Poellnitz, Cox, and Jones. In addition to W.H. Mitchell, Charles had some great lawyers as partners over the years, including Bill Mitchell, who left the firm to become president of the First National Bank of Florence, George McBurney, Bob Cox, Sam Robinson, Rob Jones, Gary Wilkinson, and Brant Young. His brother, Richard Poellnitz, is a truly outstanding lawyer in Greensboro, AL. He practiced law for more than 50 years before retiring several years ago.

During World War II, Charles entered the Army as a private, but was later assigned to the Judge Advocate Corps, receiving his commission from the Judge Advocate School at the University of Michigan. After completing several assignments as a first lieutenant, he served with the 5th Air Force in the Mediterranean theater, where he was stationed in North Africa and Italy for over 2 years. He was discharged in 1945, having attained the rank of major.

During his lifetime, Charles earned many civic honors and was a fixture in local community projects. He served as a director of the First National Bank of Florence for 40 years, and was a director of several other corporations. He was also a real estate developer. He remained a member of Trinity Episcopal Church from the time he settled in Florence in 1933 until his death, serving as senior warden and on the vestry.

Charles was an enthusiastic golfer and hunter, but his first love was always the legal profession. He practiced in both the State and Federal courts, and was a member of the Alabama Judiciary Inquiry Commission, and was honored by his selection as a fellow of the American College of Trial Lawyers and American Bar Foundation.

Charles Poellnitz IV was highly respected by his peers and the judges whom he appeared before. He was a lawyer's lawyer. Many young attorneys sought his counsel and advice. He always found time to help young lawyers, and was a role model for them to emulate. He was a great supporter of legal education and of improving the legal profession. His was a lifelong commitment to the profession and to the community in which he made his home. He possessed a warm and ingratiating personality. He was a kind man. He will be sorely missed by his family and those of us fortunate enough to have known and worked with him over the decades.

TRIBUTE TO DR. PADGETT C. COPE

Mr. HEFLIN. Mr. President, I am pleased to rise today to congratulate and commend a dear friend and an outstanding clergyman. Dr. Padgett C. Cope will celebrate 45 years in the ministry on September 20. Dr. Cope felt the call to the ministry at the tender age of 18, while serving in the U.S. Navy aboard a ship in the Pacific. He is currently the pastor of Metropolitan Baptist Church in Birmingham, AL, where he has served for the past 4 years.

In addition to his service at Metropolitan, Dr. Cope has pastored the Calvary Baptist Church in Little Rock, AR, First Southern Baptist Church in Indianapolis, IN, and Ruhama Baptist Church, also located in Birmingham. He was originally licensed and ordained at Highland Avenue Baptist Church in Montgomery. He has played an integral part in the Christian ministry and spiritual life of each of the communities he has served.

Padgett earned his bachelor's degree at Birmingham's Howard College, now Samford University, one of the Nation's foremost Baptist institutions of higher education. He attended the New Orleans Baptist Theological Seminary and the Eastern Baptist Theological Seminary in Philadelphia, PA. He has been awarded two honorary doctor of divinity degrees and an honorary doctor of laws degree from Troy State University.

Dr. Cope's list of accomplishments and achievements, both in his field and in the community at large, is certainly impressive. He received the Distinguished Baptist Minister Award from Williams Baptist College, of which he served as chairman of the board of trustees. He has served as moderator of the 132 member churches of the Birmingham Baptist Association, as a member of the board of trustees of the Baptist Medical Centers in Birmingham, and as vice president of the Southern Baptist Convention's Pastor's Conference.

Additionally, Dr. Cope has participated in several preaching missions for the Foreign Mission Board in the West Indies, Europe, Africa, and Southeast Asia. He was chairman of the Mayor's Task Force for Youth Development, a member of the board of directors of the Baptist Home for the Birmingham Senior Citizens Association, and was president of the Pastor's Conference of the Maryland Baptist Convention. He gave the graduation commencement address at the New Orleans Baptist Theological Seminary in 1966.

Dr. Cope and his wife Betty Jo have four wonderful children—Donna, Padgett, Jr., Jimmy, and Betty. Donna and Betty have served as missionaries in Taiwan and Kenya.

Mr. President, Dr. Padgett C. Cope is truly someone who has done it all in terms of dedicating himself to the cause of serving others. His has been a lifelong and unyielding commitment to his faith, his family, and his peers. Few will ever be able to match his record of making a real difference in people's lives, inspiring others to do their best, or showing them the positive effects of personal spirituality and Christian living. He is a superb role model, excellent preacher, loyal friend, and faithful servant of God. Again, I join all his family, friends, and congregation in congratulating and commending Dr. Cope as he celebrates 45 years of ministry and in wishing him many, many more.

DR. ALFRED HABEEB ENDOWED CHAIR IN ANESTHESIOLOGY AT UAB

Mr. HEFLIN. Mr. President, a few years ago, a group of physicians in Birmingham, AL, wisely decided to recognize Dr. Alfred Habeeb's work in the field of anesthesiology and his direct influence on their lives and careers. They chose to honor him by establishing an endowed chair in anesthesiology at the University of Alabama at Birmingham, home to one of the Nation's premier medical schools and several of our outstanding hospitals. This new endowment will honor Dr. Habeeb as one of the leaders in this particular field, as well as provide funds for the continued advancement of patient care, research, and education.

UAB's Department of anesthesiology has rightfully earned an international reputation for academic excellence; it now ranks among the best in the Nation. In order to maintain and continue this progress, it is necessary to provide endowments such as the one in honor of Dr. Habeeb for recruiting and retaining exemplary faculty. Creation of the endowed chair in anesthesiology at UAB carries out this mission.

I would like to share with my colleagues a little about Dr. Alfred Habeeb's interesting life and distinguished medical career. He studied medicine at the Universities of Mississippi and Tennessee, returning to his hometown of Vicksburg, MS during vacations to work at the clinic at Charity Hospital. He accepted an internship at Lloyd Noland Hospital in Fairfield, AL, following graduation, staying an extra year there to provide much needed assistance in the newly emerging area of anesthesiology. He later became chief of this service.

Dr. Habeeb traveled around the country studying the techniques of such notable pioneers in the field as Dr. John Lundy of the Mayo Clinic, Dr. Ralph Waters of the University of Wisconsin, and Dr. John Adriani of Tulane.

Alfred Habeeb because a pioneer anesthesiologist in the South. Indeed, his early efforts to establish physician-practiced anesthesiology in Alabama helped lay the groundwork for one of the first academic departments of anesthesiology in the southeastern United States. The University of Alabama department was begun in the mid-1940's along with the first professional organizations in the field.

Dr. Habeeb is a past president of the Birmingham Surgical Society and a founder of the Southern section of the American Society of Anesthesiologists. He has been instrumental in the growth and development of the field in Alabama and the South, maintaining a close professional relationship with the UAB faculty for 40 years. With partners E. Bryce Robinson and Hiram Elliott, he founded Anesthesia Services of Birmingham, P.A., the first such private practice in the State. Since its founding, the firm has provided services to virtually every hospital in the Birmingham area.

Dr. Garber Galbraith, a professor of surgery at UAB, has described Dr. Habeeb as a "warm, personable individual who has always shown real concern for his patients." He has proven to be an immeasurable asset to his profession, and has served his community in many ways, always with the same dedication he has shown his patients, their families, and his colleagues.

I am proud to congratulate Dr. Habeeb for his lifetime of groundbreaking achievement in anesthesiology. The newly endowed chair at UAB named in his honor will serve as a living testament to his contributions to the community, State, and to medicine in general. I applaud those colleagues of his who worked hard to make the Alfred Habeeb, M.D., Endowed Chair in Anesthesiology a reality.

HISPANIC HERITAGE MONTH

Mr. RIEGLE. Mr. President, it is with great pleasure that I rise to commemorate National Hispanic Heritage Month. From September 15 to October 15, 1992, Americans from New York to California and Michigan to Texas recognize the many fine achievements of the Hispanic-American community and their important contribution to the vitality of this Nation.

Indeed, Hispanic Heritage Month of 1992 is endowed with special meaning this year as it falls during the 500th anniversary of Christopher Columbus' voyage to the New World. This Nation's celebration of Columbus Day on October 12 marks an important occasion for Hispanic-Americans. The generosity of Spanish sponsorship of that bold and historic expedition have had a profound impact on this country.

Just as 1492 is important to Hispanic-Americans, so too is 1992. Hispanic-Americans are one of the largest and fastest growing elements of American society. During the past decade, the Hispanic-American population of the United States has grown 53 percent to 22.4 million people. Today, this community constitutes approximately 9 percent of our population.

Michigan and the United States are indeed fortunate to have an abundance of talented and creative individuals of Hispanic origin to enhance our State and Nation. From homebuilders to homemakers, authors to auto workers, secretaries to scientists, every aspect of American life is more vibrant for the influence of persons of Hispanic heritage. They are an enriching part of the glorious American tapestry that makes up our truly unique culture.

In addition, Mexico along with several other Latin American countries celebrate their independence this month. These celebrations commemorate the struggle of nations that fought bravely to win freedom from Spain and that have subsequently worked hard to become members of the family of democratic nations. As a country which was also born from a colonial past, we share a common experience with our friends of Central and South America. National Hispanic Heritage Month serves to reaffirm the special relationship that exists between the United States and Spanish-speaking countries.

Mr. President, as we celebrate National Hispanic Heritage Month, let us take this opportunity to recognize the important contributions of the Hispanic-American community. We take pride in the part Americans of Hispanic origin have played in building this great Nation and look forward to the continuing role part Hispanics will play in the American cultural mosaic.

NONCOMMISSIONED OFFICERS ASSOCIATION [NCOA] HONORS SENATOR McCAIN

Mr. DOLE. Mr. President, as a past recipient of the Non Commissioned Officers Association of the USA [NCOA] L. Mendel Rivers Award, I am pleased to inform my Senate colleagues that I have the honor of cohosting with NCOA a reception saluting this year's recipient, Senator JOHN S. MCCAIN of Arizona. The reception will be this evening in the Senate caucus room beginning at 5:30 p.m. All Senators have been invited.

Mr. President, Senator MCCAIN was chosen by the association for his interest and concern for the men and women who serve in the Armed Forces of the United States, particularly those of the enlisted ranks. Because of his concern, the Senator from Arizona introduced in 1990 the first congressional proposal to provide transition benefits to active duty military personnel. His proposal, now law, offers any number of entitlements to assist members of the uniformed services in making smooth transitions to civilian life. These members were anticipating a full career in the uniformed services only to fall victim to downsizing of the forces.

Among the many benefits provided was separation pay for enlisted personnel. This was the first time in nearly a century, other than providing mustering out pay after World War II and the Korean conflict, that enlisted military members were offered separation pay. Authorizing these payments in law had been a goal of the Noncommissioned Officers Association for nearly two decades.

Senator MCCAIN, by the way, called upon the military coalition, a consortium of 24 nationally prominent military organizations, to assist him in drafting his transition package. NCOA is a member of that influential group and one of the association's staff members is its cochairman. In this capacity, NCOA provided considerable input that would become beneficial to enlisted military personnel.

The Senator again called upon NCOA and the coalition to provide guidance in drafting a proposal, now part of the Fiscal Year 1993 National Defense Authorization Act, S. 3114, reforming the current military health care program for the uniformed services. Additionally, the bill contains another proposal offering transitional benefits for National Guard and Reserve uniformed personnel. NCOA and the coalition also contributed to this package.

I might add here that officials of NCOA have described the bill, S. 3114, as containing some of the best proposals for enlisted military personnel; active, Guard, Reserve, and retired; that Congress will consider since the late L. Mendel Rivers was alive some 20-plus years ago. Many of the proposals were offered by Senator MCCAIN, so it's only befitting that he be chosen to receive an award named in honor of the former chairman of the House Committee on Armed Services. Congressman Rivers was and still is a hero to military members who recall his unselfish efforts in behalf of men and women in uniform.

Mr. President, 1992 marks the 20th year for this prestigious award. It was designed by the 160,000-member NCOA to pay tribute to an elected legislator from this body or the House of Representatives who exercised the greatest concern for enlisted members of the Armed Forces and, if applicable, was successful in providing legislation contributing to their quality of life.

Among our sitting colleagues who have been honored with the award, other than myself, are Senators STROM THURMOND, the first recipient, and in alphabetical order, BILL COHEN, SAM NUNN, and JOHN WARNER. From the House side are Representatives CHARLIE BENNETT, Florida; BILL HEFNER, North Carolina; SONNY MONTGOMERY, Mississippi; JIM SLATTERY, Kansas; and GERRY SOLOMON, New York.

Mr. President, I urge my colleagues to drop by the caucus room this evening and congratulate Senator MCCAIN and to say "hello" to the many uniformed servicemembers in attendance as guests of the Non Commissioned Officers Association. NCOA president, retired Army Cmd. Sgt. Maj. Walter W. Krueger and I will be cohosting.

THE TOUCHING EFFORTS OF ALL IN THE AFTERMATH OF ANDREW

Mr. MACK. Mr. President, I am touched by the efforts of so many in helping the people of south Florida who had their lives turned upside down after Hurricane Andrew. I wish it were possible to thank every individual, agency, corporation, and country that have given of themselves so generously and selflessly.

I believe that an article in the American Banker demonstrates just one example of a Federal agency rising to the occasion. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the American Banker, Sept. 4, 1992]

CREDIT UNIONS GOT HELP QUICKLY AFTER HURRICANE

(By Jim McTague)

WASHINGTON.—On any other day, examiners entering a credit union armed with chain saws might have caused a run on deposits.

But last week in storm-blasted areas of Florida and Louisiana, the sight of regulators cutting their way down tree-strewn highways was the first evidence that federal help was on the way.

Some 22 credit union examiners beat President Bush, the Army, and even the Federal Emergency Management Agency to many of the worst disaster zones. The reason: Federal officials waived the red tape and told the examiners to do what had to be done to get damaged institutions running again.

MAKING CONTACT

On Tuesday, Aug. 25—the day after Andrew leveled Homestead, Fla.—nearly every one of the 140 credit unions in South Florida had been contacted, according to Allen Carver, head of the Atlanta office of the National Credit Union Administration.

Of the 12 Florida credit unions directly in Andrew's path, only the $44 million-asset institution serving 16,000 active and retired military personnel at the Homestead Air Force Base reported serious damage.

The building, though standing, had suffered serious structural damage and will have to be replaced if the base is reopened, Mr. Carver said. The NCUA began shipping modular buildings to the base to serve as a new headquarters.

In the meantime, on Thursday, Aug. 27, three examiners and supervisory examiner Jerry Boiduc cleaned up debris, mopped up the floors, and began working as tellers to get the credit union up and running again.

"The credit union plans to be open for members from nine to noon today, Friday, and Saturday," he reported to NCUA officials last week.

"With a 24-hour security guard and plenty of cash on hand, they are serving members right at the front door," he said.

Immediately after Andrew had passed in Louisiana, supervisor Dave Vickers and examiner Anthony Manuel loaded a pickup with shovels, water, gasoline, a generator, and chain saws and hit the road to inspect credit unions.

At two credit unions, they had to cut away trees to gain entrance to the facilities, according to a report filed with the Atlanta district.

They also put out the word that they would be liberal in reviewing loans made in the storm's aftermath.

By Friday, Aug. 28, all but four of the 270 credit unions in the storm zone had been contacted, according to the NCUA.

Other federal banking agencies also offered help to the disaster areas. The Resolution Trust Corp. leased an empty Miami warehouse to the state of Florida for a dollar, according to RTC press spokesman Stephen Katsanos.

THE CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration en bloc of Calendar Order Nos. 515, 630, 635, 636; that committee amendments where indicated be deemed agreed to; that the bills be deemed read for the third time, passed, and the motion to reconsider the passage of the bills en bloc, be laid upon the table; that statements in relation to passage of these bills be inserted in the RECORD as if read; and that passage of these bills be shown separately in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITIES OF THE ADMINISTRATIVE CONFERENCE

The bill (H.R. 3379) to amend section 574 of title 5, United States Code, relating to the authorities of the Administrative Conference, was considered, ordered to a third reading, read the third time, and passed.

RELIEF OF CHRISTY CARL HALLIEN

The bill (S. 1181) for the relief of Christy Carl Hallien of Arlington, TX, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1181

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELIEF FROM LIABILITY.

(a) RELIEF.—Christy Carl Hallien of Arlington, Texas, is relieved of all liability for repayment to the United States of the sum of $11,865.13, plus accrued interest. This sum represents part of the amount that Christy Carl Hallien owes to the Department of Defense for payments that he received from the Department of Defense for travel and relocation expenses arising from his relocation from Burlington, Vermont, to accept employment with the Department of Defense in Arlington, Texas, in October 1983.

(b) BASIS FOR RELIEF.—The basis for granting this relief is that an agent of the Department of Defense erroneously informed Christy Carl Hallien that he was entitled to reimbursement of all travel and relocation expenses incurred relating to his relocation from Vermont to Texas.

SEC. 2. LIMITATION OF ATTORNEYS' OR AGENTS' FEES.

Not more than 10 percent of the amount referred to in section 1 shall be paid to any agent or attorney of Christy Carl Hallien for any service rendered in connection with the relief provided by this Act. Violation of this section is a misdemeanor punishable by a fine of not more than $1,000.

RELIEF OF BRUCE C. VEIT

The bill (H.R. 454) for the relief of Bruce C. Veit, was considered, ordered to a third reading, read the third time, and passed.

RELIEF OF NORMAN R. RICKS

The bill (H.R. 478) for the relief of Norman R. Ricks, was considered, ordered to a third reading, read the third time, and passed.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration en bloc to Calendar Order Nos. 679 and 680, H.R. 238 and H.R. 712, House companions to Calendar Order Nos. 632 and 633 that were reported today from the Judiciary Committee; that the bills be deemed read for the third time, passed, and the motion to reconsider be laid upon the table; that statement with respect to passage of these bills be inserted at the appropriate place in the RECORD; that Senate action on each of the bills appear separately in the RECORD; and that Calendar Nos. 632 and 633 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELIEF OF CRAIG A. KLEIN

The bill (H.R. 238) for the relief of Craig A. Klein, was considered, ordered to a third reading, read the third time, and passed.

RELIEF OF PATRICIA A. McNAMARA

The bill (H.R. 712) for the relief of Patricia A. McNamara, was considered, ordered to a third reading, read the third time, and passed.

UNITED STATES-HONG KONG POLICY ACT OF 1992

Mr. FORD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1731, the United States-Hong Kong Policy Act of 1992.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1731) entitled "An Act to establish the policy of the United States with respect to Hong Kong, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Hong Kong Policy Act of 1992".

SEC. 2. FINDINGS AND DECLARATIONS.

The Congress makes the following findings and declarations:

(1) The Congress recognizes that under the 1984 Sino-British Joint Declaration:

(A) The People's Republic of China and the United Kingdom of Great Britain and Northern Ireland have agreed that the People's Republic of China will resume the exercise of sovereignty over Hong Kong on July 1, 1997. Until that time, the United Kingdom will be responsible for the administration of Hong Kong.

(B) The Hong Kong Special Administrative Region of the People's Republic of China, beginning on July 1, 1997, will continue to enjoy a high degree of autonomy on all matters other than defense and foreign affairs.

(C) There is provision for implementation of a "one country, two systems" policy, under which Hong Kong will retain its current lifestyle and legal, social, and economic systems until at least the year 2047.

(D) The legislature of the Hong Kong Special Administrative Region will be constituted by elections, and the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as applied to Hong Kong, shall remain in force.

(E) Provision is made for the continuation in force of agreements implemented as of June 30, 1997, and for the ability of the Hong Kong Special Administrative Region to conclude new agreements either on its own or with the assistance of the Government of the People's Republic of China.

(2) The Congress declares its wish to see full implementation of the provisions of the Joint Declaration.

(3) The President has announced his support for the policies and decisions reflected in the Joint Declaration.

(4) Hong Kong plays an important role in today's regional and world economy. This role is reflected in strong economic, cultural, and other ties with the United States that give the United States a strong interest in the continued vitality, prosperity, and stability of Hong Kong.

(5) Support for democratization is a fundamental principle of United States foreign policy. As such, it naturally applies to United States policy toward Hong Kong. This will remain equally true after June 30, 1997.

(6) The human rights of the people of Hong Kong are of great importance to the United States and are directly relevant to United States interests in Hong Kong. A fully successful transition in the exercise of sovereignty over Hong Kong must safeguard human rights in and of themselves. Human rights also serve as a basis for Hong Kong's continued economic prosperity.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Hong Kong" means, prior to July 1, 1997, the British Dependent Territory of Hong Kong, and on and after July 1, 1997, the Hong Kong Special Administrative Region of the People's Republic of China;

(2) the term "Joint Declaration" means the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, done at Beijing on December 19, 1984; and

(3) the term "laws of the United States" means provisions of law enacted by the Congress.

TITLE I—POLICY

SEC. 101. BILATERAL TIES BETWEEN THE UNITED STATES AND HONG KONG.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, should be the policy of the United States with respect to its bilateral relationship with Hong Kong:

(1) The United States should play an active role, before, on, and after July 1, 1997, in main-

taining Hong Kong's confidence and prosperity, Hong Kong's role as an international financial center, and the mutually beneficial ties between the people of the United States and the people of Hong Kong.

(2) The United States should actively seek to establish and expand direct bilateral ties and agreements with Hong Kong in economic, trade, financial, monetary, aviation, shipping, communications, tourism, cultural, sport, and other appropriate areas.

(3) The United States should seek to maintain, after June 30, 1997, the United States consulate-general in Hong Kong, together with other official and semi-official organizations, such as the United States Information Agency American Library.

(4) The United States should invite Hong Kong to maintain, after June 30, 1997, its official and semi-official missions in the United States, such as the Hong Kong Economic & Trade Office, the Office of the Hong Kong Trade Development Council, and the Hong Kong Tourist Association. The United States should invite Hong Kong to open and maintain other official or semi-official missions to represent Hong Kong in those areas in which Hong Kong is entitled to maintain relations on its own, including economic, trade, financial, monetary, aviation, shipping, communications, tourism, cultural, and sport areas.

(5) The United States should recognize passports and travel documents issued after June 30, 1997, by the Hong Kong Special Administrative Region.

(6) The resumption by the People's Republic of China of the exercise of sovereignty over Hong Kong after June 30, 1997, should not affect treatment of Hong Kong residents who apply for visas to visit or reside permanently in the United States, so long as such treatment is consistent with the Immigration and Nationality Act.

SEC. 102. PARTICIPATION IN MULTILATERAL ORGANIZATIONS, RIGHTS UNDER INTERNATIONAL AGREEMENTS, AND TRADE STATUS.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, should be the policy of the United States with respect to Hong Kong after June 30, 1997:

(1) The United States should support Hong Kong's participation in all appropriate multilateral conferences, agreements, and organizations in which Hong Kong is eligible to participate.

(2) The United States should continue to fulfill its obligations to Hong Kong under international agreements, so long as Hong Kong reciprocates, regardless of whether the People's Republic of China is a party to the particular international agreement, unless and until such obligations are modified or terminated in accordance with law.

(3) The United States should respect Hong Kong's status as a separate customs territory, and as a contracting party to the General Agreement on Tariffs and Trade, whether or not the People's Republic of China participates in the latter organization.

SEC. 103. COMMERCE BETWEEN THE UNITED STATES AND HONG KONG.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, are and should continue after June 30, 1997, to be the policy of the United States with respect to commerce between the United States and Hong Kong:

(1) The United States should seek to maintain and expand economic and trade relations with Hong Kong and should continue to treat Hong Kong as a separate territory in economic and trade matters, such as import quotas and certificates of origin.

(2) The United States should continue to negotiate directly with Hong Kong to conclude bilateral economic agreements.

(3) The United States should continue to treat Hong Kong as a territory which is fully autonomous from the United Kingdom and, after June 30, 1997, should treat Hong Kong as a territory which is fully autonomous from the People's Republic of China with respect to economic and trade matters.

(4) The United States should continue to grant the products of Hong Kong nondiscriminatory trade treatment (commonly referred to as "most-favored-nation status") by virtue of Hong Kong's membership in the General Agreement on Tariffs and Trade.

(5) The United States should recognize certificates of origin for manufactured goods issued by the Hong Kong Special Administrative Region.

(6) The United States should continue to allow the United States dollar to be freely exchanged with the Hong Kong dollar.

(7) United States businesses should be encouraged to continue to operate in Hong Kong, in accordance with applicable United States and Hong Kong law.

(8) The United States should continue to support access by Hong Kong to sensitive technologies controlled under the agreement of the Coordinating Committee for Multilateral Export Controls (commonly referred to as "COCOM") for so long as the United States is satisfied that such technologies are protected from improper use or export.

(9) The United States should encourage Hong Kong to continue its efforts to develop a framework which provides adequate protection for intellectual property rights.

(10) The United States should negotiate a bilateral investment treaty directly with Hong Kong, in consultation with the Government of the People's Republic of China.

(11) The change in the exercise of sovereignty over Hong Kong should not affect ownership in any property, tangible or intangible, held in the United States by any Hong Kong person.

SEC. 104. TRANSPORTATION.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, should be the policy of the United States after June 30, 1997, with respect to transportation from Hong Kong:

(1) Recognizing Hong Kong's position as an international transport center, the United States should continue to recognize ships and airplanes registered in Hong Kong and should negotiate air service agreements directly with Hong Kong.

(2) The United States should continue to recognize ships registered by Hong Kong.

(3) United States commercial ships, in accordance with applicable United States and Hong Kong law, should remain free to port in Hong Kong.

(4) The United States should continue to recognize airplanes registered by Hong Kong in accordance with applicable laws of the People's Republic of China.

(5) The United States should recognize licenses issued by the Hong Kong to Hong Kong airlines.

(6) The United States should recognize certificates issued by the Hong Kong to United States air carriers for air service involving travel to, from, or through Hong Kong which does not involve travel to, from, or through other parts of the People's Republic of China.

(7) The United States should negotiate at the appropriate time directly with the Hong Kong Special Administrative Region, acting under authorization from the Government of the People's Republic of China, to renew or amend all air service agreements existing on June 30, 1997, and to conclude new air service agreements affecting all flights to, from, or through the Hong Kong Special Administrative Region which do not involve travel to, from, or through other parts of the People's Republic of China.

(8) The United States should make every effort to ensure that the negotiations described in paragraph (7) lead to procompetitive air service agreements.

SEC. 105. CULTURAL AND EDUCATIONAL EXCHANGES.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, are and should continue after June 30, 1997, to be the policy of the United States with respect to cultural and educational exchanges with Hong Kong:

(1) The United States should seek to maintain and expand United States-Hong Kong relations and exchanges in culture, education, science, and academic research. The United States should encourage American participation in bilateral exchanges with Hong Kong, both official and unofficial.

(2) The United States should actively seek to further United States-Hong Kong cultural relations and promote bilateral exchanges, including the negotiating and concluding of appropriate agreements in these matters.

(3) Hong Kong should be accorded separate status as a full partner under the Fulbright Academic Exchange Program (apart from the United Kingdom before July 1, 1997, and apart from the People's Republic of China thereafter), with the continuation or establishment of a Fulbright Commission or functionally equivalent mechanism.

(4) The United States should actively encourage Hong Kong residents to visit the United States on nonimmigrant visas for such purposes as business, tourism, education, and scientific and academic research, in accordance with applicable United States and Hong Kong laws.

(5) Upon the request of the Legislative Council of Hong Kong, the Librarian of Congress, acting through the Congressional Research Service, should seek to expand educational and informational ties with the Council.

TITLE II—THE STATUS OF HONG KONG IN UNITED STATES LAW

SEC. 201. CONTINUED APPLICATION OF UNITED STATES LAW.

(a) IN GENERAL.—Notwithstanding any change in the exercise of sovereignty over Hong Kong, the laws of the United States shall continue to apply with respect to Hong Kong, on and after July 1, 1997, in the same manner as the laws of the United States were applied with respect to Hong Kong before such date unless otherwise expressly provided by law or by Executive order under section 202.

(b) INTERNATIONAL AGREEMENTS.—For all purposes, including actions in any court in the United States, the Congress approves the continuation in force on and after July 1, 1997, of all treaties and other international agreements, including multilateral conventions, entered into before such date between the United States and Hong Kong, or entered into before such date between the United States and the United Kingdom and applied to Hong Kong, unless or until terminated in accordance with law. If in carrying out this title, the President determines that Hong Kong is not legally competent to carry out its obligations under any such treaty or other international agreement, or that the continuation of Hong Kong's obligations or rights under any such treaty or other international agreement is not appropriate under the circumstances, such determination shall be reported to the Congress in accordance with section 301.

SEC. 202. PRESIDENTIAL ORDER.

(a) PRESIDENTIAL DETERMINATION.—On or after July 1, 1997, whenever the President determines that Hong Kong is not sufficiently autonomous to justify treatment under a particular law of the United States, or any provision thereof, different from that accorded the People's Republic of China, the President may issue an Executive order suspending the application of section 201(a) to such law or provision of law.

(b) FACTOR FOR CONSIDERATION.—In making a determination under subsection (a) with respect to the application of a law of the United States, or any provision thereof, to Hong Kong, the President should consider the terms, obligations, and expectations expressed in the Joint Declaration with respect to Hong Kong.

(c) PUBLICATION IN FEDERAL REGISTER.—Any Executive order issued under subsection (a) shall be published in the Federal Register and shall specify the law or provision of law affected by the order.

(d) TERMINATION OF SUSPENSION.—An Executive order issued under subsection (a) may be terminated by the President with respect to a particular law or provision of law whenever the President determines that Hong Kong has regained sufficient autonomy to justify different treatment under the law or provision of law in question. Notice of any such termination shall be published in the Federal Register.

SEC. 203. RULES AND REGULATIONS.

The President is authorized to prescribe such rules and regulations as the President may deem appropriate to carry out this Act.

SEC. 204. CONSULTATION WITH CONGRESS.

In carrying out this title, the President shall consult appropriately with the Congress.

TITLE III—REPORTING PROVISIONS

SEC. 301. REPORTING REQUIREMENT.

Not later than March 31, 1993, March 31, 1995, March 31, 1997, March 31, 1998, March 31, 1999, and March 31, 2000, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on conditions in Hong Kong of interest to the United States. This report shall cover (in the case of the initial report) the period since the date of enactment of this Act or (in the case of subsequent reports) the period since the most recent report pursuant to this section and shall describe—

(1) significant developments in United States relations with Hong Kong, including a description of agreements that have entered into force between the United States and Hong Kong;

(2) other matters, including developments related to the change in the exercise of sovereignty over Hong Kong, affecting United States interests in Hong Kong or United States relations with Hong Kong;

(3) the nature and extent of United States-Hong Kong cultural, education, scientific, and academic exchanges, both official and unofficial;

(4) the laws of the United States with respect to which the application of section 201(a) has been suspended pursuant to section 202(a) or with respect to which such a suspension has been terminated pursuant to section 202(d), and the reasons for the suspension or termination, as the case may be;

(5) treaties and other international agreements with respect to which the President has made a determination described in the last sentence of section 201(b), and the reasons for each such determination;

(6) significant problems in cooperation between Hong Kong and the United States in the area of export controls;

(7) the development of democratic institutions in Hong Kong; and

(8) the nature and extent of Hong Kong's participation in multilateral forums.

SEC. 302. SEPARATE PART OF COUNTRY REPORTS.

Whenever a report is transmitted to the Congress on a country-by-country basis there shall be included in such report, where applicable, a separate subreport on Hong Kong under the heading of the state that exercises sovereignty over Hong Kong. The reports to which this section applies include the reports transmitted under—

(1) sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (relating to human rights);

(2) section 181 of the Trade Act of 1974 (relating to trade barriers); and

(3) section 2202 of the Export Enhancement Act of 1988 (relating to economic policy and trade practices).

Amend the title to read as follows: "An Act to set forth the policy of the United States with respect to Hong Kong, and for other purposes.".

Mr. SIMON. Mr. President, I am pleased that the Senate is passing the McConnell-Simon United States-Hong Kong Policy Act of 1992, as amended by the House. I am proud to say that our bill puts Congress on record supporting the aspirations of the people of Hong Kong for the exercise of their political and civil rights. I am particularly pleased that our bill has found such broad bipartisan support.

In this day of crumbling dictatorships around the world, we must not forget that China, the world's most populous totalitarian state, continues to suppress the groundswell for democracy in the tiny colony of Hong Kong. The bill we are adopting today reflects the American peoples's displeasure with Beijing's intentions to abide by neither the letter nor the spirit of the 1984 Sino-British Joint Declaration.

China's attitude with respect to the expressed will of the people of Hong Kong is lamentable. The United States has an undeniable interest in promoting a democratic and thriving Hong Kong. We must not forget, however, that our expressed concern for the welfare of Hong Kong reflects an even greater obligation we have to the Chinese people. They look to us to stand up to the Communist regime in Beijing. They look to us to support the political system. I am confident that we will continue to stand with the people of Hong Kong in the years ahead.

Mr. FORD. I move that the Senate concur in the amendments of the House.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING REPRESENTATION OF A MEMBER OF THE SENATE

Mr. FORD. Mr. President, on behalf of Mr. MITCHELL and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 342) to authorize representation of a Member of the Senate in the case of Flowers v. Danforth, et al.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, the plaintiff in a civil action brought against Senator JOHN DANFORTH has appealed the order of the U.S. District Court for the District of Columbia dismissing here complaint as frivolous.

The district court dismissed the complaint on "find[ing] it, where legible, to be unintelligible and therefore patently frivolous." This resolution would authorize the Senate Legal Counsel to represent Senator DANFORTH in this case and to seek affirmance of the district court order dismissing the complaint.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 342) was agreed to.

The preamble was agreed to.

The resolution, with its preamble read as follows:

S. RES. 342

Whereas, in the case of Flowers v. Danforth et al., No. 92-5313, pending in the United States Court of Appeals for the District of Columbia Circuit, the appellant is seeking reversal of a district court order dismissing as frivolous her complaint against Senator JOHN C. DANFORTH;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator John C. Danforth in the case of Flowers v. Danforth, et al.

Mr. FORD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DIRECTING SENATE LEGAL COUNSEL TO TAKE CERTAIN ACTIONS

Mr. FORD. Mr. President, on behalf of Senator MITCHELL and the distinguished Republican leader, Mr. DOLE, I send a resolution to the desk directing the Senate legal counsel to appear as amicus curiae in the name of the Senate in two cases pending in U.S. Court of Appeals for the Ninth Circuit and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 343) to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in United States ex rel. Jason Madden, et al. v. General Dynamics Corporation and United States ex rel. Kevin G. Kelly v. The Boeing Company.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, by Senate Resolutions 104, 117, 160, and 289 of the 101st Congress and Senate Resolution 287 of the 102d Congress, the Senate authorized the Senate Legal Counsel to file briefs as amicus curiae in actions pending in the U.S. district courts in order to defend the constitutionality of the qui tam provisions of the False Claims Act. These provisions authorize private persons to bring civil actions to redress fraud against the Government and, to encourage such actions, entitle these private litigants to a share of the penalties and damages that are recovered on the Government's behalf.

Defendants in cases brought under the False Claims Act have argued that the act is unconstitutional in two respects. First, it is argued that authorizing private individuals to conduct litigation on behalf of the United States violates the separation of powers doctrine by infringing upon the executive branch's law enforcement responsibilities. Second, it is argued that the act violates article III of the Constitution by authorizing suits by individuals who lack any personal injury. Every district court that has considered the question has upheld the constitutionality of the act.

The ninth circuit has now granted, in two cases in which district courts upheld the constitutionality of the qui tam provisions, permission for the defendants to appeal. As in prior cases in which the constitutionality of the qui tam provisions has been challenged, the Department of Justice has not appeared in either of these cases to defend the act.

This resolution authorizes the Senate Legal Counsel to appear in these cases as amicus curiae on behalf of the Senate to continue to defend the constitutionality of the qui tam provisions of the False Claims Act.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 343) was agreed.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 343

Whereas, in the case of United States ex rel. Jason Madden, et al. v. General Dynamics Corporation, No. 92-56042, and the case of United States ex rel. Kevin G. Kelly v. The Boeing Company, No. 92-36660, pending in the United States Court of Appeals for the Ninth Circuit, the constitutionality of the qui tam provisions of the False Claims Act, as amended by the False Claims Amendments Act of 1986, Pub. L. No. 99-562, 100 Stat. 3153 (1986), 31 U.S.C. 3729, et seq. (1988), has been placed in issue;

Whereas, pursuant to sections 703(c), 706(a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(c), 288e(a), and 288l(a) (1988), the Senate may direct its counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to appear as amicus curiae on behalf of the Senate in the case of United States ex rel. Jason Madden, et al. v. General Dynamics Corporation, No. 92-56042, and the case of United States ex rel. Kevin G. Kelly v. The Boeing Company, No. 92-36660, to defend the constitutionality of the qui tam provisions of the False Claims Act.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 98-399, as amended, appoints the Senator from Kansas [Mr. DOLE] and the Senator from Missouri [Mr. DANFORTH] to the Martin Luther King, Jr., Federal Holiday Commission.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

A message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 337. Joint resolution designating September 18, 1992, as "National POW/MIA Recognition Day," and authorizing display of the National League of Families POW/MIA flag.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 12) to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5739) to reauthorize the Export-Import Bank of the United States; it asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints the following Members as managers of the conference on the part of the House:

From the Committee on Banking, Finance and Urban Affairs, for consideration of the House bill, and the Senate amendment, and modifications committed to conference: Ms. OAKAR, Mr. NEAL of North Carolina, Mr. LAFALCE, Mr. TORRES, Mr. KLECZKA, Mr. WYLIE, Mr. LEACH, and Mr. BEREUTER.

As additional conferees from the Committee on Foreign Affairs, for consideration of sections 106, 108, and 206 of the House bill, and title II and section 109(a)(7) of the Senate amendment, and modifications committed to conference: Mr. FASCELL, Mr. GEJDENSON, Mr. LEVINE of California, Mr. FEIGHAN, Mr. JOHNSTON of Florida, Mr. BROOMFIELD, Mr. ROTH, and Mr. MILLER of Washington.

As additional conferees from the Committee on Foreign Affairs, for consideration of section 301 of the Senate amendment, and modifications committed to conference: Mr. FASCELL, Mr. GEJDENSON, and Mr. BROOMFIELD.

As additional conferees from the Committee on Rules, for consideration of section 301 of the Senate amendment, and modifications committed to conference: Mr. MOAKLEY, Mr. DERRICK, and Mr. DREIER of California.

The message also announced that the House has passed the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 5925. An act to amend title VII of the Civil Rights Act of 1964 to establish a revolving fund for use by the Equal Employment Opportunity Commission to provide education, technical assistance, and training relating to the laws administered by the Commission;

H.J. Res. 325. Joint resolution designating the week beginning September 20, 1992, as "Religious Freedom Week;"

H.J. Res. 353. Joint resolution designating the week beginning January 3, 1993, as "Braille Literacy Week;"

H.J. Res. 467. Joint resolution designating October 24, 1992, through November 1, 1992, as "National Red Ribbon Week for a Drug-Free America;" and

H.J. Res. 520. Joint resolution to designate the month of October 1992 as "Country Music Month."

MEASURES REFERRED

The following bill and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 5925. An act to amend title VII of the Civil Rights Act of 1964 to establish a revolving fund for use by the Equal Employment Opportunity Commission to provide education, technical assistance, and training relating to the laws administered by the Commission; to the Committee on Labor and Human Resources.

H.J. Res. 325. Joint resolution designating the week beginning September 20, 1992, as "Religious Freedom Week;" to the Committee on the Judiciary.

H.J. Res. 353. Joint resolution designating the week beginning January 3, 1993, as "Braille Literacy Week;" to the Committee on the Judiciary.

H.J. Res. 467. Joint resolution designating October 24, 1992, through November 1, 1992, as "National Red Ribbon Week for a Drug Free America;" to the Committee on the Judiciary.

H.J. Res. 520. Joint resolution to designate the month of October 1992 as "Country Music Month;" to the Committee on the Judiciary.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3883. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals; pursuant to the order of January 30, 1975, as modified on April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition and Forestry, the Committee on Armed Services, the Committee on Banking, Housing and Urban Affairs, the Committee on Commerce, Science and Transportation, the Committee on Environment and Public Works, the Committee on Energy and Natural Resources, the Committee on Foreign Relations, and the Committee on Labor and Human Resources.

EC-3884. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, notice that the Navy intends to offer a certain vessel for transfer to the government of Argentina; to the Committee on Armed Services.

EC-3885. A communication from the Acting Secretary of the Navy, transmitting, pursuant to law, notice of the suspension of the contractor certification requirement with respect to a certain transaction; to the Committee on Armed Services.

EC-3886. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on the United States expenditures in support of NATO; to the Committee on Armed Services.

EC-3887. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, for the information of the Senate notice of the concerns of the Government of Mexico relative to the disposal of minerals and other materials from the National Defense Stockpile; to the Committee on Armed Services.

EC-3888. A communication from the Secretary of Defense, transmitting, pursuant to law, a report entitled "Allied Contributions to the Common Defense"; to the Committee on Armed Services.

EC-3889. A communication from the Secretary of Defense, transmitting, a draft of proposed legislation to strengthen the Junior Reserve Officers' Training Corps; to the Committee on Armed Services.

EC-3890. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC-3891. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on direct spending or receipts legislation; to the Committee on the Budget.

EC-3892. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on plans and improvements in the National Technical Information Service; to the Committee on Commerce, Science, and Transportation.

EC-3893. A communication from the Secretary of Commerce, transmitting, pursuant to law, the annual report on apportionments of membership on regional Fishery Management Councils in 1991 and 1992; to the Committee on Commerce, Science, and Transportation.

EC-3894. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on a project negotiated under the Clean Coal Technology Demonstration Program; to the Committee on Energy and Natural Resources.

EC-3895. A communication from the Secretary of Energy, transmitting, pursuant to law, a report on a project negotiated under the Clean Coal Technology Demonstration Program; to the Committee on Energy and Natural Resources.

EC-3896. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3897. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3898. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3899. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3900. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3901. A communication from the Secretary of Energy, transmitting, pursuant to law, the strategic petroleum reserve quarterly report for the quarter ending June 30, 1992; to the Committee on Energy and Natural Resources.

EC-3902. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report to Congress on the national estuary program after four years; to the Committee on Environment and Public Works.

EC-3903. A communication from the Secretary of the Interior and the Secretary of Commerce, transmitting, pursuant to law, a report on the emergency striped bass research study for the year 1991; to the Committee on Environment and Public Works.

EC-3904. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the Medicaid drug rebate program; to the Committee on Finance.

EC-3905. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on the investigations regarding the activities of certain individuals; to the Committee on Foreign Relations.

EC-3906. A communication from Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report on the provision of certain military assistance to Mexico; to the Committee on Foreign Relations.

EC-3907. A communication from the Assistant Attorney General (Legislative Affairs), transmitting, pursuant to law, a report entitled "Searching for Answers—Annual Evaluation Report on Drugs and Crime: 1991"; to the Committee on the Judiciary.

EC-3908. A communication from the Assistant Attorney General (Legislative Affairs), transmitting, pursuant to law, the annual report on juvenile justice for the year 1991; to the Committee on the Judiciary.

EC-3909. A communication from the Commissioner, Office of Educational Research and Improvement, National Center for Education Statistics, Department of Education, transmitting, pursuant to law, a report entitled "Dropout Rates in the United States: 1991"; to the Committee on Labor and Human Resources.

EC-3910. A communication from the Chairman of the Advisory Panel on Alzheimer's Disease, the Burke Rehabilitation Center, a report entitled "Third Report of the Advisory Panel on Alzheimer's Disease: 1991"; to the Committee on Labor and Human Resources.

EC-3911. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Health, United States, 1991 and Prevention Profile"; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INOUYE, from the Committee on Appropriations, with amendments:

H.R. 5504. A bill making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes (Rept. No. 102-408).

By Mr. CRANSTON, from the Committee on Veterans Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2973. A bill to amend title 38, United States Code, to improve the care and services furnished to women veterans who have experienced sexual trauma, to study the needs of such veterans, to expand and improve other Department of Veterans Affairs programs that provide such care and services, and for other purposes (Rept. No. 102-409).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

H.R. 238. A bill for the relief of Craig A. Klein.

H.R. 712. A bill for the relief of Patricia A. McNamara.

H.R. 5399. A bill to amend the United States Commission on Civil Rights Act of 1983 to provide an authorization of appropriations.

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1002. A bill to impose a criminal penalty for flight to avoid payment of arrearages in child support.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Dennis G. Jacobs, of New York, to be U.S. circuit judge for the Second Circuit;

Anita A. Brody, of Pennsylvania, to be U.S. district judge for the Eastern District of Pennsylvania;

C. Leroy Hansen, of New Mexico, to be U.S. district judge for the District of New Mexico;

Nathaniel M. Gorton, of Massachusetts, to be U.S. district judge for the District of Massachusetts; and

John Phil Gilbert, of Illinois, to be U.S. district judge for the Southern District of Illinois.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DECONCINI (for himself and Ms. MIKULSKI):

S. 3239. A bill to prevent and deter auto theft; to the Committee on the Judiciary.

By Mr. BINGAMAN:

S. 3240. A bill relating to critical technologies in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. BRADLEY, Mr. DODD, Mr. KOHL, Mr. LIEBERMAN, Mr. SEYMOUR, Mr. HATCH, Mr. KENNEDY, Mr. INOUYE, Mr. JOHNSTON, Mr. SANFORD, Mr. WOFFORD, Mr. MITCHELL, Mr. SHELBY, and Mr. LAUTENBERG):

S. 3241. A bill to award a congressional gold medal to John Birks "Dizzy" Gillespie; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GARN:

S. 3242. A bill to relieve the regulatory burden on depository institutions and credit unions that are doing business or that seek to do business in an emergency or major disaster area and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. ROCKEFELLER (for himself, Mr. BOND, Mr. DODD, Mr. DECONCINI, Mr. AKAKA, Mr. SPECTER, Mr. KENNEDY, and Mr. PELL):

S. 3243. A bill to grant employees family and temporary medical leave, to treat the costs of the Head Start program and other programs for children as emergency funding requirements, to provide aid to parents in providing the best possible learning environment for children, to promote investments in child welfare and family preservation, to reduce violence and improve the safety of children and their families, and for other purposes; to the Committee on Finance.

By Mr. SANFORD:

S. 3244. A bill to clarify the law enforcement authority of law enforcement officers of the United States Fish and Wildlife Service, and for other purposes; to the Committee on Environment and Public Works.

By Mr. KOHL:

S. 3245. A bill to amend the Harmonized Tariff Schedule of the United States to correct the rate of duty on certain agglomerated cork products; to the Committee on Finance.

By Mr. SEYMOUR:

S. 3246. A bill to amend titles II and XVI of the Social Security Act to strengthen the criteria for the selection of representative payees and the procedures for monitoring the performance of representative payees; to the Committee on Finance.

S. 3247. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes; to the Committee on Finance.

By Mr. CHAFEE (for Mr. GORE (for himself, Mr. CHAFEE, Mr. SEYMOUR, Mr. PELL, Mr. JEFFORDS, Mr. PACKWOOD, Mr. KASTEN, Mr. HATFIELD, Mrs. KASSEBAUM, Mr. SANFORD, Mr. KERRY, Mr. METZENBAUM, Mr. ADAMS, Mr. GLENN, Mr. DODD, Mr. CONRAD, Mr. BRADLEY, Ms. MIKULSKI, Mr. WOFFORD, Mr. LEVIN, Mr. CRANSTON, Mr. LEAHY, Mr. NUNN, Mr. MOYNIHAN, Mr. LIEBERMAN, Mr. SARBANES, Mr. SIMON, Mr. SASSER, Mr. RIEGLE, Mr. INOUYE, Mr. KENNEDY, Mr. AKAKA, Mr. BUMPERS, Mr. BURNS, Mr. COCHRAN, Mr. COHEN, Mr. CRAIG, Mr. DURENBERGER, and Mr. GRASSLEY)):

S.J. Res. 338. A joint resolution designating the week beginning October 24, 1992 as "World Population Awareness Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD (for Mr. MITCHELL (for himself and Mr. DOLE)):

S. Res. 342. Resolution to authorize representation of a Member of the Senate in the case of Flowers v. Danforth, et al; considered and agreed to.

S. Res. 343. Resolution to direct the Senate Legal Counsel to appear as amicus curiae in the name of the Senate in United States ex rel. Jason Madden, et al. v. General Dynamics Corporation and United States ex rel. Kevin G. Kelly v. The Boeing Company; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DECONCINI:

S. 3239. A bill to prevent and deter auto theft; to the Committee on the Judiciary.

FEDERAL PENALTIES FOR ROBBERIES OF MOTOR VEHICLES

Mr. DECONCINI. Mr. President, I rise today to introduce a bill addressing a horrible crime that is becoming a monumental concern in many of our major cities. I am referring to the crime popularly known as carjacking. Almost daily around the country, there are now terrifying incidents of car theft where a car is stolen while the driver is behind the wheel.

The seriousness of this form of robbery goes far beyond the fact that a valuable piece of property is taken. The horror of the situation is that the incident is almost six times more likely to result in a murder than other forms of robbery. In addition, it can happen almost anywhere, whether it be in a parking lot or at a stop sign, in the city, or in the suburbs. And unlike other forms of robbery, there is no easy precaution or prudent steps that a driver can take to avoid it.

Before this heinous crime becomes even more widespread, we need to take steps and employ any law enforcement personnel at our disposal to halt its occurrence and penalize those who attempt it.

The bill I introduce today would amend chapter 103 of title 18 of the United States Code to include the crime of carjacking as a new Federal offense. The bill also stipulates maximum sentences for convicted carjackers, whether they are armed or unarmed. I commend and thank Congressman SCHUMER of New York for introducing certain provisions of this bill in his comprehensive proposal the Anti-Car Theft Act of 1992.

But in the interest of providing some immediate assistance to State and local law enforcement, the bill I propose today would allow us to devote Federal law enforcement, specifically the FBI, to combat this crime with the advanced methods at their disposal. This bill also differs from recent proposals in that the crime does not need to involve a firearm and the criminal does not have to be successful in order to be prosecuted.

For example, as evident by the tragic events which occurred recently in Maryland, carjackers need not be armed or even possess a weapon in order to kill and maim—a seatbelt suffices. In that incident, Pamela Basu en route to her daughter's day care center was battered to death when dragged by her seatbelt for over 2 miles from the moving car. Her 2-year-old daughter, still strapped in the back seat, was then tossed out of the window.

Mr. President, we need to extend our efforts to help State and local law enforcement and put an end to these atrocities.

I ask unanimous consent that this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3239

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 101. FEDERAL PENALTIES FOR ARMED ROBBERIES OF MOTOR VEHICLES.

(a) IN GENERAL.—Chapter 103 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 2119. Motor vehicles

"(a) TAKING BY FORCE OR VIOLENCE.—A person who, by force or violence against the person or property of another person, takes or attempts to take a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce from a person or in the presence of another person, shall be fined under this title, imprisoned not more than 15 years, or both.

(b) ASSAULT OR PUTTING LIFE IN JEOPARDY.—A person who, in committing or attempting to commit an offense under subsection (a), assaults another person or puts in jeopardy the life of another person by the use of a dangerous weapon or device, shall be fined under this title, imprisoned not more than 20 years, or both.".

(b) TECHNICAL AMENDMENT.—The chapter analysis for chapter 103 of title 18, United States Code, is amended by adding at the end the following new item.

"2119. Motor vehicles.".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to pay the expenses of the Federal Bureau of Investigation in the detection, investigation, and prosecution of persons who violate section 2119 of title 18, United States Code, as added by subsection (a).

(2) COOPERATIVE ACTIVITIES.—Ten percent of the amounts appropriated under paragraph (1) may be made available to make payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies engaged in cooperative activities in the enforcement of section 2119 of title 18, United States Code, as added by subsection (a).

• Ms. MIKULSKI. Mr. President, I rise today to try and slow down the horrifying increase in carjackings in this country.

I would like to voice my support as an original cosponsor of the bill introduced by the Senator from Arizona. The crime this bill addresses is far more repugnant and far more lethal than simple car theft.

Last week the quiet community of Savage, MD, witnessed a crime so horrible that the mind can barely comprehend it. There is nowhere in the emotional makeup or the mental makeup of any normal person that you can find to put the story of this crime. There is simply no room for it in human experience.

I am referring to the deliberate murder of Dr. Pamela Basu who was dragged to her death when two men stole her car and kidnaped her baby daughter. They killed her for a car.

I wish that we could say that what happened to Dr. Basu was a rare occurence—some sort of freak perpetrated by psychopaths. But that is not true.

Baltimore County reports 29 incidents of armed car thefts in 1991, Prince Georges County tallies 47 for 1992, and Baltimore City 50 this year. In New York figures show that there were more than 2,000 armed attacks in 1991.

In the period of 1 week in September of this year a man had his car stolen from him by an armed thief on Route 50. Two young men assaulted a woman and took her car in Washington, DC, and a Columbia man had his jeep taken by armed attackers in the parking lot of a movie theater. Enough is enough.

It is time to make carjackers pay a price. This bill does that.

It will make carjacking a new Federal offense—carrying a possible prison sentence of up to 20 years for armed carjacking and 15 years for nonarmed carjacking. In addition, there is an authorization in this bill for the Federal Bureau of Investigation to investigate and prosecute these crimes.

Mr. President, I know that we cannot stop wanton violence. And there is no way to redress the horror that has stalked Dr. Basu and her family. There is no way to compensate the hundreds of carjacking victims in this country.

But we must start now to meet the problem. It is not enough to tell people to keep their doors locked and their windows up. Our goal must be to keep people from becoming prisoners in their own cars.

To keep that mother from being afraid to drive her children to soccer practice. To keep dads from being afraid to stop at a stop sign or to run out after dark to get milk for the next morning. And I hope that we will be able to help lighten some of the anxiety of parents who know that their teenage and college age children are on the roads alone in their cars. What an awful situation that we have to live with this kind of dread.

Let's move now to slow down the spread of carjacking. Let's give those who would do it a reason to think twice.•

By Mr. BINGAMAN:

S. 3240. A bill relating to critical technologies in the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

INDUSTRY PROGRAMS FOR CRITICAL TECHNOLOGIES ACT

• Mr. BINGAMAN. Mr. President, today I am introducing the Industry Programs for Critical Technologies Act of 1992 to improve Government decision making with respect to critical technologies and advance the state of those technologies.

It is widely recognized that certain technologies are vital to broad economic and industrial competitiveness. Such technologies have widespread beneficial effects on a number of economic sectors and enable those sectors to significantly improve productivity, output, quality, and cost competitiveness. Other critical technologies revolutionize goods or services.

However, our economy has not nurtured those technologies or provided an environment in which creation, development, and commercialization of those technologies were encouraged. This country's strength has been in the discovery and origination of important new technologies. But all to often the commercialization and production of these technologies has been undertaken overseas rather than here at home. The list of such technologies and products is familiar: Television, VCR's, liquid crystal displays, et cetera. The latest occurrence of United States-originated, foreign-applied technology is the magneto-hydrodynamic propulsion system which powers the new Japanese vessel *Yamato*.

This bill is another discrete element among numerous Government programs which together will provide an environment which encourages not only invention and discovery in the United States, but commercialization and production here as well.

INDUSTRY PROGRAMS FOR CRITICAL TECHNOLOGIES ACT OF 1992

This bill has two main purposes: First, it would increase the flow of information and policy advice regarding critical technologies from industry to the Government and second, it would enable industry to leverage their own resources to undertake programs to rapidly advance critical technologies. Critical technologies would be those identified by the National Critical Technologies Panel in its biennial report.

Qualified organizations, primarily industry associations and professional societies, would be permitted to sign 5-year agreements with the Commerce Department for joint funding of a variety of approved programs in support of critical technologies and the two broad goals stated above. The Government's share of funding would be a maximum of 50 percent for the first year and declining to 10 percent in the fifth and final year of the agreement's term.

Examples of approved programs include: Monitoring, investigating, and analyzing foreign scientific and technical developments regarding a critical technology; monitoring of foreign market opportunities; producing a strategic plan for the development of a critical technology; development of programs to disseminate information and policy advice to the Government on a critical technology; development of education and training programs for members of the organization to speed assimilation of critical technology developments in the United States; and aiding the establishment of critical technology partnerships between organizations and agencies of the Government.

This bill does not impose a Government solution to the problems and obstacles facing development of critical technologies in the United States. Instead, this bill offers incentives for parties interested in the advancement of critical technologies to do what they might not otherwise have the funding or initiative to undertake completely on their own.

Approved programs would address some of the problems which a number of studies have identified as necessary for the advancement and commercialization of critical technologies: Education and training, monitoring foreign market opportunities, monitoring foreign technical developments, Government-industry partnerships. In addition, the bill will encourage the flow of information and policy advice from the parties most intimately involved in the development of critical technologies and most directly affected by Government policies in these areas.

I encourage my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3240

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Industry Programs for Critical Technologies Act".

SEC. 2. FINDINGS.

The Congress finds that:

(1) National critical technologies are important to the long-term economic vitality of the United States.

(2) There is insufficient information available to the Federal Government regarding the status of critical technologies and a lack of systematic review of policy issues concerning critical technologies.

(3) Lack of information and review prevents the United States Government from making informed policy decisions in support of such critical technologies.

(4) Lack of information and review inhibits industry from utilizing critical technologies to their full potential or commercializing them as quickly as might otherwise be possible.

(5) The United States Government, by sharing costs with industry associations and other interested groups, can significantly improve the ability of those groups to provide information for policymaking and advance the state of critical technologies in the United States.

SEC. 3. PURPOSES.

The purposes of this Act are to encourage the establishment or enhancement of self-perpetuating programs to increase the ability of United States industry—

(1) to provide information, analyses, projections, and policy recommendations to the Federal Government regarding critical technologies, and

(2) to rapidly advance critical technologies and commercialize them.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "qualified organizations" means any nonprofit United States group, entity, or organization, including industry associations, professional societies, other similar organizations, or groups of such organizations, determined by the Assistant Secretary to be committed to the advancement, application, or commercialization in the United States of one or more critical technologies.

(2) The term "Assistant Secretary" means the Assistant Secretary of Commerce for Trade Development.

(3) The term "critical technologies" means those technologies identified by the National Critical Technologies Panel pursuant to section 601 of the National Science and Technology Policy, Organization, and Priorities Act of 1976.

(4) The term "approved programs" means any program—

(A) to monitor, investigate, and analyze foreign scientific and technical developments with respect to one or more critical technologies;

(B) to monitor, investigate, and analyze foreign market opportunities with respect to one or more critical technologies;

(C) to produce a strategic plan for the development of one or more critical technologies in the United States;

(D) to develop a program to disseminate information regarding one or more critical technologies to members of the organization, Federal Government agencies, and other interested parties in the United States;

(E) to develop education and training programs for members of the organization to speed assimilation of critical technology developments in the United States, including manufacturing process developments;

(F) to facilitate the establishment of critical technology partnerships between (i) the organization or members of the organization, and (ii) Federal agencies and laboratories under any existing authority;

(G) to provide, on a regular basis, information, analyses, projections, and policy recommendations on the status of a critical technology to the Federal Government for use in its formulation of policy; or

(H) to promote, facilitate, fund, or encourage any other program intended to further the advancement of critical technologies.

(5) The term "Government contribution" means those funds which the United States agrees to disburse to organizations which have concluded agreements with the Assistant Secretary for the advancement of one or more critical technologies.

(6) The term "agreement" means a commitment between an organization (or group of organizations) and the Assistant Secretary to establish or enhance approved programs for one or more critical technologies.

SEC. 5. AGREEMENT; GOVERNMENT CONTRIBUTION.

An agreement pursuant to this Act may provide for Government contributions for a maximum of 5 consecutive fiscal years. Any such Government contribution under this Act shall be disbursed at the beginning of each of the fiscal years of the term of the agreement and shall not exceed the following percentages of the program's total costs:

(1) 50 percent of the costs of the program in the first year;

(2) 40 percent of the costs of the program in the second year;

(3) 30 percent of the costs of the program in the third year;

(4) 20 percent of the costs of the program in the fourth year;

(5) 10 percent of the costs of the program in the fifth year;

SEC. 6. INDUSTRY PROGRAMS FOR CRITICAL TECHNOLOGIES COMMITTEE.

The Secretary of Commerce is authorized to establish an "Industry Programs for Critical Technologies Committee" (hereinafter referred to as the "Committee"), which shall evaluate proposed agreements and make recommendations to the Assistant Secretary. The Committee shall consist of the Assistant Secretary, and such other members as are appointed by the Secretary from recommendations made by the Director of the National Institute of Standards and Technology, the Director of the Defense Advanced Research Projects Agency, and the Director of the National Science Foundation. The Assistant Secretary shall chair the Committee.

SEC. 7. INDUSTRY PROGRAMS FOR CRITICAL TECHNOLOGIES.

The Assistant Secretary, after review of an application by a qualified organization and after consulting with the Committee, is authorized to sign agreements with such organizations to provide a Government contribution for approved programs related to one or more critical technologies.

SEC. 8. APPROVAL CRITERIA.

Agreements under this Act shall be considered, evaluated, and approved on the basis of the following criteria:

(1) Probable success of the agreement in achieving the goals of providing information to the Federal Government and advancing the state of critical technologies.

(2) Long-range contribution to the advancement in the United States of critical technologies and their commercialization in the United States.

(3) The extent to which the proposed programs are not currently being conducted or are inadequate.

(4) The extent to which the membership of the organization or organizations represent the range of interests of those participating in the critical technology or technologies.

SEC. 9. AUTHORIZATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.•

By Mr. HOLLINGS (for himself, Mr. THURMOND, Mr. BRADLEY, Mr. DODD, Mr. KOHL, Mr. LIEBERMAN, Mr. SEYMOUR, Mr. HATCH, Mr. KENNEDY, Mr. INOUYE, Mr. JOHNSTON, Mr. SANFORD, Mr. WOFFORD, Mr. MITCHELL, Mr. SHELBY, and Mr. LAUTENBERG):

S. 3241. A bill to award a congressional gold medal to John Birks "Dizzy" Gillespie; to the Committee on Banking, Housing and Urban Affairs.

CONGRESSIONAL GOLD MEDAL TO DIZZY GILLESPIE

• Mr. HOLLINGS. Mr. President, I rise today to introduce legislation, along with 15 of my colleagues, to recognize John Birks "Dizzy" Gillespie, one of the immortal legends of jazz, with the Congressional Gold Medal.

John Birks "Dizzy" Gillespie was born in Cheraw, SC, on October 21, 1917, the same year that the first jazz record was recorded, and has since captured the ears and hearts of people all over the world. Now, as Dizzy prepares to celebrate his 75th birthday, it is appropriate that we recognize his outstanding contribution to American music by honoring him with the Congressional Gold Medal.

No longer kiddingly known as that dizzy trumpet player from down South, Dizzy Gillespie has clearly exhibited his astounding versatility as a performer, innovator, and ambassador of jazz.

Along with the late Charlie "Bird" Parker, Dizzy spearheaded the musical drive toward a style known as bebop—a fresh harmonic and rhythmic vocabulary that transformed jazz. In addition, he has been widely heralded for his successful experimentation in fusing traditional jazz with Afro-Cuban music.

But beyond his undeniable talent and proficiency, Dizzy Gillespie must also be praised for the countless hours that he has spent sharing his craft with the peoples of the world. In 1956, Dizzy was the first jazz musician to be appointed by the Department of State to tour on behalf of the United States of America. Since that time, this cultural statesman has continued to crisscross the globe performing the music that so many have come to love.

The tradition of awarding the Congressional Gold Medal dates back to 1776 and allows Congress to honor individuals for their contributions in the field of arts, athletics, aviation, diplomacy, exploration, politics, medicine, science, and entertainment. Since composer George M. Cohan was honored with this award in 1936, 14 other Americans from the world of entertainment have been recognized in this way including Irving Berlin, George and Ira Gershwin, and Aaron Copland.

In his autobiography "To Be or Not to Bop," p. 502, Dizzy Gillespie confides that "* * * I would like to be remembered as a humanitarian, * * * maybe my role in music is just a stepping stone to a higher role. The highest role is the role in service to humanity, and if I can make that, then I'll be happy." As millions in America and around the world can attest, he has, indeed made it.

I urge my colleagues to join with me in recognizing the lifelong achievements of Dizzy Gillespie and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3241

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that:

(1) John Birks "Dizzy" Gillespie is one of the most recognized and beloved artists in the world today, admired not only for his unique musicianship, but for his ability to reach people on a distinctly personal level;

(2) as a musician, pioneer, innovator, composer, arranger, bandleader, raconteur, entertainer, and cultural ambassador, Mr. Gillespie has distinguished himself as one of the immortal figures in the history of jazz, "a national American treasure";

(3) Mr. Gillespie has received the Kennedy Center Honors, the most prestigious public recognition of an artist's lifetime contributions in the performing arts in the United States, the Smithsonian Medal from the Smithsonian Institution, and the American Society of Composers, Authors and Publishers' "Duke" award for his lifetime achievements as a musician, composer, and bandleader;

(4) Mr. Gillespie has received many additional honors, including the National Medal of Arts, presented by President Bush, a Grammy Lifetime Achievement Award from the National Academy of Recording Arts and Sciences, and the Commandant D'Ordre des Arts et Lettres, the highest honor in the arts in France, presented by the French Minister of Culture, Jack Lang, and has also been crowned a traditional African chief, with the title "Bashere of Iperu", in Nigeria;

(5) Mr. Gillespie has performed before royalty and countless world leaders, including 4 American Presidents;

(6) at the personal invitation of President Sam Nujoma, Mr. Gillespie performed at the State Independence Banquet of Namibia, before the leaders of many countries of the world, kings, presidents, prime ministers, the Secretary-General of the United Nations, Nelson Mandela, and a host of other dignitaries;

(7) Mr. Gillespie is acclaimed as a visionary risk taker, whose daring integration of ethnic influences added a vibrant and indelible dimension to jazz, and to music in all of its popular forms;

(8) Mr. Gillespie and the late Charlie "Bird" Parker pioneered "be-bop", a new and fresh harmonic and rhythmic vocabulary that created a musical revolution which transformed jazz and dramatically influenced 20th century musical culture;

(9) Mr. Gillespie is universally credited as the catalyst who incorporated Afro-Cuban, Brazilian, and Caribbean music and rhythms into the jazz idiom;

(10) Mr. Gillespie's third great big band, the United Nation Orchestra, which exemplifies the essence of Mr. Gillespie's universal musical philosophy, has enthralled audiences in 20 countries on the continents of North America, South America, Europe, and Australia since the band's inception in 1988;

(11) In 1956, Mr. Gillespie was the first jazz artist appointed by the Department of State as Cultural Ambassador to tour on behalf of the United States, and his resoundingly successful tours through the Near East, Asia, Eastern Europe, and Latin America were early landmarks in a lifetime of cultural statesmanship by the inimitable jazz master on behalf of his country; and

(12) in January 1989, Mr. Gillespie was asked to represent the United States and embarked on a ground breaking, month-long tour in Africa, sponsored by the United States Information Agency Arts America Program.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to John Birks "Dizzy" Gillespie, a gold medal of appropriate design, in recognition of over half a century of musical genius.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be selected by the Secretary.

(c) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated an amount not to exceed $25,000 to carry out this section.

SEC. 3. DUPLICATE MEDALS.

(a) STRIKING AND SALE.—The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost of such duplicates and the gold medal, including labor, materials, dies, used of machinery, and overhead expenses.

(b) REIMBURSEMENT OF APPROPRIATION.—The appropriation used to carry out section 2 shall be reimbursed out of the proceeds of sales under subsection (a).

SEC. 4. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.•

By Mr. GARN:

S. 3242. A bill to relieve the regulatory burden on depository institutions and credit unions that are doing business or that seek to do business in an emergency or major disaster area, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EMERGENCY EXEMPTIONS FROM REGULATIONS FOR DEPOSITORY INSTITUTIONS

• Mr. GARN. Mr. President, providing immediate emergency care for the victims of Hurricanes Andrew and Iniki had to be our Nation's first priority. An immense effort has been undertaken to provide food, shelter, medical care, and other essentials of life to the victims in Florida, Louisiana, and Hawaii.

Now is the time to begin rebuilding. Having served almost 18 years on the Banking Committee, I know first-hand just how important credit is to this task of rebuilding.

Treasury Secretary Nicholas Brady has seized the initiative to help the financial institutions in the areas hit hard by the hurricanes to provide the credit essential to rebuilding.

Secretary Brady has sent Congress legislation that will give the bank, thrift, and credit union regulators emergency authority to modify or waive regulatory constraints that obstruct the flow of critical banking and credit services to emergency or major disaster areas.

Lest anyone fear that this authority could threaten the safety and soundness of depository institutions, the legislation specifically requires an individual regulatory agency to consult with the other financial regulators as to the implications for safety and soundness before acting under the provisions of the bill.

An example of the type of appropriate regulatory relief that could be provided under the Treasury proposal is the following. Current law generally requires a standardized appraisal be made before a depository institution can extend a loan secured by real estate. Such appraisals using traditional procedures are virtually impossible, and probably meaningless, for reconstruction loans in neighborhoods devastated by natural disasters like Andrew and Iniki.

Mr. President, this legislation is the appropriate and needed next step in our Federal response to the hurricanes that have recently done unprecedented damage to three of our States. The legislation is supported by all of the Federal banking agencies.

I am introducing the legislation today and urging the Senate to follow Secretary Brady's lead and act expeditiously on it.

Mr. President, I ask unanimous consent that a copy of the legislation, a section-by-section analysis, and a statement from the Treasury outlining the numerous steps taken already to ease to the credit needs of the hurricane victims be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 3242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EMERGENCY EXEMPTIONS FROM REGULATIONS FOR DEPOSITORY INSTITUTIONS.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 42. EMERGENCY EXEMPTIONS FROM REGULATORY REQUIREMENTS.

"(a) In General.—Notwithstanding any other provision of law and subject to subsection (b), each appropriate Federal banking agency is authorized, as necessary or appropriate, to waive, modify or otherwise change any of its regulatory requirements applicable to insured depository institutions under its supervision that are doing business or that seek to do business in an emergency or major disaster area.

"(b) Determination Required.—An appropriate Federal banking agency may waive, modify or otherwise change any of its regulatory requirements pursuant to subsection (a) only if:

"(1) it has considered, after consultation with the other Federal banking agencies, whether such action is likely to threaten the safety and soundness of the insured depository institutions;

"(2) such action is limited to the activities or operations that insured depository institutions are doing or seek to do in the emergency or major disaster area; and

"(3) such action is taken with respect to a particular emergency or major disaster area within one year from the date on which the President determines, pursuant to section 301 of the Disaster Relief and Emergency Assistance Act (42 U.S.C. §5141), that an emergency or major disaster exists in such area. The appropriate Federal banking agency may determine the period for which any waiver, modification or change in its regulatory requirements made pursuant to this section may remain in effect.

"(c) Definition.—For purposes of this section, the term 'emergency or major disaster area' means an area in which the President, pursuant to sections 102 and 301 of the Disaster Relief and Emergency Assistance Act (42 U.S.C. §§5122, 5141), has determined that an emergency or major disaster exists.

"(d) Publication Required.—Any action taken by an appropriate Federal banking agency under subsection (a) shall be published in the Federal Register and shall not be subject to the requirements of the Administrative Procedure Act.

"(e) Exception.—This section shall not apply to sections 102 and 202 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. §§4012a and 4106.".

SEC. 2. EMERGENCY EXEMPTIONS FROM REGULATIONS FOR CREDIT UNIONS.

The Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by adding at the end of Title II the following new section:

"SEC. 215. EMERGENCY EXEMPTIONS FROM REGULATORY REQUIREMENTS.

"(a) In General.—Notwithstanding any other provision of law and subject to subsection (b), the National Credit Union Administration is authorized, as necessary or appropriate, to waive, modify or otherwise change any of its regulatory requirements applicable to insured credit unions under its supervision that are doing business or that seek to do business in an emergency or a major disaster area.

"(b) Determination Required.—The National Credit Union Administration may waive, modify or otherwise change any of its regulatory requirements pursuant to subsection (a) only if—

"(1) it has considered whether such action is likely to threaten the safety and soundness of the insured credit unions;

"(2) such action is limited to the activities or operations that insured credit unions are doing or seek to do in the emergency or major disaster area; and

"(3) such action is taken with respect to a particular emergency or major disaster area within one year from the date on which the President determines, pursuant to section 301 of the Disaster Relief and Emergency Assistance Act (42 U.S.C. §5141), that an emergency or major disaster exists in such area. The National Credit Union Administration may determine the period for which any waiver, modification or change in its regulatory requirements made pursuant to this section may remain in effect.

"(c) Definition.—For purposes of this section, the term 'emergency or major disaster area' means an area in which the President, pursuant to sections 102 and 301 of the Disaster Relief and Emergency Assistance Act (42 U.S.C. §§5122, 5141), has determined that an emergency or major disaster exists.

"(d) Publication Required.—Any action taken by the National Credit Union Administration under subsection (a) shall be published in the Federal Register and shall not be subject to the requirements of the Administrative Procedure Act.

"(e) Exception.—This section shall not apply to sections 102 and 202 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. §§4012a and 4106.".

SECTION-BY-SECTION ANALYSIS

SEC. 1. EMERGENCY EXEMPTIONS FROM REGULATIONS FOR DEPOSITORY INSTITUTIONS.

This section generally allows each appropriate Federal banking agency, under certain criteria, to waive, modify or otherwise change any of its regulatory requirements applicable to insured depository institutions under its supervision that are doing business or that seek to do business in an emergency or major disaster area. An appropriate Federal banking agency may take such an action only after it has considered, in consultation with the other Federal banking agencies, whether such action is likely to threaten the safety and soundness of the insured depository institutions. Moreover, any wavier or modification must be limited to the activities or operations that insured depository institutions are doing or seek to do in the emergency or major disaster area, and must be taken with respect to a particular emergency or major disaster area within one year from the date on which the President determines that an emergency or major disaster exists in such area.

SEC. 2. EMERGENCY EXEMPTIONS FROM REGULATIONS FOR CREDIT UNIONS

This section generally allows the National Credit Union Administration, under certain criteria, to waive, modify or otherwise change any of its regulatory requirements applicable to insured credit unions under its supervision that are doing business or that seek to do business in an emergency or major disaster area. The NCUA must consider whether such action is likely to threaten the safety and soundness of the insured credit unions. Moreover, any waiver or modification must be limited to the activities or operations that insured credit unions are doing or seek to do in the emergency or major disaster area, and must be taken with respect to a particular emergency or major disaster area within one year from the date on which the President determines that an emergency or major disaster exists in such area.

[From Treasury News, Department of the Treasury, Sept. 16, 1992]

Treasury Transmits Legislation To Provide Emergency Regulatory Relief Authority to Banking and Thrift Regulators

The Treasury Department today transmitted legislation to Congress to provide emergency waiver authority to banking and thrift regulators (including credit unions). This legislation is a result of Secretary Nicholas F. Brady's meeting with regulators and representatives of the banking community in Florida last Wednesday. The legislation grants regulators the discretion to modify or waive regulatory constraints that obstruct the flow of banking and credit services to major disaster areas—after taking into consideration any effects these actions may have on the safety and soundness of the banking institutions. This legislation has the support of all federal banking agencies.

"The recent disasters of Hurricanes Andrew and Iniki have destroyed homes and businesses and shattered the local economies in Florida, Louisiana, and Hawaii," said Secretary Brady. "Current law does not provide regulators with sufficient flexibility to deal with the impact of national disasters. Our legislation provides the regulators with this critical flexibility to promote the rebuilding efforts while maintaining the safety and soundness of the banking system."

In addition to weighing safety and soundness considerations, the legislation requires that:

Regulatory agencies modify or waive regulatory requirements only to the extent that they restrict activities or operations that would benefit major disaster or emergency areas;

Any such action must be taken within one year from the date on which the President declares an emergency or major disaster;

All such actions must be published in the *Federal Register* to ensure openness and accountability.

Today's legislation was the first formal action taken by the Hurricane Andrew Task Force formed by Treasury last week (see attached list of members.) This follows up a series of actions already taken by the regulators including:

Issuance of the Joint Interagency Statement (OCC, OTS, Federal Reserve and FDIC) on Supervisory Practices Regarding Depository Institutions and Borrowers Affected by Hurricane Andrew which encourages bankers to work with borrowers in communities affected by the recent hurricane. The statement notes that prudent efforts to adjust or alter terms on existing loans in these areas should not be subject to examiner criticism.

The Office of the Comptroller of the Currency (OCC) has waived procedures by banks to establish temporary branch facilities at new locations within communities damaged by Hurricane Andrew and has delayed or postponed examinations of South Miami banks.

The Office of Thrift Supervision (OTS) has written to CEOs of thrifts in the affected areas to urge them specifically to work with borrowers to restructure or increase loans, consider temporarily waiving charges for late payments, take advantage of the Community Investment and the Affordable Housing Programs in their areas and in general reach out to communities and assess credit needs.

The National Credit Union Association (NCUA) postponed regulatory examinations of credit unions in the affected areas; urged affected credit unions to adopt liberal emergency lending policies and keep their loan windows open, instructed affected credit unions they could waive scheduled payments for up to 90 days for their members and could waive or reduce interest charges on emergency loans.

HURRICANE ANDREW TASK FORCE

John Dugan, Assistant Secretary for Domestic Finance, Treasury Department.

Robert Miailovich, Director of Supervision, The Federal Deposit Insurance Corporation (FDIC).

Richard Spillenkothen, Director of Bank Supervision and Regulation, The Federal Reserve.

Kevin Bailey, Executive Assistant to the Senior Deputy Comptroller for Bank Supervision and Operations, Office of Comptroller of the Currency (OCC).

Caryn Gorman, Assistant Director, Major Cases, Office of Thrift Supervision (OTS).

Michael Riley, Director of Examinations and Insurance, National Credit Union Association (NCUA).•

By Mr. ROCKEFELLER (for himself, Mr. BOND, Mr. DODD, Mr. DECONCINI, Mr. AKAKA, Mr. SPECTER, Mr. KENNEDY, and Mr. PELL):

S. 3243. A bill to grant employees family and temporary medical leave, to treat the costs of the Head Start Program and other programs for children as emergency funding requirements, to provide aid to parents in providing the best possible learning environment for children, to promote investments in child welfare and family preservation, to reduce violence and improve the safety of children and their families, and for other purposes; to the Committee on Finance.

FAMILY INVESTMENT ACT OF 1992

• Mr. ROCKEFELLER. Mr. President, I am proud to be introducing a bipartisan package today with Senators KIT BOND and CHRIS DODD, and other distinguished Members of the Senate. We are calling this bill the Family Investment Act. In the House, Congresswoman PAT SCHROEDER and a bipartisan group are introducing a companion bill.

Our Family Investment Act is a package designed to be the benchmark for the 102d Congress and the President. It will determine if we mean what we say about children, or if such words are just rhetoric.

I believe that in the limited time left in this session, we have the opportunity to take concrete action on behalf of children and families. We can—and should—enact the provisions of the Family Investment Act this year.

This bipartisan package is a fundamental way to enhance the well-being of children. All but one of the provisions are well along the way in the legislative pipeline, and if we can muster the political will and gain President Bush's support, the package can be enacted into law immediately and provide real help for children.

As chairman of the National Commission on Children, I was extraordinarily proud of the final report we issued in June 1991. After 2 years of hard work, dozens of hearings, and hundreds of hours of testimony, we hammered out a detailed, bipartisan blueprint for our children's future. The report was titled "Beyond Rhetoric," and it included a detailed series of recommendations which would greatly improve the physical, emotional and economic well-being of millions of children across the country.

This legislation is my effort to take the report's title to heart, and move the Commission's recommendations out of the realm of abstract debate and into the concrete realm of action, legislation, and funding. And it is a challenge to Congress and the White House to move themselves beyond election year rhetoric—to break the gridlock and act in a real, tangible way to help America's children.

I introduce this legislative package in the spirit of the Children's Commission report. During consideration of the final Commission report, appointees from the administration, the House, and the Senate set aside political ideology to find consensus on how to provide support to children and family. It is time for the Congress and the President to take a similar approach, and forge ahead where there is bipartisan consensus.

For example, I beg the President to sign the Family and Medical Leave bill that is on his desk today. It passed the House and Senate with bipartisan support. Seventy-six percent of the American people believe workers deserve time off from work when a child is born or newly adopted, or when a worker must care for a child, spouse, or parent during a serious illness.

Enactment of KIDSNET should happen today. This provision would declare that Head Start, WIC, and child immunizations are national emergencies and deserve full funding. Such an emergency declaration will save money for our Government because each of these programs is cost effective. Every dollar invested in Head Start saves $6. WIC pays for itself within the year by reduced cost in Medicaid. Every dollar invested in child immunization saves $14 in other health care costs.

Parents As Teachers is a successful program to strengthen parental involvement in education, and provide screening for children to enhance early detection and prevention. This program helps teach parents how they can prepare their own children to enter school ready to learn. Parents As Teachers has a proven record in Missouri and it should be expanded throughout our country. The measure is pending in the conference on the Neighborhood Schools Improvement Act.

The family preservation initiative is currently pending as part of the Urban Aid package. When this legislation comes to the floor of the Senate next week, members who really care about children must work to keep these provisions in the bill. The provision are based on Chairman BENTSEN's child welfare bill, and would provide an infusion of new funding to the States for innovative family preservation efforts, coordination of services, and comprehensive substance abuse treatment for pregnant women and caregivers. Such funding is needed to respond to the escalating problems of child abuse and neglect. The programs are paid for in the Senate's Urban Aid package, and this, too, should be signed into law.

The Safe Children and Communities Act is a new proposal. Given the events of this year and the rising concern about violence and its impact on children, I believe it is essential to have a violence prevention provision as part of any benchmark package for children.

Most of this legislation is not new. But it is important. It will work. And in a world of complex solutions and tenuous relationships, there is a refreshing simplicity in much of this legislation.

Allowing parents to stay home with new or sick children will strengthen families at a critical moment. It's not difficult to grasp this truth. You don't have to be a nutritionist to understand that funding WIC—getting milk to pregnant women—will bring healthier babies into the world. Simple common sense tells us that educating children through Head Start helps them enter school ready to learn, immunizing them will keep them healthy, teaching parenting skills makes the difficult task of raising happy, healthy children a little bit easier all around. Coordinating family services, and reorienting those services towards crisis prevention will cut costs and keep families together.

Enacting this legislation is the right thing to do on behalf of children and families, and it is also a smart investment for our Nation's future. Investing in our children will reap long-term benefits in the years to come.

We have a lot of work to do in the final weeks of this session, but we cannot use the crunch of legislative business as an excuse not to follow through on our commitment to children and families. We must ensure that the provisions of the Family Investment Act stay on track and become law. I urge my colleagues to join us in pushing this bill through, and I urge every voter in America to demand its passage. Let's move beyond rhetoric. Let's break the gridlock. Let's really get something done for our children this year.

Mr. President, I ask unanimous consent that the legislative summary and the full text of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Investment Act of 1992".

SEC. 2. TABLE OF CONTENTS.

The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.

TITLE I—FAMILY AND MEDICAL LEAVE ACT OF 1992

Subtitle A—General Provisions

Sec. 101. Short title.
Sec. 102. Findings and purposes.

Subtitle B—General Requirements for Leave

Sec. 111. Definitions.
Sec. 112. Leave requirement.
Sec. 113. Certification.
Sec. 114. Employment and benefits protection.
Sec. 115. Prohibited acts.
Sec. 116. Investigative authority.
Sec. 117. Enforcement.
Sec. 118. Special rules concerning employees of local educational agencies.
Sec. 119. Notice.
Sec. 120. Regulations.

Subtitle C—Leave for Civil Service Employees

Sec. 121. Leave requirement.

Subtitle D—Commission on Leave

Sec. 131. Establishment.
Sec. 132. Duties.
Sec. 133. Membership.
Sec. 134. Compensation.
Sec. 135. Powers.
Sec. 136. Termination.

Subtitle E—Miscellaneous Provisions

Sec. 141. Effect on other laws.
Sec. 142. Effect on existing employment benefits.
Sec. 143. Encouragement of more generous leave policies.
Sec. 144. Regulations.
Sec. 145. Effective dates.

Subtitle F—Coverage of Congressional Employees

Sec. 151. Leave for certain Senate employees.
Sec. 152. Leave for certain Congressional employees.

TITLE II—HEAD START PROGRAMS, CHILD IMMUNIZATIONS, AND OTHER ASSISTANCE FOR CHILDREN

Sec. 201. Treatment of costs of the Head Start program, child immunizations, and the WIC program as emergency funding requirements.

TITLE III—FAMILY INVOLVEMENT IN EDUCATION

Sec. 301. Short title.
Sec. 302. Findings.
Sec. 303. Statement of purpose.
Sec. 304. Definitions.
Sec. 305. Program established.
Sec. 306. Program requirements.
Sec. 307. Special rule.
Sec. 308. Parents as Teachers National Center.
Sec. 309. Evaluations.
Sec. 310. Application.
Sec. 311. Payments and federal share.
Sec. 312. Authorization of appropriations.

TITLE IV—CHILD WELFARE

Sec. 401. Amendment of Social Security Act.

Subtitle A—Foster Care, Adoption, and Child Welfare Services

Sec. 411. Innovative child and family services programs.
Sec. 412. Demonstration projects to improve coordination of services.
Sec. 413. Foster care and adoption assistance.
Sec. 414. Adoption expense deduction.
Sec. 415. Study of reasonable efforts requirement by Advisory Committee.
Sec. 416. Case review system requirement.
Sec. 417. Demonstration project to facilitate the reunification of a child with his or her family.
Sec. 418. Data collection systems.
Sec. 419. Independent living.
Sec. 420. Training activities.
Sec. 421. Health care plans for foster children.
Sec. 422. Child welfare demonstration projects.
Sec. 423. Home rebuilders demonstration project.
Sec. 424. Child welfare services program reviews.
Sec. 425. Child welfare review system.
Sec. 426. Payment of State claims for foster care and adoption assistance.
Sec. 427. Commission on childhood disability.

Subtitle B—Provisions Relating to Comprehensive Substance Abuse Programs for Pregnant Women and Caretaker Parents with Children

Sec. 431. Comprehensive substance abuse treatment programs for pregnant women and caretaker parents.

TITLE V—SAFE CHILDREN AND COMMUNITIES

Sec. 501. Short title.
Sec. 502. Grants for community projects.

SEC. 3. FINDINGS.

(a) FINDINGS.—Congress finds that—

(1) children need strong, stable families and enduring supportive relationships with their parents if the children are to grow and thrive;

(2) parents need time together with their children to establish strong bonds and provide special care immediately following the birth or adoption of the children and when family and medical emergencies arise, and parents should not have to sacrifice their jobs to meet these family responsibilities;

(3) children need a nutritious diet, immunizations against preventable diseases, and early childhood experiences that lead to success in school and later life;

(4) children are often the victims of the frustration and despair of their parents when families experience the strains of poverty, absent parents, mental illness, substance abuse, and social isolation, and children are often placed in the custody of a State when supports and services are unavailable that can keep families safely together;

(5) parents struggle to protect their children and teach the children how to be responsible, productive adults in communities where crime and violence are commonplace; and

(6) it is in the interest of the Nation to ensure that all families live in safe, supportive communities and are able to raise healthy, competent children.

TITLE I—FAMILY AND MEDICAL LEAVE ACT OF 1992

Subtitle A—General Provisions

SEC. 101. SHORT TITLE.

This title may be cited as the "Family and Medical Leave Act of 1992".

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the number of single-parent households and two-parent households in which the single parent or both parents work is increasing significantly;

(2) it is important for the development of children and the family unit that fathers and mothers be able to participate in early childrearing and the care of family members who have serious health conditions;

(3) the lack of employment policies to accommodate working parents can force individuals to choose between job security and parenting;

(4) there is inadequate job security for employees who have serious health conditions that prevent them from working for temporary periods;

(5) due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects the working lives of women more than it affects the working lives of men; and

(6) employment standards that apply to one gender only have serious potential for encouraging employers to discriminate against employees and applicants for employment who are of that gender.

(b) PURPOSES.—It is the purpose of this title—

(1) to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity;

(2) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition;

(3) to accomplish the purposes described in paragraphs (1) and (2) in a manner that accommodates the legitimate interests of employers;

(4) to accomplish the purposes described in paragraphs (1) and (2) in a manner that, consistent with the Equal Protection Clause of

the Fourteenth Amendment, minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis; and

(5) to promote the goal of equal employment opportunity for women and men, pursuant to such clause.

Subtitle B—General Requirements for Leave

SEC. 111. DEFINITIONS.

As used in this subtitle:

(1) COMMERCE.—The terms "commerce" and "industry or activity affecting commerce" mean any activity, business, or industry in commerce or in which a labor dispute would hinder or obstruct commerce or the free flow of commerce, and include "commerce" and any "industry affecting commerce", as defined in paragraphs (3) and (1), respectively, of section 120 of the Labor Management Relations Act, 1947 (29 U.S.C. 142 (3) and (1)).

(2) ELIGIBLE EMPLOYEE.—

(A) IN GENERAL.—The term "eligible employee" means any "employee", as defined in section 3(e) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(e)), who has been employed—

(i) for at least 12 months by the employer with respect to whom leave is requested under section 112; and

(ii) for at least 1,250 hours of service with such employer during the previous 12-month period.

(B) EXCLUSIONS.—The term "eligible employee" does not include—

(i) any Federal officer or employee covered under subchapter V of chapter 63 of title 5, United States Code (as added by subtitle C of this title); or

(ii) any employee of an employer who is employed at a worksite at which such employer employs less than 50 employees if the total number of employees employed by that employer within 75 miles of that worksite is less than 50.

(C) DETERMINATION.—For purposes of determining whether an employee meets the hours of service requirement specified in subparagraph (A)(ii), the legal standards established under section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) shall apply.

(3) EMPLOY; STATE.—The terms "employ" and "State" have the same meanings given such terms in subsections (g) and (c), respectively, of section 3 of the Fair Labor Standards Act of 1938 (29 U.S.C. 203 (g) and (c)).

(4) EMPLOYEE.—The term "employee" means any individual employed by an employer.

(5) EMPLOYER.—

(A) IN GENERAL.—The term "employer"—

(i) means any person engaged in commerce or in any industry or activity affecting commerce who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year;

(ii) includes—

(I) any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; and

(II) any successor in interest of an employer; and

(iii) includes any "public agency", as defined in section 3(x) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(x)).

(B) PUBLIC AGENCY.—For purposes of subparagraph (A)(iii), a public agency shall be considered to be a person engaged in commerce or in an industry or activity affecting commerce.

(6) EMPLOYMENT BENEFITS.—The term "employment benefits" means all benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits, and pensions, regardless of whether such benefits are provided by a practice or written policy of an employer or through an "employee benefit plan", as defined in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)).

(7) HEALTH CARE PROVIDER.—The term "health care provider" means—

(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or

(B) any other person determined by the Secretary to be capable of providing health care services.

(8) PARENT.—The term "parent" means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.

(9) PERSON.—The term "person" has the same meaning given such term in section 3(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(a)).

(10) REDUCED LEAVE SCHEDULE.—The term "reduced leave schedule" means leave that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(11) SECRETARY.—The term "Secretary" means the Secretary of Labor.

(12) SERIOUS HEALTH CONDITION.—The term "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves—

(A) inpatient care in a hospital, hospice, or residential medical care facility; or

(B) continuing treatment by a health care provider.

(13) SON OR DAUGHTER.—The term "son or daughter" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

SEC. 112. LEAVE REQUIREMENT.

(a) IN GENERAL.—

(1) ENTITLEMENT TO LEAVE.—Subject to section 113, an eligible employee shall be entitled to a total of 12 workweeks of leave during any 12-month period for one or more of the following:

(A) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

(B) Because of the placement of a son or daughter with the employee for adoption or foster care.

(C) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.

(D) Because of a serious health condition that makes the employee unable to perform the functions of the position of such employee.

(2) EXPIRATION OF ENTITLEMENT.—The entitlement to leave under subparagraphs (A) and (B) of paragraph (1) for a birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.

(3) INTERMITTENT LEAVE.—

(A) IN GENERAL.—Leave under subparagraph (A) or (B) of paragraph (1) shall not be taken by an employee intermittently unless the employee and the employer of the employee agree otherwise. Subject to subparagraph (B), subsection (e), and section 113(b)(5), leave under subparagraph (C) or (D) of paragraph (1) may be taken intermittently when medically necessary.

(B) ALTERNATIVE POSITION.—If an employee requests intermittent leave under subparagraph (C) or (D) of paragraph (1) that is foreseeable based on planned medical treatment, the employer may require such employee to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified and that—

(i) has equivalent pay and benefits; and

(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

(b) REDUCED LEAVE.—On agreement between the employer and the employee, leave under subsection (a) may be taken on a reduced leave schedule. Such reduced leave schedule shall not result in a reduction in the total amount of leave to which the employee is entitled under subsection (a).

(c) UNPAID LEAVE PERMITTED.—Except as provided in subsection (d), leave granted under subsection (a) may consist of unpaid leave.

(d) RELATIONSHIP TO PAID LEAVE.—

(1) UNPAID LEAVE.—If an employer provides paid leave for fewer than 12 workweeks, the additional weeks of leave necessary to attain the 12 workweeks of leave required under this subtitle may be provided without compensation.

(2) SUBSTITUTION OF PAID LEAVE.—

(A) IN GENERAL.—An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or family leave of the employee for leave provided under subparagraph (A), (B), or (C) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection.

(B) SERIOUS HEALTH CONDITION.—An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or medical or sick leave of the employee for leave provided under subparagraph (C) or (D) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection, except that nothing in this title shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave.

(e) FORESEEABLE LEAVE.—

(1) REQUIREMENT OF NOTICE.—In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or adoption, the employee shall provide the employer with not less than 30 days notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the birth or adoption requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

(2) DUTIES OF EMPLOYEE.—In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on planned medical treatment, the employee—

(A) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee; and

(B) shall provide the employer with not less than 30 days notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

(f) SPOUSES EMPLOYED BY THE SAME EMPLOYER.—In any case in which a husband and wife entitled to leave under subsection (a) are employed by the same employer, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period, if such leave is taken—

(1) under subparagraph (A) or (B) of subsection (a)(1); or

(2) to care for a sick parent under subparagraph (C) of such subsection.

SEC. 113. CERTIFICATION.

(a) IN GENERAL.—An employer may require that a request for leave under subparagraph (C) or (D) of section 112(a)(1) be supported by a certification issued by the health care provider of the eligible employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employer.

(b) SUFFICIENT CERTIFICATION.—Certification provided under subsection (a) shall be sufficient if it states—

(1) the date on which the serious health condition commenced;

(2) the probable duration of the condition;

(3) the appropriate medical facts within the knowledge of the health care provider regarding the condition;

(4)(A) for purposes of leave under section 112(a)(1)(C), a statement that the eligible employee is needed to care for the son, daughter, spouse, or parent and an estimate of the amount of time that such employee is needed to care for the son, daughter, spouse, or parent; and

(B) for purposes of leave under section 112(a)(1)(D), a statement that the employee is unable to perform the functions of the position of the employee; and

(5) in the case of certification for intermittent leave for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment.

(c) SECOND OPINION.—

(1) IN GENERAL.—In any case in which the employer has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 112(a)(1), the employer may require, at the expense of the employer, that the eligible employee obtain the opinion of a second health care provider designated or approved by the employer concerning any information certified under subsection (b) for such leave.

(2) LIMITATION.—A health care provider designated or approved under paragraph (1) shall not be employed on a regular basis by the employer.

(d) RESOLUTION OF CONFLICTING OPINIONS.—

(1) IN GENERAL.—In any case in which the second opinion described in subsection (c) differs from the opinion in the original certification provided under subsection (a), the employer may require, at the expense of the employer, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employer and the employee concerning the information certified under subsection (b).

(2) FINALITY.—The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employer and the employee.

(e) SUBSEQUENT RECERTIFICATION.—The employer may require that the eligible employee obtain subsequent recertifications on a reasonable basis.

SEC. 114. EMPLOYMENT AND BENEFITS PROTECTION.

(a) RESTORATION TO POSITION.—

(1) IN GENERAL.—Any eligible employee who takes leave under section 112 for the intended purpose of the leave shall be entitled, on return from such leave—

(A) to be restored by the employer to the position of employment held by the employee when the leave commenced; or

(B) to be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(2) LOSS OF BENEFITS.—The taking of leave under section 112 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

(3) LIMITATIONS.—Nothing in this section shall be construed to entitle any restored employee to—

(A) the accrual of any seniority or employment benefits during any period of leave; or

(B) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

(4) CERTIFICATION.—As a condition of restoration under paragraph (1), the employer may have a uniformly applied practice or policy that requires each employee to receive certification from the health care provider of the employee that the employee is able to resume work, except that nothing in this paragraph shall supersede a valid State or local law or a collective bargaining agreement that governs the return to work of employees taking leave under section 112(a)(1)(D).

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to prohibit an employer from requiring an employee on leave under section 112 to report periodically to the employer on the status and intention of the employee to return to work.

(b) EXEMPTION CONCERNING CERTAIN HIGHLY COMPENSATED EMPLOYEES.—

(1) DENIAL OF RESTORATION.—An employer may deny restoration under subsection (a) to any eligible employee described in paragraph (2) if—

(A) such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer;

(B) the employer notifies the employee of the intent of the employer to deny restoration on such basis at the time the employer determines that such injury would occur; and

(C) in any case in which the leave has commenced, the employee elects not to return to employment after receiving such notice.

(2) AFFECTED EMPLOYEES.—An eligible employee described in paragraph (1) is a salaried eligible employee who is among the highest paid 10 percent of the employees employed by the employer within 75 miles of the facility at which the employee is employed.

(c) MAINTENANCE OF HEALTH BENEFITS.—

(1) COVERAGE.—Except as provided in paragraph (2), during any period that an eligible employee takes leave under section 112, the employer shall maintain coverage under any "group health plan" (as defined in section 5000(b)(1) of the Internal Revenue Code of 1986) for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously from the date the employee commenced the leave until the date the employee is restored under subsection (a).

(2) FAILURE TO RETURN FROM LEAVE.—The employer may recover the premium that the employer paid for maintaining coverage for the employee under such group health plan during any period of unpaid leave under section 112 if—

(A) the employee fails to return from leave under section 112 after the period of leave to which the employee is entitled has expired; and

(B) the employee fails to return to work for a reason other than—

(i) the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under subparagraph (C) or (D) of section 112(a)(1); or

(ii) other circumstances beyond the control of the employee.

(3) CERTIFICATION.—

(A) ISSUANCE.—An employer may require that a claim that an employee is unable to return to work because of the continuation, recurrence, or onset of the serious health condition described in paragraph (2)(B)(i) be supported by—

(i) a certification issued by the health care provider of the eligible employee, in the case of an employee unable to return to work because of a condition specified in section 112(a)(1)(D); or

(ii) a certification issued by the health care provider of the son, daughter, spouse, or parent of the employee in the case of an employee unable to return to work because of a condition specified in section 112(a)(1)(C).

(B) COPY.—The employee shall provide, in a timely manner, a copy of such certification to the employer.

(C) SUFFICIENCY OF CERTIFICATION.—

(i) LEAVE DUE TO SERIOUS HEALTH CONDITION OF EMPLOYEE.—The certification described in subparagraph (A)(i) shall be sufficient if the certification states that a serious health condition prevented the employee from being able to perform the functions of the position of the employee on the date that the leave of the employee expired.

(ii) LEAVE DUE TO SERIOUS HEALTH CONDITION OF FAMILY MEMBER.—The certification described in subparagraph (A)(ii) shall be sufficient if the certification states that the employee is needed to care for the son, daughter, spouse, or parent who has a serious health condition on the date that the leave of the employee expired.

SEC. 115. PROHIBITED ACTS.

(a) INTERFERENCE WITH RIGHTS.—

(1) EXERCISE OF RIGHTS.—It shall be unlawful for any employer to interfere with, restrain, or deny the exercise of or the attempt to exercise, any right provided under this subtitle.

(2) DISCRIMINATION.—It shall be unlawful for any employer to discharge or in any other manner discriminate against any individual for opposing any practice made unlawful by this subtitle.

(b) INTERFERENCE WITH PROCEEDINGS OR INQUIRIES.—It shall be unlawful for any person to discharge or in any other manner discriminate against any individual because such individual—

(1) has filed any charge, or has instituted or caused to be instituted any proceeding, under or related to this subtitle;

(2) has given, or is about to give, any information in connection with any inquiry or proceeding relating to any right provided under this subtitle; or

(3) has testified, or is about to testify, in any inquiry or proceeding relating to any right provided under this subtitle.

SEC. 116. INVESTIGATIVE AUTHORITY.

(a) In General.—To ensure compliance with the provisions of this subtitle, or any regulation or order issued under this subtitle, the Secretary shall have, subject to subsection (c), the investigative authority provided under section 11(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(a)).

(b) Obligation To Keep and Preserve Records.—Any employer shall keep and preserve records in accordance with section 11(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 211(c)) and in accordance with regulations issued by the Secretary.

(c) Required Submissions Generally Limited to an Annual Basis.—The Secretary shall not under the authority of this section require any employer or any plan, fund, or program to submit to the Secretary any books or records more than once during any 12-month period, unless the Secretary has reasonable cause to believe there may exist a violation of this subtitle or any regulation or order issued pursuant to this subtitle, or is investigating a charge pursuant to section 117(b).

(d) Subpoena Powers.—For the purposes of any investigation provided for in this section, the Secretary shall have the subpoena authority provided for under section 9 of the Fair Labor Standards Act of 1938 (29 U.S.C. 209).

SEC. 117. ENFORCEMENT.

(a) Civil Action by Employees.—

(1) Liability.—Any employer who violates section 115 shall be liable to any eligible employee affected—

(A) for damages equal to—

(i) the amount of—

(I) any wages, salary, employment benefits, or other compensation denied or lost to such employee by reason of the violation; or

(II) in a case in which wages, salary, employment benefits, or other compensation have not been denied or lost to the employee, any actual monetary losses sustained by the employee as a direct result of the violation, such as the cost of providing care, up to a sum equal to 12 weeks of wages or salary for the employee;

(ii) the interest on the amount described in clause (i) calculated at the prevailing rate; and

(iii) an additional amount as liquidated damages equal to the sum of the amount described in clause (i) and the interest described in clause (ii), except that if an employer who has violated section 115 proves to the satisfaction of the court that the act or omission which violated section 115 was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of section 115, such court may, in the discretion of the court, reduce the amount of the liability to the amount and interest determined under clauses (i) and (ii), respectively; and

(B) for such equitable relief as may be appropriate, including, without limitation, employment, reinstatement, and promotion.

(2) Standing.—An action to recover the damages or equitable relief prescribed in paragraph (1) may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of—

(A) the employees; or

(B) the employees and other employees similarly situated.

(3) Fees and costs.—The court in such an action shall, in addition to any judgment awarded to the plaintiff, allow a reasonable attorney's fee, reasonable expert witness fees, and other costs of the action to be paid by the defendant.

(4) Limitations.—The right provided by paragraph (1) to bring an action by or on behalf of any employee shall terminate, unless such action is dismissed without prejudice on motion of the Secretary, on—

(A) the filing of a complaint by the Secretary of Labor in an action under subsection (d) in which—

(i) restraint is sought of any further delay in the payment of the damages described in paragraph (1)(A) to such employee by an employer liable under paragraph (1) for the damages; or

(ii) equitable relief is sought as a result of alleged violations of section 115; or

(B) the filing of a complaint by the Secretary in an action under subsection (b) in which a recovery is sought of the damages described in paragraph (1)(A) owing to an eligible employee by an employer liable under paragraph (1).

(b) Action by the Secretary.—

(1) Administrative action.—The Secretary shall receive, investigate, and attempt to resolve complaints of violations of section 115 in the same manner that the Secretary receives, investigates, and attempts to resolve complaints of violations of sections 6 and 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206 and 207).

(2) Civil action.—The Secretary may bring an action in any court of competent jurisdiction to recover on behalf of an eligible employee the damages described in subsection (a)(1)(A).

(3) Sums recovered.—Any sums recovered by the Secretary on behalf of an employee pursuant to paragraph (2) shall be held in a special deposit account and shall be paid, on order of the Secretary, directly to each employee affected. Any such sums not paid to an employee because of inability to do so within a period of 3 years shall be deposited into the Treasury of the United States as miscellaneous receipts.

(c) Limitation.—

(1) In general.—Except as provided in paragraph (2), an action may be brought under subsection (a) or (b) not later than 2 years after the date of the last event constituting the alleged violation for which the action is brought.

(2) Willful violation.—In the case of such action brought for a willful violation of section 115, such action may be brought within 3 years of the date of the last event constituting the alleged violation for which such action is brought.

(3) Commencement.—In determining when an action is commenced by the Secretary under subsection (b) for the purposes of this subsection, it shall be considered to be commenced on the date when the complaint is filed.

(d) Action for Injunction by Secretary.—The district courts of the United States shall have jurisdiction, for cause shown, over an action brought by the Secretary to restrain violations of section 115, including actions to restrain the withholding of payment of wages, salary, employment benefits, or other compensation, plus interest, found by the court to be due to eligible employees.

SEC. 118. SPECIAL RULES CONCERNING EMPLOYEES OF LOCAL EDUCATIONAL AGENCIES.

(a) Application.—

(1) In general.—Except as otherwise provided in this section, the rights (including the rights under section 114, which shall extend throughout the period of leave of any employee under this section), remedies, and procedures under this title shall apply to—

(A) any "local educational agency" (as defined in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12))) and an eligible employee of the agency; and

(B) any private elementary and secondary school and an eligible employee of the school.

(2) Definitions.—For purposes of the application described in paragraph (1):

(A) Eligible employee.—The term "eligible employee" means an eligible employee of an agency or school described in paragraph (1); and

(B) Employer.—The term "employer" means an agency or school described in paragraph (1).

(b) Leave Does Not Violate Certain Other Federal Laws.—A local educational agency and a private elementary and secondary school shall not be in violation of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), or title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), solely as a result of an eligible employee of such agency or school exercising the rights of such employee under this title.

(c) Intermittent Leave for Instructional Employees.—

(1) In general.—Subject to paragraph (2), in any case in which an eligible employee employed principally in an instructional capacity by any such educational agency or school requests leave under subparagraph (C) or (D) of section 112(a)(1) that is foreseeable based on planned medical treatment and the employee would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, the agency or school may require that such employee elect either—

(A) to take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or

(B) to transfer temporarily to an available alternative position offered by the employer for which the employee is qualified, and that—

(i) has equivalent pay and benefits; and

(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

(2) Application.—The elections described in subparagraphs (A) and (B) of paragraph (1) shall apply only with respect to an eligible employee who complies with section 112(e)(2).

(d) Rules Applicable to Periods Near the Conclusion of an Academic Term.—The following rules shall apply with respect to periods of leave near the conclusion of an academic term in the case of any eligible employee employed principally in an instructional capacity by any such educational agency or school:

(1) Leave more than 5 weeks prior to end of term.—If the eligible employee begins leave under section 112 more than 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of at least 3 weeks duration; and

(B) the return to employment would occur during the 3-week period before the end of such term.

(2) LEAVE LESS THAN 5 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under subparagraph (A), (B), or (C) of section 112(a)(1) during the period that commences 5 weeks prior to the end of the academic term, the agency or school may require the employee to continue taking leave until the end of such term, if—

(A) the leave is of greater than 2 weeks duration; and

(B) the return to employment would occur during the 2-week period before the end of such term.

(3) LEAVE LESS THAN 3 WEEKS PRIOR TO END OF TERM.—If the eligible employee begins leave under paragraph (A), (B), or (C) of section 112(a)(1) during the period that commences 3 weeks prior to the end of the academic term and the duration of the leave is greater than 5 working days, the agency or school may require the employee to continue to take leave until the end of such term.

(e) RESTORATION TO EQUIVALENT EMPLOYMENT POSITION.—For purposes of determinations under section 114(a)(1)(B) (relating to the restoration of an eligible employee to an equivalent position), in the case of a local educational agency or a private elementary and secondary school, such determination shall be made on the basis of established school board policies and practices, private school policies and practices, and collective bargaining agreements.

(f) REDUCTION OF THE AMOUNT OF LIABILITY.—If a local educational agency or a private elementary and secondary school that has violated this subtitle proves to the satisfaction of the administrative law judge or the court that the agency, school, or department had reasonable grounds for believing that the underlying act or omission was not a violation of such subtitle, such judge or court may, in the discretion of the judge or court, reduce the amount of the liability provided for under section 117(a)(1)(A) to the amount and interest determined under clauses (i) and (ii), respectively, of such section.

SEC. 119. NOTICE.

(a) IN GENERAL.—Each employer shall post and keep posted, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, a notice, to be prepared or approved by the Secretary, setting forth excerpts from, or summaries of, the pertinent provisions of this subtitle and information pertaining to the filing of a charge.

(b) PENALTY.—Any employer that willfully violates this section shall be assessed a civil money penalty not to exceed $100 for each separate offense.

SEC. 120. REGULATIONS.

Not later than 60 days after the date of enactment of this subtitle, the Secretary shall prescribe such regulations as are necessary to carry out this subtitle.

Subtitle C—Leave for Civil Service Employees

SEC. 121. LEAVE REQUIREMENT.

(a) CIVIL SERVICE EMPLOYEES.—

(1) IN GENERAL.—Chapter 63 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—FAMILY AND MEDICAL LEAVE

"§ 6381. Definitions

"For the purpose of this subchapter—

"(1) the term 'employee' means an individual who has been employed for at least 12 months on other than a temporary or intermittent basis—

"(A) as an employee as defined by section 6301(2) (excluding an individual employed by the Government of the District of Columbia); or

"(B) in a position referred to in clause (v) or (ix) of such section;

"(2) the term 'health care provider' means—

"(A) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; and

"(B) any other person determined by the Director of the Office of Personnel Management to be capable of providing health care services;

"(3) the term 'parent' means the biological parent of an employee, or an individual who stood in loco parentis to an employee, when the employee was a son or daughter;

"(4) the term 'reduced leave schedule' means leave that reduces the usual number of hours per workweek, or hours per workday, of an employee;

"(5) the term 'serious health condition' means an illness, injury, impairment, or physical or mental condition that involves—

"(A) inpatient care in a hospital, hospice, or residential medical care facility; or

"(B) continuing treatment by a health care provider; and

"(6) the term 'son or daughter' means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is—

"(A) under 18 years of age; or

"(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"§ 6382. Leave requirement

"(a)(1) An employee shall be entitled, subject to section 6383, to a total of 12 administrative workweeks of leave during any 12-month period for one or more of the following:

"(A) Because of the birth of a son or daughter of the employee and in order to care for such son or daughter.

"(B) Because of the placement of a son or daughter with the employee for adoption or foster care.

"(C) In order to care for the spouse, or a son, daughter, or parent, of the employee, if such spouse, son, daughter, or parent has a serious health condition.

"(D) Because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

"(2) The entitlement to leave under subparagraph (A) or (B) of paragraph (1) based on the birth or placement of a son or daughter shall expire at the end of the 12-month period beginning on the date of such birth or placement.

"(3)(A) Leave under subparagraph (A) or (B) of paragraph (1) shall not be taken by an employee intermittently unless the employee and the employing agency of the employee agree otherwise. Subject to subparagraph (B), subsection (e), and section 6383(b)(5), leave under subparagraph (C) or (D) of paragraph (1) may be taken intermittently when medically necessary.

"(B) If an employee requests intermittent leave under subparagraph (C) or (D) of paragraph (1) that is foreseeable based on planned medical treatment, the employing agency may require such employee to transfer temporarily to an available alternative position offered by the employing agency for which the employee is qualified and that—

"(i) has equivalent pay and benefits; and

"(ii) better accommodates recurring periods of leave than the regular employment position of the employee.

"(b) On agreement between the employing agency and the employee, leave under subsection (a) may be taken on a reduced leave schedule. In the case of an employee on a reduced leave schedule, any hours of leave taken by such employee under such schedule shall be subtracted from the total amount of leave remaining available to such employee under subsection (a), for purposes of the 12-month period involved, on an hour-for-hour basis.

"(c) Except as provided in subsection (d), leave granted under subsection (a) shall be leave without pay.

"(d) An employee may elect to substitute for leave under subparagraph (A), (B), (C), or (D) of subsection (a)(1) any of the employee's accrued or accumulated annual or sick leave under subchapter I for any part of the 12-week period of leave under such subparagraph, except that nothing in this subchapter shall require an employing agency to provide paid sick leave in any situation in which such employing agency would not normally provide any such paid leave.

"(e)(1) In any case in which the necessity for leave under subparagraph (A) or (B) of subsection (a)(1) is foreseeable based on an expected birth or placement, the employee shall provide the employing agency with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the birth or adoption requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

"(2) In any case in which the necessity for leave under subparagraph (C) or (D) of subsection (a)(1) is foreseeable based on planned medical treatment, the employee—

"(A) shall make a reasonable effort to schedule the treatment so as not to disrupt unduly the operations of the employing agency, subject to the approval of the health care provider of the employee or the health care provider of the son, daughter, spouse, or parent of the employee; and

"(B) shall provide the employing agency with not less than 30 days' notice, before the date the leave is to begin, of the employee's intention to take leave under such subparagraph, except that if the date of the treatment requires leave to begin in less than 30 days, the employee shall provide such notice as is practicable.

"§ 6383. Certification

"(a) An employing agency may require that a request for leave under subparagraph (C) or (D) of section 6382(a)(1) be supported by certification issued by the health care provider of the employee or of the son, daughter, spouse, or parent of the employee, as appropriate. The employee shall provide, in a timely manner, a copy of such certification to the employing agency.

"(b) A certification provided under subsection (a) shall be sufficient if it states—

"(1) the date on which the serious health condition commenced;

"(2) the probable duration of the condition;

"(3) the appropriate medical facts within the knowledge of the health care provider regarding the condition;

"(4)(A) for purposes of leave under section 6382(a)(1)(C), a statement that the employee is needed to care for the son, daughter, spouse, or parent, and an estimate of the amount of time that such employee is needed to care for such son, daughter, spouse, or parent; and

"(B) for purposes of leave under section 6382(a)(1)(D), a statement that the employee is unable to perform the functions of the position of the employee; and

"(5) in the case of certification for intermittent leave for planned medical treatment, the dates on which such treatment is expected to be given and the duration of such treatment.

"(c)(1) In any case in which the employing agency has reason to doubt the validity of the certification provided under subsection (a) for leave under subparagraph (C) or (D) of section 6382(a)(1), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a second health care provider designated or approved by the employing agency concerning any information certified under subsection (b) for such leave.

"(2) Any health care provider designated or approved under paragraph (1) shall not be employed on a regular basis by the employing agency.

"(d)(1) In any case in which the second opinion described in subsection (c) differs from the original certification provided under subsection (a), the employing agency may require, at the expense of the agency, that the employee obtain the opinion of a third health care provider designated or approved jointly by the employing agency and the employee concerning the information certified under subsection (b).

"(2) The opinion of the third health care provider concerning the information certified under subsection (b) shall be considered to be final and shall be binding on the employing agency and the employee.

"(e) The employing agency may require, at the expense of the agency, that the employee obtain subsequent recertifications on a reasonable basis.

"§ 6384. Employment and benefits protection

"(a) Any employee who takes leave under section 6382 for the intended purpose of the leave shall be entitled, upon return from such leave—

"(1) to be restored by the employing agency to the position held by the employee when the leave commenced; or

"(2) to be restored to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment.

"(b) The taking of leave under section 6382 shall not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

"(c) Except as otherwise provided by or under law, nothing in this section shall be construed to entitle any restored employee to—

"(1) the accrual of any seniority or employment benefits during any period of leave; or

"(2) any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

"(d) As a condition to restoration under subsection (a), the employing agency may have a uniformly applied practice or policy that requires each employee to receive certification from the health care provider of the employee that the employee is able to resume work.

"(e) Nothing in this section shall be construed to prohibit an employing agency from requiring an employee on leave under section 6382 to report periodically to the employing agency on the status and intention of the employee to return to work.

"§ 6385. Prohibition of coercion

"(a) An employee shall not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with the exercise of the rights of the employee under this subchapter.

"(b) For the purpose of this section, 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as appointment, promotion, or compensation), or taking or threatening to take any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6386. Health insurance

"An employee enrolled in a health benefits plan under chapter 89 who is placed in a leave status under section 6382 may elect to continue the health benefits enrollment of the employee while in such leave status and arrange to pay currently into the Employees Health Benefits Fund (described in section 8909), the appropriate employee contributions.

"§ 6387. Regulations

"The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall be consistent with the regulations prescribed by the Secretary of Labor under subtitle A of title I of the Family and Medical Leave Act of 1992.".

(2) TABLE OF CONTENTS.—The table of contents for chapter 63 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER V—FAMILY AND MEDICAL LEAVE

"6381. Definitions.
"6382. Leave requirement.
"6383. Certification.
"6384. Employment and benefits protection.
"6385. Prohibition of coercion.
"6386. Health insurance.
"6387. Regulations.".

(b) EMPLOYEES PAID FROM NONAPPROPRIATED FUNDS.—Section 2105(c)(1) of title 5, United States Code, is amended—

(1) by striking "or" at the end of subparagraph (C); and

(2) by adding at the end the following new subparagraph:

"(E) subchapter V of chapter 63, which shall be applied so as to construe references to benefit programs to refer to applicable programs for employees paid from nonappropriated funds; or".

Subtitle D—Commission on Leave

SEC. 131. ESTABLISHMENT.

There is established a commission to be known as the Commission on Leave (hereinafter referred to in this subtitle as the "Commission").

SEC. 132. DUTIES.

The Commission shall—

(1) conduct a comprehensive study of—

(A) existing and proposed policies relating to leave;

(B) the potential costs, benefits, and impact on productivity of such policies on employers; and

(C) alternative and equivalent State enforcement of this title with respect to employees described in section 118(a); and

(2) not later than 2 years after the date on which the Commission first meets, prepare and submit, to the appropriate Committees of Congress, a report concerning the subjects listed in paragraph (1).

SEC. 133. MEMBERSHIP.

(a) COMPOSITION.—

(1) APPOINTMENTS.—The Commission shall be composed of 12 voting members and 2 ex officio members to be appointed not later than 60 days after the date of the enactment of this title as follows:

(A) SENATORS.—One Senator shall be appointed by the Majority Leader of the Senate, and one Senator shall be appointed by the Minority Leader of the Senate.

(B) MEMBERS OF THE HOUSE OF REPRESENTATIVES.—One Member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one Member of the House of Representatives shall be appointed by the Minority Leader of the House of Representatives.

(C) ADDITIONAL MEMBERS.—

(i) APPOINTMENT.—Two Members each shall be appointed by—

(I) the Speaker of the House of Representatives;

(II) the Majority Leader of the Senate;

(III) the Minority Leader of the House of Representatives; and

(IV) the Minority Leader of the Senate.

(ii) EXPERTISE.—Such members shall be appointed by virtue of demonstrated expertise in relevant family, temporary disability, and labor-management issues and shall include representatives of employers.

(2) EX OFFICIO MEMBERS.—The Secretary of Health and Human Services and the Secretary of Labor shall serve on the Commission as nonvoting ex officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

SEC. 134. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Commission.

SEC. 135. POWERS.

(a) MEETINGS.—The Commission shall first meet not later than 30 days after the date on which all members are appointed, and the Commission shall meet thereafter on the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title, if the information may be disclosed under section 552 of title 5, United States Code. Subject to the previous sentence, on the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) EXECUTIVE DIRECTOR.—The Commission may appoint an Executive Director from the personnel of any Federal agency to assist the Commission in carrying out the duties of the Commission. Any appointment shall not interrupt or otherwise affect the civil service status or privileges of the employee appointed.

(e) USE OF FACILITIES AND SERVICES.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(f) PERSONNEL FROM OTHER AGENCIES.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to assist the Commission in carrying out the duties of the Commission. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(g) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Commission may accept for the Commission voluntary services provided by a member of the Commission.

SEC. 136. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the report of the Commission to Congress.

Subtitle E—Miscellaneous Provisions

SEC. 141. EFFECT ON OTHER LAWS.

(a) FEDERAL AND STATE ANTI-DISCRIMINATION LAWS.—Nothing in this title or any amendment made by this title shall be construed to modify or affect any Federal or State law prohibiting discrimination on the basis of race, religion, color, national origin, sex, age, or disability.

(b) STATE AND LOCAL LAWS.—Nothing in this title or any amendment made by this title shall be construed to supersede any provision of any State and local law that provides greater employee leave rights than the rights established under this title or any amendment made by this title.

SEC. 142. EFFECT ON EXISTING EMPLOYMENT BENEFITS.

(a) MORE PROTECTIVE.—Nothing in this title or any amendment made by this title shall be construed to diminish the obligation of an employer to comply with any collective bargaining agreement or any employment benefit program or plan that provides greater family and medical leave rights to employees than the rights provided under this title or any amendment made by this title.

(b) LESS PROTECTIVE.—The rights provided to employees under this title or any amendment made by this title shall not be diminished by any collective bargaining agreement or any employment benefit program or plan.

SEC. 143. ENCOURAGEMENT OF MORE GENEROUS LEAVE POLICIES.

Nothing in this title or any amendment made by this title shall be construed to discourage employers from adopting or retaining leave policies more generous than any policies that comply with the requirements under this title or any amendment made by this title.

SEC. 144. REGULATIONS.

The Secretary of Labor shall prescribe such regulations as are necessary to carry out sections 141 through 143 not later than 60 days after the date of the enactment of this title.

SEC. 145. EFFECTIVE DATES.

(a) SUBTITLE D.—Subtitle D shall take effect on the date of the enactment of this title.

(b) OTHER SUBTITLES.—

(1) IN GENERAL.—Except as provided in paragraph (2), subtitles B, C, and F and this subtitle shall take effect 6 months after the date of the enactment of this title.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a collective bargaining agreement in effect on the effective date prescribed by paragraph (1), subtitle B shall apply on the earlier of—

(A) the date of the termination of such agreement; or

(B) the date that occurs 12 months after the date of the enactment of this title.

Subtitle F—Coverage of Congressional Employees

SEC. 151. LEAVE FOR CERTAIN SENATE EMPLOYEES.

(a) COVERAGE.—The rights and protections established under sections 111 through 115 shall apply with respect to a Senate employee and an employing office. For purposes of such application, the term "eligible employee" means a Senate employee and the term "employer" means an employing office.

(b) CONSIDERATION OF ALLEGATIONS.—

(1) APPLICABLE PROVISIONS.—The provisions of sections 304 through 313 of the Government Employee Rights Act of 1991 (2 U.S.C. 1204-1213) shall, except as provided in subsections (d) and (e)—

(A) apply with respect to an allegation of a violation of a provision of sections 111 through 115, with respect to Senate employment of a Senate employee; and

(B) apply to such an allegation in the same manner and to the same extent as such sections of the Government Employee Rights Act of 1991 apply with respect to an allegation of a violation under such Act.

(2) ENTITY.—Such an allegation shall be addressed by the Office of Senate Fair Employment Practices or such other entity as the Senate may designate.

(c) RIGHTS OF EMPLOYEES.—The Office of Senate Fair Employment Practices shall ensure that Senate employees are informed of their rights under sections 111 through 115.

(d) LIMITATIONS.—A request for counseling under section 305 of such Act by a Senate employee alleging a violation of a provision of sections 111 through 115 shall be made not later than 2 years after the date of the last event constituting the alleged violation for which the counseling is requested, or not later than 3 years after such date in the case of a willful violation of section 115.

(e) APPLICABLE REMEDIES.—The remedies applicable to individuals who demonstrate a violation of a provision of sections 111 through 115 shall be such remedies as would be appropriate if awarded under paragraph (1) or (3) of section 117(a).

(f) EXERCISE OF RULEMAKING POWER.—The provisions of subsections (b), (c), (d), and (e), except as such subsections apply with respect to section 309 of the Government Employees Rights Act of 1991 (2 U.S.C. 1209), are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the Senate to change its rules, in the same manner, and to the same extent, as in the case of any other rule of the Senate. No Senate employee may commence a judicial proceeding with respect to an allegation described in subsection (b)(1), except as provided in this section.

(g) DEFINITIONS.—As used in this section:

(1) EMPLOYING OFFICE.—The term "employing office" means the office with the final authority described in section 301(2) of such Act (2 U.S.C. 1201(2)).

(2) SENATE EMPLOYEE.—The term "Senate employee" means an employee described in subparagraph (A) or (B) of section 301(c)(1) of such Act (2 U.S.C. 1201(c)(1)) who has been employed for at least 12 months on other than a temporary or intermittent basis by any employing office.

SEC. 152. LEAVE FOR CERTAIN CONGRESSIONAL EMPLOYEES.

(a) IN GENERAL.—The rights and protections under sections 112 through 115 (other than section 114(b)) shall apply to any employee in an employment position and any employing authority of the House of Representatives.

(b) ADMINISTRATION.—In the administration of this section, the remedies and procedures under the Fair Employment Practices Resolution shall be applied.

(c) DEFINITION.—As used in this section, the term "Fair Employment Practices Resolution" means the resolution in rule LI of the Rules of the House of Representatives.

TITLE II—HEAD START PROGRAMS, CHILD IMMUNIZATIONS, AND OTHER ASSISTANCE FOR CHILDREN

SEC. 201. TREATMENT OF COSTS OF THE HEAD START PROGRAM, CHILD IMMUNIZATIONS, AND THE WIC PROGRAM AS EMERGENCY FUNDING REQUIREMENTS.

Section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end the following new clause:

"(iii) For fiscal years 1993, 1994, 1995, and 1996, the costs of carrying out the Head Start Act, making grants authorized under section 317(j)(1) of the Public Health Service Act for immunizations, and carrying out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 are to be treated as emergency funding requirements not subject to the discretionary spending limits. Funding for such activities shall be provided through the normal legislative process.".

TITLE III—FAMILY INVOLVEMENT IN EDUCATION

SEC. 301. SHORT TITLE.

This title may be cited as the "Parents as Teachers: The Family Involvement in Education Act of 1992".

SEC. 302. FINDINGS.

The Congress finds—

(1) increased parental involvement in the education of their children appears to be the key to long-term gains for youngsters;

(2) providing seed money is an appropriate role for the Federal Government to play in education;

(3) children participating in the parents as teachers pilot program in Missouri are found to have increased cognitive or intellectual skills, language ability, social skills and other predictors of school success;

(4) most early childhood programs begin at age 3 or 4 when remediation may already be necessary; and

(5) many children receive no health screening between birth and the time they enter school, thus such children miss the opportunity of having developmental delays detected early.

SEC. 303. STATEMENT OF PURPOSE.

It is the purpose of this title to encourage States to develop and expand parent and early childhood education programs in an effort to—

(1) increase parents' knowledge of and confidence in child-rearing activities, such as teaching and nurturing their young children;

(2) strengthen partnerships between parents and schools; and

(3) enhance the developmental progress of participating children.

SEC. 304. DEFINITIONS.

For the purposes of this title—

(1) the term "developmental screening" means the process of measuring the progress of children to determine if there are problems or potential problems or advanced abilities in the areas of understanding and use of language, perception through sight, perception through hearing, motor development and hand-eye coordination, health, and physical development;

(2) the term "eligible family" means any parent with one or more children between birth and 3 years of age, or any parent expecting a child;

(3) the term "lead agency" means the office, agency, or other entity in a State designated by the Governor to administer the parents as teachers program authorized by this title;

(4) the term "parent education" includes parent support activities, the provision of resource materials on child development and parent-child learning activities, private and group educational guidance, individual and group learning experiences for the parent and child, and other activities that enable the parent to improve learning in the home;

(5) the term "parent educator" means a person hired by the lead agency of a State or designated by local entities who administers group meetings, home visits and developmental screening for eligible families, and is trained by the Parents As Teachers National Center established under section 308; and

(6) the term "Secretary" means the Secretary of Education.

SEC. 305. PROGRAM ESTABLISHED.

(a) In General.—The Secretary is authorized to make grants to States to pay the Federal share of the cost of establishing, expanding, and operating parents as teachers programs.

(b) Special Rule.—Any State operating a parents as teachers program on the date of enactment of this Act shall be eligible to receive a grant under this title.

SEC. 306. PROGRAM REQUIREMENTS.

(a) Requirements.—

(1) In general.—Each State receiving a grant pursuant to section 305 shall conduct a parents as teachers program which—

(A) establishes and operates parent education programs including programs of developmental screening of children; and

(B) designates a lead State agency which shall—

(i) hire parent educators who have had supervised experience in the care and education of children;

(ii) establish the number of group meetings and home visits required to be provided each year for each participating family, with a minimum of 2 group meetings and 10 home visits for each participating family;

(iii) be responsible for administering the periodic screening of participating children's educational, hearing and visual development, using the Denver Developmental Test, Zimmerman Preschool Language Scale, or other approved screening instruments; and

(iv) develop recruitment and retention programs for hard-to-reach populations.

(2) Limitation.—Grants awarded under this title shall only be used for parents as teachers programs which serve families during the period of time beginning with the last 3 months of a mother's pregnancy and ending when a child attains the age of 3.

SEC. 307. SPECIAL RULE.

No person shall be required to participate in any program of parent education or developmental screening pursuant to the provisions of this title.

SEC. 308. PARENTS AS TEACHERS NATIONAL CENTER.

The Secretary shall establish a Parents As Teachers National Center to disseminate information to, and provide technical and training assistance to, States establishing and operating parents as teachers programs.

SEC. 309. EVALUATIONS.

The Secretary shall complete an evaluation of the State parents as teachers programs assisted under this title within 4 years from the date of enactment of this Act, including an assessment of such programs' impact on at-risk children.

SEC. 310. APPLICATION.

Each State desiring a grant pursuant to the provisions of this title shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall describe the activities and services for which assistance is sought.

SEC. 311. PAYMENTS AND FEDERAL SHARE.

(a) Payments.—The Secretary shall pay to each State having an application approved under section 310 the Federal share of the cost of the activities described in the application.

(b) Federal Share.—

(1) In general.—The Federal share—

(A) for the first year for which a state receives assistance under this title shall be 100 percent;

(B) for the second such year shall be 100 percent;

(C) for the third such year shall be 75 percent;

(D) for the fourth such year shall be 50 percent; and

(E) for the fifth such year shall be 25 percent.

(2) Non-federal share.—The non-Federal share of payments under this title may be in cash or in kind fairly evaluated, including planned equipment or services.

SEC. 312. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out the provisions of this title.

TITLE IV—CHILD WELFARE

SEC. 401. AMENDMENT OF SOCIAL SECURITY ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

Subtitle A—Foster Care, Adoption, and Child Welfare Services

SEC. 411. INNOVATIVE CHILD AND FAMILY SERVICES PROGRAMS.

(a) In General.—Part B of title IV is amended by adding at the end thereof the following new section:

"INNOVATIVE CHILD AND FAMILY SERVICES

"Sec. 429. (a)(1) For the purpose of enabling States to plan, develop, expand, or operate innovative programs of child and family services in order to preserve and strengthen families and prevent the need for unnecessary placement in foster care, there are authorized to be appropriated for each fiscal year, in addition to amounts otherwise appropriated under this part, such sums as may be necessary to carry out the purposes of this section.

"(2) In addition to the amounts authorized to be appropriated under paragraph (1), there is authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997, the sum of $8,000,000 to carry out the purposes of subsection (c)(1).

"(b)(1) From the sums appropriated therefore, the Secretary shall, subject to the provisions of this section, pay as an entitlement to each State for each quarter an amount equal to 75 percent of the total expenditures during that quarter for the purpose of planning, developing, expanding, or operating an innovative program of child and family services (in accordance with the requirements of this section) to incorporate any of the following services:

"(A) Preplacement preventive services designed to help children at risk of foster care placement remain with their families (including adoptive families), where appropriate.

"(B) Reunification services designed to help children return to the families (including adoptive families) from which they have been removed, where appropriate.

"(C) Follow up services designed to sustain and further strengthen families (including adoptive families) after a child has returned home from foster care placement.

"(D) Where appropriate, services designed to help children be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement.

"(E) Respite care to provide assistance for any foster care family, adoptive family, or any other family that the State agency determines needs such care in order to preserve family stability, with priority to the family of a child with a physical, mental, or emotional condition that requires special assistance (as determined by the Secretary).

"(F) Family support services to strengthen the functioning of a family (including an adoptive or foster care family), including services designed to improve parenting skills.

"(2) The total amount paid to a State under paragraph (1) for a fiscal year may not exceed the sum of—

"(A) the amount to which a State is entitled under paragraph (3) for the fiscal year; and

"(B) any unexpended portion of the amount to which a State was entitled for the preceding fiscal year.

"(3)(A) The amount to which a State is entitled under this paragraph for a fiscal year shall be determined in the manner specified in section 421(a), except that the total amount to which all States are entitled under this paragraph may not exceed—

"(i) $150,000,000 for fiscal year 1993,

"(ii) $250,000,000 for fiscal year 1994,

"(iii) $300,000,000 for fiscal year 1995,

"(iv) $350,000,000 for fiscal year 1996, and

"(v) $400,000,000 for fiscal year 1997, and each subsequent fiscal year.

"(B) The amount to which a State is entitled under this paragraph for a fiscal year shall remain available for such fiscal year and the succeeding fiscal year.

"(4) Payments to a State under this subsection for any fiscal year shall be made in accordance with the procedures described in section 423(b).

"(5) As a condition of receiving a payment under this section, a State shall provide written assurance (in such form as the Secretary shall prescribe by regulation) that the aggregate amount of funds expended by the State and its political subdivisions from non-Federal resources for the purpose of providing child welfare services (excluding foster care maintenance and adoption assistance payments) shall be maintained at a level of funding that is equal to or exceeds the level of such funding for such services for fiscal year 1991.

"(c)(1)(A) The Secretary shall conduct evaluations of programs under this section according to criteria that the Secretary shall establish.

"(B) In developing the criteria described in subparagraph (A), the Secretary shall consult with—

"(i) individuals who administer programs under this part and part E of this title;

"(ii) private, nonprofit organizations with an interest in child welfare; and

"(iii) other individuals and organizations with recognized expertise in the evaluation of child welfare services programs or other related programs.

"(C) The Secretary may enter into a contract with one or more independent research organizations to carry out a program evaluation under this subsection.

"(2) Funds expended by a State to conduct evaluations of programs of child and family services administered by the State shall be deemed expenditures for which payment may be made under subsection (b)(1). Such evaluations shall be conducted in accordance with requirements that the Secretary shall prescribe by regulation.

"(3) Program evaluations conducted pursuant to paragraph (1) or (2) shall—

"(A) use methodologies to measure outcomes with respect to children and families who participate in the programs under this section that enable comparison with similar outcome measurements of children and families who have not received the services offered by the programs under this section; and

"(B) include an assessment of family functioning.

"(4) In carrying out the program evaluations described in paragraph (1), the Secretary shall ensure that an appropriate portion of such evaluations shall use experimental and control groups (of a sample size determined in accordance with appropriate statistical practices).

"(5)(A) The Secretary shall develop procedures to facilitate the coordination of evaluations conducted by the Secretary and by the States.

"(B) Upon request by a State, the Secretary shall provide technical assistance to facilitate the planning and design of program evaluations under this section.

"(6) For fiscal year 1995, and annually thereafter until the programs authorized under this section are completed, the Secretary shall issue a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that includes—

"(A) information concerning the status of evaluations conducted by the Secretary under this subsection;

"(B) findings from the evaluations described in subparagraph (A);

"(C) information concerning the status of evaluations conducted by States under this subsection; and

"(D) a summary of the findings from the State evaluations described in subparagraph (C).

"(7) The Secretary shall, upon completion of a review of the evaluations conducted under this subsection by the Secretary and by States (but not later than December 1, 1996), submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives that includes recommendations for legislation to improve child and family services provided under this title to strengthen families, to reduce the number of cases in which it is necessary to remove a child from home and place the child in foster care, to promote the reunification of families of children who have been placed in foster care, and to promote planned, permanent living arrangements for children, including adoption, where appropriate.".

(b) STATE PLANS AND REPORTS.—Section 422 (42 U.S.C. 622) is amended by adding at the end the following new subsections:

"(c) Not later than January 1, 1993 (with respect to fiscal year 1993), and not later than the July 1 preceding each fiscal year thereafter, each State with an innovative program of child and family services (as described in section 429(a)) that intends to provide services that qualify for payments under section 429(b) shall submit to the Secretary for approval, as an amendment to the plan described in subsection (a), a detailed description of the services that such State intends to provide during such fiscal year.

"(d) Not later than January 1, 1993, each State with an innovative program of child and family services (as described in section 429(a)) that intends to provide services under such program that qualify for payments under section 429(b), shall submit to the Secretary a report containing a statement of goals that the State expects to achieve during the 5-year period beginning with fiscal year 1993.

"(e) Not later than January 1, 1994, and annually thereafter, each State shall submit to the Secretary a report that summarizes activities carried out with funds made available under this title. Such report shall cover the most recently completed fiscal year, and shall be in such form and contain such information as the Secretary shall require by regulation.".

(c) CONFORMING AMENDMENTS.—Section 423(a) (42 U.S.C. 623(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) For the purposes of this section, the 'amounts expended under the plan' described in paragraph (1) shall not include amounts for which payment is made under section 429(b) for services described in section 429(a).".

SEC. 412. DEMONSTRATION PROJECTS TO IMPROVE COORDINATION OF SERVICES.

(a) IN GENERAL.—Title IV is amended by inserting after section 474 the following new section:

"DEMONSTRATION PROJECTS FOR THE COORDINATION OF CHILD AND FAMILY SERVICES

"SEC. 474A. (a) In order to improve the coordination of child and family services, the Secretary shall authorize not more than 15 States to conduct demonstration projects, to be carried out in accordance with this section.

"(b) An application submitted by the Governor of a State shall include a description of the measures to be employed to improve the coordination of the services and benefits provided by child and family services programs carried out under the State plan under this part with programs which provide services to families and children including some or all of the following programs and services:

"(1) The program of aid and services for needy families with children carried out under the State plan pursuant to part A.

"(2) The child support and spousal support enforcement program carried out under the State plan pursuant to part D.

"(3) The job opportunities and basic skills training program carried out under the State plan pursuant to section 402(a)(19) and part F.

"(4) The special supplemental food program for woman, infants, and children (the WIC program) authorized under section 17 of the Child Nutrition Act of 1966.

"(5) The maternal and child health block grant program under title V.

"(6) Medical assistance furnished under the State plan approved under title XIX.

"(7) Educational programs that provide services to children or families.

"(8) Drug treatment programs and other substance abuse programs.

"(9) Mental health services programs.

"(10) Juvenile justice programs.

"(11) Programs for developmentally disabled individuals.

"(12) Any additional services for children and families that the State determines necessary to meet the needs of all family members in order to carry out the purposes of this section that are approved by the Secretary.

"(c) A demonstration project conducted under this section may be conducted for a period of not more than 3 years.

"(d)(1) Each State that conducts a demonstration project authorized by the Secretary shall, as a part of such demonstration project, conduct an evaluation of the effectiveness of the demonstration project in improving the coordination and the funding of child and family services.

"(2) Amounts expended by the State for the purposes of conducting an evaluation under this subsection shall be deemed amounts expended pursuant to subparagraph (C) of section 474(a)(3).

"(e) Upon completion of a demonstration project under this section, each State shall submit a report concerning the results of the evaluation described in subsection (d) to the Secretary.

"(f) Each State shall submit to the Secretary at such time as the Secretary may prescribe by regulation—

"(1) a description of administrative policies and laws of the Federal Government and the State or a political subdivision of the State, identified by the State as impediments to the coordination of the delivery of the child and family services described in subsection (b); and

"(2) a description of the measures that the State has taken or intends to take to eliminate or reduce impediments described in paragraph (1) that are attributable to administrative policies and laws of the State or a political subdivision of the State.".

(b) PAYMENTS TO STATES FOR DEMONSTRATION PROJECTS.—(1) Section 474(a) (42 U.S.C. 674(a)) is amended—

(A) by striking the period at the end of paragraph (4)(B)(ii) and inserting "; plus"; and

(B) by adding at the end the following new paragraph:

"(5) if such State is authorized to conduct a demonstration project pursuant to section 474A, 50 percent of so much of such expenditures (not to exceed $750,000 for each quarter during the period of such demonstration project) to carry out the demonstration project.".

(2) The amendments made by paragraph (1) shall apply to expenditures made after September 30, 1992.

(c) REVIEW OF ADMINISTRATIVE POLICIES AND REGULATIONS.—(1) The Secretary of the Department of Health and Human Services, the Secretary of Agriculture, the Secretary of Education, and the Attorney General of the United States shall review the administrative policies and regulations relating to the funding and delivery of services for families and children (as described in section 474A(b) of the Social Security Act, as added by subsection (a) of this section) of the Department of Health and Human Services, the Department of Agriculture, the Department of Education, and the Department of Justice, respectively, to determine whether changes in such administrative policies and regulations may be made without statutory changes to improve the funding and delivery of such services.

(2) In conducting a review pursuant to paragraph (1), the heads of departments described in paragraph (1) shall consult with appropriate representatives of the governments of States and political subdivisions of States.

(3) Not later than July 1, 1993, the heads of the departments described in paragraph (1) shall collectively (or separately after consultation with the others) issue a report to the Congress that includes—

(A) recommendations for statutory changes, as well as changes in regulations and administrative policies, to improve the coordination of the funding and delivery of child and family services;

(B) a description of the technical assistance that the heads of the departments will make available to the States to improve the coordination of the funding and delivery of child and family services; and

(C) an analysis of the impediments identified pursuant to section 474A(f)(1) of the Social Security Act, as added by subsection (a) of this section, as such impediments relate to Federal policies and laws.

SEC. 413. FOSTER CARE AND ADOPTION ASSISTANCE.

(a) REQUIREMENTS FOR DOCUMENTATION FOR ADOPTION PLACEMENT PROCEDURES.—Section 475(5) (42 U.S.C. 675(5)) is amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting "; and"; and

(3) by inserting at the end the following new subparagraph:

"(E) with respect to any child who is legally eligible for adoption, a court or administrative body that conducts a case review pursuant to subparagraph (C), shall determine and document—

"(i) the specific measures taken by the State agency responsible for the placement of the child in an adoptive family to make such a placement; or

"(ii) a finding that placement of the child in an adoptive family would be inappropriate.".

(b) DISRUPTED ADOPTIONS.—(1) Section 471(a) (42 U.S.C. 671(a)) is amended—

(A) in paragraph (1), by inserting "paragraph (18) and" before "section 473";

(B) by striking "and" at the end of paragraph (16);

(C) by striking the period at the end of paragraph (17) and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(18) provides that, at the option of the State, a child whose adoption has been set aside by a court may, for purposes of sections 472 and 473, during any subsequent period of time during which such child would be eligible for assistance under this part as a child in foster care or an adoptive child (but for the adoption or the disruption of the adoption), be deemed to be eligible for such assistance.".

(2) Section 474 (42 U.S.C. 674) is amended by adding at the end the following new subsection:

"(e) For purposes of subsection (a) of this section, a child with respect to whom a State exercises the option described in paragraph (18) of such subsection (a) shall be deemed an eligible child under sections 472 and 473 of this part.".

(c) EFFECTIVE DATES.—(1) The amendments made by subsection (a) shall apply to case reviews conducted on or after October 1, 1993.

(2) The amendments made by subsection (b) shall apply to payments under part E of title IV of the Social Security Act for expenditures made after September 1992.

SEC. 414. ADOPTION EXPENSE DEDUCTION.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by redesignating section 221 as section 222 and by inserting after section 221 the following new section:

"SEC. 221. SPECIAL NEEDS ADOPTION EXPENSES DEDUCTION.

"(a) ALLOWANCE OF DEDUCTION.—In the case of an individual, there shall be allowed as a deduction for the taxable year the amount of the qualified adoption expenses paid or incurred by the individual for such taxable year.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The aggregate amount of adoption expenses which may be taken into account under subsection (a) with respect to the adoption of a child shall not exceed $3,000.

"(2) DENIAL OF DOUBLE BENEFIT.—

"(A) IN GENERAL.—No deduction shall be allowable under subsection (a) for any expense for which a deduction or credit is allowable under any other provision of this chapter.

"(B) REIMBURSEMENTS.—If a taxpayer is reimbursed for any qualified adoption expenses for which a deduction was allowed under subsection (a), the amount of such reimbursement shall be includable in the gross income of the taxpayer in the taxable year in which such reimbursement was received.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ADOPTION EXPENSES.—The term 'qualified adoption expenses' means reasonable and necessary adoption fees, court costs, attorneys fees, and other expenses which—

"(A) are directly related to the legal adoption of a child with special needs by the taxpayer,

"(B) are not incurred in violation of State or Federal law, and

"(C) are of a type eligible for reimbursement under the adoption assistance program under part E of title IV of the Social Security Act.

"(2) CHILD WITH SPECIAL NEEDS.—The term 'child with special needs' means any child determined by the State to be a child described in paragraphs (1) and (2) of section 473(c) of the Social Security Act.".

(b) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES DEDUCTIONS.—Subsection (a) of section 62 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (13) the following new paragraph:

"(14) ADOPTION EXPENSES.—The deduction allowed by section 221 (relating to deduction for expenses of adopting a child with special needs).".

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 221 and by inserting the following new items:

"Sec. 221. Special needs adoption expenses deduction.

"Sec. 222. Cross reference.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to adoptions occurring in taxable years beginning after December 31, 1992.

SEC. 415. STUDY OF REASONABLE EFFORTS REQUIREMENT BY ADVISORY COMMITTEE.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this title, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall establish an Advisory Committee on Foster Care Placement (hereafter in this section referred to as the "Advisory Committee") to study and make recommendations concerning the requirements under section 471(a)(15) of the Social Security Act (42 U.S.C. 671(a)(15)) for each State plan for foster care and adoption assistance.

(b) MEMBERSHIP.—(1) The Advisory Committee shall consist of no fewer than 9 members. In appointing members to the Advisory Committee, the Secretary shall include representatives of the following organizations and agencies:

(A) Private, nonprofit organizations with an interest in child welfare (including such organizations that provide child protective services, foster care services, or adoption services).

(B) Hospitals that treat a significant number of boarder babies (as determined by the Secretary).

(C) Agencies of States and political subdivisions thereof responsible for child protective services, foster care services, or adoption services.

(D) Judicial bodies of States and political subdivisions thereof responsible for adjudicating issues of family law (as defined and determined by the Secretary).

(2) Members of the Advisory Committee who are not full-time Federal employees shall, while engaging in the business of the Advisory Committee (including travel time) be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the daily rate specified at the time of such service under level IV of the Executive Schedule.

(3) While away from their homes or regular places of business and on the business of the Advisory Committee, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in Government service.

(c) REPORT.—Not later than January 1, 1994, the Advisory Committee shall submit a report to the Secretary and to the Congress that includes recommendations for making improvements in the implementation of the requirements under section 471(a)(15) of the Social Security Act.

SEC. 416. CASE REVIEW SYSTEM REQUIREMENT.

(a) IN GENERAL.—Subparagraph (A) of section 475(5) (42 U.S.C. 675(5)) is amended by inserting "and most appropriate" after "(most family like)".

(b) CITIZEN VOLUNTEER INPUT.—Section 475(5) (42 U.S.C. 675(5)), as amended by section 413, is further amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by inserting at the end the following new subparagraph:

"(F) to the extent determined appropriate by the State, citizen volunteers may participate in making recommendations at either the court or administrative reviews described in subparagraph (B) or at the dispositional hearings described in subparagraph (C).".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) shall take effect with respect to case reviews conducted on or after October 1, 1992.

(2) The amendments made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 417. DEMONSTRATION PROJECT TO FACILITATE THE REUNIFICATION OF A CHILD WITH HIS OR HER FAMILY.

(a) IN GENERAL.—(1) The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall enter into agreements with not more than 6 States with an approved plan under section 402 of the Social Security Act (42 U.S.C. 602) (hereafter in this section referred to as the "State plan") to conduct demonstration projects under this section.

(2) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this section, and shall approve up to 6 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this section.

(3) Demonstration projects under this section shall meet such conditions and requirements as the Secretary shall prescribe by regulation. No such project shall be conducted for a period of more than 3 years, and no such project may be conducted after January 1, 1997.

(b) EFFECT OF ACCELERATED AFDC ELIGIBILITY ON FAMILY REUNIFICATION.—For each State conducting a demonstration project under this section, notwithstanding any provision of title IV of the Social Security Act, in order to test the effect on facilitating the reunification of families with children for whom out-of-home placement was determined to be necessary, the Secretary shall establish rules under which the State may deem the family of any such child (who would otherwise be considered a dependent child, as defined in section 406(a) of the Social Security Act, but for the placement of the child outside of the home of the family) to be eligible to receive aid under the State plan (including aid that the State may elect to provide for meeting any special needs) for the month immediately preceding the month during which such child is reunited with the family.

(c) DEMONSTRATION PROJECT EVALUATIONS.—Each State that conducts a demonstration project under this section, shall, after such project has been carried out for one year and again when such project is completed, submit to the Secretary a detailed evaluation of the project and of the contribution of the project to the achievement of the purpose of this section.

(d) STATUTORY CONSTRUCTION.—Title IV of the Social Security Act and the regulations promulgated under such title shall apply to demonstration projects conducted under this section to the extent such title is not inconsistent with the purposes of the demonstration projects.

SEC. 418. DATA COLLECTION SYSTEMS.

(a) AUTOMATED DATA COLLECTION SYSTEMS.—Section 474(a)(3) (42 U.S.C. 674(a)(3)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (E); and

(3) by inserting after subparagraph (B) the following new subparagraphs:

"(C) 90 percent of so much of such expenditures as are for the planning, design, development, or installation of such statewide mechanized data collection and information retrieval systems (including 90 percent of the full amount of expenditures for hardware components for such systems), but only if such systems—

"(i) meet the requirements for data collection systems provided in regulations issued pursuant to 479(b)(2);

"(ii) have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part A (for the purposes of facilitating the verification of the eligibility of foster children); and

"(iii) are determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under the State plan approved under part B or the State plan approved under this part,

"(D) 50 percent of so much of such expenditures as are for the operation of a data collection and information system for the purposes of administering programs under the State plan under this part, and".

(b) OPERATING COSTS.—Section 425(a) (42 U.S.C. 625(a)) is amended by adding at the end the following new paragraph:

"(3) Funds expended by a State for any calendar quarter with respect to the operation of a data collection and information system described in section 474(a)(3)(C) for the purposes of administering programs under this part, shall be deemed to have been expended for child welfare services.".

(c) CONFORMING AMENDMENT.—Section 474A(d)(2), as added by section 412 of this subtitle, is amended by striking "subparagraph (C)" and inserting "subparagraph (E)".

(d) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply to expenditures made—

(1) after January 1, 1993; and

(2) with respect to section 474(a)(3)(C) of the Social Security Act, as added by such subsection, before October 1, 1995.

SEC. 419. INDEPENDENT LIVING.

(a) ACCUMULATION OF ASSETS.—Section 477 (42 U.S.C. 677) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) inserting after subsection (h) the following new subsection:

"(i) Notwithstanding any other provision of this title and of title XIX, with respect to a child who is included in a program established under subsection (a), an amount of the assets of the child which would otherwise be regarded as resources for the purposes of determination of eligibility for programs under this title or title XIX may be disregarded for the purpose of allowing such child to establish a household. Such amount may not exceed an amount determined by the State agency responsible for the administration of the program as reasonable for the purpose of establishing a household.".

(b) INITIATIVE PAYMENTS MADE PERMANENT.—Section 477 (42 U.S.C. 677) is amended—

(1) by striking the last sentence in subsection (a)(1),

(2) by striking "any of the fiscal years 1988 through 1992" in subsection (c) and inserting "any subsequent fiscal year",

(3) by striking "for each of the fiscal years 1987 through 1992" in subsection (e)(1)(A) and inserting "for each fiscal year",

(4) by striking "fiscal years 1991 and 1992" in subsection (e)(1)(B) and inserting "fiscal year 1991 and any subsequent fiscal year", and

(5) by striking "for fiscal year 1992" in subsection (e)(1)(C)(ii)(II) and inserting "for fiscal year 1992 and any subsequent fiscal year".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1992.

SEC. 420. TRAINING ACTIVITIES.

(a) CHILD WELFARE TRAINEESHIPS.—(1) Title IV is amended by inserting after section 426 the following new section:

"CHILD WELFARE TRAINEESHIPS

"SEC. 426A. (a) The Secretary shall approve an application for a grant to a public or nonprofit institution of higher learning to provide traineeships with stipends under section 426(a)(1)(C), only if the application—

"(1) provides assurances that each individual who receives a stipend with such traineeship (hereafter in this section referred to as a 'recipient') shall enter into an agreement with the institution of higher learning under which the recipient shall agree—

"(A) to participate in onsite training at a public or private child welfare agency on a regular basis (as determined by the Secretary) for the period of the traineeship;

"(B) to be employed for a period of years equivalent to the period of the traineeship in a public or private nonprofit child welfare agency in any State after completing the postsecondary education for which the traineeship was awarded (within such period of time as is determined by the Secretary by regulation);

"(C) to provide the institution of higher learning and the Secretary with evidence of compliance with subparagraphs (A) and (B); and

"(D) in the event that the conditions of subparagraph (A) or (B) are not complied with (except as provided in the exceptions to repayment provisions described in subsection (b)), to repay to the Secretary all or part of the amount of the stipend, plus interest, and if applicable, reasonable collection fees (in compliance with regulations that the Secretary shall promulgate);

"(2) provides that an agreement entered into with a recipient shall fully disclose the terms and conditions under which the traineeship with stipend is granted; and

"(3) provides assurances that the institution of higher learning shall—

"(A) provide appropriate support and supervision of recipients;

"(B) enter into agreements with child welfare agencies for the onsite training of recipients;

"(C) develop and implement a curriculum in the field of child welfare services that—

"(i) incorporates the most recent information concerning best practices for the delivery of child welfare services; and

"(ii) incorporates information relating to clause (i) supplied to the institution through consultation with child welfare agencies;

"(D) permit a student who is employed in the field of child welfare services (at the time such student applies for a traineeship) to apply for a traineeship with a stipend if such traineeship furthers the student's progress towards the completion of degree requirements; and

"(E) develop and implement a system that tracks for a period of 3 years, beginning on the date of completion of any student of a child welfare services program of study, the employment record of such student in the field of child welfare services (for the purpose of determining the percentage of students who secure employment in the field of child welfare services and remain employed in such field).

"(b) A recipient shall not be considered in violation of the agreement entered into pursuant to subsection (a)(1) during any period in which the recipient satisfies repayment exceptions that may be prescribed by the Secretary by regulation.".

(2) Subparagraph (C) of section 426(a)(1) (42 U.S.C. 626(a)(1)) is amended by inserting "described in section 426A" after "including traineeships".

(3) The amendments made by this section shall apply to grants awarded on or after January 1, 1993.

(b) TRAINING FOR EMPLOYMENT IN CHILD WELFARE AGENCIES.—In order to improve the capacity of State and local child welfare agencies to administer the programs authorized under parts B and E of title IV of the Social Security Act and to provide services to families and children, the Secretary of Health and Human Services shall not later than April 1, 1993—

(1) publish final regulations establishing detailed guidelines to assist States in using Federal matching funds authorized under section 474(a)(3) of the Social Security Act for the purpose of providing training for individuals who are employed or preparing for employment by such agencies; and

(2) develop and publish a model staff recruitment, training, and staff retention program for use by such agencies.

(c) EXTENSION OF FUNDING FOR TRAINING OF ADOPTIVE AND FOSTER PARENTS AND STAFF MEMBERS.—Paragraph (3) of section 8006(a) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "1992" and inserting "1995".

SEC. 421. HEALTH CARE PLANS FOR FOSTER CHILDREN.

(a) IN GENERAL.—Section 475(1)(C) (42 U.S.C. 675(1)(C)) is amended—

(1) in clause (i) by striking "and addresses" and inserting ", addresses, and telephone numbers",

(2) in clause (vii) by striking "and", and

(3) by redesignating clause (viii) as clause (ix) and inserting after clause (vii) the following:

"(viii) a record indicating that the child's foster care provider was advised (where appropriate) of the child's eligibility for early and periodic screening, diagnostic, and treatment services under title XIX; and".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to case plans established or reviewed on or after January 1, 1993.

SEC. 422. CHILD WELFARE DEMONSTRATION PROJECTS.

Part E of title IV (42 U.S.C. 470 et seq.) is amended by adding at the end the following new section:

"SEC. 480. DEMONSTRATION PROJECTS.

"(a) IN GENERAL.—In order to grant States the flexibility and resources necessary to develop innovative policies and appropriate service networks to preserve and strengthen families with children at risk of needing placement outside their homes, to reunite children with their families as promptly as possible if an out-of-home placement is found to be necessary, and to place children in adoptive homes or other permanent arrangements, including guardianships and placements with relatives, in a timely fashion if reunification with their families is impossible or is not in the best interest of any such child, and to provide for the evaluation of innovative State programs and the assessment of the impact of such programs on children and families, the Secretary may authorize not more than 10 States to conduct demonstration projects, which may be carried out throughout the State or in limited areas of the State, in accordance with this section.

"(b) CONSIDERATION OF APPLICATIONS.—The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this section.

"(c) CONTENTS OF APPLICATIONS.—

"(1) GENERAL RULES.—Each application by a State to conduct a demonstration project under this section shall—

"(A) propose a project designed to—

"(i) provide, in accordance with paragraph (2), preventive services and assistance to families which have problems that may lead to the removal of a child from the family;

"(ii) promote, in accordance with paragraph (3), the treatment of family problems so as to achieve the reunification of children with their families as promptly as possible after the time it becomes necessary to remove the child from the family;

"(iii) facilitate, in accordance with paragraph (4), the timely and permanent placement of children who are in foster care or who have been abandoned at or shortly after birth;

"(iv) develop, in accordance with paragraph (5), community-based family support services that are provided by trained individuals who live in the community;

"(v) provide adult mentoring services by adult volunteers to low-income or at-risk children or young adults who are in need of additional, on-going contact with adult role models; or

"(vi) address, in accordance with paragraph (6), any combination of child welfare services issues;

"(B) specify the area or areas of the State in which the project is to be conducted;

"(C) contain a commitment by the State—

"(i) to carry out the project during a period of not less than 2 and not more than 5 consecutive fiscal years beginning with fiscal year 1994; or

"(ii) if the State will not be able to properly plan the project before the beginning of fiscal year 1995, to plan the project during fiscal year 1995 and carry out the project during a period of not less than 4 consecutive fiscal years beginning with fiscal year 1996;

"(D) specify the provisions of part B and this part which, but for subsection (g)(1), would prevent the State from conducting the demonstration project;

"(E) identify who will receive services under the project;

"(F) provide assurances that payments to foster families will be sufficient to ensure an adequate number of foster parents; and

"(G) contain such other information as the Secretary may require by regulation.

"(2) PROJECTS TO PREVENT FAMILY DISSOLUTION.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(i) shall outline the services and procedures the State will offer to prevent family dissolution whenever possible. In addition, each such application by a State shall include the following:

"(A) CASE PLANS.—A commitment by the State to provide each child with a case plan, developed to the extent feasible, in consultation with family members.

"(B) MEASURES TO ASSIST FAMILIES IN ADDRESSING PROBLEMS THAT MAY LEAD TO REMOVAL FROM THE HOME.—A description of the measures to be employed by the State to ensure that families are assisted in addressing the problems that may result in the removal of the child from the home.

"(C) MEASURES TO KEEP PARENTS REQUIRING DRUG OR ALCOHOL TREATMENT WITH THEIR CHILDREN.—A description of the measures to be employed by the State to keep parents and their young children together, where appropriate, while the parent participates in drug or alcohol treatment.

"(D) DRUG AND ALCOHOL TREATMENT MEASURES.—A description of the measures to be employed by the State to ensure that drug and alcohol treatment programs are made available to parents who are substance abusers.

"(E) MEASURES TO COORDINATE FAMILY WELFARE FUNDING AND SERVICES.—A description of the measures to be employed by the State to coordinate the funding of, and the services and benefits provided by, programs which provide services to families with children at risk of being placed in the care of a child welfare, mental health, or juvenile justice agency, including the following programs:

"(i) The State's child welfare services program carried out under the State plan approved under part B.

"(ii) The maternal and child health block grant program under title V.

"(iii) The job opportunities and basic skills training program carried out pursuant to section 402(a)(19) and part F.

"(iv) Medical assistance under the State plan approved under title XIX.

"(v) Drug and other substance abuse treatment programs.

"(vi) Mental health services programs.

"(vii) Any new services for children and families that the State deems necessary to meet the needs of all family members in order to carry out the purposes of this section.

"(viii) Such other programs as the State deems appropriate.

"(3) FAMILY REUNIFICATION PROJECTS.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(ii) shall include the following:

"(A) DESCRIPTION OF PROPOSED PROCEDURES TO ASSIST FAMILY REUNIFICATION.—A description of how the State will—

"(i) design a treatment plan for addressing the family problems that led to removal of the child from the home;

"(ii) to the extent feasible, involve all family members in executing the plan;

"(iii) coordinate the programs and resources necessary to address the problem that led to removal of the child from the home;

"(iv) reunify the child with the family as soon as possible (consistent with the best interests of the child); and

"(v) implement improvements in laws and procedures so as to ensure timely hearings and decisions.

"(B) REASONS WHY PROPOSED PROCEDURES WOULD RESULT IN EARLIER FAMILY REUNIFICATION.—A discussion of why the particular procedures proposed in the application are likely to result in earlier or more successful family reunification than is achieved under the present policies and procedures of the State.

"(4) PERMANENT PLACEMENT PROJECTS.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(iii) shall describe how the State will improve its laws and administrative procedures so as to provide, where appropriate, more expeditious, permanent placement of children who are in foster care, are boarder babies, were abandoned at or shortly after birth, have parents addicted to drugs, or were abused.

"(5) FAMILY SUPPORT DEMONSTRATION PROJECTS.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(iv) shall include a description of—

"(A) how the State will conduct innovative programs which train individuals who live in a community to provide family support services to other families in the community with children at risk of being placed in foster care, using services which are based on a self-help model; and

"(B) how such programs will be coordinated with other child welfare and family support services available in the area.

"(6) PROJECTS PROVIDING ADULT MENTORING.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(v) shall include a description of—

"(A) how the State will support the provision by private, nonprofit, community-based organizations of one or more projects which provide adult mentoring services through adult volunteers for low-income or at-risk children or young adults, who can benefit from the guidance, encouragement, and experience of such volunteers through frequent and regular contact with such volunteers;

"(B) the length of time, not to exceed 5 years, for which funds will be required for the provision of adult mentoring services; and

"(C) how such projects will be coordinated with other programs which provide educational services, job counseling and training services, social services, or a combination of such services for low-income or at-risk children or young adults, if such coordination is appropriate.

Funds shall be available beyond the first year of a project which provides adult mentoring services only upon successful provision of such services in the previous year.

"(7) PROJECTS ADDRESSING OTHER CHILD WELFARE ISSUES.—Each application by a State to conduct a demonstration project under this section of the type described in paragraph (1)(A)(vi) shall describe a project designed to test an innovative approach to any number of significant child welfare services issues, which may include—

"(A) avoiding out-of-home placements;

"(B) achieving, where appropriate, speedy reunification of families from which it has been necessary to remove a child;

"(C) reducing the time it takes to permanently place children who have been removed from their families when such placement is appropriate;

"(D) where appropriate, permitting children to remain with, or be quickly reunited with, their parents while their parents receive treatment for substance abuse; and

"(E) identifying risk factors which would allow child welfare agencies to identify and offer assistance to families that may need protective services.

"(d) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Within 12 months after the date of the enactment of this section—

"(A) the Secretary shall transmit to each State a detailed explanation of the requirements for participation in the demonstration program established by this section;

"(B) any State interested in conducting a demonstration project under this section shall transmit to the Secretary a letter of intent containing a tentative description of the project; and

"(C) the Secretary shall, subject to paragraph (4), approve not more than 10 applications which meet the applicable requirements of subsection (c).

"(2) DISTRIBUTION OF DEMONSTRATIONS BY STATE POPULATION.—The Secretary, to the extent feasible (in view of the number of approvable applications received), shall provide that in approving applications to conduct demonstration projects under this section that—

"(A) at least 2 and not more than 4 of such applications approved are the applications of States with populations of less than 1.5 million;

"(B) at least 3 and not more than 5 of such applications approved are the applications of States with populations between 1.5 and 7 million; and

"(C) at least 2 and not more than 4 of such applications approved are the applications of States with populations over 7 million.

"(3) DISTRIBUTION OF DEMONSTRATIONS BY REGION.—The Secretary shall provide that in approving applications to conduct demonstration projects under this section that no more than 4 of such applications shall be approved for any one geographical region (as determined by the Secretary) of the country.

"(4) FREEDOM OF STATES TO SELECT AREAS IN WHICH TO CONDUCT DEMONSTRATION.—The Secretary may not, as a condition of approval, require any State to conduct a project under this section in any area of the State not specified in the application therefor.

"(5) CERTIFICATION REQUIRED.—The Secretary shall not approve the application of a State to conduct a demonstration project under this section unless the State certifies that all cost savings resulting from the project will be used to provide child welfare services (within the meaning of section 425(a)(1)) to families.

"(e) GRANTS.—

"(1) IN GENERAL.—The Secretary shall make grants in accordance with this subsection to each State whose application to conduct a demonstration project under this section is approved by the Secretary, in accordance with a contract prepared by the Secretary (in consultation with the entity or entities selected pursuant to subsection (f)) which specifies the duties of the Secretary, the State, and the entity selected to evaluate the project in achieving the purpose described in subsection (a).

"(2) USE OF GRANTS.—Each State which receives funds under the demonstration program under this section may use such funds to improve the provision of child welfare, foster care, and adoption assistance services in any manner that the State deems appropriate.

"(3) ANNUAL GRANTS.—The Secretary shall make grants to States under paragraph (1) for each fiscal year for which the State is authorized to conduct a demonstration project under this section.

"(4) AMOUNT OF GRANT TO INCLUDE STATE DEMONSTRATION BONUS.—

"(A) CALCULATION OF AMOUNT OF GRANT.—The amount of the grant to be paid under paragraph (1) to a State for a fiscal year shall be an amount equal to the applicable percentage of the sum of—

"(i) the amounts paid to the State for fiscal year 1992 pursuant to sections 423 and 474 (other than for adoption assistance payments under section 473 and for expenses for the proper and efficient administration of the provisions of the State plan relating to adoption assistance);

"(ii) the portion of the amount (if any) by which the amounts appropriated for the fiscal year for payments to States under part B exceed the amounts so appropriated for fiscal year 1992, that would be payable to the State pursuant to such part if the State were not authorized to conduct a demonstration project under this section; and

"(iii) 20 percent of the amount that would have been payable to the State for the immediately preceding fiscal year pursuant to section 423 if the State were not authorized to conduct a demonstration project under this section.

"(B) APPLICABLE PERCENTAGE DEFINED.—

"(i) As used in subparagraph (A), the term 'applicable percentage' means, with respect to a State and a fiscal year, the quotient set forth in clause (ii) as determined by the Secretary after taking into account the estimates made under subsection (f)(2)(B) for the fiscal year with respect to the State.

"(ii) The quotient set forth in this clause is—

"(I) the number of children in the areas in which the State is conducting a demonstration project under this section with respect to whom the State would have made foster care maintenance payments under section 472 for the fiscal year if the Secretary had approved the State plan under this part for the fiscal year and the State were not authorized to conduct the project; divided by

"(II) the total number of children in the State with respect to whom the State would have so made such payments for the fiscal year.

"(5) NOTIFICATION TO STATES OF AMOUNT OF GRANTS.—On the 1st day of each fiscal year for which a State is to be made a grant under paragraph (1), the Secretary shall notify the State of the amount of the grant.

"(6) GRANTS TO BE PAID IN EQUAL QUARTERLY INSTALLMENTS.—The Secretary shall pay each grant under paragraph (1) in equal quarterly installments.

"(7) SUPPLEMENTARY PAYMENT.—Within 3 months after the end of each fiscal year with respect to which estimates are made under subsection (f)(2)(B) with respect to a State, the Secretary shall—

"(A) take such estimates into account in determining the amount that would have been payable to the State under section 474 for the fiscal year (other than for adoption assistance payments under section 473 and for expenses for the proper and efficient administration of the provisions of the State plan relating to adoption assistance) if the Secretary had approved the State plan under this part for the fiscal year and the State were not authorized to conduct a demonstration project under this section; and

"(B) pay the State the amount (if any) by which—

"(i) the amount determined under subparagraph (A); exceeds

"(ii) the amount paid to the State pursuant to section 474 for fiscal year 1992 (other than for adoption assistance payments under section 473 and for expenses for the proper and efficient administration of the provisions of the State plan relating to adoption assistance).

"(f) EVALUATION OF DEMONSTRATION PROJECTS.—

"(1) SELECTION OF EVALUATING ENTITY.—The Secretary shall—

"(A) publish in the Commerce Daily a request for applications from entities that are capable of, and interested in, performing the functions described in paragraph (2) in time for such an entity to participate in the development of contracts under subsection (e)(1); and

"(B) enter into a contract with 1 or more entities to perform such functions.

"(2) FUNCTIONS OF EVALUATING ENTITY.—The functions of the entity or entities selected by the Secretary pursuant to paragraph (1) are—

"(A) to assist the Secretary and the States in devising a detailed plan for the evaluation of demonstration projects conducted under this section;

"(B) within 30 days after the end of each fiscal year, to submit a report to the Secretary, with respect to each such project, that estimates in accordance with the data collection provisions of the contract described in subsection (e)(1)—

"(i) the number of children in the areas in which the State is conducting a demonstration project under this section with respect to whom the State would have made foster care maintenance payments under section 472 for the fiscal year if the Secretary had approved the State plan under this part for the fiscal year and the State were not authorized to conduct the project; and

"(ii) the average length of time for which such payments would have been so made with respect to such children;

"(C) prepare in accordance with paragraph (3), and submit to the Secretary, with respect to each such project, interim reports that evaluate the costs and benefits of the project; and

"(D) prepare in accordance with paragraph (3), and submit to the Secretary, with respect to each such project, a final report that—

"(i) describes in detail, and documents, the ways in which the project has changed the provision of preventive services, reunification services, adoption assistance services, and other related child welfare and foster care services in the State; and

"(ii) evaluates the costs and benefits of the project.

"(3) EVALUATION REQUIREMENTS.—In evaluating a demonstration project conducted by a State under this section, the entity or entities selected by the Secretary to perform the evaluation shall—

"(A) collect such information as may be necessary to analyze the impact of the project on—

"(i) foster care placement rates;

"(ii) child development and behavior (including academic performance, intellectual development, and health); and

"(iii) family relationships;

"(B) collect such other information on outcomes as the Secretary or the State deems appropriate; and

"(C) use methodologies to measure outcomes with respect to children and families who participate in the projects under this section that enable comparison with similar outcome measurements of children and families who have not received the services offered by the projects under this section.

In selecting evaluating entities, the Secretary shall ensure that an appropriate portion of the evaluations shall use experimental and control groups (of a sample size determined in accordance with appropriate statistical practices).

"(4) DUTY OF STATES TO PROVIDE INFORMATION.—Each State which conducts a demonstration project under this section shall provide the entity or entities selected by the Secretary to evaluate the project with such information with respect to the project and the State programs carried out pursuant to part B and this part as the entity or entities may request under the contract described in subsection (e)(1) entered into by the Secretary, the entity, and the State.

"(5) COSTS OF EVALUATIONS.—The Secretary shall pay the costs incurred during each fiscal year by any State in assisting the evaluation of the demonstration project conducted by the State under this section, to the extent that such costs exceed the amount (estimated by the Secretary) that the State would have expended during the fiscal year to comply with the data reporting requirements of part B and this part if the Secretary had approved the State plans under such parts for the fiscal year and the State were not authorized to conduct the project.

"(g) APPLICABILITY OF PART B AND OTHER SECTIONS OF THIS PART.—During the period in which a State is conducting a demonstration project under this section—

"(1) part B (other than section 427) and the other provisions of this part (other than section 471(a)(1) requiring the State plan to provide for adoption assistance in accordance with section 473, paragraphs (8), (12), (13), (15), and (16) of section 471(a), sections 473, 474 (as it relates to adoption assistance under section 473), and section 479) shall not apply to the State; and

"(2) the State shall, for purposes of section 402(a)(20), be deemed to have in effect a State plan approved under this part.

"(h) PROHIBITION AGAINST IMPAIRMENT OF ENTITLEMENT TO FOSTER CARE BENEFITS.—A State may not carry out a demonstration project under this section in a manner which impairs the entitlement of any qualified child to foster care benefits under a State plan approved under this part.".

SEC. 423. HOME REBUILDERS DEMONSTRATION PROJECT.

(a) IN GENERAL.—Upon written application of the State of New York (in this section referred to as the "State"), and after the Secretary of Health and Human Services approves the application as meeting the requirements set forth in subsection (b), the State may conduct a demonstration project for the purpose of testing how to enhance the practices and procedures that will expedite the discharge of children from foster care, including the appropriate reunification of children with their families, or the adoption of children by suitable adoptive parents.

(b) PROJECT REQUIREMENTS.—In an application submitted under subsection (a), the State shall provide that the following terms and conditions shall be in effect under the demonstration project:

(1) Services and assistance for reunification of children with their families or adoption may be provided to not more than 2,000 eligible children (exclusive of siblings).

(2) Services and assistance shall be provided to explore and test innovative means to facilitate expedited and appropriate discharge of children from foster care. Such services and assistance may include social services and other forms of assistance designed to ameliorate or remedy personal problems, behaviors, or home conditions.

(3) For the purpose of testing an alternative to the per diem method of provider reimbursement, payments to participating agencies for total costs associated with providing foster care maintenance, services, and assistance on behalf of children will be disbursed pursuant to an approved per capita reimbursement methodology. The per capita payment will be based on the total number of care days the eligible population of children can reasonably be expected to use during the demonstration period.

(4) Eligibility for the demonstration project shall be based on the age of the child, the length of time in foster care, the type of placement, and the permanency planning goal.

(5) If an eligible child has siblings in foster care, siblings may be regarded as eligible project participants for the purpose of estimating total reimbursements in a manner approved by the Secretary of Health and Human Services.

(6) The Federal Government shall pay to the State with respect to children eligible for the demonstration project who are receiving maintenance payments, services, and assistance under the demonstration project the same amounts as would have been payable with respect to such children under parts B and E of title IV of the Social Security Act as if the families were receiving benefits under the State plan in effect during the period of the demonstration and such amounts shall be in lieu of amounts otherwise payable under such parts. The State and the Secretary of Health and Human Services shall agree to a methodology for determining such amounts prior to the beginning of the demonstration project.

(c) WAIVERS.—The Secretary of Health and Human Services may waive compliance with requirements in part E of title IV of the Social Security Act (other than paragraphs 8, 12, 13, 15, and 16 of section 471(a) of such Act) which (if applied) would prevent the State from carrying out the demonstration project under this section or prevent the State from effectively achieving the purpose of such a project.

(d) DATE OF COMMENCEMENT.—The demonstration project under this section shall commence not later than December 31, 1993.

(e) DURATION OF DEMONSTRATION.—The demonstration project under this section shall be conducted for a period not to exceed 3 years after the date such project begins.

(f) EVALUATION OF REPORTS.—The State shall collect data and conduct an appropriate evaluation of the demonstration project so as to demonstrate the effectiveness of the project. The evaluation design shall be approved by the Secretary of Health and Human Services. The State shall provide an interim and final evaluation report to the Secretary of Health and Human Services at such times and in such manner as such Secretary determines appropriate.

(g) PROHIBITION AGAINST IMPAIRMENT OF ENTITLEMENT TO FOSTER CARE BENEFITS.—The State may not carry out the demonstration project under this section in a manner which impairs the entitlement of any qualified child to foster care benefits under a State plan approved under part E of title IV of the Social Security Act.

SEC. 424. CHILD WELFARE SERVICES PROGRAM REVIEWS.

Section 10406 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 627 note; 103 Stat. 2490) is amended—

(1) by striking "1991" and inserting "1993";

(2) by striking "triennial";

(3) by striking "1992" and inserting "1994"; and

(4) in the section heading—

(A) by striking "**TRIENNIAL**"; and

(B) by striking "**1991**" and inserting "**1993**".

SEC. 425. CHILD WELFARE REVIEW SYSTEM.

(a) RECOMMENDATIONS BY SECRETARY.—

(1) IN GENERAL.—Before May 1, 1993, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate recommendations for legislation to establish a system for—

(A) the review of each State child welfare program for the purposes of—

(i) assessing whether the program is being carried out as required by parts B and E of title IV of the Social Security Act;

(ii) identifying any area in which the program is not being carried out as so required, and the degree to which the program is not being so carried out; and

(iii) identifying the circumstances under which financial penalties shall be imposed in cases of any failure to comply with the requirements of such parts B and E, unless action is taken to correct such failure; and

(B) the provision of technical assistance to any such program.

(2) STATE CHILD WELFARE PROGRAM DEFINED.—As used in this section, the term "child welfare program" means, with respect to a State—

(A) all activities engaged in by, or under contract with, the State for the purpose of carrying out the State plan for child welfare services developed in accordance with section 422 of the Social Security Act; and

(B) all activities engaged in by, or under contract with, the State for the purpose of carrying out the State plan approved by the Secretary under part E of such Act.

(b) CONTENT OF RECOMMENDATIONS.—The recommendations required by subsection (a) shall include provisions—

(1) requiring each State child welfare program to be reviewed periodically to determine—

(A) whether and, where appropriate, the degree to which, the program complies with the requirements of the State plans referred to in subsection (a)(2); and

(B) the extent to which the amounts claimed to have been expended by the State for foster care maintenance payments under section 472 of the Social Security Act and for adoption assistance payments under section 473 of such Act are eligible for reimbursement under part E of such Act; and

(2) specifying the criteria that are to be used to assess, with respect to each subparagraph of paragraph (1)—

(A) whether the program has complied with the requirements that apply to the matters described in such subparagraph; and

(B) the degree of such compliance.

(c) DEVELOPMENT OF RECOMMENDATIONS.—The recommendations required by subsection (a) shall be developed in consultation with—

(1) representatives of State agencies administering the State plans referred to in subsection (a)(2);

(2) representatives of private, nonprofit organizations which have an interest in child welfare; and

(3) such other individuals as the Secretary of Health and Human Services may determine.

SEC. 426. PAYMENT OF STATE CLAIMS FOR FOSTER CARE AND ADOPTION ASSISTANCE.

Section 474 (42 U.S.C. 674) is amended by adding at the end thereof the following new subsection:

"(e) The Secretary shall pay any State claim for reimbursement for expenditures pursuant to subsection (a) within 90 days of the receipt of such claim unless the Secretary issues a deferral or a disallowance of such claim prior to the expiration of such 90 day period.".

SEC. 427. COMMISSION ON CHILDHOOD DISABILITY.

(a) ESTABLISHMENT OF COMMISSION.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") shall appoint a Commission on the Evaluation of Disability in Children (hereafter in this section referred to as the "Commission").

(b) APPOINTMENT OF MEMBERS.—(1) The Secretary shall appoint 15 members to the Commission, including—

(A) recognized experts in the field of medicine, whose work involves—

(i) the evaluation and treatment of disability in children,

(ii) the study of congenital, genetic, or perinatal disorders in children, or

(iii) the measurement of developmental milestones and developmental deficits in children; and

(B) recognized experts in the fields of—

(i) psychology,

(ii) education and rehabilitation,

(iii) law, or

(iv) the administration of disability programs, and

(v) other fields of expertise that the Secretary determines to be appropriate.

(2) Members shall be appointed within 90 days after the date of the enactment of this Act, without regard to the provisions of title 5, United States Code, governing appointments to competitive service.

(3) Members appointed under this subsection shall serve for a term equivalent to the duration of the Commission.

(4) The Secretary shall designate a member of the Commission to serve as Chairman of the Commission for a term equivalent to the duration of the Commission.

(c) ADMINISTRATIVE PROVISIONS.—(1) Service as a member of the Commission by an individual who is not otherwise a Federal employee shall not be considered service in an appointive or elective position in the Federal Government for the purposes of any provision of title 5, United States Code.

(2) Each member of the Commission who is not a full-time Federal employee shall be paid compensation at a rate equal to the daily equivalent of the rate of basic pay in effect for Level IV of the Executive Schedule for each day (including travel time) the member attends meetings or otherwise performs the duties of the Commission.

(3) While away from their homes or regular places of business on the business of the Commission, each member who is not a full-time Federal employee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(d) ASSISTANCE TO COMMISSION.—The Commission may engage such technical assistance from individuals skilled in medical and other aspects of childhood disability as may be necessary to carry out the functions of the Commission. The Secretary shall make available to the Commission such secretarial, clerical, and other assistance as the Commission may require to carry out the functions of the Commission.

(e) STUDY BY THE COMMISSION.—(1) The Commission shall conduct a study, in consultation with the National Academy of Sciences, of the effects of the definition of "disability" under title XVI of the Social Security Act (42 U.S.C. 1382 et seq.) in effect on the date of enactment of this Act, as such definition applies to determining whether a child under the age of 18 is eligible to receive benefits under such title XVI, the appropriateness of such definition, and the advantages and disadvantages of using any alternative definition of disability in determining whether a child under age 18 is eligible to receive benefits under title XVI.

(2) The study described in paragraph (1) shall include issues of—

(A) recommendations for revision of the Childhood Listing of Impairments under regulations promulgated under Part B of Appendix 1 to Subpart P, section 404 of title 20, Code of Federal Regulations;

(B) the validity of a presumption of disability for children under age 4 with a genetic, congenital, or perinatal disorder;

(C) whether the need by families for assistance in meeting high costs of medical care for children with serious physical or mental impairments, whether or not they are eligible for disability benefits under title XVI, might appropriately be met through expansion of Federal health assistance programs (including Medical Assistance under title XIX of this Act); and

(D) such other issues that the Secretary determines to be appropriate.

(f) REPORT.—Not later than September 1, 1994, the Commission shall prepare a report and submit such report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance in the Senate which shall summarize the results of the study described in subsection (e) and include any recommendations that the Commission determines to be appropriate.

(g) TERMINATION OF COMMISSION.—The Commission shall terminate on September 30, 1994.

Subtitle B—Provisions Relating to Comprehensive Substance Abuse Programs for Pregnant Women and Caretaker Parents With Children

SEC. 431. COMPREHENSIVE SUBSTANCE ABUSE TREATMENT PROGRAMS FOR PREGNANT WOMEN AND CARETAKER PARENTS.

Part B of title IV, as amended by section 411, is further amended by adding at the end thereof the following new section:

"PAYMENTS TO STATES FOR CERTAIN SERVICES FURNISHED UNDER COMPREHENSIVE SUBSTANCE ABUSE TREATMENT PROGRAMS

"SEC. 430. (a) For the purpose of enabling States to establish comprehensive programs of substance abuse treatment for certain low-income pregnant women, caretaker parents, and their children, there are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as may be necessary to carry out the purposes of this section.

"(b)(1) Subject to paragraphs (2) and (3), the Secretary shall pay as an entitlement to each State for each quarter, from the sums appropriated therefor, an amount equal to the Federal medical assistance percentage (as defined in section 1905(b)) of the total amount expended by the State for that quarter in planning, developing, and operating a qualified comprehensive substance abuse treatment program, and in providing nonmedical substance abuse treatment support services for qualified individuals under such program.

"(2) The total amount paid to a State under paragraph (1) for a fiscal year may not exceed the sum of—

"(A) the amount to which a State is entitled under paragraph (3) for the fiscal year; and

"(B) any unexpended portion of the amount to which a State was entitled for the preceding fiscal year.

"(3)(A) The amount to which a State is entitled under this paragraph for a fiscal year shall be determined in the manner specified in section 421(a), except that the total amount to which all States are entitled under this paragraph may not exceed $75,000,000 for each of the fiscal years 1993 and 1994, $100,000,000 for each of the fiscal years 1995 and 1996, and $125,000,000 for fiscal year 1997.

"(B) The amount to which a State is entitled under this paragraph for a fiscal year shall remain available for such fiscal year and the succeeding fiscal year.

"(4) Payments to a State under paragraph (1) shall be made in the manner specified in section 423(b).

"(c) As a condition of receiving payment under subsection (b)(1) for a fiscal year, a State shall provide to the Secretary (in such form as the Secretary may prescribe) written assurances that—

"(1) the total amount of funds expended by the State (and any political subdivision thereof) from non-Federal sources for the fiscal year for the purpose of providing nonmedical substance abuse treatment support services for the fiscal year will not be less than the total amount expended for such services from such sources for the immediately preceding fiscal year, and

"(2) an individual who is referred to a program receiving funds authorized under this section by a State agency described in section 422(b)(1) shall be given priority in admission to such program.

"(d) The Secretary shall require each State receiving payments under subsection (b)(1) to report (in such manner and form and at such time as the Secretary determines to be appropriate) such information as may be necessary to permit the Secretary and the Congress to evaluate the operation and effectiveness of comprehensive substance abuse treatment services under this section. Such information shall include the number of individuals participating in such program in the State, any limits imposed by the State on the number of individuals who may enroll in the program, and the number of individuals on any waiting list maintained by the State for participation in the program.

"(e) For purposes of this section:

"(1) The term 'nonmedical substance abuse treatment support services' means—

"(A) home visitation services, nutrition services, child care, and parenting education;

"(B) substance abuse prevention, treatment, and follow-up services (to the extent such services are not furnished under a State plan approved under title XIX); and

"(C) any other services (such as room and board at a residential substance abuse treatment facility for a qualified individual and, where appropriate, the individual's child) that are determined by the State (in accordance with regulations promulgated by the Secretary) to be necessary and appropriate to support the participation of a qualified individual in a qualified comprehensive substance abuse treatment program.

"(2) The term 'qualified individual' means an individual who is—

"(A) a pregnant woman or caretaker parent who is eligible for medical assistance under a State plan approved under title XIX;

"(B) at the option of the State, any other pregnant woman or caretaker parent whose income does not exceed an amount specified by the State; and

"(C) where appropriate, any child of an individual specified in subparagraph (A) or (B).

"(3) The term 'qualified comprehensive substance abuse treatment program' means a program, established by a State, that—

"(A) makes available to qualified individuals (either directly or through arrangements with others) at least the following services:

"(i) substance abuse prevention, treatment, and follow up services (on an outpatient basis and, at the option of the State, in a residential facility);

"(ii) prenatal, gynecological, and pediatric medical services;

"(iii) transportation; and

"(iv) nonmedical substance abuse treatment support services;

"(B) provides for appropriate coordination of substance abuse treatment-related medical services furnished to individuals under the program (under title V or XIX) and nonmedical substance abuse support services for which payment may be made under this section; and

"(C) is administered by an agency (or agencies) designated by the Governor of the State.

"(4) The term 'caretaker parent' means a parent who personally provides (or expects to provide) care for a child.".

TITLE V—SAFE CHILDREN AND COMMUNITIES

SEC. 501. SHORT TITLE.

This title may be cited as the "Safe Children and Communities Act of 1992".

SEC. 502. GRANTS FOR COMMUNITY PROJECTS.

(a) IN GENERAL.—The Secretary of Health and Human Services may make grants to public and nonprofit private entities for the purpose of carrying out projects to improve the safety of the residents of communities in which—

(1) a significant number of low-income families with children reside; and

(2) there is a significant incidence of violence or related conditions that jeopardize the safety of the residents of the community.

(b) CONSULTATION WITH OTHER FEDERAL AGENCIES.—In carrying out this section, the Secretary shall consult with the Attorney General, the Secretary of Education, the Secretary of Housing and Urban Development, and the Secretary of Labor.

(c) COMMUNITY PARTNERSHIP.—

(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the applicant for the grant has entered into agreements with two or more of the types of entities specified in paragraph (2) for the purpose of providing for the participation of the entities in the project for which the grant is sought.

(2) SPECIFICATION OF PARTICIPANTS.—The entities referred to in paragraph (1) are health care providers, local educational agencies, providers of social services, and law enforcement agencies, that operate in the community involved.

(d) CERTAIN EXPENDITURES OF GRANT.—With respect to improving the safety of the residents of a community, the purposes for which a grant under subsection (a) may be expended include—

(1) activities to prevent the abuse of alcohol and other drugs;

(2) activities to prevent youth gangs;

(3) other activities regarding juvenile justice;

(4) education and training programs for disadvantaged youths;

(5) child care for school-age children; and

(6) health services for children (other than inpatient services).

(e) MATCHING FUNDS.—

(1) IN GENERAL.—With respect to the costs of the project to be carried out under subsection (a) by an applicant, the Secretary may make a grant under such substances only if the applicant agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

(A) for the first fiscal year for which the applicant receives payments under subsection (a) for the project, is not less than 25 percent of such costs;

(B) for any second such fiscal year, is not less than 50 percent of such costs; and

(C) for any subsequent fiscal year, is not less than 75 percent of such costs.

(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(f) DURATION OF GRANT.—The period during which payments are made to an entity from a grant under subsection (a) may not exceed 3 years. The provision of such payments is subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. The preceding sentence may not be construed as establishing a limitation on the number of grants under such subsection that may be made to an entity.

(g) AMOUNT OF GRANT.—The Secretary may not make a grant under subsection (a) in an amount less than $25,000.

(h) DEFINITION.—For purposes of this section, the term "Secretary" means the Secretary of Health and Human Services, unless the context indicates otherwise.

(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for each of the fiscal years 1993 through 1998.

LEGISLATIVE SUMMARY OF THE FAMILY INVESTMENT ACT

Purpose: To promote and support families as the fundamental way to enhance the well-being of children by providing a floor of economic and social supports to families with children. The Act is a five-part, basic strategy to help balance work and family life, guarantee a healthy start for children, encourage early childhood education, protect and keep families together and prevent unnecessary out-of-home placement of children and to reduce violence and improve the safety of children and families in their communities.

TITLE I. THE FAMILY AND MEDICAL LEAVE ACT (S. 5)

Entitles employees to an unpaid leave of absence from work for 12 weeks to care for a newborn child or a newly adopted child or to recover personally from a serious illness or care for a seriously ill child, spouse or parent.

Applies to firms of 50 or more employees, requires the restoration of the employee's same or equivalent position upon his/her return to work, the same benefits as when leave began, and the continuation of health benefits. To be eligible, employees must have worked for the employer for at least one year and worked an average of 1,250 hours or more during that year. Includes other specific provisions to respond to concerns of businesses.

Establishes a Commission on Leave to study the effectiveness of this policy its impact on employers.

TITLE II. KIDSNET (H.R. 3147)

Designed to promote full funding of Head Start, the Special Supplemental Food Program for Women, Infants, and Children (WIC), and the Childhood Immunization Program. This would provide the Appropriations Committees with the flexibility to fully fund these programs by 1996. GAO studies indicate that increased funding for WIC and other such programs can produce savings in federal, state, local, and private payer expenditures that are averted by preventive investments.

Cost: up to $9.8 billion over four years.

TITLE III. PARENTS AS TEACHERS (S. 551)

Establishes a grant program to encourage States to develop and expand parent and early childhood education programs in an effort to provide parenting education, strengthen the partnership between parents and schools, and enhance the developmental progress of participating children.

Participation in such Parent as Teachers programs will be voluntary.

Establishes a Parents as Teachers National Center to disseminate information to and provide technical assistance and training to states to establish such programs.

Cost: $20 million authorization for each year, FY 1993-98.

TITLE IV. FAMILY PRESERVATION (S. 4 AS MODIFIED)

Innovative Child and Family Services Programs (Title IV-B)

Creates a permanent capped entitlement under Title IV-B at an authority of $150 million for FY93, increasing to $400 million by FY 1997. All the new funding would be earmarked for innovative child welfare services designed to strengthen and preserve families, thereby avoiding family disruption and placement in foster care.

Demonstration Projects to Improve Coordination of Services

Establishes a demonstration program in 15 States to explore the best ways to coordinate services to children and families including child welfare, WIC, the JOBS program, health care, and educational programs.

Independent Living

Modifies the independent living program that assists foster care youth in making the transition from foster care to independent living by allowing them to accumulate assets sufficient to enable them to establish their own households.

Foster Care and Adoption Assistance

Requires that periodic case review of a child who is legally free for adoption determine and document for the child the specific steps being taken by the State child welfare agency to find an adoptive family, or determine that adoption placement would be inappropriate for the child.

Amends the Internal Revenue Code to provide a tax deduction of up to $3,000 to help families with the one-time costs of adopting a disabled or other "special needs" child.

Requires the Secretary to establish an advisory committee to make recommendations on the implementation of the "reasonable efforts" requirement.

Establishes a 6 state demonstration program to test and evaluate whether family reunification can be facilitated by allowing a family to receive AFDC for the month prior to the child's return home from a foster care placement.

Establishes child welfare traineeships to encourage education and training of students and current employees in state and local child welfare programs.

Comprehensive Substance Abuse Programs

Establishes comprehensive programs of substance abuse treatment for certain low-income pregnant women, caretakers parents and their children. Authorization for FY 1993 cannot exceed $75 million, and authorizations will increase to $125 million in FY 1997.

Cost: $1.9 billion over five years

TITLE V. THE SAFE CHILDREN AND COMMUNITIES ACT OF 1992

Provides grants to non-profit, community-based organizations working in partnership with local health, education, social services and law enforcement agencies, in communities with increased problems of violence and related conditions that jeopardize child, family and community safety. Designed to expand existing successful programs or to help start up new efforts to promote community safety.

Cost: $50 million authorization for each year, FY 1993-98.•

• Mr. DECONCINI. Mr. President, I rise today to add my support to the Family Investment Act. This comprehensive legislation sponsored by Senators ROCKEFELLER and BOND is a significant step in placing children and families at the top of our national agenda.

In March of this year the third annual Kids Count report card was released to the public. The report by the Annie E. Casey Foundation and the Center for the Study of Social Policy measures the welfare of our Nation's young people. By most of the yardsticks used, we are doing worse today when it comes to our children than we were at the beginning of the 1980s: Percent of children in poverty—22-percent worse; percent of children in single-parent families—13-percent worse; percent of low birth-weight babies—3-percent worse; violent death rate, ages 15 to 19—11-percent worse; percent of all births that are to single teens—14-percent worse; juvenile custody rate, ages 10 to 15—10-percent worse. The two areas of improvement were in infant mortality—22-percent better; and in deaths of children ages 1 to 14—18-percent better.

Behind the figures are babies who go to bed hungry at night, youth who replace families with gangs, and children who drop out of school and drop out of sight. As a nation we must put our resources where our future is—in families and children. The Family Investment Act combines key pieces of legislation that already enjoy strong bipartisan support in an effort to improve our children's chances and to strengthen families before a crisis occurs.

With a $4 trillion debt strapping this Nation, it is imperative that we use our money in cost-effective ways. For too long, we have poured our money into crisis solutions, after families have been shattered, rather than investing in helping to prevent the crisis in the first place. As history reminds us: Early intervention and prevention programs are our best defense against crime, drug addiction, school dropouts, teen parents, and prisons. Among the provisions of the Family Investment Act, for example, is support for full funding for Head Start. Study after study tells us that children in early childhood programs like Head Start are 50-percent more likely to go to college, 50-percent more likely to be employed and 40-percent less likely to be jailed.

This legislation also supports full funding for childhood immunizations and WIC, programs which emphasize early response to children and families. For every $1 invested in immunizations, we save $10 in treatment costs. Yet one-third of our children are not immunized each year, because we simply do not put the money into this effort. Tragically, the United States has one of the worst immunizations rates in the entire Western Hemisphere. Today we rank behind 16 other nations in the proportion of infants immunized against polio—and this from the country that discovered the polio vaccine.

The United States is now 22d in the world in the rate of babies who die before their first birthday. We know that WIC—the supplemental nutrition program for low-income women, infants and children—is the most cost-effective method we have to prevent infant mortality and low birth weight. Every $1 invested in WIC saves between $1.77 and $3.13 in later Medicaid costs. I have fought hard for increased WIC funding, and over the last 8 years the percentage of eligible mothers and children served by the program has jumped from 17 percent to nearly 60 percent. Yet more than 40 percent of eligible families are still unable to receive the assistance they need. For this reason I have introduced legislation to make WIC an entitlement program so that no one who qualifies for this important program is turned away. If we do not act soon to provide full funding for WIC, we will lose more American infants in the next 13 years than we have lost soldiers in all the wars this country has ever fought.

The Family Investment Act also guarantees workers unpaid leave in the event of family illness, birth or adoption. It will help parents avoid what may be the most difficult choice they will ever face: to choose between the child they love and the job they need. The bill also includes comprehensive child welfare reform. It offers support services to preserve troubled families and, whenever possible, prevent the need for foster care, particularly in families affected by substance abuse.

Mr. President, the Family Investment Act is a bill that truly values families. It recognizes that America's future is conditioned on the way we treat our children. It is a future, after all, that is in very small hands.•

• Mr. BOND. Mr. President, I am pleased to join this effort by the Senator from West Virginia to give a final push to children's issues near the close of the 102d Congress. Every provision in this bill has moved several steps through the legislative process. It would be a shame to waste this opportunity to finish the job and get help to families in need simply because the end-of-the-year crunch is on.

I have spent much of the last 6 years working on issues to benefit the American family. Government should implement policies that strengthen the family, though too often we do the opposite, as many of the problems facing society today can be attributed to the weakening of the American family.

We need to make family obligation something we encourage rather than discourage.

Yesterday many of us stood together at a press conference to urge the President to sign the family and medical leave bill. We did a number of things in the compromise to address the legitimate concerns of business: We cut down the potential for abuse, we required the employee to take some responsibility in notifying the employer when leave would be necessary.

And we're talking about unpaid leave. This is not a benefit, in my opinion, it is simply job protection at the time it is most needed in a family.

We renew that plea in this legislation.

This legislation also provides additional funds for programs I have supported, such as WIC, Head Start and Child Immunizations. I was dismayed to learn recently that only 30 percent of children in St. Louis, and 50 percent of children in Kansas City are properly inoculated against debilitating and sometimes deadly diseases like diphtheria, tetanus, and polio. This bill gives a needed boost to efforts to bring those numbers up. It is ridiculous to risk death or disability when a few dollars spent on a booster shot will prevent both.

Similarly, we spend a lot financially and in terms of human suffering when our pregnant women and young children are not properly nourished. Since coming to the Senate I have fought for additional funds for WIC and am pleased that this bill would fully fund WIC.

I would be remiss if I did not mention parents as teachers again. Many of my colleagues may be tired of hearing about it, but I urge them to go and visit a program. I have visited 40 or 50 programs in the State of Missouri and have talked to many families participating in the program. I know that if my colleagues were to see first-hand the tremendous effect of the program on families, and how it helps parents to be their children's first teachers, they would come back anxious to get this legislation passed immediately.

I will not stop talking about it until this innovative early childhood/parent education program is offered in every school district in America. I believe parents as teachers, which gives parents the tools they need to maximize the physical, mental and social development of their children is the most important investment we can make in education today.

Finally, I like the focus of this bill on title IV-B of the Social Security Act, which funds innovative alternatives to foster care for children and families in crisis situations. We spend billions of dollars per year placing children outside their homes and families in foster care. In cases of extreme abuse and neglect, this is necessary. However, oftentimes the family is simply facing a crisis too big to handle on its own: Loss of a job; and illness, inadequate housing or homelessness, or a lack of parenting skills. In these cases it makes far more sense to do what Missouri is doing: family preservation services. The family in crisis is given 1 to 2 months of intensive counseling and assistance, and we in Missouri have found that in 85 percent of cases, this is enough to keep the family together. Missouri now offers family preservation to about one-third of its families who are threatened with their children being taken away. My State has a goal of serving one-half of its families in this way.

The only way Missouri will be able to do this is if we pass this legislation providing additional funds for title IV-B.

An old proverb states that "the child is father to the man". The first years of life are the most critical in terms of long-term intellectual, social, and emotional development. Good experiences during this time are crucial.

The programs we are advocating are all proven-effective, and are preventive rather than reactive in nature. They have all been moving through the legislative process. We cannot make them the casualties of the end-of-the-year rush or election year politics.●

Mr. SANFORD:

S. 3244. A bill to clarify the law enforcement authority of law enforcement officers of the United States Fish and Wildlife Service, and for other purposes; to the Committee on Environment and Public Works.

FISH AND WILDLIFE LAW ENFORCEMENT CLARIFICATION ACT OF 1992

● Mr. SANFORD. Mr. President, I rise today to introduce the Fish and Wildlife Law Enforcement Clarification Act of 1992.

I have worked closely with my friend from Georgia, Congressman LINDSAY THOMAS, on this measure and commend him for his efforts to bring this matter to the attention of the House.

Mr. President, I am very proud of the wildlife law enforcement officers of the U.S. Fish and Wildlife Service. Despite their limited resources, these officers risk life and limb in defense of those laws designed to preserve sustainable populations of wildlife.

There are times, though, when a federal wildlife officer witnesses violations of nonwildlife Federal laws on and off national wildlife refuges. At present, wildlife officers, who receive the same academy training as other Federal agents and suffer a casualty rate higher than other departments' officers, are not given the authority to enforce nonwildlife laws.

For example, a Federal wildlife agent does not have clear authority to enforce laws against illegal drug operations which he or she may encounter on a refuge or during a special investigation. Wildlife agents certainly do not have the resources to spend a large portion of their time participating in drug busts, nor are they charged to do so. However, I believe Congress should give these agents the tools to respond to violations of nonwildlife laws, whether such violations occur on U.S. Fish and Wildlife Service property or while officers are conducting investigations under their primary jurisdiction.

Law officers of the Park Service and other federal agencies have been granted authority similar to that which I ask for on behalf of the U.S. Fish and Wildlife Service. It is time to extend such authority to our Federal wildlife agents, and the legislation I am introducing today would accomplish this goal.

The provisions of the legislation which I introduce today will clarify a number of matters related to the jurisdiction of law enforcement officers of the U.S. Fish and Wildlife Service. New jurisdictional definitions relate to the carrying of firearms, serving warrants, making arrests for offenses under Federal law, conducting investigations, and maintaining law and order on national wildlife refuges or on any other Service land.

This bill also promotes cooperative efforts between local, State, and other Federal agencies with law enforcement authority. The measure does not interfere with any existing law enforcement agreements between States and the Fish and Wildlife Service, but will simply enhance cooperative law enforcement efforts. With Federal resources so scarce today, we need to encourage cooperative efforts between agencies with similar or overlapping goals if we are to effectively enforce our laws.

Last, as a member of the Congressional Sportsmen's Caucus, I would like to mention to my fellow sportsmen that this bill does not interfere with hunters' rights. This bill does not expand any authority over the enforcement of conservation laws. Moreover, the bill should help improve the protection of sportsmen from crimes which might be committed against them or their property while they are on a national wildlife refuge. Hunters participate in a legal sport and an American pasttime, and these individuals deserve to be protected.

Our public lands are managed to ensure healthy wildlife populations and provide valuable recreational opportunities for an increasing number of Americans. We cannot allow our refuges to become havens for those who would violate the laws of this nation. Nor can we afford to send a message to our wildlife officers that they must turn their heads when they encounter such violations.

Mr. President, I ask unanimous consent that a copy of the bill be printed with my statement in the CONGRESSIONAL RECORD. I also have copies of letters from the Federal Wildlife Officers Association and the Congressional Sportsmen's Caucus Foundation in support of this legislation, and I ask that these letters also be printed with my statement in the RECORD.

I urge my colleagues to support this legislation, and I look forward to prompt congressional action on this matter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 3244

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fish and Wildlife Law Enforcement Clarification Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Law enforcement—

(A) is an important part of the functions performed by the United States Fish and Wildlife Service (referred to in this Act as the "Service") in protecting and conserving fish and wildlife and their habitat; and

(B) includes—

(i) investigation and apprehension of those persons involved in wildlife conservation law violations;

(ii) assisting in the investigation of other Federal crimes encountered during the course of the normal duties of the law enforcement officers; and

(iii) cooperating in law enforcement capacities with local, State, and other Federal law enforcement officers.

(2) Law enforcement officers of the Service should be able to take action on all Federal crimes that are committed on Service lands, including refuges, fish hatcheries, and other installations.

(3) The general public would benefit from improving law enforcement on the properties described in paragraph (2) since visitors would receive better protection from crimes that might be committed against the visitors or their property.

(4) Law enforcement officers of the Service need explicit authorization to enforce all violations of Federal law—

(A) that take place on Service property; or

(B) that are discovered during an investigation of a crime under the officers' primary jurisdiction anywhere within the jurisdiction of the United States.

(5) Adequate staff and operating resources are required to fully implement the enforcement functions of the Service.

(6) A 1991 study by the General Accounting Office and a 1990 study done at the request of the Director of the Service show a lack of sufficient personnel and operating funds to accomplish the law enforcement functions of the Service.

SEC. 3. LAW ENFORCEMENT AUTHORITIES OF LAW ENFORCEMENT OFFICERS OF UNITED STATES FISH AND WILDLIFE SERVICE.

(a) IN GENERAL.—In accordance with regulations issued by the Secretary of the Interior, a law enforcement officer of the Service may—

(1) carry firearms;

(2) execute and serve any order, warrant, subpoena, summons, or other process issued by a court or officer of competent jurisdiction for the enforcement of any Federal law;

(3) make an arrest without a warrant—

(A) for any offense under Federal law committed in the presence of the officer; or

(B) for any felony under Federal law, if the officer has reasonable grounds to believe that the person arrested has committed or is committing the felony;

(4) cooperate with any State or political subdivision of a State in the enforcement of the laws of the State or subdivision; and

(5) perform any other law enforcement duty specified by the Secretary of the Interior.

(b) LAW ENFORCEMENT WITHIN NATIONAL WILDLIFE REFUGE SYSTEM.—In addition to the authority granted in subsection (a), for purposes of law enforcement within any area that is part of the National Wildlife Refuge System or any other area owned or controlled by the Service, and in accordance with regulations issued by the Secretary of the Interior, law enforcement officers of the Service may—

(1) perform acts to maintain law and order and protect persons and property; and

(2) conduct an investigation of any offense under Federal law committed within the area, in the absence of investigation of the offense by any other Federal law enforcement agency having investigative jurisdiction over the offense committed, or with the concurrence of the other agency.

SEC. 4. UTILIZATION OF OTHER FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT OFFICERS.

(a) IN GENERAL.—The Secretary of the Interior may—

(1) designate any law enforcement officer of any Federal agency, State, or political subdivision of a State, to act as a special police officer in areas of the National Wildlife Refuge System and to exercise any authority granted in section 3, if—

(A) the Secretary determines that—

(i) the designation is economical and in the public interest; and

(ii) supplemental law enforcement personnel are needed; and

(B) the head of the Federal agency or the chief executive of the State or political subdivision, respectively, concurs in the designation;

(2) cooperate with any State or political subdivision of a State in the enforcement, within the National Wildlife Refuge System, of the laws or ordinances of the State or subdivision; and

(3) provide reimbursement to a State or a political subdivision of a State, in accordance with such regulations as the Secretary may prescribe, for expenditures incurred in connection with activities of the State or political subdivision pursuant to a designation under paragraph (1).

(b) TREATMENT AS FEDERAL EMPLOYEES.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, a law enforcement officer of a State or political subdivision of a State who is designated to act as a special police officer under subsection (a)—

(A) shall not be considered to be a Federal employee; and

(B) shall not be subject to any provision of law relating to Federal employment, including any provision relating to hours of work, rates of compensation, or Federal benefits.

(2) TORT CLAIMS.—For purposes of chapter 171 of title 28, United States Code, a law enforcement officer of a State or a political subdivision of a State shall, when acting as a special police officer designated under subsection (a), be considered to be an employee of the government.

(3) WORKERS COMPENSATION.—For purposes of subchapter 1 of chapter 81 of title 5, United States Code, a law enforcement officer of a State or political subdivision of a State shall, when acting as a special police officer designated under subsection (a), be considered to be an employee.

(4) CRIMES.—For purposes of section 111 and section 1114 of title 18, United States Code, a law enforcement officer of a State or political subdivision of a State shall, when acting as a special police officer designated under subsection (a), be considered to be an officer of the Department of the Interior designated by the Secretary of the Interior under section 1114 of such title.

SEC. 5. LIMITATIONS.

This Act—

(1) supplements the existing law enforcement responsibilities of the Service;

(2) shall not be considered to authorize the delegation of law enforcement responsibilities of the Service to a State or local government; and

(3) shall not be construed or applied—

(A) to limit or restrict the investigative jurisdiction of any Federal law enforcement agency other than the Service; or

(B) to affect any right of a State or a political subdivision of a State to exercise civil and criminal jurisdiction over lands controlled by the Service.

SEC. 6. STATE DEFINED.

As used in this Act, the term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, any trust territory of the Pacific Islands, the United States Virgin Islands, and any other territory or possession of the United States.

CONGRESSIONAL SPORTSMEN'S
CAUCUS FOUNDATION,
Washington, DC, August 10, 1992.

Hon. TERRY SANFORD,
U.S. Senate, Washington, DC.

DEAR SENATOR SANFORD: The Congressional Sportsmen's Caucus Foundation has reviewed the proposed Fish and Wildlife Law Enforcement Clarification Act of 1992. The effort to provide law enforcement officers in the Fish & Wildlife Service with the same authority in other federal agencies is laudable and will undoubtedly be beneficial to general law enforcement activities.

Recognizing that such legislation will clarify law enforcement authority regarding violations of other federal laws, we would caution that such clarification does not, and should not, lessen the importance of the primary mission of enforcement of wildlife and conservation laws and regulations.

Sincerely,

STEPHEN S. BOYNTON,
General Counsel.

FEDERAL WILDLIFE
OFFICERS ASSOCIATION,
Tucson, AZ, August 5, 1992.

Hon. TERRY SANFORD,
Hart Senate Building, Washington, DC.

DEAR SIR: The Federal Wildlife Officers Association would like to take this opportunity to express our strong endorsement of H.R. 5486, titled the "Fish & Wildlife Law Enforcement Clarification Act of 1992" pending before the House as well as your companion Senate Resolution to be proposed in the very near future.

The members of our Association feel very strongly that an effective law enforcement program is essential for the management of our nation's wildlife resources and enthusiastically support your efforts to introduce the companion bill to H.R. 5486 in the Senate.

Please do not hesitate to contact me if I can be of any assistance with this or any other matter.

Very Respectfully,

GREGORY D. STOVER,
National President.•

By Mr. KOHL:

S. 3245. A bill to amend the Harmonized Tariff Schedule of the United States to correct the rate of duty on certain agglomerated cork products; to the Committee on Finance.

CORRECTION OF DUTY ON CERTAIN AGGLOMERATED CORK PRODUCTS

• Mr. KOHL. Mr. President, I rise today to introduce legislation amending certain provisions of the harmonized tariff schedule of the United States [HTS] dealing with classification of agglomerated cork. This legislation is necessary to correct an unintended change in the tariff treatment of certain cork products that resulted from the replacement of the tariff schedules of the United States [TSUS] with the HTS. My legislation would reinstate the historical tariff treatment for these products which existed for many years prior to the adoption of the HTS. By restoring the tariff treatment for agglomerated cork that prevailed under the TSUS, this legislation will not only make the HTS consistent with the original congressional intent, but will also reduce the cost of cork to U.S. industry and U.S. consumers and will retain jobs in the United States.

PRODUCT DESCRIPTION

This bill will affect the tariff treatment of two separate product groups: (i) cork/rubber composites, consisting of blocks, cylinders, frame members and other shapes, and (ii) composition cork products consisting of blocks, cylinders and other shapes. Cork/rubber (also known as "vulcanized" cork/rubber) is manufactured from raw cork which is ground to specific grades and combined with synthetic rubber. Composition cork is made from raw cork wood which is ground into granules of uniform sizes and then combined with binders such as animal glue, polymers and resins. The material is then pressed into block or cylindrical molds and heat cured for stability. Once they arrive in the United States, these molded shapes of cork/rubber and composition cork are manufactured into gaskets, seals, insulation, floor and wall covering, bulletin boards, and other products.

THE EFFECT OF CONVERSION FROM THE TSUS TO THE HTS ON TARIFF CLASSIFICATION OF AGGLOMERATED CORK

The purpose of the bill I am introducing today is to restore the duty that prevailed under the TSUS for both vulcanized cork/rubber and composition cork. For nearly 20 years, cork/rubber and composition cork are manufactured into gaskets, seals, insulation, floor and wall coverings, bulletin boards and other products.

THE EFFECT OF CONVERSION FROM THE TSUS TO THE HTS ON TARIFF CLASSIFICATION OF AGGLOMERATED CORK

The purpose of the bill I am introducing today is to restore the duty that prevailed under the TSUS for both vulcanized cork/rubber and composition cork. For nearly 20 years, cork/rubber was imported under TSUS item 220.25 which provides for "vulcanized sheets and slabs wholly of ground or pulverized cork and rubber." During the same period, composition cork was imported under TSUS item 220.20 which provides for "natural and composition cork, not further advanced than cut or molded into blocks, rods, sheets, slabs, sticks, strips and similar shapes." Cork/rubber classifiable under item 220.25 was dutiable at the rate of 3.7 percent, while composition cork under item 220.20 was dutiable at the rate of 2.5 cents per pound—5.5 percent per kilogram.

In 1989, the TSUS was replaced by the HTS. This new tariff nomenclature was designed to facilitate trade by making the system for classifying imports uniform among the United States and its major trading partners. Congress, however, did not intend the conversion from the TSUS to the HTS to result in any significant changes to the rates of duty on individual products.

When Congress enacted the HTS, the same language which was contained in item 220.25 was inserted as subheading 45.4.10.10 and the rate of duty was maintained at 3.7 percent. Because the language was qualified by the superior heading for "blocks, plates, sheets and strips" in subheading 45.4.10, however, the Customs Service recently ruled that vulcanized blocks, cylinders and frame members did not qualify under the provisions from "vulcanized sheets and slabs" in subheading 4504.10.10. It then relegated such products to the residual provisions of subheading 4504.10.50. which carries a rate of duty equal to 18 percent ad valorem.

The implementation of the HTS had a similar effect on composition cork. While HTS subheading 4502 maintains the same tariff treatment for natural cork as obtained under TSUS item 220.20, the new provision does not extend to composition cork. Under the HTS, composition cork is considered "agglomerated cork" classifiable under the provisions of heading 4504. Heading 4504, however, failed to incorporate a provision similar to TSUS Item 220.20 for simple cut or molded shapes of agglomerated cork at 5.5 cents per kilogram. Goods previously classifiable under Item 220.20 were therefore relegated to the residual provisions for other agglomerated cork in subheading 4504.90. The rate of duty thus increased from 2.5 cents per pound—5.5 cents per kilogram—to 18 percent ad valorem.

IMPACT OF THIS LEGISLATION ON DOMESTIC INDUSTRY

All cork is currently imported into the United States, since it is obtained from the cork oak which is grown in Southern Europe and Northern Africa. There are absolutely no U.S. producers of agglomerated cork, primarily because the cost of importing ground cork into the United States and forming it into agglomerated cork is prohibitive when compared with the cost of importing agglomerated cork.

No U.S. manufacturer would be adversely affected by restoring the previously existing duty rates that applied to vulcanized cork/rubber and composition cork. In fact, restoration of these rates would benefit U.S. industry and U.S. consumers by reducing the costs of imported agglomerated cork and the U.S. products made from it. Moreover, without the amendments contemplated by the bill, U.S. cork manufacturers may be forced to transfer certain operations abroad or to close their U.S. manufacturing facilities altogether. The Customs Service acknowledges that cork importers could gain more favorable tariff treatment by importing cork/rubber sheets and slabs and selected products of composition cork. In order to gain such favorable tariff treatment, however, importers would have to transfer certain of their operations abroad to further manufacture the cork/rubber and composition cork before it enters the United States. At a minimum, this will result in the loss of many U.S. jobs. Since even the transfer represents only a partial solution, however, U.S. manufacturers of cork products would still be required to absorb part of the cost of increased tariffs. Since it is already clear that such manufacturers would utilize synthetics and other substitutes instead, the U.S. cork industry would be radically down-sized, forcing the closure of entire plants.

Finally, the technical correction in the HTS proposed by this legislation has no revenue impact. The bill I am introducing today simply returns the tariff duty for agglomerated cork to the original tariff duty found under the TSUS which never should have changed with the enactment of the HTS. Hence, there is no need to offset this change with a duty producing provision.

Mr. President, I urge my colleagues to join with me by cosponsoring this legislation which corrects an unintended change in the tariff treatment of agglomerated cork.

I ask unanimous consent that the text of the legislation appear in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3245

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AGGLOMERATED CORK PRODUCTS.

(a) IN GENERAL.—The article description for subheading 4504.10.10 of the Harmonized

Tariff Schedule of the United States is amended to read as follows:

"Vulcanized blocks, plates, cylinders, sheets, slabs and other shapes wholly of ground or pulverized cork".

(b) CUT OR MOLDED AGGLOMERATED CORK.—Chapter 45 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new subheading with the article description having the same degree of indentation as the article description in subheading 4504.90.20:

"4504.90.10	Agglomerated cork, not further advanced than cut or molded into blocks, plates, cylinders, sheets, slabs, rods, sticks, strips and other shapes	5.5¢/ kg	Free (A, CA, E, IL)	22¢/kg"

SEC. 2. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by section 1 apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

(b) RELIQUIDATION.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon a request filed with the appropriate customs officer before the date which is 90 days after the date of the enactment of this Act, and entry of an article described in heading 4504 of the Harmonized Tariff Schedule of the United States (as amended by section 1) that was made—

(1) after December 31, 1988, and

(2) before the 15th day after the date of the enactment of this Act,

and with respect to which there would have been a lesser duty if the amendments made by section 1 applied to such entry, shall be liquidated or reliquidated as though such amendments applied to such entry.•

By Mr. SEYMOUR:

S. 3246. A bill to amend titles II and XVI of the Social Security Act to strengthen the criteria for the selection of representative payees and the procedures for monitoring the performance of representative payees; to the Committee on Finance.

SELECTION OF REPRESENTATIVE PAYEES

• Mr. SEYMOUR. Mr. President, I rise today to express my concern over an abuse of the Social Security Administration. Persons who have been entrusted to assist individuals disabled from a life of drug and alcohol abuse, with their supplemental security income have instead served to cheat them and the taxpayers.

Under title XVI of the Social Security Act of drug addiction and alcohol policy, individuals who are drug addicted or are alcoholics receive disability checks. If an addict is approved for benefits, that person must also have an approved payee, someone who receives the checks and then doles out the money to the addict. Recipients are not supposed to receive benefits if they are incarcerated and they must also attend a treatment program. However, with this population, it is frequently difficult to find responsible representative payees. Most of the addicts have cut themselves off from family and friends by the time they reach this state of severe disability. One-third of all persons serving as payees are nonrelated individuals—a roommate, landlord, or just a friend. Many times, an addict's payee is another addict. If the client is put in jail, the only way the Social Security Administration will know about it is if the payee returns the checks.

Within the OBRA 1990 regulations, provisions were made to reform the screening process to obtain representative payees. Despite this effort, the abuses continue.

Perhaps the most distressing example of this abuse derives from my own State of California. In Bakersfield, CA, where substance abusers incarcerated in State prison or local jails continue to receive SSI benefits through their "monitors" or payees, even though Federal regulations specifically prohibit this practice. Similarly, in Denver, CO, homeless individuals were using the addresses of liquor stores to receive their SSI benefits, and pay off debts owed to the owners. Clearly, the current system is not working.

Today, approximately 34,000 Americans receive SSI benefits under the drug addiction and alcohol abuse provision. More than half of these individuals reside in my State of California or in the State of Illinois. Our Nation's taxpayers spend $57 million annually in SSI DA&A benefits and monitoring costs each year. In 1991, there were 1.4 million SSI representative payees. Of these, only 13 were investigated for fraud and abuse, while in only 2 of these cases were misused funds fully recovered. Mr. President, I refuse to ask the California taxpayers to spend another $57 million this year for benefits that are being spent at the local liquor store, or on the corner in drug sales. Therefore, I stand before you today to introduce legislation that will restrict representative payees and increase monitoring of the system.

Due to the varying DA&A eligibility standards between States, a clear, uniform interpretation of the DA&A eligibility regulations does not exist. Therefore, I propose a new selection process for representative payees that are more stringent than the criteria and procedures set forth in previous years. A representative payee may be a spouse, parent, sibling or unrelated member of the community responsible for handling the financial affairs of the DA&A SSI recipient.

Through this legislation, representative payees will be subject to a strict screening process to determine if they have been convicted of a crime classified as a felon under State or Federal law.

After a representative payee has been selected, the Department may require that individual to be legally bonded. Payees will be required to submit a quarterly report with respect to the use of funds received by Social Security. Misuse of these funds will be punishable by a substantial fine and/or imprisonment.

Mr. President, I believe the time for this legislation is long overdue. Since the revision of the eligibility standards for supplemental security income in 1986, the number of individuals receiving SSI under the DA&A provision has grown exponentially. Although I have always supported expanding treatment services for those individuals suffering from drug and alcohol abuse, I am concerned this SSI program is not being delivered with the intentions of its creation. If legislation is not passed to curtail benefits being granted to incarcerated individuals, we will continue funding this circle of abuse.•

By Mr. SEYMOUR:

S. 3247. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes; to the Committee on Finance.

TAX ENTERPRISE ZONES

• Mr. SEYMOUR. Mr. President, I rise today to address one of the most damaging dependencies of our time—welfare. Today, welfare rolls are at their highest level in history, having set new records in the last year. Nearly one in seven children receives aid to families with dependent children [AFDC], and 1 in every 10 Americans receives food stamps.

Originally, the welfare program was established to provide transitional assistance to those seeking permanent employment. Now, however, the average time spent on welfare today is 17 months. In my State of California, close to half of those receiving AFDC payments remain dependent upon aid for over 3 years. Over 15 percent are on aid longer than 8 years. The State of California cannot continue supporting this increasing rate of welfare dependence, and I cannot stand before this body today to ask the hardworking, taxpaying citizens to carry the burden of increased taxes.

California is not alone. Several States have experienced dramatic increases in welfare dependents, and are responding with innovative welfare reform programs that will result in empowerment dependency.

However, demographics and assistance needs vary from State to State. What may be a successful program in California, may not be successful in smaller States such as South Dakota or Delaware. Therefore, we should use the States as our laboratory for welfare reform.

I propose this legislation to encourage and assist State-based welfare reform efforts by developing a streamlined and expanded "one-stop-shop" waiver approval process that removes overly burdensome administrative, regulatory and statutory requirements.

My bill will establish a Federal Commission to review, approve, and oversee State welfare demonstration projects. The President shall contact the Secretaries of the affected agencies, who will each appoint representatives of the affected departments within their agencies. Subsequently, the Commission will create grant procedures, and issue an annual report to Congress concerning grants awarded. State welfare demonstration projects will then be reviewed on the basis of statewide applicability, proposals to reduce dependence on welfare assistance, Federal budget neutrality over the demonstration wavier, and measures taken to ensure that State resident's constitutional rights are upheld.

Mr. President, this is an opportunity for States to create effective, efficient welfare reform programs that not only work to dissolve welfare dependence, but provide incentives for those receiving welfare benefits to seek employment and become self-sufficient. Although States should decide their own unique programs, I would hope they would include the basic tenants of wedware, workfare, and welfare shopping.

To allow this transition to begin, States must encourage welfare recipients to seek employment without losing their benefits. At this time, it is more profitable to stay on welfare than to get a part-time job. In addition, individuals on welfare who gain employment experience a gap in medical coverage. States should implement reform programs that extend medical benefits to employed persons in transition from welfare assistance.

Mr. President, the focus of this election year has been the family. Family values, the preservation of the family and family planning. However, our current welfare system discourages the very fundamental aspect of the family—marriage. The current welfare system has made marriage economically irrational for most low-income parents. Under present law, single women receiving AFDC are subject to a reduction in benefits and food stamps if they marry. To encourage the family institution and discourage single parent families which often result in welfare dependence, reform must be implemented to financially encourage women to get off welfare.

The days of the California gold rush are over—or are they? Each day, families move out west to California not for gold, but for green. In California, AFDC grants are the fourth highest in the Nation; $663 for a family of three, compared to a weighed average grant of $382 for the nine other most populous States. Seven percent of California's present welfare recipients did not live in the State 1 year ago. With 12 percent of the Nation's population, California bears 26 percent of the Nation's welfare costs. Individuals are literally shopping for the highest welfare benefits and we can no longer afford to pay the price.

The time has come to break the cycle of welfare dependence in this country. This legislation offers States the flexibility and expediency to invoke welfare reform, to get individuals off the welfare roll and into the work force.•

Mr. CHAFEE (for Mr. Gore, for himself, Mr. Chafee, Mr. Seymour, Mr. Pell, Mr. Jeffords, Mr. Packwood, Mr. Kasten, Mr. Hatfield, Mrs. Kassebaum, Mr. Sanford, Mr. Kerry, Mr. Metzenbaum, Mr. Adams, Mr. Glenn, Mr. Dodd, Mr. Conrad, Mr. Bradley, Ms. Mikulski, Mr. Wofford, Mr. Levin, Mr. Cranston, Mr. Leahy, Mr. Nunn, Mr. Moynihan, Mr. Lieberman, Mr. Sarbanes, Mr. Simon, Mr. Sasser, Mr. Riegle, Mr. Inouye, Mr. Kennedy, Mr. Akaka, Mr. Bumpers, Mr. Burns, Mr. Cochran, Mr. Cohen, Mr. Craig, Mr. Durenberger, and Mr. Grassley):

S.J. Res. 338. Joint resolution designating the week beginning October 24, 1992 as "World Population Awareness Week"; to the Committee on the Judiciary.

WORLD POPULATION AWARENESS WEEK

• Mr. GORE. Mr. President, I am proud to join my friend and distinguished colleague from Rhode Island in introducing legislation to commemorate October 24 through October 31 as "World Population Awareness Week." This important legislation has been passed by the Congress for the last 2 years and signed into law by President Bush. Additionally, 37 State Governors issued proclamations recognizing the event last year.

World Population Awareness Week is no hollow commemorative. It is a vital recognition of the intricate links between human population growth and environmental problems. The current global population of nearly 5.5 billion people is on track to double within the next 40 years, well within the lifetime of our children and grandchildren, to over 10 billion people. For those of us concerned about the quality of life our children will enjoy, this presents a chilling prospect. Ninety percent of this growth will occur in the developing countries, which are already suffering severe environmental degradation as they struggle to meet the demands of a growing population.

The spectacular growth in human population has exacerbated many environmental ills. For example, the world's food supply is under strain. Unfortunately, world grain production is increasing at one percent per year, while world population growth is increasing at twice that rate. The search for more land to feed more people has led to a number of environmental tragedies: The use of marginal cropland with resulting decertification; the overgrazing of rangelands; and the destruction of tropical ecosystems for farmland.

The problem seems overwhelming, but yet it is one we must address. We must recognize the importance of educating people about this issue in all countries. That is the essence of World Population Awareness Week. Educational events at colleges and universities across the country are the core of World Population Awareness Week activities. They are held in every State and have totaled over 1,000 events during the past 2 years. These events, which range from college seminars to displays at local libraries, are important because they help to highlight the urgency of the overpopulation phenomenon.

Education clearly is effective, not only in this country, but in others. By emphasizing the important role of women in society, and by promoting literacy, strides have been taken toward reducing fertility rates. For example, in Kenya, a family planning radio serial reached the largest audience in the history of broadcasting in Kenya, and coincided with a drop in desired family-size. A 5-day-a-week television drama in Mexico contributed to a 33-percent increase in new patients coming into family planning clinics.

It is clear that commemoratives such as this can fulfill a much needed role in educating the public. This is an important issue that must be solved with knowledge, and not ignorance, and with creativity, and not despair. I am proud to be a cosponsor of this resolution and urge my colleagues to do the same.•

• Mr. CHAFEE. Mr. President, I am pleased to introduce today a resolution to designate October 24–31, 1992, as "World Population Awareness Week."

The last 200 years have witnessed an unprecedented explosion of the world's population. Scientists tell us that human beings have existed as a distinct species for 3 million years. In 1800, there were only 1 billion people on the planet. Yet today, there are approximately 5.4 billion. Before the turn of the century, we will add still another billion. According to the Population Reference Bureau, if current birth and death rates hold steady, that figure will double within 40 years, bringing total world population to close to 11 billion. In other words, in less than one-hundredth of 1 percent of humankind's time on Earth, world population will have increased by 1,100 percent.

Why should we care about this growth? On one level, this is a matter of simple human compassion. Over 90 percent of the 5.4 billion people who will be added to the Earth's population over the next 40 years will live in the developing countries of Africa, Latin

America, and Asia—the very countries least capable of supporting such growth. These nations are already struggling to feed, clothe, educate, or provide even the most basic health care to their existing populations. It is difficult to imagine how they will cope should their populations continue to grow at current rates.

But the effects of overpopulation stretch far beyond the regions in which it occurs. Rapid population growth is a leading cause of the Earth's most pressing environmental problems, including global warming, tropical deforestation, water shortages, and soil erosion. Of course, the increase in sheer human numbers alone is not responsible for environmental degradation. Part of the problem lies with excessive consumption, mismanaged resources, and worsening poverty conditions in the developing world which force people to use old, environmentally destructive methods of industrial and agricultural production. Unfortunately, international economic development efforts, which might help developing nations adopt new technologies, have been unable to keep pace with the increasing levels of poverty which accompany runaway population growth. Meanwhile, the Earth's environment and the health of future generations worldwide are increasingly jeopardized.

Mr. President, our planet Earth is the only one we know capable of supporting human life. As its inhabitants, we have a responsibility to promote awareness of the dangers associated with rapid population growth and to encourage voluntary international family planning efforts, which serve not only to arrest that growth but to improve the health of people in developing countries. For the past 2 years, "World Population Awareness Week" has provided an opportunity for Americans to learn more about this critically important issue, through hundreds of classes, seminars, and other educational events nationwide. I am proud to play a role in continuing this mission.●

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. CRANSTON, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 21, a bill to provide for the protection of the public lands in the California desert.

S. 1146

At the request of Ms. MIKULSKI, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1146, a bill to establish a national advanced technician training program, utilizing the resources of the Nation's two-year associate-degree-granting colleges to expand the pool of skilled technicians in strategic advanced-technology fields, to increase the productivity of the Nation's industries, and to improve the competitiveness of the United States in international trade, and for other purposes.

S. 1364

At the request of Mr. PRYOR, the name of the Senator from Georgia [Mr. FOWLER] was added as a cosponsor of S. 1364, a bill to amend the Internal Revenue Code of 1986 to simplify the application of the tax laws with respect to employee benefit plans, and for other purposes.

S. 1675

At the request of Mr. EXON, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 1675, a bill to amend title 49, United States Code, regarding the collection of certain payments for shipments via motor common carriers of property and nonhousehold goods freight forwarders, and other purposes.

S. 1850

At the request of Mr. BAUCUS, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1850, a bill to extend the period during which the United States Trade Representative is required to identify trade liberalization priorities, and for other purposes.

S. 2481

At the request of Mr. INOUYE, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 2481, a bill to amend the Indian Health Care Improvement Act to authorize appropriations for Indian health programs, and for other purposes.

S. 2643

At the request of Mr. BENTSEN, the names of the Senator from Georgia [Mr. NUNN], the Senator from Arkansas [Mr. PRYOR], the Senator from Missouri [Mr. DANFORTH], the Senator from Wyoming [Mr. WALLOP], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 2643, a bill to amend title XVIII of the Social Security Act to limit modification of the methodology for determining the amount of time that may be billed for anesthesia services under such title, and for other purposes.

S. 2646

At the request of Mr. LUGAR, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 2646, a bill to amend the Rural Electrification Act of 1936 to provide eligible rural electric borrowers with the means to secure necessary financing from private sources, and for other purposes.

S. 2652

At the request of Mr. BIDEN, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 2652, a bill to provide enhanced penalties for commission of fraud in connection with the provision of or receipt of payment for health care services, and for other purposes.

S. 2686

At the request of Mr. BOND, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2686, a bill to amend title XIX of the Social Security Act to provide for improved delivery of and access to home care and to increase the utilization of such care as an alternative to institutionalization.

S. 2699

At the request of Mr. KASTEN, his name was withdrawn as a cosponsor of S. 2699, a bill to extend the period for which unemployment benefits are payable under title I of the Emergency Unemployment Compensation Act of 1991, and for other purposes.

S. 2707

At the request of Mr. RIEGLE, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of S. 2707, a bill to authorize the minting and issuance of coins in commemoration of the Year of the Vietnam Veteran and the 10th Anniversary of the dedication of the Vietnam Veterans Memorial, and for other purposes.

S. 2904

At the request of Mr. MURKOWSKI, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 2904, a bill to amend the Internal Revenue Code of 1986 to permit rollovers into individual retirement accounts of separation pay from the Armed Forces.

S. 2914

At the request of Mr. DURENBERGER, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 2914, a bill to direct the Secretary of Health and Human Services to make separate payment for interpretations of electrocardiograms.

S. 2973

At the request of Mr. CRANSTON, the names of the Senator from Maine [Mr. MITCHELL], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 2973, a bill to amend title 38, United States Code, to improve the care and services furnished to women veterans who have experienced sexual trauma, to study the needs of such veterans, to expand and improve other Department of Veterans Affairs programs that provide such care and services, and for other purposes.

S. 3010

At the request of Mr. DANFORTH, the name of the Senator from Texas [Mr. GRAMM] was added as a cosponsor of S. 3010, a bill to encourage, assist, and evaluate educational choice programs, and for other purposes.

S. 3165

At the request of Mr. BINGAMAN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 3165, a bill to promote the use of State-coordinated health insurance buying programs and assist States in establishing Health Insurance Purchasing Cooperatives, through which small employers may purchase health insurance, and for other purposes.

S. 3195

At the request of Mr. GLENN, the names of the Senator from Maine [Mr. COHEN], the Senator from Wyoming [Mr. SIMPSON], the Senator from North Dakota [Mr. CONRAD], the Senator from Maine [Mr. MITCHELL], the Senator from Nevada [Mr. BRYAN], the Senator from Michigan [Mr. LEVIN], the Senator from North Carolina [Mr. SANFORD], the Senator from Arizona [Mr. MCCAIN], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Michigan [Mr. RIEGLE], the Senator from Oklahoma [Mr. BOREN], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Hawaii [Mr. AKAKA], the Senator from Virginia [Mr. WARNER], the Senator from Idaho [Mr. SYMMS], the Senator from Florida [Mr. MACK], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Kansas [Mr. DOLE], the Senator from Iowa [Mr. HARKIN], the Senator from Arizona [Mr. DECONCINI], the Senator from New York [Mr. MOYNIHAN], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 3195, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States' involvement in World War II.

S. 3222

At the request of Mr. RIEGLE, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of S. 3222, a bill to establish the Small Business Capital Enhancement Program to enhance the availability of financing for small business concerns.

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the names of the Senator from Georgia [Mr. NUNN], the Senator from Florida [Mr. GRAHAM], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE JOINT RESOLUTION 328

At the request of Mr. COCHRAN, the names of the Senator from Maine [Mr. MITCHELL], the Senator from Hawaii [Mr. INOUYE], the Senator from South Dakota [Mr. PRESSLER], the Senator from Florida [Mr. MACK], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 328, a joint resolution to acknowledge the sacrifices that military families have made on behalf of the Nation and to designate November 23, 1992, as "National Military Families Recognition Day."

SENATE JOINT RESOLUTION 330

At the request of Mr. KENNEDY, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from Montana [Mr. BAUCUS], the Senator from Delaware [Mr. ROTH], the Senator from Maine [Mr. COHEN], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 330, a joint resolution to designate March 1993 as "Irish-American Heritage Month."

SENATE JOINT RESOLUTION 333

At the request of Mr. DECONCINI, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Joint Resolution 333, a joint resolution designating the week beginning February 7, 1993, as "Lincoln Legacy Week."

AMENDMENT NO. 2919

At the request of Mr. KERRY his name was added as a cosponsor of amendment No. 2919 proposed to S. 3114, an original bill to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SENATE RESOLUTION 342—AUTHORIZING REPRESENTATION OF A MEMBER OF THE SENATE

Mr. FORD (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 342

Whereas, in the case of Flowers v. Danforth et al., No. 92-5313, pending in the United States Court of Appeals for the District of Columbia Circuit, the appellant is seeking reversal of a district court order dismissing as frivolous her complaint against Senator John C. Danforth;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§ 288b(a) and 288c(a)(1), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their offical responsibilities: Now, therefore, be it *Resolved*, That the Senate Legal Counsel is directed to represent Senator John C. Danforth in the case of Flowers v. Danforth, et al.

SENATE RESOLUTION 343—AUTHORIZING AN APPEARANCE BY THE SENATE LEGAL COUNSEL

Mr. FORD (for Mr. MITCHELL, for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 343

Whereas, in the case of United States ex rel. Jason Madden, et al. v. General Dynamics Corporation, No. 92-56042, and the case of United States ex rel. Kevin G. Kelly V. The Boeing Company, No. 92-36660, pending in the United States Court of Appeals for the Ninth Circuit, the constitutionality of the qui tam provisions of the False Claims Act, as amended by the False Claims Amendments Act of 1986, Pub. L. No. 99-562, 100 Stat. 3153 (1986), 31 U.S.C. 3729, et seq. (1988), has been placed in issue;

Whereas, purchase to sections 703(c), 706a), and 713(a) of the Ethics in Government Act of 1978, 2 U.S.C. 288(c), 288e(a), and 2881(a) (1988), the Senate may direct its counsel to appear as amicus curiae in the name of the Senate in any legal action in which the powers and responsibilities of Congress under the Constitution are placed in issue: Now, therefore, be it *Resolved*, That the Senate Legal Counsel is directed to appear as amicus curiae on behalf of the Senate in the case of United States ex rel. Jason Madden, et al. v. General Dynamics Corporation, No. 92-56042, and the case of United States ex rel. Kevin G. Kelly v. The Boeing Company, No. 92-36660, to defend the constitutionality of the qui tam provisions of the False Claims Act.

AMENDMENTS SUBMITTED

DEPARTMENT OF LABOR, HEALTH AND HUMAN SERVICES, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

DOMENICI (AND OTHERS) AMENDMENT NO. 3005

Mr. DOMENICI (for himself, Mr. RUDMAN, Mr. MCCAIN, and Mr. WELLSTONE) proposed an amendment to the bill (H.R. 5677) making appropriations for the Departments of Labor, Health and Human Services and Education, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, as follows:

On page 25, line 8, strike "$574,803,000" and insert in lieu thereof "$596,098,000: *Provided*, That the level of funding for the Health Resources and Services Administration shall not exceed $2,564,466,000.".

DECONCINI (AND OTHERS) AMENDMENT NO. 3006

Mr. DECONCINI (for himself, Mr. GORTON, Mr. REID, Mr. BIDEN, Mr. ADAMS, Mr. SEYMOUR, Mr. SASSER, Mr. WARNER, Mr. BRADLEY, Mr. COCHRAN, Mr. CRAIG, Mr. STEVENS, Mr. KASTEN, Mr. DURENBERGER, Mr. SANFORD, Mr. KOHL, Mr. NICKLES, Mr. HOLLINGS, and Mr. BINGAMAN) proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 40, line 4, strike "$450,642,000" and insert in lieu thereof "$457,642,000".

On page 40, line 5, strike out "$35,115,000" and insert in lieu thereof "$42,115,000".

On page 40, line 6, insert after the comma the following: "including $12,000,000 shall be for carrying out the National Youth Sports Program,".

On page 40, line 10, insert before the period the following: "*Provided*, That notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1993 shall, during fiscal year 1993, obligate and expend funds for consulting services in excess of an amount equal to 95.9 percent of the amount estimated to be obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1993: *Provided further*, That notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1993 is reduced by an amount equal to 4.1 percent of the amount expected to be expended by such department, agency or instrumentality during fiscal year 1993 for consulting services. As used in the preceding two provisos, the term 'consulting services' includes any services within the definition of 'Advisory and Assistance Services' in the Office of Management and Budget Circular A-120, dated January 4, 1988.".

WELLSTONE AMENDMENT NO. 3007

Mr. WELLSTONE proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 62, line 17, strike "*Provided further,*" and all that follows through "basis:" on line 22.

SPECTER AMENDMENT NO. 3008

Mr. SPECTER proposed an amendment to the bill H.R. 5677, supra, as follows:

At the appropriate place insert the following:

SEC. . SENSE OF CONGRESS CONCERNING THE FUNDING OF DRUG DEMAND AND DRUG SUPPLY REDUCTION ACTIVITIES AND CONTINUATION OF THE OFFICE OF NATIONAL DRUG CONTROL POLICY.

It is the sense of Congress that—

(1) the second budget submitted by the President to the Congress under section 1105 of title 31, United States Code, after the date of enactment of this Act should provide for the funding of activities to reduce the demand for drugs (including anti-drug education programs and treatment) in an aggregate amount that is equal to the aggregate amount of funding for activities to reduce the supply of drugs (including law enforcement uses, law enforcement grants, border control and customs efforts, prison construction and maintenance, and international eradication efforts;

(2) the Director of National Drug Control Policy should be assigned authority to implement and oversee the distribution of funds for drug demand and drug supply reduction activities in accordance with paragraph (1); and

(3) section 1009 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1506) should be amended to continue the existence of the Office of National Drug Control Policy beyond the current termination date of November 18, 1993.

PRYOR AMENDMENT NO. 3009

Mr. PRYOR proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 87, insert between lines 15 and 16 the following:

SEC. 518. (a) Beginning in fiscal year 1994, and in each fiscal year thereafter, the Office of Management and Budget shall establish the funding for consulting services for each department and agency as a separate line item in—

(1) each department and agency request for funding in any budget proposal submitted for inclusion in the annual budget of the United States Government submitted by the President to the Congress;

(2) each such budget proposal; and

(3) each budget annually submitted to the Congress under section 1105 of title 31, United States Code.

(b) For purposes of this section consulting services include—

(1) management and professional support services;

(2) studies, analyses, and evaluations;

(3) engineering and technical services (excluding routine engineering services such as automated data processing and architect and engineering contracts); and

(4) research and development.

LUGAR AMENDMENT NO. 3010

Mr. HARKIN (for Mr. LUGAR) proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 23, line 11 before the period, insert: "*Provided further*, That $100,000 shall be available for the National Institute for Occupational Safety and Health to update the mortality study of the workers at the capacitor facility in Bloomington, Indiana".

DOLE AMENDMENT NO. 3011

Mr. SPECTER (for Mr. DOLE) proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 2, line 16, insert after "Act," the following: "and to carry out related activities,".

On page 3, line 2, strike "and".

On page 3, line 5, insert after "of the Act" the following: ", and $750,000 shall be to carry out the duties of the Glass Ceiling Commission under title II of the Civil Rights Act of 1991".

PELL AMENDMENT NO. 3012

Mr. HARKIN (for Mr. PELL) proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 72, between lines 22 and 23, insert the following:

SEC. . ANNUAL LOAN LIMITS.

(a) AMENDMENT.—Section 468 of the Higher Education Amendments of 1992 is amended—

(1) in paragraph (3), by striking "and" after the semicolon;

(2) in paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) the changes made in section 464(a)(2)(A), relating to annual loan limits, shall take effect for award years beginning on or after July 1, 1993.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on July 23, 1992.

MCCAIN (AND COATS) AMENDMENT NO. 3013

Mr. MCCAIN (for himself and Mr. COATS) proposed an amendment to the bill H.R. 5677, supra, as follows:

At the appropriate place, insert the following:

SEC. . LEGISLATIVE LINE ITEM VETO ACT OF 1991.

(a) SHORT TITLE.—This section may be cited as the "Legislative Line Item Veto Act of 1991".

(b) ENHANCEMENT OF SPENDING CONTROL BY THE PRESIDENT.—The Impoundment Control Act of 1974 is amended by adding at the end thereof the following new title:

"TITLE XI—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"PART A—LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY

"GRANT OF AUTHORITY AND CONDITIONS

"SEC. 1101. (a) IN GENERAL.—Notwithstanding the provisions of part B of title IX and subject to the provisions of part B of this title, the President may rescind all or part of any budget authority, if the President—

"(1) determines that—

"(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

"(B) such rescission will not impair any essential Government functions; and

"(C) such rescission will not harm the national interest; and

"(2)(A) notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturday, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations Act or a joint resolution making continuing appropriations providing such budget authority; or

"(B) notifies the Congress of such rescission by special message accompanying the submission of the President's budget to Congress and such rescissions have not been proposed previously for that fiscal year.

The President shall submit a separate rescission message for each appropriations bill under paragraph (2)(A).

"(b) RESCISSION EFFECTIVE UNLESS DISAPPROVED.—(1)(A) Any amount of budget authority rescinded under this title as set forth in a special message by the President shall be deemed canceled unless during the period described in subsection (B), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

"(B) The period referred to in subparagraph (A) is—

"(i) a Congressional review period of 20 calendar days of session under part B, during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;

"(ii) after the period provided in clause (i), an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

"(iii) if the President vetoes the rescission disapproval bill during the period provided in clause (ii), an additional 5 calendar days of session after the date of the veto.

"(2) If a special message is transmitted by the President under this section during any Congress and the last session of such Congress adjourns sine die before the expiration of the period described in paragraph (1)(B), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in paragraph (1)(B) (with respect to such message) shall run beginning after such first day.

"DEFINITIONS

"SEC. 1102. For purposes of this title the term 'rescission disapproval bill' means a bill or joint resolution which only disapproves a rescission of budget authority, in whole, rescinded in a special message transmitted by the President under section 1101.

"PART B—CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS

"PRESIDENTIAL SPECIAL MESSAGE

"SEC. 1111. Whenever the President rescinds any budget authority as provided in section 1101, the President shall transmit to both Houses of Congress a special message specifying—

"(1) the amount of budget authority rescinded;

"(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

"(3) the reasons and justifications for the determination to rescind budget authority pursuant to section 1101(a)(1);

"(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

"(5) all facts, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

"TRANSMISSION OF MESSAGES; PUBLICATION

"SEC. 112. (a) DELIVERY TO HOUSE AND SENATE.—Each special message transmitted under sections 1101 and 1111 shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

"(b) PRINTING IN FEDERAL REGISTER.—Any special message transmitted under sections 1101 and 1111 shall be printed in the first issue of the Federal Register published after such transmittal.

"PROCEDURE IN SENATE

"SEC. 1113. (a) REFERRAL.—(1) Any rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

"(2) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this section.

"(b) FLOOR CONSIDERATION IN THE SENATE.—

"(1) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

"(2) Debate in the Senate on any debatable motion or appeal in connection with such a bill shall be limited to 1 hour, to be equally divided between, and controlled by, the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

"(3) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specific number of days, not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

"(c) POINT OF ORDER.—(1) It shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission of budget authority transmitted by the President under section 1101.

"(2) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a rescission disapproval bill.

"(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.".

COCHRAN (AND INOUYE) AMENDMENT NO. 3014

Mr. COCHRAN (for himself and Mr. INOUYE) proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 68, line 1, insert "and $2,000,000 for the Children's Television workshop literacy project entitled 'Ghostwriter'" before the semicolon.

NICKLES (AND OTHERS) AMENDMENT NO. 3015

Mr. DOLE for Mr. NICKLES (for himself, Mr. COATS, Mr. SEYMOUR, and Mr. MCCAIN) proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 42, line 14, strike "$844,316,000" and insert the following: "$850,693,000; *Provided*, That notwithstanding any other provision of this Act, the figure that appears on page 87, line 10, shall be deemed to be $106,737,000".

BENTSEN (AND OTHERS) AMENDMENT NO. 3016

Mr. HARKIN for Mr. BENTSEN (for himself, Mr. METZENBAUM, and Mr. PRYOR) proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 8, before the period at the end of line 13, insert ": *Provided*, That $600,000 shall be available for the National Commission on Private Pension Plans if an Act authorizing such Commission is enacted into law".

HELMS AMENDMENT NO. 3017

Mr. HELMS proposed an amendment to the bill H.R. 5677, supra, as follows:

At the appropriate place add the following: "None of the funds appropriated under this Act may be expended by the Occupational Safety and Health Administration to implement or administer the regulations affecting mandatory seatbelt use, mandatory motorcycle helmet use, and mandatory employer driver safety awareness programs, to be codified or proposed to be codified at parts 1910, 1915, 1917, 1918, 1926, and 1928 title 29 of the Code of Federal Regulations."

HELMS (AND NICKLES) AMENDMENT NO. 3018

Mr. HELMS (for himself and Mr. NICKLES) proposed an amendment to the bill H.R. 5677, supra, as follows:

At the appropriate place add the following: "Notwithstanding any other provision of law, none of the funds made available under this Act or an amendment made by this Act shall be allocated to any State, metropolitan area or rural area, if such State, metropolitan area or rural area, carries out any program for the distribution of sterile needles for the hypodermic injection of any illegal drugs, unless the President of United States certifies that such programs are effective in stopping the spread of HIV and do not contribute to the use of illegal drugs."

D'AMATO AMENDMENT NO. 3019

Mr. D'AMATO proposed an amendment to the reported amendment on page 2, line 24, of the bill H.R. 5677, supra, as follows:

On page 3, line 1, strike "under the Job Training Partnership Act" and insert "authorized by the Job Training Partnership Act, *Provided*, That an amount of $214,000,000 is appropriated for carrying out section 301 and title IV of the Public Health Service Act with respect to breast cancer research, in addition to any other amounts appropriated under this Act: *Provided further*, That—

"(1) of the funds appropriated or otherwise made available to the Department of Defense in any appropriations Act making funds available to the Department of Defense in fiscal years before fiscal year 1993 for research and development, $214,000,000 of the remaining balances are rescinded; and

"(2) notwithstanding section 601(a)(2) of the Congressional Budget Act of 1974—

"(A) the fiscal year 1993 discretionary spending limit for the domestic category, as adjusted under section 251 of such Act, is increased by $214,000,000 in budget authority and $98,000,000 in outlays; and

"(B) the fiscal year 1993 discretionary spending limit for the defense category, as adjusted under section 251 of such Act, is decreased by budget authority and outlay reductions resulting from paragraph (1)".

KENNEDY AMENDMENT NO. 3020

Mr. KENNEDY proposed an amendment to amendment No. 3018 proposed by Mr. HELMS to the bill H.R. 5677, supra, as follows:

Strike all after the first word in the amendment and add the following: "any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the Surgeon General of the United States determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs, except that such funds may be used for such purposes in furtherance of demonstrations or studies authorized in the ADAMHA Reorganization Act (Public Law (102–321).".

LOTT AMENDMENT NO. 3021

Mr. LOTT proposed an amendment to amendment No. 3017 proposed by Mr. HELMS to the bill H.R. 5677, supra, as follows:

Strike all after the word "None" and add the following: "of the funds appropriated under this Act may be expended by the Occupational Safety and Health Administration to implement or administer the regulations affecting mandatory seatbelt use, mandatory motorcycle helmet use, and mandatory employer driver safety awareness programs, to be codified or proposed to be codified at parts 1910, 1915, 1917, 1918, 1926, and 1928 title 29 of the Code of Federal Regulations."

This section shall become effective one day after the date of enactment.

HELMS AMENDMENT NO. 3022

Mr. HELMS proposed an amendment to the reported amendment on page 2, line 24 of the bill H.R. 5677, supra, as follows:

At the appropriate place, insert the following:

"Notwithstanding any other provision of law, none of the funds authorized to be appropriated by this Act or any other Act shall be used by any recipient of funds under this Act or any other Act to pay for homosexual educational, counseling, or support services in elementary or secondary schools, or to promote or encourage, either directly or indirectly, intravenous drug abuse or homosexual, bisexual, or heterosexual activity, whether pre-marital or extra-marital, in elementary or secondary schools. No youth shall be deemed at risk of substance abuse, for purposes of funding under this Act, solely on the basis of the youth's homosexuality.

HOLLINGS (AND OTHERS) AMENDMENT NO. 3023

Mr. HARKIN (for Mr. HOLLINGS, for himself, Mr. RUDMAN, Mr. BOND, Mr. MCCAIN, Mr. KOHL, Mr. CHAFEE, Mr. LEAHY, Mr. AKAKA, Mr. DOMENICI, Mr. CRANSTON, Mr. BOREN, Mr. REID, Mr. LOTT, Mr. RIEGLE, Mr. ADAMS, Mr. SPECTER, Mr. ROBB and Mr. DANFORTH) proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 19, line 24, before the "." insert the following: ": *Provided further*, That of the funds made available for evaluation pursuant to section 2711 of the Public Health Service Act, $40,000,000 shall be made available for community health centers funded under sections 329 and 330 of the Public Health Service Act".

HARKIN AMENDMENTS NOS. 3024 THROUGH 3026

Mr. HARKIN proposed three amendments to the bill H.R. 5677, supra, as follows:

AMENDMENT NO. 3024

On page 38, line 20, strike out the second "for" and insert in lieu thereof "in".

AMENDMENT NO. 3025

On page 42, line 1, strike out "with respect to" and insert in lieu thereof "as a result of".

On page 42, lines 1 and 2, strike out "of the requirements".

On page 42, line 2, strike out "at issue" and insert in lieu thereof "involving failure to recover overpayments from the Mercado family following the decision".

AMENDMENT NO. 3026

On page 28, line 20, change the "period" to a "colon" and add the following: *Provided further*, That the Director of the National Institutes of Health is authorized, notwithstanding the provision of any other law, but consistent with the requirements of 42 CFR 46 for the purpose of research only, to authorize physicians licensed to practice medicine to use any medicine or medical procedure for which there is no evidence or reason to believe that such medicine or medical procedure is unsafe for the investigation of such medicine or medical procedure. Any physician so authorized by the Director may proceed with such medicine or medical procedure only if the patient is fully informed and provides written consent.

RUDMAN AMENDMENT NO. 3027

Mr. SPECTER (for Mr. RUDMAN) proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 3, line 6 strike "$187,700,000" and insert in lieu thereof "$187,480,000".

On page 33, line 3 strike "$2,166,642,000" and insert in lieu thereof "2,165,062,000".

On page 54, line 23 after "section 2," insert the following: "$1,800,000, to remain available until expended, which shall be for payments under section 3(e) to local educational agencies funded under such section for fiscal year 1992,".

LEVIN (AND RIEGLE) AMENDMENT NO. 3028

Mr. HARKIN (for Mr. LEVIN, for himself and Mr. RIEGLE) proposed an amendment to the bill H.R. 5677, supra, as follows:

In the appropriate place in title II insert the following new section:

"Of the $12,010,439,000 provided for the National Cancer Institute, up to $1,000,000 may be used for expansion of an existing superconducting cyclotron at the National Superconducting Cyclotron Laboratory for proton radiation therapy treatment of cancer patients."

BUMPERS AMENDMENT NO. 3029

Mr. HARKIN (for Mr. BUMPERS) proposed an amendment to the bill H.R. 5677, supra; as follows:

On page 72, after line 22, insert the following:

SEC. DEFINITION OF INSTITUTION OF HIGHER EDUCATION.

Section 1201(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)(5) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and "or if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time."

(b) EFFECTIVE DATE. The amendment made by this section shall be effective on October 1, 1992.

KASSEBAUM (AND OTHERS) AMENDMENT NO. 3030

Mr. HARKIN (for Mrs. KASSEBAUM, for herself, Mr. PELL, Mr. KENNEDY, Mr. COCHRAN, Mr. ADAMS, AND Ms. MIKULSKI) proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 62, line 1, strike "*Provided further*" and all that follows through "Act:" on line 11.

CRANSTON (AND OTHERS) AMENDMENT NO. 3031

Mr. HARKIN (for Mr. CRANSTON, for himself, Mr. SEYMOUR, and Mr. GRAHAM) proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 39, after line 24, add the following:

"Section 204(b)(4) of the Immigration Reform and Control Act of 1986 is amended by adding the following:

"Any funds not expended by States by December 30, 1994, shall be reallocated by the Secretary to States which had expended their entire allotments, based on each State's percentage share of total unreimbursed legalized alien costs in all States. Funds made available to a State pursuant to the preceding sentence of this paragraph shall not remain available after June 30, 1995."

SIMON AMENDMENT NO. 3032

Mr. HARKIN (for Mr. SIMON) proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 40, line 10, after the Domenici amendment no. 3006, insert the following: "*Provided further*, That notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1993 shall, during fiscal year 1993, obligate and expend funds for consulting services in excess of an amount equal to 92 percent of the amount estimated to be obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1993: *Provided further*, That notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1993 is reduced by an amount equal to 8 percent of the amount expected to be expended by such department, agency or instrumentality during fiscal year 1993 for consulting services. As used in the preceding two provisos, the term 'consulting services' includes any services within the definition of 'Advisory and Assistance Services' in the Office of Management and Budget Circular A 120, dated January 4, 1988.".

On page 54, line 18, strike "$570,540,000" and insert $576,540,000", and on line 15, strike "$751,756,000" and insert "$757,756,000".

DOMENICI AMENDMENT NO. 3033

Mr. DOMENICI proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 19, line 4, strike "$2,585,761,000" and insert in lieu thereof "$2,591,761,000, *Provided*, That the funding level for the National Institute of General Medical Sciences shall not exceed $824,529,000.".

HARKIN AMENDMENT NO. 3034

Mr. HARKIN proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 33, strike the provision beginning on line 20, and on page 51 line 20 strike "$125,000,000" and insert "$140,000,000".

DOLE AMENDMENT NO. 3035

Mr. SPECTER (for Mr. DOLE) proposed an amendment to the bill H.R. 5677, supra, as follows:

Beginning with page 50 line 12, strike all through page 51, line 8.

NATIONAL DEFENSE AUTHORIZATION ACT

NUNN (AND OTHERS) AMENDMENT NO. 3036

Mr. NUNN, (for himself, Mr. WARNER, and Mr. EXON) proposed an amendment to amendment No. 2918 proposed by Mr. SASSER to the bill (S. 3114) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, as follows:

On the first page, line 4, strike out "AMOUNT.—" and all that follows and insert in lieu thereof the following:

AMOUNT.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $3,800,000,000 may be obligated for the Strategic Defense Initiative, as follows:

(1) Of the amounts appropriated pursuant to title I for fiscal year 1993 or otherwise made available to the Department of Defense for procurement for fiscal year 1993, not more than $62,500,000 may be obligated for the Strategic Defense Initiative.

(2) Of the amounts appropriated pursuant to section 201 for fiscal year 1993 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1993, not more than $3,737,500,000 may be obligated for the Strategic Defense Initiative.

(b) SPECIFIC AMOUNTS FOR THE PROGRAM ELEMENTS.—Of the amount set forth in subsection (a)—

(1) not more than $2,090,000,000 shall be available for programs, projects, and activities within the Limited Defense System program element;

(2) not more than $997,500,000 shall be available for programs, projects, and activities within the Theater Missile Defenses program element;

(3) not more than $350,000,000 shall be available for programs, projects, and activities within the Space-Based Interceptors program element;

(4) not more than $400,000,000 shall be available for programs, projects, and activities within the Other Follow-On Systems program element; and

(5) not more than $400,000,000 shall be available for programs, projects, and activities within the Research and Support Activities program element.

PRYOR AMENDMENT NO. 3037

Mr. PRYOR proposed an amendment to the bill S. 3114, supra, as follows:

On page 62, below line 22, insert the following:

SEC. 224. LIMITATION REGARDING SUPPORT SERVICES CONTRACTS OF THE STRATEGIC DEFENSE INITIATIVE ORGANIZATION.

(a) LIMITATION.—Of the amounts that are appropriated to the Department of Defense for fiscal year 1993 pursuant to the authorizations of appropriations contained in this Act and are made available for the Strategic Defense Initiative Organization, not more than $100,000,000 may be expended for the procurement of support services.

(b) DEFINITION.—In subsection (a), the term "support services" means—

(1) professional, administrative, and management support services;

(2) special studies and analyses; or

(3) services contracted for under section 3109 of title 5, United States Code.

BOREN (AND OTHERS) AMENDMENT NO. 3038

Mr. BOREN (for himself, Mr. KENNEDY, Mr. NUNN, Mr. DOLE, Mr. WARNER, Mr. WOFFORD, Ms. MIKULSKI, Mr. SIMON, Mr. DOMENICI, Mr. RIED, Mr. DIXON, Mr. MCCAIN, and Mr. SEYMOUR) proposed an amendment to the bill S. 3114, supra, as follows:

On page 487, between lines 12 and 13, insert the following:

Subtitle F—Civil-Military Youth Service Programs

SEC. 1081. NATIONAL GUARD CIVILIAN YOUTH OPPORTUNITIES PILOT PROGRAM.

(a) PROGRAM AUTHORITY.—During fiscal years 1993 through 1995 the Chief of the National Guard Bureau may conduct a pilot program to be known as the "National Guard Civilian Youth Opportunities Program".

(b) PURPOSE.—The purpose of the pilot program is to provide a basis for determining—

(1) whether the life skills and employment potential of civilian youths who cease to attend secondary school before graduating can be significantly improved through military based training provided by the National Guard; and

(2) whether it is feasible and cost effective for the National Guard to provide military based training to such youths for the purpose of achieving such improvements.

(c) CONDUCT OF PROGRAM IN 10 NATIONAL GUARD JURISDICTIONS.—The Chief of the National Guard Bureau may provide for the conduct of the pilot program in any 10 of the States, the Territories, the Commonwealth of Puerto Rico, or the District of Columbia.

(d) PROGRAM AGREEMENTS.—(1) To carry out the pilot program in a State, a Territory, the Commonwealth of Puerto Rico, or the District of Columbia, the Chief of the National Guard Bureau shall enter into an agreement with the Governor of the State, Territory, or Commonwealth or with the commanding general of the District of Columbia National Guard, as the case may be.

(2) Each agreement shall provide for the Governor or, in the case of the District of Columbia National Guard, the commanding general to establish, organize, and administer a National Guard civilian youth opportunities program.

(3) The agreement may provide for the Chief of the National Guard Bureau to reimburse the State, Territory, Commonwealth of Puerto Rico, or the District of Columbia, as the case may be, for civilian personnel costs attributable to the use of civilian employees of the National Guard in the conduct of the program.

(e) ELIGIBLE PARTICIPANTS.—(1) Persons referred to in subsection (b)(1) shall be eligible to participate in a National Guard civilian youth opportunities program under the pilot program.

(2) The Chief of the National Guard Bureau shall prescribe the standards and procedures for selecting the participants from among applicants for the program.

(f) AUTHORIZED BENEFITS FOR PARTICIPANTS.—(1) To the extent provided in an agreement entered into in accordance with subsection (d) and subject to the approval of the Chief of the National Guard Bureau, the persons selected for training in a National Guard civilian youth opportunities program under the pilot program may receive the following benefits in connection with that training:

(A) Allowances for travel expenses, personal expenses, and other expenses.

(B) Quarters.

(C) Subsistence.

(D) Transportation.

(E) Equipment.

(F) Clothing.

(G) Recreational services and supplies.

(H) Other services.

(I) A temporary stipend upon the successful completion of the training, as characterized in accordance with procedures provided in the agreement.

(2) A person may not receive a temporary stipend under paragraph (1)(I) while the person is a member of the Civilian Community Corps under subtitle H of title I of the National and Community Service Act of 1990 (as added by section 1082(a)). A person may not receive both that stipend and benefits under subsection (f) or (g) of section 195G of that Act (as so added).

(g) PROGRAM PERSONNEL.—(1) Personnel of the National Guard of a State, a Territory, the Commonwealth of Puerto Rico, or the District of Columbia in which a National Guard civilian youth opportunities program is conducted under the pilot program may serve on full-time National Guard duty for the purpose of providing command, administrative, training, or supporting services for that program. For the performance of those services, any such personnel may be ordered to duty under section 502(f) of title 32, United States Code, for not longer than the period of the program.

(2) Personnel so serving may not be counted for the purposes of—

(A) any provision of law limiting the number of personnel that may be serving on full-time active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components; or

(B) section 524 of title 10, United States Code, relating to the number of reserve component officers who may be on active duty or full-time National Guard duty in certain grades.

(3) A Governor participating in the pilot program and the commanding general of the District of Columbia National Guard (if the District of Columbia National Guard is participating in the pilot program) may procure by contract the temporary full time services of such civilian personnel as may be necessary to augment National Guard personnel in carrying out a National Guard civilian youth opportunities program under the pilot program.

(4) Civilian employees of the National Guard performing services for such a program and contractor personnel performing such services may be required, when appropriate to achieve a program objective, to be members of the National Guard and to wear the military uniform.

(h) EQUIPMENT AND FACILITIES.—(1) Equipment and facilities of the National Guard, including military property of the United States issued to the National Guard, may be used in carrying out the pilot program.

(2) Activities under the pilot program shall be considered noncombat activities of the National Guard for purposes of section 710 of title 32, United States Code.

(i) STATUS OF PARTICIPANTS.—(1) A person receiving training under the pilot program shall be considered an employee of the United States for purposes of the following provisions of law:

(A) The Internal Revenue Code of 1986.

(B) Title II of the Social Security Act (relating to Federal old-age, survivors, and disability insurance benefits).

(C) Subchapter I of chapter 81 of title 5, United States Code (relating to compensation of Federal employees for work injuries).

(D) Section 1346(b) and chapter 171 of title 28, United States Code, and any other provision of law relating to the liability of the United States for tortious conduct of employees of the United States.

(2) In the application of the provisions of law referred to in paragraph (1)(C) to a person referred to in paragraph (1)—

(A) the person shall not be considered to be in the performance of duty while the person is not at the assigned location of training or other activity or duty authorized in accordance with a program agreement referred to in subsection (d), except when the person is traveling to or from that location or is on pass from that training or other activity or duty;

(B) the person's monthly rate of pay shall be deemed to be the minimum rate of pay provided for grade GS-2 of the General Schedule under section 5332 of title 5, United States Code; and

(C) the entitlement of a person to receive compensation for a disability under such provisions of law shall begin on the day following the date on which the person's participation in the pilot program is terminated.

(3) A person receiving a stipend pursuant to subsection (f)(1)(I) shall be considered an employee for purposes of the provisions of law referred to in subparagraphs (A) and (B) of paragraph (1).

(4) A person referred to in paragraph (1) or (3) may not be considered an employee of the United States for any purpose other than a purpose set forth in that paragraph.

(j) FUNDING.—(1) To the extent provided in appropriations Acts, funds described in paragraph (2) shall be available for the pilot program.

(2) The funds referred to in paragraph (1) are as follows:

(A) Funds appropriated for pay, allowances, clothing, subsistence, gratuities, travel and related expense for personnel of the National Guard while on active duty or full-time National Guard duty.

(B) Funds appropriated for the National Guard for operation and maintenance.

(k) SUPPLEMENTAL RESOURCES.—(1) To carry out a National Guard civilian youth opportunities program under the pilot program, the Governor of a State, a Territory, or the Commonwealth of Puerto Rico or the commanding general of the District of Columbia National Guard, as the case may be, may supplement any funding made available pursuant to subsection (j) out of other resources (including gifts) available to the Governor or the commanding general.

(2) The provision of funds authorized to be appropriated for the pilot program shall not preclude a Governor participating in the pilot program, or the commanding general of the District of Columbia National Guard (if the District of Columbia National Guard is participating in the pilot program), from accepting, using, and disposing of gifts or donations of money, other property, or services for the pilot program.

(*l*) REPORT.—(1) Within 90 days after the end of the 1-year period beginning on the first day of the pilot program, the Chief of the National Guard Bureau shall submit to the congressional defense committees a report on the design, conduct, and effectiveness of the pilot program during that 1-year period. The report shall include an assessment of the matters set forth in paragraphs (1) and (2) of subsection (b).

(2) In preparing the report required by paragraph (1), the Chief of the National Guard Bureau shall coordinate with the Governor of each State, Territory, and the Commonwealth of Puerto Rico in which a National Guard civilian youth opportunities program is carried out under the pilot program and, if such a program is carried out in the District of Columbia, with the commanding general of the District of Columbia National Guard.

(m) DEFINITIONS.—In this section, the terms "Territory" and "full-time National Guard duty" have the meanings given those terms in section 101 of title 32, United States Code.

(n) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized to be appropriated under section 301, $50,000,000 shall be available for the pilot program for fiscal year 1993.

SEC. 1082. CIVILIAN COMMUNITY CORPS.

(a) CIVILIAN COMMUNITY CORPS.—(1) Title I of the National and Community Service Act of 1990 (42 U.S.C. 12510 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle H—Civilian Community Corps

"SEC. 195. PURPOSE.

"It is the purpose of this subtitle to establish a Civilian Community Corps to provide a basis for determining—

"(1) whether residential service programs administered by the Federal Government can significantly increase the support for national service and community service by the people of the United States;

"(2) whether such programs can expand the opportunities for willing young men and women to perform meaningful, direct, and consequential acts of community service in a manner that will enhance their own skills while contributing to their understanding of civic responsibility in the United States; and

"(3) whether retired members and former members of the Armed Forces of the United States, members and former members of the Armed Forces discharged or released from active duty in connection with reduced Department of Defense spending, members and former members of the Armed Forces discharged or transferred from the Selected Reserve of the Ready Reserve in connection with reduced Department of Defense spending, and other members of the Armed Forces not on active duty and not actively participating in a reserve component of the Armed Forces can provide guidance and training under such programs that contribute meaningfully to the encouragement of national and community service.

"SEC. 195A. ESTABLISHMENT OF DEMONSTRATION PROGRAM.

"(a) IN GENERAL.—The Commission on National and Community Service shall establish the Civilian Community Corps Demonstration Program to carry out the purpose of this subtitle.

"(b) PROGRAM COMPONENTS.—Under the Civilian Community Corps Demonstration Program the members of a Civilian Community Corps shall receive training and perform service in at least one of the following 2 program components:

"(1) A national service program.

"(2) A summer national service program.

"(c) RESIDENTIAL PROGRAMS.—Both program components are residential programs. The members of the Corps in each program shall reside with other members of the Corps in Corps housing during the periods of the members' agreed service.

"SEC. 195B. NATIONAL SERVICE PROGRAM.

"(a) IN GENERAL.—Under the national service program, high school graduates and other youths between 17 and 25 years of age who are from economically, geographically, and ethnically diverse backgrounds shall work in teams on Civilian Community Corps projects.

"(b) PERIOD OF PARTICIPATION.—Persons desiring to participate in the national service program shall enter into an agreement with the Director to participate in the Corps for a period of not less than 9 months and not more than 1 year, as specified by the Director, and may renew the agreement for not more than 1 additional such period.

"SEC. 195C. SUMMER NATIONAL SERVICE PROGRAM.

"(a) IN GENERAL.—Under the summer national service program, a diverse group of youth between 14 and 18 years of age who are from urban or rural areas shall work in teams on Civilian Community Corps projects.

"(b) NECESSARY PARTICIPANTS.—The participants in the summer national service program shall include a significant number of economically disadvantaged youths.

"(c) SEASONAL PROGRAM.—The training and service of Corps members under the summer national service program in each year shall be conducted after April 30 and before October 1 of that year.

"SEC. 195D. CIVILIAN COMMUNITY CORPS.

"(a) DIRECTOR.—The Civilian Community Corps shall be under the direction of the Director of the Civilian Community Corps appointed pursuant to section 195H(c)(1).

"(b) MEMBERSHIP IN CIVILIAN COMMUNITY CORPS.—

"(1) PARTICIPANTS TO BE MEMBERS.— Persons participating in the national service program or the summer national service program shall be members of the Civilian Community Corps.

"(2) SELECTION OF MEMBERS.—The Director or the Director's designee shall select individuals for membership in the Corps.

"(3) APPLICATION FOR MEMBERSHIP.—To be selected to become a Corps member an individual shall submit an application to the Director or to any other office as the Director may designate, at such time, in such manner, and containing such information as the Director shall require. At a minimum, the application shall contain information about the work experience of the applicant and sufficient information to enable the Director, or the superintendent of the appropriate camp, to determine whether selection of the applicant for membership in the Corps is appropriate.

"(c) ORGANIZATION OF CORPS INTO UNITS.—

"(1) UNITS.—The Corps shall be divided into permanent units. Each Corps member shall be assigned to a unit.

"(2) UNIT LEADERS.—The leader of each unit shall be selected from among persons in the permanent cadre established pursuant to section 195H(c)(2). The designated leader shall accompany the unit throughout the period of agreed service of the members of the unit.

"(d) CAMPS.—

"(1) UNITS TO BE ASSIGNED TO CAMPS.—The units of the Corps shall be grouped together as appropriate in camps for operational, support, and boarding purposes. The Corps camp for a unit shall be in a facility or central location established as the operational headquarters and boarding place for the unit. Corps members may be housed in the camps.

"(2) CAMP SUPERINTENDENT.—There shall be a superintendent for each camp. The superintendent is the head of the camp.

"(3) ELIGIBLE SITE FOR CAMP.—A camp may be located in a facility referred to in section 195K(a)(3).

"(e) DISTRIBUTION OF UNITS AND CORPS.—The Director shall ensure that the Corps units and camps are distributed in urban areas and rural areas in various regions throughout the United States.

"(f) STANDARDS OF CONDUCT.—

"(1) IN GENERAL.—The superintendent of each camp shall establish and enforce standards of conduct to promote proper moral and disciplinary conditions in the camp.

"(2) SANCTIONS.—Under procedures prescribed by the Director, the superintendent of a camp may—

"(A) transfer a member of the Corps in that camp to another unit or camp if the superintendent determines that the retention of the member in the member's unit or in the superintendent's camp will jeopardize the enforcement of the standards or diminish the opportunities of other Corps members in that unit or camp, as the case may be; or

"(B) dismiss a member of the Corps from the Corps if the superintendent determines that retention of the member in the Corps will jeopardize the enforcement of the standards or diminish the opportunities of other Corps members.

"(3) APPEALS.—Under procedures prescribed by the Director, a member of the Corps may appeal to the Director a determination of a camp superintendent to transfer or dismiss the member. The Director shall provide for expeditious disposition of appeals under this paragraph.

"SEC. 195E. TRAINING.

"(a) COMMON CURRICULUM.—Each member of the Civilian Community Corps shall be provided with between 3 and 6 weeks of training that includes a comprehensive service-learning curriculum designed to promote team building, discipline, leadership, work, training, citizenship, and physical conditioning.

"(b) ADVANCED SERVICE TRAINING.—

"(1) NATIONAL SERVICE PROGRAM.—Members of the Corps participating in the national service program shall receive advanced training in basic, project-specific skills that the members will use in performing their community service projects.

"(2) SUMMER NATIONAL SERVICE PROGRAM.—Members of the Corps participating in the summer national service program shall not receive advanced training referred to in paragraph (1) but, to the extent practicable, may receive other training.

"(c) TRAINING PERSONNEL.—

"(1) IN GENERAL.—Members of the cadre appointed under section 195H(c)(2) shall provide the training for the members of the Corps, including, as appropriate, advanced service training and ongoing training throughout the members' periods of agreed service.

"(2) COORDINATION WITH OTHER ENTITIES.—Members of the cadre may provide the advanced service training referred to in subsection (b)(1) in coordination with vocational or technical schools, other employment and training providers, existing youth service programs, or other qualified individuals.

"(d) FACILITIES.—The training may be provided at installations and other facilities of the Department of Defense, and at National Guard facilities, identified under section 195K(a)(3).

"SEC. 195F. SERVICE PROJECTS.

"(a) PROJECT REQUIREMENTS.—The service projects carried out by the Civilian Community Corps shall—

"(1) meet an identifiable public need;

"(2) emphasize the performance of community service activities that provide meaningful community benefits and opportunities for service learning and skills development;

"(3) to the maximum extent practicable, encourage work to be accomplished in teams of diverse individuals working together; and

"(4) include continued education and training in various technical fields.

"(b) PROJECT PROPOSALS.—

"(1) DEVELOPMENT OF PROPOSALS.—

"(A) SPECIFIC EXECUTIVE DEPARTMENTS.—The Secretary of Agriculture, the Secretary of the Interior, and the Secretary of Housing and Urban Development shall develop proposals for Corps projects pursuant to guidance which the Director of the Civilian Community Corps shall prescribe.

"(B) OTHER SOURCES.—Other public and private organizations and agencies, including representatives of local communities in the vicinity of a Corps camp, may develop proposals for projects for a Corps camp. Corps members shall also be encouraged to identify projects for the Corps.

"(2) CONSULTATION REQUIREMENTS.—The process for developing project proposals under paragraph (1) shall include consultation with the Commission on National and Community Service, representatives of local communities, and persons involved in other youth service programs.

"(c) PROJECT SELECTION, ORGANIZATION, AND PERFORMANCE.—

"(1) SELECTION.—The superintendent of a Corps camp shall select the projects to be performed by the members of the Corps assigned to the units in that camp. The superintendent shall select projects from among the projects proposed or identified pursuant to subsection (b).

"(2) INNOVATIVE LOCAL ARRANGEMENTS FOR PROJECT PERFORMANCE.—The Director shall encourage camp superintendents to negotiate with representatives of local communities, to the extent practicable, innovative arrangements for the performance of projects. The arrangements may provide for cost-sharing and the provision by the communities of in-kind support and other support.

"SEC. 195G. AUTHORIZED BENEFITS FOR CORPS MEMBERS.

"(a) IN GENERAL.—The Director of the Civilian Community Corps shall provide for members of the Civilian Community Corps to receive benefits authorized by this section.

"(b) LIVING ALLOWANCE.—The Director shall provide a living allowance to members of the Corps for the period during which such members are engaged in training or any activity on a Corps project. The Director shall establish the amount of the allowance at any amount not in excess of the amount equal to 100 percent of the poverty line that is applicable to a family of two (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(c) OTHER AUTHORIZED BENEFITS.—While receiving training or engaging in service projects as members of the Civilian Community Corps, members may be provided the following benefits:

"(1) Allowances for travel expenses, personal expenses, and other expenses.

"(2) Quarters.

"(3) Subsistence.

"(4) Transportation.

"(5) Equipment.

"(6) Clothing.

"(7) Recreational services and supplies.

"(8) Other services.

"(d) SUPPORTIVE SERVICES.—To the extent practicable and as the Director determines appropriate, the Director shall provide each member of the Corps with health care services, child care services, counseling services, and other supportive services.

"(e) POST SERVICE BENEFITS.—Upon completion of the agreed period of service with the Corps, a member shall elect to receive the educational assistance under subsection (f) or the cash benefit under subsection (g).

"(f) EDUCATIONAL ASSISTANCE.—

"(1) AUTHORITY.—

"(A) CORPS MEMBERS COMPLETING AGREED SERVICE.—The Director shall provide educational assistance to each Corps member who—

"(i) completes a period of agreed service in the Corps; and

"(ii) elects to receive the assistance.

"(B) CORPS MEMBERS NOT COMPLETING AGREED SERVICE.—The Director may provide educational assistance to a Corps member who—

"(i) does not complete the period of agreed service; and

"(ii) requests the assistance.

"(2) AMOUNT.—

"(A) NATIONAL SERVICE PROGRAM.—The amount of the educational assistance provided to a Corps member under paragraph (1)(A) shall be—

"(i) in the case of a Corps member in the National Service Program, $5,000 for each period of agreed service in the Corps; and

"(ii) in the case of a Corps member in the Summer National Service Program, $1,000 for each period of agreed service in the Corps.

"(B) PRORATED AMOUNT FOR INCOMPLETE SERVICE.—The amount of the educational assistance provided to a Corps member under paragraph (1)(B) shall be determined by multiplying—

"(i) the amount that would be applicable to the member under subparagraph (A) if the member had completed the agreed period of service, by

"(ii) the percentage determined by dividing the period of the Corps member's service by the period of the Corps member's agreed period of service.

"An amount that is not an even multiple of $1 shall be rounded down to the next lower even multiple of $1.

"(C) ADJUSTMENT OF AMOUNT.—To the extent provided in appropriations Acts, whenever the maximum permissible grant amount for a year under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.) is increased, the amount of the educational assistance payment under subparagraph (A)(i) shall be increased to the amount equal to the sum of that maximum permissible grant amount (as increased) plus $2,500.

"(3) USES OF ASSISTANCE.—Educational assistance provided for a person under this subsection may be used only for—

"(A) payment of any student loan, whether from a Federal source or a non-Federal source; or

"(B) tuition, room and board, books and fees, and other costs of attendance (determined in accordance with section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll)) that are associated with attendance at an institution of higher education on a full-time basis.

"(4) APPLICATION.—To receive educational assistance under this section, a person shall submit to the Director such information and documentation as the Director may require. In the case of use of the educational assistance for expenses referred to in paragraph (3)(B), the information submitted to the Director shall include, as a minimum, the academic program and institution of higher education at which the educational assistance is to be used.

"(g) CASH BENEFIT.—

"(1) IN GENERAL.—The Director shall provide a cash benefit to each Corps member electing to receive the cash benefit.

"(2) AMOUNT.—The amount of the cash benefit payable to a member of the Corps shall be equal to 50 percent of the amount of the educational assistance that the member would have been entitled to receive under subsection (f) if the member had elected to receive the educational assistance.

"(h) OTHER POST SERVICE BENEFITS.—To the extent the Director considers appropriate, upon a Corps member's completion of the agreed period of service with the Corps, the Director shall provide the member with—

"(1) assistance for the member to pursue a high school diploma or the equivalent;

"(2) in addition to any educational assistance under subsection (f), other assistance for the member to pursue a degree at an institution of higher education; or

"(3) assistance for the member to obtain employment and support services as necessary and appropriate.

"SEC. 195H. ADMINISTRATIVE PROVISIONS.

"(a) BOARD.—The Board shall monitor and supervise the administration of the Civilian Community Corps Demonstration Program established under this subtitle. In carrying out this section, the Board shall—

"(1) approve such guidelines, recommended by the Director, for the design, selection of members, and operation of the Civilian Community Corps as the Board considers appropriate;

"(2) evaluate the progress of the Corps in providing a basis for determining the matters set forth in section 195; and

"(3) carry out any other activities determined appropriate by the Board.

"(b) EXECUTIVE DIRECTOR.—The Executive Director of the Commission on National and Community Service shall—

"(1) monitor the overall operation of the Civilian Community Corps;

"(2) coordinate the activities of the Corps with other youth service programs administered by the Commission; and

"(3) carry out any other activities determined appropriate by the Board.

"(c) STAFF.—

"(1) DIRECTOR.—

"(A) APPOINTMENT.—The Board, in consultation with the Executive Director, shall appoint a Director of the Civilian Community Corps. The Director may be selected from among retired commissioned officers of the Armed Forces of the United States.

"(B) DUTIES.—The Director shall—

"(i) design, develop, and administer the Civilian Community Corps programs;

"(ii) be responsible for managing the daily operations of the Corps; and

"(iii) report to the Board through the Executive Director.

"(C) AUTHORITY TO EMPLOY STAFF.—The Director may employ such staff as is necessary to carry out this subtitle. The Director shall, to the maximum extent practicable, utilize in staff positions personnel who are detailed from departments and agencies of the Federal Government and, to the extent the Director considers appropriate, shall request and accept detail of personnel from such departments and agencies in order to do so.

"(2) PERMANENT CADRE.—

"(A) ESTABLISHMENT.—The Director shall establish a permanent cadre of supervisors and training instructors for Civilian Community Corps programs.

"(B) APPOINTMENT.—The Director shall appoint the members of the permanent cadre.

"(C) EMPLOYMENT CONSIDERATIONS.—In appointing individuals to cadre positions, the Director shall—

"(i) give consideration to retired, discharged, and other inactive members and former members of the Armed Forces recommended under section 195K(a)(2);

"(ii) give consideration to former VISTA, Peace Corps, and youth service program personnel;

"(iii) ensure that the cadre is comprised of males and females of diverse ethnic, economic, professional, and geographic backgrounds; and

"(iv) consider applicants' experience in other youth service programs.

"(D) COMMUNITY SERVICE CREDIT.—Service as a member of the cadre shall be considered as a community service opportunity for purposes of section 534 of the National Defense Authorization Act for Fiscal Year 1993 and as employment with a public service or community service organization for purposes of section 535 of that Act.

"(3) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director, the members of the permanent cadre, and the other staff personnel shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The rates of pay of such persons may be established without regard to the provisions of chapter 53 of such title.

"(4) VOLUNTARY SERVICES.—Notwithstanding any other provision of law, the Director may accept the voluntary services of individuals. While away from their homes or regular places of business on the business of the Corps, such individuals may be allowed travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent, as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

"SEC. 195I. STATUS OF CORPS MEMBERS AND CORPS PERSONNEL UNDER FEDERAL LAW.

"(a) IN GENERAL.—Except as otherwise provided in this section, members of the Civilian Community Corps shall not, by reason of their status as such members, be considered Federal employees or be subject to the provisions of law relating to Federal employment.

"(b) WORK-RELATED INJURIES.—

"(1) IN GENERAL.—For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, members of the Corps shall be considered as employees of the United States within the meaning of the term 'employee', as defined in section 8101 of such title.

"(2) SPECIAL RULE.—In the application of the provisions of subchapter I of chapter 81 of title 5, United States Code, to a person referred to in paragraph (1), the person shall not be considered to be in the performance of duty while absent from the person's assigned post of duty unless the absence is authorized in accordance with procedures prescribed by the Director.

"(c) TORT CLAIMS PROCEDURE.—A member of the Corps shall be considered an employee of the United States for purposes of chapter 171 of title 28, United States Code, relating to tort claims liability and procedure.

"SEC. 195J. CONTRACT AND GRANT AUTHORITY.

"(a) PROGRAMS.—The Director may, by contract or grant, provide for any public or private organization to perform any program function under this subtitle.

"(b) EQUIPMENT AND FACILITIES.—

"(1) FEDERAL AND NATIONAL GUARD PROPERTY.—The Director shall enter into agreements, as necessary, with the Secretary of Defense, the Governor of a State, territory or commonwealth, or the commanding general of the District of Columbia National Guard, as the case may be, to utilize—

"(A) equipment of the Department of Defense and equipment of the National Guard; and

"(B) Department of Defense facilities and National Guard facilities identified pursuant to section 195K(a)(3).

"(2) OTHER PROPERTY.—The Director may enter into contracts or agreements for the use of other equipment or facilities to the extent practicable to train and house members of the Civilian Community Corps and leaders of Corps units.

"SEC. 195K. RESPONSIBILITIES OF OTHER DEPARTMENTS.

"(a) SECRETARY OF DEFENSE.—

"(1) LIAISON OFFICE.—

"(A) ESTABLISHMENT.—The Secretary of Defense shall establish an office to provide for liaison between the Secretary and the Civilian Community Corps.

"(B) DUTIES.—The office shall—

"(i) in order to assist in the recruitment of personnel for appointment in the permanent cadre, make available to the Director information in the registry established by section 531 of the National Defense Authorization Act for Fiscal Year 1993;

"(ii) provide other assistance in the coordination of Department of Defense activities with the Corps; and

"(iii) encourage Armed Forces recruiters to inform potential applicants for the Corps regarding service in the Corps as an alternative to service in the Armed Forces.

"(2) CORPS CADRE.—

"(A) LIST OF RECOMMENDED PERSONNEL.—The Secretary of Defense, in consultation with the liaison office established under paragraph (1) shall develop a list of individuals to be recommended for appointment in the permanent cadre of Corps personnel. Such personnel shall be selected from among members and former members of the Armed Forces referred to in section 195(3) who are commissioned officers, noncommissioned officers, former commissioned officers, or former noncommissioned officers.

"(B) RECOMMENDATIONS REGARDING GRADE AND PAY.—The Secretary of Defense shall recommend to the Director an appropriate rate of pay for each person recommended for the cadre pursuant to this paragraph.

"(C) CONTRIBUTION FOR RETIRED MEMBER'S PAY.—If a listed individual receiving retired or retainer pay is appointed to a position in the cadre and the rate of pay for that individual is established at the amount equal to the difference between the active duty pay and allowances which that individual would receive if ordered to active duty and the amount of the individual's retired or retainer pay, the Secretary of Defense shall pay, by transfer to the Commission on National and Community Service from amounts available for pay of active duty members of the Armed Forces, the amount equal to 50 percent of that individual's rate of pay for service in the cadre.

"(3) FACILITIES.—The Secretary of Defense, in consultation with the liaison office established under paragraph (1), shall identify, with the concurrence of the Secretary of the military department concerned, military installations and other facilities of the Department of Defense and, with the concurrence of the Chief of the National Guard Bureau, National Guard facilities that may be used, in whole or in part, by the Civilian Community Corps for training or housing Corps members. The installations and facilities need not be excess capacity or excess or surplus property.

"(b) SECRETARY OF LABOR.—The Secretary of Labor shall identify and assist in establishing a system for the recruitment of persons to serve as members of the Civilian Community Corps. In carrying out this subsection, the Secretary of Labor may utilize the Employment Service Agency or the Office of Job Training.

"SEC. 195L. ADVISORY BOARD.

"(a) ESTABLISHMENT AND PURPOSE.—There is established a Civilian Community Corps Advisory Board to advise the Director of the Civilian Community Corps concerning the administration of this subtitle and to assist in the development and administration of the Corps.

"(b) MEMBERSHIP.—The Advisory Board shall be composed of the following members:

"(1) The Secretary of Labor.

"(2) The Secretary of Defense.

"(3) The Secretary of the Interior.

"(4) The Secretary of Agriculture.

"(5) The Secretary of Education.

"(6) The Secretary of Housing and Urban Development.

"(7) The Chief of the National Guard Bureau.

"(8) Individuals appointed by the Director from among persons who are broadly representative of educational institutions, voluntary organizations, industry, youth, and labor unions.

"(9) The Chair of the Commission on National and Community Service.

"(c) INAPPLICABILITY OF TERMINATION REQUIREMENT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Board.

"SEC. 195M. ANNUAL EVALUATION.

"Pursuant to the provisions for evaluations conducted under section 179, and in particular subsection (g) of such section, the Commission on National and Community Service shall conduct an annual evaluation of the Civilian Community Corps programs under this subtitle.

"SEC. 195N. FUNDING LIMITATION.

"The Commission, in consultation with the Director, shall ensure that no amounts appropriated under section 501 are utilized to carry out this subtitle.

"SEC. 195O. DEFINITIONS.

"In this subtitle:

"(1) BOARD.—The term 'Board' means the Board of Directors of the Commission on National and Community Service.

"(2) CORPS.—The term 'Corps' means the Civilian Community Corps established under the Civilian Community Corps Demonstration Program.

"(3) CORPS CAMP.—The term 'Corps camp' means the facility or central location established as the operational headquarters and boarding place for particular Corps units.

"(4) CORPS MEMBERS.—The term 'Corps members' means persons receiving training and participating in projects under the Civilian Community Corps Demonstration Program.

"(5) DIRECTOR.—The term 'Director' means the Director of the Civilian Community Corps.

"(6) EXECUTIVE DIRECTOR.—The term 'Executive Director' means the Executive Director of the Commission on National and Community Service.

"(7) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(8) PROGRAM.—The term 'Program' means the Civilian Community Corps Demonstration Program established under section 195A.

"(9) SERVICE LEARNING.—The term 'service learning', with respect to Corps members, means a method—

"(A) under which Corps members learn and develop through active participation in thoughtfully organized service experiences that meet actual community needs;

"(B) that provides structured time for a Corps member to think, talk, or write about what the Corps member did and saw during an actual service activity;

"(C) that provides Corps members with opportunities to use newly acquired skills and knowledge in real life situations in their own communities; and

"(D) that helps to foster the development of a sense of caring for others, good citizenship, and civic responsibility.

"(10) SUPERINTENDENT.—The term 'superintendent', with respect to a Corps camp, means the head of the camp under section 195D(d).

"(11) UNIT.—The term 'unit' means a unit of the Corps referred to in section 195D(c).".

(2) TABLE OF CONTENTS.—The table of contents in section 1(b) of the National and Community Service Act of 1990 is amended by inserting after the item relating to section 190 the following:

"SUBTITLE H—CIVILIAN COMMUNITY CORPS
"Sec. 195. Purpose.
"Sec. 195A. Establishment of demonstration program.
"Sec. 195B. National service program.
"Sec. 195C. Summer national service program.
"Sec. 195D. Civilian Community Corps.
"Sec. 195E. Training.
"Sec. 195F. Service projects.
"Sec. 195G. Authorized benefits for Corps members.
"Sec. 195H. Administrative provisions.
"Sec. 195I. Status of Corps members and Corps personnel under Federal law.
"Sec. 195J. Contract and grant authority.
"Sec. 195K. Responsibilities of other departments.
"Sec. 195L. Advisory board.
"Sec. 195M. Annual evaluation.
"Sec. 195N. Funding limitation.
"Sec. 195O. Definitions.".

(b) REPORT AND STUDY REQUIREMENTS.—(1) Not later than 180 days after the date of the enactment of this Act, the Commission on National Community Service shall prepare and submit to the appropriate committees of Congress a progress report on the implementation of the provisions of subtitle I of the National and Community Service Act of 1990 (as added by subsection (a)). The progress report shall include an assessment of the activities undertaken in establishing and administering Civilian Community Corps camps and an analysis of the level of coordination of Corps activities with activities of other departments or agencies of the Federal Government.

(2) Not later than 90 days after the end of the 1-year period beginning on the first day of the Civilian Community Corps Demonstration Program established pursuant to section 195A of the National and Community Services Act of 1990 (as added by subsection (a)), the Board of Directors of the Commission on National and Community Service and the Director of the Civilian Community Corps shall prepare and submit to the appropriate committees of Congress a report concerning the desirability and feasibility of establishing the Civilian Community Corps as an independent agency of the Federal Government.

(c) FUNDING.—Of the amount authorized to be appropriated for fiscal year 1993 in section 301, $50,000,000 shall be available for the Civilian Community Corps Demonstration Program established pursuant to section 195A of the National and Community Service Act of 1990 (as added by subsection (a)).

SEC. 1083. COORDINATION OF PROGRAMS.

(a) COORDINATED ADMINISTRATION.—To the maximum extent practicable, the Chief of the National Guard Bureau, the Board of Directors and Executive Director of the Commission on National and Community Service, and the Director of the Civilian Community Corps shall coordinate the National Guard Youth Opportunities Program established pursuant to section 1081 and the Civilian Community Corps Demonstration Program established pursuant to section 195A of the National and Community Service Act of 1990 (as added by section 1082(a)).

(b) OBJECTIVES.—The officials referred to in subsection (a) shall ensure that—

(1) the programs referred to in subsection (a) are conducted in such a manner in relationship to each other that the public benefit of those programs is maximized;

(2) to the maximum extent appropriate to meet the needs of program participants, persons who complete participation in the National Guard Youth Opportunities Program and are eligible and apply to participate in the Civilian Community Corps under the Civilian Community Corps Demonstration Program are accepted for participation in that Program; and

(3) the programs referred to in subsection (a) are conducted simultaneously in competition with each other in the same immediate area of the United States only when the population of eligible participants in that area is sufficient to justify the simultaneous conduct of such programs in that area.

SEC. 1084. OTHER PROGRAMS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE.

(a) INCREASED COMMISSION ACTIVITIES.—It is the purpose of this section to increase the ability of the Commission on National and Community Service to expand non-residential programs that perform worthwhile urban and rural community projects that assist in the economic transition of localities affected by Department of Defense conversion. The Commission may also explore the potential for developing a program that would permit members of the Civilian Community Corps established under subtitle H of title I of the National and Community Services Act of 1990, as added by section 1082, to provide training to such participants at residential facilities and return them to their local communities for the service portion of their period of agreed service. To the extent practicable, such effort shall be coordinated with the National Guard Civilian Youth Opportunities Program authorized by section 1801 and with the Civilian Community Corps Demonstration Program established under section 195A the National and Community Services Act of 1990, as added by section 1082.

(b) FUNDING AND USE OF FUNDS.—(1) Of the amount authorized to be appropriated for fiscal year 1993 in section 301, $50,000,000 shall be available to the Board of Directors of the Commission on National and Community Service for activities under subtitles B, C, D, E, F, and G of the National and Community Service Act of 1990 (42 U.S.C. 12510 et seq.). Such amount shall be in addition to, and not a substitute for, amounts authorized to be appropriated under section 501 of such Act (42 U.S.C. 12681).

(2) In the use of the funds made available under paragraph (1), the Commission shall give special consideration to—

(A) programs located in communities where facilities of military installation (as defined in section 2687(e)(1) of title 10, United States Code) have been closed;

(B) programs that employ retired, inactive, or discharged military personnel;

(C) programs that involve military personnel participating in volunteer services;

(D) programs that test whether a non-residential, community based youth service corps can engender in young men and women a commitment to civic responsibility and involvement in their communities;

(E) programs that test whether such nonresidential corps permit young people who have received military-based training to use their skills and knowledge to improve their communities; and

(F) programs that test whether retired, discharged or inactive members and former members of the Armed Forces can play a meaningful role in service-learning by acting as mentors, teachers, counselors and role models.

On page 477, strike out line 14 and all that follows through page 485, line 13.

SEC. 1085. LIMITATION ON OBLIGATION OF FUNDS.

(a) CIVILIAN COMMUNITY CORPS DEMONSTRATION PROGRAM.—Funds made available pursuant to section 1082(c) may not be obligated during fiscal year 1993 for the Civilian Community Corps Demonstration Program under subtitle H of title I of the National and Community Service Act of 1990 (as added by section 1082(a)), unless expenditures for that program during fiscal year 1993 have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) OTHER COMMISSION ON NATIONAL AND COMMUNITY SERVICE PROGRAMS.—Funds made available pursuant to section 1084(b) may not be obligated during fiscal year 1993 for activities under subtitles B, C, D, E, F, and G of the National and Community Service Act of 1990 (42 U.S.C. 12510 et seq.), unless expenditures for such activities during fiscal year 1993 have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

U.S. CAPITOL POLICE JURISDICTION REFORM ACT

FORD AMENDMENT NO. 3039

Mr. FORD proposed an amendment to the amendment of the House to the bill (S. 1766) relating to the jurisdiction of the U.S. Capitol Police, as follows:

Beginning with page 3, line 9, strike all through page 4, line 12.

On page 4, line 13, strike "SEC. 103." and insert "SEC. 102.".

On page 5, line 4, strike "SEC. 104." and insert "SEC. 103.".

On page 5, line 8, strike "SEC. 105." and insert "SEC. 104.".

On page 5, line 10, strike "SEC. 103" and insert "SEC. 102.".

NATIONAL DEFENSE AUTHORIZATION ACT

BINGAMAN (AND DOMENICI) AMENDMENT NO. 3040

Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to the bill S. 3114, supra, as follows:

On page 17, line 8, strike out "$9,274,999,000" and insert in lieu thereof "$9,283,974,000".

On page 49, line 24, strike out "$14,070,731,000" and insert in lieu thereof "$14,130,331,000".

On page 31, between lines 7 and 8, insert the following:

SEC. 134. LIMITATION RELATING TO THE EF-111 AIRCRAFT.

None of the funds appropriated for upgrade of the EF-111 aircraft pursuant to an authorization of appropriations contained in this title or title II may be obligated until the Secretary of Defense—

(1) transmits to Congress the report required by section 901(a); and

(2) certifies to the congressional defense committees that, in light of the report referred to in paragraph (1), the Secretary intends to retain EF-111 aircraft in the inventory of aircraft of the Air Force.

NOTICES OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. NUNN. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings on oversight of the insurance industry: Blue Cross/Blue Shield Maryland plan.

These hearings will take place on Thursday, September 24 and Friday, September 25, 1992, at 9 a.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact Eleanore Hill of the subcommittee staff at 224-3721.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a business meeting on Friday, September 18, 1992, beginning at 10 a.m., in 485 Russell Senate Office Building to consider S. 2975, the Yavapai-Prescott Water Rights Settlement Act; H.R. 5686, an act to make technical amendments to certain Federal Indian statutes; and S. 3157, the Native American Veterans' Memorial bill.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a Joint Hearing with the House Committee on Interior and Insular Affairs on Tuesday, September 22, 1992, beginning at 10:00 a.m., in 485 Russell Senate Office Building on S. 2977 and H.R. 5744, the Indian Agricultural Resources Management Act of 1992.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Thursday, September 17, 1992, at 10 a.m. to conduct a hearing on long-term strategies for urban revitalization.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND, OCEAN AND WATER PROTECTION

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Superfund, Ocean and Water Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, September 17, beginning at 10 a.m., to conduct an oversight hearing on implementation of the Marine Plastic Pollution Research and Control Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 9:30 a.m., September 17, 1992, to receive testimony on the energy conservation implications of beverage container recycling, as outlined in S. 2335.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Agricultural, Nutrition, and Forestry Subcommittee on Agricultural Research and General Legislation be allowed to meet during the session of the Senate on Thursday, September 17, 1992, at 9:30 a.m., in SR-332 on the implementation of the research and education provisions of the Food, Agriculture, Conservation, and Trade Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, September 17, 1992, at 10 a.m.

AGENDA

I. NOMINATIONS

U.S. Circuit Court

Dennis Jacobs to be United States Circuit Judge for the Second Circuit

Francis A. Keating to be United States Circuit Judge for the Tenth Circuit

U.S. District Court

Anita B. Brody to be United States District Judge for the Eastern District of Pennsylvania

C. Leroy Hansen to be United States District Judge for the District of New Mexico

Nathaniel M. Gorton to be United States District Judge for the District of Massachusetts

John Phil Gilbert to be United States District Judge for the Southern District of Illinois

II. BILLS

S. 1096—A bill to ensure the protection of motion picture copyrights, and for other purposes—Kohl

S. 287—A bill for the relief of Clayton Timothy Boyle and Clayton Louis Boyle, son and father—Akaka

H.R. 238—A bill for the relief of Craig A. Klein—Bennett

S. 2652—A bill to provide enhanced penalties for commission of fraud in connection with the provision of or receipt of payment for health care services, and for other purposes—Biden

H.R. 1537—A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles ii, iii, and v-x of title 49, United States Code, "transportation", and to make other technical improvements in the code—Brooks

S. 1002—A bill, in the nature of a substitute, to impose a criminal penalty for flight to avoid payment of arrearages in child support—Shelby

H.R. 712—A bill for the relief of Patricia A. McNamara—Shaw

H.R. 5399—A bill to amend the United States Commission on Civil Rights Act of 1983 to provide an authorization of appropriations—Edwards of California

S. 2013—A bill to amend chapter 1 of title 17, United States Code, to enable satellite distributors to sue satellite carriers for unlawful discrimination—Leahy

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SOCIAL SECURITY AND FAMILY POLICY

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Social Security and Family Policy of the Committee on Finance be authorized to meet during the session of the Senate on September 17, 1992, at 2 p.m. to hold a hearing to discuss a Supreme Court ruling that limits the right of beneficiaries under the Adoption Assistance and Child Welfare Act of 1980 to go to court to enforce its provisions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DESPAIR AND HOPE: CONTINUED VIOLENCE IN SOUTH AFRICA

• Mr. DECONCINI. Mr. President, last week the world bore witness to yet another display of the senseless violence that has for decades plagued the supposedly forward-moving Republic of South Africa. South Africa, a country that last year seemed headed toward a peaceful resolution to years of conflict between the white minority and the subordinated black majority, has once again given the international community reason to fear a reversion to the ways of old.

A trend that President Bush just last year referred to as irreversible, the movement away from the system of apartheid has apparently not been fully instilled in the hearts and minds of all of South Africa, including those at the highest levels of the Government. Recent reports suggest that there exists a network of former and present members of South Africa's security forces who are working to sabotage efforts for a transition to majority rule in that country.

This influence, referred to by many as the Third Force, has promoted violence among blacks, most recently resulting in the June 17 massacre at Boipatong and last week's incident at Bisho—only the latest in a series of occurrences involving black-on-black violence. The tragic events at Boipatong this summer pulled the African National Congress away from the negotiating table, and President F.W. de Klerk's failure to assume authority over his own security forces has resulted in decreasing confidence in his ability to bring the ANC back to the peace talks. Enough lives have been lost. The people of South Africa must come to the realization that lives are not pawns. The game of chess must take place at the negotiating table, and not in the streets of South Africa. Perhaps the shock of the events at Bisho will have a positive effect on the CODESA talks in the long run.

The deaths of nearly 30 peaceful demonstrators on September 7 in Bisho came at the hands of the Ciskei Defense Force [CDF], a known ally of the Government. In what some have referred to as South Africa's Tiananmen Square, Brig. Gen. Oupo Gqozo—the controversial leader of the Ciskei homeland—assembled his troops in suspiciously strategic positions to protect his palace and Government buildings. While some have claimed that the Communist influence within the antiapartheid movement may have been using the masses as pawns, Gqozo's troops fired into a mostly nonthreatening and unarmed crowd of 50,000 protesters, killing between 24 to 28 people and injuring close to 100. This is an act that our own State Department has determined an "excessive and unjustified use of lethal force against peaceful demonstrators."

It is these types of attacks by a seemingly out-of-control security force in South Africa that bring about this renewed call to action. This call to action may have been answered as ANC Secretary-General Cyril Ramaphosa and Constitutional Development Minister Roelf Meyer met secretly this week to discuss a renewed focus on curbing the political violence before any negotiations regarding the political future of South Africa resume.

Mr. President, the situation in South Africa calls for immediate and decisive action by the ANC and President de Klerk. Constitutional negotiations must be resumed in order to curtail human rights abuses, and ensure the democratic evolution of South Africa. Earlier this year the country rejected the policies of the past and voted in support of a referendum to continue on the path toward equality. In this referendum, the Government asked the white voters their opinion regarding the current reforms toward a negotiated end to apartheid already taking place under the de Klerk administration. De Klerk stated, as his promise to be fully committed to the reform movement, that he would resign his post if the referendum did not pass. The overwhelming response from nearly 70 percent of the white population was supportive of further reforms.

Time is of the essence as the concentration of power appears to be shifting within the African National Congress from the moderate Mandela-backed forces to the more radical South African Communist Party delegation. I urge the leaders of the ANC to return to the negotiating table before chaos descends upon the nation. The blame with regard to the incident this month in Bisho may not lie totally with the de Klerk government and the supposed Third Force. Radical influences within the antiapartheid movement are ever-increasing. The moderate, Mandela-backed wing of the ANC must take further steps to ensure that another Bisho does not occur. They must regain control of the party and not allow the Communist factions to institute their own radical methods.

If the movement toward democracy is to proceed under President de Klerk's authority—as he promised—he too must focus less on the potential political backlash from South Africa's white population which may result from such revolutionary reform. Based on the results of the referendum, support from the white minority obviously exists. Instead, President de Klerk must bring South Africa back from the brink, and steer it into a peaceful and prosperous future.•

TRIBUTE TO WARSAW

• Mr. McCONNELL. Mr. President, I rise today to recognize the town of Warsaw in Gallatin County.

Warsaw is a small river town located some 60 miles up the Ohio River from Louisville. It is a peaceful community, seemingly moving at the same gentle pace as the river on which it lies. What is not necessarily visible is that Warsaw is beginning to move forward. A recent study has found that Gallatin County is in a position to be one of the fastest growing counties in Kentucky for the next three decades.

Signs of progress are everywhere in Warsaw. There is a new elementary school and new affordable housing for senior citizens. New homes are being built as more people are moving to Warsaw for the peace and tranquility of a small southern town. In the past few years, school enrollment has grown by over 25 percent. Advances in technology have allowed schools to offer courses via satellite. Through a recent grant, the town is restoring old buildings near the courthouse. The city park at the heart of town has been cleaned up and now serves as a community center. Residents boast that Warsaw is one of few places where people are not divided in any social way.

Because of its close proximity to industrial centers such as Louisville and Lexington, Warsaw is able to maintain its smalltown charm but at the same time provide its residents with access to numerous job opportunities. Dorman Products, which assembles and distributes auto parts, recently moved to Warsaw from Cincinnati. This added another 200 jobs to the local community. Town leaders hope that this move will prompt other industries to consider Warsaw as a location for business.

I applaud these efforts of progress, making Warsaw one of Kentucky's finest towns.

Mr. President, please enter the following article from Louisville's Courier-Journal in today's RECORD.

The article follows:

[From the Louisville (KY) Courier-Journal, Aug. 24, 1992]

WARSAW

(By Beverly Bartlett)

It's 2 o'clock on a Tuesday afternoon in Warsaw. The square is as quiet as the Ohio River, which you can sense just down the hill from the courthouse although you can't quite see it.

"Is anybody here?" you're tempted to call out. "Anybody home?"

A bird answers from the top of a distant building, but that is all. You wonder, for a moment, if the courthouse in front of you is as vacant as it is old, if there's anyone around more substantial than the ghost that supposedly haunts the county historical building.

But then the moment is gone. Some cars whiz by on U.S. 42. One car stops on the square, and a woman and child get out and run into the pharmacy. They are laughing and talking, but the sound of their voices is washed away occasionally by the flood of traffic noise.

The emptiness was only a momentary illusion. In the ebb and flow of this river town, the flow has come again.

And so it has been historically. The tide went out with steamboat travel and receded further when an interstate upstaged the highway that runs through town. Residents say it's coming in again.

Gallatin County grew by about 550 people in the 1980s, bringing the population to about 5,300. And a recent University of Louisville study found it is poised to be one of the fastest-growing counties in the state for the next three decades. The study projected that nearly 8,000 people will call the county home at the end of that period.

In just a few years, school enrollment has grown from about 800 to nearly 1,100 students.

"The biggest change we've seen is the growth in the population," said Judge-Executive Clarence Davis, who has held the office for 20 years.

If you hadn't seen the numbers, you'd think that he was kidding. Warsaw, with block after block of 19th-century homes and a series of empty storefronts, does not strike you as a growing place. A list compiled by local historians includes more than 30 buildings built before 1902—most of them before the Civil War.

Some lots in town are used for a more natural form of growth.

"There's a tobacco patch in town," says Mayor Earl Richard Wood as he points to one. Then he turns a little and points again. "And a nursery in town. And a cornfield in town. Where else can you see all this green?"

Scoot around the outskirts for a while and you'll notice more modern attractions. There's a new elementary school and some new apartments for senior citizens. Nearby, the new Dorman Products facility, which employs more than 200 people, is still shiny.

Travel U.S. 42 to either end of the county and you'll notice newer homes. The county's west end, near Markland Dam, is the site of several summer homes. And new homes are sprouting in the east end of the county, which combines proximity to Northern Kentucky with the peace and beauty of rural living.

And where there is not growth, there is activity. The city recently obtained a $430,000 grant that it spent restoring old buildings near the courthouse. Upstairs apartments have been rented, though the downstairs storefronts are still empty.

And look at the city park. These few acres along the river were once the very heart of town. The steps from an old hotel are still visible. But when the country turned to rail and highways as its main transportation arteries, the heart of the town moved away from the river. Land along the river filled with weeds and with trash.

In 1987, the land became a city park. It has become a community center since then. And the city is working with federal authorities to try to obtain an old cargo ship to moor at the park.

But on a daily basis, the park serves merely as a place to gather with friends and watch the river. Henry C. Browne, a 49-year-old farm worker, does that sometimes.

"There is something about this river," he says, explaining why he has been drawn back home every time he left to find work.

But there is also something about the town. Even during the years when segregation meant Browne, an African American, could not enter certain businesses in the community, the pain was soothed by the friendships that developed across racial lines.

Because the town was so small, Browne said, all the children in town played together. When school started, "They couldn't understand why I didn't go to school with them."

Eventually, after he started at a black high school in Shelby County, the high school in Gallatin County was desegregated and Browne got to come back. In 1960, he graduated with his friends. Everything went smoothly, he said.

The residents do claim a sort of egalitarian nature for Warsaw.

Davis said the county is "one of the few places where you will ever be where the people are not divided in any way socially. Everybody is equal."

The community has made the same impression on Steve Huddleston, who moved here 13 years ago to start a law practice with his wife, Rhonda.

"This community is singular in my mind for being not very socially stratified," said Huddleston, who is the county attorney and the son of former U.S. Sen. Walter "Dee" Huddleston.

There is some loss of privacy in a small town, he said. But it isn't that bad. "People may know what's going on with you, but they don't really judge you harshly for it."

If Warsaw has a problem, its leaders say, it's the problem that plagues many small towns in Kentucky—residents must go elsewhere to find jobs.

In one sense, Warsaw is luckier than some. It's about an hour from Louisville, less than an hour from Northern Kentucky. Lexington is about 80 miles away. There are a lot of industrial centers within commuting distance. Even if they have to leave home to find a job, they can return to sleep.

"They go to Carrollton. They go to Florence. They go to Cincinnati. They go to Indiana," said Mayor Wood, who goes to Florence where he works as an assistant manager at a video rental store. "We're a commuter town except for the ones out at Dorman. They're the lucky ones. They used to be commuting too. Now they can even walk to work. They can come for lunch."

When Dorman Products, which assembles and distributes auto parts, moved to Warsaw from Cincinnati in 1989, about 1,200 people applied for 200 or so jobs.

School Superintendent James Palm said he's seen firsthand the effect Dorman has had on children by employing their parents.

"The overall self-esteem improves the more job opportunities there are," he said.

Dorman has provided more than jobs. The company purchased an ambulance for the volunteer ambulance service, and each year it gives $15,000 to the county school system. "One of the things I think is attractive about a city like Warsaw to a company like Dorman is that it's a place where we can make a positive impact on the community," said Rich Grau, the human resources director, "You go back to Cincinnati, and Dorman is nothing."

The only drawback is the long-distance telephone bills, he said. "From Gallatin County, every call is long distance."

Gallatin County is a long, thin county that is mostly sandwiched between two major modes of transportation—the river and Interstate 71.

The interstate, which is nine miles from Warsaw, has been a mixed blessing. It makes it easier to get to nearby cities. It makes the community more attractive to companies like Dorman. But it also has stolen the traffic that once went through downtown Warsaw, filling up restaurants and keeping gas stations in business.

John G. Wright, former county attorney, said there's a more hidden cost as well. "There are 12 miles of the Ohio River on one side and 12 miles of I–71 on the other side and between them they provide an awful lot of traffic to the county, increasing the burden on volunteers."

The volunteer ambulance service has rescued heart attack victims from passing boats, he said, and "God knows how many people they've mopped off the interstate up there."

Now the county's economic development council is trying to come up with ways to get more benefits out of I–71, industry and tourism.

"It's wonderful to drive on the interstate. But sometimes, shouldn't you take a little detour?" said Wood.

Taking a detour through Gallatin County doesn't take long. With about 100 square miles it claims to be one of the smallest counties in the state.

The small size, says Palm, means better communication in the schools between teachers and administrators. And most of the teachers know every student. Changes in technology allow them to offer students courses via satellite.

Palm isn't worried about being a small system.

"My only concern," he says, "is how long are we going to stay small."

Population (1990); Warsaw, 1,202; Gallatin County, 5,393.

Per capita income: Gallatin County (1989): $12,560, or $1,263 below the state average.

Jobs (1990): Employment, 801; manufacturing, 92; wholesale/retail trade, 414; services, 29; state/local government 210; contract construction, 9.

Big employers: Dorman Products 230; Warsaw Furniture Co. 40; Brooks Meats 33.

Media: Gallatin County News (weekly).

Transportation: Air—Greater Cincinnati/Northern Kentucky International Airport 32 miles northeast of Warsaw. Rail—CSX Transportation provides mainline rail service at Sparta, eight miles south of Warsaw. Norfolk Southern Railway System and CSX Transportation provide piggyback facilities in Cincinnati, which is 38 miles northwest of Warsaw. Water—The Ohio River is Gallatin County's northern border, and extensive port facilities are available in Cincinnati and Northern Kentucky. Truck—Twenty-two companies serve the county. Roads—U.S. 42 and Interstate 71 pass through Gallatin County.

Education: The Gallatin County schools have 1,079 students.

Topography: Gallatin County, one of the smallest in the state, extends along the Ohio River and is marked by hills and valleys.

FAMOUS FACTS AND FIGURES

On Dec. 4, 1989, two steamboats collided on the Ohio River two miles upstream from Warsaw, killing 162 passengers. The two boats—The America and The United States—collided after the two captains sounded their whistles, apparently at the same time, and didn't hear one another. Kerosene carried on one of the ships ignited.

Warsaw is not a ghost town, but some claim it has a ghost. Jane Hawkins reportedly has remained in the Hawkins-Kirby Home, which is now used by the county historical society, since her death on Christmas Eve 1854. Hawkins was supposed to be married on that day, but she tripped over her wedding gown as she was coming downstairs to make last minute adjustments to her hair and gown. She broke her neck and died instantly. Her ghost is said to roam the building in her wedding dress, and residents have reportedly seen glimpses of white in the upstairs windows.

Gallatin County represents a sort of New World Order of counties. The county was named for Swiss-born Albert Gallatin, who was President Thomas Jefferson's secretary of the treasury. The county seat name was drawn from the book "Thaddeus of Warsaw," which told the story of the Polish patriot Thaddeus Kosclusko, who fought for the Americans in the Revolutionary War. Other communities with names that trace to Europe include Sparta, Napoleon and Glencoe, which was named for Glencoe Valley in Scotland.

Warsaw claims to have had the first woman dentist in Kentucky. Dr. Lucy Dupuy Montz practiced there after she graduated in 1890 from the Cincinnati College of Dentistry. And Kate E. Perry Mosher, another Warsaw native, helped smuggle messages and packages to Confederate soldiers held as prisoners of war. She also helped hide escaped prisoners. The town's founder, Robert Johnson, was the father of Vice President Richard Johnson, who served under President Martin Van Buren.●

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON APPROPRIATIONS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1992

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Tom Harkin:									
Russia	Dollar		260.00						260.00
United States	Dollar				1,625.70				1,625.70
Total			260.00		1,625.70				1,885.70

ROBERT C. BYRD,
Chairman, Committee on Appropriations, Aug. 3, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1992

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
W. Lamar Smith:									
Hungary	Forint	49,414	621.00					49,414	621.00
United States	Dollar				1,130.40				1,130.40
Saul Singer:									
Hungary	Forint	49,414	621.00					49,414	621.00
United States	Dollar				1,130.40				1,130.40
Carolyn Jordan:									
Hungary	Forint	49,414	621.00					49,414	621.00
United States	Dollar				1,130.40				1,130.40
Raymond Natter:									
Hungary	Forint	49,414	621.00					49,414	621.00
United States	Dollar				1,130.40				1,130.40
John Walsh:									
Hungary	Forint	65,884	828.00					65,884	828.00
United States	Dollar				1,130.40				1,130.40

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1992—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Lamar Smith:									
Hong Kong	Dollar	5,859	756.00					5,859	756.00
United States	Dollar				2,714.00				2,714.00
Total			4,068.00		8,366.00				12,434.00

DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, June 10, 1992.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1991

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Phil Gramm:									
Thailand	Baht	4,500	187.50	1,433	56.08	2,774	108.22	8,707	351.80
Vietnam/Cambodia	Dollar		682.00				36.32		718.32
United States	Dollar				2,972.00				2,972.00
Total			869.50		3,028.08		144.54		4,042.12

DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, June 10, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENERGY AND NATURAL RESOURCES, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1992

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Benjamin S. Cooper:									
New Zealand	Dollar	1,706.25	937.50		5,675.00			1,706.25	6,612.50
Australia	Dollar		257.00						257.00
G. Robert Wallace:									
New Zealand	Dollar	1,706.25	937.50		5,675.00			1,706.25	6,612.50
Australia	Dollar		257.00						257.00
Total			2,389.00		11,350.00				13,739.00

J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, Aug. 5, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SECTION 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1992

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Steve Symms:									
Russia	Dollar		550.00						550.00
Taylor Bowlden:									
Russia	Dollar		550.00						550.00
Total			1,100.00						1,100.00

QUENTIN BURDICK,
Chairman, Committee on Environment and Public Works, June 30, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1992

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Lloyd Bentsen:									
Spain	Peseta	125,784	1,247.00					125,784	1,247.00
United States	Dollar				3,236.00				3,236.00
Total			1,247.00		3,236.00				4,483.00

LLOYD BENTSEN,
Chairman, Committee on Finance, July 22, 1992.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FINANCE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1992

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Norman Richter:									
England	Pound		476.00						476.00
France	Franc		420.00						420.00
Belgium	Franc		432.00						432.00
Germany	Deutsche Mark		256.00						256.00
United States	Dollar				1,241.80				1,241.80
Total			1,584.00		1,241.80				2,825.80

LLOYD BENTSEN,
Chairman, Committee on Finance, July 22, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1992

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Claiborne Pell:									
China	Dollar	14,119	183.57					14,119	183.57
Taiwan	Dollar	14,595	445.36					14,595	445.36
Indonesia	Rupiah	1,064,450	528.00					1,064,450	528.00
Papua New Guinea	Dollar		134.32						134.32
Senator James M. Jeffords:									
Armenia	Dollar		158.50						158.50
Azerbaijan	Dollar		228.50						228.50
Tajikistan	Dollar		110.50						110.50
Kazakhstan	Dollar		355.00						355.00
Ukraine	Dollar		175.50						175.50
Uzbekistan	Dollar		197.00						197.00
Senator Mitch McConnell:									
Indonesia	Rupiah	922,870	458.00					922,870	458.00
United States	Dollar				6,451.00				6,451.00
Geryld Christianson									
Hungary	Forint	82,355	1,035.00					82,355	1,035.00
United States	Dollar				3,374.40				3,374.40
Robin Cleveland:									
Singapore	Dollar	745.35	452.00					745.35	452.00
Indonesia	Rupiah	922,870	458.00					922,870	458.00
United States	Dollar				4,954.00				4,954.00
Peter Galbraith:									
Turkey	Lira	5,324,110	822.00					5,324,110	822.00
United States	Dollar				4,723.30				4,723.30
Laurie S. Heim:									
Armenia	Dollar		86.50						86.50
Azerbaijan	Dollar		46.51						46.51
Tajikistan	Dollar		70.50						70.50
Uzbekistan	Dollar		197.02						197.02
Kazakhstan	Dollar		173.50						173.50
Ukraine	Dollar		173.50						173.50
Lisa Jameson:									
Turkey	Lira	4,207,939	624.00				318.08		942.08
Russia	Dollar		1,432.00						1,432.00
France	Franc	2,743.20	508.00					2,743.20	508.00
United States	Dollar				2,950.60				2,950.60
Stephen C. Jordan:									
Haiti	Gourde	2,409	320.00					2,409	320.00
Peru	Solinti	850	740.00					850	740.00
United States	Dollar				1,202.00				1,202.00
Richard J. Kessler:									
Taiwan	Dollar	14,595	578.00					14,595	578.00
Hong Kong	Dollar	3,122.90	404.00					3,122.90	404.00
Indonesia	Rupiah	1,064,450	528.00					1,064,450	528.00
Papua New Guinea	Kina	68.27	71.34					68.27	71.34
Elizabeth G. Lambird:									
Hong Kong	Dollar	6,254.70	808.00					6,254.70	808.00
Thailand	Baht	28,923	1,136.02					28,923	1,136.02
United States	Dollar				3,163.00				3,163.00
Adwoa Dunn-Mouton:									
South Africa	Rand	4,009.7	1,402.00	1,278	365.50			587.70	1,767.50
Namibia	Rand	509	178.00					509	178.00
Angola	Dollar		1,038.00						1,038.00
United States	Dollar				5,832.00				5,832.00
Danielle Pletka:									
Syria	Dollar		360.00						360.00
Anne Smith:									
Turkey	Lira	4,207,939	624.00				318.08	4,207,939	942.08
Russia	Dollar		1,432.00						1,432.00
France	Franc	8,229.60	1,524.00					8,229.60	1,524.00
United States	Dollar				2,950.60				2,950.60
Nancy H. Stetson:									
Panama	Dollar		408.00						408.00
United States	Dollar				764.18				764.18
Austria	Schilling	5,273.90	460.00					5,273.90	460.00
United States	Dollar				3,403.30				3,403.30
Timothy P. Trenkle:									
South Africa	Rand	4,009.70	1,402.00	1,278	365.50			5,287.70	1,767.50
Namibia	Rand	509	178.00					509	178.00
Angola	Dollar		1,038.00						1,038.00
United States	Dollar				5,832.00				5,832.00
William C. Triplett:									
Hong Kong	Dollar	6,254.70	808.00					6,254.70	808.00
Thailand	Baht	28,923	1,136.02					28,923	1,136.02
United States	Dollar				3,163.00				3,163.00

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON FOREIGN RELATIONS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1992—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
William H. Woodward:									
Panama	Dollar		478.00						478.00
United States	Dollar				764.18				764.18
Senator Claiborne Pell:									
United States	Dollar				3,594.00				3,594.00
Senator Larry Pressler:									
Czechoslovakia	Koruna	22,113.18	774.00					22,113.18	774.00
Switzerland	Franc	300.14	199.30					300.44	199.30
Netherlands	Gilder	1,210.99	645.00					1,210.99	645.00
United States	Dollar				6,493.30				6,493.30
Peter Galbraith:									
Austria	Schilling	2,323.13	210.00					2,323.13	210.00
United States	Dollar				3,553.90				3,553.90
Amendment to first quarter 1992:									
Senator Richard G. Lugar:									
Germany	Deutsche Mark	920.97	584.00					920.97	584.00
Total			28,516.46		63,899.76		636.16		93.052.38

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, July 1, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON THE JUDICIARY, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1992

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Alan K. Simpson:									
Guatemala	Quetzal	1,996.31	393.75					1,996.31	393.75
United States	Dollars				1,101.00				1,101.00
Total			393.75		1,101.00				1,494.75

JOSEPH BIDEN, Jr.,
Chairman, Committee on the Judiciary, July 10, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON SMALL BUSINESS, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1992

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Galen Fountain:									
Hungary	Forint	97,621	1,242.00					97,621	1,242.00
United States	Dollar				1,223.60				1,223.60
Total			1,242.00		1,223.60				2,465.60

DALE BUMPERS,
Chairman, Committee on Small Business, July 24, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1992

Name	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator David Boren			1,598.38						1,598.38
David Hoffman			1,594.00						1,594.00
John Despres			1,750.00						1,750.00
Senator Bill Bradley			1,975.00						1,975.00
Senator Frank Murkowski			550.00						550.00
John Moseman			550.00						550.00
David Garman			550.00						550.00
Christopher Straub			322.00		1,132.00				1,454.00
Christopher Mellon			302.00		1,132.00				1,434.00
Christopher Straub			541.00		1,165.00				1,706.00
Michael Hathaway			586.00		1,165.00				1,751.00
Timothy Carlsgaard			429.00		1,165.00				1,594.00
Senator J. Robert Kerrey			1,988.50		1,643.80				3,632.30
Timothy Carlsgaard			1,100.00		2,294.70				3,394.70
Don Mitchell			1,519.78		3,003.00				4,522.78
Timothy Carlsgaard			266.00		1,730.00				1,996.00
Zachariah Messitte			266.00		1,730.00				1,996.00
Marvin Ott			558.00						558.00
Senator John Chafee					303.00				303.00
Marvin Ott			1,512.00		3,003.00				4,515.00
Delegation expenses[1]					996.04		129.00		1,125.04

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1992—Continued

Name	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			17,957.66		20,462.54		129.00		38,549.20

[1] Delegation expenses include direct payments and reimbursements to the Department of State and to the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of Public Law 95–384 and S. Res. 179, agreed to May 25, 1977.

DAVID BOREN,
Chairman, Select Committee on Intelligence, June 30, 1992.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), JOINT ECONOMIC COMMITTEE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1990

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Frankie King:									
United States	Dollar						391.54		391.54
Total							391.54		391.54

LEE HAMILTON,
Chairman, Joint Economic Committee, May 18, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1992

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Patricia Carley:									
Finland	Dollar				613.00				613.00
Armenia	Dollar		162.00				65.83		227.83
Azerbaijan	Dollar		162.00				138.00		300.00
Tajikistan	Dollar		178.00				22.67		200.67
Uzbekistan	Dollar		198.00				6.67		204.67
Kazakhstan	Dollar		162.00				49.25		211.25
Germany	Dollar		180.00						180.00
Senator Dennis DeConcini:									
Armenia	Dollar		162.00				65.83		227.83
Azerbaijan	Dollar		162.00				138.00		300.00
Tajikistan	Dollar		178.00				22.67		200.67
Uzbekistan	Dollar		198.00				6.67		204.67
Kazakhstan	Dollar		324.00				49.25		373.25
Ukraine	Dollar		244.00				106.44		350.44
Orest Deychakiwsky									
Armenia	Dollar		162.00				65.83		227.83
Azerbaijan	Dollar		162.00				138.00		300.00
Tajikistan	Dollar		178.00				22.67		200.67
Uzbekistan	Dollar		198.00				6.67		204.67
Kazakhstan	Dollar		324.00				49.25		373.25
Ukraine	Dollar		244.00				106.44		350.44
David Evans:									
Armenia	Dollar		162.00				65.83		227.83
Azerbaijan	Dollar		162.00				138.00		300.00
Tajikistan	Dollar		178.00				22.67		200.67
Uzbekistan	Dollar		198.00				6.67		204.67
Kazakhstan	Dollar		324.00				49.25		373.25
Ukraine	Dollar		244.00				106.44		350.44
Jane Fisher:									
Armenia	Dollar		162.00				65.83		227.83
Azerbaijan	Dollar		162.00				138.00		300.00
Tajikistan	Dollar		178.00				22.67		200.67
Uzbekistan	Dollar		198.00				6.67		204.67
Kazakhstan	Dollar		324.00				49.25		373.25
Ukraine	Dollar		244.00				106.44		350.44
Michael Ochs:									
Armenia	Dollar		162.00				65.83		227.83
Azerbaijan	Dollar		162.00				138.00		300.00
Tajikistan	Dollar		178.00				22.67		200.67
Uzbekistan	Dollar		198.00				6.67		204.67
Kazakhstan	Dollar		324.00				49.25		373.25
Ukraine	Dollar		244.00				106.44		350.44
James Ridge, Jr.:									
Armenia	Dollar		162.00				65.83		227.83
Azerbaijan	Dollar		162.00				138.00		300.00
Tajikistan	Dollar		178.00				22.67		200.67
Uzbekistan	Dollar		198.00				6.67		204.67
Kazakhstan	Dollar		324.00				49.25		373.25
Ukraine	Dollar		244.00				106.44		350.44
Samuel Wise:									
Finland	Dollar				613.00				613.00
Armenia	Dollar		162.00				65.83		227.83
Azerbaijan	Dollar		162.00				138.00		300.00
Tajikistan	Dollar		178.00				22.67		200.67
Uzbekistan	Dollar		198.00				6.67		204.67
Kazakhstan	Dollar		324.00				49.25		373.25
Ukraine	Dollar		244.00				106.44		350.44

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM APR. 1 TO JUNE 30, 1992—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			9,918.00		1,226.00		3,004.44		14,148.44

DENNIS DeCONCINI,
Chairman, Commission on Security and Cooperation in Europe,
July 30, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON POW/MIA AFFAIRS, FOR TRAVEL APR. 16–27, 1992

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John F. Kerry:									
Thailand	Baht	5,436	213.00					5,436	213.00
Cambodia	Dollar		260.00						260.00
Vietnam	Dollar		576.00						576.00
Laos	Dollar		260.00						260.00
Hong Kong	Dollar	1,949	252.00					1,949	252.00
Senator Bob Smith:									
Thailand	Baht	5,436	213.00					5,436	213.00
Cambodia	Dollar		260.00						260.00
Vietnam	Dollar		576.00						576.00
Laos	Dollar		260.00						260.00
Hong Kong	Dollar	1,949	252.00					1,949	252.00
Senator Charles E. Grassley:									
Thailand	Baht	5,436	213.00					5,436	213.00
Cambodia	Dollar		260.00						260.00
Vietnam	Dollar		576.00						576.00
Laos	Dollar		260.00						260.00
Hong Kong	Dollar	1,949	252.00					1,959	252.00
Senator Charles S. Robb:									
United States	Dollar				1,428.00				1,428.00
Thailand	Baht	5,436	213.00					5,436	213.00
Cambodia	Dollar		260.00						260.00
Vietnam	Dollar		192.00						192.00
Senator Hank Brown:									
Thailand	Baht	5,301	207.00					5,301	207.00
Cambodia	Dollar		260.00						260.00
Vietnam	Dollar		576.00						576.00
Laos	Dollar		260.00						260.00
Hong Kong	Dollar	1,949	252.00					1,949	252.00
Frances Zwenig:									
Thailand	Baht	5,436	213.00					5,436	213.00
Cambodia	Dollar	5,436	213.00					5,436	213.00
Vietnam	Dollar		476.00						476.00
Laos	Dollar		210.00						210.00
Hong Kong	Dollar	1,949	252.00					1,949	252.00
Dino Carluccio:									
Thailand	Baht	5,436	213.00					5,436	213.00
Cambodia	Dollar		260.00						260.00
Vietnam	Dollar		576.00						576.00
Laos	Dollar		260.00						260.00
Hong Kong	Dollar	1,949	252.00					1,949	252.00
William Codinha:									
Thailand	Baht	5,436	213.00					5,436	213.00
Cambodia	Dollar		260.00						260.00
Vietnam	Dollar		576.00						576.00
Laos	Dollar		260.00						260.00
Hong Kong	Dollar	1,949	252.00					1,949	252.00
Deborah DeYoung:									
Thailand	Baht	5,436	213.00					5,436	213.00
Cambodia	Dollar		260.00						260.00
Vietnam	Dollar		576.00						576.00
Laos	Dollar		260.00						260.00
Hong Kong	Dollar	1,949	252.00					1,949	252.00
John Erickson:									
Thailand	Baht	21,743	852.00					21,743	852.00
Laos	Dollar		390.00						390.00
Hong Kong	Dollar	1,949	252.00					1,949	252.00
United States	Dollar				89.00				89.00
Tom Lang:									
Thailand	Baht	5,436	213.00					5,436	213.00
Cambodia	Dollar		260.00						260.00
Vietnam	Dollar		576.00						576.00
Laos	Dollar		260.00						260.00
Hong Kong	Dollar	1,949	252.00					1,949	252.00
Barry Valentine:									
Thailand	Baht	21,743	852.00					21,743	852.00
Laos	Dollar		390.00						390.00
Hong Kong	Dollar	1,949	252.00					1,949	252.00
United States	Dollar				89.00				89.00
Sally Walsh:									
Thailand	Baht	5,436	213.00					5,436	213.00
Cambodia	Dollar		260.00						260.00
Vietnam	Dollar		576.00						576.00
Laos	Dollar		260.00						260.00
Hong Kong	Dollar	1,949	252.00					1,949	252.00
Andre Sauvageot:									
Thailand	Baht			8,735	342.28			8,735	342.28
Vietnam	Dollar		576.00						576.00
Delegation expenses:[1]									
Thailand							3,100.17		3,100.17
Cambodia							2,118.57		2,118.57
Vietnam							2,330.46		2,330.46

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON POW/MIA AFFAIRS, FOR TRAVEL APR. 16–27, 1992—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Laos							12,270.90		12,270.90
Hong Kong							3,992.05		3,992.05
Total			19,636.00		1,948.28		23,812.15		45,396.43

[1] Delegation expenses include direct payments and reimbursements to the State Department and to the Defense Department under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179, agreed to May 25, 1977.

GEORGE J. MITCHELL, Majority Leader,
ROBERT J. DOLE, Republican Leader,
JOHN F. KERRY,
Chairman, Select Committee on POW/MIA Affairs, July 22, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON POW/MIA AFFAIRS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1992

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Francis Zwenig:									
Russia	Dollar		1,074.00						1,074.00
Robert Taylor:									
Russia	Dollar		1,074.00						1,074.00
Total			2,148.00						2,148.00

GEORGE J. MITCHELL, Majority Leader,
ROBERT J. DOLE, Republican Leader.
June 11, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON POW/MIA AFFAIRS, FOR TRAVEL FEB. 12–18, 1992

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John F. Kerry:									
Russia	Dollar		1,790.00						1,790.00
United States	Dollar				3,310.90				3,310.90
Senator Bob Smith:									
Russia	Dollar		1,790.00						1,790.00
United States	Dollar				3,310.90				3,310.00
Frances Zwenig:									
Russia	Dollar		1,790.00						1,790.00
United States	Dollar				3,504.90				3,504.00
Dino Carluccio:									
Russia	Dollar		1,790.00						1,790.00
United States	Dollar				3,364.80				3,364.80
William Codinha:									
Russia	Dollar		1,790.00						1,790.00
United States	Dollar				3,370.20				3,370.20
Robert Taylor:									
Russia	Dollar		1,790.00						1,790.00
United States	Dollar				3,504.90				3,504.90
Sally Walsh:									
Russia	Dollar		1,790.00						1,790.00
United States	Dollar				3,504.90				3,504.90
Natalia Montviloff:									
Russia	Dollar		1,790.00						1,790.00
United States	Dollar				3,504.90				3,504.90
Delegation expenses:[1]									
Russia	Dollar						335.74		335.74
Total			14,320.00		27,376.40		335.74		42,032.14

[1] Delegation expenses include direct payments and reimbursements to the State Department and to the Defense Department under authority of sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179, agreed to May 25, 1977.

GEORGE MITCHELL, Majority Leader,
ROBERT J. DOLE, Republican Leader.
JOHN F. KERRY,
June 6, 1992.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER, FROM APR. 1 TO JUNE 30, 1992

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
John Reckner:									
Poland	Zloty	1,340,000	860.00					1,340,000	860.00
United States	Dollar				1,033.30				1,033.30

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER, FROM APR. 1 TO JUNE 30, 1992—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Total			860.00		1,033.30				1,893.30

GEORGE J. MITCHELL,
Majority Leader, July 22, 1922.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER, APR. 17–25, 1992

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Thad Cochran:									
Ivory Coast	Franc	17,200	61.00					17,200	61.00
South Africa	Rand	1,722	600.00					1,722	600.00
Senegal	Franc	64,170	230.00					64,170	230.00
Margo Carlisle:									
Ivory Coast	Franc	62,493	222.00					62,493	222.00
South Africa	Rand	3,016.37	1,051.00					3,016.37	1,051,00
Senegal	Franc	64,170	230.00					64,170	230.00
Robert McArthur:									
Ivory Coast	Franc	62,493	222.00					62,493	222.00
South Africa	Rand	3,016.37	1,051.00					3,016.37	1,051.00
Senegal	Franc	64,170	230.00					64,170	230.00
Delegation expenses:									
Ivory Coast							550.00		550.00
South Africa							285.64		285.64
Senegal							272.12		272.12
Total			3,897.00				1,107.76		5,004.76

ROBERT J. DOLE,
Republican Leader, July 27, 1992.

COMMEMORATION OF FAIRLEIGH DICKINSON UNIVERSITY'S 50TH ANNIVERSARY

• Mr. BRADLEY. Mr. President, I rise today to commemorate the 50th anniversary of Fairleigh Dickinson University and to congratulate Dr. Francis J. Mertz on his installation as the fifth president of this fine institution. My distinguished friend and colleague, Senator LAUTENBERG, joins me in this statement.

Since its founding in 1942, Fairleigh Dickinson University has sent nearly 80,000 alumni into the work force. With outstanding programs in pharmaceutical marketing and research, engineering, business, and the liberal arts, Fairleigh Dickinson has made invaluable contributions to the New Jersey economy. New Jersey companies such as American Telephone & Telegraph, International Business Machines Corp., and Merck & Co., Inc., depend on the highly skilled work force that Fairleigh Dickinson University has had such a vital role in training.

In 1965 Fairleigh Dickinson became the first American University to establish a campus in England. Fairleigh Dickinson has been a leader in efforts to foster greater awareness and understanding of the international community. Such initiatives not only enrich the lives of our citizens, but also help to create a more productive and growing economy.

Fairleigh Dickinson University is fortunate to have Dr. Francis J. Mertz. Fairleigh Dickinson has prospered during their first 50 years. We wish them even greater success as they face the challenges of the coming century.•

PRECIOUS MOMENTS CHOCOLATES

• Mr. D'AMATO. Mr. President, I rise today to speak on behalf of two of my constituents who exemplify the true American entrepreneurial spirit, Mike Kelly and John Corrao. After 1½ years of plans, meetings, arrangements, selection, organizing, and overcoming the many hurdles to readying a business, Mike and John have begun a joint venture, Kelly's Chocolates, Inc., bringing a dream to a reality. Kelly's is the exclusive authorized licensed manufacturer for the production of Precious Moments chocolates in the United States and Canada. Precious Moments chocolates are distributed by Isle Chocolates, Inc.

Mike was inspired by his wife's collection of Precious Moments figurines and said to himself, "I can make that in chocolate." He contacted his longtime friend, Ed Kinney, who put him in touch with John Corrao, a national and international business consultant for 25 years. John was believed to be the one person who could take the idea to final production and marketing.

Meetings were held with the Precious Moments people and the idea received a warm reception. Equipment was located in the United States and Germany. John communicated with a myriad of vendors on all of the detail items required to set up a nationwide distribution and manufacturing operation. Marketing agreements had to be set up all over the country and arrangements made to exhibit the Precious Moments chocolate line at various regional gift shows.

John Corrao moved into the Buffalo area from Westchester in 1959. From 1962 to 1976 John was a management consultant for an international consulting company, specializing in profit improvement programs. He managed projects in the United States, Canada, France, and Belgium. In 1976, he became a partner and vice president of operations in another management consulting firm which specialized in corporate turnarounds. In 1980, he was asked to assist in the turnaround of the Wickes Corp. after they had just entered into chapter 11. In 1985, he joined a local company where he was in charge of bringing the company into the 21st century in regard to systems, computer operations, and financial planning and costs. He helped lay out plans and an approach for growth; and implemented the needed changes. Then, a brief respite proceeded John's association with Mike Kelly.

Mike founded Kelly's Country Store in 1961, with his parents, Walter and Grace Kelly. The store featured antiques, period furniture, and old-fashioned candy. Later, a Christmas room, a rainbow of candles, a garden of silk flowers, and lovely brass and crystal giftware were added. In 1970, a chocolate manufacturing operation was started where chocolates are produced in over 500 different designs in many different flavors.

John, Mike, and his sons Kevin and Mark, and Al Harvey are the core of this new venture in western New York. They have overcome many hurdles to bring this dream to fruition. I wish to congratulate them and wish them success and prosperity in this new endeavor.•

EDUCATION FLEXIBILITY

• Mr. HATFIELD. Mr. President, last January the Senate voted 95-0 to support the concept of education flexibility as an amendment to S. 2, the Neighborhood Schools Improvement Act. As the sponsor of this legislation, I was delighted by the overwhelming endorsement of my colleagues to give States and local school districts the freedom to use Federal funds in the most effective ways possible. On a bipartisan basis, we joined together to support the thousands of quality educators across the country in their efforts to reduce the Federal regulatory burden in order to proceed with the important task of educating our young people.

Earlier this week, we voted to send S. 2 to a long-awaited conference with the House.

I would like to take this opportunity to thank my colleagues on the Senate Labor Committee—particularly Senators KENNEDY, PELL, KASSEBAUM, and HATCH—for their diligence in maintaining the education flexibility provisions in S. 2. Although the Senate provisions are far more generous than those in the House bill, I am hopeful that an accommodation will be reached which will allow as many educators as possible to participate in this worthy program. I look forward to our upcoming consideration of the conference report and ultimately, to sending this bill to the President for his signature.

Currently, Federal regulations can be both overwhelming and intimidating and can have a chilling effect on innovation in the schools across our country. In addition, many of the regulations that we impose upon our educators fly in the face of common sense, basic economy, and the real life ways that people have devised to meet the pressing educational needs of different kinds of students.

My goal is to give States and local districts the freedom to use Federal funds in the most effective ways they can. It will encourage local communities to experiment and to implement serious reforms using existing resources and equipment.

Recently, the Senate Appropriations Committee included language regarding ed-flex in H.R. 5620, the supplemental appropriations bill providing disaster relief assistance to parts of the country devastated by recent disasters. Specific provisions were included in that act to allow the Secretary of Education to waive Federal regulations in a variety of education programs in those areas substantially affected by Hurricane Andrew, Hurricane Iniki, or Typhoon Omar. While these provisions are limited in application, I believe they will provide significant relief to school officials working to rebuild their educational institutions.

Furthermore, in the bill we are considering today, the committee has included report language indicating our support for authorization efforts to enact ed-flex. The Secretary of Education should be given the discretion to waive many Federal statutory or regulatory requirements in exchange for holding educators accountable for achieving educational gains. Regulations that protect the civil and privacy rights of students and children with disabilities will, of course, not be waived.

In my own State of Oregon, any school, with the approval of its district school board, may apply to become a 21st-century school and receive a waiver of State regulations. The State board of education has authority to waive all State statutes, rules, local policies, and agreements relating to educational practices with the exception of those that affect health, safety, or constitutional rights under our State or Federal law. Currently, 15 percent of Oregon's schools are enjoying some sort of deregulation for their participation in this program.

Mr. President, many States throughout the country have joined Oregon and already acted to deregulate education programs in order to permit more time to be spent in the classroom rather than on complying with costly paperwork burdens. Providing a Federal compliment to State deregulation will signal the Nation's educators that the Federal Government shares the goal of making education a flexible partnership focused on the enhancement of the learning process. I believe we owe this to our valued educators all across the country.

In the bill before us today, the Appropriations Committee has also directed the Secretary of Education to submit a report before the beginning of the fiscal year 1994 appropriations hearings regarding the Department's support of deregulation efforts in the states and of the specific programs in which flexibility at the Federal level will strengthen the education process.

As all the actions taken this year demonstrate, Mr. President, I am committed to seeing education flexibility enacted into law as soon as possible. I believe in this concept and feel it should be tested prior to the reauthorization of the Elementary and Secondary Education Act, which is scheduled for consideration in the next Congress. Oregon leads the Nation in this area of reform and I intend to provide a Federal compliment for their work.•

THE FISCAL YEAR 1993 DEFENSE APPROPRIATIONS BILL

• Mr. D'AMATO. Mr. President, Defense Appropriations was called upon this this year to lop off another $25 billion from a budget that has known nothing but decline for the last 8 years, and yet, somehow, the subcommittee has once again managed to craft a bill that meets our vital national security needs. It is a singular achievement.

My good friend Senator RUDMAN, in what was, sadly, his last Defense Appropriations Subcommittee markup, remarked that the evenhandedness displayed by Chairman INOUYE and Senator STEVENS in building a consensus year after year is the way the Senate ought to work. I couldn't agree more. The chairman and ranking member—indeed, the whole subcommittee—have always left their party hats at the door. The result is a consistently balanced bill unfettered by rancor or resentment.

I am proud to have my name associated with this bill. I offer my thanks, and the thanks of the people of New York, to Chairman INOUYE, Senator STEVENS, and their remarkable staffs, for their careful shepherding of our State's interests. I commend the Defense appropriation bill to my colleagues and look forward to swift passage on the floor.•

FATHER IGNATIUS McDERMOTT, OF CHICAGO

• Mr. DIXON. Mr. President, I rise before you to call to your attention the extraordinary life of the Reverend Monsignor Ignatius McDermott. "Father Mac" chose perhaps the most challenging of all apostolates for his long and devoted pastoral career—he chose to minister to the truly oppressed, downtrodden, and to those who have absolutely nowhere else to turn. Father Mac's actions serve as an inspiration to all of us and speak volumes toward making the world a better place.

No speech of any length could possibly do justice to Father Mac and the people he serves. Steve Neal, however, summarizes Father Mac's exceptional contributions in a recent Chicago Sun-Times commentary. I ask that it be entered into the RECORD.

The commentary follows:

[From the Chicago Sun-Times, Aug. 28, 1992]

CHICAGO'S CHURCHMAN OF THE CENTURY

On the streets of the Near West Side, the big, husky man in the dark suit has been a presence for nearly a half century.

The Rev. Monsignor Ignatius D. McDermott, 82, known in Chicago as "Father Mac," has devoted his life to the poor and dispossessed. He has had remarkable impact on thousands of lives. "I'm the luckiest guy alive," he says. "If I'd accepted a pastorship, I'd have been retired years ago."

He walks with more vigor than persons half his age. Since the 1940s, he has walked nightly through the Near West Side, providing comfort and shelter to the downtrodden. At the old Desplaines Street police station, which had a holding area for alcoholics and a court known as "the Drunk Court," Father Mac was troubled by the daily ritual of sentencing intoxicated persons to 30 days in jail. He became their advocate, the Skid Row priest, the apostle of the alcoholics. His creed is from St. Vincent DePaul: "When you no longer burn with love, others will die of the cold."

Through his persistence and the force of his personality, McDermott promoted legislation that recognized alcoholism as a treatable disease and provided for treatment. "My philosophy of life is that God never gives up on anybody until the undertaker picks up the body," Msgr. McDermott says.

In his fine biography of McDermott, "The Liquid Cross of Skid Row," former Sun-Times columnist Bill Gleason wrote that Father Mac walked streets that most Chicagoans are afraid to walk. Father Mac talks to the people of the street in their language. "He doesn't ask whether they are Catholic, Protestant or Jewish," Gleason wrote. "He asks if he may help them. He tries to help them even when they say no. He cooperated in setting up a soup line for them. He prays for them. He writes to their anguished or indifferent families. He arranges for them to be hospitalized to take the cure or for the treatment of diseases that ravage the row."

Monsignor McDermott has won international acclaim for his efforts. It has been nearly 30 years since he founded the McDermott Center to serve troubled families, and he also established the Central States Institute of Addiction to provide training for treatment of addictions, including alcoholism. In 1988, he opened a three-building center for the homeless, the disadvantaged and substance abusers at 932 W. Washington Blvd. The center includes a 24-hour residential program, an overnight shelter, single occupancy rooms for the homeless, a rehabilitation center, cafeteria and chapel.

It's been a remarkable run. And he's still at it. Monsignor McDermott delivered the invocation to the Illinois House of Representatives last spring, then lobbied legislators against cuts in aid to the disadvantaged. He has just returned from Switzerland, where he sits on the world council of alcoholism.

The Chicago City Council recently renamed Washington Boulevard between Morgan and Halsted in Monsignor McDermott's honor. Today, a group of Father Mac's friends, including Judge Abraham Lincoln Marovitz and Illinois Secretary of State George H. Ryan, will dedicate McDermott Boulevard. It's a fitting tribute to Chicago's churchman of the century.•

NATIONAL HISPANIC HERITAGE MONTH

• Mr. D'AMATO. Mr. President, I am pleased to rise today to recognize Hispanic Heritage Month. From September 15 through October 15, our Nation will be celebrating the contributions that Hispanic-Americans throughout this country have made to all.

In my State of New York, there are 2.2 million Hispanic-Americans making the difference in business and in medicine, in education and in government. Representing approximately 12 percent of my State's population, the impact of Hispanic-Americans is felt in these and many more areas. I am confident that their input will only expand in the years to come.

The Hispanic community has shared its culture and heritage and its influence has been felt throughout our Nation's history. From the time of the great explorers, there has been a long and extensive Hispanic presence in our land. Over the centuries, this presence has seen missionary outposts change into large and vibrant cities and a rich past turn into a promising future.

I am confident that the Hispanic-American community can build upon this promising future due to its sheer determination to succeed. The Hispanic-American community has a lot of resources on which to draw such as a tremendous loyalty to family and a powerful sense of individual initiative. These are the resources that will guarantee this success.

Mr. President, it is my hope that all Americans will stop to reflect on the achievements and contributions that Hispanic-Americans have made to our society during National Hispanic Heritage Month.•

WASHINGTON STATE RESIDENTS SPEAK OUT ON MONITORING PRECURSOR DRUGS

• Mr. GORTON. Mr. President, the proliferation of illegal drugs in the United States is taking a great toll on our youth. It is also taking a great toll on our environment. The chemicals drug dealers use to produce their illegal product are highly toxic and harmful. Eventually, as drug dealers dump these dangerous chemicals down drains, sewers, and in backyards, the chemicals find their way into our environment.

Unlike legitimate businesses, there is no record kept of what drug dealers do with these chemicals. That is why I introduced the Chemical Control and Environmental Responsibility Act of 1991. This bill will require monitoring of the importation and exportation of many chemicals dealers use to produce these illegal drugs. By doing this we will be able to track who the chemicals are going to and prevent the illegal manufacturers from getting ahold of them. Without these chemicals, the dealers cannot produce their products, and subsequently poison our kids and pollute the environment.

I asked constituents in my home State for their opinion on this issue. Many people conveyed frustration at our inability to solve the Nation's growing drug problem. The majority of respondents agreed that this bill is an important first step in stopping drug dealers.

Most respondents felt this bill makes great strides in preventing the proliferation of this problem, yet some respondents were tentative in their support for one specific reason: they fear that this will put burdensome regulations on legitimate businesses. I understand that concern. We must work hard to ensure that legitimate businesses are not adversely affected. I believe this program is important and essential to our efforts to stop the spread of illegal drugs.

I want to thank those people that contacted me and expressed their views on this issue. I urge my colleagues to support the Chemical Control and Environmental Responsibility Act of 1991.•

WORLD MARITIME DAY 1992

• Mr. KERRY. Mr. President, I rise to inform my colleagues that today, September 17, is designated World Maritime Day 1992 by the International Maritime Organization. The theme for this year's observance is "Marine Environment and Development, the IMO Role."

From its very beginning in 1958, the IMO, as the first international body devoted exclusively to maritime matters, has had as its most important objectives the improvement of maritime safety and the prevention of marine pollution. The U.S. Coast Guard is the primary representative of the United States to the IMO, and is dedicated to ensuring that the United States remains a global leader in maritime safety and marine environmental protection. I ask that the message from the secretary-general of the IMO, Mr. William A. O'Neil, marking the observance of World Maritime Day 1992, be printed in the RECORD.

The message follows:

WORLD MARITIME DAY 1992—MARINE ENVIRONMENT AND DEVELOPMENT: THE IMO ROLE

(A message from the Secretary General of the International Maritime Organization, Mr. William A. O'Neil)

The United Nations Conference on Environment and Development which took place in Rio de Janeiro in June could well turn out to be one of the most important events of the 1990s.

Although some observers claimed that the Conference did not achieve all its objectives, the tremendous interest that was generated was a major achievement in itself. And most important of all, the Conference focused world attention on the need for policies which can help reconcile the often competing demands of environment and development.

In many countries the protection of the environment has been highlighted as a major concern ever since the Stockholm Conference of 1972. Governments have established departments to fight pollution and industrial companies are increasingly being called upon to demonstrate their environmental credentials. In addition more and more people are adopting "green" policies in their everyday life.

In the developing countries, however, the viewpoint is often very different. A factory is not seen as a source of pollution but as a supplier of jobs. Countries which need to provide more food for an expanding population find it difficult to understand why they should not cut down their forests and turn them into farmland. Lectures on the need to preserve fish stocks are not always appreciated in coastal villages where the people are already starving. In many countries, in short, the protection of the environment is seen as a luxury which can hinder the development on which their future depends.

The Rio Conference's main achievement may well have been to have brought together these two themes and shown that they are both essential. It is both unrealistic and insensitive to attempt to tell the developing world that it must not prosper because the environment is under threat. But it is possible, as a result of the Rio Conference, to ensure that development will take place in such a way that the environment is properly considered.

This was one of the main ideas to emerge from the 1987 report of the World Commission on Environment and Development—the Brundtland Commission. The report coined the phrase 'sustainable development' which was defined as meeting the needs of the present generation without compromising the needs of future generations.

This is a policy which IMO has in fact been following in the shipping field since the 1960s when its technical co-operation programme was started. IMO's objectives are concisely summarized as 'safer shipping and cleaner oceans'. The Organization tries to achieve these targets in various ways, such as the development and implementation of international conventions and codes, which provide for appropriate regulations, but it knows that many countries have difficulty in meeting those standards.

Because the regulations themselves cannot be lowered, IMO launched a technical co-operation programme designed to help Governments reach the high standards required. By and large these activities have bee successful: the shipping casualty rate declined steadily during the 1980s and the amount of pollution from ships fell by as much as 60% during the same period.

IMO's programme has helped to protect the environment and it has also helped the Organization's 137 Member States to develop their shipping industries in accordance with international agreements. But there is still a great deal more to be done.

In the last couple of years unfortunately the casualty statistics have turned and are beginning to show an increase. We know as well that there are a number of problems on the horizon which indicate that IMO must increase its efforts and cannot relax on the basis of past successes.

A start has already been made. IMO's Global Programme for the Protection of the Marine Environment is now well-established. It represents an ambitious but realistic plan for providing the expertise and assistance for which there is a continuing need in the developing world. It will help to ensure that maritime activities are encouraged and that development takes place—but only in a manner which guarantees that the marine environment is protected.

The Rio Conference made the world aware not only of the dangers but also the opportunities that lie ahead. It is likely that in its aftermath further responsibilities will be allocated to IMO. But without a strong commitment and suitable funding by Governments and industry the treaties and pronouncements of UNCED will remain as pious phrases.

If IMO is called upon to become even more involved in protecting the oceans from pollution then I can assure you that we are ready. The skills and knowledge are in place—and the ability to carry out the task has already been clearly demonstrated.•

THE QUEENS MINORITY DEVELOPMENT CENTER

• Mr. D'AMATO. Mr. President, the week of September 27, 1992, through October 3, 1992, has been declared Minority Enterprise Development Week. By setting aside a specific week to recognize the achievements the minority business community has made, we are all reminded that the great American dream of success is possible.

Mr. President, the global marketplace is changing constantly. Business practices that pushed the United States to the top of the world markets are continually evolving at a faster and faster pace. As America rises to face new challenges, and economic difficulties, the importance of successful small businesses is only magnified. The cultural contributions and great incentives that small businesses provide will play an ever expanding role in a successful U.S. economy. This success at home will propel the United States to the top of the world markets well into the 21st century. The important entrepreneurial contributions of all members of the business community must be allowed to flourish. As each small business proves successful, the entire U.S. economy feels a positive impact.

The economics of prosperity must never be prejudiced by gender, race or ethnic background. It is imperative that these barriers not cloud the business community. Minority Americans have long recognized that freedom and equality also require economic opportunity and independence. By making the most of every opportunity and by achieving economic advancement through determination and hard work, minority business men and women have set important standards for successful business.

Mr. President, it is with these ideals in mind that I rise to recognize the Queens Minority Business Development Center. The center provides professional services such as financial management, loan proposals, marketing development and training to minority-owned businesses. The comprehensive assistance programs offered by the center will have a direct, positive effect on minority enterprise.

Through the work of the center, the minority small business community will have the opportunity to move forward and add their positive contribution to the U.S. economy. Mr. President, this is all these hard-working Americans ask for—the chance to compete on an equal playing field, without barriers. The Queens Minority Business Development Center is the way to achieve this.•

NATIONAL DEFENSE AUTHORIZATION ACT

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT—NUCLEAR TESTING AMENDMENT

Mr. FORD. Mr. President, I ask unanimous consent that following the disposition of Senator LEAHY'S B-2 amendment; Senator COHEN be recognized to offer his nuclear testing amendment; that immediately following the reporting of his amendment, Senator HATFIELD be recognized to offer a second-degree amendment, on the same subject, to his amendment; that there be 90 minutes equally divided between Senator HATFIELD and Senator COHEN on both of these amendments; that upon the use, or yielding back of time, the Senate without any intervening action or debate vote on the Hatfield amendment, to be followed immediately, without any intervening action or debate, by a vote on Senator COHEN's amendment, as amended.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I rise to offer an amendment together with Senator DOMENICI to restore $68.6 million in funding for the upgrade of the EF-111 Raven electronic warfare aircraft, provided the Joint Chiefs of Staff decide in their ongoing roles and missions study to retain this critical electronic jamming aircraft in the active inventory.

The Senate Armed Services Committee, under the leadership of Chairman NUNN, initiated a comprehensive effort this year to identify and consolidate roles and missions among the military services. As part of this initiative, the committee denied the Air Force's request for $68.6 million to upgrade the EF-111, choosing instead to add additional funding to the Navy EA-6B upgrade program, and assigning the stand-off electronic jamming mission to the Navy.

Mr. President, I understand the need for a comprehensive review of the military services' roles and missions as the

Pentagon adjusts to a post-cold-war world. Such a review is long overdue. But I am troubled that in this one instance the Congress would be taking conclusive action by directing a mission assignment ahead of the Joint Chiefs' roles and missions study due this winter. In each of the other cases in this bill where the Armed Services Committee indicated that duplication exists funding decisions where deferred pending the receipt of the Joint Chiefs' report on roles and missions which is due this winter.

As Air Force Secretary Don Rice has stated: "I think Senator Nunn has done a service in raising a number of questions. But I hope Congress will leave the Defense Department the opportunity to work out appropriate answers to them." I agree with Secretary Rice.

Mr. President, I am also struck that, if this provision were enacted, we would be taking a position contrary to our previous support of these highly important specialty aircraft. Electronic warfare aircraft tend to lose out in internal service budget deliberations to the fighter and attack planes they support. Indeed, the decision to assign this mission to a single service was made in part because both the Navy and the Air Force upgrade programs have been underfunded. However, both the EF-111 and the EA-6B provide key leverage for our forces, as was amply demonstrated in Operation Desert Storm. They are complementary in their capabilities, not duplicative. And our allies simply have no comparable assets.

I understand that if we must make a choice between the EA-6B and the EF-111, the committee's action is unassailable because of the greater flexibility and far greater number of EA-6B's. But the Air Force points out that the EF-111's greater range, speed, and survivability is crucial in a wide variety of operational settings, including from the very first evening of Operation Desert Storm. EA-6Bs in such settings would require tanker and fighter support and significantly diminish the chances for operational success.

In light of all this, I am reluctant to accept the constraints the committee has imposed by forcing a tradeoff between the EF-111 and the EA-6B. Electronic warfare aircraft are critical force multipliers. A compelling case can be made to retain both of these high-leverage aircraft. Rather than trading off one against the other, a more effective approach may well be to tradeoff these aircraft against the fighter and attack aircraft they support, and which our allies can supply in abundance. Such a tradeoff would strongly argue in favor of a robust upgrade program for both the EA-6B and the EF-111. I believe that we should allow these issues to be sorted out in a deliberative process within the Pentagon.

My amendment, therefore, restores the funding for the Air Force EF-111 upgrade pending completion of the Join Chiefs' roles and missions review and certification by the Pentagon of their intent to maintain the EF-111's in active status. It may well be that the Pentagon will make the same choice as the Armed Services Committee. But it may be equally likely that those in the Pentagon who see both these aircraft as crucial force multipliers will prevail, and that the sort of efficiencies we all know are needed in our force structure will be found elsewhere. Whichever way the Pentagon's decision goes, I will abide by it.

Mr. President, I would like to conclude by commending Senator NUNN for his efforts to promote a comprehensive review of the military services' roles and missions. As I stated earlier, such a review is long overdue. Senator NUNN has tackled this important and difficult task head on, and my disagreement with him on this one point by no means detracts from my strong support for his efforts in this area. However, I do believe that this particular decision should be made by the Department of Defense, rather than the Congress.

I urge my colleagues to support this amendment.

AMENDMENT NO. 3040

(Purpose: To restore funding for the EF-111 upgrade program pending receipt of certification from the Secretary of Defense that the aircraft will be retained in the active inventory of the Air Force)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk on behalf of myself and Senator DOMENICI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant bill clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. DOMENICI, proposes an amendment numbered 3040.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 8, strike out "$9,274,999,000" and insert in lieu thereof "$9,283,974,000".

On page 49, line 24, strike out "$14,070,731,000" and insert in lieu thereof "$14,130,331,000".

On page 31, between lines 7 and 8, insert the following:

SEC. 134 LIMITATION RELATING TO THE EF-111 AIRCRAFT.

None of the funds appropriated for upgrade of the EF-111 aircraft pursuant to an authorization of appropriations contained in this title or title II may be obligated until the Secretary of Defense—

(1) transmits to Congress the report required by section 901(a); and

(2) certifies to the congressional defense committees that, in light of the report referred to in paragraph (1), the Secretary intends to retain EF-111 aircraft in the inventory of aircraft of the Air Force.

Mr. BINGAMAN. Mr. President, this amendment I offer on behalf of myself and Senator DOMENICI to restore $68.6 million in funding for the upgrade of the EF-111 Raven electronic warfare aircraft, provided that the Joint Chiefs of Staff decide in their ongoing roles and missing study to retain this critical electronic jamming aircraft in the active inventory.

The PRESIDING OFFICER. Is there further debate?

Mr. BINGAMAN. Mr. President, I ask if the chairman of the committee, the Senator from Georgia, would be able to give me his views as to the appropriateness of this amendment and the course we ought to pursue on this?

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I discussed this with the Senator from New Mexico [Mr. BINGAMAN]. As I understand the amendment it would restore certain funds that were cut by committee. The amendment would prevent DOD from spending the money until the roles and missions study has been completed. It would also require the Air Force to certify that, if the roles and missions study justifies its continued operation of the EF-111 fleet, the Air Force will retain the fleet through the 5-year defense program.

I think there is some merit to Senator BINGAMAN'S amendment. The committee, though, and several objectives and one of those objectives was to get at least one healthy standoff jammer program in the budget because of the enormous importance of this electronic jamming mission which we all were well aware of during the Persian Gulf war.

I believe Senator BINGAMAN's amendment is designed to try to keep two healthy programs if DOD decides to keep both types of standoff jammer aircraft. The Senator also argues a decision which to keep should be made by the Department of Defense and not by Congress. I normally agree with that approach but the committee did look carefully at this issue and we concluded this was a rather apparent way to get the roles and missions effort going and to demonstrate the seriousness of our committee in giving oversight to that effort. We also decided this was a pretty clear-cut decision, or at least not one of the most difficult decisions to make. That was especially true because the budget will shrink and further threaten the two-jammer program, if they do decide to have a two-jammer program.

I think this is a good illustration of the problem we face. In isolation we can always make the case to keep each and every thing in the budget but we all know that future budgets are shrinking. I do not know how we will get even one healthy program in this area and in many other areas without resolving the roles and missions issues.

The House fully funds both standoff jammer programs. This is an item we will have in the conference and I hope we could defer action tonight in light of the press of time, and work this out in conference.

The Senator from New Mexico is one of the most valued members of the committee and in my view the Senate. I assure him I will work with him in conference very carefully and perhaps we will also hear more from the Department of Defense on this question as we go to conference.

Mr. BINGAMAN. Mr. President, let me thank the Senator from Georgia, the chairman of the committee, for those comments. I certainly support his longstanding effort to promote a comprehensive review of the military service's roles and missions, and it is not my purpose of course, to try to get an assessment of this in isolation. I do think it needs to be looked at in the context of the roles and missions of the services and I would just reiterate I do think this is a decision that should be left to the Department itself.

I hope when we get to conference we can keep that in mind and find a way to allow that decision to be made by the Department of Defense in the normal course of the study they are undertaking at this time.

With those assurances from the Senator from Georgia, I will at this point withdraw my amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment. The amendment is withdrawn.

The amendment (No. 3040) was withdrawn.

Mr. NUNN. I look forward to working with the Senator on this and many other matters in the conference.

Mr. President, I think that about wraps it up tonight and we will be back on the B-2 amendment at 8:30 tomorrow morning.

ORDERS FOR TOMORROW

Mr. NUNN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 8:30 a.m., Friday, September 18; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that the Senate then resume consideration of S. 3114, the DOD authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 8:30 A.M.

Mr. NUNN. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 10:52 p.m., recessed until Friday, September 18, 1992, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 17, 1992:

THE JUDICIARY

TIMOTHY K. LEWIS, OF PENNSYLVANIA, TO BE U.S. CIRCUIT JUDGE FOR THE THIRD CIRCUIT VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

JAMES H. PAYNE, OF OKLAHOMA, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN, EASTERN AND WESTERN DISTRICTS OF OKLAHOMA VICE H. DALE COOK, RETIRED.

WALTER B. PRINCE, OF MASSACHUSETTS, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MASSACHUSETTS VICE JOHN JOSEPH MCNAUGHT, RETIRED.

DEPARTMENT OF JUSTICE

JOE L. HEATON, OF OKLAHOMA, TO BE U.S. ATTORNEY FOR THE WESTERN DISTRICT OF OKLAHOMA FOR THE TERM OF 4 YEARS VICE TIMOTHY D. LEONARD, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. JIMMIE V. ADAMS, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. JAMES P. MCCARTHY, [redacted] U.S. AIR FORCE.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. CHARLES G. BOYD, [redacted] U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR PROMOTION IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 611(A) AND 624:

To be permanent brigadier general

COL. JAMES F. HENNESSEE [redacted].
COL. STANLEY F. CHERRIE [redacted].
COL. FREDDY E. MCFARREN [redacted].
COL. GEORGE H. HARMEYER [redacted].
COL. JOHN F. MICHITSCH [redacted].
COL. STUART W. GERALD [redacted].
COL. LON E. MAGGART [redacted].
COL. LARRY G. SMITH [redacted].
COL. JERRY L. LAWS [redacted].
COL. JOHN W. SMITH [redacted].
COL. HENRY T. GLISSON, [redacted].
COL. MILTON HUNTER, [redacted].
COL. THOMAS N. BURNETTE, JR. [redacted].
COL. DAVID H. OHLE, [redacted].
COL. JAMES T. HILL [redacted].
COL. GREG L. GILE, [redacted].
COL. JAMES C. RILEY [redacted].
COL. RANDALL L. RIGBY, JR. [redacted].
COL. MARIO F. MONTERO, JR. [redacted].
COL. TIMOTHY J. MAUDE, [redacted].
COL. JOHN R. WALSH, [redacted].
COL. DANIEL J. PETROSKY [redacted].
COL. MICHAEL B. SHERFIELD [redacted].
COL. JAMES C. KING, [redacted].
COL. JOSEPH G. GARRETT, III [redacted].
COL. LEROY R. GOFF, III [redacted].
COL. MICHAEL A. CANAVAN, [redacted].
COL. DAVID R. GUST, [redacted].
COL. RONALD F. ROKOSZ, [redacted].
COL. DANIEL G. BROWN, [redacted].
COL. LEO J. BAXTER [redacted].
COL. WILLIAM P. TANGNEY [redacted].
COL. CHARLES S. MAHAN, JR. [redacted].
COL. BURT S. TACKABERRY, [redacted].
COL. JOHN J. MAHER, III [redacted].
COL. LEON J. LAPORTE [redacted].
COL. CLAUDIA J. KENNEDY [redacted].
COL. STEPHEN T. RIPPE [redacted].

CONFIRMATIONS

Executive nominations confirmed by the Senate September 17, 1992:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

WILLIAM BAILEY, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1996.

NATIONAL COUNCIL ON DISABILITY

SHIRLEY W. RYAN, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COUNCIL ON DISABILITY FOR A TERM EXPIRING SEPTEMBER 17, 1994.

NATIONAL INSTITUTE FOR LITERACY

HELEN B. CROUCH, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL INSTITUTE BOARD FOR THE NATIONAL INSTITUTE FOR LITERACY FOR A TERM OF 3 YEARS.

SHARON DARLING, OF KENTUCKY, TO BE A MEMBER OF THE NATIONAL INSTITUTE BOARD FOR THE NATIONAL INSTITUTE FOR LITERACY FOR A TERM OF 3 YEARS.

BENITA C. SOMERFIELD, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL INSTITUTE BOARD FOR THE NATIONAL INSTITUTE FOR LITERACY FOR A TERM OF 3 YEARS.

SUSAN ANN VOGEL, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL INSTITUTE BOARD FOR THE NATIONAL INSTITUTE FOR LITERACY FOR A TERM OF 3 YEARS.

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

WILLIAM J. BYRON, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 3 YEARS.

THOMAS EHRLICH, OF INDIANA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 3 YEARS.

GEORGE W. ROMNEY, OF MICHIGAN, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 3 YEARS.

JOHNNIE M. SMITH, OF SOUTH CAROLINA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 3 YEARS.

GLEN W. WHITE, OF KANSAS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE FOR A TERM OF 3 YEARS.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

THE LESSON OF HURRICANE ANDREW: GET PREPARED FOR A CATASTROPHIC EARTHQUAKE

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. BOEHLERT. Mr. Speaker, in the aftermath of the devastation caused by Hurricane Andrew, The New York Times published a very thoughtful article on Sunday, September 13, 1992, airing concerns about the impact of an even worse potential natural disaster, a giant earthquake.

Titled "How Big a Disaster Can Insurers Survive?", the piece carried comments from leading experts making a very strong case for Federal action before the fact. As the noted scholar, Robert E. Litan, a senior fellow at the Brookings Institution was quoted as saying: "The key question is whether we are going to prefund these disasters."

If we do not act ahead of time and the expected catastrophic earthquake strikes a major urban area, the ramifications will extend well beyond the locale of the quake, as the Times article illustrated. Prudence and logic dictate the necessity for a social insurance mechanism that puts money aside for a rainy day, as Mr. Litan so aptly described it.

Mr. Speaker, such a proposal already exists. It is H.R. 2806 which is currently pending in the House Science, Space, and Technology Committee. Similar legislation (S. 2533) has been introduced in the Senate. The legislation would make earthquake insurance more widely available and affordable to homeowners in seismically active areas than it is now. It would also create a Federal earthquake hazard reduction program, the first of its kind ever considered on a national basis, that will save lives and reduce injuries. In addition, the measures contain provisions that would speed the economic recovery of earthquake-stricken communities.

As a principal cosponsor of the bill, which had a hearing as recently as August 11, I strongly urge my colleagues to consider joining the more than 60 Members of the House who already have signed on to the bill and, more importantly, carefully consider doing the same when a revised version is introduced early in the next Congress.

Hurricane Andrew was a terrible calamity for south Florida. But a catastrophic earthquake—not if but when it comes—will make the impact and cost of Andrew pale in comparison. We simply cannot wait until matters become worse before we act.

Mr. Speaker, I ask to insert at this point in the RECORD the referenced New York Times article and a sidebar accompanying it for the information of my colleagues.

[From the New York Times, Sept. 13, 1992]

HOW BIG A DISASTER CAN INSURERS SURVIVE?

(By Peter Kerr)

As insurers add up the damage wrought by Hurricane Andrew, what is striking is not only the unprecedented size of the losses but also the frightening thought that the toll could have been much worse. Now American insurance companies and regulators are asking troubling questions: Just how big a natural disaster is possible? And is the insurance system strong enough to endure it?

For more than a decade, some large insurers say, they have been horrified by the prospect of a giant earthquake in a major city—perhaps the size of the quake that struck San Francisco in 1906. Such an event, some economists argue, could result in insurance claims of $40 billion or more, and it could result in widespread insolvencies and a disruption of insurance markets across the country.

Now, even as it appears that claims from Andrew's damage may climb above $8 billion, many industry leaders say the private insurance system can easily survive a beating from the most expensive storms.

But one executive, Maurice R. Greenberg, chairman of the American International Group, recently voiced his dissent. "If Andrew had hit the south coast of Long Island," he said, "you would no longer have the strongest insurance industry, you would have the longest insurance industry—some companies would be flat on their backs."

Less than two weeks before Andrew struck Florida, Congress held hearings on a bill that would make the Federal Government a reinsurer to the insurance industry in the case of giant earthquakes.

As bad as Andrew was, the insurance companies involved appear equipped to pay their policyholders. The companies that announced the largest losses—State Farm, with an estimated $1.5 billion in claims, and Allstate, with $1.2 billion—have plenty of capital on hand, analysts say. The worldwide system of catastrophe reinsurance, in which insurance companies pass on a certain part of their losses to reinsurers who in turn pass on some of their losses to their own reinsurers, appears to have worked well.

But a study last year prepared by Howard Kunreuther and Neil Doherty, two professors at the Wharton School of the University of Pennsylvania, found that in the case of a very severe earthquake, the insurance system would not fare so well. The study made projections about the impact of a quake of 8.3 on the Richter scale occurring at midday in San Francisco and assumed insurance losses in 1987 dollars of $40.3 billion. Of 18 companies studied, five would become insolvent and all would experience losses of 10 percent or more of their surplus, or capital. Based on limited data, the authors said they believed the reinsurance market would be hit even more heavily.

Perhaps the most significant impact for the nation would be a sudden reduction in the availability of insurance after such an earthquake, said Robert E. Litan, a senior fellow at the Brookings Institute in Washington, who has also studied the issue. Insurance companies are limited in the amount of new insurance they can write by their levels of surplus: a company can write no more than $3 of insurance for every $1 of surplus.

"The real big one comes and lops off $40 billion or $50 billion in capital from an industry with a capitalization of $159 billion," Mr. Litan said. "You are going to see a national cutback in coverage. Many people, a lot of smaller businesses, nonprofit concerns just wouldn't be able to buy insurance."

Other industry-sponsored studies have estimated that insured damage from a very large earthquake in Los Angeles would be $40 billion or more, and similar losses might be expected in some of the 30 other states that seismologists say are vulnerable to earthquakes. A severe quake along the New Madrid fault in the Midwest, as happened in the last century, for example, could be particularly damaging to a city like Memphis, where building codes have not been adapted for earthquakes as they have in California.

In California, the anxiety of scientists is growing. Four years ago the United States Geological Survey said there was a 60 percent probability that a huge quake would strike the southern end of the San Andreas fault within 30 years. But after a quake of 7.4 in southern California in June, some experts expect a big earthquake much sooner.

Until recently, insurance industry studies indicated that the largest likely damages from severe hurricanes would be significantly smaller than those from a severe quake. One reason earthquakes are more expensive is that large commercial buildings like high-rise office towers can be destroyed by earthquakes but survive high winds.

Nonetheless, coastal development between 1980 and 1988 alone increased insured value along the Atlantic and Gulf coasts by an estimated 70 percent. Last year, D.G. Freidman, who heads the Natural Hazards Research Program for the Travelers Insurance Company, presented a paper in which he estimated that Hurricane Hugo, which caused $4.2 billion in insured damages when it hit offshore islands and the Carolinas in 1989, would have cost insurers roughly $20 billion if it had hit New York City.

Even if the private insurance market could withstand such a blow without insolvencies, Andrew is likely to make safety experts consider including hurricane damage in a Federal insurance program, said James L. Taylor, the assistant administrator of the Federal Insurance Administration, a part of the Federal Emergency Management Agency. A hurricane or earthquake program, he said, would require localities to set standards for making houses more resistant to disasters.

To deal with the insurance consequences of the largest earthquakes, a House bill backed by insurance companies and sponsored by more than 60 members of Congress would create a national program of earthquake insurance for homeowners, sold through private insurance agents. Like the national flood insurance program, an earthquake program would establish "mitigation standards" to improve building codes around the country.

The bill would also create a reinsurance pool for insurers to pay part of the losses on a big quake. If the pool were exhausted, in-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

surers would borrow from the Treasury and pay the loan back with interest over time.

"The key question is whether we are going to prefund these disasters," said Mr. Litan of the Brookings Institute. "Should we have some sort of social insurance mechanism that puts money aside for a rainy day?"

The Bush Administration questions whether the bill's standards are tough enough. James Barth, a professor of finance at Auburn University, agrees. He adds that if people believed the Government would always be there to pay a large portion of the bill, insurance companies would be less likely to build up capital to withstand a big earthquake, and citizens and localities would be less likely to make property quake resistant.

"In one way it could be like the savings and loan situation," he said "People may engage in socially undesirable behavior if they know the Federal Government will be there to bail them out when things get really bad."

WHY NOT FEDERAL QUAKE INSURANCE?

Proponents of a Federal insurance program for damages from severe earthquakes point to the success of the national Flood Insurance Program, which has about 2.5 million policies in force in 18,000 communities around the nation. Property owners buy the policies in addition to private coverage for damages from other causes. The program has allowed the government to require localities where the policies are sold to adopt building codes and procedures intended to reduce flood damage.

James L. Taylor, the assistant administrator of the Federal Insurance Administration, said that communities participating in the program had suffered 70 percent less damage from floods than other communities. Since the program was established in 1969, he said, the Federal Government has saved $2 billion in disaster relief payouts. The program has not required taxpayer funds to pay claims or operating expenses since 1985.

One former administrator of the Federal Insurance Administration, Robert Hunter, who now heads the National Insurance Consumer Organization and often criticizes the industry, said he would favor an expanded program for consumers to cover damage from hurricanes, earthquakes and other disasters. But he said he would oppose a reinsurance part to the program unless there were provisions protecting taxpayers against having to bail out insurers who have taken too many risks in disaster-prone areas.

A SALUTE TO CORLETTE T. BAYLOCK

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. STOKES. Mr. Speaker, I rise today to recognize Mr. Corlette T. Baylock, a man of exceptional and unique talent who resides in my congressional district. Although a banker by training, Mr. Baylock is now recognized worldwide for his artwork which ranges from the whimsical creations he displays on pistachio shells to the panels he designs as advertisements for large companies and the beautiful works of pointillism that he displays in renowned galleries throughout this country.

Mr. Speaker, I am proud to have a constituent like Corlette T. Baylock. He is an outstanding citizen whose contributions to the art world and to the community of Cleveland are matched by few. I would like to share the following article about Mr. Baylock that recently appeared in the Cleveland Plain Dealer and I hope my colleagues will join with me in honoring this man of exceptional talent and commitment.

ARTIST IS NUTS ABOUT PAINTING PISTACHIOS

(By Karen Farkas)

CLEVELAND.—True Love Bey looked quizzically at Corlette T. Baylock when he stopped her on Euclid Ave. and said he was going to decorate a pistachio nut shell for her.

But the 9-year-old's skepticism turned to amazement and she smiled shyly as Baylock used a pen to transform two shells into clown and bear faces. He autographed the backs and slid them into an envelope, which True Love clutched as she continued down the street.

Baylock has found a way to turn a mundane nut shell into a child's joy and a work of art.

And the effect his work has on young and old alike is one reason his suits and power ties from a 20-year banking career hang unused in his closet.

Baylock, 47, of Cleveland Heights, now works in jeans, T-shirt and brown wing-tips left over from his banking days. He says he realized art provided a satisfaction he never received in the corporate world. And although people may say art is not a stable career, Baylock points to his last two jobs, lost when banks either downsized or closed.

Today, the serious side of his career is creating works in pointillism, in which he uses dots for portraits or evocative pictures of intertwined figures signifying unity. And his whimsy is evident in his nut art—in which the beige shells become detailed faces for cards, pictures, crowd scenes and personalized items.

His work is displayed worldwide, yet his greatest joy is spending time with schoolchildren to explain how to decorate the shells and the importance of a career. Today he will transform red pistachio nut shells into ladybugs for BugFest '92 at the Garfield Park Reservation of the Cleveland Metroparks.

"Pointillism afforded me the opportunity to think deep, but all my life I have been able to make people laugh and feel good," Baylock said.

Baylock had no concrete career goals as he grew up in New Jersey. "I was the class clown and wasn't serious about anything," he said.

In 1964, following graduation, he joined the Army and was sent to Vietnam as a company clerk in a psychological-warfare company.

"When we hit the beaches, the front of the boat opened up, and while everyone was running to the shore carrying guns and rifles, I had a typewriter," he said.

He was stationed with the 25th Psychological Operations Detachment in Pleiku, the central highlands in South Vietnam. Two of the 25 members of his company were artists who drew propaganda literature eventually dropped by plane.

"I'd watch them every chance I could and was intrigued how they made every line count," he said.

He bought some pastels while still in Vietnam and said the encouragement of his friends led him to think he had some talent. He returned to Indianapolis, where he had been stationed, after his discharge.

"I took only two art classes, beginning drawing and beginning watercolor," he said. "I wanted to take more courses and had every intention to, but I needed money, so I worked."

In 1967, he worked in various jobs at a health club. A club member who was a hospital administrator offered him a job. "He liked the way I handled people and hired me to be a supervisor at his hospital," Baylock recalled. He worked for the administrator, including in Florida, until 1970, when he returned to Indianapolis to take a job as a bank supervisor.

He moved to Cleveland in 1979 to work at the former Union Commerce Bank, which became Huntington National Bank. "I eventually was operations officer," he said. "I had no technical expertise, but liked to work with people."

About nine years ago, Baylock was doodling on a pad as he talked on the phone at work when he began creating pictures using dots.

While only his friend knew of his work, in 1989 local artist Malcolm Brown asked him to exhibit in the Cain Park Arts Festival.

"I got some stuff framed, and while other artists had tents and racks, I propped my pictures against park benches and tree roots," Baylock said.

He said he did not know how to price his works, but believed $200 was good for one piece that had taken him a couple of months to complete. "It was the first thing sold and I thought, 'Damn!'" he said of the idea that he could make a living from his art.

At the time he was perfecting his pointillism, he was also working with pistachio nuts. "I was in a doctor's office about nine years ago playing with kids and had eight shells in my pocket," he said. "They were bored, so I used a pencil and drew funny faces on the shells. They put the shells over faces in magazines and had a great time."

About three years later, he sent a pistachio family portrait to his sister in New Jersey. The faces were more detailed, and her friends loved it and wanted one for themselves, he said.

As his fledgling art career consumed more time, he came to a crossroads in his business career.

In 1988, he lost his job as Huntington cut back on staff. "That's when I wondered if it really was what I wanted to do," he said. He was then hired as vice president of operations at First Bank, but lost that position when the bank closed in 1990. He never applied for another job.

"I think eventually I would have quit banking, because the more I got into this, the bank was interfering with my art," he said.

A year ago, he and six other artists rented a store in the Colonial Arcade, called Studio 26. "My wife, Patricia, was not as excited about it as I was," he said of his art career. "But now she likes it."

He said his four children, Corlette Jr., 27, Brant, 23, Brandi, 17, and Bryan, 9, sometimes help color his artwork. "Bryan came home one day and said 'You don't have a job, do you Daddy?'" he recalled. "He couldn't believe something I enjoyed could be work."

Matted and framed pictures of whimsical pistachio nut bears, clowns and people in various locations are hung on the studio walls. He will personalize the nuts and place them in situations requested by the buyer.

He also makes rain sticks—sealed cardboard tubes that contain baffles and nut shells. When the stick, covered with canvas and decorated, is turned over, the nuts fall, creating a mesmerizing sound.

While Baylock continues to sell his work at art fairs, he recently completed a commissioned nut-art picture for Kaiser Permanente. The crowd scene of 700 faces included 10 famous Clevelanders, including Arsenio Hall and Paul Newman.

"The sky's the limit," he said, regarding what he can do with the nut shells. He said he is unaware of anyone doing similar work. "It's a nice thing to give to someone who has everything."

Although he enjoys eating pistachio nuts, the cost, at about $4 a pound, can be prohibitive and he can never eat enough to supply his art. So friends began donating shells, as do the school children he has met.

In his frequent visits to elementary schools, he emphasizes recycling. One game for children includes a miniature city made of packing material that includes a magnet glued to the bottom of a nut shell. Another magnet on the stick is used below the cardboard streets to "drive" the shell. "It teaches them direction and creativity." Baylock explained.

He also emphasizes the importance of nurturing all interests. "I tell them it is important to have a dual interest and not put all their eggs in one basket," he said.

And no matter where he goes, Baylock is never empty-handed.

"Sometimes if I am on my way here and do not have pen or shells in my pockets I go home to get them," he said.

WILKES-BARRE'S OHAV ZEDEK CELEBRATES 100 YEARS

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. KANJORSKI. Mr. Speaker, I rise today to join with the congregation of Ohav Zedek, in Wilkes-Barre, as it celebrates the 100th anniversary of its founding.

During the last decades of the 19th century, many Jewish emigrants from the Austro-Hungarian empire came to settle in northeastern Pennsylvania. They worshipped in private homes until 1892, when they received a charter to form the Congregation Ohav Zedek. During its first 10 years of existence, Ohav Zedek rented rooms and halls in the community until a small synagogue was built in 1902. The membership quickly increased until the need for larger accommodations was realized. In 1930, the cornerstone was laid for what is today the home of Congregation Ohav Zedek. An example of solid architectural simplicity and elegance, the shul is recognized as one of the most beautiful in the country.

The Jewish community has made an invaluable contribution to the fine quality of life enjoyed by the residents of my district in Pennsylvania. Education, especially, has been of paramount importance to Ohav Zedek. For many years, a separate religious school was maintained by the congregation. In 1950, Rabbi Wolfe founded the Ben Zion Academy and today, all of the individual educational facilities are consolidated in the United Hebrew Institute in Kingston.

Mr. Speaker, although my district is a composite of many different cultures, I believe it is a tribute to the Orthodox Jewish community that Judaism has a prominent place in our community. Ohav Zedek is a backbone of Orthodox Jewish life and has helped to ensure that the heritage and tradition of this ancient way of life is a part of the future of the Wyoming Valley. It is indeed my pleasure to commend the Congregation Ohav Zedek for its part in our proud history and for the role it has chosen for the years ahead.

RESTORE MILITARY AID TO TURKS

HON. GREG LAUGHLIN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. LAUGHLIN. Mr. Speaker, I rise today to call this body's attention to a matter of vital importance to U.S. foreign policy interests.

The Middle East has always been a political hotspot. An ally of the United States which has consistently tracked our own foreign policy interests is the country of Turkey. As one of the few Members of Congress to be stationed in Turkey, I have developed a first-hand knowledge of Turkish military issues and I feel confident in asking for a continuance in aid to the Turkish military.

Maintaining U.S. security assistance to Turkey is in our security interests. Due to the importance of this issue, I would like to call the attention of my colleagues to an article from a recent edition of Defense News. The article follows.

[From Defense News, Aug. 31–Sept. 6, 1992]

RESTORE MILITARY AID TO TURKS—SECURE TURKEY IS KEY TO STABILITY IN VOLATILE MIDEAST

(By Michael McNamara)

This year's House Foreign Operations Appropriations Bill has eliminated military aid to Turkey for 1993. Last year Turkey received $500 million in Foreign Military Financing credits (FMF), and as in previous years, almost all of this was in grants.

For 1993, however, while the House bill calls for $450 million for Turkey in FMF, a seemingly modest 10 percent reduction, the fine print calls for all the aid to be in the form of a loan at high Treasury rates. But this loan, and therefore military aid, cannot be accepted by Turkey.

When Turkey chose to side with the United States and the other coalition partners to oppose Saddam Hussein, Turkey was hit hard by the cost of its war efforts. More important, it has incurred tremendous economic losses by enforcing the embargo against Saddam. In figures provided by the U.S. State Department to Congress in July, the loss to Turkey for 1990 and 1991 alone was set at $5.9 billion. These lost oil pipeline revenues, lost trade with Iraq, workers' remittance from that country, etc., continue to be lost because Turkey, despite these hardships, continues to enforce the sanctions.

These losses, together with Turkey's annual debt service burden for past FMF loans—on average, more than $250 million a year—mean that Turkey cannot afford U.S. military aid in the form of loans.

If two years ago Turkey had denied use of its bases and facilities to the United States and other partners and refused to honor the embargo, and if Turkey had failed to be a good partner and a trusted ally in a time of conflict and tension, cessation of military aid might be understandable.

If Turkey had failed to provide basing for Provide Comfort, the international operation to protect the Kurds of northern Iraq from Saddam, or if in July Turkey failed to renew for another six months an extension of that operation as urgently requested by the United States, then the Turks could understand why a $500 million aid program is now scheduled for termination.

If the United States and the West don't need a strong and stable ally, one that remains the only Muslim country to create a democratic government with secular, political institutions in what is the least stable area of the world, then eliminating this aid to Turkey makes sense.

If Turkey were not making a major 10-year effort using national funds to modernize and reorganize its armed forces to deter the high potential for aggression near its borders; and if a strong Turkey were not in the best interests of the United States, then elimination of this aid might be understandable.

If all of the annual FMF provided to Turkey, about a half billion dollars in recent years, failed to come back to the United States through the purchase of U.S. goods and services, or if this FMF failed to provide U.S. jobs in the depressed U.S. defense industry, then Congress might be excused for its lack of foresight and domestic interest by canceling aid to Turkey.

If the United States does not need Turkey's continued support and stabilizing influence in the Transcaucasus, specifically as a moderating force between Azerbaijan and Armenia; and if that same stability did not extend into the current Balkan conflict, then the U.S. administration could permit the political forces in an election-year Congress to eliminate this aid for Turkey.

And finally, perhaps most important, if the United States will not seek Turkey's support in any future conflict in the Middle East, specifically with Iraq, Syria or Iran, then the administration can afford to permit Congress to terminate military aid for Turkey.

But Iraq remains a serious problem for the United States, the United Nations and the international community. Saddam still poses a potential threat to all of its neighbors, including Turkey. Iran remains engaged in a massive effort to obtain long-range missiles and weapons of mass destruction. Tehran's militant fundamentalism continues to present a source of instability in the region. Syria's powerful war machine, with an active force of more than 400,000 troops, remains under the absolute control of Hafez Assad, and continues its support of international terrorism.

Turkey does not yet have the modern defense equipment needed to deter potential aggression by many of its neighbors. Its ongoing modernization and reorganization efforts need U.S. support to provide that deterrence and help stabilize this volatile region.

If FMF is restored to Turkey as all-grant aid, it must be done in the Senate appropriations process, in markups scheduled in the Appropriations foreign operations subcommittee and the Appropriations committee, following the August recess.

The 1993 appropriations cycle will severely test the ability of this administration to achieve its foreign policy goals for Turkey, and by extension, its aims in the Middle East and Transcaucasus. The House bill's unheralded cuts for Turkey and other countries were voted with little debate and less opposition. Under the impetus of an election year, few in the House are willing to oppose aid reductions, given the state of the domestic economy.

In the Senate, the administration has the advantage of time to argue the case for restoration of aid levels. The Appropriations foreign operations subcommittee will not mark up until after Labor Day. But the administration may not succeed in the Senate unless there is a concerted effort to convince the Congress of the real dangers surrounding elimination of military aid to Turkey, and the benefits to the United States and the bilateral relationship if all-grant FMF assistance is restored.

RECOGNIZING THE EAST ST. LOUIS CHAPTER OF THE NAACP

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. COSTELLO. Mr. Speaker, I rise today to recognize the East St. Louis, IL, chapter of the NAACP. This local branch of the NAACP is at the forefront in bringing down the walls of racial hatred which has often plagued this city in my congressional district.

East St. Louis has had a long history of racial difficulties. In 1917, interstate commerce was suspended for over a week due to a violent riot in which more than 40 people were killed. As the economy in the East St. Louis community worsened so did race relations. Now, with virtually no sound economic base and more than 65 percent of its residents receiving some kind of public assistance, East St. Louis is struggling to reclaim its city.

As one of the oldest chapters of the NAACP in the Nation, East St. Louis has been extremely successful in improving race relations and working for the advancement of African-Americans in the East St. Louis community. The chapter was founded in 1914, only 5 years after the first NAACP chapter was established in Chicago. Today, the East St. Louis chapter has more than 6,000 participants and represents all of St. Clair County and the entire metro-East area.

Johnny Scott, the president of the NAACP chapter in East St. Louis, deserves recognition. To achieve a goal of keeping individuals free from intimidation, he has dedicated himself to the improvement of race relations. His concern for the poor and disenfranchised has enabled him to make a distinct difference in the lives of many residents in the area. Mr. Scott has also provided leadership as the chapter made significant inroads in improving business and personal opportunities for African-Americans.

In the late 1980's, the local NAACP successfully challenged the city of St. Louis in court to keep the Eads Bridge, which connects East St. Louis and St. Louis across the Mississippi River, open during a Veiled Prophet Fair festival. Should the bridge have remained closed, many citizens from East St. Louis would have been denied access to St. Louis. The NAACP chapter in East St. Louis has had continued success in legal battles.

The chapter also helps secure contracts for jobs for minorities. In the late 1980's, the chapter was instrumental in negotiating for minority contractors on the $26 million renovation of the Martin Luther King Memorial Bridge project. The chapter acknowledges the need for increased economic development to create opportunity in this economically depressed city.

On October 3, 1992, the East St. Louis chapter of the NAACP will hold its 38th Annual Freedom Fund Life Membership Banquet. I would like to extend my sincere appreciation for the efforts and continued dedication of this group in striving for equal opportunity and improved relations between all people.

SAFER NEEDLES MEAN SAFER LIVES: SUPPORT FOR H.R. 4349

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. STARK. Mr. Speaker, I'd like to cite a letter I received today from the American Society for Gastrointestinal Endoscopy. The letter reads, in part, "ASGE is pleased to support this bill [H.R. 4349] because we believe health care institutions and medical practices can be encouraged to use safer needles . . ."

Mr. Speaker, I do too. On February 27, I introduced H.R. 4349 in order to encourage the introduction of safer needles into the workplace. The support for this legislation by the 5,000 members of ASGE, and that received from other organizations, is evidence of the desire of those on the front lines of health care delivery to lessen the risks of their occupations. The use of safer needles would do just that.

I would like to submit the full text of the letter from the American Society for Gastrointestinal Endoscopy for the RECORD:

AMERICAN SOCIETY FOR GASTROINTESTINAL ENDOSCOPY;
Manchester, MA, September 15, 1992.

Hon. PETE STARK,
Chairman, Subcommittee on Health, Committee on Ways and Means, House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN STARK: The American Society for Gastrointestinal Endoscopy (ASGE) is a national professional medical association representing some 5,000 physicians who specialize in the use of gastrointestinal endoscopy in the treatment of GI diseases. As is the case for most other health care professionals, our members routinely face the hazard of needlesticks in their offices and in the hospital. We share your view that many needlesticks are preventable. Most could be avoided with a combination of better technology and improved education of health care workers.

H.R. 4349 would amend the Internal Revenue Code of 1986 to impose an excise tax on the sales of syringes and intravenous systems that do not meet needle safety standards. ASGE is pleased to support this bill because we believe that health care institutions and medical practices can be encouraged to use safer needles. The proposed excise tax should help accomplish that goal.

On behalf of the members of ASGE, I am pleased to support H.R. 4349 and look forward to working with you and other Members of Congress to secure passage of this important legislation.

Sincerely,
JOHN H. BOND,
President.

GOP BLOWING SMOKE ON GOVERNOR CLINTON'S TAX RECORD

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. PEASE. Mr. Speaker, I thought my colleagues and the American public would be interested in the attached article by columnist Michael Kinsley that recently appeared in one of Ohio's newspapers. The article debunks the myths that the President and his surrogates have been putting out about Governor Clinton's record on taxation. Mr. Kinsley is too kind when he reminds his readers to trust, but verify. I am inclined to direct my energies solely toward the latter objective.

GOP BLOWING SMOKE ON CLINTON TAX HIKES

(By Michael Kinsley)

WASHINGTON: (Massachusetts Gov. William) Weld repeatedly referred to the 43 tax increases Clinton signed during 11 years as governor.—USA Today

Bill Clinton as governor of Arkansas raised taxes something like 128 different times.—Dan Quayle.

Well, take taxes. We're mad at George Bush because he raised taxes once. Bill Clinton has signed 121 tax increases. A hundred and twenty-one!—U.S. Rep. Newt Gingrich.

Like Joe McCarthy counting communists in the State Department, Republicans have had a hard time deciding exactly how many tax increases to accuse Bill Clinton of. They have settled on the number 128, and the Bush-Quayle campaign has issued a list.

The exact number of tax increases in Arkansas while Clinton was governor is a meaningless question in any event, but the Republicans obviously think it's a telling point. As McCarthy understood, a number lends phony precision that gives weight to the general indictment—in this case, that Clinton is a "tax-raiser." So the accuracy of the number is important, not for what it says about Clinton but for what is says about Bush. Bush has decided to campaign on the theme of "trust." Bear with me while we analyze the "128 tax increases" and see whether you can trust George Bush.

The Bush-Quayle list is hilariously shoddy. My favorite items are three (numbers 31, 86 and 91) that aren't items at all. They are just places where the description of an alleged tax increase took more than one line. Similarly, number 78 is a verbatim repetition of number 74 (a 25-cent tax increase per gallon on "light wine"). "Tax increase" number 92 is a $1-per-conviction court costs fee imposed on convicted criminals. One dollar, and the Bushies are complaining. These people are supposed to be tough on crime?

Item number 46 is a 1987 law lengthening the season for dog racing. This is apparently a "tax increase" on the theory that a longer season increases state gambling tax revenues. Other supposed tax increases either never actually took effect (number 71) or replaced another tax of equal size (number 117). A fuel tax increase is counted as two because it applies to both gasoline and diesel. A general booze tax increase weighs in at five if you count categories like wine coolers separately—as they do.

Dick Alexander, an Arkansas law professor working for the Clinton campaign, figures a true count would be 55 or 59 increases in various taxes and fees while Clinton was governor, depending on how you figure. He even includes 10 that the Republicans somehow overlooked.

But in the real world, as opposed to Republican propaganda fantasies, taxes go down, too. Alexander has produced a list of 48 tax cuts during Clinton's governorship. These include such George Bush favorites as tax breaks for enterprise zones and capital gains. They also include a general cut last year that reduced or eliminated income taxes on 374,000 low-income Arkansas citizens. Since seven of Clinton's 55 (or 59) tax increases have expired or been repealed, the actual number of tax "increases" and the number of tax "cuts" are about equal. If you care.

Arkansas is a very low tax state. It ranks 49th in per capita state and local taxes and 50th in per capita expenditures. Even measuring taxes as a share of personal income, Arkansas ranks 47th.

A "Factsheet" put out by the Bush-Quayle Committee augments the "128 tax increases" canard with the assertion that, "Taxes are $397.1 million higher on an annual basis than when Clinton took office." This figure reflects inflation and growth as well as real tax increases. By the same moronic calculus, federal taxes are $476.4 billion higher than when Ronald Reagan and George Bush took office.

In fact, the absurdity of this whole count-the-taxes exercise is illustrated by applying it to George Bush's tenure as president. Just one tax increase? Forget it. The notorious 1990 tax increase was 73 separate increases. And Bush signed tax bills in 1989 and 1991 as well, each one with multiple provisions. Who can forget his decision in 1989 to "limit nonrecognition treatment when securities are received in certain Section 351 transactions"? That one was a $1.4 billion tax increase over five years.

There have been dozens of federal excise-tax increases during Bush's reign. For example, in 1990 he imposed a two-stage tax increase on both small and large cigars—distinct categories in the statute. By the Bush-Quayle rules, that counts as four separate tax increases.

Overall, by my count using the rules, Bush has raised taxes 133 times—more often in just four years than Clinton did in 11. And that doesn't even include increased fees for government services such as national parks. Nor does it include criminal fines.

Every day the Bush-Quayle machine puts out stuff like this malarkey about "128 tax increases," and every day Republican soundbite artists fan out to spread the word. The Clinton-Gore machine is no less efficient, but I believe it is less dishonest. If anyone has a counter-example, I would like to hear of it. Meanwhile, when Bush talks of "trust," I am reminded of Reagan's old mantra about negotiating arms control with the Soviets: "Trust, but verify."

AMERICAN HEALTH CARE ACCESS AND IMPROVEMENTS ACT OF 1992 INTRODUCED

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. JOHNSON of Texas. Mr. Speaker, today I am pleased to be introducing, with the help of several of my distinguished colleagues, the American Health Care Access and Improvements Act of 1992. This bill is a comprehensive health care reform measure which takes a new and innovative approach to solving America's health care crisis. Although it is new, it does incorporate several bipartisan provisions previously introduced by other Members of the House.

This measure specifically addresses the three basic problems that lie at the root of our skyrocketing health care costs: First, the cost-shifting that subsidizes the uninsured; second, the extraordinary cost of excessive malpractice litigation; and third, the expensive burden of unnecessary paperwork.

First, to address the costs and burden caused by the uninsured, my bill requires every American to have some form of basic health insurance. By requiring coverage, you eliminate the $10 billion a year of uncompensated care which is shifted to the medical bills of those with insurance. I believe the most feasible way to assure immediate healthcare coverage, without creating a new bureaucracy, is to allow all uninsured Americans to purchase a policy through the Federal Employees Health Benefits Program [FEHBP].

The FEHBP is a health insurance delivery system which serves Members of Congress and over 9 million additional Federal employees all across America. The FEHBP currently is under contract with over 50 different insurance companies offering over 300 plans providing both basic and catastrophic coverage.

As an alternative to purchasing a basic health insurance policy, Americans may instead purchase a catastrophic care policy and use a medical IRA, popularly known as a medisave account, for day-to-day medical expenses. Requiring Americans to have some form of health insurance and allowing them in the FEHBP will assure that everyone has immediate access to insurance, maintain our market-based system, and eliminate the problem of cost shifting.

For those Americans who are unable to afford insurance, the Federal Government will provide assistance in the form of an insurance voucher. The voucher will be based on annual income and will be electronically transferred to any insurance company which participates in the FEHBP.

Second, my bill addresses the costs associated with excessive medical malpractice claims by limiting total damage awards of noneconomic losses at $250,000, eliminating joint liability, and requiring the use of alternative dispute resolutions [ADR]. This is a necessary reform measure which will reduce medical costs while making our system more efficient.

Third, I address the expensive and unwarranted burden of Federal paperwork by offering incentives for electronic filing of Medicare claims, standardizing claims forms, and reducing claims processing by 5 percent per year. Recent Harvard University and U.S. General Accounting Office studies conclude that there is a potential savings in health care paperwork costs exceeding $100 billion over 5 years.

This measure also increases the deductibility of health premiums for the self-employed to 100 percent, assures the role of rural health care providers, defines the role of tax-exempt hospitals, and affirms the rights of consumers by requiring cost estimates prior to treatments.

Finally, I propose to pay for this measure by limiting the business deduction for employee health care benefits to $3,600 per year. According to the Treasury Department, limiting this deduction will raise over $33 billion in 5 years. Coupled with savings from reducing paperwork, administrative and court expenses, this measure will save the Federal Government over $5 billion in its first 5 years.

I urge all of my colleagues to cosponsor this innovative approach to health care reform and insist that it be included in any health care debate this year.

JOHN LEARY AMONG THE ELITE OF LITTLE LEAGUE UMPIRES

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. MAVROULES. Mr. Speaker, recently, at the end of August, the 46th Little League World Series was held once again in Williamsport, PA. At the close of another season, I believe it is only fitting to pay tribute to all of the volunteer umpires who give of their time, experience, and wisdom to a game we all love.

One volunteer umpire I would especially like to recognize is John Leary from Newburyport, MA. For over 33 years John has given freely of his time and energy, passion and devotion to teaching the game of baseball to youngsters. Not only an umpire, John Leary has also coached and managed teams and presided as a league president. And for the past 12 years John Leary has called balls and strikes for the Massachusetts State Tournament. In honor of his excellence on the field, John has joined the elite of Little League umpires. At this level a select group is invited to officiate at the Little League World Series in Williamsport, PA. It is the highest honor Little League can bestow on a volunteer umpire.

Mr. Speaker, it gives me great pride to honor John Leary for his achievements. But more importantly, I believe many boys and girls have benefited from his excellence, fairness, and professionalism throughout his many years of service to Little League baseball.

FLORIDA SESQUICENTENNIAL CELEBRATIONS COMMISSION, INC.

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. BENNETT. Mr. Speaker, in 1995 the great State of Florida will celebrate the 150th anniversary of its statehood. In order to commemorate, and celebrate, this milestone a number of individuals in my district, including myself, have filed articles of incorporation to form the Florida Sesquicentennial Celebration Commission, Inc., and nonprofit organization. The commission will promote, develop and implement a statewide celebration of this historic anniversary in order to enhance and strengthen the spirit of community throughout the entire State. I am proud to be one of four incorporated directors of this effort.

Mr. Speaker I ask that my comments and the articles of incorporation of the Florida Sesquicentennial Celebration Commission be included in the RECORD. I would like to add that Doug Milne, the principal incorporator of this organization is one of this country's most dedicated pro-bono volunteer activists.

ARTICLES OF INCORPORATION OF FLORIDA SESQUICENTENNIAL CELEBRATION COMMISSION, INC. (A FLORIDA NONPROFIT CORPORATION)

The undersigned person, acting as incorporator of a corporation not-for-profit under Florida Statutes, including Chapter 617 (Florida Not For Profit Corporation Act), adopts the following Articles of Incorporation for such corporation:

I—NAME

The name of the corporation is FLORIDA SESQUICENTENNIAL CELEBRATION COMMISSION, INC.

II—DURATION

The term of existence of the corporation is perpetual; and the corporate existence will commence on the date of filing of these articles with the Secretary of State of Florida.

III—PURPOSE

The corporation is a not for profit corporation. The purposes for which the corporation is organized are:

The specific and primary purposes for which the corporation is formed are to promote, develop, and implement a statewide celebration of the 150th anniversary of the great state of Florida's statehood (1845 to 1995), and by so doing to enhance a strengthened spirit of community within the entire state; to recognize the rich and unmatched social and cultural history and diverse growth of all portions of our state, commencing with northeast Florida; and to operate through all lawful means to accomplish the foregoing.

The general purposes for which the corporation is formed are to operate exclusively for such purposes as will qualify it as an exempt organization under Revenue Code section 501(c), of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws including, for such purposes, the making of distributions to organizations which qualify as tax-exempt organizations under that Code.

This corporation shall not, as a substantial part of its activities, carry on propaganda or otherwise attempt to influence legislation; nor shall it participate or intervene (by publication or distribution of any statements, or otherwise) in any political campaign on behalf of any candidate for public office.

IV—MEMBERSHIP

The corporation shall have a membership distinct from the board of directors. The designation and qualification of members, as well as rights of the members, and notice, quorum and voting requirements for meetings and activities of the members, will all be established in the bylaws.

No dividends shall be paid, and no part of the income of the corporation shall be distributed, to its members, directors, or officers.

V—DIRECTORS

The powers of this corporation shall be exercised, and its affairs conducted, by a board of directors, which shall be distinct from its membership. The manner of election, and number of directors of the corporation shall be established by the bylaws of this corporation, but the number shall never be less than three (3).

The names and addresses of the persons who are to serve as directors until the first election thereof are as follows:

Charles E. Bennett, U.S. House of Representatives, 2107 Rayburn Bldg., Washington, DC 20515.

Susan Caven, President, Jacksonville Historical Society, 4114 Herschel Street #111, Jax., FL 32210.

Richard Danford, Ph.D., Pres., Jacksonville Urban League, 233 W. Duval Street, Jax., FL 32202.

Douglas J. Milne, 4595 Lexington Ave., Jax., FL 32210.

VI—BYLAWS

Subject to the limitations contained in the bylaws and any limitations set forth in the Florida Not For Profit Corporation Act described above, concerning corporate action that must be authorized and approved by the members of the corporation, the bylaws of this corporation may be made, altered, reascinded, added to, or new bylaws may be adopted, whether by resolution of the board of directors or by following the procedures set forth therefore in the bylaws.

VII—PROPERTY

The property of this corporation is irrevocably dedicated to the purposes described in Article III herein, and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer or member thereof, or to the benefit of any private individual.

VIII—DISSOLUTION

Upon the dissolution or winding up of this corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of the corporation, shall be distributed to a not for profit fund, foundation, or a corporation which is organized and operated exclusively for charitable purposes and which has established its tax exempt status under Section 501(c) of the Internal Revenue Code of 1986, or corresponding provisions of any subsequent federal tax laws.

IX—REGISTERED OFFICE AND AGENT

The initial registered office and principal office of the corporation shall be located at 4595 Lexington Avenue, Ste. 100, Jacksonville, FL 32210, which shall also be the mailing address of the corporation. The initial registered agent of the corporation at that address shall be Douglas J. Milne who, by the execution of these articles, consents to that designation and states that he is familiar with, and accepts, the obligations of that position.

X—INCORPORATOR

The name and address of the subscriber of these Articles of Incorporation is:

Douglas J. Milne, 4595 Lexington Avenue, Ste. 100, Jacksonville, FL 32210.

In Witness Whereof, I have subscribed my name this 11th day of August 1992.

DOUGLAS J. MILNE,
Incorporator and Resident Agent.

A SMALL TOWN CELEBRATES THE CENTENNIAL OF THE PLEDGE OF ALLEGIANCE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. SOLOMON. Mr. Speaker, on Saturday, September 19, 1992, the small hamlet of Stanfordville, NY, will celebrate their 34th annual Stanford Community Day. For this year's celebration, the citizens of Stanford have chosen a most fitting topic for their theme. Nestled in the heart of historic Dutchess County, the rural town of Stanford has taken the initiative to recognize one of this Nation's most important national symbols, the Pledge of Allegiance to the flag of the United States.

The Pledge of Allegiance was first brought to national prominence through the official program of the national public school celebration of Columbus Day in October of 1992. For this event, the pledge was published in the Youth's Companion, which allowed more than 12,000,000 public school students in States all across the Nation to recite it.

The original author of the Pledge of Allegiance was Mr. Francis Bellamy of Rome, NY, a city in central New York west of my district. Having been ordained in 1879 at a Baptist Church in Little Falls, NY, Mr. Bellamy went on to become the chairman of the executive committee which formulated the program for the national public school celebration and furnished the initial publicity for the pledge. The pledge he wrote was first used at the dedication of the World's Fair Grounds in Chicago on October 21, 1892, the 400th anniversary of the discovery of America.

Francis Bellamy's work was officially recognized as the Pledge of Allegiance to the flag by Public Law 287 of the 79th Congress, and approved on December 28, 1945. These measures were solidified further when on June 14, 1954, Flag Day, President Dwight D. Eisenhower signed into law House Joint Resolution 243, which added to the Pledge of Allegiance the compelling and meaningful words "under God." Thanks to the work of outstanding Americans such as Francis Bellamy, the Pledge of Allegiance was now an official symbol of the United States and of the principles upon which it was founded. More importantly, however, thanks to the dedication of American citizens such as those in the town of Stanford, the United States will never forget the sacrifices made and the significance given our nations colors.

Mr. Speaker, it is in this spirit of patriotism and recognition that I call upon every Member of Congress to join the citizens of Stanford in the commemoration of the centennial of the Pledge of Allegiance. As students recite this pledge at the beginning of every school day and as we likewise open this Congress, let us always be reminded of those Americans who have sacrificed and contributed to make this great Nation what it is today.

INDIAN PEOPLE GET TRASHED OVER TRASH

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. LOWERY of California. Mr. Speaker, during my time in Congress, I have had the opportunity to work with many native American Indians and have always been impressed by their dignity and their determination to survive in a dominant society that is often hostile to them. Unfortunately, the Indian people are still faced with racism and stereotypical attitudes. To understand what native Americans must go through, we only have to look at the Campo Band of Mission Indians' attempt to develop a sound economic base for its members.

In February 1992, the Bureau of Indian Affairs [BIA] issued the Campo solid waste management project draft environmental impact statement [DEIS] for public comment. Section 1503.3, title 40, Code of Federal Regulations, states that comments on environmental impact statements are to be as specific as possible and may address either the "adequacy of the statement or the merits of the alternatives discussed or both." Many public agencies, community groups, and individual citizens responded to the BIA's request for comments. While many of the submissions conformed to the regulatory requirements, others contained irrelevant, stereotypical, and/or racist statements.

Since the Campo Band of Mission Indians publicly announced that it was considering siting a solid waste management facility within the reservation boundaries, band members have been subjected to personal insults and confrontations. The band consistently has attempted not to respond to such attacks and has tried to conduct discussions on the project with dignity and principle. They came to discussions with facts and figures, not rumor, innuendo, and lies.

The band has been investigating avenues for economic development for the past 15 years. In the band's overall economic development plan of 1978, the area in which the proposed project is to be located was designated for industrial use. Concerns related to the siting of an integrated waste management facility have been discussed fully by the band membership since 1987, and all tribal members have been given both economic and environmental information. All major decisions have been made by the Campo General Council after due consideration of all available information. The general council consists of all adult members of the band.

There were numerous appropriate DEIS comments submitted to the BIA. These comments, while opposing the band's stated preferences, were limited to well-conceived and well-written objections to specific aspects of the draft environmental impact statement. They did not attack the band, Indians in general, or the agencies involved in the development of the DEIS; they simply stated their concerns about the proposed activities. Unfortunately, however, many of the submissions contained either blatant or subtle attacks on the integrity, ability, and/or intelligence of tribal members.

Mr. Speaker, several of the comments submitted focused on one statement found in the DEIS. "Indian reservations are governed as sovereign nations, thus the permitting requirements of State and local regulatory agencies do not apply." One of the letters submitted characterizes this well-stated and correct summation of Indian law as arrogant and contemptuous. The general population's misunderstanding of laws governing Indian tribes unfortunately leads to such attitudes; Federal law classifies Indian tribes, bands, and nations as dependent, domestic nations that are fully subject to federal law, but subject to State or local jurisdiction only when such jurisdiction has been specifically authorized by Congress.

The San Diego chapter of the Sierra Club stated that, due to this principle of Federal law, the band's assurances of compliance with the National Environmental Policy Act are of little or no value because of the band's treatment as a quasi sovereign nation. The Sierra Club's comment simply disregards that the DEIS goes on to state: "The permitting and environmental—standards must, at a minimum, meet the applicable standards of the EPA, BIA, and other Federal agencies." While the band is not required to comply with State law, it has freely and voluntarily submitted its statutes and regulations to State agencies for their analyses to assure that all of the Campo Environmental Protection Agency [CEPA] requirements meet or exceed California solid waste management standards.

Many of the negative comments seem to be an attempt to hold the Campo Band and CEPA to a higher standard of review than would be required were this an off-reservation project. The Sierra Club cites CEPA regulations and questions their validity and whether or not they result in loopholes or allow unsafe operation of facilities. The Sierra Club, however, fails to mention, or is not aware, that the very regulations it criticized are substantively identical to California Water Resource Control Board regulations that were adopted just last year. If the Sierra Club failed to object when the State proposed these new regulations, presumably it feels that the Indians should be required to impose standards more stringent than those adopted by the State.

Unfortunately, this belief is shared by others. Backcountry Against Dumps [BAD] wants to impose on the band a standard not required under either Federal or State regulations. BAD states:

> It is commendable that the Band wants to become self-sufficient but in order to become truly self-sufficient, it must give up funding from outside governmental agencies.

Again, a different standard is proposed for members of the Campo Band. Do nonreservation residents espouse curtailing Federal subsidies to agriculture operations, medicare and Medicaid, Federal support of public education, low-income housing, and highway improvements? The State of California and its residents are not expected to give up Federal assistance, and the Campo Band should not be expected to do so.

In addition to demanding that higher standards be placed on Indian people and governments, the comments continually suggest that the Campo Band, CEPA, and/or Indian people in general are incapable of regulating activities occurring within Indian country. An independent engineering firm, hired by the county of San Diego to review the DEIS, stated:

> We are * * * uneasy how enforcement of construction, operation, and maintenance will work in practice. There appears to be room for a conflict of interest if the tribe both regulates the operation and derives benefit from it, particularly where expensive environmental work is needed.

This comment was reflected by the Sierra Club when it questioned the band's ability to fund and enforce regulations and to enforce compliance by a large corporation. It was even suggested that, in order to assure compliance, an agency "independent of the reservation [CEPA] and the developers, should provide inspection and oversight * * *." These statements imply that tribal regulation of environmental activities is of little or no value. From where does this attitude come? In no DEIS comment does anyone produce evidence that tribes are less capable of regulating activities that are States, counties, or municipalities. In fact, the Campo Band has promulgated statutes and regulations that consistently are more stringent than the corresponding provisions of State law.

Many persons submitting comments want to expand the DEIS to incorporate aspects of internal operations not subject to scrutiny of the general, nonreservation populations. Many of the letters demand that the Federal Government focus on nonpolluting industries. The Sierra Club representative states:

> Why does (the DEIS) ignore the potential for attracting long-term summer RV park facilities that might attract snowbirds leaving the deserts of Imperial County and Yuma County Arizona during the summer?

In fact, this possibility was identified, considered, and rejected by the band and is discussed in the DEIS. Another group wants to know:

> How much money will each tribal member get; what provisions exist for financial planning; what are the plans for reservation improvements; and what are the plans to provide "much needed educational incentive and opportunities for their children."

The Campo Band, of course, can, should, and will decide these matters for itself.

A national publication, a leader in the movement against siting of landfills, stated:

> It is clear that native people often share one important problem with the dominant society: corrupt and venal leadership. The typical pattern is that native leaders are piled with favors, they sign agreements, then word gets out about what has happened.

There is, of course, no evidence cited for this assertion. Indeed, the allegations contradicts statements made by the same publication in October 1987. The October 26, 1987 article cited numerous instances where tribes refused to participate in poorly conceived waste management projects. Unsupported allegations of this type about minority groups lead to stereotypes, to prejudice, and to racism.

Mr. Speaker, many other examples of incorrect and misleading statements with racist overtones are found within the comments to the DEIS. One Campo, CA, resident stated:

> The Indians [sic] might have an alcohol problem, might not be able to read, and have a host of other problems, but poisoning our environment is not the way to solve it * * *. It is a sad statement about the Campo Indians if they are too stupid to see the long term damage they would cause the area * * *.

A resident of Pine Valley, CA carefully states he is not a racist, but then says:

> They—the Indians—have lost all ambition and are willing to just sit back and wait for handouts.

At the closing of the same letter this individual states:

> Remember—the Indians before their second generation in this country were foreigners and immigrants just the same as all the rest of our ancestors!

This statement apparently is intended to justify intolerant and racist actions and beliefs. While the dominant society first came to the shores of this continent only 500 years ago, the ancestors of the Indian people have inhabited these lands for thousands of years.

This same individual, in a separate letter, alleged that:

> These tribal leader do not own the reservation lands! When the U.S. Government defeated the tribes over 100 years ago, it became the ruling body and owned the land! The land is held in trust for future generations, not for a few tribal leaders to trash because they are money hungry today!

This statement contains the most commonly used argument against the Indian development and autonomy: "ignore the plight of the Indians, they lost the war." The fact is that the United States negotiated and entered into numerous treaties through which the Federal Government promised services, education, and protection in return for cessions of tribal lands. The reserved tribal lands did not become Federal property, but were placed in trust to protect the people from the avarice of the non-Indians who were invading Indian lands.

Another State resident, in a comment submitted to the BIA repeated the age-old and false statement that Indians do not pay taxes. With the exception of taxes on reservation trust property and income from sources within the reservation. Indian people are fully subject to all taxes imposed on other residents of the State of California. Indians pay Federal income, excise, and other taxes. Typically the introduction of significant development within a reservation, such as that planned for the Campo Reservation, actually increases the Federal and State tax burdens on reservation workers and residents.

The majority of negative comments imply that the band's decision to site a waste management facility on the reservation constitutes a decision to pollute the environment. This misconception must be addressed. The tribal members are not producing the vast majority of the waste; the potential for pollution is caused by the dominant society. The need for waste management facilities exists, and no one wants them in their backyard. Instead of making allegations against the band's abilities to regulate and enforce waste management activities or attacking valid decisions made by an informed and independent people, the commenters should admit that they simply are opposed to the siting of landfills in their backyards. The band's membership should be commended for its careful consideration of all proposals, its tireless efforts to adopt the most stringent regulatory scheme in the State, and its efforts to assure that the proposed project will be a state-of-the-art facility that will possess environmental safeguards surpassing any facility located within the State.

Mr. Speaker, racism still abides in our country. It must be defeated. I commend the leadership and the membership of the Campo Band of Mission Indians for refusing to engage in name-calling and insulting responses to their neighbors. I look forward to the day when these matters can be discussed entirely on the merits and without references to race or color. The Campo Indians seek no more—and no less—than the American dream of equality, opportunity, and prosperity. If their landfill project succeeds, let it be because they have acted with the intelligence, principle, and dignity that they, like all other human beings, possess. If they fail, let it be because their proposal, on its technical merits, fails to meet the criteria imposed on all other such projects. But let us not see the Campos fail because they are Indians; because some fear they threaten the social and economic order of the community that surrounds them; or because their neighbors believe them to be incapable, ignorant, or stupid. The time when Indian people—or any other people of color—should have to prove their equality or intellect and integrity has long since passed. I, for one, know these people to possess all the intelligence of all other men and women, and look forward to the day when they will not be judged by their race.

Mr. Speaker, that day is coming, it is near, and we all have a solemn responsibility to see it realized.

TRIBUTE TO COL. TOM ALISON

HON. DAVE McCURDY

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. McCURDY. Mr. Speaker, I rise today to pay tribute to Col. Tom Alison as he retires after more than 27 years of distinguished service in the U.S. Air Force.

Colonel Alison is retiring from his position as chief of the Inquiries Division of Legislative Liaison at the Pentagon. In this capacity he is responsible for the timely, accurate, and concise responses to constituent inquiries directed not only to Members of Congress, but to the executive branch. His expertise in this arena and his knowledge of Air Force policy and direction is unparalleled.

Colonel Alison was born in Great Falls, MT, in 1941, and graduated from Great Falls High School. He attended the University of Northern Colorado, receiving a bachelor of arts degree in business.

After receiving his commission as a second lieutenant from OTS in 1965 he entered into undergraduate pilot training at Vance Air Force Base, OK. After graduation Colonel Alison's career as a pilot started as an instructor and flight examiner in the T–37 at Webb and Perrin Air Force Base in Texas. He entered the world of aerial reconnaissance as an instructor and chief of training in the RF–4C at Bergstorm Air Force Base, TX. The dream of any pilot is to fly the best aircraft in the world with the premier airmen of the Air Force. This quest was realized upon selecting for training with the 1st Strategic Reconnaissance Squadron, the host for the SR–71 which remains the world's fastest and highest flying aircraft. Between 1974 and 1981 Colonel Alison rose from an SR–71 aircraft commander to chief pilot and flight examiner logging 668 hours and during numerous operational sorties directed by the highest echelons of our Government. The information gathered during these missions was a cornerstone to the national defense and ultimately one of the major contributors to the culmination of the cold war. During this tenure he also was awarded a masters degree in public administration from Pepperdine University.

Between 1981 and 1984, Colonel Alison served as a branch chief and deputy division chief of the Congressional Inquiry Division of Legislative Liaison, responsible for the resolution of over 24,000 inquiries per year.

Colonel Alison returned to operational duties in 1984 and took command of Detachment 1 of the 9th Strategic Reconnaissance Wing. As commander of SR–71 aircraft in Okinawa, Japan, he was responsible for high speed, high altitude reconnaissance for the Pacific theater. In recognition of his professional and flawless efforts during this tour he was promoted to the position of deputy commander for operations of the 9th Wing at Beale Air Force Base, CA. In this position he was responsible for SR–71, U–2, TR–1, T–38 and KC–135 flight activities. These assets provided worldwide reconnaissance in conjunction with the Peacetime Aerial Reconnaissance Program in Okinawa, Korea, England, Germany, and numerous other remote locations. Numerous missions were flown in support of the President's Counternarcotics Program as well as Granada, Libya, and Panama.

Since 1989 Colonel Alison has performed the duties as the chief of the Congressional Inquiry Division. He has traveled with numerous Members throughout the world, lending his expertise in Air Force matters and handling myriad unique situations. Colonel Alison epitomizes the highest standards of professional conduct, leadership, diplomacy, meticulous tact, and desire for perfection.

Mr. Speaker, I join with my colleagues who have directly benefited from the resounding support Colonel Alison has provided the Congress and executive branch, in both his capacities in legislative liaison and as a premier pilot for the Air Force, in congratulating him for a job extremely well done and wishing he and his lovely wife, Carolyn, the very best in the future. He will be a success in any pursuit he may endeavour to undertake. Colonel Alison is a professional among professionals and has brought great credit upon himself and the U.S. Air Force.

HONORING T.M. CORNELIUS

HON. BILL SARPALIUS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. SARPALIUS. Mr. Speaker, I ask my colleagues to join me in honoring T.M. Cornelius, a father, coach, volunteer, leader and, most importantly, an American. T.M. will be celebrating his 70th birthday on September 20. In those years, T.M. has left a legacy that is rich in tradition and based on sound values.

T.M. graduated from Union Valley School and attended Cameron Junior College on a basketball scholarship. He then went to East Central Oklahoma College and lacked only 12 hours receiving his degree before enlisting in the Marine Corps during World War II. After completing his tour of duty, T.M. returned to the States to complete his education with a masters degree in school administration from the University of Oklahoma in 1952. He also completed work on a doctorate in special education at Georgia Peabody in Nashville, TN.

T.M. should be honored first as a family man and father. He married Helen Laminack of Randlett, OK, in 1941. They became the proud parents of three sons, Mickey, Jackie, and Tim. They have raised their family in a Christian home. Their efforts have paid off with their sons, now young adults, taking leadership positions in the community and in business ventures. Mickey, Jackie, and Tim also carry the rich family values passed on by their parents and today they are examples to their families.

T.M. is also a leader. He has demonstrated this leadership first in the classroom and next through school athletics as a basketball coach. His charismatic style afforded him the opportunity to become superintendent of schools at Addington, Comanche, and Snyder, OK, before entering the insurance industry in 1956.

Leadership was also synonymous with T.M. Cornelius when he became involved with operating his own insurance company. He has received numerous awards for outstanding contribution and service in insurance. T.M. lives the creed of the Rotary Club—"Service above Self" and has dedicated himself to various community causes.

T.M. has served as mayor of Burkburnett, TX, as well as president of the chamber of commerce and boys clubs. He is an active member of the Air Force Association, United Methodist Church, Burkburnett Rotary Club, Life Underwriters Association, chamber of commerce and past board of director with Wichita General Hospital. Most notable of all his accomplishments is his work with Sheppard Air Force Base [SAFB] in Wichita Falls, TX.

T.M. has been actively involved with SAFB for over 30 years. He has been a liaison between Burkburnett and SAFB. T.M. has taken a personal interest in getting to know each general who has had the privilege of being commander of the facility. For his tireless efforts on behalf of SAFB, T.M. was honored by SAFB in September 1978 with a parade showing their appreciation.

As an American, T.M. knows how to make our country great—set the right example. T.M. was once quoted saying, "A person out of city office has as much influence as someone in it. You have to be in tune with the community to be influential. You need input—what other people think." He says being a community leader "takes a lot of time, effort and financial support, but if you enjoy it and can see good things happening in your community, it is well worth it." T.M. knows that to truly make America great we must start with ourselves and get involved.

Mr. Speaker, it is an honor for me to call T.M. Cornelius my friend. He is an example for all of us to follow. T.M. makes what we do for our communities worth it. I trust my colleagues will join me in honoring T.M. Cornelius.

WORLD MARITIME DAY 1992

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. TAUZIN. Mr. Speaker, the International Maritime Organization [IMO] celebrates World Maritime Day 1992 today, September 17, 1992. IMO Secretary-General William A. O'Neil chose the theme, "Maritime Environment and Development: The IMO Role" because in many countries the protection of the environment has been highlighted as a major concern.

The International Maritime Organization is a United Nations technical organization with 137 members and two associate members. From its beginning in 1958, as the first international body devoted exclusively to maritime matters, maritime safety improvement and maritime pollution prevention have been the IMO's most important objectives. To achieve its goals, the IMO has promoted the adoption of over 30 conventions and protocols as well as over 600 codes and recommendations concerning maritime safety and pollution prevention. Most of this work is carried out in a number of committees and subcommittees. The Coast Guard is the United States' primary representative at these meetings.

The IMO has continued to make great strides recently on issues pertaining to the theme of World Maritime Day 1992. The *Exxon Valdez* disaster demonstrated that catastrophic oil spills can overwhelm the resources of one nation. In response to this spill and others around the world, members of the IMO negotiated the Oil Pollution Preparedness, Response and Cooperation 1990 [OPRC] Convention in November 1990. The Convention establishes a global framework emphasizing the prevention of further spills and cooperation in response to those which do occur. The United States was the first nation to ratify the convention in early 1992 was followed by Sweden, Egypt, Australia, and Seychelles.

Mr. Speaker, this year's World Maritime Day theme focuses on IMO's goal to create a worldwide network of response resources, which will be an invaluable tool for preservation of the marine environment. Secretary-General O'Neil's message marking the observance of World Maritime Day 1992 follows:

WORLD MARITIME DAY 1992—MARINE ENVIRONMENT AND DEVELOPMENT: THE IMO ROLE

A MESSAGE FROM THE SECRETARY-GENERAL OF THE INTERNATIONAL MARITIME ORGANIZATION, MR. WILLIAM A. O'NEIL

The United Nations Conference on Environment and Development which took place in Rio de Janeiro in June could well turn out to be one of the most important events of the 1990s.

Although some observers claimed that the Conference did not achieve all its objectives, the tremendous interest that was generated was a major achievement in itself. And most important of all, the Conference focused world attention on the need for policies which can help reconcile the often competing demands of environment and development.

In many countries the protection of the environment has been highlighted as a major concern ever since the Stockholm Conference of 1972. Governments have established departments to fight pollution and industrial companies are increasingly being called upon to demonstrate their environmental credentials. In addition more and more people are adopting 'green' policies in their everyday life.

In the developing countries, however, the viewpoint is often very different. A factory is not seen as a source of pollution but as a supplier of jobs. Countries which need to provide more food for an expanding population find it difficult to understand why they should not cut down their forests and turn them into farmland. Lectures on the need to preserve fish stocks are not always appreciated in coastal villages where the people are already starving. In many countries, in short, the protection of the environment is seen as a luxury which can hinder the development on which their future depends.

The Rio Conference's main achievement may well have been to have brought together these two themes and shown that they are both essential. It is both unrealistic and insensitive to attempt to tell the developing world that it must not prosper because the environment is under threat. But it is possible, as a result of the Rio Conference, to ensure that development will take place in such a way that the environment is properly considered.

This was one of the main ideas to emerge from the 1987 report of the World Commission on Environment and Development—the Brundtland Commission. The report coined the phrase 'sustainable development' which was defined as meeting the needs of the present generation without compromising the needs of future generations.

This is a policy which IMO has in fact been following in the shipping field since the 1960s when its technical co-operation programme was started. IMO's objectives are concisely summarized as 'safer shipping and cleaner oceans'. The Organization tries to achieve these targets in various ways, such as the development and implementation of international conventions and codes, which provide for appropriate regulations, but it knows that many countries have difficulty in meeting those standards.

Because the regulations themselves cannot be lowered IMO launched a technical co-operation programme designed to help Governments reach the high standards required. By and large these activities have been successful: the shipping casualty rate declined steadily during the 1980s and the amount of pollution from ships fell by as much as 60 percent during the same period.

IMO's programme has helped to protect the environment and it has also helped the Organization's 137 Member States to develop their shipping industries in accordance with international agreements. But there is still a great deal more to be done.

In the last couple of years unfortunately the casualty statistics have turned and are beginning to show an increase. We know as well that there are a number of problems on the horizon which indicate that IMO must increase its efforts and cannot relax on the basis of past successes.

A start has already been made. IMO's Global Programme for the Protection of the Marine Environment is now well-established. It represents an ambitious but realistic plan for providing the expertise and assistance for which there is a continuing need in the developing world. It will help to ensure that maritime activities are encouraged and that development takes place—but only in a manner which guarantees that the marine environment is protected.

The Rio Conference made the world aware not only of the dangers but also the opportunities that lie ahead. It is likely that in its aftermath further responsibilities will be allocated to IMO. But without a strong commitment and suitable funding by Governments and industry the treaties and pronouncements of UNCED will remain as pious phrases.

If IMO is called upon to become even more involved in protecting the oceans from pollution then I can assure you that we are ready. The skills and knowledge are in place—and the ability to carry out the tack has already been clearly demonstrated.

THESE QUESTIONS MUST BE ANSWERED

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. SOLOMON. Mr. Speaker, today, in the Washington Times, critical questions were raised about Democratic Presidential nominee Bill Clinton's activities during the Vietnam war. the lead story in the Times, entitled "Clinton Lied, Says ROTC Chief," chronicles the reaction of Lt. Col. Eugene Holmes, to the possibility that Bill Clinton may become Commander and Chief of the Armed Forces.

According to a letter from Holmes published in the Times, Bill Clinton withheld his true antiwar beliefs from the colonel, in order to get in the the University of Arkansas ROTC program. I quote:

> Bill Clinton came to see me at my home in 1969 to discuss his desire to enroll in the ROTC program at the University of Arkansas. He engaged in an extensive, approximately two (2) hour interview. At no time during this long conversation about his desire to join the program did he inform me of his involvement, participation and actually organizing protests against the United States involvement in South East Asia. He was shrewd enough to realize that had I been aware of his activities, he would not have been accepted into the ROTC program as a potential officer in the United States Army.

This letter, from a genuine war hero, a survivor of the Bataan Death March, and a committed patriot, is a moving and eloquent testimony to the true character of Bill Clinton.

Bill Clinton says he has no more comment to make on this issue, since "almost everyone concerned with these issues are dead." That is a cynical reaction to a legitimate inquiry. This question must be answered.

Also included in today's Washington Times is the actual text of Mr. Clinton's letter to Lt. Col. Holmes. This letter itself needs further reflection and raises more questions. Mr. Clinton says:

> I went to Washington to work in the national headquarters of the Moratorium, then to England to organize the Americans here [England], for demonstrations October 15 and November 16.

What kind of demonstrations did Mr. Clinton lead? Did he have the support of British Peace Council while he organized these demonstrations? While he was in England, did he take any trips to the Continent to organize other protests? These questions must also be answered.

Other questions are raised by his letter. What does Mr. Clinton mean when he says, "I do not think our system of government is by definition, corrupt, however dangerous and inadequate it has been in recent years?" What does he mean by dangerous and inadequate? Why was he so doubtful about our system of government?

Mr. Speaker, as a proud veteran, I believe these questions raise serious doubts about the basic integrity of the Democratic nominee for President. These questions must be answered fully, completely, and without hesitation, if Mr. Clinton is to remain a serious candidate for President.

I insert for the RECORD the article and letters that first appeared in September 17, 1992 Washington Times.

CLINTON LIED, SAYS ROTC CHIEF

(By Jerry Spere)

FAYETTEVILLE, ARK.—The commander of the ROTC department at the University of Arkansas in 1969 said in an affidavit obtained yesterday that Gov. Bill Clinton lied and used political pressure to dodge the Vietnam War draft by falsely leading him to believe he intended to enroll in the ROTC.

Lt. Col. Eugene Holmes, a survivor of the Bataan Death March in World War II and now retired to a home near Fayetteville, said he was pressured by draft board officials in Mr. Clinton's hometown of Hot Springs, Ark., to insure that the Rhodes scholar was enrolled in the program to avoid induction into the Army.

"I believe that he purposely deceived me, using the possibility of joining the ROTC as a ploy to work with the draft board to delay his induction and get a new draft classification," Col. Holmes said.

"These actions cause me to question both his patriotism and his integrity."

It was to Col. Holmes that Mr. Clinton wrote in a letter that became an issue in the primary campaign last winter. Until now the colonel, who served 32 years in the Army and was a prisoner of the Japanese after the Philippines fell in 1941, had not commented on Mr. Clinton's several versions of how he avoided military service.

"However, present polls show that there is the imminent danger to our country of a draft dodger becoming the commander-in-chief of the Armed Forces of the United States," he said.

He conducted his notarized document, dated Sept. 7, with the assertion that it would be his final statement because of his failing health, and that he will take no further questions from reporters.

Clinton campaign officials did not return telephone calls to their Little Rock office last night. Earlier, however, he had said only that he quit the ROTC program after "changing his mind" and that he never intended to mislead anyone about his draft record.

Col. Holmes said Mr. Clinton came to see him at his Fayetteville home in 1969 to "discuss his desire to enroll" in the University of Arkansas Army ROTC program—where a student remains in school while undergoing military training and commits to service upon graduation.

During a two-hour conversation, Mr. Clinton did not tell him that he already had received a draft-induction notice or that he had participated in and organized anti-Vietnam War demonstrations. These relevations, given later by Mr. Clinton, would have prevented Mr. Clinton from becoming a military officer, Col. Holmes said.

"Even more significant was his lack of veracity in purposefully defrauding the military by deceiving me, both in concealing his anti-military activities overseas and his counterfeit intentions for later military service."

Col. Holmes, who was held in a Japanese prison camp until the end of the war in 1945, said his statement would not have been necessary if the Arkansas governor had been "completely honest with the American public."

Mr. Clinton's draft board in Hot Springs, 250 miles downstate, sought his help in assisting Mr. Clinton after pressure was put on the board by then-Sen. J. William Fulbright, at the time the powerful Democratic chairman of the Senate Foreign Relations Committee.

"The general message conveyed by the draft board to me was that Sen. Fulbright's office was putting pressure on them and they needed my help," he said, adding that he got several phone calls from the board. "I then made the necessary arrangements to enroll Mr. Clinton into the ROTC program at the University of Arkansas."

Mr. Clinton, now 46 worked for Mr. Fulbright in 1968 on the staff of the Foreign Relations Committee. Mr. Clinton was a senior at the time at Georgetown University.

Mr. Fulbright, now 88 and a Washington lawyer, was not available yesterday for comment. He has told reporters, however, that he is too old to remember what happened more than 20 years ago.

Army records show that Mr. Clinton was not legally eligible for the ROTC program at the time.

Army regulations from 1969, a copy of which was obtained this week by the Times, shows that a student must be enrolled and attending class full time before he can be admitted to an ROTC program.

Col. Holmes—who personally inducted both of his sons into the service during the Vietnam War and whose brother was killed in World War II and is buried at Cambridge, England—said Mr. Clinton had no intention of following through on his agreement to join the ROTC program, or, as promised, to enroll at the University of Arkansas Law School.

He said he told Mr. Clinton that he had to enroll at the university in order to be eligible for the program, but Mr. Clinton never made any attempt to do so. Mr. Clinton later enrolled at Yale University Law School.

According to Selective Service records, Mr. Clinton was classified 1-A (draft eligible) in March 1968. He received two draft induction notices while a student at Oxford University in England. The last one ordered him to report to active duty in July 1969.

It was at this time he negotiated with Col. Holmes to join the ROTC. His draft board, based on his letter of intent to join the University of Arkansas program gave him a deferment, reclassifying him 1-D

Henry M. Britt, a Hot Springs lawyer, confirmed this week that he and others—including Mr. Clinton's uncle, Raymond Clinton—pressured draft board officials to reclassify the young Oxford student. They also obtained a slot for him in a Naval Reserve unit in Hot Springs, although the unit was filled.

Mr. Britt, a former Circuit Court judge, told The Times that he and Raymond Clinton met personally with Mr. Fulbright to urge the senator to make calls to the draft board in Bill Clinton's behalf. He said the senator, an opponent of the Vietnam War, agreed.

Mr. Britt said the lobbying effort began after Bill Clinton asked his uncle for help in avoiding the draft.

"Billy called Raymond for help, saying he was going to be drafted," Mr. Britt said. "Raymond was the patriarch of the Clinton family. It was a logical call.

"We did for Billy what he wanted us to do—keep him in school," he said.

Mr. Britt said he and Raymond Clinton sought to "delay" the draft notice in order to gain reclassification and that they applied pressure wherever they could.

"We had the clout to get it done," he said. "And yes, Billy knew what was going on in his behalf."

Mr. Britt said he never personally talked with Bill Clinton but that Raymond Clinton, his client, did on several occasions during the period.

Cliff Jackson, a former Oxford classmate of Mr. Clinton's, who also came from Arkansas, raised similar questions about the Democratic candidate's integrity on CNN's "Larry King Live" Tuesday night. Mr. Jackson acknowledged that he worked his Republican contacts in state government circles to help Mr. Clinton avoid the draft.

"We all trusted him to serve his country in the ROTC and enroll in that [University of Arkansas] law school," Mr. Jackson said. ". . . Then he started trying to wiggle out of it. We pulled back at that point. By 'we,' I mean the Republican side. . . .

"But I know from talking with Bill, that Sen. Fulbright's office and Bill himself continued to exert tremendous pressure on poor Col. Holmes to get him to go back to Oxford."

Mr. Jackson admitted that he shared Mr. Clinton's opposition to the Vietnam War but soured on his friend when he backed out of his ROTC promise.

"He used us to kill the draft notice, to avoid reporting on the July 28th induction date, which had already been postponed," Mr. Jackson said "And he did that by promising to serve his country in the ROTC, number one, to enroll in the law school that fall. . . . and he never enrolled.

"What other young American in this country can get out of binding legal commitment to six years of service in the ROTC which you have used to kill your draft notice and used to obtain a deferment?" he asked.

TEXT OF BILL CLINTON'S LETTER TO ROTC COLONEL

(The text of the letter Bill Clinton wrote to Col. Eugene Holmes, director of the ROTC program at the University of Arkansas, on Dec. 3, 1969)

I am sorry to be so long in writing. I know I promised to let you hear from me at least once a month, and from now on you will, but I have had to have some time to think about this first letter. Almost daily since my return to England I have thought about writing, about what I want to and ought to say.

First, I want to thank you, not just for saving me from the draft, but for being so kind and decent to me last summer, when I was as low as I have ever been. One thing which made the bond we struck in good faith somewhat palatable to me was my high regard for you personally. In retrospect, it seems that the admiration might not have been mutual had you known a little more about me, about my political beliefs and activities. At least you might have thought me more fit for the draft than for ROTC.

Let me try to explain. As you know, I worked for two years in a very minor position on the Senate Foreign Relations Committee. I did it for the experience and the salary but also for the opportunity, however small, of working every day against a war I opposed and despised with a depth of feeling I had reserved solely for racism in America before Vietnam. I did not take the matter lightly but studied it carefully, and there was a time when not many people had more information about Vietnam at hand than I did.

I have written and spoken and marched against the war. One of the national organizers of the Vietnam Moratorium is a close friend of mine. After I left Arkansas last summer, I went to Washington to work in the national headquarters of the Moratorium, then to England to organize the Americans here for demonstrations Oct. 15 and Nov. 16.

Interlocked with the war is the draft issue, which I did not begin to consider separately until early 1968. For a law seminar at Georgetown I wrote a paper on the legal arguments for and against allowing, within the Selective Service System, the classification of selective conscientious objection for those opposed to participation in a particular war, not simply to "participation in war in any form."

From my work I came to believe that the draft system itself is illegitimate. No government really rooted in limited, parliamentary democracy should have the power to make its citizens fight and kill and die in a war they may oppose, a war which even possibly may be wrong, a war which, in any case, does not involve immediately the peace and freedom of the nation.

The draft was justified in World War II because the life of the people collectively was at stake. Individuals had to fight, if the nation was to survive, for the lives of their countrymen and their way of life. Vietnam is no such case. Nor was Korea an example where, in my opinion, certain military action was justified but the draft was not, for the reasons stated above.

Because of my opposition to the draft and the war, I am in great sympathy with those who are not willing to fight, kill and maybe die for their country (i.e. the particular policy of a particular government) right or wrong. Two of my friends at Oxford are conscientious objectors. I wrote a letter of recommendation for one of them to his Mississippi draft board, a letter which I am more proud of than anything else I wrote at Oxford last year. One of my roommates is a draft resister who is possibly under indictment and may never by able to go home again. He is one of the bravest, best men I know. His country needs men like him more than they know. That he is considered a criminal is an obscenity.

The decision not to be a resister and the related subsequent decisions were the most difficult of my life. I decided to accept the draft in spite of my beliefs for one reason: to maintain my political viability within the system. For years I have worked to prepare myself for a political life characterized by both practical political ability and concern for rapid social progress. It is a life I still feel compelled to try to lead. I do not think our system of government is by definition corrupt, however dangerous and inadequate it has been in recent years. (The society may be corrupt, but that is not the same thing, and if that is true, we are all finished anyway.)

When the draft came, despite political convictions, I was having a hard time facing the prospect of fighting a war I had been fighting against, and that is why I contacted you. ROTC was the one way left in which I could possibly, but not positively, avoid both Vietnam and resistance. Going on with my education, even coming back to England, played no part in my decision to join ROTC. I am back here, and would have been at Arkansas Law School because there is nothing else I can do. In fact, I would like to have been able to take a year out perhaps to teach in a small college or work on some community action project and in the process to decide whether to attend law school or graduate school and how to begin putting what I have learned to use.

But the particulars of my personal life are not nearly as important to me as the principles involved. After I signed the ROTC letter of intent, I began to wonder whether the compromise I had made with myself was not more objectionable than the draft would have been, because I had no interest in the ROTC program in itself and all I seemed to have done was to protect myself from physical harm. Also, I began to think I had deceived you, not by lies—there were none—but by failing to tell you all the things I'm writing now. I doubt that I had the mental coherence to articulate them then.

At that time, after we had made our agreement and you had sent my 1-D deferment to my draft board, the anguish and loss of my self-regard and self-confidence really set in. I hardly slept for weeks and kept going by eating compulsively and reading until exhaustion brought sleep. Finally, on Sept. 12 I stayed up all night writing a letter to the chairman of my draft board, saying basically what is in the preceding paragraph, thanking him for trying to help in a case where he really couldn't, and stating that I couldn't do the ROTC after all and would he please draft me as soon as possible.

I never mailed the letter, but I did carry it on me every day until I got on the plane to return to England. I didn't mail the letter because I didn't see, in the end, how my going in the Army and maybe going to Vietnam would achieve anything except a feeling that I had punished myself and gotten what I deserved. So I came back to England to try to make something of this second year of my Rhodes scholarship.

And that is where I am now, writing to you because you have been good to me and have a right to know what I think and feel. I am writing too in the hope that my telling this one story will help you to understand more clearly how so many fine people have come to find themselves still loving their country but loathing the military, to which you and other good men have devoted years, lifetimes, of the best service you could give. To many of us, it is no longer clear what is service and what is disservice, or if it is clear, the conclusion is likely to be illegal.

Forgive the length of this letter. There was much to say. There is still a lot to be said, but it can wait. Please say hello to Col. Jones for me.

Merry Christmas.

Sincerely,

BILL CLINTON.

ROTC CHIEF FEARS DRAFT-DODGING PRESIDENT

SEPTEMBER 7, 1992.

Memorandum for Record

Subject: Bill Clinton and the University of Arkansas ROTC Program

There have been many unanswered questions as to the circumstances surrounding Bill Clinton's involvement with the ROTC department at the University of Arkansas. Prior to this time I have not felt the necessity for discussing the details. The reason I have not done so before is that my poor physical health (a consequence of participation in the Bataan Death March and the subsequent 3½ years internment in Japanese POW camps) has precluded me from getting into what I felt was unnecessary involvement. However, present polls show that there is the imminent danger to our country of a draft dodger becoming the Commander-in-Chief of the Armed Forces of the United States. While it is true, as Mr. Clinton has stated, that there were many others who avoided serving their country in the Vietnam war, they are not aspiring to be the President of the United States.

The tremendous implications of the possibility of his becoming Commander-in-Chief of the United States Armed Forces compels me now to comment on the facts concerning Mr. Clinton's evasion of the draft.

This account would not have been imperative had Bill Clinton been completely honest with the American public concerning this matter. But as Mr. Clinton replied on a news conference this evening (September 5, 1992) after being asked another particular about his dodging the draft, "Almost everyone concerned with these incidents are dead. I have no more comments to make". Since I may be the only person living who can give a first hand account of what actually transpired, I am obligated by my love for my country and my sense of duty to divulge what actually happened and make it a matter of record.

Bill Clinton came to see me at my home in 1969 to discuss his desire to enroll in the ROTC program at the University of Arkansas. We engaged in an extensive, approximately two (2) hour interview. At no time during this long conversation about his desire to join the program did he inform me of his involvement, participation and actually organizing protests against the United States involvement in South East Asia. He was shrewd enough to realize that had I been aware of his activities, he would not have been accepted into the ROTC program as a potential officer in the United States Army.

The next day I began to receive phone calls regarding Bill Clinton's draft status. I was informed by the draft board that it was of interest to Senator Fulbright's office that Bill Clinton, a Rhodes Scholar, should be admitted to the ROTC program. I received several such calls. The general message conveyed by the draft board to me was that Senator Fulbright's office was putting pressure on them and that they needed my help. I then made the necessary arrangements to enroll Mt. Clinton into the ROTC program at the University of Arkansas.

I was not "saving" him from serving his country, as he erroneously thanked me for in his letter from England (dated December 3, 1969). I was making it possible for a Rhodes Scholar to serve in the military as an officer.

In retrospect I see that Mr. Clinton has no intention of following through with his agreement to join the Army ROTC program at the University of Arkansas or to attend the University of Arkansas Law School. I had explained to him the necessity of enrolling at the University of Arkansas as a student in order to be eligible to take the ROTC program at the University. He never enrolled at the University of Arkansas, but instead enrolled at Yale after attending Oxford. I believe that he purposely deceived me, using the possibility of joining the ROTC as a ploy to work with the draft board to delay his induction and get a new draft classification.

The December 3rd letter written to me by Mr. Clinton, and subsequently taken from the files by Lt. Col. Clint Jones, my executive officer, was placed into the ROTC files so that a record would be available in case the applicant should again petition to enter into the ROTC program. The information in that letter alone would have restricted Bill Clinton from ever qualifying to be an officer in the United States Military. Even more significant was his lack of veracity in purposefully defrauding the military by deceiving me, both in concealing his anti-military activities overseas and his counterfeit intentions for later military service. These actions cause me to question both his patriotism and his integrity.

When I consider the calibre, the bravery, and the patriotism of the fine young soldiers whose deaths I have witnessed, and other whose funerals I have attended . . . When I reflect on not only the willingness but eagerness that so many of them displayed in their earnest desire to defend and serve their country, it is untenable and incomprehensible to me that a man who was not merely unwilling to serve his country, but actually protested against its military, should ever be in the position of Commander-in-Chief of our Armed Forces.

I write this declaration not only for the living and future generations, but for those who fought and died for our country. If space and time permitted I would include the names of the ones I knew and fought with, and along with them I would mention my brother Bob, who was killed during World War II and is buried in Cambridge, England (at the age of 23, about the age Bill Clinton was when he was over in England protesting the war).

I have agonized over whether or not to submit this statement to the American people. But, I realize that even though I served my country by being in the military for over 32 years, and having gone through the ordeal of months of combat under the worst of conditions followed by years of imprisonment by the Japanese, it is not enough. I'm writing these comments to let everyone know that I love my country more than I do my own personal security and well-being. I will go to my grave loving these United States of America and the liberty for which so many men have fought and died.

Because of my poor physical condition this will be my final statement. I will make no further comments to any of the media regarding this issue.

EUGENE J. HOLMES,
Colonel, U.S.A., Ret.

CONGRESSMAN KILDEE SALUTES FLINT HISPANIC AWARDS CEREMONY

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. KILDEE. Mr. Speaker, it is with great pride that I rise today to pay tribute to the Hispanic awards ceremony that will be held on Saturday, September 19, 1992, at the International Institute in Flint, MI.

The Hispanic awards ceremony is an annual event honoring those individuals who have unselfishly served their community over the years. This is the fourth year of the awards ceremony that is held to focus community attention on those persons who have devoted their time to make Flint a better place. Although the honorees are of varying ages, professions, and backgrounds, they share a common bond of service to others. On Saturday evening, the Hispanic community will pay tribute to six individuals who have worked to improve the quality of life in Genesee County. Flint is blessed with a Hispanic community that is rich in its commitment to service.

This year's awards will honor those individuals who continue the outstanding tradition of service to their community. The Joe Benevidez Education Award will be presented to Silvia Maria Guerra. The Pedro Mata, Jr., leadership award will be presented to Benito Mata. The Tano Resendez Service Award is to be given to Vita Guajardo. The Hispanic Veteran of the Year is Enrique Barrera. The Labor Involvement Award goes to Paul Hernandez and the Youth/Student Award is being given to Alberto Vasquez, Jr.

I have known and worked with the six honorees for many years. It gives me great pleasure to ask the House of Representatives to join me in recognizing the accomplishments of these individuals and the entire Hispanic community. I congratulate the honorees for their compassion and commitment to helping their fellow citizens.

TRIBUTE TO SCUDDER EDWARDS

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. FISH. Mr. Speaker, I rise today to recognize and pay special tribute to Rev. Scudder Edwards. Reverend Edwards will be honored by the Lewisboro Lions Club of Lewisboro, NY, at a farewell reception on Tuesday, September 22, 1992. On October 1, Reverend Edwards, the minister of the South Salem Presbyterian Church, will be leaving that church and the town of Lewisboro.

Reverend Edwards was an active member of the South Salem Fire Department, also serving as its president. He served as president of the Lewisboro Lions Club for 2 years, receiving the Lion of the Year Award in 1988 and also served an earlier stint as president of his Rotary. In recognition of his generous and varied service to the people of his community, the Lewisboro Chamber of Commerce awarded Reverend Edwards its citizen of the year award in 1989.

A longtime advocate of volunteerism, Reverend Edwards has spent many years in the community involved with youth. Local scout enthusiasts are well aware of his years of sea scout leadership, involvement with the Cub Scouts and his membership on the regional Boy Scout Council.

Reverend Edwards' 16 years in Lewisboro, follow many years of active service in a broad range of ministerial associations. He served as chaplain of the U.S. Navy during the Berlin crisis and the Korean war. He was recalled to active duty in 1962 to serve as President Kennedy's chaplain, 6 years after assuming an assignment as minister of the famous Brick Church in Manhattan.

After the Vietnam years, Reverend Edwards returned to his hometown parish in Ridgewood, NJ, where he steadily rose from assistant to associate pastor and finally pastor of the 3,000-member church. In 1976, he left his post in Ridgewood to accept the challenge of pastoring the South Salem Presbyterian Church which, at the time, was little more than a skeletal memory of the original which had been completely destroyed by fire 3 years earlier.

Reverend Edwards made a decision then that if they ever got off the ground, their building would be "as inclusive and as open to the community as a building could be." Today, the church, known locally as the "White Church," now accommodates the Jewish Family Congregation and members of St. Mary's Catholic Church. The facility also accommodates an Alcoholics Anonymous group, the self-help group CODA and a Bible study group, among others.

Mr. Speaker, I am well aware that the outstanding contributions that Rev. Scudder Edwards has made over the years have greatly benefited not only the parishioners in his chosen communities, but this Nation as well. The impact he has had on Lewisboro will be felt for years to come.

A SALUTE TO CORLISTA HARDMAN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. STOKES. Mr. Speaker, I rise today to salute Ms. Corlista Hardman, the Mid-Western Region Recipient of the National Council of Negro Women, Inc. [NCJW] Excellence in Teaching Award and a resident of my congressional district. In August of this year, Ms. Hardman was honored for her achievements at the Black Family Reunion Celebration in Cincinnati and just last week her talents were recognized at the Day on Capitol Hill and Excellence in Teaching Award Program held in conjunction with the National Black Family Reunion Celebration.

The National Council of Negro Women's award program, sponsored by the Shell Oil Co., was developed to enhance the teaching profession and to recognize teaching as a viable career option. This year the NCNW selected one national winner and seven regional winners who have made outstanding contributions to their field, distinguished themselves among their peers and inspired a high level of scholastic achievement among African-American students.

I am proud to have a constituent like Corlista Hardman. She is an outstanding citizen whose contributions to the teaching profession are matched by few. She is an ideal role model who has and will continue to stress the importance of education to the young people of our Nation.

COMMEMOTRATE OCTOBER ESCROW MONTH AT VENTURA COUNTY ESCROW ASSOCIATION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. LAGOMARSINO. Mr. Speaker, I rise to recognize October 1992 as "escrow month" at Ventura County Escrow Association, and its parent organization, California Escrow Association.

The Ventura County Escrow Association serves the public in what is often the single largest cash expenditure an individual undertakes, that of a home or business. In serving the public this way, the Escrow Association has helped many Californians achieve the American dream of home ownership.

The Escrow Association is dedicated to improving service by providing and encouraging continual education for members of the association, and following legislation and legal cases that relate to property transfers.

Escrow month will honor the achievements of the Escrow Association, while highlighting their efforts toward excellence. During the October escrow month, the California Escrow Association will hold its 37th annual education conference.

I proudly commend the association's stated goal of community awareness and their outstanding contributions to the people of Ventura County and California. I extend my best wishes for a successful escrow month, and for success in the future.

TRIBUTE TO MILLICENT FENWICK

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. HOYER. Mr. Speaker, I take this opportunity to express my sorrow at the passing of a former colleague and a remarkable woman, Millicent Fenwick, who passed away yesterday at her home in New Jersey at the age of 82. Mrs. Fenwick, who served for four terms in the House between 1975 and 1983, was a distinguished Member of the body—colorful, independent, outspoken and, above all, principled. It was her commitment to principles, especially her passionate devotion to human rights, that led Mrs. Fenwick to introduce the resolution that created the Helsinki Commission, on which I now have the privilege to serve as chairman. Mrs. Fenwick had said that one of her greatest achievements of her congressional career was the formation of the Helsinki Commission, and, indeed, the Commission was sometimes referred to as Millicent Fenwick's "child."

During her tenure as a member of the Commission that she was instrumental in creating, Mrs. Fenwick was a tireless and effective proponent of human rights not only in the Soviet Union and Eastern Europe, but all over the world. She was especially vigilant in defending individual cases of political prisoners.

Today, Mr. Speaker, I came across a statement by Mrs. Fenwick, dated December 15, 1977, following her return from the first post-Helsinki review meeting in Belgrade. In the statement, she recounts her experiences at that meeting, including her meeting with the Soviet delegation on individual human rights cases. Throughout the statement, as throughout her life, her concern for her fellow human being was palpable. It was important for her to raise these individual cases—to ensure, at the very least, that these political prisoners, or individuals denied the right to emigrate to join their families, were not forgotten. In the statement, she asks: "When it's all said and done, one wonders—as the American public must wonder—what does it accomplish? What comes of these meetings where there is so much shadowboxing, so many clinches? The answer is, I believe, that it is worthwhile. The Eastern nations see how their actions are judged by the world outside. Each time, as at Helsinki, the sights are set a little higher. It is like a slowly rising tide, imperceptible day by day, but rising all the same."

Mr. Speaker, how true these words ring. Over the years persistent and consistent pressure on governments refusing to abide by their Helsinki pledges was instrumental in bringing about the immense tide of change that we have seen over the course of the last few years. Unfortunately, however, this work is not done. The rapid collapse of the ruthless one-party states have spawned new problems, namely ethnic strife, as the horrors in Bosnia-Herzegovina remind us daily. And, as it was incumbent on us then, so it is now, to keep trying to stubbornly keep up the pressure on countries that do not comply with international commitments, on countries that flagrantly violate the norms of civilized behavior.

It seems to me, Mr. Speaker, that we can best honor the legacy of Millicent Fenwick by setting our sights a little higher, by keeping up the pressure and never forgetting that when governments violate international human rights standards it is not only the individual that suffers but humanity itself and, hence, all of us. We owe Millicent Fenwick our deepest thanks for her tireless efforts to drive this point home, which the Helsinki Commission, Millicent Fenwick's "child", will continue to do as well.

THE 10TH ANNIVERSARY OF THE R.A.I.N. BOSTON ROAD SENIOR CENTER

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. MANTON. Mr. Speaker, I rise today to recognize the 10th anniversary of the R.A.I.N. Boston Road Senior Center. This year the R.A.I.N. Senior Center celebrates its 10 years of commitment and dedication to the New York senior community.

Mr. Speaker, the Boston Road Senior Center is an outstanding facility that provides important services for seniors. The center serves 3,000 nutritious lunches on site, and delivers 2,500 meals to homebound seniors in the community. They have increased services to provide weekend meals and meal service on religious holidays.

Mr. Speaker, transportation is provided by the center so that seniors can participate in recreational, social, and educational programs at the facility. In addition to the meal services provided members can also receive assistance in acquiring social services, such as housing. The center provides seniors with many social activities which gives the members a chance to explore their talents and interests.

Mr. Speaker, I express my strong support for the funding of the R.A.I.N. Boston Senior Center granted by the New York City Department for the Aging and the New York City Housing Authority. The center plays an invaluable role in improving the quality of life for all seniors in New York. Their commitment and dedication to the community is second to none.

CONGRESSIONAL SALUTE TO THE PATERSON ALUMNI ASSOCIATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. ROE. Mr. Speaker, on Sunday, October 18, residents of my congressional district and the State of New Jersey, as well as former residents of Paterson, NJ who now live throughout this country, will join together at the sixth annual reunion of the Paterson Alumni Association to recognize its contribution to the city of Paterson, to meet old and new friends, and to join in the year-long celebration of Paterson's 200th anniversary.

Mr. Speaker, I know that you and our colleagues will want to join with me in extending our warmest greetings and felicitations to Henry Taub, chairman, and Sheldon Ezor, president of the Paterson Alumni Association, and to their colleagues who contribute their time and resources to the good works of this organization, as they come together to celebrate the sixth anniversary of their association and Paterson's 200th birthday.

Mr. Speaker, it must be known that Paterson is a remarkable city with a very rich history. Founded in 1792 by Alexander Hamilton as the country's first industrial city, Paterson has provided opportunities for a continuous stream of immigrants from all over the world. Just as Dutch, Italians, Poles, Irish, English, Jews, and other Europeans came at the turn of the century, now Peruvians, Colombians, African-Americans, Puerto Ricans, Costa Ricans, Arabs, and a diversity of ethnic groups call Paterson their home.

Using the power of its Great Falls, Paterson industrialists produced nails, paper, machinery, textiles, locomotives, the famous Colt revolver, and the first submarine. The name "The Silk City" was acquired as a result of Paterson's preeminence as the Nation's silk center. Today the city is experiencing the largest surge of new commercial and residential growth in the past 20 years.

Paterson takes great pride in its multiethnic heritage, and points proudly to the stream of hundreds of Patersonians who have brought honor to the city through their achievements in science, industry, academia, sports, politics, and the visual and performing arts. Tourists now come to Paterson to visit the museum, the Lambert Castle, beautiful houses of worship, stately homes, and the many ethnic shops and restaurants.

Mr. Speaker, I want to point out that the foundation which is honoring the city of Paterson's 200th anniversary, along with its own sixth anniversary, is a unique organization in the United States. It was founded by a group of childhood friends, the children of immigrants, who shared the feeling that they wanted to give something back to this historic city which had contributed so much to their own development and success. Supported by hundreds of other Paterson alumni and residents who share in their appreciation of the city, the Paterson Alumni Association, during its 6 year life, has awarded 96 grants totaling $362,412 to 45 Paterson community organizations for effective, meaning programs involving education, services to youth, and housing programs which seek to improve the quality of life in this city.

Mr. Speaker, it is a privilege and an honor to seek this national recognition for the work of the Paterson Alumni Association and for the 200th anniversary of the Nation's first industrial city, Paterson, NJ. I ask my colleagues here in the Congress to join with me in expressing our most sincere appreciation and respect.

THANKS SECRETARY CARD

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. McCOLLUM . Mr. Speaker, while my district in central Florida was not hit by the devastation of Hurricane Andrew like South Florida was, the people of my district have family and friends in south Florida who were affected.

Mere pictures on a television screen cannot begin to tell the story of a community ripped apart by this terrible disaster. Even days after the hurricane hit, people were unable to contact relatives and friends. The stories slowly began to appear on television about the devastation which only caused more concern for those loved ones caught in the area of destruction.

Those first few days were anxious ones, indeed. For those of us who know the work of Andy Card, we were encouraged when the President named him as head of the Presidential task force charged with coordinating the relief effort. As Secretary of Transportation, Andy Card is a member of the President's Cabinet and a trusted and close adviser to the President. We are fortunate to have his leadership here in Florida as we rebuild the homes and lives of the people caught in the wake of the worst natural disaster in the history of the United States.

The commitment from the Federal Government, from State and local government and from people all over the Nation has been heartwarming. The devastation in south Florida is truly a national loss and I appreciate the help we in south Florida have received from all over this Nation.

F-15 SALE TO SAUDI ARABIA DEPLORED

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. LEVINE of California. Mr. Speaker, yesterday six of my colleagues and I introduced a resolution of disapproval of the President's proposal to sell 72 F-15's to Saudi Arabia.

I am deeply disappointed by the President's action. The planes he proposes to sell to the Saudis are the most sophisticated ever exported by the United States. Their sale will almost certainly set off a new round in the Middle East arms race.

Indeed, according to the New York Times, the United States and Israel are already talking about an arms package to offset the F-15's. Israel clearly will require an offset package to ensure that it retains a qualitative edge in the region. Thus the arms race is perpetuated.

I had hoped that the President had learned from his disastrous experience with Iraq that the path to peace in the region lies through a commitment to arms control, not unrestrained arms sales. Lasting peace in the Middle East will come through negotiation, not through arms sales.

That is certainly the lesson the President indicated that he had learned when he pledged to halt the flow of arms to the region following the war. Then-Secretary of State James Baker even told Congress that:

> The time has come to try to change the destructive pattern of military competition and proliferation * * * and to reduce the arms flow into an area that is already overmilitarized.

However, since the Gulf War alone, we have sold more than $16 billion worth of weapons to the nations of the Middle East.

The President has chosen to subordinate our national security interests to his own political interests. In doing so, not only does he make the Middle East a more dangerous and volatile place, but he also forfeits any moral leadership the United States might be able to exert on other arms suppliers to halt their sales of weapons to the region.

How can we possibly go to Britain, France, Russia, or China and pressure them to halt their arms sales if we are not willing to do so ourselves?

Proponents of the sale will argue that this sale does not upset the balance of power in the region or heighten the danger of war. Taken in isolation they may be correct. The problem, however, is that none of these sales are occurring in a vacuum.

They are, instead, part of a headlong rush by the nations of the region to buy and deploy newer, more sophisticated, and more deadly weapons systems. Viewed as a whole this postwar arms race undoubtedly increases the danger of war and the prospect that the next Middle East conflict will be more deadly and catastrophic than the last.

This is not an easy sale for me to oppose. Thousands of my constituents have lost their jobs as the aerospace industry has following the end of the cold war. Approval of the sale could save 1,000 jobs in my State.

However, yet another arms race in the Middle East is too high a price to pay to save these jobs. As devastating as their loss will be to my State, the costs of another possible war will be even higher and more devastating. As much as I would like to help these aerospace workers and their families, I cannot, in good conscience support this sale.

There are other, less dangerous ways to deal with their plight. The most effective would be for the Bush administration to get serious about our economy and pursue policies to create jobs in our country, not just preside over their elimination.

Finally, this sale comes at a very dangerous time for peace negotiations in the region. Every indication is that some real progress has been made. This sale will do nothing to move the process along, and, could, in conjunction with other arms sales set back the peace process. The Middle East is a powder keg waiting to explode. We should not be providing the fuse to facilitate the explosion.

I urge my colleagues to join with me in support of our resolution of disapproval and send a message to President Bush that the time has come for the United States to lead an international campaign to cut off the flow of arms to the Middle East. That is a legacy we can be proud to leave to our children.

DOROTHY R. BAKER, PRESIDENT AND CEO, MIAMI-DADE CHAMBER OF COMMERCE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize Dorothy R. Baker, the president of the Miami-Dade Chamber of Commerce and the next recipient of the 1992 Minority Enterprise Development Week Award from the U.S. Department of Commerce.

This award will be presented to Ms. Baker at the Minority Enterprise Development Week celebration which is being cosponsored by the U.S. Department of Commerce's Minority Business Development Agency and the U.S. Small Business Administration. The event will be held at the Sheraton Washington Hotel from September 27 till the 30th.

Ms. Baker received this honor, in part, for her work as president of the Miami-Dade Chamber of Commerce. Her first mission as president was to help the south Florida black business community recover from losses sustained during the riots. She is well known for her work in improving the chamber's credibility as well as balancing membership along racial and economic lines.

Among her achievements were the establishment of foreign trade missions, tourism committees, international trade and procurement, outreach to the Caribbean business community, workshops to help black entrepreneurs, a minority franchise technical assistance center, television and radio shows focused on black entrepreneurs, and improved relationships with other minority chambers of commerce.

Ms. Baker has also been honored by organizations such as the YMCA, United Way, Florida Memorial College, the NAACP, and the city of Miami for her dedication to civic and community activities.

I am pleased to take this opportunity to thank Ms. Dorothy Baker for her invaluable efforts toward the betterment of south Florida and to illustrate her achievements as an example for all Americans to follow.

TRIBUTE TO DOROTHY MAY

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mrs. KENNELLY. Mr. Speaker, I rise today to honor Dorothy May of Windsor CT, an outstanding and generous citizen who donated a $2,600 medical device to alleviate the suffering of a young boy with a life-threatening form of cerebral palsy. Ms. May learned of the desperate need for donations last year when she saw a television program which featured a story on the HED Foundation, a charitable organization that assists people born with disorders that affect their body temperature. Ms. May's donation covered the entire cost of a cooling suit that regulates the body's temperature and prevents it from reaching dangerous levels.

The HED Foundation was founded in 1988 and is both named for and dedicated to helping people who suffer from hypohidrotic ectodermal dysplasia, a disease that affects the body's ability to cool itself. The organization raises money so that people can afford to get the suits that are essential to their survival. The suits are based on technology developed by NASA for astronauts. A minipump circulates a cooling solution through tubes in the suit and prevents the body temperature from reaching dangerously high levels.

Ms. May, who is retired, saved the money from her social security checks. After saving money for a year, she contacted the HED Foundation to donate the suit to a child on their extensive waiting list. This selfless act, her generosity and love for others should serve as an inspiration to all of us. She is only the second person in the history of the HED Foundation to donate enough money to purchase an entire suit. She has subsequently surprised everyone by donating another suit to the foundation.

Because of Dorothy May's altruism, the quality of life and the chances for survival will improve for two individuals. When she heard about the need for help, she acted and made a substantial difference in the lives of people she had never met. Mr. Speaker, I ask my colleagues to join me in saluting Dorothy May and the work of the HED Foundation.

POLL SHOWS SUPPORT FOR EDUCATIONAL VOUCHER SYSTEM

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. WEBER. Mr. Speaker, a poll released today by the National Catholic Educational Association shows strong and growing support for an idea whose time has come: Empowering parents to choose the best school for their children.

A nationwide Gallup survey of 1,239 adults showed that a clear majority—70 percent—support a government-funded voucher system to help parents send their children to the public, private, or parochial school of their choice. Among parents with children in school, 90 percent support such a voucher system.

The most ardent opponents of school choice argue that letting parents choose the best schools would endanger the current public school system. This poll shows, however, that Americans are more concerned with promoting excellence in education than with protecting the status quo. When they were specifically asked if they would want to use money going to public schools to support choice in education, 61 percent said yes.

Americans are moving away from an attitude of funding only public schools. In increasing numbers, they want parents to be able to decide which school their children should attend, including private and parochial schools.

Adults in their principal child-rearing years and those earning under $20,000 per year support, choice in education—even at the expense of the current system—by wide margins, and support was exceptionally strong in the minority community; 76 percent of black adults and 67 percent of Hispanic adults favor support for choice in education. It is clear that the majority of all parents want to exercise a right the rich already enjoy: The chance to choose the best school for their children.

Parents also believe that they will be able to make an informed decision on which school to choose; 60 percent believe they already have sufficient information to choose the best school. Clearly, emerging educational choice opportunities would provide parents with even better information on outstanding schools.

Interestingly, the poll showed that most parents grade Catholic schools above their local public school. Americans graded Catholic schools in their community 10 percentage points higher than public schools, and the same graded Catholic schools nationwide almost 40 points higher than public schools.

Mr. Speaker, we have seen a dramatic change in public opinion on this issue; 15 years ago, a majority would not have supported choice in education. Today, a strong majority support that choice and want it extended to include public, private, and parochial schools.

Improving our educational system is one of the most critical challenges of this decade, and injecting choice and competition into education is one of the most basic changes we can make to foster educational excellence. I am greatly encouraged by the results of this poll and I look forward to the changes in public policy that this emerging public consensus foreshadows.

IN MEMORY OF PHIL YOSHITO MATSUMURA

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. MINETA. Mr. Speaker, on March 21, 1991, I joined with our colleague, DON EDWARDS, in a tribute to Phil Yoshito Matsumura, who was being honored in our hometown of San Jose, CA. Today, it is my sad duty to report that Phil passed away on August 22, 1992.

Phil devoted much of his life as chronicler of the Japanese-American community in the Santa Clara Valley, and he became a much respected and loved individual. Whenever anything of note occurred in the Japanese-American community, Phil made sure it was reported. Whatever it was, if there was something going on in San Jose's Japantown, Phil made certain that everyone knew about it: from the largest television and radio stations in San Jose, to local Japanese vernacular newspapers.

Phil was a Nisei, a second-generation American of Japanese ancestry. He was born in Gilroy, CA, and grew up in San Jose, where he attended San Jose High School and San Jose State University. At the outbreak of the Second World War, he, like 120,000 other Japanese-Americans, was forced into an internment camp; first, Santa Anita, and then Heart Mountain, WY. When he returned to San Jose after the war, Phil became the executive secretary of the Japanese-American Citizens League and gave his energies to fellow former internees and assisted in their resettlement back into the Santa Clara Valley.

During the next 40 years, Phil married his wife, Sue, raised 3 children, Gary, Shirley, and Phil, Jr., and was an active and beloved member of his community. Phil was a founding member of the Japanese-American Community Youth Service, and an adviser to the Young Japanese Adults and the Fuji Towers Retirement Community—working tirelessly to support these and many other organizations.

Phil was an outstanding citizen, and a treasured member of the San Jose Buddhist Church Betsuin. This is what many in our community remember most about Phil. His selfless dedication to his church and community was noted by Rinban Sensho Inouye, who said, "Unsparingly, he gave of his time and efforts to all worthy projects that would benefit the members of his community. He expected no rewards, no gratuity, no returns, other than the happiness of his fellow beings. In the Buddha Dharma, such a person is called a Bodhisattva, a being who never takes but gives generously of his energies for the good of the world."

Mr. Speaker, Phil Yoshito Matsumura will be missed by all who knew him. We are saddened and diminished by his passing. But he has left us with wonderful memories of a remarkable man. I know that we will continue to reap the intrinsic rewards of his work and many good deeds on behalf of our community for years to come. I am honored to have known him.

IN HONOR OF MIGUEL CHAVOYA

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. STARK. Mr. Speaker, today I would like to take a few minutes to recognize Miguel Chavoya's distinguished career of service to the United States—especially to the people and children of Alameda County and the bay area.

Mr. Chavoya's accomplished much over his 40-year career. Most recently, he worked for the Alameda County Office of Education establishing and operating a very successful job training and dropout prevention program. He initiated the county's homeless education program, managed an innovative alcohol prevention program, developed antigang workshops in county schools, and developed a minority youth leadership program with the California State University at Hayward.

Prior to serving Alameda students, Mr. Chavoya developed counselor-training programs on substance abuse for vocational rehabilitation, probation, and welfare staff throughout the western United states.

He served as the deputy director of project intercept, a bay area court diversion program, and as lead trainer for programs sponsored by the Department of Education and the National Institute for Mental Health.

During the 1960's, Mr. Chavoya worked for the California Department of Human Resources Development creating job opportunities for ex-felons. He also assisted the development of the National Welfare Rights Organization and worked on civil rights issues with the Farm Workers Union.

He also served 8 years in the Army and was decorated for service during the Korean conflict.

The people of Alameda will sorely miss this dedicated man who spent his life fighting to help the disadvantaged and to rid our society of substance abuse, racism, and poverty.

A TRIBUTE TO ROLLAND C. STARN

HON. GARY A. CONDIT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. CONDIT. Mr. Speaker, I rise today to honor a distinguished public servant in Stanislaus County, CA, County Supervisor Rolland C. Starn, who will be retiring after 12 years of service.

Rolland Starn was born on April 22, 1917, in Wasco, OR. He has lived in Hughson, CA, since 1920 where he and his sons have owned and operated a family farm since 1946. Mr. Starn earned an associate of arts degree in aeronautics from Sacramento Junior College and successfully completed the Air Force Command and Staff School at Maxfield, Air Force Base in Alabama. A retired U.S. Air Force lieutenant colonel, he served as a pilot in World War II and the Korean conflict. He currently possesses a commercial pilot's license.

In 1981, Rolland ran for a seat on the Stanislaus County Board of Supervisors and won his election. He has served as the chair of that body in 1984 and 1989. He has also chaired the local agency formation commission and the Stanislaus Area Association of Governments.

His strong commitment to effective county governance led him to take an active role in the California State Association of Counties [CSAC] and National Association of Counties [NACO]. He is immediate past president of CSAC and has served on the board of directors of NACO and co-vice chair of NACO's Agriculture and Rural Affairs Steering Committee.

Mr. Starn has also served in numerous agriculture and community organizations. For example, he is a past chair of the Cling Peach Producers' Advisory Board; past president of the Stanislaus County Farm Bureau; past vice president of the California Canning Peach Association; past president of the California Freestone Peach Association; past president of the Modesto Fruit Exchange; and founding director and past president of the Norman W. Ross Horticultural Foundation. In addition, he has been active in the Hughson Youth Center; the Hughson United Methodist Church; the Commonwealth Club of California; the Hughson and Turlock Chambers of Commerce; the Flying Farmers of California; and the Hughson Rotary Club.

Rolland's presence will be missed on the Stanislaus County Board of Supervisors, but his contributions to the county will be lasting. I urge my fellow colleagues in the House of Representatives to join me in saluting this distinguished citizen-legislator for a job welldone and wishing him and his wife, Pat, our best wishes in their future endeavors.

TRIBUTE TO DAVID RICHARDSON

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. HOCHBRUECKNER. Mr. Speaker, I rise today to pay tribute to an outstanding citizen who is retiring after more than 20 years of distinguished service for the Building and Construction Trades Council of Nassau and Suffolk Counties, NY. Mr. David Richardson has served as the council's business manager and secretary-treasurer since 1971. Previous to this work, Mr. Richardson was a business representative of Lathers Local 46 from 1958 to 1971 and president of the New York State Council of Lathers from 1964 to 1971.

Mr. Richardson has dedicated his life's work to promoting the interests of Long Island's labor work force. He has served as vice president of the Long Island Federation of Labor and the Union Label and Service Trades, and cochairman of Jobs for Energy of Long Island. Mr. Richardson has been an active member of numerous labor and development committees, including the Babylon and Islip Labor Advisory Committees. He has also been a labor advisory to Nassau County Executive Thomas Gulotta.

Mr. Speaker, it is my personal privilege to recognize David Richardson for his many years of service to Long Island's labor force. I wish he and his wife a very happy retirement.

LOWER TAX RATES RAISE HIGHER REVENUES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. CRANE. Mr. Speaker, Democratic Presidential nominee Bill Clinton has attempted to win votes by alleging that rich Americans do not pay their fair share of taxes. To this end, he has promised to raise taxes on people earning over $200,000 per year if elected. A recent article by Richard B. McKenzie, "Just Who Are the Soakable 'Rich'?," in the September 4, 1992, edition of the Chicago Tribune examines tax revenues over the past decade and shows that more revenue is collected from wealthy Americans when they are encouraged to report higher taxable income through lower tax rates. I submit Mr. McKenzie's article to my colleagues and urge them to read and consider its conclusions.

[From the Chicago Tribune, Sept. 4, 1992]

JUST WHO ARE THE SOAKABLE RICH?

(By Richard B. McKenzie)

Presidential contender Bill Clinton has returned to a favored American political pastime: bashing the "rich." He and other bash-the-rich politicians have worked hard to make the electorate believe that the rich are all as decadent as Donald Trump and as shifty as Ivan Boesky.

A few facts will go a long way toward putting the "soak-the-rich" tax debate in perspective.

First and foremost, very few rich people come close to the incomes of Trump and Boesky. In 1990, an income of $96,000 qualified for the top 5 percent of households. An income of $56,000 enabled households to be part of the so-called "fortunate fifth," the 20 percent of households with the highest incomes. A lot of people (especially two-income families) currently parroting the "soak-the-rich" theme probably don't realize that they are talking about themselves.

Granted, the people who made the Forbes list of 400 richest Americans are very wealthy by any standard. But even most of these Americans achieved their riches in the old-fashioned way followed by Bill Gates of Microsoft and Fred Smith of Federal Express: They earned them. In the process, they increased the income and purchasing power of their fellow countrymen by offering better products and services at lower prices.

Contrary to popular impression, most people in the top income group don't sit around all day clipping coupons from bonds. There are three times as many total workers and seven times as many full-time workers in the top fifth than in the bottom fifth. How many people become rich is no mystery. One of the easiest ways a person in the middle class can become rich is to study and work hard and to marry (and stay married to) someone else who does the same.

The rich-bashers have spread the myth that the vast majority of high-income earners got their incomes by exploiting the "poor" and "middle classes" and that high-income earners aren't carrying as heavy a tax burden as the middle class—or, at least, not shouldering their fair share of total taxes. Now, Clinton proposes that anyone making more than $200,000—or more than he will make if he is elected president—should face significantly higher marginal tax rates. Regrettably, he has succumbed to his own campaign rhetoric that having the federal government "soak the rich" is a viable strategy for helping the poor.

Clinton and many others don't realize that, according to the House Democrats, the rich already pay a significantly higher percentage of their income in federal taxes than do the middle class and poor. In 1992, the households in the top fifth can expect to pay out 27 percent of their incomes in federal taxes and the households in the middle fifth can expect to pay 20 percent of their income in federal taxes. The lowest fifth will pay only 9 percent of their income in federal taxes—one-third the share of the top fifth.

Granted, the top fifth's taxes as a percentage of its income have fallen in the past 12 years, from 28 percent in 1980 to 27 percent in 1992. However, the total taxes collected from the top income group rose from 56 percent of all federal tax payments in 1980 to a projected 61 percent in 1992.

Moreover, a full third of all federal tax payments in 1992 were collected from the top 5 percent of households, up from 27 percent in 1980. The share of federal taxes covered by the top 5 percent went from 17 times the share of the lowest fifth in 1980 to 26 times the lowest fifth in 1992. The increase occurred partly because the real incomes of the top group grew faster than the real incomes of the bottom group, but also because the real federal income and payroll tax burden of families living at the poverty income threshold fell by as much as 75 percent from 1982 to 1990.

The moral of the tax data is obvious: When the rich are given greater incentive through lower tax rates to earn and report more income, they do just that, and they take on a greater share of the federal tax burden in the process. When they are punished for their successes with higher tax rates, they find ingenious ways of avoiding taxes and reduce their share of the tax burden, thus, paradoxically, shifting the burden to less fortunate Americans. Rich people are typically far smarter than the politicians who seek to soak them.

If successful, current political drives to "soak the rich" could partially reverse the economic gains of the 1980s, suppressing people's incentives to work, to save and invest. Given the globalization of markets, a soak-the-rich tax strategy could induce the affected capitalists to reinvest their capital in other nations with a more hospitable policy climate. When will politicians realize that we need to praise very successful people, not penalize them?

TRIBUTE TO THE BOROUGH OF GLENDON, PA ON ITS 125TH ANNIVERSARY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. RITTER. Mr. Speaker, I rise today to pay tribute to the people of Glendon, PA, as they celebrate the 125th anniversary of the town's Incorporation as the Borough of Glendon.

The Borough of Glendon, which is located on the eastern end of my district and a few miles south of the city of Easton, is a diverse community exploding with history, culture, and industry. Glendon started out as a coal and industrial town whose chief industrial center was the old Glendon Iron Works. The Glendon Iron Works shipped stone, iron, and ore on the Lehigh Valley Railroad, the Central Railroad, and the Lehigh and Morris canals to be used to build roads, bridges, and buildings all across the American landscape.

The community of Glendon consisted of a distinct blend of skills and talents. There were farmers, merchants, and blacksmiths. Such notables who first settled in the town of Glendon were Joseph Morrison, the first chief burgess who settled in Glendon in 1840, William Firmstone who first came to Glendon in 1842, Frank Hughes who built the first house in 1838 on the Green, by reason of being employed by the Lehigh Coal and Navigation Co, and George Maddock and Don Hughes who occupied the first company house. The people of Glendon tolled long and hard during the days when iron was king and wages were small. It was their driving spirit and stamina that became the key elements behind the guiding force of America's evolution as a world leader in industry.

As the population grew it was decided by Joseph Morrison that the town should be officially incorporated as a borough. So on December 18, 1867, on motion of Messrs. Fox and Schuyler, it was officially decreed that the town of Glendon be incorporated into a borough by the name and style of the Borough of Glendon.

It was not until November, 1965 that Glendon elected its first mayor, Robert Washburn. Robert was born and raised in South Easton where, as a young boy, he worked in his father's grocery store. He later graduated from Easton High School and the Penn State Technical Institute and served 4 years in the U.S. Navy during the Korean conflict as a training devices technician. Afterwards, Robert decided to become a public servant in the Borough of Glendon, whereupon, the Borough Council appointed him as the chief burgress in February, 1964. Soon afterward, was elected mayor of Glendon in 1965.

Main Street has changed throughout the years, but the work ethic has not. The people of today share a common goal with those before them. They have worked resiliently in a united effort to foster growth and prosperity in the Borough of Glendon.

This celebration would not be possible without the cooperation and involvement of the entire community. The Glendon 125th anniversary committee, which consists of such notables as mayor Theresa Morrison, Carol McAllister, Lana Farmer, and Joyce Moore, has spent countless hours planning and preparing the anniversary celebration. The schedule of events will not only be a joyous uniting of friends and friends and family, but a time for the citizens of today to appreciate the heritage of Glendon and those before them who worked hard to make it the symbol of American pride that it is today.

Mr. Speaker, I am honored to represent the people of the Borough of Glendon. They are a shining example of a small, hard working, industrial community. I ask my colleagues to join with us in celebrating 125 years of history and to congratulate mayor Theresa Morrison, the Borough Council and people of Glendon on their town's anniversary, and wish them many more years of happiness and prosperity.

GOVERNMENT LOSSES FROM INSOLVENT SBIC'S

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. LAFALCE. Mr. Speaker, with great fanfare, earlier this month the President signed H.R. 4111, the Small Business Credit and Business Opportunity Enhancement Act of 1992. Title IV of this bill includes major reform provisions to the Small Business Investment Act of 1958 under which the Small Business Administration licenses private companies to provide venture or equity-type capital to small businesses.

These private companies are designated as small business investment companies [SBIC's] or, if they restrict their activities to funding socially or economically disadvantaged small firms, as specialized small business investment companies [SSBIC's].

These companies have private capital invested in them, and based on the amount of this private money, augment the amount available for investment in small firms by obtaining Government guarantees of debentures or long-term notes which they sell to private investors.

Due to the economy and other causes, recently the program has seen an increase in losses on the Government guarantees. The new law addresses this problem by restructuring the program to provide a new type of financing and also by requiring more private money to be invested and serve as a buffer before any Government money is lost.

We believe that the new system will be a vast improvement; however, it is inevitable that some SBIC's will not succeed. Historically, when that has occurred, the SBA liquidates or winds up the affairs of a failed or failing company by seeking a receivership under the auspices of the Federal courts. Several years ago SBIC's discovered that they could thwart this process by seeking the protection of the Bankruptcy Act.

By filing under Chapter 11 as a debtor in possession, an SBIC can frustrate SBA's efforts to liquidate the company through a receivership. Instead, the bankruptcy court generally will permit the owner-operator to continue to run the company and receive a salary well in excess of the amount SBA would have approved and to pay significant amounts for attorneys, accountants and other professional personnel.

Most importantly, the bankruptcy proceeding allows that SBIC to speculate with Government money. If the SBIC's investments were promptly liquidated, the Government might receive most or at least some of its money back, but unless it receives full payment, the owner of the company would walk away empty-handed.

On the other hand, if the company can draw out the proceedings for 4 or 5 years, the SBIC's investments may appreciate in value and provide the owner with amounts remaining after the company's creditors are paid.

Thus bankruptcy is a win-win situation for the owners of the SBIC—they can continue to draw a fat salary while they wait to see if better times are ahead; if not, only the Government loses.

This type of situation exists in other industries in which participants are licensed by or are substantially regulated by the Government. But with a major difference—the Bankruptcy Code does not permit such participants to hide behind it. Section 109 of title XI of the United States Code specifically prohibits the filing of bankruptcy by institutions such as: insurance companies, banks, savings and loans, and credit unions.

I believe that a similar prohibition should be applied to small business investment companies.

In the past 5 years, a dozen SBIC's with Government indebtedness of $120 million have abused the process and have filed bankruptcy. We do not know how much of this amount will actually be lost to the Government, nor will we ever know for sure how less our losses would be if the companies had been liquidated under SBA auspices through a receivership. But clearly our losses would have been less as the SBA could have controlled the company's expenses and timing on disposition of assets.

Mr. Speaker, the SBIC Program is worthwhile. It provides equity-type capital to small businesses which cannot obtain it elsewhere. However, participation in the program is a privilege and those who elect to do so should be precluded from seeking the protection of the bankruptcy courts.

I urge the Judiciary Committee to promptly consider this measure.

The text of the bill follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 109(b)(2) of title 11, United States Code, is amended by inserting after "homestead association" the following: "small business investment company licensed by the Small Business Administration under subsection (c) or (d) of section 681 of the Small Business Investment Act of 1958 (15 U.S.C. 681),".

UAW CALCULATED WRONG ON STRIKE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. MICHEL. Mr. Speaker, at this point I wish to enter into the RECORD the third in a series of articles published in the Chicago Tribune earlier this month. This article offers insight into the bargaining process that unions, employers, and employees go through as times change, using Caterpillar, Inc., in Peoria as an example.

[From the Chicago Tribune, Sept. 8, 1992]

UAW CALCULATED WRONG ON STRIKE—BOTH COMPANY, PUBLIC SURPRISED IT

(The UAW helped create America's blue-collar middle class. But this year in Peoria the union fights for survival. Third in a series on the forces that put U.S. employers, unions and workers in bitter conflict. Reported and written by Stephen Franklin, Peter Kendall and Colin McMahon.)

Standing in the frigid midnight air outside Caterpillar's showcase assembly plant, Jimmie Toothman was more surprised than defiant.

Only a day before, Toothman had been certain there would be no strike by his United Auto Workers. There was too much at stake for the company and for the union.

Yet there Toothman was, rubbing his hands together to keep warm, drinking coffee supplied by a local radio station, chatting with the 30 or so union brothers and sisters who, like him, had hustled to the gate in East Peoria that night.

At 12:01 a.m. on Nov. 4, 1991, a handful of UAW members working the third shift in Caterpillar's Building SS walked out to join Toothman on the picket line. The strike had officially begun.

Toothman saw nothing remarkable about the moment.

There was little tension, no violence.

There was nothing to indicate that this strike would be different from the three others he had been through, or the nine strikes the UAW had waged against Caterpillar since 1948.

It didn't take long for the union strike crews to cart the 55-gallon metal drums to the picket lines, or to get the fires roaring orange and hot inside.

Toothman and his fellow union members knew the game. They were used to toting the strike signs, stoking the fires, taking on Big Yellow.

But they had no idea that the picket line fires would burn almost nonstop from that frigid November night until a balmy day in April, when they were stoked not for warmth, but out of habit.

Those who had thought they knew the game back in November didn't realize that the rules were about to change.

The nature of work itself had been changing all over the world—a world in which products like bulldozers were being made and sold on the basis of cost-efficiency, not nationality.

Suddenly the Jimmie Toothmans of America, men and women with good manufacturing jobs at good pay, were at risk. There were no more guarantees—of a union contract, of a union-scale job, of a secure place in the middle class.

Against Caterpillar, the UAW miscalculated. It thought its long-trusted weapon, a strike, would pressure the company into signing a contract the union liked. But it failed to anticipate the lengths to which the company would go.

Worse yet, if failed to realize how public sympathy had deserted organized labor by the autumn of 1991. Many in Peoria, and across America, were struggling to get by, working long, hard days for half the $17 an hour UAW members were earning. The idea of hiring "scabs," or replacement workers, was no longer roundly condemned.

When they stepped into the frosty air that November night, Toothman and his fellow workers planned on fighting for a better contract. They would wind up fighting for their jobs.

But who could have blamed them for being confident?

They belonged to the United Auto Workers. This was the union that once brought General Motors to its knees by perfecting the sitdown strike and went on to beat Henry Ford's strikebreakers at their own bloody game.

This was the union that, under Walter Reuther's leadership in the late 1940s and '50s, pioneered concepts like cost-of-living increases, early retirement packages, health benefits, annual pay increases and raises based on productivity.

It was a union that lifted the standard of living for entire communities in which its members lived. UAW-scale paychecks rippled across Main Street America, watering appliance stores and doctor's offices, movie theaters and parish fundraisers.

But lately, it was also a union that had been battered by the upheaval taking place in American manufacturing. And now, on this November night, it was galloping toward a challenge not from the powerhouses in Detroit, but from a Peoria company that employed less than 2 percent of its membership.

Caterpillar Inc.'s challenge to the UAW could not have come at a worse time for the once-proud and innovative union, or for the troubled U.S. labor movement. For more than a decade the union had suffered steep membership losses, and the attrition had drained its energies and narrowed its vision.

"It is very hard for them to figure out what works and what is the right strategy," and Harry Katz, a Cornell University labor professor and an expert on the UAW. "It is much harder for them than it was in the 1940s."

Actually, it wasn't so easy back then, either.

UAW organizers weren't welcomed when they showed up in Peoria in 1945. Caterpillar didn't want them around, and neither did the FE—the Farm Equipment workers union, already established in the company's plants.

Pat Greathouse got his welcome while handing out UAW leaflets by Catepillar's red brick headquarters, which sat modestly amid the factories in East Peoria.

"Hey, can I have one of those?" someone shouted, and as Greathouse leaned forward, pamphlet in hand, an FE man hit him square on. He lost two front teeth.

A patient man with a down-home manner, Greathouse led the UAW's charge in Peoria. He knew first-hand the hard work and brutal factory conditions that gave rise to unions in America.

In 1935, at age 19, Greathouse was hired to build rear axles on the chassis line at Henry Ford's Torrence Avenue plant in Chicago. He worked 8 hours a day, 6 days a week, and got paid $30.

Greathouse had thought little about unions or politics before, but like many workers in the mid-1930s, his job and the Depression taught him a brand of progressivism.

Seven months after Greathouse started in Chicago, about 200 workers gathered in the Ft. Shelby Hotel in downtown Detroit for the founding convention of the United Automobile Workers of America.

It was in the middle of a tough year for unions—500 locals collapsed in 1935 alone—but the UAW had grit. In its first year the union had 35,000 members. Two years later it had 10 times more.

One by one, the UAW brought nearly all of the automakers and major parts suppliers under its wings. Six years later, when Ford Motor Co. signed a contract, Greathouse became a member of the UAW committee at local 551.

Greathouse joined the UAW staff in Chicago in 1943 and became regional director in 1947. He spearheaded the union's efforts to organize large Midwest farm machine and construction equipment firms like International Harvester, John Deere and Caterpillar.

The UAW caught its break at Caterpillar in 1948 when the Farm Equipment workers union refused to sign the anti-communist loyalty pledge required by the Taft-Hartley Act, the landmark labor law that regulated the rising power of unions by imposing numerous restrictions. The company refused to bargain with the FE, and the union went on strike.

Within two months, Caterpillar recognized the UAW.

As the international UAW grew, so did its smaller wing of farm machinery workers, which became Greathouse's domain. In 1958, after the union had lined up the major firms like Caterpillar and Deere and Harvester, it set out to make their contracts similar.

The UAW had developed this concept during bargaining with the auto industry. Whatever wages and benefits it won at one manufacturer, it sought from the next.

Companies eventually gave in to the practice, and some even quietly coordinated their bargaining. The contracts varied slightly, but the bread-and-butter issues—wages and benefits—were never far apart.

The practice became known as pattern bargaining. At its heart, it was intended to prevent competing companies from cutting workers' wages to gain an edge in costs.

The UAW's early success at Caterpillar was stunning, but so had been its initial triumphs in Detroit.

It had begun in the 1930s with sitdown strikes in Flint, Toledo, South Bend, Cleveland and Detroit, strikes spurred when company officials refused to deal with unions.

Then in 1937 the union called its famous 44-day Flint-GM sitdown strike, demanding an end to production line speedups, to overtime work without extra pay, and to layoffs without notice. The Flint strike led to the UAW's first contract with GM, and that accord led to agreements with the rest of the auto industry.

The union would go on to pioneer cost-of-living allowances at General Motors in 1948. The same year it worked out the first formula for annual, across-the-board raises. Next came the first pension plan, with Ford in 1949. Over time the UAW won health insurance for most of its major contracts.

By 1955 it had worked out a solution at Ford for helping workers during the industry's downswings. The Supplemental Unemployment Benefits plan would protect workers during cyclical layoffs by guaranteeing almost all their wages through a combination of unemployment benefits and company payments.

Under the tough-minded Reuther, who, like Greathouse, was once beaten while leafleting outside a factory gate, the UAW earned a reputation as a progressive union. It didn't reward its leaders with hefty salaries. It wasn't tainted by corruption. And it championed civil rights when other unions closed their eyes.

Shortly before the 1970 plane crash that ended his 24-year reign over the UAW, Reuther would make the case for a 32-hour, 4-day workweek. He was convinced that automation was about to liberate American workers, freeing much of their time for cultural pursuits.

Events would prove Reuther right about the need for fewer manhours. What he didn't foresee was a future with drastically fewer union jobs.

Nor did Greathouse who retired from the UAW in 1980, expect that his union would one day find itself at war with Caterpillar. "I didn't see any changes," he said this year. "All the old people were there."

The Caterpillar officials who had welcomed him into their offices and had become his friends were still in charge. When he retired, Caterpillar's industrial relations staff held a dinner in his honor in downtown Peoria, and presented him with a toy tractor that he keeps in the den of his suburban Detroit home. Inscribed on it are the words, "Pat Greathouse: Cat Skinner."

Eight times between 1948 and 1980, Caterpillar's union workers went on strike, including an 80-day wildcat by East Peoria's Local 974 in 1979. But the company continued to grow and prosper—until 1982.

By then, Caterpillar complained more than ever about foreign competition, especially Komatsu Ltd. of Japan, but the union sloughed off the company's claims that it had to cut labor costs to compete. The union believed Caterpillar was using the Komatsu threat as a ploy.

Neither side backed off, and the strike that year was far longer and more bitter than any other in the company's history.

Defiant as ever, the union's bargaining committee overwhelmingly turned down the company's final offer. The union was rebuffed, however, by a membership that voted 2-to-1 to accept a contract that froze wages for three years.

The painful strike and the rebuff of the bargaining committee wounded the local. There was grumbling about the need for a new way of dealing with Caterpillar.

The company, damaged by the recession and seeking to win workers' efforts to increase productivity, was also looking to improve its labor relations.

After the 1982–83 strike, the company gave its labor executives the charge to improve things. Lee Morgan, then Caterpillar chairman, began meeting with union members and local leaders, trying to demonstrate that the company had changed.

By the 1986 talks, the union tried to show that it had changed, too. It agreed to do away with several hundred work titles, despite the loss of some jobs. It also accepted an employee participation plan.

Leading the way for these changes in the union was Jerry Brown, current president of Local 974.

When Caterpillar sought a no-strike agreement in early 1988 for its parts workers, saying such a step would guarantee a number of jobs, Brown took up the company's cause. It wasn't easy. Most of the local leadership and his best friends disagreed.

He came from a die-hard union family whose home in Pekin had been burned to the ground because of feuding between union and non-union employees at the local Corn Product Co. where his father had worked.

Brown tossed the issue over in his mind for one Friday night and Saturday morning, walking the floors, realizing that the union would have to decide on Sunday. On Saturday he suffered a heart attack. Despite his absence, he had swayed the mood, and the proposal passed.

The union had sent another signal it was willing to get along with Caterpillar. But the cooperation would be short-lived.

By 1991, the crisis within the UAW was acute. Membership in the auto, aerospace and farm construction equipment industries was plunging as companies shifted jobs to plants overseas or "outsourced" work to non-union shops in the U.S.

UAW membership had plummeted by 40 percent, or 610,000 members, since 1979.

In the auto parts industry, for example, the percentage of union jobs dropped from 82 percent to 56 percent in 1992.

Hoping to replenish its industrial core, the UAW turned increasingly toward organizing white-collar and service employees. But that effort has been hamstrung by a falloff in union dues. The funding crunch has forced the UAW to cut its organizing staff in recent years by about one-third—just when it most needs to find new members.

And time is not on the UAW's side. More than half the union's members in the auto industry are expected to retire within the next six years.

A similar situation exists at Caterpillar. UAW representation at Cat fell by 60 percent from 1979 to 1991, and about half of all current UAW members at the company are eligible to retire in the next six years.

The UAW realized that if it surrendered pattern bargaining at Caterpillar, it would damage its ability to get pattern deals with other large employers. That included the "Big Three" automakers, whose contracts are to expire in 1993. So the UAW prepared to get tough. It had no other plan.

Meanwhile, Caterpillar reminded anyone who would listen that its main competitors were foreign companies. These companies would gain a competitive advantage, the company argued, if Caterpillar agreed to the same terms the UAW was about to get from John Deere.

And so, by the fall of 1991, the two sides had dug in. The union was out to defend pattern bargaining, its historic wellspirng. Caterpillar wanted tailor-made terms that would allow it to stay competitive globally.

The differences seemed irreconcilable.

Bill Casstevens, the No. 3 officer in the UAW and inheritor of the domain built by Pat Greathouse, thought a strike might be necessary to force Caterpillar to forsake the hard line it had taken.

But Casstevens knew that calling a strike carried tremendous liabilities, especially around Peoria, where everyone who hadn't moved away remembered the bitter 205-day strike of 1982–83. Some strikers had gone bankrupt; many got divorced.

The 1982–83 strike cut off Caterpillar's indirect paycheck to Peoria, and the historically pro-union community began to turn against the UAW.

Casstevens didn't want that to happen again.

On Nov. 4 he made his move. Casstevens ordered a limited strike, idling 2,400 workers in East Peoria and Decatur, but leaving some 14,000 UAW members working at Caterpillar factories in Illinois and Pennsylvania.

Company executives were thinking along the same strategic lines. They foresaw that workers, still smarting from the strike a decade earlier, might turn against their union.

"The only way we can put pressure on the international union is through our employees, and hope they put pressure on the union," said Jerry Brust, one of the company's bargainers.

So on Nov. 7, three days after the strike began, Caterpillar locked out 5,650 of its workers—3,500 around Peoria and 2,150 at Aurora. That neutralized Casstevens' attempt to limit the effects of the strike.

To make sure those effects were felt, the company successfully pressed the Illinois Department of Employment Security to deny unemployment benefits, arguing that the workers were ineligible because they had been idled during a labor dispute.

That same day—in what would later seem an eerie coincidence—Illinois state senators rejected legislation that would have penalized companies that hire replacement workers. Hardly anyone saw a connection between that vote and events in Peoria. No major industrial employer had ever attempted to permanently replace union workers anywhere in the country.

Then again, Caterpillar had never locked out its employees before, and the tactic stunned workers.

That afternoon a foreman approached Chuck Lovingood in the transmission plant and told him that when his shift was up, he and the other workers would leave and would not be allowed to return. He was dumbfounded. That night, he told his wife the lockout wouldn't last long. "We'll be back at work Monday," he told her.

The union was so furious that I fired back with anti-Caterpillar advertisements in local newspaper and immediately called meetings among its leaders in Peoria.

But Casstevens kept the union distant from the news media, believing that the UAW would not get a fair shake. That surrendered the publicity weapon to Caterpillar, and union officials later admitted that their PR campaign—when it did get started in December—was muddied by its focus on the complex issue of pattern bargaining.

The union tried to expand its attack on another front, meeting with some major stockholders. But those meetings produced no promises of action.

The UAW might have waged a powerful publicity campaign. It could have tried to unite labor, religious and community groups to make a forceful appeal to the public and even some of its own dissident members, who didn't grasp the reason for their struggle.

Instead, the UAW conducted the strike the way it always had.

By the end of November, those who had hoped for a short strike began to realize just how deeply entrenched the two sides were. Strikers began looking for part-time jobs.

One month into the strike, the average Caterpillar worker was out $3,500 in wages, and no talks were scheduled. Some had saved money in anticipation; those who had not began to realize they were in trouble.

Jimmie Toothman, a friendly chatterbox of a man with a deep, raspy voice, tried to supplement his $100-a-week strike benefits by tending bar at a VFW hall and filling in part-time as an emergency medical technician.

He borrowed money from his credit union, and Joyce Toothman arranged to put off some debts. The family stopped eating at restaurants.

"We got to know Hamburger Helper and Tuna Helper pretty well, and my wife stretched that three times," Toothman recalled. "We got some deer meat from my brother-in-law and tricked the kids into eating that."

Still, their funds were going fast. Finally, Joyce signed up for assistance from the government's Women with Infants and Children nutritional program.

Jimmie Toothman was embarrassed. How could a healthy, strong man like him use government coupons to feed his family?

Toothman, who lives next door to his boyhood home in Creve Coeur, a small town on the western bluff of the Illinois River just south of Peoria, didn't broadcast his bad luck.

But word got around.

On Dec. 23, he got a call early in the morning.

"Hey, Jimmie, look out on your back porch," the caller said. Toothman thought it was a gag. But on the porch were four bags of groceries and two packages of Christmas gifts for the children.

Another friend bought more Christmas gifts for the children. Another time, boxes of groceries were left on the front porch. A local church provided help from its food bank.

Two months into the strike, the average Caterpillar worker was out $7,000 in wages. The two sides still had not talked since the walkout began.

Strikers watched a steady stream of retired workers, engineers, even clerical staff file into the factories. The company has brought in nearly 5,000 workers to keep the automated, computer-driven factories operating.

"We had secretaries who one day were working on an IBM [word processor] that a couple of weeks later were running numerically controlled machine tool," Caterpillar CEO Don Fites said later. "In these new plants we have, the important thing is to be computer literate. And my secretary is very computer literate."

From their shacks along the picket lines, union members could see some bulldozers, wheel loaders and spare parts coming out of the factories. They could convince themselves that the factories were producing at a mere trickle, but even that, for them, was too much.

One January night, after a blinding snowstorm, factory workers Jan Firmand and Dick Owens stood warming their hands over a steel drum outside the transmission factory. Huddled over the glowing mouth of the barrel, their faces lit by the fire, they shared their thoughts about their jobs, their union and their future.

Firmand had always respected Owens, a quiet, almost stoic man with high cheekbones and eyes set deep in their sockets. He was one of the best on the factory floor, someone others would take their work problems to.

Pessimistic, Firmand said she didn't trust the company. She was sure Caterpillar would continue to shift work from Peoria overseas, just as other U.S. firms were doing.

To get through the strike, Firmand had taken a $4.50-an-hour job in a nursing home kitchen in order to be close to her father, a retired Caterpillar production worker.

Owens carefully measured his words as he stared into the fire. Just before the 1982 strike, he had been laid off from Caterpillar for 6½ years. He took any job he could: stocking groceries, typing. Eventually he caught on with a land survey crew.

He said he wanted the union to find a way to work out a deal with Caterpillar. He believed that his union was marching its soldiers into the wrong battle.

Like other working Americans, Owens had noticed that going on strike hadn't worked for the federal air traffic controllers, for the employees at Eastern Airlines, or for the printers at the Chicago Tribune.

Strikes, it seemed, had become as much a strategic opportunity for employers as for unions.

"Don't you think we could bend a little and keep what little we got left?" he would say.

Firmand did not rebuke him, but politely said she did not agree. The union, she believed, would protect them.

Three months into the strike, the average Caterpillar worker was out $10,500 in lost wages. The two sides had not held talks since the strike began.

Many workers began to question the union. Less than one-half of the UAW workers not on strike were contributing the requested $35 a paycheck to help the strikers. Many strikers were showing up at picket lines only because that qualified them for $100 strike pay.

The union asked those UAW members still working not to work overtime for the company, but many ignored the request. Its attempts at slowdowns during the limited strike were unsuccessful.

Even leaders like Larry Solomon, president of the Decatur UAW local, were losing their patience. Weeks had gone by without meetings with Detroit union officials. Solomon told his members that Detroit had a strategy, but he actually had doubts about that.

Jim Mangan had always considered himself a union man. But as the months rolled by, Mangan, a former union steward, found himself wondering whether the union was looking out for him and his fellow Cat workers.

He thought the big shots in Detroit had their minds on larger issues, such as pattern bargaining, not the issues that dealt with his own future. Sometimes he felt his union thought of him only as a dues number.

By February, he had written two letters, one to Casstevens and one to Caterpillar Vice President Wayne Zimmerman, saying he hoped a solution would come soon.

Casstevens did not respond. Zimmerman called Mangan, and the two men talked for almost half an hour.

The company had responded to him, the union had not. He remembered that.

Four months into the strike, with the average Caterpillar worker out $14,000, the company made its third and "final" proposal to the union. The offer was rejected within 30 minutes and the meeting ended with cursing.

The union die-hards were circling their wagons.

Ron Logue, who sat on the bargaining committee, stood firm in his loyalty to the union as the strike continued through the winter. Caterpillar, he believed, was trying to hoodwink workers into believing that the union, not the company, was causing all their pain.

Logue, a committee member since 1981, sometimes let his temper flare. If members were critical of the UAW's strike strategy, he would fly into a rage, shouting that the union needed one thing: the spine to stand up to the company.

Five months into the strike, the average Caterpillar striker was out $17,500. In talks at the end of March, neither side budged.

On Feb. 16, hotel workers telephoned UAW Local 974's union hall to say a number of men with suitcases full of security guard uniforms had checked into Peoria's Mark Twain Hotel.

Soon after came calls from sympathetic security guards at Caterpillar. They reported seeing young men—dressed in dark blue jump suits, dark blue baseball caps and military boots—roaming the company grounds.

And, the guards added, they looked tough.

Local 974 President Jerry Brown was furious. From his point of view, the company had brought in "rent-a-thugs."

Their presence indicated to many that the stakes were suddenly rising.

Strikers asked Caterpillar why it would bring in outsiders against them, their own workers. Against middle-age, middle-class Americans.

The guards' arrival killed Brown's hopes for a deal and ended his visits to high-ranking friends at Caterpillar. The visits had gotten him into trouble at the union hall, but he defended them, saying he thought he could make headway. After all, he said, the executives were his neighbors and friends.

The guards were from the Asset Protection Team of Vance International Protection Services of Oakton, Va., a firm well-known to other unions. Caterpillar wanted the guards to videotape any violence so that offenders could be prosecuted or fired.

Since Chuck Vance left the Secret Service and started his own protection business eight years ago in suburban Washington, his $23 million-a-year firm has worked labor disputes at 300 different companies.

Caterpillar feared that thousands of autoworkers would descend on its plants, because, as Vance recalls company officials telling him, they "thought that the UAW had a lot to lose."

The union didn't know it, but Caterpillar was getting ready to advertise for permanent replacements.

The company's officers had been developing their strike strategy in daily meetings at Caterpillar headquarters. They saw the dispute as a series of options. With each move, they eliminated another.

Every executive knew that if it came down to it, they had an option that could beat the strike. They all knew that if the workers didn't come back, the company could move to replace them. It was an option their Caterpillar predecessors had never known was there.

By February, the company, expecting orders to increase in the second half of the year, was ready to push on.

On Feb. 3, Caterpillar announced it would simultaneously end its lockout of 5,650 workers and make one last contract offer to the union.

The union responded by putting those workers who had been locked out on strike.

On Feb. 12, Don Fites told his board of directors that other options would be tried first, but hiring replacement workers was a distinct possibility. It was the first time the issue had been broached outside management's inner circle.

The talks at which Caterpillar made its offer were arguments, not discussions. During one of the February meetings, frustrated Caterpillar President Jerry Flaherty said the offer would be the company's last. "The money is all on the table," he said.

An angry Casstevens asked why Caterpillar had hired the Vance "thugs."

The cursing that is as much a fixture at the negotiating table as pitchers of water was sometimes so loud that it could be heard through closed doors.

The two sides met again in March outside St. Louis after reports surfaced that the union was ready to back away from pattern bargaining.

But once seated at the table, they found that fundamental positions had not changed. The union said it was willing to bargain item by item. Caterpillar said it was still faced with a pattern agreement, which it would not accept.

Caterpillar said the talks were at an impasse. The union replied that is was still willing to bargain.

"Up your impasse," Casstevens snapped.

Later, he told reporters he didn't think there was an impasse. "Maybe I should suggest an enema or something, because we don't seem to have a problem with it," he said.

Back in Peoria, Caterpillar put the finishing touches on its decision to bring in replacement workers.

The decision filled young executives, like Gary Stroup and A.J. Rassi, with a sense that they were stepping into the unknown.

"I never had such a feeling of enormous change that was occurring in the company," said Stroup, "and perhaps for labor in the United States."

"We were in new territory," said Rassi.

It was clearly one of the most important labor decisions the company had ever made. Yet many of the people who made it say they cannot recall the instant that the decision was finalized.

It was, instead, a narrowing of options.

Neither Rassi nor Stroup acknowledges remember'ing when the decision was finalized. Nor does Brust. Nor does Flaherty. Nor does Fites.

"The meetings tend to blur together," Fites would later say.

The company guessed that in a worst-case scenario, only about 1,000 replacements would actually be hired. The power of the threat would be so great that it would drive the workers back. The company, as it had done throughout the dispute, would appeal directly to the worker.

"We knew that they wanted to come back, but they would have to have a strong reason to justify it to their colleagues," said Don Fites. "It was obvious the union wasn't going to let them vote on anything, so we had to come up with a way to vote with their feet."

On April 1 Caterpillar mailed out letters, backdated to March 31, spelling out the consequences if workers did not return by April 6.

Chuck Lovingood was watching television when he heard the company would begin replacing him and his fellow strikers if they did not return to work on Monday. He immediately went to the phone to call the union hall and ask what he should do.

Jan Firmand got the news by telephone from a friend and fellow Caterpillar worker. She had no idea what she would do.

Dick Owens was working on a survey crew—his temporary job during the strike—when he heard the news over the car radio. In that very instant, he knew what he would do.

On the picket lines, manned now for more than five months, the tension mounted. Older workers close to retirement worried out loud about what would happen to their pensions if they were crossed off the company's rolls.

Suddenly the stakes had risen again. They were no longer fighting for a few cents more in cost-of-living increases, or full company underwriting of their health insurance.

Now it was a fight for their jobs.

On the Sunday night before Caterpillar's ultimatum was to take effect, the leadership of Local 974 met. Most felt the UAW had to stand up to the return-or-be-replaced order. Ron Logue thought the union needed to hold out for two more weeks for Caterpillar to surrender.

Harold Snider, a grievance chairman from East Peoria and one of the opposition members within the local, thought differently. And he decided to speak up.

He had researched the history and laws on replacement workers and was convinced the UAW was walking into a trap if it did not return to work.

Snider raised his voice to say that their effort was well-meaning, but it was a mistake now. It was exactly what Caterpillar wanted.

He had challenged the leadership before, and they made him feel as if he was disloyal, or lacked a backbone. But this time, he pushed on. It was time, he said as persuasively as possible, to put the people back to work.

His warnings went unheeded.

Come morning, the union was going to stand firm, giving Jimmie Toothman, Jim Mangan, Dick Owens, Chuck Lovingood and Jan Firmand the showdown they had expected. They and the others would finally show Caterpillar which side they were on.

CATERPILLAR OFFER

Caterpillar Inc.'s UAW employees are working under a contract offer that has been rejected by the union leadership. Here are key elements:

Job security: Six-year moratoriums on indefinite layoffs and on plant closings.

UAW reply: Nearly half of workers could be eliminated when they become eligible for retirement within six years.

Wages: Raises, mostly keyed to inflation, expected to boost average hourly wage to $19.19 from $16.98.

UAW reply: Raises have averaged less than inflation over last decade.

Two-tiers: New hires at Caterpillar warehouses would be paid $7 an hour instead of $16.

UAW reply: This would pit workers at different plants against each other.

Retirement: Early retirement monthly allowance increased to $1,800 from $1,600.

UAW reply: Union wants $2,000 by September 1993.

Health care: No premiums, co-payments or deductibles if using Caterpillar-approved health care providers; 70% coverage otherwise.

UAW reply: Network plan limits choices and benefits.

THE NEED FOR A PERSIAN GULF VETERANS REGISTRY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mrs. MORELLA. Mr. Speaker, I am concerned by the health complaints of military personnel who were in the Persian Gulf war and I am an original cosponsor of legislation to assist them.

Anecdotal reports have surfaced that more than 200 Persian Gulf veterans are suffering symptoms, which they believe are related to their Persian Gulf service and are not being accurately diagnosed and treated by the military. They recount stories of unusual conditions—breathing smoke-laden air as a result of the Iraqi-set Kuwaiti oil fires, washing with water carried in fuel trucks, and inhaling pesticides sprayed to eradicate insects. They display a myriad of symptoms, including fatigue, nausea, skin rash, and hair loss. We must continue research to determine if these symptoms are related to the unusual environmental conditions in the Persian Gulf area. We must assist these brave people by diagnosing their illnesses and ending their second war with diseases that have debilitated their existence.

However, to hasten this process and provide rapid care for all those in need, I believe several steps are necessary. First, a registry needs to be set up by the Department of Veterans Affairs to track symptoms and record the clinical care offered to those who participated in the Persian Gulf war. Many diseases have incubation periods before manifesting symptoms. Second, all information needs to be shared between the Department of Defense and the Department of Veterans Affairs to expedite finding appropriate treatment. Third, an outreach program must be conducted so that those with mysterious symptoms who were in the Persian Gulf area are aware of the available, ongoing medical diagnosis, research, and treatment program. Fourth, all efforts made must be at the cutting edge of medical science to alleviate the symptoms of these soldiers. All appropriate disciplines must be brought together to work for their mutual benefit.

As a nation, we owe our military fair and equitable treatment. When we sent them to the Middle East to defend American principles, we tacitly pledged to return them in the same physical condition or provide them with the best medical expertise and health care available. Now we must keep that promise.

TRIBUTE TO GEORGE GRABOYS

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Mr. George Graboys on his retirement as chairman and chief executive officer of the Citizen's Financial Group. Mr. Graboys is both a leader in business and the community as well.

Mr. Graboys has been a leader in the State of Rhode Island. His activities include serving as a member of the board of governors for higher education in Rhode Island and has served as director for Miriam Hospital, the Rhode Island Urban Project, and the International Institute of Rhode Island. In 1990, Mr. Graboys was presented with the Torch of Liberty Award from the Anti-Defamation League for his ability to meet the challenges inherent in professional success, while maintaining a strong commitment to public service. Other awards include the International Institute Citizen of the Year in 1984 and Business Person of the Year from the New England Business magazine.

Mr. Graboys is a leader both in the business world and in the area of public service. He has been a role model to both young and old in the State of Rhode Island. His achievements and community spirit will be an inspiration for years to come. I wish Mr. George Graboys all the best during his retirement and in all of his future endeavors.

THE PROFESSIONAL TRADE SERVICE CORPS BILL

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. GUARINI. Mr. Speaker, I'm pleased to join Representative KAPTUR in introducing the Professional Trade Service Corps Act. This legislation provides a long overdue solution to an urgent problem which could threaten our national security.

Our economic security is a vital part of our national security and we must reorganize our priorities to recognize this fact. Last April, the GAO, in a report to the Congress, gave us examples of how our economic and national security could be threatened by high-level U.S. Government officials who go from their jobs as trade negotiators to direct representation of foreign interests engaged in trade-related negotiations with the U.S. Government.

As I said last April, there is a revolving door in the highest levels of government service that foreign interests use to manipulate our trade policies and destroy U.S. industries and jobs. This bill will go a long way to remedy that egregious problem.

The Professional Trade Service Corps Act will create a cadre of career trade professionals similar to the Foreign Service, identify key trade-related positions, and staff these positions with experts in this highly specialized area. Just as importantly, it establishes a career path for continued government service, encourages continuity of staffing with the carrot of incentives, and the stick of post-employment restrictions.

Specifically, the act authorizes the creation of the Professional Trade Service Corps to fill key trade positions in the six Federal agencies with major trade-related functions or offices. It will insure better coordination and continuity of service among the Office of the United States Trade Representative, the State Department, the Commerce Department, the Agriculture Department, the Labor Department, and the Treasury Department in their trade-related functions.

This corps of trade professionals will be constituted of applicants chosen through a rigorous selection process. They will be carefully trained to establish a high level of excellence in these key trade positions.

To meet these objectives, this Act establishes a Trade Service Corps Institute to provide specialized training which will include: the history of, and current trends in, trade negotiations; trade negotiating strategies; the economics and politics of trade; the cultural and business practices of countries with which the United States has significant trade relations; foreign language instruction; and instruction in the operations within and the interrelationships among the various trade-related agencies.

This act will require the Professional Trade Service Corps members to remain in government service for a period of time at least three times the length of their training, and subject them, as well as the legislative branch, to postemployment restrictions in their representation of foreign interests in trade-related matters.

It is time to stop the revolving door which threatens our trade interests and jobs. This bill is an important step in that direction. The Professional Trade Service Corps Act presents a comprehensive strategy for improving the quality and integrity of our trade negotiators. We must protect our economic and trade interests; to do otherwise is to compromise our national security. I urge the support of all of my distinguished colleagues.

A TRIBUTE TO WALTER B. JONES

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. ANDERSON Mr. Speaker, I rise in tribute to a friend of mine, WALTER JONES, who left us on Tuesday. In every man's life, he encounters a few people who are far from ordinary—men whom he feels a great sense of privilege to have the opportunity to know and to work with. WALTER JONES was one of those men. His record of public service and accomplishment is open for all to see. The impatient will not make it through a reading of his rich life, the length and breadth of which would make most men blush. This Congress and the State of North Carolina have lost first, a gentleman and second, a legislator of unsurpassed commitment and dedication. I have lost a friend. My association with WALTER goes back some 24 years and our service on the Merchant Marine and Fisheries Committee.

From that starting point of a decided lack of seniority, he rose to become chairman and I his ranking majority member until I left to take the chairmanship of the the Public Works Committee. I was honored to be able to rejoin WALTER'S committee in the 102d Congress. But what gave me even more pleasure than our official work together was the evenings we spent in conversation at his home. With the warmth of Elizabeth's presence added to his own, the evenings were always looked forward to. Friendships can be hard to hold in the House. I was lucky to have an enduring one with WALTER JONES. I mourn his passing and extend my heartfelt sympathy to his wife, Elizabeth, and children. He marked a path that few men can follow. My wife, Lee, and I are just two of the many that will miss him.

TRIBUTE TO HON. TED WEISS

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 17, 1992

Mr. YATRON. Mr. Speaker, we are all saddened by the sudden death of our good friend and colleague, Congressman Ted Weiss. Ted led a long and distinguished career in American politics, many years of which were spent in the House of Representatives.

I was fortunate to have spent a decade with Ted on the Foreign Affairs Subcommittee on Human Rights and International Organizations. Ted was one of the most consistent voices in the Congress for the protection of human rights around the world. He genuinely felt other people's pain and searched for solutions. In a time when democracy is taking hold in many regions of the world, basic human rights are still being denied. Ted would have stayed at the forefront continuing his fight for these issues and for people who have no voice. In this sense, the oppressed around the globe are losing a true friend and compatriot.

Ted will be greatly missed in the Congress, particularly on the Foreign Affairs Committee, where so many of us built a close relationship with him and respected and sought out his opinion on foreign policy matters. My condolences go out to his family, friends, and constituents.

HOUSE OF REPRESENTATIVES—*Friday, September 18, 1992*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, O God, of the meaning of grace in our lives and in our relationships with others. As You treat us with mercy and unmerited favor by not judging us as we deserve, but by extending the gift of forgiveness, so may we minister to people with a spirit that is understanding and kind and whose motivation is measured by the spirit of reconciliation and peace. May Your grace be upon us this day and every day we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Ms. ROS-LEHTINEN. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Ms. ROS-LEHTINEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 226, nays 120, answered "present" 1, not voting 85, as follows:

[Roll No. 402]

YEAS—226

Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Archer
Bacchus
Bateman
Bennett
Berman
Bevill
Bilbray
Bonior
Borski
Boucher
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Clement
Clinger
Coleman (TX)
Collins (IL)
Combest
Condit
Costello
Cox (IL)
Coyne
Cramer
Cunningham
Darden
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dicks
Dingell
Dorgan (ND)
Dornan (CA)
Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fazio
Fish
Foglietta
Frank (MA)
Frost
Gejdenson
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gradison
Guarini
Gunderson
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hutto
Jenkins
Johnson (SD)
Johnson (TX)
Johnston
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Murtha
Myers
Nagle
Natcher
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Poshard
Price
Pursell
Rahall
Rangel
Reed
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schulze
Schumer
Sharp
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Spence
Spratt
Staggers
Stallings
Stenholm
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Waters
Waxman
Wheat
Wise
Wolpe
Wyden
Yates

NAYS—120

Allard
Allen
Armey
Baker
Ballenger
Barrett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Burton
Callahan
Camp
Campbell (CA)
Clay
Coble
Coleman (MO)
Coughlin
Cox (CA)
Crane
Dannemeyer
Dickinson
Doolittle
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Grandy
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Hunter
Hyde
Inhofe
Jacobs
James
Johnson (CT)
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
McCandless
McCollum
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Murphy
Nichols
Oxley
Paxon
Porter
Quillen
Ramstad
Ravenel
Regula
Rhodes
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Schaefer
Schiff
Schroeder
Sensenbrenner
Shays
Shuster
Sikorski
Smith (OR)
Smith (TX)
Snowe
Solomon
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (WY)
Upton
Vucanovich
Walker
Weldon
Wolf
Wylie
Young (FL)
Zimmer

ANSWERED "PRESENT"—1

Lent

NOT VOTING—85

Abercrombie
Alexander
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Barton
Beilenson
Blackwell
Boxer
Brewster
Brooks
Broomfield
Bunning
Campbell (CO)
Chandler
Chapman
Collins (MI)
Conyers
Cooper
Davis
Dixon
Donnelly
Dooley
Dwyer
Edwards (OK)
Fascell
Feighan
Flake
Ford (MI)
Ford (TN)
Gaydos
Gephardt
Gordon
Green
Hall (OH)
Hayes (LA)
Hertel
Holloway
Huckaby
Ireland
Jefferson
Jones
Lehman (FL)
Levine (CA)
Manton
Marlenee
Martin
Mavroules
McCrery
McCurdy
Moran
Mrazek
Neal (MA)
Neal (NC)
Nussle
Owens (UT)
Pickle
Ray
Richardson
Ridge
Riggs
Ritter
Russo
Savage
Saxton
Scheuer
Serrano
Shaw
Solarz
Stark
Stokes
Thomas (CA)
Towns
Traxler
Washington
Weber
Whitten
Williams
Wilson
Yatron
Young (AK)
Zeliff

☐ 1026

Mr. MORRISON and Mr. RAVENEL changed their vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Florida [Ms. ROS-LEHTINEN] please come forward and lead the House in the Pledge of Allegiance?

Ms. ROS-LEHTINEN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 238. An act for the relief of Craig A. Klien;

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

H.R. 454. An act for the relief of Bruce C. Veit;

H.R. 478. An act for the relief of Norman R. Ricks;

H.R. 712. An act for the relief of Patricia A. McNamara; and

H.R. 3379. An act to amend section 574 of title 5, United States Code, relating to the authorities of the Administrative Conference.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1181. An act for the relief of Christy Carl Hallien of Arlington, Texas.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1766), "An act relating to the jurisdiction of the United States Capitol Police" with amendment.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1731), "An act to establish the policy of United States with respect to Hong Kong, and for other purposes."

The message also announced that pursuant to Public Law 98-399, as amended, the Chair on behalf of the President pro tempore, appoints Mr. DOLE and Mr. DANFORTH, to the Martin Luther King, Jr., Federal Holiday Commission.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1106

Mr. INHOFE. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1106.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PRIVILEGES OF THE HOUSE—DIRECTING COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT TO INVESTIGATE ALLEGED DISCLOSURE OF CLASSIFIED INFORMATION

Mr. COMBEST. Mr. Speaker, I rise to a question of the privileges of the House, and I offer a privileged resolution (H. Res. 572) and ask for its immediate consideration.

The SPEAKER. The Clerk will report the resolution.

The Clerk read the resolution, as follows:

H. RES. 572

Whereas on March 2, 1992, Representative Henry B. Gonzalez knowingly and willfully inserted in the Congressional Record documents of the Executive Branch bearing markings, indicating that they were classified for reasons of national security;

Whereas on July 7, 1992, Representative Gonzalez willfully disclosed information from a purported Central Intelligence Agency intelligence document which he publicly acknowledged at that time to be classified;

Whereas on September 14, 1992, Representative Gonzalez willfully disclosed information from a Central Intelligence Agency document classified as "Secret" in its entirety, which he acknowledged is still classified;

Whereas the Director of Central Intelligence, Robert M. Gates, has indicated in writing that Representative Gonzalez's "statement in the Congressional Record on 7 July 1992 included information from TOP SECRET compartmented and particularly sensitive document" to which the Central Intelligence Agency had given his commitment staff access;

Whereas the Director of Central Intelligence further stated in writing to Representative Gonzalez, regarding his July 7, 1992, statement in the Congressional Record, that, "Because of the sources and methods under that information, I will ask for a damage assessment to determine the impact of the disclosure. I regret that you chose to discuss information from classified documents without attempting to determine if we could work out a way to satisfy . . . our need to protect intelligence sources and methods";

Whereas the Acting Director of Central Intelligence, Admiral William O. Studeman, has confirmed in writing to Representative Gonzalez that portions of statements in the Congressional Record by Representative Gonzalez on July 21 and 27, 1992, "were drawn from classified intelligence documents, some of which are Top Secret, compartmented, and particularly sensitive";

Whereas the Acting Director of Central Intelligence has stated in writing to Representative Gonzalez, regarding this statements in the Congressional Records of July 21 and 27, 1992, that, "I have asked the Office of Security of the Central Intelligence Agency to undertake a review of your statements in order to determine the impact of the disclosures of intelligence information on intelligence sources and methods";

Whereas the Department of State has confirmed in writing that, over a number of days, Representative Gonzalez "inserted into the Congressional Record the full text of at least fourteen classified documents generated by the Department of State," and the Department of State indicated further that those documents "contain classified information involving sensitive diplomatic discussions";

Whereas the Treasury Department has indicated in writing "very serious concerns" over Representative Gonzalez's "disclosures of classified information in the Congressional Record" which included information from a classified Treasury Department document;

Whereas on numerous other occasions Representative Gonzalez has knowingly and willfully disclosed in the Congressional Record information from Executive Branch documents which are apparently classified for reasons of national security;

Whereas the classified documents in question were apparently made available to the Committee on Banking, Finance and Urban Affairs by Executive Branch agencies in good faith cooperation with a committee investigation and with the expectation that access would be restricted to persons with appropriate security clearances;

Whereas the public disclosure of information from the classified documents in question was not necessary for legitimate legislative oversight, and the Committee on Banking, Finance and Urban Affairs apparently has not voted to disclose publicly those classified documents;

Whereas the public disclosure of the contents of the classified documents in question appears to be detrimental to the national security and foreign policy interests of the United States;

Whereas the conduct of Representative Gonzalez raises serious questions of possible violations of Clauses 1 and 2 of Rule XLIII (Code of Official Conduct) and possibly of Clause 2(k)(7) of Rule XI' (Rules of Procedures for Committees) of the House;

Whereas the knowing, unilateral and unauthorized disclosure of classified information by Representative Gonzalez seriously imperils the spirit of mutual cooperation and trust between the Congress and the Executive Branch so critical to effective legislative oversight;

Whereas the nature and gravity of the conduct of Representative Gonzalez is such that the reputation and dignity of the House as an institution and the integrity of its proceedings, especially its oversight activities, may well be adversely affected;

Whereas Representative Gonzalez willfully continues to disclose publicly information from classified documents; and

Whereas in the interest of a prompt and fair resolution of the serious questions raised regarding the apparent unauthorized disclosure of classified information in seeming violation of the Rules of the House of Representatives: Now, therefore, be it

Resolved, That the Committee on Standards of Official Conduct is directed to investigate whether Representative Gonzalez has, during the Second Session of the One Hundred and Second Congress, publicly disclosed classified information in the Congressional Record, and in so doing violated the Rules of the House of Representatives or any duly constituted committees. All other committees, and all Members, officers, or employees of the House who may have information relevant to this investigation are directed to cooperate promptly with the Committee on Standards subject to procedures the Committee shall adopt necessary to protect from unauthorized disclosure classified information which may be transmitted to the Committee pursuant to this investigation. The Committee on Standards of Official Conduct shall promptly report its findings and any recommendations to the House.

□ 1030

The SPEAKER. The resolution raises a question of privilege.

MOTION TO TABLE OFFERED BY MR. BONIOR

Mr. BONIOR. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BONIOR moves to lay the resolution on the table.

The SPEAKER. The question is on the motion offered by the gentleman from Michigan. [Mr BONIOR] to lay the resolution on the table.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. COMBEST. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 216, nays 150, not voting 66, as follows:

[Roll No. 403]

YEAS—216

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Aspin
Bacchus
Beilenson
Bennett
Berman

Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Brewster
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan (ND)
Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fazio
Foglietta
Ford (TN)
Frank (MA)
Gejdenson
Geren
Gibbons
Glickman
Gonzalez
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Johnston
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Poshard
Price
Rahall
Rangel
Reed
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Sawyer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Spratt
Staggers
Stallings
Stenholm
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Waters
Waxman
Wheat
Whitten
Wilson
Wise
Wolpe
Wyden
Yates

NAYS—150

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Burton
Callahan
Camp
Campbell (CA)
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Rinaldo
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Schaefer
Schiff
Schulze
Sensenbrenner
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zimmer

NOT VOTING—66

Alexander
Annunzio
Anthony
Atkins
AuCoin
Barnard
Boxer
Brooks
Broomfield
Bunning
Campbell (CO)
Carr
Chandler
Chapman
Conyers
Cooper
Donnelly
Dooley
Dwyer
Edwards (OK)
Fascell
Feighan
Flake
Ford (MI)
Frost
Gaydos
Gephardt
Gordon
Green
Hayes (LA)
Hertel
Huckaby
Jefferson
Jones
Lehman (FL)
Levine (CA)
Manton
Marlenee
Martin
Mavroules
McCrery
Mrazek
Neal (MA)
Owens (UT)
Pickle
Ray
Richardson
Ridge
Riggs
Ritter
Russo
Savage
Saxton
Scheuer
Shaw
Solarz
Stark
Stokes
Thomas (CA)
Towns
Traxler
Washington
Weber
Williams
Yatron
Zeliff

□ 1056

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. COMBEST. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on House Resolution 572.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

FREE THE BRADY BILL

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, the leadership has announced that it intends to limit our agenda in order that we might adjourn by early October to campaign for the November elections. There are many worthy, pieces of legislation which I hope we pass, or we pass over the President's veto, in that period of time, including campaign finance reform, the moratorium on burning hazardous wastes in cement kilns, the Family and Medical Leave Act, and cable reregulation.

All of these are worthy but the Brady bill, which calls for a waiting period before handguns can be sold or purchased, is absolutely essential; not just worthy, it is essential.

As all of us know, we passed in May 1991, a freestanding Brady bill. A modified version of the Brady bill was incorporated into the crime bill, where it has now languished for many months in the other body.

Mr. Speaker, we must not adjourn before passing the Brady bill, both to honor its namesakes, Jim and Sarah Brady, and also in honor of people like Dr. John Patrick Casey of Louisville who lost his life in a tragic handgun incident.

Mr. Speaker, let us free the Brady bill before adjournment.

RELEASING CLASSIFIED INFORMATION

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, our Members and the American people need to understand what just happened, because it is truly extraordinary.

There is information that in this House secrets have been released. There are written documents from the State Department involving 14 different secret documents. There are statements by the Director of Central Intelligence involving secrecy.

The Democratic leadership has refused to investigate it, has refused to do anything about the releases, and we just had the extraordinary moment of a Member offering a privileged resolution and the Democratic leadership cut off all debate by a deliberate motion to table.

I just want to suggest to the American people that when secrets which may endanger people's lives and secrets which may undermine American national security can be released in this Chamber, with nothing being done by the Democratic leadership, and when those who wish to stop secrets being released are gagged by the Democratic leadership, there is something profoundly wrong with what is going on in this House.

□ 1100

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1692

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 1692, comprehensive long-term care for the elderly.

The SPEAKER pro tempore (Mr. McNULTY). Is there objection to the request of the gentleman from California?

There was no objection.

SALE OF 72 F-15'S TO SAUDI ARABIA PROVIDES JOBS FOR AMERICA

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, I support the sale of 72 F-15 fighter aircraft to Saudi Arabia. I have waited anxiously for months, with many of my constituents, for President Bush to give his approval to this proposed sale of aircraft. I encourage my colleagues to join me in their support for this sale.

The sale of these 72 F-15's to Saudi Arabia benefits the United States in several ways. First, Saudi Arabia says the American-built F-15 best suits their national defense needs. By bolstering Saudi Arabia's self-defense, more stability may be brought to a volatile region of the world. Second, but more importantly, the sale of 72 F-15's to Saudi Arabia means jobs, high-wage, skilled jobs, for thousands of Americans.

Jobs is the major issue of concern for Americans. My colleagues in the Missouri delegation and I have sought the administration's approval of this sale to Saudi Arabia for many months. It's time to stop talking about job creation and create jobs.

Mr. Speaker, the sale of F-15's to Saudi Arabia is good for America as it provides jobs. Yet, this sale does not present any danger to our allies and, in fact, further secures the defense of Saudi Arabia.

CABLE TELEVISION LEGISLATION—ONE OF THE MOST IMPORTANT CONSUMER MEASURES IN YEARS

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, yesterday, Congress took action to stop price gouging by the Nation's only unrestricted monopoly—the cable companies which overcharge subscribers an estimated $6 billion a year. The result was one of the most important consumer measures in years.

The cable companies waged a war of scare tactics to derail this legislation. Why? Because it will set limits on rate increases. They've risen at a rate of more than three times the rate of inflation since 1986.

The best way to lower cable rates is through competition. With competition, cable rates are an average of 30 percent less than where there is no competition. Without competition, cable companies have been able to raise rates in order to increase profits.

In Congress, we are sent here to represent the ordinary people, not the special interest groups. We have heard the cries of consumers all across America. Thanks to our actions yesterday, the cable subscribers of America now have a voice.

AMERICA MUST BECOME AN EXPORT SUPERPOWER

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, President Bush has a new TV commercial promoting trade. The President said America must become an export superpower.

Now in this TV commercial there is a giant cargo ship in the background. My colleagues, the name of that cargo ship is the *Evergreen*, and the *Evergreen* in President Bush's TV ad is owned by a company from Taiwan. The *Evergreen* is owned by a Taiwanese company.

Now, if that is not enough to sink your liferaft, the trade deficit just hit $8 billion last month. There are 400,000 new unemployed Americans on unemployment lines. Wall Street is overvalued; it is going to crash like the chandelier in the "Phantom of the Opera."

Meanwhile, Mr. Speaker, the President is floating a boat called the *Evergreen* owned by a company in Taiwan. Beam me up.

THE D.C. ECONOMY BRACES FOR A MAJOR SHOCK AS WALSH SPENDING EVAPORATES

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, as bad as things are here in the Nation's Capitol, it's going to get worse. The D.C. economy is bracing for a major shock and there are frowns on the faces of the majority party.

The hotel industry is poised for a downturn, the restaurants will take a hit, there will be a glut of deluxe office space, and runways will sit empty at National Airport.

Yes it is true—Special Prosecutor Lawrence Walsh is closing his investigation.

No longer will he and his team of attack dogs rent office space in the swankiest new building in town—at taxpayers expense.

No more expensive suites at the Watergate—with the taxpayers picking up the tab.

No more taxpayer-funded meals at the finest D.C. restaurants.

Say goodbye to taxpayer-funded first-class air travel in and out of National Airport.

And what have we gotten for this taste of the good life?

A few minor convictions. For all his high living, it took Walsh and his lackeys 6 years and $33 million to match the monthly output of any rookie prosecutor at your local DA's office.

But though the legal world may yawn—the D.C. economy and the Democrats may never be the same.

WE DON'T NEED ECONOMISTS—WE NEED A GROWTH PLAN

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, I listened to a discussion a little while ago in the Committee on the Budget on what is called the present economic situation. It is not quite a recession, so is it stagnation? Is it contained growth? Is it a growth recession? Somebody called it a contained depression.

My answer is, in commonsense terms: "It's in a rut, and it's in a long-term rut. It's the lowest growth record since Herbert Hoover, has the worst job creation record since World War II".

The President bashes Congress for deficit spending, but never points out that Congress presently has appropriated $12 million less than what he has asked for. The gross private investment in this Nation is the lowest since the Depression. We are investing 12 percent. The Japanese, even in their doldrums, are investing 30 percent. Household income dropped for the second straight year, per capita income.

Folks at home do not need economists to know we are in a rut. The fact is it is a long-term growth plan that is needed.

The American people can tell us what the problem is. The American people are great, the leadership in the White House is not, and that is what needs to be changed.

SAY GOODBYE, ROSS

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, the comparative service records of George Bush and Bill Clinton leave one who is concerned about such things with an easy decision to favor Bush over Clinton for President of the United States.

But on another level, both men have shown their mettle to be far stronger than that of sometimes in, but mostly out, H. Ross Perot.

Perot showed amateurish cowardice when he suddenly fled the Presidential race in the face of ego-penetrating criticism.

Now he daily flirts with the press and the emotions of the American people by saying if his vague and ever changing conditions are met he might still grace us with his candidacy.

Well I say, hell no, Perot. I've had enough of your games, your platitudes, and your bunk. If you used your money to hire a real expert, he'd tell you to pull out, stay out, and shut up.

Say good-bye, Ross.

TWO-TIME VICTIMS

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, in a little while we are going to consider on this floor the rule to make in order the dire emergency supplemental, and then the supplemental itself. As part of that supplemental bill, Mr. Speaker, there will be a significant portion dealing with Hurricane Andrew, Hurricane Iniki, Typhoon Omar and the victims of those natural disasters.

Hurricane Andrew was probably the single largest natural disaster to hit this country ever in terms of damage and in terms of the aftermath. But when we look at this bill, although I am going to ask my colleagues to support it, they will see how people who are victims once have been victimized again, by the process through which we go in order to obtain disaster relief. There are people in the Senate whose States are going to get more relief for less reason than people in south Florida or in Louisiana. There are people who here need help badly and will not get it because the administration opposes a language change so that the crops that actually grow in south Florida can be included in that disaster relief, including shade and ornamental trees and nurseries that grow indoor plants. People that employed hundreds are wiped out, and they cannot get a dime from the Federal Government because people over there will not allow it to be made so.

Mr. Speaker, it is a shame. I ask my colleagues to vote for the bill because the aid is necessary, but, boy, there are some people who have been victimized by this institution as well as by the hurricane.

ANNOUNCEMENT OF MEETING WITH THE PRIME MINISTER OF THE NEW CZECH REPUBLIC

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, I would like to extend an invitation to our colleagues. This afternoon, at 12:45, downstairs here in the Capitol in room H-137, we are going to be having a meeting with the Prime Minister of the new Czech Republic, Vaclav Klause, and, as we have observed the bloody struggles which have taken place in Yugoslavia, it is very important for us to note that both the Velvet Revolution and the breakup of the Czechoslovakian Republic has been very peaceful, and I think that he can provide us with some very helpful input on that measure.

Mr. Speaker, I invite my colleagues on both sides of the aisle to join us at 12:45 this afternoon.

□ 1110

PORKER OF THE WEEK AWARD

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, do you ever wonder what is actually in the hundreds of bills Congress passes each year? What about all the budget bills that are passed in the wee hours of the morning and are hundreds of pages long? Too often, most people do not know what is in them until after the fact.

That is when we find out about all the high-dollar goodies that were attached during late night jam sessions between the House and Senate. If these projects are really worthwhile, why were they not introduced in the light of day?

Congress spent almost $3 million for an Abraham Lincoln Research Center, which has never been authorized, almost $4 million for a physical fitness center in Maryland, and $3.6 million for urban gardening.

Recent examples are $2 million which was included in a bill to study truck-driver fatigue and another $1 million to research commercial truck driver fitness. Don't you think the trucking industry could pick up the tab on this research if it is even needed?

Keep on trucking, but do it with your own money. This gets my "Porker of the Week" award.

CABLE TELEVISION LEGISLATION SHOULD BE SIGNED INTO LAW

(Mr. TAUZIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TAUZIN. Mr. Speaker, we hear a lot about gridlock in this presidential year. I wanted to point out that yesterday this House by over two-thirds majority adopted a bill that would create some fairness for consumers in the television marketplace, that would create some competition, that would give consumers a choice, and would lower cable rates to millions of Americans.

Repubicans and Democrats in this House came together in a great majority, over two-thirds. It is likely the same thing will happen on the Senate side.

Mr. Speaker, I want to urge all Members of the House to urge the administration to join us rather than oppose us in accomplishing this needed reform for American television consumers.

We do not have gridlock in the Congress on this issue. We are together. We ought to be together with the administration. We ought to have a bill that is signed into law so that when we leave this Congress we will have done something that I think Americans are anxious to see us do, take a problem and solve it, take an issue and resolve it, rather than answering to the special interests who always try to gridlock us, who always try to deadlock us, who always prevent us from solving problems for America.

THE GENDER GAP

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, we have heard and read a lot during this Presidential campaign about a gender gap.

And, quite honestly, there is a huge difference in the records of President Bush and Governor Clinton regarding the appointment of women to important positions in Government.

President Bush has appointed more women in his administration than any previous President—3,000 positions, including 699 to executive positions and 53 to the Federal bench. That's 42 percent of all full-time Government positions.

In Arkansas, only 15 percent of the Clinton appointees who make more than $43,000 are women. And Clinton ranks only 32d out of 43 Governors who have appointed women to cabinet positions.

Governor Clinton talks a lot about the gender gap in the workplace—President Bush is doing something about it.

LEAK OF CLASSIFIED MATERIAL BEING COVERED UP

(Mr. COX of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX of California. Mr. Speaker, today, September 18, 1992, will be recorded as a black day in the already sadly spotted history of the House of Representatives. The Democrats who control this House have put partisan politics ahead of country. They have put protecting their own political hides ahead of defending the national security of the United States.

It has been reported to this House by the Director of the Central Intelligence Agency, by the Department of State, by the Department of Treasury, that in March, July, and September of this year on repeated occasions one of our colleagues willfully disclosed information from top secret intelligence documents which he publicly acknowledged at the time to be classified.

One of my colleagues, the gentleman from Texas [Mr. COMBEST], brought a privileged motion to this floor under which he was entitled to 60 minutes of debate. He asked that we refer this matter to the Committee on Ethics. But the Democrats who control this Congress not only did not permit the referral to the Committee on Ethics, but refused to permit the gentleman his time even to present the case or to debate the issue. They covered up, they stonewalled, they prevented discussion on the issue.

This is a far more serious coverup than the House Bank or the House post office in which no one was killed. This jeopardizes people's lives. The American people are calling on us to clean the House. If the reasons for this vote have not been clear enough, today's sordid episode provides ample evidence.

ARE YOU BETTER OFF TODAY?

(Mr. APPLEGATE asked for and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, the old question "Are you better off today that you were 4 years ago?" still stands. It is a favorite Republican phrase.

Mr. Speaker, it is coming back to haunt them. How safe is your job—that is, provided that you have one, and that you have any good income?

Do you have less than what you had 4 years ago? Do you have adequate health insurance? Do you have more than you had 4 years ago? Do you have a pension that you can rely on? Do you have money to send your kids to college? Do you have enough to house, clothe, and feed your family? If so, do you have any money left after you have done that? Are you still able to participate in the American Dream?

Well, I am sure Mr. Bush's friends who got all the tax breaks and all the defense contracts during the 1980's have no worries; do they?

I think now it is time for the rest of the American people to be able to participate in the American dream and grab just a little bit of that prosperity.

ADVICE FROM BENJAMIN RUSH: FOUNDING FATHER

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I would like to bring to your attention a lecture I attended yesterday by David Barton regarding the history of our country and the principles in the Bible.

We have all been appalled by the recent armed robbery of Mrs. Basu's car in Montgomery County, MD, and her subsequent death. Not only that but her baby was tossed out in the road as well. Again this morning there are more stories in the papers about carjackings and other brutal crimes against individuals.

We can sit here all year writing and passing laws, but until we return to the roots of the intentions of the Founding Fathers 200 years ago, crime will continue to escalate.

I would like to quote Founding Father, Benjamin Rush, whose essays 200 years ago formed the basis for our present Government. Our Founding Fathers had something different in mind for this country and we have gone far astray from the original plan as outlined in their writings. Rush was one of the Framers and signers of our Declaration of Independence, founded four universities, was a director of the U.S. Mint, and served under Presidents John Adams, Thomas Jefferson, and James Madison, and had a great influence on the development of our present form of government.

Our national attitudes and laws all began with the education of our young. Benjamin Rush wrote 200 years ago:

> In contemplating the political institutions of the United States, I lament, that we waste so much time and money in punishing crimes, and take so little pains to prevent them. * * * We neglect the only means of establishing and perpetuating our Republican forms of Government, that is, the universal education of our youth in the principles of Christianity, by means of the Bible; for this divine book, above all others, favors that equality among mankind, that respect for just laws, and all those sober and frugal virtues, which constitute the soul of Republicanism.

I would commend these essays to my colleagues as the best of warnings. The Framers of the Government of our country intended that prayer and Bible reading be part of the education of our youth.

CLINTON'S DRAFT TALES AND THE ENERGIZER BUNNY

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, Governor Clinton's accounts of his Vietnam-era draft evasion are like the energizer bunny. They just keep going, going, and going.

Did he get special treatment to evade the draft? Did he use political influence to challenge the draft board? And, more disturbing of all, did he willfully deceive the ROTC, as Colonel Holmes said in his letter? And is he deceiving the American people?

Just like the energizer bunny, Mr. Speaker, details of Governor Clinton's draft evasion just keep going, and going, and going.

There is one important difference. Unlike the energizer bunny, Governor Clinton's tale keeps changing. And if we cannot trust Governor Clinton's tale now, how can we trust him as Commander in Chief of all of our armed services?

DEMOCRATS VOTE TO PROHIBIT ETHICS COMMITTEE FROM INVESTIGATING DISCLOSURE OF SECRET INFORMATION

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, a very serious action was taken by this House this morning. In the face of very clear, indisputable evidence that one of our colleagues has broken the House rules governing Member responsibility for top secret information, in spite of the impact this has on the access of the legislative branch to confidential information important to policymaking, and in spite of the blatant disregard for our rules and the Nation's security with which top secret information has been revealed, the Democrats of this House just voted to prohibit the Committee on Ethics from investigating this matter or even discussing it on the floor.

□ 1120

This is politics being allowed to erode the very foundation of democracy, the rule of law. Let the public note.

WHAT ARE THE RULES?

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, just exactly what are the rules? Do we interpret the motion to table the resolution of the gentleman from Texas [Mr. COMBEST] as quiet concurrence, that it is OK to deliberately ignore House rules and willfully disclose classified information?

If this is OK for a committee chairman of the majority party, can other Members do the same? Can I, as a member of the Committee on Standards of Official Conduct, ignore the rules and deliberately disclose the proceedings of that committee? What fun that would be for the press.

In fact, what is the purpose of the Committee on Standards of Official Conduct, if the majority party manipulates procedures to prevent referral of serious and apparently substantiated allegations from being considered by the committee?

The American people have doubt about whether this House can police itself and, sadly, the motion to table the motion of the gentleman from Texas [Mr. COMBEST] can only further this doubt.

The Committee on Standards of Official Conduct does not operate on a partisan basis, and we are proud of that fact. This issue raised by the gentleman from Texas [Mr. COMBEST] is not partisan. It is a matter of national security.

I am deeply disappointed by the majority. I am deeply disappointed by the majority leadership, and I hope they are troubled by this.

PROVIDING FOR CONSIDERATION OF H.R. 5620, SUPPLEMENTAL APPROPRIATIONS, TRANSFERS, AND RESCISSIONS ACT, 1992

Mr. BONIOR. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 575 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 575

Resolved, That upon adoption of this resolution it shall be in order, any rule of the House to the contrary notwithstanding, to consider in the House an indivisible motion to take from the speaker's table the bill (H.R. 5620) making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes, with Senate amendments numbered 1 through 69 thereto, to disagree to the Senate amendments numbered 1 through 68, and to concur in the Senate amendment numbered 69 with an amendment. The Senate amendments and the motion shall be considered as read. The motion shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations or their respective designees. The previous question shall be considered as ordered on the motion to final adoption without intervening motion.

The SPEAKER pro tempore. (Mr. MCNULTY). The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, three natural disasters within a few short weeks, hundreds of thousands of people without homes, emergency services strained to the limit, schools and businesses destroyed.

The devastation—in Florida, Louisiana, Hawaii, and Guam—is unprecedented. The task of rebuilding is enormous.

In many important ways, the people of this country have already responded. From all across the land, Americans have extended a helping hand to the victims of these disasters—they've sent food, supplies, financial support. Many have even traveled to the affected areas to lend a hand.

But the most extraordinary response has come from the people of the devastated communities themselves.

People whose homes have been destroyed—whose lives have been completely disrupted—have rallied with their neighbors to help the most vulnerable, to ensure that emergency services are available, to begin to rebuild their communities.

Their response—even in the face of such adversity—is a tribute to the determination and generosity of the American people.

But even with this outpouring of support, the people of Florida, Louisiana, Hawaii, and Guam still need help—they need help from the Federal Government. And that is what this legislation provides.

It provides funds to help rebuild these communities—to repair schools, roads and bridges, and public facilities.

It provides loans to rebuild small businesses and homes. It will help these devastated communities get back on their feet.

Mr. Speaker, this is an issue on which we can all agree. These people need help, and they need it now.

Andrew, Iniki, and Omar are past—now we must help to restore a future for the people who suffered in the wake of these disasters. Let's send this legislation to the President without delay.

Mr. Speaker, House Resolution 575 makes in order one indivisible motion to take the bill, H.R. 5620, from the Speaker's table with Senate amendments; to disagree with all the Senate amendments except the last—No. 69; and to concur in Senate amendment No. 69 with an amendment.

The motion—and the Senate amendments—will be considered as read. The rule provides 1 hour of debate time on the motion, equally divided and controlled by the chairman and ranking minority member of the Appropriations Committee.

I urge my colleagues to support the rule and bill, so that we can get this desperately needed assistance to the victims of these disasters.

At this time, I yield, for the purposes of debate only, to the gentleman from California [Mr. DREIER].

□ 1130

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is my understanding that if this rule is adopted, an amendment will be made in order that reflects an agreement on all of the controversial provisions, including the Davis-Bacon provision, which would have provoked a Presidential veto.

The destruction that was left in the wake of Hurricanes Andrew and Iniki is nothing short of a tragedy for people who have lost their homes, their businesses, and maybe, sadly, their lives. I am pleased that we will be able to proceed with this critically needed legislation so that the rebuilding process in Florida, Louisiana, Hawaii, and Guam can move forward expeditiously.

Let me proceed by asking my colleague, the gentleman from Michigan [Mr. BONIOR] if the controversial provision which was raised last night in the Committee on Rules is in fact knocked out. I understand from discussions that I just had with the distinguished acting chairman of the Committee on Appropriations, the gentleman from Kentucky [Mr. NATCHER], that that in fact is the case.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, I would say to the gentleman that he is correct.

Mr. DREIER of California. Mr. Speaker, I thank the gentleman for his response.

Mr. Speaker, there is another point I would like to add. That relates specifically to the issue of disaster aid. Fortunately, most of the homes that were damaged or destroyed by Hurricanes Andrew and Iniki have insurance coverage for windstorm damage so these disaster victims will have the financial resources to begin putting their lives back together, regardless of what we do here today.

This is a lesson that should not be ignored by Californians and others who live in States that face the risk of major earthquakes. I should say that there are 39 of those States. The big earthquake that scientists feel certain will occur within the next three decades could be substantially more devastating than what occurred in south Florida, yet few homeowners in this country have earthquake insurance to protect against physical and financial ruin.

As we have seen over the past few weeks, the Federal Government is not capable of responding with quick or complete compensation. This point was highlighted by Thomas Sowell in a recent commentary in Forbes magazine.

Mr. Speaker, for reference I include the article by Mr. Sowell featured in Forbes on September 28, 1992.

[From Forbes, Sept. 28, 1992]

MISPRICING THE RISKS

(By Thomas Sowell)

As people struggle to put their lives back together in Florida and Louisiana in the wake of Hurricane Andrew, they are likely to get the money they need from their insurance companies far more quickly than they get much-heralded, but slow-moving, help from the federal government.

The bottom line politically is that the President gets credit for showing up at a disaster scene, expressing his compassion and announcing that federal help is on the way. For the insurance companies, the bottom line is that they have to get money to their customers in the disaster area if they want to maintain a reputation that will hold other customers.

Under these conditions, it is hardly surprising that insurance companies, operating under the pressures of competition, find it necessary to move faster than government employees, who get paid the same salaries whether the money reaches disaster victims earlier or later.

Private insurance is more efficient than government in a more fundamental way as well. Economic pressures not only operate on the insurance companies, but also on their customers, who can minimize their insurance premiums by minimizing the risks they run in the first place.

Premiums are higher for people who choose to live in higher-risk locations, work in higher-risk occupations or operate their businesses in higher-risk ways. While insurance companies vary the premiums with the risk as a matter of economic self-preservation, the systemic effect on the economy as a whole is that risks are minimized throughout the society, consistent with other objectives that make people willing to pay a certain amount to do risky things.

Such incentives and results are often missing in government-provided services that call themselves "insurance," as well as in other government activities that take on some aspects of insurance, such as disaster relief. Before looking forward to government-provided or government-controlled "national health insurance," it may be well worthwhile to look back at some other government "insurance."

When the Social Security System was created back in the 1930s, it was promoted politically as an insurance system, when in fact it was nothing of the sort. Neither is the Federal Deposit Insurance Corporation.

A viable insurance system must have enough assets to cover its liabilities—which is another way of saying that policyholders pay for their own risks and costs. That has never been true of Social Security, which is run much more like a pyramid club.

Those who first joined the Social Security System received their money back several times over, but of course that could continue only so long as growing numbers of new people joined the pyramid. It works fine when the large generation of baby boomers pays for benefits for the small generation born during the 1930s, but when the baby boomers themselves retire, the pyramid gets shaky.

The most likely outcome is some combination of higher premiums for the working population of the 21st century and partial default on the benefits promised to retirees, whether through taxation of their benefits or inflation of the currency in which those benefits are paid.

Government "insurance" of banks and savings and loan associations would be more accurately described as blank-check underwriting of incalculable risks. When the existing fund set aside to compensate depositors in failed banks and S&Ls turns out to be inadequate, Congress simply appropriates more money.

Instead of having deposit insurance premiums vary with the degree of riskiness of a bank's investments, the safer banks have to subsidize the riskier ones. Subsidized risks, like subsidized agricultural crops, tend to be larger than they would be otherwise.

In other areas as well, the government promotes riskier behavior by putting the costs of those risks on other people, rather than on those who choose to take the risks.

Government-provided disaster relief also bears some superficial resemblance to insurance, but it too subsidizes riskier behavior than that under private insurance provided through the marketplace. Build your home in an area repeatedly flooded or hit by hurricanes, or in wooded California hills subject to severe fire dangers, and those risks are going to show up in bigger home insurance premiums. But federal disaster relief puts those costs on the taxpayers.

Government regulation of private insurance often pushes in the same direction. Automobile insurance regulation often forces safe drivers to subsidize reckless drivers, which of course has the effect of allowing more reckless drivers on the road, instead of pricing them out of their automobiles. "Gay rights" laws will likewise force the huge risks and costs of AIDS onto the general public.

Let insurance be insurance, not another illusion of a free lunch.

Mr. Speaker, it is my hope that we can move forward with a national earthquake insurance program, such as that contained in H.R. 2806, which is a bill that I have cosponsored in a bipartisan way with several of my colleagues, so that we can mitigate the potential physical and financial damage that may result from a catastrophic earthquake.

The experience we have gained from the aftermath of Hurricanes Andrew and Iniki only underscores the need for earthquake insurance legislation. I hope what we are about to go through here today will in fact focus more attention on the need to move ahead with legislation to address that.

Mr. Speaker, I reserve the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield 8 minutes to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to urge my colleagues, before I begin, to understand that I am going to support this rule and certainly support the bill. As one of the Members who had a portion of his district affected and has been down to the district of the gentleman from Florida [Mr. FASCELL] where the major damage occurred, I cannot begin to tell the Members the grief and the disaster and the destruction that has befallen the people who live in south Florida, basically south Dade. All of Dade County has been affected, and counties surrounding the area have been affected.

There is a lot of good Federal relief help in this bill. The majority whip was correct when he spoke about the outpouring of help and the support and love and charity from so many people, both surrounding the disaster area, from the surrounding counties, from the State of Florida, and from around the country.

Mr. Speaker, when I first went down to the disaster area a few days after the hurricane, that is, the major disaster area, because I had nine people in my house riding out the hurricane also, and we considered ourselves very fortunate to sustain only minor damage, I cannot begin to tell the Members how much in awe I was of how quickly people from all over the country had already begun responding.

I was stuck in a traffic jam just a few days after the hurricane, right at the exit off of the Florida Turnpike in Homestead, which was the site of major devastation, a traffic jam of 18-wheelers and vans and cars and police cars and city vehicles and county vehicles coming in from south Alabama and north Georgia.

The day of the hurricane, that night after it had passed, Charleston, SC, sent 12 police officers with their vehicles to help, because Florida City had lost 29 of its 31 vehicles, destroyed in the hurricane.

There were people from all over the country, not only coming in but sending food, sending clothing, sending medicine. The outpouring was just absolutely unbelievable and gratifying. For the first few days, unfortunately, there was some kind of what we might call organized or disorganized pandemonium as people struggled to set up a bureaucratic system to cope with the disaster which had overwhelmed the existing emergency capability.

The city of Homestead lost 90 percent of its homes, all of its infrastructure; no power, no electricity, no water, no sewer system, nothing. It was impossible to be able to cope fully. They needed a system to cope with all the help.

It was Friday by the time the Federal military showed up, but the help has arrived. It arrived by volunteers, it arrived by the State, it arrived by the county, it arrived by the Federal Government. This is long-term follow-on that we are being asked to vote on today, and it is absolutely the right thing to do.

Mr. Speaker, there is money in here to at least put Homestead Air Force Base back in a working mode. There is money here to help a lot of the farmers who have been devastated, a lot of the businesses which have been devastated, and certainly help by virtue of short-term disaster direct assistance, and then loans; a lot of the homeowners and renters have lost their homes, their clothing, and their personal possessions—all of them—their jobs, because many of them live locally and all of the commercial enterprises were devastated, their cars, their mementos. Their lives have been to a large degree obliterated. We thank God for the de minimis loss of life that occurred, but beyond that, everything is topsy-turvy.

The people of Florida, however, are fighting back, as are the people of Louisiana and now the people of Hawaii, who suffered under Hurricane Iniki.

However, notwithstanding all of what I said, I want to tell the Members how terribly disappointed I am that in many instances things which would have helped to distribute the aid that is in this bill effectively to people that need it, those things never made it into this bill, but other people's attempts to benefit their own constituencies, which were never declared emergency disaster areas, made it into this bill; Senators have money in this bill for things that were not declared disasters, when farmers in south Miami who grow shade and ornamental plants cannot qualify for a dime's worth of help, although they hire 400 local people.

There was language that we wanted to mandate under the Stafford Act that local contractors be given some preference when contracts are let; $90 million has already been let by the Corps of Engineers. Not a dime went to a local Dade County firm to put local people back to work who lost their jobs. That was excluded.

There was language that would make it that all contracts would comply with local ordinances regarding minority participation. That was not included.

The SBA pool of insurance loan money, so that insurance companies, domestic ones who are now insolvent because the amount of claims from their narrow base of policyholders, which was right in that area, they were the majority of the claims. They cannot pay the claims, and if they go out of business, the State Guaranty Association is going to wind up only paying 10 or 20 cents on the dollar. SBA objected. We asked for help on certain issues and OMB objected.

The President of the United States came the day of the hurricane, and for that we are grateful, on Monday, assessed some of the damage, and left saying he would help. The problem is his agencies, the ones that deal with the help after he leaves, have now basically rejected a lot of help that could be available.

□ 1140

We are not asking for any more money. We are asking for language changes so that people who need it can get the help.

Florida does not have wheat crops, corn crops, barley crops. It grows shade and ornamental trees in Dade County, $20 million worth on one farm wiped out, the second largest in the world. He cannot get a dime. He employs 400 people. They are all out of work, and they live right there. They would not allow a lousy language change to be put into this bill that would make them eligible for loans; no grants, no money directly, just loans which he wants to borrow.

We grow tropical and exotic fruits. They do not qualify. We asked for help. There are hundreds of people employed in that. It provides millions of dollars in sales to south Florida. Would not do it, would not do it. Agriculture said no. SBA said no.

They are victimized again because of bureaucratic indifference and some legislative indifference, and people ought to know that.

We are going to work very hard to try to make during the process of application these people eligible for some kind of help. But notwithstanding that, there is a great deal of help in this bill, and we are very grateful for it. A majority of the people whose lives have been destroyed by this in Hawaii, in south Florida, in Louisiana, will be able to benefit, and for that we are very grateful, and we appreciate all of the work that a lot of good people on the Appropriations Committee have done on this.

The administration could have been better on this issue, could have not stood in the way on this issue. But I urge Members to vote for it because, frankly, this is only the beginning of what is going to be needed to bring so many thousands upon thousands of people's lives back to natural order, and they are very grateful to you. On their behalf I say thank you for your vote for this bill.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 5 minutes to my friend, the gentlewoman from Florida [Ms. ROS-LEHTINEN]. She has worked diligently on this issue. In her newly drawn district she will be representing both Homestead and Florida City, and she has tried desperately to pull this project together, and I am happy to be able to yield time to her at this point.

Ms. ROS-LEHTINEN. Mr. Speaker, the devastation in south Dade County due to Hurricane Andrew is surely of epic proportions. Many have died, homes have been destroyed, businesses demolished, neighborhoods trashed, entire areas in ruins. Andrew left a true tragedy by its path and it did not discriminate—whether you lived in a fancy house in a secluded neighborhood, or an abandoned trailer, where the most humble illegal alien worked in the agriculture fields, you both got hit and you both got hit hard.

This Federal relief bill will at least give one ray of hope to an otherwise dismal human tragedy. The tired old cliche which says "Today is the first day of the rest of your life" seems to have new meaning to the residents of south Dade because these Federal funds will serve to alleviate some of the suffering that has been the fate of many for the last almost 4 weeks.

With these funds, folks will see that the Federal commitment is strong and that, although it is not as much as we would have liked, it is certainly a strong boost for our devastated economy in south Dade. Businesses will begin to fix up their demolished structures which will mean that there will be jobs once again for our area residents and residents will begin to rebuild their destroyed homes and family life will start to have a sense of routine once again.

We all will need to work together throughout the entire Dade County to ensure that our once beautiful communities will be thriving areas again. Opening family environments, like our parks, will serve as a signal for our children that life may be coming back to normal soon. For the psychological blow that this hurricane has rendered to the young will only be known by the passage of time. Today, for example, there was a strong thunderstorm in Miami and I wonder how many youngsters cowered in fear as the sound of the wind reminded them of that awful morning of August 24.

This hurricane has also scarred the elderly—some of whom rode out the night alone—instead of seeking shelter. May the elderly and the children—recover soon from this awful experience.

So let us not politicize this human tragedy. Let's pass this relief bill.

Through reapportionment, south Dade, unfortunately was carved into four different congressional districts, instead of one consolidated area, as they have now, by being wonderfully represented by our colleague DANTE FASCELL. But that will mean that Homestead will have four Congressmen from our area fighting vigorously to rebuild Homestead Air Force Base totally. But, that battle remains to be fought—and we will all be ready—at the proper time.

For now, I urge my colleagues to pass this much needed Federal relief bill to at least let us come up for air. We desperately need it.

And with these funds, let's make sure that our local construction companies and our local folks, especially in the hard hit areas, are the ones who get the contracts and the jobs to rebuild south Florida.

Our economy has been in a very weak position so we cannot afford for our people to be pushed aside when work contracts go through.

Out of the tragedy, we must also reexamine the disaster relief efforts of our Federal agencies. More must be done to ensure that the agencies coordinate their duties and communicate diligently and quickly with local and State agencies. We must not allow what happened in Miami in those critical days to happen ever again anywhere.

So I urge my colleagues to pass this relief bill, and let us get on with the business of rebuilding south Florida.

Mr. BONIOR. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I support the rule and I will support the bill.

I would just like to remind the Congress that in the last several years some of the dollar participation we have had has come out of our budget. Estimates of the Congressional Budget Office state that America places about $170 billion, $170 billion a year in NATO accounts and in funds that go overseas through our defense accounts. In addition to that, last year American taxpayers spent $70 billion to free Kuwait. I know that the allies came up with $53 billion, but American taxpayers kicked in $70 billion more out of our own accounts to free Kuwait.

We came up with emergency money for the Kurds. We came up with emergency money for the Turks. We forgave a loan to Egypt of $7 billion. We gave Russia $2 billion cash and another $10 billion in loan guarantees. We give $12.5 billion a year in foreign aid.

Mr. Speaker, if Congress does not pass this measure for the American taxpayers in Florida, Louisiana, and Hawaii, then there is no hope for our Republic. Congress does not represent the right side.

Now I do not believe that will happen. But what concerns me is we seem to find this money for everybody else, but there is still some wrangling that goes on when we talk about American problems.

There is one aspect of this bill that bothers me, and that is some of these 100 percent funds. I support it, and I think they should be, but when that tornado ravished my district in 1985 there were no 100-percent funds. It was not an election time. And Congress should, in fact, set up a universal, standardized system that on these types of disasters all Americans are treated the same. That I think is one flaw in our policy.

But again, I want to commend all of those who have promulgated and developed this program of support for all the people of Florida, Louisiana, and Hawaii, and for every American around the country who should experience a disaster, I think it should be at least known in our country that our Congress will take care of them as well as they have taken care of everybody else around the world.

□ 1150

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

At this time I would like to, if possible, engage in a colloquy with my good friend, the gentleman from Michigan, the majority whip. There has been a great deal of confusion as it relates to this Davis-Bacon question.

As my friend knows, last night there was a very good prospect that we should have seen the helper provisions on Davis-Bacon, the regulations that relate to that, eliminated for a 1-year period. I would like, since calls have come down here to the floor, and a number of colleagues have asked, for my friend to explain exactly what has taken place.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, it is my understanding that the distinguished acting chairman of the Committee on Appropriations will, as stated by the rules, offer an amendment for consideration on the floor, an all-encompassing amendment which deals with the substance of which we have been just discussing. It will not touch or deal with the question that the gentleman refers to.

Mr. DREIER of California. If I could further inquire of my friend, are there any other changes at all that he anticipates at this point as it relates to the rule itself?

Mr. BONIOR. Not that I am aware of. There are no other changes.

Mr. DREIER of California. I thank my friend for the clarification. I will say that it has taken a while for us to get to this point, and I think it is important, because there are a lot of colleagues who just have not been clear on this issue.

Mr. Speaker, I yield 3 minutes to my very good friend from Mobile, the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Speaker, I rise to express my reservation about this legislation, yet under the circumstances, I intend to support it, and encourage my colleagues to do the same.

I have the deepest sympathy for the victims of Hurricane Andrew and Hurricane Iniki. I have lived through a major hurricane myself, Hurricane Frederic, and know first hand what total devastation is like. While I do not object to the fact that we are acting on emergency assistance legislation, I am seriously concerned over the path we are headed down by waiving State and local financial responsibility.

When Hurricane Frederic hit the coast of Alabama in 1979, it was classified at the time as the costliest hurricane to strike the United States. The same is applicable to Hugo. We did not get 100 percent Federal funding nor did we get 90 percent Federal funding. We received the traditional 75 percent Federal match and to the best of my knowledge we did not request special consideration. It should be noted that, then as now, Alabama was a very poor State. With all due respect, the State of Florida just doesn't jump to mind as being poverty-stricken or as needy as States such as Alabama.

I have the greatest respect for the citizens of Florida—indeed, my district borders the State of Florida and I have many friends in this neighbor State. I am a little outdone at the national media which I believe exploited the victims of Hurricane Andrew in south Florida. Ubiquitous news cameras and news reporters pressed victims to the breaking point at a time of tremendous upheaval and stress. The appearance given was that these people were ungrateful and selfish when in truth they were overwhelmed by extremely unnatural circumstances. They portrayed Floridians as ungrateful and unwilling to help themselves, but wanting to be spoon-fed by the Federal Government.

I urge my colleagues to be concerned about setting a dangerous precedent wherein all disasters receive 100 percent Federal funding. Make no mistake, no President will be able to tell a Governor that his State is not as important as Florida. And let me add, if that Governor is from Alabama and this precedent is in place, I will be here demanding equal treatment. So let's be honest—we simply can't afford this because it will never end. We just can't be all things for all men,

We still have communities as well as individuals striving to pay off disaster loans and expenses from Hurricanes Frederic and Hugo. Should we give them some retroactive support by forgiving existing disaster loans.

Since they struggled when knocked to the ground shouldn't we extend to them either repayments on a parity with what we propose for these recipients, or maybe forgiveness of balances still due because they accepted less, yet were appreciative that the Government was there to help?

Mr. BONIOR. Mr. Speaker, I yield 7 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, the responsibility which I share with other Members of the House whose districts have been devastated by a recent hurricane is awesome, indeed.

All of the properties and all of the lives that were affected by Hurricane Iniki were constituents and confined in my district, the Second Congressional District. There was damage on the island of Oahu. Many homes were destroyed there. The people on the island of Oahu are dismayed even as I stand here in the well that FEMA has not opened a disaster area for them.

So much of the attention has been placed on the people and property on the island of Kauai that some of the other remote places on the island of Oahu and elsewhere have been more or less left to fend for themselves.

So there is much needed to be done, much coordinating and much efforts on the part of the Federal Government and the State and local governments to take care of the people who are still suffering and waiting for help from the local government and from the Federal Government.

Today, I want to say that I am deeply grateful to all of the Members of the House and of the other body who have worked diligently to add funds necessary to meet the initial demands for funds and support that the people of my district require.

Iniki was a category 4 hurricane, somewhat probably more powerful than the hurricane which hit Florida, Hurricane Andrew. It is probably the most powerful storm that has ever hit the islands of Hawaii, certainly within recorded time. We are fortunate that the people that lost their lives were only four, at least of those that we have discovered in removing the rubble. There were well over 300 people injured, and many very seriously.

But what is so devastating in the power of the hurricane is the damage that it does to property, both private and public, and that is where the funds that are being provided by this supplemental appropriation are going to do the most. It is going to help to rehabilitate the public properties that have been destroyed.

Can you imagine a community, a modern community, one that is loved as a tourist destination, having 90 percent of its electric poles down as a result of the storm? It is going to take months to restore them and to be able to regain the electrical power necessary.

Last night one of the radio stations finally came on and called my office just wanting to hear some assurance that the Congress, indeed, was going to act today to provide that kind of security to the people in Hawaii.

The $1.2 billion that is contained in this bill is going to do a great deal to help rehabilitate the public facilities as well as the private properties that have been destroyed. Many of the homes that I saw last weekend when the entire Hawaii delegation went out there to visit were beyond repair, and they belonged to elderly citizens who thought some years ago, "How wonderful, I have paid for my home. Finally I can live with some sense of security." And now to have this happen and to realize that they probably are not going to be able to get a loan to rebuild their house. They are going to have to be counted among the homeless, and so the construction of public facilities to take care of these hundreds, if not thousands, of homeless people on the island of Kauai is going to be a major priority.

□ 1200

The agricultural damage on the island, together with the loss of tourism because most of the hotels were destroyed are devastated, so that they had to close, has rendered that island with more than 50 percent unemployed, so I do not know.

The answers for agricultural assistance, they tell me, have to come from other sectors of the Federal Government. It is a shame that we cannot coordinate all this assistance into one area. The agricultural economy is the cornerstone of the health and prosperity of this island, the sugarcane, the macadamia nuts, the coffee, the bananas, the guavas, the mangoes, all these things that have employed hundreds of people now are gone, and we have to look to the Federal Government for assistance to bring this back.

Mr. Speaker, the difficulties that the people are going to encounter are almost beyond description. I plan to return to my district this weekend and to spend time, several days, Sunday, Monday, and Tuesday, whatever is necessary, to see that the disaster area centers are functioning and that the insurance companies are there to take care of their clients and not laying back. There is no telephone service. Nobody can go and call their insurance company and ask for an agent to come, and yet the process which needs to start requires a certification that the insurance is not going to provide the recovery that a homeowner might need. So we need to pull together.

I have to say, the resilience of the business people and of people generally of the island of Kauai is tremendous. It is heartwarming. They are pulling together. They are helping one another come out of this destruction.

I think that hearing today that the Congress has approved this supplemental appropriation is just going to give them that bolt of continued energy to move ahead and to face whatever rigors and difficulties there are in the future.

So, Mr. Speaker, I urge my colleagues to support the rule and the bill and make possible the emotional, psychological, and physical recovery of the tens of thousands of people in my district.

Mr. Speaker, I rise today to urge my colleagues to vote for H.R. 5620 which provides assistance for the people of Hawaii.

The need for the assistance is indisputable, Iniki, a category 4 hurricane like Andrew and the most powerful storm to strike the Hawaiian Islands in over a century, caused 4 deaths, injured over 300 persons, and destroyed or damaged over 1 billion dollars' worth of public and private property.

H.R. 5620 appropriates $1.2 billion to be made available to the State of Hawaii in the wake of Hurricane Iniki. The $1.2 billion will take the form of Federal Emergency Management Administration [FEMA] disaster assistance, FEMA disaster loans, Small Business Administration [SBA] disaster loans, Federal Housing Administration [FHA] loans, agricultural programs, and public housing construction.

Although Iniki's winds and tidal surges touched all the major Hawaiian islands, the hurricane's full fury—winds between 140 to 160 miles per hour and tidal surges as high as 30 feet—were vented on the islands of Kauai and Niihau, and the Waianae coast of the island of Oahu.

Kauai, known locally as the Garden Island and long famed for its lush and pristine beauty, supported a pre-Iniki population of about 66,000 persons made up of 51,000 permanent residents and 15,000 visitors. Most permanent residents held jobs that were directly or indirectly connected to the tourism industry while many other permanent residents were employed by the agriculture industry.

However, in the late afternoon of September 11, 1992—1 week ago today—Kauai took a direct hit from Hurricane Iniki. In 3 hours Iniki swirled over Kauai, the hurricane destroyed or damaged a third of the homes, 70 hotels and resorts, felled 90 percent of the electric utility poles, leveled the sugarcane crop which was the island's second major source of income, and set back the diversified agriculture industry by destroying macadamia, guava, banana, papaya, and coffee orchards. In 3 hours, Iniki disrupted the lives of Kauai's residents by causing at least 8,000 of them to join the ranks of the homeless and raising Kauai's unemployment rate from 5 percent to over 50 percent by wiping out the tourism and agriculture-based economies.

Along with my colleagues in the Hawaii congressional delegation—Senator DANIEL K. INOUYE, Senator DANIEL K. AKAKA, and Representative NEIL ABERCROMBIE—I flew to Hawaii last weekend to survey the destruction and damage caused by Hurricane Iniki. Neither the accounts I read in newspapers, reports I heard on radio, the video shots I saw on television regarding Hurricane Andrew in late August, nor the updates on Hurricane Iniki I received en route to Hawaii, prepared me for what we saw back home. Last Saturday, we viewed Kauai from a helicopter. From the air, we saw shoreline areas that have been altered beyond recognition; formerly lush hills and valleys stripped bare of vegetation; boats left high and dry far above the normal tide line; and homes, apartments, and office buildings completely or partially demolished with their former contents strewn about the landscape.

I believe my colleagues in the House who represent the areas impacted by Hurricane Andrew and Typhoon Omar will agree with me that reports cannot convey the enormity of the destruction caused by a powerful hurricane.

While it was painful for me to see such devastation, I can only imagine how truly difficult it is for those persons who lived in those communities to come to terms with Hurricane Iniki.

In spite of enormous difficulties and inconveniences, it must be noted that the people of Kauai, Niihau, and the Waianae coast of Oahu have displayed a civility, strength of character, and generosity of spirit in the week since Iniki struck. Numerous reports by the media of how former strangers have joined together to rebuild or repair their property and share their limited resources are very reassuring. That bonding as well as the general absence of antisocial behavior such as looting suggests very strongly that while those persons impacted most directly by Iniki may no longer have homes to maintain, crops to tend, or businesses to nurture, they are obviously very committed to maintaining, tending, and nurturing the social contract by which we all must live. But these people need the help of the Federal Government to put their lives, and their economy, back together.

Mr. Speaker, on behalf of the people of Kauai, Niihau, the Waianae coast of Oahu, as well as the State of Hawaii, I respectfully urge my colleagues to support this bill.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 3 minutes to the gentleman from Indiana [Mr. BURTON], the main opponent of pork in the Congress.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for those kind words and for yielding me this 3 minutes.

Mr. Speaker, I do not think there is anybody in this body or the other body who opposes giving this kind of relief to our fellow human beings in Florida, Louisiana, and Hawaii. We all are concerned about their suffering and want to do the right thing; but there is always somebody who wants to take advantage of the situation to feather their own nest.

Now, last year in the Defense appropriations bill, on a point of order I was able to get $6.8 million cut out for the Monterey Institute, which is a foreign language teaching facility. It is a private facility. In Monterey, CA, the Department of Defense already has a language facility that does an excellent job, but the chairman of the Budget Committee, the gentleman from California [Mr. PANETTA], has the Monterey Institute in his district. He wanted $6.8 million to pay for this private organization—pure unadulterated pork.

On a point of order, I was able to strike that $6.8 million out of the legislation and we were able to convince the Department of Defense not to spend that money.

Now we have this hurricane relief bill containing billions of dollars to help thousands and thousands of Americans in Florida, Louisiana, and Hawaii, and we should do that; but last night the conferees stuck in under the cover of darkness this pork barrel project for $6.8 million.

I think that is just dead wrong. This should be a clean bill to help the people suffering from these hurricanes. It should not be a bill containing pork to feather somebody's nest back in California, and that is what it is doing.

We defeated this once and the people who put this in last night know full well that we are not going to be able to defeat it today, because we are going to vote for the humanitarian aid for those people who are suffering.

So I just want to say to those conferees, congratulations on being able to stick $6.8 million in unadulterated pork that this body defeated before into a humanitarian relief bill to help the chairman of the Budget Committee.

Do you want to know why the people of this country are fed up with this place? This is one of the reasons. We ought to care about our fellow man, but we should not be loading pork into a humanitarian bill.

Mr. BONIOR. Mr. Speaker, I yield 3½ minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I thank my friend for yielding me this time.

Mr. Speaker, when we say the Pledge of Allegiance, we say "One Nation under God, indivisible," and if ever there was a time to be one Nation tied together with concern for one another, it is during a time of crisis in any of our States. Unhappily, we see these natural disasters too often.

Private relief agencies have done a superb job. They are providing immediate emergency care, with the sacrifices of many individuals and groups all over the country to help their fellow Americans. Those efforts are truly heartwarming and important.

But Mr. Speaker, we are not naive, and we know that private help alone cannot do the job when you are faced with an emergency of this great a magnitude. Private help cannot possibly render the assistance necessary to rebuild our cities and our counties, to ensure domestic tranquility, to promote the general welfare, and these things our Constitution requires of us.

Mr. Speaker, to add to the urgency today is the fact that we already face the unconscionable situation where previously approved disaster relief for Los Angles and 20 other hard-hit disaster areas has been suspended because of the stress on current funds. We all understand that stress. We are not complaining about it, but it is necessary to act today, because more than 450 homes in California were destroyed by this summer's wildfires, in addition to the thousands left homeless in Florida and Louisiana. FEMA is holding back $80 million in payments for those communities because FEMA is nearly broke.

Our people cannot afford a break in the lifeline. We talk about a safety net. What could be more fundamental than this vote we are about to cast. If you value families, then today we must extend the help that they are relying on.

To me, Federal disaster relief is like a candle in the window. For people who have lost everything, it is their way of finding another tomorrow to rebuild their lives and their communities. I believe it is a sacred trust.

Government of, by, and for the people, must serve the people, must serve our families, must serve our fellow Americans at a time like this, and today when we vote we will be telling our people all over this Nation, we will not turn our backs on you. Your Government will not turn its back on you when you are in such dire trouble.

Mr. DREIER of California. Mr. Speaker, I am happy to yield 4 minutes to my friend, the gentleman from California [Mr. ROHRABACHER], who was from Long Beach and now hails from Orange County.

Mr. ROHRABACHER. Mr. Speaker, I rise in the name of fiscal sanity and in opposition to yet another case of good intentions gone haywire, of Government spending totally out of control.

The rule before us today is not really in question, but it is linked to an all-purpose, spend-money-on-everything bill.

No one knows everything that has been put into this bill. Its sponsors were still making changes even after we convened this morning.

What we do know is that H.R. 5620, as proposed to be amended, contains about $10 billion of expenditures with no control mechanism in place. In our eagerness to alleviate the suffering of the victims of Hurricane Andrew and other recent disasters, if we do this, we must respond with our heads as well as with our hearts.

It is important in times of crisis not to go off half cocked.

We must face the fact that the Federal Government is broke. The Federal Government is more than $1 trillion in debt.

□ 1210

The Government is more than $1 trillion in debt. The national debt is rising at the rate of $13,000 a second. Yet here on Capitol Hill, it's business as usual which means, if there is a problem, if there is any kind of a challenge, spend, spend, spend, and that will take care of it.

Notwithstanding my colleagues' good intentions, it is disconcerting to see them clawing over top of one another to see who can shovel the most money out of the convoy for disaster relief. For years, the Federal Government has assumed 75 percent of the costs of disaster relief, and there was a reason behind that. It puts a control mechanism on what is requested for disaster relief while the State and the localities have picked up the remaining 25 percent so that just any claim will not be made.

However, in the aftermath of recent hurricanes and President Bush's pledge to provide 100 percent of emergency aid funding, my colleagues want to throw open the floodgates. Suddenly, they say, 20-ton relief trucks won't do; Federal taxpayers need to cart in 50-ton cash haulers.

Well, I will say it again. We need to respond to these disasters with our heads as well as with our hearts. The relief bill being considered here today is excessive. The Nation cannot afford such mindless benevolence.

I hail from a State that has known and doubtless will continue to know its share of natural disasters. With the precedent that we threaten to set here today, it would be easy for me to say, "Throw open the spigot." Ten billion in aid? Twelve billion? Pocket change. Let's make it $20 or $30 billion. The more money dumped in Florida, Louisiana, and Hawaii today, the more that will be dumped in earthquake-prone California tomorrow.

But in the long-term interest of our Nation, I will not join this spending spree and approve this legislation because this bill sends the wrong message, a deadly message, to those who are living in these areas that are prone to disasters that Uncle Sugar, Uncle Sam, is going to pick up everything. In fact, we are going to be in such a hurry to start shoveling the money out of the back of the truck, we are not even going to put any control mechanisms in place. The taxpayers be damned. We are going to get credit for being such benevolent people here on the floor of the House. That is not responsible government. It is irresponsible government that has put our country right on the verge of bankruptcy—not on the verge of bankruptcy, in bankruptcy.

So, Mr. Speaker, we better start recognizing that. I rise in opposition to this mindless benevolence.

Mr. BONIOR. Mr. Speaker, I yield myself such time as I may consume to pose a question to my friend, the gentleman from California [Mr. ROHRABACHER], if he would be so kind. I would ask the gentleman how he voted on the earthquake relief we provided for the State of California.

Mr. ROHRABACHER. Mr. Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Speaker, I believe the earthquake formula was a 75-25 formula, and that is what I am talking about today. There is no such mechanism in this relief bill.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Guam, Gen. BEN BLAZ, who has been victimized by Typhoon Omar.

Mr. BLAZ. Mr. Speaker and Members of the House, as you all know, I do not go to the floor very often because I am one of those Members of the House who is not really a Member of the House. So, not being able to vote, I do not often frequent the Chamber because it is very difficult for me to sit here and not rise or sit with the rest of my colleagues.

But I do have this voice, and this voice is telling my colleagues that one of the proudest moments I have in this body has been in recent years when we have risen in periods of adversity. We have done it again.

I am very saddened by the events, but in the recent events we have seen Members of this body and the Senate respond, and respond magnificently.

I shall not burden my colleagues with details of disaster. They have seen many images of it. But as one who has already undergone 40 typhoons in my life, let me say that, when I heard that a typhoon was heading to Guam, I ran to the airport, got on the plane and beat the typhoon to Guam. No one can make a case that he, the gentleman from Guam [Mr. BLAZ], is championing or advocating without being able to present the dimensions of everything, having been there.

I am grateful to all of my colleagues for including Guam in the bill. The national media does not choose to do that. It does not even mention the word Guam. Sadly, Mr. Speaker, some of the leaders in this body have never pronounced the word Guam.

Mr. Speaker, I am saying to my colleagues, Guam is U.S. territory. I'm saying to you that over the years, in war and peace, Guam has stood by you, has stood by us, and all I ask today, in the name of Guam, is I ask you to stand by us as you consider this bill.

Mr. Speaker, I am grateful. I wish I could vote. It is not my choice; it is that of my colleagues which prevents me. So, for those of my colleagues who do not feel any particular feeling one way or the other, I wish they would vote in my behalf.

My colleagues, I really am a proud Member of this House. I appreciate very much, more than I can express, the occasional opportunity I have to come and say, "Thank you, thank you, thank you."

Mr. Speaker and Members of the House, having witnessed 3 weeks ago the devastation that was wrought by Typhoon Omar on Guam, I can attest to the events that transpired and to the outstanding performance of individuals and agencies involved in the relief and recovery activities that are now taking place.

While I cannot speak for the other congressional districts that were severely damaged by Hurricanes Andrew and Iniki, I can speak for Guam. I can say without reservation or hesitation that the performance of the various agencies, military and civilian, Federal and territorial, as well as the hundreds of volunteers, was truly inspiring. Whatever misgivings we may have had about Federal agencies, most notably FEMA, were erased. From the time they came off the plane, they hit the ground running and have not stopped. Nothing was more reassuring to us and the victims of the typhoon than to have FEMA personnel and the military providing every possible means of support and encouragement. I am certain that I am reflecting the sentiments of the Governor of Guam, Joseph Ada, when I state that FEMA's presence, under Dick Buck, made an extremely difficult situation tolerable and hopeful. The unselfish devotion to the task of helping in the relief and recovery effort by FEMA and U.S. military personnel will long be remembered after wounds from Typhoon Omar have healed.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank my distinguished colleague, the gentleman from California [Mr. DREIER] for recognizing Sanibel and yielding this time to me.

Mr. Speaker, I am a Member from south Florida, yes, but I am one of the lucky ones. Our part of southwest Florida was just hurt, it was not annihilated, by Andrew, as some of the parts of south Florida were. I express also my deep gratitude to everybody who responded to the plea for help that we had from the victims of this incredible hurricane. The State, local, and Federal officials all deserve praise for the prestorm and poststorm efforts, and I say that from the heart, not from something I have read in the media that did not exactly get it right all the time. Thanks to a well-coordinated evacuation effort, the fact is the loss of life was minimal for a storm of this magnitude.

I would also like to recognize all the generous citizens in the Nation that pitched in by donating money, food, clothing, diapers, lumber, just name it, that got sent to south Florida. Thanks to the help of the entire country, the immediate needs of the victims have been met and we can now focus on rebuilding.

Phase one of the hurricane response deals with the immediate human needs: food, clothing, and shelter.

□ 1220

Phase one is not entirely behind us yet. It is still critical that sufficient resources reach the devastated regions so that we can continue to meet these needs.

As we slowly move into phase two, the rebuilt phase, we are beginning to see new costs and impacts—the effect that Hurricane Andrew has had on areas that lie just outside of the officially declared disaster areas. Thousands of residents are leaving their ruins behind in search of shelter, schools, food, jobs, and medical service in locations nearby.

Those counties that were fortunate enough to survive the storm with minimal damage welcome these people and are eager to help, but we cannot overlook the fact that there is tremendous cost associated with this transmigration. For example, in my district, preliminary projections estimate that more than 5,000 people will move in from the devastated areas.

In fact, the clipping from this morning's paper indicates that HUD has already moved in 150 homeless people and put them into housing in our area.

County officials estimate the costs associated with such unexpected relocation to be up in the millions. Few county coffers are prepared to meet these demands without some type of assistance. We need to make sure that there is enough flexibility in the current system of Federal disaster assistance to provide aid to those areas that may have escaped the eye of the storm, but are beginning to feel the after shocks of the disaster.

If compassion alone could be converted into dollars to bring back the loss of property and spirit, south Florida would be in a surplus situation. But it is going to take much more than compassion, and much more money than we have already seen. That is why it is so very important that we pass this emergency appropriations bill today to get the money where it is most needed. I daresay your constituents will support for whatever part of the country you represent—I say that based on the outpouring of help we have received from so many places. I say thank you.

Mrs. COLLINS of Michigan. Mr. Speaker, I rise today to express my disappointment with the recommended rule for H.R. 5620, to make emergency disaster relief appropriations for the victims of Hurricanes Andrew, and Iniki, and Tropical Storm Omar.

I fully support this measure, and hope that the lives of these innocent victims will return to normal quickly. But this rule, which will not make amendments in order, is counterproductive toward solving our Nation's problems. Mr. Speaker, our Nation has another national emergency that must be addressed as expeditiously as we address hurricane relief. I am speaking of the health and welfare of our children. Each Member of this body at some point in time, has articulated the needs of our Nation's children. Unfortunately, however, we have the dubious distinction of a lack of followthrough on our promises toward children. Rest assured, that in no way do I wish to belittle the tragedies of south Florida, Louisiana or Hawaii, but it is shortsighted to only address their situations. Our children need our leadership just as badly. It is reprehensible that children represent the largest group of poor people in America. It is reprehensible that children go to bed at night hungry; it is reprehensible that the status of our children's health has steadily declined over the past decade; it is reprehensible that many children start school unprepared to learn; and Mr. Speaker, it is reprehensible that many of our politicians continue to only talk of our children's problems and do nothing toward implementing their solutions.

Yesterday, Members from both Houses of Congress, and from both parties, introduced the Family Investment Act, which included the provisions of the Family and Medical Leave Act, the Family Preservation Act, the parents as teachers bill, Kidsnet and the Safe Children and Communities Act. I had hoped to see some, if not all of its provisions appear as amendments to the bill we will pass today. Sadly, this will not happen, and tonight, another child will go to bed hungry and the American family will remain in crisis.

Mr. DREIER of California. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BONIOR. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT REGARDING SUBMISSION OF AMENDMENTS ON H.R. 3161, FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES AUTHORIZATION ACT OF 1992

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, this is to notify Members of the House of the Rules Committee's plans regarding H.R. 3161, the Federal Property and Administrative Services Authorization Act of 1992. The committee is planning to meet the week of September 21, 1992, to take testimony and grant a rule on the bill.

In order to assure timely consideration of the bill on the floor, the Rules Committee is considering a rule that may limit the offering of amendments.

Any Member who is contemplating an amendment to H.R. 3161 should submit, to the Rules Committee in H-312 in the Capitol, 55 copies of the amendment and a brief explanation of the amendment no later than 3 p.m. on Wednesday, September 23, 1992.

We appreciate the cooperation of all Members in this effort to be fair and orderly in granting a rule for H.R. 3161.

GENERAL LEAVE

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motion to dispose of Senate amendments to H.R. 5620, and that I may be permitted to include tabular and extraneous material.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

SUPPLEMENTAL APPROPRIATIONS, TRANSFERS, AND RESCISSIONS ACT, 1992

Mr. NATCHER. Mr. Speaker, pursuant to the rule just adopted, I offer a motion.

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Mr. NATCHER moves to take from the Speaker's table the bill (H.R. 5620), making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes, with Senate amendments thereto, disagree with Senate amendments numbered 1 through 68, and concur in Senate amendment numbered 69 with an amendment.

The SPEAKER pro tempore. The Clerk will designate the amendments.

The texts of the Senate amendments and of the House amendment to Senate Amendment numbered 69 are as follows:

Senate amendments:

(1)Page 2, line 9, strike out [$1,795,000] and insert: *$3,000,000*

(2)Page 2, after line 16, insert:

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING RESCISSION)

Of the funds available under this heading, $3,500,000 are rescinded.

For an additional amount for "Operations, research, and facilities", $1,500,000, to remain available until expended, for lease costs of the National Marine Fisheries Service laboratory at Sandy Hook, New Jersey. Notwithstanding section 318(d) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464(d)), amounts provided pursuant to Public Law 101-162 for the acquisition of Buxton Woods shall remain available to the State of North Carolina through September 30, 1993.

(3)Page 2, after line 16, insert:

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT REVOLVING FUND

(RESCISSION)

Of the funds available under this head, $2,100,000 are rescinded.

(4)Page 2, after line 25, insert:

SEC. 101. (a) FINDINGS AND DECLARATIONS.—The Congress finds and declares that—

(1) the criminal act of stalking other persons is a problem of deep concern;

(2) previously available legal recourse against stalking, such as restraining orders, have proven largely ineffective;

(3) anti-stalking legislation has been enacted or proposed by several of the States;

(4) the constitutionality of several of the States' anti-stalking statutes may be in question; and

(5) the Congress has an interest in assisting the States in enacting anti-stalking legislation that is constitutional and enforceable.

(b) EVALUATION.—The Attorney General, acting through the Director of the National Institute of Justice, shall—

(1) evaluate anti-stalking legislation and proposed anti-stalking legislation in the States;

(2) develop model anti-stalking legislation that is constitutional and enforceable;

(3) prepare and disseminate to State authorities the findings made as a result of the evaluation; and

(4) not later than 1 year after the date of enactment of this Act, report to the Congress the findings and the need or appropriateness of further action by the Federal Government.

(c) EXPENSES.—Expenses incurred in conducting the evaluation and developing model legislation under subsection (b) shall be paid out of funds that are available to the National Institute of Justice for fiscal year 1992.

(5)Page 3, strike out lines 1 to 6

(6)Page 3, strike out lines 10 to 12

(7)Page 4, strike out lines 3 to 8

(8)Page 5, line 3, strike out [$69,700,000] and insert: *$19,700,000*

(9)Page 5, line 4, strike out all after "1992" down to and including "personnel" in line 10

(10)Page 5, line 10, strike out all after "personnel" down to and including "Forces" in line 15

(11)Page 5, line 15, strike out all after "Forces" down to and including "construction" in line 17

(12)Page 6, strike out lines 1 and 2 and insert: *shall remain available until September 30, 1993.*

(13)Page 6, line 9, strike out [$7,000,000] and insert: *$69,800,000*

(14)Page 7, line 10, strike out [$5,182,878,000] and insert: *$2,375,974,000*

(15)Page 7, line 12, strike out all after "appropriations" down to and including "Fund" in line 14, and insert: *from the defense cooperation account*

(16)Page 7, line 20, strike out [$1,037,261,000] and insert: *$399,000,000*

(17)Page 7, line 23, strike out [$205,700,000] and insert: *$30,000,000*

(18)Page 8, strike out lines 1 to 3

(19)Page 8, strike out lines 4 to 6

(20)Page 8, line 11, strike out all after "Army"," down to and including "1994" in line 13 and insert: *$1,355,274,000*

(21)Page 8, line 16, strike out [$101,000,000] and insert: *$75,000,000*

(22)Page 8, line 19, strike out all after "Corps"," down to and including "1994" in line 21 and insert: *$224,600,000*

(23)Page 8, line 24, strike out all after "Force"," over to and including "1994" in line 2 on page 9 and insert: *$247,200,000*

(24)Page 9, line 5, strike out [$10,700,000] and insert: *$4,900,000*

(25)Page 10, line 22, strike out [$12,485,446,313] and insert: *$14,696,040,000*

(26)Page 11, strike out lines 12 to 15

(27)Page 11, strike out lines 16 to 25

(28)Page 11, after line 25, insert:

SEC. 204. (a) The Secretary of Defense shall transfer up to $40,000,000 in additional funds from the Defense Cooperation Account to the appropriate appropriations accounts within the Department of Defense to remain available until expended for Kurdish humanitarian needs and related transportation costs to include, but not limited to, the prepositioning of emergency food stocks, water and seed, the provision of medical assistance, the establishment of regional medical clinics in recognized Kurdish areas of Iraq and the extension of technical assistance for land mine clearing, the drilling of water wells and the construction of temporary shelters.

(b) Wherever possible, the President shall make available personnel from the Department of Defense in preference to those of the United Nations to carry out the intent of this provision.

(c) The Secretary of Defense shall report to the Committees on Appropriations and Armed Services of the Senate and the House at the start of each quarter in fiscal year 1993 on the steps taken to bring relief and restore the well-being and security of the people of recognized Kurdish areas of Iraq.

(29)Page 11, after line 25, insert:

SEC. 205. In addition to any other transfer authority contained in this Act, amounts from the Defense Business Operations Fund shall be transferred to the following appropriations in the amounts specified to be merged with and be available for the same purposes and for the same time period as the appropriations to which transferred, as follows: $320,598,000 to Military Personnel, Army; $134,400,000 to Military Personnel, Navy; $17,127,000 to Military Personnel, Marine Corps; and $367,200,000 to Military Personnel, Air Force: Provided, That, for the purpose of maintaining the industrial base, $60,000,000 of the funds available in the Defense Business Operations Fund, combined with funds otherwise available to the Department of Defense, shall be obligated forthwith for the purchase of 2.88 million cases of Meals Ready to Eat.

(30)Page 11, after line 25, insert:

SEC. 206. Funds appropriated to the Department of Defense in the Department of Defense Appropriations Act, 1991 (Public Law 101–511) and made available for transfer to the Department of Commerce and the Department of Labor to assist State and local governments significantly impacted by reductions in defense industry employment or reductions in the number of military and civilian personnel residing in such States and communities shall be available until September 30, 1997.

(31)Page 11, after line 25, insert:

SEC. 207. Notwithstanding section 2391 of title 10, United States Code, the Secretary of Defense may make a grant of $1,100,000 to assist Astoria Oregon in the planning, design and modification of facilities and support infrastructure to accommodate new Navy Minesweeper/Minehunter vessels.

(32)Page 11, after line 25, insert:

SEC. 208. Funds appropriated for the Office of Economic Adjustment at the Department of Defense for fiscal year 1992 are reduced by $1,000,000, and funds appropriated for the Office of the Secretary of Defense for fiscal year 1992 are increased by $1,000,000 for the purpose of making an economic impact grant to Nye County, Nevada.

(33)Page 12, after line 11, insert:

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

HUMAN DEVELOPMENT SERVICES

Funds appropriated in Public Law 102–170 under the heading "Human Development Services" for the "Family Violence Prevention and Services Act", shall remain available until expended.

(34)Page 12, line 12, strike out [PROVISION] and insert: *PROVISIONS*

(35)Page 13, line 2, after "expended" insert: *: Provided, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985*

(36)Page 13, line 8, after "pended" insert: *: Provided, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985*

(37)Page 16, after line 21, insert:

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

LOAN GUARANTEE ACCOUNT

During fiscal year 1992, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall be increased by $25,000,000,000 and shall not exceed $99,769,293,000.

(38)Page 16, after line 21, insert:

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

The $140,000,000 under this heading in Public Law 102–139 for commitments to guarantee loans shall be increased by $85,000,000 to $225,000,000.

(39)Page 18, strike out lines 3 to 12

(40)Page 19, after line 5, insert:

COOPERATIVE STATE RESEARCH SERVICE

Title I of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992 (Public Law 102–142) is amended, under the heading "Cooperative State Research Service" in the last item of the first paragraph of that heading, for necessary expenses of Cooperative State Research Service activities pertaining to a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University, by striking "$8,580,000" and inserting in lieu thereof "$10,250,000".

(41)Page 19, strike out lines 20 to 25

(42)Page 20, line 8, strike out [$30,000,000] and insert: *$20,000,000*

(43)Page 20, strike out all after line 21 over to and including line 11 on page 21

(44)Page 21, after line 11, insert:

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for liquidation of obligations incurred for grants-in-aid for airport planning and development under section 14 of Public Law 91–258, as amended, and under other law authorizing such obligations and obligations for noise compatibility planning and programs, $100,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended.

(45)Page 21, after line 11, insert:

TITLE IX

DEPARTMENT OF THE TREASURY

(46)Page 21, after line 11, insert:

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $320,000, for repairs and improvements to the Main Treasury building and annex, to remain available until expended: Provided, That language under this heading in the Treasury, Postal Service and General Government Appropriations Act, 1992 (Public Law 102–141; 105 Stat. 834), is amended by deleting the following: "not to exceed $490,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex"; and inserting in lieu thereof: "not to exceed $1,690,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex".

(47)Page 21, after line 11, insert:

INTERNATIONAL AFFAIRS

The language under this heading in the Treasury, Postal Service and General Government Appropriations Act, 1992 (Public Law 102–141; 105 Stat. 834), is amended by inserting after "system modernization requirements" the following: "; not to exceed $300,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex".

(48)Page 21, after line 11, insert:

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,298,000, for systems modernization activities, to remain available until expended.

(49)Page 21, after line 11, insert:

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $2,000,000, for systems modernization activities, to remain available until expended.

(50)Page 21, after line 11, insert:

UNITED STATES MINT

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $270,000, for expansions and improvements to existing Mint facilities, to remain available until expended.

(51)Page 21, after line 11, insert:

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For an additional amount for "Administering the public debt", $5,226,000, for systems modernization activities, to remain available until expended.

(52)Page 21, after line 11, insert:

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,400,000, for the White House armored window project, to remain available until expended.

(53)Page 21, after line 11, insert:

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $1,273,000 are rescinded.

(54)Page 21, after line 11, insert:

INTERNAL REVENUE SERVICE

ADMINISTRATION AND MANAGEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $220,000 are rescinded.

PROCESSING TAX RETURNS AND ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $1,460,000 are rescinded.

TAX LAW ENFORCEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $2,999,000 are rescinded.

INFORMATION SYSTEMS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $270,000 are rescinded.

(55)Page 21, after line 11, insert:

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $4,292,000 are rescinded.

(56)Page 21, after line 11, insert:

TITLE X

LEGISLATIVE BRANCH

CONGRESSIONAL OPERATIONS

SENATE

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For a payment to Jocelyn Burdick, widow of Quentin N. Burdick, late a Senator from North Dakota, $129,500.

(57)Page 21, after line 11, insert:

TITLE XI—EMERGENCY SUPPLEMENTAL APPROPRIATIONS PROVIDING ASSISTANCE FOR NEEDS RESULTING FROM NATURAL DISASTERS

(58)Page 21, after line 11, insert:

CHAPTER I

DEPARTMENT OF AGRICULTURE

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities" to cover the costs for the restoration of facilities damaged or destroyed by Hurricane Andrew, $12,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

For an additional amount for the "Emergency Conservation Program", $25,000,000, to remain available until the end of fiscal year 1993: Provided, That funds shall be available only to the extent that funds are not provided through the Federal Emergency Management Agency: Provided further, That $8,500,000 of this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

COMMODITY CREDIT CORPORATION

COMMODITY CREDIT CORPORATION FUND

For an additional amount for the "Commodity Credit Corporation Fund" to cover the incremental costs of crop losses arising from the consequences of Hurricane Andrew, or from damaging weather or related condition, as defined in section 2251 of Public Law 101–624, $300,000,000 to remain available until expended: Provided, That this additional amount is hereby made available as authorized by the terms and conditions specified in Public Law 101–624 and Public Law 102–229: Provided further, That in establishing yields for disaster payments to producers of the 1992 crop of sugarcane and sugar beets, the Secretary of Agriculture may make adjustments to county yields for adverse weather conditions during the 1989, 1990, and 1991 crop years: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended. Notwithstanding any other provision of law or statute, any producer of crops and livestock who has suffered at least 40 percent loss to a program crop, 25 percent loss to livestock, and damage to building structures in 1992 as a consequence of a microburst wind occurrence shall be eligible for Emergency Crop Loss Assistance and Emergency Livestock Feed assistance as set forth in the Disaster Assistance Act of 1990, Public Law 101–624 (7 U.S.C. 1421 note), and loan guarantees from the Rural Development Insurance Fund program (7 U.S.C. 1929a).

For an additional amount for the "Commodity Credit Corporation Fund" to cover the costs arising from the consequences of natural disasters, $30,000,000, for the Tree Assistance Program, to remain available until the end of fiscal year 1993: Provided, That $10,000,000 of this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: Provided further, That such funds shall be used to fund the costs of replanting, reseeding, or repairing damage to commercial trees and seedlings, including orchard and nursery inventory: Provided further, That payments under this program shall be determined in accordance with Public Law 101–624: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985.

For an additional amount for the "Commodity Credit Corporation Fund" to cover the incremental costs arising from the consequences of Hurricane Andrew and other natural disasters during 1992, up to $100,000,000, for payments to aquaculture producers and to oyster farmers who harvest oysters commercially, to remain available until expended: Provided, That such payments shall be under the same terms and conditions as payments authorized to crop producers under Public Law 101–624: Provided further, That such payments shall be made available at a rate not to exceed the pro-rata payment rate received in fiscal year 1993 by producers as a result of appropriations made by this Act and Public Law 102–229: Provided further, That the entire amount shall be made available only if designated by the President as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FARMERS HOME ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" $3,000,000, to remain available until the end of fiscal year 1993: Provided, That these funds shall be available only to the extent that funds are not provided through the Federal Emergency Management Agency: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RURAL WATER AND WASTE DISPOSAL GRANTS

For an additional amount for "Rural Water and Waste Disposal Grants" $24,000,000, to remain available until the end of fiscal year 1993: Provided, That these funds shall be available only to the extent that funds are not provided through the Federal Emergency Management Agency: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For an additional amount for "Rural housing for domestic farm labor" $10,000,000, to remain available until the end of fiscal year 1993: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

EMERGENCY COMMUNITY WATER ASSISTANCE GRANTS

For an additional amount for "Emergency Community Water Assistance Grants" $12,000,000, to remain available until the end of fiscal year 1993: Provided, That these funds shall be available only to the extent funds are not provided through the Federal Emergency Management Agency: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

AGRICULTURAL CREDIT INSURANCE PROGRAM ACCOUNT

For an additional amount for "Agricultural Credit Insurance Program Account" $40,000,000, to remain available until the end of fiscal year 1993: Provided, That these funds are available to subsidize additional gross obligations for the principal amount of direct loans not to exceed $150,000,000: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for "Rural Housing Insurance Program Account" for the cost of section 504 housing repair loans $5,000,000, to remain available until the end of fiscal year 1993: Provided, That these funds are available to subsidize additional gross obligations for the principal amount of direct loans not to exceed $10,000,000: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RURAL DEVELOPMENT INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for the "Rural Development Insurance Fund Program account" for the costs of direct and guaranteed loans, to remain available until the end of fiscal year 1993: $5,000,000 for the cost of water and sewer facility direct loans, to subsidize additional gross obligations for the principal amount of loans not to exceed $30,000,000; and $18,000,000 for the cost of guaranteed industrial development loans, to subsidize total loan principal any part of which is to be guaranteed, not to exceed $300,000,000: Provided, That no application for a loan guarantee under this section shall be denied on the basis that an organization, tribe, or entity engages in whole or in part in production agriculture nor shall such a loan guarantee be denied under provisions of 7 U.S.C. 1926(a)(7): Provided further, That the entire amount appropriated shall be available only to the extent that funds are not provided through the Federal Emergency Management Agency: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $15,000,000 of the $18,000,000 provided for the cost of guaran-

teed industrial development loans shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress.

RURAL DEVELOPMENT LOAN PROGRAM ACCOUNT

For an additional amount for the "Rural Development Loan Program Account" for the cost of rural development loans, $7,058,000, to remain available until the end of fiscal year 1993: Provided, That these funds are available to subsidize additional gross obligations for the principal amount of direct loans not to exceed $13,500,000: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Watershed and flood prevention operations," $50,000,000, to remain available until the end of fiscal year 1993: Provided, That $15,000,000 of this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: Provided further, That these funds shall be available only to the extent that funds are not provided through the Federal Emergency Management Agency: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(59) Page 21, after line 11, insert:

CHAPTER II

DEPARTMENT OF JUSTICE

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For an additional amount for "Justice assistance" to cover the incremental costs arising from the consequences of Hurricane Andrew, $1,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

Of the amounts available under this heading in the Department of Justice Appropriations Act, 1992, not to exceed $510,000 to be used by the Executive Office of Immigration Review may be available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for "Salaries and expenses, United States Marshals Service" to cover the incremental costs arising, from the consequences of Hurricane Andrew, $10,724,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for "Support of United States prisoners" to cover the incremental costs arising from the consequences of Hurricane Andrew, $10,691,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount "Salaries and expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $1,139,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $451,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $1,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $16,559,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

BUILDING AND FACILITIES

For an additional amount for "Building and facilities" to cover the incremental costs arising from the consequences of Hurricane Andrew, $10,000,000 to remain available until expended: Provided, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities" to cover the incremental costs arising from the consequences of Hurricane Andrew, $9,891,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount for "Operations, research and facilities" for a grant to the Louisiana Department of Wildlife and Fisheries, pursuant to Section 308(b) of the Fishery Conservation and Management Act (P.L. 99-659), $8,500,000, to remain available until expended: Provided, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For an additional amount for "Minority business development" to cover the incremental costs arising from the consequences of Hurricane Andrew, $2,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic Development Assistance Programs" pursuant to the Public Works and Economic Development Act of 1965 as amended, to be used for grants to assist states and local communities in recovering from the consequences of Hurricane Andrew, Hurricane Iniki, the severe storms that caused damage to electrical cooperatives in the State of Kansas on June 15, 1992, and July 7 and 8, 1992, and Typhoon Omar, $70,000,000, to remain available until expended; and in addition, $5,000,000, to remain available until expended, which may be transferred to and merged with the appropriations for "Salaries and expenses": Provided, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

THE JUDICIARY

COURT OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $300,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RELATED AGENCY

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for "Disaster Loans Program Account" for the cost of direct loans,

$256,800,000 to remain available until expended; and in addition, for administrative expenses to carry out the disaster loan program, an additional $80,000,000, to remain available until expended, which may be transferred to and merged with the appropriations for "Salaries and expenses": Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

In addition $20,000,000, to remain available until expended, which may be transferred to and merged with the appropriations for "Salaries and expenses": Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That such sums shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act is transmitted by the President to Congress

In addition, for the cost of emergency disaster loans and associated administrative expenses, $75,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency pursuant to section 251 of said Act: Provided further, That such sums shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act is transmitted by the President to Congress.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $5,890,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(60) Page 21, after line 11, insert:

CHAPTER III

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $10,700,000, to remain available through September 30, 1993: Provided, That the Secretary of Defense may, upon determining that such funds are required for the consequences of Hurricane Andrew and Typhoon Omar, transfer the funds made available by this appropriation to other appropriations available to the Department of Defense, to be merged with and be available for the same purposes and same time period as the appropriation to which transferred: Provided further, That upon determining that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $58,200,000, to remain available through September 30, 1993: Provided, That the Secretary of Defense may, upon determining that such funds are required for the consequences of Hurricane Andrew and Typhoon Omar, transfer the funds made available by this appropriation to other appropriations available to the Department of Defense, to be merged with and be available for the same purposes and same time period as the appropriation to which transferred: Provided further, That upon determining that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for "Reserve Personnel, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $8,800,000, to remain available through September 30, 1993: Provided, That the Secretary of Defense may, upon determining that such funds are required for the consequences of Hurricane Andrew and Typhoon Omar, transfer the funds made available by this appropriation to other appropriations available to the Department of Defense, to be merged with and be available for the same purposes and same time period as the appropriation to which transferred: Provided further, That upon determining that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for "National Guard Personnel, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $1,900,000, to remain available through September 30, 1993: Provided, That the Secretary of Defense may, upon determining that such funds are required for the consequences of Hurricane Andrew and Typhoon Omar, transfer the funds made available by this appropriation to other appropriations available to the Department of Defense, to be merged with and be available for the same purposes and same time period as the appropriation to which transferred: Provided further, That upon determining that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $1,400,000, to remain available through September 30, 1993: Provided, That the Secretary of Defense may, upon determining that such funds are required for the consequences of Hurricane Andrew and Typhoon Omar, transfer the funds made available by this appropriation to other appropriations available to the Department of Defense, to be merged with and be available for the same purposes and same time period as the appropriation to which transferred: Provided further, That upon determining that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $142,900,000, to remain available through September 30, 1993: Provided, That the Secretary of Defense may, upon determining that such funds are required for the consequences of Hurricane Andrew and Typhoon Omar, transfer the funds made available by this appropriation to other appropriations available to the Department of Defense, to be merged with and be available for the same purposes and same time period as the appropriation to which transferred: Provided further, That upon determining that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $228,000,000, to remain available through September 30, 1993: Provided, That the Secretary of Defense may, upon determining that such funds are required for the consequences of Hurricane Andrew and Typhoon Omar, transfer the funds made available by this appropriation to other appropriations available to the Department of Defense, to be merged with and be available for the same purposes and same time period as the appropriation to which transferred: Provided further, That upon determining that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and maintenance, Army Reserve" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $3,300,000, to remain available through September 30, 1993: Provided, That the Secretary of Defense may, upon determining that such funds are required for the consequences of Hurricane Andrew and Typhoon Omar, transfer the funds made available by this appropriation to other appropriations available to the Department of Defense, to be merged with and be available for the same purposes and same time period as the appropriation to which transferred: Provided further, That upon determining that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and maintenance, Air Force Reserve" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $13,200,000, to remain available through September 30, 1993: Provided, That the Secretary of Defense may, upon determining that such funds are required for the consequences of Hurricane Andrew and Typhoon Omar, transfer the funds made available by this appropriation to other appropriations available to the Department of Defense, to be merged with and be available for the same purposes and same time period as the appropriation to which transferred: Provided further, That upon determining that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and maintenance, Army National Guard" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $1,400,000, to remain available through September 30, 1993: Provided, That the Secretary of Defense may, upon determining that such funds are required for the consequences of Hurricane Andrew and Typhoon Omar, transfer the funds made available by this appropriation to *other appropriations available to the Department of Defense, to be merged with and be available for the same purposes and same time period as the appropriation to which transferred: Provided further, That upon determining that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.*

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and maintenance, Air National Guard" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $2,000,000, to remain available through September 30, 1993: Provided, That the Secretary of Defense may, upon determining that such funds are required for the consequences of Hurricane Andrew and Typhoon Omar, transfer the funds made available by this appropriation to other appropriations available to the Department of Defense, to be merged with and be available for the same purposes and same time period as the appropriation to which transferred: Provided further, That upon determining that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for "Operation and maintenance, Defense Agencies" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $31,500,000, to remain available through September 30, 1993: Provided, That the Secretary of Defense may, upon determining that such funds are required for the consequences of Hurricane Andrew and Typhoon Omar, transfer the funds made available by this appropriation to other appropriations available to the Department of Defense, to be merged with and be available for the same purposes and same time period as the appropriation to which transferred: Provided further, That upon determining that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

(61)Page 21, after line 11, insert:

CHAPTER IV

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

For an additional amount for "Flood control, Mississippi River and Tributaries" to cover the incremental costs arising from the consequences of Hurricane Andrew, $3,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and maintenance, general" to cover the incremental costs arising from the consequences of Hurricane Andrew, $3,100,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood control and coastal emergencies", $40,000,000, to remain available until expended, of which $25,000,000 is to cover the incremental costs arising from the consequences of Hurricane Andrew and $15,000,000 is for replenishment of this account for future emergency response: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That the amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress.

(62)Page 21, after line 11, insert:

CHAPTER V

DEPARTMENT OF THE INTERIOR

FISH AND WILDLIFE SERVICE

CONSTRUCTION

For an additional amount for "Construction" to cover the incremental costs arising from the consequences of Hurricane Andrew, $2,300,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RESOURCE MANAGEMENT

For an additional amount to cover incremental costs arising from the consequences of Hurricane Andrew, $26,000,000, to remain available until expended: Provided, That $24,500,000 of these funds are to be provided as a grant from the Fish and Wildlife Service to the Louisiana Department of Wildlife and Fisheries: Provided further, That this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of National Park System" to cover the incremental costs arising from the consequences of Hurricane Andrew, $15,200,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

HISTORIC PRESERVATION FUND

For an additional amount to cover incremental costs arising from the consequences of Hurricane Andrew, $300,000, to remain available until expended: Provided, That this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CONSTRUCTION

For an additional amount for "Construction" to cover the incremental costs arising from the consequences of Hurricane Andrew, $18,800,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GEOLOGICAL SURVEY

SURVEYS, AND INVESTIGATIONS AND RESEARCH

For an additional amount for "Surveys, investigations and research" to cover the incremental costs arising from the consequences of Hurricane Andrew, and Typhoon Omar, $2,800,000, to remain available through September 30, 1993: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $1,800,000 of this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For an additional amount to cover incremental costs arising from the consequences of Hurricane Andrew, $1,200,000, to remain available until expended: Provided, That this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs" to cover the incremental costs arising from the consequences of Hurricane Andrew, $1,500,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONSTRUCTION

For an additional amount for "Construction" to cover the incremental costs arising from the consequences of Hurricane Andrew, $3,800,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

STATE AND PRIVATE FORESTRY

For an additional amount to cover incremental costs arising from the consequences of Hurricane Andrew, $2,900,000, to remain available until expended: Provided, That this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That all of these funds shall be available only to the extent an official budget request, for *a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.*

(63)Page 21, after line 11, insert:

CHAPTER VI

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for Training and Employment Services, $30,000,000, to be available for obligation for the period July 1, 1992–July 30, 1993, for training in areas affected by recent natural disasters: Provided, That all funds available under this paragraph are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH EMERGENCY FUND

For carrying out section 319(a) of the Public Health Service Act with respect to public health emergencies created by natural disasters such as Hurricane Andrew and Typhoon Omar, not to exceed $63,600,000, to remain available until expended: Provided, That these amounts shall be available for any activity authorized under the Public Health Service Act, for repairs or replacement of property used in connection with a Federal or Federally-assisted program but damaged or destroyed by the natural disaster, and for the provision to individuals and families directly affected by the disaster of services of the type provided under a program conducted or assisted by the Department: Provided further, That notwithstanding sections 214 and 513 of Public Law 102–170, and any other provision of law, amounts spent for travel associated with the performance of additional functions or duties necessitated by Hurricane Andrew or Typhoon Omar shall not be counted against the limits that apply by reason of any such provision: Provided further, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For an additional amount for "Alcohol, Drug Abuse, and Mental Health", to carry out section 1911 of the Public Health Service Act for areas affected by natural disasters such as Hurricane Andrew, Hurricane Iniki, and Typhoon Omar, $20,000,000, of which $10,000,000 shall be for mental health services, to remain available through September 30, 1993: Provided, That all funds available under this paragraph are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

ADMINISTRATION FOR CHILDREN AND FAMILIES

PAYMENTS TO STATES FOR CHILD CARE ASSISTANCE

For an additional amount for "Payments to States for Child Care Assistance", for areas affected by natural disasters such as Hurricane Andrew, Hurricane Iniki, and Typhoon Omar, $20,000,000: Provided, That all funds available under this paragraph are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

HUMAN DEVELOPMENT SERVICES

For an additional amount for "Human Development Services," $2,000,000, for the United Houma Nation, Terrebonne Parish: Provided, That all funds available under this paragraph are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF EDUCATION

IMPACT AID

For an additional amount for "Impact aid", $42,500,000, to remain available through September 30, 1993, of which $30,000,000 shall be for carrying out disaster assistance activities authorized by section 7(a) of Public Law 81–874, as amended, and of which $12,500,000 shall be to help pay for operating costs for schools affected by Hurricane Andrew and Typhoon Omar: Provided, That notwithstanding any other provision of law, the payments for operating costs shall be provided on a noncompetitive basis upon the request of the affected school district and the Governor and on such terms and conditions as the Secretary of Education may reasonably require: Provided further, That notwithstanding section 431 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall not be required to issue regulations to implement this authority to pay for operating costs: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $20,000,000 of these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

EDUCATIONAL EXCELLENCE

For an additional amount for "Educational excellence", $40,000,000, to remain available through September 30, 1993: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

STUDENT FINANCIAL ASSISTANCE

For an additional amount for "Student financial assistance" for payment of awards for award year 1992–1993, made under title IV, part A, subpart 1 of the Higher Education Act of 1965, as amended prior to enactment of Public Law 102–325, $40,000,000: Provided, That notwithstanding any other provision of law, the Secretary of Education may waive or modify any statutory or regulatory provision applicable to the student financial aid programs under title IV of said Act that the Secretary deems necessary to assist individuals who suffered financial harm from Hurricane Andrew or Typhoon Omar, and who, at the time Hurricane Andrew struck the United States or Typhoon Omar struck Guam, were residing, attending an institution of higher education, or employed within these areas on the date which, the President declared the existence of a major disaster (or, in the case of an individual who is a dependent student, whose parent or stepparent suffered financial harm from Hurricane Andrew, and who resided, or was employed in such an area at that time): Provided further, That notwithstanding section 431 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, exercise this authority, through publication of waivers or modifications of statutory and regulatory provisions, as he deems necessary to assist such individuals: Provided further, That such authority shall be in effect only for awards for award year 1992–1993: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISION

SEC. 601. WAIVER AUTHORIZATION.

(a) WAIVER AUTHORITY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Education is authorized to grant waivers to recipients of Federal funds under any of the programs described in subsection (b) that are substantially affected by Hurricane Andrew or Typhoon Omar to waive the restrictions regarding the uses of funds under any such programs, but only if such recipients demonstrate to the satisfaction of the Secretary in the application submitted under subsection (d) that such restrictions impose a demonstrable barrier to the progress of such recipient in overcoming the effects of Hurricane Andrew or Typhoon Omar.

(2) REQUIREMENTS.—The Secretary shall only grant waivers under this section—

(A) for school year 1992–93; and

(B) if the application submitted under subsection (d) contains the approval of the Governor subsequent to a request of the school districts.

(b) PROGRAMS.—The programs for which waivers may be granted under subsection (a) are programs under—

(1) the Carl D. Perkins Vocational Education and Applied Technology Act;

(2) the Drug-Free Schools and Communities Act of 1986;

(3) subtitles A, B, and C of title VII of the Stewart B. McKinney Homeless Assistance Act;

(4) The Jacob K. Javits Gifted and Talented Students Education Act of 1988;

(5) chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

(6) chapter 2 of title I of the Elementary and Secondary Education Act of 1965;

(7) the Dwight D. Eisenhower Mathematics and Science Education Act;

(8) the School Dropout Demonstration Assistance Act; and

(9) the Adult Education Act.

(c) Notwithstanding any other provision of law, the Secretary of Education is authorized to grant to recipients of Federal funds under programs authorized by the Rehabilitation Act of 1973, as amended, that are substantially af-

fected by Hurricane Andrew, Hurricane Iniki, or Typhoon Omar, a waiver or modification of restrictions regarding requirements for the matching of Federal funds, maintenance of effort, and time period for the obligation of Federal funds but only if such recipients demonstrate to the satisfaction of the Secretary in the application submitted under subsection (c) that such restrictions impose a demonstrable barrier to the progress of such recipient in overcoming the effects of Hurricane Andrew or Typhoon Omar.

(1) The Secretary shall only grant waivers under this authority for fiscal years 1992 and 1993.

(d) REALLOCATION OF FUNDS.—

(1) For fiscal year 1992, the Secretary shall make up to seventy-five percent of excess amounts available for reallotment under sections 110, 633, and 703 of the Rehabilitation Act of 1973 to recipients of Federal funds under the Act substantially affected by Hurricane Iniki, Hurricane Andrew, or Typhoon Omar, upon the receipt of an application submitted under subsection (c).

(e) APPLICATION.—Each recipient of Federal funds under programs authorized under the Rehabilitation Act desiring a waiver and/or reallotment under this section shall submit an application to the Secretary of Education at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(f) LIMITATIONS.—Subsection (a) shall not be construed as permitting the Secretary of Education—

(1) to authorize any changes in, substitutions for, or lessening of the mandates and protections of Federal laws and regulations regarding civil rights, discrimination, and safety, and the procedural safeguards contained therein;

(2) to affect regulations and prohibitions concerning the diversion of Federal funds for private use;

(3) to absolve any State of—

(A) any purposes, goals, or objectives for students targeted by the programs described in subsection (b); or

(B) any requirement to provide for the equitable participation of private school students according to the requirements of the programs described in subsection (b); or

(4) to reduce services to schools unaffected by Hurricane Andrew or Typhoon Omar, or

(5) to change the way funds are utilized for programs which are not described in subsection (b), except as otherwise provided in this Act.

(g) APPLICATION.—Each recipient of Federal funds under any of the programs described in subsection (b) desiring a waiver under this section shall submit an application to the Secretary of Education at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

(64)Page 21, after line 11, insert:

CHAPTER VII

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew, $10,000,000, to remain available until September 30, 1997: Provided, That this appropriation is consistent with the provisions of Public Law 101-510.

For an additional amount for "Military Construction, Air Force", $66,000,000, for the limited purpose of restoring airfield operations, to remain available until expended: Provided, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: Provided further, That none of the funds are available for the construction of facilities to support the 31st Tactical Fighter Wing or any other active Air Force units or missions pending completion of the 1993 Base Closure process.

For an additional amount for "Military Construction, Air Force" to cover the incremental costs arising from the consequences of Typhoon Omar, $7,600,000, to remain available until September 30, 1997: Provided, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

FAMILY HOUSING, DEFENSE

FAMILY HOUSING, AIR FORCE

For an additional amount for "Family Housing, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew, $16,000,000, to remain available until September 30, 1997: Provided, That this appropriation is consistent with the provisions of Public Law 101-510.

For an additional amount for "Family Housing, Air Force" to cover the incremental costs arising from the consequences of Typhoon Omar, $21,200,000, to remain available until September 30, 1997: Provided, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

MILITARY CONSTRUCTION, NAVY

For an additional amount for "Military Construction, Navy", $60,130,000, to remain available for obligation until September 30, 1996: Provided, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

For an additional amount for "Military Construction, Navy" to cover the incremental costs arising from the consequences of Typhoon Omar, $21,400,000, to remain available until September 30, 1997: Provided, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

FAMILY HOUSING, NAVY AND MARINE CORPS

For an additional amount for "Family Housing, Navy and Marine Corps", $56,700,000, to remain available for obligation until September 30, 1996: Provided, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

For an additional amount for "Family Housing, Navy and Marine Corps" to cover the incremental costs arising from the consequences of Typhoon Omar, $30,500,000, to remain available until September 30, 1997: Provided, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(65)Page 21, after line 11, insert:

CHAPTER VIII

DEPARTMENT OF TRANSPORTATION

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $13,806,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Acquisition, construction, and improvements" to cover the incremental costs arising from the consequences of Hurricane Andrew, $11,500,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL AVIATION ADMINISTRATION

FACILITIES AND EQUIPMENT

For an additional amount for "Facilities and equipment" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $15,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

EMERGENCY TRANSPORTATION

For an additional amount for "Emergency transportation" to cover the incremental costs arising from the consequences of Hurricane Andrew, $44,000, to be derived by transfer from "Research and technology", to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL HIGHWAY ADMINISTRATION

HIGHWAY STUDIES

FEASIBILITY, DESIGN, ENVIRONMENTAL, ENGINEERING

For an additional amount to carry out a feasibility study, $300,000, to remain available until expended: Provided, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

(66)Page 21, after line 11, insert:

CHAPTER IX

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $590,000, to remain available until expended: Provided, That this entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $4,670,000, to remain available through September 30, 1993: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of *the Balanced Budget Emergency Control Act of 1985, as amended.*

OPERATION AND MAINTENANCE, AIR AND MARINE INTERDICTION PROGRAMS

For an additional amount for "Operation and maintenance, air and Marine interdiction programs" to cover the incremental costs arising from the consequences of Hurricane Andrew, $10,500,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget Emergency Deficit Control Act of 1985, as amended.

CUSTOMS AIR INTERDICTION FACILITIES, CONSTRUCTION, IMPROVEMENTS AND RELATED EXPENSES

For an additional amount for "Customs air interdiction facilities, construction, improvements and related expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $19,250,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget Emergency Deficit Control Act of 1985, as amended.

INTERNAL REVENUE SERVICE

TAX LAW ENFORCEMENT

For an additional amount for "Tax law enforcement" to cover the incremental costs arising from the consequences of Hurricane Andrew, $1,173,000, to remain available through September 30, 1993: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS FOR NATURAL DISASTERS

To enable the President to meet unanticipated needs to cover the incremental costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, and Typhoon Omar, there is appropriated $350,000,000, to remain available until expended, of which $300,000,000 may be transferred to "Disaster relief", Federal Emergency Management Agency, for disaster assistance payments under the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and of which $50,000,000 may be transferred to any other account only for unanticipated incremental costs arising from the consequences of Hurricane Andrew and Hurricane Iniki: Provided, That all of these funds shall be available only to the extent that funds are not provided through the Federal Emergency Management Agency: Provided further, That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

For an additional amount for "Real Property Operations" to cover the incremental costs arising from the consequences of Hurricane Andrew, $2,500,000, to remain available until expended: Provided, That the aggregate limitation on Federal Buildings Fund obligations established in Public Law 102–141 is hereby increased by such amount; Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

PERSONAL PROPERTY ACTIVITIES

FEDERAL SUPPLY SERVICE

For an additional amount for the "Federal Supply Service" to cover the incremental costs arising from the consequences of Hurricane Andrew, $700,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISION

SEC. 901. AGENCY ACCEPTANCE OF DONATIONS FOR FEDERAL EMPLOYEES.

(a) Notwithstanding any other provision of law, Federal agencies may accept gifts of property, money, or anything else of value from non-Federal sources for extraordinary and unanticipated expenses incurred by agency employees in their personal capacity within the areas designated as disaster areas pursuant to the President's declaration of a disaster resulting from Hurricane Andrew and Typhoon Omar.

(b) Agencies shall establish written procedures to implement this program, which shall, at a minimum, include provisions that ensure that (1) all money or cash gifts shall be collected directly by the agency before distribution, (2) all property or other tangible gifts shall be recorded and approved by the agency before deliverance to any individual employee, and (3) these gifts are distributed to agency employees in a fair and equitable manner.

(c) Agencies may accept gifts designated for individual employees. Agencies shall ensure that any gift designated for an individual employee is appropriate under the circumstances, taking into account, among other things, the official relationship of the employee to the source of the gift.

(d) This provision shall be effective through September 30, 1993.

(67) Page 21, after line 11, insert:

CHAPTER X

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For an additional amount for "Medical care" to cover the incremental costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially declared disasters, $15,793,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for "General operating expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially declared disasters, $156,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Annual contributions for assisted housing" for voucher assistance for the victims of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially declared disasters, not to exceed $183,000,000, to be derived by transfer prior to October 1, 1993, from the "Disaster relief" account of the Federal Emergency Management Agency: Provided, That such amounts shall be for rental housing voucher assistance pursuant to section 8(o) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f(o)): Provided further, That in administering these funds, the Secretary may waive any provision of any statute or regulation that the Secretary administers, except provisions requiring nondiscrimination, in connection with the obligation by the Secretary or the use by any recipient of these funds upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

HOUSING COUNSELING ASSISTANCE

For an additional amount for "Housing counseling assistance" for contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners as authorized by section 106 of the Housing and Urban Development Act of 1968, as amended, $500,000, to remain available through September 30, 1993: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FHA GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

For an additional amount for the "General and Special Risk Program Account" for the cost of guaranteed loans authorized by the National Affordable Housing Act, as amended (12 U.S.C. 1715z—3(b) and 1735c(f)), $30,397,000, to remain available until the end of fiscal year 1993: Provided, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed prior to the end of fiscal year 1993, not to exceed $2,428,000,000: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $10,000,000 of the amounts made available under this heading shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For an additional amount for the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), as amended, for use only in areas impacted by Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially declared disasters, $60,000,000, to remain available until expended: Provided, That the Secretary shall not, as a condition of assisting a participating jurisdiction under such Act using amounts provided under this heading, require any contributions by or in behalf of a participating jurisdiction, notwithstanding section 220 of Public Law 101–625: Provided further, That in administering these funds, the Secretary may waive any provision of any statute or regulation that the Secretary administers, except for provisions requiring nondiscrimination, in connection with the obligation by the Secretary or any use by any *recipient of these funds upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That such sums shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress: Provided further, That notwithstanding any other provision of this Act, funds provided under this heading that are allocated by the Secretary to the State of Hawaii are for use by the State in meeting the responsibilities with which it has been charged under the provisions of the Act of July 9, 1921 (42 Stat. 108), and in the case of programs for individuals directly to lessees under the provisions of the Act of July 9, 1921.*

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for necessary administrative expenses of the Department of Housing and Urban Development, not otherwise provided for, $4,000,000, to remain available through September 30, 1993: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $200,000 of the amounts made available under this heading shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act, $2,843,000,000, to remain available until expended, of which $35,295,630 shall be made available to reimburse the State of South Carolina for costs incurred due to Hurricane Hugo, and of which $493,000,000 shall be available only to the extent that an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251 of said Act: Provided further, That, notwithstanding any other provision of law, amounts provided under this paragraph shall be made available to the State of Hawaii under the same terms and conditions as funds made available to the State of Florida: Provided further, That an additional $589,000,000 of the amounts made available under this heading shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For an additional amount for "Disaster Assistance Direct Loan Program Account" for the cost of direct loans to cover the incremental costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially declared disasters, $50,000,000, to remain available through September 30, 1993: Provided, That these funds are available to subsidize additional gross obligations for the principal amount of direct loans for the "Community Disaster Loan Program," not to exceed $200,000,000: Provided further, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $35,000,000 of the amounts made available under this heading shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress.

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared natural disasters, $15,000,000, to remain available until expended: Provided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: Provided further, That $10,000,000 of the amounts made available under this heading shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress.

(68) Page 21, after line 11, insert:

TITLE XII—ADDITIONAL ASSISTANCE TO DISTRESSED COMMUNITIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount to carry into effect the Job Corps Program under part B of title IV of the Job Training Partnership Act (29 U.S.C. 1692 et seq.), $40,000,000, subject to the enactment of authorizing legislation, for the fiscal year ending September 30, 1993.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For an additional amount for the community health centers program under section 329 and section 330 of the Public Health Services Act (42 U.S.C. 254c), $20,000,000, subject to the enactment of authorizing legislation, for the fiscal year ending September 30, 1993.

ADMINISTRATION FOR CHILDREN AND FAMILIES

CHILDREN AND FAMILIES SERVICES PROGRAMS

For an additional amount for the Head Start program under the Head Start Act (42 U.S.C. 9831 et seq.), $40,000,000, subject to the enactment of authorizing legislation, for the fiscal year ending September 30, 1993.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

For projects with respect to high risk youth under section 517 of the Public Health Service Act (as amended by the ADAMHA Reorganization Act), $10,000,000, subject to the enactment of authorizing legislation, for the fiscal year ending September 30, 1993.

OFFICE OF THE SECRETARY

NATIONAL COMMUNITY ECONOMIC PARTNERSHIP

For the National Community Economic Partnership program, $40,000,000, subject to the enactment of authorizing legislation, for the fiscal year ending September 30, 1993.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

For the Youth Build program under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act, $15,000,000, subject to the enactment of authorizing legislation, for the fiscal year ending September 30, 1993.

OFFICE OF COMMUNITY BANKING

For the Enterprise Capital Access Fund Demonstration Program, $25,000,000, subject to the enactment of authorizing legislation, for the fiscal year ending September 30, 1993.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $10,000,000, subject to the enactment of authorizing legislation, for the fiscal year ending September 30, 1993.

INTERAGENCY COUNCIL

BLOCK GRANT FUNDING FOR ELIGIBLE PROGRAMS

For the interagency council for assistance on behalf of each tax enterprise zone designated under section 1391 of the Internal Revenue Code of 1986, $300,000,000, subject to the enactment of authorizing legislation, for the fiscal year ending September 30, 1993.

(69) Page 21, after line 11, insert:

TITLE XIII—WORKERS' FAMILY PROTECTION

SEC. 1301. WORKERS' FAMILY PROTECTION

(a) SHORT TITLE.—This section may be cited as the "Workers' Family Protection Act".

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) hazardous chemicals and substances that can threaten the health and safety of workers are being transported out of industries on workers' clothing and persons;

(B) these chemicals and substances have the potential to pose an additional threat to the health and welfare of workers and their families;

(C) additional information is needed concerning issues related to employee transported contaminant releases; and

(D) additional regulations may be needed to prevent future releases of this type.

(2) PURPOSE.—It is the purpose of this section to—

(A) increase understanding and awareness concerning the extent and possible health impacts of the problems and incidents described in paragraph (1);

(B) prevent or mitigate future incidents of home contamination that could adversely affect the health and safety of workers and their families;

(C) clarify regulatory authority for preventing and responding to such incidents; and

(D) assist workers in redressing and responding to such incidents when they occur.

(c) EVALUATION OF EMPLOYEE TRANSPORTED CONTAMINANT RELEASES.

(1) STUDY.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Director of the National Institute for Occupational Safety and Health (hereafter in this section referred to as the "Director"), in cooperation with the Secretary of Labor, the Administrator of the Environmental Protection Agency, the Adminis-

trator of the Agency for Toxic Substances and Disease Registry, and the heads of other Federal Government agencies as determined to be appropriate by the Director, shall conduct a study to evaluate the potential for, the prevalence of, and the issues related to the contamination of workers' homes with hazardous chemicals and substances, including infectious agents, transported from the workplaces of such workers'.

(B) MATTERS TO BE EVALUATED.—In conducting the study and evaluation under subparagraph (A), the Director shall—

(i) conduct a review of past incidents of home contamination through the utilization of literature and of records concerning past investigations and enforcement actions undertaken by—

(I) the National Institute for Occupational Safety and Health;

(II) the Secretary of Labor to enforce the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);

(III) States to enforce occupational safety and health standards in accordance with section 18 of such Act (29 U.S.C. 667); and

(IV) other government agencies (including the Department of Energy and the Environmental Protection Agency), as the Director may determine to be appropriate;

(ii) evaluate current statutory, regulatory, and voluntary industrial hygiene or other measures used by small, medium and large employers to prevent or remediate home contamination;

(iii) compile a summary of the existing research and case histories conducted on incidents of employee transported contaminant releases, including—

(I) the effectiveness of workplace housekeeping practices and personal protective equipment in preventing such incidents;

(II) the health effects, if any, of the resulting exposure on workers and their families;

(III) the effectiveness of normal house cleaning and laundry procedures for removing hazardous materials and agents from workers' homes and personal clothing;

(IV) indoor air quality, as the research concerning such pertains to the fate of chemicals transported from a workplace into the home environment; and

(V) methods for differentiating exposure health effects and relative risks associated with specific agents from other sources of exposure inside and outside the home;

(iv) identify the role of Federal and State agencies in responding to incidents of home contamination;

(v) prepare and submit to the Task Force established under paragraph (2) and to the appropriate committees of Congress, a report concerning the results of the matters studied or evaluated under clauses (i) through (iv); and

(vi) study home contamination incidents and issues and worker and family protection policies and practices related to the special circumstances of firefighters and prepare and submit to the appropriate committees of Congress a report concerning the findings with respect to such study.

(2) DEVELOPMENT OF INVESTIGATIVE STRATEGY.—

(A) TASK FORCE.—Not later than 12 months after the date of enactment of this Act, the Director, in cooperation with the National Institute of Environmental Health Services, shall establish a working group, to be known as the "Workers' Family Protection Task Force". The Task Force shall—

(i) be composed of not more than 15 individuals to be appointed by the Director from among individuals who are representative of workers, industry, scientists, industrial hygienists, the National Research Council, and government agencies, except that not more than one such individual shall be from each appropriate government agency and the number of individuals appointed to represent industry and workers shall be equal in number;

(ii) review the report submitted under paragraph (1)(B)(v);

(iii) determine, with respect to such report, the additional data needs, if any, and the need for additional evaluation of the scientific issues related to and the feasibility of developing such additional data; and

(iv) if additional data are determined by the Task Force to be needed, develop a recommended investigative strategy for use in obtaining such information.

(B) INVESTIGATIVE STRATEGY.—

(i) CONTENT.—The investigative strategy developed under subparagraph (A)(iv) shall identify data gaps that can and cannot be filled, assumptions and uncertainties associated with various components of such strategy, a timetable for the implementation of such strategy, and methodologies used to gather any required data.

(ii) PEER REVIEW.—The Director shall publish the proposed investigative strategy under subparagraph (A)(iv) for public comment and utilize other methods, including technical conferences or seminars and a review by the National Research Council, for the purpose of obtaining comments concerning the proposed strategy.

(iii) FINAL STRATEGY.—After the peer review and public comment is conducted under clause (ii), the Director, in consultation with the heads of other government agencies, shall propose a final strategy for investigating issues related to home contamination that shall be implemented by the National Institute for Occupational Safety and Health and other Federal agencies for the period of time necessary to enable such agencies to obtain the information identified under subparagraph (A)(iii).

(C) CONSTRUCTION.—Nothing in this section shall be construed as precluding any government agency from investigating issues related to home contamination using existing procedures until such time as a final strategy is developed or from taking actions in addition to those proposed in the strategy after its completion.

(3) IMPLEMENTATION OF INVESTIGATIVE STRATEGY.—Upon completion of the investigative strategy under subparagraph (B)(iii), each Federal agency or department shall fulfill the role assigned to it by the strategy.

(d) REGULATIONS.—

(1) IN GENERAL.—Not later than 4 years after that date of enactment of this Act, and periodically thereafter, the Secretary of Labor, based on the information developed under subsection (c) and on other information available to the Secretary, shall—

(A) determine if additional education about, emphasis on, or enforcement of existing regulations or standards is needed and will be sufficient, or if additional regulations or standards are needed to protect workers and their families from employee transported releases of hazardous materials; and

(B) prepare and submit to the appropriate committees of Congress a report concerning the results of such determination.

(2) ADDITIONAL REGULATIONS OR STANDARDS.—If the Secretary of Labor determines that additional regulations or standards are needed under paragraph (1), the Secretary shall promulgate such regulations or standards as determined to be appropriate not later than 3 years after such determination.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this section.

House amendment to Senate amendment numbered 69: In lieu of the matter proposed by the Senate, strike all after the enacting clause and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For an additional amount for "Operations and Administration", $2,000,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING RESCISSION)

Of the funds made available under this heading in Public Law 102–140, $2,120,000 are rescinded.

Notwithstanding section 318(d) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464(d)), amounts provided pursuant to Public Law 101–162 for the acquisition of Buxton Woods shall remain available to the State of North Carolina through September 30, 1993.

FOREIGN FISHING OBSERVER FUND

(RESCISSION)

Of the unobligated balances in the Foreign Fishing Observer Fund, $1,309,000 are rescinded.

FISHING VESSEL OBLIGATIONS GUARANTEES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–140, $930,000 are rescinded.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

Amounts appropriated under this title by Public Law 101–515 and available through September 30, 1992, for debt collection training, locating debtors and their property, and selling debtor property also may be used for processing and tracking debts owed to the United States Government.

DEPARTMENT OF STATE

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for "Contributions for International Peacekeeping Activities", $80,000,000: *Provided*, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

DEFENDER SERVICES

For an additional amount for "Defender Services", $31,250,000, to remain available until expended: *Provided*, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

NATIONAL COMMISSION ON JUDICIAL DISCIPLINE AND REMOVAL

The language under the heading "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and expenses" in Public Law 102-27 is amended by deleting "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

Notwithstanding the requirement of section 415 of Public Law 101-650 to submit the report mandated by said section not later than one year after the date of the Commission's first meeting, the National Commission on Judicial Discipline and Removal shall submit to each House of Congress, the Chief Justice of the United States, and the President, the report mandated in said section no later than August 1, 1993.

RELATED AGENCY

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,000,000, to remain available until September 30, 1993: *Provided*, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

GENERAL PROVISIONS—TITLE I

SEC. 101. Notwithstanding the provisions of sec. 1402 of the Victims of Crime Act of 1984, as amended (42 U.S.C. 10601), amounts deposited into the Crime Victims Fund during fiscal year 1992, in excess of $152,200,000 shall be available to the Attorney General without fiscal year limitation for expenses associated with the activation and operation of Federal prisons.

MONTEREY BAY NATIONAL MARINE SANCTUARY

SEC. 102. (a) ISSUANCE OF DESIGNATION NOTICE.—Notwithstanding section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b))—

(1) the Secretary of Commerce shall, on September 18, 1992, (or as soon thereafter as is practicable), publish under that Act in the Federal Register a notice of the designation of the Monterey Bay National Marine Sanctuary (hereafter in this section the "Sanctuary"), as described in the notice of designation submitted to the Congress on September 15, 1992, and

(2) that designation shall take effect the later of September 18, 1992, or the date of enactment of this Act.

(b) OIL AND GAS ACTIVITIES PROHIBITED.—Notwithstanding any other provision of law, no leasing, exploration, development or production of oil or gas shall be permitted within the Sanctuary as required by section 944.5 of the Final Environmental Impact Statement and Management Plan for the Monterey Bay National Marine Sanctuary, published by the Department of Commerce in June 1992.

(c) INTERAGENCY COOPERATION.—

(1) REVIEW OF AGENCY ACTIONS.—

(A) IN GENERAL.—Federal agency actions internal or external to the Sanctuary including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource are subject to consultation with the Secretary.

(B) AGENCY STATEMENTS REQUIRED.—Subject to any regulations the Secretary may establish, each Federal agency proposing an action described in subparagraph (A) shall provide the Secretary with a written statement describing the action and its potential effects on sanctuary resources at the earliest practicable time, but in no case later than 45 days before the final approval of the action unless each Federal agency and the Secretary agree to a different schedule.

(2) SECRETARY'S RECOMMENDED ALTERNATIVES.—If the Secretary finds that a Federal agency action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary shall (within 45 days of receipt of complete information on the proposed agency action) recommend reasonable and prudent alternatives, which may include conduct of the action elsewhere, which can be taken by the Federal agency in implementing the agency action that will protect sanctuary resources.

(3) RESPONSE TO RECOMMENDATIONS.—The agency head who receives the Secretary's recommended alternatives under paragraph (2) shall promptly consult with the Secretary on the alternatives. If the agency head decides not to follow the alternatives, the agency head shall provide the Secretary with a written statement explaining the reasons for that decision.

(d) VESSEL TRAFFIC.—Within 18 months of the date of enactment of this Act, the Secretary of Commerce and Secretary of Transportation, in consultation with the State of California and with adequate opportunity for public input, shall report to Congress on measures for regulating vessel traffic in the Sanctuary if it is determined that such measures are necessary to protect sanctuary resources.

TITLE II

DEPARTMENT OF DEFENSE—MILITARY SUPPLEMENTAL APPROPRIATIONS

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army", $116,000,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $33,000,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force", $263,000,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for "Operation and maintenance, Defense Agencies", $69,700,000, to remain available for obligation until September 30, 1993: *Provided*, That $50,000,000 of this appropriation shall be used to provide educational assistance to school districts where there are significant increases in the number of military dependent students as the result of relocation or realignment of Armed Forces personnel: *Provided further*, That the $50,000,000 specified in the preceding proviso shall be allocated to school districts where at least thirty percent of the students in average daily attendance in the schools are military dependent students: *Provided further*, That the $50,000,000 shall be made available only to supplement, not supplant, the amount of any other Federal, State, or local government funds otherwise authorized or expended for education of dependents of members of the Armed Forces: *Provided further*, That a portion of the $50,000,000 may be made available for construction.

ENVIRONMENTAL RESTORATION, DEFENSE

For an additional amount for "Environmental Restoration, Defense", $447,500,000, to remain available for obligation until September 30, 1993.

PROCUREMENT

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve Equipment", $4,372,000, to remain available for obligation until September 30, 1994.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

For an additional amount for "Research, Development, Test and Evaluation, Defense Agencies", $74,800,000, to remain available for obligation until September 30, 1993: *Provided*, That $5,000,000 of the funds appropriated in this paragraph shall be made available only for a National Defense Center of Excellence for Research in Ocean Sciences to be established through cooperation between the Defense Advanced Research Projects Agency (DARPA) and the Hawaii High Technology Development Corporation (a government entity) for the purposes of conducting research and development activities of interest to the Department of Defense on such topics as ocean environment preservation technology, new ship hull design concepts, shallow water surveillance technologies, ocean measurement instrumentation, and the unique properties of the deep ocean environment.

REVOLVING AND MANAGEMENT FUNDS

PENTAGON RESERVATION MAINTENANCE REVOLVING FUND

For an additional amount for "Pentagon Reservation Maintenance Revolving Fund", $80,100,000.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for "Office of the Inspector General", $3,400,000.

TRANSFER OF FUNDS

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF ADDITIONAL FUNDS)

For additional incremental costs of the Department of Defense associated with operations in and around the Persian Gulf resulting from Operation Desert Shield/Desert Storm, and under the terms and conditions of the Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991 (Public Law 102-28), in addition to the amounts that may be transferred to appropriations available to the Department of Defense pursuant to that Act and the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102-229), not to exceed $3,431,176,560 may be transferred during fiscal years 1992 and 1993 to then currently applicable appropriations from the Defense Cooperation Account, to the following accounts in not to exceed the following amounts:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $1,007,961,000.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $170,400,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $17,127,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $313,500,000.

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army", $1,355,274,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $75,000,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and maintenance, Marine Corps", $224,600,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force", $247,200,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for "Operation and maintenance, Defense Agencies", $4,900,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and maintenance, Army National Guard", $15,214,560, to remain available for obligation until September 30, 1993.

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF EXISTING FUNDS)

For the purpose of adjusting amounts which may be transferred to military personnel and operation and maintenance appropriations pursuant to the Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991 (Public Law 102–28) and the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102–229) and under the terms and conditions of those Acts, the Secretary of Defense may make adjustments to the amounts provided for transfer by such Acts in amounts not to exceed $611,010,000 and provide for the transfer of such amounts to the following accounts in not to exceed the following amounts to be available to the Department of Defense during fiscal years 1992 and 1993: *Provided*, That the Secretary of Defense shall provide prior notification to the Committees on Appropriations of the House of Representatives and the Senate indicating the accounts from which the funds will be derived for such transfers:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

NATIONAL GUARD PERSONNEL, ARMY

To be derived by transfer, $12,500,000 for "National Guard Personnel, Army".

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

To be derived by transfer, $341,310,000 for "Operation and maintenance, Army", to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, NAVY

To be derived by transfer, $257,200,000 for "Operation and maintenance, Navy", to remain available for obligation until September 30, 1993.

RESCISSION OF FUNDS

PERSIAN GULF REGIONAL DEFENSE FUND

(RESCISSION)

Of the funds made available under this heading in the Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991 (Public Law 102–28; 105 Stat. 161), $14,696,040,000 is hereby rescinded: *Provided*, That the Persian Gulf Regional Defense Fund is hereby terminated.

GENERAL PROVISIONS—TITLE II

(TRANSFER OF FUNDS)

SEC. 201. Section 103 of the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102–229; 105 Stat. 1707) is amended by striking out "fiscal years 1991 and 1992" and inserting "fiscal years 1992 and 1993" in lieu thereof and by striking out "through February 1992".

SEC. 202. (a) The Secretary of Defense shall transfer up to $40,000,000 in additional funds from the Defense Cooperation Account to the appropriate appropriations accounts within the Department of Defense to remain available until expended for Kurdish humanitarian needs and related transportation costs to include, but not be limited to, the prepositioning of emergency food stocks, water and seed, the provision of medical assistance, the establishment of regional medical clinics in recognized Kurdish areas of Iraq and the extension of technical assistance for land mine clearing, the drilling of water wells and the construction of temporary shelters.

(b) The Secretary of Defense shall report to the Committees on Appropriations and Armed Services of the House of Representatives and Senate at the start of each quarter in fiscal year 1993 on the steps taken to bring relief and restore the well-being and security of the people of recognized Kurdish areas of Iraq.

SEC. 203. Of the funds appropriated under the heading "Operation and Maintenance, Army" in the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1152), $6,800,000 shall be available only for a grant to the Monterey Institute of International Studies and shall be obligated prior to September 30, 1992: *Provided*, That for the purposes of maintaining the industrial base, $60,000,000 of the funds available in the Defense Business Operations Fund, combined with funds otherwise available to the Department of Defense, shall be obligated forthwith for the purchase of 2.88 million cases of Meals Ready to Eat.

SEC. 204. Of the funds appropriated under the heading "Research, Development, Test and Evaluation, Army" in title IV of the Department of Defense Appropriations Act, 1992 (Public Law 102–172), not less than $5,000,000 shall be made available only for the National Defense Environmental Corporation, or its successor in interest, for the continued establishment and operation of the National Defense Center for Environmental Excellence.

SEC. 205. Funds appropriated to the Department of Defense in the Department of Defense Appropriations Act, 1991 (Public Law 101–511) and made available for transfer to the Department of Commerce and the Department of Labor to assist State and local governments significantly impacted by reductions in defense industry employment or reductions in the number of military and civilian personnel residing in such States and communities shall be available until September 30, 1997.

SEC. 206. Notwithstanding section 2391 of title 10, United States Code, the Secretary of Defense may make a grant of $1,100,000 to assist Astoria, Oregon in the planning, design and modification of facilities and support infrastructure to accommodate new Navy Minesweeper/Minehunter vessels.

SEC. 207. Of the funds appropriated under the heading "Research, Development, Test and Evaluation, Army" in the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1164), $8,000,000 shall be available only for neurofibromatosis research.

SEC. 208. Funds available to the Department of Defense for the payment of allowances under the provisions of section 405a of title 37, United States Code, may be used to make payments of such allowances retroactive to August 23, 1992: *Provided*, That dependents residing incident to government orders in the vicinity of Homestead Air Force Base, Florida on August 23, 1992 who actually moved to a safe haven designated by an authority ordering the departure of dependents shall be entitled to an allowance under the provisions of section 405a of title 37, United States Code, notwithstanding the fact that the member's duty station may have been at a place other than Homestead Air Force Base: *Provided further*, That for the purpose of section 5725 of title 5, United States Code, the departure of civilian employees of the Department of Defense and their dependents from the vicinity of Homestead Air Force Base on or after August 23, 1992 shall be considered to be an evacuation: *Provided further*, That funds available to the Department of Defense shall be available until September 30, 1994 for the payment of up to $40,000 per claim for personal property damage and losses to members of the uniformed services residing in the vicinity of Homestead Air Force Base as a result of Hurricane Andrew: *Provided further*, That the allowances and benefits provided under this paragraph shall be made available under equal terms and conditions to members of the uniformed services residing in the vicinity of military installations affected by Typhoon Omar and Hurricane Iniki.

SEC. 209. Funds appropriated for the Office of Economic Adjustment at the Department of Defense for fiscal year 1992 are reduced by $1,000,000, and funds appropriated for the Office of the Secretary of Defense for fiscal year 1992 are increased by $1,000,000 for the purpose of making an economic impact grant to Nye County, Nevada.

TITLE III

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For an additional amount for "Advances to the unemployment trust fund and other funds", $237,652,000 to remain available until September 30, 1993.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

HUMAN DEVELOPMENT SERVICES

Funds appropriated in Public Law 102–170 under the heading "Human Development Services" for the "Family Violence Prevention and Services Act", shall remain available until expended.

TITLE IV

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Base Realignment and Closure Account, Part II", $162,700,000, to be available solely for environmental restoration and to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

For an additional amount for "Base Realignment and Closure Account, Part II", $69,000,000, to be derived by transfer from the "Environmental Restoration, Defense" account of Public Law 102–172, to be available solely for environmental restoration and to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE V

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $500,000,000, to remain available until expended.

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

The limitation on direct loans in the current fiscal year for the "Vocational rehabilitation loans program account" is increased, within existing funds, by $350,000 to not to exceed $2,038,000.

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

Notwithstanding any other provision of law, not less than $8,700,000,000 of the sums appropriated under this heading in fiscal year 1992 shall be available only for expenses in the personnel compensation and benefits object classifications.

TRANSITIONAL HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $3,000, as authorized by Public Law 102–54, section 8: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $30,000. In addition, for administrative expenses to carry out the direct loan program, $25,000, which may be transferred to and merged with the appropriation for "Medical care": *Provided further*, That the sums herein appropriated are to be derived by transfer from the "Medical care" appropriation provided in Public Law 102–139.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for "General operating expenses", $14,100,000, to remain available until September 30, 1993.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The unreserved balances of funding provided under this heading in Public Law 102–139 and prior years for contracts for capital advances, including amendments to contracts for capital advances, and for project rental assistance, and amendments to contracts for project rental assistance, for housing for the elderly as authorized by section 202 of the Housing Act of 1959, as amended, and for housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), shall be merged.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

(TRANSFER OF FUNDS)

For an additional amount of up to $407,000,000, to remain available until expended, and to be derived by transfer from the unreserved amounts in "Annual contributions for assisted housing": *Provided*, That the amount earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, shall be reduced accordingly.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

(INCLUDING RESCISSION OF FUNDS)

Of the amount made available under this heading in Public Law 102–139, $250,000,000 is rescinded: *Provided*, That the $294,156,000 under this heading in the aforementioned Act which is not available until September 20, 1992, shall be reduced by $250,000,000 to $44,156,000.

For an additional amount for "Payments for operation of low-income housing projects", $250,000,000, to remain available until September 30, 1993: *Provided*, That these funds shall be available for obligation without regard to section 9(d) of the United States Housing Act of 1937, as amended: *Provided further*, That these funds shall not become available for obligation until September 20, 1992.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE ACCOUNT

During fiscal year 1992, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall be increased by $25,000,000,000 and shall not exceed $99,769,293,000.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

The $140,000,000 under this heading in Public Law 102–139 for commitments to guarantee loans shall be increased by $85,000,000 to $225,000,000.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

(INCLUDING RESCISSION OF FUNDS)

Of the amount made available under this heading in Public Law 101–507, the $500,000 earmarked for the National Commission on Manufactured Housing in Public Law 102–27, is rescinded.

For an additional amount for "Research and technology", $500,000, to remain available under September 30, 1993: *Provided*, That these funds shall be made available for the National Commission on Manufactured Housing.

INDEPENDENT AGENCIES

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

Notwithstanding any other provision of law, not more than $405,000 of the funds provided under this heading in Public Law 102–139 shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

(INCLUDING RESCISSION OF FUNDS)

Of the amount made available under this heading in Public Law 102–139, the $950,000 earmarked for financial assistance for legal representation costs in Public Law 102–229, is rescinded.

For an additional amount for "Salaries and expenses", $950,000, to remain available until September 30, 1994: *Provided*, That these funds shall be available under the same terms and conditions as authorized for the funds under this heading in Public Law 102–229.

ENVIRONMENTAL PROTECTION AGENCY

ABATEMENT, CONTROL, AND COMPLIANCE

Notwithstanding any other provision of law, the Administrator is authorized to award a grant under section 8001 of the Solid Waste Disposal Act, as amended, for the purchase of a building and associated costs to support a program for the environmental restoration of the Lackawanna Valley as described in House Report 102–226, the conference report accompanying H.R. 2519 (Public Law 102–139).

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $250,000, to remain available until expended, and to be derived by transfer from amounts provided to the Department of Housing and Urban Development under the heading "Research and technology" in Public Law 102–139.

TITLE VI

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

COOPERATIVE STATE RESEARCH SERVICE

Title I of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992 (Public Law 102–142) is amended, under the heading "Cooperative State Research Service" in the last item of the first paragraph of that heading, for necessary expenses of Cooperative State Research Service activities pertaining to a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University, by striking "$8,580,000" and inserting in lieu thereof "$10,250,000".

COMMODITY CREDIT CORPORATION

The item relating to the "Commodity Credit Corporation" under the heading "DEPARTMENT OF AGRICULTURE" in chapter

III of title I of the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102–229; 105 Stat. 1712) is amended by inserting after "provided to the producer" in the third proviso the following: ", and may be available for grants to assist low-income migrant and seasonal farmworkers as provided in section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a)".

TITLE VII

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

CONSTRUCTION PROGRAM

For an additional amount the "Construction program" to meet the emergency needs for areas stricken by drought, $30,000,000, to remain available until expended: *Provided*, That this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 is transmitted to the Congress: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

TITLE VIII

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Grants-in-Aid for Airports

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for liquidation of obligations incurred for grants-in-aid for airport planning and development under section 14 of Public Law 91–258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $100,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended.

General Provision

Sec. 801. Section 11(c)(6) of the Federal Transit Act (49 U.S.C. App. 1607c(c)(6)) is amended by adding at the end the following new sentence: "For fiscal year 1992, the Secretary shall expend from administrative and research funds deducted for such fiscal year under section 104(a) of title 23, United States Code, $1,000,000 for making grants under paragraph (3) to North Carolina A. and T. State University through the Institute for Transportation Research and Education and shall use all amounts appropriated for such fiscal year pursuant to this paragraph to carry out paragraph (3) for making grants to the University of South Florida and a consortium of Florida A and M, Florida State University, and Florida International University.".

TITLE IX

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

Salaries and Expenses

For an additional amount for "Salaries and Expenses", $320,000, for repairs and improvements to the Main Treasury Building and Annex, to remain available until expended: *Provided*, That language under this heading in the Treasury, Postal Service, and General Government Appropriations Act, 1992 (Public Law 102–141; 105 Stat. 834), is amended by deleting the following: "not to exceed $490,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex"; and inserting in lieu thereof: "not to exceed $1,690,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex".

International Affairs

The language under this heading in the Treasury, Postal Service, and General Government Appropriations Act, 1992 (Public Law 102–141; 105 Stat. 834), is amended by inserting after "systems modernization requirements" the following: "; not to exceed $300,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex".

Financial Management Service

Salaries and Expenses

For an additional amount for "Salaries and Expenses", $1,298,000, for systems modernization activities, to remain available until expended.

Bureau of Alcohol, Tobacco and Firearms

Salaries and Expenses

For an additional amount for "Salaries and Expenses", $2,000,000 for systems modernization activities, to remain available until expended.

United States Mint

Salaries and Expenses

For an additional amount for "Salaries and Expenses", $270,000, for expansion and improvements to existing Mint facilities, to remain available until expended.

Bureau of the Public Debt

Administering the Public Debt

For an additional amount for "Administering the Public Debt", $5,226,000, for systems modernization activities, to remain available until expended.

United States Secret Service

Salaries and Expenses

For an additional amount for "Salaries and Expenses", $1,400,000, for the White House armored window project, to remain available until expended.

United States Customs Service

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $1,273,000 are rescinded.

Internal Revenue Service

Administration and Management

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $220,000 are rescinded.

Processing Tax Returns and Assistance

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $1,460,000 are rescinded.

Tax Law Enforcement

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $2,999,000 are rescinded.

Information Systems

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $270,000 are rescinded.

United States Secret Service

Salaries and Expenses

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $4,292,000 are rescinded.

TITLE X

LEGISLATIVE BRANCH

CONGRESSIONAL OPERATIONS

SENATE

Payments to Widows and Heirs of Deceased Members of Congress

For a payment to Jocelyn Burdick, widow of Quentin N. Burdick, late a Senator from North Dakota, $129,500.

HOUSE OF REPRESENTATIVES

Payments to Widows and Heirs of Deceased Members of Congress

For payment to M. Elizabeth Fischer Jones, widow of Walter B. Jones, late a Representative from the State of North Carolina, $129,500.

For payment to Sonya H. Weiss, widow of Theodore S. Weiss, late a Representative from the State of New York, $129,500.

TITLE XI

EMERGENCY SUPPLEMENTAL APPROPRIATIONS PROVIDING ASSISTANCE FOR NEEDS RESULTING FROM NATURAL DISASTERS

CHAPTER I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities" to cover the costs for the restoration of Federal research facilities destroyed or damaged by natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $15,000,000, to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

Commodity Credit Corporation

Commodity Credit Corporation Fund

CROP LOSSES

For an additional amount for the "Commodity Credit Corporation Fund" to cover crop losses associated with natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $482,000,000, of which $100,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available through September 30, 1993: *Provided*, That this additional amount is hereby made available as authorized by the terms and conditions specified in Public Law 101–624 and Public Law 102–229: *Provided further*, That such funds shall be available for payments to aquaculture producers and to oyster farmers who harvest oysters commercially: *Provided further*, That in establishing yields for disaster payments to producers of the 1992 crop of sugarcane and sugar beets, the Secretary of Agriculture may make adjustments to county yields for adverse weather conditions during the 1989, 1990, and 1991 crop years; *Provided further*, That, notwithstanding any other provision of law or statute, any producer of crops and livestock who has suffered at least 40 percent loss to a program crop, 25 percent loss to livestock, and damage to building structures in 1992 as a consequence of a microburst wind occurrence shall be eligible for Emergency Crop Loss Assistance pursuant to Public Law 101-624 (7 U.S.C. 1421 note), for Emergency Livestock Feed Assistance pursuant to Public Law 100-387 (7 U.S.C. 1471 note), and for loan guarantees from the Rural Development Insurance Fund program (7 U.S.C. 1929a): *Provided further*, That if the total amount of funds made available under this Act and by Presidential designation in accordance with Public Law 102-229 is insufficient to result in payment to affected producers at the same proportionate rate as producers were paid by expenditure of the $995,000,000 made available by chapter III of Public Law 102-229, the Secretary of Agriculture may use such funds of the Commodity Credit Corporation as are necessary to make payments, to the maximum extent practicable, at the same proportionate rate: *Provided further*, That Congress hereby designates the entire amount provided herein as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

TREE ASSISTANCE PROGRAM

For an additional amount for the "Commodity Credit Corporation Fund" to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $48,000,000 for the tree assistance program, to remain available through September 30, 1993: *Provided*, That such funds shall be used to fund the costs of replanting, reseeding, or repairing damage to commercial trees and seedlings, including orchard and nursery inventory: *Provided further*, That payments under this program shall be determined in accordance with Public Law 101-624: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Watershed and flood prevention operations" to repair damages to the waterways and watersheds resulting from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $62,000,000 of which $12,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available through September 30, 1993, to carry out the Emergency Watershed Protection Program of the Soil Conservation Service: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

For an additional amount for the "Emergency conservation program" to repair damages to farmland resulting from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $27,000,000, of which $10,500,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for the "Rural Housing Insurance Fund program account" for the cost of section 504 housing repair loans to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $19,750,000, of which $14,750,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available through September 30, 1993: *Provided*, That these funds are available to subsidize additional gross obligations for the principal amount of direct loans not to exceed $39,500,000: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for the "Agricultural Credit Insurance Fund program account" for the cost of emergency insured loans to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $43,285,000, to remain available through September 30, 1993: *Provided*, That these funds are available to subsidize additional gross obligations for the principal amount of direct loans not to exceed $162,300,000: *Provided further*, That emergency loans made with respect to damage to an annual crop planted for harvest in 1992 and 1993 under subtitle C of the Consolidated Farm and Rural Development Act shall be made available without regard to the purchase of crop insurance under the Federal Crop Insurance Act by the producer who requests such a loan: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

RURAL DEVELOPMENT INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for the "Rural Development Insurance Fund program account" for the costs of direct and guaranteed loans to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, to remain available through September 30, 1993, $5,917,000 for the cost of water and sewer facility direct loans, to subsidize additional gross obligations for the principal amount of loans not to exceed $35,500,000; and $18,300,000 for the cost of guaranteed industrial development loans, to subsidize total loan principal any part of which is to be guaranteed, not to exceed $305,000,000: *Provided*, That no application for a loan guarantee under this section shall be denied on the basis that an organization, tribe, or entity engages in whole or in part in production agriculture nor shall such a loan guarantee be denied under provisions of 7 U.S.C. 1926(a)(7): *Provided further*, That Congress hereby designates the entire amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

For an additional amount for the "Rural Development Loan Fund program account" for the cost of rural development loans to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $8,104,000, to remain available through September 30, 1993: *Provided*, That these funds are available to subsidize additional gross obligations for the principal amount of direct loans not to exceed $15,500,000: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

RURAL WATER AND WASTE DISPOSAL GRANTS

For an additional amount for "Rural water and waste disposal grants" for emergency repair to rural water and waste disposal systems damaged by natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $25,600,000, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For an additional amount for "Very low-income housing repair grants" for emergency repairs to rural housing of the very low-income elderly resulting from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, pursuant to section 504 of the Housing Act of 1949, as amended (42 U.S.C. 1474), $10,000,000, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For an additional amount for "Rural housing for domestic farm labor" for the cost of repair and replacement of uninsured losses resulting from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $10,500,000, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

EMERGENCY COMMUNITY WATER ASSISTANCE GRANTS

For an additional amount for "Emergency community water assistance grants" to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $15,400,000, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $3,200,000, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

Food and Nutrition Service

CHILD NUTRITION PROGRAMS

Notwithstanding any other provision of law, the Secretary may waive the requirements of the National School Lunch Act and the Child Nutrition Act of 1966 as they pertain to schools and institutions only to the degree the Secretary determines necessary to ensure nutrition benefits for program participants in the areas directly affected by natural disasters such as Hurricanes Andrew and Iniki and Typhoon Omar: *Provided*, That Congress hereby designates any cost associated with this waiver as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

FOOD STAMP PROGRAM

For an additional amount for the "Food stamp program" for making benefit payments to individuals under the Food Stamp Act to meet the needs resulting from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $400,000,000, to remain available through September 30, 1993.

GENERAL PROVISIONS—CHAPTER I

SEC. 101. Funds provided by this chapter shall be available only to the extent funds are not provided by the Federal Emergency Management Agency.

CHAPTER II

DEPARTMENT OF COMMERCE

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic Development Assistance Programs" pursuant to the Public Works and Economic Development Act of 1965 as amended, to be used for grants to assist States and local communities in recovering from the consequences of Hurricane Andrew, Hurricane Iniki, the severe storms that caused damage to electrical cooperatives in the State of Kansas on June 15, 1992, and July 7 and 8, 1992, Typhoon Omar, and other disasters, $70,000,000, to remain available until expended; and in addition, $5,000,000, to remain available until expended, which may be transferred to and merged with the appropriations for "Salaries and expenses": *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Minority Business Development Agency

MINORITY BUSINESS DEVELOPMENT

For an additional amount for "Minority business development", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $2,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $9,891,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount for "Operations, research, and facilities", for a grant to the Louisiana Department of Wildlife and Fisheries, for shellfish and fishery habitat restoration, $8,500,000, to remain available until expended: *Provided*, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount for "Operations, research, and facilities", to cover incremental costs arising from the consequences of Hurricane Iniki and other disasters, $300,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

United States Travel and Tourism Administration

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" for grants to States and other eligible entities to cover the costs of tourism promotion needs arising from Hurricane Andrew, Hurricane Iniki, and other disasters, $5,000,000, to remain available until expended: *Provided*, That the grants made available by this appropriation shall not be subject to the local match requirements of 22 U.S.C. 2123: *Provided further*, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF JUSTICE

General Administration

SALARIES AND EXPENSES

Of the amounts available under this heading in the Department of Justice Appropriations Act, 1992, not to exceed $510,000 to be used by the Executive Office of Immigration Review may be available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Legal Activities

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for "Salaries and expenses, United States Marshals Service", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $10,724,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for "Support of United States prisoners", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $16,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Federal Bureau of Investigation

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $1,139,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Drug Enforcement Administration

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $451,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Immigration and Naturalization Service

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $1,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Federal Prison System

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $16,559,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $10,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Office of Justice Programs

JUSTICE ASSISTANCE

For an additional amount for "Justice assistance", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $1,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF STATE

Administration of Foreign Affairs

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $5,890,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

THE JUDICIARY

Courts of Appeals, District Courts, and Other Judicial Services

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $300,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RELATED AGENCY

Small Business Administration

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for "Disaster Loans Program Account" for the cost of direct loans, $331,800,000, of which $75,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until expended; and in addition, for administrative expenses to carry out the disaster loan program, an additional $100,000,000, to remain available until expended, which may be transferred to and merged with the appropriations for "Salaries and expenses": *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That none of the funds provided in this Act may be used for the cost of direct loans to any borrower under section 7(b) of the Small Business Act to relocate voluntarily outside the community in which the disaster has occurred.

CHAPTER III

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

Military Personnel, Navy

For an additional amount for "Military Personnel, Navy" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $10,700,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Military Personnel, Air Force

For an additional amount for "Military Personnel, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $58,200,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Reserve Personnel, Air Force

For an additional amount for "Reserve Personnel, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $8,800,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

National Guard Personnel, Air Force

For an additional amount for "National Guard Personnel, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $1,900,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

For additional amount for "Operation and maintenance, Army" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $1,400,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Navy

For an additional amount for "Operation and maintenance, Navy" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $142,900,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Air Force

For an additional amount for "Operation and maintenance, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $228,000,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Defense Agencies

For an additional amount for "Operation and maintenance, Defense Agencies" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $31,500,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Army Reserve

For an additional amount for "Operation and maintenance, Army Reserve" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $3,300,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Air Force Reserve

For an additional amount for "Operation and maintenance, Air Force Reserve" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $13,200,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Army National Guard

For an additional amount for "Operation and maintenance, Army National Guard" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $1,400,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Air National Guard

For an additional amount for "Operation and maintenance, Air National Guard" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $2,000,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER IV

DEPARTMENT OF DEFENSE—CIVIL

DEPARMENT OF THE ARMY

Corps of Engineers—Civil

Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee

For an additional amount for "Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee" to cover the incremental costs arising from the consequences of Hurricane Andrew, $3,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, General

For an additional amount for "Operation and maintenance, general" to cover the incremental costs arising from the consequences of Hurricane Andrew, $3,100,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood control and coastal emergencies", $40,000,000, to remain available until expended, of which $25,000,000 is to cover the incremental costs arising from the consequences of Hurricane Andrew and Hurricane Iniki and $15,000,000 is for the replenishment of this account for future emergency response: *Provided*, That notwithstanding the provisions of 33 U.S.C. 701n, paragraph (a)(1), (Public Law 84-99 as amended), the Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to repair and or replace the Mandeville Seawall, a vital shore protection project for Mandeville, Louisiana, damaged by Hurricane Andrew: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER V

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource management", $27,000,000, to remain available until expended: *Provided*, That this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That $26,000,000 of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, in transmitted by The President to the Congress: *Provided further*, That $24,500,000 of these funds are to be provided as a grant from the Fish and Wildlife Service to the Louisiana Department of Wildlife and Fisheries.

CONSTRUCTION AND ANADROMOUS FISH

For an additional amount for "Construction and anadromous fish", $12,765,000, to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That expenditures for Hawaii are to be made only for repair and replacement of existing facilities to approximate conditions current at the time of damage or destruction.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the national park system", $23,000,000, to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

HISTORIC PRESERVATION FUND

For an additional amount to cover incremental costs arising from the consequences of Hurricane Andrew, $300,000, to remain available until expended: *Provided*, That this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

CONSTRUCTION

For an additional amount for "Construction", $29,000,000, to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, investigations, and research", $3,375,000, to remain available until September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That $1,800,000 of this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For an additional amount to cover incremental costs arising from the consequences of Hurricane Andrew, $1,200,000, to remain available until expended: *Provided*, That this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs", $1,500,000, to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

CONSTRUCTION

For an additional amount for "Construction", $3,800,000, to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

STATE AND PRIVATE FORESTRY

For an additional amount for "State and private forestry", $4,140,000, to remain available until expended: *Provided*, That this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

CHAPTER VI

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for Training and Employment Services, $30,000,000, to be available for obligation for the period July 1, 1992–July 30, 1993, for training in areas affected by recent natural disasters: *Provided*, That all funds available under this paragraph are hereby designated by Congress to be emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For carrying out section 319(a) of the Public Health Service Act with respect to public health emergencies created by natural disasters such as Hurricanes Andrew and Iniki and Typhoon Omar, not to exceed $105,600,000, to remain available until expended: *Provided*, That these amounts shall be available for any activity authorized under the Public Health Service Act, for repairs or replacement of property used in connection with a Federal or Federally-assisted program but damaged or destroyed by the natural disaster, and for the provision to individuals and families directly affected by the disaster of services of the type provided under a program conducted or assisted by the Department: *Provided further*, That notwithstanding sections 214 and 513 of Public Law 102–170, and any other provision of law, amounts spent for travel associated with the performance of additional functions or duties necessitated by Hurricanes Andrew and Iniki or Typhoon Omar shall not be counted against the limits that apply by reason of any such provision: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF EDUCATION

IMPACT AID

For carrying out disaster assistance activities related to Presidentially-declared natural disasters such as Hurricanes Andrew and Iniki and Typhoon Omar, including those authorized under section 7 of Public Law 81–874, up to $42,500,000, of which $20,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until September 30, 1993: *Provided*, That these funds shall be available for any currently authorized activity of the Department of Education: *Provided further*, That the Secretary may waive or modify any requirement of law or regulation which he determines is necessary in order to provide disaster aid as efficiently and expeditiously as possible to individuals or entities affected directly or indirectly by a Presidentially-declared emergency except that waivers or modifications of the Rehabilitation Act of 1973 shall be limited to restrictions regarding requirements for the matching of Federal funds, maintenance of effort, and time period for the obligation of Federal funds, but only if such recipients demonstrate to the satisfaction of the Secretary in their written application that such restrictions impose a demonstrable barrier to the progress of such recipient in overcoming the effects of the natural disaster: *Provided further*, That the Secretary may not waive any laws or regulations regarding civil rights, discrimination, or safety: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

EDUCATIONAL EXCELLENCE

For an additional amount for "Educational excellence", $40,000,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

STUDENT FINANCIAL ASSISTANCE

For an additional amount for "Student financial assistance" for payment of awards for award year 1992–1993, made under title IV, part A, subpart 1 of the Higher Education Act of 1965, as amended prior to enactment of Public Law 102-325, $40,000,000: *Provided*, That notwithstanding any other provision of law, the Secretary of Education may waive or modify any statutory or regulatory provision applicable to the student financial aid programs under title IV of said Act that the Secretary deems necessary to assist individuals who suffered financial harm from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, and who, at the time the disaster struck were residing, attending an institution of higher education, or employed within these areas on the date which, the President declared the existence of a major disaster (or, in the case of an individual who is a dependent student, whose parent or stepparent suffered financial harm from such disaster, and who resided, or was employed in such an area at that time): *Provided further*, That notwithstanding section 431 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, exercise this authority, through publication of waivers or modifications of statutory and regulatory provisions, as he deems necessary to assist such individuals: *Provided further*, That such authority shall be in effect only for awards for award year 1992–1993: *Provided further*, That the entire amount is designated by Congress as an emergency requirement for all purposes of the Emergency Deficit Control Act of 1985, as amended.

CHAPTER VII

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force" to cover planning costs arising from the consequences of Hurricane Andrew, $10,000,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That none of these funds are available for the construction of facilities to support the 31st Tactical Fighter Wing or any other active Air Force units or missions at Homestead Air Force Base, Florida, pending completion of the 1993 Base Closure process.

For an additional amount for "Military Construction, Air Force", $66,000,000, for the limited purpose of restoring airfield operations at Homestead Air Force Base, Florida, to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That none of these funds are available for the construction of facilities to support the 31st Tactical Fighter Wing or any other active Air Force units or missions at Homestead Air Force Base, Florida, pending completion of the 1993 Base Closure process.

For an additional amount for "Military Construction, Air Force" to cover the incremental costs arising from the consequences of Typhoon Omar, $7,600,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

FAMILY HOUSING, AIR FORCE

For an additional amount for "Family Housing, Air Force" to cover demolition and clean up costs at Homestead Air Force Base, Florida, arising from the consequences of Hurricane Andrew, $16,000,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

For an additional amount for "Family Housing, Air Force" to cover the incremental costs arising from the consequences of Typhoon Omar, $21,200,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

MILITARY CONSTRUCTION, NAVY

For an additional amount for "Military Construction, Navy", $60,130,000, for projects at Guam, to remain available for obligation until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

For an additional amount for "Military Construction, Navy" to cover the incremental costs arising from the consequences of Typhoon Omar, $21,400,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

FAMILY HOUSING, NAVY AND MARINE CORPS

For an additional amount for "Family Housing, Navy and Marine Corps", $56,700,000, for family housing at Guam, to remain available for obligation until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

For an additional amount for "Family Housing, Navy and Marine Corps" to cover the incremental costs arising from the consequences of Typhoon Omar, $30,500,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

CHAPTER VIII

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount of "Operating expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew and Hurricane Iniki, $20,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Acquisition, construction, and improvements" to cover the incremental costs arising from the consequences of Hurricane Andrew and Hurricane Iniki, $21,500,000, of which $10,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL AVIATION ADMINISTRATION

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for "Facilities and Equipment" to cover the incremental costs arising from the consequences of Hurricane Andrew, Typhoon Omar and Hurricane Iniki, $40,000,000, of which $25,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for grants-in-aid for airport planning and development under section 14 of Public Law 91-258, as amended, to cover the incremental costs arising from the consequences of Hurricane Andrew and

Hurricane Iniki, $20,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL HIGHWAY ADMINISTRATION

Emergency Relief

(HIGHWAY TRUST FUND)

For an additional amount to the Emergency Relief Fund authorized by 23 U.S.C. 125 to cover the costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, and Typhoon Omar, $30,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That the provisions of 23 U.S.C. 125 (b)(1) and (b)(2) shall not apply to amounts available for these emergencies: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Metropolitan Planning

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for "Metropolitan Planning" to be made available to metropolitan planning organizations in areas affected by Hurricane Andrew, Typhoon Omar, or Hurricane Iniki for conducting comprehensive reviews of transportation infrastructure needs, $3,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Highway Studies

FEASIBILITY, DESIGN, ENVIRONMENTAL, ENGINEERING

For an additional amount to carry out feasibility, design, environmental, and engineering studies, $750,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL TRANSIT ADMINISTRATION

Discretionary Grants

(HIGHWAY TRUST FUND)

For an additional amount, notwithstanding any other provision of law, and without regard to any obligation limitation, $10,000,000, to be derived from the Mass Transit Account of the Highway Trust Fund, to remain available until expended, to assist transit operations affected by Hurricane Andrew and Hurricane Iniki: *Provided*, That the Secretary may establish a Federal share the Secretary deems appropriate in connection with any such project: *Provided further*, That approval by the Secretary of a grant under this provision shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Emergency Transportation

(TRANSFER OF FUNDS)

For an additional amount for "Emergency Transportation" to cover the incremental costs arising from the consequences of Hurricane Andrew, $44,000, to be derived by transfer from "Research and technology", to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER IX

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $590,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

United States Customs Service

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $4,670,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Air and Marine Interdiction Programs

For an additional amount for "Operation and Maintenance, Air and Marine Interdiction Programs" to cover the incremental costs arising from the consequences of Hurricane Andrew, $10,500,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Customs Air Interdiction Facilities, Construction, Improvements and Related Expenses

For an additional amount for "Customs Air Interdiction Facilities, Construction, Improvements and Related Expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $19,250,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Internal Revenue Service

Tax Law Enforcement

For an additional amount for "Tax Law Enforcement" to cover the incremental costs arising from the consequences of Hurricane Andrew, $1,173,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

Federal Buildings Fund

(LIMITATIONS ON AVAILABILITY OF REVENUE)

For an additional amount for "Real Property Operations" to cover the incremental costs arising from the consequences of Hurricane Andrew, $2,500,000, to remain available until expended: *Provided*, That the aggregate limitation on Federal Buildings Fund obligations established in Public Law 102–141 is hereby increased by such amount: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Federal Supply Service

OPERATING EXPENSES

For an additional amount for the "Federal Supply Service" to cover the incremental costs arising from the consequences of Hurricane Andrew, $700,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISION

AGENCY ACCEPTANCE OF DONATIONS FOR FEDERAL EMPLOYEES

SEC. 901. (a) Notwithstanding any other provision of law, Federal agencies may accept gifts of property, money, or anything else of value from non-Federal sources for extraordinary and unanticipated expenses incurred by agency employees in their personal capacity within the areas designated as disaster areas pursuant to the President's declaration of a disaster resulting from Hurricane Andrew, Typhoon Omar, and Hurricane Iniki.

(b) Agencies shall establish written procedures to implement this program, which shall, at a minimum, include provisions to ensure that (1) all money or cash gifts shall be collected directly by the agency before distribution, (2) all property or other tangible gifts shall be recorded and approved by the agency before deliverance to any individual employee, and (3) these gifts are distributed to agency employees in a fair and equitable manner.

(c) Agencies may accept gifts designated for individual employees. Agencies shall ensure that any gift designated for an individual employee is appropriate under the circumstances, taking into account, among other things, the official relationship of the employee to the source of the gift.

(d) This provision shall be effective through September 30, 1993.

CHAPTER X

DEPARTMENT OF VETERANS AFFAIRS

Veterans Health Administration

MEDICAL CARE

For an additional amount for "Medical care" to cover the incremental costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters, $16,793,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That $1,000,000 of the amounts made available under this heading shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress.

DEPARTMENT ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for "General operating expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters, $156,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Annual contributions for assisted housing" for voucher assistance for the victims of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters, not to exceed $183,000,000, to be derived by transfer prior to October 1, 1993, from the "Disaster relief" account of the Federal Emergency Management Agency: *Provided*, That such amounts shall be for rental housing voucher assistance pursuant to section 8(o) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f(o)): *Provided further*, That in administering these funds, the Secretary may waive any provision of any statute or regulation that the Secretary administers, except provisions requiring non-discrimination, in connection with the obligation by the Secretary or the use by any recipient of these funds upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount for "Annual contributions for assisted housing" for use only in areas impacted by Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters, $100,000,000, to remain available until expended: *Provided*, That such amounts shall be available only for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, and modernization of existing public housing pursuant to section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437l): *Provided further*, That in administering these funds, the Secretary may waive any provision of any statute or regulation that the Secretary administers, except provisions requiring non-discrimination, in connection with the obligation by the Secretary or the use by any recipient of these funds upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That such sums shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress: *Provided further*, That none of the funds in this Act under the heading "HOME Investment Partnerships Program" shall be made available unless an official budget request that includes a designation that the entire amount of the request is an emergency requirement, as defined in section 251 of said Act, for at least a proportional amount of the $100,000,000 provided in this paragraph is transmitted by the President to the Congress: *Provided further*, That notwithstanding any other provision of this Act, funds provided under this heading that are allocated by the Secretary to the State of Hawaii are for use by the State in meeting the responsibilities with which it has been charged under the provisions of the Act of July 9, 1921 (42 Stat. 108), and in the case of programs for individuals directly to lessees under the provisions of the Act of July 9, 1921.

HOUSING COUNSELING ASSISTANCE

For an additional amount for "Housing counseling assistance" for contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners as authorized by section 106 of the Housing and Urban Development Act of 1968, as amended, $500,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

For an additional amount for the "FHA—General and special risk program account" for the cost of guaranteed loans authorized by the National Affordable Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $30,397,000, of which $10,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until the end of fiscal year 1993: *Provided*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed prior to the end of fiscal year 1993, not to exceed $2,428,000,000: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For an additional amount for the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), as amended, for use only in areas impacted by Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters, $60,000,000, to remain available until expended: *Provided*, That the Secretary shall not, as a condition of assisting a participating jurisdiction under such Act using amounts provided under this heading, required any contributions by or in behalf of a participating jurisdiction, notwithstanding section 220 of Public Law 101-625: *Provided further*, That in administering these funds, the Secretary may waive any provision of any statute or regulation that the Secretary administers, except for provisions requiring non-discrimination, in connection with the obligation by the Secretary or any use by any recipient of these funds upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That such sums shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress: *Provided further*, That notwithstanding any other provision of this Act, funds provided under this heading that are allocated by the Secretary to the State of Hawaii are for use by the State in meeting the responsibilities with which it has been charged under the provisions of the Act of July 9, 1921 (42 Stat. 108), and in the case of programs for individuals directly to lessees under the provisions of the Act of July 9, 1921.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for necessary administrative expenses of the Department of Housing and Urban Development, not otherwise provided for, $4,000,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That $200,000 of the amounts made available under this heading shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress.

INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act, $2,893,000,000, of which not to exceed $50,000,000 may be transferred to the "Community Disaster Loan Program" account for administrative expenses in subsidies for direct loans provided under section 417 of such Act, and of which $143,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until expended: *Provided*, That these funds are available to subsidize additional gross obligations for the principal amount of direct loans for the "Community Disaster Loan Program", not to exceed $200,000,000: *Provided further*, That the entire amount is designated by

Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

The limitation on direct loans for the "Disaster assistance direct loan program account" is increased, within existing funds, by $30,000,000 to not to exceed $58,000,000: *Provided*, That any unused portion of the direct loan limitation shall be available until September 30, 1993: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared natural disasters, $15,000,000, to remain available until expended: *Provided*, That these funds may be expended only for the Office of Disaster Assistance at headquarters and the Disaster Assistance Divisions in the regions: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

TITLE XII

ADDITIONAL ASSISTANCE TO DISTRESSED COMMUNITIES

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide appropriations for the fiscal year ending September 30, 1993, to implement initiatives to improve the quality of life and expand economic opportunity, namely:

COMMUNITY INVESTMENT PROGRAM

For grants to States, units of general local government and other entities as authorized by law for implementing activities to rejuvenate neighborhoods and promote economic opportunity, $500,000,000, subject to enactment of subsequent authorizing legislation, to remain available until September 30, 1994: *Provided*, That, of the funds made available under this head, not more than $400,000,000 may be made available for an "Enterprise Community Block Grant Demonstration Program", subject to enactment of subsequent authorizing legislation: *Provided further*, That, of the funds made available under this head, not more than $200,000,000 may be made available for a "National Public/Private Partnership Program" which shall consist only of eligible programs, projects and activities under the following programs:

Job Corps Program under part B of title IV of the Job Training Partnership Act (29 U.S.C. 1692 et seq.);

Community health centers under section 329 and section 330 of the Public Health Services Act (42 U.S.C. 254c);

Head Start Program under the Head Start Act (42 U.S.C. 9831 et seq.);

Projects with respect to high risk youth under section 517 of the Public Health Service Act (as amended by the ADAMHA Reorganization Act);

Youth Build Program under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act;

Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107);

Salaries and Expenses, United States Attorneys, only to assist local law enforcement agencies for additional coordination of Federal law enforcement and prosecutorial activities;

Assistance to companies operating under authority of section 301(d) of the Small Business Investment Act of 1958;

Enterprise Capital Access Fund Demonstration Program, subject to the enactment of authorizing legislation;

National Community Economic Partnership Program, subject to the enactment of authorizing legislation;

Capacity Expansion Program under section 509F of the Public Health Service Act, as amended by P.L. 102-321;

Treatment Improvement Program under sections 301 and 509G of the Public Health Service Act, as amended by P.L. 102-321; and

Literacy activities authorized under the National Literacy Act of 1991:

Provided further, That none of the funds under this head shall be made available until authority is provided in subsequent authorizing legislation.

This Act may be cited as the "Dire Emergency Supplemental Appropriations Act, 1992, Including Disaster Assistance to Meet the Present Emergencies Arising From the Consequences of Hurricane Andrew, Typhoon Omar, Hurricane Iniki, and Other Natural Disasters, and Additional Assistance to Distressed Communities".

The SPEAKER pro tempore. Pursuant to House Resolution 575, the gentleman from Kentucky [Mr. NATCHER] will be recognized for 30 minutes, and the gentleman from Pennsylvania [Mr. MCDADE] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. NATCHER].

Mr. NATCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill H.R. 5620 contains the total sum of $9,260,000,000. The President's request that was sent to the Hill totaled $6,529,000,000. There is a difference of $2,700,000,000 in the bill.

As Members know, Iniki did not occur until after the President's request had been sent to the Hill. If it had occurred prior to that time, Mr. Speaker, probably there would have been no difference in the amounts sent to the Hill by the President and the amount that we now present.

The difference of $2,700,000,000, Mr. Speaker, breaks down like this, an additional $1 billion is for FEMA, $400 million is for food stamps, $180 million is for crop losses, $75 million is for EDA, $175 million is for HUD, and that pertains to the housing program, $50 million is for the Farmers Home Administration, $175 million is in defense, and this pertains not only to the Department of Defense as such but to military construction, and then the balance of about $700 million is in small items such as the Corps of Engineers, the Coast Guard, Public Health, and the Department of Education.

Mr. Speaker, the bill also contains the sum of $4 billion which pays off in its entirety the cost of the Persian Gulf war. As Members know, the Persian Gulf war cost $61,400,000,000. Our friends and allies that joined with us in the Persian Gulf paid every dollar that they were obligated to pay in money or in kind, and mainly in money. So $4 billion is in this supplemental to pay off the entire cost of the Persian Gulf war.

We not only have the $4 billion, but we make provisions for the reversion back to the Treasury of $14,700,000,000 for the Persian Gulf war.

Mr. Speaker, I wanted to make this preliminary statement to Members showing the amounts contained and the differences. We hope now that we can take this supplemental bill right on through to final passage.

Mr. Speaker, I reserve the balance of my time.

Mr. MCDADE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are talking up, as my distinguished friend, the gentleman from Kentucky [Mr. NATCHER], has mentioned, a bill today that completes action in a number of important areas. The first and most important, of course, is disaster assistance as a result of the recent hurricanes, and also wrap-up of funding for the Desert Storm operation, supplemental funding for programs that are experiencing shortfalls, like veterans compensation and benefits funding, and funding the for the urban aid enterprise zone legislation which is pending here in Congress.

Mr. Speaker, I want to congratulate my colleagues on both sides of the aisle for the efforts and willingness to work this bill out and get it down to the President for signature, so that we can get the money flowing to disaster areas.

I want to point out that the bill does a superb job in my view on the funding levels and in meeting the requirements around the Nation for people who are truly suffering.

Mr. Speaker, I would be derelict in my duty if I did not at this time acknowledge two Members on my side of the aisle who are from affected States who did yeoman work in bringing this compromise to the floor today. I am referring to my friend, the distinguished gentleman from Florida [Mr. YOUNG], and the distinguished gentleman from Louisiana [Mr. LIVINGSTON], both of whom had significant input on this bill and made impressions on it that will benefit the people of the country and indeed the people of the affected States.

□ 1230

I just want to highlight, if I may, the emergency funding.

We break those figures down into $2.9 million for FEMA, for their administration of disaster programs, $1.5 billion in emergency loans for the Small

Business Administration, an increase in the FHA guarantee programs of about $2.4 billion, and $500 million for agriculture disaster figures.

All of these figures represent the best efforts of Members, as we meet today at 12:30, to get hard numbers. But we have to recognize, all of us, that these are estimates here. They are the hardest numbers we can find. There, of course, may be some changes, as we go along.

I wanted to make just one comment with respect to Homestead Air Force Base.

I believe we have a responsibility to assure that the Guard and Reserve and the retirees located in the area have a medical facility to meet their immediate needs, because of the leveling of the existing facility. So I have inserted language in the chairman's explanation directing the use of available funds for an immediate medical facility.

The second major area covered by the legislation is the area that was covered in H.R. 5620 as passed by the House last July. As I pointed out then, this bill rescinds, puts back into the Treasury, $14.7 billion of unneeded funds as a result of the significant leadership that occurred in Operation Desert Storm.

In my own view, Mr. Speaker, it is one of the unheralded success stories that we should all be acquainting the public about and the media about, when we can run an operation like that and end up rescinding and restoring to the Treasury $14.7 billion. That, to me, speaks for excellence in management.

We also provide some money for environmental restoration in the Department of Defense. As I mentioned, we provide $500 million to meet veterans' compensation payments. And that money has to be appropriated, or those checks cannot go, and they are due next week. And we also include $80 million for peacekeeping, and a number of other items.

Finally, we provide $500 million in here for the enterprise zone urban aid initiative. We hope that legislation will be enacted shortly, and we have, in a sense, forward funded it in anticipation of the fact that it will be.

Mr. Speaker, in my view this bill deserves the strong support of the House. I hope it will be enacted overwhelmingly.

Mr. Speaker, I reserve the balance of my time.

Mr. NATCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say this about my chairman. All down through the years, we had Mount St. Helens, under the chairmanship of the gentleman from Mississippi, Mr. JAMIE WHITTEN, we had Hugo, under the chairmanship of the gentleman from Mississippi, Mr. JAMIE WHITTEN, we had the earthquake, as my colleagues will remember, and then we had several others.

At all times, my chairman, the chairman of the full Committee on Appropriations, has immediately instituted the necessary action to bring these bills out so that we could act upon them quickly.

Mr. Speaker, I yield such time as he may consume to my chairman, the chairman of the full Committee on Appropriations, the gentleman from Mississippi [Mr. WHITTEN].

Mr. WHITTEN. Mr. Speaker, the motion before the House on an amended version of H.R. 5620—

First, provides $6.3 billion of dire emergency disaster assistance to those devastated by Hurricane Andrew, Typhoon Omar, Hurricane Iniki, and other natural disasters,

Second, provides $2.4 billion of other needed supplemental appropriations, transfers, and rescissions, and

Third, provides $500 million of appropriations for additional assistance to distressed communities.

This motion brings these things together in one action. We are bringing this matter to the floor in this unusual manner at the request of the bipartisan leadership to expedite urgently needed disaster assistance because FEMA has no money left to reimburse States, and the Veterans' Administration compensation and pension programs are running out of money to pay claims.

On July 28, the House passed H.R. 5620. The House-passed version did not include disaster assistance for the recent natural disasters because they had not occurred at that time. On July 2 the House passed H.R. 11, which included in title 9 of that bill appropriations for additional assistance to distressed communities.

After the occurrence of Hurricane Andrew and Typhoon Omar, I introduced H.R. 5911 on September 9 along with 32 other original cosponsors, many from the Florida and Louisiana delegations as well as the gentleman from Guam [Mr. BLAZ]. H.R. 5911 would provide disaster assistance to meet the needs resulting from Hurricane Andrew and Typhoon Omar.

On September 15, the Senate passed its version of H.R. 5620. In addition to the matters the House addressed in its version of H.R. 5620, the Senate included the matters the House had addressed in H.R. 11 and the matters included in H.R. 5911 and additional assistance as a result of Hurricane Iniki, which struck Hawaii just last week.

Because the disaster assistance that we have included in the motion before the House is so desperately needed, the leadership on both sides asked us to move quickly to avoid delaying this assistance. We have worked with the Senate and with the administration to produce a bill that I believe is acceptable to all parties.

The action we take today is consistent with the way we have always responded to major natural disasters. The House has an outstanding record of providing disaster assistance quickly and cleanly. In 1980, after we had reported a supplemental, Mount Saint Helens erupted. We reconvened the Committee on Appropriations so we could report out a new bill including about $1 billion for disaster assistance—sound investments to replace and repair damaged facilities.

In September 1989, we provided $1,108,000,000 within days after Hurricane Hugo hit the Southeastern United States.

In October 1989, we provided $2,850,000,000 for earthquake assistance in San Francisco and the adjoining areas within days after a major earthquake destroyed roads and buildings.

The Los Angeles disaster happened at the end of April and on May 6, after receiving a letter from many of our colleagues and at the first opportunity, we introduced H.R. 5069. H.R. 5132, the product of that committee action on H.R. 5069, passed the House on May 14. Our action today on this bill maintains our tradition of quick response to meet the needs of those affected by disasters.

Mr. Speaker, this motion before us reflects a compromise agreement among all parties on what is needed to provide disaster assistance, to make other needed supplemental appropriations, and to provide appropriations for additional assistance to distressed communities. I strongly urge adoption of the motion.

Under leave to revise and extend my remarks, I want to provide some highlights of the proposed version of H.R. 5620 contained in the motion before us:

	President's request	Amended bill
Direct appropriations	$6,529	$9,260
Desert Shield/Desert Storm:		
By transfer from the Persian Gulf defense fund	5,182	3,471
By transfer from previous appropriations	611	(611)
Rescission of the remainder of the Persian Gulf defense fund	0	−14,962
I. General supplementals:		
International peacekeeping	80	80
Defender services	25	31
Department of Defense	1,072	1,254
Advances to UI trust fund	238	238
VA compensation and pensions	500	500
Drought assistance	0	30
Net miscellaneous	15	279
Total	1,930	2,412
II. Disaster assistance:		
Hurricane Andrew/Typhoon Omar/Hurricane Iniki:		
Federal Emergency Management Agency	1,924	2,958
Food Stamps Program	0	400
Department of Defense:		
Military personnel	80	80
Operations and maintenance	424	424
Homestead AFB	480	92
Military construction	0	198
CCC—Crop losses	300	482
Farmers Home Administration	109	160
Public health emergency fund	84	106
Department of Education	103	123
Economic Development Administration	0	75
U.S. Coast Guard	25	42
HUD—various housing programs	25	195
FAA—facilities and equipment	15	60
National Park Service	34	52
SBA—disaster loan program	412	432
Corps of Engineers	28	46
Other miscellaneous accounts	556	422
Total—disaster assistance	4,599	6,347

	President's request	Amended bill
III. Distressed community assistance	0	500

A more detailed explanation of the proposed bill in lieu of a statement of managers follows:

TITLE I

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

The amended bill provides $2,000,000 for the International Trade Administration's (ITA) Import Administration to assist with the increased workload in administering the anti-dumping/countervailing duty (AD/CVD) laws, including investigations resulting from the recent expiration of the steel voluntary restraining agreement. The House bill had provided $1,795,000 for this purpose. The Senate bill had included a total of $3,000,000 for ITA, of which $1,000,000 was for the purpose of opening new United States and Foreign Commercial Service posts in the former Soviet Union.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

The amended bill includes a rescission of $2,120,000 from the NOAA Operations, Research and Facilities appropriation. This rescission results from savings in FY 1992 related to the cancellation of the Pollar-NEXT satellite program and the NOAA Landsat commercialization program. The House bill had recommended no rescission from this account. The Senate bill included a rescission of $3,500,000 from this account and an additional appropriations of $1,500,000 for lease costs at Sandy Hook, New Jersey National Marine Fisheries Laboratory, which is a 1993 expense.

The amended bill also includes language included in the Senate bill which extends the availability of funds provided in P.L. 101-162 for the acquisition of Buxton Woods, North Carolina.

FOREIGN FISHING OBSERVER FUND

The amended bill includes a rescission of $1,309,000 from current balances available in the Foreign Fishing Observer Fund, as provided in both the House and Senate versions of this bill. This amount has been identified as excess to the Fund.

FISHING VESSEL OBLIGATIONS GUARANTEES

The amended bill includes a rescission of $930,000 from the subsidy amount appropriated for the Fishing Vessel Obligations Guarantee Fund in fiscal year 1992. This amount, which will not be obligated in FY 1992, would have expired on September 30, 1992. This rescission was included in neither the House nor the Senate versions of the bill.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

The amended bill includes language, requested by the Administration, and in both the House and Senate bills, which allows amounts appropriated in fiscal year 1991 for debt collection to also be used for processing and tracking debts owed to the United States.

DEPARTMENT OF STATE

INTERNATIONAL ORGANIZATION AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

The amended bill provides an additional $80,000,000 for Contributions for International Peacekeeping Activities which was included in the House bill but not in the Senate bill. A fiscal year 1992 supplemental request totaling $350,000,000 for this purpose was submitted to the Congress in February of 1992 in order to fund the United States assessment for several new international peacekeeping forces. Congress appropriated $270,000,000 of the total supplemental request in the Further Continuing Resolution, Fiscal Year 1992 (Public Law 102-266). The $80,000,000 in the amended bill completes this supplemental requirement. If these funds are not appropriated, the United States will go into arrears on its assessments for the peacekeeping forces, and will have to make up the shortfall in future years.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

DEFENDER SERVICES

The amended bill provides a requested appropriation of $31,250,000 which was included in the House bill but not the Senate bill to meet the increased costs of panel attorneys and expert services. These additional requirements result from a number of factors, including increased numbers of multi-defendant drug trials, increasing complexity of Racketeering Influenced Corrupt Organizations (RICO) cases, and the effects of Federal sentencing guidelines and statutory minimum sentences. As a result of this increased demand, which has occurred throughout the fiscal year, all of the funds appropriated to date for the account were obligated by June 17, 1992.

NATIONAL COMMISSION ON JUDICIAL DISCIPLINE AND REMOVAL

The amended bill provides language included in both the House and Senate bills which will extend the availability of unobligated balances of appropriations for the National Commission on Judicial Discipline and Removal for one year beyond the current expiration date of September 30, 1992. In addition, the amended bill includes language which will change the date for submission of the report of the Commission required by Public Law 101-650 from one year after the initial meeting of the Commission to no later than August 1, 1993.

Public Law 102-27 appropriated $750,000 for the Commission, to be available until September 30, 1992. The Commission, however, did not convene its first meeting until January 30, 1992, extending its authorized life until January 30, 1993. The Commission estimates that approximately $350,000 of the appropriation will not be obligated as of September 30, 1992, and that this amount is needed to help fund its fiscal year 1993 requirements.

RELATED AGENCY

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

The amended bill provides the requested appropriation of $1,000,000, which was included in the House bill but not the Senate bill, to allow the Equal Employment Opportunity Commission to handle increased workload resulting from enactment of the Civil Rights Act of 1991 and the Americans with Disability Act.

GENERAL PROVISIONS—TITLE I

EXCESS CRIMINAL FINES

The amended bill includes new language (Sec. 101), not in either the House or Senate bills, which makes criminal fines deposited into the Crime Victims Fund that are in excess of the amounts authorized for use under the Victims of Crime Act, available for use by the Federal Prison System for the cost of operating prisons. This language will not lessen the amount of money available to Victims of Crimes in either fiscal year 1992 or fiscal year 1993.

MONTEREY BAY

The amended bill included new language (Sec. 102), not in either the House or Senate bills, which requires the Secretary of Commerce to designate the Monterey Bay National Marine Sanctuary as described in the notice of the designation submitted to Congress on September 15, 1992. The language also includes: (1) a prohibition on oil and gas activities in the Monterey Sanctuary; (2) a provision on interagency cooperation relating to the sanctuary; and (3) a requirement that the Secretary of Commerce submit a report to Congress on vessel traffic in the sanctuary.

TITLE II

DEPARTMENT OF DEFENSE—MILITARY

The amended bill incorporates some of the provisions of both the House and Senate versions of the bill. The language and allocations set forth in House Report 102-672 and Senate Report 102-395 should be complied with unless specifically addressed in the following to the contrary.

Defense cooperation account (DCA)

Defense cooperation account balance	$4,082,186,560
Less:	
Realignment of existing authority	611,010,000
VSI/SSB payments	1,079,988,000
Military personnel pay and allowances	429,000,000
Kurdish humanitarian relief	40,000,000
Operations and equipment repair	1,922,188,560
Account balance	0

MILITARY PERSONNEL

The amended bill included funds for the following accounts:

[In thousands of dollars]

	Army	Navy	Marine Corps	Air Force	Army National Guard	Total
Military personnel:						
New transfer authority, fiscal year 1992:						
Pay & allowances	399,000	30,000	0	0	0	429,000
VSI/SSB	608,961	140,400	17,127	313,500	0	1,079,988
Subtotal	1,007,961	170,400	17,127	313,500	0	1,508,988

[In thousands of dollars]

	Army	Navy	Marine Corps	Air Force	Army National Guard	Total
Realignment transfer authority, fiscal year 1992:						
Pay and allowances	0	0	0	0	12,500	12,500
Subtotal	0	0	0	0	12,500	12,500
Total, military personnel	1,007,961	170,400	17,127	313,500	12,500	1,521,488

OPERATION AND MAINTENANCE

The amended bill included funds for the following accounts:

[In thousands of dollars]

	Army	Navy	Marine Corps	Air Force	Defense agencies	Army National Guard	Environmental restoration defense	Total
Operation and maintenance:								
New authority:								
Educational assistance	0	0	0	0	50,000	0	0	50,000
Environmental compliance	116,000	33,000	0	263,000	19,700	0	0	431,700
Environmental restoration	0	0	0	0	0	0	447,500	447,500
Expedite Tailhook investigation	0	0	0	0	3,400	0	0	3,400
Subtotal	116,000	33,000	0	263,000	73,100	0	447,500	932,600
New transfer authority, fiscal year 1992–93:								
Operations and equipment repair	1,355,274	75,000	224,600	247,200	0	15,214	0	1,917,288
USSOCOM	0	0	0	0	4,900	0	0	4,900
Kurdish relief	0	0	0	0	40,000	0	0	40,000
Subtotal	1,355,274	75,000	224,600	247,200	44,900	15,214	0	1,962,188
Realignment transfer authority, fiscal year 1992–93:								
Equipment maintenance	341,310	257,200	0	0	0	0	0	598,510
Subtotal	341,310	257,200	0	0	0	0	0	598,510
Total, operation and maintenance	1,812,584	365,200	224,600	510,200	118,000	15,214	447,500	3,493,298

VSI/SSB PROGRAMS

The amended bill includes $1,079,988,000 for fiscal year 1992 Operation Desert Shield/Desert Storm costs for Voluntary Separation Incentive (VSI) and Special Separation Benefit (SSB) programs.

EDUCATIONAL ASSISTANCE

There is concern about the effect on local school systems of redeployment of military families from overseas and of realignment of units within the United States. The amended bill provides $50,000,000 to be available until September 30, 1993, in an attempt to alleviate at least part of the burden on the local school districts. In order to make certain that funding is provided to the most heavily affected school districts, these funds should be allocated to districts where at least thirty percent of the students in average daily attendance in the schools are military dependent students.

OPERATIONS AND EQUIPMENT REPAIR

The amended bill provides $1,922,188,560 to repair equipment damaged during Desert Shield/Desert Storm and fund continuing retrograde of equipment from the Persian Gulf Region. Of this amount $15,214,560 is provided to the Army National Guard for operation of ten maintenance sites currently repairing vehicles used during Desert Storm that have been declared excess. Also, $1,788,474,000 is provided to the military services for repair and maintenance of equipment used during the conflict. The remainder, $118,500,000, is made available to the Air Force and Special Operations Command for continuing airlift and in-country activities.

Since maintenance workload is expected to decrease in the coming years as forces are drawn down, the Department plans to reduce civilian employee levels at its depot maintenance facilities. Unless appropriate management actions are taken, the impending increase in workload for 1993 resulting from Operation Desert Shield/Storm will preclude an orderly reduction of personnel levels at these facilities. To minimize turbulence in its depot maintenance workforce, the Department is directed to allow funded carryover balances to increase from the traditional three months to six for fiscal years 1993 and 1994 only.

NEUROFIBROMATOSIS RESEARCH

In the fiscal year 1992 Defense Appropriations Act, $8,000,000 was appropriated for neurofibromatosis (NF) research.

Neurofibromatosis research has important military applications. The NF gene produces the same tumor suppressor GAP protein as cancer. Research into NF holds open enormous potential for finding a treatment and cure for cancer which afflicts more than 60 million Americans, including military members and their dependents. NF research could also greatly assist Army cancer research efforts. NF patients have a disproportionately larger number of learning disabilities, so NF research could study this phenomenon and assist all learning disabled military dependents. Finally, NF tumors are considered to be the model system for all tumor research.

Therefore, the amended bill included a general provision stating that the Department shall obligate $8,000,000 previously appropriated for this research.

PERSIAN GULF VETERANS' POST-WAR AILMENTS

There is deep concern about repeated reports of up to 300 American service personnel suffering from mysterious ailments which could be linked to their service and presence in the Persian Gulf region during the war. Complaints have included reports of skin rashes, loss of hair, bleeding gums, elevated blood pressure, liver disorders and miscarriages.

The Department is to mount a major effort to work with the Department of Veterans Affairs and other outside agencies to study this problem thoroughly. Periodic updates should be provided to the appropriate oversight committees on this issue detailing what steps have been taken to pursue this issue and what findings have resulted from this study.

MODIFICATION INSTALLATIONS

The Senate report explained the difficulty the Air Force is having accommodating the policy change in the funding of modification installations. The problem is especially acute in the fiscal year 1990 Air Force aircraft procurement account. To help alleviate this situation, the Senate Committee identified $91,600,000 in funds excess to the requirements for which appropriated and directed that these funds be transferred to modification installations. This action should be accomplished and the Air Force should accomplish the transfers as quickly as practicable.

V–22

The language proposed by the House to amend section 8090 of the Department of Defense Appropriations Act for fiscal year 1992 is not included in the amended bill. This issue will be considered further during deliberations on the Department of Defense Appropriations Act for fiscal year 1993.

BLACKHAWK HELICOPTERS

The House general provision which required the transfer of five Blackhawk helicopters from the Army to the Drug Enforcement Administration has been deleted from the amended bill.

AUTOMATIC BUILDING MACHINES

$4,372,000 of the funds appropriated to the Army for Automatic Building Machines in fiscal year 1990 are about to expire. This expiration is because of a prolonged delay in initiating a demonstration project using these machines to construct helicopter protective shelters.

$4,372,000 should be used to procure one Automatic Building Machine for each of the seventeen Army Reserve Combat Engineer Battalions and other organizations designated by the Chief, Army Reserve. Because of the capability of the ABM's to rapidly construct shelters and other facilities in a matter of days, they can be useful in responses to natural disasters in addition to their normal military mission. The requirement for this equipment has recently been included in the Table of Organization and Equipment for Army engineer battalions.

DEFENSE LANGUAGE TRAINING

Section 203 has been included directing the Department of the Army to transfer to the

Monetary Institute of International Studies, which supports the Defense Language Institute, the $6,800,000 appropriated in the fiscal year 1992 Department of Defense Appropriations Act.

NATIONAL DEFENSE CENTER FOR ENVIRONMENTAL EXCELLENCE

In the reports accompanying the Department of Defense Appropriations Act, 1992, Congress directed the Army to utilize $5,000,000 of the funds appropriated in Research, Development, Test and Evaluation, Army, to support the National Defense Center for Environmental Excellence (NDCEE). Section 204 provides the Army with legislative authority to follow the directions provided in House Reports 102-95 and 102-328.

EVACUATION ENTITLEMENTS AND CLAIMS

Section 208 has been included to allow payment of per diem to DOD personnel who were evacuated from Homestead Air Force Base, and also to allow payment of claims for personal property damage or loss suffered up to $40,000 per claim by Department of Defense personnel in the vicinity of Homestead Air Force Base, Florida, as a result of Hurricane Andrew, as well as, under equal terms and conditions, to those military personnel in the vicinity of military installations affected by Typhoon Omar and Hurricane Iniki.

NATIONAL DEFENSE CENTER OF EXCELLENCE FOR RESEARCH IN OCEAN SCIENCES

$5,000,000 is appropriated within the Research, Development, Test and Evaluation, Defense Agencies account to establish a National Defense Center of Excellence for Research in Ocean Sciences through cooperation between the Defense Advanced Research Projects Agency (DARPA) and the Hawaii High Technology Development Corporation (HTDC), a government entity, for the purposes of conducting research and development of interest to the Department of Defense.

TITLE III

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

The bill includes $237,652,000 for advances to the Unemployment Trust Fund as requested by the Administration. This was in both the House and Senate bills. Also included is the Senate amendment to extend the availability of family violence prevention funds appropriated in fiscal year 1992. The bill does not include language that would permanently prohibit the Department of Labor from implementing its new regulations with respect to the use of helpers under the Davis-Bacon Act and with respect to apprenticeship in the construction industry. This matter needs to be addressed, but it has been decided that this emergency bill, that is urgently needed to assist recent disaster victims, is not the appropriate vehicle.

The bill does not include a proposed title XIII that was added in the Senate. This proposed new title is the text of an authorizing bill that is completely unrelated to this appropriations bill. This matter should be addressed by the appropriate authorizing committees.

TITLE IV

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

BASE REALIGNMENT AND CLOSURE ACCOUNT—PART II

(INCLUDING TRANSFER OF FUNDS)

The bill appropriates $162,700,000 for environmental cleanup at closed bases. In addition, the bill transfers $69,000,000 from the Environmental Restoration, Defense Account of Public Law 102-172 to the Base Realignment and Closure Account to be available solely for environmental restoration at closed bases.

TITLE V

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The bill includes two increases in loan limitations under the Department of Housing and Urban Development. The limitation on the amount of loan commitments in the Government National Mortgage Association's guarantees of mortgage-backed securities program is increased by $25,000,000,000 to $99,769,293,000 for fiscal year 1992. The increase is due to the easing of interest rates which has generated a high level of activity in the refinancing market. The section 108 community development loan guarantee program is being increased by $85,000,000 to $225,000,000 in fiscal year 1992. This increase is needed due to higher than anticipated activity resulting from changes to the program by the National Affordable Housing Act of 1990 permitting States to help small communities, and to permit communities to borrow larger amounts for longer periods of time. Both of these increases in loan limitations have been requested by the Department.

TITLE VI

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

COOPERATIVE STATE RESEARCH SERVICE

The bill includes language, passed by the Senate, which makes a technical correction to the Agriculture Appropriations Act for fiscal year 1992. The bill clarifies that $10,250,000 is available for the 1890 capacity building grants program in fiscal year 1992.

COMMODITY CREDIT CORPORATION

The bill includes language, passed by both the House and Senate, which clarifies that low-income migrant and seasonal farmworkers are eligible for disaster assistance grants under the Dire Emergency Supplemental Appropriations Act of 1992 (Public Law 102-229).

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

The bill does not include language, passed by the House but deleted by the Senate, which provided $7,500,000 for emergency watershed and flood prevention operations. These funds have been incorporated within the $62,000,000 provided later in the bill for emergency watershed and flood prevention operations.

TITLE VII

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

The bill includes $30,000,000 for emergency drought relief measures to be carried out by the Bureau of Reclamation as authorized in Public Law 102-250, "the Reclamation States Emergency Drought Relief of 1991," and other applicable statutes, as proposed by the House in H.R. 5620. The Senate had proposed an appropriation of $20,000,000 for this effort in its amendments to H.R. 5620.

Many river basins in the West have experienced six consecutive years of drought. Without the funding provided in this bill for supplemental water supplies and other mitigating activities, farming and farm income will be drastically reduced in many areas, which will result in significant job losses and lost economic activity in agriculture-related areas of the economy.

These funds will also permit the Bureau of Reclamation to provide critically needed relief for fish and wildlife resources affected by drought conditions.

The Bureau of Reclamation is directed to provide the Committees on Appropriations of the House and Senate a detailed report, no later than April 1, 1993, on how the funds appropriated will be allocated and expended and the specific work to be undertaken.

TITLE VIII

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

The bill includes $100 million in liquidating cash for the Federal Aviation Administration grants-in-aid for airports program. The bill also includes language earmarking $1 million of Federal Highway Administration general operating and research funds for North Carolina A&T State University.

TITLE IX

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

This bill provides an additional $320,000, for repairs and improvements to the Main Treasury Building and Annex, and increases the legislative ceiling on these expenditures to reflect the additional funds. This action is necessary due to the deteriorating roof of the Main Treasury Building. The House Appropriations Committee has already approved partial funding for this requirement with a reprogramming action.

INTERNATIONAL AFFAIRS

This bill increases the legislative ceiling on the expenditure of funds for repairs and improvements to the Main Treasury Building and Annex to reflect the expenditure of additional funds for repair projects. This action is necessary due to the deteriorating roof of the Main Treasury Building.

FINANCIAL MANAGEMENT SERVICE

This bill provides an additional $1,298,000, for automated systems modernization efforts. This is needed for additional equipment and personnel for increased modernization activity in the firearms operations of the government.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

This bill provides an additional $2,000,000, for automated systems modernization efforts. This is needed to enhance ATF's law enforcement efforts, particularly in the firearms activity.

UNITED STATES MINT

This bill provides an additional $270,000, for expansion and improvements to existing U.S. Mint buildings and facilities. This is needed because recent actions require additional building space and improvements to current facilities.

BUREAU OF THE PUBLIC DEBT

This bill provides an additional $5,226,000, for systems modernization activities. This is related to the transfer of automated data processing equipment and personnel to the new location of the Bureau of the Public Debt.

UNITED STATES SECRET SERVICE

This bill provides an additional $1,400,000, for the continuing replacement armored window project for protection at the White House. Due to cost increases and the complexity of the replacement program, additional funds are needed for this ongoing project.

UNITED STATES CUSTOMS SERVICE

This bill rescinds $1,273,000 from the amounts appropriated in fiscal year 1992 for the U.S. Customs Service. These funds are available due to lower expenditures than anticipated for equipment and other expenses.

INTERNAL REVENUE SERVICE

This bill rescinds $220,000 from the amounts appropriated in fiscal year 1992 for IRS administration and management; $1,460,000 from the amounts appropriated for processing tax returns and assistance; $2,999,000 from the amounts appropriated for tax law enforcement; and $270,000 from the amounts appropriated for information systems. These funds are available due to lower expenses than anticipated during the tax filing season.

UNITED STATES SECRET SERVICE

This bill rescinds $4,292,000 from the amounts appropriated in fiscal year 1992 for candidate protection. These funds are available due to the requirement to protect fewer candidates than originally anticipated during the Presidential campaign.

TITLE X

CONGRESSIONAL OPERATIONS

The bill provides the customary death gratuity to the designated heirs of Quentin N. Burdick, late a Senator from North Dakota; Walter B. Jones, late a Representative from the State of North Carolina; and Theodore S. Weiss, late a Representative from the State of New York.

TITLE XI

CHAPTER I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

The bill provides an additional appropriation of $15,000,000 for Buildings and facilities of the Agricultural Research Service. The Subtropical Horticultural Research Lab in Miami, Florida, comprised 48 buildings and over 200 acres. All of the buildings were either destroyed or severely damaged, as were several greenhouses and small buildings at other research sites located in southern Florida and southern Louisiana. The Barking Sands and Wailua Homestead Research Facility in Hawaii also suffered damage. These funds would pay for cleanup costs, building temporary facilities, and the planning, design, and construction of replacement facilities.

COMMODITY CREDIT CORPORATION

COMMODITY CREDIT CORPORATION FUND

CROP LOSSES

The bill provides an additional appropriation of $482,000,000 for crop disaster payments, of which $100,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement is transmitted by the President to the Congress.

Public Law 102-299 made available $1,750,000,000 for disaster payments for crop years 1990, 1991, and 1992. Last spring $995,000,000 was made available under that law for disaster payments on crop years 1990 and 1991. When the $995,000,000 was prorated among producers, the payment rate was approximately 50 percent of the eligible loss.

On September 2, 1992, the President released the remaining $755,000,000 of the funds provided by Congress for disaster payments. Natural disasters, such as Hurricane Andrew in southern Florida and Louisiana, Hurricane Iniki in Hawaii, and Typhoon Omar in Guam, have caused devastating agricultural losses. Estimated crop losses and the extent of potential claims are very tentative. Other 1992 claims for crop losses in winter wheat, cotton, and other program and nonprogram crops are also pending or anticipated.

Further, there are also some remaining unpaid claims for 1990 and 1991 crop losses. As previously mentioned, a total of $995,000,000 was released for payments last spring on losses in 1990 and 1991, but a producer could only claim losses in one of the two years. Many farmers suffered qualifying losses in both years. In trying to estimate total eligible claims, it is necessary to take into account remaining unpaid claims for 1990 and 1991 crop losses as well as potential claims on the 1992 crop. In addition, there could be further crop losses depending on weather conditions during the remainder of the 1992 growing season.

The bill includes funds for payments to aquaculture producers and to oyster farmers who harvest oysters commercially. Language is also included, which is contained in the Senate-passed bill, to provide disaster assistance in the case of a microburst wind occurrence. Senate-passed language is also incorporated allowing the Secretary to make adjustments to county yields for sugarcane and sugar beets. The bill also includes language which allows the Secretary to use Commodity Credit Corporation funds in the event funds are insufficient to meet the payment levels made in connection with the $995,000,000 released last spring.

TREE ASSISTANCE PROGRAM

For the Tree Assistance Program the bill provides $48,000,000. These funds will be used to provide cost-sharing assistance for the costs of replanting, reseeding, and repairing commercial production seedlings and trees lost or damaged by natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, including orchard and nursery inventory. The funds will cover losses to orchard and nursery inventory of trees, plants, grasses, shrubs, and other ornamental plants, including those that may require several years' growth prior to sale and those grown in containers.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

Hurricanes Andrew and Iniki and Typhoon Omar left tremendous loss of life and devastation to property. The Emergency Watershed Protection Program is used to safeguard life and property from floods and the products of erosion when a natural disaster impairs a watershed. Preliminary damage estimates from Hurricanes Andrew and Iniki and Typhoon Omar, plus unmet needs already on hand, total over $100,000,000. Accordingly, the bill provides an additional appropriation of $62,000,000, of which $12,000,000 shall be available only to the extent and official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement is transmitted by the President to the Congress, for emergency watershed protection nationwide to assist in debris removal from streams, prevent further flooding and bridge collapses, and replant denuded hills to prevent excess erosion. These funds, along with funds provided in the fiscal year 1993 Agriculture Appropriations Act, should be used to address the most critical exigency situations.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

Severe flooding from Hurricanes Andrew and Iniki and Typhoon Omar left farmlands in the South, Hawaii, and Guam in seriously deteriorated condition. Additional funds are needed for removing debris from farmland; grading, shaping, and re-leveling of land; and repairing permanent fences and other farmland structures, such as dams and terraces. Therefore, an additional appropriation of $27,000,000 is provided for the Emergency Conservation Program to assist farmers in rehabilitating farmlands, of which $10,500,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement is transmitted by the President to the Congress.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

The bill provides an additional $39,500,000 in loans to be made available to Farmers Home Administration borrowers to repair their single family houses damaged by natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar. Also included is $19,750,000 in loan subsidy costs, of which $14,750,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement is transmitted by the President to the Congress.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

The bill provides an additional $162,300,000 in emergency disaster loans. These funds will provide direct emergency loans to victims of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar. In addition, $43,285,000 is provided for the lifetime subsidy cost of the aforementioned loans, as required by the Federal Credit Reform Act of 1990. The bill also waives the requirement to have crop insurance in 1992 to obtain emergency loans.

RURAL DEVELOPMENT INSURANCE FUND PROGRAM ACCOUNT

The bill provides an additional $35,500,000 for water and sewer facility loans and an additional $305,000,000 for guaranteed industrial development loans. These loans will be made available to Farmers Home Administration borrowers whose facilities suffered damage as a result of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar. Losses consist of damaged buildings and inventories, broken pumps, contaminated leaching fields and sewage ponds, broken water mains, and broken water hookups.

In addition, $5,917,000 is provided for the lifetime subsidy cost of the water and sewer loans and $18,300,000 is provided for the lifetime subsidy cost of guaranteed industrial development loans, as required by the Federal Credit Reform Act of 1990.

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

The bill provides $15,500,000 in loans to intermediary rural development lenders. These loans would be made available for high-priority rural development projects designated by State-affiliated authorities to repair damages resulting from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar. In addition, $8,104,000 is provided for the lifetime subsidy cost of the aforementioned loans, as required by the Federal Credit Reform Act of 1990.

RURAL WATER AND WASTE DISPOSAL GRANTS

The bill provides an additional appropriation of $25,600,000 in grants to repair water and waste disposal systems damaged by natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar.

VERY LOW-INCOME HOUSING REPAIR GRANTS

The bill provides an additional appropriation of $10,000,000 for grants to the very low-income elderly to assist them in repairing damage to their homes as a result of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar.

RURAL HOUSING FOR DOMESTIC FARM LABOR

The bill provides an additional appropriation of $10,500,000 for Rural Housing for Domestic Farm Labor Grants. In Florida alone, over 700 farm labor housing units for migrant farm workers were destroyed by Hurricane Andrew. These funds would provide grants to pay costs not covered by private insurance and would allow these dwellings to become functional again for farm labor families.

EMERGENCY COMMUNITY WATER ASSISTANCE GRANTS

The bill provides an additional appropriation of $15,400,000 for Emergency Community Water Assistance Grants. These funds would provide grants to repair water system damage such as pump failures, damage to water mains, and chemical leakage caused by natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar.

SALARIES AND EXPENSES

The bill provides $3,200,000 for additional salaries and expenses funds for the Farmers Home Administration. These funds would be used to contract with the private sector for the cleanup of acquired property, in particular, mobile homes damaged by natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar.

Food and Nutrition Service

CHILD NUTRITION PROGRAMS

Relief is required in the application process to allow schools and institutions to claim as free all meals served as a result of the disruption caused by natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar. Many schools and institutions sustained such severe damage that they will not be opening for 6-9 months. Some remaining schools and institutions will be operating double sessions. A large number of children affected by the disaster will be attending schools and institutions which have no information regarding the students' eligibility for free and reduced price meals. Many of these students are effectively homeless, and obtaining applications will be difficult. The bill will allow officials of schools and institutions to respond to the nutritional needs of this special group of children who are in a crisis situation.

FOOD STAMP PROGRAM

Due to the serious decline in the economy and the continuous unacceptable high level of unemployment, the number of people receiving food stamps has increased to a record-breaking high of 25.74 million in June. Nearly one in every ten Americans receives food stamps. In addition, it is estimated that an additional 1.1 million recipients will receive food stamps as a result of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar. Therefore, the bill provides an additional appropriation of $400,000,000 for the Food Stamp Program to provide assistance to those needy individuals during these difficult times in our economy.

The $400,000,000 is essential to maintain the $2,500,000,000 reserve provided in the fiscal year 1993 Appropriations Act.

GENERAL PROVISIONS—CHAPTER I

SEC. 101. The bill also includes a general provision which provides that funds provided by chapter I shall be available only to the extent funds are not provided by the Federal Emergency Management Agency. This language was requested in the budget request for several of the accounts, and the bill provides that it be applied to all accounts.

CHAPTER II

DEPARTMENT OF COMMERCE

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

The amended bill provides a total of $75,000,000 in emergency supplemental funding for the Economic Development Administration, as provided in the Senate bill. Of this amount, $70,000,000 is to be used for grants under EDA's Title IX authority to assist States and local communities in recovering from the consequences of Hurricane Andrew and other disasters. The remaining $5,000,000 is to be transferred to the EDA Salaries and Expenses appropriation to cover administrative costs associated with carrying out this program. The House bill provided $55,000,000 for the Title IX program and $2,500,000 for administrative expenses.

Minority Business Development Agency

The amended bill includes $2,000,000 for the Minority Business Development Agency for providing assistance to minority victims of Hurricane Andrew and other disasters. These funds were included in both the House and Senate versions of the bill.

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH AND FACILITIES

The amended bill provides $9,891,000 for repair and replacement of NOAA facilities and equipment damaged during Hurricane Andrew, as well as the relocation of the Aircraft Operations Center. This amount was included in both the House and Senate versions of this bill as well as the President's budget request.

The amended bill also includes an appropriation of $8,500,000, included in the Senate bill but not the House bill, for a grant to the Louisiana Department of Wildlife and Fisheries to restore shellfish habitats in coastal Louisiana areas damaged by Hurricane Andrew and to conduct marine finfish restoration studies.

The amended bill also includes $300,000 for replacement of tide guages and repair of a weather station on the island of Kauai in the State of Hawaii which were damaged as a result of Hurricane Iniki.

United States Travel and Tourism Administration

SALARIES AND EXPENSES

The amended bill includes $5,000,000 for the disaster grants program of the U.S. Travel and Tourism Administration. These funds would provide grants to States and local entities for tourism promotion activities in the wake of Hurricanes Andrew and Iniki and other disasters. Language is also included waiving the matching requirements for this program.

DEPARTMENT OF JUSTICE

General Administration

SALARIES AND EXPENSES

The amended bill extends the availability of up to $510,000 within the General Administration appropriation for fiscal year 1992 for the Executive Office for Immigration Review to replace equipment damaged during Hurricane Andrew. This item was included in the Senate bill but not the House bill.

Legal Activities

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

The amended bill provides the full budget request of $10,724,000, as proposed in both the House and Senate bills for the Salaries and Expenses appropriation of the U.S. Marshals Service. These additional funds are required to handle costs incurred as a direct result of damage caused by Hurricane Andrew.

SUPPORT OF UNITED STATES PRISONERS

The amended bill provides $16,000,000 for Support of U.S. Prisoners as proposed in the House bill instead of the requested $10,691,000 proposed in the Senate bill. These funds are required to temporarily house Federal prisoners in contract facilities due to damage caused by Hurricane Andrew to the Federal Detention Center in Miami. The increase above the request is based upon the most recent information provided by the U.S. Marshals Service.

Federal Bureau of Investigation

SALARIES AND EXPENSES

The amended bill provides the requested $1,139,000 for the FBI as proposed in the Senate bill, instead of the $2,278,000 proposed in the House bill. These additional funds are required to replace vehicles and equipment damaged as a result of Hurricane Andrew.

Drug Enforcement Administration

SALARIES AND EXPENSES

The amended bill provides the requested $451,000 for the DEA as proposed in the Senate bill, instead of $903,000 as proposed in the House bill. These additional funds are required to replace vehicles and equipment damaged as a result of Hurricane Andrew.

Immigration and Naturalization Service

SALARIES AND EXPENSES

The amended bill provides the requested $1,000,000 for the INS as proposed in the Senate bill, instead of $2,000,000 as proposed in the House bill. These additional funds are required to replace vehicles and equipment damaged as a result of Hurricane Andrew.

Federal Prison System

SALARIES AND EXPENSES

The amended bill provides the requested $16,559,000 for the Salaries and Expenses appropriation of the Federal Prison System as proposed in the Senate bill. These additional funds are required to temporarily house inmates in State and local facilities, replace damaged equipment, and overtime, temporary duty and change of station costs.

BUILDINGS AND FACILITIES

The amended bill provides $10,000,000 for the Buildings and Facilities appropriation of the Federal Prison System as proposed in both the House and Senate bills. These additional funds are required to repair prison facilities damaged as a result of Hurricane Andrew. No funds were requested for this purpose by the Administration due to the availability of prior year unobligated balances in this account. However, the Committee understands that these prior year funds are needed for projects necessary for the ongoing expansion of prison facilities.

Office of Justice Programs

JUSTICE ASSISTANCE

The amended bill provides the requested $1,000,000 for the Emergency Assistance program as proposed in the Senate bill, instead of the $1,600,000 proposed in the House bill. These additional funds are required to restore funds in this account in the event they are required for subsequent emergencies. It is understood that any additional emergency assistance resulting from Hurricane Andrew will be funded through amounts appropriated to FEMA.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

The amended bill includes an emergency appropriation of $5,890,000 for salaries and expenses to cover the extraordinary costs incurred as a result of the destruction of the State Department's Miami Regional Center due to Hurricane Andrew. This funding was included in the supplemental budget request and in the Senate bill, but not in the House bill. The recommended funding will be used for replacement of diplomatic security and information management equipment, inventories, emergency travel, and temporary facilities.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

The amended bill includes an emergency appropriation of $300,000 to cover the costs of making minor repairs to the court building, replace damaged automation equipment, repair minor damage to automobiles, and travel and per diem expenses incurred by detailees assigned to southern Florida as a result of Hurricane Andrew. These additional funds were included in the supplemental request and in the Senate bill, but not in the House bill.

RELATED AGENCY

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

The amended bill includes a total of $431,800,000 for the Small Business Administration's Disaster Loan Program. The bill includes $331,800,000 in subsidy amounts which would provide up to $1.55 billion in additional direct disaster loan authority. Of the subsidy amount, $75,000,000, which could subsidize up to $350,000,000 in direct loans, is available only to the extent an official budget request, designating the amount as an emergency requirement, is submitted to the Congress. The contingency language, therefore, allows $1.2 billion in direct loan authority to be available immediately for disaster victims. The House bill had also provided $331,800,000 in subsidy amounts, but had not included any contingency language.

The bill also includes an additional $100,000,000 for administrative costs associated with the disaster loan program, as provided in the House bill. The Senate bill also provided a total of $431,800,000 for the SBA disaster loan program, as follows: (1) $256,800,000 for subsidy costs for $1.2 billion in direct disaster loans; (2) $80,000,000 for administrative costs as requested by the President; (3) an additional $20,000,000 for administrative costs which would be subject to an emergency declaration, and (4) $75,000,000 in contingency funds.

The amended bill also includes language which would prohibit disaster loan recipients from voluntarily relocating outside the area impacted by the disaster. This provision is necessary in order to preserve communities impacted by disasters. The provision would only prevent *voluntary* relocation by homeowners and business owners receiving disaster loan funds. The prohibition should not adversely impact military personnel who have been transferred to other military bases as a result of the damage to Homestead; military transfers should be considered involuntary relocations under this provision.

CHAPTER IV

U.S. ARMY CORPS OF ENGINEERS

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

The bill includes $3,000,000 for Flood Control, Mississippi River and Tributaries, to meet emergency needs resulting from Hurricane Andrew. These funds will provide for costs resulting from placing revetment operations on a standby basis and the loss of two barge loads of concrete bank stabilization mats.

Funds for this work were included in H.R. 5911 as introduced in the House, in the Senate amendments to H.R. 5620, and in the amount requested by the President for costs related to Hurricane Andrew.

OPERATION AND MAINTENANCE

The bill includes $3,000,000 to repair Corps of Engineers projects in Florida, Louisiana, and Hawaii damaged by Hurricane Andrew and Hurricane Iniki. These funds will be used to repair of federally constructed and operated features of the Central and Southern Florida flood control project, the removal of sunken vessels and debris in the Miami River and the Intracoastal Waterway, Jacksonville to Miami projects in Florida, for necessary dredging in the Atchafalaya River in Louisiana, and for repair of projects in Hawaii.

Funds for these activities were included in H.R. 5911 as introduced in the House, in the Senate amendments to H.R. 5620, and in the amount requested by the President for costs related to Hurricane Andrew.

FLOOD CONTROL AND COASTAL EMERGENCIES

The bill includes a total of $40,000,000 for the Corps of Engineers' emergency fund to enable the Corps to respond to requirements arising from the consequences of Hurricane Andrew, Hurricane Iniki, and other natural disasters.

Of the total provided, $25,000,000 is to cover the incremental costs arising from the consequences of Hurricane Andrew and Hurricane Iniki. The funds will enable the Corps of Engineers to repair unexpected damages and replace as required the federally and locally constructed but nonfederally operated features of the Central and Southern Florida flood control project, the Grand Isle, Louisiana, hurricane protection project, the Mandeville, Louisiana, seawall, and the Lake Pontchartrain and vicinity, Louisiana, hurricane protection project. The funds will also enable the Corps to repair unexpected beach erosion at federally constructed hurricane protection projects in Dade County, Broward County, and Key Biscayne, Florida, and at Wine Island, Louisiana. The funds will enable the Corps to repair projects damaged as a result of Hurricane Iniki and will cover the costs of Corps emergency response efforts to both events.

The bill also includes $15,000,000 for replenishment of the Corps' emergency fund for future emergency response needs.

Funds for these activities were included in H.R. 5911 as introduced in the House, in the Senate amendments to H.R. 5620, and in the President's budget request in response to Hurricane Andrew.

CHAPTER V

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCES MANAGEMENT

A total of $27,000,000 is provided for fish and wildlife recovery activities in Louisiana and other areas affected by storm damage. This amount includes $24,500,000 as a grant from the Fish and Wildlife Service to the Louisiana Department of Wildlife and Fisheries for restoration of freshwater and wildlife populations, including the development and execution of restoration plans as well as the construction of necessary hatchery and incubation facilities and land acquisition. An additional amount of $1,500,000 is recommended for the National Wetlands Research Center to assess the effects of Hurricane Andrew on Louisiana's coastal ecosystems including forested wetlands, coastal marshes, and migratory bird habitat. These funds will only become available upon Presidential designation of these purposes as emergency expenditures, pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

CONSTRUCTION AND ANADROMOUS FISH

An additional amount of $12,765,000 for Construction and anadromous fish is provided in response to damage incurred from Hurricane Andrew, Typhoon Omar, and Hurricane Iniki. Fish and Wildlife Service facilities in Florida, Hawaii, Louisiana, and Guam sustained significant damage. The money will pay for reconstruction and rehabilitation of refuge, hatchery and research facilities.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

An additional $23,000,000 is provided for Operation of the National Park System in response to Hurricane Andrew damage to Everglades National Park, Biscayne National Park, Big Cypress National Preserve, and Jean Lafitte National Historic Park. The amount provided is for emergency response and cleanup, replacement of lost equipment, and natural resource recovery activities.

HISTORIC PRESERVATION FUND

A total of $300,000 is provided for grants to the National Trust for Historic Preservation for assistance in restoration of historic private properties. These funds will only become available upon Presidential designation of these purposes as emergency expenditures, pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

CONSTRUCTION

An additional amount of $23,000,000 is provided for construction for Hurricane Andrew damage to Biscayne National Park, Everglades National Park, Big Cypress National Preserve, and Jean Lafitte National Historic Park. The recommended amount will allow for reconstruction and rehabilitation of visitor facilities, park buildings, and employee housing. Of the amount provided, $1,000,000 is for Jean Lafitte NHP, LA.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS AND RESEARCH

An additional amount of $3,375,000 is provided for Surveys, investigations, and research consisting of $1,575,000 for replacement of equipment and structures damaged by Hurricanes Andrew and Iniki and Typhoon Omar and $1,800,000, subject to a Presidential declaration of an emergency, for follow-on studies to the Louisiana barrier islands study and documentation of shoreline damages.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

An additional $1,200,000 is provided for the Minerals Management Service to inspect offshore oil and gas facilities in the Gulf of Mexico and to provide oversight of pipeline repairs. Of the 3,852 offshore oil and gas facilities in the Gulf of Mexico, 2,000 were in the path of Hurricane Andrew and 166 received notable damage. Thirty-four structures were toppled and 28 sustained severe structural damage. Eighty-three segments of oil and gas pipeline received damage. These funds will only become available upon Presidential designation of these purposes as emergency expenditures, pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

An additional $1,500,000 is provided for Operation of Indian programs, for Hurricane Andrew damage to the Miccosukee, FL and Chitimacha, LA Indian reservations. Included are $900,000 for emergency welfare assistance for approximately 170 families; $300,000 for clean-up operations, including removal of fire hazards and debris and heavy equipment rental; and $300,000 for facilities operations and maintenance, including emergency generators, line repairs, and building inspections.

CONSTRUCTION

An additional $3,800,000 is provided for construction for Hurricane Andrew damage to the Miccosukee, FL and Chitimacha, LA Indian reservations. Included is $1,500,000 for the housing improvement program, to repair or replace approximately 51 homes damaged or destroyed by the hurricane. Also included is $2,300,000 for facilities improvement and repair, including $500,000 to repair the Miccosukee fire station; $1,000,000 to repair schools on both the Miccosukee and Chitimacha reservations; $300,000 to repair Chitimacha tribal buildings and offices; and $500,000 to repair government-funded tribal enterprises on both reservations.

FOREST SERVICE

STATE AND PRIVATE FORESTRY

For State and private forestry, an additional $4,140,000 is provided. The total includes $2,900,000 for assistance to the State of Louisiana related to damage from Hurricane Andrew. The funds will be provided to the State's Office of Forestry under the authority of the Cooperative Forestry Assistance Act, and will be used for the development of forestry management plans to restore damaged commercial, urban, and private timber stocks; to remove and replace damaged trees; and to prevent further damage to remaining stocks from insects and other diseases. Funds will also be provided for the State to undertake a full tree inventory and damage assessment of trees in the 53 impacted communities, to assist in hazard tree removal, tree replacements, home/business owner assistance, and to replace damaged trees on State-owned facilities. Under the Cooperative Forestry Assistance Act, the State will be required to match the funds unless an exemption is granted under other provisions of law. There is also $1,240,000 for the State of Hawaii related to damage from Hurricane Iniki. These funds will be available only to the extent the President designates them as an emergency requirement.

CHAPTER VI

SUBCOMMITTEE ON THE DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES AND EDUCATION

The bill provides a total of $258,100,000 for disaster relief administered by the Departments of Labor, Health and Human Services and Education. This amount is the same as the amount provided by the Senate in H.R. 5620 and $69,850,000 more than the level provided by the House in H.R. 5911. This amount will fund a broad array of health, education and social services for victims of natural disasters including Hurricanes Andrew and Iniki and Typhoon Omar.

DEPARTMENT OF LABOR

The bill provides $30,000,000 for emergency job training grants administered by the Department of Labor. This is the same amount included by the Senate in its amendments to H.R. 5620. H.R. 5911 did not include funding for this account.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

The bill includes $105,600,000 for emergency health and social services related to Presidentially-declared emergencies. This is the same amount provided in the Senate amendment for these activities and an increase of $20,600,000 over the comparable House amount. The bill assumes that this amount includes additional funding for health resources and services; disease control, research and training; the National Centers for Research Resources; the Alcohol, Drug Abuse and Mental Health Block Grant; the Community Services Block grant; the Child Care Block Grant, and other Human Development Services programs. The bill does not, however, earmark a specific amount for each program. The bill instead appropriates the entire amount under a broad emergency authority which provides maximum flexibility for the Department of Health and Human Services to respond to the emergency. The bill provides that these funds are available for any emergency health or social service activities which are authorized without the need for reprogramming of funds. This includes social services provided by both public and private relief agencies.

While no specific earmark of funds has been included for a grant to the United Houma Nation in bill language as provided in the Senate amendment, the Department is encouraged to provide up to $2,000,000 to meet the needs of this Indian tribe when allocating disaster assistance funding.

DEPARTMENT OF EDUCATION

The bill includes $122,500,000 for disaster assistance activities of the Department of Education. This is the same amount provided by the Senate in H.R. 5620 and $19,250,000 more than provided by the House in H.R. 5911. The bill accepts Senate language providing $40 million to partially finance emergency Pell grants for students in Presidentially-designated disaster areas. The bill also accepts Senate language which replaces $40 million within the Educational Excellence account which was reprogrammed for disaster assistance activities. Both of these amounts were also included in H.R. 5911 as introduced in the House.

The bill provides $42,500,000 for disaster assistance activities under the Impact Aid account the same amount provided in the Senate amendments to H.R. 5620 and $19,250,000 more than the amount provided by the House in H.R. 5911. The additional amounts will allow assistance to the State of Hawaii related to Hurricane Iniki as well as a broader array of support related to Hurricane Andrew and Typhoon Omar. The bill provides broad discretion to the Secretary in allocating these funds and permits him to grant waivers to laws and regulations where such waivers are necessary to target aid more effectively or more efficiently.

The bill includes funds to assist those school districts which are incurring substantially increased costs as a result of Presidentially-declared emergencies. This includes districts within the designated disaster areas as well as districts outside these geographic areas which are educating large numbers of students whose families were displaced as a result of the destruction of their homes and businesses. The Congress is aware, in particular, of a number of districts which have received large numbers of students whose parents were previously stationed at Homestead Air Force Base.

In allocating disaster funds the Secretary should give high priority to continuing existing services for disadvantaged students such as those provided by the Upward Bound program.

The bill permits that up to $750,000 of the amount provided under impact aid disaster assistance may be used for disaster-related administrative costs at the Department of Education.

The bill provides specific authority for the Secretary to waive provisions of law related to Pell grant eligibility. Similar waiver authority was provided in Public Law 102-26 related to the Desert Shield/Desert Storm emergency. The provisions of Public Law 102-26 (20 USC 1070) provide an excellent model for the type of waivers which may be appropriate. The Secretary is directed to report to the Congress by December 31, 1992 on his use of this authority.

CHAPTER VII

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, AIR FORCE

The bill appropriates $10,000,000 for planning costs arising from the consequences of Hurricane Andrew, provided none of the funds can be used for construction of facilities to support active Air Force units and missions at Homestead Air Force Base, Florida, until the completion of the 1993 Base Closure process.

The bill appropriates $66,000,000 for the limited purpose of restoring airfield operations at Homestead Air Force Base, Florida, provided that none of these funds are available for construction of facilities to support active Air Force units and missions until completion of the 1993 Base Closure process. These funds are appropriated for the purpose of providing the Homestead community with an operational aviation asset. This would include restoring to operational use the runway, air traffic control complex, utilities and aviation support infrastructure. It would also provide for environmental restoration which is required regardless of the disposition of the airfield as a military asset or a civil airport.

The bill appropriates $7,600,000 for replacement of damaged and destroyed facilities at Andersen Air Force Base at Guam as a consequence of typhoon Omar.

FAMILY HOUSING, AIR FORCE

The bill appropriates $16,000,000 for demolition and clean up of damaged or destroyed family housing units at Homestead Air Force Base, Florida, as a consequence of Hurricane Andrew.

The bill appropriates $21,200,000 for damaged family housing units as a consequence of Typhoon Omar.

MILITARY CONSTRUCTION, NAVY

The bill appropriates $60,130,000 for projects at Guam. The appropriated funds are to be allocated for the following projects:

Andersen AFB: Maintenance hangar	$29,000,000
Naval Station: Child Development Center	2,900,000
Naval Supply Depot: Hazardous material storage	14,820,000
Ship repair facility: Ship/spare storage	5,200,000
Naval magazine: Tomahawk magazines	8,210,000

The bill appropriates $21,400,000 for repair and replacement of damaged facilities on Guam arising from the consequences of Typhoon Omar. The appropriated funds are to be allocated for the following projects:

NAS operations/maintenance building	$830,000
NAS SEABEE operations building	1,050,000
SRF mooring facility ..	4,780,000
SRF drydock causeway	1,150,000
NAVSTA breakwater ...	11,640,000
Various planning and design	1,950,000

FAMILY HOUSING, NAVY AND MARINE CORPS

The bill appropriates $56,700,000 for construction of family housing units on Guam. The funds provide for construction of 300 units of new family housing at the Public Works Center on Guam.

The bill appropriates $30,500,000 for repair of family housing units at Guam as a consequence of Typhoon Omar.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

The Department of Defense shall redirect existing unobligated funds provided in Public Law 102–136 for construction of medical facilities at Homestead Air Force Base, Florida toward such construction as may be necessary to care for medical needs of retired personnel in the Homestead community as well as for the Air National Guard and Air Force Reserve units that may be assigned to Homestead Air Force Base.

CHAPTER VIII

DEPARTMENT OF TRANSPORTATION

The bill provides an additional $20 million for Coast Guard operating expenses to reflect the incremental costs attributable to intensified operations and the repair of facilities necessitated by Hurricane Andrew and Hurricane Iniki. For Coast Guard acquisition, construction, and improvements, the bill includes $21.5 million to replace the Coast Guard communications station in Miami and to reconstruct other facilities that were damaged or destroyed by Hurricane Andrew or Hurricane Iniki.

For the Federal Aviation Administration, the bill provides $40 million for facilities and equipment and $20 million for grants-in-aid for airports.

The bill includes three appropriations for the Federal Highway Administration: $750,000 for a number of highway feasibility studies related to expediting evacuations from hurricane-threatened areas; $3,000,000 for metropolitan planning organizations in areas affected by Hurricane Andrew, Hurricane Iniki or Typhoon Omar; and $30,000,000 for the Emergency Fund. Preliminary estimates indicate the existing balance plus the fiscal year 1993 emergency relief funds may not be adequate to cover the costs of the recent disasters. The bill would also waive the per state limit on these emergency funds.

The bill includes $10,000,000 to enable the Federal Transit Administration to assist transit operations affected Hurricanes Andrew and Iniki.

For the Research and Special Programs Administration, the bill includes a transfer of $44,000 for the agency's emergency transportation activities.

CHAPTER IX

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

This bill provides an additional $590,000, for salaries and expenses to cover the incremental costs arising from the consequences of Hurricane Andrew. These funds are for overtime, travel, office equipment, supplies, and other related costs in law enforcement.

U.S. CUSTOMS SERVICE

SALARIES AND EXPENSES

This bill provides an additional $4,670,000, for salaries and expenses to cover the incremental costs arising from the consequences of Hurricane Andrew. These funds are to be used to cover costs related to losses to vehicles, communication networks, and other related materials. It also provides additional funds for overtime, travel, emergency office equipment, space, and supplies.

OPERATION AND MAINTENANCE, AIR AND MARINE INTERDICTION PROGRAMS

This bill provides an additional $10,500,000, for operation and maintenance to cover the incremental costs arising from the consequences of Hurricane Andrew. These funds are for equipping and furnishing a replacement facility, replacement of aircraft and maintenance equipment, replacement of boats and equipment, equipping and furnishing the Richmond Heights C31 facility and temporary operations at alternative locations.

CUSTOMS AIR INTERDICTION FACILITIES, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

This bill provides an additional $19,250,000, for Customs Air Interdiction Facilities, Construction, Improvements and Related Expenses to cover the incremental costs arising from the consequences of Hurricane Andrew. These funds are to rebuild Customs Miami Air Branch facilities damaged or destroyed by Hurricane Andrew and to repair the C31 facility at Richmond Heights. It also includes funds for engineering, construction, and related expenses.

INTERNAL REVENUE SERVICE

TAX LAW ENFORCEMENT

This bill provides an additional $1,173,000, for tax law enforcement to cover the incremental costs arising from the consequences of Hurricane Andrew. These funds are for overtime, travel, and other costs related to assisting disaster loan applications and providing help in filing expedited tax returns to take advantage of disaster related reductions.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

This bill provides and additional $2,500,000, for Real Property Operations to cover the incremental costs arising from the consequences of Hurricane Andrew. These funds are for the protection of GSA-controlled federal and leased space, moving costs, tree removal, and general clean-up.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

This bill provides an additional $700,000, for the Federal Supply Service to cover the incremental costs arising from the consequences of Hurricane Andrew. These funds are for the repair and replacement of vehicles destroyed and damaged by Hurricane Andrew.

GENERAL PROVISIONS

This bill provides a provision allowing agencies to accept donations for federal employees involved in disaster resulting from Hurricane Andrew, Typhoon Omar, and Hurricane Iniki.

CHAPTER X

DEPARTMENT OF VETERANS AFFAIRS

The bill includes $16,793,000 for medical care to cover the incremental costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters. The increase of $1,000,000 above the budget request is due to additional disaster declarations subsequent to the submission of the supplemental appropriations request.

The bill includes $156,000, as requested by the Administration, for general operating expenses to cover overtime costs incurred by the Veterans Benefits Administration to ensure proper disbursement of benefits checks, appraisal of VA-owned homes damaged by disasters, and reopening of regional offices closed during and after such disasters.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The bill includes the $183,000,000 requested for voucher assistance for victims of Presidentially-declared disasters. These monies, to be derived by transfer from FEMA's disaster relief account, will enable HUD to fund 12,000 rental assistance vouchers for 24 months for the benefit of eligible, very low-income families in areas recently impacted by disasters.

The bill includes $100,000,000 for the development, major reconstruction and modernization of public housing for use in areas impacted by Hurricane Andrew, Hurricane Iniki, Typhoon Omar and other Presidentially-declared disasters. Language is also included providing the Secretary with authority to waive any provision of any statute or regulation, except provisions requiring nondiscrimination, to ensure that these funds will be made available in an expeditious manner for damages resulting from recently declared disasters. These funds are required to assist the families who lived in the thousands of public housing units recently destroyed or damaged by disasters.

The bill includes the $500,000 requested for housing counseling assistance for emergency counseling regarding housing availability, maintenance, and financing, for homeowners, home buyers, and renters living in areas affected by recent disasters.

The bill provides $30,397,000 for subsidy costs associated with the general and special risk program account, and a loan limitation of $2,428,000,000. These recommended amounts are $10,000,000 and $800,000,000, respectively, above the budget request and reflect anticipated additional needs resulting from disasters declared subsequent to the submission of the supplemental budget request. These funds will enable HUD to ensure approximately 95,000 mortgages and loans for the construction, reconstruction, rehabilitation, and purchase of single-family homes and multifamily housing, including health care facilities.

The bill includes $60,000,000 for the HOME Investment Partnerships Program for use only in areas impacted by Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters. Language has been included providing authority for the Secretary to waive any provision of any statute or regulation, except for provisions requiring nondiscrimination, to ensure that these funds are utilized in an expeditious fashion. It is expected that the Department will make these funds, and the funds provided for public housing, available as quickly as possible to those people whose homes have been devastated by recent disasters. To ensure that these funds are made available as soon a possible, an additional $4,000,000 has been provided in the salaries and expenses account for increased staffing needs. The Department is to report to the Committees on Appropriations within 30 days of enactment of this Act as to how it intends to utilize both the public housing and HOME funds.

The bill includes $4,000,000, an increase of $200,000 above the budget request, for salaries and expenses. The requested funds will permit an expansion of staffing in the Coral Gables field office to accommodate the increased demand for program services created by Hurricane Andrew in southern Florida. The additional funds above the budget request are to be available for additional field offices expenses caused by other recent disasters.

INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

The bill has been amended to include an additional $2,893,000,000 for disaster relief assistance for the Federal Emergency Management Agency for fiscal year 1992. These funds will provide urgently needed assistance for the recent disasters in Florida, Louisiana, Hawaii, and Guam as a result of devastating hurricanes as well as other natural disasters that have occurred recently.

This is $989,000,000 above the President's request for this account. The extraordinary circumstances of recent disasters make it necessary to provide such a large sum of money. In addition to the many requirements placed upon the Federal Emergency Management Agency, this account will be used by FEMA to reimburse other agencies for performing tasks assigned to them under the Federal Response Plan. Due to the magnitude of the Hurricane Andrew disaster, the military has been utilized extensively in the response effort. It is now estimated by the Administration that the cost to the disaster relief fund for military expenses will be about $300,000,000.

In addition to the disaster relief account, a loan limitation of $200,000,000 has been provided for the Community Disaster Loan Program. This account allows FEMA to make loans to local governments which, due to a major disaster, have suffered a substantial loss of tax and other revenues. These loans are used to provide financial assistance to local communities which allow them to continue to perform their governmental functions.

It is recommended that this amount, as well as the other amounts included under FEMA in this supplemental appropriation, be designated by Congress as an emergency requirement for all the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

Local officials and businesses in South Florida have expressed concern that disposal, relief, repair, and reconstruction projects in the aftermath of Hurricane Andrew are not going to local companies who are able to perform such work. A large number of the contracts are being let to out-of-region and out-of-state contractors when capable local companies are available. The Federal Emergency Management Agency (FEMA) is encouraged to employ the services of local companies doing relief, repair, and reconstruction work in South Florida. These companies would be expected to comply with local ordinances and rules governing minority participation and minority employment. Further, FEMA is urged to provide more effective preannouncements of potential contracts.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

The limitation on direct loans for this account is increased by $30,000,000 for fiscal year 1992 and for a total loan authority of $58,000,000. This loan account allows FEMA to lend eligible applicants or States the portion of assistance for which the State is responsible under the cost-sharing provisions of the Stafford Act. A provision has been included allowing FEMA to utilize this loan authority through fiscal year 1993.

SALARIES AND EXPENSES

An additional $15,000,000 is recommended for the Salaries and Expenses account for FEMA. Due to recently declared disasters as well as other disasters and emergencies, additional personnel is required to respond to the demands of the disaster assistance program. Included in the bill is a provision directing all of these resources to be utilized only by the disaster assistance programs in FEMA.

TITLE XII

ADDITIONAL ASSISTANCE TO DISTRESSED COMMUNITIES

The amended bill provides $500 million, subject to authorization, for two programs: the Enterprise Community Block Grant Demonstration Program and the National Public/Private Partnership Program. These programs will be more fully defined in H.R. 11.

A detailed table reflecting the amounts in the proposed bill is as follows:

FY 1992 Dire Emergency Supplemental Appropriations Bill (H.R. 5620)

Doc No.		Supplemental Request	House 2	Senate	Conference	Conference compared with House	Conference compared with Senate
	FY 1992 SUPPLEMENTAL APPROPRIATIONS, TRANSFERS, AND RESCISSIONS						
	TITLE I						
	DEPARTMENT OF COMMERCE						
	International Trade Administration						
....	Operations and administration	....	1,795,000	3,000,000	2,000,000	+205,000	-1,000,000
	National Oceanic and Atmospheric Administration						
....	Operations, research and facilities	....	....	1,500,000	....	....	-1,500,000
....	(Rescission)	....	....	-3,500,000	-2,120,000	-2,120,000	+1,380,000
....	Fishing vessel obligations guarantees (rescission)	....	....	....	-930,000	-930,000	-930,000
....	Foreign fishing observer fund (rescission)	....	-1,309,000	-1,309,000	-1,309,000	....	....
	Total, National Oceanic and Atmospheric Administration	....	-1,309,000	-3,309,000	-4,359,000	-3,050,000	-1,050,000
	Economic Development Administration						
....	Economic Development Revolving Fund (rescission)	....	....	-2,100,000	....	....	+2,100,000
	Total, Department of Commerce	....	486,000	-2,409,000	-2,359,000	-2,845,000	+50,000
	DEPARTMENT OF JUSTICE						
	Federal Prison System						
102-358	National Institute of Corrections (by transfer)	(3,700,000)	....	....	....		
	DEPARTMENT OF STATE						
	International Organizations and Conferences						
....	Contributions for international peacekeeping	80,000,000	80,000,000	....	80,000,000	....	+80,000,000
	THE JUDICIARY						
	Courts of Appeals, District Courts, and Other Judicial Services						
102-178	Defender services	24,500,000	31,250,000	....	31,250,000	....	+31,250,000
	RELATED AGENCIES						
	Commission on Civil Rights						
102-358	Salaries and expenses	817,000	....	....	....	....	....
	Equal Employment Opportunity Commission						
102-358	Salaries and expenses	1,000,000	1,000,000	....	1,000,000	....	+1,000,000
	Total, Title I:						
	New budget (obligational) authority	106,317,000	112,736,000	-2,409,000	109,891,000	-2,845,000	+112,300,000
	Appropriations	(106,317,000)	(114,045,000)	(4,500,000)	(114,250,000)	(+205,000)	(+109,750,000)
	Rescissions	....	(-1,309,000)	(-6,909,000)	(-4,359,000)	(-3,050,000)	(+2,550,000)
	(By transfer)	(3,700,000)	....	....	....	....	....
	TITLE II						
	DEPARTMENT OF DEFENSE - MILITARY						
	OPERATION AND MAINTENANCE						
102-191	Operation and Maintenance, Army	116,000,000	116,000,000	116,000,000	116,000,000	....	....
102-191	Operation and Maintenance, Navy	33,000,000	33,000,000	33,000,000	33,000,000	....	....
102-191	Operation and Maintenance, Air Force	263,000,000	263,000,000	263,000,000	263,000,000	....	....
102-191	Operation and Maintenance, Defense Agencies	19,700,000	69,700,000	19,700,000	69,700,000	....	+50,000,000
102-191	Environmental Restoration, Defense	447,500,000	447,500,000	447,500,000	447,500,000	....	....
	Total, Operation and maintenance	879,200,000	929,200,000	879,200,000	929,200,000	....	+50,000,000
	PROCUREMENT						
....	National Guard and Reserve Equipment	....	....	....	4,372,000	+4,372,000	+4,372,000
	RESEARCH, DEVELOPMENT, TEST AND EVALUATION						
102-191	Research, Development, Test and Evaluation, Defense Agencies	30,000,000	7,000,000	69,800,000	74,800,000	+67,800,000	+5,000,000
	REVOLVING AND MANAGEMENT FUNDS						
....	Pentagon reservation maintenance revolving fund	....	80,100,000	80,100,000	80,100,000	....	....
	OTHER DEPARTMENT OF DEFENSE PROGRAMS						
....	Office of the Inspector General	....	3,400,000	3,400,000	3,400,000	....	....
	MILITARY PERSONNEL (by transfer from the Defense Cooperation Account or the Persian Gulf Regional Defense Fund)						
1/	Military Personnel, Army	(1,037,261,000)	(1,037,261,000)	(399,000,000)	(1,007,961,000)	(-29,300,000)	(+608,961,000)
1/	Military Personnel, Navy	(205,700,000)	(205,700,000)	(30,000,000)	(170,400,000)	(-35,300,000)	(+140,400,000)
1/	Military Personnel, Marine Corps	(20,227,000)	(20,227,000)	....	(17,127,000)	(-3,100,000)	(+17,127,000)
1/	Military Personnel, Air Force	(333,500,000)	(333,500,000)	....	(313,500,000)	(-20,000,000)	(+313,500,000)
	Total, Military personnel	(1,596,688,000)	(1,596,688,000)	(429,000,000)	(1,508,988,000)	(-87,700,000)	(+1,079,988,000)

1/ Cost estimates for the incremental costs of Operation Desert Shield/Desert Storm funded by transfer from the Defense Cooperation Account or the Persian Gulf Regional Defense Fund were provided by DOD.

FY 1992 Dire Emergency Supplemental Appropriations Bill (H.R. 5620), continued

Doc No.		Supplemental Request	House[2]	Senate	Conference	Conference compared with House	Conference compared with Senate
	OPERATION AND MAINTENANCE (by transfer from the Defense Cooperation Account or the Persian Gulf Regional Defense Fund)						
1/	Operation and Maintenance, Army	(2,383,890,000)	(2,383,890,000)	(1,355,274,000)	(1,355,274,000)	(-1,028,616,000)	
1/	Operation and Maintenance, Navy	(101,000,000)	(101,000,000)	(75,000,000)	(75,000,000)	(-26,000,000)	
1/	Operation and Maintenance, Marine Corps	(433,000,000)	(433,000,000)	(224,600,000)	(224,600,000)	(-208,400,000)	
1/	Operation and Maintenance, Air Force	(657,600,000)	(657,600,000)	(247,200,000)	(247,200,000)	(-410,400,000)	
102-191 1/	Operation and Maintenance, Defense Agencies	(10,700,000)	(10,700,000)	(4,900,000)	(4,900,000)	(-5,800,000)	
	Operation and Maintenance, Army National Guard				(15,214,560)	(+15,214,560)	(+15,214,560)
	Total, Operation and Maintenance	(3,586,190,000)	(3,586,190,000)	(1,906,974,000)	(1,922,188,560)	(-1,664,001,440)	(+15,214,560)
	MILITARY PERSONNEL (transfer of existing funds)						
1/	National Guard Personnel, Army	(12,500,000)	(12,500,000)	(12,500,000)	(12,500,000)		
	OPERATION AND MAINTENANCE (transfer of existing funds)						
1/	Operation and Maintenance, Army	(341,310,000)	(341,310,000)	(341,310,000)	(341,310,000)		
1/	Operation and Maintenance, Navy	(257,200,000)	(257,200,000)	(257,200,000)	(257,200,000)		
	Total, Operation and Maintenance	(598,510,000)	(598,510,000)	(598,510,000)	(598,510,000)		
	PERSIAN GULF REGIONAL DEFENSE FUND						
	Persian Gulf Regional Defense Fund (rescission)		-12,485,446,313	-14,696,040,000	-14,696,040,000	-2,210,593,687	
	GENERAL PROVISION (by transfer from the Defense Cooperation Account or the Persian Gulf Regional Defense Fund)						
	Kurdish relief (section 204)			(40,000,000)	(40,000,000)	(+40,000,000)	
	Total, Title II:						
	New budget (obligational) authority	909,200,000	-11,465,746,313	-13,663,540,000	-13,604,168,000	-2,138,421,687	+59,372,000
	Appropriations	(909,200,000)	(1,019,700,000)	(1,032,500,000)	(1,091,872,000)	(+72,172,000)	(+59,372,000)
	Rescissions		(-12,485,446,313)	(-14,696,040,000)	(-14,696,040,000)	(-2,210,593,687)	
	(By transfer of existing funds) (Desert Storm)	(611,010,000)	(611,010,000)	(611,010,000)	(611,010,000)		
	(By transfer from the Defense Cooperation Account or the Persian Gulf Regional Defense Fund)	(5,182,878,000)	(5,182,878,000)	(2,375,974,000)	(3,471,176,560)	(-1,711,701,440)	(+1,095,202,560)
	TITLE III						
	DEPARTMENT OF LABOR						
	Employment and Training Administration						
102-358	Advances to the Unemployment Trust Fund and other funds	237,652,000	237,652,000	237,652,000	237,652,000		
	RELATED AGENCY						
	National Commission on Libraries and Information Science						
102-358	White House Conference on Library and Information Services	400,000					
	Total, Title III:						
	New budget (obligational) authority	238,052,000	237,652,000	237,652,000	237,652,000		
	TITLE IV						
	DEPARTMENT OF DEFENSE - MILITARY						
102-191	Base realignment and closure account, Part II	162,700,000	162,700,000	162,700,000	162,700,000		
102-191	(By transfer)	(69,000,000)	(69,000,000)	(69,000,000)	(69,000,000)		
	Total, Title IV:						
	New budget (obligational) authority	162,700,000	162,700,000	162,700,000	162,700,000		
	(By transfer)	(69,000,000)	(69,000,000)	(69,000,000)	(69,000,000)		
	TITLE V						
	DEPARTMENT OF VETERANS AFFAIRS						
	Veterans Benefits Administration						
102-178 102-358	Compensation and pensions	500,000,000	500,000,000	500,000,000	500,000,000		
	Vocational rehabilitation loans program account:						
	(Limitation on direct loans)		(350,000)	(350,000)	(350,000)		
	Veterans Health Administration						
	Transitional housing loan program account:						
102-178	Loan program account (by transfer)	(3,000)	(3,000)	(3,000)	(3,000)		
102-178	(Limitation on direct loans)	(30,000)	(30,000)	(30,000)	(30,000)		
102-178	Administrative expenses (by transfer)	(25,000)	(25,000)	(25,000)	(25,000)		
	Departmental Administration						
102-358	General operating expenses	14,100,000	14,100,000	14,100,000	14,100,000		
	Total, Department of Veterans Affairs	514,100,000	514,100,000	514,100,000	514,100,000		

1/ Cost estimates for the incremental costs of Operation Desert Shield/Desert Storm funded by transfer from the Defense Cooperation Account or the Persian Gulf Regional Defense Fund were provided by DOD.

FY 1992 Dire Emergency Supplemental Appropriations Bill (H.R. 5620), continued

Doc No.		Supplemental Request	House[2]	Senate	Conference	Conference compared with House	Conference compared with Senate
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT						
	Housing Programs						
102-358	Assistance for the renewal of expiring section 8 subsidy contracts (by transfer)	(407,000,000)	(407,000,000)	(407,000,000)	(407,000,000)		
	Payments for operation of low-income housing projects:						
	Rescission		-250,000,000	-250,000,000	-250,000,000		
	Appropriation		250,000,000	250,000,000	250,000,000		
	FHA - General and special risk program account:						
102-358	(Limitation on guaranteed loans)	(1,500,000,000)					
102-358	Program costs (by transfer)	(10,000,000)					
	Government National Mortgage Association						
	Guarantees of mortgage-backed securities loan guarantee program account:						
	(Limitation on guaranteed loans)			(25,000,000,000)	(25,000,000,000)	+25,000,000,000)	
	Community Planning and Development						
	Community development grants (limitation on guaranteed loans)			(85,000,000)	(85,000,000)	(+85,000,000)	
	Policy Development and Research						
	Research and technology:						
	Rescission		-500,000	-500,000	-500,000		
	Appropriation		500,000	500,000	500,000		
	INDEPENDENT AGENCIES						
	Court of Veterans Appeals						
	Salaries and expenses:						
	Rescission		-950,000	-950,000	-950,000		
	Appropriation		950,000	950,000	950,000		
	National Commission on Severely Distressed Public Housing						
	Salaries and expenses (by transfer)		(250,000)	(250,000)	(250,000)		
	Total, Title V:						
	New budget (obligational) authority	514,100,000	514,100,000	514,100,000	514,100,000		
	Appropriations	(514,100,000)	(765,550,000)	(765,550,000)	(765,550,000)		
	Rescissions		(-251,450,000)	(-251,450,000)	(-251,450,000)		
	(By transfer)	(417,028,000)	(407,278,000)	(407,278,000)	(407,278,000)		
	(Limitation on direct loans)	(30,000)	(380,000)	(380,000)	(380,000)		
	(Limitation on guaranteed loans)	(1,500,000,000)		(25,085,000,000)	(25,085,000,000)	(+25,085,000,000)	
	TITLE VI						
	DEPARTMENT OF AGRICULTURE						
	Soil Conservation Service						
	Watershed and flood prevention operations		7,500,000			-7,500,000	
	TITLE VII						
	DEPARTMENT OF THE INTERIOR						
	Bureau of Reclamation						
	Construction program		30,000,000	20,000,000	30,000,000		+10,000,000
	TITLE VIII						
	DEPARTMENT OF TRANSPORTATION						
	Federal Aviation Administration						
	Grants-in-aid for airports (Airport and Airway Trust Fund) (liquidation of contract authorization)			(100,000,000)	(100,000,000)	(+100,000,000)	
	TITLE IX						
	DEPARTMENT OF THE TREASURY						
	Departmental Offices						
	Salaries and expenses			320,000	320,000	+320,000	
	Financial Management Service						
	Salaries and expenses			1,298,000	1,298,000	+1,298,000	
	Bureau of Alcohol, Tobacco and Firearms						
	Salaries and expenses			2,000,000	2,000,000	+2,000,000	
	United States Mint						
	Salaries and expenses			270,000	270,000	+270,000	
	Bureau of the Public Debt						
	Administering the Public Debt			5,226,000	5,226,000	+5,226,000	
	United States Secret Service						
	Salaries and expenses			1,400,000	1,400,000	+1,400,000	
	(Rescission)			-4,292,000	-4,292,000	-4,292,000	
	Total, United States Secret Service			-2,892,000	-2,892,000	-2,892,000	
	United States Customs Service						
	Salaries and expenses (rescission)			-1,273,000	-1,273,000	-1,273,000	

FY 1992 Dire Emergency Supplemental Appropriations Bill (H.R. 5620), continued

Doc No.		Supplemental Request	House 2	Senate	Conference	Conference compared with House	Conference compared with Senate
	Internal Revenue Service						
	Administration and management (rescission)			-220,000	-220,000	-220,000	
	Processing tax returns and assistance (rescission)			-1,460,000	-1,460,000	-1,460,000	
	Tax law enforcement (rescission)			-2,999,000	-2,999,000	-2,999,000	
	Information systems (rescission)			-270,000	-270,000	-270,000	
	Total, Internal Revenue Service			-4,949,000	-4,949,000	-4,949,000	
	Total, Title IX:						
	New budget (obligational) authority						
	Appropriations			(10,514,000)	(10,514,000)	(+10,514,000)	
	Rescissions			(-10,514,000)	(-10,514,000)	(-10,514,000)	
	TITLE X						
	CONGRESSIONAL OPERATIONS						
	SENATE						
	Payments to Widows and Heirs of Deceased Members of Congress						
102-	Gratuities, deceased Members	129,500		129,500	129,500	+129,500	
	HOUSE OF REPRESENTATIVES						
	Payments to Widows and Heirs of Deceased Members of Congress						
	Gratuities, deceased Members				259,000	+259,000	+259,000
	Total, Title X:						
	New budget (obligational) authority	129,500		129,500	388,500	+388,500	+259,000
	Grand total, Titles I - X:						
	New budget (obligational) authority	1,930,498,500	-10,401,058,313	-12,731,367,500	-12,549,436,500	-2,148,378,187	+181,931,000
	Appropriations	(1,930,498,500)	(2,337,147,000)	(2,233,545,500)	(2,412,926,500)	(+75,779,500)	(+179,381,000)
	Rescissions		(-12,738,205,313)	(-14,964,913,000)	(-14,962,363,000)	(-2,224,157,687)	(+2,550,000)
	(By transfer)	(489,728,000)	(476,278,000)	(476,278,000)	(476,278,000)		
	(Limitation on direct loans)	(30,000)	(380,000)	(380,000)	(380,000)		
	(Limitation on guaranteed loans)	(1,500,000,000)		(25,085,000,000)	(25,085,000,000)	(+25,085,000,000)	
	TITLE XI						
	PROVIDING ASSISTANCE FOR NEEDS RESULTING FROM NATURAL DISASTERS						
	CHAPTER I						
	DEPARTMENT OF AGRICULTURE						
	Agricultural Research Service						
102-381	Buildings and facilities	12,000,000	13,000,000	12,000,000	15,000,000	+2,000,000	+3,000,000
	Commodity Credit Corporation						
102-381	Crop losses	300,000,000	500,000,000	300,000,000	482,000,000	-18,000,000	+182,000,000
102-381	Tree assistance program	20,000,000	20,000,000	30,000,000	48,000,000	+28,000,000	+18,000,000
	Aquaculture			100,000,000			-100,000,000
	Soil Conservation Service						
102-381	Watershed and flood prevention operations	35,000,000	50,000,000	50,000,000	62,000,000	+12,000,000	+12,000,000
	Agricultural Stabilization and Conservation Service						
102-381	Emergency conservation program	16,500,000	25,000,000	25,000,000	27,000,000	+2,000,000	+2,000,000
	Farmers Home Administration						
	Rural Housing Insurance Fund Program Account:						
	Housing repair (sec. 504):						
102-381	(Direct loan authorization)	(10,000,000)	(10,000,000)	(10,000,000)	(39,500,000)	(+29,500,000)	(+29,500,000)
102-381	Loan subsidy	5,000,000	5,000,000	5,000,000	19,750,000	+14,750,000	+14,750,000
	Agricultural Credit Insurance Fund Program Account:						
	Emergency disaster loans:						
102-381	(Direct loan authorization)	(150,000,000)	(150,000,000)	(150,000,000)	(162,300,000)	(+12,300,000)	(+12,300,000)
102-381	Loan subsidy	40,000,000	40,000,000	40,000,000	43,285,000	+3,285,000	+3,285,000
	Rural Development Insurance Fund Program Account:						
	Water and sewer facility loans:						
102-381	(Direct loan authorization)	(30,000,000)	(30,000,000)	(30,000,000)	(35,500,000)	(+5,500,000)	(+5,500,000)
102-381	Loan subsidy	5,000,000	5,000,000	5,000,000	5,917,000	+917,000	+917,000
	Industrial development loans:						
102-381	(Guaranteed loan authorization)	(50,000,000)	(50,000,000)	(300,000,000)	(305,000,000)	(+255,000,000)	(+5,000,000)
102-381	Loan subsidy	3,000,000	3,000,000	18,000,000	18,300,000	+15,300,000	+300,000
	Rural Development Loan Fund Program Account:						
102-381	(Direct loan authorization)	(13,500,000)	(13,500,000)	(13,500,000)	(15,500,000)	(+2,000,000)	(+2,000,000)
102-381	Loan subsidy	7,058,000	7,058,000	7,058,000	8,104,000	+1,046,000	+1,046,000
102-381	Rural water and waste disposal grants	24,000,000	25,000,000	24,000,000	25,600,000	+600,000	+1,600,000
	Very low-income housing repair grants		10,000,000		10,000,000		+10,000,000
102-381	Rural housing for domestic farm labor	10,000,000	10,000,000	10,000,000	10,500,000	+500,000	+500,000
102-381	Emergency community water assistance grants	12,000,000	12,000,000	12,000,000	15,400,000	+3,400,000	+3,400,000
102-381	Salaries and expenses	3,000,000	3,000,000	3,000,000	3,200,000	+200,000	+200,000
	Total, Farmers Home Administration	109,058,000	120,058,000	124,058,000	160,056,000	+39,998,000	+35,998,000
	Food and Nutrition Service						
	Food stamp program		400,000,000		400,000,000		+400,000,000
	Total, Chapter I:						
	New budget (obligational) authority	492,558,000	1,128,058,000	641,058,000	1,194,056,000	+65,998,000	+552,998,000
	(Limitation on direct loans)	(203,500,000)	(203,500,000)	(203,500,000)	(252,800,000)	(+49,300,000)	(+49,300,000)
	(Limitation on guaranteed loans)	(50,000,000)	(50,000,000)	(300,000,000)	(305,000,000)	(+255,000,000)	(+5,000,000)

FY 1992 Dire Emergency Supplemental Appropriations Bill (H.R. 5620), continued

Doc No.		Supplemental Request	House 2	Senate	Conference	Conference compared with House	Conference compared with Senate
	CHAPTER II						
	DEPARTMENT OF COMMERCE						
	Economic Development Administration						
	Economic development assistance programs		55,000,000	70,000,000	70,000,000	+15,000,000	
	Administrative expenses		2,500,000	5,000,000	5,000,000	+2,500,000	
	Total, Economic Development Administration		57,500,000	75,000,000	75,000,000	+17,500,000	
	Minority Business Development Agency						
102-381	Minority business development	2,000,000	2,000,000	2,000,000	2,000,000		
	National Oceanic and Atmospheric Administration						
102-381	Operations, research, and facilities	9,891,000	9,891,000	18,391,000	18,691,000	+8,800,000	+300,000
	United States Travel and Tourism Administration						
	Salaries and expenses				5,000,000	+5,000,000	+5,000,000
	Total, Department of Commerce	11,891,000	69,391,000	95,391,000	100,691,000	+31,300,000	+5,300,000
	DEPARTMENT OF JUSTICE						
	General Administration						
	Salaries and expenses		5,700,000			-5,700,000	
102-381	(Reappropriation)	(510,000)					
	Legal Activities						
102-381	Salaries and expenses, United States Marshals Service	10,724,000	10,724,000	10,724,000	10,724,000		
102-381	Support of United States prisoners	10,691,000	16,000,000	10,691,000	16,000,000		+5,309,000
	Total, Legal activities	21,415,000	26,724,000	21,415,000	26,724,000		+5,309,000
	Federal Bureau of Investigation						
102-381	Salaries and expenses	1,139,000		1,139,000	1,139,000	+1,139,000	
	Drug Enforcement Administration						
102-381	Salaries and expenses	451,000		451,000	451,000	+451,000	
	Immigration and Naturalization Service						
102-381	Salaries and expenses	1,000,000		1,000,000	1,000,000	+1,000,000	
	Federal Prison System						
102-381	Salaries and expenses	16,559,000	18,843,000	16,559,000	16,559,000	-2,284,000	
	Buildings and facilities		10,000,000	10,000,000	10,000,000		
	Total, Federal prison system	16,559,000	28,843,000	26,559,000	26,559,000	-2,284,000	
	Office of Justice Programs						
102-381	Justice assistance	1,000,000	1,600,000	1,000,000	1,000,000	-600,000	
	Total, Department of Justice	41,564,000	62,867,000	51,564,000	56,873,000	-5,994,000	+5,309,000
	DEPARTMENT OF STATE						
	Administration of Foreign Affairs						
102-381	Salaries and expenses	5,890,000	7,350,000	5,890,000	5,890,000	-1,460,000	
	THE JUDICIARY						
	Courts of Appeals, District Courts, and Other Judicial Services						
102-381	Salaries and expenses	300,000	300,000	300,000	300,000		
	RELATED AGENCY						
	Small Business Administration						
	Disaster Loans Program Account:						
102-386 102-381	Direct loans subsidy	256,800,000	331,800,000	256,800,000	331,800,000		+75,000,000
102-386 102-381	(Limitation on direct loans)	(1,200,000,000)	(1,550,000,000)	(1,200,000,000)	(1,550,000,000)		(+350,000,000)
102-381	Administrative expenses	80,000,000	100,000,000	100,000,000	100,000,000		
102-381	Contingency fund	75,000,000		75,000,000			-75,000,000
102-381	(Limitation on direct loans)	(350,000,000)		(350,000,000)			(-350,000,000)
	Total, Small Business Administration	411,800,000	431,800,000	431,800,000	431,800,000		
	Total, Chapter II:						
	New budget (obligational) authority	471,445,000	571,708,000	584,945,000	595,554,000	+23,846,000	+10,609,000
	(Limitation on direct loans)	(1,550,000,000)	(1,550,000,000)	(1,550,000,000)	(1,550,000,000)		
	CHAPTER III						
	DEPARTMENT OF DEFENSE - MILITARY						
	MILITARY PERSONNEL						
102-381	Military Personnel, Navy	10,700,000	10,700,000	10,700,000	10,700,000		
102-381	Military Personnel, Air Force	58,200,000	58,200,000	58,200,000	58,200,000		
102-381	Reserve Personnel, Air Force	8,800,000	8,800,000	8,800,000	8,800,000		
102-381	National Guard Personnel, Air Force	1,900,000	1,900,000	1,900,000	1,900,000		
	Total, Military Personnel	79,600,000	79,600,000	79,600,000	79,600,000		

FY 1992 Dire Emergency Supplemental Appropriations Bill (H.R. 5620), continued

Doc No.		Supplemental Request	House[2]	Senate	Conference	Conference compared with House	Conference compared with Senate
	OPERATION AND MAINTENANCE						
102-381	Operation and Maintenance, Army	1,400,000	1,400,000	1,400,000	1,400,000	....	....
102-381	Operation and Maintenance, Navy	142,900,000	142,900,000	142,900,000	142,900,000	....	....
102-381	Operation and Maintenance, Air Force	228,000,000	228,000,000	228,000,000	228,000,000	....	....
102-381	Operation and Maintenance, Defense Agencies	31,500,000	31,500,000	31,500,000	31,500,000	....	....
102-381	Operation and Maintenance, Army Reserve	3,300,000	3,300,000	3,300,000	3,300,000	....	....
102-381	Operation and Maintenance, Air Force Reserve	13,200,000	13,200,000	13,200,000	13,200,000	....	....
102-381	Operation and Maintenance, Army National Guard	1,400,000	1,400,000	1,400,000	1,400,000	....	....
102-381	Operation and Maintenance, Air National Guard	2,000,000	2,000,000	2,000,000	2,000,000	....	....
	Total, Operation and Maintenance	423,700,000	423,700,000	423,700,000	423,700,000	....	....
	Total, Chapter III: New budget (obligational) authority	503,300,000	503,300,000	503,300,000	503,300,000	....	....
	CHAPTER IV DEPARTMENT OF DEFENSE - CIVIL DEPARTMENT OF THE ARMY Corps of Engineers - Civil						
102-381	Construction, general	10,200,000	12,750,000	....	....	-12,750,000	....
102-381	Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee	3,000,000	3,000,000	3,000,000	3,000,000	....	....
102-381	Operation and maintenance, general	3,100,000	3,100,000	3,100,000	3,100,000	....	....
102-381	Flood control and coastal emergencies	11,500,000	13,750,000	40,000,000	40,000,000	+26,250,000	....
	Total, Chapter IV: New budget (obligational) authority	27,800,000	32,600,000	46,100,000	46,100,000	+13,500,000	....
	CHAPTER V DEPARTMENT OF THE INTERIOR United States Fish and Wildlife Service						
....	Resource management	....	....	26,000,000	27,000,000	+27,000,000	+1,000,000
102-381	Construction and anadromous fish	2,300,000	2,765,000	2,300,000	12,765,000	+10,000,000	+10,465,000
	National Park Service						
102-381	Operation of the national park system	15,200,000	15,200,000	15,200,000	23,000,000	+7,800,000	+7,800,000
....	Historic Preservation Fund	....	....	300,000	300,000	+300,000	....
102-381	Construction	18,800,000	18,800,000	18,800,000	29,000,000	+10,200,000	+10,200,000
	Total, National Park Service	34,000,000	34,000,000	34,300,000	52,300,000	+18,300,000	+18,000,000
	United States Geological Survey						
102-381	Surveys, investigations, and research	1,000,000	2,000,000	2,800,000	3,375,000	+1,375,000	+575,000
	Minerals Management Service						
....	Leasing and royalty management	....	....	1,200,000	1,200,000	+1,200,000	....
	Bureau of Indian Affairs						
102-381	Operation of Indian programs	1,500,000	1,500,000	1,500,000	1,500,000	....	....
102-381	Construction	3,800,000	3,800,000	3,800,000	3,800,000	....	....
	Total, Bureau of Indian Affairs	5,300,000	5,300,000	5,300,000	5,300,000	....	....
	DEPARTMENT OF AGRICULTURE Forest Service						
....	State and private forestry	....	....	2,900,000	4,140,000	+4,140,000	+1,240,000
	Total, Chapter V: New budget (obligational) authority	42,600,000	44,065,000	74,800,000	106,080,000	+62,015,000	+31,280,000
	CHAPTER VI DEPARTMENT OF LABOR Employment and Training Administration						
....	Training and Employment Services	....	....	30,000,000	30,000,000	+30,000,000	....
	DEPARTMENT OF HEALTH AND HUMAN SERVICES Health Resources and Services Administration						
102-381	Health resources and services	27,000,000	....	....	....	....	....
	Centers for Disease Control						
102-381	Disease control, research, and training	18,000,000	....	....	....	....	....
	National Institutes for Health						
102-381	National Center for Research Resources	4,600,000	....	....	....	....	....
	Alcohol, Drug Abuse and Mental Health Administration						
....	ADAMHA block grant	....	....	20,000,000	....	....	-20,000,000
	Social Security Administration						
102-381	Limitation on administrative expenses: Trust funds..	(758,500)	....	....	....	....	....
	Assistant Secretary for Health						
....	Public health emergency fund	....	85,000,000	63,600,000	105,600,000	+20,600,000	+42,000,000

FY 1992 Dire Emergency Supplemental Appropriations Bill (H.R. 5620), continued

Doc No.		Supplemental Request	House [2]	Senate	Conference	Conference compared with House	Conference compared with Senate
	Administration for Children and Families						
102-381	Community services block grant	10,000,000					
	Payments to States for Child Care Assistance			20,000,000			-20,000,000
102-381	Children and families services programs	24,000,000					
102-381	Human development services			2,000,000			-2,000,000
	Total, Administration for Children and Families	34,000,000		22,000,000			-22,000,000
	Total, Health and Human Services	83,600,000	85,000,000	105,600,000	105,600,000	+20,600,000	
	DEPARTMENT OF EDUCATION						
102-381	Impact aid	22,500,000	22,500,000	42,500,000	42,500,000	+20,000,000	
102-381	Educational excellence	40,000,000	40,000,000	40,000,000	40,000,000		
102-381	Student financial assistance	40,000,000	40,000,000	40,000,000	40,000,000		
102-381	Departmental Management: Program administration	750,000	750,000			-750,000	
	Total, Department of Education	103,250,000	103,250,000	122,500,000	122,500,000	+19,250,000	
	Total, Chapter VI: New budget (obligational) authority	186,850,000	188,250,000	258,100,000	258,100,000	+69,850,000	
	CHAPTER VII						
	DEPARTMENT OF DEFENSE - MILITARY CONSTRUCTION						
102-381	Military construction, Air Force	338,700,000	338,700,000	83,600,000	83,600,000	-255,100,000	
	Military construction, Navy			81,530,000	81,530,000	+81,530,000	
102-381	Family housing, Air Force	141,900,000	141,900,000	37,200,000	37,200,000	-104,700,000	
	Family housing, Navy and Marine Corps			87,200,000	87,200,000	+87,200,000	
	Total, Chapter VII: New budget (obligational) authority	480,600,000	480,600,000	289,530,000	289,530,000	-191,070,000	
	CHAPTER VIII						
	DEPARTMENT OF TRANSPORTATION						
	Coast Guard						
102-381	Operating expenses	13,806,000	16,000,000	13,806,000	20,000,000	+4,000,000	+6,194,000
102-381	Acquisition, construction, and improvements	11,500,000	11,500,000	11,500,000	21,500,000	+10,000,000	+10,000,000
	Total, Coast Guard	25,306,000	27,500,000	25,306,000	41,500,000	+14,000,000	+16,194,000
	Federal Aviation Administration						
102-381	Facilities and equipment (Airport and Airway Trust Fund)	15,000,000	26,000,000	15,000,000	40,000,000	+14,000,000	+25,000,000
	Grants-in-aid for airports (Airport and Airway Trust Fund)				20,000,000	+20,000,000	+20,000,000
	Total, Federal Aviation Administration	15,000,000	26,000,000	15,000,000	60,000,000	+34,000,000	+45,000,000
	Federal Highway Administration						
	Emergency relief (Highway Trust Fund)				30,000,000	+30,000,000	+30,000,000
	Metropolitan planning (Highway Trust Fund)				3,000,000	+3,000,000	+3,000,000
	Highway studies			300,000	750,000	+750,000	+450,000
	Total, Federal Highway Administration			300,000	33,750,000	+33,750,000	+33,450,000
	Federal Transit Administration						
	Discretionary grants (Highway Trust Fund)		8,000,000		10,000,000	+2,000,000	+10,000,000
	Research and Special Programs Administration						
	Emergency transportation		100,000			-100,000	
102-381	(By transfer)	(44,000)		(44,000)	(44,000)	(+44,000)	
	Total, Chapter VIII: New budget (obligational) authority	40,306,000	61,600,000	40,606,000	145,250,000	+83,650,000	+104,644,000
	(By transfer)	(44,000)		(44,000)	(44,000)	(+44,000)	
	CHAPTER IX						
	DEPARTMENT OF THE TREASURY						
	Bureau of Alcohol, Tobacco and Firearms						
	Salaries and expenses			590,000	590,000	+590,000	
	United States Customs Service						
102-381	Salaries and expenses	4,670,000	12,294,000	4,670,000	4,670,000	-7,624,000	
102-381	Operation and maintenance, air and marine interdiction programs	10,500,000	18,455,000	10,500,000	10,500,000	-7,955,000	
102-381	Customs air interdiction facilities, construction, improvements, and related expenses	19,250,000	19,250,000	19,250,000	19,250,000		
	Total, United States Customs Service	34,420,000	49,999,000	34,420,000	34,420,000	-15,579,000	
	Internal Revenue Service						
102-381	Tax law enforcement	1,173,000	1,173,000	1,173,000	1,173,000		
102-381	Processing tax returns and assistance	178,000	178,000			-178,000	
102-381	Information systems	139,000	139,000			-139,000	
	Total, Internal Revenue Service	1,490,000	1,490,000	1,173,000	1,173,000	-317,000	
	Total, Department of the Treasury	35,910,000	51,489,000	36,183,000	36,183,000	-15,306,000	

FY 1992 Dire Emergency Supplemental Appropriations Bill (H.R. 5620), continued

Doc No.		Supplemental Request	House[2]	Senate	Conference	Conference compared with House	Conference compared with Senate
	INDEPENDENT AGENCIES						
	General Services Administration						
	Federal Buildings Fund:						
102-381	Appropriation	2,500,000	3,300,000	2,500,000	2,500,000	-800,000	
	Limitation on availability of revenue:						
	Repairs and alterations		(500,000)			(-500,000)	
	Rental of space		(300,000)			(-300,000)	
102-381	Real property operations	(2,500,000)	(2,500,000)	(2,500,000)	(2,500,000)		
	Total, Federal Buildings Fund	2,500,000	3,300,000	2,500,000	2,500,000	-800,000	
	(Limitations)	(2,500,000)	(3,300,000)	(2,500,000)	(2,500,000)	(-800,000)	
102-381	Federal Supply Service	700,000	700,000	700,000	700,000		
	Total, General Services Administration	3,200,000	4,000,000	3,200,000	3,200,000	-800,000	
	Total, Chapter IX:						
	New budget (obligational) authority	39,110,000	55,489,000	39,383,000	39,383,000	-16,106,000	
	(Limitations)	(2,500,000)	(3,300,000)	(2,500,000)	(2,500,000)	(-800,000)	
	CHAPTER X						
	DEPARTMENT OF VETERAN AFFAIRS						
	Veterans Health Administration						
102-381	Medical care	15,793,000	15,793,000	15,793,000	16,793,000	+1,000,000	+1,000,000
	Departmental Administration						
102-381	General operating expenses	156,000	156,000	156,000	156,000		
	Total, Department of Veterans Affairs	15,949,000	15,949,000	15,949,000	16,949,000	+1,000,000	+1,000,000
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT						
	Housing Programs						
	Annual contributions for assisted housing		81,200,000		100,000,000	+18,800,000	+100,000,000
102-381	(By transfer)	(183,000,000)	(183,000,000)	(183,000,000)	(183,000,000)		
102-381	Housing counseling assistance	500,000	500,000	500,000	500,000		
	Federal Housing Administration:						
	FHA - General and special risk program account:						
102-381	(Limitation on guaranteed loans)	(1,628,000,000)	(1,628,000,000)	(2,428,000,000)	(2,428,000,000)	(+800,000,000)	
102-381	Program costs	20,397,000	20,397,000	30,397,000	30,397,000	+10,000,000	
	HOME investment partnerships programs			60,000,000	60,000,000	+60,000,000	
	Total, Housing Programs	20,897,000	102,097,000	90,897,000	190,897,000	+88,800,000	+100,000,000
	Management and Administration						
102-381	Salaries and expenses	3,800,000	3,800,000	4,000,000	4,000,000	+200,000	
	Total, Department of Housing and Urban Development	24,697,000	105,897,000	94,897,000	194,897,000	+89,000,000	+100,000,000
	INDEPENDENT AGENCIES						
	Federal Emergency Management Agency						
102-381	Disaster relief	1,904,000,000	2,500,000,000	2,843,000,000	2,893,000,000	+393,000,000	+50,000,000
102-381	(By transfer)	(300,000,000)		(300,000,000)			(-300,000,000)
102-381	Community disaster loan program account	15,000,000	15,000,000	50,000,000		-15,000,000	-50,000,000
	(By transfer)				(50,000,000)	(+50,000,000)	(+50,000,000)
102-381	(Limitation on direct loans)	(60,000,000)	(60,000,000)	(200,000,000)	(200,000,000)	(+140,000,000)	
	Disaster assistance direct loan program account (limitation on direct loans)		(50,000,000)		(30,000,000)	(-20,000,000)	(+30,000,000)
102-381	Salaries and expenses	5,000,000	5,000,000	15,000,000	15,000,000	+10,000,000	
	Total, Federal Emergency Management Agency	1,924,000,000	2,520,000,000	2,908,000,000	2,908,000,000	+388,000,000	
	FUNDS APPROPRIATED TO THE PRESIDENT						
102-381	Unanticipated needs for natural disasters	350,000,000		350,000,000			-350,000,000
	Total, Chapter X:						
	New budget (obligational) authority	2,314,646,000	2,641,846,000	3,368,846,000	3,119,846,000	+478,000,000	-249,000,000
	(By transfer)	(483,000,000)	(183,000,000)	(483,000,000)	(233,000,000)	(+50,000,000)	(-250,000,000)
	(Limitation on direct loans)	(60,000,000)	(110,000,000)	(200,000,000)	(230,000,000)	(+120,000,000)	(+30,000,000)
	(Limitation on guaranteed loans)	(1,628,000,000)	(1,628,000,000)	(2,428,000,000)	(2,428,000,000)	(+800,000,000)	
	Total, Title XI:						
	New budget (obligational) authority	4,599,215,000	5,707,516,000	5,846,668,000	6,297,199,000	+589,683,000	+450,531,000
	(By transfer)	(483,044,000)	(183,000,000)	(483,044,000)	(233,044,000)	(+50,044,000)	(-250,000,000)
	(Limitation on direct loans)	(1,813,500,000)	(1,863,500,000)	(1,953,500,000)	(2,032,800,000)	(+169,300,000)	(+79,300,000)
	(Limitation on guaranteed loans)	(1,678,000,000)	(1,678,000,000)	(2,728,000,000)	(2,733,000,000)	(+1,055,000,000)	(+5,000,000)
	TITLE XII						
	ADDITIONAL ASSISTANCE TO DISTRESSED COMMUNITIES						
	FY 1993						
	DEPARTMENT OF AGRICULTURE						
	Farmers Home and Rural Development Programs						
	Rural enterprise community block grant		96,200,000			-96,200,000	

FY 1992 Dire Emergency Supplemental Appropriations Bill (H.R. 5620), continued

Doc No.		Supplemental Request	House [2]	Senate	Conference	Conference compared with House	Conference compared with Senate
	DEPARTMENT OF LABOR						
	Employment and Training Administration						
	Training and Employment Services			40,000,000			-40,000,000
	DEPARTMENT OF HEALTH AND HUMAN SERVICES						
	Health Resources and Services Administration						
	Health Resources and Services			20,000,000			-20,000,000
	Administration for Children and Families						
	Children and Families Services program			40,000,000			-40,000,000
	Substance Abuse and Mental Health Services Administration			10,000,000			-10,000,000
	National Community Economic Partnership			40,000,000			-40,000,000
	Total, Department of Health and Human Services			110,000,000			-110,000,000
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT						
	Housing Programs						
	Homeownership and Opportunity for People Everywhere Grants (HOPE Grants)			15,000,000			-15,000,000
	Urban enterprise community block grant		384,800,000			-384,800,000	
	Office of Community Banking						
	Enterprise Capital Access Fund Demonstration			25,000,000			-25,000,000
	Total, Department of Housing and Urban Development		384,800,000	40,000,000		-384,800,000	-40,000,000
	DEPARTMENT OF JUSTICE						
	Legal Activities						
	Salaries and expenses, United States attorneys		4,000,000			-4,000,000	
	NEIGHBORHOOD REINVESTMENT CORPORATION						
	Payment to the Neighborhood Reinvestment Corporation		5,000,000	10,000,000		-5,000,000	-10,000,000
	INTERAGENCY COUNCIL						
	Block Grant funding for Eligible programs			300,000,000			-300,000,000
	SMALL BUSINESS ADMINISTRATION						
	Minority enterprise business investment companies		10,000,000			-10,000,000	
	COMMUNITY INVESTMENT PROGRAM						
	Program costs				500,000,000	+500,000,000	+500,000,000
	Total, Title XII:						
	New budget (obligational) authority		500,000,000	500,000,000	500,000,000		
	Fiscal year 1993, appropriations		(500,000,000)	(500,000,000)	(500,000,000)		
	Grand total:						
	New budget (obligational) authority	6,529,713,500	-4,193,542,313	-6,384,699,500	-5,752,237,500	-1,558,695,187	+632,462,000
	Appropriations	(6,529,713,500)	(8,544,663,000)	(8,580,213,500)	(9,210,125,500)	(+665,462,500)	(+629,912,000)
	Fiscal year 1992, appropriations	(6,529,713,500)	(8,044,663,000)	(8,080,213,500)	(8,710,125,500)	(+665,462,500)	(+629,912,000)
	Fiscal year 1993, appropriations		(500,000,000)	(500,000,000)	(500,000,000)		
	Rescissions		(-12,738,205,313)	(-14,964,913,000)	(-14,962,363,000)	(-2,224,157,687)	(+2,550,000)
	(By transfer from the Defense Cooperation Account or the Persian Gulf Regional Defense Fund)	(5,182,878,000)	(5,182,878,000)	(2,375,974,000)	(3,471,176,560)	(-1,711,701,440)	(+1,095,202,560)
	(By transfer of existing funds) (Desert Storm)	(611,010,000)	(611,010,000)	(611,010,000)	(611,010,000)		
	(By transfer)	(972,772,000)	(659,278,000)	(959,322,000)	(709,322,000)	(+50,044,000)	(-250,000,000)
	(Limitation on direct loans)	(1,813,530,000)	(1,863,880,000)	(1,953,880,000)	(2,033,180,000)	(+169,300,000)	(+79,300,000)
	(Limitation on guaranteed loans)	(3,178,000,000)	(1,678,000,000)	(27,813,000,000)	(27,818,000,000)	(+26,140,000,000)	(+5,000,000)
	(Liquidation of contract authorization)			(100,000,000)	(100,000,000)	(+100,000,000)	

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[2] Includes H.R. 5620, H.R. 5911, and H.R. 11

FY 1992 Dire Emergency Supplemental Appropriations Bill (H.R. 5620), continued

Doc No.		Supplemental Request	House [2]	Senate	Conference	Conference compared with House	Conference compared with Senate
	DEPARTMENT OF LABOR						
	Employment and Training Administration						
	Training and Employment Services			40,000,000			-40,000,000
	DEPARTMENT OF HEALTH AND HUMAN SERVICES						
	Health Resources and Services Administration						
	Health Resources and Services			20,000,000			-20,000,000
	Administration for Children and Families						
	Children and Families Services program			40,000,000			-40,000,000
	Substance Abuse and Mental Health Services Administration			10,000,000			-10,000,000
	National Community Economic Partnership			40,000,000			-40,000,000
	Total, Department of Health and Human Services			110,000,000			-110,000,000
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT						
	Housing Programs						
	Homeownership and Opportunity for People Everywhere Grants (HOPE Grants)			15,000,000			-15,000,000
	Urban enterprise community block grant		384,800,000			-384,800,000	
	Office of Community Banking						
	Enterprise Capital Access Fund Demonstration			25,000,000			-25,000,000
	Total, Department of Housing and Urban Development		384,800,000	40,000,000		-384,800,000	-40,000,000
	DEPARTMENT OF JUSTICE						
	Legal Activities						
	Salaries and expenses, United States attorneys		4,000,000			-4,000,000	
	NEIGHBORHOOD REINVESTMENT CORPORATION						
	Payment to the Neighborhood Reinvestment Corporation		5,000,000	10,000,000		-5,000,000	-10,000,000
	INTERAGENCY COUNCIL						
	Block Grant funding for Eligible programs			300,000,000			-300,000,000
	SMALL BUSINESS ADMINISTRATION						
	Minority enterprise business investment companies		10,000,000			-10,000,000	
	COMMUNITY INVESTMENT PROGRAM						
	Program costs				500,000,000	+500,000,000	+500,000,000
	Total, Title XII:						
	New budget (obligational) authority		500,000,000	500,000,000	500,000,000		
	Fiscal year 1993, appropriations		(500,000,000)	(500,000,000)	(500,000,000)		
	Grand total:						
	New budget (obligational) authority	6,529,713,500	-4,193,542,313	-6,384,699,500	-5,752,237,500	-1,558,695,187	+632,462,000
	Appropriations	(6,529,713,500)	(8,544,663,000)	(8,580,213,500)	(9,210,125,500)	(+665,462,500)	(+629,912,000)
	Fiscal year 1992, appropriations	(6,529,713,500)	(8,044,663,000)	(8,080,213,500)	(8,710,125,500)	(+665,462,500)	(+629,912,000)
	Fiscal year 1993, appropriations		(500,000,000)	(500,000,000)	(500,000,000)		
	Rescissions		(-12,738,205,313)	(-14,964,913,000)	(-14,962,363,000)	(-2,224,157,687)	(+2,550,000)
	(By transfer from the Defense Cooperation Account or the Persian Gulf Regional Defense Fund)	(5,182,878,000)	(5,182,878,000)	(2,375,974,000)	(3,471,176,560)	(-1,711,701,440)	(+1,095,202,560)
	(By transfer of existing funds) (Desert Storm)	(611,010,000)	(611,010,000)	(611,010,000)	(611,010,000)		
	(By transfer)	(972,772,000)	(659,278,000)	(959,322,000)	(709,322,000)	(+50,044,000)	(-250,000,000)
	(Limitation on direct loans)	(1,813,530,000)	(1,863,880,000)	(1,953,880,000)	(2,033,180,000)	(+169,300,000)	(+79,300,000)
	(Limitation on guaranteed loans)	(3,178,000,000)	(1,678,000,000)	(27,813,000,000)	(27,818,000,000)	+26,140,000,000)	(+5,000,000)
	(Liquidation of contract authorization)			(100,000,000)	(100,000,000)	(+100,000,000)	

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[2] Includes H.R. 5620, H.R. 5911, and H.R. 11

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Mr. McDADE. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from Florida [Mr. YOUNG], without whose assistance this bill would not have been crafted.

Mr. YOUNG of Florida. Mr. Speaker, as one of the original cosponsors of the disaster relief appropriations bill, I rise in support of this supplemental appropriations bill today. I want to say a special thank you to the gentleman from Pennsylvania [Mr. McDADE], the ranking member on our side of the aisle, for his work in keeping this bill together; it was not an easy effort to accomplish, and to the gentleman from Mississippi [Mr. WHITTEN] and to the chairman, the gentleman from Kentucky [Mr. NATCHER] and to the gentleman from Pennsylvania [Mr. MURTHA], who are also major players in finalizing the language, I want to extend my thanks.

Mr. Speaker, the people of our great State responded quickly to this disaster in Florida. The people of America responded almost as quickly as those in Florida to help other Floridians, and other Americans who had serious problems cast upon them without a great deal of warning.

I am real proud of this country of mine, and I have always been for many, many reasons, but the generosity that we have seen flowing from every corner of the United States of America is just so heartwarming. It is hard to find the right words to describe it. The Florida relief effort was magnificent.

The American relief effort was great here in the Washington area. Our Florida congressional offices collected supplies and foodstuffs to send to Florida, and many, many truckloads left here to go to Florida.

We called upon the military commissaries in this area to ask if they can set aside areas in their commissaries where people could make contributions of canned goods and other nonperishable items: baby diapers, personal items that people in Florida could use. Those military commissaries in the Washington area developed over three large truckloads of these types of goods to go to Florida.

With the Congress working together with the people of our great Nation, you have responded to the people of my State, and for that I say thank you very much.

To the people of Louisiana, I say we share their concern, and we, in addition, want to be helpful to them and to the people of Hawaii and to the people of Guam. It is a tremendous effort, and it just shows what kind of a great Nation we all have the privilege of being part of.

I did not realize a lot of things about what it takes to keep our country going. When I saw the devastation in south Florida, I have seen war zones that were not nearly as devastated as south Florida. When one sees such total destruction, we begin to realize how many thousands of people and how many thousands of infrastructures it takes to keep things going.

I had a meeting yesterday with a group of doctors and they advised me that some 300 doctors' offices in south Florida were destroyed. Their patients cannot find the doctors, the doctors cannot find the patients, and thankfully they have set up headquarters where people could come in for medical care, and doctors from all over the country are volunteering their time.

This is just one example of many of the great things that we take for granted, but the things that keep our country going and keep it great. Most of all is the people and the generosity of those people that we have seen outpouring in the case of Hurricane Andrew, the case of Hurricane Iniki, and in the case of the disaster brought upon the island of Guam. For that generosity, I say, thank you very much.

Mr. NATCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Speaker, we have several major disasters involved here. We will have more disasters in the future. I am sure this demonstrates that we are going to, at a Federal level, respond to disasters.

In the part of the bill that happens to come under this subcommittee that I am privileged to chair, there are, I think, 14 different departments and agencies involved in one way or another, which shows that virtually the entire Government becomes involved one way or another in the disaster.

I just want to mention a couple of things, though, that involve the Small Business Administration and the disaster programs that are administered by the Small Business Administration. One has to do with the revolving fund that we had until the fall of 1990 and in the summit agreement was abolished.

We ought to reestablish the revolving fund so that the loan money, as it comes back in, is available. If these disasters had occurred a week after we adjourned, there would have been a major problem before we are established again next January. A disaster program cannot really work properly unless there is a revolving fund.

That does not cost any more money, if as much, because if we wait until we appropriate money, there will be other riders on the bill, but that would not cost any more money. We are going to respond to disasters in the same way, and it ought to be done in a sensible way through a revolving fund.

The other thing I want to mention is a provision in here that prohibits taking the direct loan money from SBA and going to another community voluntarily to spend the money. That is absolutely wrong. It is contrary to what we ever contemplated under this bill or under this program, starting in 1977.

I will tell the Members how this provision originated, or this provision in a law. There was a community in West Virginia that had a flood. They had one grocery store. The grocery wanted to take the direct loan money and go somewhere 50 miles from there to set up another store, and there would not be a store in that community.

The purpose of this law and these direct loans, these subsidized loans, is not for the individual that had the loss. They might have insurance. The purpose is to help reestablish the community. The community is involved. They should not, whether it is in Florida or Los Angeles, if they have a business of some kind, take direct loan money at a low interest rate and go to somewhere else to establish a business. That does not help the community.

The purpose of the loan program was not just to help the individual involved but also to help reestablish the community. That provision is in this bill, and we did not know until a couple of months ago that anybody interpreted it any different, but now we find out that somebody down at SBA wants to interpret that a person can take the money and go anywhere they want to spend the money; if it is a home, voluntarily, they have to go voluntarily.

They have got to be able to reestablish. That is an important provision that is in this bill. I sure intend to insist on it.

Mr. McDADE. Mr. Speaker, I am delighted to yield 3 minutes to my distinguished colleague, the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. Speaker, I also want to tell the gentleman that I am deeply grateful for all of his inputs into the bill. Without his help we would not be here with this bill in an expeditious form that is going to get relief to his people hopefully by the weekend with a Presidential signature. I congratulate the gentleman for his efforts.

Mr. LIVINGSTON. Mr. Speaker, I thank my friend for yielding time to me.

Mr. Speaker, I also want to thank the gentleman for his very nice comments, and to particularly congratulate him for all of his great effort on this bill. Certainly without the efforts of the gentleman from Pennsylvania [Mr. McDADE] we could not be here today.

I also thank the chairmen, the gentleman from Mississippi [Mr. WHITTEN], the gentleman from Kentucky [Mr. NATCHER], and the gentleman from Pennsylvania [Mr. MURTHA], and all of the ranking members and chairmen of the various subcommittees who have worked so hard on this bill.

I particularly credit the professional staff, who have worked around the clock to help us bring this bill to the floor. We are under the gun. It is the end of the session, and frankly, it is an incredibly tough time legislatively. We certainly recognize for all of the grief that has been suffered by thousands and thousands of people as a result of these storms, that this effort was necessary. But, without the help of the great staff, we would not have gotten where we are.

My district was fortunate, Mr. Speaker. There was low damage in my district from Hurricane Andrew, but Louisiana was indeed hard-hit; not nearly as badly hit as southern Florida, but there was great damage, particularly in the district of the gentleman from Louisiana [Mr. TAUZIN], who will address this body later on.

Mr. Speaker, I am proud that we have been able to bring forth this bill. The bill provides the traditional FEMA and SBA relief, especially for individuals, but also for political entities and businesses in the form of loans and grants. It also provides money for economic development grants to the States and local communities in order to rebuild the infrastructure that has been lost because of these hurricanes and storms.

It provides to farmers, to oystermen, and agriculture farmers money to redress the losses they suffered, and to the State of Louisiana, it provides money for restoration of wetlands, freshwater fish and wildlife habitats, and saltwater fish and shellfish habitats.

There is money for the little town of Mandeville in my district, which lost their seawall, and there is money for evacuation improvements. All in all, there is a lot of money in here to help put people back on their feet, people who desperately need to be assisted after suffering an incredible degree of loss.

My heart goes out to all the people of Louisiana, Florida, Hawaii, and Guam who suffered devastating distress in the wake of these storms.

More importantly, I think it is important to point out that the bill gives more than sympathy; it provides relief. It will not solve all of the problems, but certainly it will go a long way to help. I am proud to be associated as a cosponsor, and I urge its passage.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. LEHMAN].

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Mr. LEHMAN of Florida. Mr. Speaker, I thank the gentleman for yielding me the time. I rise in support of the motion offered by the distinguished vice chairman of the Committee on Appropriations, the gentleman from Kentucky [Mr. NATCHER].

Mr. Speaker, I would first like to ask the gentleman from Kentucky a question concerning the eligibility of private nonprofit educational institutions under the FEMA public assistance program. Is it the understanding of the gentleman from Kentucky that such disaster assistance relief is intended to include coverage of eligible costs and activities of nonprofit educational and medical entities engaged in public service roles.

Mr. NATCHER. If the gentleman will yield, the gentleman is correct. Such entities are intended to be covered by this program. The Stafford Disaster Relief Act, Public Law 93-288 as amended by Public Law 100-707, and the rules and regulations in effect, specifically clarify this eligibility and uphold this interpretation.

Mr. LEHMAN of Florida. Would this specifically include a private, nonprofit educational institution such as a university?

Mr. NATCHER. Yes, a private, nonprofit university would be eligible to receive reimbursement by FEMA for appropriate and eligible costs and activities.

Mr. LEHMAN of Florida. I thank the gentleman for his assurance.

Mr. Speaker, I would also like to add a few words to the remarks of our distinguished Appropriations Committee chairman, the gentleman from Mississippi [Mr. WHITTEN], on items in the bill that are within the jurisdiction of the Subcommittee on Transportation and related agencies, which I chair.

First, the bill includes a provision, which passed when H.R. 5620 was first before the House, that makes a technical correction to the distribution of fiscal year 1992 funds under the university research institutes established by the ISTEA, the Intermodal Surface Transportation Efficiency Act enacted last year. The bill also includes a Senate provision that provides additional liquidating cash for the Federal Aviation Administration's grants-in-aid for airports program.

In response to the disasters caused by Hurricanes Andrew and Iniki and Typhoon Omar, we have provided emergency funds both to restore federally owned transportation facilities and to assist affected communities in their recovery.

Under the Coast Guard's operating expenses appropriation, $20,000,000 is provided. According to a September 4, 1992, letter from Secretary of Transportation Andrew H. Card, Jr., to Chairman WHITTEN, the Coast Guard lost or spent $15,906,000 in extraordinary operating and repair costs and in the involuntary callup of reservists due to Hurricane Andrew. The bill covers those costs as well as such additional costs as may be identified in the areas affected by Hurricane Andrew or Hurricane Iniki.

Under the Coast Guard's acquisition, construction, and improvements appropriation, $21,500,000 is provided. According to Secretary Card's letter, $11,500,000 will be required to repair structural damage and replace electronics equipment at the Coast Guard's Communication Station, Miami. The bill covers those costs as well as such additional costs as may be identified in the areas affected by Hurricane Andrew or Hurricane Iniki.

Under the Federal Aviation Administration's facilities and equipment appropriation, $40,000,000 is provided. According to Secretary Card's letter, to repair and replace electronic equipment, plants, and structures damaged by Hurricane Andrew, $17,935,000 is required for locations in Florida and $3 million is required for sites in Louisiana. An additional $2 million is required to repair and replace FAA housing and other facilities on Guam that were damaged by Typhoon Omar. In addition, $3,400,000 is needed to cover personnel costs related to these disaster-related and replacement activities. The bill covers all of those costs as well as such additional costs as may be identified in the areas affected by Hurricane Andrew, Typhoon Omar, or Hurricane Iniki.

Under the FAA's grants-in-aid for airports program, $20 million is provided for airport planning and development to cover the incremental costs raising from the consequences of Hurricanes Andrew and Iniki.

Under the Federal Highway Administration, $30 million is provided to ensure that sufficient emergency relief funds are available to meet the needs of the States affected by hurricanes Andrew and Iniki and Typhoon Omar. An additional $3 million is provided for FHWA's metropolitan planning program, to permit the metropolitan planning organizations of communities affected by Hurricanes Andrew and Iniki to carry out comprehensive reviews of their post disaster transportation infrastructure needs. In addition, $750,000 is provided for feasibility, design, environmental, and engineering studies of highway improvements that would expedite evacuations in future disasters.

Under the Federal Transit Administration's discretionary grants appropriation, $10 million is provided to assist communities affected by Hurricanes Andrew and Iniki with unanticipated transit losses. Of this amount, $8 million is intended for south Florida and $2 million is intended for Hawaii.

In closing, I want to commend and thank our chairman, Mr. WHITTEN, the chairmen of the other Appropriations subcommittees, and the committee staff. Not only have they shown great sympathy for people whose lives have been shattered by these recent natural disasters, but they have put their best efforts and a great deal of time during these very busy last weeks before the new fiscal year, into getting desperately needed assistance to affected communities on an expedited basis. All of our people are very, very grateful.

I would remiss if I did not also mention the Members and staff of the Florida delegation, who have worked long and hard together to meet the needs of our friends and families, our neighbors and constituents.

Mr. Speaker, I urge that the House agree to this motion and proceed swiftly to enactment of the bill.

Mr. McDADE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from New York [Mr. GREEN].

Mr. GREEN of New York. Mr. Speaker, I thank our distinguished ranking minority member for yielding time to me. As the ranking minority member of the VA, HUD, Independent Agencies Subcommittee, I had occasion to visit South Carolina, Puerto Rico, and the Virgin Islands after Hurricane Hugo. And while I have not had that opportunity to visit the devastated areas this time around, I have some very serious questions as to whether the present statutory scheme under which FEMA operates with its reliance on gubernatorial requests for aid really works in the case of megadisasters such as Andrew or Hugo. But that debate is for another day, and I hope we will address it in the next Congress.

In the meantime, this bill before us will bring vital relief to parts of the country which badly need it, and I urge my colleagues to adopt this legislation.

Mr. NATCHER. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding the time and want to commend him and the Appropriations Committee, the full staff, and of course the staff and chairmen of the subcommittees who have had such a strong capability to pull this together quickly.

I would like to refer back to what the chairman of the Commerce, State, Justice Subcommittee talked about a few minutes ago, the gentleman from Iowa [Mr. SMITH], who said that the money in this bill is to be used to help the people in the local community. And while I am very, very grateful for the help that has been given by the Appropriation Committee staff and members, and the Members of this body when they vote for this bill, I want to tell Members once again, as I said a few minutes ago, there have been times during this process when the administration and agencies have stood in our way, OMB, SBA, and others who apparently forget what they should be remembering, that this money is to help people who are devastated by these disasters. And for them to say that people should be turned down because their gross income is a little bit higher, when they have lost everything and have an employment record of 400 or 500 people that they had on the payroll every week, is wrong. Or when SBA says no, we do not want to create a loan pool for somebody, without an explanation.

This money is supposed to help the people in that area get back on their feet, back where they were before. And I would hope, desperately hope that when the applications to the various agencies come in that they will be treated with the understanding that the gentleman from Iowa [Mr. SMITH] just gave us of the reason for doing disaster aid, and that is to help the local community get back on its feet. And if we can help employers get back on their feet to reemploy people that live in the community, that is the right thing to do. And if we can put contracts in the hands of local contractors who can do the work instead of giving contracts on a no-bid basis, like FEMA did early on to contractors outside the State, from all over the country, when local people could do the work and put local people back to work, that is what we ought to do.

All of this is important. And I have said before in the debate on the rule how grateful the people of south Florida are and how much we admire what the people of the United States have done, and how much I feel the United States and the people of the United States and Americans have shown themselves to be so kind and gracious, courteous and charitable, and worm and loving to the rest of the people in areas when they have disasters. Let us hope our administrative agencies can show the same kind of warmth and compassion as the people of the United States have shown.

Let me refer to something the gentleman from New York [Mr. GREEN] just said. That is we ought to reconsider how FEMA operates, because the gentleman from Iowa [Mr. SMITH] said something else. If we were out of session, this would be a real, major disaster. We need to get FEMA to be in the position of being immediately responsive with various levels of aid, not waiting for requests, but doing an immediate damage assessment, and immediately coming out knowing what they can ask for and what they can get. And if it is a level-4 disaster, getting a level-4 response. That did not happen here. We need to be prepared for disasters in the future instead of only the vague chance that we are not in session and watching a disaster get worse, not better.

But overall, this is a good bill. It has plenty of good things in it for portions of America that have been damaged significantly. And while we would vote for Americans in other places to get relief from disasters, we are hoping you will vote for Americans in our area to get relief from disaster too. As I said before, they are very grateful, the people of south Dade and south Florida, for the relief that this Congress and the American people have given them and the kindness that they have shown.

Mr. McDADE. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Florida [Ms. ROS-LEHTINEN], who has done yeoman work for her people and for this bill.

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentleman for yielding the time. Our colleague from Pennsylvania has been very kind and very cooperative, very helpful in this process, because certainly Dade County is suffering. Hurricane Andrew has devastated complete areas in south Dade, Homestead, Florida City, Naranja, Goulds, many areas practically got blown away. Yet no area in Dade County was truly spared. In my current district, for example, Key Biscayne suffered tremendous losses. Our beautiful park at the tip of the island had incredible damage. All of the trees are on the ground, and only the lighthouse, a beautiful historic structure, was left standing.

The Cape Florida Park is closed, and may remain closed for months. Homes were destroyed on Key Biscayne and elsewhere in our county.

□ 1300

Little Havana, also in my district, where many elderly live, suffered the hurricane, but many homes in public housing units suffered serious damage also.

Allapattah, a proud working-class neighborhood, was also hit by Andrew. So there is more here than meets the eye. But of course the total devastation of south Dade takes prominence because that area was virtually all destroyed.

We must work hard to reinvigorate the agricultural areas of south Dade communities. Packing houses are closed, growers have dismissed their workers, south Dade agriculture has been wiped out by Andrew.

Unfortunately, we were not able to put in this bill all of our amendments which would have provided more relief for the once-thriving agricultural industry. We were also not successful in changing the bill language dealing with other areas. But those battles will continue, and they must continue.

For the buildup of our communities will take a long time; the Federal commitment must remain strong. Some scars will take a long time to heal. This Federal relief bill will at least allow the healing process to begin.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. I thank the chairman for yielding.

Let me express my appreciation to the full committee and the subcommittees, both on the minority and majority sides, for their prompt attention not only to this disaster but the others that have occurred. I particularly appreciate the hard work of the staff on the Committee on Appropriations, both sides, for their early attention to this matter in working with the departments and administration to get the necessary information in order to put the supplemental together.

You have had an adequate description of what has happened. All I can tell you is, flying over it is one thing but until you walk through it on the ground and put a human face on it, it is very, very difficult to understand the measurement of this disaster and the adversity.

So I express my appreciation to all Members, all my colleagues who have responded so promptly and so generously in order to help us rebuild in Florida.

Let me only add this, Mr. Speaker, that it is not just because of the willingness of the gentleman from Mississippi [Mr. WHITTEN] and the gentleman from Kentucky [Mr. NATCHER] and the gentleman from Pennsylvania [Mr. MCDADE] and other places that this rebuilding effort will be undertaken. Goodness knows, without it it would have been impossible; it would have burdened them far beyond any city, any county, even the State of Florida.

So what was done in this bill will give us the kind of start and momentum that the people need. But I wanted you all to know—and the reason I took this time, for which I thank you—is that the people themselves are the ones who have the spirit, the determination, and the confidence to rebuild. The entire leadership of the communities, economically, socially, religious, and others, as well as those at the very bottom of the economic ladder of the communities, have come together in a way that is very, very hard to understand or imagine, but there is a unity and a purpose there under the slogan "We will rebuild." I wanted to thank all of you for making it possible for our communities to rebuild.

Mr. MCDADE. Mr. Speaker, I yield 3 minutes to my able friend, the gentleman from Florida [Mr. LEWIS], who was a strong voice, may I say, all the way through this effort for agricultural interests in south Florida. I know of his many meetings with the Secretary of Agriculture. He has made a major impact on the bill, and I want to congratulate him for his time and effort.

Mr. LEWIS of Florida. Mr. Speaker, the Government has no higher responsibility than to care for the victims of devastation such as Andrew. The first step started as soon as the storm passed and relief began to flow. The second starts now.

Andrew destroyed the majority of south Florida's nursery and tropical fruit industries. In a few short hours, over 20,000 jobs and $200 million were lost in the nursery and tropical fruit industries. Unfortunately, the unique characteristics of Florida agriculture worked against the industry when they needed it most.

Though this bill does help and work in a lot of ways, it does not help to return those 20,000 jobs immediately that are absolutely necessary.

In certain areas, these large nurseries must need exemptions in order to employ and rebuild.

We had an agreement yesterday, and when we left the departments, we had the agreement that that exemption would be there. Somewhere during the middle of the night it disappeared from this particular bill. But that does not mean we should not pass this bill, my colleagues; we do have to pass it. The Tree Assistance Program allows our nurseries and tropical fruit industries to rebuild. It was upped from $30 to $48 million. We were able to do that.

But the nurseries, the smaller ones, are eligible through another assistance program called ASCS disaster payment programs. The Emergency Conservation Program is similarly available for cleanup efforts.

My colleagues, I do not particularly like these type of resolutions, but certainly when the health of south Florida is at stake, then I certainly will put aside my personal opinion and do what I think is right.

I would like to thank this House and the American people for their outpouring of support and congratulate the hardworking people of Palm Beach County who have served as a conduit for most of this aid to south Dade. Their efforts have been heroic.

I want to thank the other side for their work and complete and absolute commitment to getting this bill, the chairman, the gentleman from Kentucky [Mr. NATCHER] and also our great leader, the gentleman from Pennsylvania [Mr. MCDADE].

I want all of you to support this bill because you never know when disaster is going to strike and it could strike in your district.

So, my colleagues, I ask you, I beseech you to vote for this bill. You may not like some of it, but it is good for the people and a lot of people who are hungry and unemployed are looking to you for the leadership and for the ability to do what they have to do, and that is to have a livelihood for themselves and their families. You can do it. I ask for your support.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Speaker, today we are considering the disaster relief supplemental appropriations bill. However, since we passed this measure in the House, several natural disasters have occurred that necessitate additional funds to deal with these dire emergencies. Hurricane Andrew ravaged Florida and Louisiana, Typhoon Omar hit Guam, and Hurricane Iniki devastated the island of Kauai in the State of Hawaii. This bill contains desperately needed funds for the Federal Government to respond and provide emergency relief to the States and local counties.

By now I am sure that everyone has seen the pictures and read the news articles about the destruction caused by Hurricane Iniki. But only when you have had a chance to personally view the aftermath can you truly understand the total devastation to the island community. Over last weekend, the Hawaii delegation personally inspected the damage caused by Hurricane Iniki and its sustained winds of up to 160 miles per hour and waves as high as 30 feet. We saw images that I will never forget. Under current estimates approximately half of the 21,000 homes were badly damaged, once lush agriculture fields are now wastelands and utility poles lay strewn on the ground like toothpicks.

Mr. Speaker, I cannot emphasize enough the importance of the funds included in this bill for the Federal Emergency Management Agency [FEMA]. Thus far FEMA has been working with the State and county governments to ensure that the basic needs of the individuals affected by Hurricane Iniki are being met. I hope that the cooperation demonstrated by all parties thus far will continue. However, without this infusion of funds FEMA has told the Hawaii delegation that relief efforts cannot continue. We will not be able to begin the rebuilding process without your support. I assure you that the will and spirit of the people of Hawaii remain strong but we need to show them that the rest of the Nation is behind them.

I am deeply thankful to the chairman and my colleagues on the House Appropriations Committee for their diligence and quick response to the needs of the people of Hawaii. For that I am eternally grateful. Furthermore, I want to acknowledge the senior Senator of Hawaii for the leadership he has demonstrated throughout this ordeal. His knowledge and experience were an invaluable resource that the Hawaii delegation was able to draw upon in order to meet the needs of the State of Hawaii.

I strongly urge my colleagues to support passage of this disaster relief package.

Mr. MCDADE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. SHAW], who has worked extremely hard to make sure that the medical facilities in the Dade County area would be adequately staffed and supported at a very trying time.

□ 1310

Mr. SHAW. Mr. Speaker, I thank the gentleman from Pennsylvania for yielding me this time.

Mr. Speaker, having been born in Dade County, FL, and having seen every hurricane in the last 53 years that has devastated the coast of Florida, I can tell all my colleagues that I have never seen such destruction as this hurricane inflicted upon south Dade County. There is absolutely no match for it in the history of this country; but I think also there has been no match for the generosity and the outpouring of help, concern and warmth that we have seen from all over the country, for which I as a Member of the Florida delegation say to you, my colleagues, and to your constituents, "Thank you, thank you, thank you."

But now the whole thing of rebuilding is upon us, and we have got to work together to see that we can rebuild south Florida.

For one moment, think of your own community. Think all of a sudden that half the schools are gone. Think for a moment that your city hall, your fire stations, your police stations are devastated.

Think for a moment that 90 percent of your homes are gone and that your entire tax structure has been completely eliminated by hurricane winds, and then think for a moment that most of the jobs in that community are gone. This is what the people of south Dade County, the city of Homestead, and surrounding cities, this is what they are facing. They are facing a rebuilding process.

As one of the Members spoke awhile ago, this is for the rebuilding of a community. It is not a windfall for anybody. It is for people to stay in the community, to create jobs, to rebuild the infrastructure, to do what is necessary to bring back an economy that actually works.

Right now we are in a holding pattern. We are taking care of the humanitarian needs of the people in that area, and we are getting into the rebuilding phase. For this, the Congress is going to grant the necessary relief.

So on behalf of the people of south Florida, and certainly our best wishes go to the people of Louisiana and Hawaii, we in south Florida say thank you to the U.S. Congress, thank you to the American people, thank you, thank you, thank you.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, let me first of all thank my friend for yielding me this time and commend him and the distinguished vice chairman of the Appropriations Committee, the gentleman from Kentucky [Mr. NATCHER], our dean, the gentleman from Mississippi [Mr. WHITTEN], and the gentleman from Pennsylvania [Mr. MCDADE] for their excellent work here.

Let me first say that while thankfully Kentucky and Louisville in my district were spared the effects of Hurricane Andrew, Iniki, and Typhoon Omar, we in 1974 did sustain serious damage from a tornado which our Congress then provided money to redress the injuries, the grievances, and the problems. So I certainly salute what this panel has done for the States that have been affected.

I would like to direct a certain amount of attention to the $500 million which is provided in the bill for the Weed and Seed Program, which deals with re-creating the inner cities of our Nation, re-creating the urban areas of our Nation, one of which is the city of Louisville. That $500 million will be spent on job training, education, law enforcement, the things to first of all weed out from designated areas the characters who perpetrate the crime which is plaguing those areas and, in turn, seed those areas with the various programs that can help them become livable.

We have an excellent enterprise zone in our community of Louisville, created under State law. Certainly this money when later the authorization for the spending of it comes from the conference on H.R. 11, could make possible some of the Weed and Seed programs.

So I want to thank the chairman both for helping in the case of the disasters and also for heping what I call a disaster in the urban areas of America. In both ways, this panel has rallied to our support, and we thank the panel and certainly rise in support of the bill.

Mr. MCDADE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Wisconsin [Mr. ROTH].

Mr. ROTH. Mr. Speaker, I thank my friend, the gentleman from Pennsylvania, for yielding me this time.

Mr. Speaker, we have to help our disaster victims. I do not wish to throw a discordant note into this debate, but no one has addressed the real issue.

Where is the money coming from? Congress will borrow another $10 billion, dole it out and the American taxpayer will be the real victim. This bill adds another $10 billion to the deficit, and then we all go home and decry the deficit and say we have to do something about the deficit. Another $10 billion is added on to the deficit.

When the American family has a mishap, they tighten their belts; not so in Congress. Congress just borrows and spends more and sends the bill to America's children. Already one dollar out of five goes just to pay the interest on our national debt.

Where can we find the money for our disaster victims? Well, why not start with foreign aid? We have another $13 billion being sent overseas in just a few days on October 1. That is on top of the $9 billion in the pipeline.

Our own investigative arm, the GAO, said we should deauthorize these funds and pass them back to the taxpayers, but the majority in this Congress will not do it.

It is about time we start putting our own people and our own problems first for a change.

I have a bill to do just that. I would like to add that bill as an amendment to this bill, but we were blocked from doing that because no amendments are allowed to this bill, no amendments are allowed.

I favor helping our disaster victims, the American taxpayer and America's children.

I hope my colleagues were able to watch a program, "Prime Time Live," last night. They pointed out that this country spends $152 billion on welfare. Our welfare system is filled with waste, fraud, and abuse. Prime Time pointed out as much as $30 to $70 billion is siphoned off in waste, fraud, and abuse. This program showed abusers flying to California to collect welfare, recipients going from Chicago and Milwaukee to collect welfare, and recipients never being checked, some having as many as eight different aliases and collecting on all of them.

This bill is for disaster victims. Well, we have other victims, the victims of congressional neglect, called the American taxpayers.

This bill allows no amendments. Why not open up the $8.8 billion in the foreign aid pipeline that has been there as much as 10 years and return it to the American taxpayer? How can you in good conscience go back home and say you are concerned with the deficit, when we will not address those key issues? Why not address the issue of the $30 to $70 billion in fraud and abuse in the welfare system?

No, Congress simply declares that this is an emergency and piles on the deficit.

Well, the American taxpayer and the American economy have an emergency, too. It is a dereliction of our duty if we do not address these issues. The taxpayers are concerned and we should express our concern to them.

Mr. NATCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for yielding me this time.

I rise, first of all, to thank Vice Chairman NATCHER and Chairman WHITTEN and all of you who worked so hard to produce this disaster relief bill and to tell you that we have learned a lot from Hurricane Andrew. We learned in Louisiana in the Third Congressional District how much we need one another. We learned how good neighbors can be to one another and we have learned how we can come together in Washington in times of great distress for families and offer them some assistance to recover.

I want to thank you all for the work you have done in putting this package together.

I want to also describe to you a dimension of this disaster of which you perhaps are not aware. When Hurricane Andrew struck the Louisiana coast, it bounced off several of our Barrier Islands. It destroyed 40 percent of those

Barrier Islands. It also wiped out 30 percent of the coastal marshes and destroyed all the fishing grounds for the fishing families who depend upon those waters for a livelihood.

It also then went into the Atchafalaya after destroying homes and families along Highway 90 and along the coast of Terrebonne Parish.

It then went into the greater Atchafalaya basin and it dumped so much organic material and stirred the bottom so much that 300 million fish were killed, 10 million salt water, 300 million fresh water, in fact, it was a 100-percent fish kill in the whole of the Atchafalaya basin. You can imagine what that has done to the fishing families who depended upon that resource for their livelihoods. This bill will begin to restock the Atchafalaya basin, will begin to restore some of that damage to the natural resource base that fishing families depend upon.

It is not perfect. It does not do everything for the commercial fisherman, but it begins to give him hope again. It begins to give those fishing families, some of the poorest in our State, by the way, the hardest working, the most American I have ever met, it gives them some hope, a chance to rebuild and restore, and for all that we thank you for this help, neighbor to neighbor.

□ 1320

Mr. McDADE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. JOHNSON].

Mr. JOHNSON of Texas. Mr. Speaker, as my colleagues know, I was an Air Force commander at Homestead Air Force Base for 2½ years, and I know how important it is to our Nation and the community, and I think relief is imperative. What I cannot believe is that some Members of this Congress would take advantage of these misfortunes to play on the sympathies of the American taxpayers by adding billions of dollars of pork barrel spending and adding to our debt, millions of dollars for Oregon, Nevada, for Kansas, and, believe it or not, $1.4 million for a White House armored window, and $3½ million to continue investigating Tailhook.

Get off my back. This bill is riddled with pork barrel, and it really is kind of disconcerting that our associates, some of them, would take advantage of that.

Mr. Speaker, the bill ought to be about disaster relief, helping families and not more pork. Let us fix the bill and put an end to election year pork.

Mr. NATCHER. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. HAYES].

Mr. HAYES of Louisiana. Mr. Speaker, I thank the gentleman from Kentucky [Mr. NATCHER] for yielding this time to me and would also ask his indulgence while I participate in a colloquy with the gentleman from Florida [Mr. LEHMAN].

Mr. Speaker, I enter this short colloquy in order to clarify the committee's intent on the funds designated for transportation improvements. In specific, I am curious if it is intended that the total allotted is adequate to cover the cost for the design and engineering associated with extending U.S. 167 from Abbeville, LA, to Esther, LA.

As a principal evacuation route from the coastal communities of Vermilion and Cameron Parishes, home to the third and eighth largest commercial seafood landing ports in the Nation, the current road is clearly inadequate for safety reasons. Hurricane Andrew almost drove home that message all to clearly.

Mr. LEHMAN of Florida. Mr. Speaker, will the gentleman yield?

Mr. HAYES of Louisiana. I yield to the gentleman from Florida.

Mr. LEHMAN of Florida. In response to the gentleman from Louisiana's question, the funds are intended to cover the associated costs with planning the extension of U.S. 167 to Esther, LA.

Mr. HAYES of Louisiana. I thank the gentleman for that clarification. Mr. Speaker, with that I would like to have a statement submitted in the record explaining in greater detail the nature of this project and need for this improvement.

Mr. McDADE. Mr. Speaker, I yield 3 minutes to my distinguished colleague, the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON. Mr. Speaker, I, first of all, commend my colleague for yielding this time to me. He is my good friend. And I want to commend the committee for bringing forth the supplemental.

I take great pride in my fiscal conservative voting record and the recognition that I have received from national taxpayer watchdog groups: the Citizens Against Government Waste and Watchdogs of the Treasury. But I also want to say it is absolutely imperative we pass this legislation. This, in fact, is the largest natural disaster in American history, Andrew.

As I have done on every other major disaster since I have been in Congress for 6 years, I personally visited southern Dade County. I spent Labor Day weekend living in the Harris Field tent city in the southern part of Dade County and served breakfast for the days that I was there to hundreds and thousands of people coming through the lines to tell me of their plight and loss that they had experienced in what was an absolutely horrendous storm. Even though they lost everything, the spirit and determination of these people was unbelievable.

Now, for my fiscal conservative friends who say we should not do anything to assist, I would say, first of all, the American people have been unbelievable in their help and support. I alone from my area took down 250 tons of materials: generating units up to a hundred kilowatts, four-wheel-drive vehicles, a mobile communications center, mobile homes for remote fire stations, working with the Metro Dade Fire Department to get their fire, rescue and emergency health services back into operation very quickly. I saw them in church with 4,000 people in southern metro Dade taking care of rebuilding homes. There was a tremendous volunteer output of help from all across this country.

But, Mr. Speaker, I want to say that there is a role for the Federal Government. We have to come in, and we have to provide assistance for these businesses that were devastated, for these home owners that had their homes damaged beyond repair. We have to help them out. That is what this legislation does.

I agree with my colleagues who say that there are lessons to be learned from this experience, as we did from *Loma Prieta*, and we did from the *Exxon Valdez*, from the wild lands fires in Yellowstone and from Hurricane Hugo, and we will from Omar and Iniki. There are lessons to be learned.

One of those, Mr. Speaker, is perhaps the creation of a select committee on disaster preparedness and response to look at the oversight of 24 separate committees that have jurisdiction over FEMA. I will be introducing that legislation next week with a 2-year sunset provision so we can accurately look at the way we respond to disasters.

But that is not the issue today. The issue today is to respond to the needs of the people of Dade County, to make sure that we support them, the people in Louisiana, the people in Hawaii and Guam who have had their lives disrupted. I was, unfortunately, not able to visit those areas, but I know from conversations with my colleagues and emergency response leaders from those areas that they are hurting equally. We have to help them.

Mr. Speaker, I urge all of my colleagues to support this vital legislation.

Mr. McDADE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NATCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Speaker, I rise in support of the House amendment.

Mr. Speaker, the emergency supplemental includes funds for several highway studies. The committee included as a part of these funds, $150,000, which will be used for the study and planning of a bridge from mainland North Carolina to the Outer banks in Currituck County. I wish to thank the members who had the foresight to include this funding.

The Outer Banks of North Carolina were not damaged by Hurricane Andrew. However, it is just a matter of time before another hurricane, with a different name, comes up the east coast and an emergency evacuation is ordered on the Outer Banks. It has happened in the past, and it will happen again. Unfortunately, there is only one bridge, at Kitty Hawk, which allows residents and vacationers to leave the island. A second bridge is desperately needed.

Because delays of many hours are common in emergency situations, it is only a matter of time before human life will be lost as a result of this need for another bridge.

Again, I wish to thank the Members for their assistance in first addressing the urgent needs of those in south Florida and other areas, and also for their foresight in providing a few dollars to help avoid a catastrophe in the future on North Carolina's beloved Outer Banks.

Mr. HATCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at this time I want to thank my chairman, the gentleman from Mississippi [Mr. WHITTEN], all the subcommittee chairmen and all our committee members for the hard work they have put in bringing this bill to the House at this time. This is a good bill, Mr. Speaker. We recommend it to the House.

Mr. CAMPBELL of California. Mr. Speaker I just learned that last night, September 17, 1992, the disaster assistance relief bill was amended at the Rules Committee to include funds specifically for the Monterey Institute, located in Monterey, CA. My wife, Susanne, was recently appointed to the board of directors of the institute. At the least, I believe it would constitute the appearance of impropriety for me to vote on this issue. Accordingly, I intend to vote neither yes nor no but simply present.

On the merits of the bill, I do support assistance to the devastated people of Florida, Louisiana, Guam, Hawaii, and other areas. One of the great benefits of our Nation is that citizens in one part can help citizens in other parts in the wake of a natural disaster. The citizens of my own district of California were grateful for the relief offered by fellow Americans after the Loma Prieta earthquake.

However, candidly, this bill includes provisions completely unrelated to the relief of people hurt in the natural disasters recently encountered. I regret that this bill has been used as a vehicle for such unrelated expenditures, and I would oppose those provisions of the bill.

Mr. ROWLAND. Mr. Speaker, Hurricane Andrew was a tragedy for many and the effects will be felt for years. While I am sensitive to the needs of those devastated by the hurricane, I believe that it is important to clarify the intent of the funding included in H.R. 5620 for Homestead Air Force Base. It is my understanding that this funding is not available for construction of facilities at Homestead AFB.

Recently, President Bush announced his support to rebuild the base. I do not support this decision during this time of base closures and expected drawdown of Air Force units around the country. Our defense budget is in a state of decline as a result of a reduced Soviet threat and budgetary constraints, and we need to get the most from our defense dollars. Rebuilding a base at an estimated cost of half a billion dollars when we are in the process of closing bases is not logical. The decision to close a base needs to be determined during the base closure and realignment process that will take place next year. At that time, the commission can determine the needs of the Air Force as well as the Department of Defense as a whole.

As I understand this legislation, the funding provided could be used for demolition of buildings and general cleanup. Furthermore, H.R. 5620 allows for the restoration of the aircraft control tower, navigational aids, fuel facilities, and runways, and associated environmental restoration in order to put the airfield into operational condition. The measure does not authorize the Air Force to operate the facility as an active military base.

Mr. Chairman, I am pleased that this bill allows those at the Base Closure and Realignment Commission, who are the experts, to decide the future of Homestead Air Force Base. I understand the desire to restore the base to its full mission capability; however, this decision needs to be made within the overall context of Defense Department needs.

Ms. SNOWE. Mr. Speaker, I rise in support of the final version of H.R. 5620 for a number of important reasons.

First, and foremost, the people of southern Florida, Louisiana, Hawaii, and Guam need this assistance desperately to help them rebuild their storm-devastated communities. It is our duty as Members of Congress to do everything we can to help our fellow citizens in their time of need.

Second, this measure provides vitally needed funds for environmental cleanup at Loring Air Force Base in Maine, as well as the other closing military bases facing similar concerns nationwide. Environmental cleanup must be the highest priority in preparing military bases for future civilian uses.

We have known for some time that hazardous waste contamination at Loring could pose difficulties for redevelopment and reuse in an isolated, rural area racked by economic difficulties. Unfortunately, these problems have not been recognized by the Air Force and the Department of Defense, and the cleanup has been delayed for many inexcusable months due to their quibbling.

Time after time, in letters and in personal meetings, the Maine delegation has tried to get the Air Force to keep the Loring cleanup on schedule. It has taken this belated supplemental appropriations bill—the last resort—to finally demonstrate to the people near Loring and other closing bases that the Federal Government has not abandoned them. I can only hope that the Defense Department will offer more cooperation and support to communities affected by future base closings than it has in the past.

This Congress also has the duty to provide the people of this country with a strong and affordable military for national defense. With the end of the cold war, we are downsizing our forces and will be cutting the defense budget by at least one-quarter over a 5-year period.

This measure also takes the appropriate step of not providing funding for the full, military rebuilding of Homestead Air Force Base pending a review of this base by the Base Closure and Realignment Commission in 1993. It simply is not practical to spend hundreds of millions of taxpayers' dollars to rebuild an air base that has consistently ranked low in military evaluations, at a time when the defense budget is being reduced by one-quarter over the next 5 years.

This is buttressed by the fact that the Defense Department is in the process of trying to close Loring Air Force Base, which has great capacity for mission flexibility and expansion, modern facilities and a strategic location. I continue to believe that Loring should be considered as a cost-efficient alternative option to completely rebuilding Homestead Air Force Base.

I urge all of my colleagues in the House to join me in supporting this bill. Hopefully, H.R. 5620 will be enacted into law as soon as possible.

Mr. RHODES. Mr. Speaker, I rise today to discuss the compromise regarding Homestead Air Force Base in this supplemental appropriation. I applaud the decision to limit the appropriations for military construction at Homestead Air Force Base to a minimal $66 million, rather than the appropriations totaling $480.6 million as requested by the President.

This $66 million is for the limited purpose of restoring airfield operations such as the runway, air traffic control complex, utilities, and aviation support infrastructure to an operational status. This will allow Homestead's nonmilitary operations to continue, including the important drug interdiction efforts of the U.S. Customs Service located there. It has been expressly stated that none of the funds are available for the construction of facilities to support the 31st Tactical Fighter Wing or any other active Air Force units or missions. With this provision, the future of those activities may be determined without prejudice by the Base Closure Commission of 1993.

I appreciate the important economic role which Homestead Air Force Base plays in the economy of the region, and I can certainly sympathize with those who would like to see the base restored to its prehurricane activities, if for no other reason than the power of its economic influence. However, doing so would be hypocritical to communities that have experienced the loss of a base in the wake of the military drawdown. There will be many more base closures as well, and each community will be told that the economic impact of the base simply cannot be used as a reason to keep a base open.

When my community lost Williams Air Force Base in the last round of base closures, it too was devastated by the estimated economic consequences. The community rallied to seize the opportunity to take a lemon and make lemonade. With a dedicated reuse effort underway, we are looking forward to the success of the new and diverse operations our former base will host. This legislation will restore an operational aviation asset to the Homestead community, that may one day be used for all of its previous military activities, or to plan redevelopment for use as a civil airport or industrial facility.

The utility of Homestead Air Force Base will soon be evaluated on its own merits by the Base Closure Commission. There is no need to prejudge their decision.

Mr. FAZIO. Mr. Speaker, I rise in strong support of the conference report on H.R. 5620, a bill providing disaster assistance to the devastated areas of Florida, Louisiana, Hawaii, and Guam. The bill also provides supplemental appropriations for fiscal year 1992 in several key areas that are important to California.

Of paramount concern to the country has been the devastation caused by Hurricane Andrew in southern Florida and Louisiana, Hurricane Iniki in Hawaii, and Typhoon Omar in Guam. The whole country has come together in the face of these awesome natural disasters. The country has responded to the call for assistance and, today, Congress lends its voice to help those communities in need.

Mr. Speaker, I wholeheartedly support the efforts in this bill to aid those communities in need. Certainly, California has had its share of the disasters, and I am proud that Congress has responded time and time again to help those California communities who were in need, and that we have responded in kind to the needs of other communities throughout the country in their time of need.

I want to point out, however, that in the case of providing aid to Florida, Louisiana, Hawaii, and Guam, the President has waived the local matching requirement for assistance. The President used a decidedly different approach in providing aid to communities in California that suffered severe damage from the Loma Prieta earthquake in 1989. California still has a request for a waiver pending with the administration. I would urge the administration to grant California the same considerations it has given to the other States with respect to the waiver.

Mr. Speaker, in addition to the disaster assistance in this measure, $30 million in emergency drought relief aid is included for drought stricken States in the West. As many know, California is experiencing a sixth year of drought. Farm income is down, rural unemployment is up and our fisheries and wildlife resources are continuing to decline.

But, drought conditions are even more far reaching than California. Several western States have already been declared eligible by the Secretary of the Interior for drought assistance under the Emergency Drought Relief Act, including—California, Oregon, Nevada, Idaho, Utah, Montana, Washington, and Nebraska.

The $30 million in the conference will provide supplemental water supplies for our drought-stricken farm communities, our wildlife refuges and our endangered fisheries. Without these resources, the drought-impacted areas of the West will suffer significant job losses from reduced farm activity and our already stressed fish and wildlife resources will continue to suffer. This funding can make a difference. It will provide essential, emergency drought relief to this region of the country.

For example, in northern California, it could be used by the Bureau to expand its fish screen activities along the Sacramento River to protect threatened salmon species. It could be used to help diverters gain access to lower river water levels. And, it could support efforts to increase water supplies through the reuse of subsurface agricultural drainage water.

The funding can also be tapped to relocate pumping plants in our depleted reservoirs so that water deliveries can continue to be made to municipal and industrial consumers. For example, funding in the bill would be available to help relocate the pumping plant at Folsom Reservoir so that water deliveries can continue to be made to the city of Roseville, San Juan Suburban Water District, the city of Folsom, and Folsom Prison.

I strongly encourage the President to act on the authority we have provided him to aid the many drought-stricken areas of the country. The drought is as much an emergency and, in particular, has placed many farmers on the brink of disaster, as have the hurricanes.

As you know, Mr. Speaker, the 1990 freeze and the continuing drought in California have caused significant hardship for California growers and the migrant and seasonal farmworkers they depend on to harvest their crops. We have already been able to provide some disaster assistance to farmers and ranchers, but the needs of farmworkers continue to go unmet. Some estimates suggest that over 65,000 farmworkers in California lost their jobs because of disasters in 1990 and 1991. Most counties in my district lost up to 10 percent of farm jobs because of disasters. Nearly 1,000 migrant and seasonal farmworkers were displaced.

The conference report on H.R. 5620 makes it clear that the disaster assistance money provided under the dire emergency supplemental appropriations bill—Public Law 102–299—can be used to provide emergency services to low-income migrant and seasonal farmworkers. I fully expect and anticipate, and indeed it is now the clear congressional intent under this provision, that since the administration has released the second installment of disaster assistance money, a portion of that money will be used to provide emergency services to low-income migrant and seasonal farmworkers.

It should also be noted that my colleague from California, Mr. DOOLEY, deserves the bulk for making this provision a reality. Through his persistence, as a Member who represents many of those who will benefit from this provision, Mr. DOOLEY deserves the bulk of the credit for making it happen.

Another key provision of this measure is the additional funding provided in the bill for veterans compensation payments. The bill includes $500 million to fulfill our obligation to provide a full fiscal year 1992 COLA to all of our veterans. The bill also increases direct loans for the vocational rehabilitation program and provides startup funds for a new program that provides loans to nonprofit organizations leasing transitional housing units exclusively to veterans who are in, or have completed substance abuse treatment programs.

An important provision to many communities throughout the country is the transfer of $69 million in existing funds from the Defense environmental restoration account and earmarks $162.7 million in new funding for base closure cleanup sites. Without this funding, cleanup of military bases that are closing would fall behind an already drawn-out schedule. We have a moral obligation to provide communities with the opportunity to recover the economic losses caused by base closures. So, it is vital not only to protect public health and the environment, but also to enable new businesses to take over base facilities and create jobs. For Sacramento, the bill has important implications in this regard for both Mather Air Force Base and the Sacramento Army Depot.

In conclusion, Mr. Speaker, this conference report responds to several pressing and urgent needs that our country is facing. This is a good bill, and I urge my colleagues to support it.

Ms. WATERS. Mr. Speaker, I rise in support of this legislation. I do so because victims of disasters deserve the unwavering commitment of the Federal Government to help them through their trying times.

Last night, I went before the Rules Committee and attempted to amend this legislation to include a $10 billion loan guarantee program for cities and towns. I was unsuccessful.

To me, the disaster relief program before us is exactly where this Congress should discuss ways to empower communities to plan long-term rebuilding strategies. That is what my loan guarantee program would do.

This program, supported and endorsed by the Congressional Black Caucus, is a modest program to give devastated cities and towns access to quick capital. The section 108 program, which is expanded in this plan, gives large-scale loans to communities for economic development, housing, and other public service needs—loans which can be paid back over 20 years.

Moreover, the Congressional Budget Office has determined that a 5-year, $10 billion section 108 program would cost the Treasury nothing.

When we talk about disaster relief, we are talking about rebuilding communities. It is one thing to give immediate assistance for food, water, and shelter—but it is also critical to talk about long-term development. That is what I have attempted to do. We have the opportunity to free up $10 billion in low-interest loans over the next 5 years.

While we will not adopt this program today, I believe it is critical for this Congress to act before we adjourn in the next few weeks.

I hope my colleagues in disaster-ravaged communities will join with me, and the Congressional Black Caucus, in fighting for a long-term program for community empowerment, jobs, and revitalization. The stakes are high, but the payoffs are enormous.

Mr. BROWN. Mr. Speaker, Hurricane Andrew was a tragedy for thousands of homeowners living in south Florida and on the Louisiana coast. Iniki visited the same kind of devastation in Hawaii. While it is difficult to downplay these losses, there is at least one saving grace for these homeowners: Nearly all of them had private insurance. Most of these families will receive a check from their insurance companies, which will allow them to repair or rebuild their homes. The almost universal availability of private insurance for windstorm damage also greatly diminishes the amount of Government disaster assistance that could have been included in this supplemental appropriations bill.

Unfortunately, Mr. Speaker, the same cannot be said for damages inflicted by moderate to severe earthquakes. The difference lies almost totally in the lack of insurance for earthquake damage. This is precisely the scenario we face in California. Only about 25 percent of California homeowners have earthquake shake insurance because of high premiums and deductibles. Unlike the case of Hurricane Andrew, when the big one occurs in California, most homeowners will not receive an insurance check to pay for repairs and rebuilding. These homeowners will have little recourse but to seek Federal disaster aid, which seldom affords quick and complete compensation. This reliance on disaster assistance also represents an additional drain on the Federal Treasury.

There is a better way to deal with the earthquake risk. It is legislation, H.R. 2806, I have sponsored with 66 of my colleagues—including 14 Californians—which creates a Federal Earthquake Insurance Program. The legislation makes earthquake coverage available and affordable in earthquake-prone States. In addition to providing insurance protection for homeowners, the bill prefunds disaster assistance. This legislation, in effect, would reduce the amount of any disaster aid supplementals that would need to be enacted following a major earthquake. Also, the bill provides requirements and strong incentives for loss prevention programs, which will save lives and reduce disaster assistance when implemented.

The 1989 World Series earthquake in the bay area provides an illustration. The Congress quickly passed a supplemental appropriations bill to provide disaster assistance to these earthquake victims, most of whom did not have insurance. One estimate is that every taxpayer paid $17 for this supplemental appropriations. This need for disaster aid, Mr. Speaker, would clearly have been lower if earthquake insurance were universally available, as it is for the windstorm peril and would be if H.R. 2806 were enacted by Congress.

We are today appropriating $6.3 billion for the people of Florida, Louisiana, and Hawaii. This amounts to approximately $50 for every taxpayer in the United States. I support this appropriation—but I also urge my colleagues to realize that a major earthquake in a heavily populated area anywhere in the United States will dwarf this appropriation. I urge the House to act on H.R. 2806 or similar legislation in the next Congress so that we may reduce human loss and reliance on Federal disaster assistance.

Mr. NATCHER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. McNULTY). Pursuant to House Resolution 575, the previous question is ordered on the motion.

The question is on the motion offered by the gentleman from Kentucky [Mr. NATCHER].

The motion was agreed to.

A motion to reconsider was laid on the table.

□ 1330

LEGISLATIVE PROGRAM

Mr. MICHEL. Mr. Speaker, I ask to proceed for a moment that I might inquire of the distinguished majority whip the program for next week, if not the balance of today.

Mr. BONIOR. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we are finished with official business today. We will meet on next Monday, September 21, at noon. We will consider three suspension bills. No votes will be recorded on those bills until Tuesday.

On Tuesday, September 22, we will meet at noon. There will be one suspension. We expect votes by 1 o'clock on Tuesday. Members should be aware of that.

We will have recorded votes on the Monday suspensions immediately on Tuesday, and then we will move on to H.R. 5318, the extension of most-favored-nation treatment with China, and then also do H.R. 5006, a motion to go to conference on the Department of Defense Authorization Act for Fiscal Year 1993.

We will take up two bills on suspensions. Recorded votes on the suspensions will be postponed until later in the legislative day. Those are House Joint Resolution 512, the extension of nondiscriminatory treatment with respect to the products of Romania, and H.R. 5258, the withdrawal of most-favored-nation status from the Federal Republic of Yugoslavia.

Then we will move to the National Competitiveness Act of 1992 and complete its consideration.

We will then do 24 suspensions on the Suspension Calendar. Recorded votes will be postponed until the following day, Wednesday, September 23. The 24 suspensions are as follows:

H.R. 2890, Department of Veterans Affairs-Medicaid Drug Procurement Amendments of 1992;

H.R. 5001, amend Outdoor Recreation Act of 1963;

Senate Joint Resolution 23, amend the Hawaiian Homes Commission Act;

S. 1607, Northern Cheyenne Tribe Water Rights Claim;

H.R. 2967, Older Americans Act amendments;

H.R. 4014, Educational Research, Development, and Dissemination Excellence Act;

H.R. 5257, U.S.-Flag Passenger Vessel Act of 1992;

H.R. 5557, New England Groundfish Restoration Act;

H.R. 5419, International Dolphin Conservation Act;

H.R. 3627, Air Force Memorial;

H.R. 5058, Folk Life Center reauthorization;

H.R. 5323, to promote transition to democracy in Cuba;

H.R. ——, Nuclear Proliferation Prevention Act;

H.R. 3204, Audio Home Recording Act of 1991;

H.R. 5452, granting consent to compact concerning the Delaware River Port Authority;

H.R. 4841, granting consent to the New Hampshire-Maine Interstate School Compact;

H.R. 5716, 2-year extension of authorization for certain programs under title I of the Omnibus Crime Control and Safe Streets Act of 1968;

H.R. 5952, Prescription Drug User Fee Act of 1992;

H.R. 5938, Mammography Quality Standards Act of 1992;

H.R. 4252, Medicaid/HMO waiver;

H.R. 5673, Health Care Policy and Research Amendments;

H.R. 5726, investment adviser regulatory enhancement;

H.R. 3047, transactions by exchange members for discretionary accounts; and

H.R. 4313, Financial Fraud Detection and Disclosure Act.

I should say on Tuesday we will adjourn probably around 6 o'clock, I would tell the distinguished leader, because of the annual congressional ballgame.

On Wednesday, September 23, and the balance of the week, the House will meet at 10 a.m. to consider the following business:

H.R. 5754, Water Resources Development Act of 1992;

H.R. 3596, Consumer Reporting Reform Act of 1992;

H.R. 3298, Farm Credit Banks and Associations Safety and Soundness Act;

H.R. 3161, Federal Property and Administrative Services Authorization Act;

H.R. 5192, Veterans Health-Care Amendments of 1992; and

H.R. 918, mining exploration and development.

All of those bills that I have just read for Wednesday through the balance of the week are subject to a rule. Of course, conference reports may be brought up at any time.

On Friday there is no guarantee on time since we are moving into the last several days of the legislative session. Of course, we will do the appropriations bills as they are ready for completion.

ADJOURNMENT TO MONDAY, SEPTEMBER 21, 1992

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. (Mr. BENNETT). Is there objection to the request of the gentleman from Michigan?

There was no objection.

DISPENSING WHITH CALENDAR BUSINESS ON WEDNESDAY NEXT

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

GOVERNOR CLINTON'S WEAK ATTEMPTS TO EXPLAIN DRAFT HISTORY

Mr. DORNAN of California. Mr. Speaker, as a member of the Permanent Select Committee on Intelligence, I want to associate myself with the remarks of the last two speakers.

Mr. Speaker, yesterday was the 205th anniversary of the Constitution of the United States. When a new Congress is sworn in here, as is the history with every Congress, we all raise our right hands, every man and woman in this Chamber, and in the other body, and swear to uphold the Constitution of the United States, defend it against all enemies, domestic and foreign.

To a constitutional democracy, that means the Nation, that we will defend the Nation.

I am more troubled with each passing day about Governor Clinton's weak attempts to explain, and obfuscate, and lie about his draft history. His roommate at Oxford committed suicide 2 years after he also dodged the draft. That burns into your brain cells every day, every hour, everything that happened to you during that period.

Here is a mystery to me. I never heard of an ROTC program in a law school. You get your ROTC commission, whether it is a Navy ensign, Marine lieutenant, Air Force of Army lieutenant, the day you get your degree. They are in synchronization. You get your college degree; you get your commission. I never heard of anybody in graduate school or law school going into the undergraduate ROTC program. That may be with a heavy heart why this Bataan Death March survivor, Col. Eugene Holmes, did not say anything for the past two decades and why he now makes that statement on the seventh of this month that I put in the RECORD yesterday.

I am going to put it in the RECORD again today, right now:

BILL CLINTON AND THE UNIVERSITY OF ARKANSAS ROTC PROGRAM

There have been many unanswered questions as to the circumstances surrounding Bill Clinton's involvement with the ROTC department at the University of Arkansas. Prior to this time I have not felt the necessity for discussing the details. The reason I have not done so before is that my poor physical health (a consequence of participation in the Bataan Death March and the subsequent 3½ years internment in Japanese POW camps) has precluded me from getting into what I felt was unnecessary involvement. However, present polls show that there is the imminent danger to our country of a draft dodger becoming the Commander-in-Chief of the Armed Forces of the United States. While it is true, as Mr. Clinton has stated, that there were many others who avoided serving their country in the Vietnam war, they are not aspiring to be the President of the United States.

The tremendous implications of the possibility of his becoming Commander-in-Chief of the United States Armed Forces compels me now to comment on the facts concerning Mr. Clinton's evasion of the draft.

This account would not have been imperative had Bill Clinton been completely honest with the American public concerning this matter. But as Mr. Clinton replied on a news conference this evening (September 5, 1992) after being asked another particular about his dodging the draft, "Almost everyone concerned with these incidents are dead. I have no more comments to make". Since I may be the only person living who can give a first hand account of what actually transpired, I am obligated by my love for my country and my sense of duty to devulge what actually happened and make it a matter of record.

Bill Clinton came to see me at my home in 1969 to discuss his desire to enroll in the ROTC program at the University of Arkansas. We engaged in an extensive, approximately two (2) hour interview. At no time during this long conversation about his desire to join the program did he inform me of his involvement, participation and actually organizing protests against the United States involvement in South East Asia. He was shrewd enough to realize that had I been aware of his activities, he would not have been accepted into the ROTC program as a potential officer in the United States Army.

The next day I began to receive phone calls regarding Bill Clinton's draft status. I was informed by the draft board that it was of interest to Senator Fulbright's office that Bill Clinton, a Rhodes Scholar, should be admitted to the ROTC program. I received several such calls. The general message conveyed by the draft board to me was that Senator Fulbright's office was putting pressure on them and that they needed my help. I then made the necessary arrangements to enroll Mr. Clinton into the ROTC program at the University of Arkansas.

I was not "saving" him from serving his country, as he erroneously thanked me for in his letter from England (dated December 3, 1969). I was making it possible for a Rhodes Scholar to serve in the military as an officer.

In retrospect I see that Mr. Clinton had no intention of following through with his agreement to join the Army ROTC program at the University of Arkansas or to attend the University of Arkansas Law School. I had explained to him the necessity of enrolling at the University of Arkansas as a student in order to be eligible to take the ROTC program at the University. He never enrolled at the University of Arkansas, but instead enrolled at Yale after attending Oxford. I believe that he purposely deceived me, using the possibility of joining the ROTC as a ploy to work with the draft board to delay his induction and get a new draft classification.

The December 3rd letter written to me by Mr. Clinton, and subsequently taken from the files by Lt. Col. Clint Jones, my executive officer, was placed into the ROTC files so that a record would be available in case the applicant should again petition to enter into the ROTC program. The information in that letter alone would have restricted Bill Clinton from ever qualifying to be an officer in the United States Military. Even more significant was his lack of veracity in purposefully defrauding the military by deceiving me, both in concealing his anti-military activities overseas and his counterfeit intentions for later military service. These actions cause me to question both his patriotism and his integrity.

When I consider the calibre, the bravery, and the patriotism of the fine young soldiers whose deaths I have witnessed, and others whose funerals I have attended * * *. When I reflect on not only the willingness but eagerness that so many of them displayed in their earnest desire to defend and serve their country, it is untenable and incomprehensible to me that a man who was not merely unwilling to serve his country, but actually, protested against its military, should ever be in the position of Commander-in-Chief of our Armed Forces.

I write this declaration not only for the living and future generations, but for those who fought and died for our country. If space and time permitted I would include the names of the ones I knew and fought with, and along with them I would mention my brother Bob, who was killed during World War II and is buried in Cambridge, England (at the age of 23, about the age Bill Clinton was when he was over in England protesting the war).

I have agonized over whether or not to submit this statement to the American people. But, I realize that even though I served my country by being in the military for over 32 years, and having gone through the ordeal of months of combat under the worst of conditions followed by years of imprisonment by the Japanese, it is not enough. I'm writing these comments to let everyone know that I love my country more than I do my own personal security and well-being. I will go to my grave loving these United States of America and the liberty for which so many men have fought and died.

Because of my poor physical condition this will be my final statement. I will make no further comments to any of the media regarding this issue.

[From the Washington Times, Sept. 17, 1992]

TEXT OF BILL CLINTON'S LETTER TO ROTC COLONEL

The text of the letter Bill Clinton wrote to Col. Eugene Holmes, director of the ROTC program at the University of Arkansas, on Dec. 3, 1969:

I am sorry to be so long in writing. I know I promised to let you hear from me at least once a month, and from now on you will, but I have had to have some time to think about this first letter. Almost daily since my return to England I have thought about writing, about what I want to and ought to say.

First, I want to thank you, not just for saving me from the draft, but for being so kind and decent to me last summer, when I was as low as I have ever been. One thing which made the bond we struck in good faith somewhat palatable to me was my high regard for you personally. In retrospect, it seems that the admiration might not have been mutual had you known a little more about me, about my political beliefs and activities. At least you might have thought me more fit for the draft than for ROTC.

Let me try to explain. As you know, I worked for two years in a very minor position on the Senate Foreign Relations Committee. I did it for the experience and the salary but also for the opportunity, however small, of working every day against a war I opposed and despised with a depth of feeling I had reserved solely for racism in America before Vietnam. I did not take the matter lightly but studied it carefully, and there was a time when not many people had more information about Vietnam at hand than I did.

I have written and spoken and marched against the war. One of the national organizers of the Vietnam Moratorium is a close friend of mine. After I left Arkansas last summer, I went to Washington to work in the national headquarters of the Moratorium, then to England to organize the Americans here for demonstrations Oct. 15 and Nov. 16.

Interlocked with the war is the draft issue, which I did not begin to consider separately until early 1968. For a law seminar at Georgetown I wrote a paper on the legal arguments for and against allowing, within the Selective Service System, the classification of selective conscientious objection for those opposed to participation in a particular war, not simply to "participation in war in any form."

From my work I came to believe that the draft system itself is illegitimate. No government really rooted in limited, parliamentary democracy should have the power to make its citizens fight and kill and die in a war they may oppose, a war which even possibly may be wrong, a war which, in any case, does not involve immediately the peace and freedom of the nation.

The draft was justified in World War II because the life of the people collectively was at stake. Individuals had to fight, if the nation was to survive, for the lives of their countrymen and their way of life. Vietnam is no such case. Nor was Korea an example where, in my opinion, certain military action was justified but the draft was not, for the reasons stated above.

Because of my opposition to the draft and the war, I am in great sympathy with those who are not willing to fight, kill and maybe die for their country (i.e. the particular policy of a particular government) right or wrong. Two of my friends at Oxford are conscientious objectors. I wrote a letter of recommendation for one of them to his Mississippi draft board, a letter which I am more proud of than anything else I wrote at Oxford last year. One of my roommates is a draft resister who is possibly under the indictment and may never be able to go home again. He is one of the bravest, best men I know. His country needs men like him more than they know. That he is considered a criminal is an obscenity.

The decision not to be a resister and the related subsequent decisions were the most difficult of my life. I decided to accept the draft in spite of my beliefs for one reason: to maintain my political viability within the system. For years I have worked to prepare myself for a political life characterized by both practical political ability and concern for rapid social progress. It is a life I still feel compelled to try to lead. I do not think our system of government is by definition corrupt, however dangerous and inadequate it has been in recent years. (The society may be corrupt, but that is not the same thing, and if that is true, we are all finished anyway.)

When the draft came, despite political convictions, I was having a hard time facing the prospect of fighting a war I had been fighting against, and that is why I contacted you. ROTC was the one way left in which I could possibly, but not positively, avoid both Vietnam and resistance. Going on with my education, even coming back to England, played no part in my decision to join ROTC. I am back here, and would have been at Arkansas Law School because there is nothing else I can do. In fact, I would like to have been able to take a year out perhaps to teach in a small college or work on some community action project and in the process to decide whether to attend law school or graduate school and how to begin putting what I have learned to use.

But the particulars of my personal life are not nearly as important to me as the principles involved. After I signed the ROTC letter of intent, I began to wonder whether the compromise I had made with myself was not more objectionable than the draft would have been, because I had no interest in the ROTC program in itself and all I seemed to have done was to protect myself from physical harm. Also, I began to think I had deceived you, not by lies—there were none—but by failing to tell you all the things I'm writing now. I doubt that I had the mental coherence to articulate them then.

At that time, after we had made our agreement and you had sent my 1-D deferment to my draft board, the anguish and loss of my self-regard and self-confidence really set in. I hardly slept for weeks and kept going by eating compulsively and reading until exhaustion brought sleep. Finally, on Sept. 12 I stayed up all night writing a letter to the chairman of my draft board, saying basically what is in the preceding paragraph, thanking him for trying to help in a case where he really couldn't, and stating that I couldn't do the ROTC after all and would he please draft me as soon as possible.

I never mailed the letter, but I did carry it on me every day until I got on the plane to return to England. I didn't mail the letter because I didn't see, in the end, how my going in the Army and maybe going to Vietnam would achieve anything except a feeling that I had punished myself and gotten what I deserved. So I came back to England to try to make something of this second year of my Rhodes scholarship.

And that is where I am now, writing to you because you have been good to me and have a right to know what I think and feel. I am writing too in the hope that my telling this one story will help you to understand more clearly how so many fine people have come to find themselves still loving their country but loathing the military, to which you and other good men have devoted years, lifetimes, of the best service you could give. To many of us, it is no longer clear what is service and what is disservice, or if it is clear, the conclusion is likely to be illegal.

Forgive the length of this letter. There was much to say. There is still a lot to be said, but it can wait. Please say hello to Col. Jones for me.

Merry Christmas.

Sincerely,

BILL CLINTON.

GALLEGLY BILL TO PROTECT PUBLIC HOUSING TENANTS FROM ILLEGAL ALIENS AND CRIMINAL ACTIVITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. GALLEGLY] is recognized for 5 minutes.

Mr. GALLEGLY. Mr. Speaker, today I am pleased to introduce the Prevention of Illegal Residency and Activity in Public Housing Act of 1992, a bill designed to require public housing agencies to ensure that dwelling units are not occupied by undocumented aliens and are not being used for illegal activities as a condition of receiving Federal assistance.

This is the 10th legislative proposal I have introduced to stop illegal immigration into the United States. I need not recite all the statistics which have been published already showing that our country is facing a major crisis caused by illegal immigration. The Immigration and Naturalization Service has estimated that there are already at least 6 million undocumented aliens currently in the United States, roughly half of whom—some 3 million—can be found in southern California alone. Moreover, according to INS estimates, the apprehensions of illegal aliens at the border in 1992 will exceed the 1986 record of 1.7 million, while at least 3.4 million illegals will get through to lose themselves in U.S. urban population centers.

The costs of this invasion to the taxpayers are enormous. One organization studying the problem conservatively places the nationwide direct costs at $5.4 billion. The California auditor general indicates that the annual net cost to the State is $3 billion. A recent official Los Angeles County study found that over 11 percent of its jail population consisted of illegals, many of them repeat offenders who had been deported only to return to resume their criminal activities. The annual costs to local taxpayers of processing, trying, and incarcerating these deportable aliens is over $75 million. A similar study for San Diego, which also took into account police enforcement and related costs, revealed costs of almost $106 million a year.

Suffice it to say that State and local governments in border areas are being overwhelmed by the burden of providing additional benefits and services to persons who should not legally even be there. And, judging by the mail and reaction I have received from around the country, coupled with TV news documentaries and published press reports, this problem is spreading rapidly, because there are simply not enough jobs, housing, services, and public assistance programs to meet the escalating demands of these new residents in California, Texas, Arizona, Florida, and other border States.

All of the nine bills I have previously introduced—H.R. 3438 through H.R. 3442, House Joint Resolution 357 and H.R. 3605, H.R. 4754 and H.R. 5625—deal with the major causes of this illegal immigration crisis—inadequate Federal resources devoted to border control, widespread document fraud, generous Federal and State welfare and other benefit programs available to illegal aliens, the hiring by employers of undocumented aliens for cheap labor, automatic birthright citizenship for babies born to illegal alien parents, the lack of programs in neighboring countries to stop smuggling of undocumented persons across the border, and the possibility of illegals voting for higher benefits and special treatment in local elections. This bill is aimed at eliminating another major incentive for illegal immigration—the availability of free or cheap public housing for undocumented aliens and their families.

Of course, I recognize that the No. 1 reason why immigrants enter this country illegally is economic—the poor economy and living conditions in their native lands and the desire for a job and a better life. Much as I sympathize with those who take this calculated risk, we cannot permit them to break our laws. No nation has immigration policies as liberal as our own. Every country has a right to control its own borders, and for us to condone widespread lawbreaking or to permit illegal aliens to profit from breaking the law would be to make a mockery of citizenship, our immigration policy, and our legal system.

In principle, I have supported the concept of a North American Free-Trade Agreement because I believe its enactment could lead to more jobs and greater economic growth in both Mexico and the United States, thereby removing a powerful incentive for the trek of illegal immigrants across our border. However, I also recognize that the promise of economic benefits from such a treaty may be in the distant future. We cannot afford to do nothing but wait while millions of illegals continue to pour into this country each year, adding to the economic and social problems already facing border area communities and many State and local governments. Action must be taken at all levels if we are to regain control over our borders and respect for our immigration laws.

Although illegal aliens are, due to their unlawful status, ineligible for all Federal benefits, except for emergency and pregnancy assistance, some Federal agencies have ignored or refused to enforce the letter of the law. Section 214 of the Housing and Community Development Act of 1980 clearly prohibits the Secretary of Housing and Urban Development from providing financial assistance to undocumented aliens. Yet, there is substantial evidence that undocumented persons frequently and unlawfully occupy public housing dwellings in many metropolitan areas throughout the United States.

Undocumented aliens cross our borders illegally in search of jobs and a place to live. Often they use forged documents to obtain both. Sometimes they move in with relatives or friends who have entered this country legally and are public housing tenants. Whatever the cause, the presence of these illegal aliens in public housing is unlawful and contrary to the protection of public health, safety and welfare. It also denies residence in taxpayer-supported dwelling units to low-income families of American citizens and legal immigrants in need of such accommodations. And the unlawful occupation of public housing by undocumented aliens frequently leads to overcrowding and unsanitary conditions, often accompanied by drug dealing and other illegal activities, which, in turn, destroy the quality of life for legal public housing tenants.

As much as I admire Secretary Kemp and strongly support and approve of his stewardship at HUD, in my opinion, the Department of Housing and Urban Development lacks a clear and coherent policy toward this widespread illegal occupation of federally funded housing by undocumented aliens. The truth is that many public housing units have become havens for criminals and drug traffickers, as well as overcrowded, often unhealthy and unsafe residences for illegal alien families. HUD has been lax in its enforcement policies. Although local public housing agencies have the authority to conduct annual inspections of these dwellings, with reasonable notice, and can enter the premises of tenants in public housing units without notice in the event of an emergency, there is no indication that such infrequent visits have had much of an impact on the presence of illegal activities and unlawful occupancies. In fact, the evidence is that the situation in many public housing units is getting worse, contributing to the acute housing shortage prevalent in this country, especially among the working poor.

Mr. Speaker, what is needed is a policy requiring periodic inspections by public housing officials, with the understanding that undocumented aliens are to be removed from public housing units where found, and the assurance that the presence of illegal aliens, like other unlawful findings, will be immediately reported to law enforcement and immigration authorities. We must be sure that those poor and needy American families seeking accommodations have ready access to public housing which is safe, sanitary and drug free, and that all taxpayer-funded residences are available only to qualified legal residents and are clear of illegal activities and unlawful occupants. Federal housing policy must ensure that undocumented aliens and other unwanted and undesirable persons do not escape detection and do not continue to occupy scarce public dwellings or utilize them for criminal activities and unlawful accommodations. There is no excuse for allowing undocumented aliens to occupy public housing units when poor working American citizens and their families must wait in long lines just to find a place to live!

My bill would require that each public housing agency conduct an annual inspection of all dwelling units to determine whether undocumented aliens or illegal activity are present. If a public housing agency during its inspection finds an undocumented alien occupying a dwelling in public housing or if the agency has reason or probable cause to believe that a public housing unit or units are being unlawfully occupied by illegal immigrants, it must immediately notify the INS and request appropriate action.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prevention of Illegal Residency and Activity in Public Housing Act of 1992".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) section 214 of the Housing and Community Development Act of 1980 prohibits the Secretary of Housing and Urban Development from providing financial assistance to undocumented aliens;

(2) there is substantial evidence that undocumented aliens unlawfully occupy public housing dwelling units in metropolitan areas throughout the United States;

(3) the presence of undocumented aliens in public housing is unlawful and contrary to protection of public health, safety, and welfare, and denies residence in public housing dwelling units to low-income families of citizens and legal aliens in need of such accommodations;

(4) the Department of Housing and Urban Development does not have a policy requiring periodic inspections of public housing to ensure that illegal aliens are not occupying or residing in public housing; and

(5) the illegal occupation of public housing can create overcrowding and unsanitary conditions, which often are accompanied by drug trafficking and other illegal activities that destroy the quality of life for legal tenants of public housing.

SEC. 3. CONDITION OF RECEIPT OF PUBLIC HOUSING ASSISTANCE.

With respect to any fiscal year, the Secretary of Housing and Urban Development may not provide to a public housing agency amounts made available for the fiscal year for grants under section 5(a)(2) of the United States Housing Act of 1937 or annual contributions under section 9 of such Act, unless such public housing agency has submitted to the Secretary, and the Secretary has approved, a certification under section 7 of this Act for the fiscal year.

SEC. 4. ANNUAL INSPECTIONS TO DETERMINE OCCUPANTS AND IDENTIFY ILLEGAL USE OF PUBLIC HOUSING DWELLING UNITS.

(A) REQUIREMENTS.—For each fiscal year, each public housing agency shall conduct an inspection under this section of each public housing dwelling unit administered by the agency to ensure that aliens who are not of satisfactory immigration status are not occupying or residing in any such dwelling unit and that criminal activity is not taking place in any such dwelling unit.

(b) MANNER.—Each inspection under this section shall—

(1) be designed to determine the number of individuals occupying or residing in each unit administered by the agency, and the identity and immigration status of each such individual;

(2) be designed to take notice of evidence or signs of criminal activity;

(3) consist only of an inspection of each room of the dwelling unit and articles in the unit in the plain view of the inspector;

(4) be conducted only after providing written notice of the inspection, which shall be delivered to the dwelling unit not less than 2 days before the inspection;

(5) be conducted by the public housing agency or an agent of the agency; and

(6) be conducted on weekdays during reasonable hours.

(c) LEASE PROVISIONS.—Section 6(1) of the United States Housing Act of 1937 (42 U.S.C. 1437d(1)) is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) by redesignating paragraph (6) as paragraph (8); and

(3) by adding after paragraph (5) the following new paragraphs:

"(6) obligate the public housing agency to terminate the tenancy of any tenant who—

"(A) is an alien not of satisfactory immigration status (as defined in section 8 of the Prevention of Illegal Residency and Activity in Public Housing Act of 1992);

"(B) aids or abets the occupancy or residency in any public housing dwelling unit by any alien not of satisfactory immigration status; or

"(C) is occupying a dwelling unit in which criminal activity is taking place or has taken place during such tenancy;

"(7) contain terms expressly authorizing the public housing agency (or agents of the agency) to enter the dwelling unit of the tenant not less than once each year on weekdays during reasonable hours, upon written notice delivered to the dwelling unit not less than 2 days in advance, for the purpose of conducting an inspection under section 4 of the Prevention of Illegal Residency and Activity in Public Housing Act of 1992; and".

SEC. 5. NOTIFICATION OF LAW ENFORCEMENT AUTHORITIES.

(a) INS.—Any public housing agency that has identified any individual as an alien not of satisfactory immigration status, or has probable cause or reason to believe that such an alien is occupying or residing in a dwelling unit in public housing administered by the agency, shall notify the Immigration and Naturalization Service of the Department of Justice of the individual and the dwelling unit concerned and shall request appropriate action by the Immigration and Naturalization Service.

(b) OTHER LAW ENFORCEMENT AUTHORITIES.—Any public housing agency that has determined, or has probable cause or reason to believe, that criminal activity is taking place in any dwelling unit in public housing administered by the agency shall notify the appropriate law enforcement authority of such activity and the dwelling unit concerned and shall request appropriate action by the law enforcement authority.

SEC. 6. REQUIREMENT TO REMOVE OR EVICT UNDOCUMENTED ALIENS AND TENANTS OF DWELLING UNITS USED FOR CRIMINAL ACTIVITY.

(a) REMOVAL AND EVICTION OF UNDOCUMENTED ALIENS.—

(1) IN GENERAL.—Each public housing agency that determines that an alien not of satisfactory immigration status is occupying or residing in a dwelling unit in public housing administered by the agency shall provide for—

(A) the removal of the individual, if the individual is not a tenant of the dwelling unit;

(B) the termination of the tenancy and eviction of the individual, if the individual is a tenant of the dwelling unit, subject to the provisions of sections 6(k) and (l) of the United States Housing Act of 1937, which, upon a timely request by the individual, shall provide a hearing before an impartial party at which the individual may produce evidence of a satisfactory immigration status; and

(C) the termination of the tenancy and eviction of any tenant of any dwelling unit administered by the public housing agency who the agency determines aided or abetted the occupancy or residency in any public housing dwelling unit by the alien not of satisfactory immigration status, subject to the provisions of sections 6(k) and (l) of the United States Housing Act of 1937, which, upon a timely request by the tenant, shall provide a hearing before an impartial party at which the tenant may produce evidence on the tenant's behalf.

(2) DETERMINATION OF SATISFACTORY IMMIGRATION STATUS.—In determining and verifying the immigration status of individuals for purposes of this subsection, each public housing agency shall utilize the procedures under section 214(d) of the Housing and Community Development Act of 1980.

(b) REMOVAL AND EVICTION OF TENANTS OF DWELLING UNITS USED FOR ILLEGAL ACTIVITY.—Each public housing agency that determines that criminal activity is taking place or has taken place in a dwelling unit in public housing administered by the agency shall provide for the termination of the tenancy and eviction of the tenant of the dwelling unit, subject to the provisions of sections 6(k) and (l) of the United States Housing Act of 1937, which, upon a timely request by the tenant, shall provide a hearing before an impartial party at which the tenant may produce evidence in the tenant's behalf.

SEC. 7. CERTIFICATION.

(a) CONTENTS.—The certification by a public housing agency required under section 3 for each fiscal year shall certify that—

(1) the agency has conducted the inspections required under section 4 for the fiscal year;

(2) the agency has notified the Immigration and Naturalization Service and the appropriate law enforcement authority in each instance in which such notification is required under section 5;

(3) the agency has removed or evicted each individual required to be removed or evicted under section 6, or has initiated and is pursuing appropriate termination and eviction proceedings for such individuals; and

(4) to the best knowledge of the agency, there are no aliens not of satisfactory immigration status occupying or residing in any dwelling unit administered by the agency (other than individuals for whom proceedings referred to in paragraph (3) have been initiated) and there is no criminal activity taking place in any such dwelling unit.

(b) SUBMISSION.—The Secretary shall provide for each public housing agency to submit the certifications required under ths Act in a manner and at a time determined by the Secretary that is sufficient for the Secretary to complete review and provide notice to public housing agencies in accordance with subsection (c) before amounts referred to in section 3 are to be made available to the agencies for the fiscal year.

(c) APPROVAL AND DISAPPROVAL.—The Secretary shall review each certification promptly upon submission and notify each public housing agency in writing of the approval or disapproval of the certification of the agency. If the Secretary disapproves any certification, the Secretary shall provide to the public housing agency, together with the notice of disapproval, notice that the public housing assistance referred to in section 3 will be unavailable to the agency for the fiscal year unless appropriate actions are taken and the certification is resubmitted and approved. The Secretary shall provide for resubmission of certifications disapproved under this subsection.

SEC. 8. DEFINITIONS.

For purposes of this Act:

(1) The terms "agency" and "public housing agency" have the meaning given the term "public housing agency" in section 3(b) of the United States Housing Act of 1937.

(2) The term "alien" means any person not a citizen or national of the United States.

(3) The terms "occupying" and "residing in", with respect to a dwelling unit in public housing, do not include visitation as a guest of a tenant of the dwelling unit.

(4) The term "satisfactory immigration status" means an immigration status that does not make the individual ineligible under section 214 of the Housing and Community Development Act of 1980 for financial assistance.

(5) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 9. REGULATIONS.

The Secretary shall issue any regulations necessary to carry out this Act.

□ 1340

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore (Mr. BENNETT). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, certainly I do not intend to utilize anywhere near 1 hour. I rise, first, as a prefatory expression, I want to express my profound thanks to the Democratic leadership and my colleagues on the majority for their support and their expression of faith and confidence in my integrity.

Now, it is surprising that a frightened and a cowering administration and a corrupt Justice Department, particularly, would put such great pressures on the Members of the minority side that they would try to raise the bogus issue of national security and my breach thereof. So I want to thank my colleagues on the majority side for knowing full well that one thing I have prided myself all along is in full knowledge and respect for and cognizance of the rules and the precedents and the traditions of the House, which I honor highly and without any deviation.

The purpose for my addressing my colleagues this afternoon is the same as it has been innumerable times since I was sworn in as a Member almost 31 years ago. For those who say that my use of this great privilege, known as special orders, is something of late, they just simply do not know the history. I had not been sworn in 10 days before I made use of special orders in January 1962. And it just seems to me that this is the reason for and the history and the origin of what we call special orders, but actually, technically are requests based on a unanimous-consent request to have leave to address the House after all legislative business has been terminated or completed.

And the reason for that, because I have studied the history of special orders, is that Members of a numerous body such as the U.S. House of Representatives, by the very nature of its size, must limit debate in the usual legislative transactions of the day. So that this proviso, which we now call special orders but actually are consent and leave to address the House, gives a Member an opportunity to enlarge on an issue, a legislative issue.

Let me say, by way of parenthesis and explanation, that at no time since I have exercised this privilege have I ever done anything but address legislative issues or matters having to do with the congressional and the House's responsibility and its privileges and immunities under the Constitution. Never, and I hope and pray I never would be guilty of trying to convert this great, solemn and hallowed forum into a political stump.

Now, my colleagues can judge when that happens and has happened. I think it is an abuse of the privilege, so I have stuck to the matter of enlarging on issues that agitate and compel expressing, over and above the limited debate time available, concern about some pending or possible legislative action or proposal.

Soon after I was sworn in, and I was one of only three of us that were sworn in that day into the second half of the 87th Congress that was assigned to a major committee. And that was the Committee on Banking, Finance and Urban Affairs. I have opted to stay on it since then, though I have had opportunities to belong to every other committee of substance such as the Committee on Ways and Means, the Committee on Appropriations, the Committee on Rules. I have not.

But ever since then, I have been so challenged and so engrossed in financial matters, a I have since I started my legislative career on the local legislative body, the city council of the city of San Antonio, and then for 5 years in that great, great, great body known as the Texas State Senate. So that I took the business seriously, and it was not long before I realized that there were very serious problems that were not perceived as such, but which, to any knowledgeable and sensitive member of the Committee on Banking, Finance and Urban Affairs, would be and should have been addressed or at least discussed.

One, the statistics that showed that by the time I came aboard the United States had decreased as far as its production into the world's needs from a high of almost unbelievable, almost 80 percent after the war in the 1940's and up to about the early 1950's, but by the 1960's had gone down considerably in point of volume percentage. And today it is not even 18 percent.

It was obvious that the United States would have to then somehow acquire the capability for long-range planning in this production and financing, because it was then that we began to have the foundation and the beginning glimmers of what turned out to be these tremendous transnational, multinational American-based corporations, including banks, into this external market.

By the time we had reached 1965, and faithfully reading the Federal Reserve annual reports, which I have done from the beginning, and that kind of made people think maybe something was wrong with me, I noticed in 1965, that for the first time, almost every section of that Federal Reserve report referred to the ongoing happenings in Vietnam or Southeast Asia.

Most disturbingly, back home, a school board had issued a bond issue for the construction of schools, and by the time they got, in 1965, the building, they found that constructions costs of such things as copper, steel, lumber, and labor had increased to a point where they would have to have another bond issue. And the reason for that was our buildup and investment in Vietnam.

When I looked over to the other section and saw that the Federal procurement level, budgetary, financial, had gone to a point of 35 percent, it was obvious that we were going to have to do something to avoid one and above all a destructive inflationary thrust that was already being felt in what I called the soft underbelly of our economy.

□ 1350

Labor, we could pick up a paper and read where they had ads for carpenters and construction people, the so-called CB's, in the California west coast papers. There was advertising at extremely high salaries. That was because we were beginning to build the Cam Ranh base incidentally, and other things.

Then I wrote a letter to the President, and the President was not a Republican. I might say that those who keep saying that the reason I am speaking out now is because we have a Republican administration President, it was a great friend and a neighbor from Texas. I said:

> Mr. President, the signs indicate that now all the forces are present that are going to lead to an undesirable inflationary pressure, plus the need to find resources to defray the cost of the war going on in Vietnam.

I was not one of those shouting and doubling my fist and saying, "Hey, hey, LBJ, how many babies have you killed today," but I was making speeches, challenging the President's authority to conscript an unwilling American and send him outside of the continental United States in an undeclared war. I still say that, and I said it before I came to the Congress.

Of course, that did not please. If the President felt it, he never told me, but some of his special assistants did let me know that they thought that maybe I was being somewhat disloyal, but that was my position.

I said:

> Mr. President, I would suggest that you get your Chairman of Economic Advisors and your Secretary of the Treasury and whoever is in charge of your domestic monetary policy and see to it that you have some kind of restoration of the Harry Truman credit controls and other economic handles on the economy to prevent the destructive budgetary impact, as well as inflationary.

I was referring to what was, I thought then, the extremely high cost of money to the Government in managing its borrowings and interest rate. I even pointed out that all during World War II, when over 60 percent or almost 60 percent of our gross national product was being employed on the Federal level for the prosecution and eventual winning of the war, that Franklin Roosevelt and his administration never had to pay over 2 percent for Treasury borrowings and bonds and what not. Can you imagine that?

Of course, Harry Truman, and extending beyond Harry Truman, managed to keep the lid on. But in the middle 1960's those old bankers were beginning to utilize a sleeper clause that had been slipped in after President Eisenhower became President which changed the manner of debt management between Treasury and Fed. As a matter of fact, any of my colleagues who has a $1 bill or a $5 note or a $10 note or a $20 note will notice that it says, "a Federal Reserve note." It used to say, "U.S. Treasury note." Therein is a very, very profound matter, but for the purpose of today's briefer discussion, I will just make allusion to it.

These were the things that were agitating me. In good faith, I wrote a letter to the President. I did not get an answer, but the next thing I knew I had a call from a minor official in the Treasury who said, "The President sent this letter over, and I just wanted to tell you that there is no reason why you should be concerned. Everything is all right, hunky-dory." That is all I could get.

I came on the floor, took a special order. There was no TV, no nothing. I made the speech, even though I did not have to in that day and time.

It used to be we could just write out our special order, hand it to the Journal Clerk or Record Clerk, and it would be printed as if we had said it on the House floor. Since then, I am glad there have been some changes that indicate that if you did not make it verbally and during the course of meeting, it will be in a different print. That is the way it ought to be.

I always felt that that privilege was meant to be utilized by the person, because he was entitled to have somebody who might not agree with him come to the floor and debate with him. That is the way I feel today.

Nonetheless, by 1968 it was obvious that not only the United States but the other industrial nations were in trouble. All of a sudden we began to read in the newspapers, mostly the financial pages, about the Roosa dollar. Roosa was named from Robert Roosa, who was a Treasury official who concocted this two-tier gold IMF, International Monetary Fund, currency gimmick. It was a gimmick, and it lasted until 1971, August 15, when President Richard Nixon, the Congress being out of session, took the United States off the gold exchange standard and devalued the dollar by 10 percent.

Then, like today, there was not any newspaper in America saying, "That was a devaluation," and what the implications of getting off the gold exchange standard were. I could not believe it.

I was down on the totem pole in the committee, so again, as even now when I am chairman of the committee, some looked at me as if I had lost my mind. I came to the House floor, I put it all in the RECORD, so it is all in the RECORD. It is not what I am saying now in hindsight. I got extremely concerned.

Right on the heels of the Congress coming back after Labor Day, the Nixon administration having appointed my fellow Texan and former Governor of Texas, John Connolly, Secretary of the Treasury, came forth with an economic stabilization act; in other words, in common parlance, wage and price controls.

Now, wait a while. That was supposed to be the liberals doing that, but this is a conservative Nixon administration. We have a hearing in the Committee on Banking, Finance and Urban Affairs, because that is where we have jurisdiction on economic stabilization. Here is this awesome array, the Secretary of the Treasury, John Connolly; the head of the AFL–CIO, George Meany; the head of the Automobile Workers Union, later Ambassador to China or someplace there; the head of the board of GM and General Foods.

They all said the same thing, "You have to pass this without changing a comma." I looked at the bill. I analyzed it. I could not believe it. It was Congress delegating to the President such constitutional grants of power that for the first time gave a President total, complete control of our economy. Even Franklin Roosevelt at the height of World War II was never given that total power. Here we were, ostensibly in peacetime.

What do the Members imagine the reason was they gave? They said, "We are at about 5 percent inflation rate. It is intolerable. We have to pass this." I had 5 minutes to ask questions, and all I said was, "Gentlemen, there is no use in my asking a question. I am absolutely horrified."

□ 1400

Nothing like this has ever happened in America to resemble the Weimar Republic of Germany and the beginning of what turned out to be the Hitlerian regime. Even then, that total, complete power was not given to Hitler.

I said you mean you want us to pass this without having testimony as to how you are going to bring the wage and price controls in so-called peacetime? It was difficult enough during wartime. I remember, you had black marketing, you had circumvention even then when you had the unity. But now here you are, 1971, and I want to know how you intend to implant this mechanism. And above all, I want to know what plans you have to remove them, because it is just as important, and all attempts of this kind throughout known history say that it is just as important to know how you are going to remove them as it is how you are going to place them.

To make a long story short, the best we could do was I joined with a couple of my conservative friends on the minority side and we filibustered—delayed the matter in October, to where it angered my chairman, a great, good Chairman Patman. He called me and said, "Well, Henry, I'm not going to recognize you anymore because you're just using dilatory tactics."

So they got it out. I wrote a dissenting view. I predicted in that dissenting view, and I wish I had been wrong, and it is there, it is in print, it was an integral part of the report accompanying the Economic and Stabilization Act of 1971. What happened? It was a total disaster.

Why? Because they had exemptions. Only part would be under controls. Other parts would not.

So then, in less than 2 years they said oh, we have to phase it out. So they had phase 1, and that broke down. So they had phase 2. Then they had phase 2½. And for the first time they coined that word "stagflation." And if any of my colleagues care to read that dissenting view, I will be glad to provide it for them, because that is exactly what I had predicted.

Then the question was now that you have done away with the gold exchange system, what are you going to do to stabilize the international currency? "Oh, why, you don't have to do anything. As a matter of fact, this fetish of gold is absolutely outdated. It's not what gold holdings or reserves a country has, it is what its productive capacity is and how its currency is viewed."

Well, of course, the dollar has been until 1985, 1986, Mr. Reagan, sure, you could say it is as good as gold. Right now it has lost, still going, over 70 percent of its value since 1985.

Now, going back to the other, they brought in the economists, and the experts. And they said oh, no problem. We will go into a floating rate. I said but gentlemen, we know all through history that money, wealth, finance, the big enemy of it is instability. What do you mean you are not going to know what is going to be the basis in the end?

So then, to my horror, right after that comes the Secretary of the Treasury, Bill Simon, and he requests that we repeal the 1932 Gold Act, or Gold Prohibition Act of Franklin Roosevelt.

In the meanwhile I had been made chairman of the Subcommittee on International Finance, of which I was chair for 10 years. So I spoke out and said I do not think you ought to have an out-and-out repeal. I think you ought to provide for protection here against speculative ventures in the most controlled market of the world, which is silver and gold. And, you know, how in the world is an American like Nelson Bunker Hunt from Texas going to compete in trying to corner the silver market? For instance, how is he going to compete with these old gold and silversmiths of London, been in it for 500 years, those in Zurich and Switzerland and even in France? No way. That is why they lost their pants. But they also took almost $30 billion worth of bank credit allocation down the drain.

So anyway, what has happened? We have learned nothing. In fact, the United States had never been in greater peril.

My colleagues will say well, what has that got to do with us here domestically. Let me tell you what it has to do. It has everything to do with your constituents' jobs, with your standard of living, and above all, the freedom and liberty of financial and economic freedom, because never have we been as perilously close to having that irreparably damaged as we are now, where it is clear, and abundantly so, that the dollar is in peril, and imminently so of being replaced as the international reserve unit. That sounds like a lot of words, but what does it mean? It means exactly what I said: Jobs, standard of living, economic and financial freedom.

Why? Because we have allowed ourselves since 1985, which was the first time our country became a debtor Nation since 1914, two world wars were won, more so by American credit than actually armaments and the like. But we are no longer creditors. We are now the biggest debtors in the world. We are the only country, to the chagrin of such men as de Gaulle who referred to this as the great American arrogant privilege, meaning that we have been the only country that has paid our debts in our currency.

I say, my colleagues, we are in imminent, if not already beyond any going back, danger of the dollar being replaced as the international reserve unit of currency.

What does that mean? It means that all of this huge debt that has been built in the private sector, in the corporate sector, in the governmental sector, would have to be paid in somebody else's currency for the first time in our history.

Now we go back to Bill Simon. And he said, "Just to prove to you," because he called me in, "that gold is passe, we are going to have gold auctions of our reserves." Then I said, "But Mr. Secretary, how are we going to do that? Under what conditions?"

"We will have bidding." I said, "Well, what if the central bank——"

"No, no, we are going to prohibit central banks from bidding."

I said, "But Mr. Secretary, what is to prevent an agent from bidding, who then will act in behalf of say the central bank of France?" France never did demonetize. de Gaulle and his financial adviser of that day were not following that example.

Well, they had one auction in January of 1976, that was 1975–76. They had another auction, and then they had to stop because they found out that they had done nothing but just deplete the gold reserves.

So then the Europeans in the meanwhile were having vision and planning ahead, since 1948 at their own treaty meeting at which they had looked forward to not only Common Market, as it was known then, but the European Community, and eventually unification, removal of trade and tariff barriers, and in effect fulfilling the dream of a great French leader of a united states of Europe, and with a common monetary market.

□ 1410

And they planned that step by step. In 1948, to start, then have some implementation within the space of time in the 1950's, then in the 1960's and then finally in 1980, on May 1, at the summit economic meeting and again—the President was Jimmy Carter; it was not a Republican—then they had a brief communique at that meeting, and the last sentence said, "We accept in principle the European monetary system and the European currency unit." But 1 month before that, the European finance ministers had met in Palermo, Sicily, and had fleshed out the whole thing. So what they had in this communique in this economic summit meeting was just that, the announcement that it would be formally recognized in principle.

Today the European currency unit [ECU] is worth about $1, $1.31. But if you look at the gold reserves of either the smaller number—not the bigger European Community—you will see that their reserves are vastly more and they are there as reserves, and they have some sense of stability. So then in the late 1970's, early 1980's, they developed what they called a snake; that is, they would have a system of currency valuations with each one of the respective national currency units. They would have what they call a snake; that is, they would have an upper limit, they would have a floor beyond which they would not fluctuate. They had stability.

I became exceedingly concerned. I said it was 1980; actually it was May 1, 1979.

I became so concerned that in the first week in August, we were in session here, I came to the floor and I reported my concern, and together with that I also announced in that special order that our main banks in the United States, the leading eight at that time, had gone in less than 1½ years from $3 billion to over $47 billion in their exposure to the lesser developed nations, mostly Latin America, in their loan overhang.

It was agreed they were going to get 30 percent from those countries. Now, I was chairman of the Subcommittee on International Finance, and I knew they did not have the capacity to pay even the interest rate, which is what has happened all these years. They have not even paid a penny on the principal.

That is Mexico, Brazil, Venezuela, Argentina. They rolled over interest payments. But in the meanwhile I brought out in that same special order that that overhang in total exceeded the capitalization structure of these banks. Now, who would think that the biggest bankers of the world then in our country would be so casually entering into that kind of deal?

So the chairman of the Citibank at that time, Fred Wriston, comes out and says, "Oh, well, these are sovereign debts. That is, they are loans to sovereign nations, and everybody knows that a nation doesn't go broke."

So I came back and said, "No, maybe not, but banks do go broke." And if you want to know about sovereign debt, go back to the 17th and 18th centuries, with the old Spanish kings and French kings who wanted to fight wars, like we do today in democracies, and have to borrow. The money has to come from somewhere to fight a war. You always have to borrow. That is where we are now. Even Desert Shield, as my colleague from Ohio brought out earlier this afternoon, has a price tag to the American taxpayer of over $60 billion. That is just the American taxpayer, and it is still going.

In this dire emergency supplemental, they have over $4 billion which they say is the last on Desert Shield, or whatever you want to call it. Well, the same thing with those old French and Spanish kings. They wanted to conduct war, they had to borrow. At that time it was the Pfuger family in Holland. They were the big banking family.

So they said, "Sure, we are going to loan to the King of Spain." So the King went out and he won a few battles, lost the war; he could not pay. So the banking family, the great Dutch family, the Pfuger household—like the Rothschilds—say, "Hey, Mr. King, you have to pay." He says, "I will give you a note, and maybe in 50 years I will give you something." Well, that broke the Pfuger family. That was it.

So, you know, the history is there. It is just us who think we can ignore it.

Today I rise because the headlines finally are on this great currency agitation. Where? In the European market: "Oh, it is the Europeans."

All our experts, writing in the papers, say, "Great crisis, European." Well, let me say, don't ask for whom the bell tolls in Europe, it tolls for thee, for us. It is our dollar that is being debauched.

What does that mean? It means, my colleagues, we are through as a leading nation. What is more, we will have the bankers and the userers in our country as much as if we had a standing invading army occupying our country.

I wrote a letter to the President when the dollar was taking a free fall just about 3 weeks ago or better. We were on a break. The Republican Convention was in its glory.

I knew that that was bad business. In good faith, I sat down and I wrote a letter to President Bush, and I said, "Mr. President, please do not give this heedless disregard. This transcends whether we are in public office, whether we lose our seat, whether we lost it, please exert this leadership." And I suggested, on the basis of that, I prepared a release and I issued it on a Friday.

□ 1420

Nobody picked it up, except one of the services that goes international. By Monday I had a request from a Japanese banker who wanted to know if he could get a copy of the speech I had made Friday. I said, "It was not a speech, it was a release."

I said, "But how did you know about it? Nobody printed it."

He said, "Oh, yes. It was in one of our dispatches that came from the United States. We need that. We want to evaluate it."

So then we reissued a release on Monday again. Nobody would pick up on it. That is where it is.

So today, in pursuance of my request earlier, I ask to place in the RECORD at this point my letter to the President and the release accompanying that letter.

STATEMENT OF THE HONORABLE HENRY B. GONZALEZ, CHAIRMAN, COMMITTEE ON BANKING, TUESDAY, AUGUST 25, 1992

Re the value of the U.S. dollar falling to historically low levels.

Yesterday's decline in the dollar underscores the need for a long term U.S. policy to defend the value of our currency and to maintain it as the pre-eminent currency in the world.

Fundamentally the problem is that our economy has grown slowly relative to Japan and Germany; our economic house is in disarray; and, as a predictable consequence, the international value of the dollar is falling. The markets are telling us that unless we clean up our act, the dollar will continue to fall in value. And that in turn means a higher cost of living here at home, and less ability to control our own destiny.

We can't wish the dollar into a stronger value. We have to have a real economic program and make the world see that we mean to maintain our country's economic position. The markets are saying that the President doesn't have a credible economic plan. I've asked that he consider this problem and develop a realistic program. Unless that happens, the dollar, and our standard of living—will only continue to slide. Last week, I warned about the free fall that we saw yesterday. Nothing has changed since then. I will gladly work with the President to resolve our fundamental problems. All of us would.

HOUSE OF REPRESENTATIVES, COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC, August 14, 1992.

Hon. GEORGE BUSH,
President of the United States, Washington, DC.

DEAR MR. PRESIDENT: Since World War II, the U.S. dollar has reigned as the preeminent currency in the world. In fact, for decades the dollar has been the currency of choice in the vast majority of the world's trade and investment transactions. While the dollar is still the currency of choice in the majority of trade and investment transactions, its share has significantly declined. I am concerned that if the dollar were to lose its luster, a trend that began to accelerate in 1985 when the U.S. earned the dubious distinction of being the world's largest debtor nation, the U.S. could be facing a crisis for which there may be no return.

Recent events in the financial markets have heightened my concern over the long-term prospects for the dollar. Over the past month, the Treasury Department and the Federal Reserve, along with European central banks, have actively intervened to prop up the value of the dollar. Financial market participants are now predicting that the dollar will fall to an all-time low against the deutsche mark without continued intervention on behalf of the Federal Reserve and other central banks. The short-term tendency for the dollar to decline in value must be seen in the context of an already apparent long-term trend whereby the deutsche mark and the Japanese yen have replaced the dollar in a significant portion of the world's trade and financial transactions.

The dollar's decline, accelerated by recent events, increases the risk that it will be replaced as the world's preeminent currency. Recent attempts by the Treasury Department and the Federal Reserve to prop up the dollar are tantamount to "pressing the panic button" regarding the long-term prospects for the dollar.

For decades the U.S. has been in the enviable position of paying off its international debts with its own currency. I think you will agree that the U.S. can ill afford to be put in the position of having to pay off its debts in deutsche marks, European Currency Units (ECU's) or even the Japanese yen. I respectfully request that you work with the Federal Reserve to begin development of a long-term plan to ensure the dollar retains its place as the world's preeminent currency. The public interest would be best served by a comprehensive plan to protect the dollar.

Mr. President, it is my sincere belief that ignoring the importance of this issue will undermine our future economic vitality. Given the importance of this issue, I respectfully request that you personally answer this letter.

Thank you for your time and consideration.

Sincerely,

HENRY B. GONZALEZ,
Chairman.

PRESS RELEASE BY THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

WASHINGTON, DC, August 14, 1992.—House Banking Committee Chairman Henry B. Gonzalez today warned President Bush and Treasury Secretary Nicholas Brady that recent attempts by the Federal Reserve and central banks in Europe and Canada to prop up the dollar were tantamount to "pressing the panic button" regarding the long-term prospects for the value of the dollar.

The Chairman noted that within the last 24 hours financial market participants have stated that the value of the dollar against the mark will fall to an all-time low without active intervention on behalf of the Federal Reserve and other central banks.

"The dollar's continued decline increases the risk that it will be replaced as the world's preeminent currency. That would be disastrous for our economy," Gonzalez stated.

Since the U.S. became the world's largest debtor nation in 1985, Chairman Gonzalez has urged the Administration and the Federal Reserve to take steps to preserve the dollar's standing as the world's favorite currency. Chairman Gonzalez stated:

"The U.S. is now in the enviable position of paying off its international debts with its own currency. If the dollar were to lose its luster, a trend that has accelerated over the past decade, the U.S. is facing a crisis for which there may be no return."

He went on to say:

"The U.S. can ill-afford to be put in a position where it has to pay off its debts in deutsche marks, European Currency Units (ECU's) or even the Japanese yen."

Mr. Gonzalez urged President Bush, and particularly Treausry Secretary Brady, to stop politicking and immediately begin development of a long-term plan to ensure the dollar retains its place as the world's preeminent currency. "The public interest would be best served by a comprehensive plan to protect the dollar," Mr. Gonzalez stated.

On a related topic, Chairman Gonzalez stated:

"The crash of the Japanese stock market has been totally underestimated. The world's financial markets will continue to remain highly speculative until the true scope and depth of the stock market crash is understood and winds its way through the world's financial markets."

Chairman Gonzalez continued:

"The crash in the Japanese stock market has had a profound negative effect on the world's financial markets. I fully expect that trend to continue as Japanese institutional investors continue to repatriate overseas holdings to compensate for massive losses in the Tokyo stock market."

COMMON SENSE IN STOPPING LEAKS

The SPEAKER pro tempore (Mr. HUBBARD). Under a previous order of the House, the gentleman from Florida [Mr. GOSS] is recognized for 5 minutes.

Mr. GOSS. Mr. Speaker, I did have a chance to hear some of the remarks of the previous speaker, our colleague, the gentleman from Texas [Mr. GONZALEZ]. I wanted to comment directly on two points that were made in his remarks. One is the question about the use of special orders. I think special orders are a great extravagance. They are a privilege, to be sure.

Unfortunately, when special orders occur, the Chambers are usually deserted. There are very few people here. In fact, there are seldom people in the Galleries, because special orders are usually in the evening, so there is not what I would call a lot of opportunity for colleague enhancement or exchange of views, as there is in a debate where we are in full session on the floor.

The reason I bring this up is because it appears to me that our colleagues could have all profited from the remarks of the gentleman from Texas and heard his views on some of the things he said. I think it is a great shame that the Democratic leadership forestalled that opportunity for the Members of this body to hear those words in person on the floor earlier today when the gentleman from Texas could explain a little bit about what he was about.

I feel that the decision was the wrong decision to forestall that debate, of course, and we are all the poorer for it.

The second point I would like to bring out, which I think is extremely important, is that the gentleman from Texas made an allegation that some type of pressure has been brought on Members of the Republican Party—presumably by other Republicans, or people in the executive branch, or somewhere—to make some kind of a political statement about the fact that unauthorized information is being released by the gentleman from Texas, or so it is alleged.

I will assure the gentleman from Texas and my colleagues and the Speaker that I am under no pressure whatsoever. The comments I have made are entirely my own. Nobody has encouraged me to come forward and make my statements in any way in opposition to the gentleman from Texas, what he is trying to accomplish or anything else.

The reason that I am so concerned is a question of common sense, because we cannot have Members releasing classified information on an unauthorized basis on their own whim. That simply is not the way to go about our business, and also it is against our rules and I believe it is against the law.

My second point is a genuine concern about bonafide issues of national security. This is not political. This is not partisan. This is my concern about the United States of America.

There is certainly a proper way to conduct an investigation if something is amiss. If there is something wrong in some branch of the executive activities, by all means let us have an investigation. It is nothing new. It is done all the time. If there is something wrong, let us go ahead and use the proper channels.

But nowhere, never will it be, never has it been, and never will it be a proper channel to come to this floor and release classified information just because you are trying to make a political point.

I would have been much more pleased and somewhat relieved in my concerns if the gentleman from Texas had made some statement about how he will not any more leak classified information. Clearly, when that happens, it reflects negatively upon this House. We do not need any more of that. The disapproval rating of the House of Representatives of the U.S. Congress is under 20 percent in this country right now, and perhaps today's vote on the Combest resolution is partially the reason.

I can remember very well when it was a matter of embarrassment to Members, indeed we all ran to jump on the question of leaks. We cannot have Members embarrassed. People will recall the bank scandal. They will recall indeed that was unfairly and unwisely leaked. The abusers were put out on the front pages of the press before those people were notified what was going to happen. That was unfair to them. But how quickly we responded to those leaks. Those leaks were not about national security. Those leaks were about embarrassment to Members of this institution, and boy, we responded well there.

I am not talking about those types of leaks or embarrassment. I am talking about damage to our national security. I am talking specifically about intelligence-gathering capability and damage to that.

I speak for most patriotic Americans when I say Congress must not permit unauthorized disclosure of sensitive matters. It is our rule and it is the law of the land.

Why then when we have a properly reported serious infraction, it may or may not be true, but it is properly reported, why is the majority leadership saying that we will not debate this? We will not investigate it. We will not enforce our rules. How does that help our credibility?

In a democracy, I think most people would agree loyal opposition means just that. But I would ask, can legitimate opposition to the Nation's Commander in Chief and of course we have controversy about issues, but can legitimate opposition be considered truly loyal if that opposition is in violation of the House rules and the law of the land? Loyal means playing by the rules. That is what separates us as a democracy.

I believe we in the House have a very, very clear responsibility to investigate all properly reported leaks, and I certainly believe the American people expect us to do that and to play by the rules and obey the laws of our country. It is not too early to start.

COMMUNICATION FROM HON. DAN ROSTENKOWSKI, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from the Honorable DAN ROSTENKOWSKI, Member of Congress.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, September 18, 1992.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have previously informed you that certain employees in my office received subpoenas issued by the United States District Court for the District of Columbia, and that compliance would be consistent with the precedents of the House. This is to further notify you that one of these subpoenas has been reissued to reflect a change of dates.

Sincerely,
DAN ROSTENKOWSKI.

DESIGNATION OF HON. STENY HOYER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH SEPTEMBER 21, 1992

The SPEAKER pro tempore laid before the House the following communication from the Speaker.

HOUSE OF REPRESENTATIVES,
THE SPEAKER'S ROOMS,
Washington, DC, September 18, 1992.

I hereby designate the Honorable STENY HOYER to sign enrolled bills and joint resolutions through September 21, 1992.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GORDON (at the request of Mr. GEPHARDT), for today, on account of death in family.

Mr. PICKLE (at the request of Mr. GEPHARDT), for today, on account of death of a friend.

Mr. COX of Illinois (at the request of Mr. GEPHARDT), for today after 2:30 p.m., on account of necessity.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. DREIER of California) to revise and extend his remarks and include extraneous material:)

Mr. GALLEGLY, for 5 minutes, today.

(The following Members (at the request of Mr. NAGLE) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GEJDENSON, for 5 minutes each day, on September 23, 24, and 25.

(The following Member (at his own request) to revise and extend his remarks and to include extraneous material:)

Mr. GOSS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DREIER of California) and to include extraneous matter:)

Mr. DELAY.

Mr. ROTH in two instances.

Mrs. MORELLA.

Mr. GREEN of New York.

(The following Members (at the request of Mr. NAGLE) and to include extraneous matter:)

Mr. ANDREWS of New Jersey.

Mr. SWIFT.

Mr. EDWARDS of California.

SENATE BILLS REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1181. An act for the relief of Christy Carl Hallien of Arlington, TX; to the Committee on the Judiciary.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 4551. An act to amend the Civil Liberties Act of 1988 to increase the authorization for the trust fund under that act, and for other purposes.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and joint resolution of the Senate of the following titles:

S. 680. An act to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism in the United States, and for other purposes.

S.J. Res. 337. Joint resolution designating September 18, 1992, as "National POW/MIA Recognition Day," and authorizing display of the National League of Families POW/MIA flag.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 31 minutes p.m.), under its previous order the House adjourned until Monday, September 21, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4281. A letter from the Secretary of Housing and Urban Development, transmitting the status of multifamily housing subject to subsection (a) of section 203(k) of the Housing and Community Development Amendments of 1978, as amended; to the Committee on Banking, Finance and Urban Affairs.

4282. A letter from the Advisory Committee for Trade Policy and Negotiations, transmitting the committee's report of the North American Free Trade Agreement, pursuant to 19 U.S.C. 2155; to the Committee on Ways and Means.

4283. A letter from the Secretary-Treasurer, AFL-CIO; Chairman, LAC, American Federation of Labor and Congress of Industrial Organizations, transmitting the preliminary report of the Labor Advisory Committee for Trade Negotiations and Trade Policy on the proposed North American Free Trade Agreement; to the Committee on Ways and Means.

4284. A communication from the President of the United States, transmitting notification of his intent to enter into a North American Free Trade Agreement [NAFTA] with the Governments of Mexico and Canada, pursuant to section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988 (H. Doc. No. 102–392); to the Committee on Ways and Means and ordered to be printed.

4285. A letter from the Director, Office of Management and Budget, transmitting 19th report on U.S. costs in the Persian Gulf conflict and foreign contributions to offset such costs, pursuant to Public Law 102-25, section 401 (105 Stat. 99); jointly, to the Committees on Armed Services and Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 5001. A bill to amend the Outdoor Recreation Act of 1963 to authorize the National Park Service and the U.S. Geological Survey to conduct a national river systems recreation assessment; with an amendment (Rept. 102-879). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 5258. A bill to provide for the withdrawal of most-favored-nation status from the Federal Republic of Yugoslavia and to provide for the restoration of such status if certain conditions are fulfilled. (Rept. 102-880). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

H.R. 3927. Referral to the Committee on Ways and Means extended for a period ending not later than October 2, 1992.

H.R. 4542. Referral to the Committee on Energy and Commerce extended for a period ending not later than September 22, 1992.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CLEMENT (for himself and Mr. SUNDQUIST):

H.R. 5974. A bill to amend the Agricultural Adjustment Act of 1938 to permit the acre-for-acre transfer of an acreage allotment or quota for certain commodities; to the Committee on Agriculture.

By Mr. CUNNINGHAM:

H.R. 5975. A bill to provide that certain new programs shall terminate no later than 5 years after the date of enactment of the law that establishes the programs; to the Committee on Government Operations.

By Mr. DARDEN:

H.R. 5976. A bill to prohibit the expenditure of Federal funds on metric system highway signing; to the Committee on Public Works and Transportation.

By Mr. EWING (for himself, Mr. IRELAND, Mr. LAFALCE, Mr. SKELTON, Mr. RAMSTAD, Mr. SKEEN, Mr. HASTERT, Mr. WEBER, Mr. ZELIFF, Mr. STEARNS, Mr. PORTER, Mr. DELAY, Mr. HOLLOWAY, Mr. HANCOCK, Mr. BEREUTER, Mr. STUMP, Mr. HUNTER, Mr. HEFLEY, Mr. FAWELL, Mr. SPENCE, Mr. RITTER, and Mr. DOOLITTLE):

H.R. 5977. A bill to amend title 5, United States Code, to clarify procedures for judicial review of Federal agency compliance with regulatory flexibility analysis requirements, and for other purposes; to the Committee on the Judiciary.

By Mr. GALLEGLY:

H.R. 5978. A bill to require each public housing agency, as a condition of receiving Federal assistance for the development and operation of public housing, to ensure that dwelling units in projects administered by the agency are not occupied by illegal aliens and are not being used for illegal activity, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. JEFFERSON:

H.R. 5979. A bill to amend the Harmonized Tariff Schedule of the United States to clarify the rate of duty for certain jewelry boxes, and for other purposes; to the Committee on Ways and Means.

By Mr. PERKINS (by request):

H.R. 5980. A bill to amend the Job Training Partnership Act to establish a veterans' job training program to assist veterans in obtaining employment through an employer job training program; to the Committee on Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 481: Mr. JAMES.

H.R. 608: Mr. SIKORSKI.

H.R. 609: Mr. NAGLE.

H.R. 1637: Mr. DURBIN.

H.R. 1987: Mr. BUSTAMANTE.

H.R. 2164: Mr. GIBBONS, Mr. MARTINEZ, Mr. TORRICELLI, Mr. LEHMAN of California, Mr. RHODES, Mr. HERGER, Mr. ANTHONY, Mr. ECKART, Mr. BROWN, Mr. GORDON, Mr. HYDE, Mr. LIVINGSTON, Mr. BALLENGER, Mr. THOMAS of Wyoming, Mr. BILIRAKIS, Mr. DELAY, Mr. GEKAS, Mr. DUNCAN, Mr. SOLOMON, Mr. JAMES, Mr. GILCHREST, Mr. PORTER, Mr. SMITH of New Jersey, Mr. VANDER JAGT, Mrs. VUCANOVICH, Mr. VOLKMER, Mr. COBLE, Mr. LAUGHLIN, Mr. MILLER of Ohio, Mr. RAVENEL, Mr. PACKARD, Mr. KOLBE, Mr. EWING, Mr. BACCHUS, Mr. POSHARD, Mr. THOMAS of Georgia, Mr. WYDEN, Mr. FEIGHAN, Mr. FIELDS, Mr. SAXTON, Mr. HUNTER, Mr. MCCOLLUM, Mr. WYLIE, Mr. PAXON, Mr. LIGHTFOOT, Mr. COX of California, Mr. LAGOMARSINO, Mr. MCGRATH, Mr. GRANDY, Mr. JOHNSON of Texas, Mr. WALKER, Mr. BARTON of Texas, Mr. HENRY, Mr. NUSSLE, Mr. BAKER, Mr. INHOFE, Mr. MARLENEE, Mr. BEREUTER, Mr. MORRISON, Mr. BUNNING, Mr. MURPHY, Mr. KOLTER, Mr. BLILEY, Mr. CUNNINGHAM, Mr. ALLARD, Mr. QUILLEN, Mr. HOUGHTON, and Mr. HEFLEY.

H.R. 2806: Mr. DURBIN.

H.R. 3164: Mr. TORRICELLI and Mr. LAFALCE.

H.R. 3454: Mr. KILDEE.

H.R. 3475: Mr. KOPETSKI, Mr. KENNEDY, Mr. BOUCHER, and Mrs. COLLINS of Illinois.

H.R. 3476: Mr. KOPETSKI, Mr. KENNEDY, Mr. BOUCHER, Mrs. COLLINS of Illinois, and Mr. PRICE.

H.R. 4207: Mr. MARLENEE.

H.R. 4407: Mr. MFUME, Mr. HAYES of Illinois, Mr. TOWNS, Mr. BLACKWELL, and Mr. BUSTAMANTE.

H.R. 4528: Mr. FISH.

H.R. 4725: Mr. TORRICELLI and Mr. MOORHEAD.

H.R. 4754: Mr. SOLOMON.

H.R. 5112: Mr. ROBERTS.

H.R. 5216: Mr. PETRI and Mr. GOSS.

H.R. 5250: Mr. EMERSON, Mr. GOSS, Mr. GALLEGLY, Mr. HERGER, Mr. HATCHER, Mr. DARDEN, Mr. LOWERY of California, Mr. PAYNE of Virginia, Mr. RAY, Mr. THOMAS of Georgia, Mr. ALLARD, Mr. HOUGHTON, Mr. HUNTER, Mr. DELAY, Mr. GINGRICH, Mr. JOHNSON of Texas, Mr. LIGHTFOOT, Mr. PETRI, Mr. ESPY, Mrs. BENTLEY, Mr. SOLOMON, Mr. HOBSON, Mr. PORTER, Mr. MYERS of Indiana, and Mr. NICHOLS.

H.R. 5297: Mr. VALENTINE, Mrs. PATTERSON, Mr. HAMILTON, Mr. KASICH, Mr. COBLE, Mr. PERKINS, Mr. LAUGHLIN, Mr. OBERSTAR, Mr. GIBBONS, Mrs. MEYERS of Kansas, Mr. BUNNING, Mr. SHAYS, Mr. HEFNER, Mr. HUTTO, Mr. MCCOLLUM, Mr. COLEMAN of Texas, Mr. LAGOMARSINO, Mr. FRANK of Massachusetts, Mr. SOLOMON, Mr. HANCOCK, Mr. RAY, Mr. SKEEN, Mr. YOUNG of Alaska, Mr. HYDE, Mr. BARRETT, and Mr. DAVIS.

H.R. 5389: Mr. BOUCHER.

H.R. 5478: Mr. EDWARDS of California, Mr. GIBBONS, Mr. PICKETT, Mr. LEHMAN of Florida, and Mr. BENNETT.

H.R. 5539: Mr. THOMAS of Wyoming and Mr. SHUSTER.

H.R. 5542: Mr. SPENCE and Mr. KLUG.

H.R. 5783: Mr. MAZZOLI, Mr. COLEMAN of Texas, Mr. WALSH, and Mr. SABO.

H.R. 5815: Mrs. JOHNSON of Connecticut, Mr. YATES, Mr. MCDERMOTT, Ms. PELOSI, Mr. GUARINI, Mrs. SCHROEDER, Mr. STARK, Mr. LEVINE of California, Ms. HORN, and Mr. MCNULTY.

H.R. 5832: Mr. MCCLOSKEY, Mr. TORRICELLI, and Mr. WAXMAN.

H.R. 5934: Mr. PETERSON of Minnesota and Mr. LIGHTFOOT.

H.R. 5948: Mr. HOPKINS, Mr. CALLAHAN, and Mr. ALLEN.

H.R. 5957: Mr. DOWNEY and Mr. KOSTMAYER.

H.J. Res. 458: Mr. ABERCROMBIE, Mr. ASPIN, Mr. CONYERS, Mr. DOWNEY, Mr. DYMALLY, Mr. GALLO, Mr. HAMMERSCHMIDT, Mr. MARKEY, Mr. MINETA, Mr. OLVER, Mr. PANETTA, Mr. PASTOR, Mr. PAYNE of Virginia, Mr. RAMSTAD, Mr. REED, Mr. SIKORSKI, Mr. SMITH of Texas, Mr. SMITH of Iowa, Mr. SOLARZ, Mr. SPRATT, Mr. SYNAR, Mr. WASHINGTON, and Mr. STAGGERS.

H.J. Res. 463: Mr. AUCOIN, Mr. COLORADO, Mr. COX of Illinois, Ms. DELAURO, Mr. FOGLIETTA, Mr. GONZALEZ, Mr. GRANDY, Mr. HOCHBRUECKNER, Mr. KASICH, Mr. KLECZKA, Mr. LENT, Mr. LIPINSKI, Mrs. LOWEY of New York, Mr. LUKEN, Mr. LEWIS of Florida, Mr. MFUME, Mr. MCNULTY, Mrs. MORELLA, Mr. NEAL of North Carolina, Mr. NUSSLE, Mr. OLVER, Mr. OXLEY, Mr. PETERSON of Florida, Ms. PELOSI, Mr. SAXTON, Mr. SKEEN, Mr. TRAXLER, Mr. WALSH, and Mr. WILSON.

H.J. Res. 495: Mr. APPLEGATE, Mr. BUNNING, Mr. SKEEN, Mr. SCHIFF, Mr. BURTON of Indiana, and Mr. GILLMOR.

H.J. Res. 503: Mr. BONIOR.

H.J. Res. 546: Mr. LEWIS of Georgia, Mr. JONTZ, Mr. GRANDY, Mr. WASHINGTON, Mrs. COLLINS of Michigan, Mr. HOUGHTON, Mr. LIVINGSTON, Mr. SLATTERY, Mr. VALENTINE, Mr. HUNTER, Mr. RHODES, Ms. SLAUGHTER, Mr. DIXON, Mr. RINALDO, Mr. DE LUGO, Mr. PRICE, Mrs. PATTERSON, Mr. EMERSON, Mr. WELDON, Mr. MCCOLLUM, Mr. COLEMAN of Missouri, and Mr. WAXMAN.

H. Con. Res. 92: Mr. PETRI, Mr. LEWIS of California, Mr. ESPY, Mr. HANCOCK, Mr. SANGMEISTER, Mr. TOWNS, Mr. JEFFERSON, Mr. WHEAT, Mr. SCHIFF, Mr. LAROCCO, Mr. MFUME, Mr. APPLEGATE, Mr. SKELTON, Mr. GILCHREST, Mr. McDADE, Mr. FOGLIETTA, Mr. HOAGLAND, Mr. GALLO, Mr. ASPIN, Mr. LEWIS of Florida, Mr. MILLER of California, Mr. TRAFICANT, Mr. ROWLAND, Mr. HOBSON, Mr. FALEOMAVAEGA, Mr. ROSE, Mr. HOCHBRUECKNER, Mr. JOHNSON of South Dakota, Mr. McNULTY, Mr. THOMAS of California, Mr. FLAKE, Mr. ATKINS, Mr. SLATTERY, Mr. DONNELLY, Mrs. SCHROEDER, Mr. MARTINEZ, Mr. ROYBAL, Mr. SPRATT, Mr. THOMAS of Wyoming, Mr. MILLER of Ohio, Mr. PAYNE of Virginia, Mr. MATSUI, Mr. LANCASTER, Mr. PARKER, Mr. HUTTO, and Mr. LAGOMARSINO.

H. Con. Res. 324: Mr. SKEEN, Mr. KOSTMAYER, and Mr. MICHEL.

H. Res. 538: Mr. WALSH and Mrs. BOXER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1106: Mr. INHOFE.

H.R. 1692: Mr. DOOLITTLE.

SENATE—*Friday, September 18, 1992*

(Legislative day of Tuesday, September 8, 1992)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the Honorable WENDELL H. FORD, a Senator from the State of Kentucky.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

For my people have committed two evils; they have forsaken me the fountain of living waters, and hewed them out cisterns, broken cisterns, that can hold no water.—Jeremiah 2:13.

Eternal God, full of love and grace and mercy, the prophet Jeremiah identifies the heart of social crisis. Rejecting the fountain of living water, the alternative is to pump sand from broken cisterns, leaving a dry and arid society. We do not shake our fist in Your face and blaspheme You with foul language; we ignore, we reject You by indifference. Everything becomes more important than God about whom we couldn't care less.

Patient Father in Heaven, forgive this perfidious self-delusion and restore the living faith which animated our Founding Fathers who boldly testified, in trial and in triumph, their dependence upon the living God. Help us consider the insight of G.K. Chesterton: "When people stop believing in God, the danger is not that they will believe in nothing but that they will believe in anything." Save us, Lord, from Godless indifference which leads to the worship of hollow idols and produces hollow souls.

In His name who is the Fountain of Living Water. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 18, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WENDELL H. FORD, a Senator from the State of Kentucky, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. FORD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

The Chair, using his prerogative as a Senator from Kentucky, suggests the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of S. 3114, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3114) to authorize appropriations for fiscal year 1993 for military activities for the Department of Defense, for military construction and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be debate on the Leahy-Levin B-2 bomber amendment with a vote to occur not later than 10 a.m.

The Senator from Vermont.

AMENDMENT NO. 3041

(Purpose: To eliminate the authorization of appropriations for fiscal year 1993 for the B-2 bomber aircraft program)

Mr. LEAHY. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. LEVIN, Mr. COHEN, and Mr. GRASSLEY, proposes an amendment numbered 3041.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 17, line 8, strike out "$9,274,999,000" and insert in lieu thereof "$6,588,427,000".

On page 38, strike out line 1 and all that follows through page 41, line 8, and insert in lieu thereof the following:

SEC. 153. B-2 BOMBER AIRCRAFT PROGRAM.

(a) LIMITATION ON PURPOSES FOR USE OF FUNDS.—Subject to subsection (b), funds available to the Department of Defense for the B-2 bomber aircraft program that are unobligated as of the date of the enactment of this Act may be obligated on and after that day only for completing the procurement of aircraft under such program and paying all curtailment costs under the program.

(b) LIMITATION ON OBLIGATION OF FUNDS.—None of the funds available to the Department of Defense for the B-2 bomber aircraft program that are unobligated as of the date of the enactment of this Act may be obligated unless and until—

(1) the Secretary of Defense submits to the congressional defense committees—

(A) the reports and certifications referred to in section 131(b)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1306); and

(B) the report under subsection (c); and

(2) 30 days have elapsed since the date of the submission of the report under subsection (c).

(c) REPORT ON LOW OBSERVABILITY AND SURVIVABILITY.—The report referred to in subsection (b)(1)(B) is a report submitted by the Secretary of Defense to the congressional defense committees that contains the following matters:

(1) The Secretary's assessment of the extent to which the B-2 aircraft will meet the original operational performance objectives that were established for the B-2 aircraft in order to ensure the high survivability of the aircraft, including an accounting of the specific low observability objectives that were not fulfilled in a B-2 flight test conducted during July 1991 and the effect on survivability (if any) of the currently projected low observable characteristics of the B-2 aircraft.

(2) A full description of the information upon which the assessment required by paragraph (1) is based, including all relevant flight test data.

(3) A full description of any actions planned to be taken to improve the B-2 aircraft's low observability capabilities beyond the capabilities that have been demonstrated in flight testing before the date of the submission of the report under this subsection, and the associated costs and benefits.

(4) A quantitative assessment by the Secretary of Defense of the likelihood that a B-2 aircraft having the low observable characteristics projected for the aircraft can survive in the execution in the future of its primary mission as a penetrating nonnuclear bomber as compared to the likelihood that a B-2 aircraft meeting all of the specifications contained in the current development contract can survive in the execution of such a mission.

(d) GAO REVIEW.—(1) The Comptroller General of the United States shall—

(A) review each report submitted pursuant to subsection (c); and

(B) provide the congressional defense committees with his comments on such report.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

(2) The Secretary of Defense shall transmit a copy of the report to the Comptroller General at the same time that he transmits the report to the congressional defense committees.

Mr. LEAHY. Mr. President, I yield 5 minutes to the distinguished Senator from Iowa [Mr. GRASSLEY].

The ACTING PRESIDENT pro tempore. The Senator from Iowa [Mr. GRASSLEY] is recognized for 5 minutes.

Mr. GRASSLEY. Mr. President, I am a cosponsor of the Leahy amendment, and I thank the Senator from Vermont for giving me time now so that I can make my points at the beginning of this debate.

Much as we considered last year's defense authorization and appropriations bills with a heightened awareness brought about by Operation Desert Storm, so this year we address these issues in what is yet a still more changed environment. We consider the legislation before us with the knowledge that the Soviet Union, not long ago referred to as the "evil empire" as we remember, has disintegrated and no longer poses the threat it has for better than a generation.

Tumultuous events and sweeping changes have occurred throughout the Eastern bloc resulting in a new assessment of the threat these nations pose to U.S. security interests.

So while the issues may be largely the same, the context in which they are being considered is most certainly unique. It is in this light that I contend, as I am sure the Senator from Vermont does, the funding for the four additional B-2 bombers simply is not justified.

Designed to be a nuclear bomber capable of evading Soviet radar, the B-2 certainly represents state of the art technology. With the breakup of the Soviet Union, however, it is now an aircraft without a mission capable of justifying its higher pricetag.

Some B-2 proponents contend that while the potential need for an aircraft capable of carrying out the B-2's initial strategic mission may have been diminished, it could still serve effectively in conventional operations. But do we really believe that an additional aircraft of such value, both in terms of its cost and its sensitive technology, will be put in harm's way for conventional operations in regional conflicts unless absolutely essential?

If the answer is "no," that argument has been defeated. And if the answer is "yes," we must ask ourselves why we are investing over $2 billion a copy for conventional aircraft. Either way, the argument just does not wash.

Other advocates of the B-2 will contend that lead money has already been spent on some components of the additional B-2 aircraft and that this money will be wasted if we do not authorize additional funds to complete those planes.

Mr. President, it is exactly that sort of logic which leads us to run up bigger and bigger deficits every year, not only because of defense but in other programs as well.

It reminds me of the person who tries to lose weight but feels compelled to eat everything off his plate for fear of wasting. In an effort to avoid being wasteful, the weight loss objective is thwarted.

Now, any reasonable person would suggest that the commonsense solution to this problem is to serve up smaller portions, permitting the individual to eat everything off his plate while progressing toward a weight loss goal.

Likewise, we need to realize that overindulging in defense spending will not enhance our economy or further our national security objectives if such spending is wasteful and inconsistent with those defense objectives.

If we intend to trim some fat from the defense budget, we need to start serving up smaller portions in this as well.

The need for additional B-2 bombers is no longer essential to national security.

The arguments for the B-2 simply are not compelling.

And reports that the B-2 may not meet specified radar cross-section standards must certainly concern us.

In this era of incomprehensible budget deficits, those considerations must be brought to the forefront.

So while the B-2 represents strides toward some of the most advanced technology developed by our Nation, the question before us today is not nearly as complex as that technology.

For a program this costly, with a mixed track record and a greatly diminished mission, can we honestly justify the expense?

I believe that by any objective measure, the answer must be a resounding "no."

Mr. President, I encourage the adoption of this amendment.

Mr. WARNER. Mr. President, I yield myself such time as I may use.

Mr. President, I would say to my distinguished friend and colleague before he departs that we will eventually address those arguments but I simply say to him that this is not a friendly world. There are many areas of our globe which are growing unfriendlier day by day.

The bottom line is this aircraft will take U.S. airmen and airwomen perhaps in and out of a hostile area with less personal risk than any other platform we have today. All too often in these hot spots if we were to go in, be it conventional or other types of weapons, and lose an airplane, then that complicates the situation a great deal.

So I say to my friend, the mission of this aircraft while it may have been originally designed as a deterrent against certain Soviet threats which no longer exist with the demise of communism, it still remains an essential platform for this Nation and our allies to carry out certain tasks and that it will take airmen in and out of a hostile area with far less personal risk than any other platform we have.

I will address this issue in greater length at another time. Now I yield the floor.

Mr. NUNN. Mr. President, before the Senator from Iowa leaves, if I could make one brief statement. Mr. President, I yield myself such time as I may need.

The Senator from Iowa has already left. But I will make the point. The Senator from Iowa said we would not use the Stealth bomber in the role of a conventional bomber unless absolutely necessary.

In the first place, you do not go to war unless it is absolutely necessary. In the second place you do not use any military assets unless it is necessary. So I do not know what that statement means.

But I think people ought to understand the ratio of what you have to use if you do not use B-2's. If you need to use two B-2's, but you decide you do not want to use those, you want to use other weapons, this chart shows what you have to use in lieu of those two B-2's. This is the standard package without stealth.

When you talk about what is at risk, here you have a very expensive aircraft at risk. But you have very limited exposure to the number of military personnel. In America thank God we still value people more than we do equipment and machinery even if it is expensive.

In the standard package to take the place of two Stealth bombers, this is what you have to use and each of these is one aircraft. Each one has a crew. These are the additional aircraft that you have to use for escort. And these aircraft are for the suppression of enemy air defenses, and these are tankers.

So what you have here is a huge leverage in saving human lives, in reducing the tremendous risk to American military men and women who would be flying a standard package.

So certainly any war contains risk. We do not go to war, in my view, unless it is a last resort. You do not go to war unless it is absolutely necessary. You do not use B-2's unless it is absolutely necessary. You certainly do not expose this many American men and women to the risk of losing their lives unless it is absolutely necessary.

But which do you want to do? Do you want to use high-leverage, high-technology aircraft which can produce huge payoffs or do you want to use the standard package which risk many, many times more men and women in uniform? That is an essential point. That is what we have tried to drive home over and over again for the last 5 years.

This is probably the last debate we are going to have on this matter. But I think it is very important for the American people to understand this.

Regrettably the news media never report this kind of tradeoff statistics. I have never seen this reported in any kind of publication. Maybe it has been. We never see anything but how much it costs. We never see anything about how many lives we are going to lose if we do not go with high-technology.

This country made a decision a number of years ago to go the high-technology route. We went with the F-117 Stealth fighter. The F-117 during the Persian Gulf war never lost one aircraft or one life of a crewmember. They never lost a one. Not one. Why? Because it is high technology. Did it cost money? Yes. It cost money. Did it do the job? Yes, it did the job. Did it save American lives? Yes. It saved American lives.

With the B-12, we have a much higher ratio of leverage and a much greater reduction of risk.

So the Senator from Iowa is saying we do not want to risk these two B-2 aircraft. We do not want to risk machinery and equipment. But the main thing we do not want to do is risk the human lives represented by the number of people who have to be in tankers, because they cannot carry the fuel in conventional fighter-bombers that this aircraft can. You have to have suppression of enemy air defense. You have many missions with other aircraft, such as to suppress enemy air defenses against heavily defended targets.

This B-2 aircraft does not have to have that suppression. Otherwise, you have to have suppression, tankers, and you have to have bombdroppers because you do not have the capability for precision weapons delivery.

Mr. President, the B-2 is the low-risk route. The other is the standard package, the high-risk route.

I hope that point, at some point, will be understood because it is apparent that it has never been thoroughly reported. Our committee has had hearing after hearing on it. We have made many speeches.

I hope at some point someone will write about this. They may quarrel with the exact numbers here. But the principle is sound—that we get a whole lot of leverage and we reduce the risk by manyfold to American men and women who are in uniform protecting us with this kind of leverage.

SUPPORTING COMMITTEE POSITION ON B-2 BOMBER

Mr. President, I rise in opposition to this amendment to terminate the B-2 program at 15 B-2 bombers rather than the 20 B-2's approved in the committee bill. The Senator from Vermont and others have been offering this same amendment each year for the past several years. The Senator's amendments in the past few years have raised the issue for the Senate of deciding whether to build 132 B-2's, or even 75 B-2's, or whether to stop at some small number, like 15. But that issue was settled earlier this year, when the President decided to terminate the program upon completion of the 20 B-2 bombers now flying and under construction. I want to underscore that point—we already have 20 B-2's either flying or under construction.

Thus, the issue this year can be stated very simply—should we stop the program at the 15 B-2's or should we finish the 20 B-2's now under construction?

To answer this question, Mr. President, we need only look at a few facts about the B-2 status, funding, and capabilities. We can start by asking how much more it will cost to end up with 20 fully operational B-2 bombers rather than 15 fully operational B-2's. The Air Force tells us that 20 B-2's will cost $44.4 billion overall, while 15 B-2's will cost $41.8 billion. Thus, by straight arithmetic, the cost differential for five more operational B-2 bombers is only $2.6 billion, or 6 percent of the total acquisition cost. We need to recognize that, if the Leahy amendment passes, the Air Force says we will incur some $800 million in termination costs, and we will be scrapping an investment of some $1.4 billion in long-lead structural items that have already been produced for the last five B-2's. Thus, the Leahy amendment will cost the taxpayers some $2.2 billion to gain no capability whatsoever, whereas it costs only $2.6 billion to complete the last five B-2's.

Next is capability—what capability do we gain by having 20 B-2's rather than 15? One might think the answer is one-third more, but that's not correct. For any short-warning crisis, we can expect, on average, about four B-2's to be unavailable—in depot overhaul, in routine maintenance, perhaps being modified. Thus, our warfighting CINC's could expect to have only 11 mission-capable B-2's from a total inventory of 15, but they can have 16 mission-ready B-2's from a total inventory of 20. It's the mission-ready totals that represent the available combat power. In this case 16 mission-ready B-2 bombers represents 45 percent more capability than 11 mission-ready B-2's. Thus, the last five B-2's really do matter—they provide 45 percent more punch, for only 6 percent of the total acquisition cost. Even the other body, the House of Representatives, the long-time skeptics of the B-2 program, understood the value for dollar expended in completing the 20 B-2's—45 percent more capability for $2.6 billion more dollars. The House has already authorized the completion of a 20 B-2 bomber program—and the Senate should follow their example, and reject this amendment.

Now, Mr. President, let me discuss for a moment the status of B-2 low-observability testing. Members will recall from last year the revelation by the Secretary of the Air Force that one particular low-observable measurement test at one particular frequency had not shown the predicted results. Indeed, on the reports of that news alone—many of them misleading doomsday news accounts—support for the B-2 eroded within a one month period. I would remind Members that this test glitch was hardly catastrophic—the specific low-observability level demonstrated during the flawed test was already below that of the operational F-117 Stealth fighter at that particular frequency. That is, the B-2, without any further fixes, was—and is—already more stealthy against that radar type than the F-117's that operated with impunity over Iraq. But the Air Force wants the B-2 to be even stealthier—much stealthier.

Since last September, the Air Force has been both trying to understand what caused the problem, and pursuing three separate approaches to achieving the predicted level of stealthiness. I am pleased to be able to report that one of those three approaches has now demonstrated, through flight testing on the B-2, that it not only meets, but substantially exceeds, the desired low-observability level. Indeed, much of the problem with the flawed test results last summer has now been traced to a series of human errors, rather than resulting from a serious design flaw. Secretary Rice notified the committee of this good news on July 21, and announced the results at a press conference the following week. He would be glad to brief any interested Member.

Thus, it is clear that the B-2 will, in fact, be very stealthy—significantly stealthier overall, on balance, than the renowned F-117 Stealth fighter, the best aircraft we now have for getting to the target, bombing it, and getting back home again. But, as good as the F-117 is, the B-2 will still have a number of advantages over the F-117. The F-117 is a night, clear weather platform that carries only two weapons. During the war with Iraq, some F-117 sorties had to be aborted due to fog, clouds, and blowing dust. The B-2 is an all-weather, all-altitude platform, including terrain following capability for extended low-level penetration. It can carry a much larger payload of precision weapons or iron bombs than the F-117, and to intercontinental ranges. Indeed, the last five B-2's at issue in this amendment can carry more precisionguided 2,000 pound bombs than the entire F-117 fleet we deployed to the Persian Gulf. With aerial refueling well outside a theater, it can fly from the continental United States to a troublespot anywhere on the globe, arrive with zero warning, attack with precision and return home.

Mr. President, too often we have tended to forget the real value of long range, high payload and stealth, as this comparison chart reminds us. When, as shown in the two lefthand columns, we send nonstealthy tactical aircraft to a theater, we end up having to send a huge armada of support aircraft—fighters for combat air patrol, jammers to suppress enemy radars, Wild Weasel aircraft to attack enemy defenses, AWACS aircraft to monitor the battle area, and tankers, tankers, tankers. We end up placing thousands of American service men and women in harm's way in a theater. As the two columns on the right show, a few F-117's with tanker support could do the same job, greatly reducing the number of Americans placed in harm's way. But the B-2 puts at risk only two pilots per B-2—with nothing required in the theater. To me, this is the B-2's real selling point—the protection of our service men and women on dangerous assignments for our Nation.

Mr. President, the question is whether to buy 20 operational B-2's, to get 5 more B-2's for another $2.6 billion, or to stop at only 15 B-2's, pay millions in termination costs, and lose a $1.4 billion investment in the last 5 B-2's, as the amendment before us directs. Members should understand that stopping at 15 B-2's will waste $1.4 billion of taxpayers' money—the amount of long-lead funding that has been and is being expended already on the last 5 B-2's. In this regard, the B-2 program is no different than the Trident submarine or aircraft carrier programs, or ballistic missiles, or virtually any complex weapons system. But, it the Congress does not go on to authorize the additional systems begun with long-lead funding, the long-lead moneys are largely wasted—since they, by definition, are expended to start work on the major structural items that require the longest leadtime to build.

In the case of the last five B-2's that this amendment would kill, here's the latest status list of where they stand on long-lead items:

For the intermediate section, made by LTV, more than 80 percent of the structural parts have already been produced for four of the five aircraft, and assembly work on these four is about 25 percent complete. The fifth set is less advanced.

For the aft center section, made by Boeing, four of the five major structural assemblies are largely completed, ranging from 99 percent complete to 62 percent complete. The fifth is less advanced.

For the outboard wing sections, made by Boeing, one set is over 80 percent complete, a second over 40 percent, and a third about 15 percent complete. The other sets are mostly still piece parts.

For the forward center section, built by Northrop, all structural parts for one B-2 have been completed, and one more is 20 percent complete. The other three are still mostly piece parts.

Now, these various items constitute major structural pieces—assemblies for which there are no other uses if this amendment passes. These are not spares or piece parts to go into some B-2 parts inventory at a depot. These are the skeletons, to turn a phrase, of the last five B-2's. To stop now leaves these—and many, many other smaller piece parts and components—as wasted production—in which the taxpayers have sunk $1.4 billion already. Indeed, because of this, it takes only the $2.6 billion contained in the committee bill to complete these last five B-2's.

Mr. President, for all these reasons:

The amount of $1.4 billion already invested in five major structural assemblies, plus termination costs of $800 million, all wasted if we do not go forward;

A modest additional cost of $2.6 billion to finish five B-2's;

Nearly a 50-percent increase in combat capability from those five additional B-2's;

Intercontinental range, huge payload, and all-weather, all-altitude operations by operational B-2's; and

The combat-proven value of stealthiness.

For all these reasons, we need to complete the 20 B-2's now under construction.

Mr. President, each year for the past 4 or 5 years, I have stood here on the floor of the Senate and argued against the position that the House had adopted on the B-2. I now find myself in the unusual position of declaring "The House, for once, is right on the B-2." I, therefore, urge my colleagues to defeat this amendment, to agree to conclude the B-2 program at 20 as requested, and to put this divisive issue, finally, behind us.

I thank the Senator for yielding.

Mr. WARNER. If I could just add, Mr. President, to the chairman's remarks, there would be a total of four people in those two aircraft shown by the B-2 column, whereas there would be six in each of the B-52's, and a number in each of the aircraft. So this is a multiple of people here that is quite considerable.

Mr. LEAHY. Mr. President, I yield myself such time as necessary.

I would note for anybody watching this debate that we are talking about five additional planes. We are not talking about a whole new redesigned Air Force.

I would also note that the charts that we have just seen are put together in the package by the same people who told us last year that suddenly there is going to be an almost $5.55 billion increase in the B-2 program. The same people spent $15 billion before we even saw an airplane start rolling out here. They are also the same people who change the characteristics and capabilities of the B-2 numerous times that they are flying it; changed numerous times, and are telling us how many we would need depending upon what the budget battle was.

They are the same people who have kept back until the events forced them to bring forth some of the design defects in the B-2.

So I just want to put that in context. The Pentagon can make great charts. They sometimes have a little trouble making great airplanes.

Mr. President, in September 26, 1989, I offered the first amendment in the Senate to cancel the B-2 program. I remember chuckles I heard in this Chamber when I did. I wanted to stop the billions of dollars of spending on a plane that I was convinced was not necessary. That first amendment which did not go very far was before the Berlin Wall fell, before the Warsaw Pact evaporated, and before the Soviet Union disappeared before our eyes. I think we had 29 votes on that date in September.

I have worked hard to build a coalition against this program. And with the help of people like the distinguished Senator from Maine [Mr. COHEN], the distinguished Senator from Iowa [Mr. GRASSLEY], the distinguished Senator from Michigan [Mr. LEVIN], and others, we have a coalition. Last fall we came within two votes of canceling this program.

I would like to think that it is because my colleagues were persuaded by my arguments but I think that there is something else that came in play here. The B-2—in only three short years—has become a symbol for the need to change direction in America.

The B-2 is nothing more than a white elephant. It is better suited to a time where bloated military budgets fed every fantasy and pipe dream of military planners.

I believe in a strong defense. But I do not believe in wasting taxpayers' money. If we are going to spend money in the Pentagon, spend it on things we need. Desert Storm has been discussed. A lot of American lives were lost because some of the prosaic, less glamorous things were not there—the ability to identify friend and foe on the ground, the night vision material, and things like that.

In the 1980's, the Pentagon claimed we needed the B-2 to counter the Soviet nuclear threat. Now the Soviet Union is gone, so the Pentagon is scrambling to find new missions. I think the military planners are frozen in the nuclear ice age. To begin the B-2 in the first place was a mistake. The only mistake we can make now is to continue to build it. The B-2 belongs with the Edsel in the hall of shame of 20th-century flops, and the program is a vestige of a past era. The B-2 was designed with no expense in mind to penetrate soviet air defenses and destroy downtown Moscow.

We now have the administration saying we want to send foreign aid to downtown Moscow. What are we going to do, have the foreign aid come one day and the B–2 bomber come on the other? You can imagine if they came on the same day; it is going to certainly mix the message. the administration argues we need more foreign aid for Moscow, and we need the B–2 bomber to be able to bomb Moscow. We ought to get the scripts together.

We thought much of the in secrecy building the B–2 was for national security reasons. In fact, the secrecy was to protect a raid on Fort Knox. By the time a few of the programs facts were made public, we already spent $15 billion and not a single airplane was flying. Before the Berlin Wall came down, these abuses of taxpayer dollars were all too common. Do not worry, the administration would tell Congress, this program is in the interest of national security; do not question the cost. Well, over the past 3 years, our country has undergone a profound transition, driven in part by remarkable world events, and also by an ache in every American's gut that all was not well, and it is time for a change.

We are the most powerful nation on Earth. That is one thing that would unite every Senator in here. But we are also a debtor nation. We are borrowing billions of dollars every year from other countries. We are the most powerful nation on Earth, but we have slid from annual trade surpluses to annual trade deficits. We are the most powerful nation on Earth, but we rank last among industrialized nations in education investment. It is no surprise that our children rank 12th in mathematics and 9th in science proficiency. We are the most powerful nation on Earth, but 30 million Americans are illiterate at a cost to American industry of $230 billion annually. We are the most powerful nation on Earth, but we rank 22d among industrialized nations in infant mortality rate. We are the most powerful nation on Earth, but 37 million Americans have no health care. We are the most powerful nation on Earth, but we cannot join our neighbors and sign the most significant environmental treaty because we are too poor. And we are the most powerful nation on Earth, but we have to ask for tens of billions of dollars from our allies so we can use our military might against Saddam Hussein.

It is no wonder that opposition for the B–2 has grown. What good does it do to buy $1 billion airplanes if we desperately need to invest in so many other areas in our country?

Mr. President, many supporters of the B–2 complimented me in January when the President announced he would halt the program at 20 planes. They said, "Leahy, you got yourself a victory." I do not consider this announcement a victory. That is why I am here today.

Only the Pentagon could have the audacity to ask for just $2.6 billion more to complete a program that is an anachronistic symbol of the cold war. Last year, the Air Force told Congress that it was reevaluating the mission of the B–2 to emphasize the plane's conventional capability. Secretary Rice explained 75 B–2's was the minimum number of planes needed for conventional missions. Just a few months later—I do not know what polls they looked at—but the President said we will halt the program at 20 planes. So much for that need for 75.

Now 75 planes was a minimum needed for conventional missions. What justification is there to spend another $2.6 billion and buy five additional planes, which brings the total to 20, not 75? So I have offered the amendment to cancel the $2.6 billion requested by the administration.

As the defense budget continues to shrink, our leaders should make military decisions based on merit. Incidentally, when the Secretary of Defense was asked earlier this year why five additional B–2 bombers were necessary, he explained that the administration arrived at the figure because long-lead funding had been provided for the aircraft. Well, why throw good money after bad? Senator GRASSLEY says, "you have to clean up your plate even if you do not lose weight doing it." If our country no longer has the military need for the B–2, then stop the program now.

The military threats against the United States have changed in the past year, but they have not become more sophisticated. The Air Force recently released its so-called bomber road map, which affirms that we already have a potent conventional bomber force with a B–1B as the centerpiece of that force. We are building stealthy munitions. Our bombers, new and old, are going to be equipped with modern precision-guided conventional munitions. They are going to be launched outside of the range of air defenses. So not only do additional B–2 bombers lack in merit, the problems that plague the program bring further question about why American taxpayers should spend an additional $2.6 billion on the B–2.

This program increased by $5.5 billion since last year, and we know it can go nowhere but up. Planes are being delivered late, incomplete, thereby delaying the flight testing that can determine whether the plane will even fly as advertised. The flaws have already been discovered during what little flight testing has been completed, and it added $400 million to the total program cost. Since testing has slipped more than 1 year behind the original schedule, taxpayers are unaware about what future repairs will cost if additional problems are found. But incredibly, the American taxpayer is still going to be left holding the bag for the cost of more repairs.

Despite the efforts of the distinguished Senator from Michigan [Mr. LEVIN] the Air Force continues to ignore the law that requires Northrop to pay for correcting contractor-caused deficiencies. The cap on the liability for Northrop to correct the most serious problems is less than 4 percent of what the company can profit on each plane.

Mr. President, my campaign against the B–2 is nearing a close. I hope the Senate will approve my amendment to strike the $2.6 billion for five additional planes. Our Nation has changed dramatically since I introduced the first amendment to cancel the B–2. The Senate should vote to acknowledge the changes. They should halt the program now.

Again, just think of the irony. One day the administration comes to us and asks us to get foreign aid to Moscow, and the next day they are arguing for an airplane that can bomb Moscow. What a strange "Alice in Wonderland" age we live in.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. LEVIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized. Who yields time to the Senator from Michigan?

Mr. LEVIN. Will the Senator from Vermont yield 10 minutes.

Mr. LEAHY. I do.

Mr. LEVIN. Mr. President, I rise in support of the Leahy amendment relative to the B–2, and I do that as somebody who, up to this point, has supported the B–2 program. I supported the B–2 program for a number of reasons, which the Senator from Georgia mentioned during the cold war era. I also supported the program because there was a warranty provision in law which requires the contractor to fix contractor-caused defects at its own expense, not at taxpayers' expense.

I worked hard on those warranty provisions over the years so that we should avoid a repeat of the B–1 fiasco, where taxpayers picked up the tab to fix contractor-caused defects in the B–1 bomber. I decided we were not going to make that mistake again; that we were going to have a warranty which would require the contractor to fix defects which it causes, at least up to the amount of its profits. It is not only unseemly but obscene that a contractor can make huge profits on any program, and yet taxpayers have to pay for defects which the contractor causes.

I cannot accept that. We put something in law to avoid that, and that something was an amendment which allowed me to vote for this program last year.

My friends from Georgia and Virginia, I think, might remember the discussion on this floor when we worked out the warranty provision; and in committee when we worked out the warranty provision, to make sure that this contractor would pay to fix defects which it causes, up to the amount of its profit. Not that it would pay to fix some of the defects that it would cause, but any of the defects and deficiencies that it causes up to its profit.

The Air Force has come up with a legal interpretation now which says that it has met the warranty requirement, because one of the three types of deficiencies is now uncapped and fixing that one type could cost as much as all of the contractor's profits. That is not what the amendment said. I wrote that amendment. Not only is the language clear, but the legislative history is clear.

It covered any of the deficiencies in the warranty and said that the contractor has to pay to correct those if the contractor causes them, up to the amount of its profit, unless the Secretary of the Air Force decides to waive it. We gave the Secretary of the Air Force waiver capability. He did not use it.

Instead, the Air Force has an extraordinary legal opinion which says that because one of the three types of deficiencies is uncapped, and therefore could theoretically use up the profits, that therefore they have met the requirements of the Levin amendment. They have not, and any fair reading of the Levin amendment, that is law, will lead anyone to the same conclusion.

The Air Force is violating the law which this body wrote. That law was important to at least this Senator in supporting the B-2 program. The cold war is now over. That is a changed factor of great importance, and the Senator from Vermont and others have pointed it out.

There is another change which is important, and that is that suddenly, in January, just like that, the Air Force reduced the B-2 program from 75 to 20 aircraft. A year ago June, the Air Force said they had to have 75; they had to have 75. They could not get along with fewer. Operational requirements absolutely mandated 75 planes. We have that language from Secretary Rice: It has to be 75. Anything less than that will make this operationally ineffective.

In January, with a wink of an eye, the Air Force reduced this program to 20. So now the issue is, do we stop at 16, or go to 20? And now, of course, the Air Force is making the argument that it has to have 20; it cannot stop at 16. Operational requirements just mandate that we have 20 and not 16.

Anybody who goes back to the testimony of Secretary Rice a year ago June will laugh at that argument, since a year ago June he said that anything less than 75 would make this operationally impossible; efficiency requires 75.

So there are a number of changes since a year ago which caused this Senator to now decide to vote not to go to 20, not to fund those final four planes. They are not worth the billions of dollars that are involved. And I say that as someone who up to now has supported the B-2 program.

So there are really three changes: The cold war ended; the decision of the Air Force, without any explanation, to go from 75 to 20; and the third reason, which I have spent most of my time on this morning, the violation of law by the Air Force in ignoring our warranty provision, which requires the contractor to pay to correct deficiencies which it causes. And I emphasize that. Not Government-caused deficiencies; we have to pay for those. If our design is defective, we have to pay for those.

But there are three types of deficiencies which the contractor is responsible to fix, if it causes the deficiencies, up to the amount of its profits. And this strained Air Force legal opinion, which says that they comply with that law by providing that the contractor must fix one of the three types of deficiencies—just one of the three types—up to the amount of its profit, is not only a strained legal opinion, but it violates the clear language of my amendment and the legislative history. They should not get away with it.

The facts on that warranty are as follows: The first five production planes had a profit for the contractor of $250 million for five planes if it met the cost of $2 billion. The target cost was $2.2 billion. The target profit was $250 million. But the cap on contractor liability to correct defects which it caused was $20 million. Think of it. A profit of $250 million on five planes, but a liability limit on defects that it caused of $20 million.

I looked at that, and I said: That is a repeat of the B-1 fiasco. The taxpayer is going to be left holding the bag again. We are not going to permit it; at least, I am not. I am not going to vote for that program—I said to myself last year—anymore, unless the contractor is responsible to correct deficiencies which it causes up to the amount of its target profit on the next contract.

They negotiated the next contract after my amendment became law. The next five aircraft had a target cost of $4.6 billion and a target profit of $700 million, but a warranty cap of $25 million.

The Air Force will argue that there is no warranty cap of $25 million for one of the three types of deficiencies, and that is true. They have eliminated the warranty cap for one of the three kinds of deficiencies.

But that is not what the amendment said. The amendment said you cannot cap the liability of the contractor to correct the deficiencies—not singular; the deficiencies, the defects—referred to in the warranty provision. Not singular—one type—but plural.

I wonder if the Senator will yield me 2 additional minutes.

Mr. LEAHY. Mr. President, I yield two additional minutes to the Senator.

Mr. LEVIN. And therefore, Mr. President, we have the result that this contractor could make a target profit on the second contract for five planes of $700 million, which is $140 million per plane. But the contractor could have a limit on its liability to correct defects which it causes, on two of the three types of deficiencies enumerated, of $25 million, or $5 million a plane.

I consider that a clear violation of what Congress wrote. The Air Force is violating an important law which we wrote to avoid a repeat of the B-1 situation, where we ended us spending over a billion dollars in taxpayers' money to correct defects which were caused by the contractor.

Mr. President, do I have any time remaining? If so, I yield it back to the Senator from Vermont.

The PRESIDING OFFICER (Mr. LIEBERMAN). Who yields time?

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I yield myself such time as I may require.

First, I say to my good friend and colleague from Michigan, we have had the privilege of serving together some 14 years on the committee, and I have the highest respect for his views, but I just want to make two points.

First, indeed, the Senator, probing into this area unrelentingly for a number of years, I think has improved, in fact, the contract.

The Senator is aware of the letters, which I ask unanimous consent to be printed in the RECORD, from the Secretary of the Air Force of July 17, 1992, which address the basic points that the Senator from Michigan has raised today and indicate that this contract, indeed, will be corrected along the lines of the points made by the Senator from Michigan.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SECRETARY OF THE AIR FORCE,
Washington, July 17, 1992.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in response to comments made by Senator Levin during the Senate Armed Services Committee's hearing on June 17, 1992 concerning the B-2 warranty, profit rate, cost estimate, and funding. A similar letter has also been sent to Senator Levin and Senator Warner. I continue to believe that the improved B-2 warranty is compliant with Section 117(d) of Public Law 101-189, since it potentially places all contractor target profit for the second five low rate initial production (LRIP) aircraft at risk. As I indicated during the hearing, the profit rate for the second five LRIP aircraft is reasonable, as it is in accordance with and supported by the standard DoD weighted guidelines profit computation method. Furthermore, the difference in the cost estimates of the original 15 aircraft can be explained based upon the different assumptions of program content made at the time of each estimate, and the concern over full funding of the program revolves around the proper budgeting of contingent liabilities as part of an ongoing program.

The Air Force negotiation team took aggressive action to ensure the negotiated warranty complied with the law. Several warranty options were examined with the contractor and the most cost effective, legally compliant arrangement was agreed upon. The current B-2 warranty not only contains the appropriate coverage as required by section 2403 of title 10, United States Code, it also represents a significant improvement over the previous warranty (Attachment 1). The contractor has greater financial responsibility for corrective actions than under the original warranty, in that the warranty limit for correction of essential performance and design and manufacturing defects was raised from $100 million for the first five LRIP aircraft to $250 million for all ten LRIP aircraft. In addition, the liability for correction of materials and workmanship defects was removed from under the original $100 million cap and is now unlimited for all aircraft. Because of this unlimited materials and workmanship provision and the additional $250 million cap, all the contractor's target profit for the second five aircraft is at risk as prescribed by the law. If the contractor's costs exceed the point of total assumption on the share line of the LRIP contract, all additional corrective action costs for materials and workmanship defects are the responsibility of the contractor. Another important aspect is that this coverage was made applicable to all 10 B-2 LRIP aircraft not just the second five as required by the statute.

When Public Law 101-189 was enacted, as well as when the initial warranty was negotiated, the planned B-2 production program consisted of 132 aircraft—it was subsequently reduced to 75 and now stands at 20. The 20 aircraft limit increases contractor risk in planning and projecting warranty coverage for the fleet and dramatically reduces the number of aircraft over which risks may be spread. Despite this greater risk to the contractor, the new warranty was negotiated, assuming a 75 aircraft program, at no increase in target cost, price, or ceiling. With the reduction to 20 aircraft, the contractor's risk increased even further.

When Senator Levin displayed the comparison of B-2 contracts during the hearing, his chart depicted the contractor share of the warranty cap per aircraft ($20 million and $25 million) and compared it to the total target profit on each contract. The warranty was not negotiated on a per aircraft basis. Instead the warranty cap covers all ten LRIP aircraft and only applies to essential performance and design and manufacturing defects. The unlimited materials and workmanship portion is no longer under the cap, as it was in the original warranty, and it too applies to all 10 aircraft. Should the contractor's cost performance not exceed the negotiated point of total assumption, their responsibility would be $50 million under the cap plus 20% of any materials and workmanship corrective action costs. Should the contractor exceed the point of total assumption before experiencing any warranty costs, all $250 million of the warranty cap and an unlimited amount for materials and workmanship defects would be the responsibility of the contractor. Depending on the type of defect and the status of the contractor's cost performance on the contract, the equivalent of the target profit for the second five aircraft is potentially at risk in either case.

I believe the benefits of the improved B-2 warranty must be viewed from a total program perspective. Since the program is in development/testing and low rate initial production, it is unrealistic to expect the contractor to have the capability to accurately forecast warranty failures and the associated corrective action costs in areas that have yet to be tested. Northrop could not practically provide a more substantial warranty without significant adjustments to program costs.

The profit rate, in part, for the B-2 LRIP aircraft was reached through an iterative negotiation process using the standard DoD profit computation method. Due to the cost, technical, and management uncertainties in 1987, program risk for the first five aircraft was shared between the Government and the contractor through an initial Fixed-Price Incentive (Successive Targets) contract. The 12.5% profit rate objective and contract type reflected the program risk at that time. As the program for the first five B-2 aircraft matured, contract cost risk shifted to the contractor and the contract type was changed to a Fixed-Price Incentive (Firm Target) (FPIF) contract: however, the contractor, accepting responsibility for certain schedule adjustments, accepted a lower fee rate (11.3%). In July 1991, the contractual effort for the second five aircraft was finalized into an FPIF contract, further shifting cost risk to the contractor. Northrop, for the first time, had to negotiate firm targets with no opportunity for downstream adjustment. The DoD weighted guidelines profit computation method recognized the increased contractor risk and supported a higher 15% profit rate on the second five aircraft as fair and reasonable.

The existing contractual arrangement for all 10 B-2 LRIP aircraft is a combination of the separate contract actions for the first five and second five aircraft. The combined profit rate of 13.8% is reasonable and compares favorably with other programs of this magnitude such as the C-17 (13.0%), B-1B (13.9%), and F-16 (14.6%).

Senator Levin also expressed concern over the perceived increase in the cost estimates for a fleet of 15 B-2 aircraft. In fact, the Air Force has only formulated the cost for a fully operational and supportable fleet of 15 B-2s one time and that was earlier this year. At that time, using appropriate assumptions, we estimated that a fully operational and supportable fleet of 15 B-2s would cost $41.8B; this is still our best estimate. The confusion arises as a result of the Air Force's answer to a completely different question about a 15 aircraft fleet. In 1991, we were asked how much would the program expend if we stopped at 15 aircraft, and had no additional procurement funds after 1991. The assumption that we would acquire 15 B-2s was correct; we also stated that these aircraft would not be supportable due to a lack of funding in FY92 and out. Based on the constraints built into the original question, it was impossible to field 15 fully operational and supportable aircraft at the $36.4B figure in our response. These two estimates were based on completely different assumptions.

When discussing the final issue of the full funding, it must be understood that the B-2 program was planned and budgeted as an ongoing program with the sustaining engineering costs being spread across all aircraft in work. This "allocation" methodology is widely adopted on larger and longer duration acquisition programs to more accurately portray the individual cost of an aircraft by unitizing the sustaining engineering costs to the work in process. The major reductions in aircraft that occurred to the program subsequent to the FY 87/88 contract award resulted in funded aircraft in FY 90 and prior absorbing a greater share of these fixed costs of the contractor during the years in which they are being produced. These reductions resulted in the FY 90 and prior appropriations only funding eight of the 10 previously authorized aircraft. As you will recall, the FY 91 Appropriation Conference language took this fact into account in directing the Air Force "to utilize the funds provided to most effectively control total program costs." To ensure future program cost stability, we have changed the accounting method for sustaining labor from the "allocation" per aircraft method to a "block load" approach which is also an acceptable method of paying for sustaining engineering. Under the block load approach all sustaining labor costs are funded.

Given the above, we believe the $44.4 billion number contained in the FY93 Amended President's Budget and Air Force FY94 Program Objective Memorandum (POM) fully funds all known tasks to complete construction and make fully operational the 20 B-2 production aircraft. However, Congress recently rescinded $500 million from the B-2 FY92 program which has not, as yet, been addressed in the budget process.

I know Senator Levin has spent a great deal of time looking at these issues and I wanted to ensure you and Senator Levin had available a complete explanation of the concerns he raised. While we have had at times a spirited dialogue on some aspects of these issues, I do want you to know I'm convinced Senator Levin's effort to register a requirement for a warranty on the second five LRIP aircraft led the Air Force to rethink its position on this matter and has resulted in a stronger warranty for the government at no additional cost. If you would like to discuss the details of any of these issues in more depth, I will send the appropriate personnel to brief you at your convenience.

Sincerely,

DONALD B. RICE,
Secretary of the Air Force.

B-2 PROFIT AND WARRANTY COMPARISON

	First five aircraft (November 1987)	Second five aircraft (July 1991)
Risk	Greater Government risk. Target profit resettable after gain cost experience. Guaranteed 7 percent minimum.	More contractor risk. Firm target profit—no reset. No guaranteed minimum.
Profit Determination	Initial objective (12.5 percent) reached through negotiation. Lowered at reset as consideration for slipped schedule.	Used DOD standard weighted guidelines for allowable profit.
Profit rate	12.5 percent (original objective); 11.3 percent (reset).	15 percent.
Warranty limitation	$100,000,000 for all defects and nonconformances, including defects in material and workmanship—6-month discover period.	Defects in material and workmanship unlimited—all profit at risk plus $250,000,000 for other areas—all 10 A/C—12-month discovery period.

SECRETARY OF THE AIR FORCE,
Washington, DC, December 20, 1991.

Hon. LES ASPIN,
Chairman, Committee on Armed Services, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to inform you that the Air Force has negotiated a B-2 warranty for the second five FY89/90 Low Rate Initial Production (LRIP) aircraft that complies with Section 117(d) of Public Law 101-189 and also provides for increased coverage on the first five FY87/88 LRIP aircraft. Under the new warranty the contractor's total liability for the corrective action for material and workmanship defects is potentially equal to or greater than its target profit on production of the FY89/90 aircraft.

In my judgment, the warranty package in its aggregate produces results where the contractor may have more target profit at risk than required, depending on where the defects are found. For instance, to provide an incentive for the contractor to produce quality aircraft, the negotiated warranty provides unlimited contractor liability for corrective actions resulting from defects in materials and workmanship not only for the FY89/90 aircraft but also retroactively to the FY87/88 aircraft. It is also my judgment that the above unlimited liability provision and other negotiated benefits such as increasing the warranty cap on essential performance and design and manufacturing requirements from $100 million to $250 million, increasing the period of discovery from six months to twelve months after initial acceptance of each aircraft, and providing for essential performance coverage on all ten Low Rate Initial Production aircraft, all at no increase in target price or contract ceiling, is advantageous to the Government.

The program has achieved a significant enhancement in the negotiated warranty over the existing FY87/88 contract warranty at no increase in the negotiated contract values. Further enhancements would require target price and ceiling adjustments and therefore would not be cost effective or in the best interest of the Government. It is clear that the benefits the B-2 program will receive from this warranty are substantial and that the cost of further marginal improvements would outweigh the benefits. A more detailed description of the warranty is attached, along with copies of the warranty clauses.

Sincerely,

DONALD B. RICE.

Mr. WARNER. I would like to point out another fact, Mr. President, and that is the Senator from Michigan also has followed another major defense contract for some number of years, and that is the contract for the M1A1 tank. I have here a side-by-side comparison of the contractor's exposure on this particular contract. And it is interesting that in the M1A1 tank contract—and I think the Senator will concede the fact that the tank is a simpler challenge technologically than this particular aircraft—the total cap on the liability to the contractor is basically $7.3 million. The material and workmanship part of it is capped, the design conformance is capped, and the performance itself is capped.

In other words, there is a good deal of protection in there for this contractor, and, indeed, it is one of the foremost contractors in the United States that is performing this contract.

If you run the side-by-side comparison for the B-2, there is unlimited warranty exposure for the contractor in the B-2. There is no cap on material. There is a cap on the design, and there is a cap on performance. But basically side by side there is greater risk to the contractor that is doing the B-2 contract.

But, once again, I would like to bring up this chart that has been prepared.

Mr. COHEN. You can use this one.

Do you mind if I stand here?

Mr. WARNER. No, I would like to have you here, because I hope that either you or the other distinguished Senators in opposition to this contract or this provision can address this issue of how four individuals in a B-2 mission, compared with—and we are going to attach the numbers here, but there are 32 here—this is the actual delivery of the weapon—32 individuals in this package, 16 individuals in this package, and you have 8 in this package.

The risk to the air persons who are taking this mission has to be addressed. And, to me, if we were to not only lose one of these individuals by death or unknown causes or they be taken captive, that is the answer we have to provide, it seems, to our colleagues and the American people.

How could we, in good conscience, ask the Commander in Chief of the Armed Forces of the United States, no matter who he may be, to send these individuals out in a cause which, in his judgment and hopefully that of the Congress and others in authority, is necessary to take that risk, how can we do that in good conscience, send this number, advise this number, simply because of a dollar savings on a contract? That, to me, is the bottom line, and I hope we address that in further debate.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. I yield such time as the Senator from Maine may need.

The PRESIDING OFFICER. The Senator from Maine [Mr. COHEN].

Mr. COHEN. Mr. President, this is truly an important chart, and I want to commend the Air Force for helping to prepare necessary numbers for all to look at.

If, in fact, it is true that two B-2 aircraft will save the deployment of all of these other aircraft, I am wondering why has the Air Force not recommended that we delete all of these other aircraft from our inventory?

And if the Senator from Virginia would be willing to go forward with five more B-2's, would he be willing to have a corresponding reduction in the number of the standard package, all the bomb droppers, air escort, suppression of enemy air defense, all the tankers? I have not heard anyone in our committee make a recommendation that we delete all of these from the inventory.

So, if you really want to go with B-2's, then we ought to have a corresponding offset. So for the next 5, we ought to have—I have not totaled these numbers up, but there must be at least 50 or 60 aircraft for each B-2. We could probably eliminate, if we take 5 times those 50 or 60, we could have another 300 aircraft to eliminate.

Mr. NUNN. I say to the Senator from Maine, I have, indeed, suggested that. I think it is a very valid point. The Air Force, like every other service, would like to have it both ways. He is right. They are going to have to eliminate a lot of those aircraft. They are indeed already eliminating F-16's. We literally closed three F-16 bases in the last 2 years. That is underway now. That is not a direct tradeoff for the B-2, because the B-2's are not in inventory yet, in terms of actually operating.

But the Senator is correct. I say to the Senator, and there is no jest intended at all, and I hope no exaggeration, if we were to build about 35 or 40 B-2's, we would indeed have to insist, and should insist, that they get rid of this number of other aircraft. The Senator is correct. We are going to have to cut down force structure.

Mr. COHEN. I thank the Senator for his comments.

Let me add another word. If what the Senator from Virginia is saying is that all of our personnel are being put at risk in flying these aircraft, then, indeed, I think it is incumbent upon us to eliminate all of the nonstealthy aircraft from our inventory. To suggest that anyone flying the F-16 or the F-18 or the F-117, now is being put in harm's way unreasonably so means that the Senator is saying that anyone who is flying those aircraft is really being unduly placed at risk by the actions of this Congress.

But let me continue on my own time.

Mr. WARNER. If I may reply, and indeed I will reply on my own time, this has, throughout the history of our country, been the evolution of our weapons. As we approach weapons systems, we have built in technological advantage to protect life and limb. We cannot dispose of the entire inventory that preceded it.

Furthermore, when you talk about the numbers, I join the chairman in his reply. But, right as of today, we have not a full operational fleet of the B-2, whatever number the Congress may eventually decide. So, until such time as those fleets are in operation, we cannot attenuate the older types of aircraft.

The Senator is correct. Those flying older types of aircraft in this same environment do take a higher degree of risk. But my point is we should always, as a nation, work toward providing the young men and women who are willing to take these risk in response to orders of the Commander in Chief, the best equipment this Nation can provide.

Mr. COHEN. And can afford. And can afford, because, if we adopt that argument where we are paying $1 billion a copy, you are going to have fewer and fewer aircraft that meet the job that needs to be done.

Frankly, I do not think we have enough in our budget to accomplish that. I agree with the Senator from Virginia, we ought to provide the very best we can, the safest, most effective and most powerful weapons systems that we are ordering our young men and women to command. But we are also in an environment in which we are being stretched very, very thin. And the Senator from Virginia knows that defense budget is coming down. He and I have resisted that on a number of occasions, but it is coming down, and it is likely to come down further.

So we are going to find ourselves in a position of funding more and more expensive systems and fewer and fewer numbers to the point where we are not going to be able to carry out the missions that are going to be required to defend this country.

Let me just follow up quickly on the statements made by my colleague from Michigan. He suggested there has been some inconsistency on the part of the Air Force in terms of their dealings with him and with the Congress. I might suggest the Air Force has been very successful in evading the radar screen of the U.S. Congress.

They manage to slip under that radar screen almost on a yearly, and perhaps even more frequent, basis.

In his book, "The Commanders", Bob Woodward wrote that: "Cheney already knew enough to be wary of the Air Force. The officers were a smooth lot." He said:

> The Air Force seemed craftier than the other services, more familiar with Washington's ways, more adept at throwing up a smokescreen. * * * You had to look hard to see exactly what was up. The senior Air Force officer corps was so unified and impenetrable, it was often called the "Blue Curtain." Herbits and Cheney agreed it would be necessary not only to understand the Air Force, but how to get around it, if necessary.

That Blue Curtain has been wrapped around the B-2 ever since its inception. When the details of the B-2 program first became public, the Air Force repeatedly leaked figures to the media stating the 132 B-2 aircraft would cost $36 billion. That was the price tag put on 132 B-2's at that time. They were not quite so quick to reveal that figure was calculated in 1981 constant dollars, rather than the ten-year dollars we would have to appropriate. The use of constant dollars is not unique and is quite legitimate, but I think clearly there was an effort underway to prevent an informed debate on the B-2 because the Blue Curtain had descended.

This Modus operandi of the Air Force continued unabated as full-fledged debate erupted on the B-2, and perhaps the best example of this came last year during the consideration of the Defense authorization bill. In the middle of the Senate debate on the B-2, suddenly, behold, an Air Force letter arrives, delivered to the chairman and the ranking member of the Armed Services Committee, alerting us to cracks in the airframe of the B-1B.

While the Air Force indicated it did not know how serious the problem was, the intended message clearly was that the B-1B was in deep trouble. We do not know if we will be able to fly it safely. So if you vote against the B-2 you are going to be held responsible.

Some proponents of the B-2 asserted that it might cost billions to fix these cracks in the B-1, if they could be fixed at all, suggesting that it might be cheaper just to go ahead and buy the B-2. As it turned out, though, fixing these cracks cost something like $5,000,000 for the entire B-1B fleet.

It also turned out that the cracks had actually been discovered seven months earlier. The Air Force just did not get around to telling us about it until shortly before the vote on the B-2. This is a curious contrast with the way the Air Force dealt with cracks found in the F-16 last year, news of which was almost immediately released to the media.

To quote the Commanders again, "the Air Force was craftier than the other services * * * more adept at throwing up a smokescreen."

Smokescreens. The Blue Curtain. That is still the manner with which the Air Force treats the B-2. Or more accurately, that is the manner in which the Air Force treats the Congress on issues such as the B-2.

Last year, when the House voted to halt B-2 production, leaving the Air Force with 15 B-2 bombers, Air Force officials, as Senator LEVIN pointed out, argued that this would not be a militarily capable force and they would rather have nothing if they could not get something approaching the 75 B-2's requested. Just a few months later, once again they slipped under the radar screen. Secretary Cheney cut the program to 20 aircraft, and Air Force officials began extolling what a powerful warfighting force 20 B-2 aircraft would constitute—no longer necessarily having a strategic nuclear mission to attack what used to be the Soviet Union, but now it would fly this conventional operation and save all of these aircraft with just two of these B-2 right here.

Which should we believe, Mr. President, the Air Force argument from the fall of 1991 or the Air Force argument from the spring of 1992?

This is not an isolated case, Mr. President. In June of last year, Air Force officials testified to the Armed Services Committee that "B-2 testing demonstrates that the B-2 works." The very next month, the B-2 failed a critical test of its stealthiness. But, needless to say, the Air Force did not bother to divulge this failed test until September, after the Senate had already voted on the B-2.

And as the B-2's observability goes up, so does its cost. This year's cost estimate is $5.4 billion higher than last year's, and there is nowhere for it to go but up from that point.

I think Senators ought to keep in mind this history of Air Force management of public and congressional perceptions when they read Air Force statements that the problem with the B-2's stealthiness has been fixed.

Mr. President, as we have stated many times on this floor, the Soviet Union no longer exists as a political entity. Its threat has been diminished, although certainly not eliminated. There is no need to penetrate Soviet—or Russian airspace.

But, let us assume it comes back. Let us assume it comes back. I think that is not likely or perhaps even feasible, but suppose they reconstitute the Soviet Union. Assume there is a resumption of the cold war.

We still would not need this bomber in order to protect the national security interests of this country. We have a B-1B, which we have paid for dearly. It can be equipped with stealthy cruise missiles. Those stealthy cruise missiles can in fact perform the necessary mission to decimate any enemy, including a resuscitated Soviet Union, should that ever become the case.

Mr. President, for all of these reasons I urge my colleagues to once and for all terminate the program. Keep the 15 we have, then move forward. I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. I yield to the Senator from California, 2 minutes.

The PRESIDING OFFICER. The Senator from California is recognized for 2 minutes.

Mr. SEYMOUR. Mr. President, I rise in strong opposition to the pending amendment to terminate the B-2 advanced technology bomber program.

We have heard and will hear, I suppose, the tired litany of arguments about the exorbitant cost and questionable capabilities of the B-2. This aircraft poses a unique challenge to the Senate because it presents us with an easy chance to make inflated or inaccurate claims about how much we spend on American military air power. Press secretaries dream about weaving headlines and soundbytes expressing opposition to the B-2.

Many politicians cannot resist this approach to making decisions on public policy. But as we all know, this approach puts the truth aside. And so today, we hear that the President's fiscal year 1993 B-2 request is too high and unaffordable. Yet in this statement as in so many others about the B-2, the truth fails to ring.

We fail to hear the truth that Congress and the American taxpayer have already invested $35 billion in the research, development, testing, and early production of this system first requested by a Democratic administration.

We fail to hear the truth that is the House and the Senate allowed the most efficient annual rate of B-2 production, the aircraft's per unit cost would at least be half of its current level.

We fail to hear the truth that 20 B-2's instead of 16 B-2's would give the Nation a 45-percent increase in combat firepower.

We fail to hear the truth that it would actually cost $2 billion more to kill the B-2 Bomber than the money we would save by passing this amendment.

And we fail to hear the truth that the completion of the President's plan for 20 B-2's would increase the existing bomber force by 33 percent with only a 6-percent increase in total program cost.

So allow me to state the most revealing truth, Mr. President: If we pass the pending amendment, Congress will have to spend significantly more money to enforce its purpose than to finish buying the remaining B-2 aircraft that it would eliminate.

This amendment, therefor, makes no sense from either a financial or military point of view, and I urge my colleagues to reject it.

Mr. WARNER. Mr. President, may I ask a question on my time of the Senator? Has the Senator had an opportunity, in view of the fact that this contract has a heavy impact on his State of California, to extrapolate the number of lost jobs should this amendment be adopted?

Mr. SEYMOUR. The best we can estimate is it is in the tens of thousands. It would decimate many defense contractors and subcontractors—small businesses—that support this project in southern California.

Mr. WARNER. I thank the Senator.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from Nebraska [Mr. EXON]?

Mr. NUNN. Mr. President, I yield the Senator from Nebraska, the chairman of the Strategic Subcommittee and our leader in this area, Senator Exon, 10 minutes.

Mr. EXON. That is fine. I may not take that long, but I appreciate the courtesy of my friend, the distinguished chairman of the committee.

I have been sitting here listening to the interesting debate on the B-2. I guess I have been one of the lead forces for the B-2 program from the time that I first heard about it, many, many years ago when it was a classified program. I learned about it when Senator John Stennis, chairman of the committee, had myself and one other Member of the committee briefed about this, the first time way back in the very late 1970's sometime, shortly after I came to the Senate and became a member of the committee.

I think we do not need to take a great amount of time. I have listened to the criticism, which I think is legitimate criticism, from my distinguished friend and colleague from the State of Michigan, Senator LEVIN.

I think that he is accurate in view of the fact the Air Force has not done as good a job as it could have done or should have done with regard to making the various contractors on this and other programs meet what many of us feel are at least some of the increased legitimate costs to the contractors and not the taxpayers of the United States. I think Senator LEVIN makes some excellent points.

I have listened with interest to the Senator from Maine tearing the Air Force apart, criticizing the Air Force for false and irrelevant information that they have given us from time to time. I must say that I share at least a part of the concerns of the Senator from Maine in this regard.

I only say that we are not here to decide whether we are going to launch a brand new B-2 bomber purchase program. We are here today to recognize the fact that this program, which started out at 132 bombers at a timeframe when most reasonable people in the United States, including most of the Members on both sides of the aisle of the Armed Services Committee, and on both sides of the aisle in the U.S. Senate, were concerned, and certainly legitimately so, under that scenario of the rising continued threat of the then all-powerful Soviet Union.

So when we go through some of these criticisms today, I hope that in all fairness we will keep in mind that when the Carter administration authorized the first research and development on the B-2 program, when it was embraced by the Reagan administration, and reembraced by the Bush administration when that administration took over, we did not have the rosy scenario that we have now with regard to a much reduced military force in Russia and the former Soviet Union, certainly not the superpower that it was that caused us to build the B-2 in the first place.

Therefore, all the criticism that we try and heap on the Air Force officials at this time, some of it legitimate, I emphasize, Mr. President, I think should be cast in the light of the decisionmaking process that all of us were involved in making at that time.

The chart that the Senator from Maine has used with regard to the selling by the Air Force of 75 aircraft, if they had 75 aircraft, how much of this other type of aircraft they would not need, it is the same chart that I believe I first used on the floor of the U.S. Senate to justify the purchase of 75, the reduction from 130 down to 75 at a time when the Soviet Union was still a viable superpower.

So I have heard all these arguments before. We are hearing them again. There is some legitimate basis, in fact, with regard to some of the criticisms of the program. I am not certain that it is proper at this time to get into talking about how many jobs are going to be lost in California or elsewhere if we close down the B-2 program at 16 rather than 20.

Sad as that is, it is true. Sad as that is, it is necessary to scale back much of our military-industrial complex and there is going to be some pain and suffering and loss of jobs in that regard.

But the wholesale spending of billions and billions of dollars each year, the wholesale borrowing of more and more dollars in the trillions of dollars, it has to come to an end.

I will simply say that I do not think we need to go through a whole lot of talk today with regard to whether or not we should build four more aircraft. If we were talking about going up for 20 or 30 or 40 more aircraft, then some of the arguments that have been made on the floor would be justified.

The fact of the matter is, Mr. President, that we have $35 billion-plus for research and development and development of a whole new type of program to produce a military aircraft where the B-2 program broke leadership ground with regard to how we went about building this new aircraft.

The point that I think we should make is that we have now scaled back the original 132 purchase program down to 75, now down to 20. We have already authorized 16, and there is no argument about that.

We are doing a lot of shuffling of facts and figures in argument on the floor of the Senate today, in my view to allow those people, some who have honestly and with conviction opposed the B-2 program for a long, long time by simply saying I told you so, you are wrong. I am not here to argue that, Mr. President. I am simply saying that I hope before it is agreed we were wrong, we try and put everybody in the place that we were in when these decisions were made.

Suffice it to say, Mr. President, if we take what the opponents of the purchase of the last four aircraft propose today, we are being penny wise and pound foolish. I have said that we have $5 billion-plus invested in the program today. It would not have been such an expensive program per plane had we bought 132, but we are not going to do that. We are not going to buy 75. We are now down to 20.

It is penny wise and pound foolish, Mr. President, because of advanced parts purchases, because what it would cost us to get out of the contracts presently in existence for the purchase of the four additional aircraft. We would find if we canceled the program today and did not build the additional four aircraft, that we would be throwing away about 40 percent of the money because it is going to cost us about 40 percent of what the four new airplanes would cost just to take the unwise action that is being suggested on the floor of the Senate today to not buy the additional four.

I wish that everyone would honestly forget all the arguments that have been made in the past, right, wrong or indifferent, and come to the realization that it has now been agreed by the administration, by the Air Force, by the House of Representatives that we should put the B–2 program to rest and give it a decent burial as far as new procurement is concerned by cutting it off at 20.

I hope that the Senate will not try and have old rivalries, old discussions, old arguments used time and time again today essentially to prove that because someone disapproved the B–2 in the past they were right after all. The facts of the matter are, if we have 20 of the B–2 aircraft, they are going to play a very key role in the national security interests of the United States in the future. By and large, we are still depending on the B–52. Most of the B–52 aircraft today are older than the pilots who are flying them. So I do not believe it is wrong, I do not believe it is wasteful to put the B–2 program to bed and give it a decent burial by buying only four more.

If we do buy the four more, given the circumstances we are in, the record will clearly show that the last four B–2's we purchased were the cheapest ones of the 20.

Let me say, Mr. President, that hindsight is always better than foresight, but those who are now storming in with arguments about how wrong this program has been from the beginning are not addressing the fact that when the aircraft was designed and originally authorized, the billions of dollars that have been poured in it since that first start were done at a time when many felt, and maybe justifiably so, had the Soviet Union not disintegrated as a major military power, the B–2 Program could have been and might have been salvation as far as our nuclear deterrent is concerned.

I simply wind up by saying I think we are spending too much time on it. I hope that we would have the vote as soon as possible. If the Senate, in its lack of what I would consider sound reason and judgment, cut off the program at 16, that might make some of those who have fought this program from the beginning feel very good. I would suggest, Mr. President, in all candor I do not believe that would be a wise thing to do. And once again let us give B–2 a final resting place at 20 and move ahead from there.

I reserve the remainder of my time, and I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Will the Senator yield for one clarification, one question I might ask of the Senator.

Mr. NUNN. Mr. President, might the Senator use his time.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Georgia has 13½ minutes remaining; the Senator from Vermont 4 minutes and 15 seconds.

Mr. LEAHY. I will do it on my time. Then on my time, Mr. President, could I ask the Senator from Nebraska, I understood him to say that there are contracts already signed for four additional B–2's. It is my understanding there are no such contracts. Did I misunderstand the Senator from Nebraska?

Mr. EXON. Let me clarify that point. The point I am making is with the contracts that we have out to purchase some of the essential parts and material that would go into the new airplane, we would be really throwing money down a rathole, throwing those parts away in a dump heap. Also, if we go to that proposition, yes, I believe that we may, indeed, have some contracts which we are in that would allow us to buy and contract these four additional aircraft and let us have some expense we otherwise would not have and also have no airplane, if we take the suggestion of the Senator from Vermont.

I must say, though, that the remarks I have been making did not necessarily include the Senator from Vermont. The Senator from Vermont has had a steady course of opposition to the B–2, and I certainly agree with some of his statements of the way things turned out. I would simply say and urge we recognize that for the limited amount of money we would spend on four additional B–2 aircraft, once again this would be the cheapest of the 20 B–2 aircraft we would have bought because the research and development and the parts we have on hand could be built at a considerable less per plane cost than would be the previous 16.

Mr. LEAHY. Mr. President, I would note, though, the bottom line is that there are no contractual obligations for four additional planes. If there are, it is different than what the Air Force has told the Appropriations Committee. I assume they have been accurate in their discussions that there are no contracts for four additional planes.

I reserve the remainder of my time.

Mr. NUNN. Mr. President, how much time do we have remaining on each side?

The PRESIDING OFFICER. The Senator from Vermont has 1 minute 49 seconds remaining. The Senator from Georgia has 13 minutes and 29 seconds.

Mr. NUNN. Mr. President, I yield 4 minutes to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina [Mr. THURMOND].

Mr. THURMOND. Mr. President, over the past several years, the Senate has heard all the arguments both pro and con on the B–2 Program, and therefore I will limit my remarks.

Mr. President, it should be no surprise that I rise in support of the B–2 Program. I have supported the B–2 Program from its inception. However, like many of my colleagues, this support has fluctuated as the cost per aircraft has increased and questions about its stealth capability have surfaced.

Mr. President, the administration has requested $2.6 billion for the procurement of four B–2 bomber aircraft. The committee authorized this request, plus the one aircraft conditionally authorized in the fiscal years 1992 and 1993 National Defense Authorization Act. This authorization would complete the B–2 bomber program at a total of 20 operational B–2 bombers, as requested by the President. The projected cost of these additional bombers is $3 billion more than the 15 already authorized.

In a letter to Chairman NUNN, the Secretary of the Air Force stated:

> We believe the $44.4 billion number contained in the President's Amended FY 93 Budget and the Air Force FY 94 Program Objective Memorandum fully funds all known tasks to complete construction and make fully operational the 20 B–2 production aircraft.

In the same letter the Secretary indicates that the cost of the 15 B–2's already authorized would total $41.8 billion. Mr. President, the additional $3 billion for five bombers will significantly enhance the B–2 fleet's capabilities. Significant amongst these is the ability to deliver an additional 250,000 pounds of bombs on enemy targets anywhere in the world. To give you a better perspective on this ability, consider that it would take approximately 360 Tomahawk cruise missiles to deliver this same quantity of explosives at a cost of $1.3 million per missile. I have no doubt that my colleagues will agree with me that in comparison the B–2 is cost effective, especially since the B–2 can be reused.

In regard to concerns about the B–2'2 ability to meet its announced stealthiness, let me advise the Senate that this is a bogus charge. Recent tests have demonstrated that the B–2 can meet these specifications. This fact was relayed by Secretary Rice to the Armed Services Committee in a letter dated July 21, 1992. Mr. President, I ask unanimous consent that this letter be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF THE AIR FORCE,
Washington, DC, July 21, 1992.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Last fall we reported an anomaly in the test results for one area of the spectrum in our ongoing B–2 low observable testing program. Since that time, we have been hard at work on the issue. This work has concentrated on three possible options to address this anomaly.

We have now determined that one of these approaches will enable us to meet the specifications. We will continue to work the other two options and make a final configuration decision sometime later this year. We will then provide a full report.

If desired, we are prepared to present you the current test results and our conclusions to date.

Sincerely,

DONALD B. RICE.

Mr. THURMOND. Mr. President, I am confident that the B-2 will meet all of our expectations and therefore urge my colleagues to reject this amendment. The B-2 will provide this Nation unprecedented capabilities well into the next century. It is time to make a final commitment to the B-2 and cease this annual debate.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Nine minutes and eighteen seconds.

Mr. NUNN. Mr. President, I would like to reserve 3 minutes and would like to be notified when 6 minutes have expired.

Mr. President, I believe the issue this year on the B-2 can be stated very simply. Should we stop the program at 15 B-2's now or should we finish the 20 B-2's flying or under construction?

To answer this question, Mr. President, we need only to look at a few facts about the B-2's status, its funding and its capabilities. We can start by asking how much more it will cost to end up with 20 fully operational B-2 bombers rather than 15 fully operational B-2's. The Air Force tells us that 20 B-2's will cost $44.4 billion overall, while 15 B-2's will cost $41.8 billion.

Thus, by straight arithmetic, the cost difference for five more operational B-2's is $2.6 billion, which represents 6 percent of the total acquisition cost. So we are talking about, this morning, whether to spend 6 percent of the total acquisition cost to buy five more operational B-2 bombers.

We need to recognize that if the Leahy amendment passes, the Air Force says we will incur some $800 million in termination costs. I know the Chair is very familiar with termination costs, having been very forceful on that issue on the *Sea Wolf* debate earlier this year.

So we are going to spend $800 million to terminate this program if the Leahy amendment passes. That is what the Air Force said.

In addition to that, Mr. President, we will be scrapping an investment of some $1.4 billion in long-lead structural items that have already been produced for the last five B-2's. Thus, the Leahy amendment, in effect, will cost the taxpayers some $2.2 billion. That is what we would have already spent on $1.4 billion worth of spares, which we will get no use out of, or very little use out of. And that is what we will spend in terms of $800 million representing termination costs.

So we spend $2.2 billion and get no more B-2's if the Leahy amendment passes. We spend $2.6 billion to complete the next five B-2's if the Leahy amendment does not pass.

The capability is very significant. What capability do we gain by having 20 B-2's rather than 15? Some people might say, by simple arithmetic, that you get five more—that is one-third more—and that we would have one-third more capability.

But in terms of war-time, war-fighting capability, that is not correct. For any short-warning crisis, we can expect, on average, about four B-2's to be unavailable—and this is true with every aircraft and almost every weapons system. About four B-2's would be unavailable because they are in overhaul, or routine maintenance, or perhaps in some form of being modified.

Thus, our war-fighting commanders in chief could expect to have 11 mission-capable B-2's if we had a total inventory of 15; if we have a total of 15-B-2's, we will have about 11 of them available for combat power on short notice. If we have more notice than that, hopefully we could muster another aircraft or two. So that is the case if the Leahy amendment passes.

It is the mission-ready totals that represent available combat power. If we have a total of 20 B-2's we would have 16 of the ready. That represents 45 percent more capability than 11 mission-ready B-2's out of 15 total. Thus, the last five B-2's really do matter. They provide about 45 percent more punch for only 6 percent of the total acquisition costs.

Even the House of Representatives, who have been most skeptical of the B-2 program, understood well the value for dollar expended in going ahead with the B-2 in their bills—both the appropriations bill and authorization bill—to buy 20 B-2's: 45 percent more capability for 6 percent more dollars in terms of the overall program costs; $2.6 billion for 45 percent more capability.

The House has authorized the completion of the 20 B-2 program, Mr. President. And the Senate—by arithmetic, by logic, by analysis, by any kind of consideration of both economics and taxpayer value, and national security—should follow their example and reject the Leahy amendment.

Mr. President, I want to make one other point. We have a chart in the back; I have a small copy of that chart in my hand. It is a duplicate.

We had, at the beginning of this debate this morning, a little discussion about risk. The major risk we try to avoid by our policy in the United States is risk to human beings. We are trying to make sure if we go to war we do not risk unnecessarily the lives of our young men and women.

Mr. President, in the recent Persian Gulf war, if Saddam Hussein's troops had not stopped at the border of Kuwait, if they had gone right ahead into Saudi Arabia before the United States had several months to get our forces in place, what would we have been able to do? Virtually the only thing we would have been able to do is fly long-range bombers and long-range aircraft off aircraft carriers. We would not have been able to put many—if any—short-range attack-type aircraft in the field. We would have been relying on long-range bombers.

The Senator from Iowa said this morning that, in the post-cold-war era, we were not going to have the same kind of bombing missions. Mr. President, we want to bring most of our troops home from around the world. We are going to need bombers that can operate from this country more than we ever have before, for conventional missions. There is no doubt about that; anybody would know that.

We are going to have more of our forces here at home. We will have to be able to project power more from our own shores. What happens if we send the combinations we have now available, that can go in after a hard target that is fully protected?

Mr. President, that chart shows how many B-2's we have to send in. That would be two; that puts four people at risk. All rest of the military personnel are back in the United States. We would perhaps, in very lone-range missions, have some tanker support required, but we would have those tankers based in the United States. So we would have to expose only four people in the theater, with two B-2's.

The same chart shows you how many, how many aircraft with precision weapons we would have to have, and how many we would have to expose in that column, exactly next to the B-2, with precision and stealth. We would have to have eight people with the F-117's and eight people with the tankers, since they all have to be in the theater because of the limited range of the F-117. We would have to have some 300 people on the ground in a logistically insecure place at the outset of any war.

So we would be talking about exposing, in the best alternative, some 316 people to the theater dangers in the early stage of any unforeseen contingency, as opposed to only four people with B-2's.

If we use a mix of F-16's, F-15's, F-111's, F-4G's, and KC-135's—which is the third column, all with precision weapons but without the F-117 Stealth, we would have to have 100 people in the air, the total of air crews, and we would have to have several thousand people on the ground in the theater.

Mr. President, we are willing to pay more for equipment to reduce the risk to our military personnel.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, I have advocated the termination of the B-2 for over 2 years, and I voted for the termination of the B-2 in 1990 and 1991. While I recognized the fact that the B-2 was an outstanding technical achievement, I felt that an effort to procure 75 to 132 B-2 bombers in an era of sharply declining defense budgets would lead to massive further cuts in tactical aviation, strategic airlift, and the other high-priority power projection forces we will need in the future.

If we still had the choice we had 2 years ago, or even last fall, I would still vote against additional funds being spent on the B-2. I would still vote to use the money to support other aspects of power projection like tactical aircraft.

The issue we now face, however, is not whether to terminate the B-2, but how to terminate the B-2. We are not going to vote on buying 132 or 75 aircraft, we are going to vote on whether we should have 15 aircraft or 20 when the program terminates.

We are also going to vote after an additional year of spending on the B-2, and we must take this added spending into account. We will not be voting on future expenditures of $25 billion, $40 billion, or more. We will vote on whether to spend an additional $2,687 million for aircraft procurement to fund 4 final aircraft, and continue funding the 16 aircraft already authorized.

If we could still produce them, I would rather vote for more F-15E's. If we could produce them before the year 2000, I would rather vote to fund the purchase of the A-X. The Air Force does not, however, have that choice. Further, if we do not vote for sufficient B-2's to provide a minimal strike capability we risk wasting more than $40 billion.

Voting for an amendment to terminate the program at 15 aircraft would mean giving up the funds we have already spent on the final four aircraft, and 20 percent of the labor and material work on the last 5 operational aircraft is already completed—1 from fiscal year 1992 and 4 from fiscal year 1993. We are already committed to spending $41.8 billion on this program, and a 6-percent increase in the total cost of the program will provide a nearly 50-percent increase in long-term operational capability.

As a result, we would end up with so few B-2's that capping the program at 15 would leave us with the worst of both worlds: An extremely high investment with almost no military capability. With 15 aircraft, we will have only 11 combat ready aircraft—1 squadron—and lack the mass for effective rapid long-range strategic and antiarmor attacks.

With 20 aircraft, we will get 2 operational squadrons and 16 combat ready aircraft. This will give us the strength to launch major long range attacks against typical land force targets in nations like Iraq, North Korea, and Libya, and deploy a mix of B-2's, carrier aircraft, and cruise missiles that can devastate the air, air defense, and command and control capabilities of potential threats.

I do have some reservations about the remaining technical problems in the B-2, but the program cannot be completed unless the B-2 meets all its critical performance needs, and the manufacturer has warranteed the aircraft. Equally important, the overall strategic situation has changed sharply over the course of the last year.

We do not need a B-2 when we have other options, and we do not need more than a minimal B-2 force today. This, however, is 1992, not 1991, and our current defense plan provides far less flexibility than the one we had a year ago. We have already seen a precipitous decline in our power projection capabilities, and this capability will decline sharply in the future. The following changes are already underway.

We have terminated the F-15E, far too soon in my opinion, and ended all F-15 production for the Air Force as part of last year's Defense authorization bill.

We are terminating production of the F-16, which was once produced at 230 aircraft per year.

The demise of the A-12 program has delayed the production of a new long range strike fighter into the Air Force by more than 10 years—from 2002 to 2012, and it is unclear that the A-X will now be funded at the level and schedule we need. We will not be able to deploy the A-X into the Air Force before the year 2013, even if we do fully fund the program.

We are funding only limited and slow upgrades to the B-1B, which will have substantially less capability as a conventional bomber than we once planned.

We have seen some significant technical advances in the conventional weapons that can be used by the B-2—including the joint direct attack munition, joint standoff weapon, and sensor fused weapon.

General Powell's base force plan calls for cutting Air Force tactical fighter wing strength from 38 to 26.5 wings, and further cuts are under study within the Joint Chiefs. We have already removed our fighter wing from Clark Air Force Base, and lost a key staging point for Pacific and gulf missions. We have closed or are removing our air units from six bases in Europe, and by the end of fiscal year 1992, our European fighter/attack forces will have been cut from 8.8 tactical fighter wings to only 3.3. We will remove over 150 F-16's, over 120 A-10's, and our F-111's. One of the two key staging bases in Spain we used in Desert Storm is closed, and one is on standby status.

Once again, let me make it clear that my priorities and strategic views have not changed. If circumstances were different, I would prefer to use the B-2 money for more F-15E's and for a large force of long range strike aircraft like the A-12 or A-X. The fact is, however, that we now need the extra long range striking power that two squadrons of B-2's can give us.

I would also stress that the issue is not whether to terminate, but how to terminate. The President and the Congress have now accepted the position I advocated over 2 years ago. Further, this vote does not begin to give us the power projection capabilities we need for the future.

Finally, let me make my future priorities clear. It is even more important that we fund the C-17, F-22, and an aircraft like the A-X. The key to a smaller Air Force is one with certain technical superiority in aircraft, munitions, and electronic warfare over any potential enemy, and the technical and industrial base to expand in a crisis.

Mr. WARNER. Mr. President, I ask unanimous consent to speak for 1 minute.

Mr. NUNN. Mr. President, I yield to the Senator from Virginia.

Mr. WARNER. How much time do we have?

The PRESIDING OFFICER. The Senator has a minute and a half.

Mr. NUNN. I yield the remainder of my time to the Senator from Virginia.

Mr. WARNER. Mr. President, I join Chairman NUNN in opposing this amendment.

Again, I think the most persuasive argument, certainly, in this Senator's judgment, is the need for this Nation to continue to move forward in terms of its technology to save American lives.

That is precisely what this particular aircraft will do. It enables our future Presidents to have extraordinary flexibility in terms of dealing with the hot spots of the world.

We looked at this chart earlier this morning in terms of the relation of the number of aircraft to carry out a mission. As we move forward in this troubled world, there are areas where a single bombing mission could make the difference to free up hostages, to save American lives, not only in terms of the airmen flying the aircraft, but the American hostages that could be entrapped in a certain situation.

So I am confident that this is the right decision.

I also would like to read into the RECORD a statement made by Governor Clinton, who said as follows, on the 12th of August:

> If you are going to phase out the B-2, I favor going to 20 planes and not stopping at 16. We have got all this money spent. The Air Force says they need 20 to have a full complement. We are going to waste a lot of money if you don't buy 20 aircraft. So I was a friend of the B-2 program. But I would go for 20 instead of 16.

It is also the way Senator GORE voted in the Senate.

To me, that is a strong bipartisan position.

I yield the floor.

Mr. LEAHY. How much time do I have?

The PRESIDING OFFICER. The Senator has 1 minute 49 seconds.

Mr. LEAHY. Mr. President, we have heard the debate. We are going to vote. There are numbers.

It is going to cost money to stop at 20; it is going to cost money to stop at 15.

We had 42 F-111's in the Persian Gulf. We used the Department of Defense's chart; 10 B-2's provides twice as much payload as 42 F-111's. With 15 B-2's, we certainly have enough. But I still ask Senators to think of the anomaly. On one day, the administration is saying we need to send foreign aid to Moscow. The next day they are saying we need to have a bomber that can get through the defenses and bomb Moscow.

I only hope that if we are going to do both, we try not to have them arrive on the same day, because the message gets kind of muddled. This is the craziness of what we face. Let us start spending some of this money on the needs we truly have.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. Senator LEVIN is recognized.

Mr. LEVIN. Mr. President, the July 17, 1992, letter of Secretary Rice to Senator NUNN, regarding the management of the B-2 program is in error.

First, with regard to the B-2 warranty requirements in section 117(d) of Public Law 101-189, it makes a number of misleading and inaccurate statements. These include the following:

First, the letter states:

> The Air Force negotiation team took aggressive action to ensure the negotiated warranty complied with the law.

In fact, although the Air Force asked the contractor in November 1990 to propose a price on a warranty cap equal to target profit—in compliance with the plain terms of section 117—Air Force officials made no effort at all to negotiate this provision with the contractor or to have it included in the contract.

Air Force officials told my staff that the contractor submitted a ludicrous offer in response to the Air Force request, stating that they would charge the Government a dollar for every dollar of added warranty coverage. Air Force documents indicate that the Air Force never submitted a counterproposal and never attempted to negotiate with the contractor over the cost of this proposal. My staff was told that this was not done because, far from being aggressive negotiators, Air Force officials were happy with what we had—a limited warranty that did not comply with the terms of section 117.

Second, the July 17 letter states:

> It is unrealistic to expect the contractor to have the capability to accurately forecast warranty failures and the associated corrective action costs in areas that have yet to be tested.

However, the B-2 contract expressly provides that the contractor is only responsible to attain the same level of performance as has already been attained and accepted by the Government upon completion of the test program. It is not unrealistic to require the contractor to meet the same standard that it has already met under the test program. In any case, this is what section 117 requires.

Third, the July 17 letter states:

> The contractor has greater financial responsibility for corrective actions than under the original warranty, in that the warranty limit for the correction of essential performance and design and manufacturing defects was raised from $100 million for the first five LRIP aircraft to $250 million for all 10 LRIP aircraft.

However, the letter fails to mention that this $50 million increase in the warranty cap was proposed by the contractor to cover a specific known problem with the aft section of the aircraft—which the contractor was reluctant to price—or that the contractor was given a $10 million increase in target profit as consideration for this increase in the cap.

Fourth, the letter states that, because of the unlimited materials and workmanship coverage in the contract, all the contractor's target profit for the second five aircraft is at risk as prescribed by law. However, it is inconceivable that materials and workmanship defects on the B-2 could add up to anywhere near as much as $700 million—the contractor's target profit for the second five aircraft.

The letter does not provide, nor has the Air Force ever provided, any reason to believe that the contractor's actual liability for the narrow category of defects covered could be as much as $700 million. In the absence of any such indication, the argument is tantamount to saying that the Air Force could have complied with section 117 by leaving any category of defects unlimited, regardless how narrow. For example, if the Air Force had placed an artificially low cap on all defects except defects in one wing of the aircraft, it could have made the same argument—that because defects in one wing could theoretically exceed the contractor's target profit for the entire aircraft, the limitation would be permissible. This argument is not only inconsistent with the plain intent of section 117, it is an absurd twisting of the plain words of the statute.

Fifth, the letter states that the reduction of the program from 132 to 75 aircraft, and then to 20 aircraft "increases contractor risk in planning and projecting warranty coverage for the fleet." This statement is plainly wrong. In a 132-aircraft program, the contractor would be responsible for ensuring that all 132 planes met the contract requirements. In the case of a failure to meet essential performance characteristics, the cost of retrofitting all 132 aircraft could potentially run into the billions of dollars. In a 20-aircraft program, the number of aircraft over which risks may be spread is reduced, but so too is the risk itself.

Sixth, finally, the letter states that the chart I used at the armed services hearing inaccurately compares the "warranty cap per aircraft—$20 and $25 million"—to the total target profit on each contract.

The chart that I used at the hearing compares the contractor's full five-plane share of warranty costs—at target cost—to the contractor's projected five-plane profits, also at target cost. The warranty cap in the first 5-plane contract was $100 million. Because this cap was included within the contract's 80/20 shareline, however, the contractor's total liability—at target cost—was only $20 million. The warranty cap in the new 10-plane contract is $250 million—or $125 million for the second 5 planes. Again, this cap was included within the 80/20 shareline, so the contractor's total liability—at target cost—is still only $25 million.

The contractor's liability on a per aircraft basis is even lower—$4 million per plane on the first 5-plane contract, and $5 million per plane on the new 10-plane contract. Those numbers compare to the contractor's target profits of $50 million per plane for the first five planes and $140 million per plane for the second five planes.

Mr. President, I have decided to oppose further B-2 bomber procurement because several things have happened in the last year that have persuaded me we should stop at the current level and save the $2.6 billion this year. Let me describe the two reasons for my decision to oppose this year's funding for the B-2.

First, in January of this year President Bush revised his position and announced that the B-2 program would be reduced from 70 to 20 aircraft. When the Secretary of Defense was asked in an Armed Services Committee hearing how the administration had decided on the number 20, he responded as follows:

> Senator, the important consideration on the B-2 and the number 20 * * * is that there are, in addition to the 16 already authorized, there are four more for which we've committed long lead money. That gets us to the 20 number and that's why we've asked specifically for 20 at this point.

Mr. President, the Secretary of Defense justified the choice of the number 20 B-2's on the basis that we had "committed long lead money" for 4 additional bombers. He offered no military justification. He offered no analysis of the threats to the United States or the military need for a certain increment of additional stealthy bomber capability. Instead, he justified spending $2.6 billion more for additional B-2 bombers on the basis that we had already begun to spend money on them.

Mr. President, we cannot base our national security and defense spending decisions on the justification that we should spend more money because we are already spending money or have spent money. Indeed, as the Defense budget shrinks, it is imperative that we make fiscally prudent choices based both on what we need for our security and what we can afford. The Secretary of Defense would not have been able to terminate a number of defense programs he correctly canceled if he had used the rationale that long-lead items had already been purchased for further items.

This does not mean that one cannot find an explanation for how the four bombers in the administration's request would add some additional capability to the current fleet. Indeed, the Air Force has produced such an explanation.

There is little credibility for Air Force new justification for 20 B-2 bombers. In June 1991, the Secretary of the Air Force told the Armed Services Committee that a force of 75 planes was essential for conventional missions.

Secretary Rice said the following in June 1991:

> The best independent studies show that the kind of conventional operations which would call strongly for use of the capabilities the B-2 offers, demand forces, operational forces, in the range of 40, 50, 60 bombers, depending on what range of scenarios you are examining.
>
> Those levels of operational forces happen to fit very well with the program of a total buy of 75 aircraft that we have proposed, which we believe will sustain a force at 60 or a little larger, operational force of that size over the full lifetime of the B-2 in the force.

Now the administration tells us a year later that we can stop the B-2 program at 20 planes. That tells me, Mr. President, that the number 20 is not a necessary figure. It also tells me that the four final bombers requested this year are not worth $2.6 billion.

Mr. President, there is a second reason I'll vote "no" this year. The Air Force has decided to ignore the warranty law which is aimed at protecting the taxpayers from another B-1 fiasco.

I first became concerned about the management of this program in 1989, when I learned that the warranty provision in the B-2 contract list for the first 5 planes narrowly limited the contractor's responsibility for fixing defects caused by its own performance. Because of this limit on the contractor's liability, the taxpayers would be required to pick up the tab for fixing contractor-caused defects in the B-2. A similar limit on contractor's liability in the B-1 contract cost the taxpayers more than $1 billion in that program.

Air Force estimates of the cost of the B-2 program cannot be relied on without some kind of contractor warranty that the plane would work as advertised and as set forth in the contract. That is why I sponsored an amendment to the fiscal year 1990 DOD Authorization Act, which required the Air Force to negotiate a strengthened warranty provision, making the contractor liable for contractor-caused failures, at least up to the amount of its profits, unless the Secretary determined that the costs of negotiating such a provision would substantially outweigh the potential benefits.

After 2 years of delays in the contracting process, the Air Force finally negotiated a new B-2 contract late last year, and it contains virtually the same warranty limitations as the earlier contract. The contractor's liability for the most significant kinds of contractor-caused defects is still capped at virtually the same level as in the earlier contract, and the taxpayer is still at risk of paying billions of dollars for a plane that doesn't work the way it is supposed to because of contractor-caused defects, while the contractor could still keep almost all its profits.

To add insult to injury listen to this: under the first contract, liability for contractor-caused defects was capped at $4 million per plane and the target profit was $50 million. After the law incorporated my warranty provision, on the second five-plane contract target profit per plane skyrocketed to $140 million while liability for the two most significant of the three types of warranty deficiencies was capped at $5 million.

To add further insult to injury, the Air Force maintains that it has complied with the law by leaving contractor liability for one of the three types of defect—materials and workmanship defects—uncapped. The two more significant types of defects—manufacturing defects, and contractor failure to meet essential performance requirements—remain subject to a cap.

Under the Air Force strained interpretation, the contract could cause hundreds of millions of dollars in repairs to fix manufacturing defects it causes with a liability to fix them of $25 million and still make $675 million in profits.

When I looked into the negotiation of this provision, I learned that no serious effort had been made to comply with the law. I was told that Air Force negotiators made no effort to negotiate with the contractor over the cost of a complaint warranty that complied with the law because they were "happy" with the limited warranty which, they said, "achieved our objective."

Mr. President, we still do not know how much the B-2 will ultimately cost, because the full cost of the program has been hidden from the taxpayers from the start. The new contract, like the old one, fails to give us any kind of guarantee that the plane will work once we have bought it, and if it does not, the taxpayers will once again be left to pay the tab for fixing the most likely and significant defects caused by the contractor.

The Air Force thumbed its nose at the law aimed at protecting taxpayers from a repeat of the B-1 experience, where over 1 billion tax dollars were expended to correct contractor-caused defects.

For that reason and others, I will vote against the final four B-2 bombers.

In response to my dear friend, the Senator from Virginia, we have a specific law on the B-2 warranty, which has been ignored by the Air Force. That law is there for many good reasons, particularly the history of the B-1 bomber. Any reference to a contract where there is no specific law is irrelevant.

I do not know the warranty provisions on the M-1 tank or any other contract. I do know what the warranty requirement is on the B-2. We wrote them. If the Senator disagreed with them at that time, the Senator should have vote "no" when we wrote the warranty requirement, rather than to say right now that the Air Force can possibly justify flouting the law that was written by the Senate.

I yield back any time, Mr. President.

Mr. HEFLIN. Mr. President, I rise in opposition to this amendment which would prevent the acquisition of the last four B-2 bombers.

The B-52 was designed to fight a nuclear war, but it has proved its worth for conventional missions many times. Similarly, the B-2 was designed for a nuclear war, but is likely to become the most capable conventional bomber ever built. The B-2 was designed to penetrate airspace protected by Soviet radar and hit targets that could not be effectively targeted by standoff missiles. If it would have been available during the Persian Gulf war, we would have used it to penetrate airspace protected by Soviet radar and hit targets our standoff missiles could not. The B-2's mission has not changed, only now it will carry the smart weapons that proved so devastating during the gulf war rather than nuclear weapons.

The B-2 is a victim of politics and misleading statistics. The B-2 is expensive, on the order of $247 million flyaway cost per plane if we buy 75. Compare this to the cost of a Boeing 747. The 747 is a commercial aircraft, with a production run of 1,100 aircraft, so you would expect a low cost, perhaps $10 or $20 million per plane. Mr. President, a 747 costs $140 million dollars a copy. If Boeing had built only 20, and you included research and development costs as everyone does with the B-2, it is likely a 747 would cost over one-half billion dollars a copy. Consider also that a 747 takes 9 months to build. Due to its incredible complexity, a B-2 takes 5 years to build, over a million man-hours. I think the price difference is both explainable and acceptable.

But President Bush has decided to buy only 20 B-2's, which will serve as our frontline bomber force for the next 20 or more years. Keep in mind that at any one time, 2 or 3 planes will be in maintenance and 2 will be permanently dedicated to training, leaving only 15 combat aircraft available. Also keep in mind that our B-52 force has lost, crashed, 36 aircraft over the last 35 years. I wonder just what size B-2 force we will have left in just 10 years, much less 20. I am not happy that we have chosen to stop production at 20, but any less would be completely unacceptable.

In sum, in future wars the Congress and the American people will demand that we accomplish our military goals with maximum effectiveness and minimum loss of life. Only use of the B-2 can insure both. Expensive, yes, but this investment in technology will result in lives spared in future conflicts. I hope my colleagues will join me in defeating this amendment.

Mr. GORTON. Mr. President, the hostile challenges that communism impored upon the world after World War II spawned vivid verbal imagery, including "Iron Curtain" and "Evil Empire." But the phrase that came closest to a true description of that scourge was the one we most often heard: cold war. Its accuracy came not from the way it was most often used—as a metaphor for the interaction between the superpowers—but from its precise characterization of what happened in the Communist countries themselves: the cold war froze time.

All the regional hatreds—racial, ethnic, religious, nationalist—were frozen at the point in time when communism descended and disallowed all dissent. They were frozen, but they were not eliminated. Instead of working during the last four decades to resolve those hatreds and prejudices, the people of the Communist bloc instead packed them away, stored carefully for a future day, visited only in the safety of the mind, passed on and amplified, furtively, and with the urgency of a mission interrupted, from one generation to the next. We forgot they were there.

When 1989 brought its miracles, and the wall fell, and the curtain lifted, the world cheered. Our joy could not be contained. The world reveled in the triumph of good over evil. But as the festivities finally abated, and as the world drew its breath and envisioned a future of brotherhood and peace, the citizens of the former Communist nations regained their homes—and unpacked their Pandora's boxes of hatreds and prejudices, preserved perfectly for 40 years.

The first order of business was not to be peace or brotherhood or a new world order. The first order of business was to be a renewal of old feuds, too long allowed to fester.

Mr. President, this promising new world has become our new challenge. For 40 years we faced one large, dangerous foe: The Soviet Union. We designed our military strategy with that foe in mind, and, through strength and perserverance we triumphed. But in achieving that victory, we replaced one known, predictable adversary with a profusion of independent states, all nursing old grievances, all unpredictable—and all too many with access to nuclear capability.

We see the threat today in the atrocities taking place in what used to be Yugoslavia; we hear echoes of Hitler in the abhorrent frenzy for "ethnic cleansing."

But while that civil war holds center stage with its brutality and sheer viciousness, it is by no means the only conflict with the potential for worldwide disaster. Prof. Samuel Huntington of Harvard University correctly stated our predicament:

> All in all, the emerging world is likely to lack the clarity and stability of the cold war and to be a more jungle-like world of multiple dangers, hidden traps, unpleasant surprises and moral ambiguities.

If conflicts reborn and raging in the former Yugoslavia and the former Soviet bloc countries do not convince us of the accuracy of Professor Huntington's prophecy, then we have only to look to the Middle East for further proof, as Saddam Hussein rises again from the cesspool to puff out his chest and recklessly challenge the world to knock the chip off his shoulder. We did so once, successfully, because of the stealth high technology that allowed us to fight effectively with a minimal loss of life; we can do so again, should it become absolutely necessary.

It is likely that the gulf war will provide the blueprint for future conflicts. As we continue to decrease our NATO forces it is even more important that we have a bomber capable of being employed at any level of conflict, and that can project conventional capability worldwide in a matter of hours.

Gen. John Loh, Commander of the Air Force's Air Combat Command [ACC] recently stated:

> This capability is particularly important now. In future conflicts we expect little or no time to deploy before hostilities begin. I think our potential foes learned that lesson from the gulf war. Future Saddams won't give us the luxury of a 5-month pause. As we reduce our presence overseas, we can't guarantee immediate access to airfields, ports or supplies in every region where threats exist. All of these things dictate we have the capability to strike immediately, strike hard and, if necessary, strike alone.

We have defeated one ideology, Mr. President; we have not defeated hatred or conflict, nor have we eliminated danger. In our rush to spend our peace dividend, we cannot forget that that dividend was earned by an investment in military strength. Our challenges have changed, not disappeared. Until Congress analyzes, debates, and understands that change, it is critical that we maintain our military strength. The B-2 bomber is the most important tool we have to do so.

It is capable of quickly placing any country's most valued assets at risk anywhere on the globe, presenting a real threat to despots and zealots who respond only to real threats.

It is capable of evading the increasingly sophisticated air defenses of third world countries.

It is capable of neutralizing defenses to allow less survivable, but more numerous, bombers and other systems to operate in a less lethal environment.

It is capable of employing precision weapons to attack ground forces.

In short, the B-2's ability to penetrate to the heart of an enemy's defenses is key to the ability to wage an effective air campaign.

As long as the former Soviet bloc and the Middle East have murderous regional grievances coupled with access to nuclear weapons, we will require a strong strategic deterrent. The B-2 bomber provides that deterrent, Mr. President. I urge this body to fund the B-2 bomber as authorized in the National Defense Authorization Act of Fiscal Years 1992 and 1993, completing the program at the total of 20 operational B-2 bombers requested by the President. It is in the interest of America's continued security needs to do so, as much of our world continues to thrive on disorder and conflict.

Mr. BOND. Mr. President, throughout almost the entire time I have served in this body, we have been debating whether or not to go forward with the B-2 bomber program. I cannot even remember the number of times we have come to the floor to debate the program and to vote on cancellation. Fortunately, reason has prevailed each time.

Granted, the world has changed significantly in that time—but so has the B-2 program. The end of the cold war and fall of the Soviet Union have allowed us to scale back the planned B-2 buy from 132 aircraft down to 20. It would be a shortsided mistake to now pass this amendment and end up with a B-2 force so small as to be essentially useless.

The arguments that B-2 opponents have raised have changed over the years as opponents attempt to find the one silver bullet that will finally kill the program. At first, of course, we heard that we could not afford the B-2—that it was just simply too expensive to deploy. Then we were told that we do not need the plane because other weapons such as cruise missiles, ballistic missiles and older bombers would do just fine. After that the argument focused on the fact that the world has changed and that the role of the B-2 has been eliminated. And for the past year we have been told that it will not work—that it will not live up to its stealth claims.

Mr. President, I think it is worth taking a few minutes to examine these arguments and explore how they hold up to the facts.

First, can we afford the B-2?

There is no denying the fact that the B-2 is an expensive weapons—the most expensive single aircraft to be deployed in our history. It is not, however, the most expensive program now planned by the Pentagon—the advanced tactical fighter, for example, will cost much more.

Further, when compared to the costs of past strategic bombers, the B-2 is not out of line. As a percentage of the total defense budget, the cost of the B-2 is less than the cost of the B-1B; and it is similar to the cost of the B-52.

It is also important to keep in mind that the Government—Congress, in particular—has caused much of the price increase through constant changes in budgeting as well as the decision to reduce the size of the aircraft buy.

More important, however, in considering the cost of the B-2 program is to take into account what we will get for our investment. When we do that it is clear that the B-2 will save not only countless dollars, but lives as well.

The main role of the B-2 will be to serve as a deterrent—not only to whomever ends up controlling the tens of thousands of nuclear weapons now aimed at our Nation, but also to future Saddam Husseins and Mu'aummar Qadhafis of the world who might be tempted to strike the United States or its allies. If only one conflict is avoided because an aggressor fears retaliation by U.S. B-2's, then our investment will have been worthwhile.

If, however, we are forced to use these planes in combat; and history teaches that we are likely to have to do so—whether it is to stop a Saddam Hussein from overrunning a defenseless neighbor or to put a stop to the terrorist attacks of a Mu'ammar Qadhafi or to protect the United States against a full-scale nuclear attack—then our investment in the B-2 will be proven even further.

We have all seen the charts that have been presented by Air Force briefers showing how 2 B-2's could be used to replace the 75 aircraft now needed for a conventional air strike or even the 10 aircraft needed for an F-117 strike. The savings in operations and maintenance of the B-2's is reason enough for procuring them. More important, however, is the fact that dozens fewer service men and women would have to put their lives at risk if we had the B-2 available. That is where the real savings are realized.

A second argument that we hear in support of terminating the B-2 program is that we can perform its mission with other weapons—we can meet our nuclear needs by using submarines and missiles, and we can meet our conventional needs with cruise missiles and older bombers.

This simply is not the case.

Our nuclear missile and submarine forces are critical. In fact, I would argue that our submarine force is really the backbone of our nuclear arsenal. However, it would be a mistake to give up the ability to deploy a manned, recallable nuclear component. And that is what we will be doing if we vote for this amendment. Our B-52's are approaching retirement age and that leaves only a very small B-1 force.

On the conventional side, weapons such as the Tomahawk cruise missile proved that they play a critical role in our defense operations, but they are not suitable for all missions. For example, there would be no way to deploy a cruise missile—which must be preprogrammed prior to launch—to attack mobile missile platforms such as those used by Iraq to launch Scuds against Israel and Saudi Arabia.

We proved the versatility of stealth in the gulf war. The F-117 was the star of that conflict. Other weapons such as the Tomahawk are important, but they cannot be relied upon to fulfill all missions.

A third argument that we are hearing more and more now that the Soviet Union has ceased to exist, is that the changed world situation has obviated the need for the B-2—that with the demise of the Soviet Union, we no longer need a stealthy, long-range bomber.

That, I would argue, is shortsighted and dangerous thinking.

If anything, Mr. President, the breakup of the Soviet Union and other changes that we are seeing throughout the world increase the need for the B-2. The end of the cold war, though a major victory for the United States and the West, means it is more not less likely that we will be faced with conflicts around the globe. The gulf war is the perfect example of the type of unexpected conflict we could face at any time, and the changes in Eastern Europe and the Soviet Union greatly increase the number of possible flashpoints.

The United States, as the only remaining superpower in the world, will need to be prepared to deal with these conflicts when they arise, and the B-2 bomber is one weapon that is well suited for responding.

In the gulf, we were fortunate that a network of high-quality airbases and ports were available to our Air Force and that our aircraft carriers could get close enough to join in the battle. We were lucky that time. Unfortunately, we are unlikely to be so lucky in the future.

Our network of overseas bases is constantly shrinking. And I would note that I do not particularly think that is bad. We can afford to close many of our overseas facilities and focus more of our force in the United States. But the fact that we are bringing troops home, combined with the delays the Navy is experiencing in deploying a new attack aircraft, throw into question the ability of our aircraft carrier fleet to serve as the sole platform for projecting air power around the world.

What this means is that we need a long-range bomber that can be deployed from the United States or its territories, evade the sophisticated air defense networks that many third world nations now have, drop its bombs and return safely to base.

The B-2 is that aircraft.

This amendment would leave us with a force of 15 bombers rather than the 20 currently planned. The Air Force has said that a 15-plane force is significantly less cost effective and less mission capable than a 20-bomber force. General Loh has told me personally that he needs the full 20 aircraft to meet planned missions. The last five aircraft are the cheapest, per unit, that we will buy. It does not make sense to abandon our investment at this point and end up with a hollow force.

I urge Senators to reject this amendment and to support funding for the full 20 B-2 bombers that the committee has funded.

Mr. COATS. Mr. President, I rise to express my continued strong support for the B-2 bomber. I am pleased that the Armed Services Committee chose to authorize the additional four aircraft as requested by the President. I hope my colleagues will join me in opposing any amendments to reduce funding for the B-2 Program.

Mr. President, the B-2's key feature is one of stealth, contributing significantly to it survivability. The B-2 has the ability to penetrate deep into the enemy's defense with little warning. This stealthy quality was shown to be essential in Desert Storm, enabling the United States to wage an overwhelming air campaign.

Mr. President, the F-117 demonstrated during the Persian Gulf war, the effectiveness of stealth in an aircraft. Stealth allowed the F-117 to carry out the extraordinary mission of penetrating Iraqi airspace, destroying within the first 24 hours important targets. The F-117's stealthy features without question contributed enormously to saving countless lives and aircraft while giving us the initial success leading to a rapid victory in the air campaign against Iraq.

The B-2 bomber with its range and payload will be even more capable than the F-117. It is important also to realize, Mr. President, that in future conflicts we may not have 6 months to deploy forces as we had during Desert Storm. The B-2 can bring overwhelming firepower to bear quickly without the necessity of delay such as we had in Desert Storm. Its range gives us the unique ability to hold targets at risk anywhere in the world. Hostile nations will not be able to assume that their aggressive actions will go unpunished.

The fastbreaking nature of future crises will require a bomber such as the B-2. It is capable of being called with little warning and being deployed long ranges to accomplish missions essential to U.S. security. The B-2 will not be dependent on forward-basing but will be able to operate against targets anywhere in the world on short notice.

The B-2's unique ability will be used initially in wartime to destroy an enemy's defenses and thus open up the target for our remaining air assets to continue the assault. According to the Air Force's bomber roadmap, more than 90 percent of our bomber force is unsuitable for high threat area missions. The B-2's qualities on the other hand will give it the initial mission of attacking first the defenses of the enemy and paralyzing them to the extent that the rest of our air power can be applied.

The President has taken the initiative to cut the number of B-2's to 20 this year in response to the collapse of the Soviet Union. Frankly, I would prefer to have more B-2's. I believe that a modern long-range bomber is an essential element to our military capabilities both in terms of its conventional role and its nuclear role—and the B-2 will remain a key ingredient in our nuclear triad. But even at 20, the B-2 bomber provides the United States with an incredible resource.

Senators LEAHY and LEVIN propose to limit the B-2 to 15; 15 B-2's will limit us to 1 squadron of 11 bombers greatly limiting our combat firepower. A total of 20 B-2's will give us 2 combat squadrons of 8 bombers each, increasing our combat firepower by 45 percent over 1 squadron. An additional 5 B-2's can carry as much payload as was dropped by the entire F-117 force on a single day during Desert Storm. The additional cost for those 4 B-2's at $2.68 billion is just 6 percent of the total program cost. I believe the added investment is well worth it.

Mr. President, we have invested considerably in the B-2 program. I realize that it is a costly program, but the amazing technological capabilities provided by this bomber are critical to our future military responsiveness. The cost too must be considered in light of the number of lives which can be saved by the state-of-the-art technology provided by the B-2.

Mr. President, in light of our nuclear reductions, the role of the B-2 for conventional missions becomes even more significant. A small number of B-2 bombers will be able to perform the same mission that would normally require almost a hundred aircraft, with several hundred pilots at risk. In these terms, the B-2 seems to offer a highly cost-effective alternative. Thus, the cost of the B-2 then needs to be measured in terms of its effectiveness in accomplishing its missions as well as the number of aircraft and lives put at risk. I believe that when the B-2 is assessed in this light, its' cost is modest.

Mr. President, I urge my colleagues to support the B-2 and to vote against the amendment to halt procurement.

THE LEAHY AMENDMENT TO CUT B-2 BOMBER FUNDING

Mr. DODD. Mr. President, I rise this morning in opposition to the amendment offered by the distinguished Senator from Vermont [Mr. LEAHY].

When the B-2 Bomber Program was first presented to the Congress, the Department of Defense and the Department of the Air Force repeatedly testified that this program was critical to the strategic force structure of the United States. The advances in stealth technology offered unparalleled advantage to our Air Force.

And we have seen the fruits of our investment in that technology. Our F-117 fighter aircraft deployed to the Middle East during operations Desert Storm and Desert Shield, have clearly proven that fact.

As with the F-117 Program, we must assess our force structure needs in times of fiscal restraint. The stealth fighter program now operates as a small, highly efficient, technically superior force multiplier in times of conflict. This silver bullet concept of operations is both prudent and progressive as we enter a new era of national defense priorities.

Mr. President, the issue here is cost. There is no questioning the fact that the B-2 Program is going to be scaled back. So the real matter before us is—how much. Under the provisions of this amendment, the savings accrued through terminating the program at 15 aircraft is minimal. Of the projected $2.7 billion in program savings, over forty percent will be immediately spent on contract termination fees and penalties. Other contracts for long lead procurement will force the government to take delivery of components for which we have no aircraft. Clearly, this is not the most fiscally prudent approach.

The proposal for program termination at 20 aircraft, as originally presented in this bill, seems the best alternative on this issue. The cost analysis clearly points to a program termination level that delivers the best return on taxpayer investment.

This amendment does not provide that return.

Mr. President, we all realize that defense draw-downs are necessary. Careful examination of all programs is paramount. We must implement responsible spending during this important transition for our strategic forces.

But on the evidence, terminating the B-2 Bomber Program at 20 aircraft provides a greater return on our defense dollar investment.

For this reason, I urge my colleagues to reject this amendment.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment of the Senator from Vermont.

Mr. LEAHY. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

The PRESIDING OFFICER (Mr. KERREY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 53, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—45

Adams
Baucus
Biden
Bradley
Brown
Bryan
Bumpers
Byrd
Cohen
Cranston
Daschle
DeConcini
Ford
Glenn
Graham
Grassley
Harkin
Hatfield
Hollings
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Pryor
Reid
Riegle
Rockefeller
Roth
Sarbanes
Sasser
Simon
Specter
Wellstone
Wofford

NAYS—53

Akaka
Bentsen
Bond
Boren
Breaux
Burdick, Jocelyn
Burns
Chafee
Coats
Cochran
Conrad
Craig
D'Amato
Danforth
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Fowler
Garn
Gore
Gorton
Gramm
Hatch
Heflin
Helms
Inouye
Johnston
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Robb
Rudman
Sanford
Seymour
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—2

Bingaman
Wirth

So the amendment, (No. 3041) was rejected

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

MAKING APPOINTMENTS TO CERTAIN COMMITTEES

Mr. MITCHELL. I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 344) to make appointments to the Committee on Appropriations, the Committee on Environment and Public Works, the Special Committee on Aging, and the Select Committee on Indian Affairs.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 344) was agreed to, as follows:

Resolved, That the Senator from North Dakota (Mr. Conrad) is hereby appointed to serve as a member on the Committee on Appropriations for the One Hundred Second Congress; and

That the Senator from North Dakota (Mrs. Burdick) is hereby appointed to serve as a member on the Committee on Environment and Public Works, the Special Committee on Aging, and the Select Committee on Indian Affairs for the One Hundred Second Congress.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL DEFENSE AUTHORIZATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Senator from Maine [Mr. COHEN] is recognized to offer an amendment.

Mr. COHEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3042

(Purpose: To add a new section relating to the conduct of nuclear weapons testing)

Mr. COHEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Mr. COHEN] proposed an amendment numbered 3042.

Mr. COHEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Add a new section after section 3140, as follows:

"SEC. . LIMITATIONS ON UNDERGROUND NUCLEAR WEAPONS TESTS.

(a) INTERIM MORATORIUM.—No nuclear explosive test may be conducted until 90 days after the President submits to Congress the report described in subsection (b).

(b) REPORT.—The report referred to in subsection (a) shall not be submitted until the 103d Congress has convened and shall include the following information:

(1) A date within fiscal year 1993 for resumption of the Nuclear Testing Talks with Russia and a strategy for expanding these negotiations to include all other nuclear weapon states, with the objective of achieving a verifiable comprehensive test ban by September 30, 1998;

(2) A strategy for achieving renewal and strengthening of the Treaty on the Non-Proliferation of Nuclear Weapons at the review conference to be held in 1995;

(3) The 1991 Test Ban Readiness Program report; and

(4) A listing of the nuclear weapons projected to remain in the U.S. stockpile after implementation of strategic offensive arms reductions, taking into account the START treaty and, to the extent possible, a treaty to be negotiated pursuant to the June 17, 1992 joint understanding on further strategic arms reductions.

(c) LIMITATION ON NUMBER OF TESTS.—Nuclear explosive tests conducted pursuant to this section shall be limited to not more than 5 tests in any fiscal year, of which not more than 3 such tests in any fiscal year may be designed to produce a nuclear yield in excess of 35 kilotons. Not more than 20 such tests may be conducted pursuant to this section during the period ending September 30, 1998.

(d) TESTING FOR SAFETY.—Pending the achievement of a verifiable comprehensive test ban, and subject to subsections (a), (c), and (e), U.S. nuclear explosive tests may be conducted only to evaluate and improve the safety of nuclear weapons in the U.S. stockpile identified in the report submitted pursuant to subsection (a).

(e) EXCEPTION.—Notwithstanding the provisions of subsection (d), and subject to the certification requirement of subsection (f), not more than one of the tests permitted in any fiscal year by subsections (c) and (d) may be conducted for the purpose of ensuring the survivability of systems or ensuring the reliability of a nuclear weapon in the U.S. stockpile as identified in the report submitted pursuant to subsection (a).

(f) PRIOR CERTIFICATION REQUIREMENT.—No nuclear explosive test may be conducted pursuant to subsections (c), (d), or (e) unless the President certifies to Congress not less than 60 days in advance of such test that it is in the national interest to conduct such a test and specifying in detail the nature of the test.

(g) SENSE OF CONGRESS.—It is the sense of Congress that it is the policy of the United States to adopt measures that will enable, to the greatest extent possible, the United States to ensure the survivability of systems against nuclear weapon effects without nuclear explosive testing.

(h) BAN ON TESTING AFTER FISCAL YEAR 1998.—Subject to subsection (i), the United States shall not conduct a nuclear explosive test after September 30, 1998.

(i) ADDITIONAL CERTIFICATION REQUIREMENT.—If, after September 30, 1998, the President submits to Congress a certification described in subsection (j), the restriction specified in subsection (h) shall not apply for a one-year period beginning 60 days after the submission of such certification.

(j) CERTIFICATION REQUIRED.—A certification referred to in subsection (i) is one certifying that:

(1) Another country has conducted a nuclear explosive test after the date specified in subsection (h) and such test is inimical to the security interests of the United States or threatens achievement of the non-proliferation objectives of the United States; or

(2) The United States is actively engaged in the negotiations described in the report submitted pursuant to subsection (b)(1), and achievement of United States objectives in such negotiations would be undermined by the restriction specified in subsection (h).

(k) JOINT RESOLUTION.—A nuclear test permitted by this section shall not be conducted if, during the 90-day period following the submission to Congress of a report provided for in subsection (a) or during the 60-day period following the submission to Congress of a certification provided for in subsections (f) or (i), a joint resolution disapproving such test is enacted into law.

(k) TESTING BY UNITED KINGDOM.—The limitations of this section shall not be construed to limit the Government of the United Kingdom from conducting one nuclear explosive test per fiscal year at the Nevada Test Site pursuant to an agreement with the Government of the United States, except that no such test may be conducted before the report required by subsection (a) is submitted to Congress and each such test shall count against the numerical limitations of subsection (c)."

The PRESIDING OFFICER. Under the previous order, the Senator from Oregon [Mr. HATFIELD] is now recognized to offer a second-degree amendment.

AMENDMENT NO. 3043 TO AMENDMENT NO. 3042

(Purpose: To limit the conduct of nuclear weapons testing by the United States)

Mr. HATFIELD. Mr. President, on behalf of Senator EXON, Senator MITCHELL, and myself, I send an amendment to the desk in the second degree to the amendment offered by the Senator from Maine [Mr. COHEN].

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for himself, Mr. EXON, Mr. MITCHELL, Mr. KENNEDY, and Mr. LEVIN, proposes an amendment numbered 3043 to amendment number 3042.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 1064. LIMITATION RELATING TO NUCLEAR WEAPONS TESTING.

(a) MORATORIUM FOR 9 MONTHS.—No underground test of a nuclear weapon may be conducted by the United States after September 30, 1992, and before July 1, 1993.

(b) POST MORATORIUM TESTING BEFORE 1997.—On and after July 1, 1993, and before January 1, 1997, an underground test of a nuclear weapon may be conducted by the United States—

(1) only if—

(A) the President has submitted the annual report required under subsection (d);

(B) 90 days have elapsed after the submittal of that report in accordance with that subsection; and

(C) Congress has not agreed to a joint resolution described in subsection (d)(3) within that 90-day period; and

(2) Only if the test is conducted during the period covered by the report.

(d)(1) Not later than March 1 of each year beginning after 1992, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, in classified and unclassified forms, a report containing the following matters:

(A) A schedule for resumption of the Nuclear Testing Talks with Russia.

(B) A plan for achieving a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996.

(C) An assessment of the number and type of nuclear warheads that will remain in the United States stockpile of active nuclear weapons on September 30, 1996.

(D) for each fiscal year after fiscal year 1992, an assessment of the number and type of nuclear warheads that will remain in the United States stockpile of nuclear weapons and that—

(i) will not be in the United States stockpile of active nuclear weapons;

(ii) will remain under the control of the Department of Defense; and

(iii) will not be transferred to the Department of Energy for dismantlement.

(E) A description of the safety features of each warhead that is covered by an assessment referred to in subparagraph (C) or (D).

(F) A plan for installing one or more modern safety features in each warhead identified in the assessment referred to in subparagraph (C), as determined after an analysis of the costs and benefits of installing such feature or features in the warhead, should have one or more of such features.

(G) An assessment of the number and type of nuclear weapons tests, not to exceed 5 tests in any period covered by an annual report under this paragraph and a total of 15 tests in the 4-fiscal year period beginning with fiscal year 1993, that are necessary in order to ensure the safety of each nuclear warhead in which one or more modern safety features are installed pursuant to the plan referred to in subparagraph (F).

(H) A schedule, in accordance with subparagraph (G), for conducting at the Nevada test site, each of the tests enumerated in the assessment pursuant to subparagraph (G).

(2) The first annual report shall cover the period beginning on the date on which a resumption of testing of nuclear weapons is permitted under subsection (c) and ending on September 30, 1994. Each annual report thereafter shall cover the fiscal year following the fiscal year in which the report is submitted.

(3) For the purposes of paragraph (1), "joint resolution" means only a joint resolution introduced after the date on which the Committees referred to in that paragraph receive the report required by that paragraph the matter after the resolving clause of which is as follows: "The Congress disapproves the report of the President on nuclear weapons testing, dated ________." (the blank space being appropriately filled in).

(4) No report is required under this subsection after 1996.

(e)(1) Except as provided in paragraphs (2) and (3), during a period covered by an annual report submitted pursuant to subsection (d), nuclear weapons may be tested only as follows:

(A) Only those nuclear explosive devices in which modern safety features have been installed pursuant to the plan referred to in subsection (d)(1)(F) may be tested.

(B) Only the number and types of tests specified in the report pursuant to subsection (d)(1)(G) may be conducted.

(2)(A) One test of the reliability of a nuclear weapon other than one referred to in paragraph (1)(A) may be conducted during any period covered by an annual report, but only if—

(i) within the first 60 days after the beginning of that period, the President certifies to Congress that it is vital to the national security interests of the United States to test the reliability of such a nuclear weapon; and

(ii) within the 60-day period beginning on the date that Congress receives the certification, Congress does not agree to a joint resolution described in subparagraph (B).

(B) For the purposes of subparagraph (A), "joint resolution" means only a joint resolution introduced after the date on which the Congress receives the certification referred to in that subparagraph the matter after the resolving clause of which is as follows: "The Congress disapproves the testing of a nuclear weapon covered by the certification of the President dated ________," (the blank space being appropriately filled in).

(3) The President may authorize the United Kingdom to conduct in the United States within a period covered by an annual report, one test of a nuclear weapon if the President determines that it is in the national interests of the United States to do so. Such a test shall be considered as one of the tests within the maximum number of tests that the United States is permitted to conduct during that period under paragraph (1)(B).

(f) No underground test of nuclear weapons may be conducted by the United States after September 30, 1996, unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted.

(g) In the computation of the 90-day period referred to in subsection (c)(1) and the 60-day period referred to in subsection (e)(2)(A)(ii), the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded.

(h) In this section, the term "modern safety feature" means any of the following features:

(1) An insensitive high explosive (IHE).

(2) Five resistant pits (FRP).

(3) An enhanced detonation safety (ENDS) system.

The PRESIDING OFFICER. Debate on the Cohen-Hatfield amendments is limited to 90 minutes, equally divided between the Senator from Maine and the Senator from Oregon.

Who yields time?

Mr. COHEN. Mr. President, I yield such time to myself as I may consume.

The PRESIDING OFFICER. The Senator from Maine.

Mr. COHEN. Mr. President, to recap briefly where we are, about a month ago we had an opportunity to debate this issue at some length on the energy-water appropriations measure that came before the body.

At that time the Senator from Oregon had introduced an amendment that would have imposed a 12-month moratorium, or at least he was proposing to introduce such an amendment. And through a series of negotiations we ended up agreeing to the Hatfield amendment to that measure.

At the time I also indicated to my colleagues that I was going to offer an amendment to the defense authorization bill which I am now proposing to do, that would modify the Hatfield proposals in some significant respects.

Mr. President, the issue of nuclear testing has become so polarized and politicized that I am afraid that it is all too easy to lose sight of both our objectives and some basic facts.

While we have made remarkable progress in negotiating reductions in nuclear arsenals, we are not on the verge of eliminating nuclear weapons. We are going to have to live with nuclear weapons for some time to come, and we must ask what kinds of nuclear weapons will those be.

For years, some have argued that we need to stop developing new, more lethal nuclear weapons and the only way to do this was through a ban on nuclear testing, imposed by congressional fiat if necessary. Given the changed security environment, most of us would agree that we do not need to develop new, more lethal nuclear weapons. The administration now agrees with that position, as well. So this argument, which for decades formed the cornerstone of the case for a test ban, is now simply irrelevant.

What remains relevant is the fact that many of the nuclear weapons which we intend to keep in the stockpile for the indefinite future, for decades, are dangerously unsafe. Equally relevant is the fact that we can make these weapons much safer, if limited testing is allowed to be conducted.

When crafting our policy regarding nuclear testing, this should be our principal objective: to make the weapons we retain safe. Closely tied to this should be our other priority objectives: to promote arms control negotiations; and to strengthen the nonproliferation regime, most notably through the 1995 review conference of the Nuclear Nonproliferation Treaty.

Proposals for a congressionally imposed moratorium on U.S. testing must be evaluated on the basis of whether and how well they make progress toward these objectives.

The Hatfield amendment adopted last month on the Energy and Water appropriation bill, while certainly better than the original measure Senator HATFIELD proposed, does not meet this test. And, unfortunately, it appears that the amendment reported out of the energy and water conference committee fails this test, as well. Neither even address arms control or nonproliferation efforts, and both would impede DOE from conducting tests needed to make our weapons safe. Both the Hatfield amendment and the amendment reported out of conference mistakenly view a testing moratorium as an end unto itself, while hindering our ability to achieve the real objectives.

COHEN MORATORIUM FORCES ACTION

Mr. President, I want to take a few minutes to describe my amendment in detail.

The amendment would impose an interim moratorium on all U.S. nuclear testing in order to put us back on a track of negotiations to achieve a strengthened nonproliferation regime and reciprocal, verifiable testing restrictions leading to a comprehensive test ban.

The President would be required to report on:

First, a date for resumption of the nuclear testing talks with Moscow during fiscal year 1993.

Second, the U.S. strategy to expand those talks to include the other nuclear weapon state with the objective of achieving a verifiable comprehensive test ban by 1998;

Third, the U.S. strategy to achieve renewal and the strengthening of the Nuclear Nonproliferation Treaty at the 1995 review conference; and

Fourth, the Test Ban Readiness Program, which is intended to improve our ability to maintain a small nuclear stockpile with only limited or even no testing.

Many have claimed that the administration has not been aggressive enough in pursuing negotiated restrictions on testing and has not been focused on the tremendously important objective of extending and improving the Nonproliferation Treaty. My amendment would force the administration to get serious on these matters by prohibiting all nuclear testing until we have received the administration's strategy for achieving these arms control and nonproliferation objectives.

That should be the purpose of an interim moratorium: to promote negotiations and nonproliferation efforts.

If my amendment is adopted, after the moratorium period is over, we will have made demonstrable progress on these objectives—much more progress than would result from the Hatfield amendment.

Once the initial moratorium ends under my amendment, testing could resume, but subject to strict limitations.

My amendment would permanently prohibit testing to develop new, more lethal nuclear weapons, including so-called third generation weapons such as new earth-penetrating warheads and microwave weapons, which earlier this year the weapon laboratories stated they wanted to pursue. Just last week, Mr. President, there was an opinion article in the New York Times stating that the weapon laboratories are still pursuing new, low-yield weapon designs.

Under the amendment I am proposing, the nuclear testing program would be focused on incorporating safety features into existing types of weapons, with a strictly limited number of tests allowed to ensure the reliability of nuclear weapons and the survivability of systems against weapon effects.

My amendment would write into permanent law an annual cap on the number of nuclear tests of five per year, no more than three of which could exceed 35 kilotons. Of these five tests per year, no more than one could be used for nonsafety purposes. And the total number of tests permitted before the 1998 cutoff date, regardless of purpose, would be 20. That includes all safety tests, as well as any weapon effects tests and reliability tests conducted. It would also include any British tests conducted.

And 60 days before any test could be conducted, the President would have to submit a certification to Congress detailing the nature and purpose of the test. This would give the Congress ample time to review the proposed test and, if Members felt it necessary, take action to halt the test. I would note that this goes well beyond both the Hatfield amendment and the amendment reported out of the energy and water conference committee in terms of ensuring that Congress retains control over the testing program.

Under this amendment, the U.S. testing program would conclude by the end of fiscal year 1998. This will provide DOE with a realistic amount of time to do the research, engineering, and testing needed to incorporate into our nuclear weapons the safety features we all agree are required.

A decision to halt our testing program, obviously, cannot be divorced from the testing practices of potential adversaries or negotiations on testing limits and a CTB. Senator HATFIELD acknowledged this fact and wrote into his amendment to the energy and water bill a waiver that would lift the United States testing halt if Russia subsequently tested. But limiting the waiver to Russia assumes both that Russia is our adversary and that no other nation might be. For all we know today, the biggest nuclear threat we might face 5 years from now may be Kazakhstan, or Iraq, or Iran, or China, or some other nation. The history of the last few years should teach us to be cautious in trying to predict the future. Accordingly, Mr. President, I would propose that the testing halt could be suspended for a 1-year period if the President were to certify that another country had conducted a test and such test was inimical to U.S. security. I am pleased that Senator HATFIELD now agrees with this position and has modified his amendment accordingly.

Moreover, if we want to get a comprehensive test ban, we should leave the President with some leverage in negotiations. So I would allow the testing halt to be suspended for a year if the President certified that he was actively engaged in negotiations and that a statutory ban on testing undermined our negotiating position. Suspending the halt for a year would not necessarily mean that we would test, just that the statutory ban would be lifted for a year.

In either case, Congress would have an ample period of time to review and, if Members so desired, act to reject the President's certification. And, of course, the President's certification would also have to specify what tests he might seek to conduct during the year-long period.

While this would expand the waiver authority somewhat compared to the Hatfield amendment, it is at the same time much stricter than the Hatfield amendment in several respects. First, under the Hatfield amendment, if Russia or another country tested after the cutoff date then the United States testing halt would be permanently lifted. Under my amendment, there would only be a 1-year suspension, after which the testing halt would go back in place.

For the same reason, my amendment is stricter than the amendment reported out of the energy and water conference committee.

In addition, the Hatfield amendment would deny Congress the opportunity to even review the matter before the testing halt was permanently lifted. My amendment would give Congress 60 days to review the President's certification and act to reject it.

I think the proposal that I am offering is one that achieves the stated goals of those who are dedicated to pursuing serious and realistic arms control objectives. I agree with my colleague from Michigan, Senator LEVIN, who raised this issue during the course of our deliberations on the Armed Services Committee. I think the Senator from Nebraska also raised a number of these concerns. This amendment addresses specifically the arms control objectives that they were justifiably concerned about.

Second, I think it also presents a more realistic picture of the testing procedures that we have to go through. Under the amendment of the Senator from Oregon, he would say the administration has to file a report disclosing what types of tests are going to be conducted and in advance, really, make a judgment as to which ones are going to be effective.

I think that is unrealistic when in fact we may find when a test is conducted that the results are not the results expected. If this fails, we may have to retest it. It may be successful to the point we realize there may be other types of safety devices we can deploy on these systems to make them safer for the American people.

I would say, Mr. President, a lot of us have been concerned about the devastation that has afflicted southern Florida and Hawaii. But let me say as horrible as those tragedies have been in recent weeks, they would pale in significance if we were to have an accident with one of our nuclear weapons. If we were to have something triggered by an electrical storm or to have an aircraft crash or some other type of untoward accident impact upon one of our nuclear weapons, the devastation that would be inflicted upon the American people would be absolutely horrendous.

What we are all trying to do is achieve two objectives, arms control and safety. I believe the amendment I have submitted achieves both of those goals in a much more realistic and responsible fashion. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, as my good friend from Maine has indicated, we had a rather extended discussion and debate on this issue not too long ago. Therefore I feel that we can move with greater celerity to reach a vote on this issue today because, again, the embodiment of the Cohen resolution was part of that debate in terms of the time factor on moratorium and time, in terms of the number of underground tests that would be permitted, in terms of the reporting of the President to the Congress, to give the Congress a continuing role in this, and in terms of restricting the testing to the safety factor.

So we are really pretty much in the same debate on which the Senate reached a conclusion on the Energy and Water Appropriations Subcommittee bill of some 50 or more votes in support of that amendment.

Mr. President, I would like to emphasize again that in the first vote today on this issue, we will be voting on precisely the same issue, the same form, the same amendment that we adopted earlier on. That is the first vote, to be followed by what I consider a watered-down version of this amendment offered by the Senator from Maine.

The first vote then will be on an amendment that provides for a 4-year program of testing after a 9-months moratorium. I think the 9 months is very significant. The House of Representatives passed a straight 12-month moratorium. My original amendment, associated with Senator MITCHELL, on which we had some 54 signers on our proposal for 12 months, and then in the negotiations that followed with Senator EXON and others, we compromised that down to 9 months.

Is that an arbitrary figure? Is that just a compromise figure, as far as a number of months? I do not think so. I think we have to bear in mind that there are other nations in the world that have addressed this issue before we, and addressed it seriously. It goes back even to the Soviet Union under Mr. Gorbachev. They unilaterally adopted a moratorium challenging the United States to match it or to respond in a way to help reduce the proliferation of nuclear power and nuclear weaponry throughout the world, and we responded by adding tests. Then our close ally France followed with a moratorium.

Those moratoriums had a lifetime; that is, they had a designated period of time that they were to last, triggered in part by what we would do in the meantime as to what they would do at the end of that life of their moratorium. So I want to emphasize the fact that we are not acting purely and exclusively in a numbers game as to how many months of a moratorium should be actually adopted. I think what we are all hoping is that we ultimately reach a test ban treaty of the major powers with nuclear weapons and nuclear underground testing; that is the key. I do not think we ought play the game of waiting until the end of their moratorium and then consider it in a serious way, but we ought to coordinate our moratorium so that we encourage them to extend their moratorium, not to resume testing as we did when the Soviet Union adopted their moratorium.

So we have a 4-year testing. Good Lord, we could test and test and test in that 4-year period for safety. Of course, you know I am very suspicious because with any testing, you can say, "Oh, it is a safety factor," and go back to other sorts of things of expanding, accelerating, extending and making more sophisticated the nuclear technology. And, remember, you cannot really talk about serious arms control until you control the technology. We have gone through these exercises. Oh, you reduce so many missiles, we reduce this, you reduce that, and we get into the same situation that the naval conferences did in 1922 playing with numbers while at the same time the technology was driving the arms race forward.

Again, I say that we took some significant actions under President Ford and under President Nixon and under predecessors laying the groundwork, each building on the other—President Carter and President Reagan—but, Mr. President, all we were doing was playing numbers games with weapons that were already in existence. Until you address some of the causes of the arms races, you are never going to really get arms control. You just get a reconfiguration of your weapons systems.

Does that mean then that we abandon our military defense? Absolutely not. But I do say again, as I have said in the past, to understand national defense you have to get beyond the numbers games of how many weapons you have in various classifications. Oh, we can go back and recreate history and learn from history, hopefully. I remember the 1960 campaign. The Kennedy campaign was driven in part by, oh, there is a missile gap, there is a missile gap, the Eisenhower administration had permitted a missile gap, and they were counting numbers. It was interesting the missile gap did not appear after the election. Then we came along with another campaign in which the Carter administration was charged with having permitted our defenses to fall into a terrible, dangerous situation, and so we started a big military escalation again on numbers.

But, again, we have to address the point that national defense is something far beyond the arsenal. The Soviets could match us pretty well numbers and numbers and numbers in many of our weapons systems, but their infrastructure was crumbling. They could not even produce enough feedstock for their cattle and for their meat supplies. They lost 30 percent of their agricultural production from the farm gate to the consumers. And they called themselves a superpower.

Let me say, it was not our arms building that unraveled the Soviet Union. They were already decaying. I would not give that much credit to the Communist system. The Communist system was doomed for failure. And their arms did not save them anymore than the Maginot Line saved France in World War II. Let us get out of this idea that the national defense is all geared to the arsenal. The arsenal is a vital component.

I only use that illustration to get beyond these numbers games and get to the key of an arms race, which is technology. This is addressing then the very basis of what will ultimately control.

I say this in all due respect. What we have as an alternative today is an extension, an extension, an extension, 1998, more tests. So, are we really serious? Are we really serious about halting the arms race and getting an international nuclear proliferation treaty?

I think, again, that others see us for what we often do in this Chamber, and that is a lot of doubletalk in terms of making actions appear like substance.

Mr. President, I have to say to you very seriously that, from my perspective, we should have a moratorium that begins now and that we cease all testing. That would be considered an extreme. But when we begin to talk about 1995, 1996, 1997, 1998, and then have an open end after 1998 to go forward according to what we conceive then as a political consensus, I think that the key is a time certain, and the sooner that time certain, the more serious we are going to be taken that we want to control the arms race and that we are serious about joining the other nations of the world in reaching that achievement.

I build on an accumulation of history and that starts right back with

Gorbachev's proposal to the United States for a nuclear test ban. We literally thumbed our nose at it by saying, in effect, no, we are going to continue and we are going to escalate our testing program, if anything.

How then can we expect the nations to take us seriously when we go through this routine, we go through something at a time certain and then we come back around and revisit it again within a brief period of time and say we really were not serious at that time. We want to extend it further, we want to extend it further into the future.

I do not think we should expect then serious responses from some of our allies. It is too far into the future now as far as I am concerned. We had 53 cosponsors on this proposal for 12 months. The majority of the Senate was willing by signing on that paper to say a moratorium for 12 months. Then it is down to 9. We went to conference the other day on the Energy-Water Appropriations Committee bill, and a proposal was made to bring it down to 5 months.

These numbers get out into the public. They understand that kind of thing. We have done it on all kinds of issues, not just this issue. But how serious can we be when we keep playing these numbers games, whether we want 12 months, 9 months, then 5 months, whatever other months?

Let us make those months relevant in terms, in my view, of not only the underground moratorium but a date certain that has reality as fair as ending, with emergency levers left in place, as we have in ours and as the Senator has in his.

So, consequently, it does seem to me that we are revisiting something that we made a fairly significant vote on only a few weeks ago and that we should recommit ourselves to that same position.

As the time drew near for the first Senate vote on the issue, it became clear that this body was ready to explore not just the issue of a year moratorium, not just the question of a limitaion on the number of tests, but we indicated—and very distinctively differed from the House position, which was a 12-month moratorium, period. This body, in its deliberative character, and so forth and so on, said let us look beyond the 12 months, let us look beyond the number of tests that are permitted in that 12 months or 9 months. Let us look beyond and see what we can do to make this action relevant to a Nuclear Comprehensive Test Ban Treaty, for all the nuclear powers of the world.

I think that was a significant addition, and we have had very warm response from our House colleagues to that broader based concept of reaching beyond just an arbitrary 12-month, 9-month moratorium. In fact, the sponsor of the House bill, my colleague from Oregon, Congressman KOPETSKI, had indicated he found comfort in trying to adjust with the Senate version, and other leaders of the House have indicated the same.

When we got to that point, it was Senator EXON, from Nebraska, with his great expertise as a member of the Senate Armed Services Committee, who helped us reach this thoughtful conclusion about the program's needs and its utilities. And so this was not some effort on the part of Members of the Senate who are not part of the responsible role of a committee assignment on the Armed Services Committee, but this brought in then a broader based proposal. I must say that we had not only Senator EXON but Senator COHEN as well, who was adding recommendations and suggestions that we were trying to incorporate.

We were not seeking to just make this a myopic or a single dimensional approach. We were really seeking consensus on the subject. It was not a confrontation between the hawks and the doves and the military and nonmilitary or antimilitary or all the other superficial divisions that we tend to put to ourselves at times. They contributed in major part to the final version of that bill. In no way do I want to say I am implying that Senator COHEN was an enthusiastic supporter of this or jumped up and down and clapped and said this is precisely what I want. It was not. It was a consensus of input.

Now, the importance of the vote cast today cannot be overstated. The Senate's action before the recess caught the eye of our constituents and it caught the attention of the world. Our action was not isolated to this Chamber. It was not isolated to inside the beltway. It was something that came across the news media lines of communication and other networks of communication as one of the most significant actions taken by the Senate.

Most importantly, the Senate's vote was addressed to those nations which are becoming more and more convinced the United States is not serious about nuclear nonproliferation. Our allies are seeking to halt testing, and they know that it cannot be real, effective, meaningful without the participation of the greatest nuclear arsenal in the world—the United States. And those who are not our close friends argue that a halt to our program is an important confidence-building measure as they review the Nuclear Nonproliferation Treaty and other possible arms control agreements. I do not know how we can expect to influence the rest of the world to join in a concerted, unified effort to halt nuclear proliferation if we demand a continuation without some kind of significant cutoff date and within a time preceding it a moratorium.

Most importantly, Mr. President, the American public has told us loudly and clearly they want testing to end, and I really feel we have that choice again today, that the Hatfield-Mitchell-Exon amendment offers the guarantee, the absolute commitment, that underground testing will be brought to a halt. It does not shortchange the safety needs of our arsenal at the same time.

Our amendment reflects the number of tests called for in report after report and then some. A majority of the Senate has endorsed a 1-year halt to testing. In the original proposal, a majority, 54, an overwhelming majority of the Senate cast its vote in favor of this amendment to halt testing temporarily as a show of good faith on our intentions to promote a comprehensive test ban before we conduct those few remaining tests necessary to have high confidence in the weapons stockpile.

Mr. President, the alternative amendment we will be voting on today I think misses the point about nonproliferation, and I would say to ignore the calls for a moratorium of credible length is not only to turn one's back on the House and Senate proposals to enact a 1-year moratorium but also on Boris Yeltsin, who urged the Senate in the strongest terms possible to respond to the Russian moratorium. And scaling back the length of the moratorium also diminishes our efforts in comparison to the actions of the French, as I have indicated, who have instituted a moratorium with the expressed intent of gaining our Nation's support.

Just as importantly, this amendment in the second degree—the Mitchell-Exon-Hatfield amendment—sends a clear signal that the U.S. underground testing program will end, and the alternative offered by my friend from Maine leaves the options for continued testing open ended to the extent that it is pointless to claim the program will be terminated.

None of us can look into the future with certainty, but certainly it is an open end as contrasted as to what we say in our amendment. Do not be confused by the dire warnings made by the very institutions of Government which have vested interests in this program.

This amendment does not place our Nation in danger of a nuclear accident. I have heard those horrors. Our amendment addresses the need for safety upgrades. We acknowledged the importance of safety tests when this amendment was first drafted. We used the best scientific information available from government, and from independent analysts and came up with a generous testing program which reflects the stockpiles' current needs. Nor should my colleagues change their position because of the argument that this amendment is not cost effective. This Nation has conducted nearly 1,000 nuclear tests at great expense to our Treasury, our environment, and our Nation's peace of mind.

Our amendment guarantees these costly tests will end. To those who argue that safety testing should begin immediately or with only a short moratorium, I reply that the Senate cannot avoid these two realities: One, that the moratorium itself is unvaluable to our efforts to achieve a comprehensive test ban at the earliest possible date and that although actual tests cannot take place during the moratorium, preparation of the sites can go forward and workers do not have to be idle.

What have they been doing out there in Nevada since the last test? We hear a lot about how it is a waste of money; they will sit around being idle. I think Senator EXON is in the very prime position to respond to that because he is the expert. He has been out there. He knows how that operates. That is a fallacious argument. They are busy all the time out there because these are very complex preparations that are necessary for any test.

Mr. President, the argument against a moratorium that needs 9 months falls flat with me because I can no longer strain to believe that a proposal to test earlier and more often than this amendment is truly aimed at the eventual end to testing.

At some point the momentum should be broken. At some point Congress needs to review this program. Our amendment requires reports to Congress on both the technical aspects of our stockpile's safety status as well as on the diplomacy necessary to achieve a worldwide ban.

Without a moratorium of credible length these reports are destined to be as worthless as the paper they are written on because Congress will have already allowed the bureaucracy to continue testing without full and unhurried review. Congress will have already allowed the opportunity to set a termination date for our testing program to slip past or grasp.

Mr. President, each one of us has waited a lifetime for the end of the nuclear threat. Toward that goal, we have come very far and very fast. Now is not the time to turn back, water down, to weaken, to create confusion as to what we really mean after such a resounding vote that happened so recently.

I urge my colleagues to continue their show of leadership by again casting their vote in favor of the amendment in the second degree.

Mr. REID. Mr. President, clearly it is the will of Congress that there should be some sort of nuclear testing moratorium. I think the reasoning is faulty, and I maintain that a nuclear testing moratorium is a big mistake.

The Cohen amendment and the moratorium worked out in the Energy and Water conference have come a long way toward a reasonable security program for our Nation's nuclear weapons arsenal.

All sides have recognized that testing for safety and reliability are essential. No one has sufficiently explained to me why testing must be suspended for 5 months or 9 months. What is the point?

I think the workers at the Nevada Test Site—the miners, electricians, carpenters, laborers, engineers—would all like a clear explanation; they deserve a clear explanation. There is a great misconception around here that there are 8,200 physicists running around the test site doing experiments. Most test site workers are blue-collar workers just trying to make a living.

I hope the Senate will adopt a sane compromise to the nuclear testing moratorium. Dick Cheney, Brent Scowcroft, and Colin Powell have all said that a nuclear testing moratorium puts any bill it is on in danger of a veto.

It had been my understanding that the Hatfield-Mitchell amendment would undergo a number of changes before it came back to the floor. It appears to me that this is exactly the same amendment as last presented.

The amendment passed last time with the understanding that changes would be made. All those involved in the debate, including the Senator from Oregon, agreed on that.

This is an important bill; it is important for the defense of the Nation. I hope we will not jeopardize it for the sake of an emotional and political issue.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield myself 6 minutes.

The PRESIDING OFFICER. The Senators from Maine and Oregon control the time on the amendment.

Mr. COHEN. How much time do I have?

The PRESIDING OFFICER. The Senator from Maine has 35 minutes and 45 seconds; the Senator from Oregon has 20 minutes and 40 seconds.

Mr. THURMOND. The Senator wanted to ask me to control the time on this side. Is somebody else controlling it?

The PRESIDING OFFICER (Mr. WELLSTONE). The unanimous consent has the Senator from Maine, and the Senator controls 45 minutes of the original time; Senator from Oregon controls 45 minutes.

Who yields time?

Mr. COHEN. I yield 5 minutes to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I thank the distinguished Senator from Maine. I congratulate him on his amendment.

Mr. President, the question of nuclear weapons safety is much, much more serious than the average American has any idea of. To quote from Lawrence Livermore, they state that nuclear weapons that are accident-proof, that remain safe under all accident conditions will be needed for the reduced stockpile envisioned for the 21st century. But they do not say that our present nuclear weapons are not safe.

Mr. President, we have had very close to terrible disasters because of the lack of safety of nuclear weapons.

This picture shows a fire in a B-52 at Grand Forks Air Force Base in 1980, where the plane contained nuclear weapons that did not have what we call fire resistant pits. The only reason this was not a major disaster, Mr. President, was because the wind was not blowing in the right direction to ignite the nuclear weapon.

Had it been, and had the nuclear weapon been ignited, the pattern would have left a trail of nuclear pollution, as you can see here, some 60 kilometers long. You can see Grand Forks, ND, on this chart.

Mr. President, we have had accidents where we have had detonations in Thule, Greenland, in Goldsboro, NC, where there was an actual explosion of the high explosive when the nuclear weapon was accidentally and inadvertently released in connection with crashes, and that has actually spread nuclear material over wide swaths of ground.

The only reason it did not cause terrible pollution and damage to people is because in both cases it was in rural areas.

So, Mr. President, both sides, both the Hatfield-Exon amendment, and the amendment by the distinguished Senator from Maine [Mr. COHEN] recognize the necessity for safety.

It is an overwhelming need. The big question, Mr. President, is should you have a moratorium on safety tests for a period of 9 months as recommended by Senators HATFIELD and EXON, or should that moratorium cease as soon as 90 days after the President can submit a plan?

Mr. President, this is so important, safety of nuclear weapons, that we need to test now. There is nothing, Mr. President, to be gained by waiting for 9 months while 10,000 employees—I have said they are going to be twiddling their thumbs. Maybe the Senator from Oregon says they do not have to be fired. Of course they are not going to be fired. But what are they going to be doing for 10,000 employees in all of our labs and out in New Mexico? What are they going to be doing for 9 months while they need to do these safety tests?

Mr. President, it escapes me how anyone can seriously argue that if you need safety upgrades, everybody says we need safety upgrades, that something is to be gained by waiting for 9 months to begin the process of making those upgrades. That does not make sense, Mr. President.

There was a time when we had the cold war and the arms race where a nuclear testing moratorium meant something, when the Soviet Union had quit testing and we were going to quit testing. At that time it meant we were going to quit developing new nuclear weapons. That made sense. It made sense. But, Mr. President, when the 9-month moratorium is only a moratorium on safety tests, it achieves no purpose other than first the waste of taxpayers' money and, secondly the delay of safety upgrades.

Mr. President, terrorist weapons are also a tremendous problem. This happens to be a bomb, a 1,000-pound bomb, which was put into a hotel in Lake Tahoe. That is the actual picture of the bomb which a terrorist put in. They thought they could disarm this bomb by remote control. Unfortunately, they were wrong, Mr. President. This happens not to be a nuclear weapon, but here you can see what happened to the hotel. It is in Lake Tahoe. I forget the name of the hotel. It blew up because the safety devices did not work.

The principle is precisely the same, Mr. President. We need to develop technologies, what we call binary controls that prevent the nuclear weapon and the high explosive necessary to detonate the nuclear weapon from coming in contact with one another, until we are ready to arm the weapon.

That would prevent this kind of accident. Imagine this as a nuclear accident.

It would prevent that kind of accident.

Mr. President, I hope my friend from Nebraska and my friend from Oregon, the authors of this second-degree amendment—and indeed, the other Senator from Maine—will address that question of what is to be gained by delaying safety tests for 9 months. If it is as important as I know it is, and as everybody says it is, there is absolutely nothing to be gained by waiting 9 months.

Are we going to negotiate a treaty within that 9 months with those with whom we ought to have a treaty, people like Saddam Hussein and Mulammar Qadhafi? And those are the real threats on nuclear matters. The Soviet Union is dismantling its nuclear weapons; they are not the problem. The problem is these errant nations like Libya, and Iraq, and perhaps even Communist China.

So, Mr. President, nothing is to be gained by the 9 months.

The other Senator from Maine [Mr. MITCHELL] is not on the right side of this amendment.

Mr. President, I strongly support Senator COHEN's amendment, and I hope we can get on with the safety testing.

Mr. MITCHELL. Mr. President, if I could take 1 minute to respond to the Senator's question, he asked about why it is important. He said Russia is not the problem. But, in fact, Russia has said that if we do not adopt a moratorium here, they will resume testing.

The Russian military is putting pressure on Yeltsin to resume testing. Of course, as we all know, France has a moratorium which will expire shortly. So the proponents of continued testing—which is really what the other amendment is, what the Senator's position is—know that if we do not have a moratorium, then Russia and possibly France will resume testing. And then, of course, proponents will argue that since they are testing, we should not stop testing. That is the reason.

Mr. JOHNSTON. Mr. President, if the Senator will yield, the question is not whether we are going to resume. The question is when we are going to resume. Even under the Senator's amendment, we resume testing. I assume they are going to resume testing.

Is it in our interests for the Soviet Union to test for safety? You bet it is. It is in nobody's interest to have a major accident because of an unsafe nuclear weapon. The sooner we can get those safe nuclear weapons in the Soviet Union, France, the United States, or anywhere, the better off we are.

I hope the Senator will address that issue.

Mr. MITCHELL. Mr. President, I will soon ask unanimous consent that I be recognized on another matter to get a unanimous-consent agreement, and that the time not be charged against either side.

Mr. President, I am advised that this has been cleared.

Mr. President, I will not yet make my request. I am advised that we have to make a check. I ask that this debate resume, and I will interrupt when we are ready to go.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Who yields time to the Senator from Nebraska?

Mr. HATFIELD. I yield 10 minutes to the Senator from Nebraska.

Mr. EXON. I thank my colleague, and I thank the Chair.

Mr. President, I rise in support of the Hatfield-Exon-Mitchell amendment on nuclear testing, an important amendment indeed. It has been so well outlined by my colleague from Oregon, with whom I have been pleased to work intensively on this for many, many weeks.

The amendment is identical to the one which was passed overwhelmingly by the Senate on a 68–26 vote during consideration of the energy and water appropriations bill on August 3. It would be inexcusable, Mr. President, and defy logic and reason for the Senate to reverse itself.

On August 3, the Senate spent 4½ hours debating this amendment and the issue of nuclear testing. The fiscal year 1993 defense authorization bill before us now is the authorizing legislation for the Department of Energy national security programs.

This amendment simply reaffirms the appropriations bill vote on the authorizing bill, providing a consistent, clear voice of this body on the matter—the very important matter—of nuclear testing.

For the information of the Senators, I will summarize the amendment that this body passed on August 3 by a greater than 2½ to 1 margin. The amendment enacts a 9-month testing moratorium, until July 1, 1993, on all U.S. nuclear tests. During this period, and for subsequent years, the President will report to the Congress, detailing weapons that will remain in the U.S. stockpile, proposed safety retrofits and tests, and plans to achieve a comprehensive test ban by September 30, 1996.

After the moratorium ends, the Department of Energy will be limited to conducting 5 nuclear tests a year, for safety purposes only, for the next 3 years, or a total of 15 tests. Within these numerical limits, there may be one test per year for reliability purposes. But only if the President certifies to the Congress that it is in the vital national security interests of the United States, and Congress does not disapprove the request, does it go into effect. But Congress has 60 days to disapprove.

One test for the United Kingdom would be allowed at the Nevada test site each year. But this test would also be counted against the annual five tests that I have just outlined.

After this 3-year, 15-test program has been completed, all United States nuclear testing would be banned as of September 30, 1996, unless Russia conducts a nuclear test after this date, at which time the prohibition on the United States testing would be lifted.

The one minor change that we have made to the testing provision from the version adopted on August 3 is to broaden this resumption of testing clause to say that the President can lift the ban after September 30, 1996, with no limitations, if any nation—not just Russia—explodes a nuclear device. This change was made to reflect the concerns expressed by Senator NUNN, Senator COHEN, and others, over the nuclear testing programs of other countries when the amendment was debated in August.

I want to take a few moments to explain to not only the 68 Senators who have already voted for this amendment, but to the remaining Senators why adoption of this amendment is in our national security interests.

As chairman of the Senate Armed Services Subcommittee on Strategic Forces and Nuclear Deterrence, I made two trips to our nuclear test range this year. I have been briefed at length by Department of Energy officials and National Laboratory scientists in highly classified sessions. The testing amendment is the product of my conclusions reached as a result of these visits and subsequent research and allows me to address matters, I think, with some knowledge and an awful lot of work. These are my conclusions:

My first conclusion is that there are needed upgrades to our nuclear weapons stockpile that should be pursued in order to improve weapon safety. I have just listened to my friend and colleague from the great State of Louisiana, Senator JOHNSTON, with graphs and pictures that he has shown before. I agree with him that we can make some improvements and need to make improvements in safety. I simply say, though, that at this particular time, I think our present inventory is reasonably safe. I do not think anything is likely to explode. But, certainly, we need to go about the matter of making them safer than they are now. I do not believe there is any imminent danger as of now, and I want to make that clear.

Although no new weapons are planned for the U.S. arsenal, three specific upgrades identified by the Dress Panel—fire-resistant pits, insensitive high explosives and enhanced nuclear detonation safety systems—should be retrofitted into our weapons to significantly reduce the possibility of a catastrophic peacetime accident occurring.

The question becomes: How many tests are needed to incorporate these improvements?

These safety upgrades, which are allowed under this amendment, are embraced by the Department of Energy in its remanufacturing study, in which the number of tests to prove out the modifications was well below—as well below, I emphasize, Mr. President, the 15 safety tests allowed by this amendment. If the Air Force policy of not adding fire resistant pits to the W-80 cruise missile and B-61 bomb is implemented, then the number of tests needed is even less. Also, since the Minuteman III missile is to be de-MIRV'd under START II, the W-78 warhead on the missile could be replaced with the W-87 MX warhead, which already contains all the safety upgrades, thus eliminating even more tests identified by the Department of Energy report associated with adding insensitive high explosives and fire resistant pits to the W-78. In fact, the Defense authorization bill now before the Senate endorses this very warhead swap.

So when the opposition to this amendment argue as they might or will, that 15 tests over a 3-year, 3-month period is not adequate to complete the prescribed safety improvements, they are flat wrong. The Department of Energy and the National Laboratories say otherwise.

My second conclusion is that after over 840 nuclear detonations, the United States has no compelling need to test for warhead reliability. Even so, the amendment allows for reliability testing—no more than one per year—so long as it is counted against the five test per year limit. This latitude given to the President to use 3 of the 15 allowable tests for purposes of reliability testing is designed to accommodate unforeseen testing needs, though I believe it will not be needed.

My third conclusion is that a comprehensive test ban is in the national security interests of the United States once the safety testing is complete, our Nation can end its program of testing with the knowledge that our nuclear arsenal is a safe, thoroughly tested deterrent which will continue to be the mainstay of our Nation's superpower status.

Without American participation there can be no true CTB Treaty. And without a CTB Treaty, the spread of nuclear weapons technology into the third world—a legitimate threat to the future security of our country— canot be stemmed. For this reason, the amendment sets September 30, 1996, as the end date of U.S. nuclear testing, provided that any foreign nation does not test beyond this date as well. If this was to happen, the President could unilaterally lift the test ban, and I want to emphasize and have emphasized that again.

My fourth and final conclusion is that the United States cannot let the push for a temporary superpower moratorium on nuclear testing go unanswered by enacting a 9-month moratorium.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EXON. Could I have 3 additional minutes? I yield myself 3 additional minutes.

The PRESIDING OFFICER. The Senator has the right to have 3 additional minutes.

Mr. EXON. It is time for us to seize the initiative and work with Russia, France, and others that have already launched into this, on a path toward a multilateral test ban as a renewal of the nonproliferation treaty approaches in 1995.

This would fulfill a longheld U.S. commitment to actively pursue a comprehensive test ban—the key to nonproliferation.

I have heard that some individuals within the administration are concerned that the upfront 9-month moratorium would have a detrimental effect on the work force at the Nevada test site. This argument simply does not hold water. This is contrary to the information I received in my visits to the site, and discussions I had with DOE officials. Uncertainty over the future of our testing program, such as that which would result if the House position of a 12-month moratorium with no mandate for safety testing was passed, will undermine morale and cause employee flight. But this proposition will not. Having a definite long-range testing plan such as is contained in this amendment would provide stability through a gradual phasedown. Furthermore, though the normal 2- to 3-month gap between tests is being extended to 9 months, the Department of Energy would still be able to spend funds in preparation for the resumption of testing during this period, thus maintaining the work force throughout the moratorium. Only nuclear detonations during this time are prohibited by the amendment.

In certain ways, this testing amendment, already endorsed by 68 Senators little more than a month ago, is similar to the administration's present testing policy.

The administration's plan calls for six tests a year; our amendment authorizes no more than five.

The administration wants to test for safety and reliability; our amendment authorizes needed safety tests and a handful of reliability tests.

The administration wants to permit the United Kingdom to conduct one test a year at the Nevada test site; our amendment allows for such a test.

To those 26 Senators who did not support this amendment when it passed the Senate 1 month ago, I ask that you consider this comparison and I hope that you will see that our amendment is a modest proposal—a proposal, nonetheless, that can reap impressive gains at putting the nuclear genie back in the bottle.

After 13 years in this body, all of them spent as a member of the Senate Armed Services Committee, I have never been accused of being soft on defense. To the contrary, many in this body have viewed me as something of a hawk on matters relating to the Nuclear Weapons Program. In this context, I have worked with Senators HATFIELD and MITCHELL to fashion a responsible approach at bringing our testing program in line with a post-cold-war world.

For those 67 other Senators who earlier supported this amendment, as well as those who did not, do not underestimate the gravity of this vote. The whole world, not just the American people, is watching and judging our actions today. The issue comes down to two simple questions:

Is or is not the United States serious about halting nuclear nonproliferation?

Will we lead the world by example or sit on our hands, espousing hollow, ineffective rhetoric that only undermines our credibility in the international community?

I say, let us lead by reaffirming our vote on this amendment.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent to proceed with a request I am about to make and that the time not be charged to either side.

The PRESIDING OFFICER. The majority leader has the floor.

Mr. MITCHELL. I ask unanimous consent that the time used for the request I am about to make not be charged.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF LABOR, HEALTH, AND HUMAN SERVICES, AND EDUCATIONAL, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I have a unanimous-consent request which has been cleared on both sides. Mr. President, I ask unanimous consent that the majority leader, following consultation with the Republican leader, may return to the consideration of H.R. 5677, the Labor-HHS appropriations bill; that the remaining excepted committee amendment be deemed agreed to; and that there be one hour of debate equally divided and controlled between Senators HATCH and METZENBAUM on the Hatch amendment on labeling prior to a motion to table; that at the conclusion or yielding back of time, Senator HARKIN or his designee be recognized to move to table the Hatch labeling amendment; and that if the amendment is not tabled, there be no time limitation on the amendment.

Further, that there be 10 minutes equally divided and controlled in the usual form on the remaining Hatch amendment on Healthy Start; with 10 minutes time remaining on the bill equally divided and controlled between Senators HARKIN and SPECTER; and that upon the disposition of the remaining amendments and the conclusion or yielding back of time on the bill, the Senate proceed to third reading and final passage of the bill, both without any intervening action or debate.

Further, upon passage of the bill, the Senate be deemed to have insisted upon its amendments, requested a conference with the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, reserving the right to object, and I shall not, the distinguished Republican leader has conferred with the majority leader. For the benefit of the Senate, will the distinguished majority leader then, the best he can, project the outer limit of time before we return to the defense authorization bill? In other words, let us inform Members about what time we anticipate returning to the bill.

Mr. MITCHELL. Mr. President, it is my intention, if this agreement is approved, to excerise authority granted to me and return to the Labor-HHS bill after the vote or votes on the pending amendments. I do not know how much time remains. It would be in the next 30 or 45 minutes. And then, under this agreement, it will be approximately an hour and 20 or 30 minutes, not counting time for the votes, and then we would return to the DOD authorization bill.

We are either going to finish the Labor-HHS bill, or if the Hatch amendment is not tabled, then we would go off the bill and go back to the DOD authorization bill and then stay until we finish.

Mr. WARNER. Mr. President, I then withdraw any objection, because it is clear to this Senator and others that the gap which was agreed to yesterday could not exceed, reasonably, an hour and a half and that we would return thereafter to the defense authorization bill.

I thank the distinguished leader.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

(Later, the following occurred:)

Mr. MITCHELL. Mr. President, I ask unanimous consent that the unanimous-consent agreement just entered into with respect to the Labor-HHS appropriations bill be modified to delete the reference to the excepted committee amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, I yield 5 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. COHEN. Mr. President, I had indicated to Senator THURMOND that he would be allowed to proceed.

Mr. THURMOND. I have another engagement.

Mr. LEVIN. I have no objection.

Mr. COHEN. I yield 6 minutes to the Senator.

Mr. LEVIN. Mr. President, I ask unanimous consent that, after Senator THURMOND is finished, I have the 5 minutes yielded to me.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, during the earlier debate on nuclear testing, I stated that the key question that we should ask ourselves is: Do we want this Nation to have a safe and reliable nuclear deterrent force?

Mr. President, during the Armed Services Committee's hearing on START verification Secretary Claytor, the Assistant Secretary of Energy, was asked another critical question: "How many nuclear tests will it take to ensure the safety of our nuclear stockpile?"

The answer, Mr. President, was about 5 tests for each weapon type or about 25 total tests assuming that the President retains 5 different warheads in the future stockpile. What was startling about Secretary Claytor's response was that it was obvious that nobody had previously asked him that particular question.

I make this point, Mr. President, to illustrate that we are trying to legislate a critical national security issue, but the individual responsible for the safety and reliability of our nuclear weapons was not consulted. Mr. President, in my judgment, there is more to this agenda than merely limiting nuclear testing. The real agenda is the elimination of nuclear weapons. This is a worthy goal, as long as the American people can be guaranteed that every third-rate dictator like Saddam Hussein is willing to do the same.

Mr. President, you and I know that no such guarantee can be provided. The best alternative to total elimination of nuclear testing is for this Nation to maintain a safe and reliable nuclear stockpile—one that incorporates the most modern electrical safety devices, insensitive high explosives, and fire resistant pits.

Mr. President, the only way we can be assured of a secure and reliable nuclear weapons stockpile is to test. Secretary Claytor indicated it will take approximately 25 nuclear tests to verify the effectiveness of the 3 key safety devices in the 5 different weapons systems that will remain in the inventory. I do not know if that is the correct answer, but we ought to give the Department of Defense and the Department of Energy the opportunity to advise us of the number of tests required to ensure the safety of our stockpile.

Mr. President, I am opposed to any total ban on nuclear testing. As long as the Nation has nuclear weapons, we must be assured of their safety and reliability. If we can not certify the safety and reliability, we should eliminate nuclear weapons altogether. The safety risk to our men and women would be too great, and we could not guarantee that those weapons would work.

Mr. President, I applaud Senator COHEN's diligence in working out an amendment on nuclear testing that is agreeable to the administration and still provides the Nation with the ability to verify the safety of its nuclear weapons. I urge my colleagues to vote against the Hatfield-Mitchell amendment which inhibits our ability to ensure the safety of our nuclear weapons.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, we should be leading a global effort to prevent proliferation of nuclear weapons, but the United States continues to explode nuclear warheads. We do this despite the Russian suspension of nuclear testing that began last October and despite the French suspension of testing that began in April.

Both Russia and France have called upon the United States to join in their moratorium and to negotiate a comprehensive test ban treaty. We have not done that. Instead, we are continuing to thumb our noses at our own commitments that we made in solemn treaties.

In the Limited Test Ban Treaty, which was signed by President Kennedy in 1963, the United States and other signatories pledged to seek to achieve "the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to that end."

The 1969 nuclear nonproliferation treaty, negotiated under President Johnson and ratified by President Nixon, repeated that pledge verbatim in the preamble to the nonproliferation treaty. Article 6 of that treaty is viewed by nonnuclear states as an agreement by the United States and other nuclear states to negotiate a comprehensive test ban.

In 1974, President Nixon signed the Threshold Test Ban Treaty. This is what article I says:

> The parties shall continue their negotiations with a view toward achieving a solution to the problem of the cessation of all underground nuclear weapons tests.

That commitment was shared by this Senate. We voted to ratify that treaty with that commitment in 1990 by a unanimous vote.

Mr. President, continued U.S. testing, in spite of these solemn treaty commitments, goes on at a very, very high cost, not just financially, but because it promotes nuclear proliferation. That is the key. The more we test, the more other nations are going to test, and they have told us that. If we go on, other nations insist on going on, and they have explicitly told us that.

Proliferation is a greater danger to our national security than the threat of the accidental detonation of nuclear warheads. And when we insist on testing, we are promoting proliferation of nuclear weapons.

France has said the following: "France will resume testing in the South Pacific if other nuclear powers fail to join the moratorium." That is what President Mitterand said on July 15. France is going to start again if we continue.

The Russian Minister of Atomic Energy said in July, "If the United States does not stop testing, we will be forced to resume testing next year."

And the Chinese, who recently conducted a test, are serious about preparing for a comprehensive test ban, but, said a Chinese arms control expert, "the other nuclear weapons states should be prepared for that."

So the whole world is concerned about proliferation, but we are actually promoting proliferation by remaining the major obstacle to a worldwide comprehensive test ban.

Our nuclear testing policy puts at risk the existing nonproliferation regime and jeopardizes chances to build a stronger one.

In 1995, there is going to be a conference, the annual 5-year conference of the nonproliferation treaty. The closer our termination of testing comes to that 1995 conference, the more seriously we will be viewed as being for a comprehensive test ban.

The date in the Hatfield amendment is 1996. The Cohen amendment is 1998. So the Hatfield amendment is more serious about a comprehensive test ban in terms of the year, and it is also much more serious in terms of the length of the moratorium, since it is a 9-month moratorium up front instead of a 3-month moratorium, as proposed by Senator COHEN.

In summary, Mr. President, we need a moratorium that matches the Russians' and the French, and we need negotiations to complete a comprehensive test ban treaty. The Hatfield amendment sets a target date of 1996 for achieving a CTB and, toward that end, allows up to 15 tests to incorporate warhead safety features.

And, finally, we need a strategy to strengthen and extend the Nuclear Non-Proliferation Treaty in 1995 when the next conference takes place. The United States should be leading efforts to stop proliferation, not posing the greatest threat to the NPT regime we have.

The Hatfield-Mitchell amendment shows greater awareness of the threat of nuclear proliferation by paying more serious attention to a comprehensive test ban. It has an earlier date for ceasing testing, 1996, instead of 1998 as provided in the Cohen amendment. It has a 9-month moratorium immediately, instead of the 3 months provided for in the Cohen amendment. And it does not contain a large loophole the Cohen amendment contains, which would allow the President to continue testing beyond the cutoff date.

For all these reasons, the Hatfield-Mitchell amendment will do more to limit the proliferation of nuclear weapons by showing a greater seriousness on our part toward a comprehensive test ban.

I urge adoption of the Hatfield amendment.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. I yield 5 minutes to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank my good friend, Senator COHEN from Maine for the 5 minutes. I do not want to burden the Senate with a lot of discussion. But let me give the Senate my version of what is happening.

For many, many years—in fact years leading to decades—many Americans, including Presidents, were hopeful that we could have a nuclear test ban treaty. The reason for that hope was that there was a link between nuclear tests and stockpiling of nuclear weapons. It was perceived that if you finally could get to a point where you stopped testing, there would be no increase in this stockpile that was growing tremendously and lavishly with new strategic nuclear warheads.

That desire that the stockpiling and growth be stopped has been achieved. We have stopped increasing the stockpile. We have done so by agreement with the Soviets. This President has committed to the American people and to the Senate and House of the United States that increasing the number of warheads with nuclear capacity is gone.

That, then, leaves the question: Is the relationship between underground nuclear testing that existed before, when we thought it was there to stop the stockpiling, does that eliminate the need for testing? Because we are being confused. And the American people, who are equating the cessation, the moratorium on testing, with the 20-years-ago-emotions, that if we do it, it means we are stopping the stockpile. We are already doing that, so why do we need nuclear testing?

It is amazing, that having won the battle with reference to continuation of the stockpile, having entered an agreement that makes that no longer something we will do—it is amazing that we would then say if the very best experts in America say you need testing to make sure what you have left are safe—let me repeat that. The Drell Commission, about as expert as we could get, noninvolved—a great linear physicist, scientist from Stanford University, led that group. What did they say? You should not stop underground testing because you must have underground testing so you can have safe nuclear weapons.

And in fact they said to American Congresses and Presidents: Please put some new equipment on whatever you have by way of strategic weapons, to make sure they are safer then they are today. Equip them with new monitors, new kinds of technology so they will be safer.

Listen to that. That requires nuclear testing. So why are we coming to the floor talking language of 15 years ago, when the scientists are telling us you need this kind of testing for safe nuclear weapons?

Having said that, it is very simple. Why would you put on a 9-month moratorium, asking our great scientists and the equipment that they have together in institutions—why would you be asking them to disappear? Go home, we do not need you anymore. When the truth of the matter is we do.

Why would we be sending a signal that we know right now that there should be a total cessation? Why would we be putting a terminal date on this when we still do not have all the information about how we are going to keep these weapons safe?

So I commend Senator COHEN and those supporting him; Senator JOHNSTON who made a very good statement on the floor, members of the Armed Services Committee, their leadership here on the floor, because I believe they are on the right track. There is no need to have a moratorium. It does no good other than perhaps harken back to 10 years ago and make some people feel good.

The PRESIDING OFFICER. Who yields time? Time is controlled by the Senators. They must yield time or time will be deducted.

Mr. COHEN. May I inquire how much time we have remaining on this side?

The PRESIDING OFFICER. The Senator from Maine has 18 minutes 12 seconds, and the Senator from Oregon has 3 minutes, 13 seconds.

Mr. COHEN. I yield 2 minutes to the Senator from Virginia.

Mr. WARNER. Mr. President, I join my distinguished colleague from Maine on his amendment. It is clear the Congress is going to enact legislation in this area. As I review the options it is clear to me the Senator from Maine has what I regard as the most equitable approach.

The issue of safety has been debated extensively here. Indeed, the Senator from Maine cares for that provision. I think it is incumbent upon us in Congress to make sure the men and women in the Armed Forces who have to deal with these weapons are accorded every safety measure possible.

Likewise, those communities in the United States of America willing to embrace the facilities where nuclear weapons must be stored or otherwise deployed, they are entitled to safety.

Today the Senate is being asked once again to consider a proposal to place restrictions on the conduct of underground nuclear weapons tests at the Nevada test site. In early August, the Senate approved an amendment to H.R. 5373, the fiscal year 1993 Energy/Water appropriations bill, which would severely restrict necessary nuclear weapons testing and would preemptively end testing in 4 years. I voted against that amendment because I believe it would result in harm to U.S. national security and would certainly impair our President's ability to pursue a negotiated, verifiable, and comprehensive test ban.

I laud the commendable effort of my colleague on the Senate Armed Services Committee, Senator COHEN, to negotiate an acceptable proposal on nuclear testing limitations and I intend to support his amendment. I still hold many of the same serious concerns about the same Hatfield amendment to the fiscal year 1993 Defense authorization bill which is pending before the Senate today. I would like to briefly explain to the Senate my thinking on this important issue.

WHY MUST THE UNITED STATES TEST ITS WEAPONS

I am confident that a majority of my colleagues fully share my view that, so long as nuclear weapons remain a part of U.S. forces, these weapons must be as safe as possible. There must be absolute assurance that a nuclear weapon will not detonate in any accident. Considering the consequences of an accidental nuclear detonation, there must be no compromises in ensuring the safety of nuclear weapons.

The current U.S. nuclear testing program is focused primarily on developing and testing identified safety enhancements for nuclear devices, and subsequently testing the reliability of these devices when safety features have been installed. Of the 14 most recent tests, 60 percent were safety related. The limited number of U.S. nuclear weapons tests are designed to obtain the maximum technical data from the few tests conducted. Most are multipurpose tests using variants of stockpiled devices or prototypes in the development of safety improvements.

While a number of safety features are currently being developed, a ban on testing would preclude the development of any new safety features which would greatly enhance the overall safety of nuclear weapons. These tests must be permitted to continue unrestricted until all weapons in the U.S. nuclear stockpile have been equipped with the most modern safety features. I hope that a majority of my colleagues do not question the need for continued testing to develop and test weapons for safety improvements.

Mr. President, I feel very strongly that, as the size of the nuclear weapons stockpile and the number of weapons types decrease, it is also increasingly important to ensure that remaining weapons are reliable—the heart of deterrence. Although state-of-the-art simulation technology is improving and can provide some degree of accuracy in predicting the performance of nuclear weapons when detonated, simulators have been proven seriously wrong in a great number of cases. Only the actual detonation of a nuclear device, in an environmentally controlled situation, can ensure confidence in the reliability and credibility of our deterrent forces. These views are borne out in the 1990 report to Congress on the administration's ongoing Test Ban Readiness Program, which states that simulations and computer modeling cannot yet accurately predict the results of actual nuclear weapons tests.

On July 28, Secretary Cheney and General Powell testified before the Senate Armed Services Committee on the pending Strategic Arms Reduction Treaty [START]. During the course of that hearing, I asked both witnesses whether the significant reductions in strategic arms contained in the START Treaty, as well as the further reductions contemplated in a START II agreement which will reflect the Bush-Yeltsin joint understanding of June 17, 1992, in any way changed the U.S. doctrine of strategic deterrence, or mutual assured destruction. Secretary Cheney responded emphatically that strategic deterrence is and will remain a strategic doctrine of the United States under both START I and START II. He went on to remind the committee that this doctrine has led to the drastic changes in the former Soviet Union, which have resulted in such a massive reduction in the strategic threat to the United States. I certainly share their view.

But the continued validity of the strategic deterrence doctrine is critically dependent on the credibility of our strategic nuclear forces. And, Mr. President, it is clear that this credibility hinges on the ability to ensure that our remaining strategic arsenal will perform reliably, if that should ever become necessary, and that our potential enemies have no doubt of the reliability of these weapons. The only way to ensure reliability of our weapons is through the periodic testing of those weapons. Without testing, confidence in the performance of our nuclear weapons will erode, as will the value of these forces in deterring nuclear war.

Another very important element of deterrence of credibility is the survivability of the forces which support our strategic systems.

During fiscal year 1987, the United States conducted 15 underground nuclear weapons tests. In the current fiscal year, we have conducted only 6 tests—consistent with the President's nuclear testing policy.

This new policy, announced on July 10, imposes strict limits on the number and yield of U.S. nuclear tests. Under that policy, not more than six tests are planned per fiscal year for the next 5 years, and not more than three of those tests will be designed to produce a nuclear yield in excess of 35 kilotons. This is a prudent policy based on the need to continue the program of safety improvements and also to ensure reliability of our deterrent forces.

These steps fulfill, for the time being, the commitment to a step-by-step approach to nuclear testing limits. I believe that continuing improvements in our relations with Russia and the new independent states of the former Soviet Union may make possible further limitations on nuclear testing, as well as further limits on nuclear arms after START I and START II are fully implemented. However, these further limitations, in my view, should be negotiated and multilateral in nature.

IMPACT OF A UNILATERAL TEST BAN ON NUCLEAR PROLIFERATION

Mr. President, many argue that if the United States halts nuclear weapons testing, other nations will follow suit. Others take this step further, arguing that a cessation of nuclear testing by the United States will deter the nuclear weapons development efforts of other nations. I cannot agree with these arguments, as I have seen no evidence in support of either.

When the Senate ratified the Threshold Test Ban Treaty in 1990, we endorsed a condition attached to the resolution of ratification which recognized the desirability of working to achieve a negotiated, verifiable comprehensive test ban. The key words here are "negotiated," "verifiable," and "comprehensive."

Mr. President, any U.S. moratorium on nuclear testing should be considered as part of multinational negotiations toward a multinational test ban. A unilateral ban on testing would eliminate any leverage our negotiators might have in such discussions.

In addition, I believe it is imperative that such discussions include all nations with nuclear weapons, not merely the United States and Russia alone reflects old thinking which does not recognize that the cold war is over and other nations have taken on greater importance in terms of United States national security. A comprehensive test ban must include all nations which currently possess nuclear weapons or who are in the process of developing nuclear capability.

And finally, as with all negotiated agreements, it is imperative that the United States be able to verify compliance with a test ban. This is a difficult technical issue but one which has shown great promise in terms of sensitivity of seismic and other sensor devices. Verification provisions must be included in any negotiated test ban agreement.

Mr. President, I believe that a unilateral test ban, which could result in a degradation of the credibility of the U.S. nuclear deterrent, will have little, if any, impact on the efforts of Third World nations to develop or acquire nuclear weapons. These countries have a number of reasons for acquiring nuclear weapons, including possibly a perception of prestige and power which they believe comes with the acquisition of nuclear weapons. The leaders of these countries may not also feel a need to test any weapons they develop, using rather the philosophy that first use could constitute the first test.

I strongly urge the administration to undertake discussions with Russia, China, France, and Great Britain, as well as other nations which have developed or are in the process of developing or acquiring nuclear weapons, to agree on nuclear testing limitations. In this way, the national security of the United States as well as other nations would be enhanced.

Some have argued in the past, and may still believe today, that a comprehensive test ban was absolutely necessary in order to achieve strategic arms reductions and an end to the nuclear arms race. I would like to remind my colleagues of the significant progress in the past few years alone toward achieving both of these goals, as well as to more effectively control the proliferation of nuclear weapons and related technology.

The dramatic accomplishments in arms control over the past few years—the INF, CFE, and START treaties, as well as the verification protocols to the TTBT Treaty, were all accomplished in the absence of a test ban, or even a U.S. unilateral moratorium. In addition, the President's nuclear reduction initiatives and Russia's response, as well as the joint understanding reached at the recent Bush-Yeltsin summit meeting this past June, were achieved without the benefit of a nuclear test ban or a United States unilateral moratorium. The cold war is over, and a test ban was not necessary to end that long-standing nuclear confrontation.

In addition, international support for the Nuclear Nonproliferation Treaty has been growing steadily in recent years. In the past year alone, China, South Africa, Latvia, Lithuania, Estonia, and other new parties have joined this nonproliferation regime, bringing total membership to 149 countries. France will soon become a party to the treaty, and three of the new independent states of the former Soviet Union—Ukraine, Belarus, and Kazakhstan—have agreed to join the NPT as nonnuclear weapon states. All this has occurred in the absence of a comprehensive test ban or a unilateral U.S. moratorium.

These developments are most welcome to all, but I must point out that it is obvious that a so-called comprehensive test ban has absolutely nothing to do with the significant strategic arms reductions and lessening of tensions between the United States and the former Soviet Union.

WHAT IS THE WORLD SITUATION?

Mr. President, my colleagues are aware that Russia has unilaterally imposed a nuclear testing moratorium until the end of this year. I have some question about the true reasons for this testing moratorium, and I would suggest that budgetary constraints in the former Soviet Union as well as the loss of the Kazakh test site at Semipalatinsk may have been the primary drivers behind this decision to temporarily halt testing.

In July of this year, President Bush responded by imposing strict unilateral limits on the U.S. testing program, while at the same time expressing a willingness to consider further limitations on testing if the world situation continues to improve as it has in the past few years. What has been the world's response to this significant step toward the cessation of testing?

Russia continues to prepare to conduct tests, and just recently notified the United States that it may conduct two tests during the next year. Let me read from a recent Foreign Broadcast Information Service report of an interview with the Russian Minister of Atomic Energy, Victor Mikhaylov, on July 22, 1992:

> INTERVIEWER: Will tests be resumed at Novaya Zemlya [Siberia] * * * when the moratorium expires?
>
> MIKHAYLOV: In all probability there may be tests in 1993 * * * there will be weapons tests.

In May, China conducted a massive underground nuclear weapons test which was widely reported in the press as the largest ever conducted by that country. In light of these actions, I do not see the advantage to the United States of unilaterally halting our own testing. Rather, I see a distinct advantage in maintaining a reasonable testing program which is in our own national security interest, while taking the lead to undertake negotiations with Russia, China, and other nations toward a multinational testing limitation agreement.

WHAT IS THE U.S. POLICY ON A COMPREHENSIVE TEST BAN?

Mr. President, before I go further, let me ensure that my colleagues in the Senate understand what I mean by the term "comprehensive test ban."

First, I believe a test ban, to be comprehensive, must be agreed by all nuclear weapons states, declared or undeclared. Second, a comprehensive test ban must also be effectively verifiable, to ensure compliance by all nuclear weapon states. In my view, achievement of a comprehensive test ban requires a multilateral negotiation among the nuclear powers of the world, and it should be designed, as was the Non-Proliferation Treaty, to discourage other states which may be developing nuclear weapons to continue in their efforts.

With those thoughts in mind, let me restate my support for the administration's stated policy concerning a comprehensive test ban, that is, that a comprehensive test ban remains a long-term goal of the United States which must be viewed in the context of a time when we do not need to depend on nuclear deterrence to ensure international security and stability. In this connection, I believe the U.S. policy on a comprehensive test ban, and particularly the President't recently announced testing policy, are entirely consistent with the stated goals as well as U.S. obligations of the Limited Test Ban Treaty, the Non-Proliferation Treaty, and the Threshold Test Ban Treaty.

CONCLUSION

Mr. President, I opposed the Hatfield-Mitchell-Exon amendment to the Energy-Water appropriations bill last month, and I oppose the Johnston compromise in the conference with the House on that bill. I believe these restrictions are not in our national security interest and do not reflect the changed world in which we live today.

However, while I still have serious concerns about some of the provisions of the pending amendment, Senator COHEN has arrived at a position that is greatly preferable to any previously adopted Hatfield amendment. I believe this provision will allow the achievement of a much more favorable outcome in the congressional debate on this issue, and I therefore urge my colleagues to vote in favor of the pending amendment.

The PRESIDING OFFICER. The Senator from Maine has 16 minutes remaining.

Mr. COHEN. Mr. President, I yield myself 1 minute.

The argument has been made that this measure, the Hatfield amendment, was agreed to overwhelmingly on August 3, and it is absurd for the Senate to reverse itself today. We should remember that Senator JOHNSTON urged many of his colleagues who were in opposition to the Hatfield amendment to vote for it, knowing we were going to come back and revisit this measure here on this bill. We are not reversing anything. Senator JOHNSTON had urged a number of people to vote for the Hatfield amendment to the energy-water bill who were not going to vote for it.

Second, the Senator from Oregon suggests this is a 9-month moratorium. It is actually closer to a year because in his 90-day notice-and-wait period he excludes all the time Congress is not in session.

The third point is this. He is very suspicious of any assertion coming from an administration. If that is the case, if he is suspicious about any assertion of the need for a safety test then his amendment is far weaker than mine because I give Congress complete control. The President must certify each and every test for safety purposes to the Congress; he must certify in detail the purpose and nature of the test. We have an opportunity to overrule that certification on each and every one of the tests. Under the Hatfield amendment the President could conduct 15 tests with no congressional review save for reliability tests that might be conducted.

The final point is that when the testing cutoff goes into effect, it can be released under the Hatfield amendment if Russia or any other nation tests, without any congressional control of that. Under my amendment, the President would have to certify the need to suspend that cutoff and we would have an opportunity to reverse that as well. My amendment is much tougher in the way of congressional control than is that of the Senator from Oregon.

I yield 3 minutes to the Senator from Georgia.

Mr. NUNN. Mr. President, over the last 2 months, there has been a continuing series of discussions between Senators HATFIELD, MITCHELL, EXON, COHEN, JOHNSTON, and myself and, I am sure, others on the question of how best to achieve the cessation of all nuclear testing over a period of time. These discussions have been conducted in a spirit of bipartisanship and flexibility, and I commend all Senators involved in this undertaking for their effort to try to find an acceptable middle ground where all can meet on this important issue.

I believe it is important, before we vote, to emphasize that many areas of agreement have been reached among the parties to this discussion.

First, I think it is very significant that everyone has agreed to establish in law a mandatory cutoff date for U.S. nuclear testing. This is truly a landmark achievement in the nuclear era. These are the people negotiating this I am referring to. I am not talking about everybody in the Senate.

Second, everyone involved in this negotiation agrees there should be an initial short-term moratorium beginning next fiscal year, during which this administration or the next administration is to determine exactly which tests are required to phase out all testing.

Third, everyone agrees that once this review has been completed and the initial upfront moratorium has been lifted, there should be a transition period during which a limited number of tests can be conducted for strictly limited purposes.

Fourth, everyone has agreed the President should have the authority to resume U.S. testing after the final cutoff date if extraordinary circumstances arise.

These discussions over the last 2 months did not succeed, though, in resolving a number of specific details that relate to each of the broad areas of agreement. For example, the Hatfield-Exon amendment would halt all U.S. testing in 1996. Senator COHEN's amendment specifies 1998. In my view, 1998 is a more realistic and more prudent date.

Second, the Hatfield-Exon amendment would allow testing during the transition or phaseout period only for safety and nuclear weapons reliability purposes. Senator COHEN's amendment would also allow a limited number of tests for the purposes of assuring ourselves that our strategic systems can withstand nuclear blasts. That is a so-called weapons effect testing.

Third, the Hatfield-Mitchell-Exon amendment would allow the President to resume testing if Russia conducted a nuclear test after the cutoff date. Senator COHEN's amendment would provide a waiver if any nuclear weapons power conducted a test. It would also allow the President to extend the phaseout period if he certified that the United States was actively engaged in a negotiation to achieve a comprehensive test ban and that a cessation of all testing would undermine that negotiation.

Mr. President, I voted for the Hatfield-Mitchell amendment when it came through the first time. I announced at that time that there were a number of things that needed changing in our amendment in conference. The Cohen amendment, as I view it, meets every one of those requirements that I outlined before I voted for the Hatfield-Mitchell amendment. I think this last condition is particularly important. It is a fundamental difference even though these differences have narrowed. We do not know whether Russia is going to be the biggest threat that we face with nuclear weapons in 1998. It could well be at that time that it is another country. We do not know what is going to happen to the other former Soviet Republics. We do not know what is going to happen in China.

I think there needs to be more flexibility. It is very unlikely in 1996 that we can have any certainty at this point in time about what may happen in 1996. I think also the President who may be engaged in a comprehensive test ban negotiation with multiple countries in 1994–95, will need some way to say to those countries we are not bound by law to cease all tests if we do not get cooperation from other countries in the world. We are down to an argument about how best to achieve and how to most prudently achieve a comprehensive test ban. I believe the Cohen amendment more prudently does that. But I also congratulate the Senators from Oregon, Nebraska, and Maine for their leadership in this matter. I think whoever wins this vote, we will move the issue forward in a positive and constructive way.

Mr. President, I intend to vote for the Cohen amendment.

Mr. WARNER. Mr. President, parliamentary inquiry. Could we have the time remaining on both sides of this debate?

The PRESIDING OFFICER. The Senator from Maine has 9 minutes, and the Senator from Oregon has 3 minutes.

Who yields time to the Senator?

Mr. WARNER. Mr. President, I ask unanimous consent to extend the time to 10 minutes on each side, 10 minutes of course to the distinguished majority leader, and 10 minutes to the Senator from New Hampshire [Mr. SMITH].

The PRESIDING OFFICER. Is there objection?

Mr. NUNN. Mr. President, I will not object to the unanimous-consent request of my colleague and friend from Virginia. Could he cut it down to 5 minutes or 6 minutes on each side? I hate to set this precedent. We are really going to be under a gun, and by midnight tonight and tomorrow morning, people are going to be bitterly complaining.

Mr. WARNER. I am quite agreeable to do it with 6 minutes on each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATFIELD. I yield 2 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I thank the Senator from Oregon for yielding.

The closing statement made by my good friend, the chairman of the Armed Services Committee, with regard to one of the most important features of the Cohen amendment, was the fact that it broadens the test to any other country besides Russia. I had hoped that the staff of the Armed Services Committee would have advised the chairman, or the chairman would have heard, or he would have looked at the amendment or they would have listened to my talk.

I want to assure the Senator from Georgia that he was misinformed. The amendment that we have now does expand beyond Russia. I had made the point in my talk that he and others objected to that, and we corrected it. Therefore, his closing remarks about this important thing was not accurate. I thought that he may wish to correct it.

Mr. NUNN. Mr. President, I will certainly take a look at that. I am delighted to know that. That narrows the differences even more. I did not know that. I will take a look. I appreciate the Senator's remarks.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maine has 15 minutes remaining.

Mr. COHEN. Mr. President, I alert any of my colleagues who wish to address this amendment on my side or, indeed, on the side of the Senator from Oregon that they should come to the floor.

I think that I can conclude my own remarks in a relatively brief period of time. Perhaps we can yield back the remainder of time and allow the majority leader to conclude the debate more quickly than anticipated.

Mr. President, let me just return to a couple of the key issues we talked about before. The Senator from Oregon indicated that initially 54 Members signed on to a resolution calling for a 1-year moratorium. And, indeed, that was the case, and there was a very popular sentiment to join in that particular resolution.

Then the issue came before the Senate and the Members started to listen to some of the facts. The Senator from Oregon has suggested—I am not sure he truly is convinced of this—that safety was sort of a sham issue; let us not be concerned about whether or not our systems are, in fact, safe enough for our people; the scientists are always raising this as an issue.

The facts came before our committees and came before the Senate, and the Senator from Oregon did, indeed, listen to some of the expert testimony, people like Sydney Drell and others who are highly respected scientists, and they indicated we have some serious problems. We have serious enough problems that we could have a devastating explosion causing untold damage.

So the original sentiment for a 1-year moratorium suddenly was watered-down, as such, or at least I will suggest it was clarified with some of the facts.

One issue that is before us is how long is this moratorium going to be?

The Senator from Oregon wants 9 months, but I suggest his amendment is closer to a year because the Senator has excluded in his calculation all of the breaks for congressional recesses. So as a practical matter we are talking about one calendar year. And during that one calendar year nothing is going to take place. So, on the one hand, the Senator from Oregon and the Senator from Maine want to conclude this testing as quickly as possible and yet delay it for 1 year. So you delay it for a year and then you shorten the time before the final cutoff of testing. You are compressing the scientific tests that have to be done in a way that we feel is not fully responsible.

The Senator from Oregon says he does not believe these people who come in and talk about safety. He does not believe in anything that they suggest; simply another sham to keep it going.

I might remind my colleagues of the debate on the nuclear freeze movement, and the Senator was a very strong proponent of that. At that time, President Reagan said, "You give me the opportunity to deploy the Pershing II missile in Europe and I will get you an INF agreement." And the Senator from Oregon did not believe President Reagan at that time. He was opposed to that as well. Well, we did deploy the Pershing II missile and guess what? The Soviets came back to the bargaining table. President Reagan in fact got a very comprehensive treaty with the Soviets.

So as to the very notion that somehow whenever an administration submits something to Congress you cannot believe them, I think we have some pretty clear evidence we can put some faith in our institutions.

The Senator says the United States is not serious about arms control. I suggest to the Senator the START II proposal cutting nuclear weapons by more than two-thirds. That is pretty serious. I think the Senator from Oregon knows that I am as seriously committed to arms control as he is, and the notion that somehow this is a device to prevent us from achieving a comprehensive test ban really I found offensive. I am as committed to this objective as is the Senator from Oregon or the Senator from Maine, the majority leader.

What I seek to do is I think correct some of the deficiencies that I see in the amendment of the Senator from Oregon. Number one, the Senator has no congressional control over proposals coming from the President for safety tests. Under my amendment, every request the President makes for a safety test he has to certify. We get a chance to review under my amendment. We do not get any chance under the Hatfield-Mitchell amendment. So Congress has an opportunity to reverse the President. If the Senator thinks the claimed safety justification is a sham, if he thinks the President is lying, if he cannot put faith in President Bush or Clinton, he has an opportunity to reverse under each and every test under my amendment. Under the Hatfield-Mitchell proposal we get no review.

Finally, the Senator from Oregon did amend once again his own amendment to say in the final end, in 1996, if another nation—originally it was only Russia, but if another nation, be it China, Kazakhstan, Iran, or whatever that country might be—tests a weapon, the cap comes off altogether. No more congressional review. That is it. The President then can continue the testing without any congressional objection.

Under my amendment, the President would have to certify to Congress the reason why he wants to resume, because he is in the middle of negotiations, and we would have an opportunity to reject that. Under the amendment of the Senator from Oregon, there is no opportunity to object to that. And under the Hatfield-Mitchell amendment the ban is taken off completely. Under mine, it is only suspended for 1 year. He can only remove the cap for 1 year. So my amendment is far more restrictive than the Senator from Oregon, who professes to be so committed to arms control negotiations. And I believe he is. But my amendment is far more restrictive than his and, I think, more responsible in allowing the scientific community to do what is necessary to protect the American people from safety failures which could cause devastating havoc with the American people.

Mr. President, I reserve the remainder of my time.

Mr. HATFIELD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. HATFIELD. I yield myself 1 minute of the 3 minutes I have remaining and the 10 minutes additional.

Mr. President, I would only just urge the Senator from Maine to look at the bill he is purporting to represent, bits of this bill. We have annual reports to the Congress every year before the President could extend it beyond the date of cessation, again a congressional bite. So it is not accurate to say that the Congress has no further control or voice in this. It is written here in the bill. Just read the bill.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Will the Senator yield me 30 seconds?

Mr. COHEN. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Georgia has 30 seconds.

Mr. NUNN. Mr. President, a moment ago the Senator from Nebraska said their amendment had been changed to provide if any other country tested, not just Russia, that would allow us to go forward. I deem that to be a significant change, and I did not know that. I thought I had heard last evening this amendment being described as exactly the same amendment we had before. That is fundamental change. It makes the gap a lot less narrower, and I wanted to correct the RECORD on my remarks.

I still believe the 1998 date is a much more realistic date. One thing we have to do, we have to have time to develop simulators, and that 1996 date is very tough in the ability to do that. But nevertheless I wanted to clarify my remarks.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I yield myself such time as I may use, including my leader time, to address this subject.

Members of the Senate, last month 68 Senators voted to phase out nuclear testing. No one thing has changed since that day. Not one single reason exists today for any Senator to vote any differently than that Senator voted last month. There is no reason to reverse a vote on this issue because the facts are exactly the same. The overwhelming support that the Senate demonstrated last month for a carefully structured program to end nuclear testing was impressive testimony to the Senate's understanding of the changing international environment. Let us not go backward today. Let us not reverse a position we took just last month.

The Hatfield-Exon-Mitchell amendment combines the concept of a moratorium bill cosponsored by 53 Senators with basic elements of a testing phaseout that Senator EXON included in his subcommittee, a provision which I understand had the support of every Democrat on the Armed Services Committee.

This amendment incorporated both the immediate demand to pause in our testing program with the longer-term strategy to eliminate the need for nuclear testing altogether.

Now, there has been a lot of discussion, and I believe much of it not accurate, and therefore I think it is important to recap the amendment's basic provisions.

First, it imposes a 9-month moratorium on nuclear testing. That moratorium can be followed by a testing program that allows sufficient tests to implement all necessary safety features on stockpiled weapons. Safety testing is taken care of in the Hatfield-Exon-Mitchell amendment. Under the amendment, five tests can be conducted each year for 3 years. One exception a year may be made for a reliability test if Congress does not disapprove that proposed test within 60 days. One exception may also be made to conduct a test for the United Kingdom. The total number of tests is 5 a year for 3 years, 15 tests through September 30, 1996. And after that date, the U.S. nuclear testing program will end.

There is an escape clause from that ending. That is one way this amendment differs from the amendment offered and adopted overwhelmingly last month. Under this amendment, the United States could test if any other country conducts a nuclear test. So what we are saying is we stop testing, but if any other country conducts a single test we could resume testing.

So while the amendment directs the President to conduct negotiations to conclude a comprehensive test ban, it would allow U.S. testing to continue if a ban could not be concluded or any other country conducted a nuclear test.

Now, over countless hours of negotiation, it has become clear that some who criticize this amendment are really not interested in improving it. What they want is to allow testing to continue. But the American people are overwhelmingly against it. The other countries of the world are overwhelmingly against it. The Congress is overwhelmingly against it. So what we have is a mechanism to continue testing under the guise of stopping testing.

Now, I hope the Senate today will reject that approach and reaffirm its support that was overwhelming just last month.

Now, there are three major areas of disagreement between these two amendments. I want to say, with all due respect, I do not agree with the Senator from Georgia. These are not compatible amendments. They are fundamentally different; they are mutually exclusive. You cannot be for both.

The three major areas of difference are, first, our amendment recognizes the great importance of a moratorium. Under Senator COHEN'S bill, testing could resume in as few as 90 days. That is no different from the naturally occurring pauses between nuclear tests now. It is not a moratorium at all; it is a continuation of the current program.

It would not convince the Russians to extend their moratorium, nor the French to reciprocate. And the enormous value to the world of having the major nuclear powers halt nuclear testing would be lost.

Fifty-three Senators cosponsored a testing moratorium bill; there should be no confusion about that. If you are for a moratorium, the only alternative is the Hatfield-Exon-Mitchell amendment, and a moratorium matters.

Let me say why first the United States moratorium is an appropriate response to the Russian and French moratoriums. If there were ever an opportunity to help support President Yeltsin against the military in Russia who want to resurrect the Russian nuclear arsenal, the moratorium provides one. And unless the United States joins in the moratorium, both Russia and France will resume testing in the near future; Russia in October; France in January.

The question was asked earlier: Why is a moratorium important? That is why it is important. Those who want to continue testing know that if we do not stop testing, the Russians will resume testing; the French will resume testing. And then they will come back here and say: Well, we cannot stop testing because they are testing.

In other words, opposition to a moratorium is an effort to continue the whole testing program. I guarantee you, we will be back in January with Senators saying: Look, the Russians are testing; the French have tested; we cannot stop testing now.

Second, a testing pause would provide some political momentum for all nuclear nations to negotiate a comprehensive test ban, and that is what we all say we want. The Bush administration is the first administration in history in the nuclear age to reverse our longstanding policy of seeking an end to all nuclear testing.

In treaties signed by the United States in 1963, 1969, and 1974, the United States committed itself to continue the negotiations to end such testing. From Eisenhower through Carter, every President in the nuclear age sought a comprehensive test ban. Even President Reagan pledged he would continue that policy. The Bush administration has reversed the policy; the first one in the nuclear age to do so. What we are seeing now, of course, is the administration's policy being offered here.

We need a moratorium that will convince the administration how much the Congress and the American people want to end tests.

Now, our amendment would require a 9-month testing pause. That would extend 6 months beyond the current French moratorium, and almost a year beyond the current end date for the Russian testing pause. And both countries have said they are willing to extend their moratoriums if the United States joins them.

So under our provision, a testing pause or moratorium is meaningful. The international community would consider it to be serious. It would engender a proper response from another nation. It would set an important example.

A second major difference is the type of testing that can be conducted. Our amendment says that testing must be to install safety features that we would like to put on those few systems that lack them. We allow one exception: A year for reliability tests.

The Cohen amendment does nothing to redefine our nuclear testing program. It will allow any type of testing, even for weapons development; even for weapons effects. The Cohen amendment reflects no change in the international environment, and no change in the purpose of the U.S. testing program.

Mr. President, the third and, to me, the most significant difference in the two amendments—and this is really the heart of the whole matter—is the ending of testing. My colleague from Maine wants to allow testing through 1998. I say, first, that is unnecessary. Experts have repeatedly testified that we can implement safety features in far less time.

I urge my colleagues to read the Department of Energy studies on the issue, studies that were conducted before the administration became concerned that the moratorium bill was gaining broad support. The reality is that the number of safety tests allowed by our amendment is more than sufficient to complete all necessary safety work.

But the most disturbing part of the amendment of my colleagues is that it gives the President more ways to continue testing after the alleged cutoff date.

Both amendments allow the United States to resume testing if other nations test. But the amendment of my colleague from Maine would allow continued testing if the President says he needs a test to get a negotiated ban on testing.

Let me ask about that. Why would the United States need a test to achieve a ban on testing, if there are no tests being conducted anywhere in the world?

Our amendment says that if any other country is testing, then the United States can resume testing, too. To suggest that if no nation is testing, if no nuclear tests are being conducted anywhere in the world, that the United States would then have to resume testing in order to ban testing, is completely illogical. It does not make any sense.

Let me repeat. Under our amendment, if any other country is testing, we can test. If no tests are occurring anywhere in the world, why does the United States need to resume testing to achieve a ban on testing, when no testing is occurring? That is the major difference.

All this amendment does is to provide the President with a big loophole to continue testing, which is, of course, exactly what the President wants. He has said he wants to continue testing. I have no doubt that he would assert he needs a test to negotiate, and would continue testing after 1998.

My colleagues, this is cold war thinking. It will move us further away from achieving the ban of ending all testing and ending nuclear proliferation.

Let me reiterate why continued testing undermines U.S. antiproliferation efforts. The 1969 Treaty on Nonproliferation of Nuclear Weapons offered an implicit quid pro quo to induce the nonnuclear states to sign on. The nuclear powers said: We will work to achieve, at the earliest possible date, a cessation of nuclear arms tests, and the arms race, to undertake effective measures to nuclear disarmament. In exchange, we ask the nonnuclear states not to become nuclear states.

And for them, the sign of seriousness by the nuclear powers is that we are upholding our end of the bargain by moving to end nuclear testing.

No one can dispute the inconsistency of the administration telling other countries they have no right to conduct nuclear tests, while insisting that we must continue nuclear testing. And ending testing is the obvious first step toward nonproliferation. That is why other countries have been trying to get the superpowers to end testing for many, many years.

The consistent objections by the U.S. administration to testing limits has prevented progress in strengthening the Treaty on Nonproliferation. At the last review conference in 1990, there was no progress in two important areas, because Mexico and the other countries wanted to ban further nuclear tests.

Mr. President, the further procedures that were not adopted in 1990 because of this test issue were important. They would have been useful regarding Iraq's nuclear program. It is foolhardy to forestall strengthening international nuclear safeguards because we will not end an unnecessary nuclear test program.

The treaty is coming up for review again in 1995. This time the treaty itself could be in question. Joining the Russian and French moratorium would demonstrate our good faith in encouraging nonproliferation.

Mr. President, the administration argues that America's choices about nuclear weapons have no relationship to the policies of other countries. But North Korea and other countries point to the United States testing to defend their policies. At the very least, we give them an excuse to hide behind.

And, moreover, the administration itself, in another clear inconsistency, has claimed that U.S. nuclear restraint can aid nonproliferation efforts. President Bush explained that the United States formally ended nuclear material production, and I quote him now: "to show leadership on critical issues and to encourage countries in regions of tension, such as the Middle East and South Asia, to take similar actions."

According to the President's own words, own logic, ending testing does matter. Mr. President, we ought to end this testing. I say to my colleagues, if you want to continue testing, the way to do it is to support the alternative amendment. If you want to end testing on an orderly basis, permitting safety tests over a 3-year period, support the Hatfield-Exon amendment; 68 Senators voted for it. There is no reason for a Senator today to reverse his position and vote against something he voted for a month ago, because nothing has changed. I emphasize these two approaches are mutually exclusive. You are either for testing or for ending testing. You cannot support both amendments at the same time.

When it passed last month, the Hatfield-Exon amendment was hailed as a historic achievement. Newspapers and people all across the country proclaimed it as a victory for common sense and a post-cold-war period. Let us today reaffirm the wisdom of that approach.

I urge my colleagues to support the Hatfield-Exon amendment.

Mr. NUNN. If the Senator will yield for a brief question, Mr. President, as I understand it, and I may be wrong, because I did not draw this amendment. This is Senator COHEN's amendment. But as I understand it, it does not provide for a 3-month moratorium. It is a 6-month moratorium. I believe the Senator said 3 months and made that as a crucial matter between the resumption of testing with Russia and France. Maybe I am wrong on this, but as I understand it, we have a 90-day moratorium here, but the moratorium is kicked off after the President submits a report, and the President cannot submit the report until the 103d Congress.

I think the major point the majority leader made about the distinction between these two amendments, our friends in Russia resuming, basically, as I read the amendment, is not correct.

Mr. MITCHELL. Mr. President, I was under the impression that the report could be filed at any time, and then 90 days would elapse.

Mr. NUNN. I think it is in the 103d Congress.

Mr. COHEN. I was going to offer some rebuttal because of the impassioned remarks of my colleague from Maine. It seems incumbent upon me to state the bill correctly. I do not think he did so. How much time do we have?

Mr. MITCHELL. If it is the 103d Congress, of course, I stand corrected on that point. My understanding is that it is 90 days after the filing of a report.

The PRESIDING OFFICER. The Senator has 8½ minutes.

Mr. COHEN. Mr. President, let me take a few moments. I think we have had enough debate on the amendment.

The Senator from Maine, the majority leader, indicates that 68 people voted for this Hatfield-Exon-Mitchell amendment to the energy-water bill last month. Well, they did so after being urged to vote for it by the Senator from Louisiana [Mr. JOHNSTON] who opposed it. A number of people who were prepared to vote against the Hatfield amendment voted in favor, based upon the representations that we were going to revisit this matter when it came back on this bill. So nobody is reversing his or her position. Everybody understood there would be a second opportunity to look at the entire issue of nuclear testing.

The second point I want to make is that the Senator from Maine indicated this only provides for a 90-day moratorium. This is clearly and categorically untrue. The amendment, as written, provides for resuming of testing 90 days after the President files a report outlining what he is going to do to get us back on the track of negotiating a strengthened nonproliferation treaty and achieving a comprehensive test ban. That 90 days cannot begin until after the next Congress convenes. So we are really looking at next April at the earliest—not 90 days, but 6 months.

Senator MITCHELL indicated that if you want to continue testing, you just vote for the Cohen amendment. If you want to prohibit testing, vote for their amendment. Maybe that is precisely what they have in mind, because he has made a totally inconsistent argument. On the other hand, he says we need a moratorium, and in his opinion he would hope it would be indefinite because we want to encourage the Russians or the French or others to continue to impose a moratorium. Therefore, he argues, the moment we go back to testing, they are going to go back.

His amendment calls for going back to testing. On the one hand, he says no testing; on the other hand, he says let us begin the 15 tests. You cannot have it both ways. If you are for continuation of testing, you are having it under the Hatfield amendment, as well as the Cohen amendment. There is a difference in terms of numbers. We each save no more than five in each year.

In my amendment, we allow the scientific community to carry out the scientific tests in a responsible fashion. So we pick 1998, and they have 1996. I want to correct the RECORD once again—the Senator from Maine indicated that I would allow for testing for new weapons, which is again categorically wrong. In my amendment, there is no testing for new weapons allowed. That is prohibited. We allow for testing for safety, reliability, and weapons effects only. No new weapons can be developed under this regime.

The third major point is that every time the President wants to test for safety purposes, he has to certify in detail to the Congress what is the reason and what we hope to achieve. We have an opportunity to overrule that on each and every test. That is not permitted under the Hatfield amendment.

The final point: On the final cutoff. In 1998, we are in the middle of a nuclear nonproliferation treaty. The President says I am in the middle of this, and I need more flexibility. Senator MITCHELL asks how is that possible. How is it possible that President Reagan said: Give me the authority to deploy Pershing II missiles and cruise missiles in Europe, and I will get you a treaty. It sounded illogical at the time—you have to deploy missiles in order to get the elimination of these missiles. That is precisely what we had to do: give him the negotiating flexibility to deploy the weapons in Europe, and we were successful. He overcame the objection of the flat nuclear freeze saying, give us the weapons, we will deploy them and get you a treaty. He did. Illogical, but practical, and it proved to be successful.

In this particular amendment, if any other nation tests under the Hatfield amendment, the cap comes off. The President can go back and test forever.

Under the Cohen amendment, if any other nation tests, the President has to certify they have tested and request authority to test, and we have 60 days to review it and to object to it.

So, in many ways, mine is far more responsible and restrictive than the Hatfield amendment, which purports to be the only one that favors arms control and nuclear testing elimination.

So, Mr. President, I urge my colleagues to look very carefully and to vote against the Hatfield amendment, and to support the underlying Cohen amendment.

Mr. KENNEDY. Mr. President, I rise to support the pending amendment. The time has come for the United States to halt nuclear testing. We no longer need such tests, because we no longer need to develop more powerful or more accurate weapons to deter the Soviet Union. In the post-cold-war period, the greater danger comes from the continuation of the arms race and the proliferation of nuclear weapons. We need to take all the steps we can to reduce these basic threats to our future security.

In particular, with the Nonproliferation Treaty up for renewal in 1995, it is crucial that we act now to ban nuclear testing. We have been preaching nonproliferation to other nations for years. But the signers of the Nonproliferation Treaty deserve to know that we are prepared to practice what we preach or else our preaching will be to no avail.

Negotiation of a comprehensive test ban treaty is the single most effective step that the United States can take to halt the nuclear arms race and restrain the spread of nuclear weapons. Until we end our own testing, other nations will have a credible everybody-does-it excuse to test their own nuclear weapons and defy international antiproliferation efforts.

The amendment before us establishes a logical step-by-step program to establish a permanent ban on nuclear weapons testing after a short moratorium and a handful of safety-related tests.

A moratorium is needed to demonstrate a renewed U.S. commitment to seeking an end to nuclear testing. Russia and France have already announced moratoriums on nuclear testing through the end of the year. By joining this moratorium, the United States will give new momentum to the worldwide drive for a comprehensive test ban.

It is necessary for Congress to initiate this moratorium because the administration has not carried out its promises to begin negotiations to achieve a comprehensive test ban. In 1986, President Reagan wrote to the Congress pledging to begin negotiation to limit and ultimately end nuclear testing, once the verification protocols to the two 1970's nuclear testing treaties were achieved and the treaties were ratified. This commitment was made in exchange for an agreement by the House of Representatives to drop a provision in the 1987 Defense authorization bill that would have mandated negotiations of a comprehensive test ban.

In June 1990, President Bush and President Gorbachev signed the verification protocols to the two treaties—the Threshold Test Ban Treaty and Peaceful Nuclear Explosions Treaty—and the treaties went into effect in December 1990.

In testimony supporting ratification of these treaties, Ambassador Ronald Lehman, Director of the Arms Control and Disarmament Agency, specifically restated the administration's commitment to a step-by-step process to limit and ultimately end nuclear testing. At that time, he indicated that the delay in the start of these talks would not be lengthy—specifically that the delay would not be measured in years.

Despite this commitment, it has now been more than 2 years since the verification protocols were signed. Yet the negotiations on a CTB still have not begun. In fact, the administration has simply ignored an amendment that Senator SIMON and I sponsored on the 1992 Defense authorization bill that directed the President to submit by February 1992 a report to Congress containing a proposed schedule for the negotiations and identifying the objectives.

Now it is up to Congress to take stronger measures. By enacting the pending amendment on nuclear testing, Congress can ensure that the administration initiates the long-promised negotiations for a comprehensive test ban.

Contrary to claims by the administration, a test ban will not undermine the reliability or the safety of our nuclear arsenal. Reliability is a concern that deals primarily with new weapons—warheads that are under development or have been recently introduced into the stockpile. But the United States has no new nuclear warheads in development.

The reliability of the existing weapons in the U.S. stockpile can be maintained without nuclear weapons tests. According to the conclusion of an independent review of nuclear stockpile issues by Lawrence Livermore physicist Dr. Ray Kidder, "a high degree of confidence in the reliability of the existing stockpile is justified * * * in the absence of nuclear explosive tests." This conclusion confirmed expert views previously expressed by Dr. Hans Bethe, Dr. Richard Garwin, Dr. Carson Mark, and Dr. Herbert York.

Nor are safety concerns an obstacle to a test ban. Pursuant to recent arms reduction initiatives, the accelerated retirement of older weapons has eliminated the least safe weapons designs. With the remaining weapons in the stockpile, there are two types of safety concens—avoiding an accidental nuclear detonation and averting any scattering of plutonium in the environment.

The first of these concerns—accidental detonation—can be resolved with safety tests with an explosive power equivalent to a few pounds or less of TNT. Such tests need not be limited under a comprehensive test ban, because they are extremely small and would be almost impossible to verify.

The second safety concern—avoiding the accidental release of plutonium—has already been addressed by installing modern safety and security features, such as insensitive high explosive and fire-resistant pits, on nuclear weapons. It may be cost-effective to ensure that all of these features are incorporated on all nuclear warheads that will remain in the arsenal. But this would require only a handful of additional nuclear tests that could easily be accomplished before a CTB goes into effect. The amendment thus specifically provides for a limited number of safety-related tests prior to negotiation of a CTB.

But, we must avoid allowing safety testing to be the Trojan horse that defeats a comprehensive test ban. For 40 years, the Department of Energy and the Pentagon have assured the American people that U.S. nuclear weapons are safe. But now that all other reasons for conducting nuclear tests have been swept away by the end of the cold war, they suddenly want us to believe that our most modern weapons are not safe. It is like running the marathon in the Olympics only to find in the final stretch a few more miles have been added to the race.

The bottom line is that a comprehensive test ban is essential to sustain progress in nonproliferation efforts, and it will not make our nuclear stockpile less reliable or less safe. Given the administration's refusal to begin the long-promised CTB negotiations, Congress must press the issue by enacting a moratorium in nuclear testing to match those of the Russians and the French, and by limiting future tests to the handful needed to make the last safety improvement to the nuclear arsenal. For these reasons, I urge the Senate to adopt the amendment.

Mr. BRYAN. Mr. President, I rise today to address an issue of critical importance as we adjust to the realities of the post-cold-war era. During this time of great transition within our national defense structure, we must not let our excitement over the dramatic international events of the past decade cloud our judgment and our decisions regarding continued nuclear testing.

As long as the U.S. maintains a nuclear stockpile, we need to assure the capability to test our remaining weapons, and we must continue those necessary tests. The Nevada testing facility is a unique resource, and the nation's investment in it must be protected even if the frequency of testing is reduced due to the smaller number of nuclear weapons in the stockpile and the absence of new warhead designs. An appropriate level of testing needs to be maintained in order to upgrade our current weapons stockpile to the highest standards of safety, and to maintain confidence in the existing stockpile as the weapons age, and as weapons components are renewed and recycled.

The administration has modified American nuclear testing policy in response to the rapidly evolving international situation. In a recent policy change, the Department of Defense stated that the United States will conduct only the minimum number of nuclear tests necessary to evaluate and improve the safety and reliability of our shrinking nuclear stockpile. To limit testing beyond these parameters is not only unnecessary but irresponsible.

A nuclear weapon is not a static, inert commodity. As weapons age, they need to be maintained and modified. Nuclear components such as tritium need to be replenished. As our stockpile shrinks and ages, some testing will be essential to assure both the safety and the reliability of the remaining weapons. Indeed, it would be irresponsible to abandon our capability to test the stockpile as it ages.

Underground testing is the cornerstone of ensuring the safety of our aging nuclear weapon's stockpile. The Department of Defense has committed itself to making our nuclear weapons as safe as modern technology permits. An independent congressionally appointed panel chaired by Dr. Sydney Drell also recommended that the United States should give a greater emphasis to nuclear weapons designs, that would make these weapons "as safe as practically achievable." A moratorium directly threatens these important goals.

During the nuclear age, there have been several accidents involving nuclear weapons. They have ranged from ones that did not disperse nuclear material, such as the Titan missile accident in Damascus, AR, to a few accidents in which explosives in the weapons detonated, dispersing nuclear material but not resulting in a nuclear explosion. Future safety needs and changing safety designs should not be foreclosed by a testing moratorium.

For instance, an important safety feature, the development of insensitive high explosives [IHE's], required a substantial number of nuclear tests in the 1970's. Nuclear weapons equipped with insensitive high explosives have extra protection from potential chemical explosions, if the warhead were dropped or pierced. Only through additional testing will all our nuclear weapons meet this safety standard. Research is currently being conducted on nuclear warheads that can withstand the intense temperatures of an aircraft fire. A moratorium on nuclear testing would threaten this research, and seriously limit future safety upgrades.

As our stockpile of nuclear weapons is reduced, the reliability of each nuclear weapon becomes absolutely critical to an effective deterrence. Only through testing can we have adequate assurance that our nuclear weapons will function as expected in a time of crisis. Stockpile surveillance, above ground experiments, and modeling often uncover flaws that cannot be resolved without the use of a nuclear test. Almost one-half of the nuclear weapons systems developed since 1970 have needed nuclear testing to correct or evaluate defects. Clearly, a testing moratorium would seriously hamper our confidence in our nuclear weapons stockpile.

Some of America's greatest technological resources have been devoted to design, production, and testing of our nuclear weapons. Personnel at the Nevada test site are a small community of highly specialized workers, with expertise found nowhere else in the world. If a testing moratorium is enacted, many skilled researchers and testing technicians will leave the program, threatening the viability of this vital national resource.

New military systems in areas critical to American security such as surveillance and communications are constantly being developed. Nuclear testing is vital to ensuring the survivability of these systems. Computer simulation techniques are continually being developed to limit the number of nuclear tests needed, but for the foreseeable future, simulation cannot replace the need for limited actual nuclear testing in this area.

Since 1958 the United States has deployed 41 different nuclear weapons systems. Of these fourteen needed corrective modifications after they were ready for deployment. These deficiencies were either discovered or corrective measures evaluated in subsequent nuclear tests. We must strive to insure that our remaining nuclear weapons are as safe and reliable as possible, and that goal will require further testing for these purposes. A halt to testing would simply erode confidence in the existing stockpile and inhibit our ability to make safety improvements. Incorporating the best available safety technology into our remaining weapons, including such features as insensitive high explosives and fire resistant pits will require further testing.

Despite the collapse of the Soviet Union, and advances in arms control agreements with Boris Yeltsin's new Russian state, we should not be blinded by euphoria. The Communist dictatorship still remains in Peking, and their nuclear program goes on unchecked by any treaty. Countries as diverse as North Korea, India, and Libya all have nuclear weapons development programs. The recent reports out of Iraq should be sobering to all of us, that Saddam Hussein was dangerously close to having a nuclear weapon. Even now, many believe that U.N. monitors in Iraq have failed to halt the Iraqi Nuclear Development Program. It is disingenuous to believe that a nuclear testing moratorium will somehow, magically cause renegade nations to halt their own nuclear weapons development.

As long as dictatorships are striving to acquire weapons of mass destruction, we must be vigilant. Our nuclear deterrence, tested time and again in the Nevada desert, helped prevent the tensions between the Soviet Union and the West from ever resulting in a nuclear conflict. Testing was part of that success, and we must not lightly discard such a proven capability.

Mr. ADAMS. Mr. President, I rise today in support of the Mitchell/Hatfield amendment offered by my colleagues to S. 3114, the Department of Defense authorization bill.

This amendment addresses the crucial issue of nuclear testing through imposing a 9-month moratorium on this testing. More importantly, a permanent ban would be in place after fiscal year 1996.

Nuclear testing poses a tremendous cost to our economy, our health and our environment. In 1991, the Bush administration conducted seven nuclear tests at a cost of between $10 million and $100 million per test. The devastating environmental and health effects of radioactive waste are well documented.

In addition to these concerns, nuclear testing promotes one of the leading concerns of the post-cold-war era—nuclear proliferation. If the United States continues to develop and test nuclear weapons, we cannot credibly work toward curbing the development of nuclear weapons in nonnuclear nations.

I have long advocated an immediate, permanent ban to nuclear tests. Although I regret a more stringent amendment will not be adopted, I am hopeful that this amendment, if agreed to, will bring an end to these destructive tests.

Mr. SMITH. Mr. President, I rise in strong opposition to the amendment offered by the Senator from Oregon.

Mr. President, from the outset, let us be clear about what we are debating here today. This discussion is not just about modifying our nuclear test regime, or curtailing weapons development, it is about whether or not the United States will remain a nuclear power. It is that simple. Because without adequate testing, we simply cannot ensure the safety, reliability, or survivability of our nuclear forces.

Proponents of the Hatfield amendment argue that the world has changed and that the United States no longer needs to maintain a nuclear test regime. According to them, the Soviet threat has disappeared, global disarmament is imminent, and the world has become safe and benign. Well, Mr. President, this is a very optimistic viewpoint and it misses the point completely.

As long as we have any nuclear weapons, whether it is 3,000 or 300, it is essential that we test these weapons to ensure safety and credibility. In fact, as the size of our arsenal and number of weapons types decrease, it becomes increasingly important to ensure that the remaining weapons meet their performance specifications, and that our military forces, including satellites, communication systems, and weapons support systems, are capable of functioning in a nuclear environment. Nuclear testing is essential in this area.

From a safety standpoint, we test to gain absolute assurance that in the event of an accident, our nuclear weapons will not deliver a yield. Clearly, there can be no compromise in ensuring the safety of our nuclear weapons, and we must test to do so.

From a reliability standpoint, we test to ensure that our weapons will perform as they are designed to. This hardly seems unreasonable, since we have invested tens of billions of dollars on our nuclear deterrent force. At the very least, we should ensure that they are capable of doing what they are supposed to do. I would say to my colleagues who support testing only for safety, there is little consolation or security gained by knowing that a weapon will not detonate on our own territory if we cannot be sure that it would detonate, as designed, in time of war.

To better place this issue in perspective, I would ask my colleagues to consider some of the surprises which have resulted from nuclear testing. Since 1958, one-third of U.S. nuclear weapons have required postdevelopmental testing. Some problems were discovered in surveillance activities but others were only discovered during the conduct of nuclear tests. All these problems required subsequent testing to assure that fixes were effective. Additionally, nearly half of the nuclear weapon types introduced into the stockpile since 1970 have required postdevelopment nuclear testing to verify or fix problems, and to resolve questions of safety and reliability.

Mr. President, of the eight tests conducted in fiscal 1991, several exhibited performance that differed significantly from that predicted. Two tests had yields in which the primary performance was approximately half of that expected. The total yield of another test was low by about 16 percent. Furthermore, of the six tests conducted so far in fiscal 1992, one produced a yield of nearly a factor of 10 below the level predicted. The reasons for these deviations vary and, in some cases, remain unknown.

I would say to my colleagues, these deviations indicate an incomplete understanding of the detailed physics of nuclear weapon performance. And if design changes are needed to correct problems in future stockpile inspections or to make future safety improvements, we must test to retain confidence in the safety and reliability of such changes.

Mr. President, I have heard some of my colleagues who support this amendment argue that by halting our testing, the United States will be setting an example that will help prevent the spread of nuclear weapons to the developing nations. Again, this is an extremely optimistic yet, frankly, naive assertion. Let us be honest, Saddam Hussein and Kim Il-song are not glued to their seats wondering whether the United States will continue to conduct nuclear tests. And does anyone in this Chamber actually believe that either of these two barbarians, or their terrorist cohorts, would halt the quest to acquire nuclear weapons purely because the United States has stopped testing? Not a chance. They have done, and will continue to do, whatever it takes to satisfy their perverse appetites for power.

I have also heard my colleagues complain that the administration has failed to adapt our test regime to changes in the international security environment and in the size and nature of our nuclear deterrent. This is also untrue. The United States has already significantly reduced the number of nuclear tests that we conduct. In fact, we now conduct only about one third as many tests as we did in the early 1980's and about one quarter the average level of the 1970's.

The President's revised testing policy states that the purpose of all U.S. underground nuclear testing of its weapons is to evaluate and improve the safety of our smaller nuclear deterrent and to maintain the reliability of U.S. forces. In doing so, the United States will conduct only six tests per year over the next 5 years. Of these six annual tests, no more than three can exceed 35 kilotons. In my view, the President's testing initiative represents a legitimate and responsible approach given the ongoing changes in the world.

Mr. President, I urge my colleagues to carefully consider their vote on this issue. It is, perhaps, the most fundamental and far reaching which we will cast this year. At issue is whether nuclear weapons will continue to play a role in our national security or not. Because unless we continue to test our deterrent force, we simply cannot ensure its safety and reliability.

I would caution my colleagues not to be swayed by partisan political or idealistic arguments. Where the defense and security of our Nation is concerned, we must be resolute. If the Senate believes that the United States should continue to rely on nuclear weapons, whether it be 3,000 or 300, then the only responsible course of action is to continue testing. To do otherwise would be dangerous and destabilizing.

I urge my colleagues to vote against the Hatfield amendment, and I yield the floor.

NUCLEAR TEST BAN MORATORIUM

Mr. DODD. Mr. President, I rise in strong support of the pending amendment. I want to commend Senator HATFIELD, Senator EXON, and the distinguished majority leader, Senator MITCHELL, for their persistent commitment to this very important piece of legislation.

This amendment is virtually identical to the amendment adopted by this body during consideration of the Energy and Water appropriations bill just 6 weeks ago. That amendment passed by a vote of 68-26. I was a strong supporter of this measure then and I am a strong supporter of the measure today.

Mr. President, I have no doubt that this is one of the most important votes this body will make all year. The end of the cold war has brought about for the first time the very real opportunity for us to reverse the deadly course of the nuclear arms race. But let there be no doubt: our progress toward this very important goal could be set back immeasurably if we do not approve this responsible piece of legislation.

This legislation takes a measured approach toward controlling our nuclear testing in the United States. It calls for the direct implementation of a 9-month nuclear testing moratorium, followed by a period in which up to 15 safety tests may be permitted through the end of fiscal year 1996. It also permits one of those tests each year to be carried out for the purpose of reliability, provided the President makes appropriate certification to Congress in advance that such testing is vital to the national security.

But it is what happens after 1996 that is truly important, Mr. President. The amendment mandates that no nuclear tests be permitted after 1996, unless another nation conducts a nuclear test beyond that point. In the underlying amendment, the amendment by the junior Senator from Maine, the President has the authority to continue nuclear testing if he believes the ban on testing would ban his efforts to negotiate a multilateral testing ban.

But make no mistake, Mr. President—under this requirement the President would have the sole discretion to continue testing. So what we have under the Cohen amendment is really nothing new at all. Under the Hatfield amendment, on the other hand, we are charting out a course to bring an undisputed halt to nuclear testing in just 4 short years. All it would take is an equal commitment on the part of the other nuclear nations.

Mr. President, despite what has been argued by some of the opponents of this legislation, the issue before us is not the safety of our nuclear stockpile. That is an argument easily dispatched. Certainly the 15 tests authorized in this bill will be sufficient to handle any safety issues that may arise.

In fact, a large number of experts—reputable scientists such as Dr. Herbert York and Dr. Ray Kidder of Lawrence Livermore Nuclear Laboratory, Dr. Sidney Drell from the Panel on Nuclear Weapons Safety, Professor Frank von Hippel of Princeton University, and Dr. Hans Bethe, the venerable and distinguished dean of the nuclear scientific community—have all reported that the nuclear stockpile will be perfectly safe and reliable with little or no further tests at all. So there should be no difficulty on that score.

No, Mr. President, the issue before us is not one of safety. It is a matter of leadership. We have led the world in the fight against communism and the Soviet threat; we have led the world in the fight for economic freedom and free-market ideals; we led the world in a coalition against the reckless aggression of Saddem Hussein. Now it is time to lead the world in the campaign to eliminate nuclear testing.

As we stand here today, Mr. President, France has a temporary nuclear testing moratorium. Russia has a temporary testing moratorium. China has said it would halt testing if the other permanent members of the Security Council will do the same. And Great Britain is dependent on United States facilities for its own nuclear tests.

These nations are looking to the United States for leadership, Mr. President. They are looking to us for some confirmation that their present policy is the correct one. They are looking to us to meet—or exceed—their dramatic steps forward.

That is the purpose of this modest piece of legislation, Mr. President. If it fails, there is no loss. We can resume testing in 9 months and we will still have the safest and most reliable nuclear stockpile in the world.

But if it succeeds, we will have permanently altered the pace of nuclear weapons testing. And we will have taken the first measurable step toward reversing the nuclear arms race. Mr. President, I urge my colleagues to support this historic piece of legislation.

The PRESIDING OFFICER. The Senator from Maine has 4 minutes.

Mr. COHEN. I yield the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the Hatfield amendment.

Mr. WARNER. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from Tennessee [Mr. GORE], and the Senator from Colorado [Mr. WIRTH], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. SEYMOUR] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 40, as follows:

[Rollcall Vote No. 217 Leg.]

YEAS—55

Adams
Akaka
Baucus
Biden
Bond
Bradley
Bumpers
Burdick, Jocelyn
Byrd
Chafee
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dodd
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatfield
Inouye
Jeffords
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski

Packwood
Pell
Pressler
Pryor
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Specter
Wellstone
Wofford

NAYS—40

Bentsen
Breaux
Brown
Bryan
Burns
Coats
Cochran
Cohen
Craig
Dixon
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Hatch
Heflin
Helms
Hollings
Johnston
Lott
Lugar
Mack
McCain
McConnell
Nickles
Nunn
Reid
Robb
Roth
Rudman
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—5

Bingaman
Boren
Gore
Seymour
Wirth

So the amendment (No. 3043) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine, as amended.

The amendment (No. 3042), as amended, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Maine, as amended.

The amendment (No. 3042), as amended, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. COHEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, earlier today the Senate approved a unanimous-consent request which provided that the majority leader, following consultation with the Republican leader, may return to consideration of the Labor HHS appropriations bill pursuant to a time limitation contained in the agreement. It is my intention to do that shortly.

The Senator from Hawaii has asked for an opportunity to address the Senate for 7 minutes.

I ask unanimous consent the Senator from Hawaii be recognized to address the Senate for 7 minutes, and upon the completion of his remarks, the Senate return to consideration of H.R. 5677, the Labor-HHS appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. If I might, just before his time begins, state, with the distinguished Republican leader here, that the time agreement provides for 1 hour on an amendment by Senator HATCH with some additional brief time on another amendment by Senator HATCH which I understand will be accepted and on the bill. So I am estimating that it will take about an hour and a half to complete action one way or the other on the Labor-HHS appropriations bill, following which we will return to consideration of the Defense bill.

Senator NUNN and Senator WARNER will be prepared to proceed at that time, and it is our intention to remain in session this week until that bill is completed.

Mr. DOLE. Mr. President, it was my understanding we went to the Defense bill yesterday to accommodate, in this case, a Member on this side. It did not work out, but we tried.

In any event, there is a time agreement. That is what I have been asked about by one Member on this side. So we ought to complete action on this by what, 2:30?

Mr. MITCHELL. I estimate that, if all of the time is used.

Mr. DOLE. Then it is the intention of the majority leader to stay on the DOD bill until it is completed, whether that is today or sometime tomorrow?

Mr. MITCHELL. That is correct. My expectation is that sometime later this evening I would consult with the Republican leader and the managers of the bill to see where we stand on the bill and what the prospects look like for completion. It is my preference——

Mr. DOLE. This is all part of the effort to make certain we will be out of here about October 3?

Mr. MITCHELL. That is my most fervent hope and my most precious dream.

The PRESIDING OFFICER. The Senator from Hawaii.

HURRICANE INIKI—STATE OF HAWAII

Mr. INOUYE. Mr President, I wish to thank those who have assisted in the expeditious response to the needs of the people of Hawaii arising from Hurricane Iniki which struck the Hawaiian islands last Friday. Extraordinary efforts are being made to cut through the redtape and minimize bureaucratic requirements in providing relief to citizens affected by Hurricane Iniki.

I thank my colleagues for including my request for increases in the various disaster relief accounts to make more than $1.2 billion available to Hawaii.

At least $850 million in immediate FEMA emergency aid, such as the food and water center at Hanalei; medical assistance at Lihue, Kalaheo, Waimea, and Princeville; temporary housing; electricity, police, and fire protection, is available to the victims of Hawaii's disastrous hurricane. FEMA has opened similar centers in hard hit areas such as the Waianae coast on Oahu. Emergency food stamps will be made available statewide as households begin to require a higher percentage of their paychecks for repairs.

I am pleased that my colleagues have further recognized the importance of following up immediate emergency aid with additional funds for the following areas:

AGRICULTURE

For emergency housing assistance grants and loans to repair homes, payments to Hawaii's farmers for crops that were destroyed, and for rebuilding damaged land and facilities, such as pens and greenhouses. Nurseries, floral, dairy, produce, animal and other farms are all eligible for this Federal aid.

In order to apply for aid, victims can apply at one of four disaster application centers, which opened yesterday—Kekaha Neighborhood Center, Hanapepe National Guard Armory, Lihue Veterans Memorial Convention Center, and Kapaa National Guard Armory.

TRANSPORTATION

To help clear debris and replace or restore damaged roads, signs, and lights. Funds will also be provided to restore the air traffic control towers, terminals, and hangars at airports.

HARBORS AND MARITIME SAFETY

Damaged harbors need similar attention from the Army Corps of Engineers, while additional funds will enable the U.S. Coast Guard to restore vessels and equipment.

EDUCATION

Funds to cover the cost of extended school day programs so that parents can devote time to rebuilding homes and businesses. Special funds will help students and families cope with added stress and anxiety through disaster counseling. College students eligible for student aid under Pell grant awards, may have their eligibility increased to account for losses in family assets and income due to the hurricane.

HEALTH AND HUMAN SERVICES

For funds to help medical personnel and community health centers establish or improve medical services, shelters, mental health services, and special services to elderly citizens, and to repair or replace health centers and medical equipment.

VETERANS SERVICES

For medical care and replacement of any damaged equipment. Special funds are also provided to ensure proper disbursement of benefit checks to Hawaii's veterans.

TOURISM

This is important to many in Hawaii—grants to hotels and tourist-related businesses in order to speed the reopening of doors to visitors. Promotional campaigns will help attract tourists back to paradise and show that Hawaii has fully recovered from the hurricane. This funding is vitally important to the reestablishment of jobs.

WEATHER

Funds to repair National Weather Service equipment, warning devices, and surveying and monitoring stations.

ENVIRONMENT

For the rehabilitation of national wildlife refuges and buildings, including recreational facilities at national parks, and for assessment of damage so that a forest management plan, to restore State forests, can be implemented to protect the habitats of Hawaii's rare flora and fauna.

Mr. President, I would like to conclude by thanking Members of the Florida and California delegations, and members of the Senate Appropriations and Agriculture Committees, who provided me with support and information over the past few days to better enable me to respond to the victims of Hurricane Iniki. Their advice, based on the recent tragedies they were faced with, was invaluable.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

The PRESIDING OFFICER. The Senate will now resume consideration of H.R. 5677, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5677) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, under the unanimous-consent agreement entered into last night—and I ask the Chair to correct me if I am wrong—I understand we have two pending amendments by the Senator from Utah [Senator HATCH], one dealing with Healthy Start; the other one dealing with nutrition labeling. On the nutrition labeling amendment we had 1 hour of time equally divided.

The PRESIDING OFFICER. The Senator is correct.

NEW MEXICO STAR SCHOOLS PROPOSAL

Mr. DOMENICI. Mr. President, I would ask the distinguished subcommittee chairman if he would join me in a colloquy relating to the Department of Education Star Schools Program.

I want to commend the distinguished subcommittee chairman and ranking member for their funding recommendation for the Star Schools Program. The Senate bill includes $25.4 million for the Star Schools Program in fiscal year 1993, which is $7.2 million above the House level.

During the full committee markup of the bill, I had some report language relating to a very innovative proposal under the Star Schools Program. This language was inadvertently not included in the Senate report.

This proposal, called Operation Star Launch, is very innovative. First of all, this proposal will serve students and teachers in no less than 11 states—California, New Mexico, Utah, Illinois, Kentucky, North Dakota, Minnesota, Georgia, Maryland, West Virginia, and Pennsylvania. It places a specific focus on serving students participating in the Chapter 1 Education Program for disadvantaged students. It has a very significant component relating to new methods of teacher training using long distance teaching technology. To my knowledge, this is the first proposal that taps the resources of both PBS and CNN as part of its partnership. The Department of Energy's Los Alamos National Laboratory will bring its scientific and technical expertise to the program, and significant resources as well. Finally, this proposal has a unique focus on languages, including native American languages, such as Navajo, which will be part of its language curriculum.

Mr. Chairman, Operation Star Launch would require $4.3 million in Federal funding with the remaining $3.3 million being provided by the partners. Based on your familiarity with the proposal, Mr. Chairman, would you think it fits in with the focus of the Star Schools Program, and that the Department of Education should be encouraged to fund this innovative program within its fiscal year 1993 program?

Mr. HARKIN. I thank the Senator from New Mexico for bringing this matter to my attention. I regret that this language was inadvertently overlooked in our committee deliberations. I would agree that Operation Star Launch appears to meet the goals of the Star Schools Program, and I would hope that the Department of Education would approve some funding for this proposal in fiscal year 1993.

Mr. SPECTER. I join the chairman in encouraging the Department of Education to support this innovative proposal within its fiscal year 1993 program.

Mr. DOMENICI. I thank the distinguished chairman and ranking member for their consideration of this proposal.

STAFFING OF MENTAL HEALTH SERVICES

Mr. KENNEDY. Mr. President, I would like to engage the Senator from Iowa in a colloquy about substance abuse and mental health services.

As the chairman of the subcommittee knows, we recently passed the ADAMHA Reorganization Act, Public Law 102-321. This bipartisan initiative transfers the three ADAMHA Research institutes to the NIH and reconstitutes the Alcohol, Drug Abuse, and Mental Health Administration as a services administration consisting of a Center for Substance Abuse Treatment, a Center for Substance Abuse Prevention and a Center for Mental Health Services.

The pending bill limits administrative expenses throughout the Department of Health and Human Services, and specifically limits the replacement of administrative positions that become vacant. I commend the chairman for limiting unnecessary bureaucracy in this bill.

I am concerned, however, that these cuts not undermine the purposes of the ADAMHA Reorganization. In implementing the reorganization, HHS must provide sufficient staffing and resources to the entities within SAMHSA to enable them to carry out their statutory responsibilities.

I am particularly concerned that the Center for Mental Health Services receive sufficient resources because it is a brand new agency.

Can the chairman comment on my concerns?

Mr. HARKIN. I agree with the Senator from Massachusetts that the implementation of the reorganization must be carried out with care. I believe that goal can be met within the fiscal constraints of the bill.

With regard to the Center for Mental Health Services, a new agency, I would point out to the Senator that new agencies should be entitled to add personnel to the extent necessary to administer the programs in their mission.

Mr. KENNEDY. I thank the Senator.

NATIONAL TOXICOLOGY PROGRAM

Mr. COCHRAN. Mr. President, the committee report that accompanies this bill includes a reference under the National Toxicology Program [NTP] to developing and evaluating the use of nonmammalian systems in testing. This refers to research aimed at reducing the use of animals in assessing human cancer risks from chemicals.

I am told by scientists at the Gulf Coast Research Laboratory in Mississippi that fish can provide good models for assessing cancer risk because their sensitivity to carcinogens is similar to that of rats and mice, and because fish tests provide substantial savings in terms of time and money relative to rodent tests. This evaluation has been accomplished by research funded by public and private sources, including the National Cancer Institute, and conducted by the Gulf Coast Research Laboratory.

I would like to inquire of the chairman of the subcommittee, the manager of the bill, Senator HARKIN, if the committee intended that fish be included in the nonmammalian systems to be considered under this program.

Mr. HARKIN. I would say to the Senator from Mississippi that the use of fish does, indeed, appear to be a promising approach to reducing the use of animals in research. I encourage the National Institute of Environmental Health Sciences [NIEHS], especially through their National Toxicology Program, to evaluate the research done by the Gulf Coast Research Laboratory and to consider developing a cooperative agreement to pursue this type of research.

Mr. COCHRAN. I thank the Senator from Iowa.

Mr. President, I ask unanimous consent that a factsheet on acetyl-l-carnitine and Alzheimer's disease be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACTSHEET ON ACETYL-L-CARNITINE AND ALZHEIMER'S DISEASE

BACKGROUND

Alzheimer's disease has been described as a "time bomb" in this nation's health care system. Today, an estimated 4 million Americans suffer from Alzheimer's disease, a form of dementia that strips its victims of memory and judgment before leaving them totally incapable of caring for themselves. The disease is already costing society an estimated $90 billion annually. And according to the National Institute on Aging (NIA), unless a cure or treatment is found, Alzheimer's disease will claim 14 million Americans by the middle of the next century. If science can find a treatment that delays the onset of symptoms for just 5 years, the impact of Alzheimer's disease would be lessened in as many as 50 percent of its victims.

Unfortunately, efforts to develop a safe and effective treatment are jeopardized by irresponsible actions and misleading claims that a treatment is at hand.

FINDING EFFECTIVE TREATMENTS

Acetyl-l-carnitine, or ALC, is one of a handful of experimental drugs currently undergoing clinical testing in the U.S. for the treatment of Alzheimer's disease. Clinical trials in Europe suggest that ALC, an endogenous substance, may slow the rate of progression of Alzheimer's disease. During those trials improvement of symptoms of the disease, such as memory and attention, also was observed in approximately 30% of patients. Many scientists believe that ALC may help inhibit the cell damage that occurs in individuals suffering from Alzheimer's disease. (ALC is also undergoing testing in the U.S. for the possible treatment of other neurodegenerative disorders, including diabetic neuropathy and Down's syndrome.)

Pursuant to the requirements of the Federal Food, Drug, and Cosmetic Act, Sigma-Tau Pharmaceuticals, Inc. of Gaithersburg, Maryland, applied for and received an IND designation for ALC. Since early 1991, 430 patients who met the strict criteria for eligibility have been participating in phase III clinical trials at 27 Alzheimer research centers around the country. (Enclosure A) These trials are expected to be completed by the end of 1992. In addition, a separate phase II study involving 80 patients is being conducted by Stanford University at the Veterans Affairs hospital in Palo Alto, California. This work also is important to the overall effort to determine safety and efficacy and is expected to be completed by July 1993.

Once the determination of safety and efficacy is made, the results will be submitted to the Food and Drug Administration (FDA) in support of a new drug application.

While ALC continues to undergo rigorous testing, unproven products that skit the spirit if not the letter of the law, threaten to undermine progress in finding an effective treatment for Alzheimer's disease.

Recently, a foreign company began promoting ALC in the U.S., calling it a "nutritional ingredient." (Enclosure B) It should be noted that the FDA has not classified this substance as a "generally recognized as safe" nutritional ingredient, nor is it covered by an approved food additive petition. This marketing effort may be linked to the growing popularity of so-called smart drugs that are being sold through health food stores. In addition to promising improved memory and concentration, one recent publication went so far as to tout ALC as a treatment for Alzheimer's disease, and to inform its readers how and where they can order the compound. (Enclosure C)

Allowing ALC to be marketed over-the-counter raises a number of serious issues—

Health and Safety Concerns: The use of ALC without supervision by a medical doctor may present a direct health hazard to the user. Prolonged use of ALC in the absence of close medical supervision could have deleterious neurological effects, including agitation, nervousness, and insomnia. Furthermore, the hydrochloride salt used in ALC has the potential to cause gastrointestinal irritation, possibly leading to internal bleeding.

Disruption of Clinical Trials: Since there is no approved drug product for the treatment of Alzheimer's disease, families of Alzheimer victims are desperate to obtain any potential treatment or cure. Approximately 12 to 15 different drugs are currently in various stages of clinical development and the National Institute on Aging has just launched a federally sponsored effort to develop and test additional drugs. If families have access to ALC through health food stores, many will undoubtedly purchase it for their loved ones even though it is not proven safe and effective. This could hinder ongoing clinical trials and render useless, the FDA's process for determining safety and efficacy.

Product Purity: In accordance with FDA requirements, the ALC being used in clinical trials meets the "Good Manufacturing Practices" standards. Marketing ALC over-the-counter undermines FDA's efforts to maintain strict purity standards.

RECOMMENDATION

In order to permit the drug regulatory process to proceed unimpeded, the FDA should immediately issue an Import Alert requiring the automatic detention of ALC in any form unless covered by an approved new drug application (NDA) or designated as an investigational new drug (IND) by the agency. Swift action is necessary to (1) avoid potentially adverse health consequences to anyone taking ALC without proper medical supervision and (2) guard against any disruption of ongoing clinical trials.

HEALTH INSURANCE COUNSELING FOR SENIORS

Mr. ADAMS. Mr. President, I would like to take a few moments to seek clarification from the Senator from Iowa concerning funds made available by the fiscal year 1993 appropriations bill for the Departments of Labor, Health and Human Services, and Education and related agencies, for a very important program serving older Americans. I am very pleased that the committee has included $10 million to support second year funding for the health insurance information, counseling and assistance grant program authorized under section 4360 of the Omnibus Budget Reconciliation Act of 1990. Over the past year the Health Care Financing Administration [HCFA] has been working, in consultation with the States, to implement this new program which will establish State programs to assist thousands of senior citizens to better understand their benefits and coverage under public and private health insurance plans and policies. Specifically, Medicare beneficiaries will be provided with information, counseling, and assistance on adequate and appropriate health insurance coverage.

HCFA is expected to release the first year funds to the States in the next 2 weeks based on plans submitted by the States in June. It is my understanding that for fiscal year 1992 these funds were included as part of HCFA's Research and Demonstration appropriation. However, I note that for fiscal year 1993, the committee has included these funds under State Medicaid Administration.

Mr. HARKIN. My esteemed colleague, the Senator from Washington, is correct that the committee has included second year funding for this important program, and that the funds are provided as part of State Medicaid Administration and not as part of the HCFA's Research and Demonstration Program, as in fiscal year 1992.

Mr. ADAMS. In that case I would like to bring to the attention of the Senator from Iowa a concern I have for the future of this program and seek his clarification on a very critical matter affecting this important program. It is my assumption that the provision of the $10 million for this program as part of State Medicaid Administration will not require HCFA or the States to change the current plans for the design and implementation of this program. Specifically, I assume that the committee does not intend to change the population that the program is intended to serve from Medicare eligibles to only Medicaid eligibles.

And, it is also my assumption that the committee does not intend that these funds be subject to State match requirements. I would like to point out that section 4360 of the Omnibus Budget Reconciliation Act of 1990, which authorized this program, did not include a State match requirement. Given the current fiscal crises facing so many of the States, I am concerned that any new match requirement for this new program will result in some States being unable to implement the program. That would be a real tragedy for older Americans who would otherwise benefit from this important program.

Mr. HARKIN. The distinguished Senator from Washington has raised two very important points concerning the health insurance information, counseling, and assistance program. He is correct in his assumptions. The committee provided funding for this program as part of State Medicaid Administration for accounting purposes only. It is not the intention of the committee to alter in any way the current Federal and State plans to implement this program. We do not intend to restrict the program to Medicaid eligibles but rather to continue to have all Medicare recipients be eligible to participate, including those who are Medicaid eligible.

And, as the Senator from Washington has pointed out, the committee does not intend that these funds be subject to State match requirements. Instead, we expect that HCFA will administer these funds—in terms of program design and allocation of funds to the States—in the same way it has handled the program with fiscal year 1992 funds. I thank the Senator from Washington for bringing this matter to my attention.

Mr. ADAMS. The Senator from Iowa has satisfied my concerns on this matter and I thank him for his comments and clarification.

The PRESIDING OFFICER (Mr. BRYAN). The Senator from Utah.

Mr. HATCH. Mr. President, I would like to start with my Healthy Start amendment. I ask unanimous consent that we do that because it can be disposed of quickly.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3044

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 3044.

Mr. HATCH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page, 19, line 4, strike "$2,591,761,000" and insert in lieu thereof "$2,606,761,000".

On page, 87, line 10, strike "$100,360,000" and insert in lieu thereof "$115,360,000".

Mr. HATCH. Mr. President, I commend the subcommittee's interest in Healthy Start funding over the House-passed bill. I realize that they were faced with tight budget constraints, and I know that the subcommittee did its best, but, unfortunately, the bill only allocates $84 million for Healthy Start, $56 million short of the President's $140 million request.

My amendment simply allows Secretary Sullivan to transfer a small amount from the Department's salaries and expenses accounts to fund Healthy Start at a higher number. I think it is a reasonable amendment. Preliminary estimates that HHS just gave me indicate that it would result in no increases in budget authorization or outlays above what are already contained in the bill.

From the outset, Healthy Start's has not been healthy. In fiscal 1992, less than half of the $139 million was appropriated. Secretary Sullivan does not believe the Healthy Start projects can attain these goals if the program is not fully funded. If the goals of Healthy Start are changed to match a lower level of spending, we lose forever the opportunity to learn from these demonstrations. The Secretary may have to cut back on the number of sites rather than shortchange all of them. This would, indeed, be unfortunate. All of the sites have now submitted their comprehensive plans and are ready to move ahead into the implementation cycle. The infant mortality rate in the United States is abysmal, 22d among industrialized countries in the number of babies who die in their first year. Of the 4.1 million babies born in United States in 1991, 36,500 babies died before their first birthday. Healthy Start represents the most promising hope for millions of women and children.

The basic principle of Healthy Start is partnership. Major improvements in infant mortality rates and related factors are possible, in even the most troubled areas when strong community-based coalitions have sufficient resources and flexibility to put in place interventions suited to the individual needs of their communities.

Healthy Start has a very ambitious goal: reducing infant mortality in each of the 15 selected communities by 50 percent in 5 years. We need this program in order to reach our year 2,000 goals.

I think this is a reasonable amendment, and I ask my colleagues to support it. I understand the managers of the bill are willing to accept it. I urge adoption of the amendment at this time.

The PRESIDING OFFICER. Is there further debate? The Senator from Iowa.

Mr. HARKIN. Mr. President, I will just take a couple of minutes. The Healthy Start Program is the administration's proposal to help reduce infant mortality. It is not a national program, like the maternal and child health block grant or the Women, Infants and Children Program. Healthy Start is a 15-site program. There are only 15 sites that receive funding from Healthy Start.

At the outset, I want to be very frank, Mr. President. I am not among the program's biggest supporters. To the contrary, I believe there are other programs that do a better job of truly reducing infant mortality. To make a real difference, we cannot fight infant deaths in 15 places; we have to attack it all over the Nation. As I said earlier during consideration of my transfer amendment, the United States ranks 19th among nations in infant mortality. That is unacceptable to me and all Senators. I know we can do much better. The Healthy Start Program I think is just too limited in its application. Most areas of the Nation that have the worst infant mortality problems do not even qualify to participate in this program. In the 59 areas in the Nation with the worst infant mortality rates, there are just 10 Healthy Start sites. So I just do not believe this program is going to make a significant difference in our international standing in this most important area.

However, having said that, there may be some things that come out of the Healthy Start Program, some new innovative ideas that may help us in a broader context, and I do recognize that. So I want to make clear that the Appropriations Committee has treated the Healthy Start Program fairly well. It is not an authorized program. But I know it is a favorite of the Health and Human Services Secretary, Secretary Sullivan. He has called me a number of times about the program, visited with me personally. I know it is high on his agenda and I know a number of Senators have contacted me about this also.

So the committee bill responded to these concerns by providing almost $84 million for Healthy Start, an increase of $47 million or more than doubling the amount that we had last year.

The President requested an increase of 230 percent, but he also requested cuts of almost $4 billion to programs in the bill that I and other Senators did not want to see. So we had to replace some funds in those other areas. We have done our best to restore the cuts and to provide reasonable increases to Healthy Start. However, the Senator from Utah, I know, is a strong supporter of this program, as is the ranking member of this committee, Senator SPECTER. This amendment would increase the amount that we have put in there by an additional $15 million and, quite frankly, I do not find any objection to that, Mr. President. So on this side we accept the amendment.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, we commend the distinguished Senator from Utah for offering this amendment. He has identified a very important initiative that should be supported to the greatest extent possible under the budget constraints and other considerations that we have before us.

The amendment has been cleared on this side. We recommend its approval.

The PRESIDING OFFICER. Do all Senators yield back their time?

Mr. HATCH. I yield back my time.

Mr. HARKIN. I yield back any remaining time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 3044) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3045 TO COMMITTEE AMENDMENT ON PAGE 73, LINE 14

(Purpose: to delay implementation of regulations on P.L. 101-535)

Mr. HATCH. Mr. President, on behalf of myself, Mr. DOLE, Mr. NICKLES, Mr. BOND, Mr. STEVENS and Mr. MCCAIN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Utah [Mr. HATCH], for himself, Mr. DOLE, Mr. NICKLES, Mr. D'AMATO, Mr. BOND, Mr. STEVENS, Mr. SYMMS, and Mr. MCCAIN, proposes an amendment numbered 3045.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 73, line 14, after "$310,000,000" insert:
>
> "SEC. . Notwithstanding any other provision of law, no funds appropriated under this Act shall be expended by the Secretary of Health and Human Services, or designee, for activities undertaken to implement the Nutrition Labeling and Education Act (P.L. 101-535) with respect to a dietary supplement of vitamins, minerals, herbs or other similar nutritional substances, other than to allow health claims designated in section 3(b)(1)(A)(vi) and (x), or to promulgate any regulation that requires the use of, or based upon, recommended daily intakes of vitamins or minerals.

Mr. HATCH. Mr. President, I rise to offer an amendment to the Labor-HHS appropriations bill that would impose a 1-year moratorium on implementation of the regulations accompanying the Nutrition Labeling and Education Act, [NLEA], as they apply to dietary supplements, and herbal preparations.

My amendment would preclude the Secretary of Health and Human Services from using fiscal year 1993 appropriated funds to finalize or implement the NLEA regulations as they apply to dietary supplements. In addition, my amendment places a moratorium on regulations that require the use of, or based upon, recommended daily intakes—so called RDI's—of vitamins or minerals other than the current U.S. recommended daily allowances.

The Nutrition Labeling and Education Act mandates that nearly all foods regulated by the FDA be labeled for nutritional content. The statute defines the list of nutrients that must appear on the nutrition label and places a focus on those nutrients of primary health concern such as saturated fat, cholesterol, carbohydrates, and dietary fiber.

As the Congress struggles to develop a consensus on how best to reform our health care system, we must pay special attention to increasing the incentives for responsibility of one's own health.

We know that 5 of the 10 leading causes of death in the United States—coronary heart disease, certain cancers, strokes, diabetes, and atherosclerosis—are diseases in which diet plays a part. All told, these five diseases account for nearly two-thirds of the 2 million annual deaths in this country.

If we were to include alcohol as a dietary factor, 8 of the top 10 leading causes of death can be considered to be diet related.

Clearly, we, as a society, could accomplish significant savings in health care costs if we moderated our diets. But, more important than cost savings is the importance that a good diet can play in helping us all live healthier and more productive lives. Integral to this behavior changes in our eating pattern is clear and accurate information on product labeling.

As ranking member of the Labor and Human Resources Committee, I have supported and continue to support the broad public health goals of the NLEA.

Senator METZENBAUM and I worked very hard to put that bill through.

The complete revision of virtually all food labels in this country—and I might add, he deserves a great deal of credit for it—but the revision of virtually all food labels in this country called for by the NLEA, is a massive undertaking. The FDA estimates that to complete the relabeling by May 1993 would require $1.5 billion in costs.

Some industry groups have suggested that this FDA estimate is too low. In fairness, I should point out that some consumer groups have suggested that this cost estimate is too high.

The Small Business Administration filed a public comment to the NLEA proposed rule which stated, in part:

> The Office of Advocacy contends that the FDA's RIA [Regulatory Impact Analysis] underestimates the impact the proposals will have on small businesses. More significantly, the Office of Advocacy is distressed that the FDA failed to examine alternatives to the proposed regulations that would reduce the burdens on small business. The Office of Advocacy requests that the FDA perform a regulatory flexibility analysis before issuing a final rule. The analysis should examine less burdensome alternatives for the hundreds of thousands of small businesses affected by the proposals.

In including, the SBA public comment states:

> (W)e request that the FDA give strong consideration to the delay authorized by the NLEA. This will reduce the economic hardship on small business without undermining the consumer educational benefits of the Act.

At our June hearing, we heard poignant testimony from Mrs. Bee McCormack on behalf of Bob's Candies of Albany, GA. In her testimony, Mrs. McCormack explained how a May 1993 effective date would have devastating effects on her family-owned company and its 450 seasonal employees.

In these very difficult times, when we are struggling to revive our economy, I am very concerned about the potential impact that the NLEA rules might have on small business. We all know that small business is the critical incubator of new jobs in this country. We should be particularly vigilant to see that we do not unwittingly embark on paths that adversely affect these vital small firms. Nor should we, it goes without saying, embrace policies that place the security of employees in larger firms in jeopardy.

In June, the Labor Committee held a hearing chaired by my colleague from Ohio, Senator METZENBAUM, during which we reviewed progress under the NLEA, with special emphasis on the timing of the NLEA implementing regulations. Both before and after the hearing, there was much speculation—particularly in the trade press—on whether the FDA and the administration would grant any flexibility for implementation of the NLEA which is permissible under the act for up to 12 months.

The NLEA does not call for a garden variety administrative rulemaking. The November 1991 notice of proposed rulemaking alone comprised over 500 pages of the Federal Register.

And here it is—500 pages. You wonder why small business is having such a rough time.

In addition to specifying rules pertaining to standards of identity, nutrient content, nutritional information, and label format, the NLEA establishes procedures for evaluating health claims and sets forth state enforcement and Federal preemption provisions.

I am certain that the FDA will meet the November 8, 1992, statutory deadline for finalizing NLEA rules. I am equally certain that a 1-year moratorium on NLEA rules pertaining to a dietary supplement of vitamins, minerals, herbs, or other similar nutritional substances would be helpful in allowing a more complete analysis of the complex issues surrounding the proper regulation of food supplements.

The American people would be well-served if the Congress took the time and effort to conduct a thorough review of the role and regulatory status of dietary supplements.

More needs to be known about the science of food supplements.

Much has been written in the lay press lately about food supplements and, understandably, the public has a lot of interest in this issue.

I cite with particularity the Time magazine issue of April 6, 1992. The major headline article in this particular magazine is "The New Scoop of Vitamins." Let me read a couple points from it:

> * * * (M)ore and more scientists are starting to suspect that traditional medical views of vitamins and minerals have been too limited. While researchers might not endorse the expansive claims of hard core enthusiasts, evidence suggests that the nutrients play a much more complex role in ensuring vitality and optimal health than was previously thought. Vitamins—often in doses much higher than those usually recommended—may protect against a host of ills ranging from birth defects and cataracts to heart disease and cancer. Even more provocative are glimmerings that vitamins can stave off the normal ravages of aging.

Interesting stuff.

In the New York Times, in the Science Times part of the New York Times: "Vitamins Win Support as Potent Agents of Health." Let me just read a couple paragraphs:

> Scientists, who thought that the basic questions in vitamin research had been solved and that the major benefits of new nutrients were to prevent disease like rickets and beriberi are learning that most of the vitamins—from A through K and all the subvariants in between—play far more fundamental and long-term roles in the body than anybody had suspected. They are gathering provocative evidence that vitamins influence the health and vibrancy of nearly every organ, and that these chemicals may help forestall or even reverse many diseases of aging including cancer, heart disease, osteoporosis, a flanging immune system neurodegeneration, and other chronic disorders.

Very, very interesting.

In another special report by U.S. News & World Report, in its 1992 "Health Guide," dated May 4, 1992, it says:

> In medicine, scientists are exploring the potential of "chemopreventatives", or drugs and vitamins, and substances in food that seem able to prevent all manner of diseases.

You can just go from one to the other of these articles, and their indication is that vitamins, minerals, herbs, and other substances make a difference in all of our lives. This is an important debate, and a very important amendment.

I recognize that none of these sources are peer-reviewed scientific journals, but each of these publications has reported, accurately so as far as I can tell, that there is a growing interest in research into the role and benefits of dietary supplements in the human diet. They also suggest that our understanding of the science of food supplements is evolving quickly and probably will continue to do so.

With all of this going on in the news, no wonder why the public is so interested in the topic of food supplements. The Nutritional Health Association has estimated that 80 million Americans are regular consumers of dietary supplements.

Upon careful reflection, the existing statutory and regulatory paradigms relating to foods, food supplements, and drugs may prove inadequate for the regulation of the rapidly evolving area of food supplements.

In this regard, I would just like my colleagues to consider the fact that under the proposed NLEA rules, issued last November, the FDA did not find sufficient scientific agreement to warrant a NLEA-permissible health claim informing consumers about the potential benefits of folic acid. Earlier this very week, the U.S. Public Health Service, at the persistent behest of the Centers for Disease Control, made a formal recommendation that women of child-bearing age consume an adequate amount of folic acid in order to reduce the risk of serious birth defects such a spina bifida.

As the Assistant Secretary for Health, Dr. James Mason said:

> It seems possible that we can reduce the number of serious neural tube defects through a good diet and/or supplements. If we can do this, we will have produced a major reduction in the disability that today impacts many families and communities.

Just think of how great it would be if we could, as the CDC suggests, actually cut the rate of spina bifida in this country by 50 percent by making sure that pregnant women get the proper level of folic acid. The CDC estimates that about 2,500 infants are born annually in this country with neural tube defects.

Think of how much better off thousands of families across this country would be if we got the word out on folic acid. And this is to say nothing about how much might be realized in health care cost savings.

Now when the final NLEA rule comes out I fully expect the FDA to finally allow a health claim for folic acid.

They have not done it up to now, and I wonder why not.

And I do think it very important for the agency to help discourage overconsumption of folic acid. But I also think that the treatment of folic acid in the NLEA proposed rule raises questions about how the FDA applies the NLEA statutory standard for permitting health claims.

Now I do not want to bog down the Senate in a lengthy debate on this issue on this appropriations bill at this very late stage in the congressional session. I know that all of my colleagues want to proceed expeditiously to complete action on this bill.

But I do want to mention several other concerns that I have in the general area of health claims. If we remember back to the mid-1980's, we can all recall the issue that did so much to bring to a boil the whole topic of health and disease claims on food labeling: That is the famous All-Bran cereal box that contained labeling, designed with the involvement of the National Cancer Institute, informing consumers that many scientists believed that a diet rich in fiber could reduce the risk of certain types of cancer.

It is at least ironic that in its proposed rules FDA found inconclusive the data supporting the All Bran-type cancer-fiber claim that did so much to precipitate the policy debate that ultimately led to the passage of the NLEA.

Regardless of whether the final rules permit such a claim, it may be a valuable exercise to hold hearings next year and ask an expert like former NCI Director Vincent DeVita to give his views on the level of scientific agreement that existed in November 1991 on the fiber-cancer relationship.

I am not a scientist so I am not qualified to render a scientific judgment, for example, on whether ingestion of something called Omega-3 fatty acids will, or will not, reduce the risk of coronary heart disease. But, I am a U.S. Senator and a member of the two committees most directly involved in the area of health. As a policymaker, I know that Americans are greatly concerned with soaring health care costs and that heart disease is the No. 1 killer in this country.

If, and I say if, there is shown to be a linkage between consuming Omega-3 fatty acids and reducing the risk of coronary heart disease, I say let us get this information out to the American public because it will benefit both our Nation's health status and the skyrocketing American health care budget.

In my view, if a product is safe at normal consumption levels, and there is thought to be a positive diet-health relationship, then I think the umpire, in this case the FDA, to use a baseball term of art, should have a wide strike zone in deciding whether a significant scientific agreement exists supporting accurately characterized health claims.

There may be areas in which there are sound reasons for the FDA to apply a tight strike zone, but is one where the policy considerations appear to favor some flexibility. Do not get me wrong: A ball is not a strike, but some pitches can justifiably be called either way.

In the NLEA, we did not adopt the rigid requirement that there be a consensus among scientists before a health claim will be permitted. We adopted the more flexible standard of significant scientific agreement and gave the FDA the discretion to adopt an even more flexible standard with respect to dietary supplements. I was a principal cosponsor of the NLEA.

In my floor statement before passage of the NLEA, I stated my position with respect to dietary supplements. As I expressed my understanding of the compromise amendment in my October 24, 1990, floor statement:

The compromise thus incorporates what I consider to be an essential right of our citizens to have access to vitamins, minerals, herbs and other nutritional supplements without fear of their being branded unlawful drugs. Section 403(r)(5)(D) takes that further step by bringing the same protection to claims for dietary supplements—under new section 201(g)(1), a dietary supplement will not be considered a drug solely because it carries a valid health claim.

Because of the historically distinct role of dietary supplements from conventional foods, the compromise also provides an exemption for dietary supplements from the mandatory regulations and scientific agreement standard articulated in section 403(r)(3).

By their very nature, dietary supplements must be marketed so that the consumer is informed of the health or disease-prevention benefits that may be conferred. Greater flexibility is thus required to permit communication of these benefits. This increased regulatory flexibility is also mandated by the very rapid pace of scientific advances here and abroad linking the prevention of long-term disease to improved nutritional supplementation. For these reasons, a more lenient standard for dietary supplements is envisioned.

I am introducing that somewhat lengthy quote into this debate in order to review these important policy considerations. My view has not changed.

As I said in 1990, a more flexible standard with respect to regulation of supplements is warranted. FDA has made a preliminary decision to apply to dietary supplements the same significant scientific agreement standard that it uses for health claims for foods. As I have suggested in my earlier comments, given the rigorous manner in which the FDA appears to apply this standard, important, truthful, and substantiated information concerning supplements may not be permitted to reach consumers of supplements.

Unfortunately, my attempt to guide the agency's actions through legislative history has not borne fruit, and additional corrective legislative activity is necessary.

I am not advocating that we back away from the NLEA. But, in going forward, let us go forward in the right way.

At a minimum, however, we should take this step of congressionally sanctioning a moratorium so that these regulations, and all their ramifications, can be more fully considered.

Mr. President, this is an important issue, not only to me, but to millions and millions Americans who do not want an overregulatory hand to unjustly interfere with their right to consume food supplements such as vitamins, minerals, herbs, and other preparations.

They are right on this matter. This amendment will give us the year's moratorium so that we can study it even further before we allow the FDA to take over and start to cause the cost of vitamins and minerals to rise out of sight.

So this is an important issue. I hope all my colleagues will vote with me on this issue, because I think that people all over America are watching this and watching this debate at this time and will know what happened.

Frankly, they are very concerned about some of the actions the FDA has indicated it will take, and some of the actions that it has already taken.

Mr. President, that is all I will say at this time. I will be happy to yield to my distinguished colleague from Ohio.

The PRESIDING OFFICER. Who yields time? The Chair informs the Senate that the Senator from Ohio controls the time on his side of the argument.

Mr. HATCH. I reserve the remainder of my time.

The PRESIDING OFFICER. Unless the Chair is informed to the contrary, the Senator from Ohio will control 30 minutes allocated on this side of the debate.

Mr. METZENBAUM. I yield myself such time as may be necessary.

Mr. President, we have before us today an amendment of my friend and colleague from Utah, and we have been in discussions with him about that amendment for some time. We are pleased that he has agreed to modify his proposal to address some of my most serious concerns.

Indeed, when we passed the food labeling bill, it is a fact that the Senator from Utah was very much engaged in the negotiations on that bill. The fact is the Senator from Rhode Island [Mr. CHAFEE] was the principal cosponsor, and it was only after some rather tenuous and difficult negotiations that we were successful in bringing my friend from Utah on board. I am pleased that he did come on board. He is always helpful when he works with you in connection with a piece of legislation.

The amendment that he has offered is not an amendment that I support. As a matter of fact, in spite of the fact that he has dropped half of the proposal, I am unable to support this amendment.

As the bill's author, frankly, I just cannot endorse any delay in the implementation of the Nutrition Labeling and Education Act, even with respect to the relatively minor section on vitamins and minerals. The NLEA was a consensus bill supported by every major public health organization, the food industry, the vitamin and mineral industry, and, at the conclusion, Senator HATCH himself, whose support, I might say, was key to the bill's passage.

It was a bill that we worked on for a considerable period of time. It is now the law of the land. The Secretary of Health and Human Services and the Commissioner of the Food and Drug Administration have vigorously moved to implement the law because, as they have said many times, the Nutrition Labeling and Education Act is one of the most important public health measures to pass in decades.

According to the FDA's proposed regulations, the Nutrition Labeling and Education Act will, over the next 20 years, save over 212,000 lives, prevent over 500,000 cases of cancer and heart disease, and save billions. Therefore, how can I possibly come to the floor and support this amendment?

I respect Senator HATCH'S position and his concerns, but I do not agree with him. Having said that, we are now running out of time with respect to this session. And I have indicated to Senator HATCH that I believe this to be legislation on an appropriations bill, undoubtedly an amendment that will be rejected by the House by reason of that fact; and actually subject to a point of order on the floor of the Senate. But I realize the pressure of time in order to complete action with respect to the Health and Human Services bill, to which this amendment has been offered.

So in the interest of saving time, I will not object to the inclusion of this amendment in this bill. As a matter of fact, I hope that conferees will drop it when it gets to conference, and I expect that to be the case. But I say that I am not going to object. And I understand my colleague from Utah wants a rollcall vote. If he wants a rollcall vote, then I suggest we give it to him, as it is within his right. But I will urge every Member of the U.S. Senate to vote for it. I would vote for it, too, because I think it will be dropped in conference.

I do not think it serves purposes of passage of the HHS bill or the Defense authorization bill, or any other legislation that we are trying to pass in these closing days. So I say to all of my colleagues, vote for the amendment. I feel confident that it will be dropped in conference.

I think it would only belabor the point to raise it and take up much needed time, if I were to raise a point of order, and if we were to make a battle with respect to passage of the amendment.

So I will vote for the amendment, notwithstanding my opposition to the substance of the amendment, and with the belief that the conference committee will drop it.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, during the 101st Congress, I was pleased to work with the distinguished Senator from Ohio on the Nutrition Labeling and Education Act, and I was and I am proud of our work together. This is a very, very important bill. I still believe it is a fundamentally good piece of legislation. I hope the support is full and complete and that there will be implementation soon.

We have discovered that this is not perfect. We made a mistake. It is hard for us to admit, but we did. We should have spelled out our intent specifically, so that the FDA would not have any question about it.

We did not intend for the FDA to treat dietary supplements like drugs, which is the way they are treating them, or intend to treat them. Instead, we left it up to the FDA to determine categories for regulation of health claims. Unfortunately, the FDA decided to put herbs in the same regulatory category as tetracycline, and vitamin A in the same category as insulin. People are outraged about this, and I am, too.

Today, we can take the first step in correcting this mistake. We can prevent the FDA from implementing these regulations for an additional year, and from denying the health claims of the many tried and true dietary supplements.

The FDA is an agency for which I have a great deal of respect. I helped to lead the fight in the Senate for the FDA revitalization bill. Its Commissioner, Mr. David Kessler, is a former substantial member of my staff, and I have a great deal of love and affection for him. He is a wonderful Commissioner in every way.

I have helped to promote and support the FDA as the Nation's consumer watchdog. I have stood up for it in every case. But I am burned up at the way they are drafting these regulations and the indications that they are going to treat food supplements and vitamins and herbal preparations and other natural substances like drugs. They are overreaching in this particular case. The situation is a clear-cut example of overregulation.

Mr. President, the FDA is at the forefront of protecting consumers from unsafe foods and drugs, and it has been effective and will be. I will support it. It has deservedly received kudos from Congress, the President, and the people.

But let me say that if the Congress of the United States is not perfect, neither is the FDA. In this case, it is patently wrong. There is no case to be made for such strict regulation of health claims for dietary supplements.

Admitting mistakes is not criminal. Most Americans have made them from time to time and, generally, they are understanding when we act to correct our mistakes. Americans admire intellectual honesty. What burns them up is when Congress refuses to own up to the obvious, such as when we resisted fixing the catastrophic health care bill or section 89.

Has anybody in this body forgotten the hue and cry from our constituents on those issues? Wait until you see what happens if we allow the FDA to continue its heavy-handed approach toward food supplements, vitamins, minerals, and herbal preparations. Grassroots public outrage has already begun. Would any of us care to repeat the catastrophic health care repeal process?

The amendment I am offering will not permanently solve the problem, but I have proposed legislation that ultimately will. What this amendment will do is to delay the implementation of the detrimental regulations—read that as mistakes—and that is the way it should be read—of the Nutrition Labeling and Education Act for 1 year, so that we can work out an acceptable long-term solution.

Let me restate that all other components of the regulations will go into effect on schedule. This will not hurt them at all. Nor do I believe this will be taken out in conference, because many of those on the other side of the Capitol agree with me that the FDA has been too heavyhanded and has been too overregulatory in its approach to food supplements.

Additionally, I reiterate that the FDA will continue to retain its existing authority to pull any product whatsoever off of the market if it is toxic, deleterious, poisonous, or otherwise injurious to people. They have that power, and this amendment will not take that away. Neither would my bill.

I would not be standing here today if I did not fully believe FDA's position on this matter is in grave error. I would not be here today if there were convincing evidence that herbs, vitamins, amino acids, or other supplements were harmful to health, or if the opponents of the amendment were openminded on the subject of differentiating between everyday substances and pharmaceuticals when it comes to regulatory categories.

How on earth can a health claim for bee pollen be in the same category as a health claim for the ulcer medication tagamet? It is time for the FDA to infuse a little common sense into its rulemaking. Let us fix this mistake once and for all. Let us begin right here today with, I hope, an overwhelming vote by postponing the implementation of it, and let us send a message to the FDA that we are not going to tolerate this type of overregulatory, heavy-handed administrative approach.

Mr. President, if I seem worked up on this, I am. I know that there are millions around this country who are even more worked up, as they see little health food stores raided by FDA inspectors, as they see FDA-inspired people going in there with flak vests and guns, taking away the doctors' equipment and the doctors' own properties.

It is time to stop this type of thing and get some reason into it, and if we have reason the American people will comply with the reason.

Mr. President, I have a lot more I would like to say about it, but I think we have talked long enough and I am prepared to go to a vote and yield back the time if my colleague on the other side is willing to.

Mr. HARKIN. Will the Senator yield me a couple minutes?

Mr. METZENBAUM. I yield what time the Senator from Iowa needs.

Mr. HARKIN. I appreciate that.

Mr. President, first of all, this is a very important issue, as you can tell by the debate that is taking place between two of my good friends, the Senator from Ohio and the Senator from Utah, both of whom labored long and hard on the nutrition labeling act.

I also feel that I had a part in that, too. I was interested in labeling requiring fat contents whether saturated or unsaturated fat and cholesterol contents; that is a part of the labeling bill. I think it is basically a very good piece of legislation that we passed here and very much in the consumer's interest.

I want to say about this amendment, however, first of all, I must make the point to my good friend from Utah that this amendment really ought to be on the agricultural appropriations bill, because it covers the Food and Drug Administration, and we have no jurisdiction over the Food and Drug Administration. That is agricultural appropriations. And I serve on that. And I know the distinguished Senator from Mississippi serves on that also, but that is really where it ought to be placed and not on this bill. But I understand a lot of times we have to take things that should not belong on this bill but I wanted to make that point. It should be made often.

Mr. HATCH. Mr. President, if the Senator will yield, the statute sets forth regulatory responsibilities to the Secretary of Health and Human Services. It is completely proper to be on this bill. We are talking about regulatory activities in FDA and delegated by statute to the Secretary of Health and Human Services, which this bill does, but the ultimate authority rests with the Secretary of Health and Human Services. It is his signature that will be on these regulations, not that of Mr. Kessler.

Mr. HARKIN. That could be argued on that, but this should go to the Food and Drug Administration to add regulations. And what the Food and Drug Administration does in terms of promulgation whether a vitamin is safe or not safe and that is up to the FDA and not the Secretary of Health and Human Services.

Mr. HATCH. That is true. But keep in mind we are staring at a November 8 due date. We are up against that deadline, and this is the only bill that we can do this on. It is appropriate on this bill, because the Secretary has the regulatory responsibility. We are talking about regulation here that could and may very well be implemented by November 8, and this will delay that regulation and give us as thoughtful legislators a year to work out a satisfactory long-term solution. Maybe the FDA will work it out in their regulations, because of the message hopefully this debate will send.

Mr. HARKIN. I thank the Senator.

Having said that, Mr. President, I also state that I am a strong supporter of preventative health care and for a full choice for consumers to have in what type of health care or treatment or preventative health care they feel is best themselves. After all, it was this Senator who established the Office of Alternative Therapies in Medicine at the National Institutes of Health.

I feel very strongly about this, that in many cases we are not looking at alternative therapies and alternative interventions and alternative medicine that have been successful in the past or successful today. I do believe that the Food and Drug Administration should give special consideration to the unique features of vitamins and supplements in coming up with the final regulations. I hope that they do.

I would also point out, I think, as the Senator from Ohio pointed out, that if in fact they come up with a regulation we do not like, of course we can always come back legislatively. That is our pursuit here. If we do not like something we can come back a year later and change it. In this case it would not be a year later; it would be about 9 months later to change it. We do have that oversight responsibility here and that authority.

I understand the provisions and terms of the implementation on November 8. That has been taken out of the amendment. This is really the 1-year moratorium on the vitamins and supplements in terms of their efficacy or not.

So with that provision I certainly have no objections to the amendment whatsoever, and would hope that we could bring this to a final conclusion at this point.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I will take only 1 minute.

I compliment the distinguished Senator from Iowa for his work on his alternative medicine research amendment yesterday. I felt that was long overdue, too, and this amendment is in the same nature of things. We want to give our American people every chance to help themselves and especially in areas that we know are safe.

Now, Mr. President, what is involved here is the FDA has proposed regulations that would treat dietary supplements such as vitamins, minerals, herbal preparations, and so forth, like drugs for purposes of making health claims. If they succeed in that I can see the cost of vitamins and minerals going off the chart. If that happens what they end up charging—the average person will not be able to afford.

The Hatch amendment imposes a 1-year moratorium on implementation of these regulations until a comprehensive long-term solution can be found, and that is what we want to do here.

But I would call all of my colleagues' attention to the Health Freedom Act of 1992, S. 2835. That is the legislation that we will pass later if we cannot get FDA to wake up and realize we are not going to put up with this type of heavy-handed oeverregulatory methodology. This legislation, the Health Freedom Act of 1992 will help to ensure the companies producing dietary supplements can do so without any unnecessary regulatory constraints.

Mr. President, I ask unanimous consent that a Dear Colleague letter signed by me be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE ON LABOR AND
HUMAN RESOURCES,
Washington, DC, September 18, 1992.

DEAR COLLEAGUE: What do Time Magazine, the New York Times and the Public Health Service all have in common? The answer is that all three have recently acknowledged the important role that dietary supplements play in promoting human health and helping to prevent disease.

Just this week, Assistant Secretary for Health, Dr. James Mason, on behalf of the Public Health Service, recommended that all women of child bearing age increase their folic acid intake in order to decrease the chances of having a baby with a neural tube birth defect, such as spina bifada. Significant scientific agreement supports the benefits of other dietary supplements, such as anti-oxidant vitamins to help prevent cancer, omega-3 fatty acids to reduce the risk of heart attack, and calcium supplements to help prevent osteoporosis. In addition, the quick pace of scientific advancement in this area is likely to identify even more beneficial correlations.

Unfortunately, the present regulatory climate for these products is nearsighted to the point of being repressive. As evidenced by the proposed rules for implementing the Nutrition Labeling and Education Act (NLEA), the FDA has interpreted the standards for claiming benefits for dietary supplements at a drug efficacy level, contrary to congressional intent. By these proposed regulations, the FDA has failed to acknowledge the benefits of dietary supplements or to look with an open mind at either the science or the clear desire of the American public to have informed access to dietary supplements.

Clearly, the proper regulation of dietary supplements is a complex issue that should not be decided in haste at the end of a congressional session. However, the FDA regulation will go into effect before the new congress meets. As a result, I am offering an amendment to the Labor, HHS appropriation bill that will delay for one year the implementation of these regulations to the extent that they would impact the availability or labeling of safe dietary supplement products.

Dietary supplements are purchased for fundamentally different reasons than are conventional foods or drugs and we need to be sure that an appropriate regulatory model is used. A year's moratorium will permit us the opportunity to resolve this problem. We do not want Dr. Mason saying a dietary supplement is good for the public health and FDA regulations saying the manufacturer cannot put that information on the label.

I welcome your support when this amendment comes to the floor. If you have any questions or wish to be a cosponsor of the amendment, please call Ann LaBelle or Bruce Artim of my staff at extension 4–6770.

Sincerely,

ORRIN G. HATCH,
Ranking Minority Member.

Mr. HATCH. Mr. President, I am prepared to yield back the remainder of my time if the distinguished Senator from Ohio is prepared to do the same.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, very briefly, I just differ with my friend from Utah on the significance of this vote as being a message to the FDA. It will not be. There will be 100 votes for it or 98 or as many Members of the Senate as are present to vote. It is simply a message that the Senate wants to move on with important business at the conclusion of the Health and Human Services bill.

The Senator from Ohio will strongly oppose the amendment and feels that the amendment will be dropped as legislation on an appropriations bill in the conference committee and does not see any useful purpose in going through a whole hassle and whole legislative parliamentary procedure in order to defeat it. I think it could be defeated, but I have indicated to the Senator from Utah I will not oppose it and, therefore, I would urge everyone to vote in the affirmative, but it is certainly no message to the FDA as to the views of the Members of this body.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. HATCH. If I could take a second, Mr. President, those are nice statements but yesterday this very amendment was rejected by the distinguished Senator from Ohio when I talked with him about it. I have to say that we all know that it would pass overwhelmingly today and since it says, notwithstanding, any other provision of the law, no funds appropriated under this act, so it is very well written to be within the appropriations bill.

I believe that the distinguished chairman of the Appropriations Committee in the House is a supporter of the Health Freedom Act, and I believe it will be retained and even this would be passed overwhelmingly anyway.

So I am hopeful that this does send that message. If it does not, then I promise you, we will send it over the next year and very strongly.

The PRESIDING OFFICER. The Chair understands all time has been yielded back by the parties that control time. The Chair is so informed.

The Chair will also inform the distinguished Senator from Iowa that under the previous order he has the right to be recognized for the purpose of moving to table the pending amendment.

Mr. HARKIN. Mr. President, I obviously will not do so.

Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have indeed.

Mr. HARKIN. Does the Senator still want the yeas and nays?

Mr. HATCH. Yes.

Mr. PELL. Mr. President, I strongly support the effort by Senator HATCH to clarify the application of the Nutrition Labeling and Education Act with respect to herbs, amino acids, and other nutritional and dietary supplements. There has been tremendous public confusion and anger over a perceived attempt by the FDA, either acting under its existing authority or pursuant to the Nutrition Labeling and Education Act, to limit access to vitamins, minerals, and nutritional supplements, and I think it is time for Congress to take action to make our intent clear.

I cosponsored and voted for the Nutrition Education and Labeling Act, and did so with the firm belief that it would help consumers make more intelligent and informed choices about the foods that they eat. I also believed that it would help guard against fraud and misrepresentation in the labeling of products, and strongly support its focus on ensuring that product claims are truthful.

I still support the Nutrition Labeling and Education Act, and the goals I have just described. But I am growing increasingly concerned about reports from many of my fellow Rhode Islanders that products that they use and value are being taken off store shelves by the FDA. I am not sure what is going on here, but I think a timeout is warranted so that we can sit down with officials of the FDA and make clear that it was never our intent, in passing the NLEA or in implementing it, to limit consumers' access to safe products simply because they may be considered alternative, holistic, or natural. Certainly this was never my intent in supporting the NLEA, as I share an interest and belief in the value and efficacy of many of these products.

I was very pleased to vote for Senator HATCH's amendment, because I think it will give us time to reach a sensible solution that strikes a reasonable balance between the consumer's right to know product ingredients and to exercise choice in purchasing a variety of products, including nutritional supplements, and the Government's responsibility to protect the public from false and misleading claims and dangerous products. I applaud the Senate's action in adopting this amendment.

Mr. MURKOWSKI. Mr. President, I rise to support the amendment offered by my colleague, Senator HATCH, because I believe that his amendment substantially redresses valid grievances of my constituents in Alaska.

In recent months, Mr. President, I have received literally hundreds of complaints from Alaskans—including a personal call from Mrs. IrmaLee Hickel, the wife of our Governor—concerned about pending changes in Government policy on vitamins, dietary nutrients, and food supplements. Despite the best of intentions of those who authored the Nutrition Labeling and Education Act, Mr. President, the bureaucrats have again used good legislation to overreach and involve themselves in the private decisions of individuals. In this case we are dealing with individuals who want simply to live health lives and to enhance their health by consuming certain safe and legal vitamins, minerals, and herbal and other nutrients. Who in this body is prepared to take away those rights? A vote against the Hatch amendment is a vote to take away health freedoms of our people.

Alaska is a unique land, Mr. President. People from all walks of life have settled in the Last Frontier, including a number of people who believe that alternatives to the traditional health and medical-care interventions offer them the best chance for long life and good health. I believe that the U.S. Congress has a responsibility to protect the rights of individuals to make such free choices, particularly when they harm no one and are in their own interests. The Food and Drug Administration, perhaps with all good intentions, Mr. President, is moving to restrict peoples' ability to use these alternative health solutions—choices that are safe, economical, and made freely by individuals interested only in promoting their own health.

I for one will not accept the premise that there is only one way to skin a cat, Mr. President. We do not know today why some illnesses occur, or what substance cures them. We do not know why some drugs work as they do, and, critically, we do not know whether vitamins, nutrients, food supplements, and herbal mixtures help people be more healthy. We do know they cause no harm. Until science answers many of these questions, Mr. President, I believe that there is absolutely no basis for Government to take away the rights of individuals to consume these nutrients and other legal substances.

Mr. President, I urge my colleagues to join me in supporting the amendment offered by our colleague from Utah.

The PRESIDING OFFICER. The question now occurs on the amendment offered by the Senator from Utah, amendment No. 3045. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from Tennessee [Mr. GORE], and the Senator from Colorado [Mr. WIRTH], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. SEYMOUR] is necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. SEYMOUR], would vote "yea."

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 1, as follows:

[Rollcall Vote No. 218 Leg.]

YEAS—94

Adams
Akaka
Baucus
Bentsen
Biden
Bond
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick, Jocelyn
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—1

Rudman

NOT VOTING—5

Bingaman
Boren
Gore
Seymour
Wirth

So the amendment (No. 3045) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote.

Mr. HARKIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment as amended.

The committee amendment, as amended, was agreed to.

Mr. HARKIN. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CRAIG. Mr. President, today we are taking action on the Labor, Health and Human Services, and Education appropriations for fiscal year 1993—a bill that provides funding for some of our Nation's most important programs—and, unfortunately, a bill that contains some of Congress' most excessive spending.

While this bill may meet targets set by last year's budget agreement, excessive spending in the outyears will greatly contribute to the Nation's budget deficit. The fiscal irresponsibility of this bill does not demonstrate any ability to face the reality of our national debt. This bill provides $245 billion in new budget authority, a 12-percent increase over fiscal year 1992. Also, discretionary spending in the bill exceeds the administration request by $84.2 million.

How can we get our budget deficit under control when the Congress continues to appropriate at these fiscally irresponsible levels?

There are some excellent Federal programs that promote the welfare of our Nation—for example, the National Institutes of Health, Medicare and Medicaid, impact aid, Head Start, vocational education, trio programs, employment training, and the National Youth Sports Program. I do not oppose adequate funding for these sorts of programs. However, adequate funding does not mean double-digit percentage increases.

Mr. President, Congress continues to borrow and spend beyond this Nation's financial capability ever to repay. If we are going to continue to enjoy the kind of economic growth and stability that allows us to provide these important services to Americans, then we must work toward solving our budget problems. There are a number of rural friendly and other programs being funded in this bill, which I support. However, Mr. President, the overall excessive spending in this bill compels me to oppose it. Congress must be fiscally responsible.

This week, between this bill and the supplemental appropriation, H.R. 5620, passed 2 days ago, the Senate has also managed to combine fiscal profligacy with irresponsible policymaking. Twice, once in the supplemental and once today, the Senate has included significant substantive changes in Federal labor and procurement law—principally, the Davis-Bacon Act of 1931—in appropriations bills. Not only is this inappropriate procedurally, it also will increase the budget deficit still further.

The supplemental included a provision, section 301, inserted by the other body, to bar the Secretary of Labor from implementing or administering final regulations providing procedures for determining the locally prevailing wages of semi-skilled helpers for use in Federal and federally assisted construction, alteration, and repair projects. The same provision also would bar the Secretary from moving forward on merely proposed regulations that would update and upgrade standards for Bureau of Apprenticeship certified programs.

On Tuesday, I offered an amendment to strike this provision which, I am sorry to say, was not adopted by this body. By allowing the Secretary's helper regulations to take full effect, my amendment would have saved $735 million in budget authority and $162 million in outlays in fiscal year 1993, and $3.842 billion in budget authority and $2.658 billion in outlays over the first 5 years.

Now, remember, H.R. 5677, the Labor-HHS-Education appropriation considered today would increase discretionary spending above the President's recommended level by $84.2 million. The amendment I offered Tuesday to the supplemental would have saved almost twice that much in outlays—and almost nine times as much in appropriated budget authority—in the first year, in the Davis-Bacon regulatory program administered by the Department of Labor.

I still believe some of my colleagues thought that my amendment, in effect, would have changed the Davis-Bacon Act. It would not. Flawed as that act is, the section 301 of the supplemental made it worse, by prohibiting the Secretary of Labor from moving forward on regulatory reforms that 10 years of litigation and court decisions had shown were absolutely consistent with the letter and the intent of the Davis-Bacon Act. These changes in the operation of Davis-Bacon were proposed in the other body, and passed here as well, without the hearings and markup and full, fair floor debate to which Senators were entitled.

Today, we have been considering a bill which includes a provision barring another set of Davis-Bacon regulations and again ignoring 10 years of judicial results. This time, in its 1991 decision in the Midway Excavators case, the U.S. Court of Appeals for the D.C. Circuit struck down Department of Labor regulations and ruled that truck drivers who only deliver materials to a Davis-Bacon jobsite, and who do not perform other work directly on the jobsite, are not "laborers and mechanics" for the purpose of being covered by Davis-Bacon.

This is a matter of common sense, not to mention clear eyesight when reading the plain, black letter of the law. The Davis-Bacon Act applies, in its own words, to "mechanics and laborers employed directly upon the site of the work," the "work" being earlier defined in the act as "construction, alteration and/or repair, including painting and decorating, of public buildings or public works * * *".

Perplexingly, because it is worded as a funding limitation, the language in H.R. 5677 puts the Secretary of Labor in the position of being prohibited from carrying out regulations mandated by the courts, but does not allow the Secretary to carry out the old regulations, either, because H.R. 5677 does not change the fact that the court has invalidated the old regulations as conflicting with the Davis-Bacon Act, itself.

Not only is the anti-Midway language in H.R. 5677 another instance of inappropriate legislating in an appropriations bill, it is sloppy legislating, as well. This should tell us something about the wisdom and practicality of trying to rewrite substantive law in the form of funding limitations.

The chairman of the Labor and Human Resources Committee has a bill, S. 1689, that would overhaul and expand Davis-Bacon. I have a bill, S. 2868, that would repeal this outdated and counterproductive act. But this body chose to follow the other body's unfortunate lead and bypassed the regular legislative process. Twice this week, the Congress has begun trying to rewrite the Davis-Bacon Act, substantive labor and procurement law, one clause at a time, in a rushed fashion, in a series of appropriation bills. The Members of the greatest deliberative body in the world deserve better than this. Legislation this important deserves more thorough consideration. The American taxpayers, employers, and workers deserve more consideration than this process has allowed.

The President has stated his intent to veto appropriations bills that come in over his recommended amounts. H.R. 5677 would do so. The Secretary of Labor has stated unequivocally that she and the President's other senior advisers will recommend—and anticipate—a veto of H.R. 5620 if the anti-Davis-Bacon-helper language remains in. There still will be opportunities to correct these faults in conference. If the excess dollars are not cut, if the helper ban is not removed, then I join, too, in urging the President to veto these bills and I pledge my support in making sure we sustain those vetoes.

JUVENILE ARTHRITIS

Mr. SHELBY. I would like to take this opportunity to discuss with you a provision within the legislation before the Senate concerning arthritis in children. I commend the distinguished chairman for his attempt in the Labor, HHS, Education appropriations bill to provide some direction to the National Institute of Arthritis and Musculoskeletal and Skin Diseases [NIAMS] regarding research on arthritis and the training of researchers and health professionals in the field of juvenile arthritis. However, I do not believe that this legislation, though well intentioned, goes far enough.

Only limited funding has been provided to determine the causes of this chronic, disabling condition that affects hundreds of thousands of children. Dr. Shulman, the director of NIAMS, in his response to an inquiry of mine dated March 26, 1992, stated that NIAMS estimates that only $663,000 of the $107.6 million obligated in fiscal year 1992 for arthritis is planned for juvenile arthritis. The estimated fiscal year 1993 funding level is $686,000. What is really needed is for Congress to earmark funding for juvenile arthritis research and for the training of researchers and health care professionals.

I say this because juvenile arthritis, which affects over 250,000, is the No. 1 chronic disease in children. More children have juvenile arthritis than juvenile diabetes. More children have juvenile arthritis than muscular dystrophy. More kids have juvenile arthritis than cystic fibrosis. At the same time 15 States have no practicing pediatric rheumatologists. It is common for children to travel hundreds of miles to receive adequate care.

Mr. Chairman, can I receive your assurance that you will make this issue a priority when your subcommittee confers with your House counterparts to iron out differences between your respective bills?

Mr. HARKIN. I understand the concerns of the Senator from Alabama. I would like to take this opportunity to assure you that juvenile arthritis will be a priority of mine when we confer with the House.

DENIAL OF FUNDING FOR DISABILITY RESOURCE CENTER

Mr. DOMENICI. Mr. President, I would like to bring the Senate's attention to what I consider to be an excellent program presently operating in my home State of New Mexico.

Each year, more than 2 million people in our country suffer traumatic brain injuries [TBI]. Because of tremendous advancement in emergency medicine and trauma services nearly half of these people will survive this tremendous injury. Sadly, however, two-thirds of these survivors will have a lifetime loss of function.

As the number of these traumatic injuries has increased health care and rehabilitation services providers have responded by developing programs that help survivors intensively in the time immediately following their injury. However, it typically takes 5 to 10 years of long-term rehabilitation to even come close to regaining their full capabilities.

There is an organization in Las Cruces, NM that for a long time has been led by an amazingly courageous woman who suffered a traumatic brain injury, Sherry Watson. The organization is known as the Disability Resource Center and they have worked very hard to establish community support networks for others who have suffered traumatic brain injuries. By establishing the community support networks it is easier for an individual to adjust to life in their community and also get the long-term rehabilitation they require for a full recovery.

However, there is one very unique aspect of this organization, they strive to have persons who have recovered from TBI's work with persons who are just beginning the recovery process. Thus providing a mentor of sorts to help each negotiate some of the pitfalls with someone who has already experienced many of them.

Recently, the Disability Resource Center applied for a major grant through the Rehabilitation Services Administration [RSA] that would have enabled them to develop what they have entitled the "National Survivor Center for Rehabilitation and Learning." This would be a resource center for rehabilitation programs for people with brain injuries operated by people with brain injuries.

The proposed center was designed to meet four key needs:

Fill a need for meaningful involvement of survivors in existing rehabilitation programs.

Develop methods to contain costs of rehabilitation and improve survivor productivity.

Extend the head injury continuum of services beyond current limits.

Improve the availability of resources across the United States that encourage survivor recovery.

These are much needed components in the rehabilitation of persons with TBI's.

Unfortunately, Mr. President, this project was not funded.

In their critique, the RSA pointed out many strengths in the Disability Resource Center's proposal. It is well-organized and provides opportunities for persons recovering from traumatic brain injuries. In fact the only major negative comment was that the proposal is not tied to any major rehabilitation organization either in the public or private sector.

Mr. President, I think this is exactly what makes this program so exciting. It is a community-based program designed to respond to the needs of communities on a specialized basis, rather than make the community fit into a program.

I think it is important for us to look for effective mechanisms to help survivors of TBI's obtain adequate rehabilitation that will allow them to recover fully. This can only be done in a community setting.

Mr. President, I applaud the efforts of the Disability Resource Center and hope that they will continue to pursue funding for this very worthwhile program.

Mr. LAUTENBERG. Mr. President, I rise in support of the Labor, Health and Human Services and Education appropriations bill for fiscal year 1993. I commend Senator HARKIN, the subcommittee chairman, for putting together this bill. Many worthy programs compete for limited funds in this appropriations bill and the Senator from Iowa had to make some very difficult choices in crafting this bill. These choices are particularly difficult because of the outmoded budget agreement that has limited our ability to transfer funds from defense spending to critical domestic needs in New Jersey and throughout the Nation. I regret that several amendments to transfer unnecessary funds from defense to programs contained in this bill failed.

I am pleased that the bill includes funding for a number of important programs which I requested that are designed to address critical domestic needs. One of the biggest health challenges of the last decade has been the AIDS epidemic. The AIDS epidemic now affects young and old, men and women, black and white, urban and rural. This epidemic, which is now growing at approximately 35 percent per year, has been crippling our public health system for the past few years.

In response to this epidemic and the tragic death of Ryan White, the Congress passed the Ryan White CARE Act in 1990. I was a cosponsor of this legislation that was designed to provide emergency funding for AIDS care, prevention and education. The bulk of the funding was designed to go to 16 original target areas, including Hudson County, NJ and the Newark, NJ metro area, and the 50 States.

The Labor-HHS appropriations bill includes $186 million for title I—target areas—of the Ryan White CARE Act, which is an increase of $64 million over last year's level. This increase is even more necessary because there are now 24 areas eligible for title I assistance. This bill also includes $116 million for title II of the same act which is reserved for State programs. I commend the subcommittee for including this increase even though the Labor and Health and Human Services allocation was below last year's level plus inflation and hope that we can work together in the future to provide the highest possible funding for this program.

The $186 million for title I programs will provide about a 26-percent increase in funding for AIDS care and education programs in Newark, NJ and Hudson County, NJ as well as other hard hit areas across the United States.

This bill also provides funding for the National Pediatric/Family Resource Center in Newark, NJ. This Center provides valuable medical treatment, foster and child care, drug treatment, clinical drug trials, transportation, nutrition and case management to families of victims of AIDS. The funding in this bill will ensure that this center continues to provide these valuable services in northern New Jersey.

Lead poisoning is also a major problem in my State and throughout the Nation. The U.S. Public Health Service estimates that 3 to 4 million children have blood levels high enough to cause health problems and impair cognitive development. The Centers for Disease

Control [CDC] has initiated a lead poisoning prevention program that provides grants to States and localities to establish community-based lead prevention programs. Last year, the Congress appropriated $21.3 million for this program. The House of Representatives only provided $20.8 million in their fiscal year 1993 bill. I strongly urged the Labor-HHS Subcommittee to drastically increase funding for this program. The committee has accommodated this request by providing $30 million. This will ensure that we will have greater resources to fight this major health problem.

This bill also restores a House cut in the domestic refugee and entrant assistance program by providing $405 million. The House cut $79 million from the Refugee Cash and Medical Assistance Program [RCMA] and the Senate Appropriations Committee restored most of these funds. The President proposed to cut this program by 50 percent. I commend the subcommittee for recognizing how critical the domestic refugee and entrant assistance program is to successful resettlement of refugees fleeing desperate situations in their home countries.

Mr. President, I have been extremely concerned about the increasing cost of higher education in our country today. In the past 11 years, the price of both public and private tuition has increased faster than the Consumer Price Index [CPI], in some years two to three times faster. This has had an adverse impact on the ability of American families to send their children to college. In an attempt to begin the process of reversing this trend, I was successful in creating a National Commission on the Cost of Higher Education in the Higher Education Act. I am pleased that the Labor-HHS Appropriations bill contains $1 million so that the Commission can begin its work of looking for solutions to hold down the increasing cost of college tuition. It is my expectation that the Commission will soon offer the Congress a series of proposals to achieve this goal and the Congress will closely consider these recommendations.

Mr. President, I have also been concerned about meeting the need for innovative elementary and secondary education programs to improve our Nation's schools. This bill includes $1.5 million for Model Community Education Employment Center [CEEC] authorized by the Carl D. Perkins Vocational and Applied Technology Act of 1990. I secured the authorization for the overall program because there is a great need for innovative school-based programs to help low income, disadvantaged children to graduate from high school and secure meaningful employment. I am pleased that the committee report which accompanies the bill encourages the Department of Education to test the success of this model in an urban school district in New Jersey.

This bill also includes $5.25 million for computer-based instruction programs funded through the Secretary's Fund for Education Innovation. I secured authorization for this program in 1988 and it has received appropriations since fiscal year 1989. The computer education program provides funds for special projects that expand and strengthen computer education resources in elementary and secondary schools. It is designed to increase opportunities for our young people to receive hands-on experience with computers and technology.

This legislation also includes $3 million to support Recording for the Blind, which is a nonprofit organization dedicated to making educational materials accessible to blind and print to disabled people, and is located in Princeton, NJ. Recording for the Blind raises almost 80 percent of its funds from private sources and has almost 5,000 volunteers working at all of its studios. Despite these outstanding efforts, Recording for the Blind needs a modest appropriation to meet the growing need for these materials. I am pleased that this bill provides a $1 million increase in this appropriation for fiscal year 1993.

I am also pleased that this bill provides funding for the construction of four new Job Corps centers. The Job Corps Program is one of the best investments that the Federal Government makes in our youth. The Job Corps returns $1.46 for every dollar invested. It also places more than 80 percent of its graduates into jobs, continued education or the military. Despite this strong record of success, Job Corps serves less than 1 percent of those eligible in my State. I will be working closely in the next few months to develop a proposal to have one of these new centers located in New Jersey.

Once again, I commend the distinguished chairman of the Labor-HHS Appropriations Subcommittee and I will work closely with him to ensure that all of these items are satisfactorily included in the fiscal year 1993 conference report accompanying this bill.

Mr. DODD. Mr. President, I want to commend the distinguished Chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education, Senator HARKIN, and the distinguished ranking member, Senator SPECTER, for their hard work to produce an appropriations bill that makes the best of very difficult circumstances. Theirs was not an enviable task, but they have made the hard choices about how best to allocate very scarce resources. This legislation holds the line on, and even increases, funding for many programs critical to children and families in my own State of Connecticut and the rest of the Nation.

A few weeks ago, statistics were released that showed a growing number of children slipping into poverty—more than one in five American children is poor. We are increasingly aware of the importance of early intervention in the lives of these children. I am pleased that the appropriations bill before us recognizes this need.

In particular, two early childhood development programs that I have been closely associated with would receive increases totaling three-quarters of a billion dollars under this bill. The Child Care and Development Block Grant, which enables working parents to find care for their children, would receive an additional $150 million, an 18 percent increase over 1992. Head Start, which provides comprehensive education, health, nutrition, and social services for over 600,000 low-income preschoolers, would receive a $600 million increase. That would enable almost 100,000 additional youngsters—including over 800 in Connecticut—to participate.

Health care is a critical part of early intervention. We in Connecticut, where infant mortality rates in our inner cities exceed that of third world nations, are particularly aware of this. The Committee was able to give community health centers, the Maternal and Child Health Block Grant, and the Preventive Health Services Block Grant at least some increase. For Connecticut, that would mean an additional half a million dollars coming into the state for preventive and primary health care. The comprehensive care provision in the Ryan White Program also received a small, but important, increase. In addition, funding for the Lead Poisoning Screening Program and the Childhood Immunization Program, two preventive health programs that are particularly important for young children, would be increased by 41 percent and 16 percent, respectively.

The Substance Abuse Block Grant received a $60 million increase. In the ADAMHA Reorganization Act we passed earlier this year, we created a new allocation formula for the block grant and protected States, such as Connecticut, that would have lost money in 1993 under the old formula. With this increase, Connecticut would move very close to gaining funds. I confess some disappointment that my Children of Substance Abusers—or COSA—Program, enacted as part of that same act, received no funding this year. I note that funding for treatment for pregnant and postpartum women and their infants has been shifted away from outpatient and prevention programs and toward residential treatment. In view of this move, community-based programs for children and families such as COSA become even more important, and I hope we might find some money for it next year.

Finally, Mr. President, I want to note the committee's efforts in finding funds for the Low-Income Home Energy Assistance Program [LIHEAP], which provides a lifeline for families, senior citizens, and disabled persons seeking to warm their homes in winter. LIHEAP would receive $1.35 billion in 1993 funds and an additional $143 million from funds allocated for 1994 under the forward funding provision that could be used for the cost of the 1993 program. Certainly, I would like to see more funds for LIHEAP, and I am very concerned that over half of LIHEAP's funds would not be available until the end of the year. Yet, in view of the House funding level, which cut the program by 40 percent, I appreciate the committee's efforts in seeking a way to hold the line. It is critical that we at least hold the Senate numbers in conference and, if we are able to do so, that the Department of Health and Human Services work with representatives of public utilities and the States to address the obstacles posed by the delayed funding and continue to meet clients' needs.

Mr. President, I regret I was unable to support the transfer amendment offered by Senator HARKIN. It is never easy to oppose the distinguished chairman of the subcommittee, particularly when he has done such an admirable job of crafting a bill under such difficult circumstances.

Addressing the Federal deficit must be a national priority. In 1990, we took a step in the right direction by enacting a budget agreement. A centerpiece of the plan was the series of firewalls set up between the three discretionary spending categories for 1991, 1992, and 1993.

I do not believe we should prematurely repeal a proposal aimed at deficit reduction, and my concern is that wholesale demolition of the firewalls would mark the disintegration of the 1990 agreement. I could consider proposals to poke smaller holes in the firewalls, but only if they specify from whence the money comes, and on what it would be spent.

The Harkin amendment clearly met the latter test. The programs it would augment are all worthy, and all could desperately use additional money. Indeed, I strongly support funding increases for Head Start, LIHEAP, childhood immunizations, education, Job Corps, and the host of other programs covered by the amendment.

But the Harkin amendment did not meet the first test. It was vague when it came to the source of the money to be transferred. As Senator NUNN noted in his comments on the amendment, it did not identify which weapons systems would be affected by its proposed reductions in unobligated defense monies.

Unfortunately, this lack of specificity would have had the effect of allowing the President a de facto line-item veto over whatever weapons he opposes. I cannot support authorizing anyone such a blank check, and I was forced to oppose the Harkin amendment for this reason. Similarly, I was not able to support the amendment offered by Senator D'AMATO that sought additional funds for research on breast cancer, a purpose I wholeheartedly agree with, because it suffered from the same shortcomings.

In many ways, the debate over the Harkin amendment replicated the budget walls debate. I argued then that we had an opportunity to identify new funding priorities when the budget walls come down in 1994. I still believe that to be the case, and I hope we will use that opportunity next year to boost the allocations for the programs which would have been covered by the Harkin amendment.

In closing, Mr. President, we live in a time when the need is great, the resources fall short, and the choices are hard. My distinguished colleagues, Senator HARKIN and Senator SPECTER, have done a commendable job of working within those constraints and making difficult decisions. The key programs for children have been protected and even boosted in many cases. States such as my own will see critical early intervention funds continue to flow, at higher levels for some programs. In this environment, that is an important accomplishment, and I hope my colleagues will support this bill.

DAVIS BACON AND DELIVERY TRUCK DRIVERS

Mr. SYMMS. Mr. President, section 516 of this bill would prohibit the Department of Labor [DOL] from implementing or administering certain regulations relating to enforcement of the Davis Bacon Act. I strongly object to this section of the bill and regret that time has not permitted me an opportunity to offer a motion to strike it.

The issue is just this simple: in 1991, the U.S. Circuit Court of Appeals for the District of Columbia issued its decision in a case commonly known as Midway Excavators. The circuit court invalidated portions of a DOL rule which would have extended coverage of the Davis Bacon Act to truck drivers carrying materials to and from a construction site.

The circuit court found that the statutory language "unambiguously restricts the coverage of the act to the geographical confines of the Federal project's jobsite * * *." Consequently, the court determined the act could not be construed to cover employees, such as delivery truck drivers, "who work off-site most of the time * * *." In my view, the circuit court has properly construed the statute and acted appropriately by invalidating the pertinent portions of the DOL rule.

On May 4, 1992, DOL published an interim final rule and a proposed rulemaking in an effort to implement the court's Midway Excavators holding. Section 516 of this appropriations bill would prohibit the enforcement of those or any other regulations promulgated pursuant to the Midway Excavators decision.

The Secretary of Labor recently wrote to the Republican leader indicating her strong objections to section 516. In her words, this section would "inappropriately micromanage the rulemaking processes of the Department * * *." I completely agree, and I urge my colleagues to eliminate this language in conference with the House.

I ask unanimous consent that Secretary Martin's letter to Senator DOLE be printed in the RECORD following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, DC.

Hon. ROBERT DOLE,
Republican Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: The Senate is currently considering H.R. 5677, the FY 1993 appropriation for the Departments of Labor, Health and Human Services, and Education. In Subcommittee, amendments were adopted which inappropriately micro-manage the rulemaking processes of the Department and its financial management practices. I urge you to oppose these amendments and to attempt to have them stricken from the bill.

Specifically, the Department opposes: section 516, which would prohibit the enforcement of rule changes under the Davis-Bacon Act made as a result of the decision in *Building and Construction Trades Department, AFL-CIO,* v. *United States Department of Labor Wage Appeals Board (Midway Excavators, Inc.)*, 932 F.2d 985 (D.C. Cir. 1991); and section 517, which would prohibit the Department from filling 50 percent of the full-time FTE vacancies which occur.

I strongly object to the language of section 516, which would prohibit the Department from enforcing the revisions made to the Davis-Bacon Act regulations, required to comply with a decision by the U.S. Court of Appeals for the D.C. Circuit regarding coverage of truck drivers in the *Midway Excavators* case. This decision partially invalidated a section of the regulations (not the Act) that declared that employees of contractors or subcontractors who haul materials and supplies to or from construction sites are covered by the Davis-Bacon Act, when they spent only minimal time employed on the site of work. The court declared the existing regulatory provision invalid and beyond the authority of the statute. The provision in section 516 of the bill would not change the Davis-Bacon statute, nor would it change the court decision or its nullifying effect on the former rules. As a consequence, section 516 would not restore the status quo of coverage of truck drivers affected by the court ruling that existed before the court decision, in that the pre-existing regulations would remain invalid. Thus, the Department would be without authority under the terms of the appropriations rider to implement a corrective rule as required by the court decision. It appears that we would be unable to administer any aspect of the Davis-Bacon Act with respect to truck drivers hauling materials and supplies to and from covered construction sites. This situation would certainly lead to confusion in the regulated community that could only be resolved through additional lengthy and costly litigation.

Moreover, the Administration strongly opposes the inclusion of substantive legislation in an appropriations bill. For the foregoing reasons, the Administration strongly opposes the enactment of section 516.

Section 517 of the bill imposes reductions in salaries and expenses of the Departments of Labor, Health and Human Services, and Education. It also mandates that as vacancies occur in full-time permanent positions, no more than 50 percent shall be filled, except in those cases where the Congress has specifically added full-time equivalents over the actual fiscal year 1992 usage levels. It is highly inappropriate for the Congress to mandate in statutory language the method in which Departments are to achieve savings. I require the flexibility to achieve the savings in a manner best suited to the programmatic needs of the Department. As written, even if the savings accrue, but are not achieved in the way set forth by this amendment, the Department would be in violation of the appropriations bill. This surely cannot be what Congress intends. Additionally, to take reductions in the manner imposed by this section would have an adverse programmatic impact on the Department because of the resulting reduced staff levels. For these reasons the Administration is opposed to section 517 of the bill.

The Office of Management and Budget advises that there is no objection to the submission of this letter and that enactment of the aforementioned amendments to H.R. 5677 would not be in accord with the program of the President.

Sincerely,

LYNN MARTIN.

FISCAL YEAR 1993 FUNDING FOR LIHEAP

Mr. MITCHELL. Mr. President, I regret that again this year the Appropriations Committee has reduced funds for the Low-Income Home Energy Assistance Program. LIHEAP, as the program is called, has been reduced each year for the last 7 years.

Given budget constraints this year and the inability throughout the year, including today, to transfer funding from defense programs to domestic programs, I understand that many difficult decisions must be made with regard to domestic priorities.

Nevertheless, I remain concerned about the treatment of LIHEAP in the pending legislation. Under the committee bill, LIHEAP funding would essentially be held constant, but about 55 percent of the funding for LIHEAP will be delayed until next year.

In Maine, this means that of the 60,000 families who may receive LIHEAP benefits, over 30,000 will not receive financial assistance until next year. The Maine State Housing Authority, the agency that administers LIHEAP in my State, has informed me a State loan may not be possible to cover this shortfall given the State's own budget problems. This means that either the oil companies, the electric companies, or the gas companies carry their low-income clients' arrearages or it could be a very cold winter for thousands of Maine families.

The State may be able to loan the housing authority the $11 million necessary to run the LIHEAP Program as intended. But, equally possible, the State may not be able to provide such a loan. With the Nation's current unemployment rate, AFDC and food stamp caseloads increasing, and a cold winter approaching, I do not believe it is good public policy to delay spending for a program that is primarily beneficial in the winter months.

I have been informed by the housing authority that it's likely that an additional 10,000 families may apply for assistance this year beyond the 60,000 already estimated. The housing authority has told me that at this point, it's not clear whether or not they will be able to assist these families, or if they can assist them, the housing authority isn't clear how much assistance they will be able to offer. The housing authority has made clear, however, that assistance is not likely until next fall, about a year after they've incurred their utility expenses.

I disagree with the committee's decision to delay the obligation of over half of the funds for LIHEAP. Given the economies among the States, particularly small States, it simply may not be possible for States to loan the Federal Government money this year to run LIHEAP until the Federal funds for the program are released.

I urge the chairman and the other members of the committee to review the release of LIHEAP funding and the ability of States to absorb this funding shortfall in conference.

The PRESIDING OFFICER. Do the managers yield back any time that they control that remains on the bill?

Mr. HARKIN. Mr. President, we yield back all remaining time on this side.

Mr. HATFIELD. I yield back our time.

The PRESIDING OFFICER. All time is yielded back.

The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The clerk will call the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from Tennessee [Mr. GORE], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from California [Mr. SEYMOUR] is necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. SEYMOUR] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 82, nays 13, as follows:

[Rollcall Vote No. 219 Leg.]

YEAS—82

Adams
Akaka
Bentsen
Biden
Bond
Bradley
Breaux
Bryan
Bumpers
Burdick, Jocelyn
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gorton
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—13

Baucus
Brown
Conrad
Craig
Garn
Gramm
Helms
Lott
Pressler
Roth
Smith
Symms
Wallop

NOT VOTING—5

Bingaman
Boren
Gore
Seymour
Wirth

So the bill (H.R. 5677), as amended, was passed.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senate will insist on its amendments, request a conference with the House on the disagreeing votes of the two Houses, and the Chair appoints the following conferees on the part of the Senate: Mr. HARKIN, Mr. BYRD, Mr. HOLLINGS, Mr. INOUYE, Mr. BUMPERS, Mr. REID, Mr. ADAMS, Mr. CONRAD, Mr. SPECTER, Mr. HATFIELD, Mr. STEVENS, Mr. RUDMAN, Mr. COCHRAN, Mr. GRAMM, and Mr. GORTON.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Mr. President, I will yield to the distinguished chairman of the Appropriations Committee without losing my right to the floor.

The PRESIDING OFFICER. The Chair recognizes the President pro tempore, Senator BYRD.

Mr. BYRD. Mr. President, I thank the distinguished majority leader.

I ask unanimous consent to move the following amendments, the Lautenberg amendment No. 3001, Helms amendment No. 3022, and Hatch amendment No. 3045 in the Labor-HHS appropriation bills to "general provisions."

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. That is agreeable to this side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I congratulate the distinguished Senator from Iowa, the chairman of the subcommittee, Mr. HARKIN, and the distinguished Senator from Pennsylvania, the ranking member, Mr. SPECTER, for their diligent work on this difficult bill. The Labor, HHS, Education appropriation bill funds very important programs for our human infrastructure and both Senators have done a commendable job in their efforts to balance the many competing priorities among these necessary activities. I have spoken many times about our third deficit, the infrastructure deficit, and this bill funds the human capital programs that are a part of this country's infrastructure.

This bill is within the subcommittee's 602(b) allocation and deserves the support of all Senators.

The PRESIDING OFFICER. The Chair recognizes the majority leader, Senator MITCHELL.

Mr. MITCHELL. Mr. President, I yield to the Senator from Pennsylvania for the purpose of making a brief statement on the bill just passed.

Mr. SPECTER. Mr. President, we had a long, laborious bill, and I think it appropriate to commend the majority staff: Mike Hall, Jim Sourwine, Carol Mitchell, Amy Schultz, Margaret Stuart, Gladys Clearwaters, and Susan McGovern; and the minority staff: Craig Higgins, Bettilou Taylor, Meg Snyder; and the chairman, Senator HARKIN.

Mr. MITCHELL. Mr. President, I thank Senators SPECTER and HARKIN for their diligence and cooperation in seeing that the Labor-HHS appropriation bill was passed.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I call for the regular order.

NATIONAL DEFENSE AUTHORIZATION ACT

The PRESIDING OFFICER. The Senate returns to consideration of S. 3114, the DOD authorization bill which the clerk will report.

The assistant legislation clerk read as follows:

A bill (S. 3114) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities for the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. MITCHELL. Mr. President, we now return to consideration of the defense authorization bill. I would inquire of the distinguished chairman of the committee as to whether or not he and the ranking member are now prepared to proceed and, hopefully, complete action on this measure as soon as possible.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia [Mr. NUNN].

Mr. NUNN. Mr. President, I say to the majority leader with his great help, we have made substantial progress since starting this bill lasting evening. We have handled three major topics, three of our most difficult topics—SDI, B-2, and nuclear testing. We have had a 2-hour break for the Labor-HHS and at this point in time the amendments that are now what I call significant amendments, that is amendments that have significant opposition—there are a lot of significant amendments that will be cleared, but these amendments may have opposition and, therefore, will require debate and rollcall vote in all likelihood and there is no set order for these:

A Coats amendment to strike the committee abortion provision. I have been told that both sides have agreed or will agree to a 1-hour time agreement, equally divided.

We have a Sasser amendment on humanitarian aid, and I have been told there that both sides will agree to a 1½-hour time agreement, equally divided.

A Bumpers amendment on cutting the D-5 Program, and I have been told there that Senator BUMPERS is agreeable to a 1½-hour time agreement to be equally divided with the committee floor managers.

We have an amendment that I have not had a chance to talk to my friend from Virginia about and, therefore, I do not know what his view would be on a time agreement.

But we have the Senator from New Mexico [Mr. DOMENICI] on an amendment related to military spouses. He has indicated to me that he would be agreeable to 1 hour, equally divided, on that amendment, and I understand that will be opposed.

Then we have a Graham Cuban democracy amendment, and I know the Senator from Florida is on the floor and would like to make comments about that. I would hope we could get a time agreement on that; that is, both Senators from Florida, Senator GRAHAM and Senator MACK, and Senator DODD from Connecticut has an interest in that one. I would hope we could reach some kind of time agreement on that.

And Senator METZENBAUM has two amendments.

Mr. WARNER. Mr. President, if the Chair will allow me to observe on that amendment relating to Cuba, in my judgment, that is the single, biggest question mark that we have, and as soon as the distinguished chairman can inquire of Senator DODD as to his desires—my understanding is the two Senators from Florida are quite amenable to a reasonable time agreement. If we could isolate that one major question mark, I think we could roll on this bill.

Mr. MACK. If I may, I say to my good friend, Senator GRAHAM, and I are fully prepared to enter into a time agreement. We thought we entered into a time agreement when this bill was up for discussion. We have no difficulty whatsoever to a time agreement and hope we can move it.

Mr. WARNER. If the Senator from Florida would indicate to the managers what the parameter of a reasonable time agreement on this is.

Mr. GRAHAM. I will say to my distinguished friend, in July or August when this matter was first before us, we were talking of a time agreement in the range of 1 to 1½ hours, equally divided, or with more than equal time for the opponents of the amendment.

Mr. WARNER. Mr. President, might I inquire——

Mr. NUNN. Who has the floor?

The PRESIDING OFFICER. The Senator from Georgia retains the floor.

Mr. NUNN. I yield to the Senator from Virginia.

Mr. WARNER. I inquire further of the two Senators from Florida for the benefit of the Senate as a whole, has not this issue been before this body before? And if I am correct, how has this body responded?

Mr. MACK. If I may respond to that.

Mr. NUNN. I yield to the Senator from Florida to respond to the Senator from Virginia.

Mr. MACK. The Senator is correct. We have in fact dealt with this issue now on a couple of occasions. There is no question there is a broader approach with the amendment that is being offered by my colleague from Florida, Senator GRAHAM. But we have dealt with what I believe is considered the most contentious part of it, that is, the economic embargo. It passed the Senate, I think it was 2 years ago, with a vote of something like 84 to 14 or 13.

So I do not understand why we find ourselves having to go through this contentious debate again. We have I think settled the issue. There are a few additions that my colleague wants to add and which I am totally in support of. I think we ought to be able to go forward.

I thank him for raising the question and giving me the opportunity to respond.

Mr. NUNN. Mr. President, I would cetainly hope we can hear from the Senator from Connecticut on this and I know he is interested. He told me that, I would like to see if he can work out some time agreement.

I understand the Senator from Ohio [Mr. METZENBAUM], also on the floor, has an amendment on contractor indemnification, and I have asked Senator DIXON, who is our subcommittee chairman, to work with Senator METZENBAUM on that amendment to see, first of all, if it can be worked out; second, if it cannot be worked out, to see if we can reach some reasonable time agreement.

I am not familiar with that particular amendment and I have asked my staff to work with Senator DIXON and the Senator's staff, and I hope our staffs are already meeting but that has not been ascertained yet.

And I also understand the Senator from Ohio has an amendment on discrimination which he is prepared to bring up now that would not take a long time.

And then I understand also Senator LEAHY has an amendment on a 1-year export ban on land mines.

In addition to that, we have approximately 20 amendments, including an amendment the Senator from Pennsylvania plans to offer that I hope we can accept relating to troop strength in Europe. That one I do not believe would take a long time, and then we have several amendments that are still being worked on.

I do not know yet whether they will require rollcall votes or whether they will be accepted. Those are being worked out and I hope all parties listening could let us know about the status of these amendments and work with the staff to see if they can indeed be cleared or at least clarified and we can reach some time agreement.

That would be a Byrd amendment changes to the Exon-Florio process; Inouye amendment on endowment on industrial cooperation, Smith amendment on POW stamp, Smith amendment on naval expedition medal for Doolittle raiders and there are several MilCon amendments which I understand will be incorporated in a single amendment. These are the amendments that I have. I have heard other amendments mentioned but not in a definitive way.

Mr. President, I would just say in answer to the majority leader's question that we can finish this bill tonight, in my view the way I assess it there is no need for a Saturday session if we get cooperation from the parties. If we do not get cooperation from the people who are involved in this and others who may have amendments in working out time agreements, if we get bogged down on any amendment, we will be in Saturday and we will be in Sunday.

Mr. REID. Mr. President, will the Senator yield?

Mr. NUNN. I am happy to yield for a question from the Senator from Nevada.

Mr. REID. I would explain to the manager of the bill that I have informed Senator KENNEDY of the amendment I spoke to the managers of the bill about. I would ask the Senator to keep my amendment on the list and we will try to work something out convenient to the Senate.

Mr. NUNN. I will put that on the list. I understand that amendment has to do with the minimum wage.

Mr. REID. Yes; it does.

Mr. NUNN. Mr. President, on this type of amendment, as I have told my friend from Nevada, it clearly is in the jurisdiction of another committee. I would appreciate it, as he indicated he will talk to Senator KENNEDY about that, because I would have to know what his view was, the view of his committee, before we could determine what to do, including even a time agreement on it.

So I would look forward to hearing back from him on that.

Mr. REID. I have spoke to the Senator from Massachusetts.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia [Mr. WARNER].

AMENDMENT NO. 3046

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3046.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 49, between lines 14 and 15, insert the following:

SEC. 171. In addition to the funds authorized to be appropriated by section 106, the following funds are authorized to be appropriated:

(a) For the Army National Guard—

(1) for 3 P–180 aircraft, $12,000,000.

(2) for night vision goggles, $20,000,000.

(3) for single channel ground airborne radio system, $10,000,000.

(4) for 6 C–26 aircraft, $23,000,000.

(5) for medium truck service life extension program, $15,000,000.

(6) for M113A3 conversion program, $15,000,000.

(b) For the Air National Guard—

(1) for night vision goggles, $5,000,000.

(c) For the Army Reserve—

(1) for medium truck service life extension program, $25,000,000.

(2) for 12 C–12J aircraft, $42,000,000.

(3) for night vision goggles, $20,000,000.

(4) for single channel ground airborne radio system, $10,000,000.

(d) For the Marine Corps Reserve—

(1) for night vision goggles, $10,000,000.

(2) for single channel ground airborne radio system, $5,000,000.

(e) For the Air Force Reserve—

(1) for night vision goggles, $5,000,000.

Mr. WARNER. Mr. President, during the markup of the Armed Services Committee, we provided funds for additional equipment for the National Guard and Reserve components, as has been our practice since I have had the privilege of serving on this committee.

In this year's markup, however, the committee departed somewhat from its usual practice. We did not identify specifically, by line item, the equipment we intended that the National Guard and the Reserves should buy.

Further, the committee indicated that the Guard and Reserve components should give special consideration to procuring equipment that would have a dual use—for military as well as support for civil missions. Thus, in our bill this year we identified funds under general and broad categories primarily oriented toward the dual civil/military use.

As a result, Mr. President, there were a number of items of equipment which we would have funded specifically this year for the National Guard and the Reserves which are not now funded in our bill and which I consider sufficiently important to our Reserve components to address in an amendment.

These items include such high-priority items for the National Guard and Reserves as night vision devices, radios, several types of aircraft and a service life extension program for medium trucks. I should note that, within the $25 million we have identified for the Army Reserves for the medium truck service life extension program, there is included $5 million for the Navy Reserves and $5 million for the Marine Corps Reserves within this truck rebuild program.

When the committee, in markup, considered how we might address these items more specifically for the National Guard and Reserves, our chairman agreed that we should address the matter with an amendment on the floor.

Therefore, Mr. President, I am introducing this amendment to continue the modernization program for our National Guard and Reserves, which our committee and this body has always supported so strongly and so consistently. I know this hasn't been finally approved by the chairman, but I am hopeful that by introducing this amendment now we can soon get final agreement on both sides.

Mr. NUNN. Mr. President, I thank the Senator from Virginia. I appreciate his expression of not pushing this to a vote at this point, because this is an amendment we are working on. We have not had a chance to go through it in any great detail. We are looking at it now, and I have asked the staff to take a look at it.

So I hope this amendment could be set aside so that we could take up other matters.

Mr. WARNER. Mr. President, I ask unanimous consent that the pending amendment be set aside temporarily.

Mr. NUNN. Mr. President, reserving the right to object, I believe the Senator from Ohio would like to bring up his amendment.

Which amendment is that?

Mr. METZENBAUM. Discrimination against homosexuals.

Mr. NUNN. I would ask that the Senator from Ohio be recognized and the amendment of the Senator from Virginia be set aside for the purpose of taking up the Metzenbaum amendment on discrimination, and following the disposition of that amendment the amendment of the Senator from Virginia be the pending amendment.

The PRESIDING OFFICER (Mr. AKAKA). Without objection, it is so ordered.

The Senator from Ohio [Mr. METZENBAUM] is recognized.

AMENDMENT NO. 3047

(Purpose: To prohibit discrimination by the Armed Forces on the basis of sexual orientation)

Mr. METZENBAUM. Mr. President, on behalf of Senators KENNEDY, WELLSTONE, AKAKA, CRANSTON, HARKIN, and myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself, Mr. KENNEDY, Mr. WELLSTONE, Mr. AKAKA, Mr. CRANSTON, and Mr. HARKIN, proposes an amendment numbered 3047.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . PROHIBITION ON DISCRIMINATION IN THE MILITARY ON THE BASIS OF SEXUAL ORIENTATION.

(a) IN GENERAL.—No member of the Armed Forces, or person seeking to become a member of the Armed Forces, may be discriminated against by the Armed Forces on the basis of sexual orientation.

(b) PRESERVATION OF RULES AND POLICIES REGARDING SEXUAL MISCONDUCT.—Nothing in subsection (a) may be construed as requiring the Armed Forces to modify any rule or policy regarding sexual misconduct or otherwise to sanction or condone sexual misconduct, but such rules and policies may not be applied in a manner that discriminates on the basis of sexual orientation.

Mr. METZENBAUM. Mr. President, this amendment is identical to the bill I introduced on July 28, cosponsored by Senators KENNEDY, HARKIN, WIRTH, CRANSTON, KERRY of Massachusetts, AKAKA, ADAMS, and WELLSTONE.

The amendment would overturn the Pentagon's ban on homosexuals serving in the military.

Mr. President, the time has come to overturn one of the last bastions of Government-sponsored discrimination in this country.

The Pentagon's prohibition of gay men and lesbians serving in the military is completely outdated. It is senseless and it is cruel. It is a policy based on fear and ignorance.

It is discrimination against a distinct group of individuals who repeatedly and throughout history have shown that they are every bit as capable, hardworking, brave and patriotic as their heterosexual counterparts.

The job performance of homosexuals in the military has been superb. I know that to be true because every time a gay man or lesbian is discharged from the service for reason of being a homosexual, his or her service record becomes part of the official investigative process. In nearly every instance, the job performance of these individuals is above average.

Several months ago, I stood here on the Senate floor, and spoke about the incredible cost of the military's prejudice against homosexuals. I mentioned the case of Lt. Tracy Thorne, the 25-year-old navigator-bombardier who finished first in his flight training classes, received top honors from the Navy, and then was busted out of the service for being gay.

Did he do anything wrong? Did he sexually assault or harass somebody?

No. He merely said he was gay.

Two months ago, the Army dismissed Col. Margarethe Cammermeyer, one of the finest nurses in the military.

Colonel Cammermeyer served 14 months in Vietnam. She won a Bronze Star. She was named the Veterans' Aministration's Nurse of the Year in 1985. Her only crime was to acknowledge during an interview that she is a lesbian.

Lieutenant Thorne and Colonel Cammermeyer are just the most recent casualties of a policy that has destroyed thousands of careers and lives.

The Pentagon's argument used to be that you could not have homosexuals in the military because they presented a security risk that they were vulnerable to blackmail.

Two of the Pentagon's own studies debunked that old canard—the Navy's 1957 Crittendon Report and DOD's 1991 Perserec Report. Neither study found any statistical data that homosexuals present a security risk.

Today the administration uses a new rationale for discriminating against homosexuals. Now they say simply that, "homosexuality is incompatible with military service," and that homosexuals, "adversely affect the ability of the military services to maintain discipline, good order, and morale. * * *"

Those claims are totally and completely unsubstantiated. There is not a scintilla of evidence to that effect. There is no data, none whatsoever, and no evidence to support that point of view.

In fact, administration officials freely admit that there is no evidence. They say the policy is based on "considered, professional military judgment based on years of experience."

I call it baseless prejudice founded on fear and ignorance.

How does the military explain the tens of thousands of homosexuals in the military right now excelling in their jobs? They are the pilots, the ship's gunners, the foot soldiers. Gay people serve in the military, just like they serve in every other Government agency and walk of life. They do their jobs just like everyone else.

Mr. President, the military does not advertise the fact that its ban against gays is applied much more ruthlessly against women, particularly women enlisted personnel.

According to the GAO, women constituted 23 percent of all discharges for homosexuality, yet they represent just 10 percent of all military personnel. Officers constituted 14 percent of all those serving in the military, yet they represent just 1 percent of those discharged for homosexuality.

Does anyone really believe that there is a lesser amount of homosexuality in the office corps than there is in the service corps? Of course not. It is a situation that effects people regardless of rank, regardless of position, regardless of male or female.

Many servicewomen have come forward with stories of how they were investigated after having refused the romantic or sexual advances of their commanders or colleagues in arms.

It is sexual harassment, plain and simple.

Mr. President, the American public does not support the Pentagon's policy of discrimination against homosexuals.

According to a Penn and Schoen 1991 public opinion poll, 8 in 10 Americans believe that homosexuals should not be discharged from the military solely because of their sexual orientation.

Here is another aspect of this issue that not many people know about. It costs money to investigate and discharge homosexuals from the military. It is important money, significant dollars.

According to the General Accounting Office, the military wasted $490 million that they spent recruiting and training the homosexuals that they subsequently kicked out over the past 10 years.

Let's be frank, Mr. President.

This is a political issue for the administration.

This administration is too afraid of the far right to change its antigay policy—even though it knows it is wrong.

This administration pays constant homage to a group of small, narrow-minded people who insist that everyone must look, think, and live his or her life as they do.

It is the same mindset that resulted in the exclusion of millions of black Americans, and millions of women and other minorities from serving their country in the military for so many years.

In the 1940's, conservatives used all the same arguments—they said that admitting black Americans into the military would be bad for morale—that whites would not serve alongside blacks.

Compare this 1941 Navy memorandum outlining the basis of the military's exclusion of African-Americans with the Pentagon's exclusion of homosexuals today.

> The close and intimate conditions of life aboard ship, the necessity for the highest possible degree of unity and esprit de corps; the requirement of morale—all these demand that nothing be done which may adversely affect the situation. Past experience has shown irrefutably that the enlistment of Negroes (other than for mess attendants) leads to disruptive and undermining conditions.

Here are excerpts from the antigay policy today:

> The presence of (homosexuals) adversely affects the ability * * * to maintain discipline, good order * * * (and) to facilitate assignment and worldwide deployment of members who frequently must live and worked under close conditions affording minimal privacy. * * *

It is very similar. The words are practically the same.

President Truman knew the military leadership had misread the public. He integrated the military, and our Armed Forces took the lead in welcoming minorities and promoting equal opportunity ever since—save for one small exception—homosexuals.

President Bush claims the mantle of Harry Truman. It is sort of an absurd claim, in the opinion of this Senator. But the fact is, President Bush does not have the courage of Harry Truman. Harry Truman had the courage to say that blacks would be treated equally in the military. George Bush should do the same with respect to the treatment of homosexuals in the military.

So, let us stop obfuscating the issue by talking about discipline and morale. Nothing is better for morale than a military that knows how to get the job done. What is important when the bullets are flying is whether the soldier or sailor or officer is brave, smart, and well trained. Heroes come from every race, gender, and sexual orientation.

So I say it is time to put an end to the administration's discrimination against gay men and lesbians.

If President Bush is unable to do the right thing, then it is up to the Congress.

I urge my colleagues to support the amendment which is pending at the desk.

The PRESIDING OFFICER. The Senator from Minnesota [Mr. WELLSTONE] is recognized.

Mr. WELLSTONE. Mr. President, I rise in support of this amendment introduced by Senator METZENBAUM to ban discrimination in the military on the basis of sexual orientation. I am proud to be a cosponsor.

I would like to speak for a few moments about basic human dignity. Dignity carries us through the most difficult times, and it has always been our best weapon against oppression.

I am a Jew. Jews have experienced anti-Semitism throughout our history. But dignity carried us through it.

White supremacists founded their basic philosophy in the dehumanization of blacks and Hispanics and Southeast Asians and people of color. But people of color have carried themselves through it with dignity.

Over and over and over again, dignity has sustained people. It sustained the Jews in Russia against Stalin. And it sustained Rosa Parks and many other people of color who rose up and took on a system of apartheid in the South.

Today in Minnesota, Pam Mindt is standing up to oppression with a great deal of pride and dignity. Pamela Mindt is a captain in the 204th Medical Battalion of the Minnesota Army National Guard. She has a distinguished record in the military, both in the Army Reserve and the National Guard. She has received 10 medals, has been featured in National Guard recruitment advertisements, and has been described as an excellent soldier by her commanding officer.

But Captain Mindt's military career may soon come to an end. An investigation is underway that will lead to her discharge; not an investigation of any misconduct on her part, but an investigation of her personal life. Captain Pamela Mindt is a lesbian. When she brought the truth about her sexual orientation to the attention of her commanding officer in late July, she knew what she had to look forward to. Captain Mindt has no desire to leave the military, and she has expressed great pride in her unit and great pride in her spotless service record.

Yet, she is also proud of her identity as a lesbian, and she could no longer bear the indignity of silence.

Over the years, Captain Mindt has seen many gays and lesbians and bisexuals discharged from the military simply because of their sexual orientation, not because of allegations of misconduct.

But when Col. Margarethe Cammermeyer, chief nurse of the National Guard, was dismissed in June for being a lesbian, Captain Mindt, like Rosa Parks, decided that she could not stand by idly; that silence would be betrayal. She stepped forward. Her pride demanded that she be honest, and the price she will pay will be the end of a service career, a career that she has loved.

But Captain Mindt's life will go on. She enjoys a civilian career as a therapist in private practice, and is the director of sex offender services at the Minnesota Department of Corrections. She and her partner, Irene Greene, own a home in Minneapolis.

It is not she who will be lessened by this tragedy of discrimination; she has been true to herself and she has been true to her uniform. It is the United States of America; it is the Minnesota National Guard; it is her fellow officers who will pay the price for Captain Mindt's discharge, because we will have lost a very, very fine officer, not to mention the many, many dollars that we invested in her training.

And just as important, by continuing this pattern of discrimination, we will have leveled yet another blow at the dignity of so many gays and lesbians who serve in our armed services today.

Senator METZENBAUM has illustrated many reasons why we should abandon this discriminatory policy. Like what was once—and is now unthinkable—the ban on African-Americans serving in the armed services; or the now unthinkable idea that women cannot serve alongside men; so it is that we must now end this discrimination in the military toward men and women according to their sexual orientation.

Perhaps the most compelling argument of all is the dignity with which Captain Mindt and other lesbian, bisexual, and gay members of the armed services have faced discriminatory treatment—and will continue to face it, unless we do something to change this policy.

In increasing numbers, Captain Mindt and other lesbians and gays and bisexuals are standing up for their rights, and they are forcing us to choose. We can accept them with their skills and with their dedication and with their desire to serve our country, or we can continue our ill-conceived policy of discrimination, which wastes our resources and insults our soldiers.

Mr. President, I hope that we will move forward. I know, at the very minimum, there must be hearings before the Armed Services Committee. I hope that Captain Mindt will be able to testify at those hearings. I would like to see this amendment move forward. I would like to see this policy of discrimination ended now. At the very minimum, I hope the Pentagon will halt these investigations and other forms of harassment until the Congress can address the matter in Armed Services Committee hearings early next year. I think that is a very fair request.

Mr. President, finally, let me thank C. Scott Cooper, a gay member of my staff in Minnesota, one of the best constituent advocates that we have, who wrote this statement for me and is sitting in the Chamber of the U.S. Senate today. It is my honor to speak in behalf of this amendment. It is my honor to represent Pam Mindt and many other citizens in the State of Minnesota who hope for the day when we will end this pattern of discrimination in the military services. I yield back the remainder of my time.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I know the sincerity with which the Senator from Ohio and the Senator from Minnesota addressed this subject. I know the sensitivity of this subject and the degree of care that all of us owe this subject in terms of examining it very carefully. It is my belief that we should encourage every American to serve his or her country in some capacity, and I applaud the patriotism of all persons, including homosexuals, who desire to serve our Nation in whatever capacity, including the military.

I have no doubt that homosexuals have served, and I am sure in many cases are still serving, our Nation with distinction. But I also believe we need to give very careful consideration to the advice of our military commanders and those in uniform on this subject. Recently, Gen. Colin Powell, Chairman of the Joint Chiefs of Staff, offered the following observation in testimony before the Congress:

> It is just my judgment and the judgment of the chiefs that homosexual behavior is inconsistent with maintaining good order and discipline.

He goes on to say:

> What do I mean by that? I mean it is difficult in a military setting where there is no privacy, where you don't get a choice of association, where you don't get a choice of where you live and introduce a group of individuals who are proud, who are brave, who are loyal, who are good Americans, but who favor a homosexual lifestyle and put them in with heterosexuals who would prefer not to have someone of the same sex find them sexually attractive, put them in close proximity and ask them to share the most private facilities together—the bedrooms, the barracks, the latrines and the showers.

Continuing the quote:

> I think it is a very difficult problem to give the military. I think it would be prejudicial to good order and discipline to try to integrate that into the current military structure.

Mr. President, I am in agreement with General Powell's position on this subject. I also know there is another side, and I know that side needs to be considered. I have heard from people who feel deeply on this subject in my own State and many States. I have had conversations with them. I have talked with people who continue to serve with distinction in the military who are homosexuals. I think that this subject deserves the greatest care and sensitivity, and I think it deserves a hearing before our committee or other committees.

I can say to my friends from Ohio and Minnesota that I discussed this with the Manpower Subcommittee members. I talked about it with Senator GLENN and others, and we will be getting into this next year. We will have hearings on the subject next year. We will hear from all viewpoints, and we will take into consideration the viewpoints of our military commanders, the viewpoints of those in the homosexual community, the viewpoints of those who are in uniform today who may be homosexual, gay, and we will also consider the men and women in the military who are not in that category and their feelings and the effect it would have on military morale.

In the final analysis, our military is here to protect our Nation. We must consider the morale of the military force, we must consider the cohesiveness, we must consider all of those factors as well as the rights of individuals, all individuals, in the military.

So I can assure my friends that we will have this kind of comprehensive and, hopefully, thoughtful and, hopefully, sensitive hearing on this subject sometime next year.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the chairman has stated the seriousness of this issue. I respect the viewpoints as expressed by the Senator from Ohio and the Senator from Minnesota. I think at an appropriate place in the RECORD I shall also insert statements made by the Secretary of Defense at various times when this issue has been brought to his attention so that the RECORD at this point reflects the views of both the civilian commanding control and that of the uniform.

I share the view that we should have hearings next year and that they be full and fair and objective, and it may well be that we will reach a decision that this issue—for the moment I believe—this issue is in every respect as important to our security and to the human rights of individuals in the Armed Forces as that of women in combat. That issue is being handled, in my judgment, very carefully today by a competent commission, and it may well be following or during the course of our hearings that we might consider that as a means by which to gather in an objective and fair way that body of information that would be required for this U.S. Senate to reach a conclusion on that.

So, I will participate in the hearings with the chairman and other Members of the Senate in a very serious and objective manner.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

DOD MILITARY POLICY ON HOMOSEXUALITY—SECRETARY OF DEFENSE DICK CHENEY

DoD policy is that homosexuality is incompatible with military service. There are many reasons for this longtime policy, including the necessity to maintain good order, morale, and discipline; foster mutual trust and confidence among Service members; recruit and retain members of the Military Services; and maintain public acceptance of military service.

This policy means that DoD neither enlists nor commissions homosexuals, and discharges all those found to be homosexuals. Those discharged receive either honorable or general discharges, based on the character of their service, unless they committed certain aggravating acts (such as engaging in homosexual acts with a minor) in which case they can receive other than honorable discharges. Service members being discharged on the basis of homosexuality may request a hearing in all cases.

Federal courts have upheld DoD's homosexual exclusion policy and accepted its rational relationship to legitimate military purposes. In fact, since the current DoD policy on homosexuality became effective in 1981, every court that has ruled finally on the issue has upheld the policy.

Several recent news items have reported that DoD has changed its policies to allow retention of homosexuals for the duration of Operation Desert Storm, with mandatory discharge to follow when the Operation ends. These reports are erroneous. DoD has neither changed nor suspended its homosexual policy due to Operation Desert Storm. Homosexual military personnel will continue to be separated from the Military Services as promptly as circumstances allow.

Mr. NUNN. Mr. President, I hope we can await these hearings for the Senators to be called on to render a judgment on this with any kind of vote. But that, of course, is up to our friends who have an amendment pending.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I am frank to say I prefer to go to a vote. I think it is an issue that deserves to be put before the U.S. Senate and Members have an opportunity to vote up or down. I also respect the leadership of the chairman and ranking member of the Armed Services Committee. I appreciate their willingness to conduct a hearing next year. My concern—and I am frank to share it with them—is what does next year mean? Does that mean in the first 3 months, the first 6 months, or does it mean next December? And if we can be assured that it will be in the early part of the session—and I am not suggesting in February as we get into session, but I am saying that there is sufficient urgency on this matter that I hope that the chairman and the ranking member can give some assurance to the six or seven Members who are sponsoring this amendment that the hearing would be held in the very early part of the year. Under those circumstances, I would be prepared to take the amendment down.

Mr. NUNN. I say to my friend from Ohio that I do not want to give a precise date. I say, though, I think the subject ought to be heard before we complete our markup on the bill. That markup is completed in either May or June of next year. I think before that time we ought to have hearings because this ought to be the subject of that. I assure him we will have hearings on the subject before we mark up our bill.

Mr. METZENBAUM. Mr. President, before May, June, I think that is a reasonable period of time. I look forward to working with the chairman and the ranking member. I am sure I speak for Senator WELLSTONE as well and the other cosponsors.

Under those circumstances, Mr. President, I am prepared to withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The amendment (No. 3047) was withdrawn.

AMENDMENT NO. 3048 TO AMENDMENT NO. 3046

Mr. NUNN. Mr. President, what is the pending amendment?

The PRESIDING OFFICER. The pending question is amendment 3046.

Mr. NUNN. Mr. President, I propose a second-degree amendment to the Warner amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment 3048 to amendment 3046.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the pending amendment, strike out all after "Sec. 171." and insert the following in lieu thereof:

In addition to the funds authorized to be appropriated by section 106, the following funds are authorized to be appropriated:

(a) For the Army National Guard—

(1) for 3 P–180 aircraft, $12,000,000.

(2) for night vision goggles, $20,000,000.

(3) for single channel ground airborne radio system, $10,000,000.

(4) for 6 C–26 aircraft, $23,000,000.

(5) for medium truck service life extension program, $15,000,000.

(6) for M113A3 conversion program, $15,000,000.

(b) For the Air National Guard—

(1) for night vision goggles, $5,000,000.

(c) For the Army Reserve—

(1) for medium truck service life extension program, $25,000,000.

(2) for 12 C–12J aircraft, $42,000,000.

(3) for night vision goggles, $20,000,000.

(4) for single channel ground airborne radio system, $10,000,000.

(d) For the Marine Corps Reserve—

(1) for night vision goggles, $10,000,000.

(2) for single channel ground airborne radio system, $5,000,000.

(e) For the Air Force Reserve—

(1) for night vision goggles, $5,000,000.

Mr. NUNN. Mr. President, this is a subject matter we discussed a few minutes ago relating to the National Guard. We are still working on this. But it is my hope we can work out this amendment.

This is an amendment to the Warner amendment. I would suggest, if it is agreeable to my friend from Virginia, that we set this amendment aside. I know the Senator from Pennsylvania and I have been working on an amendment relating to NATO, and I would like to bring that amendment up next.

Mr. President, I ask that the second-degree amendment I have just forwarded to the desk and the first-degree amendment be set aside for the purpose of taking up the Nunn-Wofford-Warner amendment on NATO.

The PRESIDING OFFICER. Amendment 3048 will be set aside.

The Senator from Pennsylvania is recognized.

Mr. NUNN. Mr. President, I would like to propound on this one—I believe it would be agreeable to the Senator from Virginia and the Senator from Pennsylvania—that there be a 30-minute time limitation to be equally divided between myself and the Senator from Virginia.

Mr. WARNER. Quite agreeable, Mr. President.

Mr. NUNN. And, Mr. President, no amendment to be in order to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WOFFORD. I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, in the conference report on last year's Defense Authorization Act, Congress declared that—

> Barring unforeseen developments which result in a substantial increase in the threat to the national security of the United States, the Armed Forces should plan for an end strength level of members of the Armed Forces assigned to permanent duty ashore in European member nations of NATO that should not exceed approximately 100,000 members by the end of fiscal year 1995.

In setting this planning target, Congress specifically cited—

> The reduction in the threat of attack on Western Europe and the improved ability of other member nations of NATO to carry a greater share of the common NATO defense burden.

The sense of Congress on this issue as expressed in last year's act was consistent with the views of a wide range of former U.S. officials with distinguished careers in European security affairs. For example, a Johns Hopkins Foreign Policy Institute report issued in 1991 by a working group that included former NATO Ambassador David Abshire, former Defense Secretary Harold Brown, former National Security Adviser Zbigniew Brzezinski, former SACEUR Andrew Goodpaster, former SAC Comdr. Russell Dougherty, and former Army Chief of Staff Edward Meyer recommended that—

> U.S. forces deployed ashore in Europe should be reduced during the next 5 years to less than 100,000.

Mr. President, the Johns Hopkins study was in no way a pro-isolationist report. It did not urge our Government to bring all the boys home. It did not recommend fortress America. To the contrary, the report reflected the views of American men and women who believe strongly in NATO, in the necessity of America remaining firmly engaged in Europe, and in the importance of our Armed Forces remaining in Europe in strength.

Where they disagreed with the Bush administration—and where I believe most Members of Congress disagree with the administration—is with regard to the mission of those forces that will remain in Europe. From this difference in mission definition flows a difference in the number of troops that need remain.

On March 3, Gen. John Galvin, commander in chief, U.S. European Command [EUCOM], testified before the Armed Services Committee on the administration's views regarding the purpose and mission of our European-based forces. General Galvin informed the committee that EUCOM had developed a European base force under which approximately 150,000 U.S. servicemen and servicewomen would remain assigned to permanent duty ashore in Europe from the end of fiscal year 1995 onward. Under the EUCOM plan, the lionshare of this force would be constituted in a full-up combat corps with three or four associated air wings. Particular emphasis was placed on the availability of this corps for redevelopment to other regions.

Mr. President, I agree with the view expressed by General Galvin and other senior Defense Department officials that the currently planned pace of post cold war U.S. troop withdrawals from Europe could not be increased without inflicting undue and unfair hardships and distress on EUCOM military personnel. In this fiscal year alone, EUCOM is returning over 70,000 U.S. servicemen and 90,000 family members from Europe. That is the equivalent of a 747 airliner full of GI's and dependents taking off every day, or of moving the entire population of Savannah, GA, in 1 year. These are the men and women who helped win the cold war, and we must take their well-being into account as we build down our military establishment.

While I agree with the pace of withdrawals planned by the administration, I do not agree with its contention that U.S. forces in Europe cannot be reduced below the level of 150,000 without vitiating U.S. political influence in NATO or undercutting EUCOM's capability to carry out its essential military missions.

At a level of 100,000, the United States can maintain what Gen. Shy Meyer has termed "reception forces"—that is, forces needed to support a large-scale reinforcement of Europe should a future contingency so require. According to current intelligence estimates, NATO would have months, if not years, warning of any hypothetical

Russian effort to reestablish a credible invasion threat to Western Europe, so there is no need to keep an entire U.S. corps stationed in Europe in peacetime to guard against this remote eventuality.

At a level of 100,000, the United States can maintain those forces needed to perform such noncombat functions as logistics, transportation, intelligence, and command, control, and communications. It can fully staff U.S. billets at NATO headquarters and planning staffs. It can keep the 6th Fleet in the Mediterranean, organized around an aircraft carrier task group. At the 100,000 level, the United States can also maintain land and air combat units of considerable strength and flexibility, including armored cavalry regiments and Air Force units equipped with tactical nuclear weapons.

What cannot be sustained at the 100,000 level, though, is the full-time deployment in Europe of an entire Army corps, with two-plus divisions, and three or four associated tactical air wings. Instead, the United States would most likely need to make maximum possible utilization of rotational deployments for those Army brigades and Air Force squadrons which are part of the divisions and air wings which EUCOM has assigned to NATO multinational formations but which cannot be based in Europe under this ceiling.

Rotating units need not undermine the efficacy of our forward presence. As noted in General Powell's January 1992 report on U.S. national military strategy:

> In addition to forces stationed overseas and afloat, forward presence includes periodic and rotational deployments, access and storage agreements, combined exercises, security and humanitarian assistance, port visits, and military-to-military contacts.

Moreover, as noted in a more recent Johns Hopkins report by an another, equally distinguished panel of security experts: a new policy of unit rotation—

> Would lower the cost of stationing U.S. forces in Europe, reduce the problems associated with environmental protests in Germany, and enhance acceptance of the continuing presence of U.S. Forces by public opinion in the United States and Europe.

In sum, the main difference between 150,000 and 100,000 is that under normal circumstances the United States would not plan to use Europe as a launching pad for redeploying a corps sized expeditionary force to some other part of the world to deal with a regional contingency. This does not mean that the United States could not respond to regional contingencies or that it would necessarily take longer to respond to regional crises. Most quick reaction elements of the U.S. Armed Forces, including our airborne and air mobile divisions, are stationed in the United States.

Reducing U.S. troop strength to a level of 100,000 would also not result in the loss of America's potential influence in Europe. America's ability to maintain political leadership and influence in Europe is not simply a function of the number of forward-deployed troops we have on the ground there at any one time. Rather, it reflects a broad array of military, economic, and political factors, including our force projection and reinforcement capabilities, our strategic nuclear superiority, our economic strength and vitality, and perhaps above all, the vision, logic, dynamism, and innate morality of our ideas and policies.

The amendment which Senators COHEN, LEVIN, WARNER, CONRAD, and WOFFORD, have joined with me in offering amends the congressionally mandated European troop strength [ETS] ceiling established in the National Defense Authorization Act of 1985 to require a reduction in the number of members of the Armed Forces assigned to permanent duty ashore in Europe from the current ceiling of 235,700 to a level not to exceed 100,000 by the end of fiscal year 1996. The amendment would allow EUCOM to remain on course to reach the 150,000 level by the end of fiscal year 1995, and thus would not force a greater pace of reductions than now planned. However, once the 150,000 level was attained in 1995, it would require a further increment of 50,000 withdrawals during the following year.

Mr. President, this amendment basically allows the pace of the withdrawals to continue as the pace is now set forth. This would not put additional burdens on our military in terms of the pace. It would have a final point at a lower level in the outyears.

AMENDMENT NO. 3049

(Purpose: To reduce to 100,000 the number of members of the Armed Forces of the United States assigned to permanent duty ashore in NATO countries of Europe by the end of fiscal year 1996)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself, Mr. COHEN, Mr. LEVIN, Mr. WOFFORD, Mr. CONRAD, and Mr. WARNER, proposes an amendment numbered 3049.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 487, between lines 12 and 13, insert the following:

SEC. 1064. REDUCTION IN THE AUTHORIZED END STRENGTH FOR MILITARY PERSONNEL IN EUROPE.

(a) REDUCED END STRENGTH.—Subsection (c)(1) of section 1002 of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note), is amended by striking out "235,700" in the first sentence and all that follows and inserting in lieu thereof "100,000.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1995.

Mr. NUNN. Mr. President, this is the amendment that I am alluding to. This is an amendment by myself and Senators COHEN, LEVIN, WOFFORD, CONRAD, and Senator WARNER who has had a major role in drawing up this amendment. The long and short of it is this amendment continues the present pace but it has a different final arrival point in terms of 1996.

We all recognize there are contingencies that could arise, there are changes that could take place, there are disruptions that could occur. Congress would be in session every year from now until 1996 if we saw a need to adjust this one way or the other. It cannot be done, of course. But this would at least point in the clear direction of where we will expect to arrive, if we give our forces and our planners an opportunity to make force structure plans and strategy plans in accordance with this overall direction.

Mr. President, the Senator from Pennsylvania has played a major role in this. He came to me with certain suggestions about this policy. We have had a long dialog and a close cooperative effort on this.

I now yield the floor for his remarks and the remarks of others.

The PRESIDING OFFICER. The Senator from Pennsylvania [Mr. WOFFORD] is recognized.

Mr. WOFFORD. First, I want to thank Senator NUNN for his leadership in redefining our national security needs and this amendment.

I thank Senator WARNER for his good leadership.

Through more than four decades of the cold war, the American people have been prepared, as President John Kennedy said, to "pay any price, bear any burden, meet any hardship, support any friend, oppose any foe" to fend off threats to liberty posed by the Soviet Union. The Soviet threat persuaded America to spend trillions of dollars on nuclear arms and conventional forces stationed around the world.

Nowhere have we paid a greater price or borne a greater share of the burden than in Europe. Throughout the cold war, roughly 40 percent of our defense budget was spent to defend Western Europe.

When hundreds of thousands of Soviet troops were lined up along the Iron Curtain—there was a strong case for stationing a large number of troops in Western Europe. But the Warsaw Pact has dissolved. The Berlin Wall has fallen. The Soviet Union has crumbled. The threat of a major, surprise ground attack no longer exists. As the times are new, Lincoln said, so we must think anew and act anew. We have to adjust our military to meet these new realities.

Our allies are already doing so. Great Britain is cutting its armed services by 20 percent in 3 years. Germany is committed to a 30-percent cut over 2 years.

They see the necessity of shifting military spending to meet domestic needs. And while our share of troops in Germany is growing—from 62 to 70 percent by the mid-1990's—our allies role is shrinking. While we discuss burden-sharing, our allies are in the process of burden-shedding.

While we subsidize their defense, they are investing their tax dollars in educating their children, rebuilding their infrastructure, upgrading their industrial base and improving their trade balances.

During consideration of last year's Defense authorization bill, Congress recognized that we need to change course. We included a provision that expressed the sense of the Congress that we should reduce our burden in Europe by reducing our troop levels there. The amendment we're offering moves one step further: it requires these troop reductions. Our amendment bars the deployment in Europe of more than 100,000 U.S. military personnel after fiscal year 1996.

The administration already plans to reduce the number of troops stationed in Europe—from 210,000 to 150,000 by the end of 1995. The Department of Defense believes that 150,000 represents a robust force. I believe that this robust force is an obsolete force—still designed with the great European land war in mind.

But now the greatest threats to European peace are ethnic conflicts within states or clashes between neighboring countries.

The crisis in Bosnia highlights the need to restructure our European defense system. It reinforces the fact that American forces have a new mission in the post-cold war world—peacekeeping, humanitarian relief and protection of minorities. To do this, we must maintain a flexible, mobile force in Europe that is integrated with the forces of our European allies. Of course we must be prepared to confront threats from resurgent elements in the Soviet Republics or from instability in Eastern or Central Europe. But 100,000 American troops is more than sufficient to perform the light combat operations that these threats may require.

Recent studies confirm this conclusion. Just last month, the Carnegie Endowment National Commission concluded that the U.S. military presence in Europe should be substantially reduced, and "should consist primarily of naval and air forces and a modest ground element including the logistical and administrative resources necessary for rapid reinforcement." Participants in the study include former Secretary of Defense Frank Carlucci and Adm. William Crowe Jr., former Chairman of the Joint Chiefs of Staff.

A 1991 study by Johns Hopkins University recommended that "the U.S. forces deployed in Europe should be reduced during the next 5 years to less than 100,000."

And a study by the Project on Defense Alternatives concluded that reducing our European troop level at least by an additional 50,000 is a "vital step toward an appropriate and sustainable U.S. defense posture for the new era."

As the gulf war taught us, the instability of the post-cold-war world will require an efficient, mobile flexible American military capacity that is equal to any new test—not just the old test of war between two superpowers. The 1993 Defense authorization bill addresses this need by focusing on our airlift and sealift capabilities.

Mr. President, I hope that fewer overseas deployments will enable us to take up Senator NUNN'S proposals to use the talents of our armed forces to assist civilian efforts in areas of critical domestic need, where it is consistent with their military mission. The men and women of our military have the skills we need to train our young people and rebuild our cities, roads, and bridges.

Members of our armed services can serve as role models. In schools, in our communities, and in youth service programs, we can use the talents of our soldiers to fight the war against drugs, hunger, homelessness, and despair.

The imaginative chairman of the Armed Services Committee has included a military community service program in the defense authorization bill for fiscal year 1993. Both he and Senator WARNER have worked hard to show the important and constructive role the military can play in meeting the needs of our families and communities here at home and I salute them for their efforts.

The democratic revolution in the Soviet block has turned our old assumptions about the world upside-down. We have a golden opportunity to turn our national priorities right side-up by reinvesting in our schools and our workers, in our health and transportation system and rebuilding our economy.

But first, we must acknowledge that real strength in this post-cold war world will come less from the barrels of our guns than from the health of our economy, less from our ability to build smart bombs and more from our success in training sharp minds. What Europe—and the rest of the world—need most from the United States is that we succeed in solving our own most critical economic, educational and environmental problems. And as we do regain our strength at home, we will be even better prepared to be a strong leader in the world abroad. I therefore urge my colleagues to support this amendment.

Mr. President, I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia [Mr. WARNER] is recognized.

Mr. WARNER. Mr. President, a number of Senators have worked on this particular amendment, primarily the distinguished chairman and the junior Senator from Pennsylvania.

My participation has been that of trying to see if a greater period can be incorporated to accommodate what I and others believe is the need for more time in which to achieve the 100,000 level.

I wish to thank both of the distinguished Senators for their cooperation. I also wish to thank the Senator from Maine, who has participated in the series of studies which indeed are the foundation for the amendment now before the Senate.

I am hopeful that the Senator from Maine [Mr. COHEN] will soon address that. For that purpose, Mr. President, if I could be reminded at the conclusion of 10 minutes of the 15 that I have under my control.

Mr. President, I also wonder if the sponsors of the amendment at this time could indicate for the benefit of the Senate if a vote is desired; that is, a record vote. I would think not. I will let them speak for themselves.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment offered by the chairman of the Armed Services Committee to reduce troop strength in Europe.

The United States is currently in the process of reducing our forces in Europe by 50 percent. Under this reduction, our forces in Europe will reach an end strength of 150,000 by the end of 1995. General Powell, the Chairman of the Joint Chiefs of Staff, has stated in hearings before the Armed Services Committee, that in 1995, the Department of Defense will review the size of the Base Force, including the size of our forward deployed forces in Europe. Mr. President, through this legislation we would undermine the judgment of our military leadership and predetermine the political and military situation in Europe 4 years into the future. A review of events of the past 24 months should tell us that this is imprudent.

Mr. President, our senior military leaders have testified that a force of 150,000, consisting of one Army Corps with associated air wings and support personnel is the minimum force needed to fulfill our commitment to NATO and to retain a minimum operational capability. This sentiment was echoed before the Senate Armed Services Committee by a panel of experts on European security. They all urged the committee not to accelerate the pace of the drawdown currently planned by the administration.

Mr. President, to ignore the judgment of these experts could jeopardize our position in Europe and the military leadership of the United States. I urge the Senate to reject this amendment.

Mr. CONRAD. Mr. President, I am very pleased to be an original cosponsor of this amendment which will limit the number of U.S. troops stationed in Europe to no more than 100,000 by 1996.

This is a goal I have pursued for several years. In 1990 and 1991, I offered amendments similar to this one. I have great respect for the leadership the chairman of the Armed Services Committee has shown on this issue, and it is a real privilege to join him on this amendment today.

We have seen historic changes in the world in the past few years. In 1989 and 1990, a democratic revolution swept across Eastern Europe. In 1991, this revolution reached all the way to Moscow, and the Soviet Empire was no more. Even before last year's dramatic revolution in the Soviet Union, it was clear that the military threat to Europe was greatly reduced.

The world has changed, and it is time for our defense policy to change as well. For almost 50 years, the United States has guaranteed the security of Western Europe by stationing hundreds of thousands of troops there. At the height of the cold war, this made sense. The Soviet Union kept almost half a million of its own troops in East Germany alone, armed with tens of thousands of tanks and planes and guns. We had to guard against the very real threat of a Warsaw Pact attack.

But that threat is now gone. Where is the threat to the security of Western Europe? Does anyone really believe that the security of Europe or the United States is threatened by a potential Russian attack? Instead of threatening European security, Russians and Ukrainians are instead courting European investment.

Furthermore, our Nato allies in Europe are now fully capable of guaranteeing their own security. Western European forces alone, without United States troops, are now stronger than those of Eastern Europe. The European Community has over 300 million people and a GNP greater than that of the United States. Surely these countries are able to bear the costs of defending themselves.

Mr. President, if the threat to our security has diminished, and our allies ability to defend themselves has grown, then clearly, it is time to bring a large number of the U.S. troops home from Europe. We currently have over 200,000 troops on the continent. The President has proposed reducing that number to 150,000 by the end of 1995. That does not go far enough.

Our NATO allies are in the process of reducing their own troop deployments at such a rate that by 1995 the U.S. share of troops deployed forward in Germany will actually increase from 62 percent to 70 percent. In addition, the United States will continue to make up 31 percent of all NATO-committed divisions. In short, our allies are reducing at a greater rate than we are.

While we continue to pour billions of dollars into defending our allies, they are taking their defense dollars and investing them in their economy, in their infrastructure, in their health care systems. In other words, they are doing exactly what we here in the United States should be doing. The greatest threat to our national security does not come from foreign militaries—it comes from our declining economy, from our soaring deficits, and from our refusal to address the domestic problems that our country faces.

Mr. President, I believe that the United States has a part to play in the defense of the free world. There is certainly a need to station some U.S. troops overseas. However, we can reduce the number of troops without reducing our security. We can bring our men and women home and save the cost of maintaining them overseas. They will still be defending our country, but they will be doing it on our shores, and they will be able to spend their hard-earned salaries in American stores, helping American businesses, and not those of an allied country.

This amendment is a small but significant step in recognizing the changes that have occurred in the world. It will save us money, and it will require our allies to take greater responsibility for their own defense. That's good for America and good for our allies.

Mr. NUNN. Mr. President, I hope we would just have a voice vote on this amendment. That would be my preference. We have about 24 other amendments that have been worked out, and I would hope that right after this amendment is hopefully accepted by the Senate, we will return to those amendments.

Mr. WARNER. Mr. President, I thank the distinguished chairman and the Senator from Pennsylvania and others. I wanted to clarify that for the benefit of other Senators.

Originally, the President, in his submission, after consultation with the Secretary of Defense and the other NATO nations, was of the opinion that 150,000 troops were needed in Europe, and, quite frankly, this Senator, and I believe others, shared the view of the President. But the realities are that the Armed Services Committee, having reviewed this, and the House of Representatives, likewise having reviewed it, the reality is that the figure of 100,000 will be the sense of the Congress. I am hopeful that the House will accept this additional year as reflected in the Nunn-Wofford amendment.

Mr. President, at the present time, the right of men and women departing the NATO command and coming back to the United States is at such limits—approximately 500 a day, several thousand a month—is stretching the capacity to logistically perform this in a manner that I think is consistent with the dignity of the men and women in the Armed Forces and their need to provide not only for themselves but their families. This additional year will help the planners in the Department of Defense achieve those goals for the men and women in the Armed Forces.

Mr. President, I think there is an ancillary issue to this amendment—and I will provide an amendment later on which is now being drawn—and that goes to the need, in my judgment, for the United States and the other members of NATO to sit down and review the charter, as drawn in 1949, review it in the light of the dramatic events that have occurred in Europe, namely, the demise of communism—and also in light of such predictions as we can make in looking toward the future. Two specific examples: Elements of the NATO forces played a pivotal role during the gulf war.

Their presence in Europe, the presence also of the strategic support to get those elements to the gulf region were key to the allied success in the gulf operation.

And now the tragic events that are taking place in the former nation of Yugoslavia, primarily in Bosnia, have once again raised the issue of the extent to which NATO should become involved in the growing number of unstable situations in the Balkans, Eastern Europe, and indeed in the former Soviet Union.

I think it is incumbent upon the NATO ministers with their respective heads of state in the government to begin to sit down and say with greater specificity what should be done.

My amendment will call upon the executive branch to work this issue and to report back to Congress, because were elements of the NATO forces to be employed, say, in the situation in Bosnia, a situation that really raises the passions and the concerns of every Member of this body. The violation of human rights there is unparalleled, almost since the closing days or indeed the period of World War II. Therefore, I think it is imperative that we move along and address this issue, and in the coming year we wish to address it.

I had the privilege in the last few weeks to visit with the Supreme Allied Commander in Europe, as well as the Allied Forces South Commander.

Both of these leaders are concerned about the troop levels in Europe. They will do, of course, the best they can to comply with whatever laws are adopted by our country with respect to our forces. But they pointed out to me very clearly the stability that the U.S. contribution, at whatever level, provides Europe; that that level has to be credible in the eyes of our European partners in NATO. It has to be credible, and the size and configuration and equipment of our Armed Forces must project an unquestioned signal to that area of the world that we mean business, and we are there as their partners to bring about peace and stability within the current framework of the NATO charter.

We will be studying later this year the report of the Chairman of the Joint Chiefs, together with the comments of the Secretary of Defense, on the roles and mission of the U.S. Armed Forces. I think that will provide a very helpful foundation of an ensuing study as to the roles and missions of the future of our NATO forces. Indeed, one is integral to the other, in my judgment.

Twice, our Nation has been called upon to return to European soil to help our allies and friends bring about peace and stability. We withdrew rapidly at the end of World War I, learned our lessons, and had to return in the 1940's. We withdrew rapidly at the end of World War II, but then again had to return. It is that return that led to the formulation of NATO and perhaps the single most significant coalition of forces under a common treaty in the history of mankind. In terms of its success, the efforts of this country, succession of our Presidents, and our contribution to NATO were integral to the demise of communism worldwide.

So, regrettably, this figure is below what I would like to have had, and I think that of our President, the Secretary of Defense, and the Chairman of the Joint Chiefs. But recognizing that this will be the figure agreed upon by the Congress, I will support this amendment. But, at the same time, I wish to make two additional observations, and that is that I hope that sufficient flexibility is within this amendment to allow the Secretary of Defense and the Chairman to provide for the men and women in uniform—the current pace of the drawdown in Europe is being achieved only at a very high personal cost to the individual service members.

Fortunately, this amendment would increase the pace of reductions somewhat. Again, if the reductions continue to have enormous human costs, I will seek to stretch out the time for reaching the 100,000 level beyond the fiscal year 1996 timeframe contained in this amendment at some subsequent time for our legislative calendar.

Further, this body will be facing its support for this amendment and the eventual law on the belief that the positive trends we have witnessed over the past years in Europe, with the demise of the former Soviet Union, will continue. Given the situation, as I mentioned, in Yugoslavia, the former nation of Yugoslavia, that assessment could well now be changing.

I shall continue for a minute and then yield the floor.

Continuing, I would like to put the Senate on notice that if the security situation in Europe between now and 1996 represents an increased threat to our U.S. interests or those of our allies, I would join others in seeking to amend this legislation accordingly.

Mr. President, I hope that my colleague from Maine will have the opportunity to address the Senate on this and I, therefore, yield the remainder of my time to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 4 minutes.

Mr. COHEN. I thank the Senator for yielding.

Mr. President, I will be very brief. I think it is important that the Senator from Virginia made the statement that he just delivered. There is a notion in this country, and I believe it is a false notion, that the United States is engaged in Europe solely to defend the Europeans. Nothing could be further from the truth. We are there in Europe to help defend not only the Europeans, our friends and allies, but also to defend U.S. interests in a stable Europe—and I want to place emphasis on the word "stable."

Why should we be concerned about a stable Europe? Why be concerned about Britain, or Germany, or France, or Italy, or Czechoslovakia or Hungary or Poland? What is it to us? Well, the Senator from Virginia has just pointed out what it means to us, that a small brush fire that starts as an ethnic conflict can suddenly surge into a major conflagration which in turn can consume the United States in its flames. I think that we have to always be concerned about a stable Europe. It is in our interest.

As a matter of fact, the word "stable" reminds me of something that Larry Eagleburger, our Acting Secretary of State, said some years ago. Nearly 4 years ago, he pointed out that with the end of the cold war we were likely to see a spread of nationalism and a great deal of instability generated by ethnic hatreds. Almost immediately he was attacked by a number of leading members of the Democratic Party as being "nostalgic for the cold war."

That is not at all what Larry Eagleburger said at that time. What he did say was something of a variation of what Lincoln Steffens said years ago. Steffens said he had "seen the future, and it works" after having visited Russia. Larry Eagleburger said, "I have looked into the future, and I am not sure it is going to work." We have to be cautious, he said, because we, just by virtue of the significance of the end of the cold war, cannot guarantee to our citizens that it is going to be a more peaceful and a more stable world environment.

So I think the Senator from Virginia has raised some valid points, and that is exactly why we have built into the amendment sufficient flexibility.

The Senator from Pennsylvania has talked about the conflicts of the future, saying there will likely be ethnic conflicts. We are now witnessing an ethnic conflict, indeed ethnic cleansing.

Let me suggest to you that ethnic conflicts will be no less violent than any other type of conflict, no less dangerous to human life, no less horrible in the consequences to human life, and it may require forces of considerable magnitudes.

Frankly, I was stunned with the rapidity with which this body acted to encourage the use of military force in order to ensure the delivery of humanitarian assistance to those people caught in that horrible war over in what used to be Yugoslavia after we had received military testimony that it might require as many as 75,000, possibly 150,000 troops just to ensure delivery of humanitarian assistance to the single city of Sarajevo.

That was brushed aside, saying, so be it, we will make the commitment, though not U.S. troops. But somebody has to commit the troops. The fact remains that if we do not commit the troops, it is not going to happen. Yet this body went on record in overwhelming numbers to say let us guarantee safe passage for those forces trying to deliver humanitarian assistance.

I think the Senator from Virginia raises a proper note of caution. I worked with Senator NUNN and others to develop this amendment. We have been a part of the Johns Hopkins study groups. I believe that we can and should strive to get down to a figure roughly between 75,000 and 100,000 troops in Europe. I think that we can achieve that. But we also want to be cautious that if events and the current trends should reverse themselves, we have enough flexibility to restore the troops that are currently being removed.

EUROPEAN TROOP STRENGTH LIMITS

Mr. President, in 1984 the Senate adopted an amendment I sponsored that wrote into law a cap on the number of American military personnel that could be permanently stationed ashore in Europe at 326,414. This was the outcome of the debate on the Nunn amendment, which sought to link U.S. troop levels to European efforts to improve conventional forces.

In the years since then, Congress has reduced this European troop strength ceiling to correspond to the troop withdrawals the United States has made in response to the changing situation in Europe. The legal ETS ceiling currently is 235,700. This exceeds the number of troops we have in Europe, and we are of course continuing to withdraw personnel from Europe.

Last year, Congress adopted a sense-of-Congress provision pointing toward further reductions in U.S. troop levels. This provision cited "the reduction in the threat of attack on western Europe" and "the improved ability of other member nations of NATO to carry a greater share of the common NATO defense burden." Based on this, the provision stated that "barring unforeseen developments which result in a substantial increase in the threat to the national security of the United States, the Armed Forces should plan for an end strength level" in Europe of "approximately 100,000 by the end of fiscal year 1995."

Since that time, a number of events have transpired that are directly relevant to this issue:

With the conclusion of Operation Desert Storm, the United States proceeded with a massive drawdown of European based-forces. This includes such fundamental realignments as the disestablishment of the VII Corps, which was a bulwark of both our European and Desert Storm forces. This real world experience has taught us what is feasible and what is not as we draw down our forces. In particular, we have learned that large, rapid cuts were attainable for forces that were already on the move for Desert Storm, but that such rapid reductions are far less attainable for the rest of the military community in Europe including dependents and forces that remained in Europe during the gulf war.

Second, since last year, there has been notable movement by West European nations in the effort to develop a European security and defense identity, although this movement has not all been forward. In October, London and Rome put forward a proposal regarding these matters which was quickly matched by a proposal from Bonn and Paris. In Maastricht, a somewhat murky compromise was crafted between these proposals, with key decisions put off until 1996, when a review is to begin of the relationship among the European Community, the Western European Union, and NATO. Subsequently, however, the fate of the Maastricht agreements has been called into question by a general unease among European publics with Maastricht, as reflected in the Danish referendum, challenges in the German Bundesrat, and serious doubts about approval of the Maastricht referendum in France, which has contributed to the recent financial and political turmoil in Britain, Italy, and elsewhere in Europe.

Third, since last year, General Powell and General Galvin have laid out a more detailed description of and justification for the proposed European Base Force of 150,000 U.S. personnel in Europe. While I do not accept that this 150,000 force level is required if positive trends in Europe continue, we are now in a better position to understand the implications of possible reductions below 150,000.

Finally, a hot war has erupted in Europe over the last year. The war in the Balkans highlights both the new threats that exist in Europe and the fact that we simply cannot predict with certainly what the future holds, which should lead us to act with caution in reducing our force structure in Europe and, indeed, in general.

Primarily based on the first of these considerations, the real world experience of drawing down our forces in Europe, it is clear that we cannot reduce our European forces to 100,000 personnel by fiscal year 1995 without causing undue harm to our forces both in terms of their professional capabilities and their personal situations, especially for those with families.

Accordingly, we are proposing to reduce the ETS ceiling to 100,000, but to make it effective in fiscal year 1996. This will still strain our forces and lead to considerable disruption, but it should be much more manageable than an effort to accomplish these reductions by fiscal year 1995.

Mr. President, it is important to note that this recommendation to reduce to 100,000 troops in Europe is based on certain assumptions and is valid only to the extent that those assumptions are valid. During consideration of this matter at the time of the Armed Services Committee's markup of the defense bill, there was agreement between majority and minority:

That this recommendation assumes the continuation of favorable trends with regard to both the threat and continued European efforts to move toward development of a genuine European security and defense identity, while also strengthening the European pillar of NATO; and

That given the rapid and unexpected changes witnessed in Europe of the past several years, the committee reserves the right to revisit this issue prior to the effective date of the new end strengths if future developments call into question either of these assumptions.

Clearly, Mr. President, our decisions on troop strengths in Europe cannot be made outside the context of the politico-military situation and changes in that situation could affect our decisions. That cannot be prejudged, and this amendment does not seek to prejudge the matter.

The PRESIDING OFFICER. The Senator from Georgia has 7 minutes remaining.

Mr. NUNN. Mr. President, I yield 2 additional minutes to the Senator from Maine so he may complete his statement, or 3 minutes; whatever he desires.

Mr. President, the Senator from Maine has worked on this subject I think more than anyone in the U.S. Senate in the last 5 or 6 years on the whole question of NATO. He has led delegations year after year to the annual conference. He has been our leading person on that time after time. He has been on the Johns Hopkins study panel. I have been on that with him. He had a large input into that. He has a tremendous amount of knowledge about this area. He also has tremendous respect in Europe from people there in NATO circles, military and civilians alike.

I was very interested in his remarks and thank him for his leadership. I believe we are on the right course here and I thank the Senator from Pennsylvania for his leadership in stimulating this discussion and this amendment and in basically taking the lead on it.

Mr. President, I am prepared to yield back the remainder of my time unless someone wants to be heard on the amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to join the distinguished chairman in recognizing the contributions that the Senator from Maine has made. Indeed he does speak with many, many years of experience in this area and I think he would also agree with me that one other aspect of our participation in NATO, injecting credibility, is our own economic interest. I know in the area of allied forces in the south, no less than seven nations under the jurisdiction of Admiral Border have a positive trade balance with the United States of America. And that does not happen just by coincidence. Our presence there in many forms means a great deal to our own economic security.

I thank the Senator from Maine.

Mr. NUNN. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the amendment.

The amendment (No. 3049) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3048 TO AMENDMENT NO. 3046

Mr. NUNN. Mr. President, what is the pending business at this point?

The PRESIDING OFFICER. The pending business is amendment 3048 to amendment 3046.

Mr. NUNN. Mr. President, at this time, I would propose that we handle approximately 24 amendments that we have gone over very carefully on both sides of the aisle. We have worked for several days with the authors of these amendments and these amendments are all cleared on both sides. I will be explaining these amendments briefly, so I ask unanimous consent that the pending amendments be temporarily laid aside for the purpose of considering 24 cleared amendments and that during the pendency of these amendments no other amendments be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3050

(Purpose: To increase funding for the Army Environmental Policy Institute)

Mr. NUNN. Mr. President, on behalf of Senator DIXON, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. DIXON, proposes an amendment numbered 3050.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, line 25, strike "$3,033,720,000" and insert in lieu thereof "$3,032,220,000".

On page 66, line 3, strike "$14,191,715,000" and insert in lieu thereof "$14,193,215,000".

Mr. NUNN. Mr. President, this amendment has been cleared on both sides. It will increase the funding of the Army Environmental Policy Institute from $3 to $4.5 million, and I urge adoption.

Mr. DIXON. Mr. President, this amendment would increase the funding authorized in the committee bill for the Army's Environmental Policy Institute in fiscal year 1993 from $3 to $4.5 million. This increase is necessary to maintain the funding for this important Institute at the current level during fiscal year 1993.

The Army's Environmental Policy Institute was established in 1990 by the Secretary of the Army. In essence, this Institute is an environmental policy think tank for the Army. The Institute is developing long-term management strategies for environmental issues associated with base closings, hazardous and solid waste management, and protection of natural and cultural resources. Experience has shown that the development of proactive, coordinated environmental strategies is the key to successful, cost-effective environmental programs.

This amendment does not increase the overall funding level of the bill reported by the committee. The increase of $1.5 million for the Army Environmental Policy Institute is offset by a reduction to the Other Procurement, Army account. This reduction can be accommodated by lower purchases of secondary item inventories.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. If there is no objection, the question is on agreeing to the amendment.

The amendment (No. 3050) was agreed to.

AMENDMENT NO. 3051

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senators ADAMS and GORTON and ask it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. ADAMS (for himself and Mr. GORTON) proposes an amendment numbered 3051.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Of the funds authorized to be appropriated by title III for Operation and Maintenance, Army, $150,000 is authorized to be used for a program design and feasibility study to provide a residential program for military dependents with severe behavior disorders at Madigan Army Medical Center.

Mr. ADAMS. Mr. President, I rise today to offer an amendment to the National Defense Authorization Act, S. 3114. The amendment would authorize funds for a program design and feasibility study to provide a residential program for military dependents with severe behavior disorders at Madigan Army Medical Center.

Currently, military dependents who have behavior disorders, are sent to out-of-State facilities because Madigan is unable to provide residential treatment. Ten military dependents have been placed in out-of-State residential centers, some as far away as Texas. The cost per child for out-of-State care is approximately $17,000 to $20,000 per month. Virtually none of those facilities, however, accept Civilian Health and Medical Program of the Uniformed Services [CHAMPUS].

In order to keep families together, Madigan and the school district located adjacent to it, Clover Park, are eager to provide residential and day treatment as well as educational services for these military dependents.

Madigan, in cooperation with Clover Park, proposes to develop a model program to serve military dependents through residential, day treatment, home-based and in-school services. The program would provide facilities, services, and staff for the treatment of these students. The program would be similar to the child study model which is accredited by the Joint Commission for the Accreditation of Hospitals.

Such a program would be extremely cost-effective. The Madigan program would support itself through the annual State institutional support apportionment of $10,500 per student, Medicaid for eligible students, and CHAMPUS.

I thank the committee for its acceptance of this important amendment.

Mr. GORTON. Mr. President, local school districts near the Madigan Army Medical Center in Washington State have a number of military dependents designated as severely behavior disordered. Washington State's Child Study and Treatment Center [CSTC] is used for midterm psychiatric care, but is currently faced with long waiting lists. As a result, military dependents are being sent away to schools outside the State at a cost of approximately $17,000 a month per student.

In order to ease the financial and emotional strain placed on both the local school districts and military families, Madigan Hospital has proposed to set up a program model to serve military dependents with severe mental disorders. The placement options would include residential, day treatment, home base, and in-school programs and would allow military dependents to live with or near their families.

The new Madigan Hospital has just been completed. Once the equipment and staff move to the new hospital, the psychiatric school will be located in the old Madigan facilities. The amendment offered by Senator ADAMS will provide $150,000 for a program design and feasibility study.

Mr. President, this program will ease the financial and emotional burden for many military parents and their children. As a cosponsor of the amendment, I strongly support this program and urge its immediate adoption.

Mr. NUNN. Mr. President, this amendment would authorize $150,000 within amounts authorized to be appropriated by title III for O&M Army, for a program design and feasibility study to provide a residential program for military dependents with severe medical disorders at Madigan Army Medical Center.

I urge the amendment be adopted.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3051) was agreed to.

AMENDMENT NO. 3052

(Purpose: To permit the purchase of Angolan petroleum products after fair, free, and democratic elections have taken place in Angola)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. ROTH, proposes an amendment numbered 3052.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 370, between lines 18 and 19, insert the following:

SEC. 836. PURCHASE OF ANGOLAN PETROLEUM PRODUCTS.

The prohibition in section 316 of the National Defense Authorization Act for Fiscal Year 1987 (100 Stat. 3855; 10 U.S.C. 2304 note) shall cease to be effective on the date on which the President certifies to Congress that free, fair, and democratic elections have taken place in Angola after September 1, 1992.

Mr. ROTH. Mr. President, the amendment which I have sent to the desk is designed to terminate certain restrictions on the Armed Forces' purchase of petroleum products originating in Angola.

In 1986 Congressman Jim Courter proposed that the United States Armed Forces purchase no petroleum products from any United States company operating in Angola. He made this proposal because Angola, at that time, was host to more than 40,000 Cuban troops who were assisting the Marxist government of Angola in its fight with a United States-supported anti-government movement.

The House of Representatives adopted the Courter amendment but, subsequently, House-Senate conferees decided that the Courter amendment was too all-encompassing and would have a deleterious effect on our naval operations in the Pacific. Consequently, the conferees decided simply to forbid the Armed Forces' purchase of Angolan-origin petroleum products.

I supported Congressman Courter's efforts at the time. However, the situation now has changed drastically. The Cuban troops have left Angola. More importantly, after 17 years of non-elected Marxist government, Angola will see its first multiparty national elections in September.

Under these circumstances, I see no rationale for maintaining the Courter amendment in law. My amendment, therefore, would repeal the Courter amendment.

I am aware that some members may have concerns that the Angolan elections scheduled for next month could yet be derailed. However, I should point out two important facts in this regard. First, the conference on this bill will doubtless not be complete by the scheduled election date and, second, there is no matching legislation on the House side. Consequently, if by some freak of chance, the scheduled elections do not materialize, the conferees can feel free to delete this provision.

Mr. WARNER. Mr. President, I ask that the amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3052) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3053

Mr. NUNN. Mr. President, on behalf of Senator DECONCINI, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. DECONCINI, proposes an amendment numbered 3053.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . REPORT ON THE SELECTIVE SERVICE SYSTEM.

The Secretary of Defense, in consultation with the Director of the Selective Service System, shall submit, by April 30, 1993, a report to the President on the continued requirement for registration under the Selective Service System. The report shall contain, at a minimum, analyses on the effect of suspension of the requirement for registration on: (1) projected mobilization requirements, including the effect on the time it would take to increase the size of the armed forces in a national emergency; (2) recruiting in the armed forces; and (3) the organization and staffing of the selective service system. The report shall also contain the Secretary's recommendations based on the analyses. The President shall transmit the report to the Congress, by May 31, 1993, along with his advice on what actions, if any he plans to take on the report.

Mr. NUNN. Mr. President, Senator DECONCINI has proposed an amendment that would require the Secretary of Defense to report to the President on the continued requirement for registration under the Selective Service System. The report would include analyses on the effect of suspension of registration on mobilization capability, recruiting, and the structure of the Selective Service System.

Mr. President, I believe this report would be useful. I think we have to consider this subject, and I urge this amendment be adopted.

Mr. DECONCINI. Mr. President, every one of my distinguished colleagues in this body has commented at least once on this floor about the remarkable changes which we have witnessed around the world in the past 3 years. The fall of the Berlin Wall, the collapse of the Warsaw pact, the disintegration of the Soviet Union, the unprecedented levels of cooperation developing between the United States and the Commonwealth of Independent States [CIS] have all been the subjects of lengthy debate in this Chamber.

Our defense posture and force levels have also been the subjects of debate. The distinguished chairman of the Armed Services Committee, Senator NUNN, has been a leader of this studied and much needed public discourse. Clearly, the changes abroad have necessitated changes here at home. Many of those changes have already been initiated. We have begun to significantly reduce the size of our defense budget. We have modified our strategic planning and made major cuts in nuclear weapons. Even deeper cuts are planned under the START agreement. The overall size of our Nation's Armed Forces is being significantly reduced to reflect the absence of the cold war race for military supremacy.

One area, however, appears to have been overlooked. Today, our missiles have been taken off of alert, but what about our men? The laws governing registration for the Selective Service remain in effect, but has anyone asked whether or not we need to maintain draft registration in this more peaceful world environment?

It is a good question and one which was initially raised by one of my constituents who sits on the local Tucson draft board. Without going into great detail, my constituent contacted the regional official about the general issue of a continued need for draft registration and the costs involved in maintaining the process. The response he received was one of a complete refusal to even discuss the issue and so he contacted me.

The points he raised are valid.

The reinstatement of draft registration was essentially a symbolic reaction taken by President Carter in response to the Soviet invasion of Afghanistan at the height of the cold war. Since that time, the United States has involved itself in several military operations: Beirut, Grenada, Libya, Panama, and most recently, the Persian Gulf. None of these instances required activation of the Selective Service System, even when we deployed tens of thousands of troops for Operation Desert Storm. Our existing—volunteer—Active and Reserve Force structure was more than equal to the task.

Now that the threat from our cold war adversary has diminished, and we have proven that we can quickly and conclusively respond to regional threats, do we need to maintain an independent draft registration bureaucracy at cost to the taxpayers of nearly $30 million annually? And if registering 18–25-year-olds for the draft is unnecessary, cannot the basic functions of the Selective Service recordkeeping be returned to the Pentagon, from which it came in 1947?

Finally, if we determine that this cold war relic—draft registration—can be suspended, should not we remove the Federal penalties against those men who do not register for the draft—such as a prohibition against getting Federal student loans or a job with the Federal Government?

My hunch is that we can take this step without any adverse impact on our defense readiness. The Defense Department will not come to a grinding halt if we stop the registration process. We will not become defenseless overnight if 18 to 25-year-old men stop registering for the draft and instead spend their time worrying about finding a job or getting into college.

But, instead of jumping into this issue head first, and instead of tying up the Senate's time debating the issue without all of the available information, I am offering a moderate alternative as a first step to addressing this issue. My amendment merely calls upon the Secretary of Defense, in consultation with the Director of the Selective Service System, to provide Congress with a report by the end of April of the impact on our Nation's defense of a suspension of draft registration. That is all. There may be other issues which have not come to mind which might have a dramatic, but unforeseen, impact on our effective fighting machine. This report should assist us in wisely and judiciously addressing this issue next year, if it is determined that the issue needs to be addressed at all.

I am pleased that the managers have agreed to accept my modest amendment and I want to thank the distinguished chairman of the Armed Services Committee for his guidance, courtesy, and leadership on this small, but important, issue. I look forward to working with him next year when the report called for by my amendment is received by the Congress.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3053) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3054

(Purpose: To require that military equipment that is shown at international trade shows and exhibitions be leased from the Department of Defense)

Mr. NUNN. Mr. President, on behalf of Mr. BIDEN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BIDEN, proposes an amendment numbered 3054.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 525, line 7, strike out "Section 2667(b)(4)" and insert in lieu thereof "(a) CLARIFICATION.—Subsection (b)(4) of section 2667".

On page 525, between line 9 and line 10, insert the following:

(b) REQUIREMENTS RELATING TO LEASE OF CERTAIN EQUIPMENT.—Such section is further amended by adding at the end the following new subsection:

"(g)(1) A weapons system or other equipment of the armed forces may not be exhibited at an international trade show or similar exhibition, and may not be transported to such show or exhibition for that purpose, unless the system or equipment is leased to the manufacturer of that system or equipment for that purpose. Each such lease shall provide for the payment by the lessee of consideration in an amount that is not less than the fair market value of the lease interest (including the costs incurred by the United States for transportation), as determined by the Secretary of the military department concerned.

"(2) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may waive the application of paragraph (1) to the exhibition of a weapon system or other equipment at an international trade show or similar exhibition if the Secretary of that military department determines that the exhibition of that system or equipment at that trade show or other exhibition is in the national security interests of the United States."

Mr. NUNN. Mr. President, this amendment by Senator BIDEN requires that any DOD equipment displayed at an overseas trade show must be leased by a defense company at a fair market rate—rather than displayed by DOD free of charge. It authorizes a service Secretary to waive this requirement.

I urge the adoption of the amendment.

Mr. BIDEN. Mr. President, this amendment is straightforward, and I will not take much time to explain it.

My amendment would prohibit the Defense Department from sending weapons and equipment to international air shows and defense exhibitions unless that equipment is leased, at fair market value, by the military contractors that produced the equipment. The amendment provides a national security waiver to the Secretary of the relevant military department.

Mr. President, this provision was prompted by revelations that the Pentagon is underwriting the appearance of military equipment at international air shows, to the benefit of U.S. military contractors.

The policy, in my view, reflects the Bush administration's schizophrenia on conventional arms control. While on one hand the administration seeks restraints on the global arms trade, on the other it is actively promoting American arms exports. Indeed, despite its rhetorical commitment to limit arms sales, the United States is now far and away the leading arms merchant in the developing world.

According to a report released earlier this summer by the Congressional Research Service [CRS], in 1991 the United States was the leading purveyor of weapons in the Third World, selling 57 percent of the arms sold to developing nations.

Of course, tremendous changes in the geopolitical order have contributed to this development. But the realignment in global politics is not solely responsible for America's new-found dominance. With the advice and encouragement of U.S. defense contractors, the Bush administration has embarked on a clear strategy to sell.

The enhanced participation by the Pentagon at air shows is just one element of this strategy.

The Department of Defense contends that it has appeared at international trade shows for years to "advance U.S. national security and foreign policy interests." This is true, although I believe that the foreign policy interests that are advanced by sending U.S. military equipment to an international air show are minimal at best.

However, after the gulf war, the Pentagon stepped up its participation in air shows. At the Paris air show in 1991, for instance, rather than sending just a handful of items of military equipment—as in the past—the Pentagon flew in just about every major piece of equipment in our arsenal.

In an internal memorandum, the general counsel of the Defense Department put it this way, in what can only be called an understatement: "The Deputy Secretary of Defense has approved a greater degree of DOD participation in the 1991 Paris air show than has been customary."

The prime beneficiaries of this policy? The military contractors that produced the equipment. Previously, if an American military firm wanted its airplane or equipment to appear at an air show, and the Defense Department wasn't already planning to send that plane or weapons system, then the American firm would lease the item from the Pentagon. Under the policy of what the Pentagon has called enhanced participation, no lease is required, because the Defense Department has been sending most of its major hardware to the leading trade shows.

Last spring, I requested the General Accounting Office [GAO] to review this policy, and to provide a precise cost accounting to the taxpayers of U.S. participation in international air shows. Although the GAO has not yet completed its report, I have received enough information to convince me that Congress should direct the Pentagon to limit its participation in air shows.

For instance, one costly consequence of this policy has been that if the U.S. military equipment is not leased by the contractors, the taxpayers foot the bill if the equipment crashes while in transit to or from the air show. That occurred earlier this year, when an AV-8B Harrier crashed while returning to its home base from an air show in Singapore.

Because the Harrier was not leased, the taxpayers—rather than the contractor's insurance company—will pay the estimated $30 million to replace the aircraft. Requiring the Defense Department to lease the equipment to the contractors will protect the taxpayers in the future from such an expenditure.

In providing a waiver for national security interest, I am prepared to acknowledge that there is some benefit to direct U.S. participation at military trade shows. I do not expect that the waiver will be invoked in a cursory fashion. If I discover that the Waiver has become merely a minor bureaucratic obstacle, then I will introduce additional legislation as necessary.

Mr. President, I would like to express my appreciation to the chairman and ranking member of the committee, who have agreed to accept the amendment. I am grateful for their cooperation and assistance.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3054) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3055

(Purpose: To urge the President to initiate negotiations with the heads of State of the membership of the North Atlantic Treaty Organization with a view to broadening the mission of that alliance)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. ROTH (for himself and Mr. LIEBERMAN), proposes an amendment numbered 3055.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, add the following new section:

SEC. . The North Atlantic Treaty Organization has, for more than forty years, successfully deterred aggression against Western Europe and North America by the armed forces of the Soviet Union and the Warsaw Pact.

The Warsaw Pact no longer exists;

The Soviet Union has devolved into a commonwealth of sovereign, independent republics;

The members of the North Atlantic Treaty Organization share many common interests in deterring aggression, conflict and economic dislocation both within and beyond the geographic boundaries of Europe and North America: Now, therefore,

It is the Sense of the Senate that the threat of East-West military confrontation has radically receded and, if the North Atlantic Treaty Organization is to continue to be relevant to the security interests of Western Europe and North America through the 1990's and beyond, the alliance's mission must be recrafted in order to enable it to address common transatlantic security concerns, including those beyond NATO's geographic boundaries. Therefore, the President of the United States is requested to open discussions with the heads of state of NATO's various member states, with a view to adapting the alliance to current realities.

Mr. WARNER. Mr. President, the purpose of this amendment is to express the sense of the Senate that in light of fundamental changes in the global security environment, NATO should reexamine its mission. Therefore, the President is requested to open discussions with our NATO Allies with a view to adapting the alliance to current realities.

Mr. ROTH. Mr. President, I send an amendment to the desk on behalf of myself and the junior Senator from Connecticut [Mr. LIEBERMAN]. This amendment attempts to address what I sincerely believe will prove, in retrospect, the most important security question of this decade. That question is; will the nations of North America and Western Europe continue to address their common security concerns on a collective basis, or will our transatlantic alliance collapse?

Since 1949, this Nation, Canada, and our allies in Western Europe have faced up to the most serious threat to our security on a collective basis. We have done this by formally committing ourselves to our mutual defense in the North Atlantic Treaty Organization.

The chief threat to the members of the North Atlantic Treaty Organization, the chief reason for its coming together was, of course, the Soviet Union and its satellites in the Warsaw Pact.

As we all know, the Warsaw Pact no longer exists and the Soviet Union has devolved into its constituent Republics. Consequently, the question almost immediately arises—is there any purpose in maintaining NATO in a world in which the Soviet Union no longer exists?

I believe that this question can be answered in the affirmative but that that affirmative must be qualified—and the qualification is all important. There is a purpose in maintaining, and even strengthening NATO, in the post-cold-war world, but only if the alliance proves capable of and willing to adapt itself to the massive changes which have taken place in the global security environment in recent years.

Consequently, Senator LIEBERMAN and I are placing before the Senate an amendment congratulating NATO on its past successes, pointing out the need for change, and calling upon the President to initiate negotiations with NATO's heads of state with a view to recrafting the alliance to make it relevant to the new world in which we live.

I believe that this should be viewed as a matter of some urgency. While it is true that the great East-West confrontation has come to an end, we still do not live in a perfect world. To the contrary, serious security problems abound in the post-cold-war world. We have just passed the second anniversary of Iraq's invasion of Kuwait, an event which ultimately necessitated a huge international military countereffort. Nor are the world's security problems confined to the Middle East. Even as we speak, Slobodan Milosevic and the Serbian Armed Forces are devastating Bosnia, killing civilians and engendering a flood of refugees into Western Europe.

These are the great security problems of our age and these are the problems which NATO must be both able and willing to address if it is to be relvant to future security needs.

I ask my colleagues to consider the benefits of an enhanced NATO with a broader mandate. How often have Members of the Senate come to the floor to assert that they are tired of the United States playing the part of global policemen? I have considerable sympathy for these complaints. Simultaneously, I am obliged to note that this country has vital interests around the globe, interest which will, on occasion, have to be protected. Under these circumstances, an obvious answer suggests itself, namely, Western nations, acting together, under the aegis of NATO, should work collectively to protect those interests which are common to all of them.

Consider the situation in the Middle East. Virtually every Western nation depends heavily upon the region for imported energy supplies but, tragically, much of the region hovers semipermanently on the brink of conflict and political dissolution. Consider the benefits to us all if NATO were to indicate that the Middle East constituted a zone of vital interest to all of its members and that aggression in the region could prompt a swift alliance response. I would submit that this NATO doctrine of deterrence successfully discouraged Joseph Stalin and Leonid Brezhnev from undertaking aggressive military action against the West. Why would this doctrine not similarly deter smaller-scale operators such as Saddam Hussein?

Similarly, Eastern Europe stands in serious need of the stability which NATO can bring if it could offer some minimal security guarantees to the region's emerging democracies. We must remember that, for much of this century, the history of Eastern Europe has repeatedly been the scene of invasion, repression, and occupation, from both East and West. This history has left Eastern Europe with fragile, shallow-rooted political institutions, institutions which are further weakened by internal and cross border ethnic tensions.

In short, Mr. President, the Yugoslav situation is not unique and the tragic situation which now pertains in Bosnia could quickly spread if NATO fails to demonstrate its close interest in the inviolability of Eastern Europe's borders and the safety of its ethnic minorities.

I must stress that, in my opinion, NATO is the only multilateral institution which can effectively address common Western problems in regions such as the Middle East and Eastern Europe. Who else could address this task? As I have already mentioned, there is no reason why the United States should, or should be expected to, act unilaterally to address situations which are of interest to most Western nations. Problems common to the West should be addressed on a collective, Western basis.

I am aware that some other multilateral institutions have claimed the ability to keep the peace, but these claims must be viewed skeptically in view of their recent failures. The European Community sought to calm the Yugoslav situation but quickly learned that it is impossible to halt a determined aggressor unless you have the substantive capability to threaten him with countermeasures.

Similarly, the United Nations, when it sought to launch peacekeeping operations in Yugoslavia, learned that there was no peace to be kept. I am sure that there will be a role for peacekeeping forces in our future but I would point out that our experiences in Kuwait, Cambodia, and Yugoslavia strongly suggest we are more likely to require multilateral peacemaking forces capable of deterring aggression before it begins.

That said, Mr. President, I must admit to my colleagues that there are those within NATO who assert that the alliance cannot follow the course which I have laid down today. They assert that NATO cannot take on responsibilities in Eastern Europe or the Middle East because the alliance's 1949 charter restricts it to operating in the North Atlantic area and that it cannot operate out of area.

I reject this interpretation of the charter. I have studied it closely and can find no justification for such a narrow interpretation. Moreover, in the modern world, distinctions between in-area and out-of-area problems are wholly anachronistic. Our world is an economically integrated whole. Distant developments can have immediate, drastic impacts upon our domestic economies. Ballistic missiles can fly immense distances, carrying nuclear or chemical warheads; such weapons render in-area and out-of-area distinctions meaningless. Yesterday's out-of-area problem is in-area today.

Moreover, I would ask those who insist upon a narrow interpretation of the NATO charter, What does the alliance intend to do for the rest of this decade? Does it intend to keep watch for the Red army? Is the United States expected to maintain its membership in the alliance, its support for it and its military presence in Europe in order to address yesterday's security problems, to deter a threat from the East which appears increasingly less threatening.

I must stress to my colleagues that neither Senator LIEBERMAN nor I are advocating a course which would oblige this Nation to embroil itself in many overseas conflicts. Rather, we are asserting that though the cold war has ended, North America and Western Europe still have security interests in common and NATO's traditional doctrine of deterrence should be broadened to cover these interests. NATO contained the Soviet Union and prevented world war III without firing a shot. There is every reason to believe that NATO can similarly deter aggression and bloodshed in Eastern Europe and the Middle East without launching military operations.

In closing, Mr. President, let me say that the need for a reinvigorated and recrafted NATO is clear but the purpose of a NATO which fails to adapt to new realities is far from clear. Consequently, I ask that my colleagues support the Roth-Lieberman amendment and send a clear call for change to the Executive and to our allies in Canada and Europe.

Mr. LIEBERMAN. Mr. President, I am gratified that the Senate Armed Services Committee has accepted the Roth-Lieberman amendment. This amendment calls on the President to open discussions with the heads of state of NATO's various member states, with a view to adapting the alliance to current realities.

Such an initiative is needed because, with the end of the cold war, the foundations of NATO may well erode as Americans and Europeans call into question the necessity of the Atlantic alliance. To ward off this danger, NATO must adapt to the post-cold-war era by expanding its mission and making adjustments in its organizational structure.

This is not to say that NATO's original mission, protecting Western Europe from a military threat from the East, has entirely disappeared. Even with the collapse of the U.S.S.R., Russia's nuclear arsenal is much larger than NATO's European arsenal and Russia's population is nearly as large as that of NATO's military core nations, Germany, France, and Britain. Given the fragility of democracy in the former Soviet Union, we should be cautious about dismissing entirely NATO's continued defensive mission in Western Europe.

NATO also continues to serve important purposes by institutionalizing ties between the United States and Western Europe and firmly anchoring Germany to the West. These links are particularly important when trade frictions are fraying United States-European relations and Germany is becoming a more assertive power. The greatest risk to the future security of Europe is a return to nationalistic policies of the past, and a U.S. presence lessens the chances of that happening. Finally, a U.S. presence in Europe also gives the United States added influence in nonmilitary areas, such as trade.

Nonetheless, NATO and America must adapt to the post-cold-war world. The American people will not want to continue to keep 150,000 troops in Europe indefinitely, as the Pentagon has stated it wants to. The United States must maintain a presence that leaves no doubt that it is firmly committed to European security, but further reductions can be made to less than 100,000.

Adapting to a new era also means that the Europeans should take on a greater role in the alliance's decisionmaking processes. Such a transfer of responsibility could induce the French to play a greater role in the alliance's military activities, thereby lightening the burden for the United States. Greater French participation in NATO could also reduce Paris' attempts to set up a European defense structure outside of NATO.

NATO's missions, as well as its organization, must also adapt to new realities. To date, NATO has interpreted its founding treaty as limiting joint military operations to the defense of NATO's territory. This danger has receded, but other problems have emerged. NATO must be willing to use its forces outside of Western Europe, in such crisis areas as Bosnia.

NATO must also make clear that it considers political or military pressure on Poland, Hungary, and Czechoslovakia as a challenge to Western Security. NATO and the United States should increase their cooperation with the military forces of these countries, including training, the exchange of military personnel, intelligence, and perhaps the sale and leasing of military equipment. The eventual modernization of Eastern European Armed Forces with Western military equipment, particularly communications and air defenses, would in turn help facilitate their coordination with NATO in any future crisis.

Finally, NATO should also promote policies that facilitate the commitment of forces to the Third World in the event of a major crisis. While the proliferation of weapons of mass destruction will represent the most serious security threat in future years, NATO has no mandate and, therefore, no contingency plans to deal with these challenges. This failing was underlined by NATO's unwillingness to act as a united organization in the gulf war; if it had, America would not have had to shoulder such a heavy burden. NATO should, therefore, begin to reorient its military equipment, training, and doctrine for possible engagements outside of Europe. This should include, for example, conducting more joint training exercises in the desert areas of the United States, as opposed to Europe's northern climate.

In the new era, NATO's European members should make a larger contribution to their own security interests; the role of the United States should be less dominant and more supportive. A more flexible and less costly deployment of U.S. forces in Europe will encourage the Europeans to do more and reduce unhappiness among the U.S. public about excessive military commitments. At the same time, NATO must be willing to act to defend its vital interests outside of Europe, where more dangerous threats to its security now lie. This will lighten the burden of the United States if NATO can successfully adapt to the post-cold-war era, it will be as influential and effective in the next century as it has been in the present one.

Mr. President, I hope that this amendment puts the Senate on record as requesting the President to take up these important issues with his counterparts.

The PRESIDING OFFICER (Mr. WOFFORD). The question is on agreeing to the amendment.

The amendment (No. 3055) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3056

(Purpose: To provide $10,000,000 for the Technical Support Working Group on Counter-Terrorism)

Mr. NUNN. Mr. President, on behalf of Mr. LIEBERMAN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. LIEBERMAN, proposes an amendment numbered 3056.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 65, between lines 17 and 18, insert the following:

SEC. 232. FUNDING FOR TECHNICAL SUPPORT WORKING GROUP ON COUNTER-TERRORISM.

(a) TOTAL AMOUNT.—Of the funds authorized to be appropriated for fiscal year 1993 under section 201, $10,000,000 shall be available for activities of the Technical Support Working Group on Counter-Terrorism.

(b) AMOUNT FOR ALLIED COOPERATION.—Of the amount available for the activities referred to in subsection (a), $3,000,000 shall be available for cooperation with other member nations of the North Atlantic Treaty Organization (NATO) and with major non-NATO allies (as defined in section 2350a(i)(3) of title 10, United States Code).

Mr. NUNN. Mr. President, this adds $3 million to the $7 million authorized in the Senate Armed Services Committee bill for counterterrorism research sponsored by the Technical Support Working Group [TSWG]. The additional $3 million would be used for joint counterterrorism research projects with NATO and major non-NATO allies Israel, Egypt, Japan, South Korea, and Australia.

Mr. LIEBERMAN. Mr. President, I want to thank the distinguished Senators from Georgia and Virginia for accepting my amendment that provides $10 million for the Technical Support Working Group [TSWG]. The Department of State and the Department of Defense established the TSWG, an interagency body that cooordinates counterterrorism research and development efforts, in response to the bombing of Pan Am 103. The TSWG has made a valuable contribution to enhancing the security of persons and properties both inside and outside the United States by supporting the development of innovative security technologies. The TSWG, for exmaple, has already bolstered aviation security by developing a chemical marker for preblast detection of chemical explosives.

This amendment also provides $3 million for additional counterterrorism cooperative research and development projects between the TSWG and NATO and non-NATO allies. This will permit the TSWG to maximize its counterterrorist activities by utilizing technologies already developed by these countries.

Mr. President, with the end of the cold war, we must turn our attention to new national security challenges, such as terrorism. This amendment will help to provide adequate funding for a key new national security program. It goes without saying that we can never have a world that is free of terrorism. But we make our best effort to ensure that terrorists are placed on the defensive and deterred from launching heinous attacks, such as the destruction of Pan Am 103.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3056) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3057

(Purpose: To amend sections 311 and 312 dealing with chlorofluorocarbons and halons)

Mr. WARNER. Mr. President, on behalf of Senator CHAFFEE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. CHAFEE, proposes an amendment numbered 3057.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 75, line 11, strike "CHLOROFLUOROCARBONS AND HALONS" and insert in lieu thereof, "OZONE-DEPLETING SUBSTANCES".

On page 75, line 13, after "EVALUATION" insert "OF USE OF CLASS I SUBSTANCES".

On page 76, line 15, after "such" strike "substances" and insert in lieu thereof "substances, including the availability of use, reclaimed, or recycled class I substances".

On page 77, line 3, insert the following new subsection:

"(b) EVALUATION OF USE OF CLASS II SUBSTANCES.—The Director of the Defense Logistics Agency shall evaluate the use of class II substances by the military departments and Defense Agencies. In carrying out the evaluation, the Director shall—

(1) determine the quantity of each class II substances that—

(A) is held in the inventory of each military department and Defense Agency on December 31, 1992;

(B) will be used by each military department and Defense Agency during 1992; and

(C) will be used by each military department and Defense Agency in each of 1993, 1994, and 1995; and

(2) determine the quantity of each class II substance in the inventory of the military departments and Defense Agencies in each of 1993, 1994, and 1995 that can be reclaimed or recycled and reused by the military departments and Defense Agencies.

On page 77, line 3, strike "(b)" and insert in lieu thereof "(c) REPORTS.—(1)".

On page 77, line 5, after "evaluation" insert "required under subsection (a)".

On page 77, line 7, insert the following new paragraph:

"(2) The Director of the Defense Logistics Agency shall submit to the congressional defense committees a report on the status of the evaluation required under subsection (b) not later than October 1, 1993."

On page 77, line 7, strike "(c)" and insert in lieu thereof "(d)".

On page 77, line 7, strike "section," and insert in lieu thereof "section: (1)".

On page 77, line 10, insert the following new paragraph:

"(2) the term "class II substance" means any substance listed under section 602(b) of the Clean Air Act (42 U.S.C. 7671a(b)).".

On page 77, line 11, before "OZONE-DEPLETING" insert "CLASS I".

On page 77, line 14, after "OF"insert "CLASS I".

On page 77, line 17, after "of" strike "an" and insert in lieu thereof "a class I".

On page 78, line 2, after "the" insert "class I".

On Page 78, line 24, after "for" strike "an" and insert in lieu thereof "a class I".

On page 79, line 1, after "of" strike "an" and insert in lieu thereof "a class I".

On page 79, line 3, strike "and indirect".

On page 79, line 5, strike "research and development costs,".

On page 79, line 7, after "waiver" strike the comma.

On page 79, line 12, after "term" strike "'ozone-" and insert in lieu thereof "'class I ozone-".

On page 79, line 13, after "any" strike "class I".

Mr. WARNER. Mr. President, this amendment would direct the Secretary of Defense to assess and report on the projected future uses of Clean Air Act class II substances—hydrochlorofluorocarbons [HCFC's]. Under the amendment the report would be due on or before October 1, 1993. The analysis and report required by this amendment will assist the DOD in anticipating and planning for the use of HCFC's in the near future and to plan for the eventual HCFC production phaseout by January 1, 2015.

Mr. CHAFEE. Mr. President, I am today offering an amendment to S. 3114, the Department of Defense authorization bill for fiscal year 1993. This amendment has been accepted by both managers of the bill. Specifically, the amendment expands the provisions of S. 3114 to require a comprehensive evaluation of the use by the Department of Defense of ozone-depleting substances and a report to Congress concerning such evaluation.

As one of the principal authors of the provisions dealing with ozone-depleting substances in the Clean Air Act Amendments of 1990, I have a deep interest in ensuring that all entities using CFCS and other ozone-depleting substances—including the Department of Defense—do everything possible to meet the accelerated phase-out deadline that the President has chosen to make operative. The evaluation required by section 311 will cause the Department of Defense to focus on this deadline and on what actions need to be taken to meet it. At the same time, the report required by section 311 will provide the Congress with vital information concerning progress toward meeting the deadline being made by the Department of Defense.

I thank the managers for their consideration and support of this amendment.

Mr. WARNER. I ask that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3057) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3058

(Purpose: To provide, with respect to certain contracts awarded under section 8(a) of the Small Business Act for the Department of Defense, for follow-on contracts to be awarded in accordance with requirements and authority provided for attaining a Department of Defense contract goal for disadvantaged small businesses and certain institutions of higher education)

Mr. NUNN. Mr. President, on behalf of Senator SHELBY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. SHELBY, proposes an amendment numbered 3058.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 337, between lines 20 and 21, insert the following:

(c) CONTINUED ACCESS TO BUSINESS OPPORTUNITIES.—(1) Notwithstanding the regulations implementing section 806 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (10 U.S.C. 2301 note), a contract to furnish products or services to the Department of Defense shall be entered into in accordance with the requirements and the authority provided in section 1207(e) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) if—

(A) there is a reasonable expectation of receiving offers from 2 or more eligible small business concerns that have the capability to perform the contract; and

(B) on the date of the issuance of the solicitation for such contract, a graduate of the minority small business and capital ownership development program authorized under section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is furnishing the same (or substantially similar) products or services to the Department of Defense under a contract awarded pursuant to section 8(a) of that Act (15 U.S.C. 637(a)).

(2) The amendment made by paragraph (1) shall apply with respect to solicitations for contracts that are issued on or after the date 90 days after the date of the enactment of this Act.

On page 337, line 21, strike out "(c)" and insert in lieu thereof "(d)".

On page 338, line 4, strike out "(d)" and insert in lieu thereof "(e)".

Mr. NUNN. Mr. President, this amendment would allow contractors that graduate from the Small Business Administration 8(a)—minority business development—program while performing a DOD contract to compete for follow-on contracts to such contracts.

Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3058) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3059

(Purpose: To increase the amount of the transfer authority for the demilitarization of the former Soviet Union)

Mr. WARNER. Mr. President, on behalf of Senator LUGAR, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. LUGAR for himself and Mr. NUNN, proposes an amendment numbered 3059.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 491, line 23, strike out "$650,000,000", and insert in lieu thereof "$800,000,000".

Mr. NUNN. Mr. President, I believe this amendment is on behalf of Senator LUGAR and myself.

Mr. WARNER. Yes, I failed to note that.

Mr. NUNN. Mr. President, this amendment adds $150 million to Nunn-Lugar funding authority. The current amount is $400 million, which will be totally obligated on or about the end of this fiscal year. We increased Nunn-Luga transfer authority by $250 million on our bill, as did the House on theirs. When the authorization bill is finally passed, the transfer authority will be $650. This would, in effect, bring the fiscal year 1993 transfer authority to $400 million, that is, $400 plus $250 plus $150 minus the $400 million that will be obligated shortly.

This is a very, very important area, and we have made enormous progress in getting the nuclear weapons of the Russians and other former Soviet Republics—including the Ukraine, Kazakhstan, and Byelorussia—under control. I think everyone now believes this is one of our most important nonproliferation initiatives.

So I urge the adoption of the amendment.

Mr. LUGAR. Mr. President, the amendment that I have offered with the chairman of the Committee on Armed Services to the DOD authorization bill has a very simple yet compelling purpose. It increases the amount of the transfer authority for the demilitarization of the former Soviet Union from $650 to $800 million in order to insure that the Department of Defense possesses sufficient discretionary authority to assist the states of the former U.S.S.R. in carrying out their denuclearization efforts—the thrust of the Nunn-Lugar amendment last November.

In the bill reported out of committee, the Committee on Armed Services expanded the Nunn-Lugar amendment by authorizing United States assistance for defense conversion in the former Soviet Union and for expanded military-to-military contacts. It also increased DOD transfer authority for Nunn-Lugar funding from $400 to $650 million. Our amendment today increases that authority by another $150 million to provide DOD with additional capability to respond to requests for assistance in furthering demilitarization efforts in the former Soviet Union.

The breakup of the Soviet Union has posed new challenges and opportunities in the area of national security. President Bush responded to these challenges and opportunities with his September 1991, initiative in which he proposed, among other things, to explore cooperation on the safety and security of nuclear weapons and on their safe and environmentally responsible storage, transportation, and destruction.

The United States objective has been to enhance the security of nuclear weapons in the former Soviet Union, especially those nuclear weapons slated for elimination under commitments made by Presidents Gorbachev and Yeltsin. Tactical nuclear weapons, in particular because of their relatively small size and transportability, posed the greatest risk of loss of control or seizure by third parties. The United States wanted to take steps to insure that these weapons were quickly disabled and consolidated at sites where they could be securely controlled. In addition, the United States wanted to put in motion a process of dismantling them.

For its part, the Congress responded as well to these challenges and opportunities, passing the Nunn-Lugar Act in November 1991. The efforts of both branches of government paid off at the June 1992, summit in Washington when four agreements were signed by Russia and the United States. The first, an umbrella agreement providing an international legal framework for the transfer of up to $400 million as authorized under the Nunn-Lugar Act, was signed by the two Presidents. Under the other three agreements, the United States will provide Russia with armoured blankets for the safe, secure transport and storage of nuclear weapons, nuclear accident response equipment and storage containers for fissile material from dismantled warheads.

More work remains to be done in other areas. The United States is close to an agreement on a program of assistance to modify Russian rail cars for the safe, secure transport of nuclear weapons. The same is true for a cooperative effort to identify requirements to design and build a facility for the safe and secure storage of fissile material. Discussions with officials of the former Soviet Union on the disposition fissile material, focusing on options for disposing of highly enriched uranium, have proven productive and will likely be consumated shortly. Finally, the United States is continuing discussions with the Russians on improving their system for nuclear materials control and accounting.

But, Mr. President, it is also important to note how the scope of the U.S. approach to the problems of safety, security and destruction of nuclear and other weapons of mass destruction has expanded. With the dissolution of the Soviet Union in December 1991, the United States is now dealing—in addition to Russia—with three other states with nuclear weapons on their soil. Ukraine, Belarus, and Kazakhstan have agreed to abide by the provisions of the Nuclear Nonproliferation Treaty as nonuclear states. The United States has opened negotiations with these three countries to determine how the United States can assist them in removing all these weapons from their soil quickly and safely.

It is the expanded scope of the United States approach to the problems of safety, security and disposition of these weapons of mass destruction, along with the need to enhance the security of nuclear weapons slated from elimination under commitments made by the leaders of Russia, Ukraine, Belarus, and Kazakhstan, that necessitates the increased transfer authority called for in our amendment.

Mr. President, the administration has arranged with the four nuclear successor states of the Soviet Union to preserve the strategic benefits of START and to get real reductions of strategic arsenals. More importantly, the President succeeded in the even more important objective of obtaining pledges from Ukraine, Belarus, and Kazakstan that they will satisfy START obligations in a way that eliminates all strategic nuclear forces outside Russia and affirms the status of these three republics as nuclear free states.

The problem is that the operational timetable for such elimination efforts in Ukraine, Belarus, and Kazakhstan stretches out over a decade. Thus, one defining question is what operational value should be assigned to agreements whose timetables for implementation, established by the START negotiators in the 1980's, stretch into the next decade.

Mr. President, what was done to facilitate the implementation of the September 1991 initiative with regard to tactical nuclear weapons might be done with respect to strategic nuclear weapons, with the aim of complementing existing START implementation plans in a way that could return some or all strategic nuclear warheads back to Russia within a relatively short period of time—that is, shorter than the 7-year START reduction period. Those nuclear warheads carried by the launchers—heavy bombers, ICBM's and SLBM's—slated for deactivation under START could be removed from these launchers and taken to central storage facilities within a finite, but limited period of time. Warhead removal—that is, separating the warheads in the near term from the systems scheduled to be retired under the START Treaty and any follow-on treaty—2000 and/or 2003—would contribute immeasurably to the United States objective of enhancing the safety and security of nuclear weapons in the former Soviet Union and their safe and environmentally responsible storage, transportation and destruction.

The increased transfer authority in this amendment for the demilitarization of the former Soviet Union will permit the United States to explore, inter alia, the feasibility and acceptability of assistance for accelerate warhead removal from the systems in the former Soviet Union scheduled to be retired under the START Treaty and other unilateral or mutual commitments.

Like the initial Nunn-Lugar funding of November 1991, that was predicated on the need to assist in the removal of tactical nuclear weapons from the Republics to Russian soil, this increased transfer authority would be discretionary and might in fact not be utilized exclusively for this purpose. Nonetheless, it would serve as an incentive to those in the former Soviet Union who may wish to accelerate the warhead removal process rather than await implementation of the formal START elimination schedule—a removal process that might anticipate but that would be consistent with the START schedule. Moreover, it would complement the growing interest among the non-Russian nuclear signatories to START in receiving United States assistance for silo dismantlement and the destruction of ballistic missile delivery systems.

Mr. President, the situation today would have been dramatically different if, last fall, rather than motivating concrete actions, the Administration and the Congress had been content to sign and consent to agreements with three new nuclear republics to the effect that the 6,000 tactical nuclear weapons outside Russia would be returned to Russia in 6 years rather than 6 months. The momentum generated by the President's September 1991, initiative and congressional action through the Nunn-Lugar Act of November 1991, must be maintained. The signatures to the modified START accord must be supplemented by concrete deeds in the short term if the most urgent nuclear proliferation dangers are to be addressed.

Mr. President, current and near-term programs undertaken or envisaged by the U.S. Government pursuant to the Nunn-Lugar Act of last year will likely consume the original $400 million before this calendar year is out. The authorization bill reported out by the Committee on Armed Services recognized the need to increase transfer authority for demilitarization efforts in the former Soviet Union, with special emphasis on defense conversion and military-to-military contacts. This amendment that I have offered along with Senator NUNN further augments that transfer authority and suggests some additional areas wherein United States assistance to the successor states of the former Soviet Union can contribute to the United States objective of enhancing the security of nuclear weapons in those states, particularly those slated for eventual elimination.

Mr. WARNER. Mr. President, I join many other Senators in commending the distinguished chairman, Mr. NUNN, and Mr. LUGAR, for the initiative they took in this legislation, and for their continuing oversight, and the need to supplement it from time to time.

Indeed, in my judgment, it is the very foundation of this piece of legislation, or that subsequent piece introduced by the President on behalf of this Nation, by which we hope, this session, to act on the greater package. But it was the ground that was broken by these two Senators, joined with others—and I had the privilege to work with them, as did, I believe, the Senator from Maine, in drafting certain portions of this.

Mr. NUNN. Mr. President, the Senator from Virginia played a vital part in this legislation, and supported it in the very beginning.

Without his assistance, it could not have happened. I am grateful to him for his support.

So I am grateful to him for his support and for his comments.

Mr. WARNER. My recollection, Mr. President, is the Senator from Oklahoma [Mr. BOREN] was also——

Mr. NUNN. Mr. BOREN was very involved. Senator COHEN, from Maine, was very involved in this. They took a real leadership position at a time when it was rough sledding.

I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3059) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3060

(Purpose: To set aside $20,000,000 for military-to-military contacts under the authority to provide assistance for the demilitarization of the former Soviet Union)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself and Mr. WARNER, proposes an amendment numbered 3060.

On page 491, line 16, insert after the period the following: "Of the amount available to carry out such subtitle, not more than $20,000,000 may be made available for programs referred to in section 1112(b)(6), relating to military-to-military contacts.".

Mr. NUNN. Mr. President, this amendment, again, is a followup on a subject that I have worked on for years and years and years and most particularly in the last few years, but even beginning back in 1978. I believe it was 1978, 1977—that timeframe—after a trip to the Soviet Union. I concluded at that time, and I have certainly concluded many times since, that we needed to increase our military/military contacts. I think it is more imperative now than ever before, not just with Russia, but Ukraine, Kazakhstan, Byelorussia, and the other republics. This amendment makes $22 of the $400 million of the Nunn-Lugar transfer authority available for military/military contacts between the United States and the new countries of the former Soviet Union. So this, again, I think is an enormously important amendment.

One of the most dangerous parts of the equation in those parts of the former Soviet Union now is the intense pressure in the military and from the military. They have a very difficult time with housing. They have a difficult time with family support. They have a difficult time in moving people back from the Baltics, where we want them to move back as rapidly as possible. The same case for Eastern Europe, because of inadequate housing. It is a time of intense frustration. There are a lot of those problems we cannot do much of anything about, but what we can do is intensify our contact, intensify our visits back and forth, intensify the visitation that we have going on with them.

Right now, one university in this country, Harvard University, I am told, has more military-to-military type contacts than our entire U.S. Government with the Russians and with others. They have, in fact, a visiting delegation now of Russian officers at Harvard. This is the kind of thing we ought to be encouraging in our other units in this country and in our contacts here in this country at military bases. I cannot think of anything that would be of more help to alleviate the pressure that is inevitable and is building within military circles in Russia and other republics than having a chance to come to the United States to visit with our military, to see how they work and particularly to see the American people, to perhaps go in a supermarket or go to a church service or synagogue, and basically understand a little bit more about democracy and about our basic concept of human rights.

I think this is an enormously important initiative, and Senator WARNER has worked hand in hand, and he has been very much for this since the very beginning, as has Senator LUGAR. I am sure Senator LUGAR—his name is not on this amendment, but it should be. I ask his name also be included.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I thank the distinguished chairman. Indeed, he has taken the lead on this. I have had the opportunity, together with other members of our committee and Senators, to work along with him. My interest in this subject, like the chairman's, originated many years ago when I had the opportunity to go to the Soviet Union, in 1971 and 1972, in connection with my responsibilities with the Incidents at Sea Agreement. At that time I met with Admiral Gorshkoff and a series of high-ranking military leaders and have likewise fostered military-to-military contacts throughout the years as I have had an opportunity to do so.

I certainly agree with the chairman. The Iron Curtain may well have been rolled back, but to the extent that we can allow more and more light to fall in and a greater understanding of our Nation and, indeed, the Western World, it will contribute to peace and stability.

The military in the Soviet Union, having grown up with high-technology weapons, like our military and other militaries, are highly intelligent people. They suddenly find themselves in a predicament that, fortunately for the world, their services in uniform are no longer needed. Or those that are remaining, they should take a different perspective than the perspective that has been drilled into their heads for many, many years prior to this evolution in the former Soviet Union.

So I think the chairman has taken a very dramatic initiative here. I am delighted to support it.

Mr. NUNN. I thank the Senator from Virginia. I might add, I have just been informed—I had heard about it, but I did not know that it was occurring now; the Senator from Virginia, a former marine, former Secretary of Navy, will be interested—General Mundy, our Commandant of the Marine Corps, is now in the Soviet Union with a contingent of Marine officers, visiting and making contact with his counterparts there. I am sure that is a fascinating visit for the marines and will be of interest to an outstanding former marine here on the floor.

Mr. WARNER. Mr. President, I ask my chairman to refresh my recollection, but I think Admiral Crowe was the highest ranking officer that first initiated, at that level, the uniform-to-uniform contacts, and then, subsequent thereto, our current Chairman, Colin Powell. Am I not correct in that?

Mr. NUNN. Yes, Admiral Crowe had, I believe, the first visit, at the Chairman of Joint Chiefs level, with his counterpart, and that was reciprocated. He took his counterpart Akhromeyev around this country, took him around and spent several weeks with him and then in the Soviet Union. So that was a real breakthrough. And I think one of the most impressive briefings I ever received—I remember it well. It was a breakfast meeting with Admiral Crowe right after he returned, telling us about his experiences going on ships, going on submarines, being exposed to people and the information which for years we had spent literally billions of dollars in intelligence circles trying to find out about. It was a fascinating experience, one that he felt keenly about. And he did take a real lead in that respect.

Mr. WARNER. Mr. President, I remember the breakfast well myself. I say this with no bias, but I believe the Navy has been very active in this area. I know that a succession of high-ranking naval officers have gone. I am very pleased to learn of General Mundy's visit.

I hope the Department of the Army and Department of the Air Force would view this as an opportunity and perhaps increase the numbers from their respective Departments who make, in the future, trips to the former Soviet Union.

Mr. NUNN. I think the Senator makes a good observation there. I also add, the Senator, then Secretary of the Navy, led the delegation, I believe it was to Moscow, to sign the Incidents at Sea Agreement in 1971.

Mr. WARNER. In 1972, Mr. President.

Mr. NUNN. In 1972, which was a real breakthrough. That agreement is still in effect and has worked on most occasions extremely well. We probably never will be able to recount the number of possible incidents that have been avoided because of that. The Senator has been very much involved in that. I know he looks back on that as a very important part of his career.

Mr. WARNER. I thank my good friend.

Mr. NUNN. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3060) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3061

(Purpose: To amend the National Defense Authorization Act for Fiscal Year 1993 by $4,000,000)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. DIXON, proposes an amendment numbered 3061.

On page 49, line 22, strike out $5,303,744,000 and insert in lieu thereof $5,307,744,000.

Mr. NUNN. Mr. President, on behalf of Senator DIXON, this amendment has been submitted. This amendment provides for an additional $4 million for a new type of tank ammunition called the smart target activated fire and forget round, or STAFF. I assure all my colleagues, this is not a bonus for our staff. That is the initials of the weapons system. I did read the amendment before it was sent to the desk since we have to be very careful about those things.

Mr. WARNER. Mr. President, I fully support the amendment. I only wish the Senator from Illinois had come over and presented it himself.

The consideration of this bill by the Senate will be the last opportunity for our good friend and colleague from Illinois to participate here with an authorization.

And I know the chairman and I have had great pleasure many times in the past that he has taken the floor and with great commitment and eloquence and, I might add respectfully, color, presented his views on a wide variety of defense issues. He has been a most valued member of the Senate Armed Services Committee. Speaking for myself and I think many others, he will be dearly missed.

Mr. NUNN. Mr. President, I certainly concur in that. Senator DIXON will probably be handling several amendments before this bill is over. I know one that is coming up in a few minutes that I have asked him to handle. He has taken the lead on the committee. He has been an outstanding member of the committee. He has been a dedicated and effective subcommittee chairman. He had worked very closely and effectively with both sides of the aisle. He has been a team supporter of national security, many times perhaps at his own peril, but he is a deep believer in the security of our country. He is a wonderful patriot. He is going to be sorely missed on our committee from the point of view of his leadership and from the point of view of the sheer enjoyment of being with him. I am sure we will hear further from him this evening. I concur and echo the remarks of my friend from Virginia.

Mr. DIXON. Mr. President, this is a little amendment, and I do not believe it will take long.

Mr. President, the Army is developing a new type of tank ammunition called the smart target activated fire and forget round, or STAFF. Most tank bullets pierce the armor of an enemy tank head on. This kind of a bullet flies over the target and fires a warhead down into the vulnerable top of the turret where the armor is thinnest.

The STAFF program is fully funded in the budget. All the funds required for development and production are included in the budget.

Since the program was put in the budget, however, the Army has identified a series of design changes that would lower the production cost of the STAFF round. According to the Army, the initial cost of the STAFF round could be reduced by as much as 25 percent if we incorporate these design changes early. It would take a total of $4 million to pay for these changes. These modifications would pay for themselves almost immediately upon production of the round. I cannot discuss all the details because the STAFF program is classified.

The committee took an identical approach in the bill on the so-called Javelin program, adding $10 million for design changes that could save as much as $400 million over the life of the program.

Mr. President, spending $4 million today could save 10 times that amount in future years. The tight budgets today are keeping the services from making these sensible changes. I do not believe we should deny ourselves the chance to save funds in the future, so I offer this amendment for a one-time expenditure that will more than pay for itself in future years.

Mr. WARNER. Parliamentary inquiry. Has the previous amendment now been adopted?

Mr. NUNN. I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3061) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3062

(Purpose: To prohibit the Secretary of Defense from limiting the counter-drug requirements for which Department of Defense support may be provided)

Mr. WARNER. Mr. President, on behalf of Mr. MCCONNELL, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. MCCONNELL, proposes an amendment numbered 3062.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 395, line 10, strike out "and".

On page 395, line 17, strike out the period at the end and insert in lieu thereof a semicolon and the following:

(3) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively;

(4) by inserting after subsection (b) the following new subsection (c):

"(c) The Secretary of Defense may not limit the requirements for which support may be provided under subsection (a) only to critical, emergent, or unanticipated requirements."; and

(5) in subsection (g)(2), as redesignated by paragraph (3), by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

Mr. WARNER. Mr. President, the description of the amendment is that it will require that the Secretary of Defense may not, and I underline may not, limit support for law enforcement agencies only to critical emergent or unanticipated requirements.

In December 1991, the Department of Defense adopted a new policy whereby support to law enforcement agencies would be restricted to critical, emergent or unanticipated requirements. The committee's report noted this change and pointed out its lack of consistency with congressional intent and urged the Secretary of Defense to reconsider the policy. This amendment would legislatively change that policy.

Mr. MCCONNELL. Mr. President, I appreciate the fact that the managers of the bill have agreed to take a look at this amendment. As they know from the committee's careful review of the problems associated with section 1004 authorities, the Defense Department has chosen a substantially more restrictive interpretation of the law than Congress intended. The committee's report speaks specifically and clearly on this matter. The report states:

> The congressional intent was to encourage the provision of such support in recognition of the limited budgets of civilian agencies, the critical need to address the illegal drug problem that was and is ravaging our nation; the various capabilities, expertise and "can-do" attitude that were already resident in the Department and could be applied to assist such agencies; and the desire to free scarce resources of those agencies to accelerate and strengthen the national drug effort.

Now let me draw my colleagues attention to the section of the committee's report which compels me to offer this amendment. After review of the Department of Defense performance in support of civilian narcotics enforcement activities, "the committee believes that the Department's policy is not entirely consistent with that intent."

There is little doubt about the enormous problem the civilian narcotics enforcement agencies face as they battle the cartels in South American and traffickers around the world. Recently, I listened with great interest recently in the Foreign Relations Committee to the testimony of General Joulwan, chief of Central Command in Panama. In unequivocal terms, he identified the primary threat and priority of Central Command as the narcotics problem. All I am asking in this amendment is that the entire Department of Defense recognize this threat and offer the important skills, resources and capabilities uniquely available at DOD to support this vital mission.

I appreciate the committee's consideration of my amendment.

Mr. WARNER. I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3062) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3063

(Purpose: To require a report relating to continuing health benefits coverage of employees of Department of Defense contractors who are involuntarily separated from such employment by reason of the termination of defense contracts)

Mr. NUNN. Mr. President, on behalf of Senator Pell, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. PELL, proposes an amendment numbered 3063.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 122, between lines 3 and 4, insert the following new section:

SEC. 349. REPORT RELATING TO CONTINUING HEALTH BENEFITS COVERAGE OF CERTAIN TERMINATED EMPLOYEES OF DEFENSE CONTRACTORS.

(a) REPORT REQUIRED.—Not later than March 1, 1993, the Under Secretary of Defense for Acquisition shall submit to Congress a report on matters relating to the provision by contractors of the Department of Defense of continuing health benefits coverage to employees of such contractors who are involuntarily separated from such employment by reason of the termination or curtailment of defense contracts.

(b) CONTENT OF REPORT.—The report shall contain—

(1) an estimate of the number of employees referred to in subsection (a) who will be involuntarily separated from employment referred to in that subsection for the reason referred to in that subsection during each of fiscal years 1993 and 1994;

(2) an estimate of the number of such employees who will elect in each such fiscal year to receive continuation coverage under section 4980B of the Internal Revenue Code of 1986, and an estimate of the aggregate monthly costs that will be incurred during such fiscal years by such employees who make the elections;

(3) an estimate of the cost to the Department of Defense of providing continuing health benefits coverage to such employees in the same manner as continuing health benefits are provided to individuals under paragraph (4) to section 8905a(d) of title 5, United States Code, as added by section 346(a);

(4) an assessment of the capability of the employers of such employees to bear a portion or all of the costs estimated under paragraph (3) and a description of any current efforts by such employers to bear such costs; and

(5) recommendations relating to the optimal allocation of such costs between the Federal Government and such employers.

In section 2(b), amend the table of contents by inserting after the item relating to section 348 the following new item:

Sec. 369. Report relating to continuing health benefits coverage of certain terminated employees of defense contractors.

Mr. NUNN. Mr. President, this amendment by Senator PELL requires the Under Secretary of Defense for Acquisition to submit a report to Congress on the number of employees likely to be terminated by defense contractors in fiscal 1993 and 1994 and the estimate of the cost of providing health benefits to them.

Mr. PELL. Mr. President, this amendment would require the Department of Defense to submit a report by next March 1 on one of the most vexing and so far unaddressed problems involved in the defense build-down, and that is the question of continuity of medical insurance for defense industrial workers who are involuntarily separated from employment because of the termination or curtailment of defense contracts.

I note with interest that the bill as reported from committee provides for temporary continuity of the Government's contribution to health insurance plans for two other important categories of defense personnel, namely civilian employees of the Department of Defense and for members of the uniformed services who have been separated because of cutbacks in defense spending.

It seems to me that the justification for providing assistance in extending insurance to these two categories applies equally to the men and women who have been providing the industrial sinew which helped us to win the cold war.

While industrial workers are employees of the private sector, they do comprise a unique category of people whose employment is determined by public policy and by world events.

In southeastern New England, where thousands of industrial workers are facing the prospect of unemployment as a result of the curtailment of the *Seawolf* submarine program, we find that the continuity of health insurance is the largest single problem awaiting them when they receive their pink slips.

It is to be sure a very expensive problem, both in terms of family budgets and in terms of any comprehensive assistance programs which might be devised.

I have proposed two legislative remedies in this Congress, both of which pose admittedly large fiscal burdens. S. 2690 which I introduced last May, would provide a Federal subsidy of 75 percent of an employee's premium for health insurance continued after separation under the so-called COBRA provisions, for a period of up to 36 months.

A slightly different approach was suggested in S. 2906, the Defense Industrial Diversification and Adjustment Act, which I introduced on June 29. It provided for a subsidy of 50 percent of the COBRA premium for 1 year, to be paid from a trust supported by contractor contributions.

I would be the first to acknowledge that both bills posed fiscal burdens of unknown dimensions. Unlike the uniformed services or the civilian work force of DOD, the magnitude of the problem as it effects the private sector defense industrial work force is simply not clearly defined.

The amendment I am offering today would provide the necessary clarification. It would require the Under Secretary of Defense for Acquisitions to report by March 1, 1993, on the matter of continuity of medical insurance coverage for employees of contractors to the Department of Defense whose employment has been or will be terminated involuntarily due to the curtailment or termination of a defense contract. The report would address:

(1) An estimate of the number of such employees to be terminated for such reasons during fiscal year 1993 and fiscal year 1994;

(2) The estimated monthly cost of premiums for such employees who may elect to continue coverage under section 4980B of the Internal Revenue Code of 1986;

(3) The estimated cost of underwriting half such costs on a basis comparable to that provided civilian employees of the Department of Defense by section 346 of S. 3114;

(4) An estimate of the ability of defense contractors to underwrite all or a portion of the cost estimated by item (3) and a description of any existing efforts by contractors to underwrite such costs; and

(5) Recommendation of a possible cost sharing formula between the Federal Government and contractors of the costs estimated by item (3).

Mr. President, the report required by this amendment will do much to clarify the issues involved in providing a solution to one of the most painful and nagging problems involved in defense transition. I urge its acceptance and I urge that it be supported in conference.

Mr. NUNN. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3063) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT

Mr. NUNN. Mr. President, I ask unanimous consent that during the consideration of the DOD bill that the only amendment in order to section 716 of S. 3114 or on the subject of abortion be an amendment to strike that section by Senator COATS; that debate thereon be limited to 1 hour equally divided in the usual form; and that following the conclusion or the yielding back of time, the Senate proceed to vote on the Coats amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3064

Mr. NUNN. Mr. President, on behalf of Senator PELL, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. PELL, proposes an amendment numbered 3064.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 333, between lines 13 and 14 insert the following new section:

SEC. 808. INDUSTRIAL DIVERSIFICATION PLANNING FOR DEFENSE CONTRACTORS.

(a) INCENTIVES.—(1) Not later than 120 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations to encourage defense contractors to engage in industrial diversification planning.

(2) Such regulations shall include—

(A) treatment of industrial diversification planning expenditures as allowable costs under Department of Defense contracts,

(B) treatment of industrial diversification research and development activities as permissible independent research and development expenditures, and

(C) such other incentives as the Secretary of Defense deems appropriate to encourage defense contractors to engage in industrial diversification planning.

(b) DEFINITION.—For purposes of this section, the term "industrial diversification" means conversion from government-oriented management, production, training, and marketing practices to practices that are compatible with the commercial marketplace.

Mr. PELL. Mr. President, this amendment achieves a long sought objective in helping to sustain and preserve our defense industrial base.

It would provide very attractive incentives to defense contractors to plan ahead for inevitable reductions in business from the Department of Defense.

Instead of waiting for the ax to fall and then being forced to throw skilled workers out on the street and perhaps ultimately shutting down a vital segment of our defense industrial base, contractors would plan now, encouraged by the incentives offered in this amendment, for diversified commercial production which could help keep their facilities in operation.

The amendment simply directs the Secretary of Defense to prescribe regulations which will encourage such advance planning. The incentives would include:

Treatment of expenditures for planning for diversification as allowable costs under future contracts;

Treatment of R&D for industrial diversification as permissible independent R&D expenditures; and

Other incentives deemed appropriate by the Secretary to encourage planning for diversification.

In return, I would hope that contractors will be required to respond with very specific plans for utilizing their facilities constructively in ways that will be rewarding to themselves and to the public interest. Such plans, I believe, should cover the following points at a minimum, without requiring disclosure of proprietary information:

First, identification of specific technologies unique to the contractor's facilities and operations;

Second, identification of potential nondefense commercial applications utilizing the contractor's unique technologies;

Third, a summary report of commercial applications being undertaken or contemplated;

Fourth, a statement of actual or estimated costs of converting or modifying the contractor's defense industrial facility or facilities for the production of goods and services not produced under defense contracts;

Fifth, a statement or estimate of the amount and type of retraining that the employees of the contractor's defense industrial facilities will require in order to produce nondefense goods and services; and

Sixth, an estimate of the impact that implementation of the plan will have on the labor force in the area or areas in which the defense industrial facility or facilities of the contractor are located.

Mr. President, in my view I believe this amendment could do much to achieve the underlying purposes of the bill, which as I understand them, are to facilitate adjustment to lower defense spending and at the same time preserve a healthy defense industrial base. I urge its acceptance and urge that it be supported in conference.

Mr. NUNN. Mr. President, this amendment I have submitted on behalf of Senator PELL requires the Secretary of Defense to authorize incentives to encourage defense contractors to engage in industrial diversification planning.

I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3064) was agreed to.

Mr. MACK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3065

(Purpose: To establish a Federal Defense Laboratory Diversification Program)

Mr. NUNN. Mr. President, on behalf of Senators LIEBERMAN and PRYOR, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. LIEBERMAN, for himself and Mr. PRYOR, proposes an amendment numbered 3065.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 370, between lines 18 and 19, insert the following new section:

SEC. 836. PROGRAM TO ENCOURAGE DIVERSIFICATION OF DEFENSE LABORATORIES.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense, acting through the Director of Defense Research and Engineering, shall establish and implement a program to be known as the Federal Defense Laboratory Diversification Program (hereafter in this section referred to as the "Program"). The purpose of the Program shall be to encourage greater cooperation in research and production activities carried out by defense laboratories and by private industry of the United States in order to enhance and improve the products of such research and production activities.

(b) PROGRAM GOALS.—Under the Program, the defense laboratories shall carry out cooperative activities with private industry in order to promote the transfer (by the use or exchange of patents, licenses, cooperative research and development agreements and other cooperative agreements, and the use of symposia, meetings, and other similar mechanisms) of defense or dual-use technologies from the defense laboratories to private industry for the purpose of the commercial utilization of such technologies by private industry.

(c) DEVELOPMENT OF PLANS FOR PROGRAM.—The Director of Defense Research and Engineering shall develop and annually update a plan for each defense laboratory that participates in the Program under which plan the laboratory shall carry out cooperative activities with private industry to promote the transfers described in subsection (b).

(d) REPORTS ON SURVEY OF LABS AND IMPLEMENTATION OF PROGRAM.—(1) Not later than September 30, 1993, the Director of Research and Engineering shall submit to Congress a report containing the following:

(A) An assessment of the potential of each such laboratory to promote the transfers described in subsection (b).

(B) Recommendations on the manner in which each such laboratory might better promote such transfers.

(C) A description of the extent to which each such laboratory has implemented effectively the plan established for the laboratory under subsection (c) during the year preceding the date of the report.

(D) Recommendations of the Director for the improvement of the Program.

(e) DEFINITION.—In this section, the term "defense laboratory" means any laboratory owned or operated by the Department of Defense that carries out research in fiscal year 1993 in an amount in excess of $5,000,000.

In section 2(b), amend the table of contents by inserting after the item relating to section 835 the following new item:

Sec. 836. Program to encourage diversification of defense laboratories.

Mr. NUNN. Mr. President, this amendment on behalf of Senators LIEBERMAN and PRYOR requires the Director of Defense Research and Engineering to establish plans and goals for the Department of Defense labs to work with industry on dual-use technology.

Mr. LIEBERMAN. Mr. President, Senator PRYOR and I are offering an amendment today that would encourage diversification of defense laboratories and greater cooperation in research and production activities with the private sector. The amendment requires that defense labs carry out cooperative activities with private industry. This goal is achieved by having the Director of Defense Research and Engineering to develop and annually update a plan for each defense lab that participates in a program of cooperative activities with industry.

The amendment further asks that the Director of Research and Engineering submit a report to Congress that would: First, assess the potential of each lab to promote the transfer of dual use technology from DOD labs to private industry in order to promote commercial utilization; second, make recommendations on how the labs might make these transfers; and third, provide a description of the extent to which each DOD lab has implemented the plan described in the amendment.

The process of cooperation between defense labs and industry has already begun. Federal labs have expertise that can be of great use to American companies trying to keep up in an increasingly competitive global marketplace. There are any number of examples of cooperative efforts already underway. For example, Lawrence Livermore National Laboratory [LLNL] is working with the State of California department of transportation to help develop an intelligent highway system that would help alleviate traffic congestion. Work is also taking place on image enhancing and processing techniques that would help to locate cancerous tumors. Los Alamos Federal Laboratory is working with General Motors to develop a fuel cell power system that could be used for transportation purposes. Caterpillar has been working with LLNL since 1988 to develop sophisticated earth moving equipment in order to keep up with foreign manufacturers like Japan's Komatsu Ltd.

All the major weapons labs—LLNL, Los Alamos, and Sandia—are poised to make a contribution to civilian R&D. This amendment would assist with that process by developing a plan to share research and the development of products that have a commercial purpose.

The end of the cold war has made defense cuts inevitable. But it is important that in the process of making these cuts that we do not allow the expertise found in our defense labs to be cast aside. We must, literally, develop a comprehensive approach for turning our swords into plowshares. This amendment would help to achieve that goal by having DOD establish a program for cooperation between industry and Federal labs.

I urge my colleagues to support the amendment. It is an important step toward making certain that as we downsize the military-industrial complex, we do so in a way that is both cost effective and helps make American industry more competitive.

I want to give special thanks to Desten Broach, Andy Effron, and John Douglass for all of their help in putting together this amendment.

Mr. PRYOR. Mr. President, I am pleased to be offering an amendment today with my friend and colleague from Connecticut, Senator JOSEPH LIEBERMAN. The amendment we are offering to the fiscal year 1993 Defense Authorization Act is designed to foster more cooperation on research and production activities between Government defense laboratories and private sector corporations. Such cooperation will result in a more competitive U.S. economy and higher paying jobs since it will give industry access to the advanced technology which many defense labs currently possess. Increased cooperation will also insure that the military has future access to the latest technologies since, increasingly, the commercial sector leads the defense sector in technology development.

The U.S. Government spends over $70 billion annually on research and development, yet much of this expenditure has, at best, an indirect benefit for the commercial economy, because 60 percent of that amount is spent on military R&D. Much of this military R&D takes place in Department of Defense laboratories which develop the technology for weapons systems and other military goods, as well as the processes essential for producing the military products themselves.

In many cases, these laboratories possess tremendous technological capabilities which could be a boon if transferred to private corporations attempting to compete in the world economy. Up to this point, the extent of technology transfer has, for a number of reasons, been low. The labs do, however, currently have the legal authority to engage in cooperative R&D and technology transfer with industry. This amendment would simply make such activities a priority for the labs.

The need for improved technology transfer became clear during the briefings and research undertaken by the Senate Democratic Task Force on Defense and Economic Transition which I participated in. The task force learned that a civil-military integration strategy featuring comprehensive procurement reform, as well as an R&D strategy which integrates civilian and military priorities, could significantly improve the quality and price of goods acquired for the Armed Forces. These reforms would also enable defense contractors to be more diversified, and hence less vulnerable to defense builddowns such as the one we are experiencing now. Reforms of this nature will also mean that a greater portion of military R&D and procurement dollars are spent in such a way that the commercial economy in general experiences a benefit.

The program which this amendment would establish is consistent with the specific recommendations of the task force and with one of its major themes, namely, that R&D which continues to be undertaken for military purposes should be pursued, to the maximum extent possible, in such a way that it has benefits for both the commercial and military sector. This is the so-called dual-use R&D. This focus on expanded commercial R&D will mean more competitive U.S. industries, more jobs, higher wages for American workers.

The Democratic economic leadership strategy, developed in part under the leadership of Senator LIEBERMAN, came at the defense labs from an angle different from the Defense Transition Task Force, but they arrived at a similar conclusion. Namely, that the defense labs are a vital national resource which should be tapped for the sake of improving the competitive abilities of American industry. Again, the result will be a healthier U.S. economy and higher paying jobs for American workers.

Senator LIEBERMAN and I do not propose, with this amendment, to subordinate defense laboratories to the needs of commercial industry. Rather we are saying that when a defense laboratory undertakes an R&D project on a certain technology, it should team with a commercial partner that has its own interest in a commercial application of the same technology.

In fact, the process of technology transfer which we hope to encourage is a two-way street which the defense labs and the military stand to benefit from as much, if not more so, as commercial industry does. Increasingly, the most advanced technologies are being developed in the commercial sector of our national R&D infrastructure, rather than in the military sector. This trend means that if the military hopes to continue having access to the most advanced weapons, electronics, aircraft, missiles, and other products, it must foster greater links with companies researching and developing critical technologies in the private sector.

Finally, for those who might question whether the potential for shared technology development exists, one need only look at the various lists of technologies identified as key to present and future industries, so-called critical technologies, which have been developed for both the defense and commercial sectors. A vast majority of the technologies on these two lists are common to both, thereby demonstrating the common needs and the common opportunities for R&D between commercial industry and the defense labs.

The amendment Senator LIEBERMAN and I are offering will require the Director of Defense Research and Engineering to develop a Federal Defense Laboratory Diversification Program. The purpose of this program shall be to encourage greater cooperation in research and production activities carried out by defense laboratories and by private industry of the United States in order to enhance and improve the products of such research and production activities. The amendment requires the Director to draw up a plan for each laboratory showing how the law will achieve the program's objectives. In recognition of the fact that all of the labs are not suited for the same amount or type of cooperative work with industry, the amendment leaves it up to the Director to determine how to apply the program from lab to lab. Finally, the amendment requires a study to inventory the capabilities of the different labs, to report on their success in implementing the industry cooperation program, and to make recommendations for improved cooperation.

The program created by this amendment does not in any way represent an attempt to create a new mission for the defense labs so that their lives can be prolonged and their funding preserved. Decisions of that nature will be based on an assessment of defense technology needs, commercial technology needs, and an assessment of how best to satisfy those needs.

The amendment also does not require any new expenditure of funds. However, it does offer the potential of getting a higher technological return on the money we currently spend on the labs. It would do so by opening up the labs as they exist today so that the valuable technologies they already have in hand can be shared with industry and so that the R&D they perform in the immediate future will have maximum benefit for purposes of both defense and commerce.

As I mentioned earlier, the labs do not need any new legal authority to undertake cooperative projects with industry, and this amendment does not give any such new authority. The amendment simply makes cooperative work more of a priority for the labs. I hope they will, on their own, heed the call for more cooperative work. If not, it may be necessary to require each lab to devote a specific percentage of its budget and other resources to cooperative projects with industry. If efforts are not truly made to take industry's needs into account, it may be necessary to establish industry advisory panels which will have the authority to give input and direction on activities undertaken by the labs. I much prefer to let the labs chart their own course rather than trying to micromanage them, but if they do not take this mandate seriously, more direction will be forthcoming.

Mr. President, I want to thank Senator NUNN and Senator WARNER for accepting this amendment. I also want to thank Senator NUNN's staff and Senator BINGAMAN's staff for assisting in the preparation of this amendment. I also particularly want to thank two staff members from the Congressional Office of Technology Assessment, Kitty Gillman and Julie Gorte who provided a great deal of information about the labs which helped make this amendment possible. Finally, I want to compliment Senator LIEBERMAN and his staff, particularly Bill Bonvillian and Bill Danvers, for the extremely professional, high quality work they performed on this issue. It is a genuine pleasure to work with Senator LIEBERMAN and his staff.

Mr. NUNN. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3065) was agreed to.

Mr. MACK. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3066

(Purpose: To amend section 5(d) of Public Law 81-874 (Impact Aid) regarding State equalization programs)

Mr. MACK. Mr. President, on behalf of Senator McCAIN and Senator DECONCINI, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. MACK], for Mr. McCAIN, for himself and Mr. DECONCINI, proposes an amendment numbered 3066.

Mr. MACK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 487, between lines 12 and 13, insert the following:

SEC. 1064. STATE EQUALIZATION PROGRAMS.

Paragraph (2) of section 5(d) of Public Law 81–874 (20 U.S.C. 239(d)(2)) is amended—

(1) by striking subparagraph (C) (as added by section 330(a) of Public Law 94–482); and

(2) by adding at the end the following new subparagraph:

"(D) Any State whose program of State aid was certified by the Secretary under subparagraph (C) for fiscal year 1988, but whose program was determined by the Secretary under subparagraph (C)(i) not to meet the requirements of subparagraph (A) for one or more of the fiscal years 1989 through 1992—

"(i) shall be deemed to have met the requirements of subparagraph (A) for each of the fiscal years 1989 through 1992; and

"(ii) shall not, beginning with fiscal year 1993, and notwithstanding any other provision of this paragraph, take payments under this title into consideration as provided under subparagraph (A) for any fiscal year unless the Secretary has previously certified such State's program for such fiscal year.".

Mr. DECONCINI. Mr. President, I want to thank the Armed Services Committee chairman, Senator NUNN, and the ranking member, Senator WARNER, for accepting an amendment which addresses a problem that a number of States, including Arizona, face at this time. I also express my appreciation to the Education Subcommittee for understanding the need for this amendment at this time.

The amendment will protect native American children attending public schools in my State. Presently, due to a dispute between the Federal and State governments, the schools serving these school children risk losing all of the impact aid funds they receive. To avert this disaster, the Federal Government, State government and the affected local school districts in my State reached a settlement agreement. Under the agreement, the Federal Government, State government, and school districts concede significant aspects of their original negotiation terms by agreeing to an immediate settlement in order to preserve the benefits of impact aid funding for native American children. Our amendment will enable the U.S. Department of Education to implement the settlement agreement and prevent the loss of all impact aid funds which benefit Arizona Indian children.

Mr. President, all the parties in Arizona and the U.S. Department of Education worked hard for the past couple of years to resolve this unfortunate situation. In the end, they all agreed to put the interests of the children first. I commend them for their hard work and commitment to Indian education. I thank my colleagues for their assistance and willingness to respond to this urgent Indian education need in the State of Arizona.

Mr. McCAIN. Mr. President, I would like to make a few comments regarding the impact aid amendment that I am offering along with my colleague, Senator DECONCINI. This is a matter of utmost urgency to the State of Arizona, and it will have a direct beneficial impact on some of the neediest students and schools in our State.

This amendment will help avert a budgetary crisis for both the State of Arizona, and for a group of largely native American school districts in northern Arizona. It is supported by the Arizona State Impact Aid Association, Governor Symington, and the State superintendent of public instruction.

For several years, the school districts, the State, and the U.S. Department of Education have been involved in a dispute over Arizona's education funding procedures. This problem centers around the extremely complex issue of equalizing spending among school districts in Arizona, and has been the cause of considerable concern and frustration for many school district officials and Arizona department of education officials.

The fiscal consequences of not enacting this amendment would simply be devastating for the people of Arizona. Under current Federal law, if the appeals by the State of Arizona are not successful, the State would be liable for approximately $70 million in past aid deducts. As is the case with many other States during this recessionary period, Arizona has struggled to close huge budget deficits in 1991 and 1992. The State simply does not have the resources to come up with such moneys.

Therefore, the U.S. Department of Education would then be required to reduce future payments to the affected districts. These districts would suffer a reduction in impact aid funding of at least $190 million, and possibly $250 million. Such an action would have a brutal impact on the 18 districts that are primarily involved, for many of them are virtually the poorest in Arizona.

The students of districts such as San Carlos, Fort Thomas, and Sanders are overwhelmingly native American, and their schools are already beleaguered by scarce resources, rapidly increasing enrollments, and inadequate facilities. To cut their Federal impact aid assistance would truly be a wrenching blow to these severely disadvantaged students and their communities.

This cannot be allowed to happen. Fortunately, with the adoption of this amendment, it will not. The McCain-DeConcini amendment will modify current Federal law and solidify an agreement that the State and the school districts have entered into after months and months of negotiations and hard work. The Arizona State Legislature has changed State law to prevent any deductions in aid to these districts for the next 2 years. After this period, the State will not make any deductions unless they have been certified to do so by the U.S. Department of Education.

For their part, the school districts will not seek any recovery of past reductions in State aid, and the U.S. Department of Education will consider the State to have been certified for deductions made during the years in question. The State of Arizona and the U.S. Department of Education will enter into a memorandum of understanding to facilitate a more expeditious certification process for the State's equalization procedures.

I urge the U.S. Department of Education to work closely with State officials to develop a practical and expeditious process to render a judgment on Arizona's future certification requests. It is vitally important to the integrity of this agreement that this decision be made by the Department as close to January 1 of each fiscal year as possible.

While this amendment is not a perfect solution, I fully believe that the agreement it codifies is in the best interests of all the parties involved. The affected school districts will benefit from no reductions in State aid for the next 2 years, and the State of Arizona will not be burdened with administrative appeals and a crippling new fiscal dilemma. Continued litigation and debate on this issue will not serve anyone, and the enactment of this measure will enable the districts to move forward in educating their students.

I want to thank the managers of the 1993 DOD reauthorization bill, Senators NUNN and WARNER, for their acceptance of this amendment. I also want to express my deep appreciation for the assistance of Mr. Charles Hansen, Director of the Department of Education's Office of Impact Aid. The time and energy he devoted to helping us achieve this resolution was invaluable.

I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. NUNN. I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3066) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3067

(Purpose: To require the Secretary of Defense to conduct a study regarding the Reserves and members of the National Guard ordered to active duty in connection with Operations Desert Shield and Desert Storm who were self-employed or were owners of small businesses)

Mr. MACK. Mr. President, on behalf of Mr. MCCONNELL, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. MACK], for Mr. MCCONNELL, proposes an amendment numbered 3067.

Mr. MACK. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 154, between lines 3 and 4, insert the following:

SEC. 505. STUDY OF EFFECTS OF OPERATIONS DESERT SHIELD AND DESERT STORM MOBILIZATIONS OF RESERVES AND MEMBERS OF THE NATIONAL GUARD WHO WERE SELF-EMPLOYED OR OWNERS OF SMALL BUSINESSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) The service of the members of the Armed Forces of the United States in Operations Desert Shield and Desert Storm was commendable.

(2) The Reserves and the members of the National Guard contributed to the readiness, preparedness, and combat capability of the coalition forces that participated in the liberation of Kuwait.

(3) The Reserves and the members of the National Guard ordered to active duty in connection with Operations Desert Shield and Desert Storm who were self-employed or were owners of small businesses possibly suffered unique financial difficulties resulting from their absence from their businesses for such active duty service.

(b) STUDY AND REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) conduct a study regarding the economic and other effects on the Reserves and members of the National Guard referred to in subsection (a)(3) of being absent from their businesses for active duty service in connection with Operations Desert Shield and Desert Storm; and

(2) submit a report on the results of the study to the Committees on Armed Services of the Senate and the House of Representatives.

(c) CONTENT OF REPORT.—The report shall include the following matters:

(1) The number of Reserves and members of the National Guard ordered to active duty in connection with Operations Desert Shield and Desert Storm who were self-employed or were owners of small businesses.

(2) A description of the businesses owned by those Reserves and members of the National Guard when such personnel were ordered to active duty.

(3) A detailed analysis of the economic effects on the businesses of such personnel resulting from the absence of such personnel for active duty service.

(4) A discussion of the factors that contributed to any financial hardship or gain for such businesses during the period of the absence of such personnel.

(5) The extent to which such personnel voluntarily separated from the Armed Forces, assumed an inactive status, or retired after being released from active duty.

(6) An analysis of the rates of such separations, change of status, and retirements.

Mr. MACK. Mr. President, this amendment requires a report on the impact on reservists who operate small businesses or who otherwise are self-employed and who served in Operations Desert Storm and Desert Shield.

Mr. MCCONNELL. Mr. President, I know I speak for my colleagues in expressing praise and commendation for the outstanding service of our soldiers and sailors during Operation Desert Shield and Storm. Brilliant military leadership, when coupled with the dedication of our service men and women, guaranteed the campaign to oust Iraqi forces from Kuwait would not fail.

What brings me to the floor today is the concern that while combat is over for some soldiers, the struggle to survive continues. I am referring to Reserve and National Guard members who served in the Persian Gulf and who are also owners of small businesses. For many, the homecoming ceremony following their redeployment was no more than last rites for their businesses.

In seeking to assist Kentucky's citizen-soldiers, I discovered the Pentagon has yet to conduct a thorough study on the economic impact to businesses owned by reservists during their service to our country. The amendment I am proposing today requires that such a study be conducted in order that we may better understand the depth and nature of this problem.

The telling remarks of one reservist sums up the uncertainties and fears these patriots live with. Dr. Harold Nelson, an optometrist and major in the Army Reserves, returned to private practice following his deactivation to find his patients—and creditors—eager to see him. His practice suffered during his absence, and he wrote to me:

> If I lose my business I not only lose my livelihood, I lose my credit rating, my civilian retirement, my health insurance, my self respect and my hard earned standing in the community. My employees may also lose their livelihood and their expectations for the future * * *.

In order that my colleagues may learn more of Dr. Nelson's plight, I ask that a copy of a Navy Times article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Navy Times, June 8, 1992]

RESERVIST: PRICE OF GULF CALL-UP TOO HIGH!

(By Rick Maze)

WASHINGTON.—Optometrist Harold Nelson is paying a heavy price for his Army Reserve service during Operation Desert Storm. He is about to lose his business and his home.

Nelson's plight is shared by many other self-employed business people who were called to active duty during the Persian Gulf war. Many of those who lost money during their mobilization were in the medical profession, but others were insurance sales people, beauticians, farmers and building contractors.

Congress is now asking the Defense Department to consider offering reservists an insurance plan that would make up the difference between military salaries and the Guard or reserve member's civilian salary in future mobilizations.

Nelson, a major activated for nine months at Fort Knox, Ky., as a replacement for active-duty officers who deployed to the Persian Gulf, said he always knew during 29 years in the reserves that he could be called away from his practice by military duties. "I had faith in the Army and its leaders that they would do right by me if the need arose," Nelson said.

Now he's disappointed.

When called to active duty on Jan. 8, 1991, Nelson had a 10-month-old private practice with two offices in Louisville, Ky.

The Army allowed him to moonlight up to 10 hours a week, but he was barred by law from receiving Medicare and other federal health care payments while on active duty. Meanwhile, new competition moved into the neighborhood. By working on Saturdays and Tuesday evenings, Nelson said he was able to make about $90,000, 25 percent of his normal cash flow.

When he was released from active duty his business was in serious trouble and his creditors were treating him like a deadbeat, he said.

He laid off employees and canceled the office health insurance policy. He has been using credit cards and his retirement fund to keep the practice running. Now he faces foreclosure on his home.

"The only alternative that I can see now is to file for bankruptcy," he said.

The 1992 Defense Authorization Act set aside $30 million for disaster loans for small business. The loans were to be used in communities where at least five businesses were economically injured by the deployment of troops.

Sen. Dale Bumpers, D-Ark., the Senate Small Business Committee chairman, complained the loan program has never been implemented because the Pentagon has not released the funds.

Nelson said he is trying to form a group of other self-employed reservists and recalled retirees whose military service during Operation Desert Storm caused severe financial distress.

He complained that there are laws to protect reservists and retirees employed by other people, but "we have failed thus far to recognize the very real needs of the self-employed reservists."

Mr. MCCONNELL. Mr. President, I urge my colleagues to give this amendment their serious consideration. Support of this legislation is support for the brave Americans who contribute to our Nation's economic well being and to its security. It is support for our farmers, doctors, and private contractors—all our citizen-soldiers who are self-employed or owners of small businesses.

Mr. NUNN. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3067) was agreed to.

AMENDMENT NO. 3068

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Mr. INOUYE, which is a technical amendment by the Senator from Hawaii correcting an oversight in the provision of the bill dealing with the chemical weapons stockpile.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. INOUYE, proposes an amendment numbered 3068.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 49 beginning on line 12, after "(4)", delete all through "facilities" on line 14.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3068) was agreed to.

Mr. MACK. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3069

(Purpose: To clarify the terms under which the Department of Defense shall hold harmless, defend, and indemnify entities which acquire closed military property against suits, claims, demands, or actions, liabilities, judgments, and costs arising out of the release of any hazardous substance as a result of Department of Defense activities)

Mr. MACK. Mr. President, I have an amendment to send to the desk on behalf of Senator MCCAIN.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. MACK], for Mr. MCCAIN, proposes an amendment numbered 3069.

Mr. MACK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 90, strike line 12 through line 15, and insert in lieu thereof the following:

"(2) No indemnification may be afforded under this provision unless the person or entity making a claim for indemnification—

(1) notifies the Department of Defense in writing within two years after such claim accrues or begins action within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the Department of Defense;

(2) immediately furnishes to the Department of Defense copies of all pertinent papers the entity receives;

(3) furnishes evidence or proof of any claim, loss, or damage covered by this section in the manner and form the Department of Defense requires;

(4) complies with the directions of the Department of Defense and executes any authorizations in connection with the settlement or defense of the claim or action; and

(5) cooperates fully and completely with the Department of Defense, and provides to the Department of Defense, upon request, all manner of assistance, including access to the records and personnel of the entity, in defense or settlement of the claim or action."

Mr. MACK. Mr. President, this amendment is a technical correction regarding the indemnification of contractors involved in the cleanup of our military bases and those who may become the new owners of those bases.

Mr. MCCAIN. Mr. President, I thank Chairman NUNN and Senator WARNER for accepting an amendment I have offered to fully shield purchasers of closed military bases from liability for hazardous waste left by the Federal Government.

Nearly 129 military bases are targeted for closure over the next several years. Many of those bases have a history of environmental problems—including 17 sites which are listed for Superfund cleanup.

Under current law, receivers of closed base property can be successfully sued for pollution caused by Defense Department activities. Such suits might include environmental cleanup orders or civil damage claims.

This situation is unjust and it must be remedied. We simply cannot ask States or businesses to assume potentially devastating liability for conditions they did not create. Moreover, the Federal Government has a duty to accept full and unconditional responsibility for its actions.

Last year, I introduced legislation to ensure that the Federal Government remains fully responsible for hazardous waste problems at military installations after base closure. The bill requires the Department of Defense to defend, hold harmless, and indemnify innocent receivers of the property against claims arising from pollution caused by military activities.

This protection is absolutely critical if we are to promote the timely and efficient transmission of base property to new and productive uses. How many States or employers are anxious to acquire base property without such protection?

The Armed Services Committee incorporated the indemnification language into the Defense authorization bill. However, the committee added a provision which I believe is very problematic.

The committee amendment says that: "No indemnification will be provided to base transferees that is not subject to the Federal Tort Claims Act." It is a small provision, Mr. President, but it packs a powerful punch. Why?

According to the American Law Division of the Congressional Research Service:

> * * * the substantive provisions of the Federal Tort Claims Act would not apply to a transferee's claim for indemnification because the act does not provide for indemnification of persons held liable for government activities; the Federal Tort Claims Act is simply not designed for that purpose. Any legislation that merely states, without elaboration that indemnification shall be subject to and consistent with the FTCA would seem inevitably to raise interpretive problems.

I will request that copies of two Congressional Research Service memos on this matter be printed in the RECORD.

Mr. President, the Federal Tort Claims Act is the statute by which the United States authorizes tort suits to be brought against itself. With certain exceptions, it makes the United States liable for injuries caused by the negligence or wrongful act of any federal employee acting within the scope of his or her employment.

An indemnification claim is not a tort suit. How the Department of Defense or a judge would interpret a suggestion to the contrary is anyone's guess.

But, let's assume that the Federal Tort Claims Act does extend beyond tort claims and to requests for indemnification.

The FTCA has certain requirements which would severely undermine the liability protection based transferees require. To obtain compensation under Federal tort claims, one must prove that the federal employee responsible for the tort was negligent.

In many cases, hazardous dumping by the military occurred prior to the enactment of our environmental laws. Such dumping probably would not be defined as negligent. Under the committee bill that would mean receivers of closed base property could not receive indemnification. The unfortunate result is that the innocent property owner pays for Uncle Sam's mistakes.

Our States and other innocent parties which acquire closed military property have a reasonable expectation that they not be asked to pay for pollution created by the Federal Government. I hope my colleagues will agree.

The amendment I have offered will ensure that full protection is provided under terms that are fair and reasonable. It would do so by deleting the committee bill's reference to the Federal Tort Claims Act, and replacing it with procedural guidelines which require claimants to file indemnification requests in a reasonable time frame and to cooperate fully with the department in the administrative or judicial consideration of the claim.

Mr. President, base closure is a difficult and traumatic period for local economies which have grown dependent on the employment and economic activity provided by defense installations.

We have a Federal obligation to help facilitate a safe and timely transfer of base property to other productive uses. We cannot possibly achieve that goal if those who would put that property to use must risk everything in the process.

We must do what's right—ensure, without condition, that the Federal Government will defend and indemnify states and employers who are sued over pollution caused by Federal activities. My amendment will accomplish that goal.

Again, I thank Senator **NUNN** and Senator **WARNER** for their assistance and leadership on this issue, and for accepting my amendment. I ask unanimous consent that a copy of the amendment, two memos from the Congressional Research Service and letters of support from the National Governors Association, the National Association of Counties, and the National League of Cities be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, July 27, 1992.

To: Honorable JOHN MCCAIN.
(Attention: John Raidt).
From: American Law Division.
Subject: Effect of incorporating the Federal Tort Claims Act into indemnification draft Bill.

This memorandum is furnished in response to your request for an analysis of the effect of a provision incorporating the Federal Tort Claims Act into a draft bill that would require the Secretary of Defense to indemnify transferees of closing defense property for liability arising out of the release or threatened release, as a result of Department of Defense activities, of any hazardous substance or pollutant or contaminant. In other words, if a state or political subdivision of a state, or any other person or entity, acquired a former military installation that had been closed pursuant to a base closure law, and such transferee were sued (apparently under either federal or state law) for injuries caused by pollution that had occurred on the property as a result of Defense Department activities, then, under the draft bill, the Secretary of Defense would be required to indemnify the transferee. However, the draft bill provides:

"No indemnification may be afforded under this provision which is not subject to and consistent with Chapter 171 of Title 28, United States Code, including procedural requirements or defense [sic]."

Chapter 171 of Title 28 is the Federal Tort Claims Act (FTCA), 28 U.S.C. §§2671–2680. The FTCA makes the United States liable, with exceptions, for the torts of its employees, to the extent that, under the law of the state where the tort occurred, private employers are liable for the torts of their employees.[1] However, the FTCA contains exceptions under which the United States may not be held liable even if a private employer could be held liable under state law. Among these exceptions are the following (in no particular order):

(1) the tort must be a "negligent or wrongful act or omission," which has been construed to mean that there is no strict liability under the FTCA;[2]

(2) there is no liability for intentional torts (with an exception for some intentional torts by federal investigative or law enforcement officers);[3]

(3) under the Feres doctrine, there is no liability for injuries to military personnel sustained incident to service;[4]

(4) there is no liability for interest prior to judgment or for punitive damages;[5]

(5) there is no liability for injuries arising from the exercise of a "discretionary function" by a federal employee, even if the employee was negligent in the exercise of the discretionary function.[6] The rationale for the discretionary function exception was "to prevent judicial 'second-guessing' of legislative and administrative decisions founded in social, economic, and political policy through the medium of an action in tort."[7] A discretionary function "is one that involves a choice of judgment . . . grounded in regulatory policy." Discretionary functions do not refer "exclusively to policy-making or planning functions"; they can be exercised in the course of day-to-day management. But the discretionary function exception would not protect the United States from liability for an automobile accident merely because driving requires the constant exercise of discretion: "exercising that discretion can hardly be said to be grounded in regulatory policy."[8] The discretionary function exception also "will not apply when a federal statute, regulation, or policy specifically prescribes a course of action for an employee to follow. In this event, the employee has no rightful option but to adhere to the directive."[9]

Returning to the provision of the draft bill that would incorporate the FTCA, the effect of this provision is not entirely clear. It states that indemnification of persons held liable for Defense Department activities would have to be subject to and consistent with the FTCA. However, the FTCA does not provide for indemnification of persons held liable for government activities; it provides for payment of damages to persons injured by government activities. Therefore, the provision apparently should be construed to mean that indemnification may be made only if the person injured could have recovered against the United States under the FTCA, whether or not he sued the United States. Thus, if a transferee were found liable to an injured party, but a court determined that the United States, because of one of the five provisions cited above, or because of some other provision of the FTCA, was not or would not have been liable to the injured party, then under the draft bill, the transferee would not be entitled to indemnification.

How would this work in practice? As a practical matter, plaintiffs ordinarily sue all parties who might be liable, and a plaintiff's attorney who failed to join the United States in a suit in which it might be liable under the FTCA could face malpractice charges. Therefore, if a plaintiff does not join the United States in a suit against the transferee, it probably means that the United States would not be liable under the FTCA, and, under the interpretation offered above, the transferee would not be entitled to indemnification under the draft bill. The transferee could nevertheless seek to implead the United States (force it to join the suit) or sue it afterwards for indemnification under the draft bill.

On the other hand, if a plaintiff does join the United States and prevails against the transferee but not against the United States, the transferee probably would not be able to sue the United States for indemnification. This is because, assuming that the reason that the plaintiff had not prevailed against the United States was that the United States had been found not liable under the FTCA, the issue of its liability under the FTCA would be *res judicata*. This means that the issue would have already been decided in the plaintiff's case, and the transferee could not reopen it in a suit under the draft bill for indemnification.

If a plaintiff joins the United States and prevails against and the transferee and the United States, then the question would arise whether the applicable state law provided for joint and several liability. Under joint and several liability, every liable defendant is liable for 100 percent of the damages. The plaintiff cannot recover more than 100 percent, but he can choose from which defendant(s) to seek recovery. Under the draft bill, if the plaintiff recovered any part of the damages from the transferee, the transferee would be entitled to indemnification from the United States.

If, however, state law does not provide for joint and several liability, then each defendant would be liable in accordance with its share of responsibility. If the responsibility were solely the government's (the transferee being liable solely on some no-fault basis), then the transferee would not have to pay any damages and under the draft bill would be entitled to indemnification only for its legal costs. If both the transferee and the government were responsible (the transferee having engaged in some wrongful activity after having acquired the property), then the transferee probably would not be entitled to indemnification because its liability presumably would not be based upon Defense Department activities. Of course, the transferee could argue that its wrongful activity somehow resulted from Defense Department activities and that it consequently was entitled to indemnification.

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[1] The United States may be held liable under the FTCA for torts of employees of the executive, legislative, and judicial branches, but not for torts of government contractors. 28 U.S.C. §2671.

[2] See Dalehite v. United States, 346 U.S. 15, 44–45 (1953).

[3] 28 U.S.C. §2680(h).

[4] Feres v. United States, 340 U.S. 135 (1950) (i.e., the Feres doctrine is a Supreme Court interpretation of the FTCA; it is not explicit in the FTCA).

[5] 28 U.S.C. §2674.

[6] 28 U.S.C. §2680(a).

[7] United States v. Varig Airlines, 467 U.S. 797, 814 (1984).

[8] United States v. Gaubert, 111 S.Ct. 1267, 1275, n.7 (1991).

[9] United States v. Berkovitz, 486 U.S. 531, 536 (1988).

Another aspect of the draft bill's incorporation of the FTCA that seems unclear is its language "subject to and consistent with" the FTCA. These two phrases may merely be redundant. No action for indemnification is "subject to" the FTCA, because, as noted above, the FTCA does not provide for indemnification of persons held liable for government activities.

In addition, both elements of the phrase "including any procedural requirements or defense" seem ambiguous. As for "procedural requirements," there is "no simple dichotomy between substance and procedure"; state statutes of limitations, for example, are considered substantive for purposes of being "applied by a federal court in a diversity case, even though statutes of limitations may be regarded as 'procedural' for some other purposes. . . ."[10]

As for "defense," the FTCA does not appear to refer to any "defense." By virtue of its incorporating state law, it does incorporate state law defenses, such as contributory negligence. Are the exceptions in the FTCA, such as the discretionary function exception, defenses (as opposed to matters the plaintiff must prove do not bar his case)? In a sense they are, but this is not clear cut. One court said that "[a]nalytically, and as a practical matter, the discretionary function exception operates more as an affirmative defense than as a bar to jurisdiction."[11] Another court wrote:

"[A] plaintiff can invoke jurisdiction only if the complaint is facially outside the exceptions of §2680 [which includes the discretionary function and other exceptions to the FTCA] to establish jurisdiction pursuant to the FTCA. This does not mean . . . that the plaintiff must disprove every exception under §2680 to establish jurisdiction pursuant to the FTCA. What it does mean is that a plaintiff may not invoke federal jurisdiction by pleading matters that clearly fall within the exceptions of §2680. Only after a plaintiff has successfully invoked jurisdiction by a pleading the facially alleges matters not excepted by §2680 does the burden fall on the government to prove the applicability of a specific provision of §2680.[12]"

Thus, the phrase "procedural requirements or defense" seems ambiguous. However, the phrase also seems superfluous and apparently could be dropped without having any effect. If it were dropped, then the draft bill would incorporate Chapter 171 of Title 28 (the FTCA), including, presumably, all its provisions, they might write: "Chapter 171 of Title 28, United States Code, including all its provisions," rather than singling out "procedural requirements or defense," whatever these words may mean. If they are intended to have meaning, then it would be advisable to define them.

We discussed above the practical application of the substantive provisions of the FTCA to a transferee's claims for indemnification. We now attempt to apply FTCA's procedural requirements, and will treat the statute of limitations as procedural. First, we provide a brief summary of some of the FTCA's procedural requirements. Prior to filing suit under the FTCA, an injured party must present his claim to the federal agency out of whose activities the claim arises.[13] This must be done within two years after the claim accrues.[14] If, within six months after receiving a claim, the agency mails a denial of the claim to the claimant, then the claimant has six months to file suit in federal district court.[15] If the agency fails to act within six months, then the claimant may sue "'at any reasonable time' after the end of the six-month period following the filing of the plaintiff's claim"; suing twelve months after the six-month period was held not reasonable.[16] Suits under the FTCA are tried without a jury.[17]

It does not seem clear how these procedures would be applied under the draft bill. The injured party, if he joined the United States in his suit against the transferee, would be subject to the above statutes of limitations. Would the transferee then separately be subject to them? This interpretation would raise problems. For one, it would be inconsistent with the assumption we have made up to this point that the substantive provisions of the FTCA would not apply to a transferee's claim for indemnification because the FTCA does not provide for indemnification of persons held liable for government activities; the FTCA is simply not designed for that purpose. Rather, we have assumed that the substantive provisions of the FTCA would be applied to the suit or possible suit of the injured party against the United States, whether or not he brought it, and, only if he recovered or could have recovered under the FTCA would the transferee be entitled to indemnification.

A second problem with applying the FTCA's procedural requirements to the transferee's claim for indemnification would be determining when it accrued. Would it accrue at the time the transferee is held liable to the injured party? If so, then the transferee apparently would be precluded from impleading the United States in the injured party's action against it (the transferee). This interpretation would seemingly result in a waste of judicial resources by requiring two separate proceedings.

Suppose, however, we apply the FTCA's procedural requirements the same way we applied the FTCA's substantive requirements: to the suit or possible suit of the injured party, and, only if the injured party recovered or could have recovered against the United States would the transferee be entitled to indemnification. A problem here would be that, if the injured party missed the statute of limitations, but otherwise would have been entitled to recover damages against the United States, then the transferee would be precluded from indemnification by an act beyond its control.

In short, application of the FTCA's procedural requirements would seem to involve the same underlying difficulty that application of the FTCA's substantive provisions would involve: the fact that the FTCA does not provide for indemnification of persons held liable for government activities. Because of this, any legislation that merely states, without elaboration, that indemnification shall be subject to and consistent with the FTCA would seem inevitably to raise interpretive problems.

HENRY COHEN,
Legislative Attorney.

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, August 3, 1992.

To Hon. JOHN MCCAIN
(Attention: John Raidt).
From American Law Division.
Subject Effect of Incorporating the Federal Tort Claims Act into Indemnification Draft Bill: Additional Interpretations.

This memorandum supplements our July 27 memorandum on the above subject. In that memorandum, we discussed a draft bill that would require the Secretary of Defense to "hold harmless, defend, and indemnify" transferees of closed military bases for liability for pollution that had occurred as a result of Defense Department activities. The draft bill also provides:

"No indemnification may be afforded under this provision which is not subject to and consistent with Chapter 171 of Title 28, United States Code [the Federal Tort Claims Act], including procedural requirements or defense [sic]."

In our previous memorandum, we noted that the FTCA does not provide for indemnification of persons held liable for government activities; it provides for payment of damages to persons injured by government activities. Therefore, we concluded, the provision apparently should be construed to mean that indemnification may be made only if the person injured could have recovered against the United States under the FTCA, whether or not he sued the United States.

The above interpretation focuses on the word "indemnification," which, under the draft bill, must be subject to and consistent with the FTCA. However, the draft bill also provides that the Secretary of Defense shall "hold harmless" and "defend" the transferee, and the draft bill does not say that these duties must be subject to and consistent with the FTCA. A "hold harmless agreement," according to Black's Law Dictionary, is an agreement "whereby one party assumes the liability inherent in a situation, thereby relieving the other party of responsibility." Therefore, another possible reading of the draft bill would be that, if an injured party sues a transferee, then the United States would be required to stand in the shoes of the transferee—i.e., defend the suit and pay any damages that are awarded—and that it would be required to do so without regard to the FTCA. A problem with this interpretation is that it would leave no circumstance in which the Defense Department would be required to indemnify the transferee.

One might instead construe the draft bill to require that holding harmless and defending be subject to and consistent with the FTCA, even though the draft bill does not explicitly say that they must. If holding harmless and defending had to be subject to and consistent with the FTCA, then there would be cases where the United States would not be liable (because of exceptions in the FTCA) but where the transferee could be liable under federal or state law. If the transferee were held liable, it would not be entitled to indemnification from the United States because indemnification would not be subject to and consistent with the FTCA. The question in such cases would be whether the draft bill intends to allow suits against the transferee (for which the transferee would not be entitled to indemnification) or to leave the injured party without a remedy against either the transferee or the United States.

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[10] Charles Alan Wright, THE LAW OF FEDERAL COURTS (4th ed. 1983) 378–379.

[11] Allen v. United States, 527 F. Supp. 476, 486 (D. Utah 1981).

[12] Carlyle v. United States, 674 F.2d 554, 556 (6th Cir. 1982).

[13] 28 U.S.C. §2675.

[14] 28 U.S.C. §2401. A claim accrues under the FTCA when "the plaintiff has discovered both his injury and its clause." United States v. Kubrick, 444 U.S. 111, 120 (1979). This rule benefits, among others, plaintiffs with latent diseases that are not discovered until years after exposure to a hazardous substance.

[15] 28 U.S.C. §§2401, 2675.

[16] Taumby v. United States, 902 F.2d 1362, 1366 (8th Cir. 1990).

[17] 28 U.S.C. §2402.

A problem with construing the draft bill to require the United States to hold harmless and defend subject to and consistent with FTCA is that the suit by an injured party against a transferee might be brought in state court (if the transferee were a state, then, under the Eleventh Amendment, it would have to be brought in state court), but suits under the FTCA must be brought in federal court, and then only after a claim is filed with a federal agency. These problems might be dealt with by removing such cases to federal court, and by viewing the entry of the United States into the suit as answering a third party complaint, as, under the FTCA, third party complaints need not be filed with a federal agency. 28 U.S.C. §2675. In other words, the transferee might be viewed as filing a third party complaint against the United States, asserting that the United States must defend it and hold it harmless. The draft bill, however, does not address these matters.

HENRY COHEN,
Legislative Attorney.

NATIONAL ASSOCIATION
OF COUNTIES,
Washington, DC, August 10, 1992.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of communities nationwide that are struggling to adjust to military base closures, the National Association of Counties (NACo) applauds your efforts to expand the Pease AFB indemnification language to all closing military installations.

When the first base closure law was passed by Congress in 1988, there was much rhetoric about how conversion to civilian uses would create new economic opportunities for communities that are dependent on defense. Four years later, however, the number of successful conversions are few, and most communities still do not have conversion plans in place.

The greatest obstacle to base reuse is the risk of liability if environmental contamination is found on the site after transfer. Under current law, the subsequent owner can be held liable not only for the costs of cleaning up such contamination, but can also be sued for damages in the event of personal injury arising from that contamination. The risk has made lenders, developers and businesses unwilling to participate in base redevelopment, and has put a chill on the reuse plans of many communities affected by the base closures of 1988 and 1991. The same problem lies in wait for the communities that will be affected by the 1993 and 1995 base closure rounds.

Expansion of the Pease indemnification language to all closing and realigned military installations is the most important thing Congress can do to help communities hard hit by base closures. By guaranteeing that innocent parties could not be held liable for contamination caused by the Department of Defense, indemnification would open the doors to the long hoped for investment, redevelopment, and economic growth in base closure communities.

We urge every member of the Senate to support your amendment. Again, thank you for your leadership on this important issue.

Sincerely,

LARRY E. NAAKE,
Executive Director.

NATIONAL LEAGUE OF CITIES,
Washington, DC, August 20, 1992.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the 16,000 cities and towns that we represent, I am writing to thank you for sponsoring an amendment to the Defense Authorization Bill, S. 3114, that would protect local governments and private investors from liability for tort claims as a result of Department of Defense contamination at closed military bases.

Communities affected by the closure of a military base need to convert bases to private civilian use as quickly as possible in order to minimize the economic dislocation associated with the closure. One of the greatest impediments to reuse of closed military bases is the risk of environmental liability, which makes lenders developers and businesses unwilling to participate in base redevelopment.

It is imperative that Congress enact legislation this year to protect lenders, developers and local governments from liability against tort claims incurred as a result of hazardous contamination by the Department of Defense. Such legislation must also provide clear statutory authority for parcelization of Superfund sites.

Section 314 of the Defense Authorization bill provides much of what we need in order to alleviate the uncertainty and economic hardship facing base closure communities. Your amendment will make clear that cities, towns and future businesses that choose to invest in the reuse of former military base property will not be held responsible for any future suits, claims, liability, or judgments arising from contamination caused by the Department of Defense.

Your efforts to assist base closure communities are much appreciated and will go far in assisting communities struggling to reuse base closure property.

Sincerely,

DONALD J. BORUT,
Executive Director.

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, August 12, 1992.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: We are writing today to support your effort to strike the following language from S. 3114, the Department of Defense Authorization bill:

"(2) No indemnification may be afforded under this provision which is not subject to and consistent with Chapter 171 of Title 28, United States Code, including any procedural requirements or defense."

This provision appears to contradict the bill's intent to release State and local governments that acquire ownership or control of facilities at military installations from any liabilities due to the presence of hazardous substances resulting from Department of Defense activities. We believe that the Federal Tort Claims Act (Chapter 171 of Title 28) would significantly limit the indemnification otherwise provided to state and local governments under the bill, because the Act does not provide for indemnification of persons held liable for government activities.

We urge the Senate to strike this provision entirely so that state and local governments can be assured of complete indemnification in assuming ownership of closing defense properties. We believe such a change is crucial to the success of this worthwhile program.

Sincerely,

GOV. MICHAEL SULLIVAN,
Chairman, Committee on Natural Resources.
GOV. JOHN R. MCKERNAN,
Vice Chairman, Committee on Natural Resources.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 3069) was agreed to.

Mr. MACK. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3070

(Purpose: To strike the provision relating to the treatment of proposals for the Defense Finance and Accounting Service)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator MITCHELL, Senator COHEN, Senator BROWN, and Senator GRAMM and ask that the amendment be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. MITCHELL (for himself, Mr. COHEN, Mr. BROWN, and Mr. GRAMM), proposes an amendment numbered 3070:

On page 539, strike out line 9 and all that follows through page 539, line 20.

On page 539, line 21, strike out "2828." and insert in lieu thereof "2827.".

In section 2(b), amend the table of contents by striking out the items relating to sections 2827 and 2828 and inserting in lieu thereof the following:

Sec. 2827. Annual report relating to Overseas Military Facility Investment Recovery Account.

Mr. NUNN. Mr. President, this amendment preserves the Defense Finance and Accounting Service site selection process that began early this year in which over 100 communities around the Nation made proposals. The amendment does not alter the site selection process. It only preserves it.

Mr. MITCHELL. Mr. President, Senator COHEN and I today are offering an amendment to strike the provision of the committee bill which would have removed a proposed consolidation of the Defense Finance and Accounting Service [DFAS] from review by the 1993 Base Closure Commission.

In effect, the amendment preserves the DFAS site selection process that began earlier this year, in which over 100 communities around the Nation have made proposals. The amendment does not alter the site selection process. It only preserves it.

All communities will have the same opportunity for consideration, under the existing rules of the process, under which their proposals were originally made.

The Department of Defense has made clear that the committee provision would greatly delay and perhaps terminate the site selection process.

I am sympathetic to some of the concerns expressed in the committee report on this issue; particularly those expressing reservations with a policy of requiring communities to compete for Federal facilities, and concerns for the relative abilities of communities to offer incentives to DFAS in their proposals. However, I also have consulted with communities in Maine that have made such proposals. And those communities—like many others around the country—see the issue as one of fairness, and being able to judge for themselves their ability to make competitive proposals. The bottom line is that these communities do not want the rules of the competition changed after the site selection process already has begun.

This concern is not limited to Maine. In Texas, there are 11 communities that have made proposals to DFAS. California and Pennsylvania have seven each. Georgia and Michigan have six communities each under consideration. Florida and Ohio each have five. Ilinois, New York, and Virginia have four each. There are other communities in other States. There is broad interest in the DFAS site selection process.

An initial selection of 20 to 30 communities will be made in late 1992, and DFAS final recommendation of 2 to 5 sites will be announced in March 1993, along with the Department of Defense's overall list of recommended base closures and realignments.

The Base Closure Commission will have the responsibility for reviewing those recommendations and for making any changes before submitting them to the President for approval.

This amendment preserves that process. It is the same process under which the communities made their proposals. It is the process that the communities have expected all along, and the same process that they have planned on. Changing that process now would only create confusion in 100 communities around the country, as well as potentially eliminate the opportunity in which these communities have an interest.

The amendment removes the committee change and restores the original process.

Mr. President, for the record, I also ask unanimous consent to submit letters from the Maine communities that have commented on this issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CITY OF BANGOR, ME, DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT,

Bangor, ME, July 31, 1992.

Senator GEORGE J. MITCHELL,
U.S. Senate, Russell Senate Office Bldg., Washington, DC.

DEAR SENATOR MITCHELL: The City of Bangor appreciates the information you provided regarding the Defense Finance and Accounting Service (DFAS) site selection process and the opportunity to comment on provisions recommended by the Senate Armed Services Committee.

As we reviewed the DFAS solicitation, we had many of the same reservations expressed by the Committee in regard to solicitation of local subsidies by a federal agency. Should Bangor be selected as a host community, we certainly will require a long term commitment by DOD prior to making the major investment necessary to be competitive in the DFAS selection process.

In regard to the proposal to incorporate the availability of surplus or underutilized DOD facilities and economic dislocation as site location criteria, we offer the following comments.

Our primary concern is that because the Committee's recommendations appear to prioritize the availability of closed or underutilized DOD facilities as an additional selection criteria, Bangor may be placed at a competitive disadvantage in comparison to communities with existing DOD facilities. Given that the City of Bangor has invested considerable time and effort in developing what we believe to be an excellent proposal, we would request your support of the following recommendations which we believe will help to keep Bangor's proposal competitive:

(1) A project's potential to mitigate economic dislocation should be evaluated on a regional or statewide basis rather than on the scale of an individual community. The two most significant recent base closures affecting the State of Maine have been Loring and Pease Air Force Bases. Should Bangor's proposal be successful, employment opportunities and other economic benefits will have a tremendous positive impact upon the Aroostook County Readjustment Area. Likewise, selection of a Southern Maine DFAS proposal will certainly address the negative economic impact created by closure of Pease Air Force Base.

(2) Facilities such as Bangor International Airport should be given consideration because of BIA's status as a surplus and underutilized DOD facility which has been previously closed.

(3) The Committee's recommendation that any changes to the selection criteria be woven into the existing competitive process be supported. We believe that the competition should not be opened up to communities from across the country who chose not to respond to the initial request for proposals.

Obviously, these comments are made without the opportunity to review the Committee's recommendations in depth and without the knowledge of how Congress may ultimately review the proposals. We are anxious to learn more about these issues.

Again, we appreciate the opportunity to comment and your efforts to work on behalf of Maine's interests in the DFAS selection process. Please feel free to contact me or Edward Barrett, City Manager, if you have any questions or would like further information.

Sincerely,

KENNETH R. GIBB,
Director.

CITY OF LEWISTON, MAINE, EXECUTIVE DEPARTMENT,

July 30, 1992.

Hon. GEORGE J. MITCHELL,
Senate Majority Leader, Russell Senator Office Building, Washington, DC.

DEAR SENATOR MITCHELL: Thank you for your letter of July 29, 1992, regarding recent developments concerning the Defense Finance and Accounting Service (DFAS) proposed consolidation. Based upon the data we received, I have two serious reservations. These reservations are based on the Armed Services Committees of the Senate and the House taking over the review process from the Base Closure Commission.

It strongly appears that the process for application becomes re-opened by an emphasis on communities that have excess space in the adjoining military base or bases being shut getting prime consideration, regardless of the fact that these communities may very likely not have even applied for one of the DFAS centers. This flies in the face of the 100 communities that have made serious applications and worked diligently to meet the June 1, 1992, deadline.

By having the proposed sites reviewed by the Senate and House Armed Services Committees, it appears that "The Friends" of the Department of Defense will profit at the expense of those viewed otherwise.

Some of the points made are quite good and salient to the applications of Lewiston-Auburn.

The DOD wants a free building. This is quite an expense to undertake and could have some negative effects on our bond rating, taxation levels, and possibly force us to reduce some services (until the spinoff effects are felt) to pay for this center.

The current rules do clearly favor the rich communities versus the Lewiston-Auburns of the world

Lewiston-Auburn has put together a very competitive package, and the award of a center here would have far greater impact on our economy than it would in Boston, Providence, or Hartford for example. The workforce, the quality of life, and many other favorable attributes deserve the serious attention of the DFAS selection committee. Maine needs jobs, and Lewiston-Auburn, even move than our other fair cities of Maine, needs and deserves one of these centers.

Thank you for soliciting our comments.

Sincerely,

ROBERT J. MULREADY,
City Administrator.

GREATER PORTLAND COUNCIL OF GOVERNMENTS,
Portland, ME, July 30, 1992.

Re DFAS proposals.

Hon. GEORGE MITCHELL,
U.S. Senate, Washington, DC.

DEAR SENATOR GEORGE MITCHELL: While the Committee raises some important points regarding the site selection process employed by the Defense Finance and Accounting Service, I am opposed to the idea of starting from scratch with a new selection process. I believe that the current process, which some one hundred large and small communities participated in, should continue.

To address the Committee's concerns that only large, fiscally well off communities could submit a proposal given the specifications of the RFP, I would point out that our state submitted sites from three different regions. Of the three regions, Portland is the largest community with an office site proposal. With a population of 64,300 people, we would be hard pressed to call Portland a large metropolitan city. The Town of Scarborough has offered two sites. Their population is under 15,000. As a relatively small, rural area (by U.S. standards), we did not feel constrained by the request for proposals put forth by the DFAS and, as such, feel that the process that we participated in needs to be protected.

We saw the DFAS request as a tremendous economic development opportunity that our region could not pass up. We worked extremely hard to pull a coalition of private and public professionals together. We are currently working on drafting legislative changes that will be required if Maine gets to the short list. In fact, the committee working on these issues has representatives from the Governor's staff, the bond community and local government. We produced proposals of which we are extremely proud and would like them to stand on their own merit. We feel that we can compete with other "larger" communities in our own right.

I commend the Committee for taking the time to be concerned about the fairness of the proposal process. I agree that it is important that the location decision process of a government facility may need to consider other priorities rather then economic efficiency in its site selection process. However, the selection process has already begun. And those communities who responded in good faith to the RFP should be allowed to continue through the process.

Finally, to address the Committee's concerns regarding factors other than economic efficiency, I suggest that such factors be articulated and applied to the current 100 communities which have submitted proposals, perhaps in the second or third rounds of review. This suggestion would acknowledge the work and the vision of those communities which submitted proposals, while recognizing the importance of a governmental facility location in the midst of a recession.

Please feel free to call me if you have questions or other concerns.

Sincerely,

JOHN D. BUBIER,
Executive Director.

Mr. COHEN. Mr. President, I would like to take a few minutes to discuss an amendment I, along with Senator MITCHELL, have proposed to strike section 2827 of S. 3114, the National Defense Authorization Act for fiscal year 1993.

Section 2827 seeks to resurrect the old Defense realignment procedure under 10 United States Code 2687 and excludes the realignment or establishment of any major Defense Finance and Accounting Service [DFAS] facility from the Defense Base Closure and Realignment Act (Title 29 of Pub. L. 101-510). Section 2827 seeks to place in Congress, or to be more specific, the Armed Services Committees, the authority to conduct a realignment or to establish a DFAS center. In short, section 2827 seeks to shift the duty of reviewing DFAS realignment and recommending modern personnel centers from the Base Closure and Realignment Commission and places it back in the hands of Congress.

Let me briefly review the facts. On May 3, 1988, the Secretary of Defense established the Commission on Base Closure and Realignment to address the sensitive issue of how military installations should be selected for closing. In October of that year, Congress passed legislation that endorses the commission approach to base closures. In January 1991, the Department of Defense [DOD] directed the Defense Finance and Accounting Service to coordinate all DOD finance and accounting activities. Subsequently, DFAS concluded that it was necessary to streamline the finance and accounting systems to accommodate growing personnel and administrative needs.

In order to obtain modern office space at little or no cost to the DOD, DFAS initiated the Opportunity for Economic Growth [OEG] Program inviting communities from all over the country to submit proposals to host a new DFAS facility. The task of reviewing these bids and recommending in which communities to build the new DFAS facilities lies with the Base Closure and Realignment Commission in accordance with the Realignment Act of 1990. Under the Realignment Act, the Commission is required to: First, communicate criteria to interested communities; second, extensively review each bid while also considering rigid guidelines, a timetable, and public comments; third, recommend which bids are to be selected; and fourth, convey recommendations to the President who then forwards them to Congress for approval.

Response to the program was enormous; 112 communities in 34 States have submitted bids to house DFAS centers. These 112 communities have expended tremendous time, money, and effort in order to timely compile a bid that complies with DFAS' standards. In fact, three Maine communities have completed six site proposals emphasizing cost of living, quality of available work force, quality of life, and cost of construction; all factors specifically requested by DFAS.

Mr. President, section 2827 of the DOD authorization bill is grossly unfair to the communities participating in the Opportunities for Economic Growth Program.

DFAS has clearly stated the criteria necessary to be eligible as a DFAS site. The communities assessed the standards, studied their ability to meet them, and in many cases, modified local infrastructure or revised tax law to comply with DFAS' requirements. After considerable effort, the proposals were submitted to DFAS.

Mr. President, the OEG Program is a sound process utilizing objective standards. Furthermore, it has elicited sound proposals. The participating communities have made a good faith effort to comply with the OEG Program and meet DFAS' deadline. They are prepared to go forth with their proposals. Section 2827 reinstates the previous procedure and will start the DFAS bidding process again. The criteria, the process, and the reviewing body will be completely different from before.

Discarding the bids that have been submitted by 112 communities sends a message that we are not committed to the DFAS/OEG Program. We do not want to tell these communities that all the hard work and expenditures each has contributed to the site selection process is worthless. Second, revising the process midway through its completion undermines its stability. We will only discourage communities from submitting new proposals for fear that the requirements and decisionmaking body will change again. It can even be argued that if we continue to modify the realignment process, the OEG Program will fail. Efforts to modernize the DOD are badly needed—to see that goal abandoned is truly a tragedy. But to waste the time and money of our communities which have committed themselves to the OEG/DFAS Program is an even greater tragedy.

There is an argument that Congress should have full authority to conduct a DOD realignment. Another argument states that the Commission uses a streamlined procedure and is an impartial entity better suited for such a role. However, these arguments ignore the issue most crucial in this matter: Adoption of section 2827 changes the rules midway through the game.

We must continue with the OEG process as authorized by the Realignment Act of 1990. At this juncture it is not only convenient to continue with the procedure of the Realignment Act, it is necessary for the successful completion of this project.

I emphasize that we must uphold the 1990 Realignment Act and allow the Base Closure Commission to finish selecting the communities which are to host new DFAS facilities. We must not reject the efforts of all the local communities. Most important, we must continue the simple, objective, and cost-effective program begun for the benefit of the Defense Department and, ultimately, the taxpayers of this country. For these reasons, I request support for the amendment striking section 2827 from the National Defense Authorization Act for fiscal year 1993.

Mr. BROWN. Mr. President, today I am pleased to cosponsor an amendment to the Defense authorization bill which replaces the language in the bill concerning the selection of future consolidated sites of the Defense Finance and Accounting Service.

The Defense Base Realignment and Closure Act of 1990 provided an equitable method of selecting sites for consolidated finance and accounting services. The provision in the 1990 act replaced an unproductive and virtually useless method of site selection. It streamlined the selected process of site selection, reduced delays, and promoted fair competition among the communities. It allowed the Congress an opportunity to debate the recommended sites and vote according to the relative merits of each proposal.

More than 100 communities in 34 States have already submitted proposals under the existing criteria as published in the Federal Register in March 1992. Under the provision proposed in the Defense authorization bill now before us, site selection would revert to a cumbersome, unworkable system. This would be grossly unfair to our communities.

The existing method of selecting defense finance and accounting service centers eliminates many of the hurdles of site selection. After an extensive review process, the Defense Finance and Accounting Service will announce its recommendations based solely on criteria previously communicated to all participating communities. Following rigid guidelines and a timetable specified by law, the Base Closure Commission will analyze results, to include public comments, and will forward a proposal to the President and ultimately to the Congress for final approval. If any issues surface, they are addressed at this point and are limited to specific locations. Prior to the submission to Congress, proposals receive extensive analysis by an independent task force, the Office of the Secretary of Defense, and the Defense Base Closure and Realignment Commission.

This amendment on the Defense Finance and Accounting Service site selection process will ensure a fair, competitive process for consolidating these military facilities on a level playing field.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3070) was agreed to.

Mr. MACK. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

AMENDMENT NO. 3071

(Purpose: To require a report on postconflict mine clearing efforts in refugee situations)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Mr. KENNEDY.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. KENNEDY, proposes an amendment numbered 3071:

At the appropriate place, insert the following new section:

SEC. . REPORT ON INTERNATIONAL MINE CLEARING EFFORTS IN REFUGEE SITUATIONS.

(a) FINDING.—The Congress finds that an estimated 10-20 million mines are scattered across Cambodia, Afghanistan, Somalia, Angola, and other countries which have experienced conflict and that refugee repatriation and other humanitarian programs are being seriously hampered by the widespread use of anti-personnel mines in regional conflicts and civil wars.

(b) REPORT.—(1) The Secretary of Defense, in consultation with the Secretary of State, shall provide a report on international mine clearing efforts in situations involving the repatriation and resettlement of refugees and displaced persons.

(2) Such report shall include, though not be limited to,

(A) An assessment of mine clearing needs in countries to which refugees and displaced persons are now returning, or are likely to return within the near future, including, though not limited to, Cambodia, Angola, Afghanistan, Somalia and Mozambique, and an assessment of current international efforts to meet the mine clearing needs in the countries covered by the report;

(B) An analysis of the specific types of mines in the individual countries assessed, and the availability of technology and assets within the international community for their removal;

(C) An assessment of what additional technologies and assets would be required to complete, expedite or reduce the costs of mine clearing efforts;

(D) An evaluation of the availability of technologies and assets within the United States government which, if called upon, could be employed to augment or complete mine clearing efforts in the countries covered by the report; and

(E) An evaluation of the desirability, feasibility and potential cost of U.S. assistance on either a unilateral or multilateral basis in such mine clearing operations.

(3) Such report shall be made available to the Committees on Armed Services of the Senate and the House of Representatives within 180 days of the enactment of this act.

Mr. NUNN. Mr. President, this amendment on behalf of Senator KENNEDY provides for the Secretary of Defense in consultation with the Secretary of State to submit to the Armed Services Committee a report on international mine clearing. The report would assess the needs, current efforts, type of mines, availability of technology and assets, and an evaluation of the desirability, feasibility of potential U.S. assistance on either a unilateral or multilateral basis for such mine-clearing operatons.

Mr. KENNEDY. Mr. President, one of the major obstacles today in refugee repatriation programs is the widespread existence of land mines left over in many countries after years of conflict.

I have long been concerned by the indiscriminate use of land mines in civil wars and regional conflicts, because they inflict such a heavy toll on innocent civilians.

Hundreds of thousands of land mines were used in the Angolan civil war. They caused 40,000 to 50,000 casualties, including vast numbers of amputees struggling to rebuild their lives.

Before the cease-fire last year in Cambodia, land mine casualties ranged from 600 to 1,000 a month. These mines now plague refugees currently returning to that country after over a decade of exile.

The State Department and the United Nations estimate that 10 to 20 million mines are indiscriminately scattered across Cambodia, Afghanistan, Somalia, and Angola. These debilitating, and often lethal, weapons pose a major obstacle to refugee repatriation programs. Farmers lose their lives and their livestock as they try to till soil that only months before was a battleground. Refugee children, playing innocently around their new homes, are crippled and killed.

Repatriation programs are forced to proceed too slowly, because of the expensive and painstaking task of clearing mines in the areas to which refugees will return. In many countries, rural refugees find their ancestral lands strewn with mines, and opt instead to migrate to the cities. This urban migration adds to the problems which the countries face. They must not only cope with putting the pieces back together after long years of war, but also deal with massive urban problems and unrest.

Ambassador Princeton Lyman, who recently completed his assignment as Director of the State Department's Bureau for Refugee Programs, says that mine clearing is one of the greatest needs today in refugee repatriation programs. The United Nations and some governments are trying to cope with this problem. But the United States also has technology, assets and expertise to offer in addressing this significant problem.

Mr. President, my amendment requires a report from the Department of Defense on actions which may be taken to improve international response to this need. This report is to be prepared in consultation with the State Department and will be a first step in outlining effective ways to address mine clearing needs in countries, including Cambodia, Angola, Afghanistan, Somalia, and Mozambique. But the report should not be limited to these countries in its assessments. I hope that this report can become a blueprint for a more coordinated American and international response to this urgent, humanitarian need.

Mr. President, I ask unanimous consent that my recent correspondence with the Secretary of Defense and the Acting Secretary of State on this issue be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, July 28, 1992.

Hon. RICHARD B. CHENEY,
Secretary of Defense, The Pentagon, OSD Washington, DC.

DEAR MR. SECRETARY: As Chairman of the Subcommittee on Projection Forces and Regional Defense of the Senate Armed Services Committee, I have actively supported strengthening our countermine technology programs. In this connection, I am writing to explore the possibility of employing these countermine capabilities to participate in some urgently needed demining efforts related to refugee repatriation programs in Cambodia, Africa, and elsewhere.

Last week, as Chairman of the Senate Subcommittee on Immigration and Refugee Affairs, I heard compelling testimony from Deputy Secretary of State Lawrence Eagleburger on the serious problems anti-personnel mines are currently posing to a number of international refugee repatriation programs. Despite concerted international financial support, as well as strong Security Council resolutions establishing peace-keeping and United Nations repatriation programs, progress in implementing them has been crippled by the proliferation of mines in the countryside.

According to a recent memorandum to the Secretary of State from the Director of the Bureau for Refugee Programs, "there are some 10–20 million * * * mines scattered across Cambodia, Afghanistan, Somalia and Angola. Repatriation programs are being slowed; many people, especially children, are being killed or crippled; farmland has become unusable sending people into cities; and the costs of peacekeeping and related actions are skyrocketing." I am attaching, for your information, a copy of this memorandum.

I would appreciate your personal evaluation of the recommendations made in this memorandum, and have the appropriate officials on your staff brief my staff on opportunities for how the Department of Defense can support de-mining efforts now underway in a number of international refugee repatriation programs. Along with our Allies, we were extraordinarily successful last year in the demining of Kuwait—removing and destroying thousands of anti-personnel mines in a matter of weeks. I would hope we could bring to bear this same expertise, energy and personnel support in behalf of United Nations refugee repatriation programs in Cambodia and elsewhere.

I am interested in working with you to identify areas in which the United States can support the peacekeeping and refugee repartriation programs of the United Nations—especially in light of the end of the Cold War, our ability to redirect our overseas military capabilities, and our proven capacity to participate in demining efforts in Kuwait last year.

Again, many thanks for your consideration, and I look forward to your comments on the recommendations in the attached memorandum. With best wishes,

Sincerely,

EDWARD M. KENNEDY,
Chairman, Subcommittee on Projection Forces and Regional Defense.

THE JOINT STAFF,
Washington, DC, August 21, 1992.

Hon. EDWARD KENNEDY,
Chairman, Subcommittee on Projection Forces and Regional Defense, U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: Your letter of 28 July to Secretary Cheney regarding the problem of personnel mines and their effect on current repatriation efforts has been forwarded to me for response.

Unfortunately, the situation described by Deputy Secretary Eagleburger during his recent testimony is quite accurate and does present a serious problem throughout the regions of the world where repatriation efforts are under way. What makes this situation so much more difficult than the tactically employed mine (such as those used in Kuwait area of operations) is that the personnel mines referred to in the memorandum from the Department of State (Mr. Lyman) are employed in a random guerrilla/terrorist fashion. This type of employment exacerbate the problem of locating mines so that they can be defused or destroyed.

Although the Department of Defense has the capability to conduct countermine operations in support of combat operations, the current United Nations policy relative to these situations dictates that, wherever possible, contract services will be used. US involvement in clearing operations in DESERT STORM were limited to the breaching of enemy minefields for the rapid passage of maneuver ground forces. Demining operations ongoing in Kuwait are being conducted by civilian contractors. This policy is sound and is strongly supported at all levels. To date, there have been no extensive personnel mine clearing operations undertaken by the Department of Defense.

To get a better understanding of existing United Nations' policy and of efforts taken regarding this situation, we suggest your staff contact the Department of State.

The Department of the Army is responsible for the research and development of new technologies for mines of this type and for the employment of current systems. The Joint Staff has arranged with the Army Office of the Chief of Legislative Liaison (SALL–P) to be on call to provide a brief on the current status of mine clearing technology.

Your concern for this serious situation is greatly appreciated.

Sincerely,

RUDOLPH OSTOVICH III,
Major General, U.S. Army, Vice Director, Joint Staff.

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 15, 1992.

Hon. LAWRENCE EAGLEBURGER,
Acting Secretary of State, Department of State, Washington, DC.

DEAR MR. SECRETARY: As you will recall, following your testimony before our Committee last July 23rd for our annual refugee consultations, I wrote to Secretary of Defense Richard Cheney regarding one of the more important issues you raised at the hearing—namely the growing problem of personnel mines in refugee repatriation programs. I shared your views and those of the Director of the Refugee Bureau with Secretary Cheney. I recently received the attached response from Major General Rudolph Ostovich, III, Vice Director of the Joint Staff.

I had urged the Department of Defense, in my capacity as Chairman of the Armed Service's Subcommittee on Projection Forces and Regional Defense, to support de-mining efforts involving refugee repatriation programs where the United States was an active contributor. I believed that with the end of the Cold War, and in light of our successful humanitarian interventions in Iraq following the Gulf War, and later in Bangladesh, that the United States military could provide even greater support for peacekeeping and refugee repatriation programs under the auspices of the United Nations. In particular, I felt we should be able to redirect our overseas military capabilities for more peaceful purposes, particularly our proven capacity to assist in de-mining efforts, such as we did in Kuwait last year.

But if I correctly read General Ostovich's response on behalf of the Joint Staff, he acknowledges the capabilities the United States has to support such operations, but says until the Department of State asks them to do so, they are not in a position to take any new initiatives nor offer any additional services in this field.

Wearing both hats as Chairman of the Armed Services' Subcommittee and the Judiciary Subcommittee on Immigration and Refugee Affairs, I believe there must be greater coordination, planning, and commitment between the Departments of Defense and State—particularly regarding the critical problem of anti-personnel mines in large-scale refugee repatriation programs. It is, as you stated in your testimony, Mr. Secretary, a crucial obstacle to any successful repatriation program in areas which have experienced civil and guerrilla war.

I hope, after reading General Ostovich's response, that members of your staff and the Joint Staff, will meet with members of my staff from both the Refugee Subcommittee and the Armed Services Subcommittee. The United States has the capability and the responsibility to do more to assist in de-mining during international refugee repatriation programs. It is vital we live up to this responsibility and offer our services in support of U.N. refugee and peacekeeping operations.

I look forward to your response and to working with you and Secretary Cheney. With best wishes,

Sincerely,

EDWARD M. KENNEDY,
Chairman, Subcommittee on Immigration and Refugee Affairs.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3071) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. MACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3072

Mr. MACK. Mr. President, I have an amendment to send to the desk on behalf of Mr. SMITH.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. MACK], for Mr. SMITH, proposes an amendment numbered 3072.

Mr. MACK. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. 30. SENSE OF CONGRESS RELATING TO THE AWARD OF THE NAVY EXPEDITIONARY MEDAL.

It is the sense of Congress that the President should award the Navy Expeditionary Medal to members of the Navy who served in Navy Task Force 16, culminating in the air-raid commonly known as the "Doolittle raid on Tokyo", during April 1942, regardless of the time limitations on the consideration of such awards.

Mr. MACK. Mr. President, the amendment would express the sense of the Senate that the President should award the Navy Expeditionary Medal to members of the Navy who served in Navy Task Force 16 culminating in the air raid commonly known as the "Doolittle Raid on Tokyo" during April 1942.

Mr. SMITH. Mr. President, just over 50 years ago, on April 18, 1942, 16 B-25 bombers, led by Lt. Colonel Jimmy Doolittle, set off on an unprecedented and historic mission. Launching from the aircraft carrier U.S.S. *Hornet*, Doolittle and his raiders set off on a harrowing attack against the Japanese cities of Tokyo, Yokohama, Nagoya, Osaka, and Kobe.

The mission was significant for many reasons. It represented the first time that the American military had flown large bombers, in this case, Army Air Force bombers, off a Navy aircraft carrier into combat. The technical challenges were daunting; but no less intimidating than the prospective Japanese land and sea-based forces which were expected to challenge the attack. Indeed, it was largely assumed that once Colonel Doolittle had made the initial run on Tokyo, the Japanese would throw everything they had at the subsequent wave of American bombers.

Miraculously, Doolittle's raiders suffered no casualties over Japan. A combination of bad weather, operational surprise, and post-Pearl Harbor arrogance on the part of the Japanese forces allowed the American bombers to strike swiftly and effectively deep into Japanese territory. The supposedly impenetrable Japanese defenses had been breached easily, causing a severe loss of face for the Japanese Government and its military.

However, while the bombing portion of the mission had been completed without incident, the raiders still were confronted with strong headwinds, dwindling fuel supplies, and darkness as they sought refuge in China. In the end, 1 plane landed safely in Russia, and 15 others were ditched in China. Despite the enormous peril confronting these servicemen as they jumped blindly and, possibly into, enemy territory, 71 of the 80 pilots and crewman survived the raid.

Mr. President, in addition to these heroic pilots and crewman, there is another collection of American heroes whose service was instrumental in the success of the Doolittle mission. I am speaking of the men from task force 16 who escorted the B-25's and launched the fateful attack. Task force 16 included the aircraft carriers *Hornet* and *Enterprise*; the cruisers *Vincennes*, *Northampton*, *Nashville*, and *Salt Lake City;* the destroyers *Gwin*, *Balch*, *Grayson*, *Benham*, *Monsson*, *Ellet*, *Meredith*, and *Fanning*; and the Oilers *Cimarron* and *Sabine*. These surface combatants ensured safe transport of the B-25's to an appropriate staging location and, with their mission completed, reversed course and headed for the safety of open waters. Predictably, the Japanese launched an armada of ships and planes in pursuit, but the American surface forces escaped harm and their carrier air patrols even succeeded in sinking several enemy combatants.

Mr. President, although the Doolittle raid was only marginally effective by military standards, it shocked and embarrassed the Japanese, and provided an inestimable morale boost for the American people after the tragedy at Pearl Harbor. Indeed, those who served in task force 16 knew the risks, and were prepared, if necessary, to sacrifice their lives in this unprecedented mission. They did so willingly, and with great pride. In return, these servicemen were told both prior to, and during, the mission that they would be awarded the Navy Expeditionary Medal for their heroic endeavor. Sadly, and in my opinion, unfairly, this commitment was never honored.

The amendment which I have offered would seek to correct this injustice by urging the President to direct that members of the Navy who served in Navy task force 16, culminating in the Doolittle raid during April 1942, be awarded the Navy Expeditionary Medal. As we mark the 50th anniversary of this historic mission, I can think of no more fitting or appropriate recognition than to award this long overdue medal to the survivors of task force 16.

I urge my colleagues to join with me in support of this important measure, and I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3072) was agreed to.

Mr. MACK. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3073

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of myself and Senator WARNER and ask it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself and Mr. WARNER, proposes an amendment numbered 3073:

On page 487, between lines 12 and 12, insert the following:

SEC. 10—. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.

(a) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1992 to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar $529,300,000 as follows:

(1) For Military Personnel:

(A) For the Navy, $10,700,000.

(B) For the Air Force, $58,200,000.

(C) For the Air Force Reserve, $8,800,000.

(D) For the Air National Guard, $1,900,000.

(2) For Operation and Maintenance:

(A) For the Army, $1,400,000.

(B) For the Navy, $142,900,000.

(C) For the Air Force, $228,000,000.

(D) For the Defense Agencies, $31,500,000.

(E) For the Army Reserve, $3,300,000.

(F) For the Air Force Reserve, $13,200,000.

(G) For the Army National Guard, $1,400,000.

(H) For the Air National Guard, $2,000,000.

(3) For Military Construction:

(A) For the Air Force inside the United States, $10,000,000.

(B) For the Air Force for family housing inside the United States, $16,000,000.

(b) AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1992 to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar $263,530,000 as follows:

(1) For military construction for the Navy outside the United States, $81,530,000.

(2) For military construction for the Air Force inside the United States, $66,000,000.

(4) For military construction for the Air Force outside the United States, $7,600,000.

(5) For family housing for the Navy outside the United States, $87,200,000.

(6) For family housing for the Air Force outside the United States, $21,200,000.

(c) EMERGENCY DESIGNATION.—The authorization of appropriations in subsection (b) are effective only to the extent that the appropriations are designated by the Congress as emergency appropriations for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 in an Appropriations Act.

Mr. NUNN. Mr. President, the Nunn-Warner amendment that is now pending at the desk provides supplemental authorizations for fiscal year 1992 for the consequences of Hurricane Andrew and of Typhoon Omar in Guam, and it is very simple. It authorizes the supplemental appropriations the Senate passed on Tuesday of this week in H.R. 5620, the Supplemental Appropriations, Transfers, and Rescissions Act of 1992. The supplemental authorization in this bill is exactly those contained in the supplemental appropriations bill.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3073) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. MACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ADVANCED TRANSPORTATION RESEARCH

Mr. SYMMS. Mr. President, I wish to compliment Senators BINGAMAN and COATS, the chairman and ranking member of the Defense Industry and Technology Subcommittee, for their extensive work on crafting proposals to assist business, industry, and the Government during this critical defense conversion period.

As the Senate knows, in the 1950's our Interstate System was developed, in part, for defense-related purposes. The orderly, timely, and secure transportation of civilian and military personnel, equipment, and commerce is an essential component to our national security. So, too, is it important we maintain adequate sea, air, and rail service to further this security requirement.

I have read the report language accompanying the fiscal year 1993 Defense bill, particularly title VIII, and believe an on-going program in my home State of Idaho would be an excellent source for future defense/commercial technology research.

Mr. President, located at the University of Idaho is the National Center for Advanced Transportation Technology [NCATT]. The Center's primary goal is to match Government and industry needs with the expertise of the Center's faculty. To date, the Center's activities have focused on identification and research of high priority transportation technology issues and transferring this research to Government and industry programs for product development and manufacturing. This research includes intelligent vehicle-highway systems technology, advanced transportation systems and electric vehicles, advanced materials and manufacturing processes, and alternative energy.

So far, several companies in the private industry have agreed to participate and provide financial assistance under the Center's Industry Partners Program including Morrison-Knudsen, EG&G Idaho, Image Sensing Systems, Intergraph, and Ford Motor Co.

Would the Senators agree that this Center could be eligible for funds in title VIII?

Mr. BINGAMAN. As the chairman of the Industry and Technology Subcommittee, I would agree that the National Center for Advanced Transportation Technology could compete for the funds made available under title VIII if they are ultimately approved.

Mr. COATS. Mr. President, I agree with chairman, Senator BINGAMAN. Further, I want to thank the Senator from Idaho, Senator SYMMS, for bringing this matter to the Senate's attention. Over the years, I have found there to be few who understood the complex issues surrounding this Nation's transportation needs like Senator SYMMS. I compliment his work in this area and his desire to ensure the United States remain a strong economic and military power. His presence in the Senate, upon his retirement, will be sorely missed.

Mr. SYMMS. Mr. President, I thank my colleagues for their interest and responses to our Nation's future transportation needs. I would also ask unanimous consent to insert into the RECORD more detailed information on the National Center for Advanced Transportation Technology following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UNIVERSITY OF IDAHO NATIONAL CENTER FOR ADVANCED TRANSPORTATION TECHNOLOGY

I. SUMMARY REPORT ON ACCOMPLISHMENTS: THE FIRST SIX MONTHS

The National Center for Advanced Transportation Technology was established in December 1991 by Congressional mandate as part of the Intermodal Surface Transportation Efficiency Act. The Act provides $8 million for the construction of a building to house the Center. Program development thus far has focused on matching domestic industry needs with the skills and expertise of the transportation faculty at the University of Idaho. This matching of needs and expertise has been initiated with the objective of developing new technology that can be readily transferred to industry for product development and manufacturing. A summary of initial Center accomplishments appears below:

An interim Center director has been appointed and a search has been initiated for a permanent director.

Five operating groups have been established within the Center: Transportation Education and Specialty Retraining Programs Group; Intelligent Vehicle-Highway Systems Technology Research Group; Advanced Transportation Systems and Electric Vehicles Research Group; Advanced Materials and Manufacturing Processes Research Group; Alternative Energy Research Group.

University of Idaho faculty have been appointed to serve in each group, and group leads have been appointed.

Potential Center program funding sources have been identified and proposals are in progress.

A program for the participation of private industry within the Center, known as the Industry Partners Program, has been developed. To date, five Industry Partners have agreed to participate in the Center:

Morrison-Knudsen, builder of light rail cars and re-manufacturer of rail locomotives, has signed a partnership agreement.

EG&G Idaho, Incorporated, contractor for the Idaho National Engineering Laboratory, has agreed to sign a letter of intent to become an Industry Partner.

Image Sensing Systems, manufacturer of the Autoscope machine vision technology, has agreed to provide $72,000 in equipment match for the Center's Machine Vision Laboratory.

Intergraph Corporation, the largest manufacturer of computer hardware and software for transportation facilities design, has agreed to provide $162,000 in equipment match for the Center's Highway Design Visualization Laboratory.

Ford Motor Company, the Society of Automotive Engineers and the U.S. Department of Energy have agreed to provide $10,000 for the construction of a hybrid electric vehicle.

Additional Industry Partner recruitment is ongoing. Several Industry Partnerships are currently in negotiation and presentations to other prospective partners have been scheduled.

Operating goals and a program plan have been developed for the 1992-1993 fiscal year. This plan will serve as the basis for the Center activities.

II. CURRENT ACTIVITIES AND NEAR-TERM GOALS

A. NCATT Administration

Overview

Center activities have focused on identification of high priority national transportation technology issues. Concurrently, we have identified faculty skills and expertise which match these research needs. Building on the initial success of the Industry Partners Program, Center activities will now expand to include administration of research programs and transfer of the resulting technology to industry for product development and manufacturing.

Activities

Industry Partner recruitment.

Permanent Center Director search.

Program funding procurement.

Proposal activity coordination.

Policy and procedure development.

Newsletter publication.

Development of a long term strategic plan.

Near-term goals—NCATT administration

Achieve financial self-sufficiency via Partner and program support.

Develop a competitive seed-grant program for Center researchers.

Establish an NCATT student scholarship fund.

Expand proposal, research and publication activities of Center faculty.

B. Transportation Education and Specialty Retraining Programs Group

Overview

A primary function of NCATT is to provide transportation related training and education to industry, as well as to undergraduate and graduate students at the University of Idaho. Specifically, this training and education program consists of the following facets:

Transportation specialty retraining for engineers in defense, energy, and other industries.

Short courses, seminars, and continuing education opportunities for the transportation community.

The eventual development of an interdisciplinary Transportation Engineering Master's degree offered both on-campus and remotely via the University's Video Outreach program.

The addition of undergraduate courses specializing in several transportation areas and widely available to College of Engineering juniors and seniors.

Activities

Short course and seminar planning and development.

Transportation Master's Program feasibility study.

Undergraduate course planning.

Near-term goals—training and education

Development of a Transportation engineering short course and seminar package for retraining of defense industry engineers and scientists.

Completion of the Master's program feasibility study.

C. Intelligent Vehicle-Highway Systems (IVHS) Technology Group

Overview

The IVHS technology group performs research development and technology transfer activities for intelligent vehicle and highway systems, including:

Vehicle monitoring and control systems to improve the management and operation of transportation systems.

Transportation facility design optimization.

Safe and efficient design of user-system interfaces.

Activities

In-vehicle navigation and information system driver interface development and test.

Automotive collision warning system design.

Machine vision and video imaging research for traffic monitoring and control.

Computer-aided highway design tool development.

Microwave communication/Global positioning system research.

Intelligent mass-transit control system development.

Dependable computer systems for critical control system safety.

Near-term goals—IVHS Technology Group

Acquire equipment for the Machine Vision and Highway Design Visualization Laboratories.

Complete development and technology transfer of traffic monitoring and control software.

Pilot test a prototype automotive collision warning system.

Develop a short-course on IVHS design considerations.

D. Advanced Transportation Systems and Electric Vehicles (ATSEV) Group

Overview

The ATSEV group conducts research to investigate and demonstrate:

Technologies for rail, electric and hybrid vehicles.

Concepts related to energy storage and conversion systems.

Methods for safe transportation of hazardous waste.

Activities

Advanced battery system test and evaluation.

Hybrid electric vehicle development.

Power-train development for electric vehicles.

Electrical propulsion development of high speed rail.

Design of high force density machines.

Evaluation of freight pipeline concepts.

Hazardous waste transport research.

Near-term goals—ATSEV Group

Demonstrate cost-effective vehicle drive subsystems for rail applications.

Design and demonstrate an advanced battery powered vehicle.

Develop low weight, high energy efficient power electronic converters.

E. Advanced Materials and Manufacturing Processes (AMMP) Group

Overview

The AMMP group conducts research to support: Design support for automotive, rail and aerospace transportation including material selection and processing, design and manufacturing; development of new paving and construction materials, and development of conversion processes for recycling of waste products into construction materials.

Activities

Advanced composites processing.

Advanced composite material and metal alloy test and evaluation.

Intelligent design of transportation systems.

Ergonomic design of assembly processes.

Superconducting material development.

Advanced paving and construction material development.

Near-term goals—AMMP Group

Complete design work on an extraterrestrial rover system.

Continue composite material development for transportation applications.

F. Alternative Energy Group

Overview

The Alternative Energy Group investigates and solves problems related to the application of alternative energy sources to transportation. The group develops and demonstrates concepts and technologies related to energy and energy conservation to provide efficient and environmentally benign transportation energy alternatives.

Activities

Biodiesel research.

Ethanol research.

Development of biodegradable fuels and lubricants.

Processing of alternative fuels.

Near-term goals—Alternative Energy Group

Develop cultivars to increase yield and adaptability of winter and spring rape.

Develop production to methyl and ethyl esters from vegetable oil.

Determine biodegradability, emissions and other environmental advantages of methyl and ethyl esters.

Assess economic costs and benefits of producing vegetable oil as a fuel.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I have two UC requests:

First, on behalf of the Senator from Mississippi [Mr. LOTT], that he be added as a cosponsor to the Mitchell-Cohen amendment on the Department of Defense Finance and Accounting Center.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3048, AS MODIFIED

Mr. WARNER. The second unanimous-consent request is that we modify the pending amendment, the Nunn amendment numbered 3048, and for that purpose, on behalf of the Senator from Georgia, and myself, I send to the desk a modified amendment to the Nunn amendment.

Mr. President, this amendment is simply a modification to the amendment.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 3048), as modified, is as follows:

In the Nunn amendment, numbered 3048, insert the following new paragraph at the end of subsection (d):

"(3) For a C-20 aircraft for administrative support for the Marine Corps, $25,000,000.".

Mr. WARNER. Mr. President, the Senator from Ohio [Mr. GLENN] will engage with Mr. COATS in a debate regarding an amendment, the subject being the abortion provision in the bill that was adopted by the Senate Armed Services Committee.

That should be, I just advise Senators, momentarily the subject before the Senate.

I anticipate that would take an hour, evenly divided. That is in the UC that has already been entered into.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAHAM). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, there is a unanimous-consent agreement on the Coats amendment for 1 hour equally divided; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. NUNN. I ask unanimous consent that the pending amendments be temporarily laid aside for the purpose of considering the Coats amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. NUNN. I believe the unanimous consent already provides that there will be no amendment to the Coats amendment.

The PRESIDING OFFICER. That is correct.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COATS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COATS. Mr. President, I will shortly be sending an amendment to the desk to strike a section of this bill. We have engaged in this debate before, and it is not really necessary that we take a great deal of time. I believe we have a time limitation, and I do not anticipate using all of the time allocated to this side of the issue. So I will try to expedite this for the Members.

To refresh Members' recollection of this particular issue, let me just give a little bit of background and history. The Department of Defense has, for many years, had a policy whereby if members of the Armed Services or their dependents want to seek an abortion for an unwanted pregnancy, they are free to do so, but not at a military hospital overseas.

This is not a problem in the States. In fact, that is a policy that applies both in the States and overseas. It is not a problem, because they obviously go outside of the military base, and under the laws of that particular State, or their home State, or any other State they wish to travel to, they can secure an abortion. However, Mr. President, the situation arises in overseas military bases where those abortions are not obviously performed in military hospitals, and there has been a concern raised by the senior Senator from Colorado that this subjects military members and/or their dependents to conditions which are not favorable to a safe abortion.

I use the word "safe" in quotation marks, because it is a serious medical procedure that often results in complications, and I do not want to leave the impression that there is such a thing as a completely safe abortion procedure.

It is unfortunate that in the middle of a debate on our defense priorities, we have to take up this issue. I regret that we do. I am disappointed, frankly, that it has been raised again, because the Senate has twice considered this and defeated attempts to impose a policy that I do not think ought to be imposed in this legislation.

The language which was offered by the senior Senator from Colorado [Mr. WIRTH] in committee, and adopted by the committee, and now is included in this legislation is, in my opinion, unnecessary, extreme, and certainly not something that we ought to be debating here on the floor. It violates the spirit of current law. I think it injects politics into a national security debate, and it hides what I consider unprecedented Federal actions behind a screen of misleading language.

The President has reiterated several times his commitment to veto any legislation changing current administrative or legislative policies on abortion, or expanding current restrictions on the performance of abortion. Clearly, this bill, if it retains the language which the Senator from Colorado inserted, will be voted if it reaches the President's desk.

The language which was inserted, out of section 716, is titled "Reproductive Health Services and Medical Facilities of the Uniformed Services Outside the United States." And essentially what it says is that a member of the uniformed services who is on a duty station outside of the United States, and any dependent of that member, is entitled to the provision of any reproductive health service in a medical facility of the uniformed services, in other words, in a military hospital or clinic associated with that base or post or military facility outside of the United States.

It goes far beyond even abortion; it goes to any reproductive health services.

You would assume that with a measure so controversial and far reaching as this, you would think that there has been some urgent need that has been established; that there is a major problem that exists within our military forces in terms of securing services for reproductive health services, which will include abortion, and of course other types of reproductive services.

But that is not the case. You would assume that some great harm has been done to our military personnel; that females in the military are languished under some terrible burden, denying them the opportunity to receive reproductive health services; that some serious wrong has been committed; that the military has come down heavy-handed and said: You cannot do this; we are not going to allow this; we are going to deny you this opportunity. But that is absolutely wrong.

I wrote to the Department of Defense a fairly lengthy letter asking them some questions. I would like to give you the response to those questions.

The Assistant Secretary of Defense, in response to my letter, dated August 6, 1992, stated the following. I asked him: Has the Department had any difficulty in implementing their current policy?

Let me share with Members what the current Department of Defense policy is on military abortions. DOD's current policy on abortion permits the performance of abortion in a military hospitals if it is necessary to save the life of the mother.

We do not want to put any female military personnel or their dependents in jeopardy of their life. They can use a military hospital to perform an abortion to save the life of the mother. The current DOD military policy does permit women to receive any reproductive health service, including abortion, outside the base at any facility of their choosing.

Some say well, some of our outposts are in remote areas, and because they are in remote areas, the services available to our personnel or their dependents is inferior.

So the military, in recognizing that, has made available military transport for any purpose, including the procurement of abortion or reproductive health services.

So military personnel or dependents, if they are not satisfied with the services available to them wherever they are stationed—say, they are in Japan or the Philippines or Korea, or whatever—the military will provide them transportation to wherever they want to go. They can go back to their home State; they can go back to the United States to secure care, or anywhere else they want to go.

Mr. GLENN. Will the Senator from Indiana yield for a parliamentary question?

Mr. COATS. I am happy to yield.

Mr. GLENN. I am informed that the time both sides agreed to on this does not start until the amendment is submitted. So the time does not count against the Senator's time. I do not think that was the Senator's intention.

Mr. COATS. That is not my intention.

Mr. GLENN. We do not want to delay the whole Defense authorization bill, and give extra time.

Mr. COATS. Let me do this. Let me stand the amendment to the desk, so time can begin to run.

Let me assure my colleagues, I do not intend, probably, to use all of my time.

Mr. GLENN. We want the time to start whenever it was, 3 or 4 minutes ago, or 5, so we do not delay the whole authorization bill.

AMENDMENT NO. 3074

(Purpose: To strike out section 716)

Mr. COATS. Mr. President, I send the amendment, then, to the desk.

The PRESIDING OFFICER. Under the rules, time commences as the amendment is submitted for consideration.

The Senator from Indiana has submitted the amendment.

The clerk will report.

The legislative clerk read as follows:

The Senator from Indiana [Mr. COATS] proposes an amendment numbered 3074.

On page 265, strike out line 19 and all that follows through the matter above line 3 on page 267.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, let me continue.

I was discussing the current DOD policy, which does allow the performance of abortion at a military hospital to save the life of a mother; which does permit women to use military transport for the purpose of obtaining an abortion. The military has not received any complaints from members.

Let me just raise the questions that I have written, and then give the responses that the military, the Department of Defense, has given to me in response to my letter.

Question No. 1. "Has the Department had any difficulty in implementing this policy?"

And the Assistant Secretary of Defense said: "No."

No. 2. "Have any formal complaints been filed concerning this policy?"

Answer to that, from the Assistant Secretary of Defense, dated August 6, 1992: "No."

"Have any legal challenges been instituted concerning this policy?"

"No."

"Have any members or their dependents been denied access to abortion as a result of this policy?"

"No."

"Have any members or their dependents been denied access to military transport for the purpose of procuring an abortion?"

"No."

"Have any members or their dependents been denied access to military transport for the purpose of procuring an abortion?"

I guess this is a repeat of the same question.

The answer is still: "No."

I will not belabor all of this. The point is that there is no problem with the policy; there are no complaints. Military members are being served.

Regardless of what your position is on the question of abortion, that really is not the issue that is here today before us. The issue is, is it necessary to open up military hospitals located outside the United States to provide reproductive health services for women, when we know that no women are being denied access to those services; when we know that the policy of the Department of Defense provides transportation, access, and accommodation for women who desire that?

So I really do not understand why it is necessary to insert this language in this bill. And I think when Members understand what the language says and what it allows, they will understand that the language has to be there for another purpose. It has to be there to make some type of social policy statement that is not really relevant to the Department of Defense and not relevant to our military personnel, and has to be there for another reason.

Mr. President, I think it is important to understand that taxpayers' funds are going to be used in the procurement of a reproductive health service, including an abortion, even though the language here says that no taxpayers' funds will be used for this.

To understand why that is not the case, you have to understand the nature of military hospitals. Everything that is procured—capital costs, the equipment, the pay for the medical personnel—everything is paid for by taxpayers' dollars. I do not believe it is really possible to separate out operational and administrative expenses of military medicine in such a way that you can ensure that no taxpayer expense is provided.

It is impossible to imagine that taxpayers' money can be preserved from entanglement with abortion in military medicine. An attempt to do so, I think, would present the Department of Defense an accounting nightmare.

So, if Members are concerned that they want to protect the integrity of taxpayers' funds and to keep that out of the abortion business, I think they ought to have a concern for this particular legislation.

The most important point, at least to me, is that the amendment is so radical in its nature. It allows for no exceptions whatsoever. It allows for abortion for every circumstance, no matter how extreme, no matter how radical, no matter what the situation is.

I think, from that standpoint, it is well out of the mainstream of public opinion regardless of whether you are pro-choice or pro-life, whether you support abortion or do not support abortion. Because this language says that any member of the military or their dependent is entitled to the provisions of any reproductive health service.

There is no exception made in this legislation. There is no exception made for parental notification, no exception made—which the Senate is on record in favor of and supports—no exception made for parental consent for a minor, and, therefore, any dependent can demand not only an abortion but any reproductive health service under this language at any military hospital outside of the United States without their parents, members of the military, knowing about it, not just giving consent but even knowing about it.

There is no exception relative to the question of viability. There is no exception in terms of the time of the pregnancy, the age of the unborn. An abortion can be procured in the ninth month, in the last day before delivery, without anyone raising a question, no legal basis to say, "Now, wait a minute, let us think this through. We are not exactly sure that we want this to apply in certain extreme situations." But that is the way the language is written.

Under section 716—what I am attempting to strike—abortions can be performed not only to select the sex of a child, they can be performed because the parent has discovered, through amniocentesis or through sonograms, that the child may be deformed or handicapped in some way.

Mr. President, a majority of Americans have clearly stated that they support parental involvement in a minor's decision to abort. Abortion is a surgical procedure. It is an invasive medical procedure, in fact, the only one where a minor can undergo the procedure without a parent's consent.

The Wirth amendment, as it appears in the language before us, I believe is an affront to the very longstanding tradition that Government should not interfere with these private family relationships.

I firmly believe that it is the parents' not the Government's or other adults' responsibilities to provide counsel and direction to their children. Parents are in the best position to provide their minor children with the care and direction that they need. And poll after poll indicates that the majority of Americans, a very strong majority of Americans, believe they have the right to at least be notified of their minors' submitting themselves to a very serious surgical procedure.

Mr. President, the committee bill also does not contain a definition of reproductive health services. And that poses a very serious problem, because I really do not think Members of the Senate want to go on record, at least I would not think that they would, in support of allowing a policy which allows military personnel access to, and the right to, receive reproductive health services.

Now I do not anticipate a flood of people rushing to hospitals to request this, but under the language of this act, reproductive health services could include a request for a sex change operation, it could include a request for breast augmentation, it could include all kinds of operations or procedures that I really do not think we contemplate using our military hospitals for or making them available to military personnel for these reasons.

I think when you total all of this up, you realize that what the Senator from Colorado has done is inserted in this bill a very extreme piece of legislation, which, frankly, does not take into account the current reality of military policy and is extreme from the standpoint of probably the position of most Americans and most Senators.

When you understand that there is really no problem, when you understand that military personnel are allowed access to transportation for whatever they want to do outside the post, in the military hospital, when you understand that the Wirth language does not prevent abortions in the last trimester, does not prevent abortions for the purpose of gender selection, does not require any even minimal parental involvement or notification, then I think you have to understand that the language should not be in this bill in the form that it is.

I am frankly surprised, if the proponents of this felt that there was an urgent need—and I have submitted proof here that there is no need—I would have thought they would have more narrowly prescribed the intent of the legislation or narrowly prescribed the language so as at least to provide some restriction, some reasonable limitations in terms of how this policy should be applied.

So, make no mistake about it, Mr. President. This language allows any abortion for any reason at any time by any member of the military and any of their dependents in a military hospital—no questions asked. No restrictions whatsoever.

I ask Members, do they think this is rational, reasonable policy for our military? For our Department of Defense? For our Nation?

Do they think this is something that ought to be supported by the U.S. Senate, by the Congress as a rational, reasonable policy?

I suggest it is not. I suggest that even if Members take a strong pro-choice position, that the extreme nature of this language is not the kind of policy we want to enact. I urge support for my motion to strike.

Without yielding whatever time I might have left, I at this point yield the floor.

The PRESIDING OFFICER. Is there further debate?

The Senator from Ohio.

Mr. GLENN. I rise to oppose the amendment of the Senator from Indiana to strike the reproductive health services provision in the bill. Senator WIRTH has carried this issue on the floor before. He has been the sponsor of the provision. He was unable to be here today and I agreed to fill in for him, since I have been a supporter of this legislation.

I ask unanimous consent that Senator WIRTH's statement be printed in the RECORD following my comments.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. Mr. President, the issue is very clear. This Nation has an obligation to ensure that each individual in the military who serves our country overseas has access to the same family health care that could be received here in the United States.

To deny Service members and their families this equal protection is both discriminatory and grossly unfair. Section 637 of the bill ensures that this obligation is honored for our people in the military.

We cannot have one standard for Americans here, legal standards, and a separate standard for our military personnel who are serving our country at foreign locations.

The issue we are debating today dates back to June 1988 when the Assistant Secretary of Defense for Health Affairs just put out a letter prohibiting U.S. military health care facilities overseas from providing the then-available—up to that time had been available—full range of reproductive health services, and they could not be performed after September 30, 1988.

The Secretary was not reacting to any statutory direction. Congress had not said he should do this. Nobody had said he should do it. Rather, he was reflecting a judgment of the administration that allowing military members and their families overseas to continue to receive prepaid reproductive health services in U.S. facilities overseas—and let me quote his statement, "might suggest insensitivity to the spirit of the congressionally enacted policy of withholding Government involvement in the provision of abortions."

So let us be clear. It was not Federal law that created a health and financial burden for our military members and families overseas. It is because the Assistant Secretary of Defense did not want DOD to be accused of insensitivity.

I suggest that far from curing a problem, the Secretary in his policy letter did exactly the opposite by demonstrating gross insensitivity to the needs of our military personnel and their families.

I submit if the Secretary was stationed overseas and had a wife or daughter who was raped and wanted to go into a military facility that we had there, with good conditions, as opposed to going out to some local hospital that had far less capability to cope with that situation, I bet that policy would never have been issued.

Rape is not even covered in this. It is only life of the mother. That would be the only way a military hospital could get involved. If a military service woman or dependent is rape abroad, she could not have the needed treatment over there. Is that right?

It is the law that she could have such treatment in this country. But if you are an American in the military you cannot get that treatment from your own American military doctors if you are stationed overseas, because the current DOD directive says you only get that treatment overseas if it is to save the life of the mother.

If the need occurred for other reasons, for rape or incest or whatever, you could not get the needed medical services.

Congress is acting to correct this disparity. The provision we are debating today was included in fiscal 1993 legislation by all four congressional committees of jurisdiction. It is in both the Senate Armed Services Committee bill and in the Senate Defense Appropriations Committee bill; it is in the House Defense authorization bill and the House Defense appropriations bill.

I emphasize to everyone that this provision grants access only. It does not dictate in any way how any individual may, in her conscience, decide to act. It is her choice, which happens to be the law of the land.

The Senator from Indiana has offered a variety of arguments why this provision should be stricken. Every one of these arguments, I believe, has been debated repeatedly over the past several years in both Houses, and both Houses have rejected them. In that regard I would like to quote from Senator WIRTH's very eloquent statement on several of these matters.

> The provision in the bill is not a complex one. It does not provide for the public funding of abortions. It does not remotely address whether a woman should have the right to choose to have an abortion. It does not allow for post-viability abortions, or what some call "abortion on demand." It does not force military medical personnel to be involved in providing abortion related services, if that is contrary to their religious or moral beliefs. And finally, it does not preclude parents from being involved in these important decisions that their children may face. It is about equality.

And later in his statement, Senator WIRTH states:

> Left uncorrected, the DOD directive has a terrible impact on lives of those in our Armed Forces. I have become aware of a variety of devastating situations created by this directive: families forced into carrying to term a fetus that will not live past birth; families that used their entire life savings to travel to another country and pay for an abortion when they knew the baby could not live; military doctors who are prohibited from providing the counseling and care they determine to be in the best interest of the patient; and a young enlisted woman who was so distraught about a pregnancy and could not get the care she needed that she was driven to take her own life.

Mr. President, I can summarize the issue in very succinct terms: Many of our military personnel overseas are stationed in areas where safe reproductive health care is not available in local facilities, or, if it is available, it is extremely expensive compared to similar services that were provided in U.S. military facilities overseas on a prepaid basis prior to October 1988. All this provision does is to restore the right of access to these services on a prepaid basis, and to correct the second class citizenship status of our people serving their country overseas.

I cannot imagine a Secretary of Defense or an Assistant Secretary of Defense, or anyone stationed in those areas where there are poor medical facilities, who had a member of their family who was pregnant and needed reproductive health care services, who would not want to have the same laws apply for use of military medical facilities over there as apply in this country.

If the law changes here, it will change over there, too. But until that time, I say let American military be treated as American citizens. That is what this is all about.

I urge my colleagues to reject the amendment by the Senator from Indiana.

I yield.

EXHIBIT 1

STATEMENT OF SENATOR WIRTH

Mr. President, it will come as no surprise to anyone here that I oppose the Senator of Indiana's efforts to strike language in the bill which simply allows members of our armed services and their dependents stationed overseas the same access to the full range of quality health care as those stationed in the states. We have debated this before, and a majority of my colleagues believe our service members should have this access.

The provision in the bill is not a complex one. It does not provide for the public funding of abortions. It does not remotely address whether a woman should have the right to choose to have an abortion. It does not allow for post-viability abortions or what some call "abortion on demand". It does not force military medical personnel to be involved in providing abortion related services if that is contrary to their religious or moral beliefs. And finally, it does not preclude parents from being involved in these important decisions that their children may face. It is about equality.

Our women in uniform volunteered to serve their country, not to give up their constitutional rights. In short, the provision that my colleague from Indiana wishes to strike would allow those stationed overseas to be able to use military medical facilities for the full range of reproductive health services permitted under U.S. law. Any service that cannot be funded by appropriated federal funds will be paid for by the individual.

We have all been witness to the accomplishments of our voluntary forces. Yet, if we allow this provision to be stricken from the bill, we will be telling our military personnel that they have all done a stellor job defending our rights—and the rights of others—but that they deserve a lower quality of health care than what they could have at home. These people risk their lives to protect our country—I do not believe they must risk their lives because we won't provide them access to safe health care.

If we do not keep this provision in the bill, we will only be hurting Americans. I do not believe that is our mission.

The Senate should follow up on the action taken by the House when it accepted the same amendment in its authorization bill and restore the rights that have been stripped from our overseas military personnel by one arbitrary DOD directive. This would be a statement of support for simple justice, decency and equality for our women in the military.

Let me back up here one moment and walk through the developments that created the need for this amendment. Since 1984, there has been a permanent ban on the use of Department of Defense funds to perform abortions, except when the life of the woman is in danger. It was preceded by similar language included in each of the FY79 through FY84 appropriations bills. The law, however, has always been silent on the question of using military facilities for abortion procedures.

Until 1988, DOD had no formal policy in regard to performing abortions that are NOT funded by the government in overseas military medical facilities. Abortions were performed and individuals reimbursed the government for the procedure. However, in June, 1988, DOD—specifically William Mayer, then Assistant Secretary of Defense for Health Affairs—issued a directive stating: "* * * The policy is that the performance of pre-paid abortions in military treatment facilities is not authorized." This policy became effective October 1, 1988.

Where does that leave our overseas military personnel? Over the years I have shared with you letters I received from people who's lives have been affected by the arbitrary directive. One was from Charles Zwiersynski, a Second Class Petty Officer in the U.S. Navy, who described the trying experience he and his wife went through when they tried to end a pregnancy—a wanted pregnancy, but sadly the fetus had multiple birth defects and would not live past birth. That should have been reason enough to propel this body into action.

I have also shared with you another letter from Lieutenant Commander Jeffrey Jensen at the U.S. Naval Hospital in Subic Bay, Philippines. Because he worked in a country where abortion is illegal, he was exposed to several situations that describe how the arbitrary 1988 DOD directive has endangered women's lives and interfered with the readiness of our military.

He wrote, "I taste the bitter irony of my words when I tell a young women, who has volunteered to serve her country because she believes in the ideals of democracy and freedom, that despite my training and expertise, I am not free to help her. As a medical student, I never expected to see the day when a military physician could face criminal prosecution for performing a procedure which is safe, effective, legal, and common in the civilian community * * *.

"Not only are our U.S. service women faced with the horror of obtaining illegal abortions that are unsafe and expensive, but many avoid informing their military physician about complications from the abortion for fear of having gone against military regulations—which, if their superior is not supportive of the right to choose, could jeopardize their careers."

Mr. President, because active duty military are not authorized to obtain second opinions or outside care, we further alienate women from adequate care for fear of the repercussions of their being forced into a situation that violates regulations. We are forcing these women to deal with a true Catch-22.

Do not be fooled into believing that women are not forced into the streets. Dr. Jensen states that at his hospital alone, about eight patients each year are admitted with complications from illegal abortions. This is a very real problem for the individuals in the military.

I ask my colleagues to join me in carefully looking at this situation—remove some of the emotion of the issue, and look at how we should rationally solve this injustice.

Our service members are frequently serving our country in locations where safe health care is not available at local facilities. That is precisely why the U.S. has established medical facilities on our bases—to meet the needs of DOD personnel and dependents in these locations. That is why we do not depend on local hospitals in the Philippines or in Panama or in Saudi Arabia or anywhere else.

Additionally, many countries where our troops are stationed have different laws than our own when it comes to abortion. So what choice are we leaving these women? Because they are stationed in a place that does not allow a woman the right to choose whether or not to continue a pregnancy, as is the case in our country, we eliminate her option to choose to have proper health care.

In Latin America, complications of illegal abortion are thought to be the main cause of death in women between the ages of 15 and 39. A small 16 percent of the illegal abortions performed in the Philippines are done by physicians. The alternative is to seek an unsafe, illegal abortion at great risk to the woman's life or to travel to another country, at a cost which may be prohibitively expensive.

I am sickened by this information and have to ask the question: Where does our responsibility to protect the life of the woman end? Unless her life is in danger by carrying the fetus to term, we force her to pursue unsafe medical practices that put her life in danger for choosing to exercise her Constitutional rights. What kind of reasoning is that? Illogical.

Even in countries where abortion services are legal, many subject American women to substandard health care. Many developing countries, for instance, cannot afford to test their blood supply for the HIV virus. They may not have the clean blood, antibiotics and trained personnel necessary to provide quality care. Is this a price we are asking those who are serving the nation to pay—simply because they are stationed overseas?

Many U.S. military personnel and their dependents stationed overseas do not have a full command of the language of their host country. As with any medical procedure, the abortion decision requires a woman to communicate fully with her physician.

Some have charged that this amendment is "limitless" and seek to defeat the amendment stating that it would allow for countless ninth-month abortions. This accusation is plain wrong and it absolutely trivializes the decision some women face. the Department of Defense must operate under the framework of U.S. law—and the law of the land is that post-viability abortions can be restricted, unless the abortion would protect the life or health of the woman. This provision merely applies all that is legal in the United States to those citizens stationed elsewhere—no more.

Left uncorrected, the DOD directive has a terrible impact on lives of those in our armed forces. I have become aware of a variety of devastating situations created by this directive: families forced into carrying to term a fetus that will not live past birth, families that used their entire life savings to travel to another country and pay for an abortion when they knew the baby could not live, military doctors who are prohibited from providing the counseling and care they determine to be in the best interest of the patient, and a young enlisted woman who was so distraught about a pregnancy and could not get the care she needed that she was driven to take her own life.

We should not allow one arbitrary directive to stay in place—not when it has such an overwhelming impact on the members of our military.

We know that we have a majority of both houses that support our efforts to overturn the Administrations misguided directive. Both defense bills coming from the House have the language in them to overturn this arbitrary policy. Right now is the perfect opportunity to right this wrong and restore rights to our service members. I urge my colleagues stand for equality and oppose the motion to strike this necessary provision.

Mr. WOFFORD. Mr. President, I wish to engage in a colloquy with my distinguished colleague from Ohio [Mr. GLENN].

When I first read section 715 of S. 3114, I was concerned that the broad language of the bill might prevent the branches of the uniformed services from adopting regulations for parental involvement in virtually all cases concerning minors.

Mr. President, I believe that under almost any circumstances a pregnant teen considering an abortion should consult with at least one of her parents. Providing guidance and understanding support in difficult times is a big part of what families are all about. I believe the military should be able to establish parental involvement regulations with respect to abortion.

Since raising this issue with my colleagues, I have been informed that this provision is not intended to overturn or preclude rules on parental involvement where minors are concerned. I have been told that the branches of the military and military commanders of overseas installations will not violate the intent of the provision if they set regulations on parental consent and notification.

My first question is this: Am I correct in my present understanding? Will section 715 permit regulations on parental or guardian involvement?

Mr. GLENN. The Senator is correct. The provision is not intended to preclude or prevent the military from adopting constitutionally sound policies on parental involvement in cases in which a minor seeks an abortion.

Mr. WOFFORD. Before the Department of Defense policy that Section 715 now seeks to reverse went into effect, that is, before October 1988, the branches of the military could prohibit third-trimester abortions except where the life or health of the mother was endangered. An Air Force regulation from 1985 stated:

> Air Force policy precludes the performance of abortions on patients whose pregnancy has advanced beyond 20 weeks unless, in the medical judgement of the patient's attending physician, the abortion is necessary to preserve the life or physical health of the mother.

Is it the understanding and the intent of Senator WIRTH as author of section 715 that under the provision, the branches of the military can continue to prohibit third-trimester abortions except where necessary to preserve the life or health of the mother?

Mr. GLENN. That is my understanding of Senator WIRTH's intent. The military, like any State, is subject to the laws of the land. States can regulate postviability abortions, except to save the life of the woman, and the military may do so as well.

Mr. WOFFORD. One final question. From my inquires on this issue and from certain regulations I have obtained, I understand that conscience clauses apply in each branch of the military: Physicians and other medical personnel who have religious or moral objections to abortion are not required to perform or physically assist in such procedures.

I also understand that such conscience clauses were in effect during those years in the 1980's when overseas military installations were not barred from performing abortions where local facilities were unsafe and the patient paid for abortion herself.

Is it Senator WIRTH's intent as author of section 715 that the branches of the military can continue such conscience clauses?

Mr. GLENN. It is.

Mr. WOFFORD. I thank my distinguished colleague from Ohio.

In closing, I must say that I wish the provisions of this law were clearer. My friend has clarified for me the meaning of the bill's language, and that is most helpful, but as a general proposition I believe that it would be better if the terms of the statute itself made clear its intent and meaning.

That said, I thank my friend and colleague from Ohio and I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon?

Mr. PACKWOOD. May I have 5 minutes?

Mr. GLENN. I yield 5 minutes to the Senator.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. PACKWOOD. I thank my good friend from Ohio. Mr. President, he has said it all as he has so many times in his career. We are talking here about equality.

Picture your situation. You are a 21-, 22-, 23-year-old woman, member of the Armed Forces. You are stationed in Korea, you are stationed in Germany, you are stationed someplace around the world where, in that country, you do not have any access to a safe and legal abortion.

You, of course, have access to back alley abortions the way we used to have in this country 25 years ago. If you are that same woman stationed in the United States, whether or not you were denied access to an abortion in a military hospital, which you should not be even in this country, you would at least have access to abortions in the United States in a normal hospital, or in a normal clinic, because it is legal in this country.

So what are you going to say when the person goes overseas; you now lose your rights as an American citizen? Or, buy yourself a ticket and go home at your own expense? Or, wait until there is a seat on some transport plane and ride bumpily across, assuming you can get a seat? That is not the way we ought to treat our people in the military. It is not fair. It is not decent.

We ought to provide for them in foreign countries, the same rights they would have in this country. And I hope after all the battles we have gone through in the past years we would leave this provision in the bill. We are making progress. We used to try to have to put it in the bill on this floor because it was not offered and accepted in committee. Now at least it is in the bill and those who do not like it will have to try to strike it out. I will say again, the options for a woman in the military who wants to have an abortion are limited: Illegal abortion, or perhaps legal in a substandard medical facility, wait for transportation on a military plane and that is an iffy thing, or try to come to the United States with your own funds on a private carrier, and you picture yourself what you are going to pay on a private carrier and you are a military woman, private or corporal. It is too expensive and you will not be able to do it.

Women who cannot receive abortions at overseas military hospitals are deprived of the equal protection of the laws. Military women and dependents who happen to be stationed in the United States have access to these abortions while those overseas do not.

During previous debates, some Senators have raised the issue that even if the woman paid for the abortion herself, there would still be some Federal funding because it is being done in a military hospital and the doctors are on the military payroll and the room is an overhead cost of the hospital. But this amendment provides that the woman will pay the direct and indirect costs.

We have made it very clear that there is a conscience clause and that those military personnel who, as a matter of personal morality, do not want to participate in doing abortions do not have to.

So I urge this Senate to very strongly reject the amendment of my colleague from Indiana and leave in the bill this very fair provision that is there. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. I yield 5 minutes to Senator ADAMS.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. ADAMS. Mr. President, I thank the Senator from Ohio for this time.

I was appalled to hear the comment made that this was not an important item to be debated in the Defense bill. That is appalling to me because this is one of the most important provisions in this bill. This is a provision that provides protection for our people, our people who we have sent abroad and our people who we are going to send abroad. More and more women of the United States are going to be serving in multilateral forces, as well as in U.S. forces in foreign countries, where adequate medical facilities are not in existence and, in many cases, where fundamentalist religions are strongly against women's rights of any kind.

I say to those who have not traveled abroad and have not spent time in the countries that I have—for example, the Arabic countries, Saudi Arabia, Algeria and elsewhere—that not only are the facilities limited but individual rights are limited also. That is why this is such a terribly important amendment—to protect our people, our women overseas.

So I am in strong opposition to the Coats amendment because it would strike the committee language which allows military women and dependents of military people stationed abroad to get safe, legal abortions at U.S. military hospitals.

This military policy, as was so well pointed out by the Senator from Ohio with his long and distinguished military record, was not adopted by Congress. This policy was established in a letter, by an Assistant Secretary in the military without congressional approval. It denies servicewomen and military families abroad basic fundamental rights to obtain health service—the same services that would be available to their counterparts in the United States.

What is even worse is that it prohibits the provision of abortions to women regardless of whether or not they pay for them themselves.

This is an outrage. There are more than 600,000 active duty personnel and 400,000 dependents stationed abroad being treated as second-class citizens when it comes to health care.

In many countries such as the Philippines and Panama, abortion is illegal. It means that women with an unintended pregnancy are subject to the worst kind of substandard health care—illegal abortions.

At this point, Mr. President, I would like to print in the RECORD an editorial from USA Today, "Abortion in the Military."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ABORTION IN THE MILITARY

> President Bush in all likelihood would deny hotly that anyone wearing a U.S. military uniform, or any military dependent, is a second-class citizen.
>
> But in effect, almost half a million of them are. Reason: Three years ago, the Reagan administration banned abortion at U.S. military hospitals.
>
> Military women stationed in the USA can go to private facilities. But for the 65,000 servicewomen and 400,000 military wives and daughters stationed abroad, the rule too often can translate into a ban on abortion:
>
> Some nations with large U.S. troop presences—the Philippines, Panama and Saudi Arabia—ban abortions.
>
> Others offer private medical care that, to put it politely, is dubious.
>
> Result: Women can have unwanted children, risk injury or play "trimester roulette," awaiting scarce space on military planes heading stateside.
>
> And that makes them second-class citizens. Whatever the Supreme Court's future intentions, abortion remains all women's constitutionally guaranteed right—not a privilege military women should have to leave at the U.S. border.
>
> Congress has agreed. Late last week, it sent the president a defense spending bill that also would end the abortion ban only for U.S. military hospitals overseas.
>
> Women still would pay for their own abortions. But they could have the procedures done in safety and convenience.
>
> The president is expected to veto the defense spending bill, in part because it would erase this spiteful ban.
>
> Military women deserve better. They've agreed to give their lives, if needed, to defend the constitution. They at least deserve a president willing to set aside his politics to uphold it.

Mr. ADAMS. Mr. President, quoting from the editorial:

> But for the 65,000 servicewomen and 400,000 military wives and daughters stationed abroad, the role too often can translate into a ban on abortion.
>
> Some nations with large U.S. troop presences—the Philippines, Panama, and Saudi Arabia—ban abortions.
>
> Others offer private medical care that, to put it politely, is dubious. Result: Women can have unwanted children, risk injury or play "trimester roulette" awaiting scarce space on military planes heading stateside.

For women serving overseas the DOD policy overturns Roe versus Wade. It makes a mockery of our Constitution.

What bothers me more than anything else is that we should not be debating this today. This should be our national policy. Otherwise the Department of Defense is a tool of the few who want Government to tell women what they can or cannot do with their bodies.

The only issue today is whether women stationed abroad should have access to the same quality medical care that can be obtained in the United States. In my own State at Madigan Hospital, at Fort Lewis, you have beautiful facilities. Medical facilities in many of these countries where our people are stationed are not adequate.

It is not a question of whether the Federal Government should pay for these abortions. Under the committee language, no Federal money is authorized. All costs are privately covered. The issue here is fairness. Our message should be clear: Second-rate health care for women abroad is not acceptable, particularly those we have sent abroad who are risking their lives to defend the United States, and are pleased to do so. When they seek help, we should give it to them. So I hope the Coats amendment will be defeated

I want to compliment the members of the committee for including this language in the bill. I thank the Senator from Ohio for yielding me this time.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. How much time remains?

The PRESIDING OFFICER. The Senator from Ohio controls 11 minutes, 25 seconds.

Mr. LAUTENBERG. I ask for 6 minutes.

Mr. GLENN. I yield 6 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 6 minutes.

Mr. LAUTENBERG. I thank the manager of the bill and the Chair for recognition.

Mr. President, we are here discussing something, frankly, that astounds me. As we saw in the Persian Gulf conflict, women who were in combat were subject to all of the dangers, all of the risks of our male servicemen. Their lives were at risk. There was a woman killed from my home State as a result of the war in the Persian Gulf. We ask them to sacrifice everything. We ask them to give up their families and we ask them to fight for the liberty and freedom that this country stands for.

But on the floor of the Senate we want to say it is OK for you to fight, it is OK for you to take the risk but you cannot make a choice that is permitted under law because there are no facilities available to you other than a military facility.

And so our friend, the Senator from Indiana says, well, there are services available. They can take a plane back. They can get a ride back, that is, if they have any leave time available because, otherwise, they have to go to the company commander and say, listen, I am pregnant. This is rather personal but I want to discuss this with you.

With the company commander? What right does that person have to be included in that information? And a flight on a space available basis. Maybe it is at a critical time in the pregnancy that a woman or the dependent has to sit and wait for the space available flight to find a safe, healthful facility where she can have her choice honored.

I looked at the material that the Senator from Indiana has distributed on behalf of the case that he makes, and, frankly, I would have to tell the Senate that he does not make a very strong case. He talks about a response that he received from a Mr. David Gribbin, Department of Defense, Assistant Secretary for Legislative Affairs, on August 6. And he asks a series of questions: Has the Department had any difficulty in implementing this policy?

No. No, all they have to do is command that you cannot do it. There is no difficulty.

That is what the military is about, for my friend's information. I know from my own military experience.

Have formal complaints been filed concerning this policy to the best of your knowledge and information?

No; because maybe people are afraid to come up and say I need an abortion, even though it might have been in the best interests of her mental health or in the best interests of her family.

So they are not going to declare themselves publicly in the form of a complaint.

Have any legal challenges been instituted?

No; the same thing.

And how about trying to figure out what costs might be?

Mr. President, from 1982 to 1988, we found a way to deal with the costs involved in obtaining reproductive health services from a military hospital overseas. Everything was going along fine until one day someone made an arbitrary decision stating that those who serve the country do not have the same rights as those who live here on our soil.

We ought to say check your rights at the door when you go to the recruiter's office.

There is a problem recruiting now despite the fact that the military is in a state of reduction, as we bring down the force size. But the Senator from Indiana's amendment seeks to take away rights. Our mission should be to protect people's rights, not to take them away.

And so we have this transparent attempt to remove the rights of a service woman or a service dependent from making a decision that is rightfully theirs under the law.

We are looking at a point in time when we ought not to be discussing this. A woman's rights shouldn't be a political issue.

The larger issue is being reviewed in so many different ways that we ought not to take the Senate's time when we have an important bill like this. I hope that we can stop debating this issue and defeat this amendment, because it does nothing more than harm any individual who needs this kind of medical attention and prevents her from getting what is rightfully hers.

You heard it from the distinguished Senator from Oregon. No health care professional has to participate. The military has conscience clauses. And I remind the Senator from Indiana that last November, we had 57 Senators stand up and say we should reestablish a woman's right to choose in the military.

I remind everybody that if they examine the Defense appropriations bill, the full committee has reestablished reproductive health care. There is only one reason it is not in law today, and that is because when we went to conference the President threatened to veto the entire defense appropriations bill. That does not mean, however, that we should quit trying to protect people's rights.

So I hope, Mr. President, that as we hear this debate, we see through it, we see that it is a political attempt to take a person's rights away, and we ought not to be doing that in the Senate.

I hope we defeat this amendment decisively once and for all and stop talking about an issue that is a fundamental right for Americans.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Indiana.

Mr. COATS. How much time is remaining?

The PRESIDING OFFICER. The Senator controls 17 minutes 13 seconds; the Senator from Ohio 5 minutes 25 seconds.

Mr. COATS. Mr. President, it does not appear that the Senator from Ohio has additional speakers. He may want to save some time for wrapup. I just plan a brief summary and then I am willing to yield back the remainder of my time if that is acceptable.

Mr. GLENN. I will have three brief remarks and then yield back the remainder of my time.

Mr. COATS. Mr. President, let me just conclude and summarize the situation before the Senate.

The Senator from New Jersey speaks as if this motion to strike the language included in the Department of Defense authorization bill denies a woman the right to make a choice relative to abortion or any other reproductive health service.

It does not do that at all. And if you have listened carefully to the argument, you understand that no woman is denied the right to choose under the amendment the Senator from Indian is offering. This does not go to whether or not a woman has the right to have an abortion, regardless of how you feel on that question. That is not the issue we are debating.

The Assistant Secretary of Defense has certified in writing that no military woman or her dependent has ever been denied the right to an abortion. That is available for every Member to read. It is in print.

Now, we have been discussing this issue for 4 years, and not one case has been presented to us of any military personnel being denied the right to an abortion.

You would think that those who are so insistent on incorporating this language in this bill would have a whole raft of examples before us saying look how terrible, how onerous this policy is; that is why we have to change it.

Not one case has been presented, and for 4 years we have been debating this.

So I think it is safe to conclude the answers of the Assistant Secretary of Defense are correct, and that is there has never been a complaint, there has never been an incident, no one has ever been denied access off the base to have an abortion performed or denied the ability to get on a military transport and come home and have the abortion performed.

That is a separate issue we can debate, the meaning of life. I wish the Senate would debate that in more detail. We can debate it at another time, but that is not the issue before us. So do not be concerned that when you come over here to vote you are voting on a woman's right to choose. You are not.

Second, the language before us calls for reproductive health services. It does not just deal with abortion. If the issue is a woman's right to have an abortion, why broaden the language to reproductive health services? What is the intent? I do not know what the intent is.

But I would think, even if you do not agree with this Senator's argument on the first point, certainly on the second point, that is, why broaden it to reproductive health service, do we want to make our military hospitals open for all the possible procedures that might fall under the definition of reproductive health services? I do not think so.

Third, there is no limitation on this. An abortion can be received at a military hospital for any reason at any time.

Now, the Senator from Ohio said, what about in the case of rape?

Why did the author of the legislation not put in that exception if that is what they were concerned about?

What we have is the absolute, unrestricted right to abortion for any reason at any time. If it is a minor, there is no consent of the parent, not even notification of the parent.

How many military parents would like to have their daughters have the absolute right to an abortion without even knowing about it? There is no restriction relative to the age of the unborn. Abortion can be demanded in the ninth month to mothers. Do Members here support abortion for any reason at any time, even the ninth month? Abortions can be performed for any reason. Do members of this body want to sanction use of military hospitals for abortions for reason of sex selection because the fetus may be determined to have a slight handicap?

Do they want any member of the military, any dependent to walk into any military hospital anywhere in the world and say I want an abortion, I do not care what the circumstances are, I do not care what the age of the fetus is, I do not like—I determine this is the wrong sex, I want the abortion, a military hospital has to give it to me, I demand it?

Is that what Members want? That is what the language prescribes. I would have thought that the authors would have wanted to build in at least some reasonable restrictions. They build in none.

Mr. President, I would like to ask unanimous consent to submit a letter received from Joseph Dimino, the Archbishop for Military Services in the United States, for the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ARCHDIOCESE FOR THE MILITARY
SERVICES, USA,
Silver Spring, MD, September 17, 1992.

DEAR SENATOR: The members of the Archdiocese for the Military services include approximately one and a half million Roman Catholic men, women and children. Over seven hundred Roman Catholic priests serve as chaplains to these military personnel and members of their families.

As the Roman Catholic Archbishop for the Military Services, I plead with you, in the strongest possible terms, to vote against any amendment to the Department of Defense Authorization Bill which would allow abortion in military hospitals.

The Archdiocese for the Military Services completely supports the current policy of prohibiting abortion at military facilities, for any reason. Any change in this policy which would allow abortions to be performed in military hospitals in overseas locations would be disastrous.

Allowing abortions at military hospitals would be extremely detrimental to the consciences of so very many military physicians, nurses and other medical personnel who would be involved in the process. Undoubtedly, physicians and other medical staff, despite their moral objections, would be pressured to participate in these abortions. Any refusal to assist in an abortion would, in most cases, cause inconvenience and extra work for other medical personnel; to refuse to participate in an abortion would directly and indirectly result in adverse evaluations of their performance.

Before voting on an amendment which would cause a complete change in military policy concerning abortion, I urge you to consider the immediate and long range results of such a change.

I beg God's blessings upon you as you deliberate on a vote with such extensive consequences.

Sincerely yours,

JOSEPH T. DIMINO,
Archbishop for the Military Services.

Mr. COATS. Mr. President, I urge my colleagues, Members of the Senate, to consider both the immediate and the long-range results if we incorporate as an official Department of Defense policy the right to unrestricted abortion, unrestricted reproductive health service by military personnel or their dependents for any reason at any time. I do not believe this is reasonable legislation. I do not believe this is what the Senate wants to support. I hope Members would support my motion to strike.

Mr. President, I reserve the remainder of my time. I do not really intend to use it. Just in case I need to respond to a question, I will reserve whatever remaining time I have left and yield the floor.

Mr. GLENN. I yield 2 minutes to the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, in response to the Senator from Indiana, who says there are no complaints, there was no criticism, were no charges leveled, et cetera, I have to quote from a letter that was presented to this body last year, written by a Dr. Jeffrey Jentsen, who was head of the obstetrics and gynecology at the U.S. Naval hospital in Subic Bay, in which he relates incidents of post-abortion problems with those who had illegal abortions or abortions in health facilities that were not as safe as a military medical facility.

Mr. President, our friend from Indiana says there is no prohibition; you can get an abortion if that is your choice. Where? And when? You cannot get it in the Philippines. You cannot get it in other countries around the world if you are stationed there as an American service woman or a dependent. You cannot get it there. So they say, sure, we will be liberal, we will let them have it, but there is no place to go.

So effectively what we are doing is saying, you don't have the right to choose. When we talk about the concerns that the Senator raises about women's reproductive health services and he encompasses a whole range of scenarios—breast degradation, other kinds of things—it is a distraction. The focus comes back to one issue and one issue alone. Does that person have a right to make a choice if the woman chooses to have an abortion? We should leave the choice to the individual.

So I hope we will see through this and get done with this issue once and for all, and vote against the Senator's amendment.

Mr. GLENN. Mr. President, I yield myself such time as I may require.

Mr. President, I know the Senator from Indiana feels very strongly about this issue, as do a number of Members of this body. I appreciate that, and I support his right to those views, absolutely and fully, and defend those rights. But some of the things that he brought up here today seem to me to be just a bit extraneous. For instance, in his letter to Mr. Gribbin, he asks questions about whether we are amortizing costs of equipment in the operating room, whether a proportionate share of costs, administrative costs, have been apportioned, and the salaries of staff. Whether the military depreciates a greater proportion of valued materials and machinery used in the performance of an abortion, to include the value of the rent, and the space used in the facility in which the abortion was performed.

Mr. President, I think this goes rather to ridiculous ends in this regard. Another statement here, that no one has ever been denied an abortion.

But the question is, do you have to fly halfway around the world to get it? Why should military personnel have to do that? I would submit that they should not have to do that. As far as the timing of an abortion, that can be regulated by the Department of the Defense so long as it complies with U.S. law, Roe versus Wade. That is the law of this land.

They can make any regulations they like over at the Pentagon so long as it complies with the law. So the question is, will U.S. law follow U.S. military citizens overseas? That is the basic question.

The current situation was not caused by act of Congress. The Assistant Secretary of Defense just took this upon himself to put out an order, that this restriction would apply on U.S. military installations around the world. I just disagree with that as a way of doing things.

To summarize, the basic question raised by this amendment is: will American women in the military be treated as full fledged American citizens or not? I believe the Senate of the United States will support our women in the military, and vote no on this amendment.

I yield the remainder of my time.

Mr. COATS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. ROCKEFELLER). Does the Senator from Indiana yield time?

Mr. COATS. I yield the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from Indiana.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Hawaii [Mr. INOUYE], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. DOLE. I announce that the Senator from Wisconsin [Mr. KASTEN], the Senator from California [Mr. SEYMOUR], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. SEYMOUR], would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 36, nays 55, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—36

Bond
Breaux
Burns
Coats
Cochran
Craig
D'Amato
Danforth
DeConcini
Dole
Domenici
Durenberger
Exon
Ford
Garn
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Johnston
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Reid
Roth
Smith
Symms
Thurmond
Wallop

NAYS—55

Adams
Akaka
Baucus
Bentsen
Biden
Bradley
Brown
Bryan
Bumpers
Burdick, Jocelyn
Byrd
Chafee
Cohen
Conrad
Cranston
Daschle
Dixon
Dodd
Fowler
Glenn
Gorton
Graham
Hollings
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Riegle
Robb
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stevens
Warner
Wellstone
Wofford

NOT VOTING—9

Bingaman
Boren
Gore
Harkin
Inouye
Kasten
Seymour
Simpson
Wirth

So the amendment (No. 3074) was rejected.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader.

CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate the conference report on S. 12, the Cable Television Consumer Protection Act.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 12) to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 14, 1992.)

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk and ask it be stated.

The PRESIDING OFFICER. The clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the standing rules of the Senate, hereby move to bring to a close the debate on the conference report to accompany S. 12, the Cable Television Consumer Protection Act:

Fritz Hollings, Dale Bumpers, Brock Adams, Jim Sasser, Paul Wellstone, George Mitchell, Wendell Ford, Bill Bradley, J.R. Biden, Herb Kohl, Patrick Leahy, Joseph Lieberman, Daniel K. Inouye, Howard Metzenbaum, Edward Kennedy, J. James Exon, and Christopher Dodd.

NATIONAL DEFENSE AUTHORIZATION ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate resume consideration of the defense authorization bill and that the conference report be returned to its prior status.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate resumed consideration of the bill.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

SUPPLEMENTAL APPROPRIATIONS, TRANSFERS, AND RESCISSION ACT, FISCAL YEAR 1992

Mr. BYRD. Mr. President, I ask unanimous consent the Chair lay before the Senate a message from the House of Representatives on H.R. 5620, reading thereof be waived, the Senate recede en bloc from its amendments 1 through 68 and that a motion to reconsider that action be laid upon the table, that the Senate concur in the amendment of the House to the amendment of the Senate numbered 69, and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendment of the Senate numbered 69 to the bill (H.R. 5620) entitled "An Act making supplemental appropriations, transfers, and recissions for the fiscal year ending September 30, 1992, and for other purposes," with the following amendment: In lieu of the matter proposed by said amendment, strike out all after the enacting clause, and insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1992, and for other purposes, namely:

TITLE I

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For an additional amount for "Operations and Administration", $2,000,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING RESCISSION)

Of the funds made available under this heading in Public Law 102–140, $2,120,000 are rescinded.

Notwithstanding section 318(d) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464(d)), amounts provided pursuant to Public Law 101–162 for the acquisition of Buxton Woods shall remain available to the State of North Carolina through September 30, 1993.

FOREIGN FISHING OBSERVER FUND

(RESCISSION)

Of the unobligated balances in the Foreign Fishing Observer Fund, $1,309,000 are rescinded.

FISHING VESSEL OBLIGATIONS GUARANTEES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–140, $930,000 are rescinded.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

Amounts appropriated under this title by Public Law 101–515 and available through September 30, 1992, for debt collection training, locating debtors and their property, and selling debtor property also may be used for processing and tracking debts owed to the United States Government.

DEPARTMENT OF STATE

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for "Contributions for International Peacekeeping Activities", $80,000,000: *Provided*, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

DEFENDER SERVICES

For an additional amount for "Defender Services", $31,250,000, to remain available until expended: *Provided*, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

NATIONAL COMMISSION ON JUDICIAL DISCIPLINE AND REMOVAL

The language under the heading "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and Expenses" in Public Law 102–27 is amended by deleting "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

Notwithstanding the requirement of section 415 of Public Law 101–650 to submit the report mandated by said section not later than one year after the date of the Commission's first meeting, the National Commission on Judicial Discipline and Removal shall submit to each House of Congress, the Chief Justice of the United States, and the President, the report mandated in said section no later than August 1, 1993.

RELATED AGENCY

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,000,000, to remain available until September 30, 1993: *Provided*, That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

GENERAL PROVISIONS—TITLE I

SEC. 101. Notwithstanding the provisions of sec. 1402 of the Victims of Crime Act of 1984, as amended (42 U.S.C. 10601), amounts deposited into the Crime Victims Fund during fiscal year 1992, in excess of $152,200,000 shall be available to the Attorney General without fiscal year limitation for expenses associated with the activation and operation of Federal prisons.

MONTEREY BAY NATIONAL MARINE SANCTUARY

SEC. 102. (a) ISSUANCE OF DESIGNATION NOTICE.—Notwithstanding section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b))—

(1) the Secretary of Commerce shall, on September 18, 1992 (or as soon thereafter as is practicable), publish under that Act in the Federal Register a notice of the designation of the Monterey Bay National Marine Sanctuary (hereafter in this section the "Sanctuary"), as described in the notice of designation submitted to the Congress on September 15, 1992, and

(2) that designation shall take effect the later of September 18, 1992, or the date of enactment of this Act.

(b) OIL AND GAS ACTIVITIES PROHIBITED.—Notwithstanding any other provision of law, no leasing, exploration, development or production of oil or gas shall be permitted within the Sanctuary as required by section 944.5 of the Final Environmental Impact Statement and Management Plan for the Monterey Bay National Marine Sanctuary, published by the Department of Commerce in June 1992.

(c) INTERAGENCY COOPERATION.—

(1) REVIEW OF AGENCY ACTIONS.—

(A) IN GENERAL.—Federal agency actions internal or external to the Sanctuary including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource are subject to consultation with the Secretary.

(B) AGENCY STATEMENTS REQUIRED.—Subject to any regulations the Secretary may establish, each Federal agency proposing an action described in subparagraph (A) shall provide the Secretary with a written statement describing the action and its potential effects on sanctuary resources at the earliest practicable time, but in no case later than 45 days before the final approval of the action unless each Federal agency and the Secretary agree to a different schedule.

(2) SECRETARY'S RECOMMENDED ALTERNATIVES.—If the Secretary finds that a Federal agency action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary shall (within 45 days of receipt of complete information on the proposed agency action) recommend reasonable and prudent alternatives, which may include conduct of the action elsewhere, which can be taken by the Federal agency in implementing the agency action that will protect sanctuary resources.

(3) RESPONSE TO RECOMMENDATIONS.—The agency head who receives the Secretary's recommended alternatives under paragraph (2) shall promptly consult with the Secretary on the alternatives. If the agency head decides not to follow the alternatives, the agency head shall provide the Secretary with a written statement explaining the reasons for that decision.

(d) VESSEL TRAFFIC.—Within 18 months of the date of enactment of this Act, the Secretary of Commerce and Secretary of Transportation, in consultation with the State of California and with adequate opportunity for public input, shall report to Congress on measures for regulating vessel traffic in the Sanctuary if it is determined that such measures are necessary to protect sanctuary resources.

TITLE II

DEPARTMENT OF DEFENSE—MILITARY SUPPLEMENTAL APPROPRIATIONS

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army", $116,000,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $33,000,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force", $263,000,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for "Operation and maintenance, Defense Agencies", $69,700,000, to remain available for obligation until September 30, 1993: *Provided*, That $50,000,000 of this appropriation shall be used to provide educational assistance to school districts where there are significant increases in the number of military dependent students as the result of relocation or realignment of Armed Forces personnel: *Provided further*, That the $50,000,000 specified in the preceding proviso shall be allocated to school districts where at least thirty percent of the students in average daily attendance in the schools are military dependent students: *Provided further*, That the $50,000,000 shall be made available only to supplement, not supplant, the amount of any other Federal, State, or local government funds otherwise authorized or expended for education of dependents of members of the Armed Forces: *Provided further*, That a portion of the $50,000,000 may be made available for construction.

ENVIRONMENTAL RESTORATION, DEFENSE

For an additional amount for "Environmental Restoration, Defense", $447,500,000, to remain available for obligation until September 30, 1993.

PROCUREMENT

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve Equipment", $4,372,000, to remain available for obligation until September 30, 1994.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

For an additional amount for "Research, Development, Test and Evaluation, Defense Agencies", $74,800,000, to remain available for obligation until September 30, 1993: *Provided*, That $5,000,000 of the funds appropriated in this paragraph shall be made available only for a National Defense Center of Excellence for Research in Ocean Sciences to be established through cooperation between the Defense Advanced Research Projects Agency (DARPA) and the Hawaii High Technology Development Corporation (a government entity) for the purposes of conducting research and development activities of interest to the Department of Defense on such topics as ocean environment preservation technology, new ship hull design concepts, shallow water surveillance technologies, ocean measurement instrumentation, and the unique properties of the deep ocean environment.

REVOLVING AND MANAGEMENT FUNDS

PENTAGON RESERVATION MAINTENANCE REVOLVING FUND

For an additional amount for "Pentagon Reservation Maintenance Revolving Fund", $80,100,000.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for "Office of the Inspector General", $3,400,000.

TRANSFER OF FUNDS

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF ADDITIONAL FUNDS)

For additional incremental costs of the Department of Defense associated with operations in and around the Persian Gulf resulting from Operation Desert Shield/Desert Storm, and under the terms and conditions of the Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991 (Public Law 102-28), in addition to the amounts that may be transferred to appropriations available to the Department of Defense pursuant to that Act and the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102-229), not to exceed $3,431,176,560 may be transferred during fiscal years 1992 and 1993 to then currently applicable appropriations from the Defense Cooperation Account, to the following accounts in not to exceed the following amounts:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $1,007,961,000.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $170,400,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $17,127,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $313,500,000.

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army", $1,355,274,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $75,000,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and maintenance, Marine Corps", $224,600,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force", $247,200,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for "Operation and maintenance, Defense Agencies", $4,900,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and maintenance, Army National Guard", $15,214,560, to remain available for obligation until September 30, 1993.

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF EXISTING FUNDS)

For the purpose of adjusting amounts which may be transferred to military personnel and operation and maintenance appropriations pursuant to the Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991 (Public Law 102-28) and the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102–229) and under the terms and conditions of those Acts, the Secretary of Defense may make adjustments to the amounts provided for transfer by such Acts in amounts not to exceed $611,010,000 and provide for the transfer of such amounts to the following accounts in not to exceed the following amounts to be available to the Department of Defense during fiscal years 1992 and 1993: *Provided*, That the Secretary of Defense shall provide prior notification to the Committees on Appropriations of the House of Representatives and the Senate indicating the accounts from which the funds will be derived for such transfers:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

NATIONAL GUARD PERSONNEL, ARMY

To be derived by transfer, $12,500,000 for "National Guard Personnel, Army".

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

To be derived by transfer, $341,310,000 for "Operation and maintenance, Army", to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, NAVY

To be derived by transfer, $257,200,000 for "Operation and maintenance, Navy", to remain available for obligation until September 30, 1993.

RESCISSION OF FUNDS

PERSIAN GULF REGIONAL DEFENSE FUND

(RESCISSION)

Of the funds made available under this heading in the Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991 (Public Law 102–28; 105 Stat. 161), $14,696,040,000 is hereby rescinded: *Provided*, That the Persian Gulf Regional Defense Fund is hereby terminated.

GENERAL PROVISIONS—TITLE II

(TRANSFER OF FUNDS)

SEC. 201. Section 103 of the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102–229; 105 Stat. 1707) is amended by striking out "fiscal years 1991 and 1992" and inserting "fiscal years 1992 and 1993" in lieu thereof and by striking out "through February 1992".

SEC. 202. (a) The Secretary of Defense shall transfer up to $40,000,000 in additional funds from the Defense Cooperation Account to the appropriate appropriations accounts within the Department of Defense to remain available until expended for Kurdish humanitarian needs and related transportation costs to include, but not be limited to, the prepositioning of emergency food stocks, water and seed, the provision of medical assistance, the establishment of regional medical clinics in recognized Kurdish areas of Iraq and the extension of technical assistance for land mine clearing, the drilling of water wells and the construction of temporary shelters.

(b) The Secretary of Defense shall report to the Committees on Appropriations and Armed Services of the House of Representatives and Senate at the start of each quarter in fiscal year 1993 on the steps taken to bring relief and restore the well-being and security of the people of recognized Kurdish areas of Iraq.

SEC. 203. Of the funds appropriated under the heading "Operation and Maintenance, Army" in the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1152), $6,800,000 shall be available only for a grant to the Monterey Institute of International Studies and shall be obligated prior to September 30, 1992: *Provided*, That for the purposes of maintaining the industrial base, $60,000,000 of the funds available in the Defense Business Operations Fund, combined with funds otherwise available to the Department of Defense, shall be obligated forthwith for the purchase of 2.88 million cases of Meals Ready to Eat.

SEC. 204. Of the funds appropriated under the heading "Research, Development, Test and Evaluation, Army" in title IV of the Department of Defense Appropriations Act, 1992 (Public Law 102–172), not less than $5,000,000 shall be made available only for the National Defense Environmental Corporation, or its successor in interest, for the continued establishment and operation of the National Defense Center for Environmental Excellence.

SEC. 205. Funds appropriated to the Department of Defense in the Department of Defense Appropriations Act, 1991 (Public Law 101–511) and made available for transfer to the Department of Commerce and the Department of Labor to assist State and local governments significantly impacted by reductions in defense industry employment or reductions in the number of military and civilian personnel residing in such States and communities shall be available until September 30, 1997.

SEC. 206. Notwithstanding section 2391 of title 10, United States Code, the Secretary of Defense may make a grant of $1,100,000 to assist Astoria, Oregon in the planning, design and modification of facilities and support infrastructure to accommodate new Navy Minesweeper/Minehunter vessels.

SEC. 207. Of the funds appropriated under the heading "Research, Development, Test and Evaluation, Army" in the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1164), $8,000,000 shall be available only for neurofibromatosis research.

SEC. 208. Funds available to the Department of Defense for the payment of allowances under the provisions of section 405a of title 37, United States Code, may be used to make payments of such allowances retroactive to August 23, 1992: *Provided*, That dependents residing incident to government orders in the vicinity of Homestead Air Force Base, Florida on August 23, 1992 who actually moved to a safe haven designated by an authority ordering the departure of dependents shall be entitled to an allowance under the provisions of section 405a of title 37, United States Code, notwithstanding the fact that the member's duty station may have been at a place other than Homestead Air Force Base: *Provided further*, That for the purpose of section 5725 of title 5, United States Code, the departure of civilian employees of the Department of Defense and their dependents from the vicinity of Homestead Air Force Base on or after August 23, 1992 shall be considered to be an evacuation: *Provided further*, That funds available to the Department of Defense shall be available until September 30, 1994 for the payment of up to $40,000 per claim for personal property damage and losses to members of the uniformed services residing in the vicinity of Homestead Air Force Base as a result of Hurricane Andrew: *Provided further*, That the allowances and benefits provided under this paragraph shall be made available under equal terms and conditions to members of the uniformed services residing in the vicinity of military installations affected by Typhoon Omar and Hurricane Iniki.

SEC. 209. Funds appropriated for the Office of Economic Adjustment at the Department of Defense for fiscal year 1992 are reduced by $1,000,000, and funds appropriated for the Office of the Secretary of Defense for fiscal year 1992 are increased by $1,000,000 for the purpose of making an economic impact grant to Nye County, Nevada.

TITLE III

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For an additional amount for "Advances to the unemployment trust fund and other funds", $237,652,000 to remain available until September 30, 1993.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

HUMAN DEVELOPMENT SERVICES

Funds appropriated in Public Law 102–170 under the heading "Human Development Services" for the "Family Violence Prevention and Services Act", shall remain available until expended.

TITLE IV

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Base Realignment and Closure Account, Part II", $162,700,000, to be available solely for environmental restoration and to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

For an additional amount for "Base Realignment and Closure Account, Part II", $69,000,000, to be derived by transfer from the "Environmental Restoration, Defense" account of Public Law 102–172, to be available solely for environmental restoration and to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE V

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $500,000,000, to remain available until expended.

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

The limitation on direct loans in the current fiscal year for the "Vocational rehabilitation loans program account" is increased, within existing funds, by $350,000 to not to exceed $2,038,000.

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

Notwithstanding any other provision of law, not less than $8,700,000,000 of the sums appropriated under this heading in fiscal year 1992 shall be available only for expenses in the personnel compensation and benefits object classifications.

Transitional Housing Loan Program Account

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $3,000, as authorized by Public Law 102-54, section 8: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $30,000. In addition, for administrative expenses to carry out the direct loan program, $25,000, which may be transferred to and merged with the appropriation for "Medical care": *Provided further*, That the sums herein appropriated are to be derived by transfer from the "Medical care" appropriation provided in Public Law 102-139.

Departmental Administration

GENERAL OPERATING EXPENSES

For an additional amount for "General operating expenses", $14,100,000, to remain available until September 30, 1993.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The unreserved balances of funding provided under this heading in Public Law 102-139 and prior years for contracts for capital advances, including amendments to contracts for capital advances, and for project rental assistance, and amendments to contracts for project rental assistance, for housing for the elderly as authorized by section 202 of the Housing Act of 1959, as amended, and for housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625), shall be merged.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

(TRANSFER OF FUNDS)

For an additional amount of up to $407,000,000, to remain available until expended, and to be derived by transfer from the unreserved amounts in "Annual contributions for assisted housing": *Provided*, That the amount earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, shall be reduced accordingly.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

(INCLUDING RESCISSION OF FUNDS)

Of the amount made available under this heading in Public Law 102-139, $250,000,000 is rescinded: *Provided*, That the $294,156,000 under this heading in the aforementioned Act which is not available until September 20, 1992, shall be reduced by $250,000,000 to $44,156,000.

For an additional amount for "Payments for operation of low-income housing projects", $250,000,000, to remain available until September 30, 1993: *Provided*, That these funds shall be available for obligation without regard to section 9(d) of the United States Housing Act of 1937, as amended: *Provided further*, That these funds shall not become available for obligation until September 20, 1992.

Government National Mortgage Association

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE ACCOUNT

During fiscal year 1992, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall be increased by $25,000,000,000 and shall not exceed $99,769,293,000.

Community Planning and Development

COMMUNITY DEVELOPMENT GRANTS

The $140,000,000 under this heading in Public Law 102-139 for commitments to guarantee loans shall be increased by $85,000,000 to $225,000,000.

Policy Development and Research

RESEARCH AND TECHNOLOGY

(INCLUDING RESCISSION OF FUNDS)

Of the amount made available under this heading in Public Law 101-507, the $500,000 earmarked for the National Commission on Manufactured Housing in Public Law 102-27, is rescinded.

For an additional amount for "Research and technology", $500,000, to remain available under September 30, 1993: *Provided*, That these funds shall be made available for the National Commission on Manufactured Housing.

INDEPENDENT AGENCIES

Consumer Product Safety Commission

SALARIES AND EXPENSES

Notwithstanding any other provision of law, not more than $405,000 of the funds provided under this heading in Public Law 102-139 shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission.

Court of Veterans Appeals

SALARIES AND EXPENSES

(INCLUDING RESCISSION OF FUNDS)

Of the amount made available under this heading in Public Law 102-139, the $950,000 earmarked for financial assistance for legal representation costs in Public Law 102-229, is rescinded.

For an additional amount for "Salaries and expenses", $950,000, to remain available until September 30, 1994: *Provided*, That these funds shall be available under the same terms and conditions as authorized for the funds under this heading in Public Law 102-229.

Environmental Protection Agency

ABATEMENT, CONTROL, AND COMPLIANCE

Notwithstanding any other provision of law, the Administrator is authorized to award a grant under section 8001 of the Solid Waste Disposal Act, as amended, for the purchase of a building and associated costs to support a program for the environmental restoration of the Lackawanna Valley as described in House Report 102-226, the conference report accompanying H.R. 2519 (Public Law 102-139).

National Commission on Severely Distressed Public Housing

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $250,000, to remain available until expended, and to be derived by transfer from amounts provided to the Department of Housing and Urban Development under the heading "Research and technology" in Public Law 102-139.

TITLE VI

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Title I of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992 (Public Law 102-142) is amended, under the heading "Cooperative State Research Service" in the last item of the first paragraph of that heading, for necessary expenses of Cooperative State Research Service activities pertaining to a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321-326 and 328), including Tuskegee University, by striking "$8,580,000" and inserting in lieu thereof "$10,250,000".

Commodity Credit Corporation

The item relating to the "Commodity Credit Corporation" under the heading "DEPARTMENT OF AGRICULTURE" in chapter III of title I of the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102-229; 105 Stat. 1712) is amended by inserting after "provided to the producer" in the third proviso the following: ", and may be available for grants to assist low-income migrant and seasonal farmworkers as provided in section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a)".

TITLE VII

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

CONSTRUCTION PROGRAM

For an additional amount the "Construction program" to meet the emergency needs for areas stricken by drought, $30,000,000, to remain available until expended: *Provided*, That this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 is transmitted to the Congress: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

TITLE VIII

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for liquidation of obligations incurred for grants-in-aid for airport planning and development under section 14 of Public Law 91-258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $100,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended.

General Provision

SEC. 801. Section 11(c)(6) of the Federal Transit Act (49 U.S.C. App. 1607c(c)(6)) is amended by adding at the end the following new sentence: "For fiscal year 1992, the Secretary shall expend from administrative and research funds deducted for such fiscal year under section 104(a) of title 23, United States Code, $1,000,000 for making grants under paragraph (3) to North Carolina A. and T. State University through the Institute for Transportation Research and Education and shall use all amounts appropriated for such fiscal year pursuant to this paragraph to carry out paragraph (3) for making grants to the University of South Florida and a consortium of Florida A and M, Florida State University, and Florida International University.".

TITLE IX

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $320,000, for repairs and improvements to the Main Treasury Building and Annex, to remain available until expended: *Provided*, That language under this heading in the Treasury, Postal Service, and General Government Appropriations Act, 1992 (Public Law 102–141; 105 Stat. 834), is amended by deleting the following: "not to exceed $490,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex"; and inserting in lieu thereof: "not to exceed $1,690,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex".

INTERNATIONAL AFFAIRS

The language under this heading in the Treasury, Postal Service, and General Government Appropriations Act, 1992 (Public Law 102–141; 105 Stat. 834), is amended by inserting after "systems modernization requirements" the following: "; not to exceed $300,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex".

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $1,298,000, for systems modernization activities, to remain available until expended.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $2,000,000 for systems modernization activities, to remain available until expended.

UNITED STATES MINT

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $270,000, for expansion and improvements to existing Mint facilities, to remain available until expended.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For an additional amount for "Administering the Public Debt", $5,226,000, for systems modernization activities, to remain available until expended.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $1,400,000, for the White House armored window project, to remain available until expended.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $1,273,000 are rescinded.

INTERNAL REVENUE SERVICE

ADMINISTRATION AND MANAGEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $220,000 are rescinded.

PROCESSING TAX RETURNS AND ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $1,460,000 are rescinded.

TAX LAW ENFORCEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $2,999,000 are rescinded.

INFORMATION SYSTEMS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $270,000 are rescinded.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $4,292,000 are rescinded.

TITLE X

LEGISLATIVE BRANCH

CONGRESSIONAL OPERATIONS

SENATE

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For a payment to Jocelyn Burdick, widow of Quentin N. Burdick, late a Senator from North Dakota, $129,500.

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to M. Elizabeth Fischer Jones, widow of Walter B. Jones, late a Representative from the State of North Carolina, $129,500.

For payment to Sonya H. Weiss, widow of Theodore S. Weiss, late a Representative from the State of New York, $129,500.

TITLE XI

EMERGENCY SUPPLEMENTAL APPROPRIATIONS PROVIDING ASSISTANCE FOR NEEDS RESULTING FROM NATURAL DISASTERS

CHAPTER I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities" to cover the costs for the restoration of Federal research facilities destroyed or damaged by natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $15,000,000, to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

COMMODITY CREDIT CORPORATION

COMMODITY CREDIT CORPORATION FUND

CROP LOSSES

For an additional amount for the "Commodity Credit Corporation Fund" to cover crop losses associated with natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $482,000,000, of which $100,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available through September 30, 1993: *Provided*, That this additional amount is hereby made available as authorized by the terms and conditions specified in Public Law 101–624 and Public Law 102–229: *Provided further*, That such funds shall be available for payments to aquaculture producers and to oyster farmers who harvest oysters commercially: *Provided further*, That in establishing yields for disaster payments to producers of the 1992 crop of sugarcane and sugar beets, the Secretary of Agriculture may make adjustments to county yields for adverse weather conditions during the 1989, 1990, and 1991 crop years; *Provided further*, That, notwithstanding any other provision of law or statute, any producer of crops and livestock who has suffered at least 40 percent loss to a program crop, 25 percent loss to livestock, and damage to building structures in 1992 as a consequence of a microburst wind occurrence shall be eligible for Emergency Crop Loss Assistance pursuant to Public Law 101–624 (7 U.S.C. 1421 note), for Emergency Livestock Feed Assistance pursuant to Public Law 100–387 (7 U.S.C. 1471 note), and for loan guarantees from the Rural Development Insurance Fund program (7 U.S.C. 1929a): *Provided further*, That if the total amount of funds made available under this Act and by Presidential designation in accordance with Public Law 102–299 is insufficient to result in payment to affected producers at the same proportionate rate as producers were paid by expenditure of the $995,000,000 made available by chapter III of Public Law 102–299, the Secretary of Agriculture may use such funds of the Commodity Credit Corporation as are necessary to make payments, to the maximum extent practicable, at the same proportionate rate: *Provided further*, That Congress hereby designates the entire amount provided herein as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

TREE ASSISTANCE PROGRAM

For an additional amount for the "Commodity Credit Corporation Fund" to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $48,000,000 for the tree assistance program, to remain available through September 30, 1993: *Provided*, That such funds shall be used to fund the costs of replanting, reseeding, or repairing damage to commercial trees and seedlings, including orchard and nursery inventory: *Provided further*, That payments under this program shall be determined in accordance with Public Law 101–624: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Watershed and flood prevention operations" to repair damages to the waterways and watersheds resulting from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $62,000,000 of which $12,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available through September 30, 1993, to carry out the Emergency Watershed Protection Program of the Soil Conservation Service: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

For an additional amount for the "Emergency conservation program" to repair damages to farmland resulting from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $27,000,000, of which $10,500,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for the "Rural Housing Insurance Fund program account" for the cost of section 504 housing repair loans to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $19,750,000, of which $14,750,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available through September 30, 1993: *Provided*, That these funds are available to subsidize additional gross obligations for the principal amount of direct loans not to exceed $39,500,000: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for the "Agricultural Credit Insurance Fund program account" for the cost of emergency insured loans to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $43,285,000, to remain available through September 30, 1993: *Provided*, That these funds are available to subsidize additional gross obligations for the principal amount of direct loans not to exceed $162,300,000: *Provided further*, That emergency loans made with respect to damage to an annual crop planted for harvest in 1992 and 1993 under subtitle C of the Consolidated Farm and Rural Development Act shall be made available without regard to the purchase of crop insurance under the Federal Crop Insurance Act by the producer who requests such a loan: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

RURAL DEVELOPMENT INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for the "Rural Development Insurance Fund program account" for the costs of direct and guaranteed loans to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, to remain available through September 30, 1993, $5,917,000 for the cost of water and sewer facility direct loans, to subsidize additional gross obligations for the principal amount of loans not to exceed $35,500,000; and $18,300,000 for the cost of guaranteed industrial development loans, to subsidize total loan principal any part of which is to be guaranteed, not to exceed $305,000,000: *Provided*, That no application for a loan guarantee under this section shall be denied on the basis that an organization, tribe, or entity engages in whole or in part in production agriculture nor shall such a loan guarantee be denied under provisions of 7 U.S.C. 1926(a)(7): *Provided further*, That Congress hereby designates the entire amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

For an additional amount for the "Rural Development Loan Fund program account" for the cost of rural development loans to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $8,104,000, to remain available through September 30, 1993: *Provided*, That these funds are available to subsidize additional gross obligations for the principal amount of direct loans not to exceed $15,500,000: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

RURAL WATER AND WASTE DISPOSAL GRANTS

For an additional amount for "Rural water and waste disposal grants" for emergency repair to rural water and waste disposal systems damaged by natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $25,600,000, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For an additional amount for "Very low-income housing repair grants" for emergency repairs to rural housing of the very low-income elderly resulting from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $10,000,000, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For an additional amount for "Rural housing for domestic farm labor" for the cost of repair and replacement of uninsured losses resulting from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $10,500,000, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

EMERGENCY COMMUNITY WATER ASSISTANCE GRANTS

For an additional amount for "Emergency community water assistance grants" to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $15,400,000, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $3,200,000, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

Notwithstanding any other provision of law, the Secretary may waive the requirements of the National School Lunch Act and the Child Nutrition Act of 1966 as they pertain to schools and institutions only to the degree the Secretary determines necessary to ensure nutrition benefits for program participants in the areas directly affected by natural disasters such as Hurricanes Andrew and Iniki and Typhoon Omar: *Provided*, That Congress hereby designates any cost associated with this waiver as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

FOOD STAMP PROGRAM

For an additional amount for the "Food stamp program" for making benefit payments to individuals under the Food Stamp Act to meet the needs resulting from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $400,000,000, to remain available through September 30, 1993.

GENERAL PROVISIONS—CHAPTER I

SEC. 101. Funds provided by this chapter shall be available only to the extent funds are not provided by the Federal Emergency Management Agency.

CHAPTER II

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic Development Assistance Programs" pursuant to the Public Works and Economic Development Act of 1965 as amended, to be used for grants to assist States and local communities in recovering from the consequences of Hurricane Andrew, Hurricane Iniki, the severe storms that caused damage to electrical cooperatives in the State of Kansas on June 15, 1992, and July 7 and 8, 1992, Typhoon Omar, and other disasters, $70,000,000, to remain available until expended; and in addition, $5,000,000, to remain available until expended, which may be transferred to and merged with the appropriations for "Salaries and expenses": *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For an additional amount for "Minority business development", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $2,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $9,891,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount for "Operations, research, and facilities", for a grant to the Louisiana Department of Wildlife and Fisheries, for shellfish and fishery habitat restoration, $8,500,000, to remain available until expended: *Provided*, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount for "Operations, research, and facilities", to cover incremental costs arising from the consequences of Hurricane Iniki and other disasters, $300,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" for grants to States and other eligible entities to cover the costs of tourism promotion needs arising from Hurricane Andrew, Hurricane Iniki, and other disasters, $5,000,000, to remain available until expended: *Provided*, That the grants made available by this appropriation shall not be subject to the local match requirements of 22 U.S.C. 2123: *Provided further*, That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

Of the amounts available under this heading in the Department of Justice Appropriations Act, 1992, not to exceed $510,000 to be used by the Executive Office of Immigration Review may be available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for "Salaries and expenses, United States Marshals Service", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $10,724,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for "Support of United States prisoners", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $16,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $1,139,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $451,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $1,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $16,559,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $10,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For an additional amount for "Justice assistance", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $1,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $5,890,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $300,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RELATED AGENCY

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for "Disaster Loans Program Account" for the cost of direct loans, $331,800,000, of which $75,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until expended; and in addition, for administrative expenses to carry out the disaster loan program, an additional $100,000,000, to remain available until expended, which may be transferred to and merged with the appropriations for "Salaries and expenses": *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That none of the funds provided in this Act may be used for the cost of direct loans to any borrower under section 7(b) of the Small Business Act to relocate voluntarily outside the community in which the disaster has occurred.

CHAPTER III

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

Military Personnel, Navy

For an additional amount for "Military Personnel, Navy" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $10,700,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Military Personnel, Air Force

For an additional amount for "Military Personnel, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $58,200,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Reserve Personnel, Air Force

For an additional amount for "Reserve Personnel, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $8,800,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

National Guard Personnel, Air Force

For an additional amount for "National Guard Personnel, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $1,900,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE

Operation and Maintenance, Army

For an additional amount for "Operation and maintenance, Army" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $1,400,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Navy

For an additional amount for "Operation and maintenance, Navy" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $142,900,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Air Force

For an additional amount for "Operation and maintenance, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $228,000,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Defense Agencies

For an additional amount for "Operation and maintenance, Defense Agencies" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $31,500,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Army Reserve

For an additional amount for "Operation and maintenance, Army Reserve" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $3,300,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Air Force Reserve

For an additional amount for "Operation and maintenance, Air Force Reserve" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $13,200,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Army National Guard

For an additional amount for "Operation and maintenance, Army National Guard" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $1,400,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, Air National Guard

For an additional amount for "Operation and maintenance, Air National Guard" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $2,000,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER IV

DEPARTMENT OF DEFENSE—CIVIL

DEPARMENT OF THE ARMY

Corps of Engineers—Civil

Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee

For an addition amount for "Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee" to cover the incremental costs arising from the consequences of Hurricane Andrew, $3,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Operation and Maintenance, General

For an additional amount for "Operation and maintenance, general" to cover the incremental costs arising from the consequences of Hurricane Andrew, $3,100,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Flood Control and Coastal Emergencies

For an additional amount for "Flood control and coastal emergencies", $40,000,000, to remain available until expended, of which $25,000,000 is to cover the incremental costs arising from the consequences of Hurricane Andrew and Hurricane Iniki and $15,000,000 is for the replenishment of this account for future emergency response: *Provided*, That notwithstanding the provisions of 33 U.S.C. 701n, paragraph (a)(1), (Public Law 84-99 as amended), the Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to repair and or replace the Mandeville Seawall, a vital shore protection project for Mandeville, Louisiana, damaged by Hurricane Andrew: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER V

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

United States Fish and Wildlife Service

RESOURCE MANAGEMENT

For an additional amount for "Resource management", $27,000,000, to remain available until expended: *Provided*, That this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That $26,000,000 of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced

Budget and Emergency Deficit Control Act of 1985, in transmitted by the President to the Congress: *Provided further*, That $24,500,000 of these funds are to be provided as a grant from the Fish and Wildlife Service to the Louisiana Department of Wildlife and Fisheries.

CONSTRUCTION AND ANADROMOUS FISH

For an additional amount for "Construction and anadromous fish", $12,765,000, to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That expenditures for Hawaii are to be made only for repair and replacement of existing facilities to approximate conditions current at the time of damage or destruction.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the national park system", $23,000,000, to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

HISTORIC PRESERVATION FUND

For an additional amount to cover incremental costs arising from the consequences of Hurricane Andrew, $300,000, to remain available until expended: *Provided*, That this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

CONSTRUCTION

For an additional amount for "Construction", $29,000,000, to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, investigations, and research", $3,375,000, to remain available until September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That $1,800,000 of this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For an additional amount to cover incremental costs arising from the consequences of Hurricane Andrew, $1,200,000, to remain available until expended: *Provided*, That this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs", $1,500,000, to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

CONSTRUCTION

For an additional amount for "Construction", $3,800,000, to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

STATE AND PRIVATE FORESTRY

For an additional amount for "State and private forestry", $4,140,000, to remain available until expended: *Provided*, That this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

CHAPTER VI

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for Training and Employment Services, $30,000,000, to be available for obligation for the period July 1, 1992–July 30, 1993, for training in areas affected by recent natural disasters: *Provided*, That all funds available under this paragraph are hereby designated by Congress to be emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For carrying out section 319(a) of the Public Health Service Act with respect to public health emergencies created by natural disasters such as Hurricanes Andrew and Iniki and Typhoon Omar, not to exceed $105,600,000, to remain available until expended: *Provided*, That these amounts shall be available for any activity authorized under the Public Health Service Act, for repairs or replacement of property used in connection with a Federal or Federally-assisted program but damaged or destroyed by the natural disaster, and for the provision to individuals and families directly affected by the disaster of services of the type provided under a program conducted or assisted by the Department: *Provided further*, That notwithstanding sections 214 and 513 of Public Law 102–170, and any other provision of law, amounts spent for travel associated with the performance of additional functions or duties necessitated by Hurricanes Andrew and Iniki or Typhoon Omar shall not be counted against the limits that apply by reason of any such provision: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF EDUCATION

IMPACT AID

For carrying out disaster assistance activities related to Presidentially-declared natural disasters such as Hurricanes Andrew and Iniki and Typhoon Omar, including those authorized under section 7 of Public Law 81–874, up to $42,500,000, of which $20,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until September 30, 1993: *Provided*, That these funds shall be available for any currently authorized activity of the Department of Education: *Provided further*, That the Secretary may waive or modify any requirement of law or regulation which he determines is necessary in order to provide disaster aid as efficiently and expeditiously as possible to individuals or entities affected directly or indirectly by a Presidentially-declared emergency except that waivers or modifications of the Rehabilitation Act of 1973 shall be limited to restrictions regarding requirements for the matching of Federal funds, maintenance of effort, and time period for the obligation of Federal funds, but only if such recipients demonstrate to the satisfaction of the Secretary in their written application that such restrictions impose a demonstrable barrier to the progress of such recipient in overcoming the effects of the natural disaster: *Provided further*, That the Secretary may not waive any laws or regulations regarding civil rights, discrimination, or safety: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

EDUCATIONAL EXCELLENCE

For an additional amount for "Educational excellence", $40,000,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

STUDENT FINANCIAL ASSISTANCE

For an additional amount for "Student financial assistance" for payment of awards for award year 1992–1993, made under title IV, part A, subpart 1 of the Higher Education Act of 1965, as amended prior to enactment of Public Law 102–325, $40,000,000: *Provided*, That notwithstanding any other provision of law, the Secretary of Education may waive or modify any statutory or regulatory provision applicable to the student financial aid programs under title IV of said Act that the Secretary deems necessary to assist individuals who suffered financial harm from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, and who, at the time the disaster struck were residing, attending an institution of higher education, or employed within these areas on the date which, the President declared the existence of a major disaster (or, in the case of an individual who is a dependent student, whose parent or stepparent suffered financial harm from such disaster, and who resided, or was employed in such an area at that time): *Provided further*, That notwithstanding section 431 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, exercise this authority, through publication of waivers or modifications of statutory and regulatory provisions, as he deems necessary to assist such individuals: *Provided further*, That such authority shall be in effect only for awards for award year 1992–1993: *Provided further*, That the entire amount is designated by Congress as an emergency requirement for all purposes of the Emergency Deficit Control Act of 1985, as amended.

CHAPTER VII

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force" to cover planning costs arising from the consequences of Hurricane Andrew, $10,000,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That none of these funds are available for the construction of facilities to support the 31st Tactical Fighter Wing or any other active Air Force units or missions at Homestead Air Force Base, Florida, pending completion of the 1993 Base Closure process.

For an additional amount for "Military Construction, Air Force", $66,000,000, for the limited purpose of restoring airfield operations at Homestead Air Force Base, Florida, to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That none of these funds are available for the construction of facilities to support the 31st Tactical Fighter Wing or any other active Air Force units or missions at Homestead Air Force Base, Florida, pending completion of the 1993 Base Closure process.

For an additional amount for "Military Construction, Air Force" to cover the incremental costs arising from the consequences of Typhoon Omar, $7,600,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

FAMILY HOUSING, AIR FORCE

For an additional amount for "Family Housing, Air Force" to cover demolition and clean up costs at Homestead Air Force Base, Florida, arising from the consequences of Hurricane Andrew, $16,000,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

For an additional amount for "Family Housing, Air Force" to cover the incremental costs arising from the consequences of Typhoon Omar, $21,200,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

MILITARY CONSTRUCTION, NAVY

For an additional amount for "Military Construction, Navy", $60,130,000, for projects at Guam, to remain available for obligation until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

For an additional amount for "Military Construction, Navy" to cover the incremental costs arising from the consequences of Typhoon Omar, $21,400,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

FAMILY HOUSING, NAVY AND MARINE CORPS

For an additional amount for "Family Housing, Navy and Marine Corps", $56,700,000, for family housing at Guam, to remain available for obligation until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

For an additional amount for "Family Housing, Navy and Marine Corps" to cover the incremental costs arising from the consequences of Typhoon Omar, $30,500,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

CHAPTER VIII

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount of "Operating expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew and Hurricane Iniki, $20,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Acquisition, construction, and improvements" to cover the incremental costs arising from the consequences of Hurricane Andrew and Hurricane Iniki, $21,500,000, of which $10,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL AVIATION ADMINISTRATION

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for "Facilities and Equipment" to cover the incremental costs arising from the consequences of Hurricane Andrew, Typhoon Omar and Hurricane Iniki, $40,000,000, of which $25,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for grants-in-aid for airport planning and development under section 14 of Public Law 91–258, as amended, to cover the incremental costs arising from the consequences of Hurricane Andrew and Hurricane Iniki, $20,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL HIGHWAY ADMINISTRATION

EMERGENCY RELIEF

(HIGHWAY TRUST FUND)

For an additional amount to the Emergency Fund authorized by 23 U.S.C. 125 to cover the costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, and Typhoon Omar, $30,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That the provisions of 23 U.S.C. 125 (b)(1) and (b)(2) shall not apply to amounts available for these emergencies: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

METROPOLITAN PLANNING

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for "Metropolitan planning" to be made available to metropolitan planning organizations in areas affected by Hurricane Andrew, Typhoon Omar, or Hurricane Iniki for conducting comprehensive reviews of transportation infrastructure needs, $3,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

HIGHWAY STUDIES

FEASIBILITY, DESIGN, ENVIRONMENTAL, ENGINEERING

For an additional amount to carry out feasibility, design, environmental, and engineering studies, $750,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL TRANSIT ADMINISTRATION

DISCRETIONARY GRANTS

(HIGHWAY TRUST FUND)

For an additional amount, notwithstanding any other provision of law, and without regard to any obligation limitation, $10,000,000, to be derived from the Mass Transit Account of the Highway Trust Fund, to remain available until expended, to assist transit operations affected by Hurricane Andrew and Hurricane Iniki: *Provided*, That the Secretary may establish a Federal share the Secretary deems appropriate in connection with any such project: *Provided further*, That approval by the Secretary of a grant under this provision shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

EMERGENCY TRANSPORTATION

(TRANSFER OF FUNDS)

For an additional amount for "Emergency transportation" to cover the incremental costs arising from the consequences of Hurricane Andrew, $44,000, to be derived by transfer from "Research and technology", to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER IX

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $590,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $4,670,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, AIR AND MARINE INTERDICTION PROGRAMS

For an additional amount for "Operation and Maintenance, Air and Marine Interdiction Programs" to cover the incremental costs arising from the consequences of Hurricane Andrew, $10,500,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CUSTOMS AIR INTERDICTION FACILITIES, CONSTRUCTION, IMPROVEMENTS AND RELATED EXPENSES

For an additional amount for "Customs Air Interdiction Facilities, Construction, Improvements and Related Expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $19,250,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

INTERNAL REVENUE SERVICE

TAX LAW ENFORCEMENT

For an additional amount for "Tax Law Enforcement" to cover the incremental costs arising from the consequences of Hurricane Andrew, $1,173,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

(LIMITATIONS ON AVAILABILITY OF REVENUE)

For an additional amount for "Real Property Operations" to cover the incremental costs arising from the consequences of Hurricane Andrew, $2,500,000, to remain available until expended: *Provided*, That the aggregate limitation on Federal Buildings Fund obligations established in Public Law 102-141 is hereby increased by such amount: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For an additional amount for the "Federal Supply Service" to cover the incremental costs arising from the consequences of Hurricane Andrew, $700,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISION

AGENCY ACCEPTANCE OF DONATIONS FOR FEDERAL EMPLOYEES

SEC. 901. (a) Notwithstanding any other provision of law, Federal agencies may accept gifts of property, money, or anything else of value from non-Federal sources for extraordinary and unanticipated expenses incurred by agency employees in their personal capacity within the areas designated as disaster areas pursuant to the President's declaration of a disaster resulting from Hurricane Andrew, Typhoon Omar, and Hurricane Iniki.

(b) Agencies shall establish written procedures to implement this program, which shall, at a minimum, include provisions to ensure that (1) all money or cash gifts shall be collected directly by the agency before distribution, (2) all property or other tangible gifts shall be recorded and approved by the agency before deliverance to any individual employee, and (3) these gifts are distributed to agency employees in a fair and equitable manner.

(c) Agencies may accept gifts designated for individual employees. Agencies shall ensure that any gift designated for an individual employee is appropriate under the circumstances, taking into account, among other things, the official relationship of the employee to the source of the gift.

(d) This provision shall be effective through September 30, 1993.

CHAPTER X

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For an additional amount for "Medical care" to cover the incremental costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters, $16,793,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*,That $1,000,000 of the amounts made available under this heading shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress.

DEPARTMENT ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for "General operating expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters, $156,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Annual contributions for assisted housing" for voucher assistance for the victims of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters, not to exceed $183,000,000, to be derived by transfer prior to October 1, 1993, from the "Disaster relief" account of the Federal Emergency Management Agency: *Provided*, That such amounts shall be for rental housing voucher assistance pursuant to section 8(o) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f(o)): *Provided further*, That in administering these funds, the Secretary may waive any provision of any statute or regulation that the Secretary administers, except provisions requiring non-discrimination, in connection with the obligation by the Secretary or the use by any recipient of these funds upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount for "Annual contributions for assisted housing" for use only in areas impacted by Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters, $100,000,000, to remain available until expended: *Provided*, That such amounts shall be available only for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, and modernization of existing public housing pursuant to section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 14371): *Provided further*, That in administering these funds, the Secretary may waive any provision of any statute or regulation that the Secretary administers, except provisions requiring non-discrimination, in connection with the obligation by the Secretary or the use by any recipient of these funds upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That such sums shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress: *Provided further*, That none of the funds in this Act under the heading "HOME Investment Partnerships Program" shall be made available unless an official budget request that includes a designation that the entire amount of the request is an emergency requirement, as defined in section 251 of said Act, for at least a proportional amount of the $100,000,000 provided in this paragraph is transmitted by the President to the Congress: *Provided further*, That notwithstanding any other provision of this Act, funds provided under this heading that are allocated by the Secretary to the State of Hawaii are for use by the State in meeting the responsibilities with which it has been charged under the provisions of the Act of July 9, 1921 (42 Stat. 108), and in the case of programs for individuals directly to lessees under the provisions of the Act of July 9, 1921.

HOUSING COUNSELING ASSISTANCE

For an additional amount for "Housing counseling assistance" for contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners as authorized by section 106 of the Housing and Urban Development Act of 1968, as amended, $500,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FHA-GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

For an additional amount for the "FHA-General and special risk program account" for the cost of guaranteed loans authorized by the National Affordable Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $30,397,000, of which $10,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until the end of fiscal year 1993: *Provided*, That these funds are available to subsidize total loan principal, any part of which is to be guaranteed prior to the end of fiscal year 1993, not to exceed $2,428,000,000: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For an additional amount for the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), as amended, for use only in areas impacted by Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters, $60,000,000, to remain available until expended: *Provided*, That the Secretary shall not, as a condition of assisting a participating jurisdiction under such Act using amounts provided under this heading, required any contributions by or in behalf of a participating jurisdiction, notwithstanding section 220 of Public Law 101–625: *Provided further*, That in administering these funds, the Secretary may waive any provision of any statute or regulation that the Secretary administers, except for provisions requiring non-discrimination, in connection with the obligation by the Secretary or any use by any recipient of these funds upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That such sums shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress: *Provided further*, That notwithstanding any other provision of this Act, funds provided under this heading that are allocated by the Secretary to the State of Hawaii are for use by the State in meeting the responsibilities with which it has been charged under the provisions of the Act of July 9, 1921 (42 Stat. 108), and in the case of programs for individuals directly to lessees under the provisions of the Act of July 9, 1921.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for necessary administrative expenses of the Department of Housing and Urban Development, not otherwise provided for, $4,000,000, to remain available through September 30, 1993: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That $200,000 of the amounts made available under this heading shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress.

INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act, $2,893,000,000, of which not to exceed $50,000,000 may be transferred to the "Community Disaster Loan Program" account for administrative expenses in subsidies for direct loans provided under section 417 of such Act, and of which $143,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until expended: *Provided*, That these funds are available to subsidize additional gross obligations for the principal amount of direct loans for the "Community Disaster Loan Program", not to exceed $200,000,000: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

The limitation on direct loans for the "Disaster assistance direct loan program account" is increased, within existing funds, by $30,000,000 to not to exceed $58,000,000: *Provided*, That any unused portion of the direct loan limitation shall be available until September 30, 1993: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared natural disasters, $15,000,000, to remain available until expended: *Provided*, That these funds may be expended only for the Office of Disaster Assistance at headquarters and the Disaster Assistance Divisions in the regions: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

TITLE XII

ADDITIONAL ASSISTANCE TO DISTRESSED COMMUNITIES

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide appropriations for the fiscal year ending September 30, 1993, to implement initiatives to improve the quality of life and expand economic opportunity, namely:

COMMUNITY INVESTMENT PROGRAM

For grants to States, units of general local government and other entities as authorized by law for implementing activities to rejuvenate neighborhoods and promote economic opportunity, $500,000,000, subject to enactment of subsequent authorizing legislation, to remain available until September 30, 1994: *Provided*, That, of the funds made available under this head, not more than $400,000,000 may be made available for an "Enterprise Community Block Grant Demonstration Program", subject to enactment of subsequent authorizing legislation: *Provided further*, That, of the funds made available under this head, not more than $200,000,000 may be made available for a "National Public/Private Partnership Program" which shall consist only of eligible programs, projects and activities under the following programs:

Job Corps Program under part B of title IV of the Job Training Partnership Act (29 U.S.C. 1692 et. seq.);

Community health centers under section 329 and section 330 of the Public Health Services Act (42 U.S.C. 254c);

Head Start Program under the Head Start Act (42 U.S.C. 9831 et. seq.);

Projects with respect to high risk youth under section 517 of the Public Health Service Act (as amended by the ADAMHA Reorganization Act);

YouthBuild Program under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act;

Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107);

Salaries and Expenses, United States Attorneys, only to assist local law enforcement agencies for additional coordination of Federal law enforcement and prosecutorial activities;

Assistance to companies operating under authority of section 301(d) of the Small Business Investment Act of 1958;

Enterprise Capital Access Fund Demonstration Program, subject to the enactment of authorizing legislation;

National Community Economic Partnership Program, subject to the enactment of authorizing legislation;

Capacity Expansion Program under section 509F of the Public Health Service Act, as amended by P.L. 102-321;

Treatment Improvement Program under sections 301 and 509G of the Public Health Service Act, as amended by P.L. 102-321; and

Literacy activities authorized under the National Literacy Act of 1991:

Provided further, That none of the funds under this head shall be made available until authority is provided in subsequent authorizing legislation.

This Act may be cited as the "Dire Emergency Supplemental Appropriations Act, 1992, Including Disaster Assistance to Meet the Present Emergencies Arising From the Consequences of Hurricane Andrew, Typhoon Omar, Hurricane Iniki, and Other Natural Disasters, and Additional Assistance to Distressed Communities".

Resolved, That the House disagree to the amendments of the Senate numbered 1 through 68 to the aforesaid bill.

Mr. BYRD. Mr. President, I ask unanimous consent that all Senators may have the privilege of inserting their statements in the RECORD as though read.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, Senators will recall that on Tuesday of this week, the Senate completed action on H.R. 5620, the 1992 supplemental appropriation bill. The Senate-passed bill included regular supplementals, rescissions, and transfers in titles I through X.

Title XI of the Senate-passed bill included a total of $10.5 billion in budget authority, loans, and loan guarantees to provide disaster assistance to those affected by Hurricanes Andrew and Iniki, Typhoon Omar, and other disasters such as tornadoes, floods, and drought.

Title XII of the Senate-passed bill included $500 million in fiscal year 1993 appropriations for urban aid programs, contingent on authorization.

Upon completion of Senate action on H.R. 5620, the Senate insisted on its amendments and requested a conference with the House. The House, in order to expedite action on this very urgent and critical legislation, chose not to go to conference with the Senate. Instead, as is its right, the House earlier today disposed of the Senate amendments and that message is now the pending business. The effect of the House action was to include, in Senate amendment numbered 69, the entire text of the appropriations for all titles of the bill—the regular supplementals, disaster assistance, and urban aid.

I will now summarize the major provisions of the House proposal. For the fiscal year 1992 regular supplementals, the House proposes:

First, an appropriation of $949 million for environmental cleanup costs of the Department of Defense.

Second, transfers from the Defense cooperation account totaling $3.471 billion to reimburse DOD for its costs related to Desert Storm/Shield. These funds came from the Allied contributions to the gulf war and this transfer fully depletes this account and fully reimburses DOD for its war-related costs.

Third, an appropriation of $237.7 million in advances to the unemployment trust fund, as requested by the administration.

Fourth, an appropriation of $500 million for veterans compensation and pensions.

Fifth, an appropriation of $14.1 million for VA's operating expenses.

For disaster assistance, the House proposal includes $2.9 billion for the Federal Emergency Management Agency [FEMA]; $400 million for Food Stamps; $482 million for crop losses; $160 million for the Farmers Home Administration; $106 million for the public health emergency fund; $123 million for education assistance; $75 million for the EDA's Disaster Assistance Program; $195 million for various housing programs; $432 million for SBA's disaster loan program; and a number of other disaster assistance appropriations, as well as $2.03 billion in direct loans and $2.73 billion in guaranteed loans.

For urban aid, the measure before us includes $500 million, the same amount as the Senate-passed bill. These are fiscal year 1993 funds and are contingent on enactment of authorizing legislation.

I should point out that the House proposal does not include a provision that was included in the Senate-passed bill to prohibit the Department of Labor from implementing certain regulations pertaining to the so-called helper category of workers under the Davis-Bacon Act and new regulations affecting apprenticeship programs in the construction industry. Unfortunately, this morning the President indicated that he would veto this bill if it included this provision. As a result, regrettably the House has stricken the prohibition on so-called helper regulations from the pending proposal.

The President has indicated that he will sign the bill if it is sent to him without further amendment. I urge Senators who may not be satisfied by the House action on certain amendments, to allow the Senate to quickly complete action on this bill so that it can be sent to the President for his signature.

The thousands of people who have suffered devastating losses as a result of hurricanes, typhoons, floods, tornadoes, and drought deserve prompt enactment of this bill.

Mr. HATFIELD. Mr. President, we all want to move as quickly as possible on this measure, so I will be brief.

Most of the attention given this bill has been focused on the disaster assistance title, which will provide a total of $6.3 billion in budget authority and $4.7 billion in direct and guaranteed loans for disaster relief for the victims of Hurricane Andrew, Typhoon Omar, Hurricane Iniki, and other natural disasters.

We should not lose sight of some other items in this bill, however, notably the $500,000,000 for veterans' compensation and pensions, $80,000,000 for international peacekeeping activities, $31,250,000 for defender services, $237,652,000 for advances to the unemployment trust fund, and $500,000,000 in fiscal year 1993 funds, subject to authorization, for additional assistance to distressed communities.

The funding levels for disaster assistance recommended in this bill were negotiated late last night and early this morning between House and Senate Appropriations Committee staff and representatives from the Office of Management and Budget. The provision concerning the so-called Davis-Bacon helper regs has been removed in response to the President's objections. Senate adoption of the amendment before us will clear this matter for the President's signature.

Mr. President, I thank the chairman and I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT

Mr. MITCHELL. Mr. President, is the pending business the Defense authorization bill?

The PRESIDING OFFICER. The Senator is correct.

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I understand the distinguished Senator from New Mexico is desirous of bringing up an amendment. The managers of the bill are quite anxious to accommodate the procedure to bring this amendment up. Accordingly, I ask unanimous consent that the pending amendments by the Senator from Virginia and the Senator from Georgia be temporarily laid aside for the purpose of considering an amendment by the distinguished Senator from New Mexico [Mr. DOMENICI] relating to abused spouses. And that during the pendency of this amendment, no other amendments be in order, and that the time be 30 minutes under the control of the Senator from New Mexico and basically half that amount, 15, under the control of the Senator from Virginia.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I believe my understanding was no second-degree amendment would be in order.

Mr. WARNER. I believe I so stated. If I did not, the Senator correctly amended my unanimous-consent request.

The PRESIDING OFFICER. Is there objection? The Senator from Florida.

Mr. MACK. Mr. President, it is not my intent to object other than to again inform the Senate that Senator GRAHAM and I have an amendment which we have been trying to offer with respect to the Cuban Democracy Act. We have been available all day. Unfortunately we have been unable to get a time agreement from Senator DODD who is in opposition to this amendment.

I suggest again the amendment was passed, at least the heart of the amendment was passed, 2 years ago, 84 to 13. We are going to be here all through the night into tomorrow. We are going to offer that amendment so I hope there would be an opportunity to come to some time agreement. I do not object.

The PRESIDING OFFICER. Is there objection? The Senator from Arkansas.

Mr. PRYOR. Mr. President, reserving the right to object, and I will not object—but in order to see if we might get a little order here in the line of amendments, I wonder if it would be in order to ask the distinguished managers if, after the disposal of the amendment by the Senator from New Mexico, after we dispose of that amendment if we could consider the amendment on the ASPJ radar jammer? I would like to bring that to the attention of our colleagues, after the Domenici amendment is disposed of.

Mr. WARNER. Mr. President, I would like to say the Senators from Florida are desirous of seeking recognition. They have been very patient.

So far as I can determine I think that view is shared by the distinguished chairman, presently absent from the floor. That amendment relating to Cuba is the principal question mark by which we are all trying to estimate conclusion of action on this bill, hopefully tonight.

Having said that I now turn to my distinguished colleague from Arkansas and we would be happy to entertain that amendment. Could we now determine the amount of time that would be required?

Mr. PRYOR. Is the Senator from Arkansas determining that the Senator from Virginia is stating that we can consider my amendment immediately after the disposition of that of the Senator from New Mexico?

Mr. WARNER. That is correct.

Mr. PRYOR. Mr. President, if I have 15 minutes on my amendment that would be very satisfactory.

Mr. WARNER. Mr. President, I wonder if our good friend would consider amending that whereby he would take 10 and consistent with the policy we are trying to adopt here, the committee managers will take but half the time; 5 minutes? Total of 15? With no amendments in order.

Mr. PRYOR. The Senator from Arkansas will agree to that.

Mr. WARNER. Will the Senator care to propound the unanimous-consent request?

The PRESIDING OFFICER. The Senator from Virginia has propounded a unanimous-consent request.

Mr. WARNER. Fine. I have one pending with respect to the amendment of the Senator from New Mexico.

I have now stated the basic outline of the unanimous-consent request regarding the Senator from Arkansas and I combine both unanimous-consent requests into one.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 3075

(Purpose: To amend title 10, United States Code, to provide benefits for the spouse or former spouse of a member of the Armed Forces who becomes disqualified for retired or retainer pay on the basis of misconduct involving abuse of a dependent).

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of myself and Senators BUMPERS, COHEN, DECONCINI, DURENBERGER, D'AMATO, GORTON, KASSEBAUM, KASTEN, LUGAR, MCCONNELL, MIKULSKI, ROBB, SEYMOUR, JEFFORDS, and PACKWOOD, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for himself, Mr. BUMPERS, Mr. COHEN, Mr. DECONCINI, Mr. DURENBERGER, Mr. D'AMATO, Mr. GORTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. LUGAR, Mr. MCCONNELL, Ms. MIKULSKI, Mr. ROBB, Mr. SEYMOUR, Mr. JEFFORDS, and Mr. PACKWOOD, proposes an amendment numbered 3075.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 487, between lines 12 and 13, insert the following:

SEC. 1064. BENEFITS FOR SPOUSES AND FORMER SPOUSES OF MEMBERS WHO BECOME DISQUALIFIED FOR RETIRED PAY BY REASON OF MISCONDUCT INVOLVING ABUSE OF A DEPENDENT.

(a) IN GENERAL.—(1) Part II of subtitle A of title 10, United States Code, is amended by inserting after chapter 71 the following new chapter:

"CHAPTER 72—MISCELLANEOUS PROTECTIONS, RIGHTS, AND BENEFITS FOR DEPENDENTS

"Sec.

"1421. Annuity protection for spouses and former spouses of members losing eligibility for retired pay as a result of abuse of a dependent.

"1422. Other benefits.

"§ 1421. Annuity protection for spouses and former spouses of members losing eligibility for retired pay as a result of abuse of a dependent

"(a) REQUIREMENT TO PAY ANNUITY.—The Secretary of a military department shall, upon application, pay an annuity under this section to an eligible spouse or former spouse of a member (described in subsection (b)) of the armed force under the jurisdiction of that Secretary.

"(b) ELIGIBLE PERSONS.—A spouse or former spouse of a member of the armed forces is eligible to receive an annuity under this section if—

"(1) after the member becomes eligible to be retired on the basis of years of service, the member's eligibility to receive retired pay or retainer pay is terminated as a result of misconduct of the member or former member involving abuse of a dependent; and

"(2) the spouse or former spouse—

"(A) was the victim of the abuse and was married to the member at the time of that abuse; or

"(B) is a natural or adopted parent of a dependent child of the member who was the victim of the abuse.

"(c) ADVERSE ACTIONS COVERED.—This section applies with respect to terminations of eligibility to receive retired pay or retainer pay as a result of a conviction by a court-martial or an administrative separation from the armed forces.

"(d) AMOUNT OF ANNUITY.—(1) The amount of the annuity payable under this section to a spouse or former spouse of a member referred to in subsection (b)(1) shall be equal to the lesser of—

"(A) the percentage determined under paragraph (2) of the amount of the retired pay or retainer pay which the member would have received on the date on which the spouse's or former spouse's entitlement to that annuity becomes effective if the member had been retired from the armed forces entitled to receive retired or retainer pay on that date; or

"(B) the amount that is equal to such portion of the member's retired or retainer pay as is provided for in an applicable court order (as defined in section 1408(a) of this title), if any.

"(2)(A) In the case of spouse or former spouse who has been married to the member for 20 or more years, at least 20 of which were during the period the member performed service creditable in determining the member's eligibility for retired or retainer pay, the percent applicable under paragraph (1)(A) is 50 percent.

"(B) In the case of a spouse or former spouse not described in subparagraph (A), the percent applicable under paragraph (1)(A) is the percent (rounded to the nearest one percent) that is determined by—

"(i) multiplying 50 percent times the number of years during the member's service creditable in determining the member's eligibility for retired or retainer pay that the spouse or former spouse has been married to the member; and

"(ii) dividing the product computed under clause (i) by 20.

"(3) Whenever retired pay is increased under section 1401a of this title (or any other provision of law), the annuity payable under this section to the spouse or former spouse of a member referred to in subsection (b)(1) shall be increased at the same time. The annuity shall be increased by the percent by which the retired pay or retainer pay of the member would have been increased if the member were receiving retired or retainer pay.

"(e) Commencement and Termination.—(1) The eligibility of a person to receive an annuity under this section on the basis of a termination of eligibility for retired or retainer pay shall become effective as of the first day of the month in which the action that terminates the eligibility for retired or retainer pay is taken, as determined under regulations prescribed by the Secretary of the military department concerned.

"(2) Eligibility to receive an annuity under this section with respect to a member referred to in subsection (b) shall terminate—

"(A) in the case of an annuitant who marries again after the effective date of the annuity before attaining 55 years of age, on the date of such marriage; and

"(B) in the case of an annuitant who resumes cohabitation with the member, on the date on which the cohabitation resumes.

"(3) A person's eligibility to receive an annuity under this section that is terminated under paragraph (2)(A) by reason of remarriage shall be resumed in the event of the termination of that marriage by the death of that person's spouse or by annulment or divorce. The resumption of payment of the annuity shall begin as of the first day of the month in which that marriage is so terminated. The monthly amount of the resumed annuity shall be the amount that would have been paid if the entitlement to the annuity had not been terminated.

"(f) Application for Annuity.—(1) An application for an annuity under this section shall be made in the form and manner prescribed by the Secretary of the military department concerned. The application shall include the certification of the applicant, under oath or by affirmation, that no circumstances exist that would terminate the eligibility of the applicant for that annuity under subsection (e).

"(2) No annuity shall be paid under this section to a spouse or former spouse of a member of the armed forces referred to in subsection (b)(1) unless the spouse or former spouse applies for that annuity within one year after the date of the action referred to in subsection (e)(1).

"(3) the spouse or former spouse certifies to the Secretary of the military department concerned that none of the circumstances described in subsection (e)(2) exist in the case of the spouse or former spouse.

"(g) Recertification of Eligibility.—The Secretary of the military department concerned may require a recipient of an annuity under this section to recertify, at any time or on a periodic basis, that no circumstances exist that would terminate the eligibility of the applicant for that annuity under subsection (e). Each certification shall be made under oath or by affirmation.

"(h) Member To Have No Claim Against Annuity.—Notwithstanding any other provision of law, a member of the armed forces referred to in subsection (b)(1) shall have no ownership interest in, or claim against, an annuity payable under this section to a spouse or former spouse of the member.

"(i) Offset of Payments to Incarcerated Member.—If in any month a member of the armed forces referred to in subsection (b)(1) is incarcerated for any period during that month and is entitled to receive any payment from the United States—

"(1) the amount so payable shall be withheld to the extent of the amount of annuity payments made with respect to that member under this section and not recouped pursuant to this subsection before that month; and

"(2) the entitlement of that member to the amount so withheld shall terminate.

"(j) Definitions.—In this section:

"(1) The term 'dependent' means a spouse or dependent child.

"(2) The term 'dependent child', with respect to a member of the armed forces referred to in subsection (a), means an unmarried legitimate child, including an adopted child or a stepchild of the member, who—

"(A) is under 18 years of age;

"(B) is incapable of self-support because of a mental or physical incapacity that existed before becoming 18 years of age and is or, at the time of the action described in subsection (e)(1) with respect to that member, was dependent on the member for over one-half of the child's support; or

"(C) if enrolled in a full-time course of study in an institution of higher education recognized by the Secretary of Defense for the purposes of this clause, is under 23 years of age and is or, at the time of the action described in subsection (e)(1), was dependent on the member for over one-half of the child's support.

"§ 1422. Other benefits

"A spouse or former spouse of a member of the armed forces referred to in subsection (b)(1) of section 1421 of this title shall be entitled, while receiving an annuity under that section—

"(1) to receive medical and dental care under the provisions of chapter 55 of this title to the same extent as a dependent of a retired member of the armed forces;

"(2) to use the commissary and exchange stores on the same basis as a dependent of a retired member of the armed forces; and

"(3) to receive any other benefits that a dependent of a retired member is entitled to receive on the basis of being a dependent of a retired member.".

(2) The tables of chapters at the beginning of subtitle A of such title and part II of such subtitle are amended by inserting after the item relating to chapter 71 the following:

"72. Miscellaneous protections, rights, and benefits for dependents .... 1421".

(b) Funding for Annuities.—Section 1463 of such title is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(5) annuities payable under section 1421 of this title.".

(c) Applicability.—(1) Section 1421 of title 10, United States Code (as added by subsection (a)), shall apply with respect to terminations of eligibility to receive retired or retainer pay that take effect before, on, or after the date of the enactment of this Act.

(2) Notwithstanding subsection (f)(2) of such section 1421, in the case of a spouse or former spouse claiming eligibility to receive an annuity under that section on the basis of a termination of eligibility to receive retired or retainer pay that took effect before the date of the enactment of this Act, no annuity shall be paid that spouse or former spouse under such section unless the spouse or former spouse applies for that annuity within one year after that date.

(3) No annuity shall accrue under such section 1421 for periods before the date of the enactment of this Act.

(d) Report on Other Actions.—(1) Not later than February 28, 1993, the Secretary of Defense shall transmit to the Congress a report on the actions taken and planned to be taken by the Department of Defense to reduce or eliminate disincentives for a dependent of a member of the Armed Forces abused by the member to report the abuse to appropriate authorities.

(2) The actions considered by the Secretary should include the provision of treatment, child care services, health care services, job training, job placement services, and transitional financial assistance for dependents of members of the Armed Forces referred to in paragraph (1).

(e) Study Required.—(1) The Secretary of Defense shall conduct a study in order to—

(A) determine the number of persons who became eligible to receive an annuity under section 1421 of title 10, United States Code (as added by subsection (a)), as of each of fiscal years 1980 through 1992;

(B) estimate the number of persons who will become eligible to receive an annuity under such section during each of fiscal years 1993 through 2000;

(C) determine, for each of fiscal years 1980 through 1992, the number of members of the Armed Forces who, after having completed at least one, and less than 20, years of service, were approved in that fiscal year for separation from the Armed Forces as a result of abuse of a spouse or dependent child; and

(D) estimate, for each of fiscal years 1993 through 2000, the number of members of the Armed Forces who, after having completed at least one, and less than 20, years of service in that fiscal year, will be approved in that fiscal year for separation from the Armed Forces as a result of abuse of a spouse or dependent child.

(2) The study shall include a thorough analysis of—

(A) the effects, if any, of appeals and requests for clemency in the case of courts-martial convictions on the entitlement to and the payment of annuities under section 1421 of title 10, United States Code (as added by subsection (a));

(B) the socio-economic effects on the dependents of members of the Armed Forces described in subsection (b) of such section that result from terminations of the eligibility of such members to receive retired or retainer pay; and

(C) the effects of separations of such members from the Armed Forces on the mission readiness of the units of assignment of such members when separated and on the Armed Forces in general.

(3) Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study.

Mr. DOMENICI. Mr. President, this may be the year of the woman, but women who are spouses in the military have every reason to question that designation.

This is a very simple proposition. Perhaps my good friend from Virginia who will oppose it at the prodding of certain of our military leaders seeks to make it complicated. Perhaps they have conjured up all kinds of ghosts and problems for the military. But let me tell the Senate simply what this does.

First, let me give a hypothetical because I do not choose to use a real person and real names, but believe it, Mr. President, this hypothetical exists today, many times over in the military of the United States.

My amendment applies only to a member of the military service who has severed 20 years. There are a lot of other problems with 5 years and 8 years, but this is 20 years.

So here we have a man and a woman, American military, 20 years of service and a military court finds that the husband has guilty of spousal abuse. They say to him: You are out of the military, here is your dishonorable discharge, and with it every right that anyone had in extinguished.

Do you get the message? The woman who was abused and had the courage to file her complaint, the man is found guilty and they say to her: Thank you, ma'am, now you can go home, you can get a divorce, but you are not going to get one penny of the vested pension that your husband earned in behalf of himself and you.

And what about your children? Believe me, Mr. President, there are situations where the abuse is of the children and he is removed from the military and the children and the wife get nothing. Is that right? How come the military did not fix this?

I am the best supporter the military has in this Senate, at least as good as any. I praise the competency of the men and women who lead this military and I cannot understand how shortsighted they could be that meeting after meeting they conjure up new problems with this simple proposition.

Of late, I guess it is going to denude the military of all kind of pensions because there are a lot of people dishonorably discharged. Mr. President, that is not the issue. Let the military take care of that in this study.

This amendment is simple. It says in the U.S. military where a member of the military service is convicted by a military court, dishonorably discharged, that that court, nor the generals of the Army cannot take away the rights to some portion of the pension of that woman who was abused, and we say half.

What is wrong with that? Let me tell you, we are not alone in this. I happen to have found this problem as a living, real problem in my State. I do not choose to use names, but I give you the hypothetical only to tell you that this hypothetical lives, breathes and is alive in the streets of the United States.

Guess what the military is doing with this kind of approach? They are saying to a woman who was abused, keep your mouth shut or you will not get a pension. How do you like that? I cannot believe that the Joint Chiefs of Staff or the man that I know as the chief would condone the military telling us they do not want this amendment. I just do not believe it.

It is not very costly so they cannot be down here on cost. In fact, I say to my friend from Maine, it is funded in case we pass it because the appropriators understood it in a minute. It is going to cost about $1 million. If you look in the appropriations bill, there is $1 million in there. It says if we pass it, it is there, so no other branch of Government will get hurt. You pay half the pensions to spouses of the type I have just described.

Let me tell you some of the arguments made in my office against this, if you can believe it. This will encourage women to squeal on their husbands and accuse them of child abuse when there is none.

Let me say, generals, are you indicting your own courts? The men sit on those courts. There are not very many women. Are you thinking that if they squeal and you are not guilty that these courts are going to find them guilty anyway? That is ridiculous.

So it seems to me that the various associations in this country that are concerned about seeing to it that abuse is mitigated are all on the right track and they say this bill ought to be adopted right now.

I will read the last paragraph of a letter from the National Organization of Victim Assistance:

> Your bill, when enacted and publicized among the Armed Forces, may well prove to be the most effective tool of law enforcement, of crime prevention, and of victim assistance that has ever been employed in our large military establishment. We therefore look forward to its speedy enactment.

Marlene Young, Ph.D., J.D., executive director of the organization I stated.

The Retired Officers Association, 380,000 members are in the Retired Officers Association. Similar language: Applaud your efforts, urge its passage, signed by retired Col. Paul Arcari.

Commissioned Officers Association, William Lucca, Jr., same language:

> We believe that abused military dependents should be encouraged rather than discouraged from reporting abuse. The legislation is long overdue and we endorse it wholeheartedly.

National Military Family Association, another large group, same language: Adopt it, long overdue.

Air Force Association: Pass it, long overdue.

I ask unanimous consent that all these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL ORGANIZATION
FOR VICTIM ASSISTANCE,
Washington, DC, September 4, 1992.
Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: Having reviewed the "Abused Military Dependents Act of 1992," I write to commend you very warmly for discerning a potentially-acute problem and moving to correct it.

There are many disincentives to reporting cases of family violence. Among some victimized women and children, the realistic fear of becoming destitute if their abuser is brought to justice is one such powerful disincentive. That fear must be especially prevalent among dependents of American military personnel.

Those dependents are already at elevated risk of being abused and of not wanting anyone to know about it. Having worked for years with military psychologists and chaplains, I have learned about the stresses on family life among members of the armed forces, of their higher incidence of intrafamily abuse, of the uprootedness of that life, and of the consequent lack of support systems for military dependents.

And for many such spouses, "dependent" is just the right term, being functionally unable to develop independent, self-supportive careers on their own.

Given these circumstances, the economic dangers of reporting chronic abuse by their military spouses is likely to be well known among those victims, and they doubtless have proven to be an effective club to enforce their silence.

Your bill, when enacted and fully publicized among the armed forces, may well prove to be the most effective tool of law enforcement, of crime prevention, and of victim assistance that has ever been employed in our large military establishment. We therefore look forward to its speedy enactment.

Sincerely,

MARLENE A. YOUNG, Ph.D., J.D.,
Executive Director.

THE RETIRED OFFICERS ASSOCIATION,
Alexandria, VA, August 7, 1992.
Hon. PETE V. DOMENICI,
Senate Dirksen Office Building, Washington, DC.

DEAR SENATOR DOMENICI: On behalf of the 380,000 members of The Retired Officers Association, I am pleased to express our support for the goals stated in S. 3009, The Abused Military Dependents Protection Act of 1992.

There can be no doubt that spousal and child abuse have become pervasive problems in our society. Media reports make this abundantly clear each day. As you have so accurately stated in your letter, the military society is particularly susceptible to these problems because of the unique stresses endured by military families; stresses causes by frequent moves to far-flung places in the world and multiple family separations.

We applaud your efforts to remedy this situation by providing protection for the victims of this abuse. While time has not permitted a more in-depth analysis of the bill provisions, we give our wholehearted support to your efforts and goals.

Sincerely,

PAUL W. ARCARI,
Colonel, USAF (Ret.),
Director, Government Relations.

COMMISSIONED OFFICERS ASSOCIATION OF THE U.S. PUBLIC HEALTH SERVICE,
Washington, DC, August 6, 1992.

Hon. PETE V. DOMENICI,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR DOMENICI: The Commissioned Officers Association of the U.S. Public Health Service strongly supports S. 3009, the Abused Military Dependents Protection Act of 1992, which you have introduced into the U.S. Senate. We agree with you that we must encourage reporting of abuse crimes and provide appropriate assistance to the victims and counseling to the offenders.

We believe that abused military dependents should be encouraged rather than discouraged from reporting abuse. This legislation is long overdue and we wholeheartedly endorse it.

Sincerely,

WILLIAM J. LUCCA, JR.,
Executive Director.

NATIONAL MILITARY FAMILY ASSOCIATION,
Alexandria, VA, July 29, 1992.

Hon. PETE V. DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: The National Military Family Association is pleased to strongly support S. 3009, the Abused Military Dependents Protection Act of 1992, which you have introduced in the U.S. Senate. We agree with you that many abused spouses may be extremely reluctant to report the abuse or even seek appropriate assistance for fear their only source of economic support could be terminated.

We are deeply grateful for your concern for these families and offer any assistance you may need to secure passage of this important legislation.

Sincerely,

MARGARET VINSON HALLGREN,
President.

AIR FORCE ASSOCIATION,
Arlington, VA, August 6, 1992.

Hon. PETE DOMENICI,
U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI: On behalf of the more than 200,000 members of the Air Force Association, I extend our sincere thank you for sponsoring S. 3009, the Abused Military Dependents Protection Act of 1992.

The important legislation you have proposed will provide an earning for family members who otherwise would be left financially in need. We encourage inclusion of S. 3009 in the DoD Authorization Bill for FY 1993.

Thank you for your work on behalf of military families.

Respectfully,

O.R. CRAWFORD.

Mr. DOMENICI. Mr. President, I am trying very hard to accommodate a very busy Senate schedule. I understand that measures like this perhaps at this late hour should not be brought before the Senate. Maybe some would say why not put it off? I am sure some would say why do we not study it? It has been studied to death. They know about this problem.

In fact, the chronology of this event, just this issue since I have been involved, shows that it was being studied and a report issued 3 months before I brought the issue to the attention of the Defense Department—3 months before. As a matter of fact, they sent us their findings. I will print it in the RECORD shortly.

Mr. President, shortly I want to yield to my friend from Maine, but Senator MIKULSKI was unable to speak this evening and she asked that I insert a statement in the RECORD. I am going to do that, but I am going to read first her expression.

I would like to express my support for the amendment offered by the senior Senator from New Mexico. This amendment would provide protection to abused military dependents. As a cosponsor, I feel very strongly it should be adopted.

(At the request of Mr. DOMENICI, the following statement was ordered to be printed in the RECORD:)

• Ms. MIKULSKI. Mr. President, I would like to express my support for the amendment offered by the senior Senator from New Mexico. This amendment would provide protection to abused military dependents. As a cosponsor of this legislation, I feel very strongly that it should be adopted.

This very modest piece of legislation simply provides to abused spouses and children a portion of the retirement benefits that are rightfully theirs.

Right now, the system punishes not only the abusive spouse or parent, but also the innocent victims. If a member of the military is convicted of a crime and sent to prison, his retirement benefits are taken away. This leaves his dependent family members without any means to support themselves. Faced with the threat of impoverishment, where is the incentive for victims to report such violent crimes as spouse and child abuse?

Mr. President, this amendment is focused on an issue that must be addressed. I commend Senator DOMENICI for taking the lead in correcting a wrongful situation. And I urge all Senators to support this amendment.•

Mr. DOMENICI. Mr. President, I will conclude by now telling the Senate what I was going to refer to a while ago by reading an excerpt from the letter of the Assistant Secretary of Defense for Force Management Personnel stating, "As you know, we have been concerned about this issue for some time, have been exploring potential alternative legislative solutions as well as measures not requiring legislation. We are conducting a formal detailed review by the services, by general counsel within the Office of the Secretary." That is dated August 14.

It seems to me that clearly the military understands that we ought to do this, and I think very simply while they want to study it further, we ought to adopt this amendment which mandates a further study of all sides of this issue, but we ought to say to those with 20 years who have suffered abuse, where there military member is being removed from service in the Armed Forces, they do not lose their pension rights; they are entitled to half of it. And with that I yield to my friend from Maine.

The PRESIDING OFFICER (Mr. GLENN). The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I will be very brief. We have many more amendments that are pending, and I think this issue is fairly clear cut.

This is a body that just last week went on record in an overwhelming fashion on an issue called stalking. In the legislation that we adopted we called upon the National Institutes of Justice to develop a model law because of a problem, stalking, that has reached epidemic proportions in this country. There are roughly 4 million men who are injuring women on a daily basis now. As a matter of fact, the most common form of injury inflicted upon women comes at the hands of men. So this is a body which went on record saying we need to develop a model piece of legislation to help the States deal with this issue. It is epidemic. It is increasing. It is dangerous to women in this country.

So we pass that legislation last week, and yet we come to this issue this week and we say, well, it does not apply to the military.

Most of us who serve on the Armed Services Committee have a deep understanding of the kinds of sacrifices that spouses have to make in terms of their own careers. The importance of a wife to the career of any military man is extraordinary. They give up in many cases their careers. In most cases they have to be prepared to move on a moment's notice to another location, to pick up their roots, pick up their family, leave their friends, move from city to city or country to country, throughout that 20- or 30-year period of time. Tremendous stress is placed upon a spouse.

Now we are saying, though, in addition to those stresses—of giving up your friends, giving up your roots, imposing this burden upon taking your family, moving them once again—we are now saying if you have a domestic problem, you have a husband, or it could be the reverse, but let us say a husband who is inflicting abuse upon you, you have a choice. You can lose your benefits or absorb the abuse. You have the choice. If you choose to take the abuse, you will get your benefits. If you keep your mouth shut and say nothing, then you will get whatever benefits your husband is entitled to upon his retirement.

We pass whistleblower laws in this Chamber. We encourage to blow the whistle on those who are committing an abuse of our governmental system, who are abusing our programs, and it seems the height of irony to say that we are not going to have a whistleblower law that protects the spouses of our military personnel.

As the Senator from New Mexico has pointed out, this is not something that applies across the board. Twenty years of service is involved. But what we are saying under the current law is that you must bear that burden. You must maintain your silence. You cannot blow the whistle. You cannot report your husband who might be having a problem with alcohol or drugs or simply a mental imbalance but nonetheless is abusing you physically, emotionally, putting you through a hell on Earth, you or your children. You cannot raise one word of complaint because if you do and they find you are telling the truth and he is discharged dishonorably, you are out in the cold.

So you have no career. You have no real stability in the sense that you have community roots because they can be uprooted on a moment's notice. And now we are saying that you have no remedy. If you choose to speak out, if you choose to seek relief, you may very well find yourself not only without community support, you will find yourself with impoverishment, without any means of support. So I urge the adoption of the amendment of my friend.

Mr. DOMENICI. Mr. President, I thank my friend, Senator COHEN from Maine.

Mr. President, how much time do I have?

The PRESIDING OFFICER. Fifteen minutes.

Mr. DOMENICI. Mr. President, I am just going to take another minute and yield the floor.

I think Senators should know that under the military survivors' benefits plan, as well as title X of Public Law 97-252, Uniformed Services Former Spouses Protection Act, if you have the exact same situation that I have hypothetically put before you but your husband has not been found guilty of child abuse and dishonorably discharged, you have precisely the rights we are trying to give in this case. But if that spouse is found guilty by a military tribunal of abusing his spouse, that vested right that you would otherwise have is gone with the discharge.

Now, I respect the military's tradition that with the discharge goes the rights if there is a dishonorable discharge. But, Mr. President, in this case you are saying to abused spouses: Do not prosecute your husband, the abuser, and you will get the benefit. If you do and he is guilty, you do not.

That just cannot be right. So this is a simple proposition in my case. It cries out for equity and fairness. I really cannot understand why we should not adopt it and go on with a detailed study of lesser number of years of marriage. What about other kinds of dishonorable discharges? Let us study them to death if we would like. But this cries out to be fixed and is not terribly expensive.

What kind of precedent would it set? It seems to me none, because we are very precise and specific. And so I urge that the senate adopt it. I urge that the managers of the bill, who seem to be opposed, rethink their opposition and encourage the Senate to pass this measure.

I yield the floor at this time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I hope my good friend from New Mexico and other Senators recognize the extremely awkward position in which I find myself.

There is no Member of this Chamber, no member of the staff of the Senate who wishes to be in a position to oppose trying to help in those situations where wives and children are abused in any family. But my fear here is severalfold. First, let us dispassionately look at the problem in context of the total officer corps, and I do hope the Senator will remain so I can ask a question.

Mr. DOMENICI. I will. I will be here.

Mr. WARNER. The total number of men on duty as officers, the vast majority are either in their first year or through their 20th year. I would say probably 75 to 80 percent are in the bracket of the first year through the 20th year.

So the first problem is that this legislation does not even offer any assistance to the greatest number of officers on active duty.

The second point I wish to make, of those relative small number of officers who have elected to stay after 20 years, when they become eligible for retirement, there is a straight-line curve down as they begin to approach their 30th year and become fewer and fewer.

As a matter of fact, the statistics that the Department of Defense supplied to the Armed Services Committee show there may be two or four cases a year that would fall into this category. That is the statistic given. So we are making a special law for two to four cases per year.

But supposing, I ask my good friend—and life has treated both he and I with great gentleness and good fortune—supposing, in that category, the very few who are eligible after 20 years, that the spouse commits murder of another person. The wife would then lose the pension.

Suppose the spouse commits grand larceny and is convicted by a court-martial, and his pension is stripped. The wife would lose.

What I am saying is if we are going to look at this, there is an array of offenses that could be committed, could be the basis for dishonorable discharge and deprivation of retirement, in which the wife would suffer. Why are we selecting this one? It may be the most heinous of all. I do not know how you classify it, as opposed to taking a life.

My point is that, again, it is a very selective piece of legislation. And it has been our experience on the committee that when you go into the officer corps or, indeed, all the men and women of the Armed Forces, and you just begin to treat one small area, it tends to imbalance, and cause stresses and strains in those other areas which, in my judgment, require equal attention.

We, in the course of the debate, have used the word officer. But that would be petty officer, enlisted. So this applies to both enlisted and officer.

So I ask my good friend: Would he care to help me see through the problem in terms of other potential areas of equal distress and harm to a spouse which we are not treating with this piece of legislation?

The basic proposition, then—I would certainly like to have the response—of the committee is, is there is a serious problem here, a question, the committee would like to look at.

The Presiding Officer, coincidentally, is the distinguished chairman of the Personnel Committee, a man who indeed spent a good 20-plus years in a very, very distinguished career in a branch of the Armed Forces of the United States.

The distinguished ranking member of the Subcommittee on Personnel of the Armed Services Committee is another career officer who has had a great deal of experience in service.

So we are fortunate to have the expertise on our committee to address this problem. But the basic line is we are dealing with two or three cases a year. We are doing selective legislation for one very narrow category and, in my judgment, causing great concern in other areas which are equally meritorious.

I would like to have the reply.

Mr. DOMENICI. Mr. President, I would reply on my time, since I had twice as much time as my friend from Virginia.

First, in the Senator's remarks, before he raised this precise last question, he suggested that there are many more men of the military convicted of abusing their spouses who have only been married 2 or 3 or 8 years, and that 20 is a very select number of years.

Mr. WARNER. No, Mr. President. Let me restate the proposition I certainly intended. I understand this legislation is only applicable to an officer and his spouse after that officer has served 20 years.

Mr. DOMENICI. That is right.

Mr. WARNER. For that entire category, between their first day as a commissioned or noncommissioned officer or person in the service, up through 20 years, there is no eligibility for the relief.

Mr. DOMENICI. That is correct. I thought I said that. Maybe I did not.

But, Mr. President, I want to tell you what I did. I put a bill in that gave every one of those that you have described—2 years, he would get some surviving; the spouse would get some portion of the pension.

Guess what happened on the way to the floor here? We had numerable conferences with the military, and they suggested we do not know what that means. That probably is too many. Let us study that.

So then we said: Let us just take care of setting one simple little precedent: 20 years, you do not deny the pension. That is all the precedent we are establishing. Let us study the rest, as you want it.

Now, the answer comes—not necessarily from the Senator, but from the Defense Department—now you are not covering enough people. So, you see, I wanted to bring something that the Defense Department could support.

But all we heard is: Senator, we have a big problem. You are on the right track. If you put everybody in, it is too many. You know, 2 years of marriage, 4 years of marriage; it is too many. We do not quite have a grasp of that.

If you put 20 years, which is a vested right period, under no circumstances do we need any study of that. I mean, there is no doubt that person has a vested right in that pension.

If they retire together, the pension comes. And if she survives him, she gets that pension. So I chose that to merely make the point—I do not know how many there are—but to make the point that this whole policy is wrongheaded, to save this.

In this case—you wonder what is different about this case—the man is only found guilty on the accusation of the spouse in this case. That is not so with murder, or other things. So you are saying: Do not complain, because if you do, you do not get the pension. So take the abuse and get the pension. Complain, and if he is found guilty, lose the pension.

I want to establish the precedent that that is not good policy.

Mr. WARNER. Mr. President, if I could pose another problem. Again, when we do this legislation in the military, we must think of the entire military as a family.

Supposing an officer does not go on to finish 20 years, but say 10, 12. He may have the misfortune of being selected out, or he may opt out to go into the private sector. There are many reasons why officers and noncommissioned officers determine not to go to the 20. There are a great many who depart under a variety of circumstances. Their wives get nothing.

It seems to me you are penalizing those wives who sort of hang in for the 10, 12 years; then they learn of another wife, because their husband stayed in 4 years, who gets half. In other words, if you begin to drop below the 20, as the Senator is suggesting; that is the reason the military cannot figure out how to go below.

Frankly, we just do not know how, in the few minutes given to this piece of legislation, to properly address it without doing harm to other segments of the military services. That is the difficulty we have. Believe me, this is a most uncomfortable position I find myself in. But I have to speak up for the entire military family to try to strike an equitable balance among the marriage problems that the military experience, just like our society experiences.

Mr. President, I think we best just conclude this. I hope the Senator will consider that our committee, if asked to do so, would begin to address this legislation in the context of hearings next year. That is the best I can offer the Senator.

I yield the floor.

Mr. NUNN. Mr. President, if the Senator will yield me a minute or two to ask a couple of questions?

Mr. DOMENICI. Sure, Mr. President, I am happy to yield.

Mr. NUNN. Mr. President, I believe I understand the injustice and inequity that the Senator from New Mexico is aiming this amendment toward. I think he is right in identifying that problem as one that ought to be dealt with.

I guess my questions relate to whether we are creating other problems with this amendment that may even be worse than the problem that this is aimed at. I think if it is, it is certainly unintentional.

But the question I have is, if a service member, for instance, is accused of burglary, murder, or anything else, all of a sudden the wife and family are in a situation where, if that service member is convicted—it may be a woman; in that case, the husband—that they are going to lose the retirement pay. Right? I mean, that is without any doubt?

Mr. DOMENICI. That is currently the situation.

Mr. NUNN. It is currently the situation. But under this amendment, if that individual service person were also convicted of some kind of abuse, then the annuity would be preserved. It seems to me that we may be creating an incentive inadvertently, unless we figure a way around it—I do not have an answer to this—where anybody who has 20 years in the service, who is accused of any crime that could result in the loss of annuity, the wife, or in some cases the husband, would have a powerful economic incentive to file an abuse charge and to have both spouses, wife and husband, cooperate to protect the wife. I do not know how you solve that problem.

The other thing I have a question on is that it seems to me, since the annuity is not available unless the member leaves the household, unless it is the end of cohabitation, we are in danger here of creating what has been in the welfare system a long time: a very powerful incentive for a family to break up. If you break up and do not cohabit, then you get the annuity. If you live together and keep together as a family, notwithstanding that a crime may have been committed, then you do not get the annuity.

So it seems to me that has to be dealt with. Otherwise, we are creating in this statute basically an invitation for families to break up. I do not think anybody wants that. I know the Senator from New Mexico does not want that. He is as strong a family person as anybody, I believe, in the Congress of the United States. I do not know how you deal with those questions, but somehow we have to figure out how to deal with it if this amendment passes.

Mr. DOMENICI. Does the Senator want more of my time?

Mr. NUNN. Well, I pose those as questions because the Senator definitely has identified a problem which needs to be addressed. I do not know how you avoid creating these other problems.

Mr. DOMENICI. Mr. President, I said a while ago that after we finished that last war we had in the Middle East, I went around my State and elsewhere in the country and said, "You know, all you people that have been wondering whether we had real leaders in the military, we really did. They proved it. They are topnotch, crackerjack people. They could succeed at anything."

So, having said that, let me say to my wonderful friend, SAM NUNN, if we do not set something in law tonight—and I am asking that we set just one little phase of this inequity in law—from what I hear from the military in charge of this, the excuses, the problems that this issue brings, I do not know if even you, my friend from Georgia, will be in the Senate long enough to see the military solve this problem. That is no aspersion on your committee. You might solve this problem.

Having said that, on the second issue about encouraging people to live apart, do you really think that we want to encourage a woman to live with her husband if she accuses him of being a wife beater? That is the issue. I mean, she is accusing him of harming her, and if he is guilty of that, why should we be encouraging them to live together?

Mr. NUNN. If I could say to my friend, I do not think you would encourage that they live together. But the first thing you encourage, in the case of any member accused of a crime, you encourage a false report, and you encourage the husband and wife to coordinate that, which is extremely difficult to prove.

I mean, if I were a husband and worried about my wife and I had been accused of burglary and I knew this was in effect, I think I would say, "We have to figure out a way to get you some annuity. I am about to be kicked out of the service, and you are not going to get anything. Let us make sure we get this charge of abuse." And I think the wife, looking at losing the annuity of proving an abuse charge, would have a powerful incentive.

That is not the intent of this amendment. But once you do that, then you are telling them, if that takes place, cohabiting means they lose the annuity. So you are basically setting up a powerful incentive for fraud on the one hand and a powerful incentive for family breakup on the other. Maybe we ought to take the position that if people have defrauded the Government, they should not cohabit anyway. It is a tough area. The Senator has identified a real problem.

If this amendment passes, we have to deal with these other possible problems that this is setting up. We all know the history of legislation. You try to take one problem on and you end up creating other problems. I am afraid that is what we may be doing here. Whatever happens, I will certainly work with the Senator in conference on it and try to work something out that will alleviate some of these concerns.

Mr. DOMENICI. I am only going to take 2 minutes and ask for a vote.

Mr. President, let me just suggest that the argument here tonight was made by some of the best Senators around, but, frankly, the arguments that are made here were brought to our offices by the military people who do not want us to do this. These two arguments were conjured up by them and trickled down from up in their minds, down to here to legal counsel, and now they are here.

First, we hear there are only three or four people going to benefit. We hear that is going to have a ripple effect beyond all consequences. We do not know how many more are going to use it for other purposes. I submit this is very simple. The matter needs a lot of study. We have their attention. In the meantime, mandate the study that is in this amendment of mine and tell the military for this one very, very serious problem of 20 years of marriage in the military, give them their pension. It is very simple.

So, Mr. President, with that I yield the remainder of my time. I assume there is no time remaining on their side; is that correct?

The PRESIDING OFFICER. There are 7 minutes available on the other side.

Mr. DOMENICI. I reserve 7 minutes, then.

Mr. WARNER. Mr. President, momentarily, the chairman will speak to this. I want to say to my good friend that, again, this was an awkward debate for me. I extend my greatest sympathies to the staff member who witnessed one of these tragic cases.

Mr. NUNN. Mr. President, I believe this is one where there is a real problem. It ought to be dealt with. There are other potential problems that inadvertently could flow from this. I pledge to work with the Senator. I suggest we pass this amendment, take it to conference, and continue to work with the Senator and his staff and the military and see if we cannot figure out a way to cure his problem without creating another one.

Mr. DOMENICI. I yield the remainder of my time.

Mr. NUNN. I yield my time. I do not believe we need a rollcall vote on this. I urge a voice vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3075) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, if I might inquire, would the managers like for me to proceed with the amendment? I am ready to proceed if they are ready to proceed.

Mr. NUNN. I will be delighted for the Senator to proceed. What is the pending business? We have to lay our amendment aside.

Mr. President, I ask unanimous consent that the pending amendments be laid aside for the purpose of the Senator from Arkansas offering his amendment provided that there be no second-degree amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

It is understood that the time agreement on this is 15 minutes on the side of the Senator from Arkansas and 15 minutes under the control of the managers of the bill.

Mr. PRYOR. Mr. President, I thank the Chair very much and the distinguished managers. I will try not to use all of that time.

AMENDMENT NO. 3076

(Purpose: To prohibit the use of funds for the procurement of the Airborne Self Protection Jammer system)

Mr. PRYOR. Mr. President, in behalf of Senator ROTH of Delaware and myself, I send an amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for himself and Mr. ROTH, proposes an amendment numbered 3076.

Mr. PRYOR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is ordered.

The amendment is as follows:

On page 22, strike out lines 16 through 25, and insert in lieu thereof the following:

SEC. 123. AIRBORNE SELF PROTECTION JAMMER.

None of the funds available to the Department of Defense for fiscal year 1993 or any fiscal year before fiscal year 1993 may be used for the procurement of the Airborne Self Protection Jammer system except for the payment of the costs of terminating existing contracts for the procurement of the Airborne Self Protection Jammer system.

Mr. PRYOR. Mr. President, this amendment would block all fiscal year 1993 and prior year funding for any further production of the Navy's Airborne Self Protection Jammer, better known as the ASPJ.

Mr. President, few Americans have ever heard of the ASPJ. This system is supposed to protect our Navy pilots who fly the F/A-18 by cloaking the plane's position during combat. It is supposed to jam enemy radar.

After 16 years of development at a cost of some $1.5 billion, the ASPJ still has not worked. It has never worked.

Just last month Navy testers concluded the jammers failed key operational tests that show whether it will ever work in combat. It was tested and once again it failed.

When the ASPJ was first dreamed up it was intended to be a radar program for the Air Force and the Navy planned to produce a few hundred systems as well. That was in 1975. By 1989, after realizing that this particular system was more trouble, more money than it was worth, the Air Force decided to abandon this program. They dropped out leaving only the Navy behind to deal with this big turkey.

Needless to say, this was a critical moment for the ASPJ. The unit cost skyrocketed and no one knew if the ASPJ would ever work. As a result, Secretary Cheney actually killed the ASPJ program only to have his deputy, Mr. Donald Atwood, resurrect this program just weeks later. Secretary Atwood gave the ASPJ another chance. He said he would give the ASPJ one more year to prove itself reliable and effective. If not, he said, and I quote: "Then the program must be canceled." That was 1989.

Mr. President, I ask unanimous consent the memo from Donald J. Atwood, the Deputy Secretary of Defense, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE DEPUTY SECRETARY OF DEFENSE,
Washington, DC, July 31, 1989.

Memorandum for: Mike Stone
Subject: Airborne Self Protection Jammer (ASPJ).

This is in response to your memorandum of July 25, 1989, relative to the Airborne Self Protection Jammer.

Your memorandum indicates that the program has been in development since March 1976, and to date it has not satisfactorily passed the tests established relative to cost, performance and reliability. This is a clear case of not meeting the exit criteria established for transition from the Full Scale Development Phase to the Production Phase. Therefore, it appears mandatory that one of two actions be taken:

1. Cancel the program.
2. Discontinue all production efforts and relegate the program to an effective test and evaluation activity. If the system demonstrates the required performance and reliability and is cost effective, then a production program could be initiated.

There is one alternative to the above which could be considered. This is based on the fact that the services feel that the system is essential and that it will ultimately meet the performance and reliability targets. If this is the case and can be demonstrated within a reasonable period (i.e. one year), then inorder to maintain program continuity, it might be acceptable to proceed with a very limited production phase while test and evaluation is conducted.

However, it is difficult to see how this is realistic given that the system has been in development for 13 years and as yet has not proven out. If, in spite of this, you decide to go ahead with a very limited production, then it must be mandatory that full demonstration of the performance and reliability be demonstrated within one year. If it is not, then the program must be canceled.

DONALD J. ATWOOD.

Mr. PRYOR. Today the ASPJ is still alive but it still does not work. It has never worked. Shortly after Secretary Atwood's 1-year deadline expired I began trying to find out the truth behind the ASPJ Program. I held a hearing in 1990 with Senators ROTH, GRASSLEY, LIEBERMAN, and KOHL. At this hearing the Department of Defense Inspector General's Office informed us that after investigating a random hotline phone call they discovered that ASPJ testing reports had been blatantly manipulated to downplay the flaws and highlight the strengths of the jammers.

At this hearing, Mr. President, we were assured that future testing results would be reported in a proper, straightforward manner. However, the Government Accounting Office reported earlier this year that the Navy once again had skewed the test reports. So I called another hearing in March of this year. At this hearing the Pentagon downplayed the test failures once again, because they occurred in the laboratory they said, rather than during operational testing.

I was told that operational tests, which were designed to show if the system will work in combat, would soon determine the fate of the ASPJ.

Every Pentagon official, Mr. President, who has testified before our subcommittee has promised that the ASPJ would pass strict operational testing guidelines or else the program would be terminated. Deputy Secretary Donald Atwood, Acquisitions Secretary Donald Yockey, former Navy Secretary Lawrence Garrett, and Navy Acquisition Secretary Gerald Cann, all promised on the record that if the ASPJ Program failed operational tests then the program would be killed.

Mr. President, in July 1992, we saw the final failures of the ASPJ system. The ASPJ once again flunked its operational tests, which were completed just this year. Sixteen years and $1.5 billion later it still does not work.

The jammers were tested repeatedly. They were deemed unreliable now by the Navy's own operational test and evaluation force. The testers also reported that the ASPJ is not much better than the present radar jammers that our pilots currently use. After 16 years, $1.5 billion, the Navy has made no progress in upgrading their radar jammers. They wasted their time and they wasted the taxpayers' money defending this failed system called the ASPJ. Now, it is back to the drawing board.

I would like to point out, Mr. President, that during the 16 years while the jammers were failing test after test, the Pentagon still managed to produce over 136 ASPJ's; 20 percent of the whole program has been purchased and produced. Not one of these systems work.

Mr. President, I can only assume that the Pentagon will soon announce its plan to scrap this program, regroup, and work out a new plan for the future of the Navy's electronic warfare jammers. But there is a very important lesson. We must learn from this 16-year fiasco.

Mr. President, I question the commitment of Secretary Cheney's fly-before-you-buy principle. It was this concept that prompted Senator ROTH and myself to help create the Pentagon Office of Testing and Evaluation in the early 1980's so we would have an independent analysis of our expensive military programs before we wasted taxpayer money further on costly lemons like the ASPJ.

Mr. President, I do not fault the operational testing process for this acquisition disaster. This program was a flop before it ever reached the operational testing phase in its 15 years.

Mr. President, I hope that we have learned a lesson. That lesson is going to be that we will certainly in the future fly before we buy, that we will not continue to fund these programs when they do not work, that we will test these programs to make certain that they work before we go into purchasing and acquiring these programs.

Mr. President, since I began tracking the ASPJ in 1989, I have never called for the termination of this program. I never challenged the Navy's right to upgrade its jammers. I simply said test it fairly and do not continue to buy more jammers until we know if they will work. My pleas were not heeded. The Navy spent $1.5 billion on 136 jammers that do not work. What happened to fly before you buy? With the ASPJ, the rule has been, "But it now, fix it later."

Should this amendment be successful, the ASPJ will finally be laid to rest. It will be history and we will have seen that very rare event that Congress very seldom sees and that is the death of a weapons system.

Mr. President, I ask unanimous consent that an article from Defense Week appear in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Defense Week, Sept. 8, 1992]

BILLION-DOLLAR JAMMER STILL IS NOT SUITABLE FOR COMBAT, ACCORDING TO NAVY TESTERS

(By Tony Capaccio)

In what may be the coup de grace to one of the Pentagon's longest running procurement fiascos, Navy testers concluded last month that an electronic jamming device in development since March 1976 "does not demonstrate a significant improvement" over current jammers, Defense Week has learned.

The testers also concluded in an Aug. 17 report that despite years of attempts to correct nagging reliability problems with the 53.6 billion Airborne Self-Protection Jammer (ASPJ), the system has yet to meet reliability goals.

The ASPJ since its inception has been touted as the Pentagon's most advanced device capable of protecting all Navy fighters from missile attacks. But after 16 years of development, including a decade of full-scale development, the jammer's promise has not been realized, the testing report said.

The jammer has been plagued by glitches in built-in-test equipment designed to provide pilots electronic warnings that certain components are failing.

"ASPJ was determined to be not operationally suitable," said the still-unreleased report by the Navy's Operational Test and Evaluation Force.

"ASPJ failed reliability, human factors and built-in test (BIT), all due to BIT deficiencies."

The Navy testers rendered a similar conclusion in late 1989 saying the device was only marginally effective and suitable for fielding. The just-completed report evaluated the results from operational tests concluded between August 1991 and last month.

Navy officials have softpeddled past BIT problems, saying that even with the failures, the jammer offers better protection than the current AN/ALQ-126B. The test report, however, undercuts this claim. "In the context of current operational doctrine, ASPJ does not demonstrate a significant improvement in aggregate survivability over the AN/ALQ-126B," the report said.

The report's conclusions caused Pentagon officials to postpone an Oct. 6 Defense Acquisition Board meeting that was to review whether the jammer was ready for full-scale production. The meeting has not yet been rescheduled.

The conclusions also come as the Senate defense appropriations subcommittee, a program critic, approaches its mark-up of the fiscal 1993 defense budget. The Pentagon has requested about $67 million in fiscal 1993 for the jammer and has yet to obligate $196 million approved in prior years.

"We are deliberating on it right now," said acting Navy Secretary Sean O'Keefe about the program, during in brief remarks to Defense Week. "There is no question this is yet another failure and we've got to make a definitive decision. We've just got to get on with it."

During his stint as Comptroller, O'Keefe was a constant ASPJ critic, at one point labeling it "a dog," according to Pentagon sources.

Gerald Cann, the Navy acquisition chief, declined an interview on the test results, saying through his secretary that he was still "working on the program" and that it would take about a month to sort out.

The Navy test results were deemed so serious by the Pentagon's top tester—Operational Test and Evaluation Director Robert Duncan—that he told top Pentagon officials he could not approve moving the device into full-scale production, said two government sources.

"Dr. Duncan has said it is highly unlikely that he can certify," confirmed Pentagon spokeswoman Chris Cimko in a statement. "However, please note that the analysis is incomplete at this time."

The test report comes as a blow to the contracting team of Westinghouse Electronics Systems Group and ITT Avionics Division.

Spokeswoman Rachelle Tucci in a statement: "To the best of our knowledge, the test report has not yet been released. Therefore, we cannot comment on the validity of the (report) statements."

"We understand that the Navy may have encountered a problem with the test process and associated data. Up until this time, all indications were that the ASPJ system operated as required in tests and that the hardware's reliability and maintainability performance exceeded the requirements. Other than experiencing the minor problems encountered by most programs with an operational test of this nature, all indications were that the system performed satisfactorily."

The Navy test results will likely be used by program critics such as Sen. David Pryor (D-Ark.) and William Roth (R-Del.) to force the hand of at least one top Pentagon official, Deputy Secretary Donald Atwood.

Atwood wrote on July 31, 1989 after the jammer had flunked its first round of operational tests that "it must be mandatory that full demonstration of the performance and reliability be demonstrated within one year. If it is not, then the program must be cancelled."

Mr. PRYOR. The news of the ASPJ's failures has been public for weeks. Still at the arms bazaar held just 2 days ago, we had our own defense contractors handing out pamphlets on the ASPJ to those who were participating in the arms bazaar. We find ITT in Defense Avionics advertising just 2 days ago that the ASPJ is reliable, that it has passed all performance reliability tests.

Mr. President, the fact is this system has never worked. It is a turkey that has gobbled up $1.5 billion of taxpayer's dollars funded into it, and now needs to end. We need to kill it, and we need to move on and find a system that will best protect our Navy pilots.

Mr. President, I would like to express my appreciation to Senator William Roth of Delaware who had worked together with me in this effort. I ask unanimous consent that his statement be printed in the Record at this time.

There being no objection, the material was ordered to be printed in the Record, as follows:

Statement of Senator William V. Roth, Jr.

Mr. President, the airborne self protection jammer is over budget, way behind schedule, and, even after $1.5 billion has been spent, it still won't work. Moreover, the Navy's Operational Testing Command determined that the jammer should not be fielded even after the Navy eased stringent operational test criteria. It is time to stop spending the taxpayer's money to buy more jammers that may never be fielded because they cannot pass operational tests.

Mr. President, I am bothered by the General Accounting Office and Defense inspector general's reports of waste and management actions in the ASPJ Program. I am bothered that the Under Secretary of Defense approved the Navy's request last year to buy more ASPJ units when he knew they did not work, even though his boss, Mr. Atwood, promised the Congress that the Pentagon would not do so. I am bothered by the fact that the Navy wants to keep producing the jammer, even though operational tests show that it doesn't work.

Two years ago, the Congress required that the Director of Operational Testing and Evaluation certify that the jammer passed operational testing before full rate production could begin. In 1991, the Deputy Secretary of Defense promised the Governmental Affairs Committee that the jammer would have to pass operational testing and evaluation by showing that it could meet existing performance criteria. In March of this year, the Director of Operational Testing, the Under Secretary of Defense for Acquisition, and the Assistant Secretary of the Navy for Research, Development, and Acquisition testified before the Governmental Affairs Subcommittee. They reiterated that firm criteria for determining the jammer's operational effectiveness had been defined and that those criteria would not be modified.

In July, we uncovered internal Navy documents that show each of the three operational testing and evaluation criteria for the jammer's built in test were altered. One criterion, the false removal rate, was dropped and two other criteria were loosened. The built in test indicates whether the jammer is working and, therefore, is important to pilots who depend on electronic jammers for protection. The significance of the Navy's changes is that critical failures may not be counted and the system would appear more reliable than it is. It's like having a smoke detector in your house that indicates it's working when it is not.

Mr. President, now we have received the operational test results, and they show very clearly why this system should be killed. In spite of the attempts by some in the Navy to ease the testing criteria, it appears that the Navy's operational testing and evaluation command held firm—the Commander, Operational Testing and Evaluation Force should be commended for his efforts in this regard. The Navy's operational testing report states that the jammer failed testing and is not suitable for use by Navy pilots. The report states: "The ASPJ was determined to be not operationally suitable. ASPJ failed reliability, human factors, and built in test, all due to BIT deficiencies." Dr. Duncan, the director of operational testing and evaluation, in his August 20 letter to us wrote: "On July 17, 1992, I informed the Under Secretay of Defense for Acquisition in writing that it was highly unlikely that I could certify to the congressional defense committees that ASPJ meets or exceeds all established criteria." We have since been informed that Dr. Duncan will not certify the ASPJ.

Mr. President, the ASPJ was officially kicked-off 16 years ago, in 1976, and, it is over budget and behind schedule. It has failed three sets of operational tests, and the 136 that have been bought cannot be fielded until the Navy figures out how to make them work. Yet, the Navy continues to ask for more money to buy ASPJ's, and taxpayers eventually will foot the bill to fix them. The General Accounting Office recently informed us that the Navy plans to spend $275 million in 1992 and 1993 to buy more of these Jammers that do not work. In addition, it now appears that the Navy has entered into foreign military sales agreements and has hidden funding for the jammer in other Navy programs.

Mr. President, the Defense Department predicted that the ASPJ would cost $1.7 million a copy to buy. However, today the Navy is spending $3.2 million per unit. And, there is every indication that the costs will continue to grow as modifications are made so that the system works well enough to pass operational testing. It is important to note that a large portion of the cost increase resulted from the Air Force's recognition of the ASPJ's problems and its subsequent decision not to buy the ASPJ and to pursue an alternative approach. It appears that the Navy and the Defense Acquisition Board have not yet seen the wisdom of the Air Force's approach. But, the American taxpayers ultimately pay the cost, since they now have to support at least two jammer systems, instead of enjoying the economies of scale from one joint program.

Two weeks ago, we received a letter from the Defense Department's inspector general. He reported on the operational test results, and strongly concluded that the ASPJ should be killed. I encourage any of my colleagues to read this report if they have any doubts on the amendment now before us.

Mr. President, the amendment that Senator Pryor and I are proposing will send a strong message to the Defense Department. It tells them that the Congress will not accept the bending of the rules in order to cover up problems in a weapons program. And, it tells them that the Congress will not continue throwing money at weapons that cannot pass operational testing.

Mr. PRYOR. Mr. President, Senator Roth and I have worked together for many years on the ASPJ Program, and hopefully, Mr. President, in a few moments we are getting ready to see the beginning of its end.

I wish to thank also several individuals who we have worked so long and hard with us to bring this amendment to the floor.

Lou Rodriques and Chuck Ward of the General Accounting Office have been absolutely superb. Russell Rau and Harry Followell of the Department of Defense Inspector General's Office have done fine work as well. Mark Forman of Senator ROTH's staff, Mr. President, has been of invaluable assistance. And Kirk Robertson and Steve Ronnel on our staff have been true soldiers, if I might use that term, in bringing this amendment to the floor and hopefully bringing this matter of the ASPJ to a final end.

Mr. President, at this time I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, in response to the Senator from Arkansas, both his amendment and his arguments, let me say the ASPJ Program is currently in an operational testing mode. The bill last year—and Senator PRYOR has been skeptical and on top of the situation for several years and our committee has responded to both his concern and our own concern—last year in the bill we basically said that either this program passed the test or it was dead.

We repeated that provision in this year's bill, because we have not been officially notified about the test. The Senator referred to the test. So the provision of last year's bill and this year's bill basically say if this program does not pass the test, the operational testing, it is killed.

We have also put some fences around money so there is about $175 million if this program is killed that will be saved and will probably have some of it spent in determination costs that have already been appropriated but not yet expended, I am informed.

We have heard that this test did not go well and we have heard that the ASPJ failed the test. The Senator from Arkansas, I believe, alluded to that. We have not received official word on that though, and the director of operational test and evaluation has not finished his evaluation.

The committee-reported bill this year contains a provision that will basically kill this program if it does not pass the test. So for that reason I did not believe that Senator PRYOR's amendment was necessary. I still do not think it is essential, but the Appropriations Committee has already taken this step in light of that. And in light of the fact that we have heard that the test has failed, I see no need in having a big battle on the floor tonight, since it looks to me as if this program has failed and the test has failed and, therefore, the provision in last year's bill will be applicable in the next few weeks, as soon as they announce this. If we find that is not accurate, then, of course, we would have to revisit this issue in the conference. But it is my recommendation that the Senator's amendment be accepted.

Mr. WARNER. Mr. President, I wish to associate myself with the remarks made by the distinguished chairman. We accept the amendment and commend our distinguished colleague from Arkansas.

Some of us last week got the watchdog of the Treasury—bulldog or something—award. I think we have to set up an award around here for Senator PRYOR. He is a watchdog of the defense contracts here. And I think on this one, he deserves a watchdog award.

There is another one coming along where this dog is going to maybe bite at him a little bit, but until that time, he certainly earned his spurs on this one.

Mr. PRYOR. Mr. President, let me thank the Senator from Virginia and also the Senator from Georgia, the distinguished chairman. Both Senators have been very easy to work with, I must say, during the last several days in preparing to bring this amendment to the floor. I appreciate very much the Senators accepting the amendment.

Mr. President, I have a letter here from Robert C. Duncan, the director of the operational test and evaluation Office of Secretary of Defense. I think this letter states that on July 17, the Acquisition Secretary was informed that the ASPJ did not meet operational testing, and that certification was highly unlikely. In addition, I have been informed that Dr. Duncan's office has notified the GAO that they will not certify the ASPJ.

Mr. President, I ask unanimous consent that his letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, DC, August 20, 1992.

HON. DAVID PRYOR,
Chairman, Subcommittee on Federal Services, Post Office, and Civil Service, U.S. Senate, Washington, DC.

DEAR SENATOR PRYOR: In your July 31, 1992, letter, you and Senator Roth expressed concern that I had approved test and evaluation master plan (TEMP) changes that reduced the Airborne Self-Protection Jammer (ASPJ) performance requirements. As the Director, Operational Test and Evaluation, I do not establish the operational requirements or criteria for any weapons system. Those requirements and criteria are set by the Service user. For programs under the purview of the Defense Acquisition Board, the most critical requirements are listed in the acquisition program baseline (APB) and are validated by the Joint Requirements Oversight Council (JROC), chaired by the Vice Chairman of the Joint Chiefs of Staff, before the APB is approved by the Under Secretary of Defense for Acquisition (USD(A)). I do, however, review those operational requirements listed in the TEMP for Testability, operational utility, and consistency with the APB and other requirements documents.

In the case of the ASPJ, the most recent TEMP was submitted to me in November 1990 and contained measures of effectiveness (MOEs) that were structured differently than those in the previous TEMP. As a result, I did not approve that TEMP, and the USD(A) directed the Navy to provide an audit trail from the previously approved MOEs. This audit trail did not confirm that MOEs had not been degraded. Therefore, in May 1991, I recommended to the USD(A) that the JROC validate the new MOEs. The USD(A) requested the MOE review, and I returned the TEMP to the Navy pending the outcome. In August 1991, the JROC validated the performance requirements contained in the APB, and the USD(A) approved that APB in December 1991. A TEMP change submitted in November 1991 was consistent with the APB, and I approved the TEMP in January 1992.

The final TEMP included changes to three parameters from the 1990 submission. The built-in-test (BIT) criteria for fault detection and fault isolation rates had both been lowered from 0.95 to 0.90. The new values were consistent with the APB and the previously approved TEMP and apparently reflected an administrative error in the 1990 version. The third change was the deletion of the false removal rate requirement. This was consistent with the APB and earlier requirements documents but was a change from the 1987-approved TEMP. Because this change originated from the Service user representative and was not inconsistent with the APB, I saw no reason not to approve the TEMP. It is this latest TEMP and the APB that will provide the criteria for my ASPJ certification.

As I indicated in my remarks to your committee in March 1992, I will count all failures in the operational test, including software failures resulting from a BIT-indicated false removal. False removals are important because if the BIT tells the pilot the ASPJ is not working, the pilot will react as if the system has failed, whether the failure is real or false. However, the problem is not the false removal rate but the total number of removals, real and false, that impact mission reliability and logistics supportability, both of which have criteria in the APB and TEMP. In our preliminary analysis of operational test data, we have classified several BIT-indicated failures as critical even though they were later determined to be false removals. These false removals degraded ASPJ mission reliability. (Therefore, on July 17, 1992, I informed the USD(A) in writing that it was highly unlikely that I could certify to the congressional defense committees that ASPJ meets or exceeds all established criteria.) I can assure you that there was no intent on my part to make it easier for ASPJ to pass its operational test.

Before the next Defense Acquisition Board meeting on ASPJ, I will provide the Board with a thorough and independent evaluation of the results of the ASPJ operational tests. Furthermore, before there is a decision to proceed beyond low-rate initial production, I will provide the appropriate committees of Congress with my report on test adequacy and my assessment of ASPJ operational effectiveness and suitability. A copy of this report will be made available to you. I also repeat my offer to brief you or your staff on the test results after our assessment is complete.

I have also provided this information to Senator Roth.

Sincerely,

ROBERT C. DUNCAN,
Director.

Mr. PRYOR. Finally, Mr. President, should this amendment ultimately come to fruition, not only be accepted but be implemented, which I hope it will be, it is my understanding we would save approximately $198.3 million in fiscal 1992 funds, unobligated, which were fenced, and that we would also save roughly an additional $67 million which had been requested for expenditures for production in this coming 1993 fiscal year.

So we are talking about roughly $265 million being saved this year, and millions more in the outyears if this amendment is ultimately accepted and signed off on and effectuated.

Mr. President, I ask unanimous consent that the GAO recommendation to the Senate Armed Services and Appropriations Committees on ASPJ fiscal year 1993 funds be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POTENTIAL REDUCTION TO AIRCRAFT PROCUREMENT, NAVY BUDGET FOR COMMAND, CONTROL, COMMUNICATIONS, AND INTELLIGENCE PROGRAMS

We identified $67.7 million in potential reductions to the Navy's fiscal year 1993 Aircraft Procurement, Navy budget activity 01, line items 05 and 06, F-14 and F/A-18, related to command, control, communications, and intelligence programs. The following sections provide a brief description of the Aircraft Procurement, Navy line items we examined and the results of our analysis.

ASPJ

The Airborne Self-Protection Jammer (ASPJ) is an electronic warfare jammer intended to protect some of the Navy's F/A-18 and F-14 aircraft from threat weapons. DOD authorized initial production of 100 jammers in fiscal year 1989, despite ASPJ's marginal performance in Navy and Air Force operational testing. In response, the Congress provided no procurement funding in fiscal year 1990 for ASPJ.

For fiscal year 1991, Congress reduce funding for ASPJ and two Air Force jammer programs, requiring the Director, Operational Test and Evaluation (DOT&E) to certify that ASPJ and the Air Force jammers meet all operational requirements before producing at above minimal essential rates of production. In August 1991, the Navy contracted for 36 additional jammers using $63.1 million in FY 1991 funds appropriated for jammers and reprogrammed an additional $27.8 million for ASPJ from the Navy's Operational Safety and Improvement Program.

For FY 1992, the Navy has designated, but not yet obligated, $172.1 million and $26.2 million for the full rate production of ASPJ from the F/A-18 and F-14 line items, respectively. As of June 1992, however, ASPJ had not not yet been certified by DOT&E as required by the Congress. The Navy's fiscal year 1993 budget request for the F/A-18 include $65.6 million for procurement of 28 additional ASPJ systems and an additional $2.1 million for ASPJ procurement is in the F-14 line item.

RESULTS OF ANALYSIS

The Navy's request for $67.7 million for fiscal year 1993 for 28 additional ASPJ systems can be deferred. The Navy currently has 136 low rate production units on contract and the two contractors just began deliveries in January 1992. If the current congressionally-mandated minimum essential production rate is maintained, we estimate that the two contractors will not complete deliveries of the 136 units until November 1994. Furthermore, the Navy has on hand $198.3 million in fiscal year 1992 funds that have not yet been obligated. The Navy intends to use these funds to procure an additional 69 ASPJ systems. Hence, funding for procurement of additional ASPJ systems is not required in fiscal year 1993. Finally, deferral of the fiscal year 1993 funding request until 1994 will allow the Congress to consider the results of currently ongoing operational testing of ASPJ in making future budget decisions.

POTENTIAL REDUCTION

Table —.1: F/A-18 and F-14, shows the funds requested for fiscal year 1993, appropriated for fiscal year 1992, spent fiscal year 1991, and a $67.7 million potential reduction for ASPJ for fiscal year 1993.

Potential Reduction to Aircraft Procurement, Navy Budget For Command, Control, Communications, and Intelligence.

TABLE —.1: F/A-18 and F-14 FISCAL YEAR 1993 BUDGET REQUEST AND POTENTIAL REDUCTION FOR ASPJ

[Dollars in millions]

Budget line	Fiscal year		
	1993	1992	1991
APN-06, F/A-18	1807.8	2175.5	1756.7
APN-05, F-14	143.1	172.5	1079.1
Potential reductions APN-06, F/A-18	65.6	—	—
APN-05, F-14	2.1	—	—

Mr. NUNN. I think the Senator is correct. The Senator deserves a great deal of credit for his vigilance and his willingness to look into this program in great detail. It has certainly been a troubled program. The Senator is correct on that. Most of the money spent on this program was spent before it got into trouble and before the Senator looked at it as carefully as he has in the last 3 years. Since he started looking at it, it has been on a go-slow basis and the funds have not been extended, the funds for the operation testing have been.

So it is true this program, unfortunately, has had a large amount of expenditure, but it is also true the program has only been in trouble in about the last 3 years, as I understand it.

But the Senator has performed a real service here, and I hope we can save a substantial amount of money. I hope also that we do not have a repeat of this kind of incident very often. But in a high-technology age you are going to have some failures, and this is, unfortunately, one based on the information we received.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. All the time has expired.

Mr. PRYOR. Mr. President, if I could have 60 seconds, I wish to respond to the distinguished chairman.

I think if the military establishment, the Department of Defense, and all those involved in acquisition would simply come to the Congress and level with us, if they would tell us the truth, if they would say this program is in trouble, this program is not passing the test, we think that we can fix it; if they would just level with us and tell us the truth before they encourage us to go forward and purchase these weapons systems, I think then that we would be a lot better off, not only in our procurement system, but certainly the Congress I think would have a lot more reason to find their statements credible when they came before the committees.

Mr. NUNN. Mr. President, I agree with the Senator from Arkansas. I think this program is an example of that, because the military would raise their credibility on the programs they are championing if they kicked in the towel sooner on those that are in trouble, and we would also save an awful lot of money. The Senator is correct on that.

Mr. PRYOR. Mr. President, I thank the distinguished chairman.

I yield the floor.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment.

The amendment (no. 3076) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table as agreed to.

Mr. NUNN. Mr. President, I see the Senator from West Virginia on the floor. He has an amendment that we have worked with him on.

I ask unanimous consent that the pending amendment be set aside for the purpose of considering a Byrd amendment, which we have discussed with him, and there would be no second-degree amendment in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3077

(Purpose: To amend the Defense Production Act of 1950 to require the President to submit a report to the Congress upon review of certain mergers, acquisitions, and takeovers, and for other purposes)

Mr. BYRD. Mr. President, I thank the distinguished chairman of the committee, Mr. NUNN. I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. EXON, Mr. RIEGLE, Mr. SARBANES, Mr. BINGAMAN, and Mr. DIXON proposes an amendment numbered 3077.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . DEFENSE PRODUCTION ACT AMENDMENTS.

(a) INVESTIGATIONS OF CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS.—Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended—

(1) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) MANDATORY INVESTIGATIONS.—The President or the President's designee shall make an investigation, as described in subsection (a), in any instance in which an entity controlled by or acting on behalf of a foreign government seeks to engage in any merger, acquisition, or takeover of a person engaged in interstate commerce in the United States that could affect the national security of the United States. Such investigation shall—

"(1) commence not later than 30 days after receipt by the President or the President's designee of written notification of the proposed or pending merger, acquisition, or takeover, as prescribed by regulations promulgated pursuant to this section; and

"(2) shall be completed not later than 45 days after its commencement.

(b) CONSIDERATIONS OF THE PRESIDENT.—Section 721(f) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(f)) (as redesignated by subsection (a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period and inserting a comma; and

(3) by adding at the end the following new paragraphs:

"(4) the potential effects of the proposed or pending transaction on sales of military goods, equipment, or technology to any country—

"(A) identified by the Secretary of State—

"(i) under section 6(j) of the Export Administration Act of 1979, as a country that supports terrorism;

"(ii) under section 6(l) of the Export Administration Act of 1979, as a country of concern regarding missile proliferation; or

"(iii) under section 6(m) of the Export Administration Act of 1979, as a country of concern regarding the proliferation of chemical and biological weapons; or

"(B) listed under section 309(c) of the Nuclear Non-Proliferation Act of 1978 on the 'Nuclear Non-Proliferation-Special Country List' (15 C.F.R. Part 778, Supplement No. 4) or any successor list; and

"(5) the potential effects of the proposed or pending transaction on United States international technology leadership in areas affecting United States national security.".

(c) REPORT.—Section 721(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(f)) (as redesignated by subsection (a)) is amended to read as follows:

"(g) REPORT TO THE CONGRESS.—The President shall immediately transmit to the Secretary of the Senate and the Clerk of the House of Representatives a written report of the President's determination of whether or not to take action under subsection (d), including a detailed explanation of the findings made under subsection (e) and the factors considered under subsection (f).".

(d) SENSE OF THE CONGRESS REGARDING THE COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES.—It is the sense of the Congress that the President should include in the membership of the Committee on Foreign Investment in the United States (established by Executive Order No. 11858)—

(1) the Director of the Office of Science and Technology Policy; and

(2) the Assistant to the President for National Security.

(e) INTELLIGENCE STUDY.—

(1) IN GENERAL.—In order to assist the Congress in its oversight responsibilities with respect to section 721 of the Defense Production Act (as amended by this section), the Director of the Federal Bureau of Investigation and the Director of Central Intelligence shall jointly submit to the Congress a report that evaluates whether—

(A) there is credible evidence of a strategy by 1 or more foreign countries or companies to acquire United States companies involved in the research, development, or production of defense critical technologies of which the United States is a leading producer; and

(B) such strategy is intended as a means—

(i) of obtaining access to defense critical technologies that the foreign entity would not otherwise have; or

(ii) of gaining substantial control of the market for such technologies.

(2) SUBMISSION.—The report required under paragraph (1) shall be submitted—

(A) not later than 1 year after the date of enactment of this Act; and

(B) upon the expiration of every 4-year period thereafter.

Mr. BYRD. Mr. President, the recent attempt by a French firm to buy a major United States defense contractor has highlighted a problem that will undoubtedly grow more severe as the defense industry continues to contract. We face the dilemma of how to prevent foreign companies, particularly those controlled by their governments, from raiding the U.S. economy and snatching up the prized jewels of America's industrial base without discouraging legitimate foreign investment in our economy.

Nations around the world, both our former adversaries and our long time allies, have begun dramatically reducing their defense spending. We can all cheer the lifting of the tremendous financial burden of the cold war. But, this defense drawdown is not without negative side effects—one being that the consolidation of the defense industry will lead inevitably to the failure of some of the weaker defense firms. Some of these companies may simply shut their doors and close up shop, but many will be acquired by healthier firms, both domestic and foreign. Any acquisition by a foreign firm must be carefully evaluated to ensure that it does not adversely affect U.S. national security.

The amendment which I am offering makes adjustments to the process by which the executive branch reviews foreign acquisitions of U.S. companies, if a purchase has implications for our national security. Authority for these reviews is provided by section 721 of the Defense Production Act of 1950, as amended, commonly called the Exon-Florio amendment. This provision, coauthored by the distinguished Senate from Nebraska [Mr. EXON], grants extremely broad authority to the President to take action to block an acquisition if he determines that a sale might damage U.S. national security. This is a well-crafted provision that provides all the tools the President needs to ensure the stability and safety of our industrial base, and I commend Senator EXON for his draftsmanship and for all of his work in this area.

Unfortunately, since the adoption of the Exon-Florio amendment in 1988, the administration has chosen not to use the tools provided to it. Of the more than 700 cases that have come up for initial review, only 15 have received the extended 45-day investigation, and only 1 has been blocked. I do not intend to argue the merits of past actions or of any particular case, but I fear that we have established a pattern where only the most blatantly risky cases receive scrutiny, and even then they are likely to get the go-ahead.

Given the situation faced by the defense industry, we cannot allow this pattern to continue. It is time to send a signal to the administration of the importance that the Congress places on this issue, and to make adjustments in the review process to take into account the experience of implementing the Exon-Florio amendment. I, along with my staff, have worked with Senator EXON, as well as Senators RIEGLE, SARBANES, and BINGAMAN, to try to craft an amendment that modifies the existing legislation while retaining its basic approach and keeping the broad authority that it gives to the President.

I will briefly highlight the provisions of this amendment. First, it requires that any acquisition that involves a company controlled by a foreign government, as was the case with Thomson's attempt to buy LTV Corp.'s missile division, must automatically receive the more detailed 45-day investigation. The second section requires the President to send a report to the Congress for each case that goes to the investigation phase. Currently, a report is required only if the deal is blocked, and the Congress is left in the dark whenever a deal is approved. The third part expands the list of factors that the President must consider. The fourth section recommends that the President add two more members, the President's Science Advisor and National Security Advisor, to the review process. The final provision asks for a study to determine the extent to which foreign countries or companies may target for takeover U.S. firms involved in critical technologies as a way of siphoning off that technology.

Mr. President, I would describe this as a package of minor adjustments that make very important improvements to the review process and I hope that the Senate will adopt this amendment.

Mr. WARNER. Mr. President, the amendment offered by my friend, the senior Senator from West Virginia, and others is accepted by our side. However, I am advised that my staff was only shown the text of it this morning. This language amends a section in the U.S. Code that is not in our committee's jurisdiction. I, therefore, reserve the right to review this language more carefully as we discuss it in conference and to propose appropriate changes.

Mr. EXON. Mr. President, I am pleased to rise in support of the Byrd-Exon amendment to the Exon-Florio law. The Exon-Florio law gives the President the power to investigate, and if necessary, to stop a foreign purchase of an American Company when the President determines that the national security might be threatened by the transaction.

The Exon-Florio was enacted in 1988 as part of the Omnibus Trade and Competitiveness Act. It is the Nation's leading statute on foreign investment. It is a piece of legislation of which I am very proud. As the Nation downsizes its military budget, the Exon-Florio law will be a critical tool in managing this change.

There is a real danger that foreign interests may seek to gain control of some of America's crown jewels of technology. These high technological companies represent investments of millions of dollars of American tax dollars.

President Bush has used his powers rather conservatively under the Exon-Florio statute. While I have not agreed with every decision that the President has made under this important statute, I believe that his actions have fallen within the range of what had reasonably been expected. The staff members of the Committee on Foreign Investment in the United States which administers the statute have worked diligently over the years to meet the very strict timetables contained in the law and have put in many long hours to assure that important issues are investigated and discussed. Over all, the Exon-Florio law has worked.

The amendment that the President pro tempore and I propose would add language to the Exon-Florio law which takes into consideration what has been learned over the last several years and what can be expected in the postcold war era.

The Nation got a preview of the future when the Thomson-CSF, a subsidized and government-controlled company of France attempted to purchase the LTV missile division. Fortunately, the system worked. I am concerned, however, that future transactions of a similar nature may not catch the public attention as did the LTV case.

The amendment we propose requires a mandatory Exon-Florio investigation when a foreign government controlled entity attempts to acquire an American company in the national security sector; adds new factors relating to American technological leadership and weapons proliferation for the President to consider when reviewing a proposed foreign acquisition; and requires the President to more fully report to the Congress on Exon-Florio investigations.

The amendment also requires the CIA and FBI to conduct an intelligence investigation as to whether there is credible evidence of coordinated strategies by foreign entities to acquire critical American defense technologies. Finally, the amendment expresses the sense of the Senate that the President should appoint the Assistant to the President for National Security and the Director of the Office of Science and Technology Policy to the Committee on Foreign Investment in the United States.

These provisions will be very helpful to the Exon-Florio process. They recognize that this is a new era. They build on the many successes of the current law. As the author of the original law, I am very protective of the Exon-Florio process, I am pleased to have worked closely with Senator BYRD on this friendly amendment and encourage my colleagues to vote for the Byrd-Exon amendment.

Mr. RIEGLE. Mr. President, I rise in support of the amendment offered by Senator BYRD to strengthen and clarify the so-called Exon-Florio provisions of the 1988 Omnibus Trade Competitiveness Act. This amendment is being cosponsored by Senators EXON, BINGAMAN, SARBANES, and myself. The Exon-Florio provision of the trade bill was codified as section 721 of the Defense Production Act, a statute within the jurisdiction of the Banking Committee. It authorizes the President to suspend or prohibit any takeover of an American firm by a foreign interest, if the President determines there is credible evidence that foreign control would impair the national security. In 1988 President Reagan delegated responsibility for administering Exon-Florio to the Committee on Foreign Investment in the United States [CFIUS], a panel chaired by the Secretary of the Treasury.

On June 4, the Subcommittee on International Finance and Monetary Policy of the Banking Committee held a hearing to review how the Bush administration is implementing Exon-Florio. During the almost 4 years that have passed since that provision's enactment very serious concerns have arisen about the way it has been implemented by the Reagan/Bush administration—which opposed its enactment.

During the 1980's, under the Reagan/Bush administration, foreign ownership of U.S. assets grew to become a public issue. Our low savings rate and massive budget and trade deficits meant that there was not enough domestic capital to spur the economic development necessary for an expanding economy and jobs for our workers. Countries which ran trade surpluses with the United States reinvested some of their dollars back into our country. We thus became a capital importing society during the 1980's and that meant increased foreign investment and foreign ownership of our assets. Congress' passage of Exon-Florio was a policy directive to the administration that not all U.S. companies should be open for purchase by foreigners. Congress clearly wanted the President to prevent foreign acquisitions of domestic companies that give the United States technological leadership in areas affecting national security.

Unfortunately, as was all too clear at our committee's June 4 oversight hearing, the Reagan/Bush administration has failed to heed Congress' views on this matter. Rather, the Reagan/Bush administration, blinded by its free trade and open investment ideology, has taken a much too narrow view of the authority Exon-Florio gives it. It has failed to take a broad look at the financial and trade strategies of our industrial competitors and the effect such strategies are having on our technology and financial base. The administration examines takeovers on an isolated case by case basis and is missing the cumulative impact of such takeovers. The President's science adviser, Dr. Allan Bromley, has voiced concerns about this matter. He warned policymakers that "our technology base can be nibbled from under us through a coherent plan of purchasing entrepreneurial companies." In September 1990 Donald Peterson, former chairman of the Ford Motor Co., told the Banking Committee that we should take a broader view of the impact that takeovers of small companies are having on the technological foundations of our industrial base.

The GAO in a recent study reported that the administration is not examining the larger issues dealing with foreign investment such as: First, whether there are certain industry sectors, or types of firms that we must preserve for U.S. ownership and if so how to accomplish that; second, why foreign investors are placing more value than U.S. firms do on achieving predominance in certain high technology sectors; and third, what parts of the U.S. defense industrial base are being hollowed out as foreign investors acquire U.S. firms which are suppliers to the Department of Defense.

This latter issue was highlighted by the French Government owned Thomson Co.'s recent attempt to purchase the LTV Corp.'s missile division.

Another issue is what our policy should be when foreign government-owned or controlled firms buy U.S. firms engaged in the production or development of leading technologies. At our June 4, 1992 Banking Committee hearing Dr. Laura Tyson told us that—

> An open-door policy in favor of foreign direct investment * * * must be reconsidered when foreign governments are involved. * * * When a foreign government is the investor, foreign national interests are

at play, and these may conflict with American national interests.

In addition to conflicting national interests, the purchase of U.S. private sector firms by foreign governments also raises concerns about the selling of critical technologies developed at U.S. taxpayer expense. This is one concern that made so many Americans uneasy about the proposed purchase of McDonnell Douglas by a Taiwanese Government-owned company. Much of our aerospace technology has been developed at government expense and it is one area in which we still have major exports.

Mr. President, this amendment does not cure all the weaknesses of our present investment policy. It does ensure that acquisitions by foreign governments or foreign government-controlled firms of U.S. firms, whose acquisition could affect our national security, would at least be carefully examined by CFIUS. The amendment also brings a measure of long-needed transparency and accountability to the CFIUS review by requiring the President to submit a report to Congress after the conclusion of an Exon-Florio investigation. This amendment also directs the President in reviewing foreign acquisitions of U.S. companies to take into account the potential effects of the transaction on U.S. technological leadership in areas affecting national security. Another factor the President must consider under this amendment is the potential effect of the transaction on the proliferation of chemical and biological weapons to countries that support terrorism.

The amendment also contains a sense-of-the-Congress resolution that the President should add the Director of the Office of Science and Technology Policy and the Assistant to the President for National Security as members of CFIUS.

Finally, the amendment would require the Directors of the FBI and the CIA to submit a report jointly to the Congress that evaluates whether there is credible evidence of a strategy by one or more foreign countries or companies to acquire United States companies involved in the research, development, or production of defense critical technologies of which the United States is a leading producer.

Mr. President, this amendment will improve the implementation of Exon-Florio and I urge its passage. I salute Senator BYRD for taking the lead in developing this amendment and thank him for asking me, Senator SARBANES and Senator BINGAMAN to participate in perfecting it. I also salute Senator EXON for his original foresight in addressing the foreign investment issue in the trade bill and for his participation in developing this amendment.

Yet, there is an even larger issue regarding foreign investment that the administration is not addressing. That is whether there are certain industry sectors or types of firms that should not be sold to foreign owners because we must preserve their U.S. ownership in order to safeguard our economic strength and industrial leadership. The failure of the administration to address this issue is part of its larger failure to have a national economic strategy for our country. We must develop and implement such a strategy if America is to remain a leading economic and political power in the 21st century.

Mr. SARBANES. Mr. President, I rise in support of the amendment offered by Senator BYRD, Senator EXON, Senator RIEGLE, Senator BINGAMAN, and myself. This amendment would make several modifications to section 5021 of the Omnibus Trade and Competitiveness Act of 1988, the so-called Exon-Florio provision. I would particularly like to commend Senator Byrd and Senator EXON for the leadership they have provided on this important issue.

The Exon-Florio provision authorizes the President to "suspend or prohibit any acquisition, merger, or takeover, of a person engaged in interstate commerce in the United States * * * by or with foreign persons so that such control will not threaten to impair the national security." The provision provides that the President or his designee may make an investigation to determine the effects on national security of mergers, acquisitions, and takeovers by or with foreign persons which could result in foreign control of persons engaged in interstate commerce in the United States. If it is determined that an investigation should be undertaken, it must commence no later than 30 days after the President or his designee receives written notification of the proposed merger, and the investigation must be completed no later than 45 days after the determination. The President must announce his decision to take action pursuant to this provision not later than 15 days after the investigation is completed.

The provision authorizes the President to exercise his authority to suspend or prohibit any merger, acquisition, or takeover if he finds that: First, there is credible evidence that leads him to believe that the foreign interest exercising control might take action that threatens to impair the national security; and second, provisions of law, other than this provision and the International Emergency Economic Powers Act [IEEPA] do not in the President's judgment provide adequate authority for him to protect the national security in the matter before him.

In making his decision, the provision provides that the President may, taking into account the requirements of national security, consider among other factors: First, domestic production needed for projected national defense requirements; second, the capability and capacity of domestic industries to meet national defense requirements; and third, the control of domestic industries and commercial activity by foreign citizens as it affects the capability and capacity of the United States to meet the requirements of national security.

If the President determines to take action under this provision, he is required to submit a written report of the action he plans to take immediately to the Congress, including "a detailed explanation of the findings" he is required to make by the provision.

This provision was included in the 1988 trade bill by the distinguished Senator from Nebraska [Mr. EXON] as an amendment to the Defense Production Act. That Act falls under the jurisdiction of the Banking Committee, of which I am member and of which I chair the Subcommittee on International Finance and Monetary Policy. In that capacity, I worked closely with Senator EXON in 1988 in fashioning the provision which was included in the trade bill.

The amendment offered today would make three modest modifications to the Exon-Florio provision. These modifications address serious problems that were raised in an oversight hearing that I chaired in June. First, it would require the President or his designee to make a 45-day investigation "in any instance in which an entity controlled or acting on behalf of a foreign government seeks to engage in any merger, acquisition, or takeover of a person engaged in interstate commerce in the United States that could affect the national security of the United States."

This change reflects a concern raised by the recent case investigated by CFIUS in which a French defense electronics firm, Thomson-CSF, attempted to acquire the LTV Aerospace and Defense Corp., a United States company which is the prime contractor or subcontractor on several United States weapons systems and is a world leader in missile technology. Sixty percent of Thomson's shares are owned by the French Government, and the French Government controls 75 percent of the voting stock.

This case went through the 45-day investigation process by the Committee on Foreign Investment in the United States [CFIUS]. By executive order in December 1988, the President designated CFIUS to be responsible for the implementation of the Exon-Florio provision. CFIUS is currently chaired by the Secretary of the Treasury and includes the Secretaries of State, Defense, and Commerce, the U.S. Trade Representative, the Chairman of the Council of Economic Advisers, the Attorney General, and the Director of OMB. Before CFIUS could forward a recommendation to the President on the case, Thomson withdrew its offer because of the concern raised by the case. This case, along with the recent attempt by the Taiwan Aerospace Corp., which is owned in substantial part by the Taiwan Government, to acquire 40 percent of the commercial aircraft operations of the McDonnell Douglas Corp., the largest defense contractor in the United States, has focused attention on the particular category of cases which may arise under Exon-Florio in which a foreign company owned or controlled by a foreign government seeks to acquire a U.S. company important to the national security of the United States.

Cases involving a foreign-owned company, by definition, fall into a different category because they are not dictated strictly by market forces. As testimony presented by the General Accounting Office at a hearing of the Subcommittee on International Finance of the Banking Committee on June 4 to review the operation of the Exon-Florio provision since its enactment in 1988 pointed out:

> There is also the generic issue of foreign government ownership of U.S. defense contractors. The U.S. government does not own its own defense contractors. Thus it is appropriate to ask whether it would be a good idea to have one of our prime defense contractors owned by a foreign government-controlled company.

The amendment being offered would simply require that in any instance in which an entity controlled by or acting on behalf of a foreign government seeks to engage in any merger, acquisition, or takeover of a U.S. company that could affect the national security of the United States, a 45-day investigation be undertaken by CFIUS. This would ensure that such cases, which are on their face different from cases involving strictly private sector parties, would receive the close scrutiny they deserve.

The second change would add two considerations for deciding whether a takeover affects the national security to the three considerations now in the law. The three considerations listed under current law all apply to the strength of the United States' defense base. However, our national security also depends on our defense capabilities relative to foreign countries' capabilities.

The first new consideration concerns the potential effects of a proposed or pending transaction on sales of military goods, equipment or technology to any country identified by the Secretary of State under the Export Administration Act as a country that supports terrorism, as a country of concern regarding missile proliferation or the proliferation of chemical and biological weapons, or is listed under the Nuclear Non-Proliferation Act of 1978 on the nuclear non-proliferation special country list.

With the second new consideration added by this amendment, the President would also be permitted to consider as a factor in making his decision "the potential effects of the proposed or pending transaction on United States international technological leadership in areas affecting United States national security." Congressional hearings on the Taiwan-McDonnell Douglas deal and the Thomson-LTV deal both highlighted the problem that acquisitions of United States technology leaders may raise foreign technology relative to United States technology at the expense of our national security. This provision insures that not just the absolute level of technology in the U.S. defense base but also the comparative level of our technology is taken into consideration.

The third change would require the President to transmit immediately to the Congress a written report in each case in which he makes a determination either to take or not to take action under the provision, including a detailed explnation of the findings he is required to make under the provision and the factors which he may take into consideration in making his determination. This is a change about which I feel very strongly.

Under current law, the President is required to submit a report to Congress only in cases in which he makes a determination to take action under the provision. He is not required to submit a report on cases which go through the 45-day investigation process, are referred to the President for final decision, and in which he decides not to take action. As a result, the Congress and the public have no understanding of the rational underlying the decisions in these cases or the policy being developed by the President in applying the Exon-Florio provision.

This is particularly true given the fact that of the 700 notices of proposed or pending mergers that have been filed with the President under Exon-Florio since the enactment of the provision in 1988, only 13 have been subject to an extended 45-day review. Of the 13, 4 cases were withdrawn and 9 went to the President for a final determination. Of these nine, only one was blocked by the President. As a result, of the nine cases that have actually been decided by the President, the Congress and the public have been given an explanation for the decision in only one of the cases. It is thus virtually impossible for the Congress and the public to know what policy has been developed by the administration in applying the Exon-Florio provision or to hold the administration accountable. The only document released in cases in which the President decides not to take action is a one-page press release. I am submitting for the record press releases issued for eight of these cases, which all contain the same boilerplate language.

The amendment also contains a sense-of-the-Congress resolution that the President should add the Director of the Office of Science and Technology Policy and the Assistant to the President for National Security as members of CFIUS.

Finally, the amendment would require the Directors of the FBI and the CIA to submit a report jointly to the Congress that evaluates whether there is credible evidence of a coordinated strategy by one or more foreign countries or companies to acquire U.S. companies involved in the research, development, or production of defense critical technologies of which United States is a leading producer.

Mr. President, in my view this is a very modest amendment that makes a number of commonsense changes to the Exon-Florio provision of the Omnibus Trade Act of 1988. I strongly urge its support by my colleagues.

Mr. BYRD. Mr. President, this amendment has been discussed with the managers.

Mr. WARNER. Mr. President, if the Senator will yield, it is cleared on this side.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3077) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank both the distinguished Senator from Georgia and the Senator from Virginia.

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I just wanted to take this time to thank the managers but also to encourage any Senators on this side of the aisle, if you are going to offer the amendment, let the managers know. If you are going to insist on a rollcall let the managers know.

It is my understanding, with one or two exceptions, if we could have any rollcall votes now the rest of us could go home and the managers could stay and finish up this legislation. So I hope if anybody has an amendment that is going to demand a rollcall they could offer those now and that would make it easier for a lot of others later. Assuming of course it would not be a demand for a rollcall vote on final passage.

So I urge my colleagues on this side of the aisle, and the other side of the aisle for that matter, to let the managers know. They are working hard to finish this bill at a reasonable hour and I believe they will if they have the cooperation of Members of both aisles.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I join in the minority leader's plea in that respect. We know of two amendments that are controversial that may require rollcall votes. One of those is the Metzenbaum amendment on contractor indemnification. We are working with Senator METZENBAUM on that one. We expect to hear back from him on whether that one can be worked out or whether it will require extensive debate, or some debate and a rollcall vote.

We also have Graham-Mack Cuban democracy amendment. I know the Senator from Florida is on the floor.

Mr. President, I hope we could get some kind of time agreement on this amendment. I know the Senator from Connecticut is very involved, whether he is on the floor or not—I do not see him on the floor.

It would be my hope we could have some discussion now and see if we can get some time agreement on this amendment. The pending amendments are amendments that Senator WARNER and I are working on. We certainly would be delighted to set those aside if we could get some kind of indication from the Senator from Florida and the Senator from Connecticut about a time limit.

Mr. President, if I could say to the minority leader, if we could get an hour's time limit on the Cuban democracy amendment, it is my view we could finish this bill, as far as rollcall votes go, within about an hour. That would leave us here to finish any amendments that can be agreed to.

We are within basic sight of being able to finish this bill not at 12 or 1 but at 9, 9:30, 10 o'clock tonight if we can get by this hurdle.

Mr. DODD. If the Senator will yield, I missed the comments between the minority leader and the distinguished chairman. I understand my name has been mentioned several times today in connection with this Cuban Democracy Act amendment.

I want to state for the edification of my colleagues, I held a 6-hour hearing in the Foreign Relations Committee on this bill, offered a freestanding proposition to bring it up. This bill has no business on a Department of Defense authorization bill whatsoever. It really does not, in my view.

I have had an amendment Senator RUDMAN and I wanted to bring up. We were told there would be no time agreement. We understood that. So we are prepared to withdraw the amendment because there is a problem.

All I am suggesting is the authors of this amendment might want to accommodate the chairman by doing the same thing we have done, particularly on something that has no relationship to the substance of the bill before us.

It is a serious matter. It is one that Gerald Ford, President Ford, changed the rules on this in 1976 because of the economic hardship. It relates directly to the economy of the country today. I realize there is a dynamic to this because of how it is perceived, but it is a serious proposition. Six long hours before the committee, a hearing which I held on behalf of the two Senators from Florida with the agreement we do a freestanding proposition.

Now they want to come up on this bill. I withdrew my objections on the Export Administration Act, of which the Senator is aware. I know we have a problem. A colleague disagrees with that. We can tie this up forever. We do not want to have that happen. I would like to think my colleagues would extend the same accommodation to try to get this bill out and try to get it as a freestanding matter. That is the reason I have expressed the concerns about it. It is not frivolous opposition I am expressing here.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Florida.

Mr. GRAHAM. Mr. President, if it is not objectionable to the managers of the bill, I would like to send an amendment to the desk because I believe we are not going to dispose of this matter until we start debating this matter.

The PRESIDING OFFICER. The Chair advises the Senator from Florida that there are presently two amendments pending.

Mr. GRAHAM. Again, if agreeable to the managers of the bill, I move to set those amendments aside for purposes of considering this amendment.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I suggest the absence of a quorum. I will be glad to discuss this with the Senator from Florida.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. EXON assumed the chair.)

Mr. NUNN. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside for the purpose of taking up a Leahy amendment on land mines to which there will be no second-degree amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3078

Mr. LEAHY. Mr. President, I send an amendment to the desk on behalf of myself, Mr. KERRY, Mr. KERREY, Mr. KENNEDY, Ms. MIKULSKI, Mr. DECONCINI, Mr. HATFIELD, Mr. JEFFORDS, Mr. WOFFORD, Mr. ADAMS, Mr. HARKIN, Mr. MOYNIHAN, Mr. DODD, Mr. CRANSTON, Mr. KOHL, Mr. BRYAN, Mr. RIEGLE, Mr. SANFORD, Mr. FORD, Mr. ROCKEFELLER, Mr. AKAKA, Mr. INOUYE, Mr. SPECTER, Mr. D'AMATO, Mr. REID, Mr. MITCHELL, Mr. SIMON, Mr. DASCHLE, Mr. SARBANES, Mr. METZENBAUM, Mr. PELL, Mr. CONRAD, Mr. LAUTENBERG, Mr. ROBB, and Mr. BUMPERS, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. KERRY, Mr. KERREY, Mr. KENNEDY, Ms. MIKULSKI, Mr. DECONCINI, Mr. HATFIELD, Mr. JEFFORDS, Mr. WOFFORD, Mr. ADAMS, Mr. HARKIN, Mr. MOYNIHAN, Mr. DODD, Mr. CRANSTON, Mr. KOHL, Mr. BRYAN, Mr. RIEGLE, Mr. SANFORD, Mr. FORD, Mr. ROCKEFELLER, Mr. AKAKA, Mr. INOUYE, Mr. SPECTER, Mr. D'AMATO, Mr. REID, Mr. MITCHELL, Mr. SIMON, Mr. DASCHLE, Mr. SARBANES, Mr. METZENBAUM, Mr. PELL, Mr. CONRAD, Mr. LAUTENBERG, Mr. ROBB, and Mr. BUMPERS, proposes an amendment numbered 3078.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following new section:

SEC. . LANDMINE MORATORIUM ACT.

(a) This section shall be titled the "Landmine Moratorium Act of 1992".

(b) FINDINGS.—The Congress makes the following findings:

(1) Anti-personnel landmines, which are specifically designed to maim and kill people, have been used indiscriminately in dramatically increasing numbers, primarily in insurgencies in poor developing countries. Noncombatant civilians, including tens of thousands of children, have been the primary victims.

(2) Unlike other military weapons, landmines often remain implanted and undiscovered after conflict has ended, causing untold suffering to civilian populations. In countries like Afghanistan, Cambodia, Laos, Vietnam, and Angola, tens of millions of unexploded landmines have rendered whole areas uninhabitable. In Afghanistan, an estimated hundreds of thousands of people have been maimed and killed by landmines during the 14-year civil war. In Cambodia, more than 20,000 civilians have lost limbs and another 60 are being maimed each month from landmines.

(3) Over 35 countries are known to manufacture landmines, including the United States. However, the United States is not a major exporter of landmines. During the past ten years the Department of State has approved ten licenses for the commercial export of anti-personnel landmines valued at $980,000, and during the past five years the Department of Defense has approved the sale of 13,156 anti-personnel landmines valued at $841,145.

(4) The United States signed, but has not ratified, the 1981 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects. The Convention prohibits the indiscriminate use of landmines.

(5) When it signed the Convention, the United States stated: "We believe that the Convention represents a positive step forward in efforts to minimize injury or damage to the civilian population in time of armed conflict. Our signature of the Convention reflects the general willingness of the United States to adopt practical and reasonable provisions concerning the conduct of military operations, for the purpose of protecting noncombatants.".

(6) The Adminfstration should submit the Convention to the Senate for ratification, and the President should actively negotiate under United Nations or other auspices an international agreement, or a modification

of the Convention, to prohibit the sale, transfer or export of anti-personnel landmines. This would be an appropriate response to the end of the Cold War and the promotion of arms control agreements to reduce the indiscriminate killing and maiming of civilians.

(7) The United States should set an example for other countries in such negotiations, by implementing a one-year moratorium on the sale, transfer or export of anti-personnel landmines.

(c) STATEMENT OF POLICY.—

(1) It shall be the policy of the United States to seek verifiable international agreements prohibiting the sale, transfer or export, and further limiting the use, production, possession and deployment of anti-personnel landmines.

(2) It is the sense of the Congress that the President should actively seek to negotiate under United Nations or other auspice an international agreement, or a modification of the Convention, to prohibit the sale, transfer or export of anti-personnel landmines.

(d) MORATORIUM ON TRANSFERS OF ANTI-PERSONNEL LANDMINES ABROAD.—For a period of 1 year beginning on the date of enactment of this Act—

(1) no sale may be made or financed, no transfer may be made, and no license for export may be issued, under the Arms Export Control Act, with respect to any anti-personnel landmine; and

(2) no assistance may be provided under the Foreign Assistance Act of 1961, with respect to the provision of any anti-personnel landmine.

(e) DEFINITION.—For purposes of this section, the term "anti-personnel landmine" means—

(1) any munition placed under, on, or near the ground or other surface area, or delivered by artillery, rocket, mortar, or similar means or dropped from an aircraft and which is designed to be detonated or exploded by the presence, proximity, or contact of a person;

(2) any device or material which is designed, constructed, or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act;

(3) any manually-emplaced munition or device designed to kill, injure, or damage and which is actuated by remote control or automatically after a lapse of time.

In section ———, amend the table of contents by inserting after the item relating to section ——— the following new item:

Sec. 17. Landmine Moratorium Act of 1992.

Mr. LEAHY. Mr. President, I know the hour is late so I will take only a couple of minutes to explain my amendment. I do not think it is controversial. I think as the Presiding Officer may have noted by the wide range of cosponsors from both parties and across the political spectrum, this is an amendment that has broad support. It is almost identical to S. 3098, a bill I introduced in July with a number of cosponsors. My amendment is simple. It imposes a 1-year moratorium on the sale, transfer, or export abroad of anti-personnel landmines by the United States. It calls on the President actively to seek to negotiate an international agreement to stop the world sales and transfers of these deadly weapons. And, it declares it the policy of the United States to seek agreements to further limit the production, possession, use and deployment of anti-personnel landmines.

One of the reasons so many veterans of past wars have supported this amendment is that those who faced them know how terrifying landmines can be. Antipersonnel landmines are designed for one thing and one thing only: to maim and kill people. In past wars, we have seen the horrible toll they have taken on American soldiers. But today, in the vast majority of cases, the victim is a noncombatant civilian, often an unsuspecting child.

Landmines are manufactured in over 35 countries, and they come in every shape and size. The Russians used them in Afghanistan, made to look like toys so children would pick them and lose an arm or a leg or eyesight. Hundreds of thousands of innocent men, women, and children step on these explosives. They remain undetected fro years after the conflict ends. Afghanistan may never be rid of the estimated 10 million landmines scattered there. In Cambodia alone, 20,000 people have lost an arm or a leg from these deadly weapons.

I think of the time when I was in the jungle of Honduras, and I visited a field hospital. It was a very hot day. Inside I saw a young boy who was hobbling along on a homemade crutch. He had one leg. I found out from him that he had lost his leg from a landmine, walking along a jungle trail near the Honduras-Nicaragua border. I asked him if he thought the landmine was put there by the Contras or by the Sandinistas. He did not know, and it made no difference to him.

But he did know he only had one leg. He knew that he was from a peasant family and that his life was shattered. He had no rehabilitation available to him. He had no way to get a job. He had no idea how to get an artificial leg.

So, I think of him. I think, as I said, of all our men and women who served in Vietnam, Korea, World Wars I and II, who were killed or maimed by landmines. I think of our brave troops who were in Desert Storm who faced miles of sand dunes strewn with landmines. I also think of the countless civilians in so many countries, often the poorest countries—like Angola, Somalia, Vietnam, Cambodia, El Salvador—who live in fear of landmines placed indiscriminately. They are weapons of terror,and the people who are maimed, who are killed, who are terrorized are so often the people who have really no part in the conflict. They are not the combatants. They are not the political leaders. They are people carrying on their daily lives, until suddenly their lives are ended in a blinding explosion or altered forever.

Ten years ago the United States signed the Landmines Protocol, the international agreement to regulate the use of landmines. At the time, the United States praised the protocol as a first step to protect civilians from the indiscriminate use of these weapons. But the administration has not submitted the protocol to the Senate for ratification, and since then the use of land mines has skyrocketed.

This amendment will set an example of all countries that produce and export landmines. It calls on the President to submit the protocol to the Senate for ratification, and to seek an international agreement to stop the trade in antipersonnel landmines.

My amendment is supported by the Vietnam Veterans of American Foundation, and by many American private voluntary organizations that work in wartorn countries where landmines have left a legacy of misery. I ask unanimous consent that a letter from Robert Muller, the executive director of the VVAF, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

VIETNAM VETERANS OF
AMERICA FOUNDATION,
Washington, DC, July 29, 1992.

Senator PATRICK LEAHY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: On behalf of the Vietnam Veterans of America Foundation, I would like to congratulate you on the leadership role you have taken with your introduction of legislation to impose a one-year moratorium on the sale, transfer or export of anti-personnel landmines.

As you graphically point out, landmines are insidious weapons that do not discriminate—they kill and maim tens of thousands of civilians around the world long after the wars in which they were sown are over. This indiscriminate effect, which can last through decades of peace, is clearly not proportionate to any military gain of the moment.

The VVAF endorses this legislation as a first step toward ending this senseless slaughter. Further, it endorses the language that would set the policy of the United States to work toward the eventual "termination of production, possession or deployment of anti-personnel landmines."

The VVAF hopes that your leadership will be further reflected by the U.S. Senate with the passage of this legislation as an amendment to the Defense Authorization bill.

Sincerely,

ROBERT O. MULLER,
Executive Director.

Mr. LEAHY. Mr. President, I ask unanimous consent that the distinguished Presiding Officer, the senior Senator from Nebraska [Mr. EXON] be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I know that the distinguished managers of this bill want to go on to other matters. Let me just close with this. Nobody, not those who have faced the threat of landmines in combat nor the civilian victims, ever really condoned the use of these weapons. They have gone way beyond a military use. They are now being used more and more indiscriminately as weapons of terror.

We can stop this. We can stop it easily. We can tell the world that the United States will no longer be party to this horror. And we can call on other countries that now manufacture and export them around the world to follow our example. It will not bring back those who were killed. It will not repair those who are crippled. But perhaps we will begin a new century and a new millennium by giving hope to people around the world.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, this amendment has been carefully considered on both sides and the chairman and I desire to accept it. We find that the distinguished Senator from Vermont has described an area which indeed is one that should be addressed with such an amendment and, therefore, it is our hope that we can accept this on a voice vote and proceed on with other elements of the bill.

Mr. LEAHY. Mr. President, that certainly, of course, would be acceptable to me, and I thank the courtesy of the distinguished senior Senator from Virginia. I note that he also has brought to my attention in private conversations not only the terror but the horrifying injuries that our military people have faced over years past.

The distinguished Senator from Virginia served in the Marine Corps. I recall vividly the tales told by my own son as he went through Parris Island boot camp training and Camp Lejeune afterwards, and he described how they go forward to find landmines to disarm them.

Frankly, I was chilled to the bone at his description, even in training.

So, Mr. President, I hope my amendment will be adopted.

The PRESIDING OFFICER. Is there further debate of the amendment offered by the Senator from Vermont? The Chair gets the impression it had been cleared on both sides.

The question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 3078) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I just wish to thank the distinguished Senator from Vermont for his cooperation on this matter.

Parliamentary inquiry, Mr. President. Am I correct that the pending business are two amendments, the underlying amendment of the Senator from Virginia as amended by an amendment in the second degree by the Senator from Georgia.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Mr. President, I would say to my good friends from Florida that I would await the return of the chairman as a matter of courtesy. I know he has been involved with both Senators and indeed the leadership of the Senate on the matter which the Senator from Florida is about to address.

Mr. GRAHAM. I appreciate that. I would only reiterate that Senator MACK and I are anxious as we have been throughout the day to offer our amendment, are prepared to go forward, and are willing to accept a very short time agreement. We are not going to request a rollcall vote. We believe that this matter of the Cuban democracy amendment is well understood. It has been strongly supported in the past. We are hopeful it will be strongly supported here again today. We are anxious to get about the business of its consideration.

Mr. WARNER. Mr. President, I clearly understand the position of the Senator from Florida. But again I shall feel constrained to put in a quorum call until the chairman returns, because I have been working on matters other than the amendment addressed by the Senator from Florida and that has been within the domain and responsibility taken by the chairman.

I suggest perhaps that the distinguished Senator from Florida might go ahead and utilize the time just to speak, recognizing the pending amendments are those of the managers.

The PRESIDING OFFICER (Mr. LEAHY.) Who seeks recognition?

Mr. GRAHAM. Mr. President, if the proposal is to place us into a quorum call, I ask unanimous consent that I may make a statement as if in morning business relative to a matter dealt with earlier this afternoon, the supplemental appropriations bill.

Mr. WARNER. There is no objection.

The PRESIDING OFFICER. If there is no objection, the Senator from Florida is recognized for the purpose of making a statement as in morning business.

Mr. GRAHAM. Thank you, Mr. President.

THE SUPPLEMENTAL APPROPRIATIONS BILL

Mr. GRAHAM. Mr. President, earlier this afternoon the House and now the Senate completed action on the Supplemental Appropriations Act. That act contained many significant items, but a block of those items that were especially important to the citizens of Florida were those that related to the Federal response to Hurricane Andrew and all of the havoc that it wrought upon our State.

I wish to extend my thanks to virtually every Member of this Chamber who have been so considerate, generous, and compassionate.

The Presiding Officer, as chairman of not only an important subcommittee of the Appropriations Committee but also as chairman of the Agriculture Committee, was very understanding of some of the special issues relative to agriculture that were contained in this legislation. I wish to express my appreciation to the distinguished senior Senator from Vermont and, through him, to our colleagues for their very expeditious and considerate attention to this matter.

Mr. President, most Americans are familiar with what transpired on that early morning of August 24, when a massive category 5 hurricane, Hurricane Andrew, cut through a section of our State of Florida. Thanks to the early warning and effective evacuation, loss of life was miraculously low.

I would point out to the distinguished Presiding Officer and to my colleagues that in other hurricanes of this or even lesser intensity the loss of life has been in the hundreds. In this instance, the loss of life as of latest count was held to under 50. This was largely due to a massive evacuation. Over one-third of the population of the largest county in my State, Dade County, left their homes and went into safe shelter in order to avoid the devastation of this killer hurricane.

The damages inflicted upon this hurricane as of the middle of this week—and I might say that, as in any emergency such as this, the focus for the first days is on the saving of life and the protection of life, not on the accounting for the damages—but as those figures are available today, total property damage in Florida will be in the range of $20 to $30 billion, the largest property loss inflicted by a natural disaster in our Nation's history.

Residences destroyed or subject to major damage, over 70,000; other residences which were damaged generally to the point that they were rendered at least temporarily uninhabitable, 54,690; commercial damage is estimated at over $2½ billion; insurance losses at approximately $7.3 billion; public assistance grants—that is damage to local, county, State government facilities—over $1 billion; individual and family grants—that is funds to individuals for losses they suffered beyond insurance—over $750 million.

Governor Chiles has estimated total damages of $20 to $30 billion. Most of this will be reimbursed through private insurance and other ways. Governor Chiles estimates that Federal reimbursement for FEMA will be between $1.7 to 2 billion; $2 to $3 billion for SBA; $2 to $3 billion for economic redevelopment costs, and $1 billion to rebuild Homestead Air Force Base. Thus total Federal costs may run from $6.7 to $9 billion.

The supplemental appropriations bill currently before us requests $2.893 billion for FEMA's emergency programs plus contingent funds of $143 and $250 million loan level for community disaster loans—for loss of tax or other revenues;

For SBA there is $220.4 million in budget authority, which would support $1,200 million of which an additional $800 million would be available for new loans for economic development and housing; and $75 million for Economic Development Administration [EDA] assistance.

The funding for FEMA, SBA, and EDA will provide the core assistance for our recovery but other programs also included in the bill will provide help to individuals and families as well.

LOSS TO INDIVIDUALS AND FAMILIES

As of September 15, 1992, 87,671 applications have been received for the FEMA Individual and Family Grants Program. This number is approaching the largest number of disaster applications ever—including Hugo. Based on South Carolina's approval rate of 67 percent, Florida estimates that 58,740 current applicants will be qualified for these grants at an average of $4,500 each.

Overall, Florida estimates that 95,931 grants will be awarded at an average of $4,104. Given there are 95,931 applicants averaging $4,104 per grant the Federal share will be $310 million and Florida's liability will be $98 million.

The needs are extensive for individuals and families. The State has estimated the programs and the funding level for those programs which are as follows:

Child care block grants of $20 million will provide for approximately 6,400 children for 1 year in day care. Large numbers of families were using relative care that is no longer available; that is, relatives' homes destroyed; families in need of child care to attend to restoration of basic living needs; families in need of respite care; families in need of extended child care hours due to a longer commute to their jobs due to the displacement of their living arrangements, and families in need of child care so parents can seek employment which was lost due to the hurricane.

Foster care, $2.4 million; direct service aides, overtime and expenses for foster care programs, $4.6 million.

Post-trauma counseling, $6.4 million. These funds are needed to provide intensive preservation and stabilization assistance to families to prevent the breakup of the family and increased foster care placements; 28 programs at $230,000 each for 4,000 children.

Independent living services $168,000.

Aid to families with dependent children and food stamps $17.5 million.

Family support services $129,000.

Aging and adult services $2.3 million to locate clients and provide for their needs.

Adult and children's mental health services. The State estimates needs of $13.1 million for these services. South Carolina found that the demand for these services jumped 10 percent after their hurricane.

Plus Florida also has funding needs for medical complex services and services for the deaf and blind.

Finally housing provides a huge challenge. The supplemental provides for Federal Housing Administration [FHA] loan guarantees of a total loan level of $2,428 million. The State estimates the average loan value to be $50,000.

Migrant and farm worker housing: The bill provides $10 million for over 700 farm labor housing units for migrant farm workers.

LOSS TO BUSINESSES

The priorities for business and economic restoration of Florida will include business retention, commercial reconstruction and local priority in contracting opportunities. Florida businesses will have to rebuild destroyed facilities, renovate existing buildings, or relocate to other facilities. It is very hard to estimate at this time what those numbers will be. EDA and SBA will play a big role in these redevelopment efforts.

LOSS TO PUBLIC ENTITIES

The cities and counties of Florida estimate their losses to be $1,102 million while the State of Florida estimates their total costs to be $959 million, including operating, damage to buildings and grounds, and grants and aids.

The Florida Department of Education estimates their total costs to be $36 million. They are trying to get 79 schools open and will have to go to double sessions on Saturday and Sunday to make up for the delay in classes that Andrew caused.

The money we are putting in the bill for FEMA's public assistance grants should help with these costs.

I want to thank all those who have been so helpful to me, my staff, Governor Chiles and his staff. The staff of the Appropriations Committee as well as the staffs of OMB and FEMA have diligently worked with us to identify and fund Florida's needs. We are most grateful for this assistance.

Mr. President, there were many people who contributed substantially to the relief of those of our fellow citizens who were ravaged by this hurricane.

I want to particularly thank the thousands of volunteers who came from all over the country to render assistance. They did so by their personal presence and work; they did so by contributing to agencies such as the American Red Cross, the Salvation Army, and religious organizations; and they did so by providing food, baby supplies, and clothing to many thousands of citizens who had lost all of the above.

Mr. President, there were many people here in the Senate who contributed their assistance in identifying the needs and moving quickly to their resolution.

I would like, if I could, to particularly thank from the Appropriations Committee, Mr. Jim English, staff director, who took a great personal interest and gave extremely focused attention to this matter; also members of the Appropriations Committee staff: Mike Hall, Mike Walker, Sue Masica, Jim Morhard, and Jim Sourwine.

From the Armed Services Committee, which was particularly helpful on the issue of Homestead Air Force base: Mr. Arnold Punaro, Bob Bayer, Kevin Kelly, and Carrie Apostolou.

From the Agriculture Committee: Michael Knipe, Suzanne Smith, Lynnett Wagner, and Tom Herbert; from Senator MACK's staff: Mitch Bainwol, Bob Mottice, Scott Barnhart, Patrick Kearney, and Buzz Gorman; from Senator JOHNSTON's staff, Laura Hudson; from Senator BREAUX's staff, Johnny Broussard; and from the Office of Management and Budget: Tom Sculley and Janet Hale.

Mr. President, I want to make sure it is clear that all the numbers in the bill today are based upon estimates of the damage as of today. Thus, I want to make sure that the Members are aware that if we find our estimates increasing and the funds do not meet those needs we will then come back to the committee and the administration and seek further assistance.

Also, Mr. President, I have a draft statement that covers some of the particular areas as it relates to agriculture which I would like to have printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAHAM. Mr. President, I appreciate the opportunity to make this brief statement.

I see that the chairman of the Armed Services Committee has now returned to the Chamber, and again with my deepest appreciation to the family of the Senate for their response to these members of the family of America who have been hurt so severely as a result of this tremendous natural disaster, I express my best wishes, thanks, and yield the floor.

EXHIBIT 1

AGRICULTURE

To understand the extent of the damage that Hurricane Andrew inflicted on South Florida's growers, farmworkers, and agribusinesses you have to understand the unique circumstances under which most of South Florida's crops are cultivated.

South Florida's subtropical agricultural industry is unlike any other in the U.S.

We grow tropical and winter crops that aren't grown anywhere else in the U.S.

We have high land values, high crop values, and high production costs that require our farmers to be businessmen of the highest caliber.

We grow in seasons and cycles unique to our tropical weather for specialized and niche markets.

These factors make South Florida the largest producer of winter vegetables and nursery plants in the U.S. As a result, the industry also provides the region with $1 billion in economic value and employs tens of thousands of people.

Because agriculture is the economic bedrock of the region it is vitally important that we provide assistance to those growers—80% by some estimates—that suffered major losses from Hurricane Andrew.

However, South Florida's agricultural uniqueness also means it does not fit the disaster assistance mold created to help traditional crops and farmers rebuild after a natural disaster.

For example: there is no crop insurance for the malanga, the bonito or calabaza—our top three tropical vegetable crops; no disaster loan program that can help a grower co-op repair its packing house; and, the $2 million gross annual revenue means test for disaster assistance excludes many of our growers whose sales exceed the cap—but whose incomes fall far short of that amount.

Our growers are faced with enormous damages and very few federal assistance programs to help them recover and rebuild. Preliminary estimates reveal $441 million in crop damages, and $582 million in agricultural structural damage.

However, the Administration and Congress worked closely together to add funds to and amend existing agriculture assistance programs in a supplemental appropriations bill to provide help. I appreciate the help that the House and Senate appropriations committees and authorizing committees have provided throughout. Although Florida had pursued many changes to laws without success in order to increase their applicability to the special characteristics of South Florida agriculture, on many other changes we met with enthusiastic support. The result is a bill that provides additional funds for:

1. Tree Assistance Program (TAP): $48 million for reimbursement to commercial tree crop growers for losses due to a natural disaster. Funds can be used for reseeding, replanting, rebudding, and repairing damaged and destroyed trees. These funds are crucial to our tropical fruit and tree nursery industries. In a September 17 meeting, Secretary Madigan pledged his help to get the funds out fast to reduce tree losses.

2. Rural Business Loans: $305 million in federally guaranteed loans for agri-businesses through the Farmers Home Administration Business and Industry program. These loans (also called Business and Industry loans) are made by private lenders to agriculture-related businesses to provide them with funds to begin rebuilding and operating. Because the loans are federally guaranteed (up to 90%) lenders will be able to make the loans available at a more affordable rate; the borrower can qualify for up to $10 million.

We shaped this program to specifically help the agri-businesses in South Florida. Without the packing houses, the shippers, the feed and seed stores, etc . . . South Florida's largest and most important industry's recovery could stumble.

3. Disaster Assistance Payments: $482 million in disaster assistance funds that will be made to qualified farmers to cover crop losses.

Although there are limitations on these payments that will reduce the number of growers assisted, these grants will help some of the area's growers recoup a portion of their extensive crop losses. We obtained from Secretary Madigan's assurances that all of our foliage and nursery crops will be included as crops eligible for disaster payments. In addition, Florida and Louisiana's aquaculture industries will be able to apply for these payments; because the vast majority of aquaculture farms in Florida are growing ornamental fish, the USDA definition of aquaculture must include non-food fish for purposes of ASCS payments.

4. Farm worker housing assistance: $10.5 million in grants for temporary housing assistance for farm workers dislocated by Hurricane Andrew.

5. Emergency Conservation Program: $27 million for funds to clear debris from farm land and assist growers in restoring farm structures.

One of the most important steps our farmers can take is to proceed with debris removal, the initial step to replanting. Secretary Madigan has responded to our concerns that the ECP funds for cleanup be disbursed as quickly as possible. The local ASCS office will allow growers to submit receipts for the cleanup work they have done, rather than wait for the funds to reach the local level.

6. Miami Subtropical Horticultural Lab: $15 million to rebuild this and other federal agricultural research buildings.

7. Farmers Home Emergency Loans: $162.3 million in emergency low interest loans to farmers to cover physical and production losses because of natural disasters like Hurricane Andrew.

8. Farmers Home Very Low-Income Elderly Housing Grants: $10 million for housing grant to repair and replace rural homes of the very low-income elderly damaged by natural disasters like Hurricane Andrew.

9. Food Stamp program: $400 million in additional Food Stamp benefits to make sure the program has adequate resources to respond to the needs generated by Hurricanes Andrew and Iniki, and Typhoon Omar.

Mr. President, there are additional funds and programs that will focus on the effort to rebuild the single most significant industry in Andrew-ravaged Florida: agriculture. I appreciate the efforts of all involved in getting these funds approved and disbursed to those in need as quickly as possible.

NATIONAL DEFENSE AUTHORIZATION ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, is there a time agreement?

The PRESIDING OFFICER. No. The Chair would note that the Senator from Florida was speaking as in morning business. The Senator from Florida has now yielded the floor and we are back on the bill.

Mr. NUNN. Mr. President, I ask unanimous consent that the pending amendment be set aside for the purpose of an amendment from the Senator from Florida.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida.

AMENDMENT NO. 3079

(Purpose: To promote a peaceful transition to democracy in Cuba through the application of appropriate pressures on the Cuban Government and support for the Cuban people)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 3079.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 494, between lines 4 and 5, insert the following:

TITLE XII—CUBAN DEMOCRACY ACT OF 1992

SEC. 1201. SHORT TITLE.

This title may be cited as the "Cuban Democracy Act of 1992".

SEC. 1202. FINDINGS.

The Congress makes the following findings:

(1) The government of Fidel Castro has demonstrated consistent disregard for internationally accepted standards of human rights and for democratic values. It restricts the Cuban people's exercise of freedom of speech, press, assembly, and other rights recognized by the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948. It has refused to admit into Cuba the representative of the United Nations Human Rights Commission appointed to investigate human rights violations on the island.

(2) The Cuban people have demonstrated their yearning for freedom and their increasing opposition to the Castro government by risking their lives in organizing independent, democratic activities on the island and by undertaking hazardous flights for freedom to the United States and other countries.

(3) The Castro government maintains a military-dominated economy that has decreased the well-being of the Cuban people in order to enable the government to engage in military interventions and subversive activities throughout the world and, especially, in the Western Hemisphere. These have included involvement in narcotics trafficking and support for the FMLN guerrillas in El Salvador.

(4) There is no sign that the Castro regime is prepared to make any significant concessions to democracy or to undertake any form of democratic opening. Efforts to suppress dissent through intimidation, imprisonment, and exile have accelerated since the political changes that have occurred in the former Soviet Union and Eastern Europe.

(5) Events in the former Soviet Union and Eastern Europe have dramatically reduced Cuba's external support and threaten Cuba's food and oil supplies.

(6) The fall of communism in the former Soviet Union and Eastern Europe, the now universal recognition in Latin America and the Caribbean that Cuba provides a failed model of government and development, and the evident inability of Cuba's economy to survive current trends, provide the United States and the international democratic community with an unprecedented oppor-

tunity to promote a peaceful transition to democracy in Cuba.

(7) However, Castro's intransigence increases the likelihood that there could be a collapse of the Cuban economy, social upheaval, or widespread suffering. The recently concluded Cuban Communist Party Congress has underscored Castro's unwillingness to respond positively to increasing pressures for reform either from within the party or without.

(8) The United States cooperated with its European and other allies to assist the difficult transitions from Communist regimes in Eastern Europe. Therefore, it is appropriate for those allies to cooperate with United States policy to promote a peaceful transition in Cuba.

SEC. 1203. STATEMENT OF POLICY.

It should be the policy of the United States—

(1) to seek a peaceful transition to democracy and a resumption of economic growth in Cuba through the careful application of sanctions directed at the Castro government and support for the Cuban people;

(2) to seek the cooperation of other democratic countries in this policy;

(3) to make clear to other countries that, in determining its relations with them, the United States will take into account their willingness to cooperate in such a policy;

(4) to seek the speedy termination of any remaining military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from any of the independent states of the former Soviet Union;

(5) to continue vigorously to oppose the human rights violations of the Castro regime;

(6) to maintain sanctions of the Castro regime so long as it continues to refuse to move toward democratization and greater respect for human rights;

(7) to be prepared to reduce the sanctions in carefully calibrated ways in response to positive developments in Cuba;

(8) to encourage free and fair elections to determine Cuba's political future;

(9) to prevent Cuba from evading the United States embargo of that country through a North American Free Trade Agreement;

(10) to request the speedy termination of any military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from the government of any other country; and

(11) to initiate immediately the development of a comprehensive United States policy toward Cuba in a post-Castro era.

SEC. 1204. INTERNATIONAL COOPERATION.

(a) CUBAN TRADING PARTNERS.—The President should encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of this title.

(b) SANCTIONS AGAINST COUNTRIES ASSISTING CUBA.—

(1) SANCTIONS.—The President may apply the following sanctions to any country that provides assistance to Cuba:

(A) The government of such country shall not be eligible for assistance under the Foreign Assistance Act of 1961 or assistance or sales under the Arms Export Control Act.

(B) Such country shall not be eligible, under any program, for forgiveness or reduction of debt owed to the United States Government.

(2) DEFINITION OF ASSISTANCE.—For purposes of paragraph (1), the term "assistance to Cuba"—

(A) means assistance to or for the benefit of the Government of Cuba that is provided by grant, concessional sale, guaranty, or insurance, or by any other means on terms more favorable than that generally available in the applicable market, whether in the form of a loan, lease, credit, or otherwise, and such term includes subsidies for exports to Cuba and favorable tariff treatment of articles that are the growth, product, or manufacture of Cuba; and

(B) does not include—

(i) donations of food to nongovernmental organization or individuals in Cuba, or

(ii) exports of medicines or medical supplies, instruments, or equipment that would be permitted under section 1205(c) of this Act.

(3) APPLICABILITY OF SECTION.—This section, and any sanctions imposed pursuant to this section, shall cease to apply at such time as the President makes and reports to the Congress a determination under section 1208(a).

SEC. 1205. SUPPORT FOR THE CUBAN PEOPLE.

(a) PROVISIONS OF LAW AFFECTED.—The provisions of this section apply notwithstanding any other provision of law, including section 620(a) of the Foreign Assistance Act of 1961, and notwithstanding the exercise of authorities, before the enactment of this Act, under section 5(b) of the Trading With the Enemy Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979.

(b) DONATIONS OF FOOD.—Nothing in this or any other title shall prohibit donations of food to nongovernmental organizations or individuals in Cuba.

(c) EXPORTS OF MEDICINES AND MEDICAL SUPPLIES.—Exports of medicines or medical supplies, instruments, or equipment to Cuba shall not be restricted—

(1) except to the extent authorized by section 5(m) of the Export Administration Act of 1970 or section 203(b)(2) of the International Emergency Economic Powers Act;

(2) except in a case in which there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;

(3) except in a case in which there is a reasonable likelihood that the item to be exported will be reexported; and

(4) except in a case in which the item to be exported could be used in the production of any biotechnological product.

(d) REQUIREMENTS FOR CERTAIN EXPORTS.—

(1) ONSITE VERIFICATIONS.—(A) Subject to subparagraph (B), an export may be made under subsection (c) only if the President determines that the United States Government is able to verify, by onsite inspections and other appropriate means, that the exported item is to be used for the purposes for which it was intended and only for the use and benefit of the Cuban people.

(B) EXCEPTION.—Subparagraph (A) does not apply to donations to nongovernmental organizations in Cuba of medicines for humanitarian purposes.

(2) LICENSES.—Exports permitted under subsection (c) shall be made pursuant to specific licenses issued by the United States Government.

(e) TELECOMMUNICATIONS SERVICES AND FACILITIES.—

(1) TELECOMMUNICATIONS SERVICES.—Telecommunications services between the United States and Cuba shall be permitted.

(2) TELECOMMUNICATIONS FACILITIES.—Telecommunications facilities are authorized in such quantity and of such quality as may be necessary to provide efficient and adequate telecommunications services between the United States and Cuba.

(3) LICENSES OF PAYMENTS TO CUBA.—(A) The President may provide for the issuance of licenses for the full or partial payment to Cuba of amounts due Cuba as a result of the provision of telecommunications services authorized by this subsection, in a manner that is consistent with the public interest and the purposes of this title, except that this paragraph shall not require any withdrawal from any account blocked pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(B) If only partial payments are made to Cuba under subparagraph (A), the amounts withheld from Cuba shall be deposited in an account in a banking institution in the United States. Such account shall be blocked in the same manner as any other account containing funds in which Cuba has any interest, pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(4) AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION.—Nothing in this subsection shall be construed to supersede the authority of the Federal Communications Commission.

(f) DIRECT MAIL DELIVERY TO CUBA.—The United States Postal Service shall take such actions as are necessary to provide direct mail service to and from Cuba, including, in the absence of common carrier service between the 2 countries, the use of charter service providers.

SEC. 1206. SANCTIONS.

(a) PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.—

(1) PROHIBITION.—Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

(2) APPLICABILITY TO EXISTING CONTRACTS.—Paragraph (1) shall not affect any contract entered into before the date of the enactment of this Act.

(b) PROHIBITIONS ON VESSELS.—

(1) VESSELS ENGAGING IN TRADE.—Beginning on the 61st day after the date of the enactment of this Act, a vessel which enters a port or place in Cuba to engage in the trade of goods or services may not, within 180 days after departure from such port or place in Cuba, load or unload any freight at any place in the United States, except pursuant to a license issued by the Secretary of the Treasury.

(2) VESSELS CARRYING GOODS OR PASSENGERS TO OR FROM CUBA.—Except as specifically authorized by the Secretary of the Treasury, a vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national, as defined in section 515.302 of the Office of Foreign Assets Control Treasury Regulations, has any interest may not enter a United States port.

(3) INAPPLICABILITY OF SHIP STORES GENERAL LICENSE.—No commodities which may be exported under a general license described in section 771.9 of title 15, Code of Federal Regulations, as in effect on May 1, 1992, may be exported under a general license to any vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest.

(4) DEFINITIONS.—As used in this subsection—

(A) the term "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft; and

(B) the term "United States" includes the territories and possessions of the United

States and the customs waters of the United States (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401)).

(c) Restrictions on Remittances to Cuba.—The President shall establish strict limits on remittances to Cuba by United States persons for the purpose of financing the travel of Cubans to the United States, in order to ensure that such remittances reflect only the reasonable costs associated with such travel, and are not used by the Government of Cuba as a means of gaining access to United States currency.

(d) Clarification of Applicability of Sanctions.—The prohibitions contained in subsections (a), (b), and (c) shall not apply with respect to any activity otherwise permitted by section 1205 or section 1207 of this title or any activity which may not be regulated or prohibited under section 5(b)(4) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)(4)).

SEC. 1207. POLICY TOWARD A TRANSITIONAL CUBAN GOVERNMENT.

Food, medicine, and medical supplies for humanitarian purposes should be made available for Cuba under the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 if the President determines and certifies to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that the government in power in Cuba—

(1) has made a public commitment to hold free and fair elections for a new government within 6 months and is proceeding to implement that decision;

(2) has made a public commitment to respect, and is respecting, internationally recognized human rights and basic democratic freedoms; and

(3) is not providing weapons or funds to any group, in any other country, that seeks the violent overthrow of the government of that country.

SEC. 1208. POLICY TOWARD A DEMOCRATIC CUBAN GOVERNMENT.

(a) Waiver of Restrictions.—The President may waive the requirements of section 1206 if the President determines and reports to the Congress that the Government of Cuba—

(1) has held free and fair elections conducted under internationally recognized observers;

(2) has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections;

(3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(4) is moving toward establishing a free market economic system; and

(5) has committed itself to constitutional change that would ensure regular free and fair elections that meet the requirements of paragraph (2).

(b) Policies.—If the President makes a determination under subsection (a), the President shall take the following actions with respect to a Cuban Government elected pursuant to elections described in subsection (a):

(1) To encourage the admission or reentry of such government to international organizations and international financial institutions.

(2) To provide emergency relief during Cuba's transition to a viable economic system.

(3) To take steps to end the United States trade embargo of Cuba.

(4) To enter into negotiations for a framework agreement providing for trade with Cuba.

SEC. 1209. EXISTING CLAIMS NOT AFFECTED.

Except as provided in section 1205(a), nothing in this title affects the provisions of section 620(a)(2) of the Foreign Assistance Act of 1961.

SEC. 1210. ENFORCEMENT.

(a) Enforcement Authority.—The authority to enforce this title shall be carried out by the Secretary of the Treasury. The Secretary of the Treasury shall exercise the authorities of the Trading With the Enemy Act in enforcing this Act. In carrying out this subsection, the Secretary of the Treasury shall take the necessary steps to ensure that activities permitted under section 1205 are carried out for the purposes set forth in this title and not for purposes of the accumulation by the Cuban Government of excessive amounts of United States currency or the accumulation of excessive profits by any person or entity.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this title.

(c) Penalties Under the Trading With the Enemy Act.—Section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16) is amended—

(1) by inserting "(a)" before "That whoever"; and

(2) by adding at the end the following:

"(b)(1) The Secretary of the Treasury may impose a civil penalty of not more than $50,000 on any person who violates any license, order, rule, or regulation issued under this Act.

"(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

"(3) The penalties provided under this subsection may not be imposed for—

"(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

"(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.

"(4) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

"(5) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code.".

(d) Applicability of Penalties.—The penalties set forth in section 16 of the Trading With the Enemy Act shall apply to violations of this title to the same extent as such penalties apply to violations under that Act.

(e) Office of Foreign Assets Control.—The Department of the Treasury shall establish and maintain a branch of the Office of Foreign Assets Control in Miami, Florida, in order to strengthen the enforcement of this Act.

SEC. 1211. DEFINITION.

As used in this Act, the term "United States person" means any United States citizen or alien admitted for permanent residence in the United States, and any corporation, partnership, or other organization organized under the laws of the United States.

SEC. 1212. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act.

AMENDMENT NO. 3080 TO AMENDMENT NO. 3079

(Purpose: To provide Presidential Waiver Authority)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. Dodd] proposes an amendment numbered 3080 to amendment No. 3079.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the pending amendment add the following new sections.

Sec. . Notwithstanding any other provision of law, the President may waive any provision of this title if he determines that to do so would be in the national interest of the United States, and he reports in writing to the Speaker of the House and the Chairman of the Committee on Foreign Relations of the Senate the provision or provisions of this title that he intends to waive.

SEC. . DEFENSE CONVERSION AND REINVESTMENT; EXPORT LOAN GUARANTEES.

(a) Authority for Providing Loan Guarantees.—(1) The President may extend guarantees for the sale of defense articles and services to the member nations of the North Atlantic Treaty Organization and to Israel, Australia, New Zealand and Japan. The aggregate amount guaranteed under this section in any fiscal year may not exceed $1,000,000,000.

(2) In extending medium- and long-term guarantees for sales pursuant to paragraph (1), the President shall not offer terms and conditions more beneficial than would be provided by the Export-Import Bank of the United States under similar circumstances in conjunction with the provision of guarantees for nondefense articles and services.

(3) The authority of this subsection (1) may be exercised only to such extent and in such amounts as provided for in advance in appropriate Acts.

(b) Subsidy Cost and Funding.—(1) There is authorized to be appropriated for fiscal year 1993, $65,000,000 for the subsidy cost for establishing a program at the Department of Defense to provide loan guarantees for defense exports.

(2) Funds authorized to be available for the Export-Import Bank may not be used for the execution of the program under this section.

(c) Executive Agency.—For the purposes of this section, the Department of Defense shall be the executive agency for administration of the program under this section unless the President, in consultation with the Congress, designates another agency (other than the Export-Import Bank) to implement the program. Applications for guarantees issued under this section shall be submitted to the Secretary of Defense, who may make such arrangements as necessary with other agencies to process the applications and otherwise to implement the program under this section.

(d) Fees Charged and Collected.—A fee shall be charged for each guarantee issued under the program under this section. All fees collected in connection with guarantees issued shall be available to offset the cost of guarantee obligations under the program.

All of the fees collected under this subsection, together with earnings on those fees and other income arising from guarantee operations under the program, shall be held in a financing account maintained in the Treasury of the United States. All funds in such account may be invested in obligations of the United States. Any interest or other receipts derived from such investments shall be credited to such account and may be used for the purposes of the program.

(e) INTERAGENCY REVIEW PROCESS.—The issuance of loan guarantees for defense exports under this section shall be subject to all United States Government review procedures for arms sales to foreign governments and shall be consistent with United States policy on arms sales to those nations referred to in subsection (a).

Mr. DODD. Mr. President, let me just explain to my colleagues what this second-degree amendment does.

It is very simple. It provides the President with the authority to waive any provision or provisions of the amendment just offered by my colleague from Florida, if the President determines that it is in the national interests of the United States to do so. He must notify the Congress in writing of his intention to do so and indicate which of the provisions he intends to waive.

Mr. President, as much as we in Congress may not like to admit it, the President is charged with the special responsibility of carrying out the foreign policy of the United States under our Constitution. It is he who must respond to the unforeseen and unanticipated events in foreign affairs as they unfold.

I have concerns about the amendment offered by my colleague from Florida which I will discuss at a later date. But this is boilerplate language which allows the President to waive the provisions if he felt it necessary to do so. The second part of the amendment deals with the proposal that has been offered in the past, or was prepared as a freestanding amendment to be offered by myself, Senator RUDMAN, Senator PELL, Senator DOLE, and 12 other cosponsors of that proposal.

The amendment, Mr. President, is very straightforward. It would give the President the authority to issue up to $1 billion in loan guarantees annually in connection with United States exports of defense articles and services to NATO countries, Japan, Australia, New Zealand, and Israel.

It is our view the logical agency to administer this program is the Department of Defense. For that reason the amendment designates the Department of Defense as the administrating agency of the program.

However, we have included a version that gives the President the discretion to designate another agency to administer the program if he believes that such agency is better able to manage it.

However, sensitive to the concerns expressed previously when these matters were debated, it says specifically the Eximbank may not be utilized for that purpose. It specifically prohibits Exim to be chosen to house this program.

The amendment also makes clear that none of the regular vetting requirements of the defense sales that are currently subject to an order to ensure that they are in the national security and foreign policy interests of the United States are altered in any way.

All of the interagency review and licensing requirements would be applicable, as would congressional notification requirements of the Arms Export Control Act.

Finally, the amendment contains the necessary budgetary language required to be in conformance with the Budget Enforcement Act of 1990.

The primary purpose of this amendment is obvious. Its goal is to assist United States exporters in their struggle to maintain or remain competitive in highly subsidized markets of our closest allies, NATO countries, Israel, Japan, Australia, and New Zealand.

There is no dispute that our major allies and trading partners all have well-established official guaranty and loan programs to assist their defense industries in capturing foreign sales. That means that foreign workers and foreign companies can count on their governments' assistance in winning contracts and thereby maintaining defense jobs in cities and towns in their countries. In most cases, this assistance is provided by the very agency that provides credits and guarantees for nondefense exports.

Without doubt, the U.S. defense industry and American workers are the most technically advanced in the world, producing products and services in very high demand.

I would cite a number in my own State but I will leave those remarks to be included later in the RECORD.

Based upon our performance and versatility, it is a No. 1 choice, I might add, in many of these areas of potential foreign buyers.

However, what happens is, of course, that we are disadvantaged tremendously because of the highly subsidized efforts of our competitors. I wish that were not the case; that these competitions would be left where the quality of the product and the price of it would be left in a free market environment.

That is not the case today. As a result, we felt compelled to offer this amendment so as to be able to provide our contractors and our employees an opportunity to compete in exclusively NATO markets: New Zealand, Australia, Japan, and Israel. No other Third World countries. I am opposed to it. I do not believe in promoting sales to those countries. But we should not be losing business with our allies when those contracts come up for competition. We feel this is an appropriate way to go. We have worked on this with the administration. It has been before this body before. It was passed by this body on previous occasions and for various reasons has not become law on other bills to which it was attached.

We have now designated the Department of Defense as the appropriate agency, and thus the amendment on this bill is, we think, the appropriate vehicle.

So I hope these two second-degree amendments, the one calling for Presidential waiver authority on the Cuban Democracy Act and this particular proposal to allow us to compete more equitably in these markets that I have already identified, are appropriate amendments to the fundamental and underlying legislation that is being handled, of course, by our distinguished colleague and friend, Senator NUNN, and the distinguished senior Senator from Virginia, Senator WARNER.

The PRESIDING OFFICER (Mr. DASCHLE). Is there further debate? The Senator from Florida.

Mr. GRAHAM. Mr. President, the second-degree amendment has two elements. The first is a section that essentially says, regardless of whatever is contained in the Cuban Democracy Act, that the President has carte blanche authority to waive any provision that he wishes with the only requirement being that he report to the two committees of jurisdiction of the Congress and to the Speaker of the House, relative to his action in doing so.

The second part of the second-degree amendment goes to an entirely different subject which is loan guarantees relative to defense contractor products. I believe the senior Senator from Maryland will wish to speak on the second part of the amendment and I will defer to him on that.

But as to the first part, the purpose of the Cuban Democracy Act is to have a coherent national policy, a policy which emphasizes both constraints, economic and political, on the current Communist regime in Cuba, and a series of incentives, incentives aimed at the Cuban people today, particularly in areas of food, medicine, communication with their loved ones, and then an open door of what will be the relationship with Cuba when it returns to the ranks of free and democratic societies of the world.

I do not believe that coherent set of policies should be cherry-picked, by providing that the President can within his total discretion decide which ones of these provisions, if any at all, he chooses to implement.

We had a very similar debate not too many years ago over the Union of South Africa, in which Congress laid out a very comprehensive United States strategy, largely built on an economic embargo to try to create a condition that would facilitate change within the Union of South Africa. I suggest it has been one of the great foreign policy success stories of America in the last decade.

We did not in that legislation give the President the prerogative of deciding which ones of those provisions he would choose to implement and which he would ignore. I do not believe any more that we should provide that transfer of congressional responsibility to the Executive as it relates to our relationship with Cuba. So I would strongly object to the provision of the second-degree amendment which is germane to the underlying first-degree amendment, and defer to our colleague from Maryland who can discuss the section of the second-degree amendment which is irrelevant, nongermane, to the underlying first-degree amendment.

Mr. DODD. Will my colleague yield?

Mr. GRAHAM. Yes.

Mr. DODD. Just on one point. I certainly respect the second part of the second-degree amendment concerns. I just point out, on the first part of the second-degree amendment dealing with the waiver authority, in about 45 days we are going to have an election. As I understand it, both the candidate of the Democratic Party, Governor Clinton, and the President, I gather, support this legislation and have stated so. So the concerns about waiver authority, I think, are probably as a practical matter, something you probably have less to worry about. We do not have a difference of opinion between the two people—one of whom will either continue to assume the Presidency of the United States or move in that position.

It is not uncommon language, I suggest, for waiver authority to exist. This is fairly boilerplate language. We find an awful lot of provisions where national emergencies, as the President declares them, arrive and he has the ability to then waive various provisions of the law.

So, as a practical matter I think it is something you will find in numerous other areas of the law.

Mr. GRAHAM. If that was in the nature of a question, Mr. President, I would respond by quoting a letter on behalf of the President. It was submitted on August 5 of this year, in which the President states:

> The President has made clear his commitment to working with Congress to pass a stronger, more effective Cuban democracy act, which tightens the embargo and closes any unintentional loopholes that could benefit the Castro regime while preserving the proper constitutional prerogatives of the Congress and the President.

I believe that is what we have done with the Cuban Democracy Act, preserved the appropriated prerogatives of the Congress and the President of the United States, and that the second-degree amendment which would provide for essentially a Presidential preemption of whatever provisions he or she chose to ignore, would destroy that balance of congressional and executive responsibility in foreign policy.

So again, I strongly object to the adoption of the second-degree amendment as it relates to the provision that is germane to the first-degree amendment, and I defer to our colleagues from Maryland to discuss the section of the second-degree amendment which relates to a nongermane subject matter.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I will be very brief, because I know the hour is late. But this is an important proposition. It is a serious matter, and it is important that Members focus on it.

I am in opposition. I am just going to address the latter part of this amendment that has been sent to the desk by Senator DODD to establish a brand new guarantee program for the sale of defense articles of a billion dollars a year, with total discretion in the executive department to determine where the billion dollars of guarantees is given. It is going to cost money, because we are going to have to appropriate the subsidy cost that is associated with such a program.

I have some trouble fully understanding the amendment, particularly this special fund with fees that are provided here. But let simply, on the general issue, make the following points.

It is argued that our defense manufacturers are currently at a competitive disadvantage, and that the provision simply levels the playing field with other countries. The fact is we have an enormous program of Government-supported defense exports. That program is the Foreign Military Financing Program, through which we grant money to foreign governments to purchase U.S.-made defense articles and services. That has been developed over the years. It has a very carefully developed system of review with respect to where the arms are going.

We are going to deal with a Foreign Operations appropriations bill very shortly, which will have billions and billions of dollars in it for the Foreign Military Financing Program, a program far larger than that of any of our allies.

The United States, with the collapse of the Soviet Union, is now clearly the world's largest arms merchant. In fact, our arms exports have risen at a very rapid rate over recent years. They have reached a 10-year high since 1986. We now are the largest weapons supplier by far in the world.

Why, given that context, do we need another program of subsidized guarantees? In other words, we are talking about a subsidy to go with these guarantees, when we already have a major program of assistance for arms exports, a program that many of us think would be cut back and curtailed.

I thought there was a new world order that we are trying to achieve, and yet we are still going down the path of trying to promote and maximize arms sales.

The controls which exist in the existing Government program I think are very important. They have proven important in the past. The administration, in effect, has been pushing arms under that program. The countries to which this amendment is written are countries whose economies are in the upper tier. It is hard to justify providing a subsidized guarantee in order for them to acquire weapons.

The real question is what is the necessity of the guarantee? If the private market is not prepared to make the loans, why are we asking U.S. taxpayers to take that risk?

The Government, of course, at an earlier time, ended up forgiving billions of dollars in military debt. This would, in effect, open up the gates for a billion dollars a year of additional liability undertaken by the Government of the United States.

In fact, foreign countries have a record of repaying nonmilitary debt prior to repaying military debt. Military debt is most often forgiven. I am not sure how the risk factor provided for in this legislation, which led to a subsidy of $65 million to support $1 billion in loan guarantees for each year, was arrived at. I do not know that that has been costed out anywhere. There is good reason to think that, in fact, the subsidy costs would be much larger. In any event, this would be the subsidy cost per year for this program.

If you want to do this—and I do not want to do it—but if you want to do it, you ought to add more money to the FMF account. That is the existing way we do this. That is the one that has all the procedures and structure set up in order to do it. It has safeguards provided. It requires an examination of the foreign policy implications of Government-supported arms sales. It does not give economic considerations primary focus with respect to arms sales.

Of course, you have important questions of destabilization and proliferation with respect to any arms sales. It is moving further down the military path when we ought to be shifting away from it. It just seems to me a very bad idea. The Senator is right; we have addressed this in the past. It actually was defeated once on the floor of the Senate by a narrow margin. A very limited proposal passed, a much more limited one than the one that is before us now.

This is a program that would continue year after year, at a billion dollars a year. I do not think this is the time to be undertaking a new and major subsidy program with respect to arms sales, without the sort of controls and safeguards that exist under the currently authorized programs.

Therefore, I am very much opposed to this aspect of the amendment. I have a lot of other material I can place into the RECORD in opposition to this amendment, a lot of facts and statistics about it. But I will, for the moment, forbear from doing that and just simply register my very strong opposition to this aspect of the second-degree amendment.

I have not entered into the debate on the first part of the second-degree amendment, which was addressed earlier by the Senator from Florida.

Mr. President, I yield the floor.

Mr. PELL. Mr. President, I agree with the sponsors of this amendment that the United States seek a peaceful transition to democracy in Cuba, oppose human rights violations of the Castro regime and encourage free and fair elections. However, I fear that the Graham amendment will only be counterproductive to achieving these goals. Over the years, Castro has successfully used the Yankee threat to mobilize the Cuban people behind his policies. Now that the Cuban economy has lost its main base of support, the Cuban people are seeing the failures of its economic model for themselves. By tightening the embargo now, we will only allow Castro to blame the capitalists to the north for the dismal state of the economy and obscure the failures of its system.

Perhaps, the most compelling reason to oppose this amendment is the fact that human rights activists in Cuba oppose this amendment. They fear it will only hurt their cause of promoting democracy. How can we in Washington claim to know better than Cuban dissidents, who boldly fight for change, how to achieve our common goals? What they want, what they deserve, and what will ultimately lead to change, is a Cuban solution to a Cuban problem.

Mr. MACK addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. MACK. Mr. President, I want to speak to the underlying issue, the Cuban Democracy Act. First of all, this discussion about the second-degree amendment is simply designed to focus attention away from the real issue.

Up front, I ask my colleagues, when the time comes, to defeat the second-degree amendment, that we might pass the Cuban Democracy Act. Some will argue that the Cuban Democracy Act is about economics. And it is true that the heart of the amendment is the tightening of the economic embargo on Fidel Castro; that no foreign subsidiary of a U.S. company could continue in trade with Fidel Castro.

But I make the argument, as I have many other times, that this is, in fact, really about human freedom. And so this amendment is designed to keep us from voting about whether we want to hasten the day that the Cuban people finally live in freedom.

Last night, I heard former British Prime Minister Margaret Thatcher speak about freedom, the human spirit, and the desire of totalitarian Communist leaders to crush human spirit.

We are attempting, tonight, to cut through this debate, get to the heart of the matter, the Cuban Democracy Act, and hasten the day when Cuba will be free.

The Senate has taken a number of steps over the years to go to the aid and to the rescue of the Cuban people.

I remember traveling to Geneva to lobby representatives of various governments at the U.N. Human Rights Conference. I went, armed with a resolution that was passed unanimously by this Senate condemning Fidel Castro for his human rights violations and encouraging the United Nations to become active and entire Cuba to see firsthand and report to the world about the human rights violations in Cuba.

Because the Senate acted, I was able to deliver that strong message, the United Nations Human Rights Conference changed its position from the year before, and authorized investigation of the human rights violations of Fidel Castro in Cuba.

Not long after that, I asked my colleagues, in a somewhat more quiet and behind-the-scenes kind of action, to participate with me in asking the Secretary General of the United Nations to intervene on behalf of 3 Cubans who had been in Fidel Castro's jail for over 20 years. Alfredo Mustelier had declared that he was entering into a hunger strike, refusing all food and water. It was then said that only a few days could go by before the life of Alfredo Mustelier would be lost.

I remember the day that I came to the floor to speak about that issue, and up in the gallery was an individual by the name of Alberto Grau, who also had been in Fidel Castro's prisons for over 20 years. He was free. He was asking for the opportunity for his former colleagues still in prison to be heard, for the world to focus attention so that their lives could be saved.

The result was that the great majority, over 90 Members of the Senate, became involved, and the Secretary General of the United Nations became involved, and the end result was those 3 individuals were, in fact, released from Fidel Castro's prisons.

I will never forget Alberto Grau. In fact, I am very fortunate that I have the opportunity to talk with him from time to time. If you can imagine an individual who had been in prison under the conditions of a totalitarian, Communist, ruthless, tyrant finally finding freedom once again, you could conclude maybe that individual would leave those prisons filled with anger and hate for his fellow man. But if you had the opportunity to meet Alberto Grau, you would see the essence of his spirit, his Holy Spirit, exude from that individual. Because of people like Alberto Grau and the thousands and thousands of other Cubans who are living under the daily persecution of Fidel Castro, that we should not be delayed by these little tactical maneuvers used on the floor of the Senate. We must not lose this precious opportunity to hasten the day of freedom of the Cuban people.

So I say to my colleagues, when you come down to vote on the second-degree amendment, while there may be issues of concern to you, please remember just one thing: If you really want to see the day when the people of Cuba are free, and freedom flourishes, then you must vote against the second-degree amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Connecticut.

AMENDMENT NO. 3080, AS MODIFIED

Mr. DODD. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The clerk will report the modification.

The legislative clerk read as follows:

On page 1, beginning with the word "section," strike down through the word "waive."

Mr. DODD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. MACK. Mr. President, I object.

Mr. DODD. I have stricken the section on waiver.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. MACK. I withdraw the objection.

The amendment, as modified, is as follows:

At the end of the pending amendment add the following new section:

SEC. . DEFENSE CONVERSION AND REINVESTMENT; EXPORT LOAN GUARANTEES.

(a) AUTHORITY FOR PROVIDING LOAN GUARANTEES.—(1) The President may extend guarantees for the sale of defense articles and services to the member nations of the North Atlantic Treaty Organization and to Israel, Australia, New Zealand and Japan. The aggregate amount guaranteed under this section in any fiscal year may not exceed $1,000,000,000.

(2) In extending medium- and long-term guarantees for sales pursuant to paragraph (1), the President shall not offer terms and conditions more beneficial than would be provided by the Export-Import Bank of the United States under similar circumstances in conjunction with the provision of guarantees for nondefense articles and services.

(3) The authority of this subsection (1) may be exercised only to such extent and in such amounts as provided for in advance in appropriations Acts.

(b) SUBSIDY COST AND FUNDING.—(1) There is authorized to be appropriated for fiscal year 1993, $65,000,000 for the subsidy cost for establishing a program at the Department of Defense to provide loan guarantees for defense exports.

(2) Funds authorized to be available for the Export-Import Bank may not be used for the execution of the program under this section.

(c) Executive Agency.—For the purposes of this section, the Department of Defense shall be the executive agency for administration of the program under this section unless the President, in consultation with the Congress, designates another agency (other than the Export-Import Bank) to implement the program. Applications for guarantees issued under this section shall be submitted to the Secretary of Defense, who may make such arrangements as necessary with other agencies to process the applications and otherwise to implement the program under this section.

(d) Fees Charged and Collected.—A fee shall be charged for each guarantee issued under the program under this section. All fees collected in connection with guarantees issued shall be available to offset the cost of guarantee obligations under the program. All of the fees collected under this subsection, together with earnings on those fees and other income arising from guarantee operations under the program, shall be held in a financing account maintained in the Treasury of the United States. All funds in such account may be invested in obligations of the United States. Any interest or other receipts derived from such investments shall be credited to such account and may be used for the purposes of the program.

(e) Interagency Review Process.—The issuance of loan guarantees for defense exports under this section shall be subject to all United States Government review procedures for arms sales to foreign governments and shall be consistent with United States policy on arms sales to those nations referred to in subsection (a).

Mr. DODD. Even though I think it makes the Cuban Democracy Act a better piece of legislation, I still have difficulties with it, which I will give in a few minutes. My thinking was not that the waiver was not supported; there will be those who have difficulty with it. So, Mr. President, I have modified the amendment so all that remains now of the second-degree amendment is the defense conversion and reinvestment and export loan guarantees the Senator from Maryland has already discussed.

Mr. President, had my colleague from Florida completed his remarks? I thought maybe I had interrupted. I apologize.

Mr. President, regarding the second-degree amendment, let me just restate again, my colleague from Maryland and I have been around on this so many times, and I appreciate the concerns that he and others have raised in the past. I think most of those concerns that were raised had to do with the notion of supporting or promoting arms sales to Third World countries.

Mr. President, the promotion of arms sales to Third World countries is something that I think caused many Members a number of years ago a great deal of legitimate concern. In my view, I think there are excessiveness. It created problems and as a result the program was shut down. It originally was included under the Eximbank. The problem that has arisen over the years, of course, is that we have been disadvantaged all over the world as a result of that decision.

What this amendment does, as I have stated before, is at least tries to create a level playing field among NATO allies and others outside of NATO who certainly have been strong supporters and allies of ours over many, many years where we are disadvantaged in competing in those markets.

We all know the defense markets are coming down; they are being downsized. It is also critically important we try to maintain our industrial base. One of the ways of doing that, without having to go to the appropriations process, is to allow our contractors and the people who work in these facilities to compete on an equal footing as those competitions emerge.

That is all this amendment says. It does not guarantee them a contract. It is just that in every single case of our major competitors, we are faced with highly subsidized operations.

I deplore that. I wish it did not exist. I wish it were done really on a competitive basis where price and quality were the only determining factors. But I think every single Member of this body and the American public know that does not happen to be the case, and as a result we are disadvantaged in that process. This amendment tries to address that disadvantage by setting up a process which will allow us to compete more equitably.

Mr. President, I will take a couple of minutes and express, as well, my concern with the underlying amendment offered by the distinguished Senators from Florida and others who are cosponsors of the Cuban Democracy Act. I know of no Member in the Senate who supports or wants to be associated with trying to perpetuate the regime of Fidel Castro. That is not the issue at all. I do not think President Ford, in 1976, when he lifted the very restrictions that our colleagues are asking us to put on tonight was doing so because he was some great supporter of Fidel Castro.

It was Ford in 1976 that lifted the very secondary boycott in the sense that is being proposed tonight. He thought it was a bad idea; it was hurting U.S. industry.

If I can, let me just read the list of businesses that if this amendment is adopted will have to be adversely affected to a significant degree.

ALCOA.
AM International.
Aeroquip International.
Analytical Technology.
Armco.
BF Goodrich.
Baker Hughes.
Borg-Warner.
Bridgestone/Firestone.
Beatrice Companies.
Barry-Wehmiller.
Bonne Bell.
Buckman Laboratories.
Burndy.
Butler Manufacturing.
Campbell Investment.
Carter Day Industries.
Caterpillar.
Carrier.
Central Soya.
Continental Grain.

I will ask unanimous consent that this list, Mr. President, be printed in the Record for my colleagues to look at. They ought to go over it. This list is rather lengthy of businesses that have subsidiaries operating in third countries that happen to be doing business. Ninety percent of the business is in pharmaceuticals and food supplies.

If we can offer an amendment on the floor that would deny Fidel Castro hard currency, I would be an original cosponsor of that and offer it myself. The fact of the matter is we cannot do that. This is hard currency. So they are buying products from overseas.

Unfortunately, what happens as a result of this amendment, or the heart of this amendment, is that we are going to be disadvantaged from doing this kind of business. It is not that it is not going to be done. The list and the lineups are rather lengthy.

In fact, Carrier Co., a Connecticut-based corporation, estimates that it will lose between $10- and $20 million if this amendment is carried, one company, because there are several Pacific rim countries and European countries more than anxious to get the air-conditioning model.

They will have the business the day after this amendment carries or is signed into law. Fidel Castro will still get air-conditioning. It will not be from Carrier. It will be from our competitors.

I do not think anyone doubts that in the next few years Castro is going to be gone. In the meantime, of course, new markets will develop, new products will be in there, and we will be out.

Mr. President, this is not an amendment about trying to do Fidel Castro damage or not. We would all like to do that. The question is whether or not we are going to put a self-inflicted wound in ourselves while out doing nothing to Fidel Castro whatsoever, no matter how well intentioned the amendment is, no matter how emotional we get about it.

Certainly those Cuban-Americans have suffered and their families have suffered. It is understandable. I can relate to that. I can understand it. But unfortunately, we are not doing anything for them tonight with this amendment except that businesses in this country are going to lose business. Fidel Castro will still get supplies and materiel. It will not be subsidiaries of U.S. firms providing it. That is really what this comes down to.

Mr. President, let me just point out to make the point on the hard currency, that today most of Cuba's annual foreign trade, which is worth some $7 billion, is conducted with the West, with Spain, Japan, Britain, Italy, France, and with our western neighbors, principally Mexico, Brazil, Venezuela, Chile, and Uruguay. If anyone thinks this amendment is going to stop people from doing business there, I would like to know that.

I know of nothing in this amendment that in any way penalizes our allies for doing business. All we are doing is penalizing American subsidiaries located in some of these countries from doing business.

So I hope people might read the amendment, get beyond, if they will, some of the emotional attachment, to language that says this is going to be tougher on Castro. It is not going to do anything to Castro whatsoever, unfortunately. All it is going to do is to do damage to ourselves.

Mr. President, I ask unanimous consent to have printed in the RECORD the list of companies, corporations, that are parent companies, foreign subsidiaries, licensed to trade with Cuba. It is rather lengthy. Members may wish to see whether or not their own major corporations are included.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. PARENT COMPANIES OF FOREIGN SUBSIDIARIES LICENSED TO TRADE WITH CUBA, 1985–1991

ALCOA.
AM International.
Aeroquip International.
Analytical Technology.
Armco.
BF Goodrich.
Baker Hughes.
Borg-Warner.
Bridgestone/Firestone.
Beatrice Companies.
Barry-Wehmiller.
Bonne Bell.
Buckman Laboratories.
Burndy.
Butler Manufacturing.
Campbell Investment.
Carter Day Industries.
Caterpillar.
Carrier.
Central Soya.
Continental Grain.
Corning.
Crane.
Cooper Industries.
Cummins Engine.
Combustion Engineering.
Coleman.
Champion Spark Plug.
Del Monte.
Dow Chemical.
Dorr-Oliver.
Drew Chemical.
Drexel Burnham Lambert.
Dresser Industries.
E.D.&F. Man International Futures.
E.I. Dupont.
Envirotech.
Emhart Industries.
Eli Lilly.
Exxon.
Fischer & Porter.
Ford Motor.
GTE International.
GK Technologies.
General Electric.
Genlyte Group.
Gilbarco.
Gillette.
Goodyear Tire and Rubber.
H.B. Fuller.
H.H. Robertson.
Hercules.
Hoechst Celanese.
Honeywell.
Hussmann.
IBM World Trade.
ITT.
Ingersoll-Rand.
International Multifoods.
International Securities Investment.
Johnson and Johnson.
Johnson Controls.
John Fluke Manufacturing.
Joyce International.
Lubrizol.
Litton Industries.
Manville.
Minnesota Mining & Manufacturing.
Mennen.
Monsanto.
Morton International.
McGraw Edison.
N.L. Industries.
Nynex.
Otis Elevator.
Owens Corning Fiber.
Pfizer.
Philipp Brothers.
Picker International.
Potters Industries.
RCA Global.
R.J. Reynolds.
Raychem.
Reichhold Chemicals.
Reliance Electric.
Richardson Electronics.
Rohm & Haas.
S.C. Johnson & Son.
Joseph E. Seagram & Sons.
Sigma-Aldrich.
Sybron Acquisition.
Stanley Works.
TFX Holdings.
TRW Teleflex.
Toledo Scale.
Tenneco.
USM.
Uarco.
Union Camp.
Union Carbide.
Vulcan Hart.
Westinghouse Electric.
Worthington International.
Worthington Pump.

Source: Documents obtained by the authors through Freedom of Information Act requests to the Office of Foreign Assets Control of the U.S. Department of Treasury, 31 Mar. 1992.

Mr. DODD. Mr. President, last, a report that was just made available yesterday, called the "Inter-American Dialogue, a Special Report." Is was embargoed until 9 a.m. on September 17, yesterday. It says: "Cuba in the Americas: Reciprocal Challenges." The report was prepared and reported by persons including the following: Raul Alfonsin, Bruce Babbitt, Peter D. Bell, McGeorge Bundy, Jorge I. Dominguez, Coordinator, Ivan Head, Sol M. Linowitz, Abraham F. Lowenthal, Sonia Picado, Alberto Quiros Corradi, Eliot L. Richardson, Chair, and John Whitehead, former department Secretary of State under Ronald Reagan.

This report has just become available, and I will include this for Members to read. Again, this is not something I was even aware of until this morning. But they specifically recommend that we do not take the step we would have to take with this legislation. They point out—I will read two paragraphs in this summary.

> The United States government should actively promote the free flow of information and ideas to the Cuban people by exempting from its embargo all transactions that foster communications between the Cuban people and people from the United States and other countries, including tourism. Beyond communications and travel, the U.S. government should only ease its embargo in response to positive steps taken by the Cuban government. Washington can best encourage such steps by working cooperatively with other governments of the hemisphere—and allowing them to take the lead in some areas.
>
> The United States should not allow its Cuba policy to hamper relations with other governments. We oppose legislation to prohibit all trade with Cuba by subsidiaries of U.S. firms in other countries.

That is the summary edition. You can read the report for yourselves. These are responsible people; Democrats, Republicans, Ronald Reagan appointees. This is not some ftwing radical group of people suggesting that with all due respect to the amendment being offered by my colleagues from Florida, it is bad policy.

In fact, what you will probably end up doing is creating more of this guy than he deserves. Fidel Castro loves to be the victim of an outrage. He loves to point to the United States somehow trying to destroy him, then trying to build support among other allies in the region.

Fidel Castro today is held in such disrepute in the hemisphere, he is not highly regarded at all. He has few if any allies in the region. If we are going to pass legislation like this, I fear that in some cases he may all of a sudden have a resurgence in some quarters. I do not want to see that occur.

So I ask my colleagues to look at these reports. If you do, I think you will reach the same conclusion as some highly responsible individuals who recommended a different course of action that we are about to take tonight given the number of cosponsors to the bill.

It is unwise, it is bad policy, it is self-inflicting wounds without doing any damage whatsoever to the Castro government. Despite my desires to possibly put some additional pressure on it, with all due respect, this legislation does not do that.

I ask unanimous consent, Mr. President, to have printed in the RECORD the dear colleague letter dated August 7, 1992; and, the Inter-American Dialogue, a Special Report, to which I previously referred.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, August 7, 1992.

DEAR COLLEAGUE: The health of the United States economy is of critical concern to all of us. Particularly hard hit in recent years has been the defense and aerospace sectors of our economy, largely because of necessary reductions in U.S. defense spending. Consequently, we believe it is imperative that we assist these sectors to become more competitive internationally as a means of maintaining our defense industrial base. Toward this end, we entend to offer an amendment that addresses these concerns when the FY 1993 Department of Defense Authorization bill is considered by the Senate.

Our amendment would provide authority to the President to make available loan guarantees for export sales of defense articles and services to our closest allies. Specifically, the amendment would provide loan guarantee authority of up to $1 billion annually for defense sales to NATO countries, Israel, Japan, Australia and New Zealand. These guarantees would permit the U.S. defense industry to compete more effectively with foreign competitors by enabling it to offer comparable financing terms to potential customers.

This program will be administered by the Department of Defense. It will in no way infringe upon the activities or resources of the U.S. Export Import Bank. Nor will this program alter the normal inter-agency review and licensing procedures or Congressional notification requirements that defense exports are now subject to under existing law.

As the United States reduces its military forces overseas and urges our allies to take on a greater role in their own defense, we should be united in establishing programs that make U.S. industry competitive in providing any additional defense equipment for our allies' own security. Our proposed program would not only assist our defense industrial base, but would promote continued defense coordination with our allies.

A recent Office of Technology Assessment (OTA) study predicted that "from 1991 to 2001, perhaps as many as 2.5 million defense-related jobs will disappear," or over 20,000 defense and aerospace workers a month lost—unless we do something. Export loan guarantees for defense products and services would help retain as may as 22,000 production line jobs and 17,000 subcontractor jobs per year.

With the adoption of our amendment, we have an opportunity to gain a significant return on a nominal investment. The actual budget authority being sought by this amendment to fully implement the program is only $65 million—and actual budget outlays will be a small fraction of that total. the value of outlays will be a small fraction of that total. The value of exports generated will be $1 billion. These exports will help to reduce the trade deficit and keep production lines running, which is critical for retaining key workers, and preserving our industrial base.

If you have any questions or would like to co-sponsor this amendment, please feel free to call Tom Polgar (Sen. Rudman x41602), or Janice O'Connell (Sen. Dodd x4461). We would appreciate your support when our amendment reaches the floor.

Sincerely,

WARREN RUDMAN,
U.S. Senator.
ROBERT DOLE,
U.S. Senator.
CHRISTOPHER J. DODD,
U.S. Senator.
CLAIBORNE PELL,
U.S. Senator.

[INTER-AMERICAN DIALOGUE—A SPECIAL REPORT]

CUBA IN THE AMERICAS: RECIPROCAL CHALLENGES

(A Report of the Inter-American Dialogue Task Force on Cuba, October 1992)

FOREWORD

In 1991—in the midst of dramatic changes in the former Soviet Union that would alter forever Cuba's place in the world—the Inter-American Dialogue established a special task force to review Cuba's relations with other Western Hemisphere nations. The mandate of the task force was to identify new approaches to Cuba that would foster increased policy cooperation between the United States and Latin America; encourage peaceful transition to democratic rule in Cuba; and lead to Cuba's economic and political reintegration into the Inter-American community. This report conveys the results of the task force's work, which includes recommendations to the governments of Cuba, the United States, Canada, and the nations of Latin America and the Caribbean.

The Dialogue's interest in Cuba is part of an ongoing effort that will continue beyond this report. Because we are committed to multilateral cooperation, to the peaceful resolution of conflict, and to democratic advance through the Americas, we believe that the status of Cuba in the hemisphere deserved careful and sustained policy attention. Because we have a highly experienced and genuinely inter-American membership drawn from many political perspectives, we are convinced that the Dialogue has a special role to play in developing consensual approaches and in joining U.S. and Latin American efforts to encourage change in Cuba and in its hemispheric relations.

The Dialogue has sponsored a number of high-level policy discussions on Cuba, including two intensive meetings of the Dialogue's Congressional Members Working Group. Dialogue members and staff have also traveled several times to Cuba in the past year, met with many U.S. and Cuban government officials, testified before Congress, and presented their views in a variety of public forums. These efforts will continue.

The members of the task force—chaired by Elliot L. Richardson, and coordinated by Jorge I. Dominguez—are responsible for the findings and recommendations of the report. Though the Dialogue's participating members largely endorsed these findings and recommendations at the Dialogue's 1992 plenary session this past April, the report does not represent the views of all members of the Dialogue. Moreover, the report is a group statement and not every task force member agrees fully with every phrase in the text. But each signatory subscribes to the report's overall content and tone and supports its main recommendations.

The members of the task force owe a great debt to all who assisted with its work, including the Dialogue member and other experts who drafted background materials, commented on ongoing work, and arranged and participated in its meetings. The information and advice provided by government officials from the United States, Cuba, and other hemispheric nations, and their conversations with Members and staff of Congress, and with members of the Cuban-American community in Miami and elsewhere, made a substantial contribution to this report.

The Inter-American Dialogue wishes to express its gratitude for the financial support of the General Service Foundation for the work of this task force, and the broader support that the Dialogue has obtained from the Ford, John D. & Catherine T. MacArthur, A.W. Mellon, William and Flora Hewlett, and ARCA foundations and the Carnegie Corporation of New York.

RICHARD E. FEINBERG,
President, Inter-American Dialogue.

PREFACE

The end of the Cold War and the collapse of Communist regimes throughout the world call for fresh thinking about Cuba and its relations with other Western Hemisphere nations.

Deprived of military and economic assistance from the Soviet Union, with all of its own troops recalled from abroad, and with its support for foreign insurgencies sharply curtailed, Cuba can no longer be considered a threat to the United States or to the nations of Latin America and the Caribbean. These developments, we believe, provide the opportunity for forging new U.S. and Latin American policies directed, first, toward encouraging peaceful change in Cuba, including respect for human rights and reliance on democratic practice; second, toward diminishing U.S.-Cuban hostility and the risk of confrontation between the two countries; and, finally, toward fully reincorporating Cuba into the inter-American community.

We believe that the United States and the nations of Latin America can and should work together to achieve these aims—particularly now that nearly all governments of the hemisphere are democratically elected and committed to democratic rule. We also believe that Latin American governments should take a more active role in pressing for change in Cuba and that the United States should consult with them in shaping its own policy toward Cuba.

The political and economic crisis Cuba faces today makes us deeply concerned about the country and its people. The citizens of Cuba are entitled to choose their own future, and the ideas we present are intended to help accomplish that aim. We are confident that, when given the opportunity, the people of Cuba will decide to join the rest of the Americas and choose a democratic future.

This report is based on an eighteen-month intensive study by the members of the Inter-America Dialogue's Task Force on Cuba. Drawn from various countries of the hemisphere, the members of the task force heard testimony from U.S. and Cuban government officials and discussed our ideas with Members of the U.S. Congress and representatives of the Cuban-American community. We also commissioned several memoranda by authors from the United States, Cuba, and some Latin American countries. Following examination of the issues at some length among ourselves, we took advantage of the Inter-American Dialogue's April, 1992 plenary meeting to obtain the views of other members. We now propose to discuss our findings and recommendations with government officials of the United States, Cuba, and other Latin American nations and hope that from these discussions will emerge a broad-based consensus on the hemisphere's policies toward Cuba.

ELLIOT L. RICHARDSON,
Chair, Inter-American Dialogue Task Force on Cuba.

SUMMARY OF RECOMMENDATIONS

With the Cold War's end, Cuba's isolation from the inter-American community is anachronistic. It is also unnecessary, damaging and, perhaps, dangerous. Our recommendations—to the governments of Cuba, Latin America and the Caribbean, Canada, and the United States—are aimed at building a future in which Cuba is committed to democratic practices and enjoys normal relations in the hemisphere and beyond. We reaffirm our respect for Cuba, and seek to join with Cubans in nurturing peaceful changes in their country.

To the government of Cuba

The Cuban people must decide on their own internal economic and political arrangements. But Cuba cannot participate fully in the inter-American community while it perpetuates repression and rejects democracy. We urge that the government of Cuba release all prisoners of conscience and permit free and fair elections, monitored by internationally accredited observers.

To the governments of Latin America, the Caribbean, and Canada

The governments of Latin America, the Caribbean, and Canada should strengthen cultural, artistic, and scholarly ties with Cuba and help to open the island to new ideas. They should also press directly for democratic freedoms and respect for human rights in Cuba.

We also urge the Caribbean and Latin American governments to deal constructively with the Cuban government in international organizations. The Organization of American States (OAS) should reinstate Cuba to active membership when it commits itself to the democratic principles of the Organization's Charter.

To the U.S. government

The President and other senior U.S. officials should continue to make clear that the United States has no intention of invading Cuba and vigorously to condemn violent actions by exile groups.

The United States government should actively promote the free flow of information and ideas to the Cuban people by exempting from its embargo all transactions that foster communications between the Cuban people and people from the United States and other countries, including tourism. Beyond communications and travel, the U.S. government should only ease its embargo in response to positive steps taken by the Cuban government. Washington can best encourage such steps by working cooperatively with other governments of the hemisphere—and allowing them to take the lead in some areas.

Acting in its own direct interest, the United States should cooperate with Cuba on such specific issues as the fight against drug trafficking; inspections of nuclear power plants in Cuba and the southeastern United States; and weather forecasting and environmental protection.

In its policy toward Cuba, the United States should give greater weight to humanitarian concerns by making it easier for charitable groups to deliver food and medicine to the Cuban people and for Cuban-Americans to assist relatives and friends in Cuba.

U.S. broadcasting to Cuba must be responsible. Radio Martí should be a source of objective news, not propaganda, and TV Martí should be canceled because it violates international conventions.

The United States should not allow its Cuba policy to hamper relations with other governments. We oppose legislation to prohibit all trade with Cuba by subsidiaries of U.S. firms in other countries.

We urge all governments to act in ways that would allow the Cuban people to choose their own future in peace, and let history judge the wisdom of their course.

CUBA IN THE AMERICAS: RECIPROCAL CHALLENGES

With the Cold War's end, Cuba's isolation from the inter-American community and the intensely hostile U.S.-Cuban relationship are anachronistic. So is Cuba's status as the only nation in the Americas that flatly rejects pluralist democracy.

Cuba's continuing isolation is unnecessary; it is also damaging and, perhaps, dangerous. It is damaging to the people of Cuba, for it aggravates the harsh circumstances of their everyday lives. It is damaging as well to the people of the United States and other Caribbean Basin countries. For without effective cooperation and communication, it is difficult to solve shared problems such as environmental protection, migration, and the interdiction of drug traffickers. And no one can discount the possibility that Cuba's isolation could contribute to violence within Cuba or in U.S.-Cuban relations, or make Cuba a cause of renewed friction in U.S.-Latin American relations.

Over thirty years ago, many Cubans joined a national effort to affirm their nation's independence and remake Cuban society. Much has been achieved, but much has also failed. We are mindful of the importance of this history; we reaffirm our respect for the Cuban people and their accomplishments and for Cuba as a nation. We seek to join with Cubans in nurturing a process of peaceful change in their homeland.

As task force members drawn from all parts of the hemisphere, we believe that it would be best for Cuba and for all other countries of the Americas if Cuba's hemispheric isolation soon came to an end. We look to a future in which a sovereign Cuba is committed to democratic ideals and practices and enjoys normal relations with the rest of the hemisphere and the world. We believe it is important to think positively about Cuba's future and its role in the Americas, and not simply to wait for events to develop which might well spiral out of control.

CUBA TODAY

Cuba today faces its most difficult time since the revolution triumphed in 1959. The country's internal economic and political conditions have sharply deteriorated, as has its international environment.

Cuba's economic recession began in 1986 and has been getting worse. Although the government has tried hard to protect gains in health and education, overall living standards for most Cubans have plummeted. Most goods and services are severely rationed. Without much gasoline for private cars, transportation in Cuba means, walking, bicycles, and crowded buses. Even the regime's own public opinion polls suggested that ordinary citizens in Cuba are increasingly critical of government policies and services, and that the Communist Party has lost considerable respect.

Since 1989, every Eastern European country has canceled its economic and military assistance program and reduced its trade with Cuba. Russia and the other successor states of the former Soviet Union have begun to follow suit; their petroleum exports to Cuba, for example, are now less than one-third of 1989 levels and the terms of trade are far less favorable to Cuba.

The Cuban government has responded to these growing difficulties both by clamping down at home and by seeking to improve Cuba's international relationships. President Castro has used his personal power to prevent Cuba from following the political course of Eastern Europe. In recent months, the regime has sharply stepped up its repression against all dissident groups. The limited space available for opposition activity has been further narrowed, and the number of political prisoners has increased. For the first time since the 1960s, government officials have openly equated peaceful dissent with support for violent counterrevolution. Roman Catholic bishops have been publicly rebuked for their criticism of government policies.

Cuba's leaders have tried to preserve the fundamental features of the revolutionary regime—including a single-party political system and total government monopoly over the mass media. They reject political competition and pluralistic democracy, claiming that socialism is inherently democratic and that the regime, because it is born of the revolution, is based on the consent of the governed. Those who disagree often suffer severe consequences. Although yet to be realized, some hope remains that significant changes will be made in Cuba's electoral and other laws.

The government of Cuba has also tried to shore up its international relations, and now seeks cooperative relations throughout Latin America. The Cuban government has publicly stated that it will no longer support revolutionary movements abroad. Cuban officials call attention to Cuba's respect for the peace settlements in El Salvador and Nicaragua (where it has continued a medical assistance program), and to its constructive participation in the southern Africa peace settlement, including the withdrawal of all its troops from Angola. These signs of Cuban interest in improved external relations provide the inter-American community with an opportunity and a choice.

CUBA AND THE AMERICAS

Most Latin American and Caribbean governments today—along with the government of Canada—maintain conventional diplomatic and commercial relations with Cuba. They oppose further efforts to isolate Cuba politically or economically, and quietly criticize U.S. policies aimed at increasing Cuba's isolation. At the same time, most countries of the Americas are encouraging the Cuban government to initiate far-reaching political and economic reforms. They are engaging the Cuban government in an effort to foster change in Cuba and to keep U.S.-Cuban relations from turning violent or intruding into the wider U.S.-Latin American relationship. They oppose all acts of force.

President Castro participated in the July 1991 and 1992 summits of the leaders of Latin America, Spain, and Portugal. All the presidents urged Castro to undertake more significant political and economic change and to move from repression toward the kind of opening occurring elsewhere in the world. This message was further amplified at a November 1991 meeting at Cozumel Island of President Castro and the presidents of Colombia, Mexico, and Venezuela.

For its part, the United States, even though it remains the Cuban government's principal international adversary, has undertaken modest but constructive steps toward modifying its policy toward Cuba. Most importantly, President George Bush has stated publicly that the United States will not launch a military attack against Cuba, thus updating and formalizing understandings first articulated during the 1962 missile crisis.

In addition, the U.S. government has revised travel policies, enabling Cubans more easily to visit their relatives in the United States and allowing Cuban researchers and officials to spend more time in the United States on each visit. Permission has also been granted for the expansion of air charter service between Miami and Havana. Finally, the U.S. government has proposed a partial exception to the U.S. embargo that would permit AT&T to improve telephone service to Cuba with some of the revenue from the calls to be paid to Cuba.

Significant segments of the Cuban-American community have also begun to rethink their strategy toward Cuba, and the community now tolerates a wider range of approaches to promote change in Cuba. Many Cuban-Americans in Miami would still support the use of force against the Cuban government, but a large and growing number favor negotiations.

The Inter-American Dialogue is grounded in certain shared values which have united its members from the start: commitments to democracy, fundamental human rights, peaceful means of conflict resolution, and a disposition toward multilateral cooperation to solve hemispheric problems. These core values, shared despite our differences on specific political and economic issues, have shaped the Dialogue's approach toward issues as diverse as the Central American civil wars, the external debt, narcotics trafficking, environmental protection, and immigration flows. It is precisely these views that motivate the Dialogue's membership in 1992 to focus on Cuba and its relations with the rest of the Americas.

In discussing Cuba and in developing our analysis and consensus recommendations, we have tried to avoid old arguments about the history of Cuba, about the U.S.-Cuban relationship before the 1959 Revolution, or about the dynamics of Cuba's relations with the United States and other countries of the Americas since 1959. Our goal is not to judge the past but to help create a better future.

We now offer three sets of recommendations: to the government of Cuba, to other governments of Latin America, Canada, and the Caribbean, and to the government of the United States.

RECOMMENDATIONS OF THE TASK FORCE

To the government of Cuba

Cuba's internal economic and political arrangements are a matter for the people of the country to decide. But Cuba cannot participate fully in the inter-American community while it perpetuates repression and rejects democracy.

We urge, as a first step, that the government of Cuba release all prisoners whose only "crime" has been to associate peacefully, or otherwise to act politically without using or threatening violence. Cuba's leaders have often asserted that they are supported by a majority of the nation's people; then they should have little reason to fear dissenters who do not engage in or advocate violence.

We also urge the Cuban government to carry out reforms that have extensive national support. These include permitting more direct participation in national and provincial legislative elections. Law-abiding groups should be allowed to organize politically to compete in elections. Candidates for office and organizations supporting them should be free to prepare and distribute materials, and to campaign openly. In brief, we call upon Cuba's leaders to put their claim of popular support to the test of free and fair elections.

If such elections are held, we recommend that the Cuban government invite internationally accredited observers to monitor and verify them, as has now become common practice in the hemisphere. National elections are a sovereign matter, to be sure, but Cuba's prospects for improvements of its international ties will depend in part on national and international acceptance of the electoral process. We also recommend that the U.S. government and all other governments of the Americas pledge unambiguously not to intervene in the conduct or outcome of elections in Cuba and that this too be monitored by international accredited observers.

To the governments of Latin America, the Caribbean, and Canada

The governments of Latin America, the Caribbean, and Canada should sustain their current policy of constructive engagement with Cuba. They should strengthen and encourage cultural, artistic, and scholarly ties with Cuba in order to help open the island to ideas from throughout the world, and they should press directly for democratic freedoms and respect for fundamental human and political rights in Cuba.

In particular, we urge the "Cozumel Group" (the Presidents of Colombia, Mexico, and Venezuela) to consult regularly with each other and with President Castro about the future of Cuba. We encourage the Cozumel Group to communicate with the U.S. government, consistently signaling Latin America's deep interest in the Cuba question and making clear that Cuba's relationship with the rest of the hemispheric community is a collective concern, not just an issue for the United States.

We also urge the Caribbean and Latin American governments to engage the Cuban government constructively in international organizations and other multilateral forums. Cuba should remain a member of the Latin American caucus in the United Nations and related international organizations. We believe that Cuba's active participation as a member of the Latin American community in such settings contributes to breaking down Cuba's isolation and enhances regional influence on Cuban attitudes and policies.

We also believe, however, that it would be premature for the Organization of American States to restore Cuba to active membership at this time. The OAS today is increasingly a community of democracies committed to the defense of freedom in the hemisphere. Just as the European Community kept its distance from once-authoritarian regimes in Spain, Portugal, and Greece to show disapproval and to give an incentive for change, so should the nations of the Americas act toward Cuba. Cuba should be reincorporated into the OAS when it is ready to commit itself to the democratic principles of the Organization's Charter.

We would encourage legislators from Latin America, Canada, and the United States to communicate about Cuba in order to identify and foster shared interests, and especially to reduce the prospect that, in its aim to punish Cuba, the United States would impose sanctions on other Latin American countries. Latin American governments, political parties, and non-governmental organizations should also urge the Cuban government to change its electoral laws and practices. Finally, we would call on political parties of all orientations to engage Cuban exile movements and parties and share their experiences about the appropriate strategies for democratic change.

To the U.S. government

The United States should recognize the opportunity it now has to refashion its relations with Cuba and to encourage change in that country by working cooperatively with the countries of Latin America. The Cold War has ended. Cuba has curtailed its interference in the affairs of other countries and its Communist allies are gone. Most Latin American countries today are democratic, and share with the United States the desire to promote democracy in Cuba. The United States should unambiguously back the efforts of Latin American governments to engage the Cuban government and to press for reforms in Cuba. Washington should also consult with them in shaping its own policy toward Cuba.

Modest recent steps aside, U.S. policy still emphasizes the isolation of Cuba, and remains inflexible in important respects. As a consequence, Washington has rarely been able to respond to changes in Cuba or to offer incentives to the Cuban government to alter its policies. Uncertainty about how long the present Cuban regime will last confronts Washington decisionmakers with the need to shape policies that are consistent with U.S. values and purposes if the regime endures, but that do not reduce the chances that the regime will change.

We believe that each of the following recommendations would make sense if Cuba's current regime endures, but we think they should—individually and collectively—also help to foster nonviolent change in Cuba. All of them, we submit, would advance U.S. goals and are consistent with the goals of all other countries of the Americas. They should be implemented, we believe, even if the Cuban government take no reciprocal steps.

1. The U.S. government should do all it can to reduce Cuba's fear of a U.S. military attack. With the decline in the Soviet military presence and given the renewed violence of some small Cuban exile groups, the Cuban Armed Forces have been at a high state of alert, increasing the dangers of a U.S.-Cuban military incident.

The President and other senior U.S. officials should consistently make clear that the United States has no intention of invading Cuba. The U.S. government should vigorously disassociate itself from violent actions by exile groups, and keep its pledge to enforce the U.S. Neutrality Act. The U.S. government should increase the public visibility of its efforts to prevent domestic and international terrorism.

Washington should notify the Cuban government well in advance of any U.S. military exercises near Cuba. It should invite observers from Latin America to witness the maneuvers, and convey a willingness to invite Cuban government observers. From time to time, the U.S. government should invite officials from Latin America to visit the Guantánamo naval base. Washington should routinely inform Cuba about violations of its air and water space by drug traffickers.

None of these proposals would require a reduction in U.S. military readiness. By making it evident that a U.S. attack is improbable, however, they would diminish unnecessary tensions between the United States and Cuba. In addition, broadcasting this information to the Cuban people should lessen the Cuban government's ability to rally support, and weaken its justification for harassing dissenters.

2. The U.S. government should stop blocking the free flow of information and ideas to the Cuban people. On the contrary, the United States should actively promote such a flow in order to help to induce political change in Cuba.

Specifically, we recommend that the U.S. government exempt from its embargo transactions that foster communications between the Cuban people and people from the United States and other countries. The Bush administration has already taken a few modest but important steps. We urge it to expand them. Washington should not reject agreements on improved communications simply because Cuba might earn small amounts of money from such agreements. AT&T should be allowed, for example, to upgrade telephone service to Cuba, to pay the Cuban governments its full and fair share of any earnings from the new services, and to release the accrued revenues owed to Cuba. Cuba's wire service, "Prensa Latina," should be permitted to open a bureau in Washington in exchange for allowing U.S. press bureaus to open in Havana.

The U.S. government should agree to establish direct mail links with Cuba, reach a civil aviation accord allowing scheduled air flights, and permit the export of facsimile equipment. It should allow all U.S. citizens to travel to Cuba, including tourists, and authorize Fulbright fellowships for exchanges of scholars and students. Indeed, all two-way cultural, scientific, public health, and academic exchanges should be encouraged.

Expanding Cuba's access to information and ideas is the best way to foster political opening in that country. Far more than isolation, this kind of exposure is likely to bring change to Cuba. And even if no change occurs, such policies would in any case serve humanitarian objectives by facilitating contact among the members of divided Cuban families.

3. Acting in its own direct interest, the United States should negotiate concrete and practical accords on specific issues with Cuba. The United States and Cuba have much to gain from cooperation in several specific areas:

The interdiction of drug traffickers;

The reciprocal inspections of nuclear power plants in Cuba and the southeastern United States to reassure each other and to improve plant safety;

Negotiations toward a new migration agreement that would normalize Cuban immigration to the United States and permit the return of Cubans who entered the United States illegally and have subsequently committed crimes;

The forecasting of weather-related disasters, the cleaning up of pollution in the Straits of Florida, the regulation of fishing, and the protection of migratory birds and fish.

Such cooperation would also signal to Cubans that the United States wishes them no harm.

4. The United States should give greater weight to humanitarian concerns in its policy toward Cuba, helping to avoid when possible the suffering of ordinary Cubans. The U.S. government should make it easier for private charitable groups to deliver food and medicine to the Cuban people. These organizations should be allowed to engage in whatever financial transactions are necessary to advance their humanitarian work. The U.S. government should make it easier for Cuban-Americans to send food and medicine to relatives and friends in Cuba.

5. The United States should not allow its Cuba policy to become an obstacle in its relations with other governments.

U.S. policy toward other countries should not be conditioned on the relations their governments have with Cuba. Such conditions are potentially damaging to U.S. relations with many countries, and they may also frustrate the coordination of U.S. and Latin American policies toward Cuba. We endorse the regulations, first adopted by the Ford Administration, that limit U.S. extraterritorial claims in this matter. We oppose legislation designed to prohibit all trade with Cuba by subsidiaries of U.S. firms in other countries.

6. The United States should not hesitate to express its commitment to democracy in Cuba and criticize Cuban government repression. It should do so responsibly, however. The U.S.-sponsored Radio Martí program should be a source of independent and objective news, not of propaganda. It should be under the professional direction of the Voice of America—and not associated with the interests of political factions within the U.S. Cuban-American community. TV Martí should be canceled outright; its operation violates international conventions signed by the United States, and it is not being received in Cuba.

CONTRASTING VIEWS

In forging these consensus recommendations, the members of the Task Force have carefully considered and ultimately rejected two other views on how the hemisphere community should relate to Cuba.

First, some people—believing that, at long last, it is possible to foresee the end of Cuba's current regime—oppose any steps toward rapprochement with Cuba and indeed call for tightening the embargo and other restrictions on Cuba. They argue that full economic constraints are the most effective way to force the Cuban leadership to modify its policies, and to encourage government officials and ordinary citizens to work to change the regime.

In this view, the withering of economic assistance from Russia and other former communist nations has brought the Cuban regime close to its end. Accordingly, it is argued, this is the time for the United States and its friends throughout the world (in Europe, in Latin America, the Caribbean, Canada, Japan, and other countries) to curtail further their economic relations with Cuba. It is not the time to provide the Castro regime a new lease on life by easing economic pressures.

We find no good evidence, however, to sustain the argument that such a hard-line policy would provide positive change in Cuba. International opponents of Fidel Castro have repeatedly underestimated his capacity for survival, and they may be doing so again. The proposed tightening of economic relations, moreover, would be a highly inflexible policy, which would not provide any avenues for responding to evolution and change, nor give the Cuban government incentives to implement such change. It would also communicate continuing U.S. hostility to the people of Cuba. We reject this option as shortsighted, costly for the people of Cuba, and probably counterproductive.

But we also reject the opposite view, that the U.S. embargo should now be entirely lifted. Some argue that, since Cuba no longer poses a threat to the United States or its other neighbors, the embargo is unnecessary and that ending it would deprive the Cuban government of the argument that Washington is responsible for Cuba's economic problems. Advocates of this approach claim, moreover, that removing the embargo would produce few economic benefits for Cuba because Cuba's uncompetitive economy could not now take much advantage of such trade opportunities.

Those who hold this view believe that President Bush, in his discussions of U.S. policy toward China, has well articulated how trade can foster economic and political openings, and that the President's logic applies with greater force to Cuba. Whatever efforts the Cuban government makes to isolate its small island society from international market forces are bound to fail. In this view, encouraging all countries to increase their economic relations with Cuba is the best way to foster free markets and eventually free politics in Cuba.

We believe, however, that a unilateral lifting of U.S. economic sanctions would imprudently give away many of the pressures and inducements the international community has available to influence the Cuban government to change. We do not think it is sensible to surrender major bargaining chips before negotiations with Cuba, tacit or explicit, even begin.

AN ACTIVE COMMITMENT FOR CHANGE

In response to specific positive steps taken by the Cuban government, the U.S. government should consider easing its embargo beyond communications and travel and modifying other punitive policies toward Cuba. But Washington should not simply sit back and wait for Cuba to act. A continuation of a permanent situation of crisis around Cuba is unacceptable, nor is provoking an even more severe crisis a solution. The U.S. government should work cooperatively with other governments of the hemisphere to encourage the Cuban government to undertake changes. What is needed from the United States and the countries of Latin America and the Caribbean is active bargaining, not passive waiting.

In the conduct of their relations with Cuba, we urge all countries in the Americas, and in Europe and Asia, to give the highest priority to fostering human rights and democracy in Cuba. The continued repression of human rights activists calls for cool and distant relations; improved ties, however, should follow a Cuban government decision to free its prisoners of conscience. Within such a framework, the greater the coordination between the U.S. and other governments, the better.

A RECIPROCAL CHALLENGE

Disagreements persist within the Americas, and especially between the United States and several Latin American countries, on precisely how to deal with Cuba, but a working consensus can be forged along the lines we recommend.

First, the goal of policy should be to make possible a Cuba that remains sovereign, that is free from violence, that ends repression and fosters democracy, and that regains its economic health.

Second, we believe that it would serve the mutual hemispheric interests of Latin American and Caribbean countries, Canada, and the United States to recognize the many goals they all share with regard to Cuba and to fashion joint policies they all can support. We urge the governments of Canada, Latin America, and the Caribbean to take the initiative in developing a common Western Hemisphere approach that can engage the U.S. government.

We suggest that the five specific policy recommendations we offer to the U.S. government would serve U.S. interests better than the status quo, no matter what the Cuban government may do. Our recommended policies make sense even if Cuba's current leadership endures, but they should also help to foster eventual internal changes in Cuba.

Likewise, we believe that Cuba would gain from accepting our proposals. It would avoid a further tightening of the U.S. embargo, or the imposition of obstacles to its trade with other countries. The Cuban government has said that it favors specific acts of cooperation with the U.S. government to reduce the possibility of U.S.-Cuban military clashes. Cuba may welcome the results of our recommendations even if it disagrees with the reasons we give for them.

Our proposals, in effect, offer the leaders of the countries of the Americas, including Cuba's, a reciprocal challenge.

Cuban leaders—if they are confident that they have the support of their people—should challenge the United States to change its policies of confrontation. Cuban leaders should challenge the United States to allow increased communication and exchanges, trusting in their people's support.

The leaders of the United States, Canada, and Latin America, if they are confident that the Cuban people will choose democracy, as other Latin American peoples have done, should challenge the Cuban government to open its policies. They should work with the current leadership of Cuba to encourage more open communications and better protection of human and political rights, and thus to allow Cubans to shape their future.

We urge all governments to act in ways that would allow the Cuban people to chose their own future in peace, and to let history judge the wisdom of their course.

ABOUT THE INTER-AMERICAN DIALOG

The Inter-American Dialogue is a forum for sustained exchange among leaders of the Western Hemisphere and an independent, nonpartisan, center focusing on inter-American economic and political relations. The Dialogue is Washington's only center for policy analysis dedicated primarily to U.S.-Latin American relations, and to convening policymakers, business and financial leaders, heads of non-governmental organizations and intellectuals seeking practical responses to hemispheric problems. Founded in 1982 and operating under the auspices of The Aspen Institute, the Dialogue is currently co-chaired by Peter D. Bell and Ambassador Javier Pérez de Cuéllar. Its president is Richard E. Feingberg.

Assembly of Western Hemisphere leaders

The Dialogue's 100 members—from the United States, Canada and sixteen Latin American and Caribbean countries—include five former presidents, as well as prominent political, business, labor, academic, media, military, and religious leaders. At periodic plenary sessions, members analyze key hemispheric issues and formulate policy recommendations. The Dialogue presents its findings in comprehensive reports that are widely recognized as balanced and authoritative.

The research agenda: politics and economics

The Inter-American Dialogue seeks to produce accessible, policy-oriented, multidisciplinary research and publications to enrich the discussions of its membership, and to promote participatory democracy and broadly shared economic growth throughout the Americas.

The Program on Democracy and Peace focuses on issues of democratic change, human rights and conflict resolution. A major project is exploring ways for the Inter-American System to exercise a collective defense of democracy in its member states. A second study is assessing the progress being made in individual countries toward genuine democracy.

The Program on Hemispheric Integration emphasizes the management of strategic economic issues in U.S.-Latin American relations, particularly with regard to the creation of a hemispheric free trade system and the problems of inequity and poverty. One project is considering the institutional architecture that hemispheric integration will require, while another study is investigating how nations can address poverty and inequality without unduly sacrificing growth. A third is exploring the impact of ideas and individuals on economic reform processes in Latin America today.

Congressional outreach with members and staff

The bipartisan Congressional Members Working Group convenes monthly to provide Members the opportunity to exchange ideas on key issues in U.S.-Latin American relations with executive branch officials and private experts. The Group is co-chaired by Rep. Jim Kolbe (R–AZ), Rep. Jim Leach (R–IA), Rep. Bill Richardson (D–NM), and Rep. Robert Torricelli (D–NJ).

The Congressional Forum on Latin America, co-sponsored with the Congressional Research Service, provides Congressional staff with a monthly forum for open discussion and analysis with leading policymakers from the inter-American community.

Dialogue staff are routinely consulted on Congressional hearings conducted on inter-American issues, and Dialogue members and staff often testify before Congressional committees and provide private briefings to individual Members.

Networking the Washington NGO community

The newly inaugurated Washington D.C. Liaison Committee on Latin America (DCLC/LA) is meeting the long-standing need to improve communications among the many Washington-based non-governmental organizations that are concerned with Latin America, and to build stronger bridges between the NGO community and the U.S. government. The 50 research centers and academic programs represented on the DCLC/LA focus on such issues as the environment, human rights, migration, international economics, and overall U.S. foreign policy, from a wide range of political perspectives.

The Inter-American roundtable

Since 1987, the Dialogue and the Carnegie Endowment for International Peace have sponsored the Inter-American Roundtable series for journalists, Congressional staff and policy analysts. Featured speakers have included President Jorge Serrano of Guatemala, former President Raúl Alfonsín of Argentina and General Fred Woerner, former Commander of the U.S. Southern Command.

The Washington exchange among economic policymakers

Co-sponsored with the Brookings Institution and the Overseas Development Council, the Washington Exchange is a forum that brings together Latin American heads of state and top economic policymakers with Washington's senior officials and experts in the realm of economics and finance. It has hosted President Fernando Collor of Brazil and President Carlos Menem of Argentina, as well as finance ministers from Argentina, Bolivia, Chile, Colombia and Jamaica.

Latin American policy forum

By meshing its membership and research, the Dialogue promotes informed debate and discussion about Western Hemisphere issues throughout the region. During the past year, the Dialogue has sponsored fora for U.S. and Latin American leaders in Argentina, Brazil, Chile, Mexico, and Peru.

Mr. MACK. Mr. President, I do not intend to speak long. To begin, it is not my intention to speak at great length on this issue. I would remind my colleagues that we had a vote on this, the fundamental part of this amendment, some 2 years ago. It passed the Senate 84 to 13.

I would remind my colleagues again, the reason that we ended up offering this amendment is because as we saw communism fall, and Eastern Europe change its direction, and the cutting off of trading relationship between those countries and Cuba, we saw Western countries, foreign subsidiaries of United States companies rushing to fill this gap. We have seen the trade gain just from U.S. subsidiaries. We have seen that increase from $250 million a year go down to over $700 million a year. I think we ought to make an effort to stop that.

One last comment, with respect to the general thrust, that is, you might say, the opposite of what Senator GRAHAM and I have proposed here tonight. That is the idea that we can move toward some kind of dialog with Fidel Castro, some kind of normalization of relations. I would suggest that if you would take a little time to find out who this guy really is, he is a thug. It is that simple.

I do not make that comment easily on the floor of the U.S. Senate. I do not like calling an international leader a thug. But that is what he is. He is a murderer. There should be no question about that. You cannot enter into some kind of normal relations with an individual like this. Everything that Fidel Castro has done since he came to power over 30 years ago, has been for the purpose of maintaining his personal power, his control over the people of Cuba.

So again, you cannot enter into some kind of normal dialog with this type of individual. He will use it for his advantage and to the disadvantage of basic human rights and will continue the process of crushing the human spirit of the people of Cuba.

So again, Mr. President, I ask my colleagues to reject this amendment and support the Cuban Democracy Act.

I yield the floor.

Mr. GRAHAM. Mr. President, unless someone wishes to speak further on the second-degree amendment, I move to table the second-degree amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Florida.

Mr. DODD. Mr. President, I ask unanimous consent to ask for yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Florida to lay on the table the amendment of the Senator from Connecticut. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Arkansas [Mr. PRYOR], and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. DOLE. I announce that the Senator from Missouri [Mr. BOND], the Senator from New York [Mr. D'AMATO], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Wisconsin [Mr. KASTEN], the Senator from New Hampshire [Mr. RUDMAN], the Senator from California [Mr. SEYMOUR], and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 12, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—73

Adams
Akaka
Baucus
Bentsen
Biden
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick, Jocelyn
Burns
Byrd
Coats
Cochran
Conrad
Craig
Cranston
Daschle
DeConcini
Dixon
Dole
Domenici
Exon
Ford
Fowler
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Hollings
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pressler
Reid
Riegle
Robb
Roth
Sanford
Sarbanes
Shelby
Stevens
Symms
Thurmond
Wallop
Warner
Wellstone
Wofford

NAYS—12

Chafee
Cohen
Danforth
Dodd
Durenberger
Murkowski
Pell
Rockefeller
Sasser
Simon
Smith
Specter

NOT VOTING—15

Bingaman
Bond
Boren
D'Amato
Gore
Harkin
Helms
Inouye
Jeffords
Kasten
Pryor
Rudman
Seymour
Simpson
Wirth

So the motion to lay on the table the amendment (No. 3808) was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. GRAHAM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the first-degree amendment offered by the Senator from Florida.

The Senator from Florida is recognized.

AMENDMENT NO. 3079, AS MODIFIED

Mr. GRAHAM. Mr. President, I send a modification to the amendment to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

The amendment (No. 3079), as modified, is as follows:

In the amendment, strike out all after "**TITLE XII**" and insert in lieu thereof the following:

—CUBAN DEMOCRACY ACT OF 1992

SEC. 1201. SHORT TITLE.

This title may be cited as the "Cuban Democracy Act of 1992".

SEC. 1202. FINDINGS.

The Congress makes the following findings:

(1) The government of Fidel Castro has demonstrated consistent disregard for internationally accepted standards of human rights and for democratic values. It restricts the Cuban people's exercise of freedom of speech, press, assembly, and other rights recognized by the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948. It has refused to admit into Cuba the representative of the United Nations Human Rights Commission appointed to investigate human rights violations on the island.

(2) The Cuban people have demonstrated their yearning for freedom and their increasing opposition to the Castro government by risking their lives in organizing independent, democratic activities on the island and by undertaking hazardous flights for freedom to the United States and other countries.

(3) The Castro government maintains a military-dominated economy that has decreased the well-being of the Cuban people in order to enable the government to engage in military interventions and subversive activities throughout the world and, especially, in the Western Hemisphere. These have included involvement in narcotics trafficking and support for the FMLN guerrillas in El Salvador.

(4) There is no sign that the Castro regime is prepared to make any significant concessions to democracy or to undertake any form of democratic opening. Efforts to suppress dissent through intimidation, imprisonment, and exile have accelerated since the political changes that have occurred in the former Soviet Union and Eastern Europe.

(5) Events in the former Soviet Union and Eastern Europe have dramatically reduced Cuba's external support and threaten Cuba's food and oil supplies.

(6) The fall of communism in the former Soviet Union and Eastern Europe, the now universal recognition in Latin America and the Caribbean that Cuba provides a failed model of government and development, and the evident inability of Cuba's economy to survive current trends, provide the United States and the international democratic community with an unprecedented opportunity to promote a peaceful transition to democracy in Cuba.

(7) However, Castro's intransigence increases the likelihood that there could be a collapse of the Cuban economy, social upheaval, or widespread suffering. The recently concluded Cuban Communist Party Congress has underscored Castro's unwillingness to respond positively to increasing pressures for reform either from within the party or without.

(8) The United States cooperated with its European and other allies to assist the difficult transitions from Communist regimes in Eastern Europe. Therefore, it is appropriate for those allies to cooperate with United States policy to promote a peaceful transition in Cuba.

SEC. 1203. STATEMENT OF POLICY.

It should be the policy of the United States—

(1) to seek a peaceful transition to democracy and a resumption of economic growth in Cuba through the careful application of sanctions directed at the Castro government and support for the Cuban people;

(2) to seek the cooperation of other democratic countries in this policy;

(3) to make clear to other countries that, in determining its relations with them, the United States will take into account their willingness to cooperate in such a policy;

(4) to seek the speedy termination of any remaining military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from any of the independent states of the former Soviet Union;

(5) to continue vigorously to oppose the human rights violations of the Castro regime;

(6) to maintain sanctions on the Castro regime so long as it continues to refuse to move toward democratization and greater respect for human rights;

(7) to be prepared to reduce the sanctions in carefully calibrated ways in response to positive developments in Cuba;

(8) to encourage free and fair elections to determine Cuba's political future;

(9) to prevent Cuba from evading the United States embargo of that country through a North American Free Trade Agreement;

(10) to request the speedy termination of any military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from the government of any other country; and

(11) to initiate immediately the development of a comprehensive United States policy toward Cuba in a post-Castro era.

SEC. 1204. INTERNATIONAL COOPERATION.

(a) CUBAN TRADING PARTNERS.—The President should encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of this title.

(b) SANCTIONS AGAINST COUNTRIES ASSISTING CUBA.—

(1) SANCTIONS.—The President may apply the following sanctions to any country that provides assistance to Cuba:

(A) The government of such country shall not be eligible for assistance under the Foreign Assistance Act of 1961 or assistance or sales under the Arms Export Control Act.

(B) Such country shall not be eligible, under any program, for forgiveness or reduction of debt owed to the United States Government.

(2) DEFINITION OF ASSISTANCE.—For purposes of paragraph (1), the term "assistance to Cuba"—

(A) means assistance to or for the benefit of the Government of Cuba that is provided by grant, concessional sale, guaranty, or insurance, or by any other means on terms more favorable than that generally available in the applicable market, whether in the form of a loan, lease, credit, or otherwise, and such term includes subsidies for exports to Cuba and favorable tariff treatment of articles that are the growth, product, or manufacture of Cuba; and

(B) does not include—

(i) donations of food to nongovernmental organizations or individuals in Cuba, or

(ii) exports of medicines or medical supplies, instruments, or equipment that would be permitted under section 1205(c) of this Act.

(3) APPLICABILITY OF SECTION.—This section, and any sanctions imposed pursuant to this section, shall cease to apply at such time as the President makes and reports to the Congress a determination under section 1208(a).

SEC. 1205. SUPPORT FOR THE CUBAN PEOPLE.

(a) PROVISIONS OF LAW AFFECTED.—The provisions of this section apply notwithstanding any other provision of law, including section 620(a) of the Foreign Assistance Act of 1961, and notwithstanding the exercise of authorities, before the enactment of this Act, under section 5(b) of the Trading With the Enemy Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979.

(b) DONATIONS OF FOOD.—Nothing in this or any other title shall prohibit donations of food to nongovernmental organizations or individuals in Cuba.

(c) EXPORTS OF MEDICINES AND MEDICAL SUPPLIES.—Exports of medicines or medical supplies, instruments, or equipment to Cuba shall not be restricted—

(1) except to the extent authorized by section 5(m) of the Export Administration Act of 1979 or section 203(b)(2) of the International Emergency Economic Powers Act;

(2) except in a case in which there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;

(3) except in a case in which there is a reasonable likelihood that the item to be exported will be reexported; and

(4) except in a case in which the item to be exported could be used in the production of any biotechnological product.

(d) REQUIREMENTS FOR CERTAIN EXPORTS.—

(1) ONSITE VERIFICATIONS.—(A) Subject to subparagraph (B), an export may be made under subsection (c) only if the President determines that the United States Government is able to verify, by onsite inspections and other appropriate means, that the exported item is to be used for the purposes for which it was intended and only for the use and benefit of the Cuban people.

(B) EXCEPTION.—Subparagraph (A) does not apply to donations to nongovernmental organizations in Cuba of medicines for humanitarian purposes.

(2) LICENSES.—Exports permitted under subsection (c) shall be made pursuant to specific licenses issued by the United States Government.

(e) TELECOMMUNICATIONS SERVICES AND FACILITIES.—

(1) TELECOMMUNICATIONS SERVICES.—Telecommunications services between the United States and Cuba shall be permitted.

(2) TELECOMMUNICATIONS FACILITIES.—Telecommunications facilities are authorized in such quantity and of such quality as may be necessary to provide efficient and adequate telecommunications services between the United States and Cuba.

(3) LICENSING OF PAYMENTS TO CUBA.—(A) The President may provide for the issuance of licenses for the full or partial payment to Cuba of amounts due Cuba as a result of the provision of telecommunications services authorized by this subsection, in a manner that is consistent with the public interest and the purposes of this title, except that this paragraph shall not require any withdrawal from any account blocked pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(B) If only partial payments are made to Cuba under subparagraph (A), the amounts withheld from Cuba shall be deposited in an account in a banking institution in the United States. Such account shall be blocked in the same manner as any other account containing funds in which Cuba has any interest, pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(4) AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION.—Nothing in this subsection shall be construed to supersede the authority of the Federal Communications Commission.

(f) DIRECT MAIL DELIVERY TO CUBA.—The United States Postal Service shall take such actions as are necessary to provide direct mail service to and from Cuba, including, in the absence of common carrier service between the 2 countries, the use of charter service providers.

(g) ASSISTANCE TO SUPPORT DEMOCRACY IN CUBA.—The United States Government may provide assistance, through appropriate nongovernmental organizations, for the support of individuals and organizations to promote nonviolent democratic change in Cuba.

SEC. 1206. SANCTIONS.

(a) PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.—

(1) PROHIBITION.—Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

(2) APPLICABILITY TO EXISTING CONTRACTS.—Paragraph (1) shall not affect any contract entered into before the date of the enactment of this Act.

(b) PROHIBITIONS ON VESSELS.—

(1) VESSELS ENGAGING IN TRADE.—Beginning on the 61st day after the date of the enactment of this Act, a vessel which enters a port or place in Cuba to engage in the trade of goods or services may not, within 180 days after departure from such port or place in Cuba, load or unload any freight at any place in the United States, except pursuant to a license issued by the Secretary of the Treasury.

(2) VESSELS CARRYING GOODS OR PASSENGERS TO OR FROM CUBA.—Except as specifically authorized by the Secretary of the Treasury, a vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national, as defined in section 515.302 of the Office of Foreign Assets Control Treasury Regulations, has any interest may not enter a United States port.

(3) INAPPLICABILITY OF SHIP STORES GENERAL LICENSE.—No commodities which may be exported under a general license described in section 771.9 of title 15, Code of Federal Regulations, as in effect on May 1, 1992, may be exported under a general license to any vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest.

(4) DEFINITIONS.—As used in this subsection—

(A) the term "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft; and

(B) the term "United States" includes the territories and possessions of the United States and the customs waters of the United States (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401)).

(c) RESTRICTIONS ON REMITTANCES TO CUBA.—The President shall establish strict limits on remittances to Cuba by United States persons for the purpose of financing the travel of Cubans to the United States, in order to ensure that such remittances reflect only the reasonable costs associated with such travel, and are not used by the Government of Cuba as a means of gaining access to United States currency.

(d) CLARIFICATION OF APPLICABILITY OF SANCTIONS.—The prohibitions contained in subsections (a), (b), and (c) shall not apply with respect to any activity otherwise permitted by section 1205 or section 1207 of this title or any activity which may not be regulated or prohibited under section 5(b)(4) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)(4)).

SEC. 1207. POLICY TOWARD A TRANSITIONAL CUBAN GOVERNMENT.

Food, medicine, and medical supplies for humanitarian purposes should be made available for Cuba under the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 if the President determines and certifies to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that the government in power in Cuba—

(1) has made a public commitment to hold free and fair elections for a new government within 6 months and is proceeding to implement that decision;

(2) has made a public commitment to respect, and is respecting, internationally recognized human rights and basic democratic freedoms; and

(3) is not providing weapons or funds to any group, in any other country, that seeks the violent overthrow of the government of that country.

SEC. 1208. POLICY TOWARD A DEMOCRATIC CUBAN GOVERNMENT.

(a) WAIVER OF RESTRICTIONS.—The President may waive the requirements of section 1206 if the President determines and reports to the Congress that the Government of Cuba—

(1) has held free and fair elections conducted under internationally recognized observers;

(2) has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections;

(3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(4) is moving toward establishing a free market economic system; and

(5) has committed itself to constitutional change that would ensure regular free and fair elections that meet the requirements of paragraph (2).

(b) POLICIES.—If the President makes a determination under subsection (a), the President shall take the following actions with respect to a Cuban Government elected pursuant to elections described in subsection (a):

(1) To encourage the admission or reentry of such government to international organizations and international financial institutions.

(2) To provide emergency relief during Cuba's transition to a viable economic system.

(3) To take steps to end the United States trade embargo of Cuba.

(4) To enter into negotiations for a framework agreement providing for trade with Cuba.

SEC. 1209. EXISTING CLAIMS NOT AFFECTED.

Except as provided in section 1205(a), nothing in this title affects the provisions of section 620(a)(2) of the Foreign Assistance Act of 1961.

SEC. 1210. ENFORCEMENT.

(a) ENFORCEMENT AUTHORITY.—The authority to enforce this title shall be carried out by the Secretary of the Treasury. The Secretary of the Treasury shall exercise the authorities of the Trading With the Enemy Act in enforcing this Act. In carrying out this subsection, the Secretary of the Treasury shall take the necessary steps to ensure that activities permitted under section 1205 are carried out for the purposes set forth in this title and not for purposes of the accumulation by the Cuban Government of excessive amounts of United States currency or the accumulation of excessive profits by any person or entity.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this title.

(c) PENALTIES UNDER THE TRADING WITH THE ENEMY ACT.—Section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16) is amended—

(1) by inserting "(a)" before "That whoever"; and

(2) by adding at the end the following:

"(b)(1) The Secretary of the Treasury may impose a civil penalty of not more than $50,000 on any person who violates any license, order, rule, or regulation issued under this Act.

"(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

"(3) The penalties provided under this subsection may not be imposed for—

"(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

"(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.

"(4) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

"(5) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code.".

(d) APPLICABILITY OF PENALTIES.—The penalties set forth in section 16 of the Trading With the Enemy Act shall apply to violations of this title to the same extent as such penalties apply to violations under that Act.

(e) OFFICE OF FOREIGN ASSETS CONTROL.—The Department of the Treasury shall establish and maintain a branch of the Office of Foreign Assets Control in Miami, Florida, in order to strengthen the enforcement of this Act.

SEC. 1211. DEFINITION.

As used in this Act, the term "United States person" means any United States citizen or alien admitted for permanent residence in the United States, and any corporation, partnership, or other organization organized under the laws of the United States.

SEC. 1212. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act.

Mr. GRAHAM. Mr. President, we have had relatively extensive debate on the first-degree amendment in the course of considering the second-degree amendment.

I have introduced an amendment that outlines a comprehensive policy toward Cuba.

The underlining bill upon which this amendment is based has been cosponsored by 52 of my colleagues, including Senators MACK, LIEBERMAN, KASTEN, LAUTENBERG, and MCCAIN. Also cosponsoring are Senators DECONCINI, BRADLEY, D'AMATO, SMITH, GLENN, FOWLER, SYMMS, COATS, BRYAN, SHELBY, DOLE, COCHRAN, ROBB, REID, SEYMOUR, GRAMM, JOHNSTON, HEFLIN, HATCH, PACKWOOD, CONRAD, BREAUX, GRASSLEY, SPECTER, DASCHLE, WIRTH, BROWN, CRAIG, HOLLINGS, GORE, PRESSLER, BURNS, RIEGLE, NICKLES, LOTT, GORTON, MCCONNELL, DOMENICI, WARNER, ROCKEFELLER, BOREN, STEVENS, THURMOND, WALLOP, GARN, BOND, and COHEN.

Except for some minor technical changes and the elimination of the tax provision that was in our original bill, this amendment is identical to our original legislation.

Mr. President, this legislation has broad bipartisan support. Both the administration and presidential candidate Bill Clinton have endorsed its provisions.

The House Foreign Affairs Committee, after extensive hearings and markup, has reported almost identical legislation. The Foreign Relations Committee also has had a day of hearings on the bill, for which I express my appreciation to Senator DODD.

Indeed, the Senate itself has already expressed itself three times on one of the major provisions of the amendment—a provision which would close a loophole in the current economic embargo against Cuba. The Senate last voted on this measure on July 20, 1989, passing it 82–13.

Senators DODD and HARKIN were among those voting in favor. Since then, the Senate has approved the provision on voice votes on at least two subsequent occasions.

Despite the Senate being on record in support of this key provision—not once, but three times—here we are 3 years later still trying to enact this provision into law. I hope, this time we are successful.

By every measure, therefore, this provision—and the amendment of which it is part—represents a consensus view that has broad bipartisan support.

Mr. President, the Senate has provided key leadership at a number of pivotal points when debating this country's relationships with authoritarian governments. From South Africa to Chile, from China to Bosnia, this Senate has shown leadership and resolve.

There is no good reason Cuba should be an exception to the Senate's strong stand on human rights. It is record of which we can be proud.

Mr. President, this amendment is based upon several premises.

First, Castro is as weak as he has ever been. This is no time to take steps, even inadvertent ones, that might strengthen his hand. Rather, we continue to hear from dissidents inside Cuba to keep the pressure on, to take all possible peaceful steps to end the repression and violence, once and for all.

Second, we should do all that we can to increase the flow of information to the Cuban people. This amendment would expand mail and telephone service.

It will increase pressure on Castro, while humanely expanding the means for the tens of thousands of families on the island to remain in touch with their loved ones who have fled.

We also encourage donation of food to the Cuban people and permit the export of medicines and medical supplies to Cuba.

Third, we call on our allies to support our efforts. By no means do we try to punish countries doing business with Castro. Instead, we simply state that countries conducting subsidized trade with Cuba should expect no help from us.

After all, if we wanted to subsidize Cuba, we could more effectively do so directly. I should point out, Mr. President, that we give the administration full discretion to make these decisions.

Fourth, our Government's policy toward Cuba seems to be one of letting events run their natural course. I'm not sure what the natural course is in this case. What I do know is this. If we are to achieve a peaceful transition to democracy, we must have in place a coherent and comprehensive policy that will help achieve that goal.

Mr. President, specifically, this amendment blends carrots and sticks in an effort to promote democratic change in Cuba:

On the carrot side, the amendment:

Encourages the donation of food to the Cuban people and allows the export of medicines and medical supplies.

Expands telecommunication services between Cuba and the United States. Existing service is of poor quality, and Cuban American families pay 5 to 10 times the normal rate to place calls through Canada or other countries which do not limit phone service to Cuba.

Directs the U.S. Postal Service to provide direct mail service to and from

Cuba. Although Cuba now opposes direct mail service, our Postal Service has never been encouraged to aggressively try to negotiate an agreement.

Lack of service causes great hardship for divided families. We hope that those in power in Cuba begin to finally acknowledge the interests of the Cuban people, at least in this instance.

Authorizes U.S. funding for nongovernmental organizations in Cuba. We want to accomplish in Cuba what we achieved in Eastern Europe, the Soviet Union, and Nicaragua. We want to support labor leaders and human rights activists.

The principal stick in our amendment—the one which the Senate has overwhelmingly approved on three different occasions—closes a critical loophole in the Cuban embargo that permits subsidiaries of United States companies to trade with Cuba.

One of the most important aspects of this amendment, in my view, is that it outlines a policy toward a post-Castro government. If that government is freely and fairly elected, the United States would grant full diplomatic recognition, provide emergency relief during Cuba's transition to a viable economic system, encourage debt rescheduling or cancellation and end the embargo.

Mr. President, the day when we will be dealing with a post-Castro government is fast approaching. We must adopt a policy that hastens that day and prepares for the day after. This amendment advances us toward that goal.

Mr. President, from the standpoint of the proponents, we have, I think, no further comments. We are prepared for a vote on the first-degree amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. LIEBERMAN. Mr. President, I rise in support of the Cuban Democracy Act. Five or 10 years ago, this act might have been regarded as a well-meaning attempt to undermine Fidel Castro's police state, but an attempt that was bound to have only a marginal impact on a seemingly secure dictator. Yet, today Castro is obsessed—with good reason—about his political and economic isolation.

Castro is worried about his future because the former Soviet bloc has abandoned him. Already Czechoslovakia, Poland, Hungary, and Bulgaria have voted in the United Nations to condemn human rights violations in Cuba. The Republics of the former Soviet Union have also turned their back on him. Castro's Cuba has become a lonely outpost of a dying Communist empire.

This is no time to reduce the pressure on Castro. This amendment strengthens the existing U.S. embargo by prohibiting U.S. subsidiaries from trading with Castro. We would deal a significant blow to the Cuban economy by cutting off this trade, which amounted to more than $533 million last year. It is time to return to this provision, which was part of U.S. law between 1963 and 1975. It is time to close this major loophole.

At the same time, this amendment would increase contacts with the Cuban people. It directs the United States Postal Service to enter into negotiations with the Cuban Government to provide direct mail service to and from Cuba. This would facilitate contacts for many Cuban families who are split between America and Cuba. The amendment also expands phone service between Cuba and the United States. The existing poor service also inhibits communications between our two peoples.

Finally, the amendment points the way toward a more just and humane future. When Castro leaves the scene—I say when not if—the United States will not leave Cuba in the lurch. The United States will extend emergency aid during a difficult transition period and will encourage a rescheduling or cancellation of its debt. It would help Cuba, in other words, to get a fresh start.

I know that some opponents of this bill reject the idea of economic sanctions altogether. They argue that we can moderate Castro's policies by making him more dependent on the United States through increased trade with him. This, they claim, would make him more open to Western influence.

Yet Cuba is completely dominated by Castro, an incorrigable Marxist-Leninist, who has said that he would rather allow Cuba to sink into the ocean like Atlantis than deviate from communism. If there are moderate Cuban officials, who want to reach a serious accommodation with the United States, they obviously have little influence on Castro.

Mr. President, Fidel Castro is clearly on the defensive. He realizes the vast changes that have taken place in the former Soviet bloc represent the future of Cuba. While Castro obviously felt that he embodied the future of Latin America several decades ago, he now knows that history is passing him by. Today Cuba is poor, isolated, and repressive.

Today the U.S. Senate can further isolate Castro. By passing this amendment, we can make him into an economic pariah. This amendment will hasten the end of the Ceausescu of the Carribean.

Mr. DODD. Mr. President, it is not my intention to spend a great deal of time here. I regret the last amendment was tabled. I think it is somewhat ironic when in this year, when jobs are considered the most important issue, the first amendment, which was designed to allow our companies to compete on a level playing field with others in sales where competition exists with NATO Allies, was tabled.

I can read what is going to happen. We are about to support an amendment that takes some 70 or 80 companies in this country which have subsidiaries in foreign lands and tell them they can no longer do business in Cuba, despite the fact there are competitors lined up to do that business. This is not going to hurt Fidel Castro one bit. It is going to do serious damage to a lot of companies in this country, and a lot of jobs will be lost in the process. So I urge my colleagues to support a tabling motion.

For the benefit of those who were not here when the debate occurred earlier, I referred to a report that came out today entitled "The Inter-American Dialog," prepared by a bipartisan group of people from George Bundy to John Whitehead, Ronald Reagan's appointee at the State Department, urging that legislation like this not be adopted.

It was President Jerry Ford in 1976 who changed the law. He said it was a huge mistake then, and they lifted the subsidiary boycott because of how much damage it was doing to our own economy and having no effect whatsoever on Fidel Castro. No matter how strong the passions may run to want to do something to Fidel Castro, believe me, tonight, with the adoption of this amendment, this is a self-inflicted wound, and here we are telling firms doing business with other countries what to do, not to mention the danger of reciprocity. Other nations do not like being told what companies operating in their lands can do and not do.

Mr. President, I move to table the amendment. I ask for the yeas and nays.

The PRESIDING OFFICER. Does the Senator make a tabling motion?

Mr. DODD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from Oklahoma [Mr. BOREN], the Senator from Tennessee [Mr. GORE], the Senator from Iowa [Mr. HARKIN], the Senator from Hawaii [Mr. INOUYE], the Senator from Arkansas [Mr. PRYOR], the Senator from Colorado [Mr. WIRTH] are necessarily absent.

Mr. DOLE. I announce that the Senator from Missouri [Mr. BOND], the Senator from New York [Mr. D'AMATO], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Washington [Mr. KASTEN], the Senator from New Hampshire [Mr. RUDMAN], the Senator from California [Mr. SEYMOUR], the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 24, nays 61, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—24

Adams
Baucus
Biden
Byrd
Chafee
Cranston
Dodd
Durenberger
Exon
Hatfield
Heflin
Kassebaum
Kennedy
Kerrey
Levin
Lugar
Metzenbaum
Moynihan
Murkowski
Pell
Sasser
Simon
Wellstone
Wofford

NAYS—61

Akaka
Bentsen
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick, Jocelyn
Burns
Coats
Cochran
Cohen
Conrad
Craig
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Ford
Fowler
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Hatch
Hollings
Johnston
Kerry
Kohl
Lautenberg
Leahy
Lieberman
Lott
Mack
McCain
McConnell
Mikulski
Mitchell
Nickles
Nunn
Packwood
Pressler
Reid
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Shelby
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—15

Bingaman
Bond
Boren
D'Amato
Gore
Harkin
Helms
Inouye
Jeffords
Kasten
Pryor
Rudman
Seymour
Simpson
Wirth

So the motion to lay on the table the amendment (No. 3079), as modified, was rejected.

Mr. GRAHAM. Mr. President, I move to reconsider the vote by which the motion was rejected.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on the adoption of the amendment of the Senator from Florida. All those in favor say "aye."

The amendment (No. 3070), as modified, was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, it is my hope that we are going to be able to complete this bill in the next few minutes.

We have an amendment by Senator METZENBAUM, which is going to be accepted. I would like for him, I hope, if he is recognized next, to speak to that.

And then we have an amendment by the Senator from Louisiana, Senator BREAUX.

We have several other amendments that have been worked out. The managers will handle them.

It will be my hope in just a few minutes to tell people where we stand this evening. I would suggest everyone wait here and see if we get over a couple of roadblocks. If we do, we will be able to send you home, hopefully in the next few minutes. But it cannot be done at this moment. We have uncertainties that may require rollcall votes.

Mr. President, I ask unanimous consent that the pending amendments be set aside for the purpose of an amendment by the Senator from Ohio with no second-degree amendments thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3081

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself and Mr. KERRY, proposes an amendment numbered 3081.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 79 strike line 19 and all that follows through line 24 and insert in lieu thereof:

"(a) AUTHORITY.—Except as provided in paragraph (b), the Secretary of Defense may agree to hold harmless and indemnify any response action contractor for any liability arising out of the contractor's performance in carrying out or related to response actions under 10 United States Code section 2701. Amounts expended pursuant to this section for indemnification of any response action contractor shall be considered governmental response costs."

On page 80 line 1 insert "(1)" Prior to "Under reg-"

On page 80 following line 10 insert the following:

"(2) PROHIBITION.—No contracts referred to in paragraph (1) shall provide indemnification to contractors for liability caused by the conduct of the contractor which was grossly negligent or which constituted intentional misconduct."

"(3) LIMITATIONS.—A contract referred to in paragraph (1) which provides indemnification shall include deductibles and shall place limits on the amount of indemnification to be made available."

Mr. METZENBAUM. Mr. President, there was and is at this time a troubling provision in this bill which would have provided an open-ended protection for contractors doing environmental cleanups at active and inactive military bases.

The way the provision originally read and particularly in conjunction with the accompanying report language, a cleanup contractor would have been identified by DOD even if he or she or it were grossly negligent during the cleanup. In other words, the bill would have insulated the Department of Defense cleanup contractors from liability claims filed against them even when their own misconduct resulted in some hazardous spill or release.

It would not matter how bad the spill was. It would not matter how bad the spill was or how expensive were the claims filed against the contractors, the U.S. taxpayers would have been required to pick up the tab.

By providing excessive indemnification this bill could have removed strong incentives for contractors to carefully clean up sites and protect worker health and safety.

After negotiations with the managers of this bill, in which Senator KERRY and his staff were extremely helpful, we have reached an agreement to amend this provision. We are limiting the indemnification so it is not so open ended. It does not go as far as the original amendment which Senator KERRY and I have proposed but it will place some restrictions on contractor indemnification. Contractors will not be indemnified for gross negligence nor for willful misconduct. Deductibles and limits will be placed in the contracts.

This amendment makes sense. It should be adopted. It is in the interest of the people of this country. It is in the interest of our Government.

I am pleased that Senator NUNN and Senator DIXON were cooperative in helping us arrive at this conclusion.

Mr. NUNN. Mr. President, I thank the Senator from Ohio and the Senator from Massachusetts.

Whatever the provisions in the bill said and whatever they were intended to say, they were being read by some people in a different direction. They were being read as the authority for indemnification even for gross negligence.

Senator DIXON worked this issue in our committee, and he has assured me and pointed out the reasons therefore that that was never the intention; that the committee based on that was confident that the Secretary of Defense would never come up with such a provision because it would defy all the other tradition, and also because they would have to send it back to Congress and they would have to publish it in the Federal Register. We would also have a chance to object to it.

So the intent here that is in the Metzenbaum amendment was the original intent but was not stated as clearly as it is here. And therefore, I think this is a good amendment and should be accepted.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I will take just a moment. I want to express my appreciation to Senator NUNN and Senator DIXON for their efforts and their staff's effort to attempt to meet some of our concerns about section 313 of this bill which pertains to the cleanup of hazardous waste sites at military installations and the potential liability of the environmental restoration contractors. I particularly want to congratulate and thank the Senator from Ohio [Mr. METZENBAUM].

This environment cleanup work is of vital importance to the Nation and particularly to our citizens who live in close proximity to military bases. We need to guarantee that the cleanups are done, competently, thoroughly, and carefully. Many of us were concerned that the language that was reported out of committee upset the balance in the entire indemnification process for negligent acts that might occur in the cleanup process. Obviously, we wanted to have a sound balance so that we could attract good contractors for the task of cleaning up, but at the same time not end up with a liability process that eventually came back to haunt the taxpayer.

As the Senator from Georgia has said, some of us read that language to be troublesome with respect to the potential liability to the taxpayer and really a process of obviating the important relationship that has been created in cleanups for indemnification for negligent work.

I would really like to congratulate all of our staffers who have worked long and hard on this. I am particularly grateful again to Senator NUNN, and Senator DIXON, for their willingness to work with us and to Senator METZENBAUM for his leadership. I believe with this amendment, we have greatly improved on the language in section 313.

There does remain some concern about section 319. Section 319, which is another area of indemnification for research and development, remains problematical. I would hope that in the course of the conference the chairman and others would look at that language very, very closely.

I again express my appreciation to all involved in achieving the improvements to section 313 and I hope that the Defense Department will move rapidly to issue the regulations necessary to permit these cleanups to go forward expeditiously.

I thank the Chair.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. I would like to enter into a colloquy with the chairman and ranking member of the committee, a very friendly colloquy.

Let me say, first of all, that for many years I have been trying to ensure the B-1B bomber is a safe plane. We have, in western South Dakota, 27 B-1B bombers which have not always worked very well. It was amazing to me that this B-1B bomber—an example of great technological progress—did not fly very well in its early years of deployment. We did not use them in Desert Storm, as I understand it, although this may not have been entirely related to safety concerns.

A few years ago a B-1B crashed near Rapid City, SD. For some time after that event, we had 27 of the finest bombers in the world sitting on the ground in Rapid City, SD. When John Tower was nominated for Defense Secretary, I sought a commitment before I would vote for him that he would fix the B-1B bombers or at least work on the problem. There is a very interesting phenomenon at work here. When a bomber is being designed and built, there is a great lobby supporting it. Once it is built, if there are problems, there is no strong lobby to support its repair or redesign.

I was encouraged when, in 1989, National Security Adviser Brent Scowcroft gave me a letter stating the administration was committed to fix the B-1B bomber. Tonight, I would like to discuss what progress has been made.

I do not want to offer an amendment here. I want to get an assurance that the B-1B bomber is on track. I want to determine what is happening with the B-1B bomber program. Perhaps I can get some answers from my colleagues who serve on the committee with jurisdiction over the B-1B. I do not mean to be critical, but we have 27 B-1B bombers in my home State and I want to make sure everything possible is being done in this bill to ensure this plane is safe. When I go back home people ask me, including the pilots who fly the planes and live in the communities of my State, about the status of the B-1B bomber program.

Mr. WARNER. Mr. President, this subject was carefully worked on by the Senate Armed Services Committee in the course of its hearings prior to markup. Our bill contains authorization for such funds as necessary to improve the safety, operational, and structural safety of this aircraft. The engines, likewise, will be worked to bring about the safety measures required.

As far as I have been able to determine—and I have checked it carefully—each request from the Department of the Air Force is included in our bill and hopefully will be funded adequately.

I say to my good friend, as a consequence of his strong efforts and the efforts of others, this particular aircraft, in which the American taxpayer has a very heavy investment, will be reworked to provide those safety measures that are necessary.

Mr. PRESSLER. I thank my colleague.

Also, I might say that I am told that the Air Force has determined the B-1B will require 200,000 flight hours to be mature and fully tested. The B-1B has been flown some 120,000 hours. Thus, as I understand it, we are well beyond the halfway point in bringing the B-1B to maturity.

Is this a normal time frame for the testing of a new airplane? I mean, it has taken several years to get us to the 120,000 hour point.

Mr. NUNN. Mr. President, would we be permitted to finish this amendment, because we were right on the verge of finishing it, and then we could get back to this?

Mr. PRESSLER. That is fine.

Mr. METZENBAUM. Mr. President, I found it very illuminating to hear from my colleague about the B-1 bomber, but it does not have much relevance to this particular amendment. It was very interesting anyhow.

Let me say that a staff member of mine, Ellen Bloom, was an unbelievable help in connection with our being able to bring about a resolution of the differences of the parties in connection with this amendment. In fact, she made almost a supreme sacrifice, because she was on her way home in the car when we called her in the car and said "Turn around." She had her 5-year-old son with her. We said, "We need you back here," and she turned around and came back. Without her, we would not have been able to bring about the result that we did.

Mr. President, I do not think there is any further debate that I know of. If there is no further debate, this Senator is prepared to have the Senate act on the measure if the managers have no objection.

Mr. NUNN. This amendment is not about the B-1. This is an indemnification amendment. It has been worked out, and we urge its approval.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 3081) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I would like at this time to continue to colloquy with the Senator from South Dakota.

The Senator had inquired of the Senator from Virginia as to the maturity of this aircraft. I reply that the Senator correctly states the life maturity. The Senator again exhibits his knowledge of this particular aircraft, and he is exactly right.

Mr. PRESSLER. I see my friend from Nebraska here. He may be able to shed some light on this. I would say to my colleague, as he well knows there was some problems in getting the B-1B to fly and operate properly. I do not know all that has been and is being done, but people in the Rapid City area, including and perhaps especially the pilots who live in the community, are curious about what we are doing. Everybody knows the plane has not always worked correctly.

If there is anything I can do to help improve the B-1B I stand ready to do so. Indeed, as I have mentioned, when

John Tower was nominated for Defense Secretary, I raised this issue and tried to make it a priority. I know my friend from Nebraska also knows a great deal about this issue. I wonder if he would care to comment.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, the Senator from South Dakota brings up a very legitimate point, I guess, when he is talking about his people that fly those bombers that are constituents, and neighbors that are constituents. There are similar concerns around the country. The B-1B bomber, if we had it to do all over again, in the view of this one Senator, we would never have built it. But that is by the boards. We have a lot of money invested in this, as the Senator has indicated.

The Armed Services Committee has received several proposals from the Air Force with regard to the B-1B bomber. There is no question but—I believe the first crash of that aircraft occurred at the Rapid City facility. It has been grounded, I say, on two, maybe three occasions, since that time.

The aircraft has some problems. We keep being assured that they can be fixed and repaired, and the cost per aircraft varies all over the place on it. They also have some trouble with the electronic countermeasures on that aircraft, which has nothing directly to do with safety when they are flying in peacetime but would have a great deal to do with the safety of the crew if they were flying under combat conditions.

At the present time, the Armed Services Committee is taking a go-slow approach on spending a great deal of money on the electronic countermeasures to make the aircraft operational.

Mr. President, what we are doing is providing some additional money for what we think are necessary safety features to make sure that we are doing what we need to do to provide the minimum safety for the people that continue to fly that aircraft.

We have not yet come to a final decision, I do not believe, as to what role the B-1B is going to play in the future. With the aging B-52, with the problems that we have with the B-1B and now a limited buy on the B-2, that we finally put to bed this morning, then I simply say that we have a problem with regard to the future, with regard to our bomber capability.

Therefore, I assure the Senator from South Dakota that we are fully up to speed on the problems that are there. We do not have and are not trying in this bill to provide money to answer all of the problems. But we are providing some funds that would address the basic safety issues with regard to some repairs that have to go into the engine with regard to some of the fuselage problems that we have had.

I can assure the Senator from South Dakota that we on the committee have exactly the same concerns as the Senator from South Dakota and that they are being addressed. I wish that I could tell him that we are certain that we are doing everything that we can at the present time, and we are from a safety standpoint. But even the committee as a whole is saying we cannot afford to write off the B-2 at the present time. We would be willing, after we check with the contractor, to see if any costs might accrue to the contractor that maybe did not build the aircraft right. So it is under investigation at this time by the committee and we share the Senator's concerns. We think that we have adequately addressed them as best we can with the information presently at hand.

Mr. PRESSLER. I thank my friend from Nebraska. I know he has done an outstanding job of chairing the Subcommittee on Strategic Forces and Nuclear Deterrence. I thank him very much. Every time I go to Rapid City and am asked about this subject, I will reference this colloquy. I thank my friend.

Mr. WARNER. Mr. President, I say to my friend from South Dakota it is Senator EXON'S subcommittee that has jurisdiction over this matter. I think the record should reflect that. We hope the citizens of that community will continue to provide a friendly home for the aviators and ground crews and others associated with these aircraft and that they will operate safely for all concerned.

I thank the Senator for his interest in this program.

Mr. PRESSLER. I thank my friend from Virginia on his leadership in this area and look forward to working with him on the details of improving the B-1B bombers.

Mr. WARNER. Mr. President, I will send an amendment to the desk.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendments?

Without objection, it is so ordered.

AMENDMENT NO. 3082

(Purpose: To require a report on possible revisions to the North Atlantic Treaty of April 4, 1949)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment 3082.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REPORT ON POSSIBLE REVISIONS TO THE NORTH ATLANTIC TREATY.

(1) FINDINGS.—The Congress finds that—

(a) when the North Atlantic Treaty was signed in 1949, the clear military threat to the security of Western Europe was the Soviet Union and its allies in Eastern Europe;

(b) since 1949 it has been clearly understood by the people of the Western world that the primary mission of NATO was to deter an attack from the Soviet bloc;

(c) the dramatic changes in Europe since the fall of the Berlin Wall in 1989, and the subsequent dissolution of the Warsaw Pact and the Soviet Union have fundamentally changed the security situation in Europe;

(d) one of the consequences of the breakdown of 40 years of Communist rule in Eastern Europe and the former Soviet Union has been ethnic conflict throughout the region, particularly in the Balkans and the Republics of the former Soviet Union;

(e) those fundamental changes in the security threats facing NATO member nations have caused confusion concerning the mission of NATO in the post-cold-war world and the role of NATO military forces outside of the NATO theater, particularly in the former Soviet Union; and, therefore

(f) a fundamental review of the North Atlantic Treaty is necessary, in light of the new security situation in Europe.

(2) REPORT.—The Secretary of Defense, in consultation with the Secretary of State, shall provide a report to the Congress, by April 1, 1993, which includes—

(a) a detailed analysis of the foreseeable threats to the security of NATO member nations;

(b) a determination whether or not there is a requirement for the member nations of NATO to revise the North Atlantic Treaty of 1949 to meet the future challenges to their peace and security; and

(c) the extent to which the charter permits the use of NATO forces for peacekeeping purposes, given the steadily increased use of military forces for such purposes, and the range of missions that should be considered for such peacekeeping to protect the interests of member nations.

Mr. WARNER. Mr. President, this amendment is cleared on both sides. It relates to simply a request for a study by NATO.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia.

The amendment (No. 3082) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment?

Without objection, it is so ordered.

AMENDMENT NO. 3083

(Purpose: To establish a National Education Goals Panel)

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of Mr. BINGAMAN and Mr. COCHRAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. BINGAMAN (for himself and Mr. COCHRAN), proposes an amendment numbered 3083.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 494, between lines 4 and 5, insert the following:

TITLE XII—NATIONAL EDUCATION GOALS PANEL

SEC. 1201. PANEL ESTABLISHED.

(a) ESTABLISHMENT.—There is established within the Department of Education a National Education Goals Panel (hereafter in this title referred to as the "Panel").

(b) COMPOSITION.—

(1) IN GENERAL.—The Panel shall be composed of 14 members (hereafter in this title referred to as "members"), including—

(A) two members appointed by the President;

(B) eight Governors, three of whom shall be from the same political party as the President and five of whom shall be of the opposite political party of the President, appointed by the Chairman or Vice Chairman of the National Governors' Association, with each appointing those of his respective political party, in consultation with each other and in accordance with paragraph (2); and

(C) four Members of Congress appointed as follows:

(i) The Majority Leader of the Senate shall appoint 1 individual from among the Members of the Senate.

(ii) The Minority Leader of the Senate shall appoint 1 individual from among the Members of the Senate.

(iii) The Majority Leader of the House of Representatives shall appoint 1 individual from among the Members of the House of Representatives.

(iv) The Minority Leader of the House of Representatives shall appoint 1 individual from among the Members of the House of Representatives.

(2) SPECIAL APPOINTMENT RULES.—(A) The members appointed pursuant to paragraph (1)(B) shall be appointed as follows:

(i) If the Chairperson of the National Governors' Association is from the same political party as the President, then the Chairperson shall appoint 3 persons pursuant to such paragraph and the Vice Chairperson shall appoint 5 persons pursuant to such paragraph.

(ii) If the Chairperson of the National Governors' Association is from the opposite political party as the President, then the Chairperson shall appoint 5 persons pursuant to such paragraph and the Vice Chairperson shall appoint 3 persons pursuant to such paragraph.

(B) If the National Governors' Association has appointed a panel that meets the requirements of this subsection prior to the date of enactment of this Act, then the members serving on such panel shall be deemed to be in compliance with the provisions of this subsection and shall not be required to be reappointed pursuant to this subsection.

(c) TERMS.—The terms of service of members shall be as follows:

(1) EXECUTIVE BRANCH.—Members appointed under paragraph (1)(A) shall serve at the pleasure of the President.

(2) GOVERNORS.—Members appointed under paragraph (1)(B) shall serve a two-year term, except that the initial appointments under such paragraph shall be made to ensure staggered terms with one-half of the such member's terms concluding every two years.

(3) MEMBERS OF CONGRESS.—Members appointed under paragraph (1)(C) shall serve a term of four years.

(d) INITIATION.—The Panel may begin to carry out the duties of the Panel under this title when seven members of the Panel have been appointed.

(e) DATE OF APPOINTMENT.—The initial members shall be appointed not later than 60 days after the date of enactment of this Act.

(f) RETENTION.—In order to retain an appointment to the Panel, a member must attend at least two-thirds of the scheduled meetings of the Panel in any given year.

(g) VACANCIES.—A vacancy on the Panel shall not affect the powers of the Panel, but shall be filled in the same manner as the original appointment.

(h) TRAVEL.—Each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(i) CHAIRPERSON SELECTION.—

(1) INITIAL SELECTION.—The members appointed under subsection (b)(2) shall select a Chairperson from among such members, except that after the expiration of the term of the member selected under this paragraph to serve as Chairperson as of October 1, 1991, or upon the termination of the tenure of such Chairperson, whichever is earlier, a majority of the members of the Council shall select the Chairperson from among the members.

(2) CONTINGENT SELECTION.—If no individual described in paragraph (1) assumes the position of Chairperson of the Council within 60 days of the date of the enactment of this Act, a majority of the members shall thereafter select a Chairperson from among the members.

SEC. 1202. FUNCTIONS.

(a) FUNCTIONS.—

(1) IN GENERAL.—The Panel shall—

(A) propose the indicators to be used to measure the National Education Goals and reporting progress toward their achievement, the baselines and benchmarks against which progress may be evaluated, and the format for an annual report to the Nation;

(B) select interim and final measures and appropriate measurement tools to be developed as necessary in each goal area;

(C) report on the Federal actions to fulfill its responsibilities to education, including funding the Federal financial role, providing more flexibility and controlling mandates that limit the States' ability to fund education;

(D) issue a report to the President, the Congress, the Governors, and the Nation annually on progress toward the National Education Goals;

(E) assure, through requirements for State reports, that student performance is reported in the context of other relevant information about student, school and system performance;

(F) identify gaps in existing educational data, make recommendations for improvements in the methods and procedures for assessments that would be appropriate to assessing progress toward the National Education Goals, propose changes in national and international measurement systems as appropriate and make recommendations to the President, the Congress, and the Governors for needed improvements;

(G) appoint members to the National Education Standards and Assessments Council; and

(H) in accordance with paragraph (2), issue certification of content and student performance standards and the criteria for assessments as world-class following submission of such certification by the National Education Standards and Assessments Council.

(2) SPECIAL RULE.—In the event the Panel denies certification to all or part of a certification of the National Education Standards and Assessments Council, all or part of a certification shall be returned to such Council with detailed written explanations for the denial.

(b) PERFORMANCE OF FUNCTIONS.—In carrying out its responsibilities, the Panel shall operate on the principle of consensus.

(c) DATA COLLECTION.—The Panel shall make arrangements with any appropriate entity to generate or collect such data as may be necessary to appropriately assess progress toward the National Education Goals.

SEC. 1203. ANNUAL REPORT CARD.

(a) IN GENERAL.—The Panel shall prepare and submit to the President, the appropriate committees of Congress, and the Governor of each State a National Report Card, that—

(1) sets forth an analysis of the progress of the United States toward achieving the National Education Goals; and

(2) may, as determined necessary by the Panel based on the findings of the Panel and an analysis of the views and comments of all interested parties—

(A) identify continuing gaps in existing educational data; and

(B) make recommendations for improvement in the methods and procedures of assessing educational attainment and strengthening the national educational assessment and information system of the Department of Education or any other appropriate Federal Government entity.

(b) CONTINUATION.—Based on the timetable established in section ____02, the Panel shall continue to issue a National Report Card on an annual basis for the duration of the existence of the Panel.

(c) FORMAT.—National Report Cards shall be presented in a form that is understandable to parents and the general public.

SEC. 1204. POWERS OF THE PANEL.

(a) HEARINGS.—

(1) IN GENERAL.—The Panel shall, for the purpose of carrying out this title, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Panel considers appropriate.

(2) CONDUCT.—In carrying out this title, the Panel shall conduct public hearings in different geographic areas of the United States, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public regarding the Panel's functions described in section 1202(a).

(b) INFORMATION.—The Panel may secure directly from any department or agency of the United States information necessary to enable the Panel to carry out this title. Upon request of the Chairperson of the Panel, the head of a department or agency shall furnish such information to the Panel to the extent permitted by law.

(c) GIFTS.—The Panel may accept, use, and dispose of gifts or donations of services or property.

(d) POSTAL SERVICES.—The Panel may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE AND SUPPORTIVE SERVICES.—The Secretary of Education shall provide to the Panel, on a reimbursable basis, administrative support services as the Panel may request.

SEC. 1205. ADMINISTRATIVE PROVISIONS.

(a) MEETINGS.—The Panel shall meet on a regular basis, as necessary, at the call of the Chairperson of the Panel or a majority of its members.

(b) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

(c) VOTING.—No individual may vote or exercise any of the powers of a member by proxy.

SEC. 1206. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Chairperson of the Panel shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a Director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

(b) APPOINTMENT AND PAY OF STAFF.—The Chairperson of the Panel may appoint personnel as the Chairperson considers appropriate without regard to the provisions of title 5, United States Code, governing appointments to the competitive service. The staff of the Panel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. The rate of pay of the staff of the Panel shall not exceed the rate of basic pay payable for GS–15 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—The Panel may procure temporary and intermittent services under section 3019(b) of title 5, United States Code.

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Panel, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Panel to assist the Panel in its duties under this title.

SEC. 1207. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 through 2001 to carry out this title.

Mr. WARNER. Mr. President, this amendment is cleared on both sides and relates to the subject of education.

Mr. NUNN. Mr. President, this amendment has been cleared and we checked with Senator KENNEDY and Senator HATCH and they are in favor of this amendment. Therefore, I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3083) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL MEDICAL TECHNOLOGY TESTBED

Mr. SEYMOUR. Mr. President, I wish to engage in a brief colloquy with the distinguished ranking member of the Senate Armed Services Committee regarding a noteworthy project that illustrates the potential of an effective defense reinvestment program.

Mr. WARNER. I would be pleased to discuss this matter with the distinguished Senator from California.

Mr. SEYMOUR. A consortium of defense-related companies and the Loma Linda University Medical Center have developed a proposal to collaborate in a technology transfer program that promises to produce revolutionary results in the field of health-care.

The new consortium came together under the leadership of the medical center and its advance technology center [ATC]. Eight defense companies have now committed themselves to the National Medical Technology Testbed. These corporations have expressed their eagerness to participate in an effort to tap some of the most enthusiastic and brilliant research minds for the development of prototype products for the commercial market. New products resulting from the consortium will be licensed by the participating companies and manufactured primarily by small businesses in southern California. The job creation from this project and the resulting economic benefits will have a positive impact on an area of my State which has lost roughly 70,000 defense-related jobs since 1986. Perhaps the greatest return on a Federal investment in this type of program will be in the health-care field.

Mr. President, the referenced project has progressed to the point that adequate funding could result in its almost immediate implementation. Representatives from Loma Linda recently visited my office and illustrated the capabilities of a prototype produce which will undergo further development under the auspices of the consortium. This novel product is a computerized medical information system that allows for the optical storage of a patients complete medical records onto a wallet-sized card. Using an affordable personal computer, a primary care physician could access an individuals complete medical history within a matter of seconds. Defense critical technologies made a substantial contribution to the development of this system. These cards could save health-care providers time and paperwork thereby increasing efficiency and substantially reducing medical costs. The security of this program would be ensured through a technology that was developed for military purposes.

Mr. President, I am pleased to bring this amazing initial effort by the consortium to the attention of my colleagues and suggest that the testbed should be designed as a model project for a defense conversion competitive grant award.

Mr. WARNER. I thank the Senator from California and inform him that this project is the type that the committee envisioned when it passed the defense conversion and transition assistance subtitle of the fiscal year 1993 Defense authorization bill. One of the most important aspects of the conversion concept was the maintenance of the critical mass of expertise that currently exists in our defense research community. The key to making these initiatives successful resides in our willingness to provide companies with the ability to bring diversification to their businesses while advancing their knowledge of these critical technologies.

Mr. SEYMOUR. I thank the Senator for his favorable recognition of this project.

The PRESIDING OFFICER. The Senator from Louisiana [Mr. BREAUX] is recognized.

Mr. BREAUX. Mr. President, I will send an amendment to the desk.

The PRESIDING OFFICER. Is there objection to setting aside pending amendments?

Mr. NUNN. Mr. President, I ask unanimous consent the pending amendments be set aside for the purpose of the Breaux amendment which relates to maritime matters with no second-degree amendments to that amendment in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3085

(Purpose: To authorize funding for militarily useful merchant vessels)

Mr. BREAUX. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Louisiana [Mr. BREAUX], for himself and Mr. LOTT, proposes an amendment numbered 3085.

Mr. BREAUX. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . AUTHORIZATION FOR CONTINGENCY RETAINER FLEET FUNDING.

To enable the Secretary of Transportation to establish a contingency retainer fleet program to provide militarily useful vessels for meeting the sealift needs of the United States during national emergencies, the Secretary of Defense is authorized to transfer to the Secretary of Transportation, for operating agreements for contingency retainer fleet vessels, not to exceed $300,000,000 for fiscal year 1993. Amounts appropriated under this section shall remain available until expended.

Mr. BREAUX. Mr. President, let me first thank the distinguished chairman of the Armed Services Committee, the Senator from Georgia, for his cooperation and interest that he has shown in this amendment as well as the Senator from Virginia for the interest he has in this area.

Mr. President, if there is one thing that was very clear as a result of the

Persian Gulf conflict among many lessons we learned, one of the lessons was very clearly the United States does not have the maritime capability to transport troops and equipment as rapidly as they need to be transported in times of a national emergency or in times of serious conflict like we saw in the Persian Gulf.

It is very clear that that is a statement that goes without contradiction. While many wonderful things occurred during the Persian Gulf conflict in terms of our ability to perform the mission that was required, one area in which there was a shortfall was the ability to use maritime resources that we need in order to accomplish the military purpose.

The committee's own report speaks to this need for a strong civilian Maritime force. The committee notes that the administration's national security sealift policy calls for placing primary reliance on the commercial sector for strategic sealift. That is a conclusion of the Armed Services Committee, a conclusion that I certainly have no differences with and with which I strongly agree. In addition, the Mobility Requirements Study, a study done by the Department of Defense themselves, recognizes the need for a U.S.-flag commercial fleet of vessels that are ready to be put into service immediately in times of a national conflict in order to transport troops, in order to transport equipment to far off-places and to ensure the ability of the United States to respond.

DOD, in indicating that they have a need for military vessels of a civilian nature, have indicated they need a minimum of 17 container vessels and 25 roll on/roll off ships as a matter of fact. These are ships that they need for military transportation purposes. However, it is very apparent that at this stage that the Department of Defense wants a free ride. They want the ships but they do not want to have to pay for them out of their budget. They are unwilling to recommend how the ships will be acquired, but will recommend and ask the Congress that they get the ships.

Mr. President, we have a proposal that we have worked on for sometime, a request by the President of the United States for a contingency retainer program that would establish a minimum of 74 civilian ships. These ships would have military capability, ready to go in times of a national emergency. We have a plan ready to be authorized if we could find a way to pay for it.

Mr. President, under the proposal the President has recommended, the Department of Transportation has said that they would come up with a way to pay for 57 of those ships and is only asking that the Department of Defense find the money in a multibillion-dollar budget to pay for the operation of approximately 17 vessels that have military capability to be used in times of a national emergency.

What the Department of Transportation and the Commerce Committee's, Subcommittee on Merchant Marine, is asking is only that the Department of Defense be willing to pay their share for something that I think is strategically fair from a military standpoint.

Now, some have argued that every body in Congress wants a little bit out of the Department of Defense budget; everybody wants to transfer money out of the Department of Defense for their programs.

Mr. President, there is a vast difference in what this amendment does. It is far, far different from those types of requests. What we are asking for is not for the Department of Defense to pay for a welfare program; not for the Department of Defense to pay for a highway program or an arts program.

What we are asking is a simple request for the Department of Defense to pay their fair share in assuring that we have a strong civilian maritime force to provide the transportation of equipment and manpower when they need it to respond effectively to the Commander in Chief, the President, when he makes a request to ship men and equipment to far-off places.

The problem with the President's request is that it does not identify how it is to be paid for, and that is the problem that we face now at this late point in time.

Mr. President, my colleagues, the U.S. maritime industry is sinking. It is going under, and it is not going to ever resurface unless we get serious about how to provide the funds to do something to address this problem.

I commend Secretary Andy Card, the Department of Transportation, as being the first Secretary of Transportation that has recognized that there is a problem, and that without ships, we cannot transport equipment and we cannot transport troops. He has done more to bring all the sides together than anybody else in this administration.

And while this bill does not provide 100 percent satisfaction to everybody, it is 100 percent better than what we had before. The only thing, as I have said, which remains is a method to pay for it.

It is unfortunate, because the chairman has communicated to me that the Department of Defense—and I ask the distinguished chairman if this is correct or not—the Department of Defense has indicated to him that they do not support the amendment. They want the ships; they want a strong maritime; but if it comes to paying for it, even paying for their fair share, their communication to the distinguished chairman of the Armed Services Committee is that they are unwilling to support this effort.

I ask my friend, the distinguished chairman, if I am wrong in that assumption, or what his understanding is.

Mr. NUNN. Mr. President, I do not have a letter in writing. But I have been told through staff orally from the Department of Defense that they do oppose this amendment.

So the Senator is correct.

Mr. BREAUX. I thank the chairman for his response.

Mr. President, I hope that my good friend, Secretary Dick Cheney, reads our comments this evening, that this is an effort to do what the President has requested. And I think it is totally appropriate for the Department of Defense to pay their fair share of what they need so desperately.

I am very disappointed that they are unwilling to come through with a relatively small request for funding for this program. We are not going to give up. We will continue to do what is necessary to meet the military requirement for a strong civilian defense program.

I ask the distinguished ranking minority member if he has any different communications as to the Department's position on the issue.

Mr. WARNER. Mr. President, in response to the inquiry, my information is the same as that of the chairman. I would, however, indicate that Secretary Card did talk with me one evening and confirmed many of the representations made by the distinguished Senator from Louisiana.

Mr. BREAUX. Mr. President, I will not belabor the point any further. I recognize what you are up against when the chairman and ranking minority member are not in a position to support the amendment.

Having said that, and having offered it, I will withdraw the amendment at this time.

The PRESIDING OFFICER. The Senator from Louisiana withdraws his amendment.

The amendment (No. 3085) was withdrawn.

Mr. NUNN. Mr. President, I thank the Senator from Louisiana. The subject he is working on is enormously important. We have been struggling with it for years. There has never been any kind of solution to it from this administration or the previous administration, or from the Congress.

I think the Senator has the seeds of an idea that bears very close examination. I am pleased he did withdraw the amendment. The difficulty tonight is we have spent several hours debating transfers from Defense to other Departments.

The Senator from West Virginia, the leader of the Appropriations Committee; the Senator from Tennessee, the leader of the Budget Committee; and myself, as leader of the Armed Services Committee, have opposed those amendments as a matter of principle, and as a matter that related to the budget agreement.

So I think, at this time, it would be very difficult to pass that amendment. I would have to oppose it under these circumstances. But I will work with the Senator to try to develop a policy, and try to stimulate the Department of Defense to address this issue, because they do have a serious problem with this kind of vessel. They have a serious problem with Sealift in general, and this is something they ought to at least give serious consideration to.

Mr. President, I do not know how many more amendments we have, but we really, on our list, are about to run out of them. We have a package of cleared amendments, and I would like to take those amendments up as rapidly as possible.

Mr. WARNER. Mr. President, we are prepared to work with the chairman. We do have a list of cleared amendments.

Mr. NUNN. Mr. President, I intend in a moment to propound a unanimous-consent agreement that no other amendments other than these named here be in order.

What I would like to do is let everybody go home. But if I do that, and somebody comes over with an amendment that is not on the list that we have not seen, then we will not be able to pass this bill tonight unless that is acceptable.

So I intend to propound an exclusive list of amendments, and no other amendments will be in order. And it will be done in just a moment.

Mr. President, we have the list of amendments. We are working on all these amendments, and we believe we can work these amendments out. It would be our intention to do that this evening.

I am going to list the amendments that we know about. We have a Roth-Grassley amendment on expired accounts; we have a Smith amendment on POW stamp; we have a Reid amendment on Nevada test site employees; a Bryan-Reid amendment on the study of new use of the Nevada test site, solar energy; a Nunn-Warner amendment on AIDS research; a Kennedy defense conversion; a Specter defense conversion.

We have a McCain-Gore amendment on Iran-Iraq arms proliferation; a Bingaman-Glenn amendment on nuclear nonproliferation ration; Nunn-Warner, technical amendments; Levin-Simon, support for peacekeeping; Robb, defense conversion; Dole, Landsat; Shelby, carbonyl iron powder; Warner, national defense, Sealift fund; Glenn, proliferation; Inouye, arms initiative.

We have the following military construction amendments: One by Mr. ADAMS; one by Mr. GARN; one by Mr. HATFIELD; one by Mr. LAUTENBERG; one by Mr. FORD; and one by Mr. NUNN.

Mr. President, these are the amendments we intend to take up, and I ask unanimous consent that no amendments other than those cleared by the managers be in order; that when the managers determine no further cleared amendments, we go to final passage without any further additional motions or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, we have just been informed——

Mr. NUNN. Mr. President, I do not have any requests for rollcall vote on final passage. It would be my intent not to ask for one.

Mr. WARNER. Mr. President, we do not have any requests on this side, but I do bring to the attention of the chairman we have two additional amendments which have come in the period intervening: the Senator from Mississippi [Mr. LOTT] on military construction; the Senator from Virginia, myself, on two land transfers. And I would like to reserve the right for the Senator from Mississippi [Mr. COCHRAN] on an amendment on Sealift.

Mr. NUNN. Under the unanimous consent, I say to my friend from Virginia, under the unanimous consent the way I propounded it, those amendments, whatever they are, would have to be cleared by the managers, just like all of these others would be. Otherwise they are out.

Mr. WARNER. That is clear. But I fear until I have had an opportunity—and this has just been handed to me—I must protect these two Senators. It will take me but a few minutes.

Mr. NUNN. They are protected to the extent we can agree on the amendments.

Mr. WARNER. I understand that, but I at least have to have some specific knowledge of the two amendments, Mr. Chairman. I need just 1½ minute.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, while the Senator from Virginia is doing that, the distinguished chairman of the committee just stated that there has been no request for a rollcall vote on final passage on our side. I am advised by the Republican leader and the Republican manager there is no request on their side.

Unless some Senator expresses himself or herself to the contrary, very shortly, we will assume that to be the case and we will take silence to be acquiescence. Therefore, there will not be such a vote.

If any Senator demands such a rollcall vote, that Senator should come forward immediately, otherwise there will not be one. While we are waiting for that, Senator WARNER now has the opportunity to review the matter he is discussing.

The PRESIDING OFFICER. The Chair recognizes the Senator from Virginia.

Mr. WARNER. Mr. President, I am now prepared to advise the distinguished chairman that the list of amendments that he recited in the unanimous consent, with the addition of an amendment by the Senator from Mississippi [Mr. LOTT], which I understand has been cleared on both sides, and two military construction—land transfers from the Senator from Virginia, myself—and that would constitute a complete list from this side.

Mr. NUNN. I thank the Senator from Virginia. I hope everyone understands these are amendments we are working on, we have not cleared them all, and that this bill will have these if we work them out and they are cleared by both sides. If not, the amendment would have to be dropped. That is the nature of the unanimous-consent request.

Mr. President, I think we are now able to tell people here they can go home. I can express my appreciation to all Senators for their splendid cooperation.

I had thought it would be 1 or 2 o'clock tonight at best before we could reach this point, so I say we have had an extraordinary day. We have gotten an enormous amount done. We probably handled, guessing, around 60 to 70 amendments—at least before we get through we will handle at least that many amendments.

I thank all Senators for their cooperation on both sides of the aisle. I particularly thank the staff that have done a tremendous job: Arnold Punaro; and Pat Tucker on the minority side, and I thank my friend from Virginia. But I think we can tell everyone now, there will be no more rollcall votes.

Mr. WARNER. Mr. President, may I join with the distinguished Senator from Georgia [Mr. NUNN], and likewise thank our respective majority and Republican leaders for their assistance, and all Senators. We have moved a good deal here.

Mr. President, in this what I call rapid wrapup that has been taking place, I have been asked to state for purposes of the RECORD that an amendment which will shortly be considered offered by the Senator from Ohio [Mr. GLENN] does not contain any provision that would impact on the various arms transfer agreements, most specifically as relate to the Middle East, or any of those amendments to Saudi Arabia, the State of Israel, or others.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask unanimous consent to proceed to morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,036,029,800,301.23 as of the close of business on September 16.

Anybody familiar with the U.S. Constitution knows that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on Federal spending approved by Congress—spending over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman and child owes $15,713.02—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

A WONDERFUL GIFT FROM JOHN WOLD

Mr. WALLOP. Mr. President, I want to bring to the attention of my colleagues the generous act of Wyoming businessman John Wold in making a contribution to Casper College for a proposed physical science building. His $1 million donation represents nearly one-fourth of the total amount needed to complete the project. Hopefully, others in the private sector will follow John's lead and provide the rest of the funding.

For those who do not know him, John Wold has been a prominent member of the oil and gas industry in the Cowboy State for many years. But he has also been dedicated to public service throughout that time serving as the first professional geologist ever to be elected to the U.S. Congress. John served in the Wyoming State Legislature where he was chairman of the house labor committee and spent two terms as Wyoming Republican State chairman. He also served on the executive committee board of the Republican National Committee. In 1968, he was chosen by the Associated Press as "Wyoming Man of the Year" and in 1978 was picked as "Wyoming Mineral Man of the Year."

John was a founder and the first president of the Wyoming Heritage Foundation, a nonprofit organization dedicated to educating Wyoming citizens about the benefits of the free enterprise system. I know that the people of Wyoming join me in expressing appreciation for this donation by my long time friend and associated and I am confident that future Wyoming students will put the new building to good use while obtaining their education at Casper College.

I ask that a recent news article describing John Wold's latest contribution to Wyoming be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WOLD GIVES $1 MILLION FOR PROPOSED CASPER COLLEGE SCIENCE BUILDING

(By Tom Morton)

CASPER—Casper College officials announced Tuesday that Wyoming minerals magnate John Wold will give $1 million to the school for a proposed physical sciences building.

The donation equals one-fourth of the $4 million that the college's foundation hopes to raise from private gifts and donations for an $11.1 million building and renovation proposal. The college plans to spend $8.5 million on the science building, which will cover 54,000 square feet, and will dedicate the rest to pay for renovations to other college facilities.

The college hopes to convince county taxpayers to authorize borrowing the additional $7.1 million needed for the proposal in a vote on a bond issue this fall.

The bond will be repaid through a 2 mill property tax in the county. College officials have said a 2 mill levy will cost the owner of a $75,000 home about $12 more annually for the next 25 years.

The college and American education need such a science center, Wold said, because of the declining status of the country's science and engineering programs.

"This country is losing a great race, an international race, with respect to turning out bright, well-educated engineers and scientists. This new building gives us a significant start toward the kind of contribution we can make here to Casper College," said Wold, chairman and chief executive officer of Wold Oil and Gas Company in Casper.

"There's more to it than the building. We have to have motivated students, we have to have bright faculty . . . and we have to have the equipment for the teachers to motivate the students," he said.

The students, faculty and equipment will help Wyoming students keep America economically competitive with the other industrialized nations, said Wold, a former U.S. Congressman, state legislator, and Wyoming Republican state chairman.

Those countries, he said, "are beating us to pieces as far as the number of graduates, engineers and scientists, they're turning out compared with what we're doing in the states."

College foundation board member Todd Milliken asked the Wold family for the contribution last January, Wold said.

The amount is in line with lead gifts of major fund-raising drives which attempt to boost the drive with 20 percent to 25 percent of total amount, he said.

Casper College Foundation President George Bryce said that the college will be announcing more major gifts, totalling as much as $500,000, in the near future.

Bryce said that the foundation will then try to raise another $1.5 million through $500, $1,500 and $2,500 gifts to match the $1.5 million from Wold and the other major gifts. "It's going to have to be everybody in the community stepping forward to help," he said.

Once the foundation has that $3 million, it will go to a private foundation for the remaining $1 million, Bryce said.

The announcement of Wold's gift is the latest step in the college's goal to expand the campus and renovate other facilities on campus.

In July, the Wyoming Community College Commision gave its approval to the building and renovation project.

In August, the college board unanimously approved a resolution to submit a $7.1 million general obligation bond issue to Natrona County voters at the general election on Nov. 3.

If voters approve the project, the college will need approval from the Legislature early next year.

If the Legislature approves the project, college officials will break ground for the building next spring. Officials plan to have the facility built and ready for occupancy in the fall of 1994.

Ten of the 13 buildings on campus were substantially funded by private gifts, said college president LeRoy Strausner.

"The people of Casper, even some who were formerly of Casper, have always risen to the challenge, to see this college has the tools and facilities necessary to provide quality educational services to the people of Wyoming," Strausner said.

PERUVIAN LAW ENFORCEMENT BLAZES A SHINING PATH

Mr. CRANSTON. Mr. President, it is with genuine and unexpected pleasure that I rise today to congratulate the Peruvian people on the arrest last Saturday of Abimael Guzman, the barbaric leader of the lunatic Shining Path guerrillas.

Over the 12 years that Sendero Lunimoso has waged war against the Peruvian State, more than 24,000 people have died and $22 billion in damage has been created.

Most of the victims of this dirty war have been poor peasants and the indigenous people living in the Andean sierra. These have been caught in the crossfire of the merciless Shining Path and the indiscriminately repressive state security forces.

Today, Peruvians rejoice at Guzman's capture. So do I.

Mr. President, Guzman's arrest has unquestionably been a stunning blow against a guerrilla force whose last living international heroes were the Marxist henchmen of Enver Hoxha's Albania.

Equally as noteworthy were the painstaking and professional means by which the terrorist leader's capture was carried out by Peru's DINCOTE police. These stand in sharp contrast with the indiscriminate military and paramilitary violence that has otherwise characterized Peru's counterinsurgency effort.

Peru's National Human Rights Coordinating Committee—an internationally respected umbrella organization of some 30 human rights groups—issued an important statement following Guzman's arrest.

In praising the sharp blow to Shining Path, the Coordinora highlighted the role of the DINCOTE police, which "despite limited resources, has demonstrated in this opportunity efficiency and the possibility of defeating terrorism without recourse to 'dirty war.'"

Mr. President, there are those bound to present Guzman's capture—as Peruvian strongman Alberto Fujimori has already done—as the fruit of his illegal military-backed coup and his acquiescence with massive human rights violations by the armed forces.

In fact, according to reliable reports published in the Peruvian press, neither Fujimori, his Interior and Defense Ministers, nor his national intelligence chief knew of the DINCOTE operation to nab Guzman. This fact is key to evaluating claims that Guzman's capture vindicates Fujimori's April 5 coup and authortarian rule.

As the New York Times editorialized on September 15:

> Mr. Guzman's arrest owes more to patient police work than to extraconstitutional powers. Rather than isolating the guerrillas, the Fujimori coup has polarized Peruvian politics and complicated security cooperation with the United States. Not dictatorship but an accountable, representative system offers the best hope for lasting stability.

ANDEAN DRUG WAR: BAD DOPE FROM THE STATE DEPARTMENT

Mr. CRANSTON. Mr. President, the tangled web of deceit that comprises the administration's antinarcotics efforts in the Andean region of South America has left U.S. policy there looking like an aging set from a production of the "Addams Family."

Unfortunately, some of our own best allies have become mired in the complicated net of half-truths, distortions and outright lies that have become standard fare in administration representations to Congress about what exactly its policies entail.

Such is the case with Bolivia, as I'm sure those who follow these matters closely will agree.

Mr. President, last February 20, the Subcommittee on Terrorism, Narcotics and International Operations of the Foreign Relations Committee, chaired by my distinguished friend and colleague from Massachusetts, Mr. KERRY, held a hearing on the Andean drug initiative.

At that time I noted that:

> In the United States we have a strict delineation of internal security and national defense functions set down in the principle of posse comitatus. Law enforcement is almost entirely a police function, except in the most extraordinary circumstances, and is carried out primarily at the local level. Yet the Administration has been quick to short circuit such considerations when seeking to combat drugs outside our borders, prodding host-country militaries into roles we ourselves wisely prohibit to our own armed forces.

I then added that the decision to involve, or expand the role of, the armed forces in countries such as Bolivia, for example, came after that country's elected civilian leadership was leaned upon by the administration.

> This insistence on involving local militaries has had very much a "Made in Washington label." Whatever diplomatic fiction is constructed, this pressure is well-known and has helped to discredit the civilian political leadership in the region.

At that time I also submitted to Assistant Secretary of State Bernard Aronson a written question about whether the principle of posse comitatus had any role to play in designing U.S. military, administration of justice and antinarcotics assistance programs to other nations.

I frankly found Aronson's responses to my questions to be quite incomplete. In particular I could not endorse his assertion that U.S. assistance efforts were "based on host country decisions on how to employ [their] military."

In a subsequent letter to him, sent on June 18 of this year, I made the following points:

> You state that U.S. assistance is designed to support the Bolivian government's decision to employ its own military in the drug war. However, you also say that "the civilian leadership was uneasy about army participation." You also say that the army participated in only one counternarcotics operation after two anti-narcotics infantry battalions completed U.S.-funded training in 1991. In view of this, you stated, "we will shift future U.S. assistance to more effective programs in Bolivia." * * * This suggests to me that it was not the Bolivian government at all that wanted army participation in anti-narcotics operations.

Mr. President, a policy can be called scandalous if it is ill-considered or based on a lie, or both. It can also be called scandalous if it does just that—causes a scandal.

Unfortunately, although this scandalous policy of militarizing the drug war was initiated in Washington, the ensuing scandal it caused tarnished the reputation of one of South America's most energetic democratic leaders—President Jaime Paz Zamora.

The scandal erupted in the Bolivian capital of La Paz in response to a letter sent to me from State Department official Janet Mullins, who was responding to my second query to Aronson. In a letter dated August 7, Mullins wrote:

> In 1990, President Paz Zamora requested U.S. military assistance for the counternarcotics effort. We responded positively but conditioned our assistance on U.S. legislative requirements that all such assistance be used for counternarcotics purposes.
>
> An internal debate developed in Bolivia over the role and counternarcotic mission of the Army. Some Bolivians wanted the military assistance without a counter-narcotics role for the military, and others favored military involvement. Contrary to what some Bolivian politicians have said, the U.S. did not insist on Army involvement in counternarcotics. From the beginning we made it clear that the counternarcotics funds could go to the Air Force and the Navy alone, if the government so chose. In the end the Bolivian Government decided in favor of Army involvement.

Mullin's rendition of events created a political firestorm in La Paz. In a letter to George Bush, Paz Zamora complained that Mullins' letter "gave rise to misinterpretations, generated great confusion, damaged the prestige of the Government of Bolivia, and even challenged the credibility of its President."

Paz Zamora then outlined the circumstances under which the Bolivian Army, an institution with a long history of antidemocratic behavior and complicity with narcotics trafficking, became involved in the antinarcotics fight:

> * * * when I became President in August 1989, my government, through the Ministry of Foreign Affairs, continued negotiations for the fiscal year 1990 program. The United States then proposed that the assistance already granted to the Air Force and Navy be extended to the Bolivian Army, and to that end, by decision of the U.S. Congress, the Army would have to participate directly and immediately in anti-drug trafficking efforts.
>
> It was then that a difference in criteria became evident. For the Government of Bolivia, it was fundamental, within the framework of its successful peaceful strategy of combatting drug trafficking, Law No. 1008, and the Cartegena Declaration signed by both governments on February 15, 1990, to maintain the principle by which "the control of illicit trafficking in drugs is essentially a law enforcement matter" and consequently, that United States assistance should be directed towards training and equipping Army units to ensure their readiness to offer logistical and, if applicable, operational support, to the specialized agency of the National Police.
>
> Finally, this difference in viewpoints was favorably resolved in a meeting I had on May 8, 1990, at Blair House with Secretary of State James Baker, where it was agreed to include in the draft of Annex III the fact that participation by the Army could occur "in accordance with the sovereign interest of Bolivia, within the framework of its own legal system and constitutional provisions, under the authority of the President of the Republic of Bolivia, who shall decide on the form and time of such participation, in conformity with the principles set forth in the Cartagena Agreement of February 15, 1990."

Given the political damage done, unfairly, to President Paz Zamora by State's misrepresentations to Congress, President Bush could do little more than admit that:

> * * * the chronology you laid out in your letter fully concurs with my understanding of the situation.* * * I want to express my congratulations to your government for its accomplishments in the fight against international narcotraffickers. We continue to be encouraged by the successes of Bolivia's de-

mocracy, the development of its market economy, and the damage it is inflicting on drug cartels.

Mr. President, as I said in my statement before the Kerry subcommittee on February 20, Andean leaders resisted, to the extent that they could, administration impositions about using their armies in the drug war. Despite the bald-face assertions by administration to the contrary, as I said then, "this pressure is well-known and has helped to discredit the civilian political leadership in the region."

The unwillingness of the administration to level with Congress about its self-proclaimed war on drugs in the Andes continues to create consternation and discomfit among the democratic leadership of the region.

It is a foolish policy, one fraught with lies, and compounded by a dangerous and double message. I urge my colleagues to pay even greater attention to what is going on there before we become bogged down in a quagmire in our own backyard.

Mr. President, I ask unanimous consent for several pieces of correspondence—the Mullins letter, a translation of President Paz Zamora's letter to President Bush, and the letter he received in response—to be reprinted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Subject: Letter from President Bush to President Zamora.

DEAR MR. PRESIDENT: Thank you for your letter of August 16 and the warm expression of your personal friendship. I want to be helpful in clearing up any misunderstandings that may have resulted from the publication of Department of State's letter to Senator Cranston. First of all, let me say that the chronology you laid out in your letter fully concurs with my understanding of the situation.

Bolivia's cooperation, which is helping stop worldwide illicit drug trafficking, is highly valued and deeply appreciated. It is our firm policy that our joint efforts go forward only in accordance with the laws and policies of your government. Like you, we believe that law enforcement is in the first instance a police function. Military forces can play an important role in some circumstances, but their use is a sovereign decision of each government.

I want to express my congratulations to your government for its accomplishments in the flight against international narcotraffickers. We continue to be encouraged by the successes of Bolivia's democracy, the development of its market economy, and the damage it is inflicting on drug cartels.

Sincerely,

GEORGE BUSH.

OFFICE OF THE
PRESIDENT OF THE REPUBLIC,
La Paz, August 15, 1992.

His Excellency GEORGE BUSH,
President of the United States of America, Washington.

PRESIDENT AND FRIEND: On August 7, 1992, Mrs. Janet Mullins, Assistant Secretary for Legislative Affairs of the Department of State, sent a letter to Senator Alan Cranston regarding United States military assistance to Bolivia in combatting drug trafficking.

The letter I refer to gave rise to misinterpretations, generated great confusion, damaged the prestige of the Government of Bolivia, and even challenged the credibility of its President, although I can understand that such was not the intention of Mrs. Mullins in writing it.

Given the high priority my government accords to relations with the United States, and in consideration of the bonds of personal friendship uniting us, I acted as calmly and prudently as possible, remaining silent until now.

I have reached the conclusion, however, that instead of advancing them, my reserve could adversely affect these privileged bonds, and I have thus considered it appropriate to review the events leading up to these negotiations in order to clarify and reestablish a reliable record of the facts; I do so, also, directly to you, since we both participated in the final phase of these negotiations, held at Washington, during my official visit in May 1990.

United States assistance for the participation of the Bolivian Armed Forces in combatting drug trafficking began in February 1987, with the signing of a framework agreement, which was to be implemented through programs negotiated annually.

Consequently, when I became President in August 1989, my government, through the Ministry of Foreign Affairs, continued negotiations for the fiscal 1990 program. The United States then proposed that the assistance already granted to the Air Force and Navy be extended to the Bolivian Army, and to that end, by decision of the U.S. Congress, the Army would have to participate directly and immediately in anti-drug trafficking efforts.

It was then that a difference in criteria became evident. For the Government of Bolivia, it was fundamental, within the framework of its successful peaceful strategy of combatting drug trafficking, Law No. 1008, and the Cartagena Declaration signed by both governments on February 15, 1990, to maintain the principle by which "the control of illicit trafficking in drugs is essentially a law enforcement matter" and consequently, that United States assistance should be directed towards training and equipping Army units to ensure their readiness to offer logistical and, if applicable, operational support, to the specialized agency of the National Police.

Finally, this difference in viewpoints was favorably resolved in a meeting I had on May 8, 1990, at Blair House with Secretary of State James Baker, where it was agreed to include in the draft of Annex III the fact that participation by the Army could occur "in accordance with the sovereign interest of Bolivia, within the framework of its own legal system and constitutional provisions, under the authority of the President of the Republic of Bolivia, who shall decide on the form and time of such participation, in conformity with the principles set forth in the Cartagena Agreement of February 15, 1990."

Mr. President, this letter is written in the best spirit of friendship and respect for your country and for you personally, and in the conviction that openness in informing our peoples is the best guarantee of reaching the goals we personally share.

With warm regards,

JAIME PAZ ZAMORA.

U.S. DEPARTMENT OF STATE,
Washington, DC, August 7, 1992.

Hon. ALAN CRANSTON,
United States Senate.

DEAR SENATOR CRANSTON: I would like to bring you up to date on our efforts to answer the many questions raised in your letter of June 18 to Assistant Secretary Aronson regarding the Huanchaca incident and U.S. counternarcotics policy in Bolivia, Colombia, and Peru. I regret the late rely, but your original letter was misrouted, and we did not learn of your inquiries until we received your fax on August 3.

The murder of Noel Kempff and his colleagues was a tragedy. I would like to state clearly at the outset that contrary to allegations some years ago by Bolivian politicians that the United States Government had information which could have prevented it, we had no such information. A thorough investigation of the incident by the Bolivian Congress concluded that the U.S. was not to blame.

We have recently received the 1986 Bolivia country files from archives, and have reviewed them in an effort to respond specifically to your questions. That review has produced nothing to show that the United States behaved improperly or is in any way responsible for the murder of Dr. Kempff.

During the period in question, June to October 1986, joint U.S./Bolivian operations to disrupt drug laboratories were just beginning. About that time we received numerous reports of possible narcotics lab locations in many parts of the country. The reports were not normally verifiable except by air reconnaissance because of the isolated and distant locations the traffickers chose for laboratories. Air assets were extremely scarce at the time.

We did receive a report of suspected narcotics activity in the Huanchaca area in June 1986. The report did not give enough detail to indicate whether the activity was due to a laboratory or not. The remoteness of the suspect area, and the lack of adequate aircraft prevented either U.S. or Bolivian police from confirming in a timely manner whether an actual laboratory existed. We and the Bolivian police made several attempts to visit the area to locate a lab, but could not due to adverse weather conditions and technical and logistical problems. These efforts are described in detail in the enclosed U.S. Embassy diplomatic note dated October 2, 1986, which you requested. I believe that you will see from this information that the U.S. Government statements have been consistent since the beginning.

You asked for a breakdown of assistance to the military and the police in the major Andean narcotics producing countries. I have attached such a funding breakdown for the years 1990–91. As we have stated previously, much of our FMF money, as shown on the attached spread sheet, was spent either on the military to support police counter-drug operations, or spent directly on the police. This is what we believe Congress intended in Section 610 of the Foreign Assistance Act. Narcotics control is law enforcement function and we should accordingly build up the police's ability to deal with drug trafficking. At the same time, our experience shows that there is an important anti-narcotics role for the military forces in sea/riverine/air interdiction and activities in the remote areas where police forces would not be able to sustain their operations.

We are encouraging countries to develop better police investigative capabilities. In most countries, military personnel do not have the authority to arrest civilians for narcotics violations, or to seize property. Military personnel are not trained to protect witnesses, collect or safeguard evidence, or process detained persons.

The role of the military in counternarcotics is to complement, not replace, law enforcement activities by the police. For example, the Bolivian Air Force has been involved in transporting police personnel on counternarcotics missions. In Bolivia, the police do not have an aviation unit and depend upon the Air Force. By supporting the military in ways that allow it to support the police, the police capacity is increased.

U.S. narcotics police assistance is in all cases designed to support host government law enforcement units dedicated to civilian policing of counternarcotics activities. In Colombia, Peru and Bolivia, some counternarcotics law enforcement units are organized and trained to conduct operations in remote and sparsely populated areas where coca is grown, processed, and transported to the U.S. and other markets. The conditions where they operate require the police to be heavily armed and trained in techniques of surprise and arrest of suspects who are also heavily armed. Despite this training and equipment, the police have an essential civilian role, which is to arrest suspects, seize evidence and preserve it for a criminal trial. The Department of State does not have a breakdown of all military personnel convicted of anti-narcotics corruption in Bolivia, Colombia and Peru in the last decade. We will, however, attempt to obtain this information for you.

Regarding your inquiry about Vladimir Montesinos, we do not have regular diplomatic contact with him and are therefore limited in what we can say. There are reports that he wields great influence with President Fujimori and with the Peruvian military. Others dispute those reports.

In 1990, President Paz Zamora requested U.S. military assistance for the counternarcotics effort. We responded positively but conditioned our assistance on US legislative requirements that all such assistance be used for counternarcotics purposes.

An internal debate developed in Bolivia over the role and counternarcotic mission of the Army. Some Bolivians wanted the military assistance without a counter-narcotics role for the military, and others favored military involvement. Contrary to what some Bolivian politicians have said, the US did not insist on Army involvement in counter-narcotics. From the beginning we made it clear that the counter-narcotics funds could go to the Air Force and the Navy alone, if the government so chose. In the end the Bolivian Government decided in favor of Army involvement. Two U.S. Army Mobile Training Teams (MTT) trained two Bolivian Army infantry battalions in counternarcotics operations at a cost of approximately $1 million.

Although the Army participated in one counternarcotics law enforcement operation in October, 1991, the results of that operation were modest. Moreover, we found continuing concern within the Bolivian administration over the role of the Army in counternarcotics operations. Therefore, unexpended security assistance funds for the Bolivian Army were reallocated to support Bolivian Air Force, Navy and counternarcotics police activities.

Regarding the Colombian Project Paper, the document we submitted to you in June included both the condensed version, the "Summary Project Paper," and the original work, the "Detailed Project Paper." The authors of the latter were John Oleson and the staff of the consulting firm Checchi and Company, Washington, D.C.

Sincerely,

JANET G. MULLINS,
Assistant Secretary, Legislative Affairs.

TRIBUTE TO JUDGE STEPHEN COLEMAN

Mr. HEFLIN. Mr. President, I rise today to pay tribute to U.S. Bankruptcy Judge Stephen Coleman, who died on September 6. Judge Coleman was 85 in September 1988, when he bade farewell to the bench he had occupied for 50 years—the longest tenure of any bankruptcy judge in the history of our Nation.

Judge Coleman wrote thousands of court orders and opinions during his days on the bench. Appointed in 1938, he handled an astounding 75,000 cases, including several that lasted over 10 years and involved more than 50,000 creditors apiece.

He was a native of Anniston, AL, and a Phi Beta Kappa graduate of the University of Alabama and its law school. He was in private practice for 11 years before becoming a judge, and was an active member of St. Mary's Episcopal Church, where he held several important leadership positions. Judge Coleman served on the board of the American Red Cross and was a member of the Kiwanis Club.

He and his son, Stephen B. Coleman, Jr., authored two books together, a Coleman family history and a biography of the elder Coleman's late colleague, Judge Clarence W. Allgood, published by the Birmingham Historical Society last year. They were in the process of completing a third book, a biography on another friend of the retired judge, Birmingham developer A. Page Sloss, Jr., at the time of his death. The younger Coleman plans to finish the book himself.

Judge Coleman was well known for his prolific memory, even late in life, after he retired from the bench. He also retained his tremendous love of life right up until the end. According to Stephen, Jr., his father couldn't see well enough to recognize people, but once they walked up to him and said "hello," he could turn around and give them their entire life history. He was a delight to be around.

Mr. President, I extend my sincere condolences to Judge Coleman's entire family, including Stephen, Jr., and his daughter, Mrs. Helen Rosa Coleman Monaghan. He was truly a fine attorney, outstanding judge, dedicated community leader, and loyal friend.

IN SUPPORT OF YOUTH CORPS AMENDMENT TO S. 3114

Mr. DASCHLE. Mr. President, on Thursday night this body adopted an amendment to S. 3114, the Department of Defense authorization bill, offered by my distinguished colleague from Oklahoma, Senator BOREN. The amendment was based on S. 2373, a bill sponsored by Senator BOREN, myself, and others to bring about fundamental reform of our welfare system.

The amendment provided for a Civilian Community Corps [CCC] demonstration project together with the National Guard Civilian Youth Opportunity Pilot Program. These programs are targeted at creating jobs for youths from families receiving public assistance. A key part of these programs is the work credits that can be earned toward college scholarships, used as down payments on first-home purchases, or taken in cash.

These programs are not just about temporary jobs, they are about making a concrete, long-term investment in our youth, many of whom feel alienated in their own country. Children who are growing up in neighborhoods with high unemployment and high dropout rates. This bill is about offering these children a viable alternative to drugs, crime, or a life on welfare.

These programs will help address the needs of our cities by providing a source of talent, skill, and labor to work on meaningful community projects or programs, and it will give people an opportunity to work themselves out of situations that have caused their families to depend on public assistance. It is a good investment in our communities, our infrastructure, and our people.

I yield the floor.

TENNESSEANS HONORED BY SOCIAL SECURITY ADMINISTRATION

Mr. SASSER. Mr. President, today in Baltimore the Social Security Administration is holding its annual awards ceremony. Of particular interest to me is the fact that four Tennesseans, Kathryn Cook, Walter S. Hendrix, Thomas L. Read, and Cyrus S. Adcock, are being recognized by Commissioner Gwendolyn King for their 40 years of service.

Mrs. Cook, fondly known as "Kitty", is literally on the front line at the Dyersburg District Social Security Office. As a service representative, she is the first point of contact for those who have problems with or questions about Social Security benefits. Her longevity with the SSA is only surpassed by her lifelong devotion to her family, her church, and the community.

Mr. Walter S. Hendrix has a wide range of experience with the SSA and for the past 18 years he has served capably as the district manager of the Jackson Social Security Office. In his spare time, Walt serves as a literacy volunteer and is active in the American Red Cross and other worthwhile community organizations. He has received public recognition for his tireless efforts toward helping others and he is held in high regard by his friends and peers.

Mr. Thomas L. Read is the District Manager of the Nashville Social Security Office and he has held this position for nearly two decades. An excellent public speaker, Tom never turns down an opportunity to spread the word about Social Security. He is active in the Kiwanis Club and numerous community affairs, but he is never too busy to lend a helping hand or offer words of encouragement.

Mr. Cyrus S. Adcock is the District Manager of the Chattanooga Social Security Office and he strives to provide a consistently high level of service to the public of which the SSA can be proud. He has successfully led his staff into the age of computers and modular furniture. A talented furniture maker and woodworker in his own right, Cy has undoubtedly saved the taxpayers countless dollars in repair bills and has earned his nickname, "Mr. Fix-it," as he is known around the office.

Collectively, these employees possess a vast knowledge of the history of the Social Security Administration and its programs. Individually, each has strived to carry out the mission of the SSA by promoting its goals and interacting with the public, both on the job and off.

The recognition that is being given today is certainly well-deserved and I commend and congratulate these fine employees for their dedicated service to the SSA and the public. Keep up the good work.

LIBYAN STATE TERRORISM

Mr. MOYNIHAN. Mr. President, the Washington Post carries a story today based upon a recent article in the French news magazine L'Express. The story explains how a Libyan intelligence official defected to the United States after watching Libyan agents prepare the bomb that blew Pan Am Flight 103 out of the sky over Lockerbie, Scotland.

Mr. President, I have come to the floor today to bring this article to my colleague's attention in order to make a simple point: We must not relax our pressure on Libya until the criminals who killed the passengers of Pan Am Flight 103 are brought to justice. The United States has taken vigorous steps at the United Nations to bring pressure to bear on Libya. Yet Libya has not surrendered the two agents suspected of the bombing. It is past time to consider additional steps. At a minimum, President Bush should use the opportunity of his address to the General Assembly to press Libya to surrender these criminals. I urge him to do so. Further, if Libya does not promptly comply with the demands of the Security Council the United States should propose further steps to isolate and bring pressure to bear on Libya until it agrees to fulfill its international legal obligations.

Mr. President, I urge my colleague's to read the Post's article and to join me in remembering the victims of Pan Am Flight 103 and in demanding that the United States continue to seek every legal avenue to bring their murderers to justice.

I ask unanimous consent that the article be placed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 18, 1992]

LIBYAN NAMED AS INFORMER IN BOMBING

(By George Lardner Jr.)

U.S. authorities are guarding a Libyan intelligence defector named Majid Giaka who provided them with an insider's account about the 1988 bombing of Pan Am Flight 103, the French newsmagazine L'Express reported this week.

Giaka was the No. 2 man in the Libyan Arab Airlines office in Malta at the time of the explosion and worked directly for one of the two Libyan intelligence officers indicted in the bombing, L'Express said.

FBI and State Department officials declined to comment. But the existence of an informant in the case has been apparent since the indictment was returned last November containing inside details such as excerpts from the diary of one of the suspects.

The two Libyans accused of the bombing, Abdel Basset Ali Megrahi, 40, and Lamen Khalifa Fhimah, 36, were indicted by a federal grand jury here on 193 felony counts. They were also charged in Scotland with murder and conspiracy in the Dec. 21, 1988, explosion of the Pan Am jumbo jet as it was flying from London to New York. The plane blew up over Lockerbie, Scotland, killing all 259 people on board and 11 on the ground.

According to the indictments, Basset, who was chief of the Libyan intelligence service's airline security section, and Fhimah, who held a cover job as station manager for Libyan Arab Airlines in Luqa, Malta, worked together to plant the bomb. The airline's offices are routinely used as a front for Libyan intelligence and terrorist operations, the State Department has said.

The L'Express report said Giaka saw both suspects prepare for the attack, stocking explosives in the airline office and buying clothing to conceal the bomb in a Samsonite suitcase. Fhimah allegedly stole some Air Malta luggage tags and used them to route the bomb-rigged suitcase onto an Air Malta flight to Frankfurt. There, the unaccompanied suitcase was transferred to a Pan Am flight to London, where it was put aboard Pam Am Flight 103.

When the plane blew up, L'Express said, Giaka was "terrified by the news" and realized how it happened. The magazine said he contacted U.S. officials after "violent arguments" with Fhimah and eventually obtained asylum in the United States, bringing with him Fhimah's handwritten diary entries.

Vince Cannistraro, former chief of counterterrorist operations for the CIA, said he knew about the defector, but not his name. He said Pan Am investigators first established Libyan complicity in the bombing by identifying the timer as one built in Switzerland on orders from Libyan intelligence officials.

It was not clear when Giaka was brought to the United States, but L'Express said he was joined here by his wife last September. They have reportedly entered the witness protection program.

Libya has denied involvement in the bombing and, despite the imposition of limited United Nations sanctions, has refused to surrender Megrahi and Fhimah for trial here.

CIVILIAN COMMUNITY CORPS AMENDMENT

Mr. DOLE. Mr. President, on September 17, the Senate approved an amendment to the DOD authorization bill creating a variety of programs for America's youth.

I was proud to cosponsor this amendment, and want to take a few moments to share my thoughts on this very important issue.

Like many Americans, I am old enough to remember the Civilian Conservation Corps of the New Deal era. The CCC took unemployed youths and put them to work on construction, conservation, and environmental projects. It was a program that made a profound and positive difference in the lives of countless Americans.

As I thought about this program, it was easy to see that many of today's youth could benefit from a modernized version of the CCC.

Far too many of our youth—both in urban and rural areas—are at risk—at risk to drugs, to crime, to gangs, to teen pregnancy.

It is these youths who could benefit from a new CCC Program. It is these youth whose lives could be turned around through a program which provides them with skills and a sense of personal responsibility and self-esteem.

Senator BOREN heard of my interest in this issue, and he had been thinking along similar lines for a long time.

We held several meetings, and our staffs have been working on this issue for many months, along with the staffs of Senator DOMENICI, Senator WARNER, Senator WOFFORD, Senator KENNEDY, and Senator NUNN.

The amendment we have written creates a federally run, residential CCC demonstration program. It authorizes enough funding to establish several CCC camps throughout the country, each one housing and teaching 200 to 300 young people.

Ideally, these camps will be located at military bases that are closed or have excess capacity, as a result of the defense conversion. Retired, discharged, or inactive military personnel can be involved in the program as corps leaders and mentors.

Mr. President, this amendment also includes a provision by Senator NUNN, creating a National Guard Civilian Youth Opportunities Pilot Program, and it authorizes $50 million to the commission on national and community service for the creation of nonresidential youth programs.

In the interest of full disclosure, Mr. President, I believe it must be mentioned that the OMB, while very supportive of the goals of this legislation, has serious concerns whether expenditures allocated for programs in this amendment can be counted against the defense category of the discretionary spending limits.

In fact, the amendment contains a provision specifically stating that funds made available for the Civilian Community Corps Demonstration Program, and funds made available for other commissions on national and community service programs, may not be obligated unless the Director of the OMB does score them as defense-related.

While I had hoped to make the CCC Program more explicitly defense-related, I believe the OMB can, in good faith, score it as defense.

Mr. President, in the final analysis, the responsibility for turning a life of despair into a life of hope remains with the individual. But there are actions the Government can take to provide individuals with opportunities to turn their lives around. With the adoption of this amendment, we have taken one of those actions.

Mr. BOREN. Mr. President, in order to assist the Committee on Foreign Relations and the full Senate in their consideration of whether to advise and consent to the ratification of the Treaty on the Reduction and Limitation of Strategic Offensive Arms [START], the Senate Select Committee on Intelligence has undertaken a thorough review of the ability of U.S. intelligence to monitor compliance by the states party to the treaty.

Today, the Intelligence Committee voted unanimously to issue a report on this subject, which addresses such issues as: The effectiveness of U.S. National Technical Means, START cooperative measures, including telemetry provisions and the onsite inspection regime; the ability of U.S. intelligence to detect potentially significant violations of the treaty; the interpretation and implementation of the treaty and related documents, as well as the Lisbon Protocol to START and associated letters; and the counterintelligence and security implications of the treaty.

Copies of the committee's public report have been sent to each Member of the Senate. Members are also welcome to examine our detailed classified report, which is available for review in the Intelligence Committee's offices.

Mr. President, I ask unanimous consent that the text of the committee's report on the capability of the United States to monitor compliance with the START Treaty be printed in the CONGRESSIONAL RECORD at the conclusion of my remarks.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

CAPABILITY OF THE UNITED STATES TO MONITOR COMPLIANCE WITH THE START TREATY

(Report of the Select Committee on Intelligence, U.S. Senate, September 18, 1992)

BACKGROUND

On July 31, 1991, after nine years of negotiations, the United States and the Soviet Union signed the Treaty on the Reduction and Limitation of Strategic Offensive Arms (START), with associated annexes, protocols, a Memorandum of Understanding, and related agreements. On May 23, 1992, the republics of the former Soviet Union with nuclear weapons on their territory—Russia, Belarus, Kazakhstan and Ukraine—signed the Lisbon Protocol to the START Treaty, in which the new countries jointly assumed the obligations of the old Soviet Union.

The key features of the START Treaty are a numerical limit of 6,000 warheads on 1,600 deployed intercontinental ballistic missile (ICBM), submarine-launched ballistic missile (SLBM) and heavy bomber delivery vehicles; a sublimit of 1,540 warheads on 154 heavy ICBMs; a limit of 1,100 mobile ICBM warheads; and an overall throw-weight limit of 3,600 metric tons. The Treaty provides for extensive on-site inspection and other cooperative means of verification, and requires the transmission and exchange of unencrypted telemetry for all ICBM and SLBM flight tests.

THE SCOPE OF THE COMMITTEE'S EFFORT

The Senate Foreign Relations Committee has formal responsibility for viewing all treaties before they are acted upon by the full Senate. The Senate Select Committee on Intelligence has prepared its report to support this process by providing both the Foreign Relations Committee and the Senate as a whole with its assessment of the monitoring and counterintelligence issues raised by this Treaty.

This Report is the culmination of the Committee's work over the last nine years monitoring the progress of START. The Committee has routinely reviewed START progress and addressed START monitoring capabilities in its annual Intelligence Authorization Acts, and has expressed its views on verification issues to the negotiators and other senior level officials both formally and informally.

In preparation for the Senate vote on advice and consent to ratification of the Treaty, Committee staff held three on-the-record staff briefings; reviewed several hundred documents, including both a National Intelligence Estimate on U.S. capabilities to monitor compliance with START provisions and written statements from the Director and Deputy Director of Central Intelligence; and received answers to over hundred formal questions for the record. Committee staff also inspected relevant U.S. monitoring operations to gain a more detailed, first-hand knowledge of how the Intelligence Community collects, and how its analysts use, information bearing upon other countries' compliance with arms control agreements signed by the United States.

On July 22, 1992, the Committee held a closed hearing on the START Treaty, its implementation and its counterintelligence and security implications. Testimony was taken at this hearing from the Honorable Linton Brooks, U.S. Negotiator for Strategic Offensive Arms; the Honorable Manfred Eimer, Assistant Director for Verification and Intelligence, U.S. Arms Control and Disarmament Agency; Mr. Douglas MacEachin, Special Assistant to the Director of Central Intelligence for Arms Control; Ms. Nina Stewart, Deputy Assistant Secretary of Defense for counterintelligence and Security Countermeasures; Mr. Lee Minichiello, Deputy Director for Strategic Arms Control and Compliance, Department of Defense; and Mr. Frank LoTurco, Deputy Director for Counterintelligence, the On-Site Inspection Agency, Department of Defense.

On July 29, 1992, the Committee held a closed hearing on U.S. monitoring capabilities and the risks and implications of violations by the other Parties to the Treaty. At this hearing the Committee took testimony from Mr. MacEachin; Dr. Larry Gershwin, National Intelligence Officer for Strategic Programs; and Major General Gary L. Curtin, USAF, Deputy Director for Strategic Plans and Policy (Deputy J-5) for International Negotiations, the Joint Staff.

The Committee also received responses to numerous questions for the record that were submitted to the Executive branch after its July hearings.

Throughout the Committee's efforts, experts in the United States Intelligence Community have provided generously their time and insight. Their National Intelligence Estimate on U.S. capabilities to monitor the START Treaty is a detailed and honest analysis of the strengths and limitations of U.S. monitoring capabilities. The Committee was especially pleased to find in that Estimate a straightforward discussion of differences between agencies on some major issues.

The culmination of the Committee's effort is a classified report of over 160 pages, which addresses in detail the verification protocols, U.S. collection and analytical capabilities, cooperative measures, evasion scenarios, incentives/disincentives to evade compliance, counterintelligence issues, and implementation concerns.

The following are key unclassified findings from the classified Report.

INTELLIGENCE SUPPORT TO THE NEGOTIATIONS

The Intelligence Community played a significant role in all stages of the START negotiations, probably a greater role than it has in any prior arms treaty negotiation. Intelligence Community personnel provided the negotiators with background and Community views on key issues, and helped develop the verification measures included in the Treaty—including the provisions regarding telemetry from ballistic missile flight-tests.

OVERALL MONITORING JUDGMENTS

The Committee concurs in the judgment of the Director of Central Intelligence and other Intelligence Community officials that, "[w]hile there are *some* areas that will be problematic, we are confident that we can monitor *most* aspects of the Treaty well." [Emphasis added.] Members of the Senate should understand, however, that U.S. intelligence will have less than high confidence in its monitoring of such areas as non-deployed mobile ICBMs, the number of RVs actually carried by some ICBMs and SLBMs, and some provisions relating to cruise missiles and the heavy bombers that carry them.

The chief U.S. START negotiator and other policy officials assured the Committee that despite these limitations on U.S. monitoring capabilities, "[t]he Administration remains convinced that . . . the START treaty as a whole remains effectively verifiable." A major reason for Executive branch officials' confidence is that they do not see Russia as either capable of cheating or motivated to do so. As the Director of Central Intelligence stated:

"On the whole, we strongly doubt that the CIS states will be able in the near term—or perhaps during the life of the Treaty—to initiate and successfully execute sophisticated cheating programs, given the extent of social, political, and economic disruption, the reduced influence of military and defense-industrial leaders, and the advent of more aggressive press and legislative oversight activities. Although we cannot exclude the possibility, we judge it unlikely that one or more of the newly independent state, local, or military authorities will attempt to circumvent the Treaty in order to preserve some strategic military capability." [Senate Intelligence Committee statement, July 29, 1992, p. 7.]

Policy makers have also been influenced by the Joint Staff's repeated conclusion that the military significance of the risk to U.S. security associated with the Intelligence Community's monitoring uncertainties is low.

In the Committee's view, START reflects the greatly diminished hostility between the United States and the USSR that characterized the last years of the Gorbachev regime. This is apparent in both the achievements and the limitations of START regarding monitoring and verification. Thus, the provisions regarding telemetry, technical exhibitions and on-site inspection call for a level of openness that was all but unimaginable in the 1980s. The United States was willing to accede to both U.S. military and Soviet concerns regarding security and flexibility for bomber, naval and cruise missile forces, rather than making monitoring and verification its first priority in all cases. This reflected not only the importance of those competing priorities, but also the accurate sense that the Soviet Union is no longer the military threat that it was in the past.

The START Treaty is not perfectly monitorable. There are both residual uncertainties regarding Soviet/CIS data on non-deployed missiles and also cheating scenarios—which may be difficult to implement and offer only small advantages to the perpetrator, but do appear feasible if CIS or Russian forces and the industrial facilities that support them were sufficiently determined.

But the USSR is gone. Strategic arms logistic chains that once crossed Soviet Republic boundaries now must cross the borders of independent states. Economic decline and reform in the former Soviet Union have combined with the rise of these new states to make major arms development programs increasingly difficult to pursue. It appears unlikely, moreover, that even an aggressive, nationalistic regime in Russia could restore the old order to the degree necessary to significantly increase the prospects for successful cheating on the scale necessary to affect the strategic balance.

The Executive branch acknowledges the Soviet Union's past record of exploiting or violating arms control agreements, but now looks forward to a new era, as stated in response to a question for the record:

"Regardless of the motives of the former Soviet regime, we have every reason to believe that the policies of the former Soviet Union are not representative of the policies of the states which have replaced it. President Yeltsin and his counterparts in other former Soviet Republics have renounced confrontation and the quest for military domination and have expressed their support for the rule of law in international relations * * * Even though not all of our previous concerns have been fully resolved, we expect that the demise of the Soviet Union will lead to a new era of compliance with arms control agreements."

The Senate Intelligence Committee has closely watched U.S. efforts to ensure that Russia will live up to arms control obligations of the former Soviet Union, including the CFE Treaty that recently entered into force. The Committee considers Russian cooperation on this issue and on measures to guard against the export of sensitive nuclear and missile materials and technology to be important indicators of that country's reliability as an arms control partner.

This Committee remains deeply concerned, moreover, that Russia's former—and perhaps continuing—biological weapons program may indicate that the CIS/Russian military is capable of mounting or continuing a State violation, either in contravention of the wishes of Russia's civilian authorities or with the knowledge or support of at least part of that leadership. The recent joint U.S.-British-Russian statement regarding exchanges of information and visits to biological sites, including nonmilitary sites in Russia, is a positive development.

The dramatically, and perhaps permanently, decreased threat posed by the USSR's successor states is thus critical to the Committee's general confidence in U.S. START monitoring capabilities. Were the Soviet Union still the united, aggressive and militarily effective force that it often was in the past, then the current and future limitations of U.S. monitoring capabilities and the existence of plausible cheating scenarios would prompt much more concern.

U.S. MONITORING SYSTEMS

The United States will rely on a combination of capabilities—including imagery, signals intelligence, human intelligence, opensource information and cooperative measures—to monitor compliance with the provisions of the START agreement. U.S. monitoring will be aided substantially by START's verification provisions, and especially by those that require each side to transmit unencrypted telemetry, to provide telemetry tapes and interpretive data, and to permit the visual inspection and measurement of each type and variant of missiles.

While important improvements are planned in some intelligence programs, declining budgets will cause difficulties in others. START's verification provisions, if they are obeyed, may permit cost savings in U.S. intelligence systems. But the Committee's FY 1993 intelligence budget authorization actions reflect its concern that U.S. intelligence capabilities remain fully capable of monitoring compliance with START and other arms control treaties.

READILY MONITORED START PROVISIONS

(1) U.S. Intelligence can monitor the overall number of deployed silo-based ICBMs, SLBMs and heavy bombers with virtual certainty under current practices. The Intelligence Community also believes it can adequately monitor the number of deployed rail and road-mobile ICBMs.

(2) The Intelligence Community has high confidence in its monitoring capabilities with respect to many, but not all, START-limited ballistic missile characteristics. Its capabilities to detect and correctly interpret efforts to misrepresent those technical characteristics are judged to be excellent.

(3) The Intelligence Community can monitor with high confidence the number of RVs that should be credited to ballistic missiles (as a result of flight-tests and/or the attributions for existing types of missiles provided in the START Memorandum of Understanding) and, therefore, the aggregate number of RVs on SLBMs and at least silo-based ICBMs. The START provisions on telemetry play a large role in ensuring that RV releases and simulated RV releases can be monitored confidently.

(4) The Intelligence Community should be able to fulfill with high confidence all the monitoring tasks involving the counting of aircraft.

(5) The Intelligence Community has high monitoring confidence regarding conversion or elimination of ICBMs, SLBM launchers and heavy bombers. U.S. capabilities to detect and correctly interpret efforts to illegally restore converted or eliminated launchers are also judged to be high.

PROBLEMS IN MONITORING MOBILE MISSILES

Monitoring non-deployed mobile missiles is a significant task, due to their potential use in force augmentation and refire operations. The Intelligence Community's overall ability to monitor non-deployed mobile ICBMs is questionable.

During the START talks, U.S. negotiators pressed strongly for the right to engage in perimeter portal continuous monitoring (PPCM) at solid rocket motor production plants and to require an accounting for all such rocket motors. The Soviets resisted this approach and the United States eventually relented in return for concessions on the B-1 and B-2 bombers.

The merits of this trade-off are beyond the Committee's purview, but the lack of solid rocket motor monitoring will clearly limit, to some degree, U.S. capability to verify compliance with START's mobile missile provisions. The chief U.S. negotiator acknowledged this to the Committee, as follows:

"As compared to the pre-December 1990 U.S. proposal, the ultimate START Treaty * * * provides less confidence that excess mobile ICBMs or their solid rocket motors are not being produced stored, or assembled at undeclared facilities." [Senate Intelligence Committee statement, July 22, 1992, p. 23.]

The Director of Central Intelligence has stated that "we can neither confirm nor refute the Soviet-supplied data on total nondeployed missile inventories" and that "it is possible that some undeclared missiles have been stored at unidentified facilities." Putting an upper bound on the covert missile risk, the Director stated that "we judge that the Soviets did not maintain a large-scale program to store several hundred or more undeclared, nondeployed strategic ballistic missiles." [Senate Foreign Relations Committee statement, June 30, 1992, p. 5.]

The Joint Chiefs of Staff believe that the military significance of the Intelligence Community scenarios would be minimal, but have declined to state how many covertly deployed missiles would be militarily significant, saying instead that "there is little military incentive for them to resort to cheating." The Committee would have preferred an analytic process in which the JCS specified both types and levels of cheating that would be militarily significant, preferably before the Intelligence Community had published its feasible Soviet/CIS cheating scenarios.

The Intelligence Committee shares the Director's view that cheating scenarios involving the possible covert production and deployment of mobile ICBMs and their launchers are particularly worrisome. The Committee believes that the possible existence of covert, non-deployed mobile missiles must remain an important U.S. intelligence target.

PROBLEMS IN MONITORING THE NUMBER OF RVS ON A MISSILE

U.S. intelligence alone cannot reliably monitor the number of re-entry vehicles actually on a deployed missile. This is illustrated by the Director of Central Intelligence's acknowledgment that the Intelligence Community could not determine the accuracy or inaccuracy of the Soviet declaration of September, 1990, that all deployed SS-N-18 SLBMs carried only three RVs. But the right to conduct ten RV on-site inspections per year will help U.S. intelligence to judge, over time, at least whether silo-based ICBMs are being illegally uploaded.

Some of the Intelligence Community's CIS cheating scenarios involved ballistic missiles that had previously been "downloaded" (i.e., declared to carry fewer RVs than would normally be attributed to them under START counting rules, as the Soviets did with the SS-N-18 SLBM) and might then be "uploaded" to carry more RVs than the declared number. These scenarios varied in feasibility, in marginal benefit to a perpetrator, and in likelihood of detection.

The Joint Staff assured the Committee that the Joint Chiefs of Staff had evaluated the military significance of these scenarios and had concluded that, given U.S. military capabilities, there would be little marginal benefit to CIS forces—and, therefore, little reason for such schemes to be attempted. The Committee notes, however, that there is always some risk that a country will engage in arms control treaty violations for reasons that have little to do with rational military planning from a U.S. perspective.

PROBLEMS IN MONITORING HEAVY BOMBERS AND CRUISE MISSILES

While heavy bombers can be readily counted, compliance with START provisions involving their technical characteristics or weapon loadings is more difficult to monitor. Provisions regarding ALCMs are also more difficult to monitor. Some of these difficulties stem from the decision not to apply the Treaty's telemetry provisions to heavy bombers or cruise missiles.

Executive branch officials see no cause for alarm. As they indicated to the Committee in response to a question for the record on this point;

"These difficulties have long been recognized. In part, they result from our longstanding view that, because heavy bombers are inherently stabilizing, and because they play a more important role in the U.S. strategic force structure than in the Russian, we should give greater weight to avoiding intrusiveness and preserving operational flexibility for such bombers than to improvements in the verification regime."

Thus, as General Curtin informed the Committee, the Joint Staff believes cheating scenarios "that involve heavy bombers and ALCMs * * * generally pose little risk of militarily significant violations. Heavy bombers and ALCMs are slow flyers which offer little potential for a surprise attack."

The JCS view on monitoring compliance with the political agreement on sea-launched cruise missiles was similar in its recognition of monitoring difficulties:

"* * * the Chairman and the Joint Staff have little military concern about SLCM monitoring. The U.S. has an advantage in SLCM and ALCM technology which the START negotiators effectively protected. The U.S. position throughout the START negotiations was consistent; SLCMs are not strategic weapons and therefore should not be limited by the START Treaty. Further, the United States was unable to identify any verifiable restrictions on SLCMs. From a military perspective, the need to preserve U.S. sea-launched cruise missile capability, especially the non-nuclear capability demonstrated in the Persian Gulf, outweighed any concern about a counterpart threat from the Russians. Thus, while we acknowledge the monitoring challenge brought about by the SLCM agreement, the Chairman and the Joint Staff strongly support the balance struck in the START Treaty." [Senate Intelligence Committee statement, July 29, 1992, p. 12.]

TRADE-OFFS BETWEEN VERIFICATION AND OTHER U.S. PRIORITIES

In a number of areas, verification concerns were sacrificed in order to provide greater security or flexibility for U.S. military programs.

(1) The United States acceded to the Soviet refusal to allow perimeter portal continuous monitoring of solid rocket motor plants. Such monitoring might have greatly improved U.S. monitoring confidence regarding undeclared mobile missiles. Instead, under START such monitoring is limited to mobile ICBM final assembly plants.

(2) The United States accepted relatively low levels of monitoring confidence with respect to the range and arming of air-launched cruise missiles (ALCMs), as well as the number of ALCMs actually carried by a heavy bomber.

(3) Although START obligates the parties to broadcast telemetric data from missile flight tests and to exchange tapes of such broadcasts, and for the most part prohibits the parties from interfering with the monitoring of such broadcasts, the United States obtained some encryption exemptions and agreed to the Soviet desire for some encapsulation exemptions. The Committee is satisfied that these exemptions will not create major problems for Treaty monitoring.

(4) The United States insisted that limitations on sea-launched cruise missiles (SLCMs) should not be contained in START or, therefore, be subject to START's verification provisions. The Soviet Union took a similar stand regarding the Backfire bomber, the limitations on which were also kept out of the formal Treaty and thus beyond the reach of START's verification provisions.

COMPLIANCE ISSUES RAISED BY THE TEXT

The Committee believes that while the START Treaty was drafted with attention to detail and awareness of potential hazards, there may still be a few areas in which the text could lead to compliance disputes. Problems of treaty language interpretation are not unique to START, however, and the Committee believes that there are no START Treaty text problems that are so serious as to require immediate adjustment.

(1) The START provision on penetration aids does not specify the criteria for distinguishing a simulated penetration aid release from a simulated re-entry vehicle (RV) release. This ambiguity could lead to disputes regarding the number of RVs to be accredited to a missile in a given flight-test.

(2) START's ban on "concealment measures" does not apply to "cover or concealment practices at ICBM bases and deployment areas, or to the use of environmental shelters for strategic offensive arms." Neither "concealment measures" nor "concealment practices" is defined, so it is not clear precisely what activities are to be permitted.

(3) Although START includes an Agreed Statement limiting mobile space launchers, it does not specify the extent to which stages for space launch vehicles must differ from first stages of ICBMs or SLBMs in order to avoid being subject to START limits. A compliance issue could arise if a Party developed a space-launch vehicle with a first stage similar to a ballistic missile first stage.

U.S. COUNTERINTELLIGENCE AND SECURITY READINESS

Despite the changes that have taken place in the former Soviet Union, there is a continuing need to guard against Russian or other Parties' use of START inspection rights as a cover for illegal intelligence activity. The Department of Defense On-Site Inspection Agency (OSIA) and the counterintelligence and security arms of the U.S. armed forces bear the major share of this responsibility.

The Deputy Assistant Secretary of Defense for Counterintelligence and Security Countermeasures assured the Committee that the results of lessons learned under the INF Treaty for monitoring and countering counterintelligence threats will be applied during START inspections. Examples include: counterintelligence training for U.S. escorts and personnel involved in the START process; strict control of the Russian START teams' contacts and movements; examination of Russian equipment and personal baggage brought into the United States; and the conduct of mock inspections of sensitive facilities to help identify what equipment and information may and should be protected.

The Air Force Office of Special Investigations (OSI) will have a wide variety of START-related counterintelligence responsibilities, many of which it has for other treaties as well. The Naval Investigative Service (NIS) does not have the extensive experience that OSIA and Air Force OSI have gained under prior arms control treaties. The Committee expects OSIA and the Department of Defense to ensure that NIS meets its counterintelligence responsibilities under START.

The DoD Under Secretary for Acquisition has assigned to the relevant DoD Services and Agencies the responsibility to develop inspection and information protection plans for each Service's or Agency's facilities that are subject to on-site inspection. The Defense Department has also developed a Defense Treaty Inspection Readiness Program (DTIRP) to provide recommendations regarding security needs or issues at those sites.

More than 60 mock inspections and Staff Assistance Visits have been conducted by OSIA, with Air Force and Navy participation, at installations subject to START inspections. In addition, the DTIRP is assisting the government and contractor community in providing counterintelligence and security countermeasures support for START. The DTIRP has also assisted contractor facilities in limiting security countermeasures to information that truly requires protection, thus helping to reduce security costs.

The Committee inquired specifically about security for U.S. industrial facilities where proprietary as well as classified information may be at risk. The key element in minimizing costs and loss of sensitive information due to Special Access Visits, which can be requested at any U.S. facility, will be utilization of the flexibility built into the START provision—which allows for a Party to take sufficient time, before granting a request, to make adequate site preparations; for the Parties to define the visit's scope and limitations on a case-by-case basis; for the proposal of alternative means to resolve a Treaty concern; and, if necessary, for refusal of a request.

The Under Secretary of Defense for Acquisition has issued DoD guidance on the process to be utilized in evaluating requests for Special Access Visits at DoD facilities and DoD contractors. The primary emphasis is to ensure that the Defense Department can quickly identify and assess any sensitive activities at the challenged site and that security concerns are addressed prior to a U.S. Government decision on whether to grant the Special Access Visit request. By the time the Treaty enters into force, all Services and Defense Agencies will have incorporated this guidance into their START implementation plans.

In response to Committee concerns regarding procedures for handling requests for Special Access Visits at private facilities not involved in DoD contracts, the Executive branch states:

"If a Party to START were to make such a request, the United States would expect to consult closely with the private firm involved and, *consistent with Constitutional protections, if the government and private firm were to agree to such a visit*, procedures would be worked out with the facility and the Party to START on a case-by-case basis, depending on the nature of the facility. Given the nature of the START Treaty and its verification regime, we do not expect the situation suggested by your question to arrive." [Emphasis added.]

The Committee urged the Administration to develop policy and procedures for handling such cases, and was pleased by the assurance that "[w]e fully share your view that START should not put the proprietary secrets of U.S. companies in jeopardy." The Department of State response added:

"Under the direction of the National Security Council staff, the Administration will prepare internal procedures for dealing with special access visits. These procedures will be part of our formal procedures for START implementation. We anticipate they will be issued prior to START's entry into force. The system we envision will assign specific responsibilities to appropriate government agencies for reviewing requests for special access visits at government facilities, government contractors, and private facilities. We will explicitly consider proprietary interests as well as security in our deliberations on requests for special access visits." [Letter from Assistant Secretary of State Mullins to Senators Boren and Murkowski, August 18, 1992.

The Department of Defense expects to meet its counterintelligence and security obligations for START by re-prioritizing missions and reprogramming resources. There is uncertainty, however, with regard to security costs that may be incurred in anticipation of possible Special Access Visits. Each DoD Agency and Service is to plan for potential requests for Special Access Visits at its facilities "to the degree it believes prudent." Further policy guidance may be necessary to ensure that facilities do not take unnecessary and costly security measures because of the potential for Security Access Visits.

U.S. READINESS TO IMPLEMENT START MONITORING AND VERIFICATION

The Committee found that OSIA is well prepared to implement on-site inspection in the former Soviet Union and escorting of other Parties' inspectors in the United States, due to its experience with other arms control treaties and the long time that it has had to locate and train personnel.

The Committee is pleased that OSIA has secured the services of some of the U.S. Government's finest Russian linguists. It is also pleased with the successful creation of gateway facilities in Frankfurt, Germany, and Yokota, Japan, and with the cooperation of other U.S. agencies in providing transportation and other support OSIA's mission. OSIA informed the Committee that all its manpower requirements, funding and logistical support to execute this mission have been identified.

Ukraine and Russia may elect not to establish a perimeter portal continuous monitoring (PPCM) presence in the United States at the Thiokol Peacekeeper First Stage Final Assembly Facility in Promontory, Utah. The U.S. Government intends to exercise its right, however, to establish PPCM at the Pavlograd Machine Plant in Ukraine and at any new Mobile ICBM final assembly facilities that might be established.

The Special Assistant to the DCI for Arms Control described to the Committee the types of analytic product that the Intelligence Community will produce to assist policy makers who must determine whether START is being obeyed. These products will parallel those produced on the implementation of other arms control treaties.

Byelarus, Kazakhstan, Russia and Ukraine are all facing severe financial problems, but the Executive branch believes that the each of the Parties is capable of paying the costs of complying with START. In response to an informal suggestion from Ukraine to alter cost allocation provisions, the United States reminded Ukraine that it is the obligation of the four states that are successors to the former Soviet Union to work together on a formula for allocating costs. As there has been no formal proposal from Ukraine to modify the provisions of the Treaty, the Administration declined to speculate on what the U.S. Government reaction to such a proposal might be. The Administration is considering, however, a request for technical and financial assistance in the dismantlement of certain ICBM silos.

IMPLEMENTATION CONCERNS REGARDING THE OTHER PARTIES

In the Lisbon Protocol of May 23, 1992, Russia, Belarus, Kazakhstan and Ukraine agreed to assume jointly the rights and responsibilities that would have belonged to the Soviet Union under the START Treaty. Due to frictions between some of those republics and to the current state of political and economic flux in the former Soviet Union, the Committee considers it likely that some problems will occur in implementing the Treaty. The problems most likely to arise would result not from cheating schemes, but from economic or political difficulties within or among the former Soviet Parties to the Treaty.

Some of the costs associated with START Treaty compliance could be onerous, particularly for the non-Russian republics. For example, Ukraine will be responsible for destroying hundreds of ICBMs (unless it sends the missiles back to Russia) and missile silos, and also for hosting U.S. inspectors and portal monitors. Ukraine has indicated that it may have difficulty meeting its obligations on schedule and has asked the United States for financial and technical assistance. The deteriorating situation in Russian shipyards due to lack of funding could produce similar delays in the dismantlement of ballistic missile submarines.

Economics difficulties could prompt defense conversion activities that might raise START monitoring or compliance problems. Russia and Ukraine have both expressed interest in converting ICBMs to space launch vehicles. Attempts to use mobile missiles or launchers as the basis for space launch vehicles could cause monitoring difficulties for the Intelligence Community—and raise compliance issues as well, if the space launch vehicles were not clearly different from the missiles or launchers on which they were based (as required in START). The chief U.S. negotiator commented at one Committee hearing that "the Treaty is not perhaps as clear as you might like it on that point."

U.S. INF inspection teams have suffered delays on two occasions as a result of either friction or inadequate coordination among the new former-Soviet states. The Executive branch does not anticipate any similar incidents in START implementation, but the Committee believes that trouble-free implementation of START may depend upon the former Soviet Parties' ability to maintain cordial relations and to resolve disputes over issues unrelated to START.

There is still no formal arrangement among the former Soviet Parties for observing and implementing the START obligations of the former Soviet Union. The four states must also decide how to allocate the costs of START implementation and of representation on the Joint Compliance and Inspection Commission (JCIC).

Similarly, the Executive branch is still discussing with the other four Parties to the Treaty procedures for conducting work and reaching agreements within the framework of the JCIC. It is not clear whether all four former Soviet Parties will have to approve each JCIC decision, or only those immediately affected by each decision.

Significant implementation problems may well result from tensions among the new states. In Ukraine, nationalistic impulses are already making implementation more difficult. Thus, while Ukraine could transfer ICBMs to the Russian Federation for destruction, it has indicated that it wants to destroy these missiles on its own territory—which will be costly and time-consuming, and could create an environmental hazard. Ukraine has also sought a veto over the use of nuclear weapons based on its soil, which is complicating and may delay an agreement with Russia regarding the destruction of such systems.

If Ukraine asserts increasing control over CIS military assets on its territory, compliance issues may arise regarding either START or the NPT. There are indications, for example, that Ukraine may seek control over the CIS heavy bombers based on its territory. If Ukraine intends to convert these bombers for use in conventional roles, this would raise issues regarding compliance with President Kravchuk's letter associated with the Lisbon Protocol.

In the longer run, compliance with START could help to mitigate the prospects for strife among the larger states that have succeeded the Soviet Union. The Treaty, the Lisbon Protocol and associated documents commit the signatories to dramatic reductions in deployed strategic weapons in Russia, and to complete elimination of such weapons in Ukraine, Belarus and Kazakhstan. The Lisbon Protocol also commits the non-Russian Parties to adhere to the Nuclear Non-Proliferation Treaty—thereby addressing one of the greatest concerns arising from the breakup of the former Soviet Union. Finally, due to the importance Western nations attach to arms control, the START Treaty provides an arena in which the four Soviet successor states can cooperate with each other and with the United States.

The Executive branch was hopeful that an agreement among the former Soviet republics regarding START implementation could be reached likely before the Senate acts on the Treaty. The Committee urges the Acting Secretary of State to give this matter his personal attention and to impress upon the other Parties to START the high priority that the Senate and the U.S. Government as a whole put upon achieving agreement regarding implementation of the START Treaty, the Lisbon Protocol and its associated letters.

IMPLICATIONS OF THE BUSH-YELTSIN JOINT UNDERSTANDING

In addition to calling for deeper U.S. and Russian arms reductions during and after the START seven-year arms reduction period, the Bush-Yeltsin Joint Understanding of June 17, 1992, and an associated Baker-Kozyrev agreement incorporate several divergences from START counting rules and destruction/conversion requirements. According to the Executive branch, the treaty to be signed pursuant to the terms of the Joint Understanding is not to replace or to be merged with START, but rather to coexist alongside of START. Once both treaties have entered into force, the United States and the Russian Federation will be obligated to be in compliance with both treaties.

The Committee reserves judgment on the question of whether the overall START verification regime, which the Executive branch anticipates the new treaty will for the most part adopt, will prove sufficient to monitor Russian compliance with the limits of the new treaty. Once the new treaty is signed and submitted for advice and consent to ratification, the Senate will have to judge it on its own merits.

One element of possible concern is the relaxation of the rules for missile RV downloading. Not only are the overall START ceilings on downloading inapplicable to reductions under the Joint Understanding, but the START requirement that RV platforms be destroyed and replaced when downloading more than two RVs per missile will not be applied to reductions under the Joint Understanding.

While the U.S. Government has viewed the RV platform provision as little more than a confidence building measure, the deletion of that provision in the follow-on treaty may lessen U.S. confidence that downloaded missiles cannot be rapidly "uploaded" in a cheating or breakout scenario. Given the lack of limits on the amount of downloading that may be used in the first-stage arms reductions, such confidence could be more important under the follow-on treaty than under START. Eventual compliance with the Joint Understanding's ban on MIRVed ICBMs would, however, make this concern moot.

A second possible concern is the relaxation of heavy bomber weapon counting and conversion rules. Under START, there is no requirement for counting the number of nuclear weapons for which heavy bombers are equipped (other than long-range ALCMs). Under the Joint Understanding, however, the actual number of nuclear weapons for which each heavy bomber is equipped is to be counted against the overall warhead ceilings, and would therefore have to be monitored.

The other change in treatment of bombers under the Joint Understanding is the elimination, for up to 100 heavy bombers that were never equipped for long-range nuclear ALCMs, of the requirement that these bombers be physically altered before they can be removed from START accountability. In place of conversion, the Joint Understanding imposes basing and training limitations to keep these bombers out of the nuclear weapons force. Monitoring compliance with these rules could provide difficult.

HIGHWAY STUDIES CONTAINED IN H.R. 5620

Mr. JOHNSTON. Mr. President, I rise to engage in a colloquy with the distinguished chairman of the Senate Appropriations Transportation Subcommittee, Senator LAUTENBERG, regarding funding for highway studies contained in the supplemental appropriations bill, H.R. 5620, relating to the consequences of Hurricane Andrew.

Mr. LAUTENBERG. I would be pleased to discuss the funds for highway studies contained in the bill with the senior Senator from Louisiana.

Mr. JOHNSTON. I would like to ask my friend if it is the intention of the committee that the $750,000 contained in the bill to carry out highway studies includes funds for a feasibility study on the extension of Interstate 49, south of Lafayette, LA, to expedite future evacuations of low-lying southern areas of the State as contained in the original Senate version of the bill and the cost of the design and engineering associated with extending U.S. 167 from Abbeville, LA to Esther, LA.

Mr. LAUTENBERG. The answer to my friend from Louisiana is yes, the $750,000 included in the bill includes funds for the feasibility study on the extension of Interstate 49, south of Lafayette, LA, and cost for the design and engineering associated with extending U.S. 167 from Abbeville, to Esther, LA.

Mr. JOHNSTON. I thank the chairman for that clarification and I look forward to working with him on these two projects in the future.

THE MID-COUNTY BRIDGE

Mr. SANFORD. Mr. President, I would like to engage the distinguished chairman of the Transportation Appropriations Subcommittee in a colloquy regarding the funding for planning the Mid-County Bridge in Currituck County, NC.

Mr. LAUTENBERG. I would be happy to discuss this matter with the Senator from North Carolina.

Mr. SANFORD. As you may be aware, the beautiful Outer Banks of North Carolina receive hundreds of thousands of visitors every year. The visitors come to enjoy our national wildlife refuges, seashores, and parks.

Currently, the only bridge serving the northern Outer Banks is at Kitty Hawk, NC. Travelers to the Outer Banks witness many heavy delays at the Kitty Hawk Bridge, as it is the only bridge serving the many visitors and local residents going to the beaches. In emergency evacuations, the motorists wait literally hours in traffic before they make it to the mainland. I have grown increasingly concerned about the need to provide more adequate transportation to the barrier islands. I am afraid that the longer we put off new bridge construction, the greater the threat that a hurricane or great storm will devastate the islands and jeopardize thousands of lives.

I understand that in the emergency supplemental conference report that is before the Senate, $750,000 is included for highway studies on access roads, and other transportation evacuation needs. I also understand that it is the intention of the committee that $150,000 of those funds is to be used for the study and planning of a bridge from mainland North Carolina to the Outer Banks in Currituck County. This bridge is vital to meet the evacuation needs of the Outer Banks.

Mr. LAUTENBERG. The Senator from North Carolina is correct. Funding is included in the emergency supplemental conference report for highway studies, and it is the intent of the committee that $150,000 is to be made available for the planned bridge in Currituck.

Mr. SANFORD. I thank the Senator from New Jersey for his support of this project which is vital to the safety of hundreds of thousands Americans.

IN TRIBUTE TO MY FRIEND QUENTIN BURDICK

Mr. CRANSTON. Mr. President, a Senator, in his or her career in this body, is prompted on occasion to speak here about the good works and sincere efforts of one of our colleagues. I know that it gives each and every one of us pleasure when we have such an opportunity to remind the American people about the value of our friends.

However, there also comes a time—as has come for me today—when the pleasure of speaking about a friend is outweighed by the sadness that spurs the speech.

Quentin Burdick was a man I was both proud and glad to know. Like the best Americans throughout our history, he pursued a career in public life for the good he could do for the people of his community, his State, and his Nation. His 34 years in Congress—32 of them here in the Senate—will stand for all time as testament to his commitment to the common good.

Although Quentin Burdick and I never served on the same committee at the same time, his chairmanship, beginning in 1987, of the Environment and Public Works Committee did provide us with an important opportunity to work together on issues important to his State, our Nation, and, in particular, to my own home State of California. Specifically, I'm speaking of his work in helping to pass—and override

President Reagan's vetoes of—major highway and clean water legislation. More recently, of course, he provided significant leadership in enacting the Clean Air Act of 1990 and the Intermodal Surface Transportation Efficiency Act of 1991. Californians care very deeply about the quality of our air and our water. And we rely very heavily on our roads and our mass transit systems to take us from one place to another in what is, in square miles, the Nation's third largest State. Because Quentin Burdick was not a man who blew his own horn, many Californians are not aware of the large debt they owe to him. I hope I can help to set that situation straight.

As each of us knows, one of the most important qualities an individual can bring to legislative work is tenaciousness. A refusal to give up in the face of setbacks and even defeats, a doggedness in pursuing a point—albeit a doggedness leavened with courtesy, and a stubborn streak are what distinguish the more- from the less-successful here. Anyone who has paid attention to Quentin Burdick's career prior to his arrival in Congress would have known what to expect of him here. Before being elected to the House in 1958, he lost six consecutive races. But, clearly, he never lost heart or purpose.

Once elected, he was never defeated. After his victory in the 1958 House race, he won six elections to this Chamber. I believe I know why: Because Quentin Burdick never forgot why he wanted to come here and what he was supposed to do once he arrived. He served the people of his State and our Nation with distinction. His family's loss is this Chamber's and America's loss. I'm very sad for us all.

POW/MIA RECOGNITION DAY

Mr. RIEGLE. Mr. President, on this day of national recognition of American service personnel who remain missing and unaccounted for in the wake of the Vietnam conflict, our thoughts and prayers go out to their families and loved ones. The pain of not knowing for nearly two decades the fate of more than 2,000 of our countrymen has inflicted a deep wound in the psyche of our Nation and in each of our hearts.

The American people, who feel keenly the human dimension of this national tragedy, are the force which will ensure that, until each case is resolved, until the fate of each POW/MIA is conclusively determined, we will not walk away. The daily flying of the POW/MIA flag at our national cemeteries, the annual ceremonies held to recognize and honor our POW/MIA's, and the individual thoughts and memories of missing loved ones reminds us all of the urgent need to resolve the POW/MIA issue.

Over the past year, the Senate Select Committee on POW/MIA Affairs has begun to unravel the truth about what steps our Government has taken, and has failed to take, to find answers about missing servicemen. The ongoing work of the committee, coupled with our collective resolve to discover the truth, will bring closer the day when we know with certainty that each POW/MIA has been accounted for. Then and only then will we finally be able to close this sorrowful chapter in our Nation's history.

IMPLEMENTATION OF FDA REGULATIONS

Mr. DODD. Mr. President, I want to express my support for the amendment offered by Senator HATCH regarding regulations implementing the Nutrition Labeling and Education Act of 1990. I have met with a number of people from Connecticut who expressed concern about the impact of these regulations on the availability of dietary supplements such as vitamins, minerals, herbs, and similar products. My office has received many calls and letters on this issue and I know that many of my colleagues have heard from their constituents as well.

Mr. President, I strongly support the Nutrition Labeling and Education Act [NLEA]. I believe that it is necessary to ensure that what we see on the package is both accurate and effective in conveying nutrition information to consumers. However, some aspects of the regulations that the Food and Drug Administration have proposed have raised serious concerns among those who argue that these proposed regulations go beyond the intent of Congress.

This amendment will provide a 1-year moratorium so that a closer look can be taken at these regulations. The amendment offered by Senator HATCH will prohibit funds appropriated to the Departments of Labor, Health and Human Services, and Education to be expended during fiscal year 1993 to implement the Nutrition Labeling and Education Act with respect to dietary supplements. Additional hearings and discussions are warranted. This amendment will give us the time that is necessary to examine the issues and attempt to address the concerns of those opposed to the proposed regulations.

Mr. President, I reiterate my support for the NLEA. The NLEA will prevent misleading claims on food labels and will provide for nutrition information so that Americans will have the information they need to eat healthier diets and reduce their risk of heart attacks, strokes, and cancer. I do believe, however, that the regulations that the FDA has proposed concerning dietary supplements, minerals, herbs, and similar substances need to be reexamined. Mr. President, I am pleased to support the amendment offered by Senator HATCH. It will give us the time necessary to debate and address the questions that have been raised about the FDA regulations.

H.R. 5620—SUPPLEMENTAL APPROPRIATIONS

Mr. HOLLINGS. Mr. President, I had come to the floor to propose an amendment to this emergency supplemental appropriations bill. During markup of the supplemental last week, the Senate Appropriations Committee unanimously adopted my amendment to pay a $35,295,630 reimbursement to the State of South Carolina. Earlier this week the Senate endorsed the bill by a vote of 84 to 10. And, before proceeding with my statement, I would like to thank my good friends, the Senators from Louisiana, Hawaii, and Florida, and my colleagues on the Appropriations Committee who supported the people of South Carolina.

But, now we find ourselves in a situation in which the House, in concert with the bureaucrats at the President's Office of Management and Budget, deleted funds for South Carolina. They did so without a conference. Without providing an opportunity for elected Senate Members to debate their positions.

This process is not right. But, we are now faced with a situation in which the House has adjourned and won't be back until Tuesday. And, we are now informed by the Secretary of Veteran's Affairs, Ed Derwinski, that his Department will run out of funds to pay 3.3 million veterans and survivors. I have attached the Secretary's letter. He states that "Each day the supplemental is delayed will result in a corresponding delay in the delivery of monthly benefits."

Therefore, I will not offer my amendment tonight. To do so would hold the bill over until next week. And, I have been told by the Senate leadership that there is no way the House will agree to my amendment.

What I have sought in this bill is equity for the people of South Carolina. And, I will continue to do so. But, if the rules of the game are already stacked against us, I do not intend to needlessly delay assistance to the people of Florida, Louisiana, and Hawaii. No Senator knows better the suffering a hurricane can cause. We South Carolinians know only too well what natural disasters—hurricanes, tornados and earthquakes—can do to communities and individuals.

And, that is the point. Providing assistance following natural disasters is a core function of Government. This is not a political issue. It should not, it must not, be politicized.

But, that is exactly what has been happening in recent weeks. The President is playing politics at the expense of communities that have been devastated. The President flew down to south Florida within 12 hours within

Hurricane Andrew's landfall. He got lots of free press coverage. And, when the people of Florida came to know FEMA as the people of South Carolina have—and the criticism of mismanagement was heard—the President 1 week later announced that the Federal Government would pay for 100 percent of the cost.

Now, the President visited South Carolina not within 24 hours—but 8 days later. And 3 days after Andrew, the President appointed a Cabinet Secretary, Andy Card, to be the point man in charge of Federal assistance. The President never appointed anyone to be in charge for South Carolina. Instead, we got incompetent bureaucrats from FEMA. And, Hugo killed 29 people and caused $6 billion in damage. We are still recovering from its devastating effects. But, Hugo didn't hit during an election year and as we know all too well South Carolina didn't get 100 percent.

So here we are with another situation of "Read my lips." The press clippings say "100 percent." But, now the unelected bureaucrats at OMB and FEMA are saying, "Well, that's not exactly what President Bush meant."

The bureaucrats have sent me letters saying, "you don't understand, Senator HOLLINGS, the President didn't intend to give the impression that the Federal Government would provide 100-percent reimbursement. And, program regulations don't allow it."

Well, I hope the Bush administration bureaucrats will read my lips—Public Law 100-707 passed on November 23, 1988, clearly states that the President can provide 100-percent reimbursement for any Federal assistance for major disasters. And administrative policies are exactly that—red tape set up by the unelected to have a reason why something can't be done.

So, Mr. President, I will keep my powder dry. This fight will be taken up another day. I firmly believe that the House of Representatives and the Office of Management and Budget have made an excellent "tag team" today. They are wrong—dead wrong.

But, the process that has been followed here does not allow this outcome to be turned around. What has happened is not right. The House has evidenced an insensitivity to the people of South Carolina that I find unbelievable. But, as I said, I am not going to stand in the way of getting out pension payments to our veterans and I will not hold up this bill.

FAMILY LEAVE

Mr. PRESSLER. Mr. President, I rise today to talk about the family leave bill. The idea of protecting the family is admirable. Looking out for the needs of the families of employees also is good business. The problem is that too often legislation designed to help employees harms them instead.

One often neglected fact is that the success of small businesses and the lifestyles of their employees are connected. Excessive regulations, even with good intentions, harm small businesses and prevent them from making their own decisions. In the end, employees, employers, and even consumers are hurt.

The editor of the Pierre, SD, Capital Journal, Dana Hess, provided excellent reasoning on why the family leave bill is not the best approach. I ask unanimous consent that his editorial from the Pierre Capital Journal of August 12, 1992 be printed in the RECORD following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Pierre (SD) Capital Journal, Aug. 12, 1992]

FAMILY LEAVE BILL BURDENS BUSINESSES

(By Dana Hess)

"Family values" has been a popular phrase during the 1992 presidential campaign. It's so popular, that by trying to prove they're all for family values, members of the Senate have dealt a harsh blow to businesses throughout the nation.

On Tuesday the Senate passed a family leave bill. The law, geared for businesses with more than 50 employees, would protect the jobs of workers who would be allowed to take up to 12 weeks of unpaid leave for the birth or adoption of a child or in the case of the employee's serious illness or the serious illness of an employee's close family members.

The bill now goes the House and, if it passes there, to President Bush. The president vetoed a similar measure in June 1990.

The timing of the Senate's vote is no fluke. Realizing that family values are a hot topic during the campaign, Democrats hope to force the president to sign the family leave bill or, if he vetoes it again, paint him as anti-family before the election in November.

The last thing the nation's business community needs now is the federal government telling it how to treat employees. It's tough enough to run a business these days without the government telling employers they have to guarantee the jobs of their absent employees for three months.

No one disputes the benefits of having a family leave policy. Granting emergency leave to employees is just good business. However, codifying the leave policy and enforcing it nationwide will put an extra burden on businesses that already face a sea of federal red tape.

This may seem like a harmless enough benefit. After all, the bill calls for family leave to be unpaid. However, someone has to pay for replacement workers or lost production. In most cases, it is the consumer who will eventually end up paying for the extra cost of doing business imposed by this bill.

Some people may think it generous of Congress to guarantee jobs. As usual, Congress can afford to be generous when the rest of us are picking up the tab.

APPOINTMENT OF CONFEREE

Mr. FORD. Mr. President, I ask consent that Mr. CONRAD be a conferee on the part of the Senate on the bill H.R. 5503, making appropriations for the Department of Interior and Related Agencies for the fiscal year ending September 30, 1993, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROCKY MOUNTAIN ARSENAL NATIONAL WILDLIFE REFUGE ACT OF 1992

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar 553, H.R. 1435, the Rocky Mountain Arsenal National Wildlife Refuge Act of 1992.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1435) to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, Colorado, to the Secretary of the Interior.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3086

(Purpose: To direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, Colorado, to the Secretary of Interior upon certification by the Environmental Protection Agency that clean-up of contamination at the Arsenal is complete.)

Mr. FORD. Mr. President, I send an amendment to the desk on behalf Senators WIRTH, BROWN, and CHAFEE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. WIRTH, (for himself, Mr. BROWN, and Mr. CHAFEE) proposes an amendment numbered 3086.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, line 1, strike all through line 3 and insert in lieu thereof the following:

"(1) to the extent practicable, consistent with the purposes set forth in section 4(c) for which the refuge will be established after the certification required under section 2(b)(2); and".

On page 9, line 6, strike all through page 10, line 5 and insert in lieu thereof the following:

"(f) EXISTING LAW.—The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) the Migratory Bird Treaty Act (16 U.S.C. 703 et. seq.), and the Bald Eagle Protection Act (16 U.S.C. 668 et seq.) and the Bald Eagle Protection Act (16 U.S.C. 668 et seq.) shall apply to all actions at the Arsenal.

"(g) RESPONSE ACTIONS.—(1) The future establishment of the refuge shall not restrict or lessen in any way any response action or degree of cleanup under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or other applicable provisions of law, or any remediate petroleum products or their derivatives (including motor oil and aviation fuel), required to be carried out by or under the authority of the Secretary of the Army at the arsenal and surrounding areas, including (but not limited to)—

(A) the substance or performance of the remedial investigaton feasibility study or endangerment assessments;

(B) the contents and conclusions of the remedial investigation and feasibility study or the endangerment assessment reports; or

(C) the selection and implementation of response action and any action required under any other statute to remediate petroleum products or their derivatives (including motor oil and aviation fuel) for the Arsenal and surrounding areas.".

(2) All response action and action required under any other statute to remediate petroleum products or their derivatives (including motor oil and aviation fuel) carried out at the Arsenal shall attain a degree of a cleanup of hazardous substances, pollutants, and contaminants that, at a minimum, is sufficient to fully meet the purposes set forth in section 4(c) for which the refuge will be established and to permit access to all real property comprising the refuge by refuge personnel, wildlife researchers, and visitors.".

On page 11, line 15, after "passerines," insert "and".

On page 11, line 16, after "birds" strike "and species presently or in the future listed as threatened or endangered".

On page 11, line 18, insert the following new paragraph and redesignate all subsequent paragraphs accordingly:

"(2) To conserve species listed as threatened or endangered under the Endangered Species Act and species that are candidates for such listing.".

On page 12, line 20, strike all through page 13, line 23.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3086) was agreed to.

Mr. CHAFEE. Mr. President, I rise today to express my support for H.R. 1435, the Rocky Mountain Arsenal National Wildlife Refuge Act of 1992, as amended by the Senate. As my colleagues are well aware, this bill would authorize the creation of a national wildlife refuge at the Rocky Mountain Arsenal, a 27-square mile Army facility in Denver, CO that is also a Superfund site, after EPA has certified that cleanup of contamination at the site is complete. This bill is an important step in assuring that unique open space in Colorado will be preserved, with at the same time assuring that clean up of the site will not compromise in any way protection of human health and the environment.

Mr. President, I would like to take just a few minutes to explain in some detail the amendments that were offered and approved by the Senate today. First, the Senate has approved an amendment to section 3(f) of H.R. 1435 that is designed to clarify that the Endangered Species Act, the Bald Eagle Protection Act, and the Migratory Bird Treaty Act apply to actions at the arsenal, including all aspects of the CERCLA remediation process. Although the Senate language differs from section 3(f) as passed by the House of Representatives, this change should in no way be construed to mean that, with respect to any hazardous substance, pollutant or contaminant that will remain on site, the standards, requirements criteria or limitations under the aforementioned environmental law are or are not legally applicable to the hazardous substance, pollutant or contaminant concerned or relevant and appropriate under section 121(d) of CERCLA. My cosponsors of the amendment, Senators WIRTH and BROWN from Colorado, have informed me that they agree with this interpretation.

The Senate also approved an amendment today that modifies section 4(e) of the House bill. This amendment clarifies that the future establishment of the refuge shall not in any way restrict or limit the degree of cleanup at the site required under CERCLA. The amendment further requires that the area be sufficiently cleaned up to, at a minimum, meet the purposes for which the refuge will be established and allow for access to persons likely to be present on the refuge, including refuge personnel, wildlife researchers, and visitors.

Mr. President, in conclusion, I would like to thank my two colleagues from Colorado, Senators BROWN and WIRTH, for their diligence in working through this issue with the many parties interested in this legislation. It is my hope and, based upon discussions that have been going on for several weeks, my expectation that the House of Representatives will agree to the changes that the Senate has made here today, and that we can send this bill on to the President for signature in short order.

Mr. BROWN. Mr. President, I am pleased to rise in support of passage of H.R. 1435, the Rocky Mountain Arsenal National Wildlife Refuge bill. The bill, similar to legislation I introduced last year, will preserve and protect the wildlife at Rocky Mountain Arsenal and at the same time ensure a swift and thorough cleanup of the site.

It will facilitate the transformation of an area that suffered from environmental damage for decades into a refuge that will preserve a unique wildlife ecosystem. Communities in Adams County and all citizens of Colorado will be able to observe and enjoy some of the 400 wildlife species thriving in almost 27 miles of open prairie. As one of the largest urban wildlife centers in the world, it also will be of wonderful educational value and long-term economic benefit to the surrounding communities.

Rocky Mountain Arsenal was established in 1942, and was used by the Army to manufacture and dispose of chemical weapons, such as nerve gas. The Army also leased a section of the arsenal grounds to a private company to manufacture pesticides. Many of the products produced on site are some of the most toxic compounds known to man—DDT, dieldrin and aldrin among others. The by-products of both the Army's activities and pesticide manufacturing were deposited in a waste pond known as Basin F.

The arsenal, which has been placed on Superfund's national priority list, is considered to be one of the most toxic pieces of land in the world. It is the No. 1 cleanup priority for the entire Department of Defense Environmental Restoration Program.

For decades, the communities in Adams County, CO, have been plagued with the specter of this toxic site. Concerns about health and land values have been commonplace. It has been our hope that once the cleanup of this land is completed, Adams County could be left with a resource rather than a handicap.

Although the arsenal comprises 16,500 acres, the contamination is confined to a relatively small area. Within the outlying areas of the site, wildlife has flourished. In 1988, I wrote to Governor Romer asking that he form a task force with local officials to recommend ways to preserve open space and manage wildlife in the area.

Subsequently, in 1989, the Army and the Fish and Wildlife Service signed a cooperative agreement to provide for the conservation and management of the wildlife resources at the arsenal. Since the implementation of this agreement, the number of visitors to the area has soared. In 1991 alone, over 35,000 people toured the arsenal, including 5,500 school children in just the month of May.

Rocky Mountain Arsenal, located less than 10 miles from downtown Denver, serves as a habitat island, a largely undeveloped 27-square-mile urban area sanctuary for mule and white tail deer, bald eagles, hawks, geese, rabbits, pheasants, coyotes, prairie dogs, and other species. Almost half of the more than 900 wildlife species found in Colorado can be seen on the arsenal. It is also a prime wintering ground for the endangered bald eagle with up to 40 eagles using a communal roost on the arsenal from about November through February.

There are few, if any, other places in the United States where such large concentrations of threatened or endangered species are located so close to a major metropolitan area. This close proximity of wildlife and wildlife habitat to a major urban area provides uncommon opportunities for people to observe, study, and enjoy rare wildlife which otherwise would be more difficult to view and study.

Designating this ground has not been an easy task. Although all the parties involved in the negotiations over the specific language to be included in H.R. 1435 supported the concept of establishing the arsenal as a wildlife refuge, many legitimate concerns were raised about what kind of effect this would have on the cleanup of the site.

Many hours of discussion and negotiation have resulted in the compromise you have before you in H.R. 1435. Carefully constructed language makes it clear that the liability and responsibility for environmental cleanup remains with the Army. In addition, language was added to ensure that this designation in no way shall restrict or lessen the degree of cleanup at the arsenal required under law.

I am convinced we have achieved the appropriate balance that protects the wildlife on site and ensures that a thorough cleanup is carried out without infringing on EPA's authority under Superfund to set cleanup standards and remedies.

I hope my colleagues will join me in supporting this measure. It is not often that we have the foresight to set aside unique areas such as the arsenal before development threatens the character of an area. Passage of H.R. 1435 will allow us to accomplish this for future generations.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 1435), as amended, was passed.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4016, the Community Environmental Response Facilitation Act now at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4016) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3087

Mr. FORD. Mr. President, I send an amendment to the desk for Mr. Mitchell, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. MITCHELL, proposes an amendment numbered 3087.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, strike lines 9–12 and insert in lieu thereof the following:

"(4) IDENTIFICATION OF UNCONTAMINATED PROPERTY.—(A) In the case of real property owned by the United States that: (i) is or has been used as a military installation and on which the United States plans to or has terminated military operations, pursuant to a base closure law, including The Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note), Section 2687 of title 10, United States Code, or any provision of law authorizing the closure or realignment of a military installation enacted on or after the date of enactment of this Act; or (ii) is not used as a military installation and on which the United States plans to terminated Federal government operations, other than military operations,"

On page 6, following lines 6 add "or" and the following new clause:

"(viii) a completed preliminary assessment and site investigation if such document provides information equivalent to that which would be included in clauses (i–vii)."

On page 6, strike lines 20 and insert in lieu thereof:

"(C) In the case of property on which the United States is terminating military operations as described in paragraph (A) identification and concurrence required under subparagraphs (A) and (B) shall be made 18 months after the military installation is selected for closure pursuant to a base closure law or 60 days after the Environmental Protection Agency approves a remedial investigation/feasibility study, whichever is later. In all other cases the identification and concurrence required".

On page 7, add the following new sentence at the of line 4:

"The head of the department, agency, or instrumentality of the United States, may sell or otherwise transfer any parcel of real property identified under subparagraph (A) 180 days after submitting a request for concurrence under subparagraph (B)."

On page 7, following line 20, insert the following:

"(E) The head of the department, agency, or instrumentality of the United States with jurisdiction over the real property subject to this subsection may sell, lease, or otherwise transfer any right, title, or interest to the real property identified under subparagraph (A) without regard to whether the real property is or has been listed as a site on the National Priorities List."

On page 7, line 21, strike "(E)" and insert in lieu thereof: "(F)".

The PRESIDING OFFICER. The question is on agreeing to the amendment

The amendment (No. 3087) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 4016), as amended, was passed.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I ask unanimous consent that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees.

There being no objection, the Presiding Officer [Mr. AKAKA] appointed Mr. MOYNIHAN, Mr. MITCHELL, Mr. LAUTENBERG, Mr. CHAFEE, and Mr. WARNER conferees on the part of the Senate.

CHILD SUPPORT RECOVERY ACT OF 1992

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 678, S. 1002, a bill to impose a criminal penalty for flight to avoid payment of arrearages in child support; that the committee-reported substitute amendment be deemed agreed to; that any statements with respect to this bill appear at this point in the RECORD; that the bill be read for the third time and passed; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the committee substitute amendment was deemed agreed to, as follows:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Support Recovery Act of 1992".

SEC. 2. FAILURE TO PAY LEGAL CHILD SUPPORT OBLIGATIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 11 the following new chapter:

"CHAPTER 11A—CHILD SUPPORT

"Sec.
"228. Failure to pay legal child support obligations.

"§ 228. Failure to pay legal child support obligations

"(a) OFFENSE.—Whoever willfully fails to pay a past due support obligation with respect to a child who resides in another State shall be punished as provided in subsection (b).

"(b) PUNISHMENT.—The punishment for an offense under this section is—

"(1) in the case of a first offense under this section, a fine under this title, imprisonment for not more than 6 months, or both; and

"(2) in any other case, a fine under this title, imprisonment for not more than 2 years, or both.

"(c) RESTITUTION.—Upon a conviction under this section, the court shall order restitution under section 3663 in an amount equal to the past due support obligation as it exists at the time of sentencing.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'past due support obligation' means any amount—

"(A) determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

"(B) that has remained unpaid for a period longer than 180 days, or is greater than $2,500; and

"(2) the term 'State' includes the District of Columbia, and any other possession or territory of the United States.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 11 the following new item:

"11A. Child support .... 228".

SEC. 3. DISCRETIONARY CONDITION OF PROBATION.

Section 3563(b) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (20);

(2) by redesignating paragraph (21) as paragraph (22); and

(3) by inserting after paragraph (20) the following new paragraph:

"(21) comply with the terms of any court order or order of an administrative process pursuant to the law of a State, the District of Columbia, or any other possession or territory of the United States, requiring payments by the defendant for the support and maintenance of a child or of a child and the parent with whom the child is living; or".

SEC. 4. COMMISSION ON CHILD AND FAMILY WELFARE.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on Child and Family Welfare (referred to in this section as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 15 members of whom—

(A) 5 shall be appointed by the President, in consultation with the Attorney General and the Secretary of Health and Human Services;

(B) 3 shall be appointed by the President pro tempore of the Senate;

(C) 2 shall be appointed by the minority leader of the Senate;

(D) 3 shall be appointed by the Speaker of the House of Representatives; and

(E) 2 shall be appointed by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—Members of the Commission shall be—

(A) persons who have expertise in family law, children's issues, mental health, and related policies;

(B) persons who have expertise, through research and practice, in laws and policies related to child and family welfare;

(C) persons who represent organizations that seek to protect the civil rights of children;

(D) persons who represent advocacy groups that work for the interests of children;

(E) persons who represent advocacy groups that work for the interests of both custodial and noncustodial parents; and

(F) persons who have conducted extensive research on, or delivered services to, children adversely affected by divorce.

(3) DATE.—The appointments of the members of the Commission shall be made no later than June 1, 1993.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

(h) DUTIES.—The Commission shall—

(1) compile information and data on the issues that affect the best interests of children, including domestic issues such as abuse, family relations, services and agencies for children and families, family courts and juvenile courts;

(2) compile a report that lists the strengths and weaknesses of the child welfare system as it relates to placement (including child custody and visitation), summarizes State laws and regulations relating to visitation, and makes recommendations for changing the system or developing a Federal role in strengthening the system;

(3) study the strengths and weaknesses of the juvenile and family courts as they relate to visitation, custody, and child support enforcement and suggest any recommendations for changing these systems; and

(4) study domestic issues that relate to the treatment and placement of children (such as child and spousal abuse) and suggest recommendations for any needed changes, including models for mediation and other programs.

(i) REPORT.—Not later than January 1, 1994, the Commission shall submit to the President and the Congress an interim report, and not later than January 1, 1995, a final report, which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers to be appropriate.

(j) HEARINGS.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) BROAD PUBLIC PARTICIPATION.—The Commission shall conduct hearings in various areas of the country, from the inner cities to the suburbs to rural areas, to gather a broad spectrum of information on the issues to be addressed. Parents, children, experts, religious leaders, and public and private agency officials shall be afforded the opportunity to give testimony at such hearings.

(k) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(l) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(m) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(n) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(o) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(p) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(q) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(r) TERMINATION OF THE COMMISSION.—(1) The Commission shall terminate 90 days after the date on which the Commission submits its final report under subsection (i).

(2) Any funds held by the Commission on the date of termination of the Commission shall be deposited in the general fund of the Treasury of the United States and credited

as miscellaneous receipts. Any property (other than funds) held by the Commission on that date shall be disposed of as excess or surplus property.

(s) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Commission for fiscal years 1993 and 1994 such sums as are necessary to carry out this section.

(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this subsection shall remain available, without fiscal year limitation, until expended.

So the bill (S. 1002), as amended, was deemed read the third time and passed.

BIOTECHNOLOGY PATENT PROTECTION ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 421, S. 654, a bill to amend title 35, United States Code, with respect to patents on certain biological processes.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 654) to amend title 35, United States Code, with respect to patents on certain processes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. CONDITIONS FOR PATENTABILITY; NON-OBVIOUS SUBJECT MATTER.

Section 103 of title 35, United States Code, is amended—

(1) in the first unnumbered paragraph by inserting "(a)" before "A patent";

(2) in the second numbered paragraph by inserting "(b)" before "Subject matter"; and

(3) by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this section, a claimed process of making or using a machine, manufacture, or composition of matter is not obvious under this section if—

"(1) the machine, manufacture, or composition of matter is novel under section 102 of this title and nonobvious under this section; and

"(2)(A) the machine, manufacture, or composition of matter, and the claimed process invention at the time it was made, were owned by the same person or subject to an obligation of assignment to the same person; and

"(B) claims to the process and to the machine, manufacture, or composition of matter, are entitled to the same effective filing date, and appear in the same patent or in different patents which are owned by the same person and are set to expire on the same date.".

SEC. 2. PRESUMPTION OF VALIDITY.

The first unnumbered paragraph of section 282 of title 35, United States Code, is amended by inserting after the second sentence "A claim issued under the provisions of section 103(c) of this title on a process of making or using a machine, manufacture, or composition of matter shall not be held invalid under section 103 of this title solely because the machine, manufacture, or composition of matter is determined to lack novelty under section 102 of this title or to be obvious under section 103 of this title.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to all United States patents granted on or after the date of the enactment of the Act and to all applications for United States patents pending on or filed after such date of enactment, including any application for the reissuance of a patent.

AMENDMENT NO. 3088

(Purpose: To provide a committee substitute amendment)

Mr. FORD. Mr. President, I send an amendment to the desk on behalf of Senator DECONCINI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. DECONCINI, proposes an amendment numbered 3088.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 22, strike out all through the end and insert in lieu thereof the following:

TITLE I—BIOTECHNOLOGICAL PROCESS PATENTS

SEC. 101. CONDITIONS FOR PATENTABILITY; NON-OBVIOUS SUBJECT MATTER.

Section 103 of title 35, United States Code, is amended—

(1) in the first unnumbered paragraph by inserting "(a)" before "A patent";

(2) in the second unnumbered paragraph by inserting "(b)" before "Subject matter"; and

(3) by adding at the end thereof the following new subsections:

"(c) Notwithstanding any other provision of this section, a claimed process of making or using a machine, manufacture, or composition of matter is not obvious under this section if—

"(1) the machine, manufacture, or composition of matter is novel under section 102 of this title and nonobvious under this section;

"(2) the claimed process is a biotechnological process as defined in subsection (d); and

"(3)(A) the machine, manufacture, or composition of matter, and the claimed process invention at the time it was made, were owned by the same person or subject to an obligation of assignment to the same person; and

"(B) claims to the process and to the machine, manufacture, or composition of matter, are entitled to the same effective filing date, and appear in the same patent application, different patent applications, or patent application and patent which are owned by the same person and which expire or are set to expire on the same date.

"(d) For purposes of this section, the term 'biotechnological process' means any method of making or using living organisms, or parts thereof, for the purpose of making or modifying products. Such term includes recombinant DNA, recombinant RNA, cell fusion including hybridoma techniques, and other processes involving site specific manipulation of genetic material.".

SEC. 102. NO PRESUMPTION OF INVALIDITY.

The first unnumbered paragraph of section 282 of title 35, United States Code, is amended by inserting after the second sentence "A claim issued under the provisions of section 103(c) of this title on a process of making or using a machine, manufacture, or composition of matter shall not be held invalid under section 103 of this title solely because the machine, manufacture, or composition of matter is determined to lack novelty under section 102 of this title or to be obvious under section 103 of this title.".

SEC. 103. EFFECTIVE DATE.

The amendments made by this title shall apply to all United States patents granted on or after the date of the enactment of this Act and to all applications for United States patents pending on or filed after such date of enactment, including any application for the reissuance of a patent.

TITLE II—BIOTECHNOLOGICAL MATERIAL PATIENTS

SEC. 201. INFRINGEMENT BY IMPORTATION, SALE OR USE.

(a) INFRINGEMENT.—Section 271 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(h) Whoever without authority imports into the United States or sells or uses within the United States a product which is made by using a biotechnological material (as defined under section 154(b)) which is patented in the United States shall be liable as an infringer if the importation, sale, or use of the product occurs during the term of such patent".

(b) CONTENTS AND TERM PATENT.—Section 154 of title 35, United States Code, is amended—

(1) by inserting "(a)" before "Every";

(b) by striking out "in this title," and inserting in lieu thereof "in this title (1)";

(3) by striking out "and, if the invention" and inserting "(2) if the invention";

(4) by inserting after "products made by that process," the following: "and (3) if the invention is a biotechnological material used in making a product, of the right to exclude others from using or selling throughout the United States, or importing into the United States the product made or using such biotechnological material,"; and

(5) by adding at the end thereof the following:

"(b) For purposes of this section, the term 'biotechnological material' is defined as any material (including a host cell, DNA sequence, or vector) that is used in a biotechnological process as defined under section 103(d).".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect six months after the date of enactment of this Act and, subject to paragraph (2), shall apply only with respect to products made or imported after the effective date of the amendments made by this section.

(2) EXCEPTIONS.—The amendments made by this section shall not abridge or affect the right of any person, or any successor to the business of such person (A) to continue to use, sell, or import any specific product in substantial and continuous sale or use by such person in the United States on date of enactment, or (B) for which substantial preparation by such person for such sale or use was made before such date, to the extent equitable for the protection of commercial in-

vestment made or business commenced in the United States before such date.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3088) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 654

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—BIOTECHNOLOGICAL PROCESS PATENTS

SEC. 101. CONDITIONS FOR PATENTABILITY; NONOBVIOUS SUBJECT MATTER.

Section 103 of title 35, United States Code, is amended—

(1) in the first unnumbered paragraph by inserting "(a)" before "A patent";

(2) in the second unnumbered paragraph by inserting "(b)" before "Subject matter"; and

(3) by adding at the end thereof the following new subsections:

"(c) Notwithstanding any other provision of this section, a claimed process of making or using a machine, manufacture, or composition of matter is not obvious under this section if—

"(1) the machine, manufacture, or composition of matter is novel under section 102 of this title and nonobvious under this section;

"(2) the claimed process is a biotechnological process as defined in subsection (d); and

"(3)(A) the machine, manufacture, or composition of matter, and the claimed process invention at the time it was made, were owned by the same person or subject to an obligation of assignment to the same person; and

"(B) claims to the process and to the machine, manufacture, or composition of matter, are entitled to the same effective filing date, and appear in the same patent application, different patent applications, or patent application and patent which are owned by the same person and which expire or are set to expire on the same date.

"(d) For purposes of this section, the term 'biotechnological process' means any method of making or using living organisms, or parts thereof, for the purpose of making or modifying products. Such term includes recombinant DNA, recombinant RNA, cell fusion including hybridoma techniques, and other processes involving site specific manipulation of genetic material.".

SEC. 102. NO PRESUMPTION OF INVALIDITY.

The first unnumbered paragraph of section 282 of title 35, United States Code, is amended by inserting after the second sentence "A claim issued under the provisions of section 103(c) of this title on a process of making or using a machine, manufacture, or composition of matter shall not be held invalid under section 103 of this title solely because the machine, manufacture, or composition of matter is determined to lack novelty under section 102 of this title or to be obvious under section 103 of this title.".

SEC. 103. EFFECTIVE DATE.

The amendments made by this title shall apply to all United States patents granted on or after the date of the enactment of this Act and to all applications for United States patents pending on or filed after such date of enactment, including any application for the reissuance of a patent.

TITLE II—BIOTECHNOLOGICAL MATERIAL PATENTS

SEC. 201. INFRINGEMENT BY IMPORTATION, SALE OR USE.

(a) INFRINGEMENT.—Section 271 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(h) Whoever without authority imports into the United States or sells or uses within the United States a product which is made by using a biotechnological material (as defined under section 154(b)) which is patented in the United States shall be liable as an infringer if the importation, sale, or use of the product occurs during the term of such patent.".

(b) CONTENTS AND TERM PATENT.—Section 154 of title 35, United States Code, is amended—

(1) by inserting "(a)" before "Every";

(2) by striking out "in this title," and inserting in lieu thereof "in this title (1)";

(3) by striking out "and, if the invention" and inserting "(2) if the invention";

(4) by inserting after "products made by that process," the following: "and (3) if the invention is a biotechnological material used in making a product, of the right to exclude others from using or selling throughout the United States, or importing into the United States the product made or using such biotechnological material,"; and

(5) by adding at the end thereof the following:

"(b) For purposes of this section, the term 'biotechnological material' is defined as any material (including a host cell, DNA sequence, or vector) that is used in a biotechnological process as defined under section 103(d).".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect six months after the date of enactment of this Act and, subject to paragraph (2), shall apply only with respect to products made or imported after the effective date of the amendments made by this section.

(2) EXCEPTIONS.—The amendments made by this section shall not abridge or affect the right of any person, or any successor to the business of such person (A) to continue to use, sell, or import any specific product in substantial and continuous sale or use by such person in the United States on date of enactment, or (B) for which substantial preparation by such person for such sale or use was made before such date, to the extent equitable for the protection of commercial investment made or business commenced in the United States before such date.

Mr. FORD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INDIAN HEALTH CARE AMENDMENTS ACT OF 1992

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 655, S. 2481, the Indian Health Care Amendments Act of 1992.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2481) to amend the Indian Health Care Improvement Act to authorize appropriations for Indian health programs, and so forth and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Indian Health Care Amendments Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to Indian Health Care Improvement Act.
Sec. 3. Findings; policy; definitions.

TITLE I—INDIAN HEALTH MANPOWER

Sec. 101. Purpose.
Sec. 102. Health professions.
Sec. 103. Breach of contract provisions relating to Indian health scholarships.
Sec. 104. Nursing.
Sec. 105. Maintenance of community health representative program.
Sec. 106. Changes to Indian health service loan repayment program.
Sec. 107. Recruitment activities.
Sec. 108. Advanced training and research.
Sec. 109. Tribally controlled postsecondary vocational institutions.
Sec. 110. INMED program.
Sec. 111. Scholarship and loan repayment recovery.
Sec. 112. Matching grants to tribes.
Sec. 113. Community health aid program.
Sec. 114. Tribal health program administration.
Sec. 115. Placement of participants in scholarship and loan repayment programs.
Sec. 116. Interdisciplinary training grants.
Sec. 117. Manpower shortages.
Sec. 118. Authorization of appropriations.

TITLE II—HEALTH SERVICES

Sec. 201. Health status and resource deficiency status.
Sec. 202. Catastrophic health emergency fund.
Sec. 203. Health promotion and disease prevention.
Sec. 204. Diabetes prevention, treatment, and control.
Sec. 205. Mental health prevention and treatment services.
Sec. 206. New studies.
Sec. 207. Right of recovery.
Sec. 208. Epidemiology grant program.
Sec. 209. California contract health services demonstration program.
Sec. 210. Coverage of screening mammography.
Sec. 211. Comprehensive school health education programs.
Sec. 212. Indian youth grant program.
Sec. 213. Tuberculosis prevention demonstration program.

Sec. 214. Patient travel costs.
Sec. 215. Authorization of appropriations.

TITLE III—HEALTH FACILITIES

Sec. 301. Health facilities closure and priorities.
Sec. 302. Safe water and sanitary waste disposal facilities.
Sec. 303. Ambulatory care facilities grant program.
Sec. 304. Indian health care delivery demonstration project.
Sec. 305. Expenditure of nonservice funds for renovation.
Sec. 306. Authorization of appropriations.

TITLE IV—ACCESS TO HEALTH SERVICES

Sec. 401. Treatment of payments to Indian health service facilities under medicare and medicaid programs.
Sec. 402. Report.
Sec. 403. Grants to and contracts with tribal organizations.
Sec. 404. Extension of demonstration program.
Sec. 405. Additional authority.
Sec. 406. Authorization of appropriations.

TITLE V—HEALTH SERVICES FOR URBAN INDIANS

Sec. 501. Authorization of appropriations.
Sec. 502. Grant authority.
Sec. 503. Federal Tort Claims Act coverage.

TITLE VI—ORGANIZATIONAL IMPROVEMENTS

Sec. 601. Indian Health Service.
Sec. 602. Authorization of appropriations.
Sec. 603. Director of Indian Health Service.

TITLE VII—SUBSTANCE ABUSE PROGRAMS

Sec. 701. Redesignation of existing title VII.
Sec. 702. Substance abuse programs.

TITLE VIII—MISCELLANEOUS

Sec. 801. Reports.
Sec. 802. Regulations.
Sec. 803. Extension of treatment of Arizona as a contract health service delivery area.
Sec. 804. Infant and maternal mortality; fetal alcohol syndrome.
Sec. 805. Reallocation of base resources.
Sec. 806. Child sexual abuse treatment programs.
Sec. 807. Tribal leasing.
Sec. 808. Extension of tribal management demonstration project termination date in certain cases.
Sec. 809. Long-term care demonstration project.
Sec. 810. Results of demonstration projects.
Sec. 811. Authorization of appropriations.
Sec. 812. Tribal self-governance project.
Sec. 813. Waiver of paperwork reduction.
Sec. 814. Joint venture demonstration projects.
Sec. 815. Demonstration of electronic data submission.

TITLE IX—TECHNICAL CORRECTIONS

Sec. 901. Repeal of expired reporting requirements.
Sec. 902. Other technical corrections.

SEC. 2. AMENDMENTS TO INDIAN HEALTH CARE IMPROVEMENT ACT.

Whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

SEC. 3. FINDINGS; POLICY; DEFINITIONS.

(a) FINDINGS.—Section 2 of the Act (25 U.S.C. 1601) is amended—

(1) in paragraph (d), by striking the second sentence;

(2) by striking subsection (e) and inserting the following:

"(e) The unmet needs of tribal groups or local populations are sufficiently varied that resources provided for contracts under the authority of the Indian Self-Determination Act should provide maximum flexibility for tribal use of these funds in meeting local priorities."; and

(3) by striking paragraphs (f) and (g).

(b) DECLARATION OF POLICY.—Section 3 of the Act (25 U.S.C. 1602) is amended to read as follows:

"DECLARATION OF HEALTH OBJECTIVES

"SEC. 3. (a) The Congress declares that it is the policy of the United States—

"(1) in fulfillment of its special responsibilities and legal obligation to the American Indian and Alaska Native people residing throughout the United States, to meet the national goal of providing the highest possible health status to Indians and to provide existing Indian health services with all resources necessary to effect that policy.

"(2) to raise the health status of American Indian and Alaska Native people to the highest possible level;

"(3) to assure that all persons who are eligible for the health care services provided by the Indian Health Service have access to the same fundamental health care benefits; and

"(4) to assure the development of a comprehensive health care system, including tribal health care programs, that will meet the health care needs of American Indian and Alaska Native people in each of the developmental stages of life.

"(b) It is the intent of the Congress that the Nation meet the following health objectives with respect to Indians by the year 2000:

"(1) Reduce coronary heart disease deaths to no more than 100 per 100,000.

"(2) Reduce the prevalence of overweight individuals to no more than 30 percent.

"(3) Reduce the prevalence of anemia to less than 10 percent among children aged 1 through 5.

"(4) Reverse the rise in cancer deaths to achieve a rate of no more than 130 per 100,000.

"(5) Slow the rise in lung cancer deaths to achieve a rate of no more than 42 per 100,000.

"(6) Slow the rise in deaths from chronic obstructive pulmonary disease to achieve a rate of no more than 25 per 100,000.

"(7) Reduce deaths among men caused by alcohol-related motor vehicle crashes to no more than 44.8 per 100,000.

"(8) Reduce cirrhosis deaths to no more than 13 per 100,000.

"(9) Reduce drug-related deaths to no more than 3 per 100,000.

"(10) Reduce pregnancies among girls aged 17 and younger to no more than 50 per 1,000 adolescents.

"(11) Reduce to no more than 30 percent the proportion of pregnancies that are unintended.

"(12) Reduce suicide among men to no more than 12.8 per 100,000.

"(13) Reduce by 15 percent the incidence of injurious suicide attempts among adolescents aged 14 through 17.

"(14) Reduce to less than 10 percent the prevalence of mental disorders among children and adolescents.

"(15) Reduce homicides to no more than 11.3 per 100,000.

"(16) Reduce the incidence of child abuse or neglect to less than 25.2 per 1,000 children under age 18.

"(17) Reduce physical abuse directed at women by male partners to no more than 27 per 1,000 couples.

"(18) Reduce rape and attempted rape of women aged 12 and older to no more than 107 per 100,000 women.

"(19) Increase years of healthy life to at least 65 years.

"(20) Reduce deaths caused by unintentional injuries to no more than 66.1 per 100,000.

"(21) Reduce deaths caused by motor vehicle crashes to no more than 39.2 per 100,000.

"(22) Among children aged 6 months through 5 years, reduce the prevalence of blood lead levels exceeding 15 ug/dL and reduce to zero the prevalence of blood lead levels exceeding 25 ug/dL.

"(23) Reduce dental caries (cavities) so that the proportion of children with one or more caries (in permanent or primary teeth) is no more than 45 percent among children aged 6 through 8 and no more than 60 percent among adolescents aged 15.

"(24) Reduce untreated dental caries so that the proportion of children with untreated caries (in permanent or primary teeth) is no more than 20 percent among children aged 6 through 8 and no more than 70 percent among adolescents aged 15.

"(25) Reduce to no more than 20 percent the proportion of individuals aged 65 and older who have lost all of their natural teeth.

"(26) Reduce the prevalence of gingivitis aged 35–44 to no more than 50 percent.

"(27) Increase to at least 45 percent the proportion of individuals aged 35 to 44 who have never lost a permanent tooth due to dental caries or periodontal disease.

"(28) Reduce destructive periodontal diseases to a prevalence of no more than 15 percent among individuals aged 35 to 44.

"(29) Increase to at least 50 percent the proportion of children who have received protective sealants on the occlusal (chewing) surfaces of permanent molar teeth.

"(30) Increase to at least 65 percent the proportion of parents and caregivers who use feeding practices that prevent baby bottle tooth decay.

"(31) Reduce the infant mortality rate to no more than 8.5 per 1,000 live births.

"(32) Reduce the fetal death rate (20 or more weeks of gestation) to no more than 4 per 1,000 live births plus fetal deaths.

"(33) Reduce the maternal mortality rate to no more than 3.3 per 100,000 live births.

"(34) Reduce the incidence of fetal alcohol syndrome to no more than 2 per 1,000 live births.

"(35) Reduce stroke deaths to no more than 20 per 100,000.

"(36) Reverse the increase in end-stage renal disease (requiring maintenance dialysis or transplantation) to attain an incidence of no more than 13 per 100,000.

"(37) Reduce breast cancer deaths to no more than 20.6 per 100,000 women.

"(38) Reduce deaths from cancer of the uterine cervix to no more than 1.3 per 100,000 women.

"(39) Reduce colorectal cancer deaths to no more than 13.2 per 100,000.

"(40) Reduce to no more than 11 percent the proportion of individuals who experience a limitation in major activity due to chronic conditions.

"(41) Reduce significant hearing impairment to a prevalence of no more than 82 per 1,000.

"(42) Reduce significant visual impairment to a prevalence of no more than 30 per 1,000.

"(43) Reduce diabetes-related deaths to no more than 48 per 100,000.

"(44) Reduce diabetes to an incidence of no more than 2.5 per 1,000 and a prevalence of no more than 62 per 1,000.

"(45) Reduce the most severe complications of diabetes as follows:

"(A) End-stage renal disease, 1.9 per 1,000.

"(B) Blindness, 1.4 per 1,000.

"(C) Lower extremity amputation, 4.9 per 1,000.

"(D) Perinatal mortality, 2 percent.

"(E) Major congenital malformations, 4 percent.

"(46) Confine annual incidence of diagnosed AIDS cases to no more than 1,000 cases.

"(47) Confine the prevalence of HIV infection to no more than 100 per 100,000.

"(48) Reduce gonorrhea to an incidence of no more than 225 cases per 100,000.

"(49) Reduce Chlamydia trachomatis infections, as measured by a decrease in the incidence of nongonococcal urethritis to no more than 170 cases per 100,000.

"(50) Reduce primary and secondary syphilis to an incidence of no more than 10 cases per 100,000.

"(51) Reduce the incidence of pelvic inflammatory disease, as measured by a reduction in hospitalization for pelvic inflammatory disease to no more than 250 per 100,000 women aged 15 through 44.

"(52) Reduce sexually transmitted hepatitis B infection to no more than 30,500 cases.

"(53) Reduce indigenous cases of vaccine-preventable diseases as follows:

"(A) Diphtheria among individuals aged 25 and younger, 0.

"(B) Tetanus among individuals aged 25 and younger, 0.

"(C) Polio (wild-type virus), 0.

"(D) Measles, 0.

"(E) Rubella, 0.

"(F) Congenital Rubella Syndrome, 0.

"(G) Mumps, 500.

"(H) Pertussis, 1,000.

"(54) Reduce epidemic-related pneumonia and influenza deaths among individuals aged 65 and older to no more than 7.3 per 100,000.

"(55) Reduce the number of new carriers of viral hepatitis B among Alaska Natives to no more than 1 case.

"(56) Reduce tuberculosis to an incidence of no more than 15 cases per 100,000.

"(57) Reduce bacterial meningitis to no more than 8 cases per 100,000.

"(58) Reduce infectious diarrhea by at least 25 percent among children.

"(59) Reduce acute middle ear infections among children aged 4 and younger, as measured by days of restricted activity or school absenteeism, to no more than 105 days per 100 children.

"(60) Reduce pneumonia-related days of restricted activity as follows:

"(A) Individuals aged 65 and older (per 100 people), 38 days.

"(B) Children aged 4 and younger (per 100 children), 24 days.

"(61) Reduce cigarette smoking to a prevalence of no more than 20 percent.

"(62) Reduce smokeless tobacco use by Indian and Alaska Native youth to a prevalence of no more than 10 percent.

"(63) Increase to at least 65 percent the proportion of Indian and Alaska Native parents and caregivers who use feeding practices that prevent baby bottle tooth decay.

"(64) Increase to at least 75 percent the proportion of Indian and Alaska Native mothers who breast feed their babies in the early postpartum period, and to at least 50 percent the proportion who continue breast feeding until their babies are 5 to 6 months old.

"(65) Increase to at least 90 percent the proportion of pregnant Indian and Alaska Native women who receive prenatal care in the first trimester of pregnancy.

"(66) Increase to at least 70 percent the proportion of Indians and Alaska Natives who have received, as a minimum within the appropriate interval, all of the screening and immunization services and at least one of the counseling services appropriate for their age and gender as recommended by the United States Preventive Services Task Force.

"(67) Increase the proportion of degrees awarded to Indians and Alaska Natives in the health professions and allied and associated health profession fields to 0.6 percent.

"(68) Develop and implement a national process to identify significant gaps in the disease prevention and health promotion data for Indians and Alaska Natives and establish mechanisms to meet these needs.

"(69) Increase services to older individuals who are in need of medical care, personal care, or chore services in their home.

"(c) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the progress made in each area of the Service toward meeting each of the objectives described in subsection (b).

"(d) The objectives set forth in subsection (b) should include an emphasis on preventive, community-based services including, well-child and well-elder clinics, emphasis on family rather than individual treatment, and emphasis on in-home and community-based services for Indians who are aged 65 and older or who are functionally impaired.

"(e) The Secretary may revise the health objectives set forth in subsection (b) to reflect the findings of the Surgeon General related to American Indians and Alaska Natives contained in the 'Healthy People 2000' report.".

(c) DEFINITIONS.—Section 4 of the Act (25 U.S.C. 1603) is amended—

(1) in subsection (c)—

(A) by striking ", irrespective of whether he or she lives on or near a reservation,"; and

(B) by inserting "irrespective of whether he or she lives on or near a reservation," immediately after "such member,"; and

(2) by adding at the end the following new subsections:

"(m) 'Service area' means the geographical area served by each Area office.

"(n) 'Health profession' means medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatric medicine, geriatric medicine, psychology, social work, marriage and family therapy, environmental health and engineering, public health, nursing, public health nursing, chiropractic medicine, or an allied health profession.

"(o) 'Health professional' means an individual with a degree in a health profession.

"(p) 'Substance abuse' includes inhalant abuse.".

TITLE I—INDIAN HEALTH MANPOWER

SEC. 101. PURPOSE.

Section 101 of the Act (25 U.S.C. 1611) is amended to read as follows:

"PURPOSE

"SEC. 101. The purpose of this title is to increase the number of Indians entering the health professions and to assure an adequate supply of health professionals to Indians, Indian tribes, tribal organizations, and urban Indian organizations involved in the provision of primary health care to Indian people.".

SEC. 102. HEALTH PROFESSIONS.

(a) RECRUITMENT PROGRAM.—Section 102(a) of the Act (25 U.S.C. 1612(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) identifying Indians with a potential for education or training in the health professions, as defined in section 4(n), and encouraging and assisting them—

"(A) to enroll in courses of study in such professions; or

"(B) if they are not qualified to enroll in any such courses of study, to undertake such post-secondary education or training as may be required to qualify them for enrollment;";

(2) in paragraph (2)—

(A) by striking "school" both places it appears and inserting "course of study"; and

(B) by striking "clause (1)(A)" and inserting "paragraph (1)"; and

(3) in paragraph (3)—

(A) by inserting "in" immediately after "Indians";

(B) by inserting a comma before "courses";

(C) by striking ", in any school"; and

(D) by striking "clause (1)(A)" and inserting "paragraph (1)".

(b) PREPARATORY SCHOLARSHIP PROGRAM.—Section 103 of the Act (25 U.S.C. 1613) is amended—

(1) by striking subsection (a)(2) and inserting the following:

"(2) have demonstrated the capability to successfully complete courses of study in the health professions, as defined in section 4(n).";

(2) in subsection (b)(1), by inserting before the period at the end "on a full-time basis (or the part-time equivalent thereof, as determined by the Secretary)";

(3) by striking subsection (b)(2) and inserting the following:

"(2) Pregraduate education of any grantee leading to a baccalaureate degree in an approved course of study preparatory to a field of study specified in subsection (a)(2), such scholarship not to exceed 4 years (or the part-time equivalent thereof, as determined by the Secretary).";

(4) in subsection (c), by striking "full time"; and

(5) by striking subsection (e) and inserting the following:

"(e) The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely by reason of such applicant's eligibility for assistance or benefits under any other Federal program.".

(c) HEALTH PROFESSIONS SCHOLARSHIPS.—Section 104 of the Act (25 U.S.C. 1613a) is amended—

(1) in subsection (a)—

(A) by striking "Indian communities" and inserting "Indians, Indian tribes, tribal organizations, and urban Indian organizations";

(B) by striking "full time" and inserting "full or part time"; and

(C) by striking "of medicine" and all that follows through "social work" and inserting "and pursuing courses of study in the health professions, as defined in section 4(n)";

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking "full time" and inserting "full or part time"; and

(ii) by striking "health profession school" and inserting "course of study"; and

(B) by adding at the end the following new paragraph:

"(4) In the case of an individual receiving a scholarship under this section who is enrolled part time in an approved course of study—

"(A) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the Secretary;

"(B) the period of obligated service specified in section 338A(f)(1)(B)(iv) of the Public Health Service Act (42 U.S.C. 254m(f)(1)(B)(iv)) shall be equal to the greater of—

"(i) the part-time equivalent of one year for each year for which the individual was provided a scholarship (as determined by the Secretary); or

"(ii) two years; and

"(C) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.";

(3) by striking subsection (c) and inserting the following:

"(c) The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely by reason of such applicant's eligibility for assistance or benefits under any other Federal program."; and

(4) by striking subsection (d) and inserting the following:

"(d) The Secretary shall, acting through the Service, establish a Placement Office to develop and implement a national policy for the placement in available vacancies within the Service of health professionals required to meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) without regard to any competitive personnel system, agency personnel limitation, or Indian preference policy.".

(d) EFFECTIVE DATE.—The amendments made by subsection (c)(1)(C) shall apply to scholarships granted under section 104 of the Indian Health Care Improvement Act after the date of the enactment of this Act.

(e) EXTERN PROGRAM.—Section 105 of the Act (25 U.S.C. 1614) is amended—

(1) in subsection (a), by striking "section 757 of the Public Health Service Act" and inserting "section 104"; and

(2) in subsection (b), by striking "school of medicine" and all that follows through "health professions" and inserting "course of study in the health professions, as defined in section 4(n)".

SEC. 103. BREACH OF CONTRACT PROVISIONS RELATING TO INDIAN HEALTH SCHOLARSHIPS.

Section 104(b) of the Act (25 U.S.C. 1613a(b)) (as amended by section 102(c) of this Act) is amended by adding at the end the following new paragraph:

"(5)(A) An individual who has, on or after the date of enactment of this paragraph, entered into a written contract with the Secretary under this section and who—

"(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

"(ii) is dismissed from such educational institution for disciplinary reasons,

"(iii) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

"(iv) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

"(B) If for any reason not specified in subparagraph (A), an individual breaches his written contract by failing either to begin such individual's service obligation under this section or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection.".

SEC. 104. NURSING.

(a) CONTINUING EDUCATION ALLOWANCES.—Section 106(a) of the Act (25 U.S.C. 1615(a)) is amended by inserting "nurses," after "dentists,".

(b) TRAINING FOR NURSE MIDWIVES, NURSE ANESTHETIST, AND NURSE PRACTITIONERS.—Section 112 of the Act (25 U.S.C. 1616e) is amended—

(1) in subsection (b)—

(A) at the end of paragraph (4), by striking "or";

(B) in paragraph (5), by striking the period at the end and inserting ", or"; and

(C) by adding at the end the following new paragraph:

"(6) establish and develop clinics operated by nurses, nurse midwives, nurse anesthetists, or nurse practitioners, in cooperation with accredited schools of nursing, to provide primary health care services to Indians."; and

(2) by striking subsection (f) and inserting the following:

"(f) Beginning with fiscal year 1992, of the amounts appropriated under the authority of this title for each fiscal year to be used to carry out this section, not less than $1,000,000 shall be used to provide grants under subsection (a) for the training of nurse midwives, nurse anesthetists, and nurse practitioners.".

(c) RETENTION BONUS FOR NURSES.—Section 117 (25 U.S.C. 1616j) of the Act is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(2) by adding after subsection (a) the following new subsection (b):

"(b) Beginning with fiscal year 1992, not less than 25 percent of the retention bonuses awarded each year under subsection (a) shall be awarded to nurses."; and

(3) by amending subsection (f) (as amended by paragraph (1)) to read as follows:

"(f) The Secretary may pay a retention bonus to any physician or nurse employed by an organization providing health care services to Indians pursuant to a contract under the Indian Self-Determination Act if such physician or nurse is serving in a position which the Secretary determines is—

"(1) a position for which recruitment or retention is difficult; and

"(2) necessary for providing health care services to Indians.".

(d) RESIDENCY PROGRAM.—Title I of the Act is amended by adding at the end the following new section:

"NURSING RESIDENCY PROGRAM

"SEC. 118. (a) The Secretary, acting through the Service, shall establish a program to enable licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian health program (as defined in section 108(a)(2)), and have done so for a period of not less than one year, to pursue advanced training.

"(b) Such program shall include a combination of education and work study in an Indian health program (as defined in section 108(a)(2)) leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse) or a bachelor's degree (in the case of a registered nurse).

"(c) An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least 3 times the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection.".

(e) GRANTS FOR THE PROVISION OF PRIMARY CARE SERVICES ON OR NEAR INDIAN COUNTRY.—Title I of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended by adding immediately after section 112 the following new section:

"NURSING SCHOOL CLINICS

"SEC. 112A. (a) GRANTS.—In addition to the authority of the Secretary under section 112(a)(1), the Secretary, acting through the Service, is authorized to provide grants to public or private schools of nursing for the purpose of establishing and developing clinics to address the health care needs of Indians, and to provide primary health care services to Indians who reside on or within 50 miles of Indian country, as defined in section 1151 of title 18, United States Code, or in medically underserved rural areas. A school of nursing receiving a grant pursuant to this section shall utilize the services of its students and faculty in operating such clinics.

"(b) PURPOSES.—Grants provided under subsection (a) of this section may be used to—

"(1) provide for all aspects of clinical training program development;

"(2) enhance the clinical faculty of any school receiving a grant pursuant to this section, by means such as increasing faculty salaries and recruiting new faculty; and

"(3) provide scholarships to students who participate in clinics established or developed pursuant to this section.

"(c) AMOUNT AND CONDITIONS.—The Secretary may award grants under this section in such amounts and subject to such conditions as the Secretary deems appropriate.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.

(f) PROVISION OF PRIMARY CARE SERVICES IN RURAL AREAS.—Part C of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart VII—Provision of Primary Care Services in Rural Areas

"SEC. 765. PROVISION OF PRIMARY CARE SERVICES IN RURAL AREAS.

"(a) AUTHORIZATION TO USE AMOUNTS.—The Secretary may use not to exceed $5,000,000, out of amounts appropriated to carry out programs under this part, in each of the fiscal years 1993 through 1995 to award grants to public or private schools of nursing for the establishment of clinics that shall be administered by such schools.

"(b) APPLICATION.—A school desiring to receive a grant under subsection (a) shall prepare and submit to the Secretary, an application at such time, in such form, and containing such information as the Secretary may require.

"(c) USE OF GRANTS.—Amounts received under grants awarded under subsection (a) shall be used to—

"(1) establish clinics, to be run and staffed by the faculty and students of such grantee school, to provide primary care services in medically underserved rural areas or in areas on or within 50 miles of Indian country (as defined in section 1151 of title 18, United States Code).

"(2) provide for all aspects of clinical training program development, faculty enhancement and student scholarships in a manner that would benefit the clinic established under paragraph (1); and

"(3) carry out any other activities determined appropriate by the Secretary.

"(d) DESIGN.—The clinics established under subsection (c)(1) shall be designed to provide nursing students with a structured clinical experience that is similar in nature to that provided by residency training programs for physicians.".

SEC. 105. MAINTENANCE OF COMMUNITY HEALTH REPRESENTATIVE PROGRAM.

Section 107(b) of the Act (25 U.S.C. 1616(b)) is amended—

(1) in paragraph (2), by inserting "and maintain" after "develop";

(2) in paragraph (2)(B), by adding at the end the following: "with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty,";

(3) in paragraphs (3) and (5), by striking "develop" each place it appears and inserting "maintain"; and

(4) in paragraph (4), by striking "develop and".

SEC. 106. CHANGES TO INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM.

(a) ELIGIBILITY REQUIREMENTS.—Section 108 of the Act (25 U.S.C. 1616a(b)) is amended—

(1) in subsection (a)(1), by striking "physicians," and all that follows through "professionals" and inserting "health professionals, as defined in section 4(o)"; and

(2) in subsection (b)—

(A) in paragraph (1)(A)—

(i) by striking clause (i) and inserting the following:

"(i) in a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or"; and

(ii) in clause (ii), by striking "medicine" and all that follows through "health profession", and inserting "a health profession, as defined in section 4(n)";

(B) in paragraph (1)(B)—

(i) in clause (i)—

(I) by inserting "and" at the end; and

(II) by striking "medicine, osteopathy, dentistry, or other health profession" and inserting "a health profession, as defined in section 4(n),";

(ii) by striking clause (ii);

(iii) by redesignating clause (iii) as clause (ii); and

(iv) in clause (ii) (as redesignated by clause (iii) of this subparagraph), by striking "medicine, osteopathy, dentistry, or other health profession" and inserting "a health profession, as defined in section 4(n),"; and

(C) in paragraph (2)—

(i) by inserting "and" at the end of subparagraph (D);

(ii) by striking paragraphs (3) and (4); and

(iii) by inserting after paragraph (2) the following new paragraph:

"(3) submit to the Secretary an application for a contract described in subsection (f).".

(b) PRIORITY.—Section 108(d) of the Act (25 U.S.C. 1616a(d)) is amended—

(1) in paragraph (1), by striking out "The" and inserting "Consistent with paragraph (3), the"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B), beginning with fiscal year 1992, of the total amounts appropriated for each fiscal year for loan repayment contracts under this section, the Secretary shall provide that—

"(i) not less than 25 percent be provided to applicants who are nurses, nurse practitioners, or nurse midwives; and

"(ii) not less than 10 percent be provided to applicants who are mental health professionals (other than applicants described in clause (i)).

"(B) The requirements specified in clause (i) or clause (ii) of subparagraph (A) shall not apply if the Secretary does not receive the number of applications from the individuals described in clause (i) or clause (ii), respectively, necessary to meet such requirements.".

(c) BECOMING A PARTICIPANT.—Paragraph (1) of section 108(e) (25 U.S.C. 1616a(e)) is amended to read as follows:

"(1) An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in subsection (f).".

(d) EXTENSION OF OBLIGATED SERVICE.—Paragraph (2)(A) of section 108(e) (25 U.S.C. 1616a(e)) is amended by inserting before the semicolon the following: ", including extensions resulting in an aggregate period of obligated service in excess of 4 years".

(e) CLARIFICATION REGARDING UNDERGRADUATE LOANS.—Paragraph (1) of section 108(g) (25 U.S.C. 1616a(g)) is amended by striking "loans received by the individual for—" and inserting "loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—".

(f) PAYMENT.—Subparagraph (A) of section 108(g)(2) (25 U.S.C. 1616a(g)(2)) is amended to read as follows:

"(A) For each year of obligated service that an individual contracts to serve under subsection (f), the Secretary may pay up to $35,000 on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

"(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

"(ii) provides an incentive to serve in Indian health programs with the greatest health manpower shortages; and

"(iii) provides an incentive with respect to the health professional involved remaining in an Indian health program with such manpower shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.".

(g) TAX LIABILITY.—

(1) IN GENERAL.—Paragraph (3) of section 108(g) (25 U.S.C. 1616a(g)) is amended to read as follows:

"(3) For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual, the Secretary—

"(A) in addition to such payments, shall make payments to the individual in an amount equal to 39 percent of the total amount of loan repayments made for the taxable year involved; and

"(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply only with respect to contracts under section 108 of the Indian Health Care Improvement Act entered into on or after the date of enactment of this Act.

(h) ANNUAL REPORT.—Subsection (n) of section 108 is amended to read as follows:

"(n) The Secretary shall submit to the President, for inclusion in each report required to be submitted to the Congress under section 801, a report concerning the previous fiscal year which sets forth—

"(1) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

"(2) the number of Loan Repayment Program applications filed with respect to each type of health profession;

"(3) the number of contracts described in subsection (f) that are entered into with respect to each health profession;

"(4) the amount of loan payments made under this section, in total and by health profession;

"(5) the number of scholarship grants that are provided under section 104 with respect to each health profession;

"(6) the amount of scholarship grants provided under section 104, in total and by health profession;

"(7) the number of providers of health care that will be needed by Indian health programs, by location and profession, during the three fiscal years beginning after the date the report is filed; and

"(8) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes or tribal or Indian organizations for which recruitment or retention is difficult.".

SEC. 107. RECRUITMENT ACTIVITIES.

Section 109 of the Act (25 U.S.C. 1616b) is amended—

(1) by striking the heading and inserting the following:

"RECRUITMENT ACTIVITIES";

and

(2) by amending subsection (b) to read as follows:

"(b) The Secretary, acting through the Service, shall assign one individual in each area office to be responsible on a full-time basis for recruitment activities.".

SEC. 108. ADVANCED TRAINING AND RESEARCH.

Section 111 of the Act (25 U.S.C. 1616d) is amended—

(1) in subsection (b), by striking the last sentence and inserting the following: "In such event, with respect to individuals entering the program after the date of the enactment of the Indian Health Care Amendments Act of 1992, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection."; and

(2) by striking subsection (d).

SEC. 109. TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS.

(a) NURSING PROGRAM GRANTS.—Section 112(a)(2) of the Act (25 U.S.C. 1616e(a)(2)) is amended by inserting before the comma the following: "and tribally controlled postsecondary vocational institutions, as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2))".

(b) TRIBAL CULTURE AND HISTORY PROGRAMS.—Section 113(b)(1) of the Act (25 U.S.C. 1616f(b)(1)) is amended by inserting before the comma "and tribally controlled postsecondary vocational institutions, as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2))".

SEC. 110. INMED PROGRAM.

Section 114(b) of the Act (25 U.S.C. 1616g(b)) is amended—

(1) by inserting "(1)" immediately after "(b)"; and

(2) by adding at the end the following new paragraphs:

"(2) The Secretary shall provide one of the grants authorized under subsection (a) to a college or university to establish and maintain a program similar to the INMED program for the nursing profession, including postdoctoral nursing.

"(3) The Secretary shall provide one of the grants authorized under subsection (a) to a college or university to establish and maintain a program similar to the INMED program for the mental health profession.".

SEC. 111. SCHOLARSHIP AND LOAN REPAYMENT RECOVERY.

Title I of the Act is amended by inserting after section 108 the following new section:

"SCHOLARSHIP AND LOAN REPAYMENT RECOVERY

"SEC. 108A. (a) There is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (hereafter in this section referred to as the 'Fund'). The Fund shall consist of such amounts as may be appropriated to the Fund under subsection (b). Amounts appropriated for the Fund shall remain available until expended.

"(b) For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of—

"(1) the amount collected during the preceding fiscal year by the Federal Government pursuant to—

"(A) the liability of individuals under subparagraph (A) or (B) of section 104(b)(5) for the breach of contracts entered into under section 104; and

"(B) the liability of individuals under section 108(l) for the breach of contracts entered into under section 108; and

"(2) the aggregate amount of interest accruing during the preceding fiscal year on obligations held in the Fund pursuant to subsection (d) and the amount of proceeds from the sale or redemption of such obligations during such fiscal year.

"(c)(1) Amounts in the Fund and available pursuant to appropriation Acts may be expended by the Secretary, acting through the Service—

"(A) to make scholarship grants under section 104; and

"(B) to provide loans under section 108.

"(d)(1) The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(e) The Secretary, acting through the Service, shall give priority to assigning an individual (for the purpose of such individual's obligated service requirements under section 104 or section 108) to an Indian health program (as defined in section 108(a)(2)) that has a need for a health professional to provide health care services as a result of an individual having breached a contract entered into under section 104 or section 108.".

SEC. 112. MATCHING GRANTS TO TRIBES.

Title I of the Act (as amended by this Act) is amended by adding at the end the following new section:

"MATCHING GRANTS TO TRIBES FOR SCHOLARSHIP PROGRAMS

"SEC. 119. (a)(1) The Secretary shall make grants to Indian tribes and tribal organizations for the purpose of assisting such tribes and tribal organizations in educating Indians to serve as health professionals in Indian communities.

"(2) An application for a grant under paragraph (1) shall be in such form and contain such agreements, assurances, and information as the Secretary determines are necessary to carry out this section.

"(b)(1) An Indian tribe or tribal organization receiving a grant under subsection (a) shall agree to provide scholarships to Indians pursuing education in the health professions in accordance with the requirements of this section.

"(2) With respect to the costs of providing any scholarship pursuant to paragraph (1)—

"(A) 20 percent of the costs of the scholarship shall be paid from the grant made under subsection (a) to the Indian tribe or tribal organization; and

"(B) 80 percent of such costs shall be paid from non-Federal contributions by the Indian tribe or tribal organization through which the scholarship is provided.

"(3) In determining the amount of non-Federal contributions that have been provided for purposes of subparagraph (B) of paragraph (2), any amounts provided by the Federal Government to the Indian tribe or tribal organization involved or to any other entity shall not be included.

"(4) Non-Federal contributions required by subparagraph (B) of paragraph (1) may be provided directly by the Indian tribe or tribal organization involved or through donations from public and private entities.

"(c) An Indian tribe or tribal organization shall provide scholarships under subsection (b) only to Indians enrolled or accepted for enrollment in a course of study (approved by the Secretary) in the health professions, as defined in section 4(n).

"(d) In providing scholarships under subsection (b), the Indian tribe or tribal organization shall enter into a contract with each recipient of such scholarship. Such contract shall—

"(1) require such recipient to provide service in an Indian health program (as defined in section 108(a)(2)(A)), in the same service area where the Indian tribe or tribal organization providing the scholarship is located, for—

"(A) a number of years equal to the number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

"(B) such greater period of time as the recipient and the Indian tribe or tribal organization may agree;

"(2) provide that the amount of such scholarship—

"(A) may be expended only for—

"(i) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the school; and

"(ii) payment to the recipient of a monthly stipend of not more than the amount authorized by section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)), such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled; and

"(B) may not exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in subparagraph (A);

"(3) require the recipient of such scholarship to maintain an acceptable level of academic standing (as determined by the school in accordance with regulations issued by the Secretary); and

"(4) require the recipient of such scholarship to meet the educational and licensure requirements necessary to be a physician, certified nurse practitioner, certified nurse midwife, or physician assistant.

"(e) The recipient of a scholarship under subsection (b) shall agree, in providing health care pursuant to the requirements of subsection (d)(1)—

"(1) not to discriminate against an individual seeking such care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act or pursuant to the program established in title XIX of such Act; and

"(2) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

"(f)(1) Before making a grant under subsection (a) to an Indian tribe or tribal organization for a fiscal year, the Secretary shall determine the number of scholarship contracts provided under subsection (b) with respect to which there has been an initial breach by the scholarship recipient involved during the fiscal year preceding the fiscal year for which the Indian tribe or tribal organization is applying to receive the grant.

"(2) In the case of an Indian tribe or tribal organization with 1 or more initial breaches for purposes of paragraph (1), the Secretary shall reduce the amount of a grant under subsection (a) to the Indian tribe or tribal organization for the fiscal year involved by an amount equal to the sum of—

"(A) an amount equal to the expenditures of Federal funds made regarding the contracts involved; and

"(B) an amount representing interest on the amount of such expenditures, determined with respect to each contract on the basis of the maximum legal rate prevailing for loans made during the time amounts were paid under the contract, as determined by the Secretary of the Treasury.

"(3) If an Indian tribe or tribal organization is not receiving a grant under subsection (a) for a fiscal year for which a reduction under paragraph (2) would have been made in the event that the tribe or tribal organization had received such a grant, the Secretary shall reduce the amount of payments due to the tribe or tribal organization under other grants, cooperative agreements, or contracts under this Act by the amount specified in such paragraph.

"(4) The Secretary may carry out this subsection on the basis of information submitted by the tribes or tribal organizations involved, or on the basis of information collected through such other means as the Secretary determines to be appropriate.

"(g) The Secretary may not make any payments under subsection (a) to an Indian tribe or tribal organization for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the Indian tribe or tribal organization has complied with requirements of this section.".

SEC. 113. COMMUNITY HEALTH AID PROGRAM.

Title I of the Act (as amended by this Act) is amended by adding at the end the following new section:

"COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA

"SEC. 120. (a) Under the authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary shall maintain a Community Health Aide Program in Alaska under which the Service—

"(1) provides for the training of Alaska Natives as health aides or community health practitioners;

"(2) uses such aides or community health practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

"(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides and community health practitioners.

"(b) The Secretary, acting through the Community Health Aide Program of the Service, shall—

"(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

"(2) in order to provide such training, develop a curriculum that—

"(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

"(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

"(C) promotes the achievement of the health status objectives specified in section 3(a);

"(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides individuals who have

successfully completed the training described in paragraph (1) or can demonstrate equivalent experience;

"(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

"(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

"(6) develop a system under which the work of community health aides is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services.".

SEC. 114. TRIBAL HEALTH PROGRAM ADMINISTRATION.

Title I of the Act (as amended by this Act) is amended by adding at the end the following new section:

"TRIBAL HEALTH PROGRAM ADMINISTRATION

"SEC. 121. The Secretary shall, by contract or otherwise, provide training for individuals in the administration and planning of tribal health programs.".

SEC. 115. PLACEMENT OF PARTICIPANTS IN SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.

Title I of the Act (as amended by this Act) is amended by adding at the end the following new section:

"PLACEMENT OF PARTICIPANTS IN SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS

"SEC. 122. In placing an individual for the purpose of fulfilling the individual's obligated service requirement under sections 104 or 108, the Secretary shall, to the extent consistent with the provisions of this Act and title III of the Public Health Service Act, consider the individual's ties to any Indian tribe.".

SEC. 116. INTERDISCIPLINARY TRAINING GRANTS.

Title I of the Act (as amended by this Act) is amended by adding at the end the following new section:

"INTERDISCIPLINARY TRAINING GRANTS

"SEC. 123. (a) The Secretary, acting through the Service, shall provide grants to—

"(1) public or private colleges or universities;

"(2) tribally controlled community colleges; and

"(3) schools or programs in optometry, pharmacy, psychology, public health, or social work, for the interdisciplinary training of health professionals for the purpose of increasing the number of these health professionals who deliver health care services to Indians.

"(b) The Secretary shall give priority in providing grants under this section to applications submitted jointly by 2 or more institutions.

"(c) Grants provided under this section may be used—

"(1) to recruit health professionals for programs that train individuals in one or more of the health professionals described in subsection (a);

"(2) to provide scholarships to individuals enrolled in such programs to pay tuition for such program and other expenses incurred in connection with such program, including books, fees, room and board, and other living expenses;

"(3) to establish or maintain a program that encourages these health professionals to provide, or continue to provide, health care services to Indians; and

"(4) to establish or maintain a program that increases the skills of, and provides continuing education to, these health care professionals, including faculty enhancement activities.

"(d) Of the amount appropriated to carry out this section, not more than $1,000,000 may be used annually to establish postdoctoral training programs in psychology or pharmacy.

"(e) Each applicant for a grant under this section shall include such information as the Secretary may require, including a demonstration of the connection between the applicant and a health care facility that primarily serves Indians.

"(f) The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each individual who receives training or assistance funded by a grant under this section. Such obligation shall be met by service—

"(1) in the Indian Health Service;

"(2) in a program conducted under a contract entered into under the Indian Self-Determination Act; or

"(3) in a program assisted under title V of this Act.".

SEC. 117. MANPOWER SHORTAGES.

Title I of the Act (as amended by this Act) is amended by adding at the end the following new section:

"MANPOWER SHORTAGES

"SEC. 124. (a) IN GENERAL.—The Secretary is authorized to provide grants to any college, university, or consortium thereof, that is located in any of the 3 Service areas that the Secretary determines to have the most acute health manpower shortages.

"(b) PURPOSE.—A grant under this section shall be used for the purpose of training health professionals, including in the field of mental health, and using the training resources of grant recipients, including students and faculty, to provide services through Indian health facilities, to serve in those Service areas that the Secretary determines to have the greatest difficulty in recruiting and retaining such health professionals.

"(c) AGREEMENTS.—A grant recipient under this section shall enter into a formal agreement with the appropriate tribal government or governments, or tribal organization, or organizations, of those Service areas in which training under this section is taking place.

"(d) PROCEDURES.—The Secretary shall establish procedures for the submission and review of applications for grants under this section.

"(e) PREFERENCE.—The Secretary shall give preference in making grants under this section to those applicants that—

"(1) most comprehensively address area health manpower shortages;

"(2) coordinate their programs with other relevant programs in this title; and

"(3) have entered into agreements with Indian health facilities, whether operated by the Service or by Indian tribes under the Indian Self-Determination and Education Assistance Act.".

SEC. 118. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title I of the Act (as amended by section 112 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 125. There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and each fiscal year thereafter through fiscal year 2000 to carry out this title, and to carry out the Native Hawaiian Health Scholarships program under section 338K of the Public Health Service Act (42 U.S.C. 254s).".

(b) CONFORMING AMENDMENTS.—Title I of the Act is amended—

(1) in section 102, by striking subsection (c);

(2) in section 105, by striking subsection (d);

(3) in section 106 (as amended by section 104(a) of this Act)—

(A) by striking "(a)"; and

(B) by striking subsection (b);

(4) in section 108, by striking subsection (o);

(5) in section 110, by striking subsection (c);

(6) in section 113, by striking subsection (c);

(7) in section 114, by striking subsection (e);

(8) in section 115, by striking subsection (f);

(9) in section 116, by striking subsection (e);

(10) in section 117 (as amended by section 104(c)(1) of this Act), by striking subsection (f);

TITLE II—HEALTH SERVICES

SEC. 201. HEALTH STATUS AND RESOURCE DEFICIENCY STATUS.

(a) IN GENERAL.—Section 201 of the Act (25 U.S.C. 1621) is amended—

(1) in subsection (a)—

(A) by striking "subsection (h)" and inserting "this section";

(B) by striking paragraph (1) and inserting the following:

"(1) eliminating the deficiencies in health status and resources of all Indian tribes,"; and

(C) in paragraph (4)—

(i) by inserting after "responsibilities" the following: ", either directly or through contract care,"; and

(ii) by striking "resources deficiency" and inserting "status and resource deficiencies";

(2) in subsection (b)—

(A) in paragraph (1), by striking "subsection (h)" and inserting "this section";

(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);

(C) in paragraph (2)(A) (as redesignated by subparagraph (B) above)—

(i) by striking "subsection (h)" and inserting "this section";

(ii) in the first sentence, by striking "but such allocation" through "met"; and

(iii) in the second sentence—

(I) by striking "(in accordance with paragraph (2))"; and

(II) by striking "raise the deficiency level" and inserting "reduce the health status and resource deficiency";

(D) in paragraph (2)(B) (as redesignated by subparagraph (B) above), by inserting after "with" the following: ", and with the active participation of,".

(3) in subsection (c)—

(A) by striking paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(B) by striking paragraph (1) (as redesignated by subparagraph (A) above) and inserting the following:

"(1) The term 'health status and resource deficiency' means the extent to which—

"(A) the health objectives set forth in section 3(a) are not being achieved, taking into account the actual cost of providing health care services given local geographic, climatic, rural or other circumstances; and

"(B) the Indian tribe does not have available to it the health resources it needs.";

(C) by striking paragraph (2) (as redesignated by subparagraph (A) above), and inserting the following:

"(2) The health resources available to an Indian tribe are limited to local health resources provided by the Service, and health resources used by the Indian tribe, including services and financing systems provided by any other Federal programs, provided that in determining available resources the Service shall also take into account actual availability of local alternative sources of health care.

(D) in paragraph (3) (as redesignated by subparagraph (A) above)—

(i) by striking "Under regulations, the" and inserting "The"; and

(ii) by striking "health resources deficiency level" and inserting "extent of the health status and resource deficiency";

(4) in subsection (d)(1), by striking "subsection (h)" and inserting "this section";

(5) in subsection (e)—

(A) in the material preceding paragraph (1)—

(i) by striking "60 days" and inserting "3 years";

(ii) by striking "Indian Health Care Amendments of 1988" and inserting in lieu thereof "Indian Health Care Amendments Act of 1992"; and

(iii) by striking "health services priority system" and inserting "health status and resource deficiency";

(B) in paragraph (1), by striking "health resources deficiencies" and inserting "health status and resource deficiencies";

(C) in paragraph (2), by striking "the level of health resources deficiency for" and inserting "the extent of the health status and resource deficiency of";

(D) in paragraph (3), by striking "raise all" and all that follows through the semicolon and insert "eliminate the health status and resource deficiencies of all Indian tribes served by the Service"; and

(E) by striking paragraphs (4) and (5) and redesignating paragraph (6) as paragraph (4); and

(6) in subsection (f), by striking "(f)(1)" and all that follows through the paragraph designation for paragraph (2) and inserting "(f)".

(b) EFFECTIVE DATE.—Except with respect to the amendments made by subsection (a)(5), the amendments made by subsection (a) shall take effect three years after the date of the enactment of this Act. The amendments made by subsection (a)(5) shall take effect upon the date of the enactment of this Act.

SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.

Section 202 of the Act (25 U.S.C. 1621a) is amended—

(1) in subsection (a)(1)(B), by striking "under subsection (e)" and inserting "to the Fund under this section";

(2) in subsection (b)(2), by striking "not less than $10,000 or not more than $20,000;" and inserting "not less than—

"(A) $15,000 for 1992; and

"(B) for any subsequent year, the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;"; and

(3) in subsection (c), by striking "Funds appropriated under subsection (e)" and inserting "Amounts appropriated to the Fund under this section".

SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION.

Section 203 of the Act (25 U.S.C. 1621b) is amended—

(1) in subsection (a), by inserting before the period at the end the following: "so as to achieve the health objectives set forth in section 3(a)";

(2) in subsection (b), by striking "section 201(f)" and inserting "section 801"; and

(3) by striking subsection (c).

SEC. 204. DIABETES PREVENTION, TREATMENT, AND CONTROL.

Section 204 of the Act (25 U.S.C. 1621c) is amended—

(1) by striking subsection (c) and inserting the following:

"(c)(1) The Secretary shall continue to maintain through fiscal year 2000 each model diabetes project in existence on the date of enactment of the Indian Health Care Amendments Act of 1992 and located—

"(A) at the Claremore Indian Hospital in Oklahoma;

"(B) at the Fort Totten Health Center in North Dakota;

"(C) at the Sacaton Indian Hospital in Arizona;

"(D) at the Winnebago Indian Hospital in Nebraska;

"(E) at the Albuquerque Indian Hospital in New Mexico;

"(F) at the Perry, Princeton, and Old Town Health Centers in Maine;

"(G) at the Bellingham Health Center in Washington;

"(H) at the Fort Berthold Reservation;

"(I) at the Navajo Reservation;

"(J) at the Tohono O'Odham Reservation;

"(K) at the Zuni Reservation; or

"(L) in the States of Alaska, California, Minnesota, Montana, Oregon, or Utah.

"(2) The Secretary may establish new model diabetes projects under this section, except that the Secretary may not establish a greater number of such projects in one service area than in any other service area until there is an equal number of such projects established with respect to all service areas."; and

(2) in subsection (d)—

(A) in paragraph (2), by striking "and";

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(4) evaluate the effectiveness of services provided through model diabetes projects established under this section.".

SEC. 205. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES.

Section 209 of the Act (25 U.S.C. 1621h) is amended—

(1) in subsection (j) (as redesignated by section 902(3)(B) of this Act), by striking "submit to the Congress an annual report" and inserting "submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report"; and

(2) by adding at the end the following new subsections:

"(l) LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS.—Any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under the authority of this Act or through a contract pursuant to the Indian Self-Determination Act shall, within 1 year from the date of employment—

"(1) in the case of a person employed as a psychologist, be licensed as a psychologist or working under the direct supervision of a licensed psychologist;

"(2) in the case of a person employed as a social worker, be licensed as a social worker or working under the direct supervision of a licensed social worker; or

"(3) in the case of a person employed as a marriage and family therapist, be licensed as a marriage and family therapist or working under the direct supervision of a licensed marriage and family therapist.

"(m) INTERMEDIATE ADOLESCENT MENTAL HEALTH SERVICES.—(1) The Secretary, acting through the Service, may make grants to Indian tribes and tribal organizations to provide intermediate mental health services to Indian children and adolescents, including—

"(A) inpatient and outpatient services;

"(B) emergency care;

"(C) suicide prevention and crisis intervention; and

"(D) prevention and treatment of mental illness, and dysfunctional and self-destructive behavior, including child abuse and family violence.

"(2) Funds provided under this section may be used—

"(A) to construct or renovate an existing health facility to provide intermediate mental health services;

"(B) to hire mental health professionals;

"(C) to staff, operate, and maintain an intermediate mental health facility, group home, or youth shelter where intermediate mental health services are being provided; and

"(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units.

"(3) An Indian tribe or tribal organization receiving a grant under this section shall ensure that intermediate adolescent mental health services are coordinated with other tribal, service, and Bureau of Indian Affairs mental health, alcohol and substance abuse, and social services programs on the reservation of such tribe or tribal organization.

"(4) The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this section.

"(n)(1) The Secretary is authorized to provide grants to at least 3 colleges and universities for the purpose of developing and maintaining American Indian psychology careers recruitment programs as a means of encouraging American Indians to enter the mental health field.

"(2) The Secretary shall provide one of the grants authorized under paragraph (1) to develop and maintain an American Indians Into Psychology program at the University of North Dakota.

"(3)(A) The Secretary shall issue regulations for the competitive awarding of the grants provided under this subsection.

"(B) Applicants for grants under this subsection shall agree to provide a program which, at a minimum—

"(i) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations that will be served by the program,

"(ii) incorporates a program advisory board comprised of representatives from the tribes and communities that will be served by the program,

"(iii) provides summer enrichment programs to expose Indian students to the varied fields of psychology through research and experiential activities,

"(iv) provides stipends to undergraduate and graduate students to pursue a career in psychology,

"(v) develops affiliation agreements with tribal community colleges, the Indian Health Service, university affiliated programs, and other appropriate entities to enhance the education of American Indian students,

"(vi) to the maximum extent feasible, utilizes existing university tutoring, counseling and student support services, and

"(vii) to the maximum extent feasible, employs qualified Indians in the program.

"(4) The American Indians Into Psychology program at the University of North Dakota shall, to the maximum extent feasible, coordinate with the INMED program authorized by section 114 of this Act, and existing university research and communications networks.".

SEC. 206. NEW STUDIES.

(a) HOSPICE CARE.—Section 205 of the Act is amended to read as follows:

"HOSPICE CARE FEASIBILITY STUDY

"SEC. 205. (a) The Secretary, acting through the Service and in consultation with representatives of Indian tribes, tribal organizations, Indian Health Service personnel, and hospice providers, shall conduct a study—

"(1) to assess the feasibility and desirability of furnishing hospice care to terminally ill Indians; and

"(2) to determine the most efficient and effective means of furnishing such care.

"(b) Such study shall—

"(1) assess the impact of Indian culture and beliefs concerning death and dying on the provision of hospice care to Indians;

"(2) estimate the number of Indians for whom hospice care may be appropriate and determine the geographic distribution of such individuals;

"(3) determine the most appropriate means to facilitate the participation of Indian tribes and tribal organizations in providing hospice care;

"(4) identify and evaluate various means for providing hospice care, including—

"(A) the provision of such care by the personnel of a Service hospital pursuant to a hospice program established by the Secretary at such hospital; and

"(B) the provision of such care by a community-based hospice program under contract to the Service; and

"(5) identify and assess any difficulties in furnishing such care and the actions needed to resolve such difficulties.

"(c) Not later than the date which is 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report containing—

"(1) a detailed description of the study conducted pursuant to this section; and

"(2) a discussion of the findings and conclusions of such study.

"(d) For the purposes of this section—

"(1) the term 'terminally ill' means any Indian who has a medical prognosis (as certified by a physician) of a life expectancy of six months or less;

"(2) the term 'hospice care' means the care, items, and services as defined in section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)); and

"(3) the term 'hospice program' means any program which satisfies the requirements of section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395(dd)(2)).".

(b) MANAGED CARE.—Title II of the Act is amended by adding at the end the following new section:

"MANAGED CARE FEASIBILITY STUDY

"SEC. 210. (a) The Secretary, acting through the Service, shall conduct a study to assess the feasibility of allowing for an Indian tribe to purchase, directly or through the Service, managed care coverage for Indian tribes—

"(1) which desire to participate in group contract health plans or other managed care arrangements instead of operating an inpatient hospital or ambulatory facility; and

"(2) which offer the same plan to all eligible members of the community.

"(b) Not later than the date which is 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report containing—

"(1) a detailed description of the study conducted pursuant to this section; and

"(2) a discussion of the findings and conclusions of such study.".

SEC. 207. RIGHT OF RECOVERY.

Section 206 of the Act (25 U.S.C. 1621e) is amended—

(1) by inserting ", a tribe, or a tribal organization," immediately after "United States" each place it appears;

(2) in subsection (a), by inserting ", a tribe, or a tribal organization," immediately after "Service";

(3) in subsection (e)(1)(A), by inserting ", a tribe, or a tribal organization," immediately after "Secretary";

(4) by striking "(a) The" and inserting the following: "(a) Except as provided in subsection (f), the";

(5) in subsection (b), by striking "; or any political subdivision of a State,"; and

(6) by adding at the end the following new subsection:

"(f) The United States shall not have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian tribe or tribal organization.".

SEC. 208. EPIDEMIOLOGY GRANT PROGRAM.

Title II of the Act is amended by adding at the end the following new section:

"EPIDEMIOLOGY GRANT PROGRAM

"SEC. 211. (a) The Secretary shall provide grants to eligible recipients for the purpose of establishing area epidemiology centers to conduct the activities set forth in this section.

"(b) In consultation with the Indian Health Service, Indian tribes and urban Indian communities, an area epidemiology center established under this section shall—

"(1) establish a methodology to define baseline data for the health objectives specified in section 3;

"(2) determine the most effective way to establish and maintain a surveillance system for health objectives;

"(3) identify such health objectives that are the highest priority for monitoring, surveillance and attention, based on an initial assessment of the epidemiology of the area and each of the communities served;

"(4) evaluate existing delivery systems, data systems, and other systems that impact on the improvement of Indian health and the resources available to deliver, monitor or evaluate those services;

"(5) develop methods to obtain data on Indian health from the Indian Health Service, State Medicaid systems, Federal Medicare and Veterans Affairs systems, and private insurance systems; and

"(6) assist tribes and urban Indian communities in the identification of priority service areas, based on epidemiological data, and advocate for the targeting of services needed by tribal, urban and other Indian communities and make recommendations to improve health care delivery systems.

"(c) The following entities are eligible to receive grants to establish and develop an area epidemiology center under this section:

"(1)(A) The Secretary may provide grants to area Indian health boards, as defined in subparagraph (B), for the establishment and development of area epidemiology centers.

"(B) For the purposes of this section, the term 'area Indian health board' means an organization that—

"(i) provides information to and consults with tribal leaders, urban Indian community leaders, and related health staff, on health care and health services management issues; and

"(ii) provides, in collaboration with tribes and urban Indian communities, the Indian Health Service with information on ways to improve the health status of Indian people.

"(2) The Secretary may provide grants to intertribal consortia or Indian organizations that—

"(A) are incorporated for the primary purpose of improving Indian health; and

"(B) are representative of the tribes and urban Indian communities in which they are located.

"(3) The Secretary may provide grants directly to an Indian tribe for the purpose of establishing and developing an area epidemiology center.

"(d) The Secretary may provide grants to the entities described in subsection (c) that submit an application in such manner and at such time as the Secretary shall prescribe and that meet the following minimum criteria:

"(1) Applicants for grants shall ensure that the area epidemiology center will be established and operated for the primary purpose of addressing Indian health issues and will consult with the tribes or urban Indian communities that will be served by the area epidemiology center.

"(2) Applicants shall demonstrate the technical, administrative, and financial expertise necessary to conduct the eligible activities described in subsection (b).

"(3) Applicants shall ensure that the area epidemiology center will consult and cooperate with providers of related health and social services in order to avoid duplication of existing services, and demonstrate cooperation from the tribes or urban Indian organizations in the area.

"(e) The Secretary shall provide at least 1 grant to an eligible recipient, as prescribed in subsection (c), located in each Indian Health Service area.

"(f) The Secretary may provide a grant in such an amount as the Secretary determines appropriate to carry out the purposes of this section, but such amount shall not be less than $250,000 a year for each area epidemiology center.

"(g)(1) The Indian Health Service shall assign 1 epidemiologist from each of its area offices to each area epidemiology center to provide such center with technical assistance to carry out this section.

"(2) The Director of the Centers for Disease Control and the Director of the National Center for Health Statistics shall provide technical assistance to the centers in carrying out the requirements of this section.

"(h)(1) Not later than March 1, 1994, the Secretary shall transmit an initial report to the Congress describing the actions that the Secretary has taken to carry out the purposes of this section.

"(2) After the initial report, the Secretary shall report to the Congress biannually on the extent to which the area epidemiology centers established under this section have helped assess progress made towards meeting the health objectives specified in section 3.".

SEC. 209. CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM.

Title II of the Act is amended by adding at the end the following new section:

"CALIFORNIA CONTRACT HEALTH SERVICES
DEMONSTRATION PROGRAM

"SEC. 212. (a) The Secretary shall establish a demonstration program to evaluate the use of a contract care intermediary to improve the accessibility of health services to California Indians.

"(b)(1) In establishing such program, the Secretary shall enter into an agreement with the California Rural Indian Health Board to reimburse the Board for costs (including reasonable administrative costs) incurred, during the period of the demonstration program, in providing medical treatment under contract to California Indians described in section 809(b) throughout the California contract health services delivery area described in section 810 with respect to high-cost contract care cases.

"(2) Not more than 5 percent of the amounts provided to the Board under this section for any fiscal year may be for reimbursement for administrative expenses incurred by the Board during such fiscal year.

"(3) No payment may be made for treatment provided under the demonstration program to the extent payment may be made for such treatment under the Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

"(c) There is hereby established an advisory board which shall advise the California Rural Indian Health Board in carrying out the demonstration pursuant to this section. The advisory board shall be composed of representatives, selected by the California Rural Indian Health Board, from not less than 8 tribal health programs serving California Indians covered under such demonstration, at least one half of whom are not affiliated with the California Rural Indian Health Board.

"(d) The demonstration program described in this section shall begin on January 1, 1993, and shall terminate on September 30, 1997.

"(e) Not later than July 1, 1998, the California Rural Indian Health Board shall submit to the Secretary a report on the demonstration program carried out under this section, including a statement of its findings regarding the impact of using a contract care intermediary on—

"(1) access to needed health services;

"(2) waiting periods for receiving such services; and

"(3) the efficient management of high-cost contract care cases.

"(f) For the purposes of this section, the term 'high-cost contract care cases' means those cases in which the cost of the medical treatment provided to an individual—

"(1) would otherwise be eligible for reimbursement from the Catastrophic Health Emergency Fund established under section 202, except that the cost of such treatment does not meet the threshold cost requirement established pursuant to section 202(b)(2); and

"(2) exceeds $1,000.

"(g) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as may be necessary to carry out the purposes of this section.".

SEC. 210. COVERAGE OF SCREENING MAMMOGRAPHY.

(a) IN GENERAL.—Title II of the Act is amended by adding at the end the following new section:

"COVERAGE OF SCREENING MAMMOGRAPHY

"SEC. 213. The Secretary, through the Service, shall provide for screening mammography (as defined in section 1861(jj) of the Social Security Act) for Indian and urban Indian women 35 years of age or older at a frequency, determined by the Secretary (in consultation with the Director of the National Cancer Institute), appropriate to such women, and under such terms and conditions as are consistent with standards established by the Secretary to assure the safety and accuracy of screening mammography under part B of title XVIII of the Social Security Act.".

(b) CONFORMING AMENDMENT.—Section 201(a)(4)(B) of the Indian Health Care Improvement Act (25 U.S.C. 1621(a)(4)(B)) is amended by striking the semicolon at the end and inserting the following: ", including screening mammography in accordance with section 213;".

SEC. 211. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.

Title II of the Act is amended by adding at the end the following new section:

"COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS

"SEC. 214. (a) The Secretary, acting through the Service and in consultation with the Secretary of the Interior, may award grants to Indian tribes to develop comprehensive school health education programs for children from preschool through grade 12 in schools located on Indian reservations.

"(b) Grants awarded under this section may be used to—

"(1) develop health education curricula;

"(2) train teachers in comprehensive school health education curricula;

"(3) integrate school-based, community-based, and other public and private health promotion efforts;

"(4) encourage healthy, tobacco-free school environments;

"(5) coordinate school-based health programs with existing services and programs available in the community;

"(6) develop school programs on nutrition education, personal health, and fitness;

"(7) develop mental health wellness programs;

"(8) develop chronic disease prevention programs;

"(9) develop substance abuse prevention programs;

"(10) develop accident prevention and safety education programs;

"(11) develop activities for the prevention and control of communicable diseases; and

"(12) develop community and environmental health education programs.

"(c) The Secretary shall provide technical assistance to Indian tribes in the development of health education plans, and the dissemination of health education materials and information on existing health programs and resources.

"(d) The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this section.

"(e) Recipients of grants under this section shall submit to the Secretary an annual report on activities undertaken with funds provided under this section. Such reports shall include a statement of—

"(1) the number of preschools, elementary and secondary schools served;

"(2) the number of students served;

"(3) any new curricula established with funds provided under this section;

"(4) the number of teachers trained in the health curricula; and

"(5) the involvement of parents, members of the community, and community health workers in programs established with funds provided under this section.

"(f)(1) The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary, shall develop a comprehensive school health education program for children from preschool through grade 12 in schools operated by the Bureau of Indian Affairs.

"(2) Such program shall include—

"(A) school programs on nutrition education, personal health, and fitness;

"(B) mental health wellness programs;

"(C) chronic disease prevention programs;

"(D) substance abuse prevention programs;

"(E) accident prevention and safety education programs; and

"(F) activities for the prevention and control of communicable diseases.

"(3) The Secretary of the Interior shall—

"(A) provide training to teachers in comprehensive school health education curricula;

"(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

"(C) encourage healthy, tobacco-free school environments.

"(g) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

SEC. 212. INDIAN YOUTH GRANT PROGRAM.

Title II of the Act is amended by adding at the end the following new section:

"INDIAN YOUTH GRANT PROGRAM

"SEC. 216. (a) The Secretary, acting through the Service, is authorized to make grants to Indian tribes, tribal organizations, and urban Indian organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian preadolescent and adolescent youths.

"(b) Grants made pursuant to this section may be used to—

"(1) develop prevention and treatment models for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional healers; and

"(2) develop and provide community training and education.

"(c) The Secretary shall—

"(1) disseminate to Indian tribes information regarding models for the delivery of comprehensive health care services to Indian and urban Indian adolescents;

"(2) encourage the implementation of such models; and

"(3) at the request of an Indian tribe, provide technical assistance in the implementation of such models.

"(d) The Secretary shall establish criteria for the review and approval of applications under this section.

"(e) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

SEC. 213. TUBERCULOSIS PREVENTION DEMONSTRATION PROGRAM.

Title II of the Act is amended by adding at the end the following new section:

"TUBERCULOSIS PREVENTION DEMONSTRATION PROGRAM

"SEC. 216. (a) The Secretary, acting through the Service, may make grants to Indian tribes and tribal organizations to evaluate different measures used to prevent and eliminate tuberculosis (hereafter referred to in this section as 'TB') on Indian reservations.

"(b) A grant awarded under this section may be used to—

"(1) train health care staff in methods to prevent and eliminate TB;

"(2) conduct screenings of residents of Indian reservations to detect the presence, or monitor the condition, of persons who are at risk for contracting TB or who already have the disease;

"(3) educate the community about the nature and prevention of TB;

"(4) create and maintain a registry of persons with TB, including information obtained from screenings conducted pursuant to paragraph (2);

"(5) develop methods, such as use of a TB control team, to coordinate all TB prevention and elimination activities on a reservation; and

"(6) treat those afflicted with TB.

"(c) The Secretary shall—

"(1) make at least 1 grant under this section to an Indian tribe or tribal organization located in each Area office;

"(2) establish criteria for the review and approval of applications for grants under this section; and

"(3) provide, at the request of a grant applicant or recipient, technical assistance to accomplish the purposes of this section.

"(d) A grant recipient under this section shall—

"(1) cooperate with—

"(A) the Centers for Disease Control;

"(B) the Service;

"(C) State health agencies; and

"(D) local health agencies

to coordinate and conduct activities authorized under this section; and

"(2) submit to the Secretary an annual report on activities conducted with funds provided under this section.".

SEC. 214. PATIENT TRAVEL COSTS.

Title II of the Act is amended by adding at the end the following section:

"PATIENT TRAVEL COSTS

"SEC. 217. The Secretary, acting through the Service, shall provide funds to address and meet the high costs of patient travel in remote areas of Alaska when there is no reasonable alternative for the patient.".

SEC. 215. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title II of the Act is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 218. There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and each fiscal year thereafter through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title II of the Act is amended—

(1) in section 201(h)—

(A) by striking the first sentence; and

(B) by striking "subsection" and inserting "section";

(2) in section 202, by striking subsection (e);

(3) in section 204(e)—

(A) by striking the first sentence; and

(B) by striking "subsection (c)" and inserting "this section"; and

(4) in section 209 (as amended by section 902(3)(B) of this Act)—

(A) by striking subsections (c)(5), (d)(6), (f)(4), and (g)(5);

(B) in subsection (h)—

(i) by striking paragraph (2); and

(ii) by striking "(1)";

(C) in subsection (i)—

(i) by striking paragraph (2); and

(ii) by striking "(1)";

(D) in subsection (d)(3)(B), by striking "this subsection" and inserting "this section"; and

(E) in subsection (k)(6)—

(i) by striking the first sentence; and

(ii) by striking "subsection" and inserting "section".

TITLE III—HEALTH FACILITIES

SEC. 301. HEALTH FACILITIES CLOSURE AND PRIORITIES.

Section 301 of the Act (25 U.S.C. 1631) is amended—

(1) in subsection (a)(2), by striking "Hospitals" and inserting "Health Care Organizations";

(2) in subsection (b)(1)—

(A) by striking "other" before "outpatient";

(B) by striking "and" at the end of subparagraph (D);

(C) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(D) by adding at the end the following new subparagraphs:

"(F) the level of utilization of such hospital or facility by all eligible Indians; and

"(G) the distance between such hospital or facility and the nearest operating Service hospital.";

(3) by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively;

(4) in subsection (c)(1) (as redesignated by paragraph (3) of this subsection), by striking the material preceding subparagraph (A) and inserting the following:

"(c)(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report which sets forth—"; and

(5) by striking paragraph (2) of subsection (c) (as redesignated by paragraph (3) of this subsection) and redesignating paragraphs (3), (4), and (5) of such subsection as paragraphs (2), (3), and (4), respectively.

SEC. 302. SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES.

Section 302 of the Act (25 U.S.C. 1632) is amended—

(1) by amending subsection (e) to read as follows:

"(e)(1) The Secretary is authorized to provide financial assistance to Indian tribes and communities in an amount equal to the Federal share of the costs of operating, managing, and maintaining the facilities provided under the plan described in subsection (c).

"(2) For the purposes of paragraph (1), the term 'Federal share' means 80 percent of the costs described in paragraph (1).

"(3) With respect to Indian tribes with fewer than 1,000 enrolled members, the non-Federal portion of the costs of operating, managing, and maintaining such facilities may be provided, in part, through cash donations or in kind property, fairly evaluated.";

(2) in subsection (f)(1), by striking out "subsection (h)" and inserting in lieu thereof "this section"; and

(3) in subsection (g)—

(A) in paragraph (1), by striking out "The Secretary" through "report" and inserting in lieu thereof the following: "The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report"; and

(B) by striking out paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

SEC. 303. AMBULATORY CARE FACILITIES GRANT PROGRAM.

Section 306 of the Act (25 U.S.C. 1636) is amended to read as follows:

"GRANT PROGRAM FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES

"SEC. 306. (a)(1) The Secretary, acting through the Service, shall make grants to tribes and tribal organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians. A grant made under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term 'construction' includes the replacement of an existing facility.

"(2) A grant under paragraph (1) may only be made to a tribe or tribal organization pursuant to a contract entered into under the Indian Self-Determination Act.

"(b)(1) A grant provided under this section may be used only for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

"(A) located apart from a hospital;

"(B) not funded under section 301 or section 307; and

"(C) which, upon completion of such construction, expansion, or modernization will—

"(i) have a total capacity appropriate to its projected service population;

"(ii) serve no less than 500 eligible Indians annually; and

"(iii) provide ambulatory care in a service area (specified in the contract entered into under the Indian Self-Determination Act) with a population of not less than 2,000 eligible Indians.

"(2) The requirements of clauses (ii) and (iii) of paragraph (1)(C) shall not apply to a tribe or tribal organization applying for a grant under this section whose tribal government offices are located—

"(A) on an island; and

"(B) more than 75 miles from the tribal government offices of the nearest other Indian tribe.

"(c)(1) No grant may be made under this section unless an application for such a grant has been submitted to and approved by the Secretary. An application for a grant under this section shall be submitted in such form and manner as the Secretary shall by regulation prescribe and shall set forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out pursuant to a grant received under this section—

"(A) adequate financial support will be available for the provision of services at such facility;

"(B) such facility will be available to eligible persons without regard to ability to pay or source of payment; and

"(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible persons, serve non-eligible persons on a cost basis.

"(2) In awarding grants under this section, the Secretary shall give priority to tribes and tribal organizations that demonstrate—

"(A) a need for increased ambulatory care services; and

"(B) insufficient capacity to deliver such services.

"(d) If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, at any time after completion of the construction, expansion, or modernization carried out with such funds, to be utilized for the purposes of providing ambulatory care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States.".

SEC. 304. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.

(a) AWARDING OF GRANTS.—Section 307(c) of the Act (25 U.S.C. 1637(c)(3)) is amended—

(1) in paragraph (1)(A), by inserting "or program" immediately after "facility";

(2) in paragraph (3)(A)—

(A) by striking "The" and inserting "On or before September 30, 1995, the"; and

(B) by adding before the colon the following: "and for which a completed application has been received by the Secretary"; and

(3) by striking subparagraph (B) and inserting the following:

"(B) Subject to the availability of appropriations, the Secretary shall also enter into contracts or award grants under this section taking into consideration applications received under this section from all service areas. The Secretary may not award a greater number of such contracts or grants in one service area than in any other service area until there is an equal number of such contracts or grants awarded with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria specified in paragraph (1).".

(b) REPORTS.—Section 307(h) of the Act (25 U.S.C. 1637(h)) is amended to read as follows:

"(h)(1) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 801 for fiscal year 1997, an interim report on the findings and conclusions derived from the demonstration projects established under this section.

"(2) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 801 for fiscal year 1999, a final report on the findings and conclusions derived from the demonstration projects established under this section, together with legislative recommendations.".

SEC. 305. EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION.

Section 305 of the Act (25 U.S.C. 1634) is amended to read as follows:

"EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION

"SEC. 305. (a)(1) Notwithstanding any other provision of law, the Secretary is authorized to accept any major renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a contract entered into under the Indian Self-Determination Act, including—

"(A) any plans or designs for such renovation or modernization; and

"(B) any renovation or modernization for which funds appropriated under any Federal law were lawfully expended,

but only if the requirements of subsection (b) are met.

"(2) The Secretary shall maintain a separate priority list to address the needs of such facilities for personnel or equipment.

"(3) The Secretary shall plan for and shall seek funding to address the needs of facilities identified pursuant to paragraph (2).

"(b) The requirements of this subsection are met with respect to any renovation or modernization if—

"(1) the tribe or tribal organization—

"(A) provides notice to the Secretary of its intent to renovate or modernize; and

"(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for personnel or equipment; and

"(2) the renovation or modernization—

"(A) is approved by the appropriate area director of the Service; and

"(B) is administered by the tribe in accordance with the rules and regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

"(c) If any Service facility which has been renovated or modernized by an Indian tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such renovation or modernization) bore to the value of such facility at the time of the completion of such renovation or modernization.".

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title III of the Act is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 308. There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and each fiscal year thereafter through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title III of the Act is amended—

(1) in section 302, by striking subsection (h); and

(2) in section 307, by striking subsection (i).

TITLE IV—ACCESS TO HEALTH SERVICES

SEC. 401. TREATMENT OF PAYMENTS TO INDIAN HEALTH SERVICE FACILITIES UNDER MEDICARE AND MEDICAID PROGRAMS.

(a) MEDICARE PROGRAM.—(1) Section 401 of the Act (42 U.S.C. 1395qq note) is amended to read as follows:

"TREATMENT OF PAYMENTS UNDER MEDICARE PROGRAM

"SEC. 401. (a) Any payments received by a hospital or skilled nursing facility of the Service (whether operated by the Service or by an Indian tribe or tribal organization pursuant to a contract under the Indian Self-Determination Act) for services provided to Indians eligible for benefits under title XVIII of the Social Security Act shall not be considered in determining appropriations for health care and services to Indians.

"(b) Nothing in this Act authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act, as amended, in preference to an Indian beneficiary without such coverage.".

(2) Subsection (a) of section 1880 of the Social Security Act (42 U.S.C. 1395qq(a)) is amended to read as follows:

"(a) A facility of the Indian Health Service or of an Indian tribe or tribal organization carrying out a contract, grant, or cooperative agreement under the Indian Self-Determination Act (25 U.S.C. 450 et seq.), shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d) of this title, if it meets all of the conditions and requirements for such payments which are applicable generally to such a facility under this title, provided that this provision shall not apply to any facility owned and operated by an Indian tribe or tribal organization which is otherwise eligible for payments under this title.".

(3) Section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) is amended by striking out the last sentence.

(b) MEDICAID PROGRAM.—(1) Section 402 of the Act is amended to read as follows:

"TREATMENT OF PAYMENTS UNDER MEDICAID PROGRAM

"SEC. 402. (a) Notwithstanding any other provision of law, payments to which any facility of the Service (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act) is entitled under a State plan by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives at least 80 percent of the amounts to which the facilities of the Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act, if such amount is necessary for the purpose of making improvements in such facilities in order to achieve compliance with the conditions and requirements of title XIX of the Social Security Act.

"(b) Any payments received by such facility for services provided to Indians eligible for benefits under title XIX of the Social Security Act shall not be considered in determining appropriations for the provision of health care and services to Indians.".

(2) The increase (from 50 percent) in the percentage of the payments from the fund to be made to each service unit of the Service specified in the amendment made by paragraph (1) shall take effect beginning with payments made on January 1, 1993.

SEC. 402. REPORT.

Section 403 of the Act (25 U.S.C. 1671 note) is amended by striking "The Secretary" and all that follows through "section 701" and inserting "The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 801,".

SEC. 403. GRANTS TO AND CONTRACTS WITH TRIBAL ORGANIZATIONS.

Section 404(b)(4) of the Act (25 U.S.C. 1622) is amended to read as follows:

"(4) develop and implement—

"(A) a schedule of income levels to determine the extent of payments of premiums by such organizations for coverage of needy individuals; and

"(B) methods of improving the participation of Indians in receiving the benefits provided under titles XVIII and XIX of the Social Security Act.".

SEC. 404. EXTENSION OF DEMONSTRATION PROGRAM.

Section 405 of the Act is amended—

(1) in subsection (c)(2), by striking "1995" and inserting "1996"; and

(2) in subsection (e), by striking "1995" and inserting "1996".

SEC. 405. ADDITIONAL AUTHORITY.

Title IV of the Act is amended by adding at the end the following new section:

"ADDITIONAL AUTHORITY

"SEC. 406. (a) The Secretary may enter into an agreement with any tribal or urban Indian organization which provides for the receipt and processing of applications for medical assistance under title XIX of the Social Security Act and benefits under title XVIII of the Social Security Act at tribal or Indian Health Service contract health services facilities.

"(b) The Secretary may pay premiums, deductibles, and copayments under part B of title XVIII of the Social Security Act for beneficiaries under part A of title XVIII of such Act who are not qualified medicare beneficiaries (as described in section 1905(p) of such Act) due to income, but whose family income is not more than 200 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981).

"(c) The Secretary shall not deny contract health services coverage to Indian recipients of medical care if such recipients—

"(1) have attained age 65, or are disabled;

"(2) have received emergency health care and have given notice of the receipt of such health care to the contract health services program within 30 days after receiving such health care, or have demonstrated good cause for not so doing;

"(3) have, upon the request of the administrator of the contract health services program, applied for coverage under title XIX of the Social Security Act within 90 days of the provision of such emergency health care (in accordance with section 1902(a)(34) of such Act); and

"(4) are otherwise eligible for contract health services coverage.".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title IV of the Act is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 407. There are authorized to be appropriated such funds as may be necessary for fiscal year 1993 and each fiscal year thereafter through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Section 404 of the Act is amended by striking subsection (c).

TITLE V—HEALTH SERVICES FOR URBAN INDIANS

SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title V of the Act is amended by inserting after section 510 (as redesignated by section 902(5)(B) of this Act) the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 511. There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and each fiscal year thereafter through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title V of the Act (25 U.S.C. 1650 et seq.) is amended—

(1) in section 503—

(A) in subsection (c), by striking "(c)(1)" and inserting "(c)" and by striking paragraph (2);

(B) in subsection (d), by striking paragraph (4);

(C) in subsection (e), by striking paragraph (4); and

(D) in subsection (f), by striking paragraph (5); and

(2) in section 509 (as redesignated by section 902(4)(A) of this Act), by striking the last sentence.

SEC. 502. GRANT AUTHORITY.

(a) IN GENERAL.—Section 502 of the Act (25 U.S.C. 1651) is amended—

(1) by striking "contracts with" and inserting the following: "contracts with, or make grants to,";

(2) by inserting after "enters into with" the following: ", or in any grant the Secretary makes to,"; and

(3) by amending the title to read as follows:

"CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS".

(b) CONFORMING AMENDMENTS.—(1) Section 503 of the Act (25 U.S.C. 1653) is amended—

(A) in subsection (a), in the material preceding paragraph (1)—

(i) by inserting ", or make grants to," after "contracts with"; and

(ii) by inserting "or grant" after "such contract";

(B) in subsection (b)—

(i) in the material preceding paragraph (1), by inserting "or receive grants" after "enter into contracts"; and

(ii) in paragraph (5), by inserting "or to meet the requirements for receiving a grant" after "Secretary";

(C) in subsection (c)(1), by inserting before the period at the end the following: "or receiving grants under subsection (a)";

(D) in subsection (d)(1), by inserting before the period at the end the following: "or receiving grants under subsection (a)";

(E) in subsection (e)(1), by inserting before the period at the end the following: "or receiving grants under subsection (a)";

(F) in subsection (f), by inserting "or receiving grants under subsection (a)" after "this section"; and

(G) by amending the title to read as follows:

"CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES".

(2) Section 504 of the Act (25 U.S.C. 1654) is amended—

(A) by striking "SEC. 504." and all that follows through the end of subsection (a) and inserting the following:

"SEC. 504. (a) Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, may enter into contracts with, or make grants to, urban Indian organizations situated in urban centers for which contracts have not been entered into, or grants have not been made, under section 503. The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract or make a grant under section 503 with respect to the urban Indian organization which the Secretary has entered into a contract with, or made a grant to, under this section.";

(B) in subsection (b)—

(i) in the material preceding paragraph (1), by inserting ", or grant made," after "contract entered into"; and

(ii) in paragraph (2), by striking "within one year" and all that follows through the period at the end and inserting the following: ", or carry out the requirements of the grant, within one year after the date on which the Secretary and such organization enter into such contract, or within one year after such organization receives such grant, whichever is applicable.";

(C) in subsection (c), by inserting ", or grant made," after "entered into"; and

(D) by amending the heading to read as follows:

"CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS".

(3) Section 505 of the Act (25 U.S.C. 1655) is amended—

(A) in subsection (a), by inserting "compliance with grant requirements under this title and" before "compliance with,";

(B) in subsection (b)—

(i) by inserting "or received a grant" after "entered into a contract"; and

(ii) by inserting before the period at the end the following: "or the terms of such grant";

(C) in subsection (c)—

(i) by inserting "the requirements of a grant or complied with" after "complied with";

(ii) by inserting "or grant" after "such contract" each place it appears";

(iii) by inserting "or make a grant" after "enter into a contract"; and

(iv) by inserting "or grant" after "whose contract";

(D) in subsection (d), by inserting "or grant" after "a contract" each place it appears; and

(E) by amending the heading to read as follows:

"EVALUATIONS; RENEWALS".

(4) Section 506 of the Act (25 U.S.C. 1656) is amended—

(A) in subsection (b), by inserting "or grants" after "any contracts";

(B) in subsection (d), by inserting "or grant" after "contract" each place it appears;

(C) in subsection (e)—

(i) by inserting ", or grants to," after "Contracts with"; and

(ii) by inserting "or grants" after "such contracts";

(D) by adding at the end the following new subsection:

"(g) Notwithstanding any other provision of law, organizations receiving grants or contracts under this title, including urban Indian demonstration projects, shall meet the definition of an urban Indian organization as defined in section 4(h); and

(E) by amending the heading to read as follows:

"OTHER CONTRACT AND GRANT REQUIREMENTS".

(5) Section 507 of the Act (25 U.S.C. 1657) is amended—

(A) in subsection (a)—

(i) in the material preceding paragraph (1), by inserting ", or a grant received," after "entered into"; and

(ii) in paragraphs (1) and (2), by inserting "or grant" after "contract" each place it appears; and

(B) in subsections (b) and (c), by inserting "or grant" after "contract" each place it appears.

(6) Section 509 of the Act (25 U.S.C. 1659) (as amended by section 902(5)(A) of this Act) is amended by inserting "or grant recipients" after "contractors" each place it appears.

(7) Section 510(a) of the Act (25 U.S.C. 1660) (as amended by section 902(5)(B) of this Act) is amended by striking the period at the end and inserting the following: ", and for providing central oversight of the programs and services authorized under this title.".

SEC. 503. FEDERAL TORT CLAIMS ACT COVERAGE.

Title V of the Act (as amended by section 501 of this Act) is further amended by adding at the end the following new section:

"FEDERAL TORT CLAIMS ACT COVERAGE

"SEC. 512. For the purposes of section 224 of the Public Health Service Act (42 U.S.C. 233(a)), with respect to claims for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, an urban Indian health program carrying out contract or agreement under section 503(a) for the benefit of urban Indians, is deemed to be part of the Public Health Service in the Department of Health and Human Services while carrying out any such contract or agreement, and its employees (including those acting on behalf of the organization as provided in section 2671 of title 28, United States Code) are deemed employees of the Public Health Service while acting within the scope of their employment in carrying out the contract or agreement.".

TITLE VI—ORGANIZATIONAL IMPROVEMENTS

SEC. 601. INDIAN HEALTH SERVICE.

Section 601(c) of the Act (25 U.S.C. 1661(c)) is amended—

(1) in paragraph (2), by striking "and";

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) all scholarship and loan functions carried out under title I.".

SEC. 602. AUTHORIZATION OF APPROPRIATIONS.

Title VI of the Act (25 U.S.C. 1661 et seq.) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 603. There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and each fiscal year thereafter through fiscal year 2000 to carry out this title.".

SEC. 603. DIRECTOR OF INDIAN HEALTH SERVICE.

(a) ABOLITION OF CURRENT POSITION.—The position of Director of the Indian Health Service shall be abolished effective January 1, 1993.

(b) ESTABLISHMENT OF NEW POSITION.—The position of Director of the Indian Health Service shall be established effective January 1, 1993.

(c) CONFIRMATION BY THE SENATE.—Section 601(a) of the Act (25 U.S.C. 1661(a)) is amended in the second sentence, by striking "Secretary" and inserting "President, by and with the advice and consent of the Senate".

(d) INTERIM APPOINTMENT.—The President may appoint a person to serve as Interim Director of the Indian Health Service from January 1, 1993, until a Director is appointed and confirmed as provided by section 601(a) of the Act, as amended by this Act. The Interim Director shall have the same duties, powers, and responsibilities as the Director while serving pursuant to this subsection.

(e) TERM.—Section 601(a) of the Act is amended by adding at the end the following: "The Director of the Indian Health Service shall serve a term of 4 years. A Director may be appointed, by and with the advice and consent of the Senate, for more than 1 term.".

TITLE VII—SUBSTANCE ABUSE PROGRAMS

SEC. 701. REDESIGNATION OF EXISTING TITLE VII.

(a) TITLE HEADING.—Title VII of the Act (25 U.S.C. 1671 et seq.) is redesignated as title VIII and the title heading is amended to read as follows:

"TITLE VIII—MISCELLANEOUS"

(b) REDESIGNATION OF SECTIONS.—Sections 701 through 720 of the Act (25 U.S.C. 1671 et seq.) are redesignated as sections 801 through 820, respectively.

(c) CONFORMING AMENDMENTS.—The Act is amended—

(1) in section 207(a), by striking "section 713" and inserting "section 813";

(2) in section 307(e), by striking "section 713" and inserting "section 813"; and

(3) in section 405(b)—

(A) in paragraph (1), by striking "sections 402(c) and 713(b)(2)(A)" and inserting "sections 402(a) and 813(b)(2)(A)"; and

(B) in paragraph (4), by striking "section 402(c)" each place it appears and inserting "section 402(a)".

(d) REFERENCES.—Any reference in a provision of law other than the Indian Health Care Improvement Act to sections redesignated by subsection (b) shall be deemed to refer to the section as so redesignated.

SEC. 702. SUBSTANCE ABUSE PROGRAMS.

(a) IN GENERAL.—The Act is amended by inserting after title VI the following new title:

"TITLE VII—SUBSTANCE ABUSE PROGRAMS

"GALLUP ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTER

"SEC. 701. (a) GRANTS FOR RESIDENTIAL TREATMENT.—The Secretary shall make grants *to the Navajo Nation for the purpose of providing residential treatment for alcohol and substance abuse for adult and adolescent members of the Navajo Nation and neighboring tribes.*

"(b) PURPOSES OF GRANTS.—Grants made pursuant to this section shall be used to—

"(1) provide at least 15 residential beds each year for adult long-term treatment, including beds for specialized services such as polydrug abusers, dual diagnosis, and specialized services for women with fetal alcohol syndrome children;

"(2) establish clinical assessment teams consisting of a psychologist, a part-time addictionologist, a master's level assessment counselor, and a certified medical records technician which shall be responsible for conducting individual assessments and matching Indian clients with the appropriate available treatment;

"(3) provide at least 12 beds for an adolescent shelterbed program in the city of Gallup, New Mexico, which shall serve as a satellite facility to the Acoma/Canoncito/Laguna Hospital and the adolescent center located in Shiprock, New Mexico, for emergency crisis services, assessment, and family intervention;

"(4) develop a relapse program for the purposes of identifying sources of job training and job opportunity in the Gallup area and providing vocational training, job placement, and job retention services to recovering substance abusers; and

"(5) provide continuing education and training of treatment staff in the areas of intensive outpatient services, development of family support systems, and case management in cooperation with regional colleges, community colleges, and universities.

"(c) CONTRACT FOR RESIDENTIAL TREATMENT.—The Navajo Nation, in carrying out the purposes of this section, shall enter into a contract with an institution in the Gallup, New Mexico, area which is accredited by the Joint Commission of the Accreditation of Health Care Organizations to provide comprehensive alcohol and drug treatment as authorized in subsection (b).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) to carry out the purposes of subsection (b)(1)—

"(A) $400,000 for fiscal year 1993;

"(B) $400,000 for fiscal year 1994; and

"(C) $500,000 for fiscal year 1995;

"(2) to carry out the purposes of subsection (b)(2)—

"(A) $100,000 for fiscal year 1993;

"(B) $125,000 for fiscal year 1994; and

"(C) $150,000 for fiscal year 1995;

"(3) to carry out the purposes of subsection (b)(3)—

"(A) $75,000 for fiscal year 1993;

"(B) $85,000 for fiscal year 1994; and

"(C) $100,000 for fiscal year 1995;

"(4) to carry out the purposes of subsection (b)(4), $150,000 for each of fiscal years 1993, 1994, and 1995; and

"(5) to carry out the purposes of subsection (b)(5)—

"(A) $75,000 for fiscal year 1993;

"(B) $90,000 for fiscal year 1994; and

"(C) $100,000 for fiscal year 1995."

"URBAN INDIAN PROGRAM

"SEC. 702. (a) GRANTS.—The Secretary may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school and community-based education in alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under title V of this Act.

"(b) GOALS OF GRANT.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

"(c) CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the—

"(1) size of the urban Indian population;

"(2) accessibility to, and utilization of, other health resources available to such population;

"(3) duplication of existing Service or other Federal grants or contracts;

"(4) capability of the organization to adequately perform the activities required under the grant;

"(5) satisfactory performance standards for the organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and

"(6) identification of need for services.

The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

"(d) TREATMENT OF FUNDS RECEIVED BY URBAN INDIAN ORGANIZATIONS.—Any funds received by an urban Indian organization under this or any other Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).

"PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT FOR SAN JUAN PUEBLO, NEW MEXICO

"SEC. 703. The Secretary, acting through the Service, shall continue to make grants, through fiscal year 1995, to the 8 Northern Indian Pueblos Council, San Juan Pueblo, New Mexico, for the purpose of providing substance abuse treatment services to Indians in need of such services.

"ALCOHOL AND SUBSTANCE ABUSE TREATMENT FACILITY

"SEC. 704. (a) The Secretary, acting through the Service, shall establish a regional youth alcohol and substance abuse prevention and treatment center in Sacaton, Arizona, on the Gila River Indian Reservation. The center shall be established within facilities leased, with the consent of the Gila River Indian Tribe, by the Indian Health Service from such Tribe.

"(b) The center established pursuant to this section shall be known as the 'Regional Youth Alcohol and Substance Abuse Prevention and Treatment Center'.

"(c) The Secretary, acting through the Service, shall establish, as a unit of the regional center, a youth alcohol and substance abuse prevention and treatment facility in Schurz, Nevada.

"ALASKA NATIVE DRUG AND ALCOHOL ABUSE DEMONSTRATION PROJECT

"SEC. 705. (a) The Secretary, acting through the Service, shall make grants to the Alaska Native Health Board for the conduct of a two-part community-based demonstration project to reduce drug and alcohol abuse in Alaska Native villages and to rehabilitate families afflicted by such abuse. Sixty percent of such grant funds shall be employed by the Health Board to stimulate coordinated community development programs in villages seeking to organize to combat alcohol and drug use. Forty percent of such grant funds shall be transferred to a qualified nonprofit corporation providing alcohol recovery services in the village of St. Mary's, Alaska, to enlarge and strengthen a family life demonstration program of rehabilitation for families that have been or are afflicted by alcoholism.

"(b) The Secretary, acting through the Service, shall evaluate the program established under subsection (a) of this section and submit a report on such evaluation to the appropriate committees of Congress by January 1, 1994.

"TREATMENT CENTER

"SEC. 706. (a) The Secretary, acting through the Service, shall make a grant to the Thunderchild Treatment Center at Sheridan, Wyoming, to match funds already received by the Thunderchild Treatment Center through private contributions for the completion of construction of a multiple approach substance abuse treatment center which specializes in the treatment of alcohol and drug abuse of American Indians.

"(b) To carry out subsection (a), there is authorized to be appropriated, the sum of $2,000,000 for fiscal year 1994. No funding made available under this title for the purposes of carrying out this section shall be used for the staffing or operation of this facility. None of the funding appropriated to carry out subsection (a) shall be used for administrative purposes.

"FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECT GRANTS

"SEC. 707. (a) The Secretary may make grants to Indian tribes and tribal organizations to establish fetal alcohol syndrome (hereafter in this title referred to as 'FAS') and fetal alcohol effect (hereafter in title referred to as 'FAE') programs as provided in this section for the purposes of meeting the health status objectives specified in section 3(b).

"(b) Grants made pursuant to this section shall be used to—

"(1) develop and provide community and in-school training, education, and prevention programs relating to FAS and FAE;

"(2) identify and provide alcohol and substance abuse treatment to high-risk women;

"(3) identify and provide appropriate educational and vocational support, counseling, advocacy, and information to FAS and FAE affected persons and their families or caretakers;

"(4) develop and implement counseling and support programs in schools for FAS and FAE affected children; and

"(5) develop prevention and intervention models which incorporate traditional healers, cultural values and community involvement.

"(c) The Secretary shall establish criteria for the review and approval of applications for grants under this section.

"(d) Ten percent of the funds appropriated to carry out this section shall be used to make grants to urban Indian organizations funded under title V.

"FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECT EDUCATION

"SEC. 708. (a) The Secretary shall provide assistance to Indian tribes and tribal organizations for the development, printing, and dissemination of education and prevention materials on FAS and FAE and in the development and implementation of culturally sensitive assessment and diagnostic tools for use in tribal and urban Indian communities. Such materials shall be developed through the tribal consultation process.

"(b) The Secretary shall—

"(1) convene a FAS/FAE Task Force, composed of representatives from the National Institute on Drug Abuse, the National Institute on Alcohol and Alcoholism, the Office of Substance Abuse Prevention, the National Institute of Mental Health, the Service, the Office of Minority Health of the Department of Health and Human Services, the Administration for Native Americans, the Bureau of Indian Affairs, Indian tribes, tribal organizations, urban Indian communities, and Indian FAS/FAE experts to examine the needs of Indian tribes and Indian communities and available Federal resources; and

"(2) develop an annual plan for the prevention, intervention, treatment and aftercare for those affected by FAS and FAE in Indian communities.

"(c) The Secretary shall make grants to Indian tribes, tribal organizations, universities working with Indian tribes on cooperative projects, and urban Indian organizations for applied research projects which propose to elevate the understanding of methods to prevent,

intervene, treat, or provide aftercare for persons affected by FAS or FAE.

"REPORT

"SEC. 709. (a) The Secretary shall, not later than March 31 of each fiscal year, transmit a report to the Congress on the status of FAS and FAE in the Indian population. Such report shall include the following:

"(1) The progress of implementing a uniform assessment and diagnostic methodology in Service and tribally based service delivery systems.

"(2) The incidence of FAS and FAE babies born for all births by reservation and urban-based sites.

"(3) The prevalence of FAS and FAE affected Indian persons in Indian communities, their primary means of support, and recommendations to improve the support system for these individuals and their families or caretakers.

"(4) The level of support received from the entities specified in section 710(b) in the area of FAS and FAE.

"(5) The number of inpatient and outpatient substance abuse treatment resources which are specifically geared to meet the unique needs of Indian women, and the volume of care provided to Indian women through these means.

"(6) Recommendations regarding the prevention, intervention, and appropriate vocational, educational and other support services for FAS and FAE affected individuals in Indian communities.

"(b) The Secretary may contract the production of this report to a national organization specifically addressing FAS and FAE in Indian communities.

"ADOLESCENT AND ADULT FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECT

"SEC. 710. The Secretary, acting through the Service, shall conduct a study of the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians and Alaska Natives with FAS or FAE. In carrying out this section, the Secretary is authorized to enter into a contract or other agreement with any organization, entity, or institution of higher education with significant knowledge of FAS and FAE and Indian communities.

"CLEARINGHOUSE

"SEC. 711. (a) The Secretary, acting through the Service, shall establish a national clearinghouse for prevention and educational materials and other information on fetal alcohol syndrome and fetal alcohol effect in Indian and Alaska Native communities.

"(b) The Secretary shall ensure access to all clearinghouse materials by any Indian tribe or urban Indian organization to assist in the development of culturally sensitive education and training materials and to assist in community education and prevention of fetal alcohol syndrome and fetal alcohol effect in Indian and Alaska Native communities.

"INDIAN WOMEN TREATMENT PROGRAMS

"SEC. 712. (a) The Secretary may make grants to Indian tribes and tribal organizations to develop and implement a comprehensive program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the cultural, historical, social and child care needs of Indian women, regardless of age.

"(b) Grants made pursuant to this section may be used to—

"(1) develop and provide community training, education, and prevention programs for Indian women relating to alcohol and substance abuse issues, including fetal alcohol syndrome and fetal alcohol effect;

"(2) identify and provide appropriate counseling, advocacy, support, and relapse prevention to Indian women and their families; and

"(3) develop prevention and intervention models for Indian women which incorporate traditional healers, cultural values, and community and family involvement.

"(c) The Secretary shall establish criteria for the review and approval of applications for grants under this section.

"(d) Twenty percent of the funds appropriated to carry out this section shall be used to make grants to urban Indian organizations funded under title V.

"SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROJECT

"SEC. 713. (a) The Secretary, acting through the Service, may enter into contracts with, or make grants to colleges, universities, and tribally controlled community colleges as defined in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) to establish demonstration projects to develop educational curricula for substance abuse counseling.

"(b) Funds provided under this section shall be used only for developing and providing educational curricula for substance abuse counseling (including paying salaries for instructors).

"(c) Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with colleges, universities, and with Indian tribes and administrators of tribally controlled community colleges, shall develop and issue criteria for the review and approval of applications for funding under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of colleges, universities, and tribally controlled community colleges to educate substance abuse counselors.

"(d) The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

"(e) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section, together with legislative recommendations.

"(f) For the purposes of this section, the term "educational curriculum" means one or more of the following:

"(1) Classroom education.

"(2) Clinical work experience.

"(3) Continuing education workshops.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 714. Except as provided in sections 701, 706, and 713, there are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and each fiscal year thereafter through fiscal year 2000 to carry out this title.".

(b) REDESIGNATION AND REPEAL OF EXISTING PROVISIONS.—

(1) REDESIGNATION.—The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.) is amended by redesignating section 4224 as section 4208A.

(2) REPEAL.—Part 6 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2471 et seq.), as amended by paragraph (1), is repealed.

TITLE VIII—MISCELLANEOUS

SEC. 801. REPORTS.

Section 801 of the Act (25 U.S.C. 1671) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"REPORTS

"SEC. 801. The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress a report containing—

"(1) a report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which are at a parity with the health services available to and the health status of, the general population;

"(2) a separate statement which specifies the amount of funds requested to carry out the provisions of section 201;

"(3) a separate statement of the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in section 814, relating to infant and maternal mortality and fetal alcohol syndrome;

"(4) reports required pursuant to sections 3(b), 108(n), 203(b), 209(k), 301(c), 302(g), 403, and 817(a);

"(5) for fiscal year 1997, the interim report required pursuant to section 307(h)(1);

"(6) for fiscal year 1999, the report required pursuant to section 307(h)(2); and

"(7) a report on whether, and to what extent, new health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act, and any steps that the Secretary may have taken to consult with Indian tribes to address such impact.".

SEC. 802. REGULATIONS.

Section 802 of the Act (25 U.S.C. 1672) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"SEC. 802. Prior to any revision of or amendment to rules or regulations promulgated pursuant to this Act, the Secretary shall consult with Indian tribes and appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.".

SEC. 803. EXTENSION OF TREATMENT OF ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

Section 808 of the Act (25 U.S.C. 1678) (as redesignated by section 701(b) of this Act) is amended by striking "1991" and inserting "2000".

SEC. 804. INFANT AND MATERNAL MORTALITY; FETAL ALCOHOL SYNDROME.

Section 814 of the Act (25 U.S.C. 1680d) (as redesignated by section 701(b) of this Act) is amended—

(1) by striking "(a)"; and

(2) by striking subsection (b).

SEC. 805. REALLOCATION OF BASE RESOURCES.

Section 817(a) of the Act (25 U.S.C. 1680(g)) (as redesignated by section 701(b) of this Act) is amended by striking "Secretary has submitted to the Congress" and inserting "Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 801,".

SEC. 806. CHILD SEXUAL ABUSE TREATMENT PROGRAMS.

Section 819 of the Act (25 U.S.C. 1680i) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"SEC. 819. (a) The Secretary and the Secretary of the Interior shall, for each fiscal year through fiscal year 1995, continue the demonstration programs involving treatment for child sexual abuse provided through the Hopi Tribe and the Asiniboine and Sioux Tribes of the Fort Peck Reservation, and shall encourage the development of demonstration programs in other tribes.

"(b) Beginning October 1, 1995, the Secretary and the Secretary of the Interior may establish, in any service area, demonstration programs involving treatment for child sexual abuse, except that the Secretaries may not establish a greater

number of such programs in one service area than in any other service area until there is an equal number of such programs established with respect to all service areas.".

SEC. 807. TRIBAL LEASING.

Section 820 of the Act (25 U.S.C. 1680j) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"TRIBAL LEASING

"SEC. 820. Indian tribes providing health care services pursuant to a contract entered into under the Indian Self-Determination Act may lease permanent structures for the purpose of providing such health care services without obtaining advance approval in appropriation Acts.".

SEC. 808. EXTENSION OF TRIBAL MANAGEMENT DEMONSTRATION PROJECT TERMINATION DATE IN CERTAIN CASES.

Section 818 of the Act (25 U.S.C. 1680h) (as redesignated by section 701(b) of this Act) is amended—

(1) in subsection (d)(1), by inserting before the period at the end the following: ", or, in the case of a demonstration project for which a grant is made after September 30, 1990, three years after the date on which such grant is made"; and

(2) in subsection (d)(2), by striking "1994" and inserting "1996".

SEC. 809. LONG-TERM CARE DEMONSTRATION PROJECT.

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 of this Act) is amended by adding at the end the following new section:

"LONG-TERM CARE DEMONSTRATION PROJECT

"SEC. 821. (a) The Secretary, acting through the Service, is authorized to enter into contracts with, or make grants to, Indian tribes or tribal organizations providing health care services pursuant to a contract entered into under the Indian Self-Determination Act, to establish demonstration projects for the delivery of home- and community-based services to functionally disabled Indians.

"(b)(1) Funds provided for a demonstration project under this section shall be used only for the delivery of home- and community-based services (including transportation services) to functionally disabled Indians.

"(2) Such funds may not be used—

"(A) to make cash payments to functionally disabled Indians;

"(B) to provide room and board for functionally disabled Indians;

"(C) for the construction or renovation of facilities or the purchase of medical equipment; or

"(D) for the provision of nursing facility services.

"(c) Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with Indian tribes and tribal organizations, shall develop and issue criteria for the approval of applications submitted under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of tribes and tribal organizations to deliver, or arrange for the delivery of, high quality, culturally appropriate home- and community-based services to functionally disabled Indians.

"(d) The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

"(e) At the discretion of the tribe or tribal organization, services provided under a demonstration project established under this section may be provided (on a cost basis) to persons otherwise ineligible for the health care benefits of the Service.

"(f) The Secretary shall establish not more than 24 demonstration projects under this section. The Secretary may not establish a greater number of demonstration projects under this section in one service area than in any other service area until there is an equal number of such demonstration projects established with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria issued pursuant to subsection (c).

"(g) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section, together with legislative recommendations.

"(h) The Secretary is authorized to enter into a shared services agreement with a health facility operated by a tribe or tribal organization that receives assistance under this section and that provides long-term care to older Indians. The Secretary, acting through the Service, shall place conditions and terms on such shared services agreements necessary to carry out this section. At the request of the tribe or tribal organization, the Secretary shall delegate to the tribe or tribal organizations powers of supervision and control over such local service employees as are necessary to carry out this section. For the purpose of this subsection, the term 'shared services agreement' means a contractual agreement between the Service and an Indian tribe or tribal organization whereby the Service agrees to share staff and other services with a health facility operated by such Indian tribe or tribal organization. Salaries for such staff and payments for such services shall be proportionately allocable to the service facility and health facility pursuant to such agreement.

"(i) For the purposes of this section, the following definitions shall apply:

"(1) The term 'home- and community-based services' means one or more of the following:

"(A) Homemaker/home health aide services.

"(B) Chore services.

"(C) Personal care services.

"(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

"(E) Respite care.

"(F) Training for family members in managing a functionally disabled individual.

"(G) Adult day care.

"(H) Such other home- and community-based services as the Secretary may approve.

"(2) The term 'functionally disabled' means an individual who is determined to require home- and community-based services based on an assessment that uses criteria (including, at the discretion of the tribe or tribal organization, activities of daily living) developed by the tribe or tribal organization.

"(j) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as are necessary to carry out this section. Such sums shall remain available until expended.".

SEC. 810. RESULTS OF DEMONSTRATION PROJECTS.

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701) and amended by section 809 of this Act) is amended by adding at the end the following new section:

"RESULTS OF DEMONSTRATION PROJECTS

"SEC. 822. The Secretary shall provide for the dissemination to Indian tribes of the findings and results of demonstration projects conducted under this Act.".

SEC. 811. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title VIII of the Act, as amended by section 810, is further amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 823. There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and each fiscal year thereafter through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title VIII of the Act (25 U.S.C. 1671 et seq.) (as redesignated by subsections (a) and (b) of section 701 of this Act) is amended—

(1) in section 807 (as redesignated by section 701(b) of this Act), by striking subsection (f); and

(2) in section 818 (as redesignated by section 701(b) of this Act), by striking subsection (e).

SEC. 812. TRIBAL SELF-GOVERNANCE PROJECT.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f note) is amended—

(1) in section 301, by inserting after "Interior" the following: "and the Secretary of Health and Human Services (hereafter in this title referred to as the 'Secretaries') each";

(2) in sections 302, 303, 304, and 305, by striking "Secretary" each place it appears and inserting in lieu thereof "Secretaries";

(3) in section 303(a)(1), by inserting after "Interior" the following: "and the Indian Health Service of the Department of Health and Human Services"; and

(4) by adding after section 309 the following new section:

"SEC. 310. For the purposes of providing one year planning and negotiations grants to the Indian tribes identified by section 302, with respect to the programs, activities, functions or services of the Indian Health Service, there are authorized to be appropriated such sums as may be necessary to carry out such purposes.".

SEC. 813. WAIVER OF PAPERWORK REDUCTION.

Title VIII of the Act, as redesignated by section 701(a), is amended by adding at the end the following new section:

"WAIVER OF PAPERWORK REDUCTION

"SEC. 824. (a) Chapter 35 of title 44, United States Code, shall not apply to information required to carry out any study or survey authorized or required by this Act.".

SEC. 814. JOINT VENTURE DEMONSTRATION PROJECTS.

Section 818 of the Act (25 U.S.C. 1680h) (as redesignated by section 701(b) and amended by section 811(b)(2) of this Act) is amended by adding after subsection (d) the following new subsection:

"(e)(1) The Secretary, acting through the Service, shall make arrangements with Indian tribes to establish joint venture demonstration projects under which an Indian tribe shall expend tribal, private, or other available nontribal funds, for the acquisition or construction of a health facility for a minimum of 20 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility. A tribe may utilize tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under this subsection.

"(2) The Secretary shall make such an arrangement with an Indian tribe only if the Secretary first determines that the Indian tribe has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the health facility described in paragraph (1).

"(3) An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this subsection, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the tribe, or paid to a third party on the tribe's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies), and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sen-

tence does not apply to any funds expended for the delivery of health care services, or for personnel or staffing, shall be recoverable.".

SEC. 815. DEMONSTRATION OF ELECTRONIC DATA SUBMISSION.

Title VIII of the Act, as redesignated by section 701(a) and amended by section 813 of this Act, is further amended by adding at the end the following new section:

"DEMONSTRATION OF ELECTRONIC DATA SUBMISSION

"SEC. 825. (a) The Secretary shall develop and implement a project to demonstrate in a pilot setting how current telecommunications and computer processing technology can be used to improve the turnaround, accuracy, and effectiveness of the information exchange between Indian Health Service health centers, private Contract Health Service providers, the Indian Health Service Area office and the Indian Health Service Fiscal Intermediary.

"(b) EFFECTIVE DATE.—The project described in subsection (a) shall be established effective June 15, 1993, and may involve the awarding of an outside contract.".

TITLE IX—TECHNICAL CORRECTIONS

SEC. 901. REPEAL OF EXPIRED REPORTING REQUIREMENTS.

The Act is amended—

(1) in section 116, by striking subsection (d);

(2) in section 204(a)—

(A) by striking paragraph (2);

(B) by striking "(a)(1)" and inserting "(a)";

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(D) in paragraph (2) (as redesignated by this subsection), by striking "subparagraph (A)" and inserting "paragraph (1)";

(3) in section 602, by striking subsection (a)(3); and

(4) by striking section 803 (as redesignated by section 701(b) of this Act).

SEC. 902. OTHER TECHNICAL CORRECTIONS.

The Act is amended—

(1) in section 4(c), by striking "sections 102, 103, and 201(c)(5)," and inserting "sections 102 and 103,";

(2) in title I—

(A) in section 102(b)(1), by striking ": Provided, That the" and inserting ". The";

(B) in section 105(c), by striking "Department of Health, Education, and Welfare" and inserting "Department of Health and Human Services"; and

(C) in section 108(d)(1)(A), by striking "Indian Health" and inserting "Indian health";

(3) in title II—

*(A) by striking "**SEC. 209. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES.**" and inserting the following:*

"MENTAL HEALTH PREVENTION AND TREATMENT SERVICES

"SEC. 209."; and

(B) in section 209, by redesignating subsections (c) through (l) as subsections (b) through (k), respectively;

(4) in title III—

*(A) by striking "**SEC. 307. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.**" and inserting the following:*

"INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT

"SEC. 307."; and

(B) in section 301(d) (as redesignated by section 301(2) of this Act), by striking "sections 102 and 103(b)" and inserting "section 102";

(5) in title V—

*(A) by striking "**SEC. 409. FACILITIES RENOVATION.**" and inserting the following:*

"FACILITIES RENOVATION

"SEC. 509."; and

*(B) by striking "**SEC. 511. URBAN HEALTH PROGRAMS BRANCH.**" and inserting the following:*

"URBAN HEALTH PROGRAMS BRANCH

"SEC. 510.";

(6) in section 601(c)(3)(D), by striking "(25 U.S.C. 2005, et seq.)" and inserting "(42 U.S.C. 2005 et seq.)";

(7) in section 601(d)(1)(C), by striking "appropriate" and inserting "appropriated";

(8) in section 813(b)(2)(A) of the Act (25 U.S.C. 1680c(b)(2)(A)) (as redesignated by section 701(b) of this Act), by striking "section 402(c)" and inserting "section 402(a)"; and

(9) by amending the heading for section 816 of the Act (25 U.S.C. 1680f) (as redesignated by section 701(b)) to read as follows:

"INDIAN HEALTH SERVICE AND DEPARTMENT OF VETERANS AFFAIRS HEALTH FACILITIES AND SERVICES SHARING".

AMENDMENT NO. 3089

(Purpose: To make certain amendments to the bill)

Mr. FORD. Mr. President, on behalf of Senators INOUYE, MCCAIN, DECONCINI, DOMENICI, and MURKOWSKI, I send a series of amendments to the committee substitute and ask unanimous consent they be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. FORD], for Mr. INOUYE, for himself, Mr. MCCAIN, Mr. DECONCINI, Mr. DOMENICI, and Mr. MURKOWSKI, proposes an amendment numbered 3089.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 127, immediately after the period on line 9, insert the following: "The Secretary may increase this amount to be consistent with the National Health Service Corps Loan Repayment Program.".

On page 132, between lines 6 and 7, insert the following new section:

SEC. 110A. QUENTIN N. BURDICK INDIAN HEALTH PROGRAM.

(a) ESTABLISHMENT.—Title I of the Act is amended by adding after section 114 the following new section:

"QUENTIN N. BURDICK INDIAN HEALTH PROGRAM

"SEC. 114A. (a) The Secretary, acting through the Service, is authorized to establish, in consultation with appropriate officials at the University of North Dakota, the Quentin N. Burdick Indian Health Program at the University of North Dakota. The purpose of such program shall be to coordinate the Indian health training programs available at the University of North Dakota to better promote the health of Indian people.

"(b) The Secretary may give preference, in accordance with sections 112(d)(5), 114(b)(4), and 209(h)(3), to applications for grants or contracts submitted by the University of North Dakota through the Quentin N. Burdick Indian Health Program.".

(b) CONFORMING AMENDMENTS.—

(1) NURSING PROGRAMS.—Section 112(d) of the Act (25 U.S.C. 1616e(d)) is amended—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by inserting after paragraph (4) the following:

"(5) programs that are conducted through the Quentin N. Burdick Indian Health Program at the University of North Dakota.".

(2) INMED PROGRAMS.—Section 114(b) of the Act (25 U.S.C. 1616g(b)), as amended by section 110 of this Act, is further amended by adding at the end the following:

"(4) The Secretary shall give preference in providing grants under paragraphs (2) and (3) to applications submitted by the University of North Dakota through the Quentin N. Burdick Indian Health Program.".

(3) MENTAL HEALTH PROGRAMS.—Section 209(h) of the Act (as redesignated by section 902(3)(B) of this Act), is amended by adding at the end the following:

"(2) The Secretary shall give preference in entering into contracts or making grants under this subsection to appropriate programs conducted through the Quentin N. Burdick Indian Health Program at the University of North Dakota.".

On page 179, between lines 19 and 20, insert the following:

SEC. 216. CONTRACT HEALTH SERVICES PAYMENT STUDY.

Title II of the Act is amended by adding at the end thereof the following new section:

"CONTRACT HEALTH SERVICES PAYMENT STUDY

"SEC. 219. (a) The Secretary, acting through the Service and in consultation with representatives of the Indian tribes, Indian organizations operating Contract Health Care programs under the Indian Self-Determination and Education Assistance Act or under self-governance compacts, Indian Health Service personnel, private Contract Health Service providers, and the Indian Health Service Fiscal Intermediary, shall conduct a study—

"(1) to assess and identify the administrative barriers which hinder the timely payments for services delivered by private Contract Health Services providers for individual Indians by the Indian Health Service and the Indian Health Service Fiscal Intermediary;

"(2) to assess and identify the impact of delayed Contract Health Services payments by the Indian Health Service and the Indian Health Service Fiscal Intermediary to private Contract Health Services providers upon the personal credit records of individual Indians who have been treated by same providers; and

"(3) to determine the most efficient and effective means of improving the Indian Health Service Contract Health Services payment system and ensuring the development of appropriate consumer protection policies designed to protect individual Indians who receive authorized services from private Contract Health Services providers.

"(b) Such study shall—

"(1) assess the impact of the existing Indian Contract Health Services regulations and policies upon the ability of the Indian Health Service and the Indian Health Service Fiscal Intermediary to process, on a timely and efficient basis, the payment of billings submitted by private Contract Health Services providers;

"(2) assess the impact which delayed payments have on the private Contract Health Services providers' fiscal operations;

"(3) assess the nature and extent of the problems experienced by individual Indians with collection agencies seeking payments on behalf of Contract Health Services providers; and

"(4) identify the appropriate changes in Federal policies, administrative procedures and regulations required to eliminate the problems experienced by the private Contract Health Services' providers and individual Indians as a result of delayed Contract Health Services payments.

"(c) Not later than the date which is 12 months after the date of enactment of this section, the Secretary shall transmit to the Congress a report containing—

"(1) a detailed description of the study conducted pursuant to this section;

"(2) a discussion of the findings and conclusions of such study; and

"(3) recommendations for appropriate administrative and legislative solutions.

"(d) There are authorized to be appropriated such sums as are necessary to carry out this section for fiscal year 1993 or any fiscal year thereafter in which the report is due.".

SEC. 217. NATIVE HAWAIIAN HEALTH SCHOLARSHIPS.

(a) Eligibility.—Subject to the availability of funds appropriated under the authority of subsection (c) of this section, the Secretary shall provide funds through a direct grant or a cooperative agreement to Kamehameha School/Bishop Estate for the purpose of providing scholarship assistance to students who—

(1) meet the requirements of section 329 of the Public Health Service Act (42 U.S.C. 254b), and

(2) are Native Hawaiians.

(b) Terms and Conditions.—(1) The scholarship assistance provided under subsection (a) of this section shall be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 338A of the Public Health Service Act (42 U.S.C. 254l), provided that—

(A) the provision of scholarships in each type of health care profession training shall correspond to the need for each type of health care professional to serve the Native Hawaiian health care systems, as identified by Papa Ola Lokahi;

(B) to the maximum extent practicable, the Secretary shall select scholarship recipients from a list of eligible applicants submitted by the Kamehameha Schools/Bishop Estate;

(C) the obligated service requirement for each scholarship recipient shall be fulfilled through service, in order of priority, in (i) any one of the five Native Hawaiian health care systems, or (ii) health professions shortage areas, medically underserved areas, or geographic areas or facilities similarly designated by the United States Public Health Service in the State of Hawaii; and

(D) the provision of counseling, retention and other support services shall not be limited to scholarship recipients, but shall also include recipients of other scholarship and financial aid programs enrolled in appropriate health professions training programs.

(2) The Native Hawaiian Health Scholarship program shall not be administered by or through the Indian Health Service.

(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 2001 for the purpose of funding the scholarship assistance provided under subsection (a) of this section.

SEC. 218. PAYMENT OF CLAIMS.

Title II of the Act is amended by adding at the end the following new section:

"PROMPT ACTION

"Sec. 220. (a) The Indian Health Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

"(b) If the Indian Health Service fails to respond to a notification of a claim in accordance with subsection (a), the Indian Health Service shall accept as valid the claim submitted by the provider of a contract care service.

"(c) The Indian Health Service shall pay a completed contract care service claim within 30 days of completion of the claim, and shall be subject to the Prompt Payment Act (31 U.S.C. 3901 et seq.).".

On page 183, beginning with line 25, strike out all through line 3 on page 184 and insert in lieu thereof "government offices are located on an island.".

On page 202, after line 22, add the following new section:

SEC. 504. TREATMENT OF DEMONSTRATION PROGRAMS.

Notwithstanding any other provision of law, the two demonstration programs, Oklahoma City Clinic and Tulsa Clinic, which are in the Hospitals and Clinics program of the Indian Health Service, shall be treated as service units in the allocation of resources and coordination of care. The Secretary shall provide assistance to these programs in the development of resources, equipment and facility needs. For the period that the Oklahoma City and Tulsa clinics are in demonstration-project status, they shall not be subject to the provisions of Public Law 93-638. The Secretary shall evaluate the results of these demonstration projects and report back to Congress his findings and recommendations by March 1999.

On page 210, between lines 5 and 6, insert the following:

"(e) Urban NIAAA Transferred Programs.—(1) The Secretary shall provide within the Urban Programs Branch of the Indian Health Service a grant program for the administration of urban Indian alcohol programs which were originally established under the National Institute on Alcoholism and Alcohol Abuse (NIAAA) and transferred to the Indian Health Service. The program shall include the following:

"(2) The purposes of these grants are to provide support for the continuation of alcohol prevention and treatment services for the urban Indian populations served, and other objectives agreed upon between the Service and the individual urban program.

"(3) Urban Indian service providers which meet the definition of an urban Indian organization under title V of this Act, and which operate Indian alcohol programs originally funded under the NIAAA subsequently transferred to the Indian Health Service, are eligible to participate in this program.

"(4) For the purposes of simplification, the Secretary may make either grants or contracts to eligible urban organizations, and may combine the NIAAA alcohol funds with other substance abuse funds currently administered through the Urban Programs Branch.

"(5) The Secretary shall evaluate and report to Congress on the activities of programs funded under this subsection at least every two years.

On page 219, between lines 17 and 18, insert the following:

"INDIAN HEALTH SERVICE RESPONSIBILITIES

"Sec. 714. The Memorandum of Agreement entered into pursuant to section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411) shall include specific provisions pursuant to which the Service shall assume responsibility for—

"(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

"(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

"(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

"INDIAN HEALTH SERVICE PROGRAM

"Sec. 715. (a) The Secretary, acting through the Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include—

"(1) prevention, through educational intervention, in Indian communities,

"(2) acute detoxification and treatment,

"(3) community-based rehabilitation,

"(4) community education and involvement, including extensive training of health care, educational, and community-based personnel,

"(5) residential treatment programs for pregnant and post partum women and their children, and

"(6) relapse prevention services, including group homes.

The target population of such a program shall be the members of Indian tribes. Additionally, efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

"(b)(1) The Secretary, acting through the Service, may enter into contracts with public or private providers of alcohol and substance abuse treatment services for the purpose of assisting the Service in carrying out the program required under subsection (a).

"(2) In carrying out this subsection, the Secretary shall provide assistance to Indian tribes to—

"(A) develop criteria for the certification of alcohol and substance abuse service providers;

"(B) facilitate access to off-campus substance abuse degree programs; and

"(C) facilitate accreditation of service facilities that meet minimum standards for such services and facilities as may be determined pursuant to section 4205(a)(3) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411(a)(3)).

"INDIAN HEALTH SERVICE YOUTH PROGRAM

"Sec. 716. (a) The Secretary shall develop and implement a program for acute detoxification and treatment for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

"(b)(1) The Secretary shall construct or renovate, and appropriately staff and operate, a youth regional treatment center in each area under the jurisdiction of an area office. For the purposes of this subsection, the area offices of the Service in Tucson and Phoenix, Arizona, shall be considered one area office and the area office in California shall be considered to be two area offices, one office whose jurisdiction shall be considered to encompass the northern area of the

State of California, and one office whose jurisdiction shall be considered to encompass the remainder of the State of California.

"(2) For the purpose of staffing and operating such centers or facilities, funding shall be pursuant to the Act of November 2, 1921 (25 U.S.C. 13).

"(3) Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating and maintaining a residential youth treatment facility in Fairbanks, Alaska.

"(4) A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) agreed upon (by appropriate tribal resolution) by a majority of the tribes to be served by such center.

"(c)(1) The Secretary, acting through the Service, shall, in consultation with Indian tribes—

"(A) identify and use, where appropriate, federally owned structures suitable as local residential or regional alcohol and substance abuse treatment centers for Indian youth; and

"(B) establish guidelines for determining the suitability of any such federally owned structure to be used as a local residential or regional alcohol and substance abuse treatment center for Indian youth.

"(2) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure.

"(d)(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each Service service unit community-based rehabilitation and followup services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

"(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

"(e) In providing the treatment and other services to Indian youth authorized by this section, the Secretary shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (d) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

"(f)(1) The Secretary shall conduct a study to determine the incidence and prevalence of the abuse of multiple forms of drugs, including alcohol, among Indian youth residing on Indian reservations and in urban areas and the interrelationship of such abuse with the incidence of mental illness among such youth.

"(2) The Secretary shall submit a report detailing the findings of such study, together with recommendations based on such findings, to the Congress no later than two years after the date of the enactment of this section.

"TRAINING AND COMMUNITY EDUCATION

"SEC. 717. (a) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit a program of community education, including off-campus degree studies, and community involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education in alcohol and substance abuse to political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical members of each tribal community.

"(b) The Secretary shall, either directly or by contract, provide instruction in the area of alcohol and substance abuse, including instruction in prevention, relapse prevention services, crisis intervention, and family relations in the context of alcohol and substance abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol syndrome to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

"(c) In carrying out the education and training programs required by this section, the Secretary, acting through the Service and in consultation with tribes and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

"(1) the elevated risk of alcohol and substance abuse faced by children of alcoholics;

"(2) the cultural and multigenerational aspects of alcohol and substance abuse prevention and recovery; and

"(3) community-based and multidisciplinary strategies for preventing and treating alcohol and substance abuse.

"REPORTS

"SEC. 718. (a) The Secretary, with respect to the administration of any health program by a Service unit, directly or through contract, including a contract under the Indian Self-Determination and Education Assistance Act, shall require the compilation of data relating to the number of cases or incidents which any of the Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.

"(b) The data compiled under subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan under section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2471 et seq.).

"(c) Each service unit director shall be responsible for assembling the data compiled under this section and section 4214 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2434) into an annual tribal comprehensive report. Such report shall be provided to the affected tribe and to the Director of the Service who shall develop and publish a biennial national report based on such tribal comprehensive reports.

On page 219, line 19, strike out "SEC. 714." and insert in lieu thereof "SEC. 719.".

On page 230, line 22, immediately after the first period, insert the following:

Upon completion of the authorized planning activity or a comparable planning activity by a tribe, the Secretary is authorized to negotiate and implement a Compact of Self-Governance and Annual Funding Agreement with such tribe.

On page 232, line 22, strike "a project" and insert "2 projects".

On page 233, between lines 2 and 3, insert the following:

"(b) The Secretary shall conduct one of the projects authorized in subsection (a) in the Service area served by the Indian Health Service Area office located in Phoenix, Arizona.".

On page 233, line 3, strike "(b)" and insert "(c)".

On page 233, line 3, strike "project" and insert "projects".

On page 233, between lines 5 and 6, insert the following:

SEC. 816. LAND TRANSFER.

The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Indian Health Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Indian Health Service and occupied by the Chemawa Indian Health Center.

SEC. 817. LEASES WITH INDIAN TRIBES.

Section 804 of the Indian Health Care Improvement Act (25 U.S.C. 1674), as redesignated by section 701(b) of this Act, is amended to read as follows:

"SEC. 804. (a) Notwithstanding any other provision of law, the Secretary shall, in carrying out the purposes of this Act, enter into leases with Indian tribes and tribal organizations for periods not in excess of twenty years. Property leased by the Secretary from an Indian tribe or tribal organization may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe.

"(b) The Secretary, upon request of an Indian tribe or tribal organization, shall enter into leases, contracts, and other legal agreements with Indian tribes or tribal organizations which hold—

"(1) title to;

"(2) a leasehold interest in; or

"(3) a beneficial interest in (where title is held by the United States in trust for the benefit of the tribe);

facilities reasonably necessary for the administration and delivery of health services by the Service or by programs operated by Indian tribes or tribal organizations to compensate such Indian tribes or tribal organizations for costs associated with the use of such facilities for such purposes. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable, based on the reasonable rental costs of comparable premises in the community where such facilities are located. Leases, contracts, and other legal agreements with Indian tribes or tribal organizations operating contracts under the Indian Self-Determination and Education Assistance Act, Public Law 93-683, shall be in lieu of charges for space used in the performance of such contract which are otherwise funded through direct or indirect costs under such contracts.".

SEC. 818. OFFICE OF INDIAN WOMEN'S HEALTH CARE.

(a) ESTABLISHMENT.—There is established in the Indian Health Service (hereafter referred to in this section as the "Service") an Office of Indian Women's Health Care (hereafter referred to in this section as the "Office").

(b) PURPOSE.—

(1) IN GENERAL.—The Office shall oversee efforts of the Service to monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.

(2) IN PARTICULAR.—In particular, the Office shall have the following purposes:

(A) To update all basic service information systems to include the collection and analysis of data pertinent to documenting the level and quality of health care being received by Indian women through the Service and related contractors.

(B) To review any proposed studies by the Service to ensure that Indian women are appropriately included in the scope of such studies.

(C) To establish and maintain an Indian women's health agenda, which shall—

(i) include the identification of priority areas of service;

(ii) incorporate existing efforts to identify such priority areas, for example, the Indian Women's Task Force and Round Table Conference held in Tucson, Arizona, in 1991;

(iii) ensure that the priority areas identified become an integral part of the planning and evaluation processes for all Service delivery systems;

(iv) form the basis for plans and annual budget requests to implement services, equipment, personnel, and other changes necessary to improve the delivery of health services to Indian women; and

(v) reflect the participation and views of Service beneficiaries.

(D) To allow for differences in priorities by Area offices, making maximum utilization of Area office capabilities and facilities.

(E) To recommend ways to obtain and coordinate additional government, tribal, and private resources to accomplish the plans developed pursuant to subparagraph (C)(iv).

(F) To include the findings, recommendations, agenda, plans, and other relevant information compiled by the Office in the annual reports submitted by the Service to the Congress.

(G) To conduct such other activities as may be necessary to carry out the overall purpose of the Office.

(c) DEFINITION.—For the purpose of this section, the term "Area office" has the meaning given the term in section 4(i) of the Indian Health Care Improvement Act (25 U.S.C. 1603(i)).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 819. HEALTH PROFESSIONAL PRIORITIES IN RELATED PROGRAM.

Section 333A(a) of the Public Health Service Act (42 U.S.C. 254f-1(a)) is amended—

(1) in paragraph (2), by striking "and" after the semicolon at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following paragraph:

"(4) subject to paragraphs (1) through (3), give priority to meeting the needs of the Indian Health Service and the needs of health programs or facilities operated by tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act, except to the extent not practicable.".

SEC. 820. PRIORITY FOR INDIAN RESERVATIONS.

(a) PRIORITY.—On and after the date of the enactment of this Act, the Bureau of Indian Affairs, Department of the Interior, and the Indian Health Service, Department of Health and Human Services, shall, in all matters involving the reorganization or development of service facilities, or in the establishment of related employment projects to address the unemployment conditions in economically depressed areas, give a priority to locating such facilities and projects on Indian lands.

(b) DEFINITION.—As used in this section, the term "Indian lands" means—

(1) all lands within the limits of any Indian reservation; and

(2) any lands title which is held in trust by the United States for the benefit of any Indian tribe or individual Indian, or held by any Indian tribe or individual Indian subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

Mr. INOUYE. Mr. President, I rise in strong support of S. 2481, the Indian Health Care Amendments of 1992. The purpose of S. 2481 is to reauthorize the Indian Health Care Improvement Act, which defines, in terms of authorizations, the programmatic structure for the Indian Health Service. As the largest of seven Public Health Service agencies, the Indian Health Service is responsible for providing care to approximately 1½ million American Indians and Alaska Natives living on or near reservations in 33 States.

The responsibility for the provision of health care services to Indian people has its origins in commitments that were made by the United States in treaties with Indian nations, in which Indian tribal governments ceded millions of acres of land to the Federal Government. Thus, in a very real sense, Indian health care represents the first prepaid health plan in the history of this country.

The bill which we are considering today reconfirms the treaty commitments made by the United States with regard to Indian health care. When originally enacted into law, the overall goal of the Indian Health Care Improvement Act was to improve the health status of American Indians and tribal governments. While the health status of the Indian people has improved since 1976, it remains seriously below that of the U.S. population as a whole.

According to the Indian Health Service, the mortality rates of American Indians and Alaska Natives continue to exceed that of the U.S. all races group. For example, in 1987, the Indian age-adjusted mortality rates for the following causes exceeded those for the U.S. all races population by the following percentages: tuberculosis, 400 percent; alcoholism, 332 percent; diabetes mellitus, 139 percent, and accidents, 139 percent.

In 1990, the Department of Health and Human Services in its "Healthy People 2000" statement notes that, relative to other populations, the American Indian and Alaska Native population is young and impoverished, with more than 1 in 4 living below the poverty level. The Department goes on to explain:

> One reason for the youthfulness of the population is the large proportion of the population who die before age 45. Most of the excess deaths—those that would not have occurred if American Indian death rates were comparable to those of the total population—can be traced to six causes: unintentional injuries, cirrhosis, homicide, suicide, pneumonia, and complications of diabetes.

Mr. President, the health status of the Indian people continues to rank far below that of other Americans. And so despite the promises that we made—the legal commitments established in treaties and the laws that were enacted to carry out these responsibilities—we have not provided to Indian people the same quality of life that other Americans enjoy.

Thus, I would say that our commitment cannot and should not end until the Indian people receive what they paid for with the cession of their lands to the United States. In exchange for more than 500 million acres of land, the value of the insurance policy the Indians purchased far exceeds that of any health care consumer group in America.

Mr. President, many months ago, at the beginning of the 102d Congress, the Select Committee on Indian Affairs began a bipartisan effort with the House Interior and Insular Affairs Committee and the House Energy and Commerce Committee's Subcommittee on Health and the Environment to develop companion legislation to reauthorize the Indian Health Care Improvement Act. Following introduction of this legislation, the Senate held five hearings on S. 2481 and the House held three hearings on H.R. 3724.

Mr. President, I believe that S. 2481, attempts to accommodate the interests of nearly every region of Indian country. More than 60 witnesses representing tribal governments and Alaska Native villages presented testimony in support of S. 2481 and over 27 professional organizations were consulted on the contents of the bill. It has been my desire to address the variety of concerns expressed by tribal governmental officials, health care providers and Indian health consumers because I believe the serious health care conditions affecting Indian people require solutions which must come from Indian country. It is that problem-solving approach and aspiration which I am proud to share with each of my distinguished colleagues who serve on the Select Committee on Indian Affairs, particularly, vice chairman JOHN MCCAIN. Before proceeding to the amendments to S. 2481, I want to thank Vice Chairman MCCAIN for helping to shape this legislation and for chairing the hearing held in Phoenix, AZ. I also wish to express my gratitude to both Senator DASCHLE and Senator MURKOWSKI for chairing hearings held respectively in South Dakota and Alaska.

Throughout Indian country, each of my colleagues have stories regarding inconsistencies in health care delivery, lack of health care resources, and need for overall improvement. For the first time, we are proposing a real equity—a real equality—in the kind of health care programs and services that are provided to Indian people. It will mean that no matter where you live in Indian country—no matter whether there are Indian Health Service hospitals, tribally operated clinics, or just contract care—that every eligible person will be entitled to the same basic package of health care benefits.

This goal will not be accomplished overnight, but the Congress of the United States has made a commitment to achieving this objective, and working with the Indian Health Service, we are going to get there.

Second, the Indian Health Care Improvement Act for the first time will acknowledge that health care is to be provided at every developmental stage of life—not just for infants, not just for young children—but for all eligible Indian people—throughout their lifetimes. The inclusion of health objectives in the act is intended to help us all measure the progress toward the goals that the Surgeon General has established for the year 2000. I am quite hopeful that in the decade of the 1990's, the Indian Health Service and the tribal health care providers who operate health care programs under the auspices of this act will achieve these goals.

Mr. President, the authorization for the Indian Health Care Improvement Act is due to expire at the end of the month, and we must expedite consideration of this bill.

Mr. MCCAIN. Mr. President, it gives me great pleasure to join my colleague and good friend from Hawaii, Senator INOUYE, the chairman of the Senate Select Committee on Indian Affairs, in bringing the Indian Health Care Improvement Act reauthorization bill to the Senate floor for consideration. As vice-chairman of the committee, I have been pleased to work with him closely in the development of the legislation before us today.

I believe this legislation represents a significant improvement in existing law, and it is a critically important step toward effectively meeting the health needs of our Nation's first citizens. This legislation continues to build on the important concept of empowering tribes to lay a greater role in their own health delivery. In my view, nothing could be more positive in addressing the very serious health needs of our Nation's first citizens.

As I stated, the legislation before us today represents a vast improvement over the existing act. It covers just about every corner of the health delivery system. We have created new programs and improved existing ones. We have addressed the needs of victims of child abuse and neglect and have begun to explore the option of long-term care. We have given the tribes a greater opportunity to influence the development of the health programs that serve their needs, and the subsequent delivery of services. And, we have provided the tools for needed flexibility within the system of Indian health care delivery. In sum, I believe we are moving in the right direction. One of the keys to this successful effort is the fact our Nation's first citizens have been fully involved with this legislation at every step along the way. I would like to specifically thank the Arizona tribes for all of the assistance they have provided me in the effort to assist the chairman in putting this legislation together. Without their assistance, many of the provisions in this legislation would not have been possible.

I would like to review for a minute several of the critical components of this legislation.

First, is the Indian health manpower title. This title proposes to expand the resources and scope of programs available to native Americans for health professions training. It would establish a new program to provide matching funds to tribes that wish to send their own members through health professions programs provided that they return and serve the health needs of their members. And, it directly addresses the shortage of nurses by providing for a continuing education allowance, and providing resources for the training of nurse midwives and nurse practitioners, and retention bonuses for nurses.

Second, is the health service title. This title proposes that all mental health care workers be licensed. As our colleagues know, the fact that a greater number of mental health workers in Indian country are unlicensed was the subject of a recent hearing before this committee. In addition, this title would require that two studies be conducted—one regarding the feasibility of establishing a hospice care program for native Americans and the other regarding the feasibility of tribes purchasing managed care coverage for their members.

Third, is the health facilities title. This title would require that the reports to Congress proposing the closure of a facility include information regarding the level of utilization by all eligible Indians, and the distance of such hospital facility and the nearest operating service hospital. In addition, this title would expand the scope of the health facilities demonstration project to include all areas of Indian country, but only after the existing nine have had the opportunity to consider participation.

Fourth, is the miscellaneous title. Among other things, it extends the treatment of Arizona as a contract health service delivery area.

Fifth, the legislation creates a program to begin automating the billing and records process within the contract care program of the Indian Health Service. This, coupled with the requirement that there be prompt payment of claims, will greatly assist in dealing with the problem of providers not receiving prompt payment for their services and in turn going after individuals for the cost of the care that had been provided. It will also streamline administrative procedures, and ultimately result in the more timely provision of services and produce savings.

Sixth, the legislation requires that the Director of the Indian Health Service be subject to Senate confirmation every 4 years. This will make the Indian Health Service more accountable to the Senate and to our Nation's first citizens.

Seventh, the legislation includes language to modify and expand the alcohol and drug treatment programs. During the committee consideration of the legislation, this language was set aside for a time to review inspectors general studies of significant problems within the IHS and BIA Indian alcohol and drug abuse programs. The committee decided to add the language back to the bill, but is clearly concerned that both agencies implement the changes recommended by the IG's. I am pleased at the expressed commitment of the IHS and BIA to fully implement the changes. All of us on the committee will be monitoring this situation very closely, as alcohol and drug abuse remains the No. 1 health care problem facing native Americans.

Mr. President, as I stated earlier, this is a good piece of legislation. It is a significant step forward, and I join my good friend from Hawaii in encouraging our colleagues to give this legislation their strong support.

Mr. President, the House has passed its version of the Indian Health Care Improvement Act Reauthorization bill. It is my hope that a conference can be convened between the House and Senate, immediately following the passage of the bill before us today and the bill they will be considering soon. If so, I am confident that we will be able to bring to the Senate floor a conferenced version of this critical legislation that will help us take some significant steps forward in the health status of our Nation's first citizens.

Mr. INOUYE. Mr. President, Senator MCCAIN and I are proposing a number of changes to the bill that have been agreed to on both sides, consistent with the terms of the unanimous-consent agreement.

Most importantly and with great reverence for the work of our former colleague and longstanding member of the

Select Committee on Indian Affairs, Senator Quentin N. Burdick, I am pleased to offer an amendment to title I of the act which recognizes and will continue the work of our good friend on behalf of the Indian people in North Dakota. This amendment will establish the "Quentin N. Burdick Indian Health Programs" at the University of North Dakota to address the nursing, mental health and interdisciplinary training needs of Indian scholars, who seek to serve the health needs of Indian people. I can only say that Senator Burdick loved—and was well loved by—the Indian people of North Dakota. In this regard, we humbly offer this amendment today in his honor.

We have agreed to additional amendments which make a number of modest changes to title II of the act to include amendments requested by Senator DECONCINI and Senator MCCAIN related to improvements needed within the Contract Health Services program of the IHS. I have also included an amendment to continue the Native Hawaiian Health Scholarship Program as authorized under the Public Health Service Act. The Native Hawaiian Health Scholarship Program is funded separately outside of the Indian Health Service and will not affect the availability of scholarships as authorized under title I of the Indian Health Care Improvement Act.

Changes to title V of the act contained in the managers amendments to S. 2481, address the needs of urban Indian programs. Senator NICKLES has worked closely with the two demonstration projects located in Oklahoma City and Tulsa, OK, to ensure that these programs are treated as service units in the allocation of resources and coordination of care during the period of the demonstration project which is intended to the year 2000. An amendment is also offered which provides within the Urban Programs Branch of the IHS, a grant program for the administration of urban Indian alcohol programs originally established under the National Institute on Alcoholism and Alcohol Abuse and transferred to the Indian Health Service.

After hearing of the concerns expressed by the Department of Interior and Department of Health and Human Services inspector general's offices regarding the delivery of alcoholism and substance abuse prevention and treatment services and the response of the Indian Health Service and the Bureau of Indian Affairs in the July 30, 1992 hearing on these programs, we have chosen to restore language in title VII which was originally contained in S. 2481 to reauthorize these programs. Alcoholism and substance abuse are often times the leading causes of virtually every adverse physical, social and behavioral health condition affecting Indian people. Thus, the committee has chosen to continue efforts established under the Indian Juvenile Alcohol and Drug Abuse Act of 1986 through the year 2000 and to define the responsibilities for the Indian Health Service in carrying out these programs under these amendments.

Finally, the changes to title VIII of the act, related to a land transfer between the Bureau of Indian Affairs and the IHS, leases between the IHS and Indian tribal governments, the creation of an Office of Indian Women's Health Care as suggested by Senator DOMENICI, amendments to the Public Health Service Act to give priority to meeting the needs of the IHS under the National Health Service Corps, and an amendment requested earlier by Senator BURDICK which requires the BIA and IHS in the establishment of related projects to give priority to locating such facilities and projects on Indian lands.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, we have cleared these changes and I support Senator INOUYE in this amendment.

Mr. INOUYE. Mr. President, I urge the adoption of these amendments.

LOCATION OF PROJECTS ON INDIAN LANDS

Mr. INOUYE. Mr. President, on behalf of Senator BURDICK and others, I have sent to the desk an amendment to S. 2481, the bill to reauthorize the Indian Health Care Improvement Act. The amendment will give priority to Indian reservation lands for the location of projects and facilities of the Indian Health Service and the Bureau of Indian Affairs.

Mr. President, the Nation's Indian reservations suffer from unemployment rates that range from 30 and 85 percent. American Indians have the lowest standard of living and the most severe social problems of any people in the United States. Numerous hearings and reports concerning American Indians conclude that unemployment is the primary factor contributing to the economic distress on Indian reservations.

The priority to Indian reservation land amendment would require the Indian Health Service [IHS] and the Bureau of Indian Affairs [BIA] to give priority to Indian reservation lands when these agencies are planning to construct or relocate service facilities or employment projects. The legislation would require IHS and BIA to take into consideration the long-term benefit of employment opportunities on Indian reservation lands that would result from the siting of facilities and projects on Indian lands. The cost benefits of employment opportunities to the Indian reservation ultimately will result in the reduction of Indian health care and related Indian affair costs due to economically distressed areas such as Indian reservation lands.

I urge my colleagues in the Senate to support this important amendment.

OFFICE OF INDIAN WOMEN'S HEALTH, INDIAN HEALTH SERVICE

Mr. DOMENICI. Mr. President, the bill before us today includes my amendment to create a new Office of Indian Women's Health in the Indian Health Service [IHS] of the Public Health Service [PHS], U.S. Department of Health and Human Services [HHS].

I have become convinced of the importance of such a permanent office in IHS after reviewing "Indian Women's Health Issues", a final report following a roundtable conference held in Tucson, AZ, January 9 and 10, 1991. This conference was sponsored by IHS, Office of Planning, Evaluation and Legislation.

The Tucson Roundtable Conference identified nine of the most important health issues facing Indian women today. They reported that "factors such as poverty, racism, sexism, abuse, and cultural loss are all contributing factors to the prevention, intervention, early detection and treatment of such major killers as cervical cancer, type II diabetes, accidents, cirrhosis of the liver, and violence."

Specific recommendations and strategies were developed in nine key areas of concern by the conference. The most immediate Indian women's health problems identified are:

Breast and cervical cancer; diabetes; reproductive care; alcoholism and substance abuse; poor self-esteem; domestic violence; inadequate research; neglect of the elderly; and access to care.

This conference concluded, "If the IHS and tribal communities are to effectively address Indian women's health, they must understand her relationship to her cultural, social, physical, and spiritual environment."

A national Indian Women's Health Conference is in the planning stages for fiscal year 1993. It will use the Tucson Roundtable findings as recommendations for a base.

The Public Health Service in HHS has an Action Plan for Women's Health, published in September 1991. This plan includes detailed goals, strategies, action steps, and mileposts for improving the health care of Indian women through the Indian Health Service which is a part of the Public Health Service. There is also an ongoing Women's Task Force in the IHS.

I believe, Mr. President, that the excellent work done to date cannot be ignored, and it must become a permanent part of the IHS to continue to ensure the best health care possible for Indian women.

The special health needs of Indian women are addressed in another part of the bill before us, S. 2481, the Indian Health Care Amendments Act of 1992. Section 718 of this bill creates Indian women treatment programs. These are competitive grants to develop and implement a comprehensive program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the cultural, historical, social, and child care needs of Indian women.

Therefore, Mr. President, we see that the special care needs of Indian women are being addressed both by the PHS women's health initiative and its related IHS task force and roundtable, as well as with new competitive grants to help alleviate specific concerns that are recognized to be of critical importance to women.

My amendment will enhance both major efforts by ensuring that Indian women receive the ongoing attention of IHS in annual efforts to identify problem areas and recommend solutions to the Congress.

This is accomplished by creating the Office of Indian Women's Health that will make these Indian women's initiatives an integral part of the IHS structure. Continuing assessments will be made of the status of Indian women's health conditions and care. The IHS will recommend strategies for improving these conditions and will include improvements in the design of women's health programs. The permanent new office will serve to help the IHS become and remain more alert to the special cultural conditions of Indian women as these conditions impact on health care needs.

This office would be responsible for overseeing all efforts of the IHS to monitor and improve the quality of health care for Indian women in the planning and delivery of all IHS programs. This charge would include the development of programs in all IHS centers, clinics, and hospitals to improve and enhance the treatment models of care for Indian women and Indian girls of all ages. This integrative approach further ensures that women's unique concerns are taken into account in all IHS strategies and programs.

The Office of Indian Women's Health Care would serve all IHS beneficiaries including American Indian and Alaska Native women.

Key functions of the office would be:

First, update all basic IHS information systems to include the collection and analysis of data pertinent to documenting the level and quality of health care being received by Indian women through the IHS and related contractors. Any special studies by the IHS will be reviewed in the design phases to insure that Indian women are appropriately included.

Second, establish and maintain an active Indian women's health agenda to include the identification of priority areas of service. Existing efforts to identify these priorities such as the Indian Women's Task Force and Roundtable Conference will be incorporated into this agenda.

Third, insure that the priority areas identified in the agenda become an integral part of the planning and evaluation processes for all IHS delivery systems.

Fourth, require that the Indian women's agenda be translated into action plans with appropriate annual budget requests to implement services, equipment, personnel, and other changes necessary to improve the delivery of health services to Indian women.

Fifth, allow for differences in priorities by IHS areas. The action plan will make maximum utilization of area office capabilities and facilities. It will also recommend ways to coordinate additional government, tribal, and private resources to accomplish the plans.

Sixth, include the findings, recommendations, agenda, action plans, and other relevant information in the annual IHS reports to Congress.

It is anticipated that the key office functions described above will result in further documentation of the special health care needs of Indian women and practical ways to address them. The office is most likely to begin with the nine problem areas described above and will have the capacity to address new problems as they arise.

At the request of the administration, my amendment does not include as associate director for this office. Rather, the administration would prefer to organize this office under a Women's Health Coordinator to accomplish the goals and purposes of the office. Whether a coordinator or associate director is finally chosen is left to the discretion of the IHS Director.

We provide an authorization of such sums as necessary to implement the purposes of this office. We will also require that the setting of the Indian women's health agenda and its priorities include the active participation of Indian women beneficiaries.

Finally, I would like to thank the members of the Senate Select Committee on Indian Affairs with special thanks to chairman INOUYE and vice chairman MCCAIN for their support of this amendment in the manager's floor amendment. Their long and consistent efforts to improve the health care of American Indians and Native Alaskans deserves the recognition and gratitude of our colleagues.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3089) was agreed to.

Mr. CONRAD. Mr. President, I rise today in support of S. 2481, a bill to amend the Indian Health Care Improvement Act. One would be hard-pressed to identify an area in which there is a more telling disparity between the general population and the American Indian population than in the area of health care. This legislation, which I have cosponsored, seeks to eliminate health deficiencies among Native Americans and to ensure that the health status of Native Americans meets minimum standards by the year 2000. The bill will accomplish this by getting to the root of the health problems in Indian country.

S. 2481 is an extensive bill, so I will highlight only a few of its provisions. Among the most notable provisions in this legislation are those relating to substance abuse—a problem of devastating proportions on Indian reservations. According to the Indian Health Service, the alcoholism rate among American Indians is six times the national average, while the alcoholism death rate for American Indians is four times the national average.

Unfortunately, this upward trend in substance abuse has aggravated a related and equally devastating problem on Indian reservations: fetal alcohol syndrome. Although recognized as the leading cause of mental retardation in the United States, fetal alcohol syndrome, if given the proper attention, is entirely preventable. I wish to commend the committee, and particularly my colleague from South Dakota, Senator DASCHLE, for making such a strong effort to combat this appalling disease.

S. 2481 requires the Indian Health Service to assess the scope of substance and alcohol abuse among the American Indian population and to focus more fully on such prevalent problems as fetal alcohol syndrome and the lack of residential facilities for pregnant women. The bill authorizes the Secretary of Health and Human Services to make fetal alcohol syndrome grants to provide community and in-school training and education on the disease, to provide vocational support and counseling to fetal alcohol syndrome-affected persons, and to develop prevention and intervention models.

This legislation would also establish the regional youth alcohol and substance abuse prevention and treatment center in Arizona, would use the Medicare and Medicaid Programs to grant Indian people better access to improved health facilities and services, and would ensure that native Americans in urban areas have access to much-needed health services.

In addition, S. 2481 addresses a problem which is often overlooked but which has serious implications for the future of Indian health care: the severe shortage of native Americans in health-related professions. The Indian Health Service quite simply does not have the resources to recruit and retain qualified physicians, nurses, and other health care personnel. Therefore, this bill authorizes the IHS to use educational grants and programs to recruit, train, and retain health professionals.

One area in which I have taken a special interest is the availability of psychiatric care. Earlier this year, the Journal of the American Medical Association published an extremely disturbing survey of more than 13,000 American Indian and Alaska Native teenagers. As described in the survey, the world of native American teenagers is too often a world of hopelessness. Many fall prey to drug and alcohol addiction, experience parental neglect and sexual abuse, and die at much too early an age. According to this study, native American teenagers have approximately twice the death rate of teenagers in any other racial group. In 1986, for example, the rate for Indians and Alaska Natives between the ages of 15 and 19 was 190 deaths per 100,000, compared to 81 per 100,000 among all American teens. By the end of high school, one out of five Indian girls and one out of eight Indian boys have attempted suicide.

Let me just toss out a few more telling statistics from this same survey: 33 percent of native American youth report never having driven under the influence of alcohol; 18 percent report that they have been a victim of sexual or physical abuse, or both; well over a third of males and over half of females in grades 7-9—we're talking here about kids 12 to 15 years old—report having had sexual intercourse and not using birth control; and approximately 14 percent may be at high risk for future health problems due to such things as insufficient exercise, consistent use of tobacco, and diets high in fat and cholesterol and low in vegetables, fruits and fibers. These are not simply physical ailments, but fundamental psychological and emotional problems that must be given direct and immediate attention.

Unfortunately, the lack of Indian personnel in the field of psychology has created a serious cultural gap in the delivery of mental health care to Indian people. At my request, the committee included a provision in S. 2481 to make grants available to at least three colleges and universities for the purpose of developing and maintaining American Indian psychology careers recruitment programs. One of these grants would supplement the Indians Into Medicine Program at the University of North Dakota.

Also established by this legislation will be the Quentin N. Burdick Indian Health Program to coordinate the Indian health training programs available at the University of North Dakota. As a veteran member of the Senate Select Committee on Indian Affairs, Quentin Burdick was tireless in his efforts to improve the lives of Native Americans. He was committed to providing Indian people not only with the kind of quality health care that all Americans deserve, but also the opportunity to become active contributers to the health care profession. Quentin Burdick is a cosponsor of S. 2481, and I am very sorry that he will not be here to witness its passage.

Mr. President, I yield the floor.

Mr. DASCHLE. Mr. President, the Select Committee on Indian Affairs, under Chairman DANIEL INOUYE, has worked many months on the reauthorization of the Indian Health Care Improvement Act. The result of this effort is before us today.

I am grateful for the opportunity to have held a hearing at Lower Brule, SD, on this subject in April, and to know that the testimony given there was contributed to the shaping of this legislation. I want to take a moment to commend and thank the Aberdeen Area Indian Health Service Tribal Chairmen's Association for their considerable contribution to the planning and substance of the hearing at Lower Brule. I endeavored, in cooperation with the association, to ensure the Aberdeen area tribes' participation in the reauthorization of this major health bill. This hearing contributed to solid recommendations to the Select Committee for improving the health status of those served not only by the Indian Health Service in the Aberdeen area, but nationally as well.

I believe that the Tribal Chairmen's Association in the Aberdeen area is one of the most active and effective in the Nation. Their efforts are aimed at dealing with some of the worst health statistics in the Nation:

The Aberdeen area continues to lead the IHS with 19.8 infant deaths per 1,000 live births.

The age-adjusted mortality rate for alcoholism for the Aberdeen area is 11 times higher than that of the United States all races.

The diabetes mortality rate is almost 4 times that of United States all races.

The life expectancy of the Aberdeen area is 66.3 years compared to that of United States all races, which is 75.0 years.

Age-adjusted mortality for heart disease for the Aberdeen area is over 1½ times that of the United States all races as well as being the worst in the IHS.

I intend to continue to work with the association until we no longer have to quote statistics like these.

The enactment of the Indian Health Care Improvement Act in 1976 marked a turning point in Federal Indian health care. Along with the Indian Self-Determination Act, the Indian Health Care Improvement Act clearly acknowledges the unique legal relationship between the Federal Government and American Indians and Alaska Natives and the resulting responsibility to maintain and improve the health of these people. The original act clearly identified the Federal responsibility and noted the deficiencies both in Indian health status and in the resources necessary to provide adequate health services. The act itself was a comprehensive, coordinated set of actions to ensure adequate health manpower for Indian Health Service facilities through recruitment and scholarships (title I), increased resources for a defined series of curative and preventive health services (title II), a consistent effort to provide adequate Indian hospitals, health centers, and other health facilities and safe water and sanitary waste disposal for American Indian homes and communities (title III), improved access to, and improved quality of, health services for Indian people by authorizing the Indian Health Service to receive reimbursements for Medicare and Medicaid (title IV) and health services for urban Indians (title V).

As a result, for the first time, Indian tribal governments and their constituents had a clear vision of their opportunity to receive high-quality comprehensive health services meeting the same high national standards established for other citizens, and to participate fully with the Federal Government in the planning and operation of these services.

The Federal Government has a great responsibility when it comes to meeting the health care delivery needs of our Nation's first citizens. However, we also need a more flexible approach to Indian health programs so that tribes can be more involved in assessing priorities, and in designing and implementing delivery systems to address these priorities.

S. 2481, the bill we have before us today, builds on the original act. It has my wholehearted support.

Mr. President, there are three subjects in this legislation on which I would like to comment because they are of particular concern: First, I believe this bill makes an important attempt to deal with the problem of Fetal Alcohol Syndrome Effect through grants and education programs. Second, a serious problem in the Aberdeen area is the difficulty of obtaining adequate health professionals to staff the remote and isolated reservation service units. This bill gives us some much-needed tools to attract and maintain health professionals. Finally, Mr. President, this bill addresses a major concern of the Aberdeen area tribal chairmen, and that is the possible closure of inpatient facilities. The bill emphasizes the importance of ensuring that the quality of health care will in no way be diminished before an inpatient facility is closed.

The legislation we have before us today is an important step in our continuing efforts to obtain quality health care for Indian people.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

(The text of S. 2481, as passed by the Senate, will be printed in a future edition of the RECORD.)

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON CALENDAR

Mr. FORD. Mr. President, I ask unanimous consent that H.R. 3591, the Federally Supported Health Centers Assistance Act just received from the House be placed upon the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIVE AMERICAN VETERANS' HOME LOAN EQUITY ACT OF 1992

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 641, S. 2528 relating to housing loans to native American veterans; that the committee substitute amendment be agreed to; that the bill be read a third time, passed, and the motion to reconsider be laid upon the table; and that any statements relative to the passage of this item appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I urge my colleagues to support S. 2528, the proposed "Native American Veterans Loan Equity Act of 1992," which was introduced by my friend and fellow committee member, Senator AKAKA. I am proud to be an original cosponsor of this bill, which was reported by our committee on August 12, 1992 (S. Rept. No. 102-378), to establish a pilot program of direct home loans for native American veterans who live or wish to live on trust lands.

Mr. President, I congratulate my good friend, Senator AKAKA, for his work on this bill, which I believe will help us begin to overcome the legal and economic barriers that effectively have precluded native American veterans living on reservations and other trust lands from using VA home loan benefits that they have earned through service to our country.

Mr. President, Senator AKAKA's bill builds on a foundation established by his distinguished predecessor and my friend, the late Senator Spark Matsunaga, who introduced a similar bill in the 101st Congress, S. 1146.

The pilot program in this bill is designed to enable the VA to determine whether a direct-loan program effectively can provide the home loan benefits that are not available to these veterans through the VA-guaranteed home loan program. The guaranteed loan program relies on private lenders, who do not make home mortgage loans with respect to residences on trust lands because they cannot obtain a traditional security interest in the property. The pilot program is a modest, innovative approach that leaves a great deal of flexibility for the VA and tribal governments to tailor the program to the widely varying needs and circumstances of individual native American veterans and native American groups. The bill requires the VA to work out with individual tribal organizations appropriate arrangements to implement and administer the program in a manner that provides reasonable protection for the Government's financial interest without violating the rights of native Americans under their trust relationship with the Government.

Mr. President, it has been a pleasure to work with Senator AKAKA on this bill. I want to note the excellent and tireless work on this legislation by a senior member of his staff, John Tagami, who also worked on this issue as a member of Senator Matsunaga's staff. I also want to acknowledge the inspiring grassroots efforts of various groups and individuals representing native American veterans and Indian housing interests, including the Native American Veterans Coordinating Council.

I also am grateful to our committee's ranking Republican member, Mr. SPECTER, and all other members of the committee for their cooperation on this measure and, for the fine work of the committee staff—on the minority side, Quentin Kinderman, and Tom Roberts; the committee's editorial director, Roy Smith; and on the majority staff, Neil Koren, Bill Brew, and Ed Scott.

I urge all of my colleagues to support this important bill to help ensure that all veterans have access to the benefits they earned while serving our country.

Mr. SPECTER. Mr. President, as ranking Republican member of the Committee on Veterans' Affairs, I am pleased to support passage of S. 2528. This bill would require the Secretary of Veterans' Affairs to establish a 5-year pilot program of direct loans to enable native American veterans to purchase homes on reservations.

This bill, originally introduced by Senator AKAKA, would assist our native American veterans by making available to them a benefit that has long been enjoyed by other veterans of this country: The right to use their entitlement to a veterans' home loan guaranty to purchase a home in the location in which they wish to live.

There are, according to VA studies, approximately 170,000 native American veterans, about half of whom live on reservations or other trust lands. Although many of these deserving veterans are eligible for the VA home loan program, there are no documented instances where a VA home loan has been issued to a native American for a home on trust land.

The reasons for this are well documented, and include the poor economic conditions on many reservations, as well as the unique legal status of tribal lands, and other disincentives to private lenders associated with making loans on tribal property.

This bill, Mr. President, would create a pilot program to help find a way that these deserving veterans can achieve what many of us take for granted, acquiring a home of one's own. S. 2528 would create a $5 million, 5-year test program to determine if a direct loan process is the solution to this problem.

The bill has been drafted carefully to protect the interests of the Government as well as those of veterans, with specific limits on the maximum loan, the maximum interest rate, and a mechanism to give VA a security interest in the residence for which the loan is guaranteed. If this pilot program is successful, as I am confident it will be, it will result in a significant improvement in the quality of life of many native American veterans, and also bring much needed employment and commerce to the native American communities affected.

In closing, I would like to thank the staff who worked so hard to prepare this bill: John Tagami from Senator AKAKA's staff; Neil Koren, Michael Cogan, Bill Brew, and Ed Scott from the majority staff; and Quent Kinderman and Tom Roberts of my staff.

Mr. President, helping our native American veterans to utilize the benefits that they earned serving this country with honor and courage is an important goal of the Congress. This measure takes an important step in that direction.

I urge my colleagues to support S. 2528.

Mr. AKAKA. Mr. President, it is with great pleasure that I note the imminent passage today of S. 2528, the Native American Veterans Home Loan Equity Act of 1992, which I introduced earlier this year with Senators CRANSTON, DECONCINI, DASCHLE, and INOUYE, and which was subsequently cosponsored by Senators MURKOWSKI, HOLLINGS, CONRAD, KENNEDY, and our dear and recently departed colleague, Senator Burdick.

The Veterans' Affairs Committee heard testimony on the bill last April 9 from representatives from VA, veterans service organizations, the native American community, and the financial and housing industry. On June 24, based on the highly supportive comments received at the hearing, the committee unanimously reported the legislation, with minor modifications.

As reported from committee, S. 2528 authorizes a 5-year, $5 million pilot program of direct VA home loan benefits to native American veterans—including American Indians, native Hawaiians, Pacific Islanders, and Alaskan Natives—to purchase, construct, or improve housing on trust lands. I am very pleased to note that appropriations to fund the full $5 million authorization has been provided in the fiscal year 1993 VA, HUD, and Independent Agencies appropriations measure, which this body recently adopted. Among other provisions, the legislation would:

Require VA to conduct the pilot program in a variety of geographic areas and in areas experiencing a range of economic circumstances;

Give VA the authority to enter into individually tailored agreements with tribal organizations—each of which has different political, administrative, and legal practices—regarding loan foreclosure, processing, enforcement, and other procedures.

Require the Secretary of Veterans Affairs to develop credit underwriting standards that take into account the general purpose of the bill, which is to make housing available to native American veterans on trust lands; and,

Establish a maximum individual loan amount of $80,000 with an interest rate no greater than the rate of VA-guaranteed loans, and require the veteran to pay closing costs and loan origination expenses. The Secretary would be authorized to exceed this limit in areas with high housing costs.

The purpose of S. 2528 is to make VA home loan entitlements available to the Nation's 170,000 native American veterans, as many as half of whom already resides on trust lands, who effectively cannot use their entitlement to VA-guaranteed loans to purchase or build homes on trust lands. In the half-century since the VA home loan program began, there has not been a single documented case of a native American veteran receiving a VA-guaranteed home loan on reservations or other trust lands. This is compared to the more than 13 million veterans who have been able to use their entitlement elsewhere to obtain more than $350 billion in loans to achieve the American dream of home ownership.

The reasons for this deplorable situation are several, Mr. President, including outright discrimination by lenders, higher costs of doing business on trust lands, and lack of VA outreach. In addition, the endemic unemployment and generally poor economic conditions which exist on many trust lands preclude many veterans from establishing income and credit histories acceptable to lenders.

However, arguably the most important obstacle facing native Americans in obtaining home loans is the legal status of trust lands. Banks and other lenders will simply not make loans to anyone, much less a native American veteran, for housing on trust land, which is inalienable and thus problematical as collateral or security. It is clear that lenders will never be induced to make loans to veterans for housing on trust lands without being given great financial inducements, and perhaps not even then. It is this legal barrier against the transfer of title of trust lands that S. 2528 attempts to address, by making the Federal Government the lender in place of private lenders.

Mr. President, S. 2528 is modeled in part on legislation introduced in the preceding Congress by my predecessor on this committee, the late Senator Spark Matsunaga, and is the product of extensive consultation with many individuals and parties, including VA, HUD, the Interior Department, veterans service organizations, the financial and housing industries, and the native American community.

Our bill is also based on the results of a July 1991 VA study required by this committee, "Assessment of the Utilization of the VA Home Benefit by Native American Veterans Living on Trust Land," conducted under contract by the consulting firm of Booz, Allen & Hamilton.

Special note must be made of the contributions of VA's Advisory Committee on native American Veterans, chaired by Mr. Ray Field, which first identified the problem that S. 2528 hopes to rectify, and of its successor organization, the Native American Veterans Coordinating Council. Should this bill become law, native American veterans will owe a debt of gratitude to Mr. Field and other committed native American veterans, including David Ortega Shaw, Richard Baker, and Judge Thomas Kaulukukui, who spent countless days working for adoption of this measure.

Finally, I would like to note the valuable technical and substantive advice provided by Senator CRANSTON, chairman of the Veterans' Affairs Committee, and the committee staff, particularly Ed Scott, Michael Cogan, and Neil Koren. Without their help, we would not be at this juncture today.

Mr. President, I am extremely pleased that the Senate is at last acting to correct a glaring inequity in the VA Home Loan Program. With passage of this measure, we are sending a message to native Americans everywhere that the U.S. Government recognizes their special needs, and is willing and able to take the steps necessary to address problems unique to their community.

Mr. MURKOWSKI. Mr. President, I rise to commend Veterans Affairs' Committee Chairman CRANSTON, as well as our colleague, Senator AKAKA of Hawaii, for so ably managing and today bringing to the floor for final action S. 2528, a bill that could promote Alaska Native veterans' obtaining VA home loans. I was pleased to be a cosponsor of this worthwhile legislation that will have direct impact on my home State of Alaska.

In the history of the VA Home Loan Program, Mr. President, no loans have ever been made to native Americans, including Alaska Natives, who wish to use their VA eligibility to purchase homes on Federal reservation or trust lands. Mr. President, over 13 million home loans have been made to veterans since the inception of the program after World War II, but not one VA loan or loan guaranty has ever been made to the members of a group veterans that is arguably most in need in housing assistance—native American veterans who choose to reside on reservations or on trust lands.

Mr. President, when my colleague from Hawaii originally developed this idea, I saw it as a wise and fair proposal, with only a very modest cost. I urge my colleagues to support final passage of this legislation, so that at long last we may be able to address a disturbing inequity affecting Alaska Native veterans and other native American veterans who wish to use their well-earned VA eligibility to purchase homes on trust lands. I believe that S. 2528—which authorizes a VA pilot program to meet this need and requires the Secretary of Veterans Affairs to make a report to Congress on these efforts—is a fair and equitable remedy.

S. 2528

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Veterans' Home Loan Equity Act of 1992".

SEC. 2. NATIVE AMERICAN VETERANS DIRECT HOUSING LOAN PILOT PROGRAM.

(a) PROGRAM.—Chapter 37 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM

"§ 3761. Pilot program

"(a) The Secretary shall establish and implement a pilot program under which the Secretary may make direct housing loans to Native American veterans. The purpose of such loans is to permit such veterans to purchase, construct, or improve dwellings on trust land. The Secretary shall establish and implement the pilot program in accordance with the provisions of this subchapter.

"(b) In carrying out the pilot program under this subchapter, the Secretary shall, to the extent practicable, make direct housing loans to Native American veterans who are located in a variety of geographic areas and in areas experiencing a variety of economic circumstances.

"(c) No loans may be made under this subchapter after September 30, 1997.

"§ 3762. Direct housing loans to Native American veterans

"(a) The Secretary may make a direct housing loan to a Native American veteran if—

"(1) the Secretary has entered into a memorandum of understanding with respect to such loans with the tribal organization that has jurisdiction over the veteran; and

"(2) the memorandum is in effect when the loan is made.

"(b)(1) Subject to paragraph (2), the Secretary shall ensure that each memorandum of understanding that the Secretary enters into with a tribal organization shall provide for the following:

"(A) That each Native American veteran who is under the jurisdiction of the tribal organization and to whom the Secretary makes a direct loan under this subchapter—

"(i) holds, possesses, or purchases using the proceeds of the loan a meaningful interest in a lot or dwelling (or both) that is located on trust land; and

"(ii) will purchase, construct, or improve (as the case may be) a dwelling on the lot using the proceeds of the loan.

"(B) That each such Native American veteran will convey to the Secretary by an appropriate instrument the interest referred to in subparagraph (A) as security for a direct housing loan under this subchapter.

"(C) That the tribal organization and each such Native American veteran will permit the Secretary to enter upon the trust land of that organization or veteran for the purposes of carrying out such actions as the Secretary determines are necessary—

"(i) to evaluate the advisability of the loan; and

"(ii) to monitor any purchase, construction, or improvements carried out using the proceeds of the loan.

"(D) That the tribal organization has established standards and procedures that apply to the foreclosure of the interest conveyed by a Native American veteran pursuant to subparagraph (B), including—

"(i) procedures for foreclosing the interest; and

"(ii) procedures for the resale of the lot or the dwelling (or both) purchased, constructed, or improved using the proceeds of the loan.

"(E) That the tribal organization agrees to such other terms and conditions with respect to the making of direct loans to Native American veterans under the jurisdiction of the tribal organization as the Secretary may require in order to ensure that the pilot program established under this subchapter is implemented in a responsible and prudent manner.

"(2) The Secretary may not enter into a memorandum of understanding with a tribal organization under this subsection unless the Secretary determines that the memorandum provides for such standards and procedures as are necessary for the reasonable protection of the financial interests of the United States.

"(c)(1)(A) Except as provided in subparagraph (B), the principal amount of any direct housing loan made to a Native American under this section may not exceed $80,000.

"(B) The Secretary may make loans exceeding the amount described in subparagraph (A) in a geographic area if the Secretary determines that housing costs in the area are significantly higher than average housing costs nationwide. The amount of such increase shall be the amount that the Secretary determines is necessary in order to carry out the pilot program under this subchapter in a manner that demonstrates the advisability of making direct housing loans to Native American veterans who are located in a variety of geographic areas and in geographic areas experiencing a variety of economic conditions.

"(2) Loans made under this section shall bear interest at a rate determined by the Secretary, which rate may not exceed the appropriate rate authorized for guaranteed loans under section 3703(c)(1) or section 3712(f) of this title, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as the Secretary may prescribe.

"(3) Notwithstanding section 3704(a) of this title, the Secretary shall establish minimum requirements for planning, construction or improvement, and general acceptability relating to any direct loan made under this section.

"(d)(1) The Secretary shall establish credit underwriting standards to be used in evaluating loans made under this subchapter. In establishing such standards, the Secretary shall take into account the purpose of this program to make available housing to Native American veterans living on trust lands.

"(2) The Secretary shall determine the reasonable value of the interest in property that will serve as security for a loan made under this section and shall establish procedures for appraisals upon which the Secretary may base such determinations. The procedures shall incorporate generally the relevant requirements of section 3731 of this title, unless the Secretary determines that such requirements are impracticable to implement in a geographic area, on particular trust lands, or under circumstances specified by the Secretary.

"(e) Loans made under this section shall be repaid in monthly installments.

"(f) In connection with any loan under this section, the Secretary may make advances in cash to provide for repairs, alterations, and improvements and to meet incidental expenses of the loan transaction. The Secretary shall determine the amount of any expenses incident to the origination of loans made under this section, which expenses, or a reasonable flat allowance in lieu thereof, shall be paid by the veteran in addition to the loan closing costs.

"(g) Without regard to any provision of this chapter (other than a provision of this section), the Secretary may—

"(1) take any action that the Secretary determines to be necessary with respect to the custody, management, protection, and realization or sale of investments under this section;

"(2) determine any necessary expenses and expenditures and the manner in which such expenses and expenditures shall be incurred, allowed, and paid;

"(3) make such rules, regulations, and orders as the Secretary considers necessary for carrying out the Secretary's functions under this section; and

"(4) in a manner consistent with the provisions of this chapter and with the Secretary's functions under this subchapter, employ, utilize, and compensate any persons, organizations, or departments or agencies (including departments and agencies of the United States) designated by the Secretary to carry out such functions.

"(h) The Secretary shall carry out an outreach program to inform and educate tribal organizations and Native American veterans of the pilot program provided for under this subchapter and the availability of direct housing loans for Native American veterans who live on trust lands.

"§ 3763. Housing loan program account

"(a) There is hereby established in the Treasury of the United States an account known as the 'Native American Veteran Housing Loan Program Account' (hereafter in this subchapter referred to as the 'Account').

"(b) The Account shall be available to the Secretary to carry out all operations relating to the making of direct housing loans to Native American veterans under this subchapter, including any administrative expenses relating to the making of such loans. Amounts in the Account shall be available without fiscal year limitation.

"§ 3764. Definitions

"For the purposes of this subchapter—

"(1) The term 'trust land' means any land that—

"(A) is held in trust by the United States for Native Americans;

"(B) is subject to restrictions on alienation imposed by the United States on Indian lands (including native Hawaiian homelands);

"(C) is owned by a Regional Corporation or a Village Corporation, as such terms are defined in section 3(g) and 3(j) of the Alaska Native Claims Settlement Act, respectively (43 U.S.C. 1602(g), (j)); or

"(D) is on any island in the Pacific Ocean if such land is, by cultural tradition, communally-owned land, as determined by the Secretary.

"(2) The term 'Native American veteran' means any veteran who is a Native American.

"(3) The term 'Native American' means—

"(A) an Indian, as defined in section 4(a) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(a));

"(B) a native Hawaiian, as that term is defined in section 201(a)(7) of the Hawaiian Homes Commission Act, 1920 (Public Law 67-34; 42 Stat. 108);

"(C) an Alaska Native, within the meaning provided for the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); and

"(D) a Pacific Islander, within the meaning of the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.).

"(4) The term 'tribal organization' shall have the meaning given such term in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c)) and shall include the Department of Hawaiian Homelands, in the case of native Hawaiians, and such other organizations as the Secretary may prescribe.".

(b) CONSULTATION.—In carrying out the direct housing loan pilot program authorized under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)) the Secretary of Veterans Affairs shall consider the views and recommendations, if any, of the Advisory Committee on Native-American Veterans established under section 19032 of the Veterans' Health-Care Amendments of 1986 (title XIX of Public Law 99-272; 100 Stat. 388).

(c) CONFORMING AMENDMENT.—The table of sections of such chapter is amended by adding at the end the following new matter:

"SUBCHAPTER V—NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM

"3761. Pilot program.

"3762. Direct housing loans to Native American veterans.

"3763. Housing loan program account.

"3764. Definitions.".

SEC. 3. ANNUAL REPORTS.

Not later than February 1 of each of 1994 through 1998, the Secretary of Veterans Affairs shall transmit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report relating to—

(1) the implementation of the Native American veterans direct housing loan pilot program established under subchapter V of chapter 37 of title 38, United States Code (as added by section 2) during the period ending on September 30 of the year preceding the date of the report;

(2) the Secretary's exercise of the authority provided under section 3762(c)(1)(B) of such title (as so added) to make loans exceeding the maximum loan amount;

(3) the appraisals performed for the Secretary during that period under the authority of section 3732(d)(2) of such title (as so added), including a description of—

(A) the manner in which such appraisals were performed;

(B) the qualifications of the appraisers who performed such appraisals; and

(C) the actions taken by the Secretary with respect to such appraisals to protect the interests of veterans and the United States; and

(3) the Secretary's recommendations, if any, for legislation regarding the pilot program.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

New direct loan obligations for Native American veteran housing loans under subchapter V of chapter 37 of title 38, United States Code (as added by section 2), may be incurred only to the extent that appropriations of budget authority to cover the anticipated cost, as defined in section 502 of the Congressional Budget Act of 1974, for such loans are made in advance. There is authorized to be appropriated for such purpose $5,000,000 for fiscal year 1993, which amount shall remain available without fiscal year limitation.

Mr. FORD. Mr. President, I yield the floor.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:09 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 680. An act to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism in the United States, and for other purposes;

H.R. 4551. An act to amend the Civil Liberties Act of 1988 to increase the authorization for the Trust Fund under that Act, and for other purposes; and

S.J. Res. 337. Joint resolution designating September 18, 1992, as "National POW/MIA Recognition Day", and authorizing display of the National League of Families POW/MIA flag.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore [Mr. BYRD].

At 2:13 p.m., a message from the House of Representatives, delivered by Mr. Hayes, one of its reading clerks, announced that the House has disagreed to the amendments of the Senate numbered 1 through 68 to the bill (H.R. 5620) making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes; and that it agrees to the amendment of the Senate numbered 69 to the said bill, with an amendment, in which it requests the concurrence of the Senate.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3591. An act to amend the Public Health Service Act to provide protections from legal liability for certain health care professionals providing services pursuant to such Act.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 1537. A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to transportation, as subtitles II, III, and V–X of title 49, United States Code, "Transportation", and to make other technical improvements in the Code (Rept. No. 102–410).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2788. A bill to amend title III of the Marine Protection, Research, and Sanctuaries Act of 1972 to authorize appropriations for fiscal years 1993 through 1995, and for other purposes (Rept. No. 102–411).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment and an amendment to the title:

H.R. 2014. A bill to designate the United States Post Office Building located at 153 East 110th Street, New York, New York, as the "Oscar Garcia Rivera Post Office Building".

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

H.R. 4539. A bill to designate the general mail facility of the United States Postal Service in Gulfport, Mississippi, as the "Larkin I. Smith General Mail Facility" and the facility of the United States Postal Service in Poplarville, Mississippi, as the "Larkin I. Smith Post Office".

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment and an amendment to the title:

H.R. 4786. A bill to designate the facility of the United States Postal Service located at 20 South Main in Beaver City, Utah, as the "Abe Murdock United States Post Office Building".

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

H.R. 5453. A bill to designate the Central Square facility of the United States Postal Service in Cambridge, Massachusetts, as the "Clifton Merriman Post Office Building".

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 316. A bill to provide for treatment of Federal pay in the same manner as non-Federal pay with respect to garnishment and similar legal process.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 102–32. Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms (Exec. Rept. 102–53).

TEXT OF RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION AS RECOMMENDED BY THE COMMITTEE ON FOREIGN RELATIONS

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms signed at Moscow on July 31, 1991, including Annexes on Agreed Statements and Definitions; Protocols on Conversion or Elimination, Inspection, Notification, Throw-weight, Telemetry, and Joint Compliance and Inspection Commission, Memorandum of Understanding (all transmitted within Treaty Doc. 102–20), the Corrigenda of December 19, 1991, and the Protocol to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms signed at Lisbon, Portugal, on May 23, 1992, between the United States of America and the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation and Ukraine, as successor states of the former Union of Soviet Socialist Republics in connection with the START Treaty (transmitted within Treaty Doc. 102–32 and hereinafter referred to as the May 23, 1992 Protocol); all such documents being integral parts of and collectively referred to as, the "START Treaty", subject to the following:

(a) CONDITIONS.—The Senate's advice and consent to the ratification of the START Treaty is subject to the following conditions, which shall be binding upon the President:

(1) BINDING OBLIGATIONS.—That upon entry into force of the START Treaty, including the May 23, 1992 Protocol, the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation and Ukraine shall be legally bound under international law to all the obligations of the Union of Soviet So-

cialist Republics set forth in the START Treaty, its two Annexes, six Protocols, Memorandum of Understanding and Corrigenda.

(2) LEGAL AND POLITICAL OBLIGATIONS OF USSR.—That the legal and political obligations of the Union of Soviet Socialist Republics reflected in the four related separate agreements, seven legally binding letters, four areas of correspondence, two politically binding declarations, thirteen joint statements and ten other statements on related issues transmitted in Treaty Doc. 102-20 for the information of the Senate with the START Treaty are included in the "obligations of the former Union of Soviet Socialist Republics under the Treaty" assumed by the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine pursuant to Article I of the May 23, 1992 Protocol, and that the legal obligations assumed therein are of the same force and effect as the provisions of the Treaty. The United States shall regard actions inconsistent with these legal obligations as equivalent under international law to actions inconsistent with the START Treaty. This condition shall be communicated by the President to the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation and Ukraine, in such form as he deems appropriate.

(3) BYELARUS, KAZAKHSTAN AND UKRAINE LETTERS.—That the letter from Chairman Shushkevich of the Supreme Soviet of the Republic of Byelarus to President Bush dated May 20, 1992; the letter from President Nazarbayev of the Republic of Kazakhstan to President Bush dated May 19, 1992; and the letter from President Kravchuk of Ukraine to President Bush dated May 7, 1992 (all having been submitted to the Senate as associated with the May 23, 1992 Protocol in Treaty Doc. 102-32), being obligations legally binding only in the event of ratification of the START Treaty, are of the same force and effect as the provisions of the Treaty. The United States shall regard actions inconsistent with these obligations as equivalent under international law to actions inconsistent with the START Treaty. This condition shall be communicated by the President to the Republic of Byelarus, the Republic of Kazakhstan and Ukraine, in such form as he deems appropriate.

(4) NUCLEAR NON-PROLIFERATION TREATY.—That the obligations of the Republic of Byelarus, the Republic of Kazakhstan and Ukraine to adhere to the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968 as non-nuclear-weapon States Parties in the shortest possible time, set forth in Article V of the May 23, 1992 Protocol, are of the same force and effect as the provisions of the Treaty. The United States shall regard actions inconsistent with these obligations as equivalent under international law to actions inconsistent with the START Treaty. This condition shall be communicated by the President to the Republic of Byelarus, the Republic of Kazakhstan and Ukraine in such form as he deems appropriate.

(5) IMPLEMENTATION ARRANGEMENTS.—If the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine have not made arrangements to implement the START Treaty's limits and restrictions, and to allow functioning of the verification provisions of the Treaty equally and consistently throughout the territory of the Republic of Byelarus, the Republic of Kazakhstan, the Russian Federation, and Ukraine, as agreed to in Article II of the May 23, 1992 Protocol, or worked out a basis to participate in the Joint Compliance and Inspection Commission, as agreed to in Article IV of the May 23, 1992 Protocol, by the date of entry into force of the Treaty, then the President—

(A) shall consult with the Senate regarding the effect on the START Treaty of such developments; and

(B) shall seek on an urgent basis a meeting at the highest diplomatic levels to gain agreement on the completion of the aforesaid arrangements.

(6) ELIMINATION OF NUCLEAR WEAPONS FROM BYELARUS, KAZAKHSTAN AND UKRAINE.—If the Republic of Byelarus, the Republic of Kazakhstan and Ukraine have not eliminated all nuclear weapons located on their territory and have not eliminated, in accordance with the procedures of the START Treaty, all strategic offensive arms located on their territory, within seven years following the date of entry into force of the START Treaty, as agreed to in legally binding letters submitted to the Senate in connection with the May 23, 1992 Protocol in Treaty Doc. 102-32, then the President—

(A) shall consult with the Senate regarding the effect on the START Treaty of such developments,

(B) shall, if the President determines that failure to eliminate, within seven years following the date of entry into force of the START Treaty, all nuclear weapons, including all strategic offensive arms, located on the territories of the Republic of Byelarus, the Republic of Kazakhstan and Ukraine is of such significance as to constitute a changed circumstance affecting the treaty's object and purpose, and if the President decides not to invoke the withdrawal right under Article XVII of the Treaty, the President shall request a meeting of the Joint Compliance and Inspection Commission in accordance with Article XV of the Treaty, to assess the viability of the Treaty and to ascertain if an amendment is needed to accommodate the change of circumstance, or the President shall undertake other appropriate diplomatic steps; and

(C) shall, if the President has made the determination and decision described in subparagraph (B)—

(i) submit for the Senate's advice and consent to ratification any change in the obligations of the States Parties under the Treaty that is designed to accommodate such circumstance and is agreed to by all States Parties, unless such change is a minor matter of an administrative or technical nature; or

(ii) if no such change in the obligations of the States Parties is agreed to by all States Parties but the President determines nonetheless that continued adherence to the START Treaty would serve the national security interests of the United States, the President shall seek a Senate resolution of support of such continued adherence, notwithstanding the changed circumstance affecting the Treaty's object and purpose.

(7) PRESIDENTIAL REPORT ON TREATY COMPLIANCE.—Within 180 days of the Senate's giving its advice and consent to ratification of the Treaty, the President shall submit to the Senate an updated and expanded compliance report in classified and unclassified form, setting forth—

(A) a listing and discussion of the actions which are violations or probable violations of the obligations of the SALT I Interim Agreement, SALT II, ABM, INF and START Treaties, and the ultimate resolution of these issues;

(B) a listing and discussion of the actions which are in compliance with the SALT I Interim Agreement, SALT II, ABM, INF and START Treaties; and

(C) a comparison of the military significance of those actions listed in subparagraphs (A) and (B).

(8) NUCLEAR STOCKPILE WEAPONS ARRANGEMENT.—In as much as the prospect of a loss of control of nuclear weapons or fissile material in the former Soviet Union could pose a serious threat to the United States and to international peace and security, in connection with any further agreement reducing strategic offensive arms, the President shall seek an appropriate arrangement, including the use of reciprocal inspections, data exchanges, and other cooperative measures, to monitor—

(A) the numbers of nuclear stockpile weapons on the territory of the parties to this Treaty; and

(B) the location and inventory of facilities on the territory of the parties to this treaty capable of producing or processing significant quantities of fissile materials.

(b) DECLARATIONS.—The Senate's advice and consent to ratification of the START Treaty is subject to the following declarations, which express the intent of the Senate:

(1) SUBSTANTIAL FURTHER REDUCTIONS.—Cognizant of the United States' obligation under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons of July 1, 1968 "to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control", the Senate finds that the President entered into a Joint Understanding of June 17, 1992, on behalf of the United States, with President Yeltsin, on behalf of the Russian Federation, agreeing to conclude promptly a treaty providing for substantial further reductions in strategic offensive arms. The Senate encourages the conclusion of such a treaty at the earliest possible date and will give it prompt consideration upon submission by the President for advice and consent to ratification. In anticipation of the completion, ratification, and entry into force of a treaty with the Russian Federation for substantial further reductions in strategic arms, the Senate calls upon the other nuclear-weapons-states to give careful and early consideration to corresponding reductions of their own nuclear arsenals.

(2) MISSILE TECHNOLOGY CONTROL REGIME.—The Senate urges the President to seek the adherence by the Republic of Byelarus, the Republic of Kazakhstan and Ukraine to the guidelines of the Missile Technology Control Regime.

(3) ELIMINATION AND DISMANTLEMENT OF NUCLEAR WARHEADS.—The Senate commends the Republic of Byelarus, the Republic of Kazakhstan, and Ukraine for eliminating the tactical nuclear warheads from their territories and urges the rapid elimination of the strategic nuclear warheads from their territories pursuant to their obligations under the START Treaty. The Senate urges the President to instruct the Safety, Security and Dismantlement negotiators to proceed expeditiously to obtain the destruction of all nuclear warheads from eliminated systems and to facilitate secure safeguarded storage of the special nuclear material withdrawn from eliminated weapons.

(4) TREATY INTERPRETATION.—The Senate affirms the applicability to all treaties of the constitutionally based principles of treaty interpretation set forth in Condition (1) of

the Resolution of Ratification with respect to the INF Treaty, approved by the Senate on May 27, 1988.

(5) FURTHER ARMS REDUCTION OBLIGATIONS.—The Senate declares its intention to consider for approval international agreements that would obligate the United States to reduce or limit the Armed Forces or armaments of the United States in a militarily significant manner only pursuant to the treaty power set forth in Article II, Section 2, Clause 2 of the Constitution.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MURKOWSKI:

S. 3248. A bill for the relief of Tania Gil Compton; to the Committee on the Judiciary.

By Mr. HATCH:

S. 3249. A bill to modernize the United States Customs Service; to the Committee on Finance.

By Mr. MOYNIHAN (for himself, Mr. SIMON, and Mr. PELL):

S. 3250. A bill to amend Section 481(c) of the Foreign Assistance Act of 1961; to the Committee on Foreign Relations.

By Mr. DURENBERGER:

S. 3251. A bill to suspend temporarily the duty on capillary membrane material; to the Committee on Finance.

By Mr. SEYMOUR:

S. 3252. A bill relating to the collection of delinquent child support payments; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL:

S. Res. 344. A resolution to make appointments to the Committee on Appropriations, the Committee on Environment and Public Works, the Special Committee on Aging, and the Select Committee on Indian Affairs; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI:

S. 3248. A bill for the relief of Tania Gil Compton; to the Committee on the Judiciary.

RELIEF OF TANIA GIL COMPTON

• Mr. MURKOWSKI. Mr. President, I rise today to offer a bill to provide for the relief of Tania Gil Compton in order for her to gain U.S. citizenship.

Tania Marcela Gil, born May 28, 1975, was adopted by Ben and Carol Compton on March 23, 1992, in Cali, Colombia. Her younger siblings were adopted by the Comptons in 1989. Whether by mistake or other unknown reasons, Tania was not placed for adoption with her siblings in 1989. The parents did not know about Tania until some time after her siblings learned English.

The Comptons decided to adopt Tania to keep the family together. Although they started the paperwork for adoption prior to Tania's 16th birthday, the finalization did not occur until after she had already turned 16. Since the adoption process took so long, she is legally ineligible for citizenship through adoption.

However, in order to keep the family together and to provide a stable, loving home for Tania, with the help of the INS, I was able to obtain humanitarian parole for her to come to the United States. This however, does not allow Tania permanent status to reside in the United States. Two years after the parole is issued they must petition for additional time and if this is not granted, Tania would have to return to Colombia where she has no home, no family.

Tania should be allowed to become a United States citizen so that she may enjoy the citizenship her brother and sisters have without the concern of one day having to return to Colombia. This bill would legally classify Tania as a child in order for her to be allowed to apply for U.S. citizenship. Tania has fallen through the cracks and she deserves the assistance this private relief bill provides.•

By Mr. HATCH:

S. 3249. A bill to modernize the U.S. Customs Service; to the Committee on Finance.

CUSTOMS MODERNIZATION AND INFORMED COMPLIANCE ACT

Mr. HATCH. Mr. President, I am introducing a bill today that is critical to the future operation of our Customs Service, as this distinguished institution moves over its 200-year threshold of service to our country.

The Customs Modernization Act will greatly enhance the efficient operation of our import and export system, as it grows at an unprecedented rate, one that will accelerate still faster with the adoption of the North American Free-Trade Agreement.

In fewer words still, the bill will:

Save businesses money while giving them more geographical flexibility.

Shorten the time that importers await the arrival of components and other goods critical to manufacturing, retail, wholesale, and other business operations.

Allow greater and better monitored compliance with U.S. trade laws.

And, perhaps most importantly, codify the basis for the continued technological upgrading of customs services—this will eliminate much redtape and especially reduce the paper load of documentation required by our system since 1789.

Mr. President, these are just a few of the many detailed advantages which I have listed in the balance of remarks which I ask unanimous consent be included in the RECORD.

BALANCE OF REMARKS

Mr. President, the United States has long lagged Europe in customs efficiency, something probably related to the much higher percentage of domestic product of European countries devoted to international trade. Yet, we are becoming a more important world trader on a daily basis, requiring export-import management systems no less efficient than those of our partners if we are to be truly competitive.

This legislation enjoys the support of a broad coalition of importers, carriers, brokers, and other industries. To be sure, there is some concern on the part of small brokers which I intend to address in committee; I intend to make every effort to accommodate every interest that has a legitimate, contributory role to play in the U.S. trade community.

The legislation has passed the House. It needs to be adopted before we adjourn—failure to do so could jeopardize this country's trade opportunities for years to come. I urge my colleagues to support this bill.

By Mr. MOYNIHAN (for himself, Mr. SIMON, and Mr. PELL):

S. 3250. A bill to amend section 481(c) of the Foreign Assistance Act of 1961; to the Committee on Foreign Relations.

FOREIGN ASSISTANCE ACT AMENDMENTS

Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation which seeks to address a most serious problem in the foreign relations of the United States. It seeks to halt a spreading international perception of the United States as a lawless state which supports the practice of kidnaping. My hope, in particular, is to repair the growing rift between the United States and our neighbors, Mexico and Canada.

Mr. President, I know that my colleagues are well aware of the decision by the United States Drug Enforcement Agency to arrange for the kidnaping of a Mexican citizen to stand trial in the United States for allegedly participating in the torture and murder of a DEA agent. The United States did not even attempt to use the extradition treaty in effect between the United States and Mexico to obtain the trial of this person. Nonetheless, when the kidnaping was challenged by both Mexico and Canada as a violation of the United States-Mexico extradition treaty, the U.N. Charter, the Charter of the Organization of American States and customary international law, the present administration—indeed the present Attorney General—chose to defend the kidnaping.

The Supreme Court recently found that this kidnaping did not violate the literal terms of the United States-Mexico extradition treaty. I have already discussed this decision—which was denounced in a stinging dissent written by Justice Stevens as monstrous—at some length on the Senate floor and will not repeat my comments now.

However, I do wish to bring to my colleagues' attention some of the international reaction to this decision, particularly in Canada. Mr. President, the United States has a 3,000-mile-long border with Canada. Our relations with our neighbor to the north are absolutely extraordinary in their degree of comity and cooperation. There is not a longer undefended international border in the world. It is imperative, Mr. President, to appreciate the significance of that fact. The United States simply cannot prevent persons from fleeing the United States into Canada. We perforce must rely upon the good offices and friendship of the Government of Canada in arresting and returning criminals to the United States. It will, therefore, come as no surprise that approximately 50 percent of all United States requests for extradition are directed to Canada. There were 74 such requests in 1991 alone.

Mr. President, it is not surprising that the Government of Mexico would strongly disagree with the Supreme Court's decision. It denounced the decision as invalid and unacceptable, demanded immediate renegotiation of the extradition treaty and temporarily suspended cooperation on antidrug efforts. In response, the State Department issued a demonstrably false statement that "[w]e have the utmost respect for Mexican sovereignty * * *" I have been critical of the Mexican judiciary, but others accused in this heinous murder have been successfully prosecuted there and long prison terms meted out. Yet, the United States did not even attempt to use the extradition treaty in this case.

Outrage from Mexico might, therefore, be expected. What is not fully appreciated, however, is the uproar that this decision has caused in Canada and other nations of the world. Justice Stevens wrote: "I suspect most courts throughout the civilized world * * * will be deeply disturbed by the 'monstrous' decision the Court announces today." He has been proven correct. Canadian parliamentarians have denounced the decision, arguing that it "makes a mockery of extradition treaties which have been signed by the "U.S." The Department of State has been candid about the enormous outrage that this abduction and Supreme Court decision have caused in Canada and elsewhere. Deputy Legal Adviser Alan Kreczko testified on July 24 before the Civil and Constitutional Rights Subcommittee of the House Committee on the Judiciary that—

> Many governments have expressed outrage that the United States believes it has the right to decide unilaterally to enter their territory and abduct one of their nationals. Governments have informed us that they would regard such action as a breach of international law. They have also informed us that they would protect their nationals from such action, that such action would violate their domestic law, that they would vigorously prosecute such violations.

Significantly, Mr. Kreczko reported that "[s]ome have indicated that the decision could affect their parliaments' review of pending law enforcement agreements with the United States."

This testimony strongly supports the wise testimony of Michael Abbell, a Justice Department official in the Carter and Reagan administrations and an expert on extradition law, who testified at the same hearing that "[n]ot only is the position of the administration and of the Supreme Court legally and morally wrong, but, ironically it is also antithetical to the long-term law enforcement interests of the United States." That statement bears repeating: "ironically it is * * * antithetical to the long-term law enforcement interests of the United States." Mr. President, it cannot be emphasized too strongly that the decision to embrace kidnaping is harmful to law enforcement, not helpful. It will not assist the United States in combatting crime. On the contrary, it will diminish the very international cooperation against crime which is essential to success against drug traffickers and other criminals.

The United States has now unequivocally pledged in a letter from President Bush to President Salinas that the United States will "neither conduct, encourage nor condone" abductions from Mexico. Thus, we will not use this tool in Mexico again. In the meantime, however, we have jeopardized cooperation on extradition matters with nations around the world.

Mr. President, I welcome President Bush's pledge to the Mexican Government, but more is needed. This legislation will provide governments around the world which wish to cooperate with the United States the assurance that the United States will not take unilateral actions which violate our solemn treaty commitments and customary international law. It reserves to the United States the right to act where there is no effective sovereignty over a particular region and reserves the right to act against a state with which we are at war. It does no more than enact the President's own pledge to Mexico and merely extends the substance of the Mansfield amendment—a provision which has been a part of United States law for 16 years—outside the narcotics control area. It leaves the United States with many tools against terrorists and other criminals, such as those steps we are now taking at the United Nations to obtain the criminals who are alleged to have bombed Pan Am Flight 103.

I ask unanimous consent that the text of this legislation, which I send to the desk, be printed in the RECORD at this point, and I yield the floor.

S. 3250

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS

The Congress finds that—

(a) In 1976 the Congress adopted the International Security Assistance and Arms Export Control Act which amended Section 481(c) of the Foreign Assistance Act of 1961 to prohibit U.S. officials from participating in any direct arrest in a foreign country with respect to narcotics control efforts;

(b) In adopting this provision, known as the Mansfield Amendment, the Committee of Foreign Affairs stated that its purpose was "to insure that U.S. personnel [in foreign states] do not * * * adversely affect U.S. relations with that country";

(c) Since 1976 the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives have on several occasions refined Section 481(c) while retaining its central prohibition on direct U.S. involvement with arrest in foreign countries in narcotics control matters;

(d) Close cooperation between the United States and other nations, including the extradition of criminals to the United States, is essential to combat international crime;

(e) The kidnaping of a Mexican citizen by persons acting at the direction of the United States Drug Enforcement Agency and the recent decision of the United States Supreme Court holding that this kidnaping did not violate a 1978 U.S.-Mexican extradition treaty cast doubt on the meaning of this and other extradition treaties and threaten to disrupt cooperation between the United States and Mexico, Canada and the 101 other nations with which the United States has signed extradition treaties;

(f) The Government of Mexico vigorously protested the kidnaping and the Supreme Court's decision, threatened to suspend cooperation with the United States on drug enforcement matters and announced that it will no longer accept United States foreign assistance intended to prevent drugs from entering the United States.;

(g) The Department of External Affairs of the Government of Canada, which receives approximately 50% of all United States extradition requests, has vigorously protested the kidnaping and the Supreme Court's decision;

(h) In the past, persons have been kidnapped from the United States to stand trial abroad and the United States has vigorously protested such actions; and

(i) This kidnapping and subsequent Supreme Court decisions have placed American citizens at risk by creating a precedent for the kidnapping of Americans.

SEC. 2. AMENDMENT TO SECTION 481(C) OF THE FOREIGN ASSISTANCE ACT.

Section 481(c)(1) of the Foreign Assistance Act is amended to read as follows: "(1) Prohibition on direct arrest and abduction—(a) Notwithstanding any other provision of law, no officer, agent or employee of the United States may directly effect an arrest in any foreign country as part of any foreign police action; and (b) Notwithstanding any other provision of law, no officer, agent of employee of the United States government may authorize, carry out or assist, directly or indirectly, the abduction of any person within the territory of any foreign state exercising effective sovereignty over such territory without the express consent of that state."

SEC. 3. EXCEPTION FOR VIOLATIONS OF THE LAWS OF WAR.

Section 481(c) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new provision: "(7) This subsection does not prohibit the seizure of any official, agent or employee of a state during armed hostilities for purpose of bringing such person to trial for violations of the internationally recognized laws of war."

SECTION 4. SANCTION FOR VIOLATION.

Section 481(c) of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new provision: "(8) A person brought to the United States in violation of subsection (1)(b) hereof shall not be prosecuted by the United States government if the state in which such abduction occurred objects and in the event of such an objection such person shall be promptly returned to the state in which the abduction occurred."

Mr. SIMON. Mr. President, I am pleased to join with my colleague, the distinguished senior Senator from New York, in introducing legislation to promote international cooperation in the fight against drug traffickers and other criminals. On June 15, in United States versus Alvarez-Machain, the Supreme Court ruled that even if the United States kidnaps a criminal suspect from a foreign country, over that country's objections and without following the procedure set out in an extradition treaty, a U.S. Federal court is not precluded from exercising jurisdiction over that individual.

This decision is very troubling for a number of reasons. In the Alvarez-Machain case, the suspect was abducted from Mexico despite the existence of a United States-Mexico extradition treaty. Under the Court's reasoning, the absence of an express prohibition on kidnapping did not foreclose this option. I strongly disagree with this narrow reading of the United States-Mexico extradition treaty and I take issue with the Court's myopic view of this Nation's obligations under international law.

The Alvarez-Machain decision sows the seeds of doubt about U.S. respect for the sovereignty of foreign nations and the force of international law as well as our respect for the constitutional command to honor treaties as "the Supreme Law of the Land." Furthermore, the opinion undermines the safety of American citizens and the efficacy of U.S. international antidrug efforts. If the United States can kidnap a citizen from another country for trial in our courts, what is to prevent other nations from kidnapping our citizens to be tried and punished abroad? If the United States can disregard an extradition treaty, there are those who might get the idea that we do not regard any of our international treaties as binding. If the United States disregards the rule of international law, how can it command the respect and cooperation of other nations in the global effort to deter drug trafficking and other criminal activity?

The bill we introduce today would counter the troubling message in the Alvarez-Machain decision, by explicitly prohibiting agents of the United States from kidnapping a foreign national from a sovereign nation for criminal trial in the United States unless that nation consents. It also makes a series of findings which reaffirm the United States' commitment to honoring international law and cooperating with other nations to end drug trafficking.

Canada, which receives approximately 50 percent of all United States extradition requests, as well as Mexico, vigorously protested the United States governments' action in this case and the Supreme Court's recent decision. In addition, Mexico has threatened to suspend cooperation with the United States on drug enforcement matters. Clearly, we need their cooperation in our international narcotics control law enforcement efforts. This bill will help to restore their confidence in our respect for their sovereignty and our treaties. It will further U.S. law enforcement by securing the cooperation of other countries in the global effort to lawfully prosecute criminals.

Mr. President, again, I commend the senior Senator from New York and I intend to work closely with him toward the passage of this very important piece of legislation. I encourage our colleagues to support and cosponsor it. The broad and serious implications of the Court's decision merit the swift passage of this legislation.

By Mr. SEYMOUR:

S. 3252. A bill relating to the collection of delinquent child support payments; to the Committee on Finance.

COLLECTION OF DELINQUENT CHILD SUPPORT PAYMENTS

• Mr. SEYMOUR. Mr. President, I rise today on behalf of the millions of children in this country who live each day in poverty. Today, more than one in five children in the United States lives in poverty—approximately 20 percent in 1990. In 1974, the child poverty rate was 15.4 percent, while in 1990, this rate grew to 20.6 percent—an increase of 3.3 million children.

The United States prides itself as the land of opportunity, a country that provides its citizens with the resources to gain an education, job skills, and the responsibility to invest these resources for the future. In this case, the responsibility to invest in the future of one's children.

In 1989, of the 10 million women who had children present under the age of 21 from an absent father, 42 percent were never awarded child support rights. Only 26 percent received full payment. About one-half of the 5 million women owed child support payments received the full amount, and about 24 percent received no payment at all. And in 1990, 52 percent of all children in female-headed families were poor compared with only 10 percent of children in families with a male present.

Mr. President, these statistics are unconscionable. In a country where we strictly enforce the payment of income and property tax, we continue to be unsuccessful in collecting delinquent child support payments. Due to the exponential growth in caseloads for each State, child support enforcement has not been a successful endeavor.

Unfortunately, those individuals who are able to pay child support are crossing State borders and out of reach of the child support enforcement agencies. Each day these individuals evade child support payments, their children suffer the consequences of hunger and poverty.

If we continue to ignore this problem, thousands of children will live in impoverished homes. Paternity is the responsibility of both parents and should be strictly enforced, just as we strictly enforce the responsibility of paying taxes.

Therefore, I stand before you today to introduce legislation that offers a solution to the problem of child support enforcement, and the poverty it causes to children. The biggest problem to conquer is to get money to the children. Therefore, I propose a tax credit equal to the amount owed for the custodial parent up to $5,000 per taxable year. This will provide the needed funds to help keep these families out of poverty, while the Government tries to find the delinquent parent.

To remedy delinquent payment, this bill would impose a strict tax increase of 125 percent of any unpaid child support payment for the noncustodial parent for the taxable year. If the noncustodial parent subsequently pays the delinquent child support, his/her tax liability will be reduced by 100 percent for the amount paid.

This results in payment of owed child support plus a penalty of 25 percent, which will then revert to the Treasury to help pay for the tax credit to the custodial parent. By increasing the tax liability of delinquent child support payments, those who are apprehended subsequently pay the past child support payment and are penalized for their delinquency.

Mr. President, our children deserve a chance—a chance that delinquent child support payments threaten to take away. This legislation provides a solution to years of poverty for over 3 million children nationwide.•

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. CRANSTON, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 21, a bill to provide for the protection of the public lands in the California desert.

S. 653

At the request of Mr. HEFLIN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 653, a bill to prohibit injunctive relief, or an award of costs, including attorney's fees, against a judicial officer for action taken in a judicial capacity.

S. 1506

At the request of Mr. GLENN, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 1506, a bill to extend the terms of the olestra patents, and for other purposes.

S. 2080

At the request of Mr. LEVIN, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 2080, a bill to clarify the application of Federal preemption of State and local laws, and for other purposes.

S. 2515

At the request of Mr. DECONCINI, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2515, a bill to authorize the establishment of job training programs for unemployed veterans and persons who have been recently separated from the Armed Forces, to pay certain assistance and benefits to employers of such veterans and persons, such veterans, and such persons to defray certain costs relating to the provision of such training, and for other purposes.

S. 2661

At the request of Mr. MOYNIHAN, the names of the Senator from Ohio [Mr. GLENN], the Senator from Idaho [Mr. SYMMS], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 2661, a bill to authorize the striking of a medal commemorating the 250th Anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson.

S. 2696

At the request of Mr. DOMENICI, the names of the Senator from Pennsylvania [Mr. SPECTER], the Senator from Arizona [Mr. MCCAIN], and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of S. 2696, a bill to establish a comprehensive policy with respect to the provision of health care coverage and services to individuals with severe mental illnesses, and for other purposes.

S. 2707

At the request of Mr. RIEGLE, the names of the Senator from Maine [Mr. COHEN], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Wyoming [Mr. SIMPSON], the Senator from South Dakota [Mr. PRESSLER], the Senator from Tennessee [Mr. SASSER], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Rhode Island [Mr. PELL], the Senator from Pennsylvania [Mr. SPECTER], the Senator from New Mexico [Mr. BINGAMAN], the Senator from Maryland [Mr. SARBANES], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of S. 2707, a bill to authorize the minting and issuance of coins in commemoration of the Year of the Vietnam Veteran and the 10th Anniversary of the dedication of the Vietnam Veterans Memorial, and for other purposes.

S. 2764

At the request of Mr. LEVIN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2764, a bill to revive and strengthen the "Super 301" authority of the United States Trade Representative to eliminate unfair trade barriers, and for other purposes.

S. 2804

At the request of Mrs. KASSEBAUM, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 2804, a bill to establish a program to provide technical assistance to employers and labor unions, in order to assist in preparing the workplace to employ women in apprenticeable occupations and other nontraditional occupations, and for other purposes.

S. 2835

At the request of Mr. HATCH, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 2835, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish provisions regarding the composition and labeling of dietary supplements.

S. 2942

At the request of Mr. HATCH, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 2942, a bill to institute accountability in the Federal regulatory process, establish a program for the systematic selection of regulatory priorities, and for other purposes.

S. 3009

At the request of Mr. DOMENICI, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 3009, a bill to amend title 10, United States Code, to provide for the payment of an annuity or indemnity compensation to the spouse or former spouse of a member of the Armed Forces whose eligibility for retired or retainer pay is terminated on the basis of misconduct involving abuse of a dependent, and for other purposes.

S. 3092

At the request of Mr. NUNN, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 3092, a bill to amend the charter of the Group Hospitalization and Medical Services, Inc., to remove the partial exemption granted to the corporation from the insurance laws and regulations of the District of Columbia.

S. 3153

At the request of Mr. DECONCINI, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 3153, a bill to reform Customs Service operations, and for other purposes.

S. 3195

At the request of Mr. GLENN, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Oregon [Mr. PACKWOOD], the Senator from Wyoming [Mr. WALLOP], the Senator from Rhode Island [Mr. PELL], the Senator from Ohio [Mr. METZENBAUM], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Tennessee [Mr. GORE], the Senator from Alabama [Mr. SHELBY], the Senator from New Hampshire [Mr. RUDMAN], the Senator from Hawaii [Mr. INOUYE], the Senator from Massachusetts [Mr. KERRY], the Senator from Nevada [Mr. REID], the Senator from California [Mr. CRANSTON], the Senator from Nebraska [Mr. KERREY], the Senator from Kentucky [Mr. FORD], the Senator from Alaska [Mr. MURKOWSKI], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Georgia [Mr. FOWLER], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 3195, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States' involvement in World War II.

S. 3221

At the request of Mr. LAUTENBERG, the names of the Senator from Hawaii [Mr. INOUYE] and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 3221, a bill to deny most-favored-nation status to Serbia and Montenegro unless certain conditions are met.

SENATE JOINT RESOLUTION 260

At the request of Mr. COCHRAN, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of Senate Joint Resolution 260, a joint resolution designating the week of October 18, 1992, through October 24, 1992, as "National School Bus Safety Week."

SENATE JOINT RESOLUTION 278

At the request of Mr. DODD, the names of the Senator from Nevada [Mr. REID], the Senator from Massachusetts [Mr. KERRY], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Joint Resolution 278, a joint resolution designating the week of January 3, 1993, through January 9, 1993, as "Braille Literacy Week."

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE JOINT RESOLUTION 330

At the request of Mr. KENNEDY, the names of the Senator from Georgia [Mr. NUNN], the Senator from Oregon [Mr. HATFIELD], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Joint Resolution 330, a joint resolution to designate March 1993 as "Irish-American Heritage Month."

SENATE JOINT RESOLUTION 332

At the request of Mr. SASSER, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Alaska [Mr. STEVENS], the Senator from Michigan [Mr. RIEGLE], the Senator from Maine [Mr. COHEN], the Senator from Hawaii [Mr. AKAKA], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Utah [Mr. HATCH], the Senator from Nevada [Mr. REID], the Senator from Virginia [Mr. WARNER], the Senator from Arizona [Mr. DECONCINI], the Senator from California [Mr. CRANSTON], the Senator from Georgia [Mr. NUNN], the Senator from Kentucky [Mr. FORD], and the Senator from Tennessee [Mr. GORE] were added as cosponsors of Senate Joint Resolution 332, a joint resolution to establish the month of October 1992 as "Country Music Month."

SENATE JOINT RESOLUTION 333

At the request of Mr. DECONCINI, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of Senate Joint Resolution 333, a joint resolution designating the week beginning February 7, 1993, as "Lincoln Legacy Week."

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. DECONCINI, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of the Congress that women's soccer should be a medal sport at the 1996 centennial Olympic games in Atlanta, GA.

SENATE RESOLUTION 344—MAKING APPOINTMENTS TO CERTAIN SENATE COMMITTEES

Mr. MITCHELL submitted the following resolution; which was considered and agreed to:

S. RES. 344

Resolved, That the Senator from North Dakota (Mr. Conrad) is hereby appointed to serve as a member on the Committee on Appropriations for the One Hundred Second Congress, and

That the Senator from North Dakota (Mrs. Burdick) is hereby appointed to serve as a member on the Committee on Environment and Public Works, the Special Committee on Aging, and the Select Committee on Indian Affairs for the One Hundred Second Congress.

AMENDMENTS SUBMITTED

NATIONAL DEFENSE AUTHORIZATION ACT

LEAHY (AND OTHERS) AMENDMENT NO. 3041

Mr. LEAHY (for himself, Mr. LEVIN, Mr. COHEN, Mr. GRASSLEY, and Mr. WELLSTONE) proposed an amendment to the bill (S. 3114) to authorize appropriation for fiscal year 1993 for military activities for, the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

On page 17, line 8, strike out "$9,274,999,000" and insert in lieu thereof "$6,588,427,000".

On page 38, strike out line 1 and all that follows through page 41, line 8, and insert in lieu thereof the following:

SEC. 153 B-2 BOMBER AIRCRAFT PROGRAM.

(a) LIMITATION OF PURPOSES FOR USE OF FUNDS.—Subject to subsection (b), funds available to the Department of Defense for the B-2 bomber aircraft program that are unobligated as of the date of the enactment of this Act may be obligated on and that date only for completing the procurement of aircraft under such program and paying all curtailment costs under the program.

(b) LIMITATION ON OBLIGATION OF FUNDS.—None of the funds available to the Department of Defense for the B-2 bomber aircraft program that are unobligated as of the date of the enactment of this Act may be obligated unless and until—

(1) the Secretary of Defense submits to the congressional defense committees—

(A) the reports and certifications referred to in section 131(b)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1306); and

(B) the report under subsection (c); and

(2) 30 days have elapsed since the date of the submission of the report under subsection (c).

(c) REPORT ON LOW OBSERVABILITY AND SURVIVABILITY.—The report referred to in subsection (b)(1)(B) is a report submitted by the Secretary of Defense to the congressional defense committees that contains the following matters:

(1) The Secretary's assessment of the extent to which the B-2 aircraft will meet the original operational performance objectives that were established for the B-2 aircraft in order to ensure the high survivability of the aircraft, including an accounting of the specific low observability objectives that were not fulfilled in a B-2 flight test conducted during July 1991 and the effect on survivability (if any) of the currently projected low observable characteristics of the B-2 aircraft.

(2) A full description of the information upon which the assessment required by paragraph (1) is based, including all relevant flight test data.

(3) A full description of any actions planned to be taken to improve the B-2 aircraft's low observability capabilities beyond the capabilities that have been demonstrated in flight testing before the date of the submission of the report under this subsection, and the associated costs and benefits.

(4) A quantitative assessment by the Secretary of Defense of the likelihood that a B-2 aircraft having the low observable characteristics projected for the aircraft can survive in the execution in the future of its primary mission as a penetrating nonnuclear bomber as compared to the likelihood that a B-2 aircraft meeting all of the specifications contained in the current development contract can survive in the execution of such mission.

(d) GAO REVIEW.—(1) The Comptroller General of the United States shall—

(A) review each report submitted pursuant to subsection (c); and

(B) provide the congressional defense committees with his comments on such report.

(2) The Secretary of Defense shall transmit a copy of the report to the Comptroller General at the same time that he transmits the report to the congressional defense committees.

COHEN AMENDMENT NO. 3042

Mr. COHEN proposed an amendment to the bill S. 3114, supra, as follows:

Add a new section after Section 3140, as follows:

"SEC. . LIMITATION ON UNDERGROUND NUCLEAR WEAPONS TESTS.

(a) INTERIM MORATORIUM.—No nuclear explosive test may be conducted until 90 days after the President submits to Congress the report described in subsection (b).

(b) REPORT.—The report referred to in subsection (a) shall not be submitted until the 103d Congress has convened and shall include the following information:

(1) A date within fiscal year 1993 for resumption of the Nuclear Testing Talks with Russia and a strategy for expanding these negotiations to include all other nuclear weapon states, with the objective of achieving a verifiable comprehensive test ban by September 30, 1998;

(2) A strategy for achieving renewal and strengthening of the Treaty on the Non-Proliferation of Nuclear Weapons at the review conference to be held in 1995;

(3) The 1991 Test Ban Readiness Program report; and

(4) A listing of the nuclear weapons projected to remain in the U.S. stockpile after implementation of strategic offensive arms reductions, taking into account the START treaty and, to the extent possible, a treaty to be negotiated pursuant to the June 17, 1992 joint understanding on further strategic arms reductions.

(c) LIMITATION ON NUMBER OF TESTS.—Nuclear explosive tests conducted pursuant to this sections shall be limited to not more than 5 tests in any fiscal year, of which not more than 3 such tests in any fiscal year may be designed to produce a nuclear yield in excess of 35 kilotons. Not more than 20 such tests may be conducted pursuant to this section during the period ending September 30, 1998.

(d) TESTING FOR SAFETY.—Pending the achievement of a verifiable comprehensive test ban, and subject to subsections (a), (c), and (e), U.S. nuclear explosive tests may be conducted only to evaluate and improve the safety of nuclear weapons in the U.S. stockpile identified in the report submitted pursuant to subsection (e).

(e) EXCEPTION.—Notwithstanding the provisions of subsection (d), and subject to the certification requirement of subsection (f), not more than one of the tests permitted in any fiscal year by subsections (c) and (d) may be conducted for the purpose of ensuring the survivability of systems or ensuring the reliability of a nuclear weapon in the U.S. stockpile as identified in the report submitted pursuant to subsection (a).

(f) PRIOR CERTIFICATION REQUIREMENT.—No nuclear explosive test may be conducted pursuant to subsections (c), (d), or (e) unless the President certifies to Congress not less than 60 days in advance of such test that it is in the national interest to conduct such a test and specifying in detail the nature of the test.

(g) SENSE OF CONGRESS.—It is the sense of Congress that it is the policy of the United States to adopt measures that will enable, to the greatest extent possible, the United States to ensure the survivability of systems against nuclear weapon effects without nuclear explosive testing.

(h) BAN ON TESTING AFTER FISCAL YEAR 1998.—Subject to subsection (i), the United States shall not conduct a nuclear explosive test after September 30, 1998.

(i) ADDITIONAL CERTIFICATION REQUIREMENT.—If, after September 30, 1998, the President submits to Congress a certification described in subsection (j), the restriction specified in subsection (h) shall not apply for a one-year period beginning 60 days after the submission of such certification.

(j) CERTIFICATION REQUIRED.—A certification referred to in subsection (i) is one certifying that:

(1) Another country has conducted a nuclear explosive test after the date specified in subsection (h) and such test is inimical to the security interests of the United States or threatens achievement of the non-proliferation objectives of the United States; or

(2) The United States is actively engaged in the negotiations described in the report submitted pursuant to subsection (b)(1), and achievement of United States objectives in such negotiations would be undermined by the restriction specified in subsection (h).

(k) JOINT RESOLUTION.—A nuclear test permitted by this section shall not be conducted if, during the 90-day period following the submission to Congress of a report provided for in subsection (a) or during the 60-day period following the submission to Congress of a certification provided for in subsections (f) or (i), a joint resolution disapproving such test is enacted into law.

(l) TESTING BY UNITED KINGDOM.—The limitations of this section shall not be construed to limit the Government of the United Kingdom from conducting one nuclear explosive test per fiscal year at the Nevada Test Site pursuant to an agreement with the Government of the United States, except that no such test may be conducted before the report required by subsection (a) is submitted to Congress and each such test shall count against the numerical limitations of subsection (c)."

HATFIELD (AND OTHERS) AMENDMENT NO. 3043

Mr. HATFIELD (for himself, Mr. EXON, Mr. MITCHELL, Mr. KENNEDY, and Mr. LEVIN) proposed an amendment to amendment No. 3042 proposed by Mr. COHEN to the bill S. 3114, supra, as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. 1064. LIMITATION RELATING TO NUCLEAR WEAPONS TESTING.

(a) MORATORIUM FOR 9 MONTHS.—No underground test of a nuclear weapon may be conducted by the United States after September 30, 1992, and before July 1, 1993.

(b) POST MORATORIUM TESTING BEFORE 1997.—On and after July 1, 1993, and before January 1, 1997, an underground test of a nuclear weapon may be conducted by the United States—

(1) only if—

(A) the President has submitted the annual report required under subsection (d);

(B) 90 days have elapsed after the submittal of that report in accordance with that subsection; and

(C) Congress has not agreed to a joint resolution described in subsection (d)(3) within that 90-day period; and

(2) Only if the test is conducted during the period covered by the report.

(d)(1) Not later than March 1 of each year beginning after 1992, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, in classified and unclassified forms, a report containing the following matters:

(A) A schedule for resumption of the Nuclear Testing Talks with Russia.

(B) A plan for achieving a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996.

(C) An assessment of the number and type of nuclear warheads that will remain in the United States stockpile of active nuclear weapons on September 30, 1996.

(D) for each fiscal year after fiscal year 1992, an assessment of the number and type of nuclear warheads that will remain in the United States stockpile of nuclear weapons and that—

(i) will not be in the United States stockpile of active nuclear weapons;

(ii) will remain under the control of the Department of Defense; and

(iii) will not be transferred to the Department of Energy for dismantlement.

(E) A description of the safety features of each warhead that is covered by an assessment referred to in subparagraph (C) or (D).

(F) A plan for installing one or more modern safety features in each warhead identified in the assessment referred to in subparagraph (C), as determined after an analysis of the costs and benefits of installing such feature or features in the warhead, should have one or more of such features.

(G) An assessment of the number and type of nuclear weapons tests, not to exceed 5 tests in any period covered by an annual report under this paragraph and a total of 15 tests in the 4-fiscal year period beginning with fiscal year 1993, that are necessary in order to ensure the safety of each nuclear warhead in which one or more modern safety features are installed pursuant to the plan referred to in subparagraph (F).

(H) A schedule, in accordance with subparagraph (G), for conducting at the Nevada test site, each of the tests enumerated in the assessment pursuant to subparagraph (G).

(2) The first annual report shall cover the period beginning on the date on which a resumption of testing of nuclear weapons is permitted under subsection (c) and ending on September 30, 1994. Each annual report thereafter shall cover the fiscal year following the fiscal year in which the report is submitted.

(3) For the purposes of paragraph (1), "joint resolution" means only a joint resolution introduced after the date on which the Committees referred to in that paragraph receive the report required by that paragraph the matter after the resolving clause of which is as follows: "The Congress disapproves the report of the President on nuclear weapons testing, dated ——————." (the blank space being appropriately filled in).

(4) No report is required under this subsection after 1996.

(e)(1) Except as provided in paragraphs (2) and (3), during a period covered by an annual report submitted pursuant to subsection (d), nuclear weapons may be tested only as follows:

(A) Only those nuclear explosive devices in which modern safety features have been installed pursuant to the plan referred to in subsection (d)(1)(F) may be tested.

(B) Only the number and types of tests specified in the report pursuant to subsection (d)(1)(G) may be conducted.

(2)(A) One test of the reliability of a nuclear weapon other than one referred to in paragraph (1)(A) may be conducted during any period covered by an annual report, but only if—

(i) within the first 60 days after the beginning of that period, the President certifies to Congress that it is vital to the national security interests of the United States to test the reliability of such a nuclear weapon; and

(ii) within the 60-day period beginning on the date that Congress receives the certification, Congress does not agree to a joint resolution described in subparagraph (B).

(B) For the purposes of subparagraph (A), "joint resolution" means only a joint resolution introduced after the date on which the Congress receives the certification referred to in that subparagraph the matter after the resolving clause of which is as follows: "The Congress disapproves the testing of a nuclear weapon covered by the certification of the President dated ——————," (the blank space being appropriately filled in).

(3) The President may authorize the United Kingdom to conduct in the United States within a period covered by an annual report, one test of a nuclear weapon if the President determines that it is in the national interests of the United States to do so. Such a test shall be considered as one of the tests within the maximum number of tests that the United States is permitted to conduct during that period under paragraph (1)(B).

(f) No underground test of nuclear weapons may be conducted by the United States after September 30, 1996, unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted.

(g) In the computation of the 90-day period referred to in subsection (c)(1) and the 60-day period referred to in subsection (e)(2)(A)(ii), the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded.

(h) In this section, the term "modern safety feature" means any of the following features:

(1) An insensitive high explosive (IHE).

(2) Five resistant pits (FRP).

(3) An enhanced detonation safety (ENDS) system.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, FISCAL YEAR 1993

HATCH (AND PRESSLER) AMENDMENT NO. 3044

Mr. HATCH (for himself and Mr. PRESSLER) proposed an amendment to the bill (H.R. 5677) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1993, and for other purposes; as follows:

On page 19, line 4, strike "$2,591,761,000." and insert in lieu thereof "$2,606,761,000".

On page 87, line 10, strike "$100,360,000" and insert in lieu thereof "$115,360,000".

HATCH (AND OTHERS) AMENDMENT NO. 3045

Mr. HATCH (for himself, Mr. DOLE, Mr. NICKLES, Mr. D'AMATO, Mr. STE-

VENS, Mr. MCCAIN, Mr. SYMMS, and Mr. BOND) proposed an amendment to the bill H.R. 5677, supra, as follows:

On page 73, line 14, after "$310,000,000" insert:

"SEC. . Notwithstanding any other provision of law, no funds appropriated under this act shall be expended by the Secretary of Health and Human Services, or designee, for activities undertaken to implement the Nutrition Labeling and Education Act (P.L. 101–535) with respect to a dietary supplement of vitamins, minerals, herbs or other similar nutritional substances, other than to allow health claims designated in section 3(b)(1)(A)(vi) and (x), or to promulgate any regulation that requires the use of, or based upon, recommended daily intakes of vitamins or minerals.

NATIONAL DEFENSE AUTHORIZATION ACT

WARNER AMENDMENT NO. 3046

Mr. WARNER proposed an amendment to the bill S. 3114, supra, as follows:

On page 49, between lines 14 and 15, insert the following:

SEC. 171. In addition to the funds authorized to be appropriated by section 106, the following funds are authorized to be appropriated:

(a) For the Army National Guard

(1) for 3 P–180 aircraft, $12,000,000.

(2) for night vision goggles, $20,000,000.

(3) for single channel ground airborne radio system, $10,000,000.

(4) for 6 C–26 aircraft, $23,000,000.

(5) for medium truck service life extension program, $15,000,000.

(6) for M113A3 conversion program, $15,000,000.

(b) For the Air National Guard

(1) for night vision goggles, $5,000,000.

(c) For the Army Reserve

(1) for medium truck service life extension program, $25,000,000.

(2) for 12 C–12J aircraft, $42,000,000.

(3) for night vision goggles, $20,000,000.

(4) for single channel ground airborne radio system, $10,000,000.

(d) For the Marine Corps Reserve

(1) for night vision goggles, $10,000,000.

(2) for single channel ground airborne radio system, $5,000,000.

(e) For the Air Force Reserve

(1) for night vision goggles, $5,000,000.

METZENBAUM (AND OTHERS) AMENDMENT NO. 3047

Mr. METZENBAUM (for himself, Mr. KENNEDY, Mr. WELLSTONE, Mr. AKAKA, Mr. CRANSTON, and Mr. HARKIN) proposed an amendment to the bill S. 3114, supra, as follows:

At the appropriate place in the bill insert the following new section:

SEC. . PROHIBITION ON DISCRIMINATION IN THE MILITARY ON THE BASIS OF SEXUAL ORIENTATION.

(a)—IN GENERAL.—No member of the Armed Forces, or person seeking to become a member of the Armed Forces, may be discriminated against by the Armed Forces on the basis of sexual orientation.

(b) PRESERVATION OF RULES AND POLICIES REGARDING SEXUAL MISCONDUCT.—Nothing in subsection (a) may be construed as requiring the Armed Forces to modify any rule or policy regarding sexual misconduct or otherwise to sanction or condone sexual misconduct, but such rules and policies may not be applied in a manner that discriminates on the basis of sexual orientation.

NUNN AMENDMENT NO. 3048

Mr. NUNN proposed an amendment to amendment No. 3046 proposed by Mr. Warner to the bill S. 3114, supra, as follows:

In the pending amendment, strike out all after "SEC. 171." and insert the following in lieu thereof:

In addition to the funds authorized to be appropriated by section 106, the following funds are authorized to be appropriated:

(a) For the Army National Guard—

(1) for 3 P–180 aircraft, $12,000,000.

(2) for night vision goggles, $20,000,000.

(3) for single channel ground airborne radio system, $10,000,000.

(4) for 6 C–26 aircraft, $23,000,000.

(5) for medium truck service life extension program, $15,000,000.

(6) for M113A3 conversion program, $15,000,000.

(b) For the Air National Guard—

(1) for night vision goggles, $5,000,000.

(c) For the Army Reserve—

(1) for medium truck service life extension program, $25,000,000

(2) for 12 C–12J aircraft, $42,000,000.

(3) for night vision goggles, $20,000,000.

(4) for single channel ground airborne radio system, $10,000,000.

(d) For the Marine Corps Reserve—

(1) for night vision goggles, $10,000,000.

(2) for single channel ground airborne radio system, $5,000,000.

(e) For the Air Force Reserve—

(1) for night vision goggles, $5,000,000.

WARNER (AND OTHERS) AMENDMENT NO. 3049

Mr. NUNN (for himself, Mr. COHEN, Mr. LEVIN, Mr. WOFFORD, Mr. CONRAD, and Mr. WARNER) proposed an amendment to the bill S. 3114, supra, as follows:

On page 487, between lines 12 and 13, insert the following:

SEC. 1064. REDUCTION IN THE AUTHORIZED END STRENGTH FOR MILITARY PERSONNEL IN EUROPE.

(a) REDUCED END STRENGTH.—Subsection (c)(1) of section 1002 of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note), is amended by striking out "235,700" in the first sentence and all that follows and inserting in lieu thereof "100,000.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1995.

DIXON AMENDMENT NO. 3050

Mr. NUNN (for Mr. DIXON) proposed an amendment to the bill S. 3114, supra, as follows:

On page 15, line 25, strike "$3,033,720,000" and insert in lieu thereof "$3,032,220,000'.

On page 66, line 3, strike "$14,191,715,000" and insert in lieu thereof "$14,193,215,000".

ADAMS (AND GORTON) AMENDMENT NO. 3051

Mr. NUNN (for Mr. ADAMS, for himself and Mr. GORTON) proposed an amendment to the bill S. 3114, supra; as follows:

Of the funds authorized to be appropriated by Title III for Operation & Maintenance, Army, $150,000 is authorized to be used for a program design and feasibility study to provide a residential program for military dependents with severe behavior disorders at Madigan Army Medical Center.

ROTH AMENDMENT NO. 3052

Mr. WARNER (for Mr. ROTH) proposed an amendment to the bill S. 3114, supra, as follows:

On page 370, between lines 18 and 19, insert the following:

SEC. 836. PURCHASE OF ANGOLAN PETROLEUM PRODUCTS.

The prohibition in section 316 of the National Defense Authorization Act for Fiscal Year 1987 (100 Stat. 3855; 10 U.S.C. 2304 note) shall cease to be effective on the date on which the President certifies to Congress that free, fair, and democratic elections have taken place in Angola after September 1, 1992.

DECONCINI AMENDMENT NO. 3053

Mr. NUNN (for Mr. DECONCINI) proposed an amendment to the bill S. 3114, supra, as follows:

SEC. . REPORT ON THE SELECTIVE SERVICE SYSTEM.

The Secretary of Defense, in consultation with the Director of the Selective Service System, shall submit, by April 30, 1993, a report to the President on the continued requirement for registration under the selective service system. The report shall contain, at a minimum, analyses on the effect of suspension of the requirement for registration on: 1) projected mobilization requirements, including the effect on the time it would take to increase the size of the armed forces in a national emergency; 2) recruiting in the armed forces; and 3) the organization and staffing of the selective service system. The report shall also contain the Secretary's recommendations based on the analyses. The President shall transmit the report to the Congress, by May 31, 1993, along with his advice on what actions, if any he plans to take on the report.

BIDEN AMENDMENT NO. 3054

Mr. NUNN. (for Mr. BIDEN) proposed an amendment to the bill S. 3114, supra, as follows:

On page 525, line 7, strike out "Section 2667(b)(4)" and insert in lieu thereof "(a) CLARIFICATION.—Subsection (b)(4) of section 2667".

On page 525, between line 9 and line 10, insert the following:

(b) REQUIREMENTS RELATING TO LEASE OF CERTAIN EQUIPMENT.—Such section is further amended by adding at the end the following new subsection:

"(g)(1) A weapons system or other equipment of the armed forces may not be exhibited at an international trade show or similar exhibition, and may not be transported to such show or exhibition for that purpose, unless the system or equipment is leased to the manufacturer of that system or equipment for that purpose. Each such lease shall provide for the payment by the lessee of consideration in an amount that is not less than the fair market value of the lease interest (including the costs incurred by the United States for transportation), as determined by the Secretary of the military department concerned.

"(2) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may waive the application of paragraph (1) to the exhibition of a weapon system or other equipment at an international trade show or similar exhibition if the Secretary of that Military department determines that the exhibition of that system or equipment at that trade show or other exhibition is in the national security interests of the United States.".

ROTH (AND LIEBERMAN) AMENDMENT NO. 3055

Mr. WARNER (for Mr. ROTH, for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 3114, supra, as follows:

At an appropriate place in the bill, add the following new section:

SEC. . The North Atlantic Treaty Organization has, for more than forty years, successfully deterred aggression against Western Europe and North America by the armed forces of the Soviet Union and the Warsaw Pact.

The Warsaw Pact no longer exists;

The Soviet Union has developed into a commonwealth of sovereign, independent republics;

The members of the North Atlantic Treaty Organization share many common interests in deterring aggression, conflict and economic dislocation both within and beyond the geographic boundaries of Europe and North America: Now, therefore,

It is the Sense of the Senate that the threat of East-West military confrontation has radically receded and, if the North Atlantic Treaty Organization is to continue to be relevant to the security interests of Western Europe and North America through the 1990's and beyond, the alliance's mission must be recrafted in order to enable it to address common transatlantic security concerns, including those beyond NATO's geographic boundaries. Therefore, the President of the United States is requested to open discussions with the heads of state of NATO's various member states, with a view to adapting the alliance to current realities.

LIEBERMAN AMENDMENT NO. 3056

Mr. NUNN (for Mr. LIEBERMAN) proposed an amendment to the bill S. 3114, supra, as follows:

On page 65, between lines 17 and 18, insert the following:

SEC. 232. FUNDING FOR TECHNICAL SUPPORT WORKING GROUP ON COUNTER-TERRORISM.

(a) TOTAL AMOUNT.—Of the funds authorized to be appropriated for fiscal year 1993 under section 201, $10,000,000 shall be available for activities of the Technical Support Working Group on Counter-Terrorism.

(b) AMOUNT FOR ALLIED COOPERATION.—Of the amount available for the activities referred to in subsection (a), $3,000,000 shall be available for cooperation with other member nations of the North Atlantic Treaty Organization (NATO) and with major non-NATO allies (as defined in section 2350a(i)(3) of title 10, United States Code).

CHAFEE AMENDMENT NO. 3057

Mr. WARNER (for Mr. CHAFEE) proposed an amendment to the bill S. 3114, supra, as follows:

On page 75, line 11, strike "CHLOROFLUOROCARBONS AND HALONS" and insert in lieu thereof, "OZONE-DEPLETING SUBSTANCES".

On page 75, line 13, after "EVALUATION" insert "OF USE OF CLASS I SUBSTANCES".

On page 76, line 15, after "such" strike "substances" and insert in lieu thereof "substances, including the availability of used, reclaimed, or recycled class I substances".

On page 77, line 3, insert the following new subsection:

"(b) EVALUATION OF USE OF CLASS II SUBSTANCES.—The Director of the Defense Logistics Agency shall evaluate the use of class II substances by the military departments and Defense Agencies. In carrying out the evaluation, the Director shall—

(1) determine the quantity of each class II substances that—

(A) is held in the inventory of each military department and Defense Agency on December 31, 1992;

(B) will be used by each military department and Defense Agency during 1992; and

(C) will be used by each military department and Defense Agency in each of 1993, 1994, and 1995; and

(2) determine the quantity of each class II substance in the inventory of the military departments and Defense Agencies in each of 1993, 1994, and 1995 that can be reclaimed or recycled and reused by the military departments and Defense Agencies.

On page 77, line 3, strike "(b)" and insert in lieu thereof "(c) REPORTS.—(1)".

On page 77, line 5, after "evaluation" insert "required under subsection (a)".

On page 77, line 7, insert the following new paragarph:

"(2) the Director of the Defense Logistics Agency shall submit to the congressional defense committees a report on the status of the evaluation required under subsection (b) not later than October 1, 1993."

On page 77, line 7, strike "(c)" and insert in lieu thereof "(d)".

On page 77, line 7, strike "section" and insert in lieu thereof "section: (1)".

On page 77, line 10, insert the following new paragraph:

"(2) the term "class II substance" means any substance listed under section 602(b) of the Clean Air Act (42 U.S.C. 7671a(b)).".

On page 77, line 11, before "OZONE-DEPLETING" insert "CLASS I".

On page 77, line 14, after "OF" insert "CLASS I".

On page 77, line 17, after "of" strike "an" and insert in lieu thereof "a class I".

On page 78, line 2 after "the" insert "class I".

On page 78, line 24 after "for" strike "an" and insert in lieu thereof "a class I".

On page 79, line 1 after "of" strike "an" and insert in lieu thereof "a class I".

On page 79, line 3 strike "and indirect".

On page 79, line 5 strike "research and development costs,".

On page 79, line 7 after "waiver" strike the comma.

On page 79, line 12 after "term" strike "'ozone-" and insert in lieu thereof "'class I ozone-".

On page 79, line 13 after "any" strike "class I".

SHELBY AMENDMENT NO. 3058

Mr. NUNN (for Mr. SHELBY) proposed an amendment to the bill S. 3114, supra as follows:

On page 337, between lines 20 and 21, insert the following:

(c) CONTINUED ACCESS TO BUSINESS OPPORTUNITIES.—(1) Notwithstanding the regulations implementing section 806 of the National Defense Authorization Act for Fiscal years 1988 and 1989 (10 U.S.C. 2301 note), a contract to furnish products or services to the Department of Defense shall be entered into in accordance with the requirements and the authority provided in section 1207(e) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) if—

(A) there is a reasonable expectation of receiving offers from 2 or more eligible small business concerns that have the capability to perform the contract; and

(B) on the date of the issuance of the solicitation for such contract, a graduate of the minority small business and capital ownership development program authorized under section 7(f)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is furnishing the same (or substantially similar) products or services to the Department of Defense under a contract awarded pursuant to section 8(a) of that Act (15 U.S.C. 637(a)).

(2) The amendment made by paragraph (1) shall apply with respect to solicitations for contracts that are issued on or after the date 90 days after the date of the enactment of this Act.

On page 337, line 21, strike out "(c)" and insert in lieu thereof "(d)".

On page 338, line 4, strike out "(d)" and insert in lieu thereof "(e)".

LUGAR (AND NUNN) AMENDMENT NO. 3059

Mr. WARNER (for Mr. LUGAR, for himself, and Mr. NUNN) proposed an amendment to the bill S. 3114, supra, as follows:

On page 491, line 23, strike out "$650,000,000", and insert in lieu thereof "$800,000,000".

NUNN (AND OTHERS) AMENDMENT NO. 3060

Mr. NUNN (for himself, Mr. WARNER, and Mr. LUGAR) proposed an amendment to the bill S. 3114, supra, as follows:

On page 491, line 16, insert after the period the following: "Of the amount available to carry out such subtitle, not more than $20,000,000 may be made available for programs referred to in section 1112(b)(6), relating to military-to-military contacts.".

DIXON AMENDMENT NO. 3061

Mr. NUNN (for Mr. DIXON) proposed an amendment to the bill S. 3114, supra, as follows:

On page 49, line 22, strike out $5,303,744,000 and insert in lieu thereof $5,307,744,000.

MCCONNELL AMENDMENT NO. 3062

Mr. WARNER (for Mr. MCCONNELL) proposed an amendment to the bill S. 3114, supra, as follows:

On page 395, line 10, strike out "and".

On page 395, line 17, strike out the period at the end and insert in lieu thereof a semicolon and the following:

(3) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively;

(4) by inserting after subsection (b) that following new subsection (c):

"(c) The Secretary of Defense may not limit the requirements for which support may be provided under subsection (a) only to critical, emergent, or unanticipated requirements."; and

(5) in subsection (g)(2), as redesignated by paragraph (3), by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

PELL AMENDMENT NOS. 3063 AND 3064

Mr. NUNN (for Mr. PELL) proposed two amendments to the bill S. 3114, supra, as follows:

AMENDMENT No. 3063

On page 122, between lines 3 and 4, insert the following new section:

SEC. 349. REPORT RELATING TO CONTINUING HEALTH BENEFITS COVERAGE OF CERTAIN TERMINATED EMPLOYEES OF DEFENSE CONTRACTORS.

(a) REPORT REQUIRED.—Not later than March 1, 1993, the Under Secretary of Defense for Acquisition shall submit to Congress a report on matters relating to the provision by contractors of the Department of Defense of continuing health benefits coverage to employees of such contractors who are involuntarily separated from such employment by reason of the termination or curtailment of defense contracts.

(b) CONTENT OF REPORT.—The report shall contain—

(1) an estimate of the number of employees referred to in subsection (a) who will be involuntarily separated from employment referred to in that subsection for the reason referred to in that subsection during each of fiscal years 1993 and 1994;

(2) an estimate of the number of such employees who will elect in each such fiscal year to receive continuation coverage under section 4980B of the Internal Revenue Code of 1986, and an estimate of the aggregate monthly costs that will be incurred during such fiscal years by such employees who make the elections;

(3) an estimate of the cost to the Department of Defense of providing continuing health benefits coverage to such employees in the same manner as continuing health benefits are provided to individuals under paragraph (4) of section 8905a(d) of title 5, United States Code, as added by section 346(a);

(4) an assessment of the capability of the employers of such employees to bear a portion or all of the costs estimated under paragraph (3) and a description of any current efforts by such employers to bear such costs; and

(5) recommendations relating to the optimal allocation of such costs between the Federal Government and such employers.

In section 2(b), amend the table of contents by inserting after the item relating to section 348 the following new item:

Sec. 369. Report relating to continuing health benefits coverage of certain terminated employees of defense contractors.

AMENDMENT No. 3064

On page 333, between lines 13 and 14, insert the following new section:

SEC. 808. INDUSTRIAL DIVERSIFICATION PLANNING FOR DEFENSE CONTRACTORS.

(a) INCENTIVES.—(1) Not later than 120 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations to encourage defense contractors to engage in industrial diversification planning.

(2) Such regulations shall include—

(A) treatment of industrial diversification planning expenditures as allowable costs under Department of Defense contracts,

(B) treatment of industrial diversification research and development activities as permissible independent research and development expenditures, and

(C) such other incentives as the Secretary of Defense deems appropriate to encourage defense contractors to engage in industrial diversification planning.

(b) DEFINITION.—For purposes of this section, the term "industrial diversification" means conversion from government-oriented management, production, training, and marketing practices to practices that are compatible with the commercial marketplace.

LIEBERMAN (AND PRYOR) AMENDMENT NO. 3065

Mr. NUNN (for Mr. LIEBERMAN, for himself and Mr. PRYOR) proposed an amendment to the bill S. 3114, supra, as follows:

On page 370, between lines 18 and 19, insert the following new section:

SEC. 836. PROGRAM TO ENCOURAGE DIVERSIFICATION OF DEFENSE LABORATORIES.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense, acting through the Director of Defense Research and Engineering, shall establish and implement a program to be known as the Federal Defense Laboratory Diversification Program (hereafter in this section referred to as the "Program"). The purpose of the Program shall be to encourage greater cooperation in research and production activities carried out by defense laboratories and by private industry of the United States in order to enhance and improve the products of such research and production activities.

(b) PROGRAM GOALS.—Under the Program, the defense laboratories shall carry out cooperative activities with private industry in order to promote the transfer (by the use or exchange of patents, licenses, cooperative research and development agreements and other cooperative agreements, and the use of symposia, meetings, and other similar mechanisms) of defense or dual-use technologies from the defense laboratories to private industry for the purpose of the commercial utilization of such technologies by private industry.

(c) DEVELOPMENT OF PLANS FOR PROGRAM.—The Director of Defense Research and Engineering shall develop and annually update a plan for each defense laboratory that participates in the Program under which plan the laboratory shall carry out cooperative activities with private industry to promote the transfers described in subsection (b).

(d) REPORTS ON SURVEY OF LABS AND IMPLEMENTATION OF PROGRAM.—(1) Not later than September 30, 1993, the Director of Research and Engineering shall submit to Congress a report containing the following:

(A) An assessment of the potential of each such laboratory to promote the transfers described in subsection (b).

(B) Recommendations on the manner in which each such laboratory might better promote such transfers.

(C) A description of the extent to which each such laboratory has implemented effectively the plan established for the laboratory under subsection (c) during the year preceding the date of the report.

(D) Recommendations of the Director for the improvement of the Program.

(e) DEFINITION.—In this section, the term "defense laboratory" means any laboratory owned or operated by the Department of Defense that carries out research in fiscal year 1993 in an amount in excess of $5,000,000.

In section 2(b), amend the table of contents by inserting after the item relating to section 835 the following new item:

Sec. 836. Program to encourage diversification of defense laboratories.

McCAIN (AND DECONCINI) AMENDMENT NO. 3066

Mr. MACK (for Mr. McCAIN, for himself and Mr. DECONCINI) proposed an amendment to the bill S. 3114, supra, as follows:

On page 487, between lines 12 and 13, insert the following:

SEC. 1064. STATE EQUALIZATION PROGRAMS.

Paragrah (2) of section 5(d) of Public Law 81–874 (20 U.S.C. 239(d)(2)) is amended—

(1) by striking subparagraph (C) (as added by section 330(a) of Public Law 94–482); and

(2) by adding at the end the following new subparagraph:

"(D) Any State whose program of State aid was certified by the Secretary under subparagraph (C) for fiscal year 1988, but whose program was determined by the Secretary under subparagraph (C)(i) not to meet the requirements of subparagraph (A) for one or more of the fiscal years 1989 through 1992—

"(i) shall be deemed to have met the requirements of subparagraph (A) for each of the fiscal years 1989 through 1992; and

"(ii) shall not, beginning with fiscal year 1993, and notwithstanding any other provision of this paragraph, take payments under this title into consideration as provided under subparagraph (A) for any fiscal year unless the Secretary has previously certified such State's program for such fiscal year.".

McCONNELL AMENDMENT NO. 3067

Mr. MACK (for Mr. McCONNELL) proposed an amendment to the bill S. 3114, supra, as follows:

On page 154, between lines 3 and 4, insert the following:

SEC. 505. STUDY OF EFFECTS OF OPERATIONS DESERT SHIELD AND DESERT STORM MOBILIZATIONS OF RESERVES AND MEMBERS OF THE NATIONAL GUARD WHO WERE SELF-EMPLOYED OR OWNERS OF SMALL BUSINESSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) The service of the members of the Armed Forces of the United States in Operations Desert Shield and Desert Storm was commendable.

(2) The Reserves and the members of the National Guard contributed to the readiness, preparedness, and combat capability of the coalition forces that participated in the liberation of Kuwait.

(3) The Reserves and the members of the National Guard ordered to active duty in connection with Operations Desert Shield and Desert Storm who were self-employed or were owners of small businesses possibly suffered unique financial difficulties resulting from their absence from their businesses for such active duty service.

(b) STUDY AND REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) Conduct a study regarding the economic and other effects on the Reserves and members of the National Guard referred to in subsection (a)(3) of being absent from their businesses for active duty service in connection with Operations Desert Shield and Desert Storm; and

(2) submit a report on the results of the study to the Committees on Armed Services of the Senate and the House of Representatives.

(c) CONTENT OF REPORT.—The report shall include the following matters:

(1) The number of Reserves and members of the National Guard ordered to active duty in connection with Operations Desert Shield and Desert Storm who were self-employed or were owners of small businesses.

(2) A description of the businesses owned by those Reserves and members of the National Guard when such personnel were ordered to active duty.

(3) A detailed analysis of the economic effects on the businesses of such personnel resulting from the absence of such personnel for active duty service.

(4) A discussion of the factors that contributed to any financial hardship or gain of such businesses during the period of the absence of such personnel.

(5) The extent to which such personnel voluntarily separated from the Armed Forces, assumed an inactive status, or retired after being released from active duty.

(6) An analysis of the rates of such separations, change of status, and retirements.

INOUYE AMENDMENT NO. 3068

Mr. NUNN (for Mr. INOUYE) proposed an amendment to the bill S. 3114, supra, as follows:

On page 49 beginning on line 12, after "(4)", delete all through "facilities" on line 14.

MCCAIN AMENDMENT NO. 3069

Mr. MACK (for Mr. MCCAIN) proposed an amendment to the bill S. 3114, supra, as follows:

On page 90, strike line 12 through line 15, and insert in lieu thereof the following:

"(2) No indemnification may be afforded under this provision unless the person or entity making a claim for indemnification—

(1) notifies the Department of Defense in writing within two years after such claim accrues or begins action within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the Department of Defense;

(2) immediately furnishes to the Department of Defense copies of all pertinent papers the entity receives;

(3) furnishes evidence or proof of any claim, loss, or damage covered by this section in the manner and form the Department of Defense requires;

(4) complies with the directions of the Department of Defense and executes any authorizations in connection with the settlement or defense of the claim or action; and

(5) cooperates fully and completely with the Department of Defense, and provides to the Department of Defense, upon request, all manner of assistance, including access to the records and personnel of the entity, in defense or settlement of the claim or action."

MITCHELL (AND OTHERS) AMENDMENT NO. 3070

Mr. NUNN (for Mr. MITCHELL, for himself, Mr. COHEN, Mr. BROWN, Mr. GRAMM, and Mr. LOTT) proposed an amendment to the bill S. 3114, supra, as follows:

On page 539, strike out line 9 and all that follows through page 539, line 20.

On page 539, line 21, strike out "2828." and insert in lieu thereof "2827.".

In section 2(b), amend the table of contents by striking out the items relating to sections 2827 and 2828 and inserting in lieu thereof the following:

Sec. 2827. Annual report relating to Overseas Military Facility Investment Recovery Account.

KENNEDY AMENDMENT NO. 3071

Mr. NUNN (for Mr. KENNEDY) proposed an amendment to the bill S. 3114, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . REPORT ON INTERNATIONAL MINE CLEARING EFFORTS IN REFUGEE SITUATIONS.

(a) FINDING.—The Congress finds that an estimated 10–20 million mines are scattered across Cambodia, Afghanistan, Somalia, Angola, and other countries which have experienced conflict and that refugee repatriation and other humanitarian programs are being seriously hampered by the widespread use of anti-personnel mines in regional conflicts and civil wars.

(b) REPORT.—(1) The Secretary of Defense, in consultation with the Secretary of State, shall provide a report on international mine clearing efforts in situations involving the repatriation and resettlement of refugees and displaced persons.

(2) Such report shall include, though not be limited to,

(A) An assessment of mine clearing needs in countries to which refugees and displaced persons are now returning, or are likely to return within the near future, including, though not limited to, Cambodia, Angola, Afghanistan, Somalia and Mozambique, and an assessment of current international efforts to meet the mine clearing needs in the countries covered by the report;

(B) An analysis of the specific types of mines in the individual countries assessed, and the availability of technology and assets within the international community for their removal;

(C) An assessment of what additional technologies and assets would be required to complete, expedite or reduce the costs of mine clearing efforts;

(D) An evaluation of the availability of technologies and assets within the United States government which, if called upon, could be employed to augment or complete mine clearing efforts in the countries covered by the report; and

(E) An evaluation of the desirability, feasibility and potential cost of U.S. assistance on either a unilateral or multilateral basis in such mine clearing operations.

(3) Such report shall be made available to the Committees on Armed Services of the Senate and the House of Representatives within 180 days of the enactment of this act.

SMITH AMENDMENT NO. 3072

Mr. MACK (for Mr. SMITH) proposed an amendment to the bill S. 3114, supra, as follows:

At the appropriate place in the bill, insert the following:

SEC. . SENSE OF CONGRESS RELATING TO THE AWARD OF THE NAVY EXPEDITIONARY MEDAL.

It is the sense of Congress that the President should award the Navy Expeditionary Medal to members of the Navy who served in Navy Task Force 16, culminating in the airraid commonly known as the "Doolittle raid on Tokyo", during April 1942, regardless of the time limitations on the consideration of such awards.

NUNN (AND WARNER) AMENDMENT NO. 3073

Mr. NUNN (for himself and Mr. WARNER) proposed an amendment to the bill S. 3114, supra, as follows:

On page 487, between lines 12 and 12, insert the following:

SEC. 10 . SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.

(a) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1992 to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar $529,300,000 as follows:

(1) For Military Personnel:

(A) For the Navy, $10,700,000.

(B) For the Air Force, $58,200,000.

(C) For the Air Force Reserve, $8,800,000.

(D) For the Air National Guard, $1,900,000.

(2) For Operation and Maintenance:

(A) For the Army, $1,400,000.

(B) For the Navy, $142,900,000.

(C) For the Air Force, $228,000,000.

(D) For the Defense Agencies, $31,500,000.

(E) For the Army Reserve, $3,300,000.

(F) For the Air Force Reserve, $13,200,000.

(G) For the Army National Guard, $1,400,000.

(H) For the Air National Guard, $2,000,000.

(3) For Military Construction:

(A) For the Air Force inside the United States, $10,000,000.

(B) For the Air Force for family housing inside the United States, $16,000,000.

(b) AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1992 to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar $263,530,000 as follows:

(1) For military construction for the Navy outside the United States, $81,530,000.

(2) For military construction for the Air Force inside the United States, $66,000,000.

(3) For military construction for the Air Force outside the United States, $7,600,000.

(4) For family housing for the Navy outside the United States, $87,200,000.

(5) For family housing for the Air Force outside the United States, $21,200,000.

(c) EMERGENCY DESIGNATION.—The authorization of appropriations in subsection (b) are effective only to the extent that the appropriations are designated by the Congress as emergency appropriations for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 in an Appropriations Act.

COATS AMENDMENT NO. 3074

Mr. COATS proposed an amendment to the bill S. 3114, supra, as follows:

On page 265, strike out line 19 and all that follows through the matter above line 3 on page 267.

DOMENICI (AND OTHERS) AMENDMENT NO. 3075

Mr. DOMENICI (for himself, Mr. BUMPERS, Mr. COHEN, Mr. DECONCINI, Mr. DURENBERGER, Mr. D'AMATO, Mr. GORTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. LUGAR, Mr. MCCONNELL, Ms. MIKULSKI, Mr. ROBB, Mr. SEYMOUR, Mr. PACKWOOD, Mr. WELLSTONE, and Mr. JEFFORDS) proposed an amendment to the bill S. 3114, supra, as follows:

On page 487, between lines 12 and 13, insert the following:

SEC. 1064. BENEFITS FOR SPOUSES AND FORMER SPOUSES OF MEMBERS WHO BECOME DISQUALIFIED FOR RETIRED PAY BY REASON OF MISCONDUCT INVOLVING ABUSE OF A DEPENDENT.

(a) IN GENERAL.—(1) Part II of subtitle A of title 10, United States Code, is amended by inserting after chapter 71 the following new chapter:

"CHAPTER 72—MISCELLANEOUS PROTECTIONS, RIGHTS, AND BENEFITS FOR DEPENDENTS

"Sec.

"1421. Annuity protection for spouses and former spouses of members losing eligibility for retired pay as a result of abuse of a dependent.

"1422. Other benefits.

"§ 1421. Annuity protection for spouses and former spouses of members losing eligibility for retired pay as a result of abuse of a dependent.

"(a) REQUIREMENT TO PAY ANNUITY.—The Secretary of a military department shall, upon application, pay an annuity under this section to an eligible spouse or former spouse of a member (described in subsection (b)) of the armed force under the jurisdiction of that Secretary.

"(b) ELIGIBLE PERSONS.—A spouse or former spouse of a member of the armed forces is eligible to receive an annuity under this section if—

"(1) after the member becomes eligible to be retired on the basis of years of service, the member's eligibility to receive retired pay or retainer pay is terminated as a result of misconduct of the member or former member involving abuse of a dependent; and

"(2) the spouse or former spouse—

"(A) was the victim of the abuse and was married to the member at the time of that abuse; or

"(B) is a natural or adopted parent of a dependent child of the member who was the victim of the abuse.

"(c) ADVERSE ACTIONS COVERED.—This section applies with respect to terminations of eligibility to receive retired pay or retainer pay as a result of a conviction by a court-martial or an administrative separation from the armed forces.

"(d) AMOUNT OF ANNUITY.—(1) The amount of the annuity payable under this section to a spouse or former spouse of a member referred to in subsection (b)(1) shall be equal to the lesser of—

"(A) the percentage determined under paragraph (2) of the amount of the retired pay or retainer pay which the member would have received on the date on which the spouse's or former spouse's entitlement to that annuity becomes effective if the member had been retired from the armed forces entitled to receive retired or retainer pay on that date; or

"(B) the amount that is equal to such portion of the member's retired or retainer pay as is provided for in an applicable court order (as defined in section 1408(a) of this title), if any.

"(2)(A) In the case of spouse or former spouse who has been married to the member for 20 or more years, at least 20 of which were during the period the member performed service creditable in determining the member's eligibility for retired or retainer pay, the percent applicable under paragraph (1)(A) is 50 percent.

"(B) In the case of a spouse or former spouse not described in subparagraph (A), the percent applicable under paragraph (1)(A) is the percent (rounded to the nearest one percent) that is determined by—

"(i) multiplying 50 percent times the number of years during the member's service creditable in determining the member's eligibility for retired or retainer pay that the spouse or former spouse has been married to the member; and

"(ii) dividing the product computed under clause (i) by 20.

"(3) Whenever retired pay is increased under section 1401a of this title (or any other provision of law), the annuity payable under this section to the spouse or former spouse of a member referred to in subsection (b)(1) shall be increased at the same time. The annuity shall be increased by the percent by which the retired pay or retainer pay of the member would have been increased if the member were receiving retired or retainer pay.

"(e) COMMENCEMENT AND TERMINATION.—(1) The eligibility of a person to receive an annuity under this section on the basis of a termination of eligibility for retired or retainer pay shall become effective as of the first day of the month in which the action that terminates the eligibility for retired or retainer pay is taken, as determined under regulations prescribed by the Secretary of the military department concerned.

"(2) Eligibility to receive an annuity under this section with respect to a member referred to in subsection (b) shall terminate—

"(A) in the case of an annuitant who marries again after the effective date of the annuity before attaining 55 years of age, on the date of such marriage; and

"(B) in the case of an annuitant who resumes cohabitation with the member, on the date on which the cohabitation resumes.

"(3) A person's eligibility to receive an annuity under this section that is terminated under paragraph (2)(A) by reason of remarriage shall be resumed in the event of the termination of that marriage by the death of that person's spouse or by annulment or divorce. The resumption of payment of the annuity shall begin as of the first day of the month in which that marriage is so terminated. The monthly amount of the resumed annuity shall be the amount that would have been paid if the entitlement to the annuity had not been terminated.

"(f) APPLICATION FOR ANNUITY.—(1) An application for an annuity under this section shall be made in the form and manner prescribed by the Secretary of the military department concerned. The application shall include the certification of the applicant, under oath or by affirmation, that no circumstances exist that would terminate the eligibility of the applicant for that annuity under subsection (e).

"(2) No annuity shall be paid under this section to a spouse or former spouse of a member of the armed forces referred to in subsection (b)(1) unless the spouse or former spouse applies for that annuity within one year after the date of the action referred to in subsection (e)(1).

"(3) the spouse or former spouse certifies to the Secretary of the military department concerned that none of the circumstances described in subsection (e)(2) exist in the case of the spouse or former spouse.

"(g) RECERTIFICATION OF ELIGIBILITY.—The Secretary of the military department concerned may require a recipient of an annuity under this section to recertify, at any time or on a periodic basis, that no circumstances exist that would terminate the eligibility of the applicant for that annuity under subsection (e). Each certification shall be made under oath or by affirmation.

"(h) MEMBER TO HAVE NO CLAIM AGAINST ANNUITY.—Notwithstanding any other provision of law, a member of the armed forces referred to in subsection (b)(1) shall have no ownership interest in, or claim against, an annuity payable under this section to a spouse or former spouse of the member.

"(i) OFFSET OF PAYMENTS TO INCARCERATED MEMBER.—If in any month a member of the armed forces referred to in subsection (b)(1) is incarcerated for any period during that month and is entitled to receive any payment from the United States—

"(1) the amount so payable shall be withheld to the extent of the amount of annuity payments made with respect to that member under this section and not recouped pursuant to this subsection before that month; and

"(2) the entitlement of that member to the amount so withheld shall terminate.

"(j) DEFINITIONS.—In this section:

"(1) The term 'dependent' means a spouse or dependent child.

"(2) The term 'dependent child', with respect to a member of the armed forces referred to in subsection (a), means an unmarried legitimate child, including an adopted child or a stepchild of the member, who—

"(A) is under 18 years of age;

"(B) is incapable of self-support because of a mental or physical incapacity that existed before becoming 18 years of age and is or, at the time of the action described in subsection (e)(1) with respect to that member, was dependent on the member for over one-half of the child's support; or

"(C) if enrolled in a full-time course of study in an institution of higher education recognized by the Secretary of Defense for the purposes of this clause, is under 23 years of age and is or, at the time of the action described in subsection (e)(1), was dependent on the member for over one-half of the child's support.

"§ 1422. Other benefits

"A spouse or former spouse of a member of the armed forces referred to in subsection (b)(1) of section 1421 of this title shall be entitled, while receiving an annuity under that section—

"(1) to receive medical and dental care under the provisions of chapter 55 of this title to the same extent as a dependent of a retired member of the armed forces;

"(2) to use the commissary and exchange stores on the same basis as a dependent of a retired member of the armed forces; and

"(3) to receive any other benefits that a dependent of a retired member is entitled to receive on the basis of being a dependent of a retired member.".

(2) The tables of chapters at the beginning of subtitle A of such title and part II of such subtitle are amended by inserting after the item relating to chapter 71 the following:

"72. Miscellaneous protections, rights, and benefits for dependents .... 1421".

(b) FUNDING FOR ANNUITIES.—Section 1463 of such title is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(5) annuities payable under section 1421 of this title.".

(c) APPLICABILITY.—(1) Section 1421 of title 10, United States Code (as added by subsection (a)), shall apply with respect to terminations of eligibility to receive retired or retainer pay that take effect before, on, or after the date of the enactment of this Act.

(2) Notwithstanding subsection (f)(2) of such section 1421, in the case of a spouse or former spouse claiming eligibility to receive an annuity under that section on the basis of a termination of eligibility to receive retired or retainer pay that took effect before the date of the enactment of this Act, no annuity shall be paid that spouse or former spouse under such section unless the spouse or former spouse applies for that annuity within one year after that date.

(3) No annuity shall accrue under such section 1421 for periods before the date of the enactment of this Act.

(d) REPORT ON OTHER ACTIONS.—(1) Not later than February 28, 1993, the Secretary of Defense shall transmit to the Congress a report on the actions taken and planned to be taken by the Department of Defense to reduce or eliminate disincentives for a dependent of a member of the Armed Forces abused by the member to report the abuse to appropriate authorities.

(2) The actions considered by the Secretary should include the provision of treatment, child care services, health care services, job training, job placement services, and transitional financial assistance for dependents of members of the Armed Forces referred to in paragraph (1).

(e) STUDY REQUIRED.—(1) The Secretary of Defense shall conduct a study in order to—

(A) determine the number of persons who became eligible to receive an annuity under section 1421 of title 10, United States Code (as added by subsection (a)), as of each of fiscal years 1980 through 1992;

(B) estimate the number of persons who will become eligible to receive an annuity under such section during each of fiscal years 1993 through 2000;

(C) determine, for each of fiscal years 1980 through 1992, the number of members of the Armed Forces who, after having completed at least one, and less than 20, years of service, were approved in that fiscal year for separation from the Armed Forces as a result of abuse of a spouse or dependent child; and

(D) estimate, for each of fiscal years 1993 through 2000, the number of members of the Armed Forces who, after having completed at least one, and less than 20, years of service in that fiscal year, will be approved in that fiscal year for separation from the Armed Forces as a result of abuse of a spouse or dependent child.

(2) The study shall include a thorough analysis of—

(A) the effects, if any, of appeals and requests for clemency in the case of courts-martial convictions on the entitlement to and the payment of annuities under section 1421 of title 10, United States Code (as added by subsection (a));

(B) the socio-economic effects on the dependents of members of the Armed Forces described in subsection (b) of such section that result from terminations of the eligibility of such members to receive retired or retainer pay; and

(C) the effects of separations of such members from the Armed Forces on the mission readiness of the units of assignment of such members when separated and on the Armed Forces in general.

(3) Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study.

PRYOR (AND ROTH) AMENDMENT NO. 3076

Mr. PRYOR (for himself and Mr. ROTH) proposed an amendment to the bill S. 3114, supra, as follows:

On page 22, strike out lines 16 through 25, and insert in lieu thereof the following:

SEC. 123. AIRBORNE SELF PROTECTION JAMMER.

None of the funds available to the Department of Defense for fiscal year 1993 or any fiscal year before fiscal year 1993 may be used for the procurement of the Airborne Self Protection Jammer system except for the payment of the costs of terminating existing contracts for the procurement of the Airborne Self Protection Jammer system.

BYRD (AND OTHERS) AMENDMENT NO. 3077

Mr. BYRD (for himself, Mr. EXON, Mr. RIEGLE, Mr. SARBANES, Mr. BINGAMAN, and Mr. DIXON) proposed an amendment to the bill S. 3114, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . DEFENSE PRODUCTION ACT AMENDMENTS.

(a) INVESTIGATIONS OF CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS.—Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended—

(1) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) MANDATORY INVESTIGATIONS.—The President or the President's designee shall make an investigation, as described in subsection (a), in any instance in which an entity controlled by or acting on behalf of a foreign government seeks to engage in any merger, acquisition, or takeover of a person engaged in interstate commerce in the United States that could affect the national security of the United States. Such investigation shall—

"(1) commence not later than 30 days after receipt by the President or the President's designee of written notification of the proposed or pending merger, acquisition, or takeover, as prescribed by regulations promulgated pursuant to this section; and

"(2) shall be completed not later than 45 days after its commencement.

(b) CONSIDERATIONS OF THE PRESIDENT.—Section 721(f) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(f)) (as redesignated by subsection (a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period and inserting a comma; and

(3) by adding at the end the following new paragraphs:

"(4) the potential effects of the proposed or pending transaction on sales of military goods, equipment, or technology to any country—

"(A) identified by the Secretary of State—

"(i) under section 6(j) of the Export Administration Act of 1979, as a country that supports terrorism;

"(ii) under section 6(l) of the Export Administration Act of 1979, as a country of concern regarding missile proliferation; or

"(iii) under section 6(m) of the Export Administration Act of 1979, as a country of concern regarding the proliferation of chemical and biological weapons; or

"(B) listed under section 309(c) of the Nuclear Non-Proliferation Act of 1978 on the 'Nuclear Non-Proliferation-Special Country List' (15 C.F.R. Part 778, Supplement No. 4) or any successor list; and

"(5) the potential effects of the proposed or pending transaction on United States international technology leadership in areas affecting United States national security.".

(c) REPORT.—Section 721(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(f)) (as redesignated by subsection (a)) is amended to read as follows:

"(g) REPORT TO THE CONGRESS.—The President shall immediately transmit to the Secretary of the Senate and the Clerk of the House of Representatives a written report of the President's determination of whether or not to take action under subsection (d), including a detailed explanation of the findings made under subsection (e) and the factors considered under subsection (f).".

(d) SENSE OF THE CONGRESS REGARDING THE COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES.—It is the sense of the Congress that the President should include in the membership of the Committee on Foreign Investment in the United States (established by Executive Order No. 11858)—

(1) the Director of the Office of Science and Technology Policy; and

(2) the Assistant to the President for National Security.

(e) INTELLIGENCE STUDY.—

(1) IN GENERAL.—In order to assist the Congress in its oversight responsibilities with respect to section 721 of the Defense Production Act (as amended by this section), the Director of the Federal Bureau of Investigation and the Director of Central Intelligence shall jointly submit to the Congress a report that evaluates whether—

(A) there is credible evidence of a strategy by 1 or more foreign countries or companies to acquire United States companies involved in the research, development, or production of defense critical technologies of which the United States is a leading producer; and

(B) such strategy is intended as a means—

(i) of obtaining access to defense critical technologies that the foreign entity would not otherwise have; or

(ii) of gaining substantial control of the market for such technologies.

(2) SUBMISSION.—The report required under paragraph (1) shall be submitted—

(A) not later than 1 year after the date of enactment of this Act; and

(B) upon the expiration of every 4-year period thereafter.

LEAHY (AND OTHERS) AMENDMENT NO. 3078

Mr. LEAHY (for himself, Mr. KERRY, Mr. KERREY, Mr. KENNEDY, Ms. MIKULSKI, Mr. DECONCINI, Mr. HATFIELD, Mr. JEFFORDS, Mr. WOFFORD, Mr. ADAMS, Mr. HARKIN, Mr. MOYNIHAN, Mr. DODD, Mr. CRANSTON, Mr. KOHL, Mr. BRYAN, Mr. RIEGLE, Mr. SANFORD, Mr. FORD, Mr. ROCKEFELLER, Mr. AKAKA, Mr. INOUYE, Mr. SPECTER, Mr. D'AMATO, Mr. REID, Mr. MITCHELL, Mr. SIMON, Mr. DASCHLE, Mr. SARBANES, Mr. METZENBAUM, Mr. PELL, Mr. CONRAD, Mr. LAUTENBERG, Mr. ROBB, Mr. BUMPERS, and Mr. EXON) proposed an amendment to the bill S. 3114, supra, as follows:

At the appropriate place in the bill insert the following new section:

SEC. . LANDMINE MORATORIUM ACT.

(a) This section shall be titled the "Landmine Moratorium Act of 1992".

(b) FINDINGS.—The Congress makes the following findings:

(1) Anti-personnel landmines, which are specifically designed to maim and kill people, have been used indiscriminately in dramatically increasing numbers, primarily in insurgencies in poor developing countries. Noncombatant civilians, including tens of thousands of children, have been the primary victims.

(2) Unlike other military weapons, landmines often remain implanted and undiscovered after conflict has ended, causing untold suffering to civilian populations. In countries like Afghanistan, Cambodia, Laos, Vietnam, and Angola, tens of millions of unexploded landmines have rendered whole areas uninhabitable. In Afghanistan, an estimated hundreds of thousands of people have been maimed and killed by landmines during the 14-year civil war. In Cambodia, more than 20,000 civilians have lost limbs and another 60 are being maimed each month from landmines.

(3) Over 35 countries are known to manufacture landmines, including the United States. However, the United States is not a major exporter of landmines. During the past ten years the Department of State has approved ten licenses for the commercial export of anti-personnel landmines valued at $980,000, and during the past five years the Department of Defense has approved the sale of 13,156 anti-personnel landmines valued at $841,145.

(4) The United States signed, but has not ratified, the 1981 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects. The Convention prohibits the indiscriminate use of landmines.

(5) When it signed the Convention, the United States stated: "We believe that the Convention represents a positive step forward in efforts to minimize injury or damage to the civilian population in time of armed conflict. Our signature of the Convention reflects the general willingness of the United States to adopt practical and reasonable provisions concerning the conduct of military operations, for the purpose of protecting noncombatants.".

(6) The Administration should submit the Convention to the Senate for ratification, and the President should actively negotiate under United Nations or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer or export of anti-personnel landmines. This would be an appropriate response to the end of the Cold War and the promotion of arms control agreements to reduce the indiscriminate killing and maiming of civilians.

(7) The United States should set an example for other countries in such negotiations, by implementing a one-year moratorium on the sale, transfer or export of anti-personnel landmines.

(c) STATEMENT OF POLICY.—

(1) It shall be the policy of the United States to seek verifiable international agreements prohibiting the sale, transfer or export, and further limiting the use, production, possession and deployment of anti-personnel landmines.

(2) It is the sense of the Congress that the President should actively seek to negotiate under United Nations or other auspice an international agreement, or a modification of the Convention, to prohibit the sale, transfer or export of anti-personnel landmines.

(d) MORATORIUM ON TRANSFERS OF ANTI-PERSONNEL LANDMINES ABROAD.—For a period of 1 year beginning on the date of enactment of this Act—

(1) no sale may be made or financed, no transfer may be made, and no license for export may be issued, under the Arms Export Control Act, with respect to any anti-personnel landmine; and

(2) no assistance may be provided under the Foreign Assistance Act of 1961, with respect to the provision of any anti-personnel landmine.

(e) DEFINITION.—For purposes of this section, the term "anti-personnel landmine" means—

(1) any munition placed under, on, or near the ground or other surface area, or delivered by artillery, rocket, mortar, or similar means or dropped from an aircraft and which is designed to be detonated or exploded by the presence, proximity, or contact of a person;

(2) any device or material which is designed, constructed, or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act;

(3) any manually-emplaced munition or device designed to kill, injure, or damage and which is actuated by remote control or automatically after a lapse of time.

In section ——, amend the table of contents by inserting after the item relating to section —— the following new item:

Sec. . Landmine Moratorium Act of 1992.

GRAHAM AMENDMENT NO. 3079

Mr. GRAHAM proposed an amendment to the bill S. 3114, supra, as follows:

On page 494, between lines 4 and 5, insert the following:

TITLE XII—CUBAN DEMOCRACY ACT OF 1992

SEC. 1201. SHORT TITLE.

This title may be cited as the "Cuban Democracy Act of 1992".

SEC. 1202. FINDINGS.

The Congress makes the following findings:

(1) The government of Fidel Castro has demonstrated consistent disregard for internationally accepted standards of human rights and for democratic values. It restricts the Cuban people's exercise of freedom of speech, press, assembly, and other rights recognized by the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948. It has refused to admit into Cuba the representative of the United Nations Human Rights Commission appointed to investigate human rights violations on the island.

(2) The Cuban people have demonstrated their yearning for freedom and their increasing opposition to the Castro government by risking their lives in organizing independent, democratic activities on the island and by undertaking hazardous flights for freedom to the United States and other countries.

(3) The Castro government maintains a military-dominated economy that has decreased the well-being of the Cuban people in order to enable the government to engage in military interventions and subversive activities throughout the world and, especially, in the Western Hemisphere. These have included involvement in narcotics trafficking and support for the FMLN guerrillas in El Salvador.

(4) There is no sign that the Castro regime is prepared to make any significant concessions to democracy or to undertake any form of democratic opening. Efforts to suppress dissent through intimidation, imprisonment, and exile have accelerated since the political changes that have occurred in the former Soviet Union and Eastern Europe.

(5) Events in the former Soviet Union and Eastern Europe have dramatically reduced Cuba's external support and threaten Cuba's food and oil supplies.

(6) The fall of communism in the former Soviet Union and Eastern Europe, the now universal recognition in Latin America and the Caribbean that Cuba provides a failed model of government and development, and the evident inability of Cuba's economy to survive current trends, provide the United States and the international democratic community with an unprecedented opportunity to promote a peaceful transition to democracy in Cuba.

(7) However, Castro's intransigence increases the likelihood that there could be a collapse of the Cuban economy, social upheaval, or widespread suffering. The recently concluded Cuban Communist Party Congress has underscored Castro's unwillingness to respond positively to increasing pressures for reform either from within the party or without.

(8) The United States cooperated with its European and other allies to assist the difficult transitions from Communist regimes in Eastern Europe. Therefore, it is appropriate for those allies to cooperate with United States policy to promote a peaceful transition in Cuba.

SEC. 1203. STATEMENT OF POLICY.

It should be the policy of the United States—

(1) to seek a peaceful transition to democracy and a resumption of economic growth in Cuba through the careful application of sanctions directed at the Castro government and support for the Cuban people;

(2) to seek the cooperation of other democratic countries in this policy;

(3) to make clear to other countries that, in determining its relations with them, the United States will take into account their willingness to cooperate in such a policy;

(4) to seek the speedy termination of any remaining military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from any of the independent states of the former Soviet Union;

(5) to continue vigorously to oppose the human rights violations of the Castro regime;

(6) to maintain sanctions of the Castro regime so long as it continues to refuse to move toward democratization and greater respect for human rights;

(7) to be prepared to reduce the sanctions in carefully calibrated ways in response to positive developments in Cuba;

(8) to encourage free and fair elections to determine Cuba's political future;

(9) to prevent Cuba from evading the United States embargo of that country through a North American Free Trade Agreement;

(10) to request the speedy termination of any military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from the government of any other country; and

(11) to initiate immediately the development of a comprehensive United States policy toward Cuba in a post-Castro era.

SEC. 1204. INTERNATIONAL COOPERATION.

(a) CUBAN TRADING PARTNERS.—The President should encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of this title.

(b) SANCTIONS AGAINST COUNTRIES ASSISTING CUBA.—

(1) SANCTIONS.—The President may apply the following sanctions to any country that provides assistance to Cuba:

(A) The government of such country shall not be eligible for assistance under the Foreign Assistance Act of 1961 or assistance or sales under the Arms Export Control Act.

(B) Such country shall not be eligible, under any program, for forgiveness or reduction of debt owed to the United States Government.

(2) DEFINITION OF ASSISTANCE.—For purposes of paragraph (1), the term "assistance to Cuba"—

(A) means assistance to or for the benefit of the Government of Cuba that is provided by grant, concessional sale, guaranty, or insurance, or by any other means on terms more favorable than that generally available in the applicable market, whether in the form of a loan, lease, credit, or otherwise, and such term includes subsidies for exports to Cuba and favorable tariff treatment of articles that are the growth, product, or manufacture of Cuba; and

(B) does not include—

(i) donations of food to nongovernmental organization or individuals in Cuba, or

(ii) exports of medicines or medical supplies, instruments, or equipment that would be permitted under section 1205(c) of this Act.

(3) APPLICABILITY OF SECTION.—This section, and any sanctions imposed pursuant to this section, shall cease to apply at such time as the President makes and reports to the Congress a determination under section 1208(a).

SEC. 1205. SUPPORT FOR THE CUBAN PEOPLE.

(a) PROVISIONS OF LAW AFFECTED.—The provisions of this section apply notwithstanding any other provision of law, including section 620(a) of the Foreign Assistance Act of 1961, and notwithstanding the exercise of authorities, before the enactment of this Act, under section 5(b) of the Trading With the Enemy Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979.

(b) DONATIONS OF FOOD.—Nothing in this or any other title shall prohibit donations of food to nongovernmental organizations or individuals in Cuba.

(c) EXPORTS OF MEDICINES AND MEDICAL SUPPLIES.—Exports of medicines or medical supplies, instruments, or equipment to Cuba shall not be restricted—

(1) except to the extent authorized by section 5(m) of the Export Administration Act of 1970 or section 203(b)(2) of the International Emergency Economic Powers Act;

(2) except in a case in which there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;

(3) except in a case in which there is a reasonable likelihood that the item to be exported will be reexported; and

(4) except in a case in which the item to be exported could be used in the production of any biotechnological product.

(d) REQUIREMENTS FOR CERTAIN EXPORTS.—

(1) ONSITE VERIFICATIONS.—(A) Subject to subparagraph (B), an export may be made under subsection (c) only if the President determines that the United States Government is able to verify, by onsite inspections and other appropriate means, that the exported item is to be used for the purposes for which it was intended and only for the use and benefit of the Cuban people.

(B) EXCEPTION.—Subparagraph (A) does not apply to donations to nongovernmental organizations in Cuba of medicines for humanitarian purposes.

(2) LICENSES.—Exports permitted under subsection (c) shall be made pursuant to specific licenses issued by the United States Government.

(e) TELECOMMUNICATIONS SERVICES AND FACILITIES.—

(1) TELECOMMUNICATIONS SERVICES.—Telecommunications services between the United States and Cuba shall be permitted.

(2) TELECOMMUNICATIONS FACILITIES.—Telecommunications facilities are authorized in such quantity and of such quality as may be necessary to provide efficient and adequate telecommunications services between the United States and Cuba.

(3) LICENSES OF PAYMENTS TO CUBA.—(A) The President may provide for the issuance of licenses for the full or partial payment to Cuba of amounts due Cuba as a result of the provision of telecommunications services authorized by this subsection, in a manner that is consistent with the public interest and the purposes of this title, except that this paragraph shall not require any withdrawal from any account blocked pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(B) If only partial payments are made to Cuba under subparagraph (A), the amounts withheld from Cuba shall be deposited in an account in a banking institution in the United States. Such account shall be blocked in the same manner as any other account containing funds in which Cuba has any interest, pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(4) AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION.—Nothing in this subsection shall be construed to supersede the authority of the Federal Communications Commission.

(f) DIRECT MAIL DELIVERY TO CUBA.—The United States Postal Service shall take such actions as are necessary to provide direct mail service to and from Cuba, including, in the absence of common carrier service between the 2 countries, the use of charter service providers.

SEC. 1206. SANCTIONS.

(a) PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.—

(1) PROHIBITION.—Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

(2) APPLICABILITY TO EXISTING CONTRACTS.—Paragraph (1) shall not affect any contract entered into before the date of the enactment of this Act.

(b) PROHIBITIONS ON VESSELS.—

(1) VESSELS ENGAGING IN TRADE.—Beginning on the 61st day after the date of the enactment of this Act, a vessel which enters a port or place in Cuba to engage in the trade of goods or services may not, within 180 days after departure from such port or place in Cuba, load or unload any freight at any place in the United States, except pursuant to a license issued by the Secretary of the Treasury.

(2) VESSELS CARRYING GOODS OR PASSENGERS TO OR FROM CUBA.—Except as specifically authorized by the Secretary of the Treasury, a vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national, as defined in section 515.302 of the Office of Foreign Assets Control Treasury Regulations, has any interest may not enter a United States port.

(3) INAPPLICABILITY OF SHIP STORES GENERAL LICENSE.—No commodities which may be exported under a general license described in section 771.9 of title 15, Code of Federal Regulations, as in effect on May 1, 1992, may be exported under a general license to any vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest.

(4) DEFINITIONS.—As used in this subsection—

(A) the term "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft; and

(B) the term "United States" includes the territories and possessions of the United States and the customs waters of the United States (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401)).

(c) RESTRICTIONS ON REMITTANCES TO CUBA.—The President shall establish strict limits on remittances to Cuba by United States persons for the purpose of financing the travel of Cubans to the United States, in order to ensure that such remittances reflect only the reasonable costs associated with such travel, and are not used by the Government of Cuba as a means of gaining access to United States currency.

(d) CLARIFICATION OF APPLICABILITY OF SANCTIONS.—The prohibitions contained in subsections (a), (b), and (c) shall not apply with respect to any activity otherwise permitted by section 1205 or section 1207 of this title or any activity which may not be regulated or prohibited under section 5(b)(4) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)(4)).

SEC. 1207. POLICY TOWARD A TRANSITIONAL CUBAN GOVERNMENT.

Food, medicine, and medical supplies for humanitarian purposes should be made available for Cuba under the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 if the President determines and certifies to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that the government in power in Cuba—

(1) has made a public commitment to hold free and fair elections for a new government within 6 months and is proceeding to implement that decision;

(2) has made a public commitment to respect, and is respecting, internationally recognized human rights and basic democratic freedoms; and

(3) is not providing weapons or funds to any group, in any other country, that seeks the violent overthrow of the government of that country.

SEC. 1208. POLICY TOWARD A DEMOCRATIC CUBAN GOVERNMENT.

(a) WAIVER OF RESTRICTIONS.—The President may waive the requirements of section 1206 if the President determines and reports to the Congress that the Government of Cuba—

(1) has held free and fair elections conducted under internationally recognized observers;

(2) has permitted opposition parties ample time to organize and campaign for such elec-

tions, and has permitted full access to the media to all candidates in the elections;

(3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(4) is moving toward establishing a free market economic system; and

(5) has committed itself to constitutional change that would ensure regular free and fair elections that meet the requirements of paragraph (2).

(b) POLICIES.—If the President makes a determination under subsection (a), the President shall take the following actions with respect to a Cuban Government elected pursuant to elections described in subsection (a):

(1) To encourage the admission or reentry of such government to international organizations and international financial institutions.

(2) To provide emergency relief during Cuba's transition to a viable economic system.

(3) To take steps to end the United States trade embargo of Cuba.

(4) To enter into negotiations for a framework agreement providing for trade with Cuba.

SEC. 1209. EXISTING CLAIMS NOT AFFECTED.

Except as provided in section 1205(a), nothing in this title affects the provisions of section 620(a)(2) of the Foreign Assistance Act of 1961.

SEC. 1210. ENFORCEMENT.

(a) ENFORCEMENT AUTHORITY.—The authority to enforce this title shall be carried out by the Secretary of the Treasury. The Secretary of the Treasury shall exercise the authorities of the Trading With the Enemy Act in enforcing this Act. In carrying out this subsection, the Secretary of the Treasury shall take the necessary steps to ensure that activities permitted under section 1205 are carried out for the purposes set forth in this title and not for purposes of the accumulation by the Cuban Government of excessive amounts of United States currency or the accumulation of excessive profits by any person or entity.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this title.

(c) PENALTIES UNDER THE TRADING WITH THE ENEMY ACT.—Section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16) is amended—

(1) by inserting "(a)" before "That whoever"; and

(2) by adding at the end the following:

"(b)(1) The Secretary of the Treasury may impose a civil penalty of not more than $50,000 on any person who violates any license, order, rule, or regulation issued under this Act.

"(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

"(3) The penalties provided under this subsection may not be imposed for—

"(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

"(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.

"(4) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

"(5) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code.".

(d) APPLICABILITY OF PENALTIES.—The penalties set forth in section 16 of the Trading With the Enemy Act shall apply to violations of this title to the same extent as such penalties apply to violations under that Act.

(e) OFFICE OF FOREIGN ASSETS CONTROL.—The Department of the Treasury shall establish and maintain a branch of the Office of Foreign Assets Control in Miami, Florida, in order to strengthen the enforcement of this Act.

SEC. 1211. DEFINITION.

As used in this Act, the term "United States person" means any United States citizen or alien admitted for permanent residence in the United States, and any corporation, partnership, or other organization organized under the laws of the United States.

SEC. 1212. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act.

DODD AMENDMENT NO. 3080

Mr. DODD proposed an amendment to amendment No. 3079 proposed by Mr. GRAHAM to the bill S. 3114, supra, as follows:

At the end of the pending amendment add the following new sections—

SEC. Notwithstanding any other provision of law, the President may waive any provision of this title if he determines that to do so would be in the national interest of the United States, and he reports in writing to the Speaker of the House and the Chairman of the Committee of Foreign Relations of the Senate the provision or provisions of this title that he intends to waive.

SEC. . DEFENSE CONVERSION AND REINVESTMENT; EXPORT LOAN GUARANTEES.

(a) AUTHORITY FOR PROVIDING LOAN GUARANTEES.—(1) the President may extend guarantees for the sale of defense articles and services to the member nations of the North Atlantic Treaty Organization and to Israel, Australia, New Zealand and Japan. The aggregate amount guaranteed under this section in any fiscal year may not exceed $1,000,000,000.

(2) In extending medium- and long-term guarantees for sales pursuant to paragraph (1), the President shall not offer terms and conditions more beneficial than would be provided by the Export-Import Bank of the United States under similar circumstances in conjunction with the provision of guarantees for nondefense articles and services.

(3) The authority of this subsection (1) may be exercised only to such extent and in such amounts as provided for in advance in Appropriations Acts.

(b) SUBSIDY COST AND FUNDING.—(1) There is authorized to be appropriated for fiscal year 1993, $65,000,000 for the subsidy cost for establishing a program at the Department of Defense to provide loan guarantees for defense exports.

(2) Funds authorized to be available for the Export-Import Bank may not be used for the execution of the program under this section.

(c) EXECUTIVE AGENCY.—For the purposes of this section, the Department of Defense shall be the executive agency for administration of the program under this section unless the President, in consultation with the Congress, designates another agency (other than the Export-Import Bank) to implement the program. Applications for guarantees issued under this section shall be submitted to the Secretary of Defense, who may make such arrangements as necessary with other agencies to process the applications and otherwise to implement the program under this section.

(d) FEES CHARGED AND COLLECTED.—A fee shall be changed for each guarantee issued under the program under this section. All fees collected in connection with guarantees issued shall be available to offset the cost of guarantee obligations under the program. All of the fees collected under this subsection, together with earnings on those fees and other income arising from guarantee operations under the program, shall be held in a financing account maintained in the Treasury of the United States. All funds in such account may be invested in obligations of the United States. Any interest or other receipts derived from such investments shall be credited to such account and may be used for the purposes of the program.

(e) INTERAGENCY REVIEW PROCESS.—The issuance of loan guarantees for defense exports under this section shall be subject to all United States Government review procedures for arms sales to foreign governments and shall be consistent with United States policy on arms sales to those nations referred to in subsection (a).

METZENBAUM (AND KERRY) AMENDMENT NO. 3081

Mr. METZENBAUM (for himself and Mr. KERRY) proposed an amendment to the bill S. 3114, supra; as follows:

On page 79 strike line 19 and all that follows through line 24 and insert in lieu thereof:

"(a) AUTHORITY.—Except as provided in paragraph (b), the Secretary of Defense may agree to hold harmless and indemnify any response action contractor for any liability arising out of the contractor's performance in carrying out or related to response actions under 10 United States Code section 2701. Amounts expended pursuant to this section for indemnification of any response action contractor shall be considered governmental response costs."

On page 80 line 1 insert "(1)" Prior to "Under reg-"

On page 80 following line 10 insert the following:

"(2) PROHIBITION.—No Contracts referred to in paragraph (1) shall provide indemnification to contractors for liability caused by the conduct of the contractor which was grossly negligent or which constituted intentional misconduct."

"(3) LIMITATIONS.—A contract referred to in paragraph (1) which provides indemnification shall include deductibles and shall place limits on the amount of indemnification to be made available."

WARNER AMENDMENT NO. 3082

Mr. WARNER proposed an amendment to the bill S. 3114, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . REPORT ON POSSIBLE REVISIONS TO THE NORTH ATLANTIC TREATY.

(1) FINDINGS.—The Congress finds that—

(a) When the North Atlantic Treaty was signed in 1949, the clear military threat to the security of Western Europe was the Soviet Union and its allies in Eastern Europe;

(b) Since 1949 it has been clearly understood by the people of the Western World that the primary mission of NATO was to deter an attack from the Soviet bloc;

(c) The dramatic changes in Europe since the fall of the Berlin Wall in 1989, and the subsequent dissolution of the Warsaw Pact and the Soviet Union have fundamentally changed the security situation in Europe;

(d) One of the consequences of the breakdown of 40 years of Communist rule in Eastern Europe and the former Soviet Union has been ethnic conflict throughout the region, particularly in the Balkans and the republics of the former Soviet Union;

(e) Those fundamental changes in the security threats facing NATO member nations have caused confusion concerning the mission of NATO in the post-cold war world and the role of NATO military forces outside of the NATO theater, particularly in the former Soviet Union; and, therefore

(f) A fundamental review of the North Atlantic Treaty is necessary, in light of the new situation in Europe.

(2) REPORT.—The Secretary of Defense, in consultation with the Secretary of State, shall provide a report to the Congress, by April 1, 1993, which includes—

(a) a detailed analysis of the foreseeable threats to the security of NATO member nations;

(b) a determination whether or not there is a requirement for the member nations of NATO to revise the North Atlantic Treaty of 1949 to meet the future challenges to their peace and security; and

(c) the extent to which the charter permits the use of NATO forces for peacekeeping purposes, given the steadily increased use of military forces for such purposes, and the range of missions that should be considered for such peacekeeping to protect the interests of member nations.

BINGAMAN (AND COCHRAN) AMENDMENT NO. 3083

Mr. WARNER (for Mr. BINGAMAN, for himself and Mr. COCHRAN) proposed an amendment to the bill S. 3114, supra, as follows:

On page 494, between lines 4 and 5, insert the following:

TITLE XII—NATIONAL EDUCATION GOALS PANEL

SEC. 1201. PANEL ESTABLISHED.

(a) ESTABLISHMENT.—There is established within the Department of Education a National Education Goals Panel (hereafter in this title referred to as the "Panel").

(b) COMPOSITION.—

(1) IN GENERAL.—The Panel shall be composed of 14 members (hereafter in this title referred to as "members"), including—

(A) two members appointed by the President;

(B) eight Governors, three of whom shall be from the same political party as the President and five of whom shall be of the opposite political party of the President, appointed by the Chairman or Vice Chairman of the National Governors' Association, with each appointing those of his respective political party, in consultation with each other and in accordance with paragraph (2); and

(C) four Members of Congress appointed as follows:

(i) The Majority Leader of the Senate shall appoint 1 individual from among the Members of the Senate.

(ii) The Minority Leader of the Senate shall appoint 1 individual from among the Members of the Senate.

(iii) The Majority Leader of the House of Representatives shall appoint 1 individual from among the Members of the House of Representatives.

(iv) The Minority Leader of the House of Representatives shall appoint 1 individual from among the Members of the House of Representatives.

(2) SPECIAL APPOINTMENT RULES.—(A) The members appointed pursuant to paragraph (1)(B) shall be appointed as follows:

(i) If the Chairperson of the National Governors' Association is from the same political party as the President, then the Chairperson shall appoint 3 persons pursuant to such paragraph and the Vice Chairperson shall appoint 5 persons pursuant to such paragraph.

(ii) If the Chairperson of the National Governors' Association is from the opposite political party as the President, then the Chairperson shall appoint 5 persons pursuant to such paragraph and the Vice Chairperson shall appoint 3 persons pursuant to such paragraph.

(B) If the National Governors' Association has appointed a panel that meets the requirements of this subsection prior to the date of enactment of this Act, then the members serving on such panel shall be deemed to be in compliance with the provisions of this subsection and shall not be required to be reappointed pursuant to this subsection.

(c) TERMS.—The terms of service of members shall be as follows:

(1) EXECUTIVE BRANCH.—Members appointed under paragraph (1)(A) shall serve at the pleasure of the President.

(2) GOVERNORS.—Members appointed under paragraph (1)(B) shall serve a two-year term, except that the initial appointments under such paragraph shall be made to ensure staggered terms with one-half of the such member's terms concluding every two years.

(3) MEMBERS OF CONGRESS.—Members appointed under paragraph (1)(C) shall serve a term of four years.

(d) INITIATION.—The Panel may begin to carry out the duties of the Panel under this title when seven members of the Panel have been appointed.

(e) DATE OF APPOINTMENT.—The initial members shall be appointed not later than 60 days after the date of enactment of this Act.

(f) RETENTION.—In order to retain an appointment to the Panel, a member must attend at least two-thirds of the scheduled meetings of the Panel in any given year.

(g) VACANCIES.—A vacancy on the Panel shall not affect the powers of the Panel, but shall be filled in the same manner as the original appointment.

(h) TRAVEL.—Each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(i) CHAIRPERSON SELECTION.—

(1) INITIAL SELECTION.—The members appointed under subsection (b)(2) shall select a Chairperson from among such members, except that after the expiration of the term of the member selected under this paragraph to serve as Chairperson as of October 1, 1991, or upon the termination of the tenure of such Chairperson, whichever is earlier, a majority of the members of the Council shall select the Chairperson from among the members.

(2) CONTINGENT SELECTION.—If no individual described in paragraph (1) assumes the position of Chairperson of the Council within 60 days of the date of the enactment of this Act, a majority of the members shall thereafter select a Chairperson from among the members.

SEC. 1202. FUNCTIONS.

(a) FUNCTIONS.—

(1) IN GENERAL.—The Panel shall—

(A) propose the indicators to be used to measure the National Education Goals and reporting progress toward their achievement, the baselines and benchmarks against which progress may be evaluated, and the format for an annual report to the Nation;

(B) select interim and final measures and appropriate measurement tools to be developed as necessary in each goal area;

(C) report on the Federal actions to fulfill its responsibilities to education, including funding the Federal financial role, providing more flexibility and controlling mandates that limit the States' ability to fund education;

(D) issue a report to the President, the Congress, the Governors, and the Nation annually on progress toward the National Education Goals;

(E) assure, through requirements for State reports, that student performance is reported in the context of other relevant information about student, school and system performance;

(F) identify gaps in existing educational data, make recommendations for improvements in the methods and procedures for assessments that would be appropriate to assessing progress toward the National Education Goals, propose changes in national and international measurement systems as appropriate and make recommendations to the President, the Congress, and the Governors for needed improvements;

(G) appoint members to the National Education Standards and Assessments Council; and

(H) in accordance with paragraph (2), issue certification of content and student performance standards and the criteria for assessments as world-class following submission of such certification by the National Education Standards and Assessments Council.

(2) SPECIAL RULE.—In the event the Panel denies certification to all or part of a certification of the National Education Standards and Assessments Council, all or part of a certification shall be returned to such Council with detailed written explanations for the denial.

(b) PERFORMANCE OF FUNCTIONS.—In carrying out its responsibilities, the Panel shall operate on the principle of consensus.

(c) DATA COLLECTION.—The Panel shall make arrangements with any appropriate entity to generate or collect such data as may be necessary to appropriately assess progress toward the National Education Goals.

SEC. 1203. ANNUAL REPORT CARD.

(a) IN GENERAL.—The Panel shall prepare and submit to the President, the appropriate committees of Congress, and the Governor of each State a National Report Card, that—

(1) sets forth an analysis of the progress of the United States toward achieving the National Education Goals; and

(2) may, as determined necessary by the Panel based on the findings of the Panel and an analysis of the views and comments of all interested parties—

(A) identify continuing gaps in existing educational data; and

(B) make recommendations for improvement in the methods and procedures of assessing educational attainment and strengthening the national educational assessment and information system of the Department of Education or any other appropriate Federal Government entity.

(b) CONTINUATION.—Based on the timetable established in section _____02, the Panel shall continue to issue a National Report Card on an annual basis for the duration of the existence of the Panel.

(c) FORMAT.—National Report Cards shall be presented in a form that is understandable to parents and the general public.

SEC. 1204. POWERS OF THE PANEL.

(a) HEARINGS.—

(1) IN GENERAL.—The Panel shall, for the purpose of carrying out this title, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Panel considers appropriate.

(2) CONDUCT.—In carrying out this title, the Panel shall conduct public hearings in different geographic areas of the United States, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public regarding the Panel's functions described in section 1202(a).

(b) INFORMATION.—The Panel may secure directly from any department or agency of the United States information necessary to enable the Panel to carry out this title. Upon request of the Chairperson of the Panel, the head of a department or agency shall furnish such information to the Panel to the extent permitted by law.

(c) GIFTS.—The Panel may accept, use, and dispose of gifts or donations of services or property.

(d) POSTAL SERVICES.—The Panel may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE AND SUPPORTIVE SERVICES.—The Secretary of Education shall provide to the Panel, on a reimbursable basis, administrative support services as the Panel may request.

SEC. 1205. ADMINISTRATIVE PROVISIONS.

(a) MEETINGS.—The Panel shall meet on a regular basis, as necessary, at the call of the Chairperson of the Panel or a majority of its members.

(b) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

(c) VOTING.—No individual may vote or exercise any of the powers of a member by proxy.

SEC. 1206. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Chairperson of the Panel shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a Director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

(b) APPOINTMENT AND PAY OF STAFF.—The Chairperson of the Panel may appoint personnel as the Chairperson considers appropriate without regard to the provisions of title 5, United States Code, governing appointments to the competitive service. The staff of the Panel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. The rate of pay of the staff of the Panel shall not exceed the rate of basic pay payable for GS-15 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—The Panel may procure temporary and intermittent services under section 3019(b) of title 5, United States Code.

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Panel, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Panel to assist the Panel in its duties under this title.

SEC. 1207. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 through 2001 to carry out this title.

ENTERPRISE ZONES TAX INCENTIVES ACT

ROTH AMENDMENT NO. 3084

Mr. ROTH submitted an amendment intended to be proposed by him to the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FOREIGN TAX CREDIT FOR TAXES PAID TO ANGOLA.

(a) IN GENERAL.—Paragraph (2) of section 901(j) of the Internal Revenue Code of 1986 (relating to denial of foreign tax credit, etc., with respect to certain foreign countries) is amended by adding at the end thereof the following new subparagraph:

"(D) SPECIAL RULE FOR ANGOLA.—Angola shall be treated as not described in clause (i) or (iii) of subparagraph (A) if the Secretary of State certifies to the Secretary of the Treasury that the Angolan national elections scheduled for 29/30 September 1992 were held and were conducted freely and fairly."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning in or after the calendar year during which free and fair national elections are held in Angola, as certified by the Secretary of State to the Secretary of the Treasury within 60 days after the close of such calendar year.

NATIONAL DEFENSE AUTHORIZATION ACT

BREAUX (AND LOTT) AMENDMENT NO. 3085

Mr. BREAUX (for himself and Mr. LOTT) proposed an amendment to the bill S. 3114, supra, as follows:

At the appropriate place, insert the following:

SEC. . AUTHORIZATION FOR CONTINGENCY RETAINER FLEET FUNDING.

To enable the Secretary of Transportation to establish a contingency retainer fleet program to provide militarily useful vessels for meeting the sealift needs of the United States during national emergencies, the Secretary of Defense is authorized to transfer to the Secretary of Transportation, for operating agreements for contingency retainer fleet vessels, not to exceed $300,000,000 for fiscal year 1993. Amounts appropriated under this section shall remain available until expended.

TRANSFER OF JURISDICTION OVER ROCKY MOUNTAIN ARSENAL, CO

WIRTH (AND OTHERS) AMENDMENT NO. 3086

Mr. FORD (for Mr. WIRTH, for himself, Mr. BROWN, Mr. CHAFEE, and Mr. BAUCUS) proposed an amendment to the bill (H.R. 1435) to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, CO, to the Secretary of the Interior, as follows:

On page 9, line 1, strike all through line 3 and insert in lieu thereof the following:

"(1) to the extent practicable, consistent with the purposes set forth in section 4(c) for which the refuge will be established after the certification required under section 2(b)(2); and".

On page 9, line 6, strike all through page 10, line 5 and insert in lieu thereof the following:

"(f) EXISTING LAW.—The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.), and the Bald Eagle Protection Act (16 U.S.C. 668 et seq.) shall apply to all actions at the Arsenal.

"(g) RESPONSE ACTIONS.—(1) The future establishment of the refuge shall not restrict or lessen in any way any response action or degree of cleanup under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or other applicable provisions of law, or any response action required under any other statute to remediate petroleum products or their derivatives (including motor oil and aviation fuel), required to be carried out by or under the authority of the Secretary of the Army at the Arsenal and surrounding areas, including (but not limited to)—

"(A) the substance or performance of the remedial investigation and feasibility study or endangerment assessments;

"(B) the contents and conclusions of the remedial investigation and feasibility study or the endangerment assessment reports; or

"(C) the selection and implementation of response action and any action required under any other statute to remediate petroleum products or their derivatives (including motor oil and aviation fuel) for the Arsenal and surrounding areas.

"(2) All response action and action required under any other statute to remediate petroleum products or their derivatives (including motor oil and aviation fuel) carried out at the Arsenal shall attain a degree of cleanup of hazardous substances, pollutants, and contaminants that, at a minimum, is sufficient to fully meet the purposes set forth in section 4(c) for which the refuge will be established and to permit access to all real property comprising the refuge by refuge personnel, wildlife researchers, and visitors.".

On page 11, line 15, after "passerines," insert "and".

On page 11, line 16, after "birds" strike "and species presently or in the future listed as threatened or endangered".

On page 11, line 18, insert the following new paragraph and redesignate all subsequent paragraphs accordingly:

"(2) To conserve species listed as threatened or endangered under the Endangered Species Act and species that are candidates for such listing.".

On page 12, line 20, strike all through page 13, line 23.

COMMUNITY ENVIRONMENTAL RESPONSE FACILITATION ACT

MITCHELL AMENDMENT NO. 3087

Mr. FORD (for Mr. MITCHELL) proposed an amendment to the bill (H.R. 4016) to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of, as follows:

On page 4, strike lines 9-12 and insert in lieu thereof the following:

"(4) IDENTIFICATION OF UNCONTAMINATED PROPERTY.—(A) In the case of real property owned by the United States that: (i) is or has been used as a military installation and on which the United States plans to or has terminated military operations, pursuant to a base closure law, including the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note), Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note), section 2687 of title 10, United States Code, or any provision of law authorizing the closure or realignment of a military installation enacted on or after the date of enactment of this Act; or (ii) is not used as a military installation and on which the United States plans to terminate Federal government operations, other than military operations,"

On page 6, following line 6 add "or" and the following new clause:

"(viii) a complete preliminary assessment and site investigation if such document provides information equivalent to that which would be included in clauses (i–vii).".

On page 6, strike line 20, and insert in lieu thereof:

"(C) In the case of property on which the United States is terminating military operations as described in paragraph (A) identification and concurrence required under subparagraphs (A) and (B) shall be made 18 months after the military installation is selected for closure pursuant to a base closure law or 60 days after the Environmental Protection Agency approves a remedial investigation/feasibility study, whichever is later. In all other cases the identification and concurrence required".

On page 7, add the following new sentence at the end of line 4:

"The head of the department, agency, or instrumentality of the United States, may sell or otherwise transfer any parcel of real property identified under subparagraph (A) 180 days after submitting a request for concurrence under subparagraph (B)."

On page 7, following line 20, insert the following:

"(E) The head of the department, agency, or instrumentality of the United States with jurisdiction over the real property subject to this subsection may sell, lease, or otherwise transfer any right, title, or interest to the real property identified under subparagraph (A) without regard to whether the real property is or has been listed as a site on the National Priorities List."

On page 7, line 21, strike "(E)" and insert in lieu thereof: "(F)".

PATENT PROCESSES

DECONCINI AMENDMENT NO. 3088

Mr. FORD (for Mr. DECONCINI) proposed an amendment to the bill (S. 654) to amend title 35, United States Code, with respect to patents on certain processes, as follows:

On page 2, line 22, strike out all though the end and insert in lieu thereof the following:

TITLE I—BIOTECHNOLOGICAL PROCESS PATENTS

SEC. 101. CONDITIONS FOR PATENTABILITY; NONOBVIOUS SUBJECT MATTER.

Section 103 of title 35, United States Code, is amended—

(1) in the first unnumbered paragraph by inserting "(a)" before "A patent";

(2) in the second unnumbered paragraph by inserting "(b)" before "Subject matter"; and

(3) by adding at the end thereof the following new subsections:

"(c) Notwithstanding any other provision of this section, a claimed process of making or using a machine, manufacture, or composition of matter is not obvious under this section if—

"(1) the machine, manufacture, or composition of matter is novel under section 102 of this title and nonobvious under this section;

"(2) the claimed process is a biotechnological process as defined in subsection (d); and

"(3)(A) the machine, manufacture, or composition of matter, and the claim process invention at the time it was made, were owned by the same person or subject to an obligation of assignment to the same person; and

"(B) claims to the process and to the machine, manufacture, or composition of matter, are entitled to the same effective filing date, and appear in the same patent application, different patent applications, or patent application and patent which are owned by the same person and which expire or are set to expire on the same date.

"(d) For purposes of this section, the term 'biotechnological process' means any method of making or using living organisms, or parts thereof, for the purpose of making or modifying products. Such term includes recombinant DNA, recombinant RNA, cell fusion including hybridoma techniques, and other processes involving site specific manipulation of genetic material.".

SEC. 102. NO PRESUMPTION OF INVALIDITY.

The first unnumbered paragraph of section 282 of title 35, United States Code, is amended by inserting after the second sentence "A claim issued under the provisions of section 103(c) of this title on a process of making or using a machine, manufacture, or composition of matter shall not be held invalid under section 103 of this title solely because the machine, manufacture, or composition of matter is determined to lack novelty under section 102 of this title or to be obvious under section 103 of this title.".

SEC. 103. EFFECTIVE DATE.

The amendments made by this title shall apply to all United States patents granted on or after the date of the enactment of this Act and to all applications for United States patents pending on or filed after such date of enactment, including any application for the reissuance of a patent.

TITLE II—BIOTECHNOLOGICAL MATERIAL PATENTS

SEC. 201. INFRINGEMENT BY IMPORTATION, SALE OR USE.

(a) INFRINGEMENT.—Section 271 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(h) Whoever without authority imports into the United States or sells or uses within the United States a product which is made by using a biotechnological material (as defined under section 154(b)) which is patented in the United States shall be liable as an infringer if the importation, sale, or use of the product occurs during the term of such patent.".

(b) CONTENTS AND TERM PATENT.—Section 154 of title 35, United States Code, is amended—

(1) by inserting "(a)" before "Every";

(2) by striking out "in this title," and inserting in lieu thereof "in this title (1)";

(3) by striking out "and, if the invention" and inserting "(2) if the invention";

(4) by inserting after "products made by that process," the following: "and (3) if the invention is a biotechnological material used in making a product, of the right to exclude others from using or selling throughout the United States, or importing into the United States the product made or using such biotechnological material,"; and

(5) by adding at the end thereof the following:

"(b) For purposes of this section, the term 'biotechnological material' is defined as any material (including a host cell, DNA sequence, or vector) that is used in a biotechnological process as defined under section 103(d).".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall take effect six months after the date of enactment of this Act and, subject to paragraph (2), shall apply only with respect to products made or imported after the effective date of the amendments made by this section.

(2) EXCEPTIONS.—The amendments made by this section shall not abridge or affect the right of any person, or any successor to the business of such person (A) to continue to use, sell, or import any specific product in substantial and continuous sale or use by such person in the United States on date of enactment, or (B) for which substantial preparation by such person for such sale or use was made before such date, to the extent equitable for the protection of commercial investment made or business commenced in the United States before such date.

INDIAN HEALTH PROGRAMS AUTHORIZATION ACT

INOUYE AMENDMENT NO. 3089

Mr. FORD (for Mr. INOUYE) proposed an amendment to the bill (S. 2481) to amend the Indian Health Care Improvement Act to authorize appropriations for Indian health programs, and for other purposes, as follows:

On page 127, immediately after the period on line 9, insert the following: "The Secretary may increase this amount to be consistent with the National Health Service Corps Loan Repayment Program.".

On page 132, between lines 6 and 7, insert the following new section:

SEC. 110A. QUENTIN N. BURDICK INDIAN HEALTH PROGRAM.

(a) Establishment.—Title I of the Act is amended by adding after section 114 the following new section:

"QUENTIN N. BURDICK INDIAN HEALTH PROGRAM

"Sec. 114A. (a) The Secretary, acting through the Service, is authorized to establish, in consultation with appropriate officials at the University of North Dakota, the Quentin N. Burdick Indian Health Program at the University of North Dakota. The purpose of such program shall be to coordinate the Indian health training programs available at the University of North Dakota to better promote the health of Indian people.

"(b) The Secretary may give preference, in accordance with sections 112(d)(5), 114(b)(4), and 209(h)(3), to applications for grants or contracts submitted by the University of North Dakota through the Quentin N. Burdick Indian Health Program.".

(b) Conforming Amendments.—

(1) Nursing programs.—Section 112(d) of the Act (25 U.S.C. 1616e(d)) is amended—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by inserting after paragraph (4) the following:

"(5) programs that are conducted through the Quentin N. Burdick Indian Health Program at the University of North Dakota.".

(2) INMED programs.—Section 114(b) of the Act (25 U.S.C. 1616g(b)), as amended by section 110 of this Act, is further amended by adding at the end the following:

"(4) The Secretary shall give preference in providing grants under paragraphs (2) and (3) to applications submitted by the University of North Dakota through the Quentin N. Burdick Indian Health Program.".

(3) Mental health programs.—Section 209(h) of the Act (as redesignated by section 902(3)(B) of this Act), is amended by adding at the end the following:

"(2) The Secretary shall give preference in entering into contracts or making grants under this subsection to appropriate programs conducted through the Quentin N. Burdick Indian Health Program at the University of North Dakota.".

On page 179, between lines 19 and 20, insert the following:

SEC. 216. CONTRACT HEALTH SERVICES PAYMENT STUDY.

Title II of the Act is amended by adding at the end thereof the following new section:

"CONTRACT HEALTH SERVICES PAYMENT STUDY

"Sec. 219. (a) The Secretary, acting through the Service and in consultation with representatives of the Indian tribes, Indian organizations operating Contract Health Care programs under the Indian Self-Determination and Education Assistance Act or under self-governance compacts, Indian Health Service personnel, private Contract Health Service providers, and the Indian Health Service Fiscal Intermediary, shall conduct a study—

"(1) to assess and identify the administrative barriers which hinder the timely payments for services delivered by private Contract Health Services providers for individual Indians by the Indian Health Service and the Indian Health Service Fiscal Intermediary;

"(2) to assess and identify the impact of delayed Contract Health Services payments by the Indian Health Service and the Indian Health Service Fiscal Intermediary to private Contract Health Services providers upon the personal credit records of individual Indians who have been treated by same providers; and

"(3) to determine the most efficient and effective means of improving the Indian Health Service Contract Health Services payment system and ensuring the development of appropriate consumer protection policies designed to protect individual Indians who receive authorized services from private Contract Health Services providers.

"(b) Such study shall—

"(1) assess the impact of the existing Indian Contract Health Services regulations and policies upon the ability of the Indian Health Service and the Indian Health Service Fiscal Intermediary to process, on a timely and efficient basis, the payment of billings submitted by private Contract Health Services providers;

"(2) assess the impact which delayed payments have on the private Contract Health Services providers' fiscal operations;

"(3) assess the nature and extent of the problems experienced by individual Indians with collection agencies seeking payments on behalf of Contract Health Services providers; and

"(4) identify the appropriate changes in Federal policies, administrative procedures and regulations required to eliminate the problems experienced by the private Contract Health Services' providers and individual Indians as a result of delayed Contract Health Services payments.

"(c) Not later than the date which is 12 months after the date of enactment of this section, the Secretary shall transmit to the Congress a report containing—

"(1) a detailed description of the study conducted pursuant to this section;

"(2) a discussion of the findings and conclusions of such study; and

"(3) recommendations for appropriate administrative and legislative solutions.

"(d) There are authorized to be appropriated such sums as are necessary to carry out this section for fiscal year 1993 or any fiscal year thereafter in which the report is due.".

SEC. 217. NATIVE HAWAIIAN HEALTH SCHOLARSHIPS.

(a) Eligibility.—Subject to the availability of funds appropriated under the authority of subsection (c) of this section, the Secretary shall provide funds through a direct grant or a cooperative agreement to Kamehameha School/Bishop Estate for the purpose of providing scholarship assistance to students who—

(1) meet the requirements of section 329 of the Public Health Service Act (42 U.S.C. 254b), and

(2) are Native Hawaiians.

(b) Terms and Conditions.—(1) The scholarship assistance provided under subsection (a) of this section shall be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 338A of the Public Health Service Act (42 U.S.C. 2541), provided that—

(A) the provision of scholarships in each type of health care profession training shall correspond to the need for each type of health care professional to serve the Native Hawaiian health care systems, as identified by Papa Ola Lokahi;

(B) to the maximum extent practicable, the Secretary shall select scholarship recipients from a list of eligible applicants submitted by the Kamehameha Schools/Bishop Estate;

(C) the obligated service requirement for each scholarship recipient shall be fulfilled through service, in order of priority, in (i) any one of the five Native Hawaiian health care systems, or (ii) health professions shortage areas, medically underserved areas, or geographic areas or facilities similarly designated by the United States Public Health Service in the State of Hawaii; and

(D) the provision of counseling, retention and other support services shall not be limited to scholarship recipients, but shall also include recipients of other scholarship and financial aid programs enrolled in appropriate health professions training programs.

(2) The Native Hawaiian Health Scholarship program shall not be administered by or through the Indian Health Service.

(c) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 2001 for the purpose of funding the scholarship assistance provided under subsection (a) of this section.

SEC. 218. PAYMENT OF CLAIMS.

Title II of the Act is amended by adding at the end the following new section:

"PROMPT ACTION

"Sec. 220. (a) The Indian Health Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

"(b) If the Indian Health Service fails to respond to a notification of a claim in accordance with subsection (a), the Indian Health Service shall accept as valid the claim submitted by the provider of a contract care service.

"(c) The Indian Health Service shall pay a completed contract care service claim within 30 days of completion of the claim, and shall be subject to the Prompt Payment Act (31 U.S.C. 3901 et seq.).".

On page 183, beginning with line 25, strike out all through line 3 on page 184 and insert in lieu thereof "government offices are located on an island.".

On page 202, after line 22, add the following new section:

SEC. 504. TREATMENT OF DEMONSTRATION PROGRAMS.

Notwithstanding any other provision of law, the two demonstration programs, Oklahoma City Clinic and Tulsa Clinic, which are in the Hospitals and Clinics program of the Indian Health Service shall be treated as service units in the allocation of resources, and coordination of care. The Secretary shall provide assistance to these programs in the development of resources, equipment and facility needs. For the period that the Oklahoma City and Tulsa clinics are in demonstration-project status, they shall not be subject to the provisions of Public Law 93-638. The Secretary shall evaluate the results of these demonstration projects and report back to Congress his findings and recommendations by March 1999.

On page 210, between lines 5 and 6, insert the following:

"(e) Urban NIAAA Transferred Programs.—(1) The Secretary shall provide within the Urban Programs Branch of the Indian Health Service a grant program for the administration of urban Indian alcohol programs which were originally established under the National Institute on Alcoholism and Alcohol Abuse (NIAAA) and transferred to the Indian Health Service. The program shall include the following:

"(2) The purpose of these grants are to provide support for the continuation of the alcohol prevention and treatment services for the urban Indian populations served, and other objectives agreed upon between the Service and the individual urban program.

"(3) Urban Indian service providers which meet the definition of an urban Indian organization under title V of this Act, and which operate Indian alcohol programs originally funded under the NIAAA subsequently transferred to the Indian Health Service, are eligible to participate in this program.

"(4) For the purposes of simplification, the Secretary may make either grants or contracts to eligible urban organizations, and may combine the NIAAA alcohol funds with other substance abuse funds currently administered through the Urban Programs Branch.

"(5) The Secretary shall evaluate and report to Congress on the activities of programs funded under this subsection at least every two years.

On page 219, between lines 17 and 18, insert the following:

"INDIAN HEALTH SERVICE RESPONSIBILITIES

"SEC. 714. The Memorandum of Agreement entered into pursuant to section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411) shall include specific provisions pursuant to which the Service shall assume responsibility for—

"(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

"(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

"(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

"INDIAN HEALTH SERVICE PROGRAM

"SEC. 715. (a) The Secretary, acting through the Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include—

"(1) prevention, through educational intervention, in Indian communities,

"(2) acute detoxification and treatment,

"(3) community-based rehabilitation,

"(4) community education and involvement, including extensive training of health care, educational, and community-based personnel,

"(5) residential treatment programs for pregnant and post partum women and their children, and

"(6) relapse prevention services, including group homes.

The target population of such a program shall be the members of Indian tribes. Additionally, efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

"(b)(1) The Secretary, acting through the Service, may enter into contracts with public or private providers of alcohol and substance abuse treatment services for the purpose of assisting the Service in carrying out the program required under subsection (a).

"(2) In carrying out this subsection, the Secretary shall provide assistance to Indian tribes to—

"(A) develop criteria for the certification of alcohol and substance abuse service providers;

"(B) facilitate access to off-campus substance abuse degree programs; and

"(C) facilitate accreditation of service facilities that meet minimum standards for such services and facilities as may be determined pursuant to section 4205(a)(3) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411(a)(3)).

"INDIAN HEALTH SERVICE YOUTH PROGRAM

"SEC. 716. (a) The Secretary shall develop and implement a program for acute detoxification and treatment for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

"(b)(1) The Secretary shall construct or renovate, and appropriately staff and operate, a youth regional treatment center in each area under the jurisdiction of an area office. For the purposes of this subsection, the area offices of the Service in Tucson and Phoenix, Arizona, shall be considered one area office and the area office in California shall be considered to be two area offices, one office whose jurisdiction shall be considered to encompass the northern area of the State of California, and one office whose jurisdiction shall be considered to encompass the remainder of the State of California.

"(2) For the purpose of staffing and operating such centers or facilities, funding shall be pursuant to the Act of November 2, 1921 (25 U.S.C. 13).

"(3) Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating and maintaining a residential youth treatment facility in Fairbanks, Alaska.

"(4) A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) agreed upon (by appropriate tribal resolution) by a majority of the tribes to be served by such center.

"(c)(1) The Secretary, acting through the Service, shall, in consultation with Indian tribes—

"(A) identify and use, where appropriate, federally owned structures suitable as local residential or regional alcohol and substance abuse treatment centers for Indian youth; and

"(B) establish guidelines for determining the suitability of any such federally owned structure to be used as a local residential or regional alcohol and substance abuse treatment center for Indian youth.

"(2) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure.

"(d)(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each Service service unit community-based rehabilitation and followup services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

"(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

"(e) In providing the treatment and other services to Indian youth authorized by this section, the Secretary shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (d) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

"(f)(1) The Secretary shall conduct a study to determine the incidence and prevalence of the abuse of multiple forms of drugs, including alcohol, among Indian youth residing on Indian reservations and in urban areas and the interrelationship of such abuse with the incidence of mental illness among such youth.

"(2) The Secretary shall submit a report detailing the findings of such study, together with recommendations based on such findings, to the Congress no later than two years after the date of the enactment of this section.

"TRAINING AND COMMUNITY EDUCATION

"SEC. 717. (a) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit a program of community education, including off-campus degree studies, and community involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education in alcohol and substance abuse to political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical members of each tribal community.

"(b) The Secretary shall, either directly or by contract, provide instruction in the area of alcohol and substance abuse, including instruction in prevention, relapse prevention services, crisis intervention, and family relations in the context of alcohol and substance abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol syndrome to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

"(c) In carrying out the education and training programs required by this section, the Secretary, acting through the Service and in consultation with tribes and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

"(1) the elevated risk of alcohol and substance abuse faced by children of alcoholics;

"(2) the cultural and multigenerational aspects of alcohol and substance abuse prevention and recovery; and

"(3) community-based and multidisciplinary strategies for preventing and treating alcohol and substance abuse.

"REPORTS

"SEC. 718. (a) The Secretary, with respect to the administration of any health program by a Service service unit, directly or through contract, including a contract under the Indian Self-Determination and Education Assistance Act, shall require the compilation of data relating to the number of cases or incidents which any of the Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.

"(b) The data compiled under subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan under section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2471 et seq.).

"(c) Each service unit director shall be responsible for assembling the data compiled under this section and section 4214 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2434) into an annual tribal comprehensive report. Such report shall be provided to the affected tribe and to the Director of the Service who shall develop and publish a biennial national report based on such tribal comprehensive reports.".

On page 219, line 19, strike out "SEC. 714." and insert in lieu thereof "SEC. 719.".

On page 230, line 22, immediately after the first period, insert the following: Upon completion of the authorized planning activity or a comparable planning activity by a tribe, the Secretary is authorized to negotiate and implement a Compact of Self-Governance and Annual Funding Agreement with such tribe."

On page 232, line 22, strike "a project" and insert "2 projects".

On page 233, between lines 2 and 3, insert the following:

"(b) The Secretary shall conduct one of the projects authorized in subsection (a) in the Service area served by the Indian Health Service Area office located in Phoenix, Arizona.".

On page 233, line 3, strike "(b)" and insert "(c)".

On page 233, line 3, strike "project" and insert "projects".

On page 233, between lines 5 and 6, insert the following:

SEC. 816. LAND TRANSFER.

The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Indian Health Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Indian Health Service and occupied by the Chemawa Indian Health Center.

SEC. 817. LEASES WITH INDIAN TRIBES.

Section 804 of the Indian Health Care Improvement Act (25 U.S.C. 1674), as redesignated by section 701(b) of this Act, is amended to read as follows:

"SEC. 804. (a) Notwithstanding any other provision of law, the Secretary shall, in carrying out the purposes of this Act, enter into leases with Indian tribes and tribal organizations for periods not in excess of twenty years. Property leased by the Secretary from an Indian tribe or tribal organization may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe.

"(b) The Secretary, upon request of an Indian tribe or tribal organization, shall enter into leases, contracts, and other legal agreements with Indian tribes or tribal organizations which hold—

"(1) title to;

"(2) a leasehold interest in; or

"(3) a beneficial interest in (where title is held by the United States in trust for the benefit of the tribe);

facilities reasonably necessary for the administration and delivery of health services by the Service or by programs operated by Indian tribes or tribal organizations to compensate such Indian tribes or tribal organizations for costs associated with the use of such facilities for such purposes. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable, based on the reasonable rental costs of comparable premises in the community where such facilities are located. Leases, contracts, and other legal agreements with Indian tribes or tribal organizations operating contracts under the Indian Self-Determination and Education Assistance Act, Public Law 93-683, shall be in lieu of charges for space used in the performance of such contract which are otherwise funded through direct or indirect costs under such contracts.".

SEC. 818. OFFICE OF INDIAN WOMEN'S HEALTH CARE.

(a) ESTABLISHMENT.—There is established in the Indian Health Service (hereafter referred to in this section as the "Service") an Office of Indian Women's Health Care (hereafter referred to in this section as the "Office").

(b) PURPOSE.—

(1) IN GENERAL.—The Office shall oversee efforts of the Service to monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.

(2) IN PARTICULAR.—In particular, the Office shall have the following purposes:

(A) To update all basic service information systems to include the collection and analysis of data pertinent to documenting the level and quality of health care being received by Indian women through the Service and related contractors.

(B) To review any proposed studies by the Service to ensure that Indian women are appropriately included in the scope of such studies.

(C) To establish and maintain an Indian women's health agenda, which shall—

(i) include the identification of priority areas of service;

(ii) incorporate existing efforts to identify such priority areas, for example, the Indian Women's Task Force and Round Table Conference held in Tucson, Arizona, in 1991;

(iii) ensure that the priority areas identified become an integral part of the planning and evaluation processes for all Service delivery systems;

(iv) form the basis for plans and annual budget requests to implement services, equipment, personnel, and other changes necessary to improve the delivery of health services to Indian women; and

(v) reflect the participation and views of Service beneficiaries.

(D) To allow for differences in priorities by Area offices, making maximum utilization of Area office capabilities and facilities.

(E) To recommend ways to obtain and coordinate additional government, tribal, and private resources to accomplish the plans developed pursuant to subparagraph (C)(iv).

(F) To include the findings, recommendations, agenda, plans, and other relevant information compiled by the Office in the annual reports submitted by the Service to the Congress.

(G) To conduct such other activities as may be necessary to carry out the overall purpose of the Office.

(c) DEFINITION.—For the purpose of this section, the term "Area office" has the meaning given the term in section 4(i) of the Indian Health Care Improvement Act (25 U.S.C. 1603(i)).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 819. HEALTH PROFESSIONAL PRIORITIES IN RELATED PROGRAM.

Section 333A(a) of the Public Health Service Act (42 U.S.C. 254f-1(a)) is amended—

(1) in paragraph (2), by striking "and" after the semicolon at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following paragraph:

"(4) subject to paragraphs (1) through (3), give priority to meeting the needs of the Indian Health Service and the needs of health programs or facilities operated by tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act, except to the extent not practicable.".

SEC. 820. PRIORITY FOR INDIAN RESERVATIONS.

(a) PRIORITY.—On and after the date of the enactment of this Act, the Bureau of Indian Affairs, Department of the Interior, and the Indian Health Service, Department of Health and Human Services, shall, in all matters involving the reorganization or development of service facilities, or in the establishment of related employment projects to address the unemployment conditions in economically depressed areas, give a priority to locating such facilities and projects on Indian lands.

(b) DEFINITION.—As used in this section, the term "Indian lands" means—

(1) all lands within the limits of any Indian reservation; and

(2) any lands title which is held in trust by the United States for the benefit of any Indian tribe or individual Indian, or held by any Indian tribe or individual Indian subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

NATIONAL DEFENSE AUTHORIZATION ACT

ROTH (AND GRASSLEY) AMENDMENT NO. 3090

Mr. WARNER (for Mr. ROTH, for himself, and Mr. GRASSLEY) proposed an amendment to the bill S. 3114, supra, as follows:

(1) On page 402, lines 24 and 25, change the phrase to read "Subject to subparagraphs (B), (C), and (D)"; and

(2) On page 404, between lines 4 and 5, insert the following:

(D) CERTIFICATIONS.—No obligation or adjustment of an obligation may be charged pursuant to the provisions of this paragraph until the Secretary of Defense certifies to Congress:

(i) That the limitations on expending and obligating amounts established pursuant to section 1341 of title 31, United States Code are being observed within the Department of Defense; and

(ii) That reports on any violations of section 1341, whether intentional or inadvertent, are being submitted to the President and Congress immediately and with all relevant facts and a statement of actions taken as required by section 1351 of title 31, United States Code."

SMITH AMENDMENT NO. 3091

Mr. WARNER (for Mr. SMITH) proposed an amendment to the bill S. 3114, supra, as follows:

At the appropriate place, add the following:

SEC. . POW/MIA STAMP

(a) Congress finds that:

(1) the President has declared the POW/MIA issue to be of highest national priority;

(2) there are over 88,000 missing U.S. service personnel from World War II, the Korean War, and the Vietnam War;

(3) public awareness of the sacrifices which have been and may continue to be made by American prisoners of war and Americans missing in action is critical to advancing efforts to obtain the return of missing American service personnel.

(b) The Postmaster General shall issue a commemorative postage stamp in honor of American prisoners of war and Americans missing in action. Such a stamp shall be issued and sold for such a period as the Postmaster General shall determine.

REID AMENDMENT NO. 3092

Mr. NUNN (for Mr. REID) proposed an amendment to the bill S. 3114, supra, as follows:

On page 634, following line 19 add:

"(C) Any Department of Energy defense nuclear facility, including the Nevada Test Site, that will experience a reduction of 10% or more in the number of Department of Energy employees employed at the facility in any 12-month period.

BRYAN (AND REID) AMENDMENT NO. 3093

Mr. NUNN (for Mr. BRYAN, for himself and Mr. REID) proposed an amendment to the bill S. 3114, supra, as follows:

On page 633, below line 21, add the following:

SEC. 3141. STUDY OF CONVERSION OF NEVADA TEST SITE FOR USE FOR SOLAR ENERGY PRODUCTION PURPOSES.

(a) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Energy, in consultation with the Secretary of Defense, the Administrator of the Environmental Protection Agency, and the Director of the Office of Technology Assessment, shall carry out and submit to Congress a study on the conversion, development, and utilization of the Nevada Test Site, Nevada, or one or more portions thereof, as a commercial facility for the development of solar energy research and production technologies.

(b) STUDY ELEMENTS.—In carrying out the study under subsection (a), the Secretary of Energy shall consider the following:

(1) The potential of the Nevada Test Site for solar energy production from a variety of solar energy production technologies, including technologies for the production of thermal energy and photo-voltaic energy.

(2) The costs and benefits of the development of such energy production technologies, including the cost per kilowatt hour of energy production from each such technology and the potential market for the sale or use of energy produced by such technologies.

(3) The effect of the development of the Nevada Test Site for solar energy production on the economy and employment rates in the region in which the Nevada Test Site is located.

(4) The effectiveness of plans for retraining current employees at the Nevada Test Site for employment in the development, utilization, and marketing of solar energy production technologies.

(5) The effect of the development of various solar energy production technologies at the Nevada Test Site on the manufacturing and export economy of the United States.

(6) The extent to which the development of solar energy production technologies at the Nevada Test Site is compatible with current and proposed alternative uses of the Site, including the compatibility of such development with environmental restoration and other clear-up activities at the Site and with continuing use of the Site for limited nuclear testing.

NUNN (AND WARNER) AMENDMENT NO. 3094

Mr. NUNN (for himself and Mr. WARNER) proposed an amendment to the bill S. 3114, supra, as follows:

On page 50, line 2, strike "$10,645,659,000" and insert in lieu thereof $10,665,659,000".

KENNEDY (AND OTHERS) AMENDMENT NO. 3095

Mr. NUNN (for Mr. KENNEDY, for himself, Mr. METZENBAUM, Mr. PRYOR, Mr. DODD, Mr. SIMON, and Mr. WELLSTONE) proposed an amendment to the bill S. 3114, supra, as follows:

On page 65, between lines 17 and 18, insert the following:

SEC. 232. MANUFACTURING TECHNOLOGY DEVELOPMENT PROGRAMS.

Manufacturing technology development programs conducted by or for the Department of Defense, including those programs for which funds are made available pursuant to section 203, shall include a focus on production technologies designed to build on and expand existing worker skills and experience in manufacturing production.

On page 102, below line 24, insert the following:

SEC. 334. IMPACT AID.

Section 3(e)(1) of Public Law 81-874 (20 U.S.C. 238(e)(1)) is amended in the matter following subparagraph (C) by inserting "shall not be less than 100 percent of the payment such agency received under subsections (a) and (b) for the preceding fiscal year," after "for such fiscal year".

SEC. 335. EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS.

(a) USE OF FUNDS.—Section 325(c) of such Act (29 U.S.C. 1662d(c)) is amended to read as follows:

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Grants made under subsection (a) may be used for any purpose for which funds may be used under section 314 or this part.

"(2) RESERVATION.—

"(A) IN GENERAL.—The Secretary shall reserve at least 10 percent of the funds appropriated to carry out this section for the purpose of making grants to States under subsection (a) to provide the reimbursement described in subparagraph (B).

"(B) REIMBURSEMENT.—A grant described in subparagraph (A) may be used to reimburse a State for the funds reserved by the State, pursuant to section 302(c), that—

"(i) are expended for rapid response assistance and basic readjustment services (not including support services) described in paragraphs (1) and (2) of section 314(a), respectively; and

"(ii) are delivered to eligible dislocated workers adversely affected by reductions in expenditures by the United States for defense or by closures of United States military installations, as determined in accordance with regulations of the Secretary of Defense.".

(b) NOTICE REQUIREMENTS.—Section 325 of such Act (42 U.S.C. 1662d) is amended by adding at the end the following new subsections:

"(e) NOTICE REQUIREMENTS.—

"(1) SECRETARY OF DEFENSE NOTICE REQUIREMENT.—To the extent practicable, the Secretary of Defense shall provide 6 months advance notice to a defense contractor of any cancellation of, or substantial reduction in, a defense contract, that will adversely affect the defense contractor.

"(2) DEFENSE CONTRACTOR NOTICE REQUIREMENT.—Not later than 2 weeks after a defense contractor receives notice under paragraph (1) of the cancellation of, or substantial reduction in, a defense contract, the contractor shall provide notice of such cancellation or substantial reduction to—

"(A)(i) each representative of employees whose work is directly related to the contract that is being canceled or substantially reduced and who are employed by the defense contractor; or

"(ii) if there is no such representative at that time, each such employee;

"(B) the State dislocated worker unit or office described in section 311(b)(2) and the chief elected official of the unit of general local government within which such adverse effect may occur;

"(3) CONSTRUCTIVE NOTICE OF TERMINATION FOR EMPLOYEES.—The notice provided under paragraph (2)(A) to the employees of a defense contractor shall be considered to be notice of termination to the employees for the purposes of determining whether such employees are eligible dislocated workers under this title, except where the employer has specified that the loss of such contract is not likely to result in plant closure or mass layoff. Any employee considered to be such a worker solely on the basis of such notice shall be eligible to receive services under section 314(b) and under paragraphs (1) through (14) of section 314(c).

"(4) DEFENSE CONTRACTOR.—For purposes of this subsection, the term 'defense contractor' means a private person producing goods or services pursuant to—

"(A) one or more defense contracts for not less than $500,000 entered into with the Department of Defense; or

"(B) one or more subcontracts—

"(i) entered into in connection with a defense contract; and

"(ii) for a total amount of not less than $500,000.".

SEC. 336. POLICY TO EXPEDITE ASSISTANCE.

(a) TRANSFERS.—In each case in which the Secretary of Defense is required under this Act or an amendment made by this Act to transfer funds to another department or agency of the Federal Government for the purpose of funding programs that provide assistance to recipients adversely affected by reduced spending by the Department of Defense, including communities and local educational agencies adversely affected by closures and realignments of military installations, and in each case in which the Secretary is authorized to make such a transfer and exercises the authority to do so, the Secretary shall make the transfer as expeditiously as is practicable.

(b) SPENDING.—In each case in which the Secretary of Defense is required under this Act or an amendment made by this Act to provide assistance to recipients adversely affected by reduced spending by the Department of Defense, including communities and local educational agencies adversely affected by closures and realignments of military installations, and in each case in which the Secretary is authorized to provide that assistance and exercises the authority to do so, the Secretary shall make the funds available for providing that assistance as expeditiously as is practicable. The Secretary shall expedite the processing of applications and other requests for such assistance, including applications for grants.

On page 273, line 11, insert before the period the following: ", including improvements that build on the skill and experience of their work force".

On page 283, between lines 2 and 3, and insert in lieu thereof the following:

"(7) Programs for encouraging research in colleges and universities and in other technology development and extension programs in the United States for the development of work systems that build on worker's skill and experience.

"(8) Programs for assisting in the transition to high performance work systems, including ongoing worker involvement in the evaluation, selection, and installation and operation of production technologies and associated organization or work.

On page 285, line 24, insert ", including high performance, high quality, and high flexibility production," after "work force".

On page 291, line 16, strike out "and processes" and insert in lieu thereof ", processes, and organization of work systems that build on workers' skill and experience, and work force skill development".

On page 304, line 16, insert "and workers" after "businesses".

On page 305, strike out lines 2 and 3, and insert in lieu thereof the following:

bilities of the manufacturing work force;

"(7) promote high-performance work systems, with development and dissemination of production technologies that build upon the skills and capabilities of the work force, high levels of worker education and training, and work force participation in the evaluation, selection, and implementation of new production technologies; and

"(8) ensure appropriate coordination between

On page 307, strike out line 20 and all that follows through page 308, line 3, and insert in lieu thereof the following:

(d) DEFENSE MANUFACTURING ENGINEERING EDUCATION PROGRAM.—Of the amounts authorized to be appropriated under section 201, $25,000,000 shall be available for defense manufacturing engineering education grants under section 2196 of title 10, United States Code.

(e) DEFENSE MANUFACTURING EXPERTS IN THE CLASSROOM PROGRAM.—(1)(A) Section 2197 of title 10, United States Code, is amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"§ 2197. Manufacturing experts in the classroom";

(ii) in subsection (a), by striking out "managers and" in the matter above paragraph (1); and

(iii) by adding at the end the following new subsection:

"(e) MANUFACTURING EXPERT DEFINED.—In this section, the term 'manufacturing expert' means manufacturing managers and workers having experience in the organization of production and education and training needs and other experts in manufacturing.".

(B) The table of sections at the beginning of chapter 111 of such title is amended by striking out the item relating to section 2197 and inserting in lieu thereof the following:

"2197. Manufacturing experts in the classroom.".

(2) Of the amounts authorized to be appropriated under section 201, $5,000,000 shall be available for the manufacturing experts in the classroom program under section 2197 of title 10, United States Code.

On page 309, line 3, strike out "businesses" and insert in lieu thereof "firms whose businesses and workers".

On page 309, line 4, strike out "business" and insert in lieu thereof "expenditures".

On page 309, line 8, insert "business planning," after "training,".

On page 309, line 10, insert "in making improvements necessary for conversion to commercial markets and practices and" after "Assistance".

On page 309, line 15, insert "and development" after "identification".

On page 310, strike out line 2, and insert in lieu thereof the following: "capabilities, including development and introduction of high performance workplace systems, employee and participative management systems, workforce literacy programs, programs to encourage employee ownership, worker education and training, work force participation in the evaluation, selection, and implementation of new production technologies; and".

On page 311, line 16, strike out "partnership's" and insert in lieu thereof "program's".

On page 311, line 23, insert ", including their work forces" after "businesses".

On page 312, line 4, insert ", including their work forces," before "adversely".

WARNER AMENDMENT NO. 3096

Mr. WARNER proposed an amendment to the bill S. 3114, supra, as follows:

At an appropriate place in the bill, insert the following new section:

SEC. . NATIONAL DEFENSE SEALIFT FUND.

Chapter 131 of title 10, United States Code, is amended by adding at the end thereof the following new section 2218:

"2218. National Defense Sealift Fund.

"(a) there is established on the books of the treasury a fund to be known as the National Defense Sealift Fund," which shall be administered by the Secretary of Defense.

"(b) funds may be deposited in the National Defense Sealift Fund only as specifically authorized in law.

"(c) funds deposited in the National Defense Sealift Fund may be obligated and expended by the Secretary of Defense for—

"(1) research and development relating to National Defense Sealift;

"(2) construction, purchase, or conversion of Sealift vessels for national defense purposes;

"(3) lease and operational and maintenance of Sealift vessels for national defense purposes; and

"(4) other purposes relating to National Defense Sealift; but only to the extent such obligation or expenditure is specifically authorized in law.".

SPECTER AMENDMENT NO. 3097

Mr. WARNER (for Mr. SPECTER) proposed an amendment to the bill S. 3114, supra, as follows:

On page 333, insert the following new section between lines 13 and 14:

SEC. 810. CLARIFICATION OF PARTICIPANTS IN DEFENSE DUAL-USE CRITICAL TECHNOLOGY PARTNERSHIPS.

Section 2271(b) of title 10, United States Code (as redesignated by section 802(a)(2)), is amended by inserting "government-owned and operated industrial facilities", after "Federal laboratory or laboratories".

MCCAIN (AND OTHERS) AMENDMENT NO. 3098

Mr. WARNER (for Mr. MCCAIN, for himself, Mr. GORE, Mr. BINGAMAN, Mr. THURMOND, Mr. HELMS, Mr. LIEBERMAN, and Mr. KASTEN) proposed an amendment to the bill S. 3114, supra, as follows:

At the appropriate place in the bill, add the following new title:

TITLE .—IRAN-IRAQ ARMS NONPROLIFERATON ACT OF 1992

SEC. 01. SHORT TITLE.

This title may be cited as the "Iran-Iraq Arms Non-Proliferation Act of 1992".

SEC. 02. UNITED STATES POLICY.

"(a) IN GENERAL.—It shall be the policy of the United States to oppose, and urgently to seek the agreement of other nations also to oppose, any transfer to Iran or Iraq of any goods or technology, including dual-use goods or technology, wherever that transfer could contribute to either country's acquiring chemical, biological, nuclear, or destabilizing numbers and types of advanced conventional weapons.

(b) SANCTIONS.—(1) In the furtherance of this policy the President shall apply to Iran, Iraq, and those nations and persons who assist them in acquiring weapons of mass destruction all of the applicable sanctions and controls available to the United States under the Foreign Assistance Act of 1961, the Nuclear Non-Proliferation Act of 1978, the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, and title XVII of the National Defense Authorization Act for Fiscal Year 1991, and other relevant statutes, regarding the non-proliferation of weapons of mass destruction and the means of their delivery.

(2) The President should also urgently seek the agreement of other nations to adopt and institute, at the earliest practicable date, sanctions and controls comparable to those the United States is obligated to apply under this subsection.

(c) PUBLIC IDENTIFICATION.—The Congress calls on the President to identify publicly (in the report required by section 07) any country or person that transfers goods or technology to Iran or Iraq contrary to the policy set forth in subsection (a).

SEC. 03. APPLICATION TO IRAN OF CERTAIN IRAQ SANCTIONS.

The sanctions against Iraq specified in paragraphs (1) through (4) of section 586G(a) of the Iraq Sanctions Act of 1990 (as contained in Public Law 101-513), including denial of export licenses for United States persons and prohibitions on United States Government sales, shall be applied to the same extent and in the same manner with respect to Iran.

SEC. 04. SANCTIONS AGAINST CERTAIN PERSONS.

(a) PROHIBITION.—If any person transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran and Iraq (or any agency or instrumentality of either such country) to acquire destabilizing numbers and types of advanced conventional weapons, then—

(1) the sanctions described in subsection (b) shall be imposed; and

(2) in addition, the President is authorized to apply, in the discretion of the President, the sanction described in subsection (c).

(b) MANDATORY SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are as follows:

(1) PROCUREMENT SANCTION.—For a period of 2 years, the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the sanctioned person.

(2) EXPORT SANCTION.—For a period of 2 years, the United States Government shall not issue any license for any export by or to the sanctioned person.

(c) DISCRETIONARY SANCTION.—The sanction referred to in subsection (a)(2) is that the President may prohibit, for such period as the President may determine, the importation into the United States of any articles which are the product, manufacture, or growth of the sanctioned person.

SEC. 05. SANCTIONS AGAINST CERTAIN FOREIGN COUNTRIES.

(A) PROHIBITION.—If the government of any foreign country transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire destabilizing numbers and types of advanced conventional weapons, then—

(1) the sanctions described in subsection (b) shall be imposed on such country; and

(2) in addition, the President may apply, in the discretion of the President, the sanctions described in subsection (c).

(b) MANDATORY SANCTIONS.—Except as provided in paragraph (2), the sanctions to be imposed pursuant to subsection (a)(1) are as follows:

(1) SUSPENSION OF UNITED STATES ASSISTANCE.—The United States Government shall suspend, for a period of 1 year, United States assistance to the sanctioned country.

(2) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director to each appropriate international financial institution to oppose, and vote against, for a period of 1 year, the extension by such institution of any loan or financial or technical assistance to the sanctioned country.

(3) SUSPENSION OR CODEVELOPMENT OR COPRODUCTION AGREEMENTS.—The United States shall suspend, for a period of 1 year, compliance with its obligations under any memorandum of understanding with the sanctioned country for the codevelopment or coproduction of any item on the United States Munitions List (established under section 38 of the Arms Export Control Act), including any obligation for implementation of the memorandum of understanding through the sale to the sanctioned country of technical data or assistance or the licensing for export to the sanctioned country of any component part.

(4) SUSPENSION OF MILITARY AND DUAL-USE TECHNICAL EXCHANGE AGREEMENTS.—The United States shall suspend, for a period of 1 year, compliance with its obligations under any technical exchange agreement involving military and dual-use technology between the United States and the sanctioned country that does not directly contribute to the security of the United States, and no military or dual-use technology may be exported from the United States to the sanctioned country pursuant to that agreement during that period.

(5) UNITED STATES MUNITIONS LIST.—No item on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) may be exported to the sanctioned country for a period of 1 year.

(c) DISCRETIONARY SANCTIONS.—The sanctions referred to in subsection (a)(2) are as follows:

(1) DENIAL OF MOST-FAVORED-NATION STATUS.—The President is authorized to suspend the application of nondiscriminatory trade treatment (most-favored-nation status) to the products of the sanctioned country.

(2) USE OF AUTHORITIES OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—The President may exercise, in accordance with the provisions of that Act, the authorities of the International Emergency Economic Powers Act with respect to the sanctioned country, except for urgent humanitarian assistance.

SEC. 06. WAIVER.

The President may waive the requirement to impose a sanction described in section 3, in the case of Iran, or a sanction described in section 04(b) or 05(b), in the case of Iraq and Iran, 15 days after the President determines and so reports to the Committees on Armed Services and Foreign Relations of the Senate and the Speaker of the House of Representatives that to impose that sanction would jeopardize the national security interests of the United States. Any such report shall provide a specific and detailed rationale for such determination.

SEC. 07. REPORTING REQUIREMENT.

(a) ANNUAL REPORT.—Beginning one year after the date of enactment of this title, and every 12 months thereafter, the President shall submit a report to the Committee on Armed Services and Foreign Relations of the Senate and the Speaker of the House of Representatives detailing—

(1) all transfers or retransfers made by any person or foreign government during the preceding 12-month period which are subject to any sanction under this title; and

(2) the actions the President intends to undertake or has undertaken pursuant to this title with respect to each such transfer.

(b) REPORT ON INDIVIDUAL TRANSFERS.—Whenever the President determines that a person or foreign government has made a transfer which is subject to any sanction under this title, the President shall, within 30 days after such transfer, submit to the Committees on Armed Services and Foreign Relations of the Senate and the Speaker of the House of Representatives a report—

(1) identifying the person or government and providing the details of the transfer; and

(2) describing the actions the President intends to undertake or has undertaken under the provisions of this title with respect to each such transfer.

(c) FORM OF TRANSMITTAL.—Reports required by this section may be submitted in classified as well as in unclassified form.

SEC. 08. DEFINITIONS.

For purposes of this title—

(1) the term "advanced conventional weapons" includes—

(A) such long-range precision-guided munitions, fuel air explosives, cruise missiles, low observability aircraft, other radar evading aircraft, advanced military aircraft, military satellites, electromagnetic weapons, and laser weapons as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways;

(B) such advanced command, control, and communications systems, electronic warfare systems, or intelligence collection systems as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways; and

(C) such other items or systems as the President may, by regulation, determine necessary for purposes of this title;

(2) the term "cruise missile" means guided missiles that use aerodynamic lift to offset gravity and propulsion to counteract drag;

(3) the term "goods or technology" means—

(A) any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment; and

(B) any information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data;

(4) the term "person" means any United States or foreign individual, partnership, corporation, or other form of association, or any of their successor entities, parents, or subsidiaries;

(5) the term "sanctioned country" means a country against which sanctions are required to be imposed pursuant to section 05;

(6) the term "sanctioned person" means a person that makes a transfer described in section 04(a); and

(7) the term "United States assistance" means—

(A) any assistance under the Foreign Assistance Act of 1961 (other than the provision of urgent humanitarian assistance or medicine);

(B) sales and assistance under the Arms Export Control Act;

(C) financing by the Commodity Credit Corporation for export sales of agricultural commodities; and

(D) financing under the Export-Import Bank Act.

BINGAMAN (AND OTHERS) AMENDMENT NO. 3099

Mr. NUNN (for Mr. BINGAMAN, for himself, Mr. GLENN, Mr. THURMOND, Mr. LIEBERMAN, Mr. MCCAIN, and Mr. NUNN) proposed an amendment to the bill S. 3114, supra, as follows:

On page 487, between lines 12 and 13, insert the following:

SEC. 1064. SUPPORT FOR INTERNATIONAL NONPROLIFERATION ACTIVITIES.

(a) FINDINGS.—The Congress makes the following findings:

(1) The proliferation of nuclear, chemical and biological weapons and related technology and know how and of missile delivery systems remains a serious threat to international peace and security in the post-Cold War era.

(2) The United States should seek to limit the supply of nuclear, chemical and biological weapons, related technology and know how of missile delivery systems, and the demand for such weapons and should undertake to reduce the threat from such proliferation.

(3) International nonproliferation activities serve the national security interests of the United States.

(4) The Department of Defense and the Department of Energy have expertise and equipment that has enhanced the effectiveness of international nuclear nonproliferation activities.

(5) The use of funds made available under the regular budget process one year in advance or the use of reprogrammed funds may be insufficient to satisfy the need for funds and other support for international nonproliferation activities.

(6) Greater flexibility may be needed to ensure the timely availability of funding to support international nonproliferation activities.

(b) ASSISTANCE FOR NONPROLIFERATION ACTIVITIES.—(1) Subject to the limitations and requirements provided in this section, during fiscal year 1993 the Secretary of Defense may furnish funds, supplies, and equipment to support international nonproliferation activities, including activities carried out by the International Atomic Energy Agency, that are designed to ensure more aggressive full-scope safeguards and more aggressive verification of compliance with the Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968.

(2) Assistance may be provided in the form of funds under paragraph (1) only if the amount in the "Contributions to International Organizations" account of the Department of State in insufficient or otherwise unavailable to meet the United States fair share of assessments for international nuclear nonproliferation activities.

(3) No assistance may be furnished pursuant to paragraph (1) unless the Secretary of Defense determines and certifies to the Congress 30 days in advance that the provision of such assistance—

(A) is in the national security interest of the United States; and

(B) will not adversely affect the military preparedness of the United States.

(4) No amount may be obligated for an expenditure pursuant to paragraph (1) unless the Director of the Office of Management and Budget determines that the expenditure will be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(5) In paragraph (1), the term "full-scope safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency.

(c) ASSISTANCE FOR INSPECTIONS REGARDING IRAQ.—During fiscal year 1993 the Secretary of Defense may provide funds for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.

(d) AUTHORITY SUBJECT TO APPROPRIATIONS ACTS.—The authority to provide assistance in the form of funds under subsection (b) or (c) may be exercised only to the extent and in the amounts provided in appropriations Acts.

(e) FUNDING LIMITATIONS.—(1) The total amount of the assistance provided in the form of funds under subsection (b) may not exceed $20,000,000.

(2) The total amount of the assistance provided in the form of funds under subsection (c) may not exceed $20,000,000.

(f) SOURCES OF ASSISTANCE.—(1) Funds provided as assistance under subsection (b) or (c) shall be derived from amounts made available to the Department of Defense for fiscal year 1993 or from balances in working capital accounts of the Department of Defense.

(2) Supplies and equipment provided as assistance under subsection (b) may be provided, by loan or donation, from existing stocks of the Department of Defense.

(g) REPORT REQUIRED.—Not less than 30 days before obligating any funds to provide assistance pursuant to subsection (b) or (c), the Secretary of Defense shall transmit to Congress a report on the proposed obligation. The report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amounts of the proposed obligation; and

(2) the activities and forms of assistance for which the Secretary of Defense plans to obligate such funds.

(h) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Robust funding of nonproliferation activities and related technology development is essential to controlling the proliferation of nuclear, chemical, and biological weapons and their delivery vehicles, which remains one of the highest national security priorities of the United States;

(2) The President's initiative to increase funding for nonproliferation activities and related technology development in the Department of Energy is praiseworthy and represents a significant step toward an appropriate level of support for nonproliferation activities;

(3) The President should undertake to identify a full range of appropriate, high priority nonproliferation activities and related technology development programs, including particularly space-based detection systems, and should include full funding for these activities, and should include full funding for these activities and technologies in the budget requests of the Department of Energy and the Department of Defense for Fiscal Year 1994; and

(4) The Congress is committed to cooperating with the President in carrying out an effective policy designed to control the proliferation of weapons of mass destruction.

On page 595, line 17, strike "$141,510,000" and insert in lieu thereof "184,028,000".

On page 595, strike line 18 and all that follows through line 10 on page 596.

On page 596, line 11, strike "(d)" and insert in lieu thereof '(b)".

On page 596, line 14, strike the dash and all that follows through line 17 and insert in lieu thereof "$150,000,000".

On page 605, line 11, strike $250,215,000" and insert in lieu thereof "$130,215,000".

On page 609, line 24, strike "$11,500,000" and insert in lieu thereof $16,500,000".

On page 612, after line 23, add the following new subsection:

(d) NEW PRODUCTION REACTORS.—None of the funds authorized to be appropriated by section 3102 shall be used to close out the new production reactor program until 30 days after the Secretary of Energy has submitted a plan to the congressional defense committees to continue work beyond the termination phase of the two existing new production reactor design teams to address key technical risks and initiation of detailed design of two electric power producing reactor concepts, including an advanced light water reactor and the modular high temperature gas reactor to undertake the added mission of plutonium disposal. In addition, the plan shall address key technical risks of and fundamental technology for a linear accelerator for plutonium disposal and nuclear waste transmutation.

NUNN (AND WARNER) AMENDMENT NO. 3100

Mr. NUNN (for himself and Mr. WARNER) proposed an amendment to the bill S. 3114, supra, as follows:

On page 46, line 20, after "(CAMDS) facility" insert the following: "; Tooele, Utah,".

On page 49, line 12, strike out ", including" and all that follows through "facilities" on line 14.

On page 68, line 24, strike out "Acts," and insert in lieu thereof "Acts and appropriations Acts,".

On page 69, line 4, insert "and appropriations Acts" after "Acts".

On page 82, line 3, strike out "operations," and insert in lieu thereof "operations pursuant to a base closure law,".

On page 82, line 18, strike out "or" and insert in lieu thereof "and".

On page 86, strike out lines 13 through 15, and insert in lieu thereof the following:

"(G) In this paragraph:

"(i) The term 'military installation' has the meaning given that term in section 2687(e)(1) of title 10, United States Code.

"(ii) The term 'base closure law' means the following:

"(I) The Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

"(II) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

"(III) Any provision of law authorizing the closure or realignment of a military installation that is enacted on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993.".

On page 88, line 4, insert "(A)" after "LEASES.—".

On page 88, line 11, strike out "operations," and insert in lieu thereof "operations pursuant to a base closure law,".

On page 88, line 23, strike out the end quotation marks and the period following the end quotation marks.

On page 88, below line 23, add the following:

"(B) In subparagraph (A), the term 'base closure law' means the following:

"(i) The Defense Base Closure and Realignment Act of 1990 (title XXIX of Public 101-510; 10 U.S.C. 2687 note).

"(ii) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

"(iii) Any provision of law authorizing the closure or realignment of a military installation that is enacted on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993.".

On page 117, line 12, insert "(other than under subsection (d))" after "8336".

On page 240, line 21, strike out "appropriated" and all that follows through "appropriations" on line 22, and insert in "authorized to be appropriated".

On page 252, strike out line 4 and all that follows through page 254, line 19.

On page 258, strike out the item above line 1, and insert in lieu thereof the following:

"2265. National Defense Program for Analysis of the Technology and Industrial Base.".

On page 287, strike out line 20 and all that follows through page 289, line 24, and insert in lieu thereof the following:

"§ 2265. National Defense Program for Analysis of the Technology and Industrial Base

"(a) ESTABLISHMENT.—(1) The National Defense Technology and Industrial Base Council shall establish at an entity described in paragraph (3) a program to be known as the 'National Defense Program for Analysis of the Technology and Industrial Base'.

"(2) The Program shall be an element of the defense acquisition university structure established under section 1746 of this title.

"(3) As determined by the Chairman of the Council, the Program shall be administered by—

"(A) an existing federally funded research and development center;

"(B) a consortium of existing federally funded research and development centers and other non-profit entities; or

"(C) another appropriate private sector research entity.

"(4) The Chairman shall ensure that there is appropriate consultation and coordination between the Program and the Critical Technologies Institute.

"(b) OVERSIGHT COMMITTEE.—The program shall have an oversight committee composed of 3 members as follows:

"(1) The Under Secretary of Defense for Acquisition, or his designee, who shall serve as Chairman of the operating committee.

"(2) An official designated by the Secretary of Energy.

"(3) An official designated by the Secretary of Commerce.

"(c) MISSIONS.—The missions for the Program shall include, with respect to the national defense technology and industrial base, the following:

"(1) The assembly of timely and authoritative information.

"(2) Initiation of studies and analyses.

"(3) Provision of technical support and assistance to—

"(A) the Council in the preparation of the annual assessment required by section 2263 of this title and the annual plan required by section 2264 of this title;

"(B) the defense acquisition university structure and its elements; and

"(C) other departments and agencies of the Federal Government in accordance with guidance established by the Council.

"(4) Dissemination, through the National Technical Information Service of the Department of Commerce, of unclassified information and assessments for further dissemination within the Federal Government and to the private sector.".

On page 316, line 14, insert "(A)" after "(2)".

On page 320, between lines 9 and 10, insert the following:

(B) Until the first annual national defense technology and industrial base assessment is submitted to Congress by the Secretary of Defense pursuant to section 2264(1) of title 10, United States Code (as added by section 801(a)), the reference to the most recent such assessment in section 2300(8) of such title (as added by subparagraph (A)) shall be deemed to refer to the most recent annual critical defense critical technologies plan submitted to Congress by the Secretary of Defense pursuant to section 2522 of such title as in effect on the date of the enactment of this Act.

On page 341, between lines 13 and 14, insert the following:

(g) RETROACTIVE EFFECTIVE DATE.—The amendments made by subsections (d), (e), and (f) shall take effect as of November 5, 1990, and shall apply as if executed immediately after section 831 of the National Defense Authorization Act for Fiscal Year 1991 took effect.

On page 451, line 4, insert "authorized to be" after "funds".

On page 491, line 17, strike out "Section 221(a)", and insert in lieu thereof "Section 221(a)(1)".

LEVIN (AND OTHERS) AMENDMENT NO. 3101

Mr. NUNN (for Mr. LEVIN, for himself, Mr. SIMON, and Mr. WARNER) proposed an amendment to the bill S. 3114, supra, as follows:

On page 487, between lines 12 and 13, insert the following:

SEC. 1064. SUPPORT FOR PEACEKEEPING ACTIVITIES.

(a) FINDINGS.—The Congress makes the following findings:

(1) International peacekeeping activities contribute to the national interests of the United States in maintaining global stability and order.

(2) International peacekeeping activities take many forms and include observer missions, ceasefire monitoring, human rights monitoring, refugee and humanitarian assistance, monitoring and conducting elections, monitoring of police in the demobilization of former combatants, and reforming judicial and other civil and administrative systems of government.

(3) International peacekeeping activities traditionally involve the presence of military troops, police forces, and, in recent years, civilian experts in transportation, logistics, medicine, electoral systems, human rights, land tenure, other economic and social issues, and other areas of expertise.

(4) International peacekeeping interests serve both the foreign policy interests and defense policy interests of the United States.

(5) The normal budget process of authorizing and appropriating funds a year in advance and reprogramming such funds is insufficient to satisfy the need for funds for peacekeeping efforts arising from an unanticipated crisis.

(6) Greater flexibility is needed to ensure the timely availability of funding to provide for peacekeeping activities.

(b) AUTHORIZED SUPPORT FOR FISCAL YEAR 1993.—(1) Subject to paragraph (2), the Secretary may provide assistance for international peacekeeping activities during fiscal year 1993 in an amount not to exceed $300,000,000 in accordance with section 403 of title 10, United States Code, as added by subsection (c). Notwithstanding subsection (b) of that section, the assistance so provided may be derived from funds appropriated to the Department of Defense for fiscal year 1993 for operation and maintenance or from balances in working capital accounts.

(2) No amount may be obligated pursuant to paragraph (1) unless the expenditure of such amount has been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) AUTHORIZATION.—(1) Chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 403. International peacekeeping activities

"(a) AUTHORITY.—To the extent provided in defense authorization Acts and appropriations Acts, the Secretary of Defense may furnish assistance, by loan or contribution, in support of international peacekeeping activities of the United Nations or any regional organization of which the United States is a member.

"(b) FORMS OF ASSISTANCE.—Assistance provided under subsection (a) may include funds, supplies, and equipment. Any funds so provided shall be derived from amounts available to the Department of Defense for the fiscal year for which the assistance is provided.

"(c) LIMITATIONS RELATED TO AVAILABILITY OF STATE DEPARTMENT FUNDS.—Funds may be provided as assistance pursuant to subsection (a) for a fiscal year—

"(1) only if funds available to the Department of State for that fiscal year for contributions for international peacekeeping activities are insufficient or otherwise unavailable to meet the United States' fair share of assessment for international peacekeeping activities, as determined by the President; and

"(2) only to the extent that the United States' fair share of such assessments exceeds the amount that the President requests Congress to appropriate for the Department of State for such fiscal year for international peacekeeping activities.

"(d) CONSULTATION.—The Secretary of Defense shall consult with the Secretary of State before furnishing any assistance pursuant to subsection (a).

"(e) DETERMINATIONS REQUIRED.—No assistance may be furnished pursuant to subsection (a) unless the Secretary of Defense certifies to Congress that the provision of such assistance—

"(1) is in the national security interest of the United States; and

"(2) will not adversely affect the military preparedness of the United States.

"(f) ADVANCE NOTICE TO CONGRESS.—Not less than 30 days before obligating any funds for purposes of subsection (a), the Secretary of Defense shall transmit to Congress a report on the proposed obligation. The report shall—

"(1) specify the account, budget activity, and particular program or programs for which the funds proposed to be obligated are to be derived and the amount of the proposed obligation;

"(2) specify the activities and forms of assistance for which the Secretary of Defense plans to obligate such funds; and

"(3) include the certification required by subsection (e).

"(g) DEFINITION.—In this section, the term 'defense authorization Act' means an Act that authorizes appropriations for one or more fiscal years for military activities of the Department of Defense, including the activities described in paragraph (7) of section 114(a) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"403. International peacekeeping activities.".

ROBB AMENDMENT NO. 3102

Mr. NUNN (for Mr. ROBB and Mr. WARNER) proposed an amendment to the bill S. 3114, supra, as follows:

On page 102, after line 24, insert the following:

SEC. 334. ECONOMIC ADJUSTMENT PLANNING ASSISTANCE.

Notwithstanding any other provision of law, of the amount authorized to be appropriated to the Department of Defense for fiscal year 1993 for the Office of Economic Adjustment, 10 percent of such amount shall be available for providing financial assistance for economic adjustment planning in geographic areas in which a substantial portion of the economic activity of the population is dependent on Department of Defense expenditures, as determined by the Secretary of Defense.

DOLE AMENDMENT NO. 3103

Mr. WARNER (for Mr. DOLE) proposed an amendment to the bill S. 3114, supra, as follows:

At the end of title VIII, insert the following new section:

SEC. . LANDSAT REMOTE-SENSING SATELLITE.

Notwithstanding the provisions of the Land-Remote Sensing Commercialization Act of 1984 (Public Law 98-365), the Department of Defense is authorized to contract for the development, procurement, and support to operations of Landsat 7 and subsequent Landsat vehicles.

GLENN (AND NUNN) AMENDMENT NO. 3104

Mr. NUNN (for Mr. GLENN, for himself) proposed an amendment to the bill S. 3114, supra, as follows:

On page 487, between lines 12 and 13, insert the following:

Subtitle F—Nuclear Proliferation Control

SEC. 1071. IMPOSITION OF SANCTIONS.

(a) DETERMINATION BY THE PRESIDENT.—

(1) IN GENERAL.—Except as provided in subsection (b)(2), the President shall impose the applicable sanctions described in subsection (c) if the President determines that a foreign person or a United States person, on or after the date of the enactment of this section, has materially and with requisite knowledge contributed—

(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States, or

(B) through the export from any other country of any goods or technology that would be, if they were exported from the United States, subject to the jurisdiction of the United States,

to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device, whether or not the goods or technology is specifically designed or modified for that purpose.

(2) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person or United States person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person or United States person;

(C) any foreign person or United States person that is a parent or subsidiary of that person if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of that determination; and

(D) any foreign person or United States person that is an affiliate of that person if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

(3) OTHER SANCTIONS AVAILABLE.—The sanctions which may be imposed for activities described in this subsection are in addition to any other sanction which may be imposed for the same activities under any other provision of law.

(4) DEFINITION.—For purposes of this subsection, the term "requisite knowledge" includes situations in which a person "knows", as "knowing" is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) or has "reason to know" the effect of such person's actions.

(b) CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay the imposition of sanctions for up to an additional 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the previous sentence.

(3) REPORT TO CONGRESS.—Not later than 90 days after making a determination under subsection (a)(1), the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTIONS.—

(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (3) of this subsection, that the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(2).

(2) DESCRIPTION OF SANCTIONS ON UNITED STATES PERSONS.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the United States person or any parent, subsidiary, affiliate, or successor entity thereof, as described in subsection (a)(2).

(3) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

(C) to—

(i) spare parts which are essential to United States products or production,

(ii) component parts, but not finished products, essential to United States products or production, or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that—

(1) reliable information indicates that the foreign person or United States person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in that subsection; and

(2) the President has received reliable assurances from the foreign person or United States person, as the case may be, that such person will not, in the future, aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in subsection (a)(1).

(e) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that the continued imposition of the sanction would have a serious adverse effect on vital United States interests.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(f) DEFINITIONS.—For the purposes of this section—

(1) the term "foreign person" means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States; and

(2) the term "United States person" means—

(A) an individual who is a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other entity which is not a foreign person.

SEC. 1072. ROLE OF INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in section 701(a) of the International Financial Institutions Act (22 U.S.C. 262d(a)) to use the voice and vote of the United States to oppose any direct or indirect use of the institution's funds to promote the acquisition of unsafeguarded special nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear-weapon state.

(b) DUTIES OF UNITED STATES EXECUTIVE DIRECTORS.—Section 701(b)(3) of the International Financial Institutions Act (22 U.S.C. 262d(b)(3)) is amended to read as follows:

"(3) whether the recipient country—

"(A) is seeking to acquire unsafeguarded special nuclear material (as defined in section 11(6) of the Omnibus Nuclear Proliferation Control Act of 1992) or a nuclear explosive device (as defined in section 11(3) of that Act);

"(B) is not a State Party to the Treaty on Non-Proliferation of Nuclear Weapons; or

"(C) has detonated a nuclear explosive device; and".

SEC. 1073. AMENDMENTS TO THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT AND THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) BASIS FOR DECLARATION OF NATIONAL EMERGENCY.—Section 202 of the International Emergency Economic Powers Act (50 U.S.C. 1701) is amended by adding at the end thereof the following new subsection:

"(c) For the purpose of this section, the term 'any unusual and extraordinary threat' includes any international event that the President determines may involve the detonation by a non-nuclear-weapon state of a nuclear explosive device (as defined in section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992) or an action or activity that substantially contributes to the likelihood of the proliferation or detonation of such devices, including the acquisition by a non-nuclear-weapon state of unsafeguarded special nuclear material (as defined in section 11(6) of that Act).".

(b) SANCTIONS ON FINANCIAL INSTITUTIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by adding at the end thereof the following new title:

"TITLE VI—SANCTIONS ON FINANCIAL INSTITUTIONS

"SEC. 601. PRESIDENTIAL DETERMINATION.

"(a) IN GENERAL.—The prohibitions in section 603 shall be imposed on a financial institution if the President determines that such financial institution, on or after the date of the enactment of this section, has materially and with requisite knowledge contributed, through provision of financing or other services, to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device as these standards and terms are defined and would be applied under section 2 of the Omnibus Nuclear Proliferation Control Act of 1992.

"(b) PRESIDENTIAL ORDER.—Whenever the President makes a determination under subsection (a) with respect to a financial institution, the President shall issue an order specifying a date within 180 days of such determination on which the prohibitions in section 603 shall begin to apply to such institution.

"SEC. 602. ADDITIONAL ENTITIES AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.

"The prohibitions described in section 603 shall also be imposed, pursuant to section 601, on—

"(1) any successor entity to the financial institution with respect to which the President makes such determination;

"(2) any foreign person or United States person that is a parent or subsidiary of such financial institution if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of such determination; and

"(3) any foreign person or United States person that is an affiliate of such financial institution if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of such determination and if that affiliate is controlled in fact by such financial institution.

"SEC. 603. PROHIBITIONS.

"The following prohibitions shall apply to a financial institution subject to a determination described in section 601 and to related entities described in section 602:

"(1) BAN ON DEALINGS IN GOVERNMENT FINANCE.—

"(A) DESIGNATION AS PRIMARY DEALER.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, such financial institution as a primary dealer in United States Government debt instruments.

"(B) GOVERNMENT FUNDS.—Such financial institution shall not serve as agent of the United States Government or serve as repository for United States Government funds.

"(2) RESTRICTIONS ON OPERATIONS.—Such financial institution shall not, directly or indirectly—

"(A) commence any line of business in the United States in which it was not engaged as of the date of the determination; or

"(B) conduct business from any location in the United States at which it did not conduct business as of the date of the determination.

"SEC. 604. CONDITIONS AND TERMINATION OF SANCTIONS.

"The same requirements for consultation with the foreign government of jurisdiction, where appropriate, and for termination of sanctions shall apply under this title as are provided in subsections (b) and (d), respectively, of section 2 of the Omnibus Nuclear Proliferation Control Act of 1992.

"SEC. 605. WAIVER.

"The President may waive the imposition of any prohibition imposed on any financial institution or other person pursuant to section 601 or 602 if the President determines and certifies to the Congress that the imposition of such prohibition would have a serious adverse effect on the safety and soundness of the domestic or international financial system or on domestic or international payments systems.

"SEC. 606. DEFINITIONS.

"As used in this title—

"(1) the term 'financial institution' includes—

"(A) a depository institution, including a branch or agency of a foreign bank;

"(B) a securities firm, including a broker or dealer;

"(C) an insurance company, including an agency or underwriter;

"(D) any other company that provides financial services; or

"(E) any subsidiary thereof; and

"(2) the term 'requisite knowledge' includes situations in which a person 'knows', as 'knowing' is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) or has 'reason to know' the effect of such person's actions.".

SEC. 1074. EXPORT-IMPORT BANK.

Section 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)) is amended by inserting after "device" the following: "(as defined in section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992), or that any country has willfully aided or abetted any such non-nuclear-weapon state (as defined in section 11(4) of that Act) to acquire a nuclear explosive device or to acquire unsafeguarded special nuclear material (as defined in section 11(6) of that Act).".

SEC. 1075. ELIGIBILITY FOR ASSISTANCE.

(a) AMENDMENTS TO THE ARMS EXPORT CONTROL ACT.—(1) The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended—

(A) in section 3 of such Act, by adding at the end thereof the following new subsection:

"(f) No sales or leases shall be made to any country that the President has determined is in material breach of its commitments to the United States under international treaties or agreements concerning the non-proliferation of nuclear explosive devices (as defined in section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992) and unsafeguarded special nuclear material."; and

(B) in section 40(d) of such Act, by adding at the end thereof the following new sentence: "For the purposes of this subsection, such acts shall include all activities that the Secretary determines willfully aid or abet the international proliferation of nuclear explosive devices to individuals or groups or willfully aid or abet an individual or groups in acquiring unsafeguarded special nuclear material (as defined in section 11(6) of that Act).".

(2) Section 47 of such Act is amended—

(A) by striking out "and" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(9) 'nuclear explosive device' has the same meaning given to that term by section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992.".

(b) AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.—

(1) Section 670(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a(a)(2)) is amended in the first sentence—

(A) by inserting "in any fiscal year" after "President"; and

(B) by inserting "during that fiscal year" after "certifies in writing".

(2) Section 670 of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a) is further amended by adding at the end thereof the following new subsection:

"(d) As used in this section, the term 'nuclear explosive device' has the same meaning given to that term by section 11(3) of the

Omnibus Nuclear Proliferation Control Act of 1992.".

(3) Notwithstanding any other provision of law, Presidential Determination No. 82-7 of February 10, 1982, made pursuant to section 670(a)(2) of the Foreign Assistance Act of 1961, shall have no force or effect with respect to any grounds for the prohibition of assistance under section 670(a)(1) of such Act arising on or after the date of enactment of this Act.

(4) Section 620E(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2375(d)) is amended to read as follows:

"(d) The President may waive the prohibitions of section 669 of this Act with respect to any grounds for the prohibition of assistance under that section arising before the date of enactment of the Omnibus Nuclear Proliferation Control Act of 1992 to provide assistance to Pakistan if he determines that to do so is in the national interest of the United States.".

SEC. 1076. ADDITIONAL AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

(a) Technical Amendments.—Section 670(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a(b)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(2) in paragraph (3)(A) (as so redesignated), by striking "paragraph (3)" and inserting "paragraph (4)"; and

(3) in paragraph (4) (as so redesignated), by striking "paragraph (2)" and inserting "paragraph (3)".

(b) Additional Sanctions.—Section 670(b)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a) is amended to read as follows:

"(b)(1) Except as provided in paragraphs (3), (4), and (5), in the event that any country, after the date of enactment of the Omnibus Nuclear Proliferation Control Act of 1992—

"(A) transfers to a non-nuclear-weapon state—

"(i) a nuclear explosive device, or

"(ii) design information or components known by the transferor to be necessary for the recipient's completion of a nuclear explosive device,

"(B) is a non-nuclear-weapon state and—

"(i) receives a nuclear explosive device,

"(ii) receives design information or components necessary for the completion of a nuclear explosive device, or

"(iii) detonates a nuclear explosive device,

"(C) transfers to a non-nuclear-weapon state any design information or component (other than described in subparagraph (A)(ii)) which is determined by the President to be important to, and known by the transferring country to be intended by the recipient state for use in, the development or manufacture of any nuclear explosive device, or

"(D) is a non-nuclear-weapon state and has sought and received any design information or component (other than described in subparagraph (B)(ii)) which is determined by the President to be important to, and intended by the recipient state for use in, the development or manufacture of any nuclear explosive device,

the President shall forthwith impose sanctions against that country, including, as a minimum, those sanctions specified in paragraph (2).

"(2) The sanctions referred to in paragraph (1) are as follows:

"(A) Foreign assistance.—The United States Government shall terminate assistance to that country under this Act, except for urgent humanitarian assistance or food or other agricultural commodities.

"(B) Arms sales.—The United States Government shall terminate—

"(i) sales to that country under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and

"(ii) licenses for the export to that country of any item on the United States Munitions List.

"(C) Arms sales financing.—The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

"(D) Denial of United States Government credit or other financial assistance.—The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States, except that the sanction of this subparagraph shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities).

"(E) Multilateral development bank assistance.—The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by international financial institutions.

"(F) Bank loans.—The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities.

"(G) Export prohibition.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of any goods and technology (excluding food and other agricultural commodities), except that such prohibition shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities).".

(c) Conforming Amendments.—Section 670(b) of such Act (22 U.S.C. 2429a(b)) is further amended—

(1) in paragraph (3)(A) (as redesignated)—

(A) by striking "furnish assistance which would otherwise be prohibited" and inserting in lieu thereof "delay the imposition of sanctions which would otherwise be required"; and

(B) by striking "termination of assistance" and inserting in lieu thereof "imposition of sanctions";

(2) in paragraph (4) (as redesignated), by striking "termination of such assistance" and inserting in lieu thereof "imposition of such sanctions";

(3) by redesignating paragraph (5) (as redesignated by subsection (a)) as paragraph (6); and

(4) by inserting after paragraph (4) (as redesignated) the following:

"(5) Notwithstanding any other provision of law, the sanctions which are required to be imposed against a country under paragraph (1)(C) or (1)(D) shall not apply if the President determines and certifies in writing to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives that the application of such sanctions against such country would have a serious adverse effect on vital United States interests. The President shall transmit with such certification a statement setting forth the specific reasons therefor.".

SEC. 1077. REWARD.

Section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C);

(2) by inserting "(1)" immediately after "(a)"; and

(3) by adding at the end thereof the following:

"(2) For purposes of this subsection, the term 'act of international terrorism' includes any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as defined in section 11(6) of the Omnibus Nuclear Proliferation Control Act of 1991) or any nuclear explosive device (as defined in section 11(3) of that Act) by an individual, group, or non-nuclear-weapon state, as defined in section 11(4) of that Act.".

SEC. 1078. REPORTS.

(a) Content of ACDA Annual Report.—Section 52 of the Arms Control and Disarmament Act (22 U.S.C. 2592) is amended—

(1) by inserting "(a) In General.—" after "Sec. 52.";

(2) by striking "and" at the end of paragraph (4);

(3) by striking the period at the end of paragraph (5) and inserting in lieu thereof "; and";

(4) by adding at the end of paragraph (5) the following new paragraph:

"(6) a section of the report shall deal with any material noncompliance by foreign governments with their commitments to the United States with respect to the prevention of the spread of nuclear explosive devices by non-nuclear-weapon states or the acquisition by such states of unsafeguarded special nuclear material (as defined in section 11(6) of the Omnibus Nuclear Proliferation Control Act of 1992), including—

"(A) a net assessment of the aggregate military significance of all such violations;

"(B) a statement of the compliance policy of the United States with respect to violations of those commitments; and

"(C) what actions, if any, the President has taken or proposes to take to bring any nation committing such a violation into compliance with its commitments."; and

(5) by adding at the end thereof the following new subsection:

"(b) Reporting Consecutive Noncompliance.—If the President in consecutive reports submitted to Congress under this section reports that any designated nation is not in full compliance with its nonproliferation commitments to the United States, then the President shall include in the second such report an assessment of what actions are necessary to compensate for such violations.".

(b) Reporting on Demarches.—(1) It is the sense of Congress that the Department of State should, in the course of implementing its reporting responsibilities under section 602(c) of the Nuclear Non-Proliferation Act of 1978, include a summary of demarches that the United States has issued or received from foreign governments with respect to activities which are of significance from the proliferation standpoint.

(2) For purposes of this section, the term "demarche" means any official communica-

tion by one government to another, by written or oral means, intended by the originating government to express—

(A) a concern over a past, present, or possible future action or activity of the recipient government, or of a person within the jurisdiction of that government, contributing to the global spread of unsafeguarded special nuclear material or of nuclear explosive devices;

(B) a request for the recipient government to counter such action or activity; or

(C) both the concern and request described in subparagraphs (A) and (B).

SEC. 1079. TECHNICAL CORRECTION.

Section 133(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2160c) is amended by striking out "20 kilograms" and inserting in lieu thereof "5 kilograms".

SEC. 1080. DEFINITIONS.

For purposes of this subtitle—

(1) the term "goods and technology" includes nuclear materials and equipment and sensitive nuclear technology (as defined in section 4 of the Nuclear Non-Proliferation Act of 1978), all export items designated by the President pursuant to section 309(c) of such Act, and all technical assistance requiring authorization under section 57b. of the Atomic Energy Act of 1954;

(2) the term "IAEA safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency;

(3) the term "nuclear explosive device" means any device that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT);

(4) the term "non-nuclear-weapon state" means any country which is not a nuclear-weapon state, as defined by Article IX(3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(5) the term "special nuclear material" has the meaning given to that term by section 11aa of the Atomic Energy Act of 1954 (42 U.S.C. 2014aa); and

(6) the term "unsafeguarded special nuclear material" means special nuclear material which is held in violation of IAEA safeguards or not subject to IAEA safeguards (excluding any quantity of material that could, if it were exported from the United States, be exported under a general license issued by the Nuclear Regulatory Commission).

INOUYE (AND OTHERS) AMENDMENT NO. 3105

Mr. NUNN (for Mr. INOUYE and Mr. DOLE) proposed an amendment to the bill S. 3114, supra, as follows:

On page 487, between lines 12 and 13, insert the following:

Subtitle F—Arms Retooling and Manufacturing Support Initiative

SEC. 1071. SHORT TITLE.

This subtitle may be cited as the "Arms Retooling and Manufacturing Support Act of 1992".

SEC. 1072. POLICY.

It is the policy of the United States—

(1) to encourage, to the maximum extent practicable, nondefense commercial firms to use Government-owned, contractor-operated ammunition facilities of the Department of the Army;

(2) to use such facilities for supporting programs, projects, policies, and initiatives that promote competition in the private sector of the United States economy and that advance United States interests in the global marketplace;

(3) to increase the manufacture of products inside the United States that, to a significant extent, are manufactured outside the United States;

(4) to support policies and programs that provide manufacturers with incentives to assist the United States in making more efficient and economical use of Government-owned industrial plants and equipment for commercial purposes;

(5) to provide, as appropriate, small businesses, including socially and economically disadvantaged small business concerns and new small businesses, with incentives that encourage those businesses to undertake manufacturing and other industrial processing activities that contribute to the prosperity of the United States;

(6) to encourage the creation of jobs through increased investment in the private sector of the United States economy;

(7) to foster a more efficient, cost-effective, and adaptable armaments industry in the United States;

(8) to achieve, with respect to armaments manufacturing capacity, an optimum level of readiness of the defense industrial base of the United States that is consistent with the projected threats to the national security of the United States and the projected emergency requirements of the Armed Forces of the United States; and

(9) to encourage facility contracting where feasible.

SEC. 1073. ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE.

(a) REQUIREMENT FOR INITIATIVE.—The Secretary of the Army shall carry out a program to be known as the "Armament Retooling and Manufacturing Support Initiative" (hereafter in this Act referred to as the "ARMS Initiative").

(b) PURPOSES.—The purposes of the ARMS Initiative are as follows:

(1) To encourage commercial firms, to the maximum extent practicable, to use Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army for commercial purposes.

(2) To increase the opportunities for small businesses, including socially and economically disadvantaged small business concerns and new small businesses, to use such facilities for those purposes.

(3) To reduce the adverse effects of reduced Department of the Army spending that are experienced by States and communities by providing for such facilities to be used for commercial purposes that create jobs and promote prosperity.

(4) To provide for the reemployment and retraining of skilled workers who, as a result of the closing of such facilities, are idled or underemployed.

(5) To contribute to the attainment of economic stability in economically depressed regions of the United States where there are Government-owned, contractor-operated ammunition manufacturing facilities of the Department of Army.

(6) To maintain in the United States a work force having the skills in manufacturing processes that are necessary to meet industrial emergency planned requirements for national security purposes.

(7) To be a model for future defense conversion initiatives.

(8) To the maximum extent practicable, to allow the operation of Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army to be rapidly responsive to the forces of free market competition.

(9) Through the use of Government-owned, contractor-operated ammunition manufacturing facilities for commercial purposes, to encourage relocation of industrial production to the United States from outside the United States.

(c) MAXIMUM AVAILABILITY OF FACILITIES.—To the maximum extent practicable, the Secretary of the Army shall make the Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army available for the purposes of the ARMS Initiative.

SEC. 1074. FACILITY CONTRACTOR DEFINED.

In this subtitle, the term "facility contractor", with respect to a Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army, means a contractor that, under a contract with the Secretary of the Army—

(1) is authorized to manufacture ammunition or any component of ammunition at the facility; and

(2) is responsible for the overall operation and maintenance of the facility for meeting planned requirements in the event of an industrial emergency.

SEC. 1075. FACILITIES CONTRACTS.

(a) REQUIREMENT FOR ARMS CONTRACTS.—(1) In the case of each Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army that is made available for the ARMS Initiative, the Secretary of the Army shall, by contract, authorize the facility contractor—

(A) to use the facility for one or more years consistent with the purposes of the ARMS Initiative; and

(B) to enter into multiyear subcontracts for the commercial use of the facility consistent with such purposes.

(2) The authority in paragraph (1) may be exercised only to such extent and in such amounts as are provided in appropriations Acts.

GORTON AMENDMENT NO. 3106

Mr. NUNN (for Mr. GORTON and Mr. ADAMS) proposed an amendment to the bill S. 3114, supra, as follows:

On page 505, between lines 18 and 19, insert the following new section:

SEC. 2208. MILITARY FAMILY HOUSING, NAVAL AIR STATION WHIDBEY ISLAND, WASHINGTON.

The Secretary of the Navy shall include in the budget request for the Navy for fiscal year 1994 a request for funds for the design of 300 family housing units at Naval Air Station Whidbey Island, Washington.

GARN AMENDMENT NO. 3107

Mr. NUNN (for Mr. GARN) proposed an amendment to the bill S. 3114, supra, as follows:

On page 521, line 17, strike out "$136,778,000" and insert in lieu thereof "$138,068,000".

On page 521, line 23, strike out "$224,110,000" and insert in lieu thereof "$225,960,000".

HATFIELD AMENDMENT NO. 3108

Mr. NUNN (for Mr. HATFIELD) proposed an amendment to the bill S. 3114, supra, as follows:

On page 521, line 17, strike out "$136,778,000" and insert in lieu thereof "$141,337,000".

On page 521, line 23, strike out "$224,110,000" and insert in lieu thereof "$227,829,000".

LAUTENBERG AMENDMENT NO. 3109

Mr. NUNN (for Mr. LAUTENBERG) proposed an amendment to the bill S. 3114, supra, as follows:

In the table on page 495 insert below the item relating to Fort Monmouth, New Jersey, the following:

Picatinny Arsenal	$6,050,000

On page 497, line 12, strike out "$2,200,317,000" and insert in lieu thereof "$2,206,367,000".

On page 497, line 15, strike out "$306,900,000" and insert in lieu thereof "$312,950,000".

FORD AMENDMENT NO. 3110

Mr. NUNN (for Mr. FORD) proposed an amendment to the bill S. 3114, supra, as follows:

On page 494, in the table below line 20, insert the following below the item relating to the State of Kansas:

Kentucky	Fort Knox	$15,600,000

On page 497, line 12, strike out "$2,200,317,000" and insert in lieu thereof "$2,215,917,000".

On page 497, line 15, strike out "$306,900,000" and insert in lieu thereof "$322,500,000".

NUNN AMENDMENT NO. 3111

Mr. NUNN proposed an amendment to the bill S. 3114, supra, as follows:

On page 572, below line 24, insert the following:

SEC. 2844. TERMINATION OF LEASE AND SALE OF FACILITIES, NAVAL RESERVE CENTER, ATLANTA, GEORGIA.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Navy may—

(1) negotiate the termination of the remaining lease of the Navy of 2.27 acres of land located at the Georgia Institute of Technology, Atlanta, Georgia (in this section referred to as the "Institute"); and

(2) sell to the Institute the Naval Reserve Center facilities located on such land.

(b) CONSIDERATION.—As consideration for the termination of the lease interest referred to in subsection (a)(1) and the sale of the facilities referred to in subsection (a)(2), the Institute shall pay the Secretary an amount equal to the aggregate of the fair market value of the remaining lease referred to in such subsection (a)(1) and the facilities referred to in such subsection (a)(2).

(c) USE OF FUNDS.—(1)(A) To the extent provided in appropriations Acts and subject to subparagraph (B), the Secretary shall use the amount paid by the Institute under subsection (b) to expand the Marine Corps Reserve Center to be constructed at Dobbins Air Force Base, Georgia, in a manner which permits the use of a portion of that Center as replacement facilities for the naval reserve facilities referred to in subsection 9a)(1).

(B) The expanded portion of the Marine Corps Reserve Center described under subparagraph (A) shall be under the jurisdiction of the Marine Corps Reserve.

(2) If any portion of the amount referred to in paragraph (1) remains unexpended after the construction of the naval reserve facilities referred to in that paragraph, the Secretary shall deposit that portion in the account established under section 204(h) of the Federal Property and Administrative Services Act (40 U.S.C. 485(h)).

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection section that the Secretary considers appropriate to protect the interests of the United States.

LOTT AMENDMENT NO. 3112

Mr. WARNER (for Mr. LOTT) proposed an amendment to the bill S. 3114, supra, as follows:

Section 2304(a)(1) of the bill is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", of which $6,400,000 is authorized for the construction of a visual information training facility and $290,000 is authorized for construction of a television systems training facility, both located at Keesler AFB, Mississippi.".

WARNER AMENDMENT NO. 3113

Mr. WARNER proposed an amendment to the bill S. 3114, supra, as follows:

On page 572, below line 24, insert the following:

SEC. 2844. LAND CONVEYANCE, FORT CHAFFEE, ARKANSAS.

(a) CONVEYANCE.—The Secretary of the Army shall convey to the City of Fort Smith, Arkansas (in this section referred to as the "City"), all right, title, and interest (other than any oil, gas, or mineral interest) of the United States in and to a parcel of real property consisting of approximately 400 acres, together with improvements thereon, located at Fort Chaffee, Arkansas.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City—

(1) shall provide the Army with such services at Fort Chaffee as the Secretary and the City shall jointly determine, the fair market value of which services shall be equal to the fair market value of the property conveyed pursuant to subsection (a); or

(2) shall—

(A) provide the Army with such services at Fort Chaffee as the Secretary and the City shall jointly determine; and

(B) in the event that the fair market value of the property conveyed pursuant to subsection (a) exceeds the fair market value of the services provided under subparagraph (A), pay to the Secretary the amount equal to such excess.

(c) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the parcel of real property to be conveyed under subsection (a) and the value of the services, if any, to be provided under paragraph (1) or (2) of subsection (b). Such determinations shall be final.

(d) USE OF PROCEEDS.—The Secretary shall deposit the amount of the consideration, if any, paid under subsection (b)(2)(B) in the account established under section 204(h) of the Federal Property and Administrative Services Act (40 U.S.C. 485(h)).

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcel of land conveyed pursuant to this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the conveyance under subsection (a) that the Secretary considers appropriate to protect the interests of the United States.

WARNER AMENDMENT NO. 3114

Mr. WARNER proposed an amendment to the bill S. 3114, supra, as follows:

Section 603 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102-25, 105 Stat. 107) is amended—

(1) in subsection (b)(1), by adding at the end thereof the following new sentence: "Subsequent to the identification of the parcel of land pursuant to this subsection, the Secretary may, with the concurrence of appropriate representatives of Caroline County, Virginia, and the Commonwealth, make minor adjustments to the boundaries of the parcel of land identified so that the parcel of land conveyed pursuant to this section better serves the purposes intended by this section.";

(2) in subsection (c)(2)(A), by striking out "construct and operate on such parcel of land a regional correctional facility" and inserting in lieu thereof "provide for the construction and operation on such parcel of land a regional correctional facility";

(3) in subsection (c)(2)(B), by striking out "constructs and operates such facility" and inserting in lieu thereof "provides for the construction and operation of such facility"; and

(4) in subsection (d)(1)(A)(i), by striking out "24 months after the date of enactment of this Act" and inserting in lieu thereof "April 1, 1995".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Friday, September 18, at 9:30 a.m. for a nominations hearing on Shirley Chilton Odell and Stephen L. Norris, nominees to the Federal Retirement Thrift Investment Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. FORD. Mr. President I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Friday, September 18, beginning at 11 a.m., to conduct a hearing on S. 2132, the Environmental Risk Reduction Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, September 18, at 10 a.m. to hold a hearing on the United Nations framework convention on climate change—Treaty Doc. 102–38.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. FORD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on September 18, 1992, beginning at 10 a.m., in 485 Russell Senate Building, to consider for report to the Senate S. 2975, the Yavapai-Prescott Water Rights Settlement Act; H.R. 5686, an Act to make technical amendments to certain Federal Indian statutes; and S. 3157, the Native American veterans' memorial bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. FORD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Friday, September 18, beginning at 10 a.m., to conduct a hearing on S. 2132, the Environmental Risk Reduction Act of 1991.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Friday, September 18, 1992, at 10 a.m. to hold a hearing on S. 2969, to protect the free exercise of religion.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO THE KATYN MASSACRE MEMORIAL COMMITTEE ON THE KATYN-1940 MONUMENT IN JERSEY CITY, NJ

• Mr. BRADLEY. Mr. President, I rise today to congratulate artist Andrew Pitynski and the Katyn Forest Massacre Memorial Committee on the unveiling of a most important addition to the Katyn-1940 monument at Exchange Place, Jersey City, NJ. This sculpture-relief, known as "Siberia-1939," pays tribute to the memory of the more than 2,000,000 Polish citizens deported to Siberia and ruthlessly murdered by the Soviet Red Army during and after World War II.

The relief depicts a mother carrying her deceased infant in her arms, flanked by three other small children at her feet. Inside the statue are the ashes of Polish citizens who died after being forceably deported. This monument pays tribute to the courage and faith of the Polish people, the same courage that has inspired them to finally overthrow Soviet oppression after more than 50 years. By reminding us of how the human spirit can overcome great atrocities of the past, it gives hope of how Poland will lead the way to rebuild society after tyrannical Communist Soviet rule.•

NATIVE AMERICAN APPRECIATION DAYS

• Mr. COHEN. Mr. President, I would like to take this opportunity to recognize the first Native American Appreciation Days in Maine, which were held earlier this month in Cumberland. September 12 and 13, proclaimed "Native American Appreciation Days" by Gov. John R. McKernan, were an opportunity for the people of Maine to recognize the important contribution that native Americans have made to the culture, society, and way of life that we all share as Americans.

Native American peoples have shaped much of the culture that defines this Nation. In particular, I would point out the respect for all living things and the preservation of the land that is central to much of native American culture. The concern for the environment that Maine's native American population has long demonstrated is a concern shared by the majority of American people. The knowledge about the land that has traditionally been central to native American culture has also enriched all our lives through the herbs, foods, and medicines preserved and handed down from generation to generation.

The Appreciation Days featured a number of events celebrating the native American way of life. Outdoor drama, drumming, signing, ceremony, and worship were the centers of activity at the celebration. There were also displays, books, and slide and video presentations illustrating many aspects of traditional native American life. Native American cuisine was also featured to develop greater understanding of this valuable culture.

It is my hope that this recognition of the contribution of native Americans in Maine will encourage others across the Nation to express their appreciation in a similar manner.•

CABLE TV

• Mr. LIEBERMAN. Mr. President, I rise today to warn my colleagues about an unscrupulous campaign being waged by the cable TV industry to undermine support for the Cable Television Consumer Protection and Competition Act, which we expect to vote on next week.

Earlier this week, my colleague, Senator GORTON, and I pointed out the misleading nature of the cable industry's television advertisements and direct mail flyers. But it is becoming clearer that the cable industry has not limited itself to deceptive ads.

Two articles in newspapers today detail how the cable industry is using telemarketing to push consumers to call their Senators, and how industry representatives are apparently staying on the line with the consumers—sometimes unknown to either the consumer or the Senator's office—listening in, offering suggested language to use, or in one case, even cutting off the consumer when the Senator's staff member attempts to explain the truth behind the cable industry's deceptions. Mr. President, I would like each of these articles to be included in the RECORD at the conclusion of my remarks, "Cable Lobby: At the Tone, Get Irate at Your Senator," by Guy Gugliotta, the Washington Post, September 18, 1992; and "Cable TV lobbying sparks caller anger," by Peter Hardin, The Richmond Times-Dispatch, September 18, 1992.

My staff has spoken directly with a number of constituents who have called or written my office after hearing or seeing a cable industry ad about the cable bill, and in most cases, the consumers understand that the cable bill is in their interest after we explain it to them. One consumer told us that, after she wrote her letter against the bill, she read the truth about it in the newspaper, and then proceeded to write her cable company to protest being taken advantage of over this issue.

Mr. President, never before have I heard of a lobby going to such extreme lengths to try to get people to help them kill a bill under consideration in this Chamber. We must ask ourselves why an industry would take such an irresponsible step to defeat this bill.

The answer is clear. The cable industry is not out to protect consumers against higher rates. The cable industry itself is responsible for the high rates now being paid by consumers. The industry has raised cable prices more than three times the rate of inflation over the past 5 years. It cannot now truthfully claim it is against higher rates.

The cable industry opposes this legislation because it will burst their monopoly bubble. These have been the best of times for the cable companies in America: they have had no competition, and they have had no regulation. Now, with the cable bill, they face the prospect of one, or the other. If they have no competition, the cable companies face regulation to protect consumers against unfair rate hikes. And the bill encourages competitors to rise up and challenge the cable companies for the business of their subscribers.

This cable bill offers the best course toward fair rates, good service, and quality programming. Without the cable bill, the cable monopoly—and higher cable prices— remain.

The articles follow:

[From the Washington Post, Sept. 18, 1992]

CABLE LOBBY: AT THE TONE, GET IRATE AT YOUR SENATOR

(By Guy Gugliotta)

Is nothing sacred? Remember the good old days when the milkman jacked up your prices and told you that "if you don't like it, call your senator." And you did, and sometimes something good happened.

These days senators and congressmen sometimes get a bit jaded with telephone complaints, and who can blame them? Modern technology has given us answering machines, making it possible for voters to complain without having to talk to a human being.

Lobbyists have learned this. Now, with a little coaching, they can induce honest but not particularly knowledgeable voters to gin up an "irate" call-in campaign whenever Congress starts working on something they don't like. The voters may not know what they are talking about, but nobody's on the line asking questions.

This week's "light touch" prize for spontaneous outrage goes to the cable television industry, worried that Congress is going to enact a bill that would regulate basic rates for a service that many Americans find essential to their well-being.

Those who favor the cable bill—including most Democrats in Congress—charge that the non-regulated industry can now raise rates at will, particularly because one company almost always holds a monopoly.

Those who oppose the bill—the Bush administration, the cable companies and the entertainment industry—say that regulation will mean astronomical subscribers' rates forcing cable operators to pay for programs now carried free of charge.

Sound confusing?

Not to worry. The cable companies will explain—in fact, they will listen in to make sure you get it right.

One night this week a cable company in a state that shall remain unnamed called up its subscribers to get them to urge their senator to vote "no" on the cable bill. Then the company patched the calls to the senator's answering machine. A barrage of "constituent complaints" followed, the kind of thing that would ordinarily cause a senator—this one plans to vote "yes"—to quake in his shoes.

Unfortunately for the cable company, its representative forgot to get off the line. Soon the senator's staffers were quaking with mirth as was a reporter who heard a playback. The "spontaneous outrage" had all the subtlety of a guillotine:

First voice (male): "Ma'am, you just speak."

Second voice (female): "I don't know what I'm speaking about."

First voice: "Uh, the cable bill. You don't want your cable prices to go up, right?"

Second voice: "No, I do not."

First voice: "Well, okay, just tell 'em that."

Second voice: "Tell 'em what? I mean . . ."

First voice: "That you don't want your cable bill to go up."

Second voice: "That's all I have to say?"

First voice: "Yes, that's all."

Second voice: "Okay—Senator, I do not want my pable—cable bill to go up."

First voice: "Thank you."

Second voice: "Thank you."

The next caller, better briefed, spoke with authority: "My name is . . . and I hope you vote 'no' on the cable bill." But then he blew it by asking an unnamed third person: "How's that?"

"Thank you," said a second voice.

"Okay," replied the irate caller. "Thank you."

The third caller, obviously unrehearsed, stumbled badly out of the box: "Senator . . . , vote 'no' on that bill . . . please."

"Cable TV bill," snapped the second voice.

"Uh, yeah, cable TV bill," said the irate caller, then asked his coach if he'd done it right.

"Fine," said the second voice.

The senator was not convinced.

[From the Richmond Times-Dispatch, Sept. 17, 1992]

CABLE TV LOBBYING SPARKS CALLER ANGER

(By Peter Hardin)

For Sherri Wertz, disabled by multiple sclerosis and living on a fixed income, television isn't only a companion—it's "my best friend."

When a caller warned the Virginian that her cable bill might jump from $50 to $80 per month if Congress passes legislation for the government to regulate cable television, she was alarmed.

So she accepted the man's offer—on behalf of the National Cable Television Association—to have her call transferred to her senator's office free.

It was 10 or 15 minutes later, as Mrs. Wertz was listening to an aide to Sen. Charles S. Robb say cable operators might lose money under the bill, that the telephone line went dead.

Mrs. Wertz, who lives on the Peninsula, is furious.

First she was given misleading claims, she believes, then someone sympathetic to the cable operators who was eavesdropping cut her off at a strategic time.

"How dare you listen to a private conversation! It makes me angry," she fumed.

A spokesman for the industry group vehemently denied that any of the calls it helps transfer to Capitol Hill are listened to or cut off.

"We do not monitor those calls," said Carol Vernon of the National Cable Television Association.

Tempers are flaring as lobbying over a possible return to cable television regulation reaches a feverish pitch.

Backers say the regulation bill, scheduled for a vote in the House of Representatives today, is the most important piece of consumer legislation before the Congress.

The cable television industry has contended just as fiercely in a major advertising campaign that the legislation would create costs that would be passed on to the consumer and raise their bills.

With full-page advertisements in newspapers, direct mail pleas, inserts in cable bills and spots on cable television channels, opponents have managed to catch a lot of attention.

They've worked so feverishly that key sponsors of the legislation found it necessary to hold a last-minute news conference yesterday to denounce "the big fat lie" and appeal for support among their colleagues.

"Cable has been attempting to hoodwink consumers," declared Rep. Edward Markey, D-Mass., a leader of the bill's backers. He contends the bill is necessary to rein in rapidly rising cable rates.

Both the House and Senate are expected to pass the measure, a compromise of bills passed earlier by each chamber. It would regulate cable television rates for basic service.

But because the White House has threatened a veto, backers of the legislation are working to produce veto-proof margins of victory, especially in the Senate—where 34 votes will sustain a presidential veto.

In January, the Senate adopted its cable bill 73–18. Under pressure from the White House and other forces, however, it's uncertain how many senators will support the new version.

The bill approved by House and Senate conferees would require the Federal Communications Commission to set "reasonable" rates for basic cable service. That service would include local broadcast stations and government-access channels, such as C-SPAN, and public-access and community-affairs channels.

Customers of basic cable service would be able to choose to pay extra for such offerings, as CNN, ESPN, HBO, Showtime, the Disney Channel, Nickelodeon and Discovery.

In addition, the bill would require that cable programming be made available to competitors, such as satellite-delivery systems.

And it would require cable companies to negotiate with local broadcast affiliates of the major networks—CBS, NBC, ABC, and Fox before carrying their signals.

The National Cable Television Association believes this provision could lead cable companies to pay large amounts to broadcasters, and expenses from the bill would have to be paid by cable subscribers.

Supporters of the bill, however, maintain that consumers are protected by the rate-regulation section and provisions for consumer action through the FCC if charges for expanded services go too high.

Two Virginians who have had an active role in the cable debate reflect some of the differences in viewpoints.

Rep. Thomas J. Bliley Jr., a Richmond area Republican, voted against the House bill in July. He said it could add as much as $5 billion onto cable bills and "stifle an industry which has brought to the American television consumers exactly what they want: more quality television."

Rate deregulation after congressional action in 1984 led to greater investment by cable programmers and such networks as Discovery Channel, Nickelodeon, ESPN, CNN and Black Entertainment Television, Bliley said.

The Virginian considers the new compromise "anti-consumer," his spokesman said, and will vote against it. Cable companies in his district haven't gouged constituents and he doesn't see a problem, the spokesman added.

Hollywood also has joined the battle against the bill, saying it doesn't treat fairly the studios that create many of the programs aired by broadcasters.

In the standoff between Mrs. Wertz of Virginia and the cable association, meanwhile, Mrs. Wertz may take heart in the experiences of others.

A spokesman for Sen. Richard H. Bryan, D-Nev., said several callers who were transferred to Bryan's offices to talk about the cable bill were cut off after giving basic information—such as their names and viewpoint.

The spokesman said the cable company that transferred the callers may have wanted to get as many calls through to Bryan's staff as possible in a short time.•

TRIBUTE TO OWENTON

• Mr. McCONNELL. Mr. President, I rise today to recognize the town of Owenton in Owen County.

Owenton seems to have been bypassed by the wave of technology which has swept over Kentucky in recent years. However, there is a new effort underway to make sure that Owenton is able to retain its smalltown charm without suffering setbacks because of lack of growth.

Many improvements to the community have been made, including the installation of new sidewalks and street lights. An arts commission was recently established to provide the community with more cultural opportunities. John Harrod, a Rhodes scholar, set up a program for gifted students in the Owen County school system. The surrounding area offers opportunities for fishing and camping, as well as other recreational activities. A $2 million water treatment plant is under construction to improve water quality. Also, a 100-acre industrial park has been built in an effort to attract industry. These are examples of what makes Owenton a wonderful community.

Owenton and the rest of Owen County rely heavily on tobacco for their economy. Tobacco represents as much as 60 percent of Owen County's total farm income, and the county is one of the top 15 tobacco-producing counties in Kentucky.

I applaud Owenton's efforts to maintain its historical charm, but at the same time its move forward, making it one of the finest towns in Kentucky.

Mr. President, please enter the following article from Louisville's Courier-Journal in today's CONGRESSIONAL RECORD.

The article follows:

OWENTON—OUT-OF-THE-WAY TOWN IS TRYING TO ATTRACT JOBS AND KEEP PEOPLE

(By Gregory A. Hall)

Change comes slowly to this community nestled near the center of Kentucky's Golden Triangle, Owenton Mayor J.O. Powers says that's exactly the way a lot of folks like it.

The fact that this is a county seat that the railroads and the interstates bypassed doesn't seem to bother them.

"Some people say, 'I like it the way it is. . . . I moved here to get away from change,'" Powers said. "That's something that's hard to overcome."

Powers, 48, moved to Owenton from Carrollton, Ky., with his family at age 16. "I thought I'd come to no man's land," he said.

But the town grew on him. "You hate to leave," he says now. But that's exactly what his parents did after his father retired as a manager for Kentucky Utilities. They moved back to Carrollton.

Unfortunately, Powers' decision to settle in Owenton is not typical. Owenton loses about three-fourths of its natives to other areas, he said. The city's leaders are trying to attract industry so they can draw—and keep—more residents.

New sidewalks and street lights have been installed. Land for a new industrial park has been purchased, and community leaders hope the widening of U.S. 127 to Frankfort will give the town a boost.

But Powers said Owenton needs more money to keep moving. The city council plans to approve a 1 percent occupational tax to finance more improvements, to allow it to expand its police force. Another avenue to new revenue is annexation, which Powers called "a must for us." He has appointed a committee to look at areas that could be annexed. Both adjacent residential areas and farmland are being considered to increase the city's tax base.

Owenton's rural character is something of a paradox, given its location. The Golden Triangle, the area defined by the prosperous constellation of Louisville, Lexington and Northern Kentucky, is filled with booming communities. Only a few are still as unchanged as Owenton.

In Owenton's case, there's nothing that a few good highways wouldn't cure. In the meantime, the town is looking for ways to provide more jobs.

The industrial park, about 100 acres along U.S. 127, was purchased recently with help from the local banks. "I believe we'll have a plant within a year," Powers said. If the park is successful, he added, the workers it draws could spark more residential growth.

What goes into that industrial site "has the potential of changing the character and nature of the town as much as anything in a long time," said Circuit Judge Charles Satterwhite, a fifth-generation Owen countian.

That character breeds hometown pride. It was a big day for Owenton when Democratic presidential nominee Bill Clinton visited nearby General Butler State Resort Park during his post-convention bus tour. Clinton, along with his running mate, Tennessee Sen. Al Gore, got an enthusiastic welcome.

But in the eyes of Owenton residents, another star of the show was Steve Miller, an Owenton native, a top adviser to Gov. Brereton Jones and now a Clinton media strategist. Satterwhite said seeing Miller introduce a presidential nominee was "certainly a moment of great pride in my lifetime."

Owenton was a good place for Miller to grow up, but he left too. After working in former Louisville Mayor Harvey Sloane's campaigns for governor, he managed Jones' race for lieutenant governor in 1987 and his gubernatorial campaign last year.

Miller, who lives and practices law in Lexington, said he makes the trip home "all the time" to visit his parents. He even wrote a column for Owenton's weekly newspaper, The News-Herald, from the Democratic National Convention in New York. Powers calls it regretful that somebody like Miller has left, probably for good. But he said he hopes Miller will encourage others to consider Owenton as a place to live.

Satterwhite did return. "He's one of the few people I've known to move away and come back," Powers said.

Satterwhite worked for the state for three years after graduating from the University of Kentucky law school and returned in 1977 to open a practice. He was elected district judge and became circuit judge in 1984. Satterwhite said he never seriously considered living elsewhere. He grew up at a house on Adair Street, nicknamed the "Dog Hill" because there were "dogs and kids mostly on the street." He now lives less than a mile way.

Because of its remote location, residents have to go to Carrollton, Cincinnati, Lexington or Louisville—part of the way on two-lane, winding roads—for many necessities, including some medical services, such as delivering a baby. Miller said those same roads, which hinder economic development, also protect the town from big-city ills, such as crime and congestion. But they also have kept out any night life. "You won't find that in Owen County," Miller said.

Many people stereotype rural and small-town Kentuckians because they have to venture to a bigger city for entertainment, Satterwhite said. "I think, in some ways, there is a greater appreciation" for the arts as a result, he said. An arts commission was established recently to create more cultural opportunities.

The small-town environment brought John Harrod, a Rhodes scholar, to Owenton in 1974. Harrod, 46, is director of the Owen County school system's program for gifted students. He also is a folk musician who was attracted to Owenton because of an old fiddler named Bill Livers (who died in 1988) and because the town resembled the area where he grew up in Shelby County.

Harrod said he likes the intimacy of the town and the camaraderie he has with co-workers. "You don't have to work through a bureaucracy to do something new or exciting in the school system," he said.

While missing some of the amenities of bigger cities, Harrod said he finds "plenty to do around here," including fishing, camping and working on his farm. But Harrod doesn't know whether he'll stay in Owenton. "When I retire I'm not going to Florida or next door to a golf course. . . ," Harrod said. "If I'm not in Owen County, I'm going to be in some other place like Owen County."

Others aren't so sure whether small-town life is for them. Two Northern Kentucky University students, who grew up in Owenton and are working this summer at the city's library, aren't nearly as enthused at the prospect of staying.

Nadine Hopkins calls her hometown boring. "There's nothing to do," said the 20-year-old elementary-education junior. It wouldn't be so bad if she had a car, she said. But she acknowledged that she might return for a teaching job in the school system.

Angela Chambers, 20, a sophomore studying social work, summed up the town this way: "Everybody knows everybody and everybody knows everybody's business."

Even though she has to go out of town to see a movie, Chambers said she wouldn't mind living in Owenton. "I don't like Cincinnati at all . . . because there's a lot of violence up there."

Like other rural areas in Central Kentucky, Owen County's economy relies heavily on tobacco.

"Tobacco's a weed. It'll grow on a hillside, and not many crops will do that," Powers said.

Kim Strohmeier, the UK agricultural extension agent, said tobacco represents between 50 percent and 60 percent of the county's total farm income. Owen is one of the top 15 tobacco-producing counties in the state.

But tobacco's limited future presents potential problems. "There is no crop out there where farmers will get the yield per acre that they get from tobacco," Miller said.

As in many other rural areas, an increasing number of farmers are finding second jobs to earn the money that tobacco no longer provides.

A proposed dam on Eagle Creek could have provided more water and a recreational area to diversify the economy. However, the Army Corps of Engineers recently concluded that the project, which would have flooded parts of southern Owen County and northern Scott County, would not provide sufficient flood protection to merit its $86 million cost.

Powers said that Schlumberger Industries Gas Division, where he is a production supervisor, is Owenton's largest employer. But many Owen Countians travel down U.S. 127 to work for state government.

"Frankfort is probably our major employer," Satterwhite said.

Despite the benefits rural life presents, residents say other aspects of life could be improved. The town has only four doctors, including Dr. Vicky Verburg, who recently decided to open a practice. Her decision merited a large, Page One headline in The News-Record.

A few years back, a banner was hung across a street in the middle of town to advertise for a new doctor—testimony to the community's desperate need for a doctor.

Satterwhite said Owenton's doctor troubles are a microcosm of the larger national health-care problem. Like all small towns, it's tough to recruit family practitioners.

The county-owned hospital, once ranked as one of the 10 least-occupied rural, general-care hospitals in the state, has been sold to private interests.

"We have a big challenge before us to keep doctors in the community so we can maintain our hospital," Satterwhite said. "It would be a terrible blow if we were to lose that."

Water quality also has been a problem. The good news is that a $2 million-plus water-treatment plant is under construction. The downside: "Our water rates will go up 34 percent," Powers said.

While Owenton suffers many of the same problems as many other small Kentucky cities, Powers and others say there's a commitment to bring change, no matter how slow it may occur.

"There's more we want to do," he said.

Population (1990); Owenton, 1,308; Owen County, 9,035.

Per capita income (1988); $8,003, or $4,827 below the state average.

Jobs: Employment, 1,426; manufacturing, 342; wholesale and retail trade, 262; services, 197; state and local government, 376.

Big employers: Schlumberger Industries (gas meters and gas pressure fittings), 325.

Media: Newspaper—The News-Herald (weekly); television—WKON 52 (KET); radio—none.

Transportation: Roads—U.S. 127, Ky. 22. Air—none; nearest commercial airline service—Greater Cincinnati-Northern Kentucky International Airport, 50 miles north. Rail—none. Trucking—11 companies serve the city.

Education: Owen County public schools, 1,789 students.

Topography: Rolling hills and wide, fertile ridges.

FAMOUS FACTS AND FIGURES

The area got its nickname, "Sweet Owen," from a politician. Fearing a loss in a close Senate race, John C. Breckinridge hoped Owen County would turn the tide in his favor. After a lone horseman rode in with the returns, Breckinridge was said to have proclaimed: "Owen, Sweet Owen." Breckinridge named his next son Owen County Breckinridge.

The first mention of Owenton in legislative acts was in 1822, but it was spelled "Owington." Interestingly, many people pronounce the town's name as if there were an -ing in the middle. Circuit Judge Charles Satterwhite said he didn't know if that should be attributed to the local accent, or to something else.

The county is dry, probably attributable to the area's Baptist domination. There are 26 Baptist churches in the county.

Legend has it that the four columns on the courthouse contain kegs of whiskey, aging since the courthouse was completed in the late 1850s.

Owen County was formed in 1819 from Scott, Franklin and Gallatin counties. It is named after Col. Abraham Owen, of Shelby County, who was killed in the Battle of Tippicanoe. Hesterville—not Owenton—was the original county seat. In 1821 it was moved to Owenton.•

PROJECT REACH OUT

• Mr. SARBANES. Mr. President, I rise today to pay tribute to Project Reach Out sponsored by Maryland Public Television, a highly successful telethon to promote volunteerism throughout the State.

Mr. President, on September 10, Project Reach Out, a 3-hour live telethon and gala celebration of volunteer spirit, inspired Marylanders to donate hundreds of thousands of volunteer hours for schools and other educational programs throughout the region. Both individuals and businesses met the challenge—and are making a difference.

Although I was unable to attend this year's telethon due to the Senate's business, I know firsthand of the extraordinary effort to use television to its fullest potential by reporting a need to viewers and offering to them the challenge to meet that need.

For example, Mrs. Rose Zimmerman, a retired member of my Senate staff, spends countless hours preparing immigrants for American citizenship and tutoring them in the English language.

The goal of the telethon is to recruit volunteers to meet the educational needs of our communities; Project Reach Out asks viewers to donate their time, not money, for schools and other education-related programs. This successful program represents a unique approach to mobilizing the many volunteers who give their time to enhance educational opportunities for the region's students.

This year's telethon surpassed all previous records by hitting the 1 million mark in the number of hours pledged to Maryland students. Maryland Public Television received over 600 calls in 3 hours, resulting in a grand total of 1,238,955 hours pledged.

Now, more than ever, as schools struggle with limited resources, the need for volunteers takes on even greater significance. Dedicated volunteers working as tutors, mentors, library or classroom assistants, and in other capacities, immeasurably enrich the lives of our young people.

Project Reach Out highlights Maryland Public Television's strong commitment to community service and educational excellence throughout the region. This type of unique initiative characterizes the importance of public television to the State and Nation. The program is an excellent one and is illustrative of the fine programs of the Corporation for Public Broadcasting which deserves our continued support.•

NATIONAL DEFENSE AUTHORIZATION ACT

The Senate continued consideration of the bill.

AMENDMENT NO. 3090

(Purpose: To ensure additional transition authority does not violate the Antideficiency Act)

Mr. WARNER. Mr. President, I send to the desk an amendment and ask for its immediate consideration. It is cleared on both sides. The amendment is proposed by the Senator from Delaware [Mr. ROTH] and the Senator from Iowa [Mr. GRASSLEY].

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. ROTH (for himself and Mr. GRASSLEY), proposes an amendment numbered 3090.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 402, lines 24 & 25: change the phrase to read "Subject to subparagraphs (B), (C), and (D) . . ."; and

On page 404, between lines 4 and 5, insert the following:

(D) CERTIFICATIONS.—No obligation or adjustment of an obligation may be charged pursuant to the provisions of this paragraph until the Secretary of Defense certifies to congress:

(i) That the limitations on expending and obligating amounts established pursuant to section 1341 of title 31, United States Code are being observed within the Department of Defense; and

(ii) That reports on any violations of section 1341, whether intentional or inadvertant, are being submitted to the President and Congress immediately and with all relevant facts and a statement of actions taken as required by section 1351 of title 31, United States Code."

Mr. GRASSLEY. Mr. President, it distresses me that this amendment should be necessary, but it is without hesitation that I join with the Senator from Delaware [Mr. ROTH] in offering it.

Two years ago, again with my distinguished colleague from Delaware, Senator ROTH, the ranking member of the Senate Committee on Government Affairs, we introduced legislation to curb the Department of Defense's practice of using multibillion dollar slush funds to extend contracts and, in the process, increase the Federal deficit.

Our effort confronted abuses in the use of "M" accounts and the merged surplus account, and it brought an important measure of accountability to the way the Department of Defense manages its contracts and its dollars.

To review a brief history, a Government accounting rule defined in 1956 gave birth to a pool of funds—an accumulation of upspent appropriations—upon which Government agencies could draw for unforeseen expenses resulting from matters such as the final phase of contracts or suits against the Government.

These rules provided guidelines for the accounting of unliquidated obligations and unused appropriations.

But with the inception of multiyear contracting, crafty bureaucrafts with green eyeshades saw the potential for a very large, very flexible checking and savings account for writing lots of contracts and underwriting lots of cost overruns.

So, while the Department of Defense was socking away unobligated balances into a rainy day fund during the years of the defense buildup, DOD bureaucrats licked their chops in anticipation of the games they could play with these funds.

These accounts contained tens of billions of dollars of laundered, no-year money, and they discouraged efficiency and accountability by providing a means through which additional contracts could be written and cost overruns could be absorbed with a little bookkeeping slight of hand.

These accounts were comparable to the old pyramid scheme, because they provided for current wants and needs, while always putting off the day of reckoning until tomorrow.

And, of course, when tomorrow became today, there was always a new tomorrow to be relied upon, meaning accountability was never to be achieved.

Recognizing this abuse and realizing that it was costing taxpayers tens of billions of dollars, Congress acted, as part of the fiscal year 1991 Defense authorization bill, to put an end to these abuses.

Unfortunately, a short 2 years later, the Department of Defense has found that it cannot live within the restraints of the Antideficiency Act—restraints which require efficiency and accountability.

The Department of Defense has developed such an addiction to and dependency on its contracting tricks, that we are being asked to lift the restrictions on the way the DOD covers charges against expired accounts with current appropriations.

We're being asked to validate the circumvention of the Antideficiency Act—a practice which the Comptroller General of the United States identified as a felony in a recent letter to Congressman ANDY IRELAND.

A GAO review confirms that, absent congressional authorization there is no authority for agencies to charge overobligations of expired or closed accounts to current appropriations.

Consequently, even though over-obligations may reflect a liability of the Government, payment may not be made until the agency receives the requisite authorization from Congress.

If we adopt section 103 of the DOD authorization bill, we'll be adopting language which says that obligations against expired accounts may be charged to any current appropriation of the Department of Defense that is available for the same purpose.

Now, that's a loophole so big you can fly a B-2 through it.

Section 1003 seemingly limits such shifting of funds to a relatively small figure—1 percent of the total amount of the appropriations for that account.

While that may not sound like much, let's remember the volume of dollars we're dealing with. Over the 5-year life of a contract we're talking about a series of five 1 percents—or a total of 5 percent.

With Defense budgets in the $280 billion range, 5 percent represents $14 billion over which Congress exercises virtually no control.

That's $14 billion for expired accounts because the DOD doesn't seem capable of properly managing its contracts and its costs.

Mr. President, we put a tight lid on DOD slush funds in 1990 for a reason, and I see no justification for us to usher in a new era where overobligating is condoned.

Therefore, our amendment mandates that no obligation or adjustment of an obligation for expired accounts may be charged to a current appropriation account until the Secretary of Defense certifies to the Congress that the transaction does not cause a violation of the Antideficiency Act.

Further, it requires the Secretary to immediately report any violations of the Antideficiency Act, whether intentional or inadvertent, to the President and the Congress.

These are important safeguards which will prevent the Department of Defense from slipping back into the practice of borrowing against tomorrow's appropriations, and which will impose a vital measure of accountability where none would otherwise exist.

Mr. President, I commend and thank my colleague from Delaware, Senator ROTH, for his diligent efforts over the years as a watchdog of inappropriate Government spending practices, and I urge the adoption of this amendment.

Mr. ROTH. Mr. President, once again we must put an end to bureaucratic attempts to get a hidden increase in spending authority and to avoid the requirements of the Antideficiency Act. Two years ago, the Senate supported my efforts to do away with a $100 billion slush fund that the Federal bureaucracy called the M account. I called it the Mañana account because the Government used it to write excess contracts one year, but the bills did not come due until years later. In essence, our legislation 2 years ago corrected arcane Government accounting rules that were being manipulated so that agencies would never be held accountable for overspending their budgets.

The Mañana account became a pot of money that bureaucrats used during times of tight budgets. They used it to cover cost overruns and to write more contracts than Congress intended from a given year's budget. In essence, the old rules meant that no Government employee could ever be held accountable for spending more than their budget. According to the Comptroller General, it was a legal way to circumvent the Antideficiency Act, which makes it a criminal offense for a Government employee to overspend their budget.

Mr. President, when we ended the Mañana account scheme, we fixed the Government accounting rules. Our fix returned accountability and integrity to the system. Under our reforms, a Government employee cannot commit the Government to spend more than Congress appropriated. In addition, if there were large unforeseen cost overruns, in excess of 1 percent of the budget, the agency would have to request additional funds. In a recent letter to Congressman ANDY IRELAND, the Comptroller General highlighted the importance of the changes we implemented in 1990. He stated: "a prominent purpose of the 1990 reforms to the account closing provisions in 31 U.S.C. 1551-1558 was to apply the discipline of the Antideficiency Act and the Bona Fide Needs Statute to expired accounts * * * the process of agency reporting overobligations to the Congress and requesting funds to pay the obligations is vital to congressional oversight of how agencies manage their financial resources and necessary to accomplish the objectives to the Antideficiency Act."

Mr. President, I was surprised to find section 1003 in this Defense authorization bill. As it reads now, section 1003 would permit Government officials to spend more than their budget, which would be considered an "overobligation" in the arcane lingo of Government accounting, and would therefore remove the Pentagon's accountability to the taxpayers. The Comptroller General noted in his report that "an over obligation of a prior year appropriation is a reportable violation of the Antideficiency Act." Since section 1003 would enable the Defense Department to increase the 1985 through 1992 defense budgets by up to 1 percent per year, without the approval of the Congress, it would allow the Pentagon to overspend its budget without being held liable for violating the Antideficiency Act. It's like getting the authority to write checks for more money than you have in the bank, except the taxpayer's have to foot the bill for this check kiting scheme. And, in this case, the taxpayer's bill could be as much as $75 billion.

Mr. President, the amendment offered by Senator GRASSLEY and I would put the accountability back into section 1003. With the status of the deficit, now is not the time to give any agency authority to overspend their budget.

The amendment we propose would require the Secretary of Defense to certify that the Antideficiency Act will not be violated. Accordingly, our amendment could save the $75 billion in unauthorized spending, while preventing intentional violations of the Antideficiency Act. I urge my colleagues to support this amendment.

Mr. WARNER. Mr. President, briefly this amendment amends section 1003 to add a provision that no obligation or adjustment to an obligation under this section may be charged until the Secretary of Defense certifies to the Congress that the department is observing the law regarding M accounts and reports on violations, whether intentional or inadvertent, are being submitted to the President and Congress as required by law.

I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3090) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3091

(Purpose: To provide for the issuance of a commemorative stamp honoring American prisoners of war and Americans missing in action)

Mr. WARNER. Mr. President, I have an amendment on behalf of the Senator from New Hampshire [Mr. SMITH] entitled. "To provide for the issuance of a commemorative stamp honoring American prisoners of war and Americans missing in action. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia, [Mr. WARNER], for Mr. SMITH, proposes an amendment numbered 3091.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . POW/MIA STAMP.

(a) Congress finds that:

(1) the President has declared the POW/MIA issue to be of highest national priority;

(2) there are over 88,000 missing United States service personnel from World War II, the Korean war, and the Vietnam war;

(3) public awareness of the sacrifices which have been and may continue to be made by American prisoners of war and Americans missing in action is critical to advancing efforts to obtain the return of missing American service personnel.

(b) The Postmaster General shall issue a commemorative postage stamp in honor of American prisoners of war and Americans missing in action. Such a stamp shall be issued and sold for such a period as the Postmaster General shall determine.

Mr. SMITH. Mr. President, on April 9 of this year, I introduced a joint resolution, which is currently cosponsored by 65 Senators, to provide for the issuance of a commemorative postage stamp to honor American prisoners of war and Americans missing in action. The amendment that I am offering today would do the same.

During President Yeltsin's recent visit to the United States, Yeltsin conceded that there may still be Americans in captivity in Russian gulags. Before we begin waving the banner of world peace and hastily slashing our Defense budget, it is important that we stop to remember that there may still be Americans in captivity in the remote reaches of that territory, and in Communist North Korea and Southeast Asia.

Mr. President, Mr. Yeltsin's revelations about POW's being interrogated in the Soviet Union open up a new chapter in the horrific story which, for decades, has plagued the families of those who were left behind. I agree with the President that locating and accounting for these Americans is a matter of highest national priority.

Throughout our Nation's history, American soldiers have made different types of sacrifices in defense of our American ideals. A great number of memorials and monuments honor Americans who lost their lives in battle—and it is only appropriate that this should be so. But I believe that American prisoners of war and Americans missing in action should also be commemorated. A postage stamp is a way for family members, friends, and those who care deeply about the POW/MIA issue to honor these Americans, and, at the same time, to generate public awareness.

On November 24, 1970, while the fires of the Vietnam war were still burning strong, the Postal Service issued a 6-cent commemorative stamp honoring American POW's and MIA's. Five years later, when that war was brought to a close, many of our fighting men and women were left behind. It has now been over two decades since that 6-cent stamp was issued. With the walls of Communist oppression toppling throughout the world, it is appropriate that we take a moment to pay homage to those soldiers who were not returned home to their families.

There are over 88,000 U.S. service personnel still missing from World War II, Korea, Vietnam, and other conflicts. The fate of these brave men and women has justifiably stirred the attention of the American public, and their fate will remain an issue until the American public is satisfied that this Government has done everything that it can reasonably do to find these lost warriors. By enhancing this public awareness, a POW/MIA stamp will assist us in keeping this issue on the front burner.

Over the past several years, there have been dozens of proposals in Congress providing for the issuance of commemorative postage stamps, each with its own merits. But surely no one is more deserving of this honor than our POW's and MIA's.

Mr. President, these people have had a rough 20 years. This is the least we can do for them. A commemorative stamp is not only a token of appreciation for the sacrifices made by these great Americans, but will serve as a constant reminder that there may still be individuals in some remote part of the world, scared and alone, but not forgotten.

Mr. President, I yield the floor.

Mr. WARNER. Mr. President, having had an opportunity to look into this matter myself, it is cleared on both sides, but I wish to express my commendation to the Senator from New Hampshire and, indeed, the chairman of the committee, Mr. KERRY. I think both of these able Senators are undertaking a very serious and important obligation in relation to the issues on POW's and MIA's and I wish to express my personal commendation.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3091) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3092

(Purpose: To direct the Department of Energy to prepare a workforce transition plan for Department of Energy Defense Nuclear Facilities that experience reductions in personnel)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Mr. REID and ask that it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for Mr. REID, proposes an amendment numbered 3092:

On page 634, following line 19 add:

"(C) Any Department of Energy defense nuclear facility, including the Nevada Test Site, that will experience a reduction of 10 percent or more in the number of Department of Energy employees employed at the facility in any 12-month period.

Mr. NUNN. Mr. President, this amendment would require the Department of Energy to include in its work force restructuring plan any Department of Energy defense nuclear facility that experiences a 10 percent work force reduction in any 12-month period.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3092) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3093

(Purpose: To provide for a study of the use of the Nevada Test Site for the development of solar energy production technologies)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BRYAN for himself and Mr. REID, proposes an amendment numbered 3093.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 633, below line 21, add the following:

SEC. 3141. STUDY OF CONVERSION OF NEVADA TEST SITE FOR USE FOR SOLAR ENERGY PRODUCTION PURPOSES.

(a) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Energy, in consultation with the Secretary of Defense, the Administrator of the Environmental Protection Agency, and the Director of the Office of Technology Assessment, shall carry out and submit to Congress a study on the conversion, development, and utilization of the Nevada Test Site, Nevada, or one or more portions thereof, as a commercial facility for the development of solar energy research and production technologies.

(b) STUDY ELEMENTS.—In carrying out the study under subsection (a), the Secretary of Energy shall consider the following:

(1) The potential of the Nevada Test Site for solar energy production from a variety of solar energy production technologies, including technologies for the production of thermal energy and photovoltaic energy.

(2) The costs and benefits of the development of such energy production technologies, including the cost per kilowatt hour of energy production from each such technology and the potential market for the sale or use of energy produced by such technologies.

(3) The effect of the development of the Nevada Test Site for solar energy production on the economy and employment rates in the region in which the Nevada Test Site is located.

(4) The effectiveness of plans for retraining current employees at the Nevada Test Site for employment in the development, utilization, and marketing of solar energy production technologies.

(5) The effect of the development of various solar energy production technologies at the Nevada Test Site on the manufacturing and export economy of the United States.

(6) The extent to which the development of solar energy production technologies at the Nevada Test Site is compatible with current and proposed alternative uses of the Site, including the compatibility of such development with environmental restoration and other clear-up activities at the Site and with continuing use of the Site for limited nuclear testing.

Mr. BRYAN. Mr. President, I rise to offer an amendment which provides for a study of the energy producing potential of the Nevada test site, using solar energy technologies that will become an increasingly important energy source during the next century. My senior colleague from Nevada is a cosponsor of this amendment.

The desert in the southwestern United States is an ideal location for the use of solar energy. Solar projects already contribute significant energy to the California utility grid, and those generators produce electricity without adding any air pollution to the environment.

The solar energy projects that have operated so far have proven the viability of the basic technology involved, New research and development should produce energy that is cost effective, and able to compete with other energy sources. Solar energy production is also consistent with the demands of desert living, producing peak energy when loads are high during the heat of the day.

New energy storage technology also enables solar energy to be "banked" for use at night and during cloudy days when solar energy is reduced.

Consideration of the Nevada test site for solar energy production is particularly useful for the needs of the future. The vast area of the test site, its location near the center of the western power grid, its existing infrastructure, and its long history of Department of Energy projects all indicate that it is an ideal location for solar energy research, development, and production.

As the energy needs of developing nations continue to grow, exporting solar energy technology will also become an important, competitive sector of our energy industries. It is a renewable, nonpolluting energy source that can address local energy needs in remote or undeveloped areas. The southwest is also ideally suited for manufacturing of solar energy production components to be exported to developing counties.

Studying this potential use for the Nevada test site, its existing infrastructure, its workforce and production capabilities, is an excellent investment in defense conversion strategy. It has been estimated that a small fraction of the desert land area of the Nevada test site, if used for solar energy production, could provide a substantial fraction of the total electricity production the Nation will need in the next century. It is a wise and compatible goal as we look to the needs of the next century. I urge the adoption of this amendment, and I yield the floor.

Mr. REID. The men and women at the Nevada test site have served this country well. Yet, the House version of this bill and the House version of the energy and water appropriations bill contain a complete 1-year moratorium on nuclear testing. The energy and water appropriations bill that passed the Senate also contained a nuclear testing moratorium, and also includes a complete end to testing by September 1996.

Richard Claytor, the Assistant Secretary of Energy for Defense Programs, estimates that if a 9-month moratorium is enacted into law, about 1,000 workers at the Nevada test site will lose their jobs. If the House moratoriums are enacted, the impact on southern Nevada will be at least 20 times greater.

If the Congress of the United States is going to put 20,000 families out of work in my State, I think it is the responsibility of the Congress to be compassionate in how it goes about this.

About 9,000 people are employed by the Department of Energy, associated Federal agencies, national laboratories, and support contractors in southern Nevada. Economic data also indicate that for each of these federally-funded employees, an additional 1.2 employees, or about 10,800, are employed in the local economy in supporting services. These services range from construction work to the operation of supermarkets. Therefore, almost 20,000 people are employed in southern Nevada as a result of the Nevada test site's activities. This is more than 5 percent of the southern Nevada work force.

The Department of Energy is directly or indirectly responsible for about 7.5 percent of the total income for southern Nevada and 4.5 percent of the entire State. Between procurement and salaries, DOE made a $1 billion contribution to Nevada's economy in 1990. DOE/Nevada, associated agencies and contractors annually pay about $7.8 million in direct Nevada taxes. Charitable contributions through payroll deductions and corporate contributions exceed $400,000 annually.

I have introduced this amendment, with the cooperation of the distinguished chairman, to include Nevada test site workers in the defense conversion provisions of the bill if reductions in testing cause a significant cutback in employment at the site. I think it is important that we do not leave these dedicated workers out in the cold now that the cold war is over.

In these times of economic hardship, I am disturbed to see the Congress trying to put so many people out of work. In these times of political instability and nuclear proliferation, I am disturbed to see the United States halt its nuclear testing program.

I hope a moratorium does not become law. But if it does, I hope the Senate will adopt my amendment to help these thousands of workers who will be without jobs as a result.

Mr. NUNN. Mr. President, this amendment provides for a study of the conversion of the Nevada test site for use for solar energy production.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment (No. 3093) is agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3094

(Purpose: To authorize an increase in funds for AIDS research)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself and Mr. WARNER, proposes an amendment numbered 3094.

On page 50, line 2, strike "$10,645,659,000" and insert in lieu thereof $10,665,659,000".

Mr. NUNN. Mr. President, I offer this amendment that would add $20 million for AIDS and research at the Department of Defense medical research facilities.

This amendment would provide for the third phase of testing for a new vaccine which has shown great promise as a way of delaying the onset of the deadly implications of the AIDS virus. This advantage is now seen in stage 2 testing in Walter Reed Medical Center. According to Army medical experts, phase 2 has shown that the vaccine should go to phase 3 as soon as possible.

This research and other fine medical work at Walter Reed are excellent examples of our military research facilities which can and are helping to solve the problems that are important and indeed crucial to civilian society.

Mr. President, I urge adoption of the amendment on behalf of myself and Senator WARNER, and I also say former Senator Russell Long has brought this matter to our attention.

Mr. WARNER. Mr. President, I join the distinguished chairman, and it should be noted that not only did our former colleague and friend bring it to our attention, but he was present on the floor of the Senate today, as is his right as a former Senator, not in the capacity of lobbying, but indeed his presence connoted the importance of this amendment.

I wish to commend him personally.

Mr. NUNN. Mr. President, in the case of this kind of research, time literally means saving the lives of people now sick with this deadly disease. The sooner we get these tests completed, the better off so many people in our Nation will be.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment (No. 3094) is agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3095

(Purpose: To improve the defense conversion, assistance, and stabilization provisions)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. KENNEDY (for himself, Mr. METZENBAUM, Mr. PRYOR, Mr. DODD, Mr. SIMON, and Mr. WELLSTONE), proposes an amendment numbered 3095.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 65, between lines 17 and 18, insert the following:

SEC. 232. MANUFACTURING TECHNOLOGY DEVELOPMENT PROGRAMS.

Manufacturing technology development programs conducted by or for the Department of Defense, including those programs for which funds are made available pursuant to section 203, shall include a focus on production technologies designed to build on and expand existing worker skills and experience in manufacturing production.

On page 102, below line 24, insert the following:

SEC. 334. IMPACT AID.

Section 3(e)(1) of Public Law 81-874 (20 U.S.C. 238(e)(1)) is amended in the matter following subparagraph (C) by inserting "shall not be less than 100 percent of the payment such agency received under subsections (a) and (b) for the preceding fiscal year," after "for such fiscal year".

SEC. 335. EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS.

(a) USE OF FUNDS.—Section 325(c) of such Act (29 U.S.C. 1662d(c)) is amended to read as follows:

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Grants made under subsection (a) may be used for any purpose for which funds may be used under section 314 or this part.

"(2) RESERVATION.—

"(A) IN GENERAL.—The Secretary shall reserve at least 10 percent of the funds appropriated to carry out this section for the purpose of making grants to States under subsection (a) to provide the reimbursement described in subparagraph (B).

"(B) REIMBURSEMENT.—A grant described in subparagraph (A) may be used to reimburse a State for the funds reserved by the State, pursuant to section 302(c), that—

"(i) are expended for rapid response assistance and basic readjustment services (not including support services) described in paragraphs (1) and (2) of section 314(a), respectively; and

"(ii) are delivered to eligible dislocated workers adversely affected by reductions in expenditures by the United States for defense or by closures of United States military installations, as determined in accordance with regulations of the Secretary of Defense.".

(b) NOTICE REQUIREMENTS.—Section 325 of such Act (42 U.S.C. 1662d) is amended by adding at the end the following new subsections:

"(e) NOTICE REQUIREMENTS.—

"(1) SECRETARY OF DEFENSE NOTICE REQUIREMENT.—To the extent practicable, the Secretary of Defense shall provide 6 months advance notice to a defense contractor of any cancellation of, or substantial reduction in, a defense contract, that will adversely affect the defense contractor.

"(2) DEFENSE CONTRACTOR NOTICE REQUIREMENT.—Not later than 2 weeks after a defense contractor receives notice under paragraph (1) of the cancellation of, or substantial reduction in, a defense contract, the contractor shall provide notice of such cancellation or substantial reduction to—

"(A)(i) each representative of employees whose work is directly related to the contract that is being canceled or substantially reduced and who are employed by the defense contractor; or

"(ii) if there is no such representative at that time, each such employee;

"(B) the State dislocated worker unit or office described in section 311(b)(2) and the chief elected official of the unit of general local government within which such adverse effect may occur;

"(3) CONSTRUCTIVE NOTICE OF TERMINATION FOR EMPLOYEES.—The notice provided under paragraph (2)(A) to the employees of a defense contractor shall be considered to be notice of termination to the employees for the purposes of determining whether such employees are eligible dislocated workers under this title, except where the employer has specified that the loss of such contract is not likely to result in plant closure or mass layoff. Any employee considered to be such a worker solely on the basis of such notice shall be eligible to receive services under section 314(b) and under paragraphs (1) through (14) of section 314(c).

"(4) DEFENSE CONTRACTOR.—For purposes of this subsection, the term 'defense contractor' means a private person producing goods or services pursuant to—

"(A) one or more defense contracts for not less than $500,000 entered into with the Department of Defense; or

"(B) one or more subcontracts—

"(i) entered into in connection with a defense contract; and

"(ii) for a total amount of not less than $500,000.".

SEC. 336. POLICY TO EXPEDITE ASSISTANCE.

(a) TRANSFERS.—In each case in which the Secretary of Defense is required under this Act or an amendment made by this Act to transfer funds to another department or agency of the Federal Government for the purpose of funding programs that provide assistance to recipients adversely affected by reduced spending by the Department of Defense, including communities and local educational agencies adversely affected by closures and realignments of military installations, and in each case in which the Secretary is authorized to make such a transfer and exercises the authority to do so, the Secretary shall make the transfer as expeditiously as is practicable.

(b) SPENDING.—In each case in which the Secretary of Defense is required under this Act or an amendment made by this Act to provide assistance to recipients adversely affected by reduced spending by the Department of Defense, including communities and local educational agencies adversely affected by closures and realignments of military installations, and in each case in which the Secretary is authorized to provide that assistance and exercises the authority to do so, the Secretary shall make the funds available for providing that assistance as expeditiously as is practicable. The Secretary shall expedite the processing of applications and other requests for such assistance, including applications for grants.

On page 273, line 11, insert before the period the following: ", including improvements that build on the skill and experience of their work force".

On page 283, between lines 2 and 3, and insert in lieu thereof the following:

"(7) Programs for encouraging research in colleges and universities and in other technology development and extension programs in the United States for the development of work systems that build on worker's skill and experience.

"(8) Programs for assisting in the transition to high performance work systems, including ongoing worker involvement in the evaluation, selection, and installation and operation of production technologies and associated organization or work.

On page 285, line 24, insert ", including high performance, high quality, and high flexibility production," after "work force".

On page 291, line 16, strike out "and processes" and insert in lieu thereof ", processes, and organization of work systems that build on workers' skill and experience, and work force skill development".

On page 304, line 16, insert "and workers" after "businesses".

On page 305, strike out lines 2 and 3, and insert in lieu thereof the following:

bilities of the manufacturing work force;

"(7) promote high-performance work systems, with development and dissemination of production technologies that build upon the skills and capabilities of the work force, high levels of worker education and training, and work force participation in the evaluation, selection, and implementation of new production technologies; and

"(8) ensure appropriate coordination between

On page 307, strike out line 20 and all that follows through page 308, line 3, and insert in lieu thereof the following:

(d) DEFENSE MANUFACTURING ENGINEERING EDUCATION PROGRAM.—Of the amounts authorized to be appropriated under section 201, $25,000,000 shall be available for defense manufacturing engineering education grants under section 2196 of title 10, United States Code.

(e) DEFENSE MANUFACTURING EXPERTS IN THE CLASSROOM PROGRAM.—(1)(A) Section 2197 of title 10, United States Code, is amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"§2197. Manufacturing experts in the classroom";

(ii) in subsection (a), by striking out "managers and" in the matter above paragraph (1); and

(iii) by adding at the end the following new subsection:

"(e) MANUFACTURING EXPERT DEFINED.—In this section, the term 'manufacturing expert' means manufacturing managers and workers having experience in the organization of production and education and training needs and other experts in manufacturing.".

(B) The table of sections at the beginning of chapter 111 of such title is amended by striking out the item relating to section 2197 and inserting in lieu thereof the following:

"2197. Manufacturing experts in the classroom.".

(2) Of the amounts authorized to be appropriated under section 201, $5,000,000 shall be available for the manufacturing experts in the classroom program under section 2197 of title 10, United States Code.

On page 309, line 3, strike out "businesses" and insert in lieu thereof "firms whose businesses and workers".

On page 309, line 4, strike out "business" and insert in lieu thereof "expenditures".

On page 309, line 8, insert "business planning," after "training,".

On page 309, line 10, insert "in making improvements necessary for conversion to commercial markets and practices and" after "Assistance".

On page 309, line 15, insert "and development" after "identification".

On page 310, strike out line 2, and insert in lieu thereof the following: "capabilities, including development and introduction of high performance workplace systems, employee and participative management systems, workforce literacy programs, programs to encourage employee ownership, worker education and training, work force participation in the evaluation, selection, and implementation of new production technologies; and".

On page 311, line 16, strike out "partnership's" and insert in lieu thereof "program's".

On page 311, line 23, insert ", including their work forces" after "businesses".

On page 312, line 4, insert ", including their work forces," before "adversely".

Mr. NUNN. Mr. President, this amendment changes the hold harmless provision for school districts whose base is closed once they receive 100 percent of impact aid funding for the fiscal year 1993. It also provides employees of defense contractors eligibility for certain assistance under the defense conversion adjustment program established under title III of JTPA up to 6 months prior to the loss of their position.

Mr. KENNEDY. Mr. President, economic conversion is a major challenge for the American economy, and I am gratified that the legislation reported by the committee recommends new and innovative programs to meet it. The amendment that I am offering amplifies and builds on the impressive work of the Senate Democratic Task Force, chaired by Senator PRYOR.

We have been working closely on these issues with the chairman of the committee, and I want to commend him for his leadership. As this amendment has been developed, we have also benefited from the knowledge and involvement of other Senators.

My amendment addresses four significant concerns. First, it maintains impact aid funding for school districts in communities affected by military base closings. Towns like Ayer in Massachusetts have built their economic existence around military bases. They need this assistance to make a successful transition to a civilian economy. Senator PELL has long been a leader in this area, and I appreciate his assistance.

Second, the amendment improves programs for dislocated defense workers. These improvements will give States more flexibility in meeting the special needs of dislocated workers. The amendment will provide much earlier notice of possible layoffs and more flexible services, so that appropriate assistance can go as soon as possible to workers in need.

I want to thank Senator METZENBAUM for his important contribution to this issue. The National Governors Association also has helped us refine these proposals. Many Senators have been hearing from the Governors of their States about the need to improve the dislocated worker program. The provisions in the amendment will allow States to deliver services more rapidly and effectively, and remove bureaucratic obstacles that stand in the way of meeting workers' needs.

Third, the amendment improves technology programs for economic conversion, to assure that those programs incorporate the perspective of America's work force. In today's global economy, the competitive edge goes to businesses that combine sophisticated technology with a well-trained work force, resulting in what is called a high performance work organization.

For far too long, our economic programs have concentrated either solely on technology, or solely on worker skills. The amendment begins to bridge that gap in our conversion programs. Senator BINGAMAN, one of this body's leading experts on technology and economic development, helped to refine this part of the amendment.

Finally, the amendment opens up economic development assistance programs to more innovative uses by State and local governments. These governments are on the front line of economic conversion and economic development, often with inadequate resources. For more than 10 years, the Federal Government has been withdrawing from economic development assistance, and States and cities have been filling the gap.

Many of them have developed world-class programs in manufacturing modernization, strategic planning for businesses, and the integration of work force needs with business and technology development. But they still struggle with the problem of inadequate resources. This amendment will allow them to obtain Federal support to strengthen and enhance those essential services.

These four issues—school impact aid for communities, improved dislocated worker programs, integrating work force needs with technology programs, and providing more flexible economic development assistance—make up this amendment. It is designed to improve and strengthen the conversion program developed by Senator PRYOR's task force and outlined in the committee legislation.

In conclusion, I again commend the work of Senator NUNN and other colleagues who have worked hard on these issues. Conversion assistance must be an essential part of America's future economic strategy if we are to succeed in the global marketplace and help provide a higher standard of living for America's working men and women. This legislation can be a major step toward that goal.

Mr. SIMON. Mr. President, I am pleased to be a cosponsor of Senator KENNEDY's amendment to the Department of Defense authorization addressing a number of economic conversion issues facing the Nation as we redirect spending to nondefense-related programs.

This amendment would first of all provide an additional year of impact aid to those school districts that are struggling to remain operational as a result of military activity. Impact aid is funding provided to schools that have their tax base eroded by Federal activity. A number of schools rely on impact aid funding to provide quality educations to the students in their districts. A drastic reduction in such funding caused by a base closing could have a devastating effect.

Second, this amendment would make laid-off employees of defense contractors eligible for services under title III of the Job Training Partnership Act [JTPA]. Mr. President, this is a program that I strongly believe in. JTPA reform amendments have recently become law and will serve to make this not only the primary Federal job training program but a premier job training program for those in need of training and retraining in order to return to employment. Just as any private sector firm has a commitment to its employees, the Federal Government should commit to helping provide a transition for workers who it displaces.

Third, it is urgent that we support the transition of the American work force to high productivity and high wages rather than low wages and high unemployment. By supporting technology programs which increase worker input and involvement we move our industries closer to high-performance work organizations; and it is the high-performance work organizations of the future that will increase overall employment and wages for the American worker.

Finally, the loss of defense contracts can be a devastating blow to whole communities, particularly small businesses. It is time we provided some economic development assistance to States and communities to help them adjust to change.

Mr. METZENBAUM. Mr. President, I rise to speak to provisions I worked to have included in this amendment to improve the current Defense Conversion Assistance Program. These provisions would enable workers facing a dislocation to become eligible for retraining services 6 months in advance of the date of their termination from employment. These provisions would also ensure that rapid delivery of these services could be provided to meet the needs of employees at risk of becoming dislocated.

Hundreds of thousands of workers will be laid off by 1995 due to cuts in defense spending following the cold war. Last Congress the Defense Conversion Assistance [DCA] Program was added to title 3 of the Job Training Partnership Act to provide retraining services to these workers who are dislocated as a result of base closings or reductions in defense spending. This is a good program but experience has shown it could work better. If we are to be successful in helping these workers we must get services to them as early as possible; preferably before they lose their jobs.

Currently under the Worker Adjustment and Retraining Notification Act, companies must provide 60 days advance notice of plant closings and mass layoffs. However, defense conversion creates a special opportunity to provide workers with even greater advance notice.

The Department of Defense has already announced that it will cut spending 18 percent by 1995. Some major defense companies now know 16 months in advance that they will be losing contracts with the Department of Defense.

Employers who are aware that they are going to lay off workers due to defense conversion should be obligated to provide employees with earlier advance notice. Making certain basic retraining services available to workers sooner than 60 days before they become unemployed can be critical to avoiding joblessness.

Language in this amendment would require that the Secretary of Defense, where practical, provide defense contractors with at least 6 months advance notice before the cancellation or substantial reduction of a contract. The defense contractors in turn would then be required to notify their employees. This notice would serve as a constructive notice for purposes of enabling these employees to be eligible for rapid response assistance and basic readjustment services.

These services include: information on and access to available services and programs for dislocated workers; development of individual readjustment plans for participants in the program; job or career counseling; determination of occupational skills; and job placement assistance.

Once workers are eligible, it is critical that we get these readjustment services to them immediately. These services, already available under title 3 of the Job Training Partnership Act are not being used enough in the DCA Program. That is because the grant process has proven too slow and cumbersome. For that reason, I have worked out language that will encourage States to use their regular job training partnership funds immediately to provide rapid response assistance for defense related mass layoffs and base closures.

This amendment permits the States to be reimbursed for the delivery of these services—something that is currently not permitted under DCA regulations. This amendment will allow those closest to the situation to act quickly. The earlier we get services to these workers, the more likely they will find new jobs and not suffer the agony of joblessness.

In closing, I would like to thank Senator KENNEDY for his help in having these important provisions added to the Defense authorization bill of 1993.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment (No. 3095) is agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3096

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3096.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, insert the following new section:

"SEC. . NATIONAL DEFENSE SEALIFT FUND.

Chapter 131 of title 10, United States Code, is amended by adding at the end thereof the following new section 2218:

(a) There is established on the books of the Treasury a fund to be known as the "National Defense Sealift Fund," which shall be administered by the Secretary of Defense.

(b) Funds may be deposited in the National Defense Sealift Fund only as specifically authorized in law.

(c) Funds deposited in the National Defense Sealift Fund may be obligated and expended by the Secretary of Defense for—

(1) research and development relating to National Defense Seaalift;

(2) construction, purchase, or conversion of Sealift vessels for national defense purposes;

(3) lease and operational and maintenance of Sealift vessels for national defense purposes; and

(4) other purposes relating to National Defense Sealift; but only to the extent such ob-

ligation or expenditure is specifically authorized in law.".

Mr. WARNER. Mr. President, this is an amendment which is cleared on both sides.

I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment (No. 3096) is agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3097

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. SPECTER, proposes an amendment numbered 3097.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 333, insert the following new section between lines 13 and 14:

"SEC. 810. Clarification of participants in defense dual-use critical technology partnerships.

"Section 2271(b) of title 10, United States Code (as redesignated by section 802(a)(2)), is amended by inserting 'government-owned and operated industrial facilities,' after 'Federal laboratory or laboratories.'"

Mr. SPECTER. Mr. President, I offer an amendment to the fiscal year 1993 Defense authorization bill which would clarify the issue of which public and private entities qualify for conversion assistance in the commercial-military integration partnerships set forth in the bill. My amendment broadens the definition of qualifying facilities provided in section 2271(b) to include Government-owned and Government-operated industrial facilities. Without this amendment, it is unclear as to whether entities affiliated with the Philadelphia Naval Shipyard and the Naval Air Development Center, and many other Federal industrial facilities throughout the country, would qualify for the defense conversion assistance authorized by this bill.

While inclusion of these facilities in the defense conversion program will by no means compensate all of those affiliated with the Philadelphia Naval Shipyard and the Naval Air Development Center for the losses perpetrated by the Navy through the base closure process, it will ensure that they will be eligible for the same conversion assistance that their counterparts in the private sector are being given.

Mr. President, as we move forward with the critical task of converting our industrial infrastructure from one largely dedicated to the production of defense equipment to a more diversified industrial base, I hope that we don't lose sight of our ultimate objective—to create a more vibrant and competitive economy. In doing so, we must recognize that we need not sacrifice Federal industrial facilities and the men and women who work there because the Federal Government and the Congress cannot implement a viable conversion plan. Instead, we must design a process which will identify key assets at existing Federal facilities which can either be preserved for military purposes or converted into dual-use critical technology partnerships which will allow us to retain the skilled work force in place at these facilities.

Mr. President, the amendment I am proposing today will at the very least ensure us that the conversion process does not exclude the skilled men and women who have dedicated their lives to working in the public shipyards, laboratories, and depots which have comprised the backbone of our defense infrastructure throughout our history.

Mr. WARNER. Mr. President, the purpose of this amendment is to clarify that Government-owned and operated industrial facilities may be participants in defense dual-use critical technology partnerships, if the Secretary of Defense deems it appropriate.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3097) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3098

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. MCCAIN (for himself, Mr. GORE, Mr. BINGAMAN, Mr. THURMOND, Mr. HELMS, Mr. LIEBERMAN, and Mr. KASTEN) proposes an amendment numbered 3098.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new title:

TITLE—IRAN-IRAQ ARMS NON-PROLIFERATION ACT OF 1992

SEC. 01. SHORT TITLE.

This title may be cited as the "Iran-Iraq Arms Non-Proliferation Act of 1992".

SEC. 02. UNITED STATES POLICY.

(a) In General.—It shall be the policy of the United States to oppose, and urgently to seek the agreement of other nations also to oppose, any transfer to Iran or Iraq of any goods or technology, including dual-use goods or technology, wherever that transfer could contribute to either country's acquiring chemical, biological, nuclear, or destabilizing numbers and types of advanced conventional weapons.

(b) Sanctions.—(1) In the furtherance of this policy, the President shall apply to Iran, Iraq, and those nations and persons who assist them in acquiring weapons of mass destruction all of the applicable sanctions and controls available to the United States under the Foreign Assistance Act of 1961, the Nuclear Non-Proliferation Act of 1978, the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, and title XVII of the National Defense Authorization Act for Fiscal Year 1991, and other relevant statutes, regarding the non-proliferation of weapons of mass destruction and the means of their delivery.

(2) The President should also urgently seek the agreement of other nations to adopt and institute, at the earliest practicable date, sanctions and controls comparable to those the United States is obligated to apply under this subsection.

(c) Public Identification.—The Congress calls on the President to identify publicly (in the report required by section 07) any country or person that transfers goods or technology to Iran or Iraq contrary to the policy set forth in subsection (a).

SEC. 03. APPLICATION TO IRAN OF CERTAIN IRAQ SANCTIONS.

The sanctions against Iraq specified in paragraphs (1) through (4) of section 586G(a) of the Iraq Sanctions Act of 1990 (as contained in Public Law 101–513), including denial of export licenses for United States persons and prohibitions on United States Government sales, shall be applied to the same extent and in the same manner with respect to Iran.

SEC. 04. SANCTIONS AGAINST CERTAIN PERSONS.

(a) Prohibition.—If any person transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire destabilizing numbers and types of advanced conventional weapons, then—

(1) the sanctions described in subsection (b) shall be imposed; and

(2) in addition, the President is authorized to apply, in the discretion of the President, the sanction described in subsection (c).

(b) Mandatory Sanctions.—The sanctions to be imposed pursuant to subsection (a)(1) are as follows:

(1) Procurement sanction.—For a period of 2 years, the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the sanctioned person.

(2) Export sanction.—For a period of 2 years, the United States Government shall not issue any license for any export by or to the sanctioned person.

(c) Discretionary Sanction.—The sanction referred to in subsection (a)(2) is that the President may prohibit, for such period as the President may determine, the importation into the United States of any articles which are the product, manufacture, or growth of the sanctioned person.

SEC. 05. SANCTIONS AGAINST CERTAIN FOREIGN COUNTRIES.

(a) Prohibition.—If the government of any foreign country transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire destabilizing numbers and types of advanced conventional weapons, then—

(1) the sanctions described in subsection (b) shall be imposed on such country; and

(2) in addition, the President may apply, in the discretion of the President, the sanctions described in subsection (c).

(b) MANDATORY SANCTIONS.—Except as provided in paragraph (2), the sanctions to be imposed pursuant to subsection (a)(1) are as follows:

(1) SUSPENSION OF UNITED STATES ASSISTANCE.—The United States Government shall suspend, for a period of 1 year, United States assistance to the sanctioned country.

(2) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director to each appropriate international financial institution to oppose, and vote against, for a period of 1 year, the extension by such institution of any loan or financial or technical assistance to the sanctioned country.

(3) SUSPENSION OF CODEVELOPMENT OR COPRODUCTION AGREEMENTS.—The United States shall suspend, for a period of 1 year, compliance with its obligations under any memorandum of understanding with the sanctioned country for the codevelopment or coproduction of any item on the United States Munitions List (established under section 38 of the Arms Export Control Act), including any obligation for implementation of the memorandum of understanding through the sale to the sanctioned country of technical data or assistance or the licensing for export to the sanctioned country of any component part.

(4) SUSPENSION OF MILITARY AND DUAL-USE TECHNICAL EXCHANGE AGREEMENTS.—The United States shall suspend, for a period of 1 year, compliance with its obligations under any technical exchange agreement involving military and dual-use technology between the United States and the sanctioned country that does not directly contribute to the security of the United States, and no military or dual-use technology may be exported from the United States to the sanctioned country pursuant to that agreement during that period.

(5) UNITED STATES MUNITIONS LIST.—No item on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) may be exported to the sanctioned country for a period of 1 year.

(c) DISCRETIONARY SANCTIONS.—The sanctions referred to in subsection (a)(2) are as follows:

(1) DENIAL OF MOST-FAVORED-NATION STATUS.—The President is authorized to suspend the application of nondiscriminatory trade treatment (most-favored-nation status) to the products of the sanctioned country.

(2) USE OF AUTHORITIES OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—The President may exercise, in accordance with the provisions of that Act, the authorities of the International Emergency Economic Powers Act with respect to the sanctioned country, except for urgent humanitarian assistance.

SEC. 06. WAIVER.

The President may waive the requirement to impose a sanction described in section 03, in the case of Iran, or a sanction described in section 04(b) or 05(b), in the case of Iraq and Iran, 15 days after the President determines and so reports to the Committees on Armed Services and Foreign Relations of the Senate and the Speaker of the House of Representatives that to impose that sanction would jeopardize the national security interests of the United States. Any such report shall provide a specific and detailed rationale for such determination.

SEC. 07. REPORTING REQUIREMENTS.

(a) ANNUAL REPORT.—Beginning one year after the date of enactment of this title, and every 12 months thereafter, the President shall submit a report to the Committees on Armed Services and Foreign Relations of the Senate and the Speaker of the House of Representatives detailing—

(1) all transfers or retransfers made by any person or foreign government during the preceding 12-month period which are subject to any sanction under this title; and

(2) the actions the President intends to undertake or has undertaken pursuant to this title with respect to each such transfer.

(b) REPORT ON INDIVIDUAL TRANSFERS.—Whenever the President determines that a person or foreign government has made a transfer which is subject to any sanction under this title, the President shall, within 30 days after such transfer, submit to the Committees on Armed Services and Foreign Relations of the Senate and the Speaker of the House of Representatives a report—

(1) identifying the person or government and providing the details of the transfer; and

(2) describing the actions the President intends to undertake or has undertaken under the provisions of this title with respect to each such transfer.

(c) FORM OF TRANSMITTAL.—Reports required by this section may be submitted in classified as well as in unclassified form.

SEC. 08. DEFINITIONS.

For purposes of this title—

(1) the term "advanced conventional weapons" includes—

(A) such long-range precision-guided munitions, fuel air explosives, cruise missiles, low observability aircraft, other radar evading aircraft, advanced military aircraft, military satellites, electromagnetic weapons, and laser weapons as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways;

(B) such advanced command, control and communications systems, electronic warfare systems, or intelligence collection systems as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways; and

(C) such other items or systems as the President may, by regulation, determine necessary for purposes of this title;

(2) the term "cruise missile" means guided missiles that use aerodynamic lift to offset gravity and propulsion to counteract drag;

(3) the term "goods or technology" means—

(A) any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment; and

(B) any information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data;

(4) the term "person" means any United States or foreign individual, partnership, corporation, or other form of association, or any of their successor entities, parents, or subsidiaries;

(5) the term "sanctioned country" means a country against which sanctions are required to be imposed pursuant to section 05;

(6) the term "sanctioned person" means a person that makes a transfer described in section 04(a); and

(7) the term "United States assistance" means—

(A) any assistance under the Foreign Assistance Act of 1961 (other than the provision of urgent humanitarian assistance or medicine);

(B) sales and assistance under the Arms Export Control Act;

(C) financing by the Commodity Credit Corporation for export sales of agricultural commodities; and

(D) financing under the Export-Import Bank Act.

Mr. MCCAIN. Mr. President, earlier this year Senators GORE, THURMOND, HELMS, LIEBERMAN, and I introduced S. 2543, the Iran-Iraq Arms Non-Proliferation Act of 1992. We developed this legislation to provide increased protection against two major threats to peace—Iran and Iraq. It creates powerful new sanctions to limit the proliferation and transfer of advanced conventional weapons to these countries.

At the outset, Mr. President, I would like to express my appreciation to Senator GORE and has staff who worked with us to craft this legislation. I also would like to commend the chairman of the Foreign Relations Committee, Senator PELL, and the ranking minority member of Foreign Relations, Senator HELMS, and their staff, for their valuable assistance and consultation. In addition, my thanks to the chairman and ranking minority member of the Senate Armed Services Committee, Senators NUNN and WARNER, and their superb staff. Finally, sincere thanks go to this amendment's other original cosponsors, Senators THURMOND, LIEBERMAN, and KASTEN. This legislation is a bipartisan step toward world peace and security.

During the months since this bill was first introduced, the need for such steps has become steadily more urgent. Iran has begun to aggressively move forward with its efforts to acquire advanced conventional arms. While Iran has shifted toward a more moderate public stance, it has continued to support extreme forms of Islamic fundamentalism in the Sudan, Lebanon, and the Maghreb region.

Iraq's recent actions to interfere with United Nations weapons inspections, attack its Shiite population, and threaten Iraqi Kurds are symptoms of the fact that it remains a major threat to the region, and will continue to be such a threat until there are major changes in its regime.

At the same time, the rapid decline in the arms market for NATO and the Warsaw Pact has steadily increased the risk that nations will sell more sophisticated arms to Iran, and provide it with the technology for weapons for mass destruction. Similarly, they create growing pressures to either violate the U.N. sanctions or rush arms transfers in the moment such sanctions are withdrawn.

All of these trends have convinced me that enacting S. 2543 is a policy step that must be taken in the near future, and I have worked closely with Senator GORE to develop an amendment that would make the key portions of this legislation part of the Defense Authorization Act of 1993.

THE KEY PROVISIONS OF THE MCCAIN-GORE ACT

I realize that this amendment is complex. The key portions of the amendment, however, are easy to summarize.

First, the amendment sends a clear signal to the world that it is United States policy to oppose goods and technology transfers that could contribute to Iran's or Iraq's development of destabilizing, advanced conventional weapons.

Second, the amendment reiterates the importance of rigorous enforcement of existing laws as they apply to arms sales by United States firms to Iran and Iraq.

Third, the bill adds a requirement for more thorough public disclosure of arms transfer violations to complement the already extensive system of licensing and legislative action to control arms transfers.

Fourth, the bill sets out specific sanctions for foreign persons and governments. The President would have the authority to impose discretionary sanctions depending upon the severity of a violation. The discretionary sanctions left to the President include: First, denial of most-favored-nation status; second, freezing of financial assets; and third, restrictions on aviation and shipping based in the targeted nation.

The mandatory sanctions on violating foreign governments are: First, suspension of U.S. assistance—except urgent humanitarian assistance; second, U.S. opposition to multilateral development bank assistance; and third, termination of technical exchange agreements.

The mandatory sanctions affecting foreign persons are: First, barring U.S. Government procuring or contracting from the targeted foreign firm for 2 years, and second, prohibiting export licenses to the target firm. The discretionary sanction on foreign firms would prevent the importation into the United States of any product or component produced by that firm.

Mr. President, no one who has watched Iraq's actions over the last 2 years, or even the last few months, needs any explanation of the threat Iraq poses to regional and world peace.

No one who has studied Iraq can have any illusions about the prospects for peaceful change. Just a few weeks ago, Iraq has renewed its claim to Kuwait and called on other Arab States to seize their neighbors and divide up the southern gulf.

It is also clear that the problem goes far beyond Saddam Hussein, or a narrow coterie around him. Iraq is not ruled by a single man. It is ruled by a large Baath Party elite, backed by ruthlessly political military leaders in the Presidential Guards and Republican Guards, and internal security services with hundreds of thousands of men.

I also remind my colleagues that virtually all of Iraq's weapons and technology came from foreign countries. While these countries may currently obey the U.N. sanctions, we cannot ignore the fact that they have a steadily growing incentive to support Iraq's efforts to end these sanctions, or to cheat as time goes on.

Iraq's former arms suppliers all face steadily shrinking domestic markets for arms. Their defense industries are desperate for sales. Iraq's past arms purchases also show that it represents a vast potential market.

During 1984–1991, Iraq obtained $15.8 billion worth of arms from the former Soviet Union. It obtained $2.3 billion worth of arms from the PRC, it obtained $4.5 billion worth of arms from our NATO allies, it obtained $4.6 billion worth of arms from other European countries, and $2.9 billion worth of arms from other states.

Even if one ignores additional imports of dual use items worth billions of dollars—and another $5 billion worth of imports of technology to make nuclear, chemical, and biological weapons—this is an incredible sum. Iraq imported a total of $30.1 billion in a few short years. Further, at least $3 billion worth of these arms were delivered between the Iran-Iraq war and Iraq's invasion of Kuwait.

We already have many elements of legislation in place to prevent U.S. sales of nuclear, chemical, and biological weapons, and these are reinforced by the U.N. resolution. Our existing laws, however, do not cover advanced conventional weapons, nor do they focus solely on the Iraqi threat. We need a specific and potent array of sanctions.

Further, U.N. sanctions do not provide clear penalties to violators and are tied to the outcome of the cease-fire, not a long-term policy to limit the Iraqi threat to the gulf and nearby nations like Israel. S. 2543 clearly states a long-term policy to limit advanced conventional arms sales, and creates powerful new penalties that would deny both United States and foreign sellers to Iraq access to the American market.

There is a clear need for increased efforts to prevent foreign arms sales to Iraq. Recent reporting has made it clear that both United States and foreign firms consistently made secret sales to Iraq during the period before its invasion of Kuwait.

We also need to make it unambiguously clear that United States policy and law will continue to penalize any nation or person who sells destabilizing arms to Iraq until both the Congress and the President are in full agreement that Iraq has changed so strikingly in government and character that it is no longer a threat to peace.

THE THREAT FROM IRAN

The threat from Iran is less obvious. The world's focus on Iraq has led it to ignore the fact that Iran has been quietly expanding its efforts to field a modern, well-equipped military capable of extending its extremist political influence.

Iran demonstrated during the Iran-Iraq war that it could be just as serious a threat to the gulf, the region, and the stable flow of oil as Iraq. In spite of its increased pragmatism, it is far from clear that is it has become more moderate. It is actively involved in Islamic extremist movements in Afghanistan, Lebanon, the Mahgreb, and the Sudan. It supports an army of Iraqi Shiites.

Like Iraq, Iran is an immensely attractive market, and unlike Iraq, nations can and do sell the arms and technology necessary to make Iran the next threat to regional peace. Iran spent $19.8 billion on arms imports during 1984–91—not counting at least $10 billion more on dual use items and the technology for weapons of mass destruction.

About $4.8 billion worth of these arms came from the former Soviet Union, $1.9 billion came from the PRC, $1.4 billion came from our major NATO allies, $5.3 billion came from the rest of Europe, and $3.8 billion came from other countries. Roughly $9.7 billion was imported between the cease-fire in the Iran-Iraq war and the end of 1991.

Last year, Iran has stepped up its purchases to levels nearing $2 billion annually. In addition to buying long range missiles from North Korea, it has already bought submarines, MiG-29 fighters, Su-24 bombers, and SA-5 surface-to-air missiles from Russia. There are reports that it plans to buy at least 2,000 more main battle tanks, and place major new orders for advanced combat aircraft and surface-to-air missiles. There are unconfirmed reports that Iran has an $11 billion plan to upgrade its conventional forces.

Iran is coupling these conventional arms purchases to purchases of long range ballistic missiles. It has joined Syria in buying the Scud "C" from the PRC—a far more capable long range system than any Iraq possessed before the gulf war. It is developing massive production facilities for chemical weapons. It is actively developing biological weapons, and has long been working on nuclear weapons. There are unconfirmed reports that Iran has just bought a 350 megawatt reactor from the PRC. It is clear this oil and gas rich nation does not need such a reactor for electric power.

Limiting the Iraqi threat will not bring stability to the region unless similar limits are placed on Iran's military buildup. Both Iraq and Iran already have all the arms and military strength they need for self-defense, and limits on arms transfers to these nations can only benefit their peoples by freeing economic resources for development and increasing living standards.

THE NEED TO PASS THE MCCAIN-GORE AMENDMENT

In summary, Mr. President, this amendment complements the key international arms control efforts affecting the transfer of weapons of mass destruction. It breaks new ground in United States policy by limiting the sales of advanced conventional weapons to the two growing threats to world peace, Iran and Iraq.

It expands on the U.N. sanctions against Iraq to establish clear penalties against firms and countries that violate these sanctions. It provides an added powerful deterrent to Iranian and Iraqi aggression, that is not provided by the NPT, the Biological Weapons Convention, the draft Chemical Weapons Convention, or the Missile Technology Control Regime.

It also complements existing U.S. laws in several ways. It specifies mandatory and discretionary sanctions against foreign countries, firms, and persons attempting to transfer advanced conventional weapons to Iran and Iraq.

The bill requires public disclosure of all violators. It will deter foreign firms and governments from selling advanced conventional arms through publicly revealing those sales and imposing sanctions against violators that employ the full power of the American economy, American technology and American aid.

We need to stop temporizing, we need to stop studying, and we need to stop quibbling. This amendment is bipartisan in character, it looks beyond the narrow politics of an election year, and it looks beyond the kind of bureaucratic delay that has hurt American policy in the past.

Mr. WARNER. Mr. President, this amendment seeks to prevent or at least limit the rearmament of Iraq after the Persian Gulf war. Current evidence, both unclassified and classified, indicates a serious ongoing effort by Saddam Hussein to reestablish not only his army, but to reconstruct the Iraqi nuclear and chemical weapons development programs discovered after the cease-fire.

Mr. President, this amendment is cleared on both sides. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3098) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3099

(Purpose: To authorize the Secretary of Defense to furnish assistance for the support of international nonproliferation activities and to authorize the Secretary of Energy to carry out additional research on nonproliferation technologies)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. BINGAMAN for himself, Mr. GLENN, Mr. LIEBERMAN, Mr. MCCAIN, Mr. THURMOND, and Mr. NUNN, proposes an amendment numbered 3099.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 487, between lines 12 and 13, insert the following:

SEC. 1064. SUPPORT FOR INTERNATIONAL NONPROLIFERATION ACTIVITIES.

(a) FINDINGS.—The Congress makes the following findings:

(1) The proliferation of nuclear, chemical and biological weapons and related technology and know how and of missile delivery systems remains a serious threat to international peace and security in the post-Cold War era.

(2) The United States should seek to limit the supply of nuclear, chemical and biological weapons, related technology and know how and of missile delivery systems, and the demand for such weapons and should undertake to reduce the threat from such proliferation.

(3) International nonproliferation activities serve the national security interests of the United States.

(4) The Department of Defense and the Department of Energy have expertise and equipment that has enhanced the effectiveness of international nuclear nonproliferation activities.

(5) The use of funds made available under the regular budget process one year in advance or the use of reprogrammed funds may be insufficient to satisfy the need for funds and other support for international nonproliferation activities.

(6) Greater flexibility may be needed to ensure the timely availability of funding to support international nonproliferation activities.

(b) ASSISTANCE FOR NONPROLIFERATION ACTIVITIES.—(1) Subject to the limitations and requirements provided in this section, during fiscal year 1993 the Secretary of Defense may furnish funds, supplies, and equipment to support international nonproliferation activities, including activities carried out by the International Atomic Energy Agency, that are designed to ensure more aggressive full-scope safeguards and more aggressive verification of compliance with the Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968.

(2) Assistance may be provided in the form of funds under paragraph (1) only if the amount in the "Contributions to International Organizations" account of the Department of State is insufficient or otherwise unavailable to meet the United States fair share of assessments for international nuclear nonproliferation activities.

(3) No assistance may be furnished pursuant to paragraph (1) unless the Secretary of Defense determines and certifies to the Congress 30 days in advance that the provision of such assistance—

(A) is in the national security interest of the United States; and

(B) will not adversely affect the military preparedness of the United States.

(4) No amount may be obligated for an expenditure pursuant to paragraph (1) unless the Director of the Office of Management and Budget determines that the expenditure will be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(5) In paragraph (1), the term "full-scope safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency.

(c) ASSISTANCE FOR INSPECTIONS REGARDING IRAQ.—During fiscal year 1993 the Secretary of Defense may provide funds for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.

(d) AUTHORITY SUBJECT TO APPROPRIATIONS ACTS.—The authority to provide assistance in the form of funds under subsection (b) or (c) may be exercised only to the extent and in the amounts provided in appropriations Acts.

(e) FUNDING LIMITATIONS.—(1) The total amount of the assistance provided in the form of funds under subsection (b) may not exceed $20,000,000.

(2) The total amount of the assistance provided in the form of funds under subjection (c) may not exceed $20,000,000.

(f) SOURCES OF ASSISTANCE.—(1) Funds provided as assistance under subsection (b) or (c) shall be derived from amounts made available to the Department of Defense for fiscal year 1993 or from balances in working capital accounts of the Department of Defense.

(2) Supplies and equipment provided as assistance under subsection (b) may be provided, by loan or donation, from existing stocks of the Department of Defense.

(g) REPORT REQUIRED.—Not less than 30 days before obligating any funds to provide assistance pursuant to subsection (b) or (c), the Secretary of Defense shall transmit to Congress a report on the proposed obligation. The report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance for which the Secretary of Defense plans to obligate such funds.

(h) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Robust funding of nonproliferation activities and related technology development is essential to controlling the proliferation of nuclear, chemical, and biological weapons and their delivery vehicles, which remains one of the highest national security priorities of the United States;

(2) The President's initiative to increase funding for nonproliferation activities and related technology development in the De-

partment of Energy is praiseworthy and represents a significant step toward an appropriate level of support for nonproliferation activities;

(3) The President should undertake to identify a full range of appropriate, high priority nonproliferation activities and related technology development programs, including particularly space-based detection systems, and should include full funding for these activities and technologies in the budget requests of the Department of Energy and the Department of Defense for Fiscal Year 1994; and

(4) The Congress is committed to cooperating with the President in carrying out an effective policy designed to control the proliferation of weapons of mass destruction.

On page 595, line 17, strike "$141,510,000" and insert in lieu thereof "$184,028,000".

On page 595, strike line 18 and all that follows through line 10 on page 596.

On page 596, line 11, strike "(d)" and insert in lieu thereof "(b)".

On page 596, line 14, strike the dash and all that follows through line 17 and insert in lieu thereof "$150,000,000".

On page 605, line 11, strike "$250,215,000" and insert in lieu thereof "$301,215,000".

On page 609, lien 24, strike "$11,500,000" and insert in lieu thereof "$16,500,000".

On page 612, after line 23, add the following new subsection:

(d) NEW PRODUCTION REACTORS.—None of the funds authorized to be appropriated by section 3102 shall be used to close out the new production reactor program until 30 days after the Secretary of Energy has submitted a plan to the congressional defense committees to continue work beyond the termination phase of the two existing new production reactor design teams to address key technical risks and initiation of detailed design of two electric power producing reactor concepts, including an advanced light water reactor and the modular high temperature gas reactor to undertake the added mission of plutonium disposal. In addition, the plan shall address key technical risks of and fundamental technology for a linear accelerator for plutonium disposal and nuclear waste transmutation.

Mr. NUNN. Mr. President, I want to commend Senator BINGAMAN and Senator GLENN for their efforts in the area of nonproliferation and their leadership on this initiative. The potential spread of the capability to produce or acquire weapons of mass destruction and the means to deliver them constitutes a growing threat to the United States and our allies.

I believe it is in the national security interests of the United States to prevent the proliferation of nuclear, chemical, and biological weapons, and related technology. This will increase support for international nonproliferation activities utilizing the unique and comprehensive expertise of the Department of Defense and of the Department of Energy, which will enhance United States and international capabilities in efforts to stem the spread of nuclear, biological and chemical weapons and technology.

Mr. BINGAMAN. Mr. President, I offer this amendment with Senator GLENN, Senator THURMOND, and Senator LIEBERMAN which increases Department of Defense support for international nonproliferation activities and Department of Energy support for arms control verification and nonproliferation technology.

Mr. President, the proliferation of nuclear, chemical, and biological weapons and missile delivery systems is one of the greatest threats we will face over the decades to come. To face this threat, the United States needs to increase its efforts in a number of areas. We need to make a much greater effort to develop technologies and methods of tracking the transfer of weapons of mass destruction, preventing proliferation whenever possible, and detecting clandestine efforts to develop these weapons when prevention fails. We also need to make a greater effort to promote and support international efforts to stem the proliferation of these weapons. International organizations, in particular the International Atomic Energy Agency, have slowed the spread of these weapons, and it is clearly in the national security interests of the United States to support their efforts. Other, less formal organizations such as the Nuclear Suppliers Group, the Australia Group, and the Missile Technology Control Regime have also been effective in slowing the spread of weapons of mass destruction and deserve additional support.

This amendment would authorize an additional $56 million for Department of Energy R&D into nonproliferation technology, and authorize the Department of Defense to obligate up to $40 million to support international nonproliferation efforts: $20 million at the discretion of the Secretary of Defense, and $20 million to support the United Nations Special Commission on Iraq, which is the spearhead of international efforts to uncover and destroy Saddam Hussein's weapons and missile programs.

BACKGROUND

During markup of this bill in the Armed Services Committee, Senator GLENN and I pressed this matter, asking our colleagues on the committee to support increased funding in this area. I was asked to hold off at that time because of the importance of this issue, in an effort to bring greater attention to the need for additional funding in this area. I was thus pleased to see President Bush announce on Monday, in recognition of the need for a more robust Federal program to develop nonproliferation technologies, a new administration initiative in this area. President Bush, with his request that $166 million from the new production reactor be transferred to the development of nonproliferation technologies, has certainly focused greater attention on this matter, and we are now in a position to move forward in a bipartisan manner with additional funding.

The President's announcement follows an earlier House initiative, sponsored by Congressman FASCELL and Congressman ASPIN, to increase funding for nonproliferation activities in the Department of Defense and Department of Energy by $100 million. The House of Representatives added this provision to the House version of the Defense Authorization Act during consideration of their bill early this summer.

Our amendment seeks to increase Department of Defense funding for nonproliferation activities by $40 million and Department of Energy funding by $56 million. The Armed Services Committee approved, during markup of this bill and at the request of Senator GLENN and myself, a $10 million increase over the administration's request for DOE nonproliferation technology R&D. I would also note that the Armed Services Committee added $18 million in funding for other nonproliferation technology projects during markup of this bill: $6.5 million for seismic monitoring R&D in the Air Force and $11.6 million for laser imaging detection and ranging R&D in DARPA.

The total increase to the budget request, if our amendment is accepted, would then come to $124 million. The House has also approved an additional $20 million for nonproliferation technology in DARPA, and during conference with the House I hope we will be able to accommodate the House position on that item. This is a significant step toward the funding levels supported by the President, and the beginning of what I hope will be a substantial initiative in future years. I look forward to working with the chairman on this matter in conference and in the years to come.

Mr. President, I would like to commend Congressman FASCELL and Congressman ASPIN for their work in this area. Their amendment to the House defense bill to increase Department of Defense and Department of Energy support for nonproliferation activities has brought much-needed attention to this issue. I would also like to commend Senator GLENN for his tireless efforts in the area of nonproliferation. Senator GLENN has been a leader in Congress in addressing the issue of nuclear proliferation, and during our committee markup succeeded in increasing the Energy Department funding in this area. I would like to commend him for that and thank him for his assistance and support on this amendment.

INTERNATIONAL NONPROLIFERATION ACTIVITIES

Mr. President, in addition to funding for nonproliferation technology, this amendment contains an authorization for Defense Department support for international nonproliferation efforts. I would like to take a moment to explain these provisions.

My interest in this matter stems from a hearing we held in the Joint Economic Committee last March on arms trade and proliferation. A number of private witnesses testified at this hearing on both the importance of international organizations in combating proliferation and the problems these organizations face due to budget constraints. Two organizations in particular, the International Atomic Energy Agency and the U.N. Special Commission on Iraq, were singled out as critical components of international nonproliferation activities.

Assistant Secretary of State Richard Clarke testified at this hearing that:

> We know that if the IAEA is going to do all of the new inspections required of it, since we've had this success of getting the Koreas and South Africa and other nations to join up—Argentina, Algeria, Syria, [will] all now have IAEA inspections—to do that right, we need to spend more money.

And:

> We very much understand the need for funds both for IAEA and the Special Commission, and the Administration supports funding for both organizations.

In August we passed the Commerce, State, Justice Appropriations Bill, which included full funding of the U.S. contribution to the IAEA, and Senator HOLLINGS is to be commended for his commitment to this important organization. I hope the final bill will be equally as forthcoming.

I believe, however, that the national security implications of proliferation demand even greater efforts. The world is rapidly changing, and the IAEA, MTCR, and other international organizations and efforts to combat the proliferation of weapons of mass destruction and missile delivery systems need additional support if we are to deal seriously with proliferation. This amendment authorizes DOD to provide up to $20 million of personnel or equipment to international nonproliferation efforts, or monetary support if State Department funding is insufficient or unavailable to meet the United States fair share of assessments for these activities.

The amendment also authorizes $20 million in DOD support for the U.N. Special Commission on Iraq. The activities of the Special Commission are critical to the world's efforts to put a stop to Saddam Hussein's nuclear, chemical, and biological weapons and ballistic missile programs, and the Defense Department needs to continue the strong support it has provided to the commission.

Mr. President, in summary, the national security implications of the continuation of the current situation in Iraq, as well as nuclear developments in countries such as North Korea and Syria, are clear. The need for additional support to international nonproliferation organizations is compelling.

This amendment provides the Department with the flexibility to support the IAEA, the special commission, and other international nonproliferation activities which the Secretary determines are in the national security interests of the United States. It also provides a much-needed increase in Department of Energy funding for arms control verification and nonproliferation technologies consistent with the President's September 14 initiative. The proliferation of weapons of mass destruction and missile delivery systems will be the greatest national security threat we face in the coming decades, and these are modest but important steps in dealing with this problem.

I urge my colleagues to support this amendment.

Mr. LIEBERMAN. Mr. President, I would like to thank the distinguished Senators from Georgia and Virginia for accepting the support for international nuclear nonproliferation amendment, sponsored by myself and Senators GLENN and BINGAMAN. With the end of the cold war, we must turn our attention away form the former Soviet Union and toward the challenge of proliferation. Despite the many positive trends in the world, notably the spread of democracy and free markets, weapons of mass destruction are looming on the horizon in many countries, unfriendly to the United States. This amendment is intended to deal with that threat.

The amendment authorizes the Secretary of Defense to provide up to $20 million for the U.S. On-Site Inspection Agency in support of the United Nations Special Commission on Iraq. All this will secure the fruits of victory on Operation Desert Storm.

The amendment also authorizes the Secretary of Defense to provide support for international nonproliferation activities, including activities carried out by the IAEA. The IAEA now must face a wide range of challenges, which were unanticipated several years ago: Iraq, Korea, Iran and the new republics of the former Soviet Union.

Finally, this amendment authorizes an increase of $56 million to the Department of Energy budget for proliferation technologies. This money will be used to fund programs to develop ultrasensitive radiation sensors to detect nuclear production and storage from space, ultrasensitive high-frequency seismic arrays on the ground to detect nuclear tests, and advanced laboratory techniques to analyze minute quantities of nuclear materials.

Mr. President, with the end of the cold war, we must bring to bear on the proliferation problem the same determination and intellectual energy that we brought to the nuclear confrontation between the United States and the Soviet Union. That confrontation consumed approximately 15 percent of our defense budget for four decades. Proliferation will not consume as high a percentage of the defense budget as the nuclear confrontation, but it will require careful monitoring and adequate expenditures. This amendment is designed to ensure that nonproliferation programs receive the support that they deserve.

Mr. GLENN. Mr. President, I am pleased to join with my colleagues Senators LIEBERMAN and BINGAMAN in offering the amendment which has been accepted by both sides relating to nuclear nonproliferation funding for international assistance and technology R&D. This proposal would authorize the expenditure of $40 million by the Secretary of Defense to support international nuclear nonproliferation activities—$20 million of which could go to the On-Site Inspection Agency for the U.N. Special Commission of Iraq and $20 million to the IAEA or related organizations. The amendment also allows for in-kind contributions of supplies and equipment for these purposes.

Two conditions attach to the provision of these funds:

First, that funds from the State Department for its contributions to the IAEA are insufficient to cover the U.S. fair share and

Second, that the Secretary of Defense determines and certifies to Congress that the assistance is in the national security interest and will not adversely affect the military preparedness of the United States.

The Secretary of Defense must also provide a specific report to Congress at least 30 days in advance of the expenditure of any of these funds. The report must detail how these funds will be spent.

The amendment also provides for an additional $56 million for use in nonproliferation technology research and development. These funds will be applied to the development of technologies which will aid in nuclear proliferation detection and other activities.

I want to take just a moment to explain why I believe providing these additional funds is so important at this time. Two years ago, the world was witness to the horror of a devastating prospect—the near-possession and possibility of use of a nuclear device by Saddam Hussein, a power-hungry tyrant who seemed bent on doing anything, including using weapons of mass destruction, to accomplish his aims. That we were spared such a catastrophe does not diminish the painful reality that we contributed to its making and were caught greatly off guard by the progress of Iraq's nuclear weapon program. Even before then, though, and assuredly still today, clandestine efforts to acquire these weapons and/or the technology to build them can be exceedingly difficult to chart.

For decades, the United States has relied on the most sophisticated and innovative technologies and inspection techniques to stay one step ahead of those who would skirt the international nonproliferation regime to acquire nuclear capabilities. Together with human intelligence, these methods form a vital center around which most of our nonproliferation efforts circle. Special radars, effluent analyses devices, spectroscopy, and satellite imaging have all greatly contributed to this enterprise. But the world is becoming a much more complicated place. Many more nations are suspected of developing or trying to obtain nuclear capability. Our detection capabilities must sharpen. With respect to access, the Iraqi case is anomalous—we fought a war and only thereby forced our way into an onsite inspection capability. In many other places around the world we will never have direct access to suspected nuclear sites and may not even know of their existence until it is too late.

With respect both to onsite inspection capabilities of our own and that of international organizations like the IAEA, and long-range detection capabilities where we do not have access or cannot clandestinely achieve it, we must have the best, most capable, state-of-the-art systems. By providing additional funds, this amendment sends a signal to would-be proliferators and proliferant nations around the world—we will not neglect our obligation to prevent the spread of weapons of mass destruction, and that obligation begins with making sure we know what is going on. That seems to me to be a minimal yet critical nonproliferation objective.

I would like to thank my distinguished colleagues from New Mexico and Connecticut for their help in assembling and passing this very important initiative and I look forward to its enactment by the President.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3099) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3100

(Purpose: To make technical amendments)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself and Mr. WARNER, proposes an amendment numbered 3100.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 46, line 20, after "(CAMDS) facility" insert the following: ",Tooele, Utah,".

On page 49, line 12, strike out ",including" and all that follows through "facilities" on line 14.

On page 68, line 24, strike out "Acts," and insert in lieu thereof "Acts and appropriations Acts,".

On page 69, like 4, insert "and appropriations Acts" after "Acts".

On page 82, line 3, strike out "operations," and insert in lieu thereof "operations pursuant to a base closure law,".

On page 82, line 18, strike out "or" and insert in lieu thereof "and".

On page 86, strike out lines 13 through 15, and insert in lieu thereof the following:

"(G) In this paragraphs:

"(i) The term 'military installation' has the meaning given that term in section 2687(e)(1) of title 10, United States Code.

"(i) The term 'base closure law' means the following:

"(I) The Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(II) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(III) any provision of law authorizing the closure or realignment of a military installation that is enacted on or after the date of the enactment of the National Defense Authorization Act for Fiscal year 1993.".

On page 88, line 4, insert "(A)" after "LEASES.—".

On page 88, line 11, strike out "operations," and insert in lieu thereof "operations pursuant to a base closure law,".

On page 88, line 23, strike out the end quotation marks and the period following the end quotation marks.

On page 88, below line 23, add the following.

"(B) In subparagraph (A), the term 'base closure law' means the following:

"(i) the Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(ii) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(iii) Any provision of law authorizing the closure or realignment of a military installation that is enacted on or after the date of the enactment of the National Defense Authorization Act for Fiscal year 1993.".

On page 117, line 12, insert "(other than under subsection (d))" after "8336".

On page 240, line 21, strike out "appropriated" and all that follows through "appropriations" on line 22, and insert in "authorized to be appropriated".

On page 252, strike out line 4 and all that follows through page 254, line 19.

On page 268, strike out the item above line 1, and insert in lieu thereof the following:

"2265. National Defense Program for Analysis of the Technology and Industrial Base.".

On page 287, strike out line 20 and all that follows through page 289, line 24, and insert in lieu thereof the following:

"§2265. National Defense Program for Analysis of the Technology and Industrial Base

"(a) ESTABLISHMENT.—(1) The National Defense Technology and Industrial Base Council shall establish at an entity described in paragraph (3) a program to be known as the 'National Defense Program for Analysis of the Technology and Industrial Base'.

"(2) The Program shall be an element of the defense acquisition university structure established under section 1746 of this title.

"(3) As determined by the Chairman of the Council, the Program shall be administered by—

"(A) an existing federally funded research and development center;

"(B) a consortium of existing federally funded research and development centers and other non-profit entities; or

"(C) another appropriate private sector research entity.

"(4) The Chairman shall ensure that there is appropriate consultation and coordination between the Program and the Critical Technologies Institute.

"(b) OVERSIGHT COMMITTEE.—The Program shall have an oversight committee composed of 3 members as follows:

"(1) The Under Secretary of Defense for Acquisition, or his designee, who shall serve as Chairman of the operating committee.

"(2) An official designated by the Secretary of Energy.

"(3) an official designated by the Secretary of Commerce.

"(c) MISSIONS.—The missions for the Program shall include, with respect to the national defense technology and industrial base, the following:

"(1) The assembly of timely and authoritative information.

"(2) Initiation of studies and analyses.

"(3) Provision of technical support and assistance to—

"(A) the Council in the preparation of the annual assessment required by section 2263 of this title and the annual plan required by section 2264 of this title;

"(B) the defense acquisition university structure and its elements; and

"(C) other departments and agencies of the Federal Government in accordance with guidance established by the Council.

"(4) Dissemination, through the National Technical Information Service of the Department of Commerce, of unclassified information and assessments for further dissemination within the Federal Government and to the private sector.".

On page 316, line 14, insert "(A)" after "(2)".

On page 320, between lines 9 and 10, insert the following:

(B) Until the first annual national defense technology and industrial base assessment is submitted to Congress by the Secretary of Defense pursuant to section 2264(1) of title 10, United States Code (as added by section 801(a)), the reference to the most recent such assessment in section 2300(8) of such title (as added by subparagraph (A)) shall be deemed to refer to the most recent annual critical defense critical technologies plan submitted to Congress by the Secretary of Defense pursuant to section 2522 of such title as in effect on the date of the enactment of this Act.

On page 341, between lines 13 and 14, insert the following:

(g) RETROACTIVE EFFECTIVE DATE.—The amendments made by subsections (d), (e), and (f) shall take effect as of November 5, 1990, and shall apply as if executed immediately after section 831 of the National Defense Authorization Act for Fiscal Year 1991 took effect.

On page 451, line 4, insert "authorized to be" after "funds".

On page 491, line 17, strike out "Section 221(a) and insert in lieu thereof "Section 221(a)(1)".

Mr. NUNN. Mr. President, this amendment is a Nunn-Warner technical amendment. Since the bill was reported to the Senate on July 31, we have identified the need for a number of technical amendments which are contained in the amendment we have proposed.

This amendment has been cleared on both sides of the aisle. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3100) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3101

(Purpose: To authorize the Secretary of Defense to furnish assistance for international peacekeeping activities)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. LEVIN, for himself, Mr. SIMON, Mr. WARNER, and Mr. NUNN, proposes an amendment numbered 3101.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 487, between lines 12 and 13, insert the following:

SEC. 1064. SUPPORT FOR PEACEKEEPING ACTIVITIES.

(a) FINDINGS.—The Congress makes the following findings:

(1) International peacekeeping activities contribute to the national interests of the United States in maintaining global stability and order.

International peacekeeping activities take many forms and include observer missions, ceasefire monitoring, human rights monitoring, refugee and humanitarian assistance, monitoring and conducting elections, monitoring of police in the demobilization of former combatants, and reforming judicial and other civil and administrative systems of government.

(3) International peacekeeping activities traditionally involve the presence of military troops, police forces, and, in recent years, civilian experts in transportation, logistics, medicine, electoral systems, human rights, land tenure, other economic and social issues, and other areas of expertise.

(4) International peacekeeping interests serve both the foreign policy interests and defense policy interests of the United States.

(5) The normal budget process of authorizing and appropriating funds a year in advance and reprogramming such funds is insufficient to satisfy the need for funds for peacekeeping efforts arising from an unanticipated crisis.

(6) Greater flexibility is needed to ensure the timely availability of funding to provide for peacekeeping activities.

(b) AUTHORIZED SUPPORT FOR FISCAL YEAR 1993.—(1) Subject to paragraph (2), the Secretary may provide assistance for international peacekeeping activities during fiscal year 1993 in an amount not to exceed $300,000,000 in accordance with section 403 of title 10, United States Code, as added by subsection (c). Notwithstanding subsection (b) of that section, the assistance so provided may be derived from funds appropriated to the Department of Defense for fiscal year 1993 for operation and maintenance or from balances in working capital accounts.

(2) No amount may be obligated pursuant to paragraph (1) unless the expenditure of such amount has been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) AUTHORIZATION.—(1) Chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 403. International peacekeeping activities

"(a) AUTHORITY.—To the extent provided in defense authorization Acts and appropriations Acts, the Secretary of Defense may furnish assistance, by loan or contribution, in support of international peacekeeping activities of the United Nations or any regional organization of which the United States is a member.

"(b) FORMS OR ASSISTANCE.—Assistance provided under subsection (a) may include funds, supplies, and equipment. Any funds so provided shall be derived from amounts available to the Department of Defense for the fiscal year for which the assistance is provided.

"(c) LIMITATIONS RELATED TO AVAILABILITY OF STATE DEPARTMENT FUNDS.—Funds may be provided as assistance pursuant to subsection (a) for a fiscal year—

"(1) only if funds available to the Department of State for that fiscal year for contributions for international peacekeeping activities are insufficient or otherwise unavailable to meet the United States' fair share of assessments for international peacekeeping activities, as determined by the President; and

"(2) only to the extent that the United States' fair share of such assessments exceeds the amount that the President requests Congress to appropriate for the Department of State for such fiscal year for international peacekeeping activities.

"(d) CONSULTATION.—The Secretary of Defense shall consult with the Secretary of State before furnishing any assistance pursuant to subsection (a).

"(e) DETERMINATIONS REQUIRED.—No assistance may be furnished pursuant to subsection (a) unless the Secretary of Defense certifies to Congress that the provision of such assistance—

"(1) is in the national security interest of the United States; and

"(2) will not adversely affect the military preparedness of the United States.

"(f) ADVANCE NOTICE TO CONGRESS.—Not less than 30 days before obligating any funds for purposes of subsection (a), the Secretary of Defense shall transmit to Congress a report on the proposed obligation. The report shall—

"(1) specify the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation;

"(2) specify the activities and forms of assistance for which the Secretary of Defense plans to obligate such funds; and

"(3) include the certification required by subsection (e).

"(g) DEFINITION.—In this section, the term 'defense authorization Act' means an Act that authorizes appropriations for one or more fiscal years for military activities of the Department of Defense, including the activities described in paragraph (7) of section 114(a) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"403. International peacekeeping activities.".

Mr. NUNN. Mr. President, this amendment essentially provides discretionary authority to the Secretary of Defense to provide assistance, including funding assistance, to international peacekeeping activities when such assistance is not otherwise available to pay the U.S. fair share. For fiscal year 1993, the amendment provides a ceiling of $300 million and conditions such funding assistance on a determination by the Director of the OMB that the expenditure can be accounted against the defense category.

This amendment is most timely as international peacekeeping and U.S. sponsorship is becoming more and more frequent. The increase in frequency, however, is accompanied by an increase in the cost. Most important, from my perspective, international peacekeeping often allows the opposing sides in a conflict a way to stop fighting, and thus stops human suffering and prevents such conflict from spreading to other states in a region. It, thus, is an important tool for restoring regional stability to areas important to the U.S. interest and can in many instances bring about stability without—this is most important—putting our own American forces at risk.

Mr. LEVIN. Mr. President the events of the last year underscore the security challenges of the post-cold war world, and the importance of our international institutions in meeting those challenges. In Yugoslavia and Somalia we are relying on the United Nations in the struggle for peace, the struggle to save lives. NATO is shifting its mission to put greater emphasis on peacekeeping, and other international collective security institution like the CSCE are growing in importance.

As the cold war has ended, the demand for peacekeeping has grown rapidly. From 1945 to 1988, the United Nations had set up 13 peacekeeping operations. Since 1988, the United Nations has set up 13 more. United Nations soldiers and police deployed in the field quadrupled to 44,000 between January and May of this year, and since then the United Nations has authorized deployment of thousands more in Yugoslavia and Somalia.

The total costs have risen as well. In 1987 U.N. member states were asked to pay $233 million for peacekeeping. The

U.N. Secretary General said in May that the total bill for the following 12 months would be $2.7 billion, and the cost estimate has certainly risen since that time.

The activities within these peacekeeping operations now include organizing elections, monitoring police, promoting human rights, and repatriating refugees, in addition to traditional military functions.

But resource shortages represent a major threat to current and future peacekeeping operations. The United States is farther in arrears for its U.N peacekeeping dues than any other nation. The Bush administration does not plan to retire the $208.7 million debt the United States has accumulated from previous assessments for another 5 years. And Congress has to this date appropriated only $270 millior of the administration's request for $350 million in fiscal year 1992 supplemental appropriations for peacekeeping dues that are being assessed in the current year. So we are falling farther behind.

In June, the Committee on Governmental Affairs held a hearing on this issue, and examined a bill by Senator SIMON to reclassify the cost of international peacekeeping activities from international affairs to national defense. At that hearing, witnesses from the Department of Defense and the Department of State testified that peacekeeping activities do contribute directly to our national security. There is apparently no dispute about that fact.

But peacekeeping activities are not treated as a national security expense in the Federal budget. And there is no agreement within the administration about how to rectify this situation. We asked the State and Defense Departments at that hearing to tell Congress how—we gave them another 2 more months although the question has been on the table all year. We still have no response from the administration.

In an attempt to encourage the administration to develop a solution, the Senate Armed Services Committee has included in the authorization bill a requirement, section 1062, that the President submit a report to Congress with his budget next year. This report must address funding proposals that the U.N. Secretary General has put forward, as well as this outstanding issue of where within our Federal budget U.S. contributions to peacekeeping activities will be located, how departmental responsibilities are to be assigned within the U.S. Government, and a number of related issues.

But we need to take additional action to try to assure that crucial peacekeeping missions, those which have been deployed around the globe and others which may become necessary in the coming year, are not starved for support.

This amendment takes a step in that direction by giving authority for the Secretary of Defense to provide assistance for international peacekeeping activities during fiscal year 1993 of up to $300 million. This assistance can be in the form of funds or supplies and equipment, to be derived from Department of Defense operation and maintenance accounts or from balances in working capital accounts

This amendment would not change the State Department's primary jurisdiction over U.N. peacekeeping activities, although that is a matter which the President must reexamine and report on to Congress under the existing reporting requirement in section 1062 of the authorization bill.

But this amendment provides an additional source of funds to the International Affairs account for peacekeeping activities, should the U.S. share of peacekeeping costs exceed the President's fiscal year 1993 request. And I am grateful that Senator SIMON has joined me as a cosponsor of this amendment. He has been a major proponent of what we seek to accomplish here.

We can expect that there will be additional funding needed next year that we do not know about now, beyond the $450 million requested in the President's budget for fiscal year 1993. This amendment demonstrates the Senate's intent that the United States should meet our share of the funding requirements for additional peacekeeping expenses that will be incurred in the coming year, because so doing is demonstrably in our national security interest. And this amendment indicates precisely where we would want those additional funds to come from within funds provided for the national defense.

Mr. President, there are many additional challenges facing us in the areas of peacekeeping and peace enforcement. The U.N. Secretary General made recommendations to the Security Council in July on how to strengthen the U.N. capacity for preventative diplomacy, for peacemaking, and for peacekeeping. These are crucial issues and the United States, which has not yet responded to those recommendations, should be leading the Security Council to address them. The Congress must engage in that debate as well.

But in this area—meeting this Nation's share of the funding requirements that the United Nations and other international institutions incur for peacekeeping—there should be no dispute. The administration is on record clearly stating that peacekeeping is in our national security interest, and this amendment provides an additional source of funding to meet those obligations.

I ask unanimous consent that a statement from Senator SIMON in support of the amendment be included in the RECORD, and I urge the adoption of the amendment.

Mr. SIMON. Mr. President, I am pleased to join Senators LEVIN and NUNN in offering this peacekeeping funding amendment. Few people in the world today can dispute the increasingly important role that international peacekeeping has acquired in the last year alone. Fewer still would question the U.S. obligation as the sole remaining superpower to do its share to help safeguard international peace. I am very pleased that my friend and colleague from Michigan, Senator LEVIN, is offering this amendment providing up to $300 million a year in defense funds to make up for the inevitable shortcomings in U.N. peacekeeping missions in the coming years.

I do not advocate that the United States become the world's policeman; far from it. Peacekeeping is already an inseparable and essential element of our national security policy. Our contribution to international peacekeeping efforts is a direct investment in the future of new democratic countries, individual liberties, and free markets.

While I am pleased to join with Senator LEVIN on this amendment, I ask my distinguished colleagues to strengthen our future commitment to peacekeeping by also supporting S. 2560. This legislation, which I introduced 6 months ago and which now has 18 cosponsors, will go a long way toward guaranteeing that international peacekeeping efforts remain a viable alternative to open international warfare. It reclassifies the payment of our peacekeeping contributions to the United Nations as a defense cost, instead of the current system where we pay for it out of function 150, international affairs. Adoption of S. 2560 will demonstrate to the world community that the United States takes seriously its peacekeeping obligations wherever they are required.

Mr. President, the bipartisan support shown for this amendment is encouraging. I am confident that we are taking the first step toward fully funding U.N. peacekeeping and strengthening the world body.

ADDITIONAL COSPONSOR

Mr. WARNER. Mr. President, I would like to make a brief statement. This is an area in which I have taken a good deal of interest.

I commend the chairman and others who worked on this amendment. Originally, I was in a position to object to it, because I felt it was too wide-ranging in terms of the funding requirements that would be imposed on the Secretary of Defense. But now the principals associated with this amendment have redrafted it in such a way that I find it quite constructive. Therefore, I ask unanimous consent that I be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, I thank the Senator from Virginia for his working with us on this amendment. I think it is very important.

I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3101) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3102

(Purpose: To provide for timely economic adjustment planning assistance for communities adversely affected by reductions in spending by the Department of Defense)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. ROBB (for himself and Mr. WARNER), proposes an amendment numbered 3102.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 102, after line 24, insert the following:

SEC. 334. ECONOMIC ADJUSTMENT PLANNING ASSISTANCE.

Notwithstanding any other provision of law, of the amount authorized to be appropriated to the Department of Defense for fiscal year 1993 for the Office of Economic Adjustment, 10 percent of such amount shall be available for providing financial assistance for economic adjustment planning in geographic areas in which a substantial portion of the economic activity or the population is dependent on Department of Defense expenditures, as determined by the Secretary of Defense.

Mr. ROBB. Mr. President, a substantial portion of this bill looks to the future, addressing the needs of America's defense dependent communities.

As the defense budget is reduced to reflect the changed international situation, there will inevitably be dislocations in those communities dependent on defense. The principal engine within the Department of Defense for assisting communities through those rough patches is the Office of Economic Adjustment.

Unfortunately, the OEA is currently restricted from aiding any community until it's actually been impacted by a base closure or cutbacks at a contractor. That creates a catch-22, because long experience has shown that communities bounce back much faster and more successfully when they have planned for a closure in advance. In a way, it's a classic paradox: Things will be worse if you don't plan, but the government won't help you plan until it's too late, after the jobs are lost and the people scattered.

My amendment helps to end that paradox. It gives OEA the right to help any defense-dependent community prepare for the worst while working for the best. And it sets aside ten percent of OEA's existing grant funds solely for advance planning.

This seems to me a worthwhile investment. By spending this small amount now, we may be able to avoid major expenditures for unemployment and other community assistance later. Here's a case in which the Federal Government, with a little foresight and imagination, can both help our people and save money. That's an unbeatable two-fer.

Mr. President, this is a simple amendment with a grand purpose. Every state in America will, unfortunately, feel some impact from the end of the cold war. With this amendment, we can begin to work to make that impact as manageable as possible. I urge its adoption.

Mr. NUNN. Mr. President, this amendment by Senator ROBB is an amendment which would direct that 10 percent of the planning assistance available to the Office of Economic Adjustment be available for planning assistance grants which are proactive rather than reactive.

Mr. President, I urge adoption of the amendment.

ADDITIONAL COSPONSOR

Mr. WARNER. Mr. President, I would like to say on behalf of the distinguished Senator from Virginia [Mr. ROBB] that he has done a lot of work in this area, and has been quite a progressive thinker on how to deal with defense conversion. Therefore, I would like to associate myself with this amendment by asking to be a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3102) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3103

(Purpose: To transfer responsibility for the development of Landsat 7 land remote-sensing satellite to the Secretary of Defense)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. DOLE, proposes an amendment numbered 3103.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VIII, insert the following new section:

SEC. . LANDSAT REMOTE-SENSING SATELLITE.

Notwithstanding the provisions of the Land-Remote Sensing Commercialization Act of 1984 (P.L. 98-365), the Department of Defense is authorized to contract for the development, procurement, and support to operations of Landsat 7 and subsequent Landsat vehicles.

Mr. DOLE. Mr. President, the Landsat Program has pioneered the commercialization of space. Providing Earth observing data for a growing list of users worldwide, the Landsat Earth Observing Program has revolutionized mapping, geography, geology, environmental monitoring, and many other sciences and worthy endeavors. In my view, these sciences and related commercial applications will become increasingly dependent on the follow on generations of this vital Satellite Technology and Earth Observing Program. Therefore, I offer this amendment to ensure the continued development, launch, and operation of state-of-the-art Earth observing satellites. The Department of Defense, under the direction of the Air Force will, through this amendment become the developing agency of the Landsat 7 satellite. This proposal has been agreed to by all agencies associated with this program.

I am aware of similar provisions pending in the Pressler Landsat reorganization bill for which language is still being worked out. This amendment is offered to provide the necessary transfer authority to the Air Force in the event that the negotiations over the Pressler bill do not lead to a bill this Congress.

Mr. President, I urge the adoption of this amendment.

Mr. WARNER. Mr. President, the President of the United States has assigned to the Department of Defense the responsibility to develop the Landsat remote-sensing satellite.

This amendment grants DOD the necessary legal authority to contract for the development, procurement, and operational land support to Landsat 7.

Mr. President, I ask that the amendment be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3103) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. president, I would like to say a few words, while my distinguished chairman must depart.

First, I would like to express my profound appreciation to all Senate members of the Armed Services Committee. We have labored long and hard on this piece of legislation. There were times when we felt it could not make it to the point of final passage, which shortly will happen in this body, unanimously.

Mr. President, it was the leadership of our distinguished chairman, together with the full support of the majority leader of the Senate and distinguished Republican leader, working with all members of the Armed Services Committee that made it possible that we achieve the final passage of this piece of legislation.

I also wish to thank Mr. Tucker of my staff, and Mr. Brownlee, who was here, Mr. Punaro of the majority staff, and many other members of both staffs, all of whom are still present here after midnight in this Chamber.

They have worked long and hard with the respective Members, the chairman, and myself, to enable this bill to be put together and shortly to be passed. I want to express my profound appreciation to them.

Mr. President, I also wish to thank the presiding officer for his patience and careful attention to a rather unusual session and also the members of the Senate staff who are working here again late into the night to make it possible that this bill may be adopted.

AMENDMENT NO. 3104

(Purpose: To impose sanctions against foreign persons and United States persons that assist foreign countries in acquiring a nuclear explosive device or unsafeguarded special nuclear material, and for other purposes)

Mr. NUNN. Mr. President, I send an amendment by Senator GLENN to the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for Mr. GLENN (for himself and Mr. NUNN) proposes an amendment numbered 3104.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 487, between lines 12 and 13, insert the following:

Subtitle F—Nuclear Proliferation Control

SEC. 1071. IMPOSITION OF SANCTIONS.

(a) DETERMINATION BY THE PRESIDENT.—

(1) IN GENERAL.—Except as provided in subsection (b)(2), the President shall impose the applicable sanctions described in subsection (c) if the President determines that a foreign person or a United States person, on or after the date of the enactment of this section, has materially and with requisite knowledge contributed—

(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States, or

(B) through the export from any other country of any goods or technology that would be, if they were exported from the United States, subject to the jurisdiction of the United States,

to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device, whether or not the goods or technology is specifically designed or modified for that purpose.

(2) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person or United States person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person or United States person;

(C) any foreign person or United States person that is a parent or subsidiary of that person if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of that determination; and

(D) any foreign person or United States person that is an affiliate of that person if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

(3) OTHER SANCTIONS AVAILABLE.—The sanctions which may be imposed for activities described in this subsection are in addition to any other sanction which may be imposed for the same activities under any other provision of law.

(4) DEFINITION.—For purposes of this subsection, the term "requisite knowledge" includes situations in which a person "knows", as "knowing" is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) or has "reason to know" the effect of such person's actions.

(b) CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay the imposition of sanctions for up to an additional 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the previous sentence.

(3) REPORT TO CONGRESS.—Not later than 90 days after making a determination under subsection (a)(1), the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTIONS.—

(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (3) of this subsection, that the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(2).

(2) DESCRIPTION OF SANCTIONS ON UNITED STATES PERSONS.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the United States person or any parent, subsidiary, affiliate, or successor entity thereof, as described in subsection (a)(2).

(3) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

(C) to—

(i) spare parts which are essential to United States products or production,

(ii) component parts, but not finished products, essential to United States products or production, or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that—

(1) reliable information indicates that the foreign person or United States person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in that subsection; and

(2) the President has received reliable assurances from the foreign person or United States person, as the case may be, that such person will not, in the future, aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in subsection (a)(1).

(e) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that the continued imposition of the sanction would have a serious adverse effect on vital United States interests.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(f) DEFINITIONS.—For the purposes of this section—

(1) the term "foreign person" means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States; and

(2) the term "United States person" means—

(A) an individual who is a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other entity which is not a foreign person.

SEC. 1072. ROLE OF INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in section 701(a) of the International Financial Institutions Act (22 U.S.C. 262d(a)) to use the voice and vote of the United States to oppose any direct or indirect use of the institution's funds to promote the acquisition of unsafeguarded special nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear-weapon state.

(b) DUTIES OF UNITED STATES EXECUTIVE DIRECTORS.—Section 701(b)(3) of the International Financial Institutions Act (22 U.S.C. 262d(b)(3)) is amended to read as follows:

"(3) whether the recipient country—

"(A) is seeking to acquire unsafeguarded special nuclear material (as defined in section 11(6) of the Omnibus Nuclear Proliferation Control Act of 1992) or a nuclear explosive device (as defined in section 11(3) of that Act);

"(B) is not a State Party to the Treaty on Non-Proliferation of Nuclear Weapons; or

"(C) has detonated a nuclear explosive device; and".

SEC. 1073. AMENDMENTS TO THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT AND THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) BASIS FOR DECLARATION OF NATIONAL EMERGENCY.—Section 202 of the International Emergency Economic Powers Act (50 U.S.C. 1701) is amended by adding at the end thereof the following new subsection:

"(c) For the purpose of this section, the term 'any unusual and extraordinary threat' includes any international event that the President determines may involve the detonation by a non-nuclear-weapon state of a nuclear explosive device (as defined in section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992) or an action or activity that substantially contributes to the likelihood of the proliferation or detonation of such devices, including the acquisition by a non-nuclear-weapon state of unsafeguarded special nuclear material (as defined in section 11(6) of that Act).".

(b) SANCTIONS ON FINANCIAL INSTITUTIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by adding at the end thereof the following new title:

"TITLE VI—SANCTIONS ON FINANCIAL INSTITUTIONS

"SEC. 601. PRESIDENTIAL DETERMINATION.

"(a) IN GENERAL.—The prohibitions in section 603 shall be imposed on a financial institution if the President determines that such financial institution, on or after the date of the enactment of this section, has materially and with requisite knowledge contributed, through provision of financing or other services, to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device as these standards and terms are defined and would be applied under section 2 of the Omnibus Nuclear Proliferation Control Act of 1992.

"(b) PRESIDENTIAL ORDER.—Whenever the President makes a determination under subsection (a) with respect to a financial institution, the President shall issue an order specifying a date within 180 days of such determination on which the prohibitions in section 603 shall begin to apply to such institution.

"SEC. 602. ADDITIONAL ENTITIES AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.

"The prohibitions described in section 603 shall also be imposed, pursuant to section 601, on—

"(1) any successor entity to the financial institution with respect to which the President makes such determination;

"(2) any foreign person or United States person that is a parent or subsidiary of such financial institution if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of such determination; and

"(3) any foreign person or United States person that is an affiliate of such financial institution if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of such determination and if that affiliate is controlled in fact by such financial institution.

"SEC. 603. PROHIBITIONS.

"The following prohibitions shall apply to a financial institution subject to a determination described in section 601 and to related entities described in section 602:

"(1) BAN ON DEALINGS IN GOVERNMENT FINANCE.—

"(A) DESIGNATION AS PRIMARY DEALER.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, such financial institution as a primary dealer in United States Government debt instruments.

"(B) GOVERNMENT FUNDS.—Such financial institution shall not serve as agent of the United States Government or serve as repository for United States Government funds.

"(2) RESTRICTIONS ON OPERATIONS.—Such financial institution shall not, directly or indirectly—

"(A) commence any line of business in the United States in which it was not engaged as of the date of the determination; or

"(B) conduct business from any location in the United States at which it did not conduct business as of the date of the determination.

"SEC. 604. CONDITIONS AND TERMINATION OF SANCTIONS.

"The same requirements for consultation with the foreign government of jurisdiction, where appropriate, and for termination of sanctions shall apply under this title as are provided in subsections (b) and (d), respectively, of section 2 of the Omnibus Nuclear Proliferation Control Act of 1992.

"SEC. 605. WAIVER.

"The President may waive the imposition of any prohibition imposed on any financial institution or other person pursuant to section 601 or 602 if the President determines and certifies to the Congress that the imposition of such prohibition would have a serious adverse effect on the safety and soundness of the domestic or international financial system or on domestic or international payments systems.

"SEC. 606. DEFINITIONS.

"As used in this title—

"(1) the term 'financial institution' includes—

"(A) a depository institution, including a branch or agency of a foreign bank;

"(B) a securities firm, including a broker or dealer;

"(C) an insurance company, including an agency or underwriter;

"(D) any other company that provides financial services; or

"(E) any subsidiary thereof; and

"(2) the term 'requisite knowledge' includes situations in which a person 'knows', as 'knowing' is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) or has 'reason to know' the effect of such person's actions.".

SEC. 1074. EXPORT-IMPORT BANK.

Section 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)) is amended by inserting after "device" the following: "(as defined in section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992), or that any country has willfully aided or abetted any such non-nuclear-weapon state (as defined in section 11(4) of that Act) to acquire a nuclear explosive device or to acquire unsafeguarded special nuclear material (as defined in section 11(6) of that Act).".

SEC. 1075. ELIGIBILITY FOR ASSISTANCE.

(a) AMENDMENTS TO THE ARMS EXPORT CONTROL ACT.—(1) The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended—

(A) in section 3 of such Act, by adding at the end thereof the following new subsection:

"(f) No sales or leases shall be made to any country that the President has determined is in material breach of its commitments to the United States under international treaties or agreements concerning the non-proliferation of nuclear explosive devices (as defined in section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992) and unsafeguarded special nuclear material."; and

(B) in section 40(d) of such Act, by adding at the end thereof the following new sentence: "For the purposes of this subsection, such acts shall include all activities that the Secretary determines willfully aid or abet the international proliferation of nuclear explosive devices to individuals or groups or willfully aid or abet an individual or groups in acquiring unsafeguarded special nuclear material (as defined in section 11(6) of that Act).".

(2) Section 47 of such Act is amended—

(A) by striking out "and" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(9) 'nuclear explosive device' has the same meaning given to that term by section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992.".

(b) AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.—

(1) Section 670(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a(a)(2)) is amended in the first sentence—

(A) by inserting "in any fiscal year" after "President"; and

(B) by inserting "during that fiscal year" after "certifies in writing".

(2) Section 670 of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a) is further amended by adding at the end thereof the following new subsection:

"(d) As used in this section, the term 'nuclear explosive device' has the same meaning given to that term by section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992.".

(3) Notwithstanding any other provision of law, Presidential Determination No. 82-7 of February 10, 1982, made pursuant to section 670(a)(2) of the Foreign Assistance Act of 1961, shall have no force or effect with respect to any grounds for the prohibition of assistance under section 670(a)(1) of such Act arising on or after the date of enactment of this Act.

(4) Section 620E(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2375(d)) is amended to read as follows:

"(d) The President may waive the prohibitions of section 669 of this Act with respect to any grounds for the prohibition of assistance under that section arising before the date of enactment of the Omnibus Nuclear Proliferation Control Act of 1992 to provide assistance to Pakistan if he determines that to do so is in the national interest of the United States.".

SEC. 1076. ADDITIONAL AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

(a) TECHNICAL AMENDMENTS.—Section 670(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a(b)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(2) in paragraph (3)(A) (as so redesignated), by striking "paragraph (3)" and inserting "paragraph (4)"; and

(3) in paragraph (4) (as so redesignated), by striking "paragraph (2)" and inserting "paragraph (3)".

(b) ADDITIONAL SANCTIONS.—Section 670(b)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a) is amended to read as follows:

"(b)(1) Except as provided in paragraphs (3), (4), and (5), in the event that any country, after the date of enactment of the Omnibus Nuclear Proliferation Control Act of 1992—

"(A) transfers to a non-nuclear-weapon state—

"(i) a nuclear explosive device, or

"(ii) design information or components known by the transferor to be necessary for the recipient's completion of a nuclear explosive device,

"(B) is a non-nuclear-weapon state and—

"(i) receives a nuclear explosive device,

"(ii) receives design information or components necessary for the completion of a nuclear explosive device, or

"(iii) detonates a nuclear explosive device,

"(C) transfers to a non-nuclear-weapon state any design information or component (other than described in subparagraph (A)(ii)) which is determined by the President to be important to, and known by the transferring country to be intended by the recipient state for use in, the development or manufacture of any nuclear explosive device, or

"(D) is a non-nuclear-weapon state and has sought and received any design information or component (other than described in subparagraph (B)(ii)) which is determined by the President to be important to, and intended by the recipient state for use in, the development or manufacture of any nuclear explosive device,

the President shall forthwith impose sanctions against that country, including, as a minimum, those sanctions specified in paragraph (2).

"(2) The sanctions referred to in paragraph (1) are as follows:

"(A) FOREIGN ASSISTANCE.—The United States Government shall terminate assistance to that country under this Act, except for urgent humanitarian assistance or food or other agricultural commodities.

"(B) ARMS SALES.—The United States Government shall terminate—

"(i) sales to that country under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and

"(ii) licenses for the export to that country of any item on the United States Munitions List.

"(C) ARMS SALES FINANCING.—The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

"(D) DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States, except that the sanction of this subparagraph shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities).

"(E) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by international financial institutions.

"(F) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities.

"(G) EXPORT PROHIBITION.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of any goods and technology (excluding food and other agricultural commodities), except that such prohibition shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities).".

(c) CONFORMING AMENDMENTS.—Section 670(b) of such Act (22 U.S.C. 2429a(b)) is further amended—

(1) in paragraph (3)(A) (as redesignated)—

(A) by striking "furnish assistance which would otherwise be prohibited" and inserting in lieu thereof "delay the imposition of sanctions which would otherwise be required"; and

(B) by striking "termination of assistance" and inserting in lieu thereof "imposition of sanctions";

(2) in paragraph (4) (as redesignated), by striking "termination of such assistance" and inserting in lieu thereof "imposition of such sanctions";

(3) by redesignating paragraph (5) (as redesignated by subsection (a)) as paragraph (6); and

(4) by inserting after paragraph (4) (as redesignated) the following:

"(5) Notwithstanding any other provision of law, the sanctions which are required to be imposed against a country under paragraph (1)(C) or (1)(D) shall not apply if the President determines and certifies in writing to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives that the application of such sanctions against such country would have a serious adverse effect on vital United States interests. The President shall transmit with such certification a statement setting forth the specific reasons therefor.".

SEC. 1077. REWARD.

Section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C);

(2) by inserting "(1)" immediately after "(a)"; and

(3) by adding at the end thereof the following:

"(2) For purposes of this subsection, the term 'act of international terrorism' includes any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as defined in section 11(6) of the Omnibus Nuclear Proliferation Control Act of 1991) or any nuclear explosive device (as defined in section 11(3) of that Act) by an individual, group, or non-nuclear-weapon state, as defined in section 11(4) of that Act.".

SEC. 1078. REPORTS.

(a) CONTENT OF ACDA ANNUAL REPORT.—Section 52 of the Arms Control and Disarmament Act (22 U.S.C. 2592) is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 52.";

(2) by striking "and" at the end of paragraph (4);

(3) by striking the period at the end of paragraph (5) and inserting in lieu thereof "; and";

(4) by adding at the end of paragraph (5) the following new paragraph:

"(6) a section of the report shall deal with any material noncompliance by foreign governments with their commitments to the United States with respect to the prevention of the spread of nuclear explosive devices by non-nuclear-weapon states or the acquisition by such states of unsafeguarded special nuclear material (as defined in section 11(6) of the Omnibus Nuclear Proliferation Control Act of 1992), including—

"(A) a net assessment of the aggregate military significance of all such violations;

"(B) a statement of the compliance policy of the United States with respect to violations of those commitments; and

"(C) what actions, if any, the President has taken or proposes to take to bring any nation committing such a violation into compliance with its commitments."; and

(5) by adding at the end thereof the following new subsection:

"(b) REPORTING CONSECUTIVE NONCOMPLIANCE.—If the President in consecutive reports submitted to Congress under this section reports that any designated nation is not in full compliance with its nonproliferation commitments to the United States, then the President shall include in the second such report an assessment of what actions are necessary to compensate for such violations.".

(b) REPORTING ON DEMARCHES.—(1) It is the sense of Congress that the Department of State should, in the course of implementing its reporting responsibilities under section 602(c) of the Nuclear Non-Proliferation Act of 1978, include a summary of demarches that the United States has issued or received from foreign governments with respect to activities which are of significance from the proliferation standpoint.

(2) For purposes of this section, the term "demarche" means any official communication by one government to another, by written or oral means, intended by the originating government to express—

(A) a concern over a past, present, or possible future action or activity of the recipient government, or of a person within the jurisdiction of that government, contributing to the global spread of unsafeguarded special nuclear material or of nuclear explosive devices;

(B) a request for the recipient government to counter such action or activity; or

(C) both the concern and request described in subparagraphs (A) and (B).

SEC. 1079. TECHNICAL CORRECTION.

Section 133(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2160c) is amended by striking out "20 kilograms" and inserting in lieu thereof "5 kilograms".

SEC. 1080. DEFINITIONS.

For purposes of this subtitle—

(1) the term "goods and technology" includes nuclear materials and equipment and sensitive nuclear technology (as defined in section 4 of the Nuclear Non-Proliferation Act of 1978), all export items designated by the President pursuant to section 309(c) of such Act, and all technical assistance requiring authorization under section 57b. of the Atomic Energy Act of 1954;

(2) the term "IAEA safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency;

(3) the term "nuclear explosive device" means any device that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT);

(4) the term "non-nuclear-weapon state" means any country which is not a nuclear-weapon state, as defined by Article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(5) the term "special nuclear material" has the meaning given to that term by section 11aa of the Atomic Energy Act of 1954 (42 U.S.C. 2014aa); and

(6) the term "unsafeguarded special nuclear material" means special nuclear material which is held in violation of IAEA safeguards or not subject to IAEA safeguards (excluding any quantity of material that could, if it were exported from the United States, be exported under a general license issued by the Nuclear Regulatory Commission).

Mr. NUNN. Mr. President, this amendment is the Omnibus Nuclear Proliferation Control Act. The amendment prohibits firms that promote nuclear proliferation from doing business with the U.S. Government and it provides additional sanctions against such firms.

Mr. President, this is a very important amendment. It has been cleared. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3104) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3105

(Purpose: To encourage the maximum practicable use of Government-owned, contractor-operated facilities of the Department of Defense for nondefense commercial purposes in the interest of national security)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Senator INOUYE.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for Mr. INOUYE, for himself, and Mr. DOLE, proposes an amendment numbered 3105.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 487, between lines 12 and 13, insert the following:

Subtitle F—Arms Retooling and
Manufacturing Support Initiative

SEC. 1071. SHORT TITLE.

This subtitle may be cited as the "Arms Retooling and Manufacturing Support Act of 1992".

SEC. 1072. POLICY.

It is the policy of the United States—

(1) to encourage, to the maximum extent practicable, nondefense commercial firms to use Government-owned, contractor-operated ammunition facilities of the Department of the Army;

(2) to use such facilities for supporting programs, projects, policies, and initiatives that promote competition in the private sector of the United States economy and that advance United States interests in the global marketplace;

(3) to increase the manufacture of products inside the United States that, to a significant extent, are manufactured outside the United States;

(4) to support policies and programs that provide manufacturers with incentives to assist the United States in making more efficient and economical use of Government-owned industrial plants and equipment for commercial purposes;

(5) to provide, as appropriate, small businesses, including socially and economically disadvantaged small business concerns and new small businesses, with incentives that encourage those businesses to undertake manufacturing and other industrial processing activities that contribute to the prosperity of the United States;

(6) to encourage the creation of jobs through increased investment in the private sector of the United States economy;

(7) to foster a more efficient, cost-effective, and adaptable armaments industry in the United States;

(8) to achieve, with respect to armaments manufacturing capacity, an optimum level of readiness of the defense industrial base of the United States that is consistent with the projected threats to the national security of the United States and the projected emergency requirements of the Armed Forces of the United States; and

(9) to encourage facility contracting where feasible.

SEC. 1073. ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE.

(a) REQUIREMENT FOR INITIATIVE.—The Secretary of the Army shall carry out a program to be known as the "Armament Retooling and Manufacturing Support Initiative" (hereafter in this Act referred to as the "ARMS Initiative").

(b) PURPOSES.—The purposes of the ARMS Initiative are as follows:

(1) To encourage commercial firms, to the maximum extent practicable, to use Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army for commercial purposes.

(2) To increase the opportunities for small businesses, including socially and economically disadvantaged small business concerns and new small businesses, to use such facilities for those purposes.

(3) To reduce the adverse effects of reduced Department of the Army spending that are experienced by States and communities by providing for such facilities to be used for commercial purposes that create jobs and promote prosperity.

(4) To provide for the reemployment and retraining of skilled workers who, as a result of the closing of such facilities, are idled or underemployed.

(5) To contribute to the attainment of economic stability in economically depressed regions of the United States where there are Government-owned, contractor-operated ammunition manufacturing facilities of the Department of Army.

(6) To maintain in the United States a work force having the skills in manufacturing processes that are necessary to meet industrial emergency planned requirements for national security purposes.

(7) To be a model for future defense conversion initiatives.

(8) To the maximum extent practicable, to allow the operation of Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army to be rapidly responsive to the forces of free market competition.

(9) Through the use of Government-owned, contractor-operated ammunition manufacturing facilities for commercial purposes, to encourage relocation of industrial production to the United States from outside the United States.

(c) MAXIMUM AVAILABILITY OF FACILITIES.—To the maximum extent practicable, the

Secretary of the Army shall make the Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army available for the purposes of the ARMS Initiative.

SEC. 1074. FACILITY CONTRACTOR DEFINED.

In this subtitle, the term "facility contractor", with respect to a Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army, means a contractor that, under a contract with the Secretary of the Army—

(1) is authorized to manufacture ammunition or any component of ammunition at the facility; and

(2) is responsible for the overall operation and maintenance of the facility for meeting planned requirements in the event of an industrial emergency.

SEC. 1075. FACILITIES CONTRACTS.

(a) REQUIREMENT FOR ARMS CONTRACTS.—(1) In the case of each Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army that is made available for the ARMS Initiative, the Secretary of the Army shall, by contract, authorize the facility contractor—

(A) to use the facility for one or more years consistent with the purposes of the ARMS Initiative; and

(B) to enter into multiyear subcontracts for the commercial use of the facility consistent with such purposes.

(2) The authority in paragraph (1) may be exercised only to such extent and in such amounts as are provided in appropriations Act.

Mr. INOUYE. Mr. President, today I join with the distinguished Senate Minority Leader in offering an amendment that authorizes the establishment and funding of the armament retooling and manufacturing support initiative.

It is the purpose of my amendment to bring about a fundamental change in the way the Department of the Army manages, maintains and apportions work to the 27 Government-owned contractor-operated ammunition plants which it controls throughout the United States. These so-called GOCO plants form the backbone of our Nation's oldest war production industry and constitute a resource critical to our defense mobilization base.

For without adequate ammunition supplies and the ability to surge production when crisis looms, no nation, no matter how technologically advanced, can hope to prevail in a prolonged conflict. Without ammunition, there is no such thing as national defense!

Mr. President, it is a fact, that over the last 5 years that our Nation's ammunition industry has suffered acute hardship as the need for ever larger war reserves has diminished and with it, the funding needed to support high levels of production. Since the mid-1980's, the Army's ammunition procurement has fallen 69 percent, from a recent high of $2.6 billion to a mere $824 million today. One production facility has been placed in inactive status with six more slated to follow suit over the next 3 years.

Mr. President, what this amendment seeks to do is to preserve our ammunition industrial base by opening up government-owned plants to both other defense, and nondefense, commercial work. It would authorize the establishment of an incentive program to assist contractors with the costs of environmental assessments, permits and feasibility studies. In addition, this amendment would create a guaranty program that would enable contractors to seek commercial bank loans, at preferred rates of interest, so that they can outfit their space in the ammunition plants with the latest in manufacturing equipment.

Mr. President, my staff has been in close consultation with the Department of Defense on this amendment and assures me that it has the support of the Army Materiel Command, who would implement the program, and the Deputy Assistant Secretary for Production Resources. I am enthusiastic about the possibility that this proposal could infuse life into a faltering industry, provide stability to a skilled and dedicated work force, bring jobs to ailing communities and a health measure of financial certainty to corporate investors.

Mr. President, I encourage my colleagues to join with me in the advancement of this important defense conversion initiative, an initiative which I believe will promote prosperity and jobs at the same time it improves the readiness and sustainability of our Armed Forces.

Mr. DOLE. Mr. President, I join with my distinguished colleague, Senator INOUYE, in offering the armament retooling and manufacturing initiative. This important program will become the model for converting some of our Nation's defense industrial capacity into innovative commercial ventures while preserving critical elements of our mobilization capacity.

This amendment provides $200 million in loan guarantees and other incentives paving the way for private entities to convert existing government owned ammunition plants deemed as excess capacity for commercial uses. Plants that now face closure will now have the opportunity to become sources of new jobs and new products. America's competitive edge will be sharpened while our security will be assured. This is a win-win proposal and I applaud the efforts of Senator INOUYE for his hard work and innovative thinking. I urge my colleagues to join me in support of this amendment and urge its adoption.

Mr. NUNN. Mr. President, this amendment authorizes the establishment and funding of the armament retooling and manufacturing support initiative.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3105) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3106

(Purpose: To provide for construction of military family housing at Naval Air Station Whidbey Island, Washington)

Mr. NUNN. Mr. President, I send an amendment to the desk on behalf of Mr. GORTON and Mr. ADAMS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. ADAMS (for himself and Mr. GORTON), propose an amendment numbered 3106.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER: Without objection, it is so ordered.

The amendment is as follows:

On page 505, between lines 18 and 19, insert the following new section:

SEC. 2208. MILITARY FAMILY HOUSING, NAVAL AIR STATION WHIDBEY ISLAND, WASHINGTON.

The Secretary of the Navy shall include in the budget request for the Navy for fiscal year 1994 a request for funds for the design of 300 family housing units at Naval Air Station Whidbey Island, Washington.

Mr. NUNN. Mr. President, this amendment provides for construction of military family housing at the Naval Air Station at Whidbey Island, WA.

Mr. ADAMS. Mr. President, I thank the managers of the bill for accepting this amendment. In doing so, they are providing relief to hundreds of junior enlisted personnel and their families stationed at Naval Air Station Whidbey.

The military families assigned to NAS Whidbey face a housing problem of crisis proportions. Junior enlisted personnel and their families are forced to wait more than 17 months for adequate housing. The average wait for housing at most other bases is 5 months. The majority of these personnel are young, low-income families who depend on the availability of subsidized military housing.

The severity of the housing crisis was recognized by the subcommittee in 1990, when Whidbey Island was authorized to participate in the section 801 housing program. This program would have allowed NAS Whidbey to enter into a lease with the Navy to provide

300 new housing units to the air station. Unfortunately, implementation of the program was delayed when NAS Whidbey was placed on the 1991 base closure list. Whidbey's housing crisis has worsened since that time. After the BRAC decided that NAS Whidbey would remain open, Congress authorized $21,110,000 in 801 build-to-lease funds for housing at Whidbey—Public Law 102-190. The funding was essentially killed, however, by an OMB decision to change the budget scoring laws for the 801 program.

This amendment would authorize the Secretary of the Navy to include design funds for 300 family housing units at Naval Air Station Whidbey Island in the fiscal year 1994 budget. This funding is desperately needed to construct 300 housing units and provide these young, enlisted families the affordable, on-base housing they deserve.

I thank the bill managers for their inclusion of this important amendment in the Department of Defense authorization bill.

Mr. GORTON. Mr. President, the amendment I am introducing today will give the Navy the authority to include in its fiscal year 1994 budget enough funds to begin the initial design work for 300 housing units for Naval Air Station Whidbey Island. Currently, NAS Whidbey Island suffers a 1-percent vacancy rate, and junior enlisted and their families are waiting up to 17 months for housing. The average wait on most bases is 5 months.

Because of the crucial need to build more housing at NAS Whidbey, the Navy began working on what is called the 801 build-to-lease program. Due to unresolved scoring issues between the Office of Management and Budget and Congress, however, the 801 build-to-lease program was discontinued. In the meantime, no housing has been built and the housing shortage continues.

Because the 801 housing program is no longer a viable option for NAS Whidbey, it is necessary that the Navy begin work to design military family housing for NAS Whidbey. Under the 801 housing program, the initial design work is done by the contractor who is selected by the Navy to perform the work. Because the scoring problems were never resolved, contractors chose not to bid for the 801 contract. The design work, therefore, was never completed.

This amendment will simply give the Navy the authority to include in its budget enough funds to begin the initial design work for family housing at NAS Whidbey.

Mr. President, I have seen the Whidbey facilities and am very much aware of the terrible conditions these young families are having to endure while they wait for military family housing. I urge immediate adoption of this amendment so that the Navy can begin to do something to provide satisfactory living conditions for its sailors.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3106) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3107

(Purpose: To authorize appropriations for construction and land acquisition for the Army National Guard Armory, Blanding, Utah, and the Air National Guard Base Civil Engineering Complex, Salt Lake City, Utah)

Mr. NUNN. Mr. President, I send an amendment on behalf of Mr. GARN to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for Mr. GARN proposes an amendment numbered 3107.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 521, line 17, strike out "$136,778,000" and insert in lieu thereof "$138,068,000".

On page 521, line 23, strike out "$224,110,000" and insert in lieu thereof "$225,960,000".

Mr. NUNN. Mr. President, this amendment authorizes appropriations for construction and land acquisition for the Army National Guard Armory, Blanding UT, and the Air National Guard Base, Salt Lake City, UT.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3107) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3108

(Purpose: To authorize appropriations for construction of a fire station at Klamath Falls Airport, Oregon, construction of a rifle range to Clackamas, Oregon, construction activities at the National Guard Armory, LaGrande, Oregon, and construction activities of Portland International Airport, Portland, Oregon)

Mr. NUNN. Mr. President, I send to the desk and amendment on behalf of Senator HATFIELD, the Senator from Oregon.

THE PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for Mr. HATFIELD proposes an amendment numbered 3108.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

THE PRESIDING OFFICER. without objection, it is so ordered.

The amendment is as follows:

On page 521, line 17, strike out "$136,778,000" and insert in lieu thereof "$141,337,000".

On page 521, line 23, strike out "$224,110,000" and insert in lieu thereof "$227,829,000".

Mr. NUNN. Mr. President, this amendment authorizes 5 military construction projects for the Oregon Army and Air National Guard.

Mr. President, this has been cleared on both sides of the aisle.

Mr. HATFIELD. Mr. President, I first want to thank Senator NUNN and Senator WARNER for all their help regarding this bill. This is never an easy task and they get us through it every time.

I rise today to offer an amendment which authorizes five Oregon military construction projects for the Air and Army National Guard. I understand that this amendment has been cleared on both sides.

These projects will have been appropriated by the Senate Appropriations Committee but not authorized by the Senate Armed Services Committee. The five projects are a fire station for the Air National Guard at Kingley Field, an armory for Army National Guard at La Grande, a rifle range for the Army National Guard at Clackamas and a base civil engineering facility and site improvements for the Air National Guard at the Portland Airbase.

I ask Senator NUNN and Senator WARNER to accept this amendment. I thank both Senators for their effort in this matter.

Mr. NUNN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3108) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3109

(Purpose: To authorize an appropriation for the construction of a new electrical distribution system and a new propellant surveillance laboratory at Picatinny Arsenal, New Jersey)

Mr. NUNN. Mr. President, on behalf of Senator LAUTENBERG, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for Mr. LAUTENBERG proposes an amendment numbered 3109.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the table on page 495 insert below the item relating to the Fort Monmouth, New Jersey, the following:

	Picatinny Arsenal	$6,050,000

On page 497, line 12, strike out "$2,200,317,000" and insert in lieu thereof "$2,206,367,000".

On page 497, line 15, strike out "$306,900,000" and insert in lieu thereof "$312,950,000".

Mr. LAUTENBERG. Mr. President, this amendment would authorize $3.8 million for construction of a new electrical distribution system and $2.25 million for renovations needed to create a new propellant surveillance lab at Picatinny Arsenal in New Jersey. The House has appropriated these funds in its version of the fiscal year 1993 military construction appropriations bill.

Mr. President, funding for both projects was originally included in the Army's fiscal year 1992 budget, but was delayed by the Army. The Picatinny Arsenal's new electrical distribution system is now a part of the Army's fiscal year 1994 budget, and its propellant surveillance lab currently is included in the Army's fiscal year 1995 budget. Given the current need for these programs and the fact that the Army previously budgeted for them, it is imperative that we provide this funding in fiscal year 1993.

Picatinny's present electrical distribution system is 40 years old, and it is no longer able to effectively serve the arsenal's needs for electric power. The powerplant's existing equipment has outlived its normal operational lifespan, and many replacement parts are unavailable. Meanwhile, the arsenal's requirement for electric power is expected to double over the next 8 years. In order to handle the stress of these growing requirements, a new electrical distribution system is desperately needed.

The new electrical distribution system will help to prevent power shortages and brownouts which currently plague the Picatinny Arsenal and cost significant amounts of money to repair. The Army states that it annually spends $1 million to repair the old power network. A new system would also prevent damage caused by brownouts and power failures. A power failure in March 1991 resulted in severe damage. Experts at Picatinny Arsenal estimate that it would cost $2.4 million to repair the damage should a similar failure occur.

Given these significant problems and costs we should make this investment as soon as possible to avoid increased costs in the future.

Mr. President, I also believe it is critical that we move immediately to provide funding for a new propellant surveillance lab. Propellant stockpiles are an immediate threat to the people at Picatinny Arsenal and other facilities around the country. At a new lab, the Army would be able to study the safety of its propellant stockpiles, which potentially pose a threat to military personnel as well as the environment at Picatinny Arsenal. Currently, no facility exists to test all of these potentially dangerous materials. In order to create the new lab and consolidate existing operations, the Army plans to renovate a vacant building that is a part of its Armament Research, Development, and Engineering Center.

Currently, the Army's stockpiles of certain propellants at Picatinny Arsenal are approaching the end of their lifespan, and the possibility exists that these aging propellants could spontaneously ignite. The Army will use this new lab to develop accurate predictions of the remaining storage life of these propellants and to survey the propellant stockpile in order to determine the existence of potentially hazardous materials.

This amendment would authorize funds for these two urgent projects for the Picatinny Arsenal. We should not delay. I urge my colleagues to support this amendment.

Mr. NUNN. Mr. President, this amendment proposes to add two military construction projects at Picatinny Arsenal, NJ, and I urge the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3109) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3110

(Purpose: To authorize an appropriation for military construction activities at Fort Knox, Kentucky)

Mr. NUNN. Mr. President, on behalf of Senator FORD, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for Mr. FORD, proposes an amendment numbered 3110.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 494, in the table below line 20, insert the following below the item relating to the State of Kansas:

Kentucky	Fort Knox	$15,600,000

On page 497, line 12, strike out "$2,200,317,000" and insert in lieu thereof "$2,215,917,000".

On page 497, line 15, strike out "$306,900,000" and insert in lieu thereof "$322,500,000".

Mr. NUNN. Mr. President, the Senate Armed Services Committee inadvertently left out authorization for 3 milcon projects at Fort Knox. This has been cleared on both sides. I urge that it be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3110) is agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3111

(Purpose: To authorize the disposition of the interest of the Navy in the Naval Reserve Center, Atlanta, Georgia, and to provide for replacement facilities for that center)

Mr. NUNN. Mr. President, on behalf of myself, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] proposes an amendment numbered 3111.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 572, below line 24, insert the following:

SEC. 2844. TERMINATION OF LEASE AND SALE OF FACILITIES, NAVAL RESERVE CENTER, ATLANTA, GEORGIA.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Navy may—

(1) negotiate the termination of the remaining lease of the Navy of 2.27 acres of land located at the Georgia Institute of Technology, Atlanta, Georgia (in this section referred to as the "Institute"); and

(2) sell to the Institute the Naval Reserve Center facilities located on such land.

(b) CONSIDERATION.—As consideration for the termination of the lease interest referred to in subsection (a)(1) and the sale of the facilities referred to in subsection (a)(2), the Institute shall pay the Secretary an amount equal to the aggregate of the fair market value of the remaining lease referred to in such subsection (a)(1) and the facilities referred to in such subsection (a)(2).

(c) USE OF FUNDS.—(1)(A) To the extent provided in appropriations Acts and subject to subparagraph (B), the Secretary shall use the amount paid by the Institute under subsection (b) to expand the Marine Corps Reserve Center to be constructed at Dobbins Air Force Base, Georgia, in a manner which permits the use of a portion of that Center as replacement facilities for the naval reserve facilities referred to in subsection (a)(1).

(B) The expanded portion of the Marine Corps Reserve Center described under subparagraph (A) shall be under the jurisdiction of the Marine Corps Reserve.

(2) If any portion of the amount referred to in paragraph (1) remains unexpended after the construction of the naval reserve facilities referred to in that paragraph, the Secretary shall deposit that portion in the account established under section 204(h) of the Federal Property and Administrative Services Act (40 U.S.C. 485(h)).

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection section that the Secretary considers appropriate to protect the interests of the United States.

Mr. NUNN. Mr. President, the Navy and the Georgia Institute of Technology have requested the Secretary of Navy be provided the authority to terminate a land lease with the Department of Navy, which the Department of Navy has with Georgia Tech, and negotiate the sale of a Navy reserve center to Georgia Tech. The proceeds would be used to construct a new reserve center co-located with a new Marine Corps center on Dobbins Air Force Base, which is authorized in the national defense authorization bill reported by the Senate.

This amendment has been cleared on both sides of the aisle, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3111) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3112

Mr. WARNER. I send to the desk an amendment on behalf of the Senator from Mississippi [Mr. LOTT].

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. LOTT, proposes an amendment numbered 3112.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Section 2304(a)(1) of the bill is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", of which $6,400,000 is authorized for the construction of a visual information training facility and $290,000 is authorized for construction of a television systems training facility both located at Kessler AFB, Mississippi.".

Mr. WARNER. This is an amendment that deals with the projects on Kessler Air Force Base. I ask that it be agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3112) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, the record should reflect, on the amendment that has just been adopted, there was some redrafting in accordance with the desires of certain members of the Appropriations Committee that was brought to our attention.

AMENDMENT NO. 3113

(Purpose: To provide for a land conveyance at Fort Chaffee, Arkansas)

Mr. WARNER. Mr. President, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3113.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 572, below line 24, insert the following:

SEC. 2844. LAND CONVEYANCE, FORT CHAFFEE, ARKANSAS.

(a) CONVEYANCE.—The Secretary of the Army shall convey to the City of Fort Smith, Arkansas (in this section referred to as the "City"), all right, title, and interest (other than any oil, gas, or mineral interest) of the United States in and to a parcel of real property consisting of approximately 400 acres, together with improvements thereon, located at Fort Chaffee, Arkansas.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City—

(1) shall provide the Army with such services at Fort Chaffee as the Secretary and the City shall jointly determine, the fair market value of which services shall be equal to the fair market value of the property conveyed pursuant to subsection (a); or

(2) shall—

(A) provide the Army with such services at Fort Chaffee as the Secretary and the City shall jointly determine; and

(B) in the event that the fair market value of the property conveyed pursuant to subsection (a) exceeds the fair market value of the services provided under subparagraph (A), pay to the Secretary the amount equal to such excess.

(c) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the parcel of real property to be conveyed under subsection (a) and the value of the services, if any, to be provided under paragraph (1) or (2) of subsection (b). Such determinations shall be final.

(d) USE OF PROCEEDS.—The Secretary shall deposit the amount of the consideration, if any, paid under subsection (b)(2)(B) in the account established under section 204(h) of the Federal Property and Administrative Services Act (40 U.S.C. 485(h)).

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcel of land conveyed pursuant to this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the conveyance under subsection (a) that the Secretary considers appropriate to protect the interests of the United States.

Mr. WARNER. Mr. President, Mr. President, this amendment deals with a project at Fort Chaffee, AR. I do so on behalf of a very distinguished Member of Congress, Mr. J. Paul Hammerschmidt.

I ask for it's adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3113) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3114

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of myself.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] proposes an amendment numbered 3114.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

Section 603 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102-25, 105 Stat. 107) is amended—

(1) in subsection (b)(1), by adding at the end thereof the following new sentence: "Subsequent to the identification of the parcel of land pursuant to this subsection, the Secretary may with the concurrence of appropriate representatives of Caroline County, Virginia, and the Commonwealth, make minor adjustments to the boundaries of the parcel of land identified so that the parcel of land conveyed pursuant to this section better serves the purposes intended by this section.";

(2) in subsection (c)(2)(A), by striking out "construct and operate on such parcel of land a regional correctional facility" and inserting in lieu thereof "provide for the construction and operation on such parcel of land a regional correctional facility";

(3) in subsection (c)(2)(B), by striking out "constructs and operates such facility" and inserting in lieu thereof "provides for the construction and operation of such facility"; and

(4) in subsection (d)(1)(A)(i), by striking out "24 months after the date of enactment of this Act" and inserting in lieu thereof "April 1, 1995".

Mr. WARNER. Mr. President, this relates to Fort A.P. Hill in the Commonwealth of Virginia. I ask for its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3114) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, what is the pending business?

The PRESIDING OFFICER. There are two amendments pending that have been set aside.

Mr. NUNN. Mr. President, I urge the adoption of those amendments.

AMENDMENT NOS. 3046 AND 3048

The PRESIDING OFFICER. The question is on agreeing to amendments Nos. 3046 and 3048.

The amendments (Nos. 3046 and 3048) were agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I would like to make a statement that would reflect that these amendments were drafted by Mr. Punaro, a member of the U.S. Marine Corps Reserve, a former commissioned officer. He brought the matters to the attention of the chairman and myself. He is deserving of a personal commendation.

Mr. NUNN. I identify myself with the remarks of the Senator from Virginia.

THE COMANCHE HELICOPTER PROGRAM

Mr. DODD. Mr. President, I rise to discuss a very important matter relating to the pending 1993 Defense authorization bill, the Army Light Helicopter Program.

The current Army helicopter inventory is quickly approaching obsolescence. The AH-64 Apache family of helicopters is nearing the end of its useful lifespan, and modernization of the Army helicopter fleet is of utmost importance.

As noted in the Armed Services Committee report, the Comanche helicopter program is the Army's intended replacement airframe for the aging 3,100 Apache fleet. The proposed plan calls for procurement of 1,292 Comanche helicopters to begin this program. What has been lacking to this point is an exact timetable for actual procurement.

Mr. President, until July of this year the Department of Defense had placed the Light Helicopter Program in jeopardy. The current DOD acquisition policy had injected serious inequities to many of the pending modernization programs. Likewise, large scale prototype programs, such as the Comanche helicopter, faced an uncertain future.

Mr. President, the Comanche helicopter is a critical program for our national defense. To date, over $750 million has been invested in this aviation upgrade program, and up to this point, the Department of Defense and the Army faced termination of their "* * * most important upgrade program."

Let me add, Mr. President, those are not my words. In a letter to the distinguished chairman of the Armed Services Committee dated August 7, 1992, the Secretary of Defense communicated: "Comanche is the Army's number one modernization program." Writing further: "* * * the intention reflected in our budget is to put the Comanche in the hands of our soldiers when development is completed."

Additionally, in a memorandum dated September 2, 1992, the Assistant Secretary of the Army for Acquisition clearly outlined the progress of the Comanche program to date. Of specific note is the Secretary's pronouncement of the Comanche helicopter as a "model program." Of even greater interest is the Secretary's assessment of Comanche's importance to the future of the U.S. Army: "I would also like to reaffirm that Comanche remains not only the Army's top major development/production program, it is virtually the Army's only such program for replacement of a major platform within the next decade or so."

Clearly, Mr. President, the Comanche helicopter is a vital program to the revitalization of the U.S. Army aviation forces. I believe the recent communications from the Department of Defense and the Department of the Army outline a positive and progressive groundwork for procurement of the Comanche program.

I bring these important developments in the Comanche program to the attention of my colleagues to assist the Senate in deliberating the future course for this important modernization program.

Mr. President, let me conclude my remarks by submitting the aforementioned documents for the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, August 7, 1992.

Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Armed Services recently reported an authorization bill that would terminate any further work on the Army's Comanche helicopter program. I would like to ask your reconsideration of that action.

Comanche is the Army's number one modernization program. The Army needs Comanche to replace its large fleet of aging scout/attack aircraft. These aircraft now have an average age of 25 years, they are costly to maintain and operate, and they are technologically obsolete. We will be able to replace this fleet of 3,000 older aircraft with about 1,300 Comanches.

This past January, we reduced Comanche funding and stretched the development program to reduce risk in the program. These actions should not be interpreted as a lack of support for the program. On the contrary, we believe the Comanche is essential to the Army's efforts to modernize its aviation forces.

Assuming the program meets its cost, schedule, and technical performance goals, the intention reflected in our budget is to put Comanche in the hands of our soldiers when development is completed.

Sincerely,

DICK CHENEY.

[MEMORANDUM]

DEPARTMENT OF THE ARMY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, DC, September 2, 1992.

To: Under Secretary of Defense (Acquisition) Secretary of the Army.

Subject: RAH-66 Comanche Program.

As you know, I have personally been reviewing the Comanche program on a quarterly basis since our contract award in April 1991. I would like to summarize for you the status of the program based on our most recent Comanche review on August 27. "Team Comanche" has faced many challenges trying to keep the program on track while simultaneously executing a major program restructure based on the President's FY93 budget reduction in January of this year.

My recent review indicates that the Comanche program is in good shape and continues to deserve the label of "model program." I would also like to reaffirm that Comanche remains not only the Army's top major development/production program, it is virtually the Army's *only* such program for replacement of a major platform within the next decade or so.

Before summarizing the program status, let me cite some of the challenges presented by the *restructure*. The contractor teams have had to prepare new proposals to realign their contracts within the revised budget constraints. Developing auditable proposals has required an enormous amount of time, money, and manpower. The cost to prepare these proposals has amounted to over $22M for Boeing and Sikorsky alone. When the current proposal preparation costs are added to the Comanche program funds expended on restructure through August 1990, nearly $66M of the Comanche program budget has been expended on paper rather than design and development. I cite this information to highlight the importance of keeping the program stable in the future and to emphasize the difficulty of managing the program at the same time we are restructuring it.

One way to reduce the inefficiency of program restructures would be to reduce *documentation* requirements. Current acquisition regulations require an immense amount of data, as illustrated by the enormity of a single set of proposal volumes, displayed in the picture at Attachment 1. A majority of the proposal volumes contain cost data to substantiate the contractor's proposed price. We need to find some way to obtain cost and other information that is genuinely needed without imposing such extreme paperwork burdens. I believe this issue merits serious consideration throughout DoD.

Despite the turbulence caused by the program restructure, the contractor teams have controlled *cost and performance* remarkably well. As of July, Boeing Sikorsky's cost variance was at 3.2 percent and the schedule variance was 4.4 percent. The cost performance data chart at Attachment 2 describes contract execution in detail.

Boeing Sikorsky is also aggressively managing its *design-to-cost (DTC)* activities. The current estimate is $9.5 million (FY88$) and we remain on track to achieve the $8.5M goal by IOC in 2001.

The Comanche team has also made great progress in resolving issues associated with system *weight*. We first increased the 7,500-pound limit by 116 pounds to accommodate an uprated engine (52 pounds) and those items necessary to allow the installation of the Longbow radar (64 pounds). Early in the detailed design process, the openness of the "Team Comanche" process allowed us to identify a potential concern with system weight and to bring that issue to the attention of Army and OSD management. My decision at that time was to embark immediately on a T800 growth program to make sure that Comanche is fielded with sufficient power to perform all its projected missions in all possible configurations. The empty weight chart at Attachment 3 shows that with the growth engine, the Comanche meets the requirement of 500 feet per minute (FPM) vertical rate of climb (VROC) even in the most demanding configuration. The accompanying weight risk reduction chart at Attachment 4 illustrates the effectiveness of our Weight Improvement Program (WIP). Team Comanche has identified a number of design and technology options to reduce weight, and we have been able to achieve some 240 kg (or 530 pounds) weight reduction since last November. I am extremely pleased with the combined efforts of the industry/government team to resolve these weight concerns. We absolutely need to continue with the growth T800 program so we can retain the required VROC even in the full Longbow configuration with combat kits and with some prudent margin. The engine growth approach we have adopted is achievable with minimum risk.

We believe the program is on track to achieve its *technical performance*. Attachment 5 shows the key technical requirements in the draft ORD as well as the minimum acceptable values that we have proposed as Milestone II exit criteria (per Dr. Fraser's direction several months ago). We believe that compliance with the proposed Milestone II values will put us on track to achieve a combat effective system that meets its full requirements at Milestone III. The chart also shows that the program is on target to meet its technical performance targets. We will submit the proposed Milestone II and III exit criteria, including the classified parameters, for formal approval once the final ORD is approved.

LHTEC continues to make progress on the T800 *engine program*. The basic T800 tests are nearing completion with a total of 15,000 hours, and the original program remains on schedule. We recently installed a basic T800 engine in a UH-1 and flew at Ft. Rucker with impressive results. We plan to continue this type of Comanche risk reduction effort in the future. LHTEC has accomplished significant success by maintaining a −2.7 percent cost variance on its original fixed-price contract since the time of award seven years ago. The growth T800 engine program is also on schedule and LHTEC will submit its formal proposal for this effort momentarily.

Finally, we need to continue to discuss potential sources of funding for the FY 98-99 years of the program. In my view, the funding issue is not *whether* we will fund these years of the program, but rather the *source* of those funds. I am confident that OSD and the Army will resolve this issue soon as part of our FY94 budget deliberations.

As you know, the outyear funding issue has created a problem in the Senate, which we are working with the help of Mr. Cheney and the OSD staff. The company CEOs are also in the process of scheduling conferences with key Congressional members and staff to solicit their help in restoring the funds cut by the SASC. I appreciate your continuing help in working the Congressional issue.

In summary, I am extremely pleased with the progress that Team Comanche has made over the past 16 months. We made great efforts from the very beginning to lay out a program that was realistically priced, technically achievable, and otherwise executable. Although we have a long way to go before EMD and production, we are seeing the results of our earlier planning in terms of a program that is on cost, on schedule, and on track to meet its technical performance goals. Please let me know if you'd like any additional information on the program.

STEPHEN K. CONVER,
Assistant Secretary of the Army, Research, Development and Acquisition.

Mr. LIEBERMAN. Mr. President, the Defense Department request for $443 million for the Army Comanche scout helicopter in the fiscal year 1993 Defense authorization request was deleted by the Armed Services Committee with the recommendation that the program be terminated.

The Army considers the Comanche to be one of its highest priority modernization programs, essential to their requirement to replace their force of aging scout helicopters which already have an average age of 25 years. The Comanche has new stealth technology that will enable it to avoid air defenses in such countries as Iraq and Bosnia.

The Comanche scout helicopter is one of the most important programs in the Defense Department budget, and should not be terminated.

Despite the disappearance of the Soviet Union, the United States still faces major regional threats. Comanche is eminently qualified as the next generation, light armed scout helicopter and will provide a critical element in the Army's future role in meeting these threats. It also represents the culmination of an effort, started some 9 years ago, to integrate the latest proven advancements in airframe, engine, avionics, and combat subsystems and components into one of the most capable, survivable, maintainable, and cost-effective scout helicopters in the world.

Comanche represents the classic example of a prudent acquisition policy, and will meet the requirements of the Army.

It is noteworthy, Mr. President, that the Armed Services Committee based its recommendation to terminate Comanche because the Defense Department lacked an adequate acquisition plan. At the same time, the committee stated in its report that "it believes the Army has a legitimate need for an advanced technology scout helicopter in the next century."

Mr. President, I submit that the Comanche is the answer to that recognized need, and should be supported by the Senate.

COMANCHE HELICOPTER PROGRAM

Mr. SHELBY. Mr. President, I am deeply disappointed that the committee chose to terminate the RAH-66 Comanche Light Helicopter Program. While I do not agree with the committee's decision, I share the committee's belief that the central problem with the Comanche program is its flawed acquisition strategy. When the committee marked up this legislation, the Department of Defense had been unwilling to provide evidence that it will agree to take this program to procurement at the end of the existing demonstration phase. This policy does not, however, subtract from the fact that the Comanche is a good program—well-developed, well-conceived and the Army's number one priority. The Comanche is the most cost and operationally effective way to modernize the current light helicopter fleet.

I believe that this is also an issue of fairness. The Department of Defense budgeted nearly $11 billion to develop a new attack aircraft for the Navy, even though there is not a single design approved for the program. Yet, the Department refused to budget more than $1.9 billion for the Comanche, which is 5 years ahead of the AX and just as critical for future warfighting needs. Indeed, the entire Army procurement budget is just $6.8 billion, compared to $22 billion for the Navy and $24.6 billion for the Air Force. Similar inequities exist in the research and development accounts. The R&D budget is $5.4 billion for the Army, $8.5 billion for the Navy and $14.5 billion for the Air Force. Taking these low spending levels into consideration, I cannot find any justification for terminating the Army's only major new start, apart from the flawed acquisition strategy imposed on the Army.

I have recently held a meeting with the Vice Chief of Staff of the Army, Gen. Dennis Reimer, and Mr. Frank Kendall, the Deputy Director of the Department of Defense tactical warfare programs, in an effort to bring the Department of Defense to a decision on the Comanche. I found this meeting to be very productive. I believe that the committee has got the attention of the Army and the Secretary of Defense and now believe that the Secretary is fully behind this program.

Mr. President, I ask unanimous consent to print in the RECORD a letter from the Secretary of Defense, Dick Cheney, to the chairman of the committee in support of the Comanche.

Mr President, the Army's current light scout and attack helicopter fleet must be modernized. The Comanche will be more deployable, more supportable, more compatible for shipboard operations and more versatile than any aircraft in the Army fleet. I will continue to fight to ensure funding for this valuable aircraft.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF DEFENSE,
Washington, DC, August 7, 1992.
Hon. SAM NUNN,
Chairman, Committee on Armed Services, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Committee on Armed Services recently reported an authorization bill that would terminate any further work on the Army's Comanche helicopter program. I would like to ask your reconsideration of that action.

Comanche is the Army's number one modernization program. The Army needs Comanche to replace its large fleet of aging scout/attack aircraft. These aircraft now have an average age of 25 years, they are costly to maintain and operate, and they are technologically obsolete. We will be able to replace this fleet of 3,000 older aircraft with about 1,300 Comanches.

This past January, we reduced Comanche funding and stretched the development program to reduce risk in the program. These actions should not be interpreted as a lack of support for the program. On the contrary, we believe the Comanche is essential to the Army's efforts to modernize its aviation forces.

Assuming the program meets its cost, schedule, and technical performance goals, the intention reflected in our budget is to put Comanche in the hands of our soldiers when development is completed.

Sincerely,
DICK CHENEY.

HELMS AMENDMENT TO RESTRICT FEDERAL FUNDS FOR AIDS RESEARCH PROJECTS

Mr. ADAMS. Mr. President, once again we are faced with an amendment that strikes a severe blow against people with AIDS rather than fighting against the disease of AIDS.

This amendment would restrict research into prevention strategies for reducing the risk of transmission of HIV. This research should be a top public health priority. HIV will not go away on its own. We must research the most effective ways for people to eliminate the risk of getting or giving HIV.

Although much has been done to educate the public about how the HIV virus is transmitted, more needs to be done. Research and prevention projects must be supported with Federal funds if we are to beat this horrible epidemic.

Congress has approved Federal funding for biomedical and behavioral research with respect to a variety of diseases, including AIDS. This research, as well as prevention and treatment programs, are making a substantial change in the lives of people with AIDS, and people at risk of AIDS, which is every one of us.

This amendment is really a witch hunt against projects that deal with AIDS, especially when gay and bisexual men are involved in the project. Research that identifies high risk behaviors for this and other sexually transmitted diseases is scientific and funded after peer review.

Restricting the funds for this research will do a great disservice to the health care of the Nation. By changing the behaviors that can lead to AIDS, we will save millions of dollars in health care and human resources costs. Most importantly, we will also save lives, not only of the people who engage in these behaviors, but also of their spouses, partners and future children.

This is an amendment based on prejudice and irresponsible health care policy. I would like to quote Mary Fisher's moving words in Houston, and remind my colleagues: "We may take refuge in our stereotypes, but we cannot hide there long. Because HIV asks only one thing of those it attacks: Are you human? And this is the right question. Are you human?"

I ask all of my colleagues to oppose this amendment.

Mr. BRADLEY. Mr. President, I oppose the high level of spending on unnecessarily large and costly armed forces permitted by this Defense authorization for fiscal year 1993. Absent any military threats comparable in size, power, or technology to those that used to be posed by the former Soviet Union, several billions of dollars worth of expenditures authorized by this bill are unwarranted in the new, post-cold war era. These funds should have been reallocated to meet the most pressing needs for worker retraining, new infrastructures, and other domestic investment programs.

SUPPORT EXPEDITED ECONOMIC CONVERSION ASSISTANCE

Mr. WELLSTONE. Mr. President, I rise to express my support for the amendment offered by my distinguished colleague, Senator KENNEDY. I am proud to be a cosponsor. The amendment substantially strengthens the defense conversion, assistance, and stabilization provisions of the bill. It draws on the excellent work of the Senate Democratic Task Force chaired by Senator PRYOR and seeks to lessen the impact of defense spending cuts on workers, communities, and States.

The amendment makes Federal economic conversion programs more responsive to the needs of displaced workers and hard-hit communities. It moves aggressively to address flaws in the job training program administered by the Department of Labor that is the main source of reemployment and retraining assistance to workers displaced from defense industries. In this connection, it should be noted that the Office of Technology Assessment's recent study, titled "After The Cold War," pinpointed lack of rapid response as one of the most urgent problems confronting this program. Senator KENNEDY'S amendment addresses this issue directly by authorizing Federal reimbursement of States for rapid response services to displaced defense workers. This will unquestionably encourage States to provide more timely assistance to workers threatened by layoffs. The amendment also enjoins the Secretary of Defense to expedite as far as possible the expenditure of funds intended to provide aid to workers or communities adversely affected by defense spending cuts. Addressing a longstanding problem, this provision specifically covers DOD transfer of funds to other Federal agencies. Delays in transfers of Pentagon funds to the Departments of Labor and Commerce under terms of the fiscal 1991 DOD authorization bill have severely hamstrung economic adjustment assistance to workers and communities affected by a shrinking defense budget. This amendment should discourage similar Pentagon foot-dragging in the future.

Mr. President, other provisions of the amendment are equally important and worthwhile. Let me briefly touch on two key provisions. Under the first, employees of defense contractors will be provided almost 6 months advance notice of cancellation or substantial reduction in a defense contract, rather than only 60 days as current law requires. This is an important change because, under current law, worker eligibility for vital job training services begins only after such notice is received. With greater advance notice, a larger number of displaced workers will be able to avail themselves of Federal transition and support services. The amendment also contains innovative provisions that modify technology programs to increase worker input and participation in high-performance work organization. It ensures that the vital role of workers in technological innovation will not be ignored.

Mr. President, we have been slow and, at times, timid in assisting American workers and their communities to make the major adjustments necessary to adapt to the economic changes brought on by the cold war's end. This measure takes modest but important steps to facilitate economic conversion and adjustment. I urge my colleagues to join me in supporting the amendment.

U.S. NUCLEAR TESTING

Mr. SANFORD. Mr. President, I rise today to voice my support for the Hatfield-Exon-Mitchell amendment to impose a 9-month nuclear testing moratorium until July 1, 1993, and to establish a comprehensive ban on United States nuclear testing on September 30, 1996, provided Russia does not conduct any tests in the interim. The amendment will allow the United States safely and responsibly to reduce nuclear testing and will ultimately end it altogether in 1996.

As a cosponsor of legislation which would impose a 1-year moratorium on nuclear testing, I strongly believe that it is essential for the United States to join in the nuclear test bans previously announced by France and Russia in order to strengthen the momentum for a worldwide comprehensive test ban.

For the past five decades, the world has witnessed an enormous buildup of nuclear weapons. Coupled with that buildup has been an increasing need and desire to conduct more and more nuclear tests without being certain of the consequences to our environment and our future. However, with the end of the cold war, the United States has an unprecedented opportunity to stop testing nuclear weapons. Now that France and Russia have suspended their testing, and the United States has stopped producing new nuclear weapons, we must take advantage of this opportunity and make the world safer for our children's future.

Opponents of the ban have argued that a moratorium will reduce the safety and reliability of our current nuclear stockpile. Nobody will deny the importance of safety and reliability for our nuclear stockpile. Consequently, after the 9-month moratorium, this amendment allows for five tests to be conducted each year for 3 years. It also allows for one reliability test to be conducted each year if Congress approves of such a request. Frank von Hippel, a physicist with Princeton University, remarked before the Senate Foreign Relations Committee on July 23, 1992, that the current nuclear stockpile could be made safer with little or no new testing.

The 1969 Treaty on the Nonproliferation of Nuclear Weapons [NPT] made significant progress toward ending the nuclear arms race. The goal was to have the nuclear powers end the nuclear arms race and, through a concerted effort, strive for global nuclear disarmament. If the United States continues with its policy of unlimited nuclear testing, then previous efforts toward global disarmament will be seriously threatened. The treaty is scheduled to come up for review in 1995. A nuclear testing moratorium, and a scheduled plan for a comprehensive test ban, would demonstrate the United States' sincere commitment to promoting a nuclear-free environment for the world.

If we are to continue to promote peace in the context of the post-cold war era, we must pass a nuclear testing moratorium. France and Russia have called on the United States to suspend testing. Boris Yeltsin reports that the Russian military can resume nuclear testing at the end of the year if the United States does not impose a moratorium. If we do not pass a moratorium, then current nuclear powers and nonnuclear states will find no reason to stop their efforts to start or increase their nuclear capabilities.

Mr. President, the House of Representatives voted for a 1-year moratorium on testing in July. In August, the Senate passed an identical amendment to the Senate Energy and Water Development Appropriations Act. Once again, I support the moratorium on nuclear testing for the safety of our global future, and ask other Senators to do the same.

BURDENSHARING

Mr. LAUTENBERG. Mr. President, I intended to offer an amendment to this bill calling on the administration to negotiate new burdensharing agreements with our wealthier NATO allies. However, in light of the burdensharing recommendation included in the Department of Defense appropriations bill for fiscal year 1993, I will not be offering an amendment on this bill. The burdensharing recommendation included in the Senate version of the Defense appropriations bill responds in a very positive way to the concerns I had raised.

Under the committee-approved version of the Department of Defense appropriations bill for fiscal year 1993, the administration's request for overseas O&M and foreign national salaries at U.S. bases in Europe is reduced by $175 million. This cut approaches a 5-percent reduction in the amount of O&M funding the Pentagon plans to spend for the European bases of our wealthier allies in fiscal year 1993. In addition, bill language prohibits the services from obligating an additional $175 million in fiscal year 1993 funds for these programs until the Secretary of Defense notifies Congress that negotiations with our wealthier allies have yielded increased contributions.

The Appropriations Committee also has taken the wise step of directing the administration to follow the model of the relatively new United States-Japan burdensharing agreement when it negotiates new agreements with our wealthier NATO allies. This is an important directive. The new Japanese agreement is a good model for host nation agreements because it offers a much better deal for the American taxpayer. For example, according to DOD, Japan will pay 70 percent of the United States overseas basing costs and the United States will pay for 30 percent of those costs in fiscal year 1992. By 1996, Japan is supposed to pay all of those costs.

On the other hand, under the existing United States agreements with Germany, the administration lets the American taxpayer get taken to the cleaners. For example, in fiscal year 1992, the Germans will pay for only 23 percent of our overseas basing costs, while the American people are forced to pay the remaining 77 percent. The American people shouldn't have to pay so much. We can't afford it.

Meanwhile, the German Government recently announced that it would spend $8 billion over 5 years toward the cost of housing Russian troops in the former East Germany. Ironically, this is about how much Germany paid the United States over the last 5 years to protect their security. If the Germans can spend $8 billion to house Russian troops, I believe they can pay the United States more than 23 percent of what it currently costs to station thousands of United States troops in Germany to protect their security.

We're getting the short end of the stick when it comes to paying salaries as well. Our Government pays for salaries of foreign nationals in Germany and in all host nations who work on United States bases. The Germans pay for only 18 percent of those salaries. At the same time, the Japanese are currently paying 66 percent of those salaries and will pay for 100 percent of those salaries by the end of the Japanese 1995 fiscal year. I believe the Germans also should pay 100 percent for the salaries of foreign nations at those bases.

Under our agreement with Germany, the American people will be required to pay severance to German workers who will lose their jobs as a result of the military drawdown. According to the GAO, this could potentially cost the United States taxpayers an additional $207 million. It's hard to believe that our administration, which fought so hard against extending unemployment benefits for hard-working United States citizens, would agree to pay severance to German citizens while our own citizens are out of work. This must change.

The President needs to negotiate agreements which require host nations to pay all labor, utilities, and services at our facilities. The agreement we have with the Japanese calls for the host nation to assume 100 percent of labor—including foreign national salaries and severance pay—and utilities costs by April 1996.

The President should negotiate agreements in which the host nation would pay for all military construction projects and real property maintenance. The Japanese currently pay for a portion of these costs, and will pay more.

The President should seek agreements in which host nations would pay for all leasing requirements associated with U.S. military presence. The Japanese agreement requires the Japanese Government to pay for all appropriate yen based costs.

The President should seek agreements which require host nations to pay for all actions taken to meet local environmental standards. The Japanese agreement calls for the host nation to assume environmental restoration costs.

The President should seek agreements which require host nations to relieve the U.S. military of all tax liability incurred on a U.S. military installation. The Japanese agreement does this—including exemptions from all tolls and customs fees.

And the President should seek agreements to ensure that goods and services furnished to the U.S. military forces are provided at minimum cost and without imposition of user fees. The Japanese agreement exempts United States military goods and services from all tolls and customs fees.

We continue to finance a disproportionate share of the defense burden. In 1991, the United States spent approximately $1,180 per capita for the defense of the world, while Germany only spent approximately $446 per capita. And we continue to spend the highest portion of our GDP on defense. According to the most recent available statistics, the United States spent a staggering 5.9 percent of its GDP on defense, while Germany spent only 2.8 percent.

The United States simply cannot afford to pay any longer. Our Nation has nearly a $400 billion deficit, and a $4 trillion national debt. Yet, in fiscal year 1992, according to the Defense Department, we spent about $12.5 billion on overseas basing costs. Almost half of that was spent in Germany. We can't continue bankrolling the defense of our allies.

Clearly, more needs to be done to force the administration to get our allies to pick up more of the defense tab. For many years, Congress has urged the administration to get our wealthy NATO allies to contribute more, and very little has happened.

Even with these new host nation agreements, the United States will continue to pay enormous amounts of money to defend collective security interests overseas. We will still pay for the cost of our personnel, our equipment, our operational costs, transportation costs, and ammunition. We will still spend billions defending Europe, the Pacific, and the Middle East.

I believe the proposal included in the Senate version of the Defense appropriations bill will move the administration in the right direction, and will help relieve the American people of part of the defense burden which they've carried for far too long. It is a good first step. For that reason, I no longer intend to offer a burdensharing amendment on this bill.

NUCLEAR TESTING AMENDMENT

Mr. PELL. Mr. President, 1 month ago I strongly supported the Hatfield-Mitchell-Exon amendment to the Energy and Water Development Appropriations Act, H.R. 5373. I am delighted that the same language offered by Senator HATFIELD, which I enthusiastically cosponsored, was adopted by the Senate today. This was a timely and decisive vote by the Senate which will, I hope, be the turning point towards a worldwide ban on nuclear testing.

In my view there is a linkage between U.S. restraint and the willingness of others with nuclear weapons programs to control themselves. For the case of Russia, this linkage is very direct as shown in the statements of the Russian Ministers of Defense and Atomic Power, the equivalents of Secretary Cheney and Watkins. On July 23, Russian Defense Minister Pavel Grachev commented on the linkage:

> Our position is that we are prepared, along with the other nuclear powers, to immediately examine the question of a comprehensive nuclear test ban * * *. If a side has no intention of creating new types of warheads, then there should be no problem in giving up testing in this respect. As for monitoring the reliability and safety of existing nuclear warheads, it seems to that the sides have already built up sufficient experience. I would like to express the hope that the United States will take all this into account and that the deadlock on the question of a nuclear test ban will be broken.

The Russian Minister of Atomic Power, Victor Mikhailov, acknowledged this coupling by stating:

> Following our example, in April France declared a moratorium on nuclear tests until the end of 1992. The United States has the last word and the whole world awaits this step.

It is my strong opinion that we should not give Defense Minister Grachev and Atomic Power Minister Mikhailov the message that they should begin again their work on Russian nuclear weapons.

Mr. President, as you know, the amendment by the distinguished Senator from Oregon Mr. HATFIELD calls for the President to develop a plan to negotiate a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996. The global CTB can and must be a reality. A worldwide ban on nuclear testing will make a difference in making the world a safer place. Such a ban would not guarantee that a future Iraq will not try to develop nuclear weapons, but it will make a difference in the internal debates of those nations that are moving towards nuclear weapons.

Mr. President, this amendment allows a number of tests for reliability and safety reasons before the specified end to testing on September 20, 1996. I believe that the number of tests is increasingly high. I would hope that allowance is treated as a ceiling and not a goal.

Nonetheless, there is no question in my mind that the allowed tests will enable the United States to embark upon the regime required by the START Treaty and the prospective de-MIRVing treaty secure in the knowledge that its deterrent forces are safe.

In connection with its consideration of S. 2064, a bill providing for a nuclear moratorium, the Committee on Foreign Relations held a hearing on July 23 with representatives of the Departments of Defense and Energy, as well as nongovernmental experts. At that hearing, we explored safety issues in some depth.

The U.S. criteria for safety is to virtually eliminate the possibility of an accident releasing a nuclear yield of more than the equivalent of 4 pounds of high explosive. Over the years, the United States has added: First, special safety configurations to prevent detonations when warheads are dropped or bashed; second, insensitive high explosives to reduce the risk of accidental detonations of the nonnuclear explosives surrounding the nuclear heart of each device; third, fire-resistant pits to prevent detonations of nuclear weapons when bombers crash and burn or missiles catch fire; and fourth, enhanced nuclear detonation safety equipment.

After U.S. forces are adapted to the START and de-MIRVing treaties, all these safety features will be on most of the warheads, depending on whether the executive branch substitutes fully safe warheads for warheads that lack certain safety features because of earlier decisions. For example, Trident missile warheads lack insensitive high explosive because the Navy decided that the safety risk was so small that it did not justify burdening the Trident warheads and shortening their range through the installation of much heavier and more bulky insensitive high explosive.

Propelling these safety improvements were such incidents some years ago as the crash of a bomber carrying nuclear weapons at Thule, Greenland, and the mid-air crash of a bomber near Palomares, Spain, causing weapons to be dropped on land and sea. After that time, the bombers no longer took routine flights with nuclear weapons aboard. More recently, all U.S. bombers have been taken off alert. The Navy now loads the Trident SLBM's without warheads, and then places the warheads into the SLBM's. This two-step procedure reduces the risk of accidents involving these warheads.

In December 1990, a panel chaired by Prof. Sidney Drell, of the Stanford Linear Accelerator Center, released a report on nuclear weapons safety. The report cited a number of safety problems. Many of the problems cited in that report have been addressed by removing the older weapons systems. The main remaining issues raised by the Drell panel that could lead to further nuclear testing are: First, the absence of insensitive high explosive on the Trident W76 and W88 warheads; and second, the lack of fire-resistant pits on gravity bombs and cruise missiles on heavy bombers. The administration has not chosen to rebuild these systems because of the expense and because the safety level of these systems has been thought acceptable.

The administration has testified that the present arsenal is safe. Dr. Robert Barker, Assistant to the Secretary of Defense—Atomic Energy—stated in March 1992, before the House Armed Services Committee:

> The Air Force and Navy, in cooperation with the Office of the Secretary of Defense and the Department of Energy, evaluated the safety of all ballistic missiles that carry nuclear warheads. It was determined that there

is not now sufficient evidence to warrant our changing either warheads or propellants.

Mr. President, Dr. Raymond Kidder of the Lawrence Livermore National Laboratory described to the Committee on Foreign Relations a program involving changes in our systems that would eliminate any requirement for a large number of safety tests. Dr. Kidder told the committee:

> If further investigation should indicate a need to upgrade these missiles to include all modern safety features (they lack Insensitive High Explosive (IHE), and Fire Resistant Pits (FRP)), this could be accomplished as follows:
>
> The W78 warheads could be replaced with existing W87 MX warheads (no nuclear tests).
>
> The W88 warheads could be replaced with W89 warheads whose development tests for use in the now-cancelled SRAM II have been completed. We estimate that not more than four nuclear tests would be needed to adapt the W89 for use in the W88 Mark 5 re-entry body, a different delivery vehicle than that used in the SRAM II.
>
> The W76 warheads could be replaced with a smaller number of W89 warheads modified for use on the Trident II D5 missile. No nuclear tests would be required beyond those conducted to accomplish the W88 warhead replacement.
>
> Some improvement in the safety of the Trident I, II C4 missile could be achieved by changing the missile design to accommodate four warheads instead of eight and replacing, with suitably designed blast/debris deflectors and barriers, the four alternate missile stations that would be removed. (No nuclear tests).
>
> The numbers of tests listed above assume that the Rocky Flats plant in Colorado is not operating, requiring the use of pits salvaged from weapons being retired.

I would hope very much that the Congress and the executive branch will work closely together in deciding upon a program that will keep safety testing to a minimum. I agree with Dr. Kidder that the substitution of safer warheads already available in the existing arsenal, if deemed advisable, is preferable to a further reworking and testing of warheads.

Mr. President, I would hope very much that this amendment, if enacted into law, will spur the administration to reopen talks on a comprehensive test ban. There are many compelling reasons to have a comprehensive ban and no compelling reasons against such a ban.

The Reagan and Bush administrations were essentially unwilling to take steps toward a multilateral ban. We have paid a price for our failure to take a leadership role in this area. A correct decision today will put us solidly on the right path.

Mr. DIXON. Mr. President, my statement today will be one of my last as chairman of the U.S. Senate Armed Services Subcommittee on Readiness, Sustainability and Support. Before I begin to report my subcommittee's actions to my colleagues, I want to take a moment to express my gratitude to the staff of the Armed Services Committee, both majority and minority.

I have had the pleasure of working with some of the brightest, most hardworking and dedicated public servants in the Senate. Mr. President, lately it seems to be fashionable to be overly critical of congressional staffs. Well, I can tell you firsthand that the men and women with whom I have had the honor to work are some of the finest. I would like to take this opportunity to personally thank Dave Lyles, Bob Bayer, Madelyn Creedon, and Mary Kampo-Kyle. Dave Lyles, who has served as my staff director on the subcommittee, is an outstanding professional dedicated to doing his best for his country. Bob Bayer has the awesome responsibility of working on all military construction programs, a job he has performed admirably. Madelyn Creedon is a tough lady who had a tough assignment—as our expert on environmental cleanup, she had to work with various interests, from the Defense Department to industry. Mary Kampo-Kyle is a woman we all depended upon because of her effective and efficient manner.

Mr. President, I have always strived to work in a bipartisan manner on this subcommittee, and I feel my staff exemplifies that spirit of cooperation. I applaud the minority staffers. Mr. Ron Kelly is a gentleman in the truest sense, and Ken Johnson also did an excellent job or representing the views of his members. I would also like to mention a few other staffers with whom I have enjoyed working: John Hamre, a gentleman and outstanding public servant; Creighton Green, who recently lost his father in a tragic accident, yet showed his professionalism by working through his pain during the markup of this bill; Staff Director Arnold Punaro, whose good judgment can be credited for such an outstanding majority staff; and Pat Tucker, the minority staff director, who has done an excellent job or putting together a highly competent professional staff.

The outstanding professionalism of the Armed Services Committee staff is a credit to our committee chairman, and my dear friend from Georgia, and to our committee's ranking member from Virginia. Mr. President, I am honored to have served with people of such a high caliber.

Mr. President, S. 3114, the National Defense Authorization Act for fiscal year 1993, continues the process of reshaping the U.S. Defense Establishment for a post-cold war world. This bill represents the culmination of a great deal of hard work by the members and staff of the Armed Services Committee, and I urge my colleagues to support it.

As chairman of the Subcommittee on Readiness, Sustainability and Support, I want to take a few moments to highlight for my distinguished colleagues the provisions in the bill under the subcommittee's jurisdiction. My subcommittee has oversight responsibility for programs totaling approximately $99.5 billion in the fiscal year 1993 Defense budget, the largest funding jurisdiction of any subcommittee on the Armed Services Committee and a little more than one-third of the total defense budget.

To get the markup process going in the committee, the chairman wrote each subcommittee chairman and suggested a funding allocation for each subcommittee markup. The chairman specifically asked the Readiness Subcommittee to recommend reductions of $3.6 billion as our contribution toward meeting the budget resolution target. The subcommittee's recommendations resulted in the reductions of approximately $4 billion to the fiscal year 1993 budget request, so we actually exceeded the target that the chairman gave us. I am satisfied—and I think the Members of the Senate will be satisfied—that these savings can be achieved without hurting the programs that are essential to the readiness and capability of our Armed Forces.

The Readiness Subcommittee developed a major initiative in the area of inventory management in the Department of Defense. The subcommittee has spent a great deal of time on this subject this year and in years past. In my view the Defense Department has made progress in improving inventory management, but our hearings showed that a lot more can be done.

The committee bill contains a series of initiatives that result in a total of $3.2 billion in savings in fiscal year 1993. These initiatives will:

Reduce new inventory coming into the DOD supply system by putting a cap of 65 percent of sales on obligations for new purchases of inventory through the Defense Business Operations Fund;

Encourage the military services to return excess stocks located in operating units to the supply system to reduce future purchases by withholding funds from the O&M accounts that can only be used if these stocks are turned in;

Address the problem of excess on order stocks that we discussed in our hearings this year and that GAO has talked about—procurements for items for which a requirement no longer exists—by reducing funds in the Army and Air Force that can be recouped through cancellations of these unnecessary purchases;

Reduce overall funding requested by operating units and weapons system program offices to purchase new inventory in fiscal year 1993 by 5 percent; and

Direct the Defense Department to review their retention policies for retaining stocks in the supply system. Current policies require the services to retain many items in stock far past their useful life.

We have to be careful in this area, because inventory purchase can have a direct relationship to training and readiness. I think we have crafted a package of initiatives that provides enough incentives to military services that they can recoup a large portion of this reduction by changing the way they order and manage their secondary item inventories. I want to acknowledge and thank Senator LEVIN for his leadership and assistance in this area.

There has been a lot of interest in DOD recruiting programs recently. All of us support the efforts of the military services to recruit and retain high quality people to join the services. At the same time, our review this year has found that the military services are probably recruiting for a higher level of forces in the future than we are likely to sustain. We also found that some areas of DOD's recruiting budget have not been cut back commensurate with the reductions in recruiting levels that have already taken place in the last 3 years.

DOD's total active and reserve recruiting budget is approximately $1.9 billion. The largest expense in recruiting is paying the salaries of the roughly 23,000 military personal assigned to recruiting activities. Only 25 percent of the total recruiting budget is in the O&M accounts under the jurisdiction of this subcommittee. Working with the Manpower and Personnel Subcommittee, we developed a three-part initiative in the recruiting area that:

Reduces O&M funding for recruiting in fiscal year 1993 by $27 million, providing a level of recruiting support in fiscal year 1993 that is 6 percent below fiscal year 1992 and 11 percent below fiscal year 1991;

Requires a reduction of 10 percent over the next 2 fiscal years in the number of military personnel assigned to recruiting functions in the military services. This provision will reduce recruiting costs by $130 to $150 million per year once the reductions are in place; and

Directs the Air Force and the Navy to consider consolidating their Active and Reserve recruiting organizations under a single command similar to the Army and Marine Corps recruiting commands.

There are a series of what I would call economy and efficiency reductions in the bill under the subcommittee's jurisdiction that affect all of the military services. These include reductions in travel and printing costs, contract advisory and assistance services, and administrative airlift flying hours.

Finally, there are a number of fact-of-life pricing and financing changes that have occurred since the budget was submitted in January in areas such as inflation, foreign currency, civilian pay, stock fund cash, and arms control compliance costs. None of these reductions will affect the execution of O&M programs during fiscal year 1993.

The Readiness Subcommittee also had jurisdiction over portions of the Defense transition and conversion initiatives in the committee bill dealing with assistance to local communities. The committee recommends increase of $283 million for these programs. These recommendations include an increase of $25 million for the Defense Department's Office of Economic Adjustment; a total of $200 million for the job retraining and economic development grants authorized the Defense Economic Adjustment Act that we passed in 1990; and $58 million for payments to local school districts heavily impacted by DOD military dependents.

In the military construction area, the committee recommendations include establishment of a moratorium on the expansion or modernization of medical research teaching facilities in DOD pending the evaluation of DOD's long-term needs in this area and deferring replacement of two DOD dependent schools in Germany until our force levels in Europe are settled and other burdensharing alternatives can be explored.

There are several legislative provisions in the committee bill which I want to bring to the attention of my colleagues.

Currently, purchases of items with a unit cost of over $15,000 are budgeted and centrally managed through the procurement accounts. One provision would authorize the Secretary of Defense to increase the threshold on purchases made with O&M funds from $15,000 to $100,000. This sounds like a small item, but I believe it will give local commanders a lot more flexibility to manage their programs and achieve efficiencies, particularly in making tradeoffs between leasing and buying items at local bases.

Another provision would broaden the authority we enacted last year for the military services to compete their depot maintenance workload between DOD depots and private contractors. This competition program is beginning to produce real savings, and I think it should be expanded beyond the pilot program contained in last year's act.

I want to highlight two environmental provisions. The first would direct the Department of Defense to establish a contractor risk-sharing program for environmental cleanup projects. As DOD moves into actual cleanup of contaminated bases, contractors are becoming reluctant to bid on these projects, in large part because of the difficulty in obtaining adequate liability insurance from the commercial market.

The second provision addresses problems associated with the cleanup of closing bases. This provision establishes a mechanism for identification and early sale of the clean portions of closing military bases. In addition, the provision provides liability protection from damages due to environmental contamination associated with prior military use for those who use all or part of former military bases. I believe this provision will help speed up the reuse of military bases that are being closed.

Mr. SMITH. Mr. President, I rise today to offer some personal comments on the fiscal year 1993 Defense authorization bill.

First of all, I would like to take this opportunity to commend the distinguished Senators from Georgia and Virginia for their leadership in formulating this legislation. It has been a very challenging year for the committee. The task of reconciling our national security requirements with diminishing budget allocations was extremely difficult and frustrating. And while I am disappointed with the final product, I do wish to thank the distinguished chairman and ranking member for their perseverance and bipartisanship.

Mr. President, as many of my colleagues know, I voted against S. 3114 in committee. This was not a decision which I took lightly, for there is much in the bill which I strongly support. However, in several key areas, I believe the legislation is fundamentally and dangerously flawed.

First and foremost, the committee bill fails to honor the bipartisan consensus embodied in the Missile Defense Act of 1991. As my colleagues will recall, last year, the Senate initiated and secured passage of landmark legislation which established a formal goal of deploying a multiple site AMB system to protect the American people, our forward deployed and expeditionary forces, and our friends and allies against ballistic missile attack.

The legislation enjoyed strong bipartisan support and included three basic programmatic initiatives: First, to rapidly develop and deploy highly effective theater missile defenses; second, to rapidly develop and deploy a multiple-site, limited defense system to protect the United States, beginning with an initial AMB Treaty-compliant site; and third, to maintain robust funding for brilliant pebbles to preserve the option of augmenting theater and strategic defenses in the future and space-based interceptors.

Inexplicably, however, the majority side of the committee has retreated from these commitments. The bill before us slashes the administration's budget request by $1 billion at the very time which we are supposed to be accelerating development of missile defenses. This intentional budgetary lowballing will inevitably cause schedule delays and cost-increases, both of which run contrary to the Missile Defense Act and national security.

Perhaps most objectionable is the committee's treatment of space-based interceptors. Last year, the committee directed that robust funding be provided for Brilliant Pebbles and authorized $625 million for the program. Although funding was later reduced in conference to $465 million, or 11 percent of the SDI budget, there was a clear consensus that this 11 percent represented the baseline for robust funding. Consistent with this guidance, the administration requested $575 million for space-based interceptors this year which, again, represents 11 percent of the budget. However, the majority has seen fit to dramatically reduce Brilliant Pebbles funding by more than $200 million, while at the same time retaining the requirement for robust funding. Mr. President, $350 million does not represent a robust funding level, and as one Senator who participated in last year's conference deliberations, I strongly object to the majority's failure to honor this important commitment.

I would say to my colleagues, Brilliant Pebbles offers the most cost and operationally effective SDI option in the future. We must not deny our Nation the tools to defend against emerging missile threats. If the Brilliant Pebbles Program is terminated or transformed into a mere technology demonstrator, we will have foregone the most promising deployment option in the SDI Program. I urge my colleagues to reject partisan pressures and preserve this $350 million as the bare minimum necessary to maintain a viable program.

Mr. President, I am also concerned by the committee's failure to responsibly address National Guard and Reserve cutbacks. Without question, our citizen soldiers play an essential role in the defense of our Nation. They are truly a national asset which must be preserved. However, as we transition to a much smaller active force, as Congress and the administration have agreed upon, it is imperative that we downsize our Guard and Reserve Forces proportionally, in order to maintain an appropriate balance in the total force.

While the bill before us authorizes 100 percent of the requested active end-strength reductions, it approves less than one-fourth of the administration's Guard and Reserve cuts. Furthermore, the committee bill prevents any reductions in Guard or Reserve Force structure. This simply makes no sense. With the threat of a lightning Soviet attack through the Fulda Gap now gone, we are bringing our active personnel and their dependents home at a rate of 500 per day. How can we justify maintaining excessive Reserve structure to reinforce troops which no longer exist in a war that can no longer be waged? I recognize that it is never politically popular to close armories or reduce Guard and Reserve billets, but by failing to drawdown our Reserve Forces in proportion to the active component we are destroying the symmetry of the total force. We must avoid at all costs a reversion to the hollow, untrained forces of the 1970's.

In addition to these programmatic concerns, I am deeply troubled by the overall spending levels embodied in this bill. The Armed Services Committee's bill is $7 billion below the President's amended budget request and almost $3 billion below the Senate's budget resolution. The President has already proposed dramatic defense reductions which will bring American military spending to its lowest level since before World War II. The additional reductions recommended in this bill are excessive and threaten to severely undermine our preparedness. In particular, I am concerned that several key subcommittees, namely the Strategic Forces Subcommittee, the Conventional Forces Subcommittee, and the Readiness Subcommittee were forced to cut their budgets by more than $1 billion each.

At the same time, the Defense Industry and Technology Subcommittee inflated its budget by more than $1 billion for programs which, in most cases, relate only peripherally to keeping our forces ready and well-equipped. Under the veil of defense conversion, the committee bill allocates extensive resources to a variety of programs that, justifiably, fall under the jurisdiction of Federal agencies other than the Defense Department. The authorization bill should fully fund our national defense requirements with an eye toward the defense industrial base, not become a partisan vehicle to promote the Democrat's industrial policy.

Mr. President, I will have more to say on these issues throughout the Senate's debate, but for now, I would urge my colleagues who are quick to demand further reductions, to exercise restraint. The cold war has ended, and America now stands alone as the preeminent world power. Let us not compromise this hard-fought superiority and revert to being one of the pack. We can and will realize defense savings. But these initiatives must be preceded by thoughtful, objective review and analysis; not random pillaging.

I thank the Chair, and I yield the floor.

REDUCING U.S. ARMED FORCES IN EUROPE

Mr. KASTEN. Mr. President, I rise today to support this very important amendment. The time has come to significantly rescue our troop strength in Europe.

For many years we spent billions of dollars supporting our allies from the threat of nuclear war in Europe. During the dark days of the cold war, maintaining a strong U.S. military presence in Europe was essential. But now reality dictates a change in course.

I am pleased that the administration has decided to reduce our troop strength in Europe by 50 percent from current levels. But that is not enough. I support going beyond the 150,000 force level—and cutting our troop strength an additional 33 percent to 100,000. That is why I am a consponsor of the amendment offered by the chairman of the Armed Services Committee.

The new world order requires us to maintain a strong defense. But our forces need to be reconfigured for tomorrow's crisis. The spectre of an all-out land war in Europe is no longer imaginable. The Warsaw Pact has been dissolved and the former Soviet Union is more concerned with developing enterprise zones than military forward-deployment zones.

By the end of fiscal year 1993, the Department of Defense will have finished its troop drawdown. Many military bases in the United States have been closed already or will be closed in the near future. Now is the time to reduce our base presence in Europe. Let's bring our men and women home, and develop our forces so we can respond quickly and efficiently to world crises.

With 100,000 troops remaining in Europe, we will still meet our security and treaty obligations to our allies. By financially supporting our troops here in the United States, we will be helping our domestic economy rather than pumping that money into the economies of the countries we're competing with in the world marketplace. Besides, if this amendment is adopted, we will be saving the American taxpayer roughly 10 percent a year to maintain our troops here in America than over in Europe.

Furthermore, maintaining U.S. troops at 100,000 in Europe will send a signal to our allies that we are still committed to their defense, and will say to possible agreessors that America is leaner and meaner and more committed than ever—to protect those that seek to defend liberty and freedom.

For these reasons, I urge my colleagues to support this amendment.

INVENTORY MANAGEMENT IN THE DEPARTMENT OF DEFENSE

Mr. NUNN. Mr. President, over the last several years the Armed Services Committee has spent a great deal of time on the issue of inventory management in the Department of Defense. Reports by the General Accounting Office and the Defense Department inspector general have repeatedly identified DOD inventory management as an area with substantial problems requiring significant management attention and corrective action.

In my view DOD has made progress in improving inventory management, but our hearings showed that a lot more can be done. The fiscal year 1993 Defense authorization bill currently before the Senate contains a series of initiatives to improve inventory management in DOD that result in a total of $3.2 billion in savings in fiscal year 1993. These initiatives will:

Reduce new inventory coming into the DOD supply system by putting a cap of 65 percent of sales on obligations for new purchases of inventory through the Defense Business Operations Fund;

Encourage the military services to return excess stocks located in operating units to the supply system to reduce future purchases by withholding funds from the O&M accounts that can only be used if these excess stocks are turned in;

Address the problem of "excess on order" stocks that the committee discussed in our hearings this year and that GAO has talked about—procurements for items for which a requirement no longer exists—by reducing funds in the Army and Air Force that can be recouped through cancellations of these unnecessary purchases;

Reduce overall funding requested by operating units and weapons system program offices to purchase new inventory in fiscal year 1993 by 5 percent; and

Direct the Defense Department to review their retention policies for retaining stocks in the supply system. Current policies require the services to retain many items in stock far past their useful life.

We have to be careful in this area, because inventory purchases can have a direct relationship to training and readiness. I think the committee has crafted a package of initiatives that provides enough incentives to the military services that they can recoup a large portion of this reduction by changing the way they order and manage their secondary item inventories.

Mr. President, I want to congratulate the two members of the Armed Services Committee most responsible for the committee's recommendations in this area.

As chairman of the Readiness, Sustainability and Support Subcommittee, Senator ALAN DIXON has been a consistent, strong supporter of the funds necessary to maintain the readiness of our military forces. At the same time, he has consistently worked to improve the efficiency of operations throughout the Department of Defense logistics community, and it was his Subcommittee that developed the committee's initiative on inventory management in this bill.

Senator CARL LEVIN also made an important contribution to the committee's work on this subject this year, as he has for many years. As chairman of the Subcommittee on Oversight of Government Management on the Government Affairs Committee and as a longstanding member of the Subcommittee on Readiness, Sustainability and Support, Senator LEVIN has been investigating problems in DOD inventory management for the last several years, and his hard work has clearly paid off.

I want to thank both Senator DIXON and Senator LEVIN for their important contribution in improving inventory management in the Department of Defense. Their efforts will improve the efficiency of operations throughout the Department of Defense, and save money for the American taxpayer at the same time.

THE MILITARY RETIREMENT EQUITY ACT

Mr. GRAHAM. Mr. President, I applaud the distinguished chairman and members of the Armed Services Committee for their ability to balance so many important issues and needs in this legislation.

I want to particularly thank Chairman NUNN and the distinguished Senator from Ohio, Senator GLENN—chairman of the Subcommittee on Manpower and Personnel for including in this bill a provision based on legislation I have proposed, the Military Retiree Equity Act (S. 1381).

The legislation before the Senate today takes a great step toward reversing a century old law which prohibits those military retirees who are disabled from concurrently receiving retirement benefits and compensation payments for the disability.

Over the years we have learned that, in military conflicts, our human resources are our most valuable asset.

You cannot win a war just on firepower.

All the weapons in the world won't win a war if you do not have experienced individuals using them.

Therefore, we must make every effort to recruit and retain fine individuals to the armed services.

But to do so, we must have fair policies on how we will treat these individuals once they join the forces, especially those who suffer a disability.

In March, I testified before the Senate Armed Services Committee in support of the Military Retiree Equity Act.

Senator GLENN and his fellow subcommittee members expressed a commitment to try and achieve the goals of that legislation, and I believe they have made a significant effort through this bill.

Section 611 of the Department of Defense Authorization Act requires DOD to submit a legislative proposal next year to permit the concurrent receipt of military retired pay and veterans' disability compensation pay.

Second, the bill requires DOD to set aside sufficient funds in its fiscal year 1994 budget to finance implementation of such legislation.

The committee report accompanying the bill states the committee's belief that the current law is inequitable and states the committee's intention to consider the legislation DOD submits with a view towards recommending a proposal for adoption by the Senate next year.

We have the men and women of the U.S. armed services to thank for having the dedication, skill, and courage to keep America safe and free during decades of international instability and conflict.

Because of the reduced threats to the United States, we now have and opportunity to show our thanks to those individuals.

It it time for Congress to reverse the century-old law that prohibits career military who are wounded during their service from receiving earned retirement benefits.

I appreciate the committee's positive response to my and many other Senators' requests for a change in the law, and I look forward to the DOD's implementation of this mandate.

RESTORE FUNDING FOR THE EF-111 UPGRADE

Mr. COATS. Mr. President, I rise today to discuss S. 3114, the Defense authorization bill for fiscal years 1993. In general, I believe the bill reported by the Senate Armed Services Committee adequately provides for our National Security. Although the committee bill contains a number of provisions with which I disagree and I retain objections to some of the funding priorities. Overall I believe it makes a fair attempt to balance our defense needs while making some cuts in spending given our budgetary constraints.

We face a great many dilemmas this year and in the coming years in attempting to fashion a national security policy for a changing world.

Mr. President, we have witnessed extraordinary changes in the last few years. First the fall of the Berlin Wall and independence to the Soviet satellite States in Eastern Europe. Since our bill last year, the Soviet Communist State has collapsed. We have new, democratically elected governments in Russia and the other former Soviet States. We applaud these exciting changes. However, it is important to keep in mind as we reduce the size of our military forces that the world remains volatile and unpredictable—and in many ways more unstable than ever. Our national security requirements have not vanished but rather have become more complex. It is with this understanding that we must proceed in determining our national security needs. We must not be hasty in undermining all that we have accomplished during the last decade.

Mr. President, we must prepare carefully for the future—for the continued security of our land and our people. While it may be true that the Soviet Union—our enemy for so many years—is no longer an enemy or a direct threat to American peace, Desert Storm dramatically indicated that the Soviet Union is not our only danger.

Proliferation of weapons of mass destruction—biological, chemical and nuclear, in addition to missile technology continues unchecked throughout the world. There also remains uncertainty about what will become of the incredible war-making capabilities possessed by the former Soviet Union. Reports flourish that the new states, desperate for hard currency, are selling defense hardware to eager Third World buyers.

Regional conflicts are bound to figure prominently in the future given the current state of conflict around the world and weapons proliferation.

The United States must have the means to respond effectively and quickly to those world crises which jeopardize our interests. We cannot know, nor can we even accurately anticipate, the future. We live in an uncertain and dangerous world. It is therefore vital that the United States maintain a capable, modern, responsive and flexible military force. This force allowed us to achieve a quick victory in Desert Storm—with relatively few losses of American lives—and it is this force which has preserved peace in our Nation for so many years.

I understand, Mr. President, that it is necessary to make changes to our military—changes which reflect the demise of the Soviet State and reflect our own budgetary problems. Reductions, I believe, can be made, but it is essential that they be made thoughtfully and carefully. A rapid drawdown of forces as some propose will be detrimental to our security and will cause undue economic hardship on our Nation and to the men and women who have so faithfully served.

I believe that the committee has attempted to address the Defense bill with all of this in mind and in general I support what has been accomplished.

However, I am concerned about what could be a dangerous and devastating trend. The President proposed a budget this year with $50 billion in cuts. This in itself represents a dramatic reduction. And yet the committee's recommendation as contained in the bill cuts defense an additional $7 billion from the President's request and brings the defense bill $3 billion below the Senate budget resolution. I am concerned that there will be more efforts on the part of my colleagues to cut this year's budget and essential programs even further.

Mr. President, we must understand that additional cuts will have drastic consequences on the future of our forces, our readiness, our responsiveness, the ability to defend our interests. They will also have a dramatic affect on our defense industrial base and our ability in the future to produce weapons when needed. I therefore urge my colleagues to oppose any efforts made to further reduce our budget further.

Mr. President, as I have said, in general I support the moves made by the committee. I am pleased that the committee continues to support the modernization of the M-1 tank, critical to our industrial base. The committee also provided $755 million for development of 3 more production V-22 aircraft in fiscal year 1993. Mr. President, the Marine Corps continues to have a need for a modern medium lift aircraft. The tiltrotor technology of the V-22 will provide the Marine Corps the ability to move troops greater distances at twice the speed of the current CH-46 helicopter. Continued development of this technology is important to both future defense needs as well as commercial aviation applications. Keep in mind that all programs developing innovative technology experience problems and setbacks. We must move quickly to determine the problem and to correct it.

I am pleased that the committee included a provision I requested requiring the Department of Defense to evaluate and report on training practices at civilian airports and to determine if changes can be made to better protect public safety. The devastating crash of a National Guard C-130 aircraft in Evansville, IN last February, killing 11 people on the ground, as well as the C-130 crew, highlighted my concerns about conducting military training at civilian airports. Military training has an important function and I realize that the Guard and Reserve must conduct training. However, it is important that safety of people be considered first and foremost. I look forward to receiving this report from DOD and initialing any policy changes needed.

As most Members are aware, I have also expressed concerns about the lack of action at Jefferson Proving Ground in Indiana which was on the base closure list of 1989. Last year the Senate accepted an amendment I offered requiring the Department of Defense to come up with an environmental/reuse options study at JPG. Since last year I have been very pleased with the cooperation and responsiveness of the Army toward resolving the overwhelming environment problems caused by over 50 years of ordnance testing. Twenty-three million rounds of ordnance fired during this period has left 55,000 acres of land in Indiana riddled with unexploded ordnance. Until this year it appeared that there would be no attempts to satisfactorily resolve this problem. I am, therefore, very pleased that the committee has authorized $10 million to begin a research effort to develop technology to dispose of unexploded ordnance. Mr. President, this is a great step forward to resolving a problem which previously appeared to be unsurmountable. It is unacceptable to simply fence off this land and leave it as is. This move will now provide an opportunity to develop technology to clean up JPG and have the additional benefit of transferring the technology developed to other facilities in the United States and Europe with similar problems of unexploded ordnance.

Mr. President, I would now like to address some of my concerns with this year's bill.

Last year there was consensus support for the Missile Defense Act. I am disappointed at the apparent move away from what most will agree was a landmark agreement reached last year. The Missile Defense Act established a sense of urgency to move toward providing a limited defense system for the United States and further emphasis on providing a more complete defense through continued spending on space-based systems. Mr. President, this year's bill reflects a turning back from the priorities set in the bill last year and a commitment toward adequately funding SDI. The committee and the Senate committed last year to developing and deploying the systems necessary to provide protection to the American people. If these low funding levels continue, we will never be able to provide a defense capability. I especially find the funding for space-based programs well short of what it should be, and I strongly oppose any moves to lower the overall SDI budget further or to cut any more funds from the space-based interceptor program.

I also oppose the cuts to funding for the AX. It is essential that we move quickly to replace A-6, the aging Navy attack fighter already in service an average of 25 years. The AX is intended to replace not only the A-6 but also the Air Force F-111, F-15E and the F-117. The plan to replace the A-6 has already been delayed too long with the debacle over the A-12. It is important to move forward now with the development of the AX. The state-of-art technology of the AX will provide our forces with the necessary superiority to conduct successful long range attacks in the future. I therefore will oppose the committee's action in cutting funds from this program.

The committee also moved to zero funds to continue research and development of the Comanche light helicopter requested by the President. The Army needs the modern capabilities provided by the Comanche. The current helicopter fleet fails to adequately perform the job in today's environment. Mr. President, I understand what has prompted the committee to remove funding. The Comanche is a victim of the new acquisition policy announced this year by the administration. Currently, the Department of Defense has made no commitment to allow the Comanche to go to production but rather only to develop prototypes and shelve the technology. The committee has obvious problems with putting $1.9 billion into a program which as defined currently will only be "a science project". Nevertheless, Mr. President, the role and mission for a light scout helicopter has not gone away. I call on the Defense Department to look carefully at this program and be prepared to make a real commitment to develop the Comanche.

Finally, Mr. President I object wholeheartedly to language added by Senator WIRTH to the bill which would permit abortions at military hospitals overseas. The last 2 years the Senate has invited attempts to add this language to the bill during floor consideration. I am very disappointed that the committee had now determined to add this controversial language dealing with social policy to a bill in which important defense priorities are set. The language as is, will allow abortions on demand for any or for no reason. I plan to offer amendments on this language on the floor and I urge Members to support my efforts to remove this unnecessary language.

Mr. President, I hope my colleagues will refrain from offering amendments that will jeopardize U.S. security by further cutting spending on important programs.

In closing, Mr. President, I would like to commend the chairman of the Armed Services Committee, the distinguished Senator from Georgia, and the ranking minority member, the distinguished Senator from Virginia, for their work on the Defense bill.

FUNDING FOR THE SEMICONDUCTOR MANUFACTURING TECHNOLOGY CORPORATION [SEMATECH]

Mr. **BINGAMAN.** Mr. President, the Defense authorization bill that is before the Senate preserves a strong commitment to research and development for future military systems. It also contains major new initiatives in technology, manufacturing, and defense transition.

While these initiatives seek to exploit some of the traditional R&D strengths of our defense sector, they are also driven by necessity. The resources in the defense sector are shrinking. With small acquisitions and fewer forces, technology will become even more important for military strength. More will have to be accomplished with less. That is why many of these initiatives seek leverage through two principal mechanisms: commercial-military integration and cost-shared partnerships.

These mechanisms are relatively new to defense R&D. There is one notable precedent, however, that provides a strong basis to be optimistic about their potential. That precedent is Sematech, the consortium of U.S. semiconductor producers that has joined with DARPA to develop advanced semiconductor manufacturing technology.

Sematech has been engaged in the development of manufacturing technology that can support both military and civilian needs. It is a special partnership in which all participants engage in planning and cost sharing. The venture is industry led and its results are tested in the marketplace.

Background of Sematech:

Sematech began as an industry initiative to respond to an erosion in the quality of U.S. semiconductor manufacturing. The manufacturing technology of U.S. semiconductor device producers and the manufacturing equipment and materials of the supporting infrastructure had slipped from its position of world leadership, with drastic implications for the competitiveness of the U.S. electronics sector.

At the same time, the Defense Science Board documented the growing dependency of U.S. weapons systems on foreign semiconductors and the defense need to strengthen the technology base for semiconductor manufacturing.

In these circumstances, legislation was enacted in 1987 to create a new approach to technology development and R&D procurement. An industry-Government partnership was formed to conduct research on advanced semiconductor manufacturing to meet defense requirements and regain commercial leadership.

Senator Lawton Chiles, who cosponsored with me the Sematech enabling legislation, characterized this approach as an historic first step toward restoring our competitive base while additionally rebuilding bridges between the Congress, the Pentagon, and the industry. The enabling legislation defined the principal features of Sematech.

Purpose: Sematech would conduct research and development into generic semiconductor manufacturing technology in order to advance national economic interests and national security interests.

Partnership: The Defense Department would participate as a partner with industry in accordance with a grant instrument and a memorandum of understanding rather than dictate to Sematech through Federal contract regulations.

Cost sharing: The total funds made available to Sematech by Government would be matched by industry investment.

Broad participation: Sematech would draw on the expertise of the national laboratories and colleges and universities in conducting its research and development.

Technology transfer: Sematech's results would be made available first to its participants and U.S. industry to provide a decisive market advantage; the technology would then be broadly diffused so as to become a world-class standard and to enhance the economic strength of U.S. toolmakers and suppliers.

These features of Sematech have allowed the Defense Department to tap into the most advanced commercial technology; to stretch its R&D investment to achieve more than it could with its own resources alone; and to proceed more flexibly and efficiently than would be possible under normal Government contract procedures.

Sematech accomplishments:

What have been the results? Sematech is on schedule and on target to meet its first five year objectives. Sematech has worked to develop at least one qualified, viable U.S. supplier for each key piece of semiconductor manufacturing equipment. Sematech is embarking on new manufacturing processes of 0.35 micron circuit geometries, a level of technology that should by the end of 1992 put the United States at parity with Japan in terms of equipment capability.

Perhaps most importantly, Sematech has strengthened the U.S. industrial infrastructure of semiconductor equipment manufacturers. Compelling evidence of this success has been the change in world market share. For the first time in almost a decade U.S. supplier companies gained world market share. Industry observers have attributed this dramatic turn-around, which amounted to almost a 3-percentage point increase, in large measure to Sematech.

These accomplishments have been of great benefit to the Defense Department. Sematech-developed equipment and processes are being used in the production of virtually every major defense system. Many of the improved pieces of equipment and processes have been transferred directly to Government laboratories, and defense dependence upon foreign semiconductor manufacturers has been significantly reduced.

In short Sematech has been an excellent investment for the United States.

Future implications:

What does the Sematech experience suggest for the future? By helping to restore parity with Japanese semiconductor manufacturing, Sematech is poised to move the United States industry back into a world leadership position. Sematech's new plan will seek to exploit the traditional strength of the U.S. industry in computer integrated manufacturing and software. This will allow a focus on reducing cost sensitivity to manufacturing volume. It should facilitate achieving high manufacturing yields on initial or small production runs. Finally it should improve manufacturing methods at a process or factory level.

All of these improvements will contribute to the economic health of the U.S. semiconductor industry. They will also increase the pace of technological innovation in microelectronics to the economic benefit of the Nation. For the Defense Department this will mean more capability, higher reliability and lower cost even in the face of reduced production runs. It will ensure that the U.S. forces will continue to enjoy a technological advantage where it can most affect performance, in the microelectronic brains of defense systems.

But in a larger sense, the features of the Sematech venture provides a good model for leveraging technology in other Defense programs. Harnessing commercial technology developments is essential if defense systems are to remain state of the art. At the same time, the Defense Department can no longer afford to finance all the technology required to meet its needs. It must find ways of pooling its funds with industry for a common purpose. That is where the mechanisms of commercial-military integration and cost-shared partnership can be so effective.

The Armed Services Committee has strongly supported Sematech since its inception. I believe it offers some useful lessons for the Nation as we make major changes in our defense sector. I urge my colleagues to examine Sematech and see what can be accomplished when Government and industry proceed in partnership.

Mr. JEFFORDS. Mr. President, I rise today as a concerned member of the Veterans' Affairs Committee. As many of my colleagues know, a number of our Persian Gulf veterans are coming back to the States suffering from a myriad of unexplained health concerns. Their problems range from joint aches and skin rashes to severe respiratory problems and cancers. Many of these veterans were exposed to high levels of oil in the environment due to the uncapped oil wells sending millions of gallons of oil into the air. Many of them breathed air heavy with oil and had daily skin exposure to it.

Coincidentally, for quite some time I have been working with a family in Vermont who are suffering severe health problems as a result of contamination of their well water from oil containing PCB's and PAH's which leaked out of their submersible well pump. Due in part to my constituents' activism, several States have issued or are in the process of drafting health advisories about the probable dangers of oil in well pumps.

While these two incidents seem vastly different, it is important to note that the health complaints of my constituents are uncannily similar to some of the health complaints reported by our gulf war veterans.

On Wednesday, September 16, 1992, the Veterans' Affairs Committee in the other body held hearings on what is being called the gulf war disease. I applaud their efforts and propose that we should follow their lead and also hold hearings on this issue. I urge the Department of Defense and the Veterans Administration to devote more resources to determining the cause of these illnesses. I believe we owe at least this to our gulf war veterans.

COMPOSITE WING

Mr. SYMMS. Mr. President, of particular importance to the State of Idaho, in relation to the legislation we are considering today, is the Air Force's decision to bed down one of the first composite wings at Mountain Home Air Force Base.

Senator CRAIG and I read with some concern the language contained in the report accompanying H.R. 5006, the House-passed version of the fiscal year 1993 Defense authorization, that seriously questioned the capabilities of Mountain Home AFB, Pope AFB, and Moody AFB to host the composite wings, and questioned altogether the composite wing concept.

I am interested in whether the chairman and ranking member of the Armed Services Committee could address this particular issue and whether they agreed or disagreed with the House language?

Mr. NUNN. Mr. President, I thank my colleague from Idaho for bringing this matter to the Senate's attention. Let me just state briefly that I support the Air Force's innovative approach in integrating wings. As budgetary reductions become greater, and the need for joint integrated operations more pressing, it is important the services restructure their resources to adequately and efficiently perform their missions. The composite wing concept is a necessary step taken by the Department of the Air Force to meet future national security requirements and to have an integrated force package that is honed, trained, and operated in one location.

With regard to the particular bases hosting the composite wings, which includes Moody Air Force Base in Georgia, I am confident the Air Force has selected those which will best meet the combat training requirements and our strategic and tactical needs, yet do so in the most cost effective manner. The Base Closure and Realignment Commission concluded that one of Moody's most important assets was its key location relative to important Army divisions and other ground forces which the air wing would support in war time. This permits cost-effective, important joint training in air-ground combined arms operations.

It is the opinion of this Senator, that the report language on composite wings in the House report is off the mark.

Mr. WARNER. Mr. President, I simply wish to echo the statement of the Chairman. The composite wing concept is entirely necessary if the Air Force is to meet future challenges with far less equipment, personnel and funding. The composite wing concept will allow our pilots and support personnel to train together just as they would fight together. Currently, the only opportunities available to our personnel to work in this sort of environment is through the "Flag" programs or operations like "Cope Thunder," "Sentry Independence," and "Gallant Eagle." While these exercises certainly have influenced and enhanced the performance of our aircrews, the composite wing concept can only lead to a stronger and more capable Air Force for the future.

Mr. SYMMS. I thank the two Senators for their time and response to this matter.

Mr. CRAIG. I, too, thank my colleagues on the Armed Services Committee for their responses. However, Mr. President, I want to address the specific question contained in the House report of why the Department of Defense chose Mountain Home Air Force Base for the site of a composite wing as opposed to numerous other bases around the Nation. This is something that should have been done in the House Armed Services Committee or certainly during the debate on the House floor and can be summed up rather quickly.

Without impugning the spirit of other communities around the Nation, Idahoans are proud participants and partners in our national defense. In community relations, environmental quality, weather, recreational opportunities, and life-styles, Secretary Cheney would be hard-pressed to find a more appropriate base to site the composite wing.

First, Mountain Home offers electronic combat training capabilities that are virtually unmatched in the Air Force. For true combat readiness, tactical fighters require extensive realistic flight training. Mountain Home provides numerous low-level training routes, significant airspace over Southern Idaho and most of Nevada with little to no conflict with commercial or general aviation, and the ability to perform combat training in the day and, more importantly, in the night.

Second, the State of Idaho has offered to the Department of Defense a proposal to more than double the size of the training capabilities of the Air Force. With unanimous support by the Idaho Congressional delegation and overwhelming approval by Idahoans, the new proposal will increase significantly the military's ability to train into the future in a realistic combat setting. The Department of Defense, in reviewing future basing requirements, have made airspace availability one of the most critical components in their decision making process. At a time when our defense department is fighting to keep training ranges around the world, we should look with optimism at the State's proposal.

Third, Mountain Home lies in a low population area that provides to the Air Force the ability to expand with no encroachment problems. An ordinance was enacted by Elmore County, where Mountain Home AFB is located, to ensure encroachment will not be an issue in the foreseeable future by prohibiting more than one dwelling per 320 acres in the vicinity of the base.

Fourth, Idaho's quality to life provides Air Force personnel outstanding opportunities. With outdoor recreational opportunities, low costs of living, educational opportunities, and very affordable housing, military personnel and their dependents are afforded unlimited access to enjoy, without tremendous economic constraints, Idaho's virtues. Unlike many bases, personnel on fixed incomes can live comfortable lifestyles thereby increasing productivity and personal and professional morale.

Fifth, Community relations are at an all-time high and among the best in the Air Force. Not to mention the tremendous informal support by Idahoans, the working partnership has grown significantly since the base first opened in 1942.

Based upon these and other factors, Secretary Cheney has proposed to beddown a composite wing at Mountain Home. I believe this is a sound and justifiable move to consolidate tactical air missions, thereby improving training and readiness at an extremely low cost to the government.

Mr. President, while others claim their base is more suited for the composite mission, I am sure Mountain Home is best suited for the near- and long-term requirements of the Air Force and is an asset that should be utilized to its fullest extent. I also ask unanimous consent Mr. President, that the Air Force's rebuttal to the House report language be included in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD as follows:

Global Reach-Global Power is the Air Force's strategic planning framework which gives our nation a clear view of airpower's inherent strengths—speed, range, flexibility, precision, and lethality. The need to employ our limited forces to their fullest potential, the need to employ airpower as an integrated whole, and the requirement to expedite mission planning and execution, dictate that the Air Force develop and implement new concepts of operations. The Air Force is looking to the composite wing to help meet these needs. Gen McPeak is taking advantage of lessons of war including our recent Desert Storm experience where we organized multiple types of aircraft into single units to meet mission requirements. We are organizing in peacetime today as we plan to fight in war in the future.

From a historic perspective, composite wings have demonstrated several positive characteristics: they were well suited for independent operations in remote areas; they worked well when tailored and employed in this performance of specific missions; and they offered higher levels of wartime performance than other organizations. This performance is due in part to the unit's living, working, planning, and training together. Composite wings like those being developed at Mountain Home and Pope Air Force Bases will benefit the entire Air Force. These wings will provide not only an immediate response option, but allow an improved body of experience in training, tactics, and airpower employment that will benefit all Air Force units.

Air Force planners are building the Mountain Home AFB wing into a rapidly deployable composite force. It is structured to successfully plan and execute autonomous, around-the-clock, all weather air operations in any theater, region, or contingency area in support of US or coalition military objectives. The wing's F-15C, F-15E, F-16, E-3, KC-135, and B-52 (associate unit at Castle AFB, CA) aircraft create an effective air intervention fighting force. Should the situation call for expanded operations, the wing can absorb additional aircraft/specialized forces to enhance its combat capabilities. These specialized forces will be identified in the concept of operations and other operational planning documents. These are currently in development.

Although the wing is designed to train and employ as a single, cohesive unit, the wing is envisioned to be capable of several different deployment options. The wing may be used as a spearhead of a larger force package, providing combat presence and as an air defense umbrella for other deploying units. The wing could also "marry up" with another composite wing to provide the National Command Authorities with a broader and more powerful range of combat air operations, or it could deploy to augment forward-based forces either as an independent entity or as a component for a larger force.

The selection of Mountain Home AFB as the composite wing location for air intervention was based on several factors. Mountain Home's central location facilitates Mid-East. Central American, or Pacific Rim deployments. The base's existing runway, ramp space, and base infrastructure are capable and operationally suited to support the beddown of such a wing. The base also possesses additional facility capacity and real estate to meet future composite wing expansion requirements. Encroachment is not a factor. Mountain Home is located away from major metropolitan areas and air traffic corridors The local flying weather is excellent; the percentage of Mountain Home AFB flying sorties cancelled due to weather is one quarter that of the Air Combat Command average. Local flying training airspace and ranges are available to accommodate basic weapon system training activities. Mountain Home range airspace presently supports limited composite wing force training, and the Air Force and the State of Idaho are in the process of developing a proposal that will provide additional range and airspace to accommodate tactical and large composite force training. Environmental studies for the range expansion proposal are in progress and expected to be completed in Oct 93; environmental studies for the airspace expansion are complete.

In the Persian Gulf, a key contributor in the success of the air campaign was the fact that we had 6 months to plan—next time we may not be as fortunate. Desert Storm validated the need to have a readily deployable force package that can enter combat operations upon arrival—the heart of both Global Reach-Global Power strategy and the composite wing concept.

COMMUNITY COLLEGES AND RETRAINING

Mr. LEVIN. Mr. President, I would like to engage in a colloquy with the distinguished chairman of the Armed Services Committee regarding the role community colleges can play in assisting small, defense-oriented manufacturing supplier firms in making the transition from a defense to a civilian-based economy.

With more than 1.4 million defense related jobs estimated to be lost by 1995, there will be an increasing need for innovative programs to address the technical challenges faced by small and medium-sized supplier firms desiring to modernize their manufacturing capabilities, and to address the training and educational needs of dislocated workers. Community colleges will be able to play a critical role in these areas because of their experience in a wide array of educational and training programs and their close relationship with local industries.

Is it the chairman's intention and understanding that community colleges conducting these types of activities would be eligible for participation in the programs established by this bill, such as the Manufacturing Extension Programs, the Manufacturing Engineering Education, the National Defense Manufacturing Technology Program, and Regional Technology Alliances, to promote technology transfer to assist local and regional industries?

Mr. NUNN. The Senator from Michigan is correct. The programs he cites will use merit based selection criteria, and community colleges will be fully eligible to participate in them.

Mr. LEVIN. I appreciate the chairman's willingness to clarify this matter.

Briefly, I would like to share with the Chairman and my colleagues an innovative example of how community colleges in partnerships or consortia can provide effective technology transfer programs for local small businesses.

The Community Colleges Association for Technology Transfer [CCATT] is a consortium of 15 community colleges located in the Midwest with a proven track record of helping small and medium-sized firms keep pace with rapidly changing technology. CCATT serves as a coordinating mechanism for promoting technology transfer to local industries and training workers to utilize advanced technological equipment through education and hands-on demonstrations. Given the resources and expertise CCATT offers, I believe it will be able to contribute in a significant manner to the Federal government's effort to move our defense-industrial complex toward a more commercial orientation through the Regional Technology Alliances and Defense Manufacturing Technology Partnerships established by this bill.

INDUSTRIAL WASTE REDUCTION PROGRAM

Mr. DOMENICI. Mr. President, I wish to take this opportunity to talk about an amendment to the Senate Armed Services authorization that would authorize the Defense Department to initiate a program in industrial energy and waste minimization that has broad implications for reducing costs within the defense community while enhancing U.S. industry's competitive advantage. I will not offer this amendment which I have attached for information purposes.

I recently learned about a program within the Department of Energy called the Industrial Waste Reduction Program. This program is sponsored by the Assistant Secretary for Conservation and Renewable Energy and is led by Sandia and Los Alamos National

Laboratories. The objective of this program is to leverage Federal and industrial dollars to achieve energy efficiency through waste minimization. Every project requires at least one laboratory participant and at least one industrial partner. In some cases, several laboratories and several companies are collaborating on the same project. Although small in size, the potential benefits from this program for the country are enormous. Because of the industrial partnerships, the program is industry driven, and I find enthusiasm for the concept by participation of companies such as Motorola, Boeing, Aerospace, Hughes Aircraft, and IBM as well as small electroplating companies.

It occurred to me that these companies and others like them are an important part of the Nation's defense industry, and that the Department of Defense and the Nation could profit by initiating a similar program, but on a much larger scale. Therefore, I am proposing an amendment to the current Defense authorization being considered here that would authorize the Secretary of Defense to initiate an Industrial Energy and Waste Minimization Program as a new program element within the Strategic Environmental Research and Development Program. The first phase of this program would be for 5 years, and I recommend that it be authorized at the level of $30 million for fiscal year 1993 and $40 million for fiscal year 1994.

REDUCED WASTE VOLUMES

Let me relate some facts that have convinced me why such a program is important for the Department of Defense, the industry that serves it, and for the Nation. The United States currently produces 20 billion tons of solid waste per year. Of this amount, industry accounts for approximately 12 billion tons while consuming about 30 quads of energy. Manufacturing alone produces 8 of industry's 12 billion tons. The Office of Technology Assessment estimates that industry could reduce these volumes by 10 percent per year for 5 years resulting in a total reduction of 3.2 billion tons for manufacturing and 4.8 billion tons for industry. The 10 percent annual reduction in waste would also apply to the approximately 735 billion tons per year of liquid waste produced in the United States, resulting in a reduction of 73.5 billion tons per year. A 10-percent annual reduction in waste would result in at least a 10 percent decrease in environmental compliance costs and very significant additional benefits from improved energy efficiency and economic productivity.

REDUCED POLLUTION ABATEMENT COSTS

The Environmental Protection Agency has estimated that business and public agencies such as the Department of Defense spent $155 billion, or 2.1 percent of the gross domestic product [GDP] in 1990 on pollution abatement costs. The EPA has further estimated that these costs will rise to $185 billion in 2000, assuming full implementation of regulations. This is estimated to be 2.8 percent of the GDP in 2000. If you do not produce waste, then you do not have to pay for its disposal. Thus, a 10 percent annual reduction in pollution abatement costs would have saved $11.5 billion in 1990, and could potentially save $18.5 billion in 2000. This directly lowers production costs for industry as well as operational costs for Federal agencies. If tied to industrial process technology changes, we would also realize significant increased energy efficiency and productivity improvements.

REDUCED MATERIALS COSTS

In 1990, the U.S. industrial sector paid an estimated $1,400 billion to purchase non-energy materials. A 10 percent reduction in waste volumes could translate into a 10 percent reduction in materials input and materials cost to the sector. These savings apply only to the manufacturing sector and are even greater when operational savings are included.

REDUCED ENERGY AND ENERGY FEEDSTOCK COST

In 1990, the U.S. industrial sector consumer almost 30 quads of energy at a cost of $165 billion. If a 10 percent reduction in manufacturing waste produced a concurrent 10 percent reduction in energy consumption, we could have saved $16.5 billion in 1990. As startling as these numbers are, they may actually understate actual potential savings since process technology changes to reduce emissions could result in savings greater than 10 percent. The DOE's National Energy Strategy estimates that process improvements could achieve as much as a 40 percent reduction in energy use by 2030.

ADDITIONAL ECONOMIC BENEFITS

A number of additional economic benefits would probably result from a 10 percent annual reduction in waste and energy. These benefits include the expansion of the U.S. export portfolio. New waste and energy minimization technology developed in the United States could help capture a significant share of the fast-growing world market. In addition, the Defense Department and the Nation could benefit by reduced health risks and costs associated with reducing the generation of hazardous materials.

BENEFITS OF INDUSTRY-GOVERNMENT PARTNERSHIPS IN ENERGY AND WASTE MINIMIZATION

Finally, let me close by summarizing why an industry-driven, national laboratory—industry partnership in energy and waste reduction is important to the defense community and the Nation. During the past 50 years, the Government has made substantial R&D investments through the national laboratories in pursuing national security objectives. Many of the skills and technologies developed through this process can be redirected through a partnership to address the current and future needs of the U.S. defense industrial sector, as well as the operational needs of the Defense Department, particularly in achieving new levels of waste minimization. Without a partnership for the effective transfer of new technologies, industry will be obligated to duplicate many of them at a considerable cost to the Department and to the economy. Many of these technologies are truly dual-use. And, in some cases, industry is already ahead of the Federal Government in the development of new technologies and is willing to leverage and share these to the benefit of both industry and the Government. Risk sharing between Government and industry can support a portfolio that includes a greater number of risky projects with very high payoffs than the private sector alone could support. Jointly funded projects can lead to the development of new, clean, manufacturing technologies. These technologies can be highly competitive in international markets and their penetration will return revenues to the U.S. Treasury through greater private sector earnings and employment.

In conclusion, Government R&D has traditionally been mission driven, arising from overriding national security goals. Because of its past paramount focus on need, Government lacks the private sector's track record in choosing R&D projects on the private sector's customary basis of feasibility and potential for economic payback. Industry can contribute effective, no-nonsense business criteria to establishing R&D candidates for an industry-government partnership.

I hope these facts are as convincing to you as they have been to me. I strongly urge support for an Industry Energy and Waste Reduction Program as part of the Strategic Environmental Research and Development Program

I ask unanimous consent to insert the amendment in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 96, between lines 6 and 7, insert the following:

SEC. 324. INDUSTRIAL ENERGY AND WASTE MINIMIZATION PROGRAM.

(a) PROGRAM ELEMENT TO BE ESTABLISHED.—The Secretary of Defense shall establish within the Strategic Environmental Research and Development Program an Industrial Energy and Waste Minimization program element. Funds available for that program element shall be available for the purpose of funding cooperative research and development projects involving Department of Defense contractors and the Department of Energy national laboratories that, as of the date of the enactment of this Act, are the lead laboratories for the Industrial Waste Reduction Program of the Department of Energy.

(b) ELIGIBLE PROJECTS.—(1) A project is eligible for funding under the Industrial Energy and Waste Minimization program element if the project is a project referred to in subsection (a) that is conducted for the purpose of reducing Department of Defense costs by increasing efficiency in the use of energy and materials or by enhancing pollution prevention.

(2) The projects that may be approved for funding under the Industrial Energy and Waste Minimization program element include the following:

(A) Redesign of processes.

(B) Design of new processes.

(C) Recycling of waste.

(D) Elimination of waste.

(c) FUNDING.—(1) Funds are authorized to be appropriated for the Strategic Environmental Research and Development Program to be made available for the Industrial Energy and Waste Minimization program element as follows:

(A) For fiscal year 1993, $20,000,000.

(B) For fiscal year 1994, $30,000,000.

(2) The authorization of appropriations in paragraph (1)(A) is in addition to other authorizations of appropriations provided in this Act.

Mr. WARNER. Mr. President, I commend the Senator on his recognition of both the increasing waste accumulation problems we face, and opportunities we have to deal with these problems, with available funding.

The Departments of Defense and Energy, along with other Federal agencies, are working together on these problems.

Yes, the Strategic Environmental Research and Development Program [SERDP] has a number of competitively selected projects which already address waste minimization. The service depots, shipyards, and private contractors are being directed to seek new and innovative waste reduction developments.

We are committed to the same goals. I thank the Senator for his concerns.

LOAN AND LEASE AGREEMENTS FOR MILITARY PROPERTY

Mr. GLENN. Mr. President, I would like to congratulate the Senator from Georgia for his leadership in managing this bill through committee and toward speedy passage on the Senate floor. This is a significant achievement given the contentious issues involved and the numerous amendments that have been proposed.

One of the issues in the bill with which I am especially interested involves the loan and lease of military property. Last year's defense authorization bill—at the request of the Pentagon—added a new paragraph to section 2667 of United States Code, title 10. That new paragraph provides that the Secretary of a military department "shall provide for the payment (in cash or in kind) by the lessee of consideration in an amount that is not less than the fair market value of the lease interest, as determined by the Secretary."

This was intended to provide for just compensation for the use of real estate owned by the military. For instance, if a defense contractor wanted to use a military installation for an airshow, the new provision would make sure that the military was compensated fairly. But the broad language of the new provision caused personal property to be treated the same as real property.

So if a State or local government wanted to lease personal property—even if it was critical to the public safety—they would have to pay a lease fee. So we now encounter a situation where the Pentagon is prevented from protecting the public. And State and local governments who are financially strapped cannot afford to lease military equipment which simply sits in warehouses gathering dust. This makes no sense.

Mr. President, I want to ask for clarification from the chairman to ensure that this bill properly alleviates this situation.

Mr. NUNN. The Senator from Ohio is correct. The bill before us includes language amending section 2667 so that a mandatory fair market value lease fee only applies for real property. Personal property no longer falls under the restrictions of section 2667 so that should equipment be needed by State and local governments they will no longer be faced with the mandatory fair market value lease fee restrictions. Like the Senator from Ohio, I believe this is especially important in the case of equipment provided by the military to address public safety needs.

Mr. GLENN. Mr. President, I thank my friend from Georgia and again commend him for his work on this legislation.

NATIONAL EDUCATION PROPERTY BOARD ACT

Mr. BINGAMAN. I want to acknowledge my colleague, Senator GLENN, the distinguished chairman of the Committee on Governmental Affairs for his leadership and interest in the Federal disbursal of excess and surplus property. Every year billions of dollars' worth of Federal property becomes excess or surplus. As a result, there is no question that many people have benefited and continue to benefit from receiving this property including the homeless, Little League, and our major universities. There is an inherent hierarchy within the current system of disbursal. It has come to my attention there is some concern with respect to how effectively and/or efficiently this system operates.

Mr. GLENN. Thank you Senator. There is a process for disbursing this property that has been operating for many years. I am aware of your concerns especially with respect to the access of this property to our local schools.

Mr. BINGAMAN. Yes, I would like our schools to have better access and more efficient access to this property. Education has been declared a national priority by the President and the States' 50 Governors. However, we are in an era of tight budgets and government spending cuts. Purchasing new supplies and equipment is only a dream for schools facing sharp budget cuts. What my bill, the National Education Property Board Act, proposes to do is to change the priorities in the current GSA disbursing procedures for excess and surplus equipment providing a window of opportunity for schools in this process to better meet the needs of our schools and the Nation.

Mr. GLENN. I agree with you about the pressing needs of our schools and I share your concern that they be able to obtain better access to needed resources including excess and surplus Federal property.

Mr. BINGAMAN. I had intended to offer this bill as an amendment to the Defense authorization bill because I believe that the DOD could easily institute a pilot program to determine the efficacy of what I am proposing, thereby providing badly needed resources to our Nation's schools which educate over 44 million students in our K-12 system. It is my understanding that you support the idea of providing more resources to our schools through the excess-surplus disbursing system but that you would like more information about the way the current disbursal system operates and more data about the inventorying procedures.

Mr. GLENN. It is my understanding that under the current system schools do receive much of the surplus property within the system. But I do accept that there may be concerns of efficiency and effectiveness and perhaps even priorities. However, there simply is not enough information to make these decisions. In order to gather this information, I recommend that I hold a hearing early in the first session of the 103d Congress on the merits of your bill.

Mr. BINGAMAN. I understand the complexities involved in changing the structure of an existing entity. The fact that change is difficult does not imply that changes should not be made particularly if circumstances have changed and if the circumstances warrant that changes in the existing disbursal system are in order. Thank you for your consideration and your suggestion of a hearing, which I think is a good idea.

Mr NUNN. Mr. President, I ask for third reading of the bill.

The PRESIDING OFFICER. Without objection, the bill is considered read three times.

The bill was ordered to be engrossed for a third reading and was deemed read the third time.

Mr. NUNN. I urge passage of the bill.

The PRESIDING OFFICER. The bill, having been deemed read the third time, the question is, shall the bill pass?

So the bill (S. 3114), as amended, was passed.

(The text of S. 3114, as passed by the Senate, will be printed in a future edition of the RECORD.)

Mr. PELL. Mr. President, I would like to take this occasion to compliment the distinguished chairman of the Committee on Armed Services, Mr. NUNN, and the distinguished ranking minority member, Mr. WARNER for bringing to passage the Department of Defense authorization bill for fiscal year 1993.

There are, as usual, parts of the bill to which I take exception, as I have in past years. I would like to see deeper cuts in some of the big programs such as SDI and the B-2, and I look forward to the day when defense expenditures will consume a much smaller share of our national resources.

But this year's bill is remarkable, from my viewpoint, because of its many constructive provisions to ease the transition to lower defense spending and to promote rational conversion of our defense establishment to a peacetime posture. For this, the leadership of the committee deserves great credit.

As I said on this floor last month, the fact this bill provides $1.2 billion for defense conversion represents a remarkable shift in public policy reflecting changes in the world around us.

I note that many of the conversion provisions emanated from the Task Force on Defense/Economic Conversion chaired so ably by the distinguished Senator from Arkansas Mr. PRYOR, on which I was pleased to serve.

This bill includes creative provisions for transferring military talents and techniques to civil purposes and it contains a rich menu of innovative provisions to advance dual use technology, and to promote technology transfer to the commercial sector, manufacturing education and small business innovative research.

I am pleased that the managers saw fit to accept my amendments to promote corporate planning for industrial diversification, and to require the Department of Defense to provide data on the problem on continuity of health benefits for laid-off defense industrial workers.

For all of these reasons, Mr. President, I am pleased to support this bill. It marks a dramatic shift in priorities and lays the ground for further strides in the future.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. WARNER. Mr. President, it is my privilege to move to table that motion to reconsider.

The motion to lay on the table was agreed to.

The title was amended so as to read:

To authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to provide for defense conversion, and for other purposes.

Mr. NUNN. Mr. President, I ask unanimous consent that S. 3114, as amended, be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBSTITUTE THE TEXT OF RELEVANT PORTIONS OF THE SENATE-PASSED BILL FOR THE TEXT OF BILLS PREVIOUSLY REPORTED OUT BY THE SENATE ARMED SERVICES COMMITTEE

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed immediately to the consideration en bloc of the following bills: S. 3136 through S. 3145, Calendar Order Nos. 598 through 607; that all after the enacting clause of each of those bills be stricken and that the appropriate portion of S. 3114, as amended, be inserted in lieu thereof, according to the schedule as follows, which I send to the desk; that these bills be advanced to third reading and passed; that the motion to reconsider en bloc be laid upon the table; and that the above actions occur without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The schedule follows:

S. 3136, The National Defense Multiyear Authorization Act of 1992: insert S. 3114, as amended.

S. 3137, The Omnibus National Defense Authorization Act for Fiscal Year 1993: S. 3114, as amended.

S. 3138, The Military Personnel Authorization Act for Fiscal Year 1993, insert titles IV–VII, as amended.

S. 3139, The Defense Conversion and Transition Assistance Act of 1992: from S. 3114, insert the following: title III, subtitle C; title III, subtitle D; title V, subtitle D; title V, subtitle E;, and title VIII, subtitle A.

S. 3140, The Department of Defense Authorization Act for Fiscal Year 1993: insert Division A of S. 3114.

S. 3141, The Military Construction Act for Fiscal Year 1993: insert Division B. of S. 3114.

S. 3142, The Department of Energy National Security Act for Fiscal Year 1993, insert titles XXXI–XXXII of S. 3114.

S. 3143, The Military Personnel Transition Act of 1992: from S. 3114, insert title V, subtitle D; and title V, subtitle E.

S. 3144, The Military Health Care Initiatives Act of 1992: insert section 716 of S. 3114.

S. 3145, The National Defense Technology and Industrial Base Conversion and Assistance Act of 1992: insert title VIII, subtitle A of S. 3114.

(The text of S. 3136 through S. 3145, as passed by the Senate today, will appear in a subsequent issue of the RECORD.)

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

Mr. NUNN. Mr. President, with respect to H.R. 5006, the House-passed version of the National Defense Authorization Act for fiscal year 1993, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of H.R. 5006 and that the Senate proceed to its immediate consideration; that all after the enacting clause be stricken and the text of S. 3114, as amended, be substituted in lieu thereof; that the bill be advanced to third reading and passed; that the title of S. 3114 be substituted for the title of H.R. 5006; that the Senate insist on its amendments to the bill and the title and request a conference with the House on the disagreeing votes of the two Houses and the Chair be authorized to appoint conferees; that the motion to reconsider the above-mentioned votes be laid upon the table; and that the foregoing occur without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Presiding Officer appointed Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, Mr. GLENN, Mr. GORE, Mr. WIRTH, Mr. SHELBY, Mr. BYRD, Mr. WARNER, Mr. THURMOND, Mr. COHEN, Mr. MCCAIN, Mr. WALLOP, Mr. LOTT, Mr. COATS, Mr. MACK, and Mr. SMITH, conferees on the part of the Senate.

UNANIMOUS-CONSENT AGREEMENT—S. 3114 and S. 3136–3145

Mr. NUNN. Mr. President, I ask unanimous consent with respect to S. 3114, and S. 3136 through S. 3145, as just passed by the Senate, that if the Senate receives a message with regard to any one of these bills from the House of Representatives, that the Senate disagree with the House on its amendment or amendments to the Senate-passed bill and agree to a conference with the House on the disagreeing votes of the two houses and the Chair be authorized to appoint conferees and the foregoing occur without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACTION ON H.R. 4880

Mr. NUNN. Mr. President, with respect to H.R. 4880, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of H.R. 4880, and that the Senate proceed to its immediate consideration; that all after the enacting clause be stricken and the text of S. 3114 as amended be substituted in lieu thereof, that the bill be advanced to third reading and passed, that the title of S. 3114 be substituted for the title of H.R. 4880, that the Senate insist on its amendments to the bill and the title and request a conference with the House on the disagreeing votes of the two houses and the Chair be authorized to appoint conferees, that the motion to reconsider the above-mentioned votes be laid upon the table and that the foregoing occur without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER appointed Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, Mr. GLENN, Mr. GORE, Mr. WIRTH, Mr. SHELBY, Mr. BYRD, Mr. WARNER, Mr. THURMOND, Mr. COHEN, Mr. MCCAIN, Mr. WALLOP, Mr. LOTT, Mr. COATS, Mr. MACK, and Mr. SMITH, conferees on the part of the Senate.

WORLD WAR II 50TH ANNIVERSARY COMMEMORATIVE COINS ACT

Mr. NUNN. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of S. 3195, the World War II 50th anniversary commemorative coins act; that the Senate proceed to its immediate consideration; and that the bill be deemed read three times, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 3195) was deemed read the third time and passed, as follows:

S. 3195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "World War II 50th Anniversary Commemorative Coins Act".

SEC. 2. FINDINGS AND SENSE OF THE CONGRESS.

(a) FINDINGS.—The Congress finds that—

(1) the period of December 7, 1991, through September 2, 1995, will mark the 50th anniversary of the involvement of the United States in World War II;

(2) over 16,000,000 people served in the Armed Forces of the United States during that conflict;

(3) over 400,000 American men and women gave their lives in defense of freedom around the world during World War II;

(4) World War II fundamentally reshaped the international geopolitical landscape, as well as the economic, political, and cultural institutions of our Nation;

(5) the War involved a clear choice between democracy and tyranny and involved our Nation as a whole in a worldwide battle against the forces of fascism and oppression;

(6) the June 6, 1944, invasion of northern France, when in one day 176,000 Allied military personnel were landed on the beaches of Normandy, was one of World War II's most celebrated achievements;

(7) the "D-Day" invasion was the largest seaborne invasion in history, and the ensuing 76-day Battle of Normandy was one of the largest land battles in history;

(8) the Battle of Normandy was a key to the Allied forces' eventual liberation of Europe; and

(9) numerous organizations and individuals across the United States have expressed interest in or are engaged in efforts to draw attention to the 50th anniversary of World War II.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress—

(1) that the 50th anniversary of the involvement of the United States in World War II, the Battle of Normandy, and its other important battles should not go unrecognized at the national level;

(2) that the United States should recognize these anniversaries by minting and issuing coins to commemorate these anniversaries; and

(3) the minting of a United States coin to commemorate the Battle of Normandy and "D-Day" would be an appropriate concomitance to the commitment by the Republic of France that it will mint a French commemorative coin in recognition of the anniversary.

SEC. 3. WORLD WAR II COMMEMORATIVE COINS.

The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue coins in accordance with this Act to commemorate the 50th anniversary of the involvement of the United States in World War II.

SEC. 4. SPECIFICATIONS OF COINS.

(a) DENOMINATIONS.—The Secretary shall mint and issue the following coins:

(1) FIVE DOLLAR GOLD COINS.—Not more than 300,000 five dollar gold coins, each of which shall—

(A) weight 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) ONE DOLLAR SILVER COINS.—Not more than 1,000,000 one dollar silver coins, each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(3) HALF DOLLAR CLAD COINS.—Not more than 2,000,000 half dollar coins, each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 5. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

SEC. 6. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins authorized under this Act shall, in accordance with subsection (b), be symbolic of the participation of the United States in World War II. In addition, the design of the gold coin authorized under section 4(a)(1) shall be emblematic of the Allied victory in World War II, and the silver coin authorized under section 4(a)(2) shall be emblematic of the Battle of Normandy.

(2) DESIGNATIONS AND INSCRIPTIONS.—Each coin authorized under this Act shall bear a designation of the value of the coin, an inscription of the years "1991-1995", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum". In addition, the silver coin authorized under section 4(a)(2) may bear a designation of the date "June 6, 1944" and an inscription of the words "Battle of Normandy" or "D-Day Invasion".

(b) DESIGN COMPETITION.—The Secretary shall sponsor a nationwide open competition for the design of each coin authorized by this Act.

(c) SELECTION.—The design for each coin authorized by this Act shall be selected by the Secretary from the results of the design competition under subsection (b), after consultation with—

(1) representatives of veterans organizations of the United States whose membership includes veterans of World War II, including—

(A) the American Legion;

(B) the Veterans of Foreign Wars of the United States;

(C) AMVETS (American Veterans of World War II, Korea, and Vietnam); and

(D) the Disabled American Veterans; and

(2) in the case of the one dollar silver coin authorized under section 4(a)(2), the Battle of Normandy Foundation and individuals designated by the Foundation from among individuals who are particularly knowledgeable, by reason of their education, training, or experience, about the history of World War II.

SEC. 7. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act may be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality for the coins minted under this Act.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this Act beginning on January 1, 1993.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after December 31, 1993.

(e) PROMOTION CONSULTATION FOR WORLD WAR II MEMORIAL.—The Secretary shall determine the role that the American Battle Monuments Commission (hereafter referred to as the "Commission") and any entity established by the Congress to assist the Commission in erecting a World War II memorial will have in the promotion, advertising, or marketing of coins authorized under this Act. This determination shall be made in consultation with the Commission and any other such entity. The Secretary may enter into a contract involving the promotion, advertising, or marketing of such coins with the Commission and such other entity if the Secretary determines that such a contract would be beneficial in the sale of the coins.

(f) PROMOTION CONSULTATION FOR NORMANDY MEMORIAL.—In consultation with the Battle of Normandy Foundation, the Secretary shall determine the role such entity shall have in the promotion, advertising, or marketing of the coins authorized under this Act. The Secretary shall enter into a contract involving the promotion, advertising, or marketing of such coins with the Foundation if the Secretary determines that such a contract would be beneficial in the sale of the coins.

SEC. 8. SALE OF COINS.

(a) IN GENERAL.—The Secretary shall sell coins minted under this Act at a price equal to the sum of the face value of the coins, the surcharge provided in subsection (d) with respect to such coins, and the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $35 per coin for the five dollar coins, $8 per coin for the one dollar coins, and $2 per coin for the half dollar coins.

SEC. 9. FINANCIAL ASSURANCES.

(a) NO NET COST TO GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the Federal Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Government.

SEC. 10. USE OF SURCHARGES.

(a) SPLIT OF SURCHARGES BETWEEN BATTLE OF NORMANDY MEMORIAL AND WORLD WAR II MEMORIAL.—Surcharges received from the sale of coins minted under this Act shall be distributed by the Secretary as follows:

(1) BATTLE OF NORMANDY FOUNDATION.—The first $3,000,000 received from the sale of coins shall be transferred to the Battle of Normandy Foundation and used to create, to endow, and to dedicate, on the 50th Anniversary of D-Day, a United States D-Day and Battle of Normandy Memorial in Normandy, France, adjacent to the largest World War II Museum in the world in Caen, France, and to encourage and support visits to the memorial by United States citizens, and especially students.

(2) AMERICAN BATTLE MONUMENTS COMMISSION.—The first $7,000,000 received from the sale of coins after the $3,000,000 referred to in paragraph (1) shall be deposited by the Secretary, subject to subsection (b)(2), in the fund established in the Treasury which is available to the American Battle Monuments Commission for the expenses incurred in establishing a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces of the United States who served in World War II and to commemorate the participation of the United States in that war.

(3) DISTRIBUTION OF EXCESS.—Of the amounts received from the sale of coins in excess of $10,000,000—

(A) 30 percent shall be transferred to the Battle of Normandy Foundation and used in the manner provided in paragraph (1); and

(B) 70 percent shall be deposited by the Secretary, subject to subsection (b)(2), in the fund described in paragraph (2).

(b) USE OF FUNDS IF NOT USED FOR MEMORIAL.—

(1) BATTLE OF NORMANDY MEMORIAL.—Of the amounts received by the Battle of Normandy Foundation under this section, any amount in excess of the amount spent by the Foundation for the uses described in subsection (a)(1) shall be transferred to the Secretary for deposit in the account provided for in section 8(b)(1) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" and approved November 14, 1986, in the same manner as provided by law for the World War II memorial described in subsection (a)(2).

(2) WORLD WAR II MEMORIAL.—If the World War II memorial described in subsection (a)(2) is not authorized by Congress by December 31, 1995, the amounts described in paragraph (2) and (3)(B) of subsection (a) shall be deposited by the Secretary in the account described in paragraph (1) of this subsection.

(c) AUDITS.—The Comptroller General of the United States shall conduct an annual audit of any books, records, documents, and other data—

(1) belonging to the Battle of Normandy Foundation, the American Battle Monuments Commission, and any agency or organization which receives any amount from the fund described in subsection (a); and

(2) relating to the expenditure of any amount received under subsection (a) or from the fund,

until all amounts received by the foundation, commission, agency, or organization under subsection (a) or from the fund have been spent and the expenditure of such amounts has been audited.

SEC. 11. REPORT TO CONGRESS.

Not later than March 31, 1994, the Secretary shall submit to the Congress a report regarding the activities carried out under this Act.

SEC. 12. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act relating to the minting or selling of the coins authorized by this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 13. COINAGE PROFIT FUND.

(a) DEPOSIT—All amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund.

(b) PAYMENTS.—The Secretary shall pay the amounts authorized under section 10 from the coinage profit fund.

(c) EXPENDITURES.—The Secretary shall charge the coinage profit fund with all expenditures under this Act.

ATLANTA CENTENNIAL OLYMPIC GAMES COMMEMORATIVE COIN ACT, CIVIL WAR BATTLEFIELD COMMEMORATIVE COIN ACT, VIETNAM VETERANS COMMEMORATIVE COIN ACT

Mr. NUNN. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of: H.R. 3654, the 1996 Atlanta Centennial Olympic Games Commemorative Coin Act; H.R. 5126, the Commemorative Coin Act in honor of the 100th Anniversary of the beginning of the protection of Civil War battlefields, and S. 2707, the Vietnam Veterans Commemorative Coin Act of 1992; that the Senate proceed to the immediate consideration, en bloc, of these bills; that statements with respect to passage of these bills appear at an appropriate place in the RECORD; and that the bills be deemed read for the third time, passed, and the motion to reconsider the passage of the bills en bloc be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bills (H.R. 3654) and (H.R. 5126) were deemed read the third time and passed.

The bill (S. 2707) was deemed read the third time and passed as follows:

S. 2707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vietnam Veterans Commemorative Coin Act".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) in 1992, the people of the United States will observe the "Year of the Vietnam Veteran" and the 10th anniversary of the dedication of the Vietnam Veterans Memorial; and

(2) the minting and issuance of $1 silver coins commemorating the accomplishments of veterans who served during the Vietnam War is an appropriate method by which to observe those events.

SEC. 3. AUTHORIZATION.

(a) ISSUANCE.—The Secretary of the Treasury (hereafter referred to as the "Secretary") shall issue not more than 1,000,000 one dollar coins each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) DESIGN.—The design of the coins issued under subsection (a) shall be emblematic of the heroic service of veterans who served during the Vietnam War. On each coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, the coins issued under subsection (a) shall be considered to be numismatic items.

(d) LEGAL TENDER.—The coins issued under subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 4. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins authorized under section 3 from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 5. SECTION OF DESIGN.

The design for each coin authorized under section 3 shall be selected by the Secretary after consultation with the Chairperson of the Vietnam Veterans of America Advisory Board and the Commission of Fine Arts.

SEC. 6. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the coins authorized under section 3 shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses), and the surcharge provided for in subsection (d).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins authorized under section 3 at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins authorized under section 3 prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGES.—All sales of the coins authorized under section 3 shall include a surcharge of $7 per coin.

SEC. 7. ISSUANCE OF COINS.

(a) In General.—The coins authorized under section 3 may be issued in uncirculated and proof qualities, except that not more than 1 facility of the United States Mint may be used to strike any particular quality.

(b) Commencement of Issuance.—The Secretary may issue the coins authorized under section 3 beginning on January 1, 1992.

(c) Period of Authority.—Coins authorized under section 3 may be minted beginning 30 days after the date of enactment of this Act and for a period of not more than 1 year thereafter.

SEC. 8. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services required to carry out this Act.

(b) Equal Employment Opportunity.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 9. DISTRIBUTION OF SURCHARGES.

Subject to section 10, all surcharges received by the Secretary pursuant to section 6(d) shall be promptly paid by the Secretary to the Vietnam Veterans Assistance Fund for the purposes of—

(1) honoring and recognizing the accomplishments of veterans of the Vietnam War;

(2) educating the people of the United States regarding the accomplishments and sacrifices of such veterans and their families;

(3) establishing programs for the purpose of improving the health and well-being of such veterans and their families, including programs to provide assistance to veterans suffering from post traumatic stress disorder and to veterans who are homeless;

(4) providing assistance to such veterans in qualifying for benefits under title 38, United States Code, and other benefits available under Federal law;

(5) providing grants to scientific and medical organizations to study the effects of and treatment for exposure to the chemical tetrachlorodibenzoparadioxin (commonly known as Agent Orange); and

(6) providing employment counseling and assistance to all veterans who served during a period of war.

SEC. 10. AUDITS.

(a) Vietnam Veterans Assistance Fund.—As a condition for receiving the proceeds of the surcharges pursuant to section 9, the Vietnam Veterans Assistance Fund shall allow the Comptroller General to examine such books, records, documents, and other data as may be related to the expenditure of such proceeds.

(b) Grants.—Any entity that receives a grant pursuant to section 9(5) shall allow the Comptroller General to examine such books, records, documents, and other data as may be related to the expenditure of any portion of such grant.

SEC. 11. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins authorized under section 3 shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized by section 9 from the coinage profit fund to the Vietnam Veterans Assistance Fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 12. FINANCIAL ASSURANCES.

(a) No Net Cost to the Government.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized under section 3 shall result in no net cost to the Federal Government.

(b) Payment for Coins.—No coins authorized under section 3 shall be issued unless the Secretary has received—

(1) full payment therefore;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, or the Resolution Trust Corporation.

1996 OLYMPIC COIN BILL

Mr. NUNN. Mr. President, I am pleased to rise tonight with my colleague, Senator FOWLER, and offer support for H.R. 3654, the 1996 Centennial Olympic Games Commemorative Coin Act. At the outset I would like to commend my good friend, the chairman of the Senate Banking Committee, Senator RIEGLE, for the attention he has given this legislation and for expediting its consideration and its passage.

As many of my colleagues know, there has been no prouder moment for Georgians than the announcement made in September, 1990, in Japan that Atlanta would have the honor of hosting the Centennial Olympic Games. This announcement was the culmination of a long, uphill battle lead by a handfull of Georgians who had the vision to see that the 100th Olympic Games should look forward to a future of international cooperation and not backward to the past. They believed, and as the International Olympic Committee agreed, that the Olympic ideals could be represented nowhere better than Atlanta, a city that combines the best of the past and the potential of the future.

Mr. President, in short, Atlanta, and all of the South, will have an opportunity to showcase our region and our Nation to the world through the hosting of the Olympic Games. Staging games of this magnitude will not be easy, and passage of this legislation before the Senate tonight will help the Atlanta Committee for the Olympic Games [AGOC] immensely in staging this event.

This bill has already passed the House of Representatives, where it was ably shepherded through by Congressman DOUG BARNARD. As many of my colleagues may know, Congressman BARNARD is retiring this year and in tribute to his service his colleagues dedicated this coin bill in his honor. Although some medical difficulties have recently beset Congressman BARNARD. I hope our passage of this legislation tonight will help speed his recovery.

Mr. President, this legislation before us follows the tradition established when the United States last hosted an Olympics in Los Angeles in 1984. At that time, Congress approved a 2-year commemorative coin program which raised $73 million. The proceeds were split between the Los Angeles Olympic Organizing Committee and the United States Olympic Committee [USOC].

The goal set by ACOG is to raise $100 million through our commemorative coin program, which will be split evenly between ACOG and USOC. The $50 million the Atlanta Committee hopes to receive through this program represents only 4 percent of their projected budget for the games. This sum may seem like a small percentage to many of my colleagues—let me assure you that these funds are critical to this endeavor. I am sure that the same can be said of the importance of these funds to USOC. I would also like to add that if the Atlanta coin program is as successful as its Los Angeles predecessor, this legislation will be a net revenue gainer for the U.S. Treasury.

Mr. President, my colleagues who have been involved with commemorative coin programs over the last several years know that there have been few successful programs since the Los Angeles coins, and that our goal of $100 million may be ambitious. For that reason, ACOG has designed a unique and innovative approach, designed to maximize the investment value of the coins. I am hopeful that the Bureau of the Mint will work closely with ACOG in designing an overall program to allow this to occur. I believe that this legislation provides the flexibility necessary to the Mint and ACOG to accomplish this goal.

In closing, I would like to again thank Senator RIEGLE for his assistance in the passage of this legislation. I would also like to thank the many Senators who agreed to cosponsor this important legislation and have enabled its consideration tonight. Finally, I would be remiss not to mention the assistance Ted Hester and Cindy Gillespie, representatives of ACOG, provided my staff in support of this legislation.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the conference report to accompany the cable bill, S. 12 at 12:30 p.m. on Monday, September 21, and that there be 2 hours for debate, to be equally divided in the usual form; that a vote occur on adoption of the cable conference report at 2:15 p.m. on Tuesday, September 22, without any intervening action or debate, and that paragraph 4 of rule 12 be waived; that the cloture petition that was filed today on the cable conference report be withdrawn; that the Senate proceed to the consideration of the message on S. 250, the motor voter bill, at 11:30 a.m. on Monday, September, 21; that there be 1 hour for debate on the message, equally divided between Senators FORD and MCCONNELL; that at the conclusion or yielding back of time the message be laid aside with the vote on overriding the President's veto occurring on Tuesday, September 22 immediately upon the disposition of the conference report on S. 12, the cable bill; and that the Senate proceed to the consideration of the defense appropriations bill, H.R. 5504, at 2:30 p.m. on Monday, September 21; that at 3 p.m. Senator BUMPERS be recognized to offer his amendment, reducing the funding for intelligence activities.

The PRESIDING OFFICER. Without objection; it is so ordered.

PROGRAM

Mr. MITCHELL. Mr. President, pursuant to this agreement, the Senate will, from 11:30 a.m. until 12:30 p.m. on Monday, debate the veto message on the motor voter bill; from 12:30 until 2:30, the Senate will debate the conference report on the cable bill; at 2:30 the Senate will take up the defense appropriations bill; at 3 p.m., Senator BUMPERS will offer his amendment regarding funding for intelligence activities.

There will be a vote or votes on Monday, but no vote will occur prior to 6 p.m.

Mr. SARBANES. Will the leader yield for a question? When will the votes on the cable television conference report and the votes on the override of motor voter veto occur?

Mr. MITCHELL. On the cable conference report, 2:15 Tuesday; on the motor voter veto override, 2:30 Tuesday.

To repeat, so all Senators can plan their schedules accordingly, once we complete action on this bill the Senate will recess until Monday. There will be at least one vote, possibly more on Monday. But not prior to 6 p.m. Debate on the defense appropriations bill will begin at 2:30. Senator BUMPERS will be recognized to offer his amendment at 3, on Monday afternoon.

Mr. President, I thank my colleagues for their cooperation.

ORDERS FOR MONDAY, SEPTEMBER 21, 1992

Mr. NUNN. Mr. President, on behalf of the majority leader I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11:30 a.m., Monday, September 21; that following the prayer the Journal of proceedings be deemed approved to date, that the time for the two leaders be reserved for their use later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL MONDAY, SEPTEMBER 21, 1992

Mr. NUNN. Mr. President, if there is no further business to come before the Senate today I now ask unanimous consent the Senate stand in recess.

Mr. WARNER. Mr. President, I would first like to congratulate the chairman omission impossible, passing this legislation. Having done so I withdraw any objection to the Senate's recessing.

There being no objection, the Senate, at 12:35 a.m., recessed until Monday, September 21, 1992, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 18, 1992:

DEPARTMENT OF STATE

THE FOLLOWING-NAMED PERSONS TO BE THE REPRESENTATIVE AND ALTERNATE REPRESENTATIVES OF THE UNITED STATES OF AMERICA TO THE 36TH SESSION OF THE GENERAL CONFERENCE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY:

REPRESENTATIVE:

IVAN SELIN, OF THE DISTRICT OF COLUMBIA.

ALTERNATE REPRESENTATIVES:

RICHARD T. KENNEDY, OF THE DISTRICT OF COLUMBIA.

JANE E. BECKER, OF THE DISTRICT OF COLUMBIA.

EXTENSIONS OF REMARKS

THE CONSTITUTIONALITY OF THE INDEPENDENT COUNSEL STATUTE

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. DELAY. Mr. Speaker, on June 17 of this year the Republican study committee held a hearing on the independent counsel statute. I would like to enter for the record the invaluable testimony of Terrence O'Donnell. Mr. O'Donnell is a partner in the law firm of Williams and Connolly. Previously, he served at the appointment of the President of the United States as General Counsel of the Defense Department. He has also served two Presidents as special assistant.

From June 1966 to May 1972 he served as an officer in the Air Force. In 1977 President Ford appointed Mr. O'Donnell as the U.S. representative to the United Nations' program for the prevention of crime and the treatment of offenders. He is a graduate of the Air Force Academy and Georgetown Law School.

Mr. O'Donnell was part of the defense team who represented Lt. Colonel Oliver North.

The testimony follows:

Mr. O'DONNELL. Yes. Thank you for inviting me. A good deal has been said about the wisdom and the constitutionality of the Independent Counsel statute. What I want to do today is take you to the battlefield. I want to share with you what really goes on in the trenches and I want to tell you about some of the abuses that we've seen up close, and I want to base that on my observations as a member of the team that defended Ollie North.

And to refresh your recollection, Colonel North was compelled to testify on the Hill, was then indicted on sixteen counts. Four were thrown out before trial; twelve were tried. The jury acquitted him on nine, found him guilty on three. Those three were reversed on appeal. And I'm going to march through these points very quickly because of time.

Point one, ready, fire, aim: The IC, the Independent Counsel, is actually a corps of vigilante prosecutors formed after the targets are identified. Once the targets are identified, the search for a crime begins. This is fundamental distortion of the normal prosecution process. It turns things upside down to the great prejudice of the targets.

Point two, cost is no limit: The Walsh team is the largest prosecutorial force ever assembled in our Nation's history. It has, in essence, unlimited funds readily supplied by a contended Democrat-controlled Congress which is politically aroused by visiting this plague on Republican administrations, one after another. Essentially is it unaccountable to anyone, and it possesses a blank check. I don't know anywhere else in our Constitutional Government, that we issue a blank check to any agency.

We've spoken about the $30 million. I would suggest it is greatly in excess of that, and I would join Ted Olson and others who have called upon Congress to really get to the bottom of what it has cost the taxpayers. Most of the costs, I would suggest, are hidden. I know it's going to be well above $50 million, but God only knows where it will finally come in.

I say they are hidden because massive teams were constituted at CIA, NSA, DOD, and State merely to respond to the insatiable appetite for documents of the Independent Counsel. Consider as well, our Defense team: $1 million a year to supply a vault in which the Defense team could work, $500,000 in rent, and $250,000 times 2 for security contracts, armed guards and double-padlocked doors. This to pursue one Marine Lieutenant Colonel.

The National Security Agency was worried about the concentration of secrets in that one vault. The Government takes effort to keep secrets apart but many were concentrated in that vault. What kind of judgment is this, that brings such a case to court?

Department of Justice support for the IC—such as the DOJ management division and others—all of these costs should be compiled as part of your congressional investigation before you go forward with this statute. Find out what it really costs; don't believe the $30 million. I think it's going to be well over twice that; it could be $100 million.

There is no incentive to finish: The bureaucratic tendency, as mentioned here, to prolong and expand is given full flower by the Independent Counsel statute. Walsh long ago took on the tendencies of an independent and permanent agency. By May, 1990 he spent more than any of the 93 U.S. Attorneys Offices around the country spent in 1989, except Washington, D.C., and you all know about the enormous responsibilities of the U.S. Attorneys Offices. And, while the average cost per criminal defendant in U.S. Attorneys' offices is $9,000, the Walsh team is averaging about $3 million per defendant!

Congressman DORNAN. Terry, just one second, that's so important. Are you taking the 94th one, say the New York Office or somebody out of that?

Mr. O'DONNELL. Every office other than the District of Columbia spent less in '89 than Walsh had spent by '90.

Congressman DORNAN. If you take out D.C., he spent more than each of the other U.S. Attorneys in all the 50 states.

Mr. O'DONNELL. Yes.

Congressman DORNAN. Well since D.C. is not a State, and that's another good way to state it.

Mr. O'DONNELL. D.C. has certainly local responsibilities that other U.S. Attorneys Office do not have.

Congressman DORNAN. Because it's Federal property, they do everything down to the last rape or murder in this community.

Mr. O'DONNELL. That's right.

Congressman DORNAN. So you can effectively restate it and say all 50 states' U.S. Attorneys did not spend as much money in '89 as Lawrence Walsh. By what margin?

Mr. O'DONNELL. I don't have that margin, but I have figures. The figures have been published and they're most revealing.

Congressman DORNAN. Thank you.

Mr. O'DONNELL. Point three, the army assembles: By our count 70 lawyers have served in the Walsh Independent Counsel Office since he began 5½ years ago. On the North case alone, over 40 lawyers appeared on the pleadings—40 lawyers. More than 50 agents were massed and sent scurrying around the country, the world, for leads, including FBI, IRS, and Customs agents.

All of this heavy-handed firepower focused on a handful of people. Note that the average Assistant U.S. Attorney handles about 117 cases a year, picking his other cases with discretion; 117 cases a year for the average Assistant U.S. Attorney. This massive IC force is focused on a handful of people.

This army was and is out of control, with enormous political pressure to get their man. If the army isn't enough, they call up the reserves. Time and again they've called on former Federal judges and law professors from Harvard, Virginia, and Columbia to come in and help them because cost is not an issue, "so why not get the best."

Congressman COX. Who sets the pay scale for these people, this army reserves?

Mr. O'DONNELL. Ted Olson can address this better than I. In essence, it is indeed a blank check because Congress has provided an open appropriation.

Congressman DORNAN. And any of these Federal judges who come in, if they serve 10 years they're retired on full pay anyway. So they come in and this augments their full pay if they're retired?

Mr. O'DONNELL. A retired federal judge came in to augment the IC force and played a very significant role in the Walsh prosecution of Colonel North—a former Federal judge. In sum, enormous power with no accountability, no checks and balances equals abuse, plain and simple.

Point four, birds of a feather—and I'm going to be very blunt about this—birds of a feather flock together. The make-up of the prosecution team is very suspect. You've got an 80 year old retired lawyer surrounded by the workers. Who are the workers? They tend to be bright, liberal Democrats, with few exceptions strongly anti-Reagan, with few exceptions quite inexperienced, with few exceptions strongly anti-Reagan Central American policy. Many of them were on a crusade. The Tubin book noted that it was viewed as a crusade by these young lawyers.

Consider John Kecker, who was the prosecutor of North. He solicited the job through connections—strong anti-Reagan sentiments, extreme liberal Democrat, strong opponent of President Reagan's Central American policy. He was even so bold that his law partner said his firm would not undertake the defense of the likes of North at any time on general principles.

What happened to the notion of prosecutorial fairness? What happened to the professional prosecutors who are available to pursue these cases? They're out the window because under the statute, first, you name the target and then you form the team to prosecute the target.

Point five, salaries galore: Youngsters out of law school, who have been alluded to before, paid at the very top of the Government

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• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

scale. I just left the Department of Defense. We have hundreds of outstanding civilian lawyers who have devoted their career to the Department of Defense who will never reach these salary levels unless they get a particular break, maybe in their 20th year of service. This is a real distortion of the Government compensation standards.

Point six, don't forget the press; At the high-water point, the Walsh team had three full-time press aides. They helped to shape the story in the halls during the breaks with the press, putting a spin on the testimony and the trial.

Congressman DORNAN. Mr. O'Donnell, if you could just pause for one second here because of a reflection here. Actually, your facts and figures are stunning, all of this. I observed Kecker firsthand in those halls because I went over there for a lot of these key moments when these people came out of the courtroom. As I recall, Kecker personalized this to the point—because he was a Vietnam vet—of saying that he was personally dishonored by Colonel North.

He made it a personal cause, a vendetta, a one on one. And I watched these press people coming out to manipulate a hungry national media for every little detail, and I had no idea that there were three of them. They almost gave the impression that they were trying to stay up with events and were struggling to get the word out, and now I'm finding out this was all a very complicated and pre-arranged massive effort to discredit the Central American policy that I ran on in '84 to come back to Congress, that President Reagan ran on.

No matter how many protestations there are in mass media to the contrary, the American voters were smart enough to know that if they voted for Ronald Reagan, that there was a policy for freedom in Nicaragua that was going to be pursued. And one bottom line that just rings with clarion loud sound through all this is we won, no matter how unstable things are in Nicaragua now.

I went down to the inauguration of Violeta Chamorro, and the policy of all of these young lawyers who feverishly supported the Sandinistas as though they were God's calling to freedom, these thugs that were torturing people to death, running 16 concentration camps, the Ortega thugs that ran the whole thing—we won. That's so ironic to everything you're telling us now.

Mr. O'DONNELL. Well I think that we have to ask why the taxpayers are paying for press aides for an Independent Counsel Office and why a press aide was present all the way through the Classified Information Procedure Act hearings when the judge was trying to determine what classified information was relevant to the trial. What does that do to the time-honored principle of "need to know"?

Point seven, microscopic exam: With no limit on funds and personnel, nothing escaped the x-ray examination of the Independent Counsel. No detail was too trivial. Like the cat scan of a human body, every word, personal document, financial document, and personal and medical record, was scrutinized and analyzed by this IC.

A few examples to give the flavor: Colonel North's wife was called to the Grand Jury. Colonel North's wife's sister was called to ask how much it cost to feed his daughter's horse. A babysitter was interrogated about how much she earned babysitting for the North family. The same was true for a teenager who cut the lawn.

Colonel North's minister was asked about how much he contributed to the Church. The minister said, "don't you have something in this country called pastoral privilege;" he rejected this abusive tactic. School officials were interviewed, tuition records were collected, and even the veterinarian's records were examined to find out how Ollie's dog Chewie had died.

This is ridiculous. And it has not been publicized, but even the lead counsel, Brendan Sullivan, was subpoenaed to appear before the Grand Jury.

Point eight, find a crime to fit the target: The results of all this momentum and bias, and unlimited resources are inevitable; there are going to be indictments. This environment leads to novel theories of prosecution.

For example, most people think Colonel North was indicted for lying in his sworn testimony under oath before Congress—not so. He was charged with lying at a meeting when he was not under oath and where there was no transcript. If this theory of prosecution spreads, you won't be able to build jails large enough. And then who testified against him at trial? The Democrats who opposed the policy, came in to testify against him.

Two individuals pled guilty to a conspiracy to defraud the IRS pursuant to facts that an Assistant Attorney General found to be highly questionable, if not inappropriate grounds for prosecution. These individuals testified at trial that they still thought, even after pleading guilty, that they did not commit a crime at the time. And of course, because of the pressures placed on them, they named Colonel North as a co-conspirator in this novel theory of crime.

Others pled guilty because they couldn't afford to do otherwise. And when you talk about novel theories, what about compelling Colonel North to testify before the world and then prosecuting him based on the very same matters about which he testified. We told the IC 5 years ago that this could not be pursued in court; no one listened, millions were spent, all of it was dismissed, and the case is over. What great waste of money and resources.

Point nine, unjustified targeting: An IC force of this size reflects bad judgment or no judgment at all. Prosecutorial discretion is out the window, it's ignored. Look at a fellow like Joe Fernandez: a former policeman, 20 years at the CIA, in the secret world in jungles and other tough assignments, seven children. Then he gets thrown out of his job at CIA in the so-called "house cleaning"; then he's indicted.

Next, the prosecutors deviate from the normal procedures of the Department of Justice by not properly balancing the classified information issues before going forward with an indictment. The classified information could never be used and the indictment was dismissed. It cost $1.5 million to defend him. But for a gifted attorney Tom Wilson and a courageous law firm that backed him up, Joe Fernandez would have never been able to defend himself.

Why are the Joe Fernandez's of the world, the Dewey Claridges, and Clair Georges, and other career servants who have spent their life doing what they think is right and serving this country, being indicted. This really needs to be examined.

And my last point, Pont ten is "further abuse", and I'm going to just touch this briefly because of time. But the Walsh final report has yet to come. It will be a mammoth document, assessing and allocating blame across Government. No one knows where it will begin or end.

Like the McKay report mentioned previously, where former Attorney General Meese was charged with a crime in the report but was not prosecuted, there is no way of defending against these reports. Who can amass the funds to rebut such reports? What about grand jury secrecy? It's all out the window in these reports. This report is kind of a "final shot" for an Independent Counsel—where he can level accusations and make charges that he couldn't make in court.

I cannot finish without mentioning the IC's cavalier disregard for executive decisions regarding classified data. Walsh called them fictional secrets. He looked upon them with scorn. The institutional role of the Executive Branch in prosecuting cases and weighting national security ridiculed.

This institution, the IC, only had the role of prosecuting, and it did not care and it was not its constitutional role to worry about the secrets. And we saw this up close throughout, a mocking view of the Executive Branch secrecy and classification procedures.

So those are my thoughts on these matters and I'm happy to have an opportunity to share them with you.

Congressman COX. Thank you very much, Mr. O'Donnell.

COMMENDING THE AID ASSOCIATION FOR LUTHERANS

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. ROTH. Mr. Speaker, Aid Association for Lutherans is a nationwide fraternal organization headquartered in my district in Appleton, WI. For over 90 years, Aid Association for Lutherans has been helping local communities across America and I would like to commend them for their excellent work.

Each year, their community service expands, reaching more and more people. During 1991, the members of Aid Association for Lutherans and their friends raised over $23 million for their Helping Hands Program. Last year alone, the Helping Hands Program included: 125,393 health, educational, social benevolence and service project events; 166,152 individual acts of fraternal service; 3,090,657 hours volunteered by members and friends; 8,759,132 total attendees at branch events; 360,386 participants in 4,866 "Wise Waste" recycling activities; 2,137 scholarship recipients; 226,895 participants in 731 health fairs; 90,092 participants in 1,131 "Drug Awareness Activities"; and 2,481,473 participants in 18,034 "Helping Hands Projects."

All these programs and activities are run by volunteers, with money raised by Aid Association for Lutherans at no expense to our Federal, State, or local governments.

I commend Aid Association for Lutherans for their outstanding service to our communities. It is my hope that other fraternal organizations, businesses, and corporations will follow their sterling example. Northeast Wisconsin is proud and fortunate to be the home to Aid Association for Lutherans.

A TRIBUTE TO DR. "BARNEY" CRILE

HON. MARY ROSE OAKAR

OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Ms. OAKAR. Mr. Speaker, I want to take this occasion to call attention to the passing of a wonderful human being and friend who was a gifted pioneer in the humane treatment of breast cancer patients. Dr. George "Barney" Crile, Jr., retired chief of surgery and consultant emeritus of the Cleveland Clinic Foundation, passed away September 10, 1992, at the age of 84. But what a wonderful life he had, what happiness he gave to others and what dignity and respect he returned to countless women who became victims of breast cancer.

Dr. Crile, son of one of the founders of the internationally renown Cleveland Clinic, was the world's first physician to criticize the once common practice of routine radical mastectomy for women diagnosed with breast cancer. Years ahead of his time, Dr. Crile, in keeping with his true character, happily and aggressively, took on the entire medical establishment in the 1950s, urging doctors to consider less radical surgery and chemotherapy for some breast cancer patients—a more humane, case-by-case approach that finally became standard practice in the late 1970's.

Dr. Crile was also an outspoken proponent of informing breast cancer patients of their treatment options prior to surgery, thus allowing women to participate in decisions about their own care. Dr. Crile's 1973 book, "What Women Should Know About the Breast Cancer Controversy," inspired thousands of women to ask questions of their physicians, including another pioneer in breast cancer activism, the late Rose Kushner.

Indeed, Dr. Barney Crile was a great inspiration to me personally and professionally. In 1984, at my urging, Dr. Crile appeared before the House Select Committee on Aging to deliver a powerful statement in support of extending mammography screening coverage to Medicare patients. This benefit was finally added to Medicare coverage in 1990, and is now standard coverage under FEHBP and CHAMPUS as well.

This is how we should remember Barney Crile. No one enjoyed life more than he. His parties were legend. His prose and poetry, his films and compositions all served to capture the wit, the wisdom, the passion of a human being who believed in living life to the fullest every single minute.

And that, I believe, Mr. Speaker, is the legacy of Barney Crile. Especially for the women who feel they are alone as they struggle with the personal agony of breast cancer. Grab hold of life and shake it for everything it is worth. Get a laugh out of the time we have and leave a little something for those who will follow.

Dr. George "Barney" Crile, Jr., was a genius. Yes; that is true. But he was also a compassionate and loving human being. He was a devoted and loving husband and father to a wife and family that adored him. And that, I think, is how he would wish us to remember him. I know that I will.

A TRIBUTE TO THE COL. CHARLES YOUNG POST NO. 16

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. BLACKWELL. Mr. Speaker, I rise today to honor an organization which has distinguished itself through decades of commitment to country and community. In 1930, some of the courageous men and women of Germantown who had fought in the First World War banded together to form a post for local veterans. Since then, the Col. Charles Young Post, United American War Veterans, has been a pillar of the Germantown and Mount Airy neighborhoods and a model of service for us all.

When he passed away in 1922, Col. Charles Young was the highest ranking and one of the most decorated African-American soldiers in the U.S. military. His precedent setting achievements paved the way for successful African-Americans for generations to come, and his name was a natural choice for a post which would dedicate itself to the betterment of the local Afro-American community.

In the 63 years since its founding, the Col. Charles Young Post has grown both in membership and in popularity. Unwavering and devoted members kept the post afloat during the difficult times of the Vietnam and Korean conflicts, and have worked to make it thrive in more recent times. Today, the post boasts one of the finest offices in the area, a drum and bugle corps which has earned the State's top honors, and a championship softball team. More importantly, however, are its contributions to the people of Philadelphia. Many community ventures are sponsored by the post—most significantly, a scholarship fund which allows many high school graduates the opportunity to continue their education.

Mr. Speaker, the men and women of the Col. Charles Young Post No. 628 were once willing to die to preserve our Nation. Today, they live to uplift our Nation through their community spirit and their proud dedication to the people of our city. I ask my colleagues to join me in honoring the members of the Col. Charles Young Post, United American War Veterans.

PROTECT SMALL BUSINESSES FROM FEDERAL OVER-REGULATION

HON. THOMAS W. EWING

OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. EWING. Mr. Speaker, today I am introducing legislation to amend the Regulatory Flexibility Act [RFA], which was passed in 1980 (Pub. L. 96–354). My legislation is designed to help minimize the burden of government regulation on small businesses.

One of the most consistent concerns of small businessmen throughout the country is the crippling costs which have resulted from overzealous regulation by the Federal Government. I encourage my colleagues to cosponsor the Regulatory Flexibility Amendments Act of 1992. In doing so, my colleagues can help to provide a powerful tool in the effort to control and minimize the impact of Federal regulation on small employers.

WHAT IS THE REGULATORY FLEXIBILITY ACT?

The Regulatory Flexibility Act [RFA] was enacted in 1980 to force Federal agencies to take into consideration the costs their regulations will have on small businesses before they go into effect, and to minimize those costs.

As stated in the text of the act, "It is the purpose of this Act * * * that agencies shall endeavor * * * to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration."

Under the RFA, for proposed rules which are subject to publication in the Federal Register and public comment under the Administrative Procedure Act [APA], the rule-writing agency must also prepare an initial regulatory flexibility analysis describing the impact the rule may have on small businesses. The analysis must also outline alternatives to the proposed rule which would accomplish the same objectives at a lower economic impact on small businesses.

At the time of publication of the final rule, the RFA requires agencies to publish a final regulatory flexibility analysis, which summarizes public comments on the initial analysis, the agency response, and changes made to the rule as a result. If the agency did not adopt these less costly alternatives, an explanation must be published.

Proposed or final rules are not subject to these analyses if the head of the agency certifies that the rule will not have a significant economic impact on small business. This certification must be published in the Federal Register and include an explanation of the reasons for the certification.

In addition to these provisions, which function as part of the regular rulemaking process, the RFA requires agencies to publish regulatory flexibility agendas twice each year, outlining rules which the agency believes it may propose in the future that would significantly affect small business. The RFA requires agencies to take certain steps to afford small business the opportunity to participate in the rulemaking process. Finally, the RFA provides for the review of rules with a significant effect on small business 10 years after they have gone into effect.

The RFA charges the chief counsel for advocacy with the responsibility of monitoring agency compliance with the act.

WHY SHOULD THE REGULATORY FLEXIBILITY ACT BE AMENDED?

Section 611 of the RFA states in part "* * * any determination by an agency concerning the applicability of any of the provisions of this chapter to any action of the agency shall not be subject to judicial review."

The RFA allows agencies to certify that their rules do not have significant effects on small business, and therefore avoid conducting regulatory flexibility analyses. The prohibition of judicial review allows no legal challenge to such a determination. The result is that compliance is voluntary and Federal regulators do not face court action for failure to comply.

Removal of section 611 is the single most important step which can be taken to force agencies to fully consider the impact of their rules on small business. Unless regulators face the possibility of court challenge to their actions they may not fully comply with the RFA.

The RFA currently does not make clear whether agencies must consider the indirect effects as well as the direct effects of their rules when preparing regulatory flexibility analyses. The Ewing legislation would require consideration of the indirect effects of rules on small business.

The RFA directs the chief counsel for advocacy of the Small Business Administration to monitor RFA compliance. However, his ability to do so has been limited. The Ewing legislation would force agencies to work more closely with the chief counsel during the rulemaking process. Agencies would be required to provide the chief counsel with copies of rules 30 days before they are proposed, and he would have the opportunity to present the concerns or opposition of small businesses to the proposed rule. The agency would then be required to respond to these concerns. This proposal would give more encouragement to regulators to minimize the impact of their rules on small businesses before the rules are proposed.

Finally, the RFA as passed in 1980 grants the chief counsel the authority to appear as amicus curiae in court cases which involve the review of Federal rules. However, when the chief counsel filed an amicus brief in 1986, the Justice Department challenged the constitutionality of this authority. After much discussion the brief was withdrawn and this question has never been resolved. The ability of the chief counsel to represent small-business views in court is critical. The Ewing legislation contains a sense of the Congress provision reaffirming the position Congress took in passing the original RFA: that the chief counsel does have the authority to file amicus briefs in court cases which involve the review of Federal rules.

THE REGULATORY FLEXIBILITY AMENDMENTS ACT OF 1992

SECTION-BY-SECTION ANALYSIS

SEC. 1. Short Title.

SEC. 2. Judicial Review. Section Two would repeal section 611 of the Regulatory Flexibility Act (RFA) which prohibits judicial review of agency compliance with the RFA. Section 611 implicitly prohibits court challenge of an agency determination of the applicability of the RFA, and prohibits court review of any regulatory flexibility analysis prepared under the Act. In practice, the prohibition on judicial challenges has allowed agencies to ignore the spirit of the RFA. Removing the barrier to judicial challenge will force agencies to comply with the RFA.

SEC. 3. Consideration of Direct and Indirect Effects of Rules. Under current practice, it is not clear whether agencies must consider the indirect effects as well as the direct effects of their rules when they are preparing Regulatory Flexibility Analyses. Section 3 would require agencies to consider the indirect effects as well as the direct effects of their rules on small businesses in their Regulatory Flexibility Analyses.

SEC. 4. Rules Opposed by SBA Chief Counsel for Advocacy. It is the intention of the authors of this legislation to strengthen agency compliance with the RFA. It is also the intention of the authors to require agencies to work more closely with the SBA Chief Counsel, who is charged with monitoring RFA compliance, during the drafting of new rules.

Section 4 would amend Section 612 of the RFA to require that when an agency is drafting a new rule, the agency must provide the SBA Chief Counsel with an advance copy of the rule 30 days before publishing a general notice of proposed rulemaking in the Federal Register. (General Notices of Proposed Rulemaking are required under the APA, 5 USC 553(b).) At that time the agency must also provide the SBA Chief Counsel with a draft of the initial regulatory flexibility analysis for the rule or, if the agency determines that a regulatory flexibility analysis will not be necessary, the agency must provide an explanation for that determination.

Following receipt of the above information, the SBA Chief Counsel may review the proposed rule and regulatory flexibility analysis. The Chief Counsel will have 15 days to transmit, in writing, to the agency, any opposition or comments on the proposed rule or regulatory flexibility analysis.

If the SBA Chief Counsel submits such a statement, the agency shall publish that statement, together with the response of the agency, in the Federal Register at the same time the general notice of proposed rulemaking for the rule is published.

SEC. 5. The RFA currently gives the Chief Counsel authority to file amicus briefs in litigation involving federal rules, which only allows him to express the views of the Chief Counsel with respect to the effect of the rule on small business. In the history of the RFA this has only been done once, in the 1986 case of Lehigh Valley Farms. At that time the Justice Department indicated that this was unconstitutional because it would impair the ability of the Executive branch to fulfill its constitutional functions. The SBA Chief Counsel countered this argument with legal arguments of his own. The DOJ also argued that Executive Order 12146, section 1-402, prevents the Chief Counsel from filing such briefs. Section 1-402 of Executive Order 12146 requires that when such a legal dispute exists between two agency heads which serve at the President's direction, such dispute shall be submitted to the Attorney General for resolution. The SBA Chief Counsel countered with case law supporting the principle that an Executive Order cannot supersede a statute, and therefore Executive Order 12146 cannot prohibit the SBA Chief Counsel from appearing as amicus curiae.

After a great deal of wrangling between the DOJ and the Chief Counsel, the Chief Counsel eventually withdrew the amicus brief filed in the Lehigh Valley Farms case. To the best of our understanding, the Chief Counsel has never attempted to file another amicus brief.

The ability to appear as amicus curiae is important to the ability of the SBA Chief Counsel to represent the interests of small businesses in the rulemaking process. Furthermore, if this bill should become law, with its provision to permit judicial review of agency compliance with the Regulatory Flexibility Act, the importance of the SBA Chief Counsel's ability to file amicus briefs will be magnified.

Section 5 of this Act is a "sense of the Congress" resolution reaffirming what the Congress has already passed into law: that the SBA Chief Counsel should be permitted to appear as amicus curiae in cases brought for the purpose of reviewing a rule. 5 U.S.C. 612(b).

Again, I urge my colleagues to cosponsor this important legislation to amend and improve the Regulatory Flexibility Act. My office can provide further information on the RFA as well as my legislation to amend the RFA.

THE 205TH ANNIVERSARY OF THE U.S. CONSTITUTION

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. ROTH. Mr. Speaker, today, we are celebrating the 205th anniversary of the Constitution of the United States. This occasion has long been honored on September 17 as Citizenship Day. More recently, the event has been expanded to Constitution Week, from September 17 to September 23.

From 1987 through 1991, this country honored the bicentennial of the writing, signing, and ratification of this historic document. Over 50 million copies of the Constitution were made available to students, civic and private organizations, Federal, State, and local governments, and various religious groups.

The bicentennial celebration spanned 5 years of scholastic and commemorative events. The 200th anniversary of drafting of our Nation's most influential document, and the subsequent birth of our legislative, executive and judicial branches, deserved no less.

Nor was the commemoration limited to the United States. Citizens in Eastern Europe, revelling in their newly found freedoms, begged to receive copies of this influential document. They desperately wanted to learn more about our wonderful system of government—how it works, why it works, and how it could work for them.

I find it tremendously impressive that our Constitution is still working for us after 205 years. Its provisions and its guarantees are as relevant today as they were when our Founding Fathers first drafted them.

Nevertheless, one of the most important provisions in our Constitution is the one which allows the document to be amended. Our forefathers did make it difficult for the Constitution to be changed, so that it would not be amended on a whim. In over 200 years, we have had but 27 amendments, including those first 10 known as the Bill of Rights.

The newest amendment was only added this year, despite the fact that James Madison first proposed it on September 25, 1789.

The 27th amendment reads as follows:

> No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.

Mr. Madison's efforts to bring runaway congressional payraises under control finally paid off when the final certifications from the requisite number of States needed to ratify it were obtained on May 18, 1992.

I salute you, Mr. Madison, and your colleagues on this anniversary.

Happy 205th birthday to the U.S. Constitution.

A TRIBUTE TO BETTY COPE

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Ms. OAKAR. Mr. Speaker, I want to take this opportunity to pay tribute to a woman from my hometown of Cleveland, OH whose name has become synonymous with public television and all of the good this wonderful, educational medium offers to us all. Betty Cope announced recently that, after 27 years as the first and only general manager of WVIZ Channel 25, she is going to search for a new challenge.

By fortune and hard work and, yes, a smattering of luck, Betty Cope can be truly called a pioneer and we are all the better for it. In 1962, Betty was approached by then-mayor Anthony Celebrezze to bring public television to Cleveland. Betty was WVIZ's first paid staff member and was director of local programming when the station took to the air on February 7, 1965 as the Nation's 100th public station. Betty was named general manager just 8 months later, the first woman in the Nation to hold such a position.

Betty Cope, during her stewardship, has kept WVIZ debt-free and has embodied the credo of public television to provide innovative instructional programming. Because of her dedication, Betty Cope and WVIZ are regarded by staff and viewers to be one and the same. It is an astonishing accomplishment and a deserved compliment.

Betty Cope intends to keep busy in her new career away from WVIZ, but she will never be far from the station on Brookpark Road. Betty plans to continue her work for Project Equity, which she created to provide all Ohio schools, through technology, with equal access to information and as a board member of the Ohio Educational Broadcasting Commission.

Betty Cope has said she may seek political office and I can think of no finer addition to public life and the benefits she could bring to the people.

Betty Cope's leaving may be the end of an era at WVIZ, but really, knowing her, it is just a fresh page of a new chapter of contribution to the education and advancement of all those with whom she comes in touch. Her accomplishments are many. Our memories of Betty Cope are many and happy. It has been wonderful and productive partnership.

A TRIBUTE TO ERNIE DAVIS

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. BLACKWELL. Mr. Speaker, I rise today to pay tribute to a man whose efforts in Amtrak's Capitol office for the last 6 years have been unparalleled. As Ernie S. Davis retires after 43 years of service, I would like to take a moment to reflect on the career of this outstanding American.

Born on October 7, 1930, in Masury, OH, Ernie is the oldest of seven siblings. Ernie learned the value of hard work at an early age, serving as a newsboy for 12 years. Ernie would later hold employment at a steel mill in Sharon, PA. On September 23, 1949, Ernie moved to Washington and began his exceptional tenure of employment with the Washington Terminal Company. In September 1986, Ernie moved to Amtrak's Capitol ticket office where he oversaw day-to-day operations.

Mr. Speaker, I am also happy to report to you that Ernie has also served his Nation with a remarkable 39 years of service in the U.S. Army, including 2 years of active duty during the Korean conflict.

Ernie's presence in the Capitol will be sorely missed by everyone who has had the pleasure of getting to know him. He conducted his business with the utmost seriousness, yet he was always helpful, and eager to please. It is rare to find people like Ernie these days, who recognize the true meaning of hard work. It is a fact that Ernie is widely respected by all of the Members in this legislative body, on both sides of the aisle.

I would like to wish Ernie and his wife Bernice much happiness in their retirement. Ernie's plans for the future include trips to Alaska and maybe China. Ernie looks forward to learning how to fish, and watching the Redskins press on toward another Superbowl. At any rate, we all know that Ernie will enjoy himself in whatever he does.

Mr. Speaker, I would like to ask my colleagues to rise and join me in paying our greatest tribute to Ernie S. Davis. Goodbye, God bless you, and happy retirement.

BREAST CANCER AWARENESS MONTH

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. DOWNEY. Mr. Speaker, I would like to commend my colleague, Representative CARDISS COLLINS for her leadership in the fight against breast cancer in America. Her introduction of House Joint Resolution 393, a resolution to designate October 1992 as "Breast Cancer Awareness Month" further portrays the commitment she has made, and that I share, to combat this tragic and often fatal disease.

As the chairman of the House Select Committee on Aging's Subcommittee on Human Services, I held a hearing last October in my congressional district of Suffolk County, NY, entitled, "Breast Cancer on Long Island: An Avoidable Tragedy." While the title of the hearing was self-explanatory, the truth of the matter is that in many cases, breast cancer is not avoidable. More research and more outreach is needed before the scourge of breast cancer can be totally avoided. We must focus on the methods that are available to us to aid in detecting this tragedy. Our hearing enabled the subcommittee to hear the growing and desperate concerns of Long Islanders about how breast cancer has affected their lives and that of their families, and it made me more committed to join the battle against it. In addition, key testimony was received from professionals in the community who are working hard to help the women of Long Island become more aware of this devastating disease.

Breast cancer is an epidemic in the United States. In 1966, 1 in 14 women were expected to develop breast cancer in their lifetime. In 1984, 1 in 11 American women could expect to develop breast cancer, and today, 1 in 9 women are expected to develop breast cancer.

Two years ago, of the nearly 150,000 women in this country projected to get breast cancer, close to 44,500 were expected to die. Breast cancer incidence rates have increased approximately 3 percent a year since 1990.

In New York State, of the 30,000 people expected to die in 1990 from all types of cancer, 3,800 were expected to die due to breast cancer alone. Suffolk County, as well as neighboring Nassau County, NY, have unusually high incidences of breast cancer. During the time period from 1983 to 1987, Suffolk County's breast cancer rate was 8.6 percent higher than the State average and Nassau County's was 18.9 percent higher. Currently, there is no known explanation of why these rates are so much higher than the rest of the State as well as the entire country. I am pleased that Centers for Disease Control [CDC] has commissioned a panel of experts to carefully scrutinize this troubling phenomenon. This panel, which met for the first time this week, may be able to provide us with some answers to why our communities seemed to be prime targets for this disease.

In the meantime, more Federal involvement is needed if we are to succeed in erasing breast cancer. By the end of fiscal year 1992, the National Cancer Institute will have spent approximately $133 million on research targeted to breast cancer. For fiscal year 1993, we may see an increase of close to $220 million for breast cancer research, once the appropriations legislation for the Department of Health and Human Services is completed. I am also pleased that the National Institutes on Health has been allocated a 30-percent increase over this year's level in research funding specifically earmarked for breast cancer. This would mean an increase of $44.2 million. In addition, more attention needs to be applied to detection methods, including removing the barriers that prevent women from seeking mammography. We need to improve Medicare coverage to allow for annual rather than biannual screening. We must also ensure that the mammograms that women receive are the highest quality that current technology allows. That is why I cosponsored H.R. 3462, the Breast Cancer Screening Safety Act introduced by my colleagues, Representative MARILYN LLOYD and Representative PATRICIA SCHROEDER which would establish needed Federal standards for the technology and medical care which are available to women.

Early detection is imperative if we are to save women's lives. Until a cure is found for breast cancer, we must exhaust all resources available to us in confronting it. I am optimistic that one day we will have a cure. Until that day, early detection and regular medical checkups are essential. Because October has been designated as "Breast Cancer Awareness Month," it is our responsibility to promote detection and prevention programs throughout the month. We cannot, however, forget that breast cancer follows no calendar, and we must be watchful every day of the year.

CATERPILLAR STRIKERS FACE THE BITTER TRUTH

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. MICHEL. Mr. Speaker, today I'd like to enter the fourth in a series of articles appearing in the Chicago Tribune recently. These articles profile the strike and negotiation process that Caterpillar, Inc., based in Peoria recently underwent.

[From the Chicago Tribune, Sept. 9, 1992]

CATEPILLAR STRIKERS FACE THE BITTER TRUTH

(Peoria takes sides over Caterpillar's threat to hire replacement workers. Fourth in a series on the economic forces that pit U.S. employers, unions and workers against one another. Reported and written by Stephen Franklin, Peter Kendall and Colin McMahon.)

Dick Owens put on his New York Yankees cap and a pair of sunglasses. It was a sunny April morning, but he wasn't seeking shade so much as anonymity—protection from the glares of fellow UAW members whose picket line he was about to cross

He got into his 1977 Ford LTD wagon and made the 25-minute drive from his home in Pekin to the Caterpillar transmission plant in East Peoria.

Hundreds of men and women were gathered outside Building KK and the other plants that make up the sprawling Cat complex. They toted picket signs and chanted slogans, cheered on by leaders with bullhorns.

Owens had been on that line only a week before.

As he approached, Owens was frightened. But he also felt something of a grudge welling up inside. He knew what he was doing was right. He knew from talking to other union members that many more would eventually cross the line. He knew the line was not that strong, that somebody had to be the first.

"I'm doing all the hard work," he thought.

Owens drove right past the pickets and into the company lot. On that first day, April 6, he caught his fellow strikers by surprise. It would not happen again.

Five days earlier, Caterpillar had delivered its threat to Owens and to the 12,600 other United Auto Workers striking against the earthmoving-machinery company: Come back or be replaced.

Caterpillar had pulled out a weapon that few people thought they would ever see. Other companies had brought in replacement workers in recent years, perhaps emboldened by President Ronald Reagan's firing of striking air-traffic controllers in 1981. But no major U.S. manufacturer had ever threatened to do it. Not until now.

Caterpillar Inc., the pride of Peoria, the largest manufacturer in Illinois, an American success story, was telling workers who had toiled there an average of 22 years to move it or lose it.

The threat raised feelings of betrayal, fears of financial ruin and questions about how much loyalty the workers owned their union.

After all, they had a world to lose. Over the last several decades their union had won from Caterpillar an impressive menu of wages and benefits. The $17-an-hour factory workers had become solidly middle-class, with good homes in good neighborhoods.

Now they were forced to make a choice that could determine whether they would maintain those lifestyles or become outsiders, condemned to look in on a way of life that no longer had room for them or their families.

It was painful, too, that many in the community did not sympathize with the union.

When they looked around Peoria for moral support, Caterpillar workers more often found jealousy. Many people making the minimum $4.25-an-hour, or even $8 to $10 an hour on non-union construction or assembly jobs, were reviling the strikers, not the company.

On radio call-in shows and in letters to newspapers, the same themes were repeated.

How dare they walk away from $17-an-hour jobs when so many other people worked for so much less? How dare they balk at paying an insurance deductible if they used a doctor outside the company plan, when so many in Peoria had no health insurance at all? How dare they turn up their noses at lifelong pensions and at a furlough system that paid them 95 percent of their regular wages during layoffs, even as 15,000 Peoria-area residents were looking for work?

In the last decade, Peoria had gone from a blue-collar Caterpillar town to a white-collar Caterpillar town. Deep cuts into the hourly work force—deeper than those made to the salaried managers at headquarters—had eliminated the majority status that factory workers had held for decades around Peoria.

Voices rose on radio talk shows. WMBD's top-rated morning jock, John Williams, so infuriated union leaders that they called for boycott of his station.

Williams fielded calls from both sides. Most non-union callers took the company's side. Many union callers said, anonymously, that the wanted to return to work. Nearly all were bitter, angry, or just sad.

"People would try to explain how they feel and just break down in tears," Williams would later say.

The letters pages of the Peoria Journal-Star and other local newspapers were filled with attacks and counterattacks.

"The union proclaims loudly that it cares about the worker," one writer said. "They target every employer, whether good or bad. No wonder we have teen gangs."

Caterpiller workers should not have been surprised at the public's mood, considering what went on inside the Peoria labor market during the 1980's.

There were fewer jobs, and good-paying manufacturing jobs were scarce. Some of the city's largest employers had vanished. Household income had not kept up with inflation, even though more families had two people working.

The makeup of Peoria's work force was changing as was America's. And those changes were sweeping away expectations of a brighter future for the blue-collar worker.

As soon as he heard Caterpillar was out to hire replacements, Dennis Shaw picked up the phone.

Shaw, 37, was working at National Wheel-O-Vator Co. in Roanoke, Ill., about 25 miles northeast of Peoria. He was making $6 an hour and waiting for his six-month anniversary and the 50-cent raise that went with it.

Caterpillar newspaper ads, run in cities where the company has plants, were offering jobs to replacement workers paying from $16.12 to $17.85 an hour.

Shaw's wife, Amanda, had a grandfather who retired as a UAW worker at Cat. Shaw knew how good a Caterpillar job could be.

Ironically, Shaw had also seen what happens when a company hires replacement workers. He had been one of 45 strikers replaced by Hagerty Bros. Co. of Peoria, a Caterpillar supplier.

When Shaw and his Teamsters Local 927 struck Hagerty in 1990, the company retaliated instantly by hiring replacements, making good on a threat that more and more companies have made during the last decade. About 15 of the 60 Hagerty strikers scrambled across the lines to take back their jobs.

Shaw didn't cross. Hagerty Bros. held fast. It was a hard lesson.

The job loss sent him into a 2-year spiral of part-time and temporary jobs, from mowing grass to working in an auto-parts store. His hopes of buying a home were dashed.

"We are just getting back on our feet," Amanda Shaw said. "Last year, he had eight W–2 forms when he filled out his taxes. Eight jobs in one year."

Just before Shaw's scheduled interview with Cat, he landed a job with CDO, a company that sorts out shipped material for Caterpillar. The pay was $7 an hour, soon to be $7.50, and the benefits were better than at National Wheel-O-Vator.

He is not in a union.

"I could care less about unions," Shaw said. "If the Teamsters cared about us, they would have been helping us get jobs, instead of us finding them ourselves."

To the dismay of the UAW, there were thousands of Dennis Shaws.

The workers called April 6 "D-Day." As it neared, they sifted through their loyalties—to their union, their company, their families. Should they cross the line to keep replacement workers from taking their jobs?

As the day approached, Jim Mangan realized he didn't want to go through his time of testing alone.

"I felt physically ill all weekend, trying to decide," said Mangan, a quality analyst at Caterpillar's showcase assembly plant in East Peoria. "I'm a former union official. I know what unions have done in the past for the working man."

He had talked about the issue with his family. He had faithfully read news accounts of negotiations, attended union meetings, manned the picket lines, even talked with a high-ranking Caterpillar official, trying to get a feel for what was the truth, for what he should do.

Mangan held a meeting at his home in Pekin. More than 25 fellow workers showed up—men and women, good friends and mere acquaintances. No union officials were invited, "just regular guys and gals from the shop," Mangan said.

They gathered in the family room of Mangan's home, a typical suburban ranch with a lush front lawn, an expansive back yard and two automobiles in the garage. Sitting in a circle, drinking coffee, the workers talked about their feelings, their fears, the pressures and what they might do come Monday.

On the wood-paneled walls hung photographs of Mangan's wife and children, sharing space with a picture of Jesus Christ and the inspirational tale called "Footprints":

"During your time of trial and suffering, when you see only one set of footprints," the Lord says, "it was then that I carried you."

"Everyone pretty much understood that whoever didn't go back in a relatively short time stood a pretty good chance of being replaced and not being called back for a long, long time," Mangan said. "About half the people in that room ended up crossing."

Mangan stayed home that Monday, honoring the wishes of family members who feared he might get hurt if he crossed that first day. He was waiting for a break that would end the standoff, but he would not wait much longer.

Meanwhile, Chuck Lovingood talked with most anyone he could about what he would do.

He was only a year from retiring to Mississippi, where he hoped to open a saddle shop with his wife, Joyce. If he lost his job, those dreams would end, and the $1,800 monthly pension he was to start collecting in 1993 would not start coming in until 2004.

He sat Joyce down at her chair at the oak kitchen table, trying to decide what he should do. He told her he didn't think he could cross the line. She told him he should do what he thought best.

"What if I lose my job?" he asked her.

"Then we'll start over again," she said.

He was 50 years old and chilled at the thought of finding a new job at his age. "I don't want to start over again," he told her.

Lovingood did not know what he was going to do even as he drove to his Caterpillar plant that Monday morning. Until the last instant, at the crossroads, when Lovingood chose the union and joined the pickets, he still had not known. But once he had done so, he could not imagine having gone the other way.

As April 6 approached, Jan Firmand was thinking long and hard about what it would be like to lose her Caterpillar job, again.

Firmand had been laid off from Cat for more than six years during the 1980s, so she knew how good a Cat wage was and how hard it was on the outside. She knew that Caterpillar was serious about hiring replacements. But she also knew she could never cross the picket line.

To her, the company's threat meant the end of something. "I guess I'm no longer at Cat," she said.

Still, she talked it over time and again with friends and family.

"You're not going to cross," her son told her. She knew he was right, but she needed to hear someone else say it.

And for Jimmie Toothman, economic troubles were adding pressure some of the other strikers weren't feeling.

He had been among the first to strike on Nov. 4, 1991. His wife, Joyce, had done a remarkable job since then juggling bills and negotiating with creditors, but the $100-a-week strike pay was barely enough to feed their four kids.

When Joyce heard Caterpillar's plan to hire replacement workers, her stomach sank. Jimmie stood firm by his UAW. "If the company had its way, we'd be making $5 an hour," said Toothman, who earns $17.84. "That's what the union has done for us."

Schools near Caterpillar plants opened an hour late on April 6. Officials wanted to keep the kids away from any violence that might occur at the beginning of the first shift.

A local court ordered that the union could post only 10 pickets at each gate, but hundreds of workers showed up just after dawn to protest on the periphery.

Police and sheriff's deputies cruised up and down the lines. Caterpillar's hired guards from Vance International Protection Services were out in force, ready to videotape any violence by the workers.

Nobody knew what to expect that first morning. As it turned out, no violence occurred.

The company expected hundreds of workers to cross. The union expected a handful. The real number was somewhere in between. The union screamed victory. The company said, give it time.

The following morning, tension replaced bravado on the picket line, and Dick Owens' 1977 LTD wagon caught no one by surprise.

As Owens neared Building KK, his stomach knotted. Union members pulled their cars out in front of his, slowing him down. Pickets wandered into the street, blocking him. Someone was waving a sign with his name on it.

"Dick Owens," it said. "Scab."

Then someone began pounding on the back window and a beer can was thrown at him. He looked for police but saw none. His anger rising, he kept moving, slowly now. Toward the gate, then finally inside.

At home that afternoon, Owens parked his wife's car in the garage instead of the driveway. Then he put one of his boys' baseball bats near the back door.

All that day, the phone did not stop ringing at Caterpillar. Seventeen dollars an hour, and that much again in benefits, the help-wanted advertisements had said.

From the Peoria area, from Chicago, from southern Illinois, from Missouri and Iowa and beyond, people called to set up interviews, to try to take the jobs of workers who, it seemed, must not have known a good thing when they had it.

Thousands were calling the phone bank each hour, according to the telephone company. Cat officials said they had set up interviews with 8,400 applicants.

Publicly the union said the numbers were inflated, that hiring and training so many workers would be a logistical nightmare, that people off the street would not be able to do the highly skilled work required to keep the quality in Caterpillar machines.

Privately, the union was stunned. Management and office personnel were already working in the factories, learning the jobs. And with so many people out of work, union officials began to realize the company could find enough workers to come in and keep the factories running.

The yellow bulldozers would be built.

"I had to learn my job," is how one union member put it. "And if I could learn it, somebody on the street can learn it."

With thousands of people signing up, the number of strikers crossing had grown by Wednesday into the hundreds.

Jim Mangan, the former union steward who had stayed home Monday and Tuesday in deference to his family, was among them.

Mangan entered his assembly plant through a gate he normally does not use, away from the angry strikers who would recognize him.

It was easier that way, but it wasn't easy.

"It was a gut-wrenching decision, but I could not find any reason to give my continued allegiance to mass confusion," Mangan said.

"When I hired on at Caterpillar, I applied to them, not to the UAW," he reasoned at the time. "I know who the boss is, and they've got the hammer. I felt they were going to use the hammer."

The union did get an emotional boost that Wednesday when Arkansas Gov. Bill Clinton, then the front-runner for the Democratic presidential nomination he eventually won, visited the picket lines with Illinois Sen. Paul Simon.

Clinton voiced support for legislation to ban the hiring of replacement workers, legislation that would ultimately die in the U.S. Senate.

The pledge was just what union leaders wanted to hear, though they could hardly wait for the November election.

That same day, 700 miles away beneath the ornate chandeliers of a Hotel du Pont ballroom in Wilmington, Del., Chairman and CEO Don Fites told shareholders at the company's annual meeting that on Tuesday alone Caterpillar had logged 47,000 calls for replacement jobs. Hiring was to begin May 1.

Peoria had been watching the gathering ugliness with one eye covered and the other open wide.

Prayers for a peaceful resolution were offered at churches. Local leaders pleaded for a settlement. Law officers negotiated with both sides to keep order on the picket lines.

This is going to be a very tense weekend for many families in Peoria," said U.S. Rep. Bob Michel, the longtime Republican representative from the area. "This is a time of testing for the entire community."

Civic leaders feared that violence on the picket lines would kill outside investment for the next decade, or more.

The city had struggled back to economic health after the devastation of the nationwide recession and Caterpillar layoffs of the early 1980s. Now people feared that a decade's gains were being chipped away by daily images of strikers and guards on television news programs, and by published reports in newspapers across the nation.

It had become a national story, with out-of-town commentators making much of Peoria's historic role as touchstone for the nation. For the most part, they were not exaggerating.

Within its 43½ square miles of urban grit, suburban sprawl and open prairie, the City of Peoria contains virtually all that is grand and all that is ignoble about America in the '90s.

It has beautiful rolling parks and blighted public housing developments, glistening malls and boarded-up storefronts, a history of neighbor helping neighbor and a lingering tradition of racial intolerance.

The expression "Will it play in Peoria?" started in vaudeville days. But it still has been a valid test for politicians, marketing executives and anyone else looking for the national pulse.

The statistics that once made Peoria "average" have changed, but it's not just numbers that make it a model of the country. It's the attitudes of the people, the way they think and vote. It's the way they work and play and pray.

Driving into Peoria from the east on Interstate Highway 74, a traveler sees the city suddenly and fully through the yawning gap in the Illinois River bluffs.

From this distance, the city evokes images of churning factories and workers toting lunch buckets, of church picnics and union barbecues, of bowling leagues and high school football.

The 30-story Twin Towers residential complex is flanked by descending lines of office buildings. The Caterpillar headquarters crouches low near the river's edge.

But, up close, Peoria's blue-collar dignity quickly gives way to drabness and desperation. Many of the warehouses and factory spaces that line the river are, on closer inspection, empty.

Gone is the Palace Theater, the vaudeville house where national acts would try out new material on Peoria audiences. In its place stands the Twin Towers, whole floors vacant.

By 5:30 p.m., downtown Peoria begins losing life. By 8 p.m. it is dead.

Even during business hours there are never any true traffic jams, at least none of the head-in-hands, curse-a-lane-changer variety. Not downtown. Not by the malls. Not at the morning rush. Not at the evening rush. Never.

North of downtown are the "suburbs within the city" that blossomed as the middle class fled downtown in the 1960s and 1970s.

One is Edgewild, where one Caterpillar executive after another lives along curving streets, Peoria's version of Detroit's Grosse Pointe. Caterpillar chairman and CEO Don Fites lives there, a golf shot away from the home of retired chairman Lee Morgan.

But the analogy to Grosse Pointe and its seven-figure mansions doesn't hold up. Edgewild homes sell for $100,000 to $250,000—well above Peoria's $60,000 median, but still in a range that fits Caterpillar's low-key sensibility.

Fancier homes can be found up on a wooded bluff, where doctors, lawyers and other professionals live along Grand View Drive, a street that Theodore Roosevelt once called "the world's most beautiful drive."

But the splendor of Grand View, where houses sell for $300,000 to $600,000, is the exception. Growing more prevalent are streets like Jefferson and Adams, two main north-south thoroughfares that long ago lost their battles with weeds. Store after store is empty or boarded up. Fallen tree limbs and other debris are left on the sidewalks and in the street for weeks at a time. Working-age men, white and black, pass their weekdays sitting on front porches.

Their prospects of getting a good-paying job are few, and getting fewer. Peoria is changing, and the changes are not working in their favor.

For most of its history, Peoria had been a churning industrial town, the kind of place where people set their watches by the noon factory whistles.

Early this century it was a whiskey distiller and a transportation hub, with a hundred trains a day making the stop. It continued to develop as a hard-working, hard-living town—central Illinois' capital of industry and vice.

Until 15 years ago it was a self-assured factory town where wages went up every year, housing prices boomed, and good jobs could be had with a high school diploma and the right attitude.

"If it wasn't at Caterpillar, and it usually was, then it was at Keystone or Hiram Walker or Pabst," said Peoria native Rebekah Bourland. A good paying blue-collar job was practically a birthright for white Peoria men.

During the 1980s, all that changed. The headquarters of the Bergner department stores left for Milwaukee. Hiram Walker followed cheap labor, cheap land and tax breaks to Arkansas. Pabst Brewery closed shop to consolidate in Milwaukee. Keystone Steel and Wire laid off hundreds.

Worst of all, Caterpillar laid the town low with a combination of blue-collar and white-collar layoffs that began in 1982, the first year since the Depression that the company lost money.

More than 15,000 Caterpillar workers in the Peoria area lost their jobs from 1980 to 1984. Only a small percentage of those workers would ever be called back. Many others left the area.

From 1980 to 1983 alone, the number of manufacturing jobs in the Peoria area fell 40 percent, leaving it by far the hardest hit blue-collar town in the Midwest, according to one study.

What happened to Peoria in the 1980s also happened to Kankakee, Gary, Youngstown, Akron, Detroit, Flint and Pittsburgh: Blue-collar bases were shriveling. Then, in the 1990s, white-collar workers began losing jobs in the high-tech communities of New England and the Silicon Valley, and in the defense industry towns of Texas and California.

In Peoria, just as in other northern industrial cities, the decline in blue-collar employment has been harshest for the city's African-Americans.

"This whole decline in manufacturing in our society generally . . . has disproportionately impacted minorities," said Bashir Ali, director of the Central Illinois Private Industry Council. "That led to the phenomenon we have now of massive numbers of African-American males being unemployed and giving up hope."

Like many U.S. companies, Caterpillar hired few minorities until the mid-1960s, when the federal government began encouraging, and in some cases pressuring, them to do so.

In 1962, Caterpillar employed only about 650 minorities nationwide out of a total work force of 31,505. Under the government's Plan for Progress, the minority presence doubled by 1965 as the total work force grew to 44,000, and minority hirings continued to grow through the decade and into the 1970s.

But when Caterpillar and Keystone and other union employers laid off workers at the beginning of the last decade, a disproportionate number of those let go were minorities—simply because hiring discrimination in the past had left them with the least seniority.

Unemployment in 1983 and 1984 flirted with 20 percent in the city; bankruptcies soared, hitting a high of 2,300 in 1984; and the bottom fell out of the housing market. According to the Peoria Area Association of Realtors, the average selling price for a home dipped more than 15 percent from 1982 to 1987, dropping to $52,135 from $61,500. Some people turned in their keys to helpless real estate agents with a plea for anything they could get. Some just walked away.

Peoria's population fell during the 1980s from 126,000 to 113,500; in the metropolitan area, which comprises Peoria, Tazewell and Woodford Counties, the drop was from 366,000 to 340,000.

Gradually the city tried to fight back, working to attract new business.

Voters in 1985 elected a cheer-leading, feel good, singing mayor who promised to put the citizens back in government and Peoria back on track.

Mayor James Maloof and Peoria's other leaders began weaning the community from Caterpillar by enticing small businesses to locate there. To an extent, they were successful.

The U.S. government's agricultural sciences lab has expanded to hundreds of employees. The city has become the medical center of central Illinois, nearly doubling the number of jobs in the industry. And numerous small enterprises, from computer graphic firms to telecommunications companies, have been added in the last few years.

When the state legalized riverboat gambling in 1991, Peoria leaped at the opportunity, even though city fathers worried it would revive old images of call girls, crooked cops and con artists.

The $15 million Par-A-Dice river-boat casino opened last November and has exceeded all expectations, bringing with it some 700 jobs that average about $23,500 a year. Attendance fell off this summer after a big start, but through August the boat had pumped more than $3 million into the tax coffers of Peoria and East Peoria, not counting parking fees at the city-owned lot.

Next the city is considering expanding its convention center and even setting up a national Comedy Hall of Frame. After all, Richard Pryor is from Peoria. So were Fibber McGee and Molly.

So some of the boosterism has worked: Prior to 1991's downturn, the area had recouped 25,000 jobs lost in the 1982–83 wipeout. Bank account openings have risen dramatically. And housing prices, which headed south in the early '80s, have rebounded.

But the new jobs aren't like the old jobs. On paper they almost offset those lost of the factory closings, but the new positions tend to be lower-paying ones in the service and medical industries.

In 1979, 34 percent of all jobs in the Peoria metropolitan area were in manufacturing; by 1991, that number had sunk to 22 percent, a loss of 22,000 blue-collar jobs.

Due largely to that shift, household income dropped significantly, and for the first time in decades Peoria fell below the national average. The median for Peoria was $18,193 in 1979. To keep pace with inflation it should have risen to $31,073 by 1989. In fact, the median rose to just $26,074 by 1989, a decrease of 19 percent.

Nationally, median household income rose 6.5 percent.

Across the metropolitan area, the decrease in median income was more than 10 percent, meaning thousands of families slipped out of the middle class and into the ranks of the working poor. From 1979 to 1989, the percentage of Peoria residents living below the poverty level rose to 18.9 percent from 12.3 percent.

During the 1980s, the world was shifting. Like continental plates moving over the economic globe, vast classes were pushed into new territory.

High-paying manufacturing jobs were disappearing from the United States and reappearing as low-paying jobs in cheap labor markets overseas. Old economic borders were disappearing, pitting workers in Michigan in direct competition with workers in Mexico.

Peoria was deindustrializing right along with the rest of America. And life in the nation's quintessential blue-collar town would never be the same.

At about 11:20 Thursday night, Dick Owens was in bed, trying to sleep after putting in his fourth shift since crossing the picket line on April 6. His five children were asleep. His wife, Nancy, was in the basement doing laundry.

When she slammed the dryer door, it made a thud. That was immediately followed by another thud from upstairs. She heard glass shatter.

She ran upstairs, yelling. "They're hitting the house?" Dick came out of the bedroom. Nancy was in a panic. Glass covered the living room floor.

"Call 911," Dick yelled at her. She talked to a police dispatcher, repeating her address, staying on the line. As she spoke, she saw a figure moving outside. "There's a big guy on the back porch," she said.

Dick was behind her, wielding a baseball bat. She stood between him and the big guy on the porch.

Nancy ran down the basement stairs as Dick threw open the door. There, on the back porch, was their next-door neighbor. He had heard two crashes and had looked out his window to see three men with baseball bats walking down the alley.

They had broken out the rear window of the Owens' station wagon and broken a living-room window.

It wasn't until later that Nancy began shaking.

At about 2:30 a.m., the phone rang. A man asked Dick if he had gotten a message.

Owens wanted to say something smart, wanted to show this guy something.

"Watch for me in the morning," Owens said to the man. It didn't sound as biting as he had hoped.

"Next time," the man on the other end said, "it will be more than a window."

The next evening, Jan Firmand was watching the news and there, suddenly, was Owens' face. She had worked with him at Building KK, had stood with him on the picket lines, warming her hands over the fire barrels and talking with him about the future of Caterpillar.

Owens was telling the TV reporter about the vandalism at his house, the price some union brothers had made him pay for crossing the picket line.

Even though Firmand had always respected him, she felt a little disgusted when she saw his face. She called her son into the room.

"There he is," she told her son. "He's the one I work with."

On TV, Owens was describing the attack.

"What did he expect?" her son said.

That weekend, after several bleak weeks, there was some hope of a break in the standoff.

Caterpillar Chairman Don Fites and UAW President Owen Bieber had met in Chicago with federal mediator Bernard DeLury and agreed to send negotiating teams to the mediator's offices in the Chicago suburb of Hinsdale on Monday.

Members of the rank and file, hoping for an agreement that would let them go back to work without crossing their union, were cheered. Maybe this time the two sides could work something out. A contract extension, maybe, anything to take them back from the edge.

On the picket line, firebrand Ron Logue kept up the spirits of those who stayed and turned up the pressure on those who crossed. To him, the scabs were hurting not only the union but themselves as well.

The only chance the worker has was solidarity, Logue insisted. The only chance the country has is fostering strong unions that promote high wages and a good standard of living.

"We're trying to help everyone—farmers, minorities, not just union people," Logue said. "Our members get paid more, so they pay higher taxes. That leads to better schools, better communities."

At the Local 974 hall, officials disputed Caterpillar's claims that several hundred workers had crossed the picket lines by Friday. They insisted that Caterpillar's efforts to hire replacements would fail. They talked defiantly about Monday's session with the federal mediator.

The company had better back down, they said, because we won't.

The first day of talks in Hinsdale proved uneventful. Back in Peoria, Caterpillar began screening and testing would-be replacement workers. The number of people crossing the picket line rose.

By noon Tuesday, April 14, the talks in Hinsdale appeared to be going nowhere.

Back on the picket line, workers were getting antsy. Older strikers, who fretted about not qualifying for a pension if their jobs were wiped away, became more outspoken.

Word had it that if the talks with the mediator broke down, people would start crossing in droves.

"Don't be the first to cross," the advice had gone, "but don't be the last, either."

By late afternoon, there were hints of movement out of Hinsdale. The talks would continue beyond the original closing time.

DeLury offered both sides a deal: The union would go back to work immediately; the company would stop its efforts to hire replacements; and both sides would withdraw their latest contract offers and resume negotiations fresh for 90 days.

The two sides went to different rooms to consider the deal.

A few union committee members felt that Caterpillar's production was so low the company could not hold out much longer. Others expressed fear that by the end of the week, Good Friday, thousands of workers would cross the line and the strike would be broken.

In the end, union negotiators say, their decision to go back to work was unanimous.

Caterpillar negotiators were the first to give their decision to DeLury. They said the company would not withdraw its final contract offer. If workers came back, they would do so under the terms of that proposal.

Then the union team came into the room, and Casstevens said DeLury's deal was acceptable. The union would withdraw its offer, send its workers back to the factories and bargain for 90 more days.

When Casstevens was told that Caterpillar was, in effect, refusing DeLury's deal and sticking with its last offer, he became agitated.

"Well then," someone would later remember him saying, "we are unconditionally returning to work."

The words came as such a bolt out of the blue that somebody in the room asked him to repeat them. He did. Then he stood up and walked out.

The company was stunned. So were the workers.

In bars, at home, in the pickets' shelters thrown up in front of Caterpillar buildings, at the union hall, Caterpillar strikers listened to the radio or watched television or got on the phone of friends, trying to figure out what had happened.

At first, many believed Casstevens had a plan.

Jan Firmand, working at the nursing home where her father lived, heard the news on television and literally jumped for joy. She thought the union must have won something. Later, she realized that there was no victory at all.

At Marty's Center Tap, a hangout across the street from Caterpillar's Building JJ in East Peoria, the mood ran from defeat to betrayal.

Some rank-and-file members felt their interests had been superseded by larger union issues, and they wondered whether the agreement to end the strike had been worked out secretly the week before by Fites and Bieber.

Many workers had lost up to $20,000 in wages, and they all had watched as friends turned their backs on them and crossed the picket line. They had been forced to struggle with issues of loyalty and principle, and for what?

They were going back clear losers, and no matter how many times they tried to tell themselves that the fight was not over, they kept returning to the idea that all that time out of work, 163 days, got them nothing.

At the end of a long day at Marty's Tap, union member Dave Krueger watched the news as he finished his last beer. He looked up at the screen, then down at his drink, then muttered, "We're going back with our tails between our legs."

KILDEE URGES PEACEFUL SETTLEMENT OF CONFLICT IN BOSNIA-HERCEGOVINA

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. KILDEE. Mr. Speaker, I would like to bring to the attention of my colleagues a resolution adopted by the General Assembly of the 29th annual convention of Islamic Society of North America which met on September 6, 1992, in Kansas City, MO. The resolution expresses the fear and anguish of the people of Bosnia-Hercegovina and the dire need for immediate action to end the bloodshed and suffering in the region. The resolution is as follows:

We feel that it is our duty and right as citizens and human beings to raise our united voice and express our deepest concerns about the genocide in Bosnia-Herzegovina which is manifesting itself through the brutal killing of innocent civilians, raping of women, forceful displacement, "ethnic cleansing" of citizens, establishment of concentration death camps, destruction of properties and centuries-old cultural monuments, with the ultimate goal of annihilation of the nation, Muslims in particular. To date, as a result of the continuing criminal and terrorist activities of the aggressors, over sixty thousand innocent people have been killed with tens of thousands unaccounted for, one hundred thousand are starving in concentration camps and over two million people have become refugees and displaced persons. In addition, countless villages have been leveled to the ground and many cities are reduced to rubble.

These barbaric and sadistic atrocities deeply move all of us who love and cherish freedom, democracy and human rights to demand that our political leaders, in particular, and the leaders of the world community in general fulfill their moral responsibilities and act immediately to establish peace, security, justice and freedom for the people of the region.

In order to achieve these goals, we demand the following measures be enacted:

1. An immediate and lasting cease-fire.
2. Unconditional withdrawal of aggressors, from all the territory of the Republic of Bosnia and Herzegovina, including former JNA forces.
3. The establishment of a war-crimes tribunal to prosecute and punish the organizers and perpetrators of these crimes against humanity.
4. Ensure the secure and safe return of the refugees and displaced persons to their homes.
5. Effective enforcements of the sanctions against Serbia and Montenegro enacted by the United Nations Security Council Resolution 757.
6. The legitimate rights of the Republic of Bosnia and Herzegovina to self-defense

should be recognized through the following measures: a. Exempting Bosnia-Herzegovina from the arms embargo. b. Elimination of the aggressor's heavy weaponry and armaments.

7. Compensation for war damages and the return of stolen properties by the aggressors.

8. The establishment of a controlled area along the entire border of Bosnia and Herzegovina, in particular Serbia and Montenegro, in order to prevent the flow of new arms supplies and troop reinforcements for future aggression.

We propose these measures in the belief that, through their adoption, the world will put an end to these shameful atrocities and prevent them from being repeated in other parts of the world, in particular the areas of Sandzak and Kosovo, where the Serbs have similar designs. Therefore, all necessary measures should be taken to prevent the genocide that is currently taking place in Bosnia-Herzegovina from being repeated again in Sandzak and Kosovo.

Mr. Speaker, the situation in Bosnia-Hercegovina crystallizes the sentiment expressed in a quote by the great philosopher and legislator, Edmund Burke, who stated, "The only thing necessary for the triumph of evil is for good men to do nothing." We can no longer bear idle witness to the terrible fighting and oppression that has left tens of thousands of people dead and over 2 million people homeless. As a superpower, our Nation must be an active participant in bringing together the various parties in this tragic conflict. A just and comprehensive solution to this conflict can and must be found. But our silence will not contribute to that goal.

LOUISE M. LOCARIO RETIRES AFTER 26 YEARS OF SERVICE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, it is with pleasure that I pay tribute to a fine lady from the beautiful community of Longmeadow, MA, who has retired from the human services field after more than a quarter-century of working to enhance the lives of the physically and mentally challenged.

Louise M. Locario was born on February 14, 1922, and was raised and educated in Enfield, CT, where she met and married her high school sweetheart, Marshall Gebeau. They had two children, Reggie and Carl. When his country needed him, Marshall was quick to join the Marine Corps during World War II, and sadly, he lost his life defending his country at Iwo Jima.

Six years later, Louise met George Locario. They were married and became the proud parents of five more children, George, Philip, Nina, Louise, and Liz. Her husband became very ill and passed away in 1961, leaving Louise with seven children, one of whom was handicapped shortly after birth.

Louise began her career in human services as a volunteer, and later took a position as an aide with the Community Nursing School in 1969. In 1974, she became an employee of the Commonwealth of Massachusetts in early childhood service. In the same year she went back to school and earned an associates degree in early childhood mental health from Springfield Technical Community College. During this period of time, she worked as a developmental specialist teacher, and three times per week as a group leader for special-needs children, all the while caring for her own family. In 1985, Louise went to work with the Valley Infant Development Early Intervention Program, where she retired in July of 1992 after a total of 26 years providing vital services to those in need and their families.

In addition to all she accomplished professionally, Louise was associated with the Girl Scouts for 37 years, 33 of those as a leader, 12 as a member of the board of directors, and 6 years on the nominating committee. She has received some of the highest awards given in Scouting, the Thanks Badge I and II, as well as the Outstanding Girl Scout Leader Award. She was a member of Operation Snowflake for 11 years, and has guided many Girl Scouts to earn their Silver and Gold Awards, the highest awards a Girl Scout can receive.

Her contributions to her family, her community, and to those whose lives she has touched over the years are truly remarkable. In recognition of her legacy of caring and commitment, United Cerebral Palsy-Valley Infant Development Early Intervention Program has named an award for her, the Louise Locario Award, in recognition of and appreciation for her countless contributions.

Mr. Speaker, please join with me and the family and friends of Louise Locario in wishing her a long, happy, and healthy retirement. She certainly deserves it.

ELEANOR HOLMES NORTON PAYS TRIBUTE TO CWO CLAYTON L. BUTLER (USA-RET)

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Ms. NORTON. Mr. Speaker, on October 5, Clayton L. Butler will, once again, be retiring. His first retirement, almost 15 years ago, concluded an Army career that spanned three decades and saw him serve his country in three different conflicts. Today, however, I rise to offer a tribute to this man who has served his country long and faithfully during not one but two distinguished careers. Early next month, Mr. Butler will retire from his post as administrative assistant to the director of Government relations for the Retired Officers Association.

It is often said that the measure of accomplishment is not limited to an individual's singular deeds but extends more broadly to the impact the individual has on the environment in which he works and on those around him.

For the past 15 years, as the administrative assistant to the director of Government relations, Mr. Butler has been the steady hand on the tiller and the institutional memory for a growing association with a diversity of military retiree needs and concerns. His capacity for recalling the essence of a legislative issue and the methodology used to resolve it is unsurpassed. Numbered among his accomplishments are his efforts to secure improvements in such critical legislation as the Survivor Benefits Plan for military retirees and their surviving spouses; his efforts to preserve cost of living adjustments for military and Federal civilian retirees; and his yeoman like work in helping the Retired Officers Association and the Coalition for Affordable Health Care to gain the repeal of the Medicare Catastrophic Coverage Act with its senior-citizen-only surtax.

But, Mr. Speaker, his accomplishments at the Retired Officers Association do not fully tell the story of Mr. Butler's efforts on behalf of others. First and foremost, Mr. Butler is a citizen of his city, where he was born and raised and to which he returned upon his retirement from the U.S. Army.

As a former secretary, vice president, and then president of Washington's Lamond-Riggs Citizens Association and the recipient of a 1988 NAACP trophy for his human relations endeavors, he has been a community leader in efforts to combat crime and drug abuse. As a leader in the 19th Street Baptist Church of Washington, on a weekly basis, he records and edits, for later airing on Washington radio station WYCB, the Sunday services for those parishioners too ill to attend in person.

And, Mr. Speaker, as if his work in support of military retirees and the members of his church and those who live in his community were not enough, Mr. Butler is also active in community civic and political activities in Washington's fourth and fifth wards. He has led voter registration drives and has volunteered to work in election campaigns.

Mr. Speaker, I therefore wish to pay tribute today to an extraordinary man; a man who has devoted over 45 years of his life to the service of the county; a man who spent 30 years overseas; a man who devoted another 15 years of his life in service to his fellow military retirees and their families and survivors; and last, a man who, to this day, goes quietly about his efforts to improve his community and the human condition of those people living in his city. That man, Mr. Speaker, is CWO Clayton L. Butler, U.S. Army, retired.

THE VETERANS' JOB TRAINING ACT OF 1992

HON. CARL C. PERKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. PERKINS. Mr. Speaker, I rise today to introduce the Veterans' Job Training Act of 1992, which amends the Job Training Partnership Act to expand services to our Nation's veterans. Today's veterans need increased job skills, whether reentering the job market from active service or as a result of job change due to layoffs. Unemployment among some sectors of the veteran community runs 2 percent above the rate for the non-veteran population. Yet veterans have proven themselves to be highly trainable, adaptable, and willing to take on responsibilities in the work force. At the same time, American businesses are looking for ways to compete against foreign rivals. The Veterans' Job Training Act would benefit both communities.

The bill requires a minimum of $75 million to be used by the Department of Labor to establish a veterans' job training program. All honorably discharged veterans of the Korean war or later would be eligible to participate in the program. Employers are strongly encouraged to establish training programs in high-skill occupations through tax incentives and wage subsidies of up to $15,000 per year for each veteran. The legislation contains language to protect existing workers from displacement by trainees.

The measure takes a long-term approach by requiring employers to provide employment to veterans who complete training if such employment is expected to be stable and permanent. Further, the bill offers the option to reenroll to those who become unemployed following training and requires the Secretary of Labor to approve training programs only where jobs are available.

Another advantage to the legislation is that it encourages coordination with other Federal programs and agencies, particularly the Department of Veterans Affairs. This continues the emphasis on coordination of services that was central to H.R. 3033, the Job Training Reform amendments, which strengthens programs under the Job Training Partnership Act and which was recently signed into law.

The Veterans' Job Training Act of 1992 is a straightforward bill that utilizes a system already in place to bring much-needed job training assistance to our veterans and to businesses. I urge my colleagues to give the bill their close attention and to sign on as cosponsors.

SECTION-BY-SECTION ANALYSIS OF THE VETERANS' JOB TRAINING ACT OF 1992

Sec. 1—Short Title.

Sec. 2—Purposes.

Sec. 3—Establishment of Veterans' Job Training Program and Employer Job Training Programs.

The bill amends the Job Training Partnership Act to require the Department of Labor and encourage interested businesses to assist qualified, unemployed veterans in obtaining long-term employment and significant training, particularly in high skill occupations. Employers would be encouraged to establish training programs for veterans through tax incentives and wage subsidies.

A newly created section 442 establishes the program within the Department of Labor and sets out eligibility requirements and the responsibilities of the Department of Labor towards veterans. Eligible participants are all honorably discharged service members who served in the Korean War or later. Interested veterans would submit applications to the Secretary of Labor (hereafter referred to as the Secretary) for participation in the veterans employment program. Upon establishing eligibility, the Secretary would issue a certificate of eligibility to the veteran to present to participating businesses. Eligibility certificates would expire either 90 or 180 days after the date of issuance but could be renewed upon re-application to the Secretary.

Under a new section 443, employers would establish programs for up to 24 months for 30 percent disabled veterans, 18 months for 10 to 20 percent disabled veterans and 12 months for all other veterans. Training programs is a growth industry, that require the use of new technological skills, or in which demand for labor exceeds supply must be at least 6 months long.

In their applications, employers must certify to the Secretary the following:

That wages and benefits for veterans will not be less than those provided to other employees participating in a comparable job training program,

That the employment of the veteran will not result in the displacement of currently employed workers or their benefits,

That the veteran will not fill a position equivalent to one held by any individual on layoff,

That the training program will provide the veteran with new skills of the opportunity to maintain old skills,

That each veteran will be employed full time in the program,

That the training program will be of sufficient duration for the job for which the veteran is in training, and

That the employer will hire the veteran upon completion of the program for a position for which the veteran has been trained and which the employer expects to be available on a stable and permanent basis.

In addition, the employer shall include in the application to the Secretary specific information about a proposed training program, such as the number of hours to be worked, the length of the program, the starting wages, the content of the program, linkages with educational institutions, and any other information the Secretary may require.

Upon approving an employer's application, the Secretary shall issue to the employer a certificate of eligibility. Programs involving employment that is seasonal, intermittent, or temporary; commissions as a primary source of income; political or religious activities; or employment with any agency of the Federal government shall be automatically disqualified.

The bill requires employers to notify the Secretary when a veteran has been accepted into a training program. The Secretary shall pay to the employer 50 percent of a veteran's wages and benefits, not to exceed $15,000 per year, throughout the training program.

The bill requires the Secretary to provide for inspections, investigations, and monitoring to guard against fraud. The measure also requires the Secretary to coordinate with similar Federal programs, to provide counseling services to veterans, and to establish an information and outreach program to veterans, private industry, public agencies, educational institutions, and labor unions.

The bill includes veterans who participate in training programs created under this bill as members of a targeted group for purposes of section 51 of the Internal Revenue Code of 1986 (the targeted jobs tax credit).

Sec. 4—Authorization of Appropriations.

The bill authorizes $75,000,000 for fiscal year 1993, and such sums as may be necessary thereafter.

Sec. 5—Technical Amendments.

Sec. 6—Effective Date.

The effective date is either the date of enactment or October 1, 1992, whichever occurs later.

AN EXEMPLARY RESPONSE TO A TERRIBLE TRAGEDY

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. SOLARZ. Mr. Speaker, early on the morning of September 6, a terrible tragedy occurred in Brooklyn, NY, when a tow truck driver without a valid operator's license recklessly struck another car, killing a young Ecuadorian woman, Alicia Sanmartin, seriously injuring her husband Luis, and less severely injuring their two children.

This chilling incident has spurred serious public discussion on abuses by the tow truck industry in New York, and it is my hope that one positive result of this horrible accident will be enhanced regulation of this industry.

I wish to direct my remarks today, however, to the personal circumstances of the Sanmartin family, and especially to praise both the U.S. Government and American Airlines for their prompt efforts to provide the Sanmartins with assistance in their hour of great need.

Shortly after the accident, I learned that Dora and Vicente Sanmartin, the parents of Luis, hoped to travel to New York to be with their injured son and to care for their grandchildren, and was asked to assist in securing the visas. I was concerned that the U.S. Consulate General in Guayaquil, Ecuador, appreciate the importance of issuing visas to the Sanmartins on an urgent basis. I was also worried because I understand that applicants from developing countries are often denied visitor visas because it is assumed many intend to stay in the United States permanently.

I thus notified the State Department's Operations Center on Memorial Day, faxed a letter to the U.S. Consulate General in Guayaquil, and contacted the office of Bernard Aronson, Assistant Secretary of State for Inter-American Affairs. The response was extremely gratifying, as the Consulate General assured me that the Sanmartins' visa request would be given urgent and sympathetic consideration. I am pleased to say that the visas were in fact issued and Dora and Vicente have arrived in New York.

I was also concerned about the expense to the family of flying Alicia's body to Guayaquil, as well as the round-trip travel expense for Dora and Vicente. I therefore contacted American Airlines to inquire about the possibility of defraying these travel costs, as well as the round-trip travel costs of Carlos Cartejena, a family member who planned to accompany Alicia's body back to Ecuador. I am pleased to say that American Airlines, immediately recognizing the humanitarian urgency of this situation, promptly agreed to defray such costs. I was surprised and delighted by the company's willingness to cut through the red tape that might have delayed consideration of this matter.

In conclusion, Mr. Speaker, I would like to offer my heartfelt thanks, as well as the thanks of the Sanmartin family to American Airlines, the U.S. Consulate General in Guayaquil, and the U.S. State Department.

TED BROHL HONORED AS POET

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. ANDREWS of New Jersey. Mr. Speaker, I am submitting for the RECORD two articles

about Ted Brohl, the best known poet from New Jersey's First Congressional District since Walt Whitman. As one of the articles reports, his poem "The Old Wheelchair" was recently honored at the second annual International Society of Poets Symposium.

The articles follow:

Brohl's Work Selected by Society of Poets

WASHINGTON TOWNSHIP.—Ted Brohl, honorary Poet Laureate of Washington Township and Gloucester County, returned home with his wife, Ellie, after attending the International Society of Poets second annual Symposium in Washington, D.C.

Over 550 poets from 29 countries submitted their poems for judging, and Brohl's "The Old Wheelchair" was one of ten chosen to be read before the poets and their 250 guests. Brohl received an 'International Poet of Merit' award as well as a check.

Following a performance after the banquet, the Brohls were invited to a VIP reception for Joan Rivers, at which time Brohl presented Rivers with his new book of poetry, "In A Fine Frenzy Rolling," in which the prize-winning poem appears.

Brohl said she responded with two four-letter words, "Very nice," which he said were "about the only four-letter words she used that could be printed in a family newspaper!"

The inspiration for Brohl's award-winning poem was a visit the Brohls made to the Vietnam Veterans War Memorial last year in Washington.

He said that when he touched the impressive Memorial, he could feel the mortar shells exploding and the cries from the wounded, and he wrote the poem the same day when they returned to their hotel.

Brohl's book is in stock at Walden books, Deptford Mall, and Borders Book Shop, Route 73, Marlton.

The following is the poem written by Brohl after visiting the Memorial:

The Old Wheelchair

The wheelchair has been put away now
For the man who used it is gone
But the memories that he left for us
Are sweet, for courage was this man's song.

I saw him last in a plaid bathrobe
And his face was wrinkled and gray;
His baritone voice was faded and
His life was ebbing away.

The aide had pushed the wheelchair
Into the corner of the room,
And the nursing home was a joyless place
For the patients were all wrapped in gloom.

But my friend still managed a smile for me
And I sat in a chair next to him;
I covered his shaking hands with my own
And noted that my eyes were dim.

This once towering man with the strength of a bull
Now weighed only one twenty-five,
And we each remembered the peak of our youth
And our struggle to stay alive;

For the Cong were hidden all over the place
And the jungles were full of rot,
And if we survived the hazards of war
Agent Orange was still there like as not.

Some of us escaped from death
And a war that was not a war,
And we married, had children, even had fun,
Agent Orange hung around like a whore

Waiting for payment, and some of us paid,
And my friend was paying the price,
For instead of tilling his Kansas wheat
He had waded in paddies of rice.

He volunteered, as a patriot would,
And the medals he got he still keeps,
And he'd do it again if his country called,
But for now he just breaks down and weeps.

It's over now and the past is the past,
And we are pushing seventy years,
And I bid goodbye to this man so proud
And we both shed the unwanted tears.

Traveling Salesman Turns to Poetry After Retirement

(By Carol Leach)

For years, Ted Brohl, traveling salesman, was up at 4:30 a.m., ready to hit the road and make another sale. Now, Ted Brohl, Gloucester County poet laureate, is often still wide awake at 4:30 a.m., busily penning another verse.

"If an idea is percolating inside of me, I'll usually get up at 3 a.m. and sit at the dining room table working on it," explains the 68-year-old Washington Township resident, who has been retired for more than four years. "If it isn't written by 6 a.m., it usually won't get written that day."

TALENTED TEEN

Brohl doesn't question where his ability to write poetry comes from; it's just something that has always been there.

He first discovered his talent as a teenager in North Jersey. He knew he liked to write poetry and that he was good at it. Yet for over 40 years he wrote only a handful of poems, devoting his time instead to his career and to his family which includes his wife, Ellie, two daughters, one son, and two grandchildren.

As soon as he retired, however, Brohl began writing in earnest.

"I think I was trying to vent all the creative energy bottled up in me for years," he explains.

He also met with extraordinarily success extraordinarily quickly. After all, some writers struggle for years just to get one poem published. Brohl's work has not only appeared in 35 poetry anthologies, he also has two volumes of his own poetry in publication.

SURPRISED AT SUCCESS

For Brohl, the writing was part of a calculated plan; the success came as a pleasant surprise.

"I think people plan financially for retirement, but they don't plan what they're going to do with their lives," says Brohl. "I'd heard of too many people dying soon after retirement because they had no plans and no interests. I was darned if that was going to happen to me."

At first, Brohl's primary concern was writing.

"At the beginning I never thought I'd be published, so I wasn't worrying about it," he says simply.

Then, inspired by the gargoyles (those whimsical and/or grotesque carved waterspouts on castles and cathedrals) he saw while on a trip to Europe several years ago, Brohl found gargoyle poems flowing out of him. Suddenly, he knew he had the makings of an anthology.

SENT OUT QUERIES

Armed with a copy of the "Writer's Market," a book that lists book and magazine publishers, Brohl began sending out queries on his own. Vantage Press, Inc., of New York, responded with the coverted acceptance letter and "Gargoyles and Other Muses" was published in 1990.

"In A Fine Frenzy Rolling," a line borrowed from Shakespeare's definition of a poet in "A Midsummer Night's Dream," is the title of Brohl's second anthology, which was published in April. Vantage Press says it "firmly estabishes Ted Brohl as a poet and storyteller for the people."

Like "Gargoyles," his new anthology covers a wide range of subjects—from sex and religion to peanut butter and earthworms. It also includes a fair amount of prose.

RECEIVES ATTENTION

And, like his first anthology—which generated acclaim and honors, such as being named Poet of Merit by the International Society of Poets last August—this new volume is already bringing more attention to Brohl.

Perhaps most exciting and flattering was his appearance at a book signing last month at the Borders Book Shop in Marlton.

Brohl's newfound prominence in the literary world has also brought him some requests to speak to schoolchildren.

"Even though I'm not a teacher or a public speaker, my visits to the classroom are fun," says Brohl, "and I consider it important because we need to reawaken an interest in poetry in youngsters.

STUDENTS INVOLVED

Brohl usually reads a few of his poems and answers the students' questions. Guided by the teachers he suggests a topic to the students and asks them to write their own poems. (At a seventh grade class in the Chestnut Ridge Middle School in Washington Township, for instance, he asked the students to write about whales.)

"I emphasize to the kids that they can't do anything without imagination," he says.

After reading the poems and making positive comments on all of them, Brohl selects the four or five that "mesh" with his own imagination and returns to the class at a later date to read them.

"It's been a pleasure to see the interest of the students and it has renewed my faith in the future of our country and its leaders," says Brohl.

REALITY AND FANTASY

As for his own imagination, Brohl says that he grounds his poems in reality—in a person, place, or thing that really exists—and then creates some fantasy to go with it.

"I might look up a word in the dictionary and then let my eyes wander around the page to see if another word will inspire me," he explains.

Or, as recently happened when a rufous-sided towhee flew into his yard, he might encounter something so different that he is inspired to write about it.

"It was a large sparrow with a black cape and a white underbelly. In 30 years of living here I had never seen one," explains Brohl. "I looked it up in a bird book and wrote about it a few days later."

ONE MORE ANTHOLOGY

As for the future, Brohl says he would like to do at least one more poetry anthology. That would complete a trilogy, but the third volume hasn't been kicked off as yet.

"It's all very eclectic," he says. "I write about whatever turns me on. I just ride with the tide and I can't do it unless something draws me out of bed to the dining room table.

"But, I do know," continues Brohl, "that I'll be a poet for the rest of my life, as long as the poems come to me.

THE 354TH CIVIL AFFAIRS BRIGADE: MULTIPLE MISSIONS IN THE PERSIAN GULF WAR

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. ROYBAL. Mr. Speaker, today, the 354th Civil Affairs Brigade is holding its first formal military "Dining-Out" since returning from Operation Desert Shield, Desert Storm, and Provide Comfort. I bring this event to your attention because this unit is located in the shadow of our Nation's Capitol in Riverdale, MD. Members of the unit come from the surrounding metropolitan area and include our own staffs and the Congressional Research Service.

The outstanding accomplishments of the 354th Civil Affairs Brigade in the gulf war earned them the coveted Joint Meritorious Unit Citation and numerous other commendations.

The brigade had major roles and responsibilities during the defense of Saudi Arabia in Operation Desert Shield and the liberation and restoration of Kuwait during Operation Desert Storm, and in providing humanitarian assistance to Kurdish refugees in Iraq and Turkey during Operation Provide Comfort.

Beginning in December 1, 1990, brigade members began working with Kuwaiti ministry officials in Washington, DC, as part of the Kuwait Task Force in planning for the provision of emergency and restoration services following the liberation Kuwait. On December 11 an advance party was deployed to Riyadh, Saudi Arabia, in support of HQ, Central Command Air Forces. On January 20, 1991 the main body arrived in Dhahran, Saudi Arabia, to support the VII Corps. Within hours of the allied sweep through Kuwait, members of the Kuwait Task Force began arriving with convoys of relief supplies to begin relief and restoration activities. On April 28, 1991 the Brigade began to redeploy to Incirlik, Turkey, in support of the Kurdish refugees in Operation Provide Comfort.

The brigade performed a full range of civil-military operations activities throughout the theater: minimizing civilian interference with military operations; providing host nation support and purchasing of goods and services from the local economy; functioning as local government liaison while negotiating for local water sources; planning for and stockpiling humanitarian relief supplies; planning for and administering dislocated civilian [DC] camps in southern Iraq and Saudi Arabia, including camp construction, food distribution, and medical care of DC's; assisting military police in enemy prisoner of war [EPW] screening, intelligence gathering and analysis; targeting and overlay development; reestablishing security and public services in allied occupied areas; directing port support activities, including coordination of the off-loading of cargo vessels and forwarding of equipment and supplies to the VII Corps beddown location in Dhahran and Al Khobar, Saudi Arabia.

In Turkey and northern Iraq the brigade worked directly with the United Nations High Commissioner for Refugees [UNHCR], USAID Disaster Assistance Response Teams, allied forces and many private voluntary relief organizations, in bringing refugees out of their high mountain retreats where they could be provided with access to humanitarian relief and security arrangements in temporary camps, and eventually returned to their homes. The brigade engaged in developing an infrastructure for forward bases and distribution of relief supplies and in establishing security arrangements in coordination with local Iraqi and Turkish military commanders and governmental authorities.

The men and women of the 354th Civil Affairs Brigade can justifiably take great pride in their gulf war accomplishments.

SSG Alston, Patricia.
SPC Andrew, Benita.
SGT Arroyo, Nancy.
SPC Baines, Regina.
SFC Brindza, Robert.
SSG Burnett, Jay.
SGT Bryant, Karen.
SGT Cameron, Bridgett.
SPC Carey-Vick, Reba.
SSG Carroll, Gerald.
SGT Chambers, Irvin.
SPC Coates, Barbara.
SGT Cooper, Eleanor.
SGT Cooper-DeLoatch, Sharon.
SPC Delgado, Donna.
SPC Eden, Roxanna.
SSG Epps, Victor.
SSG Falby, Sharon.
SGT. Gaisor, Amy.
SGT Hamilton, Christine.
PFC Hanna, Willie.
SPC Harris, Wynora.
SGT Hartridge, Karen.
SPC Holman, Keith.
PFC Hopkins, Vincent.
PFC Hutcheson, Mark.
MSG Jackson, Eunice.
SGT. Kelly, Maureen.
SGT Kirk, Rose.
SFC Lane, Robert.
SGT Lawrence, Francis.
SFC Leonard, Willie.
SPC Martinez, Ernesto.
SGT McCrary, Roxanna.
SSG McDonald, Walter.
SGT Meade, Timothy.
SFC Miles, Ronald.
SPC Morgan, Jerome.
SPC Muse, Timothy.
SPC Mushala-Fields, Jocelyn.
SFC Owens, Bridget.
SFC Parker, Lloyd.
1SG Partlow, Joyce.
SGT Phillips, Theresa A.
SPC Pittard, Debbie N.
SFC Rivera, Alfredo.
SFC Schulert, Mark.
SSG Siler, Wade.
SGT Smith-Wiggins, Constance.
SGT Snodgrass, Benjamin.
CSM Staten, Harold.
SGT Sutton, Darylvin.
SFC Truxon, William.
SFC Venson, Sheila.
SGT Walls, Joseph.
LTC Agosti, William.
MAJ Alcan, Bruce.
LTC Baker, Wilson.
COL Beahm, Robert.
MAJ Becker, Howard.
MAJ Blair, James.
MAJ Brune, Louie.
MAJ Burger, Jeffrey.
MAJ Carney, Richie.
LTC Carr, James.
MAJ Castro, Dale.
LTC Childs, James.
MAJ Clark, Eugene.
COL Dandar, Edward.
COL Blount, Lawrence.
LTC Deegan, Michael.
LTC Dunn, Richard.
LTC Fiedler, Robert.
LTC Flaak, Robert.
MAJ Gardner, George.
LTC Gatrell, Jacob.
LTC George, Edward.
MAJ Gibmeyer, John.
LTC Guerrieri, Vincent.
LTC Halvorsen, John.
COL Hayuk, Hlib.
LTC Hoffman, John.
LTC Jones, Charles.
COL Jones, George.
LTC Jordan, Robert.
CPT Kennedy, Paul.
MAJ Kessel, Alan.
LTC Lambrinos, Jorge.
CW2 Lanier, Gary.
MAJ Lee, John.
CPT Maxey, Beatrice.
LTC McKinney, Donald.
MAJ McNabb, Kenneth.
LTC Meyers, John.
LTC Mitchell, David.
COL Moran, Clarence.
LTC Paternoster, Peter.
MAJ Perry, Sarah.
MAJ Pettit, Thomas.
LTC Polk, Artie.
MAJ Redding, Joseph.
COL Rostron, Ira.
MAJ Rowson, David.
MAJ Salters, Roscoe.
LTC Sculley, James.
LTC Setzer, David.
LTC Saitro, Raymond.
LTC Schmidt, Douglas.
LTC Shannon, George.
LTC Simmons, Michael.
LTC Spinelli, David.
1LT Stewart, Stephen.
MAJ Thomas, Vincent.
MAJ Thorsen, Robert.
LTC Vecchiarello, Frank.
MAJ Warren, Tom.
LTC Webber, David.
MAJ Weipert, Dennis.
LTC Williams, John.
MAJ Winder, Coulbourne.
LTC Windmiller, David.
MAJ Zimmerman, Lawrence.

IT'S TIME TO HELP THE CONSUMER

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. ANDERSON. Mr. Speaker, in the 5 years since cable companies were deregulated, they have increased rates over 60 percent, three times the rate of inflation. Despite these increases, service to the consumer has declined. The mood of the American public is very clear. They are fed up with high rates and poor service. The question is, will Congress do something to help?

I do not believe that regulation is the long-term solution to cable companies' abuses. Deregulation has had positive effects on the cable industry by bringing many new programs and channels to our television screen. But, while programs have proliferated, cable rates have skyrocketed. A recent Government Accounting Office [GAO] report found that most rate increases were not economically justifiable and that a minority of cable operators had abused their monopoly position by unreasonably raising prices. This price gouging cannot continue.

Congress passed the 1984 cable deregulation bill with the expectation that increased competition would create an efficient market. Unfortunately, competition has not taken hold in much of the country. Only 3 percent of all communities have access to more than one cable provider. The Justice Department found that recent cable rate increases were 50 percent more than they would have been in a competitive marketplace. Where competition exists, rates are 20 percent lower and service is better. There is no doubt that our first priority should be to increase competition in the marketplace.

The bill we have before us today, S. 12, the Cable Television Consumer Protection Act, reigns in cable's abuses through increased competition. Under current law, a cable company can be guaranteed local monopoly power and exempted from local regulation. Any cable company in this position is immune from competition and can charge more and keep more profits. To foster effective competition, this bill prevents local authorities from unreasonably refusing to award competitive cable franchises.

This bill also promotes new technologies, such as wireless cable or direct satellite broadcasting, to create a more competitive market. Currently, only 5 percent of the American public subscribe to these alternative systems largely because cable companies are actively preventing them from purchasing such popular channels as CNN, TNT, or The Discovery Channel at reasonable rates. The cable bill addresses this problem by prohibiting vertically integrated programmers, companies which own both cable systems and program producers," from discriminating against these new technologies. This measure will level the playing field between cable and its competitors.

While competition is obviously the most efficient method of controlling prices and enhancing service, competition will not materialize overnight. To protect consumers in the meantime, S. 12 re-regulates those cable companies which do not face effective competition. This bill requires the Federal Communication Commission [FCC] to set guidelines for a number of basic services including monthly cable rates, installation costs, and rental charges. These guidelines do not set a maximum price for these services, but only require the FCC to ensure that rates do not exceed what would be charged in a competitive market. For services above these basic levels, including premium channels and pay-per-view, the FCC is allowed to challenge "unreasonable" prices on a case-by-case basis.

A provision was added to S. 12 in conference that requires cable operators to obtain the consent of local broadcasters before carrying their signals. During cable's infancy, Congress forced local broadcasters to give cable companies their signal at no charge under the theory that cable was to be used simply as a better antenna. Since that time cable has grown into a multibillion-dollar industry. Cable operators now take local signals and sell them to cable subscribers at huge profit. Cable companies either keep these profits or turn around and fund other cable channels. Requiring cable companies to bargain for the right to re-transmit local channels rightfully returns the television business to the free market.

I am sure everyone has seen cable industry's last ditch multimillion-dollar ad campaign to prevent passage of this proconsumer legislation. They have warned that passage of this bill will raise, not lower, monthly rates. In their ads they quote a Department of Commerce estimate of an increase of $23 to $51 per year if this bill passes. However, a congressional inquiry found that this estimate came directly out of cable industries' own study. What does an independent group say about the cable bill? The Consumer Federation of America estimates that passage of this bill could result in a savings of up to $6 billion for cable consumers.

The cable industry has also tried to present this bill as beholden to special interest groups. I have to admit they are right. In fact, here are some of the special interest groups supporting the bill: Consumer Federation of America, National League of Cities, and U.S. Conference of Mayors. And who is opposed to this bill? The National Cable Television Association and the Motion Picture Association. I think it is obvious where the special interests in this bill lie; with the America public.

We have seen the results of 5 years of cable deregulation. The American public has been saddled with huge price increases and deteriorating service. Competition, with responsible regulation, with help the consumer by lowering rates and bringing better service. Ultimately, it will be our constituents at home, and not the special interest groups in Washington, who will benefit if this bill passes.

TRIBUTE TO OMEKA REED

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. BLACKWELL. Mr. Speaker, I rise to pay tribute to one of my most hard-working and fun-loving interns, Omeka Reed. Throughout her young life, Omeka has worked to uplift the African-American community and has consistently been one of many young black people who give us hope for our culture and our future.

Omeka's efforts on behalf of her community began at the age of 13 when she began volunteering at WDAS AM and FM Radio station for the sales and promotions departments, as well as assisting disc jockeys. More recently, she has been given the unique opportunity to co-host a weekly teen talk show called The Way It Is. She has served as a volunteer for the United Negro College Fund Telethon, and she helped recruit high school volunteers for Jesse Jackson's historic Presidential campaign. She also participated in the Urban Journalism Workshop, sponsored by the Philadelphia Daily News.

For her efforts, Omeka was one of 100 young people chosen out of 15,000 for the Incentive Award for outstanding performance in the Mayor's Phil-A-Job program. She also earned first runner up in the 1990 Miss Young America Beauty Pageant for the State of Pennsylvania, and has been nominated for this year's Ebony magazine's Young Leaders of America Award.

This fall, Omeka will begin her sophomore year at Spelman College in Atlanta, GA. Though we will miss her hard work and lively spirit in the office, I wish her the best of luck as she pursues her academic career in Georgia. Mr. Speaker, I ask my colleagues to join me in praising this fine young woman, Ms. Omeka Reed.

TRIBUTE TO LT. COL. CLYDE CLEVELAND

HON. CRAIG T. JAMES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. JAMES. Mr. Speaker, America is filled with great people. They range from those who make the national news, who discover new medicines, and who make this world a better place in their own quiet way. Mr. Speaker, the Veterans Service Office in Volusia County, FL is run by a man who quietly makes this world a better place to live. He does what he does not to seek notoriety, praise, or congratulations; he does it because it is right.

Lt. Col. Clyde Cleveland, runs this veterans' office on a shoestring budget. His leadership and dedication is apparent in every aspect of a veteran's life in Volusia County. From early in the morning to late at night, Clyde Cleveland does, to the best of his abilities, what he can for our veterans. As you know Mr. Speaker, getting what is deserved from the Government is not always an easy task.

The bureaucracy is big, the details immense, and most veterans just don't know how to receive their benefits. That's why Clyde Cleveland is there. Not for a paycheck, not for something to do, but because he believes in the United States and he believes in veterans. On Colonel Cleveland's wall is a reprint of General MacArthur's farewell address to the cadets at West Point. It was one of the first things I noticed in his office and it will be one of the lasting memories I take with me as I leave the Congress: There is such a thing as a hero.

Clyde Cleveland, who fought and was wounded in our country's wars, who spearheaded the effort to send gifts to soldiers in Beirut, who raised money for the purchase of a veterans van, who created innovative outreach veteran programs, who helps Vietnam veterans live a normal life, who has received dozens of recognition awards, and who has been a friend to me, is the kind of leader all of us should ascribe to be.

Yes, Mr. Speaker, there is someone in the United States who lives his life through, "duty, honor, country." He is retiring soon, and his name is Lt. Col. Clyde Cleveland.

TRIBUTE TO THE GREATER CHINATOWN COMMUNITY ASSOCIATION

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. GREEN of New York. Mr. Speaker, I rise today to mark the occasion of the 20th anniversary of the Greater Chinatown Community Association, which is to be celebrated at a dinner on Thursday, October 15, 1992, in Manhattan.

The Greater Chinatown Community Association is a nonprofit, community based and directed human services organization committed to improving the quality of life for senior citizens, immigrants, and other people in need in the greater Chinatown area. Without a doubt, that organization has been a pioneer and innovator in the provision of resources and services.

In cooperation with over 4,000 senior citizens who are members of the Lo Wei Club, the Greater Chinatown Community Association's extensive outreach program attempts to solve problems regarding health, housing, Medicare, and SSI. Other benefits offered by the association include escort services, translation services, and recreational services.

At this time, I should like to join my colleagues in commending the Greater Chinatown Community Association for its outstanding work. I hold great admiration for the association and so I should also like to extend my best wishes on its 20th anniversary and for more many more years of success.

THE SEXUAL ASSAULT PREVENTION ACT OF 1992

HON. JON KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. KYL. Mr. Speaker, there is a pervasive sense among Americans that criminals are being protected by our criminal justice system at the expense of victims and society in general. It is true that we do protect the rights of the accused. This is so primarily because of the basic tenant of our criminal justice system that all individuals are innocent until proven guilty. We view with abhorrence the prospect of convicting and punishing an individual for a crime he or she did not commit.

But in our zeal to safeguard the rights of the accused, we often ignore and even trample upon the rights of the victim. Nowhere is this more apparent than in cases of sexual violence. In many States, victims of stalkers are forced to wait until they are attacked before they have any recourse. The right of victims of sexual violence to participate in the criminal justice process is often limited, particularly at sentencing and early release proceedings, and when they do participate, they frequently are subject to courtroom intimidation and harassment. This must no longer be tolerated.

The day before yesterday, Congresswoman MOLINARI and I introduced legislation, the Sexual Assault Prevention Act of 1992, which recognizes that the victim of sexual violence is entitled to respect, protection, and empowerment within our criminal justice system. The bill accomplishes this task by increasing penalties for sex offenses, allowing for pretrial detention in serious sex offense cases, providing for HIV testing of accused sex offenders, strengthening the victim's right to restitution and to address the court at sentencing, broadening the admissibility of evidence in sex offense cases, expanding the rape victim shield law, creating new offenses pertaining to interstate stalking and refusal to comply with child support obligations, and imposing new standards of attorney conduct to protect victims from abuse in legal proceedings.

I urge my colleagues to join Congresswoman MOLINARI and me in our fight to combat sexual and domestic violence and level the playing field for victims of such crimes.

SEND PALAU A POSITIVE SIGNAL

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. DE LUGO. Mr. Speaker, the government of the trust territory of Palau has scheduled a referendum in November on eliminating the requirement in its constitution that has prevented the future political status of the islands from being resolved.

The Bush administration should seize the opportunity Palau is creating to try to fulfill our Nation's basic obligation to the territory: developing it into a self-governing status based on the aspirations of its people.

The requirement that the referendum could eliminate is that a proposed free association compact that we have already approved receive 75-percent support in a plebiscite to be approved locally. This requirement has prevented the compact from being approved in seven plebiscites to date.

The call for the referendum also calls for an eighth plebiscite. It could, presumably, finally approve the compact since only a simple majority would be required if the constitution is amended. That final vote would not take place, however, until representatives of the United States indicate a willingness to support modifications to the compact that Palau's leaders have said for over a year now are essential to its approval.

They have not, though, asked the Federal Government to formally approve these modifications before their people approve the compact. Instead, Palau's leaders have asked only that Federal officials agree to recommend approval of the modifications if Palauans finally approve the compact.

The bipartisan leadership of the Interior and Insular Affairs Committee has felt that their proposal is reasonable. But, unfortunately, the administration has failed to respond positively to it.

It has, instead, tried to pressure Palau into accepting the compact as is. Its approach has contradicted our Nation's basic obligation in Palau as well as the administration's own international statements.

This negative position prompted the distinguished chairman of our committee, GEORGE MILLER, and me, as subcommittee chairman, into introducing a bill, H.R. 5583, that would modify the compact as suggested by Palau. We introduced it to send Palau the positive signal that it had asked for . . . if only from this House.

The Delegate from Guam—the closest United States territory to Palau—has since joined Chairman MILLER and me in sponsoring this legislation, further demonstrating bipartisan support. And the Palau law calling the constitutional amendment referendum specifically embraced our bill, demonstrating that the process proposed by Palau's leaders has the potential to finally resolve Palau's status.

Our initiative does not, of course, mean that the administration no longer has a responsibility to take the lead on this matter. After all, it can act more expeditiously than the legislative process enables us to act. Further, since enactment of legislation would constitute formal United States approval of the modifications, enactment should probably come after Palauans approve a modified compact . . . as Palauan leaders have suggested.

So, the administration should respond to Palau's action—as well as to our initiative—by indicating its willingness to recommend compact modifications that will enable the compact to finally be approved as soon as possible if Palau's constitution is amended in November.

WE CANNOT GIVE UP ON OUR POW'S AND MIA'S

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mrs. LOWEY of New York. Mr. Speaker, I rise in commemoration of National POW/MIA Recognition Day. For almost two decades, the cases of thousands of American service personnel listed as missing-in-action or prisoner-of-war have gone unresolved. We should not forget those brave soldiers who served our Nation proudly and whose fate is still unknown. The lack of knowledge over many years has been a source of bitter pain for their families.

No man or woman who served our Nation in war should be forgotten. To do so would be a miscarriage of justice and a cruel slap at all who have served our Nation and the families of those who are missing. It would also understandably raise serious doubts among the men and women currently in our Armed Forces about our commitment to them. These individuals have made tremendous sacrifices to protect our rights and freedoms. We owe them a tremendous debt which we must never forget. We have an obligation to do everything possible to come to a resolution on every case.

We must demonstrate to the government of Vietnam that we have not forgotten the 2,300 soldiers whose fate is still unknown and that we will not write them off. Vietnam should immediately turn over all information that bears on the fate of missing American service personnel and should work with American officials to bring the cases to a satisfactory resolution. The Vietnamese Government has allowed the United States to open an office to continue the search for information pertaining to these cases, but this is not enough. That office needs the full cooperation of the Government of Vietnam to quickly resolve all of these cases.

Until that cooperation is forthcoming, our pressure on the Vietnamese Government should not let up. Until we are fully satisfied, there should be no action to lift the embargo on Vietnamese-produced goods or to normalize relations with the People's Republic of Vietnam. Until this gross violation of human rights and international decency is ended, Vietnam cannot be accepted into the community of nations.

I know that my colleagues and the people of this country join me in remembering the many Americans who remain listed as missing-in-action or prisoner-of-war on this important day. Their sacrifices will never be forgotten.

HONORING JOSEPH L. RAUH, JR.

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. EDWARDS of California. Mr. Speaker, on Tuesday, September 15 a number of us gathered here in the House Chamber for a special order to honor the life's work of Joseph L. Rauh, Jr. As my colleagues know, Joe Rauh was for 50 years one of the Nation's foremost champions of civil rights, civil liberties and social justice. While we mourn his death, the accomplishments of his lifetime will continue to inspire us.

Mr. Speaker, I thought my colleagues would be interested in the very moving remarks offered by Judge Henry F. Greene of the Superior Court for the District of Columbia, which adjourned on September 8 in honor of Joe Rauh. I would like to insert those remarks at this time:

REMARKS BY JUDGE HENRY F. GREENE

Over the past weekend, after my wife and I had been out of the city for two weeks, I was distressed upon returning to learn of the death of an extraordinarily distinguished member of the Bar, both of the District of Columbia and of the United States, Joseph L. Rauh, Jr.

Mr. Rauh died of a heart attack last Thursday evening at the age of 81. He lived as full and productive a life as any person with whom I have ever had the honor of being acquainted during my life. He was a champion of racial integration, of the rights of minorities and labor unions, union reform, and the interests of citizens of the District of Columbia over many many years.

To meet Mr. Rauh personally was to meet a gentleman who was always optimistic, who always hoped for and expected the best from other human beings, who had a marvelous sense of humor and who believed passionately and fought courageously for the issues in which he was so involved. Joseph Rauh was one of my heroes.

In May 1979, Mr. Rauh lectured at the University of Minnesota Law School on Law Day. I had occasion to refer to his remarks once when I was addressing the Bar, and last night looked back on the speech he made. I think it reflects the standards to which we should hold our profession and how Mr. Rauh represented the very best in our profession. He thought—and I quote from him—that "the legal profession should be one that places public interest above private gain, that puts the use of legal tools for progress and equality above the defense of the status quo, that treats legal services for the have nots on a par with those for the haves, that utilizes law as an instrument for helping the powerless and not for protecting the powerful, and above all that makes the law a vehicle for righting social wrongs and not perpetuating them."

He alluded in his remarks to a statement by Mr. Justice Holmes, who said, "I always have thought that not place or power or popularity makes the success that one desires, but a trembling hope that one has come near to an ideal."

It is ironic, I think, that in quoting Mr. Justice Homes, Mr. Rauh might have well written his own epitaph, for if there is anyone who in my life time has come nearest to the ideal of being what a lawyer in our society should be, it is Joseph Rauh.

During his distinguished legal career, Mr. Rauh was more particular than most of his more financially productive colleagues of the Bar in terms of what he devoted his time and his enormous energy and his very substantial intellect to. As a lawyer, he took only those cases he believed in, and he suggested that no lawyer ever should do otherwise. He thought that our profession stands in a unique position, that it has a special duty to the people of this country, to the interests' of the public at large, and ultimately to the preservation of our Democratic system of government based on the law. He suspected, and I think accurately, that the basis of widespread public contempt for the legal profession is based on a widely held belief that lawyers are mercenaries, concerned only with making money and obtaining power, recklessly pleading their clients' cases without sight of the public good. And he observed—again, unfortunately, quite accurately—that the perception too often conforms to the reality.

In a wry but perceptive way, he said a lawyer should not do anything for a client that he would not do in a tennis match, at the bridge table or in any other walk of his own life. He should not do or say anything for a client he knows is wrong any more than he would do or say it on his own behalf. He thought that a lawyer should no more give an opinion which he could not believe to be correct than he would give such an opinion to his bank on his own behalf when seeking a personal loan. A lawyer, he stated, should no more knowingly miscall a legal opinion than a tennis player should deliberately miscall a line decision; a lawyer should no more assist a client in covering up misdeeds that a doubles player should allow his partner to cheat. In short, he asserted that the interests of a client—any client—are not sufficient to justify actions which a lawyer would not take in other walks of life with a clear conscience. A conscientious lawyer does something because it is right, not only because the client wants him or her to do it. In essence, he did not feel that a lawyer should be a hired gun for any cause.

Mr. Rauh exemplified what he believed in by the actions he took. And, indeed, when we talk about a distinguished member of the Bar, if we mean by that a lawyer who over a long period of time acts as he professes to think lawyers should act, and does it with intellect and ability and energy and dedication and courage, it is fair to say that Joseph Rauh is the most distinguished lawyer that I have ever known.

Among his numerous accomplishments at the Bar, after he clerked for Mr. Justice Cardozo and Mr. Justice Frankfurter, was his representation of artists and government employees accused of being security risks during the red scares of the 1950's, his representation of the Brotherhood of the Sleeping Car Porters, and his founding of the Americans for Democratic Action with Eleanor Roosevelt, Walter Reuther and Reinhold Niebuhr.

In 1947, well before the Civil Rights movement became a national cause or, indeed, a became a national cause or, indeed, a popular cause, Mr. Rauh marched on picket lines outside the National Theatre to protest the exclusion of black persons from the audience, and over the years he became a leading figure in opposition to racial segregation in Washington. In the summer of 1964, he represented the Mississippi Freedom Democratic Party in a challenge to the seating of the all-white Mississippi Democratic Organization at the Democratic National Convention. And as counsel to the NAACP legal defense fund, he instituted a lawsuit in 1972 that during the next ten years brought about a series of federal ultimatums for dismantling racially segregated school systems throughout the southern and border states of the United States.

More recently, Mr. Rauh was eloquent in support of legislation requiring redress for Japanese Americans who had been interned during World War II. And during the relatively short period of his life I had the good fortune to be acquainted with him, I repeatedly was present on occasions in the District of Columbia when he was a forthright and articulate spokesman for the interests of its citizens.

Joseph Rauh stood out because, more than any man I have known, he spoke for things that were right at times that it took courage to do so; I believe that is among the highest tributes one can make to any member of our profession—or, indeed, to any citizen.

This court adjourns today in honor and memory of Joseph L. Rauh, Jr., and expresses on behalf of all of the judges of the Court its deepest condolences to this wife, Mrs. Olie W. Rauh, and his two sons, both themselves among the most distinguished members of our Bar, B. Michael Rauh and Carl S. Ruah.

Mr. Speaker, Washington Post columnist Colman McCarthy authored an article which I think captures very well the qualities that made Joe Rauh such a special person. I think my colleagues will enjoy reading that piece, entitled "Joseph Rauh and the Public Interest." The article follows:

[From the Washington Post, September 15, 1992]

JOSEPH RAUH AND THE PUBLIC INTEREST

(By Colman McCarthy)

With George Bush on his hind legs barking at lawyers for wearing tasseled loafers and bringing "crazy lawsuits," it's worth a moment, in the cause of balance, to think about the life and ideals of Joseph L. Rauh Jr. He died recently at 81, a Washington lawyer with a national caseload over a half-century involving civil rights and civil liberties. Few lawyers had as deep a passion for justice.

Rauh's taste was for representing clients whose claims were legally strong and morally sound, from antiwar Quakers and union auto workers to minorities kept on the margins because of race. He was among those lawyers—a few in the profession, for sure—who rejected the view that attorneys should be unconcerned about the ethics of those they represent. The public interest came before the private interest. Rauh was the opposite of the kind of hired-gun lawyer once instructed by J.P. Morgan, the buccaneer banker: "Your job is to help me do what I want to do."

In Washington, a city dense with one lawyer per 40 people, Rauh never stitched a loophole for a corporation, fronted for a bank or cut a corner for a trade association. No one bought him, in other words. Instead of billing his time out at $200 an hour, Rauh believed—with evidence on his side—that the monied clients could well get along without him but that the marginalized citizens could not.

Few were further on the political fringes than his own fellow District of Columbians. As general counsel for the Leadership Conference on Civil Rights, Rauh came early to the fight for D.C. home rule. In 1982, which was about halfway into the seven years Congress gave as a ratification period for states to approve the constitutional amendment to grant District citizens full voting rights. Rauh argued: "So why don't [we] have the right to vote? . . . Because we might send two black, liberal urban Democrats to the Senate. But that's an immoral argument, and everybody using it knows it is immoral to deny the franchise because of how it might be exercised."

Because of what Rauh called "the combination of racism, reaction and regionalism," the District's citizens have remained unrepresented.

Rauh had a briefcase full of other seemingly lost causes. In August 1980, he was the only major Democrat at the national convention to argue that the renomination of President Jimmy Carter was not worth it. Instead, Rauh, a founder of the liberal Americans for Democratic Action in the late 1940s, endorsed John B. Anderson, the Illinois independent. Rauh explained: "I am 70 years old and I have never voted for anyone but a Democrat in a presidential election. I'm a little tired of Democrats and Republicans. I think Anderson is simply the best candidate. I'd rather support a man who is moving to the left than a man who moves in circles."

Rauh, married for 57 years and the father of two lawyers, lived near a playground in Northwest Washington. For years, he and Alan Barth, a Washington Post editorial writer who died in 1979, presided over springtime Sunday afternoon softball games for neighborhood families. Women and girls were included at Rauh's insistence. Why else, he would ask, did we work so hard to get Title IX—the anti-sex-discrimination law—passed if the playground cannot be opened to all? Teammates of Rauh—male Cabinet secretaries, judges and politicians—often found themselves benched in favor of an 8-year-old girl who could peg it hard from the outfield.

My family and I played in those games for about 10 years. After the final out, it was open house for lemonade, fruit and cookies at the Barths' across the street. Then the children, and a fair number of adults smart enough to listen, could learn something about current events, as well as charm and wit, from the stories and comments of Rauh and Barth. Had C-SPAN been around then, these back patio seminars, led by Rauh the activist and Barth the thinker, would have equaled any offering of public affairs programming.

Was Joe Rauh the last of the liberals, the breed said now to be nearing extinction? Hardly. Ask the clients and groups he served pro bono, or the powerless he stood with. They're firmly on the left, and as patient as Rauh always was in knowing that no liberal cause is lost as long as it is just. Few are not.

HOUSE RESOLUTION 572

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. MICHEL. Mr. Speaker, today is a sad day for the House as an institution and for the American people. By a party-line vote of 216–150, the Democratic Members of the House voted to adopt without debate their leadership's stonewalling tactics to prevent any debate on a privileged resolution raising a very serious issue facing the House. That serious issue is the repeated unauthorized disclosure of classified information by a senior Democratic Member, the chairman of the House Banking Committee.

It is a sad thing to have to raise this matter on the House floor. However, the conduct of a Member of this body, who has repeatedly and willfully engaged in the unauthorized disclosure of sensitive classified information in this Chamber and in the CONGRESSIONAL RECORD, is plainly inconsistent with the letter and spirit of the rules of the House. On May 15, 1992, in an effort to keep this above politics, I quietly wrote Speaker FOLEY about my serious concerns over these unauthorized disclosures, urging prompt and decisive action. I got no response. Then, on July 24, 1992, I again wrote to the Speaker. I reemphasized my concerns, and noted that since my previous letter, there had been more unauthorized disclosures, and those were drawn from very sensitive and highly classified CIA documents. Those disclosures prompted letters to House leaders from the Director of Central Intelligence, Robert Gates, and Adm. William Studeman, who was temporarily serving as the Acting Director of Central Intelligence. Again I got no response, and still the Democratic leadership took no apparent action to address this worsening problem. We and the American people have been patient too long. Action on this privileged resolution was regrettably necessary, and I strongly support its sponsor, the gentleman from Texas [Mr. COMBEST] for calling it up on the floor today.

The Banking Committee chairman's actions damage the ability of our Nation to conduct sensitive diplomatic and intelligence activities abroad. The American people understand that, even if the Democratic majority in the House tries silently to ignore that fact. The American people witnessed how, with the aid of sensitive diplomatic and intelligence cooperation between the United States and other countries, an international coalition was built to halt and redress Iraq's naked, armed aggression against Kuwait. Americans also understand how interdependent we are with other nations and the consequent need for secret, cooperative diplomatic and intelligence activities in the fight against the seamless web of international terrorism.

The irresponsible conduct of the chairman of the Banking Committee in unilaterally disclosing classified information on U.S. diplomatic relations and intelligence collection has a dangerously chilling effect on our Government's ability to get other governments to share intelligence information and cooperate in sensitive diplomatic and intelligence activities. It also gives those hostile to U.S. interests candid insights into our sensitive internal counsels and the extent of our knowledge of some of the secrets of those who wish us ill.

When we countenance a Member of this House, time and again, improperly disclosing classified information despite the House rules for handing such information, in executive session, in committee, or in secret session on the House floor, other countries must weigh the risk to their equities of diplomatic and intelligence cooperation with us. If intelligence shared with us may be made available to hundreds of Members of this body, anyone of whom may unilaterally insert it in the CONGRESSIONAL RECORD whenever he pleases, our allies will be forced to conclude that the risks to the lives and safety of their intelligence officers and agents in place are simply too great.

More importantly, this conduct gravely undermines the public reputation and dignity of the House and the integrity of our legislative oversight proceedings. In the wake of the House Bank and Post Office scandals, when public respect for the House as an institution is at an alltime low, the majority's parliamentary shenanigans in tabling this resolution without debate is perhaps the worst example yet of their efforts to cover up their leadership ignoring serious improper conduct in the House.

Debating United States policy on Iraq is perfectly legitimate, but no individual Member has the right to unilaterally disclose classified information in an attempt, and a frankly unconvincing one in this instance, to make his case. If a Member truly needs to draw on classified information for legitimate legislative oversight and debate, there are rules and procedures for doing so while taking into account the important national interest in protecting classified information.

First, a committee of jurisdiction may go into executive session to use classified information for a full and free debate of a policy issue. Based on the outcome of those executive session proceedings, the committee may decide what legislative action, if any, should be taken. The gentleman from Texas apparently either chose not to utilize this procedure in the Banking Committee or was unsatisfied with the outcome.

If a Member believes it important to draw on classified information to debate an issue on the House floor, he can seek declassification of the information by the originating agency. It appears that the gentleman from Texas has rarely made such requests, and on those two or three occasions, has either disclosed the classified information involved almost contemporaneously with the request, or well before declassification occurred. More often than not, classified information was apparently disclosed with no effort having been made to seek its declassification.

Ultimately, if a Member truly believes an issue is important enough that the House should consider it, and any of the information he deems necessary for debate remains classified, the Member can invoke rule XXIX. The House can then consider the matter, and the classified information involved, fully and freely in a secret session. Pursuant to this rule, the House may vote to make all or part of the transcript of those secret proceedings public.

When a Member willfully takes it upon himself to be the sole arbiter of whether to disclose sensitive classified information provided by various executive branch agencies to a committee of the House in the good faith expectation that it would be protected from unauthorized disclosure, that Member flaunts the rules of the House and undermines the integrity of our legislative oversight functions.

FRANK MENDEZ RECEIVES COMMISSIONER'S CITATION

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. SWIFT. Mr. Speaker, each day we hear from folks in our districts who have gotten caught up in the redtape of the Federal Government. By the time they call us, they are often quite frustrated and have lost some faith in the government's ability to deal effectively with their problems. I'm here today to tell you about an individual who has done a tremendous job assisting people with some of the challenges they face with the Social Security Administration.

Frank Mendez with the Social Security Administration in Everett, WA, is in Baltimore today to receive the Commissioner's Citation for superior service. Frank has been with the Social Security Administration for 20 years and he still displays enthusiasm, vitality, vigor, and spirit in his approach to public service.

Among his other duties, Frank serves as a liaison to my office in Everett. In addition, Frank spends a good deal of time at the senior centers and human service agencies in my district answering questions and helping folks with their Social Security claims. He also voluntarily serves as a spanish translator for Social Security in the Puget Sound region. And last year when the office was shorthanded, Frank helped process medical claims to reduce the backlog of 250 cases.

It is fitting that Commissioner King and the Social Security Administration recognize the outstanding service that Frank Mendez has provided these past 20 years. I and my staff very much appreciate all that he has done for us and, most importantly, the people of the Second Congressional District. All too often, we hear what is wrong with government. Mr. Speaker, Frank Mendez is a living example of what is right with government.

CARDIAC RESEARCH MOVES FORWARD: DR. MARK L. SPANO HONORED

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mrs. MORELLA. Mr. Speaker, I am proud to salute one of our Government scientists, Dr. Mark L. Spano, from the Naval Surface Warfare Center in Silver Spring, MD, for his contribution toward the treatment of cardiac disorders. Dr. Spano's research, with three other scientists, has produced a major potential breakthrough in the treatment of heart disease by applying the theory of chaos to a medical situation that has baffled the research world for many years.

Science magazine, on August 28, 1992, announced the development of a process called "proportional perturbation feedback" [PPF], by which a piece of an arrhythmic heart is nudged into returning to a regular heartbeat pattern. After using a computer to monitor the heart's dynamics in real time, the scientists then quantified the beats mathematically according to chaos theory. Having accomplished this, they set up a response, at calculated intervals, with stimuli that delivered antichaotic pulses. The result of this experiment in a slice of rabbit's heart tissue was to establish a nearly regular heartbeat. As Time magazine theorized in its September 7, 1992 issue, "smart pacemakers might one day correct cardiac problems that are now largely intractable."

I have recently learned that the work done by Dr. Spano on this project has been selected as the outstanding independent research program of the Department of the Navy for 1992. He and his fellow researchers; Dr. William L. Ditto, formerly a colleague at the White Oak Naval Surface Warfare Center but now at the College of Wooster in Ohio, and Dr. Alan Garfinkel and Dr. James N. Weiss, both at the University of California at Los Angeles, are to be commended for their ingenuity in using chaos to control a system, rather than trying to take the system out of chaos. This approach has much promise for future medical advancement.

FINANCIAL DISCLOSURE FOR 1991

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, September 18, 1992

Mr. MAZZOLI. Mr. Speaker, it has been my custom to submit a statement of financial disclosure every year in which I have served in the House of Representatives. While the law now dictates that Members of Congress submit financial disclosure statements in May of each year, I also continue to file this more detailed family financial report as I have since 1971. In this way, my constituents are kept fully and completely informed concerning my financial status and that of my family.

ROMANO L. AND HELEN D. MAZZOLI INCOME—CALENDAR YEAR 1991

Salaries and fees:	*Amounts in dollars*
U.S. House of Representatives (R. L. Mazzoli)	116,588.75
Alexandria Drafting Co. (Helen Mazzoli)	28,489.97
Weichert-Mt. Vernon Real Estate Company (spouse referral fees less expenses)	1,760.00
Total salaries and fees	146,838.72
Interest, dividends, rents and distributions:	
Congressional Federal Credit Union:	
#62976-0 (member/savings)	6.06
#62976-1 (member/checking)	333.58
#84720-0 (spouse/savings)	136.78
#84720-1 (spouse/checking)	291.11
Congressional Federal Credit Union certificates of deposit (spouse):	
#21128	195.83
#23973	47.03
#25778	23.47
#25779	38.28
Interest on matured certificates of deposit (spouse):	
#16541	52.60
#20744	170.47
#22956	156.45
The Cumberland Savings Bank #01-000-001-00610155499 (spouse/savings)	12.98
First National Bank and Trust Co. #427-5518-4 (joint/checking)	75.91
Liberty National Bank and Trust Co. #00922668 (member/checking)	26.64
Liberty National Bank and Trust Co. Certificate #010090063046 (spouse)	429.50
U.S. Savings Bonds Series E (member)	244.51
U.S. Treasury bills (spouse):	
#912794WS9	317.50
#912794WV2	292.70
#912794XM1	283.60
Interest on matured U.S. Treasury bills:	
#912794WF7	362.00
#912794WH3	356.40
#912794VT8	372.60
Liberty National Bank & Trust Co.	
IRA #01527329 (spouse)	1,709.23
IRA #2905081232 (member)	1,576.80
Massachusetts Mutual Life Ins. Co. profit sharing plan (spouse)	279.76
Federal Employee Thrift Savings Plan (401-k) (member)	1,801.03
Rental property (jointly held):	
929 Parkway Drive, Louisville, KY 40217, rent and interest less expenses	−386.02

	Amounts in dollars
U.S. Treasury—interest on overpayment of 1991 Federal income taxes	20.01
Total: interest, dividends, rents, distributions	9,226.81
Total income	156,065.53

STATEMENT OF FINANCIAL WORTH DEC. 31, 1991

Cash, stock, bonds, and certificates of deposit:	
Congressional Federal Credit Union:	
#62976-0 (member/savings)	26.74
#62976-1 (member/checking)	9,444.39
#84720-0 (spouse/savings)	1,564.86
#84720-1 (spouse/checking)	7,852.21
Certificates of deposit (spouse):	
#21128	2,555.44
#23973	1,400.80
#25778	2,572.10
#25779	4,194.73
The Cumberland Savings Bank #01-000-001-00610155499 (spouse/savings)	272.88
First National Bank and Trust Company #427-5518-4 (joint/checking)	1,103.86
Liberty National Bank & Trust Co. #00922668 (member/checking)	11,748.39
Liberty National Bank & Trust Co. Certificate #010090063046 (spouse)	6,101.72
U.S. Savings Bonds Series E (member)	2,828.43
U.S. Treasury bills (spouse):	
#912794WS9	10,000
#912794WV2	10,000
#912794XM1	10,000
Massachusetts Mutual Life Insurance Co. profit sharing plan (spouse)	2,700,000
Total cash, stock, bonds, and certificates of deposit	84,366.55
Retirement funds/individual retirement accounts:	
Liberty National Bank & Trust Co. IRA #01527329 (spouse)	21,302.38
Liberty National Bank & Trust, IRA #2905081232	19,001.56
Civil Service Retirement System Contributions Since 1971 (member)	78,424.06
Federal Employee (401-k) Thrift Savings Plan (member)	28,801.46
Total retirement/individual retirement accounts	147,529.46
Real estate:	
Rental/Investment (jointly held), 929 Parkway Drive, Louisville, KY 40217:	
Assessed value	44,660.00
Less mortgage (Mrs. Brad Valla):	34,144.57
Net value	10,515.43
Personal (jointly held), 939 Ardmore Drive, Louisville, KY 40217:	
Assessed value	58,700
Less mortgage	2,394.82
Net value	56,305.18
1030 Anderson Street, Alexandria, VA 22312 (jointly held):	
Assessed value	190,300.00
Less mortgages	34,140.75
Net value	156,159.25
Total real estate	222,979.86
Automobiles:	
1965 Rambler (Assessed value)	242.00
1973 Chevrolet (Assessed value)	1,049.00
1985 Chevrolet (Assessed value)	2,878.00
Total automobiles	4,169.00
Household goods and miscellaneous personal property	7,000.00
Net assets	466,044.87
Transactions:	
Sergeant-At-Arms, House of Representatives:	
#5384 (Member/checking) Closed 11/91. Ending balance	992.00
12/7/90 Loan to R.L. Mazzoli Campaign Fund, Repaid in full 2/1/91	1,900.00
Massachusetts Mutual Life Insurance Company:	
Spouse paid insurer to re-enter employer (Alexandria Drafting Company) profit sharing plan	2,700.00

1991 INCOME TAX RECAPITULATION

Total income	151,587.00
Deductions and exemptions	33,470.00
Taxable income	118,117.00
Federal:	
Tax withheld	33,039.00
Tax due	30,009.00
Refund	3,030.00
Kentucky:	
Tax withheld	5,615.00
Tax due	6,196.00
Tax paid	581.00
Virginia:	
Tax withheld	1,203.00
Tax due	953.00
Refund	250.00
Occupational tax, Louisville and Jefferson County, Kentucky:	
Tax paid	1,174.00

HOUSE OF REPRESENTATIVES—*Monday, September 21, 1992*

The House met at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, for the gifts of vigor and energy and all the blessings of health. We remember this day those colleagues and friends who are hospitalized or ill and we pray that they will be restored in health and receive new strength. Pour out upon them and upon each of us the comforting presence of Your spirit and nurture us along the way of life with assurance of Your word and the protection of Your power. These petitions, together with the requests of our own hearts, we place before You, O God, our strength and our redeemer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Mississippi [Mr. MONTGOMERY] please come forward and lead the House in the Pledge of Allegiance.

Mr. MONTGOMERY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
September 21, 1992.

Hon. THOMAS S. FOLEY,
U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in clause 5 of rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Friday, September 18, 1992 at 7:47 p.m., that the Senate recedes from its amendments numbered 1 through 68 and agrees to the House amendment to Senate amendment numbered 69 to H.R. 5620.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, U.S. House of Representatives.

TRIBUTE TO WILLIAM L. SPRINGER

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I'm sorry to report to the House that our dear friend and former colleague William L. Springer passed away this last weekend in his hometown of Champaign, IL.

Bill served in the House from 1951 to 1973, having served formerly as a judge in our circuit court system in Illinois.

Some of the oldtimers here in this body will certainly remember Bill's distinguished service as our ranking Republican on the Interstate and Foreign Commerce Committee. Bill had an exceptional rapport with Members on both sides of the aisle and when he was responsible for managing a bill in the field of commerce, transportation, health, or whatever, he always knew his subject matter well, to take on all comers during the debate. He was also a tough competitor on the paddleball court and in the annual and traditional Republican-Democratic baseball game.

Over and above all of Bill's outstanding professional attributes, he was indeed a man of sterling character and I considered him one of my closest friends in the Congress. Unfortunately, after Bill retired, he became a victim of Alzheimer's disease.

Bill is survived by his wife of 50 years, the former Elsie Mattis; three daughters, Katherine, Anne, and Georgia; a brother, James; and a sister, Marjorie; and six grandchildren.

I'm sure I speak not only for the Illinois delegation, but the entire House in expressing our profound sympathy to Elsie and the family, and I include in my extension of remarks the complete obituary appearing in this morning's Washington Post.

[From the Washington Post, Sept. 21, 1992]

WILLIAM L. SPRINGER, 83, DIES; CONGRESSMAN FROM ILLINOIS

William L. Springer, 83, an Illinois Republican who served in the House of Representatives from 1951 to 1973, died Sept. 20, at his home in Champaign, Ill. He had Alzheimer's disease.

Mr. Springer, a thoughtful and conservative former judge, rose to become the ranking Republican and a dominant figure on the Interstate and Foreign Commerce Committee. He also had served on the House District Committee, where he was ranking member before becoming ranking member on Commerce in 1965. He also had served as vice chairman of the House Republican Campaign Committee in the early 1970s.

He was the author of Public Law 480, the surplus agriculture trade and development act of 1954. He helped write legislation that extended the act and became known as "Food for Peace." This included laws that ordered the use of surplus American foodstuffs to feed hungry people overseas.

Over the years, Mr. Springer had been a delegate to numerous international gatherings, including the U.S.-Mexico Inter-parliamentary Conference and the U.S.-Britain Bilateral Parliamentary Conference of Oxford. He also participated in international gatherings in Europe dealing with trade, telecommunications and health.

After retiring from the House, he served on the Federal Power Commission from 1973 to 1975, then on the Federal Election Commission from 1976 to 1979.

Mr. Springer was born in Sullivan, Ind., and was a Navy veteran of World War II. He was a 1931 graduate of DePauw University and a 1935 graduate of the University of Illinois law school.

He entered into the private practice of law in Champaign in 1936. He served as state's attorney of Champaign County from 1940 to 1942 and was a county judge from 1946 until winning election to the House in 1950.

He represented what was then the 22nd House District of Illinois, a district in the central part of the Prairie State that included the huge university of Illinois, Chanute AFB in Rantoul and the town of Champaign and Decatur. But mostly it included rich agricultural land that produced bumper crops of corn and soybeans and fed hogs and cattle.

The district was largely Republican, and Mr. Springer always won by comfortable margins. He won his last race in 1970 with 59 percent of the vote. He did not run for reelection in 1972.

Survivors include his wife of 50 years, the former Elsie Mattis, of Champaign; three daughters, Katherine Springer of New York, Anne McKnight of Arlington and Georgia Springer of Raleigh, N.C.; a brother, James, of Danville, Ill.; a sister, Marjorie Hayes of Urbana, Ill.; and six grandchildren.

COMMUNITY PARTNERS MAKING A CHANGE

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, I know of nothing which is ripping more viciously at the fabric of American society and with more grievous results than substance abuse, alcohol abuse, drug abuse. And I think it is fair to note that any successful efforts to curb such abuse in any hometown in any State will take the combined resources and a partnership activity on the part of all those who feel that substance abuse is seriously hurting America.

Therefore, I am very happy that this weekend in Louisville, on Friday and Saturday, we will have a 2-day seminar, jointly sponsored by the Aware

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Coalition, whose executive director is Michael Ford, and the Wellness Institute under the leadership of George Perkins, entitled "Community Partners Making a Change."

This two-day seminar is to train volunteers and to make them aware of the new techniques of fighting drug abuse and of treating it, if one cannot prevent it.

We are happy to have Gov. Robert Martinez, who heads up the Federal agency fighting drug abuse. I am sure that the volunteers will leave this 2-day meeting not only with a greater appreciation of where they fit into the substance abuse fight but certainly with a greater dedication to rid America of this horrible scourge.

WOMEN'S HEALTH RESEARCH, A GREAT TRAGEDY

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, today the National Institutes of Health will be releasing the results of a conference on women's health, mandated by this body, that was held last year, last September, as a matter of fact.

And that conference says exactly what the Congresswomen have said, exactly what the GAO had said. And that is, when it comes to women's health, whether we start at infancy or whether we get to death and everywhere in between, it is a big dark hole.

We have not done the research we should be doing with Federal dollars on it, and it really is a great tragedy.

I say, Mr. President, here is your very own agency, the National Institutes of Health, agreeing with all of us who worked so hard on the women's health equity bill. We are so sorry you vetoed it, and we are going to be presenting it again. We hope you will now listen to your own agency and sign this bill, because it is absolutely outrageous that you take tax money from over half of America's people, women, and never do any health research and leave their health in such jeopardy, as one more time it is being documented.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, September 22, 1992.

SOVIET SCIENTISTS IMMIGRATION ACT OF 1992

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2201) to authorize the admission to the United States of certain scientists of the Commonwealth of Independent States and the Baltic States as employment-based immigrants under the Immigration and Nationality Act, and for other purposes, as amended.

The Clerk read as follows:

S. 2201

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Soviet Scientists Immigration Act of 1992".

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "Baltic states" means the sovereign nations of Latvia, Lithuania, and Estonia;

(2) the term "independent states of the former Soviet Union" means the sovereign nations of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; and

(3) the term "eligible independent states and Baltic scientists" means aliens—

(A) who are nationals of any of the independent states of the former Soviet Union or the Baltic states; and

(B) who are scientists or engineers who have expertise in nuclear, chemical, biological or other high technology fields or who are working on nuclear, chemical, biological or other high-technology defense projects, as defined by the Attorney General.

SEC. 3. WAIVER OF JOB OFFER REQUIREMENT.

The requirement in section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)) that an alien's services in the sciences, arts, or business be sought by an employer in the United States shall not apply to any eligible independent states or Baltic scientist who is applying for admission to the United States for permanent residence in accordance with that section.

SEC. 4. CLASSIFICATION OF INDEPENDENT STATES SCIENTISTS AS HAVING EXCEPTIONAL ABILITY.

(a) IN GENERAL.—The Attorney General shall designate a class of eligible independent states and Baltic scientists, based on their level of expertise, as aliens who possess "exceptional ability in the sciences", for purposes of section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)), whether or not such scientists possess advanced degrees.

(b) REGULATIONS.—The Attorney General shall prescribe regulations to carry out subsection (a).

(c) LIMITATION.—Not more than 750 eligible independent states and Baltic scientists (excluding spouses and children if accompanying or following to join) within the class designated under subsection (a) may be allotted visas under section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)).

(d) TERMINATION.—The authority of subsection (a) shall terminate 4 years after the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI].

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks on the Senate bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MAZZOLI. Mr. Speaker, I yield myself such time as I may consume.

At the outset, I would like to thank our chairman, the gentleman from Texas, Chairman BROOKS, for having scheduled the bill, both at the full committee and for putting it on the floor today, to thank my ranking member on the Subcommittee on International Law, Immigration, and Refugees, from which this bill came, the gentleman from Florida [Mr. MCCOLLUM], with whom I have worked very happily for many years, and to thank the gentleman from Florida [Mr. FASCELL], chairman of the House Committee on Foreign Affairs, who had joint referral of the bill and was very cooperative with the gentleman from Texas, Chairman BROOKS, on moving this bill rapidly forward.

Mr. Speaker, the dissolution of the Soviet Union and the collapse of the Soviet-led Warsaw Pact has produced many results, most of them are happy results. Certainly, the tone is optimistic about the future.

But, there have been some unexpected events, including the unemployment of thousands upon thousands of former Soviet, primarily Russian, nuclear scientists and technicians, formerly employed in the Soviet defense industries.

These unemployed scientists could, of course, be either a stabilizing or a destabilizing influence on not only the surviving states of what was the Soviet Union, the current Commonwealth of Independent States, but also, of course, upon Europe and the world.

Basically, it all depends on where these people go to earn a living and what they do to earn that living. That is where this bill comes in.

It serves, I think, in a harmonious way, to handle this rather happy problem that we have of talented and very industrious and trained technical and scientific people, who formerly had been working in the defense industries, and now want to do something with these talents. So the bill before us has as its objective to permit many of these Soviet nuclear scientists, Russian nuclear scientists, and others to enter the United States and to devote their considerable talents, heretofore devoted to producing weapons of war, to producing weapons and techniques of peace.

S. 2201, the bill before the House today, not only facilitates the entry of some of the most creative and talented scientists in the world with, again, broad and happy implications on their ability to sharpen our, the United States', competitive edge for the next century, but that, of course, would also interrupt any tendency they would have, born of economic need, for example, to accept employment in nations of the world which are seeking to develop or to expand a nuclear weapons' capability.

□ 1210

I might say, Mr. Speaker, this is not really a theoretical concern. In Senate testimony delivered earlier this year by Robert Gates, who is the Director of the Central Intelligence Agency, he indicated that the Soviet brain drain is one of the highest concerns to the agency itself.

Eariler this year Russian President Boris Yeltsin himself expressed concern to President Bush that nuclear scientists in need of jobs, after all, they have families that they have to support, could find irresistible job offers coming from nations which are seeking to either develop nuclear capability or expand it.

To the end of channeling all of this talent into peaceful and healthful pursuits, Mr. Speaker, in March the United States, Russia, Japan, Canada, and the nations of the European Community announced jointly the establishment of the International Science and Technology Center which will serve as a focal point for efforts to provide employment for these former Soviet scientists around the world in pursuits other than developing nuclear weapons and weapons of mass destruction.

Mr. Speaker, as the House will recall, in 1990 we substantially increased from 54,000 to 140,000 the visas which are permitted to be granted to immigrants who wish to enter the United States to work because they have certain kinds of job skills needed here.

S. 2201 does not increase that 140,000 yearly ceiling in order to accommodate these former Soviet scientists, but it does amend the 1990 act slightly to accommodate their special needs.

Specifically, S. 2201, Mr. Speaker, waives a legal requirement, which is in the 1990 law now, but only waives it for a 4-year period, not permanently, and only for a total of 750 Soviet scientists. However, S. 2201 would waive the requirement that currently requires such skilled workers seeking entry into the United States to have a firm job offer from a U.S. employer which has secured a labor certificate for that particular worker.

Visa numbers under S. 2201 will be taken from the second preference employment category, which has 40,000 of the 120,000 employment-based numbers, and that 40,000 in the second preference is designated for persons of exceptional ability in the sciences, the arts, and business, the former Soviet scientists would fit into that category.

Again, Mr. Speaker, S. 2201 raises no quotas nor ceilings on foreign workers. It only opens the door slightly and somewhat facilitates for a limited period of time and for a limited number of former Soviet scientists their entry into the United States for the very laudable purpose of increasing our domestic economy, of providing a competitive edge for the United States as it enters the next century, and of course, not incidentally, of reducing the tendency toward proliferation of nuclear arms which could be developed by these selfsame people if they go to other countries.

Mr. Speaker, I urge the House to support passage of S. 2201.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2201. This legislation will make it substantially easier for up to 750 qualified scientists from the former Soviet Union to immigrate to the United States over a period of 4 years.

It accomplishes this end by directing the Attorney General to designate a class of scientists and engineers with expertise in the nuclear, chemical, biological, or other high technology, defense-related fields who will be treated as having exceptional ability in the sciences. Such a level of expertise is required in order to qualify for an immigrant visa under the employment-based, second preference visa category.

Another requirement for qualifying for a visa in the employment-based second preference is a job offer from an employer in the United States. S. 2201 waives this requirement.

S. 2201, as referred to the House, contained some provisions outside of the Judiciary Committee's jurisdiction. Those provisions have been stripped from the bill we are considering today.

This action was taken in order to move the bill quickly through the House; in no way does it alter the intent or effect of the bill.

This legislation is narrowly targeted to address a specific and highly unique situation. With the dissolution of the Soviet Union, many highly trained and qualified scientists are out of work or receiving very low pay. Some foreign governments have sought to entice them to their countries to develop or advance nuclear, chemical, or biological weapons industries.

This is not in the best interest of world stability and peace.

By providing some of these scientists with the alternative of immigrating to the United States, we hope to discourage the spread of weapons of mass destruction.

We can do this without cost to the American taxpayer and without displacing anyone who has been waiting to immigrate to the United States. The visa category under which these scientists would be admitted is current; in other words, it has no waiting list.

S. 2201 promotes a very desirable goal in a very reasonable manner. It is similar to a bill introduced in the House by Congressman BEREUTER and cosponsored by 19 of our colleagues from both sides of the aisle. I strongly urge its adoption by this Chamber.

Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER], the author of the legislation.

Mr. BEREUTER. Mr. Speaker, this Member rises in strong support for S. 2201, legislation that facilitates the immigration of a limited number of scientists from the former Soviet Union who possess special skills and expertise.

I thank my distinguished colleague, the gentleman from California [Mr. MOORHEAD], for yielding me this time. I want to also recognize the distinguished junior Senator from Colorado [Mr. BROWN], who deserves special recognition for his leadership on this legislation.

The House leadership of both the Committee on the Judiciary and secondarily, the Committee on Foreign Affairs also deserves recognition for bringing this legislation to the floor today. The details of the legislation have just been ably described by the distinguished gentleman from Kentucky [Mr. MAZZOLI] and the distinguished gentleman from California [Mr. MOORHEAD]. As a member of the Committee on Foreign Affairs, this Member would emphasize that the collapse of the former Soviet Union and the end of the cold war have fundamentally changed our security considerations.

The United States and the former Soviet Republics are working together to destroy thousands of nuclear weapons. Nuclear-tipped missiles that were once pointed at every major city in the United States are now being warehoused while they await destruction. With the Freedom Support Act, which this body will consider in the next few days, we will be providing broad-ranging authority to help dismantle these weapons. Together, we are moving toward a positive new relationship that dramatically reduces the threat of nuclear, biological, or chemical holocaust.

Despite these positive developments, serious risks remain. The legislation that this body is considering today seeks to address one such threat.

For while the production lines have ceased and the former Soviet Republics are not adding to their arsenal of nuclear, chemical, and biological weapons, there are many highly trained Soviet scientists who have spent their careers designing and building these weapons. In the current chaos these scientists and engineers have been discarded by Moscow as an unnecessary and undesirable expense. These scientists, who had previously been the elite of Soviet society, are now unable to find work or even feed their families.

Mr. Speaker, Moscow may not be interested in these scientists, but there are rogue nations who are willing to pay handsomely for their skills. As reported in the press, the Yelstin government has uncovered evidence that Libyan agents have tried to enlist former Soviet nuclear scientists. Other Middle Eastern countries are reported to have made similar overtures. It is indeed ironic and troubling that, as the United States and the former Soviet Union rush to dismantle their nuclear arsenals, terrorist regimes are scrambling to acquire these weapons of mass destruction.

My colleagues, this is a very serious problem. If nothing is done, some of the most dangerous regimes in the world could leapfrog forward into the ranks of the nuclear powers. CIA Director Robert Gates has testified in open hearings that this is a troubling possibility that could seriously undermine national security.

S. 2201 seeks to address this problem. By permitting 750 former Soviet scientists to enter the United States, it provides these scientists with special skills an attractive alternative to working for Qadhafi or Saddam Hussein.

Mr. Speaker, this member felt so strongly about this matter that I introduced the House version of S. 2201. Other Members of the House have cosponsored my legislation. While this legislation is certainly not the total solution to this problem, it goes a long way toward alleviating this very dangerous threat to world peace. When combined with the Freedom Support Act, this body will have devised a comprehensive response to the threat of nuclear weapons proliferation emanating from the former Soviet Union.

Mr. Speaker, this Member urges adoption of S. 2201.

☐ 1220

Mr. MOORHEAD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MAZZOLI. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I want to commend the gentleman from Nebraska [Mr. BEREUTER], who is an outstanding Member of this body on many subject areas, and certainly on this one particularly. So we want to thank him for his work on this bill. And I want to thank my friend from California [Mr. MOORHEAD], who has helped me move the bill today. I urge support of S. 2201 and yield back the balance of my time.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI] that the House suspend the rules and pass the Senate bill, S. 2201, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An act to authorize the admission to the United States of certain scientists of the independent states of the former Soviet Union and the Baltic States as employment-based immigrants under the Immigration and Nationality Act.".

A motion to reconsider was laid on the table.

COMMISSION ON INFORMATION TECHNOLOGY AND PAPERWORK REDUCTION

Mr. MARTINEZ. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5851) to establish the Commission on Information Technology and Paperwork Reduction, as amended.

The Clerk read as follows:

H.R. 5851

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) Federal information reporting requirements continue to place an unprecedented paperwork burden upon private citizens, recipients of Federal assistance, businesses, government contractors and grantees, and State and local governments.

(2) A renewed effort is required to assure that the policy stated in subsection (b) is fully implemented.

(3) It is necessary to reexamine the policies and procedures of the Federal Government which have an impact on the paperwork burden, for the purpose of ascertaining what changes are necessary and desirable in its information policies and practices so as to eliminate unnecessary paperwork burdens and ensure that the Federal Government collects and maintains all information needed to set policy, implement laws, and operate programs.

(b) PURPOSE.—It is the policy of the Federal Government to minimize the information reporting burden, consistent with agency missions and the needs for information to set policy, implement laws, and operate programs.

SEC. 2. ESTABLISHMENT.

To accomplish the purpose set forth in section 1(b), there is hereby established the Commission on Information Technology and Paperwork Reduction (hereinafter in this Act referred to as the "Commission").

SEC. 3. FUNCTIONS.

(a) REVIEW OF FORMER COMMISSION.—The Commission shall study and review the principal findings and recommendations of the Commission on Paperwork established by the Act of December 27, 1974 (Public Law 93-556) to determine which of those recommendations have been implemented and why any other of those recommendations have not been implemented.

(b) INVESTIGATE FEDERAL INFORMATION LAWS, ETC.—The Commission shall study and investigate statutes, policies, rules, regulations, procedures, and practices of the Federal Government relating to information gathering and processing, and the management and control of these information activities. The Commission shall consider—

(1) the nature and extent of current Federal collections of information from other public and private profit and not-for-profit entities;

(2) the effect of existing statutes on the information requirements of the Federal Government and authorities of existing Federal agencies to collect information on a timely basis;

(3) the nature and extent of management and control over the determination of Federal information needs and the choice of information gathering and processing methods;

(4) the nature and extent to which Federal agencies cooperate with State and local governments and private entities in collecting and processing information;

(5) the procedures used and the extent to which considerations of economy and efficiency impact Federal information activities, particularly as these matters relate to costs burdening the Federal Government and providers of information;

(6) the nature and extent of advances in information technology and its use in minimizing burden and maximizing utility in the collection, processing, and maintenance of information by the Government;

(7) the nature and extent to which information resources management responsibilities and the President's responsibility to review agency paperwork rulemaking should continue to be integrated in the Executive Office of the President;

(8) the nature and extent to which the Paperwork Reduction Act has been appropriately and effectively implemented by the Office of Management and Budget; and

(9) such other matters as the Commission determines affect Federal information resources management.

(c) ASCERTAIN CHANGES.—The Commission shall ascertain and describe what changes are possible and desirable in existing statutes, policies, rules, regulations, procedures, and practices relating to Federal information activities in order to—

(1) assure that necessary information is made available to Federal officials and those acting on behalf of Federal officials;

(2) minimize the burden imposed by Federal reporting requirements on private citizens, recipients of Federal assistance, businesses, government contractors and grantees, and State and local governments;

(3) provide that information held by the Federal Government is processed and maintained to maximize its usefulness to all Federal agencies and the public;

(4) reduce the duplication of information collected by the Federal Government and by State and local governments and other collectors of information; and

(5) reduce the costs of Federal paperwork.

(d) FINAL REPORT.—The Commission shall submit a final report to the Congress and the President within 2 years after the date of the first meeting of the Commission. The final report shall contain a review of its findings and its recommendations for changes in statutes, policies, rules, regulations, procedures, and practices. The Commission may make such interim reports and recommendations as it deems advisable.

(e) ACTION BY OMB.—

(1) IN GENERAL.—Upon submission of the Commission's final report, the Director of the Office of Management and Budget, in coordination with the executive agencies, shall take action to—

(A) formulate the views of the executive agencies on the recommendations of the Commission;

(B) to the extent practicable within the limits of their authority and resources, carry out recommendations of the Commission in which the executive agencies concur; and

(C) propose legislation needed to carry out or to provide authority to carry out other recommendations of the Commission in which the executive agencies concur.

(2) REPORTS.—At least once every 6 months, the Director of the Office of Management and Budget shall report to the Congress and the President on the status of action taken or to be taken as provided in this subsection. The Director shall submit a final report to the Congress and the President not later than 1 year following the submission of the Commission's final report under subsection (d).

SEC. 4. MEMBERSHIP.

The Commission shall be composed of 19 members, as follows:

(1) 2 Members of the Senate, who shall not be members of the same political party, appointed by the President of the Senate.

(2) 2 Members of the House of Representatives, who shall not be members of the same political party, appointed by the Speaker of the House of Representatives.

(3) The Comptroller General of the United States.

(4) The Director of the Office of Management and Budget, the Secretary of the Treasury, and 1 other official or employee of the executive branch of the Federal Government appointed by the President of the United States.

(5) 2 members appointed by the President from among officials of State and local governments, who shall not be members of the same political party.

(6) 9 members appointed by the President from among persons in the private sector representing small business, labor, health care, education, environment, Federal Government procurement, information technology, libraries and public interest consumer organizations, no more than 5 of whom shall be of the same political party.

SEC. 5. COMPENSATION.

(a) IN GENERAL.—Except as provided in subsection (b), members of the Commission shall each receive as compensation the daily equivalent of the annual rate of basic pay in effect for level 4 of the Executive Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(b) FEDERAL OFFICIALS.—Members of the Commission who are Members of Congress or who are full-time officers or employees of the United States shall receive no additional compensation for their service on the Commission.

(c) TRAVEL EXPENSE.—While away from their homes or regular places of business in the performance of service for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as a person employed intermittently in the Government service is allowed such expenses under section 5703 of title 5, United States Code.

SEC. 6. POWERS.

(a) MEETINGS.—The Commission, or at its direction, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings, sit and act at such times and places, take such testimony, receive such evidence and administer such oaths, as the Commission or such subcommittee or member may consider advisable. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such subcommittee or member.

(b) PERSONNEL.—Members of the Commission shall elect a Chairman and Vice-Chairman from among its members. The Commission shall appoint an Executive Director who shall receive as compensation the equivalent of the basic pay in effect for Level 5 of the Executive Schedule. The Commission may appoint and fix the compensation of such other personnel as it deems advisable without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and such personnel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, at a rate not to exceed the rates provided in section 5376 of title 5, United States Code. In addition, the Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in section 5376 of title 5, United States Code.

(c) CONTRACTS FOR STUDIES AND REPORTS.—The Commission may, subject to the availability of appropriations, negotiate and enter into contracts with private organizations and educational institutions to carry out such studies and prepare such reports as the Commission determines are necessary in order to carry out its duties.

SEC. 7. COOPERATION WITH FEDERAL AGENCIES.

(a) FURNISHING INFORMATION.—Each department, agency, and instrumentality of the Federal Government shall furnish to the Commission, upon request made by the Chairman, such data, reports, and other nonconfidential information not otherwise prohibited by law as the Commission considers necessary to carry out its functions under this Act.

(b) SERVICES.—The head of each department or agency of the Federal Government may, upon request made by the Chairman or Vice Chairman of the Commission, provide to the Commission such services as the Commission requests on such basis, reimbursable or otherwise, as may be agreed between the department or agency and the Chairman or Vice Chairman of the Commission.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $8,000,000.

SEC. 9. TERMINATION.

The Commission shall cease to exist 120 days after the submission of its final report under section 3.

SEC. 10. EFFECTIVE DATE.

This Act shall take effect January 21, 1993.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. MARTINEZ] will be recognized for 20 minutes, and the gentleman from New York [Mr. HORTON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great pleasure that I join with my colleague, the distinguished gentleman from New York, in putting this legislation establishing a Commission on Information Technology and Paperwork Reduction before this body. The gentleman from New York has a long and distinguished career in the House, and in his capacity on the Committee on Government Operations he has worked tirelessly to see to it that the Government impose as little paperwork burden as necessary on taxpayers, small business, Government contractors, and State and local governments.

Mr. Speaker, I reserve the balance of my time.

Mr. HORTON. Mr. Speaker, I yield myself 7 minutes. I take this opportunity to rise in support of H.R. 5851, and also would like to express my appreciation to the gentleman from California [Mr. MARTINEZ] for his very kind remarks.

Mr. Speaker, one of the highlights of my career in the House of Representatives was the 2 years I spent as Chairman of the Federal Commission on Paperwork. Created in 1974 in response to public complaints about regulatory paperwork burdens, that Commission issued 36 reports and 770 recommendations—saving an estimated $20 billion—to eliminate the much burdensome paperwork regulations imposed on all Americans and businesses. The Commission's final report was submitted on schedule in 1977 and $1 million under budget.

The need for a Paperwork Reduction Commission in the 1970's was great. The total cost of Federal paperwork was huge. By 1974, the cost of this paperwork was estimated to exceed $100 billion a year, much of it was necessary, some of it unnecessary. In any case, the cost of this regulatory burden was ultimately imposed on consumers through higher prices and higher taxes, lower productivity and fewer jobs.

There were also psychological costs—the anxiety, frustration, and anger that people experience when dealing with excessive paperwork and redtape.

The Commission also found that needed information sometimes was not being collected, was not reliable, or was not timely. All of which unnecessarily limits the success of Federal programs. In some instances, useless paperwork actually prevents programs from achieving their goals.

The major thrust of the Commission's findings was that Government policymakers should take into account all costs of paperwork, including citizen frustration and administrative inefficiencies, as well as the substantial dollar cost. Information, we argued, should be managed as a resource, as we now manage money, personnel, and property.

I am proud to suggest that the work of that Commission resulted in permanent Government reforms. The Office of Information and Regulatory Affairs at the Office of Management and Budget was created to provide a check on the Federal Government's appetite to impose paperwork burdens. The work of the Commission also resulted in the enactment of the Paperwork Reduction Act and the elimination of countless forms at the Internal Revenue Service and the Department of Defense.

While the Paperwork Commission slowed the growth of Federal regulatory paperwork, such burdens did not, unfortunately, come to a stop. Federal paperwork burdens still consume an inordinate amount of time from the lives of average Americans and small businesses.

A report issued by the General Accounting Office in June 1989 reported that the Federal paperwork burden rose from 1.477 billion hours for fiscal year 1980 to 1.881 billion hours for fiscal year 1987, an increase of 27 percent. The reported burden went as low as 1.275 billion hours in fiscal year 1982 but reached a peak of 2.023 billion hours in fiscal year 1983. It declined for several years after that but has never fallen to its pre-1982 level. No reliable data is available for recent years. It becomes obvious that the Nation's employers are spending a stunning amount of money to meet paperwork requirements.

For that reason, my good friend and Government Operations Committee Chairman JOHN CONYERS, Jr., and I introduced legislation to create another paperwork Commission. This Commission, however, goes one step further by recognizing and promoting the use of advancements made in the area of information technology. It shall, therefore, be called the Commission on Information Technology and Paperwork Reduction. I believe that the need for such a Commission today is as great as it was in the 1970's.

The bill before the House today would establish a temporary Commission of experts to study Federal paperwork generated by various reporting requirements. It would be a mixed Commission of 19 members from Government and the private sector. The Government Commissioners would be drawn from Federal and State bodies. The Federal Government representatives would include membership of the House, the Senate, and the executive branch.

The Commission membership would be bipartisan, would elect its Chairman and Vice Chairman, and would hire an Executive Director and other necessary staff. Three members of the Commission are specified in the statute. They include the Comptroller General of the United States, the Director of the Office of Management and Budget, and the Secretary of the Treasury.

Recognizing that the issues involved in Federal paperwork involve great detail and broad policies, the bill calls for a high-level study effort to determine what changes in Federal policy and procedures will be required to minimize Federal paperwork consistent with the Government's need for information to set policy and operate its lawful programs. The Commission would have a broad mandate to study and investigate "statutes, policies, rules, regulations, procedures, and practices of the Federal Government relating to information gathering and processing, and the management and control of these information activities." Its findings and recommendations must be reported to Congress and the President. The Commission would have 2 years following its first meeting to submit its report and would terminate 120 days thereafter.

Finding that "Federal information reporting requirements continue to place an unprecedented paperwork burden on private citizens, recipients of Federal assistance, businesses, governmental contractors, and State and local governments" and reaffirming a policy to minimize the reporting burden, the bill requires the Commission to consider several general areas for its investigation. The functions of the Commission are to study and investigate and not in any way to regulate or modify existing policies or statutory requirements.

In fulfilling its mandate, the Commission shall consider, inter alia, the nature and extent of advances in information technology and its use in minimizing burden and maximizing utility in the collection of information by the Government, and to which information resources management responsibilities and the President's responsibility to review agency paperwork rulemaking should continue to be integrated in the Executive Office of the President.

The Commission is given a broad mandate to look into all aspects of Federal information activities and all issues which impact upon Federal information activities. Its recommendations are to include both policy and organization changes aimed at bringing about immediate and continuing improvements. Not only the quantity of information is subject to study, but the quality of that information as well. The Congress, the President, and the agencies would then, of course, be free to accept, modify, or reject the recommendations of the Commission.

The broad mandate for the Commission study is not limited to the specified subject for consideration. The Commission's function is to make a comprehensive study and meaningful recommendations to the Congress and the President for both administrative and legislative remedies to the great and growing paperwork burden.

The bill provides for the appropriation of such sums as may be necessary, but not more than the modest sum of $8 million. Compare that to the estimated savings of $20 billion resulting from the work of the 1970's Paperwork Reduction Commission.

I urge all of my colleagues to support this legislation for several reasons. First, the regulatory burden on Americans and small businesses is great. As I have already indicated, it has been estimated that American businesses must spend nearly $1 trillion to comply with Federal paperwork requirements. It is never too late for the Federal Government to step back and look at the regulatory and paperwork burdens being imposed upon its citizens.

I remember one newspaper article, shortly after Hurricane Andrew hit southern Florida, which suggested that one of the reasons why the hurricane victims were slow in receiving much needed Government benefits was due to the paperwork requirements associated with the disaster relief programs. What a perfect example of harmful Government regulatory paperwork burdens. This Commission shall look at these paperwork burdens and overlapping regulations, and make recommendations to the President and Congress where unnecessary burdens can be eliminated.

Second, this Commission shall look at the recommendations of the 1970's Commission, determine what recommendations have not been implemented, and why, and endorse those recommendations which are still credible.

Most importantly, this new Commission shall look at the information technology developments which have occurred during the past two decades and determine whether the Federal Government is taking advantage of the newest technology available to collect, interpret, analyze, retrieve, and store information.

The Office of Management and Budget recently reported that the Federal Government will invest some $25.4 billion on information technology in fiscal year 1993—an increase of over $2.2 billion from fiscal year 1992. The question is not, however, how much are we spending. It seems to me to be more important to ask what we are spending our money on. This Commission represents the first governmentwide, nonpartisan look at technology investment by the Federal Government.

As we all know, the advancements made in the information technology arena have been great during the past 20 years. The Commission's chief task will be to investigate ways that today's electronic technology can be used to reduce the amount of paperwork produced or required by Government agencies. Today, the public is using technology that was not even thought of in the 1970's—from electronic funds transfer to electronically filed tax returns. These technics save paperwork and should be encouraged.

Finally, it is also my hope that this Commission will take a hard look at the ongoing debate over Presidential regulatory review. Although the President has a constitutional obligation to ensure that the Federal Government is effectively managed, critics of Presidential regulatory review have argued that the President has used such organizations as the Council on Competitiveness to undercut legislative intent when drafting regulations.

The forum for this debate, however, should not be the politically charged floor of the House during this election year. Let a Commission, appointed by Congress and the next President, debate the appropriate role for regulatory review in our constitutional system.

As the former Chairman of the Commission on Federal Paperwork, I strongly believe that the time to revisit the issue of regulatory paperwork burdens is today. I encourage all Members to lend their support to this effort.

NATIONAL ASSOCIATION OF STATE AUDITORS, COMPTROLLERS AND TREASURERS,
Lexington, KY, September 21, 1992.

Hon. FRANK HORTON,
Ranking Minority Member, Government Operations Committee, Washington, DC.

DEAR REPRESENTATIVE HORTON: As chairman of the National Association of State Auditors, Comptrollers and Treasures' Committee on Intergovernmental Affairs, I am writing to commend you for introducing H.R. 5851, "Commission on Information Technology and Paperwork Reduction." NASACT's Intergovernmental Committee strongly supports your bill, and I have enclosed some member's letters for your files.

NASACT members understand the need to decrease the paperwork requirements of the federal government because they, like businesses and individuals, must cope with the burdens of federal redtape. A commission to examine and weed out unnecessary paperwork would go a long way toward improving federal government operations.

Further, our members have experienced firsthand the benefits governments can obtain through modernization and technological innovation. By making the fullest use possible of 1990s technology, as your bill requires, we believe the federal government would become more effective and efficient.

We strongly support your efforts in this area and stand ready to assist you in seeking passage of H.R. 5851. Please feel free to contact me at (302) 739-4241 or Julie Weinberg of the NASACT staff at (202) 624-5451 if we can be of assistance.

Sincerely,

R. THOMAS WAGNER, Jr.,
Chairman, Intergovernmental Committee, and Auditor, State of Delaware.

COALITION FOR GOVERNMENT PROCUREMENT,
Washington, DC, August 25, 1992.

Hon. FRANK HORTON,
Ranking Minority Member, House Government Operations Committee, Washington, DC.

DEAR CONGRESSMAN HORTON: The Coalition for Government Procurement strongly supports H.R. 5851 creating a "Commission on Information Technology and Paperwork Reduction". We appreciate the leadership that you and Congressman John Conyers have taken on this important issue.

The Coalition represents nearly 200 companies that sell commercial goods and services to the federal government. For these contractors alone, the paperwork they must submit in the normal course of conducting federal government business adds a tremendous administrative and time consumption burden not associated with doing business in the commercial marketplace. Companies must submit literally thousands of pages of information each year just to have and maintain a government contract. For some contractors this expense is undertaken without any guarantee of government business.

Dollar estimates of the cost of government paperwork on all American businesses run as high as $1 trillion. This burden poses a significant obstacle to the competitiveness of American businesses which must compete at home and in the global marketplace. While the Coalition recognizes that the government must ensure that businesses are in compliance with existing federal regulations, it is important to note that many of these regulations are themselves being reviewed to assess the need for them and the affect they have on both the corporate community and the individual. A comprehensive review commission on paperwork, such as the model set forth in H.R. 5851, would be an important component to the regulatory review process in addition to serving as an independent body to review duplicative and outdated government reporting requirements.

The first Federal Commission on Paperwork in the 1970's found many unnecessary paperwork and data collection requirements and made hundreds of recommendations on how the government could reduce paperwork, eliminate red tape, increase competitiveness, and create jobs. The recommendations that were adopted by federal government agencies eliminated unnecessary reporting requirements and actually helped improve data collection and its use in monitoring compliance with federal regulations.

The paperwork and data collection requirements of today, however, are similar to the situation which existed in the early 1970's. In order to comply with the myriad of government regulations, companies must expend scarce time and personnel resources that could otherwise be spent on research and development of new products and markets. The Coalition believes that it is not in the best interest of anyone to hamper businesses with hefty government reporting burdens at a time when companies are facing strong international competition and a weak domestic economy.

The affect of extensive government paperwork requirements is especially acute on small businesses. Often, employees of small companies have several different duties which they must perform in order for their business to thrive. Saddling them with duplicative or unnecessary reporting requirements unfairly harms their chances to succeed or even survive.

The Coalition strongly supports provisions of H.R. 5851 which would require a paperwork reduction committee to consider the positive affect breakthroughs in information technology could have on streamlining reporting requirements and reducing the time it takes to comply with federal reporting regulations. Automated information technology has made a quantum leap since the first commission was created in the 1970's. The commission called for in H.R. 5851 should undertake a thorough examination of existing and possible future technologies and study their applicability to helping improve the federal paperwork problem.

The Coalition for Government Procurement believes that the passage of H.R. 5851 will start a process which will lead to streamlined government regulations and an enhancement in the competitiveness of all American businesses both domestically and abroad. Again, we thank you for your leadership on this issue and look forward to working with you and Chairman Conyers toward its enactment.

Sincerely,

PAUL J. CAGGIANO,
President.

□ 1230

Mr. Speaker, I reserve the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I yield such time as she may consume to my colleague, the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding me this time, and the gentleman from New York, I thank both of them for their hard work on this bill.

Mr. Speaker, I, like the gentleman from New York, remember the very long work and all the hard work that he did on the Paperwork Commission, and I remember at that time all of us talking about how trying to deal with this issue was like trying to wrestle with a 2-ton marshmallow. We wrestled, and now it seems like the marshmallow has become 4 tons. So it is an ever bigger job. It is very, very important that we get on with this. So I think it is important and critical that we do it.

Let me just make several points that I made before on this, that absolutely drives me nuts. No. 1, the Federal Government ought to have one form for every means-tested program. In this area where dollars are so precious, my State tells me that will give them 30-percent more money for services without raising one more penny in revenue.

Now, with computers and everthing else, there is no reason that cannot be done.

We also ought to move for one form for CHAMPUS, Medicare, Medicaid, and all Federal insurance. That would take the 20- to 30-percent additional we pay in health care for administrative costs, and even it out, and as you both pointed out very well in your statements, that is also very critical for small business, because I think a lot of the forms and a lot of the things that they are required to do in dealing with the Federal Government have kept small business from being very active in the contracting part. So there is so much paperwork reform that could be done, and I just hope that the Commission gets on with it and we use the computers and software and everything that the rest of the world is using.

I also think it would help us in fraud and enforcement and making these programs and Government much more efficient. So the time has come to join the 20th century, and the software and things that America gave to the world and forgot to use for its Government.

So I thank you all for working so hard on this.

Mr. HORTON. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would like to take this occasion to thank the gentlewoman from Colorado for her remarks.

As a matter of fact, I would hope that, assuming this bill passes the House and Senate and is signed into law, that perhaps she might be able to give the time to serve on the Commission, because I think her advice and suggestions would be very helpful on the Commission. Having worked with her on the Committee on Post Office and Civil Service, as a matter of fact, to get through some very important legislation with regard to whistleblowers, I know of her expertise and willingness to assist in matters such as this.

I certainly agree with her that the areas that she spoke about are very important areas that should be covered by the new Paperwork Commission.

With that, I would like to express my appreciation to her and then urge that our colleagues again support the bill.

Mr. MARTINEZ. Mr. Speaker, I yield myself such time as I may consume. I thank the gentleman for his statement. It is once again time, 15 years after the first Paperwork Commission, that we have an outside body take an objective look at the unnecessary burdens being placed on individuals, businesses, and governments by paperwork and decide how best to reduce those unnecessary burdens.

All of us have stories and anecdotes from constituents who are red in the face because of Government paperwork. There is the senior citizen trying to get health benefits who can't even read the Medicare form to get reimbursements. Or the homeowner who went through Hurricane Andrew only to find out he faced an even greater whirlwind of paperwork from the FEMA forms asking him if he does or doesn't need relief. Or the small defense contractors who has decided to no longer compete for DOD contracts because of the paperwork burden.

We also want to ensure that this Commission does not throw out the baby with the bathwater. It is understandable that people want as little paperwork hassle as possible. But we need to remember the major benefits of Government paperwork. We would not be able to collect taxes without paperwork. We could not keep track of whether companies doing business with the Government are ripping us off or not without paperwork. Paperwork is also a necessity to determine whether companies are complying with environmental regulations or workplace safety requirements. These are matters critical to protecting the public's health and safety—they are necessary paperwork burdens.

Finally, given the dramatic changes in information technology over the last 15 years, this Commission will examine how to use new technology to lessen Government paperwork. We need to replace paper with electronic submissions, wherever possible. Smart technology must be applied to the delivery of Government services. For instance, I have no doubt we can reduce the amount of time it takes to reimburse beneficiaries under the Social Security and veterans programs. We must be able to reduce health care paperwork by standardizing forms for health care reimbursement—thereby saving tens of billions of dollars.

There is money to be saved, time to be saved, and high blood pressure to be saved by taking a systematic look at what we are doing and applying new technology to lessen the paperwork burden.

Mr. Speaker, for all of these reasons, I urge the House to promptly pass this necessary legislation.

Mr. HORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MARTINEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from California [Mr. MARTINEZ] that the House suspend the rules and pass the bill, H.R. 5851, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 5851, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

VACATION OF SPECIAL ORDERS

Mr. HORTON. Mr. Speaker, I ask unanimous consent that the special orders previously granted to the gentleman from Ohio [Mr. WYLIE] and the gentleman from Ohio [Mr. MILLER] for Tuesday, September 22, be vacated.

The SPEAKER pro tempore (Mrs. SCHROEDER). Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1240

OIL SALES TO IRAQ AND MORE DETAILS ON MATRIX-CHURCHILL CORP.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Madam Speaker, the FBI raid on the Atlanta office of the BNL, the Banco Nazionale del Lavoro, the Italian Government-owned bank agency in Atlanta.

Now, that sounds like jargon, but actually it means a lot. There is a lot of difference in an agency. An agency is chartered by a State, in this case the State of Georgia Banking Commission. Therein is part of the problem because you have these foreign banking entities, most of whom are owned by their respective governments, and they are operating in the United States under State charters where the banking commissions of the States are just absolutely not able or set up to properly supervise.

Then you have the Federal Reserve Bank that is supposed to be the national overseer, and it is not.

So what the United States has, as I have said repeatedly, and the reason that motivates me and has since beginning 3 years ago, as a matter of fact, in this case, and in the awesome exposure of the national well-being and safety and soundness of our banking system.

Now, that raid by the FBI on August 4, 1989, led to the unraveling not only of one of the biggest banking scandals of all time, it also laid bare that the United States was carrying on a strange, secretive, clandestine relationship with Iraq, which was at that time and still is today one of the most notorious governments in the world. It was Iraq, after all, that had used chemical weapons not just against its Iranian enemies but against its own Kurdish minority.

But let me say here it ill behooves the West to try to single out Iraq and Saddam Hussein. They were the first ones to use poison gas in that area and against what the RAF or the British, in asking Winston Churchill's permission to use poison gas against what they called rebellious or recalcitrant Arabs, it was in Iraq, what we call Iraq in the 1920's, 1921–23.

So, when we start trying to get goodie-goodie about poison gas, remember it was our great Western culture in World War I that used that horrible weapon, poison gas, to the destruction of many human lives on both sides of the contending forces.

Since then, even in the Iraq-Iran War it was charged that not only Iraq but Iran made use of that. Lord only knows. The only thing I do know is that we were aware and so were our intelligence, so-called, experts aware.

The Government of Iraq was and still is notorious for its abuse of human rights, its support of terrorism, its soaring military ambitions, and its aim to become the dominant military power in the Middle East. And that is based on a more complicated and complex line of events, which is not my interest to go into. That is over in another area of committee responsibility.

Madam Speaker, I have maintained and I have subscribed and I have adhered to one single-minded purpose, and that is the determination to eventually provide for the United States through the legislation that must be forthcoming from the Banking Committee, which I have the great honor to chair, the proper defense or protection against a continuation of these malpractices that are still going on in far vaster activities than even BNL or the so-called BCCI scandal.

Despite all this, the United States allowed Iraq to become the biggest customer of the Commodity Credit Corporation, a guaranteed program. Guaranteed by whom? The taxpayers, of course. That was financed largely through loans made by the BNL Atlanta office. Not only that, Iraq operated an extensive secret military procurement network in this country and in Europe which was also financed through the BNL Atlanta, not through CCC guarantees but through commercial loans.

This is the conclusion that the administration at first tried to use mostly through the person of the then Deputy Secretary of State Eagleburger, now the acting Secretary of State. The U.S. Government knew about the secret procurement network, and it made a decision, and that decision was to tolerate it, even after the BNL office was raided in 1989.

Consider this: The BNL Atlanta office was raided on August 4, 1989. The raid revealed that BNL was funding Matrix-Churchill Ltd. and Matrix-Churchill Corp., known Iraqi procurement fronts.

The raid also revealed that Iraq was funding several other firms, including TDG, TEG, and Euromac, that the CIA linked to Iraq's clandestine military procurement network.

Our intelligence knew all of this, and I have placed in the RECORD over the last 2 years, beginning with the hearing we first held in 1990, clear documentation showing that the intelligence facilities of our country had tried to protest. Our military intelligence in the Pentagon, that branch that is in charge of defending the improper procurement of military-sensitive hardware, made it known.

The Secretary of State was advised, the President was advised, and I brought this out in the last 2 years.

So I am just repeating what is already in the RECORD. Yet, just a few months later, after warning its allies in Europe to be alert to Iraqi efforts to buy glass fiber technology, the United States Government—that is, this administration and the immediate past one—approved a Matrix-Churchill export license for the sale of the complex fiber factory to Iraq's largest armaments producer.

In fact, the Bush administration continued to approve the sale of military-useful technology to Iraq even when that technology was known to be destined for Iraqi arms factories. This policy was in place right up until Iraq invaded Kuwait.

□ 1250

On the basis and predicate of all this, banking resources, banking facilities, just like everything from military procurement to drug money laundering, all filters through this banking system.

The problem is that we are the only industrialized country that has no protective mechanism, no defense regulatory system. That is almost impossible to believe. I guess that is why my colleagues sometimes over the past 2 years have kind of shrugged me off. Some have said I am a Don Quixote. Well, my answer to that is I would rather be Don Quixote than Sancho Panza.

After the BNL raid, a declassified November 21, 1989, State Department memorandum on exports licensing states:

> U.S. policy, as confirmed in National Security Directive 26, has been to improve relations with Iraq, including trade * * * although U.S. policy precludes approval of Munitions Control licenses for Iraq, exports of dual use commodities for conventional military use may be approved.

The memo goes on to say that the Bush administration's export licensing policy made it easy for Iraq to obtain military useful technologies from the United States. The memo states licenses were approved despite clear warning signs:

> 1. A presumption by the Intelligence Community and others that the Iraqi government is interested in acquiring a nuclear explosives capability;
>
> 2. Evidence that Iraq is acquiring nuclear-related equipment and materials without regard for immediate need;
>
> 3. The fact that state enterprises * * * are involved in both military and civilian projects;
>
> 4. Indications of at least some use of fronts for nuclear-related procurement; and
>
> 5. The difficulty in successfully demarching other suppliers not to approve exports of dual-use equipment to state enterprises and other ostensibly non-nuclear end users.

There are other State Department memos—for my disturbed colleagues on the minority side—recently declassified, that show the administration was fully aware its policy helped to arm Saddam Hussein. A spring 1990 memo states:

> An initial review of 73 cases in which licenses were granted * * * from 1986–1989 shows that licenses were granted for equipment with dual or not clearly stated uses for export to probably proliferation-related end-users in Iraq.

Yet another 1990 State Department memo shows that the Bush administration knew that their export licensing policy toward Iraq was actually working to enhance Iraq's military capability. The spring 1990 memo, which addresses the urgent need to change the export licensing policy toward Iraq, states:

> Formulating such a policy will be complicated because end-users which engage in legitimate non-nuclear and non-missile related end-users also procure commodities on behalf of Iraq's nuclear and missile programs. Because the Iraqi government network serves both nuclear and missile programs, one cannot distinguish between purchasers of nuclear concern and those of missile concern.

The secret United States policy to enhance Iraq's military capability was perfected by the administration's refusal to verify the end use of United States technology that arrived in Iraq—so-called post-installation checks. In fact, out of 771 export licenses approved for Iraq, only once did the United States Government check to ensure that the equipment was actually being used for civilian purposes.

In short, the policy was to let Iraq have United States equipment that could easily be used by or diverted to military applications, with a simple request that Saddam Hussein refrain from doing so. This happened even though the United States knew Saddam Hussein was making every effort to develop chemical and nuclear weapons as well as other advanced weapons.

Why did the Bush administration take such a dangerous and shortsighted approach to appeasing Saddam Hussein?

Even now, why? The administration has said:

> Oh, well, we admit we made a mistake then. In retrospect it looks bad.

But even then—you mean it looked good then?

Today I will offer for the RECORD a startling—and my dear Republican friends should take note—declassified document, that sheds light on why the White House and State Department were willing to permit Iraq's nefarious procurement activities.

The President has repeatedly claimed that his policy toward Saddam Hussein was "* * * to encourage Saddam Hussein to join the family of nations." And he has publicly denounced those who suggest that the policy gave Iraq access to "bombs or something of that nature."

But the truth, alas, is very different. The overriding and obvious motivation for engaging Saddam Hussein was access to cheap oil. In return, Iraq received the green light to purchase sophisticated United States military technology. National Security Directive-26 clearly states the Bush administration's motivation:

> Access to Persian Gulf oil and the security of key friendly states in the area are vital to U.S. national security.

As a quid pro quo for access to Iraqi oil, the Bush administration made a commitment to facilitate the sale of U.S. goods and services to Iraq. Again, National Security Directive-26 states:

> We should pursue, and seek to facilitate, opportunities for U.S. firms to participate in the reconstruction of Iraq's economy, particularly in the energy area * * *.

The problem was that Iraq was never satisfied with obtaining just civilian goods and services—Iraq's highest priority was ever increasing access to United States military technology.

During both the Reagan and Bush administrations, Iraq often pressed for greater access to United States technology and the State Department and White House supported such requests. For example, a 1987 memorandum related to then Vice President George Bush's meeting with Iraqi Ambassador Nizar Hamdoon states:

> Commerce licenses for some high-tech U.S. exports to Iraq have been held up * * *. From the Iraqi perspective the long delays appear to be capricious. We (the State Department) agree with that assessment.

In 1988 the Commerce Department was compelled to approve licenses for Iraq despite Iraqi use of chemical weapons against its own people. An affidavit signed by the former head of the Commerce Department's Bureau of Export Administration states:

> In the summer of 1988 a number of licenses were pending with regard to technology transfer to Iraq. I asked for official guidance with regard to what licensing policy would be to Iraq since by that time there was credible evidence of use of poison gas by the Iraqis * * *. I was told by the National Security Council that * * * I should clear the licenses that were pending for Iraq.

Those licenses and many others in later years were cleared over the objections of the Department of Defense and others in the administration that were concerned about proliferation. By the end of the Reagan administration Iraq clearly was a major proliferation threat. Instead of cutting back on military expenditures and rebuilding its civilian economy at the end of its bloody war with Iran, Iraq undertook what the CIA called, an ambitious military industrialization program designed to make it the preeminent military power in the Middle East.

This massive military industrialization program sent a clear warning sign to the administration, but such concerns were overridden mainly because of Iraq's approach to the United States. Iraq used a carrot and stick approach to secure access to United States technology and credit. In return for continued access to technology and credit, Iraq granted United States oil companies favorable deals on purchases of Iraqi oil. The United States bought the bait and purchases of Iraqi oil skyrocketed during the Bush administration.

□ 1300

A recently declassified State Department memorandum to Secretary Baker, dated March 23, 1989, sheds light on that policy tradeoff. The memo was crafted to provide background information for the Secretary's meeting with the Iraqi Ambassador Nizar Hamdoon. The memo states:

> Iraq would also like freer export licensing procedures for high tech.

The memorandum also states:

> As part of its approach to the United States, Iraq has in the last year given favorable deals to U.S. oil companies; oil exports to the U.S. have soared to around 500,000 barrels per day.

Giving favorable oil deals to U.S. firms furthered Iraq's ultimate strategy of increasing its importance to the United States. The success of this plan, as measured by oil sales, is illustrated in a recently declassified CIA report dated April 1990 which states:

> The U.S. purchase of Iraqi oil have jumped from about 80,000 barrels per day in 1985–1987 to 675,000 b/d so far in 1990—about 24 percent of Baghdad's total oil exports and eight percent of new U.S. oil imports.

By the time Iraq invaded Kuwait, United States purchases of Iraqi oil had grown to over 1.1 million barrels per day. The largest single purchaser was Exxon, but there were many others. Even the Department of Energy got into the act. The Department purchased over 3.4 million barrels of Iraqi oil only months before the gulf war.

Obviously, Iraq's approach of providing United States oil companies with favorable deals was well received in the Bush administration. During the same period that United States purchases of Iraqi oil skyrocketed, the Bush administration approved nearly 200 export licenses for Iraq. As I have shown in previous reports, many of those licenses were approved despite ample evidence showing the United States equipment was destined for known Iraqi weapons complexes.

The Bush administration clearly made the proverbial "deal with the devil," and, "Ah, there's the rub," I say to all my Republican friends that were trying to muzzle me, according to the papers last Friday. I say to them, "I'm not revealing anything of any kind of consequence to the national security. I think I can tell the difference. But what you all ought to worry about is how the Devil has infiltrated the CIA."

I long contended the Devil must have had a lot of his moles ensconced in those secret recesses over at Langley, and so I would ask, "What is the Devil?" The Prince of Darkness. Error. The Devil equals error. The Devil connotes mistakes and misunderstandings. It suggests the darkness of ignorance, the lapse of intelligence. It is intelligence gone wrong. And that Devil, he is a bad one.

So, Mr. Speaker, I suggest to my colleagues, "Don't try to exorcise me. Get your bell, book and candle, and troop all of you over to Langley, and exorcise the Devil out of that CIA."

The Bush administration, as I said, approved the sale of United States technology for Iraq, and, in return, United States oil companies received a discount when purchasing Iraqi oil.

Maybe this was natural. The President himself is an oil man and so are his closest advisers who were responsible for setting and implementing the United States policy toward Iraq. Secretary of State James Baker and Commerce Secretary Robert Mosbacher understand the oil business, and they understood the significance of the deal Iraq offered. Our main goal was access to cheap oil; Hussein wanted cash, credit, and military technology. Oil made it all possible, and remember, my colleagues, I placed in the RECORD the Executive order where President Bush about this time exonerated; that is, took out of the coverage of the conflict of interest proviso, to exempt 11 of his Cabinet and top adviser level. That means all these oil companies. So, he exempted them from any kind of conflict of interest, and I reported that several reports ago.

As part of its policy of appeasing Saddam Hussein, the United States Government turned a blind eye to many of the procurement activities of Iraq. In fact, the CIA had information showing that Matrix-Churchill Corp. in Cleveland, OH, was part of Iraq's military technology procurement network, yet Matrix-Churchill was allowed to gather United States technology for Iraq until 2 months after the invasion of Kuwait. I will now provide more background on the operations of Matrix-Churchill.

In previous reports I have indicated that BNL was one of the major sources of funds for Iraq's military industrialization program. Iraq's Ministry of Industry and Military Industrialization [MIMI], which was headed by Saddam Hussein's son-in-law, Hussein Kamil, eventually utilized over $2 billion in BNL loans for its ambitious military industrialization effort.

Where do we come in here? I will tell my colleagues where. The taxpayers had to make up for that one with the 10 U.S. banks that BNL had used to sort to syndicate its exposure, and they have already been paid back, at least a billion. And where do my colleagues think that money came from? Iraq? Of course not. BNL? Of course not.

BNL funds were used to procure equipment for weapons projects including the clandestine nuclear weapons program, missile projects including the short-range Ababel rocket, the Scud B modification project, and the long-range Condor II ballistic missile, Gerald Bull's supergun, and 155 mm and 210 mm self-propelled howitzers and other Iraqi weapons programs.

In order to procure sophisticated Western equipment, often clandestinely, MIMI created a complex web of worldwide procurement networks. Network front companies were often staffed with Iraqi intelligence agents who reported directly to Hussein Kamil and other MIMI officials.

The BNL-funded network operating in Europe and the United States was called the Al-Arabi Trading Co. network. Al Arabi was headquartered in Baghdad and appears to have been under the control of Iraq's main weapons complex, the Nassr State Enterprise for Mechanical Industries [NASSR]. NASSR was the key producer of Iraqi missiles and was heavily involved in clandestine nuclear and chemical weapons programs and some aerial bombs.

In 1987, Al-Arabi set up its main procurement front in London, a holding company called Technology Development Group or TDG. In 1987, TDG set up a firm called TMG Engineering [TMG] which was the vehicle used to purchase the venerable British machine tool maker Matrix-Churchill Ltd. and its Cleveland, OH, affiliate Matrix-Churchill Corp.

□ 1310

Mr. Speaker, Gus Matrix-Churchill Ltd. [MCL] was the United Kingdom's premier toolmaker and a major supplier of machine tools to arsenals around the world. It has been in existence since 1923 and its two plants in the United Kingdom employed over 700 people. Matrix-Churchill Corp. is the U.S. sales and service affiliate of MCL and it was established in Cleveland, OH, in 1967.

Matrix-Churchill machines are well known in the machine tool industry and in the armaments industry. Matrix-Churchill literature details its military significance:

> Churchill is a major supplier of machines for munitions production in the United Kingdom and one of the leading suppliers worldwide with some 275 munitions installations.

Matrix-Churchill machines are in the arsenals of countries such as the United States, United Kingdom, Israel, Mexico, Pakistan, Taiwan, the Soviet Union, China, Argentina, Austria, Norway, India, Belgium, Netherlands, Australia, Egypt, Italy, and South Africa, among others. Matrix machines are used to make artillery shells, the body for artillery fuses, armor-piercing ammunition and more. Matrix-Churchill records show that in 1988, over half of the machine tool deliveries were for munitions applications—the majority of them destined for Iraq.

Matrix-Churchill had contracts to provide machines for Iraq's armaments industry even before it was sold to the Iraqi front company TDG. Matrix had a contract called the ABC contract to supply machines to an Iraqi munitions factory called the Hutteen General Establishment [Hutteen]. These machines were used to produce 155 mm, and 122 mm, artillery shells.

A second contract, called the ABA contract, was to supply machines to be used in the production of a short-range rocket called the Ababel rocket which was manufactured at the Nassr State Enterprise for Mechanical Industries [NASSR]. Matrix-Churchill machines were also used in an artillery fuse factory at NASSR constructed by Carlos Cardoen. We will come back to Mr. Cardoen of Brazil later on.

The United Kingdom Government knew about the Iraq-related activities of Matrix-Churchill. The British Department of Trade and Industry [DTI] approved the deals. The director general of Hutteen even had a picture of himself and the British military attaché hanging in his office. That picture was taken during the British military attaché's tour of Hutteen.

Likewise, the Bush administration approved licenses for exports of U.S. equipment to Hutteen and other Iraqi weapons complexes even though intelligence reports verified they were armaments plants. Approval of these licenses helped enhance Iraq's military capability, contrary to the President's claim that the United States did not help arm Iraq.

Matrix-Churchill machines are currently used in the machine shops of the U.S. Army's Rock Island Arsenal in Illinois, and the Army's Anniston Depot locations in Avon, KY, and Bynum, AL. Matrix-Churchill machines are also used to produce 155 mm artillery shells for Canada's military through a firm called Ingersol in Quebec, Canada. A Mexican firm Metalmaq S.A.—Sociedad Anonimo, anonymously chartered—uses Matrix-Churchill machines to produce cartridges for 90 mm and 75 mm guns.

Matrix-Churchill machines are also sold to the U.S. nuclear energy industry. A firm called VITCO Nuclear in Cleveland makes nuts and bolts for valves and pumps that are used in U.S. nuclear powerplants. All of this made Matrix-Churchill an attractive company to purchase.

One of the first moves Iraq made when it took over MCC was to abandon its sales and service operations in favor of setting up a procurement and project management division to procure technology for Iraqi arms complexes like NASSR and Hutteen. The procurement division received inquiries from Iraqi entities interested in purchasing United States equipment and services. The department identified sources of equipment and services, and then inspected, evaluated, and selected United States equipment for export to Iraq. Sometimes Matrix-Churchill would purchase the equipment directly from the United States firm and then ship it to Iraq. However, the Iraqi end-user usually purchased the goods directly from the United States firm. In these cases Matrix-Churchill demanded and often received a kickback from the United States firm of between 5 and 10 percent of the total value of the contract. These kickbacks were intended to cover the cost of operating the procurement department.

The procurement division of Matrix-Churchill, which was established in 1987, was headed by Sam Naman, who was most likely an Iraqi intelligence operative. During the 1980's, Sam Naman worked in the United Kingdom for the known Iraqi intelligence operative Safa Al Habobi, the front man who helped set up and operate the Al Arabi procurement network. Al Habobi was the owner of record of Matrix-Churchill Corp., and several other Iraqi front companies, in the United States.

The Iraqis also set up a project management division within Matrix-Churchill in 1988. The project management division was established to manage the activities of United States companies that won contracts to work in Iraq. The BNL-financed glass fiber factory at NASSR was the project management division's biggest project.

The director of the project management division, Abdul Qaddumi was not hired by the U.S. head of Matrix-Churchill. Instead, Qaddumi was hired at the direction of Safa Al Habobi. While Mr. Naman and Mr. Qaddumi had supposedly never met before working for Matrix-Churchill, on one occasion an American employee of MCC once overheard them talking about the previous project they had worked on together prior to arriving at Matrix-Churchill.

Apparently Sam and Abdul had previously worked together, contrary to what they told the American employees working at Matrix-Churchill. The Iraqis working at Matrix-Churchill often talked about sensitive topics in Arabic rather than English. In addition, much of the correspondence related to sensitive matters such as discussions with Safa Al Habobi about money were written in Arabic to conceal the contents from the Americans working at MCC.

Apparently Matrix-Churchill's owners had secrets to keep. In a July 10, 1989, memo Dr. Safa Al Habobi instructed employees of Matrix-Churchill to retain certain expense reports in Baghdad because they indicated that the Baghdad branch of Matrix-Churchill was paying various expenses of Iraqi military establishments. The memo states:

> There is some doubt here about the bills being presented in full (to Matrix-Churchill) as they are from Military companies that we feel, if they are translated by your accountants, cause you a few problems.

Obviously, Mr. Al Habobi was concerned about letting U.S. accountants see that Matrix-Churchill was paying the expenses of Iraqi military establishments.

In an eerie moment in July 1990, a month before the Iraqi invasion of Kuwait, Sam Naman asked several MCC employees how the United States might react if Iraq invaded Kuwait. Several days after Iraq invaded Kuwait, one of the American employees of MCC confronted Sam about his prescient prediction. Sam just shrugged.

Mysteriously, the Bush administration waited for 6 weeks after the invasion of Kuwait to shut down Matrix-Churchill.

□ 1320

Sam Naman was interviewed for a couple of hours by Customs agents and released. He was allowed to leave the country shortly thereafter and was never again questioned by U.S. law enforcement officials. When the Iraqi owners decided to abandon Matrix-Churchill Corp.'s domestic business in favor of procurement and project management for Iraqi projects, there was a need to secure new sources of revenue. On the procurement side, the source of funds was kickbacks was paid by United States firms that won multimillion dollar contracts for various projects in Iraq. Under this scheme a United States firm that won a contract in Iraq was required to pay MCC a kickback of between 5 and 10 percent of the contracts value.

Firms paying this type of kickback include Servaas, Inc., Indianapolis, IN, PRO-ECO Ltd., Ontario, Canada, and XYZ Options, Holt, AL.

Other firms that signed consulting agreements or finders fees arrangements with Al Arabi Trading Co., TDG, or Matrix-Churchill include Centrifugal Casting, Tulsa, OK; AFG Technologies, Bloomfield, MI; Arbonite, Doyletown, PA; Glass, Inc., International, Chino, CA; West Homestead Machinery, Homestead, PA; D&H Machinery, Toledo, OH; National Machinery, Tiffin, OH; Pacific Roller Die, Hayward, CA.

These firms may not have actually paid Matrix-Churchill because they were ultimately unsuccessful in bidding on contracts with Iraqi entities. But by signing consulting or fee agreements, these firms indicated that they were willing to make the payments if they won contracts.

Sam Naman's activities were not limited to the machine tool business. On one occasion, he tried to trade Iraqi oil for a steel mill in Texas. An American oil company, Coastal Petroleum, was approached in 1988 to purchase $50 million in Iraqi oil from Sam Naman. The proceeds were to be used to purchase the United States Steel's Baytown Works in Texas and ship the entire facility to Iraq. The deal fell through after congressional leaders and local union leaders opposed the sale because of the loss of jobs.

Matrix-Churchill's project management division received a $14 million BNL loan to purchase the technology and equipment for the glass fiber factory for shipment to NASSR. The project management division also received a $600,000 loan from BNL to meet its operating expenses. BNL loan's kept the operation afloat.

Sam Naman was apparently not a stranger to officials at the State Department. Travel records show that he visited the State Department in September 1989. The records indicate that Sam Naman visited the State Department on September 11 and 12, 1989, just weeks after the raid on BNL's operations in Atlanta—a curious coincidence indeed.

The military uses of Matrix-Churchill machines are the prime reason Iraq was interested in purchasing the company. Acquiring Matrix-Churchill gave Iraq access, not only to the machine tools, but also the computer programming, tooling, and other components needed to make a wide variety of munitions as well as other applications in aerospace and nuclear industries. The purchase could be construed as one big intelligence gathering operation for Iraq. I have long been concerned that the United States does not have the proper regulatory mechanisms in place to ensure a proper review of foreign acquisitions of sensitive U.S. industrial firms and U.S. banks.

Banks, I know, we do not. We have been trying to work at it, but instead of being helped, we have been obstructed. We have been impeded, all because of a fear of loss of face; for mistakes, they claim.

As I have shown, control of the Matrix-Churchill Corp. would provide a foreign government with information regarding hundreds of munitions facilities and dozens of munitions, aerospace, and nuclear applications.

How many exist today? Not Iraq, but other countries. It would be nice to know, would it not? Because once these investors buy into the company, say they get 30 percent of the stock, they have access to blueprints and everything else, as in the case of Matrix-Churchill. Once they get those blueprints, we have the evidence showing that they would ship them through the diplomatic pouch, which is not subject to inspection, and shipped back to Baghdad.

It is important that any change in control of such companies is brought to the attention of U.S. officials so that national security concerns can be considered prior to any transfer of sensitive U.S. technology.

Now, one would say, as I have thought, I thought that was in place since the wars. Well, like the banking, I have discovered to my great aggravation and concern, it is not true. It is not in place.

In the case of the Iraqi purchase of Matrix-Churchill Corp., in November 1987, the United States did not review the transaction for national security purposes.

And here they are, trying to accuse me of exposing national security. Of all the most outlandish and most ridiculous, empty threats.

That fact is reflected in an August 24, 1992, Treasury Department response to my inquiry of July 15, 1992. I will place these letters in the RECORD.

The so-called Exon-Florio provisions were implemented in July 1989, but it remains to be seen how effective those regulations are in stopping the unwanted change in control of important U.S. firms. Nations that want to clandestinely develop weapons of mass destruction are continually developing more and more sophisticated procurement networks like the Al Arabi network. These efforts make it more difficult to tell if a foreign firm has gained illegal control of the U.S. form.

What is the Justice Department interested in? Is it interested in the legality of these procurements or illegality? No. They are interested in making sure that they give their blessings to these huge mergers and concentrations of banking resources, corporate resources. It has sanctioned the leveraged buyouts that have cost this country perhaps its whole economic future.

Even so, United States intelligence reports dating as far back as the summer of 1989, indicate our Government knew that Matrix-Churchill was an Iraqi front company engaged in procuring technology for Iraq's clandestine nuclear and missile programs. However, the Bush administration appeasement of Saddam Hussein apparently overrode any objections to these operations.

In short, these are the facts: First, the administration wanted to help Iraq; second, Iraq had cheap oil to offer and the United States was eager to buy—as shown by the amazing 50-percent growth in Iraqi oil sales to the United States in the 2 years before the gulf war; third, the Bush administration was so eager to please Saddam Hussein that it deliberately tolerated Iraq's military procurement activities in the United States; fourth, companies like Matrix-Churchill were used by Iraq to provide everything from steel mills to nuclear weapons useful technology—right up to the day the gulf war started; and fifth, even after the BNL raid made it impossible to hide

Iraq's procurement activities in this country, the Bush administration did nothing to stop Iraq. They even showed support by having the Department of Energy purchase Iraqi oil just a few months before our Government went to war against Iraq. Favorable oil deals made it all possible.

Mr. Speaker, I include for the RECORD the correspondence to which I referred:

MARCH 23, 1989.

To: The Secretary.
From: NEA—Paul J. Hare, Acting.
Subject: Meeting with Iraqi Under Secretary Nizar Hamdun March 24, 1989 at 2:00 PM in your office.

I. PURPOSE

To express our interest in broadening U.S.-Iraq ties, stressing the importance we place on chemical weapons and on settling claims for Iraq's attack on the USS Stark.

II. KEY POINTS

Hamdun is a unique channel to Iraq's President Saddam Hussein, and points you make will be heard at the highest levels in Iraq. Hamdun will stress Iraq's importance, and call for closer relations unaffected by what he considers "outside irritations": chemical weapons, etc. Iraq fears we will improve relations with Iran at Iraq's expense.

Bilateral relations are thorny but important. Iraq is the strongest state in a region vital to our interests, with a powerful army and oil reserves second only to the Saudis.

We reestablished relations in 1984 after a break in 1967. We cooperated closely in trying to end the Gulf War through UN Security Council Resolution 598.

During the war, Iraw drew closer to our friends among the Arab moderates, getting financial support from Saudi Arabia and Kuwait. Iraq has now concluded a formal economic alliance with Egypt, Jordan, and North Yemen in the Arab Cooperation Council.

Since we took Iraq off the terrorism list in 1983, Iraq has broken with Abu Nidal and expelled Colonel Hawari, although it still allows entry to Abu Abbas (who directed the Achille Lauro hijacking) and member of Col. Hawari's group.

But Iraq retains its heavy-handed approach to foreign affairs—it has received a border dispute with Kuwait and its meddling in Lebanon—and is working hard at chemical and biological weapons and new missiles.

May 17 will mark the second anniversary of the Iraqi attack on the USS Stark. At the time, Iraq's President accepted responsibility and promised compensation.

Mike Armacost presented the first set of claims, for wrongful death of 37 sailors, on April 4, 1988 (totalling about $34 million). The Iraqi MFA's Legal Adviser went over the claims in detail here in July, 1988, but has made no substantive response since then.

Judge Sofaer is in Baghdad, at Iraq's invitation, to discuss the claims further. He met with Hamdun before leaving and said we will soon present personal injury claims (about $1.5 million) and USG claims of $93 million (mostly damage to the Stark), but emphasized we have no room for negotiation on the death claims.

Sofaer called from Baghdad to report that an initial session March 22 went very well, and he hopes he can resolve the issue during this trip.

With this information in hand, Bob Kimmitt saw Hamdun March 22, and stressed it is important to settle these sensitive claims to remove a stumbling block from the relationship.

Following CW use in the war with Iran, Iraq used CW as part of a campaign to suppress a Kurdish rebellion last August.

We condemned unlawful CW use, and Congress began considering sanctions legislation.

Responding to our diplomatic approach and the threat of sanctions, Iraq stated adherence to international law on CW, participated constructively in the Paris Conference, and began to participate in the Conference on Disarmament talks in Geneva.

Sanctions legislation fell by the wayside last term in the rush to adjourn, despite overwhelming support. Bills introduced this session would apply tough trade sanctions for future unlawful CW use and punish companies contributing to certain CW programs, Iraq's among them.

Iraq has asked us to push Congress to delete all references to Iraq in the bills. We have explained that it is unrealistic to expect Congress to do so.

The ceasefire begun with Iran last August 20 is still holding, but UN-sponsored peace talks have produced few results. Working-level talks continue in New York, and there will probably be a ministerial meeting in mid-April.

Iraq wants to claim full sovereignty over the Shatt al-Arab waterway; Iran refuses to allow reopening the Shatt until Iraq gives up its claims, and is holding 70,000 Iraqi POWs until Iraq withdraws to its borders.

Commercial relations are good, but further growth is constrained by Iraq's debt crunch. Iraq is now our number two trading partner in the Arab world, but a commercial agreement we signed in 1987 remains unimplemented.

Iraq imports over $1 billion per year in U.S. agricultural products, financed with USDA CCC credit insurance.

But industrial trade lags. Iraq would like Exim to grant medium-term coverage in addition to its small short-term facility.

Iraq would also like freer export licensing procedure for high tech. (Applications are often held up in commerce or DoD, usually on grounds that dual-use technology could add to Iraq's military capabilities.)

The powerful Minister of Industry (Saddam's son-in-law) wanted to buy a closed USX steel plant in Baytown, TX. USX froze the deal when Congress took up union objections.

As part of its approach to the U.S., Iraq has in the last year given favorable deals to U.S. oil companies; oil exports to the U.S. have soared to around 500,000 barrels per day.

III. PARTICIPANTS

U.S.: The Secretary, Policy Planning Staff, Director Dennis Ross. NEA DAS A. Peter Burleigh. S/P Staffer Aaron Miller. NEA Notetaker.

Iraq: Under Secretary Nizar Hamdun, Ambassador Abdul-Amir Al-Anbari, Khalid Mohammad, First Secretary (Notetaker).

IV. PRESS COVERAGE

Photo Op.

POINTS TO MAKE

BILATERAL RELATIONS

We are pleased that we have broadened bilateral relations with Iraq since we resumed them in 1984, and we want to continue to develop ties.

As the President said in his message to President Saddam Hussein, we attach great importance to our relations with Iraq.

II. STARK CLAIMS

But it is critical for our bilateral relations to settle the claims arising from Iraq's attack on the USS Stark as soon as possible.

Overcoming this obstacle will give our relationship new strength in the postwar period.

I hope we will be able to settle the first set of claims, for the deaths of our 37 sailors, during Judge Sofaer's trip to Iraq.

III. CHEMICAL WEAPONS

We welcome Iraq's participation in the Conference on Disarmament in Geneva.

As a country that has used chemical weapons in the recent past, Iraq's reputation in the world will be well served by constructive participation in efforts to ban these weapons.

As you know, Iraq's past use of chemical weapons is a very sensitive topic in the U.S. Administration and Congress.

IV. PEACE TALKS

Although we do not get involved in details of the peace negotiations, we are interested in a comprehensive, lasting settlement that will promote stability and reduce tensions in the region.

What is your assessment of progress made to date, and prospects for the next round of ministerial talks?

TERRORISM

We are disturbed by the continued presence in Iraq of Abu Abbas, who masterminded the murder of a U.S. citizen in cold blood. We also understand Colonel Hawari—head of Fatah's Special Operations section—still travels to Baghdad.

We ask again that you deny Abu Abbas and Colonel Hawari access to your country. The fact that Abu Abbas is a member of the PLO Executive Committee damages the Palestinian cause.

VI. TRADE (IF RAISED)

We are committed to expansion of trade and U.S. exports around the world.

We believe reconstruction and development projects in Iraq will present significant opportunities for U.S. exporters.

IMPORTS FROM IRAQ

[In thousands of barrels]

Company	Commodity	1988	1989	1990
Amoco Corp	Crude oil	2,434	500	8,716
Ashland Oil, Inc	do	10,124	11,687	7,372
Astroline Corp	Distillate fuel	0	0	188
Atlantic petro Corp	Crude oil	0	2,776	0
Atlantic Richfield Co	do	5,568	0	0
Bayoil USA	do	0	450	5,061
BP Amer., Inc	do	0	273	0
Chevron Corp	do	8,580	6,920	20,471
Citgo Petro Corp	do	0	461	0
Clark Oil Tradg Co	do	2,018	0	0
Coastal Corp The	do	12,490	16,720	17,252
Exxon Corp	do	14,234	46,379	35,913
Exxon Corp	Unfinished oils	0	2,380	1,326
Fina Oil & Chem Co	Crude oil	9,351	14,571	21,074
Horsham Corp	do	0	0	499
Kerr-McGee Corp	Unfinished oils	123	150	106
Koch Indus., Inc	Crude oil	522	4,378	6,334
Lyondell Petrochem Co	do	0	3,998	16,328
Mobil Oil Corp	do	1,647	6,288	8,458
National Coop Refy Assn.	do	424	2,328	0
Phibro Distbs Corp	do	1,005	5,975	0
Phillips Petro Co	do	1,051	390	670
Shell Oil Co	do	11,945	22,218	21,539
Solomon, Inc	do	0	0	4,022
Sun Co., Inc	do	0	2,269	2,874
Texaco, Inc	do	34,594	0	0
Unocal Corp	do	0	0	644
US Department of Energy.	do	0	0	3,403
US Steel Corp	do	9,528	12,436	6,855
Valero Energy Corp	Unfinished oils	807	475	0
Total	do	126,445	164,022	189,105

Source: U.S. Department of Energy.

THE WHITE HOUSE,
Washington, DC, August 8, 1990.

MEMORANDUM FOR THE ATTORNEY GENERAL

From: The President.

Subject: Conflict-of-Interest Waiver.

I am writing to notify you of a conflict-of interest determination I have reached under 18 U.S.C. 208(b)(1) in connection with the current Middle East crisis.

As you know, vital United States and world interests are at stake in the Middle East as a result of the Iraqi invasion of Kuwait. As Commander in Chief and the Nation's Chief Executive, I am confronting decisions of immense import with lasting consequences for the nation and the world. The United States, along with other world powers, has strongly condemned the Iraqi invasion, and we have instituted a range of measures, including a freeze on Iraqi and Kuwaiti assets in this country among other economic sanctions.

We now face a series of decisions, large and small, about policies and military measures required to defend United States interests and counter this act of blatant aggression. I expect that these decisions will be among the most difficult that I ever face as President. As I confront the demanding choices ahead, it is essential that I be able to call freely upon my advisors for counsel and assistance.

I am aware that under Federal conflict-of-interest law (18 U.S.C. 208), an Executive branch employee cannot participate personally and substantially in a particular matter, in which, to the employee's knowledge, he has or is deemed to have a financial interest. I understand that the Department of Justice has historically interpreted this statute to mean that an individual cannot personally and substantially participate in a particular matter if the resolution of the matter would have a direct and predictable effect on such financial interests. An individual's appointing official is authorized to waive this prohibition based upon a determination that the individual's financial interests are "not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect" from the employee.

It is not clear which, if any, of the decisions ahead would constitute "particular matters" that would have a "direct and predictable effect" on the financial interests of advisors on whom I will need to rely. Based on the consultations between our staffs over the past week, I have been advised that most of the high-level decisions and actions ahead will be at a level of generality so broad as not to implicate Federal conflict-of-interest law.

Nonetheless, in the interest of caution and prudence, I believe that under current circumstances, Cabinet members and other key foreign policy advisors should not be needlessly restricted in assisting me in shaping the United States response to the Iraqi offensive or be left in doubt about when they can and cannot assist me. I have therefore directed my Counsel, C. Boyden Gray, to review the financial interests of those of my foreign policy advisors for whom I have not delegated the waiver authority vested in me under 18 U.S.C. 208(b). In particular, I have had him conduct a special review of the financial interests held by—

The Assistant to the President for National Security;

The Assistant to the President and Deputy for National Security;

The Attorney General;

The Chief of Staff to the President;

The Director of Central Intelligence;

The Secretary of Commerce;

The Secretary of Defense;

The Secretary of Energy;

The Secretary of State; and

The Secretary of Treasury.

I have also had the Department of Justice review the financial interests of the Counsel to the President.

I have now been briefed on the financial interests of these individuals. Some of the individuals in question hold only interests such as mutual funds that under no foreseeable circumstances could be construed to implicate any prohibition under conflict-of-interest law. In other instances, individuals have quite substantial financial interests in industries that may be affected (though not necessarily in a "direct" or "predictable" way) by the resolution of situations that may arise.

In light of current world events and the significance of our response to the nation's security, it is my judgment that none of these individuals' financial interests are "so substantial as to be deemed likely to affect the integrity of the services which the Government may expect" from him in all aspects of the current effort to develop and implement a United States and international response to Iraq's occupation of Kuwait. I have been counseled that the Department of Justice, in interpreting conflict-of-interest waiver authority, has said that the appointing official should consider the size of the financial interest(s) and the nature of the services the individual is called upon to provide.

In my judgment, the nature of the current crisis and the gravity of the measures under consideration by the United States are such that even vast financial interests could not be deemed likely to affect the integrity of the services the Government may expect from its chief foreign policy officers. Maintaining the highest standards of integrity in the Government has been a paramount priority for me throughout the Administration. In my view, national security considerations at stake in the current situation are so great as to diminish to insignificance the likelihood that individual employees could be swayed by their private interests.

On this basis, I hereby determine that the financial interests held by the individuals indicated above are not so substantial as to be deemed likely to affect the integrity of the services that the Government may expect from them in the course of current United States policy-making, discussion, decisions, and actions, in response to the Iraqi invasion of Kuwait. This waiver shall remain in effect until further notice.

GEORGE BUSH.

U.S. DEPARTMENT OF STATE,
Washington, DC, August 8, 1990.

Mr. KIMMITT,
Legal counsel.

BOB: Amy Schwartz of Boyden's office informed me that the President signed a waiver this afternoon for eleven Cabinet officers and cabinet level officials, including Secretary Baker, that authorized them to participate in "current United States policy-making, discussions, decisions, and actions in response to the Iraqi invasion of Kuwait." Schwartz indicates that this will allow the Secretary Baker to participate in all foreign policy questions related to the Kuwait crisis, even those directly involving oil production and prices. In addition, OLC is expected to issue an opinion in the next day or so narrowing from previous interpretations the definition of "particular matter", the touchstone for potential conflict analysis.

Because of the breadth and sensitivity of the waiver, the White House is currently unwilling to distribute copies to affected individuals. We are working to reverse this position so that we can provide a copy to the Secretary.

THE WHITE HOUSE,
Washington, DC, November 20, 1991.

Memorandum for the Secretary of State, the Secretary of Treasury, the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, the Secretary of Transportation, the Attorney General-designate, the director of Central Intelligence, the Chief of Staff to the President, the Assistant to the President for National Security Affairs, the Director of the Office of Management and Budget, the Counsel to the President, and the Assistant to the President and Press Secretary.

Subject: Conflict-of-Interest Waiver.

I am writing to notify you of a conflict-of-interest determination I have reached under 18 U.S.C. 208(b) in connection with the indictments recently returned alleging the criminal responsibility of two Libyan nationals for the December 1988 bombing of Pan Am 103, over Lockerbie, Scotland.

As you know, terrorism poses a grave threat to peace and stability in the world as well as to the lives and safety of American citizens. On Thursday, November 14, 1991, Scottish authorities and the U.S. Department of Justice charged two Libyan officials with carrying out the December 1988 bombing of Pan Am Flight 103 over Lockerbie, Scotland. All 259 people aboard the aircraft and 11 people on the ground were killed. This monstrous act of the Libyan Government is only one example of Libyan state-sponsored terrorism. We have seen a consistent pattern of Libyan-inspired terrorism that dates almost from the beginning of Colonel Qadhafi's leadership and continues to the present. We now face a series of decisions on steps the international community should take to ensure that a major perpetrator of state-sponsored terrorism—Libya—is both punished and isolated. As I consider the options, it is essential that I be able to call freely upon my senior advisors for counsel and assistance.

I am aware that under Federal conflict-of-interest law (18 U.S.C. 208), an Executive branch employee cannot participate personally and substantially as a Government employee in a particular matter, in which, to the employee's knowledge, he has or is deemed to have a financial interest. I understand that the Department of Justice has historically interpreted this statute to mean that an individual cannot personally and substantially participate in a particular matter if the resolution of the matter would have a direct and predictable effect on such financial interests. An individual's appointing official is authorized to waive this prohibition based upon a determination that the individual's financial interests are "not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect" from the employee.

It is not clear which, if any, of the decisions ahead would constitute "particular matters" or whether any such "particular matters" would have a "direct and predictable effect" on the financial interests of advisors on whom I will need to rely. I have been advised that most of the high-level decisions and actions ahead will be at a level of generality so broad as not to implicate Federal conflict-of-interest law.

Nonetheless, in the interest of caution and prudence, I believe that under current circumstances, Cabinet members and other key advisors should not be needlessly restricted in assisting me in shaping the United States response and the response of the international community to Libyan support for terrorism or be left in doubt about when they may and may not assist me. My Counsel, C. Boyden Gray, has reviewed your financial interests as reflected in your most recent public financial disclosure report, and as updated in conversations between a member of his staff and your ethics official. Mr. Gray's financial interests have been reviewed by the Counsel to the Vice President.

I have now been briefed on your financial interests. Some of you hold only interests such as mutual funds that under no foreseeable circumstances could be construed to implicate any prohibition under conflict-of-interest law. Some of you have substantial financial interests in industries that may be affected (though not necessarily in a "direct" or "predictable" way) by the resolution of situations (though not necessarily "particular matters") that may arise.

In light of the continuing threat to the peace and stability of the world posed by Libyan state-sponsored terrorism and the significance of our response to that threat, it is my judgment that, in each case, your financial interests are not "so substantial as to be deemed likely to affect the integrity of the services which the Government may expect" from you in all aspects of the current effort to develop and implement a United States and international response. I have considered the size of your financial interest(s) and the nature of the official services you may be called upon to provide.

In my judgment, the nature of the current situation and the gravity of the measures under consideration by the United States are such that even the substantial financial interests held by some of you could not be deemed likely to affect the integrity of the services the Government may expect from its chief foreign policy officers. Maintaining the highest standards of integrity in the Government has been a paramount priority for me throughout the Administration. In my view, national security considerations at stake in the current situation are so great as to render insignificant the likelihood that any of you could be swayed by your private interests.

On this basis, I hereby determine that the financial interests held by each of you, if any, are not so substantial as to be deemed likely to affect the integrity of the services that the Government may expect from you in the course of current United States policy-making, discussion, decisions, and actions, in response to the continuing threat of Libyan state-sponsored terrorism. This wavier shall remain in effect until further notice.

GEORGE BUSH.

WASHINGTON, DC,
January 13, 1989.

Judge ABRAHAM D. SOFAER,
Legal Adviser, U.S. Department of State, Washington, DC.

DEAR JUDGE SOFAER: This is to advise you that, if I am nominated, confirmed and appointed as Secretary of State, I will either recuse myself from participation in, or seek a waiver under 18 USC 208(b) allowing my participation in, any particular matter involving a company or other entity (or any of its parents or subsidiaries) in which I, my spouse or minor child has a financial interest.

If I am nominated, confirmed and appointed, I will provide the Deputy Secretary, the Executive Secretary and other appropriate officials with a list of entities subject to my recusal commitment and instruct them in writing to handle all official matters concerning such entities. I will update this list each year at the time that I complete my annual Executive Personnel Financial Disclosure Report, and more frequently if changes in my financial holdings so warrant.

Sincerely,

JAMES A. BAKER III.

THE SECRETARY OF STATE,
Washington, DC, January 25, 1989.

Memorandum for: Under Secretary for Political Affairs, Under Secretary for Management, Legal Advisor, Assistant Secretary for Economic and Business Affairs, and Executive Secretary.

From: Secretary Baker.

Subject: Recusal from participation.

This is to notify each of you that I am recusing myself, and will decline to participate in, any particular matter in which my former firm, Andrews & Kurth, is a formal party or in which it has a direct and specific financial interest, such as representing a party in such a particular matter. No such matter should be presented to me for decision, approval or disapproval, recommendation, advice, or other official action. All such matters should be directed to the Under Secretary for Political Affairs, or his delegate, who has full authority to act without referring the matter to me.

In addition, I will recuse myself from any particular matter in which I, my wife, or my dependent daughter has a financial interest. I have attached a list of companies and other entities in which one of us currently holds a financial interest. Again, all such matters should be directed to the Under Secretary for Political Affairs or his delegate.

Finally, I will recuse myself from participation, on a case by case basis, in any particular matter in which, in my judgment, it is desirable for me to do so in order to avoid the possible appearance of impropriety, despite the lack of any actual conflict of interest.

Once a Deputy Secretary has taken office, all matters on which I am recused shall thereafter be directed to the Deputy Secretary or his delegate.

I believe that this general policy, to which I am committed, will avoid not only the occurrence of any actual conflict of interest, but even the appearance of any conflict between my duties as an officer of the United States Government and my personal financial interests.

HOLDINGS OF JAMES A. BAKER, III, AND HIS IMMEDIATE FAMILY, JANUARY 25, 1989

CORPORATIONS, INCLUDING AFFILIATES AND SUBSIDIARIES.

Amoco.

Chemical New York Corporation and National Loan Bank.

Commonwealth Edison.

Exxon Corporation.

Houston Industries, Inc.

MCorp.

Salomon, Inc.

Schlumberger, Ltd.

Texaco, Inc.

Texas American Bancshares, Inc.

Time, Inc.

United Technologies Corp.

Wainoco.

LIMITED PARTNERSHIPS, CLOSELY HELD CORPORATIONS, OTHER ENTITIES

Frio County Ranch.

Garrett Ranch, Inc.

Property Capital Trust SBI.

Residential Resources Mortgage Investments Corp.

Trinity Petroleum Trust.

Sublette County Ranch.

Wilson Industries.

Bonnie Sue (Texas and Louisiana Limited Partnership).

Lady Thelma (Texas and Louisiana Limited Partnership).

Alice Jean (Texas and Louisiana Limited Partnership).

Hollywood 1004–7, 3009–14, 3003–6, 3007–8, 1008–14 and 3015 (Texas and Louisiana Limited Partnerships).

Hollywood Chem. 107 and 108 (Texas and Louisiana Limited Partnerships).

Hollywood LPG No. 2 (Texas and Louisiana Limited Partnership).

Lana Louise (Texas and Louisiana Limited Partnership).

Petro-Quest Associates 1980–1 (Pennsylvania Limited Partnership).

Hope No. 1, 2, 3 and 4 wells, Lewis County, West Virginia.

Claude Owens lease, Pecos, County, Texas.

THE WHITE HOUSE,
Washington, DC, March 2, 1992.

MEMORANDUM FOR THE SECRETARY OF COMMERCE

From: The President.

Subject: Conflict-of-interest waiver.

I am writing to notify you of two conflict-of-interest determinations I have reached under 18 U.S.C. 208(b)(1) in connection with the Middle East crisis resulting from the Iraqi invasion of Kuwait in August 1990 and the indictments returned last year alleging the criminal responsibility of Libyan nationals for the December 1988 bombing of Pan Am 103 over Lockerbie, Scotland. I wish to extend to you, in your capacity as Secretary of Commerce, the same protection I extended to your predecessor and to other senior advisors to participate fully in the consideration of policy options to respond to these two international incidents.

I have reviewed your financial interests in the course of considering your February 28, 1992 request for a waiver made in connection with your appointment, and which I have approved today. Based on that review, and for the reasons set forth in my memoranda dated August 8, 1990, and November 20, 1991 (copies of which are attached), it is my judgment that your financial interests are not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from you in the continuing development and implementation of United States Government policy in these two matters. I have considered the size of your financial interests and the nature of the official services you may be called upon to provide. In my view, national security considerations at stake in these matters are so great as to render insignificant the likelihood that you could be swayed by your private interests.

Therefore, I hereby grant you a waiver under Section 208(b)(1), for the same matters and to the same extent addressed in the above-cited memoranda. This waiver shall remain in effect until further notice.

GEORGE BUSH.

COMMITTEE ON BANKING, FINANCE
AND URBAN AFFAIRS,
Washington, DC, July 15, 1992.
Hon. NICHOLAS F. BRADY,
Secretary of the Treasury, Washington, DC.

DEAR MR. SECRETARY: The Committee on Banking, Finance and Urban Affairs is conducting an investigation of Banca Nazionale del Lavoro (BNL) and its links to the Iraqi technology procurement network. The Committee is investigating BNL loans of over $4 billion to Iraq including loans to Matrix-Churchill Corporation (MCC) an Iraqi front company operating in the U.S. As Chairman of the Committee on Foreign Investment in the United States (CFIUS), the Banking Committee respectfully asks for your assistance with this investigation.

Specifically, the Committee would like to learn more about the Government of Iraq (GOI) efforts to procure U.S. technology by investing in or acquiring U.S. companies such as MCC. As Chairman of the interagency process responsible for reviewing foreign investment in the U.S., the Committee requests that you answer the following questions and provide the following information:

1. Please provide the Committee with all documents in the Treasury Department's possession, whether created by the Treasury Department or other agencies, related to Iraqi attempts to acquire or invest in U.S. companies;

2. Related to Matrix-Churchill Corporation (MCC), please answer the following questions:

a. Matrix-Churchill machine tools are used in several U.S. armaments factories, foreign armaments factories, as well as in the U.S. aircraft and aerospace industries. Did the CFIUS review indirect acquisition of MCC in 1987? If yes, please provide details of this review.

b. The parent company of MCC was based in the U.K. The GOI purchased the U.K.-based parent of MCC in 1987. Thus, the GOI was able to gain control of U.S.-based MCC by purchasing its parent in the U.K. What mechanism is available to CFIUS to review a foreign acquisition of a U.S-based firm through the purchase of its parent in a third country? Please elaborate.

If you have any questions concerning this request please have your staff contact Mr. Dennis Kane or Mr. Abuid Amaro. They can be reached at (202) 225-4247.

Sincerely yours,
HENRY B. GONZALEZ,
Chairman.

DEPARTMENT OF THE TREASURY,
Washington, DC, August 24, 1992.
Hon. HENRY B. GONZALEZ,
Chairman, Committee on Banking, Finance and Urban Affairs, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am responding to your letter of July 15, 1992, to Secretary Brady in his capacity as Chairman of the Committee on Foreign Investment in the United States (CFIUS). In your letter, you indicate that the Banking Committee is investigating Banca Nazionale del Lavoro (BNL) and its relationship to the technology procurement network of the Government of Iraq (GOI). You also mention that the Committee is interested in learning more about the GOI and its attempts to acquire U.S. technology by buying or investing in U.S. companies such as Matrix-Churchill Corporation (MCC).

Your letter asks the Secretary, as CFIUS chair, to respond to two requests regarding the Banking Committee's investigation. On behalf of the Secretary, the following are your requests and our responses:

1. Please provide the Committee with all documents in the Treasury Department's possession, whether created by the Treasury Department or other agencies, related to Iraqi attempts to acquire or invest in U.S. companies.

Response: CFIUS has no documents in its possession related to Iraqi attempts to acquire or invest in U.S. companies.

When CFIUS was created by Executive Order 11858 on May 7, 1975, it was given the responsibility of monitoring and reviewing significant foreign investments in the United States. It was not until the promulgation of Executive Order 12661 of December 27, 1988, following the enactment of Exon-Florio that CFIUS had the authority to conduct a review and, if necessary, an investigation of foreign direct investments in the United States that have a potential impact on U.S. national security.

From May, 1975, until December, 1988, CFIUS reviewed about 30 foreign direct investments involving U.S. corporations. None involved an investment by the GOI or its government-owned companies or subsidiaries.

Since December, 1988, CFIUS has received over 720 foreign direct investments in U.S. corporations and none have involved the GOI or its government-owned companies or subsidiaries.

You also request any other documents on Iraqi investments that the Department has in its possession. Since you have written to the Secretary in his capacity as chair of CFIUS, we are interpreting your request to be limited to materials received pursuant to Treasury's authorities to monitor and regulate Foreign Direct Investment (FDI). However, if you intended to obtain documents produced or acquired pursuant to Treasury's law enforcement authorities, I would appreciate your letting me know as soon as possible so that I may forward your letter to the appropriate offices.

2. Related to Matrix-Churchill Corporation (MCC), please answer the following questions:

a. Matrix-Churchill machine tools are used in several U.S. armaments factories, foreign armaments factories, as well as in the U.S. aircraft and aerospace industries. Did the CFIUS review the indirect acquisition of MCC in 1987? If yes, please provide details of this review.

Response: CFIUS did not review any transaction involving Matrix-Churchill.

b. The parent company of MCC was based in the U.K. The GOI purchased the U.K.-based parent of MCC in 1987. Thus, the GOI was able to gain control of the U.S.-based MCC by purchasing its parent in the U.K. What mechanism is available to CFIUS to review a foreign acquisition of a U.S.-based firm through the purchase of its parent in a third country? Please elaborate.

Response: The regulations that implement the Exon-Florio provision define foreign control functionally in terms of the ability to take specific actions with regard to the acquired company. The regulations require the party providing notice of a proposed transaction to trace control to the foreign parent and foreign affiliates, if any. This mechanism for reviewing an indirect foreign acquisition of a U.S.-based firm has been in place since July, 1989, when the Exon-Florio regulations were published in proposed form.

I hope this information satisfactorily addresses your request.

Sincerely,
MARY C. SOPHOS,
Assistant Secretary, Legislative Affairs.

AEROJET ORDNANCE CO.,
Jonesboro, TN, May 24, 1983.
Subject: RFQ82-011, CNC Lathes and Centerline Machine.
Mr. PHIL BRINDLEY,
Matrix-Churchill Corp., 5903 Harper Road, Cleveland, OH.

DEAR MR. BRINDLEY: Your proposal to fill our requirements on this RFP has been evaluated and, in this instance, was not selected for an award. We thank you for participating in our machine tool procurement and appreciate the effort made by you.

Your name and a copy of your proposal will remain on file for assistance in preparing bidder's lists for future machine tool requirements.

Sincerely,
KENT C. BORCHERS,
Purchasing Manager.

MATRIX CHURCHILL, CORP.,
Cleveland, OH, February 14, 1983.
Attention: Mr. Kent Borchers.
Subject: Matrix Churchill Quotation CR-302-002.
TNS, Inc.,
P.O. Box 158, Old Route 11-E, Jonesboro, TN.

DEAR KENT: Per our conversation of Friday 11th February, we were advised that the US Army would be the purchaser of this equipment. In this case the following document has validity:

'Duty Free Entry-Qualifying Country End Products and Supplies' DAR Paragraph 7-104.32 dated Jan 81.'

It is our interpretation that the equipment as quoted is subject to the above publication and as such can be imported Duty Free for US Army Purchase.

The prices as quoted include import duty to an increment equivalent to 5.7% of quoted prices.

Accordingly, please reduce our quoted prices by 5.7%.

Best regards,
PHIL BRINDLEY,
Sales Engineer.

(a) Service and Spare Parts:

Matrix Churchill's Cleveland, Ohio facility serves as the headquarters for service and spare parts.

We maintain a well-stocked inventory of replacement parts and can offer same day shipping of critical items.

As a policy, we source compatible replacement parts from U.S. vendors and stock them at our Cleveland facility. Additionally, all electronics, spindle drive, control components and bearings are of U.S. manufacture.

Matrix Churchill Service Engineers are of the highest caliber, are factory trained and have many years of experience. All of them have strong backgrounds in tooling, programming, electronics and CNC troubleshooting. Additionally, our Service Engineers are compensated on the same incentive bases as our Sales force. This ensures they have a professional, vested interest in timely, efficient service to our customers.

(b) Engineering Personnel:

From an Engineering standpoint, the project will be managed in the U.K. by Dr. Malcolm Thorneycroft. Mr. Thorneycroft holds a Doctorate in Mechanical Engineering and is a specialist in Flexible Manufacturing Systems and Control Engineering.

It is estimated that five percent (5%) of our engineering staff would be working on the project. It should be pointed out that much of the engineering designs have already been worked out on machines supplied already on like installations.

(c) Past Performance:

Churchill is the major supplier of machines for munitions production in the U.K. and one of the leading suppliers world wide with some 275 munitions installations.

Penetrators machined in depleted uranium and the sabot 'petals' are currently being produced on Churchill 302 and CTC-4 machines in several British Royal Ordnance factories. These installations are regarded as somewhat classified and we know that the US Army contacts and channels can verify these installations with the installation sites concerned.

(d) Schedule:

After contract award but prior to initiating construction and purchase of material, Churchill will submit the following system drawings:

[Not reproducible in the Record]

WORLDWIDE MUNITION MANUFACTURE

COUNTRIES USING CHURCHILL TURNING EQUIPMENT

United Kingdom, Belgium, Switzerland, France, Pakistan, India, Israel, Argentina, Canada, Taiwan, Australia, and Egypt.

275 Machines Total.

MATRIX CHURCHILL CORP.,
Baghdad Hay Al-Adel.

Ref. No.: MCC 1718/89.
Date: 1st. July 1989.

DEAR MR. QADDUMI: Upon the instructions of Dr. Safa in a telephone conversation today he has instructed us to keep all the bills for you here for personal collection on your next visit, and I am to present to you as overleaf a bill for the amounts stated for your Accountants.

There is some doubt here about the bills being presented in full as they are from Military companies that we feel, if they are translated by your Accountants, cause you a few problems. Nothing sinister in them at all, but it is possible that they could be misconstrued by your Tax Authority. Kind regards,

JIM BARTHOLOMEW,
MCC Iraq Manager.

INVOICE NO: 1789

For renovating, decorating, rewiring faulty electrics, at your Offices in Hay Al-Adel Section 645/8/39.

Iraqi Dinar 6000.000

MAROUF CONSTRUCTION CO.

BARAKAT WALKER CO.,
Potomac, MD, November 7, 1988.

SAM NAMAN:

Please find below a suggested draft of a letter, per your request:

Per our telephone conversation of Friday, November 4, 1988 our company is selling a steel factory for approximately $50 million to the Government of Iraq. We would like to barter this factory for Iraqi crude oil (Basra Light).

Please confirm that Coastal Corporation would be interested in purchasing the Iraqi crude at agreed upon price and delivery dates.

Hope the above is helpful.

Best regards,

A.B. BARAKAT.

MATRIX-CHURCHILL, CORP.,
Cleveland, OH, November 10, 1988.

Subject: Bartering With Iraq.

Mr. BARAKAT,
Barakat Walker and Co., Potomac, MD.

DEAR MR. BARAKAT: Per our telephone conversation of Friday, November 4, 1988 our company is dealing with Iraq on many multimillion dollar projects. We would like to barter some of these projects for Iraqi crude oil. Would you confirm in writing that Coastal Corporation would be interested in purchasing the Iraqi crude oil at an agreed upon price and delivery dates along with their general terms and conditions. I look forward to hearing from you soon.

Best regards,

SAM NAMAN,
Project Manager.

REPORT ON THE STATUS OF NICARAGUA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 60 minutes.

Mr. ALEXANDER. Mr. Speaker, I take this time to discuss a report on Nicaragua which I have filed today as a member of the Subcommittee on Foreign Operations, Export Financing and Related Programs of the Committee on Appropriations, accompanied by a letter to the gentleman from Mississippi, the Honorable JAMIE WHITTEN, chairman of the Committee on Appropriations, and to the gentleman from Wisconsin, the Honorable DAVID OBEY, chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs of the Committee on Appropriations.

Mr. Speaker, I will read a copy of the letter which accompanies the report:

SEPTEMBER 18, 1992.

Hon. JAMIE WHITTEN,
Chairman, Committee on Appropriations, The Capitol.

Hon. DAVID R. OBEY,
Chairman, Subcommittee on Foreign Operations, Export Financing and Related Programs, The Capitol.

DEAR MESSRS. CHAIRMEN: Please find enclosed herewith my report to you on my recent trip to Nicaragua. Also enclosed is a copy of a General Accounting Office (GAO) Report. During the period of September 10 through September 12, 1992, while in Managua, Nicaragua, I met with numerous individuals from all sides of the political spectrum. See attachment. The transition that has occurred since my last visit in 1980 from a Marxist government to a functioning Democratic government has been truly remarkable. In the past two years since the election of Violeta Chamarro, Nicaragua has received significant financial assistance from the United States, which has resulted in the beginnings of economic recovery and social stability. However, much remains to be done, and in my view the U.S. has to play a vital and positive role in assisting this fragile democracy move forward.

The Administration is currently withholding $104,000,000 in fiscal year 1992 assistance intended for Nicaragua, despite the fact no Committee of Congress has a formal hold on these funds. In fact, David Obey, Chairman of the Foreign Operations Subcommittee, wrote Secretary Baker on July 1, 1992, urging immediate disbursement. This was followed by a similar letter from Rep. Lee Hamilton and a further letter signed by over 50 members of the House. By continuing to withhold these funds the Administration is apparently responding to a request by the ranking Republican of the Senate Foreign Relations Committee and issues raised in a Republican Staff Report of that Committee. I find this astonishing both procedurally and substantively. The findings in the attached report are based on my recent visit and are put forward to the Committee for their consideration.

Sincerely,

BILL ALEXANDER,
Member of Congress.

Mr. Speaker, I will now read from the report:

NICARAGUA REPORT

PROGRESS HAS BEEN MADE

The progress made in Nicaragua since the election of Violeta Chamarro to the presidency in 1990 has been remarkable considering the conditions she faced when taking office. The most noteworthy, of course, is the end of ten years of civil war. The fighting forces in that war have been demobilized and drastically reduced in size. According to the Organization of American States (OAS), more than 18,000 former resistance combatants have been demobilized, and 35,000 have been repatriated. According to U.S. Department of Defense officials in Nicaragua, the Nicaraguan Army has been cut from 30,000–35,000 members of the active forces to 15,000–16,000 today.

President Chamarro, as she took office in April 1990, inherited an economy in ruins. According to the General Accounting Office (GAO), "per capital gross domestic product has fallen to less than one half of what it had been prior to the 1979 Sandinista revolution, the country had experienced hyper-inflation, which peaked at 33,654 percent in 1988; foreign debt had accumulated to about $11 billion, and per capita income was estimated at less than $300 in 1991, the lowest in Central America."

The Chamarro government is implementing an ambitious policy of reconciliation, democratization, reform and economic development that is assisted by a large infusion of economic aid from the U.S. This has been successful in enabling the economy of Nicaragua to begin its recovery. Vital assistance from the U.S. and other donors has ended hyper-inflation and permitted stabilization of the currency. The cordoba is traded freely at a stable 5 cordobas to $1, and black market currency speculation has largely ceased. Nicaragua has cleared its arrears with the World Bank and the Inter-American Development Bank, and new lending from these institutions has resumed. U.S. assistance has also been used to provide the external financing needed to bring about economic stabilization, eliminate state monopolies, legalize private financial institutions and to remove trade restrictions. Other funds have been used to finance imports from the U.S. and to reduce government employment in Nicaragua. Nearly 28,000 people have left the government's employ in the past two years.

The institutions of government are functioning in Nicaragua. U.S. assistance has been used to advise various institutions on both policy and administrative matters. Remarkable progress has been made in the capacity of the National Assembly to function. Finally with U.S. help independent labor unions have gained strength in both membership and professional capability.

PROBLEMS EXIST

Naturally, Nicaragua has a long way to go to consolidate a democratic system of government. Our own historical experience clearly shows that this would be the case. It took our nation about a half century to recover from the ravages of our own Civil War. Both the police and the Army continue to be dominated by one party. Unemployment is very high and credit is tight. Areas outside of the capital continue to be unstable. Two small groups of former contras have recently taken up arms and are encamped in the northern region. The claims of former property owners are multiplying as the government struggles to set up a mechanism to address them. Allegations of bribery and corruption have surfaced in the National Assembly contributing to a stalemate within that body. Finally, certain members of the Assembly, for various reasons, are using this stalemate to attempt to stymie the government and continue the hold up of U.S. assistance.

In order to address these problems the U.S. should be working in a positive fashion with all elements of Nicaraguan society. Specifically I would strongly recombed that:

1. The U.S. Department of Justice's use of resources, through the International Criminal Investigative Training and Assistance Program (ICITAP), to conduct a thorough and comprehensive professional police training program, such as we did in Panama after the ouster of Manuel Noriega. Most of the individuals who were trained for the new police force of Panama were former members of the Panama Defense Force. Also, a comprehensive police training program is now underway in El Salvador as that nation struggles to establish a new police force. The U.S. simply cannot be credible on police reform, if this nation does not engage the institution and attempt a professional police training program.

2. The U.S. should encourage the continued reduction in the size of the Nicaraguan Army and its reserve structure to bring it into line with other countries of the region. The U.S. should also encourage a process of professionalizing and depoliticizing the Army through training programs. The U.S. should insist upon the cessation of arms transfers to non-governmental entities outside Nicaragua, and on full disclosure of all planned arms sales to other countries in the region.

3. The U.S. should work with the government to achieve the return of confiscated properties. Foreign investors must believe that their property will be secure. This process will take time, and the ability of the government to compensate all claimants without jeopardizing economic stability must be taken into account. However, steady progress should be demonstrated. It is hoped that claimants realize that had Mrs. Chamarro not won election, the chances of getting their properties returned would not even exist.

4. The government must accelerate its effort to investigate alleged human rights abuses and killings. I commend recent efforts to form a tri-partite commission to address allegations of the killings and abuse of both former contras and Sandinistas. The U.S. should assist in this process, but should also initiate judicial reform programs in order to strengthen the institutional capability to deal with the numerous allegations which surface from time to time. The aid program should be altered to make judicial reform a priority. The U.S. should use the benefit of our experience in the region to help design and implement a comprehensive program for Nicaragua. In addition, perhaps through the Commission for Independent Support and Verification (OAS-CIAV), we should avail ourselves of the experience of the Organization of American States by inviting OAS participation in this process.

5. The U.S. should denounce alleged corruption and bribery and, if true, work to end these destructive and destabilizing practices. The U.S. should support any effort by the Nicaraguans to explore the feasibility of establishing a code of ethics for government officials.

6. The U.S. should offer to accelerate its effort to strengthen the professional capability of the National Assembly, being careful not to put this nation in the position of appearing to interfere in any way to the duly elected government of Nicaragua. It is my observation after meeting with members of the Nicaraguan Assembly that ideological differences represent a significant obstacle to real economic progress. Because of my experience in Congress I understand that there will be differences of opinion in a democracy, but I also fully understand—particularly during this time of political gridlock in Washington—that partisan differences can reach such a level as to bring progress to a grinding halt. One measure of relief could come from a more open flow of information from the Executive to the Legislative branch of government.

Both Washington and Manugua have lessons to learn. But what Nicaragua desperately needs is to put aside political and ideological bickering and pull together in an effort to stimulate economic growth.

I can best sum up my view of this situation by relating what I told Sandinista Party head, Daniel Ortega: "ideologica no hace tortillas" (ideology does not make tortillas).

Less conspicuous ideological debate would serve to attract foreign investors.

7. The U.S. should alter the aid program so its effects are felt more directly by the people. While the initial aid program was devoted largely to solving macro-economic problems, it's high time to focus on more basic needs. At a minimum, one half of the aid program should be provided in the form of development-related projects. While some effort has been devoted to health, education, agriculture and environmental protection, much more remains to be done. I commend the U.S. citizens managing the AID program in Nicaragua. Their impressive performance is making a beneficial difference.

One of the most pressing problems I encountered was the lack of credit for small farmers. This exacerbates social tensions in rural areas because it fosters unemployment and loss of hope. The U.S. should offer to use existing successful models from U.S. farm programs to design and implement an appropriate credit or credit guarantee program for small to medium sized farmers in Nicaragua.

Great needs exist in the areas of health and education. According to the GAO report "in early 1991 Nicaragua had one of Central America's highest infant mortality rates at 61 deaths per thousand, and an estimated 20 to 30 percent of Nicaraguan children were malnourished." Also "although the Sandinistas has instituted a major educational campaign in its early years that claimed significant successes, by 1987 literacy rates were estimated at 26 percent and texts used in primary and secondary schools were heavily politicized." The current priority of the aid program should be altered to address these needs. Addressing basic human needs and putting people to work is still the most viable method of enabling social stability. Without that stability, all of the economic progress made in the past two years will fade away.

U.S. SHOULD NOT WITHHOLD AID

The State Department is currently continuing to withhold fiscal year 1992 assistance to Nicaragua despite the fact that Congress has no formal holds on these funds. To continue to withhold these funds threatens to seriously destabilize this fragile democracy and to strengthen the power of those extreme elements from both the left and right. In the past months the Nicaraguan government has made progress in the areas of policy reform, property rights and addressing human right abuses. The U.S. should and will undoubtedly continue to strongly urge the Nicaraguan government to continue to make progress in these areas.

The critical question: How should these reforms affect the flow of aid. These funds are needed now. The funds were originally scheduled for disbursement in early July of this year. The U.S. State Department has added conditions to the release of these funds at a time when the Nicaraguan government's back is to the wall. If explicit conditionality involving specific reforms not related to the economy was desired, it should have been made clear to the Nicaraguans nine months ago, when Secretary Baker visited the country. By continuing to withhold these funds at this time, the Administration gives the appearance of giving credence to all of the allegations in the Republican Staff report of the Senate Foreign Relations Committee, and ignores the will of the majority of members in the U.S. Congress.

The continued suspension of U.S. aid weakens Mrs. Chamarro further and puts democracy at risk. Ironically, the beneficiaries of this action hold may likely be opponents of democracy. Any abrupt removal of Sandinistas from government positions will go a long way toward unifying the Sandinista party, which is currently not united. This is particularly ironic after the efforts in the 1980s by the Reagan Administration to overthrow the Sandinistas and establish a democratic government in Managua.

On the other side of the political spectrum the continued hold encourages those who prefer to come to Washington to fuel political controversies, rather than address problems through their own institutions and processes in Nicaragua. It's simply too late to impose further conditions on fiscal year 1992 assistance. However, this report may be useful in shaping the fiscal year 1992 U.S. aid package.

In the words of Cardinal Obando y Bravo: without this aid Nicaragua will be "in big trouble."

NICARAGUA TRIP

LIST OF CONTACTS—MEETINGS

President—Violeta de Chamorro.

Presidency Minister—Antonoio Lacayo.

General Humberto Ortega.

OAS-CIAV—Santiago Murray.

Cardinal Obando y Bravo.

Daniel Ortega.

Pedro Joaquin Chamorro—Editor—La Prensa.

Carlos Fernando Chamorro, Editor—Barricada.

Jose Pallais—Vice Minister, Foreign Affairs.

U.S. Embassy: Agency for International Development.

Representatives of all political parties of the Nicaraguan Assembly.

Members of the Business community.

Land Claimants: Juan Vassalli, Garold LaRue.

According to Rules of the House of Representatives, the General Accounting Office [GAO] full report, dated August 19, 1992 "Aid to Nicaragua: U.S.

Assistance Supports Economic and Social Development," is too lengthy for reprint in the CONGRESSIONAL RECORD. Following is the executive summary of that report.

AID TO NICARAGUA—EXECUTIVE SUMMARY

PURPOSE

Upon its inauguration on April 25, 1990, the democratically elected government of Nicaragua headed by President Chamorro inherited an economy in very poor condition. The country faced hyperinflation, high unemployment, and dire social needs. The United States provided almost $500 million in economic support and development assistance from February 1990 through fiscal year 1991 to support Nicaragua's efforts to address its economic and social needs, and its plans to provide an additional $142 million in fiscal year 1992 and about $200 million annually through fiscal year 1996. The Dire Emergency Supplemental Appropriations Act of 1990 (P. L. 101-302) required that GAO report on the effectiveness of and lessons learned from U.S. assistance to Nicaragua.

BACKGROUND

The Agency for International Development (AID) designed its assistance program to (1) help meet Nicaragua's foreign exchange and import needs, (2) encourage the Nicaraguan government to undertake economic reforms, (3) address immediate social concerns and longer term developmental needs, and (4) support the efforts of the United Nations and the Organization of American States (OAS) to repatriate and resettle former Nicaraguan Resistance members and their dependents.

RESULTS IN BRIEF

Cash grants totaling $340.5 million between June 1990 and December 1991 were effective in helping Nicaragua begin to stabilize its economy and to lay the foundation for future growth. The grants enabled Nicaragua to import goods and helped the government clear its arrears with international financial institutions. An important lesson learned is that AID's continuing dialogue with the government of Nicaragua and the international financial institutions, along with the immediate availability of hard currency, was effective in supporting economic stabilization.

The conditions placed on grants encouraged Nicaragua to undertake economic reforms, and as an incentive deposits were made to Nicaragua's account as grant agreement conditions were met. However, this occurred in advance of Nicaragua's need to spend the funds. As a result, Nicaragua earned interest on the funds and the U.S. government incurred additional interest costs.

Nicaragua still faces several obstacles to economic growth, such as defining property rights and resolving political conflicts that have led to violence. Moreover, Nicaragua has not yet resolved U.S. citizen's claims for expropriated property.

AID programmed $82.2 million for 18 development projects in education, health, employment, and other sectors. AID implemented some projects quickly, but implementation of the long-term development projects has been slower than AID expected.

Resettling the former Resistance took more than 1 year longer than expected and will cost about $13.7 million more than the $28.8 million the United States initially provided. U.S., OAS, and Pan American Health Organization officials estimated in November 1991 that between 75 and 80 percent of the former Resistance members had been resettled, but data were not available to verify this estimate.

PRINCIPAL FINDINGS

Cash grants encouraged economic reforms

AID's cash grants of $265.5 million for balance of payments support and $75 million to help clear arrears with international financial institutions provided the Nicaraguan government with the financial support necessary to begin stabilizing the economy. The assistance was conditioned on implementing certain economic reforms, and funds were deposited to Nicaragua's account as the conditions were met. However, AID's policy of depositing funds in Nicaragua's Federal Reserve Bank account as conditions were met meant that funds were financed by U.S. borrowing and deposited in Nicaragua's account in advance of when they were used to finance imports. As of March 31, 1992, the funds had earned about $6.7 million in interest for Nicaragua. To prevent this from occurring in the future, AID could require that (1) recipient government accounts in the Federal Reserve Bank do not earn interest or (2) interest be paid to the U.S. Treasury.

Nicaragua made progress during 1990, transforming its economy from a command economy to a market economy. Exchange rates were unified, public revenues were stabilized, and fiscal deficit was reduced. In March 1991, monetary policy and budget reforms were introduced. These actions, supported by U.S. assistance, contributed to reducing inflation from a peak of 117 percent in May 1990 to near zero by December 1991. With the help of the U.S. grant, Nicaragua cleared its arrears of $303.2 million to the World Bank and the Inter-American Development Bank in September 1991. These banks, along with the International Monetary Fund, have since earmarked about $450 million in additional assistance through fiscal year 1994.

Additional measures, in particular, settling property disputes and resolving political conflicts that have led to violence, will be necessary to create an economic climate favorable to investment and economic growth. Also, no significant investment in productive resources will likely occur until Nicaragua guarantees property rights of investors. About 150 U.S. citizens had claims for expropriated property as of June 1992, but the Nicaraguan government has not yet resolved most of them. The State Department believes Nicaragua is taking appropriate steps to settle these claims, as required by section 620(e) of the Foreign Assistance Act of 1961, as amended, for U.S. assistance to continue. However, the act does not require the State Department to provide the Congress the factual basis for this conclusion.

U.S.-financed development projects started more slowly than anticipated

AID wanted to demonstrate quick, visible support of the Chamorro government, and accordingly, allocated 72 percent of fiscal year 1990 development assistance for nine "immediate impact" projects, such as providing needed schoolbooks and pharmaceuticals. Other funds were allocated to nine longer term development projects, such as managing natural resources and strengthening democratic institutions, but these projects took almost 18 months to begin. Fifteen of the 18 projects had been designed and approved by the end of 1991, although not all had begun operations. At that time, $32.4 million of the $82.2 million obligated in fiscal years 1990 and 1991 had been disbursed, with most of the funds being spent on immediate impact projects. AID requires evaluations of projects, but the mission had performed an interim evaluation of only one project and had extended two projects without an evaluation of their effectiveness or impact.

U.S. aid supported resettlement efforts

At the time of the elections in February 1990, the United States hoped that OAS would be able to resettle the former Resistance—an estimated 20,000 former Resistance members and 40,000 dependents—in time for them to begin producing their own food at the August 1990 harvest. With $28.8 million in U.S. assistance, OAS established a program to provide transportation to resettlement areas, farm tools, housing construction materials, monthly food packages, and medical care. However, resettlement took longer and cost more than expected because of (1) delays in demobilization and repatriation, (2) the Nicaraguan government's failure to provide enough land, and (3) an increase in the number of program beneficiaries to about 117,500. As a result, AID provided OAS $10.9 million more in fiscal year 1991 to continue and expand its program, and later an additional $2.8 million to continue its efforts to mediate disputes among the former Resistance, Sandinistas, and the government.

RECOMMENDATIONS

GAO recommends that the Administrator of AID (1) revise the policy for structuring grant agreements for cash transfers held in Federal Reserve accounts to minimize the costs to the United States and (2) direct the AID mission in Nicaragua to make timely evaluations of projects and complete them before projects are extended.

MATTERS FOR CONGRESSIONAL CONSIDERATION

To ensure that it is adequately apprised of the steps being taken by any foreign government to provide relief to any U.S. citizen whose property has been seized or expropriated, the Congress may wish to consider amending section 620(e) of the Foreign Assistance Act of 1961 to require the President to report to the Congress the factual basis for any conclusion that the foreign government has taken or is taking the appropriate steps to provide such relief.

AGENCY COMMENTS AND GAO EVALUATION

AID agreed that evaluations should be timely and undertaken before projects are extended and stated that corrective actions had begun. AID indicated that complying with a proposed recommendation that the timing of cash transfers coincide more closely with Nicaragua's need for the funds would seriously affect the incentives offered Nicaragua to quickly carry out the policy and economic reforms. GAO agrees that depositing funds in Nicaragua's account as conditions are met offer an incentive to institute reforms; however GAO believes that this could be accomplished more economically. GAO has revised its recommendations on this point to encourage AID to adopt better cash management principles in developing future grant agreements.

Both the State Department and AID said that over the past 2 years, senior U.S. officials have placed a high priority on resolving claims. GAO notes that specific actions cited have occurred since January 1992. Both State and AID acknowledged, however, that most claims had not been resolved. The State Department maintained that because Nicaragua had taken some action, the prohibition against continued aid did not apply. GAO believes that the factual bases for reaching such a conclusion in cases like Nicaragua should be reported to the Congress.

□ 1350

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Horton) to revise and extend their remarks and include extraneous material:)

Mr. Horton, for 60 minutes, on September 30.

Mr. Regula, for 60 minutes each day, on September 22 and 23.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Alexander, for 60 minutes, today.

Mr. Dymally, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Horton) and to include extraneous matter:)

Mr. Moorhead.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Anderson in 10 instances.

Mr. Gonzalez in 10 instances.

Mr. Brown in 10 instances.

Mr. Annunzio in six instances.

Mrs. Schroeder.

Mr. Lantos in two instances.

Mr. Montgomery.

Mr. Mazzoli in two instances.

ENROLLED BILLS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 238. An act for the relief of Craig A. Klein;

H.R. 454. An act for the relief of Bruce C. Veit;

H.R. 478. An act for the relief of Norman R. Ricks;

H.R. 712. An act for the relief of Patricia A. McNamara;

H.R. 3379. An act to amend section 574 of title 5, United States Code, relating to the authorities of the Administrative Conference; and

H.R. 5620. An act making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes.

ADJOURNMENT

Mr. ALEXANDER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 53 minutes p.m.) the House adjourned until tomorrow, Tuesday, September 22, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4286. A letter from the Secretary of Agriculture, transmitting a report entitled "New York-New Jersey Highlands Regional Study"; to the Committee on Agriculture.

4287. A letter from the Commissioner, National Center for Education Statistics, transmitting the fourth annual report on dropout and retention rates entitled "Dropout Rates in the United States: 1991"; to the Committee on Education and Labor.

4288. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's proposed Letter(s) of Offer and Acceptance [LOA] to the Coordination Council for North American Affairs for training (Transmittal No. 92-45), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4289. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on illegal payments in connection with international security assistance, pursuant to 22 U.S.C. 2394a; to the Committee on Foreign Affairs.

4290. A letter from the Office of Legislative Affairs, Department of Justice, transmitting a draft of proposed legislation entitled "The Orderly Phase-Down of Parole Act of 1992"; to the Committee on the Judiciary.

4291. A letter from the Secretary of Commerce, transmitting a report on the status of efforts to negotiate measures necessary for the conservation and management of swordfish within the International Commission for the Conservation of Atlantic Tunas; to the Committee on Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee on Ways and Means. H.R. 3204. A bill to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes; with an amendment (Rept. 102-873, Pt. 2). Order to be printed.

Mr. BROOKS: Committee on the Judiciary. S. 2201. An act to authorize the admission to the United States of certain scientists of the Commonwealth of Independent States and the Baltic States as employment-based immigrants under the Immigration and Nationality Act, and for other purposes. (Rept. No. 102-881, Pt. 1). Order to be printed.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 1637. A bill to make improvements in the Black Lung Benefits Act; with an amendment (Rept. 102-882). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII,

Mr. KYL introduced a concurrent resolution (H. Con. Res. 360) concerning the sale of F-15 aircraft to Saudia Arabia; which was referred to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 78: Mr. Kostmayer.

H.R. 617: Mr. Spratt.

H.R. 2222: Mr. Moorhead and Mr. Sangmeister.

H.R. 3071: Mr. Costello and Mr. Hyde.

H.R. 3871: Mr. Torricelli and Mr. Sawyer.

H.R. 4040: Mr. Ray.

H.R. 4243: Ms. Long.

H.R. 4279: Mr. Kildee.

H.R. 4526: Mr. Gilman.

H.R. 5153: Mr. Hyde, Mr. Hancock, and Mr. Doolittle.

H.R. 5216: Mr. Perkins, Mr. McCrery, Mr. Emerson, Mr. Ireland, Mr. Hobson, Mr. Quillen, and Mr. Sundquist.

H.R. 5693: Mr. Levine of California.

H.R. 5726: Mr. Glickman.

H.R. 5745: Mr. Dreier of California, Mr. Roberts, Mr. Roe, and Mr. Solomon.

H.R. 5842: Mrs. Collins of Illinois, Ms. Waters, Mr. Mfume, Mr. Hayes of Illinois, Mr. Clay, Mr. Martinez, Mr. Carr, Ms. Horn, Ms. Pelosi, Mr. Kildee, Mr. Lewis of Georgia, Mr. Guarini, Mr. Hughes, Mr. Pallone, Mr. Livingston, Mr. Olver, Mr. Markey, Mr. Swift, Mr. Durbin, Mr. Moody, and Mr. Serrano.

H.R. 5851: Mr. Gordon.

H.R. 5862: Mr. Bustamante, Mr. Frank of Massachusetts, Ms. Norton, Mrs. Unsoeld, Mrs. Morella, Mr. Gonzalez, and Mr. Rangel.

H.R. 5877: Mr. Hayes of Illinois, Mr. Owens of New York, and Mr. Levine of California.

H.R. 5973: Mr. Evans.

H.J. Res. 399: Mr. Ireland, Mr. Rinaldo, Mr. Lehman of California, and Mr. Brown.

H.J. Res. 474: Mr. Brooks, Mr. Porter, Mr. Hayes of Illinois, Mr. Kennedy, Mr. Payne of New Jersey, and Mr. Bryant.

H.J. Res. 476: Mr. Roth, Mr. Chandler, Mr. Gillmor, Mr. Mollohan, Mr. Smith of Texas, Mr. Thornton, Mr. Thomas of California, Mrs. Lloyd, Mr. Kleczka, and Mr. Sundquist.

H.J. Res. 484: Mr. Levin of Michigan, Mr. DeFazio, Mr. Coleman of Texas, Mr. Lipinski, Mr. Bacchus, Mr. Manton, Mrs. Patterson, Mrs. Collins of Illinois, Mr. Gonzalez, Mr. McNulty, Mr. Kleczka, Mr. Bustamante, Mr. Lagomarsino, Mr. Johnston of Florida, Mr. Waxman, Mr. Jontz, Mrs. Bentley, Mr. Bilirakis, Mr. Coughlin, Mr. Dornan of California, Mr. Hyde, Mr. Martin, Mr. McCollum, Mr. McDade, Mr. Rinaldo, Mr. Roberts, Mr. Riggs, Mr. Wylie, Mr. Thomas of California, Mr. Kennedy, and Mr. Smith of Texas.

H.J. Res. 489: Mr. Roberts, Mr. Smith of Oregon, Mr. McGrath, Mr. Obey, Mr. Boehlert, Mr. Yatron, Mr. Hayes of Illinois, Mr. Dicks, Mr. Chapman, Mr. Brown, Mr. Callahan, Mr. Thomas of California, Mr. McDade, Mr. Morrison, Mr. Aspin, Mr. Dellums, Mr. McDermott, Mr. Price, Mr. Sabo, Mr. Dymally, and Mr. Swift.

H. Con. Res. 353: Mr. Klug, Mr. Dymally, Mr. Lantos, Mr. Foglietta, and Mr. Kostmayer.

H. Res. 557: Mr. BROOMFIELD.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5231

By Mr. WALKER:

—Page 108, line 5, strike "$3,000,000" and insert in lieu thereof "$2,000,000".

—Page 108, line 6, after "Policy" strike "$5,000,000" and insert in lieu thereof "including competitiveness research, data collection, and evaluation, $4,000,000".

—Page 108, line 8, strike "$2,000,000" and insert in lieu thereof "$1,500,000".

—Page 108, strike lines 9 and 10.

—Page 110, line 7, strike "$272,500,000" and insert in lieu thereof "$230,000,000".

—Page 111, line 5, strike "$35,000,000" and insert in lieu thereof "$25,000,000".

—Page 111, line 10, strike "$1,570,000,000" and insert in lieu thereof "$400,000,000".

—Page 113, line 6, after "1994" insert the following: ", except that such amount in each fiscal year shall be limited to—

"(A) amounts derived from amounts otherwise authorized to be appropriated to the Secretary for that fiscal year; or

"(B) the amount requested, in the president's annual budget request to Congress, specifically for such Program for that fiscal year".

—Page 113, line 10, after "1995" insert the following: ", except that such amount in each fiscal year shall be limited to—

"(A) amounts derived from amounts otherwise authorized to be appropriated to the Secretary for that fiscal year; or

"(B) the amount requested, in the president's annual budget request to Congress, specifically for such Program for that fiscal year".

—Beginning on Page 12, line 3 strike all through Page 16 and renumber the subsequent sections accordingly.

—Page 8, beginning on line 4, strike all through Page 9, line 3.

—Page 9, beginning on line 14, strike all through page 11, line 18 and renumber.

—Page 18, beginning on line 10, strike all through line 8 on Page 26, and renumber the subsequent sections accordingly.

—Page 27, beginning on line 10, strike all through Page 35, line 2, and renumber the subsequent sections accordingly.

—Page 39, beginning on line 4, strike all through Page 42, line 10.

—Page 44, beginning on line 11, strike all through Page 46.

—Page 47, strike all through Page 99, line 13.

—Page 50, beginning on line 21, strike all through Page 51.

—Page 52, beginning on line 1 strike all through Page 99, line 13.

—Page 100, beginning on line 12, strike all through Page 101, line 15.

—Page 109, strike lines 11 through 23.

—Page 105, after line 10, insert the following:

"(D) develop and test criterion and methodologies for evaluating the extent to which programs established or expanded under this Act enhance United States competitiveness more effectively than would competing uses for comparable funding in the private sector.

—Page 102 beginning on line 16, strike all through Page 103, line 17.

—Page 106, line 1, strike all through Page 107, line 15.

—Page 112, line 24, after "Secretary" insert the following: ", if the Secretary certifies to the Congress that each program would enhance United States competitiveness more effectively than would competing uses for comparable funding in the private sector".

—Page 24, line 1, delete "shall" and insert "should".

—Page 25, line 7, delete "shall" and insert "should".

—Page 25, line 9, delete "shall" and insert "may".

—Page 25, line 14, delete "shall" and insert "should".

—Page 25, line 17, delete "shall" and insert "should".

—Page 25, line 18, delete "shall" and insert "should".

—Page 25, line 25, delete "shall" and insert "should".

—Page 26, line 13, delete "shall" and insert "should".

—Page 27, line 8, delete "shall" and insert "may".

—Page 42, line 6, delete "shall" and insert "should".

—Page 42, line 25, delete "shall" and insert "may".

—Page 44, line 16, delete "shall" and insert "may".

—Page 45, line 8, delete "shall" and insert "may".

—Page 45, line 16, delete "shall" and insert "should".

—Page 46, line 11, delete "shall" and insert "may".

—Page 48, line 10, delete "shall" and insert "may".

—Page 48, line 14, delete "shall" and insert "may".

—Page 48, line 25, delete "shall" and insert "may".

—Page 56, line 3, delete "there is established" and insert "the Secretary may establish".

—Page 56, line 7, delete "shall" and insert "may".

—Page 56, line 15, delete "shall" and insert "should".

—Page 57, line 8, delete "shall" and insert "may".

—Page 57, line 11, delete "shall" and insert "should".

—Page 100, line 19, delete "shall" and insert "may".

—Page 101, line 18, delete after "Board" insert "if".

—Page 101, line 19, delete "shall" and insert "may".

—Page 102, line 22, delete "shall" and insert "may".

—Page 104, line 15, delete "shall" and insert "may".

—Page 105, line 13, delete "shall" and insert "should".

—Page 8, line 21, delete "shall" and insert "should".

—Page 9, line 5, delete "shall" and insert "should".

—Page 9, line 15, delete "There is established" and insert "The Secretary may establish".

—Page 9, line 18, delete "shall" and insert "should".

—Page 9, line 18, delete "shall" and insert "should".

—Page 10, line 16 delete "shall" and insert "should".

—Page 11, line 7, delete "shall" and insert "may".

—Page 11, line 10, delete "shall" and insert "should".

—Page 11, line 14, delete "shall" and insert "may".

—Page 12, line 6, delete "shall" and insert "may".

—Page 12, line 20, delete "shall" and insert "may".

—Page 13, line 9, delete "shall" and insert "may".

—Page 16, line 3, delete "shall" and insert "may".

—Page 16, line 8, delete "shall" and insert "should".

—Page 17, line 5, delete "shall" and insert "may".

—Page 17, line 15, delete "shall" and insert "may".

—Page 18, line 13, delete "There is hereby established" and insert, "The Secretary may establish".

—Page 18, line 20, delete "shall" and insert "may".

—Page 19, line 19, delete "shall" and insert "may".

—Page 20, line 10, delete "shall" and insert "may".

—Page 20, line 22, delete "shall" and insert "may".

—Page 21, line 14, delete "shall" and insert "may".

—Page 22, line 10, delete "shall" and insert "should".

—Page 22, line 12, delete "shall" and insert "should".

—Page 22, line 16, delete "shall" and insert "should".

—Page 22, line 20, delete "shall" and insert "should".

—Page 23, line 1, delete "shall" and insert "should".

—Page 23, line 11, delete "shall" and insert "should".

—Page 23, line 15, delete "shall" and insert "should".

SENATE—*Monday, September 21, 1992*

(Legislative day of Tuesday, September 8, 1992)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by the Honorable KENT CONRAD, a Senator from the State of North Dakota.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Almighty God, the great prophet and law giver, Moses, understood the peril in prosperity as he wrote:

*Beware that thou forget not the Lord thy God * * *. Lest when thou has eaten and art full, and hast built goodly houses, and dwelt therein; And when thy herds and thy flocks multiply, and thy silver and thy gold is multiplied, and all that thou hast is multiplied; Then thine heart be lifted up, and thou forget the Lord thy God * * *. And thou say in thine heart, My power and the might of mine hand hath gotten me this wealth * * * thou shalt remember the Lord thy God: for it is he that giveth thee power to get wealth * * * if thou do at all forget the Lord thy God * * * I testify against you this day that ye shall surely perish. As the nations which the Lord destroyeth before your face, so shall ye perish * * *.*—Deuteronomy 8:11–14, 17–20.

Gracious, patient Lord, is it possible that this is one clue to our economic and moral dilemma? Our Founding Fathers believed in freedom of religion, but they were not antireligious. They took God seriously. We organize Him out of public life. Thomas Jefferson categorically declared, "God who gave us life gave us liberty," and then asked the penetrating question, "Can the liberties of a nation be secure when we have removed from the hearts of the people the belief that those beliefs are the gift of God?"

Eternal God, restore to us the faith of our fathers whose belief in God made America possible. In the name of Him who is Truth incarnate. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 21, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KENT CONRAD, a Senator from the State of North Dakota, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. CONRAD thereupon assumed the chair as Acting President pro tempore.

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. The Republican leader.

Mr. DOLE. Has leader time been reserved?

The ACTING PRESIDENT pro tempore. Leader time has been reserved.

HISPANIC HERITAGE MONTH

Mr. DOLE. Mr. President, I am pleased to join with many of my colleagues in marking the celebration of Hispanic Heritage Month.

In Kansas and across the United States, men and women are thanking Hispanic-Americans for the priceless contributions they have made to our society.

Here in the Senate, our job is not to be concerned about Hispanic-Americans for just a month, however—it's to be concerned about them for 12 months each year.

And, thanks to the hard work of Senators like ORRIN HATCH, JOHN SEYMOUR, CONNIE MACK, and JOHN MCCAIN—all cochairmen of our Republican task force on Hispanic Affairs—we are doing just that.

I might also add how proud we can be of President Bush, who has appointed more Hispanic-Americans to policymaking positions than any other President.

Of special mention are Secretary of Interior Manny Lujan, U.S. Treasurer Catalina Villalpando, and Surg. Gen. Antonio Novello.

I look forward to working with Members on both sides of the aisle as we continue to foster the advancement of the Hispanic community.

WELCOME NEWS FROM LAWRENCE WALSH

Mr. DOLE. Mr. President, there is an old saying that good things come to those who wait.

Well, along with countless other Americans, I have waited for many years for Lawrence Walsh to shut down his $32 million Iran-Contra extravaganza.

And, yesterday, we finally got some good news. Mr. Walsh has now declared that his office has completed his active investigation. And once he completes the three scheduled trials, the entire office will shut down.

Mr. President, for the sake of the American taxpayer, this news could not have come soon enough.

For 6 years, Mr. Walsh and his army of lawyers have threatened and badgered anyone they could get their hands on. And can any objective observer look at the results of the investigation and say "well done?"

The three major convictions obtained by Mr. Walsh were overturned—just as many legal scholars predicted—before this witch hunt began.

Mr. Walsh was able to force a few guilty pleas from defendants, but only because they could not possibly afford the attorneys fees which would have resulted from going to trial to defend themselves.

It has long been obvious to most objective observers that Mr. Walsh had done all he could, and that his operation should be shut down. Still, he pressed on, going down every blind alley, and pursuing more conspiracy theories than Oliver Stone.

Even Arthur Liman, the chief Senate counsel for the Senate Iran-Contra Committee said the other day that "the investigation just went on much too long."

I would not have objected to the length and uselessness of the investigation if Mr. Walsh was paying for it. But he is not. The American people are. We are.

We are still paying so Mr. Walsh can rent some of the most elaborate office space in Washington, DC.

We are still paying to fly Mr. Walsh and his chief deputy, Craig Gillen, back and forth from Oklahoma City and Atlanta each week.

We are still paying for their hotel rooms in Washington.

We are still paying for their meals here in Washington.

And do not let Mr. Walsh's statement about closing down fool you. We are going to keep on paying for them for a long time. Mr. Walsh will not close down shop until three ongoing matters are disposed of at trial.

And Mr. Walsh has taken us down this road before. In September of 1990, he said that spring of 1991 would be a good time to end his investigation.

Spring of 1991 and 1992 have come and gone, and so have millions and millions of your tax dollars; and I would not be surprised if Mr. Walsh will still be spinning his wheels and spending our money in the spring of 1993.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

I hope that before Mr. Walsh does close his doors, this advocate of full disclosure will fully disclose the complete expense records of his office. The American people deserve to know how their money was spent—and, in some cases, misspent.

SENATOR ALAN CRANSTON

Mr. DOLE. Mr. President, as Senators know, the majority leader has expressed his intention to move for adjournment the first week of October.

There is much work to be done before then, but as we rush to adjournment, we should also take a few minutes to salute our colleagues who will not be returning next January.

Over the next several weeks, I will be using a few minutes of my leader time to salute these eight Senators. And I want to begin today with the senior Senator from California.

At first glance, it might appear that no two Senators have less in common than BOB DOLE and ALAN CRANSTON. One of us represents the relatively small State of Kansas; the other, the Nation's largest State.

One of us is a conservative—and proud of it; the other, a liberal—and proud of it.

But the fact is that Senator CRANSTON and I have a great deal in common.

Both of us were first elected to the Senate in 1968. Both of us served our country in World War II. Both of us share a commitment to America's farmers, and America's veterans.

And both of us have learned more about prostate cancer than we ever thought we would need to know.

Senator CRANSTON's retirement from the Senate will draw to a close a remarkable three decades of service to his beloved home State.

Prior to coming to the Senate, Senator CRANSTON served for 8 years as State controller of California.

In 1968, the voters sent him to Washington, DC, and they have done so in three successive elections.

Winning six statewide elections in a State as large and diverse as California is a sign not only of a good campaigner, but also of a hard-working Senator.

It is worth mentioning that during Senator CRANSTON's 24 years of service in the Senate, 5 people filled California's other Senate seat.

Senator CRANSTON might disagree, but I think the most enjoyable years of our service together were the ones where I served as majority leader, and he served as minority whip.

During those years, I came to know Senator CRANSTON, as an eloquent advocate for his party, a skilled vote-counter, someone who gave as good as he got, and someone whose word could always be trusted.

And though Senator CRANSTON is retiring from the Senate, I am confident he will still speak his conscience on issues of importance to California and America for many years to come.

NATIONAL VOTER REGISTRATION ACT OF 1992

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of the veto message on S. 250, which the clerk will report.

The legislative clerk read as follows:

To the Senate of the United States:

I am returning herewith without my approval S. 250, the "National Voter Registration Act of 1992."

This Administration strongly supports the goal of increasing participation in the electoral process. We have worked with leaders of both parties in an attempt to produce legislation that would accomplish that purpose. S. 250, however, would impose unnecessary, burdensome, expensive, and constitutionally questionable Federal regulation on the States in an area of traditional State authority. It would also expose the election process to an unacceptable risk of fraud and corruption without any reason to believe that it would increase electoral participation to any significant degree.

No justification has been demonstrated for the extensive procedural requirements—and significant related costs—imposed on the States by this bill. The proponents of S. 250 simply have not made the case that requiring the States to make voter registration easier will translate into increased voter participation at the polls. Indeed, a recent study by the Federal Election Commission suggests that registration requirements have no significant effect on participation rates. In addition, to the extent that State registration requirements discriminate against minority groups, the Voting Rights Act already provides an adequate remedy.

S. 250 would exempt from compliance with its requirements any State adopting an election day registration system. This exemption could create a compelling incentive for a State to adopt such a system, under which verification of voter eligibility is difficult. Thus, the bill would increase substantially the risk of voting fraud. It would not, however, provide sufficient authority for Federal law enforcement officials to respond to any resulting increases in election crime and public corruption.

It is critical that the States retain the authority to tailor voter registration procedures to unique local circumstances. S. 250 would prevent the States from doing this by forcing them to implement federally mandated and nationally standardized voter registration procedures. It would also restrict severely their ability to remove from the voter rolls the names of persons who have not voted in several years and who thus can be presumed fairly to have died or moved out of the jurisdiction. Enactment of S. 250 would deny the States their historic freedom to govern their own electoral processes and would contravene the important principles of federalism on which our country was founded.

S. 250 is constitutionally suspect. Although the Supreme Court has recognized that the Congress has general power to regulate Federal elections to the extent necessary to prevent fraud and preserve the integrity of the electoral process, there has been no suggestion that S. 250 would serve that goal. Nor has there been any showing that the bill is necessary to eliminate discriminatory practices. Accordingly, there is a serious constitutional question whether the Congress has the power to enact this legislation.

I support legislation that would assist the States in implementing appropriate reforms in order to make voter registration easier for the American public. I cannot, however, accept legislation that imposes an unnecessary and costly Federal regime on the States and that is, in addition, an open invitation to fraud and corruption.

For the reasons discussed above, I am returning S. 250 without my approval.

GEORGE BUSH.

THE WHITE HOUSE, *July 2, 1992.*

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be 1 hour of debate on the message, to be equally divided between the senior Senator from Kentucky [Mr. FORD] and the junior Senator from Kentucky [Mr. MCCONNELL].

The Senator from Kentucky [Mr. FORD] is recognized.

Mr. FORD. Mr. President, today, we begin a debate that I had hoped would not have been necessary—a debate on whether the Congress should override the President's veto of S. 250, the National Voter Registration Act of 1992.

Throughout his administration, President Bush has vetoed several pieces of legislation. And of all those vetoes, this one reveals his shallow commitment to expanding democracy right here at home.

Mr. President, the expansion of the right to participate in democracy is the fundamental purpose of S. 250. And it is the fundamental issue to be considered in this debate.

Throughout this debate, opponents to this bill will argue that S. 250 will create opportunities for fraud and pass along unfunded mandates to the States. These are the same arguments that were raised by President Bush in his veto message. But, Mr. President, these are really nonissues.

The real issue is whether we are going to have universal registration procedures that will enfranchise every eligible citizen, regardless of race, income, geographic locality, or physical ability.

At a time when this Nation is taking the lead to expand and secure democracy abroad, the issue for this Congress to consider is whether we are going to expand and secure democracy here in the United States.

As former President Carter wrote in the Los Angeles Times on June 18, 1992, President Bush had a chance to strike a blow for democracy without sending troops to a distant country or asking the Congress for billions of dollars in foreign aid. All he had to do was to sign the motor-voter bill.

The right to vote—the right to participate in our democracy—begins with registration. If you are not registered, you cannot vote. As President Carter noted in his article, when nonvoters were asked why they did not vote in the 1988 Presidential election, only 17 percent said they did not like the candidates or they just did not care. The most common reason given by 37 percent was that they could not vote because they were not registered.

The motor-voter bill is one-stop democracy. It creates a simultaneous application process when you apply for or renew your drivers license. And it assures that once you are registered, your name will remain on the rolls, so long as you remain eligible to vote.

So, why would President Bush veto this legislation? Quite frankly, Mr. President, I think President Bush vetoed this legislation out of fear. Let me repeat that. I think President Bush vetoed this legislation out of fear—fear of changing the status quo; fear of the American people.

I know that the President has submitted his reasons for vetoing this legislation. But these are the same reasons that were raised when the right to vote was extended to women. These were the same reasons used to oppose the Voting Rights Act of 1965; the same reasons used against extending the right to vote to 18-year-olds; and the same reasons used against legislation which removed physical barriers to make the polling place accessible to the elderly and the disabled.

Those arguments were wrong then, and they are wrong today.

This veto sends a message that President Bush does not trust the American people. At the same time that he was calling for the Congress to support the Russian aid bill—to stabilize democracy in the former Soviet Union—he vetoed a bill to enrich democracy here at home.

We can send a message back to the President by overriding this veto. We can expand democracy right here at home by supporting S. 250. And we, the Congress, can send a message that we trust the American people.

Having said all this, Mr. President, let me address the points raised by President Bush's veto message.

First, let me say that I am somewhat troubled by the President's statement that he and his administration have worked with leaders of both parties in an attempt to produce legislation that would accomplish the purpose of increasing participation in the electoral process. Mr. President, as the principal sponsor of this legislation, I cannot recall a time that I was contacted by any member of the President's administration on this or any other bill about increasing voter participation.

President Bush summarized his opposition to this bill by saying that "S. 250, * * * would impose unnecessary, burdensome, expensive, and constitutionally questionable Federal regulation on the States in an area of traditional State authority. It would also expose the election process to an unacceptable risk of fraud and corruption without any reason to believe that it would increase electoral participation to any significant degree."

Mr. President, President Bush just cannot see the forest through the trees. Both Senator HATFIELD and I have stated on numerous occasions that S. 250 does not guarantee that there will be an increase in electoral participation. The motor-voter bill can—and I underscore "can"—guarantee that almost every eligible citizen will be registered so that they can participate.

The key to electoral participation in this country is voter registration. If you are not registered, you cannot vote. S. 250 guarantees that registration requirements throughout the country will be uniform and convenient for all citizens. It eliminates the hurdles and barriers to full participation that are currently in place.

There are a number of reasons why voters are not voting. Not all of them can be corrected through legislation. But the confusing maze of registration requirements in the States can be simplified and made convenient for all citizens.

Opponents to this legislation have argued that we should not be concerned about low voter turnout. They claim that low voter turnout is a sign of public contentment. But if you believe that, I have a bridge I want to sell you.

The reality is that approximately 34 percent of the voting age population is not registered to vote. Seventy million American citizens are currently unable to exercise their fundamental right to vote because they are not registered. Unless we can assure universal registration, there will not be an increase in voter participation. It is just that simple.

I would also say to the opponents of this legislation who are content with low voter turnout, that they are in a minority. Just a few weeks ago, prior to the August recess, 44 Secretaries of State announced plans to hold a nationwide series of townhall meetings on increasing voter participation.

As reported in the Washington Post, the National Association of Secretaries of State launched Project Democracy to find local initiatives that increase the interest in elections among those who do not vote and convince them that voting is not a spectator sport. I commend this organization for its outstanding work in trying to get more people involved in the process.

That is what motor-voter is all about. It is about getting people involved in the process by getting them registered to vote.

President Bush referred to a study conducted by the Federal Election Commission which he suggests demonstrates that registration requirements have no significant effect on participation rates. Mr. President, I am unaware of any report by the FEC that made such conclusions. In fact, the report that the President referred to is nothing more than a statistical report on registration and turnout in Presidential elections. The FEC did not make any conclusion on the impact of voter registration requirements and voter turnout.

But, Mr. President, a CRS study on registration and turnout did conclude that motor-voter is an effective means of increasing the number of registered voters.

In a February 1990 report which analyzed registration and turnout statistics, CRS concluded the following:

States with motor-voter registration have higher registration rates than States without such systems in all election years, including Presidential and non-Presidential elections.

States with motor-voter registration systems consistently have a higher percentage of their voting age populations turning out to vote than did States without such registration systems.

Mr. President, it is indisputable that motor-voter will increase the number of registered voters. And there are significant indications that most of those who are eligible to vote, do so. Very simply, Mr. President, registered voters do vote.

President Bush also stated that to the "extent that State registration requirements discriminate against minority groups, the Voting Rights Act already provides an adequate remedy."

Motor-voter is not about eliminating discriminatory practices aimed at minority citizens. It is about eliminating the registration practices that affect all citizens. S. 250 will eliminate the complex maze of hoops and ladders that confront any citizen who wishes to register.

Recently, USA Today published statistics available from the Federal Highway Administration and the U.S. Census Bureau. These statistics show that 68.4 percent of 18-year-olds have a drivers license. But, only 27.5 percent of those same 18-year-olds were registered to vote. They would have all registered had we had the motor-voter.

This is one large segment of our population that motor-voter will reach.

We need to register our young people. We need to get them involved in the process.

Today, the burden of registering to vote is on the citizen. Why shouldn't that burden be shifted? It should be the role of government and elected officials to make sure that every eligible citizens who wishes to register to vote is registered. That is what S. 250 does. It shifts the burden to the government to make registration convenient and accessible to all eligible citizens.

In fact, Mr. President, listen to the words of David Orr, the county clerk of Cook County, IL:

> As the Clerk of Cook County, Illinois, I am responsible for the conduct of elections and voter registration in suburban Cook County—the second largest county in the Nation. Of all the factors that discourage voting, the easiest to remedy are cumbersome registration procedures. The National Voter Registration Act will remove unnecessary barriers to citizen participation. It will reach more than 90 percent of eligible voters. It will help me do the job I was elected to do.

Mr. President, this is the clerk of the largest urban county in this country.

Mr. President, if we truly believe in representational government, where the right to vote is a fundamental right of citizenship, why should the right to vote be encumbered by the individual's responsibility to register?

As was noted in an editorial that appeared in the Pittsburgh Post-Gazette:

> This increasingly mobile nation has left too much to chance in enrolling people in the democratic process. In an era of fast food, instant gratification and see-it-now TV, it's appalling that government requires people to jump through hoops and scale ladders to register to vote. What the United States needs is an active voter-registration policy, one that is bent on including people rather than leaving certain ones out.

Mr. President, motor-voter will create an active voter registration program that shifts the burden of registering from the citizen, and make it an affirmative act of the government. It should be the responsibility of the government to make sure that every eligible citizen is registered to vote.

Another reason that President Bush cited for his veto of S. 250 is the exemption for States which have election day registration. According to the President, "this exemption could create a compelling incentive for a State to adopt such a system, under which verification of voter eligibility is difficult." As a result, the President concluded that "the bill increase substantially the risk of voting fraud."

This is one of the weakest arguments made against the bill. The President vetoed this legislation out of a fear that it would lead States to adopt election day registration. This fear is totally unsubstantiated.

I want to make it very clear, the purpose of this legislation is to provide a system of uniform and convenient voter registration, while at the same time, protecting the integrity of the electoral process. The hallmark of a national voter registration system is the maintenance of accurate and up-to-date registration lists. The registration process is necessary to provide a meaningful verification of voter eligibility. Mr. President, nothing in this bill compels a State to have election day registration.

The argument that S. 250 opens the way for fraud is an argument that I have heard every time this bill is discussed. If only the President and his advisers had actually read the bill, they would see that it includes several proven and effective measures against fraud.

This bill contains Federal criminal penalties for registration and vote fraud, the same penalties as in the Voting Rights Act of 1965.

S. 250 also requires the following protections against fraud:

Every application for registration must contain a written attestation clause which sets forth all eligibility requirements to vote, including citizenship;

The signature of the applicant under penalty of perjury;

Each applicant must be given notice of the disposition of his or her voter registration application; and

The State may require by law that a first-time voter who registers by mail make a personal appearance to vote.

Mr. President, these are proven and effective safeguards against fraud. Today, 27 States and the District of Columbia have some form of motor-voter registration. And none of these States has reported any incidents of fraud. Motor-voter is safe and effective.

Twenty-seven States and the District of Columbia have mail registration. When the State of Mississippi became the 27th State to adopt mail registration, its Secretary of State, Dick Molpus—who recently concluded his term as president of the National Association of Secretaries of State—conducted a study of States with mail registration. His study found no evidence of fraud with mail registration. He concluded that mail registration is effective and safe.

Mr. President, as it was noted by Anna Quindlen in the New York Times, the fraud is not in the bill, it is in the veto.

President Bush has also cited his concern for States rights in his veto message. This is another weak argument against this bill because it is the confusing patchwork of State rules and regulations that are preventing citizens from getting to the ballot box and protecting the status quo.

Mr. President, S. 250 does not limit a State's ability to tailor voter registration programs to unique local circumstances. Rather, S. 250 provides flexibility for the States to develop their registration programs to meet their specific concerns.

S. 250 has been specifically drafted to provide basic elements of the registration process, while at the same time permitting States to develop procedures to satisfy their specific concerns.

For example, the bill requires that every applicant must receive notice of the disposition of his or her application. But the bill does not mandate how that notice must be given.

In addition, States may require by law that first-time voters who register by mail make a personal appearance to vote. Mr. President, this personal appearance requirement is not a mandate. It permits the States to determine, based on their experience, whether such a personal appearance is necessary.

Contrary to President Bush and his advisers, S. 250 does not restrict the rights of the States to remove the name of a voter from the voter rolls. S. 250 provides that you cannot remove a person's name based on that person's failure to vote.

But, each State is required to conduct a general program that makes a reasonable effort to remove the names of ineligible voters from the official lists of eligible voters by reason of death or a change of residence. One way that the State can meet this obligation is by using the Postal Service's National Change of Address Program.

Mr. President, the President's veto message also addressed the historical role of the States with respect to conducting the electoral process, as well as his belief that S. 250 is constitutionally suspect.

I am well aware that many have questioned the Congress' authority to develop national voter registration procedures for Federal elections. Mr. President, the States have by tradition regulated the manner in which voter registration and elections are conducted. However, that does not preempt the right of the Congress to fix the manner in which Federal elections are conducted.

Mr. President, article 1, section 4, clause 1 of the Constitution states:

> The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of choosing Senators.

As many of my colleagues know, I am not a lawyer. And I do not pretend to understand constitutional and Supreme Court interpretations. But on this point, it seems to me that this language is very simple. It gives the Congress the authority to enact legislation like the National Voter Registration Act of 1992.

Because my conclusion may not satisfy my colleagues, I had the Library of Congress prepare a legal memorandum on the constitutionality of this bill. Let me just quote from the concluding paragraph of this memorandum:

Under the Constitution and Supreme Court rulings, Congress has the power to regulate federal elections, including the establishment of national voter registration procedures for presidential and congressional elections as set forth in S. 250. Congress' power has been clearly established under the Times, Places and Manner clause and the Necessary and Proper clause of the Constitution. These provisions of the Constitution, as interpreted by the Supreme Court, demonstrate that Congress has broad power and authority over federal elections, including the regulation of voter registration procedures, and the states do not have exclusive authority to regulate the manner in which elections are conducted.

Mr. President, I ask unanimous consent that this memorandum be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FORD. Mr. President, I believe that this bill is constitutionally sound. Congress has the authority to enact this legislation. Most importantly, the Congress has a duty to enact this legislation.

Mr. President, voter turnout is steadily declining. Our democracy is in danger. We need to do something to turn this trend of declining participation around. One of the easiest remedies is to eliminate the cumbersome registration procedures that deter people from voting.

It may well be that low voter turnout is a symptom of voter frustration. But it is wrong for us to stand here and blame voter frustration, while at the same time we do nothing to eliminate the frustrating procedures which are preventing people from getting to the ballot box.

S. 250 encourages full participation and involvement in the most important part of our representative form of government—the election of our leaders at all levels of government.

S. 250, in the words of the New York Times "honors democracy by making it simple and convenient for all Americans to register to vote."

I urge my colleagues to honor democracy by voting to support S. 250. This is a bill that deserves the support of every person who believes that the fundamental right of citizenship in a democracy is the right to vote. For this reason alone, President Bush should have signed this legislation. For this reason alone, every Member of this Congress should vote to override the veto.

EXHIBIT 1

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, May 5, 1991.

To: Senate Committee on Rules and Administration Attention: Thomas E. Zoeller, Counsel.

From: American Law Division.

Subject: Constitutionality of the "National Voter Registration Act of 1991," S. 250, 102d Cong., 1st Sess., Providing For National Voter Registration Procedures For Federal Elections.

This memorandum responds to your request for a discussion of the constitutionality of the "National Voter Registration Act of 1991," S. 250, 102d Cong., 1st Sess., introduced by Senator Ford, providing for national voter registration procedures for federal elections. As you requested, this memo specifically addresses the arguments proffered by the Department of Justice in a letter to Senator Ford, dated April 17, 1991, and in the Department's analysis of S. 250, in which the Department questioned the constitutionality of this legislation.

I. MAJOR PROVISIONS OF S. 250

As stated in Section 2 of S. 250, the purpose of the bill is to increase voter registration, enhance voter participation, protect the integrity of the political process, and assure accurate voter rolls. To that end, if enacted, S. 250 would require that the states, in addition to any other method for voter registration provided for by state law, establish procedures to permit voter registration in the following manners: (a) simultaneously with an application for a driver's license (Section 5); (b) by mail application (Section 6); and (c) by application in person, either at an appropriate registration office, or at a Federal, State or private sector location (Section 7). It would not apply to states without a voter registration requirement for election to federal office or to states which permit voter registration at the polling place on the day of a general election (Section 4). It would also prohibit states from removing the names of voters from the registry solely for failure to vote (Section 8).

Further, it would authorize the Federal Election Commission to coordinate all federal functions and prescribe regulations (Section 9); it would require each state to designate a chief state election official to coordinate all state functions (Section 10) and it would provide for civil enforcement, private right of action (Section 11), and criminal penalties (Section 12).

II. CONSTITUTIONALITY OF S. 250

A. Constitutionality of the proposal to establish national voter registration procedures for congressional elections

S. 250 would provide for national voter registration procedures which would apply to all congressional elections. The Department of Justice contends that "while Congress has some authority to preserve the integrity of the federal election process by taking steps to prevent fraud, it cannot encroach upon the exclusive power of the states to regulate the manner in which elections are conducted."[1] The concerns of the Department can be easily disposed of by considering the language and Supreme Court interpretation of the Times, Places and Manner Clause of the Constitution.[2] Under this clause, Congress has been granted explicit authority to regulate congressional elections. The states do not have *exclusive* authority over elections:

"The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."[3]

As the Department of Justice notes, under this constitutional provision, Congress may enact laws that secure the integrity of the election process from violence, corruption, and fraud.[4] However, the power of Congress under this clause is not limited to only these areas. Under the Times, Places and Manner Clause, Congress could even enact legislation establishing a complete code for congressional elections containing provisions for the times and places of elections, registration of voters, supervision of voting, protection of voters, prevention of fraud and corruption, counting of votes, duties of inspectors and canvassers, and the compilation and publication of election returns.[5]

In *United States v. Classic*,[6] the Supreme Court clearly held that the right of the people to choose representatives in Congress is "a right established and guaranteed by the Constitution."[7] It is a right derived from the states, the Court explained, only in the sense that the Constitution authorizes states to legislate on the subject under Article I, Section 2. The Court declared, however, that this power of the states *only exists to the extent* that Congress has not restricted state action by exercising its authority to regulate elections.[8]

Hence, although the Department correctly asserts that S. 250 is not designed to prevent fraud, corruption, or eliminate any discriminatory practices, this distinction seems meaningless in view of Congress' unlimited power over congressional election procedures. Congress' authority to enact a uniform voter registration law for congressional elections is well established under the Times, Places and Manner Clause.

B. Constitutionality of the proposal to establish national voter registration procedures for Presidential elections

Another provision in the Constitution grants Congress broad authority over presidential elections. Article II, Section 1, Clause 3 provides:

"The Congress may determine the Time of chusing the [presidential] Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States."[9]

In response to the argument that Article II, Sec. 1 limits the power of Congress to that of determining the "time of choosing electors, and the day on which they shall give their votes," in *Burroughs and Cannon v. U.S.*, the Court declared, "So narrow a view of the powers of Congress in respect of the matter is without warrant."[10] The Court reasoned:

"While presidential electors are not officers or agents of the federal government [*In re Green*, 134 U.S. 377, 379], they exercise federal functions under, and discharge duties in virtue of authority conferred by, the Constitution of the United States. The President is vested with the executive power of the nation. The importance of his election and the vital character of its relationship to and the effect upon the welfare and safety of the whole people cannot be too strongly stated. To say that Congress is without power to pass appropriate legislation to safeguard such an election from the improper use of money to influence the result is to deny to the nation in a vital particular the power of self protection. Congress, undoubtedly, possesses that power, as it possesses every other power essential to preserve the departments and institutions of the general government from impairment or destruction, whether threatened by force or by corruption."[11]

C. Constitutionality of the proposal to establish national voter registration procedures for all Federal elections under the necessary and proper clause

The Necessary and Proper Clause of Article I, Section 8, Clause 18 of the Constitution

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Footnotes at end of article.

also empowers Congress with the authority to enact laws regulating federal elections.[12]

"The Congress shall have Power * * * To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof."[13]

In the 1970 *Oregon v. Mitchell* decision,[14] five separate opinions supported the constitutional authority of Congress to enact election laws regulating federal elections. There, the Court upheld the constitutionality of a federal statute barring a state from denying the right to vote in any election because of a literacy test and of a federal statute banning durational residency requirements. As Justice Stewart wrote, "These cases and others establish that Congress brings to the protection and facilitation of the exercise of privileges of United States citizenship all of its power under the Necessary and Proper clause."[15] Consequently, he concluded that the Constitution permits Congress to enact statutes protecting the fundamental right to vote. "We should strive to avoid an interpretation of the Constitution that would withhold from Congress the power to legislate for the protection of those constitutional rights that the States are unable effectively to secure."[16]

III. CONCLUSION

Under the Constitution and Supreme Court rulings, Congress has the power to regulate federal elections, including the establishment of national voter registration procedures for presidential and congressional elections as set forth in S. 250. Congress' power has been clearly established under the Times, Places and Manner Clause and the Necessary and Proper Clause of the Constitution. These provisions of the Constitution, as interpreted by the Supreme Court, demonstrate that Congress has broad power and authority over federal elections, including the regulation of voter registration procedures, and that the states do not have exclusive authority to regulate the manner in which elections are conducted. Hence, it appears that the provisions of S. 250 would withstand any serious constitutional challenge.

L. PAIGE WHITAKER,
Legislative Attorney.

FOOTNOTES

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[1] U.S. Department of Justice, Department of Justice Analysis of S. 250, p. 1 (copy on file with the Senate Committee on Rules and Administration and the author). *See also*, Letter from W. Lee Rawls, Assistant Attorney General, to Senator Wendell H. Ford, Chairman, Senate Committee on Rules and Administration (April 17, 1991) p. 1–2 (presenting the views of the Department of Justice concerning S. 250, the National Voter Registration Act of 1991).

[2] U.S. Const. art I, §4, cl. 1.

[3] *Id.*

[4] *See, e.g.*, Burroughs and Cannon v. United States, 290 U.S. 534, 657–58 (1934) (holding that Congress has the power to enact laws protecting federal elections from corruption); Ex Parte Yarbrough, 110 U.S. 651, 657–58 (1884) (holding that Congress has the power to enact laws protecting federal elections from violence and fraud).

[5] Smiley v. Holm 285 U.S. 335, 366–67 (1932) (holding that Congress may supplement state election laws or enact its own since it ". . . has a general supervising power over the whole subject."). *See also*, Newberry v. United States, 256 U.S. 232 (1921).

[6] 313 U.S. 299 (1941).

[7] *Id.* at 314.

[8] *Id.* at 315.

[9] U.S. Const. art II, §1, cl. 3.

[10] 290 U.S. 534, 544 (1933).

[11] *Id.* at 545.

[12] U.S. Const. art. I, §8, cl. 18.

[13] *Id.*

[14] 400 U.S. 112 (1970).

[15] *Id.* at 286. *See also*, United States v. Classic, 313 U.S. 299, 315 (1941) (holding that in addition to its power to regulate elections under Article I, Section 2 of the Constitution, Congress also is empowered to regulate elections under the more general provision of the Necessary and Proper Clause).

[16] *Id.* at 292.

I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. Is there further debate?

Mr. McCONNELL addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, at the outset, I want to commend my colleague from Kentucky for the hard work he has done on this legislation over the years.

In fact after due deliberation, I came down on the opposite side. But I appreciate the time and effort that he has put into this issue. He has been dogged in his determination to see it passed.

So I commend him for that.

Mr. President, "standing up for democracy"—a pet phrase of this bill's proponents—sometimes entails casting unfashionable votes, or in the case of the President, unfashionable vetoes.

That is what President Bush did when he vetoed the motor-voter bill. He stood up for democracy. That is why his veto on the eve of the Fourth of July was perfect timing. Was it the politically correct thing to do? Of course not. Was it the right thing to do? Absolutely.

In a perfect society, all citizens would take an interest in public affairs and vote faithfully. Unfortunately, wishing will not make it so. And neither will the motor-voter bill.

Granted motor-voter would register more people. There is no question about that. But it would not drive them to the polls on election day. In other words, as the bill's sponsors finally admitted motor-voter will not increase voter turnout. Instead, motor-voter will make States spend money they do not have and lead to increased vote fraud. This is too high a price for any democracy to pay in the quest for higher turnout.

It is important to note, Mr. President, that in the bill, if a State chooses for whatever reason, cost, for example, not to implement the motor-voter plan, they go to same day registration.

As both the teacher and a student of this issue over the years on the question of voter turnout, I can tell you that it is a clear correlation between where you live in the country and whether or not you participate in election day shenanigans.

I believe the occupant of the chair comes from a State where people just sort of show up on election day and vote. As far as I know, there has been no history of election fraud in North Dakota. Unfortunately, in other parts of the country, the tradition is quite different.

So there has been some flexibility throughout our history in crafting local election laws to deal with the mores and the culture of difference sections of the country where cheating is quite common. I am absolutely certain that same day registration would not work in a State like Kentucky; that is, not if we want to have everybody's vote count the same as everybody else that chose to participate.

After all, that is an important part of democracy too—to make sure when you cast your vote, it is not counted any more or any less than anyone else that took the trouble to come out and participate.

The most inane argument in support of motor-voter is that the present hodgepodge of State laws somehow makes registration exceedingly complicated and difficult. This hodgepodge is really not a problem unless one desires to vote in multiple States—an illegal act known as vote fraud.

Finally, the motor-voter bill is another in a long line of unfunded Federal mandates thrust on the States by a Congress unwilling to make tough fiscal decisions here in Washington. Once again, we see a debt-ridden Congress writing blank checks on the accounts of State government who must by law balance their budgets. The buck stops at the States and eventually something has to give—human services, police, and fire protection or something else.

The cruel irony of the motor-voter bill is that it requires States to register voters at public assistance agencies, while draining away funds for public assistance.

Motor-voter's sponsors claim their bill would not really cost that much. If so, Congress should figure out a way to pay for it other than dumping the responsibility on the States. If the costs are insignificant, we ought to pick up the tab for this effort.

If, in fact, it would cost hundreds of millions, as both Democratic and Republican State officials contend, then the bills sponsors should muster the courage to pay for it. For Congress to dodge the cost issue altogether by sticking it to the States is irresponsible, but certainly not unusual.

Aside from obligations regarding cost and fraud there is another central question: Why do this?

The motor vote bill is a solution in search of a problem. Registering to vote in any State is not an onerous task. At most, it requires just a passing interest in voting 30 days prior to the election. Is that too much to ask? If it is, then this society has indeed become pathetically lazy and unappreciative of the sacrifices previous generations made to secure our democracy.

Even if we tailor our voter registration laws to political couch potatoes, there is no guarantee that voter turnout will increase. All this bill guarantees is it will have a lot of people on the voter rolls. It will do that.

Mr. President, over the last 30 years, voter registration has become steady and significantly easier. In the meantime, interestingly enough, turnout has become steadily and significantly less. History does not argue in favor of motor-voter.

The Congressional Research Service studied 10 States with motor-voter registration. Their conclusion was that there was no evidence that motor-voter increased voter turnout.

The General Accounting Office studied why voter turnout is so high in certain European and Latin American countries. Conclusion: coercion and bribery are the only sure means of increasing voter turnout.

Finally, I might say parenthetically, the countries with the highest voter turnout are the ones where you are fined if you do not participate. It has an incredible impact on turnout. If you do not turn out, you get a fine. I do not think we ought to do that in this country. It seems to me you have a right not to participate without being zapped with some penalty.

But that is the common thread running through the very high voter turnout countries, and interestingly enough, by all accounts, the most content democracy in the world, Switzerland, has the lowest voter turnout.

It is pretty clear to this Senator that turnout is connected with how interested you are in the election. We have one classic example here in the country, very recently, that I think pretty well proves the point. That was the Louisiana Governor's race between David Duke and Edward Edwards, 80 percent turnout. Why did the people of Louisiana come out in such huge numbers? Because they thought that election made a difference in their lives, and in their State. I predict that we will have a high turnout this year. I do not know that, but I think there is a good deal of discontent out in the country. We hear that expressed all the time. I think that will be expressed in a voter increase, and not a decrease in the election turnout. Nevertheless, there is only one thing that would guarantee a high turnout, and that is fining people. I am not, and I know the sponsors of this bill are certainly not advocating this.

Finally, the bipartisan committee on the study of the American electorate, voter registration and turnout. Conclusion: Declining voter participation cannot be attributed to problems in registration and the voting law. I repeat, we have been gradually loosening and making more easy both registration and voting over the last 30 years, and turnout has gone down. There is no correlation between throwing a bunch of people on the rolls and increasing turnout. The motor-voter bill is illustrative of the Congress' deplorable tendency to pass feel good legislation of dubious merit, without facing up to the cost factor. The bill is political malpractice. The President's veto should be sustained.

Mr. President, in looking at the report of our committee, the Rules Committee, on this bill, referral to page 35, says: Some witnesses before the committee asserted that registered persons vote at high percentages, as high as 80 and 90 percent. Those witnesses assumed, therefore, that voter turnout would be increased simply by registering more voters.

In support of the proposition, a CBS-New York Times poll of nonvoters in the 1988 election was cited. In that poll, one-third of the nonvoters said they did not vote because they were not registered. The response to the next question in the same poll, however, was not discussed. When asked why they were not registered, 97 percent of the nonvoters gave reasons other than—I repeat, other than—problems in registering; 56 percent could not give a reason, or said they had no interest in the election.

In other words, voter registration procedures did not deter potential voters.

Mr. President, I reserve the remainder of my time.

Mr. DOLE. Mr. President, as Yogi Berra once said, "it's deja vu all over again."

We have debated this issue again and again. We know the arguments so well, that there is really no need for debate.

And the Senate knew when we passed this bill exactly what was going to happen.

My friends on the other side of the aisle knew the President could not sign this turkey.

They knew that this bill would do absolutely nothing to increase voter participation.

And, they knew that what this bill would really increase was the costs of elections to our financially strapped States.

They knew that eight States, including my State of Kansas, estimated that the total cost of complying with this bill's requirements would be $80 million. The total cost for all 50 States would obviously be much higher.

As I said when we debated this legislation, we have a law here in Congress now, where if someone proposed a new program, they also have to find the money for it.

I think it would only be fair to apply that same law to this bill.

I ask my friends on the other side of the aisle, how would you like the States to pay for this legislation? Do you want them to cut their education budgets? How about their child nutrition programs? Or maybe we should just tell them to raise their State taxes, and pass the costs along to the taxpayers.

The President's veto will be sustained, and the status quo will remain. And the sad thing, Mr. President, is that this did not have to happen.

During debate on this legislation, Senator STEVENS and I offered a substitute which would provide grants to States to help them set up motor-voter programs.

Our substitute was more flexible, cost far less, beefed up Federal and State efforts to combat election fraud and public corruption, and—most importantly—it would have been signed into law by the President.

But as we have seen so many times before on issues such as campaign finance, and products liability, having meaningful reform signed into law by the President is not the goal of the Democrats.

Though the Democrats speak of reform, in the final analysis, they remain committed to the status quo.

Mr. FORD. Mr. President, I yield 10 minutes to the distinguished Senator from Oregon, [Mr. HATFIELD].

Mr. HATFIELD. Mr. President, once again, I am pleased to join the many who support S. 250, the National Voter Registration Act and have been a very proud cosponsor of this bill from its beginning.

This motor-voter bill, Mr. President, comes back to us today as a bill that has been vetoed by the President. I very reluctantly stand in opposition to the President on this matter; yet, my convictions require me to do so. I believe we have the ability in this bill to improve access to voter registration systems all across this country, and I urge my colleagues to vote to override the President's veto.

The alarming decline to voter registration and voter participation witnessed in the United States in the past decade demands our attention. In 1988, only one-half of this Nation's eligible population took part in electing a new President. During the 1980 congressional elections, a turnout of eligible voters was 36 percent—the lowest since 1942, and the second lowest since 1798. These dismal statistics must be addressed, and I believe that S. 250 is a significant step—not a panacea—but a significant step toward opening the doors to the electoral process for all Americans.

The concept of easing voter registration by linking registration to the driver's license procedure in each State is a simple and extremely effective solution. It makes good sense and with the appropriate fraud protection in place, it will provide a much-needed update to our current system, a system which is neither yielding the results nor the opportunities that we all expect from it.

Like many of my colleagues, I am always weary of the Federal Government impinging on States rights. This bill does address a subject traditionally left to the States. However, it is crafted to provide great flexibility to the States in implementing new registration procedures. It will be more convenient, more accurate, and more cost effective than our current system, once it is fully implemented.

Motor-voter will also bring a greater degree of uniformity to voter registration throughout the country and it should not be any more difficult to register to vote in one State than it is in another. But, unfortunately, our country suffers from a patchwork of registration restrictions and regulations, which vary greatly from State to State. States which have already adopted a motor-voter procedure have found that it provides a number of important advantages, both for citizens and election officials, based upon experience of both Republican and Democratic election officials.

Motor-voter provides a convenient, accessible method of registering to vote while maintaining personal contact with the applicant and the registrar. Most States maintain dozens of driver licensing outlets which are accessible to both rural and urban areas.

No. 2: Motor-voter will be especially productive to registering hard-to-reach groups, such as young people, most of whom have a driver's license but do not have a voter registration card. It will also reach out to those who move within a State or into a new State. Approximately 25 percent of the American people move every year. The drivers licensing office is one of the first places they visit when they change residences.

No. 3: Motor-voter provides protection against fraud and abuse by connecting the licensing and voter registration systems Federal, State, and local election officials will have several new cross checks and auditing tools to protect the integrity of the registration process. This will be the only form of voter registration in which the applicant's picture is taken as an example.

No. 4: Motor-voter will keep registration lists accurate and up-to-date. The technologically advanced features of this system will ensure that the rolls are updated on a regular basis, purged and kept updated.

No. 5: Motor-voter is cost effective. States which have implemented it have found it offers a lower per-transaction cost than any other form of registration.

Mr. President, I am convinced that S. 250, motor-voter, will also lead to increased voter turnout. We cannot expect expanded numbers of people to vote without addressing the hurdle of registration. By providing a fast, convenient method of registration, citizens will be far more likely to sign up and take part in the electoral process.

Of the three elements involved in addressing the problem of declining voter participation—registration, education, turnout—S. 250 addresses only one of these three: registration. But combined with reform in the other fields, if we override the veto of S. 250 today, we will have made a significant stride toward establishing a fully representative democracy in the United States.

Mr. President, I yield the floor.

Mr. FORD. Mr. President, I believe I am correct that the minority leader used some time earlier this morning that ate up part of the hour.

I ask unanimous consent that we might recapture that time so that I might yield 10 minutes to my friend from Minnesota.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. FORD. I yield 10 minutes to the Senator from Minnesota.

Mr. WELLSTONE. Mr. President, there is a tremendous amount of discontent and anger all across our country. That anger can take a very destructive form. We saw that in Los Angeles. I saw it in Minnesota at the State fair. There is a tremendous amount of anger. Either we are going to encourage people to translate that anger into participating in our political process, registering and voting, or we are going to discourage that.

Mr. President, this National Voter Registration Act, or the motor voter bill, S. 250, really should be called, in my opinion—and I think there is a lot of evidence to support this—the Voting Rights Act of 1992. This is really an extension of where we left off in 1965.

You would think that, at this point in the history of our country, we would want to do everything we can in the U.S. Senate to help enfranchise people, to help expand democracy, to encourage people to participate in our political process. And yet the President of the United States, George Bush, has vetoed this legislation. I urge my colleagues to vote to override this veto.

Mr. President, let us talk a little bit about what has gone wrong in our country. And I would like to respond to a little bit of what the junior Senator from Kentucky had to say.

The fact that some 70 million people are not registered to vote is not because people are satisfied; it is not because people are apathetic and they just do not want to register to vote. I think the junior Senator from Kentucky misses the reality of the archaic, fragmented system of voter registration that we have from State to State to State. We are in the rock bottom among the advanced democracies in terms of registration votes.

Mr. MCCONNELL. Will the Senator yield?

Mr. WELLSTONE. I would like to just finish for a moment, then I will certainly yield after that.

We are rock bottom among the advanced democracies in voting registration and turnout. This is because we have a system of personal periodic voter registration which puts all of the emphasis on the individual trying to figure out where, when, and how to register to vote.

Mr. President, you come from the State of North Dakota, once home of the Non-Partisan League, where you do not have to register to vote. And that was a decision on the part of North Dakotans to make sure that people would not have any obstacles thrown in their way to be able to register to vote.

The people of North Dakota encourage voter participation. There are also a number of other States—Minnesota and Maine among them—where you have same-day registration.

But in many, many States in this country, you cannot even figure out where to find a form to register to vote. You have to figure out where to go. All too often, you cannot register over noontime, when you have a break from work. You cannot register on the weekend. Sometimes you have to travel 60 or 70 miles to register. Sometimes it is the county courthouse. But you do not know where, or exactly how to do it. There are so many obstacles thrown up that people find it very difficult to register to vote.

Mr. President, that is the system that we have in all too many States. We passed the voting rights bill in 1965, and this is the next step to take in that direction.

I just want to be clear that some of the arguments that may have been made against this bill also remind me of that same debate on the 1965 Voting Rights Act. The opponents of that legislation also argued that there will be more fraud, or it will be States rights, or it will be too expensive.

Mr. President, I cannot for the life of me understand what some of my colleagues are afraid of or what the President is afraid of. On the one hand, I read in the Washington Post—and I believe this was the 17th of September—the headline: "Pentagon Intensifies Efforts To Muster Military Voters." That is good. There are going to be some 75,000 voting counselors who are going to go out to meet with our military people and help them register to vote. That is a good idea. But I think that what is good in the Pentagon would also be good for the rest of the people in our country. I ask unanimous consent to print the article to which I have just referred after my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WELLSTONE. Now, what we are proposing in this legislation, that is that when you fill out your driver's license form—this one is for Minnesota—you can register right there. It also allows agency-based registration. You go into an agency, a social services agency, a public agency, and in a scrupulously nonpartisan way government people there help you to register to vote.

I think the Government is often involved in such a way at the State level that we make it extremely difficult for people to register to vote, or to play a positive, informative role in reaching out to enable people to register to vote.

When we first debated this bill on the floor of the Senate, I remember that at least one Senator came out and said: I oppose this bill because I think those who are not registered to vote are going to turn out and vote for Democrats.

That is not an argument that should be made on the floor of the U.S. Senate. We do not propose a piece of legislation that is good public policy, that encourages participation, that expands democracy because we are worried how people should vote.

At the Minnesota State Fair we registered about 3,800 people to vote, and we were saying to people: we do not ultimately care how you vote—mainly, they were young people, Mr. President—but we think that if you are angry or you want change, you should register to vote. That is what you should do.

Now, there is another argument that I think should be emphasized before Senators cast their final vote. We are in an interesting period, I think, in the history of the country. There is a real interesting mood out there. And a lot of people are saying: Listen, for those of you who are incumbents, Democrats and Republicans alike, we want you to be responsive to us.

Now, Senator **FORD** has taken the lead with a piece of legislation that says that is exactly what we are intending to do. Senator **FORD** has said: I am not afraid of more participation; I am not afraid of more democracy.

But I am afraid there are some incumbents that are really quite comfortable with the way things are. And the last thing you would want to see happen is new people registering to vote; the last thing you want to see happening is more people in your State or more people in your district turning out to vote.

The last thing the President of the United States wants to see happen is that maybe these 70 million people who are not registered to vote, by a 2-to-1 margin those below median income, people who may be out of work, people who have jobs that do not pay decent wages, people who do not have decent health-care coverage, people whose children do not get a good education, people who find that their children do not have an equal opportunity; they just might register to vote.

Now with this piece of legislation, what we have done is pass a bill that says that it will be the law of the land that each and every citizen will be given an easy and convenient way to register. They will not have further difficulties imposed upon them which prevent them from registering to vote, but rather we are going to encourage voter registration, we are going to encourage political participation, we are going to encourage the enfranchising of people. And I think it would be a much better country.

The President of the United States has vetoed this bill—I think the Senator from Kentucky [Mr. FORD], is right—out of fear. The President is afraid that more people will be able to register to vote.

I hope that my colleagues will override this veto.

EXHIBIT 1

[From the Washington Post, Sept. 17, 1992]

PENTAGON INTENSIFIES EFFORT TO MUSTER MILITARY VOTERS

(By Barton Gellman)

The Defense Department, in a significant expansion of a once-modest program, has mobilized an estimated 75,000 "voting counselors" worldwide to register and turn out military voters in the Nov. 3 presidential election.

Conducted under a federal law providing access to absentee ballots for active-duty troops and overseas civilians, the Pentagon effort has shifted emphasis during the Bush administration from ensuring availability of voting forms to mustering ballots at the polls.

This year, for the first time, the department has set a target rate for participation, which if realized would produce at least 1.2 million military votes.

Portrayed as a nonpartisan effort to assist troops in exercising a basic constitutional right, the program dates from 1955 and is widely acknowledged to provide important services. The nation's 1.9 million active-duty troops are scattered around the world and move more frequently than the population at large.

But this year's intensification, and particularly the new focus on voter turnout during what could be a close presidential election, has led Democratic and some independent analysts to suspect the Bush administration is trying to energize a predictably sympathetic voter base.

There is little hard evidence about the political preferences of military voters. But pollsters and political scientists believe such voters disproportionately favor the Republican Party, a leaning thought to be accentuated this year by satisfaction with President Bush's conduct of the Persian Gulf War and doubts about Democrat Bill Clinton's plans to make further defense budget cuts and permit gay men and women in uniformed service. Other officers, including some who have served since the Vietnam era, also may disfavor Clinton's efforts to avoid the draft.

"If anybody is charging that we're trying to get the troops to turn out more so there will be more Republican votes, that's ludicrous," said Pentagon spokesman Pete Williams, "Whatever pointy-headed academics are trying to imply that there's some motive here, other than helping the serviceman and woman to vote, have an overdose of politics."

Some critics, including an Air Force major who complained to the American Civil Liberties Union, regard an aggressive voting campaign as inherently coercive in the context of the military's strict chain of command.

Others, who support the effort to educate and motivate potential voters, accuse the Bush administration of using government resources selectively to that end. Bush vetoed a "motor voter" bill passed by Congress last spring that would have made voter registration available automatically to citizens renewing drivers licenses or applying for government services such as unemployment benefits. Supporters plan an attempt to override that veto, perhaps as early as this week.

The Pentagon voting program is legally obliged to remain politically netural and does appear to take pains to avoid transmission of partisan messages. But it also goes well beyond the provision of forms and technical services that are the only legislative mandate of the Uniformed and Overseas Citizens Absentee Voting Act.

According to an internal Army memorandum by Maj. Gen. Larry D. Budge, technical assistance "has in the past been the primary focus of the program." This year's plan requires "direct command involvement" in a new mission "to significantly increase the percentage of soldiers who vote . . . without creating violations of law or significant negative backlash."

As recently as 1980, when President Jimmy Carter ran for reelection, the proportion of military personnel who voted was smaller than that for the general public (49.7 percent versus 52.6 percent). But increased federal efforts under President Ronald Reagan swelled military participation to 63.5 percent in 1988, an increase that equated to roughly 300,000 additional military votes.

Last month, Gen. Colin L. Powell, chairman of the Joint Chiefs of Staff, sent a message to all commands urging "each soldier, sailor, marine, airman, and coastguardsman" to help break 1988's record-setting turnout. The Air Force has ordered commanders to shoot for 100 percent registration and 75 percent turnout among officers and enlisted personnel.

Voting counselors—military personnel assigned at a ratio of at least one for every 25 active-duty troops—are required to hand-deliver registration materials, twice, to every serviceman and woman; to provide one-on-one training and encouragement, and to keep records by name of the dates when each voter receives registration materials, returns them, receives an absentee ballot and casts it.

Unit commanders and counselors have been told that their performance in the assignment is "an item for specific review" by inspectors general and will become part of the fitness reports that govern promotions.

"The emphasis was not placed in 1988 that is being placed this year," said Senior Master Sgt. Travis Crowder, a voting assistance representative at Andrews Air Force Base. "We've gotten a number of messages from higher headquarters emphasizing the importance of this mission."

"You can't force a guy to register and you can't force a guy to vote, and we haven't had to," said Capt. W.L. Bates in an interview aboard the cruiser USS Thomas S. Gates, whose 364 sailors are all registered. "Personally I'm shooting for everybody to vote, and I think we have a pretty good chance of having that happen."

An Air Force major assigned as a voting officer complained to Arthur Spitzer at the ACLU's Washington office that the received periodic calls from his commanding general asking "how we're doing" on registration and primary election voting goals and said the general responded, "That's not enough," when given a status report.

Clinton campaign communications director George Stephanopoulos said the Bush administration should not restrict registration assistance to military voters.

"Every time someone votes and every time someone encourages someone to vote, it's a good thing," he said. "But consistency is also a virtue, and if you support this program you should also support efforts so that every American living in America can also be encouraged to vote—like the 'motor voter' act."

During debate over that registration bill, a Justice. Department better argued that allowing social service agencies to register voters "risks various forms of intimidation of the public" because citizens who depend on the agencies for welfare or other benefits "could easily be given the impression that they have to register, or register for a particular party, in order to please the administrator in whose hands the fate of their application rests."

A series of Justice Department spokesmen declined to discuss the letter's relevance to military installations.

Normal polling techniques such as exit polls and telephone surveys do not reach most military voters because roughly 90 percent vote by absentee ballot and a majority at any time are in barracks, in field exercises, on ships at sea or in other places inaccessible to pollsters. The Defense Department does not permit political questions in official military surveys.

But political scientists such as John Muller of the University of Rochester and Curtis Gans at the Committee for the Study of the American Electorate note that military recruits come disproportionately from among traditionally conservative groups such as white southerners and small-town midwesterners.

In Florida's close 1988 Senate race, for instance, military voters casting absentee ballots decided the election for Republican Connie Mack, according to campaign managers for both Mack and his Democratic opponent, Buddy Mackay.

"If you asked me to give you a number. I would say that 80 percent and up of military members would vote for the Republican Party," said military sociologist Charles Moskos.

Others suggested the number might be far smaller. But Brian Lunde, a former executive director of the Democratic National Committee, noted that even 55 percent of the military role for Bush "would be a landslide."

Mr. McCONNELL. Mr. President, do I have any time remaining?

The ACTING PRESIDENT pro tempore. The Senator has nearly 20 minutes.

Mr. McCONNELL. Mr. President, let me say to my friend from Minnesota, it is not hard to register today. Under Federal law, a State has to register people up until 30 days before the election. That was legislation passed sometime back. Virtually every State in the Nation makes it extremely easy to register.

Admittedly, North Dakota is different. I do not know whether the Senator from Minnesota was here when I was discussing this earlier, but vote fraud is more a product of the culture of certain sections of our country. It is not uniformly a problem. It is a problem in certain areas.

In this legislation—which, fortunately, if not going to become law—there is a fallback provision so that if a State chooses not to implement motor-voter, they have to go to same-day registration.

In my State, for example, that would be a serious problem in eastern Kentucky and other places of the State.

Mr. FORD. Will my friend yield a minute?

Mr. McCONNELL. In just a minute.

Mr. WELLSTONE. I would also ask the Senator to yield to me.

Mr. McCONNELL. Mr. President, it would be a serious problem in terms of cheating, just flat out cheating.

I think one of the things you do not want to have in a democracy is to have your vote diminished by those participating more than once, and that has been a problem in certain areas of the country—not just in the South, but in Chicago, as well.

The Senator mentioned the Voting Rights Act. I support the Voting Rights Act. I always have, even before I got here, thought it was a good piece of legislation, and certainly needed in my section of the country. That is an entirely different issue.

With regard to what we are afraid of, all the surveys indicated that the President would have gotten the same margin in 1988 if those who had not voted had voted. In other words, the opinion of those that chose not to participate was the same as those who did participate.

The question is whether throwing millions of people onto the voting rolls is going to have any impact on turnout. And the people who know something about this subject, all of which I referred to in my speech, do not believe that throwing lots of voters onto the voting rolls is going to have any impact on turnout—none whatsoever. I yield for a question to my friend from Minnesota.

Mr. WELLSTONE. Let me take my colleague's arguments in reverse order. I believe there is, of course, a sharp difference of opinion among those people who have looked at this whole issue of the relationship between voter registration and voter participation, as to whether or not changing the institutional arrangement of voter registration will encourage participation or not.

For example, I would cite the work of Frances Fox Piven and Richard A. Cloward, in their book, "Why Americans Don't Vote," as two authors who argued with considerable eloquence that, indeed, if we changed this arrangement for voting registration, it would lead to an upsurge.

Second of all, I say to the Senator from Kentucky, I believe you and other people who are going to support the President's veto understand full well that in fact there will be more participation. That is exactly what you are afraid of. That is exactly what you are afraid of.

And my third point, I find it interesting that regardless of what the academics argue, people in office seem to understand full well, especially the President of the United States and those who will not vote to override his veto, that in fact this will lead to increased voter registration and voter participation.

And finally, if I could say this to the Senator from Kentucky—I beg to disagree with him on the point it is easy to register to vote. I have seen so many lawsuits and have been involved in so much registration work around the country where we have had an extremely difficult time registering people to vote.

Mr. McCONNELL. Mr. President, I thought I yielded for a question.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky has not yielded the floor.

Mr. WELLSTONE. My question is, How come you do not understand these basic realities?

Mr. McCONNELL. I think I am a better judge of what my motivation here is than is the Senator from Minnesota. It is not my concern that turnout will go up. I would like to see turnout go up. I do not applaud the fact turnout has declined in recent years. Before the Senator got here I pointed out the one and only thing that will increase voter turnout is for the voters to get more interested in the elections.

We had a recent election in Louisiana between Edwin Edwards and David Duke, in which turnout approached 80 percent. Why did the voters turn out in Louisiana? They thought it made a difference. There was a clear choice, it had an impact on their lives and their States. That is what is going to turn people out. The only way you can get them out—and I do not think there is anybody in the Senate who wants to do this—you could do what several European countries and a number of South American countries do, and fine people. You could punish them for not voting. I do not think anybody here thinks we ought to do that. But, clearly that is the thing that will get it done.

The General Accounting Office studied why voter turnout is so high in certain Latin American and European countries. Conclusion: They punish them if they do not vote. I do not think we need to do that.

My point is this is a solution in search of a problem. Our concern about low voter turnout in this country, our problems with low voter turnout are caused by lack of voter interest. Throwing millions of people onto the voter rolls is going to have no impact on that whatsoever.

So, this is an unnecessary piece of legislation. There is nothing to keep a State from going to motor-voter today. Over half of them have, I believe, gone to motor-voter today. If they want to do that I think that is perfectly all right. If a State chooses not to, as many have chosen not to, they ought to have that option.

Mr. FORD. Mr. President, will my colleague yield for a question?

Mr. McCONNELL. I will just yield.

Mr. FORD. I think I am out of time.

Mr. McCONNELL. All right, I yield to my friend from Kentucky.

Mr. FORD. My colleague made a statement. I am not a lawyer and he is, and I may need some help on this. But when we passed this bill I understood we only grandfathered those States like North Dakota that have no registration, and those that had same-day registration from date of enactment. We did not propose or provide for same-day registration, which he alleged earlier.

Mr. McCONNELL. I was just checking with staff here. I would say to my friend I am told in the final version of the bill, if you do not implement motor-voter you must implement same-day registration.

Mr. FORD. That is not the intent of the bill. The language in the bill says that upon enactment, if you have one or two—North Dakota in particular—same-day registration, there is nothing in the legislation that requires same-day registration.

Mr. McCONNELL. We probably have a debate of staff, here. Maybe we can convene and let the staff——

Mr. FORD. You and I voted on it. I remember clearly what was in it. There was no intent nor do I believe that is the language. Not being a lawyer, it makes it difficult for me to stand and say it is not.

Mr. McCONNELL. Being a lawyer does not have anything to do with it. I have made the argument all the way through and it has never been rebutted before today, that if you chose not to go to motor-voter—I am not talking about States like North Dakota that have same-day—but if you chose not to motor voter it is my understanding your only other option under the legislation is to proceed to same-day registration.

Mr. FORD. I apologize to my friend. I do not recall him bringing that point up when I was present.

Mr. McCONNELL. I have made the point every step of the way and I will be glad to be corrected if that is not the case. It was certainly my belief it was the case.

Mr. FORD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 2 minutes.

Mr. FORD. Mr. President, I ask unanimous consent that a memorandum prepared by the Library of Congress on the constitutionality of this bill be included in the RECORD; and I have a list of editorials from small newspapers to large newspapers, endorsing S. 250. I ask unanimous consent they be printed in the RECORD at this point.

There being no objection, the material ordered to be printed in the RECORD, as follows:

EXHIBIT 1

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, May 5, 1991.

To: Senate Committee on Rules and Administration Attention: Thomas E. Zoeller, Counsel.

From: American Law Division.

Subject: Constitutionality of the "National Voter Registration Act of 1991," S. 250, 102d Cong., 1st Sess., Providing For National Voter Registration Procedures For Federal Elections.

This memorandum responds to your request for a discussion of the constitutionality of the "National Voter Registration Act of 1991," S. 250, 102d Cong., 1st Sess., introduced by Senator Ford, providing for national voter registration procedures for federal elections. As you requested, this memo specifically addresses the arguments proffered by the Department of Justice in a letter to Senator Ford, dated April 17, 1991, and in the Department's analysis of S. 250, in which the Department questioned the constitutionality of this legislation.

I. MAJOR PROVISIONS OF S. 250

As stated in Section 2 of S. 250, the purpose of the bill is to increase voter registration, enhance voter participation, protect the integrity of the political process, and assure accurate voter rolls. To that end, if enacted, S. 250 would require that the states, in addition to any other method for voter registration provided for by state law, establish procedures to permit voter registration in the following manners: (a) simultaneously with an application for a driver's license (Section 5); (b) by mail application (Section 6); and (c) by application in person, either at an appropriate registration office, or at a Federal, State or private sector location (Section 7). It would not apply to states without a voter registration requirement for election to federal office or to states which permit voter registration at the polling place on the day of a general election (Section 4). It would also prohibit states from removing the names of voters from the registry solely for failure to vote (Section 8).

Further, it would authorize the Federal Election Commission to coordinate all federal functions and prescribe regulations (Section (9); it would require each state to designate a chief state election official to coordinate all state functions (Section 10) and it would provide for civil enforcement, private right of action (Section 11), and criminal penalties (Section 12).

II. CONSTITUTIONALITY OF S. 250

A. Constitutionality of the proposal to establish national voter registration procedures for congressional elections

S. 250 would provide for national voter registration procedures which would apply to all congressional elections. The Department of Justice contends that "while Congress has some authority to preserve the integrity of the federal election process by taking steps to prevent fraud, it cannot encroach upon the exclusive power of the states to regulate the manner in which elections are conducted."[1] The concerns of the Department can be easily disposed of by considering the language and Supreme Court interpretation of the Times, Places and Manner Clause of the Constitution.[2] Under this clause, Congress has been granted explicit authority to regulate congressional elections. The states do not have *exclusive* authority over elections:

"The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators."[3]

As the Department of Justice notes, under this constitutional provision, Congress may enact laws that secure the integrity of the election process from violence, corruption, and fraud.[4] However, the power of Congress under this clause is not limited to only these areas. Under the Times, Places and Manner Clause, Congress could even enact legislation establishing a complete code for congressional elections containing provisions for the times and places of elections, registration of voters, supervision of voting, protection of voters, prevention of fraud and corruption, counting of votes, duties of inspectors and canvassers, and the compilation and publication of election returns.[5]

In *United States v. Classic*,[6] the Supreme Court clearly held that the right of the people to choose representatives in Congress is "a right established and guaranteed by the Constitution."[7] It is a right derived from the states, the Court explained, only in the sense that the Constitution authorizes states to legislate on the subject under Article I, Section 2. The Court declared, however, that this power of the states *only exists to the extent* that Congress has not restricted state action by exercising its authority to regulate elections.[8]

Hence, although the Department correctly asserts that S. 250 is not designed to prevent fraud, corruption, or eliminate any discriminatory practices, this distinction seems meaningless in view of Congress' unlimited power over congressional election procedures. Congress' authority to enact a uniform voter registration law for congressional elections is well established under the Times, Places and Manner Clause.

B. Constitutionality of the proposal to establish national voter registration procedures for Presidential elections

Another provision in the Constitution grants Congress broad authority over presidential elections. Article II, Section 1, Clause 3 provides:

"The Congress may determine the Time of chusing the [presidential] Electors, and the Day on which they shall give their Votes; which Day shall be the same throughout the United States."[9]

In response to the argument that Article II, Sec. 1 limits the power of Congress to that of determining the "time of choosing electors, and the day on which they shall give their votes," in *Burroughs and Cannon v. U.S.*, the Court declared, "So narrow a view of the powers of Congress in respect of the matter is without warrant."[10] The Court reasoned:

"While presidential electors are not officers or agents of the federal government [*In re Green*, 134 U.S. 377, 379], they exercise federal functions under, and discharge duties in virtue of authority conferred by, the Constitution of the United States. The President is vested with the executive power of the nation. The importance of his election and the vital character of its relationship to and the effect upon the welfare and safety of the whole people cannot be too strongly stated. To say that Congress is without power to pass appropriate legislation to safeguard such an election from the improper use of

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Footnotes at end of article.

money to influence the result is to deny to the nation in a vital particular the power of self protection. Congress, undoubtedly, possesses that power, as it possesses every other power essential to preserve the departments and institutions of the general government from impairment or destruction, whether threatened by force or by corruption."[11]

C. Constitutionality of the proposal to establish national voter registration procedures for all Federal elections under the necessary and proper clause

The Necessary and Proper Clause of Article I, Section 8, Clause 18 of the Constitution also empowers Congress with the authority to enact laws regulating federal elections.[12]

"The Congress shall have Power * * * To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by the Constitution in the Government of the United States, or in any Department or Officer thereof."[13]

In the 1970 *Oregon v. Mitchell* decision,[14] five separate opinions supported the constitutional authority of Congress to enact election laws regulating federal elections. There, the Court upheld the constitutionality of a federal statute barring a state from denying the right to vote in any election because of a literacy test and of a federal statute banning durational residency requirements. As Justice Stewart wrote, "These cases and others establish that Congress brings to the protection and facilitation of the exercise of privileges of United States citizenship all of its power under the Necessary and Proper clause."[15] Consequently, he concluded that the Constitution permits Congress to enact statutes protecting the fundamental right to vote. "We should strive to avoid an interpretation of the Constitution that would withhold from Congress the power to legislate for the protection of those constitutional rights that the States are unable effectively to secure."[16]

III. CONCLUSION

Under the Constitution and Supreme Court rulings, Congress has the power to regulate federal elections, including the establishment of national voter registration procedures for presidential and congressional elections as set forth in S. 250. Congress' power has been clearly established under the Times, Places and Manner Clause and the Necessary and Proper Clause of the Constitution. These provisions of the Constitution, as interpreted by the Supreme Court, demonstrate that Congress has broad power and authority over federal elections, including the regulation of voter registration procedures, and that the states do not have exclusive authority to regulate the manner in which elections are conducted. Hence, it appears that the provisions of S. 250 would withstand any serious constitutional challenge.

L. PAIGE WHITAKER,
Legislative Attorney.

FOOTNOTES

[1] U.S. Department of Justice, Department of Justice Analysis of S. 250, p. 1 (copy on file with the Senate Committee on Rules and Administration and the author). *See also*, Letter from W. Lee Rawls, Assistant Attorney General, to Senator Wendell H. Ford, Chairman, Senate Committee on Rules and Administration (April 17, 1991) p. 1–2 (presenting the views of the Department of Justice concerning S. 250, the National Voter Registration Act of 1991).

[2] U.S. Const. art I, §4, cl. 1.

[3] *Id.*

[4] *See, e.g.*, Burroughs and Cannon v. United States, 290 U.S. 534, 657–58 (1934) (holding that Congress has the power to enact laws protecting federal elections from corruption); Ex Parte Yarbrough, 110 U.S. 651, 657–58 (1884) (holding that Congress has the power to enact laws protecting federal elections from violence and fraud).

[5] Smiley v. Holm 285 U.S. 335, 366–67 (1932) (holding that Congress may supplement state election laws or enact its own since it ". . . has a general supervising power over the whole subject."). *See also*, Newberry v. United States, 256 U.S. 232 (1921).

[6] 313 U.S. 299 (1941).

[7] *Id.* at 314.

[8] *Id.* at 315.

[9] U.S. Const. art II, §1, cl. 3.

[10] 290 U.S. 534, 544 (1933).

[11] *Id.* at 545.

[12] U.S. Const. art. I, §8, cl. 18.

[13] *Id.*

[14] 400 U.S. 112 (1970).

[15] *Id.* at 286. *See also*, United States v. Classic, 313 U.S. 299, 315 (1941) (holding that in addition to its power to regulate elections under Article I, Section 2 of the Constitution, Congress also is empowered to regulate elections under the more general provision of the Necessary and Proper Clause).

[16] *Id.* at 292.

[From the Des Moines Register, July 1, 1992]

GIVE GREEN LIGHT TO "MOTOR-VOTER": NEARLY 70 MILLION AMERICANS ARE NOT REGISTERED TO VOTE.

By signing a bill to simplify voter registration, President Bush would signal his support for broad participation in the American electoral process. A failure to do that may show just how much he fears for his own reelection prospects.

The "motor-voter" legislation would require states to let people fill out a voter-registration form at driver-license agencies, public-assistance agencies, unemployment agencies, agencies whose main mission is serving the disabled, and by mail. States also could make voter registration possible at other locations including state and local government offices, public libraries, schools, city and county clerks' offices, and fishing and hunting-license bureaus.

As things stand, voter registration is made easy in some states like Iowa, which allows registration forms to be obtained at many places, including at driver-license stations and at county auditors' offices. Others make it tough, forcing people to drive 50 or 60 miles to a county courthouse to fill out the form, or providing restrictive hours in which to register.

Nationwide, nearly 70 million Americans cannot vote because they are not registered, according to the League of Women Voters. Charges by Bush and others that making it simpler for them to vote would lead to fraud are hogwash. The vast majority of additional people who register would do so legitimately, which far outweighs the possibility of some deceptions.

What those charges may really reflect are Republican worries that loosening the registration process will sign up more people likely to vote Democrat or for Ross Perot in the fall. Those strategists figure the fewer people voting, the better Bush's chances. That's a repulsive reason to write off a large share of the American people.

[From the Oregonian, July 1, 1992]

OPEN POLLS TO VOTERS; REGISTRATION BARRIERS STILL SHUT OUT MILLIONS

President Bush has a chance to deregulate voter registration, and that's precisely what he should do.

Congress has moved to his desk for signing a bill that would remove confusing, cumbersome, inconvenient and discriminatory voter-registration requirements. Restrictive hours, hard-to-find and inconvenient registration sites, confusing forms and selectively stringent identification requirements discourage voter participation in many parts of the country.

Only 25 percent of people with disabilities have found their way to registration desks. Nearly a third of adult Americans move within a two-year period and, in addition to changing the addresses on their driver's licenses, they have to reregister to vote. All together, nearly 70 million Americans cannot vote because they are not registered.

Without a simple, easy way to register, many citizens are denied a chance to express their views on their government.

The bill Congress approved June 16 is known as motor-voter registration. It would allow the more than 90 percent of Americans who have driver's licenses to apply to register to vote when they apply for or renew their driver's licenses. The bill also has mail and public agency registration provisions to serve those Americans who do not drive.

Opponents primarily worry about fraud and cost. But the experience of several states that have motor-voter registration—including Oregon—is that the cost is minimal and the fear of fraud is baseless.

Concern, instead, ought to focus on the many Americans discouraged from voting because of registration barriers. In signing this bill, Bush would endorse his own rhetoric that citizens' views are important. He should let motor-voter become law.

[From the New York Times, June 25, 1992]

A THREAT TO VETO DEMOCRACY

White House officials say they're urging President Bush to veto the voter registration bill that just arrived on his desk from Congress. It's terrible advice. This commonsense measure, nicknamed "motor-voter," honors democracy by making it simple and convenient for all Americans to register to vote.

Citizens could do so when they obtain or renew their driver's licenses. The bill would also require states to offer registration by mail and at government agencies like welfare offices. Together, experts say, these simple steps could boost registration to about 90 percent.

That's an impressive leap. Only 60 percent of eligible citizens are now registered. Yet the Office of Management and Budget argues that "there's no sufficient justification" for imposing this program on the states. No sufficient justification? What about the 70 million Americans left unregistered by the present hodgepodge of state laws?

Opponents of "motor-voter" also say the bill would increase fraud. That's a red herring. At present, 29 states sign up voters at motor-vehicle agencies; 27 states permit registration by mail. There's no evidence of an epidemic of cheating.

It's true, as some Republican opponents have noted, there are plenty of other reasons why Americans don't vote. Simplifying registration cannot substitute for more inspiring candidates and campaigns. But there's virtually no chance of increasing voter turnout—barely 50 percent in the last Presidential election—as long as 40 percent of Americans remain unregistered.

Republican opponents of "motor-voter" seem to fear that adding more voters to the rolls would mainly benefit the Democrats. That may or may not be the case. But fortunately Mr. Bush can rise above any such cynical calculation. Like the sound campaign finance reform bill he chose to veto a month ago, the "motor-voter" provisions wouldn't become effective until after the 1992 election.

To veto this popular legislation would be to veto expanded participation in government—something the President might wish to encourage in this angry election year. He would help his standing and the nation by standing up for democracy.

[From the Denton (MO) Times Record, June 25, 1992]

PUTTING PEOPLE BEFORE POLITICS

Rep. Wayne T. Gilchrest is to be congratulated for supporting Senate Bill 250, the National Voter Registration Act, which was recently passed by the House of Representatives and forwarded to President Bush for an unlikely signature.

Also known as the motor-voter act, SB 250 requires states to register voters by mail when they apply for driver's licenses and welfare, unemployment or disability benefits.

It must not have been easy for Gilchrest to vote for the motor-voter bill, because 135 of his fellow Republicans voted against it. In the appallingly partisan tradition of American government, House Republicans accused Senate Democrats of stacking the deck by insisting that not just motor vehicle agencies, but also public assistance offices, double as voter registrars.

Just think of it! Poor people registering to vote! It's heresy! Unemployed people registering to vote! It's revolution! Cripples registering to vote! It's the end of civilization as we know it!

We applaud Gilchrest for not buying into such elitist hysteria. As the people of the Eastern Shore prepare to elect a president, a congressman and a senator, we share his concern about dwindling participation in federal elections. Caroline County has the worst case of voter apathy in the state. Fewer than half of those who are eligible are registered to vote. We must use every available means to get more voters on the rolls and to the polls. It seems ironic that, while Caroline County Republicans were out registering new voters, congressional Republicans were trying to hamper a similar initiative. The Republicans' effort to limit the number of registration sites is not only dismayingly cynical, but also counterproductive.

Gilchrest is to be commended for not losing sight of what is important, for doing the right thing, and for putting people ahead of politics.

[From the Milwaukee (WI) Journal, June 24, 1992]

PHONY "MOTOR-VOTER" FEARS COULDN'T EXCUSE VETO

Whenever the citizens of some strife-torn nation brave bullets to cast their ballots on Election Day, pundits in this country lament the contrast with America, where millions of eligible voters don't even bother to exercise the franchise. President Bush could go a long way toward reversing this dismal record by signing the so-called motor-voter legislation.

Alas, Bush is said to be on the verge of vetoing the measure, which didn't pass either House by enough votes for an override. If the President derails this splendid vehicle, he will hand his opponents a dandy election issue.

The motor-voter bill would sensibly permit citizens, as of 1994, to register to vote when they renew their driver's licenses or apply for unemployment or other social services at government agencies. They could also register by mail or, if states so chose, at the polls on Election Day, as Wisconsin permits. While such steps are no cure for the public's widespread disgust with politics, the legislation would reach 90% of the estimated 70 million unregistered voter.

So how come the White House is down on the idea? Republicans raise the specter of fraud. But in the 32 states with some version of motor-voter, there have been few problems. And the legislation includes strong safeguards against fraud.

The real reason for the GOP's skepticism appears political: Republicans fear (and Democrats hope) that most unregistered voters, many of them poor and minority, will vote Democratic.

But a 1991 study by the conservative Free Congress Research and Education Foundation found that non-voters tend to mirror voters politically and demographically. A survey taken after the 1988 presidential election concluded that Bush would still have won even if all non-voters had cast their ballots. These days, it's impossible to predict how new voters would behave.

The shabbiest of GOP objections is that motor-voter would impinge on states' rights. Can anyone seriously concede states a right to preserve barriers to voting? What a mockery of democracy. And what a poor excuse for leadership a presidential veto of motor-voter would be.

[From the Richmond Register, June 26, 1992]

"MOTOR VOTER" MEASURE ADVANCES DEMOCRACY

(By Randy Patrick)

It isn't often that Kentucky's U.S. senators figure prominently in the national news, but Wendell Ford and Mitch McConnell have been getting noticed for their efforts in a battle being waged over the very idea of democracy.

As usual, McConnell is on the wrong side, along with President Bush.

The controversy involves the National Voter Registration Act of 1992, of which Ford is one of the main sponsors. Its purpose is to increase voter turnout by making it easier for people to register.

Under the bill, which has passed both chambers of Congress and is awaiting the President's signature (or more likely, his veto), those who are of voting age would be able to register at the same time that they renew or apply for their drivers' licenses, motor vehicle licenses or hunting and fishing licenses. They could also register by mail or when they seek welfare, unemployment benefits or other assistance from state agencies.

Such a law would register millions of Americans who have been shut out of the democratic process. That is the real reason the party of the elite monied interests, the Republicans, are so anxious about the possibility of the bill being enacted.

McConnell, who led the opposition to the "motor voter" bill in the Senate, warns that it "has the potential to foster election fraud and thus debase the entire political process in this country."

Ford, the majority whip in the Senate, accuses McConnell and other reactionaries of trying to achieve "through archaic and confusing registration procedures that which they cannot achieve through outlawed practices, such as poll taxes and literacy tests."

It is likely that a national law to simplify the registration process and make it more convenient would particularly benefit the poor, the disabled, racial minorities and other groups who are disenfranchised. It is also likely that people in those groups would tend to vote for progressive, rather than conservative, candidates.

The statistics bear this out. Of the 70 million or so Americans who are of voting age but don't vote, two-thirds are below the median income level. Fewer than half of families with incomes below $10,000 are registered, compared with more than 80 percent of those who earn over $50,000 a year. A disproportionate number of those who are not registered are young and non-white.

Lawmakers who have been voting against the poor and minorities have every reason to fear millions of newly registered voters who might vote against them.

McConnell's assertion that reforming the registration process would lead to more vote fraud is just a smokescreen. Thirty states now have some kind of * * *.

There is much evidence, however, that such state laws have dramatically increased voter participation in an era when voting is declining around the country.

According to 100% Vote, a national campaign for universal registration, voter turnout in North Carolina, Minnesota and the District of Columbia, which have motor voter laws, increased more than 20 percent between 1986 and 1990. Tennessee, on the other hand, which has no such law, saw a 35 percent decrease in voting during the same period.

McConnell has often said that the reason Americans don't vote in great numbers is that they're happy with the way things are. The truth, of course, is just the opposite. Most people who stay away from the ballot box do so because they're disillusioned with the political system, and they feel that they're [sic] involvement won't make much difference.

It's cynical for McConnell to say that a law to foster popular participation would "debase the entire political process." How could it be more debased than it already is? The country is ruled by special interests for special interests, and ordinary people have lost their voice in government. This measure would go a long way toward restoring it.

[From the Madison (IN) Courier, June 19, 1992]

THE DAILY GAZETTE OF SCHENECTADY, N.Y.: ON THE "MOTOR VOTER" BILL

With voter turnout nationwide growing more dismal with each passing election, it's vital that the government make more of an effort to get the masses involved. Registering is a start, and a bill passed by the Senate would help considerably toward this end.

The bill is known as "motor voter," because it would require the automatic registration of anyone who is eligible and applying for a driver's license, welfare, unemployment, disability or other government benefit. With an estimated 65 million—one-third of all eligible Americans—unregistered at present, plenty could be gained by the adoption of such a policy.

Republicans have long opposed "motor voter" because they fear that most of the people such a policy would affect—e.g., welfare recipients—would be inclined to vote Democratic.

Assuming a similar measure passes the House this summer, President Bush should resist the temptation to veto it.

[From USA Today, June 22, 1992]

EXPAND DEMOCRACY WITH THE "MOTOR-VOTER" BILL

Here's an easy way to drive up voter-registration totals for this November's presidential election.

President Bush is being handed a wonderful opportunity this month to counter with a pen stroke those critics who charge him with elitism.

All he need do: Sign the National Voter Registration Act, which Congress sent his way last week. The so-called "motor-voter" bill would order states to allow voter registration by mail or when people seek driver's licenses, welfare, unemployment or disability benefits.

The bill would create a simple, uniform way to register voters nationwide—a welcome change from practices in parts of the country that still discourage participation by offering voter registration only in tough-to-reach sites at inconvenient hours—or through confusing registration forms.

One result of such discouraging practices: Four in 10 of those eligible to vote haven't yet signed up to do so.

The motor-voter bill could get three of those four on electoral rolls, say backers. If registered, many of them would vote, says the League of Women Voters, which led 60 groups backing motor-voter registration.

Critics say the measure could encourage fraud. But it just hasn't worked that way in the 32 states that already have some form of motor-voter registration and the 29, including California, now letting voters register by mail.

Nor should opening up voter rolls automatically aid Democrats, a concern in the White House, where Bush's advisers are urging him to veto the bill. Says Oregon Sen. Mark Hatfield, one of the few Republicans voting for the bill: "I have seen studies that show both parties will benefit greatly."

Ruy Teixeria, who wrote Why Americans Don't Vote, says studies also show non-voters would have cast their ballots in much the same way as voters did. What non-voting will do, he says: Let special interests get their own way much more easily.

That's in no one's interest.

[From the Seattle Post Intelligence, June 24, 1992]

MOTOR-VOTER SPUTTERS

Conventional wisdom is that representative democracy is a case of the more the merrier. The more people voting, the more broadly and deeply the electoral results represent the will of the governed.

So why are President Bush and an alarming number of members of Congress loath to make it easier for more people in the country to vote?

White House spokesman have announced that the president plans to veto the just-passed national voter registration bill. The bill would require states to allow citizens to register to vote when they apply for drivers' licenses and welfare, unemployment and disability benefits. Washington's so-called motor voter registration law has been successful, as have similar laws in other states, in extending the franchise to more citizens. In fact, the national legislation was the brainchild of Secretary of State Ralph Munro and its prime sponsor in the House was Rep. Al Swift, D-Bellingham.

Alas, the margin of the bill's passage in each house of Congress was so slim as not to be veto-proof (268–153 in the House, and five votes short of the needed two-thirds majority in the Senate).

A number of senators and congressmen have some explaining to do. What do they have against bringing more Americans into the voting fold?

As usual, it's largely a matter of partisanship and not statesmanship.

Republicans traditionally fear that a broader circle of voters will translate into a broader base of support for Democrats. One must also suspect that this election year brings additional fears into the hearts of the president and congressional incumbents of both Republican and Democratic stripe. One such fear is the current antipathy toward incumbents among the citizenry. There is no sound reason to believe that those new to the voting game would be stalwarts of the status quo.

The official White House objection to the legislation—"it would increase substantially the risk of voter fraud"—is flimsy, as is the logic of vetoing a bill that would make it easier for more citizens to join in the democratic process.

We join the 32 million members of the American Association of Retired Persons and the 1.2 million members of Disabled American Veterans in urging the president to sign the bill.

[From the Chicago Tribune, June 21, 1992]

PARTY MOTIVES AND "MOTOR VOTERS"

(By Clarence Page)

WASHINGTON.—Should the federal government make it easier for citizens to register to vote?

Neither side has pure motives in the debate currently raging over the issue, but it wouldn't be the first time a good idea came out of partisan motives. Especially in Washington.

White House officials say President Bush opposes the "motor voter" bill Congress approved this week. It passed 268 to 153, six votes short of enough to override a veto.

The legislation is called the "motor voter" bill because it would enable all citizens to register to vote when they obtain or renew their driver's, marriage, hunting or fishing licenses.

It also would offer voter registration by mail and at the offices of state agencies like welfare and unemployment-compensation offices.

It would forbid the removal of a registered voter's name from the rolls for failure to vote and would encourage, but not require, same-day registration on Election Day.

Because the legislation won't take effect until next year, it won't have an impact on the current presidential race. Yet election-year politics have helped shape the debate.

Democrats offer grand reasons for why the legislation is desperately needed. They include fairness, convenience and a moral imperative to keep democratic principles alive as the nation's founders intended. On the less pure side, Democrats really like the measure because they hope it will bring out more Democratic voters.

Similarly, the Bush administration offers grand reasons for opposing the bill. They include the possibility of fraud, extra expense and an imposition on the right of states to set their own election rules. But the president and his fellow Republicans really worry that it will do what the Democrats hope: Bring out more Democratic voters.

It's not easy to persuade incumbents to tamper with voting regulations and procedures. Why mess with the system that put you where you are? But for the rest of us in a year of record-high anti-incumbency sentiments, the cynicism of present officeholders may be as good a reason as any for the public to urge the president to sign this bill and to be mighty outraged with him if he doesn't.

A dirty little secret among party politicians is their continuing effort to keep voter participation low so it can be controlled more easily.

Since the demographics of Democratic voters closely match those of the citizens who are least inclined to vote now, Democrats figure they will benefit from any bill that encourages more folks to come to the polls.

But it is important for both sides to recognize that Republicans can benefit, too. One survey taken after the 1988 presidential race, for example, found that if all the eligible voters who failed to vote had cast ballots, President Bush would have won anyway.

That's democracy. More voters means more voices. It doesn't necessarily mean predictable results.

It's hard to oppose any measure that helps keep politicians on their toes. The possibility of vote fraud is another matter. It is important to note that 30 states and the District of Columbia already have enacted some or all of the bill's provisions and none has reported an increase in suspected fraud.

As for the rest of the country, I see no reason why computer-age enforcement techniques can't help us modernize voter participation without opening the doors to ghost voters and other vote thievery.

As a participant in a 1972 vote-fraud investigation by the Chicago Tribune that resulted in several indictments and a Pulitzer Prize for the newspaper, I am not naive about the nefarious ways of fraudulent politicians. Chicago machines helped write the rules of the game.

But even in Chicago, election watchdog groups have marveled at the effectiveness of stiffer enforcement in recent years.

The argument that the "motor voter" bill is an unnecessary intrusion by the federal government into states' rights may be the weakest argument of all. The nationwide patchwork of state-run rules and procedures does less to protect voters' rights than it does to safeguard the ability of politicians to manipulate the electorate and protect their jobs.

The biggest enemy of legislation to ease voter registration and participation is inertia. Americans are slow to want to fix something that doesn't seem broken. But we also have to ask ourselves whether all of the hoops states make prospective voters jump through are really necessary.

[From the Buffalo (NY) Weekly, June 28, 1992]

WNY GOP UNANIMOUS ON PLAN TO INCREASE NUMBERS OF REGISTERED VOTERS: THEY HATE THE IDEA

Bush, Clinton or Perot. These are our choices in November. And even though we may complain about the limited selection, we still have the right to go to the polls and choose. But there are some area lawmakers who oppose measures that would make it easier for all eligible citizens to vote.

The House of Representatives recently followed the Senate's lead in passing the National Voter Registration Act of 1991, otherwise known as the Motor Voter Bill. This bill would allow anyone 18 years of age or older to register to vote when applying for or renewing a driver's license. It has been estimated that once enacted this bill would register between 50 and 60 million new voters in the first two years. So why did each and every Republican Congressman from Western New York vote the bill down?

The answer is politics. While every area Republican voted no, every Democratic Congressman from Western New York supported the bill.

The Republicans claim that the bill would do more harm than good. A spokesman for Representative Bill Paxon (R-Amherst) said that the bill would cost New York State money and would prevent the state from purging inactive voters from lists. Paxon's assistant also noted that there would be a "tremendous likelihood of voter fraud."

But what it really boils down to is that a majority of the new voters who would be registered under this act would most likely vote Democratic. The bill is expected to have the greatest affect on poorer, less educated voters, and, more importantly, younger voters.

Many people complain that young people don't vote. However, according to Rock the Vote, a non-profit non-partisan group that supports the bill, U.S. Census figures from the last presidential election show that 78 percent of 18–29 year olds who were registered to vote, voted. The problem is that most young people are not registered to vote. Many don't know how or where to register. While is why the Motor Voter Bill makes sense. After all, there aren't too many 18 year olds who don't have a driver's license.

Currently, registering to vote is not an overly complicated process. One can call up the Board of Elections and be sent the necessary forms. But to register for the Selective Service, which every male over the age of 18 must do, a trip to any post office is all that is needed. So why can't voter registration be just as accessible?

The bill is currently sitting on President Bush's desk. He has the power to either pass the bill into law, or to veto it. Insiders say that the president is not sending out supportive signals. Unfortunately, both the House and the Senate were a few votes short of the two-thirds vote necessary to override a veto.

The only way to get young people involved in the democratic process is to make voter registration accessible and convenient. Young people want to make their votes heard, but too often are overlooked by politicians who only want what is best for their party.

So please, if you aren't registered to vote, register. And let your representatives know that you support the Motor Voter Bill.

[From the Rochester (NY) Democrat and Chronicle, June 23, 1992]

Why Make It Hard To Vote?

As former President Jimmy Carter wrote on this page Monday, the No. 1 reason Americans don't vote is that they aren't registered.

The so-called "motor-voter" bill, now on President Bush's desk, would improve turnout by registering millions of new voters. The bill would require states to register citizens to vote when they renew their driver's licenses or apply for a range of social services.

This is a logical and simple way to make voters of those most often excluded from the electoral process—the poor, the young, the elderly and the disabled.

In attacking the bill, many Republicans say the measure would open the system to more fraud and force states to spend too much on making registration easier.

Not so. In fact, the bill would strengthen the penalties for fraud. Nor would registering more voters work to the advantage of Democrats, as Republicans seem to fear. Studies show that the opinions and preferences of non-voters are about the same as those of voters.

The League of Women Voters, which estimates that 70 million Americans aren't registered, sees the bill as another way to strengthen the democratic process.

Voting patterns continue to show that many people are fed up with politicians and the way government works. Four years ago, 57 percent of all adults voted for president. The percentage of voters was the lowest in the last 20 years.

The "motor-voter" bill is no panacea for voter disgust. But getting more people registered is the key to getting more people to the polls—the key to a more responsive government.

After all, in America voting is a right, not a privilege.

You do not have to be well-informed, though information makes you a better voter. You do not even have to be well-intentioned, though a concern for the welfare of all makes you a better citizen.

You do not have to "earn" this right—and no one ought to be able to make it difficult for you.

White House officials say they are advising the president to veto the bill. That's bad advice. The more voters, the better. A veto of the motor-voter bill would make the democratic process the victim of a political hit and run.

[From the Nashville, Tennessean, June 22, 1992]

Put Voters in Driver's Seat

With an electorate seemingly bent on driving incumbents out of office, it's probably not surprising that President Bush objects to making it easier to vote.

The House had barely passed the so-called "motor voter" bill last week before White House aides were promising a presidential veto. Bush should ignore the advice and sign the legislation.

Americans aren't voting. Just half of the electorate managed to turn out for the presidential election four years ago. Some don't vote because they aren't registered, surveys keep showing. And they aren't registered because it isn't as easy as it could be.

The National Voter Registration Act seeks to change that. It would make registration as easy as renewing a driver's license, buying a fishing license or applying to hunt. Voters could also mail in registrations, picking up applications at libraries, schools, and other government agencies.

Opponents argue that the law would encourage fraud as well as burden states with additional election expenses. If cost were truly a worry, Republicans wouldn't have offered an alternative to the bill promising states $25 million to "encourage" registration. States don't have to do any more than they already should have been doing with the motor-voter bill. And there are already ample safeguards to discourage vote fraud.

Other industrialized nations, including many that have only recently joined the ranks of democracy, have simplified their voting procedures. A country where voting has always been the hallmark of our government should be no less.

The bill doesn't guarantee more voter participation. It simply makes registration easier.

The two parties should fight hard about a lot of issues this year, but not about making it easier to vote. The nation needs more voters. The motor-voter act is a way to get them.

[From the Lake City (FL) Reporter, June 18, 1992]

Making Voter Registration Easier

If President Bush vetoes a bill that would register voters by mail or when they apply for driver's licenses or federal benefits, he will be doing many of the nation's elderly, poor, and handicapped a grave injustice.

The bill formally entitled the National Voter Registration Act or known colloquially as the "Motor Voter" law, was passed June 16 by a House majority of 268–153. In May, the Senate approved it.

The law would reach 90 percent of the estimated 65 million citizens who are eligible to vote but can't because they didn't register in advance of election day.

The Bush administration objects to the proposed law because it would designate welfare and unemployment benefits offices to serve double duty as voter registration sites.

"It would substantially increase the risk of vote fraud," contended Republican Rep. Robert Livingston of Louisiana.

Republicans also complained that Democrats removed from the original nonpartisan bill a provision requiring back-and-forth mailings to prevent mail registrations being used to put non-existent voters on the rolls.

Yet House Majority Leader Richard Gebhardt, a Missouri Democrat, told Congress, "We don't care which box on the ballot they check, Republican, Democrat or Perotian. We just want them to register because we want them to participate in the political process."

During the acrimonious House debate on the bill, the Republican leadership contended the federal act would force some 25 states to change their voter registration laws. And they accused House Democrats of refusing to give $25 million to help each of those states implement the new law because of fear they might not be re-elected.

Just before the June 16 vote on the bill, Bush issued a statement saying he would veto it because of the chance of registration fraud involved.

However, despite the president's threat of a veto, we strongly support the bill. It would give millions of disabled, elderly and poverty-stricken Americans a better chance to exercise one of the Constitution's great guarantees—the right to vote.

And by extending that right through easier voter registration, we will show the rest of the world that democracy, of the people, for the people, and by the people is a most noble process.

[From the Atlanta (GA) Constitution, June 18, 1992]

The President Opposes Easier Voting

Doesn't President Bush want to support participatory democracy? Isn't he concerned that Americans tend to vote less than citizens of most other Western industrialized nations? If so, he is doing a very peculiar thing: He has threatened to veto a bill that would make it easier for citizens to register to vote.

The "motor voter" bill, passed this week by the House or Representatives, would allow citizens to register to vote at the same time that they apply for or renew licenses to drive, get married, hunt or fish. It would also require states to offer voter registration by mail and at all state offices, including employment agencies.

Critics of the "moter voter" bill say it would encourage voter fraud, but that seems unlikely. Modern-day high-tech communications and monitoring systems can easily weed out those trying to vote illegally.

The state of Ohio modernized its voter registration system in 1977. It now allows voter registration by mail and at most state offices. It even allows private groups and businesses to print voter registration forms and to send them out with bills and newsletters. Ohio has not reported an increase in fraud.

It has, however, reported an increase in participation at the polls. Before it changed voter registration laws, Ohio had one of the lowest voting rates in the country. Now, it has the 12th highest. It makes sense that busy people would want registration to be easier and that making it easier would encourage people to vote. A 1988 national poll conducted by Cox Newspapers, which owns The Atlanta Constitution, showed that most Americans favor a voter registration system like Ohio's.

So why does the president oppose such a simple and good idea? Mr. Bush may be mired in old notions that suggest Republicans would be hurt by increased voting. It is still true that the affluent tend to vote more than the poor, that whites tend to vote more than blacks and Hispanics and that the employed tend to vote more than the unemployed. If those who are currently not faring well economically started to vote more often, they might back Democrats—or so the thinking goes.

But it turns out that things are not quite so simple. There are vast numbers of well-educated, middle-class citizens who do not vote. And researchers who have bothered to analyze non-voters say it is not so easy to tell whether Democrats or Republicans would gain from an increase in voter participation.

President Bush may be aiming at the Democrats in his opposition to the "motor voter" bill, but he could end up hurting democracy.

[From the Los Angeles Times, June 18, 1992]

LET "MOTOR VOTER" PICK UP LOST SOULS

(By Jimmy Carter)

President Bush now has a chance to strike a blow for democracy without sending troops to a distant country or asking the Congress for billions of dollars in foreign aid. All he has to do is sit at his desk in the Oval Office and sign a bill into law. The bill is The National Voter Registration Act, commonly called the "the motor voter" bill, which would make it much easier for Americans to vote. The bill requires states to allow registration by mail, to enroll voters when they apply for a driver's license and to register voters at other state agencies such as welfare and unemployment offices.

Our political system badly needs this law. Meeting the leaders of new nations and helping to monitor free elections, I've been fortunate enough to experience firsthand the political changes going on around the world. I cannot help but be struck by a sad contrast. In Eastern Europe, the former Soviet Union, Africa, Asia and Latin America, people are exercising their democratic freedoms as never before—fighting dictatorship, founding new political parties or voting in free elections. But in the United States, the headlines are about people feeling alienated from the democratic political process—Ross Perot riding dissatisfaction with politics to the top of the polls, people losing faith in the ability of Congress to govern and voting rates in many presidential primaries falling to an all-time low.

The reasons for this loss of enthusiasm for politics are many and complex, but one simple one has plagued us for years. It is much too hard to register to vote. President Gerald Ford and I were cochairmen of an extensive analysis before the 1984 national election, in which the major revelation was that any amazingly high percentage of people vote—once they are registered. When non-voters were asked why they didn't vote in the 1988 presidential race, only 17% said they didn't like the candidates or they just didn't care. The most common reason, cited by 37%, was that they couldn't vote because they weren't registered.

It's no wonder they weren't. Ours is the only major democracy that requires people to register several weeks before they can vote. And the registration process is a patchwork of rules and regulations, differing widely from state to state, that can baffle even the most well-intentioned citizen. How many Americans know offhand when, where and how they go about registering in their state? This is an especially difficult question for the one-third of the adult population moving every two years.

The statistics on voting reveal the grim effects of our current system. When I ran for President in 1976, 54.4% of the voting-age population voted—a figure that was much too low. Soon after taking office, I submitted legislation that would have permitted voting-day registration in federal elections. But the bill failed. Democratic congressional leaders, concerned that newly registered, unpredictable voters might endanger their sure reelection, killed the bill. The voting rate has declined steadily since, reaching an all-time low of about 50% in the last presidential election. During the 1990 congressional elections, turnout was 36%.

The bill headed for President Bush's desk would remove some of the important barriers responsible for this low turnout. It would also enhance the integrity of the registration process by strengthening penalties for registration fraud. Estimates are that 90% of the electorate will be registered if the bill becomes law, and at a very modest start-up cost and with long-term cost savings to the states.

Why then is the Bush Administration threatening to veto the bill? Unfortunately, they have succumbed to two myths, one spoken, the other only whispered. The spoken myth is that a motor voter law would invite voting fraud. Sen. Mark Hatfield (R-Ore.) has called the fraud claim a "red herring." There is no sign that "motor voter"-type laws in Oregon and other states have increased fraud.

The whispered but more significant myth is that unregistered voters would vote disproportionately for Democrats. Unfortunately for my party, that would not happen. Surveys consistently find that the political opinions of non-voters are very similar to those of voters. They split pretty evenly between the two parties. Both Republicans and Democrats would benefit from making registration easier, and our democratic system would be the real winner.

President Bush has expressed pride in his Administration's support for democracy abroad. By signing the "motor voter" bill, he can help out another troubled democracy, the one right here at home.

[From the Chicago Sun-Times, June 21, 1992]

BUSH SHOULD BACK BILL MAKING IT EASIER TO VOTE

(By Carl T. Rowan)

If the reports about voter apathy and anger are true, this may be the year when we get an answer to the disturbing question: What happens if you hold an election and no one shows up?

Not that Americans have been showing up in vast hordes for any recent election. Barely 50 percent of eligible voters cast ballots in the last presidential contest, and only one-third voted in the House of Representatives contests two years ago.

In contrast, Western European nations commonly get turnouts in the 80 percent to 90 percent range for national elections.

That is why I simply don't understand White House opposition to the "motor voter" bill passed by Congress last week, which would make it a lot easier for Americans to register to vote.

Nearly two centuries ago, Thomas Jefferson noted, "That government is strongest of which every man feels himself a part."

Back in Jefferson's days, few Americans had the opportunity to feel a part of their government, at least not by voting. Ninety percent of those who are eligible to vote today would have been legally disenfranchised in Colonial times—women, blacks, new residents, 18-year-olds, persons who didn't own land.

Over the years, we have given that previous right to vote to all these groups and more. But we have also made it difficult to exercise. The United States is the only democracy that puts the burden of voter registration on its citizens. Everywhere else, the government handles registration or doesn't require it. All people have to do is show up on election day.

The legislation just enacted by Congress would go a long way toward changing America's restrictive approach by replacing the variety of state registration procedures with sensible national rules.

If you meet age and other eligibility requirements, you would be able to register to vote when you got or renewed your driver's license. Or when you applied for a marriage, hunting or fishing license. The elderly could sign up when they go to a Social Security office.

States would also have to offer voter registration by mail and could not remove a registered voter's name from the rolls for not voting. Registration on Election Day would be encouraged.

The measure passed both the House and Senate by healthy margins, with some Republican support. But White House officials said they would advise President Bush to veto it on grounds that it would increase the risk of voting fraud and would be expensive.

Nonsense. The bill has strong anti-fraud provisions—tougher than those that currently exist in many states. It would make it a crime to coerce someone into registering or to falsely register. States would have to keep up-to-date, non-discriminatory voting lists and make reasonable efforts to remove ineligible voters.

And a couple dollars per voter is a cheap price to pay for participatory democracy.

A lot of observers suspect the real reason for the White House opposition is a fear that easier registration would bring more elderly, disabled and poor people to the polls, and they might favor Democrats. That's questionable. A New York Times/CBS News poll taken after the 1988 election indicated that if no-shows had shown, Bush would have beaten his Democratic foe, Michael Dukakis, by an even larger margin.

The survey also found that non-voters said the chief reason they didn't cast ballots was that they were not registered. Simplified registration is no cure-all for America's voting malaise. There are lots of other reasons people don't vote. Less-than-inspiring candidates. Nasty, negative campaigns. The feeling that "my vote doesn't make any difference."

I was struck by an article this week in which young voters told a Washington Post reporter how bored and turned-off they were by the political process. "It's not worth my time," complained one. This group—18- to 24-year-olds—has the worst voting record of any age segment. Only 86.2 percent voted for president in 1988 and just 20.4 percent—one in five—voted in the 1990 congressional elections.

We can't legislate charismatic candidates, exciting issues, more responsive government. But we can make the process of voting simpler and more accessible.

"Motor voter" does that. It is not a threat to anyone—except those who, unlike Jefferson, see danger when more citizens have a part in their government.

[From the New York Times, June 21, 1992]

VETO PROOF

(By Anna Quindlen)

My recollection of first registering to vote is that the process consisted of a young woman, a gymnasium and a clipboard. I could have told her my name was Vivien Leigh and she wouldn't have known the difference unless she'd seen "Gone With the Wind."

Voter registration, like solid waste management and zoning codes, is one of those issues that has a proven effect on people. ZZZzzzzzz. But last week the issue presented itself in a fashion that made me think about the ways in which we really count ourselves Americans. And it presented itself in legislation so obvious and so right that George Bush could only deal with it in one way.

A veto.

The National Voter Registration Act was passed by the House on Tuesday, a month after the Senate had done the same. The measure is cutely called "motor voter" because it would register people to vote when they receive or renew their driver's licenses. And it would also enable people to register at the offices where they receive welfare or unemployment benefits. Right now only 60 percent of those eligible are registered to vote, with this measure the number could rise to 95 percent. As it is in so many other democratic countries, voter registration would become almost automatic.

This doesn't simply mean more voters. Voting and jury service are inextricably linked. In most states, voting lists are a major source, if not the only source, of jury pools. What that means is that if we enlarge the pool of voters, we will also enlarge the pool of jurors.

The average registered voter in this country is older, whiter and better off than many other Americans. That's usually true of jurors, too. It's one reason we hear so many complaints about impartial panels, about a jury of peers. While we've come a long way from the days when only white male landowners could serve on juries, the poor, the young and people of color are still often missing from jury pools.

But what of the implicit societal peremptory exercised when the way we select them produces middle class jury pools that reflect neither the community nor the accused? A national motor-voter program could change that. Of the 70 million Americans not registered to vote, two out of three have household incomes below the median and many are minorities. Millions of them would likely register under the act and therefore be called to jury duty, too.

It is one measure of his isolation and supreme self-interest that the President would kill a universal franchise bill in a year of intense psychic disenfranchisement. For the people who would be registered are precisely the people who feel most estranged from government—the people of South-Central L.A. and of MTV. They are precisely the kind of people who need to feel included in the resolution of disputes and the dispersal of power. To feel part of the program.

At the risk of sounding like a Jimmy Stewart character in a Frank Capra film, think of that sensation of accomplishment you get when you draw the curtain closed on election day and are alone in your personal democracy, or when you file into a jury box with your verdict. That's the closest most of us get to pushing the buttons of this country ourselves.

Republican officials have been consistently hostile to this legislation. They have cried fraud, as though a young woman with a clipboard were the height of high tech. Perhaps because they haven't applied lately for a driver's license or an unemployment check, they don't know that either is a virtual administrative decathlon compared to the way many of us register to vote.

Fraud, schmaud—30 states have some kind of motor-voter law, and there has been no evidence of serious fraud in any. But there is evidence aplenty that many of the new voters registered under the act would be poorer, younger, Latino, African-American—to whit, possible Democrats. Not Our Kind, Dear, as they say in drawing room dramas. In a year of epic disenchantment, Congress passed a measure last week that would open up the two most important confined spaces in this country, the ballot box and the jury box. And that measure is destined to die on the President's desk.

[From the New York Newsday, June 19, 1992]

FLIMSY EXCUSES: MAKE VOTER REGISTRATION EASIER

Of all the bizarre White House excuses, this one deserves a spot in the Guinness Book of World Records: The Bush administration opposes a bill that would let people register to vote when they fill out their driver's license forms because it would encourage fraud. Never mind that no one has found fraud in the 30 states where citizens register at motor-vehicle agencies. Never mind that most states require far more identification to get a license than to register.

President George Bush will almost certainly veto the "motor-voter" bill, passed by the House of Representatives this week and by the Senate last month. Too bad the chances for an override are slim. The margin in the Senate was six votes short of being veto-proof; the House came up 22 votes short.

Only 60 percent of the 186 million Americans of voting age are registered, though 90 percent of them have driver's licenses. Under the bill, citizens would register at welfare, unemployment and other offices. Backers of this legislation say that all these steps would raise voter registration to 95 percent. Why would anyone oppose that? Richard A. Cloward, co-founder of Human Serve, an election-reform group, says look no further than the Republicans' phobia about the political consequences. Many of the new voters are likely to be poor ones, who traditionally vote Democratic. Unfortunately, Albany's attitude is not much better than Bush's. Gov. Mario Cuomo recently signed into law a bill that would allow registration at DMV, welfare and unemployment offices. But it has a gag rule that prohibits employees who hand out the forms from answering questions—a misguided attempt to avoid recruitment into political parties.

[From the San Diego Union Tribune, June 24, 1992]

MOTOR VOTER: THE DRIVE TO MAKE IT EASIER TO VOTE

(By Clarence Page)

Should the federal government make it easier for citizens to register to vote?

Neither side has pure motives in the debate currently raging over the issue, but it wouldn't be the first time a good idea came out of partisan motives. Especially in Washington.

White House officials say President Bush opposes the "motor voter" bill Congress approved last week. It passed 268 to 153, six votes short of enough to override a veto. The legislation is called the "motor voter" bill because it would enable all citizens to register to vote when they obtain or renew their driver's, marriage, hunting or fishing licenses.

It also would offer voter registration by mail and at the offices of state agencies like welfare and unemployment-compensation offices. It would forbid the removal of a registered voter's name from the rolls for failure to vote and would encourage, but not require, same-day registration on Election Day.

Because the legislation wouldn't take effect until next year, it won't have an impact on the current presidential race. Yet election-year politics have helped shape the debate.

Democrats offer grand reasons for why the legislation is desperately needed. They include fairness, convenience and a moral imperative to keep democratic principles alive as the nation's founders intended. On the less pure side, Democrats really like the measure because they hope it will bring out more Democratic voters.

Similarly, the Bush administration offers grand reasons for opposing the bill. They include the possibility of fraud, extra expense and an imposition on the right of states to set their own election rules. But the president and his fellow Republicans really worry that it will do what the Democrats hope: bring out more Democratic voters.

It's not easy to persuade incumbents to tamper with voting regulations and procedures. Why mess with the system that put you where you are? But for the rest of us in a year of record-high anti-incumbency sentiments, the cynicism of present officeholders may be as good a reason as any for the public to urge the president to sign this bill and to be mighty outraged with him if he doesn't.

A dirty little secret among party politicians is their continuing effort to keep voter participation low so it can be 'controlled more easily. For all their stirring speeches about why Americans should vote, if politicians had their way, only voters from their most dependable support base would use their right to vote. Those pesky independent voters, with their unpredictable ways, would stay home.

Since the demographics of Democratic voters closely match those of the citizens who are least inclined to vote now, Democrats figure they will benefit from any bill that encourages more folks to come to the polls.

But it is important for both sides to recognize that Republicans can benefit, too. One survey taken after the 1988 presidential race, for example, found that if all the eligible voters who failed to vote had cast ballots, President Bush would have won anyway.

That's democracy. More voters means more voices. It doesn't necessarily mean predictable results.

It's hard to oppose any measure that helps keep politicians on their toes. The possibility of vote fraud is another matter. It is important to note that 30 states and the District of Columbia already and none has reported an increase in suspected fraud. As for the rest of the country, I see no reason why computer-age enforcement techniques can't help us modernize voter participation without opening the doors to ghost voters and other vote thievery.

The argument that the "motor voter" bill is an unnecessary intrusion by the federal government into states' rights may be the weakest argument of all. The nationwide patchwork of state-run rules and procedures does less to protect voters' rights than it does to safeguard the ability of politicians to manipulate the electorate and protect their jobs.

The biggest enemy of legislation to ease voter registration and participation is inertia. Americans are slow to want to fix something that doesn't seem broken.

But we also have to ask ourselves whether all of the hoops states make prospective voters jump through are really necessary.

More important, we should ask ourselves this: Who benefits from a system that makes it harder for working people who have had to change their address, can't get down to City Hall to register during certain hours, or don't have organized volunteers handy to register them at local shopping centers?

[From the Madison (WI) Capital Times, June 22, 1992]

"MOTOR VOTER" A GOOD STEP

Voting is still the most important political statement that Americans can make, and an integral spoke in the wheel of citizenship.

But most people don't vote (Wisconsin being a shining exception). In some states, most don't even register to vote. And the number who do is shrinking every year.

There are lots of reasons why this is so, among them laziness and cynicism. Those are problems that no law can solve.

But there are barriers to voting that can easily be lowered. In many states people have to go out considerably of their way, in terms of both time and distance, to register. And there are registration deadlines, usually 30 days before an election. If someone can't find the time to register, or forgets, that person is effectively disenfranchised.

Congress last week passed a bill that would register eligible people to vote when they apply for a driver's license, marriage certificate, or for government benefits, or purchase a hunting or fishing license. Dubbed *"motor voter,"* it wouldn't require anyone to vote, only make it easier. It wouldn't solve the low-turnout problem, but it would enhance democracy.

Yet most Republicans in both the House and Senate voted against it, and President Bush is expected to veto it. Its critics claim it would open the door to voter fraud, but they've made no real case for that.

The real problem is that the party of "wealthy and white" doesn't want to make it easier for poor people or black people to vote.

Happily, U.S. Rep. Scott Klug of Madison was among 28 Republicans who joined Democrats in passing this bill. But they still came up short of the two-thirds needed to override a veto.

Faced with overwhelming evidence that "politics as usual" is deadly this election year, Bush and the most of the GOP stuck with their usual selfish brand.

[From the Bellevue, WA, Journal American, June 21, 1992]

MOTOR-VOTER FIRST STEP IN GETTING PEOPLE TO VOTE

(By Ralph Munro)

In the coming weeks, President Bush will have a significant opportunity to respond to the growing frustration in this country from those who feel they are powerless to influence the future of America. This opportunity comes via the National Voter Registration Act, which, if approved by the president, will guarantee American citizens uniform access to a safe, convenient system of voter registration.

The Voter Registration Act (S. 250), which has passed both the Senate and the House with bipartisan support, is a response to the alarming decline in voter participation witnessed in the United States during the past decade. In 1988, only half the nation's eligible population took part in electing a new president. During the 1990 congressional elections, the turnout of eligible voters was 36 percent—the lowest since 1942 and the second lowest since 1798.

There are three basic elements involved in addressing the problem of declining voter participation: registration, education and turnout. The Voter Registration Act is aimed at the first element. After all, you can't persuade people to go to the polls if they aren't registered to vote in the first place.

One of the most prominent features of the act would require states to institute a voter registration system commonly known as "motor voter." Under the motor voter system, eligible citizens are able to register to vote at the same time they apply for or renew their driver's license.

The state of Washington instituted such a program just five months ago. In that short amount of time, we have registered more than 100,000 people—about 4,500 registrations per week. At the current rate, our motor voter program will register 800,000 Washington voters during the next four years, an increase of 30 percent!

Motor Voter has been successful here and in other states because it provides a number of important advantages, both for citizens and for election officials:

Motor Voter provides a convenient, accessible method of registering to vote while maintaining personal contact with the applicant and the registrar. Most states maintain dozens of driver licensing outlets which are accessible to both rural and urban areas.

Motor Voter is especially productive in registering hard-to-reach groups such as young people, most of whom have a driver's license but don't have a voter registration card. It also reaches out to those who move within a state or into a new state. Approximately 25 percent of the American people move every year; the driver licensing office is one of the first places they visit when they change residences.

Motor Voter provides protection against fraud and abuse. By connecting the licensing and voter registration systems, federal, state and local election officials have several new cross-checks and auditing tools to protect the integrity of the registration process.

Motor Voter keeps registration lists accurate and up-to-date. The technologically advanced features of this system ensure that the voter registration rolls are updated on a regular basis.

Motor voter is cost-effective. States which have implemented motor voter programs have found it offers a lower per-transaction cost than any other form of voter registration.

The Voter Registration Act also will bring a much greater degree of uniformity to voter registration throughout the country. It should not be any more difficult to register in one state than it is another.

Finally, I believe the act will lead to increased voter turnout. People are much more likely to participate once they have gotten past the hurdle of registration. By providing a fast, convenient method of registration, citizens will be far more likely to sign up and to take part in the electoral process.

The bottom line is that voter registration is an administrative mechanism, and, as such, should be as convenient as possible for our citizens.

The National Voter Registration Act is not the cure to all that ails our elections process. It does, however, remove many of the administrative barriers to voter registration. Combined with campaign reform, voter education and programs to increase voter turnout, this legislation will provide a positive step in establishing a fully representative democracy in the United States. It is my hope the president will give it his approval.

[From the Illinois Southtown Economist, June 19, 1992]

ENACT MOTOR VOTER BILL

The Illinois Senate is expected to vote soon on whether to enact a so-called "motor voter" bill—a measure that would allow people to register to vote at driver's license and other government offices.

The intent of the bill is to encourage more eligible voters to register. Proponents estimate that 750,000 more Illinoisans would register to vote if the bill became law. In Cook County alone, 180,000 voters would register, County Clerk David Orr said. Orr predicted that the bill would result in a major increase in Election Day turnout.

The motor voter bill has already been approved by the House and by a Senate committee, with a vote in the full Senate expected next week. If the Senate approves, the bill will go to Gov. Jim Edgar for his signature. As it is now written, the bill includes provisions for voter registration at welfare and unemployment offices. Illinois Republicans reportedly plan to strike those provisions based on the premise that clients of those agencies tend to vote Democratic.

We agree with the bill's supporters, who say government ought to be doing all it can to enable everyone to vote, without regard to their political affiliation. The more people vote, the more representative government should be.

A similar bill that would affect the entire nation was approved by the U.S. House this week, after passage last month by the Senate. President Bush is expected to veto the bill, however, arguing that it would result in voter fraud. In fact, 30 states already have motor voter legislation, and none has reported significant increases in fraud. Democrats say Bush's opposition is based solely on concern that more Democrats than Republicans would register.

Ideally, the federal bill should be adopted. But since it appears that support is insufficient to override a presidential veto, Illinois should enact its own law. We urge the Senate to approve the bill, and Gov. Edgar to sign it into law.

[From the Louisville (KY) Courier-Journal, June 2, 1992]

THE ROAD TO THE POLLS

Sen. Mitch McConnell—a man not known for his sense of humor—said something very funny the other day. He suggested that the reason there had been a low voter turnout in recent elections was that the electorate was basically happy with its leaders.

Sen. McConnell might discuss that theory with his friend George Bush, who seems to be experiencing something quite different.

On the subject of voter turnout, the Democrats aren't nearly so entertaining. But they do have one suggestion that's been kicking around Congress for the past few years: Pass the "motor voter" bill.

If people could register to vote when they get their drivers' licenses, Democrats believe, maybe 95 percent—instead of 60 percent—would be eligible to vote. Although being registered is no guarantee that a person will vote, it certainly improves the odds. And in a democracy, the more people participating the better.

The House is expected to approve the motor voter bill, too, but what will happen when it gets to the president's desk? Probably, says a spokesperson, he will veto it. The politics of the bill are that it would make it too easy for the poor and minorities—who tend to vote Democratic—to vote.

Disgust with shenanigans like that is what keeps Americans from the polls, Sen. McConnell—not satisfaction with their leaders.

[From the Christian Science Monitor, May 28, 1992]

Make Registration Convenient

Why do George Bush and congressional Republicans want to keep American citizens out of the voting booth?

They don't say that's their intention of course, but that's the effect of Republicans' continuing opposition to a bill that would make it easier for Americans to register to vote.

The so-called motor-voter law would require states to register eligible voters when they obtain or renew a drivers license. It also would provide for voter registration by other state agencies such as welfare and unemployment offices, would authorize mail-in registration, and would prohibit states from purging the names of nonvoters from the rolls.

The bill was passed by the Senate last week. Now it goes to the House of Representatives, which passed a similar bill in 1990. President Bush appears set to veto the bill if it reaches his desk, though, and motor-voter backers lack the votes to override.

Voter turnout in US elections has been declining for years. It barely exceeds half of all eligible voters in presidential elections, and is lower in off-year congressional elections. The reasons include voter apathy and disenchantment, which won't be cured by legislation. Not to be discounted, though, are obscure and inconvenient procedures in many states that inhibit voter registration. Nearly 80 percent of registered voters cast ballots.

An important reason that many voters aren't registered is Americans' mobility. After moving to a new state, voters must reregister; often they forget, or are unfamiliar with the new procedures. Few forget to get a new drivers license, however.

Supporters of the motor-voter bill say it would raise voter registration from the current 60 percent of eligible voters to about 90 percent. The rise in voting would not be as dramatic. Still, enhanced registration would beget higher levels of participation in American democracy.

Opponents of the bill claim that it would facilitate vote fraud and would be expensive for the states to administer. The legislation contains safeguards against fraud, however, and the costs to the states wouldn't be budget-busters. What really concerns Republicans (and excites Democrats), one suspects, is the likelihood that many newly registered voters would be minorities, the poor, and other disenfranchised groups that tend to vote Democratic. No citizens should be deterred from registering and voting for partisan reasons.

Some say there's nothing wrong with requiring citizens to take some initiative to get registered, that voting shouldn't be "too easy." At bottom, that thinking is as exclusionary (and possibly racist) as the old literacy tests and poll taxes. At a time when voter disquiet is so high, and when so many Americans feel left out by the political system, people should be encouraged to become a part of their democracy.

[From the Hartford Courant]

Make Voter Registration Easy

One blot on democracy is the failure of millions of people to vote. Another is the failure to even register. In Connecticut, an estimated 700,000 people at least 18 years old are not enrolled to vote. Nationally, about 70 million eligible voters remain unregistered.

Connecticut's Legislature this year authorized voter registration at offices of the Department of Motor Vehicles. More than 95 percent of the voting-age population uses these offices. When they come to apply for permits, it makes sense to also register them to vote.

Twenty-seven states permit so-called motor-voter registration, and 17 others have legislation pending.

A national standard would make more sense than the hodgepodge of state laws governing voter registration. Last week, the U.S. Senate approved a measure requiring all states to permit registration by mail and at motor vehicle departments. Citizens would also be allowed to register when they applied for unemployment compensation, disability benefits and welfare.

Six Republican senators joined 55 Democrats in support of the bill, which is likely to be passed by the House, as it had been in previous years.

For the past three years, the legislation had been blocked by Senate Republican filibusters. But the filibusters gave up in 1992. "We can't put our heads in the sand and slow the registration of new voters," said Republican Sen. Mark O. Hatfield of Oregon.

One major obstacle remains. President Bush fears massive fraud resulting from such a law. There is no evidence to justify his fears. States that have permitted motor-voter and mail registration have not faced serious fraud problems.

The problem has not been ineligible voters rushing to register but eligible voters failing to register. Illegal aliens and felons have no interest in exposing themselves to prosecution by enrolling as voters. They would rather not give their names and addresses to the government.

Critics complain that requiring people to register when they go to a motor vehicle office would be coercive. People are not required to register, they may do so at the DMV.

Under the federal proposal, states would have until 1994 to make their laws conform. Surely, encouraging citizens to vote serves the national interest.

[From the Oregonian, May 27, 1992]

Approve the "Motor-Voter" Bill

With the backing of Oregon's Republican Sens. Mark O. Hatfield and Bob Packwood, a "motor voter" bill has passed the Senate 61–38 and will soon be taken up by the House, where its prospects are uncertain.

Even less certain is whether President Bush will sign S. 250, the National Voter Registration Act, even if the House approves it.

But House opponents and the President would be wise to consider the anti-incumbent mood of American voters before they balk at such a common-sense election reform. The House should pass the bill, and Bush should sign it.

S. 250, which Hatfield is co-sponsoring, would bring more uniform voter-registration practices to most states. It would permit voters to sign up by mail as well as at state agencies such as motor-vehicle, fish-and-wildlife, welfare and unemployment-compensation offices.

Twenty-seven states already have one or more comparable provisions, and a half dozen—Oregon among them—have motor-voter registration in place or awaiting a governor's signature. Oregon has registered 72,000 voters at Motor Vehicles Division offices in the last six months and has permitted mail registration for 17 years.

Republicans charge the bill would lead to widespread fraud, although little evidence supports that view. The GOP generally opposes encouraging wider registration on grounds that it tends to favor Democratic candidates.

Hatfield says Oregon's long experience has turned up "not one single case of fraud."

He and Packwood were among only six Senate Republicans supporting the bill.

The GOP's allegations about fraud are a red herring—especially in light of S. 250's criminal sanctions against false registrations and fraudulent ballots.

"Those who support this bill trust Americans," says Sen. Wendell Ford, D-Ky., the prime sponsor. Now all it takes is for House opponents and the President to trust them as well.

[From the Star Tribune Newspaper, May 25, 1992]

A Load of Voter-Registration Bull

This is a PBT test. It measures reader's awareness of political bull throwing, and is good preparation for this fall's election.

A voter-registration bill backed by the League of Women Voters and numerous other good-government groups has been pending in the Senate. President Bush has threatened to veto the bill. At White House bidding, Senate Republicans twice kept the bill from coming to the floor by threatening filibuster. When it did arrive last week, only six, Republicans (including Dave Durenberger) joined with Democrats to pass the bill.

The White House and its Senate Republican minions attribute their strong opposition to the bill's potential for encouraging voter fraud. Here's the test. Do you believe that explanation? If you do, you flunk. If you don't, congratulations. A certificate signed by Willie Horton will be in the mail.

The voter-registration bill, affectionately nicknamed "motor voter," would replace a patchwork state approach to registration with a uniform national program. It would require states to offer voter registration by mail, at state and federal offices and when driver's or other licenses are sought. Minnesota would be exempt because it already offers motor voter registration.

Numerous states have enacted some of those reforms over the years, and in most cases both voter registration and voter participation have increased significantly. The motor voter bill is designed to bring those benefits to voters in every state and to eradicate complicated registration procedures in some states that are designed to discourage voting.

Oregon Sen. Mark Hatfield, another of the maverick Republicans on this issue, had the best response to the concocted worries about fraud: Oregon has had mail registration for 17 years, and it hasn't produced any fraud. Minnesota's experience has been similar to Oregon's.

Fraud isn't the Republican worry. What's at issue is where those new voters will land;

Republicans are afraid many will be attracted to Democratic candidates. The cynics want to improve GOP fortunes at the polls by keeping many potential Democrats away. Instead, why not win elections the old-fashioned way: By earning voter trust?

Despite support from Durenberger and five of his Republican colleagues, the vote in the Senate fell six votes short of the number needed to override the promised veto. If Bush follows through on his threat and motor voter dies, remember, you passed the PBT test. You know why he did it.

[From the Asheville (NC) Citizen-Times, May 25, 1992]

WHITE HOUSE SHOULD SIGN NEW VOTER BILL

Legislation in Congress designed to broaden the voter registration process is long overdue. Under a hodgepodge of state systems that often require people to register at the courthouse or library at least 30 days before an election, all across the nation only about 40 percent of those eligible are now registered to vote.

The bill passed last week May 20 by the Senate won't please everybody, and there are rumblings of a veto threat. Dubbed the "motor voter" bill, it would require that people be registered to vote when they apply for drivers licenses, or for welfare, unemployment, disability and other benefits.

Thirty-two states including North Carolina already use some form of motor voter registration. Since 1984 registration has been available at any North Carolina Division of Motor Vehicles office to anyone who has other business with DMV.

Despite only a 50 percent turnout of eligible voters in the 1988 presidential election, about 80 percent of those registered went to the polls. The problem according to the bill's sponsors, is that 65 million people—nearly one-third of those eligible—are not registered.

Democrats accused Republicans of rehashing the same arguments used to oppose the abolition of literacy tests and poll taxes, and extending the vote to women and 18-year-olds. Six Republicans joined 55 Democrats to pass the bill despite Bush administration claims it would lead to election fraud and pressure applicants for benefits to register for the party in power.

Polling data suggested at one time that most unregistered voters were likely to be disaffected blacks and the poor—groups expected to constitute a potential pool of support for Democrats. Newer studies and Census data suggest that may not be so. "With a third of the population moving every two years, most of the unregistered voters now are young mobile Americans, and they tend to be Republican," said Susan Lederman, president of the League of Women Voters, which lobbied on behalf of the bill.

Senate GOP leaders, who had filibustered the bill for three years, predicted President Bush would veto it. If enacted, the measure could add millions of voter registration rolls around the country.

The House passed a similar bill in 1990, but Democrats there said they would not consider it again until the Republican filibuster was broken in the Senate. The House is now expected to act on it in the next two weeks.

It's the automatic registration provision that's likely to cause state election officials the most trouble. Estimated cost of implementation is $150 million. Democrats accepted one Republican amendment to the bill. It would delay implementing the bill by a year—until Jan. 1, 1994—to give state legislatures time to make their laws conform.

The bill also would require states to register voters by mail, and would forbid them from removing names from registration rolls just because they did not vote in recent elections. Names are purged from North Carolina registration lists if the owner hasn't voted in any election within eight years, unless that person specifically asks to remain on the books.

And this session of the Legislature is expected to enact several election laws, including registration by mail, that would put North Carolina close to conformity with the congressional mandate. We would become the 30th State to allow potential voters to register by mail.

There is also a plan to permit registration closer to the date of elections than the 28-day cutoff now in effect. Other proposals include allowing local boards of election to set up special polling places for the elderly and disabled, changing the registration deadline from four weeks to three weeks before an election and establishing a commission to study ways to set up a central, statewide computerized registration system.

With any luck, North Carolina will be well along the way in complying with the federal mandate when it goes into effect in 1994.

[From the Cleveland Plain Dealer, May 27, 1992]

"MOTOR VOTER," A LICENSE TO VOTE

Beyond all its ritual hand-wringing over America's low rate of voter turnout, Washington has crafted a practical measure that would encourage citizens to go to the polls. The Senate's recent passage of the so-called "motor voter" bill, simplifying voter registration, should inspire the House of Representatives to add its consent and send the bill to the president.

If the White House is serious about promoting citizens' participation, President George Bush's advisers should stop hinting that he might block this long-overdue advance for good government. A veto in this case would be unjustifiable.

The Senate's approval of the bill last week, with a bipartisan 61–38 majority, endorsed nationwide registration standards that would bring coherence to the state-by-state patchwork of election laws. The hassle of registration is certainly a deterrent to voting: Scarcely 50% of the voting-age population went to the polls in 1988, but the turnout rate among registered voters was about 80%. Easier registration would boost turnout among the 65 million or more citizens (about one-third of the electorate) who are not yet signed up to vote.

The "motor voter" measure would require every state, by 1994, to register voters automatically when they apply for driver's licenses, unemployment benefits, disability coverage and other social services. (Each applicant would also have the option of refusing to register.) Similar guidelines are already in effect in 29 states and have provoked no discernible outbreak of election fraud. The bill would also require states to use mail-in registration—a system now used in 32 states (including Ohio). Two states that boast some of the nation's highest turnout rates, Maine and Minnesota, have the simplest process of all: instant registration on Election Day. States that adopt such rules would be exempt from the new federal law.

Since the measure would not create any new bureaucracy, even the bill's skeptics admit that its administrative cost would be trivial. Nonetheless, the Senate majority had to overcome a three-year filibuster by some recalcitrant Republicans who dread a larger voter turnout. The opposition was led by a chronic naysayer to good-government reform, Sen. Mitch McConnell of Kentucky, whose reasoning seemed purely partisan: In the past, higher turnouts have tended to boost Democrats' chances while lower turnouts have favored Republicans.

That old rule of thumb may no longer be true. The lowest turnout rate in 1988 was among 18-to-24-year old men—precisely the voting category that has recently shown the strongest Republican voting trend. Although the new law might lead to a large increase in registration among members of minority groups, who often tend to vote for Democrats, analysts assert that the new standards would have no partisan skew. Yet many Republicans remain needlessly fearful of increasing voter turnout.

The House, which approved a similar measure by a comfortable 289–132 margin in 1990, should endorse the Senate's version and send it to the White House. Bush's signature would promote citizen participation: a veto could only be based on a narrow partisan calculation. To back up his get-out-the-vote rhetoric, Bush should sign this well-crafted initiative.

[From the Washington Post, May 25, 1992]

VOTING MADE EASIER

Half the states and the District of Columbia have moved in recent years to simplify voter registration, and last week the Senate moved to impose reforms nationwide. It passed a bill to require every state to adopt registration by mail procedures and allow citizens to register in connection with drivers' licensing and renewal. In addition, registration services are to be made available in the offices of direct-service government agencies like libraries, welfare centers and unemployment offices. Will this measure increase voter participation, as its sponsors claim? It's not certain, but it's worth a try.

In 1990, only 36 percent of eligible American citizens went to the polls—the lowest percentage since 1942. Reformers point out that a full 40 percent of eligible citizens can't vote because they are not even registered. Based on figures from states that have adopted streamlined procedures, they estimate that 90 percent of those eligible will register if the process is simplified.

Will federal standards unduly burden the states, as opponents claim? There will be start-up costs and some continuing expense, but in the District of Columbia, which adopted the so-called motor-voter system a couple of years ago, the cost was only 6 cents per registered voter. Would the bill increase opportunities for fraud and coercion? Again, experience in the states doesn't bear out this fear. There is cause for some concern that recipients of government benefits might feel pressured not only to register but to register in a certain party if the agency offering registration is the same one that confers benefits. But the bill contains strong new federal penalties for fraud and intimidation, which should take care of the problem.

The House is expected to pass this bill overwhelmingly, probably along party lines; with a handful of exceptions, this is what the Senate did. But the president is likely to veto it. Democrats charge that Republican opposition is grounded in the fear that almost all those added to the voting rolls will be Democrats. That outcome is far from a certainty, but partisan advantage is certainly not a valid reason to tolerate roadblocks in the registration process.

In this century, this country has greatly extended the franchise, first to women, then to 18-year-olds. Congress has also made good the Constitution's promise to secure the rights of minorities to participate in the electoral process. Yet there are still charges, in some quarters, that government red tape, unnecessary regulation and burdensome requirements keep citizens from the ballot box. This bill addresses those complaints directly and comprehensively. The president should sign it.

[From the Seattle Times, May 22, 1992]

National Motor-Voter: Simplify Voter Registration

Getting more people registered to vote is not the same as getting people to vote.

Proponents of a federal law that would make voter registration easier across the country exaggerate when they argue that it will automatically lead to bigger voter turnouts.

Even more off-base is the ludicrous assumption by one U.S. senator that low voter turnouts mean the electorate is content with it leaders.

Forget about voter turnout for now. The best argument for easier registration is simply that it is the right thing to do. In the world's oldest and greatest democracy, becoming a registered voter ought to be one of the most basic and common experiences of all citizens.

And it's government's job to see that it is easily accomplished.

The U.S. Senate this week approved a bill that would do just that by requiring states to allow people to register by mail or as they renew a license to drive, to fish or to hunt. It also would require states to offer voter registration at state agencies such as welfare and unemployment offices.

The House, which passed a similar bill by a wide margin two years ago, soon will take up the matter.

When it reaches the president's desk, Bush should reconsider his threatened veto. Surely this basic exercise of democracy—registering the eligible electorate—is an opportunity to set aside partisan bickering and avoid one more dreary example of government stalemate.

[From the Los Angeles Times, May 22, 1992]

Making Citizens Into Voters

All Americans live more stratified lives than the country sometimes cares to admit. Among American cities, Los Angeles—traveling mostly by private car, residing in economically and often physically segregated neighborhoods—sorts and separates its citizenry more aggressively than most. There are few places in this city where a Walt Whitman could say "I hear America singing"; few places, that is, where without regard for income or color or religion, we all mingle.

The military was once the place where democracy was on display in this sense. Public schools were another place where Americans met their fellow Americans. Now, we have a voluntary military. Many Americans never serve. As for the public schools, a large chunk of the population has put its children in private schools.

What's left? Stop in at the nearest office of the California Department of Motor Vehicles. There are ways for the better-heeled to avoid even this contact with the population at large, but, by and large, the DMV is a portal through which all eventually pass.

This week, the Senate approved by a 61–38 vote a bill that would make everyone who passes through that portal a registered voter unless a person specifically opts not to register. "Motor-voter" registration, already backed overwhelmingly by the House, does not guarantee, needless to say, that the thousands of new registrants it would create will bother to go to the polls. But it may well mean that some thousands from the politically inactive bottom quarter of the population may vote for the first time in their lives.

President Bush, seeing a danger of voter fraud, promises a veto. The League of Women Voters, backing the reform, maintains that built-in safeguards are more than adequate. As we try to put our burned and broken city back together again, anything that makes functioning citizens out of mere residents is worth a try.

[From the Barre-Montpelier (VT) Times Argus, May 7, 1992]

Reclaiming Government

Sometime within the next two weeks the U.S. Senate is expected again to consider the National Voter Registration Act, and Vermont's Republican Senator James M. Jeffords will be on the hot seat.

Jeffords has been a steadfast supporter of the bill, which is dubbed the "Motor Voter bill" because one of its provisions is to enable American citizens to register to vote when they apply for or renew a driver's license. His position has earned him disfavor among Republican senators, the great majority of whom oppose the bill. President George Bush, also a Republican, has threatened to veto Motor Voter if Congress passes it.

Jeffords has stood in the lonely company of Senate Republicans Robert Packwood and Mark Hatfield of Oregon, and David Durenberger of Minnesota, who favor the bill.

They should. The provisions of the National Voter Registration Act indisputably will spread the most fundamental right in a democracy—the right to vote—to millions not now included in this country's public decision-making.

Even from a partisan view, the GOP is wrong to fear that Motor Voter will unleash hordes of new Democrats upon the country. In fact, in the House of Representatives—which in 1990 approved a version of the bill while the Senate rejected it—Republican Whip Newt Gingrich favors Motor Voter for partisan reasons: He is cognizant of the support Ronald Reagan received in the 1980s from blue collar workers and independents, and of conservative trends among college-age Americans.

The National Voter Registration Act would make registering to vote throughout the United States easier and more uniform. Rather than having to decipher registration practices when they come of voting age or move to other districts (in a country where a third of the adult population moves every two years), citizens would be invited to register when they contacted motor vehicle departments or applied at agencies offering unemployment, welfare, job training, and other social programs. The act also would extend registration by mail to the 25 states that do not have it.

These reforms are important because U.S. voter participation hovers around a bleak 50 percent of voting-eligible citizens. When there is a presidential race, some 80 percent of eligible Americans take part; in mid-term elections is closer to 40 percent.

Consequently, the Bush "landslide" of 1988 gave him the support of merely a third of the eligible American electorate; and Congress is filled with people who needed the support of less than one in four of their qualified constituents.

So whose government is this? Certainly it's not the majority's. Even if fuller voter participation did not result in changes of policy or candidates, registration reform at least might result in a government of and by the people. In states where such provisions are in effect, they have captured an estimated 90 percent of the missing voters.

Arguments against the bill range from the arrogant to the cynical. Some contend that current hurdles to the voting booth help winnow out those not sufficiently informed or motivated to vote wisely.

They ignore statistics that indicate that the greatest barrier to fuller participation is not apathy, but prohibitive registration practices. They also ignore the duty of a democracy to hear the voices of all its citizens.

Motor Voter opponents also fret that registration reforms would be costly and would encourage fraud. In this computer age, neither claim seems likely; communications networks exist already that are capable of charting and cataloging information.

More distressing, though, are the misplaced priorities that impel opponents to worry more that someone might jimmy the system than that million now are left out of the American democratic process.

Senate Democrats have their priorities right on this bill, and so do a few Republicans. Jeffords is one of those, and should be supported by Vermonters when he endorses the National Voters Registration Act in the U.S. Senate.

Mr. FORD. Mr. President, I do not have any further time. Does my colleague want to respond? I will reserve the remainder of my time. I do not have very much.

Mr. McCONNELL. Mr. President, I think we are about through here. I would just like to refer to the bill. Subsection (b):

> Nonapplicability to Certain States.—This Act does not apply to a State described in either or both of the following paragraphs:
>
> (1) A State in which there is no voter registration requirement for any voter in the State with respect to an election for Federal office.
>
> (2) A State in which all voters in the State may register to vote at the polling place at the time of voting in a general election for Federal office.

The conclusion that staff on this side and this Senator draw from that is that a State that currently does not have motor-voter and currently does not have same-day registration has only one option if they choose not to go to motor-voter. In other words, if they rebel because it costs too much, or for whatever reason, they have to go, in my judgment, under this legislation—maybe reasonable people can differ about this interpretation—to same-day registration.

I would repeat, if in fact I am right about this and my colleague from Kentucky is wrong—I guess the courts can tell us that—but if I am right and he is wrong about this, what that will mean is same-day registration in eastern Kentucky and in Chicago and some other places, which I think would be an open invitation to fraud.

If I am right about this, it is another strong reason for this legislation not to become law.

Mr. President, I believe we are out of time here. If I have any remaining time I will be glad to yield it back.

Mr. FORD. Mr. President, may I have 30 seconds? I would just say to my friend, the intent of this legislation is, and I believe correct, that upon enactment of the legislation that motor-voter will be in place, and only excluded under that legislation are those States that have no registration requirements or same day requirements.

I yield the remainder of my time.

Mr. SIMON. Mr. President, when the Senate votes on Tuesday on overriding the President's veto of S. 250, the motor-voter legislation, I will be voting to override. I hope a two-thirds majority of my colleagues will be doing the same.

When we advance the right to vote, we advance our Nation. As Justice Black wrote in one of the celebrated voting rights cases:

> No right is more precious in a free country than that of having a voice in the election of those who make the laws; other rights, even the most basic, are illusory if the right to vote is undermined.

It is disturbing that President Bush has blocked this effort to remove obstacles to citizen participation in the electoral process. It is especially disappointing because the President once saw the value of high voter participation. In fact, when he served in the House of Representatives in the late 1960's, then-freshman Congressman George Bush introduced a bill to make election day a holiday. Listen to what he said at that time. He said:

> As the world's leading democracy, the United States should be ashamed of its lack of voter participation. I think we should force public attention on the voting process in an effort to increase voter participation.

Voter participation has dropped drastically since then and now President Bush is blocking our attempt to do something about it.

I am pleased that in my home State of Illinois there is strong support for the motor-voter legislation. Obviously, nothing that comes before us gets universal support or opposition. A number of the vigorous and active county clerks in Illinois support the changes in S. 250.

As David Orr, Cook County clerk stated recently, "More than ninety percent of eligible voters would be reached by the National Voter Registration Act. Now, approximately 178 million Americans are eligible to vote yet 70 million people are not registered to vote. This act helps those not registered to have easier access to the registration process. In suburban Cook County, this would mean an increase of 150,000 voters."

During the debate over motor-voter, other local election officials in Illinois came forward in support of the changes. In Henry County, county clerk Martha Sawyer stated, "I'm in favor of anything that would get people to vote. I don't look forward to the administrative headaches but I think we absolutely should try to make voting accessible to everyone. Of course, we're going to have to roll up our shirt sleeves and dig in also." And Dick Liebovitz, Rock Island County clerk said, "I have no problems with mail-in registration. Scott County has mail-in registration and there seems to be no problems with it."

Some have suggested that this bill is costly. In fact, the opposite is true. It is estimated that deputy registrars cost anywhere from $1 to $15 per voter registered. Motor-voter programs average between 3 cents and 33 cents cost per voter registered. And, Mr. President, we cannot afford the costs to this society when people do not participate in the civic process.

Our Nation has never made a mistake when we expanded the franchise or when we made it easier for Americans to vote. The President did err, however, when he vetoed the motor-voter bill. We should correct that mistake of his and vote to override his veto.

CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. BINGAMAN). Under the previous order the hour of 12:30 having arrived, the Senate will proceed to the consideration of the conference report accompanying S. 12, which the clerk will report.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 12) to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 14, 1992.)

The PRESIDING OFFICER. There will now be 2 hours of debate on the conference report to be equally divided in the usual form.

The Senator from Hawaii.

Mr. INOUYE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the conference report accompanying S. 12.

Mr. INOUYE. Mr. President, I yield myself 10 minutes.

The PRESIDING OFFICER. The Senator may proceed.

Mr. INOUYE. Mr. President, I rise today in support of the conference report on S. 12, the Cable Television Consumer Protection and Competition Act of 1992.

At this juncture, I wish to thank the members of the conference and the cosponsors of this measure for all of their work on this bill, particularly the author of this measure, Senator DANFORTH, and the chairman of our committee, Senator HOLLINGS.

The purpose of this legislation is very simple and straightforward: to promote competition in the video industry and to protect consumers from excessive rates and poor customer service where no competition exists.

At the same time, it continues to permit the cable industry to grow and bring to the American public a new array of programming and other services.

Mr. President, this bill represents a balanced and bipartisan package.

To promote competition, the bill ensures that competitors receive access to cable programming, not for free, but for the same price that the programming is sold to cable operators. It permits municipalities to construct their own cable systems in competition with the existing operator, and it prohibits a franchising authority from unreasonably refusing to award a second franchise.

Rates for cable service have risen three times faster than inflation, and complaints about poor customer service have been numerous.

And so to protect consumers, the conference report gives the FCC, and in some cases, local authorities, the ability to ensure that rates are reasonable where no competition exists.

This measure also directs the FCC to establish customer service standards.

Mr. President, S. 12 passed the Senate earlier this year by a vote of 73 to 18.

Because of its wide support and logic, a majority of both Republican and Democrats voted in support of this bill.

Supporters of this bill include: cities, consumer groups, most of the trade unions, public and commercial broadcast stations, the religious broadcasters, and senior citizens.

During the course of the committee consideration of this bill, I suggested many times to the cable industry that I would like to sit down and see if we could work out our differences.

My offers have all been declined. In fact, Senators HOLLINGS, DANFORTH, and I sat down with the head of the NCTA and the owners of the major cable systems last year in an effort to explore some compromise.

Our willingness to compromise was met with hardened opposition.

Mr. President, I want to address the contentions of the Motion Picture Association of America, [MPAA] that its concerns were ignored.

That is not the case. The MPAA opposed the provision in the House cable bill that would have restricted foreign ownership of cable systems.

Mr. President, that provision is not in the conference report.

The MPAA requested that the Senate include language prohibiting a cable operator from requiring a financial interest in a programming service as a condition of carrying that service. That language is in the conference report.

When the retransmission consent provision was included, the MPAA requested that we include report language clarifying that retransmission consent did not have any impact on future determinations concerning the cable compulsory license.

That language was included and is in the conference report. However, after the fact, the Motion Picture Association changed its mind and decided to oppose retransmission consent unless the cable compulsory license was repealed.

The cable compulsory license is a Judiciary Committee issue, and we all know that.

The Commerce Committee has done nothing to prevent the Judiciary Committee from taking whatever action it deems appropriate on the issue.

In fact, the House provided for the Judiciary Committee to participate in the conference, but, the House Judiciary Committee elected not to participate.

Had the House Judiciary Committee exercised its right to join the conference, the Senate Judiciary Committee would have been invited as well.

Finally, it is important to recognize that retransmission consent does not cause any harm to the motion picture studios.

The motion picture studios will not lose $1, or be subject to one additional regulation, as a result of this bill. The conference report states that the motion picture studios are free to negotiate whatever they deem appropriate when they sell their programming to broadcasters.

In fact, some studios have already revised their contracts to require that any compensation resulting from retransmission consent shall be paid to the studio.

Regarding retransmission consent, I also want to note that when the Senate considered this legislation in January, the cable industry supported the Packwood substitute, which contained the identical provision on retransmission consent. Thus, every Member who voted for the substitute or S. 12 voted for retransmission consent.

The retransmission consent provision in the conference report is identical to the substitute provision and S. 12 as approved by the Senate.

This measure will restore to broadcasters the same rights that every other programmer has. All other programmers have retransmission rights today, but the FCC took away the broadcasters' retransmission rights in 1959 to help a fledgling cable industry. There is simply no reason to artificially subsidize the cable industry off the backs of the broadcasters anymore.

The cable industry is no midget. They are giants today. The cable industry has opposed the legislation and has utilized a campaign that included not only misleading advertisements but inserts in cable subscribers' bills and even calls to cable subscribers in their homes in an effort to generate opposition to the bill.

So, Mr. President, I ask unanimous consent to include in the RECORD two articles, one from the Richmond Times and the other from the Washington Post, on this matter. These articles describe better than I can the consumer anger and frustration with some of the cable industry's lobbying efforts.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Richmond Times-Dispatch, Sept. 18, 1992]

Cable TV Lobbying Sparks Caller Anger

(By Peter Hardin)

For Sherri Wertz, disabled by multiple sclerosis and living on a fixed income, television isn't only a companion—it's "my best friend."

When a caller warned the Virginian that her cable bill might jump from $50 to $80 per month if Congress passes legislation for the government to regulate cable television, she was alarmed.

So she accepted the man's offer—on behalf of the National Cable Television Association—to have her call transferred to her senator's office free.

It was 10 or 15 minutes later, as Mrs. Wertz was listening to an aide to Sen. Charles S. Robb say cable operators might lose money under the bill, that the telephone line went dead.

Mrs. Wertz, who lives on the Peninsula, is furious.

First she was given misleading claims, she believes, then someone sympathetic to the cable operators who was eavesdropping cut her off at a strategic time.

"How dare you listen to a private conversation! It makes me angry," she fumed.

A spokesman for the industry group vehemently denied that any of the calls it helps transfer to Capitol Hill are listened to or cut off.

"We do not monitor those calls," said Carol Vernon of the National Cable Television Association.

Tempers are flaring as lobbying over a possible return to cable television regulation reaches a feverish pitch.

Backers say the regulation bill, scheduled for a vote in the House of Representatives today, is the most important piece of consumer legislation before the Congress.

The cable television industry has contended just as fiercely in a major advertising campaign, that the legislation would create costs that would be passed on to the consumer and raise their bills.

With full-page advertisements in newspapers, direct mail pleas, inserts in cable bills and spots on cable television channels, opponents have managed to catch a lot of attention.

They've worked so feverishly that key sponsors of the legislation found it necessary to hold a last-minute news conference yesterday to denounce "the big fat lie" and appeal for support among their colleagues.

"Cable has been attempting to hoodwink consumers," declared Rep. Edward Markey, D-Mass., a leader of the bill's backers. He contends the bill is necessary to rein in rapidly rising cable rates.

Both the House and the Senate are expected to pass the measure, a compromise of bills passed earlier by each chamber. It would regulate cable television rates for basic service.

But because the White House has threatened a veto, backers of the legislation are working to produce veto-proof margins of victory, especially in the Senate—where 34 votes will sustain a presidential veto.

In January, the Senate adopted its cable bill 73–18. Under pressure from the White House and other forces, however, it's uncertain how many Senators will support the new version.

The bill approved by House and Senate conferees would require the Federal Communications Commission to set "reasonable rates for basic cable service. That service would include local broadcast stations and government-access channels, such as C–SPAN, and public-access and community affairs channels.

Customers of basic cable service would be able to choose to pay extra for such offerings as CNN, ESPN, HBO, Showtime, the Disney Channel, Nickelodeon, and Discovery.

In addition, the bill would require that cable programming be made available to competitors, such as satellite delivery systems.

[From the Washington Post, Sept. 18, 1992]

Cable Lobby: At the Tone, Get Irate at Your Senator

(By Guy Gugliotta)

Is nothing sacred? Remember the good old days when the milkman jacked up your prices and told you that "if you don't like it, call your senator." And you did, and sometimes something good happened.

These days senators and congressmen sometimes get a bit jaded with telephone complaints, and who can blame them? Modern technology has given us answering machines, making it possible for voters to complain without having to talk to a human being.

Lobbyists have learned this. Now, with a little coaching, they can induce honest but not particularly knowledgeable voters to gin up an "irate" call-in campaign whenever Congress starts working on something they don't like. The voters may not know what they are talking about, but nobody's on the line asking questions.

This week's "light touch" prize for spontaneous outrage goes to the cable television industry, worried that Congress is going to enact a bill that would regulate basic rates for a service that many Americans find essential to their well-being.

Those who favor the cable bill—including most Democrats in Congress—charge that the non-regulated industry can now raise rates at will, particularly because one company almost always holds a monopoly.

Those who oppose the bill—the Bush administration, the cable companies and the entertainment industry—say that regulation will mean astronomical subscribers rates forcing cable operators to pay for programs now carried free of charge.

Sound confusing?

Not to worry. The cable companies will explain—in fact, they will listen in to make sure you get it right.

One night this week a cable company in a state that shall remain unnamed called up its subscribers to get them to urge their senator to vote "no" on the cable bill. Then the company patched the calls to the senator's answering machine. A barrage of "constituent complaints" followed, the kind of thing that would ordinarily cause a senator—this one plans to vote "yes"—to quake in his shoes.

Unfortunately for the cable company, its representative forgot to get off the line. Soon the senator's staffers were quaking with mirth as was a reporter who heard a playback. The "spontaneous outrage" had all the subtlety of a guillotine:

First voice (male): "Ma'am, you just speak."

Second voice (female): "I don't know what I'm speaking about."

First voice: "Uh, the cable bill. You don't want your cable prices to go up, right?"

Second voice: "No, I do not."

First voice: "Well, okay, just tell 'em that."

Second voice: "Tell 'em what? I mean . . ."

First voice: "That you don't want your cable bill to go up."

Second voice: "That's all I have to say?"

First voice: "Yes, that's all."

Second voice: "Okay—Senator, I do not want my cable—cable bill to go up."

First voice: "Thank you."

Second voice: "Thank you."

The next caller, better briefed, spoke with authority: "My name is . . . and I hope you vote 'no' on the cable bill." But then he blew it by asking an unnamed third person: "How's that?"

"Thank you," said a second voice.

"Okay," replied the irate caller. "Thank you."

The third caller, obviously unrehearsed, stumbled badly out of the box: "Senator . . ., vote 'no' on that bill . . . please."

"Cable TV bill," snapped the second voice.

"Uh, yeah, cable TV bill," said the irate caller, then asked his coach if he'd done it right.

"Fine," said the second voice.

The senator was not convinced.

Mr. INOUYE. One of the misleading arguments raised by the cable industry is that consumer rates will rise because of a provision in the bill. This concern arises out of the anti-buy-through provision which the industry believes will force them to install addressable systems in every consumer's home. So, to address this concern, the conferees agreed to give the cable operators 10 years to comply with this provision. Further, the FCC is given the authority to waive this provision if a cable operator demonstrates that it will lead to higher rates. In this way, both cable operators and consumers are fully protected.

CABLE RATES

Clearly the concern about excessive consumer rates has been the driving force behind this legislation. The July 1991 survey of cable TV rates by the General Accounting Office demonstrated that cable rates for the most popular basic cable tier of programming increased 61 percent since deregulation went into effect in 1986, while the rates for the lowest priced tier increased by 56 percent. During the same period, the cost of consumer goods only rose by 17.9 percent. Last year, Consumer Reports magazine found that cable rates have increased at a rate almost triple the rate of inflation since deregulation.

In many communities, consumers are paying more today for the basic tier and getting fewer channels than they received in 1986. In Honolulu, HI, my constituents paid $12 for 30 channels in 1986. Today they pay $12.95 for 14 channels, less than half of what they received in 1986. On the island of Maui, consumers paid $11.56 for 34 channels in 1986 and today they pay $14.95 for 9 channels, less than a third of what they had 5 years ago.

Clearly, Congress must respond to the unfair practices that occur when the cable operator is a monopoly. But there is no need for Government involvement where there is competition. The Consumer Federation of America, for instance, found that rates for cable service were 30 percent lower in areas where there was competition.

For these reasons, the conference report does not permit the FCC to regulate rates for cable service where there is no effective competition. The conference agreement further provides that, where there is no effective competition, the FCC must ensure that the rates for basic service are reasonable and that the goal of such regulation is to provide for consumers the rates that would be charged if there were effective competition.

In prescribing such regulations, the FCC shall seek to reduce the administrative burdens on subscribers, franchising authorities, cable operators, and the Commission. There is a separate provision requiring the Commission to also reduce burdens on cable systems with fewer than 1,000 subscribers.

As passed by the Senate, S. 12 required automatic regulation of certain tiers of cable service in addition to the basic tier, if less than 30 percent of cable subscribers took only the basic tier. This provision is not in the conference report.

In addition, both S. 12 and the conference report include what could be called a bad actor provision. The conference report provides that the FCC may regulate, on a case-by-case basis, rates for tiers of programming other than basic if it receives a complaint that demonstrates that a rate increase is unreasonable. The conference report does not permit regulation of programming services offered on a per-channel basis, such as HBO and Showtime.

Finally, the conference report includes the House provision that prohibits cable companies from requiring customers to buy the basic tier and upper tiers before they could purchase premium channels, the anti-buy-through provision. To ease the burden on cable operators, however, the conference report gives cable operators 10 years to comply, and the FCC may waive the requirement if cable operators show that compliance would raise consumer rates.

ACCESS TO PROGRAMMING

The access to programming provisions of S. 12 were designed to encourage competition. These provisions provide other multichannel video providers with access to the programming owned by cable operators on the same prices, terms, and conditions as cable operators.

The conference agreement adopts the House language which has a similar effect as the original Senate provisions. The conference report prohibits discrimination that would have the effect of significantly impeding competition. Exclusive programming contracts are prohibited for 10 years unless the FCC determines they are in the public interest. The FCC may extend the 10-year time period. Programming vendors owned by cable operators may establish different prices, terms, and conditions which take into account economies of scale, costs savings, on other direct or economic benefits.

The access to programming provisions also ensure that satellite dish owners and wireless cable subscribers will have access to programming at reasonable prices.

The conference report does not require cable programmers to give their programming away for free, or even to make it available at discount rates. It only requires that it be made available and that the price not be discriminatory.

RETRANSMISSION CONSENT

The retransmission consent provision is straightforward: When a local station forgoes the option for must carry protection, it may utilize its retransmission rights to negotiate with the local cable system over the terms and conditions of its carriage on the system. Thus, broadcasters will have the option of being treated like any other cable programmer. Cable operators are not required to pay any compensation to broadcasters. In fact, Telecommunications, Inc. [TCI], the largest cable system in the country, has stated that it will not compensate broadcasters for carriage of their signals.

S. 12 will not cause consumer rates to increase because the bill explicitly requires the FCC to consider the impact of retransmission consent on rates in implementing this provision, and the FCC must ensure that this provision complies with the requirement that subscribers' rates be reasonable.

MUST-CARRY

The must-carry provisions in the conference report are very similar to those that were in S. 12, as passed by the Senate. On the issue of stations with sales presentation formats, the conference report includes a compromise that bars such stations from receiving "must-carry" pending the outcome of the FCC proceeding to determine whether such stations are meeting their public interest obligations. The conference report also requires that this proceeding be a de novo proceeding.

Mr. President, it has been argued that S. 12 will irreparably harm the cable industry. I can assure you, as all experts have noted, it will not. Last week's Wall Street Journal stated that the new bill will not hurt cable stocks despite operators' complaints about new financial burdens. That article also quotes a Bear Stearns analyst as saying that the cash of cable operators will not change as a result of this bill.

S. 12 will promote competition, Mr. President, and impose regulation until that competition develops. So I urge all of my colleagues to read the GAO report and the Consumer Federation study and to look beyond the rhetoric being employed by the cable industry to the solid foundation that supports S. 12.

Mr. President, I urge all of my colleagues to support the conference report on S. 12.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Thank you, Mr. President.

Mr. President, I want my colleagues in the Senate to know that the conference report is not, by any stretch of the imagination, the same as S. 12 when it was passed out of the Senate.

Here we are today on the floor of the Senate unnecessarily spinning our wheels in what amounts to nothing more than a special-interest mudslinging contest between competing communication industry segments; debating a massive and, yes, regressive stifling cable reregulation bill.

At the same time, Mr. President, major national communications policy questions critical to our great Nation's economic and social welfare to go unaddressed.

This is unfortunate. In many ways it is tragic. It is an occurrence that is becoming too common here in the Congress. As gridlock, frustration, partisanship overtake the Senate and the Congress, it is becoming increasingly clear that we are seemingly unable to address the major issues of our time.

Today, in America, we are witnessing the dawn of a new era—the information age. As a result of breathtakingly rapid technological developments in the computer software and hardware, consumer electronics, and cable television and telecommunications industries, a true revolution in the delivery of entertainment, information, transactional, and telecommunications services is at hand.

Through a confluence of interests, this information age, digital technology revolution will bring together a broad cross-section of industries that have heretofore considered themselves unrelated. The marrying of the cable converter box with the computer, the digitizing and compression of audio and video programming, the widespread utilization of fiber optic technology, as well as computer software multimedia development, will ultimately allow immediate access to and manipulation of a bounty of entertainment and informational products, educational and instructional services, health care and telemedicine applications, transactional services, huge databases, and the like.

Over the balance of this decade and into the 21st century, this digitization phenomenon will revolutionize the communications industry, have profound implications for the consumer electronics, entertainment, and computer industries, and change our way of life forever.

We in this Congress have a golden opportunity to be America's new high-tech pioneers—an opportunity to explore the new American frontier of high-tech telecommunications and computers that will be unleashed through the deployment of hair-thin, glass strands of fiber optic cable and the crackling of radio spectrum frequencies.

By taking bold, forward-looking actions to accelerate the deployment of advanced telecommunications networks, we could markedly improve our international competitiveness posture and dramatically spur domestic economic growth, productivity and job creation. Furthermore, through advanced educational, health care, and other social services made possible with advanced telecommunications technology, we can establish a quality of life for all Americans which is unparalleled in our Nation's previous history.

Yet, as America stands at this critical crossroads—the dawn of a new, revolutionary era in high technology, entertainment, information, and telecommunications—we are presented with burdensome, unnecessary legislation whose every provision is designed to shackle and constrain one of the shining stars of this coming information age digital revolution.

During the past decade, spurred by the incentive scheme constructed in the 1984 Cable Act, the cable television industry has performed a tremendous service for our Nation. As the cable industry grew, Americans were given access to an unprecedented wealth of information, news and entertainment.

The cable industry has substantially increased channel capacity and developed a host of unique entertainment, information and news services not previously available across the Nation.

Moreover, in important areas such as education, the cable industry has been instrumental in developing innovative distance learning programs, bringing together students and teachers when geographic location, jobs, or home responsibilities would otherwise make learning impossible.

The cable industry created nearly 70,000 new jobs during the 1980's. In 1991 alone, 4,000 new jobs were created by the cable industry. This does not include all the jobs created by the industries that support the manufacturing, distribution, and construction of the materials to operate a cable system. These are not low paying jobs. In my State of Montana, jobs in the cable industry pay nearly double the average wage.

In short, cable television has been an American success story. This success was achieved because Government policies encouraged investment and growth.

What is Congress' response to an industry that creates thousands of new jobs each year, an unprecedented selection of programming for consumers, and technological innovation? A massive cable regulation bill that will impose a stifling regulatory regime on the cable industry, which will in turn discourage investment in increased channel capacity, in innovative programming, and in new transmission technologies such as fiber optics. All of which will be critical to job creation during the remainder of this decade and the 21st century.

The proponents of the conference report propose to take bureaucratic redtape, wrap it around and around the cable industry to the point that new jobs, programming creation, and technological innovation stops in its tracks. I think this is bad news for our economy and bad news for consumers.

Because of the adverse effect it would have on jobs, technology, and programming innovation by imposing yet another layer of stifling Government regulation without removing those artificial obstacles which preclude competition from developing, I, like President Bush, strongly oppose the conference report to S. 12.

There are several fundamental flaws with S. 12.

First, S. 12 is anticonsumer. It would substantially raise cable operating costs. As a result, rates will rise, not go down as promised by the supporters of this bill.

Consumers would be denied the benefits of improved service quality, new products and services, and expansion of cable to areas not now served.

Moreover, regulatory costs of $22 million to $60 million annually at the Federal level and over $250 million annually at the State and local level would also be paid by taxpayers or consumers.

No one should be surprised if consumers wind up picking up this tab one way or another. Where else is the money going to come from? The sponsors of cable reregulation may not intend for the costs to be passed along to consumers. But will regulators be able to force cable companies to absorb those costs?

Second, in the stifling regulatory environment envisioned in S. 12, cable companies will be discouraged from investing in new, innovative programming and transmission technologies like fiber optics. This massive investment by cable has produced tens of thousands of new jobs.

The mere threat of such a regulatory regime had a negative impact on cable industry investment the last 2 years.

In 1990, for instance, cable industry capital expenditures fell by $268 million, or 13 percent from the previous year's level. This decline followed a trend of double digit increases following deregulation in 1984. In 1991 capital spending fell another $150 million.

Third, the conference report does not remove the existing barriers to increased competition in the video services marketplace. For instance, S. 12 does not attempt to address the prohibition on telephone company provision of video programming. Moreover, cable companies are not encouraged to launch a competitive effort into the telephone business. As a result, S. 12 fails to modify the existing disincentives on telephone and cable television company investment in advanced telecommunications technologies.

In fact one of the only procompetitive provisions in the bill—a modest expansion of the rural exemption which would permit telephone companies to compete with cable systems in rural America—was unceremoniously stripped from the bill in conference. Thus, to hear this bill called procompetitive is simply false.

S. 12 also does not sufficiently modify the existing treatment of the local franchise requirement which, in effect, results in an exclusive, monopoly license to provide video programming.

I, like President Bush, believe that competition, rather than reregulation, creates the most substantial benefits for consumers and the greatest opportunities for American industry.

Competition, as I have proposed in separate legislation—which was coauthored with Democratic vice-presidential candidate AL GORE, endorsed by the Bush administration, and whose goals were embraced by Governor Clinton—would drive down rates and improve service quality for consumers, while promoting industry development and technological innovation.

According to one independent study, competition could result in $4.41 billion in annual benefits or $80 per year for each cable subscriber in America.

The television marketplace is evolving and increasingly competitive. Since the debate to reregulate the cable industry began 3 years ago, the FCC has taken several significant steps to increase competition in the video programming marketplace, most recently authorizing telephone companies to deliver video programming to consumers through video dialtone service.

The FCC also changed its effective competition standard, making nearly every cable system's basic tier subject to local rate regulation today. The full impact of these actions has not yet been felt, and there are a lot of unknown actions out there.

The conference report looks to the past to resolve today's problem—with no eye to the future. We need to consider how the legislation will affect telecommunications consumers tomorrow and the day after tomorrow—and the day after tomorrow how we compete, not 5 years from now, but 20 years from now. The ongoing digital revolution in communications products and technology is driving dramatic changes in the marketplace and regulation. If we limit cable's ability to compete in the many promising new communications services that are on the horizon, we will damage its ability to compete in the many promising new communications services that are on the horizon.

In conclusion, Mr. President, the adverse effect of S. 12 will have a long-term negative impact on our national welfare because it will substantially delay the deployment of an advanced telecommunications infrastructure essential to our long-term national prosperity and quality of life in the coming information age I described earlier.

The technology of the information age will be developed, controlled, and exported by countries that encourage a steady stream of ideas and innovations in communications, not in countries that construct an array of regulatory obstacles and barriers.

Cable operators and programmers are preparing for the 21st century by continuing to expand viewer choices and to develop new technologies. The conference report accompanying S. 12 would not further these efforts—in fact, it would have a contrary impact. In the end, consumer choice could be drastically reduced. That is why I will continue to work to defeat this bill.

Mr. President, I ask unanimous consent that the veto message by Mr. President Bush be entered into the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, September 17, 1992.

Hon. ROBERT DOLE,
Republican Leader, U.S. Senate, DC, Washington, DC.

DEAR SENATOR DOLE: I am writing to express my strong opposition to the Conference Report to accompany S. 12 (Cable Television Consumer Protection and Competition Act of 1992), which the House and Senate will consider in the next several days.

This legislation will hurt Americans by imposing a wide array of costly, burdensome, and unnecessary requirements on the cable industry and the government agencies that regulate it. The heavy-handed provisions of the bill will drive up cable industry costs, resulting in higher consumer rates, not rate reductions as promised by the supporters of the bill.

The bill also restrain continued innovation in the industry, cost the economy jobs, reduce consumer programming choices, and retard the deployment of growth-oriented investments critical to the future of our Nation's communications infrastructure.

My vision for the future of the communications industry is based on the principles of greater competition, entrepreneurship, and less economic regulation. This legislation fails each of these tests and is illustrative of the Congressional mandates and excessive regulations that drag our economy down.

Congress would best serve consumer welfare by promoting vigorous competition, not massive re-regulation.

For these reasons I will veto S. 12 if it is presented to me, and I urge its rejection when the House and Senate consider the Conference Report.

Sincerely,

GEORGE BUSH.

Mr. BURNS. Mr. President, I ask unanimous consent that an array of editorials by major newspapers across the country, all the way from the Dallas Morning News, the Wall Street Journal, saying that this business of reregulation is very dangerous especially in this area, be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 19, 1992]

UNCLE SAM IN CHARGE OF CABLE

The cable legislation approved by the House and now headed for a Senate now calls for the federal government to step in and reregulate the industry from rates to program packaging. But this approach assumes that cable, now supplied mostly by monopolies, is a utility as necessary as electricity or telephone service. In fact, cable is a consumer option in what should become a more competitive market. This particular bill would give government a role in cable that consumers may not find so welcome over the long haul.

Forget the cable industry ads predicting that passage of the bill would send everybody's cable rates through the ceiling. Forget as well the arguments of supporters—including over-the-air broadcasters, who like a provision that would force cable operators to negotiate with them before retransmitting their signals—that the bill would force price cuts of up to 30 percent. Both sides—and we note here that The Washington Post

Co. owns cable systems as well as broadcast televisions stations—have resorted to heavy lobbying. So has the motion picture industry, which opposes the bill because Hollywood wouldn't get any cut of the royalties that broadcasters could seek from cable operators.

Under the measure, the government would set "reasonable" rates for what it would define as "basic" programming, control prices for installation and equipment, require efficient customer service and force cable operators to equip all subscribers for channel selections that now are sold as packages of channels. The result of all these requirements is not more competition; it's more likely to be cost-cutting by eliminating cable programming or even entire channels.

The effort to control gouging by cable operators should focus on increasing competition, not on heavy reregulation. Until competitors do materialize, some determination of a reasonable rate of return for certain basic cable service is a legitimate legislative pursuit next year. This bill goes overboard.

[From the Wall Street Journal, Sept. 17, 1992]

CABLE KIBOSH

The cost of two tickets to a Broadway show is now more than $100. The $5 movie ticket is a thing of the past in most cities. But is anyone calling for federal price controls on Broadway or the movies? Yet that's precisely what Congress will do to cable television if it passes a bill to reapply 1970s-style regulation to the industry.

Voters are in an ugly mood, and incumbents are desperate to show effort for the folks back home. It's no surprise Congress has seized on cable TV rates, which have gone up faster than the rate of inflation and are a sore point in many of the 60% of American homes with cable. But rather than find ways to make the industry more price competitive. Congress is on the verge of short-circuiting a new, promising technology for short-term political gain.

More troubling, there are rumblings that the Bush administration will take a pass on a long-promised veto. That's because House Minority Leader Bob Michel has gone over with the re-regulators (and the broadcasters), calling into question a veto-override vote.

The bill before Congress is a nightmarish morass of rules that can only impede the development of cable technology and new programming. Venture capitalists won't want to become hostage investors in cable under a provision requiring them to wait three years after purchasing a system before they can sell. The bill so micromanages cable companies that it even specifies the number of phone lines they must have to handle complaints.

The cable industry, for all its lobbying and moaning, isn't particularly credible because of its record of defending local cable monopolies. After the industry secured the deregulation of cable-service prices from Congress in 1984, it continued to insist that cable was a natural monopoly and that cities should grant just one franchise per city. This ignored the record of the 65 cities that allow more than one cable operator. In those more competitive areas, cable TV prices *fell* an average of 25%, and subscribers had fewer service complaints.

By seeking to protect their noncompetitive franchises while defending their right to run up prices, the cable industry invited Congress to re-evaluate its 1984 decision to deregulate. Defenders of the cable bill before Congress claim it will work against monopolies by barring cities from awarding "exclusive" cable franchises, but that is legal gobbledygook. Few cities award explicitly exclusive franchises, and no one thinks the bill will affect any of their cozy deals with local cable firms.

If Congress would only resist the temptation to keep changing the signals it sends on cable TV, emerging new technologies will make many of the complaints about the industry moot. Local telephone companies will soon be able to transmit TV signals using digital and fiber-optic technologies. Computers will be linked with TV monitors to offer a variety of viewing choices that will make today's cable systems as outdated as a rabbit-ears antenna. But there is no way the benefit of these emerging technologies can be fully realized if Congress insists on second-guessing the process every step of the way.

[From the Dallas Morning News, Aug. 15, 1992]

CABLE TV: RATE REGULATION ISN'T THE BEST ANSWER

With an enormous budget deficit breathing down its neck, Congress cannot afford to court the voters' favor this year by approving a big, across-the-board tax cut. So lawmakers have had to look for other means to show empathy for their constituents' economic plight. One way has been to go after the cable television industry in hopes of driving down rates.

A conference committee is about to consider House and Senate bills that would reregulate cable TV. Eight years ago, Congress relieved cities and counties of that regulatory authority. At the time, the cable industry argued that local control no longer was necessary, since its competition with broadcast TV, videotape rentals and other forms of entertainment would hold down rates.

As any cable subscriber knows, that has not worked as well as planned. Rates have gone up substantially, and customers continue to complain about service.

Enter Congress, with its proposed price controls. Both House and Senate measures would require the Federal Communications Commission to set the rates for basic cable service; local officials then would be responsible for administering the schedules. The House bill also would punish cable operators who charged "unreasonably" for more specialized programming.

Virtually everyone agrees that problems exist with cable TV. But the idea of Congress again allowing communities to play politics with local franchisees is hardly comforting. President Bush has promised to veto the legislation, as well he should.

But, then, what will help consumers? Healthy competition. Satellite services and other technologies are gearing up to vie with cable companies. The government should do whatever it can to encourage that competition, so that viewers can choose from among various channel providers.

As appealing as reregulation may be at the moment, it is no long-term answer. Over time, price controls can become either unduly restrictive or unenforceable. The best remedy is to give consumers who want their MTV additional ways of receiving that programming. That is where business and government should be focusing their attention.

[From the Des Moines Register, Aug. 3, 1992]

DON'T RE-REGULATE CABLE TV

Consumers may not have liked it when the chain that operates all but one movie theater in the Des Moines area raised its rates last year. But despite increases in movie-ticket prices, from $4 to $5.50 since 1988, nobody has given an instant thought to calling for federal regulation of movie-theater prices. Why? Because going to the movies isn't an essential activity. There's simply no need for government involvement.

That's the way it is with cable television, or at least the way it ought to be. It's nonessential activity, an add-on entertainment service that expands on what most consumers can get, at no charge, over the airwaves. But Congress nonetheless is on a tear to reregulate cable rates. Lawmakers, for the second time in two years, are trying to make their constituents happy by fighting the cable industry.

Last time sponsors weren't able to round up enough votes. This time legislation has been approved by both Houses of Congress and now is in a House-Senate conference committee. The only thing that could derail the stampede is a threatened veto from the president.

There's no question that since cable operations were deregulated in 1984, increases in rates have been outrageous, three times the rate of inflation. Proponents of re-regulation argue that the industry gets by with hefty price hikes because 97 percent of cable systems operate where there is no effective competition.

But tinkering by Congress may not help. One way or the other, cable operators will get their profit. It could be by accelerating the trend toward pay-for-view or by reducing service. The proposed legislation would try to limit pay-for-view, but would not prohibit it.

In some respects, the cable industry has been its own worst enemy. Not only have prices increased rapidly, customers in many areas also complain about poor service. While the number of channels offered has expanded, customers in some cities get far more for their money than those in other cities.

Still, cable is increasingly popular—more than 60 percent of all homes now are wired. Those paying the bills in those households have an effective option if they don't like the price. They can discontinue the service. That's a much better option than what's now being considered in Washington.

[From the Miami Herald, Aug. 3, 1992]

LET'S NOT RERUN THAT TURKEY

Don't touch that dial or zap that channel. Congress, which helped bring you the ever popular serials Federal Deficit and Savings-and-Loan Debacle, is about to solve all your problems with the local cable TV company.

A conference committee is about to consider House and Senate bills reregulating cable. In 1984 Congress stripped cities and counties of that regulatory power. Cable operators said that they compete with broadcast television, videotape rentals, and other forms of entertainment. That competition, they said, would hold down rates.

It didn't work: Most rates soared. And customers continued to complain about shoddy service. The cable operators say that this happened because they spent money to improve programming. Consumer advocates say that the programs don't justify the skyrocketing rates.

The prospect of Congress again allowing city and county commissions to play politics with cable franchisees under the guise of consumer protection is hardly comforting. It didn't work then. It won't work now.

What will work? Meaningful competition that offers the same or comparable programming. Some people really do want their MTV, and ESPN. Direct-broadcast satellite services and other developing technologies can provide this healthy competition. But these providers must be given a fair chance to buy the programs.

Some cable companies own all or a piece of the companies producing and selling the programs. In return for their investments, they receive the programs at a significantly reduced price. Competitors pay far more.

Normally this is just good business in a free market. But cable is neither a normal business nor a free market—not when there's a monopoly over the cables.

The result: Congress wants to force sales at the same prices. If this is what is needed to foster fair competition, so be it. But Congress should do nothing more than what is needed to promote fair competition. The cable conundrum hardly demands a cumbersome, expensive, and possibly ineffective local or federal reregulation.

[From the Denver Post, July 30, 1992]

CABLE BILL SHOULD DIE

George Bush should, as he has threatened, veto a cable TV regulation bill that Congress passed last week. It's poorly written and contradictory piece of legislation, adorned with so many gimmicks that it resembles a Christmas tree decorated with items from the local junkyard. Worse, in the long run it could harm consumers.

The Senate version would force cable TV companies to negotiate with local broadcast stations for the right to carry their signals—Mile Hi in Denver and United Cable in the metro suburbs, for instance, would have to bargain with local channels 2, 4, 6, 7, 9, 12, 20, 31 and 57, each of whom could drive their own bargains.

Of course, the broadcast stations would demand money from the cable company for the privilege, and those costs would be passed on to consumers through higher monthly cable bills or by the cable TV companies dumping some channels they now offer, to save money. This outcome could hardly be called consumer protection, as some members of Congress claim.

In the House version of the bill, the Federal Communications Commission would have to draw up a formula for cable TV prices across the country—never mind that circumstances may vary so much from city to city that a nationwide equation might be unworkable in some places. Local governments then would have to figure out how the formula applies in their cities and force the local cable TV company to comply—in other words, local governments would have to play traffic cop on a road designed by bureaucrats in Washington.

Congress isn't giving local governments any money to handle the new responsibility—even though some experts figure the nationwide cost of reregulation at about $200 million a year—so cities would have to come up with the dough on their own. In Denver's case, that means the city would have to take some of the $1.53 million it got from Cable TV franchise fees this year—which went right into the city's general fund—and instead use it to hire bureaucrats to decipher the FCC formula. That factor is one reason that Bill Bradley, telecommunications chief for the city of Denver, opposes the cable TV reregulation proposal.

Bradley, who has been the head of a national group of municipal cable TV regulators, instead thinks local governments and cable television companies ought to sit down at the bargaining table and work out a common-sense compromise themselves. Bradley's idea is a darn good one, but unfortunately Washington isn't listening.

The cable TV industry enjoyed freedom and profits during the 1980s, and it could have thrived for years in that business paradise had it improved consumer service and not been greedy. Now that consumer discontent has collided with election year jitters in Washington, a bad idea is on the verge of becoming law.

Bush so far has a perfect record on vetoes. Hopefully, this promised veto will stick as well.

[From the Chicago Tribune, July 29, 1992]

CONGRESS' CLUMSY CHECK ON CABLE RATES

A record budget deficit has made cutting taxes impractical and dangerous so Congress is trying to find other ways to curry favor with middle-class voters. Lawmakers think they've hit on something. The House last week voted 340 to 73 to impose new price regulations on the cable television industry. In January, the Senate, by a 78-to-13 margin, did the same.

The lopsided votes give lawmakers a carrot to dangle before more than 54 million households that subscribe to cable and their first decent shot at overriding an expected veto by President Bush.

Rep. Edward Markey, a Democrat from Massachusetts, urged thinking about re-regulating the cable industry "as a $6 billion tax cut for consumers."

But in trying to undo the negative effects of past action. Congress is wielding such a heavy hand that instead of reducing rates, it could end up costing cable subscribers. The companies will file for higher rates to cover the new law's mandates. If they aren't granted, services and investment likely will be cut.

To spur growth, Congress began to deregulate the cable industry in 1984. By 1987, nearly all government rate regulation had been removed. Lawmakers believed competition from satellite and direct broadcast systems would hold down rate increases, but cable companies negotiated exclusive franchises in most cities and new technologies didn't develop rapidly.

As a result, cable companies were free to raise rates. Increases far outstripped inflation. In some communities, rates doubled or tripled. Despite expanded programming, many customers became irate, especially when they couldn't get prompt and courteous service.

As a remedy, Congress wants the Federal Communications Commission to set national rate ceilings. Then, it would return regulation to the local authorities. The House bill would allow oversight just on a basic level of service and set up a special mechanism to go after abusive operators. The Senate bill goes farther and allows cities to regulate a broader range of services.

As a temporary measure to correct the abuses of natural monopolies, some rate regulation may be a tragic necessity. The danger, however, is that it may become overly burdensome and permanent. Competition is the best way to discipline cable operators, spur innovation and drive down costs and prices.

The FCC knows this. It voted this month to allow telephone companies to carry television programming, as well as calls, on their lines. Unfortunately, the decision won't have an immediate impact on cable rates, because it will take years for the phone companies to upgrade their networks for video service.

Instead of limiting itself to worrying about rate regulation and protecting would-be competitors, Congress would unnecessarily restrict the cable industry. It wants, for example, to dictate equipment standards and fees and limit marketing practices. Generally, it intrudes too far into cable management.

Even if the votes appear sufficient for an override, President Bush should stick to his pledge and give Congress a fight on this clumsy cable legislation.

CABLE TV REGULATION: PHONY CONSUMERISM IN AN ELECTION YEAR

What will we ask the federal government to do for us next?

In a fit of demagogic pandering, Congress is in the process of passing a bill that will encourage excessive regulation of the cable TV industry, including the rates charged to customers.

I am hard pressed to think of a worse example of government mischief. Having heard from cable TV customers griping about rate increases, obedient congressmen in an election year are passing a truly lousy bill that injects government into rate-fixing merely because consumers would like to pay less.

Normally, under our hallowed free enterprise system, when a seller charges too much for a product or service the consumer asserts her power simply by not buying. The only legitimate exception to this eminently workable rule is when the service is essential and most efficient to deliver as a monopoly, such as telephone or electric service. Cable TV is not essential and need not be a monopoly. It makes no more difference in the grand scheme of things whether a given cable company offers good service at fair prices or not. Even when normal marketplace conditions produce cable TV companies without direct competition, the case does not exist for government regulation.

The federal government should have taken a lesson from the city of Columbia, which tried for years to regulate cable TV rates in exchange for granting a "franchise." The arrangement was bogus. Predictably, it did not work, and eventually officials wisely decided to end regulatory activities. Courts also have weighed in with a variety of decisions limiting excessive regulation of cable TV companies by overeager government entities.

Columbia's city charter prohibits the granting of exclusive franchises, meaning no company of any kind can have a government-granted monopoly. If the feds wanted to pass a good law, they would have limited themselves to this requirement. In many markets, even anti-trust rules will not result in head-to-head competition, but so what? The proper role of the government is fulfilled if it guards against restraint of trade. It is out of bounds when it tries to decide what is a fair rate for non-essential services operating in the free marketplace.

Everybody would like to pay less for movies. In lots of towns, only one movie house operates. Maybe the federal government could get into regulating movie prices. Certainly, the availability of movies at fair prices is just as important as cable TV. If we want the government to keep a lid on pricing for cable TV, what product or service would be exempt from such attention?

Let's let Big Brother take over all our used-to-be free market decisions so we can really enjoy this good life.

[From the St. Paul Pioneer Press, July 28, 1992]

CABLE BILL NEEDS MORE CONSUMER PROTECTION

Now that the House of Representatives has joined the Senate in a veto-proof vote to re-regulate the cable television industry, Americans can look forward to the mixed blessings of price controls. Basic cable rate increases will slow, so, quite possibly, will new program development and other innovations.

As we argued during Senate deliberations last winter, the rate re-regulation seems a reasonable risk. But this bill still includes provisions that are anything but consumer protection. They are, in fact, requirements that consumers subsidize cable television's competitors. Those provisions should be stripped from this bill.

Cable rates have increased punishingly since the industry was largely freed from regulation in 1984 (by about 60 percent on average nationwide, and more in many areas). And because most cable operators function as monopoly providers, rate regulation is justified. Such regulation would be discontinued whenever "effective competition," defined as a competing cable or satellite video service, develops in a given community.

Federal Communications Commission guidelines, meanwhile, should prevent local regulatory units from returning to the parsimonious price limits that stunted cable's development in the 1970s and early '80s.

But the misguided provisions still clinging to this bill should be opposed by all consumers. The Senate bill, though not the House version, allows broadcasters to charge fees to cable operators for the retransmission of broadcast signals. This would amount to allowing broadcasters to use cable operators as bill collectors, who will of course pass these fees along to subscribers.

But broadcast television is supposed to be free: that's the broadcasters way of paying for use of the public airwaves. They should not be allowed to charge for their signals just because a consumer chooses to receive them via cable rather than through an antenna.

Other provisions that will pick consumers' pockets include a requirement that cable operators equip every subscriber home to receive premium channels, whether the subscriber wants those channels or not. This will saddle all cable subscribers with a capital cost that benefits the premium program distributors, whose service will become cheaper. But it will be cheaper only because the technical cost of hookup will have been shared by people who don't even want these services. People shouldn't be forced to subsidize products they don't want.

If it can be cleansed of these anti-consumer provisions in conference committee, the cable re-regulation bill makes sense. Rather than pointlessly vetoing the entire bill, President Bush should use his influence to lobby for the removal of these special interest goodies, and then sign off on rate re-regulation.

[From the Akron Beacon Journal, July 27, 1992]

REELING OVER CABLE

Consider cable television another entitlement program. At least, that's the thrust of legislation approved overwhelmingly in the House last week calling for re-regulation of the cable television industry.

Of course, in 1984, Congress deregulated cable, and the result has been a flourishing industry. The number of channels has increased. The quality of programming has improved. Cable has more subscribers than ever, roughly 54 million and rising.

So, why regulate the industry again? Lawmakers are convinced the price of cable has gotten out of hand. And to be sure, monthly subscription rates have risen by more than 50 percent, reflecting, in part, the virtual monopoly that franchises have.

The price increases, however, should be put in context. After all, as prices have gone up, the industry has attracted more subscribers. What's more, price increases have moderated in recent years, and competition looms from more advanced TV technology. In that environment, the new controls suggest a wish to provide everyone with access to cable, in a word, an entitlement, no matter the impact on the industry.

Unfortunately, for all the talk of doing consumers a favor, the House bill, as well as even more troubling legislation approved in the Senate, would stifle innovation. It would diminish opportunities for improved programming, as tight regulation did a decade ago. That's hardly consumer friendly.

In an election year, it's hard to overlook the politics at work. Faced with a huge budget deficit and an agreement with the White House that limits spending, the Democratic majorities have few issues to tout. The cable bill offers taxpayers something before November.

And sure enough, U.S. Rep. Edward Markey, the Massachusetts Democrat, provided the sound bite: "Think of this bill as a 6 billion tax cut for consumers."

President Bush has pledged to veto the legislation, arguing, quite rightly, that such re-regulation is overkill for what is isolated price-gouging. He might add that in an industry that is as rapidly changing as cable television, it's silly to think that Congress can write broad and effective laws. Better to head in the other direction, toward greater competition, allowing cable to pursue the many alternatives that busy consumers want.

[From the Quincy (MA) Patriot Ledger, July 27, 1992]

CABLE TV PROTECTION FRAUD

Congress should zap legislation reimposing rate regulation on cable television. The proposed remedy could drive your monthly bill up instead of holding it down.

For the last few years our congressmen have been trying to produce a regulatory program that would be a big hit with consumers angry over cable subscription rate increases.

Congress has gotten involved because in most communities cable companies enjoy a monopoly and local government control over rates ended five years ago. Not surprisingly, the result has been a surge in prices charged viewers—increases cable companies blame on higher costs of service and programming and viewers denounce as unregulated greed. Part of the problem is that cable prices in the startup years of local franchises were artificially low.

Normally, competition would resolve price-and-service questions in the marketplace. But as yet meaningful competition hasn't developed in most cable markets. What Congress should have done, therefore, is to provide some basic protection to the consumer from price-gouging and encourage competition, such as from rival cable companies, or satellite or microwave transmissions.

Instead, House and Senate bills propose regulation that gives the illusion of consumer protection without the substance. The House bill crafted by Rep. Edward J. Markey, D-Mass., for example, would require the Federal Communications Commission to establish a formula for the maximum rates for basic cable service. This service would have to include local broadcast TV stations plus "superstations" such as WTBS.

This is phony consumer protection. It essentially controls prices only on a package of stations most Massachusetts viewers can capture with a roof-top antenna for free. Most subscribers buy cable service for program diversity, through a wider menu of channels, or for a premium channel such as Disney or Showtime.

The outcome is predictable: With price controls on a narrow selection of stations, cable companies will split off desirable stations—such as CNN, MTV, Lifetime and ESPN—and start charging premiums for them. So what would consumers really gain in the end?

The Senate bill is flawed because it would impose strict regulation over a wider range of services and would require cable companies to pay fees to broadcast TV stations before carrying their programs. That would cost you too. Cable companies would wind up adding the extra charge to your monthly bill.

Ironic, isn't it—a law under which you could pay for receiving a channel you can now get for free without cable, maybe even with the old rabbit-ears antenna?

Instead of this nonsense, Congress should have authorized states to give some regulatory muscle to state cable commissions, including the power to review excessive rate increases and serious service complaints and to act against abuse.

The long-term resolution to holding down cable rates is competition from new technologies, not imposing federal rate regulation.

[From the Kansas City Star, July 26, 1992]

SECOND THOUGHTS ON CABLE BILL

In recent years the cable TV industry has been its own worst enemy. Rates have risen three times faster than inflation and in many markets service quality has declined. Congress has listened to these complaints, and for the third time in as many years, is attempting to re-regulate the industry.

It is easy to sympathize with this effort, but second thoughts intrude: Is it appropriate to treat cable television as a public utility? Cable delivers serious fare such as CNN and C-SPAN, but mostly what we're talking about here is entertainment—video confections such as comedy or home-shopping channels. Subscribers who cancel won't freeze in the dark, and will have more disposable income to boot.

Nevertheless, Congress is proceeding on the unstated assumption that the American public is *entitled* to "fair" rates for cable service. In consequence, our lawgivers have occupied many hours in a vain attempt to arbitrate conflicts among programmers, operators and broadcasters.

Operators want cheap programs. Programmers want exclusive contracts and fat fees. Broadcasters don't like cable operators transmitting their signals for free. Hollywood wants no provision that will diminish royalties. Why not let the market sort this out?

A key provision in the House measure would direct the Federal Communications Commission to decree a nationwide price for basic service tiers if a state or local government complains. One august lawgiver even tried to force cable operators in some markets to carry Home Shopping Network, which is based in his district.

The FCC has taken a more far-sighted approach that promises to spur competition and encourage the development of new technologies. The commission has approved a measure allowing telephone companies to offer video services. Further, it has recommended that Congress permit cable and telephone companies to enter each other's businesses.

The FCC move unmasks the congressional approach as threadbare, and deserving of the veto threat it has drawn from President Bush.

[From the Boston Globe, July 23, 1992]

PROTECTING CABLE TV CUSTOMERS

Cable television exists in a nether region between open competition and monopoly. A bill in the U.S. House of Representatives, with some significant changes, would provide adequate regulation of this thriving industry.

The bill would establish an important principle, that a basic tier of channels consisting of over-the-air stations such as Boston Channels 2, 4, 5 and 7 and community access services, should be subject to price regulation. This would also allow anyone being gouged by prices for more elaborate services to switch to the less costly tier.

But the bill goes too far when it includes such superstations as WTBS in Atlanta in the cheapest tier. The cable companies ought to be able to charge what the market will bear for these frills.

The bill would also overregulate the industry by specifying that channels above this least expensive tier—Nickoloden or MTV, for example—would be subject to regulation if the rates become unreasonable. The option of a low-cost tier gives consumers adequate protection.

In the conflict between the cable companies, who want to use broadcast channels without charge, and the broadcasters, who want to be paid for their product, the bill would neatly split the difference.

Cable would be required to carry all broadcast signals in its area so that consumers cannot be denied the opportunity to view less popular stations. Since broadcasters get adequate revenues from advertising, the House version wisely makes no mention of a Senate proviso that could force cable companies to pay owners of the most popular TV channels for the use of their signals. With cable companies likely to pass through any charges, consumers would be the ultimate victims of the Senate plan.

In small ways the bill seeks to protect consumers by allowing local officials to regulate the price of Super Bowl or World Series broadcasts if they are ever switched to pay-per-view channels. It would require cable companies to tell customers that they can buy remote control gadgets from electronics stores, instead of paying monthly fees.

Rep. Edward Markey (D-Mass.), whose subcommittee crafted the bill, has threaded his way carefully through a gantlet of competing industries. Markey will play a significant role when the bill, expected to pass the House today, is reconciled with the Senate version in a conference.

President Bush has threatened to veto anything that overregulates the industry. The conference ought to be able to devise an alternative that provides cable consumers with greater protection yet leaves the industry profitable enough to face challenges from new competitors.

[From the Cleveland Plain Dealer, July 23, 1992]

FOR A RESTRAINED GRIP ON CABLE

If the House truly had consumers' interests at heart, then in today's debate on reregulating cable television it would concentrate on the issue that supposedly has raised most constituents' ire; unjustifiably steep rates charged by monopolistic cable companies. That's a legitimate gripe in some places. Unfortunately, at the risk of damaging the industry, lawmakers have decided to address a wider range of concerns that are not nearly so compelling from the subscribers' perspective.

The public, however, is not likely to have empathy for cable operators who, in what may be a losing cause, contributed $466,650 to congressional incumbents seeking re-election. But viewers also should be aware that the National Association of Broadcasters, seeing cable as a rival instead of a partner, has donated $332,337 to those campaign coffers.

Cable spokesmen, while they would prefer no regulation, concede that government controls are inevitable because the public perceives—correctly—that some companies have indulged in price gouging and lawmakers have heard customers' cries of pain and outrage. The industry, out of self-interest but not unreasonably, has suggested that any new regulations be limited and should be enforced by a federal agency rather than local governments.

The broadcasters have entered the picture because they have lost viewers—and income—to cable. While they once begged cable stations to carry their programs for free, they now are asking Congress to force cable to pay for the service. That would add an estimated $1 billion a year in costs passed on to consumers. It would contradict the intent of price reregulation.

The Senate has passed a reregulation bill that goes beyond concern for basic rates. Should the House follow suit, subscribers could have reason to regret what is being done in their name, especially if cable companies try to offset lost revenues by offering fewer programs. The remedy offered by some analysts—to scale down the legislation in conference—may be the best hope for crafting a law that discourages cable's greed where necessary, but does not stifle its entrepreneurial endeavors.

[From the Orange County Register, July 20, 1992]

HAYWIRE REGULATION

The decision by the Federal Communications Commission to permit regional telephone companies to transmit television programming into people's homes opens up a wide range of opportunities—for phone companies and other businesses, and for consumers. The decision should derail an effort in Congress to place new rate regulations on the cable TV industry. Competition is a much more effective and consumer-friendly way to keep prices down than is regulation.

The FCC decision doesn't do quite as much as is desirable to facilitate effective competition for the cable companies. The FCC decision allows phone companies to own as much as 5 percent of the programs they deliver; Congress would have to act to increase that percentage or to allow phone companies to get into the business of producing and originating programs.

This decision demonstrates how much technological progress in our society now depends on essentially political decisions that are usually influenced by special interest lobbying—or are outright whimsical. People have been talking about the capacities of fiberoptic cables—the best medium currently available for phone companies to transmit TV programs—for years. But the phone companies were restricted by laws, many written before recent technological developments, from offering effective competition—to cable TV companies. Various special interests—including most of the newspaper industry, which also fears possible competition—have fought to keep the phone companies in their boxes by force of law. So consumers get only the technology the political process lets slip through rather than the best and most innovative new ideas scientists, business people, and entrepreneurs can develop.

Some authorities have been estimating that it could take a decade and an investment of up to $400 billion (about what the federal deficit is in one year) for the phone companies to replace old copper wires with fiberoptic cables throughout the country. The implication supporters of reregulation want to draw is that the promise of TV on the phone lines is a long way off, so we need regulation in the meantime. But it won't take a decade—or nationwide hookups—for the competition to have an effect.

Some regional companies will move quickly. Some may choose to use "video compression," which would permit the use of existing copper wires—not quite as desirable as fiberoptics, but easier to get going quickly. And some new technology better than fiberoptics might well emerge in the next decade.

A decision that allows existing technology to be used is welcome. But it shouldn't be necessary to beg some federal agency to use new technologies or try new businesses. Drastic deregulation—perhaps including elimination of the FCC itself—would be the best way to facilitate innovation (and help spur an economic recovery). Which political candidate is ready to call for it?

[From the New York Times, July 20, 1992]

HOW TO BREAK THE CABLE SQUEEZE

Cable television companies, free of meaningful competition and, since 1984, of regulation, have been socking customers with immense rate increases. The House votes this week on putting an end to the gouging. The Senate passed its version of cable reregulation earlier this year, so a "yes' vote in the House would successfully conclude an uphill, three-year battle.

Even so, viewers will need to beware. The House bill re-regulates with heavy hand instead of a light touch, saddling cable companies with burdensome regulations. The threat is that costly regulations will force local authorities to grant large rate hikes, or force cable companies to cut service and put off investment in new service.

The right, light touch would be to rein in the bad actors—cable companies that shamelessly exploit captive audiences—and pave the way for the competition from satellite broadcasters, "wireless" systems and other entrants. There's a model for smart re-regulation. The House passed just such a bill two years ago, but it was buried in the Senate.

It's too late now for the House to vote "no" on the pending bill; there's no telling how long it would take to push through a better one. But just passing the bill is not a valid option either; President Bush is sure to veto it. That leaves one constructive way out: for the House to pass the bill but agree to prune its excesses in the consequent conference with the Senate.

The bill would require the Federal Communications Commission to set guidelines for the price of basic service by cable companies that operate without meaningful competition. But this bill unnecessarily roams far beyond retransmission of broadcast networks and public-access channels, the objects of the 1990 version. For example, the bill includes long-distance broadcasts from super-stations like WGN in Chicago.

The House will also vote on a provision that would virtually prohibit exclusive contracts: agreements by which programmers, for a lucrative fee, agree to sell to only one cable system. Often these contracts would be rightly prohibited as anticompetitive; they keep popular programs out of the hands of cable's competitors. But they can also be a lifeline for start-up programmers, and a lifeline for viewers hungry for something new.

The 1990 version would have allowed pro-consumer exclusive contracts; the language the House is expected to consider this week, in effect, would not.

Re-regulation could never be the ideal response to angry customers. Over time, even well-written provisions become ineffective. A better answer is more competition. Last week, the F.C.C. took a giant stride in that direction by voting to allow telephone companies to provide TV services.

They are unlikely to do that, however, for a decade. Satellite broadcasters might enter earlier, though no one knows for sure. So until the day that customers can pick and choose among multi-channel providers, re-regulation is needed. The best way to achieve it is for the House-Senate conferees to undo the excess and preserve the essence: Control basic service, eliminate all egregious behavior and protect competitors trying to gain a foothold. Cable customers need protection and fair charges; overprotection would mean overcharges and under-service.

[From the Atlanta Journal, May 22, 1992]

Cable TV Bill Meant Well, But Has Become Overloaded

Politicians know numbers, as in votes. And they like nothing better than to stand up for the little guy against giant monopolies. Sometimes they do it right, but too often even good intentions give way to evil outcomes.

So it was two years ago that Congress decided to look at a bill that would lower cable television rates nationally. Sixty percent of American homes now have cable. It is available to 90 percent of them.

Congress is involved because back in 1986 it did the right thing. It deregulated the mammoth industry, removing rate regulation from local authorities—city councils and county commissions. It is one of the few situations in which Washington does a more effective job than states and localities.

Perhaps because politicians had kept rates artificially low, prices have soared since 1986. The industry argues that even though rates have far exceeded the rate of inflation, the number of channels has increased, offering more value for the money. Congress, nevertheless, felt the pressure to regulate rates and mandate improved service.

If it had kept to those two premises, few would complain. But the Cable Reregulation Bill has become a consumer's nightmare and a lobbyist's dream.

The Senate has passed a bill that offers both federal and local regulation—a nightmare. Local regulation raises serious First Amendment questions. The industry complains that provisions in the measure would stifle development of new networks, expansion of channel capacity and movement on new technologies. It steps heavily into the thicket of copyright law, demanding that cable programming be sold to all comers.

The bill also offers a bonus to over-the-air television broadcasters in the form of payments for carriage on cable.

The issues are complicated, but what's been lost in the fight among lobbyists is the bill's original intent—some protection from cable customers.

The bill next must pass the scrutiny of the House Energy and Commerce Committee. House members have before them an alternative to the massive bill drafted by the Telecommunications Subcommittee. It focuses on rates and customer service. With time running out for consideration of so complex a measure, the House should return to the alternative.

Or better yet, given the industry's new responsiveness to customer complaints and the scare it is getting daily, Congress might just forget the whole thing and keep a hammer in hand for when it is needed.

[From the Akron Beacon Journal, Apr. 30, 1992]

Nightmare for Cable

For all their recent troubles, members of Congress haven't lost their capacity to hear. In this election year, with many customers of cable television complaining about what they see as excessively high rates and lousy service, lawmakers have jumped to act. They're ready to re-regulate an industry they wisely deregulated eight years ago.

In fact, the Senate has already acted, approving a bill in January that would place new rules on cable operators, telling them, in effect, how to run their businesses. The prices they charge would be regulated, as would the services they provide.

A similar bill is making its way through the House. Both pieces of legislation pose headaches not only for cable operators but for customers. The bill to re-regulate cable promises to hamstring an industry that in recent years has grown dramatically, providing television watchers with more choices in programs and better service.

That isn't what lawmakers say they've heard. And true enough, some cable operators have abused their virtual monopolies in communities, raising rates exorbitantly, serving customers sourly and slowly.

More often than not, however, the situation is like the one here in Akron, where Warner Cable has raised prices, but not unreasonably. Today, Warner charges $20.45 a month for its standard, 30-channel service, 58 percent higher than six years ago. Still, the company has added new channels to the point where the per-channel cost of the standard package is 6 cents higher than it was in 1986.

That's hardly gouging, especially when you consider how effectively cable has expanded, developing new programs and extending wire to more and more residences. Indeed, while terrible things have supposedly been happening, cable's subscription rates have skyrocketed. In Greater Akron, for instance, the number of subscribers has increased from 70,278 in 1986 to 95,984 in 1991.

All the while, Warner Cable has been paying a franchise fee to the cities it serves. Akron, for instance, received $878,081 last year. All told, Warner has paid more than $7 million to area communities since '86.

Although most communities are served by one operator, cable companies hardly lack competition. The rental home video alone has caused them to sweat anxiously. And it's not going to get easier, as such innovations as wireless cable and direct broadcasting systems appear.

If truth be told, the video marketplace is robust and rapidly changing, making the idea of re-regulation shortsighted. The rules written today are likely to be obsolete soon. That isn't an excuse for the bad actors among cable operators. They deserve attention, but the result shouldn't be punishment for the industry as a whole. Innovation should be encouraged. Otherwise, consumers lose.

[From the Richmond Times-Dispatch, Mar. 30, 1992]

Crippling Cable Television

Consumers beware: That man with the fraudulent message is back.

"I'm from the federal government," he is saying, "and I am here to help you."

"Help" of the kind he is offering already has cost the country too much money and grief. What he intends to do in this instance is tighten the regulatory tentacles of government around the cable television industry. Instead of benefiting viewers, as the man promises, regulations proposed by legislation approved by the U.S. Senate and pending in the House of Representatives might so burden and impede the industry that it could not continue to offer viewers service of a steadily rising quality. Indeed, service might deteriorate.

This is clear from the improvements in cable television since regulations were eased in 1984. Before then, cities and other local franchising agencies often kept cable television rates so unreasonably low that companies were unable to invest significantly in new facilities, technologies and programs. Since then, cable's annual investment in programming has more than doubled, rising from $1.7 billion to $3.5 billion in 1991. The constructive results include such networks as the Discovery Channel, CNN, C-SPAN and A&E.

Despite "deregulation," cable television has remained under a degree of governmental oversight. Local authorities can collect franchise fees, establish customer service standards and require cable operators to provide access channels for public, educational and governmental programs. In an area where the operator faces no effective competition, the local authority can even set basic cable rates. And, of course, the Federal Communications Commission possesses certain regulatory authority.

But legislation now moving through Congress would revive the regulatory stringency of the past for the ostensible purpose of protecting consumers from excessive rates, shoddy service and other such abuses that mar the performances of some operators. In the process the regulators would hurt the entire industry. Reimposition of rate-making regulations would threaten its financial health and curb investments in new facilities and programs. A provision that would force cable operators to share some of their programs with their competitors is grossly unfair and economically unsound. By increasing the regulatory powers of local legislative bodies, the bills would subject cable companies to a degree of political management that could undermine the efficiency of their operations.

It ought to be possible to correct serious abuses in the industry without crippling it with new restrictions. Indeed, the industry itself is in the process of implementing new customer service standards throughout the nation.

This newspaper is part of a corporate family—Media General—that includes cable operations. But our views of the pending legislation are based on an evaluation of its provisions, on the regulatory history of the cable industry and on the historical fact that when the federal government moves in with regulations that increase the costs and curb the freedom of an industry, consumers are more likely to be hurt than helped. We sincerely believe they have far more to lose than to gain from these particular bills. If Congress really wishes to help cable viewers, it will reject them.

[From the Visalia (CA) Times-Delta, Feb. 21, 1992]

CABLE TELEVISION SERVICE SHOULD STAY UNREGULATED

Introduced by Sen. John C. Danforth, R-Mo., and Daniel K. Inouye, D-Hawaii, S. 12 would allow local agencies—cities, counties or states—to regulate rates for basic service and impose service standards.

This well intentioned, but flawed bill is the response to consumer cries for relief. Since the cable television industry was deregulated in 1984, rates nationwide have risen between 60 percent and 70 percent. Some customers have complained of poor signal quality.

Visalians have been fortunate. Continental Cablevision, which took over local cable service in 1986, has raised the monthly rate for basic service from $15.97 to $20.95 or 31 percent—a big increase to be sure.

When customers consider the high quality of service, the increase in the number of channels on basic service from 23 to 35 and the investment the company has made to lay cable past of Visalia's homes, it's a bargain. In 1991, Continental Cablevision spent $1 million to lay cable past 2,000 new homes. Now virtually all Visalia homes have access to cable, and 53 percent subscribe.

Cable company executives know they must keep rates low to continue attracting new customers.

Government intervention isn't always the answer to a consumer's complaint, and it certainly isn't here.

Government regulation of business is necessary only when business isn't meeting the needs of its customers and when customers are unable to protect their rights.

No one is forcing consumers to subscribe to a cable service. No one's house will go cold if cable is shut off.

If consumers are dissatisfied with the service they receive and the rates they pay, they should exercise their rights and cancel their subscriptions.

[From the Chicago Tribune, Feb. 17, 1992]

THE SENATE CABLE BILL: A FUZZY PICTURE

Almost since the day the 1984 Cable Act freed cable television companies to set their own rates, consumers have complained of price-gouging. Even as they rushed to get cable's improved reception and expanded programming, they fumed over high prices and poor service and demanded that Congress do something.

For the last four years, lawmakers have dickered over legislation to re-regulate the industry. Now, in an election year in which President Bush has called for a curb on new federal rules, the Senate has voted overwhelmingly to allow federal and local authorities to regulate cable television rates.

Some effort to curb rising rates may be appropriate. But the Senate's attempt seems unduly heavy-handed and more a short-sighted appeal to voters and special interests at someone else's expense than it is sound public policy.

Rate regulation ought in any case to be an interim solution to a temporary problem. Unfortunately, it can too easily become entrenched, leading to cumbersome bureaucracies and protected business environments in which there are no incentives to innovate or cut costs.

In the long run, competition will do more to discipline cable operators and drive down costs and prices. But how long should society wait for new technologies and viable competitors to emerge?

Until 1987, cable companies were regulated as natural monopolies by local governments. Under the Cable Act, Congress gave power over rates to cable operators, even though most had no direct competition. Cable bills shot up an average 61 percent from the end of 1986 to mid-1991.

The cable operators, arguing they had to make up for years of artificially low rates, raised prices, but they also invested heavily in programming and technology. As a result, the number of cable systems increased, more channels were developed and program quality improved. Cable's share of the television market grew, while ABC, CBS and NBC saw their dominance end.

In many ways, cable deregulation worked too well. Now Congress is trying to check the abuses without stifling investment and new technology. And it's doing so at a time when television, computers and telecommunications are converging rapidly and altering how Americans will communicate in the 21st Century.

The Senate, in its tough bill passed last month, ordered the Federal Communications Commission to set standards and then let local authorities, in areas where there is little competition, rule on rate increases for basic cable services. The lawmakers also made a gesture toward increasing competition by including a sensible provision that gives direct satellite services and wireless cable operators access to cable programming.

But then they wandered into a more complicated regulatory thicket. They voted to restrict ownership in the $20 billion industry by requiring the FCC to limit the number of subscribers a cable operator could reach nationwide. They also jumped into the difficult area of balancing competing television interests by giving broadcasters the right to charge fees to cable systems for retransmitting their signals.

President Bush has vowed to veto harsh rate re-regulation. Unless the House can improve this legislation substantially, he'll be justified in doing so.

[From the Wall Street Journal, Feb. 14, 1992]

CABLE READY

Twenty years ago only pockets of America had access to cable television. Videocassette recorders were an idea gathering dust (in the U.S., anyway), and for music we still put vinyl on the turntable. Today popular music is all over TV, same with sports or movies, backed by surround-sound digital audio. A few years hence, we'll be calling up selections as if our TV-cum-computer monitor were a space-age jukebox. Beyond that, only the visionaries can imagine.

Is all this to be governed by the U.S. Congress?

That's a real possibility. The Senate last month overwhelmingly approved a reregulation of cable TV. This could take the nation back not just to the local rate-setting routines that held back new programs until the mid-1980s, but to a kind of Radio Act of 1927 environment in which, according to one cable operator, "the federal government is going to tell us how quickly we have to answer our phones."

The legislation, now in the House, draws impetus from rate increases around the country that have sparked the ire of viewers, even as sign-ups for cable continued apace. (More than 60 percent of homes now have it.)

The bill, however, has attracted the familiar Capitol Hill caravan of special pleaders. Everybody's got a story to tell, and some of them sound almost compelling. No doubt this is a rough-and-tumble business, and likely to get more so.

The networks are widely thought poised, should they be allowed, to buy into cable and shift much if not all of their programming off less lucrative "free" TV. Pay-per-view is starting to suck the life out of basic cable, and any rate caps surely will accelerate that. Someone will grab the holy grail of high-definition TV. Most significantly, the local-telephone companies, which a generation ago couldn't be bothered, now eye jumping in, either feet first (as a common carrier-leasing access) or head first (providing content as a full-fledged cable operator). Either way, they'd cause a big splash.

Politically, the issue doesn't divide along clearly partisan lines, though Congress, especially Democrats, tends to favor restricting the big players (except of course for government), while the White House thinks those same players hold the key to rapid innovation that would benefit the larger economy. The chairman of the Federal Communications Commission, Alfred Sikes, would like to give the Bells a toehold. (The visiting chief economist at the agency, meanwhile, is Thomas Hazlett, who has written widely invoking the First Amendment and antitrust on behalf of wide-open cable competition.)

Republican Senator Conrad Burns of Montana is author of a bill permitting Bell entry, though some industry specialists doubt the economics are ripe for the phone companies to get in for a few years yet. Smaller players fear that when the telcos do move, they'll be able to shift costs to local phone users to undercut the competition. An understandable apprehension, but the Bells are now themselves under challenge on so many fronts, including some types of local service, that the danger is probably overstated. Only the dreamiest regulation fan would think it possible for a bunch of twenty-something congressional staffers to devise some scheme to direct the flow of all this entrepreneurial energy.

Any time the government bestows special privileges on a business, as it does with local wire, it becomes awfully difficult to unravel the favors and "level the playing field." The cable franchises and the phone companies certainly enjoy a leg up, and were they to combine, most likely in a joint venture, they would be formidable.

Yet "monopoly" becomes a less certain concept in an industry where individual consumers and entrepreneurs can act so nimbly. Even the simple competition posed today by the video-rental market is "a killer," according to one cable executive. Exclusive franchises, objectionable as they are, haven't spared cable companies from looking over their shoulders and spending like mad on technological improvements destined to bring remarkable new options in the years just ahead. In the quicksilver world of telecommunications, the complacent, stupid or slow will not be tolerated long, even with the state behind them.

Innovation, as economist Joseph Schumpeter was foremost in describing, is littered with the carcasses of the worthy and unworthy alike. It is hard to imagine that the federal government can adjudicate this process in any manner but to drag out the pain and delay the unfolding of a wondrous technological epoch.

[From the Cleveland Plain Dealer, Feb. 14, 1992]

THE URGE TO REIN IN CABLE TV

Judging by its lopsided passage through the Senate, legislation that would reregulate cable television rates has bipartisan appeal in this election year. A similar measure is expected to fare well in the House. But before consumers start rubbing their hands over the prospect that their monthly-cable bills will be forcibly held down, they should ponder the possibility that financial controls on the industry will boomerang, stifling future expansion of program choice.

Local government curbs on rate increases is only one of several limitations or requirements Congress seems eager to impose on cable operators. Others have to do with offering programs to competitors, restricting cable companies from arbitration adding or subtracting programming, and, probably most distasteful to the industry, allowing over the air broadcasters—such as Cleveland's Channels 3, 5 and 8—to demand payment for transmitting their shows.

Lawmakers may plead, of course, that they're simply responding to their mail. Since cable was deregulated in 1986, average monthly charges for basic service have risen 58%, twice the overall inflation rate. Constituents, especially in those areas where bills have greatly exceeded that figure have howled in protest. Since cable is in most places a monopoly because of the cost of constructing competing systems, it is deceptively easy to conclude that operators are gouging their customers.

Cable's side of the argument is that operators are making up for revenues held inhibitingly low by pre-1986 rate controls, that program packages have been greatly expanded, and that only a few operators have been conspicuously greedy. Those assertions evidently did not impress most senators and probably won't be persuasive in the House.

The industry's case, however, has merit. Indeed, cable appears ready to concede that rate reregulation is almost inevitable and now seeks to have controls set by the Federal Communications Commission rather than a multitude of municipalities throughout the country. For all its allure to lawmakers and consumers alike, restoring rate contols is a speculative exercise. But having the FCC apply guidelines could minimize damage to operators finances and, therefore, to subscribers' range of choices.

Cable may be about to become a victim of its own success. Viewers in the 1970s could scarcely have imagined the array of programming that would be at their fingertips once government had lifted its stifling hand from industry finances. Today nearly 60% of the population has cable installed, and an additional 30% has it available. Some subscribers have come to regard cable as a necessity rather than a choice, especially since the medium began to buy rights to sporting events once available only on advertiser-supported, over-the-air TV. Legislators actually have been heard to express worry that if people are priced out of cable reception, an "informationally deprived" class will be created.

Meanwhile, "free" TV, contending it is competitively disadvantaged, is fighting back. Where once over-the-air broadcasters campaigned to have cable stations include their programs—for better reception, for one reason—they now ask to be paid or otherwise compensated for transmission rights. Rep. Dennis Eckart, Democrat of Mentor, has sponsored legislation to give over-the-air stations the right to negotiate conditions for allowing cable to pick up its signals. Again the issue is not as clear cut as advocates suggest. If "free" TV is permitted to charge cable for its programs, it is hard to see how the costs would not be passed on to the consumer, even under reregulation.

President George Bush has threatened to veto the bill—a principled stand on a populist issue—but the reregulation lobby believes he might change his mind as he begins to count election realities. If so, the public's long-term interests may be ill served. A debate on cable TV's performance may well be justified, but if vote getting dominates all other considerations, viewers may pay in loss of quality for what they save in their pocketbooks.

[From the Boston Globe, Feb. 12, 1992]

CABLE INDUSTRY'S CHANGING PICTURE

"Cable viewers want more channels, reasonable rates," said a Globe headline last week that sums up the problem with the cable television business. A bill passed by the U.S. Senate needs to be fine-tuned in the House to better fulfill these two competing goals.

The Senate bill has three main features:

Communities would be allowed to regulate the rates for basic TV service, something they have been barred from doing since 1984. They also could establish service standards and set charges for converter boxes and remote-control devices.

TV stations would be able to charge cable companies for retransmission of programs.

Wireless cable operators and satellite services would get assured access to cable programming.

Regulation of such necessary items as converter boxes and remote controllers is long overdue. As with telephones, customers should be free to buy this equipment from a variety of suppliers.

Cable TV subscribers are fed up with rate increases, but most appreciate the improved programming prompted by deregulation. Capping the 80- or 40-channel package preferred by most subscribers would discourage cable operators from adding programming to this tier.

Last year, Rep. Edward Markey of Massachusetts, the chief cable regulator in the House, endorsed the creation of a minimum tier consisting of the broadcast channels, community-access channels and C-Span, which would be available for a low monthly charge. Whenever the cost of the 40-channel package got out of line, thrifty subscribers could switch to the minimum tier.

If a community thought the rates for MTV and the like were too high, Markey would allow it to seek a hearing before the Federal Communications Commission.

Markey's plan would provide a sensible degree of consumer protection without leaving the cable companies at the mercy of local regulators. This mandate ought to be included in the House bill instead of more extensive regulation, and Cable News Network, because of its importance, might well be included in the minimum tier.

The task of the House is to preserve a balance between consumer protection and preservation of the cable industry's ability to raise money for improved technology and programming.

Cable is allowed by law to pick up over-the-air broadcasts without charge. The retransmission provision is the most contentious in the Senate bill.

If it became law, the provision would merely provide another reason for cable operators to raise their rates. Viewers, who already pay for TV ads when they buy products hawked on the air, would be doubly penalized.

For 45 years, broadcasters have controlled the public airways at little cost, thanks to the generosity of the federal government. Congress is well within its rights to allow the cable industry to share in this publicly subsidized service.

With over-the-air stations still grabbing most of the audience in cable-wired homes, there is no need for a retransmission fee at this time.

Today, with cable available in most of the nation, this industry and over-the-air broadcasting exist in a competitive equilibrium. But this will change as new technologies compete with cable to transmit programs into the home.

These may consist of a small receiver, a fiber optic line, or something as yet barely imagined. Whatever happens, the Senate was wise to include in its bill a provision that cable broadcasters make their special channels available on reasonable terms to companies promoting the new technology.

Cable viewers' desire for "more channels, reasonable rates" will best be met by increased competition for their dollars. That should be the focus of congressional concern as technology evolves.

[From the Washington Times, Jan. 30, 1992]

CABLE-TV "GOUGING" ISN'T THE PROBLEM

Cable television customers everywhere are increasingly angry, so it seems, at the rising price of basic and premium cable services. Cable company operators, looking to "gouge" customers, have been charging "egregious" prices since 1984, when Congress deregulated the industry—thus the New York Times stated in an editorial in yesterday's editions. Therefore, Congress must respond with legislation to deregulate the cable industry.

The Cable Act of 1984 supposedly "deregulated" the industry, freeing the rapacious cable companies to pillage the local markets with high rates and poor service. Actually, it allowed cities to cap local rates and establish franchises with cable companies, a fancy word for legalizing a local monopoly and shutting down competitors. Moreover, current federal cable law allows local governments to establish customer service standards and even the number of channels a local cable company can offer.

It's not enough, regulation enthusiasts say. Prices are too high. The public is getting ripped off. The answer is legislation. The Senate was debating new cable rules yesterday. Among them is a provision for "retransmission consent," which in plain English means the broadcast networks, who've been getting clobbered by the cable competition, would be able to force a cable company not only to carry its signal but also charge a fee for it. That would cost the cable industry about $1 billion a year, which would significantly boost network profits. Another provision in the Senate bill would force a cable television production company to sell its product to wireless and dish operators. That would mean the Discovery Channel and Nickelodeon wouldn't have the choice to limit the availability of their products. Both these provisions attack the heart of what it means to control private property.

The House, which awaits the results of this week's action in the Senate, has yet to act, but it's a safe bet that the urge to fine-tune the cable industry from Capitol Hill will be just as strong in the lower chamber as it is in the upper.

The problem is that cable operators themselves are not the problem. In fact, not enough cable companies face the bracing winds of competition. As John Merline reported in Consumers Research magazine in May 1990, rates are high not because of too much deregulation, but too little. The law passed in 1984 allows cities and localities to permit one company to serve residents, creating an effective monopoly. "In fact, the Cable Act required that anyone who wants to build cable must have a franchise to do so," Mr. Merline reported. Though the law allows more than one franchisee, most cities regard cable, like other utilities and the phone company, as a "natural monopoly."

That statist view of the industry has had predictable results. Of 9,000 franchises as of Mr. Merline's writing, only 45 were competitive. Basic cable rates in non-competitive markets were 18 percent higher than in competitive markets—$17.31 per month vs. $14.13 per month. And in every city where more than one cable company competes, the customers get lower prices and better service.

In Troy, Ala., for instance, when "Troy Cablevision began competing with Storer Cable, Storer upgraded its service from 21 channels to 36 channels, while holding costs down to $13.95 a month." In Orange County, Fla., two companies sold their service for $12.85 and $10.95 a month. In late 1987, when a third company began competing, the rates for both dropped to $6.95 a month. In areas of the county where the two companies did not compete with the third, their prices were $16.95 and $13.95. According to Mr. Merline, the story is the same in Vadalia, Ga., Boone County and Frankfort, Ky., and 26 other competitive markets. Where cable companies run monopolies authorized by the law, the prices are usually high and the service is usually lacking.

Though the public might not understand all the arcane terminology in the debate, the New York Times condescended, "where many customers do understand, all too well, is that they've been socked with unconscionable prices hikes and wretched service ever since 1984, when Congress freed cable operators from local regulation." Nonsense. Cable customers aren't stupid. They understand what keeps prices low and service good—competition. Unhappily, that does not seem to be the going view on Capitol Hill. Perhaps President Bush could try to change some minds.

[From the Wyoming Eagle, Sept. 17, 1991]

SENATE BILL AMOUNTS TO FREE TV SURCHARGE

As broadcast networks contribue to lose a major portion of their traditional audience to cable networks and other forms of entertainment, it is understandable they must look for ways to recoup.

However, the cable TV regulation bill which is scheduled to be debated by the Senate later this month is blatantly unfair, anti-consumer and should be summarily defeated.

S. 12 would force cable operators to pay ABC, CBS and NBC to retransmit their signals. As the National Cable Television Association (NCTA) has argued, the logic behind that notion is tantamount to requiring Radio Shack to pay broadcasters whenever it sells an outside antenna.

The bill's "retransmission consent" language completely ignores the positive impact cable operators have had on broadcast stations. The Federal Communications Commission noted in a 1990 report that "cable carriage of broadcast signals improves a station's reach and reception quality and thus increases the broadcast stations' audiences." Of course, this results in increased advertising, revenue for the broadcast networks.

The obvious result of passage of S. 12 would be increased rates for consumers, since the cost of paying the networks for their signals would be passed on to cable customers. What will people get for their money? Zip. They will receive the same quality of signal they are getting now from cable operators.

The NCTA is correct when it maintains the bill amounts to a "free TV surcharge" for broadcast networks. One thing we don't need is another federal bailout of an industry that previously owned the entire pie but has found it difficult to deal with competition.

Who owns the airwaves? According to the Communications Act, the public does. But under S. 12, the broadcast networks do. They want the power to determine who can receive their signals and who must pay for them.

At the same time, the broadcast networks demand continuance of non-duplication rules under the FCC, which allow local broadcast network affiliates to block a cable operator's ability to import signals from out-of-town affiliates of the same network. Clearly, they can not have it both ways.

Another important factor is that the Senate measure would stifle the investment of cable operators in plant, programming and new technologies. Cable operators have provided most of the financing for cable networks, including CNN, C-SPAN, the Discovery Channel and A&E. They have taken the lead in building their industry's audience, rather than merely offering carbon copies of what's available to the public on the broadcast networks.

Since 1984, cable operators have spent $11.6 billion on programming and $14.5 billion on plant and equipment.

"Reregulating the cable industry would choke off investment in the development of new cable networks, the improvement of existing programming, the expansion of channel capacity, and the development of new technologies such as fiber optics and HDTV," the NCTA recently declared.

Broadcast networks are seeking federal permission to dip into the pocketbooks of cable operators. We hope the Senate smacks them hard on the hand in the process, for the customers' sake.

[From the Boston Globe, Sept. 10, 1991]

TIME TO LEAVE CABLE TV ALONE

(By David G. Tuerck)

Cable subscribers should watch out: Congress and local governments want to "help" them by reregulating cable television companies. In July the Federal Communications Commission issued a ruling that represents the first step toward the reregulation of cable TV rates. The new ruling permits local governments to regulate markets with fewer than six local broadcasters. Under FCC rules in effect since cable TV was deregulated in 1987, regulation was permitted only if there were fewer than three local broadcasters. The new ruling increases the fraction of cable systems subject to regulation from just a little over zero to more than 60 percent.

Further trouble lies ahead in the form of a U.S. Senate bill, "The Cable Television Consumer Protection Act of 1991." This bill forces cable TV operators to offer programming developed at their own expense to their competitors. It also expands the power of local governments to offer or deny cable franchises and gives the FCC new powers to regulate rates.

Proponents of the bill say reregulation is needed as the result of rate increases and service problems that initially followed deregulation. After deregulation basic cable rates did rise faster than the rate of inflation and customers had problems with service. On the other hand, the cost per channel for basic service has remained about constant as operators have increased significantly the number of channels offered. Cable operators have invested several billion dollars in new programming and distribution methods. And industry leaders have promulgated new customer service standards.

While these developments are of interest to cable TV customers, they do not explain the impetus behind reregulation. That impetus comes, not so much from consumers, but from the municipalities that have made themselves the principal beneficiaries of the cable TV franchise system. Under that system a cable operator must obtain a franchise from the local government to go into business. To get a franchise, the operator must typically give local programmers free access to its system and pay the local government 5 percent of gross revenues.

Cable operators now pay local governments more than $700 million a year in franchise fees. That is more than $1 per month on every cable subscriber's bill. The fiscal crisis facing many state and local governments is likely to increase this amount, as the franchise fee is seen as an increasingly attractive source of revenue.

Massachusetts municipalities have sponsored legislation that would permit them to impose franchise fees without having first to ask permission of the state legislature. One proponent of this legislation complains of cable operators who "generate huge revenues and give very little back to the towns they operate in."

For cable operators, therefore, the squeeze is on. As Congress pushes on one side for reregulation, local governments push on the other for more franchise fees. Ironically, this puts the squeeze on consumers, too, as franchise fees and the burden of dealing with local bureaucracies and special interests drive up cable companies' costs and rates.

Defenders of this state of affairs argue that cable TV is a "natural monopoly." According to this argument, a cable TV operator must make a substantial, initial investment in its distribution system to serve a particular market. After it makes that investment, almost all of its distribution costs are fixed. No prospective competitor will attempt to compete with an established operator for its customers, and an established operator will be in a position to extract monopoly rates and profits.

Reregulation is, by this argument, necessary for keeping rates down. Franchise fees are necessary to make sure the operator "gives back" something to the locality it serves.

The "natural monopoly" argument is, however, wrong in both theory and fact. If an established cable TV operator raises rates enough, other operators will, contrary to that argument, find it profitable to compete. The risk of inviting such competition and, with it, of losing the value of its initial investment will deter the established operator from raising rates.

Experience shows this risk is real: There are instances of head-to-head competition between alternative cable operators serving the same market. Ironically, though, head-to-head competition is just what local governments don't want. Once a second operator enters a market, the whole idea of a cable franchise collapses and, with it, the possibility of charging a franchise fee and extracting other benefits for local government.

Moreover, cable will increasingly face competition not only from over-the-air local broadcasters, who provide their television for free but new, emerging technologies. Microwave systems that deliver dozens of channels are sprouting up in many cities, aided by new fee rates designed to encourage their development. And direct broadcast satellites are scheduled to launch in the years ahead.

The solution to the cable TV "problem," then, is not reregulation by cities, but less city regulation. Cities should encourage alternative cable operators, as well as alternative distribution systems like satellite master antenna television, direct broadcast satellite television and multichannel multipoint distribution systems.

And Congress should let the marketplace work. It is time to take the squeeze off cable TV operators and their customers.

[From the Boston Globe, Aug. 31, 1991]

KEEPING CABLE'S PRICE WITHIN SIGHT

Cable television has made giant strides in programming since the business was deregulated in 1986. Only a modest degree of re-regulation is needed today to protect consumers from pricegouging and ensure that the cable signal is not placed out of reach of people on limited incomes.

In Tennessee, some companies raised their rates by more than 100 percent in the first three years after deregulation. In the Boston area, where competition from television stations abounds, price increases averaged 43 percent over five years. Responding to cable operators' greed, Rep. Edward Markey of Massachusetts and Sen. John Danforth of Missouri have filed bills that would impose far-reaching rules on operators.

Cable systems have invested much of their windfall in improving their product. In the five years since deregulation, spending on programming has more than doubled, from $491 million to $1.28 billion. More than 30 special channels are now available, ranging from the Cable News Network to Black Entertainment Television to the Travel Channel.

Cable companies pick and choose among channels they deliver to their customers, and some are barely worth watching. But as a whole, these special channels add an important dimension to television viewing. They have ended the stranglehold of the networks on the creation of programs and have given attention to minorities slighted by regular broadcasters. Together with prerecorded videotapes, they have transformed the way Americans watch television.

The Senate and House bills do not address the improved quality of cable, but focus instead on three issues: price, the impact of cable on over-the-air broadcasters, and future competition.

Both bills provide for the re-regulation of all cable rates, especially the basic tier where most of the special channels are grouped. Markey's bill also would require cable companies to provide a bargain tier comprising five or six off-the-air channels plus local public-access channels.

The bargain rate is a splendid concept that would have provided those Tennesseans with a recourse from price gougers. Now, it would provide an entree into cable for people who cannot afford the $20-$30 monthly charge for the basic service.

Given the improvements in basic service, its cost is not excessive in most communities. There would be no reason to regulate it as long as viewers could choose the bargain rate in lieu of a price increase.

In the early days of cable, conventional broadcasters welcomed the re-transmission of their signals by cable companies. Viewers in communities beyond the reach of conventional transmitters sweetened the broadcasters' ratings.

Now that cable is a strong competitor, the networks and most local stations want a share of its profits. At their behest, senators have included in the Danforth bill a requirement that cable operators obtain a broadcaster's permission to re-transmit its signal.

Cable companies have run ads in the Globe and other papers urging their customers to fight this proposal, which they say could add 20 percent to cable bills. That figure, based on a rash CBS estimate, is overblown, but if the bill passes, some broadcasters will demand money for their signal, and cable rates will surely rise.

Cable operators have invested billions in cable and transmission facilities that extend and improve the conventional broadcast signals, yet no one ever asked the broadcasters to pay them for this service. Requiring cable companies to subsidize the broadcasters would place an unneeded burden on cable customers.

Broadcasters say they are losing audiences and profits to cable companies. Indeed they are, and with good reason. The quality of the typical network program in prime time is unappealing to many viewers. Even reruns of "Mr. Ed," a night-time staple of the Nickelodeon cable network, are refreshing by comparison.

Just like the networks, cable operators are seeking to penalize the competition. Their focus is on the future, when entrepreneurs using direct satellite links to viewers may provide 50- or 100-channel services.

"Let them set up their own CNN or Nickelodeon," the cable owners say. It is likely that without re-regulation they could deny competitors access to the special channels that are vital to the success of a multichannel system.

Both bills would require the cable companies to allow competitors to buy their services. As did the cable companies in their early years, these new services need access to existing programming if they are to have a chance.

The cable companies may be their own best competition. They are talking of systems that provide 200 channels and a vast range of pay-per-view services. Congress will need to make sure that if these services become popular, the cable operators do not neglect their responsibilities to provide quality programming to customers who can afford only the less expensive tiers.

Twenty years ago, when broadcast television was dominated by the three networks, many viewers complained there were rarely any programs worth watching. That dearth of choice ended with the emergence of cable and videotape.

Although only a bit of re-regulation is needed now, Congress must make sure that as cable technology changes, its benefits are shared as widely as possible.

[From the Philadelphia Inquirer, July 12, 1991]

THE COST OF CABLE TV

Around the clock, most American television's can tune in network shows, 24-hour news, movies galore, health stuff, congressional coverage and more. Thanks to cable TV, 55 million homes now have this variety of offerings. But this boon has been accompanied by griping about how fast the cost is rising. Since 1987, when cable television was freed from price controls, the average rate for cable service has increased more than 50 percent. So lawmakers have been working on what to do.

Naturally, cable companies want to stave off renewed controls. They argue that the price hikes of the last few years were needed to compensate for the unrealistically low charges under regulation, and to pay for the increasing diversity of cable programming. As one industry official puts it: "There isn't any regulatory scheme in the world that can get you filet mignon for the price of hamburger." Maybe so, but if there were only one place to get filet mignon, you can bet its price would be even higher.

That's the basic problem: Cable TV is a monopoly with great power to dictate its price. That's why the Federal Communications Commission last month revived price regulation of basic cable service in markets with fewer than six broadcast television stations. (That takes in about one-third of all cable customers.) And it's why the Senate Commerce Committee recently passed a plan to regulate cable service in nearly all U.S. markets—and to reduce some of the anti-competitive forces in the cable industry.

The Senate bill includes a number of sensible changes but goes overboard on some basic points.

Under the Senate bill, the price of basic cable service in areas that don't have numerous free stations would be reviewed by the Federal Communications Commission or by a local agency approved by the commission.

But the Senate plan also would let regulators control the price of additional services, such as CNN, ESPN and so on. This gives us the whim-whams. Sure, cable operators have been repackaging their services—shifting popular offerings into more expensive levels of service—in the hope that Congress will limit any new regulation to basic service. Still, overdoing it on price control would stifle the cable industry's innovativeness in programming. If the cable systems were hobbled in this way the biggest winners would be the major networks and their affiliates—not the public.

Under the Senate bill, local cable companies would also be required to carry all local television stations, including ones with weak signals. That's in the public interest, but with one kind of station—those that do nothing other than make sales pitches to home viewers—it would make sense to leave that choice to the cable company.

The bill also goes overboard by letting any station waive its right to be carried by cable and instead, insist on working out terms for compensating the station. Why should the cable company pay a dime for this?

The Senate plan also tries to put new competitive pressure on the cable industry. For example, it would bar a cable television company from insisting that it become a part-owner of programming in order for it to be carried. Also, the FCC would be able to limit the number of channels on which a cable company could carry programs that it owns a piece of. Both of these rules help to guard against monopolistic impulses in the industry. That goes as well for a provision in the bill requiring the FCC to set a maximum share of cable service nationwide that no single company could surpass.

There will come a time when cable television faces major competition from other technologies such as satellite transmission. But they're not yet ready for prime time. Until then there may be something of a love-hate relationship between cable customers and their local cable company, as the programming expands and the prices rises. While new legislation can help somewhat the public should look askauce at claims that Congress can cut the cost substantially without impairing the product.

[From the Kansas City Star, Jan. 25, 1991]

CAREFUL ON CABLE

Another effort to regulate anew the cable television industry is gathering steam in the current session of Congress. The legislation which has been proposed—similar to a bill that died last year—has some provisions worthy of consideration. But on balance it focuses too much attention on the threadbare "solution" of price controls.

This is not to deny that cable TV has been its own worst enemy in recent years. Prices have gone up, while quality has suffered in many markets. Last year a survey found that 20 percent of viewers harbored somewhat or very negative feelings toward their cable company—double the "negatives" for broadcast networks.

In 1984, Congress wiped out price controls in markets with "effective competition," loosely defined. But this stab at deregulation failed to ban the exclusive franchises some cities use to bar or inhibit new multichannel systems. Court rulings in this area have been mixed.

Congress is not the only part of the government revisiting the muddled cable TV issue. Last month the Federal Communications Commission proposed rules that would tighten the definition of effective competition, restoring rate controls for more than half of the nation's cable systems. The bill before Congress, sponsored by Missouri Sen. John Danforth, promises to extend regulation to even more markets.

Some provisions of the bill would improve competition in at least one respect: They effectively would ban exclusive distribution of shows to particular cable systems, which would give competing systems equal access to programs such as CNN or C–SPAN.

Lawmakers are receiving intense pressure from viewers upset about high rates, but they should keep this issue in perspective. Some programming is valuable and informative, but this controversy is not about rates for electricity. To a great extent, this is about how much it costs to watch Home Shopping Network or the Comedy Channel.

Several dozen cities now have head-to-head competition in wire cable systems. Thirty markets offer competing "wireless" systems delivered via microwave (although the development of these systems is impeded by the FCC's slow permit processing). About 3 million homes receive television directly from satellites.

The market is slowly adding competitors and choices. Congress should encourage these trends by concentrating its efforts on improving market access for new systems and new technologies.

[From the St. Cloud (MN) Times, Jan. 17, 1991]

CABLE REGULATION ISN'T A NEED

With problems like the Gulf crisis, deficit budgets, a mounting national debt and the growing need for affordable health care for the nation's uninsured, Congress should have its hands full.

But no matter how momentous the challenges, the nation's lawmakers just can't seem to resist the temptation to try to expand government authority, usually creating new government costs in the process.

Three senators found time this week to introduce legislation to again place the cable television industry under regulation. Specifically, their bill would again give regulatory authority to local governments.

The bill's sponsors contend a lot of cable system operators are gouging their customers.

Regulation of utilities—providers of the electricity and natural gas that are virtual necessities of modern life—can be justified. They key word is necessity. Utilities are the only reasonable sources of gas and electricity. But access to 40-plus television stations certainly isn't a necessity. And cable isn't the only option for those who want television in their homes.

Television is readily available for those who don't want the luxury of cable service. An antenna can be purchased at very little cost from a television dealer or electronics store. In St. Cloud, a reasonably-price antenna will pick up the free signals of seven stations based in the Twin Cities metropolitan area. Those who live closer to those stations don't need any more than the built-in antennas on their TV sets.

For the true TV glutton, a satellite receiver can be purchased and installed for less than $2000. That is about the cost of 8½ years of relatively limited cable service at current rates, but it is a one time expense, and with it comes access to another 90–100 free channels. The addicts not satisfied with 100-plus stations also can subscribe to receive the satellite signals of the so-called "premium cable" broadcasters. A St. Cloud dealer cited $38 for six months service from one as a recent example.

Worse is the fact the legislation would place the regulation of cable systems—and the rates they charge—in the hands of local governments. Determining that fine line between excessive profit and allowing a business a reasonable return is complex and local officials lack the expertise to do it fairly.

Regulation of gas and electric rates at a state level is so complex that it requires a full-time staff. Cable TV certainly isn't as complex as providing gas and electric service, but a sound knowledge of the industry is still necessary for rate setters. Consequently, local officials either make uninformed judgments, or they hire somone—adding to the cost of local government—to help.

The nation badly needs for its lawmakers to focus on the critical issues of the day, not to waste their time trying to dream up new regulations to expand already-bloated government power.

[From the Denver Post, Dec. 26, 1990]

DON'T STIFLE CABLE TV WITH FOOLISH OVERREGULATION

During the last session of Congress, there was a move afoot to create a federal law requiring cable TV companies to put more shopping channels on television.

Although this proposal died, it underscored the absurdity of the federal government's efforts to slap new controls on the cable television business.

Just this month, the Federal Communications Commission said it may let cities and towns regulate cable TV prices.

Initially, the impetus for price regulation came from consumer complaints that cable TV prices have risen too quickly.

In the minds of many Americans, cable television no longer is a luxury but a near-necessity. The cable TV industry has been woefully slow to recognize the political and marketplace implications of this attitude change.

For example, cable has brought many excellent shows into American homes. But these fine programs draw small audiences, so they don't attract big advertisers and can't be supported by ad dollars alone. What keeps them on the tube are the checks that subscribers write to their local cable company each month.

Take away the cable companies' ability to keep pace with the increasing cost of creating these shows, and the number of quality programs on the tube may decline.

Yet the cable industry never adequately explained this simple fact to its customers, so it's not surprising that consumers now are demanding quality programs, but simultaneously complaining that they don't want to pay for them.

The criticism of the cable industry's poor customer relations especially applies to some of the cable firms based in the Denver area, which number among the largest cable television enterprises in the country and which own dozens of systems across the nation.

These companies need to acknowledge the political forces rocking their corporate ships.

Competing industries—including broadcast stations, movie studios and video rental shops—have piggybacked their selfish concerns on top of consumer discontent.

For example, there's a new technology called High Density Television, or HDTV, that will revolutionize video the way the compact disc transformed audio.

Cable TV systems are racing to put in new fiber optic systems that will allow them to bring HDTV to consumers in the very near future. But this investment will cost hundreds of millions, even billions, of dollars.

Since fiber optic networks will give cable TV companies an advantage over broadcast stations, the broadcasters have a strong interest in seeing price controls slapped on the cable business: if the cable companies don't have enough revenue coming in from subscriber fees, they won't spend as much money putting in fiber optic systems.

In the end, American consumers won't have access to HDTV or other new technologies as quickly as they would have without this political manipulation.

Congress and the FCC should peek behind the mask of consumer protectionism in which other entertainment industries have wrapped their pleas for price controls on cable TV.

Government interference only will reduce the financial ability of cable companies to put good shows on the tube and to move forward with promising technologies. The results only will harm the consumers that Congress and the FCC claim they are trying to protect.

[From the Duluth (MN) News-Tribune, Dec. 16, 1990]

LET MARKET REGULATE PRICES

It sounds tempting—especially after the Reagan presidency gave such a bad name to deregulation—but government should resist the temptation to wider regulation of cable TV rates or expand federal civil rights laws to car purchases.

The Federal Communications Commission is considering a plan to give local government more control over rates for cable TV services.

Anyone who hasn't winced recently at rising cable rates either has someone else pay the bill or isn't hooked onto the cable. But there's an easy way for cable customers to stop spiralling rates: Call up the cable company, and tell them to unhook it.

Some may consider cable TV a necessity, but it isn't. The marketplace can regulate these prices just fine.

The same is true with the prices of new cars, despite a recent survey that says women and blacks pay more for the same car than males and whites. The author of the study, to be published in the Harvard Law Review, said the discrepancy could be dealt with by expanding federal civil rights to car purchases or by federal regulation of their prices.

The author says there's no reason to believe racism or sexism caused the discrepancy. He thinks dealers believe they can drive a harder bargain with women and blacks—and so stick closer to sticker prices.

We wonder what we'd find in a study of how much more or less is paid for cars by members of different occupations, ethnic groups, zodiac signs, etc. In any case, the idea of government stepping in because some groups drive a weaker bargain than others is the height of silliness.

A proper government role is to protect the weak from the strong and all of us from basic transgressions by others. But those of us who can't stand to cut off the cable or haggle with car dealers should look to ourselves, not government, for answers.

[From the Schenectady (NY) Daily Gazette, Sept. 13, 1990]

LEAVE CABLE TV ALONE

Funny how lawmakers suddenly start listening to their constituents around this time of year. With an election just two months away, the House voted unanimously this week for a bill to re-regulate cable television rates. The vote was clearly in response to the thousands of complaints lawmakers have received about the rise in cable rates since deregulation took effect in 1986. However popular it may prove with voters, it was not the right response.

Basic cable subscribers have been angered by rate increases averaging 43 percent over the last four years, and who can blame them? The price of few other goods and services rose as fast during this period.

But the increases were mostly justified, for a number of reasons. For starters, in the years prior to deregulation, cable operators frequently found it difficult to recover their costs. Local politicians, who controlled rates prior to deregulation, held increases to substantially less than the inflation rate.

Another justification for the rate increase has been the improvement in basic service: not only are most systems providing more channels, but the quality of the programming on the channels has improved. You didn't see major league football games or nearly as many baseball games on cable prior to deregulation, nor were there as many high-quality shows or movies produced exclusively for cable networks. These programs cost money, and have forced the companies that provide them to raise rates to cable operators. In turn, cable operators have had to pass their increases along to subscribers.

Deregulation simply hasn't been the nightmare that every member of the House thinks it is. Yes, cable operators still have virtual monopolies wherever they're granted franchises. But the explosion of the home video industry has provided some competition, and direct satellite broadcasting is expected to provide even more within the next three years. Rates have, in fact, moderated over the past two years after the initial post-deregulation spike.

Instead of re-regulating the cable industry, Congress should be looking at ways to deregulate it even more: make it easier for second cable companies to enter a market. That would provide the competition needed to temper rates.

[From the Houston Post, Aug. 5, 1990]

TANGLED WIRES: CABLE TV INDUSTRY NEEDS COMPETITION, NOT REGULATION

There's a move afoot to have the federal government regulate the cable television industry. There are bills that would do that in both houses of Congress.

Certainly there is a perceived need for this. The industry has tended to put the thumbscrews to consumers since it was deregulated in former President Ronald Reagan's drive to get the government out of business.

Most of the deregulation moves have been positive. Air travelers can fly cheaper then ever before and telephone service prices have come down. But there are two exceptions—the most horrendous being the deregulation and subsequent insanity in the savings and loan industry. The second is cable TV. If only a pale shadow of the S&L debacle.

Still, there are cable abuses, such as high prices and poor service. In 1988, the overall consumer price index rose 4.2 percent. During the same time, cable rates rose more than 13 percent. In Houston, in the deregulation year of 1984, Warner Cable's basic rate was about $11 a month. It rose to more than $17. Like an ill-fitting bathing suit, other cable providers have been afflicted with the same upward price creep.

Since the Cable Communications Policy Act of 1984, cable operators have been able to set their own rates after two years of service and they have been able to offer just about any programming they wish.

Cable, once used only to bring television to remote areas where broadcast signals couldn't reach, has spread like Kudzu vine over the country. In 1988, it covered 53.8 percent of the country and it's still growing. In Houston that year, 47 percent of all TV households subscribed to cable. That's lower than other Texas cities, such as San Angelo with 82 percent or Austin with 58 percent. However, both Warner and Storer Cable Communications, Houston's major providers, have increased their subscriber list over the years.

In 1985, Forbes magazine said the purchase of a cable system for $1,600 per subscriber would be "astronomical," but in 1989 a cable system can easily be sold for more than $2,000 per subscriber. Now that's big business.

Both the House and Senate have bills pending that would authorize the Federal Communications Commission to regulate rates for basic cable service if they are unreasonable or abusive. Also the legislation would require the FCC to set service and technologies standards for cable customers.

The operative words here are "basic service." Remember a few weeks back when cable companies here changed their channel numbers? This was done to include a new stripped-down package of channels and it happened all over the country. It was a move to stave off re-regulation. If the legislation passes, the FCC will have something to regulate while rates on the more expensive and more desirable cable-service packages could keep on going up and up.

New Warner Cable is about to change channel designations again "for the customer" by putting broadcast channels on the same channel numbers they use over the air. Guess what? The same-channel requirement is part of the Senate bill cable re-regulation bill.

Even concerning the abuses, re-regulation is not the answer. What's needed is increased competition. The FCC issued a staff report saying the same thing. The agency proposed "to a more competitive marketplace for the distribution of multichannel video services."

It's the American way and it's the way to go. New companies and new technologies are more likely to emerge to compete in the freer market, and this should benefit the consumer. Its almost always better to switch than fight.

[From Universal Press, Apr. 23, 1990]

DANGER SIGNALS ON CABLE TV REGULATION

(By James Kilpatrick)

It is a sound principle, or so it seems to me, to look with dark suspicion upon any effort by government to "protect" us. In obedience to that principle, let us be wary of Sen. John Danforth's pending Cable Television Consumer Protection Act. It may be a bummer.

The gentleman from Missouri is disturbed at some things that have happened since cable TV was deregulated five years ago. He sees the evil consequences of monopoly. Between 1986 and 1989, cable rates in Jefferson City increased by 71 percent. In Cape Giradeau, rates soared by 100 percent. Without re-regulation in some form, he sees nothing to prevent cable providers from gouging their subscribers and delivering lousy service to boot.

Well, maybe so, but voices of experience should whisper in our ears. The parallels are not exact, but most of us can recall—plaintively and poignantly—the kind of telephone service we had before government got into the act, it was the best service in the world. Then the courts went to work and broke up AT&T and the Bell system. Now the service is often terrible and it costs a ruddy fortune.

The theory behind the telephone fiasco is the same theory Danforth and his colleagues are resurrecting here: Monopoly is bad; competition is good. The theory is fine, but before Congress applies the theory to cable TV, let us take care not to hobble a healthy horse.

Today the best estimate is that 53 million homes—about 57 percent of all television households—have cable. In the past decade, cable advertising revenue has ballooned from $58 million to $2 billion. More than 9,000 cable systems are now in operation.

The data suggest that the industry must be doing something right. If you accept the industry's statistics at face value, always a risky thing to do, basic cable rates since 1972 have lagged behind the rate of inflation. The cable operators are selling entertainment at an average cost of $15 per household per month—less than what it costs to take the family to a single baseball game. This doesn't smack of monopoly gone berserk.

Under Danforth's bill, regulation of basic cable rates would revert to local city councils wherever a cable operator had no "effective competition." In these circumstances, local governments would have to fix rates within guidelines to be set by the Federal Communications Commission.

Another aspect is troubling, Danforth makes much of cable's role as "gatekeeper of information." He finds it ominous that "cable operators today are free to decide what local broadcast programs their subscribers are able to see." But how is this different from the way in which newspapers go about their business? Editors and publishers regularly decide what news and features their subscribers are able to read.

The senator would not exactly dictate the programs that a cable franchise would have to deliver, but he would compel every cable system to carry, free of charge, the broadcast signals of local TV stations. If cable operators enjoy the same First Amendment protection accorded to other media, it is hard to see how they constitutionally could be compelled to carry any program they were not required by local contract to carry.

James Mooney, president of the National Cable Television Association, freely acknowledges that his industry has problems with consumer service, but he insists the problems are diminishing. Now that most of the attractive markets have been gobbled up, the industry's hope for growth lies in signing up the 40 percent of TV households that have not yet subscribed. This will require moderate fees, diversified programs and prompt service.

My thought is to stick by the marketplace. Government protection is great when it protects us from contaminated meat and fraudulent securities, but we ought not to have more "protection" than we truly need.

Mr. BURNS. Mr. President, I ask unanimous consent that the letter from the Federal Communications Commission, a statement from Alfred C. Sikes, regarding cable television legislation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FEDERAL COMMUNICATIONS COMMISSION,
Washington, September 21, 1992.

STATEMENT OF CHAIRMAN ALFRED C. SIKES REGARDING CABLE TELEVISION LEGISLATION

The proponents of cable TV legislation (S. 12) say they want to lower cable rates and increase competition.

But the simple truth is that the bill now pending before the Congress just doesn't do what it's supposed to do.

The cable industry is one of the prime success stories of the communications revolution. Cable programming offers us vastly more choices of information and entertainment. Cable's physical plant is becoming an indispensable component of bringing choices in new telecommunications services.

Cable's success is due principally to the hard work of entrepreneurs operating in a free marketplace. But it was helped greatly by the application of a light regulatory touch by Congress and the FCC through the 1984 Cable Act.

Cable's performance has not been flawless. Consumers have expressed outrage over quick and steep rate increases and poor system reliability.

There is wide agreement in Washington that actions should be taken to stem cable rates and improve cable service quality. But there have been stark differences in the proposed solutions.

The FCC in 1990 set out to identify the problems and find solutions to them. We held hearings and gathered extensive evidence.

A unanimous Commission found that the best way to assure reasonable cable rates and quality service was to make a few changes in the Cable Act, and, most importantly, to introduce and encourage competition to cable. Competition, rather than government regulation, in the delivery of telecommunications services has proven to be the best guarantor of lower prices and greater choices for consumers. Overall cable rates have been found to be 20% lower in competitive markets.

The FCC recommended to Congress a variety of ways that barriers to competition could be removed, including requiring cities to consider granting a second local franchise and getting rid of restrictions that prevented competitors from entering and flourishing in the video delivery business. We encouraged greater access to programming for cable's competitors.

The Commission has worked hard to make competition to cable a reality. We are speeding license grants for wireless cable services. We are continuing to encourage the development of competition from Direct Broadcast Satellite, which seems to be on the verge of becoming a reality. Finally, we are permitting telephone companies to offer "video dialtone" services, which would provide to any programmer nondiscriminatory access to all households.

Unfortunately, the bill before Congress does not rely on the competition prescription offered by the FCC and the Administration to improve cable rates and service. Congress is doing very little to encourage greater competition to existing cable systems. For example, it does nothing to encourage competition from one important source—the telephone companies. Other parts of the bill, like the program access provision, go far beyond what the Commission found to be necessary to provide cable competitors with the opportunity to participate in the program marketplace.

Congress' cable solution features a "big government" approach that will lead to costly regulation. Not even the bill's proponents claim that it will lower cable rates. In fact, the bill permits all the cable cost structures that are now established to be passed on to consumers, and guarantees the cable operator "a reasonable profit" as well. This should make our citizens wonder whether the bill is really a good idea.

When we know from present experience that direct competition to cable has resulted in rate decreases, Congress' desire to permit continued rate increases clearly is the wrong way to go.

Finally, the bill imposes crushing burdens on the FCC. If this bill becomes law, even by Congressional estimates, more than $20 million—one-sixth of the agency's entire budget—each year will go to cable regulation. This burden includes more than just strictly regulatory provisions. The FCC is condemned to study every question about cable that is on the mind of Members, at a large cost.

In response to our citizens' complaints about cable, Congress is giving them legislation that won't reduce rates and won't increase competition. This cable bill is a bad deal for the public and for all elements of the communications industry. I hope the bill does not become law, so that the next Congress can work on removing regulatory barriers instead of erecting new ones.

Mr. BURNS. Mr. President, on September 9, 1992, House and Senate conferees agreed to a conference report on legislation to reregulate the cable television industry. The conference report adopts many of the most regulatory provisions in the House-passed cable bill—H.R. 4850—and thus differs in significant respects from the bill that passed the Senate last January—S. 12. The following is a brief summary of the key differences between S. 12 and the conference report.

Anti-buy-through provision. The conference report contains a so-called anti-buy-through provision that was in the House bill, but that has never been considered by the Senate. This provision requires cable operators to install sophisticated addressable converters in all subscriber homes, thereby significantly increasing the cost of providing cable service—up to $5.8 billion by some estimates. The impact of this provision will especially be felt by smaller, rural systems—and their subscribers—that have no market-driven incentives to install this expensive equipment.

Program access. The conference report adopts the House provision on "program access." Unlike the Senate provision on program access, which echoed familiar antitrust law concepts, the House language adopted by the conferees contains a novel and ambiguous legal standard that will chill cable operators and cable programmers from engaging in legitimate business practices while it is interpreted, explained, and refined in expensive adversarial proceedings at the FCC.

Telco/cable cross-ownership. S. 12 attempted to promote competition to cable in rural areas by permitting telephone companies to offer cable service in areas with under 10,000 inhabitants, notwithstanding the Cable Act's prohibition on cable/telco cross-ownership. The conference report eliminates this provision completely, leaving intact the existing exemption, which covers communities with under 2,500 inhabitants.

Customer service standards. The conferees adopted the House provision on customer service. While both the House bill and S. 12 authorize the FCC to adopt national customer service standards, the House approach undermines this effort to achieve national uniformity by giving local officials unrestricted power to exceed the FCC standards.

Antitrafficking. The conference report adopted House language restricting the purchase and sale of cable systems. These restrictions, which were not considered in the Senate, subject transactions involving private cable companies to more stringent regulation than transactions involving federally licensed broadcast stations.

Rate regulation/regulatory costs. The conference report eliminates a provision found in both the House and Senate bills that would have required "bad actor" complaints—challenging the reasonableness of expanded basic tier rates—to present a prima facie case. By eliminating this provision, the conferees have substantially increased the regulatory burden on the FCC and on cable operators. Overall, the cost of implementing the legislation agreed to in conference is likely to be substantially higher than the cost of implementing S. 12. The CBO estimated that the House bill would cost the Federal Government at least $100 million over 5 years, while the estimated cost of S. 12 was only $33 million for the same period of time.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, on behalf of the proponents of the conference report, I yield myself such time as I may require.

Mr. President, this point in the course of the legislation is now 3 years in the making. The first cable bill was introduced just about 3 years ago now. We have been working on it ever since. We have been attempting, or had attempted, in the early stages, to work with the cable industry. And, in fact, back in 1990 we believed that we had worked out an agreement with the Cable Television Association for legislation.

In June of 1990, we held a markup in the Senate Commerce Committee, and we found out immediately before going to markup—the same morning as the markup, as I recall it—that the cable industry had changed its position, that it wanted to put into the legislation what amounted to a special antitrust exemption which would hold the cable industry in a different position from the ret of the country with respect to antitrust. And as a result of that sudden, 11th-hour demand, we were unable to reach agreement with the cable industry, so we proceeded with the markup anyhow.

At the beginning of this Congress, in January of 1991, on the first day of the Congress, Senator HOLLINGS, Senator INOUYE, Senator GORTON, and I introduced S. 12. This particular bill, therefore, was introduced on day 1 of this Congress, and it appears likely that if there is a vote on the President's veto—and there may not be—but if there is a vote on the President's veto, the vote will occur on the last day of this Congress.

This legislation has been worked on over a long period of time. We have had in the Commerce Committee 14 days of hearings on the cable bill. So this is not something that has been done quickly. It has been done very slowly and very deliberately. As a matter of fact, I think that it is fair to say that the tactic of the cable industry has been to make us go as slowly and deliberately as possible, including delaying the vote on the President's veto until time has run out for Congress to act in this session. The tactic has been one of delay.

In January of this year, the Senate voted on S. 12. It was an overwhelming vote. The vote was 73 to 18. As Senator BURNS has pointed out, this bill has been changed since the version of S. 12 was voted on, 73 to 18 last January.

The changes that have been made, Mr. President, are changes that favor the cable industry. The conference report that is now before us is much more favorable to the cable industry than the bill we voted on and passed, 73 to 18, last January.

For example, the definition of the basic tier of programming that can be regulated is much more favorable to cable—that is, much narrower—in the conference report than it was on the floor of the Senate last January. The rate regulatory power of the municipalities is more narrow in this conference report that it was in the bill that was passed 73 to 18 in the Senate in January.

Furthermore, the access to programming provision strongly opposed by the cable industry is sunsetted in this legislation. That was not the case in S. 12, which passed the Senate by a vote of 73–18. So the changes that have been made are changes that are favorable to the cable industry.

One wonders what possible rationale there could be for a Senator changing his vote on the conference report. Certainly not that the legislation is tougher for the cable industry than S. 12 was back in January. I think that the only rationale is that the tactics that have been pursued by the cable industry have been so tough politically that it might be hard for some Senators to continue voting for the cable bill.

Cable television not only is an unregulated monopoly—which is a wonderful business if you can get it—but the cable monopoly has the power to communicate. That is what cable television is: the power to communicate through commercials on television, and the commercials that have been run are commercials which have been designed to frighten the American people. It is a campaign of fear that has been run by the cable operators. And it is not only the use of the programming, the commercials on cable television, but flyers that have been enclosed in cable bills telling people that their rates will go up, and apparently various phone calls to people.

There is a sad story in the Richmond Times-Dispatch of September 17. The story begins as follows. The headline is: "Cable TV Lobbying Sparks Caller Anger."

> For Sherri Wertz, disabled by multiple sclerosis and living on a fixed income, television isn't only a companion—it's "my best friend."
>
> When a caller warned the Virginian that her cable bill might jump from $50 to $80 per month if Congress passes legislation for the government to regulate cable television, she was alarmed.
>
> So she accepted the man's offer—on behalf of the National Cable Television Association—to have her call transferred to her senator's office free.
>
> It was 10 or 15 minutes later, as Mrs. Wertz was listening to an aide to Sen. Charles S. Robb say cable operators might lose money under the bill, that the telephone line went dead.
>
> Mrs. Wertz, who lives on the Peninsula, is furious.

And the article continues.

Then there was the article in the Washington Post on September 18. "Cable Lobby: At the Tone, Get Irate at Your Senator," a very, very funny article. I believe that the Senator from Hawaii has already put this in the CONGRESSIONAL RECORD, so I will not do it again. But it has the transcript of what appeared on the answering machine of a Member of the Senate. I will just read a part of this article.

> Unfortunately for the cable company, its representative forgot to get off the line. Soon the senator's staffers were quaking with mirth as was a reporter who heard a playback. The "spontaneous outrage" had all the subtlety of a guillotine:
>
> First voice (male): "Ma'am, you just speak."
>
> Second voice (female): "I don't know what I'm speaking about."
>
> First voice: "Uh, the cable bill. You don't want your cable prices to go up, right?"
>
> Second voice: "No, I do not."
>
> First voice: "Well, okay, just tell 'em that."
>
> Second voice: "Tell 'em what? I mean . . ."
>
> First voice: "That you don't want your cable bill to go up."
>
> Second voice: "That's all I have to say?"
>
> First voice: "Yes, that's all."
>
> Second voice: "Okay—Senator, I do not want my pable—cable bill to go up."
>
> First voice; "Thank you."
>
> Second voice: "Thank you."

So that is from the article in the Washington Post.

The cable monopolies, Mr. President, want us to believe that if the local municipalities regulate the unregulated monopolies, cable rates will go up, not down. That, of course, is contrary to the position that is taken by, for example, the Consumer Federation of America, which has said that cable rates would go substantially down under regulation. It is contrary to the Justice Department's finding that about 45 percent or a half of cable rate increases were based solely on the industry's monopoly in the market.

Mr. President, I certainly share the basic philosophy—and it is clearly a basic Republican philosophy, a conservative philosophy—that competition is superior to regulation. And, in fact, back in 1984, when we voted—and I was one of the people who did vote—to deregulate cable television, we assumed that there would be competition.

The chairman of the Communications Subcommittee, Senator Goldwater, argued at that time that by 1986 or 1987, every homeowner in this country will be able to have television reception, directly from satellites, of television programs going on in literally every country in the world. And the then chairman of the Commerce Committee, Senator PACKWOOD, predicted that we would be putting satellite dishes on our roofs in 2 to 3 years. And the then president of the National Cable Television Association, Thomas Wheeler, testified before a Senate hearing that: "Cable systems are overbuilding each other. And by 'overbuilding,' we mean that a consumer will have a couple of choices of cable companies. There will be two cable wires running down the street."

Well, that was the assumption back in 1984. That assumption has not come to pass. In fact, in only about one-half of 1 percent of the homes in America is there more than one cable system.

Mr. President, competition is superior to regulation, but one thing that we do not tolerate in this country is unregulated monopolies. We would rather have competition than regulation, but we do not want to have neither, and that is the situation in cable television today. Cable television in the communities of America is an unregulated monopoly.

The cable television company providing service in Jefferson City or Cape Girardeau or Hannibal is an unregulated monopoly. It has no competition for the service it provides, and under present law it is not regulated.

That is a good business to be in. If I were in that wonderful business of running a highly desirable business monopoly, I might be tempted to behave as the cable industry has behaved. It is wonderful to be able to jack up rates without having anybody be able to do anything about it. That is what has happened.

Since cable television deregulation became effective at the end of 1986, cable television rates have gone up nearly three times the rate of inflation in America. Here is the industry that is going on television frightening people. Here is the industry frightening a person with multiple sclerosis that her rates are going to go up, and that industry, unregulated and noncompetitive, has raised its rates nearly three times the rate of inflation since the end of 1986.

It is a wonderful business to be in, to be a monopolist. It is great. It is very profitable. You could make a lot of money.

And according to my constituents, you can let the service deteriorate at the same time. And, according to my constituents, if anybody has the gall to complain, you do not even have to answer your telephone. In Jefferson City, MO, I am told, the cable company, TCI, has the practice of not even answering the phone when people call up.

Mr. President, that is what happens when there is a monopoly. That is how customers are treated when there is a monopoly. Stick it to them. Raise the rates. Forget about the quality of service. Treat them like dirt.

So it is no wonder that the cable industry delays. It is no wonder that the cable industry leads Congress to believe that you have a deal one day and then on the day of the markup, oh, it is Lucy's football. It is no wonder that the cable industry runs commercials on its own cable. It is no wonder that the cable industry frightens people with statements that are put in the bills. They will do anything they can to preserve their monopoly status, to string it out, to keep the good deal going as long as they possibly can.

This legislation is very moderate, very temperate legislation. It provides that the power of a municipality to regulate cable television expires when there is another multichannel provider. This legislation provides that when the conditions that were assumed back in 1984, namely competition, come into place, then there is no further power of regulation.

This bill, therefore, tracks the concept that Congress thought it was pursuing back in 1984. I regret that the President is going to veto the bill. I understand his basic view that Government regulation is something to be avoided. But it is absolutely basic Republican philosophy going back to the days of the great trustbuster, Theodore Roosevelt, that if there is no competition there must be regulation. Because when it comes right down to it, it is the American people who must come first, not the monopolists. And unless we pass this legislation it is the monopolists who will continue to come first, the cable monopolists, the business interests that have the absolutely free hand.

It may well be that time will run out before we vote on the override. I am sure the theory of the cable companies is delay action, because as long as they can keep the present good deal going they will do it. But I know my friend from Hawaii and I know his commitment to this issue. I can say if we run out of time again in this Congress, we will be back on day 1 of the next Congress.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. Mr. President, I yield 10 minutes to my colleague from Colorado, Senator WIRTH.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Mr. President, I thank my distinguished colleague from Montana for yielding.

I am not undecided on what I am going to do on this particular legislation. As I have told the distinguished Senator from Hawaii and others, I think it is a very bad piece of legislation, setting extremely bad precedents and demonstrating a misunderstanding not only of the history of the industry for the future of the industry. We will have a short debate this afternoon then we will all vote tomorrow afternoon. The President, I hope, will veto the bill.

I am not a partisan on the other side either, but I do hope that President Bush does fulfill his commitments that he has given to so many about vetoing this legislation.

Telecommunications policy is set by the Congress and should be designed to promote new products and new technologies and new services. It can be an extremely lucrative industry. It can be extremely lucrative if you find the right niche.

What has happened over the last 60 years since the Communications Act of 1934 is that there have been a lot of niches carved out, and people have done very well: Radio and television broadcasters and telephone service providers and so on, have all done at times very, very well.

What has happened when they do so well is that they do everything they can to keep new technologies and new competitors out. What happened was, with the history of radio, that the FM radio people did everything they could to keep FM out because they did not want the competition, and we had to go in and require FM bands in radio.

The same thing with the television world. The VHF television people controlled the making of television sets. They would not permit the UHF receiver in television sets. We had to require them to do so. We had to do the same thing in the telephone world. We had the enormous monopoly of Ma Bell and that changed and we allowed new competitors to come in and the Congress required it. And we had the same thing that happened to the Cable Act of 1984. There was the impetus to install new technologies and come in with new kinds of programming and new initiatives, the genius of Ted Turner and others to bring this new technology on board.

During that process the television stations were doing everything they could to quash the new technology and to maintain a piece of their monopoly. And here we go again.

The same people trying to keep out the new offering on the block, are at it again. The legislation is not at all about consumer issues. This is not what is in front of us. Those of us who believe there should be modest changes related to the cable television industry on a number of occasions tried to get an alternative to this overwhelmingly bad piece of legislation. We tried to get an alternative that would address the real consumer problems of rates and customer service.

It was fine to go ahead and do some rate regulations. There have been some rate abuses and there have been some problems with service.

Cable has grown so rapidly, as I said in an earlier debate last year, it is like the 14-year-old boy who suddenly grows very, very rapidly in a year and outgrows his shoes and pants. Cable was growing so rapidly with the Cable Act of 1984 unleashing all the fetters, that cable was not able to provide as good service as they wanted. And they are now embarked upon major service initiatives.

This legislation is not about rates and services. It is about the attempt of those other entities to come back in and grab a piece of the pie and to try to hold cable down. That is what this is all about.

If it were about rates and services we would not be here talking about this legislation. If it were about rates and services, what would be happening is that the proponents of the bill would be, on their side, talking with us and rejoicing with us about the extraordinary commitments that have been made by the cable television industry and the huge contributions they have made.

I ask those who are for this bill, where else is there any programming for children on television? The broadcast industry who is dramatically pushing for this piece of legislation, have virtually abdicated their responsibility when it comes to children's programming. There is virtually no programming on commercial broadcast stations now for kids.

On the other hand, Nickelodeon, Discovery, Cable in the Classroom, almost a third—maybe close to a half of the junior and senior classrooms in the country have been wired by the cable industry. Appealing to the interests and needs of young people—cable television has done that, the over-the-air broadcasters have not.

There is an explosion of television programming on cable television. The premium services, like HBO, Showtime, and Disney, have increased with the expenditures from $1 billion in 1984 to nearly $3 billion a year today. Basic cable programming investment has gone up six times, from $300 million to close to $2 billion a year.

So if this debate were about services being offered to the American public, the proponents of the bill would be rejoicing with us at the enormous job that has been done by the cable television industry. The facts are indisputable. They are out there clear as a bell. In fact they would not be talking about rates, either, because the facts of the matter are that the consumer on an inflation adjusted basis pays less per channel today than that consumer did in 1986.

So this is not an issue that has to do with services. This is not an issue that has to do with rates. If it were service and rates we would have had an agreed-upon bill a long time ago. We were ready to go with a piece of legislation related to services and rates. It is not about that whatsoever.

What this is all about is that this legislation has turned into a free-for-all involving several large and wealthy commercial interests. Cable's competitors have hidden behind these so-called consumer protection issues, the service rate issues, in order to advance communication policies that would never stand on their own. The financial rewards that the conference report hands to these competitors has now clearly replaced consumer concerns as the driving force behind the legislation.

For example, the broadcasting industry will benefit financially if the retransmission consent must-carry provisions become law. To get those rewards the National Association of Broadcasters has financed and led a massive lobbying campaign in support of the legislation. That is such an extraordinary lobbying campaign that in fact, as I have written to the chairman of the Commerce Committee, they have abrogated their public interest responsibilities in terms of responsible broadcasting. The broadcasters have moved far beyond normal lobbying tactics. In the famous memos that have come out from the NAB, which I have discussed here on the floor—the National Association of Broadcasters ask the television stations to in fact get their news departments to skew the news, so they can have their point of view come forward. That is a breach of the public trust and it is outrageous.

We are talking about the little old lady that Congressman SWIFT used to talk about or the consumer that the distinguished Senator from Missouri was talking about.

What about this fundamental issue, Mr. President, of the broadcasters requesting their news departments to lobby for their own commercial interest? That is what this is all about, it is for their own commercial interest.

The conference report has become overweight, fat and bloated with favors for cable's competitors, including ABC, CBS, NBC, and the other broadcasters, direct broadcast satellite operators like General Motors Hughes Communications, and the wireless cable operators. These provisions do not protect consumers. Not at all. What they do is line the pockets of the other interests that, just as they have for the last 60 years, are trying to keep the new entry down.

This conference report is going to lead to higher rates for consumers. There is just no question about it. In many cases, it is going to require a payment for the so-called retransmission consent.

Where is that money going to come from? These are the same broadcasters who used to beg and do everything they could to ensure that cable television would carry the broadcasters' signals.

Now they figure there may be a new trick in all of this and what they are going to do is not only line their own pockets but also what they are going to do is run flat in the face of the people who own this programming.

Who owns this programming? Not the broadcasters. Broadcasters do not own this programming. The people in Hollywood for the most part own this programming. The broadcasters in this are arrogating unto themselves the responsibilities of collecting fees for something that somebody else owns.

It is wonderful if you can get away with it. And they are trying to get away with it. They are terrorizing Members of the Senate and terrorizing Members of the House with fears about what is going to happen to them in new programming.

It is going to happen in other ways, too, Mr. President. Legislation requires cable systems to install expensive new equipment. This is presumably to allow consumers to pick and choose between all cable networks rather than paying for a package of stations they do not want. The list goes on and on, Mr. President.

Mr. President, this is bad legislation. If this were just dealing with rates, if this were just dealing with service we would have had an agreement a long time ago. The reason it has been contentious is that all these other interests are trying to carve off another piece of the pie for themselves.

The cable industry has invested an enormous amount, they brought enormous services to America. The broadcasters were coughing a little dust as the cable industry went by and now they are trying to use legislation to accomplish what they could not do in the marketplace.

Mr. President, I ask unanimous consent that the information on the NAB memorandums and editorials from the Rocky Mountains News, the Denver Post, and the Washington Post along with my full written statement to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD as follows:

NATIONAL ASSOCIATION
OF BROADCASTERS,
Washington, DC, September 3, 1992.

To: Television Group Heads and Television General Managers.

We are in the fight of our life . . .

But, we fear too many broadcasters are content to sit back and hold the coats of those who are on the front lines.

Congress will adjourn on October 3, 1992. The cable industry has launched an all-out offensive featuring bill stuffers, network ads, local system ads, op-ed pieces and visits with Members of Congress, designed to do the following:

Prove to the administration that if the President vetoes the cable bill, they will do everything imaginable to support that veto.

Convince consumers that the cable bill is "anti-consumer," thereby giving cover to Members of Congress, Senators in particular, who want to risk changing their vote and oppose passage of the cable bill.

This effort will succeed unless—

Broadcasters do everything within their power to counter the NCTA offensive.

You have been given spots—Please run them.

You and your employees have been asked to communicate directly with your Senators—Do it and often. Ask for the order. Do not take no for an answer.

You have been given material for use by your news department that gives lie to cable's claim—Tell it like it is. Generate the news stories.

You have been asked to communicate personally and directly with Members of Congress, especially your Senators—Please do it today.

You have been promised any other supporting material necessary—If you need something, call the cable hotline [1-800-582-8830] and ask.

We have about 20 legislative days left to insure victory on the cable bill or lose it the last moment. We can think of no outcome harder to live with than one which is the direct results of unwillingness to participate. Anyone who does not believe that it is important to stand up and be counted does not deserve the benefits that will be realized from the successful passage of the cable bill, which will include retransmission consent and must carry.

The time is now. The choice is yours.

Sincerely,

Gary Chapman, NAR Joint Board Chairman; John Bebank, Government Relations Chair, ABC Affiliates; Ron Townsend, NAB TV Board Chairman; Ben Tucker, Government Relations Chair, CBS Affiliates; John Siegal, NAB TV Board Vice Chairman; Robert Kalthoff, Government Relations Chair, NBC Affiliates.

U.S. SENATE,
Washington, DC, September 10, 1992.

Hon. ERNEST F. HOLLINGS,
Chairman, Senate Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you know, the National Association of Broadcasters (NAB) has undertaken a major lobbying effort in support of S. 12, legislation to deregulate the cable television industry. Among other items, S. 12 includes provisions that would financially benefit the broadcast industry and the industry certainly has the right to express its views about legislation that would directly affect it.

However, the broadcast industry's effort to influence legislation may have gone beyond the bounds of reasonable lobbying practice. The NAB is not just asking broadcast stations to air advertisements and editorialize in support of the legislation they are seeking from Congress. The industry is also asking stations to abandon their obligation to provide fair and balanced news programming and to violate fundamental principles of journalistic ethics and integrity. The NAB wants broadcasters to manipulate the content of their news programs to advance their own economic interest in the enactment of S. 12.

This troubling new stage of the broadcasters' lobbying scheme is outlined in the enclosed memorandum that NAB sent on September 3 urging its membership to work to support S. 12. This memorandum was signed by Gary Chapman, the NAB's Chairman, along with the leadership of NAB's television board and representatives of the leadership stations for ABC, CBS, and NBC.

The NAB memorandum notes that broadcast stations have "been given material for use by your news department" as part of the broadcast industry's lobbying effort. The memorandum then implores stations to "Tell it like it is. Generate the news stories."

The industry's lobbying arm has apparently manufactured some "news" and expects its member stations to get in line and present it as a product of responsible, objective journalism. NAB isn't satisfied with having broadcasters participate in public debate by airing commercials in support of S. 12 or editorializing for that legislation. The industry wants member stations to use their news coverage, which viewers presume is fair, objective, and impartial, to advance their own economic interests and influence legislation.

Broadcasters have often proudly pointed to their news operations as the leading source of news for the public and as exemplars of modern, professional journalism. Television news has changed the way the public learns about and perceives events and public affairs. Many consumers have come to place a great deal of trust in broadcasters' news programming as a source of balanced, objective information. Viewers use that information to help develop their opinion about many public issues, including legislation before Congress. Apparently, NAB thinks the financial benefits that S. 12 would bring broadcasters are worth abandoning the industry's proud news tradition and violating its trust with the public.

I am deeply disturbed that the NAB is willing to urge broadcasters to abandon its journalistic integrity and principles. It's nothing short of breaking faith with the public's trust in television news coverage in order to influence legislation before the Congress.

Broadcasters have a unique position in the media. They are granted free use of the spectrum, a scarce and valuable public resource, and in exchange have certain public interest responsibilities and obligations as trustees of that resource. Part of these obligations is a duty to provide accurate and fair news and information to viewers in their broadcast area.

Over the years, we have worked hard together to ensure that broadcast communications policy serves the public interest. We have fought to reinstate the Fairness Doctrine and preserve broadcasters' public interest obligations under the Communications Act. While you and I may differ on the merits of S. 12, I believe you would find the NAB memorandum as troubling as I do.

The memorandum raises many questions. For example, did the networks participate in the development of this lobbying plan and memorandum? What was the nature of the material that NAB provided to broadcasters' news departments? Did it disclose broadcasters' financial interest in seeing S. 12 enacted? Did the NAB, or the networks, pressure stations to interfere with their news departments and air the material? Have any "news" stories been aired?

I do not know if many broadcasters have followed NAB's recommendation and broadcast the "news" material. I'm sure that many stations' news departments value their public trust and responsibilities, as well as their journalistic ethics and integrity, and have insisted on providing balanced presentations of the issues, relegating the NAB material to the editorials, where it belongs. But clearly, the authors of the NAB's recent memorandum do not place a high value on journalistic ethics and integrity.

I urge you to examine the memorandum, the NAB's decision to send it, and the Association's rationale for, and defense of, this action, as well as the response of individual stations. In order to obtain the financial benefits promised by S. 12, some leaders of the broadcast industry are willing to manufacture news to manipulate the views of the very consumers that S. 12 purports to protect. The broadcast industry appears eager to sacrifice the public's trust to make a buck. This matter deserves the Committee's attention.

With best wishes,

Sincerely yours,

TIMOTHY E. WIRTH.

NATIONAL ASSOCIATION OF BROADCASTERS,
Washington, DC, September 3, 1992.

To: Television News Directors.

From: Lynn McReynolds, NAB Vice President, Media Relations.

Re: Cable industry misinformation campaign.

The cable industry has declared war on supporters of S. 12, legislation that would reregulate the cable industry.

Earlier this year, consumer outrage over skyrocketing cable rates and shoddy service led to a massive cable industry defeat when both the House and Senate passed overwhelmingly legislation to reregulate cable rates and promote competition to cable.

Now cable has initiated a widespread campaign of misinformation and distortion that attempts to paint this legislation as anti-consumer.

Attached is information that both highlights the consumer benefits of this bill and refutes cable's specious claims. It includes:

(1) a major consumer group's highlights of the bill's benefits, including $6 billion in potential consumer savings;

(2) the facts about cable's distortions and new math;

(3) the facts on the pro-competition aspects of this bill;

(4) information on customer service benefits of the bill;

(5) the facts about broadcast provisions of the bill;

(6) a list of who supports the bill/who opposes it; and

(7) selected news clips about cable's distortion campaign.

We encourage you to use this information and do news stories about this issue to ensure that cable is not allowed to get away with its one-sided scare tactics. Consumers in your community have either received bill stuffers from the cable company and/or seen their ads on their local cable systems.

In addition, we understand that on Thursday, Sept. 10 some members of Congress are planning a news conference on the topic of the cable industry's campaign of distortions. We intend to make unedited, raw footage of that news conference available via satellite and will contact you later with more details.

For more information, please feel free to contact me at 202-429-5350.

U.S. SENATE,
Washington, DC, September 15, 1992.

Hon. ERNEST F. HOLLINGS,
Chairman, Senate Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to follow up on my September 10 letter regarding the National Association of Broadcasters (NAB) effort to support legislation to reregulate the cable television industry. My letter enclosed a September 3 NAB memorandum outlining the Association's lobbying plan, including use of television stations' news departments.

I have since obtained a copy of another NAB memorandum, prepared by the NAB's Vice President for Media Relations, which was apparently provided to the news directors at NAB member stations. For your information, I have enclosed a copy of this memorandum.

The contents of this second document only strengthen and reinforce the concerns expressed in my letter of September 10, concerns that I believe you would share. Again, I urge you to examine this matter more closely.

With best wishes,

Sincerely yours,

TIMOTHY E. WIRTH.

[From the Denver Post, Dec. 26, 1990]

DON'T STIFLE CABLE TV WITH FOOLISH OVERREGULATION

During the last session of Congress, there was a move afoot to create a federal law requiring cable TV companies to put more shopping channels on television.

Although this proposal died, it underscored the absurdity of the federal government's efforts to slap new controls on the cable television business.

Just this month, the Federal Communications Commission said it may let cities and towns regulate cable TV prices.

Initially, the impetus for price regulation came from consumer complaints that cable TV prices have risen too quickly.

In the minds of many Americans, cable television no longer is a luxury but a near-necessity. The cable TV industry has been woefully slow to recognize the political and marketplace implications of this attitude change.

For example, cable has brought many excellent shows into American homes. But these fine programs draw small audiences, so they don't attract big advertisers and can't be supported by ad dollars alone. What keeps them on the tube are the checks that subscribers write to their local cable company each month.

Take away the cable companies' ability to keep pace with the increasing cost of creating these shows, and the number of quality programs on the tube may decline.

Yet the cable industry never adequately explained this simple fact to its customers, so it's not surprising that consumers now are demanding quality programs, but simultaneously complaining that they don't want to pay for them.

The criticism of the cable industry's poor customer relations especially applies to some of the cable firms based in the Denver area, which number among the largest cable television enterprises in the country and which own dozens of systems across the nation.

These companies need to acknowledge the political forces rocking their corporate ships.

Competing industries—including broadcast stations, movie studios and video rental shops—have piggybacked their selfish concerns on top of consumer discontent.

For example, there's a new technology called High Density Television or HDTV, that will revolutionize video the way the compact disc transformed audio.

Cable TV systems are racing to put in new fiber optic systems that will allow them to bring HDTV to consumers in the very near future. But this investment will cost hundreds of millions, even billions, of dollars.

Since fiber optic networks will give cable TV companies an advantage over broadcast stations, the broadcasters have a strong interest in seeing price controls slapped on the cable business: if the cable companies don't have enough revenue coming in from subscriber fees, they won't spend as much money putting in fiber optic systems.

In the end, American consumers won't have access to HDTV or other new technologies as quickly as they would have without this political manipulation.

Congress and the FCC should peek behind the mask of consumer protectionism in which other entertainment industries have wrapped their pleas for price controls on cable TV.

Government interference only will reduce the financial ability of cable companies to put good shows on the tube and to move forward with promising technologies. The results only will harm the consumers that Congress and the FCC claim they are trying to protect.

[From the Denver Post, July 30, 1992]

CABLE BILL SHOULD DIE

George Bush should, as he has threatened, veto a cable TV reregulation bill that Congress passed last week. It's a poorly written and contradictory piece of legislation, adorned with so many gimmicks that it resembles a Christmas tree decorated with items from the local junkyard. Worse, in the long run it could harm consumers.

The Senate version would force cable TV companies to negotiate with local broadcast stations for the right to carry their signals—Mile Hi in Denver and United Cable in the metro suburbs, for instance, would have to bargain with local channels 2, 4, 6, 7, 9, 12, 20, 31 and 57, each of whom could drive their own bargains.

Of course, the broadcast stations would demand money from the cable company for the privilege, and those costs would be passed on to consumers through higher monthly cable bills or by the cable TV companies dumping some channels they now offer, to save money. This outcome could hardly be called consumer protection, as some members of Congress claim.

In the House version of the bill, the Federal Communications Commission would have to draw up a formula for cable TV prices across the country—never mind that circumstances may vary so much from city to city that a nationwide equation might be unworkable in some places. Local governments then would have to figure out how the formula applies in their cities and force the local cable TV company to comply—in other words, local governments would have to play traffic cop on a road designed by bureaucrats in Washington.

Congress isn't giving local governments any money to handle the new responsibility—even though some experts figure the nationwide cost of reregulation at about $200 million a year—so cities would have to come up with the dough on their own. In Denver's case, that means the city would have to take some of the $1.53 million it got from cable TV franchise fees this year—which went right into the city's general fund—and instead use it to hire bureaucrats to decipher the FCC formula. That factor is one reason that Bill Bradley, telecommunications chief for the city of Denver, opposes the cable TV reregulation proposal.

Bradley, who has been the head of a national group of municipal cable TV regulators, instead thinks local governments and cable TV regulators, instead thinks local governments and cable television companies ought to sit down at the bargaining table and work out a common-sense compromise themselves. Bradley's idea is a darn good one, but unfortunately Washington isn't listening.

The cable TV industry enjoyed freedom and profits during the 1980s, and it could have thrived for years in that business paradise had it improved customer service and not been greedy. Now that consumer discontent has collided with election year jitters in Washington, a bad idea is on the verge of becoming law.

Bush so far has a perfect record on vetoes. Hopefully, this promised veto will stick as well.

[From the Rocky Mountain News, Sept. 14, 1992]

CONGRESS RESORTS TO OVERKILL IN CONTROLLING CABLE RATES

What with the new bipartisan regard for business, members of Congress don't speak much of "obscene" corporate profits anymore. Cable television, however, sorely tempts some. "Current law tells the cable companies that it's OK to be a thief," harrumphs Sen. Albert Gore, D-Tenn. As soon as next week Congress may well pass "anti-theft" (but, alas, not anti-demagogy) legislation.

The measure, a blending of bills already passed separately by the House and Senate, would require the Federal Communications Commission to set the rates for basic cable service, newly defined to include local stations plus a few national "super stations," in America's diverse communities. Local officials would be left to administer the schedules. The bill is also likely to punish cable operators who charged "unreasonably" for more specialized programming like the Discovery Channel and Nickelodeon and would even specify how many phone lines companies must dedicate to gripes from subscribers.

We somehow have trouble picturing members of Congress as arbiters of economic justice.

Sure, rates have leapt 60% since 1984 deregulation, but partly because companies have been servicing more remote areas. (Ninety percent of U.S. households are now within hook-up range.) The companies also have found it expensive to keep spellbinding promises made to win local franchises—like providing "free" service to public schools. The companies' motive may have been greed, but municipalities conspired in—and are partly to blame for—these unrealistic deals. The ensuing public discontent hardly justifies the micromanagement of a whole industry.

Where cable is a monopoloy, it does indeed deserve additional regulation. But not regulation like this: The bill likely to be passed and sent to the president would not merely establish rate guidelines for basic service, but also force cable subscribers to pay an additional fee to watch programming from local broadcast stations—stations the public can now watch for free without cable—as well as require cable companies to release programming they create themselves to potential competition.

All in all, the plan will probably cost cable companies billions—part of which burden is sure to fall upon cable subscribers. How could it not? Yet congressional supporters of the bill blindly continue to call it "proconsumer."

Congress' majority may be aiming to embarrass President Bush before 52 million cable-using households by passing a bill he has pledged to veto. But perhaps consumers aren't as economically illiterate as members of Congress suppose. Surely many realize that the United States is on the threshold of another home-entertainment revolution, what with "pay for view" (including the possibility of selecting from thousands of movies without ever leaving your home) and other innovations bursting onto the scene. These advances require considerable capital investment, which could be choked off through too-heavy-handed regulation.

Equally to the point, since when did cable become one of life's necessities? If the federal government intends to get so intimately involved in managing a discretionary entertainment like cable, why shouldn't it, for example, manage the business of making cars (there are fewer automakers than cable companies, after all).

The best restraint on cable prices is, of course, competition, and it so happens that other technologies and businesses—including telephone companies—are gearing up to vie with cable firms. In the 65 U.S. communities that have allowed multiple cable operators, rates typically have fallen around 25% while programming has expanded. Congress should do what it can to encourage such competition, not redefine cable television as another of life's entitlements.

[From the Washington Post, Sept. 19, 1992]

UNCLE SAM IN CHARGE OF CABLE

The Cable legislation approved by the House and now headed for a Senate vote calls for the federal government to step in and reregulate the industry from rates to program packaging. But this approach assumes that cable, now supplied mostly by monopolies, is a utility as necessary as electricity or telephone service. In fact, cable is a consumer option in what should become a more competitive market. This particular bill would give government a role in cable that consumers may not find so welcome over the long haul.

Forget the cable industry ads predicting that passage of the bill would send everybody's cable rates through the ceiling. Forget as well the arguments of supporters—including over-the-air broadcasters, who like a provision that would force cable operators to negotiate with them before retransmitting their signals—that the bill would force price cuts of up to 30 percent. Both sides—and we note here that The Washington Post Co. owns cable systems as well as broadcast television stations—have resorted to heavy lobbying. So has the motion picture industry, which opposes the bill because Hollywood wouldn't get any cut of the royalties that broadcasters could seek from cable operators.

Under the measure, the government would set "reasonable" rates for what it would define as "basic" programming, control prices for installation and equipment, require efficient customer service and force cable operators to equip all subscribers for channel selections that now are sold as packages of channels. The result of all these requirements is not more competition; it's more likely to be cost-cutting by eliminating cable programming or even entire channels.

The effort to control gouging by cable operators should focus on increasing competition, not on heavy reregulation. Until competitors do materialize, some determination of a reasonable rate of return for certain basic cable service is a legitimate legislative pursuit next year. This bill goes overboard.

INTRODUCTION AND OVERVIEW

Mr. WIRTH. Mr. President, this is a very important debate. The decisions we make today will significantly influence the future shape of the telecommunications industry. We need telecommunications policies that promote the development of new technologies, products, and services. And our policies should also seek to ensure that modern telecommunications is available to all Americans as we move further into the information age.

For nearly two decades we have been moving to a more competitive telecommunications marketplace. Competition spurs innovation and new technology. It also helps foster a diversity of communications equipment and information. Innovation, lower prices, more choices, and broad access—these have been and should remain our goals. We need to consider whether the conference report will help advance those goals or work against them.

Unfortunately, the legislation before us does not pass that test. What began as an effort to address legitimate consumer problems has now turned into a free-for-all involving several large and wealthy commercial interests. Cable's competitors have hidden behind consumer protection in order to advance communications policies that could never stand on their own.

The financial rewards the conference report hands to these competitors have now clearly replaced consumer concerns as the driving force behind the legislation. For example, the broadcasting industry will benefit financially if the retransmission consent must-carry provisions become law. To get those rewards, the National Association of Broadcasters [NAB], has financed and led a massive lobbying campaign in support of the legislation. The NAB has gone so far as to implore broadcast stations to use their news programs as a lobbying tool to help the conference report become law.

The conference report has gone so far beyond its proconsumer roots that it would do consumers more harm than good.

We have heard a lot of criticism of the Cable Act of 1984 as a sellout of consumers. That criticism ignores the many benefits consumers have reaped from that legislation. It has made it possible for the cable television industry to invest in new equipment, programming, and technology. Because of those investments, consumers have access to a greater number and broad variety of programming choices. Consumers have much more to pick from today—whether they prefer news, local affairs, sports, children's, arts, movies, entertainment, or other types of programming. The rapid growth in the number of cable subscribers since 1984 confirms that consumers themselves recognize the benefits the Cable Act has made possible.

However, in recent years, there have been some problems with basic cable rate increases and poor customer service that deserve our attention. I would support legislation to address the legitimate consumer issues. In fact, I worked hard 2 years ago in an attempt to pass balanced consumer protection legislation.

The conference report is not balanced consumer protection legislation. It has become overweight with favors for cable's competitors, including: ABC, CBS, NBC, and other broadcasters; direct broadcast satellite operators like General Motors' Hughes Communications subsidiary; and wireless cable operators. These provisions do not protect consumers.

The bill will hurt consumers in a number of ways. First, it will drive up cable systems' operating costs by billions of dollars. Estimates of the bill's costs run between $2 and $6 per month for each cable subscriber. The sponsors of the bill argue that they do not intend for these costs to be passed along to consumers. Who are they kidding? Where else is the money going to come from? Will the Federal Communications Commission really be able to force a cable system to leave its rates unchanged after its costs go up so dramatically?

How will the bill lead to higher rates? In some cases, it will require payment of so-called retransmission consent fees for broadcast programming that consumers receive for free today. That money will go right in the pockets of America's television broadcasters. I don't think there's any doubt that the average cable viewer needs the money more than television station owners.

The legislation will also require cable systems to install expensive new equipment. The new equipment is intended to allow consumers to pick and choose between all cable networks rather than paying for a package that includes stations they do not want. But don't worry about the over-the-air broadcasters; they get a special deal. Under the conference report, if consumers want to buy any cable stations at all, they would have to pay for the broadcast stations that they can already get over the air for free.

In order to make this transfer of income from consumers to broadcasters possible, the conference report will force the cable industry to spend as such as $5 billion installing the new equipment. That will put upward pressure on rates.

Another part of the conference report that will hurt consumers is program access. Under this scheme, the creators of cable programs would be forced to sell the programs to their competitors. Think about that. A persons creates a piece of intellectual property. Then the Government dictates who he must sell to and at what price. It is easy to see what will happen to the incentive to invest in new programs. The result will quickly be fewer choices for consumers.

Cable's competitors, not consumers, will benefit from program access. These competitors already can deliver cable programs to consumers at competitive prices. They will have no incentive to lower rates after program access lowers their expenses. They will just pocket higher profits.

Retransmission consent, new equipment costs, increased operating costs, program access, and a rate regulatory structure that is overly cumbersome will all limit the cable television industry's ability to invest in new equipment, programs, and technology. As a result, the quality of cable service will stagnate. It may even decline. Viewers will get less new programming and more reruns. Cable will also be less able to help modernize our communications infrastructure—so important to our future economic vitality—or bring consumers the wide range of new communications technologies, products, and services that are on the horizon.

We have not yet achieved our goal of a fully competitive marketplace. That's why it's necessary that we take some interim steps to protect consumers. However, competition is taking hold and increasing within the rapidly evolving video marketplace. Regulators have also recently taken several significant steps to accelerate the trend toward greater competition. Unfortunately, the conference report ignores these trends. It looks to the past to resolve today's problems—with no eye to the future.

Whatever short term benefits the cable bill may provide consumers will soon be dwarfed by the later costs. In the end, the only people who will be happy with the legislation then are the special interests that it rewards. If we do pass the legislation and it becomes law, we will have a great deal of explaining to do when our constituents see their cable bills increase. Are we prepared to defend our votes for legislation that drove up cable rates?

What will we say, that we thought it was in the public interest to hand broadcasters and other cable competitors higher profits out of consumer's pockets? There's no question what we should do. This legislation is a handout for special interests that will hurt consumers in the long run. The Senate should reject the conference report's extraneous provisions and instead tackle the legitimate consumer issues of rates and customers service head-on.

With that overview of my views on the legislation, I would like to review some of the background that has brought us to this point and explain my concerns about the conference report in greater detail.

THE CABLE ACT OF 1984

Before the Cable Act of 1984, the cable television industry was the prisoner of a highly fragmented scheme of local regulation. Local governments kept cable rates artificially low. Between 1976 and 1986, cable prices were allowed to increase at only two-thirds the rate of inflation and, in some cases, dramatically less.

The franchise process, particularly franchise renewals, was an uncharted mine field. No uniform guidelines existed from community to community. The process was often used as a tool to accomplish social or political goals. And an operator had no assurance that its business would not abruptly cease when the franchise expired, even if it has provided outstanding service.

This regulatory system made it nearly impossible for cable operators to make the investments needed to upgrade their systems or develop additional programming services. The Cable Act of 1984 established a more uniform regulatory structure, implemented by the FCC, in order to encourage investment in new plant and equipment, programming and technology.

THE CABLE ACT HAS WORKED

While debate has dwelled on the legitimate complaints we have received concerning rate increases and customer problems in some areas, we should also recognize that the Cable Act has worked in many respects:

First, more people receive cable. The number of cable subscribers has increased from 30 million in 1984 to 56 million today.

The number of cable systems climbed from 6,000 in 1984 to more than 11,000 today. Local governments already have the authority to regulate basic rates for 61 percent of those systems.

The new systems, and expansion of existing ones, have made cable available to most Americans and brought greater competition for broadcasters; 96 percent of television homes can now receive cable. Only 72 percent could in 1984. More than 60 percent of these homes actually subscribe today.

Second, cable viewers get more for their money today. Ninety percent of cable subscribers receive at least 30 channels, with the average subscriber getting more than 35. In 1984, only 38 percent of all cable systems offered 30 or more channels.

One-third of all cable subscribers now receive 54 or more channels; channel capacity continues to increase—late last year a 150-channel system was launched in New York.

As a result of the increasing number of channels, cable viewers actually get a better deal today. The price consumers pay for each basic channel increased at a lower rate than inflation from 1986, when rate deregulation took effect, to 1991.

That's right, when we adjust for inflation, consumers actually pay one penny less for each basic channel than they did before rate deregulation.

Third, cable has invested in new programs for consumers. Cable operators' annual investments for basic cable programming have jumped from $300 million in 1984 to almost $1.8 billion this year. Overall program spending by both basic cable networks and premium cable services, like HBO, Showtime, and the Disney channel, has climbed from $1.1 to $2.8 billion during this period.

The number of cable networks—like C-SPAN, Discovery, CNN, ESPN, and TNT—has increased from 49 in 1984 to 76 in 1991, with continued expansion expected through the 1990's.

Fourth, cable is modernizing our communications infrastructure. Cable operators have substantially increased their investments in plant and equipment; annual spending for this purpose was $100 million in 1983, before passage of the Cable Act. Since 1984, the industry has invested more than $5.4 billion in plant and equipment.

Consumers have benefited from the improved picture quality, reliability, increased availability of cable, and greater number of channels that this investment in new technology has made possible.

The industry continues to invest in new technologies that promise to bring new benefits to consumers. At a time when many other industries have dropped their research capabilities, cable established CableLabs, a new research and development consortium.

Technologies such as fiber optics and digital compression promise a huge jump in the number of channels available to viewers. The industry has already begun to introduce fiber optics in many systems throughout the country.

Cable technology also allows for carriage of high-definition television signals and the industry is involved in research and development efforts designed to bring this technology to consumers. Interactive television is another area of research that could lead to a variety of new services.

Fifth, cable is creating new jobs for American workers. Cable has brought jobs to thousands of Americans since the Cable Act became law. Cable provided 67,000 jobs in 1984 and employs more than 106,000 today. The industry generates another 69,000 jobs through its suppliers.

The impact of cable's growth has been tremendous. For example, the Cable News Network [CNN] is the envy of the world. It has brought world events much closer to us. We have become accustomed to seeing historic events such as the Gulf war and dramatic developments in the Soviet Union and Eastern Europe as they happen rather than seeing brief film clips after the fact. Some observers even credit CNN with helping bring about changes abroad because demonstrators are encouraged by the knowledge that their voice will be heard.

Closer to home, C-SPAN has made television coverage of our debates commonplace. Viewers also now have a wider choice of entertainment, educational, children's, and sports programming.

CABLE'S PUBLIC INTEREST OBLIGATIONS AND SERVICES

The Cable Act imposes a number of public interest obligations on the industry which we don't hear about very often. For example, the 1984 legislation includes important Equal Employment Opportunity provisions to prohibit discrimination in employment in the cable industry and encourage the industry to hire minorities and women. No other sector in the communications industry has agreed to a similar statutory obligation. The House-passed version of the cable legislation would have applied similar standards to television broadcasters. However, the conference report deletes those standards and merely codifies existing FCC rules in this area. My good friend, BILL RICHARDSON, whom I've worked with in the House, opposed the conference report because it diluted those provisions.

Other provisions of the Cable Act allow franchising authorities to require that channels be dedicated to public, educational, or governmental use and require cable systems to make channels available for commercial use. The Cable Act prohibits redlining of services, and requires operators to disclose to subscribers the kinds of information the cable operator collects and maintains about customers.

The Cable Act permits cities to collect a franchise fee of up to 5 percent of gross revenues. The industry paid $826 million in franchise fees in 1991, up from $200 million in 1984. That's one-fourth of the aid we provide cities through the Community Development Block Grant Program.

The cable industry's "Cable in the Classroom" program began in 1989 and now reaches nearly half of our public school junior and senior high school students with commercial-free educational programming at the industry's expense—$53 million annually. The industry has also developed programs that allow students to earn college and graduate degrees at home from accredited colleges and universities. These programs are available to millions of homes.

PROBLEMS WITH THE CONFERENCE REPORT

The Cable Act has brought some very real benefits to consumers that Congress should recognize. We need to fine tune the law but we should not make changes that go so far as to cripple the industry's ability to keep making the investments that have made cable so attractive to millions of consumers. The conference report does go too far. It would damage the industry and consumers alike and many of its provisions are in no one's interest save the competing industries that receive favored treatment in the legislation.

Many of the legislation's provisions will reduce the ability of cable to compete in the future, both with other video programming providers and in other sectors of the telecommunications industry. We need to be conscious of how our decisions will shape future competition and the services available to consumers.

RATE REGULATION PROVISIONS

Under the conference report, the price of nearly every service and all equipment offered by a cable system, as well as most details of the system's operation, are potentially subject to regulation. The legislation requires the FCC to regulate basic cable and the cost of equipment for systems that do not face effective competition. It also creates a new effective competition. It also creates a new effective competition standard that would subject virtually every cable system in the country to rate regulation.

Local franchising authorities could petition the FCC to allow local regulation of basic service. The FCC must grant permission if the local authority's laws and regulations conform to the Commission's regulations. In addition, the conference report allows for FCC regulation of other cable services upon complaint by any cable subscriber. This could force both the Commission and cable systems to waste time and money responding to frivolous, nuisance complaints. If we choose to adopt bad actor provisions to extend rate regulation beyond the basic tier, there are other options that would be much more reasonable and cost-effective. For example, we could require complaints by a franchising authority so that isolated and ungrounded complaints will be filtered out before they reach the FCC. Alternatively, we could require complaints to be filed by some threshold percentage of affected subscribers before FCC action would be required.

The legislation could allow a return to the extreme rate regulation and fragmented regulatory system of the past. Cable has become a national industry and a return to a patchwork regulatory structure would be a step backward. The result would be an industry unable to invest in new technologies, increase channel capacity, and develop new programming. Consumers will suffer if that comes to pass.

And what will consumers gain in return? Unfortunately, we just don't know. The conference report includes provisions that will significantly increase the cable industry's cost of doing business, increases that will inevitably be passed along to consumers.

For example, the conference report would require cable systems to place addressable technology in every subscriber's home. The requirement is intended to prevent cable systems from requiring subscribers to buy certain services and programs in order to be able to buy premium channels. This technology already exists and is expected to become more widespread. But mandating that it be installed in every household will cost the industry billions.

The legislation also includes the so-called retransmission consent provision that could cost the industry at least $1 billion a year, $1.50 a month for each subscriber. Together, these two provisions could increase cable bills by more than $2 a month. Some estimates range up to $6 per month. And that doesn't include the millions of tax dollars that will be spent each year to implement reregulation, the losses consumers will see through decreased programming quality, or other costs the industry will face in complying with various requirements imposed by the legislation. All in all, it's enough to make one suspect that rates will be lower if we pass no legislation at all.

PROGRAM ACCESS PROVISIONS

The conference report's program access provisions will also damage the industry and consumers. These provisions would give cable's competitors mandated access to cable programming. This flies in the face of American business practices and copyright law. Other owners of intellectual property are not required to sell their work to particular parties, let alone to their competitors. A journalist does not have to allow any newspaper to carry a syndicated column; broadcast networks control what stations carry their programming; movie studios control who can distribute their product to the public.

Exclusive intellectual property rights promote a diversity of information, entertainment, new technologies, and so forth. Without control over the resulting product, no one has an incentive to create intellectual property. That's why we have patent and copyright laws. Under this legislation's scheme, owners of intellectual property would no longer be able to control the distribution of their product. Think about that. A person creates a piece of intellectual property. Then the Government effectively takes it out of his hands—dictates who he must sell to and at what price. That practice is unprecedented.

What does that mean for the companies that create programming? A company comes up with a program idea. It puts very substantial money up—often hundreds of millions of dollars—in a risky market to support the program service. As soon as that program becomes a success, competitors are at the door demanding access at Government set rates. It is easy to see how such a system would stifle the incentive to invest in new programs. The result will be fewer choices for consumers in the future.

Competitors such as satellite dish distributors and wireless cable operators already have access to cable programming and can deliver those programs to viewers at competitive prices. However, they want more than access to cable programming. They want to be guaranteed access at the lowest possible price.

Wireless operators and satellite distributors have much lower regulatory, capital, and operating costs than cable. They could use this advantage to compete with cable by investing in programming and bringing new choices to viewers. That's how cable grew and that benefits consumers. Instead, they want to get a free ride on the investments cable has made and use their lower costs to undercut cable on cable's own programming. Why should cable programmers invest in new programming, take risks developing and establishing a new service, and then be forced to give a competitor a higher profit margin in offering the service.

If we pass legislation forcing cable to give its competitors this price advantage, cable will have little incentive to develop new programming. It is cable operators, not banks, that have provided most of the financing for cable networks such as CNN, C-SPAN, the Discovery Channel, Lifetime, Black Entertainment Television, and many others. The access provisions would stifle any further investment in programming and greatly harm an important media industry. Consumers will suffer as less new programming comes to the marketplace.

RETRANSMISSION CONSENT/MUST CARRY

The conference report reinstates must-carry rules that require cable systems to carry local broadcast signals. These provisions are similar to earlier FCC rules that were overturned by the courts in 1985. In addition, the legislation requires cable operators to obtain permission to carry a broadcast station's signal. A broadcaster could use this retransmission consent provision to negotiate compensation for carriage on a cable system or to deny permission for a system to carry its signal. Broadcasters would have a choice of exercising the retransmission consent right or the must-carry rights. They could change their decision every 3 years.

The authors of the conference report might be able to make a case for a retransmission consent provision or a reasonable must-carry regime. However, combining the two creates an unbalanced relationship between cable systems and broadcasters. Pairing retransmission consent with must-carry gives broadcasters too great an advantage. Popular stations that cable systems want to carry will be able to obtain payment or force the system to do without broadcast programs. Yet, a less attractive station that would benefit from being carried on a cable system would be able to use the must-carry rules to guarantee access to the system at no charge.

Carriage of broadcast signals on a cable system can benefit both parties. Who benefits more will vary from case to case and it's understandable when one party will often expect compensation from the other. However, the combination of must-carry with retransmission consent gives all the leverage in negotiating the relationship to the broadcaster.

Retransmission consent will give broadcasters access to a new revenue stream. It will also weaken their leading competitors, the cable industry. A leading broadcaster has testified that retransmission fees could reach $1 billion or more each year. That works out to $1.50 per month for each cable subscriber.

Cable systems will either have to raise rates in order to pay for retransmission rights or they will have to take those costs out of their existing programming budget. This would reduce the funds available to purchase or invest in programming that is not available from broadcasters. Retransmission consent means that cable will either cost more or offer less. Either choice will make the cable industry less competitive and hurt consumers.

Do we want to pass legislation that will enrich broadcasters at the expense of consumers and the cable industry? Broadcasters already reap large profits through the free use of a public resource—the spectrum—and their public interest obligations as custodians of that resource have fallen significantly over the past decade.

In addition, retransmission consent raises serious copyright and intellectual property questions, as do the program access provisions. Because of these concerns, the cable industry is not alone in strongly opposing the proposal. Unfortunately, we have not paid enough attention to the copyright implications of the legislation. We may well want to revisit current law in this area but we should be more aware of what we are doing when we act in this area.

I believe we need to debate the intellectual property issues. Instead, the sponsors of the legislation prefer to debate the rates and customer services issues that offer firmer ground on which to build support for the legislation. Consequently, the public has not paid much attention to the important issues at stake in the retransmission consent and program access provisions. The special interests that will reap financial rewards if they become law have paid a lot of attention to those provisions however. They know what's at stake and those provisions are the major reason the broadcasters and other wealthy interests are working hard to support the legislation.

CUSTOMER SERVICE PROVISIONS

The legislation would require the FCC to establish customer service rules and grandfather any stronger rules in effect on the date of enactment which exceed the Commission's rules. Cities would be permitted to establish stronger customer service requirements. This would subject the industry to the burden of complying with a wide array of new rules that vary from town to town, just the type of problem that we solved in 1984. In January, I supported an amendment that included similar customer service provisions. However, that amendment would only have permitted State governments, rather than local governments, to establish new standards that exceed those set by the FCC. This would strike a better balance, allowing for more stringent standards to protect consumers without unduly burdening the industry.

RECENT FCC ACTIONS TO PROMOTE COMPETITION

The FCC has taken substantial steps to increase competition since we began the cable debate. These FCC decisions will forever change the competitive structure of the industry. In June, the Commission relaxed its more than two-decade-old ban on broadcast networks' ownership of cable systems. More recently, on July 16, the FCC permitted telephone companies to offer so-called video dialtone services that will eventually compete directly with cable television. Several other recent changes predate our consideration of S. 12 but have only begun to affect the marketplace. Last year, the FCC tightened its effective competition standard, a move that increases the number of cable systems that are subject to rate regulation by local governments. And the FCC has also encouraged greater head-to-head competition for cable by licensing additional direct broadcast satellite systems and prohibiting cable operators from owning wireless cable systems in the same markets.

Consumers may not feel the benefits of these decisions immediately. But they will bring far-reaching changes in the coming months and years. Senators should take these developments into account when considering cable legislation, particularly the provisions that seek to settle intraindustry competitive disputes.

VIDEO DIALTONE

The Commission's July 16 video dialtone decision significantly expands the ability of telephone companies to deliver video programming to consumers. Video dialtone will allow viewers to receive television programming and some related services from local telephone companies. The phone lines would be used on a common carrier basis, available on equal terms to all parties that wish to offer programming. This step will encourage greater competition for cable as well as the development of new interactive services. For example, telephone companies could allow customers to make selections from a wide variety of programming, giving viewers access to more choices and the ability to watch programs when they want to, not according to a programmer's schedule.

The video dialtone decision does more than allow telephone companies to deliver video programs in competition with the cable industry. It allows them to do so on favorable terms. Telephone companies will be able to deliver video programming without having to obtain a franchise, pay fees to local governments, or comply with the other obligations the Cable Act places on cable systems.

NETWORK/CABLE CROSS-OWNERSHIP

Less than a month before the video dialtone decision, the Commission modified its cross-ownership rules to permit broadcast networks to own cable systems. The FCC adopted this rule in 1970 to protect the cable industry from network domination and promote a competitive marketplace for video programming. Things have changed since 1970 and the FCC decided that permitting some network ownership of cable systems would now work to increase competition within the industry.

The Commission established less restrictive limits on network/cable cross-ownership in areas where the network-owned system competes with another system. This step should encourage the development of second cable systems in more cities, a proven path to lower rates, and better service for consumers.

EFFECTIVE COMPETITION STANDARD

Last year, the FCC tightened the so-called effective competition standard that determines if local governments can regulate basic cable rates. The old standard exempted cable systems from regulation if their customers were served by three broadcast television signals. The new FCC rules allow regulation unless a cable system faces competition from six over-the-air broadcast stations or another multichannel provider that is available to 50 percent of the homes in the cable operator's market area and subscribed to by 10 percent of the market area's homes. Under this standard, nearly 61 percent of cable systems, serving 34 percent of cable viewers, do not face effective competition and are subject to rate regulation. I believe we should tighten this standard further and support an amendment in January that would allow regulation of basic rates for any system whose only competition comes from broadcast stations.

OTHER FCC PROCOMPETITION STEPS

Several other recent FCC decisions will also lead to increased competition in providing television programming to viewers. For example, the Commission has prohibited the cross-ownership of cable systems and wireless cable in the same market and licensed additional direct broadcast satellite systems. Both of these actions should promote the development of direct competition for cable.

The full impact of these changes on the video programming marketplace has not yet been felt. Importantly, we should also note that events in the private sector are changing the marketplace at an even swifter pace than we are seeing on the regulatory front.

OUTLOOK FOR COMPETITION

In a very real sense, both the House and Senate bills seek to solve yesterday's problems and do not take stock of the rapid changes underway in the video programming industry and further changes on the horizon. The FCC's recent steps in its ongoing efforts to promote competition have significantly changed circumstances in the industry and underscored the dramatic changes underway in the private sector. The television marketplace is evolving and increasingly competitive. Although competition will increase further without legislation, we can take some modest steps that will encourage still greater competition. But consumers will suffer if we overreact to past problems by establishing a framework that unduly restricts the ability of one segment of the industry to compete.

In some respects, the telephone and cable industries are on a collision course as the technologies they use converge. Fiber optics and signal compression technologies are rapidly expanding the capacity of both cable and telephone lines. Each industry is capable of offering the other's products, as well as interactive services and the whole range of information services that are now a focus of debate following Judge Greene's reluctant decision to permit the Regional Bell Operating Cos. into these new fields.

We cannot ignore this future in the cable debate, particularly in view of the FCC's recent video dialtone decision. Telephone companies are now able to move into the television industry; they are also now able to begin offering a wide range of information services. Little more than a year ago, both were off limits.

I have spent nearly two decades fighting to introduce greater competition into the telecommunications industry, in large part because I wanted to encourage innovation so that consumers could obtain new products and services. We should encourage competition in the new services that telephone companies are eager to offer. Competition will spur their development and help keep their costs to consumers under control. The industry most capable of providing that competition is cable. Video dialtone is a significant long-term step that will affect the cable industry's ability to compete in its own core business and in new fields. If we add to the mix legislation that unduly limits cable's ability to compete and invest in new products, services, and technology, we may seriously reduce competition throughout the telecommunications industry in the next century.

Although the key issues are rates and customer service, the legislation includes other provisions that will significantly change the shape of the television industry, future technologies, and the competitive framework of the telecommunications industry. Many of these provisions advance communications policies that could not stand on their own but have advanced under the guise of consumer protection. These provisions, and their eventual impact on consumers, deserve much closer attention from the Senate.

CONCLUSION

We should pass reasonable, balanced legislation to reregulate the cable industry. I do not object to increased regulation of basic cable rates and customer service. There have been some problems in these areas and we should protect consumers.

The legislation began as an attempt to address those legitimate consumer problems. Unfortunately, it has gone well beyond that scope. The conference report includes provisions that offer greater benefits to cable's competitors than they do to consumers. The result is a bill that is neither good communications policy nor good for consumers.

The conference report will lead to a transfer of income from consumers to broadcasters and other special interests. It will also greatly reduce cable's ability to invest in plant, programming, and technology. The legislation would thus choke off the development of new cable networks, the improvement of existing programming, the expansion of channel capacity, and the development of new technologies like fiber optics and HDTV.

We are seeing a more competitive video marketplace develop. The FCC has taken several steps to accelerate the trend toward greater competition that is underway in the private sector. Consumers will soon have ready access to video programming from several sources and technologies—fiber optic cable, satellite broadcasts, and traditional broadcasting.

We should enact some reasonable consumer protections while we are still in transition to a fully competitive market. But legislation that overreaches—such as the conference report—will reduce future competition by hamstringing cable's ability to compete. The consequences will be felt beyond the video marketplace as cable will be unable to invest and compete in the many new telecommunications products and services that are on the horizon.

The conference report looks to the past to solve today's problems, with no eye to the future. Enacting it into law will do consumers more harm than good. We should defeat it and instead craft legislation that tackles the rate and customer service issues head on. More reasonable, balanced legislation would truly protect consumers without unduly restricting the ability of the industry to continue to serve new areas, offer new programs, upgrade cable systems with fiber optics, and other new technologies, and invest in new telecommunications products and services.

I will oppose the conference report and urge my colleagues to do so as well.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, by consent of the senior Senator from Missouri, I yield myself 12 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GORTON. Mr. President, the Cable Television Consumer Protection and Competition Act of 1992 is worthy of support from all of the Members of this body. It is worthy of that support because it will protect consumers from the monopoly abuses which, during the course of the last several years, have sent cable television prices skyrocketing at a rate of approximately three times the rate of inflation.

It will protect those consumers in the classic way of encouraging competition where competition does not exist, and as long as competition does not exist, by restoring a modest degree of rate regulation to the Federal Communications Commission and to local communities.

The cable industry has spent millions of dollars launching what I would consider to be a massive misinformation campaign to confuse consumers and to cloud the issues because that industry recognizes that this bill is going to result in the one set of features which it most fears: Consumer choice, an end to the cable television monopoly and what every other unregulated business in America already faces, competition.

Mr. President, it is no accident, in the view of this Senator, that many Members of this body—who at one time or another served as attorney general of his State and as attorney general in charge of consumer protection—are strong and enthusiastic supporters of this proposal.

The distinguished senior Senator from Missouri [Mr. DANFORTH] comes from such a background. The distinguished junior Senator from Connecticut [Mr. LIEBERMAN] comes from that background. This Senator also comes from that background. Those in this body who have been in charge of consumer protection in their respective States know which side of this issue benefits the consumers, the users of cable television in the United States.

In addition, of course, Senator HOLLINGS, Senator INOUYE, Senator FORD, and many others on the Commerce Committee have worked hard and, I believe, successfully with respect to this legislation. They have made appropriate compromises in conference with the House of Representatives and their work deserves to be supported enthusiastically.

Let us take a brief look at what this bill will actually do in areas in which there is no competition—and that is almost every area in the United States.

This bill allows for rate regulation of basic cable service, defined as that tier of programming that the broadcast channels appear on as well as the equipment used for the provision of this service.

It also allows a customer or a local official to bring a complaint to the Federal Communications Commission that the next tier of programming is offered at an unreasonable rate. These provisions are considerably less regulatory than those in the original Senate bill and those bluntly which this Senator supported which would allow rate regulation of the lowest tier of programming to which at least 30 percent of subscribers engage.

Personally, I preferred that because there has already been retiering in order to avoid the potential reregulatory effects of this bill. In the interest of meeting the administration's desires, however, the conferees accepted this lessening of the regulatory burden. I am willing to settle for a less than perfect solution in order to move in the proper direction in this connection.

The conference report also includes the Senate's provision which requires cable systems to deal fairly with local broadcast stations. At the present time, cable systems pay for all of the programming they show except for what people watch the most: local broadcast stations.

Cable companies take these signals free. The conference report allows local stations to negotiate for retransmission consent or carriage. Many stations will negotiate for nonmonetary compensation like channel position or promotional considerations.

In my view, however, whatever the result of those negotiations, this provision will strengthen local television stations so that they can maintain their ability to provide news, sports, weather, other local programming, and network programming in competition with cable systems.

Cable companies say that this will be a costly provision, and this Senator disagrees.

First, the conference report specifically gives the Federal Communications Commission the authority to ensure that retransmission consent does not adversely affect subscribers' rates.

Second, this is the tier of programming subject to rate regulation in areas where there is no effective competition.

Third, the Consumer Federation of America has estimated that this bill may save consumers as much as $6 billion a year based on the 30-percent lower rates which consumers get in that handful of markets in which competition exists at the present time.

In my mind, however, perhaps the most important provisions of this bill are those that encourage competition. The Chairman of the Federal Communications Commission, Al Sikes, testified before the Commerce Committee that in order to foster competition, Congress should eliminate monopoly franchises.

This Senator worked with the FCC and with other Senators and offered a package of amendments during the Commerce Committee markup that will encourage competition during the franchising process. These provisions are included in the conference report and will encourage second and even third cable systems to compete against present monopolies. They encourage competition by forbidding franchise authorities from unreasonably refusing to grant a second franchise, by assuring that adequate time is given to the new franchisee to build a system, and by forbidding a cable system from offering differing prices within a franchise area in order to drive out competition where it exists only to later reraise their rates when their competitor is driven out of business.

I agreed with Chairman Sikes that these were important provisions because out of nearly 11,000 cable systems nationwide, only 53 are in direct competition with another franchise. The rates for these systems are 30 percent lower than in areas with only one franchise and on a perchannel basis are 50 percent lower.

Another important competitive provision which this Senate backed in the Senate bill and Congressman TAUZIN included in the House bill will force cable-affiliated programmers to make their programming available to competitors at reasonable rates. Satellite television viewers, predominantly in rural areas, have suffered far too long from artificially high rates. On the average, the price of programming provided to satellite distributors is four to five times greater in price than that provided on cable systems. This bill will end that practice.

Not only will this mean that rates will decrease for satellite dish subscribers but it will mean that with lower operating costs and with smaller dishes expected in the near future, dishes, as well as wireless technology, will become more competitive in areas already serviced by cable. The access to programming provisions, coupled with recent FCC decisions approving video dial tone, are critically important tools to promote competition. No wonder this is the single provision cable has fought the hardest. Once again, cable fears an end to its monopoly.

This bill also includes other important consumer protection provisions including directing the FCC to establish standards for responding to consumer calls, complaints about outages, bills, and refunds. It also includes a provision, which I authored at the time that the Senate passed the bill in

January, that will ensure customer's privacy regarding their bills. Presently, on some cable systems, anyone can access a customer's billing information if they know the customer's telephone number. This bill will ensure customer's privacy by requiring some other personal identification measure, such as a secret password or personal identification number, be given before billing information is released. I also sponsored another consumer protection provision accepted last January that was also included by conferees. This provision will prohibit the billing of customers for services or equipment that they have not affirmatively requested by name. I sponsored this provision because of the many complaints I heard from constituents regarding the marketing of the encore channel. In this instance, customers received a billing insert stating that they would be charged for this new programming unless they called the cable system to cancel it. This provision is meant to be applied more broadly than just to address programming. I am aware of other negative options used such as cable program guides, equipment, and shuffling of services which are also intended to be covered by this provision.

The cable industry has launched a full-fledged campaign to try to mislead the public into thinking that this bill will raise rates. Let's look at what Senator LIEBERMAN and I call cable's fables. First, the cable companies mailed a flyer to all their customers quoting a Department of Commerce study which they know was based substantially on the data they provided to the department. Next they quoted newspapers out of context to make it look like those papers oppose the bill when in fact newspapers such as the New York Times support the conference report. They have orchestrated call-in campaigns to Senators where they coached their customers on what to say. They have spent countless dollars churning out clever ads saying this bill is bad for consumers when the truth is that the largest consumer group in the country, the Consumer Federation of America strongly supports this bill.

Let's not be fooled by cable's fables. Read the bill for yourself. Look who is really for and against this bill and ask yourself who are you going to trust—Hollywood and cable industry, the only two opponents, or the consumer groups, labor organizations, seniors' groups, and our local officials.

I have worked for 4 long years to get to this point. I have done so because I have heard cable customers' complaints week after week, year after year. I have done so because I do not believe that it is right to let an unregulated monopoly continue untouchable and unchallenged. I come to the floor today to urge my colleagues to look beyond the surface of the cable association's rhetoric. Take a look at what this legislation will really do and then ask yourself if you are willing to continue to go along with the status quo or if it is time for a change. You know what the status quo means—rate increases that average three times the inflation rate and little chance for competitors to challenge the cable monolith. Change means two thing—minimal rate reregulation in the short term and a chance for other multichannel providers to get in and compete against the incumbent cable system. If you believe as I do, in the free market, in competition, then I urge you to vote for change and vote for the cable conference report.

In closing, Mr. President, as the distinguished Senator from Missouri has already said, it may very well be that a delay in this bill can allow the President either successfully to impose a veto or to pocket veto the bill. I strongly object to that approach. I believe that this bill is in the consumer interest, is in the competitive interest and, in a tradition which is more than 100 years old, looks askance at monopolies and causes monopolies to be subject, quite appropriately, to some kind of regulation.

Nevertheless, Mr. President, I am absolutely confident, as are my friends from Missouri and Hawaii, that should this bill not become law this year, it will be reintroduced in the next Congress. It will have a tremendous force of public opinion behind it and in fact, the cable companies may find themselves worse off as a result of legislation which has a moral certainty to pass during the course of the next year that it would if it had accepted this quite modest approach to a very serious problem.

We believe, I think all of us believe, in the virtues of a competitive market. This bill will help bring a competitive market to cable television. We believe, as I think all of us ought to believe, that monopolies are not desirable in a free enterprise society. Cable television is a monopoly. Regulation is not as good as competition, but regulation is essential in connection with a monopoly of this nature.

So now or later, Mr. President, a bill like this or a bill tougher than this is going to become the law of the United States. Let us do it right and let us do it now.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. Mr. President, I yield 10 minutes to my friend from Idaho, Senator SYMMS.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. I thank the distinguished Senator from Montana.

Mr. President, I rise to oppose this conference report that is before us today. I might note that last week in the other body they voted 280 to 128 to approve the cable bill conference report which we are considering today. I was sorry, I might add, to note that my two colleagues from Idaho voted with the majority in support of this legislation because in my view this is the wrong answer to the complaints we have heard from our constituents, particularly from those in rural America. In my view, this bill's enactment will hurt the growth in information resources we have come to know and appreciate in recent years.

Mr. President, if you like Government—and I guess I should not have been surprised by that vote in the House, because if you like Government and you like replacing the marketplace with Government rules and regulations and mandates and edicts, then you will love this bill. But if you do believe in the importance of what has happened since cable deregulation came into effect in terms of capital being infused into it, jobs created, all kinds of informational services provided for people, I think you should vote against this conference report.

Fortunately, my rural constituents in Idaho may not have to face the higher prices and reduced information in entertainment programming this bill would mean for them. On September 17, President Bush wrote the House Republican leader indicating unequivocally that he will veto this bill, and I wholeheartedly share the President's view about the ill effects of S. 12 that will have on the communications industry.

I ask unanimous consent that a copy of the President's letter to Congressman MICHEL be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SYMMS. Mr. President, this conference report is the direct, albeit misguided, result of years of unprecedented growth in a very important segment of the communications industry, namely cable television. In 1984, under the leadership of Senator Goldwater, Congress enacted the Cable Communications Policy Act and largely deregulated the cable industry. The 1984 act was intended to encourage growth in cable TV and provide a greater diversity of information resources to the public. And what a tremendous success it has been. Just take a look at your own cable TV program menu and see all the new channels that are available for people—cultural, sporting events, historical programming—that were not available prior to the deregulation.

Since 1984, the number of cable subscribers has grown from 37 million to over 55 million today.

Multichannel video service is now available to about 90 percent of American households compared to 70 percent prior to 1984, and over 90 percent of the cable subscribers today receive at least 30 channels compared with less than 60 percent prior to 1984. In addition, the cable industry has tripled annual spending on programming and substantially increased spending to expand channel capacity.

Now, unfortunately, this rapid growth has not happened without some problems. A lot of my constituents from Idaho have called my office, consumers across the country have complained about the extraordinary rate of increases, poor service, or the fact that cable is just not available to them in some lightly populated areas. These legitimate complaints have given rise to various proposals to reregulate cable TV and ultimately have resulted in the legislation that is now before us.

I know that a lot of my colleagues have worked very hard on this legislation. I respect them for that. It is just that I think at some point in time we need to leave the situation alone and let it continue to grow and not tamper with it, and I think in 3 or 4 years this will look much better to most people.

Technically, though, in my view Congress again is taking the wrong approach. S. 12 will impose on the cable industry a heavy new system of Government control regulating everything from office hours and other customer service standards to programming rates, program selection, and the type of distribution used to deliver the program to the customer's home. It would be hard to conceive of legislation that is more of a throwback to the bad old days of well-intentioned, heavy-handed Government regulating the private sector right into the "economic malaise" that ended the Carter administration.

S. 12 is the dream scheme, Mr. President—it is the dream scheme—for those who believe in the virtues of big Government and bureaucratic redtape.

Let me give you some examples why I say that. First off, nearly every cable system in the country will have the rate for its basic program package regulated by a local government with oversight by the Federal Communications Commission. Cable subscribers will be allowed to challenge the price of programming not included in the basic package, and the FCC would have to judge whether the price is, in fact, reasonable.

What this boils down to is pure and simple price fixing. We have had plenty of experience in this country with Government regulation of private-sector goods and services, all of it working to the long-term detriment of consumers and the economy. I am shocked, frankly, that so many Members seem to be willing to vote for this bill and put their faith again in a tried and failed economic theory of Government intervention, Government planning, Government price fixing—bureaucratese to make the decisions instead of the consumers.

There is no household in America that is forced to take cable TV. They can always cancel it.

Price fixing is just the beginning with this bill, however, Mr. President. The FCC is required to establish customer service standards regulating such things as office hours, the number of times the phone can ring before it is answered, the timeliness of service calls, and the like. Also, certain cable programming companies will be required to make their programming, that is, their private property, available to any and all qualified distributors at the same price, terms, and conditions as are offered to cable operators.

In other words, the law would prescribe who these companies can sign a contract with, and what the terms will be. I cannot believe that is really what this Senate wants to do. I praise the President for being willing to veto this piece of legislation based on that very fundamental, sound principle. If you love government, you are for this bill; if you want less government, and you have faith in the people, be against the bill.

Also, there is a feature called retransmission consent, under which broadcast stations will be given the option to either require payment from the cable company for reset of their broadcast signal, or require the cable company to carry their signal for free.

I am sympathetic to the broadcasters' complaint that the cable companies are carrying their signal for free, and they have no recourse under current law. They have my sympathy on that.

If we were talking about just allowing broadcasters to demand payment or prohibit its carriage by a local cable operator, I might be supportive of this provision. I probably would be wholly supportive of it. Unfortunately, that is not the case.

The addition of the must-carry requirement for these broadcast channels that are not important to the cable operators' customer base completely skews the market in favor of the broadcasters. And undoubtedly it will cost the cable subscribers money.

Mr. President, instead of working to the benefit of the cable subscribers, the new regulations and price controls—I reemphasize price controls—in S. 12 will stifle the cable industry's ability to develop, to invest in new technologies and programming. And new technology like fiber optics, fiber optic cables, and digital equipment is precisely what is necessary and what is needed to reduce the capital costs so that cable TV will be affordable and available in rural areas of my State and other States.

Competition in television programming and distribution is the right solution to the problems in the cable industry. Competition exists and is growing. Wireless cable systems, home antennas receiving satellite signals and over-the-air network broadcasts are real and active competitors in the television markets across the country. All we have to do is let technology and the marketplace work, and get the Government out of the way, and this problem is going to take care of itself in a very short time. And it is rapidly moving in that direction.

In addition, technological advances already in the development stage may revolutionize the way Americans receive video, entertainment, and informational services. And the new technology will engender even greater market competition in the video industry.

Mr. President, freedom works. The free market competition is the right way to go. S. 12, in my view, is exactly the wrong direction.

I encourage my colleagues to vote no on this conference report, and support the position the President has taken.

Mr. President, I yield the floor.

EXHIBIT 1

THE WHITE HOUSE,
Washington, September 17, 1992.

Hon. ROBERT H. MICHEL,
Republican Leader, House of Representatives, Washington, DC.

DEAR CONGRESSMAN MICHEL: I am writing to express my strong opposition to the Conference Report to accompany S. 12 (Cable Television Consumer Protection and Competition Act of 1992), which the House and Senate will consider in the next several days.

This legislation will hurt Americans by imposing a wide array of costly, burdensome, and unnecessary requirements on the cable industry and the government agencies that regulate it. The heavy-handed provisions of the bill will drive up cable industry costs, resulting in higher consumer rates, not rate reductions as promised by the supporters of the bill.

The bill will also restrain continued innovation in the industry, cost the economy jobs, reduce consumer programming choices, and retard the deployment of growth-oriented investments critical to the future of our Nation's communications infrastructure.

My vision for the future of the communications industry is based on the principles of greater competition, entrepreneurship, and less economic regulation. This legislation fails each of these tests and is illustrative of the Congressional mandates and excessive regulations that drag our economy down.

Congress would best serve consumer welfare by promoting vigorous competition, not massive re-regulation.

For these reasons I will veto S. 12 if it is presented to me, and I urge its rejection when the House and Senate consider the Conference Report.

Sincerely,

GEORGE BUSH.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS. Mr. President, I yield 5 minutes to the distinguished Senator from Colorado [Mr. BROWN].

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. Thank you, Mr. President.

Mr. President, I rise with a note of regret to raise a concern about the conference report.

I first want to delineate several provisions in this measure that I think are excellent. If the measure were limited to these or perhaps a few others, I think they would have a very positive impact for consumers and for competition, and I would rise in support of this report.

The report has a very good provision, in my view, in repealing or at least limiting the authority of cites to award exclusive franchises. To the extent that existing law gives municipalities and other entities the ability to award exclusive franchises, that is wrong because it eliminates competition. This report moves in the right direction by encouraging the award of multiple franchises.

While there are exceptions, and it is not as clean and as strong as I would like, it does take a step toward competition in that area. I must tell you, frankly, that I think it Congress had had the wisdom in past years to not allow exclusive franchises we would not find the clamor for legislation that we find today. So, in that area, this measure is a step forward.

Mr. President, I also strongly support the must-carry provisions. I think they are essential in small markets, where a lack of access to the cable TV system can effectively eliminate a local broadcaster from competing in that market. My guideline for supporting these improvements is simple. They promote competition. The market does work and will work. It can work.

However, the problems we face today with cable stem from government interference; not a lack of regulation, but the wrong kind of regulation.

Inasmuch as this bill moves forward in eliminating some of those bad provisions, I think it is a plus and merits consideration.

But I reluctantly come to the conclusion that this measure should not pass, in spite of some of its good provisions. I want to share just a couple of them that I think are important.

One, it has been suggested that this measure will lower costs for the consumer. Mr. President, Lawrence Tisch, chairman and CEO of CBS, surely knows what he is talking about in this area. He said the retransmission provision of the proposed legislation could add $800 million to $1 billion a year in increased costs.

That is not a cut in the cost to the consumers; that is an increase. And that is not a small increase; it is a huge increase.

Some very distinguished colleagues in this Chamber have said: Do not worry about that; the bill also contains language that will prevent this increase in costs to the cable industry from increasing the rates to consumers. Mr. President, let us not kid ourselves. Whether you are for this bill or you are against this bill, you cannot add $1 billion to the cost of the industry and not have it passed on to the consumers.

Could you have good intentions? Would you wish it not be passed on? Absolutely; I would grant that to the advocates of this bill. But to come to the American people and tell then you are going to add $1 billion to the cost of the cable system, but that it is not going to get passed on to those who pay the bill, involves a great deal of imagination. It involves a great deal of creativity and rhetoric. But is not accurate.

Mr. President, to suggest that this bill is going to reduce costs for consumers because you have regulation says a lot about the kind of regulation that you are going to have. The bill is not terribly specific on the guidelines that are set up. But presumably you would allow a return on investment that is at least equivalent to what public utilities get paid on their investment.

If this is the standard—if you say cable companies ought to have at least a return on their investment that is equivalent to what public utilities get, if that is the standard that is going to be used, history suggests that cable prices will rise, not fall.

As a matter of fact, Mr. President, it is quite clear that if you take the cable industry as a whole, they have not enjoyed a return on investment that is equivalent to what public utilities have received. What is the impact of that? The impact is simply this: To claim you are going to have a reduction in rates when they do not even get a rate of return that is as high as regulated public utilities means the regulation will justify higher rates, not lower rates.

Let us not kid the American people. This bill is not going to reduce rates.

This bill is going to increase rates. And that is not idle speculation. If you are going to add $1 billion in costs a year, you are going to have higher rates, not lower rates. Anybody who thinks this is a consumer bill has not read it as closely as they might.

Mr. President, there is one last aspect I would like to comment on, because I think it deals with the very philosophy that underspins this measure. Some men and women who sincerely believe that Government regulation is a way to help consumers are strong advocates of this bill. I say to them that is an honest difference of opinion, but I would ask them, before they cast their vote on this issue, to look at the history. Did Government regulation of the oil industry lower costs? The defenders of the legislation argued that this was the case. However, the reality was that costs came down when they eliminated the regulations, not up.

What about the gas industry? Members of this Chamber will remember the hot debate that took place right on this floor when the Reagan administration proposed eliminating the regulations on the natural gas industry. The forecast made on this floor was that prices would skyrocket. Instead, they fell; not up, but down.

In trucking, relaxed rate regulations caused the rates to go down, not up. When airlines were deregulated, some rates went up, but the majority of rates went down and, overall, rates went down dramatically.

Some people think that the answer to medical care is more regulation. They have overlooked the fact that under Medicare and Medicaid, part of the reason for the dramatic increase in cost of health care has been the result of Government regulation, not the absence of it.

You see, Mr. President, the contention that Government regulation is the key to providing lower costs simply does not track with the facts.

Mr. President, I hope this body will not make a mistake if we care about the consumers and their interests. What we need is a bill that increases competitiveness, not regulations. Unfortunately, this bill is pro-regulation and anticonsumer. It should be defeated so that we can do the job right next year.

The PRESIDING OFFICER (Mr. ROBB). Who yields time?

Mr. BURNS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum, the time to be divided equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak out of order.

The PRESIDING OFFICER. Is there objection?

Without objection, the Senator is recognized out of order.

JUDGE SPORKIN'S RULING IN THE HASTINGS' CASE

Mr. BYRD. Mr. President, last Thursday, U.S. District Judge for the District of Columbia, Stanley Sporkin, entered a ruling which purported to vacate the judgment of the U.S. Senate in October 1989 removing from judicial office former District Judge Alcee Hastings. Mr. Hastings' removal from office was the constitutional consequence of the determination by more than two-thirds of the Members of the Senate present and voting that Mr. Hastings had conspired to sell his office for a bribe and then repeatedly lied at his criminal trial.

Judge Sporkin's ruling will be promptly appealed, and the errors of his ruling will be described more fully in papers that will be filed in the U.S. Court of Appeals for the District of Columbia Circuit. I would like to address several brief remarks to my colleagues about Judge Sporkin's unprecedented ruling.

First, Judge Sporkin's ruling flouts the direct ruling of his appellate court, the U.S. Court of Appeals for the District of Columbia Circuit, in a case brought by former Judge Walter Nixon. Like Mr. Hastings, Mr. Nixon has asserted that the Federal courts have the power to review the Senate's performance of its constitutional responsibilities, and that the use of a trial committee to receive and report evidence to the Senate is unconstitutional. In a ruling entered in July 1991, two judges of the three-member panel of the court of appeals held that the Federal courts have no power in this matter. A third judge concluded that the courts could review this matter, but on the merits held that the Senate had proceeded in a constitutional manner.

The Supreme Court has agreed to review the judgment of the court of appeals, marking the first time in our Nation's history that our High Court will be interpreting the impeachment powers under the Constitution. Indeed, the Nixon case will be argued only a few weeks from now on October 14. The Senate and the executive branch are in complete accord before the courts in these impeachment cases, and the Solicitor General will be arguing in support of the judgment of the court of appeals in Nixon's case.

Judge Sporkin might have decided wisely to wait for the Supreme Court's ruling in the Nixon case but, if he were to act, as he apparently felt impelled to do, he was clearly bound by the applicable ruling of the court of appeals in Mr. Nixon's case. Although Judge Sporkin makes some effort to distinguish the two cases, any fair reading of the appellate decision in Mr. Nixon's case shows that it absolutely precludes Mr. Hastings' suit. Also, it is absolutely elemental that the mere decision by the Supreme Court to hear a case on certiorari does not vitiate the judgment of the court below. Until judgment in the Supreme Court, the decision of the appellate court remains binding within its jurisdiction.

The need to honor the rule of law applies as much to judges as to anyone else. Unless district courts heed their courts of appeals, and unless the courts of appeals heed the Supreme Court, all would be chaos.

On the issues that are in litigation, both are of great importance to the Senate. The Constitution vests in the Senate the sole power to try impeachments. Certainly, impeachment is an awesome power, and for that reason the Framers divided it between the House and the Senate—the Senate only tries an impeachment after the House has accused an official in articles of impeachment—and an extraordinary majority of two-thirds is required to convict in the Senate. Because it is the sole means under the Constitution of removing from office a corrupt Federal judge, the Framers gave to the judiciary no power to revise the solemn judgments of the Senate in impeachments. Of course, as with any final power under our Constitution, there is enormous responsibility. As each of my colleagues knows, our deliberations during the three impeachment trials in the last several years have been marked with great seriousness of purpose, and with an appreciation of the responsibility which the power of final judgment gives to us as Senators.

On the use of a committee to receive and report evidence, I have no doubt but that it is within our power to establish rules for the Senate's proceedings. The Constitution gives the Senate that power. Impeachment rule XI was carefully drafted, and has been carefully employed. We do not delegate the power to decide an impeachment to a committee. Rather, we delegate only the power to receive and report evidence to the Senate.

Moreover, Senators retain under the rule the power to call some or all witnesses before the full Senate. Because the ultimate power to determine if witnesses should be heard in the well of the Senate belongs to the full Senate, we wanted to be absolutely certain, when the Senate met on October 18, 1989, to hear final arguments in Mr. Hastings' case, whether Mr. Hastings then wished the Senate to invoke its power under the rule to have witnesses called before the full Senate.

I will now quote the majority leader's inquiry to me while presiding over the Senate during the impeachment floor proceedings:

> Mr. MITCHELL. Mr. President, rule XI provides that the Senate's receipt of evidence reported by the committee is subject to the Senate's right to determine competency, relevancy and materiality. Further, rule XI explicitly provides that nothing in it prevents the Senate from sending for any witness and hearing that witness' testimony in open Senate, or by order of the Senate having the entire trial before the full Senate.

The majority leader then asked:

> Will the Presiding Officer advise the Senate whether, following the report of the committee, any motions have been filed by the parties to the impeachment asking that any witnesses be heard in open Senate?

As Mr. Hastings has filed no such motion, I responded to the Senate, in the presence of Mr. Hastings and his counsel, as follows:

> The PRESIDENT pro tempore. In response to the majority leader, neither party, following the report of the committee, has moved that any witness be called in open Senate and the Senate may now proceed to hear final arguments on the basis of the record reported by its committee.

Vol. 135 CONGRESSIONAL RECORD, S13617 (daily edition, October 18, 1989).

Thus, at the critical moment in the Senate's floor proceedings, Mr. Hastings offered no objection to proceeding to final argument on the basis of the record reported by the impeachment trial committee.

I have been advised that this basic point was brought to the attention of Judge Sporkin, but his opinion in no way acknowledges this.

It is my firm conviction that the Senate performed its great responsibilities in both the Hastings and Nixon impeachments with great fidelity to the Constitution, and that the Senate's judgments in these matters merit the respect which I am sure that the Supreme Court, speaking finally for our coordinate judicial branch, will accord to those judgments.

Mr. President, I yield the floor.

CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

The PRESIDING OFFICER. Who yields time?

Mr. METZENBAUM addressed the Chair.

Mr. DANFORTH. Mr. President, may I ask how much time remains for the proponents of the conference report?

The PRESIDING OFFICER. The proponents control 14 minutes; the opponents control 6 minutes.

Mr. METZENBAUM. I ask the Senator from Missouri if he would yield 10 minutes to the Senator from Ohio to speak in support of the bill?

Mr. DANFORTH. Yes; I yield 10 minutes.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM] is recognized for 10 minutes.

Mr. METZENBAUM. Mr. President, I rise in support of the conference report on S. 12, the Cable Television Consumer Protection and Competition Act.

When Congress deregulated the cable industry in 1984, we made a terrible mistake. The 1984 Cable Act was premised on the absurd idea that deregulating local monopolies would lead to lower prices and more competition.

We did so in part because the municipalities of the country came to us and urged us to take away from them the right to regulate cable rates. They were wrong in making the suggestion and we were wrong in accepting their recommendation. The results have been just the opposite: Higher rates, poor customer service, and a strengthening of cable's monopoly power.

This conference report gives the Senate a chance to begin correcting the mistake we made in 1984. The cable industry has been fleecing consumers ever since deregulation took effect 5 years ago. The cable monopolies have grown fat and rich while adopting an arrogant, take-it-or-leave-it attitude toward their customers.

Call any cable company in this country and if you get courteous and cooperative service, you must live in some community that I do not live in because I have cable in three different areas in which I live and you do not get any cooperation whatsoever.

Cable prices have been hiked at a clip which triples the rate of inflation. The Consumer Federation of America estimates that cable consumers are being overcharged by as much as $6 billion annually. An economist for the Department of Justice found that up to 50 percent of cable's revenues represent unfair monopoly profits.

When you cast your vote tomorrow, keep in mind that 99 percent of all Americans have no opportunity to choose among competing cable systems. Think about the millions of Americans living in small towns and rural areas who must subscribe to cable in order to get decent television reception. Think about the many elderly citizens who are confined to their homes and depend upon cable television as their sole source of news and entertainment. And keep in mind the millions of Americans whose rates have risen over 100 percent since we gave the cable monopolies a free hand to raise prices.

The conference report will provide those Americans with some protection against the rate hikes and price-gouging inflicted upon them by the cable monopolies. The bill will promote competition, set tougher customer service standards, and authorize regulation of basic rates in areas where consumers do not have a choice of competing cable program providers.

There are some who say this bill goes too far—that it is too tough on the cable industry. I do not believe this bill goes far enough. The record shows clearly that cable has abused its monopoly power by overcharging consumers and stifling competition. I believe this conference report should have stronger protections for consumers. The conference report is weaker than the version of S. 12 which passed the Senate by a 73-to-18 margin in January. It is weaker than the cable bill originally introduced last Congress by Senators DANFORTH, INOUYE, and HOLLINGS. And it is weaker than cable legislation which I have introduced.

But while this conference report is not as strong as it should be, it is a definite improvement over the status quo. If you want the cable industry to stop overcharging consumers and raising rates at will, then you should support this conference report. If you want cable companies to start providing their customers with decent service, then you should support this conference report. And if you believe that Congress should encourage and promote competition in cable, then you should support this conference report.

This is a reasonable bill which has broad, bipartisan support. The cable industry is howling about this conference report precisely because it will curb their monopoly power. That is why the industry has launched a deceptive propaganda campaign which distorts the truth about this legislation.

I vented my views on that subject some days ago. Here is a situation where the cable industry is trying to mislead the American people into thinking that a bill that is actually good for them is going to hurt them and is using the dollars that they have milked from the people of this country to buy television ads, urging the American consumer to prevail upon their Senators to vote no when really the proconsumer vote is a vote "yes."

Indeed, the cable industry's effort to mislead the public and intimidate the Congress is matched only by one other organization I know—the National Rifle Association. The cable industry has bombarded its customers with ads and fliers which make widely exaggerated claims about S. 12. Mailings sent out by phony consumer groups in two States were actually paid for by the National Cable Television Association. Studies financed by the cable industry to support its false claims about S. 12 are fundamentally flawed and factually inaccurate according to the Consumer Federation of America. Tom Shales, the television critic for the Washington Post, summed up the cable industry's propaganda blitz as a big, fat lie.

One lobbying tactic employed by some cable companies deserves special mention, because it is so outrageous. According to the Washington Post, one cable company phoned its subscribers at home, made misleading claims about S. 12 and then transferred those subscribers to answering machines in Senate offices, hoping that the subscribers would repeat industry distortions about the bill. Incredibly, cable company officials remained on the telephone and monitored the calls to make sure that subscribers provided the industry line on S. 12. One subscriber who did not properly repeat the industry's distortions about the bill, was immediately corrected over the phone by a cable official. Other subscribers were reportedly cut off from their calls by cable officials as soon as they provided the industry line on the legislation.

Mr. President, the cable industry has abused the truth in the same manner in which it has abused its monopoly power. And the consumers of this country are looking to us to protect them against further abuses by these unregulated monopolies. This conference report is our chance to provide a step, a major step in that direction.

I was very disturbed to learn that President Bush has signaled his intention to veto this conference report. The President is either misinformed about the cable industry or is badly out of touch with the concerns of the millions of Americans who subscribe to Cable. If the President vetoes this bill, cable subscribers will remain at the mercy of an unregulated monopoly. A veto by the President will show that he does not care about protecting consumers from billions of dollars in overcharges inflicted on them by the cable monopolies. In short, a veto by the President will show that he is more interested in protecting the power of a monopoly than he is in protecting the pocketbooks of consumers.

I sincerely hope that the President will reconsider his position on this bill. We cannot allow price gouging by the cable industry to continue. We cannot allow monopoly abuses to go unchecked. And we cannot allow the cable industry's outrageous propaganda campaign to succeed.

I urge my colleagues to support this conference report.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EFFECTIVE COMPETITION

Mr. LIEBERMAN. Mr. President, I want to clarify a question that has arisen regarding the intent of the conference regarding the definition of "effective competition." S. 12, as passed by the Senate, provided that effective competition would be presumed whenever the franchise area is served by two or more unaffiliated multichannel video programming distributors offering comparable video programming to a majority of the households in each franchise area, and multichannel video programming distributors other than the cable company and its affiliates actually serve 15 percent of the households in the franchising area. Is that correct?

Mr. INOUYE. Yes, that is what was provided in section 5 of the Senate-passed version of S. 12, as it amended 623(d)(2) of the Communications Act. The House-passed version of S. 12 also included similar language that was intended to reach the same result.

Mr. LIEBERMAN. My question is as follows: Is it the understanding of the conferees, in adopting the House-passed definition of "effective competition," that it reach the same result as the Senate language, that is, in calculating whether multichannel video providers other than the largest multichannel video programming distributor actually serve 15 percent of the households in the franchising area, only the number of households subscribing to multichannel video providers unaffiliated with the largest multichannel video programming distributor should be counted?

Mr. INOUYE. Yes, that is our understanding of intent of the House when it passed its version of S. 12, and that is certainly the understanding and intent of the conference committee. This is most clear in the Joint Explanatory Statement of the committee of conference, in which we describe the House provision. We stated that the House bill defined "effective competition" to mean the "franchise area is served by at least two unaffiliated multichannel video programming distributors offering comparable video programming to at least 50 percent of the households in the franchise area, and at least 15 percent of the households in the franchise area subscribe to the smaller of these two systems." And the Senate, in its version, certainly intended that only subscribers of multichannel video programming distributors not affiliated with the largest multichannel provider be counted in determining whether the 15-percent threshold is met. This clearly reflects our understanding of the intent of the House provision, the intent of the Senate, and the conference's understanding of the definition of "effective competition" contained in section 3 of the conference report, as it amends section 623(l)(1)(B) of the Communications Act of 1934, that is that only subscribers of multichannel providers not affiliated with the largest provider be tallied.

Mr. LIEBERMAN. So let me make this concrete by example. Say that a cable operator actually provides service to 80 percent of the households in a franchise area, and that an unaffiliated DBS provider is capable of providing comparable service to the entire franchise area and actually provides service to 10 percent of the households in the franchise area. Assume further that another DBS system that is affiliated with the cable operator provides some service to another 10 percent of the households. I believe that in this situation, no effective competition exists under this test, since the number of households actually served by a multichannel video programming distributor other than the cable company and its affiliated DBS provider is only 10 percent. Is this correct?

Mr. INOUYE. The Senator was correct. Since the number of subscribers served by multichannel video programming distributors other than the cable company and its affiliated DBS company do not exceed 15 percent of the households in the franchise area, the test for effective competition in section 623(l)(1)(B) is not met.

Mr. HOLLINGS. Mr. President, I rise in strong support of the conference report on the Cable Television Consumer Protection and Competition Act of 1992. In this bipartisan bill, Congress is responding to the problems of consumers and the market. I have received thousands of consumer complaints from Americans all across the country concerning the cable industry, and I know my colleagues have received the same. In South Carolina, I have heard complaints from mayors and individual consumers about their cable rates and service. Skyrocketing rates, service outages, anticompetitive abuse, and other monopoly practices have generated an overwhelming public outcry for legislation to address these problems.

S. 12 is a carefully balanced effort to rein in the excesses of the cable industry without blocking further growth and technological innovation. We could have passed a tougher bill. Consumers will say that we could have regulated all cable services across the board. Competitors will say that we should have broken up the cable monopoly. But we have not taken a radical course. The bill that has emerged from our negotiations with the House is carefully tailored to address the most egregious cable practices—unreasonable rates, poor customer service, unfair marketplace advantages.

The cable industry deserves a lot of credit. I am continually impressed by its progress and achievements. Who would have thought a decade ago that over half of the American public would be willing to pay to watch television? After all, we had the best television in the world, and we could receive it for free. Yet, it is clear that the public sees something special in cable television—over 60 percent of American homes now subscribe to cable, and people are willing to pay a significant amount to receive it.

This tremendous growth in the cable industry has been valuable. Most cable subscribers have access to 36 channels, and this amount is steadily increasing. Many systems already offer twice as many channels as before the enactment of the Cable Communications Policy Act of 1984, the 1984 act. This increase in capacity has been accompanied by a great increase in the programming that is offered. And more is on the horizon.

This growth also has produced significant problems, however, and these problems cannot go unnoticed. Cable is no longer an optional luxury; it has become an integral part of the communications network and will become even more integrated in the future as information and entertainment programming are transmitted via fiber optic cables. In recent years, the cable industry has taken advantage of this privileged position as the sole distributor of America's programming. The Commerce Committee has been presented with mountains of evidence of unreasonable rate increases, customer service problems, and various anticompetitive market practices. I know that certain of these problems are the result of bad actors, but nonetheless, we cannot ignore these problems.

The cable industry is no longer a second-class video distributor that only retransmits broadcast programming. It now serves more than half of American homes, and that amount is increasing. Furthermore, it has de facto exclusive franchises. It appears well on its way to becoming the dominant video distributor, and we must be attentive to the problems that monopolies create.

For instance, in my own State of South Carolina, there is a situation involving two communities next door to one another, served by the same cable company, where the citizens of one community are paying more for much less service than those in the other community. In Greer, SC, Cencom Cable provides 36 channels of programming for $23.95, while in Mauldin, SC, customers pay $25.95 for only 21 channels of programming. This problem is not limited to one community. A recent constituent, who in the last 3 years has lived in two different communities in the Myrtle Beach area, informed me that in one community she was charged $15 per month for 45 channels, and in another nearby community she was charged $20 per month for 14 channels. She has a right to be outraged and frustrated. Everyone is frustrated, but there is little that the local authorities can do about these discriminatory practices once the franchises are awarded. We must ensure that these examples of abuse can be corrected.

When the cable debate first began 4 years ago, I was skeptical of the need for new legislation. The 1984 act seemed to have succeeded in achieving many of its goals. However, I have become convinced that there is a need to adjust the environment in which cable operates. S. 12 responds to the legitimate needs of consumers for lower and more reasonable rates, better customer service, and the need for greater competition. S. 12 does not overturn the 1984 act; it is a reasonable bill intended to address legitimate concerns about the provision of cable service.

Last Congress, under the leadership of Senator INOUYE, the chairman of the Communications Subcommittee, the Commerce Committee began to examine what should be done to address abuses by the cable industry and the concerns raised by consumers. The committee carefully and deliberately compiled an extensive record through

13 days of hearings and numerous meetings. The committee then drafted legislation that represented a true consensus of the committee's members. In fact, that legislation was reported by the committee by a vote of 18 to 1. Senator DANFORTH introduced a similar bill again in January 1991, on the first day that bills were allowed to be introduced in the 102d Congress. Under the leadership of Senator INOUYE, this bill moved through the committee in impressive fashion by a vote of 16 to 3.

When S. 12 came before the full Senate for a vote earlier this year, it passed by an overwhelming vote of 73 to 18. The House vote on this bill was similar—the bill passed by a vote of 340 to 73. These strong votes occurred despite the strong opposition of the cable industry, because consumers and competitors were outraged at the practices of their cable companies.

The cable industry claims that consumers are no longer complaining of poor service and high rates. However, everywhere I travel in South Carolina, I hear complaints about cable's treatment of its customers, complaints that the cable industry is concerned about payment first and the customer last. In 1990 alone, cable rates across the country rose an average of 13.1 percent, more than twice the rate of inflation.

Let me give you some examples: In Bennettsville, the cable operator charged $7 for basic cable in 1986; in 1991 it charged $16.95, an increase of 142 percent for a similar service. In Charleston, cable rates were $10.45 for 35 channels; in 1992, the charge is $22 for 29 channels, an increase of 111 percent to receive fewer channels. In Spartanburg, customers were charged $12.93 for 30 channels in 1986; in 1991 they are charged $27.45 for the same number of channels, an increase of 112 percent.

Last year, in response to congressional action on cable legislation, the cable industry instituted voluntary customer service standards. Voluntary standards are nice, but they are only voluntary and cannot be relied upon to protect the consumer. So far these standards do not seem to be working. One of my constituents wrote to tell me that he notified the cable company that he wanted to terminate his service because of the constant rate increases. The company did not respond for 6 months. He finally cut the cable himself because he was afraid that he would be charged with stealing the cable operator's programming. So much for voluntary service standards.

S. 12 requires that the FCC adopt minimum customer service standards that will apply to all cable operators. The need for such standards is further evidenced by the activities of one cable operator in signing up customers for a new service, the infamous Encore channel, without their knowledge, and then simply sending a bill to the customers for the service they did not order in the first place. This kind of behavior cries out for correction.

It has been argued that S. 12 will allow cities to micromanage cable marketing and practices. This is not valid. S. 12 requires the FCC to adopt national standards for regulation of basic cable rates and permits the cities to regulate basic rates only within the national guidelines. Moreover, the conference report permits the FCC, but not the cities, to regulate rates for tiers of programming other than the basic tier only if a complaint is filed that shows that a rate for that upper tier is unreasonable. Moreover, there is no regulation of programming services offered on a per channel basis, such as HBO and Showtime.

Turning to the access to programming provisions of this legislation, the conference report on S. 12 includes a number of measures designed to ensure that certain cable programmers do not discriminate in their offering of programming. While the conference report includes much of the language included in the House bill, the effect of these provisions is almost identical to the provisions contained in the bill that passed the Senate. I must say that I had some reservations about these provisions. I recognize that cable operators created many of the program services that are available today when no one else would. However, I also recognize that there are times when steps must be taken to help promote competition in the marketplace.

For example, in the late 1950's, cable operators were given the right to carry broadcast stations for free, in part, to help stimulate competition to broadcast stations. In the 1970's, in another attempt to stimulate competition, the FCC adopted the financial interest and syndication rules, which limit the ability of the networks to own and control programming. In the 1990's, we find that competition to cable is stifled by the inability of competitors to obtain programming. Two communities in South Carolina have recently faced this very problem. In those communities, Orangeburg and Bennettsville, the existing cable operators have entered into exclusive agreements with certain program services, and, as a result, the competing cable operators cannot get access to those services. This and similar behavior frustrates the development of competition, necessitating the access to programming provisions in S. 12.

The most ironic aspect of the cable industry's opposition to this legislation is that many of the provisions in this legislation are the result of the Commerce Committee's discussions with the cable industry last Congress when we were considering S. 1880. In fact, S. 12 contains many of the provisions that the cable industry agreed with only 3 years ago.

But the cable industry walked away from the agreement we had reached. We offered to sit down several times with the cable industry to attempt to work out our differences, but the cable industry refused.

Now we find that the cable industry is pulling out all the stops to oppose this legislation. The tactics being used to try to thwart this legislation demonstrate cable operators' desperation. The cable industry is running fraudulent advertisements trying to convince consumers that S. 12 will raise their cable rates when the bill is designed to control the rise in cable rates. There is evidence that the cable industry has sponsored a service that allows consumers to talk directly to their representatives in Congress, but that if the conversation starts to go in a direction the cable industry does not like, it cuts off the connection. We have been told that some cable representatives have even been calling senior citizens in their homes trying to convince them to oppose the cable bill.

Now the Motion Picture Association of America has weighed in. Many of the movie studios themselves have ownership interests in the cable industry; some of them own cable programming, and some of them are affiliated with cable operators. So it is no surprise that the MPAA would be trying to scuttle this bill.

However, the motion picture studios' arguments are without merit. The motion picture studios want to repeal the cable compulsory license. That is a real issue and perhaps one that Congress should address. But this issue has nothing to do with the cable bill. Retransmission consent concerns the relationship between broadcasters and the cable industry. The cable compulsory license concerns the relationship between the programming copyright owners—the motion picture studios—and the cable industry. There is no logical or legislative nexus between the two, yet the MPAA is trying to claim that the bill should be broadened to include that matter. There is nothing in this bill that precludes the studios and the cable industry from negotiating in this area.

Furthermore, the compulsory license issue is within the jurisdiction of the Judiciary Committee, not the Commerce Committee. Neither the Senate nor the House Judiciary Committees has reported out a proposal, or it could have been added as an amendment on the Senate floor in January or on the House floor in July. Judiciary members likewise did not participate in the conference.

I believe that the conference report on S. 12 is a reasonable, targeted approach to problems with the cable industry. This bill responds to the concerns of the public. It protects consumers and encourages competition, while at the same time permitting the cable industry to grow. It enjoys the full support of the Consumer Federation of America, senior citizens, city and State officials, the National Association of Broadcasters, labor groups, cable competitors, and satellite dish owners. The conference report on S. 12 is the product of many years of work by committees in both the Senate and House. The bodies have ironed out the differences between the two bills in bipartisan and productive fashion. I particularly thank Senators INOUYE and DANFORTH for all of their hard work on this bill. This is an opportunity to show the public that Congress cares about their concerns. I urge my colleagues to support this important and necessary legislation.

Mr. BURNS. Mr. President, I ask that we reserve at least 5 minutes. The Republican leader wanted to speak on this subject. He is tied up at the present time. I ask that 5 minutes be reserved for his time, if we might.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that it be equally docked on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, there is no question that consumers are justifiably angry at the rates and service shortcomings frequently imposed on them by cable monopolies. I cannot recall a town meeting or chamber of commerce breakfast back in Kansas during the past 2 years that I did not hear at least one complaint about this industry.

So the urge to do something is understandable. But that "something" should not be a measure that will cut off the development of the programming and information that consumers really want, should not be a reregulatory scheme which will entrench and perpetuate the existing cable monopolies, and above all, should not be something that in the end will leave consumers paying more for less, still captive to a regulated monopoly provider. Despite the fact that S. 12 has been 3 years in the making, it still falls well short of giving the consumers the kind of protection from the very real problems I have just outlined.

We need to address the cable TV problems, but this legislation is not the answer. And President Bush agrees. In a letter to me last week he made his position clear—he will veto this legislation.

It is important to note that the conference report is not the same bill we passed in January. It requires cable operators to install addressable converters in all subscriber homes—the original bill did not. This requirement alone would raise costs of cable operators up to an estimated $5.8 billion.

The bill we passed in January attempted to promote competition in rural areas by permitting telephone companies to offer cable services to communities with populations smaller than 10,000. This provision would have gone a long way toward reasonable cable rates for rural America. The conference report eliminates this provision completely.

The bill we passed in January authorized the FCC to adopt national customer service standards. The conference report, instead, allows local officials unrestricted power to exceed these FCC standards, which will further raise costs.

Let us not fool ourselves, this measure is expensive. The so-called S. 12 proconsumer advocates say these new costs do not have to be passed onto cable customers. That makes about as much sense as calling taxes an investment. Let us face it. We all know who is going to get stuck with this bill. The consumer.

S. 12 is also touted as procompetitive, as it forces cable companies to sell its programming to its competitors. When I played ball in high school, we did not increase competition by giving our playbook away, but by adding the best teams to our schedule. While S. 12 does not understand competition, the FCC does. Earlier this year it authorized telephone companies to deliver video programming to consumers through video dialtone services. True competition spurs better services, innovation, and jobs. On the other hand, S. 12's outdated approach will weaken America's position in this market.

Mr. President, we began this debate to address consumer concerns. Consumers were fed up with seeing their monthly cable bill go up; they were tired of not having their service calls answered; and they were angry because nobody listened to them.

They asked us to help. And how have we answered their frustrations? By coming up with a conference report that is neither good communications policy nor good for the consumer. We know there is a problem and I believe something should be done about it. But, this conference report is not the answer. I urge my colleagues to oppose the conference report.

Mr. CRAIG. Mr. President, I have had a number of concerns about S. 12 since its introduction last year. These concerns were not resolved in the conference report on this legislation. While I recognize that there have been some problems with basic cable rate increases, and services in some areas have been poor, I disagree with the assumption that reregulation is the solution.

Reregulating the cable industry will only serve as a short-term fix, and it won't benefit the consumer in the long term. In fact, consumers aren't even assured of lower cable rates. There is sound evidence that S. 12 will increase cable rates because the legislation's mandates will increase cable companies' operating costs. It would not be surprising if the consumer ended up paying the tab. Consumers will also be paying for the Government to implement this legislation. The conferfence report will increase the Government's regulatory costs by tens of millions of dollars.

One last point I would like to make is that the cable industry also employs thousands of people. Overregulation of this industry will stifle growth and put many of those jobs at risk.

Cable has opened the world to many rural communities, and with competition and new technologies such as DBS, more information and programming will be available to our rural communities—but only if the Federal Government avoids imposing burdensome regulations on the industry.

Mr. President, I don't support unnecessary Government regulation of private industry. Therefore, I don't support S. 12. The best solution to this problem would be to provide consumers with a choice of distributors—local telephone companies, direct broadcast satellite, or another cable company.

Mr. WALLOP. Mr. President, I rise to oppose the conference report of the so-called Cable Television Consumer Protection Act of 1991, a bill that would reregulate the cable television industry. It is an example of effort we see all the time around here to sell bad ideas with sexy titles.

The current bill is anticonsumer and anticompetition. It would force monthly cable rates to increase for each of America's 60 million cable subscribers. Programming choices would be decreased. The development and use of new technologies in nonbroadcast industries would be stifled. Regulatory burdens would be further increased, and the Federal Government would obtain another self-imposed means to supersede a healthy free-market system. Excessive Government intervention is not the answer. Even the Washington Post agrees. This cable bill conference report goes too far and should be defeated.

There have been some legitimate concerns involving cable rate increases and poor customer service in pocketed areas. The original bill was conceived with good, consumer-oriented intentions. However, months of lobbying by special interests standing to gain the most from this bill has yielded language attempting to resolve intraindustry disputes at the unnecessary expense of consumers and taxpayers.

We now have an unacceptable bill which promotes special interests over consumer interests. For example, the conference report contains a buy-through prohibition. Cable operators would be required to permit cable subscribers to obtain premium services such as HBO or Showtime without having to buy expanded tiers of service. Cable operators would be forced to spend billions to install addressable scrambling technology without regard to subscriber demands. This expensive option is neither appropriate nor fair. The Federal Government is attempting to place itself in the awkward position of micromanaging the marketing of television services.

In addition to direct costs, excessive Government controls of cable prices would fence in current and potential developments, uses, and exports of new technologies. These technologies include: Fiber optics; microwave TV; satellite broadcasts; and digital televisions interfaced with telephones and computers. It makes absolutely no sense for Congress to damage a sound American industry, harm consumers in both urban and rural areas, and suppress technological innovations.

I agree with consumers in Wyoming and throughout our Nation who understand the consequences of overzealous Government controls. Competition, not excessive reregulation, creates the greatest choices at the fairest prices for consumers. Competition, not regulation, creates essential jobs for Americans. Regulations like those proposed in the Cable Television Consumer Protection Act conference report do not provide for competition and do not favor consumer interests.

This bill goes too far and should be defeated. I ask unanimous consent that the Saturday, September 19, Washington Post editorial "Uncle Sam in Charge of Cable" be entered into the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 19, 1992]

UNCLE SAM IN CHARGE OF CABLE

The cable legislation approved by the House and now headed for a Senate vote calls for the federal government to step in and reregulate the industry from rates to program packaging. But this approach assumes that cable, now supplied mostly by monopolies, is a utility as necessary as electricity or telephone service. In fact, cable is a consumer option in what should become a more competitive market. This particular bill would give government a role in cable that consumers may not find so welcome over the long haul.

Forget the cable industry ads predicting that passage of the bill would send everybody's cable rates through the ceiling. Forget as well the arguments of supporters—including over-the-air broadcasters, who like a provision that would force cable operators to negotiate with them before retransmitting their signals—that the bill would force price cuts of up to 30 percent. Both sides—and we note here that The Washington Post Co. owns cable systems as well as broadcast television stations—have resorted to heavy lobbying. So has the motion picture industry, which opposes the bill because Hollywood wouldn't get any cut of the royalties that broadcasters could seek from cable operators.

Under the measure, the government would set "reasonable" rates for what it would define as "basic" programming, control prices for installation and equipment, require efficient customer service and force cable operators to equip all subscribers for channel selections that now are sold as packages of channels. The result of all these requirements is not more competition; it's more likely to be cost-cutting by eliminating cable programming or even entire channels.

The effort to control gouging by cable operators should focus on increasing competition, not on heavy reregulation. Until competitors do materialize, some determination of a reasonable rate of return for certain basic cable service is a legitimate legislative pursuit next year. This bill goes overboard.

The PRESIDING OFFICER. All time for consideration of S. 12 under the previous order has now expired.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1993

The PRESIDING OFFICER. The Senate will now proceed to consideration of H.R. 5504, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments; as follows:

(The part of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1993, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; **[**$23,153,900,000**]** *$23,236,700,000*.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; **[**$19,529,200,000**]** *$19,231,770,000*.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; **[**$6,113,200,000**]** *$5,973,700,000*.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for oganizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; **[**$18,663,400,000**]** *$18,520,900,000*.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; **[**$2,187,700,000**]** *$2,218,880,000*.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; **[**$1,679,000,000**]** *$1,672,327,000*.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; **[$349,900,000]** *$346,632,000.*

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; **[$735,200,000]** *$727,219,000.*

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; **[$3,293,400,000]** *$3,272,573,000.*

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; **[$1,191,300,000]** *$1,167,922,000.*

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $14,437,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; **[$12,909,166,000]** *$13,422,198,000 and, in addition, $2,229,000,000, to be derived by transfer from the Defense Business Operations Fund upon completion of the identification of residual inventories and the initiation of the transfer of such inventories to the wholesale supply system of the Defense Business Operations Fund: Provided*, That $450,000 shall be made available only for the 1993 Memorial Day Celebration and $450,000 shall be made available only for the 1993 Capitol Fourth Project*: Provided further, That of the amounts appropriated under this heading, $120,000,000 shall not be obligated or expended until such time as the Secretary of Defense certifies to the Committees on Appropriations of the House of Representatives and the Senate that the percentage of United States military base operations and foreign national employee pay costs offset by financial or assistance-in-kind contributions made by European governments will increase during the fiscal year ending September 30, 1993: Provided further, That of the funds appropriated under this heading, $36,000,000 shall be made available only for the procurement of the Extended Cold Weather Clothing System (ECWCS): Provided further, That not less than $1,715,000 shall be made available only for the environmental assessment and environmental cleanup of the Badger Army Ammunition plant: Provided further, That not less than $7,000,000 shall be made available only for the environmental cleanup of the National Presto Industries Eau Claire facility.*

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $5,005,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; **[$19,272,649,000 of which $206,600,000 shall be available only for transfer to the United States Coast Guard, of which $142,100,000 shall be available for "Operating Expenses", $18,000,000 shall be available for "Acquisition, Construction, and Improvements", and $46,500,000 shall be available for "Reserve Training": *Provided*, That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards, Naval Aviation Depots and private companies. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards, Naval Aviation Depots, and private companies. Competitions shall not be subject to section 2461 or 2464 of title 10, United States Code, or to Office of Management and Budget Circular A–76. Naval Aviation Depots may perform manufacturing in order to compete for production contracts: *Provided further*, That funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels: *Provided further*, That of the funds appropriated in this paragraph, $1,001,155,000 shall not be obligated or expended until authorized by law]** *$19,290,758,000 and, in addition $94,500,000, to be derived by transfer from the Defense Business Operations Fund upon completion of the identification of residual inventories and the initiation of the transfer of such inventories to the wholesale supply system of the Defense Business Operations Fund: Provided, That of the amounts appropriated under this heading, $25,000,000 shall not be obligated or expended until such time as the Secretary of Defense certifies to the Committees on Appropriations of the House of Representatives and the Senate that the percentage of United States military base operations and foreign national employee pay costs offset by financial or assistance-in-kind contributions made by European governments will increase during the fiscal year ending September 30, 1993: Provided further, That of the funds appropriated under this heading, $1,000,000 shall be made available only for the conduct of an Environmental Impact Study at Bellows Air Force Base: Provided further, That of the funds appropriated under this heading, $900,000 shall be made available only for the development of a military land use plan in Hawaii, under the direction of the Commander-in-Chief, United States Pacific Command.*

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; **[$1,431,700,000]** *$1,452,788,000 and, in addition, $58,500,000, to be derived by transfer from the Defense Business Operations Fund upon completion of the identification of residual inventories and the initiation of the transfer of such inventories to the wholesale supply system of the Defense Business Operations Fund: Provided*, That none of the funds appropriated in this paragraph may be used for the conversion of facilities maintenance, utilities, and motor transport functions at Cherry Point Marine Corps Air Station, North Carolina, to performance by private contractor under the procedures and requirements of OMB Circular A–76 until the General Accounting Office completes their audit and validates the decision.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $8,912,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; **[$16,141,190,000: *Provided*, That $15,500,000 shall be used only to operate, maintain and enhance the Tactical Interim CAMS and REMIS Reporting System (TICARRS): *Provided further*, That TICARRS be maintained, with direct maintenance data input, as the supporting system for the F–117A aircraft: *Provided further*, That TICARRS be reestablished, with direct maintenance data input, as the supporting system for all F–15 and F–16 aircraft by no later than 45 days after enactment of this Act: *Provided further*, That of the funds appropriated in this paragraph, $704,056,000 shall not be obligated or expended until authorized by law]** *$16,205,216,000 and, in addition, $672,000,000, to be derived by transfer from the Defense Business Operations Fund upon completion of the identification of residual inventories and the initiation of the transfer of such inventories to the wholesale supply system of the Defense Business Operations Fund: Provided, That of the amounts appropriated under this heading, $30,000,000 shall not be obligated or expended until such time as the Secretary of Defense certifies to the Committees on Appropriations of the House of Representatives and the Senate that the percentage of United States military base operations and foreign national employee pay costs offset by financial or assistance-in-kind contributions made by European governments will increase during the fiscal year ending September 30, 1993: Provided further, That, of the funds appropriated under this heading, $7,000,000 shall be made available only for the operation of the Theater Air Command Control* *and Simulation Facility at Kirtland Air Force Base: Provided further, That $12,000,000 shall be used only to operate and maintain the Tactical Interim CAMS and REMIS Reporting System (TICARRS): Provided further, That TICARRS be maintained, with direct maintenance data input, as the supporting system for F–15 and F–16 aircraft that are supported by TICARRS as of September 30, 1992.*

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; [$9,473,310,000] *$8,796,325,000*, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $16,560,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes[: *Provided*, That of the funds appropriated by this paragraph, $845,110,000 shall be made available only for the Special Operations Command]: *Provided, That, of the funds appropriated under this heading, not less than $50,000,000 shall be made available only for the global disaster relief activities of the Department of Defense: Provided further, That, of the funds appropriated under this heading, not less than $10,000,000 shall be made available only for the disaster relief planning and studies of the Department of Defense as they relate to Department of Defense installations worldwide: Provided further, That, of the funds appropriated under this heading, not less than $50,000,000 shall be made available only for the Legacy Resource Management Program: Provided further, That of the funds appropriated under this heading, $500,000 shall be made available only for the Hawaiian Volcano Observatory.*

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; [$1,033,842,000: *Provided*, That of the funds appropriated in this paragraph, $42,623,000 shall not be obligated or expended until authorized by law] *$1,016,866,000.*

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; [$844,049,000] *$863,961,000.*

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; [$76,592,000: *Provided*, That of the funds appropriated in this paragraph, $642,000 shall not be obligated or expended until authorized by law] *$74,820,000.*

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; [$1,209,312,000] *$1,191,874,000.*

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); [$2,218,580,000: *Provided*, That of the funds appropriated in this paragraph, $1,880,000 shall not be obligated or expended until authorized by law] *$2,189,677,000.*

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; [$2,535,250,000] *$2,493,039,000.*

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses and personnel services (other than pay and non-travel-related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for operation and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the sale of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances under section 4313 of title 10, United States Code; not to exceed $2,700,000.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; [$5,900,000] *$5,893,000*, of which not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; [$901,200,000] *$1,511,700,000*, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation[: *Provided further*, That if an entity to which property is transferred is a State or political subdivision of a State, the United States shall hold harmless, defend and indemnify such entity from and against all claims, demands, losses, damages, liens, liabilities, injuries, deaths, penalties, fines, lawsuits and other proceedings, judgments, awards and costs and expenses arising out of, or in any manner predicated upon, the presence, release or threatened release of any hazardous substance, pollutant or contaminant resulting from the activities of the Department of Defense: *Provided further*, That this provision shall not apply to the presence, release, or threatened release of any hazardous substance, pollutant, or contaminant brought onto the property by or on behalf of any parties other than the United States Government: *Provided further*, That the terms "hazardous substance" shall include petroleum, including crude oil; natural gas, liquified natural gas; and asbestos:] *Provided further, That, of the funds provided under this heading, not less than $200,000,000 shall be available only for the expedited cleanup of environmentally contaminated sites and only in accordance with a comprehensive plan submitted to Congress by the Secretary of Defense.*

HUMANITARIAN ASSISTANCE

For transportation for humanitarian relief for refugees of Afghanistan, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian and excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; [$15,000,000] *$25,000,000*, to remain available for obligation until September 30, 1994: *Provided*, That the Department of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives 15 days prior to the shipment of humanitarian relief which is intended to be transported and distributed to countries not previously authorized by Congress[: *Provided further*, That of the funds appropriated in this paragraph, $2,000,000 shall not be obligated or expended until authorized by law]: *Provided further, That where required and notwithstanding any other provision of law, funds made available under this heading for fiscal year 1993 or thereafter, shall be available for emergency transportation of United States or foreign nationals or the emergency transportation of humanitarian relief personnel.*

WORLD UNIVERSITY GAMES

For logistical support and personnel services including initial planning for security needs (other than pay and nontravel related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty to provide support for the World University Games) provided by any component of the Department of Defense to the World University Games; $6,000,000.

SUMMER OLYMPICS

For logistical support and personnel services (other than pay and nontravel related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty to provide support for the 1996 Games of the XXVI Olympiad to be held in Atlanta, Georgia) provided by any component of the Department of Defense to the 1996 Games of the XXVI Olympiad; $2,000,000.

WORLD CUP USA 1994

For logistical support and personnel services (other than pay and nontravel related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty to provide support for the World Cup USA 1994 Organizing Committee) provided by any component of the Department of Defense to the World Cup USA 1994 Organizing Committee; $9,000,000[:–*Provided*, That funds appropriated in this paragraph shall not be obligated or expended until authorized by law].

REAL PROPERTY MAINTENANCE, DEFENSE

For the maintenance of real property of the Department of Defense under this title of this Act[, as follows:

[Army, $1,056,798,000;
[Navy, $878,556,000;
[Marine Corps, $237,300,000;
[Air Force, $958,176,000;
[Defense Agencies, $125,038,000;
[Army Reserve, $63,358,000;
[Navy Reserve, $63,523,000;
[Marine Corps Reserve, $3,408,000;
[Air Force Reserve, $38,011,000;
[Army National Guard, $105,320,000;
[Air National Guard, $93,274,000;

[In all: $3,622,762,000, of which $1,965,229,000 shall remain available for obligation until September 30, 1994]; *$1,720,029,000, to remain available for obligation until September 30, 1994, and in addition, during the current fiscal year, the Secretary of Defense shall transfer such funds as are available up to $612,000,000 from the National Defense Stockpile Transaction Fund, to remain available for obligation until Setember 30, 1994: Provided further, That the funds transferred from the National Defense Stockpile Transaction Fund shall be available only for repairing property which has been identified by the Department of Defense as part of a backlog of maintenance and repair projects in the justification material accompanying the President's budget request for fiscal year 1993: Provided further, That such funds shall be allocated by the Comptroller, Department of Defense, for the projects determined by the Department of Defense as the highest priority for repair.*

TITLE III
PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; [$1,414,659,000] *$1,256,842,000*, to remain available for obligation until September 30, 1995.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; [$1,139,004,000] *$1,022,126,000*, to remain available for obligation until September 30, 1995[: *Provided*, That of the funds appropriated in this paragraph, $55,894,000 shall not be obligated or expended until authorized by law].

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; [$807,989,000] *$878,552,000*, to remain available for obligation until September 30, 1995[: *Provided*, That of the funds appropriated in this paragraph, $71,348,000 shall not be obligated or expended until authorized by law].

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; [$1,175,433,000] *$707,180,000*, to remain available for obligation until September 30, 1995[: *Provided*, That of the funds appropriated in this paragraph, $235,426,000 shall not be obligated or expended until authorized by law].

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; *the purchase of not to exceed 5 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $180,000 per vehicle;* the purchase of not to exceed 38 passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; [$3,022,667,000] *$2,978,318,000*, to remain available for obligation until September 30, 1995.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; [$6,638,127,000] *$5,734,209,000*, to remain available for obligation until September 30, 1995[: *Provided*, That of the funds appropriated in this paragraph, $285,960,000 shall not be obligated or expended until authorized by law].

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, other ordnance and ammunition, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; [$3,337,482,000] *$3,593,915,000*, to remain available for obligation until September 30, 1995.

SHIPBUILDING AND CONVERSION, NAVY
(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier replacement program, [$832,200,000] *$350,000,000*;

Refueling overhauls, $37,239,000;

DDG-51 destroyer program, [$705,262,000: and an additional amount of $1,900,000,000 to be derived by transfer from the Defense Business Operations Fund] *$3,265,770,000*;

LHD-1 amphibious assault ship program, [$1,205,000,000] *$1,050,000,000*;

[LSD-41 cargo variant ship program, $300,000,000;]

MHC coastal mine hunter program, [$246,205,000] *$222,140,000*;

[AOE combat support ship program, $300,000,000;]

Oceanographic ship program, [$109,500,000] *$19,500,000*;

[Sealift ship program, $801,400,000;]

[For cost growth on prior years programs, $195,000,000: *Provided*, That notwithstanding any other provision of law or regulation, the Secretary of the Navy is authorized and directed to increase the price of the T-AGS 39 and 40 contract and shall pay to the contractor which built and delivered T-AGS 39 and 40 the amount of $50,000,000. Such payment shall be made upon the contractor's execution of a release discharging the Government, its officers, agents and employees from any additional liability arising under or relating to the contract for T-AGS 39 and 40, and upon the contractor's agreement to dismiss with prejudice the pending action in the United States Claims Court: *Provided further*, That $15,000,000 is available for settlement of claims associated with conversion of T-ACS 7 and T-ACS 8: *Provided further*, That $130,000,000 is available for transfer to the following programs in the amounts specified: 1987/1991 T-AO fleet oiler program, $23,000,000; 1988/1992 T-AO fleet oiler program, $19,000,000; 1988/1992 LSD-41 cargo variant program, $27,000,000; 1990/1994 LSD-41 cargo variant program, $31,000,000; 1991/1995 LSD-41 cargo variant program, $30,000,000;]

For craft, outfitting, post delivery, and first destination transportation, [$781,425,000] *$581,673,000*;

In all: [$5,513,231,000, and $1,900,000,000 to be derived by transfer] *$5,526,322,000*, to remain available for obligation until September 30, 1997: *Provided*, That additional obligations may be incurred after September 30, 1997, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards[: *Provided further*, That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act].

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 602 passenger motor vehicles of which 574 shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; [$5,774,446,000] *$5,629,152,000*, to remain available for obligation until September 30, 1995[, of which $61,546,000 shall be available only for the procurement of the AN/SSQ-77B sonobuoy and $9,678,000 shall be available only for sonobuoy support: *Provided*, That of the funds appropriated in this paragraph, $15,570,000 shall not be obligated or expended until authorized by law: *Provided further*, That funds appropriated in this paragraph for procurement of the Enhanced Modular Signal Processor may be obligated for such procurement under a multiyear contract, in accordance with the requirements of section 9013 of this Act].

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 46 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; [$792,128,000] *$628,677,000*, to remain available for obligation until September 30, 1995.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; [$9,427,005,000] *$9,260,783,000*, to remain available for obligation until September 30, 1995.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; [$4,327,902,000] *$4,125,590,000*, to remain available for obligation until September 30, 1995[: *Provided*, That not less than $120,000,000 of the funds appropriated in this paragraph shall be made available only for reimbursement of development costs associated with the Solid Rocket Motor Upgrade].

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; *the purchase of not to exceed 2 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $180,000 per vehicle;* the purchase of not to exceed 611 passenger motor vehicles of which 425 shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; [$7,640,888,000] *$7,926,649,000*, to remain available for obligation until September 30, 1995.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces; [$1,132,150,000] *$630,100,000*, to remain available for obligation until September 30, 1995[: *Provided*, That of the funds appropriated in this paragraph, $496,350,000 shall not be obligated or expended until authorized by law].

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; *the purchase of not to exceed 1 vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $180,000 per vehicle;* the purchase of not to exceed 565 passenger motor vehicles, of which 554 shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; [$1,575,178,000, of which $709,959,000 shall be available only for the Special Operations Command] *$2,068,752,000*, to remain available for obligation until September 30, 1995.

[DEFENSE PRODUCTION ACT PURCHASES

[For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $25,000,000, to remain available until expended: *Provided*, That none of these funds shall be obligated for any metal, mineral, or material, unless a Presidential determination has been made in accordance with the Defense Production Act: *Provided further*, That the Department of Defense shall notify the Committees on Appropriations of the

House of Representatives and the Senate thirty days prior to the release of funds for any metal, mineral, or material not previously approved by Congress: *Provided further*, That funds appropriated in this paragraph shall not be obligated or expended until authorized by law.]

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; **[**$5,962,532,000**]** *$5,112,737,000*, to remain available for obligation until September 30, 1994: *Provided*, That $2,000,000 shall be made available only for the Center for Prostate Disease Research at the Walter Reed Army Institute of Research**[**: *Provided further*, That $3,000,000 shall be made available only for synaptic transmission research: *Provided further*, That of the funds appropriated in this paragraph, $481,399,000 shall not be obligated or expended until authorized by law**]**: *Provided further, That $20,000,000 of the funds appropriated in this paragraph shall be made available in the Acquired Immune Deficiency Syndrome program element only for a large-scale Phase III clinical investigation of the drug GP–160: Provided further, That none of these funds shall be obligated until the Secretary of Defense, the Director of the National Institutes of Health and the Commissioner of Food and Drugs approve the investigation protocols based on an evaluation of the preliminary evidence of safety and effectiveness of the drug.*

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; **[**$9,315,969,000**]** *$7,073,773,000*, to remain available for obligation until September 30, 1994**[**: *Provided*, That for continued research and development programs at the National Center for Physical Acoustics, centering on ocean acoustics as it applies to advanced antisubmarine warfare acoustics issues with focus on ocean bottom acoustics, seismic coupling, sea-surface and bottom scattering, oceanic ambient noise, underwater sound propagation, bubble related ambient noise, acoustically active surfaces, machinery noise, propagation physics, solid state acoustics, electrorheological fluids, transducer development, ultrasonic sensors, and other such projects as may be agreed upon, $1,000,000 shall be made available, as a grant, to the Mississippi Resource Development Corporation, of which not to exceed $250,000 of such sum may be used to provide such special equipment as may be required for particular projects: *Provided further*, That of the funds appropriated in this paragraph, $193,408,000 is available only for the Ship Self-Defense program which may be obligated only if it (a) has a single program manager who is fully responsible and accountable for its execution as his or her sole duty on a full time basis, (b) finances an at-sea test which includes one or more amphibious assault ships, (c) is certified by the Secretary of Defense to the Armed Services and Appropriations Committees of Congress as being fully funded to meet a fiscal year 1997 initial operational capability date with the goal of providing ship self-defense capability rather than area air defense capability, to include a fully functioning, cooperating, and contributing air link on E–2C and AWACS aircraft, (d) is further certified by the Secretary of Defense that it will be deployed first to those ships which in 1997 will have the least capability to defend themselves from sea-skimming anti-ship cruise missile attack and which have the highest likelihood of being deployed in high threat environments, particularly amphibious ships, (e) is further certified by the Secretary to be under the active formal oversight of one or more officials within the Office of the Secretary of Defense on at least a quarterly basis, (f) includes funding to conduct a rigorous engineering systems analysis leading to a technical architecture which is fully compatible with Army and Air Force theater systems, and (g) incorporates a Quick Reaction Combat Capability which includes ruggedized commercial color Naval Tactical Data System consoles which are competitively procured: *Provided further*, That none of the funds appropriated in this paragraph or in Title IV of Public Law 102–172 may be obligated or expended to develop or purchase equipment for an Aegis destroyer variant (commonly known as "DDV") whose initial operating capability is budgeted to be achieved prior to the initial operating capability of the Ship Self-Defense program, nor to develop sensor or processor capabilities which duplicate in any way those being developed in the Ship Self-Defense program: *Provided further*, That of the funds appropriated in this paragraph, $513,673,000 shall not be obligated or expended until authorized by law**]**.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; **[**$13,731,603,000**]** *$11,373,380,000*, to remain available for obligation until September 30, 1994**[**: *Provided*, That not less than $2,000,000 of the funds appropriated in this paragraph shall be made available only for continuing the research program on development of coal-based, high thermal stability and endothermic jet fuels, including exploratory studies on direct conversion of coal to thermally stable jet fuels: *Provided further*, That not less than $6,500,000 of the funds appropriated in this paragraph shall be made available only for the Joint Seismic Program administered by the Incorporated Research Institutions for Seismology: *Provided further*, That not less than $45,000,000 of the funds appropriated in this paragraph shall be made available only for the National Center for Manufacturing Sciences (NCMS), of which not less than $5,000,000 is available only for the National Center for Tooling and Precision Components (NCTPC): *Provided further*, That none of the funds appropriated in this paragraph may be used to procure or develop Air Force-unique automatic test equipment other than to adapt the Army's Integrated Family of Test Equipment (IFTE) or Navy's Consolidated Automated Support System (CASS) to meet Air Force requirements: *Provided further*, That of the funds appropriated in this paragraph, $160,300,000 is available only for the Cheyenne Mountain Upgrade program which may be obligated only if the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence has directed the Air Force to conduct a comprehensive overall system architecture for use in the Defense Acquisition Board oversight process and for implementation in contracts for the program: *Provided further*, That not less than $123,852,000 of the funds appropriated in this paragraph shall be made available only for the Space Nuclear Thermal Propulsion Program**]**: *Provided, That of the funds appropriated in this paragraph, not less than $39,500,000 shall be made available in the SPACETRACK program element only to continue the Advanced Electro-Optical System project at the Air Force Maui Optical Station: Provided further, That of the funds appropriated in this paragraph not less than $5,000,000 shall be made available in the Advanced Weapons program element only to continue the establishment and operation of an image information processing center supporting the Air Force Maui Optical Station and the Maui Optical Tracking Facility: Provided further, That of the funds appropriated under the previous proviso, not less than $500,000 shall be made available as a grant to the Maui Economic Development Board to assist in refining the defense and industrial requirements and user base for the aforementioned image information processing center: Provided further, That of the funds appropriated in this paragraph, not less than $10,000,000 shall be transferred to the Department of Transportation Office of Commercial Space Development to support defense space launch requirements.*

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

[(INCLUDING RESCISSION)**]**

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; **[**$9,510,354,000**]** *$8,501,222,000*, to remain available for obligation until September 30, 1994**[**, of which $274,459,000 shall be available only for the Special Operations Command: *Provided*, That not less than $135,000,000 of the funds appropriated in this paragraph are available only for the Extended Range Interceptor (ERINT) missile: *Provided further*, That not less than $12,000,000 of the funds appropriated in this paragraph shall be available only for an Experimental Program to Stimulate Competitive Research (EPSCOR) in the Department of Defense which shall include all States eligible as of the date of enactment of this Act for the National Science Foundation Experimental Program to Stimulate Competitive Research: *Provided further*, That none of the funds in this paragraph may be obligated for the development of the Superconductive Magnetic Energy Storage system unless its processes, materials, and components are substantially manufactured in the United States**]**: *Provided, That not less than $25,000,000 of the funds appropriated in this paragraph shall be made available only to explore the potential for electric vehicles to enable the armed services to achieve energy cost savings, comply with environmental requirements, and meet mission objectives: Provided further, That not less than $5,000,000 of the funds provided under the previous proviso shall be made available only to establish one of the demonstration sites for the aforementioned electric vehicle technology program in the State of Hawaii.*

[Of the funds made available under this heading in the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1150, 1166), $25,000,000 for the Arctic Region Superconducting Center is rescinded**]**.

TACTICAL AVIATION MODERNIZATION, DEFENSE

For expenses of activities and agencies of the Department of Defense, necessary for basic and *applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $3,488,977,000, to remain available for obligation until September 30, 1994: Provided, That not more than one-third of the funds appropriated in this paragraph may be transferred, obligated and expended until the Secretary of Defense submits, no later than May 15, 1993, to the Congressional defense committees a report addressing the military and fiscal validity of the major programs proposed to modernize the tactical aviation forces of the United States: Provided further, That, subject to the restrictions established in the preceding proviso, the Secretary of Defense shall, upon determining that such funds are required to modernize the tactical aviation forces of the United States, transfer the funds made available by this appropriation to other appropriations under this title as the Secretary may designate, to be merged with and to be available for the same purposes and the same time period as the appropriations to which transferred: Provided further, That the transfer authority provided under this heading shall be in addition to any other transfer authority contained in this Act.*

Developmental Test and Evaluation, Defense

For expenses, not otherwise provided for, of independent activities of the Deputy Director of Defense Research and Engineering (Test and Evaluation) in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; **[**$261,707,000**]** *$260,707,000*, to remain available for obligation until September 30, 1994.

Operational Test and Evaluation, Defense

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $12,983,000, to remain available for obligation until September 30, 1994.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

Defense Business Operations Fund

For the Defense Business Operations Fund; **[**$16,600,000**]** *$1,123,800,000: Provided, That, in addition to any other transfer authority contained in this Act, $454,800,000 may be transferred from the Defense Business Operations Fund to appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred, as follows: $280,000,000 to Operation and Maintenance, Navy; $50,800,000 to Operation and Maintenance, Marine Corps; $112,700,000 to Operation and Maintenance, Air Force; and $11,300,000 to Operation and Maintenance, Defense Agencies: Provided further, That, of funds available in the Defense Business Operations Fund, not less than $90,000,000 shall be available for the purchase of 1.8 million cases of Meals Ready to Eat in the current fiscal year.*

National Defense Sealift Fund

For the National Defense Sealift Fund, $1,201,400,000 to remain available until expended.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

Defense Health Program

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law; **[**$9,302,675,000**]** *$9,263,226,000*, of which **[**$9,003,026,000**]** *$8,969,454,000* shall be for Operation and maintenance**[**, of which $92,251,000 shall be for real property maintenance**]**; and **[**$299,649,000**]** *$293,772,000*, to remain available for obligation until September 30, 1995, shall be for Procurement**[**: *Provided*, That not to exceed $40,000,000 of available funds shall be provided to the Uniformed Services Treatment Facilities program to be used only to fulfill any recoupment action of the Health Care Financing Administration for health care provided to eligible retired Department of Defense beneficiaries over age 65 between October 1, 1986, and December 31, 1989: *Provided further*, That none of the funds available to the Department of Defense shall be obligated or expended to operate, maintain and pay the salaries or expenses of those eight individuals in the immediate Office of the Assistant Secretary of Defense for Health Affairs or the merit pay attorney advisor in the Office of the General Counsel, Personnel and Health Policy, who currently provides advice to the Office of the Assistant Secretary of Defense for Health Affairs**]**: *Provided, That the Department of Defense may not use funds appropriated or otherwise made available in this Act to promulgate or enforce the policy enunciated in the memorandum for the Secretaries of the Military Departments that became effective October 1, 1988, prohibiting non-funded abortions in military medical treatment facilities outside the continental United States, or any other policies having the same substance: Provided further*, That the Department shall competitively contract for and begin to test implementation of a mail service pharmacy benefit in fiscal year 1993 in *Hawaii and in at least* two regions of the United States: *Provided further*, That of the funds appropriated in this Act, $150,000 shall be used only for the implementation of a cooperative program model at Madigan Medical Center for severely behavior disordered students**[**: *Provided further*, That notwithstanding any other provision of law or regulation, there will be no requirement for the Secretary of Defense or any other government official to certify that the CHAMPUS Reform Initiative is the most cost effective method of providing health care in any specific location before it can be implemented:–*Provided further*, That notwithstanding any other provision of law, the Department shall competitively award an at-risk contract for managed health care for the National Capital Region with a benefit structure similar to the CHAMPUS Reform Initiative, without infringing upon the Baltimore Uniformed Services Treatment Facility catchment service area: *Provided further*, That not less than $7,500,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Northeast Regional Cancer Institute for programs of major importance to the Department of Defense: *Provided further*, That of the funds appropriated in this paragraph, $213,251,000 shall not be obligated or expended until authorized by law**]**.

Chemical Agents and Munitions Destruction, Defense

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986; **[**$494,100,000**]** *$524,400,000*, of which **[**$246,400,000**]** *$267,400,000* shall be for Operation and maintenance, **[**$241,200,000**]** *$254,500,000*, to remain available until September 30, 1995, shall be for Procurement, and **[**$6,500,000**]** *$2,500,000*, to remain available until September 30, 1994, shall be for Research, development, test and evaluation.

Drug Interdiction and Counter-Drug Activities, Defense

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation; **[**$1,261,900,000**]** *$1,259,200,000*: *Provided*, That the funds appropriated by this paragraph shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act: *Provided further*, That $25,500,000 shall be available only for operation and maintenance expenses for five sea-based aerostat systems to provide detection and monitoring support for the United States Coast Guard anti-narcotics operations: *Provided further*, That of the funds appropriated in this paragraph, not less than $7,500,000 shall be available only for the Gulf States Counter-Narcotics Initiative.

Office of the Inspector General

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended; **[**$219,700,000**]** *$126,000,000*, of which **[**$218,900,000**]** *$125,200,000* shall be for Operation and maintenance, of which not to exceed $300,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on his certificate of necessity for confidential military purposes; and of which $800,000, to remain available until September 30, 1995, shall be for Procurement.

TITLE VII

RELATED AGENCIES

Central Intelligence Agency Retirement and Disability System Fund

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $168,900,000.

Community Management Staff

For necessary expenses of the Community Management Staff; $9,500,000.

National Security Education Trust Fund

For payment to the National Security Education Trust Fund; $35,000,000.

TITLE VIII

Defense Reinvestment for Economic Growth

[Of the funds appropriated in this Act for the Department of Defense for fiscal year 1993, $1,000,000,000 shall remain available until expended only for defense reinvestment programs as authorized by the National Defense Authorization Act for Fiscal Year 1993.**]**

For necessary expenses for transition benefits for military and civilian employees of the Department of Defense, assistance to communities and industries affected by the military draw down, and for research and development activities; $2,000,000,000, to remain available for obligation until September 30, 1994: Provided, That, of the funds appropriated under this heading, $80,000,000 may be transferred by the Office of Economic Adjustment to the Department of Commerce's Economic Development Administration and $50,000,000 may be transferred to the Department of Labor: Provided further, That such funds may be transferred only for programs which assist workers and communities affected by the military draw down.

TITLE IX

GENERAL PROVISIONS

SEC. 9001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 9002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of the Philippines or foreign national employees of the Department of Defense in the Republic of Turkey.*

SEC. 9003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 9004. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army.

SEC. 9005. During the current fiscal year and hereafter, no part of any appropriation contained in this Act, except for small purchases covered by section 2304(g) of title 10, United States Code, shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of agreements with foreign governments in which both governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions.

(TRANSFER OF FUNDS)

SEC. 9006. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed [$2,500,000,000] *$1,500,000,000* of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act.

(TRANSFER OF FUNDS)

SEC. 9007. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds and the "Foreign Currency Fluctuations, Defense" and "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 9008. *(a) None of the funds available to the Department of Defense in this Act shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.*

(b) Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, *regional* or municipal services, [if provisions are included for the consideration of United States coal as an energy source] *if the Air Force certifies that a fair competitive bidding process is used for the selection of heating facility modernization and that any competition includes United States coal.*

SEC. 9009. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. 9010. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 9011. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services shall be available for payments to physicians and other authorized individual health care providers in excess of the amounts allowed in fiscal year 1992 for similar services, except that: (a) for services for which the Secretary of Defense determines an increase is justified by economic circumstances, the allowable amounts may be increased in accordance with appropriate economic index data similar to that used pursuant to title XVIII of the Social Security Act; and (b) for services the Secretary determines are overpriced based on [an analysis similar to that used pursuant to] *allowable payments under* title XVIII of the Social Security Act, the allowable amounts shall be reduced by not more than 15 percent *(except that the reduction may be waived if the Secretary determines that it would impair adequate access to health care services for beneficiaries)*. The Secretary shall solicit public comment prior to promulgating regulations to implement this section. *Such regulations shall include a limitation, similar to that used under title XVIII of the Social Security Act, on the extent to which a provider may bill a beneficiary an actual charge in excess of the allowable amount.*

SEC. 9012. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1995.

SEC. 9013. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided,* That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further,* That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further,* That no multiyear procurement contract can be terminated without 10-day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: *Provided further,* That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

Defense Support Satellites 23, 24 and 25.

(TRANSFER OF FUNDS)

SEC. 9014. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

[SEC. 9015. (a) None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active duty status or active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 69,929: *Provided,* That none of the funds appropriated by this Act shall be available to support more than 46,306 positions in support of the Army Reserve, Army National Guard, or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: *Provided further,* That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard, or Air National Guard.

[(b) None of the funds appropriated by this Act shall be used to include (civilian) military technicians in any administratively imposed freeze on civilian positions.]

SEC. 9015. (a) None of the funds appropriated by this Act shall be used to reduce the end strength of the National Guard and Reserve Components below the levels funded in this Act: Provided, That the Secretary of Defense may vary each such end strength by not more than 2 percent.

(b) None of the funds appropriated by this Act shall be used to reduce the force structure allowance (1) of the Army National Guard below 434,000, (2) of the Army Reserve below 298,230, and (3) of any other National Guard and Reserve Component below the end strength level supported by funds appropriated by this Act: Provided, That in the case of any National Guard or Reserve Component, the Secretary of Defense may vary such force structure allowance by a percentage not in excess of the percentage (if any) by which the end strength level of that component is varied pursuant to the authority provided in the proviso in subsection (a).

SEC. 9016. Notwithstanding any other provision of law, governments of Indian tribes shall be treated as State and local governments for the purposes of disposition of real property recommended for closure in the report of the Defense Secretary's Commission on Base Realignments and Closures, December 1988, the report to the President from the Defense Base Closure and Realignment Commission, July 1991, and Public Law 100–526.

[SEC. 9017. (a) The provisions of section 115(a)(4) of title 10, United States Code, shall not apply with respect to fiscal year 1993 or with respect to the appropriation of funds for that year.

[(b) During fiscal year 1993, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

[(c) The fiscal year 1994 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1994 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1994.]

SEC. 9017. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the fifty United States, its territories, and the District of Columbia, 125,000 civilian workyears: Provided, That workyears shall be applied as defined in the Federal Personnel Manual: Provided further, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 9018. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 9019. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 9020. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

SEC. 9021. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided,* That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further,* That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 9022. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

[SEC. 9023. Funds available for operation and maintenance under this Act may be used in connection with demonstration projects and other activities authorized by section 1092 of title 10, United States Code.]

SEC. 9023. Notwithstanding any other provision of law, the Army Central Hospital Fund, a Non Appropriated Fund Instrumentality, shall be terminated upon enactment of this Act. All residual funds will, on that date, be transferred to an appropriated trust fund established by the Secretary of the Army for the operation and maintenance of "Fisher Houses" located in proximity to Army Medical Treatment Facilities. The Secretary shall promulgate regulations governing the expenditure and accountability of these funds.

SEC. 9024. (a) None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act—

(1) enlists in the armed services for a period of active duty of less than three years; or

(2) receives an enlistment bonus under section 308a or 308f of title 37, United States Code,

nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: *Provided*, That, in the case of a member covered by clause (1), these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July 1, 1989, under a program continued or established by the Secretary of Defense in fiscal year 1991 to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense: *Provided further*, That this subsection applies only to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

SEC. 9025. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 9026. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That this section shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent Native American ownership.

[SEC. 9027. None of the funds available to the Department of Defense shall be available to award a competitive procurement contract for any round of 120mm mortar ammunition unless such round has successfully passed first article acceptance testing and has a validated level III technical data package which supports such competitive procurement: *Provided*, That none of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States.]

SEC. 9027. Notwithstanding any other provision of law, none of the funds appropriated in this Act may be used to purchase, install, replace, or otherwise repair any lock on a safe or security container which protects information critical to national security or any other classified materials and which has not been certified as passing the security lock specifications contained in regulation FF–L–2740 dated October 12, 1989, and has not passed all testing criteria and procedures established through February 28, 1992.

SEC. 9028. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Provided*, That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,600,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. 9029. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 9030. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. 9031. Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces: *Provided, That none of the funds appropriated or made available in this Act may be used to inactivate, disestablish, or discontinue the Navy's Craft of Opportunity Program.*

SEC. 9032. [Notwithstanding] *None of the funds in this Act may be used to execute a contract for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) Reform Initiative that exceeds the total fiscal year 1987 costs for CHAMPUS care provided in California and Hawaii, plus normal and reasonable adjustments for price and program growth: Provided, That notwithstanding* any other provision of law, the Department shall competitively award contracts for the geographical expansion of the CHAMPUS Reform Initiative in Florida (which may include Department of Veterans Affairs medical facilities with the concurrence of the Secretary of Veterans Affairs), [Washington, Oregon, and the Alexandria, Louisiana (England Air Force Base) region: *Provided*,] *and Oregon: Provided further*, That none of the funds appropriated, or otherwise made available to the Department of Defense, by this or any other Act of Congress, shall be used to implement or administer a health care delivery management program for Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) eligible beneficiaries in California, Florida, Hawaii, Oregon, [Washington, New Orleans and Alexandria, Louisiana (England Air Force Base) region] *and New Orleans*, unless the scope of benefits and program management structure [are identical to that] *preserves the basic design in operation* provided on October 1, 1991, under the California and Hawaii CHAMPUS Reform Initiative Demonstration Program: *Provided further*, That no funds may be used to implement or otherwise administer a health care delivery management program that restricts access to military treatment facilities or otherwise reduces the health care benefits of eligible beneficiaries who choose not to enroll in that program: [*Provided further*, That no provision of this or any other Act shall be interpreted as granting authority under title 41, United States Code, section 253(a)(5) to modify, without soliciting competitive at-risk proposals, contracts with CHAMPUS fiscal intermediaries (FI) for the purpose of giving them more responsibility for implementing or otherwise administering a health care delivery management program: *Provided further*, That Solicitation Number MDA 906–91–R–0002 be amended to conform with this provision of law and shall provide for no less than a six-month transition period: *Provided further*, That the preemption provisions of section 1103(a) of title 10, United States Code, shall apply to contracts entered into pursuant to Solicitation Number MDA 906–91–R–0002 and shall preempt State and local laws and regulations which relate to health insurance or prepaid health care plans.]

SEC. 9033. Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability: *Provided*, That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 9034. None of the funds provided in this Act shall be available for use by a Military Department to modify an aircraft, weapon, ship or other item of equipment, that the Military Department concerned plans to retire or otherwise dispose of within five years after completion of the modification: *Provided*, That this prohibition shall not apply to safety modifications: *Provided further*, That this prohibition may be waived by the Secretary of a Military Department if the Secretary determines it is in the best national security interest of the country to provide such waiver and so notifies the congressional defense committees in writing: *Provided further, That during the current fiscal year and the following fiscal year, additional obligations may be incurred under fiscal year 1990 procurement appropriations for the installation of equipment when obligations were incurred during the period of availability of such appropriations for the procurement of such equipment but obligations for the installation of such equipment were not able to be incurred before the expiration of the period of availability of such appropriations.*

SEC. 9035. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the

Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1993, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes, and the P–1 and R–1 budget justification documents as subsequently modified by Congressional action: *Provided*, That the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act: *Provided further*, That at the time the President submits his budget for fiscal year 1994, the Department of Defense shall transmit to the Committees on Appropriations and the Committees on Armed Services of the Senate and the House of Representatives a budget justification document to be known as the "O–1" which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for operation and maintenance in any budget request, or amended budget request, for fiscal year 1994.

[SEC. 9036. Of the funds appropriated to the Army, $230,700,000 shall be available only for the Reserve Component Automation System (RCAS): *Provided*, That none of these funds can be expended—

[(1) except as approved by the Chief of the National Guard Bureau;

[(2) unless RCAS resource management functions are performed by the National Guard Bureau;

[(3) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

[(4) unless the Program Manager (PM) charter makes the PM accountable to the Chief of the National Guard Bureau and fully defines his authority, responsibility, reporting channels and organizational structure;

[(5) to pay the salaries of individuals assigned to the RCAS program management office unless such organization is comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

[(6) to pay contracted costs for the acquisition of RCAS unless RCAS is an integrated system consisting of software, hardware, and communications equipment and unless such contract continues to preclude the use of Government furnished equipment, operating systems, and executive and applications software; and

[(7) unless RCAS performs its own classified information processing.]

SEC. 9036. None of the funds appropriated or otherwise made available by this Act may be obligated or expended for development or procurement of any automated Computer Aided Logistics system unless specific approval for such system is provided in writing to the Committees on Appropriations and Armed Services of the House and Senate by the Assistant Secretary of Defense for Production and Logistics at least 30 days prior to any contract solicitation.

SEC. 9037. None of the funds provided for the Department of Defense in this Act may be obligated or expended for fixed price-type contracts in excess of $10,000,000 for the development of a major system or subsystem unless the Under Secretary of Defense for Acquisition determines, in writing, that program risk has been reduced to the extent that realistic pricing can occur, and that the contract type permits an equitable and sensible allocation of program risk between the contracting parties: *Provided*, That the Under Secretary may not delegate this authority to any persons who hold a position in the Office of the Secretary of Defense below the level of Assistant Secretary of Defense: *Provided further*, That at least thirty days before making a determination under this section the Secretary of Defense will notify the Committees on Appropriations of the Senate and House of Representatives in writing of his intention to authorize such a fixed price-type developmental contract and shall include in the notice an explanation of the reasons for the determination.

SEC. 9038. Monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 or successor orders.

SEC. 9039. Not to exceed $20,000,000 of the funds available to the Department of the Army during the current fiscal year may be used to fund the construction of classified military projects within the Continental United States, including design, architecture, and engineering services.

[SEC. 9040. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.]

SEC. 9040. The Secretary of Defense shall take such action as necessary to assure that a minimum of 75 percent of the coal and petroleum pitch carbon fiber requirement be procured from domestic sources by 1994.

[(TRANSFER OF FUNDS)

[SEC. 9041. Notwithstanding any other provision of law, the Department of Defense may transfer prior year unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations for the purpose of providing military technician and Department of Defense medical personnel pay and medical programs (including CHAMPUS) the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508) as that granted the other military personnel accounts: *Provided*, That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508): *Provided further*, That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: *Provided further*, That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty calendar days in session before any such transfer of funds under this provision.]

SEC. 9041. (a) Of the amounts available to the Department of Defense for fiscal year 1993, not less than $10,000,000 shall be available for National Defense Science and Engineering Graduate Fellowships to be awarded on a competitive basis by the Secretary of Defense to United States citizens or nationals pursuing advanced degrees in fields of primary concern and interest to the Department.

(b) Fellowships awarded pursuant to subsection (a) above shall not be restricted on the basis of the geographical locations in the United States of the institutions at which the recipients are pursuing the aforementioned advanced degrees.

(c) Not less than 50 per centum of the funds necessary to carry out this section shall be derived from the amounts available for the University Research Initiatives Program in "Research, Development, Test and Evaluation, Defense Agencies", and the balance necessary shall be derived from amounts available for Defense Research Sciences under title IV of this Act.

SEC. 9042. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel homeported on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

[SEC. 9043. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be available for the reimbursement of any health care provider for inpatient mental health service in excess of thirty days in any year, in the case of a patient nineteen years of age or older, forty-five days in any year in the case of a patient under nineteen years of age, or one hundred and fifty days in any year in the case of inpatient mental health services provided as residential treatment care, or for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That these limitations do not apply in the case of inpatient mental health services provided under the program for the handicapped under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care: *Provided further*, That the Secretary of Defense (after consulting with the other administering Secretaries) may prescribe separate payment requirements (including deductibles, copayments, and catastrophic limits) for the provision of mental health services to persons covered by this provision or section 1086 of title 10, United States Code. The payment requirements may vary for different categories of covered beneficiaries, by type of mental health service provided, and based on the location of the covered beneficiaries: *Provided further*, That except in the case of an emergency, the Secretary of Defense shall require preadmission authorization before inpatient mental health services may be provided to persons covered by this provision or section 1086 of title 10, United States Code. In the case of the provision of emergency inpatient mental health services, approval for the continuation of such services shall be required within 72 hours after admission.]

SEC. 9043. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: Provided, That this limitation does not apply in the case of inpatient mental health services provided under the program for the handicapped under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 9044. The designs of the Army Comanche Helicopter, the Navy A–X Aircraft, the Air Force Advanced Tactical Fighter, and any variants of these aircraft, must incorporate Joint Integrated Avionics Working Group standard avionics specifications and must fully comply with all DOD regulations requiring the use of the Ada computer programming language no later than 1998: *Provided*, That all new Department of Defense procurements shall separately identify software costs in the work breakdown structure defined by MIL–STD–881 in those instances where software is considered to be a major category of cost.

SEC. 9045. Of the funds appropriated, reimbursable expenses incurred by the Department of Defense on behalf of the Soviet Union or its successor entities in monitoring United States implementation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range or Shorter-Range Missiles ("INF Treaty"), concluded December 8, 1987, may be treated as orders received and obligation authority for the applicable appropriation, account, or fund increased accordingly. Likewise, any reimbursements received for such costs may be credited to the same appropriation, account, or fund to which the expenses were charged: *Provided*, That reimbursements which are not received within one hundred and eighty days after submission of an appropriate request for payment shall be subject to interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526). Interest shall begin to accrue on the one hundred and eighty-first day following submission of an appropriate request for payment: *Provided further*, That funds appropriated in this Act may be used to reimburse United States military personnel for reasonable costs of subsistence, at rates to be determined by the Secretary of Defense, incurred while accompanying Soviet Inspection Team members or inspection team members of the successor entities of the Soviet Union engaged in activities related to the INF Treaty: *Provided further*, That this provision includes only the in-country period (referred to in the INF Treaty) and is effective whether such duty is performed at, near, or away from an individual's permanent duty station.

SEC. 9046. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

[SEC. 9047. None of the funds available to the Department of Defense or Navy shall be obligated or expended to (1) implement Automatic Data Processing, Data Processing Installation, Central Design Activity, or Information Technology Facility consolidation plans, or (2) make reductions in force or transfers in personnel, end strengths, billets or missions that affect the Naval Regional Data Automation Center, the Enlisted Personnel Management Center, the Naval Reserve Personnel Center and related missions, functions and commands until sixty legislative days after the Secretary of Defense submits a report, including complete review comments and a certification by the General Accounting Office, to the Committees on Appropriations of the House and Senate justifying any transfer, reductions, or consolidations in terms of (1) addressing the overall mission and operations staffing of all Naval Automatic Data Processing, Information Technology Facility, and Naval personnel functions and all Naval Regional Data Automation Centers, Data Processing Installations, and Central Design Activities for all active and reserve personnel commands and field activities, Data Processing Installations, Central Design Activities, and Automatic Data Processing commands and field activities; and (2) certifying that such reductions, transfers, consolidation plans or new operations: (a) do not duplicate functions presently conducted, do not consolidate or transfer Naval Regional Data Automation Center personnel, workload or functions that are planned for consolidation or transfer in other defense management report plans, do not impact Naval Regional Data Automation Centers that had a positive net operating result, without prior year adjustments, for each of the last three fiscal years, and do not result in the transfer of Naval automatic data processing functions which are inherent to operations of a co-located command; (b) are cost effective from a budgetary standpoint; (c) will not adversely affect the mission, readiness and strategic considerations of the Navy and the Naval Reserve, will not adversely impact on the quality of life and economic benefits of the individual serviceman and dependents, and will not result in the consolidation of Naval Regional Data Automation Centers, Data Processing Installations, Central Design Activities or automatic data processing functions from areas, except the National Capital Region, that are economically depressed and have at least 15 percent of its population with annual incomes at or below the current annual Federal poverty level.]

SEC. 9047. Notwithstanding any other provision of law, the Secretary of Defense may, by Executive Agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of U.S. military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: Provided, That such credits may be utilized only for the construction of facilities to support U.S. military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: Provided further, That the Department of Defense's budget submission for each fiscal year shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: Provided further, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: Provided further, That each such Executive Agreement with a NATO member host nation shall be reported to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate thirty days prior to the conclusion and endorsement of any such agreement established under this provision.

SEC. 9048. No funds appropriated by this Act may be obligated or expended to prepare, or to assist any contractor of the Department of Defense in preparing, any material, report, list, or analysis with respect to the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing and evaluation has not been completed.

SEC. 9049. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 9050. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 9051. None of the funds available to the Department of Defense in this Act shall be used to demilitarize or dispose of more than 310,784 unserviceable M1 Garand rifles and M1 Carbines.

SEC. 9052. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 9053. None of the funds appropriated by this Act may be used by the Department of Defense to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided*, That savings that result from this provision are represented as such in future budget proposals.

SEC. 9054. None of the funds appropriated by this or any other Act with respect to any fiscal year for the Navy may be used to carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS II) program unless or until the Secretary of Defense certifies to the Congress that conduct of the EMPRESS II program is essential to the national security of the United States and to achieving requisite military capability for United States naval vessels, and that the economic, environmental, and social costs to the United States of conducting the EMPRESS II program in the Chesapeake Bay area are far less than the economic, environmental, and social costs caused by conducting the EMPRESS II program elsewhere.

[SEC. 9055. Of the funds appropriated by this Act, no more than $4,000,000 shall be available for the health care demonstration project regarding chiropractic care required by section 632(b) of the Department of Defense Authorization Act, 1985, Public Law 98-525.]

SEC. 9055. Of the funds appropriated by this Act, no more than $16,000,000 shall be available for the mental health care demonstration project at Fort Bragg, North Carolina: Provided, That adjustments may be made for normal and reasonable price and program growth.

SEC. 9056. None of the funds appropriated by this Act may be used to pay health care providers under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) for services determined under the CHAMPUS Peer Review Organization (PRO) Program to be not medically or psychologically necessary. The Secretary of Defense may by regulation adopt any quality and utilization review requirements and procedures in effect for the Peer Review Organization Program under title XVIII of the Social Security Act (Medicare) that the Secretary determines necessary, and may adapt the Medicare requirements and procedures to the circumstances of the CHAMPUS PRO Program as the Secretary determines appropriate.

SEC. 9057. Such sums as may be necessary for fiscal year 1993 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 9058. None of the funds appropriated by this Act shall be available for payments under the Department of Defense contract with the Louisiana State University Medical Center involving the use of cats for Brain Missile Wound Research, and the Department of Defense shall not make payments under such contract from funds obligated prior to the date of the enactment of this Act, except as necessary for costs incurred by the contractor prior to the enactment of this Act, and until thirty legislative days after the final General Accounting Office report on the aforesaid contract is submitted for review to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That funds necessary for the care of animals covered by this contract are allowed.

SEC. 9059. None of the funds provided in this Act or any other Act shall be available to conduct bone trauma research at the Letterman Army Institute of Research until the Secretary of the Army certifies that the synthetic compound to be used in the experiments is of such a type that its use will result in a significant medical finding, the research has military application, the research will be conducted in accordance with the standards set by an animal care and use committee, and the research does not duplicate research already conducted by a manufacturer or any other research organization.

SEC. 9060. The Secretary of Defense shall include in any base closure and realignment plan submitted to Congress after the date of enactment of this Act, a complete review for the five-year period beginning on October 1, 1992, which shall include expected force structure and levels for such period, expected installation requirements for such period, a budget plan for such period, the cost savings expected to be realized through realignments and closures of military installations during such period, an economics model to identify the critical local economic sectors affected by proposed closures and realignments of military installations and an assessment of the economic impact in each area in which a military installation is to be realigned or closed.

[SEC. 9061. No more than $50,000 of the funds appropriated or made available in this Act shall be used for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and Senate that such a relocation is required in the best interest of the Government: *Provided further*, That no funds appropriated or made available in this Act shall be used for the relocation into the National Capital Region of the Air Force Office of Medical Support located at Brooks Air Force Base.]

SEC. 9061. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1993 for construction or service performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: Provided, That the Secretary of Defense may waive the requirements of this section in the interest of national security.

[SEC. 9062. The Secretary of Defense shall ensure that at least 50 percent of the Joint Service Missile Mission is in place at Letterkenny Army Depot by the time Systems Integration Management Activity and Depot Systems Command are scheduled to relocate to Rock Island Arsenal, Illinois. This provision is in no way intended to affect the move of the 2.5- and 5-ton truck maintenance mission from Letterkenny Army Depot to Tooele Army Depot.]

SEC. 9062. Notwithstanding any other provision of law, of the funds made available by this Act to the Department of the Navy, $500,000, to remain available until September 30, 1993, shall be available only for the expenses of the Kahoolawe Island Commission which is hereby authorized to delay until March 31, 1993, the submission of its final report: Provided, That the Secretary of the Navy shall provide the Commission such assistance and facilities as may be necessary to carry out its proceedings.

SEC. 9063. None of the funds appropriated in this Act shall be used to produce more than two-thirds of the liquid gas requirements in-house at Andersen Air Force Base on Guam. At least one-third of Andersen Air Force Base's liquid gas requirements shall be met by acquiring liquid gas from commercial sources on Guam.

SEC. 9064. During the current fiscal year, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5 or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the armed forces, as described in section 261 of title 10, or the National Guard, as described in section 101 of title 32;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under section 331, 332, 333, 3500, or 8500 of title 10, or other provision of law, as applicable, or

(B) full-time military service for his State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, and such leave shall be considered leave under section 6323(b) of title 5.

SEC. 9065. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A-76 if the study being performed exceeds a period of twenty-four months after initiation of such study with respect to a single function activity or forty-eight months after initiation of such study for a multi-function activity.

SEC. 9066. None of the funds appropriated by this Act shall be used to begin closing a military treatment facility unless the Secretary of Defense notifies the Committees on Appropriations of the House of Representatives and the Senate ninety days prior to such action.

SEC. 9067. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 9068. None of the unobligated balances available in the National Defense Stockpile Transaction Fund during the current fiscal year may be obligated or expended to finance any grant or contract to conduct research, development, test and evaluation activities for the development or production of advanced materials, unless amounts for such purposes are specifically appropriated in a subsequent appropriations Act.

SEC. 9069. (a) As stated in section 3(5)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2402(5)(A)), it is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person.

(b)(1) Consistent with the policy referred to in subsection (a), no Department of Defense prime contract in excess of the small purchase threshold, as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), may be awarded to a foreign person, company, or entity unless that person, company, or entity certifies to the Secretary of Defense that it does not comply with the secondary Arab boycott of Israel.

(2) The Secretary of Defense may waive the prohibition in paragraph (1) in specific instances when the Secretary determines that the waiver is necessary in the national security interests of the United States. Within 15 days after the end of each calendar quarter, the Secretary shall submit to Congress a report identifying each contract for which a waiver was granted under this paragraph during such quarter.

(3) This provision does not apply to contracts for consumable supplies, provisions or services intended to be executed for the support of the United States or of allied forces in a foreign country, nor does it apply to contracts pertaining to any equipment, technology, data, or services for intelligence or classified purposes, or the acquisition or lease thereof by the United States Government in the interests of national security.

SEC. 9070. Notwithstanding any other provision of law, where cost effective, all Department of Defense software shall be written in the programming language Ada, in the absence of special exemption by an official designated by the Secretary of Defense.

SEC. 9071. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section [7445 of chapter 74] *4107(g)* of title 38, United States Code *as in existence on October 1, 1990*.

SEC. 9072. None of the funds available to the Department of Defense shall be used for the training or utilization of psychologists in the prescription of drugs, except pursuant to the findings and recommendations of the Army Surgeon General's Blue Ribbon Panel as specified in its February and August 1990 meeting minutes.

SEC. 9073. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the military or civilian medical and medical support personnel end strength at a base undergoing a partial closure or realignment, where more than one joint command is located, below the September 30, 1991 level.

SEC. 9074. Of the funds made available in this Act, not less than $10,596,000 shall be available for the Civil Air Patrol, of which $4,471,000 shall be available for Operation and Maintenance.

SEC. 9075. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 815th Tactical Airlift Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act.

SEC. 9076. During the current fiscal year, withdrawal credits may be made by the Defense Business Operations Fund to the credit of current applicable appropriations of an activity of the Department of Defense in connection with the acquisition by that activity of supplies that are repairable components which are repairable at a repair depot and that are capitalized into the Defense Business Operations Fund as the result of management changes concerning depot level repairable assets charged to an activity of the Department of Defense which is a customer of the Defense Business Operations Fund that became effective on April 1, 1992.

SEC. 9077. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48).

[SEC. 9078. There is established, under the direction and control of the Attorney General, the National Drug Intelligence Center, whose mission it shall be to coordinate and consolidate drug intelligence from all national security and law enforcement agencies, and produce information regarding the structure, membership, finances, communications, and activities of drug trafficking organizations: *Provided*, That funding for the operation of the National Drug Intelligence Center, including personnel costs associated therewith, shall be provided from the funds appropriated to the Department of Defense for drug interdiction and counter-drug activities: *Provided further*, That of the funds so appropriated for the fiscal year beginning October 1, 1991, $20,000,000 available for the National Drug Intelligence Center may be available to the Secretary of Defense to reimburse the Department of Justice for support provided to the National Drug Intelligence Center: *Provided further*, That section 8083 of the Department of Defense Appropriations Act, 1992 (Public Law 102–172) is amended by striking out "available only for" and inserting "available until expended only for" in lieu thereof.]

SEC. 9078. None of the funds made available by this Act shall be available for any Military Department of the United States to conduct bombing training, gunnery training, or similar munitions delivery training on the parcel of land known as Kahoolawe Island, Hawaii.

SEC. 9079. During the current fiscal year, the Navy may provide notice to exercise options under the LEASAT program for the next fiscal year, in accordance with the terms of the Aide Memoire, dated January 5, 1981, as amended by the Aide Memoire dated April 30, 1986, and as implemented in the LEASAT contract.

[SEC. 9080. (a) Of the funds appropriated in this Act under the heading Research, Development, Test and Evaluation, Navy, $755,000,000 shall be available until obligated and expended and shall be obligated and expended only for a Phase II Full Scale Engineering Development program for the V–22 aircraft program.

[(b) Of the funds made available in Public Law 102–172, under the heading Research, Development, Test and Evaluation, Navy, $790,000,000 shall be available until obligated and expended and shall be obligated and expended only for the V–22 program as further described in subparagraph (c).

[(c) Funds described in subparagraphs (a) and (b) of this section shall be obligated as follows:

[(1) Not less than $30,000,000 shall be obligated within 30 days of enactment of this Act to continue the existing V–22 Full Scale Engineering Development program.

[(2) Not less than $60,000,000 shall be made available to the Navy for obligation within not less than 90 days of enactment of this Act for payment of any government costs to support the V–22 program.

[(3) Not less than $1,455,000,000 shall be obligated within 90 days of enactment of this Act to commence a Phase II V–22 Full Scale Engineering Development program which provides not less than six production representative new aircraft which will successfully demonstrate the full operational requirements of the Joint Services Operational Requirement (JSOR) not later than July 1, 1999: *Provided*, That the production representative V–22 aircraft shall be produced on tooling which qualifies production design.

[(d) The Secretary of Defense shall provide to the Congress, within 60 days of enactment of this Act, the total funding plan and schedule to complete the definitized Phase II V–22 Full Scale Engineering Development program.

[(e) The Secretary of Defense shall include sufficient funds to complete development, manufacture and operational testing of six production representative aircraft produced under the new Phase II V–22 Full Scale Engineering Development Program described above and to procure sufficient V–22 aircraft to meet the operational requirements of the Marine Corps and other services in all Department of Defense future year planning documents and budget estimates.]

SEC. 9080. None of the funds available to the Department of Defense during the current fiscal year may be obligated or expended to develop for aircraft or helicopter weapons systems an airborne instrumentation system for flight test data acquisition other than the Common Airborne Instrumentation System under development in the Central Test and Evaluation Investment Development program element funded in the "Developmental Test and Evaluation, Defense" appropriations account.

SEC. 9081. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

[SEC. 9082. None of the funds in this Act shall be obligated for the procurement of

Multibeam Sonar Mapping Systems not manufactured in the United States: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes].

SEC. 9082. Notwithstanding any other provision of law, the Department of Defense is hereby authorized to develop and procure the LANDSAT 7 vehicle.

SEC. 9083. None of the funds appropriated in this Act may be used to fill the commander's position at any military medical facility with a health care professional unless the prospective candidate can demonstrate professional administrative skills.

SEC. 9084. Of the funds appropriated by this Act for the Defense Health Program, [amounts as necessary] *$20,000,000* shall be available (notwithstanding the last sentence of section 1086(c) of title 10, United States Code) to continue Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) benefits, until age 65, under such section for a former member of a uniformed service who is entitled to retired or retainer pay or equivalent pay, or a dependent of such a member, who becomes eligible for hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) solely on the grounds of physical disability: *Provided*, That expenses under this section shall only be covered to the extent that such expenses are not covered under parts A and B of title XVIII of the Social Security Act and are otherwise covered under CHAMPUS: *Provided further*, That no reimbursement shall be made for services provided prior to October 1, 1991.

SEC. 9085. During the current fiscal year, the Secretary of Defense may accept burdensharing contributions in the form of money from Japan, the Republic of Korea, and the State of Kuwait for the costs of local national employees, supplies, and services of the Department of Defense to be credited to applicable Department of Defense operation and maintenance appropriations available for the salaries and benefits of national employees of Japan, the Republic of Korea, and the State of Kuwait, supplies, and services to be merged with and to be available for the same purposes and time period as those appropriations to which credited: *Provided*, That not later than 30 days after the end of each quarter of the fiscal year, the Secretary of Defense shall submit to the Congress a report of contributions accepted by the Secretary under this provision during the preceding quarter.

SEC. 9086. During the current fiscal year, obligations against the stock funds of the Department of Defense may not be incurred in excess of [70] *65* percent of sales from such stock funds during the current fiscal year: *Provided*, That in determining the amount of obligations against, and sales from the stock funds, obligations and sales for fuel, subsistence, commissary items, retail operations, the cost of operations, and repair of spare parts shall be excluded: *Provided further*, That upon a determination by the Secretary of Defense that such action is critical to the national security of the United States, the Secretary may waive the provisions of this section: *Provided further*, That if the provisions of this section are waived, the Secretary shall immediately notify the Congress of the waiver and the reasons for such a waiver.

SEC. 9087. [(a)] None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the P–3 squadrons of the [Navy Reserve] *Active Navy* below the levels funded in this Act.

[(b) The Secretary of the Navy shall obligate funds appropriated for fiscal years 1991, 1992, and 1993 for modernization of P–3B aircraft of the Navy Reserve on those P–3B aircraft which the Secretary of the Navy intends to keep in the fleet for more than five years: *Provided*, That the provision of section 1437 of the National Defense Authorization Act, 1991 (Public Law 101–510) shall not be considered in, or have any effect on, making any determination whether such aircraft shall be kept in the fleet for more than five years.]

SEC. 9088. Notwithstanding section 9003 of this Act, of the $100,000,000 appropriated in section 8105A of the Department of Defense Appropriations Act, 1992 (Public Law 102–172), for payment of claims to United States military and civilian personnel for damages incurred as a result of the volcanic eruption of Mount Pinatubo in the Philippines, $35,000,000 shall remain available for obligation until September 30, 1993*: Provided, That in addition to amounts appropriated elsewhere in this Act, $15,000,000 shall be available for obligation for the same purposes stated above in this section until September 30, 1993: Provided further, That an additional $20,000,000 is appropriated to be available only for the relocation of Air Force units from Clark Air Force Base and Navy units from the Subic Bay Navy Base and Cubi Point Naval Air Station.*

[SEC. 9089. None of the funds appropriated in this Act may be obligated or expended for any contract or grant with a university or other institution of higher learning unless such contract or grant is audited in accordance with the Federal Acquisition Regulation and the Department of Defense Federal Acquisition Regulation Supplement or any other applicable auditing standards and requirements and the institution receiving the contract or grant fully responds to all formal requests for financial information made by responsible Department of Defense officials: *Provided*, That if an institution does not provide an adequate financial response within 12 months, the Secretary of Defense shall terminate that and all other Department of Defense contracts or grants with the institution.]

SEC. 9089. Not less than $96,450,000 of the funds appropriated under the heading "Research, Development, Test and Evaluation, Defense Agencies" in title IV of this Act shall be made available as grants to the following institutions in the following amounts for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: Montana College of Science and Technology, $10,000,000; University of Arizona, $5,000,000; University of Connecticut, $3,500,000; Tulane/Xavier Bioenvironmental Hazards Research Center, $3,000,000; University of New Orleans School of Naval Architecture, $5,000,000; St. Norbert College, $3,900,000; Johns Hopkins University, $15,000,000; University of Wisconsin Center for Advanced Propulsion, $15,000,000; John Carroll University, $5,300,000; University of Northern Iowa, $750,000; Medical College of Wisconsin, $15,000,000; University of St. Thomas, St. Paul, Minnesota, $15,000,000: Provided, That the funds made available by this subsection shall be distributed under the terms and conditions established in section 401, as amended, of title IV of Public Law 102–172: Provided further, That the Secretary of Defense shall review the grants made available and specified by this subsection and shall award such amounts as he deems appropriate based on the potential contribution each proposed project may make to the national scientific and technical posture.

[SEC. 9090. (a) Funds appropriated in this Act to finance activities of Department of Defense (DOD) Federally Funded Research and Development Centers (FFRDCs) may not be obligated or expended for an FFRDC if a member of its Board of Directors or Trustees simultaneously serves on the Board of Directors or Trustees of a profit-making company under contract to the Department of Defense unless the FFRDC has a DOD-approved conflict of interest policy for its members.

[(b) Funds appropriated in this Act to finance activities of the Department of Defense (DOD) Federally Funded Research and Development Centers (FFRDCs) may not be obligated or expended for an FFRDC until the reports on FFRDCs required by House Report 102–95, Senate Report 102–154, and House Report 102–328 are submitted to the Committees on Appropriations of the House of Representatives and the Senate.]

SEC. 9090. (a) Funds appropriated in this Act to finance activities of Department of Defense federally-funded research and development centers (FFRDCs) are limited to 10 percent less than the amount appropriated for FFRDCs in fiscal year 1992 and, therefore, are reduced by $204,600,000.

(b) None of the funds appropriated in this Act are available to establish a new FFRDC, either as a new entity, or as a separate entity administered by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other nonprofit entities.

(c) The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $204,600,000 to reflect savings from the decreased use of non-FFRDC consulting services by the Department of Defense. The Secretary of Defense shall allocate the amount reduced in the preceding sentence and not later than March 1, 1993, report to the Senate and the House Committees on Appropriations how this reduction was allocated among the Services and Defense Agencies: Provided, That this subsection does not apply to the reserve components.

[SEC. 9091. None of the funds appropriated in this Act shall be available to comply with, or to implement any provision issued in compliance with, the August 27, 1984 memorandum of the Deputy Secretary of Defense entitled "Debarment from Defense Contracts for Felony Criminal Convictions".]

SEC. 9091. (a) Of the funds made available by this Act in title III, Procurement, $8,000,000, drawn pro rata from each appropriations account in title III, shall be available for incentive payments authorized by section 504 of the Indian Financing Act of 1974, 25 U.S.C. 1544. These payments shall be available only to contractors which have submitted subcontracting plans pursuant to 15 U.S.C. 637(d)(4)(B), and according to regulations which shall be promulgated by the Secretary of Defense within 90 days of the passage of this Act.

[SEC. 9092. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply

Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of enactment of this Act.]

SEC. 9092. None of the funds in this or any other Act shall be available for the preparation of studies on—

(a) the feasibility of removal and transportation of unitary chemical weapons from the eight chemical storage sites within the continental United States: Provided, That this prohibition shall not apply to non-stockpile material in the United States or to studies needed for environmental analysis required by the National Environmental Policy Act;

(b) the potential future uses of the nine chemical disposal facilities other than for the destruction of stockpile chemical munitions and as limited by section 1412(c)(2), Public Law 99–145: Provided, That this prohibition does not apply to future use studies for the CAMDS facility at Tooele, Utah.

SEC. 9093. Notwithstanding any other provision of law, no more than fifteen percent of the funds available to the Department of Defense for sealift may be used to acquire, through charter or purchase, ships constructed in foreign shipyards: *Provided*, That ships acquired as provided above shall be necessary to satisfy the shortfalls identified in the Mobility Requirements Study: *Provided further*, That any work required to convert foreign built ships acquired as provided above to United States Coast Guard and American Bureau of Shipping standards, or conversion to a more useful military configuration, must be accomplished in United States domestic shipyards[: *Provided further*, That none of the funds shall be used to purchase bridge or machinery control systems, or interior communications equipment, for sealift ships unless the system or equipment is manufactured in the United States or more than half the value in terms of cost has been added in the United States: *Provided further*, That the Secretary of the military department responsible for such procurement of bridge or machinery control systems, or interior communications equipment, may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes].

SEC. 9094. For the purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services, the Committees on Appropriations, the Committee on Appropriations, subcommittees on Defense of the Senate and the House of Representatives.

SEC. 9095. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the [Secretary] *Defense Contract Audit Agency* shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

SEC. 9096. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

(b) The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 1993. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 9097. None of the funds appropriated or made available in this Act or any Act making appropriations for the Department of Defense during the current fiscal year may be obligated for procurement of ball bearings or roller bearings other than in accordance with the provisions of subpart 208.79 of the Defense Federal Acquisition Regulation Supplement (DFARS) as promulgated effective on July 11, 1989.

(TRANSFER OF FUNDS)

SEC. 9098. Notwithstanding any other provision of law, $82,000,000 made available in the fiscal year 1991 Department of Defense Appropriations Act (Public Law 101–511) for "Aircraft Carrier Service Life Extension Program" under the heading "Shipbuilding and Conversion, Navy, 1991/1995" shall be transferred to "Operation and Maintenance, Navy" for a large scale industrial availability, presumed to be 24 months, of the USS JOHN F. KENNEDY at the Philadelphia Naval Shipyard.

[SEC. 9099. (a) Within the funds made available to the Air Force under title II of this Act, the Air Force shall use such funds as necessary, but not to exceed $23,270,000, to execute the cleanup of uncontrolled hazardous waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, in the State of California.

[(b) In the event that the purchaser of the Sale Parcel exercises its option to withdraw from the sale as provided in the Agreement and Modification, dated September 25, 1990, between the Department of Defense, the General Services Administration, and the purchaser, the purchaser's deposit of $4,500,000 shall be returned by the General Services Administration and funds eligible for reimbursement under the Agreement and Modification shall come from the funds made available to the Department of Defense by this Act.

[(c) The purchase rights under the purchase contract for the Sale Parcel may be assigned to any financially qualified entity, as determined in accordance with existing GSA procedures. The purchaser's withdrawal and reimbursement rights under the Agreement and Modification shall be assigned to any assignee of the purchase rights under the purchase contract for the Sale Parcel (including the purchaser's lenders). The purchaser shall be permitted to purchase the Sale Parcel in stages, and the purchaser's withdrawal and reimbursement rights shall survive pro rata with respect to any portion of the Sale Parcel not purchased.

[(d) Notwithstanding any other provision of law, the Air Force shall be reimbursed for expenditures in excess of $15,000,000 in connection with the total clean-up of uncontrolled hazardous waste contamination on the aforementioned Sale Parcel from the proceeds collected upon the closing of the Sale Parcel.

[(e) Notwithstanding any other provision of law, the Department of Defense shall convey the Building 442 parcel, the Building 467 parcel, the former P.O.L. storage parcel and the two parcels carved out of the easternmost portion of the Sale Parcel (all of which parcels are contiguous to and surrounded by the Sale Parcel), as well as easements for the location of a temporary flood control levee around portions of the Sale Parcel and such other easements as the Secretary of the Army shall deem appropriate, to the purchaser of the Sale Parcel, without restrictions. The conveyances contemplated by this section shall be for cash and/or interests in real property at least equal in value (as determined by the Secretary of the Army) to the land and interests in real property conveyed by the United States.

[(f) The exact acreage and legal description of the property to be conveyed or exchanged under this section shall be determined by surveys that are satisfactory to the Secretary of the Army. The costs of such surveys shall be borne by the purchaser.]

SEC. 9099. Section 112(e)(1) of title 32, United States Code, is amended by inserting "or otherwise implementing" immediately after "administering".

SEC. 9100. Notwithstanding any other provision of law, the Secretary of Defense may, when he considers it in the best interest of the United States, cancel any part of an indebtedness, up to $2,500, that is or was owed to the United States by a member or former member of a uniformed service if such indebtedness, as determined by the Secretary, was incurred in connection with Operation Desert Shield/Storm: *Provided*, That the amount of an indebtedness previously paid by a member or former member and cancelled under this section shall be refunded to the member.

(TRANSFER OF FUNDS)

[SEC. 9101. During the current fiscal year, not to exceed $60,500,000 of cash balances in the Defense Business Operations Fund shall be transferred to appropriations of the Department of Defense which are available for energy conservation improvement projects under the Department of Defense Energy

Conservation Improvement Program: *Provided*, That the authority to make transfers pursuant to this section is in addition to any other transfer authority provided by this Act.]

SEC. 9101. In addition to any other transfer authority contained in this Act, $1,371,800,000 from the Defense Business Operations Fund shall be transferred to appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred, as follows: $456,687,000 to Operation and Maintenance, Army; $299,167,000 to Operation and Maintenance, Navy; $20,448,000 to Operation and Maintenance, Marine Corps; $402,479,000 to Operation and Maintenance, Air Force; $30,038,000 to Operation and Maintenance, Defense Agencies; $9,442,000 to Operation and Maintenance, Army Reserve; $14,924,000 to Operation and Maintenance, Navy Reserve; $754,000 to Operation and Maintenance, Marine Corps Reserve; $15,844,000 to Operation and Maintenance, Air Force Reserve; $31,307,000 to Operation and Maintenance, Army National Guard; $39,830,000 to Operation and Maintenance, Air National Guard; and $50,880,000 to the Defense Health Program.

SEC. 9102. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

SEC. 9103. The Secretary of Defense is authorized to provide optional summer school programs in addition to the programs otherwise authorized by the Defense Dependents Education Act of 1978 (Public Law 95-561), and to charge a fee for participation in such optional education programs. Optional summer school program fees shall be made available for use by the Secretary to defray the costs of summer school operations.

SEC. 9104. Unobligated balances of the funds appropriated in the Department of Defense Appropriations Act, 1992 (Public Law 102-172) under the headings "World University Games" and "Summer Olympics" in title II of that Act shall, notwithstanding section 8003 of that Act, remain available for obligation until September 30, 1993.

[(TRANSFER OF FUNDS)

[SEC. 9105. During the current fiscal year, the Secretary of Defense may transfer such funds as are available in the National Defense Stockpile Transaction Fund to the appropriation "Environmental Restoration, Defense".]

SEC. 9105. (a) None of the funds appropriated by this Act may be obligated or expended for any program, project, sub-project, or activity which is accomplished under a "Limited Dissemination (LIMDIS)" security control method until the Secretary of Defense submits, to the Congressional defense committees, a report containing:

(1) annual costs in the fiscal years 1994–1999 Future Years Defense Program, and total costs;

(2) appropriation account and program element or line item;

(3) content and military justification; and

(4) acquisition milestones and schedule through completion.

(b) The information in the report required by subsection (a) above shall be provided for each program, project, sub-project, or activity accomplished under the LIMDIS security control method during fiscal years 1990–1993, and for each such effort to be undertaken in fiscal year 1994.

(c) The report required by subsection (a) above shall be submitted no later than the date upon which the fiscal year 1994 Department of Defense budget request is provided to Congress.

SEC. 9106. After December 31, 1992, voluntary separation incentives payable under 10 U.S.C. 1175 may be paid in such amounts as are necessary from the assets of the Voluntary Separation Incentive Fund established by section 1175(h)(1).

[(INCLUDING TRANSFER OF FUNDS)

[SEC. 9107. Amounts deposited during fiscal years 1992 and 1993 to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2) (A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.]

SEC. 9107. Funds appropriated under Title II, Operation and Maintenance, may be used to purchase items not exceeding $25,000 for each item.

[SEC. 9108. None of the funds available to the Department of Defense in this Act may be used to award a contract for the procurement of four-ton dolly jacks if such equipment is or would be manufactured outside the United States of America and would be procured under any contract, agreement, arrangement, compact or other such instrument for which provisions including price differential provisions of the Buy American Act of 1933, as amended, or any other Federal buy national law was waived: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.]

SEC. 9108. Notwithstanding any other provision of law, reimbursements received from the North Atlantic Treaty Organization for the E-3 Airborne Warning and Control System (AWACS) Radar System Improvement Program (RSIP) attributable to development work for fiscal years 1987 through 1992 shall be available to the Air Force until September 30, 1994, for meeting that service's financial commitments for the AWACS RSIP.

[(TRANSFER OF FUNDS)

[SEC. 9109. The Department of Defense may transfer from amounts appropriated to the Department of Defense for fiscal year 1993 not to exceed $650,000,000 to the appropriate accounts within the Department of Defense for the purposes authorized in the Nuclear Threat Reduction Act of 1992: *Provided*, That obligations made pursuant to the transfer authority provided in section 108 of Public Law 102-229 together with obligations made pursuant to the transfer authority provided in this section shall not exceed a total obligation of $650,000,000: *Provided further*, That the Nuclear Threat Reduction Act of 1992 is hereby amended to authorize up to $50,000,000 of the $650,000,000 in transfer authority to be used for the Multilateral Nuclear Safety Initiative announced in Lisbon, Portugal on May 23, 1992: *Provided further*, That the transfer authority provided in this section shall be in addition to any other transfer authority contained in this Act.]

SEC. 9109. None of the funds available to the Air Force may be obligated or expended for the purpose of modifying existing or of procuring any additional F-16 aircraft until and unless the Secretary of the Air Force has reported to the Committee on Appropriations of the Senate that the Air Force has initiated compliance with the provisions of Conference Report 102-328 regarding the equipping of Air National Guard units with the F-16 C/D Block 40 aircraft.

[(TRANSFER OF FUNDS)

[SEC. 9110. The Secretary of Defense may transfer from amounts appropriated to the Department of Defense for fiscal year 1993 or from balances in working capital funds not to exceed $55,000,000 to the appropriate accounts within the Department of Defense for the purposes authorized in section 109 of Public Law 102-229: *Provided*, That obligations made pursuant to the transfer authority provided in section 109 of Public Law 102-229 together with obligations made pursuant to the transfer authority provided in this section shall not exceed a total obligation of $115,000,000: *Provided further*, That the transfer authority provided in this section shall be in addition to any other transfer authority contained in this Act.]

SEC. 9110. Of the funds appropriated under this Act for Operation and Maintenance, Defense Agencies, not less than $25,000,000 shall be made available only for Project PEACE.

[SEC. 9111. (a) None of the funds appropriated or made available in this Act shall be used for the procurement of high purity quartz yarn or fiber, or for any item manufactured from such yarn or fiber or from fused or synthetic quartz rods used to produce high purity quartz yarn or fiber, if such yarn, fiber or rods are not produced in the United States: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

[(b) The Secretary of Defense shall ensure that high purity quartz yarn or fiber produced by domestic sources established by previously appropriated funds for the Defense Production Act are tested for qualification for use or incorporation in the production of weapon systems and in weapon development programs. Systems qualification tests associated with qualifying domestically produced high purity quartz yarn or fiber shall be paid by the responsible weapons system program office.]

SEC. 9111. (a) The Secretary of Defense shall impose recoupment charges on the sale, for military or commercial purposes, to non-U.S. Government purchasers, of defense articles for a proportionate amount of any nonrecurring costs of research, development, and production of major defense equipment developed with U.S. Government funds, and for the licensing of others to produce major defense equipment, unless a nonrecurring cost recoupment charge exemption is available as provided in subsection (c).

(b) Nonrecurring cost charges shall be based on the amount of the DoD nonrecurring investment in an item.

(c) A nonrecurring cost recoupment charge shall not apply when a waiver has been approved by the Secretary of Defense in accordance with Public Law 90-629, as amended by later statute, and the Secretary has notified the congressional defense committees thirty days in advance of granting the waiver.

(d) Notwithstanding any other provision of law, funds received through the imposition of nonrecurring cost recoupment charges shall be available to the Department of Defense until September 30, 1994, to fund research, development, test and evaluation activities in fiscal years 1993 and 1994 as established under the terms and conditions of this Act.

(e) The terms "defense articles" and "major defense equipment" are as defined in Section 47 of Public Law 90-629, as amended by later statute.

(f) Funds appropriated in this Act for research, development, test and evaluation are reduced by $178,000,000 to reflect the imposition of recoupment charges as required in this section.

[SEC. 9112. In order to maintain an electric furnace capacity in the United States, preference for the purchase of chromite ore and manganese ore authorized for disposal from the National Defense Stockpile shall be given to domestic producers of high carbon ferrochromium and high carbon ferromanganese—

[(A) whose primary output during the three preceding years has been ferrochromium or ferromanganese; and

[(B) who guarantee to use the chromite and manganese ore for domestic purposes.]

SEC. 9112. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 9113. (a) None of the funds available to the Department of Defense may be used to implement Defense Management Report Decision No. 944, dated December 9, 1991, concerning Conventional Ammunition, or any revision or successor document, or to carry out any implementing instruction for said directive, revision, or successor document, or to implement any other document of any kind pertaining to conventional ammunition which has the objective of financing conventional ammunition out of any funds other than funds appropriated or available for procurement of ammunition *for fiscal year 1993 or thereafter*.

(b) The fiscal year 1994/1995 budget request for the Department of Defense, as well as all justification material and other documentation supporting the fiscal year 1994/1995 Department of Defense request shall be prepared and submitted to the Congress as if subsection (a) of this provision were effective with regard to fiscal year 1994/1995. Such budget request, budget material, and budget documentation shall be prepared using the practices and policies followed in preparation of the fiscal year 1992/1993 budget.

[SEC. 9114. None of the funds available to the Department of Defense may be obligated or expended for an Abrams tank upgrade program that does not first modify 105mm M1 tanks to a 120mm M1A1, or higher, tank configuration.]

SEC. 9114. Notwithstanding any other provision of law, funds received from the foreign military sales of tanks during fiscal year 1990 and 1991, and from future sales of such tanks, may be used, and are available until expended, only for the upgrade of M1 series tanks to the M1A2 configuration.

[SEC. 9115. During the current fiscal year, no funds available to the Department of Defense shall be available in connection with any action within the Department of Defense which would support, or could lead directly to, the purchase or acquisition of LTV Aerospace and Defense Company by any foreign person: *Provided*, That, notwithstanding any other provision of law or any agreement to the contrary, no foreign person may purchase or otherwise acquire the LTV Aerospace and Defense Company. For purposes of this section, the term "foreign person" means any foreign organization, corporation, or individual resident in a foreign country, or any domestic or foreign organization, corporation, or individual, that is owned or controlled by the foreign organization, corporation, or individual.]

SEC. 9115. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States, unless such malt beverages and wine are procured in that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: Provided, That in the case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: Provided further, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages for military installations in States which are not contiguous with another State: Provided further, That alcoholic beverages other than wine and malt beverages in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

[SEC. 9116. During the current fiscal year, none of the funds available to the Department of Defense may be used to procure or acquire handguns or handgun ammunition unless such handguns are the M9 9mm Department of Defense standard handgun or ammunition for such handguns.]

SEC. 9116. Of the funds appropriated to the Department of Defense for Operation and Maintenance, Defense Agencies, not less than $8,000,000 shall be made available only for the mitigation of environmental impacts on Indian lands resulting from Department of Defense activities: Provided, That the Secretary of Defense shall first enter into an agreement with the Administration for Native Americans on the obligation of these funds.

SEC. 9117. If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall debar the person from contracting with the Federal Government for a period of not less than three years and not more than five years. For purposes of this section, the term "debar" has the meaning given that term by section 2393(c) of title 10, United States Code.

[SEC. 9118. During the current fiscal year, appropriations available to the Department of Defense may be used to reimburse a member of a reserve component of the Armed Forces who is not otherwise entitled to travel and transportation allowances and who occupies transient government housing while performing active duty for training or inactive duty training: *Provided*, That such members may be provided lodging in kind if transient government quarters are unavailable as if the member was entitled to such allowances under subsection (a) of section 404 of title 37, United States Code: *Provided further*, That if lodging in kind is provided, any authorized service charge or cost of such lodging may be paid directly from funds appropriated for operation and maintenance of the reserve component of the member concerned.]

SEC. 9118. Subsection (d) of section 406 of title 37, United States Code is amended by striking out "or" at the end of paragraph (1); by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and by adding after paragraph (2) the following new paragraph: "(3) is involuntarily separated from active duty during the five-year period beginning on October 1, 1990."

[SEC. 9119. During the current fiscal year, funds appropriated by this Act may be used for the civilian pay, allowances, and benefits of a National Guard technician who serves on active duty under section 672 (b) or (d) of title 10 (other than active duty during a period of war or national emergency declared by the President or Congress) for participation outside the United States in airlift or refueling operations, and requests and is granted leave under the authority of this section. A technician described in this section may be granted leave without loss of pay, time, or performance or efficiency rating for each day, not to exceed 44 days in a calendar year, of such duty, except that an amount (other than a travel, transportation, or per diem allowance) received by a technician for military service as a member of the National Guard for a period for which the technician is on leave under this section shall be credited against the pay payable with respect to his civilian position for that period. Nothing in this section shall prohibit a technician granted leave under this section who is ordered with his consent to active duty without pay as authorized by 10 U.S.C. 683 from receiving his full civilian pay and benefits.]

SEC. 9119. Paragraph (1) of subsection (c) of section 404 of title 37, United States Code, is amended by striking "one year" and inserting in lieu thereof "two years".

[SEC. 9120. The Secretary of Defense shall enter into negotiations with a uniformed services treatment facility described in section 911(c) of the Military Construction Authorization Act, 1982 (42 U.S.C. 248c(c)), for the purpose of arranging for the facility to assume operation of the Silas B. Hays Army Community Hospital at Fort Ord, California, in a manner consistent with the managed-care delivery and reimbursement model required under section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1587). Upon completion of the negotiations, the Secretary shall consider the hospital to be a satellite facility of the uniformed services treatment facility, as described in section 721(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1405), and designate the hospital as a facility of the uniformed services for the purposes of chapter 55 of title 10, United States Code. The Secretary shall complete the negotiations and make the designation not later than September 30, 1993.]

SEC. 9120. For fiscal year 1993, the total amount appropriated to fund the Uniformed Services Treatment Facilities program, operated pursuant to section 911 of Public Law 97-99 (42 U.S.C. 248c), is limited to $230,000,000, of which not more than $207,130,000 may be provided by the funds appropriated by this Act.

[SEC. 9121. None of the funds appropriated by this Act or made available to the Department of Defense shall be available to operate, maintain and pay the salaries of the employees assigned or detailed to the Defense Printing Service Management Office.]

SEC. 9121. None of the funds available in this Act may be used to support in any manner, including travel or other related expenses, the "Tailhook Association": Provided, That investigations by the Secretary of the Navy or consultation with the Tailhook Association are not prohibited by this provision.

[SEC. 9122. During the current fiscal year, not more than $190,055,000 of the funds appropriated by this Act or available to the Department of Defense shall be available for paying the Administrator of the General Services Administration charges established pursuant to section 210(j) of the Federal Property Administrative Services Act of 1949, as amended, (40 U.S.C. 490(j)) for space and services: *Provided*, That upon a determination by the Secretary of Defense that such action is necessary to meet the needs of the Department of Defense for space and services, upon notification to the Congress, obligations and expenditures in addition to the amount specified in this section may be incurred in appropriations available to the Department of Defense and transfers may be made between working capital funds of the Department of Defense and appropriations for operation and maintenance to the extent necessary for such obligations and expenditures.]

SEC. 9122. None of the funds appropriated or made available in this Act or any prior Acts shall be obligated or expended to implement the United States Army Corps of Engineers Reorganization Study until such reorganization proposed is specifically authorized by law after the date of enactment of this Act.

[SEC. 9123. As of September 1, 1993, none of the funds appropriated by this Act or made available to the Department of Defense shall be available for payment of the compensation of members of the Senior Executive Service assigned to the Department of Defense in excess of 95 percent of such personnel actually assigned to or serving in, the Department of Defense on September 30, 1992: *Provided*, That in making any reduction in the number of such personnel that may be required pursuant to this section the percentage of reductions to career and non-career Executive Service positions shall be applied so that an equal percentage of the reductions to the total number of individuals assigned to such positions on September 30, 1992 shall be equal.]

SEC. 9123. The Department of Defense shall reduce the authorized number of Senior Executive Service (SES) positions by a percentage equivalent to the percentage reduction in its civilian employment during fiscal year 1993, which percentage shall be applied against the total number of SES positions authorized the Department of Defense by the Office of Personnel Management for fiscal year 1993: Provided, That such percentage reductions shall be applied so that the ratio of career SES positions to non-career SES positions in the Department shall remain the same.

[SEC. 9124. During the current fiscal year, supplies, equipment, and material, of a total value not to exceed the amounts specified, shall be issued from the Defense Business Operations Fund, without a requirement for reimbursement, as follows: to the Army, $1,486,000,000; to the Navy, $63,000,000; to the Marine Corps, $39,000,000; and to the Air Force, $448,000,000.

[SEC. 9125. None of the funds in this Act shall be used by the Department of Defense or Navy for consolidation of the Naval Biodynamics Laboratory until 90 days after the General Accounting Office has submitted a report to the Committees on Appropriations on the Department of Defense or service plans to consolidate research and development laboratories.

[SEC. 9126. The Comptroller General of the United States, in conjunction with the Department of the Navy, shall issue a report no later than July 1, 1992, on the Navy's accounting practices at its nuclear shipyards. The report shall include a detailed review of the Navy's current plan for the handling and disposal of all nuclear materials and radioactively contaminated materials of nuclear powered vessels. The report shall include cost evaluations and projections for the next twenty years based on the current Navy plan.

[SEC. 9127. During the current fiscal year, from funds available in this Act, the Director of the Air National Guard shall establish a Command, Control, Communications and Intelligence planning office manned by three full-time Air Guard officers in the rank of O-6, O-5, and O-4: *Provided*, That these officers shall be in addition to the strengths authorized in section 524 of title 10, United States Code.

[SEC. 9128. As of September 1, 1993, none of the funds appropriated by this Act shall be available for payment of the compensation of personnel assigned to or serving in the National Foreign Intelligence Program in excess of 98 percent of such personnel actually assigned to or serving in the National Foreign Intelligence Program on September 30, 1992: *Provided*, That in making any reduction in the number of such personnel that may be required pursuant to this section, the percentage of reductions to Senior Intelligence Service positions shall be equal to or exceed the percentage of reductions to non-Senior Intelligence Service positions: *Provided further*, That in making any reduction in the number of such personnel that may be required pursuant to this section, the percentage of reductions to positions in the National Capital Region shall be equal to or exceed the percentage of reductions to positions outside of the National Capital Region.

[SEC. 9129. None of the funds appropriated in this Act or made available to the Department of Defense may be used to deposit into the Pentagon Reservation Maintenance Revolving Fund for the purpose of renovation, construction or any other purpose other than the actual and necessary day-to-day operation (including health and safety requirements) of the Pentagon Reservation or for the performance of engineering studies/design for renovation of the existing Pentagon structure. Not later than March 1, 1993, the Secretary of Defense shall submit to the Committees on Armed Services and Appropriations of the House and Senate a report setting forth (1) a revised renovation program for the Pentagon Reservation limited to concerns of health and safety; and (2) a construction schedule with an associated cost estimate based upon normal construction procedures which eliminates additional costs for expediting construction.

[SEC. 9130. None of the funds appropriated or otherwise made available in this Act may be used to promulgate or enforce the policy of the Department of Defense enunciated in the memorandum for the Secretaries of the Military Departments that became effective October 1, 1988, prohibiting non-funded abortions in military medical treatment facilities outside the continental United States, or any other policies having the same substance.

[SEC. 9131. Amounts appropriated in this Act for operation and maintenance for the Navy (for the payment of severance pay to foreign nationals employed by the Department of Defense in the Republic of the Philippines) shall be reduced by $52,000,000.

[SEC. 9132. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $500,000,000 to reflect savings with respect to secondary excess inventory items of the Department of Defense. The Secretary of Defense shall allocate the amount reduced in the preceding sentence and not later than March 1, 1993, report to the Senate and the House Committees on Appropriations and Armed Services how this reduction was allocated among the Services and Defense Agencies: *Provided*, That this section does not apply to the reserve components.

[SEC. 9133. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $200,000,000 to reflect savings resulting from the decreased use of consulting services by the Department of Defense. The Secretary of Defense shall allocate the amount reduced in the preceding sentence and not later than March 1, 1993, report to the Senate and the House Committees on Appropriations how this reduction was allocated among the Services and Defense Agencies: *Provided*, That this section does not apply to the reserve components.]

SEC. 9124. The Classified Annex prepared by the Committee of Conference to accompany the conference report on the bill H.R. 5504 of the One Hundred Second Congress and transmitted to the President is hereby incorporated into this Act: Provided, That the amounts specified in the Classified Annex are not in addition to amounts appropriated by other provisions of this Act: Provided further, That the President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the Classified Annex, within the executive branch of the Government.

SEC. 9125. Upon enactment of this Act, the Secretary of Defense shall make the following transfers of funds: Provided, That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: Provided further, That the amounts shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading, "Weapons Procurement, Navy, 1992/94":

Torpedoes and Related Equipment, $8,900,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1986/90":

LHD-1 amphibious assault ship program, $8,900,000;

From:

Under the heading, "Weapons Procurement, Navy, 1992/94":

Torpedoes and Related Equipment, $16,300,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1987/91":

AOE fast combat support ship program, $16,300,000;

From:

Aircraft Procurement, Navy, 1991/93, $131,800,000;

Aircraft Procurement, Navy, 1992/94, $37,400,000;

Under the heading, "Weapons Procurement, Navy, 1992/94":

Torpedoes and Related Equipment, $63,900,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1988/92":

CVN nuclear aircraft carrier program, $229,500,000;

LHD-1 amphibious assault ship program, $3,600,000;

From:

Aircraft Procurement, Navy, 1992/94, $85,900,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1992/96":

AOE combat support ship program, $200,000,000;

DDG–51 destroyer program, $66,300,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1989/93":

TRIDENT ballistic missile submarine program, $2,100,000;

SSN–688 attack submarine program, $8,800,000;

SSN–21 attack submarine program, $284,800,000;

DDG–51 destroyer program, $41,300,000;

MHC coastal mine hunter program, $11,900,000;

AOE combat support ship program, $3,300,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1992/96":

T–AGOS surveillance ship program, $27,400,000;

MHC coastal mine hunter program, $25,500,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1990/94":

TRIDENT ballistic missile submarine program, $5,900,000;

SSN–688 attack submarine program, $6,800,000;

DDG–51 destroyer program, $5,400,000;

ENTERPRISE refueling/modernization program, $21,000,000;

Oceanographic ship program, $9,900,000;

AOE combat support ship program, $3,900,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1991/95":

DDG–51 destroyer program, $19,800,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1991/95":

TRIDENT ballistic missile submarine program, $19,800,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1992/96":

T–AGOS surveillance ship program, $112,200,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1991/95":

TRIDENT ballistic missile submarine program, $22,100,000;

SSN–21 attack submarine program, $90,100,000;

From:

Under the heading, "Shipbuilding and Conversion, Navy, 1992/96":

T–AGOS surveillance ship program, $8,900,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1992/96":

Oceanographic ship program, $8,900,000.

SEC. 9126. (a) Subsection (a) of section 166a of title 10, United States Code, is amended in the first sentence by striking out "funds, upon request," and all that follows through the period and inserting in lieu thereof "funds to the commander of a combatant command, upon the request of the commander, or to the Director of the Joint Staff with respect to an area or areas not within the area of responsibility of a commander of a combatant command.".

(b) Subsection (b)(7) of such section is amended by inserting "(including transportation, translation, and administrative expenses)" before the period at the end.

(c) Subsection (c) of such section is amended by inserting before the period at the end the following:

"(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund or the provision of funds to the Director of the Joint Staff under subsection (a), should give priority consideration to—

"(1) requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds; and

"(2) the provision of funds to be used for activities with respect to an area or areas not within the area of responsibility of a commander of a combatant command that would reduce the threat to, or otherwise increase, the national security of the United States.".

(d) Subsection (e)(1)(C) of such section is amended to read as follows:

"(C) not more than $5,000,000 may be used to provide military education and training (including transportation, translation, and administrative expenses) to military and related civilian personnel of foreign countries as authorized by subsection (b)(7).".

SEC. 9127. Notwithstanding any other provision of law, any statutorily-required analysis of the impact on the defense technology and industrial base of terminations and significant reductions of major research and development programs and procurement programs of the Department of Defense shall address only those actions recommended by the Defense Department in its annual budget request and amendments thereto, supplemental requests, or proposed rescissions.

SEC. 9128. (a) Notwithstanding any other provision of law, funds appropriated under this Act for the Department of Defense shall be made available for the Overseas Workload Program: Provided, That a firm of any member nation of the North Atlantic Treaty Organization (NATO) or of any major non-NATO ally or countries in the European Theater, shall be eligible to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department of Defense to be awarded under competitive procedures as part of the program of the Department of Defense known as the Overseas Workload Program.

(b) A contract awarded during fiscal year 1993, or thereafter, to a firm described in subsection (a) may be performed in the theater in which the equipment is normally located or in the country in which the firm is located.

(c) For purposes only of this section, Israel shall be considered in the European Theater in every respect, with its firms fully eligible for nonrestrictive, nondiscriminatory contract competition under the Overseas Workload Program.

(d) No funds appropriated for the Overseas Workload Program for fiscal year 1993 or thereafter shall be used for contracts awarded in fiscal year 1993 or thereafter which have not been opened for competition in a manner consistent with this provision.

SEC. 9129. The total amount appropriated under title III of this Act is reduced by $104,000,000 to reflect savings resulting from lower inflation than budgeted.

SEC. 9130. In addition to amounts appropriated elsewhere by this Act, $200,000,000 is appropriated for the Arms Manufacturing Support Initiative, to remain available until expended: Provided, That funds appropriated under this section may not be available for obligation until authorized.

SEC. 9131. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions to the Johnston Atoll for the purpose of storing or demilitarizing such munitions.

(b) The prohibition in subsection (a) shall not apply to:

(1) any chemical munition withdrawn from the Federal Republic of Germany under a European retrograde program; or

(2) any obsolete World War II chemical munition of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

This Act may be cited as the "Department of Defense Appropriations Act, 1993".

The PRESIDING OFFICER. Who yields time?

The Chair recognizes the Senator from Hawaii [Mr. INOUYE].

PRIVILEGE OF THE FLOOR

Mr. INOUYE. I ask unanimous consent that Houghton Albaugh, John Young, and Diana Kupchella be given floor privileges during the duration of the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that, except for the committee amendment on page 64, line 15, the committee amendments be agreed to en bloc, and that the bill as thus amended be regarded for the purpose of amendment as original text, provided that no point of order shall have been considered to have been waived by agreeing to this request.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is no objection, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to en bloc except: committee amendment on page 64, line 15.

Mr. INOUYE. Mr. President, I am pleased to submit the recommendations of the Committee on Appropriations for fiscal year 1993 national defense funding.

This has been a very difficult year for the Committee on Appropriations, particularly for the Subcommittee on Defense Appropriations. The amount of funding in the bill before the Senate, which is $250.4 billion, is considerably below the amounts appropriated last year for defense. The fiscal year 1992 total was $270.1 billion. The bill is some $34 billion below what was appropriated just 2 years ago. Our allocation of budget authority this year is some $14 billion below the ceiling, or cap, agreed upon in the budget summit. We have stayed within the agreed level and the funding we have recommended to the Senate is under our budget allocation.

It has been difficult to accomplish our objectives. Nonetheless, I believe we have met the challenge. We have produced a bill which funds the essential requirements for the defense of our country in the post-Warsaw Pact world. In this bill, we propose measures to preserve the Nation's defense industrial base, and we act to ensure that sufficient funding is provided to fund the research and development programs which will protect the qualitative edge of America's military equipment in combat, whenever and wherever that might occur. Our recommended bill provides funding to keep America's men and women in uniform well equipped, well trained, and well led.

Mr. President, I would now like to detail some of our recommendations.

MILITARY PERSONNEL

Both the Senate-passed and the House-passed authorization bills reduce end strength for the active component, as requested, by 98,617 from fiscal year 1992 to fiscal year 1993. Funding levels contained in the committee recommendations recognize this reduction.

For the Reserve components, the President's budget contained end strength reductions of 112,847, with the bulk of the reduction, 92,440, coming from the Army Guard and Army Reserve. The recommendations before the committee "add back" 100,555 of this reduction, allowing a cut of only 12,272 in Reserve component end strength. This is in consonance with the Senate-passed Defense authorization bill.

Mr. President, the funding recommendations for military personnel protect the active and Reserve components from precipitous reductions. In a recommended general provision, we provide a floor for end-strength in the Guard.

I would also note that there are no recommendations for accelerating the draw-down from Europe. Our review indicates that troops are being withdrawn from Europe at rates which already impose hardships on military personnel. Indeed, because of our concern that those returning from Europe face unnecessary hardships, $25 million is added to allow enlisted military personnel more time to find housing when they undergo a permanent change of station.

TITLE II, OPERATION AND MAINTENANCE

In title II, operation and maintenance, we finance the cost of operating and maintaining U.S. Armed Forces, including Guard and Reserve components and Department of Defense agencies. These funds are used to purchase fuel and spare parts for training activities, pay civilian personnel, and repair weapons systems and facilities.

The administration has requested total budget authority of $75.5 billion for operation and maintenance [O&M] programs. In its bill, the House provided $71.7 billion, cutting $3.8 billion from the request. Our recommendations provide a total O&M funding level of $74.0 billion, which is $1.5 billion below the request and $2.3 billion above the House level.

There are several principles which have guided the development of the O&M recommendations.

First, our recommendations contain no adjustments which dictate force structure levels lower than those predicated under the base force.

To support the regional strategy concept adopted by the Joint Chiefs of Staff, the recommendations: First, fully support the unit training operations of the Armed Forces, including full funding for JCS exercises; second, add funding to enhance the mobility of our forces deploying from the United States; third, fully fund operations costs at military installations in the United States and add funding for facilities maintenance at these bases; and fourth, fully fund all airlift and sealift operations programs.

Second, force draw-down plans and fiscal imperatives are fully considered in our recommendations. Generally, adjustments to specific service O&M programs are made when either: The program or funding request is, itself, out-of-step with the ongoing military draw down or, on the other hand, when the funding request is in excess of amounts needed to support the related program. Also, a reduction of $175 million is recommended to encourage greater allied contributions from European governments to support United States forces that will remain on the continent. An additional $175 million is fenced to ensure that U.S. negotiators have an interest in seeing that this happens.

Third, we seek to encourage efficiencies and better management. The recommendations propose a series of adjustments under the heading "Excess Inventory Initiative" which reduce the Department's request for purchasing spare parts and supplies by a total of $3 billion. These reductions are made in light of the continuing problems DOD has had managing its supply system.

Fourth, we support Defense conversion, environmental programs, and disaster relief activities. The recommendations provide $2 billion for Defense conversion programs under "Title 8—Defense Reinvestment for Economic Growth." These conversion programs include R&D activities, which I shall discuss later, and transition assistance for military and civilian workers. Full funding is provided for DOD's Environmental Program.

TITLE III—PROCUREMENT

Mr. President, under the procurement accounts, the committee is concerned with the protection of the Defense industrial base. Accordingly, we recommend actions to various investment programs that recognize the need to decrease the Defense budget, but at the same time, build down investment programs in such a way that the industrial base is maintained in a viable manner.

It is the judgment of the committee that investment programs should not be terminated or reduced beyond a certain level, if that would mean the loss of industrial base assets which would be difficult to reconstitute at a later date. Where possible, the recommendation supports conversion of the industrial base to civilian applications. Some examples of the committee's recommendations to address the industrial base are:

Shipbuilding. We have added $1.1 billion for the construction of an LHD amphibious assault ship to bolster the shipbuilding industry in 1993.

MLRS rockets. We have added $58 million to provide final year funding of a multiyear procurement for 30,000 rockets.

M1 tank upgrade, Bradley fighting vehicle programs. Our recommendation fully funds the M1 to M1A2 upgrade program and provides an additional $150 million to continue the Bradley fighting vehicle program to keep the tracked combat vehicle industrial base warm until the next generation main battle tanks and infantry fighting vehicles start production.

Ammunition. We recommended supporting the Senate-passed armament retooling and manufacturing support [ARMS] initiative, which will restructure the ammunition industrial base to make more efficient, cost effective use of its industrial capacity. This initiative would boost defense readiness, preserve jobs, and form the basis for economic growth in regions affected by Government plant closures.

While still under the procurement title, I would like to discuss our recommendations for various aircraft programs.

First, the F-16 program.

The budget proposed to buy 24 F-16 aircraft for the Air Force in the final procurement of that aircraft. The Senate-passed authorization bill denied the funds to buy any more aircraft. The Senate Armed Services Committee noted that with the force structure reductions now underway in the military, the Air Force has as many F-16 aircraft as it needs. The Senate Armed Services Committee also argued that foreign military sales will be sufficient to keep the production line open. With the recent announcement by President Bush that he will support a sale of 150 F-16 aircraft to Taiwan, their recommendation makes sense.

Second, the C-17 program.

The C-17 is an airlift airplane intended to become the mainstay of air mobility for U.S. forces. The C-17 program, however, is again behind schedule and its prospects for getting back on schedule do not look good. Consequently, the House authorized and appropriated funds to support a production rate of six aircraft in fiscal year 1992, a reduction of two aircraft from the President's request. We join the House in funding six aircraft.

Now, we get to the B-2 bomber program. Last Friday evening, the Senate authorized, by a vote of 53 yeas to 45 nays, funding to complete production of the B-2 bomber.

The recommendation of the Senate Appropriations Committee fully funds the four remaining B-2 aircraft for a total program of 20 aircraft. The House has authorized and approved appropriations for the completion of the B-2 procurement program. Last Friday, the Senate approved funding for the remaining program, now that the President has decided to cap the program at 20 B–2's.

I hope that it will not be necessary to debate this issue again on this bill. The Senate understood the implications of its vote last Friday. We will appropriate the funds for the final four aircraft and that will put an end to this contentious issue.

Our recommendations for Navy aircraft assume reductions in either current or future production rates. For example, F/A–18 production of the C/D model is reduced from 48 to 24 aircraft as recommended in the Senate-passed Defense authorization bill.

TITLE IV: RESEARCH, DEVELOPMENT, TESTS AND EVALUATION

Mr. President, we have now come to the last major division of the bill which I propose to discuss in detail today and that is: title IV—research, development, test, and evaluation.

The largest program under the R&D accounts is also the most problematic. It is the strategic defense initiative. The Pentagon sought $5.3 billion in fiscal year 1993 for the strategic defense initiative [SDI] and theater missile defense initiative [TMDI] programs. We recommend $3.8 billion to establish a more fiscally supportable level and to permit more time for adequate test and evaluation to occur before equipment is fielded.

The committee recommendation is in accord with the funding level authorized by the Senate.

To deal with another contentious set of issues, we propose the creation of a new account "Entitled Tactical Air Modernization, Defense." If all proposed modernization programs were funded, in the next several decades, the Army, Navy, and Air Force would spend almost $300 billion to modernize tactical combat aircraft. The principal programs are the Army Comanche helicopter and the AH–64 Apache Longbow helicopter; the Navy F–18 E/F upgrade and the AX advanced attack aircraft; and the Air Force F–22 advanced tactical fighter.

The services seek $4.195 billion in fiscal year 1993 to develop these aircraft. Due to several concerns, the recommendation deletes the funds sought in the separate service accounts, transfers the programs to OSD, and provides $3.489 billion—the same total as authorized—in a separate appropriations accounts—"Tactical Aviation Modernization, Defense."

The committee has responded to requests for earmarking of funds for university grants in the same manner as the Congress resolved this issue in the fiscal year 1992 rescission bill. That is, we have put these university grants into a single provision granting the Secretary of Defense the discretion to award any particular grant.

We do recommend decreases in several program elements funding DOD-sponsored university research to reduce the rate of growth and to reflect anticipated savings. The recommended bill would include a general provision which sets a ceiling on total fiscal year 1993 Defense spending for federally funded research and development centers at a level 10 percent below the fiscal year 1992 appropriated level and deletes $204.6 million from the RDT&E budget request based on this ceiling. The provision would also delete an amount equal to the FFRDC reduction—$204.6 million—from non-FFRDC consultant services.

Mr. President, surely, as the defense budget declines, we should expect to achieve modest savings in the dollars we provide for federally funded research and development center activities and other consultant services.

This year the committee received a large number of requests for funding of programs and activities which are oriented toward enhancing the manufacturing capability and competitiveness of the U.S. defense industry in both defense related and civilian applications.

The committee now seeks the Senate's support for a new defense conversion initiative, a separate bill title, which totals $2 billion. The recommendation does not earmark specific amounts for specific activities but lists a range of efforts which we think should be considered for such funding. These activities are:

First, programs in the budget request—mainly for manufacturing technology. The recommendation deletes funds sought in the separate military accounts and transfers the projects to the conversion initiative;

Second, Member requests for funding of conversion activities; and

Third, Senate Armed Services Committee dual-use technology initiatives.

Many of these programs are highly technical in nature and often appear to duplicate ongoing efforts. Furthermore, many appear to require further development before they can be considered eligible for funding under the normal DOD research and development accounts. To resolve these questions, we propose that the programs and activities be reviewed by the congressionally created Defense Conversion Commission. The Conversion Commission is tasked to review the proposals and to report back to the Congress before funds are provided.

Mr. President, that concludes my presentation of major recommendations. In a bill of the size and scope of the defense appropriations bill there are many items of particular interest to individual Members. Should there be any specific questions, I am prepared to respond to Members of the Senate. I hope the Members will judge the work of the committee by its achievements and not by what they perceive to be its shortcomings. We have a good bill, a balanced bill, and one which I believe deserves the support of every Member of the Senate.

I remind Members that the classified bill and report annex are available for their review in the secure facility located in the Capitol in S–407. I encourage all Members to review these recommendations.

Mr. President, I thank all Senators, particularly the chairman of the committee, Senator BYRD, for the many courtesies they have extended to me and to the subcommittee as we have worked on this bill. I also wish to thank my good friend from Alaska, Senator STEVENS, for his support, his encouragement, and his willingness to help shoulder the burden of carrying this bill before the committee and the Senate.

Mr. President, I yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the distinguished Senator from Hawaii for his comments and for his summary of the bill that we have presented to the Senate. I do not intend to repeat any of his observations. I want the record to show that I am grateful to him for his cooperation, also, and I want to state to the Senate that this bill is truly a bipartisan bill. It has been reported with bipartisan support between the Senator from Hawaii and myself and our staffs, and also on votes expressed in the Appropriations Committee that this is truly a bipartisan bill and one that deserves prompt and speedy approval by the Senate.

This bill now will continue the decline in real defense spending that we initiated in fiscal year 1988. This bill is more than $20 billion less than the amount that the Congress approved for the Department of Defense last year. Mr. President, if you look at the plan that we presented to the Congress in 1989, about the time that the Berlin Wall collapsed, the trend line for 1993 which is covered by this bill was $100 billion higher than in the bill we have here.

In other words, we really are presenting now a bill that reflects, I think, the public's attitude and certainly the administration's attitude concerning the fact that we can effect significant savings in the Department of Defense, and we have done so.

(Mr. WELLSTONE assumed the chair.)

Mr. STEVENS. At this figure we have presented to the Senate, almost every single facet of the Department of Defense will receive a substantial reduction in funds from its previous amounts under last year's bill, but particularly from the amounts that had been planned for the Department of Defense under the defense plan that was in existence just a few years past.

We are also, I think, in a position where we ought to commend the Senator from Hawaii and his staff, because for the first time this bill is not only reduced in terms of dollars but in terms of size. It might interest the Senate to know that this bill, 157 pages long, is still a long bill, but it is 50 pages shorter than last year's. It reflects a more conservative attitude as to how we micromanage the Department of Defense also, and I think that is good. It is clear that we are trying to match the cuts in defense with an increased reliance upon those who manage the Department of Defense. I think it is of special importance to us on this Appropriations Committee that we have given great emphasis to the funding for military personnel and for the operation and maintenance of the Department.

The Senator from Hawaii and I each represent offshore States. We represent States where defense spending takes place in terms of training and support for military personnel and their dependents and for retirees. Naturally, we have been quite concerned about that, but basically, this bill is a bill to procure new systems, new equipment, new items of hardware for the Department and all of the services—acquisitions that are not made in our States, but ones that we pay very close attention to. We have, in fact, tried to work closer with the Chairman of the Joint Chiefs and the service Chief of Staff and the theater commanders to ensure that their high priorities are met in the funding recommendations that we have made to the Senate.

Let me point out for the first time in many years that this bill virtually complies with almost every recommendation that was made by the Department of Defense authorization bill that was passed last Friday night, to the recommendations that have come from the Intelligence Committee. In reporting this bill to the floor, the committee made assumptions as to what would happen in terms of those bills that were reported from those other committees, and I must say that we have been fairly successful in our prediction as to what the Senate would do.

This bill does not contain any major disagreement, to my knowledge, with either of the authorizing committees—at least any type of disagreement that ought to take the time of the Senate here on the floor. On major procurement programs, such as the B-2, C-17, F-16, F-18, Navy destroyers, the new nuclear carrier, the Army's tank upgrade plan, Blackhawk helicopters, we support the levels that were established by the authorization committees, in consultation with us, I might add. And so we have a degree of working relationship with the authorization committees that has not prevailed in the past. We have supported the active and Reserve component, end-strength levels sought by the authorization committees.

On SDI, the authorization committee adopted the compromise that we set forth in this bill in the subcommittee and then in full committee last week at the level of $3.8 billion that was confirmed by the Senate, and the vote last week really eliminates the last major disagreement between the authorization and the Appropriations Committees.

So my main purpose is to join with the Senator from Hawaii in asking Members to refrain from fighting the same amendments that we took the time of the Senate to vote on last week.

We have not brought to the floor new issues that should lead to disputes between the authorizing committees and the Appropriations Committee. I hope that Members will recognize that.

And in the interest of seeing to it that both of these bills get through conference in time to be meaningful, I urge the Senate to withhold presenting amendments to this bill that were presented and considered in the authorization bill. If they are in the authorization bill, we will consider them in the conference and we believe the conference on the authorization bill will consider the provisions of this bill similarly.

We have worked to avoid authorizing legislation in this bill. I believe it is the intent of our committee to oppose amendments that are purely legislative in nature. This, however, does not mean that we have the best of all worlds, because we do not have a conference report on the authorization bill yet. It could be that we will develop some problems as the authorization bill goes to conference and this bill goes to conference. But we will do our best as we have, as I have indicated, with the assistance of the full committee chairman, the distinguished President pro tempore, Senator BYRD, to avoid conflict with the Armed Services bill as it goes to conference.

I do believe that it is incumbent upon us to stress that we have intentionally deleted some items that were in the House bill in many cases so that we can confer at length with the Members of the House pertaining to the desires of the House and the priorities of the House as compared to the priorities as expressed by the Members of the Senate.

So we ask the forbearance of the Senate in allowing us to work out these matters and to preserve the flexibility limited as it may be that we have in terms of the conference this year. I mention in particular the V-22. It is fully funded in the House. There is no reason for us to have that argument here, awaiting, as we do, the report on the last unfortunate accident.

We have tried, in other words, to preserve the ability of the Senate to be heard, but not to have controversy brought to the floor of the Senate prematurely.

So I do urge, as the Senator from Hawaii has, that the Senate look at what we have done in this bill. I know that there will be amendments offered to make reductions. But we have terminated a substantial number of programs in this bill and we have imposed severe reductions on other activities with the understanding that this bill will take a little time.

I repeat the urging that the Senator from Hawaii has made to Members to examine the classified annex to this bill that is in S-407.

In closing, Mr. President, I would say this: I think this bill is a people-oriented bill. We have tried to look to the impact upon the people of this country, of those associated with the military and those associated with industrial base that has supported it. We have tried to give the Department of Defense the ability to manage the change that we all know is taking place to make certain that change is done in a way that will harm our people, individually and collectively, the least possible, while at the same time continuing down the path that has been set by the President to reduce the amount of money that is available to be spent in the interest of national defense in this country.

I do think that it would be remiss not to point out that, as I have traveled throughout the country and as a matter of fact throughout the world with the distinguished Senator from Hawaii, the turmoil that we have felt and heard of and seen is actually in the personnel. The personnel of the Department of Defense are still vitally affected by the plans that are being made by the Department and by Congress to reduce the level of spending, to make the changes in the Department of Defense.

And we have been concerned that these changes take place in a way to minimize the dislocations that are caused by the cuts, to ensure that they do not be done in an arbitrary manner, and that withdrawals, such as going on in terms of our presence in Europe, be done in a way that takes into account the individual members and their families, the impact on children in terms of their school assignments, and upon the ability of the economy to absorb and provide housing and provide the opportunity for new employment that these people who are leaving the Department must have.

I can only remember my sadness in hearing about the tent city that existed in Moscow after the commencement of the withdrawal activities of their forces from the Eastern European countries. Certainly, we do not want to see tent cities in this country of people who have been withdrawn from housing constructed with U.S. taxpayers' dollars. We do not have to have that kind of dislocation in terms of our ability to handle the builddown of our Department of Defense and the reduction in the number of people that we authorize spending to support in that Department.

I know, with the bill that is before the Senate, I can confidently state to the Senate and to the American people that we have taken into account the urgency of reducing Federal spending for the Department of Defense, but we have also taken seriously into account the impact on how those reductions are made on the people who have committed themselves to the defense of this country. It is important to this Senator that the Senate recognize that and work with us to assure that we do consider the people affected by this bill.

I am one who believes the bill should move quickly and we can proceed with other matters. In fact, I think, with the cooperation of the Senate, we can actually complete the work on this bill today.

But I want to hasten to add to my friend from Hawaii that I know that he flew in here from Hawaii all night last night so he could be here. Being one of only two Senators who could fly further to get home than the Senator from Hawaii does, I understand the circumstance and I do hope that the Senate does also.

We would like to have the cooperation of the Members of the Senate to tell us when they will be prepared to offer their amendments and, if possible, to attempt to work out with us agreements on the length of time to be devoted to those amendments.

Again, it is our hope that we can complete this bill tonight, if not tonight, at the very latest tomorrow, so that the Senate may take up the tax bill on Wednesday.

The distinguished Senator from Hawaii and I flew to North Dakota on the occasion of the services for our late departed friend, Senator Burdick, and discussed this matter with the leadership. We know that the time factors are such that we must finish this bill by tomorrow night.

So, again, I urge all Members to work with us. I might say to my friend from Hawaii, we have worked out, I think, with all of the Members from this side of the aisle that will offer amendments, such agreements so we will be able to proceed in an orderly fashion with the amendments that we will bring forward. I hope that all Members of the Senate will do the same thing, enter into time agreements and give us the ability to complete this bill as rapidly as possible.

Again, Mr. President, I thank my friend from Hawaii. It is a sincere privilege and pleasure to be able to work with Senator INOUYE on matters pertaining to national defense, because he has a sincere interest and a complete background in this area and knows the Department as well, I believe, as any man in the Senate.

I thank the Senate.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. I thank my friend from Alaska for his very generous comments. It is true that I have been in the air for—oh, too many hours. Last Friday, many of us went on this side journey to say goodbye to our dear friend, Senator Burdick. And the following morning, together with the Members of the Hawaii delegation, I had to fly back to Hawaii because of the disastrous hurricane, Iniki. And last Friday evening I flew back again, this time to investigate the damage on the island of Oahu, my island.

We also had another activity on Saturday, which was my primary election. Incidentally, it came out all right. So I am back again. But I want to see that this bill is resolved in a manner that we Senators can be proud of.

AMENDMENT NO. 3115

Mr. INOUYE. Mr. President, I send to the desk a series of technical amendments which correct drafting errors in the bill. I ask unanimous consent they be considered en bloc and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE] proposes an amendment numbered 3115.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7 of the Committee reported bill, after line 17, insert " (including Transfer of Funds)";

On page 11 of the Committee reported bill, after line 12, insert " (including Transfer of Funds)";

On page 12 of the Committee reported bill, after line 3, insert " (including Transfer of Funds)";

On page 23 of the Committee reported bill, after line 3, insert " (including Transfer of Funds)";

On page 29 of the Committee reported bill, on line 8, strike " (including Transfer of Funds)";

On page 41 of the Committee reported bill, after line 18, insert " (including Transfer of Funds)";

On page 45 of the Committee reported bill, after line 21, insert " (including Transfer of Funds)";

On page 53 of the Committee reported bill, after line 16, insert " (including Transfer of Funds)";

On page 53 of the Committee reported bill, on line 23, delete "may" and insert "shall" in lieu thereof;

On page 54 of the Committee reported bill, on line 1, delete "may" and insert "shall" in lieu thereof.

On page 54 of the Committee reported bill, on line 2, delete "may" and insert "shall" in lieu thereof.

On page 148 of the Committee reported bill, after line 15, insert " (Transfer of Funds)";

Mr. INOUYE. Mr. President, these are drafting errors, and I hope we can agree to this.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3115) was agreed to.

Mr. METZENBAUM. Mr. President, will the Senator just explain what the last one did?

Mr. INOUYE. These are the drafting errors.

Mr. METZENBAUM. I thank my colleague.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, when the committee reported this bill, it did so with little time to review the effect of its actions on existing law. Under rule XXVI, the committee is required to state where it repeals or amends existing law unless it waives this requirement in the interest of expediting the business of the Senate. The committee chose to exercise this waiver authority. However, with time to review the recommendations of the committee, we have compiled a list of such actions. I ask unanimous consent that I may insert the following material into the RECORD which shows where the committee bill amends or repeals existing law.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RULE XXVI PARA. 12

Section 166 of Title 10, United States Code, is amended under Section 9126 of the Committee reported bill as shown below:

"(a) CINC INITIATIVE FUND.—From funds made available in any fiscal year for the budget account in the Department of Defense known as the "CINC Initiative Fund," the Chairman of the Joint Chiefs of Staff may provide [funds, upon request, to the commanders of the combatant commands.] *funds to the commander of a combatant command, upon the request of the commander, or the Director of the Joint Staff with respect to an area or areas not within the area of responsibility of a commander of a combatant command.* * * *

"(b)(7) Military education and training to military and related civilian personnel of foreign countries *(including transportation, translation, and administrative expenses)*

["(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund, should give priority consideration to requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds.]

(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund or the provision of funds to the Director of the Joint Staff under subsection (a), should give priority consideration to—

(1) requests for funds to be used for activities that would enhance the air fighting capability, readiness and sustainability of the forces assigned to the commander requesting the funds; and

(2) the provision of funds to be used for activities with respect an area or areas not within the area of responsibility of a commander of a combatant command that would reduce the threat to, or otherwise increase, the national security of the United States. * * *

["(C) not more than $500,000 may be used to provide military education and training to military and related civilian personnel of foreign countries as authorized by subsection (b)(7).] *(C) not more than $5,000,000 may be used to provide military education and training (including transportation, translation, and administrative expenses) to military and related civilian personnel of foreign countries as authorized by subsection (b)(7).*"

Section 112(e)(1) of title 32, United States Code, is amended under section 9099 of the Committee reported bill as shown below:

"(e) EXCLUSION FROM END-STRENGTH COMPUTATION.—(1) Members of the National Guard on active duty or full-time National Guard duty for the purposes of administering *or otherwise implementing* this section shall not be counted toward the annual end strength authorized for reserves on active duty in support of the reserve components of the armed forces or toward the strengths authorized in sections 517 and 524 of title 10."

Section 406(d) of title 37, United States Code, is amended under section 9118 of the Committee reported bill as shown below:

". . . The nontemporary storage of baggage and household effects may not be authorized for a period longer than one year from the date the member concerned is separated from the service, retired, placed on the temporary disability retired list, discharged, or released from active duty, except as prescribed in regulations by the Secretaries concerned for a member who, on that date, or at any time during the one-year period following that date, is confined in a hospital, or is in its vicinity, undergoing medical treatment; or in the case of a member who—

(1) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10; [or]

(2) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein of more than 90 days, is discharged with separation pay or severance pay or is involuntarily released from active duty with separation pay or readjustment pay[.]; *or*

(3) is involuntarily separated from active duty during the five-year period beginning on October 1, 1990."

Paragraph (1) of subsection (c) of section 404, title 37, United States Code, is amended under section 9119 of the Committee reported bill as shown below:

"(c)(1) Under uniform regulations prescribed by the Secretaries concerned and as provided in paragraph (2) of this subsection, a member who—

(A) is retired, or is placed on the temporary disability retired list, under chapter 61 of title 10; or

(B) is retired with pay under any other law, or, immediately following at least eight years of continuous active duty with no single break therein of more than 90 days, is discharged with separation pay or severance pay or is involuntarily released from active duty with separation pay or readjustment pay;

may, not later than [one year] *two years from the date he is so retired, placed on that list, discharged, or released, except as prescribed in regulations by the Secretaries concerned, select his home for the purposes of the travel and transportation allowances authorized by subsection (a) of this section.*"

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

AMENDMENT NO. 3116 TO THE COMMITTEE AMENDMENT BEGINNING ON PAGE 64, LINE 15

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 3116.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of line 6, page 65, add the following new section:

"Notwithstanding any other provision of this bill, the amounts appropriated for the programs in support of the intelligence community of the federal government for the National Foreign Intelligence Program shall be reduced by $500,000,000; and the amounts appropriated for the programs in support of the intelligence community of the federal government for the Tactical Intelligence and Related Activities Program shall be reduced by $500,000,000."

Mr. BUMPERS. Mr. President, this is an amendment that would cut the intelligence budget by $1 billion. I think this is the first time—certainly the first time in my memory—that a proposed cut in the intelligence budget has been made on the floor of the U.S. Senate. And I must say, because of the constraints in what you can say regarding our intelligence budget and our intelligence community and what they do, it is a very difficult thing to talk about on the floor in a way that the colleagues can relate to it.

I remember one time when a missile exploded in central Arkansas. It was a Titan II missile, and it was in 1980, I believe. The reason I know is because I was in Hot Springs, AR, at the time it happened; several people were killed because somebody inadvertently dropped a socket wrench down in the silo and the thing exploded and the warhead on the missile landed, oh, I do not know, 400 or 500 yards away. And somebody called me in Little Rock from the Defense Department to tell me this had happened.

Fritz Mondale was the Democratic candidate for Vice President at the time. He was in Hot Springs that night. That is the reason I was there.

But to get on with the story, I found out that we have a policy of neither admitting or denying that a missile carries a nuclear warhead. And, so far as I know, that is still a rule.

I can remember, it was not until 1978 that we agreed in this country as a matter of policy to admit that we had photo reconnaissance satellites circling the globe, spying on the Soviet Union.

There was not a soul in the Soviet Union, not a soul in the United States, who did not know we had orbiting satellites photographing the Soviet Union. But it was not until 1978 that we decided to admit it.

Mr. President, in that connection I can tell you, if I come back to the Senate next year, one thing that I am going to try to get accomplished is what virtually everybody with a grain of sense believes we ought to do and that is to declassify a whole host of things so we can talk about them.

One of the reasons we cannot get anything done with the intelligence budget is because you cannot put a chart up here, as we normally do—and as I will tomorrow when I am debating the Trident II missile, showing you how many we have, how many we are going to produce, everything you need to know to vote intelligently. You cannot do that on the intelligence budget.

I cannot talk about how much the intelligence budget is because that is classified. I can tell you what the Los Angeles Times says. I can tell you what the Director of the CIA says, in an unclassified letter that he has sent to every Member of the U.S. Senate in the last 4 days. And that is that $1 billion has been cut from the so-called National Foreign Intelligence Program, called NFIP, which is an acronym for National Foreign Intelligence Program. He alludes to the fact that the Intelligence Committees and the Defense Appropriations Committees cut $1 billion out of that program. And an unclassified CIA background paper says it's a 5-percent cut.

If you finished third grade arithmetic you can figure out what the national foreign intelligence budget is. But I am not going to say it on the floor of the Senate. I am just telling you what the unclassified figures are, according to the Central Intelligence Agency.

I want to also say at the outset, I am not here to trash the CIA, Navy Intelligence, Defense Intelligence. I am not here to trash any of our intelligence community, though I must say at times I have been deeply dismayed and chagrined when I got bad information and personally acted on it.

But when the Director of Central Intelligence, Robert Gates, found out that I was going to offer an amendment to cut $1 billion out of the National Foreign Intelligence Program and also out of the tactical intelligence programs, he very kindly called and asked for an appointment. He came to my office. I never met a more engaging person, a more intelligent person. I thoroughly enjoyed our visit. And I have nothing derogatory to say about the Director of Central Intelligence, Robert Gates.

I thoroughly enjoyed my visit with him. But, Mr. President, we are not running a popularity contest; we are running a nation. And we are running a deficit of $400 billion this year. One of the reasons we are running a $400 billion deficit is because the U.S. Senate can never find any place to cut.

Next week, unless I change my mind, I am going to put a chart here to show the Senate the actions they have taken just on opportunities I have presented to them to cut the deficit. I am going to show the space station as a savings of somewhere between $113 and $200 billion over the next 28 years, and the Senate said no. I am going to show the superconducting super collider, which will be shown as a savings of $20 to $30 billion over the next 25 years, and the Senate said no.

I am going to show a microscopic $1 billion that the Senator from Tennessee and I tried to take out of the strategic defense initiative, and the Senate first said yes, and then it said no. I offered a bill to reform the mining laws of this country, and every single Member of the Senate understood precisely what the issue was: That billions-and-billions of dollars' worth of minerals are being taken off Federal lands for which we receive not one red cent. And I offered an amendment to provide royalties, and a whole host of other reforms in that, that would have meant billions off the deficit, and the Senate said no.

I got 42 votes; that is 6 less than I got the year before last, Mr. President. The deficit is twice as high as it was 2 years ago, and I got six votes less to reform the mining laws and require the mining companies of this country to do what they do when they mine on private lands: Pay a royalty, and clean the mess up.

And today, the Senator from Tennessee [Mr. SASSER], the Senator from New York [Mr. MOYNIHAN], and yours truly come once again to the U.S. Senate pleading, begging, cajoling, saying: For God's sakes, when are we going to start addressing the problem that is uppermost on the minds of the people in this country?

And tonight, about 7 o'clock, and maybe earlier, if we yield back some of our time, the Senate again will say: No; we do not want to cut anything.

The argument that the Director of the Central Intelligence made to me, and that will be made by the opponents of this amendment, will be they have already taken a cut, a billion-dollar cut.

Mr. President, in 1980—and I have the Director's word for this; I am not going to try to verify it or confirm it. Every Senator has a letter in which the Director says that in 1980, 58 percent of the intelligence budget went to spy on the Soviet Union, and he said in a speech in New York that the 1990 figure was still 50 percent.

Mr. SASSER. Will the Senator yield on that?

Mr. BUMPERS. I will be happy to yield.

Mr. SASSER. Will the Senator repeat that? I did not catch that. What percent of the intelligence budget?

Mr. BUMPERS. It took me a while to get used to it, too. In 1980, 58 percent of the intelligence budget went to spy on the Soviet Union. And in 1990 the figure was 50 percent. But following that, the Director, in his letter, also says that in 1993, that figure will be down to 34 percent. Bear in mind that the 58 and 50 percent figures and the 34 percent, Mr. President, is for the Soviet Union, on the one hand; and the Commonwealth of Independent States, which is all the Republics of the former Soviet Union, that will be down to 34 percent.

But now bear in mind, that does not include Czechoslovakia, that does not include anything such as Poland or Hungary or the other Eastern bloc nations that used to be a part of the Warsaw Pact powers. I do not know what it would be, but my guess is that if you took the 34 percent to their budget that they are using to spy on the independent states of the former Soviet Union, and you take what they are using to spy on the nations that used to be a part of the Warsaw Pact powers outside the Soviet Union, you are still looking at 50 percent of the intelligence budget to spy on a situation that used to exist but does not anymore.

We used to spend unbelievable amounts of money spying on East Germany, which is now a part of the German Republic. I do not know why we spend any money spying on them, except to find out who they are shipping weapons to, which they have a strong tendency to do, ship weapons to people that we do not like.

But the argument will be made, as I was saying a moment ago, that the Senate Armed Services Committee, the Defense Appropriations Subcommittee, and the Intelligence Committee have all agreed to a billion-dollar cut, none of it—none of it—out of what we call tactical intelligence [TIARA].

That was not touched in the amendment. So far as I know, all these committees cut about the same amount; is that not correct? All three committees that have any jurisdiction in the Senate over the intelligence budget cut their budget by just about precisely the same amount.

Mr. President, whether we adopt this amendment or not, we will be going to conference with the House and working something out. We will get into one of those secret rooms where we can talk about these various programs and whether they are really necessary.

I am leading off with a debate of both the head and the heart. My head and my heart tells me that there is absolutely no justification to continue a budget at a level as high or higher than it was when Brezhnev was in control of the Soviet Union. I have said, in jest: CNN will give you 15 billion dollars' worth free, what we have been spending $15 billion for.

The Soviet Union has shown the United States where every listening device is in the fatally bugged American Embassy. Everybody knew that embassy was bugged. I heard Gorbachev privately admit to President Reagan and President Bush both that they made a terrible mistake. Once Yeltsin came into power, they carried blueprints—blueprints, Mr. President—over to the American Embassy and said: Here is a blueprint showing you where every listening device is in that embassy. All we can do is apologize.

They cannot repay us for the cost of it because they do not have anything to eat, let alone pay us for the bugs they put in our Embassy. Then they take anybody who wants to through Lubyanka prison. I can remember the few times I have been in the Soviet Union. It is an interesting thing that the Bolshoi Ballet and Lubyanka prison are very close together. Think about the greatest asset the Soviet Union had, namely the Bolshoi Ballet, and a prison where they tortured political dissidents, Lubyanka, almost side by side. But now they will take you on a tour. As a matter of fact, I think they charge American tourists to take them through Lubyanka prison.

Finally, Mr. President, do you know what the Soviet Union wants? They want us to come and dismantle their nuclear weapons. They do not know how to do it. They have never dealt with that. They want us to dismantle their nuclear weapons. And do you know what? We would love to do it, but we are broke.

I am not going to rehash all the reasons we are broke. You know why we are. The Soviet Union bankrupted themselves trying to keep up with us. And, as I said many times, the verdict is out on us.

So here you have an intelligence budget that is as high as it has ever been, and the reason it is as high as it has ever been is because the Soviet Union was there and the Warsaw Pact powers were there, and in the 1980's the intelligence budget, because of communism, went up 100 percent in real terms.

Now the Soviet Union does not exist. The rationale for this massive intelligence budget does not exist. The Warsaw Pact powers are applying for admission to NATO. But tonight when we vote, the Senators will come in here and it will be business as usual: No, no, no, we cannot save $1 billion out of this. We cannot save $1 billion out of anything.

I would like to ask some of my colleagues who are going to vote "no," to tell us during this debate where we are going to start. We cannot cut the space station; we cannot cut the super collider; we cannot cut SDI; we cannot cut the B-2 bomber.

We cannot cut anything. What do you say to people back home when they ask you about the deficit? I know what they say: I am for a constitutional amendment to balance the budget. I am for line-item veto. I am for anything except facing the music.

So the argument will be made that the Russians are still going to come up the Potomac and get us if we cut $1 billion out of this budget. I promise you, Mr. President, without revealing any figures, this $1 billion cut that I am proposing will not hamper our intelligence community one scintilla, not one iota.

Mr. President, do you know what the interest will be on this $1 billion that we have to borrow if we do not cut it next year? Let me put it this way. Do you know what it will be over the next 30 years? That $1 billion that we are asking you to cut will turn into $3 billion over the next 25 to 30 years in today's dollars.

Now, who here believes that this country can keep borrowing $400 billion a year?

They say, well, a billion. I can remember in the Appropriations Committee when people used to say, well, it is just a billion. Let him have it; he needs that bridge; he needs that dam. It is just $1 billion; let him have it. When I sit in the Appropriations Committee, Mr. President, one of the things I think about is how much in taxes I paid last year, and when they say it is just $1 billion, that is being applied to my taxes for several years to come.

So, Mr. President, if I thought this amendment jeopardized our ability to know all we need to know about everybody else, I would not be offering it. If I thought this jeopardized our defense forces, if I thought this jeopardized our national foreign policy, if I thought it jeopardized anything, I would not be offering it. And nobody will make that argument on the floor of the Senate. Oh, they will hedge around it and they will talk about it, but nobody is going to tell you that we will not be able to cope.

I saw in the paper the other day—I said I was not going to be critical of the CIA or anybody—where the only thing the CIA said they knew about this bank down in Atlanta was what they read in the paper, and they were supplying arms purchases to Iraq.

Mr. SASSER. If the Senator will yield for a question, the bank in Atlanta, is he talking about the BCCI scandal?

Mr. BUMPERS. It is an Italian bank.

Mr. SASSER. I see. This is not BCCI.

Mr. BUMPERS. Well, I do not know. I do not want to divert the debate off on that. I am just simply saying here was a bank that was apparently financing arms to Iraq and the CIA said all they knew about it is what they read in the paper. I can tell you—well, I do not want to get into that.

I just simply want to say, Mr. President, there are a lot of people besides the senior Senator from Arkansas who believe this budget can be cut and ought to be cut. Here is a quote, Mr. President, from Aviation Week and Space Technology, August 17, a month ago:

> U.S. lawmakers searching for fat in the Federal budget should lift the wraps off the $36 billion plus spent annually by the super secret "black" world. If people really want to crusade against waste and excess regulation, let them begin here.

Lt. Gen. William Odom, former Director—listen to this, Lt. Gen. William Odom, former Director of the National Security Agency said, February 12 of this year:

> The intelligence community has, in my view, been greatly overfunded for the past 10 years. We may well have 10 times too many analysts in the intelligence community today.

And here is where General Odom again says:

> The intelligence budget grew far more in the 1980's than was necessary.

William Colby, former Director of the Central Intelligence Agency—former Director; he did not just fall off a turnip truck. This guy knows what he is talking about:

> There is substantial money to be saved. I would say a substantial reduction in intelligence funding is possible, and that means several billion dollars.

Not one, Mr. President, several billion dollars. And the Los Angeles Times, on March 3, this year:

> The Bush administration has proposed a 1993 intelligence budget of about $30 billion—

Bear in mind that is what the Times says. I am not saying that—

> virtually unchanged from the current year or from peak years of the cold war, officials say. Central Intelligence Agency officials and Congressional aides said intelligence spending would be reduced by only 2 to 3 percent.

Now, Mr. President, I am going to ask the Members of this body to put this on the scale and balance it thusly. If you think that cutting the intelligence budget by $1 billion is going to hurt the intelligence community and our intelligence gathering operations, or even if you believe that $2 billion, counting what I am proposing and apparently what has already been cut by the committees, is going to jeopardize our intelligence gathering apparatus and that somehow we are going to be jeopardized, first, I want you to tell us how. And secondly, I want you to balance that cut against a $400 billion deficit just for this year with an economy so sick it cannot get off the floor. You tell me, do you think this country is threatened more by the Soviet Union, or what used to be the Soviet Union or what is going on in Bosnia, or do you think it is threatened more because we are spending $400 billion a year we do not have? Why, the answer lies in the statement.

I yield the floor, Mr. President.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I rise to support the amendment of the Senator from Arkansas. The Senator from Arkansas, in my opinion, is quite on target. And I say that as a member of the Intelligence Committee, without intending to violate any of the proscriptions pertaining to secrecy. It is my personal belief that a $1 billion cut, half of it from tactical intelligence and half of it from the national intelligence budget authorized by the Intelligence Committee, does make good sense.

The Senator from Arkansas made some points that I was interested in. I am not sure he covered all of these points. But he was talking about the fact that the very people who voted against raising the fees with respect to mining on public lands, those who supported the line-item veto and a balanced budget amendment—and he may have mentioned those who opposed grazing fees—certainly all of those who have made the loudest and strongest speeches over a period of years about balancing the budget will be the ones who will be the first to be in line at the front desk indicating their opposition to this amendment.

Somehow I have difficulty in understanding how you can be for the line-item veto or for the balanced budget amendment and come out here day in and day out and refuse to vote for amendments that can save millions, even billions of dollars.

Often we talk about expenditures in the area of defense, and now in the area of intelligence. Those are the hardest votes to come by. I am not sure why. But to me it is the ultimate inconsistency; maybe this is one of the reasons the people of this country cannot understand and do not appreciate what their Members in Congress do or fail to do.

I believe that intelligence is an important contributor to our national security. But we also need to know that fiscal responsibility extends to all parts of the budget, even to national security areas, just as it does to other elements of Federal spending.

This Congress—this Senate and the House—consistently talk about balancing the budget, goes out on the campaign stump, talks about balancing the budget, talks about wasteful Government spending. But then when it comes down to the nitty-gritty of cutting back on defense expenditures or, in this case, intelligence expenditures, no. The answer is no. Somehow that is safer. That is sacrosanct. We cannot touch that.

There are two basic reasons for my support for this amendment. First, as emphasized last week by Admiral Crowe, the former Chairman of the Joint Chiefs of Staff, the real foundation of our national security is not our arms or our intelligence satellites, but rather the American economy. And we will never bring the economy around until we get a grip on the ballooning Bush-Reagan deficit.

Let us not kid ourselves. The President can do or talk about everything he wants to, as far as assessing blame; but he has to accept the responsibility, as does his predecessor, for the shape that we are in at this very moment.

Now, the fact is that discretionary spending is a smaller proportion of the Federal budget than it once was. We have to look for reasonable cuts wherever we can find them; there can be no sacred cows when the price is both hunger at home and weakness abroad. So even the intelligence budget must contribute its share of spending cuts.

Second, I firmly believe that we can cut the billion dollars proposed by this amendment without in any manner affecting the efficacy of our intelligence activities.

I am personally convinced that there is room for these cuts without any danger to the national security.

While I am not at liberty to list where these cuts would be taken, I can tell you that when I asked the staff of the Intelligence Committee to come up with candidates for similar cuts last year, they had a hard time. But this year, they came up with proposed cuts at this level with very little difficulty.

With regard to the National Foreign Intelligence Program, I want to make clear that the Intelligence Committee has done a very creditable job this year. We cut more than $1 billion from the amount requested by the executive branch, and I commend our chairman and vice chairman for that achievement.

But that $1 billion was basically in painless cuts, and I think that modest additional cuts can be made with only slight pain.

I want my colleagues to give particular heed to what I am about to say. I know of about $200 million in additional cuts that the Director of Central Intelligence would take himself. There are $200 million in additional cuts that the Director of Central Intelligence would take himself, given the opportunity to do so.

So what we are talking about then, if he would take $200 million, is only another $800 million over and beyond that—and only $300 million in national intelligence.

With regard to tactical intelligence, the Intelligence Committee can only recommend cuts to the Armed Services Committee. But again, our staff had very little difficulty in coming up with such recommendations this year.

There were items that had been requested twice in the same budget, or that could not possibly be spent because schedules had already slipped. I think both the Armed Services Committee and the Appropriations Committee agreed with our recommendations on those cuts.

But when we suggest actually cutting back on programs, committees tend to step back. They do not want to cause any pain, even when the need for a system has gone away—as it has for many of our antisubmarine systems, given the withdrawal of the Soviet Navy as a challenge to United States forces on the high seas.

Now I understand that the Appropriations Committee took more cuts in tactical intelligence than did the Armed Services Committee. And the amendment before us would result in greater cuts in tactical intelligence than those the Intelligence Committee recommended. But there is still plenty of room for more cuts in programs—especially those programs that were designed to fight Soviet forces that no longer present a credible threat to the West.

So I strongly support the further cuts in tactical intelligence that Senator BUMPERS has proposed. And I also support the additional cut in national intelligence programs, even while recognizing the good work that the Senate Intelligence Committee has done in this area, because a total cut of $1.5 billion in national foreign intelligence really is reasonable.

Given the country's need to bring down the deficit, we all must pitch in and let me adopt the words of that former President who is so particularly popular with our Republican President as well as our Democratic candidate. As Harry Truman said, "The buck stops here."

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I rise in opposition to the Bumpers amendment. I think when one considers the merits of the intelligence one must be mindful of the assurance it provides. How much would it cost this Nation if suddenly the situation in Russia were to turn about? How much would it cost in increased military posture and increased expenditure?

Mr. President, as long as we have top quality intelligence we have some assurance that we can be aware of actions taking place throughout the world that affect the national security interests of our Nation.

The Bumpers amendment to cut an additional $1 billion from the intelligence budget—$500 million from the National Foreign Intelligence Program, and $500 million from the Tactical Military Intelligence Program—appears simple on the surface. But, Mr. President, if it is adopted, we will be responsible for making the intelligence services of our Nation go slowly blind.

The amendment will affect us like glaucoma. Our sight will become blurred. We will miss key events. Clear pictures will lose their clarity.

This amendment could harm U.S. policymaking, no matter who makes the policy in the future. This amendment will also undermine the efforts undertaken by the Director of the Central Intelligence Agency, Bob Gates, to streamline the intelligence community—to recognize and cut down on duplication. Since taking his position just a year ago, Director Gates has designated task forces to look at all options on a variety of issues, and then he has taken the recommendations of these task forces seriously.

As vice chairman of the Intelligence Committee, I can tell you that virtually all of my colleagues would agree with that statement. Mr. Gates has taken a careful approach that has resulted in major readjustments both in terms of intelligence programs and costs, and I, for one, want to encourage the Director, not to discourage him and his people through the adoption of an arbitrary $1 billion budget cut.

This proposed amendment that we have before us also undermines the hard work and bipartisan efforts of our Committee on Intelligence which spent months in reviewing the budget—program by program. Our budget process took a good deal of our time as we considered the implications of the cold war's end and the need to realign the focus of the intelligence community away from the previous targets of that cold war.

However, our budget process also took into consideration other realities. We have an increased need to know what is happening in the Third World; the ethnic strife is becoming a frightening reality. Look at what is happening in the former Yugoslavia. We need to understand the implications of that conflict. Is it merely a civil war, or can it affect the national security of the United States by spreading to other regions and other countries?

We also need to know more about the proliferation of nuclear, chemical, and biological weapons. Are scientists in the former Soviet Union going to sell their knowledge to the highest bidder in the Third World? We must know factually.

What capabilities do Qadhafi or other Third World tyrants have to produce and deliver systems and weapons of mass destruction? What about conflicts among or between new republics? What weapons will they use? Are the military leaders of the former Soviet Union really going to stop production of chemical or biological weapons? Can the political leaders of Russia really control the military? I, for one, want our intelligence professionals to have the means to give answers, correct answers, to these difficult questions, without having to go back for more information.

We also have to look at the spread of Islamic fundamentalism. Where will Iran want to export its revolution? To Afghanistan? To the new Republic of Turkistan?

Intelligence has something to offer us on global environmental concerns. We can use data and information we have already collected—that the taxpayer has bought and paid for—to better understand global change, ozone depletion, and similar environmental threats. We can collect intelligence on the environment in order to make decisions about the environment and global change based on facts, rather than emotion which is so often the case.

We had a hearing in Alaska in August on the nuclear activities of the former Soviet Union and how we might be affected by the resulting radiation. It opened up a whole new area of consideration with regard to intelligence that is appropriate, that is available, and that must be directed to knowledgeable policymakers.

We need to know more about the global economy, not to engage in industrial espionage, but to get smarter on issues that affect our ability to compete worldwide. We also need to increase our research and development efforts in high-technology communications. The world's communication systems are becoming incredibly sophisticated, and we simply have to keep pace.

In short, the Select Committee on Intelligence did not simply rubberstamp the President's budget request. We made our own decisions and our own choices. We fulfilled the responsibilities given to us by the Senate, and we voted on a bipartisan basis, 14 to 1, to report out the bill.

Mr. President, it is interesting to note that the one vote against our bill was by a Senator who thought our cut was too much.

So let us be clear; we did not increase intelligence spending; we cut it by over $1 billion. That is not all. Spending on the intelligence community has been cut deeply by other recent actions of consideration at this time. Intelligence took approximately $300 million in net cuts last year. Another $500 million was rescinded this year, all in addition to the $1 billion cut in the fiscal year 1993 authorization bill.

All these cuts have occurred before fiscal year 1994 when the budget agreement expires and intelligence has to compete directly against domestic spending. As this year began, many of us realized full well that the world changed dramatically, that both our defense and intelligence budgets would have to be scrutinized quite differently than in previous years. At the same time, many of our colleagues on the committee became convinced that this was not the year to make more dramatic cuts in funding in our intelligence. We arrived at this conclusion knowing full well that there would be a serious pressure brought to bear by this body to take money from defense and shift it to domestic programs.

As I have previously noted, Mr. President, the complexities of the world have increased, not diminished, as a result of the breakup of the Soviet Union. At the height of the cold war, our intelligence community perhaps had the luxury of being able to focus a great deal of attention and effort on a few main targets—the Soviet Union and its satellites being the most obvious.

Now, however, our policymakers in Congress are determining and demanding more information about newly emerging republics, about newly emerging leaders, and about other regions of the world, to determine whether they may affect our national security. Therefore, different and new demands for information and analyses are being placed on our intelligence community.

I, for one, do not simply want to rely on press accounts to make difficult decisions. I want the best expertise of our intelligence officers and analysts as to what is really happening and what response we might expect if we employ various options. We need clear information to make clear and proper decisions, particularly if those decisions mean putting our men and women in the Armed Forces at risk.

Throughout this year's budget process, Senator BOREN, chairman of the committee, and I have asked our budget staff to make a thorough analysis of all programs, to eliminate unnecessary spending, and to shift resources into more important areas. I believe we complemented the efforts begun earlier this year by the Director of the Central Intelligence, Bob Gates, who has done a superb job in reorganizing elements of the community to be more responsive to the changing world.

The authorization bill voted by our committee reflects the very careful attempt to maintain important capabilities in such areas as nonproliferation, counternarcotics, counterterrorism, and other such areas, while at the same time taking care to maintain strong capabilities in human intelligence and signals intelligence. We have also asked the Director of the CIA to develop a plan to reduce costs in duplication and to establish a so-called architecture for imagery before we fund costly satellite programs in the future.

Overall, Mr. President, I am comfortable with the level of spending in our authorization bill and with the reductions we have made. I am particularly gratified that the Armed Services Committee applied our savings to the deficit reduction. This was an important element of our approach to reducing the budget this year and one that was agreed upon unanimously within the committee.

So let me repeat, Mr. President, our Intelligence Committee has made cuts in intelligence spending. Our adjustments in programs and priorities have been made prudently.

We did not take an arbitrary slash at the budget, as contemplated by the amendment of the Senator from Arkansas. The Senator from Arkansas has not identified specific areas where intelligence spending is out of line. He has not argued for a shift in priorities, in collection, or analysis, and he has not told the Senate why our Intelligence Committee, one of the few bipartisan committees of the Senate, did not do its job properly. Where did we fail?

If we take the simple approach and strike $1 billion from the intelligence community, I implore all Senators in the future, do not expect that the intelligence community will respond to your vicarious appetites for information or analysis and do not criticize policymakers for making misjudgments. They will not have all the facts, nor will we in this body.

I ask the Senate to defer to the judgment of the Select Committee on Intelligence. You gave us the responsibility to make decisions on classified programs. We do not accept that lightly. We take it very seriously, and I believe we have exercised that responsibility carefully and prudently.

Mr. President, I ask my colleagues to vote against the pending Bumpers amendment.

I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, we find ourselves here in the year 1992, living in a radically changed world. We have found ourselves as Americans, in my lifetime and the lifetime of almost every Senator here, having lived in circumstances of radical change before, and this country and this Government has responded to those changes or need for changes in years past.

Let us analyze how the world changed for just a moment, a changing world that gave rise to the very large, complex, and highly expensive intelligence community that we presently have in the United States.

Up until the Second World War, the U.S. Government had a very small intelligence apparatus. It was operated principally out of the old War Department—Naval Intelligence, Army Intelligence, and, frankly, that was about it.

World War II gave birth to the Office of Strategic Services, the so-called OSS. Following World War II, President Truman determined that we needed to have an overall intelligence coordinating agency and that we should expand and make permanent the predecessor agency of what is now the Central Intelligence Agency, the OSS.

So a new agency was born, the Central Intelligence Agency, which had the overall responsibility for developing the intelligence for the U.S. Government, coordinating intelligence developed by Naval Intelligence, Army Intelligence, the Defense Intelligence Agency, which we now know as DIA, intelligence coming in from the Federal Bureau of Investigation and other agencies that might be gathering intelligence as either their principal reason for being, or as a collateral function of that agency.

This intelligence gathering apparatus continued to grow. It grew by exponential leaps and bounds, for example, in the decade of the 1980's. We found that during the course of the 1980's, while defense spending was going up 5 percent in inflation-adjusted dollars—we found that the expenditures for the intelligence community were growing in real terms by over 100 percent.

Now those are not my judgments, Mr. President. That is the language that is contained in the House Appropriations Committee report. They indicate that the intelligence budget of the U.S. Government increased by 100 percent in real dollars, corrected for inflation—that is, inflation-adjusted dollars—a 100-percent increase in the decade of the 1980's, while defense spending was going up about 5 percent in real dollars corrected for inflation.

Now changed circumstances and changed world circumstances is really what gave birth to the Central Intelligence Agency and this very large constellation of intelligence-gathering agencies that came under the umbrella of the Director of Central Intelligence. Pursuant to these changed circumstances over a period of a half a century, the U.S. Government came to the point that—at least, judging by newspaper accounts—this intelligence-gathering capability was costing us $30 billion a year. Those are the figures reported in the popular press. I neither confirm nor deny them on the floor here today. But that is an extraordinary amount of money.

Now, the same circumstances in the post-World War II years that gave birth to the Central Intelligence Agency and this vast expenditure of funds for intelligence-gathering, circumstances that have changed once again with the collapse of the Soviet Union, has made the threat evaporate.

The distinguished Director of the Central Intelligence Agency, Mr. Robert Gates, in a letter to all of the Senators here, indicates that in 1980, 58 percent of the CIA's energies went to gathering intelligence on the Soviet Union.

Now the threat of the Soviet Union is enormously diminished, we all know. In fact, the Soviet Union no longer exists. Well, how has the intelligence community and the Central Intelligence Agency, in particular, reacted to this basic change in circumstances? They have reacted predictably, as you would expect any other bureaucracy to react. They are busily finding something else to do, some other justification for the operation and maintenance of their bureaucracies.

Bureaucracies are made up of human beings and they are like human beings, in that they want to perpetuate their life and their existence. And that is precisely what the Central Intelligence Agency and other intelligence agencies are doing at the present time.

Now, there are those who would say, well, let the bureaucracy make its own decisions on what reductions should be made. Let the bureaucracy make its own decisions on what its future course of conduct would be.

Well, we all know what happens when bureaucracies make decisions regarding their own futures. They act in a way to guarantee the prosperity of those future years.

So I say to my colleagues, the time has come to address the question of spending on the Nation's intelligence community. It comes because of enormously changed circumstances in the world in which we live—principally the collapse of our principal nemesis, the Soviet Union.

It is also time to ask whether or not it is necessary, in this post-cold-war era, for intelligence agencies to continue to operate under a cloak of budgetary secrecy.

After all, this is a democracy. After all, the people have a right to know how their tax dollars are being spent. And perhaps it is time to lift away the cloak of secrecy over the budget of the intelligence community. Else, how are we ever to get a handle on this massive bureaucracy, if we cannot discuss publicly even how much money is being spent?

The exact amounts of the expenditures for the intelligence agencies are classified. But I think it is widely known and accepted that intelligence programs represent a sizable element of the Federal budget.

It is fair to say that in these days of shrinking budgets and hard choices, the intelligence budget remains sizable. I stand before my colleagues today as chairman of the Senate Budget Committee with the responsibility of trying to help shape the spending priorities of the U.S. Senate.

I have had no hearings before my committee on the intelligence budget. Indeed, hardly any of the Members of the Budget Committee know the size of the intelligence budget.

It was only today, when I went into a room in a cloistered area of the Capitol and sat, with others watching me, that I was able to go over a few sheets of paper that indicated what the amount of expenditures might be. That is all classified. We cannot talk about it. I do not intend to.

But I think we all know that we spend more in this day and time on intelligence gathering, on intelligence agencies, than we do in funding the Women's, Infants' and Children's Food Program. We certainly spend a lot more than we do on other programs like Head Start. I think we all know we spend more on the intelligence community than we do on diplomacy and foreign aid combined. We all know that the Federal Government spends more on intelligence than it does on education.

It appears to me it is elementary, now, in this new world order, that we need to know something about the amount of these expenditures and have some discussion about what they are spent for so there can be some prioritization of spending, given the very strained fiscal circumstances in which we find ourselves.

So it is time, in this new world order, as pronounced by President Bush—and, indeed, it is a new order—it is time to review these priorities. The first priority, should we be spending as much on the intelligence apparatus? And how much are we spending? And should the public, or at least should the Congress, know how much we are spending, and should these spending figures be debated?

The amendment that my friend from Arkansas, Mr. BUMPERS, and I offer today will simply cut $1 billion from the intelligence budget. We have had a lot of discussion over a period of many weeks and many months about what is to be done about reducing the Federal deficit. We all know that it cannot continue at the present level. The U.S. Government finds itself in very, very dire fiscal circumstances, indeed.

We are going to have to make some decisions here. We are going to have to assign some priorities. At long last, we are going to have to get down to the business of actually reducing expenditures in areas where the funds can no longer be used efficiently, and in areas where there is no longer a need for large Federal expenditures.

Yes, I know many of my colleagues vocally support the constitutional amendment to balance the budget. They go back home and they make long speeches for the Rotary Clubs, and tell the Rotarians how something must be done about the deficit. And they are doing their bit because they support a balanced budget amendment to the Constitution of the United States.

But I say that that balanced budget amendment to the Constitution of the United States does not reduce the Federal deficit by 1 cent. Those same colleagues who make those speeches, who talk bravely about supporting a balanced budget amendment to the Constitution, have the opportunity here today, once again, to make an actual spending cut.

I am not as pessimistic as my distinguished colleague from Arkansas. I think there is at least a fair chance that a majority of Senators will walk in here and say: Let us just cut at least $1 billion from an intelligence budget, a budget in which the Director of the Central Intelligence Agency tells us that, in 1980, 58 percent of which was directed to gathering intelligence on the Soviet Union, a country that no longer exists.

I think my colleagues will realize the interest savings alone on this amendment will total $75 million in 1994. And, by the end of the decade, we will be saving $150 million a year in lower interest costs just as a result of 1 year's cut of $1 billion in the intelligence budget.

That is real savings. That is real reduction in the deficit. And those who are going back home and beating their breasts about supporting a balanced budget amendment to the Constitution of the United States, let me ask you here today to give some consideration on the floor of the U.S. Senate to putting some substance behind your rhetoric.

Surely you can vote for a $1 billion cut, a cut of somewhere in the neighborhood of 2 to 4 percent in the budget of the intelligence community, when the Soviet Union, our chief adversary, has collapsed.

Yes, these modest reductions will help ease next year's budgetary pressures, because next year we will not have separate caps on domestic and international and defense spending. In the next 2 years, the Senate will have to find at least $25 billion, I say to my colleagues, in additional spending cuts, even if we accept all of the cuts in military spending that were proposed by the Senate Armed Services Committee. By starting this process now, we will make this task much easier.

Some will say this endangers national security. If we cut $1 billion off the intelligence budget, will this endanger our national security? Of course not. We all know the answer to that. As I said earlier, intelligence budgets grew by leaps and bounds in the 1980's; over a 100 percent increase in real dollars in intelligence spending in the decade of 1980's. Intelligence spending was going up 20 times faster in the decade of the 1980's than military spending itself.

My colleagues, the number of intelligence personnel, those employed in intelligence-gathering operations in Washington, DC, grew by over 70 percent in the same decade of the 1980's.

Now, bear in mind, this was the decade in which Presidents Reagan and Bush, and particularly President Reagan, we calling for a reduction in the size of Government. "Let us get Government off our backs." But we learned that the number of personnel employed in the intelligence community in the Washington, DC, area grew by 70 percent in the same time period.

Certainly, a modest reduction of 2 to 4 percent of the funding levels contained in this bill is not going to cripple intelligence programs. In fact, this amendment really may lead to a more open and healthy debate on intelligence spending. Until now, these programs have been almost totally hidden from the normal budgetary process. These secret intelligence budgets, here in what is supposed to be an open and free society, remain almost entirely free from public scrutiny.

The reason given is that this secrecy protects our intelligence sources and their methods, and there is some rationale for that; I am not arguing that The argument goes that, if we publish information about the intelligence budget a foreign intelligence service might be able to glean trends in U.S. intelligence from this data. What foreign intelligence service? Which one are we so concerned about these days? There is no gainsaying the fact that these intelligence budgets are secret and shield the intelligence community from the rigors of open debate in an open society. The same secrecy serves to exclude all critics from reviewing these programs. The secrecy prevents a critical review of the programs themselves.

I am not denying the depths of the cold war. Maybe this was necessary, but in this new world order with defense budgets shrinking, domestic budgets shrinking, a worldwide shortage of capital—some say that is what led to the currency turmoil in Europe, there is just not enough money to go around—can we not at least make a very modest reduction in these intelligence agencies?

And is it not time to begin debating the merits of this secret spending for intelligence? Is it not time to open at least a part of it up? I think this amendment will start this process by simply curbing spending on intelligence programs ever so slightly, by cutting really less than 4 percent of the intelligence spending in this bill—I do not know precisely how much it cuts, and if I did say it precisely, I would be subject to criticism, but I would say within the range of 2 to 4 percent. Even if this amendment is adopted, the funding and spending for intelligence will remain at a very robust level indeed.

This amendment will give us some breathing room. It will give us some savings. It will encourage a reevaluation of the role of the intelligence community in a so-called new world order. Even Mr. Robert Gates himself, the head of the CIA, a man who I do not criticize on this floor today, and a man who I think is a dedicated public servant, has advocated just such a reorganization of the intelligence community.

But I am not willing to let the reorganization of the intelligence community be done entirely by the intelligence community. I am not willing to stand by and see it hindered by bureaucratic inertia.

This amendment is a clear signal that now is the time for the intelligence community to begin the painful adjustment away from a cold war posture that it knows so well. Future spending levels for these programs are going to be constrained, and all Government agencies, even those who operate in secret, must adjust to the new world order.

Mr. President, I would like to state to the many men and women who served in our intelligence agencies with courage and distinction over the years, this amendment is not aimed at them. Before offering this amendment, we paid heed to the former chief of the National Security Agency, Lieutenant General Bill Odom, who recently remarked that even a pretty healthy cut in the U.S. intelligence budget would not hurt the ranks of intelligence.

These savings are possible, they are necessary, they are desirable. They ought to be easy for Senators to vote for. This amendment does not threaten our national security. It is not going to gut our intelligence agencies. It is a good amendment. And if Senators cannot come on this floor and vote for a $1 billion reduction in intelligence budgets following the collapse of the Soviet Union, then I despair, Mr. President, that we are ever going to have any spending cuts, that we are ever going to do something about this deficit.

So, I implore my colleagues to support this amendment. It is an amendment that is necessary. It is an amendment that is so easy to vote yea on, to stand up and say, yes, I am in favor of saving $1 billion, I am in favor of not forcing and placing the burden on my children, or my grandchildren, of keeping the intelligence agencies, for which there is not as much need as there used to be, working at full capacity trying to find something else to justify their existence in the post cold war period.

One final world before relinquishing the floor to my distinguished and learned friend from New York, Senator MOYNIHAN, who is much more knowledgeable on the issues of the intelligence community than I am. I appear here this afternoon on the floor simply asking my colleagues to join with me in trying to make some savings. I am sure my distinguished friend from New York can make a much more persuasive and certainly a much more eloquent case about why these savings should be made.

But I will just conclude with this quote from the respected publication, "Aviation Week", not one for urging cuts in the military budget. "Aviation Week" last month urged:

> U.S. lawmakers searching for fat in the Federal budget to lift the wraps off the $36 billion plus super secret black world.

That is their figure, not mine. They go on to say:

> With exploding health care costs, child poverty, and infrastructure needs begging for scarce funds, it is time to stop indulging in these cloak programs.

So says "Aviation Week." And I say to my friend from New York, that, Mr. President, is indeed a sign of the times.

Mr. MOYNIHAN. Will the Senator from Tennessee yield for just a question?

Mr. SASSER. I will be pleased to yield to my friend from New York.

Mr. MOYNIHAN. Mr. President, earlier in his very powerful, reasoned statement, Senator SASSER remarked that he felt that the public, or at least the Congress, had a right to know the total amount of expenditures on the intelligence community. And he has several times said in referring to this or that, that he could not refer to specific amounts because he would then be subject to criticism.

Is it not the case that article I, section 9 of the Constitution states that:

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time?

Does that not raise some concerns on the Senator's part, in the aftermath of a cold war, about the regularity, the constitutionality of secret appropriations and expenditures?

Mr. SASSER. Indeed, it does. And I say to my friend from New York, the Senator has raised a fundamental concern, indeed a fundamental constitutional question, and we must ask ourselves as Senators who take an oath to swear that we will uphold the Constitution of the United States of America, are we, indeed, fully fulfilling that oath in the procedures and mechanisms by which we fund the intelligence communities? It is a very disturbing and I think very fundamental dilemma in which we find ourselves.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. I would like to proceed in the spirit in which the Senators from Arkansas and Tennessee have spoken this afternoon, certainly with no rancor, with no intent to diminish the achievements of an important component in a protracted conflict with totalitarianism. If I can, as a matter of establishing bona fides, say that every Senator receives a number of awards and most of our walls have a fair display thereof, but in my own office in the Senate I have only two awards on the wall. One is from the board of trustees of the Hirshhorn Museum, on which I served for 15 years, another is the Seal Medallion of the Central Intelligence Agency.

I served on the Select Committee on Intelligence from February 1977 to January 1985, the prescribed 8 years. And afterward, to my great surprise and honor, I learned that they had asked if I would accept the agency seal, which is not casually awarded. This is a sentence in the citation:

> Serving with full knowledge his achievements would never receive public recognition, he chose to align himself with the thousands of men and women who have devoted their lives to support the intelligence needs of our country.

I would speak to those men and women, as well as to the Members of the Senate. I have served abroad as an American Ambassador in settings where the intelligence community regularly put its people in harm's way, and where with some regularity harm did, indeed, come, and I have not known a finer group of public persons. It is a large thing to commit your life to doing extraordinary things, taking sometimes extraordinary risks, and to do so with complete anonymity outside the community, as it is called.

I would like to ask unanimous consent to have this citation printed in the RECORD.

There being no objection, the citation was ordered to be printed in the RECORD, as follows:

CENTRAL INTELLIGENCE AGENCY CITATION

> Daniel P. Moynihan is hereby awarded the Agency Seal Medallion in recognition of his outstanding accomplishments as a Member of the Senate Select Committee on Intelligence from February 1977 to January 1985. He was a leader in establishing the oversight of intelligence which was and is today in the finest spirit of bipartisan government. Consistently adhering to the highest standards of personal and professional integrity in furtherance of the national security interests of the United States, Senator Moynihan clearly demonstrated that effective oversight of intelligence can be realized in a democratic nation without risk to the intelligence process. Serving with full knowledge that his achievements would never receive public recognition, he chose to align himself with the thousands of men and women who have devoted their lives to support the intelligence needs of our country. Senator Moynihan's extraordinary contributions and exemplary dedication while serving on the Senate Select Committee on Intelligence reflect great credit on himself and the Congress of the United States.

Mr. MOYNIHAN. Mr. President, I wish to speak just a bit on the theme that the Senator from Tennessee raised about bureaucracy. I am sorry but that is the word he used and he was not wrong to do. And just as an anecdote, Mr. President, in 1980, our beloved former colleague—he was exactly that—Eddie Boland, who was one of the first chairmen of the Select Committee on Intelligence, rotated off the committee and there was a reception on the House side. I was asked to come to say a word on behalf of the Senate. It was a very elegant reception. I reveal no very profound secret if I say to you that an aerospace company seems to have provided the ample supply of shrimp and such like amenities. In the course of the evening a senior officer of the Central Intelligence Agency came over to me and he said, as he looked around—the Speaker was there and other Members, representatives of the business community and of the intelligence community—"It is interesting; any college senior has been taught that if an activity in the executive branch wishes to flourish, it gets itself a pair of committees in the Congress to look after it." He said, "Could you tell me how it could be that it took something called the intelligence community 30 years to figure this out?"

Indeed, there it was. Having resisted this arrangement they were suddenly seeing its advantages. And I learned from the chairman of the Budget Committee that the budget of the intelligence community doubled in real terms in the 1980's. It is called the iron triangle, in the literature of political science, the executive branch employees, congressional committees, and the private sector which provides the resources and the material and such like.

We have heard today with alarming clarity from our very good friend, the Senator from Alaska, speaking for the committee. He very carefully spoke of the needs of the intelligence community, and I jotted these down: Intelligence on the environment, on the global economy, on high-technology communications, on counternarcotics.

Let us go back to intelligence on the environment. The secrets of Hurricane Hugo? What does that mean? The environment is a question of science and economics as is the global economy. This kind of work is done in the open; constant publication and critique and modification and extension. That is the process of science. The great glory of Western science was the decision that somehow emerged from the 16th century that science will be done in the open—publish it all. And that is how we have progressed.

What you are seeing is the continuation of the secrecy system which developed in the Second World War and then with the slightest change moved into a half-century of the cold war.

Mr. President, I know that you have a particular interest in times when the Federal Government gets to be a little silly. Even with your encyclopedic knowledge, sir, of the Federal Government, dare I ask if you are aware of the existence of the Information Security Oversight Office? Well, sir, if you were to look in suite 530, 750 17th Street Northwest, you would find it there, and that is the organization that keeps count of the number of secrets we produce each year.

I can tell you, the new report is just about out. I can only give you the 1990 report. In 1990, the total of what are called classification actions reported for fiscal 1990 remained virtually the same at 6,797,720. I particularly like that 20—Mr. President 6,797,720 secrets from original classification authorities the number of which is 6,492. Of all those secrets, the Department of Defense accounts for 51 percent, CIA for 33 percent, Justice 12, State 3.

Mr. President, the secret of the secrecy report is that they do not count the real secrets. It just gets so funny. They count up to top secret. But, Mr. President, I reveal no great secret if I tell you top secret is not very secret. The real secrets have classifications which are secret. It is a self-fulfilling pattern with which you might expect but which you should not be too complacent about.

I put it to you this way, Mr. President. There are costs to a secrecy system. Early in the 1970's, Frederick Seitz chaired a committee over in the Department of Defense on defense research. The committee said it probably would be best if we just declassified everything. We would progress so much faster. Secrecy is the enemy of good conclusions.

There are costs to it. The other day the Strategic Arms Reduction Treaty, came to the U.S. Senate from the President. START is a treaty that took 9 years to negotiate, and it was a negotiation between the United States and the Union of Soviet Socialist Republics. Yet when it got to the Senate, the Union of Soviet Socialist Republics no longer existed.

Some rather nice questions came up. Well, who is bound by this treaty on what are we asked to give our advice and consent? Russia and Byelorussia, the Ukraine, and Kazakhstan, send us their side letters, saying they will be bound. This question of succession comes up; legal questions.

I asked the representative of the Department of State, a very able person, when did it begin to occur to anybody in Geneva that we were negotiating a treaty with a state that would not exist by the end of the negotiations?

They said, oh, well, 1990. They told me that. I pointed out directly I hope—and it is not easy to point out these things—that I was an observer to the arms control talks. From the early 1980's, I was speaking in those councils saying the Soviet Union is very likely not going to exist at the end of this decade; it is clearly on the verge of breaking up.

It just never got through to anyone. Max Kampelman, our very able ambassador in charge of the negotiations, could hear the argument being made. He did not necessarily agree with it. But he asked about it. But in an address to the Foreign Policy Association in New York on May 20 of this year, our very able Director of the Central Intelligence, Mr. Gates, addressed this subject in a speech entitled "The CIA and the Collapse of the Soviet Union: Hit of Miss?" He said:

> We wrote many assessments describing the growing crisis in the Soviet Union—describing a steady, gradual and open-ended decline, but only in early 1989 did we begin to think the entire edifice might well collapse.

Mr. President, by early 1989, it had collapsed. It was just looking like one of those huge chimneys that used to get blown up in news reels. There would be a great explosion. The chimney, this vast 10-story chimney, would hang in the air a little bit before it came down, but the base was already gone. It was so clearly going to happen. But we could not get it. The secrecy system became so convoluted it could not correct itself.

I have one particular piece of information that gives you a feeling for the degree to which a secrecy system got to the point that it could not spot the obvious. This is the Handbook of Economic Statistics, 1986, published openly by the Central Intelligence Agency.

In this document, you will learn that in 1985 the per capita GNP in United States dollars in East Germany was higher than West Germany. Mr. President, you indicate a measure of disbelief. Well, here it is, sir. It was not much higher. But in East Germany, the per capita, GNP was $10,440; West Germany, $10,220.

Any taxi driver in Berlin could have told you that is not so. But we had machines that cranked it out, formulations, highly classified computer analyses, that said it was so. Therefore, it must be so.

Sir, I would hope the intelligence community would be interested in this because there is nothing wrong with making mistakes if you find out in time that they are mistakes. There is a phrase in the intelligence jargon—"let us walk the cat back." Where did we get the idea that East Germany was wealthier than West Germany? We did. We published it. Nobody even saw it in the printer's office and said, oops, that is a mistake, it should be the other way around. Anybody can make a mistake.

The Presiding Officer is a publisher, a newspaper editor. He knows about these things. That kind of correction, the internal critique just is not going to be there in the secrecy system.

I dare not think what would happen if indeed we let a secrecy system instruct us on developments in the environment: secret analyses of the source of the eruption of Mount Pinatubo in the Philippines. No. Secret analyses of the global economy? Markets give you information about the economy, and scholarly inquiry, open inquiry.

I would say one last thing, Mr. President. One of the great costs of the secrecy system and its location across the river, apart from the rest of the Government, is that the State Department has been greatly diminished as an institution.

I recall when the Shah fell in Iran. The question asked in the press was: why did the Intelligence Committee not know about this, foresee it? You could practically hear the sighs of relief in Foggy Bottom when the question was asked, why did the intelligence community miss it, rather than why did the State Department not know? The Embassy was in Tehran, and they would walk around, read the papers, and talk to people. That is the State Department's job. You get the idea that there is some real secret involved, that it can be learned, or should be. You end up making great mistakes.

I close, Mr. President, in supporting this amendment, of which I am a cosponsor, by quoting the Frederick Seitz report on defense secrecy—he was president of Rockefeller University—from July 1, 1970. He said:

> The task force noted that more might be gained than lost if our Nation were to adopt unilaterally, if necessary, a policy of complete openness in all areas of information.

I am willing to say that if we had all our calculations out on the table, we would not have judged 3 years before the Berlin Wall came down that the people on the east side of it were wealthier than the people on the west. That is the sort of thing we should discuss openly and be good humored about. Why not be good natured about it? After all, things have worked out well for the West. Do not think, however, that we did not pay a price for overestimating what we are up against, and do not think we will not continue to pay a price by keeping secret our analysis.

I see the distinguished Senator from South Carolina on the floor.

I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, it is ironic that at a time when the Congress and the administration are making major cuts in the Nation's military force structure and defense funding, there are those who believe we can make major cuts in the intelligence budget. I find this proposal to be out of touch with reality.

Mr. President, as our military force structure is reduced, we are in the process of withdrawing our forward deployed forces from countries around the globe. These forces have in the past been our eyes and ears in the world and were available to respond immediately to any crisis in the region. To compensate for this loss and still provide sufficient reaction time for our political and military leadership, we must increase intelligence operations—not reduce them. Without accurate and timely intelligence, our Nation will resemble a boxer who has his eyes closed—merely punching into space.

Mr. President, the demise of the Soviet Union is frequently used as the rationale for reducing our intelligence budget. In my judgment, those who use this reasoning are wrong—dead wrong. In a letter dated September 16, 1992, CIA Director Gates states:

In 1980, when we were at the height of our commitment to the cold war, only 58 percent of the intelligence resources were dedicated to the U.S.S.R.—a far smaller share than many may suppose. Today, the Commonwealth of Independent States accounts for only 34 percent of the President's amended fiscal year 1993 budget.

Both the President and the Intelligence Committee have already taken this change into account by reducing the intelligence budget.

Mr. President, the demise of the Soviet Union permits us to reduce our intelligence operations targeting that part of the world. However, it will require us to increase our focus on the rest of the globe. Despite the considerable threat that the Soviet Union represented, it did impose some control on its client states. These states, such as Iraq and Libya, now will be operating on their own, as will terrorists groups that formerly had Soviet sponsorship. Our intelligence agencies must expand their coverage of these areas, otherwise we may one day be surprised by proteges of Saddam Hussein.

Mr. President, the Intelligence Committee after numerous hearings has recommended a $1 billion reduction in the President's intelligence budget request. Although these cuts will have a serious impact on our intelligence gathering capability, fiscal realities demand a cut of this magnitude. Mr. President, to now make further, hasty cuts on the floor is wrong and may jeopardize our ability to monitor countries developing nuclear or other weapons of mass destruction, global weapons proliferation and drug trafficking. It would also affect our ability to be proactive on the important issue of economic spying by foreign intelligence services in the United States. As we know, this type of spying can have significant economic and military implications by providing foreign nations the benefits of the labor and financial resources which this Nation dedicates to scientific research.

Mr. President, I urge my colleagues to vote against the Bumpers amendment which would cut the intelligence budget by an additional $1 billion even though the Intelligence Committee has already cut it by $1 billion. Only through a robust intelligence program can this Nation expect to compensate for the large reductions being made in our military forces.

Thank you, Mr. President.

I yield the floor.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Mr. COHEN. Mr. President, I hesitated to take the floor, because I missed much of the earlier debate today, but I could not help but overhearing some of the remarks by the Senator from Tennessee and the Senator from New York.

Like the Senator from New York, I, too, have a medallion hanging in my office, having completed 8 years on the Intelligence Oversight Committee and having served four of those as its vice chairman. So I think that I also have some credentials to bring to the debate here today. I must say that my experience is in complete contradiction to what I heard earlier this afternoon.

The Senator from Tennessee said the public has a right to know and Congress has a right to know what the intelligence budget is. Well, Congress does know. Congress does know. There is a committee that is convened specifically to hear testimony in closed session day after day after day, all year long. And for those who are interested, truly interested, in what the intelligence community is about, all they have to do is sit in on one of those meetings. All they have to do is sit in and get a briefing on the intelligence budget. If the Senator from Tennessee does not know what is in the intelligence budget it is simply his own fault. He has every right as a Member of this body, at any time during the course of the year, to get a briefing on exactly what is in our intelligence budget.

What the two Senators who offer this amendment are saying is that they have no confidence whatsoever in Chairman BOREN, Senator BRADLEY, Senator HOLLINGS, Senator CRANSTON, Senator DECONCINI, Senator GLENN, Senator METZENBAUM, Senator KERRY, Senator MURKOWSKI, Senator WARNER, Senator RUDMAN, Senator DANFORTH, Senator D'AMATO, Senator GORTON, Senator CHAFEE—no confidence whatsoever, that these gentlemen really have been doing their jobs. The implication is that they have been sitting there day after day, but they have not done their job; that they have not looked at the evidence or listened quite clearly; that they have exercised poor judgment in their oversight capacity.

Well, I daresay I am not prepared to make that kind of a judgment here today. I find it ironic that the Senator from Tennessee, the budget chairman, gets three chances at this. First, as chairman of the Budget Committee, he has responsibility for setting the overall budgetary policy of the Congress. He sets the caps, he and his committee. That is one part of the intelligence budget.

Then, under our system, we delegate to the Senate Armed Services Committee and to the Senate Intelligence Oversight Committee additional responsibility—and it is a heavy responsibility. There is no glory involved in serving on the Intelligence Committee. It is a lot of hard work. There is no recognition. It does not translate politically back home into actions that you can take credit for. It is very, very hard, tedious, but critically important work.

So we delegate to the Intelligence Committee and we charge those members to act responsibly and seriously and to analyze and listen and try to understand how important it is to have an effective intelligence apparatus in this country. And not only do we tell the Intelligence Committee, we then refer the bill to the Senate Armed Service Committee—I mean, if you do not have any faith in Senator NUNN, if you do not have any faith in Senator WARNER, if you do not have any faith in all the members who serve on those committees, then simply pass this amendment, because that is what this amendment is. It is an amendment of no faith in the people that we have appointed to serve on those two committees. And that is a terrible judgment for anybody to get up on this floor and make.

You had the one chance of setting an overall cap. You had a second chance when the Senate Armed Services Committee came in with its authorization bill. You have a third chance now, going after the Defense appropriations bill. This is not a responsible course of action.

I am also struck by the inconsistency on the part of many of those who are always critical of either our military or our intelligence community. They are the first ones to rush to the floor to offer criticism every time something goes wrong. When Libya developed its chemical weapons plant, one of the most sophisticated and one of the most massive chemical weapons plants in the world today, the voices on their side said. "Where was our intelligence community? Why did we not know this was being constructed? Where were our agents at the time?"

Well, we said, we are pretty busy. We are trying to verify arms control agreements—and we will talk about that in a moment—trying to verify very complicated, sophisticated arms control agreements, trying to watch the Soviets, yes; trying to watch the Chinese, as well; trying to watch various parts of the globe, and we may have missed something over here. We could not focus enough assets, we did not have enough assets, we did not have enough satellite capability in the air to look down and pick out what was going on in every part of the desert in Libya, Africa, or the Eurasian continent.

We had criticism directed at the intelligence community: You missed that one. You missed Syria in its chemical buildup. How about Iraq, with all of its weapons buildup? Where was our intelligence community? And when the time came to invade Panama, there was a proposal to go in, and at the time, when President Bush said we are not ready to go in and overthrow Noriega again, the criticism came: Where was our intelligence community? How come you did not know where Manuel Noriega was sleeping that night?

We all know that we still need sophisticated intelligence gathering capabilities in space—Soviet nuclear weapons have not been eliminated. There are still thousands of them there. We know the Soviets, in the past, or the Russians today have not been forthcoming; that they have not only misrepresented facts, they have lied to us. And when the time came when our intelligence community looked down and said, the Krasnoyarsk radar down there, that is something in violation of the ABM Treaty, we had voices on the other side saying, "No, the Soviets say this is not a violation. This is simply a satellite-tracking facility."

Mr. Gorbachev lied to us. His Foreign Minister lied to us. And the intelligence community was the one that said, no, that is used for battle management. That is what that is designed for. And, finally, they fessed up. Finally, they fessed up and said, "You are right, that is a violation of the ABM Treaty. We were, in fact, trying to get around the agreement."

Again do you want to go back to the days of Desert One? Why did not our intelligence community do a better job? And we said we need more human intelligence. Everybody in this body said we need more human intelligence.

Let me say that takes time. It takes years. It is a very, very dangerous world in which we are trying to insert agents so they can gather information, so we will have information, knowledge, if at all possible, as to what exactly Saddam Hussein, or the Ayatollah, or whoever the leader of a foreign country might be, is up to at any given moment that might be adverse to our security interests. There is still a threat of terrorism throughout the world. We need better human intelligence as well as satellites in the sky.

And let me mention satellites for a moment, because there is more notion we do not need arms control verification anymore. I find it ironic that the very people who are now offering this amendment are the ones who have, over the years, historically been in favor of arms control negotiations, arms control treaties.

Well, treaties take time and verification. It is a very complicated system and process that we have to undertake to adequately verify whether the Russians, the Soviets, the Chinese, or others are, in fact, complying with their words, with their agreements, with their treaties.

And so now at this time they say, well, cut $1 billion out. We do not care where you take it from, just $1 billion too much; a meat ax approach.

Mr. President, those who are advocating this particular amendment, I daresay have never stopped down in the Intelligence Committee to get a briefing. Each year the Intelligence Committee sends out a letter, "Please come down. Let us explain the budgetary process. You are welcome to get a briefing from the agency, from any of the agencies involved in intelligence collection. We want you to understand exactly what we are trying to achieve."

For example, arms control verification, trying to determine what the intent as well as the capabilities are of foreign countries. The cold war is over, yes, but it is still a very dangerous, unstable, volatile world, and we need to have not less intelligence but more intelligence.

So now the argument is getting all mixed up. Let us cut $1 billion out. By the way, not only cut $1 billion, let us make the budget open. So they have mixed the two arguments here this afternoon. Let us have both: $1 billion less and a public debate on exactly how much we are spending.

Well, of course, the next step is, well, the number does not tell us everything. The figure in the line item does not tell us very much. We have to know what is under the line. How much is actually spent for satellite coverage? What kind of satellite? What kind of capability? How do they orbit? What are the countermeasures that are being advanced against it?

And then you start weighing the satellite coverage against the environmental intelligence, and you weigh that against human intelligence, and then you come to the floor and you start making cuts on the floor because you have a different priority.

That is not the way to maintain the national security of this country. We know what is in the budget. Every single Member of this Senate has every opportunity to find out what is in that budget. And for anyone to stand on the floor and say we do not know, well, that is your fault. Do not blame the Congress. Blame yourself.

And, again, I would like the Senators who are offering this amendment to come to the floor and explain to their colleagues whether or not they have ever had a briefing in the Intelligence Committee, whether or not they have ever talked to the recent Soviet defector who was here to talk about KGB activity in this country even today or GRU activities or any of the activities of the other intelligence services. I doubt very much whether they made such an appearance.

Mr. President, there is concern about biological warfare and weapons. Just recently, our intelligence community blew the whistle on Russia and some of the republics that used to be in the Soviet Union, saying that they have been carrying on prohibited activities.

Now if we do not care about that, cut $1 billion out. Just get up there and whack another billion out and say, "Let the intelligence community figure that one out."

But I daresay the next time we have an intelligence failure—because you do not hear anybody talk about our intelligence successes, you do not hear them talk too much about how good we were during the Persian Gulf war—they will go back and criticize and say, "Well, you did not have enough tactical intelligence. It was not quite good enough for our commanders in the field." But you never hear them really talk about how good we are. Being good takes money. It takes people. And that is what we are about to cut out if we adopt this amendment.

I also find it ironic, once again that the very people who want to cut more out of the intelligence budget are among the first to go on record, saying we ought to be using military force if necessary to go in and deliver humanitarian assistance to what used to be Yugoslavia. Notwithstanding the fact that our military experts, indeed our intelligence experts, say it is probably a bad idea to try to deliver humanitarian assistance without the consent of the government of that particular country. We may find ourselves involved in a real disaster. Yet they rush right in and say, "No, let us go on record in support of that military assitance."

Now, after encouraging us to use military force which will require the use of sophisticated intelligence in order to help our people determine exactly where their adversaries are, where the danger is, they now want to cut back on the ability to gather that intelligence.

Mr. President, I think this is a very bad amendment. I think it will undermine our intelligence-gathering capability. I think it does precisely the wrong thing. It is not what we should be doing. We should be enhancing our ability to look and to see and to listen and to hear. And that is precisely the opposite of what this amendment would achieve. I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GORTON. Mr. President, while it may possibly be true that in the land of the blind, the one eyed is king, that does not justify one in that land with two eyes, plucking one out.

I simply would like to associate myself with the eloquent remarks of my colleague from Maine for whom this has been a vital and important interest, over most of his Senate career, and who has contributed so signally to the strength of the American intelligence establishment.

I associate myself with his remarks relating to the uninformed nature of this amendment; uninformed in the sense of not being directed at specifics, not being based on a knowledge of the facts, not having thought out seriously the direction which this country should take.

I note the presence on the floor of the distinguished chairman of the Senate Intelligence Committee. I believe that as a member of that committee myself, I can say without the slightest degree of hesitancy that he has looked at the intelligence agencies of this country with a critical eye, in the finest sense of that word critical, during the entire period of time that I have been associated with him; that he is not known as someone who simply throws money at a problem, whether domestic or foreign; and that he has agonized over a cut of $1 billion in the appropriations and authorization for intelligence agencies of the United States. And that he himself would feel that he has cut dangerously close to the bone of what remains a vital and central element, not only for the security of the United States, but for the interests of the United States in creating a peaceful and a stable and a democratic world.

Knowledge is the absolute fundamental basis of sound policy; knowledge—knowing what is actually going on in other nations of the world as against what various news and propaganda sources state to be going on. Obtaining that knowledge is not easy. Obtaining the services of people who will engage in activities which are illegal in the nations in which they are taking place is not easy. Substituting technical means for obtaining that knowledge is neither cheap nor easy. Priorities, obviously, must be set. Priorities are set by this appropriations bill and by the work of the Select Committee on Intelligence in this connection, priorities which agonizingly have reduced or cut out important and significant methods by which intelligence can be gained.

But a nation which aspires to and has attained the leadership of the free world—perhaps the leadership of the world itself, now—in order to make intelligent foreign policy decisions, in order to make intelligent decisions with respect to a budget for defense, in order to make intelligent decisions in the interests of peace and security and democracy, must have knowledge: the knowledge which this budget is designed to create.

Obviously, the cold war is now over in the sense of the threat which the Soviet Union posed to our most fundamental security interests for the better part of half a century. But the percentage of the intelligence budget which was directed at the Soviet Union had been declining significantly over a number of years, even before the end of the cold war. And the percentage of the budget now directed at what was the Soviet Union, and its successor states, is less still. But there are those successor states within the former Soviet Union itself, new republics with interests different from their former parent, not to mention the countries of Eastern Europe as well.

And all of us are cognizant of the fact that the end of that cold war between the United States and the Soviet Union has freed up—has unfrozen—lesser but significant conflicts among many other nations in many other parts of the world, intelligence about which is important to us and to our future.

The chairman of the Intelligence Committee, and his committee; the chairman of the Appropriations Committee, and his committee; and most particularly the Senators from Hawaii and Alaska who have put together this appropriations bill, have done so with knowledge of the knowledge we need. They have set priorities which are appropriate and necessary for the future of this country. They should not even be subjected to a close vote on an amendment of this sort which simply plucks a number out of the air and says we ought to be able to do this much better. We do not care how you distribute it. Let us just knock out an extra $1 billion.

I hope relatively soon we are permitted to vote on this amendment and I fervently hope that vast majority of this body will follow the advice of the distinguished Senator from Oklahoma, the managers of this bill, the Senator from Maine, and keep the United States of America not only first in the world in its own security and preparedness but first in its knowledge about the rest of the world and the problems of the rest of the world.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BOREN. I first want to thank my colleagues who have spoken this afternoon in defense of the action taken by the committee, in opposition to this amendment. I thank my colleague from the State of Washington, a very valued member of our committee, who has just spoken. He has spoken, I think, with great wisdom and with very sound conclusion, as had the former distinguished vice chairman of the committee, Senator COHEN, with whom I was privileged to serve for 4 years as we served together as a team, as chairman and vice chairman of this committee. And also by the distinguished Senator from Alaska who spoke earlier, the current vice chairman of the committee who has contributed much to our work.

Mr. President, I do not come here saying that the intelligence budget should be off limits when cuts are considered. The intelligence budget cannot continue at the same levels where it has been before all the changes took place in the world. There have been significant changes in the world, significant changes which affect our intelligence needs, and we must change our thinking to coincide with all of these changes in the world. So I do not come here taking the position that there should be no cuts in the intelligence budget.

As my colleague from Arkansas knows, who has offered this amendment, it has certainly been my position as chairman of the Intelligence Committee that the budgets as well as the operations of all of our intelligence organizations should be subjected to the closest scrutiny. I am very proud of the fact that we have made numerous reforms in the oversight process over the past 4 or 5 years, including the establishment for the first time of an independent inspector general, appointed by the President and confirmed by the Senate, to oversee the legality and the efficiency of all intelligence activities—a first step.

I am proud of the fact that for the first time we established 4 years ago an independent audit unit within the Senate Intelligence Committee itself, with the capability of going anywhere in the world, and anywhere into any secret account, including the most sensitive accounts of the agency, to monitor how the money was being spent and how the programs were being carried out.

Prior to that, because we have never allowed the General Accounting Office and other agencies to go into the most secret accounts of the Government for fear they would be compromised from an intelligence point of view, we have had to rely essentially upon information coming from the intelligence community itself as to how money was being spent. So the establishment of an independent audit unit, giving Congress for the first time the ability to see for ourselves how money was being spent, was a very important step in the right direction and a very important step to ensure greater accountability to the Congress and ultimately to the taxpayers as to the spending of taxpayers' dollars for intelligence programs.

We have also, of course, tightened up the procedures under which covert actions can be carried out, and we have increased and improved the budget process of the committee itself. Providing daily, weekly oversight activities of overall covert action programs, and the expenditures of money pursuant to congressional findings are part of that process.

So we have made a lot of progress over the past 3 or 4 years in terms of assuring greater accountability. I think that is important because very large sums of money are spent in the intelligence area. It is not only that we are carrying out sensitive programs which must be carried out in accordance with the values of the American people, the principles in which we believe, carried out with appropriate consideration of the ethical issues which are raised often in these kinds of sensitive programs, carried out in a bipartisan fashion, we must also assure ourselves that they are being carried out in a way that is financially most responsible.

So I, for one, have never opposed bringing the intelligence budget under scrutiny and insisting that the intelligence budget make its fair share of contribution to the reduction of the budget deficit which plagues the future of this country and which is a very serious problem for all of us.

I am, therefore, not alarmed that we are having this discussion on the Senate floor. I think it is a good thing. I think it is a healthy thing. The Senator from Arkansas well knows that I believe it is a good thing we are having this discussion because all of us ought to become more involved in determining how intelligence dollars are being spent, just as we should scrutinize expenditures in all levels of activity. At the same time, we have to do the cutting in a responsible way and in a manner which will assure us we have the capability that we need in this country should emergencies arise.

Not too long ago when Mrs. Thatcher was in Washington, I had the privilege of having a brief visit with her. One of the comments she made, reflecting on her own time in office, was that you can always predict that the unexpected will happen, and that certainly has been true. She talked about the fact that during the period of time of the Great Depression, before most people in the world were really alert to the potential threat that could come that culminated in World War II, that even in those very difficult times, the Government of Britain, and the Government of the United States struggled to maintain an adequate budget for scientific research of a kind that later translated itself into weapons superiority once World War II did actually take place. She said had we not been willing to make that kind of sacrifice in the interest of national security, we might well have had a different outcome during the World War II period, and the world would have been, frankly, different as a result.

So we have to be prepared for the unexpected. One way in which we can be prepared for the unexpected at the lowest possible cost is to maintain a sound and capable intelligence collecting and analyzing capability.

One of the reasons why we can afford to reduce the size of our military forces around the globe is that we have continued to have first-rate intelligence capability. At a time in which there are going to be fewer people stationed around the world, fewer people on the front lines, fewer people in the geographic regions where problems might arise that might affect the national security interests of the United States, it is even more important that we have an early warning capability. It is even more important that we improve our intelligence collection so that policymakers can see storms on the horizon before they come, anticipate them and, therefore, have more policy options.

We learned that lesson the hard way during the Persian Gulf conflict. We did not, frankly, have adequate human intelligence in that region. Once forces began to move on the ground, once one's military force ended up someplace where it was not expected to be and that was detected by satellite photography and imagery, we knew that something was going wrong; we knew that perhaps an invasion might be imminent. We are talking about learning that hours or certainly days before the event, not weeks and months. The kind of early warning that could have come from more insightful human intelligence as to the intentions of Saddam Hussein and the leaders of the Iraqi Government could have armed the President of the United States with knowledge that would have enabled him to take other steps that might well have prevented that conflict altogether.

Had he known that this intention was clearly in the mind of Saddam Hussein, he could, perhaps, have held joint exercises with Saudi Arabia, have increased our strength in the region, have sent a very clear signal that that aggression would be resisted. Because we did not have that kind of early warning, in terms of human intention, those kinds of policy options were not open to us, and instead we were finally drawn into an armed conflict.

So, Mr. President, we should think long and hard before we imperil the intelligence capability that we need. One of the things that we have done within our committee is to shift priorities, emphasizing more and more the human intelligence component. Because when we are dealing with terrorist groups, when we are dealing with the possible proliferation of weapons, with some of these technical developments occurring in very small installations, when we are dealing with the possible hostile intentions of leaders in areas of the world that are considering actions that would be contrary to our vital national security interests, as we were in the Middle East with Saddam Hussein, it is all the more important that we gather information that can only come, or largely come, through human source intelligence.

So, Mr. President, I do not come to the floor to urge that the intelligence budget should be off limits. I do not come to the floor to say that the intelligence budget should be exempt from any cuts. I come to the floor to simply urge that as we are reducing our military capacity around the world, a strong intelligence capability is absolutely essential. And that as we reduce the intelligence budget, as we should and as I believe we prudently can, we must reduce it on a timetable and in a way that does not leave gaps in our capability so that when the unexpected does take place, as Mrs. Thatcher so eloquently said, it always will, it always has in history, we will not find ourselves ill-prepared.

We have many responsibilities as United States Senators to the people who sent us here. We have a responsibility to assure that our economy is rejuvenated, that we adopt tax policies that will enable us to compete in the world marketplace. We have the need to think in terms of the needs of those in our society because there are certain standards of basic human existence and human life that are dear to all of us and which are held in common by the American people to assure that the homeless are cared for, that those who cannot help themselves—the elderly and others—will be cared for by society. We have an obligation to provide a quality education for our children so they will have the same kind of opportunities that we have had.

But along with those kinds of responsibilities, we will always have a paramount responsibility because it is a responsibility uniquely vested not in the State government, not in the local government in partnership with us, as is true in the fields of education and social welfare, for example, but we have a responsibility to assure the security of this country, to assure that our people will be safe from attack from outside forces, and that the well-being of our Republic will not be jeopardized because we did not provide adequately for the defense and national security interests of this country. That is the unique responsibility in the Federal Government. It is not a responsibility which is lodged at any other level of government.

So we must think very carefully as we undertake cuts. The dominant focus of the intelligence community's concerns in the past has been the Soviet military target, as the Senator from Arkansas said; specifically, the likelihood of a conventional war in Europe that could lead to an intercontinental nuclear war.

The cold war, as has been said, is over. The Warsaw Pact no longer is a viable military entity. The likelihood of a strategic nuclear exchange has been greatly diminished, and so it is now time to start reducing the intelligence budget and redirecting the focus of the community to meet the challenges of the new world, new challenges which have arisen.

An overwhelming majority, by a vote of 14 to 1, reflects that the Intelligence Committee on a bipartisan basis understood that we should begin to scale down.

There were members of our committee who wanted to make no cuts. There were members of our committee, I might say, on both sides of the aisle who wanted to make no cuts at all. There were a few members of our committee who wanted to make cuts much larger than what the committee finally decided. A consensus was reached in our committee, a carefully crafted consensus, that for this year we could cut approximately $1 billion out of the national foreign intelligence program for fiscal year 1993.

Yet, in spite of the concerns on the part of some that we should stay where we are, that we should make no cuts at all, Senator MURKOWSKI and I believed it was our responsibility to begin a thoughtful process of downsizing, to begin the fundamental restructuring of our intelligence community that was needed right away.

Senator BUMPERS and others want to impose deeper cuts than those suggested by the committee, but I believe that those cuts could jeopardize our capabilities and jeopardize our ability to make a thoughtful transition to a world which I believe in many ways may be more unpredictable than the world as we have known it in the age of superpower confrontation.

As I have indicated, defense budgets will be reduced. There will be fewer American outposts overseas from which we can protect vital American interests. A restructured and refocused intelligence community will be the cornerstone of our ability to succeed economically, politically and militarily. In fact, everyone in this body, everyone in the policymaking community wants more information at this time and not less information. We all want to know whether a START Treaty can be verified, which we will soon be discussing; whether a fragile peace can be maintained in Cambodia; whether nuclear, chemical and biological weapons are being diverted from the former Republics of the Soviet Union to other parts of the world; whether China is proliferating weapons and technologies in contravention of existing agreements; whether death camps exist in Bosnia.

The list of questions to which we want answers goes on and on. We ourselves in this body constantly ask these kinds of questions of the intelligence community and we ask them about areas of the world and problems of the world that vitally affect our national security interests.

The proliferation of weapons as I mentioned a while ago is certainly a risk that confronts us all, with nations that are not as predictable in their behavior as the old Soviet Union, gaining more and more ability not only to produce weapons of mass destruction but to deliver those weapons of mass destruction on other areas of the world, even potentially ultimately perhaps within the boundaries of the United States itself, and so we are constantly asking for more and more information and earlier and earlier information. And that means better and better intelligence.

I for one do not believe that better intelligence automatically means more money on intelligence. I think there should be some paring down. I have advocated a sweeping restructure of the intelligence community. When our authorization bill comes to the floor, it will include much of that restructuring, a restructuring of our imagery capability so it is not spread among many agencies; it can be handled in a more efficient and cost-effective manner.

There are many suggestions we have made for improving the intelligence community through reorganizing it and streamlining it and indeed even with fewer resources which we believe we can make go further. That process is a long way down the road, Mr. President. That process has not been easy. And always we have tried to accomplish that task of paring back and reorganizing and streamlining and making intelligence more cost effective within the bounds of our knowledge that we need more and better intelligence in a world that is even more unpredictable than the world as we have known it 3 or 4 or 5 years ago.

I am not going to sit here and delude my colleagues into believing that the performance of U.S. intelligence has been perfect. We have heard the Senator from New York raise a lot of questions about the performance of American intelligence. It has not been perfect. There have been mistakes. But the fact is that U.S. intelligence does on balance a good job of meeting all the challenges thrown its way.

One of the most frustrating aspects of the work of the intelligence community is that by its very definition the successes remain secret. Most of the failures of the intelligence community become public because they are leaked or because some disaster occurs as a result of them. But for every disaster that we have had, we have had 10 successes that remain locked in secrecy that were of great benefit to the country and to its future.

Our committee has advocated making public the aggregate budget figure for national intelligence expenditures. Unfortunately, neither the Congress nor the administration has acted upon this recommendation. If they had, we could discuss exact figures on the floor today. We are constrained as to what we can say precisely about intelligence expenditures. I hope we will see the day when we can have a full and open discussion of this matter on the floor.

But I do want to stress also that the Intelligence Committee does not have jurisdiction over a very significant part of intelligence spending. Tactical intelligence programs are authorized by the Senate Armed Services Committee, and I therefore will not address the budgetary relations regarding those activities. I am sure they have been discussed by others with the distinguished chairman of that committee. I think if he were on the floor, he would point out that approximately $500 million of cuts have also been made on what has been the tactical intelligence budget as well.

Mr. COHEN. Will the Senator yield for a question?

Mr. BOREN. I will be happy to.

Mr. COHEN. I thank the Senator. Is it still the practice of the distinguished chairman of the Intelligence Committee to send a letter to all Senators offering to brief them on the details of the intelligence budget?

Mr. BOREN. Yes; I would say to my good friend, the former vice chairman, it is our practice, at least in the last 6 years—in the 4 years the Senator was vice chairman and in the last 2 years as well—to send a letter to all the Members of the Senate offering to give them a full briefing on the intelligence programs and on the budget for the intelligence community. I believe this year we had one Senator outside the committee accept that invitation. So the interest on the part of other Members in taking up our invitation, I might say, has been disappointing. But that invitation has been extended. We have given everyone an opportunity to sit in. On many occasions, we have invited individual Members with interest to sit in on some of the budget hearings as well as individual items.

Mr. COHEN. So for any Member of the Senate to stand on the floor and say that he is in the dark, does not know what is in the budget or how it is allocated; if he is ignorant of the facts, it is self-inflicted.

Mr. BOREN. I would say it would have to be a matter of choice because any Member of the Senate as a matter of choice who wishes a briefing or to research the budgetary figures has every opportunity. Not only have we made it possible for them to do so, we have urged them to do so and we have specifically invited them to do so.

Mr. COHEN. Could I further inquire whether either of the sponsors of this amendment have contacted the chairman to examine where he might make recommendations for cuts?

Mr. BOREN. I will have to say to my friend I do not know specifically whether they have gone to seek separate briefings. The distinguished Senator from Arkansas has been in our space. He attended a meeting with me with several other Senators at which time we did discuss the budget, and I conveyed to the Senator from Arkansas in some detail, as I did to the others present, where I thought the budget could be cut and our plans and our hopes for doing so in the committee. So I would say to my colleague that our colleague from the State of Arkansas has indicated an interest and has followed up on that interest with the intelligence committee, with me and with seeking information about our budget.

Mr. COHEN. And so as I understand it then he obviously made recommendations to the chairman in terms of what he felt ought to be done, where it ought to be cut?

Mr. BOREN. He has certainly indicated to the chairman, he encouraged me as chairman of the committee to proceed as far as I possibly could in making cuts in the intelligence budget where he thought the budget should be cut.

Mr. COHEN. As I understand it, the chairman did in fact make cuts that would total roughly $1 billion.

Mr. BOREN. Yes, that is correct. We, as I say, began a discussion in our committee, and in the beginning of our discussion there were, I would estimate 8 members out of 15 who were opposed to cutting the budget by as much as we now recommended.

I must say to my colleagues that I was one of those who took the lead in saying we should attempt to find $1 billion of cuts given the budgetary deficit that we face. We should strain to reach that point; that, if I could bring my colleagues on committee along with me, I would then support that figure when we came to the floor. So that is exactly what happened.

We had a lot of intense discussions. We had a lot of concern expressed not to go too fast; that we put ourselves on a glide path, a reasonable glide path on both reductions in the budget and restructuring of the committee, but we do it in the way—since the world is still changing in such an unpredictable way—that would not leave us with the potential gap.

I say to my good friend that I think we have done that. I think we have done our task well. Not only have we cut $1 billion this year out of the national foreign intelligence program, and because of the recommendation from the intelligence community, but we also earlier helped the administration and we helped the Appropriations Committee, Senator BYRD, and others, identify an additional $500 million in cuts earlier in the rescission recommendations which were carried out. In essence, we have already taken $1.5 billion in cuts out of the national foreign intelligence program.

Mr. COHEN. May I also inquire further? As I recall, the Senator from Oklahoma was very instrumental in trying to persuade the intelligence community that it needed a greater capability in order to verify the INF Treaty. Is that not correct?

Mr. BOREN. That is correct.

Mr. COHEN. Over the objection of both the Defense Department and the intelligence community, because there were not sufficient funds, the Senator from Oklahoma carried a very persuasive message to the President of the United States saying we need more intelligence gathering capability, not less, and it was only through the persistence of the Senator from Oklahoma that we were able to achieve that capability. Is that not correct?

Mr. BOREN. I thank my colleague for characterizing it in that way. I certainly did the best I could to assure that we had the capability in the modern arms control agreements and other potential agreements in the future because I want to see us have a world in which we are able to carry out these agreements, enter into these, and make the world safer by reducing the level of weapons. But I know we cannot do that, and will be subjected to criticism for moving ahead on those kinds of agreements, unless we have sufficient intelligence capability to assure the American people and the Congress itself that we are able to monitor.

Mr. COHEN. I ask further about human intelligence because this is something that is critically important in a dangerous, unstable world in which we still see the threat of terrorism. We are still debating the issue of Pan Am 103, still searching and hunting for the people who not only masterminded that bombing but carried it out. The threat remains. It is ready to rear its ugly and dangerous head the first moment it can in time of crisis.

What is the response of the intelligence community in terms of how long it is going to take to train an agent to go into the field to develop the language skills, develop a sense of culture, and the ability to walk down a street in a foreign country, particularly in the Middle East, so that they will not be detected, but be in a position to gather information that they can send back to the intelligence community and to us so we can calculate exactly what the intentions of foreign governments are?

How long? Is it a long process, 8, 10 years, 12 years? It is expensive?

Mr. BOREN. I say to my colleague, we can talk about 8 years, 10 years, and 12 years. It is certainly much closer to a time estimate than 1, or 2, or 3 years would be. Obviously, it is a very long-term, long lead time in this area.

One of the things we are paying for is the reduction of our human intelligence community capability during the 1970's particularly during the late seventies. It has taken an enormous amount of time now for us to rebuild that capability to get people back to language skills and, as the Senator has indicated, who have the ability to blend into the cultural setting in those countries in which we ask them to go.

So you have to identify people very often. We start out identifying people very early on in trying to attract their interest early enough and their educational experience so they can again equip themselves. It is not only a matter of people learning the languages, which often are very difficult to learn, but also learning the culture inside out so that they do not make comments or make slips which would then identify them, for example, as foreign nationals. It also identifies people by parents who fit into a particular setting. Perhaps we would have even ties by family or otherwise in some areas which can be very important.

It is not easy. It is one of the hardest things in the world to penetrate; for example, a terrorist unit which is often very small in which the people know each other and in which they are going to very carefully scrutinize any new person who walks in.

It is not as if you could pick someone from the Southwest talking about the United States, say we can recruit any person and send them in and as long as they have the right accent in terms of the way they speak and right appearance they can make in. When you get into terrorist groups, infiltrating a small neighborhood of 8 or 10 houses where everyone has known each other for the last 50 years, they look askance, and are going to put under the microscope anyone new coming in.

So developing this kind of human intelligence capability is a very, very difficult task, and it is absolutely essential, in many ways easier, to develop the kind of experts who understood what various kinds of Russian military communications meant, who become experts, let us say, on the military Russian order of battle, to know when we needed to go the higher state of alert. Those are the kinds of things that can be taught and learned and put in place. They are not predictable. There is a pattern.

In many respects it is dealing with situations in other regions of the world where we have the potential—expecially if some of these nations acquire weapons of mass destruction and the ability to deliver them—to understand intentions, to understand political currents, understand the people may not always act in accordance with what we would view as their logical self-interest—they are very unpredictable—to develop the ability of people who can go in either as agents to collect the intelligence or analysts to look at the moving sides produced by information coming from those agents; and, have the background and the insight to understand it requires a great deal of investment and requires a great deal of time.

We are changing our priorities. We are shifting, for example, as we have seen the Soviet military threat decline to at least a certain degree, although I think we have a long way to go in understanding fully what is going on inside the Russian military, and whether or not they are completely on a day-by-day basis under the full control of civilian authorities, at least in terms of their own policy objectives. We are a long way from that. But the relative Soviet military threat has declined.

We have shifted resources. We are not sitting here. The intelligence community is still pouring billions of dollars into the community in the same way as we would have done if the cold war were still a threat, the Soviet military threat were really at its peak, and the Warsaw Pact were still in existence and a threat. Of course not.

We have already begun to rechannel, we have already begun to reorganize, we have already shifted resources out of some of those programs, the Warsaw Pact, which is no longer there. We are building up new strengths of human intelligence in new areas of the world where our vital interests are at stake.

We have done that in this budget proposal from the intelligence community, this kind of restructure, this kind of reordering of priorities, looking at environmental challenges, terrorism, looking at proliferation of weapons and regional conflicts in a way that shifts those financial resources from the old areas to the new challenges. And we have managed to do that all at the same time we have subjected the community to a cut of $1.5 billion.

So it is not as if we have our head in the sand. It is not as if we are arguing for the status quo. It is not as if we are saying we do not know in the intelligence community that the world has changed. We do know it has changed. But at the same time, we are mindful of the fact we have fewer forces in forward positions around the world, with less predictability in the world than we had even a year ago. We must assure the American people that we have sufficient intelligence resources to do the job.

While I assume I will give up this position as chairman of the Intelligence Committee as I rotate off this committee, I am not about to be a person who comes as chairman of the Senate Intelligence Committee who recommends cuts beyond the level that I think is safe for the security of this country. I simply cannot in conscience do that.

I think we have struck here the right balance. We are making a contribution to deficit reduction. We are restructuring the intelligence. We are changing our priorities and on a timetable which will allow us, unless the world turns off in a totally different direction, to continue to make savings and to continue to restructure. We should do that. We should do it on the basis of a timetable, and in a way that is responsible to the American people and to the national security interests of this country.

Mr. COHEN. Let me say to my friend, I think the chairman, as he is completing his 8 years of service on that committee, has done a truly heroic job. I think he has taken that committee from a position of perhaps being demoralized, and raised it to a level in terms of its staff and the interests of the members over that period of time to one in which it is one of the finest committees in the Senate.

I suggest to my colleagues that for the kind of work that you and the members of that committee have put into developing this budget, for Members to come to the floor and just get up and say let us whack out another $1 billion, and we do not care how or where you do it, just take it out, I think is a rejection of the work of the distinguished chairman. I think it is a terrible indictment of the committee itself, and I truly hope that our colleagues will not engage in a rejection of the hard work that the Senator from Oklahoma has really devoted during the last 8 years to this intelligence budget.

Mr. BOREN. Mr. President, I thank my colleague for the generous remarks. As he knows, it has been a privilege to work in that capacity on behalf of the Senate. It has been a particular pleasure to have the opportunity to work with him during the time he was vice chairman of that committee, because in every case in which I observed him, he made the decisions and took the positions he sincerely felt were in the best interest of our country and national security interests. I appreciate that, without regard to any kind of political impact. I value the statement he just made.

I want to say quickly, in summing up, and again to point out to my colleagues what has been done. The committee's markup which is now before you of the national intelligence budget reflects not only a significant reduction in funds this year, but as I was saying, more important, it puts in place a framework for future reductions based on a fundamental restructuring and downsizing of the intelligence community.

We do this, first, by drastically cutting spending on programs that were designed against the cold war threat. However, we also need to preserve our capability to monitor arms control treaties. We have retained the core capabilities to allow us to do this. We have recommended substantial savings in security costs as a result of the changed nature of the old Soviet threat and new administration directives.

We recommended canceling the acquisition of new satellites, significant upgrades to existing systems, and accelerating the consolidation and integration of older systems to force the intelligence community toward cheaper collection alternatives.

The goal here is to force a zero-based review of national technical collection systems to ensure that the Nation has the right collection mix to address future intelligence requirements at the lowest possible cost.

I believe that we have cut all we can in this area for this year. Deeper cuts, in my judgment, will risk our not having the eyes and ears to monitor arms control agreements, or keep on top of the next international crisis.

I do not want to see it slow the pace of these arms control agreements.

We have put into place a policy for achieving significant personnel reductions, which will also achieve savings over the long run.

In addition to these savings, the committee took other actions which are of equal, if not greater, importance. We have reordered almost $1 billion—in addition to cutting $1½ billion, if you include the earlier recession—we have reordered almost $1 billion in intelligence spending in four key areas that we believe move our agencies toward meeting intelligence requirements.

So we have cut more than $1 billion net, or something like $2 billion net out of what we call the old cold war programs and transferred $1 billion of that over into new priorities.

We made significant enhancements to human source collection—called Humint—an initiative the Intelligence Committee began 2 years ago. Our experience in the gulf war suggests that understanding the intentions of our adversaries are as important as knowing the number of tanks and missiles they possess, and only Humint can provide decisionmakers with insights in this area.

We moved to protect the intelligence technology base by funding an aggressive research and development initiative. R&D provides the seed corn for addressing future needs and opportunities in a world in which the United States could face new challenges. It provides us with a base with which we can react in a world in which unforeseen events are almost guaranteed to occur.

We also provided funding for collection against new and growing concerns like proliferation of chemical and biological weapons, international narcotics trafficking, and the continuing threat from terrorism against American interests abroad.

Finally, the committee is examining ways to leverage the tremendous investments we have already made against future priorities.

For example, we have worked with Senator GORE to establish an environmental task force comprised of prominent environmental scientists who will examine the possibility of using intelligence information and a technology base to increase our understanding of environmental issues; using existing resources we have already paid for to give us information about the environment that is needed on an international basis. We adopted an amendment offered by Senator KERREY of Nebraska to examine the feasibility of exporting some of our satellites and other technologies, an area where I think we have a clear competitive advantage. We have to do it in a way that we do not give away capabilities that must remain uniquely ours. It is a way we can achieve commercial returns on our investments.

It is true that the national intelligence budget has doubled in real terms over the past decade. Some will use that fact to support the argument for deeper reductions to intelligence.

But this statistic needs to be put into perspective. Part of the reason the growth was so high was that we were starting from a point at which the intelligence budget was very, very modest, compared to the budget of the Department of Defense. Even now, national intelligence spending represents a very small percentage of the overall defense budget. And it enables us to make some of those cuts in defense, because with the information we have and the earlier warning you have, you can multiply the benefit of the defense forces that you have.

Although most intelligence expenses are buried in the defense budget, the intelligence community does not support the military exclusively. Intelligence provides critical information on international trade issues, arms control, diplomatic negotiations, and other U.S. national security interests.

Nevertheless, I agree that the intelligence budget is still too large, even after the $1 billion cut my committee has recommended. But we must make these recommendations in a responsible way as reductions. We must ensure that our country has no collection gaps, and that we retain sufficient investment to address the future in such areas as chemical, biological, and missile proliferation, counternarcotics, and support to contingency operations.

So I believe that the committee, while more savings can be achieved in the future, has put in place, with the $1.5 billion of savings, a framework, along with our recommendations for reorganization, for fundamentally restructuring and downsizing the intelligence community. To cut deeper than we have already recommended, along with the other changes that we are now making this year, will risk jeopardizing our intelligence capabilities by downsizing too quickly, or on an orderly path. We made the cuts in an orderly way.

We can say to the people we have saved money by restructuring the intelligence community but not in a way that jeopardizes our national security interests. We have not deprived ourselves of the means of knowing what we may well need to know in a world that is changing as much as it is. I appeal to my colleagues, let us do this in an orderly way. Let us do this step by step. Let us do this on the right timetable. Yes, let us downsize, and let us make sure that we do not shirk our responsibilities to provide for the national security interests.

We are not a standing committee of the Senate. There is no separate appropriation for intelligence. Perhaps some day there should be. We should find, I think, a way to have a clearer debate about these issues in public. But under the rules of the Senate, once our committee has completed its deliberation, our bill is sequentially referred to the Senate Armed Services Committee. I note to my colleagues that every year since I have been chairman, after we report our intelligence authorization bill to the Senate, I, along with the vice chairman, first Senator COHEN, and now Senator MURKOWSKI, have written to all 100 Members of the Senate inviting them to review our work and brief our staff, as has been said. And I have said in answer to Senator COHEN, only one Senator accepted that invitation. Senator NUNN and his colleagues scrutinized our action.

The Armed Services Committee members agreed that a $1 billion cut for fiscal year 1993 was about right. Senator NUNN and Senator WARNER have agreed with our Members to pass on the savings to the Treasury for deficit reduction. The Defense Appropriations Subcommittee, upon which the Senator from Arkansas serves, concurred this week. The committee under the able leadership of the Senator from Alaska, the Senator from Hawaii, that a $1 billion cut was appropriate, as did the full Appropriations Committee. By my account that means that well over half of the Senate has already had the ability to review the actions of the Senate Intelligence Committee, and the House Intelligence Committee also agreed that a cut in the neighborhood of $1 billion was about right.

A consensus has emerged.

We all believe the intelligence budget must be downsized, but we have to do it in an orderly way.

U.S. intelligence can no longer be all things to all people. The unrestrained growth of the 1980's is over. The community must now focus on qualitative improvements to ensure its product makes a difference, that it provide the President and senior policymakers with truly unique information unavailable from other sources.

We all believe this must be done in a coherent manner—with a careful eye to the flexibility of the President, whether this President or a new President, must have to achieve our national security objectives.

So I will conclude simply by saying to my colleagues that I and my colleagues on the Intelligence Committee view ourselves as trustees for the entire Senate.

The committee has worked very hard and the staff works very hard in meeting those responsibilities in a bipartisan fashion.

We have identified $500 million in cuts for the fiscal year 1992 rescission package. We have had identified $1 billion in cuts for the fiscal year 1993 request. We have taken $1.5 billion from the base of intelligence expenditures.

As chairman of the committee, I am here to tell my colleagues that to do more at this point would, in my view, be detrimental to our national security.

I hope that my colleagues would trust the judgment of the members of the committee, the bipartisan membership of this committee, and not take action in a way that is not in the best interests of our country and will vote in opposition to the Bumpers amendment.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, we have been on this matter now for 3 hours. I wonder if I might discuss with the Senator from Arkansas and others—I know there are other Members waiting to speak—if it would be possible to set a time certain to vote on this amendment. We have passed the hour of 6 o'clock, so we could vote almost at any time. But I would like to suggest perhaps not more than an hour more, equally divided, under the control of the Senator from Arkansas and the Senator from Hawaii.

Mr. BUMPERS. I am certainly willing to enter into a time agreement. My good friend from Illinois wants at least 10 minutes. I believe Senator SASSER would probably want another 10 minutes. Why do we not do this? Why do we not say 1 hour and 10 minutes, equally divided?

Mr. STEVENS. I am prepared to try and clear that time. I think we can clear it. The Senator would propose to vote somewhere around 7:30.

Mr. BOREN. Mr. President, I would say to my colleague from Alaska I do not believe we would require quite that much time on this side. I think the Senator from Ohio may wish to speak and the Senator from Rhode Island wishes to speak. We could probably do it in a little less time. If we could cut it maybe to an hour. I know there are several Members who are tying to attend a gathering tonight from both sides of the aisle. If we needed 5 extra minutes, I would be happy to yield that to him from this side. I think we could hold it to an hour.

Mr. BUMPERS. I would like to reserve 35 minutes on this side. However you want to work that out is fine with me.

Mr. BOREN. I am happy to reserve 25 minutes on this side and that way it would give us an hour total.

Mr. STEVENS. Are you talking about the opposition to the Senator's amendment?

Mr. BOREN. Yes.

Mr. STEVENS. I would like to suggest a time certain so we do not have any misunderstanding. If we voted at 7:30——

Mr. BOREN. 7:15.

Mr. STEVENS. No, we are talking about 7:30.

Mr. BUMPERS. We are suggesting that we vote at 7:15, with 35 minutes for the proponents and 25 minutes for the opponents. Why can we not agree to that?

Mr. BOREN. That would be agreeable on this side.

Mr. STEVENS. It is not agreeable on this side. If we are going to go beyond

7 o'clock, we are asking then to go to 7:30.

Mr. BUMPERS. I cannot agree to vote at a time certain unless we have the time allocated.

Mr. STEVENS. I am agreeable to the time allocated, equally divided.

Mr. BUMPERS. Does the Senator want to set the time certain at 7:30, with the time equally divided?

Mr. STEVENS. I would be happy to set it at 7 o'clock.

Mr. BUMPERS. I cannot do that. I will set it for 7:30, with the time equally divided, or 7:15, with the time equally divided.

Mr. CHAFEE. Mr. President, I have a suggestion here. We have 45 minutes to 7 o'clock. How much time does the Senator's side want, total?

Mr. BUMPERS. Thirty-five minutes.

Mr. CHAFEE. Can you not cut it down a little bit?

Mr. BUMPERS. I might hand you back 5 or 10 minutes. I just want to be on the safe side. I have people that wish to speak.

Mr. BOREN. I am informed that we need to discuss this matter with the distinguished majority leader, who is not on the floor right now.

I suggest we allow Senators to speak and we will revisit this question very, very soon.

Mr. STEVENS. I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I have had an interest in this intelligence process for some time. I was taking my Army basic training at Fort Riley, KS, and all of the sudden I heard the FBI was checking me out. I could not figure out what I had done to cause the FBI to check me out.

One day, I was called to the orderly room and they said, "Would you like to be trained as a special agent for the counterintelligence corps?"

I do not know that I had even heard of the counterintelligence corps, but it sounded as good as anything I knew of. I was in heavy infantry basic training and it sounded better than heavy infantry, so I said yes. And I was trained at Fort Holabird and was sent over to Germany, lived in civilian clothes in a home along the edge of the Iron Curtain.

I learned that we have to be very careful in this intelligence process. This happened to be in the McCarthy era when I was trained at Fort Holabird.

I remember one of the instructors going through things that might indicate someone might have Communist affiliations or tendencies. And I remember one of the instructors said, Fredric March gave a substantial amount to the Yugoslav Children's Relief Fund; therefore, he was suspect. And there was just a whole series of that kind of thing taking place.

And I remember sending a letter to the editor of the St. Louis Post-Dispatch, who happened to be a personal friend—it was a personal letter, not a letter for publication—saying you really ought to check into what is happening in the intelligence community in this country and I cited a number of examples from what had happened in our classes. I remember getting the letter in response saying, you have to be careful what you say and write these days. It might not be safe.

Democracy is a very careful balance between security and freedom. And when we get too far on the security side, we lose democracy.

Now I am not suggesting that Robert Gates or Judge Sessions or anyone else involved in security right now is out of balance. But inevitably, when you work with those who are on the security side, there are those who believe excessively in the security side of things.

And even in this body, why can we not declassify the amount that is spent?

My friend from Maine, Senator COHEN, said, when we suggest that we ought to declassify this and give the total amount spent, we somehow have a lack of confidence in those who serve on the Intelligence Committee or those who serve on the Armed Services Committee.

I heard the Senator from Tennessee, Senator SASSER, mention before what we are spending in terms relative to other amounts.

But why can we not—not just Senators, not just House Members—why cannot my barber find out what we are spending on intelligence? Why cannot every citizen?

Senator MOYNIHAN said, "Secrecy is the enemy of good conclusions." Secrecy is also the enemy of democracy. Access to facts and how those facts are reached is extremely important.

I recall Senator MOYNIHAN pointing out, not today but on past occasions, that the exaggerated conclusions of the potential of the Soviet Union resulted in wasting tens of billions, perhaps hundreds of billions of dollars. And the whole question of constitutionality that he raised is a very, very interesting question that I do not know has ever been probed.

Senator MOYNIHAN also mentioned that he has that plaque on the wall, given to him by the CIA and the intelligence community for his contribution. I got thinking about it. There have been more than 30 colleges and universities who, in moments of generosity, have given me honorary doctorates, but I only have two on the wall: One from Georgetown University, one from Haverford College. Why? They are both written in Latin. There is some attractiveness to mystery. And that is the appeal of intelligence, I think. This is something that has great appeal.

We have to use common sense in this area. The world has changed. We have not changed here in the U.S. Senate. My colleague, the highly respected chairman of the Senate Budget Committee, said here a few minutes ago that in the 1980's intelligence spending increased 20 times faster than defense spending. We are now spending at the Federal level more money on intelligence gathering than we are spending on education. We are spending more on intelligence gathering than we are spending on foreign aid and all of our diplomatic efforts combined. It just does not make sense.

I am aware, if my political antennae are accurate—I am aware that this amendment probably is going to be defeated. I hope I am wrong. But just to irrationally go along, year after year after year, spending money recklessly—and I think that is what we are doing—to perpetuate institutions that have grown up, just does not make sense. I hope we will adopt the amendment of our colleague from Arkansas. It is a small step in the right direction.

And to my friend from Tennessee, if I may have his attention for just a moment, we will illustrate, I fear, with a vote on the Bumpers amendment, why we need a constitutional amendment for a balanced budget. Because what we do is we compromise around here. Do you know how we compromise? Some people want a super collider. I voted for that. I think it is necessary. Some people want that space station. I voted against that one, costing $50 to $100 billion or whatever it is. Some people say we ought to keep spending money on intelligence; oh, yes, the Soviet threat has disappeared but this is such a nice project to spend money on, intelligence. No one questions the need for that.

So we compromise by spending money on all of them. And that is what we do year, after year, after year. Somehow we need something that is going to discipline us. My hope is one of these days we will adopt a constitutional amendment. Unless somehow we find we have the good sense to start adopting amendments like this. But that day I do not think is here. And I doubt that day will ever come.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. CHAFEE. Mr. President, as our distinguished chairman has already pointed out, the Intelligence Committee reduced the President's request for the National Foreign Intelligence Program by $1 billion for fiscal year 1993. We also recommended $700 million in cuts to tactical intelligence programs. We were able to make these reductions, without damaging important capabilities, by eliminating programs that in most cases had been related to the now defunct threat of a Soviet invasion of Western Europe.

In considering whether or not further, deep reductions are warranted, I would like to suggest some questions for my colleagues to consider:

Do we care less today about the situation in Bosnia than we did last month? I seem to recall that several weeks ago this Chamber was ringing with impassioned pleas for a U.N. resolution authorizing all necessary means to ensure access to detention camps and the delivery of humanitarian supplies in Bosnia. Don't we still want to know about the detention camps and what is going on inside them? Do we still care which countries are evading the economic embargo on Serbia, and what the prospects are for this conflict to spread?

Do we care less about the issues of proliferation and human rights in China than we did earlier this month when the Senate again voted to revoke MFN status for China?

Are we less concerned today about nuclear proliferation than we were last week when a majority voted to support a U.S. nuclear testing moratorium? I supported the moratorium.

Are we less concerned today than we have been in the past about the threat of terrorism or the problem of illegal narcotics?

Are we less concerned today about the volatile situation in Iraq, or the stability of the countries that have emerged from the wreckage of the Soviet empire? Are we content to ignore the situation in Central Asia, where there has been fighting in Tajikistan, Afghanistan, Armenia and Azerbaijan, Georgia, and Moldova?

Has anyone made an assessment of the impact of these proposed cuts on U.S. capabilities for monitoring the START Treaty, which will soon come before the Senate for ratification? In that same regard, is the Senate content to assume that President Yeltsin has everything under control in Russia, and that he can successfully transform that vast and diverse country, still in upheaval, into a stable democracy?

Mr. President, has the world become so transformed in recent weeks that all of those who have professed concern about these issues now believe that we can slash programs that provide critical information regarding narcotics, international terrorism, weapons proliferation, arms control, and human rights violations?

Mr. President, does it make sense to take a meat-ax approach to reductions in the intelligence budget while we are simultaneously implementing dramatic reductions in defense expenditures? This is the logical equivalent of saying that since we are driving a smaller and less safe car we don't need an airbag. Unfortunately, Mr. President, the world is full of surprises.

Who among us suspected in July 1990 that our country was on the verge of becoming involved in a war in the Middle East? Who among us can predict what next year will bring?

I can tell you this, Mr. President, Gen. Norman Schwarzkopf did not come before the Intelligence Committee and ask for smaller intelligence budgets or less intelligence support. He felt that some programs should be reduced and others expanded. He wanted changes, but he, like all commanders, wanted more information, not less.

Mr. President, we are living in an era that some have referred to as the age of information. I am currently serving my second stint on the Intelligence Committee, and I believe it is accurate to say that I have spent more time serving on that panel than any Member of either the House or Senate. I have yet to see an agency or department indicate that its requirements for information are declining. In fact, the intelligence community today is finding that it is getting new missions, including greater support on international economic and environmental issues.

To those of my colleagues who have not served on the Intelligence Committee, who wonder what advantages the taxpayer derives from intelligence spending, I would like to make a suggestion. Get a briefing from the intelligence community on its activities in support of the military during the Persian Gulf war. Get a briefing on the situation in Bosnia today, and ask about the number and disposition of detention camps, and get an assessment of the prospects for the conflict in the Balkans to spread. Get a briefing regarding China and the issue of weapons proliferation. And while you are at it, get a briefing on our ability to monitor the START, CFE, INF, and biological weapons treaties. If you do I think you will find, as I have, that our capabilities are already thinly stretched, and that the intelligence community is in fact producing and distributing large amounts of valuable information that is not available on CNN.

Mr. President, this administration did not request any reductions in intelligence expenditures. It has been this administration's view that intelligence serves an important warning function, and that at a time when we are reducing our military strength by at least 25 percent, it is all the more important to have early warning of impending conflicts or arms control violations. Our committee nevertheless recommended cuts that will force the intelligence community to get by next year with roughly $1 billion less than it had this year. Our committee also recommended large cuts in the tactical intelligence program. I believe we have acted responsibly, balancing budget pressures against the requirements of military and civilian policymakers. We made specific, targeted reductions against programs that we believe are no longer required. We did not simply make a large, unallocated, across-the-board reduction as the Senator from Arkansas proposes to do.

Mr. President, the intelligence community sometimes produces incorrect or slipshod analysis and it sometimes fails to provide warning. But my colleagues should understand that most of the money in the intelligence budget is in collection. It is in taking pictures of the battle lines in Iraq or facilities believed to be involved in weapons production; it is in trying either to protect our communications or intercept someone elses' it is in penetrating terrorist and narcotrafficking organizations and hostile governments. Most of that information is in fact valuable, and most of it is put to good use. In fact, the NRO, NSA, and CIA are already unable to process many of the requests they receive because assets that are looking at say, Bosnia, are not available to monitor the situation in Somalia or Armenia. So I would caution my colleagues that while reductions can certainly be made in intelligence spending, there are still many bottlenecks and many requirements that go unfilled every day.

Mr. President, we cannot highlight in the discussions on this floor the successes the intelligence community has enjoyed, although the proponents of this amendment are free to tout shortcomings and failures. But there are many successes as well as failures, and the public should not be misled.

In closing, Mr. President, I would say that I believe the committee has acted in the finest, bipartisan tradition of the Senate in producing our authorization bill. Frankly, we are already making cuts that will result in the loss of some unique capabilities that we may someday come to regret. But we recognize the need for cuts and have therefore produced a bill that trims what we believe are marginal programs while preserving important functions. I urge my colleagues to reject the amendment.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Senators METZENBAUM, WELLSTONE, and HOLLINGS be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Will the Senator yield?

Mr. BUMPERS. Yes.

Mr. STEVENS. Is it possible now to discuss a time certain to vote, now that the speakers have gone? Could we agree now to vote at 7 o'clock?

Mr. BUMPERS. To vote at 7?

Mr. STEVENS. Yes; time equally divided in the usual form.

Mr. BUMPERS. I cannot do that.

Mr. STEVENS. Very well. I thank the Senator.

Mr. BUMPERS. Mr. President, I will say I wanted to offer this amendment and an amendment on the Trident II missile on the authorization bill. The distinguished Senator from Georgia, Senator NUNN, said if you offer those amendments, we will never get out of here and we will have a Saturday session. I did not want to be the culprit that caused a Saturday session, so I agreed to postpone it, even though it meant offering the amendment on a bill from a committee on which I sit; namely, the Defense Appropriations Subcommittee.

So I want to apologize to both my chairman, Senator INOUYE, and the ranking member, Senator STEVENS, for offering this amendment on the defense appropriations bill. As I say, I sit on that committee and I do not like the idea of offering amendments in opposition to the bill out of our committee. But as I say, I was prevailed upon not to offer it on the authorization bill so we would not have a Saturday session.

I, personally, think Senator INOUYE and Senator STEVENS have done an outstanding job on the bill. I just happen to believe there are a couple of areas where we can save a lot of money for the taxpayers of this country and not jeopardize the security of this Nation one scintilla.

Mr. President, it seems to me that what we are doing with the intelligence budget is we are trying to protect ourselves against every possible scenario anybody can conjure up. It reminds me of the Secret Service protecting the President. Now there is a budget that has just gone completely out of sight in the last 20 years. When you consider the fact that this budget has gone up well over 100 percent just during the decade of the eighties, obviously people keep thinking up scary scenarios. It reminds me of a Saturday night bunking party, where the first person who tells a scary story does not have a chance and the next person is going to make it a lot more scary.

The Senator from Maine pointed out a series of intelligence failures: Panama, Grenada, where we had to use tourist maps to find out what kind of topography and where the roads were in Grenada; and then in Libya, there were a lot of complaints about the lack of correct intelligence; in Panama, the stories about intelligence failures were legion. I remember in the story of Grenada, incidentally, one soldier used his credit card to call home to find out some kind of piece of information about where they ought to go.

And then, of course, I remember General Schwarzkopf complaining loudly about the battle damage assessments furnished him during the Desert Storm war and how he said they were utterly worthless. The Director of Central Intelligence has said, since that time, that they have reassessed it and they are not so critical.

But the point I want to make is, after the Senator from Maine listed all of those failures in intelligence in this country, one wants to ask what were they doing with the money? This budget has been pretty big even before the Soviet Union exploded.

Mr. SASSER. Will the Senator just yield for a question?

Mr. BUMPERS. I will be happy to yield.

Mr. SASSER. Mr. President, I did not join in this amendment today to cast aspersions on the intelligence community in general or the Central Intelligence Agency in particular. It is my view that they do the best they can and that in some cases they are right and in some cases they are wrong, and in some cases they miss altogether. But if we are going to start talking about failures in the intelligence community, the Senator is aware, I am sure, that the intelligence community made major miscalculations about Vietnam. Tens of thousands of lives were lost there as a result of the disastrous course this Nation went down.

Mr. President, is the Senator aware that United States intelligence failed to predict the fall of Iran, the capture of the United States Embassy and the fact that the Shah himself would be driven from his own nation? Just as recently as the 1980's, after the intelligence budget was increased 100 percent in real dollars, 100 percent increase corrected for inflation during the decade of the 1980's, the intelligence community failed to predict that Iraq would invade Kuwait. We had no indication of that in this body.

And later, and perhaps as glaring or even more glaring, the intelligence community failed to predict the weakness of the Iraqi military establishment. The Iraqis turned out to be, thank God, paper tigers. The United States military forces and associated military forces went through the Iraqi military like a hot knife goes through a stick of butter. But if the Senator will remember, that is not the kind of information we were getting about the prowess of the Iraqi military forces. That is to say nothing about how United States intelligence agencies have systematically, over a period of 30 years at least, grossly overestimated Soviet military capabilities. And certainly, even though we increased funding for the intelligence community by 100 percent during the decade of the 1980's, they failed to anticipate the collapse of communism; they failed to predict, as far as I know, the overthrow of Gorbachev; and we continue to receive figures that are incorrect and faulty on the economic situation in the former Soviet Union.

Today, of course, there are former members of the Central Intelligence Agency facing criminal prosecution for not telling the Congress of the United States the truth.

I did not join in this amendment to raise the problems and the apparent failures or misdeeds of the intelligence apparatus. I joined in with the Senator from Arkansas simply because we thought, once again, we might be able to make a very small dollar savings.

I interrupt the Senator just to ask him if he was aware of these intelligence failures over the past 15 to 20 years?

Mr. BUMPERS. Mr. President, I am familiar with those and several others that I cannot discuss on the floor. I wish we could talk about all of those briefings before Desert Storm, but you cannot do it. One of the unhealthy things here is that you cannot discuss this thing openly unless you are on the committee.

I started off my remarks earlier saying, and I want to repeat, I did not come to the floor to offer this amendment to trash the CIA, the DIA, Navy intelligence, Army intelligence, the National Security Council, or anybody else. As the Senator from Tennessee correctly pointed out, sometimes they are right, oftentimes they are wrong.

But I also want to say that I am just like the Senator from Tennessee. I thought we might save an additional $1 billion but nobody around here seems to honor or pay tribute to $1 billion. It is just chicken feed and it is not worth having this long debate.

Let me also say to the Senator that somehow or other the Intelligence Committee and the Armed Services Committee can cut $1 billion out of the budget, which they did, but they say that is the perfect level; if you take another penny out, you are destroying the intelligence apparatus of this Nation.

And yet it is the Director of Central Intelligence who says in his letter to every single Senator we are trying to downgrade, and we are going to downgrade, the intelligence apparatus of this Nation. But Senators who are opposed to the amendment say if you do it now, it will have a disastrous consequence.

Mr. SASSER. Will the Senator yield on that one point?

Mr. BUMPERS. I will be happy to yield.

Mr. SASSER. Will the Senator explain this rationale to me. The Director of the Central Intelligence Agency tells us in his letter that as of 1980, 58 percent of intelligence resources went to gathering intelligence on the Soviet Union.

Mr. BUMPERS. As recently as 1990.

Mr. SASSER. As recently as 1990.

Mr. BUMPERS. Fifty-five percent of the intelligence budget went to spy on the Soviet Union.

Mr. SASSER. If we increased the intelligence budget, as the House Appropriations Committee reports in the report accompanying their legislation, by 100 percent in real dollars during the decade of the 1980's, and 58 percent of those resources were being used to spy, or gather intelligence on the Soviet Union, and the Director of the Central Intelligence Agency now tells us in his letter that the percent of their energies and resources developed to spying on the old Soviet Union has now been reduced to 34 percent—where did the money go? I believe that is what he said, is that not correct?

Mr. BUMPERS. The Senator is correct. It may be that the 1990 figure is 50 percent. The 1980 figure was 58 percent. But it is in that range. It is in the fifties.

Mr. SASSER. In any case, we are talking about a reduction of energy and resources being used to spy on, or gather intelligence on the old Soviet Union somewhere in the neighborhood of from 58 percent down to 34 percent. So you have 20 percent of the resources of the intelligence community available for other things, that is what I am saying.

Now, I am asking my friend from Arkansas this. With 20 percent of available resources available to be used for other things than gathering intelligence on the Soviet Union, how can a reduction in funding of between 2 and 4 percent, as we propose, possibly damage our ability to gather intelligence? We still have more than adequate funding, it would appear to me.

Mr. BUMPERS. Mr. President, if I may just rephrase the question slightly, when you consider a 20-percent reduction of the money we used to use as recently as 2 years ago to spy on the Soviet Union, a very legitimate question would be what on Earth are they doing with that money? Surely we are not spending that amount of money to spy on Bosnia. I do not know where the money could be going. But I think it would be interesting to know. But as the Senator knows, everything is so classified you cannot talk about it.

Mr. RIEGLE. Will the Senator yield for a minute on that point?

Mr. BUMPERS. Yes.

Mr. RIEGLE. We spent all this money to find out what was going on in the Soviet Union, and apparently we did not know what was going on in the Soviet Union. The Soviet Union was about to collapse, and we spent all this money, and apparently we were not able to figure that out ahead of time, and we were taken by surprise. It sounds to me like we spent a lot of money and did not get anything for it.

Mr. BUMPERS. Let me say to the Senator from Michigan, the Senator from Tennessee and I were talking about that very point and we specifically said, and I want to reemphasize, we did not come here to trash the intelligence community and dramatize their failures, and they have been legion. But that is not the purpose of the amendment, to call attention to their shortcomings. I assume they have often been right. I do not know. The President of the United States could probably answer that better than I could.

But I tell you something else, there are members of the Intelligence Committee who are going to vote for this amendment. There are not a solid block of Senators on the Intelligence Committee. Some are going to vote for this amendment. And I assume they are privy to the same information others have been privy to.

The Senator from Maine said the people who offer this amendment criticize the Intelligence Committee and the Armed Services Committee and the Pentagon, but they are the same ones who favor arms control.

Now, I am not sure what the relevance of all this is. But he engaged the Senator from Oklahoma in a colloquy: Have Senator BUMPERS or any of the people who are offering this amendment ever talked to you about cutting this? And the Senator from Oklahoma answered honestly, yes, he has talked to me about it a number of times.

Mr. SASSER. If the Senator will yield just on that one point, I recall very well going to a briefing in the Intelligence Committee room in which we were briefed on the question of the intelligence budget and perhaps what reductions might be anticipated, and I believe the Senator from Arkansas was present at that briefing.

Mr. BUMPERS. The Senator from Tennessee and I sat side by side for roughly 2½ hours as the whole thing was presented to Senators who were not members of that committee.

Mr. SASSER. And the Senator may recall, if I may refresh the Senator, the meeting was presided over by the distinguished chairman of the Intelligence Committee, Senator BOREN of Oklahoma. And we were there—I was there, as I recall, at his invitation. And I very much appreciated that invitation.

Mr. BUMPERS. I did, too. And I would like to express again my gratitude to the Senator from Oklahoma for inviting nonmembers in to hear that briefing.

Mr. SASSER. If my friend would yield on just one other point, the implication was made on the floor that those who support the amendment being offered by my friend from Arkansas in some way were implying disrespect for the chairman of the committee or the committee itself. Well, nothing could be further from the actual truth. I do not think any Senator has an obligation simply to rubber stamp any funding measure that comes before the body. We, the Senator from Arkansas and I, spent a number of hours on an amendment to reduce funding for the strategic defense initiative. We certainly did not mean that as a sign of disrespect to the distinguished chairman of the Armed Services Committee or the members of his committee, or were we challenging their judgment.

It was simply a matter of disagreement. That is what debate on the floor is all about, as I understand it. I want to set the record straight on that, if I may.

Mr. BUMPERS. If I may interrupt the Senator just to point out another fact, not only have I attended briefings, not only have I discussed it at great length with the Senator from Oklahoma, the chairman of the Intelligence Committee, not only have I gone virtually to every CIA briefing that has been offered, not only did I go to S whatever it is over there for all of the briefings on Desert Storm, not only have I been up there as recently as today to go, once again, over the entire budget; in addition to that, the former Director of the Central Intelligence Agency, William Colby, who ran the CIA for several years, said, "You ought to cut it by billions." You do not have to believe what I said or what the Senator from Tennessee said. Here is a guy who ran it. He said, "You ought to cut billions."

Lt. Gen. William Odom, Director of the National Security Administration, says you ought to cut the whole apparatus for billions. As I say, these people are not mavericks. They are not new boys on the block. You do not have to believe what I believe. You do not have to believe what the Senator from Tennessee believes. These people do not have an ax to grind.

The Senator from Maine says the people who are offering this amendment are the first to call for humanitarian aid for Sarajevo. Has the Senator ever called for aid for Sarajevo?

Mr. SASSER. I do not recall having done that, although it is possible.

Mr. BUMPERS. It is fine with me. I can promise you I have not called for humanitarian aid or relief for Sarajevo. That has not been a No. 1 priority on my list. That is a non sequitur as far as I am concerned.

Mr. SASSER. If the Senator will yield for just one other point here, while we are discussing the statements made here on the floor, the statement was made, I think directed to me, because the statement was: If the Senator from Tennessee does not know what is in the intelligence budget, it is his own fault.

Well, I do know generally what is in the intelligence budget. I accompanied the Senator from Arkansas as we went over the intelligence budget together this afternoon and sat in on the briefing that occurred in the Intelligence Committee room some weeks ago. But the Senator from Arkansas may not be aware of this fact. I asked to have a member of the Senate Budget Committee staff, who had all the proper clearances, as a matter of fact, to allow this individual to go over the budgets. I was refused.

So if a Senator wants to go over the budget of the intelligence community, he has to do it by himself. He cannot have any advice or counsel from one with expertise in that particular area. I was denied it. I think that is something that ought to be corrected around here, I say to my friend from Arkansas. I expect he will agree with that.

Mr. BUMPERS. Mr. President, I do not understand. Let me say to the Senator from Alaska, I am about prepared to vote if he is. I just want to make one last observation. That is, do you know that every branch of the services has its own intelligence-gathering operation? If you were to ask the Navy, the Army, all these branches to come in and justify their particular reason for wanting their own intelligence-gathering apparatus, I am sure they can make a very compelling argument. But there is not a member of the Intelligence Committee that will not admit to you that there is a tremendous amount of overlap in that. Everybody says, well, next year we are going to change this, we are going to change that, and the CIA and the intelligence community is going to get meaner and leaner and we are going to scale down and so on, but not yet. How many times have you heard that argument on the floor?

Mr. SASSER. The problem with that argument is that we are relying on the intelligence apparatus themselves, the agencies, the intelligence bureaucracy, to define what is leaner and meaner. It has been my experience in Government that when you rely on a bureaucracy to shrink itself, then you are going to get very, very little shrinkage. You are going to get a lot of justification, a lot of searching around for new missions. That is precisely what we are seeing now in the intelligence community, new missions to justify maintaining the size of the intelligence agencies and to maintain their budgets. Those are the facts of the matter.

Mr. BUMPERS. I am prepared to yield the floor. I want to make this observation. It is an incredible thing to me that here is a budget that doubled in the 1980's because of the Soviet threat, which no longer exists. The Soviets are willing to take you—they at one time offered on-site verification—take you to every single missile site they had, open up all their prisons. They have opened up their society. They said, "You can see anything you want to see." Yet, we are still spending 34 percent to spy on them. I am not saying that that is too much or too little. I am just simply saying that when you consider how much that is less than 2 years ago, you wonder what happened to the rest of the money.

As the Senator from Tennessee said, it is always the same story. You can always think of new scenarios to keep people from cutting the budget. The obligation we have is not to be taken by that. The obligation is to keep faith with the American people and say, "I promise you we will have a good, strong intelligence-gathering apparatus. I promise you we have funded it more than adequate; if they handled the money right, more than adequate to protect this country's security interests." And this $1 billion, this microscopic $1 billion is going to have absolutely no adverse effect on the security of this Nation.

Does the Senator from Alaska wish to enter into an agreement?

Mr. STEVENS. Mr. President, does the Senator yield the floor?

Mr. BUMPERS. Yes.

Mr. STEVENS. Mr. President, my good friend from Hawaii, who is the chairman of the subcommittee, is on his way back to the floor.

I hasten to point out that although this amendment went before the Senate at 3 o'clock, neither of us have addressed the question of how our subcommittee has handled this money yet. We are not prepared to talk at length. I merely say, while I am waiting for the Senator from Hawaii to come in, that there are 30 Democratic Members of this body and 25 Members who serve on committees that have primary jurisdiction over the intelligence-gathering apparatus of this country.

Every Member of the Senate has the right to go to room 407 and examine into this matter at any time. To my knowledge, very few people have this year. I know that we had 10 Senators when we had the hearings on this portion of the bill during the period of this past year. Senator INOUYE and I had eight other Senators join us in the examination of the intelligence community concerning matters before our subcommittee.

My good friend from Maine, Senator COHEN, who is sort of the Diamond Jim Brady of our side in terms of having a very good vocabulary, addressed this matter, as he normally would, but he borrowed one of my words. He used the word "meat ax". This is a meat-ax amendment. We have already cut this budget by over $1 billion. Any Senator that wanted to could have gone and asked specifics.

This is really not the kind of amendment that we ought to consider, in my opinion, in dealing with the intelligence apparatus of the country. No one knows what it would do to the intelligence-gathering apparatus of our country, and, in my judgment, it is just plain wrong.

I am not going to go into my normal rhetoric in dealing with my friend from Arkansas. The Senate knows that he and I are very good friends, but we often tilt verbally here on the floor. I do believe that there is no question that the net impact of his amendment would make it very difficult for us to continue on the trend line we are on. We are on a downward trend line in defense on intelligence appropriations.

We have required, in each case, that the agencies justify our coming back up. We literally have gone further than Mr. Gates wishes to go on CIA. We have gone further than the services want us to go on military intelligence.

We have worked closely with the Senate Intelligence Committee and with the Senate Armed Services Committee that has authorized this function; and we will face considerable problems when we go to conference because the House version is different from the version that we have here before the Senate.

It is a classified item. And that would be my last remark. I hope that my friend arrives soon.

When I first came to the Senate, Mr. President, it is my opinion that there were four Senators who were briefed on intelligence matters—two from appropriations and two from the Armed Services Committee. There was no Intelligence Committee, and I should add to that, I believe the two leaders were also briefed.

Today, we have fully briefed on these matters at least 55 Members of the Senate. The argument that we should both reduce the intelligence amounts in this bill by $1 billion and, as offered by the Senator from Tennessee, the suggestion that we now ought to proceed to declassify all of our intelligence activities, in my judgment, it requires further examination. I hope we will examine it next year.

I believe that those of us who are charged with the responsibility to deal with intelligence take it very seriously. I have spent more time on intelligence matters since I have been involved in defense activities than I spend on any other activity, including my duties as the Senator from Alaska. I do not understand people that say we just brush over these activities.

As the Senator from Maine said, we get little, if any, recognition from the Senate, let alone from our constituents on this activity.

I see my good friend is here, and I will yield to him. I hope that in the interest of the intelligence community and the intelligence activities that are essential to the survival of this country that the two authors of the amendment would withdraw it. If they want to come up with some specific suggestions as to how we should make reductions, as others did, and come to us with them, then I think the Senator from Hawaii and I would spend time with them to try and reconcile our differences. It is impossible for us to deal with an amendment that just says take $1 billion from this bill, when we have already done that and more.

Mr. INOUYE. Mr. President, I oppose the amendment offered by the distinguished Senator from Arkansas [Mr. BUMPERS] to reduce the amount in this bill for the National Foreign Intelligence Program. The committee already has recommended reductions to the intelligence budget that total more than $1 billion. I am not allowed to reveal what the overall total of the NFIP budget is and, therefore, I cannot publicly say exactly what the committee cut represents, but I can assure my colleagues that it is substantial.

Senators are welcome to examine the details of the recommendations of the committee, as included in an extensive classified annex and report, which accompanies our bill. Those materials have been available for all Senators and remain available for the perusal of any Senator who wishes to read, and the committee staff is available to respond to detailed or technical questions in room S-407 of the Capitol.

Mr. President, I think it is unwise to associate, on a one-for-one basis, cuts in our defense budget with cuts in our intelligence budget. There is a temptation to link the two budgets because: First, the intelligence funds are buried in the lines of the DOD budget for security reasons; and second, of course, much of our intelligence budget has been linked closely to military assessments, support to military commanders, and to the cold war.

I would have to say, however, the administration and the present Director of Central Intelligence, Mr. Gates, have made a credible attempt to shift our intelligence resources away from the cold war and into a whole series of new targets and priorities.

As a matter of record, Mr. President, and it may come as a surprise to some of my colleagues, but even at the height of the cold war, the range and diversity of the demands on our intelligence agencies was such that only some 58 percent of our intelligence resources were dedicated to the Soviet Union. Today, the resources dedicated to the former Soviet States—the Commonwealth of Independent States—consume only about a third, or 34 percent of those resources. This is the result of a major shift of money and programmatic resources, which has been accomplished in a very short period of time.

A large part of the current program, of course, is dedicated to developing a certain understanding and monitoring capability of the fate of the some 30,000 CIS nuclear warheads, and who controls them, as well as other CIS weapons' programs in the biological and chemical field, and their delivery systems. In short, the question of proliferation, and the compliance of the CIS with arms controls agreements is something I am sure every Member of this body is deeply concerned about. Much of this is new territory, but must be a top priority for the remainder of this century and beyond. To accomplish these goals is very expensive.

My colleagues want to know what is happening in the confusing, unfolding human tragedy in the former State of Yugoslavia. We expect the CIA to know who is who, and what is happening. Such an effort, particularly in a very time-sensitive situation, takes very substantial resources in collecting information from a variety of sources—human, satellite, and other special sources and technologies. This kind of flare up can happen and does happen in all regions of the world—Cambodia, Somalia, Iraq, or a variety of places in our own hemisphere.

Many places I am sure come to Senators' minds. Maintaining the capabilities needed to conduct such in-depth assessments that will be of value to policymakers and be helpful in guiding our actions are very costly. Do we want to be without them?

So, there are increasing new demands on our budget for collection and assessment, research and development of new technologies, on the environment, economic competitiveness, new areas and languages, new assessments in an increasingly decentralized world. We need to understand and head off the proliferation of many new types of weapons—chemical, and biological—and the diversion of nuclear materials and systems—this capability does not come cheaply.

We need to understand and control the narcotics trade, and terrorism—these efforts take substantial resources. The current budget and the effort that the committee has made has focused on this transition to a new world, where there are increasing new demands on intelligence to help us weave our way in the confusing new environment. We continue to need a broad intelligence system to protect our basic security and to allow us to seize the initiative to understand the trends in many areas. We need to strengthen resources because our intelligence system must operate in geographical and topical areas where it has been unaccustomed to operating.

Mr. President, with regard to the -tactical intelligence and related activities—otherwise known as TIARA—I believe the key phrase is "related activities." TIARA is a collection of programs within the Department of Defense. Approximately one-third of the TIARA budget relates to intelligence and in the bill recommended by the committee, the intelligence portion of TIARA has been reduced by approximately $400 million.

If the distinguished Senator from Arkansas desires to further reduce TIARA, funding for programs such as the RC-135 re-engining, Guardrail, JSTARS and the all source analysis system must be reduced. I believe these programs are extremely valuable to this Nation. As Senators know, JSTARS was one of the workhorses in Desert Storm. The RC-135 re-engining is vital if we expect to be able to make use of this platform for tactical reconnaissance into the 21st century.

In addition, it should be noted that DOD's involvement in counternarcotics activities has been highly successful. A large portion of the funding for counternarcotics is provided in TIARA. If this amendment were to pass, I would have no other alternative than to recommend reductions in this important program, too.

As can be seen, Mr. President, a further reduction in TIARA could have devastating ramifications to programs of great importance to this Nation.

Mr. President, we have reduced our cold war collection efforts and systems. The over $1 billion in cuts recommended by the committee represents a major effort to do that. We cannot cut more at this time without posing grave risks to the integrity and continuity of our intelligence system. The House has, indeed, doubled the cuts that we have recommended in this appropriations bill, but I would submit that the House cuts have, in some cases, been taken to put pressure on policymakers with the intention of partly restoring some resources in the conference on this bill.

Second, as my colleagues who have attended conferences know, our Senators need at least some room to negotiate with their House counterparts, and the Bumpers amendment would not only be too deep from a programmatic standpoint, but would totally eliminate our leverage in conference with the other body.

I believe that every Member of this body supports enhanced arms control, and new verification systems, as well as new efforts to base our international economic competitive position on sound knowledge. I believe every Member also would support training of larger numbers of Americans in unfamiliar languages, such as Farsi, Arabic, and others, in order to better understand what is happening in those regions, and to better plan our Nation's efforts in those areas of continuing unrest.

Mr. President, one could very well make the opposite argument to that which the Senator from Arkansas propounds. As our military resources, our force structure, and our foreign presence drops, we need intelligence more than ever to be a reliable indicator and warning system, to understand well in advance threats and problems that might be emerging in various regions. While I do not argue that funding for intelligence should go up, certainly the factors underlying the size of the intelligence budget are quite different from those underlying the military budget.

A respected and knowledgeable leader in this field, Mr. James Woolsey, has just authored the final report of a major task force directed by the DCI on the subject of the future of our satellite systems. He makes this point very well:

> Although it is unrealistic today to expect anything other than some decline in the re-

sources devoted to intelligence collection, an excellent case can be made for that decline being substantially less than the decline in spending on national defense in general. The leverage that intelligence, properly disseminated and used, gives to the consumers of intelligence—especially as a force multiplier to the military—strongly suggests the increased utility of intelligence in the post-cold-war world. Although substantial reorientation is needed, it by no means suggests that there should be overall, a proportional decline in intelligence resources. Quite the contrary.

Mr. President, I think I have gone as far as I can in explaining why I think we have taken an appropriate cut. I would remind Senators that the reduction proposed by the committee follows a $500 million cut in the fiscal year 1992 intelligence budget that we took in connection with the rescission bill passed by the Senate earlier this summer. I think our intelligence budget is taking a fair share of belt tightening.

Mr. President, America is a world power. If we are to remain a world power, with farflung global interests, we need the capability to understand that world so that we do not always react to events. We must act now to protect and preserve an intelligence system which enables us to anticipate events, to take the element of surprise out of national security policymaking.

Mr. President, I ask my colleagues to leave us with the resources to achieve these ends.

Mr. President, if I may, I ask unanimous consent that a letter dated September 16 from the Director of the Central Intelligence, Mr. Robert Gates, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DIRECTOR OF CENTRAL INTELLIGENCE,
Washington, DC, September 16, 1992.
Hon. DANIEL K. INOUYE,
U.S. Senate, Washington, DC.

DEAR SENATOR INOUYE: As you resume deliberations on the FY 1993 Defense Authorization Bill and begin debate on the FY 1993 Intelligence Authorization and Defense Appropriations Bills, I urge you to exercise caution in considering any proposals for further reductions beyond those recommended by our oversight committees in the Senate. There are those who believe that the demise of the former Soviet Union justifies additional cuts to the intelligence budget. I believe that view reflects a troubling misconception of the role of intelligence over the past 50 years.

Since the end of World War II, U.S. intelligence has been expected to cover military, political, economic, and other threats to national security interests worldwide; the Intelligence Community has never focused solely on the former USSR. In 1980, when we were at the height of our commitment to the Cold War, only 58 percent of intelligence resources were dedicated to the USSR—a far smaller share than many may suppose. Today, the Commonwealth of Independent States accounts for only 34 percent of the President's amended FY 1993 budget. The Intelligence Community has not carried on "business as usual" while the Soviet empire crumbled. Indeed, the Community was among the first to recognize the impact of this upheaval, and has taken major steps to reduce and refocus its efforts in that troubled part of the world.

As you consider your vote on further cuts to intelligence, you should be aware of the realities we face that often run counter to conventional wisdom about the post-Cold War world. Policymaker and Congressional demands on us have in fact grown and become more complex as once secondary regions and topics rise in relative importance; witness the wars in Iraq, the Balkans, the Caucasus and the Central Asia and the humanitarian crisis in East Africa. These examples also illustrate how dramatically our government's need for intelligence in breadth and depth increases when a general understanding of the situation is not enough and when actions must be decided and implemented. Then the demand for detail, timeliness, and usability of intelligence goes up by orders of magnitude.

It is easy to determine that human beings are starving in Somalia; it is hard to determine the condition of airfields, the threat from local war lords, the availability of storage needed when the U.S. decides to do something about it.

It is easy to confirm that atrocities are occurring in Yugoslavia; it is hard to confirm the numbers, locations, sizes, and control of detention when the Administration and Congress are considering what to do about those atrocities.

The Cold War may have gone away, but the President and Congress remain intensely interested in the fate of 30,000 Soviet nuclear warheads and who controls them, the Soviet biological weapons program, continuing—though dramatically reduced—Russian strategic modernization, and implementation of and compliance with arms control agreements.

This demand to provide detailed and timely intelligence for action confronts us on all sides: proliferation, narcotics, terrorism, economic spying by foreign intelligence services in the U.S., support to peacekeeping, and many, many other issues. While downsizing the adapting to new conditions, U.S. intelligence must preserve its global capability and even enhance its flexibility. At stake is nothing less than the ability of the United States to act in world affairs.

I am not proposing that intelligence be immune from reductions. In fact, our oversight committees have proposed a one billion dollar cut to the NFIP—after considerable deliberation and thoughtful debate, and following on substantial reductions in 1992. I believe the committees' recommended level of funding reflects a responsible balance between the need for a strong intelligence capability in an increasingly uncertain world and the fiscal constraints that we will face in the coming years. Further reductions right now would eliminate critical flexibility at the time we need it most. Indeed, the Secretary of Defense has said that additional cuts to intelligence would cause grave danger to our ability to support military operations, an area we all agree must be improved.

I believe it would be irresponsible to put the nation's intelligence capabilities in jeopardy by making a hasty decision on the floor to invoke further reductions. While the danger of a global holocaust has receded dramatically with the demise of the Soviet Union, in its wake we are seeing a dramatic multiplication of civil and regional wars, dozens of countries developing weapons of mass destruction, and other problems of intense interest to you, your colleagues, the Administration and this country. The continuing and new demands placed upon us for detailed information on problems around the globe cannot be satisfied or reconciled with immediate, deeper cuts in our resources. Rather, I believe we must work together to accomplish needed change and reductions with a coherent, evolutionary strategy to ensure that vital national capabilities are preserved and strengthened.

Sincerely,

ROBERT W. GATES.

Mr. INOUYE. Mr. President, this letter clarifies the problems in the Bumpers amendment.

Mr. STEVENS. If the Senator will yield, I make a similar request. I ask unanimous consent that the letter I received from the Assistant Secretary of Defense for Command, Control and Communications and Intelligence be printed in the RECORD at this point.

ASSISTANT SECRETARY OF DEFENSE,
Washington, DC, September 21, 1992.
Hon. TED STEVENS,
Subcommittee on Defense, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR SENATOR STEVENS: As the members of the Senate and House of Representatives work to complete the FY 1993 intelligence authorization and Defense appropriation bills, I appeal for your support in resisting any attempts to further reduce the Tactical Intelligence and Related Activities (TIARA) accounts of the Department. We are particularly concerned about Senator Bumpers' proposal to impose substantial cuts in our tactical and national intelligence programs.

We have not blindly resisted cuts to our intelligence programs. Our tactical intelligence force structure elements are being reduced by significant amounts. This is to be expected as we are significantly reducing the size of the armed forces. However, even under tremendous budget pressures, we have protected the essential intelligence elements of the force structure. Secretary Cheney has been clear that we must ensure the Nation's armed forces have available the intelligence that is essential to successful military operations.

I know some believe that in the post-Cold War era there is a greatly reduced need for intelligence, including tactical intelligence. However, the intelligence challenge in the post-Cold War era has gotten harder not easier. Our intelligence elements no longer are focused on a well-defined Cold War military problem. Rather, they must provide intelligence on many complex problems in many regions around the globe. Today's intelligence challenges include terrorism, tribal conflict, civil and regional wars, narcotics trafficking, humanitarian and disaster relief, and the proliferation of weapons of mass destruction.

We appreciate your continued support for the intelligence programs that our military forces must depend on in combat.

Sincerely,

DUANE P. ANDREWS.

Mr. STEVENS. Have the yeas and nays been ordered?

The PRESIDING OFFICER. No.

Mr. BUMPERS. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HOLLINGS. Mr. President, I rise in support of the Bumpers amendment. I have served on the Intelligence Committee for almost 8 years, and I have kept close tabs on the work and the budgets of the CIA and the other agencies. These agencies are too big, they are top heavy in their personnel structure, and they are designed for a world that has vanished.

What is more, they were ineffective in telling us about that vanished world. The CIA failed to predict the event that was its very reason for being: the fall of communism. The intelligence community also missed the Iraqi invasion of Kuwait, they provided the Senate with misleading information in the run-up to the gulf war, and they gave General Schwartzkopf what he called "mush" when he needed facts during the gulf war. There are too many other instances which I cannot discuss in open session when the intelligence community's response was either inadequate or flat wrong. As a crisis looms in some new part of the world, I know that the next thing I will hear is "the intelligence community hasn't been covering that target," or "they don't have anyone out there." If it was not for CNN and the newspapers, we would know very little.

Do not get me wrong. This country needs a strong, active, knowledgeable intelligence community. But that community needs to change from its cold war organization, it needs to shift to the threats of today, it needs to take advantage of the huge flood of open source information that can now be obtained without spying, and it needs to become more entrepreneurial and less bureaucratic. In other words, it needs to get smaller. That is why we ought to cut their budget. The only way to restore this dinosaur to health is to put him on a diet. The best time to do it is now, when the world has suddenly and temporarily become much less threatening.

The Intelligence Committee gave the diet a good start, and I give our chairman, Senator BOREN, high marks for the cuts he achieved. But we have the opportunity today to do more.

The deeper cut proposed by Senator BUMPERS would unquestionably cause some layoffs at CIA and other agencies, and I think we should face that issue squarely. If the end of the cold war has put shipyard workers in South Carolina and aerospace employees in California out of work, what is so special about intelligence analysts in McLean, VA? Why do we only protect the jobs inside the Washington beltway? I could add that the shipyard workers and aerospace workers built the best ships and planes in the world. They were better at their jobs than the analysts—who didn't predict the fall of the Wall—have been at theirs. So in justice, as well as in our desire to have a stronger intelligence community, let's face the fact that when we seriously cut this budget, there will be layoffs. But if the Defense Department can face up to a 25 percent cut in its civilian personnel by 1997, the intelligence community can, too.

If we want to break the pattern of mediocrity in U.S. intelligence, we have to shake them up. The only way to do that is by making deeper cuts in their budget.

Mr. GLENN. Mr. President, I rise in strong opposition to the Bumpers amendment which would further reduce the intelligence budget.

With the end of the cold war, some have argued that it is safe to decrease the intelligence budget and significantly reduce our intelligence capabilities. Some in this body have even suggested that the CIA is a cold war relic which has outlived its usefulness, and we should do away with it. I strongly disagree with such views. In this unprecedented time of enormous change and uncertainty in the world, our need for the CIA, the intelligence community, and a robust intelligence budget is greater than ever before.

In addition to being a member of the Senate Armed Services Committee, I am also a member of the Senate Select Committee on Intelligence. The Senate Select Committee on Intelligence completed its markup of the fiscal year 1993 intelligence authorization bill some time ago, and I voted against the committee's mark—I was the only member of the committee to do so—because of the high level of reductions taken from the intelligence budget.

Mr. President, before discussing my concerns with further cutting the intelligence budget, I would like to comment on the unique nature of intelligence oversight.

Intelligence oversight imposes a unique burden on the two congressional intelligence committees which serve as surrogates, not only for the Congress as a whole, but the American people. Because congressional oversight of the CIA and the rest of the intelligence community must necessarily be conducted in the black box of secrecy, the committees must demand accountability and possess the will to conduct thorough oversight.

Mr. President, I believe that the current system of intelligence oversight works well. However, congressional oversight of intelligence was not always as effective as it is today.

Before the two intelligence oversight committees were created in the mid-1970's, Congress conducted what I refer to as "oversight by oversight" of U.S. intelligence—preferring to know little more than it was told by the CIA. Fortunately, this is no longer the case.

While I have always been supportive of the intelligence community, I have also been a strong supporter of efforts to enhance oversight mechanisms and increase accountability of the intelligence community. Along with Senator SPECTER, I took a leading role in the establishment of the office of the independent statutory inspector general at the CIA. I have supported strengthening reporting requirements to Congress regarding covert action. And last year, I led an unsuccessful effort to increase the number of Senate confirmed positions at the CIA to increase the accountability at that agency.

However, I fear that the amendment being considered by the Senate today represents the precise opposite—and equally uninformed and irresponsible—approach to the congressional oversight by oversight of the intelligence community that we used to see in years past. This amendment constitutes the oversight-by-meat-ax approach to the intelligence budget, and I believe that this serves neither the interests of congressional oversight nor our Nation's security.

Mr. President, the dissolution of the Soviet Union and the end of the cold war have resulted in a necessary reappraisal of our national security funding priorities. While I believe that we can and should significantly reduce defense spending over the next few years, I also believe that intelligence comprises a special part of our Nation's national security infrastructure and should be treated accordingly.

I am simply not convinced that there is a compelling rationale for significant reductions in the intelligence budget. To the extent that the Congress has concerns with the intelligence community's focus, these concerns should not be addressed by deep budget cuts, but rather by restructuring existing resources. The United States needs a strong and reliable intelligence capability during the current period of enormous change and uncertainty. Indeed, we rely even more heavily on intelligence to detect and monitor these changes in the international system so we can reallocate increasingly scarce resources in a more efficient manner.

To the extent that we need to de-emphasize resources devoted to the former Soviet target, we must focus more of our intelligence capabilities and resources on other security threats such as the proliferation of weapons of mass destruction, drug smuggling, terrorism, environmental change, low-intensity conflict in the Third World, and the illicit export of high-technology items. These constitute the major challenges for the intelligence community in the years to come.

We also need to continue to support a robust capability to monitor arms control agreements. The changing international environment has heightened expectations for the conclusion of a sweeping array of arms control agreements. Indeed, the Senate will soon be considering the START agreement, and early next year we will be taking up the START II agreement, Open Skies, and a chemical weapons agreement.

Enormously expensive intelligence systems are necessary to monitor compliance with these complex arms control agreements and constitute the hidden cost of arms control. If these systems are sacrificed to narrow budgetary considerations, our ability to monitor adequately these agreements will be placed at risk—endangering our Nation's security as well as the public's support for both the arms control process and intelligence.

Mr. President, it is also important to remember that accurate and timely intelligence is our greatest force-multiplier—particularly at a time when we are drastically reducing the size of our military forces. In formulating the fiscal year 1993 intelligence authorization bill, Secretary of Defense Cheney acknowledged, and President Bush affirmed, the need to protect the intelligence budget at the level submitted by the administration. Clearly, they believe that intelligence serves as our Nation's early warning system, and it needs to be protected at a time when the U.S. defense establishment is being reduced so significantly.

In addition, with the end of the cold war and the strong likelihood that our defense spending will be declining sharply over the next several years, we must be mindful of the lessons of history. Defense spending has always experienced cycles of expansion and contraction. Periods of lower tension result in reduced defense budgets. Such times invariably give way to periods of greater tension which, in turn, lead toward greater defense spending. When the day comes that the United States must rebuild our national defense to confront a threat that is now difficult to foresee, we must do it from the strongest and most reliable intelligence base possible. Combat service in both World War II and the Korean war have strongly impressed upon me the need for the retention of a robust intelligence capability in peace time.

With the end of the cold war and the dissolution of the Soviet empire, America's national security bureaucracy must be prepared to come to terms with a rapidly changing world. And having a robust and effective intelligence community—including the CIA—is the most important means to attain that end. Indeed, timely and accurate intelligence forms the foundation of our foreign policy and defines the threat to U.S. national security that is the basis of our defense spending.

In the years ahead, America can successfully navigate the turbulent waters of a rapidly changing world only with a strong and reliable intelligence capability. I am convinced that significant reductions in our intelligence capabilities, particularly during this era of enormous change, are unwise and could be damaging to U.S. national security.

Mr. President, I strongly oppose this amendment and urge my colleagues to do the same.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN] and the Senator from Tennessee [Mr. GORE] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from New York [Mr. D'AMATO], the Senator from North Carolina [Mr. HELMS], the Senator from Wisconsin [Mr. KASTEN], the Senator from Arizona [Mr. MCCAIN], the Senator from California [Mr. SEYMOUR], and the Senator from Pennsylvania [Mr. SPECTER] are necessarily absent.

The PRESIDING OFFICER (Mr. AKAKA). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 57, as follows:

[Rollcall Vote No. 223 Leg.]

YEAS—35

Adams
Baucus
Bentsen
Bingaman
Bryan
Bumpers
Burdick, Jocelyn
Conrad
Cranston
Daschle
DeConcini
Dodd
Exon
Harkin
Hollings
Kennedy
Kohl
Lautenberg
Leahy
Levin
Metzenbaum
Mitchell
Moynihan
Pell
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wirth
Wofford

NAYS—57

Akaka
Bond
Boren
Bradley
Breaux
Brown
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Craig
Danforth
Dixon
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kassebaum
Kerrey
Kerry
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Murkowski
Nickles
Nunn
Packwood
Pressler
Robb
Roth
Rudman
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—8

Biden
D'Amato
Gore
Helms
Kasten
McCain
Seymour
Specter

So the amendment (No. 3116) was rejected.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, may we have order?

The PRESIDING OFFICER. The majority leader is recognized.

STATEMENT ON DEFENSE APPROPRIATIONS BILL, SENATE COMMITTEE ON THE BUDGET

Mr. SASSER. Mr. President, the Senate Budget Committee has examined H.R. 5504, the Defense appropriations bill and has found that the bill is under its 602(b) budget authority allocation by $5.3 billion and under its 602(b) outlay allocation by $3.7 billion.

I compliment the distinguished manager of the bill, Senator DANIEL INOUYE and the distinguished ranking member of the Defense Appropriations Subcommittee, Senator TED STEVENS for their accomplishment in bringing to this floor a bill that is significantly under both its 602(b) allocation and last year's levels of defense spending.

The committee has begun to make some fundamental choices as we struggle to redefine U.S. defense priorities in light of the still evolving post-cold-war world. Unfortunately, the terms of the budget agreement will demand still more savings from defense, as well as nondefense. I look forward to working with the committee in the months ahead to make these adjustments in a prudent and sensible manner.

Mr. President, I have tables prepared by the Budget Committee which show the official scoring of the Defense appropriations bill and I ask unanimous consent that they be inserted in the RECORD at the appropriate point.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

SENATE BUDGET COMMITTEE SCORING OF H.R. 5504

DEFENSE SUBCOMMITTEE SPENDING TOTALS

[In millions of dollars]

Bill summary	Budget authority	Outlays
Defense[1]	250,136	262,881
Senate 602(b) allocation	255,389	266,613
Difference	−5,253	−3,732
Domestic discretionary	0	13
Senate 602(b) allocation	0	13
Difference	0	0
Mandatory total	169	169
Senate 602(b) allocation	169	169
Difference	0	0
Bill total[1]	250,304	263,063
Senate 602(b) allocation	255,558	266,795
Difference	−5,253	−3,732
Defense above (+) or below (−):		
President's request	−8,908	−6,750
House-passed bill	−1,562	−419
Senate-reported bill		
Domestic discretionary above (+) or below (−):		
President's request	0	0
House-passed bill	0	0
Senate-reported bill		

[1] This total excludes $339,000,000 in outlays associated with the Senate-passed supplemental appropriations, transfers, and rescissions bill (H.R. 5602).

THE 1993 APPROPRIATIONS SUMMARY—DEFENSE

Spending totals	President's request		House passed		Senate reported		Senate passed		Conference	
	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
Discretionary:										
Defense	259,044	269,630	251,698	263,300	250,136	262,881				
Domestic	0	13	0	13	0	13				
Total	259,044	269,643	251,698	263,313	250,136	262,894				
Mandatory	169	169	169	169	169	169				
Bill total	259,213	269,812	251,867	263,482	250,304	263,063				

APPROPRIATION FOR SEMATECH

Mr. **BAUCUS**. Mr. President, I rise today to express my disappointment with the way in which the appropriation for Sematech has been handled. Despite a request for $80 million from the administration, and despite House appropriation of $100 million, the defense appropriations bill contains no budget authority for Sematech.

This budget slashing might lead an outside observer to conclude that Sematech has been a failure. Nothing could be further from the truth. We created Sematech in 1987 to help America's domestic semiconductor manufacturing equipment industry recover from devastating foreign competition. Today, this crucial industry has just about achieved parity with that competition. Sematech has played a key role in this revival.

Sematech demonstrates how a collaboration between Government and industry can be a success. Private industry matched every Government dollar put into the project, ensuring the interest and commitment of the firms involved. This feature also guarantees that Sematech stays focused on its goal of success in the marketplace—for if it does not, the member firms stand to lose their money.

The companies in the Sematech consortium say that it has been a great success. A recent report by GAO confirms this assessment. GAO notes that Sematech has increased cooperation and standardization within the industry, as it has worked to improve technical performance.

Sematech has achieved many of the goals it set for its first 5 years. The consortium and its member companies feel strongly that Sematech can play an important role in making American semiconductor manufacturing equipment makers world class companies.

To do this, Sematech needs $100 million per year from the Government, and $100 million per year from its member companies. The private sector will be at the table with its money. We must be ready to join it.

Cutting Sematech's funding to $80 million per year, as the administration wishes to do, is bad enough. But killing the program at a single stroke is simply not a realistic option. I do not intend to offer an amendment to the appropriations bill at this time. However, if the matter is not resolved in conference, I may have to vote against this bill.

DEFENSE DOWNSIZING AND THE PROBLEMS CAUSED BY ANTITRUST ENFORCEMENT

Mr. **DURENBERGER**. Mr. President, I rise to congratulate Senator NUNN, Senator WARNER, and everyone else on the committee and in the Senate whose hard work has made the Defense 1993 authorization bill possible. As everyone knows, the world is in the midst of a dramatic transition caused by the collapse of the Soviet Union and totalitarian regimes elsewhere. This transition is also creating significant changes in our economy and society as we move to a much smaller standing military force and its concomitant industrial base.

This bill contains a number of provisions that facilitate the rational downsizing of the defense industry. Included are a number of provisions designed to aid defense companies to cope with the sharp reduction in spending on defense weapons and equipment. The bill passed by the other body also has a number of provisions addressing this very important issue.

Mr. President, many of these are useful efforts, but we must not overlook what must be another major focus in this process—to downsize the defense industry without destroying or crippling the critical defense industrial capability that our Nation needs to meet our security requirements in the uncertain times ahead.

The Department of Defense has taken the position that it is not Government's role to determine the winners and losers in this downsizing process, and that the free market should dictate the results. While I agree with the first part of this position, it is the second part that causes concern. In reality, the defense industry does not operate in either a free or traditional commercial market. Instead, defense is a single buyer-few supplier market, heavily controlled by the Government buyer and a body of time-tested Federal acquisition regulations. On the other hand, its merger and acquisition activity is being regulated by the FTC and the Justice Department as though it were a commercial market.

A number of groups, both in government and in the academic community have studied the downsizing issue and have come up with numerous recommendations to do this rationally, and in ways which will save money, or preserve capability, or both. One issue with which I am very concerned in this regard is the effect of traditional antitrust enforcement on defense consolidation. We have already seen a number of transactions where divisions or whole companies involved in defense contracting have been sold. These transactions are appropriately undergoing the standard antitrust review. Unfortunately this is where a fundamental contradiction is at work.

While concerns about competition should be addressed, logic would also dictate that all of the other benefits to the public good from the consolidation, such as preserving a viable industrial base, increased efficiencies, and the maximization of defense capability, be taken into account.

Mr. President, I have here a short paper prepared by Mr. James Blackwell, a very distinguished scholar at the Center for Strategic and International Studies, which discusses these very issues.

I will ask unanimous consent that Mr. Blackwell's paper be printed in the RECORD at the conclusion of my remarks.

Mr. President, Mr. Blackwell's paper summarizes this situation quite well. In it he describes how we are not taking national security industrial base concerns into consideration in the antitrust process, and then discusses very eloquently why we should. I recommend that all my colleagues take a good look at this paper and consider expressing your concerns to the appropriate officials in the executive branch.

I would like to conclude by saying that the Department of Defense has spent trillions of dollars, and I mean trillions with a "t," to develop the current industrial capability for defense. Now as the appropriate downsizing is taking place we should take care that the measures by which we judge such activity are both rational and account for all the benefits to the public good.

This is especially appropriate in the many instances where the particular military service will be forced to downselect to a single source because the funding levels will not support more than one vendor.

Mr. **DIXON**. Mr. President, I would like to thank my good friend, the senior Senator from Minnesota, for bringing up this very important issue. The

CSIS article is very timely and discusses the issue very well.

It seems to me that there are two very strong arguments that bring into question how defense mergers should be judged and whether they should be viewed in the same way as commercial mergers. First, many defense companies produce products that are sold only to the Defense Department. In these cases, DOD has more market power than do the vendors, even when they are sole suppliers of their products. In addition to market power, DOD has ample legal authority to obtain contractor pricing data and to negotiate prices to ensure it is not being overcharged. In short, it is not only equipped but well-experienced in dealing with sole-source suppliers. Where DOD does not buy enough product to support two contractors, there is no need, nor can DOD any longer afford, to support more than one.

Second, there is a clear national interest involved here. A weak contractor in a declining market will quickly decide to sell out. If that alternative is blocked, they will simply leave the business. Loss of these marginal capabilities weakens the remaining industrial base and will eventually cause problems in the event of a national contingency. This is especially tragic when many of these capabilities can be preserved by allowing a stronger company in the same business to absorb them.

Nothing is gained by barring such a sale. The national interest is served by allowing it to proceed, particularly if the merger produces efficiencies which reduce the overall cost to the taxpayer.

Mr. President, we must look at this pressing issue and look at it soon, because defense consolidation has already started and will only accelerate as these budgets go down. We must find a way to make these vital national concerns part of the consideration when the Government acts to approve or disapprove these mergers.

I ask unanimous consent that the document to which I referred be printed in the RECORD.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

PRAISE THE FTC AND PASS THE AMMUNITION

(By James Blackwell, Director of Political Military Studies, Center for Strategic and International Studies)

The defense industrial base is now a campaign issue because of the impact of the defense draw-down on jobs. But there is another effect of the decline in defense spending that is more perverse than the bogus contradictions of the candidates who promise to deliver massive defense cuts in one breath, and in the next promise local voters to keep their defense plant open. America's antiquated antitrust enforcement system may well prevent a national, market-driven transition in the defense industry while sticking the taxpayers with a huge bill for maintaining an inefficient defense industrial base which may not be able to meet the needs of the next war.

In many defense sectors of the economy, from aerospace to ammunition, the most common market response to the now seven-year decline in defense budgets has been for companies to abandon this loss-leading segment of U.S. industry. In our 1989 study of the defense industrial base at CSIS we found that the declining prospects in defense had already led tens of thousands of firms to leave defense for greener pastures.

Now the remaining firms in the defense industrial base are the real champions of industry. Left in the base, for the most part, are the hardy ones who survived the bloody competitions of the late 1980s and whose executives have made the decision to stay in the business for good. One approach some are trying to take for the future is to pursue mergers, acquisitions and divestitures where market structures make it sensible to do so. The results of these consolidations could be tremendous efficiency gains as supply is brought into balance with demand by the experts who have the judgement to determine what capacity needs to be retained and what should be liquidated. The reason such industrial restructuring can happen in America and doesn't happen in the former Soviet Union is precisely because market forces have been at work here for decades.

These consolidations in defense industries will result in immediate savings to the taxpayers because the government pays most of the costs of overhead for defense industries, especially those that are tied closely to defense business with no commercial product counterpart. In a previous CSIS study on the defense acquisition system, we estimated that the government pays a 25% premium for such costs solely because of the inefficient way defense contracts are administered compared to similar commercial production. But the opportunity to achieve such savings is being blocked by our antiquated antitrust enforcement system. That system has become a stumbling bloc to the mergers and acquisitions that are now being considered by industry decision-makers eager to restructure the defense industrial base. If we do not bring that antitrust system into the 21st century we may end up with a military industrial complex as costly and destructive as the one the Russians find themselves stuck with today.

America's legal framework to protect us against the ills of monopoly in the market place was born in the 19th century. Senator John Sherman was the sponsor of the first anti-trust law, passed in 1890 and known as the Sherman Antitrust Act. It bans the restraint of trade and specifically outlaws attempts to gain monopoly power as a method of restricting interstate commerce. Such monopoly power carries with it, in free markets, the power to fix prices above a fair return and is alien to our American sense of fairness and equity. Later, the Clayton Act prohibited specific practices, such as predatory pricing and exclusive sales relationships, that would lead to a monopoly position.

In 1914, the Federal Trade Commission Act vested the enforcement apparatus for antitrust law in an independent federal agency, the Federal Trade Commission. Later practice has evolved a division of effort between the FTC, which conducts economic and market analyses in support of antitrust action, while the Antitrust Division of the Justice Department investigates and enforces specific cases. The system has worked for over a century to prevent the formation of monopolies or to break them up as they occur.

Not all monopolies are inherently evil, and some are inevitable, such as the natural monopoly that forms when a utility company lays a water or gas pipeline to customers and competition just cannot occur. Such situations are recognized by the antitrust system and the danger of monopoly power is offset by a legal structure that imposes a regulatory regime on the firms operating such enterprises. But the defense industry is neither a public utility nor a fully competitive market. The rules must be applied to prevent monopoly power in a way that preserves the public interest, balancing the need for an efficient, flexible and technologically superior defense industry against the protection needed to prevent opportunity for monopolistic mischief.

DEFENSE INDUSTRIES AS MONOPOLISTS

Ironically, it was in part in the defense industry that our antitrust enforcement system was formed. One of the earliest instances of a trust formed to keep prices high in America was in the late 19th century in the explosives industry. By 1872 the largest munitions companies had formed the Gunpowder Trade Association which met regularly and explicitly to set prices. It grew to dominate the entire country's powder and explosives manufacturing which at the time was in great demand for mining, excavation and military purposes.

Then in 1902, the Dupont family, already the largest of the explosives manufacturers, formed a new company which quickly bought out or competed away all the other companies in the association. By 1907 the Dupont Company controlled between 64 and 73 percent of all forms of explosive powder and dynamite in the U.S. and 100% of commercially available smokeless powder for military purposes. In a landmark case, U.S. v. E.I. Dupont de Nemours & Co., a U.S. District Court ruled that not only was the monopoly illegal, but also that the court had the authority to break it up and make the industry competitive once again. This case and related others established the framework for antitrust enforcement across the U.S. economy.

Today, the antitrust enforcement system is built around a set of policies and guidelines maintained by the Federal Trade Commission. In governing mergers, the regulation uses a mathematical formula called the Herfindahl-Hirschman Index to judge the potential monopoly power of a proposed merger. If the result of the merger is that the top firms would have a theoretical capability to fix prices, the merger is presumptively disallowed. It then becomes the burden of proof of those proposing the merger to demonstrate that it would not produce such monopoly power before they are permitted to consummate the deal. Usually these propositions end up in court.

The problem with the defense industry is that, just as the rules cannot apply to a public utility, that is, the provision of a public good which a market would not deliver, they cannot apply across-the-board to the defense industrial base. Most industries out of which the Defense Department buys its manufactured goods are already quite competitive and not dominated by a few large firms. This is why it is terribly costly to the tax-payer for the DoD to specify its own standards when commercial standards will do.

In our 1989 study, CSIS found that of the 215 manufacturing industries in which DoD was a customer, in 88 of them the top four firms captured 35 percent or less of such markets as paper mills, adhesives, nuts and bolts. Though this is a significant part of the defense industrial base, it is not the portion which poses the challenges for restructuring.

The real challenge lies in the 55 of the relevant defense sectors shown in our study already to be highly concentrated, with the top four firms capturing 50 percent or more of their market shares. In these sectors, mergers among defense firms will inevitably fail the FTC's monopoly tests because they already are close to being monopolies, at least statistically defined. It just does not make sense to block them automatically without consideration of the beneficial effects of mergers and the unique aspects of the defense industrial base.

Earlier this year the Department of Justice and the FTC nearly blocked the sale of General Dynamics' missile business to the Hughes Corporation. General Dynamics had decided to get out of this military business entirely and concentrate on its core businesses of military aircraft, tanks, submarines and space launch vehicles. Hughes, on the other hand, owned by General Motors, has been embarked on a corporate strategy of diversifying its operations in order to bring advanced technologies into the automobile industry. The plan was for General Dynamics to shed a non-core operation and for Hughes to integrate some of GD's missile capabilities into its own missiles operation, absorb some of the technology development overhead into General Motors (where overhead would be spread and disciplined in the consumer products markets) and to liquidate the rest. Although the proposed transaction made obvious business sense for GD and Hughes, and was acceptable to DoD it also would have created a new concentration of market power in the missiles business, already highly concentrated at about 70 percent in the top four firms. The two firms had to spend millions on lawyers to prove that the sale would not create a market structure likely to allow monopolists to fix prices charged to the government.

A more current case is now pending before the Federal Trade Commission in the ammunition sector. This part of the defense industrial base is one of the most highly concentrated of all, with the top four firms capturing over 85 percent of the business. At that level it is more concentrated now than it was in 1911 when the Gunpowder Trade Association was broken up by the federal courts. In this case, Alliant Techsystems, the nation's largest ammunition manufacturer, and a portion of the Olin Corporation, the Olin Ordnance Division, the second largest producer, propose to merge, forming a company that would have about 60 percent of all the military ammunition business in the U.S. (Olin's commercial munitions business is not involved in the transaction.) The top four firms' share would of course not change, but the change in market shares within the top firms is large enough that it is possible the FTC will block the merger on the basis of the regulatory guidelines.

These two cases illustrate the perversity of applying the antitrust regulations blindly to the defense industrial base. If the market were simply allowed to function naturally during the build-down and resulting consolidations, the taxpayers would save a lot of money and only lawyers would lose work. As plant capacity, engineering talent, capital investment funds and line workers are freed from unneeded defense facilities, the market is ready to shift them into other industries ready to expand (telecommunications, transportation, etc.) into new technologies and modernization efforts. And in those industries where some defense capacity will continue to be needed the remaining facilities can be down-sized rationally to produce more efficient economies of scale. What's needed is not more regulation of defense industry, but de-regulation.

Any danger that the remaining defense firms might be able to take advantage of their new positions somewhat close (but not much closer than at present) to monopoly, can in fact adequately be dealt with under a separate but little-used provision of the antitrust system. The guidelines also govern monopoly power gained from the buyers' position, a condition known as "monopsony."

A monopsony is a market controlled by a single buyer. In theory, sellers of a product purchased by only one buyer, could be forced to accept whatever price that buyer is willing to pay even if it is below the cost of producing the product in the first place. The antitrust regulations cover the monopsonist as follows: "Market power also encompasses the ability of a single buyer (a "monopsonist"), a coordinating group of buyers, or a single buyer, not a monopsonist, to depress the price paid for a product to a level that is below the competitive price and thereby depress output. The exercise of market power by buyers ("monopsony power") has adverse effects comparable to those associated with the exercise of monopoly power by sellers." [1]

In practice, monopsonies are rare, so the regulatory framework and the data collection are not as robust for them as it is for monopolies. But in the defense industrial base monopsony power is in fact quite common.

In the 1989 CSIS study we examined the buyer side of the market power equation in defense by analyzing the share of industrial sector output purchased by the defense department. As with seller market power we found a wide range of market structures on the buyer side. In the same 215 industrial sectors that the DoD purchases from, in most cases, the defense department is a very small customer proportionately. In many cases the DoD is a relatively large single customer, for example in electronics, but the other customers are so numerous and their total volume is so much larger than defense, that the DoD buyer cannot exert much control to force prices downward.

However, where DoD is a sole buyer, its leverage can be tremendous, and can carry devastating consequences for free market principles. For example, attempts to force greater competition in the 1980s through defense contracting practices yielded apparent savings which now seem to have been illusory. One audit by the department's own inspector general audited seven cases in which the Pentagon had required so-called second-source competitions (ironically including two cases involving Hughes and Alliant), where a sole source provider was forced by the government to provide another firm with technical information required to allow the competitor to submit a comparable bid. The intent was to create competition where there had been none on the presumption that the competition would generate lower prices to the government. Indeed, second sources tended to charge lower prices and win many of the competitions or force the former sole-source to lower its prices. If the nation's big three auto makers had similarly colluded to force their suppliers to charge lower than competitive prices they would have been exerting anti-competitive buyer power, but the government as a buyer was allowed to do it.

Surprisingly the inspector general audit found that the net savings to the taxpayer was negligible even when the winner sold the same product at a lower price. This was because the government had to pay the costs associated with making the second source capable. In many cases, the second source was able to offer a lower price, by reducing its profit margin just a little bit below that of the original sole source provider. When the inspector general added up the total costs to the taxpayer, including the costs of qualifying the second producer and building up its production capacity, savings generated from the lower prices were in all cases at best consumed by the costs of generating them. In some cases it actually cost more to generate the lower prices than if the government had continued to buy from the sole source producer. In the meantime, this practice weakened the original supplier, who had to continue to bear the expense of maintaining a research and development overhead capable of creating new designs.

The structural fact of life is that in the defense industrial base there is the unique structural phenomenon wherein the potential to fix prices higher than competitive levels from monopoly power among a few sellers is offset by the potential to depress prices at lower than competitive levels by the buyer's—the government's—monopsony power. The defense department can exert its monopsony power with a vengeance when it wants to through its total control over the acquisition system through the Federal Acquisition Regulations (FAR) and the Defense Supplement in the FAR (DFAR).

DOD AS A MONOPSONIST

All single source procurements require full disclosure of past and projected costs, which must be negotiated with DoD to establish a cost baseline for the procurement involved. Once the firms' cost baseline is established, the FAR imposes guidelines for profits which are then negotiated for the specific contract award, usually in the range of 6% to 9%. That is not an especially attractive rate of return in the manufacturing sector. If an agreeable price cannot be negotiated the FAR provides for a non-negotiated unilateral award—in effect to take it or leave it proposition. In those sectors where DoD is close to being the sole buyer and where there are few commercial alternatives the firm which refuses the offer commits suicide.

In many of these sectors the government is not only the buyer, it also serves as a major stake-holder in the selling firm through its ownership of production capacity. Many military systems are built in plants owned by the government and leased back to the contractor. In some cases the contractor has no stake in the facility and has only an operating contract. In a few sectors—and again aerospace and ammunition are the major cases in point—the government owns and operates its own facilities capable of producing the same product. In aerospace, many government depots are now beginning to bid on work that had formerly been the exclusive domain of commercial contractors. And in those cases, the government cost accounting rules are modified so that the government's much higher overhead costs are not counted as a cost disadvantage to their bid. In the ammunition industry the government outright owns and operates several arsenals which could replace the private enterprise ammunition industry if the government chose to do so. Without a profit incentive to discipline costs, one can only imagine how high the costs to the taxpayer could go if that were to happen, but in fact many terribly inefficient defense plants are being kept open long past their usefulness for reasons that can be appropriately termed as classical political "pork barrel."

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[1] Commerce Clearing House, Inc., Trade Regulations Reports, "Mergers," section 0.1.

BLACKWELL'S MONOPSONY RULE FOR DEFENSE INDUSTRY MERGERS

The present application of the FTC's merger guidelines provides for no routine recognition of the government's monopsony power in regulating the consolidation of defense firms. This needs to be changed now, before the coming flurry of defense industry mergers and acquisitions ties up the antitrust system with endless bureaucratic red-tape and years of expensive litigation, all at taxpayer expense. There is a simple modification to the guidelines that can resolve this problem:

> In those markets, properly defined and measured, where the Department of Defense purchases fifty percent or more of the product, mergers are unlikely to have adverse competitive effects and ordinarily require no further analysis.

This rule could be inserted as paragraph 0.11 of the current regulation. It is similar in wording to the rule applying to mergers which do not result in market concentration on the seller side to justify further analysis of monopoly power (1.51.a.). Of course, if there is other evidence of intent to fix prices above competitive levels, all of the other provisions of antitrust regulation, legislation, and legal precedent would still apply. If America's three remaining ammunition manufacturers were to meet together to fix prices they would still be committing an act as illegal today as it was for the Gunpowder Trade Association in 1911.

But the fact is that such monopoly power is virtually impossible to exert in the defense industry today. It is time to deregulate the defense industry modestly by bringing the antitrust system out of the 19th century. Let the market proceed to restructure the defense industrial base. The result will be greater efficiency in the base as we achieve new economies of scale and better export performance for U.S. defense firms competing with government-supported and subsidized weapons contractors overseas.

COMPUTER-ASSISTED EDUCATION AND TRAINING

Mr. COCHRAN. Mr. President, the Department of Defense authorization bill (S. 3114), passed by this body last Friday, establishes a computer-assisted education and training pilot project to demonstrate the educational and cost-saving benefits of a national education and training interactive technology network. This network would allow reserve forces to be trained in the latest technology without the additional cost and inconvenience of leaving the communities where they live. Billions of dollars are spent annually moving people for training that could be conducted in local facilities if the appropriate equipment and programs existed to take advantage of modern computer-assisted interactive instruction. During school hours the equipment and educational training programs, where appropriate, would be available to schools for use by elementary and secondary students and other community training needs. The $15 million has been authorized to establish this pilot demonstration training program and to develop software programs to utilize the community-based training concept, with emphasis on access, quality, and affordability. Would the distinguished Senator from Alaska consider language in the statement of managers to permit the authorized $15 million to be utilized for this purpose?

Mr. STEVENS. I appreciate the distinguished Senator from Mississippi bringing this to the Senate's attention. I am aware of the language in the authorization bill, and recognize the benefits which could flow from this project if it is carried out. We will take a good look at it in conference, and I am hopeful that we can be helpful in this matter.

Mr. COCHRAN. Thank you for your consideration of this request, and I will look forward to working with you in conference.

IMPROVED PROCESSOR AND DISPLAY SYSTEM

Mr. D'AMATO. Mr. Chairman, Senator STEVENS, our colleagues in the House appear to be making a run on funds previously appropriated for the AN/AQA-7(V) 18/19 improved processor and display system [IPADS]. Unwilling to wait for completion of system testing that we required, our House colleagues are attempting to loot the IPADS account to purchase a number of components that read like someone's wish list. Am I correct that it will be the position of the Senate in conference that funds appropriated in fiscal year 1991 for IPADS may only be used to buy components associated with that system?

Mr. STEVENS. Yes; that would be my position.

Mr. INOUYE. Let me say to the Senator, that the Senate has taken the position in the past that the best solution would be to let the Navy Reserve decide the best allocation of these funds. However, in previous conferences with the House, these funds were earmarked specifically for IPADS. I agree with the Senator from New York that, if the funds are to be earmarked and if the obligation of funds is in accordance with existing law, then the funds should be used for IPADS.

F/A-18C/D

Mr. BOND. Mr. President, one issue of great concern to me in this bill is funding for F/A-18C/D Hornet aircraft for the Navy and Marine Corps. The President requested funding for 48 aircraft for fiscal year 1993. The committee, however, provided funding for only 24 aircraft. This has severe negative implications both for naval aviation and the U.S. economy.

The 48 F/A-18's requested for fiscal year 1993 serve as a basis not only for ensuring a reasonable price for C/D purchases, but also for modernizing Navy and Marine squadrons with the advanced features of the night attack F/A-18C and D. In addition, pricing for foreign sales of F/A-18's is based on the Navy's plan to procure 48 aircraft per year, with assurances from the Department of Defense to support fully this procurement plan. Although I am well aware that we don't buy planes in order to allow foreign sales to go forward, we do have to recognize that those sales to our allies help to keep costs down for the U.S. Government. In addition, a cut to 24 aircraft would jeopardize some 5,000 jobs nationwide.

Mr. STEVENS. I am sensitive to the Senator's concerns on this issue. The members of the subcommittee are well aware of the problems raised by lowering the buy of F/A-18C/D's from 48 to 24. We are, however, constrained by the fact that the Armed Services Committee funded only 24 aircraft in the authorization bill. I assure my colleague from Missouri that we share his concerns and will factor them in as we consider this issue in conference with the House. We must ensure that we do not take actions this year that will end up costing us more money down the road.

Mr. INOUYE. I would agree with the comments of the distinguished ranking member, and assure my friend from Missouri that we will factor his concerns into our discussion of this issue in conference.

Mr. BOND. I thank both Senators for their assurance on this issue and I look forward to working with them as the conference goes forward.

Mr. MITCHELL. Mr. President, I was about to make an announcement with respect to the schedule for the remainder of the evening and tomorrow morning. But I am awaiting just a brief consultation with the Republican manager of the bill who asked me to withhold momentarily, which I will do. As soon as I hear from him, which I expect to be in just a minute or two, I will be prepared to make an announcement. So for now I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, the Senate finds itself in a familiar situation. An important bill is pending. Several Senators have indicated an intention to offer amendments, but the managers are unable to get Senators to come and offer their amendments until the time that it happens to be particularly suitable to the individual Senator's schedule. As a consequence, despite the diligent efforts of the managers, for which I commend them, there will be no further votes this evening because we are unable to get anybody to offer an amendment that will require a vote, and we are having difficulty doing that tomorrow.

So before Senators leave, they should understand that there will be a vote at

9:30 a.m. tomorrow on a motion to instruct the Sergeant at Arms to request the presence of Senators. Those Senators who have amendments, I hope, will come at that time and be prepared to offer them so that we can proceed to complete action on this bill.

I repeat, for the information of all Senators, there will be a vote, a recorded rollcall vote at 9:30 a.m., tomorrow. I thank my colleagues, and I yield the floor.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii [Mr. INOUYE].

UNANIMOUS-CONSENT AGREEMENT

Mr. INOUYE. Mr. President, I ask unanimous consent that the following amendments be added to the list of excepted committee amendments: Page 38, line 18, and ending page 39, line 3; page 49, line 11, and ending line 19, and page 142, line 1, and ending on line 6.

Mr. STEVENS. There is no objection. I thank the Senator for his courtesy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

PRESIDENT BUSH'S ADDRESS TO THE UNITED NATIONS

Mr. MOYNIHAN. Mr. President, this morning President Bush addressed the U.N. General Assembly and spoke of building a lasting peace in the aftermath of the cold war through peacekeeping, limiting proliferation of weapons of mass destruction, and promoting economic prosperity. Important thoughts on an important occasion.

What he did not discuss is rectifying a great crime: the bombing of Pan Am flight 103. If we are to build the lasting peace the President wants, it must be founded on respect for the rule of law. And that means bringing an end to state-sponsored terrorism. It also means that we must insist that the terms of the Security Council's orders to Libya be completely fulfilled.

On September 15, I joined several colleagues in urging the President to use this opportunity to call for Libya to compensate the victims of the Pan Am flight and of UTA flight 177. On Friday, I came to the floor to make a single important point. That we must not relax our pressure on Libya until the criminals who killed the passengers of Pan Am flight 103 are brought to justice. Again, I urged the President to speak to the General Assembly. To press Libya to surrender these criminals. He did not.

Mr. President, I am deeply disappointed that President Bush failed to take advantage of this opportunity, and I urge my colleagues to join me in demanding that the United States continue to pursue every legal avenue to bring the murderers of the Pan Am flight 103 passengers to justice.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,035,824,364,116.45, as of the close of business on Thursday, September 17, 1992.

Anybody familiar with the U.S. Constitution knows that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on Federal spending approved by Congress—spending over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest of the existing Federal debt.

On a per capita basis, every man, woman, and child owes $15,712.22—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

Mr. KOHL. Mr. President, I am pleased that the Senate has expeditiously approved S. 1002. This bill, introduced by Senator SHELBY, makes it a Federal offense for noncustodial parents who live in another State to evade their child support obligations.

I chaired a Juvenile Justice Subcommittee hearing on S. 1002 back in July. The subcommittee, which included Senator SHELBY as a guest member, heard from custodial and noncustodial parents' groups, the legal community, and the recently concluded U.S. Commission on Interstate Child Support.

The horror stories and the facts convinced us that something needed to be done. Senator SHELBY's bill is a step in the right direction, and he is to be commended for his efforts.

Two basic changes have been made in S. 1002 since that hearing. First, as originally drafted, the bill assumed that any nonpayment was intentional. The committee substitute—which, by the way, mirrors the language in the companion legislation already passed by the House—requires Federal authorities to prove that a parent willfully refused to pay his or her child support arrearages. This change will help protect noncustodial parents who cannot pay child support because they are unemployed or underemployed. And the willful nonpayers would still be penalized.

The second change calls for the creation of a Commission on Child and Family Welfare. The Commission is not an attempt to link child support and child access. I do not believe that linkage is legitimate. But I do believe that some non-custodial parents, most of whom faithfully pay their child support, have legitimate concerns. They want to contribute to the emotional, as well as the financial, well-being of their children. We ought to look at this issue just as we looked at interstate nonpayment. That is what the legislation charges the Commission to do.

The Judiciary Committee unanimously approved this measure last week. With the full Senate's quick action last week, it appears that we can get the bill conferenced and to the President before we adjourn. And that, I am convinced, would help a lot of kids.

Many other people also are convinced of the good of this measure, particularly concerning the Commission. Mr. President, I ask unanimous consent that letters of support for this approach be entered into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NON-CUSTODIAL PARENTS
OF NEBRASKA,
Omaha, NE, September 15, 1992.

U.S. Senator HERB KOHL,
Hart Building, Washington, DC.

DEAR SENATOR KOHL: We support and welcome the formation of a "Commission on Child and Family Welfare" to study visitation enforcement as an amendment to the Shelby-Hyde bill.

Research consistently reiterates the importance of lessening the harmful effects children suffer after divorce or separation. The greatest harm to these children is the loss of one parent, generally the non-custodial. In Nebraska, courts do not enforce their own visitation orders unless the non-custodial parent goes back time and time again. This is financially impossible for many fathers. Therefore, the child loses a parent.

We hand deliver or mail a copy of "Children Need Both Parents," to all inquiries and we have enclosed a copy for your office. Therein you will find excerpts of research on "fatherlessness" including that of Secretary of Health and Human Services, Louis Sullivan.

We are grateful to Senator Kohl. We do not know how such a social calamity as access to one's child has been so overlooked by Congress and state legislators. Senator Kohl is to be commended for this positive development.

Should you wish for a list of non-custodial parents from Nebraska who are denied access, expecially those whose children live in other states, we would be interested in providing information for you. We can also send survey results of a) numbers of times back to court, and 2) court costs and attorney fees.

We thank you and want to help wherever we can.

Sincerely,

WILLIAM C. HUERTER,
Education Chairperson.

ROCHESTER, MN,
September 16, 1992.

Senator HERB KOHL,
Hart Building, Washington, DC.

SENATOR KOHL: I am writing to you in support of your amendment to the Shelby-Hyde Bill (S1002/HF1241) "Commission on Child and Family Welfare to Study Visitation Enforcement". As a non-custodial parent of two children I've lived far too many times the disappointment of visitation denied. Currently I enjoy (court ordered) every other weekend and every other Tuesday and Thursday visitation. I am also allowed only six (6) telephone calls a month.

Though I (try to) understand why the courts need to put into place a visitation guideline, I don't understand why the courts aren't allowed to offer assistance when that visitation is denied. I believe that if the court order stipulated some penalty for visitation denied similar for non-payment of child support there perhaps would be a lot less non-payment, not to mention other associated problems. Further I believe that the custodial parent has an obligation to encourage a relationship with the non-custodial parent and this should be done without condition as long as there exists no abuse. Far too often this is not the case.

Recently a friend of mine told me about a segment on the talk show "Oprah" where there were a number of custodial parents (mostly women) who blatantly told stories of wanting to "get back at" or "get even with" their former spouse. This was best accomplished by denial of visitation or lack of encouragement for the other parent. Not only is this a shame but it borders on the criminal. It is apparent to me that our government is only willing to "gloss" over the real problems of divorce. All we hear or read about is the "deadbeat dad" who doesn't pay. What about the children who suffer emotionally when their father is "thrown out" of their lives. What about the parent who fails to encourage a relationship with the other parent. These too are real problems. Where is the person or committee willing to ask "what's really wrong with the system"? Simply I believe it's time to bring both sides together; hammer out the issues and initiate change! A change is needed and your amendment is a start. Thank you.

Sincerely,

RANDY MALLEY.

OMAHA, NE,
September 15, 1992.

U.S. Senator HERB KOHL,
Hart Building, Washington, DC.

SENATOR KOHL: This is just a short note to tell you how glad I was to learn that you are interested in creating a federal commission on child and family welfare to study visitation enforcement. While it is important that non-custodial parents support their children economically, it is even more important that non-custodial parents be allowed to exercise their rights to nurture their children * * * and absent federal guidelines, half the children of our land will continue to live in homes without a significant father figure. Current laws/courts are gender biased against males in divorce cases in which custody is in dispute, and when you combine the gender biased courts with vindictive ex-spouses, you find an entire generation of children being denied quality time with their fathers * * * and the social implications have proven horrendous—as noted by Dr. Sullivan earlier this year when he declared "fatherlessness to be the greatest family issue of our era."

Unfortunately, however, the Bush administration's response to the fatherlessness issue has offered little other than vague discussions of "family values" and the robust bashing of a fictitious sit-com character * * * your initiative may well be the first to actually do something constructive to resolve the dilemma of children who must grow up without fathers who want desperately to play a meaningful role in the nurturing of their children. * * * Please press on * * * if I may offer testimony or further commentary, please contact me at your earliest convenience.

Sincerely,

CHARLES F. ZULFER,
Lieutenant Colonel, USAF (ret.).

VOICES FOR CHILDREN,
Omaha, NE, September 16, 1992.

U.S. Senator HERB KOHL,
Hart Building, Washington, DC.

DEAR SENATOR KOHL: I understand you are interested in creating a "Commission on Child and Family Welfare" to study visitation enforcement. I am very supportive of such a committee and hope an amendment of this kind will, indeed, be attached to the Shelby-Hyde Bill as intended.

Voices for Children is a statewide child advocacy organization in Nebraska and we receive many requests for assistance with divorce and custody cases. As you are no doubt aware, these are extremely difficult cases to assist with and often are very one sided. As a nation we have begun to appropriately assist with child support enforcement but have sadly neglected the visitation issue. The complexity of this problem warrants a special committee and I hope you are able to accomplish its creation.

Please let me know if I can be of any assistance to you.

Sincerely,

KATHY BIGSBY MOORE,
Executive Director.

LESS SUMMIT, MO.

U.S. Senator HERB KOHL,
Hart Building, Washington, DC.

DEAR SENATOR KOHL: I am a divorced father of two daughters, ages now 16 and 15.

When my wife filed for divorce, I had no knowledge of her whereabouts, and she would not allow visitation of any kind until the divorce was final.

The entire matter was over the simple fact that her mother and I didn't get along, and for 6 years, her mother did everything possible to separate us.

Following the divorce, my ex moved away to another town about 60 miles north of my home. She began to make visitation difficult, and after a year, refused to cooperate at all.

This was in 1979, and I was attempting to salvage the business that I had started during our marriage.

Once I met another woman, visitation became even more difficult.

At the time, I was deeply in debt, the economy was sinking constantly, so I moved from my home town 160 miles to Tulsa, OK, for work.

After a few months went by, I contacted my mother, and let her know that I would be home the following weekend, and requested that she go get the girls, so I could see them while I was there.

When I got there, I was informed that my ex had moved to Omaha, Neb. and was getting the child support checks forwarded through the circuit clerks office. This made visitation virtually impossible.

Finally, the ex agreed to let me have the kids for the summer of the following year.

At the time I picked them up, I asked their mother if I could have them for Christmas or Thanksgiving. Her response was "I already have plans".

So I asked about the following year, and she agreed. Then the next summer, while the girls were in my custody for the season, they were elated to learn that we would be going to see my parents on a plane during the Christmas holidays.

As soon as they wrote their mother, they mentioned the plans, but after talking to her on the phone, they mysteriously changed their minds, but didn't want to talk about it.

They have not spent a summer with me since then.

Something must be done to enforce visitation rights.

My suggestion is to order all child support paid to the circuit clerk, and anytime a custodial parent changes their address to out of state, without a court order, all child support should be held in escrow until a letter from the non-custodial parent has been received, or a court order has been issued allowing the move.

My father, who is a retired physician was treated this way by his first wife.

I recall as a youth when he went to see his daughter, his ex would always start a quarrel, and dad would come home with tears in his eyes.

In 1970, he had a tumor on his spine, and his chances of pulling through the surgery were less than 50/50.

At this time, he had not seen or heard from his daughter since she was 16, and by 1970, she was about 26.

About a week before he was to go to Mayo clinic, she called to see how everyone was. Mom informed her of dads illness, and she had a long talk with dad at the time.

She informed him of how sorry she was for all the lies that her mother had told, and that when he flew out of the Springfield, Mo. airport to go to Mayo, she would be there to see him off. For once they would have a solid relationship.

She met him at the airport as promised, and was very apologetic for her behavior in the past. But the surprise came when dad pulled through.

When he returned to the airport on the way home, mother took a phone number that dads daughter had given them, and proceeded to call her. The party who answered the phone told him that he had a "wrong number".

That was in 1978, and he has not seen her since.

Twice since then, he has received calls from her in which she promises to come down the "following weekend", but these promises are never kept.

This is a result of no inforcement of visitation. There are laws on the books to enforce child support, lets get some on there to do something about the "vengeance factor" that so often is displayed by custodial spouses.

Twice after my divorce, my ex told me "You have started a new life for yourself, so just go on and leave us (meaning the children) alone, they don't need you".

Please senator I beg you, if ever you have been needed, it is now.

It is too late for you to salvage the relationship between my children and myself, but it is not to late for you to help save countless others.

Sincerely,

G. A. PURVES.

ROCHESTER, MN,
September 14, 1992.

Senator HERB KOHL,
Hart Building, Washington, DC.

DEAR SENATOR KOHL: I support your amendment to the Shelby-Hyde bill (S1002/HF1241) forming a commission on child and family welfare to study visitation enforcement. What's "best for the chid" needs better understanding as the statistics on children raised with absence of one parent point out. What we don't need are adults with problems because of low self esteem—a direct result of abandonment by one parent, that parent often a father forced out of the childs life by our cruel divorce laws on custody, and "liberal visitation" unenforced.

I help run a support group for divorced people in MN called We Care. Several of my friends from the organization have driven hours to see their children only to find them not home at the court scheduled time or there but not permitted out of the house. Police departments don't help. There are no visitation police. This is terrible treatment of the children, denied the right they were born with to two loving parents. A love not changed by a divorce, only denied the child by our current laws!

Sincerely yours,

DOUGLAS H. PITTINGSREED.

OMAHA, NE,
September 15, 1992.

Hon. HERB KOHL,
Hart Building, Washington, DC.

DEAR SENATOR KOHL: I appreciate your amendment which creates a "Commission on Child and Family Welfare". It is good to see our government taking an interest in the children of divorce on issues rather than the money. It is important that these children continue a relationship with both parents and all the money in the world can not replace the loss of a parent.

My divorce was finalized in 1987 and our sons mother thought that because she divorced me that the children also divorced me. She also learned that because she became the custodial parent the children became her property to control. The following stories about my situation will explain how I reached these conclusions about her.

I attempted to coach my oldest son in soccer but their mother signed up her new husband as the father. The soccer association abided by her wishes because she is the custodial parent. One of the reasons their mother gave me for not allowing me to coach was because the games and practices would not fall during my visitation.

I have attempted to be listed as the father in the student directory but the school will not allow this without the custodial parents approval, which has not been granted.

I am unable to get emergency medical treatment for my sons without the permission of the custodial parent. One occasion her mother was able to give permission over the phone for treatment and another time her new husband gave permission. This happens at a hospital which bills my insurance without my permission.

My youngest son was in tumbling in 1991 and when I asked where he was taking it she refused to inform me.

Thank you again for recognizing the importance of divorced children needing both parents.

Sincerely,

LON MULLER.

GRANDPARENTS UNITED FOR
CHILDREN'S RIGHTS
Madison, WI, August 28, 1992.

Senator HERB KOHL,
Chairman, Juvenile Justice Subcommittee, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KOHL: It is with great pleasure that Grandparents United For Children's Rights, Inc. endorses the establishment of a Commission On Child And Family Welfare. It is a well known fact that the family, and particularly children, are falling deeper and deeper into the abyss of severe hardship in today's uncertain economic structure.

As an organization that works for the advocacy of children, their rights and welfare, we wholeheartedly sanction a sincere effort to compile information that will affect the best interests of children. Our organization and others like it would welcome studies such as (h) Duties recommends. The four items are thoughtfully conceived and could have resounding long term benefits in terms of services to the family.

Of course, we offer our help to the Commission in whatever way would be considered most beneficial to the achievement of its aims.

Very truly yours,

ETHEL DUNN,
Executive Director.

Madison, WI, September 1, 1992.

Hon. HERB KOHL,
Chairman, Juvenile Justice Subcommittee, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KOHL: This is to offer my personal support for the establishment of a Commission on Child and Family Welfare, which is contained within a Substitute Amendment to S. 1002. I would also support such a Commission if it were introduced independently of S. 1002.

You will recall that when I testified on S. 1002 before the Juvenile Justice Subcommittee on July 29, 1992, I encouraged consideration of a balancing amendment that would respond to noncustodial parents' concerns about being denied access to their children. This Commission does provide a meaningful response to those concerns without interfering in any way with the other purposes of the bill.

It would investigate the access problems noncustodial parents are experiencing and determine how such problems might relate to child support noncompliance. In addition, it would take a broad look at child welfare, including the important subject of mediation. All in all, this Commission is a far-sighted approach to problems raised before the Subcommittee during the S. 1002 proceedings and promises real benefit for the children.

If there is any way I can be of further service with regard to S. 1002 on this matter or in the event that the Commission on Child and Family Welfare is established, please don't hesitate to let me know.

Sincerely,

WILLIAM N. FETZNER.

FATHERS FOR
EQUAL RIGHTS, INC.,
Des Moines, IA, September 2, 1992.

Hon. HERB KOHL,
U.S. Senator, Hart Building, Washington, DC.

DEAR SENATOR KOHL: I am extremely pleased to learn of your interest is creating a Commission on Child and Family Welfare. As Director of the Iowa Child Access Enforcement Project, one of the seven demonstration grants awarded under Section 504 of the Family Support Act of 1988, my clinical experience in counseling 2,835 non-custodial parents demonstrates the pressing need for such a Commission.

Please find enclosed a copy of my presentation on enforcement of visitation rights, delivered at the conference of the National Child Support Enforcement Association last week in Orlando, Florida. The same basic material was used in my keynote address to the National Congress for Men and Children in Detroit, Michigan this past Friday. This presentation shows what we have learned about non-litigation and low adversarial litigation remedies to help non-custodial parents enforce their visitation rights.

Also, please find enclosed a copy of the first Quarterly Report of the Iowa Child Access Enforcement Project. Although the project has only been in operation for several months, I believe that we have already demonstrated that projects such as ours work, reach large numbers of non-custodial parents, and provide cost-efficient counseling, supportive services, and referrals.

I would hope that, specifically, the Commission on Child and Family Welfare would be charged with reviewing the progress of the Section 504 demonstration projects and recommending policies to Congress which would draw the best information from the seven demonstration projects.

I have also enclosed a copy of the Census Bureau report on compliance with financial child support orders. It shows that 79.1% of non-custodial parents with visitation rights are current on financial child support. The presentation from the Orlando N.C.S.E.A. conference cites several other studies, all of which show a high correlation between visitation and financial child support compliance. A Commission on Child and Family Welfare could study the causal relationship between visitation and financial child support compliance and develop public policies which would enhance voluntary compliance, thereby reducing the cost, now exceeding $1.2 billion per year, of financial child support enforcement.

For a mere $5 million, four tenths of one percent (0.4%) of the current financial child support enforcement budget, services such as the Iowa Access Enforcement Project could be established in all fifty states. Such offices would handle approximately eight new cases per day and, in most cases, find inexpensive, non-litigation remedies to the denial of child access which, if left unchecked, would result in future delinquency in financial child support.

I consider your willingness to insert such an amendment into the Shelby-Hyde bill to be a very positive and timely development. Some federal and state child support enforcement legislation has been very one-sided and inequitable. In my experience, such one-sided legislation has counter-productive consequences by reinforcing the impressions of non-custodial parents that the courts, the administration, Congress, and the state legislatures are aligned with their "ex". It will be much more productive to show non-custodial parents that government is concerned about child access as well as financial child support.

Sincerely,

DICK WOODS, A.A.C.,
Director, Iowa Child Access Enforcement Project.

CHILDREN'S RIGHTS COUNCIL,
Washington, DC, September 3, 1992.

Hon. HERBERT KOHL,
U.S. Senate, Washington, DC.

DEAR SENATOR KOHL: Our Children's Rights Council, with chapters in 20 states, strongly supports the proposal to create an interstate commission in the Shelby bill (S. 1002).

We urge that the commission focus on interstate access/visitation questions, because this in itself is a large agenda.

As stated in the enclosed newsletter "Speak Out for Children" an estimated 6,600,000 children are suffering interference with access to a parent. There are millions more children with access problems to their grandparents.

In an age when we realize more and more the importance of parenting, it is time to address the problems of access or visitation to parents and grandparents.

If we pay more attention to access problems, we will also improve financial child support collections. The main reason Congress was convinced to add Sec. 504 to the Family Support Act (to provide for access demonstration grants to several states) was Michigan's "Friend of the court. In Michigan, the only state with a state-wide staff to investigate access as well as support complaints, the state collected more in child support per administrative dollar than any other state. In 1988, when the Family Support Act was passed, Michigan collected $8.33 for every dollar spent to collect. This high rate was due, said Michigan State Senator Debbie Stabenow, to the "Friend of the Court" and balanced family law legislation.

For the sake of our children, we urge support for the interstate commission. Thank you.

Sincerely yours,

DAVID L. LEVY, Esq.,
President, CRC.

TRIBUTE TO STEVE DRESS

Mr. WELLSTONE. Mr. President, Steve Dress, age 60, a great labor leader and great advocate for poor people, for homeless people, for economic justice, died of cancer Friday at United Hospital in St. Paul. I am grateful that my wife Sheila and I had a chance to visit with Steve in the hospital before he passed away. He will be sorely missed. I know I join many others in Minnesota today who mourn his death and who will gather this afternoon to recall and celebrate his life. I extend my deepest sympathy to Steve's family.

Steve was a mathematics teacher for 30 years at Hazel Park Junior High School in St. Paul. He was business agent of the St. Paul Trades and Labor Assembly. He was a former president of Local 28 of the Minnesota Federation of Teachers, and he held a host of other important positions in the community throughout his long career. But most important of all, Mr. President, Steve Dress had tremendous vision.

I have a friend who works with me. Her name is Sarah Stoesz and she put it best to me. She said:

> As a younger woman who has been involved in the labor movement, I was grateful that Steve Dress was one man who, from the very beginning, gave me unwavering support. His sensitivity toward people, his commitment to people, his vision and his kindness I think will never be forgotten by any of us who were touched by Steve Dress.

Mr. President, I do not very often come to the floor with this kind of personal testimony, but the reason I speak on the floor of the Senate today is that I want Steve Dress' life—and his passing—to be noted in the official history of the United States of America.

Mr. President, I ask unanimous consent to print in the RECORD two articles, written on the occasion of Steve's death; one from the Minneapolis Star Tribune and one from the St. Paul Pioneer Press.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Minneapolis Star Tribune, Sept. 19, 1992]

LABOR LEADER, ADVOCATE STEVE DRESS DIES

Steve E. Dress, 60, an outspoken invocate for organized labor, for children, and for the poor, unemployed and homeless, died of cancer Friday at United Hospital in St. Paul.

Dress of St. Paul, was business representative for the St. Paul Trades and Labor Assembly from 1986 until his death. He was the chief spokesman for about 36,000 members of 108 affiliated unions in the St. Paul area at the Legislature, the St. Paul City Council, the Ramsey County Board and other governing boards.

"Steve had a knack for keeping everybody happy," said Louise Greongard, president of the St. Paul Trades and Labor Assembly. "He could take two opposite forces and mold them into one and have them work side by side and get things done."

Dress had been a math teacher at Hazel Park Junior High School in St. Paul for nearly 30 years and was president of the St. Paul Federation of Teachers Local 28 for five years. He was one of the union's delegates to the labor assembly when his colleagues urged him to run for business representative. He took a leave from teaching when he got the job in 1986. He coordinated political and solidarity activities, and built the assembly into a strong organization to promote union-endorsed political candidates.

Bill Peterson, secretary-treasurer of the Minnesota AFL-CIO, said Dress had a great deal of influence on elected officials and didn't hesitate to call them on the carpet or to praise them. "He had a great deal of determination and fortitude," Peterson said. "If he got behind something and truly believed and felt it was in the best interests of the people he represented, he was very tenacious and wouldn't let up on it."

When Dress felt that children weren't getting enough help with their homework at home, he started a "Dial-A-Teacher" program. He was instrumental in starting the Labor Studies program, an elective curriculum in the St. Paul schools about unions and the history of the labor movement.

He promoted and reestablished in 1988 the annual Labor Day celebration and picnic, which had not been held for 70 years.

He believed that unions, and society as a whole, had a commitment to help the indigent. In a speech on the first anniversary of his election, he said, "There are 300 food shelves in this state today and it's still not enough. You go over to the Dorothy Day Center and you see kids. Kids are standing in line to get something to eat. Those are our issues—absolutely our issues. Labor must come to the front again."

Dress also got involved in issues that other labor leaders wouldn't touch, said Tom Lancy, recording secretary for the United Auto Workers Local 879 at the Ford plant in St. Paul. He spoke at rallies in support of the striking P-9 members at the Hormel plant in Austin, Minn., and headed antiwar meetings at labor halls during the Persian Gulf War.

"Martin Luther King said, 'You don't judge a person by where they stand in times of comfort and convenience, but where they stand in moments of challenge and controversy,'" Lancy said yesterday. "[Dress] just epitomized that. Our local is sort of a maverick local. He might not have agreed with the positions we took, but he supported us anyway. We're really going to miss him."

Dress was vice president and an executive board member of the state AFL-CIO, a board member of the United Way of the St. Paul Area, a member of the St. Paul Task Forces on Dislocated Workers and on Hunger and Homelessness and a member of the Minnesota State Vocational Committee.

He is survived by daughters, Cindy Fournelle, Cherie Flelschhaker and Stacy Fairbanks of St. Paul; sons Steven, Tony and Thomas of St. Paul; a brother, Peter, of Edina; a sister, Elena Pierce, of North St. Paul, and eight grandchildren.

Services will be held at 1:30 p.m. Monday at the St. Paul Trades and Labor Assembly (St. Paul Labor Center), 411 Main St., St. Paul. Visitation will be from 3 to 7 p.m., Sunday at the Willwerscheid & Peters Mortuary, 1167 Grand Av., St. Paul. Memorials to the St. Paul Federation of Teachers Local 28 Scholarship Fund or to the Labor Studios program are suggested.

[From the St. Paul Pioneer Press, Sept. 19, 1992]

UNION LEADER, MATH TEACHER STEVE DRESS DIES OF CANCER

(By Jim Ragsdale)

Steve Dress, a math teacher who rose through the "white-collar" union ranks to run one of St. Paul's most influential labor organizations, died Friday of cancer at the age of 60.

Since 1986, Dress served as business agent for the St. Paul Trades and Labor Assembly, a coalition of more than 100 locals that is active in civic work, lobbying and endorsing candidates. Dress and his organization were regarded as major players in St. Paul's political life.

"He was totally dedicated to the labor movement," said Dick Anfang, head of the St. Paul Building and Construction Trades Council, who often worked with Dress on labor issues.

Bernard Brommer, president of the Minnesota AFL-CIO, where Dress sat on the executive council, said Dress had "a high level of impatience for injustices he saw in the workplace and in the political arena."

Dress grew up in St. Paul, attended Mankato State University and spent nearly three decades teaching math in St. Paul. At first, he once recalled, he refused to join the teachers' federation, believing professionals did not need unions.

But once he changed his views, he became a fervent unionist helping to negotiate teachers' contracts and serving as president of the St. Paul Federation of Teachers. He taught math for years at Hazel Park Junior High School and lived in St. Paul.

When he was first elected to head the Trades and Labor Assembly, it was believed he was the first official from a "white collar" union to head the organization, which historically had been led by blue-collar trades workers.

Louis Greengard, president of the assembly, credited Dress with molding the assembly into a cohesive and influential voice for labor in St. Paul, which has long been known as a strong labor town.

"He was a great motivator," Greengard said. "He could take two adverse groups and mold them into one group, to do the job that had to be done."

Mike McLaughlin, former DFL chairman for the 4th Congressional District, said of Dress, "Everyone respected his judgment. He was never the overbearing, bossy type of guy. He was a conciliator. He got things done by working behind the scenes."

Dress is survived by his children, Cindy Fournelle, Steven C. Dress, Cherie Fleischacker, Tony Dress, Thomas Dress and Stacy Fairbanks, and their mother, Betty Dress, all of St. Paul; eight grandchildren; his companion, Gloria Van Ruden, his brother, Peter Dress of Edina, and his sister, Elena Pierce of North St. Paul.

Visitation will be from 3 p.m. to 7 p.m. Sunday at Willwerscheid & Peters Mortuary, 1167 Grand Ave. Services will be at 1:30 p.m. Monday at the St. Paul Labor Center, 411 Main St., St. Paul. Burial will be at Union Cemetery.

NATIONAL CANCER INSTITUTE FUNDING

Mr. LEVIN. Mr. President, I was very pleased that a proton cancer treatment amendment which I offered this past Thursday to the Labor, HHS, and Education appropriations was accepted by the managers of the bill. However, because of a misstatement contained in one of the paragraphs of my remarks of September 17, 1992, I am submitting the following corrected statement. It reads as follows:

PROTON CANCER TREATMENT

Mr. LEVIN. Mr. President, my amendment provides that up to $1 million of National Cancer Institute funds may be used for the expansion project for cancer treatment by the consortium of Michigan State University's National Superconducting Cyclotron Laboratory, Wayne State University and the University of Michigan. The expansion project proposes to convert the present K-500 superconducting cyclotron of the National Superconducting Cyclotron Laboratory [NSCL] into a 250-MeV proton synchrocyclotron solely dedicated to proton cancer therapy. The planned conversion includes a building for an outpatient treatment facility with additional shielded radiation rooms and ancillary equipment.

Mr. President, the success of this proposed expansion has nationwide implications as thousands of cancer patients are expected to benefit from this proton therapy. According to medical experts this life saving technology is gaining acceptance for treatment in certain cases including arteriovenous malformations, small brain tumors, tumors of the eye and pituitary, and chondrosarcomas and chordomas close to the brain stem. Although there is an established clinical role for proton therapy, there is undoubtedly a large resource of untapped potential and further clinical research is necessary to realize this potential.

Dr. Arthur T. Porter, chief of the Gershenson Radiation Oncology Center at Harper Hospital, and chair of Wayne State University School of Medicine in Detroit has made particular note of the technological features which enhance the tumor-killing properties of protons without bringing harm to non-cancerous tissue. According to Dr. Porter, and the other team of experts within the consortium, of all the ways of delivering radiation, proton beams have been shown to be the best in giving the most dose to the tumor and the least dose to the surrounding normal tissues. This allows the best chance of obtaining tumor destruction without complications.

Dr. Henry G. Blosser, professor of physics at the NSCL/MSU and developer of the world's first superconducting cyclotron says that an attractive feature of superconducting cyclotrons for medical applications is that they are considerably smaller, lighter, more energy efficient and easier to operate than a conventional cyclotron.

The consortium contributes unique and valued data to the project. This consortium has a proven track record in the field of particle radiation therapy and will bring this important therapy to those patients who can best benefit from its use. An executive committee consisting of representatives from each participant organization will provide direction to the project.

Mr. President, NSCL is nationally and internationally recognized as the leading scientific resource for the development of superconducting cyclotron technology having developed the world's first superconducting cyclotron, the world's highest energy superconducting cyclotron, and the world's first medical superconducting cyclotron.

Mr. President, this joint project between the Gershenson Radiation Oncology Center at Harper Hospital/Wayne State University and NSCL/Michigan State University is a most worthy endeavor and deserves the support of this body.

I ask unanimous consent that the amendment be printed for the RECORD. The amendment reads as follows:

In the appropriate place in title II insert the following new section:

"Of the $2,010,439,000 provided for the National Cancer Institute, up to $1,000,000 may be used for expansion of an existing superconducting cyclotron at the National Superconducting Cyclotron Laboratory for proton radiation therapy treatment of cancer patients."

RADIO FREE ASIA COMMISSION REPORT

Mr. HATCH. Mr. President, I have long believed that access to information is an important key to political reform and change around the world. Radio Free Europe [RFE] and Radio Liberty beamed information into the heart of Eastern Europe and the former Soviet Union. These broadcasts allowed the citizens in authoritarian countries to hear news about what was happening in their own country and paved the way toward democracy. Lech Walesa has said that these broadcasts were important for helping to create and strengthen the solidarity movement. Lithuanian President Landesberg is sought to nominate RFE for a Nobel Prize. It is clear that surrogate broadcasting worked in Eastern Europe and countinues to be an effective tool for combating political repression and censorship abroad.

With the recent release of the Radio Free Asia Commission report, it is time to turn our attention to radio broadcasting in Asia. While I believe that the United States should broadcast news and information to a number of countries in Asia with serious human rights violations, I am particularly interested in the future of North Korea. This regime possesses the most egregious human rights record in Asia. Kim Il-Sung has built the world's largest personality cult through cutting off contact with the outside world. He has isolated an entire nation and sought to infect his people with his sense of paranoia and xenophobia. Kim Il-Sung has gone so far as to limit radios in North Korea to only three stations. This modern-day hermit kingdom is also seeking the technology to build nuclear weapons. Kim Il-Sung's obsession with political isolation and nuclear technology is an extremely dangerous combination. It is clear that North Korea needs to be drawn out of its shell, but the primary question is how to achieve this goal.

Congress should continue to explore creative options designed to expand broadcasts to North Korea and to circumvent government-imposed censorship. Other ideas to promote contacts and exchange with the North Korean people should be examined as well. The important point is that we reach out to the North Korean people and offer them an alternative source of information and news. In this way, the United States and its allies will help weaken the stranglehold that Kim Il-Sung has on North Korea. Mr. President, Diana Lady Dougan of the Center for Strategic and International Studies [CSIS] has written a piece on this very subject, and I would like to include it for the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

N. KOREA STILL ISOLATED, STILL A THREAT

(By Diana Lady Dougan)

The recent change of heart allowing limited nuclear site inspection and returning the remains of 30 Korean War casualties have political pundits suddenly rejoicing that North Korea is finally joining the so-called new world order.

Don't start celebrating yet.

In reality, little has changed politically in North Korea. Indeed, the recent 80th birthday celebration of their "great and glorious leader," Kim Il-Sung, was a monument to dictator decadence and brain-washed submissiveness. (The only new "washing" seemed to be courtesy of the six towels and six bars of soap each of Kim-II-Sung's 21 million subjects received in honor of the great occasion.)

At first glance, North Korea's 40-plus years of totalitarian communist rule holds no more drama than many other spots on the map.

Like East and West Germany, North and South Korea were arbitrary creations of politics rather than ethnic or economic differences. Romania had a comparably megalomaniacal dictator. Albania long practiced an equally high level of xenophobia. Yet each of these countries has joined the tidal wave of change towards democracy. Why not North Korea?

One major reason is "electronic isolation." Unlike Eastern Europe and the former Soviet Union, North Korea has successfully kept out the invasion of broadcast signals that fueled political change across the globe.

The people of North Korea have not been able to hear the dissenting voices of VOA, BBC or Radio Liberty, much less see the diverse images of CNN, the U.S. Armed Forces Television or the South Korean channels that beam into hotels and homes less than 50 miles away in the bustling capital of South Korea.

While many communist countries spent millions (some say billions) in jamming Western shortwave radio broadcasts, the North Koreans have simply "neutered" the receiving equipment. All radios and TV's in North Korea are soldered to receive only the channels that are official transmissions of the North Korean government.

Few citizens risk the heavy and swift jail sentences for not properly "registering" all electronic equipment. Since all radios and TV's require a "physical" examination to be properly registered, the government kindly "fixes" even the few imported gifts that have been known to enter the country.

Ironically, the only outside messages currently penetrating the borders of North Korea are religious—and not just by Billy Graham.

During a recent meeting in Seoul, I discussed the situation with our U.S. Ambassador, Don Gregg, an old Korea hand. He recounted his cynicism when a visiting American evangelist recently boasted that his sermons and Bible messages were getting through to the North. It seems however, that the evangelist has done some serious homework.

The enterprising evangelist started by researching where North Koreans can still conveniently bicycle across the bridges to the Chinese side of the Yalu River to buy much needed personal necessities. He then determined that the most coveted items are ladies' underwear.

Instead of supplementing the already limited supply of plain, utilitarian undies, the evangelist is sending in shipments of colorful lace delicacies at reasonable prices. These attractive undergarments are decorated with more than lace, however. Every brassiere and panty is covered with an assortment of biblical quotes and pithy sermonettes written in Korean.

The minister firmly believes that thousands of North Korean ladies and their attentive spouses and friends are now getting close-up "exposure" to the messages of Christianity.

While one is tempted to chuckle at the whimsy of an enterprising evangelist, the issue of getting through to North Korea is a serious matter. Defense Secretary Dick Cheney has pegged North Korea as the most critical "flashpoint" in the world, reminding us ominously that "North Korea's 40-year history of aggression, terrorism and irresponsible weapons sales has acquired a dangerous new dimension—the development of nuclear weapons.

It is frightening that the even mildly appeasing rhetoric and vague promises of nuclear stand-downs is totally dependent on the personal whim of Kim Il-Sung or his slightly crazed, but anointed son.

Kin Il-Sung's tightly controlled internal propaganda machine continues to feed fear and distrust of the West. More important, as long as North Korea remains isolated from external sources of news and information, it maintains a dangerous potential to strike out like a startled animal suddenly confronted with things it doesn't understand. Armed with nuclear claws, it could be lethal indeed.

Before any serious initiative toward Korean reunification can hope to take root, diverse avenues of information must develop. As events in Germany palpably demonstrated, the Berlin Wall was neither soundproof nor videoproof. Democratic values and market concepts had been continuously leaping over the Berlin Wall courtesy of Western radio and TV for more than a decade prior to unification.

The Bush administration is currently agonizing over its international broadcast priorities in a post-Cold War era. While broadcasting continues to Eastern Europe and the former Soviet Union, high on the list is how to more effectively reach the People's Republic of China. Both VOA and a recently appointed presidential task force are wrestling with complex problems of securing transmitter sites, developing more programs and tapping limited resources.

While no one is discounting the importance of China, it is at least lurching towards openness and liberalization. The United States would do well to give some serious attention to getting through to the even more isolated North Korea.

Second, spending money on traditional shortwave transmitters and programs is not enough. New and creative thinking is required where North Korea is concerned.

Those who suggest we should wait patiently for the demise of Kim Il-Sung are courting disaster. His increasingly enfranchised son is known to be dumb as well as crazy—a nasty combination in dictators. Let's not leave the people of North Korea alone with them.

INDIAN HEALTH CARE AMENDMENTS ACT

The text of the bill (S. 2481) to amend the Indian Health Care Improvement Act to authorize appropriations for Indian health programs, and for other purposes, as passed by the Senate on September 18, 1992, is as follows:

S. 2481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Indian Health Care Amendments Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to Indian Health Care Improvement Act.
Sec. 3. Findings; policy; definitions.

TITLE I—INDIAN HEALTH MANPOWER

Sec. 101. Purpose.
Sec. 102. Health professions.
Sec. 103. Breach of contract provisions relating to Indian health scholarships.
Sec. 104. Nursing.
Sec. 105. Maintenance of community health representative program.
Sec. 106. Changes to Indian health service loan repayment program.
Sec. 107. Recruitment activities.
Sec. 108. Advanced training and research.
Sec. 109. Tribally controlled postsecondary vocational institutions.
Sec. 110. INMED program.
Sec. 110A. Quentin N. Burdick Indian Health Program.
Sec. 111. Scholarship and loan repayment recovery.
Sec. 112. Matching grants to tribes.
Sec. 113. Community health aid program.
Sec. 114. Tribal health program administration.
Sec. 115. Placement of participants in scholarship and loan repayment programs.
Sec. 116. Interdisciplinary training grants.
Sec. 117. Manpower shortages.
Sec. 118. Authorization of appropriations.

TITLE II—HEALTH SERVICES

Sec. 201. Health status and resource deficiency status.
Sec. 202. Catastrophic health emergency fund.
Sec. 203. Health promotion and disease prevention.
Sec. 204. Diabetes prevention, treatment, and control.
Sec. 205. Mental health prevention and treatment services.
Sec. 206. New studies.
Sec. 207. Right of recovery.
Sec. 208. Epidemiology grant program.
Sec. 209. California contract health services demonstration program.
Sec. 210. Coverage of screening mammography.
Sec. 211. Comprehensive school health education programs.
Sec. 212. Indian youth grant program.
Sec. 213. Tuberculosis prevention demonstration program.
Sec. 214. Patient travel costs.
Sec. 215. Authorization of appropriations.
Sec. 216. Contract Health Services payment study.
Sec. 217. Native Hawaiian health scholarships.
Sec. 218. Payment of claims.

TITLE III—HEALTH FACILITIES

Sec. 301. Health facilities closure and priorities.
Sec. 302. Safe water and sanitary waste disposal facilities.

Sec. 303. Ambulatory care facilities grant program.
Sec. 304. Indian health care delivery demonstration project.
Sec. 305. Expenditure of nonservice funds for renovation.
Sec. 306. Authorization of appropriations.

TITLE IV—ACCESS TO HEALTH SERVICES

Sec. 401. Treatment of payments to Indian health service facilities under medicare and medicaid programs.
Sec. 402. Report.
Sec. 403. Grants to and contracts with tribal organizations.
Sec. 404. Extension of demonstration program.
Sec. 405. Additional authority.
Sec. 406. Authorization of appropriations.

TITLE V—HEALTH SERVICES FOR URBAN INDIANS

Sec. 501. Authorization of appropriations.
Sec. 502. Grant authority.
Sec. 503. Federal Tort Claims Act coverage.
Sec. 504. Treatment of demonstration programs.

TITLE VI—ORGANIZATIONAL IMPROVEMENTS

Sec. 601. Indian Health Service.
Sec. 602. Authorization of appropriations.
Sec. 603. Director of Indian Health Service.

TITLE VII—SUBSTANCE ABUSE PROGRAMS

Sec. 701. Redesignation of existing title VII.
Sec. 702. Substance abuse programs.

TITLE VIII—MISCELLANEOUS

Sec. 801. Reports.
Sec. 802. Regulations.
Sec. 803. Extension of treatment of Arizona as a contract health service delivery area.
Sec. 804. Infant and maternal mortality; fetal alcohol syndrome.
Sec. 805. Reallocation of base resources.
Sec. 806. Child sexual abuse treatment programs.
Sec. 807. Tribal leasing.
Sec. 808. Extension of tribal management demonstration project termination date in certain cases.
Sec. 809. Long-term care demonstration project.
Sec. 810. Results of demonstration projects.
Sec. 811. Authorization of appropriations.
Sec. 812. Tribal self-governance project.
Sec. 813. Waiver of paperwork reduction.
Sec. 814. Joint venture demonstration projects.
Sec. 815. Demonstration of electronic data submission.
Sec. 816. Land transfer.
Sec. 817. Leases with Indian tribes.
Sec. 818. Office of Indian Women's Health Care.
Sec. 819. Health professional priorities in related program.
Sec. 820. Priority for Indian reservations.

TITLE IX—TECHNICAL CORRECTIONS

Sec. 901. Repeal of expired reporting requirements.
Sec. 902. Other technical corrections.

SEC. 2. AMENDMENTS TO INDIAN HEALTH CARE IMPROVEMENT ACT.

Whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

SEC. 3. FINDINGS; POLICY; DEFINITIONS.

(a) FINDINGS.—Section 2 of the Act (25 U.S.C. 1601) is amended—

(1) in paragraph (d), by striking the second sentence;

(2) by striking subsection (e) and inserting the following:

"(e) The unmet needs of tribal groups or local populations are sufficiently varied that resources provided for contracts under the authority of the Indian Self-Determination Act should provide maximum flexibility for tribal use of these funds in meeting local priorities."; and

(3) by striking paragraphs (f) and (g).

(b) DECLARATION OF POLICY.—Section 3 of the Act (25 U.S.C. 1602) is amended to read as follows:

"DECLARATION OF HEALTH OBJECTIVES

"SEC. 3. (a) The Congress declares that it is the policy of the United States—

"(1) in fulfillment of its special responsibilities and legal obligation to the American Indian and Alaska Native people residing throughout the United States, to meet the national goal of providing the highest possible health status to Indians and to provide existing Indian health services with all resources necessary to effect that policy.

"(2) to raise the health status of American Indian and Alaska Native people to the highest possible level;

"(3) to assure that all persons who are eligible for the health care services provided by the Indian Health Service have access to the same fundamental health care benefits; and

"(4) to assure the development of a comprehensive health care system, including tribal health care programs, that will meet the health care needs of American Indian and Alaska Native people in each of the developmental stages of life.

"(b) It is the intent of the Congress that the Nation meet the following health objectives with respect to Indians by the year 2000:

"(1) Reduce coronary heart disease deaths to no more than 100 per 100,000.

"(2) Reduce the prevalence of overweight individuals to no more than 30 percent.

"(3) Reduce the prevalence of anemia to less than 10 percent among children aged 1 through 5.

"(4) Reverse the rise in cancer deaths to achieve a rate of no more than 130 per 100,000.

"(5) Slow the rise in lung cancer deaths to achieve a rate of no more than 42 per 100,000.

"(6) Slow the rise in deaths from chronic obstructive pulmonary disease to achieve a rate of no more than 25 per 100,000.

"(7) Reduce deaths among men caused by alcohol-related motor vehicle crashes to no more than 44.8 per 100,000.

"(8) Reduce cirrhosis deaths to no more than 13 per 100,000.

"(9) Reduce drug-related deaths to no more than 3 per 100,000.

"(10) Reduce pregnancies among girls aged 17 and younger to no more than 50 per 1,000 adolescents.

"(11) Reduce to no more than 30 percent the proportion of pregnancies that are unintended.

"(12) Reduce suicide among men to no more than 12.8 per 100,000.

"(13) Reduce by 15 percent the incidence of injurious suicide attempts among adolescents aged 14 through 17.

"(14) Reduce to less than 10 percent the prevalence of mental disorders among children and adolescents.

"(15) Reduce homicides to no more than 11.3 per 100,000.

"(16) Reduce the incidence of child abuse or neglect to less than 25.2 per 1,000 children under age 18.

"(17) Reduce physical abuse directed at women by male partners to no more than 27 per 1,000 couples.

"(18) Reduce rape and attempted rape of women aged 12 and older to no more than 107 per 100,000 women.

"(19) Increase years of healthy life to at least 65 years.

"(20) Reduce deaths caused by unintentional injuries to no more than 66.1 per 100,000.

"(21) Reduce deaths caused by motor vehicle crashes to no more than 39.2 per 100,000.

"(22) Among children aged 6 months through 5 years, reduce the prevalence of blood lead levels exceeding 15 ug/dL and reduce to zero the prevalence of blood lead levels exceeding 25 ug/dL.

"(23) Reduce dental caries (cavities) so that the proportion of children with one or more caries (in permanent or primary teeth) is no more than 45 percent among children aged 6 through 8 and no more than 60 percent among adolescents aged 15.

"(24) Reduce untreated dental caries so that the proportion of children with untreated caries (in permanent or primary teeth) is no more than 20 percent among children aged 6 through 8 and no more than 70 percent among adolescents aged 15.

"(25) Reduce to no more than 20 percent the proportion of individuals aged 65 and older who have lost all of their natural teeth.

"(26) Reduce the prevalence of gingivitis aged 35–44 to no more than 50 percent.

"(27) Increase to at least 45 percent the proportion of individuals aged 35 to 44 who have never lost a permanent tooth due to dental caries or periodontal disease.

"(28) Reduce destructive periodontal diseases to a prevalence of no more than 15 percent among individuals aged 35 to 44.

"(29) Increase to at least 50 percent the proportion of children who have received protective sealants on the occlusal (chewing) surfaces of permanent molar teeth.

"(30) Increase to at least 65 percent the proportion of parents and caregivers who use feeding practices that prevent baby bottle tooth decay.

"(31) Reduce the infant mortality rate to no more than 8.5 per 1,000 live births.

"(32) Reduce the fetal death rate (20 or more weeks of gestation) to no more than 4 per 1,000 live births plus fetal deaths.

"(33) Reduce the maternal mortality rate to no more than 3.3 per 100,000 live births.

"(34) Reduce the incidence of fetal alcohol syndrome to no more than 2 per 1,000 live births.

"(35) Reduce stroke deaths to no more than 20 per 100,000.

"(36) Reverse the increase in end-stage renal disease (requiring maintenance dialysis or transplantation) to attain an incidence of no more than 13 per 100,000.

"(37) Reduce breast cancer deaths to no more than 20.6 per 100,000 women.

"(38) Reduce deaths from cancer of the uterine cervix to no more than 1.3 per 100,000 women.

"(39) Reduce colorectal cancer deaths to no more than 13.2 per 100,000.

"(40) Reduce to no more than 11 percent the proportion of individuals who experience a limitation in major activity due to chronic conditions.

"(41) Reduce significant hearing impairment to a prevalence of no more than 82 per 1,000.

"(42) Reduce significant visual impairment to a prevalence of no more than 30 per 1,000.

"(43) Reduce diabetes-related deaths to no more than 48 per 100,000.

"(44) Reduce diabetes to an incidence of no more than 2.5 per 1,000 and a prevalence of no more than 62 per 1,000.

"(45) Reduce the most severe complications of diabetes as follows:

"(A) End-stage renal disease, 1.9 per 1,000.

"(B) Blindness, 1.4 per 1,000.

"(C) Lower extremity amputation, 4.9 per 1,000.

"(D) Perinatal mortality, 2 percent.

"(E) Major congenital malformations, 4 percent.

"(46) Confine annual incidence of diagnosed AIDS cases to no more than 1,000 cases.

"(47) Confine the prevalence of HIV infection to no more than 100 per 100,000.

"(48) Reduce gonorrhea to an incidence of no more than 225 cases per 100,000.

"(49) Reduce Chlamydia trachomatis infections, as measured by a decrease in the incidence of nongonococcal urethritis to no more than 170 cases per 100,000.

"(50) Reduce primary and secondary syphilis to an incidence of no more than 10 cases per 100,000.

"(51) Reduce the incidence of pelvic inflammatory disease, as measured by a reduction in hospitalization for pelvic inflammatory disease to no more than 250 per 100,000 women aged 15 through 44.

"(52) Reduce sexually transmitted hepatitis B infection to no more than 30,500 cases.

"(53) Reduce indigenous cases of vaccine-preventable diseases as follows:

"(A) Diphtheria among individuals aged 25 and younger, 0.

"(B) Tetanus among individuals aged 25 and younger, 0.

"(C) Polio (wild-type virus), 0.

"(D) Measles, 0.

"(E) Rubella, 0.

"(F) Congenital Rubella Syndrome, 0.

"(G) Mumps, 500.

"(H) Pertussis, 1,000.

"(54) Reduce epidemic-related pneumonia and influenza deaths among individuals aged 65 and older to no more than 7.3 per 100,000.

"(55) Reduce the number of new carriers of viral hepatitis B among Alaska Natives to no more than 1 case.

"(56) Reduce tuberculosis to an incidence of no more than 15 cases per 100,000.

"(57) Reduce bacterial meningitis to no more than 8 cases per 100,000.

"(58) Reduce infectious diarrhea by at least 25 percent among children.

"(59) Reduce acute middle ear infections among children aged 4 and younger, as measured by days of restricted activity or school absenteeism, to no more than 105 days per 100 children.

"(60) Reduce pneumonia-related days of restricted activity as follows:

"(A) Individuals aged 65 and older (per 100 people), 38 days.

"(B) Children aged 4 and younger (per 100 children), 24 days.

"(61) Reduce cigarette smoking to a prevalence of no more than 20 percent.

"(62) Reduce smokeless tobacco use by Indian and Alaska Native youth to a prevalence of no more than 10 percent.

"(63) Increase to at least 65 percent the proportion of Indian and Alaska Native parents and caregivers who use feeding practices that prevent baby bottle tooth decay.

"(64) Increase to at least 75 percent the proportion of Indian and Alaska Native mothers who breast feed their babies in the early postpartum period, and to at least 50 percent the proportion who continue breast feeding until their babies are 5 to 6 months old.

"(65) Increase to at least 90 percent the proportion of pregnant Indian and Alaska Native women who receive prenatal care in the first trimester of pregnancy.

"(66) Increase to at least 70 percent the proportion of Indians and Alaska Natives who have received, as a minimum within the appropriate interval, all of the screening and immunization services and at least one of the counseling services appropriate for their age and gender as recommended by the United States Preventive Services Task Force.

"(67) Increase the proportion of degrees awarded to Indians and Alaska Natives in the health professions and allied and associated health profession fields to 0.6 percent.

"(68) Develop and implement a national process to identify significant gaps in the disease prevention and health promotion data for Indians and Alaska Natives and establish mechanisms to meet these needs.

"(69) Increase services to older individuals who are in need of medical care, personal care, or chore services in their home.

"(c) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the progress made in each area of the Service toward meeting each of the objectives described in subsection (b).

"(d) The objectives set forth in subsection (b) should include an emphasis on preventive, community-based services including, well-child and well-elder clinics, emphasis on family rather than individual treatment, and emphasis on in-home and community-based services for Indians who are aged 65 and older or who are functionally impaired.

"(e) The Secretary may revise the health objectives set forth in subsection (b) to reflect the findings of the Surgeon General related to American Indians and Alaska Natives contained in the 'Healthy People 2000' report.".

(c) DEFINITIONS.—Section 4 of the Act (25 U.S.C. 1603) is amended—

(1) in subsection (c)—

(A) by striking ", irrespective of whether he or she lives on or near a reservation,"; and

(B) by inserting "irrespective of whether he or she lives on or near a reservation," immediately after "such member,"; and

(2) by adding at the end the following new subsections:

"(m) 'Service area' means the geographical area served by each Area office.

"(n) 'Health profession' means medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatric medicine, geriatric medicine, psychology, social work, marriage and family therapy, environmental health and engineering, public health, nursing, public health nursing, chiropractic medicine, or an allied health profession.

"(o) 'Health professional' means an individual with a degree in a health profession.

"(p) 'Substance abuse' includes inhalant abuse.".

TITLE I—INDIAN HEALTH MANPOWER

SEC. 101. PURPOSE.

Section 101 of the Act (25 U.S.C. 1611) is amended to read as follows:

"PURPOSE

"SEC. 101. The purpose of this title is to increase the number of Indians entering the health professions and to assure an adequate supply of health professionals to Indians, Indian tribes, tribal organizations, and urban Indian organizations involved in the provision of primary health care to Indian people.".

SEC. 102. HEALTH PROFESSIONS.

(a) RECRUITMENT PROGRAM.—Section 102(a) of the Act (25 U.S.C. 1612(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) identifying Indians with a potential for education or training in the health professions, as defined in section 4(n), and encouraging and assisting them—

"(A) to enroll in courses of study in such professions; or

"(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;";

(2) in paragraph (2)—

(A) by striking "school" both places it appears and inserting "course of study"; and

(B) by striking "clause (1)(A)" and inserting "paragraph (1)"; and

(3) in paragraph (3)—

(A) by inserting "in" immediately after "Indians";

(B) by inserting a comma before "courses";

(C) by striking ", in any school"; and

(D) by striking "clause (1)(A)" and inserting "paragraph (1)".

(b) PREPARATORY SCHOLARSHIP PROGRAM.—Section 103 of the Act (25 U.S.C. 1613) is amended—

(1) by striking subsection (a)(2) and inserting the following:

"(2) have demonstrated the capability to successfully complete courses of study in the health professions, as defined in section 4(n).";

(2) in subsection (b)(1), by inserting before the period at the end "on a full-time basis (or the part-time equivalent thereof, as determined by the Secretary)";

(3) by striking subsection (b)(2) and inserting the following:

"(2) Pregraduate education of any grantee leading to a baccalaureate degree in an approved course of study preparatory to a field of study specified in subsection (a)(2), such scholarship not to exceed 4 years (or the part-time equivalent thereof, as determined by the Secretary).";

(4) in subsection (c), by striking "full time"; and

(5) by striking subsection (e) and inserting the following:

"(e) The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely by reason of such applicant's eligibility for assistance or benefits under any other Federal program.".

(c) HEALTH PROFESSIONS SCHOLARSHIPS.—Section 104 of the Act (25 U.S.C. 1613a) is amended—

(1) in subsection (a)—

(A) by striking "Indian communities" and inserting "Indians, Indian tribes, tribal organizations, and urban Indian organizations";

(B) by striking "full time" and inserting "full or part time"; and

(C) by striking "of medicine" and all that follows through "social work" and inserting "and pursuing courses of study in the health professions, as defined in section 4(n)";

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking "full time" and inserting "full or part time"; and

(ii) by striking "health profession school" and inserting "course of study"; and

(B) by adding at the end the following new paragraph:

"(4) In the case of an individual receiving a scholarship under this section who is enrolled part time in an approved course of study—

"(A) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the Secretary;

"(B) the period of obligated service specified in section 338A(f)(1)(B)(iv) of the Public Health Service Act (42 U.S.C. 254m(f)(1)(B)(iv)) shall be equal to the greater of—

"(i) the part-time equivalent of one year for each year for which the individual was provided a scholarship (as determined by the Secretary); or

"(ii) two years; and

"(C) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.";

(3) by striking subsection (c) and inserting the following:

"(c) The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely by reason of such applicant's eligibility for assistance or benefits under any other Federal program."; and

(4) by striking subsection (d) and inserting the following:

"(d) The Secretary shall, acting through the Service, establish a Placement Office to develop and implement a national policy for the placement in available vacancies within the Service of health professionals required to meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) without regard to any competitive personnel system, agency personnel limitation, or Indian preference policy.".

(d) EFFECTIVE DATE.—The amendments made by subsection (c)(1)(C) shall apply to scholarships granted under section 104 of the Indian Health Care Improvement Act after the date of the enactment of this Act.

(e) EXTERN PROGRAM.—Section 105 of the Act (25 U.S.C. 1614) is amended—

(1) in subsection (a), by striking "section 757 of the Public Health Service Act" and inserting "section 104"; and

(2) in subsection (b), by striking "school of medicine" and all that follows through "health professions" and inserting "course of study in the health professions, as defined in section 4(n)".

SEC. 103. BREACH OF CONTRACT PROVISIONS RELATING TO INDIAN HEALTH SCHOLARSHIPS.

Section 104(b) of the Act (25 U.S.C. 1613a(b)) (as amended by section 102(c) of this Act) is amended by adding at the end the following new paragraph:

"(5)(A) An individual who has, on or after the date of enactment of this paragraph, entered into a written contract with the Secretary under this section and who—

"(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

"(ii) is dismissed from such educational institution for disciplinary reasons,

"(iii) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

"(iv) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

"(B) If for any reason not specified in subparagraph (A), an individual breaches his written contract by failing either to begin such individual's service obligation under this section or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection.".

SEC. 104. NURSING.

(a) CONTINUING EDUCATION ALLOWANCES.—Section 106(a) of the Act (25 U.S.C. 1615(a)) is amended by inserting "nurses," after "dentists,".

(b) TRAINING FOR NURSE MIDWIVES, NURSE ANESTHETIST, AND NURSE PRACTITIONERS.—Section 112 of the Act (25 U.S.C. 1616e) is amended—

(1) in subsection (b)—

(A) at the end of paragraph (4), by striking "or";

(B) in paragraph (5), by striking the period at the end and inserting ", or"; and

(C) by adding at the end the following new paragraph:

"(6) establish and develop clinics operated by nurses, nurse midwives, nurse anesthetists, or nurse practitioners, in cooperation with accredited schools of nursing, to provide primary health care services to Indians."; and

(2) by striking subsection (f) and inserting the following:

"(f) Beginning with fiscal year 1992, of the amounts appropriated under the authority of this title for each fiscal year to be used to carry out this section, not less than $1,000,000 shall be used to provide grants under subsection (a) for the training of nurse midwives, nurse anesthetists, and nurse practitioners.".

(c) RETENTION BONUS FOR NURSES.—Section 117 (25 U.S.C. 1616j) of the Act is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(2) by adding after subsection (a) the following new subsection (b):

"(b) Beginning with fiscal year 1992, not less than 25 percent of the retention bonuses awarded each year under subsection (a) shall be awarded to nurses."; and

(3) by amending subsection (f) (as amended by paragraph (1)) to read as follows:

"(f) The Secretary may pay a retention bonus to any physician or nurse employed by an organization providing health care services to Indians pursuant to a contract under the Indian Self-Determination Act if such physician or nurse is serving in a position which the Secretary determines is—

"(1) a position for which recruitment or retention is difficult; and

"(2) necessary for providing health care services to Indians.".

(d) RESIDENCY PROGRAM.—Title I of the Act is amended by adding at the end the following new section:

"NURSING RESIDENCY PROGRAM

"SEC. 118. (a) The Secretary, acting through the Service, shall establish a program to enable licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian health program (as defined in section 108(a)(2)), and have done so for a period of not less than one year, to pursue advanced training.

"(b) Such program shall include a combination of education and work study in an Indian health program (as defined in section 108(a)(2)) leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse) or a bachelor's degree (in the case of a registered nurse).

"(c) An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least 3 times the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection.".

(e) GRANTS FOR THE PROVISION OF PRIMARY CARE SERVICES ON OR NEAR INDIAN COUNTRY.—Title I of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended by adding immediately after section 112 the following new section:

"NURSING SCHOOL CLINICS

"SEC. 112A. (a) GRANTS.—In addition to the authority of the Secretary under section 112(a)(1), the Secretary, acting through the Service, is authorized to provide grants to public or private schools of nursing for the purpose of establishing and developing clinics to address the health care needs of Indians, and to provide primary health care services to Indians who reside on or within 50 miles of Indian country, as defined in section 1151 of title 18, United States Code, or in medically underserved rural areas. A school of nursing receiving a grant pursuant to this section shall utilize the services of its students and faculty in operating such clinics.

"(b) PURPOSES.—Grants provided under subsection (a) of this section may be used to—

"(1) provide for all aspects of clinical training program development;

"(2) enhance the clinical faculty of any school receiving a grant pursuant to this section, by means such as increasing faculty salaries and recruiting new faculty; and

"(3) provide scholarships to students who participate in clinics established or developed pursuant to this section.

"(c) AMOUNT AND CONDITIONS.—The Secretary may award grants under this section in such amounts and subject to such conditions as the Secretary deems appropriate.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.

(f) PROVISION OF PRIMARY CARE SERVICES IN RURAL AREAS.—Part C of title VII of the Public Health Service Act (42 U.S.C. 294 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart VII—Provision of Primary Care Services in Rural Areas

"SEC. 765. PROVISION OF PRIMARY CARE SERVICES IN RURAL AREAS.

"(a) AUTHORIZATION TO USE AMOUNTS.—The Secretary may use not to exceed $5,000,000, out of amounts appropriated to carry out programs under this part, in each of the fiscal years 1993 through 1995 to award grants to public or private schools of nursing for the establishment of clinics that shall be administered by such schools.

"(b) APPLICATION.—A school desiring to receive a grant under subsection (a) shall prepare and submit to the Secretary, an application at such time, in such form, and containing such information as the Secretary may require.

"(c) USE OF GRANTS.—Amounts received under grants awarded under subsection (a) shall be used to—

"(1) establish clinics, to be run and staffed by the faculty and students of such grantee school, to provide primary care services in medically underserved rural areas or in areas on or within 50 miles of Indian country (as defined in section 1151 of title 18, United States Code).

"(2) provide for all aspects of clinical training program development, faculty enhancement and student scholarships in a manner that would benefit the clinic established under paragraph (1); and

"(3) carry out any other activities determined appropriate by the Secretary.

"(d) DESIGN.—The clinics established under subsection (c)(1) shall be designed to provide nursing students with a structured clinical experience that is similar in nature to that provided by residency training programs for physicians.".

SEC. 105. MAINTENANCE OF COMMUNITY HEALTH REPRESENTATIVE PROGRAM.

Section 107(b) of the Act (25 U.S.C. 1616(b)) is amended—

(1) in paragraph (2), by inserting "and maintain" after "develop";

(2) in paragraph (2)(B), by adding at the end the following: "with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty,";

(3) in paragraphs (3) and (5), by striking "develop" each place it appears and inserting "maintain"; and

(4) in paragraph (4), by striking "develop and".

SEC. 106. CHANGES TO INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM.

(a) ELIGIBILITY REQUIREMENTS.—Section 108 of the Act (25 U.S.C. 1616a(b)) is amended—

(1) in subsection (a)(1), by striking "physicians," and all that follows through "professionals" and inserting "health professionals, as defined in section 4(o)"; and

(2) in subsection (b)—

(A) in paragraph (1)(A)—

(i) by striking clause (i) and inserting the following:

"(i) in a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or"; and

(ii) in clause (ii), by striking "medicine" and all that follows through "health profession", and inserting "a health profession, as defined in section 4(n)";

(B) in paragraph (1)(B)—

(i) in clause (i)—

(I) by inserting "and" at the end; and

(II) by striking "medicine, osteopathy, dentistry, or other health profession" and inserting "a health profession, as defined in section 4(n),";

(ii) by striking clause (ii);

(iii) by redesignating clause (iii) as clause (ii); and

(iv) in clause (ii) (as redesignated by clause (iii) of this subparagraph), by striking "medicine, osteopathy, dentistry, or other health profession" and inserting "a health profession, as defined in section 4(n),"; and

(C) in paragraph (2)—

(i) by inserting "and" at the end of subparagraph (D);

(ii) by striking paragraphs (3) and (4); and

(iii) by inserting after paragraph (2) the following new paragraph:

"(3) submit to the Secretary an application for a contract described in subsection (f).".

(b) PRIORITY.—Section 108(d) of the Act (25 U.S.C. 1616a(d)) is amended—

(1) in paragraph (1), by striking out "The" and inserting "Consistent with paragraph (3), the"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B), beginning with fiscal year 1992, of the total amounts appropriated for each fiscal year for loan repayment contracts under this section, the Secretary shall provide that—

"(i) not less than 25 percent be provided to applicants who are nurses, nurse practitioners, or nurse midwives; and

"(ii) not less than 10 percent be provided to applicants who are mental health professionals (other than applicants described in clause (i)).

"(B) The requirements specified in clause (i) or clause (ii) of subparagraph (A) shall not apply if the Secretary does not receive the number of applications from the individuals described in clause (i) or clause (ii), respectively, necessary to meet such requirements.".

(c) BECOMING A PARTICIPANT.—Paragraph (1) of section 108(e) (25 U.S.C. 1616a(e)) is amended to read as follows:

"(1) An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in subsection (f).".

(d) EXTENSION OF OBLIGATED SERVICE.—Paragraph (2)(A) of section 108(e) (25 U.S.C. 1616a(e)) is amended by inserting before the semicolon the following: ", including extensions resulting in an aggregate period of obligated service in excess of 4 years".

(e) CLARIFICATION REGARDING UNDERGRADUATE LOANS.—Paragraph (1) of section 108(g) (25 U.S.C. 1616a(g)) is amended by striking "loans received by the individual for—" and inserting "loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—".

(f) PAYMENT.—Subparagraph (A) of section 108(g)(2) (25 U.S.C. 1616a(g)(2)) is amended to read as follows:

"(A) For each year of obligated service that an individual contracts to serve under subsection (f), the Secretary may pay up to $35,000 on behalf of the individual for loans described in paragraph (1). The Secretary may increase this amount to be consistent with the National Health Service Corps Loan Repayment Program. In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

"(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

"(ii) provides an incentive to serve in Indian health programs with the greatest health manpower shortages; and

"(iii) provides an incentive with respect to the health professional involved remaining in an Indian health program with such manpower shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.".

(g) TAX LIABILITY.—

(1) IN GENERAL.—Paragraph (3) of section 108(g) (25 U.S.C. 1616a(g)) is amended to read as follows:

"(3) For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual, the Secretary—

"(A) in addition to such payments, shall make payments to the individual in an amount equal to 39 percent of the total amount of loan repayments made for the taxable year involved; and

"(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply only with respect to contracts under section 108 of the Indian Health Care Improvement Act entered into on or after the date of enactment of this Act.

(h) ANNUAL REPORT.—Subsection (n) of section 108 is amended to read as follows:

"(n) The Secretary shall submit to the President, for inclusion in each report required to be submitted to the Congress under section 801, a report concerning the previous fiscal year which sets forth—

"(1) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

"(2) the number of Loan Repayment Program applications filed with respect to each type of health profession;

"(3) the number of contracts described in subsection (f) that are entered into with respect to each health profession;

"(4) the amount of loan payments made under this section, in total and by health profession;

"(5) the number of scholarship grants that are provided under section 104 with respect to each health profession;

"(6) the amount of scholarship grants provided under section 104, in total and by health profession;

"(7) the number of providers of health care that will be needed by Indian health programs, by location and profession, during the three fiscal years beginning after the date the report is filed; and

"(8) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes or tribal or Indian organizations for which recruitment or retention is difficult.".

SEC. 107. RECRUITMENT ACTIVITIES.

Section 109 of the Act (25 U.S.C. 1616b) is amended—

(1) by striking the heading and inserting the following:

"RECRUITMENT ACTIVITIES";

and

(2) by amending subsection (b) to read as follows:

"(b) The Secretary, acting through the Service, shall assign one individual in each area office to be responsible on a full-time basis for recruitment activities.".

SEC. 108. ADVANCED TRAINING AND RESEARCH.

Section 111 of the Act (25 U.S.C. 1616d) is amended—

(1) in subsection (b), by striking the last sentence and inserting the following: "In such event, with respect to individuals entering the program after the date of the enactment of the Indian Health Care Amendments Act of 1992, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection."; and

(2) by striking subsection (d).

SEC. 109. TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS.

(a) NURSING PROGRAM GRANTS.—Section 112(a)(2) of the Act (25 U.S.C. 1616e(a)(2)) is amended by inserting before the comma the following: "and tribally controlled postsecondary vocational institutions, as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)".

(b) TRIBAL CULTURE AND HISTORY PROGRAMS.—Section 113(b)(1) of the Act (25 U.S.C. 1616f(b)(1)) is amended by inserting before the comma "and tribally controlled postsecondary vocational institutions, as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2))".

SEC. 110. INMED PROGRAM.

Section 114(b) of the Act (25 U.S.C. 1616g(b)) is amended—

(1) by inserting "(1)" immediately after "(b)"; and

(2) by adding at the end the following new paragraphs:

"(2) The Secretary shall provide one of the grants authorized under subsection (a) to a college or university to establish and maintain a program similar to the INMED program for the nursing profession, including postdoctoral nursing.

"(3) The Secretary shall provide one of the grants authorized under subsection (a) to a college or university to establish and maintain a program similar to the INMED program for the mental health profession.".

SEC. 110A. QUENTIN N. BURDICK INDIAN HEALTH PROGRAM.

(a) ESTABLISHMENT.—Title I of the Act is amended by adding after section 114 the following new section:

"QUENTIN N. BURDICK INDIAN HEALTH PROGRAM

"SEC. 114A. (a) The Secretary, acting through the Service, is authorized to establish, in consultation with appropriate officials at the University of North Dakota, the Quentin N. Burdick Indian Health Program at the University of North Dakota. The purpose of such program shall be to coordinate the Indian health training programs available at the University of North Dakota to better promote the health of Indian people.

"(b) The Secretary may give preference, in accordance with sections 112(d)(5), 114(b)(4), and 209(h)(3), to applications for grants or contracts submitted by the University of North Dakota through the Quentin N. Burdick Indian Health Program.".

(b) CONFORMING AMENDMENTS.—

(1) NURSING PROGRAMS.—Section 112(d) of the Act (25 U.S.C. 1616e(d)) is amended—

(A) by striking "and" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; and"; and

(C) by inserting after paragraph (4) the following:

"(5) programs that are conducted through the Quentin N. Burdick Indian Health Program at the University of North Dakota.".

(2) INMED PROGRAMS.—Section 114(b) of the Act (25 U.S.C. 1616g(b)), as amended by section 110 of this Act, is further amended by adding at the end the following:

"(4) The Secretary shall give preference in providing grants under paragraphs (2) and (3) to applications submitted by the University of North Dakota through the Quentin N. Burdick Indian Health Program.".

(3) MENTAL HEALTH PROGRAMS.—Section 209(h) of the Act (as redesignated by section 902(3)(B) of this Act), is amended by adding at the end the following:

"(2) The Secretary shall give preference in entering into contracts or making grants under this subsection to appropriate programs conducted through the Quentin N. Burdick Indian Health Program at the University of North Dakota.".

SEC. 111. SCHOLARSHIP AND LOAN REPAYMENT RECOVERY.

Title I of the Act is amended by inserting after section 108 the following new section:

"SCHOLARSHIP AND LOAN REPAYMENT RECOVERY

"SEC. 108A. (a) There is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (hereafter in this section referred to as the 'Fund'). The Fund shall consist of such amounts as may be appropriated to the Fund under subsection (b). Amounts appropriated for the Fund shall remain available until expended.

"(b) For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of—

"(1) the amount collected during the preceding fiscal year by the Federal Government pursuant to—

"(A) the liability of individuals under subparagraph (A) or (B) of section 104(b)(5) for the breach of contracts entered into under section 104; and

"(B) the liability of individuals under section 108(l) for the breach of contracts entered into under section 108; and

"(2) the aggregate amount of interest accruing during the preceding fiscal year on obligations held in the Fund pursuant to subsection (d) and the amount of proceeds from the sale or redemption of such obligations during such fiscal year.

"(c)(1) Amounts in the Fund and available pursuant to appropriation Acts may be expended by the Secretary, acting through the Service—

"(A) to make scholarship grants under section 104; and

"(B) to provide loans under section 108.

"(d)(1) The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

"(2) Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

"(e) The Secretary, acting through the Service, shall give priority to assigning an individual (for the purpose of such individual's obligated service requirements under section 104 or section 108) to an Indian health program (as defined in section 108(a)(2)) that has a need for a health professional to provide health care services as a result of an individual having breached a contract entered into under section 104 or section 108.".

SEC. 112. MATCHING GRANTS TO TRIBES.

Title I of the Act (as amended by this Act) is amended by adding at the end the following new section:

"MATCHING GRANTS TO TRIBES FOR SCHOLARSHIP PROGRAMS

"SEC. 119. (a)(1) The Secretary shall make grants to Indian tribes and tribal organizations for the purpose of assisting such tribes and tribal organizations in educating Indians to serve as health professionals in Indian communities.

"(2) An application for a grant under paragraph (1) shall be in such form and contain such agreements, assurances, and information as the Secretary determines are necessary to carry out this section.

"(b)(1) An Indian tribe or tribal organization receiving a grant under subsection (a) shall agree to provide scholarships to Indians pursuing education in the health professions in accordance with the requirements of this section.

"(2) With respect to the costs of providing any scholarship pursuant to paragraph (1)—

"(A) 20 percent of the costs of the scholarship shall be paid from the grant made under subsection (a) to the Indian tribe or tribal organization; and

"(B) 80 percent of such costs shall be paid from non-Federal contributions by the Indian tribe or tribal organization through which the scholarship is provided.

"(3) In determining the amount of non-Federal contributions that have been provided for purposes of subparagraph (B) of paragraph (2), any amounts provided by the Federal Government to the Indian tribe or tribal organization involved or to any other entity shall not be included.

"(4) Non-Federal contributions required by subparagraph (B) of paragraph (1) may be provided directly by the Indian tribe or tribal organization involved or through donations from public and private entities.

"(c) An Indian tribe or tribal organization shall provide scholarships under subsection (b) only to Indians enrolled or accepted for enrollment in a course of study (approved by the Secretary) in the health professions, as defined in section 4(n).

"(d) In providing scholarships under subsection (b), the Indian tribe or tribal organization shall enter into a contract with each recipient of such scholarship. Such contract shall—

"(1) require such recipient to provide service in an Indian health program (as defined in section 108(a)(2)(A)), in the same service area where the Indian tribe or tribal organization providing the scholarship is located, for—

"(A) a number of years equal to the number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

"(B) such greater period of time as the recipient and the Indian tribe or tribal organization may agree;

"(2) provide that the amount of such scholarship—

"(A) may be expended only for—

"(i) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the school; and

"(ii) payment to the recipient of a monthly stipend of not more than the amount authorized by section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)), such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled; and

"(B) may not exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in subparagraph (A);

"(3) require the recipient of such scholarship to maintain an acceptable level of academic standing (as determined by the school in accordance with regulations issued by the Secretary); and

"(4) require the recipient of such scholarship to meet the educational and licensure requirements necessary to be a physician, certified nurse practitioner, certified nurse midwife, or physician assistant.

"(e) The recipient of a scholarship under subsection (b) shall agree, in providing health care pursuant to the requirements of subsection (d)(1)—

"(1) not to discriminate against an individual seeking such care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act or pursuant to the program established in title XIX of such Act; and

"(2) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

"(f)(1) Before making a grant under subsection (a) to an Indian tribe or tribal organization for a fiscal year, the Secretary shall determine the number of scholarship contracts provided under subsection (b) with respect to which there has been an initial breach by the scholarship recipient involved during the fiscal year preceding the fiscal year for which the Indian tribe or tribal organization is applying to receive the grant.

"(2) In the case of an Indian tribe or tribal organization with 1 or more initial breaches for purposes of paragraph (1), the Secretary shall reduce the amount of a grant under subsection (a) to the Indian tribe or tribal organization for the fiscal year involved by an amount equal to the sum of—

"(A) an amount equal to the expenditures of Federal funds made regarding the contracts involved; and

"(B) an amount representing interest on the amount of such expenditures, determined with respect to each contract on the basis of the maximum legal rate prevailing for loans made during the time amounts were paid under the contract, as determined by the Secretary of the Treasury.

"(3) If an Indian tribe or tribal organization is not receiving a grant under subsection (a) for a fiscal year for which a reduction under paragraph (2) would have been made in the event that the tribe or tribal organization had received such a grant, the Secretary shall reduce the amount of payments due to the tribe or tribal organization under other grants, cooperative agreements, or contracts under this Act by the amount specified in such paragraph.

"(4) The Secretary may carry out this subsection on the basis of information submitted by the tribes or tribal organizations involved, or on the basis of information collected through such other means as the Secretary determines to be appropriate.

"(g) The Secretary may not make any payments under subsection (a) to an Indian tribe or tribal organization for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the Indian tribe or tribal organization has complied with requirements of this section.".

SEC. 113. COMMUNITY HEALTH AID PROGRAM.

Title I of the Act (as amended by this Act) is amended by adding at the end the following new section:

"COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA

"SEC. 120. (a) Under the authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary shall maintain a Community Health Aide Program in Alaska under which the Service—

"(1) provides for the training of Alaska Natives as health aides or community health practitioners;

"(2) uses such aides or community health practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

"(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides and community health practitioners.

"(b) The Secretary, acting through the Community Health Aide Program of the Service, shall—

"(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

"(2) in order to provide such training, develop a curriculum that—

"(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

"(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

"(C) promotes the achievement of the health status objectives specified in section 3(a);

"(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides individuals who have successfully completed the training described in paragraph (1) or can demonstrate equivalent experience;

"(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

"(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

"(6) develop a system under which the work of community health aides is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services.".

SEC. 114. TRIBAL HEALTH PROGRAM ADMINISTRATION.

Title I of the Act (as amended by this Act) is amended by adding at the end the following new section:

"TRIBAL HEALTH PROGRAM ADMINISTRATION

"SEC. 121. The Secretary shall, by contract or otherwise, provide training for individuals in the administration and planning of tribal health programs.".

SEC. 115. PLACEMENT OF PARTICIPANTS IN SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.

Title I of the Act (as amended by this Act) is amended by adding at the end the following new section:

"PLACEMENT OF PARTICIPANTS IN SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS

"SEC. 122. In placing an individual for the purpose of fulfilling the individual's obligated service requirement under sections 104 or 108, the Secretary shall, to the extent consistent with the provisions of this Act and title III of the Public Health Service Act, consider the individual's ties to any Indian tribe.".

SEC. 116. INTERDISCIPLINARY TRAINING GRANTS.

Title I of the Act (as amended by this Act) is amended by adding at the end the following new section:

"INTERDISCIPLINARY TRAINING GRANTS

"SEC. 123. (a) The Secretary, acting through the Service, shall provide grants to—

"(1) public or private colleges or universities;

"(2) tribally controlled community colleges; and

"(3) schools or programs in optometry, pharmacy, psychology, public health, or social work,

for the interdisciplinary training of health professionals for the purpose of increasing the number of these health professionals who deliver health care services to Indians.

"(b) The Secretary shall give priority in providing grants under this section to applications submitted jointly by 2 or more institutions.

"(c) Grants provided under this section may be used—

"(1) to recruit health professionals for programs that train individuals in one or more of the health professionals described in subsection (a);

"(2) to provide scholarships to individuals enrolled in such programs to pay tuition for such program and other expenses incurred in connection with such program, including books, fees, room and board, and other living expenses;

"(3) to establish or maintain a program that encourages these health professionals to provide, or continue to provide, health care services to Indians; and

"(4) to establish or maintain a program that increases the skills of, and provides continuing education to, these health care professionals, including faculty enhancement activities.

"(d) Of the amount appropriated to carry out this section, not more than **$1,000,000** may be used annually to establish postdoctoral training programs in psychology or pharmacy.

"(e) Each applicant for a grant under this section shall include such information as the Secretary may require, including a demonstration of the connection between the applicant and a health care facility that primarily serves Indians.

"(f) The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each individual who receives training or assistance funded by a grant under this section. Such obligation shall be met by service—

"(1) in the Indian Health Service;

"(2) in a program conducted under a contract entered into under the Indian Self-Determination Act; or

"(3) in a program assisted under title V of this Act.".

SEC. 117. MANPOWER SHORTAGES.

Title I of the Act (as amended by this Act) is amended by adding at the end the following new section:

"MANPOWER SHORTAGES

"SEC. 124. (a) IN GENERAL.—The Secretary is authorized to provide grants to any college, university, or consortium thereof, that is located in any of the 3 Service areas that the Secretary determines to have the most acute health manpower shortages.

"(b) PURPOSE.—A grant under this section shall be used for the purpose of training health professionals, including in the field of mental health, and using the training resources of grant recipients, including students and faculty, to provide services through Indian health facilities, to serve in those Service areas that the Secretary determines to have the greatest difficulty in recruiting and retaining such health professionals.

"(c) AGREEMENTS.—A grant recipient under this section shall enter into a formal agreement with the appropriate tribal government or governments, or tribal organization, or organizations, of those Service areas in which training under this section is taking place.

"(d) PROCEDURES.—The Secretary shall establish procedures for the submission and review of applications for grants under this section.

"(e) PREFERENCE.—The Secretary shall give preference in making grants under this section to those applicants that—

"(1) most comprehensively address area health manpower shortages;

"(2) coordinate their programs with other relevant programs in this title; and

"(3) have entered into agreements with Indian health facilities, whether operated by the Service or by Indian tribes under the Indian Self-Determination and Education Assistance Act.".

SEC. 118. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title I of the Act (as amended by section 112 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 125. There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and each fiscal year thereafter through fiscal year 2000 to carry out this title, and to carry out the Native Hawaiian Health Scholarships program under section 338K of the Public Health Service Act (42 U.S.C. 254s).".

(b) CONFORMING AMENDMENTS.—Title I of the Act is amended—

(1) in section 102, by striking subsection (c);

(2) in section 105, by striking subsection (d);

(3) in section 106 (as amended by section 104(a) of this Act)—

(A) by striking "(a)"; and

(B) by striking subsection (b);

(4) in section 108, by striking subsection (o);

(5) in section 110, by striking subsection (c);

(6) in section 113, by striking subsection (c);

(7) in section 114, by striking subsection (e);

(8) in section 115, by striking subsection (f);

(9) in section 116, by striking subsection (e);

(10) in section 117 (as amended by section 104(c)(1) of this Act), by striking subsection (f).

TITLE II—HEALTH SERVICES

SEC. 201. HEALTH STATUS AND RESOURCE DEFICIENCY STATUS.

(a) IN GENERAL.—Section 201 of the Act (25 U.S.C. 1621) is amended—

(1) in subsection (a)—

(A) by striking "subsection (h)" and inserting "this section";

(B) by striking paragraph (1) and inserting the following:

"(1) eliminating the deficiencies in health status and resources of all Indian tribes,"; and

(C) in paragraph (4)—

(i) by inserting after "responsibilities" the following: ", either directly or through contract care,"; and

(ii) by striking "resources deficiency" and inserting "status and resource deficiencies";

(2) in subsection (b)—

(A) in paragraph (1), by striking "subsection (h)" and inserting "this section";

(B) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2);

(C) in paragraph (2)(A) (as redesignated by subparagraph (B) above)—

(i) by striking "subsection (h)" and inserting "this section";

(ii) in the first sentence, by striking "but such allocation" through "met"; and

(iii) in the second sentence—

(I) by striking "(in accordance with paragraph (2))"; and

(II) by striking "raise the deficiency level" and inserting "reduce the health status and resource deficiency";

(D) in paragraph (2)(B) (as redesignated by subparagraph (B) above), by inserting after "with" the following: ", and with the active participation of,".

(3) in subsection (c)—

(A) by striking paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(B) by striking paragraph (1) (as redesignated by subparagraph (A) above) and inserting the following:

"(1) The term 'health status and resource deficiency' means the extent to which—

"(A) the health objectives set forth in section 3(a) are not being achieved, taking into account the actual cost of providing health care services given local geographic, climatic, rural or other circumstances; and

"(B) the Indian tribe does not have available to it the health resources it needs.";

(C) by striking paragraph (2) (as redesignated by subparagraph (A) above), and inserting the following:

"(2) The health resources available to an Indian tribe are limited to local health resources provided by the Service, and health resources used by the Indian tribe, including services and financing systems provided by any other Federal programs, provided that in determining available resources the Service shall also take into account actual availability of local alternative sources of health care.

(D) in paragraph (3) (as redesignated by subparagraph (A) above)—

(i) by striking "Under regulations, the" and inserting "The"; and

(ii) by striking "health resources deficiency level" and inserting "extent of the health status and resource deficiency";

(4) in subsection (d)(1), by striking "subsection (h)" and inserting "this section";

(5) in subsection (e)—

(A) in the material preceding paragraph (1)—

(i) by striking "60 days" and inserting "3 years";

(ii) by striking "Indian Health Care Amendments of 1988" and inserting in lieu thereof "Indian Health Care Amendments Act of 1992"; and

(iii) by striking "health services priority system" and inserting "health status and resource deficiency";

(B) in paragraph (1), by striking "health resources deficiencies" and inserting "health status and resource deficiencies";

(C) in paragraph (2), by striking "the level of health resources deficiency for" and inserting "the extent of the health status and resource deficiency of";

(D) in paragraph (3), by striking "raise all" and all that follows through the semicolon and insert "eliminate the health status and resource deficiencies of all Indian tribes served by the Service"; and

(E) by striking paragraphs (4) and (5) and redesignating paragraph (6) as paragraph (4); and

(6) in subsection (f), by striking "(f)(1)" and all that follows through the paragraph designation for paragraph (2) and inserting "(f)".

(b) EFFECTIVE DATE.—Except with respect to the amendments made by subsection (a)(5), the amendments made by subsection (a) shall take effect three years after the date of the enactment of this Act. The amendments made by subsection (a)(5) shall take effect upon the date of the enactment of this Act.

SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.

Section 202 of the Act (25 U.S.C. 1621a) is amended—

(1) in subsection (a)(1)(B), by striking "under subsection (e)" and inserting "to the Fund under this section";

(2) in subsection (b)(2), by striking "not less than $10,000 or not more than $20,000;" and inserting "not less than—

"(A) $15,000 for 1992; and

"(B) for any subsequent year, the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;"; and

(3) in subsection (c), by striking "Funds appropriated under subsection (e)" and inserting "Amounts appropriated to the Fund under this section".

SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION.

Section 203 of the Act (25 U.S.C. 1621b) is amended—

(1) in subsection (a), by inserting before the period at the end the following: "so as to achieve the health objectives set forth in section 3(a)";

(2) in subsection (b), by striking "section 201(f)" and inserting "section 801"; and

(3) by striking subsection (c).

SEC. 204. DIABETES PREVENTION, TREATMENT, AND CONTROL.

Section 204 of the Act (25 U.S.C. 1621c) is amended—

(1) by striking subsection (c) and inserting the following:

"(c)(1) The Secretary shall continue to maintain through fiscal year 2000 each model diabetes project in existence on the date of enactment of the Indian Health Care Amendments Act of 1992 and located—

"(A) at the Claremore Indian Hospital in Oklahoma;

"(B) at the Fort Totten Health Center in North Dakota;

"(C) at the Sacaton Indian Hospital in Arizona;

"(D) at the Winnebago Indian Hospital in Nebraska;

"(E) at the Albuquerque Indian Hospital in New Mexico;

"(F) at the Perry, Princeton, and Old Town Health Centers in Maine;

"(G) at the Bellingham Health Center in Washington;

"(H) at the Fort Berthold Reservation;

"(I) at the Navajo Reservation;

"(J) at the Tohono O'Odham Reservation;

"(K) at the Zuni Reservation; or

"(L) in the States of Alaska, California, Minnesota, Montana, Oregon, or Utah.

"(2) The Secretary may establish new model diabetes projects under this section, except that the Secretary may not establish a greater number of such projects in one service area than in any other service area until there is an equal number of such projects established with respect to all service areas."; and

(2) in subsection (d)—

(A) in paragraph (2), by striking "and";

(B) in paragraph (3), by striking the period and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(4) evaluate the effectiveness of services provided through model diabetes projects established under this section.".

SEC. 205. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES.

Section 209 of the Act (25 U.S.C. 1621h) is amended—

(1) in subsection (j) (as redesignated by section 902(3)(B) of this Act), by striking "submit to the Congress an annual report" and inserting "submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report"; and

(2) by adding at the end the following new subsections:

"(l) Licensing Requirement for Mental Health Care Workers.—Any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under the authority of this Act or through a contract pursuant to the Indian Self-Determination Act shall, within 1 year from the date of employment—

"(1) in the case of a person employed as a psychologist, be licensed as a psychologist or working under the direct supervision of a licensed psychologist;

"(2) in the case of a person employed as a social worker, be licensed as a social worker or working under the direct supervision of a licensed social worker; or

"(3) in the case of a person employed as a marriage and family therapist, be licensed as a marriage and family therapist or working under the direct supervision of a licensed marriage and family therapist.

"(m) Intermediate Adolescent Mental Health Services.—(1) The Secretary, acting through the Service, may make grants to Indian tribes and tribal organizations to provide intermediate mental health services to Indian children and adolescents, including—

"(A) inpatient and outpatient services;

"(B) emergency care;

"(C) suicide prevention and crisis intervention; and

"(D) prevention and treatment of mental illness, and dysfunctional and self-destructive behavior, including child abuse and family violence.

"(2) Funds provided under this section may be used—

"(A) to construct or renovate an existing health facility to provide intermediate mental health services;

"(B) to hire mental health professionals;

"(C) to staff, operate, and maintain an intermediate mental health facility, group home, or youth shelter where intermediate mental health services are being provided; and

"(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units.

"(3) An Indian tribe or tribal organization receiving a grant under this section shall ensure that intermediate adolescent mental health services are coordinated with other tribal, service, and Bureau of Indian Affairs mental health, alcohol and substance abuse, and social services programs on the reservation of such tribe or tribal organization.

"(4) The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this section.

"(n)(1) The Secretary is authorized to provide grants to at least 3 colleges and universities for the purpose of developing and maintaining American Indian psychology careers recruitment programs as a means of encouraging American Indians to enter the mental health field.

"(2) The Secretary shall provide one of the grants authorized under paragraph (1) to develop and maintain an American Indians Into Psychology program at the University of North Dakota.

"(3)(A) The Secretary shall issue regulations for the competitive awarding of the grants provided under this subsection.

"(B) Applicants for grants under this subsection shall agree to provide a program which, at a minimum—

"(i) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations that will be served by the program,

"(ii) incorporates a program advisory board comprised of representatives from the tribes and communities that will be served by the program,

"(iii) provides summer enrichment programs to expose Indian students to the varied fields of psychology through research and experiential activities,

"(iv) provides stipends to undergraduate and graduate students to pursue a career in psychology,

"(v) develops affiliation agreements with tribal community colleges, the Indian Health Service, university affiliated programs, and other appropriate entities to enhance the education of American Indian students,

"(vi) to the maximum extent feasible, utilizes existing university tutoring, counseling and student support services, and

"(vii) to the maximum extent feasible, employs qualified Indians in the program.

"(4) The American Indians Into Psychology program at the University of North Dakota shall, to the maximum extent feasible, coordinate with the INMED program authorized by section 114 of this Act, and existing university research and communications networks.".

SEC. 206. NEW STUDIES.

(a) Hospice Care.—Section 205 of the Act is amended to read as follows:

"HOSPICE CARE FEASIBILITY STUDY

"Sec. 205. (a) The Secretary, acting through the Service and in consultation with representatives of Indian tribes, tribal organizations, Indian Health Service personnel, and hospice providers, shall conduct a study—

"(1) to assess the feasibility and desirability of furnishing hospice care to terminally ill Indians; and

"(2) to determine the most efficient and effective means of furnishing such care.

"(b) Such study shall—

"(1) assess the impact of Indian culture and beliefs concerning death and dying on the provision of hospice care to Indians;

"(2) estimate the number of Indians for whom hospice care may be appropriate and determine the geographic distribution of such individuals;

"(3) determine the most appropriate means to facilitate the participation of Indian tribes and tribal organizations in providing hospice care;

"(4) identify and evaluate various means for providing hospice care, including—

"(A) the provision of such care by the personnel of a Service hospital pursuant to a hospice program established by the Secretary at such hospital; and

"(B) the provision of such care by a community-based hospice program under contract to the Service; and

"(5) identify and assess any difficulties in furnishing such care and the actions needed to resolve such difficulties.

"(c) Not later than the date which is 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report containing—

"(1) a detailed description of the study conducted pursuant to this section; and

"(2) a discussion of the findings and conclusions of such study.

"(d) For the purposes of this section—

"(1) the term 'terminally ill' means any Indian who has a medical prognosis (as certified by a physician) of a life expectancy of six months or less;

"(2) the term 'hospice care' means the care, items, and services as defined in section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)); and

"(3) the term 'hospice program' means any program which satisfies the requirements of section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395(dd)(2)).".

(b) Managed Care.—Title II of the Act is amended by adding at the end the following new section:

"MANAGED CARE FEASIBILITY STUDY

"Sec. 210. (a) The Secretary, acting through the Service, shall conduct a study to assess the feasibility of allowing for an Indian tribe to purchase, directly or through the Service, managed care coverage for Indian tribes—

"(1) which desire to participate in group contract health plans or other managed care arrangements instead of operating an inpatient hospital or ambulatory facility; and

"(2) which offer the same plan to all eligible members of the community.

"(b) Not later than the date which is 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report containing—

"(1) a detailed description of the study conducted pursuant to this section; and

"(2) a discussion of the findings and conclusions of such study.".

SEC. 207. RIGHT OF RECOVERY.

Section 206 of the Act (25 U.S.C. 1621e) is amended—

(1) by inserting ", a tribe, or a tribal organization," immediately after "United States" each place it appears;

(2) in subsection (a), by inserting ", a tribe, or a tribal organization," immediately after "Service";

(3) in subsection (e)(1)(A), by inserting ", a tribe, or a tribal organization," immediately after "Secretary";

(4) by striking "(a) The" and inserting the following: "(a) Except as provided in subsection (f), the";

(5) in subsection (b), by striking "; or any political subdivision of a State,"; and

(6) by adding at the end the following new subsection:

"(f) The United States shall not have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian tribe or tribal organization.".

SEC. 208. EPIDEMIOLOGY GRANT PROGRAM.

Title II of the Act is amended by adding at the end the following new section:

"EPIDEMIOLOGY GRANT PROGRAM

"SEC. 211. (a) The Secretary shall provide grants to eligible recipients for the purpose of establishing area epidemiology centers to conduct the activities set forth in this section.

"(b) In consultation with the Indian Health Service, Indian tribes and urban Indian communities, an area epidemiology center established under this section shall—

"(1) establish a methodology to define baseline data for the health objectives specified in section 3;

"(2) determine the most effective way to establish and maintain a surveillance system for health objectives;

"(3) identify such health objectives that are the highest priority for monitoring, surveillance and attention, based on an initial assessment of the epidemiology of the area and each of the communities served;

"(4) evaluate existing delivery systems, data systems, and other systems that impact on the improvement of Indian health and the resources available to deliver, monitor or evaluate those services;

"(5) develop methods to obtain data on Indian health from the Indian Health Service, State Medicaid systems, Federal Medicare and Veterans Affairs systems, and private insurance systems; and

"(6) assist tribes and urban Indian communities in the identification of priority service areas, based on epidemiological data, and advocate for the targeting of services needed by tribal, urban and other Indian communities and make recommendations to improve health care delivery systems.

"(c) The following entities are eligible to receive grants to establish and develop an area epidemiology center under this section:

"(1)(A) The Secretary may provide grants to area Indian health boards, as defined in subparagraph (B), for the establishment and development of area epidemiology centers.

"(B) For the purposes of this section, the term 'area Indian health board' means an organization that—

"(i) provides information to and consults with tribal leaders, urban Indian community leaders, and related health staff, on health care and health services management issues; and

"(ii) provides, in collaboration with tribes and urban Indian communities, the Indian Health Service with information on ways to improve the health status of Indian people.

"(2) The Secretary may provide grants to intertribal consortia or Indian organizations that—

"(A) are incorporated for the primary purpose of improving Indian health; and

"(B) are representative of the tribes and urban Indian communities in which they are located.

"(3) The Secretary may provide grants directly to an Indian tribe for the purpose of establishing and developing an area epidemiology center.

"(d) The Secretary may provide grants to the entities described in subsection (c) that submit an application in such manner and at such time as the Secretary shall prescribe and that meet the following minimum criteria:

"(1) Applicants for grants shall ensure that the area epidemiology center will be established and operated for the primary purpose of addressing Indian health issues and will consult with the tribes or urban Indian communities that will be served by the area epidemiology center.

"(2) Applicants shall demonstrate the technical, administrative, and financial expertise necessary to conduct the eligible activities described in subsection (b).

"(3) Applicants shall ensure that the area epidemiology center will consult and cooperate with providers of related health and social services in order to avoid duplication of existing services, and demonstrate cooperation from the tribes or urban Indian organizations in the area.

"(e) The Secretary shall provide at least 1 grant to an eligible recipient, as prescribed in subsection (c), located in each Indian Health Service area.

"(f) The Secretary may provide a grant in such an amount as the Secretary determines appropriate to carry out the purposes of this section, but such amount shall not be less than $250,000 a year for each area epidemiology center.

"(g)(1) The Indian Health Service shall assign 1 epidemiologist from each of its area offices to each area epidemiology center to provide such center with technical assistance to carry out this section.

"(2) The Director of the Centers for Disease Control and the Director of the National Center for Health Statistics shall provide technical assistance to the centers in carrying out the requirements of this section.

"(h)(1) Not later than March 1, 1994, the Secretary shall transmit an initial report to the Congress describing the actions that the Secretary has taken to carry out the purposes of this section.

"(2) After the initial report, the Secretary shall report to the Congress biannually on the extent to which the area epidemiology centers established under this section have helped assess progress made towards meeting the health objectives specified in section 3.".

SEC. 209. CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM.

Title II of the Act is amended by adding at the end the following new section:

"CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM

"SEC. 212. (a) The Secretary shall establish a demonstration program to evaluate the use of a contract care intermediary to improve the accessibility of health services to California Indians.

"(b)(1) In establishing such program, the Secretary shall enter into an agreement with the California Rural Indian Health Board to reimburse the Board for costs (including reasonable administrative costs) incurred, during the period of the demonstration program, in providing medical treatment under contract to California Indians described in section 809(b) throughout the California contract health services delivery area described in section 810 with respect to high-cost contract care cases.

"(2) Not more than 5 percent of the amounts provided to the Board under this section for any fiscal year may be for reimbursement for administrative expenses incurred by the Board during such fiscal year.

"(3) No payment may be made for treatment provided under the demonstration program to the extent payment may be made for such treatment under the Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

"(c) There is hereby established an advisory board which shall advise the California Rural Indian Health Board in carrying out the demonstration pursuant to this section. The advisory board shall be composed of representatives, selected by the California Rural Indian Health Board, from not less than 8 tribal health programs serving California Indians covered under such demonstration, at least one half of whom are not affiliated with the California Rural Indian Health Board.

"(d) The demonstration program described in this section shall begin on January 1, 1993, and shall terminate on September 30, 1997.

"(e) Not later than July 1, 1998, the California Rural Indian Health Board shall submit to the Secretary a report on the demonstration program carried out under this section, including a statement of its findings regarding the impact of using a contract care intermediary on—

"(1) access to needed health services;

"(2) waiting periods for receiving such services; and

"(3) the efficient management of high-cost contract care cases.

"(f) For the purposes of this section, the term 'high-cost contract care cases' means those cases in which the cost of the medical treatment provided to an individual—

"(1) would otherwise be eligible for reimbursement from the Catastrophic Health Emergency Fund established under section 202, except that the cost of such treatment does not meet the threshold cost requirement established pursuant to section 202(b)(2); and

"(2) exceeds $1,000.

"(g) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as may be necessary to carry out the purposes of this section.".

SEC. 210. COVERAGE OF SCREENING MAMMOGRAPHY.

(a) IN GENERAL.—Title II of the Act is amended by adding at the end the following new section:

"COVERAGE OF SCREENING MAMMOGRAPHY

"SEC. 213. The Secretary, through the Service, shall provide for screening mammography (as defined in section 1861(jj) of the Social Security Act) for Indian and urban Indian women 35 years of age or older at a frequency, determined by the Secretary (in consultation with the Director of the National Cancer Institute), appropriate to such women, and under such terms and conditions as are consistent with standards established by the Secretary to assure the safety and accuracy of screening mammography under part B of title XVIII of the Social Security Act.".

(b) CONFORMING AMENDMENT.—Section 201(a)(4)(B) of the Indian Health Care Improvement Act (25 U.S.C. 1621(a)(4)(B)) is amended by striking the semicolon at the end and inserting the following: ", including screening mammography in accordance with section 213;".

SEC. 211. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.

Title II of the Act is amended by adding at the end the following new section:

"COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS

"SEC. 214. (a) The Secretary, acting through the Service and in consultation with the Secretary of the Interior, may award grants to Indian tribes to develop comprehensive school health education programs for children from preschool through grade 12 in schools located on Indian reservations.

"(b) Grants awarded under this section may be used to—

"(1) develop health education curricula;

"(2) train teachers in comprehensive school health education curricula;

"(3) integrate school-based, community-based, and other public and private health promotion efforts;

"(4) encourage healthy, tobacco-free school environments;

"(5) coordinate school-based health programs with existing services and programs available in the community;

"(6) develop school programs on nutrition education, personal health, and fitness;

"(7) develop mental health wellness programs;

"(8) develop chronic disease prevention programs;

"(9) develop substance abuse prevention programs;

"(10) develop accident prevention and safety education programs;

"(11) develop activities for the prevention and control of communicable diseases; and

"(12) develop community and environmental health education programs.

"(c) The Secretary shall provide technical assistance to Indian tribes in the development of health education plans, and the dissemination of health education materials and information on existing health programs and resources.

"(d) The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this section.

"(e) Recipients of grants under this section shall submit to the Secretary an annual report on activities undertaken with funds provided under this section. Such reports shall include a statement of—

"(1) the number of preschools, elementary and secondary schools served;

"(2) the number of students served;

"(3) any new curricula established with funds provided under this section;

"(4) the number of teachers trained in the health curricula; and

"(5) the involvement of parents, members of the community, and community health workers in programs established with funds provided under this section.

"(f)(1) The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary, shall develop a comprehensive school health education program for children from preschool through grade 12 in schools operated by the Bureau of Indian Affairs.

"(2) Such program shall include—

"(A) school programs on nutrition education, personal health, and fitness;

"(B) mental health wellness programs;

"(C) chronic disease prevention programs;

"(D) substance abuse prevention programs;

"(E) accident prevention and safety education programs; and

"(F) activities for the prevention and control of communicable diseases.

"(3) The Secretary of the Interior shall—

"(A) provide training to teachers in comprehensive school health education curricula;

"(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

"(C) encourage healthy, tobacco-free school environments.

"(g) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

SEC. 212. INDIAN YOUTH GRANT PROGRAM.

Title II of the Act is amended by adding at the end the following new section:

"INDIAN YOUTH GRANT PROGRAM

"SEC. 216. (a) The Secretary, acting through the Service, is authorized to make grants to Indian tribes, tribal organizations, and urban Indian organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian pre-adolescent and adolescent youths.

"(b) Grants made pursuant to this section may be used to—

"(1) develop prevention and treatment models for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional healers; and

"(2) develop and provide community training and education.

"(c) The Secretary shall—

"(1) disseminate to Indian tribes information regarding models for the delivery of comprehensive health care services to Indian and urban Indian adolescents;

"(2) encourage the implementation of such models; and

"(3) at the request of an Indian tribe, provide technical assistance in the implementation of such models.

"(d) The Secretary shall establish criteria for the review and approval of applications under this section.

"(e) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

SEC. 213. TUBERCULOSIS PREVENTION DEMONSTRATION PROGRAM.

Title II of the Act is amended by adding at the end the following new section:

"TUBERCULOSIS PREVENTION DEMONSTRATION PROGRAM

"SEC. 216. (a) The Secretary, acting through the Service, may make grants to Indian tribes and tribal organizations to evaluate different measures used to prevent and eliminate tuberculosis (hereafter referred to in this section as 'TB') on Indian reservations.

"(b) A grant awarded under this section may be used to—

"(1) train health care staff in methods to prevent and eliminate TB;

"(2) conduct screenings of residents of Indian reservations to detect the presence, or monitor the condition, of persons who are at risk for contracting TB or who already have the disease;

"(3) educate the community about the nature and prevention of TB;

"(4) create and maintain a registry of persons with TB, including information obtained from screenings conducted pursuant to paragraph (2);

"(5) develop methods, such as use of a TB control team, to coordinate all TB prevention and elimination activities on a reservation; and

"(6) treat those afflicted with TB.

"(c) The Secretary shall—

"(1) make at least 1 grant under this section to an Indian tribe or tribal organization located in each Area office;

"(2) establish criteria for the review and approval of applications for grants under this section; and

"(3) provide, at the request of a grant applicant or recipient, technical assistance to accomplish the purposes of this section.

"(d) A grant recipient under this section shall—

"(1) cooperate with—

"(A) the Centers for Disease Control;

"(B) the Service;

"(C) State health agencies; and

"(D) local health agencies

to coordinate and conduct activities authorized under this section; and

"(2) submit to the Secretary an annual report on activities conducted with funds provided under this section.".

SEC. 214. PATIENT TRAVEL COSTS.

Title II of the Act is amended by adding at the end the following section:

"PATIENT TRAVEL COSTS

"SEC. 217. The Secretary, acting through the Service, shall provide funds to address and meet the high costs of patient travel in remote areas of Alaska when there is no reasonable alternative for the patient.".

SEC. 215. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title II of the Act is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 218. There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and each fiscal year thereafter through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title II of the Act is amended—

(1) in section 201(h)—

(A) by striking the first sentence; and

(B) by striking "subsection" and inserting "section";

(2) in section 202, by striking subsection (e);

(3) in section 204(e)—

(A) by striking the first sentence; and

(B) by striking "subsection (c)" and inserting "this section"; and

(4) in section 209 (as amended by section 902(3)(B) of this Act)—

(A) by striking subsections (c)(5), (d)(6), (f)(4), and (g)(5);

(B) in subsection (h)—

(i) by striking paragraph (2); and

(ii) by striking "(1)";

(C) in subsection (i)—

(i) by striking paragraph (2); and

(ii) by striking "(1)";

(D) in subsection (d)(3)(B), by striking "this subsection" and inserting "this section"; and

(E) in subsection (k)(6)—

(i) by striking the first sentence; and

(ii) by striking "subsection" and inserting "section".

SEC. 216. CONTRACT HEALTH SERVICES PAYMENT STUDY.

Title II of the Act is amended by adding at the end thereof the following new section:

"CONTRACT HEALTH SERVICES PAYMENT STUDY

"SEC. 219. (a) The Secretary, acting through the Service and in consultation with representatives of the Indian tribes, Indian organizations operating Contract Health Care programs under the Indian Self-Determination and Education Assistance Act or under self-governance compacts, Indian Health Service personnel, private Contract Health Service providers, and the Indian Health Service Fiscal Intermediary, shall conduct a study—

"(1) to assess and identify the administrative barriers which hinder the timely payments for services delivered by private Contract Health Services providers for individual Indians by the Indian Health Service and the Indian Health Service Fiscal Intermediary;

"(2) to assess and identify the impact of delayed Contract Health Services payments by the Indian Health Service and the Indian Health Service Fiscal Intermediary to private Contract Health Services providers upon the personal credit records of individual Indians who have been treated by same providers; and

"(3) to determine the most efficient and effective means of improving the Indian Health Service Contract Health Services payment system and ensuring the development of appropriate consumer protection policies designed to protect individual Indians who receive authorized services from private Contract Health Services providers.

"(b) Such study shall—

"(1) assess the impact of the existing Indian Contract Health Services regulations and policies upon the ability of the Indian Health Service and the Indian Health Service Fiscal Intermediary to process, on a timely and efficient basis, the payment of billings submitted by private Contract Health Services providers;

"(2) assess the impact which delayed payments have on the private Contract Health Services providers' fiscal operations;

"(3) assess the nature and extent of the problems experienced by individual Indians with collection agencies seeking payments on behalf of Contract Health Services providers; and

"(4) identify the appropriate changes in Federal policies, administrative procedures and regulations required to eliminate the problems experienced by the private Contract Health Services' providers and individual Indians as a result of delayed Contract Health Services payments.

"(c) Not later than the date which is 12 months after the date of enactment of this section, the Secretary shall transmit to the Congress a report containing—

"(1) a detailed description of the study conducted pursuant to this section;

"(2) a discussion of the findings and conclusions of such study; and

"(3) recommendations for appropriate administrative and legislative solutions.

"(d) There are authorized to be appropriated such sums as are necessary to carry out this section for fiscal year 1993 or any fiscal year thereafter in which the report is due.".

SEC. 217. NATIVE HAWAIIAN HEALTH SCHOLARSHIPS.

(a) ELIGIBILITY.—Subject to the availability of funds appropriated under the authority of subsection (c) of this section, the Secretary shall provide funds through a direct grant or a cooperative agreement to Kamehameha School/Bishop Estate for the purpose of providing scholarship assistance to students who—

(1) meet the requirements of section 329 of the Public Health Service Act (42 U.S.C. 254b), and

(2) are Native Hawaiians.

(b) TERMS AND CONDITIONS.—(1) The scholarship assistance provided under subsection (a) of this section shall be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 338A of the Public Health Service Act (42 U.S.C. 2541), provided that—

(A) the provision of scholarships in each type of health care profession training shall correspond to the need for each type of health care professional to serve the Native Hawaiian health care systems, as identified by Papa Ola Lokahi;

(B) to the maximum extent practicable, the Secretary shall select scholarship recipients from a list of eligible applicants submitted by the Kamehameha Schools/Bishop Estate;

(C) the obligated service requirement for each scholarship recipient shall be fulfilled through service, in order of priority, in (i) any one of the five Native Hawaiian health care systems, or (ii) health professions shortage areas, medically underserved areas, or geographic areas or facilities similarly designated by the United States Public Health Service in the State of Hawaii; and

(D) the provision of counseling, retention and other support services shall not be limited to scholarship recipients, but shall also include recipients of other scholarship and financial aid programs enrolled in appropriate health professions training programs.

(2) The Native Hawaiian Health Scholarship program shall not be administered by or through the Indian Health Service.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 2001 for the purpose of funding the scholarship assistance provided under subsection (a) of this section.

SEC. 218. PAYMENT OF CLAIMS.

Title II of the Act is amended by adding at the end the following new section:

"PROMPT ACTION

"SEC. 220. (a) The Indian Health Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

"(b) If the Indian Health Service fails to respond to a notification of a claim in accordance with subsection (a), the Indian Health Service shall accept as valid the claim submitted by the provider of a contract care service.

"(c) The Indian Health Service shall pay a completed contract care service claim within 30 days of completion of the claim, and shall be subject to the Prompt Payment Act (31 U.S.C. 3901 et seq.).".

TITLE III—HEALTH FACILITIES

SEC. 301. HEALTH FACILITIES CLOSURE AND PRIORITIES.

Section 301 of the Act (25 U.S.C. 1631) is amended—

(1) in subsection (a)(2), by striking "Hospitals" and inserting "Health Care Organizations";

(2) in subsection (b)(1)—

(A) by striking "other" before "outpatient";

(B) by striking "and" at the end of subparagraph (D);

(C) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(D) by adding at the end the following new subparagraphs:

"(F) the level of utilization of such hospital or facility by all eligible Indians; and

"(G) the distance between such hospital or facility and the nearest operating Service hospital.";

(3) by striking subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively;

(4) in subsection (c)(1) (as redesignated by paragraph (3) of this subsection), by striking the material preceding subparagraph (A) and inserting the following:

"(c)(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report which sets forth—"; and

(5) by striking paragraph (2) of subsection (c) (as redesignated by paragraph (3) of this subsection) and redesignating paragraphs (3), (4), and (5) of such subsection as paragraphs (2), (3), and (4), respectively.

SEC. 302. SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES.

Section 302 of the Act (25 U.S.C. 1632) is amended—

(1) by amending subsection (e) to read as follows:

"(e)(1) The Secretary is authorized to provide financial assistance to Indian tribes and communities in an amount equal to the Federal share of the costs of operating, managing, and maintaining the facilities provided under the plan described in subsection (c).

"(2) For the purposes of paragraph (1), the term 'Federal share' means 80 percent of the costs described in paragraph (1).

"(3) With respect to Indian tribes with fewer than 1,000 enrolled members, the non-Federal portion of the costs of operating, managing, and maintaining such facilities may be provided, in part, through cash donations or in kind property, fairly evaluated.";

(2) in subsection (f)(1), by striking out "subsection (h)" and inserting in lieu thereof "this section"; and

(3) in subsection (g)—

(A) in paragraph (1), by striking out "The Secretary" through "report" and inserting in lieu thereof the following: "The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report"; and

(B) by striking out paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

SEC. 303. AMBULATORY CARE FACILITIES GRANT PROGRAM.

Section 306 of the Act (25 U.S.C. 1636) is amended to read as follows:

"GRANT PROGRAM FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES

"SEC. 306. (a)(1) The Secretary, acting through the Service, shall make grants to tribes and tribal organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians. A grant made under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term 'construction' includes the replacement of an existing facility.

"(2) A grant under paragraph (1) may only be made to a tribe or tribal organization pursuant to a contract entered into under the Indian Self-Determination Act.

"(b)(1) A grant provided under this section may be used only for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

"(A) located apart from a hospital;

"(B) not funded under section 301 or section 307; and

"(C) which, upon completion of such construction, expansion, or modernization will—

"(i) have a total capacity appropriate to its projected service population;

"(ii) serve no less than 500 eligible Indians annually; and

"(iii) provide ambulatory care in a service area (specified in the contract entered into under the Indian Self-Determination Act) with a population of not less than 2,000 eligible Indians.

"(2) The requirements of clauses (ii) and (iii) of paragraph (1)(C) shall not apply to a tribe or tribal organization applying for a grant under this section whose tribal government offices are located on an island.

"(c)(1) No grant may be made under this section unless an application for such a grant has been submitted to and approved by the Secretary. An application for a grant under this section shall be submitted in such form and manner as the Secretary shall by regulation prescribe and shall set forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out pursuant to a grant received under this section—

"(A) adequate financial support will be available for the provision of services at such facility;

"(B) such facility will be available to eligible persons without regard to ability to pay or source of payment; and

"(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible persons, serve noneligible persons on a cost basis.

"(2) In awarding grants under this section, the Secretary shall give priority to tribes and tribal organizations that demonstrate—

"(A) a need for increased ambulatory care services; and

"(B) insufficient capacity to deliver such services.

"(d) If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, at any time after completion of the construction, expansion, or modernization carried out with such funds, to be utilized for the purposes of providing ambulatory care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States.".

SEC. 304. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.

(a) Awarding of Grants.—Section 307(c) of the Act (25 U.S.C. 1637(c)(3)) is amended—

(1) in paragraph (1)(A), by inserting "or program" immediately after "facility";

(2) in paragraph (3)(A)—

(A) by striking "The" and inserting "On or before September 30, 1995, the"; and

(B) by adding before the colon the following: "and for which a completed application has been received by the Secretary"; and

(3) by striking subparagraph (B) and inserting the following:

"(B) Subject to the availability of appropriations, the Secretary shall also enter into contracts or award grants under this section taking into consideration applications received under this section from all service areas. The Secretary may not award a greater number of such contracts or grants in one service area than in any other service area until there is an equal number of such contracts or grants awarded with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria specified in paragraph (1).".

(b) Reports.—Section 307(h) of the Act (25 U.S.C. 1637(h)) is amended to read as follows:

"(h)(1) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 801 for fiscal year 1997, an interim report on the findings and conclusions derived from the demonstration projects established under this section.

"(2) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 801 for fiscal year 1999, a final report on the findings and conclusions derived from the demonstration projects established under this section, together with legislative recommendations.".

SEC. 305. EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION.

Section 305 of the Act (25 U.S.C. 1634) is amended to read as follows:

"EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION

"Sec. 305. (a)(1) Notwithstanding any other provision of law, the Secretary is authorized to accept any major renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a contract entered into under the Indian Self-Determination Act, including—

"(A) any plans or designs for such renovation or modernization; and

"(B) any renovation or modernization for which funds appropriated under any Federal law were lawfully expended,

but only if the requirements of subsection (b) are met.

"(2) The Secretary shall maintain a separate priority list to address the needs of such facilities for personnel or equipment.

"(3) The Secretary shall plan for and shall seek funding to address the needs of facilities identified pursuant to paragraph (2).

"(b) The requirements of this subsection are met with respect to any renovation or modernization if—

"(1) the tribe or tribal organization—

"(A) provides notice to the Secretary of its intent to renovate or modernize; and

"(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for personnel or equipment; and

"(2) the renovation or modernization—

"(A) is approved by the appropriate area director of the Service; and

"(B) is administered by the tribe in accordance with the rules and regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

"(c) If any Service facility which has been renovated or modernized by an Indian tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such renovation or modernization) bore to the value of such facility at the time of the completion of such renovation or modernization.".

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization.—Title III of the Act is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 308. There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and each fiscal year thereafter through fiscal year 2000 to carry out this title.".

(b) Conforming Amendments.—Title III of the Act is amended—

(1) in section 302, by striking subsection (h); and

(2) in section 307, by striking subsection (i).

TITLE IV—ACCESS TO HEALTH SERVICES

SEC. 401. TREATMENT OF PAYMENTS TO INDIAN HEALTH SERVICE FACILITIES UNDER MEDICARE AND MEDICAID PROGRAMS.

(a) Medicare Program.—(1) Section 401 of the Act (42 U.S.C. 1395qq note) is amended to read as follows:

"TREATMENT OF PAYMENTS UNDER MEDICARE PROGRAM

"Sec. 401. (a) Any payments received by a hospital or skilled nursing facility of the Service (whether operated by the Service or by an Indian tribe or tribal organization pursuant to a contract under the Indian Self-Determination Act) for services provided to Indians eligible for benefits under title XVIII of the Social Security Act shall not be considered in determining appropriations for health care and services to Indians.

"(b) Nothing in this Act authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act, as amended, in preference to an Indian beneficiary without such coverage.".

(2) Subsection (a) of section 1880 of the Social Security Act (42 U.S.C. 1395qq(a)) is amended to read as follows:

"(a) A facility of the Indian Health Service or of an Indian tribe or tribal organization carrying out a contract, grant, or cooperative agreement under the Indian Self-Determination Act (25 U.S.C. 450 et seq.), shall be eligible for payments under this title, notwithstanding sections 1814(c) and 1835(d) of this title, if it meets all of the conditions and requirements for such payments which are applicable generally to such a facility under this title, provided that this provision shall not apply to any facility owned and operated by an Indian tribe or tribal organization which is otherwise eligible for payments under this title.".

(3) Section 1880(c) of the Social Security Act (42 U.S.C. 1395qq(c)) is amended by striking out the last sentence.

(b) Medicaid Program.—(1) Section 402 of the Act is amended to read as follows:

"TREATMENT OF PAYMENTS UNDER MEDICAID PROGRAM

"Sec. 402. (a) Notwithstanding any other provision of law, payments to which any facility of the Service (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act) is entitled under a State plan by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives at least 80 percent of the amounts to which the facilities of the Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act, if such amount is necessary for the purpose of making improvements in such facilities in order to achieve compliance with the conditions and requirements of title XIX of the Social Security Act.

"(b) Any payments received by such facility for services provided to Indians eligible for benefits under title XIX of the Social Security Act shall not be considered in determining appropriations for the provision of health care and services to Indians.".

(2) The increase (from 50 percent) in the percentage of the payments from the fund to be made to each service unit of the Service specified in the amendment made by paragraph (1) shall take effect beginning with payments made on January 1, 1993.

SEC. 402. REPORT.

Section 403 of the Act (25 U.S.C. 1671 note) is amended by striking "The Secretary" and all that follows through "section 701" and inserting "The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 801.".

SEC. 403. GRANTS TO AND CONTRACTS WITH TRIBAL ORGANIZATIONS.

Section 404(b)(4) of the Act (25 U.S.C. 1622) is amended to read as follows:

"(4) develop and implement—

"(A) a schedule of income levels to determine the extent of payments of premiums by such organizations for coverage of needy individuals; and

"(B) methods of improving the participation of Indians in receiving the benefits provided under titles XVIII and XIX of the Social Security Act.".

SEC. 404. EXTENSION OF DEMONSTRATION PROGRAM.

Section 405 of the Act is amended—

(1) in subsection (c)(2), by striking "1995" and inserting "1996"; and

(2) in subsection (e), by striking "1995" and inserting "1996".

SEC. 405. ADDITIONAL AUTHORITY.

Title IV of the Act is amended by adding at the end the following new section:

"ADDITIONAL AUTHORITY

"SEC. 406. (a) The Secretary may enter into an agreement with any tribal or urban Indian organization which provides for the receipt and processing of applications for medical assistance under title XIX of the Social Security Act and benefits under title XVIII of the Social Security Act at tribal or Indian Health Service contract health services facilities.

"(b) The Secretary may pay premiums, deductibles, and copayments under part B of title XVIII of the Social Security Act for beneficiaries under part A of title XVIII of such Act who are not qualified medicare beneficiaries (as described in section 1905(p) of such Act) due to income, but whose family income is not more than 200 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981).

"(c) The Secretary shall not deny contract health services coverage to Indian recipients of medical care if such recipients—

"(1) have attained age 65, or are disabled;

"(2) have received emergency health care and have given notice of the receipt of such health care to the contract health services program within 30 days after receiving such health care, or have demonstrated good cause for not so doing;

"(3) have, upon the request of the administrator of the contract health services program, applied for coverage under title XIX of the Social Security Act within 90 days of the provision of such emergency health care (in accordance with section 1902(a)(34) of such Act); and

"(4) are otherwise eligible for contract health services coverage.".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title IV of the Act is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 407. There are authorized to be appropriated such funds as may be necessary for fiscal year 1993 and each fiscal year thereafter through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Section 404 of the Act is amended by striking subsection (c).

TITLE V—HEALTH SERVICES FOR URBAN INDIANS

SEC. 501. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title V of the Act is amended by inserting after section 510 (as redesignated by section 902(5)(B) of this Act) the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 511. There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and each fiscal year thereafter through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title V of the Act (25 U.S.C. 1650 et seq.) is amended—

(1) in section 503—

(A) in subsection (c), by striking "(c)(1)" and inserting "(c)" and by striking paragraph (2);

(B) in subsection (d), by striking paragraph (4);

(C) in subsection (e), by striking paragraph (4); and

(D) in subsection (f), by striking paragraph (5); and

(2) in section 509 (as redesignated by section 902(4)(A) of this Act), by striking the last sentence.

SEC. 502. GRANT AUTHORITY.

(a) IN GENERAL.—Section 502 of the Act (25 U.S.C. 1651) is amended—

(1) by striking "contracts with" and inserting the following: "contracts with, or make grants to,";

(2) by inserting after "enters into with" the following: ", or in any grant the Secretary makes to,"; and

(3) by amending the title to read as follows:

"CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS".

(b) CONFORMING AMENDMENTS.—(1) Section 503 of the Act (25 U.S.C. 1653) is amended—

(A) in subsection (a), in the material preceding paragraph (1)—

(i) by inserting ", or make grants to," after "contracts with"; and

(ii) by inserting "or grant" after "such contract";

(B) in subsection (b)—

(i) in the material preceding paragraph (1), by inserting "or receive grants" after "enter into contracts"; and

(ii) in paragraph (5), by inserting "or to meet the requirements for receiving a grant" after "Secretary";

(C) in subsection (c)(1), by inserting before the period at the end the following: "or receiving grants under subsection (a)";

(D) in subsection (d)(1), by inserting before the period at the end the following: "or receiving grants under subsection (a)";

(E) in subsection (e)(1), by inserting before the period at the end the following: "or receiving grants under subsection (a)";

(F) in subsection (f), by inserting "or receiving grants under subsection (a)" after "this section"; and

(G) by amending the title to read as follows:

"CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES".

(2) Section 504 of the Act (25 U.S.C. 1654) is amended—

(A) by striking "SEC. 504." and all that follows through the end of subsection (a) and inserting the following:

"SEC. 504. (a) Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, may enter into contracts with, or make grants to, urban Indian organizations situated in urban centers for which contracts have not been entered into, or grants have not been made, under section 503. The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract or make a grant under section 503 with respect to the urban Indian organization which the Secretary has entered into a contract with, or made a grant to, under this section.";

(B) in subsection (b)—

(i) in the material preceding paragraph (1), by inserting ", or grant made," after "contract entered into"; and

(ii) in paragraph (2), by striking "within one year" and all that follows through the period at the end and inserting the following: ", or carry out the requirements of the grant, within one year after the date on which the Secretary and such organization enter into such contract, or within one year after such organization receives such grant, whichever is applicable.";

(C) in subsection (c), by inserting ", or grant made," after "entered into"; and

(D) by amending the heading to read as follows:

"CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS".

(3) Section 505 of the Act (25 U.S.C. 1655) is amended—

(A) in subsection (a), by inserting "compliance with grant requirements under this title and" before "compliance with,";

(B) in subsection (b)—

(i) by inserting "or received a grant" after "entered into a contract"; and

(ii) by inserting before the period at the end the following: "or the terms of such grant";

(C) in subsection (c)—

(i) by inserting "the requirements of a grant or complied with" after "complied with";

(ii) by inserting "or grant" after "such contract" each place it appears";

(iii) by inserting "or make a grant" after "enter into a contract"; and

(iv) by inserting "or grant" after "whose contract";

(D) in subsection (d), by inserting "or grant" after "a contract" each place it appears; and

(E) by amending the heading to read as follows:

"EVALUATIONS; RENEWALS".

(4) Section 506 of the Act (25 U.S.C. 1656) is amended—

(A) in subsection (b), by inserting "or grants" after "any contracts";

(B) in subsection (d), by inserting "or grant" after "contract" each place it appears;

(C) in subsection (e)—

(i) by inserting ", or grants to," after "Contracts with"; and

(ii) by inserting "or grants" after "such contracts";

(D) by adding at the end the following new subsection:

"(g) Notwithstanding any other provision of law, organizations receiving grants or contracts under this title, including urban Indian demonstration projects, shall meet the definition of an urban Indian organization as defined in section 4(h); and

(E) by amending the heading to read as follows:

"OTHER CONTRACT AND GRANT REQUIREMENTS".

(5) Section 507 of the Act (25 U.S.C. 1657) is amended—

(A) in subsection (a)—

(i) in the material preceding paragraph (1), by inserting ", or a grant received," after "entered into"; and

(ii) in paragraphs (1) and (2), by inserting "or grant" after "contract" each place it appears; and

(B) in subsections (b) and (c), by inserting "or grant" after "contract" each place it appears.

(6) Section 509 of the Act (25 U.S.C. 1659) (as amended by section 902(5)(A) of this Act) is amended by inserting "or grant recipients" after "contractors" each place it appears.

(7) Section 510(a) of the Act (25 U.S.C. 1660) (as amended by section 902(5)(B) of this Act) is amended by striking the period at the end and inserting the following: ", and for providing central oversight of the programs and services authorized under this title.".

SEC. 503. FEDERAL TORT CLAIMS ACT COVERAGE.

Title V of the Act (as amended by section 501 of this Act) is further amended by adding at the end the following new section:

"FEDERAL TORT CLAIMS ACT COVERAGE

"SEC. 512. For the purposes of section 224 of the Public Health Service Act (42 U.S.C. 233(a)), with respect to claims for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions, including the conduct of clinical studies or investigations, an urban Indian health program carrying out contract or agreement under section 503(a) for the benefit of urban Indians, is deemed to be part of the Public Health Service in the Department of Health and Human Services while carrying out any such contract or agreement, and its employees (including those acting on behalf of the organization as provided in section 2671 of title 28, United States Code) are deemed employees of the Public Health Service while acting within the scope of their employment in carrying out the contract or agreement.".

SEC. 504. TREATMENT OF DEMONSTRATION PROGRAMS.

Notwithstanding any other provision of law, the two demonstration programs, Oklahoma City Clinic and Tulsa Clinic, which are in the Hospitals and Clinics program of the Indian Health Service shall be treated as service units in the allocation of resources, and coordination of care. The Secretary shall provide assistance to these programs in the development of resources, equipment and facility needs. For the period that the Oklahoma City and Tulsa clinics are in demonstration-project status, they shall not be subject to the provisions of Public Law 93-638. The Secretary shall evaluate the results of these demonstration projects and report back to Congress his findings and recommendations by March 1999.

TITLE VI—ORGANIZATIONAL IMPROVEMENTS

SEC. 601. INDIAN HEALTH SERVICE.

Section 601(c) of the Act (25 U.S.C. 1661(c)) is amended—

(1) in paragraph (2), by striking "and";

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) all scholarship and loan functions carried out under title I.".

SEC. 602. AUTHORIZATION OF APPROPRIATIONS.

Title VI of the Act (25 U.S.C. 1661 et seq.) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 603. There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and each fiscal year thereafter through fiscal year 2000 to carry out this title.".

SEC. 603. DIRECTOR OF INDIAN HEALTH SERVICE.

(a) ABOLITION OF CURRENT POSITION.—The position of Director of the Indian Health Service shall be abolished effective January 1, 1993.

(b) ESTABLISHMENT OF NEW POSITION.—The position of Director of the Indian Health Service shall be established effective January 1, 1993.

(c) CONFIRMATION BY THE SENATE.—Section 601(a) of the Act (25 U.S.C. 1661(a)) is amended in the second sentence, by striking "Secretary" and inserting "President, by and with the advice and consent of the Senate".

(d) INTERIM APPOINTMENT.—The President may appoint a person to serve as Interim Director of the Indian Health Service from January 1, 1993, until a Director is appointed and confirmed as provided by section 601(a) of the Act, as amended by this Act. The Interim Director shall have the same duties, powers, and responsibilities as the Director while serving pursuant to this subsection.

(e) TERM.—Section 601(a) of the Act is amended by adding at the end the following: "The Director of the Indian Health Service shall serve a term of 4 years. A Director may be appointed, by and with the advice and consent of the Senate, for more than 1 term.".

TITLE VII—SUBSTANCE ABUSE PROGRAMS

SEC. 701. REDESIGNATION OF EXISTING TITLE VII.

(a) TITLE HEADING.—Title VII of the Act (25 U.S.C. 1671 et seq.) is redesignated as title VIII and the title heading is amended to read as follows:

"TITLE VIII—MISCELLANEOUS"

(b) REDESIGNATION OF SECTIONS.—Sections 701 through 720 of the Act (25 U.S.C. 1671 et seq.) are redesignated as sections 801 through 820, respectively.

(c) CONFORMING AMENDMENTS.—The Act is amended—

(1) in section 207(a), by striking "section 713" and inserting "section 813";

(2) in section 307(e), by striking "section 713" and inserting "section 813"; and

(3) in section 405(b)—

(A) in paragraph (1), by striking "sections 402(c) and 713(b)(2)(A)" and inserting "sections 402(a) and 813(b)(2)(A)"; and

(B) in paragraph (4), by striking "section 402(c)" each place it appears and inserting "section 402(a)".

(d) REFERENCES.—Any reference in a provision of law other than the Indian Health Care Improvement Act to sections redesignated by subsection (b) shall be deemed to refer to the section as so redesignated.

SEC. 702. SUBSTANCE ABUSE PROGRAMS.

(a) IN GENERAL.—The Act is amended by inserting after title VI the following new title:

"TITLE VII—SUBSTANCE ABUSE PROGRAMS

"GALLUP ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTER

"SEC. 701. (a) GRANTS FOR RESIDENTIAL TREATMENT.—The Secretary shall make grants to the Navajo Nation for the purpose of providing residential treatment for alcohol and substance abuse for adult and adolescent members of the Navajo Nation and neighboring tribes.

"(b) PURPOSES OF GRANTS.—Grants made pursuant to this section shall be used to—

"(1) provide at least 15 residential beds each year for adult long-term treatment, including beds for specialized services such as polydrug abusers, dual diagnosis, and specialized services for women with fetal alcohol syndrome children;

"(2) establish clinical assessment teams consisting of a psychologist, a part-time addictionologist, a master's level assessment counselor, and a certified medical records technician which shall be responsible for conducting individual assessments and matching Indian clients with the appropriate available treatment;

"(3) provide at least 12 beds for an adolescent shelterbed program in the city of Gallup, New Mexico, which shall serve as a satellite facility to the Acoma/Canoncito/Laguna Hospital and the adolescent center located in Shiprock, New Mexico, for emergency crisis services, assessment, and family intervention;

"(4) develop a relapse program for the purposes of identifying sources of job training and job opportunity in the Gallup area and providing vocational training, job placement, and job retention services to recovering substance abusers; and

"(5) provide continuing education and training of treatment staff in the areas of intensive outpatient services, development of family support systems, and case management in cooperation with regional colleges, community colleges, and universities.

"(c) CONTRACT FOR RESIDENTIAL TREATMENT.—The Navajo Nation, in carrying out the purposes of this section, shall enter into a contract with an institution in the Gallup, New Mexico, area which is accredited by the Joint Commission of the Accreditation of Health Care Organizations to provide comprehensive alcohol and drug treatment as authorized in subsection (b).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) to carry out the purposes of subsection (b)(1)—

"(A) $400,000 for fiscal year 1993;

"(B) $400,000 for fiscal year 1994; and

"(C) $500,000 for fiscal year 1995;

"(2) to carry out the purposes of subsection (b)(2)—

"(A) $100,000 for fiscal year 1993;

"(B) $125,000 for fiscal year 1994; and

"(C) $150,000 for fiscal year 1995;

"(3) to carry out the purposes of subsection (b)(3)—

"(A) $75,000 for fiscal year 1993;

"(B) $85,000 for fiscal year 1994; and

"(C) $100,000 for fiscal year 1995;

"(4) to carry out the purposes of subsection (b)(4), $150,000 for each of fiscal years 1993, 1994, and 1995; and

"(5) to carry out the purposes of subsection (b)(5)—

"(A) $75,000 for fiscal year 1993;

"(B) $90,000 for fiscal year 1994; and

"(C) $100,000 for fiscal year 1995."

"URBAN INDIAN PROGRAM

"SEC. 702. (a) GRANTS.—The Secretary may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school and community-based education in alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under title V of this Act.

"(b) GOALS OF GRANT.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

"(c) CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the—

"(1) size of the urban Indian population;

"(2) accessibility to, and utilization of, other health resources available to such population;

"(3) duplication of existing Service or other Federal grants or contracts;

"(4) capability of the organization to adequately perform the activities required under the grant;

"(5) satisfactory performance standards for the organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and

"(6) identification of need for services.

The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

"(d) TREATMENT OF FUNDS RECEIVED BY URBAN INDIAN ORGANIZATIONS.—Any funds received by an urban Indian organization under this or any other Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).

"(e) URBAN NIAAA TRANSFERRED PROGRAMS.—(1) The Secretary shall provide within the Urban Programs Branch of the Indian Health Service a grant program for the administration of urban Indian alcohol programs which were originally established under the National Institute on Alcoholism and Alcohol Abuse (NIAAA) and transferred to the Indian Health Service. The program shall include the following:

"(2) The purpose of these grants are to provide support for the continuation of the alcohol prevention and treatment services for the urban Indian populations served, and other objectives agreed upon between the Service and the individual urban program.

"(3) Urban Indian service providers which meet the definition of an urban Indian organization under title V of this Act, and which operate Indian alcohol programs originally funded under the NIAAA subsequently transferred to the Indian Health Service, are eligible to participate in this program.

"(4) For the purposes of simplification, the Secretary may make either grants or contracts to eligible urban organizations, and may combine the NIAAA alcohol funds with other substance abuse funds currently administered through the Urban Programs Branch.

"(5) The Secretary shall evaluate and report to Congress on the activities of programs funded under this subsection at least every two years.

"PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT FOR SAN JUAN PUEBLO, NEW MEXICO

"SEC. 703. The Secretary, acting through the Service, shall continue to make grants, through fiscal year 1995, to the 8 Northern Indian Pueblos Council, San Juan Pueblo, New Mexico, for the purpose of providing substance abuse treatment services to Indians in need of such services.

"ALCOHOL AND SUBSTANCE ABUSE TREATMENT FACILITY

"SEC. 704. (a) The Secretary, acting through the Service, shall establish a regional youth alcohol and substance abuse prevention and treatment center in Sacaton, Arizona, on the Gila River Indian Reservation. The center shall be established within facilities leased, with the consent of the Gila River Indian Tribe, by the Indian Health Service from such Tribe.

"(b) The center established pursuant to this section shall be known as the 'Regional Youth Alcohol and Substance Abuse Prevention and Treatment Center'.

"(c) The Secretary, acting through the Service, shall establish, as a unit of the regional center, a youth alcohol and substance abuse prevention and treatment facility in Schurz, Nevada.

"ALASKA NATIVE DRUG AND ALCOHOL ABUSE DEMONSTRATION PROJECT

"SEC. 705. (a) The Secretary, acting through the Service, shall make grants to the Alaska Native Health Board for the conduct of a two-part community-based demonstration project to reduce drug and alcohol abuse in Alaska Native villages and to rehabilitate families afflicted by such abuse. Sixty percent of such grant funds shall be employed by the Health Board to stimulate coordinated community development programs in villages seeking to organize to combat alcohol and drug use. Forty percent of such grant funds shall be transferred to a qualified nonprofit corporation providing alcohol recovery services in the village of St. Mary's, Alaska, to enlarge and strengthen a family life demonstration program of rehabilitation for families that have been or are afflicted by alcoholism.

"(b) The Secretary, acting through the Service, shall evaluate the program established under subsection (a) of this section and submit a report on such evaluation to the appropriate committees of Congress by January 1, 1994.

"TREATMENT CENTER

"SEC. 706. (a) The Secretary, acting through the Service, shall make a grant to the Thunderchild Treatment Center at Sheridan, Wyoming, to match funds already received by the Thunderchild Treatment Center through private contributions for the completion of construction of a multiple approach substance abuse treatment center which specializes in the treatment of alcohol and drug abuse of American Indians.

"(b) To carry out subsection (a), there is authorized to be appropriated, the sum of $2,000,000 for fiscal year 1994. No funding made available under this title for the purposes of carrying out this section shall be used for the staffing or operation of this facility. None of the funding appropriated to carry out subsection (a) shall be used for administrative purposes.

"FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECT GRANTS

"SEC. 707. (a) The Secretary may make grants to Indian tribes and tribal organizations to establish fetal alcohol syndrome (hereafter in this title referred to as 'FAS') and fetal alcohol effect (hereafter in title referred to as 'FAE') programs as provided in this section for the purposes of meeting the health status objectives specified in section 3(b).

"(b) Grants made pursuant to this section shall be used to—

"(1) develop and provide community and in-school training, education, and prevention programs relating to FAS and FAE;

"(2) identify and provide alcohol and substance abuse treatment to high-risk women;

"(3) identify and provide appropriate educational and vocational support, counseling, advocacy, and information to FAS and FAE affected persons and their families or caretakers;

"(4) develop and implement counseling and support programs in schools for FAS and FAE affected children; and

"(5) develop prevention and intervention models which incorporate traditional healers, cultural values and community involvement.

"(c) The Secretary shall establish criteria for the review and approval of applications for grants under this section.

"(d) Ten percent of the funds appropriated to carry out this section shall be used to make grants to urban Indian organizations funded under title V.

"FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECT EDUCATION

"SEC. 708. (a) The Secretary shall provide assistance to Indian tribes and tribal organizations for the development, printing, and dissemination of education and prevention materials on FAS and FAE and in the development and implementation of culturally sensitive assessment and diagnostic tools for use in tribal and urban Indian communities. Such materials shall be developed through the tribal consultation process.

"(b) The Secretary shall—

"(1) convene a FAS/FAE Task Force, composed of representatives from the National Institute on Drug Abuse, the National Institute on Alcohol and Alcoholism, the Office of Substance Abuse Prevention, the National Institute of Mental Health, the Service, the Office of Minority Health of the Department of Health and Human Services, the Administration for Native Americans, the Bureau of Indian Affairs, Indian tribes, tribal organizations, urban Indian communities, and Indian FAS/FAE experts to examine the needs of Indian tribes and Indian communities and available Federal resources; and

"(2) develop an annual plan for the prevention, intervention, treatment and aftercare for those affected by FAS and FAE in Indian communities.

"(c) The Secretary shall make grants to Indian tribes, tribal organizations, universities working with Indian tribes on cooperative projects, and urban Indian organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide aftercare for persons affected by FAS or FAE.

"REPORT

"SEC. 709. (a) The Secretary shall, not later than March 31 of each fiscal year, transmit a report to the Congress on the status of FAS and FAE in the Indian population. Such report shall include the following:

"(1) The progress of implementing a uniform assessment and diagnostic methodology in Service and tribally based service delivery systems.

"(2) The incidence of FAS and FAE babies born for all births by reservation and urban-based sites.

"(3) The prevalence of FAS and FAE affected Indian persons in Indian communities, their primary means of support, and recommendations to improve the support system for these individuals and their families or caretakers.

"(4) The level of support received from the entities specified in section 710(b) in the area of FAS and FAE.

"(5) The number of inpatient and outpatient substance abuse treatment resources which are specifically geared to meet the unique needs of Indian women, and the volume of care provided to Indian women through these means.

"(6) Recommendations regarding the prevention, intervention, and appropriate vocational, educational and other support services for FAS and FAE affected individuals in Indian communities.

"(b) The Secretary may contract the production of this report to a national organization specifically addressing FAS and FAE in Indian communities.

"ADOLESCENT AND ADULT FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECT

"SEC. 710. The Secretary, acting through the Service, shall conduct a study of the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians and Alaska Natives with FAS or FAE. In carrying out this section, the Secretary is authorized to enter into a contract or other agreement with any organization, entity, or institution of higher education with significant knowledge of FAS and FAE and Indian communities.

"CLEARINGHOUSE

"SEC. 711. (a) The Secretary, acting through the Service, shall establish a national clearinghouse for prevention and educational materials and other information on fetal alcohol syndrome and fetal alcohol effect in Indian and Alaska Native communities.

"(b) The Secretary shall ensure access to all clearinghouse materials by any Indian tribe or urban Indian organization to assist in the development of culturally sensitive education and training materials and to assist in community education and prevention of fetal alcohol syndrome and fetal alcohol effect in Indian and Alaska Native communities.

"INDIAN WOMEN TREATMENT PROGRAMS

"SEC. 712. (a) The Secretary may make grants to Indian tribes and tribal organizations to develop and implement a comprehensive program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the cultural, historical, social and child care needs of Indian women, regardless of age.

"(b) Grants made pursuant to this section may be used to—

"(1) develop and provide community training, education, and prevention programs for Indian women relating to alcohol and substance abuse issues, including fetal alcohol syndrome and fetal alcohol effect;

"(2) identify and provide appropriate counseling, advocacy, support, and relapse prevention to Indian women and their families; and

"(3) develop prevention and intervention models for Indian women which incorporate traditional healers, cultural values, and community and family involvement.

"(c) The Secretary shall establish criteria for the review and approval of applications for grants under this section.

"(d) Twenty percent of the funds appropriated to carry out this section shall be used to make grants to urban Indian organizations funded under title V.

"SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROJECT

"SEC. 713. (a) The Secretary, acting through the Service, may enter into contracts with, or make grants to colleges, universities, and tribally controlled community colleges as defined in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.) to establish demonstration projects to develop educational curricula for substance abuse counseling.

"(b) Funds provided under this section shall be used only for developing and providing educational curricula for substance abuse counseling (including paying salaries for instructors).

"(c) Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with colleges, universities, and with Indian tribes and administrators of tribally controlled community colleges, shall develop and issue criteria for the review and approval of applications for funding under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of colleges, universities, and tribally controlled community colleges to educate substance abuse counselors.

"(d) The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

"(e) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section, together with legislative recommendations.

"(f) For the purposes of this section, the term "educational curriculum" means one or more of the following:

"(1) Classroom education.

"(2) Clinical work experience.

"(3) Continuing education workshops.

"INDIAN HEALTH SERVICE RESPONSIBILITIES

"SEC. 714. The Memorandum of Agreement entered into pursuant to section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411) shall include specific provisions pursuant to which the Service shall assume responsibility for—

"(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

"(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

"(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

"INDIAN HEALTH SERVICE PROGRAM

"SEC. 715. (a) The Secretary, acting through the Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include—

"(1) prevention, through educational intervention, in Indian communities,

"(2) acute detoxification and treatment,

"(3) community-based rehabilitation,

"(4) community education and involvement, including extensive training of health care, educational, and community-based personnel,

"(5) residential treatment programs for pregnant and post partum women and their children, and

"(6) relapse prevention services, including group homes.

The target population of such a program shall be the members of Indian tribes. Additionally, efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

"(b)(1) The Secretary, acting through the Service, may enter into contracts with public or private providers of alcohol and substance abuse treatment services for the purpose of assisting the Service in carrying out the program required under subsection (a).

"(2) In carrying out this subsection, the Secretary shall provide assistance to Indian tribes to—

"(A) develop criteria for the certification of alcohol and substance abuse service providers;

"(B) facilitate access to off-campus substance abuse degree programs; and

"(C) facilitate accreditation of service facilities that meet minimum standards for such services and facilities as may be determined pursuant to section 4205(a)(3) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411(a)(3)).

"INDIAN HEALTH SERVICE YOUTH PROGRAM

"SEC. 716. (a) The Secretary shall develop and implement a program for acute detoxification and treatment for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

"(b)(1) The Secretary shall construct or renovate, and appropriately staff and operate, a youth regional treatment center in each area under the jurisdiction of an area office. For the purposes of this subsection, the area offices of the Service in Tucson and Phoenix, Arizona, shall be considered one area office and the area office in California shall be considered to be two area offices, one office whose jurisdiction shall be considered to encompass the northern area of the State of California, and one office whose jurisdiction shall be considered to encompass the remainder of the State of California.

"(2) For the purpose of staffing and operating such centers or facilities, funding shall be pursuant to the Act of November 2, 1921 (25 U.S.C. 13).

"(3) Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating and maintaining a residential youth treatment facility in Fairbanks, Alaska.

"(4) A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) agreed upon (by appropriate tribal resolution) by a majority of the tribes to be served by such center.

"(c)(1) The Secretary, acting through the Service, shall, in consultation with Indian tribes—

"(A) identify and use, where appropriate, federally owned structures suitable as local residential or regional alcohol and substance abuse treatment centers for Indian youth; and

"(B) establish guidelines for determining the suitability of any such federally owned structure to be used as a local residential or regional alcohol and substance abuse treatment center for Indian youth.

"(2) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure.

"(d)(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each Service service unit community-based rehabilitation and followup services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

"(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

"(e) In providing the treatment and other services to Indian youth authorized by this section, the Secretary shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (d) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

"(f)(1) The Secretary shall conduct a study to determine the incidence and prevalence of the abuse of multiple forms of drugs, including alcohol, among Indian youth residing on Indian reservations and in urban areas and the interrelationship of such abuse with the incidence of mental illness among such youth.

"(2) The Secretary shall submit a report detailing the findings of such study, together with recommendations based on such findings, to the Congress no later than two years after the date of the enactment of this section.

"TRAINING AND COMMUNITY EDUCATION

"SEC. 717. (a) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit a program of community education, including off-campus degree studies, and community involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education in alcohol and substance abuse to political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical members of each tribal community.

"(b) The Secretary shall, either directly or by contract, provide instruction in the area of alcohol and substance abuse, including instruction in prevention, relapse prevention services, crisis intervention, and family relations in the context of alcohol and substance abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol syndrome to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

"(c) In carrying out the education and training programs required by this section, the Secretary, acting through the Service and in consultation with tribes and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

"(1) the elevated risk of alcohol and substance abuse faced by children of alcoholics;

"(2) the cultural and multigenerational aspects of alcohol and substance abuse prevention and recovery; and

"(3) community-based and multidisciplinary strategies for preventing and treating alcohol and substance abuse.

"REPORTS

"SEC. 718. (a) The Secretary, with respect to the administration of any health program by a Service service unit, directly or through contract, including a contract under the Indian Self-Determination and Education Assistance Act, shall require the compilation of data relating to the number of cases or incidents which any of the Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases.

"(b) The data compiled under subsection (a) shall be provided annually to the affected Indian tribe and Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan under section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2471 et seq.).

"(c) Each service unit director shall be responsible for assembling the data compiled under this section and section 4214 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2434) into an annual tribal comprehensive report. Such report shall be provided to the affected tribe and to the Director of the Service who shall develop and publish a biennial national report based on such tribal comprehensive reports.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 719. Except as provided in sections 701, 706, and 713, there are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and each fiscal year thereafter through fiscal year 2000 to carry out this title.".

(b) REDESIGNATION AND REPEAL OF EXISTING PROVISIONS.—

(1) REDESIGNATION.—The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.) is amended by redesignating section 4224 as section 4208A.

(2) REPEAL.—Part 6 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2471 et seq.), as amended by paragraph (1), is repealed.

TITLE VIII—MISCELLANEOUS

SEC. 801. REPORTS.

Section 801 of the Act (25 U.S.C. 1671) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"REPORTS

"SEC. 801. The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress a report containing—

"(1) a report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which are at a parity with the health services available to and the health status of, the general population;

"(2) a separate statement which specifies the amount of funds requested to carry out the provisions of section 201;

"(3) a separate statement of the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in section 814, relating to infant and maternal mortality and fetal alcohol syndrome;

"(4) reports required pursuant to sections 3(b), 108(n), 203(b), 209(k), 301(c), 302(g), 403, and 817(a);

"(5) for fiscal year 1997, the interim report required pursuant to section 307(h)(1);

"(6) for fiscal year 1999, the report required pursuant to section 307(h)(2); and

"(7) a report on whether, and to what extent, new health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act, and any steps that the Secretary may have taken to consult with Indian tribes to address such impact.".

SEC. 802. REGULATIONS.

Section 802 of the Act (25 U.S.C. 1672) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"SEC. 802. Prior to any revision of or amendment to rules or regulations promulgated pursuant to this Act, the Secretary shall consult with Indian tribes and appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.".

SEC. 803. EXTENSION OF TREATMENT OF ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

Section 808 of the Act (25 U.S.C. 1678) (as redesignated by section 701(b) of this Act) is amended by striking "1991" and inserting "2000".

SEC. 804. INFANT AND MATERNAL MORTALITY; FETAL ALCOHOL SYNDROME.

Section 814 of the Act (25 U.S.C. 1680d) (as redesignated by section 701(b) of this Act) is amended—

(1) by striking "(a)"; and

(2) by striking subsection (b).

SEC. 805. REALLOCATION OF BASE RESOURCES.

Section 817(a) of the Act (25 U.S.C. 1680(g)) (as redesignated by section 701(b) of this Act) is amended by striking "Secretary has submitted to the Congress" and inserting "Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 801,".

SEC. 806. CHILD SEXUAL ABUSE TREATMENT PROGRAMS.

Section 819 of the Act (25 U.S.C. 1680i) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"SEC. 819. (a) The Secretary and the Secretary of the Interior shall, for each fiscal year through fiscal year 1995, continue the demonstration programs involving treatment for child sexual abuse provided through the Hopi Tribe and the Asiniboine and Sioux Tribes of the Fort Peck Reservation, and shall encourage the development of demonstration programs in other tribes.

"(b) Beginning October 1, 1995, the Secretary and the Secretary of the Interior may establish, in any service area, demonstration programs involving treatment for child sexual abuse, except that the Secretaries may not establish a greater number of such programs in one service area than in any other service area until there is an equal number of such programs established with respect to all service areas.".

SEC. 807. TRIBAL LEASING.

Section 820 of the Act (25 U.S.C. 1680j) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"TRIBAL LEASING

"SEC. 820. Indian tribes providing health care services pursuant to a contract entered into under the Indian Self-Determination Act may lease permanent structures for the purpose of providing such health care services without obtaining advance approval in appropriation Acts.".

SEC. 808. EXTENSION OF TRIBAL MANAGEMENT DEMONSTRATION PROJECT TERMINATION DATE IN CERTAIN CASES.

Section 818 of the Act (25 U.S.C. 1680h) (as redesignated by section 701(b) of this Act) is amended—

(1) in subsection (d)(1), by inserting before the period at the end the following: ", or, in the case of a demonstration project for which a grant is made after September 30, 1990, three years after the date on which such grant is made"; and

(2) in subsection (d)(2), by striking "1994" and inserting "1996".

SEC. 809. LONG-TERM CARE DEMONSTRATION PROJECT.

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 of this Act) is amended by adding at the end the following new section:

"LONG-TERM CARE DEMONSTRATION PROJECT

"SEC. 821. (a) The Secretary, acting through the Service, is authorized to enter into contracts with, or make grants to, Indian tribes or tribal organizations providing health care services pursuant to a contract entered into under the Indian Self-Determination Act, to establish demonstration projects for the delivery of home- and community-based services to functionally disabled Indians.

"(b)(1) Funds provided for a demonstration project under this section shall be used only for the delivery of home- and community-based services (including transportation services) to functionally disabled Indians.

"(2) Such funds may not be used—

"(A) to make cash payments to functionally disabled Indians;

"(B) to provide room and board for functionally disabled Indians;

"(C) for the construction or renovation of facilities or the purchase of medical equipment; or

"(D) for the provision of nursing facility services.

"(c) Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with Indian tribes and tribal organizations, shall develop and issue criteria for the approval of applications submitted under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of tribes and tribal organizations to deliver, or arrange for the delivery of, high quality, culturally appropriate home- and community-based services to functionally disabled Indians.

"(d) The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

"(e) At the discretion of the tribe or tribal organization, services provided under a demonstration project established under this section may be provided (on a cost basis) to persons otherwise ineligible for the health care benefits of the Service.

"(f) The Secretary shall establish not more than 24 demonstration projects under this section. The Secretary may not establish a greater number of demonstration projects under this section in one service area than in any other service area until there is an equal number of such demonstration projects established with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria issued pursuant to subsection (c).

"(g) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section, together with legislative recommendations.

"(h) The Secretary is authorized to enter into a shared services agreement with a health facility operated by a tribe or tribal organization that receives assistance under this section and that provides long-term care to older Indians. The Secretary, acting through the Service, shall place conditions and terms on such shared services agreements necessary to carry out this section. At the request of the tribe or tribal organization, the Secretary shall delegate to the tribe or tribal organizations powers of supervision and control over such local service employees as are necessary to carry out this section. For the purpose of this subsection, the term 'shared services agreement' means a contractual agreement between the Service and an Indian tribe or tribal organization whereby the Service agrees to share staff and other services with a health facility operated by such Indian tribe or tribal organization. Salaries for such staff and payments for such services shall be proportionately allocable to the service facility and health facility pursuant to such agreement.

"(i) For the purposes of this section, the following definitions shall apply:

"(1) The term 'home- and community-based services' means one or more of the following:

"(A) Homemaker/home health aide services.

"(B) Chore services.

"(C) Personal care services.

"(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

"(E) Respite care.

"(F) Training for family members in managing a functionally disabled individual.

"(G) Adult day care.

"(H) Such other home- and community-based services as the Secretary may approve.

"(2) The term 'functionally disabled' means an individual who is determined to require home- and community-based services based on an assessment that uses criteria (including, at the discretion of the tribe or tribal organization, activities of daily living) developed by the tribe or tribal organization.

"(j) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as are necessary to carry out this section. Such sums shall remain available until expended.".

SEC. 810. RESULTS OF DEMONSTRATION PROJECTS.

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701) and amended by section 809 of this Act) is amended by adding at the end the following new section:

"RESULTS OF DEMONSTRATION PROJECTS

"SEC. 822. The Secretary shall provide for the dissemination to Indian tribes of the findings and results of demonstration projects conducted under this Act.".

SEC. 811. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title VIII of the Act, as amended by section 810, is further amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 823. There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and each fiscal year thereafter through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title VIII of the Act (25 U.S.C. 1671 et seq.) (as redesignated by subsections (a) and (b) of section 701 of this Act) is amended—

(1) in section 807 (as redesignated by section 701(b) of this Act), by striking subsection (f); and

(2) in section 818 (as redesignated by section 701(b) of this Act), by striking subsection (e).

SEC. 812. TRIBAL SELF-GOVERNANCE PROJECT.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f note) is amended—

(1) in section 301, by inserting after "Interior" the following: "and the Secretary of Health and Human Services (hereafter in this title referred to as the 'Secretaries') each";

(2) in sections 302, 303, 304, and 305, by striking "Secretary" each place it appears and inserting in lieu thereof "Secretaries";

(3) in section 303(a)(1), by inserting after "Interior" the following: "and the Indian Health Service of the Department of Health and Human Services"; and

(4) by adding after section 309 the following new section:

"SEC. 310. For the purposes of providing one year planning and negotiations grants to the Indian tribes identified by section 302, with respect to the programs, activities, functions or services of the Indian Health Service, there are authorized to be appropriated such sums as may be necessary to carry out such purposes. Upon completion of the authorized planning activity or a comparable planning activity by a tribe, the Secretary is authorized to negotiate and implement a Compact of Self-Governance and Annual Funding Agreement with such tribe.".

SEC. 813. WAIVER OF PAPERWORK REDUCTION.

Title VIII of the Act, as redesignated by section 701(a), is amended by adding at the end the following new section:

"WAIVER OF PAPERWORK REDUCTION

"SEC. 824. (a) Chapter 35 of title 44, United States Code, shall not apply to information required to carry out any study or survey authorized or required by this Act.".

SEC. 814. JOINT VENTURE DEMONSTRATION PROJECTS.

Section 818 of the Act (25 U.S.C. 1680h) (as redesignated by section 701(b) and amended by section 811(b)(2) of this Act) is amended by adding after subsection (d) the following new subsection:

"(e)(1) The Secretary, acting through the Service, shall make arrangements with Indian tribes to establish joint venture demonstration projects under which an Indian tribe shall expend tribal, private, or other available nontribal funds, for the acquisition or construction of a health facility for a minimum of 20 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility. A tribe may utilize tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under this subsection.

"(2) The Secretary shall make such an arrangement with an Indian tribe only if the Secretary first determines that the Indian tribe has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the health facility described in paragraph (1).

"(3) An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this subsection, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the tribe, or paid to a third party on the tribe's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies), and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence does not apply to any funds expended for the delivery of health care services, or for personnel or staffing, shall be recoverable.".

SEC. 815. DEMONSTRATION OF ELECTRONIC DATA SUBMISSION.

Title VIII of the Act, as redesignated by section 701(a) and amended by section 813 of this Act, is further amended by adding at the end the following new section:

"DEMONSTRATION OF ELECTRONIC DATA SUBMISSION

"SEC. 825. (a) The Secretary shall develop and implement 2 projects to demonstrate in a pilot setting how current telecommunications and computer processing technology can be used to improve the turnaround, accuracy, and effectiveness of the information exchange between Indian Health Service health centers, private Contract Health Service providers, the Indian Health Service Area office and the Indian Health Service Fiscal Intermediary.

"(b) The Secretary shall conduct one of the projects authorized in subsection (a) in the Service area served by the Indian Health Service Area office located in Phoenix, Arizona.

"(c) EFFECTIVE DATE.—The projects described in subsection (a) shall be established effective June 15, 1993, and may involve the awarding of an outside contract.".

SEC. 816. LAND TRANSFER.

The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Indian Health Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Indian Health Service and occupied by the Chemawa Indian Health Center.

SEC. 817. LEASES WITH INDIAN TRIBES.

Section 804 of the Indian Health Care Improvement Act (25 U.S.C. 1674), as redesignated by section 701(b) of this Act, is amended to read as follows:

"SEC. 804. (a) Notwithstanding any other provision of law, the Secretary shall, in carrying out the purposes of this Act, enter into leases with Indian tribes and tribal organizations for periods not in excess of twenty years. Property leased by the Secretary from a Indian tribe or tribal organization may be reconstructed or renovated by the Secretary pursuant to an agreement with such Indian tribe.

"(b) The Secretary, upon request of an Indian tribe or tribal organization, shall enter into leases, contracts, and other legal agreements with Indian tribes or tribal organizations which hold—

"(1) title to;

"(2) a leasehold interest in; or

"(3) a beneficial interest in (where title is held by the United States in trust for the benefit of the tribe);

facilities reasonably necessary for the administration and delivery of health services by the Service or by programs operated by Indian tribes or tribal organizations to compensate such Indian tribes or tribal organizations for costs associated with the use of such facilities for such purposes. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable, based on the reasonable rental costs of comparable premises in the community where such facilities are located. Leases, contracts, and other legal agreements with Indian tribes or tribal organizations operating contracts under the Indian Self-Determination and Education Assistance Act, Public Law 93-683, shall be in lieu of charges for space used in the performance of such contract which are otherwise funded through direct or indirect costs under such contracts.".

SEC. 818. OFFICE OF INDIAN WOMEN'S HEALTH CARE.

(a) ESTABLISHMENT.—There is established in the Indian Health Service (hereafter referred to in this section as the "Service") an Office of Indian Women's Health Care (hereafter referred to in this section as the "Office").

(b) PURPOSE.—

(1) IN GENERAL.—The Office shall oversee efforts of the Service to monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.

(2) IN PARTICULAR.—In particular, the Office shall have the following purposes:

(A) To update all basic service information systems to include the collection and analysis of data pertinent to documenting the level and quality of health care being received by Indian women through the Service and related contractors.

(B) To review any proposed studies by the Service to ensure that Indian women are appropriately included in the scope of such studies.

(C) To establish and maintain an Indian women's health agenda, which shall—

(i) include the identification of priority areas of service;

(ii) incorporate existing efforts to identify such priority areas, for example, the Indian Women's Task Force and Round Table Conference held in Tucson, Arizona, in 1991;

(iii) ensure that the priority areas identified become an integral part of the planning and evaluation processes for all Service delivery systems;

(iv) form the basis for plans and annual budget requests to implement services, equipment, personnel, and other changes necessary to improve the delivery of health services to Indian women; and

(v) reflect the participation and views of Service beneficiaries.

(D) To allow for differences in priorities by Area offices, making maximum utilization of Area office capabilities and facilities.

(E) To recommend ways to obtain and coordinate additional government, tribal, and private resources to accomplish the plans developed pursuant to subparagraph (C)(iv).

(F) To include the findings, recommendations, agenda, plans, and other relevant information compiled by the Office in the annual reports submitted by the Service to the Congress.

(G) To conduct such other activities as may be necessary to carry out the overall purpose of the Office.

(c) DEFINITION.—For the purpose of this section, the term "Area office" has the meaning given the term in section 4(i) of the Indian Health Care Improvement Act (25 U.S.C. 1603(i)).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 819. HEALTH PROFESSIONAL PRIORITIES IN RELATED PROGRAM.

Section 333A(a) of the Public Health Service Act (42 U.S.C. 254f-1(a)) is amended—

(1) in paragraph (2), by striking "and" after the semicolon at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following paragraph:

"(4) subject to paragraphs (1) through (3), give priority to meeting the needs of the Indian Health Service and the needs of health programs or facilities operated by tribes or tribal organizations under the Indian Self-Determination and Education Assistance Act, except to the extent not practicable.".

SEC. 820. PRIORITY FOR INDIAN RESERVATIONS.

(a) PRIORITY.—On and after the date of the enactment of this Act, the Bureau of Indian Affairs, Department of the Interior, and the Indian Health Service, Department of Health and Human Services, shall, in all matters involving the reorganization or development of service facilities, or in the establishment of related employment projects to address the unemployment conditions in economically depressed areas, give a priority to locating such facilities and projects on Indian lands.

(b) DEFINITION.—As used in this section, the term "Indian lands" means—

(1) all lands within the limits of any Indian reservation; and

(2) any lands title which is held in trust by the United States for the benefit of any Indian tribe or individual Indian, or held by any Indian tribe or individual Indian subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

TITLE IX—TECHNICAL CORRECTIONS

SEC. 901. REPEAL OF EXPIRED REPORTING REQUIREMENTS.

The Act is amended—

(1) in section 116, by striking subsection (d);

(2) in section 204(a)—

(A) by striking paragraph (2);

(B) by striking "(a)(1)" and inserting "(a)";

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(D) in paragraph (2) (as redesignated by this subsection), by striking "subparagraph (A)" and inserting "paragraph (1)";

(3) in section 602, by striking subsection (a)(3); and

(4) by striking section 803 (as redesignated by section 701(b) of this Act).

SEC. 902. OTHER TECHNICAL CORRECTIONS.

The Act is amended—

(1) in section 4(c), by striking "sections 102, 103, and 201(c)(5)," and inserting "sections 102 and 103,";

(2) in title I—

(A) in section 102(b)(1), by striking ": *Provided*, That the" and inserting ". The";

(B) in section 105(c), by striking "Department of Health, Education, and Welfare" and inserting "Department of Health and Human Services"; and

(C) in section 108(d)(1)(A), by striking "Indian Health" and inserting "Indian health";

(3) in title II—

(A) by striking **"SEC. 209. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES."** and inserting the following:

"MENTAL HEALTH PREVENTION AND TREATMENT SERVICES

"SEC. 209."; and

(B) in section 209, by redesignating subsections (c) through (l) as subsections (b) through (k), respectively;

(4) in title III—

(A) by striking **"SEC. 307. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT"** and inserting the following:

"INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT

"SEC. 307."; and

(B) in section 301(d) (as redesignated by section 301(2) of this Act), by striking "sections 102 and 103(b)" and inserting "section 102";

(5) in title V—

(A) by striking **"SEC. 409. FACILITIES RENOVATION."** and inserting the following:

"FACILITIES RENOVATION

"SEC. 509."; and

(B) by striking **"SEC. 511. URBAN HEALTH PROGRAMS BRANCH."** and inserting the following:

"URBAN HEALTH PROGRAMS BRANCH

"SEC. 510.";

(6) in section 601(c)(3)(D), by striking "(25 U.S.C. 2005, et seq.)" and inserting "(42 U.S.C. 2005 et seq.)";

(7) in section 601(d)(1)(C), by striking "appropriate" and inserting "appropriated";

(8) in section 813(b)(2)(A) of the Act (25 U.S.C. 1680c(b)(2)(A)) (as redesignated by section 701(b) of this Act), by striking "section 402(c)" and inserting "section 402(a)"; and

(9) by amending the heading for section 816 of the Act (25 U.S.C. 1680f) (as redesignated by section 701(b)) to read as follows:

"INDIAN HEALTH SERVICE AND DEPARTMENT OF VETERANS AFFAIRS HEALTH FACILITIES AND SERVICES SHARING".

CHILD SUPPORT RECOVERY ACT

The text of the bill (S. 1002) to impose a criminal penalty for flight to avoid payment of arrearages in child support, as passed by the Senate on September 18, 1992, is as follows:

S.1002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Support Recovery Act of 1992".

SEC. 2. FAILURE TO PAY LEGAL CHILD SUPPORT OBLIGATIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 11 the following new chapter:

"CHAPTER 11A—CHILD SUPPORT

"Sec.

"228. Failure to pay legal child support obligations.

"§ 228. Failure to pay legal child support obligations

"(a) OFFENSE.—Whoever willfully fails to pay a past due support obligation with respect to a child who resides in another State shall be punished as provided in subsection (b).

"(b) PUNISHMENT.—The punishment for an offense under this section is—

"(1) in the case of a first offense under this section, a fine under this title, imprisonment for not more than 6 months, or both; and

"(2) in any other case, a fine under this title, imprisonment for not more than 2 years, or both.

"(c) RESTITUTION.—Upon a conviction under this section, the court shall order restitution under section 3663 in an amount equal to the past due support obligation as it exists at the time of sentencing.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'past due support obligation' means any amount—

"(A) determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

"(B) that has remained unpaid for a period longer than 180 days, or is greater than $2,500; and

"(2) the term 'State' includes the District of Columbia, and any other possession or territory of the United States.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 11 the following new item:

"11A. Child support .... 228".

SEC. 3. DISCRETIONARY CONDITION OF PROBATION.

Section 3563(b) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (20);

(2) by redesignating paragraph (21) as paragraph (22); and

(3) by inserting after paragraph (20) the following new paragraph:

"(21) comply with the terms of any court order or order of an administrative process pursuant to the law of a State, the District of Columbia, or any other possession or territory of the United States, requiring payments by the defendant for the support and maintenance of a child or of a child and the parent with whom the child is living; or".

SEC. 4. COMMISSION ON CHILD AND FAMILY WELFARE.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on Child and Family Welfare (referred to in this section as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 15 members of whom—

(A) 5 shall be appointed by the President, in consultation with the Attorney General and the Secretary of Health and Human Services;

(B) 3 shall be appointed by the President pro tempore of the Senate;

(C) 2 shall be appointed by the minority leader of the Senate;

(D) 3 shall be appointed by the Speaker of the House of Representatives; and

(E) 2 shall be appointed by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—Members of the Commission shall be—

(A) persons who have expertise in family law, children's issues, mental health, and related policies;

(B) persons who have expertise, through research and practice, in laws and policies related to child and family welfare;

(C) persons who represent organizations that seek to protect the civil rights of children;

(D) persons who represent advocacy groups that work for the interests of children;

(E) persons who represent advocacy groups that work for the interests of both custodial and noncustodial parents; and

(F) persons who have conducted extensive research on, or delivered services to, children adversely affected by divorce.

(3) DATE.—The appointments of the members of the Commission shall be made no later than June 1, 1993.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

(h) DUTIES.—The Commission shall—

(1) compile information and data on the issues that affect the best interests of children, including domestic issues such as abuse, family relations, services and agencies for children and families, family courts and juvenile courts;

(2) compile a report that lists the strengths and weaknesses of the child welfare system as it relates to placement (including child custody and visitation), summarizes State laws and regulations relating to visitation, and makes recommendations for changing the system or developing a Federal role in strengthening the system;

(3) study the strengths and weaknesses of the juvenile and family courts as they relate to visitation, custody, and child support enforcement and suggest any recommendations for changing these systems; and

(4) study domestic issues that relate to the treatment and placement of children (such as child and spousal abuse) and suggest recommendations for any needed changes, including models for mediation and other programs.

(i) REPORT.—Not later than January 1, 1994, the Commission shall submit to the President and the Congress an interim report, and not later than January 1, 1995, a final report, which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers to be appropriate.

(j) HEARINGS.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) BROAD PUBLIC PARTICIPATION.—The Commission shall conduct hearings in various areas of the country, from the inner cities to the suburbs to rural areas, to gather a broad spectrum of information on the issues to be addressed. Parents, children, experts, religious leaders, and public and private agency officials shall be afforded the opportunity to give testimony at such hearings.

(k) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(l) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(m) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(n) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(o) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(p) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(q) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(r) TERMINATION OF THE COMMISSION.—(1) The Commission shall terminate 90 days after the date on which the Commission submits its final report under subsection (i).

(2) Any funds held by the Commission on the date of termination of the Commission shall be deposited in the general fund of the Treasury of the United States and credited as miscellaneous receipts. Any property (other than funds) held by the Commission on that date shall be disposed of as excess or surplus property.

(s) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Commission for fiscal years 1993 and 1994 such sums as are necessary to carry out this section.

(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this subsection shall remain available, without fiscal year limitation, until expended.

WORLD WAR II 50TH ANNIVERSARY COMMEMORATIVE COINS ACT

The text of the bill (S. 3195) to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States' involvement in World War II, as passed by the Senate on September 18, 1992, is as follows:

S. 3195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "World War II 50th Anniversary Commemorative Coins Act".

SEC. 2. FINDINGS AND SENSE OF THE CONGRESS.

(a) FINDINGS.—The Congress finds that—

(1) the period of December 7, 1991, through September 2, 1995, will mark the 50th anniversary of the involvement of the United States in World War II;

(2) over 16,000,000 people served in the Armed Forces of the United States during that conflict;

(3) over 400,000 American men and women gave their lives in defense of freedom around the world during World War II;

(4) World War II fundamentally reshaped the international geopolitical landscape, as well as the economic, political, and cultural institutions of our Nation;

(5) the War involved a clear choice between democracy and tyranny and involved our Nation as a whole in a worldwide battle against the forces of fascism and oppression;

(6) the June 6, 1944, invasion of northern France, when in one day 176,000 Allied military personnel were landed on the beaches of Normandy, was one of World War II's most celebrated achievements;

(7) the "D-Day" invasion was the largest seaborne invasion in history, and the ensuing 76-day Battle of Normandy was one of the largest land battles in history;

(8) the Battle of Normandy was a key to the Allied forces' eventual liberation of Europe; and

(9) numerous organizations and individuals across the United States have expressed interest in or are engaged in efforts to draw attention to the 50th anniversary of World War II.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress—

(1) that the 50th anniversary of the involvement of the United States in World War II, the Battle of Normandy, and its other important battles should not go unrecognized at the national level;

(2) that the United States should recognize these anniversaries by minting and issuing coins to commemorate these anniversaries; and

(3) the minting of a United States coin to commemorate the Battle of Normandy and "D-Day" would be an appropriate concomitance to the commitment by the Republic of France that it will mint a French commemorative coin in recognition of the anniversary.

SEC. 3. WORLD WAR II COMMEMORATIVE COINS.

The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue coins in accordance with this Act to commemorate the 50th anniversary of the involvement of the United States in World War II.

SEC. 4. SPECIFICATIONS OF COINS.

(a) DENOMINATIONS.—The Secretary shall mint and issue the following coins:

(1) FIVE DOLLAR GOLD COINS.—Not more than 300,000 five dollar gold coins, each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) ONE DOLLAR SILVER COINS.—Not more than 1,000,000 one dollar silver coins, each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(3) HALF DOLLAR CLAD COINS.—Not more than 2,000,000 half dollar coins, each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 5. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

SEC. 6. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins authorized under this Act shall, in accordance with subsection (b), be symbolic of the participation of the United States in World War II. In addition, the design of the gold coin authorized under section 4(a)(1) shall be emblematic of the Allied victory in World War II, and the silver coin authorized under section 4(a)(2) shall be emblematic of the Battle of Normandy.

(2) DESIGNATIONS AND INSCRIPTIONS.—Each coin authorized under this Act shall bear a designation of the value of the coin, an inscription of the years "1991–1995", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum". In addition, the silver coin authorized under section 4(a)(2) may bear a designation of the date "June 6, 1944" and an inscription of the words "Battle of Normandy" or "D-Day Invasion".

(b) DESIGN COMPETITION.—The Secretary shall sponsor a nationwide open competition for the design of each coin authorized by this Act.

(c) SELECTION.—The design for each coin authorized by this Act shall be selected by the Secretary from the results of the design competition under subsection (b), after consultation with—

(1) representatives of veterans organizations of the United States whose membership includes veterans of World War II, including—

(A) the American Legion;

(B) the Veterans of Foreign Wars of the United States;

(C) AMVETS (American Veterans of World War II, Korea, and Vietnam); and

(D) the Disabled American Veterans; and

(2) in the case of the one dollar silver coin authorized under section 4(a)(2), the Battle

of Normandy Foundation and individuals designated by the Foundation from among individuals who are particularly knowledgeable, by reason of their education, training, or experience, about the history of World War II.

SEC. 7. ISSUANCE OF COINS.

(a) Quality of Coins.—Coins minted under this Act may be issued in uncirculated and proof qualities.

(b) Mint Facility.—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality for the coins minted under this Act.

(c) Commencement of Issuance.—The Secretary may issue the coins minted under this Act beginning on January 1, 1993.

(d) Termination of Authority.—Coins may not be minted under this Act after December 31, 1993.

(e) Promotion Consultation for World War II Memorial.—The Secretary shall determine the role that the American Battle Monuments Commission (hereafter referred to as the "Commission") and any entity established by the Congress to assist the Commission in erecting a World War II memorial will have in the promotion, advertising, or marketing of coins authorized under this Act. This determination shall be made in consultation with the Commission and any other such entity. The Secretary may enter into a contract involving the promotion, advertising, or marketing of such coins with the Commission and such other entity if the Secretary determines that such a contract would be beneficial in the sale of the coins.

(f) Promotion Consultation for Normandy Memorial.—In consultation with the Battle of Normandy Foundation, the Secretary shall determine the role such entity shall have in the promotion, advertising, or marketing of the coins authorized under this Act. The Secretary shall enter into a contract involving the promotion, advertising, or marketing of such coins with the Foundation if the Secretary determines that such a contract would be beneficial in the sale of the coins.

SEC. 8. SALE OF COINS.

(a) In General.—The Secretary shall sell coins minted under this Act at a price equal to the sum of the face value of the coins, the surcharge provided in subsection (d) with respect to such coins, and the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) Bulk Sales.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(c) Prepaid Orders.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) Surcharges.—All sales of coins minted under this Act shall include a surcharge of $35 per coin for the five dollar coins, $8 per coin for the one dollar coins, and $2 per coin for the half dollar coins.

SEC. 9. FINANCIAL ASSURANCES.

(a) No Net Cost to Government.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the Federal Government.

(b) Payment for Coins.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Government.

SEC. 10. USE OF SURCHARGES.

(a) Split of Surcharges Between Battle of Normandy Memorial and World War II Memorial.—Surcharges received from the sale of coins minted under this Act shall be distributed by the Secretary as follows:

(1) Battle of Normandy Foundation.—The first $3,000,000 received from the sale of coins shall be transferred to the Battle of Normandy Foundation and used to create, to endow, and to dedicate, on the 50th Anniversary of D-Day, a United States D-Day and Battle of Normandy Memorial in Normandy, France, adjacent to the largest World War II Museum in the world in Caen, France, and to encourage and support visits to the memorial by United States citizens, and especially students.

(2) American Battle Monuments Commission.—The first $7,000,000 received from the sale of coins after the $3,000,000 referred to in paragraph (1) shall be deposited by the Secretary, subject to subsection (b)(2), in the fund established in the Treasury which is available to the American Battle Monuments Commission for the expenses incurred in establishing a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces of the United States who served in World War II and to commemorate the participation of the United States in that war.

(3) Distribution of Excess.—Of the amounts received from the sale of coins in excess of $10,000,000—

(A) 30 percent shall be transferred to the Battle of Normandy Foundation and used in the manner provided in paragraph (1); and

(B) 70 percent shall be deposited by the Secretary, subject to subsection (b)(2), in the fund described in paragraph (2).

(b) Use of Funds If Not Used for Memorial.—

(1) Battle of Normandy Memorial.—Of the amounts received by the Battle of Normandy Foundation under this section, any amount in excess of the amount spent by the Foundation for the uses described in subsection (a)(1) shall be transferred to the Secretary for deposit in the account provided for in section 8(b)(1) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" and approved November 14, 1986, in the same manner as provided by law for the World War II memorial described in subsection (a)(2).

(2) World War II Memorial.—If the World War II memorial described in subsection (a)(2) is not authorized by Congress by December 31, 1995, the amounts described in paragraphs (2) and (3)(B) of subsection (a) shall be deposited by the Secretary in the account described in paragraph (1) of this subsection.

(c) Audits.—The Comptroller General of the United States shall conduct an annual audit of any books, records, documents, and other data—

(1) belonging to the Battle of Normandy Foundation, the American Battle Monuments Commission, and any agency or organization which receives any amount from the fund described in subsection (a); and

(2) relating to the expenditure of any amount received under subsection (a) or from the fund,

until all amounts received by the foundation, commission, agency, or organization under subsection (a) or from the fund have been spent and the expenditure of such amounts has been audited.

SEC. 11. REPORT TO CONGRESS.

Not later than March 31, 1994, the Secretary shall submit to the Congress a report regarding the activities carried out under this Act.

SEC. 12. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) In General.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act relating to the minting or selling of the coins authorized by this Act.

(b) Equal Employment Opportunity.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 13. COINAGE PROFIT FUND.

(a) Deposits.—All amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund.

(b) Payments.—The Secretary shall pay the amounts authorized under section 10 from the coinage profit fund.

(c) Expenditures.—The Secretary shall charge the coinage profit fund with all expenditures under this Act.

VIETNAM VETERANS COMMEMORATIVE COIN ACT

The text of the bill (S. 2707) to authorize the minting and issuance of coins in commemoration of the Year of the Vietnam Veteran and the 10th anniversary of the dedication of the Vietnam Veterans Memorial, and for other purposes, as passed by the Senate on September 18, 1992, is as follows:

S. 2707

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vietnam Veterans Commemorative Coin Act".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) in 1992, the people of the United States will observe the "Year of the Vietnam Veteran" and the 10th anniversary of the dedication of the Vietnam Veterans Memorial; and

(2) the minting and issuance of $1 silver coins commemorating the accomplishments of veterans who served during the Vietnam War is an appropriate method by which to observe those events.

SEC. 3. AUTHORIZATION.

(a) Issuance.—The Secretary of the Treasury (hereafter referred to as the "Secretary") shall issue not more than 1,000,000 one dollar coins each of which shall—

(1) weigh 26.73 grams;

(2) have a diameter of 1.500 inches; and

(3) contain 90 percent silver and 10 percent copper.

(b) Design.—The design of the coins issued under subsection (a) shall be emblematic of the heroic service of veterans who served during the Vietnam War. On each coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) Numismatic Items.—For purposes of section 5132(a)(1) of title 31, United States

Code, the coins issued under subsection (a) shall be considered to be numismatic items.

(d) LEGAL TENDER.—The coins issued under subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 4. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins authorized under section 3 from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 5. SELECTION OF DESIGN.

The design for each coin authorized under section 3 shall be selected by the Secretary after consultation with the Chairperson of the Vietnam Veterans of America Advisory Board and the Commission of Fine Arts.

SEC. 6. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the coins authorized under section 3 shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses), and the surcharge provided for in subsection (d).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins authorized under section 3 at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins authorized under section 3 prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGES.—All sales of the coins authorized under section 3 shall include a surcharge of $7 per coin.

SEC. 7. ISSUANCE OF COINS.

(a) IN GENERAL.—The coins authorized under section 3 may be issued in uncirculated and proof qualities, except that not more than 1 facility of the United States Mint may be used to strike any particular quality.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins authorized under section 3 beginning on January 1, 1992.

(c) PERIOD OF AUTHORITY.—Coins authorized under section 3 may be minted beginning 30 days after the date of enactment of this Act and for a period of not more than 1 year thereafter.

SEC. 8. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services required to carry out this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 9. DISTRIBUTION OF SURCHARGES.

Subject to section 10, all surcharges received by the Secretary pursuant to section 6(d) shall be promptly paid by the Secretary to the Vietnam Veterans Assistance Fund for the purposes of—

(1) honoring and recognizing the accomplishments of veterans of the Vietnam War;

(2) educating the people of the United States regarding the accomplishments and sacrifices of such veterans and their families;

(3) establishing programs for the purpose of improving the health and well-being of such veterans and their families, including programs to provide assistance to veterans suffering from post traumatic stress disorder and to veterans who are homeless;

(4) providing assistance to such veterans in qualifying for benefits under title 38, United States Code, and other benefits available under Federal law;

(5) providing grants to scientific and medical organizations to study the effects of and treatment for exposure to the chemical tetrachlorodibenzoparadioxin (commonly known as Agent Orange); and

(6) providing employment counseling and assistance to all veterans who served during a period of war.

SEC. 10. AUDITS.

(a) VIETNAM VETERANS ASSISTANCE FUND.—As a condition for receiving the proceeds of the surcharges pursuant to section 9, the Vietnam Veterans Assistance Fund shall allow the Comptroller General to examine such books, records, documents, and other data as may be related to the expenditure of such proceeds.

(b) GRANTS.—Any entity that receives a grant pursuant to section 9(5) shall allow the Comptroller General to examine such books, records, documents, and other data as may be related to the expenditure of any portion of such grant.

SEC. 11. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins authorized under section 3 shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized by section 9 from the coinage profit fund to the Vietnam Veterans Assistance Fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 12. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized under section 3 shall result in no net cost to the Federal Government.

(b) PAYMENT FOR COINS.—No coins authorized under section 3 shall be issued unless the Secretary has received—

(1) full payment therefore;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, or the Resolution Trust Corporation.

NATIONAL DEFENSE AUTHORIZATION ACT

The text of the original bill (S. 3114) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, as passed by the Senate on September 18, 1992, is as follows:

S. 3114

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1993".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Funding Authorizations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense Agencies.
Sec. 105. Defense Inspector General.
Sec. 106. Reserve components.
Sec. 107. Chemical Demilitarization Program.

Subtitle B—Army Programs

Sec. 111. AH-64 Apache helicopter modifications.
Sec. 112. Armored vehicle upgrades.
Sec. 113. Limitation regarding chemical agent monitoring program.

Subtitle C—Navy Programs

Sec. 121. Shipbuilding and conversion.
Sec. 122. AN/SLQ-32 electronic warfare systems.
Sec. 123. Airborne self protection jammer.
Sec. 124. AV-8B Harrier radar upgrade program.
Sec. 125. Modification of F-14 aircraft.
Sec. 126. Strategic sealift report.

Subtitle D—Air Force Programs

Sec. 131. C-17 aircraft program.
Sec. 132. Correction of fuel leaks on C-17 production aircraft.
Sec. 133. F-16 spare parts and support equipment.

Subtitle E—Defense Agency Programs

Sec. 141. Funding for certain tactical intelligence programs.
Sec. 142. MH-47E/MH-60K helicopter modification programs.

Subtitle F—Strategic Programs

Sec. 151. Trident II missile.
Sec. 152. Nonstealthy heavy bomber modernization.
Sec. 153. B-2 bomber aircraft program.
Sec. 154. Space systems investment strategy.
Sec. 155. Ground wave emergency network.

Subtitle G—Chemical Demilitarization Program

Sec. 161. Chemical weapons stockpile disposal program.
Sec. 162. Physical and chemical integrity of the chemical weapons stockpile.

Subtitle H—Authorization of Appropriations

Sec. 171. Authorization of appropriations.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorizations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for basic research and exploratory development.
Sec. 203. Manufacturing technology development.
Sec. 204. Strategic Environmental Research and Development Program.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. V-22 Osprey Aircraft Program.

Sec. 212. Report on V-22 Osprey Aircraft Program.
Sec. 213. Special operations variant of the V-22 Osprey aircraft.
Sec. 214. Shipboard electronic warfare programs.

Subtitle C—Missile Defense Program

Sec. 221. Missile Defense Act amendments.
Sec. 222. Strategic Defense Initiative funding.
Sec. 223. Development and testing of anti-ballistic missile systems or components.
Sec. 224. Limitation regarding support services contracts of the strategic defense initiative organization.

Subtitle D—Other Matters

Sec. 231. Medical countermeasures against biowarfare threats.
Sec. 232. Funding for technical support working group on counter-terrorism.
Sec. 233. Manufacturing technology development programs.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorizations of Appropriations

Sec. 301. Operation and maintenance funding.
Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Humanitarian assistance.
Sec. 305. Support for the 1994 World Cup Games.
Sec. 306. Transfer authority.

Subtitle B—Environmental Provisions

Sec. 311. Evaluation of use of ozone-depleting substances by the Department of Defense.
Sec. 312. Removal of requirements for use of class I ozone-depleting substances in certain military procurements.
Sec. 313. Risk sharing in environmental restoration contracts of the Department of Defense.
Sec. 314. Requirement for identification of land on which no hazardous substances or petroleum products or their derivatives were stored, released, or disposed of.
Sec. 315. Clarification of covenant warranting that remedial action has been taken.
Sec. 316. Requirement to notify States of certain leases.
Sec. 317. Indemnification of transferees of closing defense property.
Sec. 318. Prohibition on use of environmental restoration funds for payment of fines and penalties.
Sec. 319. Modification of contract indemnification authority.
Sec. 320. Extension of authority to issue surety bonds for certain environmental programs.
Sec. 321. Prohibition on the purchase of surety bonds and other guaranties for the Department of Defense.
Sec. 322. Legacy Resource Management Fellowship Program.
Sec. 323. Supplemental authorization of appropriations for fiscal year 1992.

Subtitle C—Defense Economic Diversification, Conversion, and Stabilization

Sec. 331. Revision of authorities relating to the Economic Adjustment Committee.
Sec. 332. Authorizations of appropriations for certain defense stabilization activities.
Sec. 333. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 334. Impact aid.
Sec. 335. Employment and training assistance for dislocated workers.
Sec. 336. Policy to expedite assistance.
Sec. 337. Economic adjustment planning assistance.

Subtitle D—Department of Defense Civilian Personnel Transition Initiatives

Sec. 341. Reemployment in the competitive service.
Sec. 342. Reemployment assistance.
Sec. 343. Reduction-in-force notification requirements.
Sec. 344. Alleviation of adverse effects of base closures on employees at the base.
Sec. 345. Other employee assistance.
Sec. 346. Continued health benefits.
Sec. 347. Thrift Savings Plan benefits of employees separated by a reduction in force.
Sec. 348. Skill training programs in the Department of Defense.
Sec. 349. Report relating to continuing health benefits coverage of certain terminated employees of defense contractors.

Subtitle E—Other Matters

Sec. 351. Limitations on the use of Defense Business Operations Fund.
Sec. 352. Limitation on obligations against Defense Business Operations Fund.
Sec. 353. Annual report on security and control of supplies.
Sec. 354. Repeal of requirement for guidelines for future reductions of civilian employees of industrial-type or commercial-type activities.
Sec. 355. Promotion of civilian marksmanship.
Sec. 356. Purchase of items not exceeding $100,000.
Sec. 357. Extension of authority for aviation depots and naval shipyards to engage in defense-related production and services.
Sec. 358. Repeal of requirement for competition pilot program for depot-level maintenance of materials.
Sec. 359. Optional defense dependents' summer school programs.
Sec. 360. Review of military flight training activities at civilian airfields.
Sec. 361. Sale to Korea of obsolete ammunition from war reserve stocks.
Sec. 362. Cooperative agreements with allies.
Sec. 363. Preference for procurement of energy efficient electric equipment.
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TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

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Sec. 401. End strengths for active forces.
Sec. 402. Waiver and transfer authority.
Sec. 403. Authority to adjust end strengths.
Sec. 404. Repeal of requirements for minimum numbers of medical personnel.
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Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
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Subtitle C—Military Training Student Loads

Sec. 421. Authorization of training student loads.

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Sec. 431. Authorization of appropriations.

TITLE V—MILITARY PERSONNEL POLICY

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Sec. 502. Limitation on reduction in number of reserve component medical personnel.
Sec. 503. One-year extension of certain reserve officer management programs.
Sec. 504. Reenlistment eligibility of certain former reserve officers.
Sec. 505. Study of effects of operations Desert Shield and Desert Storm mobilizations of reserves and members of the National Guard who were self-employed or owners of small businesses.

Subtitle B—Service Academies

Sec. 511. Limitation on assignment of general officers.
Sec. 512. Academy preparatory schools.
Sec. 513. Composition of academy faculties.
Sec. 514. Academy bands.
Sec. 515. Noninstructional staff.
Sec. 516. Major training command jurisdiction.

Subtitle C—Officer Personnel Policy

Sec. 521. Officer personnel management plans.
Sec. 522. Evaluation of effects of officer strength reductions on officer personnel management systems.
Sec. 523. Test assignment of female members to combat aircraft positions.
Sec. 524. Selective early retirement.
Sec. 525. Retirement of certain limited duty officers of the Navy.

Subtitle D—Active Forces Transition Enhancements

Sec. 531. Encouragement for continuing public and community service.
Sec. 532. Teacher certification credit for military experience.
Sec. 533. Program of educational leave relating to continuing public and community service.
Sec. 534. Temporary early retirement authority.
Sec. 535. Increased early retirement retired pay for public or community service.
Sec. 536. Opportunity for certain active-duty personnel to enroll in Montgomery GI bill program while being voluntarily separated from service.
Sec. 537. Elimination of recoupment requirement for reserve duty.
Sec. 538. Authorization of appropriations for certain employment, job training, and other assistance.
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Subtitle E—Guard and Reserve Transition Initiatives

Sec. 541. Force reduction transition period defined.

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Sec. 550. Commissary and exchange privileges.
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Sec. 552. Applicability and termination of benefits.

Subtitle F—Other Matters

Sec. 561. Retention on active duty of enlisted members within two years of eligibility for retirement.
Sec. 562. Limitations on enlisted aides.
Sec. 563. Limitation relating to permanent changes of stations.
Sec. 564. Reductions in number of personnel carrying out recruiting activities.
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TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Military pay raise for fiscal year 1993.
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Subtitle B—Other Matters

Sec. 611. Requirement for proposal on concurrent payment of retired or retainer pay and veterans' disability compensation.
Sec. 612. Expansion of reimbursable adoption expenses.
Sec. 613. Prohibition on the assertion of liens on personal property being transported at Government expense.
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Sec. 615. Increase in recomputed retired pay for certain enlisted members credited with extraordinary heroism.
Sec. 616. Authorized benefits under special separation benefits programs.
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Sec. 705. Programs relating to the sale of pharmaceuticals.
Sec. 706. Annual beneficiary survey.
Sec. 707. Maximum annual amount for deductibles and copayments.
Sec. 708. Continuation of CHAMPUS coverage for certain medicare participants.
Sec. 709. Home health services under CHAMPUS.
Sec. 710. Study on risk-sharing contracts for health care.
Sec. 711. Comprehensive study of the military medical care system.
Sec. 712. National claims processing center for CHAMPUS.
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Subtitle A—Defense Conversion Policy for the National Defense Technology and Industrial Base

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SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

SEC. 4. GENERAL LIMITATION.

Notwithstanding any other provision of this Act, the total amount authorized to be appropriated for fiscal year 1993 under the provisions of this Act is $273,936,615,000, of which the total amount authorized to be appropriated for fiscal year 1993 under the provisions of—

(1) division A is $252,993,321,000;

(2) division B is $8,908,330,000; and

(3) division C is $12,034,964,000.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Funding Authorizations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Army as follows:

(1) For aircraft, $1,328,909,000.

(2) For missiles, $1,037,893,000.

(3) For weapons and tracked combat vehicles, $839,841,000.

(4) For ammunition, $764,280,000.

(5) For other procurement, $3,032,220,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for procurement for the Navy as follows:

(1) For fiscal year 1993 for aircraft, $5,950,477,000.

(2) For fiscal year 1993 for weapons, $3,538,948,000.

(3) For shipbuilding and conversion:

(A) For fiscal year 1993, $5,526,463,000.

(B) For fiscal year 1994, $482,200,000.

(4) For fiscal year 1993 for other procurement, $5,722,283,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Marine Corps in the amount of $690,127,000.

(c) TRANSFER AUTHORITY.—(1) To the extent provided in appropriations Acts, the Secretary of the Navy may transfer, out of the unobligated balance of the appropriations for the Navy for fiscal year 1992 for shipbuilding and conversion that remain available for obligation, $666,609,000 to the appropriations for the Navy for fiscal year 1993 for shipbuilding and conversion. The transfer authority under this subsection shall not extend the period of availability for obligation of amounts transferred pursuant to such authority.

(2) The transfer authority provided in paragraph (1) is in addition to any other transfer authority provided in this or any other Act.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Air Force as follows:

(1) For aircraft, $9,274,999,000.

(2) For missiles, $4,125,590,000.

(3) For other procurement, $8,100,970,000.

SEC. 104. DEFENSE AGENCIES.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Defense Agencies in the amount of $2,538,963,000.

SEC. 105. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Inspector General of the Department of Defense in the amount of $500,000.

SEC. 106. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $130,000,000.

(2) For the Air National Guard, $255,100,000.

(3) For the Army Reserve, $75,000,000.

(4) For the Naval Reserve, $75,000,000.

(5) For the Air Force Reserve, $40,000,000.

(6) For the Marine Corps Reserve, $55,000,000.

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521 note), in the amount of $517,300,000.

Subtitle B—Army Programs

SEC. 111. AH-64 APACHE HELICOPTER MODIFICATIONS.

Section 113 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1304) is repealed.

SEC. 112. ARMORED VEHICLE UPGRADES.

(a) TANK UPGRADES.—Notwithstanding any other provision of law, to the extent provided in appropriations Acts, funds received from the sale of tanks by the United States under the Arms Export Control Act during fiscal years 1990 and 1991 and sales of tanks by the United States under that Act after fiscal year 1992 shall be available, until expended, for the upgrading of tanks for fielding to the Army.

(b) INFANTRY VEHICLE UPGRADES.—Notwithstanding any other provision of law, to the extent provided in appropriations Acts, funds received from the sale of infantry fighting vehicles or armored personnel carriers by the United States under the Arms Export Control Act during fiscal years 1990 and 1991 and from the sale of such vehicles by the United States under that Act after fiscal year 1992 shall be available, until expended, for the upgrading of infantry fighting vehicles or armored personnel carriers for fielding to the Army.

SEC. 113. LIMITATION REGARDING CHEMICAL AGENT MONITORING PROGRAM.

The Improved Chemical Agent Monitor (ICAM) may not be procured for the Armed Forces until the Secretary of the Army—

(1) completes an analysis of the initial production test results of the Chemical Agent Monitor (CAM);

(2) submits to Congress a report containing a discussion of the reliability and consistency of the laboratory-tested and field-tested Chemical Agent Monitor; and

(3) determines, and notifies Congress in writing, that all design and production deficiencies of the Chemical Agent Monitor have been identified and corrected before the resumption of obligation of funds for procurements under the Chemical Agent Monitoring Program.

Subtitle C—Navy Programs

SEC. 121. SHIPBUILDING AND CONVERSION.

(a) CERTAIN PROGRAMS.—(1) Amounts authorized to be appropriated under section 102(a)(3) shall be available for the aircraft carrier replacement program as follows:

(A) For fiscal year 1993, $350,000,000.

(B) For fiscal year 1994, $482,200,000.

(2) Amounts authorized to be appropriated under section 102(a)(3)(A) shall be available for shipbuilding and conversion programs as follows:

For the CVN aircraft carrier refueling overhaul advance procurement program, $6,800,000.

For the CGN cruiser refueling overhaul advance procurement program, $30,439,000.

For the ARLEIGH BURKE guided missile destroyer program, $3,369,643,000.

For the LHD–1 amphibious assault ship program, $1,205,000,000.

For the sealift program, $225,000,000.

For the MHC–1 coastal minehunter program, $246,205,000.

For the oceanographic ship conversion program, $19,500,000.

For the service craft program, $126,028,000.

For outfitting, $385,321,000.

For post-delivery, $223,105,000.

For first destination transportation, $6,031,000.

(b) UNDISTRIBUTED REDUCTION.—The sum of the amounts provided under subsection (a) for fiscal year 1993 for the programs referred to in that subsection is reduced by $666,609,000 in order to be within the total amount authorized to be appropriated for that fiscal year under section 102(a)(3)(A).

(c) LIMITATION.—None of the funds authorized to be appropriated for fiscal year 1994 pursuant to section 102(a)(3)(B) may be obligated for advance procurement for the aircraft carrier replacement program until the Secretary of Defense—

(1) submits to the congressional defense committees the national defense technology and industrial base assessment required by section 2263 of title 10, United States Code, as added by section 801(a) of this Act; and

(2) submits to the Congress the next report (after the date of the enactment of this Act) relating to roles and missions of the Armed Forces that the Chairman of the Joint Chiefs of Staff is required to submit to the Secretary under section 153(b) of title 10, United States Code.

SEC. 122. AN/SLQ-32 ELECTRONIC WARFARE SYSTEMS.

None of the funds appropriated pursuant to section 102(a)(4) may be obligated for the AN/SLQ-32A (V)3 system until the Commander, Operational Test and Evaluation Force, has determined that such system has been proven to be operationally effective during operational testing.

SEC. 123. AIRBORNE SELF PROTECTION JAMMER.

None of the funds available to the Department of Defense for fiscal year 1993 or any fiscal year before fiscal year 1993 may be used for the procurement of the Airborne Self Protection Jammer system except for the payment of the costs of terminating existing contracts for the procurement of the Airborne Self Protection Jammer system.

SEC. 124. AV-8B HARRIER RADAR UPGRADE PROGRAM.

No funds appropriated or otherwise made available to the Department of Defense for fiscal year 1993 may be obligated for the AV-8B radar upgrade program or for the remanufacture of AV-8B aircraft requiring installation of a new fuselage.

SEC. 125. MODIFICATION OF F-14 AIRCRAFT.

The unobligated balance of the funds appropriated to the Navy for fiscal year 1992 and made available for modification of F-14 aircraft may be obligated for the modification of existing F-14 aircraft with new engines, subject to such limitations as may be provided in appropriations Acts.

SEC. 126. STRATEGIC SEALIFT REPORT.

(a) REPORT.—The Secretary of Defense shall submit to the Congress a report on the specific purposes for which the Secretary intends to obligate during fiscal year 1993 the funds available for the procurement of strategic sealift. The information in the report shall be presented by program, project, and activity.

(b) LIMITATION.—Funds appropriated to the Navy for procurement for shipbuilding and conversion and available for strategic sealift may not be obligated during fiscal year 1993 until 30 days after the date on which the Secretary of Defense submits the report required by subsection (a).

Subtitle D—Air Force Programs

SEC. 131. C-17 AIRCRAFT PROGRAM.

(a) FUNDING FOR PROGRAM.—Of the amount appropriated pursuant to section 103(1), not more than $1,829,540,000 shall be available for the C-17 aircraft program, of which—

(1) not more than $1,623,935,000 shall be available for procurement other than advance procurement and procurement of spare parts; and

(2) not more than $205,605,000 shall be available for advance procurement.

(b) LIMITATION.—None of the funds provided under subsection (a) for the C-17 aircraft program (other than funds for advance procurement) may be obligated before—

(1) the Secretary of Defense submits to the congressional defense committees the report referred to in section 133(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1310);

(2) the Air Force has accepted delivery of the fifth production aircraft under that program;

(3) the Director of Operational Test and Evaluation of the Department of Defense—

(A) has evaluated the performance of the C-17 aircraft with respect to critical operational issues after the first 50 flight hours of flight testing conducted during initial operational testing and evaluation of the aircraft; and

(B) has provided to the Secretary of Defense and to the congressional defense committees an early operational assessment of the aircraft regarding overall suitability of the aircraft and deficiencies in the aircraft relative to (i) the initial requirements and specifications for the aircraft, and (ii) the current requirements and specifications for the aircraft;

(4) the Secretary of the Air Force—

(A) has convened the Scientific Advisory Board—

(i) to determine the technical feasibility of carrying out a service life extension program for the C-141 aircraft fleet; and

(ii) to review programmed depot maintenance policies and practices for the C-141 aircraft fleet; and

(B) has taken action to limit the retirement of any operationally capable C-141 aircraft until a decision is made concerning a service life extension for the C-141 fleet;

(5) the Secretary of Defense has convened a special Defense Acquisition Board to review the C-17 aircraft program;

(6) the special Defense Acquisition Board has submitted to the Secretary of Defense a report on the C-17 aircraft program, including the matters described in subsection (c); and

(7) the Secretary of Defense has submitted the report of that board, including the material referred to in subsection (c), to the congressional defense committees.

(c) MATTERS TO BE INCLUDED IN REVIEW.—The review (referred to in subsection (b)(5)) that is conducted by the special Defense Acquisition Board shall include—

(1) an assessment by the Joint Requirements Oversight Council (JROC) of the adequacy of the requirements for the C-17 aircraft;

(2) an analysis by a federally funded research and development center of the cost and operational effectiveness of the C-17 aircraft program taking into consideration complementary mixes of other aircraft; and

(3) an affordability assessment of the program, performed by the Cost Analysis Improvement Group in the Office of the Assistant Secretary of Defense for Program Analysis and Evaluation.

(d) PROHIBITION RELATING TO PRODUCTION CAPABILITY.—None of the funds provided under subsection (a) for the C-17 aircraft program may be used to increase the current rate at which the contractor could produce C-17 aircraft.

(e) INITIATIVE ON COST, PERFORMANCE, AND MANAGEMENT.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish an initiative to maintain control over costs, contractor performance, and management performance within the C-17 aircraft program.

(2) The initiative shall include the following elements:

(A) The establishment of a management plan which provides for the decisions to commit to specified levels of production to be linked to progress in meeting specified program milestones, including testing milestones of such critical performance elements as—

(i) maximum range and maximum payload performance;

(ii) short airfield performance;

(iii) ground mobility in restricted airfield conditions;

(iv) low altitude parachute extraction capability;

(v) air drop capability; and

(vi) sustainable utilization rate performance.

(B) The establishment of a program for promoting increased interaction between the prime contractor and major program subcontractors on management and performance issues.

(C) The establishment of a senior management review group to report directly to the Under Secretary of Defense for Acquisition on the status of aircraft capability, program management, schedule, and cost.

(D) The establishment of a full performance matrix.

(3) Not later than April 1, 1993, the Secretary of Defense shall submit to the congressional defense committees a report on the initiative. The report shall include a description of the measures taken to implement the initiative, including actions taken with respect to each of the elements specified in paragraph (2), and a description of the criteria and milestones to be used in evaluating actual program performance against specified program performance.

(f) ADDITIONAL AMOUNT.—(1) Of the amounts appropriated for the Air Force for fiscal year 1993 for the procurement of aircraft pursuant to the authorization in section 103(1), $232,000,000 may be made available for the C-17 aircraft program in addition to amounts provided under subsection (a).

(2) Funds made available pursuant to paragraph (1) shall be subject to the limitation in subsection (b) and the prohibition in subsection (d).

(3) None of the funds made available pursuant to paragraph (1) may be obligated unless the Inspector General of the Department of Defense certifies to the congressional defense committees that the Air Force—

(A) took delivery of the fifth production aircraft not later than December 31, 1992; and

(B) has taken delivery of all C-17 aircraft in production lot III and has flown all of those aircraft from the final assembly site on or before August 31, 1993.

SEC. 132. CORRECTION OF FUEL LEAKS ON C-17 PRODUCTION AIRCRAFT.

(a) CERTIFICATION OF CONTRACTOR CORRECTION UNDER WARRANTY.—The Secretary of Defense shall (except as otherwise provided under subsection (b)) certify to the congressional defense committees that the repair of the fuel leaks on production C-17 aircraft will be carried out by the contractor (under the warranty provisions of the production contract for such aircraft) at no additional cost to the Government and with no additional consideration to the contractor for production aircraft under the C-17 program by reason of the repair of the C-17 fuel leaks.

(b) ALTERNATIVE TO CERTIFICATION.—If the Secretary of Defense is unable to make the certification referred to in subsection (a), the Secretary—

(1) shall carry out the repair of the fuel leaks at an Air Logistics Center in the United States; and

(2) shall submit to the congressional defense committees a report notifying the committees that the Secretary is unable to make such a certification and setting forth a schedule for conducting the repair of the fuel leaks pursuant to paragraph (1).

SEC. 133. F-16 SPARE PARTS AND SUPPORT EQUIPMENT.

Notwithstanding any other provision of law, the Secretary of the Air Force may sell any component, part, assembly, or material procured with funds appropriated for fiscal year 1990, 1991, or 1992 for advance procurement for F-16 aircraft and made available for the 24 F-16 aircraft identified for procurement in fiscal year 1993 by the Department of Defense in the document entitled "Procurement Programs (P-1)," dated January 29, 1992. The proceeds of the sale of such components, parts, assemblies, and material shall be available for the procurement of spare parts and support equipment for F-16 aircraft and for the liquidation of any liability of the Federal Government resulting from the termination of production of F-16 aircraft.

Subtitle E—Defense Agency Programs

SEC. 141. FUNDING FOR CERTAIN TACTICAL INTELLIGENCE PROGRAMS.

(a) AUTHORIZATION.—Of the funds authorized to be appropriated under section 104, $166,700,000 shall be available for modernizing EP-3 Aries aircraft or RC-135 Rivet Joint aircraft.

(b) ELECTION OF SYSTEM.—The Secretary of Defense shall determine whether to use all of the funds provided under subsection (a) for modernizing EP-3 Aries aircraft or to use all of such funds for modernizing RC-135 Rivet Joint aircraft. Such funds may not be used for modernizing both such aircraft systems.

(c) TRANSFER AUTHORITY.—(1) To the extent provided in appropriations Acts, and subject to the limitation in paragraph (2), the Secretary of Defense may transfer $166,700,000 to the Navy for procurement of aircraft or to the Air Force for procurement of aircraft.

(2) The Secretary of Defense may not transfer any funds under paragraph (1) until the date 30 days after the date on which the Secretary submits to the congressional defense committees a report containing the Secretary's determination on which of the two aircraft systems referred to in subsection (a) is better for meeting the tactical intelligence requirements of the commanders of the combatant commands.

(3) The transfer authority in paragraph (1) is in addition to any other transfer authority provided in this or any other Act.

SEC. 142. MH-47E/MH-60K HELICOPTER MODIFICATION PROGRAMS.

(a) REQUIRED TESTING.—Notwithstanding the requirements of subsections (a) (2) and (b) of section 2366 of title 10, United States Code, and the requirements of subsection (a) of section 2399 of such title—

(1) operational test and evaluation and survivability testing of the MH-60K helicopter under the MH-60K helicopter modification program shall be completed prior to full materiel release of the MH-60K helicopters for operational use; and

(2) operational test and evaluation and survivability testing of the MH-47E helicopter under the MH-47E helicopter modification program shall be completed prior to full materiel release of the MH-47E helicopters for operational use.

(b) REPEAL OF SUPERSEDED LAW.—Section 143 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-109; 105 Stat. 1313) is repealed.

Subtitle F—Strategic Programs

SEC. 151. TRIDENT II MISSILE.

(a) LIMITATION.—None of the funds appropriated pursuant to the authorization in section 102(a)(2) and made available for the advance procurement of Trident II missiles may be obligated until the report described in subsection (b), which was to have been submitted to the congressional defense committees not later than March 1, 1992, has been submitted to those committees.

(b) COVERED REPORT.—The report referred to in subsection (a) is the report, referred to in Senate Report No. 102-113, 102d Congress, 1st session, on the cost savings that could be obtained through multiyear procurement of the balance of the Trident II missiles to be produced at rates of 48, 60, and 72 missiles per year.

SEC. 152. NONSTEALTHY HEAVY BOMBER MODERNIZATION.

(a) SURVIVABILITY AND EFFECTIVENESS TESTING.—(1) The Secretary of Defense shall prepare and implement a plan for testing of the survivability and operational effectiveness of nonstealthy heavy bombers against a set of defenses and defended target arrays that are representative of a broad range of potential targets and defenses that such bombers might encounter during conventional conflicts during the next 20 years.

(2) The Secretary shall carry out paragraph (1) with the assistance of the Secretary of the Air Force, the Vice Chairman of the Joint Chiefs of Staff, the Director of Operational Test and Evaluation of the Department of Defense, and the independent panel established pursuant to section 121(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1379).

(3) The aircraft to be tested under the testing plan required under paragraph (1) include—

(A) B-52H bombers;

(B) B-1B bombers containing the current version of the ALQ-161 electronic countermeasures suite; and

(C) subject to paragraph (5), the one B-1B that contains an electronic countermeasures suite modified to the "CORE" configuration.

(4) The testing plan shall—

(A) be designed to encompass—

(i) cued and uncued defenses;

(ii) individual air defense systems as well as multiple air defenses; and

(iii) survivability and operational effectiveness with and without external assets for suppression or disruption of simulated enemy air defenses;

(B) require quantitative measurements that are adequate to permit extrapolation of test data to untested scenarios with reasonable confidence levels;

(C) be designed to permit the evaluation of alternative tactics for bomber penetration and weapons delivery and alternative tactics for defenses; and

(D) be designed to permit the evaluation of the contribution of advanced conventional munitions currently under development to the survivability and effectiveness of the aircraft.

(5) The Secretary may exempt the B-1B referred to in paragraph (3)(C) from testing under the testing plan if the Secretary determines, before implementing the testing plan, to terminate the procurement of the CORE electronics countermeasures system.

(b) REPORTING REQUIREMENTS.—(1) Upon the conclusion of the testing program provided for in the testing plan, the Secretary of Defense shall submit to the congressional defense committees a report, in unclassified and classified forms, on—

(A) the results of the testing and the implications of those results for—

(i) the future force structure requirements for nonstealthy heavy bombers, taking into account the capabilities of other weapon systems;

(ii) advanced conventional munitions capabilities; and

(iii) cost-effective measures, modifications, and upgrades for enhancing the survivability and operational effectiveness of the nonstealthy heavy bombers to be retained in the force structure; and

(B) the deficiencies in the numbers, performance, capability, and fidelity of air defense threats and threat simulators available for the operational testing, together with a detailed analysis of the cost and lead-times necessary for obtaining for testing purposes an adequate representation of current and likely future air defenses.

(2) Within 60 days after the date of the submission of the report under paragraph (1), the Comptroller General of the United States shall review the report and the recommendations in the report and shall provide the congressional defense committees with his views on the report.

(c) FUNDING.—Of the funds made available pursuant to section 103 for fiscal year 1993, not more than $50,200,000 shall be available for modification of the B-1B bomber program, not more than $50,000,000 shall be available for interim contractor support, and not more than $70,000,000 shall be available for modifications of B-52 bomber aircraft.

(d) LIMITATION ON EXPENDITURE OF B-1B BOMBER FUNDS.—The Secretary of Defense may not obligate funds for the procurement of the "CORE" electronic countermeasures system until—

(1) the report required under subsection (b) is submitted to the congressional defense committees and a period of 60 days after the date of the submission elapses; and

(2) the Secretary certifies in writing to the congressional defense committees that the Director of Operational Test and Evaluation of the Department of Defense has reviewed the CORE electronic countermeasures system proposed to be acquired and has determined that the system is operationally suitable and operationally effective in meeting all B-1B defensive avionics system requirements.

SEC. 153. B-2 BOMBER AIRCRAFT PROGRAM.

(a) AMOUNT FOR PROGRAM.—Of the amount authorized to be appropriated pursuant to section 103(1), not more than $2,686,572,000 may be obligated for procurement for the B-2 bomber aircraft program.

(b) B-2 BUYOUT AND CURTAILMENT.—The funds referred to in subsection (a) may be obligated only for the purpose of completing procurement for the B-2 bomber aircraft program and paying all curtailment costs under the B-2 aircraft program.

(c) LIMITATION ON NUMBER OF B-2 AIRCRAFT.—A total of not more than 20 deployable B-2 bomber aircraft plus 1 test aircraft may be procured.

(d) LIMITATION ON OBLIGATION OF FUNDS.—None of the funds referred to in subsection (a) may be obligated unless and until—

(1) the Secretary of Defense submits to the congressional defense committees—

(A) the reports and certifications referred to in section 131(b)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1306);

(B) the report under subsection (e); and

(C) the report under subsection (f); and

(2) 30 days have elapsed since the date of the submission of the reports under subsections (e) and (f).

(e) REPORT ON LOW OBSERVABILITY AND SURVIVABILITY.—The report referred to in subsection (d)(1)(B) is a report submitted by the Secretary of Defense to the congressional defense committees that contains the following matters:

(1) The Secretary's assessment of the extent to which the B-2 aircraft will meet the original operational performance objectives that were established for the B-2 aircraft in order to ensure the high survivability of the aircraft, including an accounting of the specific low observability objectives that were not fulfilled in a B-2 flight test conducted during July 1991 and the effect on survivability (if any) of the currently projected low observable characteristics of the B-2 aircraft.

(2) A full description of the information upon which the assessment required by paragraph (1) is based, including all relevant flight test data.

(3) A full description of any actions planned to be taken to improve the B-2 aircraft's low observability capabilities beyond the capabilities that have been demonstrated in flight testing before the date of the submission of the report under this subsection, and the associated costs and benefits.

(4) A quantitative assessment by the Secretary of Defense of the likelihood that a B-2 aircraft having the low observable characteristics projected for the aircraft can survive in the execution in the future of its primary mission as a penetrating nonnuclear bomber as compared to the likelihood that a B-2 aircraft meeting all of the specifications contained in the current development contract can survive in the execution of such a mission.

(f) Report on Cost of Program for 20 B-2 Aircraft.—The report referred to in subsection (d)(1)(C) is a report submitted by the Secretary of Defense to the congressional defense committees that describes the total amount of the research, development, test, and evaluation costs, procurement costs, and other acquisition costs that are associated with a B-2 aircraft program to result in 20 deployable aircraft, including the costs of all planned modifications and retrofits, tooling, preplanned product improvements, support equipment, interim contractor support, initial spares, and any Government liability associated with curtailment.

(g) GAO Review.—(1) The Comptroller General of the United States shall—

(A) review each report submitted pursuant to subsection (e) and (f); and

(B) provide the congressional defense committees with his comments on such reports.

(2) The Secretary of Defense shall transmit a copy of the reports to the Comptroller General at the same time that he transmits the reports to the congressional defense committees.

SEC. 154. SPACE SYSTEMS INVESTMENT STRATEGY.

(a) Cost Reduction Strategy.—The Secretary of Defense shall develop a strategy for achieving substantial reductions in the cost of developing, acquiring, and supporting space systems operated by the Department of Defense.

(b) Options To Be Considered.—In developing the strategy, the Secretary shall consider options to achieve reductions by fiscal year 2000 to amounts that are up to 25 percent below the costs incurred for such space systems in fiscal year 1992, measured in constant dollars.

(c) Report Required.—At the earliest practicable date, but not later than March 1, 1993, the Secretary shall submit to the congressional defense committees a report on the strategy required under subsection (a) and any recommendations that the Secretary considers appropriate regarding such strategy.

SEC. 155. GROUND WAVE EMERGENCY NETWORK.

Section 132 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1501) is amended by striking out "October 1, 1992" and inserting in lieu thereof "October 1, 1993".

Subtitle G—Chemical Demilitarization Program

SEC. 161. CHEMICAL WEAPONS STOCKPILE DISPOSAL PROGRAM.

(a) Change in Stockpile Elimination Deadline.—Section 1412(b)(5) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(b)(5)), is amended by striking out "July 31, 1999" and inserting in lieu thereof "December 31, 2004".

(b) Evaluation of Alternative Technologies.—Not later than December 31, 1993, the Secretary of the Army shall submit to Congress a report on the potential alternatives to the use of the Army's baseline disassembly and incineration process for the disposal of lethal chemical agents and munitions. The report shall include the following:

(1) An analysis of the report of the Committee on Alternative Chemical Demilitarization Technologies of the National Research Council of the National Academy of Science.

(2) Any recommendations that the National Academy of Sciences makes to the Army regarding the report of that committee and the Secretary's evaluation of those recommendations.

(3) A comparison of the baseline disassembly and incineration process with each alternative technology evaluated in the report of such committee that the National Academy of Sciences recommends for use in the Army Chemical Stockpile Disposal Program, taking into consideration each of the following factors:

(A) Safety.

(B) Environmental protection.

(C) Cost effectiveness.

(4) For each alternative technology recommended by the National Academy of Sciences, the date by which the Army could reasonably be expected to systematize, construct, and test the technology, obtain all necessary environmental and other permits necessary for using that technology for the disposal of lethal chemical agents and munitions, and have the technology available for full-scale chemical weapons destruction and demilitarization operations.

(5) A description of alternatives to incineration that are being developed by Russia for use in its chemical demilitarization program and an assessment of the extent to which such alternatives could be used to destroy lethal chemical weapons in the United States inventory of such weapons.

(c) Limitation.—(1) Except as provided in paragraphs (2) and (3), the Army may not carry out any site preparation for or construction of a disassembly and incinerator chemical agents disposal facility until the report required under subsection (b) is submitted to Congress.

(2) The limitation in paragraph (1) does not apply to any disassembly and incineration chemical agent disposal facility (of the 8 such facilities identified in the Army Chemical Stockpile Disposal Program) at which site preparation or construction has commenced before the date of the enactment of this Act.

(3) The limitation in paragraph (1) does not apply to:

(A) Facility design activities.

(B) The obtaining of environmental permits.

(C) Project planning.

(D) Procurement of equipment for installation in a facility.

(d) Destruction of Nonstockpile Chemical Material.—(1)(A) Not later than February 1, 1993, the Secretary of the Army shall submit to Congress a report setting forth the Army's plans for destroying all chemical warfare material of the United States not covered by section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), that would be required to be destroyed if the United States became a party to a chemical weapons convention described in subparagraph (B).

(B) The chemical weapons convention referred to in subparagraph (A) is a chemical weapons convention that is substantially the same as the final draft of the proposed international Chemical Weapons Convention (CWC) tabled by the Chairman of the United Nations Conference on Disarmament Ad Hoc Committee on Chemical Weapons on June 22, 1992 (CD/CW/WP.400/Rev.1).

(2) The chemical warfare material covered by the report shall include the following:

(A) Binary chemical munitions.

(B) Buried chemical munitions.

(C) Chemical munitions recovered from ranges.

(D) Chemical weapons production facilities.

(E) All other chemical warfare material referred to in paragraph (1).

(3) The report shall include the following:

(A) A list of all suspected locations (including ranges) of buried or unexpended chemical munitions.

(B) An estimate of the number of such munitions and, of that number, how many of such munitions are planned to be destroyed.

(C) An inventory of the former chemical weapons production facilities and previously contaminated storage containers and the plans for destroying those facilities and containers.

(D) An inventory of the binary chemical munitions and the plans for destroying those munitions.

(E) The locations at which the chemical warfare materials and facilities referred to subparagraphs (A) through (D) will be destroyed.

(F) A description of the use, if any, that will be made of the Chemical Agent and Munitions Disposal System (CAMDS) facility, Tooele, Utah, in the destruction of those chemical warfare materials, as well as possible future uses of that facility for the destruction of conventional munitions or for research and development of possible alternative technologies for the destruction of chemical munitions.

(G) For the chemical warfare materials that cannot be destroyed in place or on site, a description of the means to be used for transporting the materials to disposal facilities.

(H) An estimate of the cost of destroying such chemical warfare materials and facilities.

(I) An estimate of the time that will be necessary to destroy such chemical warfare materials and facilities and the Secretary's determination of the likelihood that such materials and facilities can be destroyed by December 31, 2004.

(J) A determination as to whether it is a realistic option to transport chemical agents and munitions currently stored at low-volume disposal sites to other locations for destruction instead of destroying those munitions at those sites, taking into consideration safety, cost effectiveness, and the potential obligations of the United States under a chemical weapons convention to transport substantial quantities of chemical warfare munitions and materials not in the United States stockpile of lethal chemical agents and munitions to various locations for destruction.

(4) As used in paragraph (3)(J), the term "low-volume disposal site" means any chemical agent disposal site identified in the Army Chemical Stockpile Disposal Program where 5 percent or less of the total United States stockpile of unitary chemical weapons is stored.

SEC. 162. PHYSICAL AND CHEMICAL INTEGRITY OF THE CHEMICAL WEAPONS STOCKPILE.

(a) Report Required.—Not later than May 1, 1993, the Secretary of the Army shall submit to Congress a report on the physical and chemical integrity of the existing chemical weapons that are contained in the chemical weapons stockpile of the United States and are stored within the 8 chemical weapons storage sites within the continental United States.

(b) Content of Report.—The report shall include the following matters:

(1) A critical analysis of the near-term, mid-term, and long-term storage life of all chemical materials and chemical munitions contained within the storage sites referred to in subsection (a).

(2) For each class of chemical munitions and chemical agents, an analysis of the overall frequency of leaks of the munitions and agents and the frequency of leaks of the munitions and agents at each storage site.

(3) For each class of munition and agent and for each storage site, a description of the finite risks and potential harm to human health and environmental quality that are associated with such catastrophic events as container breach, spontaneous munition ignition, and leak.

(4) A critical analysis of the risks associated with the storage of the chemical munitions and chemical agents in each class of chemical munitions and chemical agents that are stored at each storage site through December 31, 2004.

(5) A discussion of actions that could be taken to minimize or eliminate the risks identified in paragraphs (1) through (4).

Subtitle H—Authorization of Appropriations

SEC. 171. AUTHORIZATION OF APPROPRIATIONS.

In addition to the funds authorized to be appropriated by section 106, the following funds are authorized to be appropriated:

(a) For the Army National Guard:

(1) For 3 P-180 aircraft, $12,000,000.

(2) For night vision goggles, $20,000,000.

(3) For single channel ground airborne radio system, $10,000,000.

(4) For 6 C-26 aircraft, $23,000,000.

(5) For medium truck service life extension program, $15,000,000.

(6) For M113A3 conversion program, $15,000,000.

(b) For the Air National Guard:

(1) For night vision goggles, $5,000,000.

(c) For the Army Reserve:

(1) For medium truck service life extension program, $25,000,000.

(2) For 12 C-12J aircraft, $42,000,000.

(3) For night vision goggles, $20,000,000.

(4) For single channel ground airborne radio system, $10,000,000.

(d) For the Marine Corps Reserve:

(1) For night vision goggles, $10,000,000.

(2) For single channel ground airborne radio system, $5,000,000.

(3) For a C-20 aircraft for administrative support for the Marine Corps, $25,000,000.

(e) For the Air Force Reserve:

(1) For night vision goggles, $5,000,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorizations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army, $5,307,744,000.

(2) For the Navy, $8,921,805,000.

(3) For the Air Force, $14,070,731,000.

(4) For the Defense Agencies, $10,665,659,000, of which—

(A) $261,707,000 is authorized for the activities of the Deputy Director, Defense Research and Engineering (Test and Evaluation); and

(B) $12,983,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC RESEARCH AND EXPLORATORY DEVELOPMENT.

(a) Fiscal Year 1993.—Of the amounts authorized to be appropriated by section 201, $4,179,179,000 shall be available for basic research and exploratory development projects.

(b) Basic Research and Exploratory Development Defined.—For purposes of this section, the term "basic research and exploratory development" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

SEC. 203. MANUFACTURING TECHNOLOGY DEVELOPMENT.

Of the amounts authorized to be appropriated by section 201, $433,600,000 shall be available for manufacturing technology development as follows:

(1) For the Army, $61,000,000.

(2) For the Navy, $108,400,000.

(3) For the Air Force, $146,200,000.

(4) For the Office of the Secretary of Defense, $118,000,000.

SEC. 204. STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM.

Of the amounts authorized to be appropriated by section 201, $200,000,000 shall be available for the Strategic Environmental Research and Development Program.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. V-22 OSPREY AIRCRAFT PROGRAM.

(a) Fiscal Year 1993 Funding.—Of the funds authorized to be appropriated pursuant to section 201 or otherwise made available for the Navy for fiscal year 1993 for research, development, test, and evaluation, $755,000,000 may be used only for development, manufacture, and operational testing of 3 production representative V-22 Osprey aircraft in addition to the 3 production representative V-22 Osprey aircraft for which funds were authorized to be appropriated, and were appropriated, for fiscal year 1992.

(b) Use of Funds for Current and Prior Fiscal Years.—The amount made available for fiscal year 1993 for the V-22 Osprey aircraft program pursuant to subsection (a) and the unobligated balances of the amounts that were authorized to be appropriated, and were appropriated, for preceding fiscal years and made available for the V-22 Osprey aircraft program may be used only for—

(1) the development and manufacture of a total of 6 production representative aircraft for operational testing; and

(2) the operational testing of such aircraft.

SEC. 212. REPORT ON V-22 OSPREY AIRCRAFT PROGRAM.

(a) Report Required.—The Commandant of the Marine Corps shall submit to the congressional defense committees a report on the crash of the V-22 Osprey prototype aircraft that occurred on July 20, 1992.

(b) Content of Report.—The report shall include a discussion of the following matters:

(1) The cause or causes of the crash.

(2) The extent to which a redesign of a system might be required to correct the condition or conditions that caused the crash.

(3) The effects of the crash on the cost, schedule, and technical risk of the V-22 Osprey development and testing program.

(c) Submittal Date.—The Commandant shall submit the report on or before September 1, 1992. If the Commandant expects to be unable to submit the report by that date, the Commandant shall notify the congressional defense committees of that expectation not later than August 16, 1992. The Commandant shall include in the notification the date on which he expects to submit the report.

(d) Limitation.—Not more than 50 percent of the amount appropriated for the Navy for fiscal year 1993 and made available for the V-22 Osprey aircraft program may be obligated until the Commandant has submitted the report required by subsection (a).

SEC. 213. SPECIAL OPERATIONS VARIANT OF THE V-22 OSPREY AIRCRAFT.

Of the amounts authorized to be appropriated pursuant to section 201(4), $15,000,000 shall be available for research, development, test, and evaluation in connection with the special operations variant of the V-22 Osprey aircraft.

SEC. 214. SHIPBOARD ELECTRONIC WARFARE PROGRAMS.

The Secretary of Defense shall specify in the Department of Defense budget request for fiscal year 1994 a separate program element for electronic warfare programs involving ship self-defense.

Subtitle C—Missile Defense Program

SEC. 221. MISSILE DEFENSE ACT AMENDMENTS.

(a) Implementation of Goal.—Section 233 of the Missile Defense Act of 1991 (part C of title II of Public Law 102-190; 10 U.S.C. 2431 note) is amended in subsection (b) by striking out "(b)" and all that follows through the end of paragraph (2) and inserting in lieu thereof the following:

"(b) Actions of the Secretary of Defense.—

"(1) Theater missile defense systems.—The Secretary of Defense shall develop advanced theater missile defense systems for deployment.

"(2) Initial ABM deployment.—The Secretary shall develop for deployment a cost-effective, operationally effective, and ABM Treaty-compliant antiballistic missile system at a single site as the initial step toward deployment of an antiballistic missile system described in section 232(a)(1) designed to protect the United States against limited ballistic missile threats, including accidental or unauthorized launches or Third World attacks. The system components to be developed shall include—

"(A) 100 ground-based interceptors, the design of which is to be determined by competition and downselection for the most capable interceptor or interceptors;

"(B) fixed, ground-based, antiballistic missile battle management radars; and

"(C) optimum utilization of space-based sensors, including sensors capable of cueing ground-based antiballistic missile interceptors and providing initial targeting vectors, and other sensor systems that are not prohibited by the ABM Treaty, including specifically the Ground Surveillance and Tracking System.".

(b) FOLLOW-ON TECHNOLOGY RESEARCH.—Subsection (c) of section 234 of such Act is amended to read as follows:

"(c) TRANSFER OF MANAGEMENT RESPONSIBILITY FOR RESEARCH AND DEVELOPMENT OF FAR-TERM FOLLOW-ON TECHNOLOGIES.—

"(1) TRANSFER REQUIRED.—

"(A) IN GENERAL.—As the Strategic Defense Initiative Organization (SDIO) transitions from a broadly based research organization to a focused acquisition agency, maintaining responsibility for research and development of far-term follow-on technologies in that organization could distract management and result in funding shortfalls as the Strategic Defense Initiative Organization's priorities increasingly center on near-term deployment architectures. Accordingly, the Secretary of Defense shall transfer management and budget responsibility for research and development of all far-term follow-on technologies currently under the Strategic Defense Initiative Organization to the Defense Advanced Research Projects Agency (DARPA) or the appropriate military department, unless he determines and certifies to the congressional defense committees that transfer of a particular far-term follow-on technology currently under the Strategic Defense Initiative Organization would not be in the national security interests of the United States.

"(B) DEFINITION.—In subparagraph (A), the term 'far-term follow-on technology' means a technology not likely to be incorporated into a weapon system within 10 to 15 years after the date of the enactment of this Act.

"(2) REPORT REQUIRED.—

"(A) IN GENERAL.—Not later than 90 days after the date of enactment of the National Defense Authorization Act for Fiscal Year 1993, the Secretary of Defense shall submit to the congressional defense committees a report identifying—

"(i) those programs, projects, and activities under the Other Follow-On Technologies program element for fiscal year 1993 which he is transferring to a military department or the Defense Advanced Research Projects Agency; and

"(ii) those programs, projects, and activities under the Other Follow-On Technologies program element which the Secretary certifies are necessary in the national security interests of the United States to maintain under the Strategic Defense Initiative Organization.

"(B) DEFINITION.—In subparagraph (A), the term 'programs, projects, and activities under the Other Follow-On Technologies program element for fiscal year 1993' means the programs, projects, and activities listed under the Other Follow-On Technologies program element for fiscal year 1993 in the report submitted to the congressional defense committees on July 2, 1992 pursuant to section 233(b)(3) of this Act.".

(c) RESEARCH, DEVELOPMENT, TEST, AND EVALUATION OBJECTIVES FOR SDI PROGRAM ELEMENTS.—Section 236 of such Act is amended—

(1) in subsection (a), by striking out "by fiscal year 1996" in the second sentence;

(2) in subsection (b)(1), by striking out all after "United States,"; and

(3) in subsection (d), by inserting "but which are not likely to be incorporated into weapons within 10 to 15 years after the date of the enactment of this Act" before the period at the end.

(d) REVIEW OF FOLLOW-ON DEPLOYMENT OPTIONS.—Section 238 of such Act is amended by striking out "of fiscal year 1996" in the first sentence.

SEC. 222. STRATEGIC DEFENSE INITIATIVE FUNDING.

(a) TOTAL AMOUNT.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $3,800,000,000 may be obligated for the Strategic Defense Initiative, as follows:

(1) Of the amounts appropriated pursuant to title I for fiscal year 1993 or otherwise made available to the Department of Defense for procurement for fiscal year 1993, not more than $62,500,000 may be obligated for the Strategic Defense Initiative.

(2) Of the amounts appropriated pursuant to section 201 for fiscal year 1993 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1993, not more than $3,737,500,000 may be obligated for the Strategic Defense Initiative.

(b) SPECIFIC AMOUNTS FOR THE PROGRAM ELEMENTS.—Of the amount set forth in subsection (a)—

(1) not more than $2,090,000,000 shall be available for programs, projects, and activities within the Limited Defense System program element;

(2) not more than $997,500,000 shall be available for programs, projects, and activities within the Theater Missile Defenses program element;

(3) not more than $350,000,000 shall be available for programs, projects, and activities within the Space-Based Interceptors program element;

(4) not more than $400,000,000 shall be available for programs, projects, and activities within the Other Follow-On Systems program element; and

(5) not more than $400,000,000 shall be available for programs, projects, and activities within the Research and Support Activities program element.

(c) TRANSFER AUTHORITIES.—(1) Before the submission of the report required under subsection (e) and notwithstanding the limitations set forth in subsection (b), the Secretary of Defense may transfer funds among the program elements named in subsection (b).

(2) The total amount that may be transferred to or from any program element named in subsection (b)—

(A) may not exceed 10 percent of the amount provided in such subsection for the program element from which the transfer is made; and

(B) may not result in an increase of more than 10 percent of the amount provided in such subsection for the program element to which the transfer is made.

(3) Transfer authority may not be used for a decrease in funds identified in subsection (b)(2) for Theater Missile Defenses.

(4) Amounts transferred pursuant to paragraph (1) shall be merged with and be available for the same purposes as the amounts to which transferred.

(d) CONSTRUCTION OF AUTHORITY IN RELATION TO USER OPERATIONAL EVALUATION SYSTEM.—Nothing in this Act shall be construed to authorize the exercise of any option to fabricate or field elements of a User Operational Evaluation System at the initial anti-ballistic missile defense site.

(e) REPORTING REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the allocation of funds appropriated for the Strategic Defense Initiative for fiscal year 1993. The report shall specify the amount of such funds allocated for each program, project, and activity under each program element.

SEC. 223. DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS.

(a) USE OF FUNDS.—(1) Funds appropriated to the Department of Defense for fiscal year 1993, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1993 or for any fiscal year before 1993, may not be obligated or expended—

(A) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the development and testing described in the July 1992 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the July 1992 SDIO Report.

(2) The limitation under paragraph (1) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1993 if the transfer is made in accordance with section 1001 of this Act.

(b) DEFINITION.—In this section, the term "July 1992 SDIO Report" means the report entitled, "1992 Report to Congress on the Strategic Defense Initiative," prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives by the Secretary of Defense pursuant to section 224 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1398; 10 U.S.C. 2431 note).

SEC. 224. LIMITATION REGARDING SUPPORT SERVICES CONTRACTS OF THE STRATEGIC DEFENSE INITIATIVE ORGANIZATION.

(a) LIMITATION.—Of the amounts that are appropriated to the Department of Defense for fiscal year 1993 pursuant to the authorizations of appropriations contained in this Act and are made available for the Strategic Defense Initiative Organization, not more than $100,000,000 may be expended for the procurement of support services.

(b) DEFINITION.—In subsection (a), the term "support services" means—

(1) professional, administrative, and management support services;

(2) special studies and analyses; or

(3) services contracted for under section 3109 of title 5, United States Code.

Subtitle D—Other Matters

SEC. 231. MEDICAL COUNTERMEASURES AGAINST BIOWARFARE THREATS.

(a) FUNDING.—Of the amounts appropriated pursuant to section 201 for fiscal year 1993, not more than $59,670,000 shall be available for the medical component of the Biological Defense Research Program (BDRP) of the Department of Defense.

(b) LIMITATIONS.—(1) Funds appropriated or otherwise made available for the Department of Defense for fiscal year 1993 may be obligated and expended for product development, and for research, development, testing, and evaluation, of medical countermeasures against biowarfare threat agents only in accordance with this section.

(2) Of the funds made available pursuant to subsection (a), not more than $10,000,000 may be obligated or expended for research, development, testing, or evaluation of medical countermeasures against far-term validated biowarfare threat agents.

(3) Of the funds made available pursuant to subsection (a) and not made available pursuant to paragraph (2) for the purpose set out in that paragraph—

(A) not more than 80 percent may be obligated and expended for product development, or for research, development, testing, or evaluation, of medical countermeasures against near-term validated biowarfare threat agents; and

(B) not more than 20 percent may be obligated or expended for product development, or for research, development, testing, or evaluation, of medical countermeasures against mid-term validated biowarfare threat agents.

(c) DEFINITIONS.—In this section:

(1) The term "validated biowarfare threat agent" means a biological agent that—

(A) is named in the biological warfare threat list published by the Defense Intelligence Agency (DIA); and

(B) is identified as a biowarfare threat by the Deputy Chief of Staff of the Army for Intelligence in accordance with Army regulations applicable to intelligence support for the medical component of the Biological Defense Research Program.

(2) The term "near-term validated biowarfare threat agent" means a validated biowarfare threat agent that has been, or is being, developed or produced for weaponization within 5 years, as assessed and determined by the Defense Intelligence Agency.

(3) The term "mid-term validated biowarfare threat agent" means a validated biowarfare threat agent that is an emerging biowarfare threat, is the object of research by a foreign threat country, and will be ready for weaponization in more than 5 years and less than 10 years, as assessed and determined by the Defense Intelligence Agency.

(4) The term "far-term validated biowarfare threat agent" means a validated biowarfare threat agent that is a future biowarfare threat, is the object of research by a foreign threat country, and could be ready for weaponization in more than 10 years and less than 20 years, as assessed and determined by the Defense Intelligence Agency.

(5) The term "weaponization" means incorporation into usable ordnance or other militarily useful means of delivery.

SEC. 232. FUNDING FOR TECHNICAL SUPPORT WORKING GROUP ON COUNTER-TERRORISM.

(a) TOTAL AMOUNT.—Of the funds authorized to be appropriated for fiscal year 1993 under section 201, $10,000,000 shall be available for activities of the Technical Support Working Group on Counter-Terrorism.

(b) AMOUNT FOR ALLIED COOPERATION.—Of the amount available for the activities referred to in subsection (a), $3,000,000 shall be available for cooperation with other member nations of the North Atlantic Treaty Organization (NATO) and with major non-NATO allies (as defined in section 2350a(i)(3) of title 10, United States Code).

SEC. 233. MANUFACTURING TECHNOLOGY DEVELOPMENT PROGRAMS.

Manufacturing technology development programs conducted by or for the Department of Defense, including those programs for which funds are made available pursuant to section 203, shall include a focus on production technologies designed to build on and expand existing worker skills and experience in manufacturing production.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorizations of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army, $14,193,215,000.

(2) For the Navy, $20,371,281,000.

(3) For the Marine Corps, $1,453,515,000.

(4) For the Air Force, $16,876,477,000.

(5) For the Defense Agencies, $8,384,605,000.

(6) For the Army Reserve, $1,033,773,000.

(7) For the Naval Reserve, $878,792,000.

(8) For the Marine Corps Reserve, $74,821,000.

(9) For the Air Force Reserve, $1,213,887,000.

(10) For the Army National Guard, $2,251,213,000.

(11) For the Air National Guard, $2,512,475,000.

(12) For the National Board for the Promotion of Rifle Practice, $2,700,000.

(13) For the Defense Inspector General, $125,500,000.

(14) For Drug Interdiction and Counter-Drug Activities, Defense, $1,263,400,000.

(15) For the Court of Military Appeals, $5,893,000.

(16) For Environmental Restoration, Defense, $1,513,200,000

(17) For Humanitarian Assistance, $25,000,000.

(18) For the Defense Health Program, $9,507,072,000.

(19) For support for the 1996 Summer Olympics, $2,000,000.

(20) For support for the 1993 World University Games, $6,000,000.

(21) For support for the 1994 World Cup Games, $9,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

There is hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for the Defense Business Operations Fund, $1,123,800,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 1993 from the Armed Forces Retirement Home Trust Fund the sum of $62,728,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. HUMANITARIAN ASSISTANCE.

(a) PURPOSE.—(1) Funds appropriated pursuant to the authorization in section 301(17) shall be available for the purposes of section 2551 of title 10, United States Code, including the transportation of humanitarian relief for the people of Afghanistan and Cambodia.

(2) Of the funds authorized to be appropriated for fiscal year 1993 pursuant to section 301(17) for such purpose, not more than $3,000,000 shall be available for distribution of humanitarian relief supplies to displaced persons or refugees who are noncombatants, including those affiliated with the Cambodian non-Communist resistance, at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—Under section 2551(b) of title 10, United States Code, the Secretary of Defense may transfer not more than $3,000,000 of the funds referred to in subsection (a)(1).

(c) CODIFICATION OF AUTHORITY AND ADMINISTRATIVE PROVISIONS.—(1) Chapter 151 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2551. Humanitarian assistance

"(a) AUTHORIZED ASSISTANCE.—To the extent provided in defense authorization Acts and appropriations Acts, funds authorized to be appropriated to the Department of Defense for a fiscal year for humanitarian assistance shall be used for the purpose of providing transportation of humanitarian relief and for other humanitarian purposes worldwide.

"(b) AUTHORITY TO TRANSFER FUNDS.—To the extent provided in defense authorization Acts and appropriations Acts for a fiscal year, the Secretary of Defense may transfer to the Secretary of State funds appropriated for the purpose of this section to provide for—

"(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

"(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

"(c) TRANSPORTATION OF HUMANITARIAN RELIEF.—(1) Transportation for humanitarian relief provided with funds appropriated for the purposes of this section shall be provided under the direction of the Secretary of State.

"(2) Transportation for humanitarian relief provided with funds appropriated for the purposes of this section shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the armed forces.

"(d) AVAILABILITY OF FUNDS.—Funds appropriated for humanitarian assistance for the purposes of this section shall remain available until expended, to the extent provided in appropriation Acts.

"(e) STATUS REPORTS.—(1) The Secretary of Defense shall submit (at the times specified in paragraph (2)) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report on the provision of humanitarian assistance pursuant to this section.

"(2)(A) Whenever there is enacted a defense authorization Act that contains an authorization of appropriations for humanitarian assistance, a report referred to in paragraph (1) shall be submitted as provided in that paragraph not later than 60 days after the date of the enactment of that Act.

"(B) In addition to reports submitted as provided in subparagraph (A), a report shall be submitted under paragraph (1) not later than June 1 of each year.

"(3) Each report required by paragraph (1) shall cover all provisions of law, contained in defense authorization Acts, that authorize appropriations for humanitarian assistance to be available for the purposes of this section. A report submitted after all amounts appropriated pursuant to such a provision of law have been obligated shall not cover that provision of law.

"(4) Subject to paragraph (3), a report required by paragraph (1) shall contain (as of the date on which the report is submitted) the following information:

"(A) The total amount of funds obligated for humanitarian relief under this section.

"(B) The number of scheduled and completed flights for purposes of providing humanitarian relief under this section.

"(C) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of this title.

"(f) REPORT REGARDING RELIEF FOR UNAUTHORIZED COUNTRIES.—In any case in which the Secretary of Defense provides for the transportation of humanitarian relief to a country to which the transportation of humanitarian relief has not been specifically authorized by law, the Secretary shall notify the Committees on Appropriations and on Armed Services of the Senate and House of Representatives of the Secretary's intention to transport humanitarian relief to that country. The notification shall be submitted not less than 15 days before the commencement of the transportation of the humanitarian relief to that country.

"(g) DEFINITION.—In this section, the term 'defense authorization Act' means an Act that authorizes appropriations for one or more fiscal years for military activities of the Department of Defense, including the activities described in paragraph (7) of section 114(a) of this title.".

(2) The table of sections at the beginning of chapter 151 of such title is amended by adding at the end the following new item:

"2551. Humanitarian assistance.".

(d) REPEAL OF SUPERSEDED REPORTING REQUIREMENT.—Section 304 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1333) is amended by striking out subsection (f).

SEC. 305. SUPPORT FOR THE 1994 WORLD CUP GAMES.

(a) AUTHORITY TO PROVIDE SUPPORT.—The Secretary of Defense may provide logistical support and personnel services in connection with the 1994 World Cup Games to be held in the United States.

(b) PAY AND NONTRAVEL-RELATED ALLOWANCES.—(1) Except as provided in paragraph (2), the costs for pay and nontravel-related allowances of members of the Armed Forces for the support and services referred to in subsection (a) may not be charged to appropriations made pursuant to the authorization in section 301(21).

(2) Paragraph (1) does not apply in the case of members of a reserve component called or ordered to active duty to provide logistical support and personnel services for the 1994 World Cup Games.

SEC. 306. TRANSFER AUTHORITY.

(a) AUTHORITY.—The Secretary of Defense, to the extent provided in appropriations Acts, may transfer funds as provided in this section during fiscal year 1993.

(b) FROM THE DEFENSE BUSINESS OPERATIONS FUND.—(1) Not more than $3,054,000,000 may be transferred from the Defense Business Operations Fund to appropriations for operations and maintenance for fiscal year 1993 in amounts as follows:

(A) For the Army, $2,229,000,000.

(B) For the Navy, $94,500,000.

(C) For the Marine Corps, $58,500,000.

(D) For the Air Force, $672,000,000.

(2) A transfer under this subsection may be made only—

(A) to the extent that the military department concerned has received credit on the books of the Defense Business Operations Fund for unneeded secondary items returned to the Fund by that military department; or

(B) if the Secretary of Defense certifies to the congressional defense committees that the military department concerned has, to the greatest extent practicable, returned for credit on the books of the Defense Business Operations Fund all secondary items not needed by that military department that were under the control of such military department on October 1, 1992.

(c) FROM THE NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.—Not more than $612,000,000 may be transferred from the National Defense Stockpile Transaction Fund to appropriations for operation and maintenance of Defense Agencies for fiscal year 1993.

(d) TREATMENT OF TRANSFERS.—Amounts transferred under this section—

(1) shall be merged with and be available for the same purposes and the same period as the amounts in the accounts to which transferred;

(2) shall be deemed to increase the amount authorized to be appropriated for the account to which the amount is transferred by an amount equal to the amount transferred; and

(3) may not be expended for an item that has been denied authorization of appropriations by Congress.

(e) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—An increase under subsection (d)(2) in an amount authorized to be appropriated is in addition to an increase in that amount that results from a transfer of an authorization of appropriations pursuant to section 1001.

Subtitle B—Environmental Provisions

SEC. 311. EVALUATION OF USE OF OZONE-DEPLETING SUBSTANCES BY THE DEPARTMENT OF DEFENSE.

(a) EVALUATION OF USE OF CLASS I SUBSTANCES.—The Director of the Defense Logistics Agency shall evaluate the use of class I substances by the military departments and Defense Agencies. In carrying out the evaluation, the Director shall—

(1) determine the quantity of each class I substance that—

(A) is held in the inventory of each military department and Defense Agency on December 31, 1992;

(B) will be used by each military department and Defense Agency during 1992; and

(C) will be used by each military department and Defense Agency in each of 1993, 1994, and 1995;

(2) determine the quantity of each class I substance in the inventory of the military departments and Defense Agencies in each of 1993, 1994, and 1995 that can be reclaimed or recycled and reused by the military departments and Defense Agencies;

(3) determine the type and quantity of class I substances whose use will be critical to the missions of the military departments and Defense Agencies after 1995;

(4) determine the type and quantity of class I substances that must be stockpiled after 1995 in order to ensure the availability of such substances, including the availability of used, reclaimed, or rcycled class I substances for the missions referred to in paragraph (3);

(5) review the plans, if any, to reclaim, recycle, reuse, and maintain the stockpile referred to in paragraph (4); and

(6) identify each specific site, facility, or vessel in connection with which the President will seek an exemption pursuant to section 604(f) of the Clean Air Act (42 U.S.C. 7671c(f)) to permit the continued production or use of class I substances, and the type and quantity of each class I substance that will be produced or used in connection with the site, facility, or vessel.

(b) EVALUATION OF USE OF CLASS II SUBSTANCES.—The Director of the Defense Logistics Agency shall evaluate the use of class II substances by the military departments and Defense Agencies. In carrying out the evaluation, the Director shall—

(1) determine the quantity of each class II substances that—

(A) is held in the inventory of each military department and Defense Agency on December 31, 1992;

(B) will be used by each military department and Defense Agency during 1992; and

(C) will be used by each military department and Defense Agency in each of 1993, 1994, and 1995; and

(2) determine the quantity of each class II substance in the inventory of the military departments and Defense Agencies in each of 1993, 1994, and 1995 that can be reclaimed or recycled and reused by the military departments and Defense Agencies.

(c) REPORT.—(1) The Director of the Defense Logistics Agency shall submit to the congressional defense committees a report on the status of the evaluation required under subsection (a) not later than April 1, 1993.

(2) The Director of the Defense Logistics Agency shall submit to the congressional defense committees a report on the status of the evaluation required under subsection (b) not later than October 1, 1993.

(d) DEFINITIONS.—In this section: (1) the term "class I substance" means any substance listed under section 602(a) of the Clean Air Act (42 U.S.C. 7671a(a)).

(2) the term "class II substance" means any substance listed under section 602(b) of the Clean Air Act (42 U.S.C. 7671a(b)).

SEC. 312. REMOVAL OF REQUIREMENTS FOR USE OF CLASS I OZONE-DEPLETING SUBSTANCES IN CERTAIN MILITARY PROCUREMENTS.

(a) PROHIBITION ON CONTRACTS REQUIRING USE OF CLASS I OZONE-DEPLETING SUBSTANCES.—(1) No Department of Defense contract awarded, modified, amended, or extended on or after June 1, 1993, may include a specification or standard that requires the use of a class I ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard in the contract is approved by the senior acquisition official for the procurement covered by the contract. The senior acquisition official may grant the approval only if the senior acquisition official determines (based upon the certification of an appropriate technical representative of the official) that a suitable substitute for the class I ozone-depleting substance is not currently available.

(2) The senior acquisition official authorized to grant an approval under paragraph (1) shall be determined under regulations prescribed by the Secretary of Defense. A senior acquisition official may not delegate the authority provided in such paragraph.

(3) Beginning on October 1, 1993, each official who grants an approval authorized under paragraph (1) shall submit to the Secretary of Defense a quarterly report on all approvals granted during the quarter. The report shall include a brief description of the specifications or standards so approved.

(4) The Secretary shall promptly transmit to the Committees on Armed Services of the Senate and House of Representatives a compilation of the reports for each quarter that are submitted to the Secretary under paragraph (3). The Secretary shall transmit the compilation in classified and unclassified forms.

(b) COST RECOVERY.—In any case in which a Department of Defense contract is modified or a specification or standard for such a contract is waived at the request of a contractor in order to permit the contractor to use in the performance of the contract a substitute for a class I ozone-depleting substance or an alternative technology for a technology involving the use of a class I ozone-depleting substance, the Secretary of Defense may reimburse the contractor for the reasonable direct costs incurred by the contractor in the use of such substitute or alternative technology, including costs to justify and obtain the modification or waiver and costs of converting to the use of the substitute substance or alternative technology for the performance of that contract. Reimbursements under this subsection shall be consistent with the Federal Acquisition Regulation.

(c) DEFINITION.—In this section, the term "class I ozone-depleting substance" means any substance listed under section 602(a) of the Clean Air Act Amendments of 1990 (42 U.S.C. 7671a(a)).

SEC. 313. RISK SHARING IN ENVIRONMENTAL RESTORATION CONTRACTS OF THE DEPARTMENT OF DEFENSE.

(a) AUTHORITY.—Except as provided in paragraph (b), the Secretary of Defense may agree to hold harmless and indemnify any response action contractor for any liability arising out of the contractor's performance in carrying out or related to response actions under section 2701 of title 10, United States Code. Amounts expended pursuant to this section for indemnification of any response action contractor shall be considered governmental response costs.

(b) REQUIREMENT FOR RISK SHARING.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department shall ensure, when appropriate, that contracts entered into by the Secretary of a military department for environmental restoration activities at military installations and former military installations provide for the military department and the contractors, subcontractors, and sureties on the contracts (and subcontracts under such contracts) to share the risk of liability resulting from such activities.

(2) PROHIBITION.—No contracts referred to in paragraph (1) shall provide indemnification to contractors for liability caused by the conduct of the contractor which was grossly negligent or which constituted intentional misconduct.

(3) LIMITATIONS.—A contract referred to in paragraph (1) which provides indemnification shall include deductibles and shall place limits on the amount of indemnification to be made available.

(c) AUTHORITY FOR CONTRACT PROVISION.—To carry out the requirement in subsection (b), the Secretary of a military department shall—

(1) identify the proposed contracts for environmental restoration activities at military installations and former military installations, or the portions of such proposed contracts, for which it is advisable to provide for the indemnification of the contractors, subcontractors, or sureties on the contracts (and any subcontractors of such contractors or subcontractors);

(2) include in the solicitations for proposals or bids for such contracts a clear statement that the United States will provide such indemnification to such contractors, subcontractors, and sureties; and

(3) in the event that the Secretary enters into such contracts, provide such indemnification.

(d) IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) prescribe regulations to carry out the requirements of this section; and

(2) submit to the Committees on Armed Services of the Senate and House of Representatives a plan for the implementation of such requirements.

(e) DEFINITION.—In this section, the term "military installation" has the meaning given such term in section 2687(e)(1) of title 10, United States Code.

SEC. 314. REQUIREMENT FOR IDENTIFICATION OF LAND ON WHICH NO HAZARDOUS SUBSTANCES OR PETROLEUM PRODUCTS OR THEIR DERIVATIVES WERE STORED, RELEASED, OR DISPOSED OF.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) is amended by adding at the end the following new paragraph:

"(4) IDENTIFICATION OF UNCONTAMINATED PROPERTY.—(A) In the case of real property owned by the United States that is part of a military installation on which is located a site listed on the National Priority List and on which the United States plans to terminate military operations pursuant to a base closure law, the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall identify the real property on which neither hazardous substances nor petroleum products or their derivatives were stored for 1 year or more, are known to have been released, or were disposed of. Such identification shall be based on an investigation of the real property to determine or discover the presence or likely presence of a release or threatened release of any hazardous substance or any petroleum product and its derivative, including aviation fuel and motor oil, on the real property. The identification shall consist, at a minimum, of—

"(i) a completed preliminary assessment and site investigation; and

"(ii) a review of each of the following sources of information concerning the current and previous uses of the real property:

"(I) A detailed search of Federal Government records pertaining to the property.

"(II) The recorded chain of title documents regarding the real property.

"(III) Aerial photographs that may reflect prior uses of the real property and that are reasonably obtainable through State or local government agencies.

"(IV) A visual inspection of the real property and any buildings, structures, equipment, pipe, pipeline, or other improvements on the real property, and a visual inspection of properties immediately adjacent to the real property.

"(V) A physical inspection of property adjacent to the real property, to the extent permitted by owners or operators of such property.

"(VI) Reasonably obtainable Federal, State, and local government records of each adjacent facility where there has been a release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, and which is likely to cause or contribute to a release or threatened release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property.

"(VII) Interviews with current or former employees involved in operations on the real property.

Such identification shall also be based on sampling, if appropriate under the circumstances. The results of the identification shall be provided immediately to the Administrator and State and local government officials and made available to the public.

"(B) The identification required under subparagraph (A) shall not be complete until concurrence in the results of the identification is obtained from the Administrator and from the appropriate State official.

"(C) The identification required under subparagraph (A) shall be made not later than 18 months after the military installation is selected for closure pursuant to the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note) or within 1 year after the date of enactment of this section, whichever is later. The concurrence from an appropriate State official required under subparagraph (B) shall be deemed to be obtained if, within 90 days after receiving a request for the concurrence, the State official has not acted (by either concurring or declining to concur) on the request for concurrence.

"(D) In the case of the sale of or transfer of title of any parcel of real property identified under subparagraph (A), the deed entered into for the sale or transfer of such property by the United States to any other person or entity shall contain—

"(i) a covenant warranting that any response action or corrective action found to be necessary as a result of the discovery, after the date of such sale or transfer, of previously unidentified hazardous substances or petroleum derivatives that were released or disposed of as a result of the actions of previous Federal Government operations, shall be conducted by the United States; and

"(ii) a clause granting the United States access to the property in any case in which a response action or corrective action is found to be necessary after such date at such property, or such access is necessary to carry out a response action or corrective action on adjoining or other property.

"(E) The head of the department, agency, or instrumentality of the United States with jurisdiction over the real property subject to this section may sell, lease, or otherwise transfer any right, title, or interest to the real property identified under subparagraph (A) without regard to whether the real property is or has been listed as a site on the National Priorities List.

"(F) Nothing in this paragraph shall affect, preclude, or otherwise impair the termination of Federal Government operations on real property owned by the United States.

"(G) In this paragraph:

"(i) The term 'military installation' has the meaning given that term in section 2687(e)(1) of title 10, United States Code.

"(ii) The term 'base closure law' means the following:

"(I) The Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

"(II) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

"(III) Any provision of law authorizing the closure or realignment of a military installation that is enacted on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993.".

SEC. 315. CLARIFICATION OF COVENANT WARRANTING THAT REMEDIAL ACTION HAS BEEN TAKEN.

(a) CLARIFICATION.—Paragraph (3) of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) is amended by adding after the last sentence the following: "For purposes of subparagraph (B)(i), all remedial action described in such subparagraph has been taken if the construction and installation of an approved remedial design has been completed and the Administrator has determined that the remedy is operating properly and successfully. The carrying out of long-term pumping and treating, or operation and maintenance, after the Administrator has determined the remedy is operating properly and successfully, does not preclude the transfer of the property.".

(b) ACCESS TO PROPERTY.—Paragraph (3) of such section is further amended—

(1) by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof "; and"; and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) a clause granting the United States access to the property in any case in which a response action is found to be necessary at such property after the date of such transfer, or such access is necessary to carry out a response action on adjoining or other property after such date.".

SEC. 316. REQUIREMENT TO NOTIFY STATES OF CERTAIN LEASES.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), as amended by section 314, is further amended by adding at the end the following new paragraph:

"(5) NOTIFICATION OF STATES REGARDING CERTAIN LEASES.—(A) In the case of real property owned by the United States and used as a military facility on which any hazardous substance or any petroleum product or its derivatives (including aviation fuel and motor oil) was stored for one year or more, is known to have been released, or was disposed of, and on which the United States plans to terminate military operations pursuant to a base closure law, the head of the department, agency, or instrumentality of the United States having jurisdiction over the property shall notify the State in which the property is located of any lease entered into by the United States that will encumber the property beyond the date of termination of operations on the property. Such notification shall be made to the State at least 90 days before entering into the lease and shall include the length of the lease, the name of the person to whom the property is leased, and a description of the uses that will be allowed under the lease of the property and buildings and other structures on the property.

"(B) In subparagraph (A), the term 'base closure law' means the following:

"(i) The Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

"(ii) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

"(iii) Any provision of law authorizing the closure or realignment of a military installation that is enacted on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993.".

SEC. 317. INDEMNIFICATION OF TRANSFEREES OF CLOSING DEFENSE PROPERTY.

(a) IN GENERAL.—(1) Except as provided in subsection (b), the Secretary of Defense shall hold harmless, defend, and indemnify in full the persons and entities described in paragraph (2) from and against all suits, claims, demands or actions, liabilities, judgments, and costs and other fees arising out of, or in any manner predicated upon, the release or threatened release of any hazardous substance or pollutant or contaminant as a result of Department of Defense activities at any military installation (or portion thereof) that is closed pursuant to a base closure law.

(2) The persons and entities described in this paragraph are the following:

(A) Any State (including any officer, agent, or employee of the State) that acquires ownership or control of any facility at a military installation (or any portion thereof) described in paragraph (1).

(B) Any political subdivision of a State (including any officer, agent, or employee of the State) that acquires such ownership or control.

(C) Any other person or entity that acquires such ownership or control.

(D) Any successor, assignee, transferee, lender, or lessee of a person or entity described in subparagraphs (A) through (C).

(b) EXCEPTION.—(1) The Secretary of Defense shall not hold harmless, defend, or indemnify any person or entity described in subsection (a)(2) from any suit, claim, demand or action, liability, judgment, or cost or other fee arising out of a release or threatened release described in subsection (a)(1) to the extent that such person or entity (or any officer, agent, or employee of the entity) caused or contributed to such release or threatened release.

(2) No indemnification may be afforded under this provision unless the person or entity making a claim for indemnification—

(A) notifies the Department of Defense in writing within two years after such claim accrues or begins action within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the Department of Defense;

(B) immediately furnishes to the Department of Defense copies of all pertinent papers the entity receives;

(C) furnishes evidence or proof of any claim, loss, or damage covered by this section in the manner and form the Department of Defense requires;

(D) complies with the directions of the Department of Defense and executes any authorizations in connection with the settlement or defense of the claim or action; and

(E) cooperates fully and completely with the Department of Defense, and provides to the Department of Defense, upon request, all manner of assistance, including access to the records and personnel of the entity, in defense or settlement of the claim or action.

(c) DEFINITIONS.—In this section:

(1) The terms "facility", "hazardous substance", "release", and "pollutant or contaminant" have the meanings given such terms under paragraphs (9), (14), (22), and (33) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, respectively (42 U.S.C. 9601 (9), (14), (22), and (33)).

(2) The term "military installation" has the meaning given such term under section 2687(e)(1) of title 10, United States Code.

(3) The term "base closure law" means the following:

(A) The Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note).

(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note).

(C) Section 2687 of title 10, United States Code.

(D) Any provision of law authorizing the closure or realignment of a military installation enacted on or after the date of the enactment of this Act.

SEC. 318. PROHIBITION ON USE OF ENVIRONMENTAL RESTORATION FUNDS FOR PAYMENT OF FINES AND PENALTIES.

None of the funds appropriated for fiscal year 1993 pursuant to the authorization of appropriations in section 301(16) may be used for the payment of fines or penalties unless the act or omission for which a fine or penalty is imposed arises out of activities funded by that appropriation.

SEC. 319. MODIFICATION OF CONTRACT INDEMNIFICATION AUTHORITY.

(a) MODIFICATION OF AUTHORITY.—Subsection (a) of section 2354 of title 10, United States Code, is amended by inserting "or any contract or contract under a program (including contracts for activities other than research and development) carried out under chapter 160 of this title," after "or both,".

(b) PAYMENT AUTHORITY.—Subsection (d)(2) of such section is amended by inserting "or for contracts or programs carried out under chapter 160 of this title, as the case may be," after "or both,".

SEC. 320. EXTENSION OF AUTHORITY TO ISSUE SURETY BONDS FOR CERTAIN ENVIRONMENTAL PROGRAMS.

(a) TITLE 10.—Section 2701(j) of title 10, United States Code, is amended by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

(b) CERCLA.—Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended—

(1) in subsection (e)(2)(C), by striking out "January 1, 1993" and inserting in lieu thereof "January 1, 1996,"; and

(2) in subsection (g)(5), by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

SEC. 321. PROHIBITION ON THE PURCHASE OF SURETY BONDS AND OTHER GUARANTIES FOR THE DEPARTMENT OF DEFENSE.

(a) PROHIBITION.—No funds appropriated or otherwise made available to the Department of Defense for fiscal year 1993 may be obligated or expended for the purchase of surety bonds or other guaranties of financial responsibility in order to guarantee the performance of any direct function of the Department of Defense.

(b) TECHNICAL AMENDMENT.—Section 335 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1342) is amended by striking out "or fiscal year 1993".

SEC. 322. LEGACY RESOURCE MANAGEMENT FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—There is established the Legacy Fellowship Program in Natural and Cultural Resource Management (in this section referred to as the "Legacy Fellowship Program"). The Legacy Fellowship Program is a part of the Legacy Resource Management Program established pursuant to section 8120 of the Department of Defense Appropriations Act, 1991 (Public Law 101-511; 104 Stat. 1905).

(b) PURPOSES.—The purposes of the Legacy Fellowship Program are as follows:

(1) To support the purposes of the Legacy Resource Management Program set forth in section 8120(b) of such Act.

(2) To provide training to civilian personnel and military personnel in the management of natural and cultural resources.

(c) FELLOWS.—(1) The Legacy Fellowship Program shall be composed of not less than 3 fellows who shall be appointed by the Deputy Assistant Secretary of Defense for Environment. Such fellows shall be appointed from among qualified persons in the military and civilian sectors.

(2)(A) Each fellow who is an officer or employee of the United States shall serve without compensation in addition to that received for the services as an officer or employee of the United States. Any such service shall be without interruption or loss of civil service status or privilege.

(B) The Deputy Assistant Secretary of Defense shall fix (in an amount the Deputy Assistant Secretary determines appropriate) the compensation of the fellows, if any, who are not officers or employees of the United States. Such fellows shall not be considered employees of the Federal Government other than for purposes of chapter 81 of title 5, United States Code.

(3) Fellows shall serve for a term of one year and may be reappointed for an additional term of one year.

(4) The Deputy Assistant Secretary of Defense shall assign the fellows to an agency, office, or other entity (other than the Office of the Deputy Assistant Secretary of Defense for Environment) that is responsible for the implementation of the Legacy Resource Management Program in the Department of Defense. Upon assignment, the fellow shall assist the agency, office, or entity in carrying out the purposes of the Legacy Resource Management Program.

(d) FUNDING.—Of the funds authorized to be appropriated in fiscal year 1993 for the Department of Defense and made available for the Legacy Resource Management Program, $100,000 may be used for the Legacy Fellowship Program. Such funds shall be available for obligation without fiscal year limitation.

SEC. 323. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.

In addition to the amounts otherwise authorized to be appropriated for fiscal years 1992 and 1993 in this Act there is authorized to be appropriated for such fiscal years—

(1) for Environmental Restoration, Defense, the total amount of $447,500,000; and

(2) for the Department of Defense Base Closure Account 1990 the total amount of $35,000,000.

Subtitle C—Defense Economic Diversification, Conversion, and Stabilization

SEC. 331. REVISION OF AUTHORITIES RELATING TO THE ECONOMIC ADJUSTMENT COMMITTEE.

(a) PERMANENT CHAIRMAN.—Subsection (b) of section 4004 of the Defense Economic Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101-510; 10 U.S.C. 2391 note) is amended to read as follows:

"(b) CHAIRMAN.—The Secretary of Defense shall be the Chairman of the Committee.".

(b) EXECUTIVE COUNCIL.—Section 4004 of such Act is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new subsection (c):

"(c) EXECUTIVE COUNCIL.—The Chairman shall establish an Executive Council of the Committee from appropriate representatives of the Department of Defense, the Department of Commerce, the Department of Labor, and the Small Business Administration. Under the direction of the Chairman, the Executive Council shall develop policies and procedures to ensure that communities, businesses, and workers substantially and seriously affected by reductions in defense expenditures are advised of the assistance available to such communities, businesses, and workers under programs administered by such departments and that agency.".

(c) NOTIFICATION OF ECONOMIC ADJUSTMENT PLANNING.—Section 4101(a) of such Act is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(3) by striking out "or" at the end of paragraph (1) (as so redesignated);

(4) by striking out the period at the end of paragraph (2) (as so redesignated) and inserting in lieu thereof "; or"; and

(5) by adding at the end the following new paragraph (3):

"(3) the lack of any follow-on contracts or other defense-related contract activity.".

SEC. 332. AUTHORIZATIONS OF APPROPRIATIONS FOR CERTAIN DEFENSE STABILIZATION ACTIVITIES.

(a) ASSISTANCE THROUGH THE ECONOMIC DEVELOPMENT ADMINISTRATION.—Section 4103(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2391 note) is amended by inserting "and for fiscal year 1993 $150,000,000" after "$50,000,000".

(b) DEFENSE CONVERSION ADJUSTMENT.—Section 4203(a) of such Act (10 U.S.C. 2391 note) is amended by inserting "and $50,000,000 for fiscal year 1993" after "fiscal year 1991".

SEC. 333. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Defense, in consultation with the Secretary of Education, shall provide financial assistance to local educational agencies in States as provided in this section.

(b) SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—(1) The Secretary of Defense shall provide financial assistance to an eligible local educational agency if, without such assistance, that agency will be unable (as determined by the Secretary of Defense in consultation with the Secretary of Education) to provide the students in the schools of the agency with a level of education that is equivalent to the minimum level of education available in the schools of the other local educational agencies in the same State.

(2) A local educational agency is eligible for assistance under this subsection for a fiscal year if—

(A) at least 30 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools of that agency in that fiscal year are military dependent students described in section 3(a) or 3(b) of Public Law 81-874 (20 U.S.C. 238(a)); or

(B) by reason of a consolidation or reorganization of local educational agencies, the local educational agency is a successor of a local educational agency that, for fiscal year 1992—

(i) was eligible to receive payments in accordance with Department of Defense Instruction 1342.18, dated June 3, 1991; and

(ii) satisfied the requirement in subparagraph (A).

(c) ADJUSTMENT PAYMENTS RELATED TO BASE CLOSURES AND REALIGNMENTS.—To assist communities in making adjustments resulting from reductions in the size of the Armed Forces, the Secretary of Defense shall transfer to the Secretary of Education funds to make payments to local educational agencies that are entitled to receive under section 3 of Public Law 81-874 (20 U.S.C. 238) payments adjusted in accordance with subsection (e) of such section by reason of conditions described in subparagraphs (A) through (C) of paragraph (1) of such subsection that result from closures and realignments of military installations.

(d) REPORT ON IMPACT OF BASE CLOSURES ON EDUCATIONAL AGENCIES.—(1) Not later than February 15 of each of 1993, 1994, and 1995, the Secretary of Defense, in consultation with the Secretary of Education, shall submit to Congress a report on the local educational agencies affected by the closures and realignment of military installations and by redeployments of members of the Armed Forces.

(2) Each report shall contain the following:

(A) The number of dependent children of members of the Armed Forces or civilian employees of the Department of Defense who entered the schools of the local educational agencies during the preceding school year as a result of closures, realignments, or redeployments.

(B) The number of dependent children of such members or employees who withdrew from the schools of the local educational agencies during that school year as a result of closures, realignments, or redeployments.

(C) The amounts paid to the local educational agencies during that year under Public Law 81-874 (20 U.S.C. 236 et seq.) or any other provision of law authorizing the payment of financial assistance to local communities or local educational agencies on the basis of the presence of dependent children of such members or employees in such communities and in the schools of such agencies.

(D) The projected transfers of such members and employees in connection with closures, realignments, and redeployments during the 12-month period beginning on the date of the report, including—

(i) the installations to be closed or realigned;

(ii) the installations to which personnel will be transferred as a result of closures, realignments, and redeployments; and

(iii) the effects of such transfers on the number of dependent children who will be included in determinations with respect to the payment of funds to each affected local educational agency under subsections (a) and (b) of section 3 of Public Law 81-874 (20 U.S.C. 238).

(e) DEFINITIONS.—In this section:

(1) The term "local education agency" has the meaning given that term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

(2) The term "State" has the meaning given that term in section 3(d)(3)(D)(i) of Public Law 81-874 (20 U.S.C. 238(d)(3)(D)(i)).

(3) The term "military dependent student" means a student that is a dependent child of a member of the Armed Forces.

(f) FUNDING.—Of the amounts appropriated for the Department of Defense for operation and maintenance in fiscal year 1993 pursuant to the authorization of appropriations in section 301—

(1) $50,000,000 shall be available for providing assistance to local educational agencies under subsection (b); and

(2) $8,000,000 shall be available for making payments to local educational agencies under subsection (c).

SEC. 334. IMPACT AID.

Section 3(e)(1) of Public Law 81-874 (20 U.S.C. 238(e)(1)) is amended in the matter following subparagraph (C) by inserting "shall not be less than 100 percent of the payment such agency received under subsections (a) and (b) for the preceding fiscal year," after "for such fiscal year".

SEC. 335. EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS.

(a) USE OF FUNDS.—Section 325(c) of such Act (29 U.S.C. 1662d(c)) is amended to read as follows:

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Grants made under subsection (a) may be used for any purpose for which funds may be used under section 314 or this part.

"(2) RESERVATION.—

"(A) IN GENERAL.—The Secretary shall reserve at least 10 percent of the funds appropriated to carry out this section for the purpose of making grants to States under subsection (a) to provide the reimbursement described in subparagraph (B).

"(B) REIMBURSEMENT.—A grant described in subparagraph (A) may be used to reimburse a State for the funds reserved by the State, pursuant to section 302(c), that—

"(i) are expended for rapid response assistance and basic readjustment services (not including support services) described in paragraphs (1) and (2) of section 314(a), respectively; and

"(ii) are delivered to eligible dislocated workers adversely affected by reductions in expenditures by the United States for defense or by closures of United States military installations, as determined in accordance with regulations of the Secretary of Defense.".

(b) NOTICE REQUIREMENTS.—Section 325 of such Act (42 U.S.C. 1662d) is amended by adding at the end the following new subsections:

"(e) NOTICE REQUIREMENTS.—

"(1) SECRETARY OF DEFENSE NOTICE REQUIREMENT.—To the extent practicable, the Secretary of Defense shall provide 6 months advance notice to a defense contractor of any cancellation of, or substantial reduction in, a defense contract, that will adversely affect the defense contractor.

"(2) DEFENSE CONTRACTOR NOTICE REQUIREMENT.—Not later than 2 weeks after a defense contractor receives notice under paragraph (1) of the cancellation of, or substantial reduction in, a defense contract, the contractor shall provide notice of such cancellation or substantial reduction to—

"(A)(i) each representative of employees whose work is directly related to the contract that is being canceled or substantially reduced and who are employed by the defense contractor; or

"(ii) if there is no such representative at that time, each such employee;

"(B) the State dislocated worker unit or office described in section 311(b)(2) and the chief elected official of the unit of general local government within which such adverse effect may occur.

"(3) CONSTRUCTIVE NOTICE OF TERMINATION FOR EMPLOYEES.—The notice provided under paragraph (2)(A) to the employees of a defense contractor shall be considered to be notice of termination to the employees for the purposes of determining whether such employees are eligible dislocated workers under this title, except where the employer has specified that the loss of such contract is not likely to result in plant closure or mass layoff. Any employee considered to be such a worker solely on the basis of such notice shall be eligible to receive services under section 314(b) and under paragraphs (1) through (14) of section 314(c).

"(4) DEFENSE CONTRACTOR.—For purposes of this subsection, the term 'defense contractor' means a private person producing goods or services pursuant to—

"(A) one or more defense contracts for not less than $500,000 entered into with the Department of Defense; or

"(B) one or more subcontracts—

"(i) entered into in connection with a defense contract; and

"(ii) for a total amount of not less than $500,000.".

SEC. 336. POLICY TO EXPEDITE ASSISTANCE.

(a) TRANSFERS.—In each case in which the Secretary of Defense is required under this Act or an amendment made by this Act to transfer funds to another department or agency of the Federal Government for the purpose of funding programs that provide assistance to recipients adversely affected by reduced spending by the Department of Defense, including communities and local educational agencies adversely affected by closures and realignments of military installations, and in each case in which the Secretary is authorized to make such a transfer and exercises the authority to do so, the Secretary shall make the transfer as expeditiously as is practicable.

(b) SPENDING.—In each case in which the Secretary of Defense is required under this Act or an amendment made by this Act to provide assistance to recipients adversely affected by reduced spending by the Department of Defense, including communities and local educational agencies adversely affected by closures and realignments of military installations, and in each case in which the Secretary is authorized to provide that assistance and exercises the authority to do so, the Secretary shall make the funds available for providing that assistance as expeditiously as is practicable. The Secretary shall expedite the processing of applications and other requests for such assistance, including applications for grants.

SEC. 337. ECONOMIC ADJUSTMENT PLANNING ASSISTANCE.

Notwithstanding any other provision of law, of the amount authorized to be appropriated to the Department of Defense for fiscal year 1993 for the Office of Economic Adjustment, 10 percent of such amount shall be available for providing financial assistance for economic adjustment planning in geographic areas in which a substantial portion of the economic activity or the population is dependent on Department of Defense expenditures, as determined by the Secretary of Defense.

Subtitle D—Department of Defense Civilian Personnel Transition Initiatives

SEC. 341. REEMPLOYMENT IN THE COMPETITIVE SERVICE.

(a) REEMPLOYMENT AFTER REDUCTION IN FORCE.—Subchapter I of chapter 35 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 3505. Reemployment after reduction in force for certain employees

"(a) For purposes of this section, the term—

"(1) 'employee' means an employee of the Department of Defense, including each military department, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months; and

"(2) 'Secretary concerned' means—

"(A) the Secretary of the Army with respect to employees of the Department of the Army;

"(B) the Secretary of the Navy with respect to employees of the Department of the Navy;

"(C) the Secretary of the Air Force with respect to employees of the Department of the Air Force; and

"(D) the Secretary of Defense with respect to all other employees of the Department of Defense.

"(b) Subject to the provisions of subsection (c), if the Secretary concerned separates an employee from employment under regulations for a reduction in force under section 3502(a) of this title, and within 2 years after the date of such separation—

"(1) seeks to employ a person for a position in the competitive area which was the employee's competitive area at the time of the separation and the separated employee is qualified for appointment to that position, the Secretary shall offer the separated employee reemployment in such position before offering employment to any other person for such position; or

"(2) seeks to employ a person for the position from which such employee was separated or to perform the duties performed by such employee, the Secretary may not employ a contract employee or a temporary employee for such position or to perform the duties which were performed by the separated employee.

"(c) If the Secretary concerned separates employees from employment in positions in a competitive area under regulations for a reduction in force under section 3502(a) of this title, and within 2 years after the date of the last such separation seeks to employ persons in all or some of such positions, but not in a sufficient number to result in the reemployment of all such separated employees, the Secretary, before offering employment in any of those positions to any other persons, shall offer such separated employees (if qualified) reemployment in accordance with sections 3309 through 3317 of this title (and any other provision of law relating to the employment of preference eligibles) and on the basis of seniority in Federal Service.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 35 of title 5, United States Code, is amended by inserting after the item relating to section 3504 the following:

"3505. Reemployment after reduction in force for certain employees.".

SEC. 342. REEMPLOYMENT ASSISTANCE.

(a) REQUIREMENT THAT A GOVERNMENT-WIDE LIST OF VACANT POSITIONS BE MAINTAINED.—(1)(A) Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

"§ 3329. Government-wide list of vacant positions

"(a) For the purpose of this section, the term 'agency' means an Executive agency, excluding the General Accounting Office and any agency (or unit thereof) whose principal function is the conduct of foreign intelligence or counterintelligence activities, as determined by the President.

"(b) The Office of Personnel Management shall establish and keep current a comprehensive list of all announcements of vacant positions in the competitive service within each agency that are to be filled by appointment for more than one year and for which applications are being (or will soon be) accepted from outside the agency's work force.

"(c) Included for any position listed shall be—

"(1) a brief description of the position, including its title, tenure, location, and rate of pay;

"(2) application procedures, including the period within which applications may be submitted and a contact point for additional information; and

"(3) any other information which the Office considers appropriate.

"(d) The list shall be available to members of the public.

"(e) The Office shall prescribe such regulations as may be necessary to carry out this section. Any requirement under this section that agencies notify the Office as to the availability of any vacant positions shall be designed so as to avoid any duplication of information otherwise required to be furnished under section 3327 of this title or any other provision of law.".

(B) The table of sections at the beginning of chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3328 the following:

"3329. Government-wide list of vacant positions.".

(2) No later than 120 days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall begin providing the information on the list referred to in section 3329 of title 5, United States Code (as added by this subsection) by means of a toll-free telephone number (commonly referred to as an 800 number).

(b) TEMPORARY MEASURES TO FACILITATE REEMPLOYMENT OF CERTAIN DISPLACED FEDERAL EMPLOYEES.—(1) For the purpose of this subsection—

(A) the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code), excluding the General Accounting Office and the Department of Defense; and

(B) the term "displaced employee" means any individual who is—

(i) an employee of the Department of Defense who has been given specific notice that such employee is to be separated due to a reduction in force; or

(ii) a former employee of the Department of Defense who was involuntarily separated therefrom due to a reduction in force.

(2) In accordance with regulations which the Office of Personnel Management shall prescribe, consistent with otherwise applicable provisions of law, an agency shall, in filling a vacant position for which a qualified displaced employee has applied in timely fashion, give full consideration to the application of the displaced employee before selecting any applicant for employment from outside the agency for the position.

(3) A displaced employee is entitled to consideration in accordance with this subsection for the 12-month period beginning on the date such employee receives the specific notice referred to in paragraph (1)(B)(i), except that, if the employee is separated pursuant to such notice, the right to such consideration shall continue through the end of the 12-month period beginning on the date of separation.

(4)(A) This subsection shall apply to any individual who—

(i) became a displaced employee within the 12-month period ending immediately before the date of enactment of this Act; or

(ii) becomes a displaced employee on or after the date of enactment of this Act and before October 1, 1997.

(B) In the case of a displaced employee described in subparagraph (A)(i), for purposes of computing any period of time under paragraph (3), the date of the specific notice described in paragraph (1)(B)(i) (or, if the employee was separated as described in paragraph (1)(B)(ii) before the date of enactment of this Act, the date of separation) shall be deemed to have occurred on such date of enactment.

(C) Nothing in this subsection shall be considered to apply with respect to any position—

(i) which has been filled as of the date of enactment of this Act; or

(ii) which has been excepted from the competitive service because of its confidential, policy-determining, policy-making or policy-advocating character.

SEC. 343. REDUCTION-IN-FORCE NOTIFICATION REQUIREMENTS.

(a) IN GENERAL.—Section 3502 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) Except as provided in subsection (e), an employee may not be released from employment due to a reduction in force, unless—

"(A) such employee and such employee's exclusive representative for collective-bargaining purposes (if any) are given written notice, in conformance with the requirements of paragraph (2), at least 60 days before such employee is so released; and

"(B) if the reduction in force would involve the separation of a significant number of employees, the requirements of paragraph (3) are met at least 60 days before any employee is so released.

"(2) Any notice under paragraph (1)(A) shall include—

"(A) the personnel action to be taken with respect to the employee involved;

"(B) the effective date of the action;

"(C) a description of the procedures applicable in identifying employees for release;

"(D) the employee's ranking relative to other competing employees, and how that ranking was determined; and

"(E) a description of any appeal or other rights which may be available to the employee.

"(3) Notice under paragraph (1)(B)—

"(A) shall be given to—

"(i) the appropriate State dislocated worker unit or units (referred to in section 311(b)(2) of the Job Training Partnership Act (29 U.S.C. 1661(b)(2)); and

"(ii) the chief elected official of such unit or each of such units of local government as may be appropriate; and

"(B) shall consist of written notification as to—

"(i) the number of employees to be separated from service due to the reduction in force (broken down by geographic area or on such other basis as may be required under the regulations prescribed pursuant to paragraph (4));

"(ii) when those separations shall occur; and

"(iii) any other matter which might facilitate the delivery of rapid response assistance or other services under the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

"(4) The Office shall prescribe such regulations as may be necessary to carry out this subsection. The Office shall consult with the Secretary of Labor on matters relating to the Job Training Partnership Act.

"(e)(1) Subject to paragraph (3), upon request submitted under paragraph (2), the President may, in writing, shorten the period of advance notice required under subsection (d)(1) (A) and (B), with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable.

"(2) A request to shorten notice periods shall be submitted to the President by the head of the agency involved and shall indicate the reduction in force to which the request pertains, the number of days by which the agency head requests that the periods be shortened, and the reasons why the request is necessary.

"(3) No notice period may be shortened to less than 30 days under this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any personnel action taking effect on or after the last day of the 90-day period beginning on the date of enactment of this Act.

SEC. 344. ALLEVIATION OF ADVERSE EFFECTS OF BASE CLOSURES ON EMPLOYEES AT THE BASE.

(a) 1990 CLOSURE AND REALIGNMENT ACT.—Section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(e) ASSISTANCE FOR ADVERSELY AFFECTED EMPLOYEES.—(1) Unless a civilian employee of the Department of Defense employed at a military installation being closed or realigned under this part earlier receives an actual notice of termination, the date determined by the Secretary of Defense under paragraph (2) shall be considered to be the date of notice of termination to the employee for purposes of determining the employee's eligibility for assistance under the defense conversion adjustment program under section 325 of the Job Training Partnership Act (29 U.S.C. 1662d).

"(2) The date referred to in paragraph (1) is the date that is 12 months before the date on which the military installation is to be closed or the realignment of the installation is to be completed, as the case may be.".

(b) 1988 CLOSURE AND REALIGNMENT ACT.—Section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (title II of Public Law 100-526; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(d) ASSISTANCE FOR ADVERSELY AFFECTED EMPLOYEES.—(1) Unless a civilian employee of the Department of Defense employed at a military installation being closed or realigned under this part earlier receives an actual notice of termination, the date determined by the Secretary of Defense under paragraph (2) shall be considered to be the date of notice of termination to the employee for purposes of determining the employee's eligibility for assistance under the defense conversion adjustment program under section 325 of the Job Training Partnership Act (29 U.S.C. 1662d).

"(2) The date referred to in paragraph (1) is the date that is 12 months before the date on which the military installation is to be closed or the realignment of the installation is to be completed, as the case may be.".

SEC. 345. OTHER EMPLOYEE ASSISTANCE.

(a) DEPARTMENT OF DEFENSE EMPLOYEE SEPARATION BENEFITS.—(1) Subchapter IX of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§5597. Employee separation benefits for certain employees

"(a) For purposes of this section, the term—

"(1) 'employee' means an employee of the Department of Defense, including each military department, serving under an appointment without time limitation who has been currently employed for a continuous period of at least 12 months; and

"(2) 'Secretary concerned' means—

"(A) the Secretary of the Army with respect to an employee of the Department of the Army;

"(B) the Secretary of the Navy with respect to an employee of the Department of the Navy;

"(C) the Secretary of the Air Force with respect to an employee of the Department of the Air Force; and

"(D) the Secretary of Defense with respect to all other employees of the Department of Defense.

"(b) The Secretary concerned may authorize the payment of a civilian employee separation benefit to an employee who separates voluntarily from employment, by retirement or resignation, in accordance with the provisions of this section and any regulations prescribed by such Secretary.

"(c) Subject to subsection (g), a civilian employee separation benefit under this section may be offered to—

"(1) all employees at an installation or organization of the Department of Defense that is to be closed or reduced in force;

"(2) all employees in one or more occupational series or grades, or combinations or subdivisions thereof, at an installation or organization of the Department of Defense, when the Secretary concerned determines that the voluntary separation of such employee would—

"(A) increase placement opportunities for other employees affected by the closure or reorganization of installations or organizations of the Department of Defense;

"(B) reduce the need for involuntary separations as a result of such closure or reorganization; or

"(C) otherwise serve the personnel management needs of the Department of Defense.

"(d) An offer of a civilian employee separation benefit under this section shall be limited to a specific period of time, and the benefit shall be payable only to an employee whose voluntary separation, by resignation, or retirement, is effective during such period.

"(e) A civilian employee separation benefit under this section shall be paid in a lump sum, and shall be the lesser of—

"(1) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of this title if the employee were entitled to payment under such section; or

"(2) $20,000.

"(f)(1) The Secretary concerned shall take such actions as may be necessary to ensure that any employee to whom a civilian employee separation benefit is offered under this section is able to consider such offer freely without duress or coercion of any kind.

"(2) A declination of an offer of a civilian employee separation benefit under this section shall not have any effect on an employee's rights and benefits under any other provision of law.

"(g) An employee who retires entitled to an immediate annuity under section 8336 (other than under subsection (d)) or 8412 of this title is not eligible to receive a separation benefit under this section.

"(h) The Secretary concerned may prescribe such regulations as he determines necessary for the administration of this section.

"(i) No civilian employee separation benefit may be paid under this section with respect to a separation occurring after December 31, 1997.".

(2) The table of sections at the beginning of chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5596 the following:

"5597. Employee separation benefits for certain employees.".

(b) Restoration of Certain Leave.—Section 6304(d) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(3) For the purpose of this subsection, the closure of an installation of the Department of Defense, during the period beginning on October 1, 1992, and ending on December 31, 1997, shall be deemed to create an exigency of the public business and any leave that is lost by an employee of such installation by operation of this section (regardless of whether such leave was scheduled) shall be restored to the employee and shall be credited and available in accordance with paragraph (2).".

(c) Report.—At the end of each of fiscal year 1993 through fiscal year 1998, the Secretary of Defense shall submit to the President, the Congress, and the Director of the Office of Personnel Management a report on the effectiveness and costs of carrying out the amendments made by this section.

(d) Effective Date.—The amendments made by this section shall be effective on the date of enactment of this Act.

SEC. 346. CONTINUED HEALTH BENEFITS.

(a) In General.—Section 8905a(d) of title 5, United States Code, is amended—

(1) in paragraph (1)(A) by striking "An individual" and inserting "Except as provided in paragraph (4), an individual";

(2) in paragraph (2) by striking "in accordance with paragraph (1))" and inserting "in accordance with paragraph (1) or (4), as the case may be)"; and

(3) by adding at the end the following:

"(4)(A) If the basis for continued coverage under this section is an involuntary separation from a position in or under the Department of Defense due to a reduction in force—

"(i) the individual shall be liable for not more than the employee contributions referred to in paragraph (1)(A)(i); and

"(ii) the agency which last employed the individual shall pay the remaining portion of the amount required under paragraph (1)(A).

"(B) This paragraph shall apply with respect to any individual whose continued coverage is based on a separation occurring on or after the date of enactment of this paragraph and before—

"(i) October 1, 1997; or

"(ii) February 1, 1998, if specific notice of such separation was given to such individual before October 1, 1997.".

(b) Source of Payments.—Any amount which becomes payable by an agency as a result of the enactment of subsection (a) shall be paid out of funds or appropriations available for salaries and expenses of such agency.

SEC. 347. THRIFT SAVINGS PLAN BENEFITS OF EMPLOYEES SEPARATED BY A REDUCTION IN FORCE.

(a) Benefits.—Section 8433(b) of title 5, United States Code, is amended by inserting "any employee who separates from Government employment pursuant to regulations under section 3502(a) of this title or procedures under section 3595(a) of this title in a reduction in force," after "chapter 81 of this title,".

(b) Protections for Spouses.—Section 8435(c)(2)(A) of title 5, United States Code, is amended by inserting ", or who separates from Government employment pursuant to regulations under section 3502(a) of this title or procedures under section 3595(a) of this title in a reduction in force," after "8451 of this title".

(c) Application to Civil Service Retirement System Employees.—Section 8351(b)(4) of title 5, United States Code, is amended by inserting ", separates from Government employment pursuant to regulations under section 3502(a) of this title or procedures under section 3595(a) of this title in a reduction in force," after "section 8337 of this title)".

SEC. 348. SKILL TRAINING PROGRAMS IN THE DEPARTMENT OF DEFENSE.

(a) Authority.—(1) Under regulations prescribed by the Secretary of Defense, the Secretaries of the military departments, and the Secretary of Defense with respect to employees of Department of Defense other than employees of the military departments, may provide not more than one year of training in training facilities of the Department to civilian employees of the Department of Defense who are separated from employment as a result of a reduction in force or a closure or realignment of a military installation.

(2) Training may be provided under this subsection during the period beginning on October 1, 1992, and ending on September 30, 1995.

(b) Register of Training Programs.—Not later than February 1, 1993, the Secretary of Defense, in consultation with the Secretary of Labor and the Director of the Office of Personnel Management, shall publish a register of the skill training programs carried out by the Department of Defense. The register shall—

(1) include a list of the skill training programs;

(2) provide information on the location of such programs, the training provided under such programs, and the number of persons who may receive training under such programs; and

(3) identify the programs that provide training in skills that are useful to employees in the civilian work force.

SEC. 349. REPORT RELATING TO CONTINUING HEALTH BENEFITS COVERAGE OF CERTAIN TERMINATED EMPLOYEES OF DEFENSE CONTRACTORS.

(a) Report Required.—Not later than March 1, 1993, the Under Secretary of Defense for Acquisition shall submit to Congress a report on matters relating to the provision by contractors of the Department of Defense of continuing health benefits coverage to employees of such contractors who are involuntarily separated from such employment by reason of the termination or curtailment of defense contracts.

(b) Content of Report.—The report shall contain—

(1) an estimate of the number of employees referred to in subsection (a) who will be involuntarily separated from employment referred to in that subsection for the reason referred to in that subsection during each of fiscal years 1993 and 1994;

(2) an estimate of the number of such employees who will elect in each such fiscal year to receive continuation coverage under section 4980B of the Internal Revenue Code of 1986, and an estimate of the aggregate monthly costs that will be incurred during such fiscal years by such employees who make the elections;

(3) an estimate of the cost to the Department of Defense of providing continuing health benefits coverage to such employees in the same manner as continuing health benefits are provided to individuals under paragraph (4) of section 8905a(d) of title 5, United States Code, as added by section 346(a);

(4) an assessment of the capability of the employers of such employees to bear a portion or all of the costs estimated under paragraph (3) and a description of any current efforts by such employers to bear such costs; and

(5) recommendations relating to the optimal allocation of such costs between the Federal Government and such employers.

Subtitle E—Other Matters

SEC. 351. LIMITATIONS ON THE USE OF DEFENSE BUSINESS OPERATIONS FUND.

(a) Extension of Limitation on Period of Management.—Section 316(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1338; 10 U.S.C. 2208 note) is amended by striking out "the date of the enactment of this Act and ending on April 15, 1993" and inserting in lieu thereof "December 5, 1991, and ending on April 15, 1994".

(b) TECHNICAL AMENDMENTS.—(1) Section 316(a) of such Act is further amended by inserting "(in this section referred to as the 'Fund')" before the period at the end of the first sentence.

(2) Paragraphs (1) and (2) of section 316(b) of such Act are amended by striking out "the date of the enactment of this Act" and inserting in lieu thereof "December 5, 1991".

SEC. 352. LIMITATION ON OBLIGATIONS AGAINST DEFENSE BUSINESS OPERATIONS FUND.

(a) LIMITATION.—(1) The Secretary of Defense may not incur obligations against the supply management divisions of the Defense Business Operations Fund of the Department of Defense during fiscal year 1993 in a total amount in excess of 65 percent of the total amount derived from sales from such divisions during that fiscal year.

(2) For purposes of determining the amount of obligations incurred against, and sales from, such divisions during fiscal year 1993, the Secretary shall exclude obligations and sales for fuel, commissary and subsistence items, retail operations, repair of equipment, and the cost of operations.

(b) EXCEPTION.—The Secretary of Defense may waive the limitation described in subsection (a) if the Secretary determines that such waiver is critical to the national security of the United States. The Secretary shall immediately notify Congress of any such waiver and the reasons for such waiver.

SEC. 353. ANNUAL REPORT ON SECURITY AND CONTROL OF SUPPLIES.

(a) ANNUAL REPORT.—Subsection (a) of section 2891 of title 10, United States Code, is amended by striking out "for each of fiscal years 1989, 1990, and 1991" and inserting in lieu thereof "for each of fiscal years 1992, 1993, and 1994".

(b) CONTENT OF REPORT.—Subsection (b) of such section is amended by adding at the end the following new paragraphs:

"(9) A summary description of the cases determined by the Secretary of Defense to be cases of major thefts of Department of Defense supplies during the fiscal year preceding the fiscal year in which the report is submitted, including any case involving a loss in an amount greater than $1,000,000 or a loss of sensitive or classified items.

"(10) The value, and an analysis, of in-transit losses that occurred during the fiscal year preceding the fiscal year in which the report is submitted.".

SEC. 354. REPEAL OF REQUIREMENT FOR GUIDELINES FOR FUTURE REDUCTIONS OF CIVILIAN EMPLOYEES OF INDUSTRIAL-TYPE OR COMMERCIAL-TYPE ACTIVITIES.

(a) REPEAL.—Section 1597 of title 10, United States Code, is repealed.

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to section 1597.

SEC. 355. PROMOTION OF CIVILIAN MARKSMANSHIP.

(a) AUTHORITY OF THE SECRETARY OF THE ARMY.—(1) Section 4308 of title 10, United States Code, is amended to read as follows:

"§4308. Promotion of civilian marksmanship: authority of the Secretary of the Army

"(a) PROGRAM REQUIRED.—(1) The Secretary of the Army, under regulations approved by him upon the recommendation of the National Board for the Promotion of Rifle Practice, shall provide for—

"(A) the operation and maintenance of indoor and outdoor rifle ranges and their accessories and appliances;

"(B) the instruction of citizens of the United States in marksmanship, and the employment of necessary instructors for that purpose;

"(C) the promotion of practice in the use of rifled arms, the maintenance and management of matches or competitions in the use of those arms, and the issue (without cost to the United States) of the arms, ammunition, targets, and other supplies and appliances necessary for those purposes to gun clubs under the direction of the National Board for the Promotion of Rifle Practice that provide training in the use of rifled arms to youth, the Boy Scouts of America, 4-H Clubs, Future Farmers of America, and other youth-oriented organizations for training and competition;

"(D) the award to competitors of trophies, prizes, badges, and other insignia;

"(E) the loan or sale at fair market value of caliber .30 rifles, caliber .22 rifles, and air rifles, and the sale of ammunition at fair market value, to gun clubs that—

"(i) are under the direction of the National Board for the Promotion of Rifle Practice; and

"(ii) provide training in the use of rifled arms;

"(F) the sale at fair market value of arms (including surplus M-1 Garand rifles), ammunition, targets, and other supplies and appliances necessary for target practice to citizens of the United States over 18 years of age who are members of a gun club under the direction of the National Board for the Promotion of Rifle Practice;

"(G) the maintenance of the National Board for the Promotion of Rifle Practice, including provision for its necessary expenses and those of its members and for the Board's expenses incidental to the conduct of the Board's annual meetings;

"(H) the procurement of necessary supplies, appliances, trophies, prizes, badges, and other insignia, clerical and other services, and labor; and

"(I) the transportation of employees, instructors, and civilians to give or to receive instruction or to assist or engage in practice in the use of rifled arms, and the transportation and subsistence, or an allowance instead of subsistence, of members of teams authorized by the Secretary to participate in matches or competitions in the use of rifled arms.

"(2) Under the authority of paragraph (1)(C), the Secretary of the Army may issue for use in training and marksmanship competitions caliber .22 ammunition and caliber .30 ammunition to gun clubs that—

"(A) are under the direction of the National Board for the Promotion of Rifle Practice; and

"(B) provide training in the use of rifled arms to youth or to such youth-oriented organizations as the Boy Scouts of America, 4-H clubs, and Future Farmers of America.

"(b) ADDITIONAL AUTHORITY.—The Secretary may—

"(1) provide personnel services (in addition to pay and nontravel-related allowances for members of the armed forces) in carrying out the Civilian Marksmanship Program; and

"(2) impose reasonable fees for persons and gun clubs participating in any program conducted by the Secretary for the promotion of marksmanship among civilians.

"(c) AMOUNTS COLLECTED.—Amounts collected by the Secretary under the Civilian Marksmanship Program, including the proceeds from the sale of arms, ammunition, targets, and other supplies and appliances under subsection (a), shall be credited to the appropriation available for the support of the Civilian Marksmanship Program and shall be available to carry out such program.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each fiscal year such sums as may be necessary to pay the personnel costs and other expenses of the Civilian Marksmanship Program in such fiscal year to the extent that the amounts available out of the revenues collected under the program are insufficient to defray such costs and expenses.

"(e) DEFINITION.—In this section, the term 'Civilian Marksmanship Program' means the program carried out by the Secretary of the Army under this section and sections 4310 through 4312 of this title and includes the National Matches and small-arms firing schools referred to in section 4312 of this title.".

(2) The table of sections at the beginning of chapter 401 of such title is amended by striking out the item relating to section 4308 and inserting in lieu thereof the following:

"4308. Promotion of civilian marksmanship: authority of the Secretary of the Army.".

(b) AVAILABILITY OF RIFLE RANGES FOR ARMED FORCES AND CIVILIANS.—(1) Section 4309 of title 10, United States Code, is amended to read as follows:

"§4309. Rifle ranges: availability for use by members and civilians

"(a) RANGES AVAILABLE.—All rifle ranges constructed in whole or in part with funds provided by the United States may be used by members of the armed forces and by persons capable of bearing arms.

"(b) MILITARY RANGES.—(1) In the case of a rifle range referred to in subsection (a) that is located on a military installation, the Secretary concerned may establish reasonable fees for the use by civilians of that rifle range to cover the material and supply costs incurred by the armed forces to make that rifle range available to civilians.

"(2) Fees collected pursuant to paragraph (1) in connection with the use of a rifle range shall be credited to the appropriation available for the operation and maintenance of that rifle range and shall be available for the operation and maintenance of that rifle range.

"(3) Use of a rifle range referred to in paragraph (1) by civilians may not interfere with the use of the range by members of the armed forces.

"(c) REGULATIONS.—Regulations to carry out this section with respect to a rifle range shall be prescribed, subject to the approval of the Secretary concerned, by the authorities controlling the rifle range.".

(2) The table of sections at the beginning of chapter 401 of such title is amended by striking out the item relating to section 4309 and inserting in lieu thereof the following:

"4309. Rifle ranges: availability for use by members and civilians.".

(c) PAYMENT OF EXPENSES FOR NATIONAL MATCH COMPETITORS.—(1) Section 4313 of title 10, United States Code, is amended to read as follows:

"§4313. National matches and small-arms school: expenses

"(a) JUNIOR COMPETITORS.—(1) Junior competitors at National Matches, small-arms firing schools, and competitions in connection with National Matches and special clinics under section 4312 of this title may be paid a subsistence allowance in such amount as the Secretary of the Army shall prescribe.

"(2) A junior competitor referred to in paragraph (1) may be paid a travel allowance, in such amount as the Secretary of the Army shall prescribe, instead of travel expenses and subsistence while traveling. The travel allowance for the return trip may be paid in advance.

"(3) For the purposes of this subsection, a junior competitor is a competitor who is under 18 years of age or is a member of a gun club organized for the students of a college or university.

"(b) Reserve Component Personnel.—Appropriated funds available for the Civilian Marksmanship Program (as defined in section 4308 of this title) may be used to pay the personnel costs and travel and per diem expenses of a member of a reserve component for any active duty performed by the member in a fiscal year in support of the program after the end of that member's scheduled period of annual training for that fiscal year.".

(2) The item relating to section 4313 in the table of sections at the beginning of chapter 401 of such title is amended by striking out "rifle".

(d) Effective Date.—(1) This section and the amendments made by this section shall take effect on the earlier of—

(A) the date of the enactment of this Act; or

(B) October 1, 1992.

(2) If under paragraph (1) the amendments made by this section take effect before October 1, 1992, the amendments made by section 328 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1533) shall not take effect.

(3) If under paragraph (1) the amendments made by this section take effect on October 1, 1992, the amendments made by this section shall be considered executed immediately following the amendments made by section 328 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1533).

SEC. 356. PURCHASE OF ITEMS NOT EXCEEDING $100,000.

Funds appropriated pursuant to the authorization of appropriations in section 301 may be used to purchase items not exceeding $100,000 for each item.

SEC. 357. EXTENSION OF AUTHORITY FOR AVIATION DEPOTS AND NAVAL SHIPYARDS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES.

Section 1425(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1684) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

SEC. 358. REPEAL OF REQUIREMENT FOR COMPETITION PILOT PROGRAM FOR DEPOT-LEVEL MAINTENANCE OF MATERIALS.

Subsection (b) of section 314 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1337; 10 U.S.C. 2466 note) is repealed.

SEC. 359. OPTIONAL DEFENSE DEPENDENTS' SUMMER SCHOOL PROGRAMS.

Section 1402 of the Defense Dependents' Education Act of 1978 (title XIV of Public Law 95–561; 20 U.S.C. 921) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of Defense may provide optional summer school programs in the defense dependents' education system.

"(2) The Secretary shall provide in regulations for fees to be charged for the students enrolling in a summer school program under this subsection in amounts determined on the basis of family income.

"(3) The amounts received by the Secretary in payment of the fees shall be available to the Department of Defense for defraying the costs of conducting summer school programs under this subsection.".

SEC. 360. REVIEW OF MILITARY FLIGHT TRAINING ACTIVITIES AT CIVILIAN AIRFIELDS.

(a) Review Required.—The Secretary of Defense shall provide for a review of the practices and procedures of the military departments regarding the use of civilian airfields in flight training activities of the Armed Forces.

(b) Purpose.—The purpose of the review is to determine whether the practices and procedures referred to in subsection (a) should be modified to better protect the public safety while meeting training requirements of the Armed Forces.

(c) Special Requirement.—In the conduct of the review, particular consideration shall be given to the practices and procedures regarding the use of civilian airfields in heavily populated areas.

SEC. 361. SALE TO KOREA OF OBSOLETE AMMUNITION FROM WAR RESERVE STOCKS.

Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the Secretary of Defense is authorized to sell to the Republic of Korea, at a price negotiated by the Secretary, all or any part of obsolete ammunition in the inventory of the Department of Defense which is intended for use as reserve stocks for Korea and is located in a stockpile in the Republic of Korea on the date of the enactment of this Act. Obsolete ammunition sold under the authority of this section shall be sold for not less than its salvage value, minus the costs of salvage.

SEC. 362. COOPERATIVE AGREEMENTS WITH ALLIES.

(a) Acquisition of Logistics Support, Supplies, and Services From Allies.—Section 2341 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "in Europe and adjacent waters" and inserting in lieu thereof "outside the United States"; and

(2) in paragraph (2)—

(A) by striking out "in which elements of the armed forces are deployed (or are to be deployed)"; and

(B) by striking out "in such country or in the military region in which such country is located" and inserting in lieu thereof "outside the United States".

(b) Limitations on Amounts That May Be Obligated or Accrued by the United States.—Section 2347 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out "North Atlantic Treaty Organization" and inserting in lieu thereof "armed forces"; and

(B) by inserting "with other member countries of the North Atlantic Treaty Organization and subsidiary bodies of the North Atlantic Treaty Organization" after "(before the computation of offsetting balances)";

(2) in subsection (a)(2)—

(A) by striking out "in the military region affecting" and inserting in lieu thereof "involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with"; and

(B) by striking out "the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with such country";

(3) in subsection (b)(1)—

(A) by striking out "North Atlantic Treaty Organization" and inserting in lieu thereof "armed forces"; and

(B) by inserting "with other member countries of the North Atlantic Treaty Organization and subsidiary bodies of the North Atlantic Treaty Organization" after "(before the computation of offsetting balances)"; and

(4) in subsection (b)(2)—

(A) by striking out "in the military region affecting a country referred to in paragraph (1)" and inserting in lieu thereof "involving the armed forces"; and

(B) by striking out "from such country (before the computation of offsetting balances)" and inserting in lieu thereof "(before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements".

(c) Effective Date.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to acquisitions of logistics support, supplies, and services under chapter 138 of title 10, United States Code, that are initiated on or after the date of enactment of this Act.

SEC. 363. PREFERENCE FOR PROCUREMENT OF ENERGY EFFICIENT ELECTRIC EQUIPMENT.

(a) Requirement for Preference.—(1)(A) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410c. Preference for energy efficient electric equipment

"(a) When cost effective, in establishing a new requirement for electric equipment referred to in subsection (b) and in procuring electric equipment referred to in that subsection, the Secretary of a military department or the head of a Defense Agency, as the case may be, shall provide a preference for the procurement of the most energy efficient electric equipment available that meets the requirement or the need for the procurement, as the case may be.

"(b) Subsection (a) applies to the following electric equipment:

"(1) Electric lamps.

"(2) Electric ballasts.

"(3) Electric motors.

"(4) Electric refrigeration equipment.".

(B) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2410b the following new item:

"2410c. Preference for energy efficient electric equipment.".

(2) The amendments made by paragraph (1) shall apply to procurements for which solicitations are issued on or after the date that is 120 days after the date of the enactment of this Act.

(b) Electric Lighting Demonstration Program.—(1) The Secretary of Defense shall conduct a demonstration program for using energy efficient electric lighting equipment.

(2) The Secretary shall designate 50 facilities owned or leased by the Department of Defense for participation in the demonstration program under this subsection.

(3) The head of each facility designated pursuant to paragraph (2) and the Director of the Defense Logistics Agency shall jointly audit the electric lighting equipment at the facility in order—

(A) to identify any potential improvements that would increase the energy efficiency of electric lighting at that facility; and

(B) to determine the costs of, and the savings that would result from, such improvements.

(4) Except as provided in subsection (d)(4), on the basis of the results of the audit the head of the facility shall promptly convert to the use of electric lighting equipment at the facility that is more energy efficient than the existing electric lighting equipment to the extent that the conversion is cost effective.

(5) Energy efficient electric lighting equipment used under the demonstration program may include compact fluorescent lamps, energy efficient electric ballasts and fixtures, and other energy efficient electric lighting equipment.

(c) REFRIGERATION EQUIPMENT DEMONSTRATION PROGRAM.—(1) The Secretary of Defense shall conduct a demonstration program for using energy efficient refrigeration equipment.

(2) The Secretary shall designate 50 facilities owned or operated by the Department of Defense for participation in the demonstration program under this subsection.

(3) The head of each facility designated pursuant to paragraph (2) and the Director of the Defense Logistics Agency shall jointly audit the refrigeration equipment at the facility in order—

(A) to identify any potential improvements that would increase the energy efficiency of the refrigeration equipment at that facility; and

(B) to determine the costs of, and the savings that would result from, such improvements.

(4) Except as provided in subsection (d)(4), on the basis of the results of the audit the head of the facility shall promptly convert to the use of refrigeration equipment at the facility that is more energy efficient than the existing refrigeration equipment to the extent that the conversion is cost effective.

(d) GENERAL PROVISIONS FOR DEMONSTRATION PROGRAMS.—(1) The Secretary of Defense shall make the designations under subsections (b)(2) and (c)(2) not later than 180 days after the date of the enactment of this Act.

(2) The Secretary of Defense may designate a facility described in subsections (b)(2) and (c)(2) for participation in the demonstration program under subsection (b) and the demonstration program under subsection (c).

(3) The audits required by subsections (b)(3) and (c)(3) shall be completed not later than January 1, 1994.

(4) The head of a facility may not carry out a conversion described in subsection (b)(4) or (c)(4) if the conversion prevents the head of the facility from carrying out other improvements relating to energy efficiency that are more cost effective than that conversion.

SEC. 364. MADIGAN ARMY MEDICAL CENTER.

Of the funds authorized to be appropriated by title III for Operation and Maintenance, Army, $150,000 is authorized to be used for a program design and feasibility study to provide a residential program for military dependents with severe behavior disorders at Madigan Army Medical Center.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

(a) The Armed Forces are authorized strengths for active duty personnel as of September 30, 1993, as follows:

(1) The Army, 598,900, of whom not more than 88,855 shall be commissioned officers.

(2) The Navy, 535,800, of whom not more than 67,455 shall be commissioned officers.

(3) The Marine Corps, 181,900, of whom not more than 18,440 shall be commissioned officers.

(4) The Air Force, 449,900, of whom not more than 84,970 shall be commissioned officers.

SEC. 402. WAIVER AND TRANSFER AUTHORITY.

(a) WAIVER AUTHORITY.—The Secretary of Defense may waive an end strength prescribed in section 401 for any of the Armed Forces to the extent that the Secretary considers the waiver necessary to prevent personnel imbalances that would impair the long term combat readiness of that armed force.

(b) TRANSFER AUTHORITY.—(1) Upon determination by the Secretary of Defense that such action is necessary in order to prevent involuntary separations from the Armed Forces that would otherwise be necessary solely for the purpose of reducing the size of the Armed Forces below the authorized end strengths provided in section 401, the Secretary may transfer amounts appropriated to the Department of Defense pursuant to authorizations of appropriations in this division for fiscal year 1993. Amounts so transferred shall be merged with and be available for the same purposes as the appropriations to which transferred.

(2) A transfer made from one appropriation account to another under the authority of this section shall be deemed to increase the amount authorized for the appropriation account to which transferred by the amount transferred.

(3) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

SEC. 403. AUTHORITY TO ADJUST END STRENGTHS.

Subsection (c) of section 115 of title 10, United States Code, is amended to read as follows:

"(c)(1) Subject to paragraphs (1) and (2), the strength of an armed force at the end of a fiscal year may vary from the end strength authorized for that armed force pursuant to paragraph (1) or (2) of subsection (a) for such fiscal year to the extent that the Secretary of Defense determines that the variance is in the national interest.

"(2) The strength of the active-duty personnel of an armed force at the end of a fiscal year shall be within 0.5 percent below and 0.5 percent above the end strength authorized for that armed force pursuant to subsection (a)(1) for that fiscal year.

"(3) The strength of the Selected Reserve personnel of a reserve component at the end of a fiscal year shall be within 2 percent below or 2 percent above the end strength authorized for the Selected Reserve of that reserve component pursuant to subsection (a)(2) for that fiscal year.".

SEC. 404. REPEAL OF REQUIREMENTS FOR MINIMUM NUMBERS OF MEDICAL PERSONNEL.

The following provisions of law that limit reductions in the number of medical personnel of the Department of Defense are repealed:

(1) Section 711 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 115 note).

(2) Section 718(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 115 note).

SEC. 405. LIMITED EXCLUSION OF JOINT SERVICE REQUIREMENTS FROM A LIMITATION ON THE STRENGTHS FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.

(a) EXCLUSION.—Section 526 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) LIMITED EXCLUSION FOR JOINT DUTY REQUIREMENTS.—(1) The Chairman of the Joint Chiefs of Staff may designate up to 8 general officer and flag officer positions within joint duty requirements for exclusion from the limitations in subsection (a) that are applicable on and after October 1, 1995. General officers and flag officers in positions so designated may not be counted for the purposes of such limitations.

"(2) This subsection shall cease to be effective on October 1, 1998.".

(b) TECHNICAL AMENDMENT.—Subsection (b) of such section is amended by striking out "(b)" and inserting in lieu thereof "(b) AUTHORIZED INCREASE.—".

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1993, as follows:

(1) The Army National Guard of the United States, 425,450.

(2) The Army Reserve, 296,230.

(3) The Naval Reserve, 141,545.

(4) The Marine Corps Reserve, 42,230.

(5) The Air National Guard of the United States, 119,400.

(6) The Air Force Reserve, 82,400.

(7) The Coast Guard Reserve, 15,150.

(b) ADJUSTMENTS.—Section 115 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The end strengths prescribed by law for the Selected Reserve of any reserve component for any fiscal year shall be proportionately reduced by—

"(A) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of that fiscal year; and

"(B) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of that fiscal year.

"(2) Whenever such units or such individual members are released from active duty, the end strength prescribed for the Selected Reserve of such reserve component for the fiscal year in which released shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.".

(c) TEMPORARY PROHIBITION ON ELIMINATING RESERVE COMPONENT UNITS.—(1) Except as provided in paragraph (2), no unit in the Selected Reserve of the Army, Navy, Air Force, or Marine Corps may be inactivated during fiscal year 1993.

(2) Paragraph (1) does not apply to the following:

(A) An inactivation of a unit which is the direct result of the closure or realignment of a military installation required pursuant to law.

(B) An inactivation of a reinforcing unit in the Naval Reserve that is associated directly with a decommissioned unit in the active component of the Navy.

(C) An inactivation of an aviation unit as a direct result of the phasing out of a weapon system from the active components and the reserve components by the end of fiscal year 1993.

(3) A unit of the Selected Reserve of the Army, Navy, Air Force, or Marine Corps may not be inactivated pursuant to an exception in paragraph (2) until the Secretary of Defense has submitted to the Committees on Armed Services of the Senate and House of

Representatives the rationale for the proposed inactivation of that unit and the specific exception that applies.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1993, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 24,860.

(2) The Army Reserve, 12,862.

(3) The Naval Reserve, 22,055.

(4) The Marine Corps Reserve, 2,282.

(5) The Air National Guard of the United States, 9,081.

(6) The Air Force Reserve, 636.

Subtitle C—Military Training Student Loads

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS.

(a) ACTIVE FORCES.—For fiscal year 1993, the Armed Forces are authorized average military training loads for active forces as follows:

(1) The Army, 60,269.

(2) The Navy, 51,405.

(3) The Marine Corps, 19,016.

(4) The Air Force, 27,971.

(b) RESERVE COMPONENTS.—For fiscal year 1993, the Armed Forces are authorized average military training loads for reserve component forces as follows:

(1) The Army Reserve, 12,583.

(2) The Army National Guard, 10,529.

(3) The Naval Reserve, 1,892.

(4) The Marine Corps Reserve, 3,418.

(5) The Air Force Reserve, 1,529.

(6) The Air National Guard, 3,048.

(c) ADJUSTMENTS.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in subtitles A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

Subtitle D—Funding Authorization

SEC. 431. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces for military personnel in the total amount of $77,316,200,000.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Reserve Component Matters

SEC. 501. REALIGNMENT OF CERTAIN ACTIVE ARMY COMBAT SUPPORT AND COMBAT SERVICE SUPPORT POSITIONS TO RESERVE COMPONENTS.

(a) FINDING.—The Congress finds that the force structure of the active component of the Army contains approximately 19,000 positions for personnel having missions to provide combat support and combat service support to inactivated Army units formerly stationed in Europe.

(b) REALIGNMENT REQUIRED.—The Secretary of Defense shall ensure that, not later than September 30, 1993, the missions referred to in subsection (a) are transferred to the Reserve components of the Army.

SEC. 502. LIMITATION ON REDUCTION IN NUMBER OF RESERVE COMPONENT MEDICAL PERSONNEL.

(a) LIMITATION.—The Secretary of Defense may not reduce the number of medical personnel in the Army National Guard of the United States or the Army Reserve below the number of such personnel in those reserve components on September 30, 1992.

(b) DEFINITION.—In subsection (a), the term "medical personnel" has the meaning given that term in section 115a(g)(2) of title 10, United States Code.

SEC. 503. ONE-YEAR EXTENSION OF CERTAIN RESERVE OFFICER MANAGEMENT PROGRAMS.

(a) GRADE DETERMINATION AUTHORITY FOR CERTAIN RESERVE MEDICAL OFFICERS.—Sections 3359(b) and 8359(b) of title 10, United States Code, are each amended by striking "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(b) PROMOTION AUTHORITY FOR CERTAIN RESERVE OFFICERS SERVING ON ACTIVE DUTY.—Sections 3380(d) and 8380(d) of such title are each amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(c) YEARS OF SERVICE FOR MANDATORY TRANSFER TO THE RETIRED RESERVE.—Section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 30, 1992.

SEC. 504. REENLISTMENT ELIGIBILITY OF CERTAIN FORMER RESERVE OFFICERS.

(a) LIMITATION FOR THE ARMY.—Section 3258 of title 10, United States Code, is amended—

(1) by striking out the last sentence;

(2) by inserting "(a)" before "Any"; and

(3) by adding at the end the following new subsection (b):

"(b) A person is not entitled to be reenlisted under subsection (a) if—

"(1) the person was discharged or released from active duty as a Reserve officer on the basis of a determination of—

"(A) misconduct;

"(B) moral or professional dereliction;

"(C) duty performance below prescribed standards for the grade held; or

"(D) retention being inconsistent with the interests of national security; or

"(2) the person's former enlisted status and grade was based solely on the participation by that person in a precommissioning program that resulted in the Reserve commission held by that person during the active duty from which the person was released or discharged.".

(b) LIMITATION FOR THE AIR FORCE.—Section 8258 of such title is amended—

(1) by striking out the last sentence;

(2) by inserting "(a)" before "Any"; and

(3) by adding at the end the following new subsection (b):

"(b) A person is not entitled to be reenlisted under subsection (a) if—

"(1) the person was discharged or released from active duty as a Reserve officer on the basis of a determination of—

"(A) misconduct;

"(B) moral or professional dereliction;

"(C) duty performance below prescribed standards for the grade held; or

"(D) retention being inconsistent with the interests of national security; or

"(2) the person's former enlisted status and grade was based solely on the participation by that person in a precommissioning program that resulted in the Reserve commission held by that person during the active duty from which the person was released or discharged.".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall apply to persons discharged or released from active duty as a commissioned officers in the Army Reserve or the Air Force Reserve, respectively, after the date of the enactment of this Act.

SEC. 505. STUDY OF EFFECTS OF OPERATIONS DESERT SHIELD AND DESERT STORM MOBILIZATIONS OF RESERVES AND MEMBERS OF THE NATIONAL GUARD WHO WERE SELF-EMPLOYED OR OWNERS OF SMALL BUSINESSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) The service of the members of the Armed Forces of the United States in Operations Desert Shield and Desert Storm was commendable.

(2) The Reserves and the members of the National Guard contributed to the readiness, preparedness, and combat capability of the coalition forces that participated in the liberation of Kuwait.

(3) The Reserves and the members of the National Guard ordered to active duty in connection with Operations Desert Shield and Desert Storm who were self-employed or were owners of small businesses possibly suffered unique financial difficulties resulting from their absence from their businesses for such active duty service.

(b) STUDY AND REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) conduct a study regarding the economic and other effects on the Reserves and members of the National Guard referred to in subsection (a)(3) of being absent from their businesses for active duty service in connection with Operations Desert Shield and Desert Storm; and

(2) submit a report on the results of the study to the Committees on Armed Services of the Senate and the House of Representatives.

(c) CONTENT OF REPORT.—The report shall include the following matters:

(1) The number of Reserves and members of the National Guard ordered to active duty in connection with Operations Desert Shield and Desert Storm who were self-employed or were owners of small businesses.

(2) A description of the businesses owned by those Reserves and members of the National Guard when such personnel were ordered to active duty.

(3) A detailed analysis of the economic effects on the businesses of such personnel resulting from the absence of such personnel for active duty service.

(4) A discussion of the factors that contributed to any financial hardship or gain for such businesses during the period of the absence of such personnel.

(5) The extent to which such personnel voluntarily separated from the Armed Forces, assumed an inactive status, or retired after being released from active duty.

(6) An analysis of the rates of such separations, change of status, and retirements.

Subtitle B—Service Academies

SEC. 511. LIMITATION ON ASSIGNMENT OF GENERAL OFFICERS.

(a) UNITED STATES MILITARY ACADEMY.—(1)(A) Chapter 403 of title 10, United States Code, is amended by inserting after section 4337 the following new section 4338:

"§ 4338. Limitations on faculty, staff, and support personnel

"(a) GENERAL OFFICERS.—Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of more than one general officer to permanent duty at the

Academy at any time or to support the assignment of any general officer in a grade above major general to permanent duty at the Academy.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4337 the following new item:

"4338. Limitations on faculty, staff, and support personnel.".

(2) Subsection (c) of section 4335 of such title is repealed.

(b) UNITED STATES AIR FORCE ACADEMY.—(1)(A) Chapter 903 of such title is amended by inserting after section 9337 the following new section 9338:

"§ 9338. Limitations on faculty, staff, and support personnel

"(a) GENERAL OFFICERS.—Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of more than one general officer to permanent duty at the Academy at any time or to support the assignment of any general officer in a grade above major general to permanent duty at the Academy.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 9337 the following new item:

"9338. Limitations on faculty, staff, and support personnel.".

(2) Section 9334 of such title is amended—

(A) by striking out subsection (b); and

(B) in subsection (a), by striking out "(a)".

(c) EFFECTIVE DATE AND TRANSITION PROVISION.—(1) The amendments made by subsections (a) and (b) shall take effect on April 1, 1993.

(2) General officers who, on the date of the enactment of this Act, are assigned to permanent duty positions at the United States Military Academy and the United States Air Force Academy in excess of the number of such officers permitted by the amendments made by subsections (a) and (b) shall be reassigned before the effective date of such amendments.

(3) The Chairman of the Joint Chiefs of Staff may direct that one or more of the general officer positions referred to in paragraph (2) be allocated to meet unsatisfied requirements for general officer joint duty positions.

SEC. 512. ACADEMY PREPARATORY SCHOOLS.

Not later than April 1, 1993, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a plan for implementing the recommendations contained in the report of the Comptroller General of the United States, dated March 13, 1992, regarding the preparatory schools of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy.

SEC. 513. COMPOSITION OF ACADEMY FACULTIES.

Not later than April 1, 1993, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and House of Representatives recommended legislation for—

(1) establishing at the United States Military Academy and the United States Air Force Academy a faculty composed of approximately equal numbers of civilian and Armed Forces personnel; and

(2) phasing out the assignment of Armed Forces personnel as permanent professors at those academies.

SEC. 514. ACADEMY BANDS.

(a) UNITED STATES MILITARY ACADEMY.—Section 4338 of title 10, United States Code (as added by section 511(a)), is amended by adding at the end the following:

"(b) ENLISTED BANDS.—Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of any enlisted personnel for permanent duty in a military band for the Academy.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Section 6969 of such title is amended to read as follows:

"§ 6969. Naval Academy Band

"(a) Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of any enlisted personnel for permanent duty in the Naval Academy Band.

"(b) In determining years of service for the purpose of retirement, enlisted members of the Navy who have previously been assigned as leaders or second leaders of the Naval Academy Band shall be treated as if they had not been so assigned.".

(2) The item relating to such section in the table of sections at the beginning of chapter 603 of such title is amended to read as follows:

"6969. Naval Academy Band.".

(c) UNITED STATES AIR FORCE ACADEMY.—Section 9338 of such title (as added by section 511(b)) is amended by adding at the end the following:

"(b) ENLISTED BANDS.—Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of any enlisted personnel for duty in a military band for the Academy.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1993.

SEC. 515. NONINSTRUCTIONAL STAFF.

(a) UNITED STATES MILITARY ACADEMY.—Section 4338 of title 10, United States Code (as added by section 511(a) and as amended by section 514(a)), is further amended by adding at the end the following:

"(c) NONINSTRUCTIONAL STAFF.—Funds appropriated or otherwise made available for pay of armed forces personnel may not be used to pay armed forces personnel in noninstructional positions at the Academy who are not certified by the Inspector General of the Department of Defense as being directly involved in the administration of the faculty or cadets or in the maintenance of Academy facilities or equipment.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of such title is amended by adding at the end the following new section:

"§ 6975. Limitations on faculty, staff, and support personnel

"Funds appropriated or otherwise made available for pay of armed forces personnel may not be used to pay armed forces personnel in noninstructional positions at the Academy who are not certified by the Inspector General of the Department of Defense as being directly involved in the administration of the faculty or midshipmen or in the maintenance of Academy facilities or equipment.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6974 the following new item:

"6975. Limitations on faculty, staff, and support personnel.".

(c) UNITED STATES AIR FORCE ACADEMY.—Section 9338 of such title (as added by section 511(b) and as amended by section 514(c)), is further amended by adding at the end the following:

"(c) NONINSTRUCTIONAL STAFF.—Funds appropriated or otherwise made available for pay of armed forces personnel may not be used to pay armed forces personnel in noninstructional positions at the Academy who are not certified by the Inspector General of the Department of Defense as being directly involved in the administration of the faculty or cadets or in the maintenance of Academy facilities or equipment.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1993.

SEC. 516. MAJOR TRAINING COMMAND JURISDICTION.

(a) UNITED STATES MILITARY ACADEMY.—Section 4331(a) of title 10, United States Code, is amended by adding at the end the following: "The Academy is under the supervision and control of the commander of the major Army command having jurisdiction over Army officer training programs.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Section 6951 of such title is amended by adding at the end the following: "The Academy is under the supervision and control of the major Navy command having jurisdiction over Navy officer training programs.".

(2)(A) The heading of such section is amended to read as follows:

"§ 6951. Location and administration".

(B) The item relating to that section in the table of sections at the beginning of chapter 603 of title 10, United States Code, is amended to read as follows:

"6951. Location and administration.".

(c) UNITED STATES AIR FORCE ACADEMY.—Section 9331(a) of such title is amended by adding at the end the following: "The Academy is under the supervision and control of the commander of the major Air Force command having jurisdiction over Air Force officer training programs.".

Subtitle C—Officer Personnel Policy

SEC. 521. OFFICER PERSONNEL MANAGEMENT PLANS.

(a) REPORT ON PLANNED OFFICER ACCESSIONS.—(1) Not later than April 1, 1993, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the plans of the military departments for the procurement of officer personnel during each of fiscal years 1993 through 1997.

(2) The report shall contain for each fiscal year for each military department the following:

(A) For each program of officer training resulting in a commission, the number of persons to be commissioned.

(B) Of the persons to be commissioned under the Reserve Officer Training Corps program, the number of persons receiving scholarships under that program and the number of persons not receiving scholarships under the program.

(C) Of the number of persons to be commissioned—

(i) the number necessary to meet immediate needs for active component personnel;

(ii) the number necessary to meet immediate needs for personnel for the Selected Reserve of the Ready Reserve of the reserve components; and

(iii) the number that will be assigned directly into the Individual Ready Reserve of the reserve components.

(b) REPORT ON PLANNED OFFICER ASSIGNMENTS.—Not later than April 1, 1993, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the types of assignments that the military departments plan for the commissioned officers who commence active duty for their initial period of obligated active duty service during each of fiscal years 1993 through 1997 after being commissioned upon completion of an officer training program, stated by officer training program. The report shall contain an analysis of the number of officers that are to be assigned for skills training and the number of officers that are to be assigned directly to occupational positions.

SEC. 522. EVALUATION OF EFFECTS OF OFFICER STRENGTH REDUCTIONS ON OFFICER PERSONNEL MANAGEMENT SYSTEMS.

(a) REQUIREMENT FOR REVIEW.—The Secretary of Defense shall provide for a federally funded research and development center that is independent of the military departments to review the officer personnel management system of each of the military departments and to determine and evaluate the effects of the post-Cold War officer strength reductions on that officer personnel management system.

(b) MATTERS TO BE CONSIDERED.—The review and evaluation shall include, for the officer personnel management system of each military department, the effects of the officer strength reductions on the following:

(1) The timing and opportunities for officer promotions.

(2) The expected lengths of officer careers.

(3) Other features of the officer personnel management system under the Defense Officer Personnel Management Act (Public Law 96-513; 94 Stat. 2835) and the provisions of law added and amended by that Act.

(4) Any other aspects of the officer personnel management system that the federally funded research and development center personnel conducting the review and evaluation consider appropriate or as directed by the Secretary of Defense.

(c) REPORT.—Not later than December 31, 1993, the federally funded research and development center shall submit to the Secretary of Defense a report on the results of the review and evaluation. Within 60 days after receiving the report, the Secretary shall transmit the report to the congressional defense committees. The Secretary may submit to such committees any comments that the Secretary considers appropriate regarding the matters contained in the report.

(d) FUNDING.—Funds appropriated for fiscal year 1993 pursuant to title II and made available for federally funded research and development centers shall be available for the conduct of the review and evaluation under this section.

SEC. 523. TEST ASSIGNMENT OF FEMALE MEMBERS TO COMBAT AIRCRAFT POSITIONS.

Section 550 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (105 Stat. 1370; 10 U.S.C. 113 note) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection (b):

"(b) ASSIGNMENTS TO COMBAT AIRCRAFT.—The Secretary of Defense shall require the conduct of test assignments of female members of each armed force to duty in combat aircraft of that armed force."; and

(3) in subsection (c), as redesignated by paragraph (1), by inserting "and pursuant to subsection (b)" after "subsection (a)".

SEC. 524. SELECTIVE EARLY RETIREMENT.

Section 638a(c) of title 10, United States Code, is amended by adding at the end the following:

"(3) In the case of an action under subsection (b)(2), the Secretary of the military department concerned may submit to a selection board convened pursuant to that subsection—

"(A) the names of all eligible officers described in that subsection in a particular grade and competitive category; or

"(B) the names of all eligible officers described in that subsection in a particular grade and competitive category who are also in particular year groups, specialties, or retirement categories, or any combination thereof, within that competitive category.".

SEC. 525. RETIREMENT OF CERTAIN LIMITED DUTY OFFICERS OF THE NAVY.

(a) REGULAR NAVY COMMANDERS.—Section 633 of title 10, United States Code, is amended by adding at the end the following: "During the period beginning on July 1, 1993, and ending on October 1, 1995, the preceding sentence shall not apply to an officer of the Navy designated for limited duty to whom section 6383 of this title applies.".

(b) REGULAR NAVY CAPTAINS.—Section 634 of title 10, United States Code, is amended by adding at the end the following: "During the period beginning on July 1, 1993, and ending on October 1, 1995, the preceding sentence shall not apply to an officer of the Regular Navy designated for limited duty to whom section 6383(a)(4) of this title applies.".

(c) MAXIMUM TENURE.—Subsection (a) of section 6383 of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraphs:

"(2) Except as provided in subsection (i), each regular officer of the Navy designated for limited duty who is serving in the grade of commander, has failed of selection for promotion to the grade of captain for the second time, and is not on a list of officers recommended for promotion to the grade of captain shall—

"(A) if eligible for retirement as a commissioned officer under any provision of law, be retired under that provision law on the date requested by the officer and approved by the Secretary of the Navy, except that the date of retirement may not be later than the first day of the seventh month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed for promotion to the grade of captain for a second time; or

"(B) if not eligible for retirement as a commissioned officer, be retired on the date requested by the officer and approved by the Secretary of the Navy after the officer becomes eligible for retirement as a commissioned officer, except that the date of retirement may not be later than the first day of the seventh calendar month beginning after the month in which the officer becomes eligible for retirement as a commissioned officer.

"(3) Except as provided in subsection (i), if not retired earlier, a regular officer of the Navy designated for limited duty who is serving in the grade of commander and is not on a list of officers recommended for promotion to the grade of captain shall be retired on the last day of the month following the month in which the officer completes 35 years of active naval service, exclusive of active duty for training in a reserve component.

"(4) Except as provided in subsection (i), each regular officer of the Navy designated for limited duty who is serving in the grade of captain shall, if not retired sooner, be retired on the last day of the month following the month in which the officer completes 38 years of active naval service, exclusive of active duty for training in a reserve component.

"(5) Paragraphs (2) through (4) shall be effective only during the period beginning on July 1, 1993, and ending on October 1, 1995.".

(d) LIMITATION ON DEFERRED RETIREMENT.—Subsection (i) of section 6383 of such title is amended by adding at the end the following: "During the period beginning on July 1, 1993, and ending on October 1, 1995, an officer of the Navy in the grade of commander or captain whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond age 62 or, if earlier, 28 years of active commissioned service if in the grade of commander or 30 years of active commissioned service if in the grade of captain.".

Subtitle D—Active Forces Transition Enhancements

SEC. 531. ENCOURAGEMENT FOR CONTINUING PUBLIC AND COMMUNITY SERVICE.

(a) PERMANENT PROGRAM.—(1) Chapter 58 of title 10, United States Code, is amended by inserting after section 1143 the following new section:

"§ 1143a. Encouragement of postseparation public and community service: Department of Defense

"(a) IN GENERAL.—The Secretary of Defense shall implement a program to encourage members and former members of the armed forces to enter into public and community service jobs after discharge or release from active duty.

"(b) PERSONNEL REGISTRY.—The Secretary shall maintain a registry of members and former members of the armed forces discharged or released from active duty who request registration for assistance in pursuing public and community service job opportunities. The registry shall include information on the particular job skills, qualifications, and experience of the registered personnel.

"(c) REGISTRY OF PUBLIC SERVICE AND COMMUNITY SERVICE ORGANIZATIONS.—The Secretary shall also maintain a registry of public service and community service organizations. The registry shall contain information regarding each organization, including its location, its size, the types of public and community service positions in the organization, points of contact, procedures for applying for such positions, and a description of each such position that is likely to be available. Any such organization may request registration under this subsection and, subject to guidelines prescribed by the Secretary, be registered.

"(d) ASSISTANCE TO BE PROVIDED.—(1) The Secretary shall actively attempt to match personnel registered under subsection (b) with public and community service job opportunities and to facilitate job-seeking contacts between such personnel and the employers offering the jobs.

"(2) The Secretary shall offer personnel registered under subsection (b) counselling services regarding—

"(A) public service and community service organizations; and

"(B) procedures and techniques for qualifying for and applying for jobs in such organizations.

"(3) The Secretary may provide personnel registered under subsection (b) with access to the interstate job bank program of the United States Employment Service if the Secretary determines that such program meets the needs of separating members of the armed forces for job placement.

"(e) CONSULTATION REQUIREMENT.—In carrying out this section, the Secretary shall consult closely with the Secretary of Labor, the Secretary of Veterans Affairs, the Secretary of Education, the Director of the Office of Personnel Management, appropriate representatives of State and local governments, and appropriate representatives of businesses and nonprofit organizations in the private sector.

"(f) DELEGATION.—The Secretary, with the concurrence of the Secretary of Labor, may designate the Secretary of Labor as the executive agent of the Secretary of Defense for carrying out all or part of the responsibilities provided in this section. Such a designation does not relieve the Secretary of Defense from the responsibility for the implementation of the provisions of this section.

"(g) DEFINITIONS.—In this section, the term 'public service and community service organization' includes the following organizations:

"(1) Any organization that provides the following services:

"(A) Elementary, secondary, or postsecondary school teaching or administration.

"(B) Support of such teaching or school administration.

"(C) Law enforcement.

"(D) Public health care.

"(E) Social services.

"(F) Any other public or community service.

"(2) Any nonprofit organization that coordinates the provision of services described in paragraph (1).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1143 the following new item:

"1143a. Encouragement of postseparation public and community service: Department of Defense.".

(b) DEPARTMENT OF VETERANS AFFAIRS RESPONSIBILITIES.—Section 1142(b)(4) of title 10, United States Code, is amended by inserting before the period at the end the following: ", including the public and community service jobs program carried out under section 1143a of this title".

(c) PRESEPARATION ASSISTANCE BY THE DEPARTMENT OF LABOR.—Section 1144(b) of such title is amended by adding at the end the following new paragraph:

"(8) Provide information regarding the public and community service jobs program carried out under section 1143a of this title.".

SEC. 532. TEACHER CERTIFICATION CREDIT FOR MILITARY EXPERIENCE.

(a) UNIFORM STATE STANDARDS AND PROCEDURES.—(1) The Secretary of Defense shall—

(A) develop proposed uniform standards and procedures for the granting of appropriate credit for service in the Armed Forces under State teacher certification or licensing procedures; and

(B) coordinate with appropriate agencies of each State to encourage the incorporation of such uniform standards and procedures into the State's teacher certification or licensing requirements.

(2) The uniform standards should reflect the value to the teaching profession of relevant skills and experience derived from service in the Armed Forces.

(b) DELEGATION TO THE SECRETARY OF EDUCATION.—The Secretary, with the concurrence of the Secretary of Education, may designate the Secretary of Education as the executive agent of the Secretary of Defense for carrying out all or part of the responsibilities provided in subsection (a). Such a designation does not relieve the Secretary of Defense from the responsibility for the implementation of such subsection.

SEC. 533. PROGRAM OF EDUCATIONAL LEAVE RELATING TO CONTINUING PUBLIC AND COMMUNITY SERVICE.

(a) PROGRAM.—Under regulations prescribed by the Secretary of Defense after consultation with the Secretary of Transportation and subject to subsections (b) and (c), the Secretary concerned may grant to an eligible member of the Armed Forces a leave of absence for a period not to exceed one year for the purpose of permitting the member to pursue a program of education or training (including an internship) for the development of skills that are relevant to the performance of public and community service. A program of education or training referred to in the preceding sentence includes any such program that is offered by the Department of Defense or by any civilian educational or training institution.

(b) ELIGIBILITY REQUIREMENT.—(1) A member may not be granted a leave of absence under this section unless the member agrees in writing—

(A) diligently to pursue employment in public service and community service organizations upon the separation of the member from active duty in the Armed Forces; and

(B) to serve in the Ready Reserve of an armed force, upon such separation, for a period of 4 months for each month of the period of the leave of absence.

(2)(A) A member may not be granted a leave of absence under this section until the member has completed any period of extension of enlistment or reenlistment, or any period of obligated active duty service, that the member has incurred under section 708 of title 10, United States Code.

(B) The Secretary concerned may waive the limitation in subparagraph (A) for a member who enters into an agreement with the Secretary for the member to serve in the Ready Reserve of a reserve component for a period equal to the uncompleted portion of the member's period of service referred to in that subparagraph. Any such period of agreed service in the Ready Reserve shall be in addition to any other period that the member is obligated to serve in a reserve component.

(c) TREATMENT OF LEAVE OF ABSENCE.—A leave of absence under this section shall be subject to the provisions of subsections (c) and (d) of section 708 of title 10, United States Code.

(d) EXCLUSION FROM END STRENGTH LIMITATION.—A member of the Armed Forces, while on leave granted pursuant to this section, may not be counted for purposes of any provision of law that limits the active duty strength of the member's armed force.

(e) DEFINITIONS.—In this section:

(1) The term "Secretary concerned" has the meaning given such term in section 101 of title 10, United States Code.

(2) The term "eligible member of the Armed Forces" means a member of the Armed Forces who is eligible for an educational leave of absence under section 708(e) of such title.

(3) The term "public service and community service organization" has the meaning given such term in section 1143a of such title (as added by section 531(a)).

(f) EXPIRATION.—The authority to grant a leave of absence under subsection (a) shall expire on September 30, 1995.

SEC. 534. TEMPORARY EARLY RETIREMENT AUTHORITY.

(a) RETIREMENT FOR 15 TO 20 YEARS OF SERVICE.—(1) The Secretary of the Army may, upon the member's request, retire a member of the Army who has the following years of service:

(A) In the case of a regular or reserve commissioned officer, between 15 and 20 years of service computed under section 3926 of title 10, United States Code.

(B) In the case of an enlisted member, between 15 and 20 years of service computed under section 3925 of such title.

(C) In the case of a warrant officer, between 15 and 20 years of active service computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(2) The Secretary of the Navy may, upon the member's request, retire a member of the Navy or Marine Corps who has the following years of active service:

(A) In the case of a commissioned officer or enlisted member, between 15 and 20 years.

(B) In the case of a warrant officer, between 15 and 20 years computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(3) The Secretary of the Air Force may, upon the member's request, retire a member of the Air Force who has the following years of service:

(A) In the case of a regular or reserve commissioned officer, between 15 and 20 years of service computed under section 8926 of title 10, United States Code.

(B) In the case of an enlisted member, between 15 and 20 years of service computed under section 8925 of such title.

(C) In the case of a warrant officer, between 15 and 20 years of active service computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(b) ADDITIONAL ELIGIBILITY REQUIREMENT.—In order to be eligible for retirement under subsection (a), a member of the Armed Forces shall register on the registry maintained under section 1143a(b) of title 10, United States Code (as added by section 531(a)) and receive counselling regarding public and community service job opportunities from the Secretary of Defense or another source approved by the Secretary.

(c) COMPUTATION OF RETIRED PAY.—A member or former member of the Armed Forces retired under subsection (a) shall be entitled to retired pay computed under the provisions of chapter 71, 371, 571, or 871 of title 10, United States Code, that would be applicable to such member or former member if—

(1) the member or former member had been retired under section 1293 (in the case of a retired warrant officer), 3911 (in the case of a retired commissioned Army officer), 3914 (in the case of a retired enlisted member of the Army), 6323 (in the case of a retired commissioned officer of the Navy), 8911 (in the case of a retired commissioned Air Force officer), or 8914 (in the case of a retired enlisted member of the Air Force) of such title upon completion of 20 years of service creditable for purposes of eligibility for retirement; or

(2) in the case of a retired enlisted member of the Regular Navy or Regular Marine Corps, the retired enlisted member had been retired under section 6326 of such title upon completion of 30 years of active service in the Armed Forces creditable for purposes of eligibility for retirement.

(d) FUNDING.—(1) Notwithstanding section 1463 of title 10, United States Code, and to the extent provided in appropriations Acts, the Secretary of each military department shall provide in accordance with this section for the payment of retired or retainer pay payable during the fiscal years covered by the other provisions of this subsection to members of the armed force under the jurisdiction of that Secretary who are being retired under the authority of this section.

(2) In each fiscal year in which the Secretary of a military department retires a member of the Armed Forces under the authority of this section, the Secretary shall credit to a subaccount (which the Secretary shall establish) within the appropriation account for that fiscal year for pay and allowances of active duty members of the armed force under the jurisdiction of that Secretary such amount as is necessary to pay the retired or retainer pay payable to such member for the entire initial period (determined under paragraph (3)) of the entitlement of that member to receive retired or retainer pay.

(3) The initial period applicable under paragraph (2) in the case of a retired member referred to in that paragraph is the number of years (and any fraction of a year) that is equal to the difference between 20 years and the number of years (and any fraction of a year) of service that were completed by the member (as computed under the provision of law referred to in subsection (a) that is applicable to that member) before being retired under this section.

(4) The Secretary shall pay the member's retired or retainer pay for such initial period out of amounts credited to the subaccount under paragraph (2). The amounts so credited with respect to that member shall remain available for payment for that period.

(e) COORDINATION OF BENEFITS.—A member of the Armed Forces retired under this section is not entitled to benefits under section 1174, 1174a, or 1175 of title 10, United States Code.

(f) TERMINATION OF AUTHORITY.—The authority under subsection (a) shall terminate on October 1, 1995.

SEC. 535. INCREASED EARLY RETIREMENT RETIRED PAY FOR PUBLIC OR COMMUNITY SERVICE.

(a) RECOMPUTATION OF RETIRED PAY.—(1) If a member or former member of the Armed Forces retired under section 534(a) or any other provision of law authorizing retirement from the Armed Forces (other than for disability) before the completion of at least 20 years of active duty service (as computed under the applicable provision of law) is employed by a public service or community service organization listed on the registry maintained under section 1143a(c) of title 10, United States Code (as added by section 531(a)), within the period of the member's enhanced retirement qualification period, the member's or former member's retired or retainer pay shall be recomputed effective on the first day of the first month beginning after the date on which the member or former member attains 62 years of age.

(2) For purposes of recomputing a member's or former member's retired pay—

(A) the years of the member's or former member's employment by a public service or community service organization referred to in paragraph (1) during the member's or former member's enhanced retirement qualification period shall be treated as years of active duty service in the Armed Forces; and

(B) in applying section 1401a of title 10, United States Code, the member's or former member's years of active duty service shall be deemed as of the date of retirement to have included the years of employment referred to in subparagraph (A).

(3) Section 1405(b) of title 10, United States Code, shall apply in determining years of service under this subsection.

(4) In this subsection, the term "enhanced retirement qualification period", with respect to a member or former member retired under a provision of law referred to in paragraph (1), means the period beginning on the date of the retirement of the member or former member and ending the number of years (including any fraction of a year) after that date which when added to the number of years (including any fraction of a year) of service credited for purposes of computing the retired pay of the member or former member upon retirement equals 20 years.

(b) SBP ANNUITIES.—(1) Effective on the first day of the first month after a member or former member of the Armed Forces retired under a provision of law referred to in subsection (a)(1) attains 62 years of age or, in the event of death before attaining that age, would have attained that age, the base amount applicable under section 1447(2) of title 10, United States Code, to any Survivor Benefit Plan annuity provided by that member or former member shall be recomputed. For the recomputation the total years (including any fraction of a year) of the member's or former member's active service shall be treated as having included the member's or former member's years (including any fraction of a year) of employment referred to in subsection (a)(1) as of the date when the member or former member became eligible for retired pay under this section.

(2) In this subsection, the term "Survivor Benefit Plan" means the plan established under subchapter II of chapter 73 of title 10, United States Code.

SEC. 536. OPPORTUNITY FOR CERTAIN ACTIVE-DUTY PERSONNEL TO ENROLL IN MONTGOMERY GI BILL PROGRAM WHILE BEING VOLUNTARILY SEPARATED FROM SERVICE.

(a) IN GENERAL.—(1) Subchapter II of chapter 30 of title 38, United States Code, is amended by inserting after section 3018A the following new section:

"§ 3018B. Opportunity for certain active-duty personnel to enroll while being voluntarily separated from service

"(a) Notwithstanding any other provision of law, an individual who—

"(1) is voluntarily discharged from the Armed Forces with an honorable discharge, or voluntarily released from active duty under honorable conditions (as characterized by the Secretary concerned), pursuant to a request for separation approved under section 1174a or 1175 of title 10,

"(2) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree,

"(3) in the case of any individual who has made an election under section 3011(c)(1) of this title, withdraws such election pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section,

"(4) in the case of any person enrolled in the educational benefits program provided by chapter 32 of this title makes an irrevocable election, pursuant to procedures referred to in paragraph (3) of this subsection, to receive benefits under this section in lieu of benefits under such chapter 32, and

"(5) elects to receive assistance under this section pursuant to regulations referred to in paragraph (3) of this subsection,

is entitled to basic educational assistance under this chapter.

"(b) An election or withdrawal of election permitted under subsection (a) of this section is not effective unless—

"(1) in the case of an individual separated from active duty more than 90 days after the date of the enactment of this section, the individual makes the election or withdrawal before the separation;

"(2) in the case of an individual separated from active duty on or after the date of the enactment of this section and within 90 days after that date, the individual makes the election or withdrawal within 90 days after the separation; and

"(3) in the case of an individual separated from active duty before the date of the enactment of this section, the individual makes the election or withdrawal within 90 days after such date.

"(c)(1) An individual described in subsection (a) of this section who makes a withdrawal referred to in subsection (a)(3) of this section shall pay $1,200 to the Secretary of Veterans Affairs. In the case of an individual who makes the withdrawal of election before being separated, any portion of the obligation to pay $1,200 may be discharged by reduction of that individual's basic pay.

"(2) Amounts received by the Secretary pursuant to paragraph (1) shall be credited to the appropriation available for the fiscal year in which received for the Department of Veterans Affairs for the payment of readjustment benefits.

"(d) A withdrawal of election referred to in subsection (a)(3) of this section is irrevocable.

"(e)(1) Except as provided in paragraph (3) of this subsection, an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (a)(4) of this subsection shall be disenrolled from such chapter 32 program as of the date of such election.

"(2) For each individual who is disenrolled from such program, the Secretary shall refund—

"(A) as provided in section 3223(b) of this title, to the individual the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title; and

"(B) to the Secretary of Defense the unused contributions (other than contributions made under section 3222(c) of this title) made by such Secretary to the Account on behalf of such individual.

"(3) Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to section 3222(c) of this title on behalf of any individual referred to in paragraph (1) of this subsection shall remain in such Account to make payments of benefits to such individual under section 3015(e) of this title.".

(2) The table of sections at the beginning of chapter 30 of such title is amended by inserting after the item relating to section 3018A the following new item:

"3018B. Opportunity for certain active-duty personnel to enroll while being voluntarily separated from service.".

(b) CONFORMING AMENDMENTS.—(1) Section 3013(d) of such title is amended by inserting "or 3018B" after "section 3018A".

(2) Section 3015(e) of such title is amended by inserting "or 3018B" after "section 3018A".

(3) Section 3035(b)(3) of such title is amended—

(A) in the matter above subparagraph (A), by inserting "or 3018B" after "section 3018A"; and

(B) in subparagraph (B), by inserting "or 3018B(a)(3)" after "section 3018A(a)(3)".

SEC. 537. ELIMINATION OF RECOUPMENT REQUIREMENT FOR RESERVE DUTY.

Paragraph (2) of section 1175(e) of title 10, United States Code, is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B), a member entitled to voluntary separation incentive payments who is also entitled to basic pay for active service shall forfeit an amount of voluntary separation incentive payable for the same period that is equal to the total amount of basic pay received.

"(B) Subparagraph (A) does not apply with respect to—

"(i) annual training; or

"(ii) active duty for training that is not active duty for a period of more than 30 days.".

SEC. 538. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN EMPLOYMENT, JOB TRAINING, AND OTHER ASSISTANCE.

Section 1144(e) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "$4,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$11,000,000 for fiscal year 1993 and $8,000,000 for each of fiscal years 1994 and 1995."; and

(2) in paragraph (2), by striking out "$1,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$6,500,000 for each of fiscal years 1993, 1994, and 1995.".

SEC. 539. CONTINUED HEALTH COVERAGE FOR MEMBERS AND DEPENDENTS UPON THE SEPARATION OF THE MEMBERS FROM ACTIVE DUTY AND FOR EMANCIPATED CHILDREN OF MEMBERS.

(a) MEMBERS AND EMANCIPATED CHILDREN.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1078 the following new section:

"§1078a. Continued health benefits coverage

"(a) PROVISION OF CONTINUED HEALTH COVERAGE.—The Secretary of Defense and the Director of the Office of Personnel Management shall jointly carry out a program in accordance with this section to provide persons described in subsection (b) with temporary health benefits under the program of continued health benefits coverage provided for former civilian employee of the Federal Government and other persons under section 8905a of title 5.

"(b) ELIGIBLE PERSONS.—The persons referred to in subsection (a) are the following:

"(1) A member of the armed forces who—

"(A) is discharged or released from active duty (or full-time National Guard duty), whether voluntarily or involuntarily, under other than adverse conditions, as characterized by the Secretary concerned;

"(B) immediately preceding that discharge or release, is entitled to medical and dental care under section 1074(a) of this title (except in the case of a member discharged or released from full-time National Guard duty); and

"(C) after that discharge or release and any period of transitional health care provided under section 1145(a) of this title, would not otherwise be eligible for any benefits under this chapter.

"(2) A person who—

"(A) ceases to meet the requirements for being considered an unmarried dependent child of a member or former member of the armed forces under section 1072(2)(D) of this title;

"(B) on the day before ceasing to meet those requirements, was covered under a health benefits plan under this chapter or transitional health care under section 1145(a) of this title as a dependent of the member or former member; and

"(C) would not otherwise be eligible for any benefits under this chapter.

"(c) NOTIFICATION OF ELIGIBILITY.—(1) The Director, in consultation with the Secretary of Defense, shall prescribe regulations to provide for persons described in subsection (b) to be notified of eligibility to receive health benefits under this section.

"(2) In the case of a member who becomes (or will become) eligible for continued coverage under subsection (b)(1), the regulations shall provide for the Secretary concerned to notify the member of the member's rights under this section as part of preseparation counseling conducted under section 1142 of this title or any other provision of other law.

"(3) In the case of a child of a member who becomes eligible for continued coverage under subsection (b)(2), the regulations shall provide that—

"(A) the member may submit to the Secretary concerned a written notice of the child's change in status (including the child's name, address, and such other information as the Director may require); and

"(B) the Secretary concerned shall, within 14 days after receiving that notice, inform the child of the child's rights under this section.

"(d) ELECTION OF COVERAGE.—In order to obtain continued coverage under this section, an appropriate written election (submitted in such manner as the Director may prescribe) shall be made as follows:

"(1) In the case of a member described in subsection (b)(1), the written election shall be submitted to the Director before the end of the 60-day period beginning on the later of—

"(A) the date of the discharge or release of the member from active duty;

"(B) the date on which the period of transitional health care applicable to the member under section 1145(a) of this title ends; or

"(C) the date the member receives the notification required pursuant to subsection (c).

"(2) In the case of a person described in subsection (b)(2), the written election shall be submitted to the Director before the end of the 60-day period beginning on the later of—

"(A) the date on which the person first ceases to meet the requirements for being considered an unmarried dependent child under section 1072(2)(D) of this title, or

"(B) the date the person receives the notification pursuant to subsection (c),

except that if the Secretary concerned determines that the person's parent has failed to provide the notice referred to in subsection (c)(3)(A) with respect to the person in a timely fashion, the 60-day period under this paragraph shall be based only on the date under subparagraph (A).

"(e) COVERAGE OF DEPENDENTS.—A person eligible under subsection (b)(1) to elect to receive coverage may elect coverage either as an individual or, if appropriate, for self and dependents. A person eligible under subsection (b)(2) may elect only individual coverage.

"(f) CHARGES.—(1) Under arrangements satisfactory to the Director, a person receiving continued coverage under this section shall be required to pay into the Employees Health Benefits Fund established under section 8909 of title 5 an amount equal to the sum of—

"(A) the amount determined under section 8905a(d)(1)(A)(i) of title 5;

"(B) an amount, not in excess of 10 percent of the amount referred to in subparagraph (A), that is necessary for administrative expenses, as determined under regulations prescribed by the Director; and

"(C) such additional amount determined by the Director to be necessary to ensure that outlays from the Fund as a result of the program established under this section do not exceed amounts paid under this paragraph.

"(2) If a person elects to continue coverage under this section before the end of the applicable period under subsection (d), but after the person's coverage under this chapter (including any transitional extensions of coverage) expires, coverage shall be restored retroactively, with appropriate contributions (determined in accordance with paragraph (1)) and claims (if any), to the same extent and effect as though no break in coverage had occurred.

"(g) CONTRIBUTION.—Subject to the availability of appropriations for the purpose of this section, if the basis for continued coverage under this section for a member of the armed forces under subsection (b)(1) is involuntary separation approved under section 1174a or 1175 of this title, contributions shall be made in accordance with subsection (f)(1), except that—

"(1) the amount to be paid by the member shall be equal to the employee contribution referred to in section 8905a(d)(1)(A)(i) of title 5; and

"(2) the Secretary of Defense shall pay into the Employees Health Benefits Fund, under arrangements satisfactory to the Director of the Office of Personnel Management, an amount equal to—

"(A) the agency contribution referred to in section 8905a(d)(1)(A)(i) of title 5; and

"(B) the amount described in subsection (f)(1)(B).

"(h) PERIOD OF CONTINUED COVERAGE.—(1) Continued coverage under this section may not extend beyond—

"(A) in the case of a member described in subsection (b)(1), the date which is 18 months after the date the member ceases to be entitled to care under section 1074(a) of this title and any transitional care under section 1145 of this title, as the case may be; and

"(B) in the case of a person described in subsection (b)(2), the date which is 36 months after the date on which the individual first ceases to meet the requirements for being considered an unmarried dependent child under section 1072(2)(D) of this title.

"(2) Notwithstanding paragraph (1)(B), if a person ceases to meet the requirements for being considered an unmarried dependent child of a member described in subsection (b)(1) during a period of continued coverage of that member for self and dependents under this section, extended coverage of that person under this section may not extend beyond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078 the following new item:

"1078a. Continued health benefits coverage.".

(b) TRANSITIONAL PROVISIONS.—The Director of the Office of Personnel Management shall provide a period for the enrollment for health benefits coverage under this section by members and former members of the Armed Services for whom the availability of transitional health care under section 1145(a) of title 10, United States Code, expires before section 1078a of such title, as added by subsection (a), is implemented.

(c) TERMINATION OF APPLICABILITY OF OTHER CONVERSION HEALTH POLICIES.—(1) No person may purchase a conversion health policy under section 1145(b) of title 10, United States Code, on or after the date on which the Director of the Office of Personnel Management announces that section 1078a of such title is implemented. A person covered by such a conversion health policy on that date may cancel that policy and enroll in a health benefits plan under section 1078a of such title.

(2) No person may be covered concurrently by a conversion health policy under such section 1145(b) of title 10, United States Code, and a health benefits plan under section 1078a of such title.

(d) EFFECTIVE DATE.—Section 1078a of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1992.

Subtitle E—Guard and Reserve Transition Initiatives

SEC. 541. FORCE REDUCTION TRANSITION PERIOD DEFINED.

In this subtitle, the term "force reduction transition period" means the period beginning on October 1, 1991, and ending on September 30, 1995.

SEC. 542. MEMBER OF SELECTED RESERVE DEFINED.

In this subtitle, the term "member of the Selected Reserve" means—

(1) a member of a unit in the Selected Reserve of the Ready Reserve; and

(2) a Reserve designated pursuant to section 268(b) of title 10, United States Code.

SEC. 543. RESTRICTION ON RESERVE FORCE REDUCTION.

(a) IN GENERAL.—During the force reduction transition period, no unit in the Selected Reserve of the Ready Reserve of the Armed Forces may be inactivated and no member of the Selected Reserve may be involuntarily discharged from a reserve component of the Armed Forces or involuntarily transferred from the Selected Reserve before the Secretary of Defense has promulgated, implemented, and transmitted to the Committees on Armed Services of the Senate and House of Representatives regulations that govern the treatment of members of the Selected Reserve assigned to such units and members of the Selected Reserve that are being subjected to such actions.

(b) SAVINGS PROVISION.—Subsection (a) shall not apply to actions completed before the date of the enactment of this Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the prohibition in section 411(c).

SEC. 544. TRANSITION PLAN REQUIREMENTS.

(a) PURPOSE OF PLAN.—The purpose of the regulations referred to in section 543 shall be to ensure that the members of the Selected Reserve are treated with fairness, with respect for their service to their country, and with attention to the adverse personal consequences of Selected Reserve unit inactivations, involuntary discharges of such members from the reserve components of the Armed Forces, and involuntary transfers of such members from the Selected Reserve.

(b) SCOPE OF PLAN.—The regulations shall include—

(1) such provisions as are necessary to implement the provisions of this subtitle and the amendments made by this subtitle; and

(2) such other policies and procedures for the recruitment of personnel for service in the Selected Reserve of the Ready Reserve, and for the reassignment, retraining, separation, and retirement of members of the Selected Reserve, as are appropriate for satisfying the needs of the Selected Reserve together with the purpose set out in subsection (a).

(c) MINIMUM REQUIREMENTS FOR PLAN.—The regulations shall include the following:

(1) The giving of a priority to personnel referred to in section 543(a) for reassignment to Selected Reserve units not being inactivated.

(2) The giving of a priority to such personnel for transfer among the reserve components of the Armed Forces in order to facilitate reassignment to such units.

(3) A requirement that the Secretaries of the military departments take diligent actions to ensure that members of the reserve components of the Armed Forces are informed in easily understandable terms of the rights and benefits conferred upon such personnel by this subtitle, by the amendments made by this subtitle, and by such regulations.

(4) Such other protections, preferences, and benefits as the Secretary of Defense considers appropriate.

(d) UNIFORM APPLICABILITY.—The regulations shall apply uniformly to the Army, Navy, Air Force, and Marine Corps.

SEC. 545. INAPPLICABILITY TO CERTAIN DISCHARGES AND TRANSFERS.

The protections, preferences, and benefits provided for in regulations prescribed in accordance with this subtitle do not apply with respect to a member of the Selected Reserve who is discharged from a reserve component of the Armed Forces or is transferred from the Selected Reserve to another category of the Ready Reserve, to the Standby Reserve, or to the Retired Reserve—

(1) at the request of the member unless such request was made and approved under a provision of this subtitle or section 1331a of title 10, United States Code (as added by section 547);

(2) because the member no longer meets the qualifications for membership in the Selected Reserve set forth in any provision of law as in effect on the day before the date of the enactment of this Act;

(3) under adverse conditions, as characterized by the Secretary of the military department concerned; or

(4) if the member—

(A) is immediately eligible for retired pay based on military service under any provision of law;

(B) is serving as a military technician, as defined in section 8401(30) of title 5, United States Code, and would be immediately eligible for an unreduced annuity under the provisions of subchapter III of chapter 83 of such title, relating to the Civil Service Retirement and Disability System, or the provisions of chapter 84 of such title, relating to the Federal Employees' Retirement System; or

(C) is eligible for separation pay under section 1174 of title 10, United States Code.

SEC. 546. FORCE REDUCTION PERIOD RETIREMENTS.

(a) TEMPORARY SPECIAL AUTHORITY.—During the period referred to in subsection (b), the Secretary concerned may grant a member of the Selected Reserve under the age of 60 years the annual payments provided for under this section if—

(1) as of October 1, 1991, that member has completed at least 20 years of service computed under section 1332 of title 10, United States Code, or after that date and before October 1, 1995, such member completes 20 years of service computed under that section;

(2) the member satisfies the requirements of paragraphs (3) and (4) of section 1331(a) of title 10, United States Code; and

(3) the member applies for transfer to the Retired Reserve—

(A) in the case of a member who has not received the notice required by section 1331(d) of that title before the date of the enactment of this Act, within one year after receiving such notice; and

(B) in the case of a member who received such a notice before the date of the enactment of this Act, within one year after that date.

(b) PERIOD OF APPLICABILITY.—The period referred to in subsection (a) is, with respect to a member of the Selected Reserve, the force reduction transition period, the period provided under paragraph (3) of that subsection for the member to submit an application, and the period necessary for taking action on that application.

(c) ANNUAL PAYMENT PERIOD.—An annual payment granted to a member under this section shall be paid for 5 years, except that if the member attains 60 years of age during the 5-year period the entitlement to the annual payment shall terminate on the member's 60th birthday.

(d) COMPUTATION OF ANNUAL PAYMENT.—(1) The annual payment for a member shall be equal to the amount determined by multiplying the product of 12 and the applicable percent under paragraph (2) by the monthly basic pay to which the member would be entitled if the member were serving on active duty as of the date the member is transferred to the Retired Reserve.

(2)(A) Subject to subparagraph (B) the percent applicable to a member for purposes of paragraph (1) is 5 percent plus 0.5 percent for each full year of service, computed under section 1332 of title 10, United States Code, that a member has completed in excess of 20 years before transfer to the Retired Reserve.

(B) The maximum percent applicable under this paragraph is 10 percent.

(e) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary concerned may limit the applicability of this section to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a).

(f) NONDUPLICATION OF BENEFITS.—A member transferred to the Retired Reserve under the authority of section 1331a of title 10, United States Code (as added by section 547), may not be paid annual payments under this section.

(g) FUNDING.—To the extent provided in appropriations Acts, payments under this section in a fiscal year shall be made out of amounts available to the Department of Defense for that fiscal year for the pay of reserve component personnel.

(h) HEALTH CARE BENEFITS.—A member of the Retired Reserve receiving annual payments under this section shall be treated as a member of the uniformed services entitled to retired or retainer pay for the purposes of the provisions of chapter 55 of title 10, United States Code.

SEC. 547. RETIREMENT WITH 15 YEARS OF SERVICE.

(a) AUTHORITY.—Chapter 67 of title 10, United States Code, is amended by inserting after section 1331 the following new section:

"§ 1331a. Temporary special retirement qualification authority

"(a) RETIREMENT WITH AT LEAST 15 YEARS OF SERVICE.—For the purposes of section 1331 of this title, the Secretary of a military department may—

"(1) during the period described in subsection (b), determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

"(A) as of October 1, 1991, has completed at least 15, and less than 20, years of service computed under section 1332 of this title; or

"(B) after that date and before October 1, 1995, completes 15 years of service computed under that section; and

"(2) upon the request of the member submitted to the Secretary within one year after the date of the notification referred to in paragraph (1), transfer the member to the Retired Reserve.

"(b) PERIOD OF AUTHORITY.—The period referred to in subsection (a)(1) is the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993 and ending on October 1, 1995.

"(c) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) The Secretary of the military department concerned may limit the applicability of subsection (a) to any category of personnel defined by the Secretary in order to meet a need of the armed force under the jurisdiction of the Secretary to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

"(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a) of the National Defense Authorization Act for Fiscal Year 1993.

"(d) EXCLUSION.—This section does not apply to persons referred to in section 1331(c) of this title.

"(e) REGULATIONS.—The authority provided in this section shall be subject to regulations prescribed by the Secretary of Defense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1331 the following new item:

"1331a. Temporary special retirement qualification authority.".

SEC. 548. SEPARATION PAY.

(a) ELIGIBILITY.—Subject to section 545, a member of the Selected Reserve who, after completing at least 6 years of service computed under section 1332 of title 10, United States Code, and before completing 15 years of service computed under that section, is involuntarily discharged from a reserve component of the Armed Forces or is involuntarily transferred from the Selected Reserve is entitled to separation pay.

(b) AMOUNT OF SEPARATION PAY.—(1) The amount of separation pay which may be paid to a person under this section is 15 percent of the product of—

(A) the years of service credited to that person under section 1333 of title 10, United States Code; and

(B) 62 times the daily equivalent of the monthly basic pay to which the person would have been entitled had the person been serving on active duty at the time of the person's discharge or transfer.

(2) In the case of a person who receives separation pay under this section and who later receives basic pay, compensation for inactive duty training, or retired pay under any provision of law, such basic pay, compensation, or retired pay, as the case may be, shall be reduced by 75 percent until the total amount withheld through such reduction equals the total amount of the separation pay received by that person under this section.

(c) RELATIONSHIP TO OTHER SERVICE-RELATED PAY.—Subsections (g) and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations, which shall be uniform for the Army, Navy, Air Force, and Marine Corps, for the administration of this section.

SEC. 549. WAIVER OF CONTINUED SERVICE REQUIREMENT FOR MONTGOMERY GI BILL BENEFITS.

(a) IN GENERAL.—The eligibility of a person referred to in subsection (b)—

(1) to be provided educational assistance under chapter 106 of title 10, United States Code, may not be terminated under section 2134(2) of that title, or

(2) to be provided educational assistance under chapter 30 of title 38, United States Code, may not be terminated under section 3012(a) of that title,

on the basis of the termination of that person's status as a member of the Selected Reserve under the circumstances described in subsection (b).

(b) APPLICABILITY.—Subsection (a) applies to a member of the Selected Reserve who, before completing the years of service in the Selected Reserve agreed to under section 2132(a) of title 10, United States Code, or the years of service required by section 3012(a) of title 38, United States Code, as the case may be, ceases to be a member of the Selected Reserve during the force reduction transition period by reason of the inactivation of his unit of assignment or by reason of involuntarily ceasing to be designated as a member of the Selected Reserve pursuant to section 268(b) of title 10, United States Code.

SEC. 550. COMMISSARY AND EXCHANGE PRIVILEGES.

The Secretary of Defense shall prescribe regulations to authorize a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period to continue to use commissary and exchange stores in the same manner as a member of the Selected Reserve for a period of one year after the later of—

(1) the date on which that person ceases to be a member of the Selected Reserve; or

(2) the date of the enactment of this Act.

SEC. 551. TEMPORARY CONTINUATION OF SERVICEMEN'S GROUP LIFE INSURANCE.

(a) CONTINUED COVERAGE.—For the purposes of section 1968(a) of title 38, United States Code, the 120-day period of coverage provided for under paragraph (4) of such section shall be extended to a 365-day period of coverage in the case of a former member of the Selected Reserve referred to in subsection (b).

(b) ELIGIBILITY.—Subsection (a) applies to a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period and is ready, willing, and able to perform the training described in section 1965(5)(B) of title 38, United States Code.

(c) PAYMENT OF PREMIUMS.—The total amount of the cost attributable to insuring a person under this section shall be paid from any funds available to the Department of Defense for the pay of reserve component personnel that the Secretary of Defense determines appropriate.

(d) IMPLEMENTATION.—The Secretary of Veterans Affairs shall take any contracting and other actions that are necessary to ensure that the provisions of this section are implemented promptly.

SEC. 552. APPLICABILITY AND TERMINATION OF BENEFITS.

(a) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may limit the applicability of a benefit provided under sections 548 through 551 to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a).

(b) INAPPLICABILITY TO CERTAIN SEPARATIONS AND REASSIGNMENTS.—Sections 548 through 551 do not apply with respect to personnel who cease to be members of the Selected Reserve under adverse conditions, as characterized by the Secretary of the military department concerned.

(c) TERMINATION OF BENEFITS.—The eligibility of a member of a reserve component of the Armed Forces (after having involuntarily ceased to be a member of the Selected Reserve) to receive benefits and privileges under sections 548 through 551 terminates upon the involuntary separation of such member from the Armed Forces under adverse conditions, as characterized by the Secretary of the military department concerned.

Subtitle F—Other Matters

SEC. 561. RETENTION ON ACTIVE DUTY OF ENLISTED MEMBERS WITHIN TWO YEARS OF ELIGIBILITY FOR RETIREMENT.

(a) IN GENERAL.—Chapter 59 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1176. Enlisted members: retention after completion of 18 or more, but less than 20, years of service

"(a) REGULAR MEMBERS.—A regular enlisted member who is selected to be involuntarily separated, or whose term of enlistment expires and who is denied reenlistment, and who on the date on which the member is to be discharged is within two years of qualifying for retirement under section 3914 or 8914 of this title, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, shall be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, unless the member is sooner retired or discharged under any other provision of law.

"(b) RESERVE MEMBERS.—A reserve enlisted member serving on active duty who is selected to be involuntarily separated, or whose term of enlistment expires and who is denied reenlistment, and who on the date on which the member is to be discharged or released from active duty is entitled to be credited with at least 18 but less than 20 years of service computed under section 1332 of this title, may not be discharged or released from active duty without the member's consent before the earlier of the following:

"(1) If as of the date on which the member is to be discharged or released from active duty the member has at least 18, but less than 19, years of service computed under section 1332 of this title—

"(A) the date on which the member is entitled to be credited with 20 years of service computed under section 1332 of this title; or

"(B) the third anniversary of the date on which the member would otherwise be discharged or released from active duty.

"(2) If as of the date on which the member is to be discharged or released from active duty the member has at least 19, but less than 20, years of service computed under section 1332 of this title—

"(A) the date on which the member is entitled to be credited with 20 years of service computed under section 1332 of this title; or

"(B) the second anniversary of the date on which the member would otherwise be discharged or released from active duty.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1176. Enlisted members: retention after completion of 18 or more, but less than 20, years of service.".

SEC. 562. LIMITATIONS ON ENLISTED AIDES.

(a) Limitation on Number.—Subsection (b) of section 981 of title 10, United States Code, is amended by striking out "300" and inserting in lieu thereof "240".

(b) Limitation on Assignments.—Section 981 of such title is amended by adding at the end the following new subsection:

"(c) An enlisted member may be assigned or otherwise detailed to duty as an enlisted aide on the personal staff of an officer only if the officer is serving in the position of a commander.".

(c) Conforming Amendments.—(1) The heading for such section is amended to read as follows:

"§ 981. Limitations on enlisted aides".

(2) The item relating to that section in the table of sections at the beginning of chapter 49 is amended to read as follows:

"981. Limitations on enlisted aides.".

(d) Effective Date.—The amendments made by this section shall take effect on April 1, 1993.

SEC. 563. LIMITATION RELATING TO PERMANENT CHANGES OF STATIONS.

Of the funds appropriated to the Department of Defense for fiscal year 1993 for military personnel, not more than $2,863,110,000 is authorized to be made available for the costs of permanent changes of station.

SEC. 564. REDUCTIONS IN NUMBER OF PERSONNEL CARRYING OUT RECRUITING ACTIVITIES.

The average daily number of members of the Armed Forces serving on full-time active duty or full-time National Guard duty who, as a primary duty, carry out personnel recruiting activities during fiscal year 1994 may not exceed the number equal to 90 percent of the average daily number of members of the Armed Forces who, as a primary duty, carried out personnel recruiting activities while serving on full-time active duty or full-time National Guard duty during fiscal year 1992. The Secretary of Defense shall ensure that the number of such personnel who, as a primary duty, carry out such activities is reduced appropriately in fiscal year 1993 to achieve the reduction required for fiscal year 1994.

SEC. 565. JUNIOR RESERVE OFFICER TRAINING CORPS.

(a) Reorganization of Text.—Subsection (a) of section 2031 of title 10, United States Code, is amended by redesignating the first, second, and third sentences as paragraphs (1), (3), and (4), respectively.

(b) Purpose of Program.—Subsection (a) of such section, as amended by subsection (a) of this section, is further amended by inserting after paragraph (1) the following new paragraph (2):

"(2) It is a purpose of the Junior Reserve Officers' Training Corps to instill in students in United States secondary educational institutions the values of citizenship, service to the United States, and personal responsibility, and an appreciation of self-worth.".

(c) Increased Limitation on Number of Units.—Paragraph (3) of section 2031(a) of title 10, United States Code, as designated by subsection (a) of this section, is amended to read as follows:

"(3) The total number of units which may be established and maintained by all of the military departments under authority of this section may not exceed 3,500.".

(d) Waiver of Pay Contribution by Schools.—Section 2031(d)(1) of such title is amended by adding at the end the following: "The Secretary of the military department concerned may pay the entire additional amount to an institution if the Secretary determines that such action is in the national interest and in the interest of the community of that institution.".

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1993.

(a) Waiver of Section 1009 Adjustment.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1993 shall not be made.

(b) Increase in Basic Pay, BAS, and BAQ.—Effective of January 1, 1993, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3.7 percent.

SEC. 602. TEMPORARY RATES OF BASIC PAY FOR CERTAIN NONCOMMISSIONED OFFICERS AND WARRANT OFFICERS AND FOR CERTAIN COLONELS AND NAVY CAPTAINS.

(a) Rates of Pay.—For months beginning after December 31, 1992, and before October 1, 1995, the rate of monthly basic pay for a member of the uniformed services (entitled to such pay under section 204 of title 37, United States Code) in pay grade E–7, E–8, E–9, W–4, W–5, or O–6 with over 24, but under 26, years of service (computed under section 205 of such title) shall be as follows:

(1) For pay grade E–7, $2,359.30.

(2) For pay grade E–8, $2,639.70.

(3) For pay grade E–9, $2,977.70.

(4) For pay grade W–4, $3,430.90.

(5) For pay grade W–5, $3,827.30.

(6) For pay grade O–6, $5,417.70.

(b) Adjustments.—The rates of monthly basic pay established under subsection (a) shall be adjusted in accordance with section 1009 of title 37, United States Code.

SEC. 603. EXTENSIONS OF AUTHORITIES RELATING TO PAYMENT OF CERTAIN BONUSES AND OTHER SPECIAL PAY.

(a) Reenlistment Bonus for Critical Skills.—Section 308(g) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(b) Enlistment Bonus for Critical Skills.—Section 308a(c) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(c) Aviator Retention Bonus.—Section 301b(a) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(d) Extension of Bonus Authorities for Reserve Enlistments, Reenlistments, Affiliations, and Extensions.—Sections 308b(f), 308c(e), 308e(e), 308h(g), and 308i(i) of title 37, United States Code, are each amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(e) Extension of Special Pay for Enlisted Members of the Selected Reserve Assigned to High Priority Units.—Section 308d(c) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(f) Repayment of Education Loans for Certain Health Professionals Who Serve in the Selected Reserve.—Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1992" and inserting in lieu thereof "October 1, 1993".

(g) Accession Bonus for Registered Nurses.—Section 302d(a) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(h) Nurse Candidate Accession Program.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(i) Special Pay for Nurse Anesthetists.—Section 302e(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(j) Effective Date.—The amendments made by this section shall take effect as of September 30, 1992.

Subtitle B—Other Matters

SEC. 611. REQUIREMENT FOR PROPOSAL ON CONCURRENT PAYMENT OF RETIRED OR RETAINER PAY AND VETERANS' DISABILITY COMPENSATION.

The Secretary of Defense shall—

(1) submit to the congressional defense committees the Secretary's recommendations for legislation—

(A) to permit the concurrent payment to members and former members of the Armed Forces of full retired or retainer pay and full compensation for service-connected disabilities payable under laws administered by the Secretary of Veterans Affairs; or

(B) to ensure by some other means that members and former members of the Armed Forces entitled to retired or retainer pay are not financially penalized by being entitled to compensation for service-connected disabilities payable under such laws; and

(2) reserve in the legislative contingency fund of the Department of Defense a sufficient amount to ensure the concurrent payment of full retired or retainer pay to members and former members entitled to disability compensation referred to in paragraph (1) in fiscal year 1994 in the event that such legislation is enacted.

SEC. 612. EXPANSION OF REIMBURSABLE ADOPTION EXPENSES.

(a) Department of Defense Program.—Section 1052(g) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking out "through adoption or by" and inserting in lieu thereof "through adoption, by"; and

(ii) by inserting ", or through a private placement" before the period at the end; and

(B) by striking out the second sentence;

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The term 'qualifying adoptions expenses' does not include any expense incurred—

"(A) for any travel performed outside the United States by an adopting parent, unless such travel—

"(i) is required by law as a condition of a legal adoption in the country of the child's origin, or is otherwise necessary for the purpose of qualifying for the adoption of a child;

"(ii) is necessary for the purpose of assessing the health and status of the child to be adopted; or

"(iii) is necessary for the purpose of escorting the child to be adopted to the United States or the place where the adopting member of the armed forces is stationed; or

"(B) in connection with an adoption arranged in violation of Federal, State, or local law."; and

(4) in paragraph (3), as redesignated by paragraph (2)—

(A) by striking out "and" at the end of subparagraph (C); and

(B) by striking out subparagraph (D) and inserting in lieu thereof the following new subparagraphs:

"(D) medical expenses, including hospital expenses of a newborn infant, for medical care furnished the adopted child before the adoption, and for physical examinations for the adopting parents;

"(E) expenses relating to pregnancy and childbirth for the biological mother, including counseling, transportation, and maternity home costs;

"(F) temporary foster care charges when payment of such charges is required to be made immediately before the child's placement; and

"(G) except as provided in paragraph (2), transportation expenses relating to the adoption.".

(b) COAST GUARD PROGRAM.—Section 514(g) of title 14, United States Code, is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking out "through adoption or by" and inserting in lieu thereof "through adoption, by"; and

(ii) by inserting ", or through a private placement" before the period at the end; and

(B) by striking out the second sentence;

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The term 'qualifying adoptions expenses' does not include any expense incurred—

"(A) for any travel performed outside the United States by an adopting parent, unless such travel—

"(i) is required by law as a condition of a legal adoption in the country of the child's origin, or is otherwise necessary for the purpose of qualifying for the adoption of a child;

"(ii) is necessary for the purpose of assessing the health and status of the child to be adopted; or

"(iii) is necessary for the purpose of escorting the child to be adopted to the United States or the place where the adopting member of the Armed Forces is stationed; or

"(B) in connection with an adoption arranged in violation of Federal, State, or local law."; and

(4) in paragraph (3), as redesignated by paragraph (2)—

(A) by striking out "and" at the end of subparagraph (C); and

(B) by striking out subparagraph (D) and inserting in lieu thereof the following new subparagraphs:

"(D) medical expenses, including hospital expenses of a newborn infant, for medical care furnished the adopted child before the adoption, and for physical examinations for the adopting parents;

"(E) expenses relating to pregnancy and childbirth for the biological mother, including counseling, transportation, and maternity home costs;

"(F) temporary foster care charges when payment of such charges is required to be made immediately before the child's placement; and

"(G) except as provided in paragraph (2), transportation expenses relating to the adoption.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as of October 1, 1990, and shall apply to qualifying adoption expenses incurred on or after that date for adoption proceedings initiated on or after that date.

SEC. 613. PROHIBITION ON THE ASSERTION OF LIENS ON PERSONAL PROPERTY BEING TRANSPORTED AT GOVERNMENT EXPENSE.

(a) TITLE 37.—Section 406 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(n) No carrier, port agent, warehouseman, freight forwarder, or other person involved in the transportation of property may have any lien on, or hold, impound, or otherwise interfere with, the movement of baggage and household goods being transported under this section.".

(b) TITLE 10.—Section 2634 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) No carrier, port agent, warehouseman, freight forwarder, or other person involved in the transportation of property may have any lien on, or hold, impound, or otherwise interfere with, the movement of a motor vehicle being transported under this section.".

SEC. 614. ADVANCE PAYMENTS IN CONNECTION WITH EVACUATIONS OF PERSONNEL.

(a) EXPANDED AUTHORITY.—Section 1006(c) of title 37, United States Code, is amended by striking out the first and second sentences and inserting in lieu thereof the following: "Under regulations prescribed by the Secretary concerned, an advance of pay to a member of a uniformed service who is on duty outside the United States, or other place designated by the President, of not more than 2 month's basic pay may be made to a member if the member or his dependents are ordered evacuated by competent authority. An advance of pay under this subsection is not subject to the conditions under which advances of pay may be made under subsection (a) or (b). An advance may be made on the basis of the evacuation of a member's dependents only if all dependents of members of the uniformed services are ordered evacuated from the place where the member's dependents are located. In the case of a member with dependents, the payment may be made directly to dependents previously designated by the member.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to evacuations on or after June 1, 1991.

SEC. 615. INCREASE IN RECOMPUTED RETIRED PAY FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.

(a) MEMBERS INITIALLY ACCESSED BEFORE SEPTEMBER 8, 1980.—Section 1402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) In the case of a member who is entitled to recompute retired pay under this section upon release from active duty served after retiring under section 3914 or 8914 of this title, the member's retired pay as recomputed under another provision of this section shall be increased by 10 percent of the amount so recomputed if the member has been credited by the Secretary concerned with extraordinary heroism in the line of duty during any period of active duty service in the armed forces.

"(2) The amount of the retired pay as recomputed under another provision of this section and as increased under paragraph (1) may not exceed the amount equal to 75 percent of the monthly rate of basic pay upon which the recomputation of such retired pay is based.

"(3) The determination of the Secretary concerned as to extraordinary heroism is conclusive for all purposes.".

(b) MEMBERS INITIALLY ACCESSED AFTER SEPTEMBER 7, 1980.—Section 1402a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) ADDITIONAL 10 PERCENT FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.—(1) In the case of a member who is entitled to recompute retired pay under this section upon release from active duty served after retiring under section 3914 or 8914 of this title, the member's retired pay as recomputed under another provision of this section shall be increased by 10 percent of the amount so recomputed if the member has been credited by the Secretary concerned with extraordinary heroism in the line of duty during any period of active duty service in the armed forces.

"(2) The amount of the retired pay as recomputed under another provision of this section and as increased under paragraph (1) may not exceed the amount equal to 75 percent of the retired pay base upon which the recomputation of such retired pay is based.

"(3) The determination of the Secretary concerned as to extraordinary heroism is conclusive for all purposes.".

(c) PROSPECTIVE APPLICABILITY.—No benefits shall accrue for months beginning before the date of the enactment of this Act by reason of the amendments made by this section.

SEC. 616. AUTHORIZED BENEFITS UNDER SPECIAL SEPARATION BENEFITS PROGRAMS.

(a) TRAVEL AND TRANSPORTATION BENEFITS.—Subsection (b)(2)(B) of section 1174a of title 10, United States Code, is amended by inserting after "chapter 58 of this title" the following: ", sections 404 and 406 of title 37, and section 503(c) of the National Defense Authorization Act for Fiscal Year 1991 (104 Stat. 1558; 37 U.S.C. 406 note)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of December 5, 1991.

SEC. 617. RETIRED PAY FOR PERSONS WHO WERE RESERVES OF AN ARMED FORCE BEFORE AUGUST 16, 1945.

(a) ELIGIBILITY FOR RETIRED PAY FOR NONREGULAR SERVICE.—Section 1331(c) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(3) he performed at least 20 years of service (computed under section 1332 of this title) after August 15, 1945.".

(b) EXCLUSION OF CERTAIN SERVICE FOR PURPOSES OF DETERMINING ENTITLEMENT FOR RETIRED PAY.—Section 1332(b) of such title is amended by adding at the end the following new paragraph:

"(8) Service before August 16, 1945, if eligibility for retired pay is based on section 1331(c)(3) of this title.".

(c) EXCLUSION OF CERTAIN SERVICE FOR PURPOSES OF COMPUTING RETIRED PAY.—Section 1333 of such title is amended—

(1) by striking out "For" and inserting in place thereof "(a) Except as provided in subsection (b), for"; and

(2) by adding the following new subsection:

"(b) Service before August 16, 1945, may not be counted under subsection (a) if eligibility for retired pay is based on section 1331(c)(3) of this title.".

SEC. 618. REFERENCES RELATING TO TRAVEL AND TRANSPORTATION BENEFITS.

Section 404(e) of title 37, United States Code, is amended—

(1) by striking out "Military Airlift Command" and inserting in lieu thereof "Air Mobility Command"; and

(2) by striking out "or Naval Aircraft Ferrying Squadrons," and inserting in lieu thereof "Naval Aircraft Ferrying Squadrons, or any other unit determined by the Secretary concerned to be performing duties similar to the duties performed by such command or squadrons,".

SEC. 619. SUBSISTENCE REIMBURSEMENT RELATING TO ESCORTS OF FOREIGN ARMS CONTROL INSPECTION TEAMS.

(a) TRAVEL ALLOWANCE.—(1) Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 434. Subsistence reimbursement relating to escorts of foreign arms control inspection teams

"(a) Under uniform regulations prescribed by the Secretaries concerned, a member of the armed forces may be reimbursed for the reasonable cost of subsistence incurred by the member while performing duties as an escort of an arms control inspection team of a foreign country, or any member of such a team, while the team or the team member, as the case may be, is engaged in activities related to the implementation of an arms control treaty or agreement.

"(b) The authority under subsection (a) applies to the period during which the inspection team, pursuant to authority specifically provided in the applicable arms control treaty or agreement, is in the country where inspections and related activities are being conducted by the team pursuant to that treaty or agreement.

"(c) The authority under subsection (a) applies to a member of the armed forces whether the duties referred to in that subsection are performed at, near, or away from the member's permanent duty station.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by adding at the end the following new item:

"434. Subsistence reimbursement relating to escorts of foreign arms control inspection teams.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to duty performed on or after the date of the enactment of this Act.

TITLE VII—HEALTH CARE PROVISIONS

SEC. 701. APPOINTMENT OF CHIROPRACTORS AS COMMISSIONED OFFICERS.

(a) ARMY.—(1) Section 3068(a)(5) of title 10, United States Code, is amended—

(A) by striking out "and" at the end of subparagraph (D);

(B) by redesignating subparagraph (E) as subparagraph (F); and

(C) by inserting after subparagraph (D) the following new subparagraph:

"(E) the Chiropractic Section; and".

(2)(A) Chapter 335 of title 10, United States Code, is amended by inserting after section 3283 the following new section 3284:

"§ 3284. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Army may be appointed a regular commissioned officer in the Medical Service Corps of the Army.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3283 the following new item:

"3284. Appointment of chiropractors as commissioned officers.".

(3)(A) Chapter 337 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 3397. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Army may be appointed a reserve commissioned officer in the Medical Service Corps of the Army.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3396 the following new item:

"3397. Appointment of chiropractors as commissioned officers.".

(b) NAVY.—(1) Chapter 539 of such title is amended by inserting after the table of sections for such chapter the following new section 5571:

"§ 5571. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Navy may be appointed a regular commissioned officer or a reserve commissioned officer in the Medical Corps of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by inserting above the item relating to section 5582 the following new item:

"5571. Appointment of chiropractors as commissioned officers.".

(c) AIR FORCE.—(1) Section 8067 of such title is amended—

(A) by redesignating subsections (g), (h), and (i) as subsections (h), (i), and (j), respectively; and

(B) by inserting after subsection (f) the following new subsection (g):

"(g) Chiropractic functions in the Air Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary and who are designated as chiropractic officers.".

(2)(A) Chapter 835 of title 10, United States Code, is amended by inserting after section 8281 the following new section 8284:

"§ 8284. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Air Force may be appointed a regular commissioned officer in the Air Force for designation as a chiropractic officer.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8281 the following new item:

"8284. Appointment of chiropractors as commissioned officers.".

(3)(A) Chapter 837 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 8397. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Air Force may be appointed a reserve commissioned officer in the Air Force for designation as a chiropractic officer.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8396 the following new item:

"8397. Appointment of chiropractors as commissioned officers.".

(4) Section 8579 of such title is amended—

(A) by striking out "or biomedical sciences officer" and inserting in lieu thereof "biomedical sciences, or chiropractic officer"; and

(B) by striking out "or (i) of section 8067" and inserting in lieu thereof "(g), or (j) of section 8067".

(5) Section 8848(b) of such title is amended by striking out "section 8067 (a)-(d) or (g)-(i)" and inserting in lieu thereof "any of subsections (a) through (d) or (g) through (j) of section 8067".

SEC. 702. REVISIONS TO DEPENDENTS' DENTAL PROGRAM UNDER CHAMPUS.

(a) REPEAL OF AUTHORITY TO ESTABLISH SUPPLEMENTAL PLANS.—Section 1076a of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out "and supplemental" in the first sentence; and

(B) by striking out the last sentence;

(2) in subsection (b), by striking out paragraph (3);

(3) in subsection (d)—

(A) by striking out paragraph (2);

(B) by striking out "(1)" before "A basic"; and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(4) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) COPAYMENTS.—A member whose spouse or child receives care under a basic dental benefits plan shall—

"(1) pay no charge for care described in subsection (d)(1); and

"(2) pay 20 percent of the charges for care described in subsection (d)(2).".

(b) PREMIUM INCREASE.—Subsection (b)(2) of such section is amended by striking out "$10" and inserting in lieu thereof "$20".

(c) IMPROVEMENT IN BENEFITS.—Subsection (d) of such section, as amended by subsection (a)(3) of this section, is further amended by adding at the end the following new paragraph:

"(3) Orthodontic services, crowns, gold fillings, bridges, and complete or partial dentures.".

(d) COPAYMENT FOR ADDITIONAL BENEFITS.—Subsection (e) of such section, as amended by subsection (a)(4) of this section, is further amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(3) pay a percentage of the charges for care described in subsection (d)(3) that is determined appropriate by the Secretary of Defense, after consultation with the other administering Secretaries.".

(e) PROGRAM OF IMPROVED DEPENDENTS' DENTAL BENEFITS.—(1) The Secretary of Defense, after consulting with the other administering Secretaries, shall devise and implement a program for the improvement of the provision of dental benefits to dependents of members of the Armed Forces under the Civilian Health and Medical Program of the Uniformed Services.

(2) In this subsection:

(A) The term "administering Secretaries" has the meaning given such term in section 1072(3) of title 10, United States Code.

(B) The term "Civilian Health and Medical Program of the Uniformed Services" has the meaning given that term in section 1072(4) of such title.

(3) Of the funds authorized to be appropriated in section 301, $80,000,000 shall be available to the Secretary of Defense for carrying out paragraph (1).

(f) EFFECTIVE DATES AND SAVINGS PROVISION.—(1) The amendments made by subsections (a) and (b) shall take effect on the first day of the first month that begins after the date of the enactment of this Act. The amendments made by subsections (c) and (d) shall take effect on the date of the enactment of this Act.

(2) Spouses and children who, on the day before the date of the enactment of this Act, are covered by enrollments in supplemental dental benefits plans established under section 1076a of title 10, United States Code, may continue to receive benefits under such plan until the first day of the sixth month that begins after such date, subject to the premium requirement provided in paragraph (3) of section 1076a of title 10, United States Code, as such paragraph was in effect on the day before the effective date of the amendments made by subsection (a).

SEC. 703. SENSE OF CONGRESS REGARDING HEALTH CARE POLICY FOR THE UNIFORMED SERVICES.

It is the sense of Congress that—

(1) members and former members of the uniformed services, and their dependents and survivors, should have access to health care under the health care delivery system of the uniformed services regardless of the age or health care status of the person seeking the health care;

(2) such health care delivery system should include a comprehensive managed care plan;

(3) the comprehensive managed care plan should involve medical personnel of the uniformed services (including reserve component personnel), civilian health care professionals of the executive agency of such uniformed services, medical treatment facilities of the uniformed services, contract health care personnel, and the medicare system;

(4) the Secretary of Defense, the Secretary of Health and Human Services, and the Secretary of Transportation should continue to provide active duty personnel of the uniformed services with free care in medical treatment facilities of the uniformed services and to provide the other personnel referred to in paragraph (1) with health care at minimal cost to the recipients of the care; and

(5) the Secretaries referred to in paragraph (4) should offer additional health care options to the personnel referred to in paragraph (1) including, in the case of persons eligible for medicare under title XVIII of the Social Security Act, options providing for—

(A) the reimbursement of the Department of Defense by the Secretary of Health and Human Services for health care services provided such personnel at medical treatment facilities of the Department of Defense; and

(B) the sharing of the payment of the costs of contract health care by the Department of Defense and the Department of Health and Human Services, with one such department being the primary payer of such costs and the other such department being the secondary payer of such costs.

SEC. 704. MILITARY HEALTH CARE FOR PERSONS RELIANT ON HEALTH CARE FACILITIES AT BASES BEING CLOSED AND REALIGNED.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a joint services working group on the provision of military health care to persons who rely for health care on health care facilities at military installations being closed or realigned.

(b) MEMBERSHIP.—The members of the working group shall include the Assistant Secretary of Defense for Health Affairs, the Surgeon General of the Army, the Surgeon General of the Navy, the Surgeon General of the Air Force, or a designee of each such person, and one independent member appointed by the Secretary of Defense from among private citizens whose interest in matters within the responsibility of the working group qualify that person to represent all personnel entitled to health care under chapter 55 of title 10, United States Code.

(c) DUTIES.—(1) In the case of each closure or realignment of a military installation that will adversely affect the accessibility of health care in a facility of the uniformed services for persons entitled to such health care under chapter 55 of title 10, United States Code, the working group shall solicit the views of such persons regarding suitable substitutes for the furnishing of health care to those persons under that chapter.

(2) In carrying out paragraph (1), the working group—

(A) shall conduct meetings with persons referred to in that paragraph, or representatives of such persons;

(B) may use reliable sampling techniques;

(C) shall visit the areas where closures and realignments of military installations will adversely affect the accessibility of health care in a facility of the uniformed services for persons referred to in paragraph (1) and shall conduct public meetings; and

(D) shall ensure that members of the uniformed services on active duty, members and former members of the uniformed services entitled to retired or retainer pay, and dependents and survivors of such members and retired personnel are afforded the opportunity to express views.

(d) RECOMMENDATIONS.—With respect to each closure and realignment of a military installation referred to in subsection (c), the working group shall submit to the Congress and the Secretary of Defense the working group's recommendations regarding the alternative means for continuing to provide accessible health care under chapter 55 of title 10, United States Code, to persons referred to in that subsection.

(e) APPLICATION OF ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the joint services working group established pursuant to this section.

SEC. 705. PROGRAMS RELATING TO THE SALE OF PHARMACEUTICALS.

(a) PHARMACEUTICALS BY MAIL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense, in consultation with the administering Secretaries, shall—

(1) establish a program that permits eligible persons to obtain prescription pharmaceuticals by mail in connection with medical care furnished to such persons under chapter 55 of title 10, United States Code; and

(2) conduct the program in two or more regions selected by the Secretary, each of which consists of two or more States.

(b) RETAIL PHARMACY NETWORK.—(1) Not later than 18 months after such date, the Secretary of Defense, in consultation with the administering Secretaries, shall carry out the demonstration project described in paragraph (2).

(2) Under the demonstration project, the Secretary shall enter into one or more contracts or otherwise provide for the supply of prescription pharmaceuticals to eligible persons through a network of local retail pharmacies. The Secretary shall carry out the demonstration project in a region (selected by the Secretary) consisting of two or more States.

(c) ELIGIBLE PERSONS.—A person eligible to obtain pharmaceuticals under the program under subsection (a) or the demonstration project under subsection (b) is any person living in a State covered by the program or project who—

(1) is entitled to medical care under a contract for medical care entered into by the Secretary of Defense under section 1079 or 1086 of title 10, United States Code; or

(2) is over 65 years of age and resides in an area (as determined by the Secretary) that is affected by the closure of a health care facility of the uniformed services as a result of the closure or realignment of the military installation at which such facility is located.

(d) PURCHASE FEES.—(1) The Secretary of Defense, in consultation with the administering Secretaries, shall determine for the program and the demonstration project—

(A) subject to paragraph (2), the pharmaceuticals that may be obtained by eligible persons under the program or the demonstration project; and

(B) an appropriate fee, charge, or copayment to be paid by such persons for such pharmaceuticals obtained under the program or demonstration project.

(2) The Secretary shall, to the maximum extent practicable, ensure that the pharmaceuticals obtained under the program and the project are generic pharmaceuticals. The Secretary may provide that name brand pharmaceuticals be obtained in such circumstances as the Secretary of Defense determines appropriate.

(e) REPORT.—Not later than 2 years after the establishment of the program under subsection (a) and the demonstration project under subsection (b), the Secretary of Defense shall submit to Congress a report on the following:

(1) In the case of the program, the results of the program, recommendations, if any, for revision of the program, and a plan (including a schedule) for implementing the program throughout the United States.

(2) In the case of the demonstration project, the results of the project and the recommendations of the Secretary with respect to the advisability of making the project permanent.

(f) DEFINITIONS.—In this section, the terms "uniformed services" and "administering Secretaries" have the meanings given those terms in section 1072 of title 10, United States Code.

SEC. 706. ANNUAL BENEFICIARY SURVEY.

The administering Secretaries referred to in section 1072 of title 10, United States

Code, shall conduct annually a formal survey of persons receiving health care under chapter 55 of such title in order to determine the following:

(1) The availability of health care services to such persons through the health care system provided for under that chapter, the types of services received, and the facilities in which the services were provided.

(2) The familiarity of such persons with the services available under that system and with the facilities in which such services are provided.

(3) The health of such persons.

(4) The level of satisfaction of such persons with that system and the quality of the health care provided through that system.

(5) Such others matters as the administering Secretaries determine appropriate.

SEC. 707. MAXIMUM ANNUAL AMOUNT FOR DEDUCTIBLES AND COPAYMENTS.

(a) REDUCED MAXIMUM ANNUAL AMOUNT.—Section 1086(b)(4) of title 10, United States Code, is amended by striking out "$10,000" and inserting in lieu thereof "$7,500".

(b) APPLICABILITY AFTER FISCAL YEAR 1992.—The amendment made by subsection (a) shall apply with respect to fiscal years beginning after September 30, 1992.

SEC. 708. CONTINUATION OF CHAMPUS COVERAGE FOR CERTAIN MEDICARE PARTICIPANTS.

(a) INCLUSION OF END STAGE RENAL DISEASE PATIENTS.—Section 1086(d)(2)(A) of title 10, United States Code, is amended by inserting before the semicolon the following: "or section 226A(a) of such Act (42 U.S.C. 426–1(a))".

(b) COVERAGE OF CARE PROVIDED SINCE SEPTEMBER 30, 1991.—The amendment made by subsection (a), and the amendment made by section 704(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1401), shall apply with respect to health care benefits or services received after September 30, 1991, by a person described in subsection (d)(2) of section 1086 of title 10, United States Code, if such benefits or services would have been covered under a plan contracted for under such section 1086.

(c) CONFORMING AMENDMENTS.—(1) Section 704 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1401) is amended by striking out subsection (c).

(2) Section 8097 of the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1197), is repealed.

SEC. 709. HOME HEALTH SERVICES UNDER CHAMPUS.

(a) ELIGIBILITY.—Section 1079(a) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (15):

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(17) home health services and other services (including services described in paragraphs (1) through (16)) in connection with extraordinary physical or psychological conditions may be provided only through a program of individualized case management established by the Secretary of Defense and in a manner determined (under regulations prescribed by the Secretary) to be cost-effective and appropriate.".

(b) CONFORMING AMENDMENT.—Section 1077 of such title is amended—

(1) by adding at the end of subsection (a) the following new paragraph:

"(15) Home health services."; and

(2) in subsection (b), by striking out "The following" and inserting in lieu thereof "Except as provided in subsection (a)(15), the following".

SEC. 710. STUDY ON RISK-SHARING CONTRACTS FOR HEALTH CARE.

Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall—

(1) carry out a study of the feasibility and advisability of entering into risk-sharing contracts with eligible organizations described in section 1876 of the Social Security Act (42 U.S.C. 1395mm) to furnish health care services to persons entitled to health care in a facility of a uniformed service under section 1074(b) or 1076(b) of title 10, United States Code;

(2) if the Secretary determines that entry into such contracts is feasible and advisable, develop a plan for the entry into such contracts in accordance with the Secretary's determinations under the study; and

(3) submit to Congress a report on the results of the study and on the plan.

SEC. 711. COMPREHENSIVE STUDY OF THE MILITARY MEDICAL CARE SYSTEM.

Section 733 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 1071 note) is amended—

(1) in subsection (b), by inserting after paragraph (2) the following new paragraph:

"(3) A comprehensive review of the Federal employees health benefits program under chapter 89 of title 5, United States Code, in order to determine whether furnishing health care under a similar program to persons entitled to health care under chapter 55 of title 10, United States Code, would result in the effective provision of health care to such persons and would be cost effective."; and

(2) in subsection (d)—

(A) by redesignating paragraph (12) as paragraph (13); and

(B) by inserting after paragraph (11) the following new paragraph (12):

"(12) A discussion of the results of the review under subsection (b)(3) and the Secretary's recommendations of the basis of those results.".

SEC. 712. NATIONAL CLAIMS PROCESSING CENTER FOR CHAMPUS.

(a) REQUIREMENT.—(1) The Secretary of Defense, in consultation with the administering Secretaries, shall provide by contract for the operation of a claims processing center to be known as the "National Centralized Claims Processing System for CHAMPUS". The contract shall provide for the center to commence operations not later than 5 years after the date of the enactment of this Act.

(2) The Secretary shall use competitive procedures for entering into the contract under paragraph (1).

(b) CENTER ACTIVITIES.—The claims processing center shall—

(1) maintain in electronic and written form appropriate information on health care services provided to covered beneficiaries by or through third parties under CHAMPUS or any alternative CHAMPUS program or demonstration project, including information on—

(A) the services to which such beneficiaries are entitled or eligible under an insurance plan, medical service plan, or health plan under CHAMPUS;

(B) the insurers, medical services, or health plans that provide such services; and

(C) the services available to beneficiaries under each insurance plan, medical service plan, or health plan, and the payment required of the beneficiaries and the insurer, medical service, or health plan for such services under the plan;

(2) receive in electronic or written form claims submitted by insurers, medical services, and health plans for services provided to covered beneficiaries;

(3) process, adjudicate, and pay (by electronic or other means) such claims; and

(4) provide the information described in paragraphs (1) and (2) and information on the matters referred to in paragraph (3) by telephone or other electronic means to covered beneficiaries, insurers, medical services, and health plans.

(c) ADDITIONAL REQUIREMENT.—The Secretary shall ensure, to the maximum extent practicable, that claims submitted as described in subsection (b)(2) conform to the requirements applicable to claims submitted to the Secretary of Health and Human Services with respect to medical care provided under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

(d) IDENTIFICATION CARD.—The Secretary shall take appropriate actions to determine whether the use by covered beneficiaries of a standard identification card containing electronically readable information will enhance the capability of the claims processing center to carry out the matters set forth in subsection (b).

(e) DEFINITIONS.—In this section:

(1) The terms "administering Secretaries" and "covered beneficiary" have the meanings given such terms in paragraphs (3) and (5) of section 1072 of title 10, United States Code, respectively.

(2) The term "CHAMPUS" means the Civilian Health and Medical Program of the Uniformed Services, as defined in paragraph (4) of that section.

SEC. 713. ALTERNATIVE HEALTH CARE DELIVERY METHODOLOGIES.

(a) CONTINUATION OF HEALTH CARE REFORM INITIATIVES.—(1) During fiscal years 1993 through 1996, the Secretary of Defense shall continue to test a broad array of reform options for furnishing health care to persons who are eligible to receive health care under chapter 55 of title 10, United States Code.

(2) The health care reform options tested in accordance with paragraph (1) shall include CHAMPUS alternatives, the CHAMPUS Reform Initiative, catchment area management, coordinated care, and such other options as the Secretary of Defense considers appropriate.

(3) During fiscal year 1994, the Secretary shall conduct a study of the health care reform options tested as described in paragraph (1). The study shall compare the cost effectiveness of such options and the extent to which the persons who received health care under those options are satisfied with that health care. The Secretary shall report the results of the study to Congress.

(b) CONTINUATION OF CHAMPUS REFORM INITIATIVE IN HAWAII AND CALIFORNIA.—(1) The Secretary of Defense shall ensure that a replacement or successor contract for the CHAMPUS Reform Initiative contract applicable to California and Hawaii is awarded in sufficient time for the contractor to begin to provide health care in California and Hawaii under the replacement or successor contract not later than August 1, 1993.

(2) The Secretary shall use competitive procedures for awarding a replacement or successor contract under paragraph (1).

(3)(A) Not later than June 1, 1994, the Secretary of Defense shall provide by contract for a person outside the Federal Government to perform an evaluation of the conduct of the CHAMPUS Reform Initiative in Hawaii and California. The evaluation shall cover each of the fiscal years during which the initiative is carried out in such States under the replacement or successor contract referred to in paragraph (1) and under the predecessor contracts. The evaluation shall include a comparison of the cost savings and claims experience resulting in each such fiscal year from carrying out the initiative in such States.

(B) Not later than 1 year after the date on which the contract for evaluation is entered into under subparagraph (A), the person making the evaluation shall submit to the Secretary of Defense and to Congress a report on the results of the evaluation.

(c) INCLUSION OF POSITIVE INCENTIVES FOR ENROLLMENT UNDER THE COORDINATED CARE PROGRAM.—(1) The Secretary of Defense shall modify the Policy Guidelines on the Department of Defense Coordinated Care Program to provide covered beneficiaries with additional positive incentives to enroll in the coordinated care program of the Department of Defense.

(2) The incentives may include—

(A) a reduction of the copayment and deductibles prescribed under sections 1079 and 1086 of title 10, United States Code, for covered beneficiaries who enroll in the coordinated care program;

(B) alternative cost-sharing requirements for certain types of care; and

(C) an expansion of the benefits provided under the coordinated care program beyond the benefits authorized under CHAMPUS.

(2) The modifications required under paragraph (1) shall permit health care demonstration projects in existence on the date of the enactment of this Act (including the CHAMPUS Reform Initiative, the catchment area management projects, the CHAMPUS select fiscal intermediary program in the Southeast Region, and the managed health care programs established in the Tidewater region of Virginia) and future managed care health care incentives undertaken by the Department of Defense to offer covered beneficiaries not enrolled in the coordinated care program the opportunity to use a preferred provider network of health care providers.

(3) In determining what level and types of positive incentives are likely to induce covered beneficiaries to enroll in the coordinated care program, the Secretary shall take into consideration the extent to which covered beneficiaries not enrolled in the program are permitted to choose health care providers without prior referral or approval.

(4) Subject to the availability of space and facilities and the capabilities of the medical or dental staff, the Secretary of Defense may not deny access to military treatment facilities to covered beneficiaries who do not enroll in the coordinated care program. However, the Secretary may establish reasonable admission preferences for covered beneficiaries enrolled in the program as an incentive to encourage enrollment.

(d) DEFINITIONS.—In this section:

(1) The term "CHAMPUS" has the meaning given the term "Civilian Health and Medical Program of the Uniformed Services", as defined in section 1072(4) of title 10, United States Code.

(2) The term "covered beneficiary" has the meaning given that term in section 1072(5) of such title.

(3) The term "CHAMPUS Reform Initiative" has the meaning given that term in section 702(d)(1) of the Department of Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 1073 note).

(4) The term "catchment area management" means the methodology provided for demonstration in accordance with section 731 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (10 U.S.C. 1092 note).

(5) The term "Policy Guidelines on the Department of Defense Coordinated Care Program" means the Policy Guidelines on the Department of Defense Coordinated Care Program that were issued by the Assistant Secretary of Defense for Health Affairs on January 8, 1992.

SEC. 714. MEDICAL AND DENTAL CARE FOR CERTAIN INCAPACITATED DEPENDENTS.

(a) EXCLUSION OF CERTAIN INCAPACITATED DEPENDENTS FROM CHAMPUS COVERAGE.—Section 1086(c) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "and 1072(2)(I)" after "section 1072(2)(E)"; and

(2) in paragraph (2), by inserting "or 1072(2)(I)" after "section 1072(E)".

(b) APPLICABILITY OF EXCLUSION.—Section 1072(2) of title 10, United States Code, is amended—

(1) by striking out subparagraph (D) and inserting in lieu thereof the following:

"(D) an unmarried legitimate child, including an adopted child or stepchild, who—

"(i) has not passed his twenty-first birthday;

"(ii) has not passed his twenty-third birthday, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary and is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support; or

"(iii) is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a member or former member under clause (i) or (ii) and is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support;";

(2) by striking out "and" at the end of subparagraph (G);

(3) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof a semicolon and "and"; and

(4) by inserting after subparagraph (H) the following new subparagraph:

"(I) an unmarried legitimate child, including an adopted child or stepchild, who is incapable of self-support because of a mental or physical incapacity that did not exist while the child was a dependent of a member or former member under subparagraph (D)(i) or (D)(ii) and is, or was at the time of the member's or former member's death, dependent on him for over one-half of his support.".

SEC. 715. REPRODUCTIVE HEALTH SERVICES IN MEDICAL FACILITIES OF THE UNIFORMED SERVICES OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1074c the following new section:

"§ 1074d. Reproductive health services in medical facilities of the uniformed services outside the United States

"(a) PROVISION OF SERVICES.—A member of the uniformed services who is on duty at a station outside the United States (and any dependent of the member who is accompanying the member) is entitled to the provision of any reproductive health service in a medical facility of the uniformed services outside the United States serving that duty station in the same manner as any other type of medical care.

"(b) PAYMENT FOR SERVICES.—(1) In the case of any reproductive health service for which appropriated funds may not be used, the administering Secretary shall require the member of the uniformed service (or dependent of the member) receiving the service to pay the full cost (including indirect costs) of providing the service.

"(2) If payment is made under paragraph (1), appropriated funds shall not be considered to have been used to provide a reproductive health service under subsection (a). The amount of such payment shall be credited to the accounts of the facility at which the service was provided.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1074c the following new item:

"1074d. Reproductive health services in medical facilities of the uniformed services outside the United States.".

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Defense Conversion Policy for the National Defense Technology and Industrial Base

SEC. 801. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE POLICIES AND PLANNING.

(a) POLICIES AND PLANS FOR THE NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE.—Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 134 the following new chapter 135:

"CHAPTER 135—NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE

"Subchapter Sec.
"I. Policies and Planning 2261
"II. Dual-Use Technologies 2271
"III. Manufacturing Technology 2281
"IV. Miscellaneous Technology Base Policies and Programs 2291
"V. Definitions 2300

"SUBCHAPTER I—POLICIES AND PLANNING

"Sec.
"2261. Policy.
"2262. National Defense Technology and Industrial Base Council.
"2263. National defense technology and industrial base assessment.
"2264. National defense technology and industrial base plan.
"2265. National Defense Program for Analysis of the Technology and Industrial Base.

"§ 2261. Policy

"(a) POLICY OBJECTIVES FOR THE NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE.—It is the policy of Congress that the national defense technology and industrial base be capable of meeting the following national security objectives:

"(1) Supplying and equipping the force structure of the armed forces that is necessary to achieve the objectives set forth in the national security strategy report submitted to Congress by the President pursuant to section 104 of the National Security Act of 1947 (50 U.S.C. 404a), the policy guidance of the Secretary of Defense provided pursuant to section 113(g) of this title, and the multiyear defense program submitted to Congress by the Secretary of Defense pursuant to section 114a of this title.

"(2) Sustaining production, maintenance, repair, and logistics for operations of various durations and intensity.

"(3) Maintaining advanced research and development activities to provide the armed forces with systems capable of ensuring technological superiority over potential adversaries.

"(4) Reconstituting within a reasonable period the capability to develop and produce supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a major war, major national emergency, or major mobilization of the armed forces before the commencement of that war, national emergency, or mobilization.

"(b) POLICY OBJECTIVES RELATING TO DEFENSE CONVERSION.—It is the policy of Congress that the United States seek to achieve the national defense technology and industrial base objectives set forth in subsection (a) through enhanced opportunities for conversion of defense-dependent businesses and industrial and technology base sectors to dual-use capabilities.

"(c) CIVIL-MILITARY INTEGRATION POLICY.—It is the policy of Congress that the United States attain the national defense technology and industrial base objectives set forth in subsection (a) through acquisition policy reforms that have the following objectives:

"(1) Relying, to the maximum extent practicable, upon the commercial national defense technology and industrial base that is required to meet the national security needs of the United States.

"(2) Reducing the reliance of the Department of Defense on technology and industrial sectors that are economically dependent on Department of Defense business.

"(3) Reducing Federal Government barriers to the use of commercial products, processes, and standards.

"§ 2262. National Defense Technology and Industrial Base Council

"(a) ESTABLISHMENT.—There is a National Defense Technology and Industrial Base Council.

"(b) COMPOSITION.—The Council is composed of the following members:

"(1) The Secretary of Defense, who shall serve as Chairman.

"(2) The Secretary of Energy.

"(3) The Secretary of Commerce.

"(c) RESPONSIBILITIES.—The Council shall have the following responsibilities:

"(1) To provide overall policy guidance and direction to the military departments and the Defense Agencies, to ensure effective cooperation among departments and agencies of the Federal Government, and to provide advice and recommendations to the President, the Secretary of Defense, and the Secretary of Energy concerning—

"(A) the capabilities of the national defense technology and industrial base to meet the national security objectives of the United States;

"(B) programs for achieving the defense conversion objectives set forth in section 2261(b) of this title; and

"(C) changes in acquisition policy that strengthen the national defense technology and industrial base.

"(2) To prepare annually the assessment and plan required by sections 2263 and 2264 of this title, respectively.

"§ 2263. National defense technology and industrial base assessment

"(a) COMPREHENSIVE ASSESSMENT.—The National Defense Technology and Industrial Base Council shall prepare a comprehensive annual assessment of the capability of the national defense technology and industrial base to attain each of the objectives set forth in section 2261 of this title.

"(b) SECTOR CAPABILITY ANALYSIS.—(1) The annual assessment shall include a sector capability analysis composed of the following matters:

"(A) An analysis of the role of each sector in attaining each of the objectives set forth in section 2261 of this title.

"(B) An analysis of the current and projected capability of each sector to attain each such objective for each of the following periods:

"(i) The fiscal year during which the assessment is submitted to Congress pursuant to section 2264(1) of this title.

"(ii) The following fiscal year.

"(iii) The multiyear period covered by the multiyear defense program submitted under section 114a of this title during the fiscal year referred to in clause (i).

"(2) The analysis required by paragraph (1)(B) shall include, for each sector for each period described in paragraph (1)(B), an analysis of the present and projected capabilities of prime contractors, subcontractors, the Defense Industrial Reserve under section 2292 of this title, and departments and agencies of the Federal Government with respect to each of the following:

"(A) Research and development, including research and development regarding the critical technologies identified under subsection (f).

"(B) Application of critical technologies to the production of goods and the furnishing of services.

"(C) Test and evaluation.

"(D) Low rate production.

"(E) High volume production.

"(F) Repair and maintenance.

"(G) Design and prototyping.

"(H) Work force skills and capabilities, including improvements that build on the skill and experience of their work force.

"(c) FOREIGN DEPENDENCY CONSIDERATIONS.—In the preparation of the annual assessment the Council shall consider, for each sector, the following factors:

"(1) The availability of essential raw materials, special alloys, composite materials, components, subsystems, production equipment, facilities, special tooling, and production test equipment for—

"(A) the sustained production of systems fully capable of meeting the performance objectives established for those systems;

"(B) the uninterrupted maintenance and repair of such systems; and

"(C) the sustained operation of such systems.

"(2) The identification of items specified in paragraph (1) that are available only from sources outside the national defense technology and industrial base.

"(3)(A) The availability of alternatives for obtaining such items from within the national defense technology and industrial base if such items become unavailable from sources outside the national defense technology and industrial base.

"(B) An analysis of any military vulnerability that could result from the lack of reasonable alternatives.

"(4) The effects on the national defense technology and industrial base that result from foreign acquisition of firms in the United States.

"(d) FINANCIAL CONDITION ANALYSIS.—(1) The assessment shall include an analysis of the present and projected financial condition of each sector, for each period described in subsection (b)(1)(B).

"(2) In the analysis of the financial condition of each sector, the Council shall specifically consider the following matters:

"(A) Trends in the following:

"(i) Profitability.

"(ii) Levels of capital investment.

"(iii) Expenditures on research and development.

"(iv) Levels of debt.

"(B) The effects of actual and potential commercial sales.

"(C) The consequences of mergers, acquisitions, and takeovers.

"(D) The effects of Department of Defense financial policies, including the following:

"(i) Policies relating to progress payments or other financing by the Department of Defense.

"(ii) Policies relating to the return on contractor investment.

"(iii) Policies relating to the allocation of contract risk between the Department of Defense and a contractor.

"(E) The effects of expenditures in the sector by departments and agencies of the Federal Government other than the Department of Defense and the Department of Energy (for national security programs).

"(F) The analysis required by subsection (e).

"(e) ANALYSIS OF IMPACT OF DEPARTMENT OF DEFENSE REDUCTIONS.—(1) The annual assessment shall include an analysis of the impact of the terminations and significant reductions of major research and development programs and procurement programs of the Department of Defense on the capability of each sector to attain each of the objectives set forth in section 2261 of this title.

"(2) The programs referred to in paragraph (1) are those programs in which a termination or significant reduction in expenditures—

"(A) has taken place in the fiscal year before the fiscal year in which the annual assessment is submitted to Congress pursuant to section 2264(1) of this title; or

"(B) is provided for—

"(i) in the budget submitted pursuant to section 1105(a) of title 31 in that fiscal year; and

"(ii) in the multiyear defense program submitted with such budget pursuant to section 114a of this title.

"(3) In this subsection, the term 'significant reduction', with respect to expenditures for a program for a fiscal year, means that the amount provided for that program for that fiscal year in the budget, Acts authorizing appropriations, appropriations Acts, or the multiyear defense program for that fiscal year is less than the amount provided for that program for the preceding fiscal year in the budget, Acts authorizing appropriations, appropriations Acts, or the multiyear defense program, respectively, for that preceding fiscal year by at least—

"(A) the greater of—

"(i) the amount equal to 10 percent of the amount provided for that preceding fiscal year; or

"(ii) $5,000,000; or

"(B) a lesser amount determined significant by the Secretary of Defense or the Council.

"(f) CRITICAL TECHNOLOGY ANALYSIS.—(1) The annual assessment shall include a critical technology analysis that identifies the product and process technologies that are most critical for attaining the technology and industrial base objectives set forth in section 2261 of this title. The number of technologies so identified may not exceed 20. The analysis shall be prepared in consultation with the Critical Technologies Institute.

"(2) For each technology, the analysis shall include the following:

"(A) The reasons for selection of that technology as a technology critical to the Department of Defense.

"(B) The potential dual-use applications of that technology.

"(C) The relationship between the activities of the Department of Defense and other Federal agencies in the development of that technology.

"(D) The potential contributions that the private sector can be expected to make from its own resources in connection with the development of civilian applications for such technology.

"(E) A comparison of the position of the United States to the positions of other nations in the development of that technology, including the potential contributions that other nations can make to meeting the needs of the United States for that technology.

"(g) SECTOR VIABILITY ANALYSIS.—(1) The annual assessment shall include an analysis, for each of the periods described in subsection (b)(1)(B), of the following matters:

"(A) The extent to which each sector is—

"(i) dependent on defense expenditures to ensure continued viability;

"(ii) dependent on a mix of defense and nondefense Federal Government expenditures to ensure continued viability;

"(iii) dependent on a mix of Federal Government expenditures and other Federal Government programs to ensure continued viability; and

"(iv) sufficiently integrated with the commercial marketplace to ensure continued viability regardless of the level of Federal Government expenditures in the sector.

"(B) The extent to which each sector is capable of—

"(i) ongoing production with a present capability for high volume production;

"(ii) maintenance of a production base that can be converted to high volume production within a reasonable period of time; or

"(iii) reconstitution of a production base that can reinstate high volume production within a reasonable period of time.

"(2) The analysis shall specifically identify any sectors and any entities within sectors that should be considered for inclusion in the Defense Industrial Reserve under section 2292 of this title.

"(3) In this section:

"(A) The term 'defense expenditure' means an expenditure by—

"(i) the Department of Defense; or

"(ii) the Department of Energy for a national security program.

"(B) The term 'continued viability' means the capability to attain the technology and industrial base objectives set forth in section 2261 of this title.

"(h) ISSUANCE.—The Secretary of Defense shall prescribe by regulation a schedule for the completion of the annual assessment that ensures sufficient time for the consideration of the assessment in the preparation of the annual national defense technology and industrial base plan required by section 2264 of this title.

"§2264. National defense technology and industrial base plan

"(a) IN GENERAL.—The National Defense Technology and Industrial Base Council shall prepare an annual plan for ensuring, to the maximum extent practicable, that the policies and programs of the Department of Defense, the Department of Energy, and other departments and agencies of the Federal Government are planned, coordinated, funded, and implemented in a manner designed to attain each of the technology and industrial base objectives set forth in section 2261 of this title. The Council shall take into account the annual national defense technology and industrial base assessment prepared pursuant to section 2263 of this title in preparing the annual plan.

"(b) SECTOR VIABILITY GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, for each of the following:

"(1) Programs and policies of the Federal Government that are necessary to ensure the continued viability of each sector that is identified in the annual assessment as being economically dependent in whole or in part upon Federal Government programs or policies.

"(2) Programs and policies of the Federal Government that are necessary in each such sector—

"(A) to reduce each economic dependency of such sector on foreign sources that could create a military vulnerability; and

"(B) to provide for alternative sources in the event that the foreign sources become unavailable.

"(3) The composition and management of the Defense Industrial Reserve under section 2292 of this title.

"(c) MANUFACTURING TECHNOLOGY GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, for the following:

"(1) The National Defense Manufacturing Technology Program established under section 2281 of this title.

"(2) The support of manufacturing extension programs under section 2283 of this title.

"(3) Programs to enhance basic research in scientific disciplines relating to manufacturing technology through—

"(A) encouraging research in colleges and universities in the United States and in associated centers of excellence; and

"(B) establishing technology transfer mechanisms, and technology education and training mechanisms, that ensure that the results of such research are readily available to United States industry.

"(4) Programs for encouraging the use of computer-integrated manufacturing to improve manufacturing quality, reduce manufacturing costs, reduce production lead times, and improve maintenance.

"(5) Programs for enhancing Department of Defense use of concurrent engineering practices in the design and development of weapon systems.

"(6) Programs providing incentives for firms in the national defense technology and industrial base to use advanced manufacturing technology and processes and to invest in improved productivity.

"(7) Programs for encouraging research in colleges and universities and in other technology development and extension programs in the United States for the development of work systems that build on worker's skill and experience.

"(8) Programs for assisting in the transition to high performance work systems, including ongoing worker involvement in the evaluation, selection, and installation and operation of production technologies and associated organization or work.

"(d) CRITICAL TECHNOLOGIES GUIDANCE.—For each defense critical technology, the plan shall contain the following:

"(1) Specific guidance, including goals, milestones, and priorities, with respect to the development of the technology.

"(2) The specific funding requirements of the Department of Defense, the Department of Energy, and other departments and agencies of the Federal Government for the development of the technology for the 5 fiscal years following the fiscal year in which the plan is submitted pursuant to subsection (l).

"(3) A designation of the lead organization within the Department of Defense or the Department of Energy to be responsible for the development of the technology.

"(4) A summary description of the lead organization's plan for the development of the technology, including the milestone goals.

"(e) INTEGRATED FINANCING GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, to ensure that the financial policies of the Department of Defense and Department of Energy (for national security programs), including the policies identified in section 2263(d)(2)(D) of this title, are designed to meet the industrial and technology base policies set forth in section 2261 of this title.

"(f) CIVIL-MILITARY INTEGRATION GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, to encourage the effective integration of commercial products and processes into Federal Government acquisition practices with respect to the following:

"(1) Expanding the use of commercial specifications in place of Federal Government specifications.

"(2) Increasing the use of commercial manufacturing processes instead of processes specified by the Federal Government.

"(3) Reducing the extent of unique government regulatory requirements relating to accounting and acquisition.

"(4) Identifying and ensuring the effective application by the Department of Defense and the Department of Energy (for national security programs) of research, technologies, products, information, and practices developed by other departments and agencies of the Federal Government, State and local governments, colleges and universities, nonprofit organizations, and commercial enterprises.

"(5) Identifying effective mechanisms for transferring technology and related information, to the maximum extent practicable, from the Department of Defense and Department of Energy to other departments and agencies of the Federal Government, State and local governments, colleges and universities, nonprofit organizations, and commercial enterprises.

"(6) Ensuring, to the maximum extent practicable, that technology and related information are so transferred.

"(g) DEFENSE CONVERSION GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, for providing sectors and businesses at least partially dependent economically on national security expenditures with Federal Government assistance to convert from that dependence to economic viability without such dependence.

"(h) TECHNOLOGY AND INDUSTRIAL BASE WORK FORCE GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, to enhance the skills and capabilities of the work force, including high performance, high quality, and high flexibility production, in the national defense technology and industrial base.

"(i) MAJOR PROGRAM ACQUISITION GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, for enhancing the effectiveness of the major defense acquisition program regulations prescribed pursuant to section 2439 of this title.

"(j) ACQUISITION REFORM GUIDANCE.—(1) The plan shall include any recommended legislation that the Council considers appropriate for eliminating any adverse effect of Federal law on the capability of the national defense technology and industrial base to attain the objectives set forth in section 2261 of this title.

"(2) The plan shall provide specific guidance to ensure that maximum use is made of authority to waive regulations or conduct test programs in pursuit of such objectives.

"(k) FUNDING.—The plan shall ensure effective implementation of the guidance issued under this section by establishing funding priorities for each area of guidance identified under subsections (b) through (h) for each of the periods described in section 2263(b)(1)(B) of this title.

"(l) ISSUANCE.—(1) The Secretary of Defense shall provide the annual plan to the Secretaries of the military departments and the heads of the other elements of the Department of Defense not later than the date on which the Secretary provides such officials with the guidance required by section 113(g)(1) of this title. The Secretary of Energy and the Secretary of Commerce shall provide such guidance to appropriate officials within their respective departments.

"(2) The Secretary of Defense shall transmit to Congress, not later than March 31 of each year—

"(A) the plan prepared under this section, including any changes necessary to reflect the budget submitted by the President during that year under section 1105 of title 31; and

"(B) the national defense technology and industrial base assessment prepared pursuant to section 2263 of this title that pertains to such plan and budget.

"(3) The plan and assessment shall be submitted to Congress in classified and unclassified forms. Proprietary information that may be withheld from disclosure under section 552 of title 5 shall be provided only in the classified version.

"§ 2265. National Defense Program for Analysis of the Technology and Industrial Base

"(a) ESTABLISHMENT.—(1) The National Defense Technology and Industrial Base Council shall establish at an entity described in paragraph (3) a program to be known as the 'National Defense Program for Analysis of the Technology and Industrial Base'.

"(2) The Program shall be an element of the defense acquisition university structure established under section 1746 of this title.

"(3) As determined by the Chairman of the Council, the Program shall be administered by —

"(A) an existing federally funded research and development center;

"(B) a consortium of existing federally funded research and development centers and other nonprofit entities; or

"(C) another appropriate private sector research entity.

"(4) The Chairman shall ensure that there is appropriate consultation and coordination between the Program and the Critical Technologies Institute.

"(b) OVERSIGHT COMMITTEE.—The Program shall have an oversight committee composed of 3 members as follows:

"(1) The Under Secretary of Defense for Acquisition, or his designee, who shall serve as Chairman of the operating committee.

"(2) An official designated by the Secretary of Energy.

"(3) An official designated by the Secretary of Commerce.

"(c) MISSIONS.—The missions for the Program shall include, with respect to the national defense technology and industrial base, the following:

"(1) The assembly of timely and authoritative information.

"(2) Initiation of studies and analyses.

"(3) Provision of technical support and assistance to—

"(A) the Council in the preparation of the annual assessment required by section 2263 of this title and the annual plan required by section 2264 of this title;

"(B) the defense acquisition university structure and its elements; and

"(C) other departments and agencies of the Federal Government in accordance with guidance established by the Council.

"(4) Dissemination, through the National Technical Information Service of the Department of Commerce, of unclassified information and assessments for further dissemination within the Federal Government and to the private sector.".

(b) TECHNOLOGY AND INDUSTRIAL BASE PLANNING FOR MAJOR DEFENSE PROGRAMS.—(1) Chapter 144 of title 10, United States Code, is amended by inserting after section 2438 the following new section:

"§ 2439. Major programs: technology and industrial base plans

"(a) ACQUISITION PLAN REQUIREMENTS.—The Secretary of Defense shall prescribe regulations requiring consideration of the national defense technology and industrial base in the development and implementation of acquisition plans for each major defense acquisition program.

"(b) CONTENT OF ACQUISITION PLANS.—The acquisition plan for each major defense acquisition program shall include provisions for the following:

"(1) An analysis of the capabilities of the national defense technology and industrial base to develop, produce, maintain, and support such program, including consideration of the factors set forth in section 2263(c) of this title.

"(2) Consideration of requirements for efficient manufacture during the design and production of the systems to be procured under the program.

"(3) The use of advanced manufacturing technology, processes, and systems during the research and development phase and the production phase of the program.

"(4) To the maximum extent practicable, the use of contract solicitations that encourage competing offerors to acquire, for use in the performance of the contract, modern technology, production equipment, and production systems (including hardware and software) that increase the productivity of the offerors and reduce life-cycle costs.

"(5) Encouragement of investment by United States domestic sources in advanced manufacturing technology production equipment and processes through—

"(A) recognition of the contractor's investment in advanced manufacturing technology production equipment, processes, and organization of work systems that build on workers' skill and experience, and work force skill development in the development of the contract objective; and

"(B) increased emphasis in source selections on the efficiency of production.

"(6) Expanded use of commercial manufacturing processes rather than processes specified by the Department of Defense.

"(7) Elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under Department of Defense contracts.

"(8) Expanded use of commercial products as set forth in section 2325 of this title.".

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 2438 the following new item:

"2439. Major programs: technology and industrial base plans.".

(c) IMPLEMENTATION.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including milestones for actions, to ensure the timely and thorough collection of information, completion of assessments, and issuance of plans required by the provisions of subchapter I of chapter 135 of title 10, United States Code, as added by subsection (a).

(2)(A) The first annual assessment required by section 2263 of such title shall be completed not later than September 30, 1993.

(B) The first annual plan required by section 2264 of such title shall be completed not later than November 15, 1993.

(C) The Secretary may prescribe regulations authorizing the presentation of information in a preliminary form in the first annual assessment and the first annual plan to the extent that the necessary information cannot reasonably be collected, analyzed, or presented in accordance with section 2263 or 2264, respectively, of title 10, United States Code, by the dates specified in subparagraphs (A) and (B).

(3) The National Defense Technology and Industrial Base Council shall establish the National Defense Center for Analysis of the Technology and Industrial Base not later than 6 months after the date of the enactment of this Act. The Secretary of Defense shall ensure that a contract solicitation is issued and a contract is awarded in a timely manner to facilitate the establishment of the Center within the period set forth in the preceding sentence.

SEC. 802. DEFENSE DUAL-USE TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAMS.

(a) DEFENSE DUAL-USE TECHNOLOGIES.—(1) Chapter 135 of title 10, United States Code (as added by section 801(a)), is amended by adding after subchapter II the following:

"SUBCHAPTER II—DUAL-USE TECHNOLOGIES

"Sec.
"2271. Defense dual-use critical technology partnerships.
"2272. Commercial-military integration partnerships.
"2273. Regional technology alliances assistance program.
"2274. Office for Foreign Defense Critical Technology Monitoring and Assessment.
"2275. Overseas foreign critical technology monitoring and assessment financial assistance program.
"2276. Encouragement of technology transfer.".

(2) Section 2523 of title 10, United States Code, (relating to defense dual-use critical technology partnerships) is—

(A) transferred to subchapter II of chapter 135 of such title (as added by paragraph (1));

(B) inserted following the table of sections; and

(C) redesignated as section 2271.

(3) Subchapter II of such chapter, as added by paragraph (1) and amended by paragraph (2), is further amended by inserting after section 2271 the following new section:

"§ 2272. Commercial-military integration partnerships

"(a) ESTABLISHMENT OF PARTNERSHIPS.—The Secretary of Defense shall conduct a program providing for the establishment of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between the Department of Defense and entities referred to in section 2271(b) of this title in order to encourage and provide for research, development, and application of technologies to attain the national defense technology and industrial base objectives set forth in section 2261 of this title.

"(b) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, and enter into cooperative agreements and other transactions pursuant to section 2371 of this title in order to establish the partnerships.

"(2) The Secretary may not enter into a partnership under this section for a period longer than 5 years.

"(3) The Secretary may provide a partnership with technical and other assistance to facilitate the achievement of the purposes of this section, subject to the limitations in subsection (c).

"(c) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The Secretary shall ensure that the amount of funds provided by the Secretary under a partnership does not exceed maximum authorized percentage of the total cost of partnership activities.

"(2) The maximum authorized percentage of Federal Government funding referred to in paragraph (1) for each year of a partnership is as follows:

"(A) 50 percent in the first year.

"(B) 40 percent in the second year.

"(C) 30 percent in the third year.

"(D) 20 percent in the fourth year.

"(E) 10 percent in the fifth year.

"(3)(A) The Secretary shall prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a partnership for the purpose of determining the share of the partnership costs that has been or is being undertaken by such participants.

"(B) The regulations shall also ensure that the in-kind contributions of nonprofit institutions and small businesses are considered included, to the maximum extent practicable, in the non-Federal Government share of the cost of the partnership.

"(d) SELECTION PROCESS.—Competitive procedures shall be used in the establishment of partnerships.

"(e) SELECTION CRITERIA.—The criteria for the selection of a proposed partnership for establishment under this section shall include the following:

"(1) The extent to which the program proposed to be conducted by the partnership advances and enhances the national defense industrial and technology base objectives set forth in section 2261 of this title.

"(2) The technical excellence of the program proposed to be conducted by the partnership.

"(3) The qualifications of the personnel proposed to participate in the partnership's research activities.

"(4) A likelihood that there will not be timely private sector investment in activities to achieve the goals and objectives of the proposed partnership other than through the partnership.

"(5) The potential effectiveness of the partnership in the further development and application of each technology proposed to be developed by the partnership for the industrial and technology base.

"(6) The extent of the financial commitment of the eligible firms to the proposed partnership.

"(7) The likelihood that the partnership will develop technologies that are sufficiently viable in the commercial sector so that such technologies will be available to meet the future reconstitution requirements and other needs of the Department of Defense described in the annual national defense technology and industrial base plan prepared under section 2264 of this title.

"(8) The likelihood that, within 5 years after the establishment of the partnership (or a lesser period established by the Secretary), Federal Government funding of the partnership will not be necessary.

"(9) Such other criteria as the Secretary prescribes.

"(f) DELEGATION OF AUTHORITY.—Subject to the authority, direction, and control of the Secretary of Defense and the Under Secretary of Defense for Acquisition, the Director of Defense Research and Engineering shall perform the duties of the Secretary of Defense under this section.".

(4) Section 2524 of title 10, United States Code (relating to critical technology application centers) is—

(A) transferred to subchapter II of chapter 135, as added by paragraph (1) and amended by paragraphs (2) and (3);

(B) inserted at the end of that subchapter; and

(C) amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"§ 2273. Regional technology alliances assistance program";

(ii) by striking out "regional critical technology application centers" in subsection (a) and inserting in lieu thereof "regional technology alliances";

(iii) by striking out "regional critical technology application center" in subsection (b) and inserting in lieu thereof "regional technology alliance";

(iv) by striking out "critical technology application center" and "center" each time such terms appear and inserting in lieu thereof "regional technology alliance"; and

(v) by striking out "2523" in subsection (g) and inserting in lieu thereof "2271".

(5) Section 2525 of title 10, United States Code (relating to the Office for Foreign Defense Critical Technology Monitoring and Assessment), and section 2526 of such title (relating to the overseas foreign critical technology monitoring and assessment financial assistance programs) are—

(A) transferred to subchapter II of chapter 135 of such title, as added by paragraph (1) and amended by paragraphs (2) through (4);

(B) inserted at the end of that subchapter; and

(C) redesignated as sections 2274 and 2275, respectively.

(6) Subsection (a) of section 2274 of such title (as redesignated by paragraph (5)) is amended by inserting "Critical" after "Foreign Defense".

(7) Section 2363 of title 10, United States Code (relating to encouragement of technology transfer), is—

(A) transferred to subchapter II of chapter 135 of such title, as added by paragraph (1) and amended by paragraphs (1) through (5);

(B) inserted at the end of that subchapter; and

(C) redesignated as section 2276.

(b) FUNDING.—Of the amounts authorized to be appropriated under section 201—

(1) $100,000,000 shall be available for defense dual-use critical technology partnerships;

(2) $50,000,000 shall be available for commercial-military integration partnerships;

(3) $100,000,000 shall be available for defense regional technology alliances; and

(4) $2,000,000 shall be available for the overseas critical technology monitoring and assessment financial assistance program.

SEC. 803. ESTABLISHMENT OF OFFICE OF TECHNOLOGY TRANSITION.

(a) ESTABLISHMENT.—(1) Subchapter II of chapter 135 of title 10, United States Code (as added by section 802), is amended by adding at the end the following:

"§ 2277. Office of Technology Transition

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish within the Office of the Secretary of Defense an Office of Technology Transition.

"(b) PURPOSE.—The purpose of the Office shall be to ensure, to the maximum extent practicable, that technology developed for national security purposes is integrated into the private sector of the United States in order to enhance the national defense technology and industrial base.

"(c) SPECIFIC DUTIES.—The head of the Office shall ensure that the Office—

"(1) monitors all research and development activities that are carried out by or for the military departments and Defense Agencies, including research and development that is conducted by or for—

"(A) the Strategic Defense Initiative Organization;

"(B) the Advanced Research Projects Agency; and

"(C) the Defense Nuclear Agency;

"(2) identifies all such research and development activities that use technologies, or result in technological advancements, having potential nondefense commercial applications;

"(3) serves as a clearinghouse for, coordinates, and otherwise actively facilitates the transition of such technologies and technological advancements from the Department of Defense to the private sector;

"(4) conducts its activities in consultation and coordination with the Department of Energy; and

"(5) provides private firms with assistance to resolve problems associated with security clearances, proprietary rights, and other legal considerations involved in such a transition of technology.

"(d) REPORTING REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives an annual report on the activities of the Office at the same time that the budget is submitted to Congress by the President pursuant to section 1105 of title 31. The report shall contain a discussion of the accomplishments of the Office during the fiscal year preceding the fiscal year in which the report is submitted.".

(2) The table of sections at the beginning of subchapter II of such chapter (as added by section 802) is amended by inserting after the item relating to section 2276 the following:

"2277. Office of Technology Transition.".

(b) SCHEDULE FOR ESTABLISHMENT.—The Office of Technology Transition shall commence operations within 180 days after the date of the enactment of this Act.

(c) REPORTING REQUIREMENTS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the establishment of the Office of Technology Transition. The report shall contain a description of the organization of the Office, the staffing of the Office, and the activities undertaken by the Office.

(2) Notwithstanding section 2277(d) of title 10, United States Code (as added by subsection (a))—

(A) the first report under that section shall be submitted not later than 1 year after the date of the enactment of this Act; and

(B) no additional report is necessary under that section in the fiscal year in which such first report is submitted.

SEC. 804. DEFENSE DUAL-USE MANUFACTURING TECHNOLOGY PROGRAMS.

(a) NATIONAL DEFENSE MANUFACTURING TECHNOLOGY PROGRAM.—(1) Chapter 135 of title 10, United States Code, as added by section 801(a) and amended by sections 802 and 803, is further amended by adding after subchapter II the following new subchapter:

"SUBCHAPTER III—MANUFACTURING TECHNOLOGY

"Sec.
"2281. National Defense Manufacturing Technology Program.
"2282. Defense advanced manufacturing technology partnerships.
"2283. Manufacturing extension programs.

"§ 2281. National Defense Manufacturing Technology Program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall establish a National Defense Manufacturing Technology Program to—

"(1) provide centralized guidance and direction, including goals, milestones, and priorities, to the military departments and the Defense Agencies on all matters relating to manufacturing technology;

"(2) direct the development and implementation of Department of Defense plans, programs, projects, activities, and policies that promote the development and application of advanced technologies to manufacturing processes, tools, and equipment;

"(3) improve the manufacturing quality, productivity, technology, and practices of businesses and workers providing goods and services to the Department of Defense;

"(4) promote dual-use manufacturing processes;

"(5) disseminate to such businesses information concerning improved manufacturing improvement concepts, including information on such matters as best manufacturing practices, product data exchange specifications, computer-aided acquisition and logistics support, and rapid acquisition of manufactured parts;

"(6) sustain and enhance the skills and capabilities of the manufacturing work force;

"(7) promote high-performance work systems, with development and dissemination of production technologies that build upon the skills and capabilities of the work force, high levels of worker education and training, and work force participation in the evaluation, selection, and implementation of new production technologies; and

"(8) ensure appropriate coordination between the manufacturing technology programs and industrial preparedness programs of the Department of Defense and similar programs undertaken by other departments and agencies of the Federal Government or by the private sector.

"(b) RELATIONSHIP TO NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE PLAN.—The Secretary shall ensure that the program is developed and implemented in accordance with the manufacturing technology guidance set forth in the national defense technology and industrial base plan prepared under section 2264 of this title.

"(c) ANNUAL REVISIONS.—The Secretary shall revise the program not later than March 15 of each year. Each revision shall identify each manufacturing technology program, project, or activity of the Department of Defense and the amounts provided for each such program, project, and activity in the budget submitted by the President under section 1105 of title 31 for the fiscal year beginning in that year.

"(d) PROGRAM LIMITATION.—A manufacturing technology program, project, or activity of the Department of Defense may be conducted only to the extent provided for in the National Defense Manufacturing Technology Program. However, such a program, project, or activity may be conducted in excess of the limitation in the preceding sentence if it is designated by the Secretary of Defense as a higher priority matter.

"(e) DELEGATION OF AUTHORITY.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform the duties of the Secretary of Defense under this section.".

(2) Section 203(d) of the National Defense Authorization Act for Fiscal Year 1992 and 1993 (Public Law 102-190; 105 Stat. 1315) is repealed.

(b) DEFENSE ADVANCED MANUFACTURING TECHNOLOGY PARTNERSHIPS.—(1) Section 2518 of title 10, United States Code (relating to defense advanced manufacturing technology partnerships), is—

(A) transferred to subchapter III of chapter 135 of such title, as added by subsection (a)(1);

(B) inserted at the end of that subchapter;

(C) redesignated as section 2282; and

(D) amended in subsection (d)(1) by striking out "section 2523(f)" and inserting in lieu thereof "section 2271(f)".

(2) Of the amounts made available pursuant to section 203(4), $25,000,000 shall be available for defense advanced manufacturing technology partnerships under section 2282 of title 10, United States Code, as transferred and redesignated by paragraph (1).

(c) MANUFACTURING TECHNOLOGY EXTENSION PROGRAMS.—(1) Section 2517 of title 10, United States Code (relating to manufacturing extension programs), is—

(A) transferred to subchapter III of chapter 135 of such title, as added by subsection (a)(1) and amended by subsection (b);

(B) inserted at the end of that subchapter; and

(C) redesignated as section 2283.

(2) Of the amounts authorized to be appropriated under section 201, $100,000,000 shall be available for support of manufacturing technology extension programs under section 2283 of title 10, United States Code, as transferred and redesignated by paragraph (1).

(d) DEFENSE MANUFACTURING ENGINEERING EDUCATION PROGRAM.—Of the amounts authorized to be appropriated under section 201, $25,000,000 shall be available for defense manufacturing engineering education grants under section 2196 of title 10, United States Code.

(e) DEFENSE MANUFACTURING EXPERTS IN THE CLASSROOM PROGRAM.—(1)(A) Section 2197 of title 10, United States Code, is amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"§ 2197. Manufacturing experts in the classroom";

(ii) in subsection (a), by striking out "managers and" in the matter above paragraph (1); and

(iii) by adding at the end the following new subsection:

"(e) MANUFACTURING EXPERT DEFINED.—In this section, the term 'manufacturing expert' means manufacturing managers and workers having experience in the organization of production and education and training needs and other experts in manufacturing.".

(B) The table of sections at the beginning of chapter 111 of such title is amended by striking out the item relating to section 2197 and inserting in lieu thereof the following:

"2197. Manufacturing experts in the classroom.".

(2) Of the amounts authorized to be appropriated under section 201, $5,000,000 shall be available for the manufacturing experts in the classroom program under section 2197 of title 10, United States Code.

SEC. 805. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE DUAL-USE ASSISTANCE EXTENSION PROGRAMS.

(a) EXTENSION PROGRAMS.—Chapter 135 of title 10, United States Code, as added by section 801(a) and as amended by sections 802, 803, and 804, is further amended by adding at the end the following:

"SUBCHAPTER IV—MISCELLANEOUS TECHNOLOGY BASE POLICIES AND PROGRAMS

"Sec.
"2291. Defense dual-use assistance extension program.
"2292. Defense Industrial Reserve.

"§ 2291. Defense dual-use assistance extension program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense, in consultation and coordination with the Secretary of Energy and the Secretary of Commerce, shall establish a program to achieve the national defense technology and industrial base objectives set forth in section 2261 of this title by providing support to entities referred to in subsection (b) for programs described in that subsection.

"(b) PROGRAMS SUPPORTED.—The Secretary may provide support under this section for programs sponsored by the Federal Government, regional entities, States, local governments, and private entities and nonprofit organizations that assist firms whose businesses and workers economically dependent on Department of Defense expenditures to acquire dual-use capabilities through the provision under those programs of the following services:

"(1) Assistance in converting from government-oriented management, production, training, business planning, and marketing practices to commercial practices.

"(2) Assistance in making improvements necessary for conversion to commercial markets and practices and in acquiring and using public and private sector resources, literature, and other information concerning—

"(A) research, development, and production processes and practices;

"(B) identification and development of technologies and products having the potential for defense and nondefense commercial applications;

"(C) marketing practices and opportunities;

"(D) identification of potential suppliers, partners, and subcontractors;

"(E) identification of opportunities for government support, including support through grants, contracts, partnerships and consortia;

"(F) enhancement of work force skills and capabilities, including development and introduction of high performance workplace systems, employee and participative management systems, workforce literacy programs, programs to encourage employee ownership, worker education and training, work force participation in the evaluation, selection, and implementation of new production technologies; and

"(G) trade and export assistance.

"(c) Assistance Authorized.—(1) The Secretary may make grants, enter into contracts, enter into cooperative agreements and other transactions pursuant to section 2371 of this title, and transfer funds to another department or agency of the Federal Government in carrying out this section.

"(2) Subject to subsection (d), the Secretary may provide a program referred to in subsection (b) with technical and other assistance.

"(d) Financial Commitment of Non-Department of Defense Participants.—(1) The Secretary shall ensure that the amount of funds provided by the Department of Defense for a program under this section does not exceed the maximum authorized percentage of the combined amount provided by the Department of Defense and all other sources of funding for the program for any year.

"(2) The maximum authorized percentage of Department of Defense funding referred to in paragraph (1) for each year of Department of Defense assistance for a program under this section is as follows:

"(A) 50 percent in the first year.

"(B) 40 percent in the second year.

"(C) 30 percent in the third and following years.

"(e) Selection Process.—Competitive procedures shall be used in the selection of programs to receive assistance under this section.

"(f) Selection Criteria.—The criteria for the selection of a program to receive assistance under this section shall include the following:

"(1) The extent to which the program advances and enhances the national defense industrial and technology base objectives set forth in section 2261 of this title.

"(2) The technical excellence of the program.

"(3) The qualifications of the personnel proposed to participate in the program's research activities.

"(4) A likelihood that there will not be timely private sector investment in activities that is sufficient to achieve the goals and objectives of the programs.

"(5) The potential effectiveness of the program in the conversion of businesses, including their work forces from capabilities that make the companies economically dependent on Department of Defense business to capabilities having defense and nondefense commercial applications.

"(6) The ability of the program to assist businesses, including their work forces, adversely affected by significant reductions in Department of Defense spending.

"(7) The extent of the financial commitment by sources other than the Department of Defense.

"(8) The extent to which the program would supplement, rather than duplicate, other available services.

"(9) The likelihood that, within 5 years after the commencement of assistance for a program under this section (or a lesser period established by the Secretary), Department of Defense assistance will not be necessary to sustain the program.

"(10) Such other criteria as the Secretary prescribes.

"(g) Delegation of Authority.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform the duties of the Secretary of Defense under this section.

"(h) Termination of Authority.—This section shall cease to be effective on September 30, 1997.".

(b) Funding.—(1) Of the amounts authorized to be appropriated under section 201, $200,000,000 shall be available for defense dual-use extension programs under section 2291 of title 10, United States Code (as added by subsection (a)), of which not less than $50,000,000 shall be made available to regional, State, and local government programs.

(2) Of funds authorized to be appropriated to the Department of Defense for fiscal year 1993 by this Act, the Secretary may transfer not more than $50,000,000 to the appropriations made available for the support of defense dual-use extension programs under such section 2291. Amounts so transferred shall be merged with, and be available for the same purpose and the same period as, the appropriations to which transferred. The authority to transfer funds under this paragraph is in addition to any other transfer authority provided for the Secretary of Defense under this or any other Act.

SEC. 806. ADDITIONAL STATUTORY REORGANIZATION.

(a) Technology and Industrial Base Amendments.—(1)(A) Subchapter IV of chapter 135 of title 10, United States Code, as added by section 805, is amended by adding at the end, without text, the following new section:

"§ 2292. Defense Industrial Reserve".

(B) The text of section 2 of the Defense Industrial Reserve Act (50 U.S.C. 451) is—

(i) transferred to section 2292;

(ii) inserted below the section heading; and

(iii) amended by striking out "In enacting this Act, it" and inserting in lieu thereof the following: "(a) Declaration of Purpose and Policy.—It".

(C) The text of section 4 of that Act (50 U.S.C. 453) is—

(i) transferred to section 2292;

(ii) inserted following subsection (a), as designated in the amendment made by subparagraph (B)(iii); and

(iii) amended—

(I) by striking out "(a) To execute the policy set forth in this Act," and inserting in lieu thereof the following: "(b) Powers and Duties of the Secretary of Defense.—(1) To execute the policy set forth in this section,";

(II) by striking out "(1) determine" and inserting in lieu thereof "(A) determine";

(III) by striking out "(2) designate" and inserting in lieu thereof "(B) designate";

(IV) by striking out "(3) establish" and inserting in lieu thereof "(C) establish";

(V) by striking out "(4) direct" and inserting in lieu thereof "(D) direct";

(VI) by striking out "(5) direct" and inserting in lieu thereof "(E) direct";

(VII) by striking out "(6) authorize" and inserting in lieu thereof "(F) authorize";

(VIII) by striking out "(7) authorize" and all that follows through "(B) such institution" and inserting in lieu thereof "(G) authorize and regulate the lending of any such property to any nonprofit educational institution or training school whenever (i) the program proposed by such institution or school for the use of such property will contribute materially to national defense, and (ii) such institution";

(IX) by striking out "(b)(1) The Secretary" and inserting in lieu thereof "(2)(A) The Secretary";

(X) by striking out "(A) storage" and inserting in lieu thereof "(i) storage";

(XI) by striking out "(B) repair" and inserting in lieu thereof "(ii) repair";

(XII) by striking out "(C) overhead" and inserting in lieu thereof "(iii) overhead"; and

(XIII) by striking out "(2) The Secretary of Defense shall prescribe regulations" and inserting in lieu thereof "(B) The Secretary of Defense shall prescribe regulations".

(D) The text of section 3 of that Act (50 U.S.C. 452) is—

(i) transferred to section 2292;

(ii) inserted following subsection (b), as designated in the amendment made by subparagraph (C)(iii)(I); and

(iii) amended by striking out "As used in this Act—" and inserting in lieu thereof "(c) Definitions.—In this section:".

(2)(A) Chapter 135 of title 10, United States Code, as added by section 801(a) and amended by sections 802, 803, 804, and 805 and by paragraph (1), is further amended by inserting at the end the following subchapter:

"SUBCHAPTER V—DEFINITIONS

"Sec.
"2300. Definitions.

"§ 2300. Definitions

"In this chapter:

"(1) The term 'national defense technology and industrial base' means the persons and organizations that are engaged in research, development, production, or maintenance activities the majority of which are conducted within the United States and Canada.

"(2) The term 'dual-use' with respect to products, services, standards, processes, or acquisition practices, means products, services, standards, processes, or acquisition practices, respectively, that are capable of meeting requirements for private sector commercial acquisitions as well as public sector acquisitions.

"(3) The term 'dual-use critical technology' means a critical technology that has military applications and nonmilitary commercial applications.

"(4) The terms 'technology and industrial base sector' and 'sector' mean a group of public or private persons and organizations that engage in, or are capable of engaging in, similar research, development, or production activities.

"(5) The terms 'Federal laboratory' and 'laboratory' have the meaning given the term 'laboratory' in section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)).

"(6) The term 'critical technology' means a technology that is—

"(A) a national critical technology; or

"(B) a defense critical technology.

"(7) The term 'national critical technology' means a technology that appears on the list of national critical technologies contained in the most recent biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)).

"(8) The term 'defense critical technology' means a technology that appears on the list of critical technologies contained, pursuant to subsection (f) of section 2263 of this title, in the most recent national defense technology and industrial base assessment submitted to Congress by the Secretary of Defense pursuant to section 2264(1) of this title.

"(9) The term 'eligible firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) conducts a significant level of its research, development, engineering, and manufacturing activities in the United States; and

"(B) is a company or other business entity the majority ownership or control of which is by United States citizens or is a company or other business of a parent company that is incorporated in a country the government of which—

"(i) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations; and

"(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

Such term includes a consortium of such companies or other business entities, as determined by the Secretary of Commerce.

"(10) The term 'manufacturing technology' means techniques and processes designed to improve manufacturing quality, productivity, and practices, including quality control, shop floor management, inventory management, and worker training, as well as manufacturing equipment and software.

"(11) The term 'manufacturing extension program' means a public or private, nonprofit program for the improvement of the quality, productivity, and performance of United States-based small manufacturing firms in the United States.

"(12) The term 'United States-based small manufacturing firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) engages in manufacturing;

"(B) has less than 500 employees; and

"(C) is an eligible firm.".

(B) Until the first annual national defense technology and industrial base assessment is submitted to Congress by the Secretary of Defense pursuant to section 2264(1) of title 10, United States Code (as added by section 801(a)), the reference to the most recent such assessment in section 2300(8) of such title (as added by subparagraph (A)) shall be deemed to refer to the most recent annual critical defense critical technologies plan submitted to Congress by the Secretary of Defense pursuant to section 2522 of such title as in effect on the date of the enactment of this Act.

(3) The annual national defense technology and industrial base assessment submitted to Congress pursuant to section 2264(1) of title 10, United States Code (as added by section 801(a)), during each year through 1995 shall include a specific assessment of the capability of the domestic textile and apparel industrial base of the United States to support national defense mobilization requirements. Each such assessment shall include the following:

(A) An identification of textile and apparel mobilization requirements of the Department of Defense that cannot be satisfied on a timely basis by domestic industries.

(B) An assessment of the effect that any inadequacy in the textile and apparel industrial base would have on a mobilization.

(C) Recommendations for ways to alleviate any such inadequacy that the Secretary considers critical to national defense mobilization requirements.

(b) Conforming Reorganization of Title 10.—(1) Part IV of subtitle A of title 10, United States Code, is amended—

(A) by redesignating the chapter 135 (relating to encouragement of aviation) in effect on the day before date of the enactment of this Act as chapter 151; and

(B) by transferring such chapter, as so redesignated, within part IV of such subtitle so as to appear in sequence immediately before chapter 152.

(2) Such chapter is amended as follows:

(A) Sections 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, and 2279 are redesignated as 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, and 2539, respectively.

(B) Subsection (a) of section 2532, as so redesignated, is amended by striking out "section 2271" and inserting in lieu thereof "section 2531".

(C) Subsection (a) of section 2533, as so redesignated, is amended by striking out "section 2272" and inserting in lieu thereof "section 2532".

(D) Subsection (b) of section 2534, as so redesignated, is amended by striking out "sections 2272(f) and 2279 of this title but are not subject to section 2271(a)-(d) and 2272(a)" and inserting in lieu thereof "sections 2532(f) and 2539 of this title but are not subject to section 2531(a)-(d) and 2532(a)".

(c) Transfers of Sections.—(1) Section 2504 of title 10, United States Code, is—

(A) transferred to subchapter II of chapter 138 of such title;

(B) inserted at the end of that subchapter;

(C) redesignated as 2350j; and

(D) amended in subsection (a)(1) by striking out "defense industrial base" and inserting in lieu thereof "defense technology and industrial base".

(2) Section 2505 of such title is—

(A) transferred to chapter 141 of such title, as amended by section 363 of this Act;

(B) inserted at the end of that chapter; and

(C) redesignated as section 2410d.

(3) Section 2507 of such title is—

(A) transferred to chapter 141 of such title, as amended by paragraph (2);

(B) inserted at the end of that chapter; and

(C) amended—

(i) by striking out subsection (c); and

(ii) by striking out the section heading and inserting in lieu thereof the following:

"§2410e. Miscellaneous limitations on the procurement of goods other than United States goods".

(4)(A) Section 2506 of such title is amended—

(i) in subsection (a)—

(I) by striking out "(a) Funds" and inserting in lieu thereof "(c) Procurement of Non-American Goods Generally.—(1) Funds";

(II) by striking out "(as defined in subsection (c))" in the matter above paragraph (1); and

(III) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as subparagraphs (A), (B), (C), (D), (E), (F), and (G), respectively;

(ii) in subsection (b), by striking out "(b) Consideration of the matters referred to in paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "(2) Consideration of the matters referred to in subparagraphs (A) through (F) of paragraph (1)"; and

(iii) in subsection (c)—

(I) by striking out "(c) In this section," and inserting in lieu thereof "(3) In this subsection,"; and

(II) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) The text of such section, as so amended, is transferred to section 2410e of title 10, United States Code, as added by paragraph (3), and is inserted following subsection (b) of that section.

(d) Conforming Repeals.—(1) Section 2330 of title 10, United States Code, is repealed.

(2)(A) Part IV of subtitle A of such title is amended by striking out chapters 148, 149, and 150.

(B) The tables of chapters at the beginning of subtitle A of such title and part IV of such subtitle are amended by striking out the items relating to chapters 148, 149, and 150.

(3) The Defense Industrial Reserve Act (50 U.S.C. 450 et seq.) is repealed.

(e) Tables of Sections.—(1) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2330.

(2) The table of sections at the beginning of subchapter II of chapter 138 of such title is amended by adding at the end the following:

"2350j. Defense memoranda of understanding and related agreements.".

(3) The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2363.

(4) The table of sections at the beginning of chapter 141 of such title, as amended by section 363 of this Act, is further amended by adding at the end the following:

"2410d. Offset policy: notification.
"2410e. Miscellaneous limitations on the procurement of goods other than United States goods.".

SEC. 807. SMALL BUSINESS INNOVATION RESEARCH PROGRAM IN THE DEPARTMENT OF DEFENSE.

(a) Amounts Available.—For each fiscal year after fiscal year 1993, funds authorized to be appropriated to a military department or a Defense Agency of the Department of Defense for research, development, test and evaluation shall be available for research activities and for research and development activities under the Small Business Innovation Research Program in amounts as follows:

(1) For fiscal year 1993, 1.5 percent of the extramural budget of such military department or Defense Agency for such activities for that fiscal year.

(2) For fiscal year 1994, 2 percent of the extramural budget of such military department or Defense Agency for such activities for that fiscal year.

(3) For fiscal year 1995, and each fiscal year thereafter, 2.5 percent of the extramural budget of such military department or Defense Agency for such activities for that fiscal year.

(b) Limitation on Program Awards.—Amounts paid to a small business concern by the Department of Defense under the Small Business Innovation Research Program for a project—

(1) in phase I under the program may not exceed $100,000; and

(2) in phase II under the program may not exceed $750,000.

(c) Commercial Applications Strategy.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Administrator of the Small Business Administration, shall develop and issue a strategy for effectuating the transition of successful projects under the Small Business Innovation Research Program from phase II under the program into phase III under the program.

(d) Program Management.—The Director of Defense Research and Engineering and the Director of the Office of Small and Disadvantaged Business Utilization of the Department of Defense shall be responsible for the participation of the military departments and Defense Agencies in the Small Business Innovation Research Program.

(e) Extension of Program.—Section 5 of Public Law 97-219 (15 U.S.C. 638 note) is amended—

(1) by striking out "Effective October 1, 1993, paragraphs" and inserting in lieu thereof "Paragraphs"; and

(2) by striking out "are repealed" and inserting in lieu thereof "shall cease to be effective with respect to departments and agencies of the Federal Government other than the Department of Defense on October 1, 1993, and are repealed effective October 1, 2000".

(f) Definitions.—In this section:

(1) The term "Small Business Innovation Research Program" means the Small Business Innovation Research Program carried out pursuant to paragraphs (4) through (7) of subsection (b) of section 9 of the Small Business Act (15 U.S.C. 638) and subsections (e) through (k) of such section.

(2) The term "extramural budget" has the meaning given that term in subsection (e)(1) of such section.

(3) The term "phase I", with respect to the Small Business Innovation Research Program, means the first phase described in subsection (e)(4)(A) of such section.

(4) The term "phase II", with respect to the Small Business Innovation Research Program, means the second phase described in subsection (e)(4)(B) of such section.

(5) The term "phase III", with respect to the Small Business Innovation Research Program, means the third phase described in subsection (e)(4)(C) of such section.

(g) EFFECTIVE DATE AND APPLICABILITY.—This section shall take effect on October 1, 1992.

SEC. 808. DUAL-USE DEFENSE CONVERSION PRIORITY.

During fiscal year 1993, the Secretary of Defense shall give priority in the allocation of funds under subchapters II, III, and IV of chapter 135 of title 10, United States Code (as added by sections 802 through 805) and the Small Business Innovation Research Program referred to in section 807, to the maximum extent practicable, to programs, projects, and activities that provide significant assistance for converting the capabilities of businesses that are economically dependent on Department of Defense business to capabilities having defense and nondefense commercial applications.

SEC. 809. STATUTORY CHARTER FOR THE ADVANCED RESEARCH PROJECTS AGENCY.

(a) STATUTORY CHARTER.—(1) Subchapter II of chapter 8 of title 10, United States Code, is amended by adding at the end the following:

"§ 203. Advanced Research Projects Agency

"(a) IN GENERAL.—The Advanced Research Projects Agency is a Defense Agency.

"(b) DIRECTOR.—(1) The head of the agency is the Director.

"(2) The Director is appointed by the President, by and with the advice and consent of the Senate. The Secretary of Defense shall recommend persons for appointment to the position of Director.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Director shall perform the functions and duties provided in subsection (d).

"(c) DEPUTY DIRECTOR.—(1) There is a Deputy Director of the agency who is appointed by the Director with the approval of the Secretary of Defense.

"(2) The Deputy Director shall perform such duties and exercise such authority as may be prescribed by the Director with the approval of the Secretary of Defense.

"(3) When there is a vacancy in the office of Director or in the absence or disability of the Director, the Deputy Director shall act as Director and perform the duties, and exercise the authority, of the Director until a successor is appointed or the absence or disability ceases.

"(d) FUNCTIONS AND DUTIES.—(1) The Advanced Research Projects Agency is the central research and development organization of the Department of Defense. It is a primary responsibility of the agency to maintain the technological superiority of the United States over the potential adversaries of the United States.

"(2) The agency shall—

"(A) together with United States industry, Federal laboratories, and colleges and universities, pursue—

"(i) imaginative and innovative research and development projects having significant potential for both military and commercial applications; and

"(ii) imaginative and innovative research and development projects having significant potential solely for military applications;

"(B) support and stimulate a national technology base that—

"(i) serves both civilian and military purposes through enhanced technology sharing and otherwise; and

"(ii) by so serving both purposes, increases the productivity of both the civilian and military sectors;

"(C) manage and direct the conduct of basic and applied research and development that exploits scientific breakthroughs and demonstrates the feasibility of revolutionary approaches for improved cost and performance of advanced technology having future military applications, including advanced technology also having future civilian applications; and

"(D) stimulate increased emphasis on prototyping in defense systems and subsystems—

"(i) by conducting prototype projects embodying technology that might be incorporated in joint programs, programs in support of deployed forces, or selected programs of the military departments; and

"(ii) on request of the Secretary of a military department, by assisting that military department in any prototyping program of the military department.

"(3) The agency may, when requested and supported by a department or agency of the Federal Government not primarily involved in the performance of national security functions, manage and direct the conduct of basic and applied research and development of any other advanced technology that can be applied to increase the capability of that department or agency to attain mission objectives of the department or agency.

"(e) OTHER DUTIES.—The agency shall perform any additional duties that the Secretary of Defense assigns.".

(2) The table of sections at the beginning of subchapter II of such chapter is amended by inserting at the end the following:

"203. Advanced Research Projects Agency.".

(b) RELATED AND OTHER DEFENSE RESEARCH AMENDMENTS.—(1)(A) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director, Advanced Research Projects Agency, Department of Defense.".

(B) Section 5316 of such title is amended by striking out the following:

"Director, Advanced Research Projects Agency, Department of Defense.".

(2)(A) Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Director of Defense Research and Engineering, Department of Defense.".

(B) Section 5315 of such title is amended by striking out the following:

"Director of Defense Research and Engineering.".

(3) Section 101(44)(B) of title 10, United States Code, is amended by inserting "by law or" after "designated".

(4) Section 2371(a) of such title is amended by striking out "Defense Advanced Research Projects Agency" and inserting in lieu thereof "Advanced Research Projects Agency".

(c) REFERENCE IN OTHER LAW.—Any reference in any other law to the Defense Advanced Research Projects Agency shall be deemed to refer to the Advanced Research Projects Agency.

SEC. 810. INDUSTRIAL DIVERSIFICATION PLANNING FOR DEFENSE CONTRACTORS.

(a) INCENTIVES.—(1) Not later than 120 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations to encourage defense contractors to engage in industrial diversification planning.

(2) Such regulations shall include—

(A) treatment of industrial diversification planning expenditures as allowable costs under Department of Defense contracts,

(B) treatment of industrial diversification research and development activities as permissible independent research and development expenditures, and

(C) such other incentives as the Secretary of Defense deems appropriate to encourage defense contractors to engage in industrial diversification planning.

(b) DEFINITION.—For purposes of this section, the term "industrial diversification" means conversion from government-oriented management, production, training, and marketing practices to practices that are compatible with the commercial marketplace.

SEC. 810A. CLARIFICATION OF PARTICIPANTS IN DEFENSE DUAL-USE CRITICAL TECHNOLOGY PARTNERSHIPS.

Section 2271(b) of title 10, United States Code (as redesignated by section 802(a)(2)), is amended by inserting "government-owned and operated industrial facilities," after "Federal laboratory or laboratories".

Subtitle B—Acquisition Assistance Programs

SEC. 811. SMALL BUSINESS ADMINISTRATION CERTIFICATE OF COMPETENCY PROGRAM.

Section 8(b)(7) of the Small Business Act (15 U.S.C. 637(b)(7)) is amended by striking out the sentence following subparagraph (C) and inserting in lieu thereof the following:

"In the case of a contract entered into pursuant to the provisions of chapter 137 of title 10, United States Code, other than pursuant to simplified procedures referred to in section 2304(g) of such title, the Government procurement officer entering into the contract is not required to refer a determination of nonresponsibility made by that officer to the Administration unless the small business concern requests a determination of its responsibility, and the issuance of a certificate of responsibility, by the Administration. The solicitation for the contract shall contain a notice of the right of a small business concern to request the Administration to make a determination of its responsibility. For the purposes of that contract, the Administration is not required to process a request for certification of responsibility of a small business concern that is not submitted by that small business concern.".

SEC. 812. TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.

(a) EXTENSION OF PROGRAM.—Subsection (e) of section 834 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (15 U.S.C. 637 note) is amended by striking out "September 30, 1993" in the second sentence and inserting in lieu thereof "September 30, 1994".

(b) FISCAL YEAR 1994 PARTICIPANTS.—Such section is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) FISCAL YEAR 1994 PARTICIPANTS.—Only those contracting activities and contractors who negotiated subcontracting plans under demonstration projects conducted under the test program before October 1, 1993, may participate in demonstration projects conducted under the test program in fiscal year 1994.".

SEC. 813. EXTENSION OF TEST PROGRAM OF CONTRACTING FOR PRINTING-RELATED SERVICES FOR THE DEPARTMENT OF DEFENSE.

(a) EXTENSION OF AUTHORITY.—Section 843(e) of the National Defense Authorization Act, Fiscal Year 1989 (44 U.S.C. 502 note) is amended by striking out "October 1, 1993" and inserting in lieu thereof "October 1, 2000".

(b) SECTION HEADING.—The heading of section 843 of such Act is amended to read as follows:

"SEC. 843. CONTRACT GOAL FOR DISADVANTAGED SMALL BUSINESSES IN PRINTING-RELATED SERVICES.".

SEC. 814. CONTRACT GOAL FOR DISADVANTAGED SMALL BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

(a) EXTENSION OF REQUIREMENT.—Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) is amended—

(1) in subsection (a), by striking out "and 1993" and inserting in lieu thereof "1993, 1994, 1995, 1996, 1997, 1998, 1999, and 2000"; and

(2) by striking out subsection (h).

(b) ACTIONS TO ATTAIN GOAL.—Subsection (e) of such section is amended—

(1) in the matter above paragraph (1), by striking out "subsection (a)—" and inserting in lieu thereof "subsection (a):";

(2) in paragraph (1), by striking out the period at the end and inserting in lieu thereof the following: "and shall actively monitor and assess the progress of the military departments, Defense Agencies, and prime contractors of the Department of Defense in attaining such goal. In making the assessment, the Secretary shall evaluate the extent to which use of the authority provided in paragraphs (2) and (3) and compliance with the requirement in paragraph (4) is effective for facilitating the attainment of the goal."; and

(3) in paragraph (3)—

(A) by inserting "(A)" after "(3)"; and

(B) by adding at the end the following new subparagraph:

"(B) Under procedures prescribed by the Secretary of Defense, a person may request the Secretary to determine whether the use of small disadvantaged business set asides by a contracting activity of the Department of Defense has caused a particular industry category to bear a disproportionate share of the progress made toward attainment of the goal established for that contracting activity for the purposes of this section. Upon making a determination that there has been that result, the Secretary shall take appropriate actions to limit the contracting activity's use of set asides in awarding contracts in that particular industry category.".

(c) CONTINUED ACCESS TO BUSINESS OPPORTUNITIES.—(1) Notwithstanding the regulations implementing section 806 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (10 U.S.C. 2301 note), a contract to furnish products or services to the Department of Defense shall be entered into in accordance with the requirements and the authority provided in section 1207(e) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) if—

(A) there is a reasonable expectation of receiving offers from 2 or more eligible small business concerns that have the capability to perform the contract; and

(B) on the date of the issuance of the solicitation for such contract, a graduate of the minority small business and capital ownership development program authorized under section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is furnishing the same (or substantially similar) products or services to the Department of Defense under a contract awarded pursuant to section 8(a) of that Act (15 U.S.C. 637(a)).

(2) The amendment made by paragraph (1) shall apply with respect to solicitations for contracts that are issued on or after the date 90 days after the date of the enactment of this Act.

(d) SECTION HEADING.—The heading for such section is amended to read as follows:

"SEC. 1207. CONTRACT GOAL FOR DISADVANTAGED SMALL BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION.".

(e) FUNDING.—Of the amounts authorized to be appropriated for fiscal year 1993 pursuant to title II of this Act, $15,000,000 shall be available for such fiscal year for infrastructure assistance to historically Black colleges and universities and minority institutions under section 1207(c)(3) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note).

SEC. 815. PILOT MENTOR-PROTEGE PROGRAM.

(a) FUNDING.—Of the amounts authorized to be appropriated for fiscal year 1993 pursuant to title I of this Act, $55,000,000 shall be available for the pilot Mentor-Protege Program established pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note).

(b) MAJOR DEFENSE ACQUISITION PROGRAMS.—Of the amount provided in subsection (a), $25,000,000 shall be available for the direct reimbursement of developmental assistance costs incurred by mentor firms under major defense acquisition programs (as defined in section 2430 of title 10, United States Code) in the participation of such firms in the pilot Mentor-Protege Program.

(c) REGULATIONS.—(1) Congress finds that the Secretary of Defense—

(A) has not published the Department of Defense policy for the pilot Mentor-Protege Program as required by the amendment made to section 831(k) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) by section 814(b)(4) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1425); and

(B) has not prescribed regulations for the reimbursement of the costs a mentor firm may incur under section 831(g)(2) of that Act.

(2) Congress expects the Secretary of Defense to publish the policy and prescribe the regulations.

(3) Within 15 days after the date of the enactment of this Act, the Secretary shall publish in the Department of Defense Supplement to the Federal Acquisition Regulation the Department of Defense policy for the pilot Mentor-Protege Program and the regulations, directives, and administrative guidance pertaining to such program as such policy, regulations, directives, and administrative guidance existed on December 6, 1991. Proposed modifications to that policy and any amendments of the matters published pursuant to the preceding sentence that are proposed in order to implement any of the amendments made by this section shall be published for public comment within 60 days after the date of the enactment of this Act and shall be published in final form within 120 days after such date.

(d) DETERMINATIONS OF ELIGIBILITY.—Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is amended by adding at the end the following new subsections:

"(o) ELIGIBILITY OF PROTEGE FIRMS FOR CERTAIN ASSISTANCE.—Notwithstanding any other provision of law, the Small Business Administration may not determine a disadvantaged small business concern to be ineligible to receive any assistance authorized under the Small Business Act on the basis that such business concern has participated in the Mentor-Protege Program or has received assistance pursuant to any developmental assistance agreement authorized under such program.

"(p) LIMITATION ON DUPLICATIVE REVIEW.—Notwithstanding any other provision of law, the Small Business Administration may not require a firm that is entering into, or has entered into, an agreement under subsection (e) as a protege firm to submit the agreement, or any other document required by the Secretary of Defense in the administration of the Mentor-Protege Program, to the Small Business Administration for review, approval, or any other purpose.".

(e) STATUS DETERMINATIONS.—Section 831(c)(3) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is amended by striking out the second sentence and all that follows through "Administration" in the third sentence and inserting in lieu thereof the following: "The Secretary of Defense shall determine the status of such business concern as a disadvantaged small business concern pursuant to regulations prescribed by the Secretary. If at any time the business concern is determined by the Secretary".

(f) NONAFFILIATION TREATMENT.—Subsection (h) of section 831 the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is repealed.

(g) RETROACTIVE EFFECTIVE DATE.—The amendments made by subsections (d), (e), and (f) shall take effect as of November 5, 1990, and shall apply as if executed immediately after section 831 of the National Defense Authorization Act for Fiscal Year 1991 took effect.

SEC. 816. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM.

(a) AVAILABILITY OF AUTHORIZED APPROPRIATIONS.—Of the amounts authorized to be appropriated pursuant to section 301(5), $9,000,000 shall be available for fiscal year 1993 for carrying out the provisions of chapter 142 of title 10, United States Code.

(b) SPECIFIC PROGRAMS.—Of the amounts provided for in subsection (a), $600,000 shall be available for fiscal year 1993 for the purpose of carrying out programs sponsored by eligible entities referred to in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas referred to in subparagraph (B) of section 2411(2) of such title. If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow for effective use of the funds made available in accordance with this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

Subtitle C—Miscellaneous Acquisition Policy Matters

SEC. 821. EXTENSION OF PROGRAM FOR USE OF MASTER AGREEMENTS FOR PROCUREMENT OF ADVISORY AND ASSISTANCE SERVICES.

Section 2304(j) of title 10, United States Code, is amended in paragraph (5) by striking out "at the end of" and all that follows and inserting in lieu thereof "on September 30, 1994.".

SEC. 822. MAJOR DEFENSE ACQUISITION PROGRAM REPORTS.

(a) SELECTED ACQUISITION REPORTS FOR CERTAIN PROGRAMS.—Section 127(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (101 Stat. 1044; 10 U.S.C. 2432 note) is amended by striking out "at the end of each fiscal year quarter" and inserting in lieu thereof "in accordance with the provisions of subsection (b) of section 2432 of title 10, United States Code,".

(b) MINIMUM AMOUNT CRITERIA FOR MAJOR DEFENSE ACQUISITION PROGRAMS.—Section 2430 of title 10, United States Code, is amended—

(1) by designating the existing text as subsection (a);

(2) in paragraph (2) of that subsection, as so designated—

(A) by striking out "$200,000,000" and inserting in lieu thereof "$300,000,000";

(B) by striking out "1980" both places it appears and inserting in lieu thereof "1990"; and

(C) by striking out "$1,000,000,000" and inserting in lieu thereof "$1,800,000,000"; and

(3) by adding at the end the following new subsection:

"(b) The Secretary of Defense may adjust the amounts (and the base fiscal year) provided in subsection (a)(2) on the basis of Department of Defense escalation rates. An adjustment under this subsection shall be effective after the Secretary transmits a written notification of the adjustment to the Committees on Armed Services of the Senate and House of Representatives.".

(c) SELECTED ACQUISITION REPORTS.—(1) Subsection (a) of section 2432 of title 10, United States Code, is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) The term 'major contract', with respect to a major defense acquisition program, means each of the six largest prime, associate, or Government-furnished equipment contracts under the program that is in excess of $40,000,000.".

(2) Subsection (b) of such section is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) The Secretary of Defense may waive the requirement for submission of Selected Acquisition Reports for a program for a fiscal year if—

"(i) the program has not entered full scale development or engineering and manufacturing development;

"(ii) a reasonable cost estimate has not been established for such program; and

"(iii) the system configuration for such program is not well defined.

"(B) The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a written notification of each waiver under subparagraph (A) for a program for a fiscal year not later than 60 days before the President submits the budget to Congress pursuant to section 1105 of title 31 in that fiscal year.".

(3) Subsection (c)(2) of such section is amended by striking out the last sentence and inserting in lieu thereof the following: "The Secretary of Defense may approve changes in the content of the Selected Acquisition Report if the Secretary provides such Committees with written notification of such changes at least 60 days before the date of the report that incorporates the changes.".

(4) Subsection (c)(3)(C) of such section is amended by striking out clauses (i) through (vii) and inserting in lieu thereof the following:

"(i) Specification of the baseline production rate, defined as the rate or rates to be achieved at full rate production as assumed in the decision to proceed with production (commonly referred to as the 'Milestone III' decision).

"(ii) Specification, for each of the two budget years of production under the program, of the minimum sustaining production rate, defined as the production rate for each budget year that is necessary to keep production lines open while maintaining a base of responsive vendors and suppliers.

"(iii) Specification, for each of the two budget years of production under the program, of the maximum production rate, defined as the production rate for each budget year that is attainable with the facilities and tooling programmed to be available for procurement under the program or otherwise to be provided with Government funds.

"(iv) Specification, for each of the two budget years of production, of the current production rate, defined as the production rate for each budget year for which the report is submitted, based on the budget submitted to Congress pursuant to section 1105 of title 31.

"(v) Estimation of any cost variance—

"(I) between the budget year procurement unit costs at the production rate specified pursuant to clause (iv) and the budget year procurement unit costs at the minimum sustaining production rate specified pursuant to clause (ii); and

"(II) between the total remaining procurement cost at the production rate specified pursuant to clause (iv) and the total remaining procurement cost at the minimum sustaining production rate specified pursuant to clause (ii).

"(vi) Estimation of any cost variance—

"(I) between the budget year procurement unit costs at the current production rate specified pursuant to clause (iv) and the budget year procurement unit costs at the maximum production rate specified pursuant to clause (iii); and

"(II) between the total remaining procurement cost at the current production rate specified pursuant to clause (iv) and the total remaining procurement cost at the maximum production rate specified pursuant to clause (iii).

"(vii) Estimation of quantity variance—

"(I) between the budget year quantities assumed in the minimum sustaining production rate specified pursuant to clause (ii) and the current production rate specified pursuant to clause (iv); and

"(II) between the budget year quantities assumed in the maximum production rate specified pursuant to clause (iii) and the current production rate specified pursuant to clause (iv).".

(d) UNIT COST REPORTS.—(1) Subsection (a)(4)(C) of section 2433 of title 10, United States Code, is amended by striking out "(e)(2)(B)(ii)" and inserting in lieu thereof "(e)(2)(B)".

(2) Subsection (b) of such section is amended by striking out "7 days (excluding Saturdays, Sundays, and legal public holidays)" in the second sentence and inserting in lieu thereof "30 calendar days".

(3) Paragraphs (1)(A), (1)(B), (2)(A), and (2)(B) of subsection (c) of such section are amended by striking out "more than" each place it appears and inserting in lieu thereof "at least".

(4) Subsection (d) of such section is amended—

(A) by striking out "more than" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "at least"; and

(B) in paragraph (3) of such subsection—

(i) by striking out "more than" each place it appears and inserting in lieu thereof "at least"; and

(ii) by striking out "program within 30 days" and all that follows and inserting in lieu thereof "program. In the case of a determination based on a quarterly report submitted in accordance with subsection (b), the Secretary shall submit the notification to Congress within 45 days after the end of the quarter. In the case of a determination based on a report submitted in accordance with subsection (c), the Secretary shall submit the notification to Congress within 45 days after the date of that report. The Secretary shall include in the notification the date on which the determination was made.".

(5) Subsection (e) of such section is amended—

(A) in paragraph (1), by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) Except as provided in subparagraph (B), whenever the Secretary concerned determines under subsection (d) that the program acquisition unit cost or the current procurement unit cost of a major defense acquisition program has increased by at least 15 percent, a Selected Acquisition Report shall be submitted to Congress for the first fiscal-year quarter ending on or after the date of the determination or for the fiscal-year quarter which immediately precedes the first fiscal-year quarter ending on or after that date. The report shall include the information described in section 2432(e) of this title and shall be submitted in accordance with section 2432(f) of this title.";

(B) in paragraph (2), by striking out "current program acquisition cost" and inserting in lieu thereof "program acquisition unit cost or current procurement unit cost"; and

(C) in paragraph (3), by striking out "more than" each place it appears and inserting in lieu thereof "at least".

SEC. 823. REVISION OF RULES CONCERNING SEVERANCE PAY FOR FOREIGN NATIONALS.

(a) WAIVER AUTHORITY.—Section 2324(e) of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3)(A) Pursuant to regulations prescribed by the Secretary and subject to the availability of appropriations, the head of an agency awarding a covered contract may waive the application of the provisions of paragraphs (1)(M) and (1)(N) to that contract if the head of the agency determines that—

"(i) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for members of the armed forces stationed or deployed outside the United States;

"(ii) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

"(iii) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

"(B) The head of an agency shall include in the solicitation for a covered contract a statement regarding whether a waiver has been granted under subparagraph (A) in the case of that contract.

"(C) Subparagraph (A) does not apply with respect to a contractor that is owned or controlled directly or indirectly by citizens or nationals of a foreign country, as determined by the head of the agency awarding the contract to such contractor. The head of the agency shall make such determination in accordance with the criteria and policy guidance referred to in paragraph (2)(C).".

(b) APPLICABILITY.—(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to covered contracts (as defined in section 2324 of title 10, United States Code) that are entered into on or after that date.

(2) Notwithstanding paragraph (1), if the applicable head of an agency makes the determinations referred to in paragraph (3)(A) of section 2324(e) of title 10, United States Code (as amended by subsection (a)), with respect to a covered contract that was in force during the period beginning on October 1, 1991, and ending on the date of the enactment of this Act, the provisions of paragraphs (1)(M) and (1)(N) of such section shall not apply to the costs, if any, incurred by the contractor for the payment under the contract of severance pay to foreign national employees whose employment under the contract was terminated during such period.

(c) REPORT ON USE OF WAIVER AUTHORITY.—Not later than March 15 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the use of the waiver authority provided in section 2324(e)(3)(A) of title 10, United States Code (as added by subsection (a)), during the preceding year.

SEC. 824. PROHIBITION ON PURCHASE OF UNITED STATES DEFENSE CONTRACTORS BY ENTITIES CONTROLLED BY FOREIGN GOVERNMENTS.

(a) IN GENERAL.—No entity controlled by a foreign government may purchase or otherwise acquire a company engaged in interstate commerce in the United States that—

(1) is performing a Department of Defense contract, or a Department of Energy contract under a national security program, that cannot be performed satisfactorily unless that company is given access to information in a proscribed category of information; or

(2) during the previous fiscal year, was awarded—

(A) Department of Defense prime contracts in an aggregate amount in excess of $500,000,000; or

(B) Department of Energy prime contracts under national security programs in an aggregate amount in excess of $500,000,000.

(b) INAPPLICABILITY TO CERTAIN CASES.—The limitation in subsection (a) shall not apply to a purchase or other acquisition if—

(1) the Secretary of Defense determines that the purchase or other acquisition is necessary in order to ensure the availability of critical supplies or services that would not otherwise be reasonably available to the Department of Defense;

(2) the Secretary of Defense determines that the purchase or other acquisition is not detrimental to the national security interests of the United States; and

(3) the purchase or other acquisition is not suspended or prohibited pursuant to section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170).

(c) DEFINITIONS.—In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government, and

(B) any individual acting on behalf of a foreign government,

as determined by the President.

(2) The term "proscribed category of information" means a category of information that—

(A) with respect to Department of Defense contracts—

(i) includes special access information;

(ii) is determined by the Secretary of Defense to include information the disclosure of which to an entity controlled by a foreign government is not in the national security interests of the United States; and

(iii) is defined in regulations prescribed by the Secretary of Defense for the purposes of this section; and

(B) with respect to Department of Energy contracts—

(i) is determined by the Secretary of Energy to include information described in subparagraph (A)(ii); and

(ii) is defined in regulations prescribed by the Secretary of Energy for the purposes of this section.

SEC. 825. PROHIBITION ON AWARD OF CERTAIN DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY CONTRACTS TO COMPANIES OWNED BY AN ENTITY CONTROLLED BY A FOREIGN GOVERNMENT.

(a) IN GENERAL.—A Department of Defense contract or Department of Energy contract under a national security program may not be awarded to a company owned by an entity controlled by a foreign government if it is necessary for that company to be given access to information in a proscribed category of information in order to perform the contract.

(b) WAIVER AUTHORITY.—The Secretary may waive the application of subsection (a) to a contract award if the Secretary determines that the waiver is essential to the national security interests of the United States.

(c) DEFINITIONS.—In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government, and

(B) any individual acting on behalf of a foreign government,

as determined by the Secretary concerned.

(2) The term "proscribed category of information" means a category of information that—

(A) with respect to Department of Defense contracts—

(i) includes special access information;

(ii) is determined by the Secretary of Defense to include information the disclosure of which to an entity controlled by a foreign government is not in the national security interests of the United States; and

(iii) is defined in regulations prescribed by the Secretary of Defense for the purposes of this section; and

(B) with respect to Department of Energy contracts—

(i) is determined by the Secretary of Energy to include information described in subparagraph (A)(ii); and

(ii) is defined in regulations prescribed by the Secretary of Energy for the purposes of this section.

(3) The term "Secretary concerned" means—

(A) the Secretary of Defense, with respect to Department of Defense contracts; and

(B) the Secretary of Energy, with respect to Department of Energy contracts.

SEC. 826. DEPARTMENT OF DEFENSE INVENTION DISPOSITION POLICY.

(a) POLICY.—To the extent permitted by law, the policy of the Department of Defense with respect to the disposition of any invention usable in the manufacture of products that is made in the performance of a federally funded research and development contract, grant, or cooperative agreement award shall be the same or substantially the same as is applied to small business firms and nonprofit organizations under chapter 18 of title 35, United States Code.

(b) WAIVER.—In awards not subject to chapter 18 of title 35, United States Code, any of the rights of the Federal Government or obligations of the performer described in sections 202 through 204 of that title may be waived or omitted if, under regulations prescribed by the Secretary of Defense, it is determined that—

(1) the interests of the United States and the general public will be better served by the waiver or omission, including such cases as when the waiver or omission is necessary to obtain a uniquely or highly qualified performer; or

(2) the award involves cosponsored, cost-sharing, or joint venture research and development, and the performer, cosponsor, or joint venturer is making a substantial contribution of funds, facilities, or equipment to the work performed under the award.

(c) REQUIREMENT FOR CONFIDENTIALITY.—The Secretary of Defense should protect the confidentiality of invention disclosure, patent applications, and utilization reports required in performance or in consequence of awards to the extent permitted by section 205 of title 35, United States Code, or other applicable laws.

SEC. 827. CERTIFICATION OF CLAIMS FOR SHIPBUILDING CONTRACTS.

(a) CERTIFICATION.—Section 2405 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) If a certification referred to in subsection (b) with respect to a shipbuilding contract is determined to be deficient because of the position, status, or scope of authority of the person executing the certification, the contractor may resubmit the certification. The resubmitted certification shall be based on the supporting data that existed when the original certification was submitted. The appropriateness of the person executing the resubmitted certification shall be determined on the basis of applicable law in effect at the time of the resubmission.

"(2) If a certification is resubmitted pursuant to paragraph (1) within 30 days after the date on which the contracting officer for the contract notifies the contractor in writing of the deficiency in the original certification, the resubmitted certification shall be deemed to have been submitted at the time the original certification was submitted.".

(b) APPLICABILITY.—(1) Except as provided in paragraph (2) the amendment made by subsection (a) shall apply to certifications determined to be deficient on or after the date of the enactment of this Act.

(2) In the case of a certification referred to in subsection (b) of section 2405 of title 10, United States Code, that has been determined to be deficient for a reason set forth in subsection (c)(1) of that section (as added by subsection (a)) before the date of the en-

actment of this Act, a certification resubmitted pursuant to such subsection (c)(1) within 180 days after that date shall be deemed to have been submitted on the date of the submission of the original certification.

SEC. 828. AUTHORITY FOR THE DEPARTMENT OF DEFENSE TO SHARE EQUITABLY THE COSTS OF CLAIMS UNDER INTERNATIONAL ARMAMENTS COOPERATION PROGRAMS.

(a) AMENDMENT TO THE ARMS EXPORT CONTROL ACT.—Section 27(c) of the Arms Export Control Act (22 U.S.C. 2767(c)) is amended in the second sentence by striking out "and administrative costs" and inserting in lieu thereof "costs, administrative costs, and costs of claims".

(b) AMENDMENTS TO TITLE 10.—(1) Section 2350a(c) of title 10, United States Code, is amended by inserting "(including the costs of claims)" after "project" the second place it appears.

(2) Section 2350d(c) of such title is amended by inserting "and costs of claims" after "administrative costs".

SEC. 829. ADVANCE NOTIFICATION OF CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES.

(a) NOTIFICATION REQUIRED.—(1) Chapter 141 of title 10, United States Code, as amended by section 806, is further amended by adding at the end the following new section:

"§ 2410f. Advance notification of contract performance outside the United States

"(a) NOTIFICATION.—(1) A firm that is performing a Department of Defense contract for an amount exceeding $10,000,000, or is submitting a bid or proposal for such a contract, shall notify the Department of Defense in advance of any intention of the firm or any subcontractor of the firm to perform outside the United States any part of the contract that exceeds $500,000 in value and could be performed inside the United States.

"(2) If a firm submitting a bid or proposal for a Department of Defense contract is required to submit a notification under this subsection, the notification shall be included in the bid or proposal.

"(b) RECIPIENT OF NOTIFICATION.—The firm shall transmit the notification—

"(1) in the case of a contract of a military department, to such officer or employee of that military department as the Secretary of the military department may direct; and

"(2) in the case of any other Department of Defense contract, to such officer or employee of the Department of Defense as the Secretary of Defense may direct.

"(c) AVAILABILITY OF NOTIFICATIONS.—The Secretary of Defense shall ensure that the notifications (or copies) are maintained in compiled form for a period of 5 years and are available for use in the preparation of the national defense technology and industrial base assessment carried out under section 2263 of this title.

"(d) INAPPLICABILITY TO CONSTRUCTION CONTRACTS.—This section shall not apply to contracts for military construction.".

(2) The table of sections at the beginning of such chapter, as amended by section 806, is further amended by adding at the end the following new item:

"2410f. Advance notification of contract performance outside the United States.".

(b) EFFECTIVE DATE.—Section 2410d of title 10, United States Code (as added by subsection (a)), shall take effect 90 days after the date of the enactment of this Act.

SEC. 830. ALLOWABLE COSTS.

(a) PENALTIES.—Section 2324 of title 10, United States Code, is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a) The Secretary of Defense shall require that a covered contract provide that if the contractor submits to the Department of Defense a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation or the Department of Defense Supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

"(b)(1) If the Secretary determines that a cost submitted by a contractor in its proposal for settlement is expressly unallowable under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs, the Secretary shall assess a penalty against the contractor in an amount equal to—

"(A) the amount of the disallowed costs allocated to covered contracts; plus

"(B) interest (to be computed based on regulations issued by the Secretary) to compensate the United States for the use of any funds which the contractor has been paid in excess of the amount to which the contractor was entitled.

"(2) If the Secretary determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such contractor before the submission of such proposal, the Secretary shall assess a penalty against the contractor in an amount equal to two times the amount of the disallowed cost allocated to covered contracts.

"(c) The Secretary shall prescribe regulations providing for a penalty under subsection (b) to be waived in the case of a contractor's proposal for settlement of indirect costs when—

"(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal; or

"(2) the amount of unallowable costs subject to the penalty is insignificant.

"(d) An action of the Secretary under subsection (a) or (b)—

"(1) shall be considered a final decision for the purposes of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605); and

"(2) is appealable in the manner provided in section 7 of such Act (41 U.S.C. 606).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply, as provided in regulations prescribed by the Secretary of Defense, with respect to proposals for settlement of indirect costs for contractor fiscal years for which the Federal Government has not formally initiated an audit of the proposals before that date.

SEC. 831. SCIENCE AND TECHNOLOGY FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Defense shall carry out a science and technology fellowship program in accordance with this section in order to enhance the ability of the Department of Defense to recruit and retain employees who are highly qualified in fields of science and technology.

(b) NUMBER OF FELLOWSHIPS.—The Secretary of Defense may designate up to 25 employees of the Department of Defense as science and technology fellows.

(c) COVERED POSITIONS.—In order to be eligible for designation as a science and technology fellow, an employee shall be serving in a science or technology position in the Department of Defense that involves the performance of duties likely to result in significant restrictions under law on the employment activities of that employee after leaving Government service.

(d) SUPPORT FOR 2-YEAR PERIOD OF RESEARCH AND TEACHING.—After a science and technology fellow completes 2 years of Federal Government service as an employee in a science or technology position in the Department of Defense, the Secretary of Defense shall support the employment of the fellow, in accordance with subsection (e), in research or teaching in a field related to Federal Government science and technology policy for 2 years.

(e) FORMS OF SUPPORT.—(1) If the fellow engages in research or teaching referred to in subsection (d) in the defense acquisition university structure of the Department of Defense or any other institution of professional education of the Federal Government, the Secretary of Defense shall continue the fellow as an employee of the Department of Defense in a grade or level at least equal to the grade or level of the position in which the fellow served in the Department of Defense as a fellow before undertaking such research or teaching.

(2) If the fellow terminates employment as a Federal employee and engages in research or teaching referred to in subsection (d) in a nonprofit institution of higher education, the Secretary of Defense shall pay the fellow a stipend at least equal to the rate of pay and the equivalent of the employee benefits that the fellow would have received under paragraph (1) if the fellow were engaging in that research or teaching in an institution of professional education of the Federal Government.

SEC. 832. ADVISORY AND ASSISTANCE SERVICES FOR OPERATIONAL TEST AND EVALUATION.

Paragraph (3) of section 2399(e) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following new subparagraph:

"(B) The limitation in subparagraph (A) does not apply to a contractor that has participated in such development, production, or testing solely as a representative of the Federal Government.".

SEC. 833. REGULATIONS RELATING TO SUBSTANTIAL CHANGES IN THE PARTICIPATION OF A MILITARY DEPARTMENT IN A JOINT ACQUISITION PROGRAM.

(a) REGULATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

(b) CONTENT OF REGULATIONS.—The regulations shall include the following provisions:

(1) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termination or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

(2) A provision that authorizes the Under Secretary of Defense for Acquisition to require a military department approved for termination or substantial reduction in participation in a joint acquisition program to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.

SEC. 834. RESTRICTION ON PURCHASE OF SONOBUOYS.

(a) LIMITATION.—The Secretary of Defense may not procure a sonobuoy manufactured in a foreign country unless United States firms that manufacture sonobuoys are permitted to compete on an equal basis with foreign manufacturing firms for the sale of sonobuoys in that foreign country.

(b) WAIVER AUTHORITY.—The Secretary may waive the limitation in subsection (a) with respect to a particular procurement of sonobuoys if the Secretary determines that such procurement is in the national security interests of the United States.

(c) DEFINITION.—In this section, the term "United States firm" has the meaning given such term in section 2505(d)(1) of title 10, United States Code.

SEC. 835. SHIPBUILDING TOTAL PROGRAM REPORTING.

Section 2431 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) In the application of subsection (b)(2) to reports regarding a shipbuilding program, the term 'units to be procured until procurement is completed' means the greater of—

"(1) the number of ships used in the cost and operational effectiveness analysis that supports a Milestone I decision for the program;

"(2) the number of ships used in the cost and operational effectiveness analysis that supports a Milestone II decision for the program; or

"(3) the total number of ships that would be procured under the program if the latest multiyear defense program submitted under section 114a of this title were implemented.".

SEC. 836. PURCHASE OF ANGOLAN PETROLEUM PRODUCTS.

The prohibition in section 316 of the National Defense Authorization Act for Fiscal Year 1987 (100 Stat. 3855; 10 U.S.C. 2304 note) shall cease to be effective on the date on which the President certifies to Congress that free, fair, and democratic elections have taken place in Angola after September 1, 1992.

SEC. 837. PROGRAM TO ENCOURAGE DIVERSIFICATION OF DEFENSE LABORATORIES.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense, acting through the Director of Defense Research and Engineering, shall establish and implement a program to be known as the Federal Defense Laboratory Diversification Program (hereafter in this section referred to as the "Program"). The purpose of the Program shall be to encourage greater cooperation in research and production activities carried out by defense laboratories and by private industry of the United in order to enhance and improve the products of such research and production activities.

(b) PROGRAM GOALS.—Under the Program, the defense laboratories shall carry out cooperative activities with private industry in order to promote the transfer (by the use or exchange of patents, licenses, cooperative research and development agreements and other cooperative agreements, and the use of symposia, meetings, and other similar mechanisms) of defense or dual-use technologies from the defense laboratories to private industry for the purpose of the commercial utilization of such technologies by private industry.

(c) DEVELOPMENT OF PLANS FOR PROGRAM.—The Director of Defense Research and Engineering shall develop and annually update a plan for each defense laboratory that participates in the Program under which plan the laboratory shall carry out cooperative activities with private industry to promote the transfers described in subsection (b).

(d) REPORTS ON SURVEY OF LABS AND IMPLEMENTATION OF PROGRAM.—(1) Not later than September 30, 1993, the Director of Research and Engineering shall submit to Congress a report containing the following:

(A) An assessment of the potential of each such laboratory to promote the transfers described in subsection (b).

(B) Recommendations on the manner in which each such laboratory might better promote such transfers.

(C) A description of the extent to which each such laboratory has implemented effectively the plan established for the laboratory under subsection (c) during the year preceding the date of the report.

(D) Recommendations of the Director for the improvement of the Program.

(e) DEFINITION.—In this section, the term "defense laboratory" means any laboratory owned or operated by the Department of Defense that carries out research in fiscal year 1993 in an amount in excess of $5,000,000.

SEC. 838. DEFENSE PRODUCTION ACT AMENDMENTS.

(a) INVESTIGATIONS OF CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS.—Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended—

(1) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) MANDATORY INVESTIGATIONS.—The President or the President's designee shall make an investigation, as described in subsection (a), in any instance in which an entity controlled by or acting on behalf of a foreign government seeks to engage in any merger, acquisition, or takeover of a person engaged in interstate commerce in the United States that could affect the national security of the United States. Such investigation shall—

"(1) commence not later than 30 days after receipt by the President or the President's designee of written notification of the proposed or pending merger, acquisition, or takeover, as prescribed by regulations promulgated pursuant to this section; and

"(2) shall be completed not later than 45 days after its commencement.

(b) CONSIDERATIONS OF THE PRESIDENT.—Section 721(f) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(f)) (as redesignated by subsection (a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period and inserting a comma; and

(3) by adding at the end the following new paragraphs:

"(4) the potential effects of the proposed or pending transaction on sales of military goods, equipment, or technology to any country—

"(A) identified by the Secretary of State—

"(i) under section 6(j) of the Export Administration Act of 1979, as a country that supports terrorism;

"(ii) under section 6(*l*) of the Export Administration Act of 1979, as a country of concern regarding missile proliferation; or

"(iii) under section 6(m) of the Export Administration Act of 1979, as a country of concern regarding the proliferation of chemical and biological weapons; or

"(B) listed under section 309(c) of the Nuclear Non-Proliferation Act of 1978 on the 'Nuclear Non-Proliferation-Special Country List' (15 C.F.R. Part 778, Supplement No. 4) or any successor list; and

"(5) the potential effects of the proposed or pending transaction on United States international technological leadership in areas affecting United States national security.".

(c) REPORT.—Section 721(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(f)) (as redesignated by subsection (a)) is amended to read as follows:

"(g) REPORT TO THE CONGRESS.—The President shall immediately transmit to the Secretary of the Senate and the Clerk of the House of Representatives a written report of the President's determination of whether or not to take action under subsection (d), including a detailed explanation of the findings made under subsection (e) and the factors considered under subsection (f).".

(d) SENSE OF THE CONGRESS REGARDING THE COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES.—It is the sense of the Congress that the President should include in the membership of the Committee on Foreign Investment in the United States (established by Executive Order No. 11858)—

(1) the Director of the Office of Science and Technology Policy; and

(2) the Assistant to the President for National Security.

(e) INTELLIGENCE STUDY.—

(1) IN GENERAL.—In order to assist the Congress in its oversight responsibilities with respect to section 721 of the Defense Production Act (as amended by this section), the Director of the Federal Bureau of Investigations and the Director of Central Intelligence shall jointly submit to the Congress a report that evaluates whether—

(A) there is credible evidence of a strategy by 1 or more foreign countries or companies to acquire United States companies involved in the research, development, or production of defense critical technologies of which the United States is a leading producer; and

(B) such strategy is intended as a means—

(i) of obtaining access to defense critical technologies that the foreign entity would not otherwise have; or

(ii) of gaining substantial control of the market for such technologies.

(2) SUBMISSION.—The report required under paragraph (1) shall be submitted—

(A) not later than 1 year after the date of enactment of this Act; and

(B) upon the expiration of every 4-year period thereafter.

SEC. 839. LANDSAT REMOTE-SENSING SATELLITE.

Notwithstanding the provisions of the Land-Remote Sensing Commercialization Act of 1984 (Public Law 98-365), the Department of Defense is authorized to contract for the development, procurement, and support to operations of Landsat 7 and subsequent Landsat vehicles.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—General Matters

SEC. 901. REPORT OF THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF ON ROLES AND MISSIONS OF THE ARMED FORCES.

(a) REPORT.—(1) The Secretary of Defense shall transmit to Congress a copy of the first report relating to the roles and missions of the Armed Forces that is submitted to the Secretary by the Chairman of the Joint Chiefs of Staff under section 153(b) of title 10, United States Code, after January 1, 1992.

(2) The Secretary shall transmit the report, together with his views on the report, within 30 days after receiving the report.

(b) ADDITIONAL MATTERS.—In addition to the matters required under such section

153(b), the Chairman shall include in the report referred to in subsection (a) the Chairman's comments and recommendations regarding the following matters:

(1) The extent to which the efficiency of the Armed Forces in carrying out its roles and missions can be enhanced by the elimination or reduction of duplication in the capabilities of, or by the consolidation or streamlining of organizations and activities within, the military departments and Defense Agencies.

(2) Changes in the operational tempo of forces stationed in the continental United States and changes in deployment patterns and operational tempo of forces deployed outside the United States.

(3) Changes in the readiness status of units based upon time-phased force deployment plans.

(4) Transfers of functions from the active components of the Armed Forces to the reserve components of the Armed Forces.

SEC. 902. VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF.

(a) DESIGNATION AS A MEMBER OF THE JOINT CHIEFS OF STAFF.—Section 151(a) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Vice Chairman.".

(b) CONFORMING AMENDMENTS.—(1) Section 154 of such title is amended—

(A) in subsection (c), by striking out "such" and inserting in lieu thereof "the duties prescribed for him as a member of the Joint Chiefs of Staff and such other";

(B) by striking out subsection (f); and

(C) by redesignating subsection (g) as subsection (f).

(2) Section 155(a)(1) of such title is amended by striking out "and the Vice Chairman."

SEC. 903. ASSISTANT TO THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF FOR NATIONAL GUARD AND RESERVE AFFAIRS.

Section 155 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) ASSISTANT FOR NATIONAL GUARD AND RESERVE AFFAIRS.—(1) The Chairman of the Joint Chiefs of Staff shall establish on the Joint Staff the position of Assistant to the Chairman of the Joint Chiefs of Staff for National Guard and Reserve Affairs.

"(2) The Assistant to the Chairman shall be a commissioned officer in the reserve components.

"(3) The Assistant to the Chairman shall be the principal adviser to the Chairman of the Joint Chiefs of Staff on matters concerning the reserve components.

"(4) The staff of the Assistant to the Chairman shall be members of the reserve components within the end strengths authorized by law for the number of Reserves serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components.".

SEC. 904. ORGANIZATION OF THE OFFICE OF THE CHIEF OF NAVAL OPERATIONS.

(a) CONSOLIDATION OF NAVY HEADQUARTERS MANAGEMENT STRUCTURE.—The Secretary of the Navy shall consolidate and streamline the Navy headquarters establishments within the Office of the Chief of Naval Operations to reflect changes in the roles and missions of the Department of the Navy.

(b) ASSISTANT CHIEF OF NAVAL OPERATIONS FOR EXPEDITIONARY WARFARE.—(1) Section 5037 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) One of the Assistant Chiefs of Naval Operations shall be the Assistant Chief of Naval Operations for Expeditionary Warfare who shall be detailed from officers on the active-duty list of the Marine Corps.

"(2) An officer assigned to the position of Assistant Chief of Naval Operations for Expeditionary Warfare, while so serving, has the grade of lieutenant general without vacating his permanent grade. The Assistant Chief of Naval Operations for Expeditionary Warfare shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position.

"(3) The principal duty of the Assistant Chief of Naval Operations for Expeditionary Warfare shall be to supervise the performance of all responsibilities of the Chief of Naval Operations regarding expeditionary warfare, including responsibilities regarding amphibious lift, mine warfare, naval fire support, aviation support, and other missions essential to supporting expeditionary warfare.".

(2) The Chief of Naval Operations shall transfer duties, responsibilities, and staff from other personnel within the Office of the Chief of Naval Operations as necessary to fully support the Assistant Chief of Naval Operations for Expeditionary Warfare.

(3) Paragraph (4) of section 525(b) of title 10, United States Code, is amended—

(A) in subparagraph (A), by inserting "or referred to in subparagraph (C)" after "subparagraph (B)"; and

(B) by adding at the end the following new subparagraph:

"(C) Subparagraph (C) applies to the Assistant Chief of Naval Operations for Expeditionary Warfare in addition to officers designated under subparagraph (B).".

SEC. 905. CERTIFICATIONS RELATING TO THE ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT AND THE SPECIAL OPERATIONS COMMAND.

(a) CERTIFICATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall (except as otherwise provided under subsection (b)) certify to the congressional defense committees the following:

(1) That the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict and the commander of the special operations command established pursuant to section 167 of title 10, United States Code, have been assigned the duties and functions specified for the Assistant Secretary and that commander, respectively, under law, the Unified Command Plan, and Department of Defense Directive No. 5138.3 (dated January 4, 1988).

(2) That the Assistant Secretary and the special operations command have been authorized the number of personnel necessary for the Assistant Secretary and the commander of the special operations command to perform such respective duties and functions.

(b) ALTERNATIVE TO CERTIFICATION.—If the Secretary of Defense is unable to make the certifications referred to in subsection (a) within the 120-day period provided in that subsection, the Secretary shall submit to the congressional defense committees a report notifying the committees that the Secretary is unable to make such certifications and setting forth the actions that the Secretary will take in order to enable the Secretary to make such certifications after the expiration of that period.

SEC. 906. JOINT OFFICER PERSONNEL POLICY.

(a) FIVE-YEAR EXTENSION OF AUTHORITY RELATING TO JOINT DUTY ASSIGNMENT AS PREREQUISITE FOR PROMOTION TO GENERAL OR FLAG OFFICER.—Section 619(e) of title 10, United States Code, is amended by striking out "January 1, 1994" in paragraphs (1) and (2)(E) and inserting in lieu thereof "January 1, 1999".

(b) EDUCATION AND EXPERIENCE REQUIREMENTS.—Section 661(c)(1)(A) of such title is amended by inserting before the semicolon the following: "or successfully completes a program at a civilian institution of higher education leading to the award of a master's or higher degree".

(c) LENGTH OFF JOINT DUTY ASSIGNMENTS.—(1) Subsection (f) of section 664 of such title is amended to read as follows:

"(f) FULL TOUR OF DUTY.—An officer shall be considered to have completed a full tour of duty in a joint duty assignment upon the successful completion by that officer of a joint duty assignment, or of an assignment within the officer's military department, if the officer is certified as having gained significant experience in joint matters in that assignment by—

"(1) in the case of an assignment in a unit or organization in a combatant command, the commander of the combatant command;

"(2) in the case of an assignment in a Defense Agency, the head of that Defense Agency; or

"(3) in the case of any other assignment, the Chairman of the Joint Chiefs of Staff.".

(2) Subsection (d)(1)(D) of that section is amended to read as follows:

"(D) a reassignment for unusual personal reasons (including extreme hardship and medical conditions) beyond the control of the officer or the armed forces or a reassignment to another joint duty assignment.".

(d) CONFORMING AMENDMENTS.—(1) Section 664 of such title is amended by striking out paragraph (3) of subsection (d) and subsections (g) and (h).

(2) Section 668(b)(1) of such title is amended by striking out "exclude—" and all that follows through the period at the end and inserting in lieu thereof "exclude assignments for joint training or joint education.".

SEC. 907. JOINT DUTY CREDIT FOR EQUIVALENT DUTY IN OPERATIONS DESERT SHIELD AND DESERT STORM.

(a) IN GENERAL.—(1) The Secretary of Defense, upon a recommendation made in accordance with paragraph (3), shall credit an officer of the Armed Forces of the United States who has completed service described in paragraph (2) as having completed a full tour of duty in a joint duty assignment for the purposes of chapter 38 of title 10, United States Code.

(2) Paragraph (1) applies to any officer who, after August 1, 1990, and before October 1, 1991, performed service in an assignment in the Persian Gulf combat zone that—

(A) provided significant experience in joint matters; or

(B) involved frequent professional interaction of that officer with (i) units and members of any of the armed forces other than the officer's armed force, or (ii) an allied armed force.

(3) The Secretary shall take action under paragraph (1) in the case of any officer if that action is recommended, with the concurrence of the Chairman of the Joint Chiefs of Staff, by the Chief of Staff of the Army (for an officer in the Army), the Chief of Naval Operations (for an officer in the Navy), the Chief of Staff of the Air Force (for an officer in the Air Force), or the Commandant

of the Marine Corps (for an officer in the Marine Corps).

(b) INAPPLICABILITY OF CERTAIN REPORTING AND POLICY REQUIREMENTS.—Officers for whom joint duty credit has been granted pursuant to subsection (a) shall not be counted for the purposes of paragraphs (7), (8), (9), (11), or (12) of section 667 of title 10, United States Code, and subsections (a)(3) and (b) of section 662 of such title.

(c) INFORMATION ON EXERCISE OF AUTHORITY TO BE INCLUDED IN FISCAL YEAR 1993 ANNUAL REPORT.—The annual report submitted to Congress by the Secretary of Defense for fiscal year 1993 under section 113(c) of title 10, United States Code, shall include the following information:

(1) The total number of officers granted joint duty credit pursuant to subsection (a).

(2) The total number of such officers for each armed force.

(3) The total number of officers in each grade and each occupational specialty who have been granted joint duty credit pursuant to subsection (a).

(4) For each armed force, the total number of such officers in each grade and each occupational specialty who have been granted such credit.

(d) DEFINITIONS.—In this section:

(1) The term "joint matters" has the meaning given such term in section 668(a) of title 10, United States Code.

(2) The term "Persian Gulf combat zone" means the area designated by the President as the combat zone for Operation Desert Shield, Operation Desert Storm, and related operations for purposes of section 112 of the Internal Revenue Code of 1986.

SEC. 908. CINC INITIATIVE FUND.

(a) AUTHORIZED RECIPIENTS OF FUNDS.—Subsection (a) of section 166a of title 10, United States Code, is amended in the first sentence by striking out "funds, upon request," and all that follows through the period and inserting in lieu thereof "funds to the commander of a combatant command, upon the request of the commander, or to the Director of the Joint Staff with respect to an area or areas not within the area of responsibility of a commander of a combatant command.".

(b) AUTHORIZED ACTIVITIES.—Subsection (b)(7) of such section is amended by inserting "(including transportation, translation, and administrative expenses)" before the period at the end.

(c) PRIORITY.—Subsection (c) of such section is amended by inserting before the period at the end the following:

"(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund or the provision of funds to the Director of the Joint Staff under subsection (a), should give priority consideration to—

"(1) requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds; and

"(2) the provision of funds to be used for activities with respect to an area or areas not within the area of responsibility of a commander of a combatant command that would reduce the threat to, or otherwise increase, the national security of the United States.".

(d) LIMITATIONS.—Subsection (e)(1)(C) of such section is amended to read as follows:

"(C) not more than $5,000,000 may be used to provide military education and training (including transportation, translation, and administrative expenses) to military and related civilian personnel of foreign countries as authorized by subsection (b)(7).".

SEC. 909. DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR EQUAL OPPORTUNITY.

(a) REQUIREMENT FOR REESTABLISHMENT OF POSITION.—The Secretary of Defense shall reestablish within the Office of the Secretary of Defense the position of Deputy Assistant Secretary of Defense for Equal Opportunity and provide for the official in that position to carry out the same or similar duties that were formerly carried out by the Deputy Assistant Secretary of Defense for Equal Opportunity before that position was abolished.

(b) STAFF SUPPORT.—The Secretary shall provide staff for the Deputy Assistant Secretary of Defense for Equal Opportunity in a sufficient number and with sufficient qualifications to enable the Deputy Assistant Secretary of Defense to perform the duties of the position effectively.

(c) USE OF RESOURCE AVAILABLE.—The Secretary shall carry out the requirements of this section with the existing resources available to the Department of Defense.

SEC. 910. DELIVERY OF LEGAL SERVICES WITHIN THE DEPARTMENT OF DEFENSE.

Not later than 10 days after the date of the enactment of this Act, the Secretary of Defense shall rescind or revise the memorandum of the Deputy Secretary of Defense entitled "Ensuring Execution of the Laws and Effective Delivery of Legal Services", dated March 3, 1992.

SEC. 911. COMMISSION ON THE CONDUCT AND REVIEW OF INVESTIGATIONS IN THE DEPARTMENT OF DEFENSE.

(a) ESTABLISHMENT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish a Commission on the Conduct and Review of Investigations in the Department of Defense.

(b) MEMBERSHIP.—The Commission shall be composed of 11 persons who have significant experience in the conduct or review of major investigations, as follows:

(1) Five officials of the Department of Defense, one of whom shall be the Inspector General of the Department of Defense and one of whom shall be the General Counsel of the Department of Defense.

(2) Three former officials of the Department of Defense who, during their Department of Defense service, had substantial responsibility for the conduct or review of major investigations.

(3) Three individuals who, during current or past service in the Federal Government, have had significant experience in the conduct or review of major investigations primarily involving Federal agencies other than the Department of Defense.

(c) DUTIES.—The Commission shall—

(1) review Department of Defense policies, procedures, and practices concerning the conduct and review of investigations; and

(2) in accordance with subsection (e)(1), make any recommendations for changes in such policies, procedures, and practices that the Commission considers appropriate.

(d) REVIEW.—The matters reviewed by the Commission shall include the following:

(1) The training and qualifications of investigative personnel.

(2) The division of responsibilities among organizations with investigative, audit, and inspection functions within the Department of Defense.

(3) The coordination of activities among such organizations.

(4) Procedures for ensuring that such organizations are capable of, and responsive to, the needs of the unified combatant commands, the Defense Agencies, and other joint organizations.

(5) Procedures for ensuring that prompt and thorough investigations are conducted of allegations of misconduct concerning classified matters, operational matters, and the performance of persons in the chain of command.

(6) Procedures for ensuring that investigative organizations are not subject to improper command influence while also ensuring that such organizations are responsive to the investigative and inspection needs of the chain of command.

(7) Procedures for ensuring that there is timely and thorough coordination between organizations conducting investigations and officials within the chain of command who will be responsible for acting on the results of such investigations.

(8) Procedures for ensuring that there is a timely determination as to whether an investigation should be undertaken by a court of inquiry or other formal administrative board procedure.

(9) Procedures for ensuring that the rights of persons under the Uniform Code of Military Justice, administrative procedures, and other applicable laws and regulations are protected during the course of an investigation and subsequent review procedures.

(10) Guidance for ensuring that military and civilian officials in the chain of command receive timely instruction and advice on the procedures for undertaking appropriate management actions during the pendency of an investigation without interfering with the investigation or engaging in unlawful command influence.

(11) Procedures for ensuring that investigative materials are organized and presented in a manner that facilitates timely action by reviewing authorities.

(12) Such other matters related to the duties of the Commission as may be specified by the Secretary of Defense or the Commission.

(e) REPORT.—(1) Not later than November 15, 1993, the Commission shall transmit to the Secretary of Defense a report containing the results of its review under subsection (c) and its recommendations in accordance with that subsection.

(2) The Secretary shall transmit the report of the Commission, together with his comments and recommendations, to the congressional defense committees not later than December 15, 1993.

SEC. 912. SENSE OF CONGRESS ON COOPERATION BETWEEN THE ARMY AND THE MARINE CORPS.

(a) FINDINGS.—With respect to the roles and missions of the Army and Marine Corps, the Congress makes the following findings:

(1) Both the Army and the Marine Corps have long and proud traditions of service to the United States in times of war and peace.

(2) The Marine Corps and the Army provide complementary military capabilities that are necessary for carrying out the national military strategy of the United States.

(3) Operation Desert Shield and Operation Desert Storm demonstrated the complementary nature of those capabilities and the substantial degree to which the Army and the Marine Corps can effectively coordinate their activities and cooperate with each other.

(4) The availability of future Federal budget resources for the Army and the Marine Corps is likely to be significantly more limited than the Federal budget resources currently available for the Army and the Marine Corps.

(b) SENSE OF CONGRESS.—(1) It is the sense of Congress that the Army and the Marine

Corps should intensify efforts to eliminate unnecessary duplication, to improve interservice coordination, and to specialize in areas in which each has a comparative advantage.

(2)(A) The Congress encourages the Chairman of the Joint Chiefs of Staff to examine whether—

(i) the Army should provide the Marine Corps with armor and heavy fire support needed for mid-intensity and high-intensity combat; or

(ii) the Marine Corps should be equipped with the armor, heavy artillery, and other weapons and sustainability needed to engage in mid-intensity and high-intensity combat independent of the other military services.

(B) In conducting the examination, the Chairman should consider the following actions:

(i) Designating Army artillery battalions equipped with the Multiple Launch Rocket System to support Marine amphibious forces afloat.

(ii) Designating Army tank battalions to support Marine amphibious forces afloat.

(iii) Equipping Maritime Prepositioning Ships with Multiple Launch Rocket System launchers and M1 tanks to be manned by Army units in support of Marine forces.

(iv) Transferring management of all prepositioning shipping on behalf of all of the Armed Forces to the Marine Corps.

(v) Transferring Army shipping and lighterage to the Navy.

(C) In the consideration of the actions referred to in subparagraph (B), the Chairman should evaluate the logistics, training, and operational implications of each action.

(D) If the Chairman recommends that the Marine Corps be equipped with the armor, heavy artillery, other weapons, and sustainability necessary for engaging in mid-intensity and high-intensity combat independent of the other services, the Chairman should determine, as part of the examination under this paragraph, the following:

(i) What additional procurement requirements and costs are necessary to equip the Marine Corps to meet the demands of mid-intensity and high-intensity combat.

(ii) The adequacy of current prepositioning programs, mine warfare capability, naval fire support, and night fighting capability to meet the demands of mid-intensity and high-intensity combat.

(3) The Chairman should consider the matters set forth in paragraphs (1) and (2) and the options for streamlining the roles and missions of the Army and the Marine Corps in the performance of his responsibilities under section 153(b) of title 10, United States Code.

SEC. 913. NATIONAL GUARD AND RESERVE COMPONENT OPERATIONAL SUPPORT AIRLIFT STUDY.

(a) STUDY REQUIRED.—The Secretary of Defense shall undertake a study of operational support airlift aircraft and administrative transport airlift aircraft operated by the National Guard and the reserve components.

(b) STUDY REQUIREMENTS.—The study required by subsection (a) shall include the following:

(1) An inventory of all operational support airlift aircraft and administrative transport airlift aircraft that are operated by the reserve components.

(2) The peacetime utilization rate of such aircraft.

(3) The wartime mission of such aircraft.

(4) The need for such aircraft for the future base force.

(5) The current age, projected service life, and programmed retirement date for such aircraft.

(6) A list of aircraft programmed in the fiscal year 1994 future years defense program to be purchased for the reserve components or to be transferred from the active components to the reserve components.

(7) The funds programmed in the fiscal year 1994 future years defense program for procurement of replacement operational support and administrative transport airlift aircraft, and the acquisition strategy proposed for each type of replacement aircraft so programmed.

(c) DEFINITION.—In this section, the term "future years defense program" means the multiyear defense program submitted to Congress pursuant to section 114a of title 10, United States Code.

SEC. 914. CONTINUING REQUIREMENT FOR REPORTING ON OPERATIONAL ACTIVITIES.

(a) IN GENERAL.—Chapter 2 of title 10, United States Code, is amended by inserting after section 116 the following new section 117:

"§117. Continuing requirement for reporting on operational activities

"(a)(1) The Secretary of Defense shall ensure that the Committees on Armed Services of the Senate and House of Representatives are fully and currently informed of all operational activities carried out by members of the armed forces or employees of the Department of Defense.

"(2) Matters covered by the War Powers Resolution (50 U.S.C. 1541 et seq.) shall be reported in accordance with the provisions of that resolution.

"(b) The head of any other department or agency (including the head of any independent establishment) of the Federal Government shall submit to the Committees on Armed Services of the Senate and the House of Representatives any information requested by either such committee relating to any operational activity referred to in subsection (a)(1).

"(c) Information required to be submitted under subsection (a) or (b) may not be withheld from a committee referred to in such subsection on the grounds that such information would constitute the unauthorized disclosure of classified information.

"(d) In this section, the term 'operational activity' means an activity that involves the introduction of a unit or units of the armed forces into the territory, including the airspace and waters, of another country for other than traditional peacetime military activities or routine support of such activities.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 116 the following new item:

"117. Continuing requirement for reporting on operational activities.".

SEC. 915. LIMITATION REGARDING SUBMISSION OF THE ROLES AND MISSIONS REPORT OF THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF.

(a) LIMITATION.—Not more than 50 percent of the total amount appropriated pursuant to an authorization of appropriations contained in title I or II of this Act that is made available for a program referred to in subsection (b) may be obligated for such program until 60 days after the Secretary of Defense—

(1) has submitted to Congress the budget request for fiscal year 1994 for the Department of Defense; and

(2) has submitted to the congressional defense committees a copy of the first report on assignment of roles and missions of the armed forces that the Chairman of the Joint Chiefs of Staff submits to the Secretary of Defense pursuant to section 153(b) of title 10, United States Code, after January 1, 1992.

(b) APPLICABILITY.—Subsection (a) applies to the following programs:

(1) The F-22 Advanced Tactical Fighter program.

(2) The F-18E/F fighter program.

(3) The AX/ATA attack aircraft program.

(4) The Patriot Product Improvement Program.

(5) The Hawk Product Improvement Program.

Subtitle B—Drug Interdiction and Counter-Drug Activities

SEC. 921. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES.

Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 374 note) is amended—

(1) in subsection (a), by striking out "and 1993," and inserting in lieu thereof "1993, and 1994,";

(2) by adding at the end of subsection (b) the following new paragraphs:

"(9) Detection, monitoring, and communication of the movement of traffic at, near, and outside the geographic boundaries of the United States.

"(10) Linguist and intelligence analysis services.";

(3) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively;

(4) by inserting after subsection (b) the following new subsection (c):

"(c) The Secretary of Defense may not limit the requirements for which support may be provided under subsection (a) only to critical, emergent, or unanticipated requirements."; and

(5) in subsection (g)(2), as redesignated by paragraph (3), by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

SEC. 922. MAINTENANCE AND OPERATION OF EQUIPMENT.

Section 374(b)(2)(A) of title 10, United States Code, is amended by inserting "and land traffic at, near, and outside the geographic boundaries of the United States" before the period at the end.

SEC. 923. EXTENSION OF AUTHORITY TO TRANSFER EXCESS PERSONAL PROPERTY.

Section 1208(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 10 U.S.C. 372 note) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1997".

SEC. 924. COUNTER-DRUG SENSOR MIX STUDY.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Secretary of Defense shall—

(1) conduct a study of the land-based, sea-based, and air-based systems used by the Department of Defense in carrying out activities relating to the reconnaissance, detection, and monitoring of drug traffic; and

(2) submit to Congress a report on the results of the study.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) An assessment of the capabilities, strengths, and weaknesses of the systems referred to in subsection (a).

(2) An evaluation of the feasibility and desirability of using airships to carry out the activities referred to in subsection (a).

(3) Recommendations regarding the optimal and most cost-effective combination of use of such systems to carry out such activities.

(c) LIMITATION ON OBLIGATION OF FUNDS.—(1) Except as provided in paragraph (2), none of the funds appropriated or otherwise made available for the Department of Defense for fiscal year 1993 pursuant to an authorization of appropriations in this Act may be obligated or expended for the procurement or upgrading of a counter-drug reconnaissance, detection, and monitoring system, for research and development with respect to such a system, or for the lease or rental of such a system until the Secretary submits to Congress the report required under subsection (a).

(2) Paragraph (1) shall not prohibit obligations or expenditures of funds for any procurement, upgrading, research and development, or lease of a system that is necessary to carry out the study required under subsection (a).

SEC. 925. DEMAND REDUCTION PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) The flow of illegal drugs into the United States has not declined appreciably in recent years.

(2) While interdiction of illegal drugs helps to reduce the flow of such drugs into the United States, reduction of demand for such drugs in the United States is the most effective way to reduce that flow.

(3) Members of the Armed Forces have been more successful than persons in other segments of society in reducing their use of illegal drugs.

(4) The active and reserve components of the Armed Forces have conducted a successful outreach program to reduce demand for illegal drugs in the vicinity of military installations and National Guard facilities.

(5) It is in the interest of the United States that, to the maximum extent practicable, the outreach program be expanded to include regions beyond the vicinity of military installations and National Guard facilities and to focus on youths, in general, and inner-city youths, in particular.

(b) DEMAND REDUCTION ACTIVITIES.—The Secretary of Defense shall conduct an outreach program in order to reduce demand for illegal drugs among youths. The Secretary shall conduct the program as follows:

(1) By providing travel and living allowances to members of the Armed Forces to permit such members to carry out the current demand reduction outreach program in areas beyond the vicinity of military installations and National Guard facilities.

(2) By establishing and operating camps for youths (including providing food and lodging) to provide programs and activities that encourage reduction in the demand by such youths for illegal drugs.

(3) By providing for opportunities in which appropriate personnel of the Armed Forces act as role models for youths.

(4) By providing self-worth, self-esteem, motivational, and basic skills training to youths.

(5) By providing substance abuse counseling and treatment services.

(6) By providing support for community drug treatment and prevention programs.

(7) By providing appropriate training to substance abuse counselors.

(8) By carrying out such other activities as the Secretary determines advisable to encourage the reduction in demand for illegal drugs among members of the civilian population of the United States.

(c) FUNDING.—Notwithstanding any other provision of law, funds available to the Department of Defense for drug interdiction and counter-drug activities may be used for carrying out the program described in subsection (b).

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1993 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $1,500,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1002. RESTATEMENT OF REQUIREMENT FOR MISSION BUDGET.

(a) IN GENERAL.—(1) Section 114a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) MULTIYEAR MISSION BUDGET.—(1) The Secretary of Defense shall submit to Congress a multiyear budget for the Department of Defense with the budget submitted pursuant to section 1105 of title 31. The multiyear budget shall be consistent with the multiyear defense plan required under subsection (a). In the multiyear budget the military programs within the Department of Defense shall be organized on the basis of major roles, missions, or forces of the Department of Defense.

"(2) The requirement in paragraph (1) is in addition to the requirements in any other provision of law regarding the format for the presentation regarding military programs of the Department of Defense in the budget submitted pursuant to section 1105 of title 31.".

(2) The amendment made by subsection (a) shall apply with respect to the budgets submitted to Congress under section 1105 of title 31, United States Code, for fiscal years after fiscal year 1993.

(b) CONFORMING REPEAL.—Section 1404 of the National Defense Authorization Act of Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1675; 10 U.S.C. 114a note) is repealed.

SEC. 1003. ADDITIONAL TRANSITION AUTHORITY REGARDING CLOSING APPROPRIATION ACCOUNTS.

Section 1405(b) of the National Defense Authorization Act for Fiscal Year 1991 (31 U.S.C. 1551 note) is amended by inserting after paragraph (7) the following new paragraph:

"(8) OBLIGATIONS AND ADJUSTMENTS OF OBLIGATIONS FOR EXPIRED BUT NOT CLOSED ACCOUNTS.—(A) Subject to subparagraphs (B), (C), and (D), in the case of an appropriation account for a fiscal year before fiscal year 1992 for which the period of availability for obligation has expired but which has not been closed under the provisions of section 1552(a) of title 31, United States Code, or paragraph (4) of this section, an obligation and an adjustment of an obligation may be charged to any current appropriation account of the Department of Defense that is available for the same purpose as the expired account if—

"(i) the obligation would have been properly chargeable to the expired account before the end of the period of availability of that account; and

"(ii) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense.

"(B) The total amount charged to a current appropriation account under subparagraph (A) may not exceed an amount equal to the lesser of—

"(i) one percent of the total amount of the appropriations for that account; or

"(ii) one percent of the total amount of the appropriations for the expired account.

"(C) No obligation or adjustment of an obligation may be charged pursuant to the provisions of this paragraph until the congressional defense committees are notified of the intent to make such a charge and a period of 30 days elapses after the notification is submitted.

"(D) CERTIFICATIONS.—No obligation or adjustment of an obligation may be charged pursuant to the provisions of this paragraph until the Secretary of Defense certifies to Congress—

"(i) That the limitations on expending and obligating amounts established pursuant to section 1341 of title 31, United States Code are being observed within the Department of Defense; and

"(ii) That reports on any violations of section 1341, whether intentional or inadvertent, are being submitted to the President and Congress immediately and with all relevant facts and a statement of actions taken as required by section 1351 of title 31, United States Code.".

Subtitle B—Supplemental Authorization of Appropriations for Operation Desert Storm

SEC. 1011. EXTENSION OF SUPPLEMENTAL AUTHORIZATIONS.

Sections 101, 102(c), and 106 of Public Law 102-25 (105 Stat. 78) are each amended by striking out "fiscal years 1991 and 1992" each place it appears and inserting in lieu thereof "fiscal years 1991, 1992, and 1993".

SEC. 1012. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Defense for fiscal year 1992 in accordance with subsection (a) of section 101 of Public Law 102-25 (105 Stat. 78), to be available under subsection (b)(1) of such section, the sum of $429,000,000 for military personnel as follows:

(1) ARMY.—For the Army, $399,000,000.

(2) NAVY.—For the Navy, $30,000,000.

(b) INCREASED LIMITATION ON AUTHORITY FOR TRANSFER OF FISCAL YEAR 1992 AUTHORIZATIONS.—The total amount of the transfer authority provided for the Secretary of Defense for fiscal year 1992 in Public Law 102-190 or any other Act is increased by the amounts of the funds appropriated pursuant to subsection (a) that are transferred to fiscal year 1992 appropriations accounts pursuant to sections 101 and 102(c) of Public Law 102-25, as amended by section 1011.

SEC. 1013. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1993.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Defense for fiscal year 1993 in accordance with subsection (a) of section 101 of Public Law 102-25 (105 Stat. 78), to be available under subsection (b) of such section, the sum of $87,700,000 for military personnel as follows:

(1) ARMY.—For the Army, $29,300,000.

(2) NAVY.—For the Navy, $35,300,000.

(3) MARINE CORPS.—For the Marine Corps, $3,100,000.

(4) AIR FORCE.—For the Air Force, $20,000,000.

(b) INCREASED LIMITATION ON AUTHORITY FOR TRANSFER OF FISCAL YEAR 1993 AUTHORIZATIONS.—The amount of the transfer authority provided in section 1001 is increased by the amounts of the funds appropriated pursuant to subsection (a) that are transferred to fiscal year 1993 appropriations accounts pursuant to sections 101 and 102(c) of Public Law 102-25, as amended by section 1011.

SEC. 1014. RELATIONSHIP TO OTHER AUTHORIZATIONS.

The authorizations of appropriations in sections 1012 and 1013 are in addition to the amounts otherwise authorized to be appropriated to the Department of Defense for fiscal year 1992 and for fiscal year 1993 by any other provision of this Act or by any other Act enacted before the date of the enactment of this Act.

Subtitle C—Defense Maritime Logistical Readiness

SEC. 1021. FINDINGS.

The Congress finds that it is in the national security and economic interests of the United States for the United States to have a strong and economically viable industry of commercial oceangoing and intermodal transportation that uses privately owned and operated merchant vessels documented under the laws of the United States.

SEC. 1022. TRANSPORTATION OF DEPARTMENT OF DEFENSE CARGOES BY WATER.

(a) USE OF PRIVATELY OWNED UNITED STATES FLAG VESSELS.—Chapter 157 of title 10, United States Code, is amended—

(1) by striking out section 2631;

(2) by striking out the item relating to that section in the table of sections for such chapter;

(3) by inserting above the table of sections the following:

"SUBCHAPTER II—MISCELLANEOUS";

and

(4) by inserting below the chapter heading the following:

"Subchapter Sec.
"I. Transportation of Cargoes by Water 2631
"II. Miscellaneous 2632

"SUBCHAPTER I—TRANSPORTATION OF CARGOES BY WATER

"Sec.
"2631. Purposes.
"2631a. Definitions.
"2631b. Procurement regulations and practices.
"2631c. Contingency planning.
"2631d. Vessels used.
"2631e. Transportation contracts.
"2631f. Logistics readiness agreements.
"2631g. Charges.

"§ 2631. Purposes

"The purposes of this subchapter are—

"(1) to clarify when it is necessary for privately owned and operated United States flag vessels to be used for transporting Department of Defense cargoes by water;

"(2) to establish standards for the procurement and pricing of services for the transportation of Department of Defense cargoes by water and for the distribution of the cargoes so transported;

"(3) to reduce to a minimum the number of cargo transportation vessels owned, chartered, controlled, or operated by or for the United States Government that are used for transporting Department of Defense cargoes in peacetime in competition with privately owned and operated commercial vessels;

"(4) to encourage and promote the development and maintenance of a financially strong, privately owned and operated fleet of United States flag merchant vessels;

"(5) to make the greatest practicable use of the transportation capacity and services of operators of privately owned United States flag merchant vessels for the transportation of Department of Defense cargoes by water; and

"(6) to limit the acquisition, for ownership by the United States Government, of cargo vessels that would duplicate the shipping capacity of the privately owned United States flag merchant vessels.

"§ 2631a. Definitions

"In this subchapter:

"(1) The term 'Department of Defense cargo' means any supplies, goods, or other cargo owned, leased, or provided to, for, or by the armed forces that are transported by water or by intermodal service including a water segment, except that such term does not include military cargo designated by the Secretary of Defense as sensitive when private contractors proposing to carry such cargo do not have the security clearances necessary for carrying such cargo.

"(2) The term 'supplies', with respect to transportation, means all property, except land and interests in land, that at the time of transportation is readily identifiable for eventual use by the armed forces. Such term includes public works, buildings and facilities, ships, floating equipment, and vessels of every character, type, and description (together with parts, subassemblies, accessories, equipment, machine tools, and related material), stores of all kinds, and end items.

"(3) The term 'goods' includes property of armed forces personnel and items intended for eventual sale within a commissary or exchange store.

"(4) The term 'other cargo' includes any item that is provided by, arranged by, donated by, sold at less than market value by, or funded or purchased on credit provided or guaranteed by, or for which the transportation is funded or financially supported by, the Department of Defense for any other department or agency of the Federal Government, any foreign government, any international organization, or any person.

"§ 2631b. Procurement regulations and practices

"The Secretary of Defense shall prescribe regulations (including procedures) and establish practices for the procurement of transportation by water and related distribution services for Department of Defense cargoes. The regulations and practices shall carry out section 2631 of this title and the purposes set forth in that section. The Secretary shall administer the implementation of the regulations and the required practices.

"§ 2631c. Contingency planning

"(a) CONSIDERATION OF PRIVATE CAPABILITIES.—The Secretary of Defense shall ensure that all studies and reports of the Department of Defense, and all actions taken in the Department of Defense, concerning sealift and related intermodal transportation requirements take into consideration the full range of the transportation and distribution capabilities that are available from operators of privately owned United States flag merchant vessels.

"(b) PRIVATE CAPACITIES PRESENTATIONS.—The Secretary shall afford each operator of a vessel referred to in subsection (a), not less often than annually, an opportunity to present to the Department of Defense information on its port-to-port and intermodal transportation capacities.

"(c) PRIVATE PARTICIPATION IN STUDIES AND REPORTS.—The Secretary shall ensure that each operator of a vessel referred to in subsection (a) is afforded an opportunity to participate in the development of studies referred to in that subsection and the preparation of reports referred to in that subsection.

"(d) CERTIFICATION REQUIREMENT.—The Secretary shall submit to the Secretary of Transportation, not less often than annually, a certification of compliance with the requirements of subsections (b) and (c).

"§ 2631d. Vessels used

"(a) PROHIBITION.—Except in time of war, in time of a national emergency declared by the President or Congress, or as provided in subsection (b)(3), vessels owned by the United States may not be operated in competition with privately owned United States flag commercial merchant vessels.

"(b) VESSELS TO BE USED.—(1) Department of Defense cargoes shall be transported on privately owned and operated United States flag commercial merchant vessels whenever such vessels are available with reasonable timeliness.

"(2) A privately owned United States flag merchant vessel under time charter or voyage charter to, or engaged under a contract of affreightment by, the United States may be used for the transportation of a Department of Defense cargo to the extent that vessels described in paragraph (1) are not available with reasonable timeliness.

"(3) A United States flag vessel owned, demise chartered, or otherwise controlled by the United States Government may be used for the transportation by water of Department of Defense cargoes to the extent that vessels described in paragraphs (1) and (2) are not available with reasonable timeliness.

"(4) Foreign flag vessels may be used for the transportation of Department of Defense cargoes to the extent that vessels described in paragraphs (1), (2), and (3) are not available with reasonable timeliness or when operated as a feeder ship in conjunction with a privately owned and operated United States flag liner vessel.

"(5) The availability of vessels with reasonable timeliness shall be determined in accordance with regulations prescribed by the Secretary of Defense.

"§ 2631e. Transportation contracts

"(a) PROHIBITED CONTRACT PROVISIONS.—(1) A contract for the transportation of Department of Defense cargoes by water, or for intermodal service that includes transportation by water, by a common carrier may not include terms or conditions which impair the ability of the contractor to own or operate foreign flag vessels in addition to the United States flag merchant vessels.

"(2) Except as provided in section 2631f(a) of this title and except in time of war or in time of a national emergency declared by the President or Congress, the contract may not include terms or conditions which interfere with the contractor's ability to meet its common carrier obligations to the general public.

"(b) INAPPLICABILITY OF FEE LIMITATION.—Section 2306(d) of this title shall not apply to contracts referred to in subsection (a).

"§ 2631f. Logistics readiness agreements

"(a) AGREEMENTS REQUIRED.—The Secretary of Defense shall enter into logistics readiness agreements with the contractors holding contracts referred to in section 2631e(a) of this title. The agreement with a contractor shall contain the terms and conditions under which the contractor shall, in time of war, national emergency, or foreign crisis, provide services to meet the transportation requirements projected under subsection (d). The agreement may also include provisions for the contractor to meet surge or other transportation requirements.

"(b) CAPACITY PROCURED.—(1) Except as provided in paragraph (2), the Secretary shall enter into logistics readiness agreements for capacity equal to at least the entire requirement projected under subsection (d).

"(2) The total capacity covered by logistics readiness agreements may be less than the capacity required by paragraph (1) to the extent that the contractors referred to in subsection (a) do not offer sufficient capacity to meet the entire requirement.

"(c) REQUIRED PROVISIONS.—A logistics readiness agreement shall contain the following provisions:

"(1) The basic terms for providing transportation and distribution services for Department of Defense cargoes.

"(2) The capacity and services guaranteed, including—

"(A) vessel transportation, intermodal services, and shoreside services; and

"(B) computer-tracking capabilities.

"(3) Provision for the negotiation, as needed, of additional terms and specific rates and charges for transportation and distribution services that become necessary to meet specific conditions of a war, national emergency, or foreign regional crisis.

"(d) COORDINATION OF POST-SURGE TRANSPORTATION REQUIREMENTS WITH THE SECRETARY OF TRANSPORTATION.—The Secretary of Defense shall submit to the Secretary of Transportation at least annually the Department of Defense projections of weekly post-surge requirements, in excess of normal peacetime requirements, for the transportation of Department of Defense cargoes to meet logistic and war fighting requirements in the event of war or other national emergency or in response to foreign regional crises.

"§ 2631g. Charges

"Notwithstanding any other provision of law, freight charges and other charges for services under a contract referred to in section 2631e of this title or a logistics readiness agreement referred to in section 2631f of this title shall be earned upon tender to and acceptance of the cargo by the contractor. If such amounts are not paid within 30 days after the submission of the contractor's invoice to the Department of Defense, a late payment charge shall accrue beginning on the thirty-first day after the date of the submission. The late payment charge shall accrue at the rate then in effect for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611).".

(b) TRANSITION REQUIREMENT.—Within 30 days after the date of the enactment of this Act, the Secretary of Defense shall commence negotiations with contractors holding contracts referred to in subsection (a) of section 2631e of title 10, United States Code (as added by subsection (a)), for the purpose of entering into logistics readiness agreements referred to in section 2631f of such title (as added by subsection (a)). Within 180 days after that date, the Secretary shall enter into such agreements as are mutually acceptable to the Secretary and the contractors concerned. Each agreement entered into pursuant to this subsection shall be for an initial term of not less than 5 years.

SEC. 1023. MODERNIZING OTHER PROGRAMS.

(a) REQUIRED ACTIONS.—The Secretary of Defense and the Secretary of Transportation shall promptly take such actions as are appropriate to modernize, update, revise, or eliminate the current Sealift Readiness Program consistent with this subtitle and the amendments made by section 1022(a).

(b) PROHIBITED ACTIONS.—No agency of the United States Government may require a party to a logistics readiness agreement referred to in section 2631f of title 10, United States Code (as added by section 1022(a)), to enter into or remain enrolled in the Sealift Readiness Program or any similar program as a condition for being awarded a contract to provide transportation or distribution services, whether or not such contract is covered by section 2631e of such title.

Subtitle D—Technical Amendments

SEC. 1031. AMENDMENTS TO TITLE 10, UNITED STATES CODE.

(a) AMENDMENTS.—Title 10, United States Code, is amended as follows:

(1) The table of sections at the beginning of subchapter II of chapter 21 is amended by inserting "Sec." above "431.".

(2) Section 571(a) is amended by inserting a period at the end of each item in the table.

(3) Section 574(d)(3) is amended by striking out "active duty list" and inserting in lieu thereof "active-duty list".

(4) The heading of section 578 is amended by striking out the first semicolon and inserting in lieu thereof a colon.

(5) Section 581(d)(2) is amended by striking out "Board" both places it appears and inserting in lieu thereof "board".

(6) The table of sections at the beginning of chapter 33A is amended—

(A) by inserting "to be" in the item relating to section 576 after "Information"; and

(B) by striking out the first semicolon in the item relating to section 578 and inserting in lieu thereof a colon.

(7) Section 615 is amended—

(A) in subsection (b)(5), by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)"; and

(B) in subsection (d), by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(8) Sections 616(a), 617(a), 618(a)(1), and 618(a)(2) are each amended by striking out "section 615(a)" and inserting in lieu thereof "section 615(b)".

(9) Section 618(b) is amended by striking out "section 615(b)" in paragraphs (2)(A) and (4) and inserting in lieu thereof "section 615(c)".

(10) Section 628(b)(1) is amended by striking out "section 558" and inserting in lieu thereof "section 573".

(11) Section 945(a)(1) is amended by striking out "section 943(e)(1)(B) of this title (art. 143(e)(1)(B))" and inserting in lieu thereof "section 942(e)(1)(B) of this title (article 142(e)(1)(B))".

(12) Section 1052(b) is amended by inserting a close parenthesis before the period at the end.

(13) Section 1079(j)(2)(B) is amended by inserting a close parenthesis after "1395x(dd)(2)".

(14) Section 1104 is amended—

(A) by striking out "section 5011 of title 38" in subsections (a), (b), and (c) and inserting in lieu thereof "section 8011 of title 38"; and

(B) by striking out "section 5011A of title 38" in subsection (d) and inserting in lieu thereof "section 8011A of title 38".

(15) Section 1174a(c)(2) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "December 5, 1991".

(16) Section 1175 is amended—

(A) in subsection (a), by striking out "Reserve component" and inserting in lieu thereof "reserve component"; and

(B) in subsection (d)(1), by striking out "prior to the time this provision is enacted" and inserting in lieu thereof "before December 5, 1991".

(17) Section 1263(a) is amended by striking out "564 note" and inserting in lieu thereof "580 note".

(18) Section 1401(a) is amended by striking out "564" in the column in the table under the heading "For sections" and inserting in lieu thereof "580".

(19) Section 1581(b) is amended by striking out "the date of the enactment of this section" in paragraphs (1) and (2) and inserting in lieu thereof "December 5, 1991,".

(20) Section 1592 is amended by inserting "section" after "established under".

(21) Section 1733(b)(1)(B)(ii) is amended by striking out "1736(a)(3)" and inserting in lieu thereof "1737(a)(3)".

(22) Chapter 106 is amended—

(A) in section 2131(c)—

(i) by striking out "section 1795 of title 38" in paragraph (2) and inserting in lieu thereof "section 3695 of title 38";

(ii) by striking out "of this subparagraph, his or her" in paragraph (3)(B)(ii) and inserting in lieu thereof ", the individual's"; and

(iii) by striking out "of this paragraph." in paragraph (3)(C) and inserting in lieu thereof a period;

(B) in section 2133(b)—

(i) by striking out "section 1431(f) of title 38" in paragraph (2) and inserting in lieu thereof "section 3031(f) of title 38"; and

(ii) by striking out "section 1431(d) of title 38" in paragraph (3) and inserting in lieu thereof "section 3031(d) of title 38"; and

(C) in section 2136—

(i) by striking out "sections 1670" in subsection (b) and all that follows through "1792)" and inserting in lieu thereof "sections 3470, 3471, 3473, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3680(c), 3686(a), 3687, and 3692)"; and

(ii) by striking out "section 1673(b) of title 38)" in subsection (c)(1) and inserting in lieu thereof "section 3473(b) of title 38)".

(23) Section 2304(j)(3)(A) is amended by striking out "section 8(e) of the Small Business Act (15 U.S.C. 637(e))" and inserting in lieu thereof "section 8(d) of the Small Business Act (15 U.S.C. 637(d))".

(24) Section 2307(e) is amended by striking out "(l)" after "(e)" and inserting in lieu thereof "(1)".

(25)(A) Section 2322 is repealed.

(B) The table of sections at the beginning of chapter 137 is amended by striking out the item relating to section 2322.

(26) Section 2324 is amended—

(A) by striking out subsection (f)(5); and

(B) in subsection (l)—

(i) by striking out "subsection (e)(2)(C)" in paragraph (2) and inserting in lieu thereof "paragraph (3)"; and

(ii) by adding at the end the following new paragraph:

"(3) The committees named in this paragraph are—

"(A) the Committees on Armed Services and on Government Operations of the House of Representatives; and

"(B) the Committees on Armed Services and on Governmental Affairs of the Senate.".

(27) Section 2372(e)(1) is amended by striking out "on the day before" and all that follows through the semicolon and inserting in lieu thereof "on December 4, 1991;".

(28) Section 2391(b)(1)(C) is amended by striking out "publicly-announced" and inserting in lieu thereof "publicly announced".

(29) Section 2397(a)(1) is amended by striking out "that contract" and inserting in lieu thereof "that the contract".

(30) Section 2409 is amended by striking out subsection (d).

(31) Section 2503(6) is amended by striking out "section 2508" and inserting in lieu thereof "section 2522".

(32) Section 2507(d)(3)(A) is amended by striking out "government-owned" and inserting in lieu thereof "Government-owned".

(33) Section 2509(b) is amended—

(A) in paragraph (1), by striking out "section 2508" and inserting in lieu thereof "section 2522"; and

(B) in paragraph (5)(B)(ii), by striking out "five-year defense program" and inserting in lieu thereof "multiyear defense program".

(34) Section 2701(j) is amended by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1992 and 1993" and inserting in lieu thereof "December 5, 1991,".

(35) Section 2708 is amended—

(A) in subsection (b)(1)—

(i) by striking out "all contracts" and inserting in lieu thereof "each contract"; and

(ii) by striking out "all subcontracts under such contracts" and inserting in lieu thereof "any subcontract under any such contract"; and

(B) in subsection (d), by striking out "For purposes of" and inserting in lieu thereof "In".

(36) Section 2801(d) is amended by striking out "sections 2828(g) and 2830" and inserting in lieu thereof "sections 2830 and 2835".

(37) Section 2902(b)(9) is amended by striking out "non-voting" and inserting in lieu thereof "nonvoting".

(38) Section 6325(b) is amended by striking out "section 602 or 5721" and inserting in lieu thereof "section 602 (as in effect before February 1, 1992) or section 5721".

(39) Section 8252 is amended—

(A) by striking out "(a) Except as provided in subsection (b), in" and inserting in lieu thereof "In"; and

(B) by striking out subsection (b).

(b) Effective Date.—(1) Except as provided paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The amendment made by paragraph (30) of subsection (a) shall take effect as if enacted immediately following the enactment of Public Law 102–25 (105 Stat. 75).

SEC. 1032. CODIFICATION OF RECURRING PROVISION RELATING TO SUBCONTRACTING WITH CERTAIN NONPROFIT AGENCIES.

(a) Policy.—Section 2301 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) It is also the policy of Congress that qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to provide approved commodities and services as subcontractors and suppliers under contracts awarded by the Department of Defense.

"(2) In this subsection:

"(A) The term 'qualified nonprofit agency for the blind or other severely handicapped' means—

"(i) a qualified nonprofit agency for the blind, as defined in section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3)); and

"(ii) a qualified nonprofit agency for other severely handicapped, as defined in section 5(4) of such Act (41 U.S.C. 48b(4)).

"(B) The terms 'approved commodity' and 'approved service' mean a commodity and a service, respectively, that has been determined by the Committee for Purchase from the Blind and Other Severely Handicapped under section 2 of such Act (41 U.S.C. 47) to be suitable for procurement by the Federal Government.

"(C) The term 'Javits-Wagner-O'Day Act' means the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46–48c), commonly referred to as the Wagner-O'Day Act, that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), commonly referred to as the Javits-Wagner-O'Day Act.".

(b) Credit Under Small Business Subcontracting Plan.—(1) Chapter 141 of title 10, United States Code, as amended by section 829, is further amended by adding at the end the following new section:

"§ 2410g. Subcontracting plans: credit for certain purchases

"(a) Purchases Benefiting Severely Handicapped Persons.—In the case of a business concern that has negotiated a small business subcontracting plan with a military department or a Defense Agency, purchases made by that business concern from qualified nonprofit agencies for the blind or other severely handicapped shall count toward meeting the subcontracting goal provided in that plan.

"(b) Definitions.—In subsection (a):

"(1) The term 'small business subcontracting plan' means a plan negotiated pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) that establishes a goal for the participation of small business concerns as subcontractors under a contract.

"(2) The term 'qualified nonprofit agency for the blind or other severely handicapped' shall have the meaning given that term in section 2301(d)(2) of this title.

"(c) Termination.—This section shall cease to be effective at the end of September 30, 1994.".

(2) The table of sections at the beginning of such chapter, as amended by section 829, is further amended by adding at the end the following new item:

"2410g. Subcontracting plans: credit for certain purchases.".

SEC. 1033. AMENDMENTS TO OTHER LAWS.

(a) Public Law 102–190.—Effective as of December 5, 1991, the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190) is amended as follows:

(1) Section 232(b)(2) (105 Stat. 1321) is amended by striking out "United States and" and inserting in lieu thereof "United States and the".

(2) Section 234(a) (105 Stat. 1323) is amended by striking out "Follow-on" and inserting in lieu thereof "Follow-On".

(3) Section 702(b)(1)(C) (105 Stat. 1401) is amended by striking out "(15)(D)" and inserting in lieu thereof "(15)".

(4) Section 803(a)(1) (105 Stat. 1414) is amended by inserting open quotation marks at the beginning of the unquoted paragraphs (1), (2), and (3) (within the quoted material in such section).

(5) Section 806(c) (105 Stat. 1419) is amended by inserting a close parenthesis before the period at the end.

(6) Section 822(d)(1) (105 Stat. 1435) is amended by striking out "To the extent provided" and inserting in lieu thereof "Subject to such limitations as may be provided".

(7) Section 1049(b) (105 Stat. 1469) is repealed.

(8) Section 1063(d)(1) (105 Stat. 1476) is amended by striking out "of Public Law 101–25" and inserting in lieu thereof "of Public Law 102–25".

(9) Section 2870(2) (105 Stat. 1562) is amended by inserting "through" after "and all that follows".

(b) Public Law 102–25.—Section 361(d) of Public Law 102–25 (105 Stat. 93) is amended by striking out "section 4108(e) of title 38," and inserting in lieu thereof "section 7423(e) of title 38,".

(c) Mentor-Protege Pilot Program.—Section 831(m) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is amended—

(1) in paragraph (2)(C), by striking out "637(a)(13)" and inserting in lieu thereof "637(a)(15)";

(2) by redesignating the second paragraph (6) and paragraph (7) as paragraphs (7) and (8), respectively; and

(3) in paragraph (8), as so redesignated, by striking out "section 46 of title 41, United States Code," and inserting in lieu thereof "the first section of the Act of June 25, 1938 (41 U.S.C. 46; popularly known as the 'Wagner-O'Day Act'),".

(d) Title 31, United States Code.—

(1) The items relating to sections 1551 and 1552 in the table of sections at the beginning of chapter 15 of title 31, United States Code, are amended to read as follows:

"1551. Definitions; applicability of subchapter.
"1552. Procedure for appropriation accounts available for definite periods.".

(2) The heading of section 1551 of such title is amended to read as follows:

"§ 1551. Definitions; applicability of subchapter".

(e) Public Law 101–533.—Section 3(c)(2) of Public Law 101–533 (22 U.S.C. 3142) is amended by striking out "section 2368 of title 10" and inserting in lieu thereof "section 2522 of title 10".

SEC. 1034. MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS.

(a) Title 37, United States Code.—Title 37, United States Code, is amended as follows:

(1) Section 301d(c) is amended—

(A) in paragraph (2), by striking out "owned" and inserting in lieu thereof "owed"; and

(B) in paragraph (3), by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1991" and inserting in lieu thereof "November 5, 1990".

(2) Section 303a(b) is amended by striking out "301d," after "such sections".

(3) Section 406(g)(1)(A) is amended by inserting a semicolon after "title 10".

(4) Section 406b(d) by striking out "Section 420" and inserting in lieu thereof "Section 421".

(5) Section 559(c)(3)(A)(i) is amended by striking out "of this subparagraph".

(6) Section 1007(i)(3) is amended by striking out "and warrant officers" and inserting in lieu thereof ", warrant officers, and limited duty officers".

(b) REPEAL OF OBSOLETE PROVISION.—Section 301b of title 37, United States Code, is amended—

(1) by striking out subsection (j); and

(2) by redesignating subsection (k) as subsection (j).

(c) BASE CLOSURE ACT.—The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended—

(1) in section 2903(c)(4)—

(A) by striking out "(4)" the first place it appears; and

(B) by striking out the first sentence; and

(2) in section 2906, by striking out "(d) ACCOUNT" and inserting in lieu thereof "(e) ACCOUNT".

Subtitle E—Miscellaneous Matters

SEC. 1041. REPORT ON THE UNITED STATES STRATEGIC POSTURE IN THE MIDDLE EAST AND PERSIAN GULF REGION.

(a) REQUIREMENT FOR REPORT.—Not later than February 1, 1993, the Secretary of Defense shall submit to the congressional defense committees a report on the United States strategic posture in the Middle East and Persian Gulf region.

(b) CONTENT OF REPORT.—The report shall include a description of the following matters:

(1) The adequacy of United States power projection forces, strategic lift, forward deployed forces, prepositioned materiel, and force sustainability capabilities for protecting United States strategic interests in the Middle East and the Persian Gulf region and to ensure the security of Israel, Egypt, and Persian Gulf states friendly to the United States.

(2) United States policy, plans, and programs for ensuring Israel's military and technological superiority over potential threats.

(3) United States capabilities for assisting Israel in a military emergency and the adequacy of United States military assistance and technology transfer for ensuring that Israel has the capability to deter war and to defend its territory with minimal risk and loss of life.

(4) The state of strategic cooperation between the United States and Israel, including—

(A) a thorough assessment of options for prepositioning in Israel appropriate defense articles for use by the United States in the region; and

(B) an assessment of United States policies, plans, and programs for ensuring that maximum advantage is taken of Israel's strategic location and Israel's ability to provide unique options regarding military technologies and production.

(5) The adequacy of United States power projection forces, military assistance, arms transfers, and cooperation arrangements for ensuring that Egypt, as the leading Arab democracy and a key partner in the Camp David accords, is secure against outside threats and can play a major role in regional security efforts with the United States.

(6) The adequacy of United States power projection forces, military assistance, and arms transfers for protecting the Gulf Cooperation Council States.

(7) The adequacy of the capabilities of the United States and countries friendly to the United States for deterring and defending against long-range missile threats and the use of weapons of mass destruction in the Middle East and the Persian Gulf region.

(c) INTELLIGENCE ASSESSMENT.—As part of the report submitted pursuant to subsection (a), the Secretary of Defense shall provide a military threat assessment for the Middle East and Persian Gulf region. The intelligence assessment shall include a description of—

(1) the overall military threat to United States strategic interests in the Persian Gulf region;

(2) the overall military threat to Israel and the military threats to Israel from individual countries, including an assessment of the Arab-Israeli military balance and a discussion of the changes taking place in that balance;

(3) the military threats to Egypt;

(4) the military threats to the Gulf Cooperation Council States; and

(5) the threats to United States interests and to regional States friendly to the United States that result from the proliferation of long-range missiles and weapons of mass destruction.

(d) FORM OF REPORT.—The report may be submitted in classified and unclassified forms.

SEC. 1042. STUDY OF PROVIDING FORWARD PRESENCE OF NAVAL FORCES DURING PEACETIME.

(a) ANALYSIS REQUIRED.—The Secretary of Defense shall conduct an analysis of options for providing forward presence of naval forces during peacetime. The analysis shall include an evaluation of the following considerations:

(1) The requirements of the commanders of the combatant commands for providing naval forces for forward peacetime presence.

(2) The capacity of alternative groups of naval forces, including aircraft carriers, large amphibious ships, and large surface combatants, to fulfill the forward presence mission.

(3) Potential locations and associated costs for homeporting additional aircraft carriers or other naval forces overseas.

(4) Estimated operations cost differentials for supporting forward naval operations.

(5) Estimated investment cost differentials for supporting forward naval operations.

(6) Potential availability of facilities for supporting forward naval operations.

(7) Potential host nation support or other offset contributions.

(b) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report on the analysis required by subsection (a). Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1994 may not be obligated for the aircraft carrier replacement program until the Secretary of Defense submits the report to the congressional defense committees.

SEC. 1043. PROHIBITION ON CONTRACTING WITH SUPPORTERS OF THE SECONDARY ARAB BOYCOTT OF ISRAEL.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, as amended by section 1032, is further amended by adding at the end the following new section:

"§2410h. Prohibition on contracting with supporters of the secondary Arab boycott of Israel

"(a) Under section 3(5)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2402(5)(A)), it is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person.

"(b)(1) Consistent with the policy referred to in subsection (a), no Department of Defense prime contract in excess of the small purchase threshold, as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), may be awarded to a foreign person, foreign company, or other foreign entity unless that person, company, or entity certifies to the Secretary of Defense that it does not comply with the secondary Arab boycott of Israel.

"(2) The Secretary of Defense may waive the prohibition in paragraph (1) in specific instances when the Secretary determines that the waiver is necessary in the national security interests of the United States. Within 15 days after the end of each calendar quarter, the Secretary shall submit to Congress a report identifying each contract for which a waiver was granted under this paragraph during such quarter.

"(c) Subsection (b) does not apply to contracts for consumable supplies, provisions, or services that are intended to be used for the support of the United States or of allied forces in a foreign country, or to contracts pertaining to the use of any equipment, technology, data, or services for intelligence or classified purposes, or to the acquisition or lease of any such equipment, technology, data, or services, by the United States Government in the interests of national security.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of such chapter, as amended by section 1032, is further amended by inserting after the item relating to section 2410d the following:

"2410h. Prohibition on contracting with supporters of the secondary Arab boycott of Israel.".

SEC. 1044. EMPLOYMENT AUTHORITY REGARDING CIVILIAN FACULTY MEMBERS OF THE DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER.

(a) IN GENERAL.—Section 4021 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "or the United States Army Command and General Staff College" and inserting in lieu thereof ", the United States Army Command and General Staff College, and the Defense Language Institute Foreign Language Center"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) APPLICATION TO CERTAIN FACULTY MEMBERS.—This section shall not apply with respect to professors, instructors, and lecturers employed at the Army War College or the United States Army Command and General Staff College if the duration of the principal course of instruction offered at the respective college is less than 10 months.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 4021. Army War College, United States Army Command and General Staff College, and Defense Language Institute Foreign Language Center: civilian faculty members".

(2) The item relating to such section in the table of sections for chapter 373 of such title is amended to read as follows:

"4021. Army War College, United States Army Command and General Staff College, and Defense Language Institute Foreign Language Center: civilian faculty members.".

(c) APPLICABILITY.—(1) Except as provided in paragraph (2), section 4021 of title 10, United States Code, shall not apply to a person who was employed as a professor, instructor, or lecturer at the Army War College or the United States Army Command and General Staff College before February 28, 1990.

(2) In the case of a person referred to in paragraph (1) who terminates employment as a professor, instructor, or lecturer at an institution referred to in that paragraph on or after February 28, 1990, section 4021 of title 10, United States Code, shall apply with respect to the employment of such person after that date as a professor, instructor, or lecturer at an institution other than the institution or institutions where that person was employed before that date.

(d) SAVINGS PROVISION.—In the case of a person who, on the day before the date of the enactment of this Act, is employed as a professor, instructor, or lecturer at the Defense Language Institute Foreign Language Center, the Secretary of the Army shall afford the person an opportunity to elect to be paid under the compensation plan authorized by subsection (b) of section 4021 of title 10, United States Code, or to continue to be paid under the General Schedule (with no reduction in pay) under section 5332 of title 5, United States Code.

SEC. 1045. ELECTION OF LEAVE OR LUMP-SUM PAYMENT FOR CERTAIN EMPLOYEES WHO MOVED BETWEEN NONAPPROPRIATED FUND EMPLOYMENT AND DEPARTMENT OF DEFENSE OR COAST GUARD EMPLOYMENT BEFORE APRIL 16, 1991.

(a) ELECTION OF LEAVE OR PAYMENT.—An employee referred to in subsection (b) of section 6308 of title 5, United States Code, who moved between a position referred to in the first sentence of that subsection and a position referred to in the second sentence of that subsection after December 31, 1986, and before April 16, 1991, shall be permitted to elect—

(1) to repay the lump-sum payment received under section 5551(a) of that title in lieu of annual leave and have the annual leave recredited to the employee's leave account; or

(2) to keep the lump-sum payment in lieu of that annual leave.

(b) DEADLINE FOR ELECTION.—An employee shall make an election authorized by subsection (a) within 90 days after receiving a written notification of the provisions of this section from the head of the agency currently employing the employee. An employee who does not make the election within that 90-day period shall be considered to have elected to keep the lump-sum payment.

(c) REPAYMENT OF LUMP-SUM PAYMENT.—An employee who elects to repay the lump-sum payment shall make the repayment not later than 2 years after the date of the election. The repayment by an employee shall be made in one payment of the entire amount of the lump-sum payment received by that employee in lieu of annual leave.

(d) LEAVE CREDITS.—Upon repayment of the lump-sum payment received by an employee, the employee shall be recredited with the annual leave associated with the lump-sum payment. The accounting for the recredited leave shall be separate from the accounting for other leave. Recredited annual leave shall be available until the first day of the third leave year following the leave year in which the leave is recredited.

SEC. 1046. FEDERAL CHARTER FOR MILITARY ORDER OF WORLD WARS.

(a) FEDERAL CHARTER.—The Military Order of the World Wars, a nonprofit corporation organized under the laws of the District of Columbia (in this section referred to as the "corporation"), is recognized as such and is granted a Federal charter.

(b) OBJECTS AND PURPOSES.—The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include the following:

(1) Promoting military service associations.

(2) Promoting patriotic education and military, naval, and air science.

(3) Defending the honor and integrity of the Federal Government and the Constitution.

(4) Fostering fraternal relations among all branches of the Armed Forces.

(5) Encouraging the adoption of a suitable policy of national security.

(6) Encouraging the commemoration of military service and the establishment of war memorials.

(c) PROHIBITION AGAINST DISCRIMINATION.—In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

(d) RESTRICTIONS.—(1) The corporation may not make any loan to any officer, director, or employee of the corporation.

(2) The corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

(3) The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities.

(e) AUDIT OF FINANCIAL TRANSACTIONS.—The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following:

"(75) The Military Order of World Wars.".

(f) ANNUAL REPORT.—The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by subsection (e). The report shall not be printed as a public document.

(g) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this section shall expire.

(h) TERMINATION.—The charter granted by this section shall expire if the corporation fails to comply with—

(1) any restriction or other provision of this section;

(2) any provision of its bylaws or articles of incorporation; or

(3) any provision of the laws of the District of Columbia that apply to corporations such as the corporation recognized under this section.

SEC. 1047. FEDERAL CHARTER FOR RETIRED ENLISTED ASSOCIATION, INCORPORATED.

(a) FEDERAL CHARTER.—The Retired Enlisted Association, Incorporated, a nonprofit corporation organized under the laws of the State of Colorado, is recognized as such and is granted a Federal charter.

(b) POWERS.—The Retired Enlisted Association, Incorporated, (in this section referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

(c) OBJECTS AND PURPOSES.—The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include—

(1) upholding and defending the Constitution of the United States;

(2) promoting health, prosperity, and scholarship among its members and their dependents and survivors through benevolent programs;

(3) assisting veterans and their dependents and survivors through a service program established for that purpose;

(4) improving conditions for retired enlisted service members, veterans, and their dependents and survivors; and

(5) fostering fraternal and social activities among its members in recognition that cooperative action is required for the furtherance of their common interests.

(d) SERVICE OF PROCESS.—With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

(e) MEMBERSHIP.—Except as provided in subsection (h), eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the articles of incorporation and bylaws of the corporation.

(f) BOARD OF DIRECTORS.—Except as provided in subsection (h), the composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

(g) OFFICERS OF CORPORATION.—Except as provided in subsection (h), the positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

(h) PROHIBITION AGAINST DISCRIMINATION.—In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of the directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age or national origin.

(i) RESTRICTIONS.—(1) No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this paragraph shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(2) The corporation may not make any loan to any officer, director, or employee of the corporation.

(3) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(4) The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities by virtue of this section.

(j) LIABILITY.—The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

(k) BOOKS AND RECORDS.—The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this subsection shall be construed to contravene any applicable State law.

(l) AUDIT OF FINANCIAL TRANSACTIONS.—The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101), as amended by section 1046 of this Act, is further amended by adding at the end the following:

"(76) The Retired Enlisted Association, Incorporated.".

(m) ANNUAL REPORT.—The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 2 of the Act referred to in subsection (l). The report shall not be printed as a public document.

(n) RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.—The right to alter, amend, or repeal this section is expressly reserved to the Congress.

(o) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this section shall expire.

(p) EXCLUSIVE RIGHTS TO NAMES.—The corporation shall have the sole and exclusive right to use the names "The Retired Enlisted Association, Incorporated", "The Retired Enlisted Association", "Retired Enlisted Association", and "TREA", and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this subsection may be construed to conflict or interfere with rights that are established or vested before the date of the enactment of this Act.

(q) TERMINATION.—If the corporation fails to comply with any of the restrictions or provisions of this section, the charter granted by this section shall expire.

(r) DEFINITION.—For purposes of this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

SEC. 1048. PROGRAM TO COMMEMORATE WORLD WAR II.

(a) IN GENERAL.—The Secretary of Defense may, during fiscal years 1993 through 1995, conduct a program to commemorate the 50th anniversary of World War II and to coordinate, support, and facilitate other such commemoration programs and activities of the Federal Government, State and local governments, and other persons.

(b) USE OF FUNDS.—During fiscal years 1993 through 1995, funds authorized to be appropriated to the Department of Defense for operation and maintenance of Defense Agencies shall be available to conduct the program referred to in subsection (a).

(c) PROGRAM ACTIVITIES.—The program referred to in subsection (a) may include activities and ceremonies—

(1) to provide the people of the United States with a clear understanding and appreciation of the lessons and history of World War II;

(2) to thank and honor veterans of World War II and their families;

(3) to pay tribute to the sacrifices and contributions made on the home front by the people of the United States;

(4) to foster an awareness in the people of the United States that World War II was the central event of the 20th century that defined the postwar world;

(5) to highlight advances in technology, science, and medicine related to military research conducted during World War II;

(6) to inform wartime and postwar generations of the contributions of the Armed Forces of the United States to the United States;

(7) to recognize the contributions and sacrifices made by World War II allies of the United States; and

(8) to highlight the role of the Armed Forces of the United States, then and now, in maintaining world peace through strength.

(d) AUTHORITY OF THE SECRETARY.—(1) The Secretary of Defense may, in accordance with regulations prescribed by the Secretary, authorize the manufacture, reproduction, use, sale, or distribution of logos, trademarks, seals, and similar items for the program referred to in subsection (a), and grant exclusive or nonexclusive licenses for such purposes.

(2) The Secretary may, in furtherance of the program referred to in subsection (a) and in accordance with regulations prescribed by the Secretary, grant exclusive or nonexclusive licenses for any copyrighted material for which the Secretary holds an exclusive license or owns the copyright as transferred through assignment, bequest, or otherwise. Notwithstanding any other provision of law, any proceeds received as a result of these activities shall be deposited into the account established by subsection (e).

(e) ESTABLISHMENT OF ACCOUNT.—(1) There is established in the Treasury of the United States an account to be known as the "Department of Defense 50th Anniversary of World War II Commemoration Account" which shall be administered by the Secretary of Defense as a single account. There shall be deposited into the account all proceeds derived from activities described in subsection (d).

(2) The Secretary may use the funds in the account established in paragraph (1) only for the purpose of conducting the program referred to in subsection (a).

(3) Not later than 60 days after the termination of the authority of the Secretary to conduct the commemoration program referred to in subsection (a), the Secretary shall transmit to the Committees on Armed Services of the Senate and House of Representatives a report containing an accounting of all the funds deposited into and expended from the account or otherwise expended under this section, and of any amount remaining in the account. Unobligated funds which remain in the account after termination of the authority of the Secretary under this section shall be held in the account until transferred by law after the Committees receive the report.

(f) PROVISION OF VOLUNTARY SERVICES.—(1) Notwithstanding section 1342 of title 31, United States Code, the Secretary of Defense may accept from any person voluntary services to be provided in furtherance of the program referred to in subsection (a).

(2) A person providing voluntary services under this subsection shall be considered an employee of the Federal Government for the purpose of chapter 81 of title 5, United States Code, relating to compensation for work-related injuries, and for the purpose of chapter 176 of title 28, United States Code, relating to tort claims. Such a person who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purpose by reason of the provision of such services.

(3) The Secretary of Defense may provide for reimbursement of incidental expenses which are incurred by a person providing voluntary services under this subsection. The Secretary of Defense shall determine which expenses are eligible for reimbursement under this paragraph.

SEC. 1049. ELIMINATION OF REPORTS REQUIRED BY LAW.

(a) UNDER TITLE 10.—(1) Section 673(b) of title 10, United States Code, is amended by striking out the last sentence.

(2) Section 2362 of such title is amended—

(A) by striking out subsection (c); and

(B) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(3) Section 2401 of such title is amended—

(A) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) The Secretary may make a contract described in subsection (a)(1) if—

"(1) the Secretary has been specifically authorized by law to make the contract; and

"(2) the Secretary determines that such a lease is warranted based on an analysis of the cost to the United States (including lost tax revenue) of any such lease or charter arrangement compared with the cost to the United States of direct procurement of the aircraft or naval vessel by the United States.";

(B) by striking out subsection (e); and

(C) by redesignating subsection (f) as subsection (e).

(4) Section 2672a(b) of such title is amended by striking out the last sentence.

(5) Section 2823 of such title is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(6) Section 2854 of such title is amended—

(A) in subsection (a), by striking out "(a) Subject to subsection (b), the Secretary" and inserting in lieu thereof "The Secretary"; and

(B) by striking out subsection (b).

(7)(A) Section 2861 of such title is repealed.

(B) The table of sections at the beginning of chapter 169 of such title is amended by striking out the item relating to section 2861.

(8) Section 2864(b) of such title is amended by striking out "after the 21-day period" and all that follows and inserting in lieu thereof a period.

(9) Section 7308 of such title is amended by striking out subsection (c).

(10) Section 7309(b) of such title is amended by striking out the last sentence.

(b) REPEAL OF COMPARABLE BUDGETING REQUIREMENT.—(1) Section 2217 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2217.

(c) UNDER TITLE 37.—Section 1008(a) of title 37, United States Code, is amended by striking out the last sentence.

(d) UNDER OTHER LAWS.—(1) Section 18(a) of the Military Selective Service Act (50 U.S.C. App. 468(a)) is amended by striking out ", except that no order" in the first sentence and all that follows through the end of the second sentence and inserting in lieu thereof a period.

(2) Section 112 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1037) is amended by striking out subsection (c).

(3) Section 1309 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 10 U.S.C. 113 note) is repealed.

SEC. 1050. LIMITATION ON USE OF EXCESS CONSTRUCTION OR FIRE EQUIPMENT FROM DEPARTMENT OF DEFENSE STOCKS IN FOREIGN ASSISTANCE OR MILITARY SALES PROGRAMS.

(a) LIMITATION.—Excess construction or fire equipment from the stocks of the Department of Defense may be transferred to any foreign country or international organization pursuant to part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2301 et seq.) or section 21 of the Arms Export Control Act (22 U.S.C. 2761) only if—

(1) no department or agency of the Federal Government other than the Department of Defense and no State submits to the Defense Reutilization and Marketing Service a request for such equipment during the period for which the Defense Reutilization and Marketing Service accepts such a request; or

(2) the President determines that the transfer is necessary in order to respond to an emergency for which the equipment is especially suited.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to limit the authority to transfer construction or fire equipment under section 2547 of title 10, United States Code.

(c) DEFINITION.—In this section, the term "construction or fire equipment" includes tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, pumpers, fuel and water tankers, crash trucks, utility vans, rescue trucks, ambulances, hook and ladder units, compressors, and miscellaneous fire fighting equipment.

SEC. 1051. RESTRICTION ON OBLIGATION OF FUNDS FOR NEW MUSEUMS.

(a) PROHIBITION ON OBLIGATION OF FUNDS FOR CERTAIN NEW MUSEUMS.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense for fiscal year 1992 may not be obligated for the purposes of—

(1) the construction or capitalization of—

(A) the National D-Day Museum;

(B) the Airborne and Special Operations Museum; or

(C) the Naval Undersea Museum; or

(2) the renovation of the submarine U.S.S. Blueback for the Oregon Museum of Science and Industry.

(b) EXCEPTION.—The funds referred to in subsection (a) may be obligated for the purpose specified for a museum referred to in that subsection if, with respect to that museum, the Secretary of Defense certifies to Congress that—

(1) the use of Department of Defense funds for that museum is of a higher priority than the use of such funds for the expansion of any existing Department of Defense museum;

(2) in authorizing construction of a new Department of Defense museum, the Secretary would select that museum as one of the Secretary's first four choices for the construction of such a new museum; and

(3) the use of Department of Defense funds for that purpose would make a unique contribution to the mission of the military departments.

SEC. 1052. ARMY MILITARY HISTORY FELLOWSHIP PROGRAM.

(a) IN GENERAL.—Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4316. Military history fellowships

"(a) FELLOWSHIPS.—The Secretary of the Army shall prescribe regulations under which the Secretary may award fellowships in military history of the Army to the persons described in subsection (b).

"(b) ELIGIBLE PERSONS.—The persons eligible for awards of fellowships under this section are citizens and nationals of the United States who—

"(1) are graduate students in United States military history;

"(2) have completed all requirements for a doctoral degree other than preparation of a dissertation; and

"(3) agree to prepare a dissertation in a subject area of military history determined by the Secretary.

"(c) REGULATIONS.—The regulations prescribed under this section shall include—

"(1) the criteria for award of fellowships;

"(2) the procedures for selecting recipients;

"(3) the basis for determining the amount of a fellowship; and

"(4) the total amount that may be awarded as fellowships during an academic year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 4315 the following:

"4316. Military history fellowships.".

SEC. 1053. TRANSFER OF CERTAIN VESSELS.

The Secretary of the Navy shall transfer to the Department of Transportation the following vessels, to be assigned as training ships to Texas A&M University at Galveston, Texas, and to the Maine Maritime Academy at Castine, Maine, on the date of the decommissioning of such vessels:

(1) The U.S.N.S. Chauvenet (T-AG-29).

(2) The U.S.N.S. Harkness (T-AG-32).

SEC. 1054. REPEAL OF REQUIREMENT FOR CONSTRUCTION OF COMBATANT AND ESCORT VESSELS IN NAVY YARDS.

(a) REPEAL.—Subsection (a) of section 7299a of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—Subsections (b), (c), and (d) of section 7299a of title 10, United States Code, are redesignated as subsections (a), (b), and (c), respectively.

SEC. 1055. COOPERATIVE MILITARY AIRLIFT AGREEMENTS.

(a) LIQUIDATION OF CREDITS AND LIABILITIES.—Section 2350c(a)(2) of title 10, United States Code, is amended by striking out all after "liquidated" and inserting in lieu thereof "as agreed upon by the parties. Liquidation shall be either by direct payment to the country that has provided the greater amount of transportation or by the providing of in-kind transportation services to that country. The liquidation shall occur on a regular basis, but not less often than once every 12 months.".

(b) COUNTRIES ELIGIBLE FOR COOPERATIVE AGREEMENTS.—Section 2350c(e)(1) of such title is amended by striking out "or New Zealand" and inserting in lieu thereof ", New Zealand, Japan, and the Republic of Korea".

SEC. 1056. SPECIAL OPERATIONS FORCES.

(a) GRADE FOR CERTAIN COMMANDERS.—Section 1311(e) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 167 note) is amended by inserting after "the United States Pacific Command," the following: "the United States Southern Command, the United States Central Command,".

(b) REPEAL OF DUPLICATIVE PROVISIONS.—Subsections (c), (d), and (e) of section 9115 of Public Law 99-500 and subsections (c), (d), and (e) of section 9115 of Public Law 99-591 are repealed.

SEC. 1057. PERMANENT AUTHORITY TO PAY CERTAIN EXPENSES OF PERSONNEL OF DEVELOPING COUNTRIES FOR ATTENDANCE AT BILATERAL OR REGIONAL COOPERATION CONFERENCES.

Subsection (e) of section 1051 of title 10, United States Code, is repealed.

SEC. 1058. UNITED STATES COURT OF MILITARY APPEALS AMENDMENTS.

(a) UNIFIED FEDERAL RETIREMENT FOR JUDGES.—(1) Section 945 (article 145) of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) A person appointed as a judge of the United States Court of Military Appeals shall be subject to the Federal Employees' Retirement System as of the date of the appointment.

"(2) Section 302 of the Federal Employees' Retirement System Act of 1986 (5 U.S.C. 8331 note) shall apply to a judge of the United States Court of Military Appeals who is subject to the Civil Service Retirement and Disability System on the day before the date on which the judge becomes subject to the Federal Employees' Retirement System under this section. In the application of section 302 of that Act to such judge, the judge shall be treated as having made an election under section 301 of that Act to become subject to the Federal Employees' Retirement System effective as of that date.

"(3) In this section:

"(A) The term 'Federal Employees' Retirement System' means the provisions of chapter 84 of title 5.

"(B) The term 'Civil Service Retirement and Disability System' means the provisions of subchapter III of chapter 83 of title 5.".

(2) The amendment made by paragraph (1) shall apply to persons who are appointed as judges of the United States Court of Military Appeals on or after the date of the enactment of this Act.

(3)(A) The amendment made by paragraph (1) shall also apply in accordance with this paragraph to judges of the United States Court of Military Appeals who served in regular active service as such on or after November 29, 1989, and before the date of the enactment of this Act.

(B) Except as provided in subparagraph (C), a judge referred to in subparagraph (A) shall be subject to the Federal Employees' Retirement System as of the later of November 29, 1989, or the date of the judge's appointment as a judge of the United States Court of Military Appeals.

(C) A judge referred to in subparagraph (B) who, on the day before the date as of which the judge would become subject to the Federal Employees' Retirement System under that subparagraph, was subject to the Civil Service Retirement and Disability System may elect to continue to be subject to the Civil Service Retirement and Disability System instead of the Federal Employees' Retirement System. A judge making that election shall submit the election in writing to the Director of the Office of Personnel Management within 10 days after the date of the enactment of this Act. The election is irrevocable.

(D) A judge who does not make an election pursuant to subparagraph (C)—

(i) shall receive a lump sum refund from the Civil Service Retirement and Disability Fund equal to the difference between the total amount deducted and withheld from the pay of the judge under section 8334 of title 5, United States Code, during the service as a judge of the court on and after November 29, 1989, and before the date of the enactment of this Act and the total amount that would have been deducted and withheld from the pay of the judge under section 8422 of such title during that service if the judge had been subject to the provisions of chapter 84 of that title during such service; and

(ii) may, within 2 years after the date of the enactment of this Act, deposit in the Thrift Savings Fund any amount not exceeding the difference between the total amount that the judge could have contributed to the Fund under section 8432(a) of title 5, United States Code, during the service referred to in clause (i) and the amount, if any, that was contributed to the Fund by the judge under section 8351 of such title during that service.

(E) A lump sum contribution shall be made to the Thrift Savings Fund in accordance with section 8432(c) of title 5, United States Code, for a deposit made by a judge pursuant to subparagraph (D)(ii). The amount of the contribution shall be equal to the total amount of the contribution that would have been made under that section during the service covered by the deposit if the total amount deposited had been deducted and withheld from the pay of the judge for contribution to the Thrift Savings Fund under section 8432(a) of that title in equal amounts monthly during that service. The lump sum contribution shall be made out of funds available for the pay of judges of the United States Court of Military Appeals for the fiscal year in which the deposit is made.

(F) Amounts deposited in the Thrift Savings Fund pursuant to subparagraphs (D)(ii) and (E) shall be deemed not to cause the contributions made to that Fund by or for a judge in the year of the deposit to exceed any limitation referred to in section 8432(d) or 8440(a)(3) of title 5, United States Code.

(G) In this paragraph:

(i) The term "Federal Employees' Retirement System" means the provisions of chapter 84 of title 5, United States Code.

(ii) The term "Civil Service Retirement and Disability System" means the provisions of subchapter III of chapter 83 of such title.

(b) CHIEF JUDGE.—(1) Section 943(a) (article 143(a)) of title 10, United States Code, is amended to read as follows:

"(a) CHIEF JUDGE.—(1) The chief judge of the United States Court of Military Appeals shall be the judge of the court in regular active service who is senior in commission among the judges of the court who—

"(A) have served for one or more years as judges of the court; and

"(B) have not previously served as chief judge.

"(2) In any case in which there is no judge of the court in regular active service who has served as a judge of the court for at least one year, the judge of the court in regular active service who is senior in commission and has not served previously as chief judge shall act as the chief judge.

"(3) Except as provided in paragraph (4), a judge of the court shall serve as the chief judge under paragraph (1) for a term of 5 years. If no other judge is eligible under paragraph (1) to serve as chief judge upon the expiration of that term, the chief judge shall continue to serve as chief judge until another judge becomes eligible under that paragraph to serve as chief judge.

"(4)(A) The term of a chief judge shall be terminated before the end of 5 years if—

"(i) the chief judge leaves regular active service as a judge of the court; or

"(ii) the chief judge notifies the other judges of the court in writing that such judge desires to be relieved of his duties as chief judge.

"(B) The effective date of a termination of the term under subparagraph (A) shall be the date on which the chief judge leaves regular active service or the date of the notification under subparagraph (A)(ii), as the case may be.

"(5) If a chief judge is temporarily unable to perform his duties as a chief judge, the duties shall be performed by the judge of the court in active service who is present, able and qualified to act, and is next in precedence.".

(2) For purposes of section 943(a) of title 10, United States Code, as amended by paragraph (1)—

(A) the person serving as the chief judge of the United States Court of Military Appeals on the date of the enactment of this Act shall be deemed to have been designated as the chief judge under such section; and

(B) the 5-year term provided in paragraph (3) of such section shall be deemed to have begun on the date on which such judge was originally designated as the chief judge under section 867(a) or 943 of title 10, United States Code, as the case may be, as that provision of law was in effect on the date of the designation.

SEC. 1059. AMENDMENTS TO THE UNIFORM CODE OF MILITARY JUSTICE.

(a) JURISDICTION.—Section 803(a) (article 3(a)) of title 10, United States Code, is amended to read as follows:

"(a) Subject to section 843 of this title (article 43), a person who is in a status in which the person is subject to this chapter and who committed an offense against this chapter while formerly in a status in which the person was subject to this chapter is not relieved from amenability to the jurisdiction of this chapter for that offense by reason of a termination of that person's former status.".

(b) CERTAIN ADJUDICATIONS AND POSTPONEMENTS OF SENTENCES.—(1) Section 857 (article 57) of such title is amended by adding at the end the following new subsection:

"(e)(1) In any case in which a court-martial sentences a person referred to in paragraph (2) to confinement, the convening authority may postpone the service of the sentence to confinement, without the consent of that person, until after the person has been permanently released to the armed forces by a State or foreign country referred to in that paragraph.

"(2) Paragraph (1) applies to a person subject to this chapter who—

"(A) while in the custody of a State or foreign country is temporarily returned by that State or foreign country to the armed forces for trial by court-martial; and

"(B) after the court-martial, is returned to that State or foreign country under the authority of a mutual agreement or treaty, as the case may be.

"(3) In this subsection, the term 'State' means a State of the United States, the District of Columbia, a Territory, and a possession of the United States.".

(2) Section 863 (article 63) of such title is amended—

(A) by striking out "imposed" in the second sentence and inserting in lieu thereof "approved"; and

(B) by inserting "approved" in the third sentence after "the pretrial agreement, the".

(c) OFFENSES.—(1)(A) Section 911 (article 111) of such title is amended to read as follows:

"§911. Art. 111. Drunken or reckless operation of a vehicle, aircraft, or vessel

"Any person subject to this chapter who—

"(1) operates or physically controls any vehicle, aircraft, or vessel in a reckless or wanton manner or while impaired by a substance described in section 912a(b) of this title (article 112a(b)), or

"(2) operates or is in actual physical control of any vehicle, aircraft, or vessel while drunk or when the alcohol concentration in the person's blood or breath is 0.10 grams of alcohol per 100 milliliters of blood or 0.10 grams of alcohol per 210 liters of breath, as shown by chemical analysis,

shall be punished as a court-martial may direct.".

(B) The item relating to section 911 in the table of sections at the beginning of subchapter X of chapter 47 of such title is amended to read as follows:

"911. 111. Drunken or reckless operation of a vehicle, aircraft, or vessel.".

(2) Section 918(3) (article 118(3)) of such title is amended by striking out "others" and inserting in lieu thereof "another".

(3) Section 920(a) (article 120(a)) of such title is amended—

(A) by striking out "with a female not his wife"; and

(B) by striking out "her".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to offenses committed on or after that date.

SEC. 1060. CIVIL-MILITARY COOPERATIVE ACTION PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) Many of the skills, capabilities, and resources that the Armed Forces have developed to meet military requirements can assist in meeting the civilian domestic needs of the United States.

(2) Members of the Armed Forces have the training, education, and experience to serve as role models for United States youth.

(3) As a result of the reductions in the Armed Forces resulting from the ending of the Cold War, the Armed Forces will have fewer overseas deployments and lower operating tempos, and there will be a much greater opportunity than in the past for the Armed Forces to assist civilian efforts to address critical domestic problems.

(4) The United States has significant domestic needs in areas such as health care, nutrition, education, housing, and infrastructure that cannot be met by current and anticipated governmental and private sector programs.

(5) There are significant opportunities for the resources of the Armed Forces, which are maintained for national security purposes, to be applied in cooperative efforts with civilian officials to address these vital domestic needs.

(6) Civil-military cooperative efforts can be undertaken in a manner that is consistent with the military mission and does not compete with the private sector.

(b) ESTABLISHMENT OF CIVIL-MILITARY COOPERATIVE ACTION PROGRAM.—Chapter 20 of title 10, United States Code, is amended—

(1) by adding at the end the following new subchapter:

"SUBCHAPTER II—CIVIL-MILITARY COOPERATION

"Sec.

"410. Civil-Military Cooperative Action Program.

"§410. Civil-Military Cooperative Action Program

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a program to be known as the 'Civil-Military Cooperative Action Program'. Under the program, the Secretary may, in accordance with other applicable law, use the skills, capabilities, and resources of the armed forces to assist civilian efforts to meet the domestic needs of the United States.

"(b) PROGRAM OBJECTIVES.—The program shall have the following objectives:

"(1) To enhance individual and unit training and morale in the armed forces through meaningful community involvement of the armed forces.

"(2) To encourage cooperation between civilian and military sectors of society in addressing domestic needs.

"(3) To advance equal opportunity.

"(4) To enrich the civilian economy of the United States through education, training, and transfer of technological advances.

"(5) To improve the environment and economic and social conditions.

"(6) To provide opportunities for disadvantaged citizens of the United States.

"(c) ADVISORY COUNCILS.—(1) The Secretary of Defense shall encourage the establishment of advisory councils on civil-military cooperation at the regional, State, and local levels, as appropriate, in order to obtain recommendations for projects and activities under the program and guidance for the program from persons who are knowledgeable about regional, State, and local conditions and needs.

"(2) The advisory councils should include officials from relevant military organizations, representatives of appropriate local, State, and Federal agencies, representatives of civic and social service organizations, business representatives, and labor representatives.

"(3) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to such councils.

"(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the provision of assistance under the program. The regulations shall include the following:

"(1) Rules governing the types of assistance that may be provided.

"(2) Procedures governing the delivery of assistance that ensure, to the maximum extent practicable, that such assistance is provided in conjunction with, rather than separate from, civilian efforts.

"(3) Procedures for appropriate coordination with civilian officials to ensure that the assistance—

"(A) meets a valid need; and

"(B) does not duplicate other available public services.

"(4) Procedures for the provision of assistance in a manner that does not compete with the private sector.

"(5) Procedures to minimize the extent to which Department of Defense resources are applied exclusively to the program.

"(6) Standards to ensure that assistance is provided under this section in a manner that is consistent with the military mission of the units of the armed forces involved in providing the assistance.

"(e) CONSTRUCTION OF PROVISION.—Nothing in this section shall be construed as authorizing—

"(1) the use of the armed forces for civilian law enforcement purposes; or

"(2) the use of Department of Defense personnel or resources for any program, project, or activity that is prohibited by law."; and

(2) by inserting below the chapter heading the following:

"Subchapter	Sec.
"I. Humanitarian Assistance	401
"II. Civil-Military Cooperation	410

"SUBCHAPTER I—HUMANITARIAN ASSISTANCE".

SEC. 1061. UNITED NATIONS PEACEKEEPING AND ENFORCEMENT REPORT.

(a) REPORT REQUESTED.—Not later than the date on which the President submits to Congress the budget for fiscal year 1994 under section 1105 of title 31, United States Code, the President shall transmit to Congress a report on the proposals of the Secretary General of the United Nations contained in his report to the Security Council entitled "Preventive Diplomacy, Peacemaking and Peacekeeping", dated June 19, 1992.

(b) CONTENT OF PRESIDENT'S REPORT.—The President's report shall contain a comprehensive analysis and discussion of the proposals of the Secretary General, including, in particular, the following:

(1) The proposal that contributions for peacekeeping and related enforcement activities be funded out of the National Defense function of the budget rather than the "Contributions to International Peacekeeping Activities" account of the Department of State.

(2) The assignment of responsibilities within the Executive branch if such contributions are funded, in whole or in part, out of the National Defense function.

(3) The proposal that the United States and other member states of the United Nations negotiate special agreements under Article 43 of the United Nations Charter to provide for those states to make armed forces, assistance, and facilities available to the Security Council of the United Nations for the purposes stated in Article 42 of that Charter, not only on an ad hoc basis but on a permanent on-call basis for rapid deployment under Security Council authorization.

(4) The proposal that member states of the United Nations commit to keep equipment specified by the Secretary General available for immediate sale, loan, or donation to the United Nations when required.

(5) The proposal that member states of the United Nations make airlift and sealift capacity available to the United Nations free of cost or at lower than commercial rates.

(6) Such other information as may be necessary to inform Congress on matters relating to the Secretary General's proposals.

SEC. 1062. CLARIFICATION OF SCOPE OF AUTHORIZATIONS.

No funds are authorized to be appropriated under this Act for the Federal Bureau of Investigation.

SEC. 1063. REDUCTION IN THE AUTHORIZED END STRENGTH FOR MILITARY PERSONNEL IN EUROPE.

(a) REDUCED END STRENGTH.—Subsection (c)(1) of section 1002 of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note), is amended by striking out "235,700" in the first sentence and all that follows and inserting in lieu thereof "100,000.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1995.

SEC. 1064. REPORT ON THE SELECTIVE SERVICE SYSTEM.

The Secretary of Defense, in consultation with the Director of the Selective Service System, shall submit, by April 30, 1993, a report to the President on the continued requirement for registration under the selective service system. The report shall contain, at a minimum, analyses on the effect of suspension of the requirement for registration on: (1) projected mobilization requirements, including the effect on the time it would take to increase the size of the Armed Forces in a national emergency; (2) recruiting in the Armed Forces; and (3) the organization and staffing of the selective service system. The report shall also contain the Secretary's recommendations based on the analyses. The President shall transmit the report to the Congress, by May 31, 1993, along with his advice on what actions, if any he plans to take on the report.

SEC. 1065. STATE EQUALIZATION PROGRAMS.

Paragraph (2) of section 5(d) of Public Law 81-874 (20 U.S.C. 239(d)(2)) is amended—

(1) by striking subparagraph (C) (as added by section 330(a) of Public Law 94-482); and

(2) by adding at the end the following new subparagraph:

"(D) Any State whose program of State aid was certified by the Secretary under subparagraph (C) for fiscal year 1988, but whose program was determined by the Secretary under subparagraph (C)(i) not to meet the requirements of subparagraph (A) for one or more of the fiscal years 1989 through 1992—

"(i) shall be deemed to have met the requirements of subparagraph (A) for each of the fiscal years 1989 through 1992; and

"(ii) shall not, beginning with fiscal year 1993, and notwithstanding any other provision of this paragraph, take payments under this title into consideration as provided under subparagraph (A) for any fiscal year unless the Secretary has previously certified such State's program for such fiscal year.".

SEC. 1066. BROADENING MISSION OF NATO.

(a)(1) The North Atlantic Treaty Organization has, for more than forty years, successfully deterred aggression against Western Europe and North America by the armed forces of the Soviet Union and the Warsaw Pact;

(2) The Warsaw Pact no longer exists;

(3) The Soviet Union has devolved into a commonwealth of sovereign, independent republics;

(4) The members of the North Atlantic Treaty Organization share many common interests in deterring aggression, conflict and economic dislocation both within and beyond the geographic boundaries of Europe and North America: Now, therefore

(b) It is the sense of the Senate that the threat of East-West military confrontation has radically receded and, if the North Atlantic Treaty Organization is to continue to be relevant to the security interests of Western Europe and North America through the 1990's and beyond, the alliance's mission must be recrafted in order to enable it to address common transatlantic security concerns, including those beyond NATO's geographic boundaries. Therefore, the President of the United States is requested to open discussions with the heads of state of NATO's various member states, with a view to adapting the alliance to current realities.

SEC. 1067. REPORT ON INTERNATIONAL MINE CLEARING EFFORTS IN REFUGEE SITUATIONS.

(a) FINDING.—The Congress finds that an estimated 10-20 million mines are scattered across Cambodia, Afghanistan, Somalia, Angola, and other countries which have experienced conflict and that refugee repatriation and other humanitarian programs are being seriously hampered by the widespread use of anti-personnel mines in regional conflicts and civil wars.

(b) REPORT.—(1) The Secretary of Defense, in consultation with the Secretary of State, shall provide a report on international mine clearing efforts in situations involving the repatriation and resettlement of refugees and displaced persons.

(2) Such report shall include, though not be limited to—

(A) an assessment of mine clearing needs in countries to which refugees and displaced persons are now returning, or are likely to return within the near future, including, though not limited to, Cambodia, Angola, Afghanistan, Somalia and Mozambique, and an assessment of current international efforts to meet the mine clearing needs in the countries covered by the report;

(B) an analysis of the specific types of mines in the individual countries assessed, and the availability of technology and assets within the international community for their removal;

(C) an assessment of what additional technologies and assets would be required to complete, expedite or reduce the costs of mine clearing efforts;

(D) an evaluation of the availability of technologies and assets within the United States government which, if called upon, could be employed to augment or complete mine clearing efforts in the countries covered by the report; and

(E) an evaluation of the desirability, feasibility and potential cost of United States assistance on either a unilateral or multilateral basis in such mine clearing operations.

(3) Such report shall be made available to the Committees on Armed Services of the Senate and the House of Representatives within 180 days of the enactment of this Act.

SEC. 1068. SENSE OF CONGRESS RELATING TO THE AWARD OF THE NAVY EXPEDITIONARY MEDAL.

It is the sense of Congress that the President should award the Navy Expeditionary Medal to members of the Navy who served in Navy Task Force 16, culminating in the airraid commonly known as the "Doolittle Raid on Tokyo", during April 1942, regardless of the time limitations on the consideration of such awards.

SEC. 1069. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.

(a) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1992 to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar $529,300,000 as follows:

(1) For Military Personnel:

(A) For the Navy, $10,700,000.

(B) For the Air Force, $58,200,000.

(C) For the Air Force Reserve, $8,800,000.

(D) For the Air National Guard, $1,900,000.

(2) For Operation and Maintenance:

(A) For the Army, $1,400,000.

(B) For the Navy, $142,900,000.

(C) For the Air Force, $228,000,000.

(D) For the Defense Agencies, $31,500,000.

(E) For the Army Reserve, $3,300,000.

(F) For the Air Force Reserve, $13,200,000.

(G) For the Army National Guard, $1,400,000.

(H) For the Air National Guard, $2,000,000.

(3) For Military Construction:

(A) For the Air Force inside the United States, $10,000,000.

(B) For the Air Force for family housing inside the United States, $16,000,000.

(b) AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1992 to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar $263,530,000 as follows:

(1) For military construction for the Navy outside the United States, $81,530,000.

(2) For military construction for the Air Force inside the United States, $66,000,000.

(3) For military construction for the Air Force outside the United States, $7,600,000.

(4) For family housing for the Navy outside the United States, $87,200,000.

(5) For family housing for the Air Force outside the United States, $21,200,000.

(c) EMERGENCY DESIGNATION.—The authorization of appropriations in subsection (b) are effective only to the extent that the appropriations are designated by the Congress as emergency appropriations for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 in an appropriations Act.

SEC. 1070. BENEFITS FOR SPOUSES AND FORMER SPOUSES OF MEMBERS WHO BECOME DISQUALIFIED FOR RETIRED PAY BY REASON OF MISCONDUCT INVOLVING ABUSE OF A DEPENDENT.

(a) IN GENERAL.—(1) Part II of subtitle A of title 10, United States Code, is amended by inserting after chapter 71 the following new chapter:

"CHAPTER 72—MISCELLANEOUS PROTECTIONS, RIGHTS, AND BENEFITS FOR DEPENDENTS

"Sec.

"1421. Annuity protection for spouses and former spouses of members losing eligibility for retired pay as a result of abuse of a dependent.

"1422. Other benefits.

"§ 1421. Annuity protection for spouses and former spouses of members losing eligibility for retired pay as a result of abuse of a dependent

"(a) REQUIREMENT TO PAY ANNUITY.—The Secretary of a military department shall, upon application, pay an annuity under this section to an eligible spouse or former spouse of a member (described in subsection (b)) of the armed force under the jurisdiction of that Secretary.

"(b) ELIGIBLE PERSONS.—A spouse or former spouse of a member of the armed forces is eligible to receive an annuity under this section if—

"(1) after the member becomes eligible to be retired on the basis of years of service, the member's eligibility to receive retired pay or retainer pay is terminated as a result of misconduct of the member or former member involving abuse of a dependent; and

"(2) the spouse or former spouse—

"(A) was the victim of the abuse and was married to the member at the time of that abuse; or

"(B) is a natural or adopted parent of a dependent child of the member who was the victim of the abuse.

"(c) ADVERSE ACTIONS COVERED.—This section applies with respect to terminations of eligibility to receive retired pay or retainer pay as a result of a conviction by a court-martial or an administrative separation from the armed forces.

"(d) AMOUNT OF ANNUITY.—(1) The amount of the annuity payable under this section to a spouse or former spouse of a member referred to in subsection (b)(1) shall be equal to the lesser of—

"(A) the percentage determined under paragraph (2) of the amount of the retired pay or retainer pay which the member would have received on the date on which the spouse's or former spouse's entitlement to that annuity becomes effective if the member had been retired from the armed forces entitled to receive retired or retainer pay on that date; or

"(B) the amount that is equal to such portion of the member's retired or retainer pay as is provided for in an applicable court order (as defined in section 1408(a) of this title), if any.

"(2)(A) In the case of spouse or former spouse who has been married to the member for 20 or more years, at least 20 of which were during the period the member performed service creditable in determining the member's eligibility for retired or retainer pay, the percent applicable under paragraph (1)(A) is 50 percent.

"(B) In the case of a spouse or former spouse not described in subparagraph (A), the percent applicable under paragraph (1)(A) is the percent (rounded to the nearest one percent) that is determined by—

"(i) multiplying 50 percent times the number of years during the member's service creditable in determining the member's eligibility for retired or retainer pay that the spouse or former spouse has been married to the member; and

"(ii) dividing the product computed under clause (i) by 20.

"(3) Whenever retired pay is increased under section 1401a of this title (or any other provision of law), the annuity payable under this section to the spouse or former spouse of a member referred to in subsection (b)(1) shall be increased at the same time. The annuity shall be increased by the percent by which the retired pay or retainer pay of the member would have been increased if the member were receiving retired or retainer pay.

"(e) COMMENCEMENT AND TERMINATION.—(1) The eligibility of a person to receive an annuity under this section on the basis of a termination of eligibility for retired or retainer pay shall become effective as of the first day of the month in which the action that terminates the eligibility for retired or retainer pay is taken, as determined under regulations prescribed by the Secretary of the military department concerned.

"(2) Eligibility to receive an annuity under this section with respect to a member referred to in subsection (b) shall terminate—

"(A) in the case of an annuitant who marries again after the effective date of the annuity before attaining 55 years of age, on the date of such marriage; and

"(B) in the case of an annuitant who resumes cohabitation with the member, on the date on which the cohabitation resumes.

"(3) A person's eligibility to receive an annuity under this section that is terminated under paragraph (2)(A) by reason of remarriage shall be resumed in the event of the termination of that marriage by the death of that person's spouse or by annulment or divorce. The resumption of payment of the annuity shall begin as of the first day of the month in which that marriage is so terminated. The monthly amount of the resumed annuity shall be the amount that would have been paid if the entitlement to the annuity had not been terminated.

"(f) APPLICATION FOR ANNUITY.—(1) An application for an annuity under this section shall be made in the form and manner prescribed by the Secretary of the military department concerned. The application shall include the certification of the applicant, under oath or by affirmation, that no circumstances exist that would terminate the eligibility of the applicant for that annuity under subsection (e).

"(2) No annuity shall be paid under this section to a spouse or former spouse of a member of the armed forces referred to in subsection (b)(1) unless the spouse or former spouse applies for that annuity within one year after the date of the action referred to in subsection (e)(1).

"(3) the spouse or former spouse certifies to the Secretary of the military department concerned that none of the circumstances described in subsection (e)(2) exist in the case of the spouse or former spouse.

"(g) RECERTIFICATION OF ELIGIBILITY.—The Secretary of the military department concerned may require a recipient of an annuity under this section to recertify, at any time or on a periodic basis, that no circumstances exist that would terminate the eligibility of the applicant for that annuity under subsection (e). Each certification shall be made under oath or by affirmation.

"(h) MEMBER TO HAVE NO CLAIM AGAINST ANNUITY.—Notwithstanding any other provision of law, a member of the armed forces referred to in subsection (b)(1) shall have no ownership interest in, or claim against, an annuity payable under this section to a spouse or former spouse of the member.

"(i) OFFSET OF PAYMENTS TO INCARCERATED MEMBER.—If in any month a member of the armed forces referred to in subsection (b)(1) is incarcerated for any period during that month and is entitled to receive any payment from the United States—

"(1) the amount so payable shall be withheld to the extent of the amount of annuity payments made with respect to that member under this section and not recouped pursuant to this subsection before that month; and

"(2) the entitlement of that member to the amount so withheld shall terminate.

"(j) DEFINITIONS.—In this section:

"(1) The term 'dependent' means a spouse or dependent child.

"(2) The term 'dependent child', with respect to a member of the armed forces referred to in subsection (a), means an unmarried legitimate child, including an adopted child or a stepchild of the member, who—

"(A) is under 18 years of age;

"(B) is incapable of self-support because of a mental or physical incapacity that existed before becoming 18 years of age and is or, at the time of the action described in subsection (e)(1) with respect to that member, was dependent on the member for over one-half of the child's support; or

"(C) if enrolled in a full-time course of study in an institution of higher education recognized by the Secretary of Defense for the purposes of this clause, is under 23 years of age and is or, at the time of the action described in subsection (e)(1), was dependent on the member for over one-half of the child's support.

"§ 1422. Other benefits

"A spouse or former spouse of a member of the armed forces referred to in subsection (b)(1) of section 1421 of this title shall be entitled, while receiving an annuity under that section—

"(1) to receive medical and dental care under the provisions of chapter 55 of this title to the same extent as a dependent of a retired member of the armed forces;

"(2) to use the commissary and exchange stores on the same basis as a dependent of a retired member of the armed forces; and

"(3) to receive any other benefits that a dependent of a retired member is entitled to receive on the basis of being a dependent of a retired member.".

(2) The tables of chapters at the beginning of subtitle A of such title and part II of such subtitle are amended by inserting after the item relating to chapter 71 the following:

"72. Miscellaneous protections, rights, and benefits for dependents 1421".

(b) FUNDING FOR ANNUITIES.—Section 1463 of such title is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(5) annuities payable under section 1421 of this title.".

(c) APPLICABILITY.—(1) Section 1421 of title 10, United States Code (as added by subsection (a)), shall apply with respect to terminations of eligibility to receive retired or retainer pay that take effect before, on, or after the date of the enactment of this Act.

(2) Notwithstanding subsection (f)(2) of such section 1421, in the case of a spouse or former spouse claiming eligibility to receive an annuity under that section on the basis of a termination of eligibility to receive retired or retainer pay that took effect before the date of the enactment of this Act, no annuity shall be paid that spouse or former spouse under such section unless the spouse or former spouse applies for that annuity within one year after that date.

(3) No annuity shall accrue under such section 1421 for periods before the date of the enactment of this Act.

(d) REPORT ON OTHER ACTIONS.—(1) Not later than February 28, 1993, the Secretary of Defense shall transmit to the Congress a report on the actions taken and planned to be taken by the Department of Defense to reduce or eliminate disincentives for a dependent of a member of the Armed Forces abused by the member to report the abuse to appropriate authorities.

(2) The actions considered by the Secretary should include the provision of treatment, child care services, health care services, job training, job placement services, and transitional financial assistance for dependents of members of the Armed Forces referred to in paragraph (1).

(e) STUDY REQUIRED.—(1) The Secretary of Defense shall conduct a study in order to—

(A) determine the number of persons who became eligible to receive an annuity under section 1421 of title 10, United States Code (as added by subsection (a)), as of each of fiscal years 1980 through 1992;

(B) estimate the number of persons who will become eligible to receive an annuity under such section during each of fiscal years 1993 through 2000;

(C) determine, for each of fiscal years 1980 through 1992, the number of members of the Armed Forces who, after having completed at least one, and less than 20, years of service, were approved in that fiscal year for separation from the Armed Forces as a result of abuse of a spouse or dependent child; and

(D) estimate, for each of fiscal years 1993 through 2000, the number of members of the Armed Forces who, after having completed at least one, and less than 20, years of service in that fiscal year, will be approved in that fiscal year for separation from the Armed Forces as a result of abuse of a spouse or dependent child.

(2) The study shall include a thorough analysis of—

(A) the effects, if any, of appeals and requests for clemency in the case of courts-martial convictions on the entitlement to and the payment of annuities under section 1421 of title 10, United States Code (as added by subsection (a));

(B) the socio-economic effects on the dependents of members of the Armed Forces described in subsection (b) of such section that result from terminations of the eligibility of such members to receive retired or retainer pay; and

(C) the effects of separations of such members from the Armed Forces on the mission readiness of the units of assignment of such members when separated and on the Armed Forces in general.

(3) Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study.

SEC. 1071. LIMITATION RELATING TO NUCLEAR WEAPONS TESTING.

(a) MORATORIUM FOR 9 MONTHS.—No underground test of a nuclear weapon may be conducted by the United States after September 30, 1992, and before July 1, 1993.

(b) POST MORATORIUM TESTING BEFORE 1997.—On and after July 1, 1993, and before January 1, 1997, an underground test of a nuclear weapon may be conducted by the United States—

(1) only if—

(A) the President has submitted the annual report required under subsection (d);

(B) 90 days have elapsed after the submittal of that report in accordance with that subsection; and

(C) Congress has not agreed to a joint resolution described in subsection (d)(3) within that 90-day period; and

(2) only if the test is conducted during the period covered by the report.

(d)(1) Not later than March 1 of each year beginning after 1992, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, in classified and unclassified forms, a report containing the following matters:

(A) A schedule for resumption of the Nuclear Testing Talks with Russia.

(B) A plan for achieving a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996.

(C) An assessment of the number and type of nuclear warheads that will remain in the United States stockpile of active nuclear weapons on September 30, 1996.

(D) For each fiscal year after fiscal year 1992, an assessment of the number and type of nuclear warheads that will remain in the United States stockpile of nuclear weapons and that—

(i) will not be in the United States stockpile of active nuclear weapons;

(ii) will remain under the control of the Department of Defense; and

(iii) will not be transferred to the Department of Energy for dismantlement.

(E) A description of the safety features of each warhead that is covered by an assessment referred to in subparagraph (C) or (D).

(F) A plan for installing one or more modern safety features in each warhead identified in the assessment referred to in subparagraph (C), as determined after an analysis of the costs and benefits of installing such feature or features in the warhead, should have one or more of such features.

(G) An assessment of the number and type of nuclear weapon tests, not to exceed 5 tests in any period covered by an annual report under this paragraph and a total of 15 tests in the 4-fiscal year period beginning with fiscal year 1993, that are necessary in order to ensure the safety of each nuclear warhead in which one or more modern safety features are installed pursuant to the plan referred to in subparagraph (F).

(H) A schedule, in accordance with subparagraph (G), for conducting at the Nevada test site, each of the tests enumerated in the assessment pursuant to subparagraph (G).

(2) The first annual report shall cover the period beginning on the date on which a resumption of testing of nuclear weapons is permitted under subsection (c) and ending on

September 30, 1994. Each annual report thereafter shall cover the fiscal year following the fiscal year in which the report is submitted.

(3) For the purposes of paragraph (1), "joint resolution" means only a joint resolution introduced after the date on which the Committees referred to in that paragraph receive the report required by that paragraph the matter after the resolving clause of which is as follows: "The Congress disapproves the report of the President on nuclear weapons testing, dated ______." (the blank space being appropriately filled in).

(4) No report is required under this subsection after 1996.

(e)(1) Except as provided in paragraphs (2) and (3), during a period covered by an annual report submitted pursuant to subsection (d), nuclear weapons may be tested only as follows:

(A) Only those nuclear explosive devices in which modern safety features have been installed pursuant to the plan referred to in subsection (d)(1)(F) may be tested.

(B) Only the number and types of tests specified in the report pursuant to subsection (d)(1)(G) may be conducted.

(2)(A) One test of the reliability of a nuclear weapon other than one referred to in paragraph (1)(A) may be conducted during any period covered by an annual report, but only if—

(i) within the first 60 days after the beginning of that period, the President certifies to Congress that it is vital to the national security interests of the United States to test the reliability of such a nuclear weapon; and

(ii) within the 60-day period beginning on the date that Congress receives the certification, Congress does not agree to a joint resolution described in subparagraph (B).

(B) For the purposes of subparagraph (A), "joint resolution" means only a joint resolution introduced after the date on which the Congress receives the certification referred to in that subparagraph the matter after the resolving clause of which is as follows: "The Congress disapproves the testing of a nuclear weapon covered by the certification of the President dated ______." (the blank space being appropriately filled in).

(3) The President may authorize the United Kingdom to conduct in the United States, within a period covered by an annual report, one test of a nuclear weapon if the President determines that it is in the national interests of the United States to do so. Such a test shall be considered as one of the tests within the maximum number of tests that the United States is permitted to conduct during that period under paragraph (1)(B).

(f) No underground test of nuclear weapons may be conducted by the United States after September 30, 1996, unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted.

(g) In the computation of the 90-day period referred to in subsection (c)(1) and the 60-day period referred to in subsection (e)(2)(A)(ii), the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded.

(h) In this section, the term "modern safety feature" means any of the following features:

(1) An insensitive high explosive (IHE).

(2) Fire resistant pits (FRP).

(3) An enhanced detonation safety (ENDS) system.

SEC. 1072. LANDMINE MORATORIUM ACT.

(a) This section shall be titled the "Landmine Moratorium Act of 1992".

(b) FINDINGS.—The Congress makes the following findings:

(1) Anti-personnel landmines, which are specifically designed to maim and kill people, have been used indiscriminately in dramatically increasing numbers, primarily in insurgencies in poor developing countries. Noncombatant civilians, including tens of thousands of children, have been the primary victims.

(2) Unlike other military weapons, landmines often remain implanted and undiscovered after conflict has ended, causing untold suffering to civilian populations. In countries like Afghanistan, Cambodia, Laos, Vietnam, and Angola, tens of millions of unexploded landmines have rendered whole areas uninhabitable. In Afghanistan, an estimated hundreds of thousands of people have been maimed and killed by landmines during the 14-year civil war. In Cambodia, more than 20,000 civilians have lost limbs and another 60 are being maimed each month from landmines.

(3) Over 35 countries are known to manufacture landmines, including the United States. However, the United States is not a major exporter of landmines. During the past ten years the Department of State has approved ten licenses for the commercial export of anti-personnel landmines valued at $980,000, and during the past five years the Department of Defense has approved the sale of 13,156 anti-personnel landmines valued at $841,145.

(4) The United States signed, but has not ratified, the 1981 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects. The Convention prohibits the indiscriminate use of landmines.

(5) When it signed the Convention, the United States stated: "We believe that the Convention represents a positive step forward in efforts to minimize injury or damage to the civilian population in time of armed conflict. Our signature of the Convention reflects the general willingness of the United States to adopt practical and reasonable provisions concerning the conduct of military operations, for the purpose of protecting noncombatants.".

(6) The Administration should submit the convention to the Senate for ratification, and the President should actively negotiate under United Nations or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer or export of anti-personnel landmines. This would be an appropriate response to the end of the Cold War and the promotion of arms control agreements to reduce the indiscriminate killing and maiming of civilians.

(7) The United States should set an example for other countries in such negotiations, by implementing a one-year moratorium on the sale, transfer or export of anti-personnel landmines.

(c) STATEMENT OF POLICY.—

(1) It shall be the policy of the United States to seek verifiable international agreements prohibiting the sale, transfer or export, and further limiting the use, production, possession and deployment of anti-personnel landmines.

(2) It is the sense of the Congress that the President should actively seek to negotiate under United Nations or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer or export of anti-personnel landmines.

(d) MORATORIUM ON TRANSFERS OF ANTI-PERSONNEL LANDMINES ABROAD.—For a period of 1 year beginning on the date of enactment of this Act—

(1) no sale may be made or financed, no transfer may be made, and no license for export may be issued, under the Arms Export Control Act, with respect to any anti-personnel landmine; and

(2) no assistance may be provided under the Foreign Assistance Act of 1961, with respect to the provision of any anti-personnel landmine.

(e) DEFINITION.—For purposes of this section, the term "anti-personnel landmine" means—

(1) any munition placed under, on, or near the ground or other surface area, or delivered by artillery, rocket, mortar, or similar means or dropped from an aircraft and which is designed to be detonated or exploded by the presence, proximity, or contact of a person;

(2) any device or material which is designed, constructed, or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act;

(3) any manually-emplaced munition or device designed to kill, injure, or damage and which is actuated by remote control or automatically after a lapse of time.

SEC. 1073. REPORT ON POSSIBLE REVISIONS TO THE NORTH ATLANTIC TREATY.

(a) FINDINGS.—The Congress finds that—

(1) when the North Atlantic Treaty was signed in 1949, the clear military threat to the security of Western Europe was the Soviet Union and its allies in Eastern Europe;

(2) since 1949 it has been clearly understood by the people of the Western World that the primary mission of NATO was to deter an attack from the Soviet Bloc;

(3) the dramatic changes in Europe since the fall of the Berlin Wall in 1989, and the subsequent dissolution of the Warsaw Pact and the Soviet Union have fundamentally changed the security situation in Europe;

(4) one of the consequences of the breakdown of 40 years of Communist rule in Eastern Europe and the former Soviet Union has been ethnic conflict throughout the region, particularly in the Balkans and the Republics of the Former Soviet Union;

(5) those fundamental changes in the security threats facing NATO member nations have caused confusion concerning the mission of NATO in the post-cold war world and the role of NATO military forces outside of the NATO Theater, particularly in the former Soviet Union; and

(6) a fundamental review of the North Atlantic Treaty is necessary, in light of the new security situation in Europe.

(b) REPORT.—The Secretary of Defense, in consultation with the Secretary of State, shall provide a report to the Congress, by April 1, 1993, which includes—

(1) a detailed analysis of the forseeable threats to the security of NATO member nations;

(2) a determination whether or not there is a requirement for the member nations of NATO to revise the North Atlantic Treaty of 1949 to meet the future challenges to their peace and security; and

(3) the extent to which the charter permits the use of NATO forces for peacekeeping purposes, given the steadily increased use of military forces for such purposes, and the range of missions that should be considered for such peacekeeping to protect the interests of member nations

SEC. 1074. POW/MIA STAMP.

(a) Congress finds that—

(1) the President has declared the POW/MIA issue to be of highest national priority;

(2) there are over 88,000 missing United States service personnel from World War II, the Korean War, and the Vietnam War;

(3) public awareness of the sacrifices which have been and may continue to be made by American prisoners of war and Americans missing in action is critical to advancing efforts to obtain the return of missing American service personnel.

(b) The Postmaster General shall issue a commemorative postage stamp in honor of American prisoners of war and Americans missing in action. Such a stamp shall be issued and sold for such a period as the Postmaster General shall determine.

SEC. 1075. SUPPORT FOR INTERNATIONAL NONPROLIFERATION ACTIVITIES.

(a) FINDINGS.—The Congress makes the following findings:

(1) The proliferation of nuclear, chemical and biological weapons and related technology and know how and of missile delivery systems remains a serious threat to international peace and security in the post-Cold War era.

(2) The United States should seek to limit the supply of nuclear, chemical and biological weapons, related technology and know how and of missile delivery systems, and the demand for such weapons and should undertake to reduce the threat from such proliferation.

(3) International nonproliferation activities serve the national security interests of the United States.

(4) The Department of Defense and the Department of Energy have expertise and equipment that has enhanced the effectiveness of international nuclear nonproliferation activities.

(5) The use of funds made available under the regular budget process one year in advance or the use of reprogrammed funds may be insufficient to satisfy the need for funds and other support for international nonproliferation activities.

(6) Greater flexibility may be needed to ensure the timely availability of funding to support international nonproliferation activities.

(b) ASSISTANCE FOR NONPROLIFERATION ACTIVITIES.—(1) Subject to the limitations and requirements provided in this section, during fiscal year 1993 the Secretary of Defense may furnish funds, supplies, and equipment to support international nonproliferation activities, including activities carried out by the International Atomic Energy Agency, that are designed to ensure more aggressive full-scope safeguards and more aggressive verification of compliance with the Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968.

(2) Assistance may be provided in the form of funds under paragraph (1) only if the amount in the "Contributions to International Organizations" account of the Department of State is insufficient or otherwise unavailable to meet the United States fair share of assessments for international nuclear nonproliferation activities.

(3) No assistance may be furnished pursuant to paragraph (1) unless the Secretary of Defense determines and certifies to the Congress 30 days in advance that the provision of such assistance—

(A) is in the national security interest of the United States; and

(B) will not adversely affect the military preparedness of the United States.

(4) No amount may be obligated for an expenditure pursuant to paragraph (1) unless the Director of the Office of Management and Budget determines that the expenditure will be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(5) In paragraph (1), the term "full-scope safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency.

(c) ASSISTANCE FOR INSPECTIONS REGARDING IRAQ.—During fiscal year 1993 the Secretary of Defense may provide funds for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.

(d) AUTHORITY SUBJECT TO APPROPRIATIONS ACTS.—The authority to provide assistance in the form of funds under subsection (b) or (c) may be exercised only to the extent and in the amounts provided in appropriations Acts.

(e) FUNDING LIMITATIONS.—(1) The total amount of the assistance provided in the form of funds under subsection (b) may not exceed $20,000,000.

(2) The total amount of the assistance provided in the form of funds under subsection (c) may not exceed $20,000,000.

(f) SOURCES OF ASSISTANCE.—(1) Funds provided as assistance under subsection (b) or (c) shall be derived from amounts made available to the Department of Defense for fiscal year 1993 or from balances in working capital accounts of the Department of Defense.

(2) Supplies and equipment provided as assistance under subsection (b) may be provided, by loan or donation, from existing stocks of the Department of Defense.

(g) REPORT REQUIRED.—Not less than 30 days before obligating any funds to provide assistance pursuant to subsection (b) or (c), the Secretary of Defense shall transmit to Congress a report on the proposed obligation. The report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance for which the Secretary of Defense plans to obligate such funds.

(h) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Robust funding of nonproliferation activities and related technology development is essential to controlling the proliferation of nuclear, chemical, and biological weapons and their delivery vehicles, which remains one of the highest national security priorities of the United States;

(2) The President's initiative to increase funding for nonproliferation activities and related technology development in the Department of Energy is praiseworthy and represents a significant step toward an appropriate level of support for nonproliferation activities;

(3) The President should undertake to identify a full range of appropriate, high priority nonproliferation activities and related technology development programs, including particularly space-based detection systems, and should include full funding for these activities and technologies in the budget requests of the Department of Energy and the Department of Defense for fiscal year 1994; and

(4) The Congress is committed to cooperating with the President in carrying out an effective policy designed to control the proliferation of weapons of mass destruction.

SEC. 1076. SUPPORT FOR PEACEKEEPING ACTIVITIES.

(a) FINDINGS.—The Congress makes the following findings:

(1) International peacekeeping activities contribute to the national interests of the United States in maintaining global stability and order.

(2) International peacekeeping activities take many forms and include observer missions, ceasefire monitoring, human rights monitoring, refugee and humanitarian assistance, monitoring and conducting elections, monitoring of police in the demobilization of former combatants, and reforming judicial and other civil and administrative systems of government.

(3) International peacekeeping activities traditionally involve the presence of military troops, police forces, and, in recent years, civilian experts in transportation, logistics, medicine, electoral systems, human rights, land tenure, other economic and social issues, and other areas of expertise.

(4) International peacekeeping interests serve both the foreign policy interests and defense policy interests of the United States.

(5) The normal budget process of authorizing and appropriating funds a year in advance and reprogramming such funds is insufficient to satisfy the need for funds for peacekeeping efforts arising from an unanticipated crisis.

(6) Greater flexibility is needed to ensure the timely availability of funding to provide for peacekeeping activities.

(b) AUTHORIZED SUPPORT FOR FISCAL YEAR 1993.—(1) Subject to paragraph (2), the Secretary may provide assistance for international peacekeeping activities during fiscal year 1993 in an amount not to exceed $300,000,000 in accordance with section 403 of title 10, United States Code, as added by subsection (c). Notwithstanding subsection (b) of that section, the assistance so provided may be derived from funds appropriated to the Department of Defense for fiscal year 1993 for operation and maintenance or from balances in working capital accounts.

(2) No amount may be obligated pursuant to paragraph (1) unless the expenditure of such amount has been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) AUTHORIZATION.—(1) Chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 403. International peacekeeping activities

"(a) AUTHORITY.—To the extent provided in defense authorization Acts and appropriations Acts, the Secretary of Defense may furnish assistance, by loan or contribution, in support of international peacekeeping activities of the United Nations or any regional organization of which the United States is a member.

"(b) FORMS OF ASSISTANCE.—Assistance provided under subsection (a) may include funds, supplies, and equipment. Any funds so provided shall be derived from amounts available to the Department of Defense for the fiscal year for which the assistance is provided.

"(c) Limitations Related to Availability of State Department Funds.—Funds may be provided as assistance pursuant to subsection (a) for a fiscal year—

"(1) only if funds available to the Department of State for that fiscal year for contributions for international peacekeeping activities are insufficient or otherwise unavailable to meet the United States' fair share of assessments for international peacekeeping activities, as determined by the President; and

"(2) only to the extent that the United States' fair share of such assessments exceeds the amount that the President requests Congress to appropriate for the Department of State for such fiscal year for international peacekeeping activities.

"(d) Consultation.—The Secretary of Defense shall consult with the Secretary of State before furnishing any assistance pursuant to subsection (a).

"(e) Determinations Required.—No assistance may be furnished pursuant to subsection (a) unless the Secretary of Defense certifies to Congress that the provision of such assistance—

"(1) is in the national security interest of the United States; and

"(2) will not adversely affect the military preparedness of the United States.

"(f) Advance Notice to Congress.—Not less than 30 days before obligating any funds for purposes of subsection (a), the Secretary of Defense shall transmit to Congress a report on the proposed obligation. The report shall—

"(1) specify the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation;

"(2) specify the activities and forms of assistance for which the Secretary of Defense plans to obligate such funds; and

"(3) include the certification required by subsection (e).

"(g) Definition.—In this section, the term 'defense authorization Act' means an Act that authorizes appropriations for one or more fiscal years for military activities of the Department of Defense, including the activities described in paragraph (7) of section 114(a) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"403. International peacekeeping activities.".

SEC. 1077. NATIONAL DEFENSE SEALIFT FUND.

Chapter 131 of title 10, United States Code, is amended by adding at the end thereof the following new section 2218:

"§ 2218. National Defense Sealift Fund

"(a) There is established on the books of the treasury a fund to be known as the 'National Defense Sealift Fund,' shall be administered by the Secretary of Defense.

"(b) Funds may be deposited in the National Defense Sealift Fund only as specifically authorized in law.

"(c) Funds deposited in the National Defense Sealift Fund may be obligated and expended by the Secretary of Defense for—

"(1) research and development relating to National Defense Sealift;

"(2) construction, purchase, or conversion of sealift vessels for National defense purposes;

"(3) lease and operational and maintenance of sealift vessels for national defense purposes; and

"(4) other purposes relating to National Defense Sealift; but only to the extent such obligation or expenditure is specifically authorized in law.".

SEC. 1078. TECHNICAL AMENDMENT.

Section 603 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25, 105 Stat. 107) is amended—

(1) in subsection (b)(1), by adding at the end thereof the following new sentence: "Subsequent to the identification of the parcel of land pursuant to this subsection, the Secretary may, with the concurrence of appropriate representatives of Caroline County, Virginia, and the Commonwealth, make minor adjustments to the boundaries of the parcel of land identified so that the parcel of land conveyed pursuant to this section better serves the purposes intended by this section.";

(2) in subsection (c)(2)(A), by striking out "construct and operate on such parcel of land a regional correctional facility" and inserting in lieu thereof "provide for the construction and operation on such parcel of land a regional correctional facility";

(3) in subsection (c)(2)(B), by striking out "constructs and operates such facility" and inserting in lieu thereof "provides for the construction and operation of such facility"; and

(4) in subsection (d)(1)(A)(i), by striking out "24 months after the date of enactment of this Act" and inserting in lieu thereof "April 1, 1995".

Subtitle F—Civil-Military Youth Service Programs

SEC. 1081. NATIONAL GUARD CIVILIAN YOUTH OPPORTUNITIES PILOT PROGRAM.

(a) Program Authority.—During fiscal years 1993 through 1995 the Chief of the National Guard Bureau may conduct a pilot program to be known as the "National Guard Civilian Youth Opportunities Program".

(b) Purpose.—The purpose of the pilot program is to provide a basis for determining—

(1) whether the life skills and employment potential of civilian youths who cease to attend secondary school before graduating can be significantly improved through military based training provided by the National Guard; and

(2) whether it is feasible and cost effective for the National Guard to provide military based training to such youths for the purpose of achieving such improvements.

(c) Conduct of Program in 10 National Guard Jurisdictions.—The Chief of the National Guard Bureau may provide for the conduct of the pilot program in any 10 of the States, the Territories, the Commonwealth of Puerto Rico, or the District of Columbia.

(d) Program Agreements.—(1) To carry out the pilot program in a State, a Territory, the Commonwealth of Puerto Rico, or the District of Columbia, the Chief of the National Guard Bureau shall enter into an agreement with the Governor of the State, Territory, or Commonwealth or with the commanding general of the District of Columbia National Guard, as the case may be.

(2) Each agreement shall provide for the Governor or, in the case of the District of Columbia National Guard, the commanding general to establish, organize, and administer a National Guard civilian youth opportunities program.

(3) The agreement may provide for the Chief of the National Guard Bureau to reimburse the State, Territory, Commonwealth of Puerto Rico, or the District of Columbia, as the case may be, for civilian personnel costs attributable to the use of civilian employees of the National Guard in the conduct of the program.

(e) Eligible Participants.—(1) Persons referred to in subsection (b)(1) shall be eligible to participate in a National Guard civilian youth opportunities program under the pilot program.

(2) The Chief of the National Guard Bureau shall prescribe the standards and procedures for selecting the participants from among applicants for the program.

(f) Authorized Benefits for Participants.—(1) To the extent provided in an agreement entered into in accordance with subsection (d) and subject to the approval of the Chief of the National Guard Bureau, the persons selected for training in a National Guard civilian youth opportunities program under the pilot program may receive the following benefits in connection with that training:

(A) Allowances for travel expenses, personal expenses, and other expenses.

(B) Quarters.

(C) Subsistence.

(D) Transportation.

(E) Equipment.

(F) Clothing.

(G) Recreational services and supplies.

(H) Other services.

(I) A temporary stipend upon the successful completion of the training, as characterized in accordance with procedures provided in the agreement.

(2) A person may not receive a temporary stipend under paragraph (1)(I) while the person is a member of the Civilian Community Corps under subtitle H of title I of the National and Community Service Act of 1990 (as added by section 1082(a)). A person may not receive both that stipend and benefits under subsection (f) or (g) of section 195G of that Act (as so added).

(g) Program Personnel.—(1) Personnel of the National Guard of a State, a Territory, the Commonwealth of Puerto Rico, or the District of Columbia in which a National Guard civilian youth opportunities program is conducted under the pilot program may serve on full-time National Guard duty for the purpose of providing command, administrative, training, or supporting services for that program. For the performance of those services, any such personnel may be ordered to duty under section 502(f) of title 32, United States Code, for not longer than the period of the program.

(2) Personnel so serving may not be counted for the purposes of—

(A) any provision of law limiting the number of personnel that may be serving on full-time active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components; or

(B) section 524 of title 10, United States Code, relating to the number of reserve component officers who may be on active duty or full-time National Guard duty in certain grades.

(3) A Governor participating in the pilot program and the commanding general of the District of Columbia National Guard (if the District of Columbia National Guard is participating in the pilot program) may procure by contract the temporary full time services of such civilian personnel as may be necessary to augment National Guard personnel in carrying out a National Guard civilian youth opportunities program under the pilot program.

(4) Civilian employees of the National Guard performing services for such a program and contractor personnel performing such services may be required, when appropriate to achieve a program objective, to be

members of the National Guard and to wear the military uniform.

(h) Equipment and Facilities.—(1) Equipment and facilities of the National Guard, including military property of the United States issued to the National Guard, may be used in carrying out the pilot program.

(2) Activities under the pilot program shall be considered noncombat activities of the National Guard for purposes of section 710 of title 32, United States Code.

(i) Status of Participants.—(1) A person receiving training under the pilot program shall be considered an employee of the United States for purposes of the following provisions of law:

(A) The Internal Revenue Code of 1986.

(B) Title II of the Social Security Act (relating to Federal old-age, survivors, and disability insurance benefits).

(C) Subchapter I of chapter 81 of title 5, United States Code (relating to compensation of Federal employees for work injuries).

(D) Section 1346(b) and chapter 171 of title 28, United States Code, and any other provision of law relating to the liability of the United States for tortious conduct of employees of the United States.

(2) In the application of the provisions of law referred to in paragraph (1)(C) to a person referred to in paragraph (1)—

(A) the person shall not be considered to be in the performance of duty while the person is not at the assigned location of training or other activity or duty authorized in accordance with a program agreement referred to in subsection (d), except when the person is traveling to or from that location or is on pass from that training or other activity or duty;

(B) the person's monthly rate of pay shall be deemed to be the minimum rate of pay provided for grade GS-2 of the General Schedule under section 5332 of title 5, United States Code; and

(C) the entitlement of a person to receive compensation for a disability under such provisions of law shall begin on the day following the date on which the person's participation in the pilot program is terminated.

(3) A person receiving a stipend pursuant to subsection (f)(1)(I) shall be considered an employee for purposes of the provisions of law referred to in subparagraphs (A) and (B) of paragraph (1).

(4) A person referred to in paragraph (1) or (3) may not be considered an employee of the United States for any purpose other than a purpose set forth in that paragraph.

(j) Funding.—(1) To the extent provided in appropriations Acts, funds described in paragraph (2) shall be available for the pilot program.

(2) The funds referred to in paragraph (1) are as follows:

(A) Funds appropriated for pay, allowances, clothing, subsistence, gratuities, travel and related expense for personnel of the National Guard while on active duty or full-time National Guard duty.

(B) Funds appropriated for the National Guard for operation and maintenance.

(k) Supplemental Resources.—(1) To carry out a National Guard civilian youth opportunities program under the pilot program, the Governor of a State, a Territory, or the Commonwealth of Puerto Rico or the commanding general of the District of Columbia National Guard, as the case may be, may supplement any funding made available pursuant to subsection (j) out of other resources (including gifts) available to the Governor or the commanding general.

(2) The provision of funds authorized to be appropriated for the pilot program shall not preclude a Governor participating in the pilot program, or the commanding general of the District of Columbia National Guard (if the District of Columbia National Guard is participating in the pilot program), from accepting, using, and disposing of gifts or donations of money, other property, or services for the pilot program.

(*l*) Report.—(1) Within 90 days after the end of the 1-year period beginning on the first day of the pilot program, the Chief of the National Guard Bureau shall submit to the congressional defense committees a report on the design, conduct, and effectiveness of the pilot program during that 1-year period. The report shall include an assessment of the matters set forth in paragraphs (1) and (2) of subsection (b).

(2) In preparing the report required by paragraph (1), the Chief of the National Guard Bureau shall coordinate with the Governor of each State, Territory, and the Commonwealth of Puerto Rico in which a National Guard civilian youth opportunities program is carried out under the pilot program and, if such a program is carried out in the District of Columbia, with the commanding general of the District of Columbia National Guard.

(m) Definitions.—In this section, the terms "Territory" and "full-time National Guard duty" have the meanings given those terms in section 101 of title 32, United States Code.

(n) Authorization of Appropriations.—Of the funds authorized to be appropriated under section 301, $50,000,000 shall be available for the pilot program for fiscal year 1993.

SEC. 1082. CIVILIAN COMMUNITY CORPS.

(a) Civilian Community Corps.—(1) Title I of the National and Community Service Act of 1990 (42 U.S.C. 12510 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle H—Civilian Community Corps

"SEC. 195. PURPOSE.

"It is the purpose of this subtitle to establish a Civilian Community Corps to provide a basis for determining—

"(1) whether residential service programs administered by the Federal Government can significantly increase the support for national service and community service by the people of the United States;

"(2) whether such programs can expand the opportunities for willing young men and women to perform meaningful, direct, and consequential acts of community service in a manner that will enhance their own skills while contributing to their understanding of civic responsibility in the United States; and

"(3) whether retired members and former members of the Armed Forces of the United States, members and former members of the Armed Forces discharged or released from active duty in connection with reduced Department of Defense spending, members and former members of the Armed Forces discharged or transferred from the Selected Reserve of the Ready Reserve in connection with reduced Department of Defense spending, and other members of the Armed Forces not on active duty and not actively participating in a reserve component of the Armed Forces can provide guidance and training under such programs that contribute meaningfully to the encouragement of national and community service.

"SEC. 195A. ESTABLISHMENT OF DEMONSTRATION PROGRAM.

"(a) In General.—The Commission on National and Community Service shall establish the Civilian Community Corps Demonstration Program to carry out the purpose of this subtitle.

"(b) Program Components.—Under the Civilian Community Corps Demonstration Program the members of a Civilian Community Corps shall receive training and perform service in at least one of the following 2 program components:

"(1) A national service program.

"(2) A summer national service program.

"(c) Residential Programs.—Both program components are residential programs. The members of the Corps in each program shall reside with other members of the Corps in Corps housing during the periods of the members' agreed service.

"SEC. 195B. NATIONAL SERVICE PROGRAM.

"(a) In General.—Under the national service program, high school graduates and other youths between 17 and 25 years of age who are from economically, geographically, and ethnically diverse backgrounds shall work in teams on Civilian Community Corps projects.

"(b) Period of Participation.—Persons desiring to participate in the national service program shall enter into an agreement with the Director to participate in the Corps for a period of not less than 9 months and not more than 1 year, as specified by the Director, and may renew the agreement for not more than 1 additional such period.

"SEC. 195C. SUMMER NATIONAL SERVICE PROGRAM.

"(a) In General.—Under the summer national service program, a diverse group of youth between 14 and 18 years of age who are from urban or rural areas shall work in teams on Civilian Community Corps projects.

"(b) Necessary Participants.—The participants in the summer national service program shall include a significant number of economically disadvantaged youths.

"(c) Seasonal Program.—The training and service of Corps members under the summer national service program in each year shall be conducted after April 30 and before October 1 of that year.

"SEC. 195D. CIVILIAN COMMUNITY CORPS.

"(a) Director.—The Civilian Community Corps shall be under the direction of the Director of the Civilian Community Corps appointed pursuant to section 195H(c)(1).

"(b) Membership in Civilian Community Corps.—

"(1) Participants to be Members.— Persons participating in the national service program or the summer national service program shall be members of the Civilian Community Corps.

"(2) Selection of Members.—The Director or the Director's designee shall select individuals for membership in the Corps.

"(3) Application for Membership.—To be selected to become a Corps member an individual shall submit an application to the Director or to any other office as the Director may designate, at such time, in such manner, and containing such information as the Director shall require. At a minimum, the application shall contain information about the work experience of the applicant and sufficient information to enable the Director, or the superintendent of the appropriate camp, to determine whether selection of the applicant for membership in the Corps is appropriate.

"(c) Organization of Corps Into Units.—

"(1) Units.—The Corps shall be divided into permanent units. Each Corps member shall be assigned to a unit.

"(2) Unit Leaders.—The leader of each unit shall be selected from among persons in the permanent cadre established pursuant to section 195H(c)(2). The designated leader shall accompany the unit throughout the period of agreed service of the members of the unit.

"(d) CAMPS.—

"(1) UNITS TO BE ASSIGNED TO CAMPS.—The units of the Corps shall be grouped together as appropriate in camps for operational, support, and boarding purposes. The Corps camp for a unit shall be in a facility or central location established as the operational headquarters and boarding place for the unit. Corps members may be housed in the camps.

"(2) CAMP SUPERINTENDENT.—There shall be a superintendent for each camp. The superintendent is the head of the camp.

"(3) ELIGIBLE SITE FOR CAMP.—A camp may be located in a facility referred to in section 195K(a)(3).

"(e) DISTRIBUTION OF UNITS AND CORPS.—The Director shall ensure that the Corps units and camps are distributed in urban areas and rural areas in various regions throughout the United States.

"(f) STANDARDS OF CONDUCT.—

"(1) IN GENERAL.—The superintendent of each camp shall establish and enforce standards of conduct to promote proper moral and disciplinary conditions in the camp.

"(2) SANCTIONS.—Under procedures prescribed by the Director, the superintendent of a camp may—

"(A) transfer a member of the Corps in that camp to another unit or camp if the superintendent determines that the retention of the member in the member's unit or in the superintendent's camp will jeopardize the enforcement of the standards or diminish the opportunities of other Corps members in that unit or camp, as the case may be; or

"(B) dismiss a member of the Corps from the Corps if the superintendent determines that retention of the member in the Corps will jeopardize the enforcement of the standards or diminish the opportunities of other Corps members.

"(3) APPEALS.—Under procedures prescribed by the Director, a member of the Corps may appeal to the Director a determination of a camp superintendent to transfer or dismiss the member. The Director shall provide for expeditious disposition of appeals under this paragraph.

"SEC. 195E. TRAINING.

"(a) COMMON CURRICULUM.—Each member of the Civilian Community Corps shall be provided with between 3 and 6 weeks of training that includes a comprehensive service-learning curriculum designed to promote team building, discipline, leadership, work, training, citizenship, and physical conditioning.

"(b) ADVANCED SERVICE TRAINING.—

"(1) NATIONAL SERVICE PROGRAM.—Members of the Corps participating in the national service program shall receive advanced training in basic, project-specific skills that the members will use in performing their community service projects.

"(2) SUMMER NATIONAL SERVICE PROGRAM.—Members of the Corps participating in the summer national service program shall not receive advanced training referred to in paragraph (1) but, to the extent practicable, may receive other training.

"(c) TRAINING PERSONNEL.—

"(1) IN GENERAL.—Members of the cadre appointed under section 195H(c)(2) shall provide the training for the members of the Corps, including, as appropriate, advanced service training and ongoing training throughout the members' periods of agreed service.

"(2) COORDINATION WITH OTHER ENTITIES.—Members of the cadre may provide the advanced service training referred to in subsection (b)(1) in coordination with vocational or technical schools, other employment and training providers, existing youth service programs, or other qualified individuals.

"(d) FACILITIES.—The training may be provided at installations and other facilities of the Department of Defense, and at National Guard facilities, identified under section 195K(a)(3).

"SEC. 195F. SERVICE PROJECTS.

"(a) PROJECT REQUIREMENTS.—The service projects carried out by the Civilian Community Corps shall—

"(1) meet an identifiable public need;

"(2) emphasize the performance of community service activities that provide meaningful community benefits and opportunities for service learning and skills development;

"(3) to the maximum extent practicable, encourage work to be accomplished in teams of diverse individuals working together; and

"(4) include continued education and training in various technical fields.

"(b) PROJECT PROPOSALS.—

"(1) DEVELOPMENT OF PROPOSALS.—

"(A) SPECIFIC EXECUTIVE DEPARTMENTS.—The Secretary of Agriculture, the Secretary of the Interior, and the Secretary of Housing and Urban Development shall develop proposals for Corps projects pursuant to guidance which the Director of the Civilian Community Corps shall prescribe.

"(B) OTHER SOURCES.—Other public and private organizations and agencies, including representatives of local communities in the vicinity of a Corps camp, may develop proposals for projects for a Corps camp. Corps members shall also be encouraged to identify projects for the Corps.

"(2) CONSULTATION REQUIREMENTS.—The process for developing project proposals under paragraph (1) shall include consultation with the Commission on National and Community Service, representatives of local communities, and persons involved in other youth service programs.

"(c) PROJECT SELECTION, ORGANIZATION, AND PERFORMANCE.—

"(1) SELECTION.—The superintendent of a Corps camp shall select the projects to be performed by the members of the Corps assigned to the units in that camp. The superintendent shall select projects from among the projects proposed or identified pursuant to subsection (b).

"(2) INNOVATIVE LOCAL ARRANGEMENTS FOR PROJECT PERFORMANCE.—The Director shall encourage camp superintendents to negotiate with representatives of local communities, to the extent practicable, innovative arrangements for the performance of projects. The arrangements may provide for cost-sharing and the provision by the communities of in-kind support and other support.

"SEC. 195G. AUTHORIZED BENEFITS FOR CORPS MEMBERS.

"(a) IN GENERAL.—The Director of the Civilian Community Corps shall provide for members of the Civilian Community Corps to receive benefits authorized by this section.

"(b) LIVING ALLOWANCE.—The Director shall provide a living allowance to members of the Corps for the period during which such members are engaged in training or any activity on a Corps project. The Director shall establish the amount of the allowance at any amount not in excess of the amount equal to 100 percent of the poverty line that is applicable to a family of two (as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(c) OTHER AUTHORIZED BENEFITS.—While receiving training or engaging in service projects as members of the Civilian Community Corps, members may be provided the following benefits:

"(1) Allowances for travel expenses, personal expenses, and other expenses.

"(2) Quarters.

"(3) Subsistence.

"(4) Transportation.

"(5) Equipment.

"(6) Clothing.

"(7) Recreational services and supplies.

"(8) Other services.

"(d) SUPPORTIVE SERVICES.—To the extent practicable and as the Director determines appropriate, the Director shall provide each member of the Corps with health care services, child care services, counseling services, and other supportive services.

"(e) POST SERVICE BENEFITS.—Upon completion of the agreed period of service with the Corps, a member shall elect to receive the educational assistance under subsection (f) or the cash benefit under subsection (g).

"(f) EDUCATIONAL ASSISTANCE.—

"(1) AUTHORITY.—

"(A) CORPS MEMBERS COMPLETING AGREED SERVICE.—The Director shall provide educational assistance to each Corps member who—

"(i) completes a period of agreed service in the Corps; and

"(ii) elects to receive the assistance.

"(B) CORPS MEMBERS NOT COMPLETING AGREED SERVICE.—The Director may provide educational assistance to a Corps member who—

"(i) does not complete the period of agreed service; and

"(ii) requests the assistance.

"(2) AMOUNT.—

"(A) NATIONAL SERVICE PROGRAM.—The amount of the educational assistance provided to a Corps member under paragraph (1)(A) shall be—

"(i) in the case of a Corps member in the National Service Program, $5,000 for each period of agreed service in the Corps; and

"(ii) in the case of a Corps member in the Summer National Service Program, $1,000 for each period of agreed service in the Corps.

"(B) PRORATED AMOUNT FOR INCOMPLETE SERVICE.—The amount of the educational assistance provided to a Corps member under paragraph (1)(B) shall be determined by multiplying—

"(i) the amount that would be applicable to the member under subparagraph (A) if the member had completed the agreed period of service, by

"(ii) the percentage determined by dividing the period of the Corps member's service by the period of the Corps member's agreed period of service.

"An amount that is not an even multiple of $1 shall be rounded down to the next lower even multiple of $1.

"(C) ADJUSTMENT OF AMOUNT.—To the extent provided in appropriations Acts, whenever the maximum permissible grant amount for a year under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.) is increased, the amount of the educational assistance payment under subparagraph (A)(i) shall be increased to the amount equal to the sum of that maximum permissible grant amount (as increased) plus $2,500.

"(3) USES OF ASSISTANCE.—Educational assistance provided for a person under this subsection may be used only for—

“(A) payment of any student loan, whether from a Federal source or a non-Federal source; or

“(B) tuition, room and board, books and fees, and other costs of attendance (determined in accordance with section 472 of the Higher Education Act of 1965 (20 U.S.C. 108711)) that are associated with attendance at an institution of higher education on a full-time basis.

“(4) APPLICATION.—To receive educational assistance under this section, a person shall submit to the Director such information and documentation as the Director may require. In the case of use of the educational assistance for expenses referred to in paragraph (3)(B), the information submitted to the Director shall include, as a minimum, the academic program and institution of higher education at which the educational assistance is to be used.

“(g) CASH BENEFIT.—

“(1) IN GENERAL.—The Director shall provide a cash benefit to each Corps member electing to receive the cash benefit.

“(2) AMOUNT.—The amount of the cash benefit payable to a member of the Corps shall be equal to 50 percent of the amount of the educational assistance that the member would have been entitled to receive under subsection (f) if the member had elected to receive the educational assistance.

“(h) OTHER POST SERVICE BENEFITS.—To the extent the Director considers appropriate, upon a Corps member's completion of the agreed period of service with the Corps, the Director shall provide the member with—

“(1) assistance for the member to pursue a high school diploma or the equivalent;

“(2) in addition to any educational assistance under subsection (f), other assistance for the member to pursue a degree at an institution of higher education; or

“(3) assistance for the member to obtain employment and support services as necessary and appropriate.

“SEC. 195H. ADMINISTRATIVE PROVISIONS.

“(a) BOARD.—The Board shall monitor and supervise the administration of the Civilian Community Corps Demonstration Program established under this subtitle. In carrying out this section, the Board shall—

“(1) approve such guidelines, recommended by the Director, for the design, selection of members, and operation of the Civilian Community Corps as the Board considers appropriate;

“(2) evaluate the progress of the Corps in providing a basis for determining the matters set forth in section 195; and

“(3) carry out any other activities determined appropriate by the Board.

“(b) EXECUTIVE DIRECTOR.—The Executive Director of the Commission on National and Community Service shall—

“(1) monitor the overall operation of the Civilian Community Corps;

“(2) coordinate the activities of the Corps with other youth service programs administered by the Commission; and

“(3) carry out any other activities determined appropriate by the Board.

“(c) STAFF.—

“(1) DIRECTOR.—

“(A) APPOINTMENT.—The Board, in consultation with the Executive Director, shall appoint a Director of the Civilian Community Corps. The Director may be selected from among retired commissioned officers of the Armed Forces of the United States.

“(B) DUTIES.—The Director shall—

“(i) design, develop, and administer the Civilian Community Corps programs;

“(ii) be responsible for managing the daily operations of the Corps; and

“(iii) report to the Board through the Executive Director.

“(C) AUTHORITY TO EMPLOY STAFF.—The Director may employ such staff as is necessary to carry out this subtitle. The Director shall, to the maximum extent practicable, utilize in staff positions personnel who are detailed from departments and agencies of the Federal Government and, to the extent the Director considers appropriate, shall request and accept detail of personnel from such departments and agencies in order to do so.

“(2) PERMANENT CADRE.—

“(A) ESTABLISHMENT.—The Director shall establish a permanent cadre of supervisors and training instructors for Civilian Community Corps programs.

“(B) APPOINTMENT.—The Director shall appoint the members of the permanent cadre.

“(C) EMPLOYMENT CONSIDERATIONS.—In appointing individuals to cadre positions, the Director shall—

“(i) give consideration to retired, discharged, and other inactive members and former members of the Armed Forces recommended under section 195K(a)(2);

“(ii) give consideration to former VISTA, Peace Corps, and youth service program personnel;

“(iii) ensure that the cadre is comprised of males and females of diverse ethnic, economic, professional, and geographic backgrounds; and

“(iv) consider applicants' experience in other youth service programs.

“(D) COMMUNITY SERVICE CREDIT.—Service as a member of the cadre shall be considered as a community service opportunity for purposes of section 534 of the National Defense Authorization Act for Fiscal Year 1993 and as employment with a public service or community service organization for purposes of section 535 of that Act.

“(3) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director, the members of the permanent cadre, and the other staff personnel shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The rates of pay of such persons may be established without regard to the provisions of chapter 53 of such title.

“(4) VOLUNTARY SERVICES.—Notwithstanding any other provision of law, the Director may accept the voluntary services of individuals. While away from their homes or regular places of business on the business of the Corps, such individuals may be allowed travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent, as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

“SEC. 195I. STATUS OF CORPS MEMBERS AND CORPS PERSONNEL UNDER FEDERAL LAW.

“(a) IN GENERAL.—Except as otherwise provided in this section, members of the Civilian Community Corps shall not, by reason of their status as such members, be considered Federal employees or be subject to the provisions of law relating to Federal employment.

“(b) WORK-RELATED INJURIES.—

“(1) IN GENERAL.—For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, members of the Corps shall be considered as employees of the United States within the meaning of the term 'employee', as defined in section 8101 of such title.

“(2) SPECIAL RULE.—In the application of the provisions of subchapter I of chapter 81 of title 5, United States Code, to a person referred to in paragraph (1), the person shall not be considered to be in the performance of duty while absent from the person's assigned post of duty unless the absence is authorized in accordance with procedures prescribed by the Director.

“(c) TORT CLAIMS PROCEDURE.—A member of the Corps shall be considered an employee of the United States for purposes of chapter 171 of title 28, United States Code, relating to tort claims liability and procedure.

“SEC. 195J. CONTRACT AND GRANT AUTHORITY.

“(a) PROGRAMS.—The Director may, by contract or grant, provide for any public or private organization to perform any program function under this subtitle.

“(b) EQUIPMENT AND FACILITIES.—

“(1) FEDERAL AND NATIONAL GUARD PROPERTY.—The Director shall enter into agreements, as necessary, with the Secretary of Defense, the Governor of a State, territory or commonwealth, or the commanding general of the District of Columbia National Guard, as the case may be, to utilize—

“(A) equipment of the Department of Defense and equipment of the National Guard; and

“(B) Department of Defense facilities and National Guard facilities identified pursuant to section 195K(a)(3).

“(2) OTHER PROPERTY.—The Director may enter into contracts or agreements for the use of other equipment or facilities to the extent practicable to train and house members of the Civilian Community Corps and leaders of Corps units.

“SEC. 195K. RESPONSIBILITIES OF OTHER DEPARTMENTS.

“(a) SECRETARY OF DEFENSE.—

“(1) LIAISON OFFICE.—

“(A) ESTABLISHMENT.—The Secretary of Defense shall establish an office to provide for liaison between the Secretary and the Civilian Community Corps.

“(B) DUTIES.—The office shall—

“(i) in order to assist in the recruitment of personnel for appointment in the permanent cadre, make available to the Director information in the registry established by section 531 of the National Defense Authorization Act for Fiscal Year 1993;

“(ii) provide other assistance in the coordination of Department of Defense activities with the Corps; and

“(iii) encourage Armed Forces recruiters to inform potential applicants for the Corps regarding service in the Corps as an alternative to service in the Armed Forces.

“(2) CORPS CADRE.—

“(A) LIST OF RECOMMENDED PERSONNEL.—The Secretary of Defense, in consultation with the liaison office established under paragraph (1) shall develop a list of individuals to be recommended for appointment in the permanent cadre of Corps personnel. Such personnel shall be selected from among members and former members of the Armed Forces referred to in section 195(3) who are commissioned officers, noncommissioned officers, former commissioned officers, or former noncommissioned officers.

“(B) RECOMMENDATIONS REGARDING GRADE AND PAY.—The Secretary of Defense shall recommend to the Director an appropriate rate of pay for each person recommended for the cadre pursuant to this paragraph.

“(C) CONTRIBUTION FOR RETIRED MEMBER'S PAY.—If a listed individual receiving retired or retainer pay is appointed to a position in the cadre and the rate of pay for that individual is established at the amount equal to the difference between the active duty pay and allowances which that individual would receive if ordered to active duty and the amount of the individual's retired or retainer pay, the Secretary of Defense shall pay, by transfer to the Commission on National and Community Service from amounts available for pay of active duty members of the Armed Forces, the amount equal to 50 percent of that individual's rate of pay for service in the cadre.

"(3) Facilities.—The Secretary of Defense, in consultation with the liaison office established under paragraph (1), shall identify, with the concurrence of the Secretary of the military department concerned, military installations and other facilities of the Department of Defense and, with the concurrence of the Chief of the National Guard Bureau, National Guard facilities that may be used, in whole or in part, by the Civilian Community Corps for training or housing Corps members. The installations and facilities need not be excess capacity or excess or surplus property.

"(b) Secretary of Labor.—The Secretary of Labor shall identify and assist in establishing a system for the recruitment of persons to serve as members of the Civilian Community Corps. In carrying out this subsection, the Secretary of Labor may utilize the Employment Service Agency or the Office of Job Training.

"SEC. 195L. ADVISORY BOARD.

"(a) Establishment and Purpose.—There is established a Civilian Community Corps Advisory Board to advise the Director of the Civilian Community Corps concerning the administration of this subtitle and to assist in the development and administration of the Corps.

"(b) Membership.—The Advisory Board shall be composed of the following members:

"(1) The Secretary of Labor.

"(2) The Secretary of Defense.

"(3) The Secretary of the Interior.

"(4) The Secretary of Agriculture.

"(5) The Secretary of Education.

"(6) The Secretary of Housing and Urban Development.

"(7) The Chief of the National Guard Bureau.

"(8) Individuals appointed by the Director from among persons who are broadly representative of educational institutions, voluntary organizations, industry, youth, and labor unions.

"(9) The Chair of the Commission on National and Community Service.

"(c) Inapplicability of Termination Requirement.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Board.

"SEC. 195M. ANNUAL EVALUATION.

"Pursuant to the provisions for evaluations conducted under section 179, and in particular subsection (g) of such section, the Commission on National and Community Service shall conduct an annual evaluation of the Civilian Community Corps programs under this subtitle.

"SEC. 195N. FUNDING LIMITATION.

"The Commission, in consultation with the Director, shall ensure that no amounts appropriated under section 501 are utilized to carry out this subtitle.

"SEC. 195O. DEFINITIONS.

"In this subtitle:

"(1) Board.—The term 'Board' means the Board of Directors of the Commission on National and Community Service.

"(2) Corps.—The term 'Corps' means the Civilian Community Corps established under the Civilian Community Corps Demonstration Program.

"(3) Corps camp.—The term 'Corps camp' means the facility or central location established as the operational headquarters and boarding place for particular Corps units.

"(4) Corps members.—The term 'Corps members' means persons receiving training and participating in projects under the Civilian Community Corps Demonstration Program.

"(5) Director.—The term 'Director' means the Director of the Civilian Community Corps.

"(6) Executive director.—The term 'Executive Director' means the Executive Director of the Commission on National and Community Service.

"(7) Institution of higher education.—The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(8) Program.—The term 'Program' means the Civilian Community Corps Demonstration Program established under section 195A.

"(9) Service learning.—The term 'service learning', with respect to Corps members, means a method—

"(A) under which Corps members learn and develop through active participation in thoughtfully organized service experiences that meet actual community needs;

"(B) that provides structured time for a Corps member to think, talk, or write about what the Corps member did and saw during an actual service activity;

"(C) that provides Corps members with opportunities to use newly acquired skills and knowledge in real life situations in their own communities; and

"(D) that helps to foster the development of a sense of caring for others, good citizenship, and civic responsibility.

"(10) Superintendent.—The term 'superintendent', with respect to a Corps camp, means the head of the camp under section 195D(d).

"(11) Unit.—The term 'unit' means a unit of the Corps referred to in section 195D(c).".

(2) Table of Contents.—The table of contents in section 1(b) of the National and Community Service Act of 1990 is amended by inserting after the item relating to section 190 the following:

"Subtitle H—Civilian Community Corps
"Sec. 195. Purpose.
"Sec. 195A. Establishment of demonstration program.
"Sec. 195B. National service program.
"Sec. 195C. Summer national service program.
"Sec. 195D. Civilian Community Corps.
"Sec. 195E. Training.
"Sec. 195F. Service projects.
"Sec. 195G. Authorized benefits for Corps members.
"Sec. 195H. Administrative provisions.
"Sec. 195I. Status of Corps members and Corps personnel under Federal law.
"Sec. 195J. Contract and grant authority.
"Sec. 195K. Responsibilities of other departments.
"Sec. 195L. Advisory board.
"Sec. 195M. Annual evaluation.
"Sec. 195N. Funding limitation.
"Sec. 195O. Definitions.".

(b) Report and Study Requirements.—(1) Not later than 180 days after the date of the enactment of this Act, the Commission on National Community Service shall prepare and submit to the appropriate committees of Congress a progress report on the implementation of the provisions of subtitle I of the National and Community Service Act of 1990 (as added by subsection (a)). The progress report shall include an assessment of the activities undertaken in establishing and administering Civilian Community Corps camps and an analysis of the level of coordination of Corps activities with activities of other departments or agencies of the Federal Government.

(2) Not later than 90 days after the end of the 1-year period beginning on the first day of the Civilian Community Corps Demonstration Program established pursuant to section 195A of the National and Community Services Act of 1990 (as added by subsection (a)), the Board of Directors of the Commission on National and Community Service and the Director of the Civilian Community Corps shall prepare and submit to the appropriate committees of Congress a report concerning the desirability and feasibility of establishing the Civilian Community Corps as an independent agency of the Federal Government.

(c) Funding.—Of the amount authorized to be appropriated for fiscal year 1993 in section 301, $50,000,000 shall be available for the Civilian Community Corps Demonstration Program established pursuant to section 195A of the National and Community Service Act of 1990 (as added by subsection (a)).

SEC. 1083. COORDINATION OF PROGRAMS.

(a) Coordinated Administration.—To the maximum extent practicable, the Chief of the National Guard Bureau, the Board of Directors and Executive Director of the Commission on National and Community Service, and the Director of the Civilian Community Corps shall coordinate the National Guard Youth Opportunities Program established pursuant to section 1081 and the Civilian Community Corps Demonstration Program established pursuant to section 195A of the National and Community Service Act of 1990 (as added by section 1082(a)).

(b) Objectives.—The officials referred to in subsection (a) shall ensure that—

(1) the programs referred to in subsection (a) are conducted in such a manner in relationship to each other that the public benefit of those programs is maximized;

(2) to the maximum extent appropriate to meet the needs of program participants, persons who complete participation in the National Guard Youth Opportunities Program and are eligible and apply to participate in the Civilian Community Corps under the Civilian Community Corps Demonstration Program are accepted for participation in that Program; and

(3) the programs referred to in subsection (a) are conducted simultaneously in competition with each other in the same immediate area of the United States only when the population of eligible participants in that area is sufficient to justify the simultaneous conduct of such programs in that area.

SEC. 1084. OTHER PROGRAMS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE.

(a) Increased Commission Activities.—It is the purpose of this section to increase the ability of the Commission on National and Community Service to expand non-residential programs that perform worthwhile urban and rural community projects that assist in the economic transition of localities affected by Department of Defense conversion. The Commission may also explore the potential for developing a program that would permit members of the Civilian Community Corps established under subtitle H of title I of the National and Community Services Act of 1990, as added by section 1082, to provide training to such participants at residential facilities and return them to their local communities for the service portion of their period of agreed service. To the extent practicable, such effort shall be coordinated with the National Guard Civilian Youth Opportunities Program authorized by section 1801 and with the Civilian Community Corps Demonstration Program established under section 195A the National and Community Services Act of 1990, as added by section 1082.

(b) Funding and Use of Funds.—(1) Of the amount authorized to be appropriated for fiscal year 1993 in section 301, $50,000,000 shall be available to the Board of Directors of the Commission on National and Community Service for activities under subtitles B, C, D, E, F, and G of the National and Community Service Act of 1990 (42 U.S.C. 12510 et seq.). Such amount shall be in addition to, and not a substitute for, amounts authorized to be appropriated under section 501 of such Act (42 U.S.C. 12681).

(2) In the use of the funds made available under paragraph (1), the Commission shall give special consideration to—

(A) programs located in communities where facilities of military installation (as defined in section 2687(e)(1) of title 10, United States Code) have been closed;

(B) programs that employ retired, inactive, or discharged military personnel;

(C) programs that involve military personnel participating in volunteer services;

(D) programs that test whether a non-residential, community based youth service corps can engender in young men and women a commitment to civic responsibility and involvement in their communities;

(E) programs that test whether such non-residential corps permit young people who have received military-based training to use their skills and knowledge to improve their communities; and

(F) programs that test whether retired, discharged or inactive members and former members of the Armed Forces can play a meaningful role in service-learning by acting as mentors, teachers, counselors and role models.

SEC. 1085. LIMITATION ON OBLIGATION OF FUNDS.

(a) Civilian Community Corps Demonstration Program.—Funds made available pursuant to section 1082(c) may not be obligated during fiscal year 1993 for the Civilian Community Corps Demonstration Program under subtitle H of title I of the National and Community Service Act of 1990 (as added by section 1082(a)), unless expenditures for that program during fiscal year 1993 have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) Other Commission on National and Community Service Programs.—Funds made available pursuant to section 1084(b) may not be obligated during fiscal year 1993 for activities under subtitles B, C, D, E, F, and G of the National and Community Service Act of 1990 (42 U.S.C. 12510 et seq.), unless expenditures for such activities during fiscal year 1993 have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

Subtitle G—Nuclear Proliferation Control

SEC. 1091. IMPOSITION OF SANCTIONS.

(a) Determination by the President.—

(1) In general.—Except as provided in subsection (b)(2), the President shall impose the applicable sanctions described in subsection (c) if the President determines that a foreign person or a United States person, on or after the date of the enactment of this section, has materially and with requisite knowledge contributed—

(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States, or

(B) through the export from any other country of any goods or technology that would be, if they were exported from the United States, subject to the jurisdiction of the United States,

to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device, whether or not the goods or technology is specifically designed or modified for that purpose.

(2) Persons against which sanctions are to be imposed.—Sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person or United States person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person or United States person;

(C) any foreign person or United States person that is a parent or subsidiary of that person if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of that determination; and

(D) any foreign person or United States person that is an affiliate of that person if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

(3) Other sanctions available.—The sanctions which may be imposed for activities described in this subsection are in addition to any other sanction which may be imposed for the same activities under any other provision of law.

(4) Definition.—For purposes of this subsection, the term "requisite knowledge" includes situations in which a person "knows", as "knowing" is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) or has "reason to know" the effect of such person's actions.

(b) Consultation With and Actions by Foreign Government of Jurisdiction.—

(1) Consultations.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) Actions by government of jurisdiction.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay the imposition of sanctions for up to an additional 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the previous sentence.

(3) Report to congress.—Not later than 90 days after making a determination under subsection (a)(1), the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) Sanctions.—

(1) Description of sanctions.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (3) of this subsection, that the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(2).

(2) Description of sanctions on United States persons.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the United States person or any parent, subsidiary, affiliate, or successor entity thereof, as described in subsection (a)(2).

(3) Exceptions.—The President shall not be required to apply or maintain sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

(C) to—

(i) spare parts which are essential to United States products or production,

(ii) component parts, but not finished products, essential to United States products or production, or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) Termination of Sanctions.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that—

(1) reliable information indicates that the foreign person or United States person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in that subsection; and

(2) the President has received reliable assurances from the foreign person or United States person, as the case may be, that such person will not, in the future, aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in subsection (a)(1).

(e) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that the continued imposition of the sanction would have a serious adverse effect on vital United States interests.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(f) DEFINITIONS.—For the purposes of this section—

(1) the term "foreign person" means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States; and

(2) the term "United States person" means—

(A) an individual who is a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other entity which is not a foreign person.

SEC. 1092. ROLE OF INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in section 701(a) of the International Financial Institutions Act (22 U.S.C. 262d(a)) to use the voice and vote of the United States to oppose any direct or indirect use of the institution's funds to promote the acquisition of unsafeguarded special nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear-weapon state.

(b) DUTIES OF UNITED STATES EXECUTIVE DIRECTORS.—Section 701(b)(3) of the International Financial Institutions Act (22 U.S.C. 262d(b)(3)) is amended to read as follows:

"(3) whether the recipient country—

"(A) is seeking to acquire unsafeguarded special nuclear material (as defined in section 11(6) of the Omnibus Nuclear Proliferation Control Act of 1992) or a nuclear explosive device (as defined in section 11(3) of that Act);

"(B) is not a State Party to the Treaty on Non-Proliferation of Nuclear Weapons; or

"(C) has detonated a nuclear explosive device; and".

SEC. 1093. AMENDMENTS TO THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT AND THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) BASIS FOR DECLARATION OF NATIONAL EMERGENCY.—Section 202 of the International Emergency Economic Powers Act (50 U.S.C. 1701) is amended by adding at the end thereof the following new subsection:

"(c) For the purpose of this section, the term 'any unusual and extraordinary threat' includes any international event that the President determines may involve the detonation by a non-nuclear-weapon state of a nuclear explosive device (as defined in section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992) or an action or activity that substantially contributes to the likelihood of the proliferation or detonation of such devices, including the acquisition by a non-nuclear-weapon state of unsafeguarded special nuclear material (as defined in section 11(6) of that Act).".

(b) SANCTIONS ON FINANCIAL INSTITUTIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by adding at the end thereof the following new title:

"TITLE VI—SANCTIONS ON FINANCIAL INSTITUTIONS

"SEC. 601. PRESIDENTIAL DETERMINATION.

"(a) IN GENERAL.—The prohibitions in section 603 shall be imposed on a financial institution if the President determines that such financial institution, on or after the date of the enactment of this section, has materially and with requisite knowledge contributed, through provision of financing or other services, to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device as these standards and terms are defined and would be applied under section 2 of the Omnibus Nuclear Proliferation Control Act of 1992.

"(b) PRESIDENTIAL ORDER.—Whenever the President makes a determination under subsection (a) with respect to a financial institution, the President shall issue an order specifying a date within 180 days of such determination on which the prohibitions in section 603 shall begin to apply to such institution.

"SEC. 602. ADDITIONAL ENTITIES AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.

"The prohibitions described in section 603 shall also be imposed, pursuant to section 601, on—

"(1) any successor entity to the financial institution with respect to which the President makes such determination;

"(2) any foreign person or United States person that is a parent or subsidiary of such financial institution if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of such determination; and

"(3) any foreign person or United States person that is an affiliate of such financial institution if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of such determination and if that affiliate is controlled in fact by such financial institution.

"SEC. 603. PROHIBITIONS.

"The following prohibitions shall apply to a financial institution subject to a determination described in section 601 and to related entities described in section 602:

"(1) BAN ON DEALINGS IN GOVERNMENT FINANCE.—

"(A) DESIGNATION AS PRIMARY DEALER.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, such financial institution as a primary dealer in United States Government debt instruments.

"(B) GOVERNMENT FUNDS.—Such financial institution shall not serve as agent of the United States Government or serve as repository for United States Government funds.

"(2) RESTRICTIONS ON OPERATIONS.—Such financial institution shall not, directly or indirectly—

"(A) commence any line of business in the United States in which it was not engaged as of the date of the determination; or

"(B) conduct business from any location in the United States at which it did not conduct business as of the date of the determination.

"SEC. 604. CONDITIONS AND TERMINATION OF SANCTIONS.

"The same requirements for consultation with the foreign government of jurisdiction, where appropriate, and for termination of sanctions shall apply under this title as are provided in subsections (b) and (d), respectively, of section 2 of the Omnibus Nuclear Proliferation Control Act of 1992.

"SEC. 605. WAIVER.

"The President may waive the imposition of any prohibition imposed on any financial institution or other person pursuant to section 601 or 602 if the President determines and certifies to the Congress that the imposition of such prohibition would have a serious adverse effect on the safety and soundness of the domestic or international financial system or on domestic or international payments systems.

"SEC. 606. DEFINITIONS.

"As used in this title—

"(1) the term 'financial institution' includes—

"(A) a depository institution, including a branch or agency of a foreign bank;

"(B) a securities firm, including a broker or dealer;

"(C) an insurance company, including an agency or underwriter;

"(D) any other company that provides financial services; or

"(E) any subsidiary thereof; and

"(2) the term 'requisite knowledge' includes situations in which a person 'knows', as 'knowing' is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) or has 'reason to know' the effect of such person's actions.".

SEC.1094. EXPORT-IMPORT BANK.

Section 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)) is amended by inserting after "device" the following: "(as defined in section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992), or that any country has willfully aided or abetted any such non-nuclear-weapon state (as defined in section 11(4) of that Act) to acquire a nuclear explosive device or to acquire unsafeguarded special nuclear material (as defined in section 11(6) of that Act).".

SEC. 1094A. ELIGIBILITY FOR ASSISTANCE.

(a) AMENDMENTS TO THE ARMS EXPORT CONTROL ACT.—(1) The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended—

(A) in section 3 of such Act, by adding at the end thereof the following new subsection:

"(f) No sales or leases shall be made to any country that the President has determined is in material breach of its commitments to the United States under international treaties or agreements concerning the non-proliferation of nuclear explosive devices (as defined in section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992) and unsafeguarded special nuclear material."; and

(B) in section 40(d) of such Act, by adding at the end thereof the following new sentence: "For the purposes of this subsection, such acts shall include all activities that the Secretary determines willfully aid or abet the international proliferation of nuclear explosive devices to individuals or groups or willfully aid or abet an individual or groups in acquiring unsafeguarded special nuclear material (as defined in section 11(6) of that Act).".

(2) Section 47 of such Act is amended—

(A) by striking out "and" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(9) 'nuclear explosive device' has the same meaning given to that term by section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992.".

(b) AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.—

(1) Section 670(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a(a)(2)) is amended in the first sentence—

(A) by inserting "in any fiscal year" after "President"; and

(B) by inserting "during that fiscal year" after "certifies in writing".

(2) Section 670 of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a) is further amended by adding at the end thereof the following new subsection:

"(d) As used in this section, the term 'nuclear explosive device' has the same meaning given to that term by section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992.".

(3) Notwithstanding any other provision of law, Presidential Determination No. 82-7 of February 10, 1982, made pursuant to section 670(a)(2) of the Foreign Assistance Act of 1961, shall have no force or effect with respect to any grounds for the prohibition of assistance under section 670(a)(1) of such Act arising on or after the date of enactment of this Act.

(4) Section 620E(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2375(d)) is amended to read as follows:

"(d) The President may waive the prohibitions of section 669 of this Act with respect to any grounds for the prohibition of assistance under that section arising before the date of enactment of the Omnibus Nuclear Proliferation Control Act of 1992 to provide assistance to Pakistan if he determines that to do so is in the national interest of the United States.".

SEC. 1094B. ADDITIONAL AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

(a) TECHNICAL AMENDMENTS.—Section 670(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a(b)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(2) in paragraph (3)(A) (as so redesignated), by striking "paragraph (3)" and inserting "paragraph (4)"; and

(3) in paragraph (4) (as so redesignated), by striking "paragraph (2)" and inserting "paragraph (3)".

(b) ADDITIONAL SANCTIONS.—Section 670(b)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a) is amended to read as follows:

"(b)(1) Except as provided in paragraphs (3), (4), and (5), in the event that any country, after the date of enactment of the Omnibus Nuclear Proliferation Control Act of 1992—

"(A) transfers to a non-nuclear-weapon state—

"(i) a nuclear explosive device, or

"(ii) design information or components known by the transferor to be necessary for the recipient's completion of a nuclear explosive device,

"(B) is a non-nuclear-weapon state and—

"(i) receives a nuclear explosive device,

"(ii) receives design information or components necessary for the completion of a nuclear explosive device, or

"(iii) detonates a nuclear explosive device,

"(C) transfers to a non-nuclear-weapon state any design information or component (other than described in subparagraph (A)(ii)) which is determined by the President to be important to, and known by the transferring country to be intended by the recipient state for use in, the development or manufacture of any nuclear explosive device, or

"(D) is a non-nuclear-weapon state and has sought and received any design information or component (other than described in subparagraph (B)(ii)) which is determined by the President to be important to, and intended by the recipient state for use in, the development or manufacture of any nuclear explosive device,

the President shall forthwith impose sanctions against that country, including, as a minimum, those sanctions specified in paragraph (2).

"(2) The sanctions referred to in paragraph (1) are as follows:

"(A) FOREIGN ASSISTANCE.—The United States Government shall terminate assistance to that country under this Act, except for urgent humanitarian assistance or food or other agricultural commodities.

"(B) ARMS SALES.—The United States Government shall terminate—

"(i) sales to that country under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and

"(ii) licenses for the export to that country of any item on the United States Munitions List.

"(C) ARMS SALES FINANCING.—The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

"(D) DENIAL OF UNITED STATES GOVERNMENT CREDIT OR OTHER FINANCIAL ASSISTANCE.—The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States, except that the sanction of this subparagraph shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities).

"(E) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by international financial institutions.

"(F) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities.

"(G) EXPORT PROHIBITION.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of any goods and technology (excluding food and other agricultural commodities), except that such prohibition shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities).".

(c) CONFORMING AMENDMENTS.—Section 670(b) of such Act (22 U.S.C. 2429a(b)) is further amended—

(1) in paragraph (3)(A) (as redesignated)—

(A) by striking "furnish assistance which would otherwise be prohibited" and inserting in lieu thereof "delay the imposition of sanctions which would otherwise be required"; and

(B) by striking "termination of assistance" and inserting in lieu thereof "imposition of sanctions";

(2) in paragraph (4) (as redesignated), by striking "termination of such assistance" and inserting in lieu thereof "imposition of such sanctions";

(3) by redesignating paragraph (5) (as redesignated by subsection (a)) as paragraph (6); and

(4) by inserting after paragraph (4) (as redesignated) the following:

"(5) Notwithstanding any other provision of law, the sanctions which are required to be imposed against a country under paragraph (1)(C) or (1)(D) shall not apply if the President determines and certifies in writing to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives that the application of such sanctions against such country would have a serious adverse effect on vital United States interests. The President shall transmit with such certification a statement setting forth the specific reasons therefor.".

SEC. 1094C. REWARD.

Section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C);

(2) by inserting "(1)" immediately after "(a)"; and

(3) by adding at the end thereof the following:

"(2) For purposes of this subsection, the term 'act of international terrorism' includes any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as defined in section 11(6) of the Omnibus Nuclear Proliferation Control Act of 1991) or any nuclear explosive device (as defined in section 11(3) of that Act) by an individual, group, or non-nuclear-weapon state, as defined in section 11(4) of that Act.".

SEC. 1094D. REPORTS.

(a) CONTENT OF ACDA ANNUAL REPORT.—Section 52 of the Arms Control and Disarmament Act (22 U.S.C. 2592) is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 52.";

(2) by striking "and" at the end of paragraph (4);

(3) by striking the period at the end of paragraph (5) and inserting in lieu thereof "; and";

(4) by adding at the end of paragraph (5) the following new paragraph:

"(6) a section of the report shall deal with any material noncompliance by foreign governments with their commitments to the United States with respect to the prevention of the spread of nuclear explosive devices by non-nuclear-weapon states or the acquisition by such states of unsafeguarded special nuclear material (as defined in section 11(6) of the Omnibus Nuclear Proliferation Control Act of 1992), including—

"(A) a net assessment of the aggregate military significance of all such violations;

"(B) a statement of the compliance policy of the United States with respect to violations of those commitments; and

"(C) what actions, if any, the President has taken or proposes to take to bring any nation committing such a violation into compliance with its commitments."; and

(5) by adding at the end thereof the following new subsection:

"(b) REPORTING CONSECUTIVE NONCOMPLIANCE.—If the President in consecutive reports submitted to Congress under this section reports that any designated nation is not in full compliance with its nonproliferation commitments to the United States, then the President shall include in the second such report an assessment of what actions are necessary to compensate for such violations.".

(b) REPORTING ON DEMARCHES.—(1) It is the sense of Congress that the Department of State should, in the course of implementing its reporting responsibilities under section 602(c) of the Nuclear Non-Proliferation Act of 1978, include a summary of demarches that the United States has issued or received from foreign governments with respect to activities which are of significance from the proliferation standpoint.

(2) For purposes of this section, the term "demarche" means any official communication by one government to another, by written or oral means, intended by the originating government to express—

(A) a concern over a past, present, or possible future action or activity of the recipient government, or of a person within the jurisdiction of that government, contributing to the global spread of unsafeguarded special nuclear material or of nuclear explosive devices;

(B) a request for the recipient government to counter such action or activity; or

(C) both the concern and request described in subparagraphs (A) and (B).

SEC. 1094E. TECHNICAL CORRECTION.

Section 133(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2160c) is amended by striking out "20 kilograms" and inserting in lieu thereof "5 kilograms".

SEC. 1094F. DEFINITIONS.

For purposes of this subtitle—

(1) the term "goods and technology" includes nuclear materials and equipment and sensitive nuclear technology (as defined in section 4 of the Nuclear Non-Proliferation Act of 1978), all export items designated by the President pursuant to section 309(c) of such Act, and all technical assistance requiring authorization under section 57b. of the Atomic Energy Act of 1954;

(2) the term "IAEA safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency;

(3) the term "nuclear explosive device" means any device that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT);

(4) the term "non-nuclear-weapon state" means any country which is not a nuclear-weapon state, as defined by Article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(5) the term "special nuclear material" has the meaning given to that term by section 11aa of the Atomic Energy Act of 1954 (42 U.S.C. 2014aa); and

(6) the term "unsafeguarded special nuclear material" means special nuclear material which is held in violation of IAEA safeguards or not subject to IAEA safeguards (excluding any quantity of material that could, if it were exported from the United States, be exported under a general license issued by the Nuclear Regulatory Commission).

Subtitle H—Arms Retooling and Manufacturing Support Initiative

SEC. 1095. SHORT TITLE.

This subtitle may be cited as the "Arms Retooling and Manufacturing Support Act of 1992".

SEC. 1096. POLICY.

It is the policy of the United States—

(1) to encourage, to the maximum extent practicable, nondefense commercial firms to use Government-owned, contractor-operated ammunition facilities of the Department of the Army;

(2) to use such facilities for supporting programs, projects, policies, and initiatives that promote competition in the private sector of the United States economy and that advance United States interests in the global marketplace;

(3) to increase the manufacture of products inside the United States that, to a significant extent, are manufactured outside the United States;

(4) to support policies and programs that provide manufacturers with incentives to assist the United States in making more efficient and economical use of Government-owned industrial plants and equipment for commercial purposes;

(5) to provide, as appropriate, small businesses, including socially and economically disadvantaged small business concerns and new small businesses, with incentives that encourage those businesses to undertake manufacturing and other industrial processing activities that contribute to the prosperity of the United States;

(6) to encourage the creation of jobs through increased investment in the private sector of the United States economy;

(7) to foster a more efficient, cost-effective, and adaptable armaments industry in the United States;

(8) to achieve, with respect to armaments manufacturing capacity, an optimum level of readiness of the defense industrial base of the United States that is consistent with the projected threats to the national security of the United States and the projected emergency requirements of the Armed Forces of the United States; and

(9) to encourage facility contracting where feasible.

SEC. 1097. ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE.

(a) REQUIREMENT FOR INITIATIVE.—The Secretary of the Army shall carry out a program to be known as the "Armament Retooling and Manufacturing Support Initiative" (hereafter in this Act referred to as the "ARMS Initiative").

(b) PURPOSES.—The purposes of the ARMS Initiative are as follows:

(1) To encourage commercial firms, to the maximum extent practicable, to use Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army for commercial purposes.

(2) To increase the opportunities for small businesses, including socially and economically disadvantaged small business concerns and new small businesses, to use such facilities for those purposes.

(3) To reduce the adverse effects of reduced Department of the Army spending that are experienced by States and communities by providing for such facilities to be used for commercial purposes that create jobs and promote prosperity.

(4) To provide for the reemployment and retraining of skilled workers who, as a result of the closing of such facilities, are idled or underemployed.

(5) To contribute to the attainment of economic stability in economically depressed regions of the United States where there are Government-owned, contractor-operated ammunition manufacturing facilities of the Department of Army.

(6) To maintain in the United States a work force having the skills in manufacturing processes that are necessary to meet industrial emergency planned requirements for national security purposes.

(7) To be a model for future defense conversion initiatives.

(8) To the maximum extent practicable, to allow the operation of Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army to be rapidly responsive to the forces of free market competition.

(9) Through the use of Government-owned, contractor-operated ammunition manufacturing facilities for commercial purposes, to encourage relocation of industrial production to the United States from outside the United States.

(c) MAXIMUM AVAILABILITY OF FACILITIES.—To the maximum extent practicable, the Secretary of the Army shall make the Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army available for the purposes of the ARMS Initiative.

SEC. 1098. FACILITY CONTRACTOR DEFINED.

In this subtitle, the term "facility contractor", with respect to a Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army, means a contractor that, under a contract with the Secretary of the Army—

(1) is authorized to manufacture ammunition or any component of ammunition at the facility; and

(2) is responsible for the overall operation and maintenance of the facility for meeting planned requirements in the event of an industrial emergency.

SEC. 1099. FACILITIES CONTRACTS.

(a) REQUIREMENT FOR ARMS CONTRACTS.—(1) In the case of each Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army that is made available for the ARMS Initiative, the Secretary of the Army shall, by contract, authorize the facility contractor—

(A) to use the facility for one or more years consistent with the purposes of the ARMS Initiative; and

(B) to enter into multiyear subcontracts for the commercial use of the facility consistent with such purposes.

(2) The authority in paragraph (1) may be exercised only to such extent and in such amounts as are provided in appropriations Acts.

Subtitle I—Defense Conversion and Transition Assistance

SEC. 1099A. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) The collapse of communism in Eastern Europe and the dissolution of the Soviet Union have fundamentally changed the military threat that formed the basis for the national security policy of the United States since the end of World War II.

(2) The change in the military threat presents a unique opportunity to restructure and reduce the military requirements of the United States.

(3) As the United States proceeds with the post-Cold War defense build down, the Nation must recognize and address the impact of reduced defense spending on the military personnel, civilian employees, and defense industry workers who have been the foundation of the national defense policies of the United States.

(4) The defense build down will have a significant impact on communities as procurements are reduced and military installations are closed and realigned.

(5) Despite the changes in the military threat, the United States must maintain the capability to respond to regional conflicts that threaten the national interests of the United States, and to reconstitute forces in the event of an extended conflict.

(6) The skills and capabilities of military personnel, civilian employees of the Department of Defense, defense industry workers, and defense industries represent an invaluable national resource that can contribute to the economic growth of the United States and to the long-term vitality of the national defense technology and industrial base.

(7) Prompt and vigorous implementation of a defense conversion and transition assistance program is essential to ensure that the defense build down is structured in a manner that enhances the long-term ability of the United States to maintain a strong and vibrant national defense technology and industrial base.

(b) POLICY.—(1) It is the policy of Congress that the United States attain its national defense objectives through the development and implementation of defense conversion and transition assistance programs that have the following objectives:

(A) Facilitating the transition of military personnel, civilian employees of the United States, and defense industry workers affected by the defense build down in a manner which recognizes the contributions of those individuals to the national defense and promotes continued national access to, and benefit from, their skills and capabilities.

(B) Assisting communities in adjusting to the impact of reduced defense spending in recognition of the contributions that such communities have made to the national defense of the United States.

(C) Strengthening the ability of the national defense technology and industrial base to meet the following national security objectives:

(i) Supplying and equipping the force structure necessary to meet near-term national security requirements.

(ii) Sustaining production, maintenance, repair, and logistics for operations of various durations and intensity.

(iii) Maintaining advanced research and development activities to provide the Armed Forces of the United States with systems capable of ensuring technological superiority over potential adversaries.

(iv) Reconstituting within a reasonable period the capability to develop and produce supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a major war, major national emergency, or major mobilization of the Armed Forces.

(D) Achieving the national defense technology and industrial base objectives described in subparagraph (C) by enhancing the opportunities for conversion of defense-dependent businesses to dual-use capabilities.

(2) It is the policy of Congress that not less than $1,200,000,000 of the funds authorized to be appropriated by this Act be available for defense conversion and transition assistance programs.

SEC. 1099B. ACTIVE FORCES TRANSITION ENHANCEMENTS.

Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities:

(1) The program to encourage members and former members of the Armed Forces to enter critical public and community service jobs after discharge or release from active duty as established pursuant to section 1143a of title 10, United States Code (as added by section 531(a)).

(2) The program to facilitate alternative teaching certification for personnel separating or retiring from the Armed Forces who choose to enter teaching based upon military experience and training, as provided in section 532.

(3) The program to grant educational leave to qualify for and enter public and community service, as authorized by section 533.

(4) The temporary early retirement authorities provided in sections 534 and 535.

(5) The authority for persons being voluntarily separated from active duty in the Armed Forces to enroll in the Montgomery GI Bill program under section 536.

(6) The revision of the recoupment requirement related to certain reserve duty, as provided under section 537.

(7) The program referred to in section 538 for certain employment, job training, and other assistance for members of the Armed Forces who are being separated from active duty.

(8) The temporary continued health coverage for members of the Armed Forces upon separation from active duty, as provided under section 1078a of title 10, United States Code (as added by section 539).

SEC. 1099C. GUARD AND RESERVE TRANSITION INITIATIVES.

Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities:

(1) The regulations required by sections 543 through 545 concerning inactivation of units of the Selected Reserve, involuntary discharge from a reserve component of the Armed Forces, and involuntary transfer from the Selected Reserve.

(2) The temporary authority for early retirements established under sections 546 and 547.

(3) The temporary authority for separation pay provided in section 548.

(4) The waiver of the continued service requirement for Montgomery GI Bill benefits under section 549.

(5) The transitional commissary and exchange privileges authorized by section 550.

(6) The temporary continuation of Servicemen's Group Life Insurance coverage provided under section 551.

SEC. 1099D. DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL TRANSITION INITIATIVES.

(a) REQUIREMENT FOR REGULATIONS WITHIN 45 DAYS.—Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities, consistent with such guidance as may be issued by the Director of the Office of Personnel Management:

(1) The reemployment assistance requirements provided pursuant to sections 341 and 342.

(2) The reduction-in-force notification requirements provided pursuant to section 343.

(3) The commencement of eligibility for certain job training assistance to employees adversely affected by base closures and realignments, as established pursuant to section 344.

(4) The authority to continue health benefits established pursuant to section 346.

(5) The authority to pay benefits under the Thrift Savings Plan to employees separated by a reduction in force, as provided pursuant to section 347.

(6) The authority to establish skill training programs in the Department of Defense, as provided in section 348.

(b) REQUIREMENT FOR PROMPT IMPLEMENTATION.—The Secretary of Defense, subject to such regulations as may be prescribed by the Director of the Office of Personnel Management, shall ensure the prompt implementation of the authority established in section 345 to provide separation benefits and to restore certain leave.

SEC. 1099E. COMMUNITY TRANSITION INITIATIVES.

(a) ECONOMIC ADJUSTMENT.—The Secretary of Defense shall promptly establish implementation schedules to ensure that policies and procedures required pursuant to section 331 are issued not later than 90 days after the date of the enactment of this Act, and to ensure that communities, businesses, and workers substantially and seriously affected by reductions in defense expenditures are advised of the assistance available to such communities, businesses, and workers.

(b) ECONOMIC, CONVERSION, AND STABILIZATION ASSISTANCE.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations to ensure the prompt and effective delivery of assistance under the Defense Economic Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101-510; 10 U.S.C. 2391 note), as amended by sections 331 and 332, to communities, businesses, and workers substantially and seriously affected by reductions and defense expenditures.

(c) IMPACT AID.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt and effective implementation of the authority provided in section 333 to furnish assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.

SEC. 1099F. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE CONVERSION AND TRANSITION INITIATIVES.

(a) PUBLIC INFORMATION REQUIREMENT.—The Secretary of Defense shall promptly establish implementation schedules to ensure that, not later than 90 days after the date of the enactment of this Act, policies and procedures are issued to provide for wide public dissemination of the opportunities to participate in programs authorized pursuant to sections 802, 804, and 805.

(b) PROGRAMS IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt and effective implementation of the following programs, requirements, and authorities:

(1) The defense dual-use technology research and development programs referred to in section 802.

(2) The defense dual-use manufacturing technology programs referred to in section 804.

(3) The national defense technology and industrial base dual-use assistance extension programs.

(4) The requirements and authorities provided under section 807 for the Small Business Innovation Research Program.

(c) COMMENCEMENT OF OPERATIONS BY THE OFFICE OF TECHNOLOGY TRANSITION.—Notwithstanding section 803(b) of this Act, the Office of Technology Transition established by section 803(a) shall commence operations not later than 120 days after the date of enactment of this Act.

TITLE XI—DEMILITARIZATION OF THE FORMER SOVIET UNION

Subtitle A—Short Title

SEC. 1101. SHORT TITLE.

This title may be cited as the "Former Soviet Union Demilitarization Act of 1992".

Subtitle B—Findings and Program Authority

SEC. 1111. DEMILITARIZATION OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

The Congress finds that it is in the national security interest of the United States—

(1) to facilitate, on a priority basis—

(A) the transportation, storage, safeguarding, and destruction of nuclear and other weapons of mass destruction of the independent states of the former Soviet Union;

(B) the prevention of proliferation of weapons of mass destruction and destabilizing conventional weapons of the independent states of the former Soviet Union, and the establishment of verifiable safeguards against the proliferation of such weapons;

(C) the prevention of diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries; and

(D) other efforts designed to reduce the military threat from the former Soviet Union;

(2) to support the conversion of the massive defense-related industry and equipment of the independent states of the former Soviet Union for civilian purposes and uses; and

(3) to expand military-to-military contacts between the United States and the independent states of the former Soviet Union.

SEC. 1112. AUTHORITY FOR PROGRAMS TO FACILITATE DEMILITARIZATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized, in accordance with this title, to establish and conduct programs described in subsection (b) to assist the demilitarization of the independent states of the former Soviet Union.

(b) TYPES OF PROGRAMS.—The programs referred to in subsection (a) are limited to—

(1) transporting, storing, safeguarding, disabling, and destroying nuclear, chemical, and other weapons of the independent states of the former Soviet Union, as described in section 212(b) of the Conventional Forces in Europe Treaty Implementation Act of 1991 (Public Law 102-228);

(2) establishing verifiable safeguards against the proliferation of such weapons;

(3) preventing diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries;

(4) facilitating the conversion of military technologies and capabilities and defense industries of the former Soviet Union into civilian activities;

(5) establishing science and technology centers in the independent states of the former Soviet Union for the purpose of engaging weapons scientists and engineers previously involved with nuclear, chemical, and other weapons of mass destruction in productive, nonmilitary undertakings; and

(6) expanding military-to-military contacts between the United States and the independent states of the former Soviet Union.

(c) RESTRICTIONS.—United States assistance authorized by subsection (a) may not be provided unless the President certifies to the Congress, on an annual basis, that the proposed recipient country is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons of mass destruction, if such recipient has an obligation under treaty or other agreement to destroy or dismantle any such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons;

(4) facilitating United States verification of any weapons destruction carried out under section 212 of the Conventional Forces in Europe Treaty Implementation Act of 1991 (Public Law 102-228);

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

Subtitle C—Administrative and Funding Authorities

SEC. 1121. ADMINISTRATION OF DEMILITARIZATION PROGRAMS.

(a) FUNDING.—(1) In recognition of the direct contributions to the national security interests of the United States of the activities specified in section 1112, funds transferred under sections 108 and 109 of Public Law 102-229 (105 Stat. 1708) are authorized to be made available to carry out subtitle B. Of the amount available to carry out such subtitle, not more than $20,000,000 may be made available for programs referred to in section 1112(b)(6), relating to military-to-military contacts.

(2) Section 221(a)(1) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228; 105 Stat. 1695) is amended—

(A) by striking "fiscal year 1992" and inserting "fiscal years 1992 and 1993"; and

(B) by striking out "$400,000,000" and inserting in lieu thereof "$800,000,000".

(3) Section 221(e) of such Act is amended—

(A) by inserting "for fiscal year 1992 or fiscal year 1993" after "under part B";

(B) by inserting "for that fiscal year" after "for that program"; and

(C) by striking out "for fiscal year 1992" and inserting in lieu thereof "for that fiscal year".

(b) TECHNICAL REVISIONS TO PUBLIC LAW 102-229.—Public Law 102-229 is amended—

(1) in section 108 (105 Stat. 1708), by striking out "contained in H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "(title II of Public Law 102-228)"; and

(2) in section 109 (105 Stat. 1708)—

(A) by striking out "H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "Public Law 102-228 (105 Stat. 1696)"; and

(B) by striking "of H.R. 3807".

Subtitle D—Reporting Requirements

SEC. 1131. PRIOR NOTICE OF OBLIGATIONS TO CONGRESS.

Not less than 15 days before obligating any funds made available for a program under subtitle B, the President shall transmit to the Congress a report on the proposed obligation. Each such report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance under subtitle B for which the President plans to obligate such funds.

SEC. 1132. QUARTERLY REPORTS ON PROGRAMS.

Not later than 30 days after the end of the last fiscal year quarter for fiscal year 1992 and each fiscal year quarter for fiscal year 1993, the President shall transmit to the Congress a report on the activities carried out under subtitle B. Each such report shall set forth, for the preceding fiscal year quarter and cumulatively, the following:

(1) The amounts expended for such activities and the purposes for which they were expended.

(2) The source of the funds obligated for such activities, specified by program.

(3) A description of the participation of all United States Government departments and agencies in such activities.

(4) A description of the activities carried out under subtitle B and the forms of assistance provided under that part.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the programs authorized under subtitle B.

TITLE XII—CUBAN DEMOCRACY ACT OF 1992

SEC. 1201. SHORT TITLE.

This title may be cited as the "Cuban Democracy Act of 1992".

SEC. 1202. FINDINGS.

The Congress makes the following findings:

(1) The government of Fidel Castro has demonstrated consistent disregard for internationally accepted standards of human rights and for democratic values. It restricts the Cuban people's exercise of freedom of speech, press, assembly, and other rights recognized by the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948. It has refused to admit into Cuba the representative of the United Nations Human

Rights Commission appointed to investigate human rights violations on the island.

(2) The Cuban people have demonstrated their yearning for freedom and their increasing opposition to the Castro government by risking their lives in organizing independent, democratic activities on the island and by undertaking hazardous flights for freedom to the United States and other countries.

(3) The Castro government maintains a military-dominated economy that has decreased the well-being of the Cuban people in order to enable the government to engage in military interventions and subversive activities throughout the world and, especially, in the Western Hemisphere. These have included involvement in narcotics trafficking and support for the FMLN guerrillas in El Salvador.

(4) There is no sign that the Castro regime is prepared to make any significant concessions to democracy or to undertake any form of democratic opening. Efforts to suppress dissent through intimidation, imprisonment, and exile have accelerated since the political changes that have occurred in the former Soviet Union and Eastern Europe.

(5) Events in the former Soviet Union and Eastern Europe have dramatically reduced Cuba's external support and threaten Cuba's food and oil supplies.

(6) The fall of communism in the former Soviet Union and Eastern Europe, the now universal recognition in Latin America and the Caribbean that Cuba provides a failed model of government and development, and the evident inability of Cuba's economy to survive current trends, provide the United States and the international democratic community with an unprecedented opportunity to promote a peaceful transition to democracy in Cuba.

(7) However, Castro's intransigence increases the likelihood that there could be a collapse of the Cuban economy, social upheaval, or widespread suffering. The recently concluded Cuban Communist Party Congress has underscored Castro's unwillingness to respond positively to increasing pressures for reform either from within the party or without.

(8) The United States cooperated with its European and other allies to assist the difficult transitions from Communist regimes in Eastern Europe. Therefore, it is appropriate for those allies to cooperate with United States policy to promote a peaceful transition in Cuba.

SEC. 1203. STATEMENT OF POLICY.

It should be the policy of the United States—

(1) to seek a peaceful transition to democracy and a resumption of economic growth in Cuba through the careful application of sanctions directed at the Castro government and support for the Cuban people;

(2) to seek the cooperation of other democratic countries in this policy;

(3) to make clear to other countries that, in determining its relations with them, the United States will take into account their willingness to cooperate in such a policy;

(4) to seek the speedy termination of any remaining military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from any of the independent states of the former Soviet Union;

(5) to continue vigorously to oppose the human rights violations of the Castro regime;

(6) to maintain sanctions on the Castro regime so long as it continues to refuse to move toward democratization and greater respect for human rights;

(7) to be prepared to reduce the sanctions in carefully calibrated ways in response to positive developments in Cuba;

(8) to encourage free and fair elections to determine Cuba's political future;

(9) to prevent Cuba from evading the United States embargo of that country through a North American Free Trade Agreement;

(10) to request the speedy termination of any military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from the government of any other country; and

(11) to initiate immediately the development of a comprehensive United States policy toward Cuba in a post-Castro era.

SEC. 1204. INTERNATIONAL COOPERATION.

(a) CUBAN TRADING PARTNERS.—The President should encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of this title.

(b) SANCTIONS AGAINST COUNTRIES ASSISTING CUBA.—

(1) SANCTIONS.—The President may apply the following sanctions to any country that provides assistance to Cuba:

(A) The government of such country shall not be eligible for assistance under the Foreign Assistance Act of 1961 or assistance or sales under the Arms Export Control Act.

(B) Such country shall not be eligible, under any program, for forgiveness or reduction of debt owed to the United States Government.

(2) DEFINITION OF ASSISTANCE.—For purposes of paragraph (1), the term "assistance to Cuba"—

(A) means assistance to or for the benefit of the Government of Cuba that is provided by grant, concessional sale, guaranty, or insurance, or by any other means on terms more favorable than that generally available in the applicable market, whether in the form of a loan, lease, credit, or otherwise, and such term includes subsidies for exports to Cuba and favorable tariff treatment of articles that are the growth, product, or manufacture of Cuba; and

(B) does not include—

(i) donations of food to nongovernmental organizations or individuals in Cuba, or

(ii) exports of medicines or medical supplies, instruments, or equipment that would be permitted under section 1205(c) of this Act.

(3) APPLICABILITY OF SECTION.—This section, and any sanctions imposed pursuant to this section, shall cease to apply at such time as the President makes and reports to the Congress a determination under section 1208(a).

SEC. 1205. SUPPORT FOR THE CUBAN PEOPLE.

(a) PROVISIONS OF LAW AFFECTED.—The provisions of this section apply notwithstanding any other provision of law, including section 620(a) of the Foreign Assistance Act of 1961, and notwithstanding the exercise of authorities, before the enactment of this Act, under section 5(b) of the Trading With the Enemy Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979.

(b) DONATIONS OF FOOD.—Nothing in this or any other title shall prohibit donations of food to nongovernmental organizations or individuals in Cuba.

(c) EXPORTS OF MEDICINES AND MEDICAL SUPPLIES.—Exports of medicines or medical supplies, instruments, or equipment to Cuba shall not be restricted—

(1) except to the extent authorized by section 5(m) of the Export Administration Act of 1979 or section 203(b)(2) of the International Emergency Economic Powers Act;

(2) except in a case in which there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;

(3) except in a case in which there is a reasonable likelihood that the item to be exported will be reexported; and

(4) except in a case in which the item to be exported could be used in the production of any biotechnological product.

(d) REQUIREMENTS FOR CERTAIN EXPORTS.—

(1) ONSITE VERIFICATIONS.—(A) Subject to subparagraph (B), an export may be made under subsection (c) only if the President determines that the United States Government is able to verify, by onsite inspections and other appropriate means, that the exported item is to be used for the purposes for which it was intended and only for the use and benefit of the Cuban people.

(B) EXCEPTION.—Subparagraph (A) does not apply to donations to nongovernmental organizations in Cuba of medicines for humanitarian purposes.

(2) LICENSES.—Exports permitted under subsection (c) shall be made pursuant to specific licenses issued by the United States Government.

(e) TELECOMMUNICATIONS SERVICES AND FACILITIES.—

(1) TELECOMMUNICATIONS SERVICES.—Telecommunications services between the United States and Cuba shall be permitted.

(2) TELECOMMUNICATIONS FACILITIES.—Telecommunications facilities are authorized in such quantity and of such quality as may be necessary to provide efficient and adequate telecommunications services between the United States and Cuba.

(3) LICENSING OF PAYMENTS TO CUBA.—(A) The President may provide for the issuance of licenses for the full or partial payment to Cuba of amounts due Cuba as a result of the provision of telecommunications services authorized by this subsection, in a manner that is consistent with the public interest and the purposes of this title, except that this paragraph shall not require any withdrawal from any account blocked pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(B) If only partial payments are made to Cuba under subparagraph (A), the amounts withheld from Cuba shall be deposited in an account in a banking institution in the United States. Such account shall be blocked in the same manner as any other account containing funds in which Cuba has any interest, pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(4) AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION.—Nothing in this subsection shall be construed to supersede the authority of the Federal Communications Commission.

(f) DIRECT MAIL DELIVERY TO CUBA.—The United States Postal Service shall take such actions as are necessary to provide direct mail service to and from Cuba, including, in the absence of common carrier service between the 2 countries, the use of charter service providers.

(g) ASSISTANCE TO SUPPORT DEMOCRACY IN CUBA.—The United States Government may provide assistance, through appropriate nongovernmental organizations, for the support of individuals and organizations to promote nonviolent democratic change in Cuba.

SEC. 1206. SANCTIONS.

(a) PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.—

(1) PROHIBITION.—Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

(2) APPLICABILITY TO EXISTING CONTRACTS.—Paragraph (1) shall not affect any contract entered into before the date of the enactment of this Act.

(b) PROHIBITIONS ON VESSELS.—

(1) VESSELS ENGAGING IN TRADE.—Beginning on the 61st day after the date of the enactment of this Act, a vessel which enters a port or place in Cuba to engage in the trade of goods or services may not, within 180 days after departure from such port or place in Cuba, load or unload any freight at any place in the United States, except pursuant to a license issued by the Secretary of the Treasury.

(2) VESSELS CARRYING GOODS OR PASSENGERS TO OR FROM CUBA.—Except as specifically authorized by the Secretary of the Treasury, a vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national, as defined in section 515.302 of the Office of Foreign Assets Control Treasury Regulations, has any interest may not enter a United States port.

(3) INAPPLICABILITY OF SHIP STORES GENERAL LICENSE.—No commodities which may be exported under a general license described in section 771.9 of title 15, Code of Federal Regulations, as in effect on May 1, 1992, may be exported under a general license to any vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest.

(4) DEFINITIONS.—As used in this subsection—

(A) the term "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft; and

(B) the term "United States" includes the territories and possessions of the United States and the customs waters of the United States (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401)).

(c) RESTRICTIONS ON REMITTANCES TO CUBA.—The President shall establish strict limits on remittances to Cuba by United States persons for the purpose of financing the travel of Cubans to the United States, in order to ensure that such remittances reflect only the reasonable costs associated with such travel, and are not used by the Government of Cuba as a means of gaining access to United States currency.

(d) CLARIFICATION OF APPLICABILITY OF SANCTIONS.—The prohibitions contained in subsections (a), (b), and (c) shall not apply with respect to any activity otherwise permitted by section 1205 or section 1207 of this title or any activity which may not be regulated or prohibited under section 5(b)(4) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)(4)).

SEC. 1207. POLICY TOWARD A TRANSITIONAL CUBAN GOVERNMENT.

Food, medicine, and medical supplies for humanitarian purposes should be made available for Cuba under the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 if the President determines and certifies to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that the government in power in Cuba—

(1) has made a public commitment to hold free and fair elections for a new government within 6 months and is proceeding to implement that decision;

(2) has made a public commitment to respect, and is respecting, internationally recognized human rights and basic democratic freedoms; and

(3) is not providing weapons or funds to any group, in any other country, that seeks the violent overthrow of the government of that country.

SEC. 1208. POLICY TOWARD A DEMOCRATIC CUBAN GOVERNMENT.

(a) WAIVER OF RESTRICTIONS.—The President may waive the requirements of section 1206 if the President determines and reports to the Congress that the Government of Cuba—

(1) has held free and fair elections conducted under internationally recognized observers;

(2) has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections;

(3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(4) is moving toward establishing a free market economic system; and

(5) has committed itself to constitutional change that would ensure regular free and fair elections that meet the requirements of paragraph (2).

(b) POLICIES.—If the President makes a determination under subsection (a), the President shall take the following actions with respect to a Cuban Government elected pursuant to elections described in subsection (a):

(1) To encourage the admission or reentry of such government to international organizations and international financial institutions.

(2) To provide emergency relief during Cuba's transition to a viable economic system.

(3) To take steps to end the United States trade embargo of Cuba.

(4) To enter into negotiations for a framework agreement providing for trade with Cuba.

SEC. 1209. EXISTING CLAIMS NOT AFFECTED.

Except as provided in section 1205(a), nothing in this title affects the provisions of section 620(a)(2) of the Foreign Assistance Act of 1961.

SEC. 1210. ENFORCEMENT.

(a) ENFORCEMENT AUTHORITY.—The authority to enforce this title shall be carried out by the Secretary of the Treasury. The Secretary of the Treasury shall exercise the authorities of the Trading With the Enemy Act in enforcing this Act. In carrying out this subsection, the Secretary of the Treasury shall take the necessary steps to ensure that activities permitted under section 1205 are carried out for the purposes set forth in this title and not for purposes of the accumulation by the Cuban Government of excessive amounts of United States currency or the accumulation of excessive profits by any person or entity.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this title.

(c) PENALTIES UNDER THE TRADING WITH THE ENEMY ACT.—Section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16) is amended—

(1) by inserting "(a)" before "That whoever"; and

(2) by adding at the end the following:

"(b)(1) The Secretary of the Treasury may impose a civil penalty of not more than $50,000 on any person who violates any license, order, rule, or regulation issued under this Act.

"(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

"(3) The penalties provided under this subsection may not be imposed for—

"(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

"(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.

"(4) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

"(5) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code.".

(d) APPLICABILITY OF PENALTIES.—The penalties set forth in section 16 of the Trading With the Enemy Act shall apply to violations of this title to the same extent as such penalties apply to violations under that Act.

(e) OFFICE OF FOREIGN ASSETS CONTROL.—The Department of the Treasury shall establish and maintain a branch of the Office of Foreign Assets Control in Miami, Florida, in order to strengthen the enforcement of this Act.

SEC. 1211. DEFINITION.

As used in this Act, the term "United States person" means any United States citizen or alien admitted for permanent residence in the United States, and any corporation, partnership, or other organization organized under the laws of the United States.

SEC. 1212. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act.

TITLE XIII—NATIONAL EDUCATION GOALS PANEL

SEC. 1301. PANEL ESTABLISHED.

(a) ESTABLISHMENT.—There is established within the Department of Education a National Education Goals Panel (hereafter in this title referred to as the "Panel").

(b) COMPOSITION.—

(1) IN GENERAL.—The Panel shall be composed of 14 members (hereafter in this title referred to as "members"), including—

(A) two members appointed by the President;

(B) eight Governors, three of whom shall be from the same political party as the President and five of whom shall be of the opposite political party of the President, appointed by the Chairman or Vice Chairman of the National Governors' Association, with each appointing those of his respective political party, in consultation with each other and in accordance with paragraph (2); and

(C) four Members of Congress appointed as follows:

(i) The Majority Leader of the Senate shall appoint 1 individual from among the Members of the Senate.

(ii) The Minority Leader of the Senate shall appoint 1 individual from among the Members of the Senate.

(iii) The Majority Leader of the House of Representatives shall appoint 1 individual from among the Members of the House of Representatives.

(iv) The Minority Leader of the House of Representatives shall appoint 1 individual from among the Members of the House of Representatives.

(2) SPECIAL APPOINTMENT RULES.—(A) The members appointed pursuant to paragraph (1)(B) shall be appointed as follows:

(i) If the Chairperson of the National Governors' Association is from the same political party as the President, then the Chairperson shall appoint 3 persons pursuant to such paragraph and the Vice Chairperson shall appoint 5 persons pursuant to such paragraph.

(ii) If the Chairperson of the National Governors' Association is from the opposite political party as the President, then the Chairperson shall appoint 5 persons pursuant to such paragraph and the Vice Chairperson shall appoint 3 persons pursuant to such paragraph.

(B) If the National Governors' Association has appointed a panel that meets the requirements of this subsection prior to the date of enactment of this Act, then the members serving on such panel shall be deemed to be in compliance with the provisions of this subsection and shall not be required to be reappointed pursuant to this subsection.

(c) TERMS.—The terms of service of members shall be as follows:

(1) EXECUTIVE BRANCH.—Members appointed under paragraph (1)(A) shall serve at the pleasure of the President.

(2) GOVERNORS.—Members appointed under paragraph (1)(B) shall serve a two-year term, except that the initial appointments under such paragraph shall be made to ensure staggered terms with one-half of the such member's terms concluding every two years.

(3) MEMBERS OF CONGRESS.—Members appointed under paragraph (1)(C) shall serve a term of four years.

(d) INITIATION.—The Panel may begin to carry out the duties of the Panel under this title when seven members of the Panel have been appointed.

(e) DATE OF APPOINTMENT.—The initial members shall be appointed not later than 60 days after the date of enactment of this Act.

(f) RETENTION.—In order to retain an appointment to the Panel, a member must attend at least two-thirds of the scheduled meetings of the Panel in any given year.

(g) VACANCIES.—A vacancy on the Panel shall not affect the powers of the Panel, but shall be filled in the same manner as the original appointment.

(h) TRAVEL.—Each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(i) CHAIRPERSON SELECTION.—

(1) INITIAL SELECTION.—The members appointed under subsection (b)(2) shall select a Chairperson from among such members, except that after the expiration of the term of the member selected under this paragraph to serve as Chairperson as of October 1, 1991, or upon the termination of the tenure of such Chairperson, whichever is earlier, a majority of the members of the Council shall select the Chairperson from among the members.

(2) CONTINGENT SELECTION.—If no individual described in paragraph (1) assumes the position of Chairperson of the Council within 60 days of the date of the enactment of this Act, a majority of the members shall thereafter select a Chairperson from among the members.

SEC. 1302. FUNCTIONS.

(a) FUNCTIONS.—

(1) IN GENERAL.—The Panel shall—

(A) propose the indicators to be used to measure the National Education Goals and reporting progress toward their achievement, the baselines and benchmarks against which progress may be evaluated, and the format for an annual report to the Nation;

(B) select interim and final measures and appropriate measurement tools to be developed as necessary in each goal area;

(C) report on the Federal actions to fulfill its responsibilities to education, including funding the Federal financial role, providing more flexibility and controlling mandates that limit the States' ability to fund education;

(D) issue a report to the President, the Congress, the Governors, and the Nation annually on progress toward the National Education Goals;

(E) assure, through requirements for State reports, that student performance is reported in the context of other relevant information about student, school and system performance;

(F) identify gaps in existing educational data, make recommendations for improvements in the methods and procedures for assessments that would be appropriate to assessing progress toward the National Education Goals, propose changes in national and international measurement systems as appropriate and make recommendations to the President, the Congress, and the Governors for needed improvements;

(G) appoint members to the National Education Standards and Assessments Council; and

(H) in accordance with paragraph (2), issue certification of content and student performance standards and the criteria for assessments as world-class following submission of such certification by the National Education Standards and Assessments Council.

(2) SPECIAL RULE.—In the event the Panel denies certification to all or part of a certification of the National Education Standards and Assessments Council, all or part of a certification shall be returned to such Council with detailed written explanations for the denial.

(b) PERFORMANCE OF FUNCTIONS.—In carrying out its responsibilities, the Panel shall operate on the principle of consensus.

(c) DATA COLLECTION.—The Panel shall make arrangements with any appropriate entity to generate or collect such data as may be necessary to appropriately assess progress toward the National Education Goals.

SEC. 1303. ANNUAL REPORT CARD.

(a) IN GENERAL.—The Panel shall prepare and submit to the President, the appropriate committees of Congress, and the Governor of each State a National Report Card, that—

(1) sets forth an analysis of the progress of the United States toward achieving the National Education Goals; and

(2) may, as determined necessary by the Panel based on the findings of the Panel and an analysis of the views and comments of all interested parties—

(A) identify continuing gaps in existing educational data; and

(B) make recommendations for improvement in the methods and procedures of assessing educational attainment and strengthening the national educational assessment and information system of the Department of Education or any other appropriate Federal Government entity.

(b) CONTINUATION.—Based on the timetable established in section 1302, the Panel shall continue to issue a National Report Card on an annual basis for the duration of the existence of the Panel.

(c) FORMAT.—National Report Cards shall be presented in a form that is understandable to parents and the general public.

SEC. 1304. POWERS OF THE PANEL.

(a) HEARINGS.—

(1) IN GENERAL.—The Panel shall, for the purpose of carrying out this title, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Panel considers appropriate.

(2) CONDUCT.—In carrying out this title, the Panel shall conduct public hearings in different geographic areas of the United States, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public regarding the Panel's functions described in section 1302(a).

(b) INFORMATION.—The Panel may secure directly from any department or agency of the United States information necessary to enable the Panel to carry out this title. Upon request of the Chairperson of the Panel, the head of a department or agency shall furnish such information to the Panel to the extent permitted by law.

(c) GIFTS.—The Panel may accept, use, and dispose of gifts or donations of services or property.

(d) POSTAL SERVICES.—The Panel may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE AND SUPPORTIVE SERVICES.—The Secretary of Education shall provide to the Panel, on a reimbursable basis, administrative support services as the Panel may request.

SEC. 1305. ADMINISTRATIVE PROVISIONS.

(a) MEETINGS.—The Panel shall meet on a regular basis, as necessary, at the call of the Chairperson of the Panel or a majority of its members.

(b) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

(c) VOTING.—No individual may vote or exercise any of the powers of a member by proxy.

SEC. 1306. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Chairperson of the Panel shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a Director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

(b) APPOINTMENT AND PAY OF STAFF.—The Chairperson of the Panel may appoint personnel as the Chairperson considers appropriate without regard to the provisions of title 5, United States Code, governing appointments to the competitive service. The staff of the Panel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. The rate of pay of the staff of the Panel shall not exceed the rate of basic pay payable for GS–15 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—The Panel may procure temporary and intermittent services under section 3019(b) of title 5, United States Code.

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Panel, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Panel to assist the Panel in its duties under this title.

SEC. 1307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 through 2001 to carry out this title.

TITLE XIV—IRAN-IRAQ ARMS NON-PROLIFERATION ACT OF 1992

SEC. 1401. SHORT TITLE.

This title may be cited as the "Iran-Iraq Arms Non-Proliferation Act of 1992".

SEC. 1402. UNITED STATES POLICY.

(a) IN GENERAL.—It shall be the policy of the United States to oppose, and urgently to seek the agreement of other nations also to oppose, any transfer to Iran or Iraq of any goods or technology, including dual-use goods or technology, wherever that transfer could contribute to either country's acquiring chemical, biological, nuclear, or destabilizing numbers and types of advanced conventional weapons.

(b) SANCTIONS.—(1) In the furtherance of this policy, the President shall apply to Iran, Iraq, and those nations and persons who assist them in acquiring weapons of mass destruction all of the applicable sanctions and controls available to the United States under the Foreign Assistance Act of 1961, the Nuclear Non-Proliferation Act of 1978, the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, and title XVII of the National Defense Authorization Act for Fiscal Year 1991, and other relevant statutes, regarding the non-proliferation of weapons of mass destruction and the means of their delivery.

(2) The President should also urgently seek the agreement of other nations to adopt and institute, at the earliest practicable date, sanctions and controls comparable to those the United States is obligated to apply under this subsection.

(c) PUBLIC IDENTIFICATION.—The Congress calls on the President to identify publicly (in the report required by section 1407) any country or person that transfers goods or technology to Iran or Iraq contrary to the policy set forth in subsection (a).

SEC. 1403. APPLICATION TO IRAN OF CERTAIN IRAQ SANCTIONS.

The sanctions against Iraq specified in paragraphs (1) through (4) of section 586G(a) of the Iraq Sanctions Act of 1990 (as contained in Public Law 101-513), including denial of export licenses for United States persons and prohibitions on United States Government sales, shall be applied to the same extent and in the same manner with respect to Iran.

SEC. 1404. SANCTIONS AGAINST CERTAIN PERSONS.

(a) PROHIBITION.—If any person transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire destabilizing numbers and types of advanced conventional weapons, then—

(1) the sanctions described in subsection (b) shall be imposed; and

(2) in addition, the President is authorized to apply, in the discretion of the President, the sanctions described in subsection (c).

(b) MANDATORY SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are as follows:

(1) PROCUREMENT SANCTION.—For a period of 2 years, the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the sanctioned person.

(2) EXPORT SANCTION.—For a period of 2 years, the United States Government shall not issue any license for any export by or to the sanctioned person.

(c) DISCRETIONARY SANCTION.—The sanction referred to in subsection (a)(2) is that the President may prohibit, for such period as the President may determine, the importation into the United States of any articles which are the product, manufacture, or growth of the sanctioned person.

SEC. 1405. SANCTIONS AGAINST CERTAIN FOREIGN COUNTRIES.

(a) PROHIBITION.—If the government of any foreign country transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire destabilizing numbers and types of advanced conventional weapons, then—

(1) the sanctions described in subsection (b) shall be imposed on such country; and

(2) in addition, the President may apply, in the discretion of the President, the sanctions described in subsection (c).

(b) MANDATORY SANCTIONS.—Except as provided in paragraph (2), the sanctions to be imposed pursuant to subsection (a)(1) are as follows:

(1) SUSPENSION OF UNITED STATES ASSISTANCE.—The United States Government shall suspend, for a period of 1 year, United States assistance to the sanctioned country.

(2) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director to each appropriate international financial institution to oppose, and vote against, for a period of 1 year, the extension by such institution of any loan or financial or technical assistance to the sanctioned country.

(3) SUSPENSION OF CODEVELOPMENT OR COPRODUCTION AGREEMENTS.—The United States shall suspend, for a period of 1 year, compliance with its obligations under any memorandum of understanding with the sanctioned country for the codevelopment or coproduction of any item on the United States Munitions List (established under section 38 of the Arms Export Control Act), including any obligation for implementation of the memorandum of understanding through the sale to the sanctioned country of technical data or assistance or the licensing for export to the sanctioned country of any component part.

(4) SUSPENSION OF MILITARY AND DUAL-USE TECHNICAL EXCHANGE AGREEMENTS.—The United States shall suspend, for a period of 1 year, compliance with its obligations under any technical exchange agreement involving military and dual-use technology between the United States and the sanctioned country that does not directly contribute to the security of the United States, and no military or dual-use technology may be exported from the United States to the sanctioned country pursuant to that agreement during that period.

(5) UNITED STATES MUNITIONS LIST.—No item on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) may be exported to the sanctioned country for a period of 1 year.

(c) DISCRETIONARY SANCTIONS.—The sanctions referred to in subsection (a)(2) are as follows:

(1) DENIAL OF MOST-FAVORED-NATION STATUS.—The President is authorized to suspend the application of nondiscriminatory trade treatment (most-favored-nation status) to the products of the sanctioned country.

(2) USE OF AUTHORITIES OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—The President may exercise, in accordance with the provisions of that Act, the authorities of the International Emergency Economic Powers Act with respect to the sanctioned country, except for urgent humanitarian assistance.

SEC. 1406. WAIVER.

The President may waive the requirement to impose a sanction described in section 1403, in the case of Iran, or a sanction described in section 1404(b) or 1405(b), in the case of Iraq and Iran, 15 days after the President determines and so reports to the Committees on Armed Services and Foreign Relations of the Senate and the Speaker of the House of Representatives that to impose that sanction would jeopardize the national security interests of the United States. Any such report shall provide a specific and detailed rationale for such determination.

SEC. 1407. REPORTING REQUIREMENT.

(a) ANNUAL REPORT.—Beginning one year after the date of enactment of this title, and every 12 months thereafter, the President shall submit a report to the Committees on Armed Services and Foreign Relations of the Senate and the Speaker of the House of Representatives detailing—

(1) all transfers or retransfers made by any person or foreign government during the preceding 12-month period which are subject to any sanction under this title; and

(2) the actions the President intends to undertake or has undertaken pursuant to this title with respect to each such transfer.

(b) REPORT ON INDIVIDUAL TRANSFERS.—Whenever the President determines that a person or foreign government has made a transfer which is subject to any sanction under this title, the President shall, within 30 days after such transfer, submit to the Committees on Armed Services and Foreign Relations of the Senate and the Speaker of the House of Representatives a report—

(1) identifying the person or government and providing the details of the transfer; and

(2) describing the actions the President intends to undertake or has undertaken under the provisions of this title with respect to each such transfer.

(c) FORM OF TRANSMITTAL.—Reports required by this section may be submitted in classified as well as in unclassified form.

SEC. 1408. DEFINITIONS.

For purposes of this title—

(1) the term "advanced conventional weapons" includes—

(A) such long-range precision-guided munitions, fuel air explosives, cruise missiles, low observability aircraft, other radar evading aircraft, advanced military aircraft, military satellites, electromagnetic weapons, and laser weapons as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways;

(B) such advanced command, control, and communications systems, electronic warfare systems, or intelligence collection systems as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways; and

(C) such other items or systems as the President may, by regulation, determine necessary for purposes of this title;

(2) the term "cruise missile" means guided missiles that use aerodynamic lift to offset gravity and propulsion to counteract drag;

(3) the term "goods or technology" means—

(A) any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment; and

(B) any information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data;

(4) the term "person" means any United States or foreign individual, partnership, corporation, or other form of association, or any of their successor entities, parents, or subsidiaries;

(5) the term "sanctioned country" means a country against which sanctions are required to be imposed pursuant to section 1405;

(6) the term "sanctioned person" means a person that makes a transfer described in section 1404(a); and

(7) the term "United States assistance" means—

(A) any assistance under the Foreign Assistance Act of 1961 (other than the provision of urgent humanitarian assistance or medicine);

(B) sales and assistance under the Arms Export Control Act;

(C) financing by the Commodity Credit Corporation for export sales of agricultural commodities; and

(D) financing under the Export-Import Bank Act.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1993".

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Anniston Army Depot	$105,300,000
	Fort McClellan	$4,200,000
Arizona	Fort Huachuca	$5,300,000
Arkansas	Pine Bluff Arsenal	$26,800,000
California	Sierra Army Depot	$2,450,000
Georgia	Fort Gillem	$2,700,000
	Fort Gordon	$23,000,000
	Fort McPherson	$10,200,000
	Hunter Army Airfield	$5,400,000
Hawaii	Schofield Barracks	$23,300,000
Kansas	Fort Riley	$13,200,000
Kentucky	Fort Knox	$15,600,000
Louisiana	Fort Polk	$7,400,000
Maryland	Aberdeen Proving Ground	$3,400,000
New Jersey	Fort Monmouth	$3,550,000
	Picatinny Arsenal	$6,050,000
New Mexico	White Sands Missile Range	$6,000,000
New York	United States Military Academy, West Point	$1,600,000
Oklahoma	Fort Sill	$1,500,000
Pennsylvania	Letterkenny Army Depot	$5,400,000
Texas	Fort Hood	$33,000,000
	Red River Army Depot	$3,600,000
Utah	Tooele Army Depot	$9,200,000
Virginia	Fort Belvoir	$1,200,000
	Fort Pickett	$5,800,000
CONUS Various	Classified Location	$2,700,000
	Classified Location	$700,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Germany	Grafenwoehr	$11,600,000
Kwajelein Atoll	Kwajalein	$52,800,000
OCONUS Classified	Classified Location	$1,000,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(6)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State	Installation	Purpose	Amount
Hawaii	Oahu Various	200 units	$23,000,000
Kentucky	Fort Campbell	96 units	$8,200,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(6)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $8,940,000.

SEC. 2103. DEFENSE ACCESS ROADS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(3), the Secretary of the Army may make advances to the Secretary of Transportation for design and construction of defense access roads under section 210 of title 23, United States Code, in the total amount of $2,400,000.

SEC. 2104. IMPROVEMENTS TO MILITARY FAMILY HOUSING.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(6)(A), the Secretary of the Army may improve existing military family housing in an amount not to exceed $155,860,000.

SEC. 2105. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,221,967,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $328,550,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $65,400,000.

(3) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $2,400,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $3,800,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $112,300,000.

(6) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $196,000,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,380,517,000, of which not more than $358,241,000 may be obligated or expended for the leasing of military family housing worldwide.

(7) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $133,000,000, to remain available until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2106. INCREASE IN LIMITATION ON LEASING OF MILITARY FAMILY HOUSING WORLDWIDE BY THE DEPARTMENT OF THE ARMY.

Section 2105(a)(6)(B) the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1512) is amended by striking out "$360,783,000" and inserting in lieu thereof "$395,783,000".

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Alaska	Adak Naval Air Station	$8,750,000
California	Camp Pendleton, Marine Corps Base	$25,500,000
	Lemoore, Naval Air Station	$680,000
	Port Hueneme, Naval Construction Battalion Center.	$14,300,000
	Seal Beach, Naval Weapons Station	$2,150,000
	Twentynine Palms, Marine Corps Air-Ground Combat Center.	$4,600,000
Connecticut	New London, Naval Submarine Base	$12,500,000
Florida	Cecil Field, Naval Air Station	$5,850,000
Georgia	Albany, Marine Corps Logistics Base	$6,800,000
Hawaii	Barking Sands, Pacific Missile Range Facility.	$4,580,000
	Honolulu, Naval Communication Area Master Station, Eastern Pacific.	$1,400,000
	Pearl Harbor, Naval Supply Center	$6,700,000
	Pearl Harbor, Navy Public Works Center.	$24,900,000
Maryland	Indian Head, Naval Ordnance Station	$5,600,000
Mississippi	Gulfport, Naval Construction Battalion Center.	$4,650,000
North Carolina	New River, Marine Corps Air Station	$3,600,000
	Cherry Point, Marine Corps Air Station	$4,680,000
Rhode Island	Newport, Naval Education and Training Center.	$540,000
South Carolina	Charleston, Naval Weapons Station	$1,110,000
Tennessee	Memphis, Naval Air Station	$14,110,000
Texas	Corpus Christi, Naval Air Station	$4,900,000
	Kingsville, Naval Air Station	$20,120,000
Virginia	Dam Neck, Fleet Combat Training Center.	$19,427,000
	Fort Story, Naval Station Annex	$5,650,000
	Little Creek, Naval Amphibious Base	$13,300,000
	Norfolk, Naval Air Station	$3,450,000
	Norfolk, Naval Station	$880,000
	Norfolk, Naval Supply Center	$12,400,000
	Oceana, Naval Air Station	$3,190,000
	Quantico, Marine Corps Combat Development Center.	$5,000,000
	Yorktown, Naval Weapons Station	$1,100,000
Washington	Bangor, Trident Refit Facility	$1,550,000
	Bremerton, Puget Sound Naval Shipyard.	$14,800,000
	Bremerton, Naval Inactive Ship Maintenance Facility.	$1,200,000

Navy: Inside the United States—Continued

State	Installation or location	Amount
	Everett, Naval Station	$5,600,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Greece	Souda Bay, Naval Support Activity	$7,600,000
Various Locations	Host Nation Infrastructure Support	$3,000,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Navy: Family Housing

State	Installation	Purpose	Amount
California	Camp Pendleton Marine Corps Base.	300 units	$30,600,000
	San Diego Navy Public Works Center.	300 units	$30,400,000
Connecticut	New London, Naval Submarine Base.	100 units	$11,850,000
Hawaii	Kauai, Pacific Missile Range Facility.	13 units	$2,330,000
	Oahu, Barbers Point Naval Air Station.	70 units	$18,500,000
	Oahu, Kanehoe, Marine Corps Air Station.	300 units	$96,800,000
	Oahu, Lynch Park	42 units	$7,000,000
	Oahu, Miller Park	114 units	$18,400,000
	Oahu, Moana Lua	100 units	$11,800,000
	Oahu, Pearl City Peninsula.	132 units	$30,000,000
New Jersey	Earle, Naval Weapons Station.	Community Center.	$1,100,000
Washington	Bangor/Bremerton Naval Complex.	200 units	$19,500,000
West Virginia	Sugar Grove, Naval Radio Station.	8 units	$930,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $14,200,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in the amount of $198,340,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,542,036,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $265,567,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $10,600,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $5,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $72,942,000.

(5) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $491,750,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $696,177,000, of which not more than $104,470,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2205. POWER PLANT RELOCATION, NAVY PUBLIC WORKS CENTER, GUAM.

Section 2201(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2097) is amended—

(1) in the matter under the heading "GUAM" by striking out the item relating to the Navy Public Works Center and inserting in lieu thereof the following:

"Navy Public Works Center, $34,490,000."; and

(2) in the matter under the heading "PHILIPPINES" by striking out the item relating to the Navy Public Works Center, Subic Bay, and inserting in lieu thereof the following:

"Navy Public Works Center, Subic Bay, $570,000.".

SEC. 2206. REVISED AUTHORIZATIONS FOR CERTAIN MARINE CORPS PROJECTS.

(a) REVISED AUTHORIZATION.—Section 2201(a) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2095) is amended in the matter under the heading "NORTH CAROLINA" by striking out the items relating to Marine Corps Air Station, Cherry Point, and inserting in lieu thereof the following:

"Marine Corps Air Station, Cherry Point, $24,100,000.

(b) CONFORMING AMENDMENTS.—Section 2205(a) of such Act (102 Stat. 2099) is amended—

(1) by striking out "$2,369,875,000" and inserting in lieu thereof "$2,361,555,000"; and

(2) in paragraph (1), by striking out "$1,296,450,000" and inserting in lieu thereof "$1,288,770,000".

SEC. 2207. DEFENSE ACCESS ROADS, NAVAL STATION PASCAGOULA, MISSISSIPPI.

Using amounts appropriated pursuant to the authorization of appropriations in section 2205(a)(5) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1519), the Secretary of the Navy shall expend such amounts as the Secretary determines necessary for planning and design for defense access roads that are critical for access to Naval Station Pascagoula, Mississippi, as determined by the Secretary of the Navy.

SEC. 2208. MILITARY FAMILY HOUSING, NAVAL AIR STATION WHIDBEY ISLAND, WASHINGTON.

The Secretary of the Navy shall include in the budget request for the Navy for fiscal year 1994 a request for funds for the design of 300 family housing units at Naval Air Station Whidbey Island, Washington.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Gunter Air Force Base	$960,000
	Maxwell Air Force Base	$9,900,000
Alaska	Clear Air Force Station	$2,250,000
	Eielson Air Force Base	$40,950,000
	Elmendorf Air Force Base	$22,550,000
	Galena Airport	$4,850,000
	King Salmon Airport	$6,400,000
	Shemya Air Force Base	$3,350,000
Arizona	Davis-Monthan Air Force Base	$3,500,000
	Libby Air Force Base	$15,300,000
	Luke Air Force Base	$2,950,000
Arkansas	Little Rock Air Force Base	$3,860,000
California	Beale Air Force Base	$1,250,000
	Edwards Air Force Base	$24,500,000
	March Air Force Base	$2,250,000
	McClellan Air Force Base	$2,900,000
	Travis Air Force Base	$880,000
	Vandenberg Air Force Base	$26,250,000
Colorado	Peterson Air Force Base	$3,500,000
	United States Air Force Academy	$2,610,000
Delaware	Dover Air Force Base	$25,160,000
Florida	Cape Canaveral Air Force Station	$40,800,000
	Eglin Air Force Base	$1,680,000
	Homestead Air Force Base	$1,200,000
	Patrick Air Force Base	$7,700,000
Georgia	Moody Air Force Base	$4,380,000
	Robins Air Force Base	$11,500,000
Illinois	Scott Air Force Base	$960,000
Kansas	McConnell Air Force Base	$960,000
Louisiana	Barksdale Air Force Base	$29,120,000
Maryland	Andrews Air Force Base	$820,000
Massachusetts	Hanscom Air Force Base	$4,200,000
Mississippi	Keesler Air Force Base	$3,900,000
Missouri	Whiteman Air Force Base	$62,270,000
Montana	Malmstrom Air Force Base	$1,100,000
Nebraska	Offutt Air Force Base	$6,190,000
Nevada	Nellis Air Force Base	$6,980,000
New Jersey	McGuire Air Force Base	$8,970,000
New Mexico	Holloman Air Force Base	$11,420,000
North Carolina	Pope Air Force Base	$22,130,000
	Seymour Johnson Air Force Base	$5,230,000
North Dakota	Grand Forks Air Force Base	$6,500,000
	Minot Air Force Base	$8,650,000
Ohio	Wright-Patterson Air Force Base	$12,170,000
Oklahoma	Tinker Air Force Base	$21,280,000
	Vance Air Force Base	$2,350,000
South Carolina	Charleston Air Force Base	$32,150,000
	Shaw Air Force Base	$2,380,000
South Dakota	Ellsworth Air Force Base	$3,880,000
Texas	Brooks Air Force Base	$9,000,000
	Dyess Air Force Base	$7,300,000
	Goodfellow Air Force Base	$3,250,000
	Kelly Air Force Base	$21,360,000
	Lackland Air Force Base	$1,000,000
	Laughlin Air Force Base	$6,000,000
	Randolph Air Force Base	$1,250,000
	Sheppard Air Force Base	$6,990,000
Utah	Hill Air Force Base	$1,500,000
Virginia	Langley Air Force Base	$7,050,000
Washington	Fairchild Air Force Base	$2,510,000
	McChord Air Force Base	$2,540,000
Wyoming	F.E. Warren Air Force Base	$1,050,000
Various and Classified Locations.	Various Locations	$3,300,000
	Various Locations	$3,900,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and may carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Ascension Island	Ascension Island	$22,000,000
Germany	Rhein-Main Air Base	$3,100,000
Greenland	Thule Air Base	$24,900,000
Guam	Andersen Air Force Base	$3,090,000
Portugal	Lajes Field	$8,450,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State or Country	Installation	Purpose	Amount
California	Beale Air Force Base.	Housing office	$306,000
	March Air Force Base.	320 units	$25,351,000
Florida	Patrick Air Force Base.	250 units	$22,500,000
Georgia	Moody Air Force Base.	Housing maintenance facility.	$290,000
	Robins Air Force Base.	55 units	$3,153,000
Illinois	Scott Air Force Base.	1,068 units	$60,000,000
Louisiana	Barksdale Air Force Base.	Housing maintenance and storage facility.	$443,000
New Mexico	Cannon Air Force Base.	361 units	$32,951,000
	Canon Air Force Base.	Housing office	$480,000
North Dakota	Minot Air Force Base.	Housing maintenance and storage facility.	$286,000
South Carolina	Shaw Air Force Base.	Housing office	$351,000
Utah	Hill Air Force Base.	82 units	$6,353,000
Portugal	Lajes Field	Water wells	$865,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $7,457,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $227,824,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,064,428,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $604,990,000, of which $6,400,000 is authorized for the construction of a visual information training facility and $290,000 is authorized for construction of a television systems training facility, both located at Keesler Air Force Base, Mississippi.

(2) For military construction projects outside the United States authorized by section 2301(b), $61,540,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $12,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $95,000,000.

(5) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $348,610,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $942,288,000, of which not more than $150,800,000 may be obligated or expended for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $40,000,000 (the balance of the amount authorized for construction of family housing at Scott Air Force Base, Illinois).

SEC. 2305. CHILD DEVELOPMENT CENTER RELOCATION, BUCKLEY AIR NATIONAL GUARD BASE, COLORADO.

Section 2301(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1770) is amended in the matter under the heading "COLORADO" by striking out the item relating to Lowry Air Force Base and inserting in lieu thereof the following:

"Buckley Air National Guard Base, $4,550,000.".

SEC. 2306. AUTHORIZED FAMILY HOUSING LEASE PROJECTS.

Subject to section 2835 of title 10, United States Code, the Secretary of the Air Force may enter into contracts for the lease of family housing units in the number of units shown, and at the net present value shown, for the following installations:

(1) Bolling Air Force Base, District of Columbia, 550 units, $54,200,000.

(2) Andrews Air Force Base, Maryland, 550 units, $54,200,000.

SEC. 2307. AUTHORIZED MILITARY HOUSING RENTAL GUARANTEE PROJECTS.

Subject to section 2836 of title 10, United States Code, the Secretary of the Air Force may enter into rental guarantee agreements for military housing in the number of units shown for the following installations:

(1) Elmendorf Air Force Base, Alaska, 302 units.

(2) Homestead Air Force Base, Florida, 308 units.

(3) Patrick Air Force Base, Florida, 409 units.

(4) Offutt Air Force Base, Nebraska, 400 units.

SEC. 2308. TERMINATION OF AUTHORITY TO CARRY OUT CERTAIN PROJECTS.

(a) FISCAL YEAR 1992 PROJECTS.—(1) Section 2301 of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102-190; 105 Stat. 1521) is amended—

(A) under the heading "ALASKA", by striking out the item relating to Shemya Air Force Base and inserting in lieu thereof the following:

"Shemya Air Force Base, $10,300,000.";

(B) under the heading "ARIZONA", by striking out the item relating to Luke Air Force Base and inserting in lieu thereof the following:

"Luke Air Force Base, $6,000,000.";

(C) by striking out the following:

"MONTANA

"Conrad Strategic Training Range Site, $700,000.

"Havre Strategic Training Range Site, $700,000.";

(D) under the heading "NEW YORK", by striking out the item relating to Griffiss Air Force Base and inserting in lieu thereof the following:

"Griffiss Air Force Base, $1,500,000.";

(E) under the heading "SOUTH DAKOTA", by striking out the item relating to Ellsworth Air Force Base and inserting in lieu thereof the following:

"Ellsworth Air Force Base, $2,040,000."; and

(F) under the heading "TEXAS", by striking out the item relating to Sheppard Air Force Base and inserting in lieu thereof the following:

"Sheppard Air Force Base, $16,250,000.".

(2) Section 2305(a) of such Act (105 Stat. 1525) is amended—

(A) by striking out "$2,089,303,000" and inserting in lieu thereof "$2,054,713,000"; and

(B) in paragraph (1), by striking out "$778,970,000" and inserting in lieu thereof "$744,380,000".

(b) FISCAL YEAR 1991 PROJECTS.—(1) Section 2301 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101-510; 104 Stat. 1769) is amended—

(A) under the heading "GEORGIA", by striking out the item relating to Robins Air Force Base and inserting in lieu thereof the following:

"Robins Air Force Base, $8,700,000.";

(B) under the heading "MICHIGAN", by striking out the item relating to K.I. Sawyer Air Force Base and inserting in lieu thereof the following:

"K.I. Sawyer Air Force Base, $1,400,000."; and

(C) under the heading "OKLAHOMA", by striking out the item relating to Tinker Air Force Base and inserting in lieu thereof the following:

"Tinker Air Force Base, $53,350,000.".

(2) Section 2302(a) of such Act (104 Stat. 1773) is amended by striking out the item relating to Myrtle Beach Air Force Base, South Carolina.

(3) Section 2304(a) of such Act (104 Stat. 1773) is amended—

(A) by striking out "$1,922,733,000" and inserting in lieu thereof "$1,905,075,000";

(B) in paragraph (1), by striking out "$742,255,000" and inserting in lieu thereof "$724,855,000"; and

(C) in paragraph (7)(A), by striking out "$182,965,000" and inserting in lieu thereof "$182,707,000".

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2402(a)(1) and, in the case of the projects described in paragraphs (2), (3), and (4) of section 2402(c), other amounts appropriated pursuant to authorizations enacted after this Act for such projects, the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Defense Logistics Agency.	Defense Reutilization and Marketing Office, March Air Force Base, California.	$630,000
	Defense Reutilization and Marketing Office, Hill Air Force Base, Utah.	$1,700,000
	Defense General Supply Center, Richmond, Virginia.	$12,400,000
Defense Medical Facility Office.	Elmendorf Air Force Base, Alaska	$160,000,000
	March Air Force Base, California	$18,000,000
	Fort Leonard Wood, Missouri	$3,000,000
	Fort Bragg, North Carolina	$250,000,000
	Millington Naval Air Station, Tennessee.	$15,000,000
Defense Nuclear Agency	Eglin Air Force Base, Florida	$64,000,000
National Security Agency.	Fort Meade, Maryland	$6,700,000
Strategic Defense Initiative Organization.	Barking Sands, Hawaii	$2,500,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2402(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or location	Amount
Defense Medical Facilities Office.	Classified Location	$8,000,000
Defense Nuclear Agency	Johnston Island	$1,500,000
National Security Agency	Classified Locations	$9,590,000
Strategic Defense Initiative Organization.	Kwajelein	$22,000,000

SEC. 2402. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $2,496,896,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $112,200,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $41,090,000.

(3) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987 (division B of the National Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 4035)), $27,000,000.

(4) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1640)), $16,000,000.

(5) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $12,508,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(7) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $61,818,000.

(8) For conforming storage facilities constructed under the authority of section 2404(a) of the Military Construction Authorization Act, 1987 (100 Stat. 4037), $3,580,000.

(9) For base closure and realignment activities as authorized by the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note), $440,700,000.

(10) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2687 note)), $1,743,600,000.

(11) For military family housing functions (including functions described in section 2833 of title 10, United States Code), $28,400,000, of which not more than $23,559,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) AUTHORIZATION OF UNOBLIGATED FUNDS.—Funds appropriated to the Department of Defense for fiscal years before fiscal year 1993 for military construction functions of the Defense Agencies that remain available for obligation on the date of enactment of this Act are hereby authorized to be made available, to the extent provided in appropriation Acts, for military construction projects authorized in section 2401(a) for the Defense Logistics Agency.

(c) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and subsection (b);

(2) $32,000,000 (the balance of the amount authorized for the construction of the Climatic Test Chamber at Eglin Air Force Base, Florida);

(3) $240,000,000 (the balance of the amount authorized for construction of the Army Medical Center at Fort Bragg, North Carolina); and

(4) $135,000,000 (the balance of the amount authorized for construction of the hospital at Elmendorf Air Force Base, Alaska).

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501, in the amount of $221,200,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1992, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $142,627,000; and

(B) for the Army Reserve, $36,505,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $15,715,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $229,679,000; and

(B) for the Air Force Reserve, $34,353,000.

SEC. 2602. REDUCTIONS IN CERTAIN PRIOR YEAR AUTHORIZATIONS OF APPROPRIATIONS FOR AIR FORCE RESERVE MILITARY CONSTRUCTION PROJECTS.

(a) FISCAL YEAR 1989.—Section 2601(3)(B) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2114) is amended by striking out "$63,600,000" and inserting in lieu thereof "$62,440,000".

(b) FISCAL YEAR 1990.—Section 2601(3)(B) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1645) is amended by striking out "$35,600,000" and inserting in lieu thereof "$29,050,000".

(c) FISCAL YEAR 1991.—Section 2601(3)(B) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1781) is amended by striking out "$37,700,000" and inserting in lieu thereof "$33,930,000".

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER 3 YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 1995; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 1996.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before the later of—

(1) October 1, 1995; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 1996 for military construction contracts, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Infrastructure program.

SEC. 2702. EFFECTIVE DATES.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall be in effect as of October 1, 1992, or the date of enactment of a Military Construction Authorization Act for Fiscal Year 1993, whichever is later.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. AUTHORITY TO CARRY OUT ENERGY CONSERVATION CONSTRUCTION PROJECTS.

(a) Authority.—Section 2865 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) The Secretary of Defense may carry out a military construction project for energy conservation not previously specifically authorized by law if funds previously authorized to be appropriated for military construction were authorized to be made available for such project. Such project shall be carried out using funds appropriated or otherwise made available for military construction projects.".

(b) Technical Amendment.—Subsection (e) of such section, as so redesignated, is amended by striking out "Beginning with fiscal year 1991 and by no later than December 31, 1991, and of each year thereafter," and inserting in lieu thereof "Not later than December 31 of each year,".

SEC. 2802. CLARIFICATION OF AUTHORITY TO LEASE NON-EXCESS PROPERTY.

(a) Clarification.—Subsection (b)(4) of section 2667 of title 10, United States Code, is amended by inserting ", in the case of the lease of real property," after "shall provide".

(b) Requirements Relating To Lease of Certain Equipment.—Such section is further amended by adding at the end the following new subsection:

"(g)(1) A weapons system or other equipment of the armed forces may not be exhibited at an international trade show or similar exhibition, and may not be transported to such show or exhibition for that purpose, unless the system or equipment is leased to the manufacturer of that system or equipment for that purpose. Each such lease shall provide for the payment by the lessee of consideration in an amount that is not less than the fair market value of the lease interest (including the costs incurred by the United States for transportation), as determined by the Secretary of the military department concerned.

"(2) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may waive the application of paragraph (1) to the exhibition of a weapon system or other equipment at an international trade show or similar exhibition if the Secretary of that military department determines that the exhibition of that system or equipment at that trade show or other exhibition is in the national security interests of the United States.".

SEC. 2803. INCREASED THRESHOLD FOR MINOR CONSTRUCTION CARRIED OUT WITH OPERATION AND MAINTENANCE FUNDS.

(a) Increased Threshold.—Subsection (c) of section 2805 of title 10, United States Code, is amended in paragraph (1) by inserting "or for any unspecified military construction project commenced in fiscal year 1993, 1994, or 1995, not more than $1,000,000" before the period at the end.

(b) Report Relating to Construction.—Such subsection is amended by adding at the end the following new paragraph:

"(3) Not later than January 15 of the year following each of fiscal years 1993, 1994, and 1995, the Secretary of Defense shall submit to the Congress a report on any military construction projects carried out under this subsection during the preceding fiscal year whose cost exceeded $300,000.".

SEC. 2804. MORATORIUM ON OBLIGATION OF FUNDS FOR CONSTRUCTION OR ACQUISITION OF MILITARY FAMILY HOUSING.

(a) Restriction.—None of the funds appropriated or otherwise made available to a military department in fiscal year 1993 may be expended for contracts referred to in subsection (b) until the Secretary of that military department has solicited bids for the following:

(1) Contracts for the lease of military family housing units under section 2835 of title 10, United States Code, for—

(A) projects authorized under section 2207 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1519); and

(B) projects authorized under section 2307 of such Act (105 Stat. 1526).

(2) Military housing rental guarantee agreements under section 2836 of such title, for—

(A) projects authorized under section 2107 of such Act (105 Stat. 1512);

(B) projects authorized under section 2208 of such Act (105 Stat. 1520); and

(C) projects authorized under section 2308 of such Act (105 Stat. 1527).

(b) Applicability.—The limitation in subsection (a) applies to contracts for the construction, acquisition, or lease of military family housing (other than contracts for the replacement of existing Government-owned housing or the renewal of an expiring lease) that are entered into on or after October 1, 1992.

SEC. 2805. AUTHORITY TO CONSTRUCT REPLACEMENT FAMILY HOUSING UNITS.

(a) Authority to Construct Replacement Units.—Section 2825 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new subsection (c):

"(c)(1) The Secretary concerned may construct a replacement for a single family housing unit if—

"(A) the improvement of that housing unit has been authorized by law;

"(B) the Secretary determines that the improvement is no longer cost-effective by reason of a change in circumstances or in requirements relating to the unit; and

"(C) a period of 21 days elapses after the date on which the Secretary submits to the committees referred to in subsection (b)(1) a notice of the determination of the Secretary under subparagraph (B) and an economic analysis demonstrating that the construction under this subsection will be cost effective.

"(2) The amount that may be expended to construct a replacement unit under this subsection may not exceed the amount that is otherwise available to carry out the previously authorized improvement of the unit.".

(b) Conforming Amendment.—Section 2822(b) of such title is amended by adding at the end the following new paragraph:

"(5) Housing units constructed under section 2825(c) of this title.".

Subtitle B—Defense Base Closure and Realignment

SEC. 2821. BASE CLOSURE ACCOUNT MANAGEMENT FLEXIBILITY.

(a) Management Flexibility Under 1988 Act.—(1) Section 207(a)(2) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note) is amended—

(A) by inserting "(A)" after "(2)";

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(C) by amending clause (ii), as so redesignated, to read as follows:

"(ii) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose or funds contained in the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); and"; and

(D) by adding at the end the following new subparagraph:

"(B) The Secretary shall transmit written notice of, and justification for, each transfer under subparagraph (A)(ii) to the appropriate committees of Congress.".

(2) Section 207(a)(3)(A) of such Act is amended by striking out "204(a)" and inserting in lieu thereof "204".

(3)(A) Section 207(a)(5) of such Act is amended by striking "the authority of the Secretary to carry out a closure or realignment under this title" and inserting in lieu thereof "environmental restoration, community economic adjustment assistance, and disposal of property at bases selected for closure under this title".

(B) Section 207(a)(6) of such Act is amended by striking out "the authority of the Secretary to carry out a closure or realignment under this title," and inserting in lieu thereof "the activities referred to in paragraph (5),".

(b) Management Flexibility Under 1990 Act.—(1) Section 2906(a)(2) of the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(A) by inserting "(A)" after "(2)";

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(C) by amending clause (ii), as so redesignated, to read as follows:

"(ii) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose or funds contained in the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note); and"; and

(D) by adding at the end the following new subparagraph:

"(B) The Secretary shall transmit written notice of, and justification for, each transfer under subparagraph (A)(ii) to the congressional defense committees.".

(2) Section 2906(b)(1) of such Act is amended by striking out "2905(a)" and inserting in lieu thereof "2905".

(3)(A) Section 2906(c)(2) of such Act is amended by striking out "after the termination of the Commission" and inserting in lieu thereof "after the termination of environmental restoration, community economic adjustment assistance, and disposal of property at bases selected for closure under this part".

(B) Section 2906(c)(3) of such Act is amended by striking out "after the termination of the Commission" and inserting in lieu thereof "after the termination of the activities referred to in paragraph (2)".

SEC. 2822. USE OF PROCEEDS OF THE TRANSFER OR DISPOSAL OF COMMISSARY STORE AND OTHER FACILITIES AND PROPERTY.

(a) BASE CLOSURES UNDER 1988 ACT.—Section 204(b)(4)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note) is amended to read as follows:

"(C)(i) If any real property or facility acquired, constructed, or improved (in whole or in part) with commissary store funds or nonappropriated funds is transferred or disposed of in connection with the closure or realignment of a military installation under this title, a portion of the proceeds of the transfer or other disposal of property on that installation shall be deposited in a reserve account established in the Treasury to be administered and used by the Secretary for the purpose of acquiring, constructing, and improving—

"(I) commissary stores; and

"(II) real property and facilities for nonappropriated fund instrumentalities.

"(ii) The amount deposited under clause (i) shall be equal to the depreciated value of the investment made with such funds in the acquisition, construction, or improvement of that particular real property or facility. The depreciated value of the investment shall be computed in accordance with regulations prescribed by the Secretary of Defense.

"(iii) As used in this subparagraph:

"(I) The term 'commissary store funds' means funds received from the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of title 10, United States Code.

"(II) The term 'nonappropriated funds' means funds received from a nonappropriated fund instrumentality.

"(III) The term 'nonappropriated fund instrumentality' means an instrumentality of the United States under the jurisdiction of the Armed Forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.".

(b) BASE CLOSURES UNDER 1990 ACT.—Section 2906(d) of the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510; 10 U.S.C. 2687 note) is amended to read as follows:

"(d) DISPOSAL OR TRANSFER OF COMMISSARY STORES AND PROPERTY PURCHASED WITH NONAPPROPRIATED FUNDS.—(1) If any real property or facility acquired, constructed, or improved (in whole or in part) with commissary store funds or nonappropriated funds is transferred or disposed of in connection with the closure or realignment of a military installation under this part, a portion of the proceeds of the transfer or other disposal of property on that installation shall be deposited in the reserve account established under section 204(b)(4)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note).

"(2) The amount so deposited shall be equal to the depreciated value of the investment made with such funds in the acquisition, construction, or improvement of that particular real property or facility. The depreciated value of the investment shall be computed in accordance with regulations prescribed by the Secretary of Defense.

"(3) The Secretary may use amounts in the account (in such an aggregate amount as is provided in advance in appropriation Acts) for the purpose of acquiring, constructing, and improving—

"(A) commissary stores; and

"(B) real property and facilities for nonappropriated fund instrumentalities.

"(4) As used in this subsection:

"(A) The term 'commissary store funds' means funds received from the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of title 10, United States Code.

"(B) The term 'nonappropriated funds' means funds received from a nonappropriated fund instrumentality.

"(C) The term 'nonappropriated fund instrumentality' means an instrumentality of the United States under the jurisdiction of the Armed Forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.".

SEC. 2823. AUTHORITY TO TRANSFER FUNDS TO HOMEOWNERS ASSISTANCE PROGRAM.

Section 2832(b) of title 10, United States Code, is amended to read as follows:

"(b)(1) Subject to paragraphs (2) and (3), and notwithstanding subsection (i) of section 1013 of the Act referred to in subsection (a), the Secretary of Defense may transfer to the fund established pursuant to subsection (d) of such section 1013 any funds available for obligation from—

"(A) the Department of Defense Base Closure Account established by section 207 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note); and

"(B) the Department of Defense Base Closure Account 1990 established by section 2906 of the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510; 10 U.S.C. 2687 note).

"(2) Any funds transferred under this subsection shall be available for obligation and expenditure for the same purposes that funds appropriated to the fund established under subsection (d) of such section 1013 are available.

"(3) Amounts may be transferred under paragraph (1) only after the date on which the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives receive from the Secretary written notice of, and justification for, the transfer.".

SEC. 2824. DEMONSTRATION PROJECT FOR THE USE OF A NATIONAL RELOCATION CONTRACTOR TO ASSIST THE DEPARTMENT OF DEFENSE.

(a) USE OF NATIONAL RELOCATION CONTRACTOR.—Subject to the availability of appropriations therefor, the Secretary of Defense shall enter into a 1-year contract with a private relocation contractor operating on a nationwide basis in order to test the cost-effectiveness of using national relocation contractors to administer the Homeowners Assistance Program.

(b) REPORT ON CONTRACT.—Not later than 1 year after the date on which the Secretary of Defense enters into a contract under subsection (a), the Comptroller General shall submit to Congress a report containing the Comptroller General's evaluation of the effectiveness of using the national contractor for administering the program referred to in subsection (a). The report shall compare the cost and efficiency of such administration with the cost and efficiency of (1) the program carried out by the Corps of Engineers using its own employees, and (2) the use of contracts with local relocation companies at military installations being closed or realigned.

SEC. 2825. REVISION OF REQUIREMENTS RELATING TO BUDGET DATA ON BASE CLOSURES.

(a) COVERED FUNDING REQUESTS.—(1) Subsection (a) of section 2822 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1546; 10 U.S.C. 2687 note) is amended—

(A) by striking out "each military construction project" and inserting in lieu thereof "military construction relating to the closure or realignment of the installation"; and

(B) by striking out "the cost of such project" and inserting in lieu thereof "the cost of such construction".

(2) Subsection (b) of such section is amended—

(A) by striking out "of a military construction project" and inserting in lieu thereof "of military construction relating to the closure or realignment of an installation"; and

(B) by striking out "the project" and inserting in lieu thereof "the construction".

(b) INVESTIGATION BY INSPECTOR GENERAL.—Subsection (c) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "each military construction project" and inserting in lieu thereof "the military construction"; and

(B) by striking out "the project" and inserting in lieu thereof "such construction"; and

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph (2):

"(2) The Inspector General shall submit to the congressional defense committees a report describing the results of each investigation conducted under paragraph (1).".

SEC. 2826. CHANGE IN DATE OF REPORT OF COMPTROLLER GENERAL TO CONGRESS AND DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

Section 2903(d)(5)(B) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by striking out "May 15 of each year" and inserting in lieu thereof "April 15 of each year".

SEC. 2827. ANNUAL REPORT RELATING TO OVERSEAS MILITARY FACILITY INVESTMENT RECOVERY ACCOUNT.

Section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(e) REPORT ON SPECIAL ACCOUNT.—(1) Not later than January 15 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the operations of the Department of Defense Overseas Military Facility Investment Recovery Account during the preceding fiscal year. The report shall include the following:

"(A) The amount of each deposit in the Account during that fiscal year, and the source of the amount.

"(B) The balance in the Account at the end of that fiscal year.

"(C) The amounts expended from the Account by each military department during that fiscal year.

"(D) With respect to each military installation for which money was deposited in the Account as a result of the release of real property or improvements of the installation to a host country during that fiscal year—

"(i) the total amount of the investment of the United States in the installation, expressed in terms of constant dollars of that fiscal year;

"(ii) the depreciated value (as determined by the Secretary of a military department under regulations prescribed by the Secretary of Defense) of the real property and improvements that were released; and

"(iii) the explanation of the Secretary for any difference between the amount paid to the United States for the real property and improvements and the depreciated value (as so determined) of that real property and improvements.

"(2) The Secretary of Defense shall prescribe regulations to carry out this subsection.".

Subtitle C—Land Transactions

SEC. 2831. MODIFICATION OF LAND EXCHANGE, SAN DIEGO, CALIFORNIA.

Section 837 of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1529) is amended—

(1) in subsection (a) by striking out "or the San Diego Energy Recovery Project, a joint powers agency of the city and county of San Diego (hereinafter in this section referred to as 'SANDER'),";

(2) by striking out subsection (c);

(3) by redesignating subsections (d) and (e) as subsections (f) and (g), respectively;

(4) by inserting after subsection (b) the following new subsections:

"(c)(1) In lieu of the conveyance of the 120 acres of land referred to in subsection (b) as consideration for the conveyance under subsection (a), the Secretary of the Navy may permit the City—

"(A) to convey to the Secretary other real property suitable for use, as determined by the Secretary, for military family housing;

"(B) to pay the Secretary an amount sufficient to satisfy the requirement referred to in the first sentence of subsection (d); or

"(C) to make both the conveyance described in subparagraph (A) and a payment described in subparagraph (B).

"(2) The Secretary may permit the alternative conveyance under paragraph (1) only if the Secretary determines that the City will use the 120 acres of land for purposes associated with the clean water program of the City that are compatible with the mission and operations of the adjacent Naval Air Station, Miramar.

"(d) The total value of the consideration provided to the United States under subsections (b) and (c) shall be at least equal to the fair market value of the lands conveyed under subsection (a), as determined by the Secretary. The City shall pay any difference to the United States.

"(e)(1) The Secretary may use any amounts received under this section solely for the purpose of acquiring in the area of San Diego, California, a suitable site for military family housing or for the purpose of constructing or acquiring by direct purchase not more than 200 units of military family housing in that area.

"(2) Any funds received by the Secretary under this section and not so used within 30 months after receipt shall be deposited into the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)),"; and

(5) in subsection (e), as redesignated by paragraph (3), by striking out "or SANDER or by the City and SANDER".

SEC. 2832. LAND ACQUISITION AND EXCHANGE, MYRTLE BEACH AIR FORCE BASE AND POINSETT WEAPONS RANGE, SOUTH CAROLINA.

(a) LAND CONVEYANCE.—The Secretary of the Air Force may convey to the State of South Carolina all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 3,744 acres and comprising the Myrtle Beach Air Force Base, South Carolina, or any portion of that parcel, together with any improvements thereon.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the State of South Carolina shall—

(A) convey to the United States all right, title, and interest of the State of South Carolina in and to the parcels of land (together with any improvements thereon) described to in paragraph (2); and

(B) pay to the United States an amount equal to the amount, if any, by which the fair market value of the land conveyed under subsection (a) exceeds the fair market value of the land conveyed under subparagraph (A).

(2) The parcels of land referred to in paragraph (1) are the following:

(A) The Poinsett Weapons Range, a parcel consisting of approximately 8,358 acres that is located in Sumter County, South Carolina, and is currently leased by the Air Force from the State of South Carolina.

(B) Other parcels contiguous to the Poinsett Weapons Range that—

(i) are owned by the State of South Carolina, including parcels acquired by the State of South Carolina for the purposes of satisfying the requirements of this subsection; and

(ii) the Secretary determines are necessary for the Air Force to improve or enlarge the configuration of the Poinsett Weapons Range to suit the needs of the Air Force as a bombing range.

(c) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the parcels of real property to be conveyed pursuant to subsections (a) and (b)(1)(A). Such determinations shall be final.

(d) USE OF FUNDS.—Any funds paid to the Secretary under subsection (b)(1)(B) shall be deposited in the Department of Defense Base Closure Account 1990 established under section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2687 note)) and shall be available for use in accordance with subsection (b) of such section 2906.

(e) RESERVATION FOR HARVESTING FOREST PRODUCTS.—The Secretary may accept the conveyance of the parcel of real property referred to in subsection (b)(1)(A) subject to a reservation permitting the harvesting of forest products on the parcel by the South Carolina State Forestry Commission. A reservation granted under this subsection shall be subject to such conditions as the Secretary may prescribe.

(f) DESCRIPTIONS OF PROPERTY.—The exact acreages and legal descriptions of the parcels of real property to be conveyed pursuant to subsections (a) and (b)(1)(A) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the State of South Carolina.

(g) REVERSIONARY INTEREST.—The major portion of the land to be conveyed by the State of South Carolina under subsection (b)(2) was originally conveyed to the South Carolina State Forestry Commission by the United States under the Bankhead-Jones Farm Tenant Act (50 Stat. 522; 7 U.S.C. 1000 et seq.), subject to reservation of mineral rights and subject also to a reversion of title if the State ceased to use such properties for public purposes. The conveyance of such land to the United States under subsection (b)(2) shall be deemed to be in compliance with the public purpose covenants imposed upon conveyance to the South Carolina State Forestry Commission.

(h) AUTHORITY TO ACQUIRE ADDITIONAL LAND.—Subject to section 2662(a) of title 10, United States Code, and to the extent provided in appropriations Acts, the Secretary may acquire such additional parcels of land in the vicinity of Poinsett Weapons Range, South Carolina, as the Secretary determines are necessary to enhance the usefulness of the Poinsett Weapons Range as a bombing range.

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the conveyances under this section that the Secretary determines appropriate to protect the interests of the United States.

SEC. 2833. MODIFICATION OF LAND EXCHANGE, BURLINGTON, VERMONT.

Section 2387 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1800) is amended—

(1) in subsection (b), by striking out "the Burlington, Vermont, area" and inserting in lieu thereof "the State of Vermont";

(2) in subsection (c)(1)(A), by striking out "$800,000" and inserting in lieu thereof "$600,000, with such payment to be made (before the date of the conveyance authorized by subsection (a)) in a lump sum, in yearly installments, or under such other terms and conditions as the Secretary determines to be in the interest of the United States";

(3) in subsection (c)(2), by striking out "January 1, 1993," and inserting in lieu thereof "June 1, 1995,"; and

(4) by adding at the end of subsection (c) the following new paragraph:

"(3) The Secretary may permit the City of Burlington, Vermont, to make alterations or improvements to the property referred to in subsection (a) before the Secretary conveys the property to the City. The making of such alterations and improvements pursuant to this paragraph shall be subject to terms and conditions that the Secretary determines to be appropriate and shall be subject to the prior approval of the Secretary.".

SEC. 2834. LEASE OF PROPERTY, NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease to the Union Pacific Railroad Company (in this section referred to as the "Company") not more than 15 acres of real property, together with improvements thereon, located at the Naval Supply Center, Oakland, California.

(b) TERM OF LEASE; RESTRICTIONS ON USE.—The lease (1) shall be for an initial period of not more than 25 years, (2) shall contain an option for the Company to extend the lease for an additional period of not more than 25 years, and (3) shall contain the restriction that the Company use the leased property only for freight transportation purposes.

(c) CONSIDERATION.—(1) As consideration for the lease of the real property under subsection (a), the Company—

(A) shall pay to the Navy the long-term fair market rental value of the leased property; and

(B) may be required to furnish additional consideration as provided in paragraph (2).

(2) The Secretary may require that the lease include a provision for the Company—

(A) to pay the Navy an amount (as determined by the Secretary) for the costs of replacing at the Naval Supply Center, Oakland, California, the facilities vacated by the Navy on the leased property or to construct the replacement facilities for the Navy; and

(B) to pay the Navy an amount (as so determined) for the costs of relocating Navy operations from the vacated facilities to the replacement facilities.

(d) USE OF FUNDS.—(1) Section 2667(d) of title 10, United States Code, shall apply to amounts paid under subsection (c)(1)(A) of this section.

(2) The Secretary may use amounts received under subsection (c)(2) to pay for constructing new facilities, or making modifications to existing facilities, that are necessary to replace facilities vacated by the Navy on the leased property and for relocating operations of the Navy from the vacated facilities to the replacement facilities.

(e) AUTHORITY TO DEMOLISH.—The Secretary may authorize the Company to demolish existing facilities on the leased property and, consistent with the restriction required by subsection (b)(3), construct new facilities on the property for the use of the Company.

(f) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the lease authorized under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2835. AUTHORITY TO LEASE PROPERTY AT NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease to the City of Oakland, California, or the Port of Oakland, California (in this section referred to as the "City" and the "Port", respectively), not more than 195 acres of real property, together with improvements thereon, located at the Naval Supply Center, Oakland, California.

(b) TERMS OF LEASE; RESTRICTION ON USE.—The lease (1) shall be for an initial period of not more than 25 years, (2) shall contain an option to extend the lease for an additional period of not more than 25 years, and (3) shall contain the restriction that the City or the Port (as the case may be) use the leased property in a manner consistent with Navy operations conducted at the Naval Supply Center.

(c) CONSIDERATION.—(1) As consideration for the lease of the real property under subsection (a), the City or the Port (as the case may be)—

(A) shall pay to the Navy the long-term fair market rental value of the leased property; and

(B) may be required to furnish additional consideration as provided in paragraph (2).

(2) The Secretary may require that the lease include a provision for the City or the Port (as the case may be)—

(A) to pay the Navy an amount (as determined by the Secretary) for the costs of replacing at the Naval Supply Center, Oakland, California, the facilities vacated by the Navy on the leased property or to construct the replacement facilities for the Navy; and

(B) to pay the Navy an amount (as so determined) for the costs of relocating Navy operations from the vacated facilities to the replacement facilities.

(d) LIMITATION ON ENTRY INTO LEASE.—The Secretary may not enter into the lease authorized by subsection (a) until 21 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of the terms of the proposed lease and a description of the consideration that the Secretary expects to receive under the lease.

(e) USE OF FUNDS.—(1) Section 2667(d) of title 10, United States Code, shall apply to amounts paid under subsection (c)(1)(A) of this section.

(2) The Secretary may use amounts received under subsection (c)(2) to pay for constructing new facilities, or making modifications to existing facilities, that are necessary to replace facilities vacated by the Navy on the leased property and for relocating operations of the Navy from the vacated facilities to the replacement facilities.

(f) AUTHORITY TO DEMOLISH.—The Secretary may authorize the City or the Port (as the case may be) to demolish existing facilities on the leased property and, consistent with the restriction required by subsection (b)(3), construct new facilities on the property for the use of the City or the Port.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with lease authorized by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(h) REPEAL OF SUPERSEDED AUTHORITY.—Section 2338 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1225) is repealed.

SEC. 2836. GRANT OF EASEMENT AT NAVAL AIR STATION MIRAMAR, SAN DIEGO, CALIFORNIA.

(a) AUTHORITY TO GRANT EASEMENT.—Subject to subsection (b), the Secretary of the Navy may grant to San Diego Gas and Electric Company (in this section referred to as "SDG&E") an easement on a parcel of real property consisting of approximately 120 acres that is located in the northeast portion of Naval Air Station Miramar, California (in this section referred to as the "Air Station"). The purpose of the easement is to enable SDG&E to construct, operate, and maintain an electric transmission substation and associated electric transmission lines.

(b) CONSIDERATION.—(1) In consideration for the grant of an easement to SDG&E under subsection (a), SDG&E shall pay to the United States an amount that is not less than the fair market value of that easement, as determined by the Secretary.

(2) The Secretary may accept from SDG&E, in lieu of payment of up to 50 percent of the agreed consideration, the following:

(A) The establishment of an alternative source of 12 kilovolts of electric power for the Air Station.

(B) Such improvements to the electrical distribution system of the Air Station as the Secretary designates for the purposes of this paragraph.

(c) USE OF PROCEEDS.—(1) The amounts of consideration paid under subsection (b) shall be deposited in the special account established for the Department of the Navy under section 2667(d)(1)(A) of title 10, United States Code.

(2) To the extent provided in appropriations Acts, of the sums in such account—

(A) there shall be available for facility maintenance and repair and for environmental restoration by the Department of the Navy the amount equal to 50 percent of the total agreed consideration for the grant of the easement under subsection (a); and

(B) there shall be available for facility maintenance and repair or environmental restoration of the Air Station, the amount equal to the excess (if any) of 50 percent of such total consideration over the amount equal to the sum of—

(i) the total cost incurred by SDG&E for the establishment of the alternative power source pursuant to subsection (b)(2)(A); and

(ii) the total cost of the improvements made by SDG&E pursuant to subsection (b)(2)(B).

(d) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property subject to the easement granted under this section shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by SDG&E.

(e) ADDITIONAL TERMS.—The Secretary may require any additional terms and conditions in connection with the grant of an easement under this section that the Secretary considers appropriate to protect the interests of the United States.

SEC. 2837. LAND CONVEYANCE, NAVAL RESERVE CENTER, SANTA BARBARA, CALIFORNIA.

(a) CONVEYANCE.—The Secretary of the Navy may convey to the City of Santa Barbara, California (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property consisting of approximately one acre, including improvements thereon, the location of the Santa Barbara Naval Reserve Center.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to the lesser of—

(1) $2,400,000; or

(2) the cost incurred by the Secretary in constructing a naval reserve center to replace the naval reserve center conveyed under subsection (a).

(c) CONDITIONS OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the following conditions:

(1) That the City enter into an agreement with the Secretary of Transportation for the City—

(A) to permit, at no cost to the Federal Government, the Coast Guard to remain in the space currently occupied by the Coast Guard in the facility referred to in subsection (a); or

(B) to provide the Coast Guard, at no cost to the Federal Government, with space in a facility acceptable to the Secretary of Transportation that is sufficient to replace the space referred to in subparagraph (A) from which the Coast Guard is displaced by the City.

(2) That the City enter into an agreement with the Administrator of the National Oceanic and Atmospheric Administration for the City—

(A) to permit, at no cost to the Federal Government, the National Oceanic and Atmospheric Administration (in this section referred to as "NOAA") to remain until May 1, 1993 (or a later date agreed to by the City and the Administrator of the National Oceanic and Atmospheric Administration), in the space currently occupied by NOAA in the facility referred to in subsection (a); or

(B) to provide NOAA until such date, at no cost to the Federal Government, with space in a facility acceptable to the Administrator of the National Oceanic and Atmospheric Administration that is sufficient to replace the space referred to in subparagraph (A) from which NOAA is displaced by the City.

(3) That the City enter into an agreement with the Secretary of the Navy for the City to permit the Navy to use, at no cost to the Federal Government, the naval reserve center referred to in subsection (a) until the replacement facility to be constructed in accordance with subsection (d) is suitable for occupancy by the Navy, as determined by the Secretary.

(d) REPLACEMENT CENTER.—The Secretary of the Navy shall use the amount paid by the City under subsection (b) to construct a naval reserve center to replace the naval reserve center conveyed pursuant to subsection (a). Such replacement center shall be constructed at the Naval Construction Battalion Center, Port Hueneme, California, or at another location determined by the Secretary to be suitable for such a center.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary of the Navy. The cost of such survey shall be borne by the City.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with the conveyance and agreements under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2838. CONVEYANCE OF WASTE WATER TREATMENT PLANT, FORT RITCHIE, MARYLAND.

(a) IN GENERAL.—The Secretary of the Army may convey to the Washington County, Maryland, Sanitary District (in this section referred to as the "Sanitary District") all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 4.5 acres, including a waste water treatment facility and other improvements located thereon, located at Fort Ritchie, Maryland.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a) the Sanitary District shall provide the Army with disposal services, waste water treatment services, and other related services at the facility. The value of the services provided the Army shall be equal to the fair market value of the property conveyed pursuant to subsection (a), as determined jointly by the Secretary and the Sanitary District.

(c) CONDITIONS.—The conveyance authorized under subsection (a) shall be subject to the following conditions:

(1) That the Sanitary District reserve 70 percent of the operating capacity of the waste water treatment facility referred to in subsection (a) for use by the Army in the event that such use is necessitated by a realignment of, or change in the operations of, the Army at Fort Ritchie, Maryland.

(2) That the Sanitary District ensure the compliance of the waste water treatment facility with applicable environmental laws, including the construction of any improvement and the satisfaction or any permit or license requirements that may be necessary to ensure such compliance.

(3) That the cost of the construction of the improvements referred to in paragraph (2) be borne by the Sanitary District and the Army according to the pro rata share of the operating capacity of the waste water treatment facility reserved to the Army and the Sanitary District, respectively.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the Sanitary District.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2839. ACQUISITION OF INTERESTS IN LAND, NAVAL RADIO STATION, JIM CREEK, WASHINGTON.

(a) AUTHORITY TO ACQUIRE.—The Secretary of the Navy may acquire all right, title, and interest (including timber rights) of any party in and to a parcel of land consisting of approximately 225 acres, or any portion of the parcel, located in Snohomish County, Washington, and comprising a portion of Naval Radio Station, Jim Creek, Washington.

(b) CONSIDERATION.—(1) As consideration for an interest acquired by the Secretary pursuant to the authority in subsection (a), the Secretary—

(A) shall pay the person conveying that interest, out of funds available to the Secretary for the acquisition of interests in real property (including funds available for the Legacy Resource Management Program), the amount determined under paragraph (2);

(B) shall, with the consent of that person, convey to such person all right, title, and interest of the United States in and to a quantity of merchantable timber at the Naval Radio Station, Jim Creek, determined under paragraph (2); or

(C) shall, with the consent of such person, make such a payment and such a conveyance to that person.

(2) The total of the amount paid a person pursuant to paragraph (1)(A), if any, and the fair market value of the quantity (to the extent of the interest) of merchantable timber conveyed to that person pursuant to paragraph (1)(B), if any, shall be equal to the fair market value of the property interest acquired from that person under subsection (a).

(c) OPTION TO PURCHASE.—The Secretary may purchase an option to purchase a property interest authorized to be acquired under subsection (a). The Secretary may use funds referred to in subsection (b)(1)(A) for the purchase of such an option.

(d) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the property interests acquired under subsection (a) and the merchantable timber, if any, conveyed under subsection (b). Such determinations shall be final.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of each parcel of real property an interest in which is acquired under subsection (a) or conveyed under subsection (b) shall be determined by a survey that is satisfactory to the Secretary and is conducted at no cost to the United States (except that the Secretary shall bear such cost in the case of a gift to the United States).

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the acquisitions authorized under subsection (a) and the conveyances, if any, authorized under subsection (b) that the Secretary determines necessary to protect the interests of the United States.

SEC. 2840. LAND CONVEYANCE, WILLIAMS AIR FORCE BASE, ARIZONA.

(a) IN GENERAL.—(1) The United States may acquire by condemnation or otherwise—

(A) all right, title, and interest of the State of Arizona (including any mineral rights) in and to the trust lands of the State of Arizona described in paragraph (2); and

(B) any trust mineral estate of the State of Arizona located beneath the surface estates of the United States in the lands described in paragraph (3).

(2) The trust lands referred to in paragraph (1)(A) are as follows:

(A) A parcel or parcels consisting of approximately 81,121 acres located in the Goldwater Aerial Gunnery Range, Yuma County and Maricopa County, Arizona, and used by the Air Force for activities relating to aerial gunnery and bombing practice.

(B) A parcel or parcels consisting of approximately 7,563 acres located in the Yuma Test Station, Yuma County, Arizona, and used by the Army for activities relating to field artillery testing.

(C) A parcel or parcels consisting of approximately 1,537 acres located in the Fort Huachuca East Range, Cochise County, Arizona, and used by the Army for activities relating to field training exercises.

(D) A parcel or parcels consisting of approximately 133 acres located in Davis-Monthan Air Force Base, Tucson, Arizona.

(E) A parcel consisting of approximately five acres located in section 14, T4N, R3E of the State of Arizona, Phoenix, Arizona, and used as part of the Arizona National Memorial Cemetery.

(3) The lands referred to in paragraph (1)(B) are as follows:

(A) A parcel or parcels consisting of approximately 50,355 acres located in the Goldwater Aerial Gunnery Range, Arizona.

(B) A parcel or parcels consisting of approximately 12,781 acres located in the Yuma Test Station, Arizona.

(C) A parcel or parcels consisting of approximately 12,943 acres located in the Fort Huachuca East Range, Arizona.

(b) CONSIDERATION.—As consideration for the acquisition by the United States of Arizona trust lands under paragraph (1)(A) of subsection (a) and any mineral rights under paragraph (1)(B) of that subsection, the Secretary of the Air Force shall convey to the State of Arizona all right, title, and interest of the United States in and to a parcel of real property located at Williams Air Force Base, Arizona, together with any improvements thereon, that is approximately equal in fair market value to the fair market value of the property and mineral rights acquired under that subsection.

(c) CONDITIONS.—The Secretary of the Air Force may make the conveyance described in subsection (b) only if—

(1) the fair market value of the real property and mineral rights acquired by the United States under subsection (a) is at least equal to the fair market value of the property conveyed by the Secretary of the Air Force under subsection (b);

(2) the conveyance of the Secretary of the Air Force to the State of Arizona under subsection (b) is accepted as full consideration for the conveyance of property and mineral rights to the United States under subsection (a) and terminates all right, title, and interest of all parties other than the United States in and to the property and mineral rights conveyed to the United States under subsection (a); and

(3) the Secretary of the Air Force has complied with all environmental protection, remediation, and restoration laws that are applicable to the disposal of the real property at Williams Air Force Base, Arizona, that is conveyed to the State of Arizona under subsection (b).

(d) RESTRICTION ON USE OF CERTAIN PROPERTY.—The Secretary of Veterans Affairs shall use as a cemetery any property referred to in paragraph (2)(E) of subsection (a) that is acquired by the United States under that subsection. Such use shall be subject to the provisions of chapter 24 of title 38, United States Code.

(e) LIMITATION ON CONVEYANCE AUTHORITY.—The conveyance of real property described in subsection (b) may not be made until adequate prior opportunity has been provided for the disposition of such property as provided in section 2905(b) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), except the requirement for disposition by public advertising.

(f) Determinations of Fair Market Value.—The Secretary of the Air Force shall determine the fair market value of the parcels of real property to be acquired pursuant to subsection (a)(1)(A), the mineral rights to be acquired pursuant to subsection (a)(1)(B), and the parcel of real property to be conveyed pursuant to subsection (b). Such determinations shall be final.

(g) Descriptions of Property.—The exact acreages and legal descriptions of the parcels of real property to be acquired pursuant to subsection (a)(1)(A), the parcels of real property referred to in subsection (a)(1)(B), and the parcels of real property conveyed pursuant to subsection (b) shall be determined by surveys that are satisfactory to the Secretary of the Air Force and the State of Arizona. The cost of such surveys shall be borne by the State of Arizona.

(h) Additional Terms and Conditions.—The Secretary of the Air Force may require any additional terms and conditions in connection with the conveyance and acquisitions under this section that the Secretary determines appropriate to protect the interests of the United States.

SEC. 2841. REAL PROPERTY CONVEYANCE, NAVAL STATION PUGET SOUND, EVERETT, WASHINGTON.

(a) In General.—(1) The Secretary of the Navy may convey to any person all right, title, and interest of the United States in and to the parcels of land described in paragraph (2).

(2) The parcels of land referred to in paragraph (1) are the following parcels of land located in the State of Washington:

(A) A parcel of land consisting of approximately 68 acres and comprising the naval family housing area at Paine Field, Snohomish County, Washington, together with improvements thereon.

(B) A parcel of land consisting of approximately 11 acres and comprising a portion of the naval family housing area at Pier 91, Seattle, Washington, together with improvements thereon.

(C) A parcel of land consisting of approximately 1 acre and comprising a portion of the naval family housing area at Pier 91, Seattle, Washington, that is not contiguous to the parcel referred to in subparagraph (B), together with improvements thereon.

(b) Consideration.—(1) In consideration for the conveyance of a parcel of land authorized in subsection (a), the person accepting the conveyance shall—

(A) pay the Secretary an amount equal to the fair market value of the parcel and any improvements located thereon; or

(B) convey to the United States of all right, title, and interest of the person in and to a parcel of land, together with any improvements thereon, located in the area of the Naval Station Puget Sound, Everett, Washington, that the Secretary determines to be suitable for family housing for Naval Station Puget Sound and, if the fair market value of the parcel conveyed by the United States exceeds the fair market value of the parcel conveyed to the United States, pay to the Secretary the amount equal to such excess.

(2) The Secretary shall determine the fair market value of the parcels of land conveyed pursuant to subsection (a)(1) and the parcels of land, if any, conveyed pursuant to paragraph (1)(B).

(c) Notice to Committees.—The Secretary may not enter into a conveyance or sale of real property, as the case may be, under this section until the Secretary has notified the congressional defense committees of the details of the proposed conveyance or sale, as the case may be, and a period of 21 days has elapsed following the day on which the committees receive the notification.

(d) Use of Funds.—(1) To the extent provided in appropriations Acts, the Secretary shall use any amounts paid to the Secretary under subsection (b)(1) for the following purposes:

(A) Acquiring in the vicinity of Naval Station Puget Sound land that is suitable (as determined by the Secretary) for family housing for Naval Station Puget Sound.

(B) Acquiring or constructing not more than 350 units of family housing for Naval Station Puget Sound.

(2) If amounts referred to in paragraph (1) remain unexpended after the acquisition or construction of the family housing referred to in that paragraph, the Secretary shall deposit such unexpended amounts in the account established under section 204(h)(2) of the Federal Property and Administrative Services Act (40 U.S.C. 485(h)(2)).

(e) Description of Property.—The exact acreage and legal descriptions of the parcels of land conveyed pursuant to this section shall be determined by surveys satisfactory to the Secretary.

(f) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2842. CONVEYANCE OF HASTINGS RADAR BOMB SCORING SITE, NEBRASKA.

(a) Conveyance.—The Secretary of the Air Force may convey to Central Community College, Hastings Nebraska (in this section referred to as the "College"), all right, title, and interest of the United States in and to three parcels of property located in Hastings, Nebraska, which have served as a support complex for the Hastings Radar Bomb Scoring Site.

(b) Consideration.—In consideration for the conveyance under subsection (a), the College shall pay to the United States an amount equal to the fair market value of the land conveyed under subsection (a), as determined by the Secretary.

(c) Use of Proceeds.—The Secretary shall deposit the proceeds of the sale of property authorized by this section in the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)).

(d) Description of Property.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the College.

(e) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2843. LAND CONVEYANCE, ABBEVILLE, ALABAMA.

(a) In General.—The Secretary of the Army may convey, without consideration, to the City of Abbeville, Alabama, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 4 acres, together with improvements thereon, the site of a proposed Army Reserve Center, Abbeville, Alabama.

(b) Description of Property.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the City of Abbeville, Alabama.

(c) Additional Terms and Conditions.—The Secretary may require any additional terms and conditions in connection with the conveyance under this section that the Secretary determines appropriate to protect the interests of the United States.

SEC. 2844. TERMINATION OF LEASE AND SALE OF FACILITIES, NAVAL RESERVE CENTER, ATLANTA, GEORGIA.

(a) In General.—Notwithstanding any other provision of law, the Secretary of the Navy may—

(1) negotiate the termination of the remaining lease of the Navy of 2.27 acres of land located at the Georgia Institute of Technology, Atlanta, Georgia (in this section referred to as the "Institute"); and

(2) sell to the Institute the Naval Reserve Center facilities located on such land.

(b) Consideration.—As consideration for the termination of the lease interest referred to in subsection (a)(1) and the sale of the facilities referred to in subsection (a)(2), the Institute shall pay the Secretary an amount equal to the aggregate of the fair market value of the remaining lease referred to in such subsection (a)(1) and the facilities referred to in such subsection (a)(2).

(c) Use of Funds.—(1)(A) To the extent provided in appropriations Acts and subject to subparagraph (B), the Secretary shall use the amount paid by the Institute under subsection (b) to expand the Marine Corps Reserve Center to be constructed at Dobbins Air Force Base, Georgia, in a manner which permits the use of a portion of that Center as replacement facilities for the naval reserve facilities referred to in subsection (a)(1).

(B) The expanded portion of the Marine Corps Reserve Center described under subparagraph (A) shall be under the jurisdiction of the Marine Corps Reserve.

(2) If any portion of the amount referred to in paragraph (1) remains unexpended after the construction of the naval reserve facilities referred to in that paragraph, the Secretary shall deposit that portion in the account established under section 204(h) of the Federal Property and Administrative Services Act (40 U.S.C. 485(h)).

(d) Additional Terms and Conditions.—The Secretary may require any additional terms and conditions in connection with the conveyance under this section that the Secretary considers appropriate to protect the interests of the United States.

SEC. 2845. LAND CONVEYANCE, FORT CHAFFEE, ARKANSAS.

(a) Conveyance.—The Secretary of the Army shall convey to the City of Fort Smith, Arkansas (in this section referred to as the "City"), all right, title, and interest (other than any oil, gas, or mineral interest) of the United States in and to a parcel of real property consisting of approximately 400 acres, together with improvements thereon, located at Fort Chaffee, Arkansas.

(b) Consideration.—As consideration for the conveyance under subsection (a), the City—

(1) shall provide the Army with such services at Fort Chaffee as the Secretary and the City shall jointly determine, the fair market value of which services shall be equal to the fair market value of the property conveyed pursuant to subsection (a); or

(2) shall—

(A) provide the Army with such services at Fort Chaffee as the Secretary and the City shall jointly determine; and

(B) in the event that the fair market value of the property conveyed pursuant to subsection (a) exceeds the fair market value of the services provided under subparagraph (A), pay to the Secretary the amount equal to such excess.

(c) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the parcel of real property to be conveyed under subsection (a) and the value of the services, if any, to be provided under paragraph (1) or (2) of subsection (b). Such determinations shall be final.

(d) USE OF PROCEEDS.—The Secretary shall deposit the amount of the consideration, if any, paid under subsection (b)(2)(B) in the account established under section 204(h) of the Federal Property and Administrative Services Act (40 U.S.C. 485(h)).

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcel of land conveyed pursuant to this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the conveyance under subsection (a) that the Secretary considers appropriate to protect the interests of the United States.

Subtitle D—Transfer of Jurisdiction of Rocky Mountain Arsenal

SEC. 2851. DEFINITIONS.

In this subtitle:

(1) The term "Arsenal" means the Rocky Mountain Arsenal in the State of Colorado.

(2) The term "hazardous substance" has the meaning given such term in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)).

(3) The term "refuge" means the Rocky Mountain Arsenal National Wildlife Refuge established pursuant to this subtitle.

SEC. 2852. TRANSFER OF JURISDICTION OVER ROCKY MOUNTAIN ARSENAL.

(a) MANAGEMENT PENDING TRANSFER.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Army and the Secretary of the Interior shall enter into a memorandum of understanding under which—

(1) the Secretary of the Army shall transfer to the Secretary of the Interior, without reimbursement, all responsibility to manage for wildlife and public use purposes the real property comprising the Rocky Mountain Arsenal in the State of Colorado, except the property and facilities described in subsection (c) or designated for disposal under section 2855; and

(2) the Secretary of the Interior shall establish and manage the real property described in paragraph (1) as a unit of the National Wildlife Refuge System.

(b) TRANSFER UPON COMPLETION OF REMEDIATION MEASURES.—

(1) IN GENERAL.—Upon the certification of the Administrator of the Environmental Protection Agency that the cleanup and remediation measures required at the Arsenal under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) have been completed (except for operation and maintenance associated with the measures), the Secretary of the Army shall transfer to the Secretary of the Interior jurisdiction over the real property comprising the Arsenal, except the property and facilities described in subsection (c) or designated for disposal under section 2855.

(2) COST.—The transfer shall be made without cost to the Secretary of the Interior.

(3) IMPROVEMENTS.—The transfer shall include any improvement on the property made by the Secretary of the Army if the Secretary of the Interior requests in writing that the improvement be transferred for refuge management purposes.

(4) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property subject to transfer under this subsection shall be determined by a survey that is satisfactory to the Secretary of the Army and the Secretary of the Interior. The Secretary of the Army shall bear any costs related to the survey.

(c) PROPERTY AND FACILITIES EXCLUDED FROM MEMORANDUM AND TRANSFER.—

(1) PROPERTY REQUIRED TO BE RETAINED BY THE SECRETARY OF THE ARMY.—

(A) IN GENERAL.—The Secretary of the Army shall retain jurisdiction, authority, and control over all real property at the Arsenal used for water treatment, the disposition of hazardous substances, or other purposes related to cleanup and remediation activities at the Arsenal.

(B) CONSULTATION WITH SECRETARY OF THE INTERIOR.—The Secretary of the Army shall—

(i) consult with the Secretary of the Interior regarding the identification and management of all real property retained under this paragraph; and

(ii) ensure that activities carried out by the Department of the Army on that property are, to the extent practicable, compatible with the wildlife and public use purposes of the real property at the Arsenal managed by the Secretary of the Interior.

(2) DISPOSITION FOR COMMERCIAL, HIGHWAY, OR OTHER PUBLIC PURPOSES.—The Secretary of the Army shall dispose of real property designated in subsection (a) of section 2855 in the manner provided for in such section.

(3) CONTINUATION OF LEASE OF PUBLIC FACILITIES.—

(A) IN GENERAL.—Nothing in this subtitle shall affect the validity or continued operation of leases of the Department of the Army in existence on the date of enactment of this subtitle that involve the real property at the Arsenal described in subparagraph (B).

(B) PROPERTY.—The property referred to in subparagraph (A) is—

(i) a parcel consisting of approximately 12.08 acres containing the South Adams County Water Treatment Plant and described in Department of the Army lease No. DACA 45-1-87-6121; and

(ii) a parcel consisting of approximately 63.04 acres containing a United States Postal Service facility and described in Department of the Army lease No. DACA 45-4-71-6185.

SEC. 2853. CONTINUATION OF JURISDICTION AND LIABILITY OF THE SECRETARY OF THE ARMY FOR ENVIRONMENTAL REMEDIATION.

(a) JURISDICTION OVER CLEANUP AND REMEDIATION ACTIVITIES.—

(1) IN GENERAL.—Notwithstanding the memorandum of understanding required under section 2852(a), the Secretary of the Army shall retain jurisdiction, authority, and control over the management of the real property at the Arsenal that is subject to the memorandum for purposes of conducting cleanup and remediation activities relating to environmental remediation of that property under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and other applicable laws.

(2) MANAGEMENT OF REFUGE.—The management by the Secretary of the Interior of the refuge established pursuant to section 2854 shall be subject to any cleanup and remediation activities relating to the environmental remediation of the property carried out by the Secretary of the Army under the laws referred to in paragraph (1).

(b) RESPONSIBILITY TO CONDUCT CLEANUP AND REMEDIATION ACTIVITIES.—Nothing in this subtitle shall relieve, and no action may be taken under this subtitle to relieve, the Secretary of the Army or any non-Federal party from any obligation or other liability to carry out or provide for the environmental remediation of the Arsenal under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and other applicable laws. Nothing in this subtitle is intended to restrict or define the level of cleanup on the Arsenal to be carried out under applicable laws.

(c) ADMINISTRATION OF UNITED STATES LIABILITY.—

(1) IN GENERAL.—All liability of the United States under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and other environmental laws for existing conditions, both known and unknown, at the Arsenal as of the date of enactment of this subtitle shall be the sole responsibility of those Federal agencies that had operations on the Arsenal resulting in the introduction of hazardous substances before the date of enactment of this Act.

(2) AFTER FINAL TRANSFER.—After final transfer under section 2852(b), the Secretary of the Army shall retain environmental liability as set forth in this section and shall be accorded all easements and access as may be reasonably required to carry out obligations arising out of the liability.

(d) CONSULTATION.—In carrying out environmental remediation activities with respect to the Arsenal, the Secretary of the Army shall consult with the Secretary of the Interior to ensure that the remediation is carried out in a manner consistent with the purposes for which the refuge is established under section 2854(c).

SEC. 2854. ESTABLISHMENT OF THE ROCKY MOUNTAIN ARSENAL NATIONAL WILDLIFE REFUGE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Interior shall establish a national wildlife refuge, to be known as the Rocky Mountain Arsenal National Wildlife Refuge, that consists of the real property required to be transferred under section 2852(b).

(2) NOTICE.—The Secretary of the Interior shall publish a notice of the establishment of the refuge in the Federal Register.

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of the Interior shall manage the refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and other applicable laws.

(2) CONSULTATION.—In developing plans for the management of fish and wildlife at, and public use of, the refuge, the Secretary of the Interior shall—

(A) consult with the head of the Colorado Department of Natural Resources and the heads of units of local government adjacent to the refuge; and

(B) provide an opportunity for public comment on the plans.

(c) PURPOSES OF THE REFUGE.—The refuge shall be established for the purposes of—

(1) conserving and enhancing populations of fish, wildlife, and plants within the refuge,

including populations of waterfowl, raptors, passerines, marsh and water birds, and species presently or in the future listed as threatened or endangered;

(2) providing maximum fish and wildlife oriented public uses at levels compatible with the conservation and enhancement of wildlife and wildlife habitat;

(3) providing opportunities for compatible scientific research;

(4) providing opportunities for compatible environmental and land use education;

(5) conserving and enhancing the land and water of the refuge in a manner that will conserve and enhance the natural diversity of fish, wildlife, plants, and their habitats;

(6) protecting and enhancing the quality of aquatic habitat within the refuge; and

(7) fulfilling international treaty obligations of the United States with respect to fish and wildlife and their habitats.

(d) LIMITATIONS.—

(1) CLEANUP AND REMEDIATION ACTIVITIES.—

(A) IN GENERAL.—The management of the refuge by the Secretary of the Interior shall be subject to those cleanup and remediation activities relating to the environmental remediation of the Arsenal that are carried out by the Secretary of the Army under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and other applicable laws.

(B) EFFECT OF ESTABLISHMENT OF REFUGE.—The establishment of the refuge shall not limit, restrict, or modify in any way the ongoing environmental remediation conducted pursuant to applicable law at the Arsenal and surrounding areas, including—

(i) the substance or performance of any remedial investigation and feasibility study or endangerment assessment;

(ii) the contents and conclusions of any remedial investigation and feasibility study or endangerment assessment report; and

(iii) the selection of remedial actions for the Arsenal and surrounding areas.

(2) PROHIBITION AGAINST ANNEXATION.—Notwithstanding section 4(a)(2) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(2)), the Secretary of the Interior shall not permit the annexation of lands within the refuge by any unit of general local government.

(3) PROHIBITION AGAINST THROUGH ROADS.—Public roads may not be constructed through the refuge.

SEC. 2855. DISPOSAL OF CERTAIN REAL PROPERTY AT THE ARSENAL FOR COMMERCIAL, HIGHWAY, OR OTHER PUBLIC USE.

(a) PROPERTY DESIGNATED FOR DISPOSAL.—

(1) IN GENERAL.—The areas of real property at the Arsenal that are described in paragraph (2) are designated for disposal under this section for commercial, highway, or other public use purposes.

(2) PROPERTY.—The areas referred to in paragraph (1) are—

(A) a parcel of real property consisting of approximately 815 acres located at the Arsenal, the approximate legal description of which is section 9, T3S–R67W, the W2W2 of section 4 and the W4E2W2 of section 4, T3S–R67W, and the SW4SW4 of section 33, the W4E2W2 of section 33, and the W2NW4 of section 33, T2S–R67W, except for—

(i) a parcel consisting of approximately 63.04 acres containing a United States Postal Service facility and described in Department of the Army lease No. DACA 45-4-71-6185, which shall be subject to section 2852; and

(ii) the water wells located in buildings 385, 386, and 387 at the Arsenal and associated facilities and easements necessary to operate and maintain the water wells, which shall be subject to section 2852; and

(B) to permit the widening of existing roads, a parcel of real property of not more than 100 feet inside the boundary of the Arsenal on—

(i) the Northwest side of the Arsenal adjacent to Colorado Highway No. 2;

(ii) the Northern side of the Arsenal adjacent to 96th Avenue; and

(iii) the Southern side of the Arsenal adjacent to 56th Avenue.

(b) DISPOSAL.—

(1) DETERMINATION.—Not later than 180 days after the completion of remedial design for the Arsenal, the Secretary of the Army, with the concurrence of the Secretary of the Interior and after providing an opportunity for public comment, shall determine which parcels, if any, within the real property described in subsection (a)(2) shall be retained by the Secretary for cleanup and remediation measures.

(2) DISPOSAL.—After making the determination described in paragraph (1), the Secretary of the Army shall dispose of the remaining parcels in the manner provided for in this section. As cleanup and remediation measures on the retained parcels are completed, the Secretary of the Army shall dispose of the retained parcels in the same manner.

(3) NOTIFICATION.—The Secretary of the Army shall notify the State of Colorado and appropriate units of local government, including the City of Commerce City, Colorado, of the proposed and final determinations made under this subsection.

(c) TRANSFER FOR HIGHWAY PURPOSES.—The Secretary of the Army shall convey those parcels of real property described in subsection (a)(2)(B) and available for disposal under subsection (b) to the State or the appropriate unit of general local government at no cost in order to allow for the improvement of public roads in existence on the date of the enactment of this subtitle or for the provision of alternative means of transportation.

(d) TRANSFER FOR SALE.—The Secretary of the Army shall transfer to the Administrator of General Services those parcels of the area of real property described in subsection (a)(2)(A) and available for disposal under subsection (b). The transferred property shall be sold in advertised sales as surplus property under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), except that the provisions of such section relating to reduced-cost or no-cost transfers to other governmental entities shall not apply to the property.

(e) LIMITATIONS.—

(1) PERPETUAL RESTRICTIONS.—The disposal of real property under this section shall be subject to perpetual restrictions that—

(A) are attached to any deed to the property; and

(B) prohibit—

(i) the use of the property for residential or industrial purposes;

(ii) the use of groundwater located under, or surface water located on, the property as a source of potable water;

(iii) hunting and fishing on the property, except for hunting and fishing for nonconsumptive use subject to appropriate restrictions; and

(iv) agricultural use of the property, including all farming activities such as the raising of livestock, crops, or vegetables, but excluding agricultural practices used as part of environmental remediation activities or erosion control.

(2) DISPOSAL IN ACCORDANCE WITH ENVIRONMENTAL LAWS.—The disposal of property under this section shall be subject to the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(f) USE OF PROCEEDS.—Notwithstanding section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)), any amounts realized by the United States from the sale of property as described in subsection (d) shall be transferred to the Director of the United States Fish and Wildlife Service to be used, to the extent provided for in appropriations Acts, to supplement the funds otherwise available for the construction of a visitor and education center at the refuge.

Subtitle E—Miscellaneous

SEC. 2861. ENERGY SAVINGS AT MILITARY INSTALLATIONS.

Section 2865(b) of title 10, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) may, subject to paragraph (4), authorize the Secretary of a military department having jurisdiction over a military installation to enter into agreements with gas or electric utilities to design and implement cost-effective demand and conservation incentive programs (including energy management services, facilities alterations, and the installation and maintenance of energy saving devices and technologies by the utilities) to address the requirements and circumstances of the installation."; and

(2) by adding at the end the following new paragraph:

"(4)(A) If an agreement under paragraph (3)(C) provides for a utility to advance financing costs for the design or implementation of a program referred to in that paragraph to be repayed by the United States, the cost of such advance may be recovered by the utility under terms no less favorable than those applicable to its most favored customer.

"(B) Subject to the availability of appropriations, repayment of costs advanced under subparagraph (A) shall be made from funds available to a military department for the purchase of utility services.

"(C) An agreement under paragraph (3)(C) shall provide that title to any energy-saving device or technology installed at a military installation pursuant to the agreement vest in the United States. Such title may vest at such time during the term of the agreement, or upon expiration of the agreement, as determined to be in the best interests of the United States.".

SEC. 2862. NAVY MINE COUNTERMEASURE PROGRAM.

(a) EVALUATION.—(1) Not later than December 31, 1992, the Secretary of the Navy shall submit to the congressional defense committees and the Comptroller General of the United States a detailed report on actions and plans of the Navy for consolidation and centralization of control over forces assigned to the mine countermeasure mission. The report shall evaluate all facets of the mine countermeasure mission, including—

(A) proposed location of vessels, helicopters, and explosive ordinance detachment units;

(B) proposed command structure;

(C) proposed training policies; and

(D) proposed vessel procurement policies.

(2) The Comptroller General shall evaluate the report submitted under paragraph (1) and, not later than 30 days after the date of the submittal of the report, submit to the congressional defense committees an evaluation of the report.

(b) Evaluation of Homeports for Mine Countermeasures Program.—The report under subsection (a)(1) shall include a detailed evaluation and analysis of the use of Ingleside, Texas, as the planned homeport for all mine warfare ships, and a comparison of various alternative homeports for mine warfare ships (including an evaluation of the use of bases on the Atlantic Coast and the Pacific Coast as homeports for such ships).

(c) Suspension of Certain Activities Pending Receipt of Report.—The Secretary of the Navy may not take any action to relocate the functions and personnel of the Mine Warfare Command, the Fleet Mine Warfare School, the Mine Warfare Training Center, or any mine countermeasure helicopter squadron until 90 days after the date of the submittal of the report required under subsection (a)(1).

SEC. 2863. PROHIBITION ON EXPANSION OF CERTAIN MILITARY OPERATIONS AREAS.

In designating expanded military operations areas for training operations of aircraft of the Air National Guard and Air Force Reserve under training airspace modification initiatives implemented after the date of the enactment of this Act, the Secretary of the Air Force shall provide for such military operations areas within the geographic boundaries of areas that have been approved for tactical training on such date.

TITLE XXIX—CALVERTON PINE BARRENS PRESERVATION

SEC. 2901. SHORT TITLE.

This title may be cited as the "Calverton Pine Barrens Preservation Act".

SEC. 2902. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds as follows:

(1) The Pine Barrens, a forest of pine trees extending across Long Island, New York, protect and replenish the Island's sole-source aquifer and require well-planned protection strategies.

(2) The Department of Defense owns 3,234 acres of the Pine Barrens which serve as a buffer zone surrounding the Naval Weapons Industrial Reserve Plant in Calverton, New York, and provide numerous benefits to the public and wildlife.

(3) The General Services Administration has suggested selling portions of the Pine Barrens described in paragraph (2) and under Federal law, such portions could be sold for commercial development.

(4) The New York State Government and local governments have an interest in preserving the Calverton Pine Barrens in its natural state.

(b) Purpose.—The purpose of this title is to ensure that the Calverton Pine Barrens are never commercially developed and that they remain in their natural state in perpetuity.

SEC. 2903. CALVERTON PINE BARRENS PROHIBITED FROM BEING COMMERCIALLY DEVELOPED.

In the event that any part of the Calverton Pine Barrens is declared to be excess to the needs of the Department of the Navy, the Secretary of the Navy shall designate that part a protected tract. The protected tract, or any part thereof, may not be disposed of in any way that would allow commercial development to take place on it. If the protected tract, or any part thereof, is ever conveyed to an entity which uses it for commercial development, ownership of the protected tract shall revert to the United States.

SEC. 2904. DESCRIPTION OF THE CALVERTON PINE BARRENS.

The Calverton Pine Barrens is the land of not less than 3,234 acres located on Department of Defense land surrounding the Naval Weapons Industrial Reserve Plant in Calverton, New York.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) Operating Expenses.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses incurred in carrying out weapons activities necessary for national security programs in the amount of $4,016,909,000, to be allocated as follows:

(1) For research and development, $1,283,900,000.

(2) For weapons testing, $309,500,000.

(3) For production and surveillance, $2,122,600,000.

(4) For program direction, $300,909,000.

(b) Plant Projects.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto) that are necessary for national security programs and are associated with weapons activities for which appropriations are authorized under subsection (a), as follows:

Project GPD–101, general plant projects, various locations, $27,650,000.

Project GPD–121, general plant projects, various locations, $26,350,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $2,700,000.

Project 93–D–123, complex–21, various locations, $26,000,000.

Project 92–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase IV, various locations, $35,000,000.

Project 92–D–122, health physics/environmental projects, Rocky Flats Plant, Golden, Colorado, $5,300,000.

Project 92–D–123, plant fire/security alarm systems replacement, Rocky Flats Plant, Golden, Colorado, $8,700,000.

Project 92–D–126, replace emergency notification systems, various locations, $10,900,000.

Project 91–D–127, criticality alarm and production annunciation utility replacement, Rocky Flats Plant, Golden, Colorado, $6,300,000.

Project 90–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $50,120,000.

Project 90–D–126, environmental, safety, and health enhancements, various locations, $9,200,000.

Project 88–D–104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 88–D–106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $34,400,000.

Project 88–D–122, facilities capability assurance program, various locations, $87,100,000.

Project 86–D–130, tritium loading facility replacement, Savannah River Plant, South Carolina, $4,865,000.

Project 85–D–105, combined device assembly facility, Nevada Test Site, Nevada, $3,610,000.

(c) Capital Equipment.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for capital equipment not related to construction for weapons activities that is necessary for national security programs in the amount of $219,535,000.

(d) Adjustments.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (c) reduced by—

(1) $73,000,000 for reductions in weapons requirements;

(2) $78,200,000 for prior year balances; and

(3) $9,350,000 for departmental administration.

SEC. 3102. NEW PRODUCTION REACTORS.

(a) Operating Expenses.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses incurred in carrying out new production reactor activities necessary for national security programs in the amount of $184,028,000.

(b) Adjustments for Savings.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (c) reduced by $150,000,000.

SEC. 3103. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) Operating Expenses.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses incurred in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $4,108,452,000, to be allocated as follows:

(1) For corrective activities—environment, $2,431,000.

(2) For corrective activities—defense programs, $7,386,000.

(3) For environmental restoration, $1,448,427,000.

(4) For waste management, $2,252,037,000.

(5) For technology development, $330,700,000.

(6) For transportation management, $19,335,000.

(7) For program direction, $48,136,000.

(b) Plant Projects.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto) that are necessary for national security programs and are associated with environmental restoration and waste management activities for which appropriations are authorized under subsection (a), as follows:

Project GPD–171, general plant projects, various locations, $83,285,000.

Project 93–D–172, electrical upgrade, Idaho National Engineering Laboratory, Idaho, $1,000,000.

Project 93–D–174, plant drain waste water treatment upgrades, Y–12 Plant, Oak Ridge, Tennessee, $1,800,000.

Project 93–D–175, industrial waste compaction facility, Y–12 Plant, Oak Ridge, Tennessee, $2,200,000.

Project 93-D-176, Oak Ridge reservation storage facility, K-25, Oak Ridge, Tennessee, $4,000,000.

Project 93-D-177, disposal of K-1515 sanitary water treatment plant waste, K-125, Oak Ridge, Tennessee, $1,500,000.

Project 93-D-178, building 374 liquid waste treatment facility, Rocky Flats Plant, Golden, Colorado, $2,700,000.

Project 93-D-180, environmental monitoring-RCRA groundwater monitoring installation, Richland, Washington, $8,700,000.

Project 93-D-181, radioactive liquid waste line replacement, Richland, Washington, $350,000.

Project 93-D-182, replacement of cross-site transfer system, Richland, Washington, $4,495,000.

Project 93-D-183, multi-tank waste storage facility, Richland, Washington, $10,300,000.

Project 93-D-184, 325 facility compliance/renovation, Richland, Washington, $1,500,000.

Project 93-D-185, landlord program safety compliance, Phase II, Richland, Washington, $849,000.

Project 93-D-186, 200 area unsecured core area fabrication shop, Richland, Washington, $1,000,000.

Project 93-D-187, high-level waste removal from filled waste tanks, Savannah River, South Carolina, $2,000,000.

Project 93-D-188, new sanitary landfill, Savannah River, South Carolina, $2,000,000.

Project 92-D-171, mixed waste receiving and storage facility, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,000,000.

Project 92-D-172, hazardous waste treatment and processing facility, Pantex Plant, Amarillo, Texas, $1,900,000.

Project 92-D-173, nitrogen oxide abatement facility, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $7,000,000.

Project 92-D-177, tank 101-AZ waste retrieval system, Richland, Washington, $3,000,000.

Project 92-D-180, inter-area line upgrade, Savannah River, South Carolina, $3,170,000.

Project 92-D-181, fire and life safety improvements, Idaho National Engineering Laboratory, Idaho, $8,000,000.

Project 92-D-182, sewer system upgrade, Idaho National Engineering Laboratory, Idaho, $3,700,000.

Project 92-D-183, transportation complex, Idaho National Engineering Laboratory, Idaho, $5,860,000.

Project 92-D-184, Hanford infrastructure underground storage tanks, Richland, Washington, $3,700,000.

Project 92-D-185, road, ground, and lighting safety improvements, 300/1100 areas, Richland, Washington, $6,500,000.

Project 92-D-187, 300 area electrical distribution, conversion, and safety improvements, Phase II, Richland, Washington, $1,724,000.

Project 92-D-188, waste management, ES&H, and compliance activities, various locations, $1,000,000.

Project 92-D-402, sanitary sewer system rehabilitation, Lawrence Livermore National Laboratory, California, $5,500,000.

Project 92-D-403, tank upgrades project, Lawrence Livermore National Laboratory, California, $10,100,000.

Project 91-EM-100, environmental and molecular sciences laboratory, Richland, Washington, $28,500,000.

Project 91-D-171, waste receiving and processing facility, module 1, Richland, Washington, $21,800,000.

Project 91-D-172, high-level waste tank farm replacement, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $57,530,000.

Project 91-D-173, hazardous low-level waste processing tanks, Savannah River, South Carolina, $15,300,000.

Project 91-D-175, 300 area electrical distribution, conversion, and safety improvements, Phase I, Richland, Washington, $981,000.

Project 90-D-103 environmental, safety, and health improvements, various locations, Los Alamos National Laboratory, Los Alamos, New Mexico, $6,315,000.

Project 90-D-174, decontamination laundry facility, Richland, Washington, $7,442,000.

Project 90-D-175, landlord program safety compliance-I, Richland, Washington, $4,753,000.

Project 90-D-176, transuranic (TRU) waste facility, Savannah River, South Carolina, $5,000,000.

Project 90-D-177, RWMC transuranic (TRU) waste characterization and storage facility, Idaho National Engineering Laboratory, Idaho, $41,700,000.

Project 89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee, $4,200,000.

Project 89-D-172, Hanford environmental compliance, Richland, Washington, $44,950,000.

Project 89-D-173, tank farm ventilation upgrade, Richland, Washington, $7,000,000.

Project 89-D-174, replacement high-level waste evaporator, Savannah River, South Carolina, $15,795,000.

Project 89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $7,900,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $81,471,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $1,904,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, $8,800,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, California, $2,755,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $10,330,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $32,600,000.

(c) CAPITAL EQUIPMENT.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for capital equipment not related to construction for environmental restoration and waste management activities that is necessary for national security programs in the amount of $153,198,000, to be allocated as follows:

(1) For corrective activities—defense programs, $1,120,000.

(2) For waste management, $132,749,000.

(3) For technology development, $16,200,000.

(4) For transportation management, $465,000.

(5) For program direction, $2,664,000.

(d) ADJUSTMENTS FOR SAVINGS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (c) reduced by $13,137,000 for program savings and departmental administration.

(e) USE OF FUNDS.—From funds authorized to be appropriated pursuant to subsection (a) to the Department of Energy for environmental restoration and waste management activities, the Secretary of Energy may reimburse the cities of Westminster, Broomfield, Thornton, and Northglen, in the State of Colorado, $40,000,000 for the cost of implementing water management programs. Reimbursements for the water management programs shall not be considered a major Federal action for purposes of 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

SEC. 3104. DEFENSE MATERIALS PRODUCTION AND OTHER DEFENSE PROGRAMS.

(a) OPERATING EXPENSES.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses incurred in carrying out nuclear materials production and other defense programs necessary for national security programs as follows:

(1) For defense materials production, $1,375,475,000.

(2) For verification and control technology, $301,215,000.

(3) For nuclear safeguards and security, $96,837,000.

(4) For security investigations, $58,289,000.

(5) For Office of Security evaluations, $5,150,000.

(6) For nuclear safety, $25,490,000.

(7) For naval reactors development, including enrichment materials, $711,400,000.

(8) For education programs, $22,400,000.

(b) PLANT PROJECTS.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto) that are necessary for national security programs and are associated with new nuclear materials production activities and other defense programs for which appropriations are authorized under subsection (a), as follows:

(1) For defense materials production:

Project GPD-146, general plant projects, various locations, $32,260.

Project 93-D-147, domestic water system upgrade, Phase I, Savannah River, South Carolina, $1,000,000.

Project 93-D-148, replace high-level drain lines, Savannah River, South Carolina, $800,000.

Project 93-D-152, environmental modification for production facilities, Savannah River, South Carolina, $2,000,000.

Project 93-D-153, uranium recovery hydrogen fluoride system upgrade, Y-12 Plant, Oak Ridge, Tennessee, $2,400,000.

Project 92-D-140, F and H canyon exhaust upgrades, Savannah River, South Carolina, $12,500,000.

Project 92-D-141, reactor seismic improvement, Savannah River, South Carolina, $5,000,000.

Project 92-D-142, nuclear material processing training center, Savannah River, South Carolina, $11,700,000.

Project 92-D-143, health protection instrument calibration facility, Savannah River, South Carolina, $8,000,000.

Project 92-D-150, operations support facilities, Savannah River, South Carolina, $4,100,000.

Project 92-D-153, engineering support facility, Savannah River, South Carolina, $3,500,000.

Project 90-D-141, Idaho chemical processing plant fire protection, Idaho National Engineering Laboratory, Idaho, $1,553,000.

Project 90-D-149, plantwide fire protection, Phases I and II, Savannah River, South Carolina, $39,685,000.

Project 90-D-150, reactor safety assurance, Phases I, II, and III, Savannah River, South Carolina, $4,210,000.

Project 89–D–140, additional separations safeguards, Savannah River, South Carolina, $13,104,000.

Project 89–D–148, improved reactor confinement system, Savannah River, South Carolina, $4,240,000.

Project 86–D–149, productivity retention program, Phases I, II, III, IV, V, and VI, various locations, $11,651,000.

Project 86–D–152, reactor electrical distribution system, Savannah River, South Carolina, $5,647,000.

Project 85–D–145, fuel production facility, Savannah River Site, South Carolina, $17,000,000.

(2) For verification and control technology:

Project 90–D–186, center for national security and arms control, Sandia National Laboratories, Albuquerque, New Mexico, $10,000,000.

(3) For nuclear safeguards and security:

Project GPD–186, general plant projects, Central Training Academy, Albuquerque, New Mexico, $2,000,000.

(4) For naval reactors development:

Project GPN–101, general plant projects, various locations, $8,500,000.

Project 93–D–200, engineering services facilities, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,200,000.

Project 92–D–200, laboratories facilities upgrades, various locations, $7,500,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $13,600,000.

Project 90–N–103, advanced test reactor off-gas treatment system, Idaho National Engineering Laboratory, Idaho, $500,000.

Project 90–N–104, facilities renovation, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,900,000.

(c) CAPITAL EQUIPMENT.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for capital equipment not related to construction for nuclear materials production and other defense programs that is necessary for national security programs as follows:

(1) For defense materials production, $80,900,000.

(2) For verification and control technology, $16,500,000.

(3) For nuclear safeguards and security, $5,327,000.

(4) For naval reactors development, $60,400,000.

(d) ADJUSTMENTS.—The total amount that may be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (c) reduced by—

(1) $400,000,000 for recovery of overpayment to the Savannah River Pension Fund;

(2) $27,082,000 for anticipated savings;

(3) $70,000,000 for reductions in production requirements; and

(4) $2,341,000 for departmental administration.

SEC. 3105. FUNDING USES AND LIMITATIONS.

(a) INERTIAL CONFINEMENT FUSION.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses and plant and capital equipment, $220,300,000 shall be available for the defense inertial confinement fusion program.

(b) FIRE PROTECTION AND COOLING OR REFRIGERATION SYSTEMS.—None of the funds appropriated or otherwise made available for the Department of Energy for fiscal year 1993 may be obligated for the design, purchase, or installation of any fire protection system or cooling or refrigeration system that utilizes Class I chlorofluorocarbons (as listed under section 602(a) of the Clean Air Act (42 U.S.C. 7671a(a)) unless the Secretary of Energy determines that an alternative system meeting the operational requirements of the Department of Energy is not commercially available.

(c) RECONFIGURATION OF NONNUCLEAR ACTIVITIES.—(1) None of the funds appropriated or otherwise made available for the Department of Energy for fiscal year 1993 may be obligated for the implementation of the reconfiguration of any nonnuclear activities of the Department of Energy until—

(A) the Secretary of Energy submits a report to the congressional defense committees that—

(i) contains an analysis of the projected costs and benefits of the proposed reconfiguration and any proposed alternatives to such reconfiguration (including the alternative of not reconfiguring such activities); and

(ii) sets forth an analysis of (I) the lifecycle costs and benefits of the reconfiguration, and (II) the discounted cash flow of such proposed alternatives;

(B) the Secretary certifies to the congressional defense committees that a discounted cash flow analysis demonstrates that the closure of each Department of Energy nonnuclear defense facility or activity identified for closure and each transfer of a nonnuclear activity is cost effective;

(C) the Secretary certifies to the congressional defense committees that the reconfiguration of nonnuclear activities of the Department of Energy will not increase technological, environmental, safety, or health risks relating to the operation of the nuclear weapons facilities of the Department; and

(D) 60 days have elapsed after the later of—

(i) the date of the submittal of the report under subparagraph (A); and

(ii) the date of the certification under subparagraph (B).

(2) This subsection may not be construed to prohibit the obligation of funds for the purpose of conducting any study or analysis that the Secretary determines necessary for assessing the cost-effectiveness, practicability, or feasibility of reconfiguring the activities of the Department of Energy to nonnuclear purposes.

(d) NEW PRODUCTION REACTORS.—None of the funds authorized to be appropriated by section 3102 shall be used to close out the new production reactor program until 30 days after the Secretary of Energy has submitted a plan to the congressional defense committees to continue work beyond the termination phase of the two existing new production reactor design teams to address key technical risks and initiation of detailed design of two electric power producing reactor concepts, including an advanced light water reactor and the modular high temperature gas reactor to undertake the added mission of plutonium disposal. In addition, the plan shall address key technical risks of and fundamental technology for a linear accelerator for plutonium disposal and nuclear waste transmutation.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may not be taken until—

(A) the Secretary of Energy has submitted to the congressional defense committees a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by sections 3101, 3102, 3103, and 3104, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such actions necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY.

Funds appropriated pursuant to this title may be transferred to other agencies of Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN.

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary of Energy may carry out advance planning and construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In the case of any project in which the total estimated cost for advance planning and design exceeds $300,000, the Secretary shall notify the congressional defense committees in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such planning and design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—In addition to funds authorized to be appropriated for advance planning and construction design under sections 3101, 3102, 3103, and 3104, the Secretary of Energy may use any other funds available to the Department of Energy to perform planning, design, and construction activities for any Department of Energy defense activity construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, meet the needs of national defense, or protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b) does not apply to emergency planning, design, and construction activities conducted under this section.

(d) REPORT.—The Secretary of Energy shall promptly report to the congressional defense committees any exercise of authority under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated for operating expenses, plant, or capital equipment may remain available until expended.

Subtitle C—Miscellaneous

SEC. 3131. USE OF FUNDS FOR PAYMENT OF PENALTY ASSESSED AGAINST FERNALD ENVIRONMENTAL MANAGEMENT PROJECT.

The Secretary of Energy may pay to the Environmental Protection Agency, from funds appropriated to the Department of Energy for environmental restoration and waste management activities pursuant to section 3103, a stipulated civil penalty in the amount of $100,000 assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) against the Fernald Environmental Management Project.

SEC. 3132. PROHIBITION ON ENTRY INTO CERTAIN CONTRACTS FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

Notwithstanding any other provision of law, the Secretary of Energy may not enter into a contract or other agreement for the performance of environmental restoration or waste management activities with any person who has been convicted of, has pleaded guilty to, or has otherwise been determined by a court of competent jurisdiction to have committed a criminal violation in connection with activities at a Department of Energy facility of any of the following laws:

(1) The Clean Air Act (42 U.S.C. 7401 et seq.).

(2) The Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(3) The Safe Drinking Water Act (42 U.S.C. 300f et seq.).

SEC. 3133. REQUIREMENT OF ANNUAL AUTHORIZATION OF APPROPRIATIONS FOR FUNDS FOR CERTAIN DEPARTMENT OF ENERGY NATIONAL SECURITY ACTIVITIES.

(a) REQUIREMENT.—Chapter 9 of the Atomic Energy Act of 1954 (42 U.S.C. 2121 et seq.) is amended by adding at the end the following new section:

"SEC. 93. ANNUAL AUTHORIZATION OF APPROPRIATIONS.—

"(a) No funds may be appropriated for any fiscal year to or for the use of the Department of Energy for national security programs of the Department, and no funds appropriated to or for the use of the Department of Energy for such programs may be obligated or expended for—

"(1) procurement of goods or services,

"(2) research, development, test or evaluation, or procurement or production related thereto,

"(3) nuclear weapons testing,

"(4) construction,

"(5) operation and maintenance of any defense nuclear facility, or

"(6) operation of the Department of Energy central office,

unless funds therefor have been specifically authorized by law.

"(b) In this section, the term 'defense nuclear facility' means—

"(1) a production or utilization facility under the control or jurisdiction of the Secretary of Energy that is operated for national security purposes, other than a facility that does not conduct atomic energy defense activities;

"(2) a nuclear waste storage or disposal facility under the control or jurisdiction of the Secretary; and

"(3) a nuclear weapons research facility under the control or jurisdiction of the Secretary (including the Lawrence Livermore, Los Alamos, and Sandia National Laboratories).".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such Act is amended by inserting after the item relating to section 92 the following new item:

"Sec. 93. Annual authorization of appropriations.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act and shall apply to fiscal years after fiscal year 1992.

SEC. 3134. FUNDS AVAILABLE FOR OVERSIGHT.

Of the funds available to the Secretary of Energy for fiscal year 1993 for program management, including travel, $150,000 shall be available only for the purposes set forth in section 1108(g) of title 31, United States Code.

SEC. 3135. DEPARTMENT OF ENERGY CITIZEN ADVISORY GROUPS.

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Energy shall establish a citizen advisory group for each Department of Energy defense nuclear facility.

(b) MEMBERSHIP.—Each advisory group shall be composed of the following members:

(1) Five or more members appointed by the Secretary of Energy, of whom—

(A) at least one shall be an individual who lives in a community near the facility for which the advisory group is established;

(B) at least one shall be a member of an affected Indian tribe;

(C) at least one shall be a representative of a nationally recognized environmental organization;

(D) at least one shall be a representative of an environmental organization from the area in which the facility is located; and

(E) at least one shall be an individual having technical expertise in environmental restoration, waste management, or health care matters related to such restoration or waste management.

(2) Two members appointed by the Governor of the State in which the facility is located.

(3) Two members appointed by the Governor of any other State which is located within 50 miles of the facility.

(c) DUTIES.—Each advisory group shall, with respect to the Department of Energy defense nuclear facility for which it is established—

(1) review and evaluate the performance by the Department of Energy of environmental restoration, waste management, and health-related activities at the facility, including the adherence of the Department with any milestones or deadlines with respect to such activities that were agreed to by the Secretary of Energy in interagency agreements entered into with other Federal agencies;

(2) review and evaluate the adequacy of any oversight activities carried out with respect to the facility by the Environmental Protection Agency, the environmental agency of the State in which the facility is located, and other appropriate Federal and State agencies, including the adequacy of—

(A) any actions taken by such agencies to ensure the adherence of the Department of Energy with any milestones or deadlines that were agreed to by the Secretary in interagency agreements entered into with other Federal agencies;

(B) any actions taken by appropriate Federal and State agencies to ensure compliance by the Department of Energy with Federal or State laws requiring the performance of relevant health-related activities at the facility; and

(C) any existing or on-going health-related activities undertaken by the Department of Energy and other Federal and State agencies with respect to the facility;

(3) provide, at least once annually, to the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the heads of other appropriate Federal and State agencies—

(A) an evaluation of the policy and technical considerations of any significant decisions made by such agencies with respect to environmental restoration, waste management, and health-related activities at the facility, including decisions on the selection of waste management treatment technology, the selection of cleanup remedies for environmental restoration, and the design and conduct of health assessments; and

(B) recommendations on policy and technical matters with respect to the facility based upon the evaluation conducted under subparagraph (A);

(4) provide to the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the Governor of the State in which the facility is located the views of persons in communities and regions located near, or effected by, the facility on the environmental restoration, waste management, and health activities conducted at the facility;

(5) submit annually to the Governor of the State in which the facility is located and to Congress a report on the activities of the advisory group during the preceding year, including the findings, assessments, and conclusions of the advisory group, and any recommendations of the advisory group on policy or technical matters based upon such findings, assessments, and conclusions; and

(6) perform any other activity the advisory group considers necessary to carry out its duties under this section.

(d) TECHNICAL ASSISTANCE.—The Secretary of Energy shall provide funding to each advisory group to permit the group to hire the technical, advisory, and support staff that the group determines necessary to carry out its duties under this section. The amount of such funding in any year may not exceed $250,000 per group.

(e) FUNDING.—Of the funds authorized to be appropriated in fiscal year 1993 for the Department of Energy for national security programs, $5,000,000 may be used to carry out this section.

(f) DEFINITION.—In this section, the term "Department of Energy defense nuclear facility" means—

(1) a production or utilization facility under the control or jurisdiction of the Secretary of Energy that is operated for national security purposes, other than a facility that does not conduct atomic energy defense activities;

(2) a nuclear waste storage or disposal facility under the control or jurisdiction of the Secretary; and

(3) a nuclear weapons research facility under the control or jurisdiction of the Secretary (including the Lawrence Livermore, Los Alamos, and Sandia National Laboratories).

SEC. 3136. NUCLEAR WEAPONS COUNCIL MEMBERSHIP.

Section 179(a)(1) title 10, United States Code, is amended to read as follows:

"(1) The Under Secretary of Defense for Acquisition.".

SEC. 3137. REVISED OFFSET FOR PAYMENTS FOR INJURIES BELIEVED TO ARISE OUT OF ATOMIC WEAPONS TESTING PROGRAM.

(a) REVISED OFFSET.—Section 6(c)(2)(B) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended by striking out the following: "The amount of the offset under this subparagraph with respect to payments described in clauses (i) and (ii) shall be the actuarial present value of such payments.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to claims filed pursuant to section 4(a) of the Radiation Exposure Compensation Act before, on, or after the date of the enactment of this Act.

SEC. 3138. REPORTS ON THE DEVELOPMENT OF NEW PRODUCTION REACTOR CAPACITY.

(a) REPORT BY THE SECRETARY OF ENERGY.—(1) The Secretary of Energy shall annually submit to the congressional defense committees a report on the new production reactor program of the Department of Energy.

(2) The annual report shall include the following:

(A) An estimate of the date by which new production reactor capacity will be necessary in order to maintain the active and reserve stockpile of nuclear weapons of the United States.

(B) An estimate of the date on which construction of such capacity should begin in order to maintain the active and reserve stockpile.

(C) An assessment of the technical adequacy of the methods available for the production of tritium, including an assessment of the risk that each method may fail to produce tritium on a reliable basis within the period necessary for meeting the requirements of the United States.

(D) An assessment of the capability of the potential industrial suppliers of new production reactor capacity to design and construct such capacity by the date estimated pursuant to subparagraph (A).

(3)(A) The Secretary shall submit the annual report in 1993 and each year thereafter until the construction of the new production reactor is completed. The Secretary shall submit the report not later than 60 days after the date on which the President submits the budget to Congress under section 1105 of title 31, United States Code.

(b) PROGRAM OFFICE.—The Secretary shall maintain a program office for the new production reactor program until the new production reactor capacity becomes operational.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the technology chosen for new production reactor capacity shall be the technology that has the highest probability of successfully sustaining operation, the lowest risk of operational failure, and the lowest cost of construction and operation (including any revenues accruing to the United States from such operation).

SEC. 3139. TECHNOLOGY TRANSFER.

(a) EXPEDITED REVIEW OF AGREEMENTS WITH SMALL BUSINESSES.—Section 12(c)(5) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(5)) is amended—

(1) in subparagraph (C)(i), by striking out "Any agency" and inserting in lieu thereof "Except as provided in subparagraph (D), any agency"; and

(2) by adding at the end the following new subparagraph:

"(D)(i) Any non-Federal entity that operates a laboratory pursuant to a contract with a Federal agency shall submit to the head of the agency any cooperative research and development agreement that the entity proposes to enter into with a small business firm and the joint work statement required with respect to that agreement.

"(ii) A Federal agency that receives a proposed agreement and joint work statement under clause (i) shall review and approve, request specific modifications to, or disapprove the proposed agreement and joint work statement within 30 days after such submission. The agreement and joint work statement shall provide a 30-day period within which such action must be taken beginning on the date of the submittal of the agreement and joint work statement to the head of the agency.

"(iii) In any case in which an agency which has contracted with an entity referred to in clause (i) disapproves or requests the modification of a cooperative research and development agreement or joint work statement submitted under that clause, the agency shall transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.".

(b) TECHNOLOGY TRANSFER TO SMALL BUSINESSES.—(1) The Secretary of Energy shall establish a program to facilitate and encourage the transfer of technology to small businesses and shall issue guidelines relating to the program not later than May 1, 1993.

(2) For the purposes of this subsection, the term "small business" means a business concern that meets the applicable size standards prescribed pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(c) PROVISION OF INFORMATION ON COOPERATIVE RESEARCH.—The Secretary of Energy and the Secretary of Defense shall provide appropriate federally funded technology transfer centers with information on cooperative research and development agreements or other arrangements entered into with respect to laboratories of the Department of Energy and other departments and agencies of the Federal Government. The Secretaries shall provide such information within 60 days after the date on which such agreements are received and within 60 days after such agreements become effective.

(d) FUNDING.—Funds authorized to be appropriated to the Department of Energy and made available for laboratory directed research and development shall be available for cooperative research and development agreements or other arrangements applicable to laboratories of the Department of Energy and other departments and agencies of the Federal Government.

SEC. 3140. EXPANSION OF AUTHORITY TO LOAN PERSONNEL AND FACILITIES.

(a) AUTHORITY TO LOAN PERSONNEL.—Subsection (a)(1) of section 1434 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2074) is amended—

(1) by inserting "(A)" after "(1)";

(2) in the first sentence, by striking out "or construction management at the Hanford Reservation, Washington," and all that follows through the period, and inserting in lieu thereof the following: "or construction management—

"(i) at the Hanford Reservation, Washington, to loan personnel in accordance with this section to the community development organization known as the Tri City Industrial Development Council serving Benton and Franklin Counties, Washington; and

"(ii) at the Idaho National Engineering Laboratory, Idaho, to loan personnel in accordance with this section to any community-based organization."; and

(3) by striking out the second sentence and inserting in lieu thereof the following:

"(B) Any loan under subparagraph (A) shall be for the purpose of assisting in the diversification of the local economy by reducing reliance by local communities on national security programs at the Hanford Reservation and the Idaho National Engineering Laboratory.".

(b) FUNDING.—Subsection (a)(3) of such section is amended by inserting after the first sentence the following: "In each of fiscal years 1993 and 1994, the Secretary of Energy may not obligate or expend for loans of personnel under this section more than $250,000 with respect to the Hanford Reservation and more than $250,000 with respect to the Idaho National Engineering Laboratory.".

(c) AUTHORITY TO LOAN FACILITIES.—Subsection (b) of such section is amended by inserting "or the Idaho National Engineering Laboratory, Idaho," after "Hanford Reservation, Washington,".

(d) DURATION OF PROGRAM.—Subsection (c) of such section is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1994".

SEC. 3141. STUDY OF CONVERSION OF NEVADA TEST SITE FOR USE FOR SOLAR ENERGY PRODUCTION PURPOSES.

(a) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Energy, in consultation with the Secretary of Defense, the Administrator of the Environmental Protection Agency, and the Director of the Office of Technology Assessment, shall carry out and submit to Congress a study on the conversion, development, and utilization of the Nevada Test Site, Nevada, or one or more portions thereof, as a commercial facility for the development of solar energy research and production technologies.

(b) STUDY ELEMENTS.—In carrying out the study under subsection (a), the Secretary of Energy shall consider the following:

(1) The potential of the Nevada Test Site for solar energy production from a variety of solar energy production technologies, including technologies for the production of thermal energy and photovoltaic energy.

(2) The costs and benefits of the development of such energy production technologies, including the cost per kilowatt hour of energy production from each such technology and the potential market for the sale or use of energy produced by such technologies.

(3) The effect of the development of the Nevada Test Site for solar energy production on the economy and employment rates in the region in which the Nevada Test Site is located.

(4) The effectiveness of plans for retraining current employees at the Nevada Test Site for employment in the development, utilization, and marketing of solar energy production technologies.

(5) The effect of the development of various solar energy production technologies at the Nevada Test Site on the manufacturing and export economy of the United States.

(6) The extent to which the development of solar energy production technologies at the Nevada Test Site is compatible with current and proposed alternative uses of the Site, including the compatibility of such development with environmental restoration and other clear-up activities at the Site and with continuing use of the Site for limited nuclear testing.

Subtitle D—Defense Nuclear Work Force Restructuring

SEC. 3151. DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES WORK FORCE RESTRUCTURING PLAN.

(a) IN GENERAL.—(1) Subject to subsections (b) through (e) and not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall develop, issue, and commence implementation of a plan for the restructuring of the employee work force at Department of Energy defense nuclear facilities described in paragraph (2).

(2) The plan shall apply to—

(A) each Department of Energy defense nuclear facility the primary mission of which changes from weapons production and related activities to environmental restoration and waste management; and

(B) each Department of Energy defense nuclear facility that is scheduled for closure.

(C) any Department of Energy defense nuclear facility, including the Nevada Test Site, that will experience a reduction of 10 percent or more in the number of Department of Energy employees employed at the facility in any 12-month period.

(b) PLAN REQUIREMENTS.—In developing and implementing the plan referred to in subsection (a), the Secretary shall provide—

(1) that any changes in the functions or missions of facilities referred to in subsection (a)(2)(A) and any closures of facilities referred to in subsection (a)(2)(B) be carried out by means that minimize the economic effects of such changes or closures on Department of Energy employees at such facilities, including the provision of notice of such changes or closures not later than 120 days before the commencement of such changes or closures to such employees and the communities in which such facilities are located and the use of retraining, early retirement, attrition, and other similar means to minimize the number of terminations of employment that result from such changes or closures;

(2) that the employees whose employment in positions at such facilities will be terminated as a result of the restructuring plan receive first preference in any hiring by the Department of Energy (consistent with applicable employment seniority plans or practices of the Department of Energy and with section 3152 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1682)) after the issuance of the plan;

(3) that such employees be retrained as necessary and in a timely fashion for work in environmental restoration and waste management activities at such facilities or other facilities of the Department of Energy;

(4) that the Department of Energy provide relocation assistance to such employees who are transferred to other Department of Energy facilities as a result of the plan;

(5) that, in the case of any employee who expresses in writing an intent to seek employment outside the Department of Energy, the Department of Energy provide appropriate employment retraining, education, and reemployment assistance (including employment placement assistance) to such employee before the terminations of the employee's employment with the Department of Energy; and

(6) that the Department of Energy provide local impact assistance to communities that are affected by the restructuring plan and coordinate the provision of such assistance with—

(A) programs carried out by the Department of Labor pursuant to the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(B) programs carried out pursuant to the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (division D of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2391 note)); and

(C) programs carried out by the Department of Commerce pursuant to title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241 et seq.).

(c) PLAN UPDATES.—Not later than 1 year after issuing the plan referred to in subsection (a) and on an annual basis thereafter, the Secretary shall issue an update of the plan. Each updated plan under this subsection shall—

(1) satisfy the requirements set forth in subsection (b), taking into account any changes in the function or mission of the Department of Energy defense nuclear facilities and any other changes in circumstances that the Secretary determines to be relevant;

(2) contain an evaluation by the Secretary of the implementation of the plan during the year preceding the report; and

(3) contain such other information and provide for such other matters as the Secretary determines to be relevant.

(d) CONSULTATION.—(1) In developing the plan referred to in subsection (a) and any updates of the plan under subsection (c), the Secretary shall consult with the Secretary of Labor, labor organizations or other appropriate representatives of local and national collective-bargaining units of Department of Energy employees, appropriate representatives of departments and agencies of State and local governments, appropriate representatives of State and local institutions of higher education, and appropriate representatives of community groups in communities affected by the restructuring plan.

(2) The Secretary shall determine appropriate representatives of the units, governments, institutions, and groups referred to in paragraph (1).

(e) SUBMITTAL TO CONGRESS.—The Secretary shall submit the plan referred to in subsection (a) to Congress.

SEC. 3152. PROGRAM TO MONITOR DEPARTMENT OF ENERGY WORKERS EXPOSED TO HAZARDOUS AND RADIOACTIVE SUBSTANCES.

(a) IN GENERAL.—The Secretary of Energy shall establish and carry out a program for the identification and on-going medical evaluation of current and former Department of Energy employees who are subject to significant health risks as a result of the exposure of such employees to hazardous or radioactive substances during such employment.

(b) IMPLEMENTATION OF PROGRAM.—(1) The Secretary shall, with the concurrence of the Secretary of Health and Human Services, issue regulations to implement the program. Such regulations shall permit the Secretary of Energy, to the extent practicable, to—

(A) identify the hazardous substances and radioactive substances to which current and former Department of Energy employees may have been exposed as a result of such employment;

(B) determine the levels of exposure to such substances that present such employees with significant health risks;

(C) determine the appropriate number, scope, and frequency of medical evaluations and laboratory tests to be provided to such employees to permit the Secretary to evaluate fully the extent, nature, and medical consequences of such exposure;

(D) identify employees referred to in subparagraph (A) who received a level of exposure referred to in subparagraph (B); and

(E) make available the evaluations and tests referred to in subparagraph (C) to the employees referred to in subparagraph (D).

(2)(A) In determining the most appropriate means of carrying out the activities referred to in subparagraphs (A) through (E) of paragraph (1), the Secretary shall consult with the Secretary of Health and Human Services under the agreement referred to in subsection (c).

(B) The Secretary of Health and Human Services shall carry out the responsibilities of that Secretary under this subparagraph with the assistance of the Director of the Centers for Disease Control and the Director of the National Institute for Occupational Safety and Health.

(3) In prescribing the guidelines referred to in paragraph (1), the Secretary of Energy shall consult with representatives of the following entities:

(A) The American College of Occupational and Environmental Medicine.

(B) The National Academy of Sciences.

(C) The National Council on Radiation Protection.

(D) Any labor organization or other collective bargaining agent authorized to act on the behalf of employees of a Department of Energy defense nuclear facility.

(4) The Secretary shall notify each employee identified under paragraph (1)(D) and provided with any medical examination or test under paragraph (1)(E) of the identification and the results of any such examination or test. Each notification under this paragraph shall be provided in a form that is readily understandable by the employee.

(5) The Secretary shall collect and assemble information relating to the examinations and tests carried out under paragraph (1)(E).

(6) The Secretary shall commence carrying out the program described in this subsection not later than 1 year after the date of the enactment of this Act.

(c) Agreement With Secretary of Health and Human Services.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall enter into an agreement with the Secretary of Health and Human Services relating to the establishment of the program required under this section.

SEC. 3153. DEFINITIONS.

In this subtitle:

(1) The term "Department of Energy defense nuclear facility" means—

(A) a production facility or utilization facility (as that term is defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014)) that is under the control or jurisdiction of the Secretary of Energy and is operated for national security purposes (including the tritium loading facility at Savannah River, South Carolina, the 236 H facility at Savannah River, South Carolina; and the Mound Laboratory, Ohio), but the term does not include any facility that does not conduct atomic energy defense activities;

(B) a nuclear waste storage or disposal facility that is under the control or jurisdiction of the Secretary;

(C) a nuclear weapons research facility that is under the control or jurisdiction of the Secretary (including the Lawrence Livermore, Los Alamos, and Sandia National Laboratories); or

(D) any facility described in subparagraphs (A) through (C) that—

(i) is no longer in operation;

(ii) was under the control or jurisdiction of the Department of Defense, the Atomic Energy Commission, or the Energy Research and Development Administration; and

(iii) was operated for national security purposes.

(2) The term "Department of Energy employee" means any employee of the Department of Energy employed at a Department of Energy defense nuclear facility, including any employee of a management and operations contractor (or a subcontractor of such contractor) of the Department of Energy employed at such a facility.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD AUTHORIZATION

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1993, $13,000,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Subtitle A—Changes in Stockpile Amounts

SEC. 3301. AUTHORIZATION OF DISPOSALS.

(a) Authority.—The National Defense Stockpile Manager may dispose of materials in the National Defense Stockpile in accordance with this section. Such disposal may be made only as specified in subsection (b).

(b) Materials Authorized To Be Disposed.—Any disposal under subsection (a) shall be made from quantities of materials in the National Defense Stockpile previously authorized for disposal by law or, in the case of materials in the National Defense Stockpile that have been determined to be excess to the current requirements of the stockpile, in accordance with the following table:

Materials	Unit	Quantity
Aluminum	ST	62,800
Aluminum Oxide, Abrasive	ST	51,022
Aluminum Oxide, Fused Crude	ST	249,867
Analgesics	AMA LB	68,703
Asbestos, Chrysotile	ST	3,004
Bauxite, Metallurgical Jamaican	LDT	12,457,740
Bauxite, Metallurgical Surinam	LDT	5,299,597
Bauxite, Refractory	LCT	207,067
Beryl Ore	ST	17,729
Beryllium Copper Master Alloy	ST	7,387
Bismuth	LB	1,825,955
Cadmium	LB	6,328,570
Chromite Chemical Grade	SDT	208,414
Chromite Metallurgical Grade	SDT	1,511,356
Chromium Ferro	ST	576,526
Cobalt	LB CO	12,741,489
Copper	ST	29,651
Diamond Industrial Bort	KT	4,001,344
Diamond Dies Small	PC	25,473
Diamond Stones	KT	2,422,075
Fluorspar Acid Grade	SDT	892,856
Fluorspar Metallurgical Grade	SDT	410,822
Germanium	KG	715
Graphite Natural Malagasy	ST	10,573
Graphite Natural Other	ST	2,803
Iodine	LB	5,835,022
Jewel Bearings	PC	51,778,337
Lead	ST	601,053
Manganese Battery Grade Natural	SDT	68,226
Manganese Battery Grade Synthetic	SDT	3,011
Manganese Ferro	ST	938,285
Manganese Metallurgical Grade	SDT	1,627,425
Manganese Metal	ST	14,172
Mercury	FL	128,026
Mica Phlogopite Splittings	LB	963,251
Nickel	ST	37,214
Platinum—Iridium	TR OZ	5,000
Platinum—Palladium	TR OZ	250,000
Platinum—Platinum	TR OZ	50,000
Quartz Crystals, Natural	LB	400,000
Rutile	SDT	39,186
Sapphire & Ruby	KT	16,305,502
Sebacic Acid	LB	5,009,697
Silicon Carbide	ST	28,774
Silver	TR OZ	83,951,492
Tin	MT	141,278
Vanadium	ST	721
Vegetable Tannin, Chestnut	LT	4,976
Vegetable Tannin, Quebracho	LT	28,832
Vegetable Tannin, Wattle	LT	14,998
Zinc	ST	378,768

(c) General Limitation.—The National Defense Stockpile Manager may not dispose of any materials under the authority of this section during fiscal year 1993 until the manager has submitted to Congress a revised annual materials plan for that fiscal year that complies with the requirements of section 10(a)(3) of the Strategic and Critical Materials Stock Piling Act, as amended by section 3315(3).

(d) Special Limitation: Silver.—(1) The disposal of silver under subsection (a) may only occur in the form of coins or, subject to paragraph (2), as material furnished by the Federal Government to a contractor for the use of the contractor in the performance of a Federal Government contract.

(2) A contractor receiving silver as Government furnished material shall pay the Federal Government the amount equal to the fair market value of the silver, as determined by the National Defense Stockpile Manager. The amount paid shall be credited to the National Defense Stockpile Transaction Fund.

(e) Special Limitation: Chromite and Manganese.—The disposal of chromite ores and manganese ores under subsection (a) may be made only for consumption within the United States and the territories and possessions of the United States.

(f) Special Limitation: Chromium Ferro and Manganese Ferro.—The disposal of chromium ferro and manganese ferro under subsection (a) may not commence before October 1, 1993.

(g) Relationship to Other Disposal Authority.—The disposal authority provided in subsection (a) is in addition to any other disposal authority provided by law.

SEC. 3302. AUTHORIZATION OF ACQUISITIONS.

(a) Acquisitions.—During fiscal year 1993, the National Defense Stockpile Manager may obligate $100,000,000 out of funds of the National Defense Stockpile Transaction Fund (subject to such limitations as may be provided in appropriations Acts) for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

(b) Research and Development Programs.—Of the amount specified in subsection (a), $25,000,000 may be obligated for materials development and research under subparagraph (G) of such section.

SEC. 3303. CONFORMING AMENDMENTS.

Part A of title XXXIII of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1583) is amended—

(1) in subsections (a) and (d) of section 3301 (50 U.S.C. 98d note) and subsection (a) of section 3302, by striking out "fiscal years 1992 and 1993" and inserting in lieu thereof "fiscal year 1992"; and

(2) in subsections (a) and (d) of section 3301 and subsection (b) of section 3302, by striking out "each of such fiscal years" and inserting in lieu thereof "such fiscal year".

Subtitle B—Programmatic Changes

SEC. 3311. QUANTITY TO BE STOCKPILED.

(a) Applicable Standard.—Section 2(c)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a(c)(2)) is amended to read as follows:

"(2) The quantities of materials to be stockpiled under this Act shall be sufficient to meet the needs of the United States during a period of national emergency that requires a significant level of mobilization of the economy of the United States under the planning assumptions used by the Secretary of Defense under section 14(b) of this Act.".

(b) Applicable Assumptions.—Section 14(b) of such Act (50 U.S.C. 98h-5(b)) is amended in the first sentence by striking out ", based upon" and all that follows through "three years".

SEC. 3312. PROCEDURES FOR CHANGING OBJECTIVES FOR STOCKPILE QUANTITIES ESTABLISHED AS OF THE END OF FISCAL YEAR 1987.

Section 3(c) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(c)) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following new paragraph (2):

"(2) Subject to paragraph (3), the President shall notify Congress in writing of any change proposed to be made in a quantity referred to in paragraph (1). The President may make the change effective on or after the 30th day following the date of the notification. The President shall include a full explanation and justification for the change in the next annual materials plan submitted to

Congress under section 11(b) after the date of the notification.".

SEC. 3313. AUTHORITY FOR STOCKPILE OPERATIONS.

(a) WAITING PERIOD FOR PROPOSED SIGNIFICANT STOCKPILE TRANSACTION CHANGES.—Subsection (a)(2) of section 5 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d) is amended by striking out the second sentence.

(b) ELIMINATION OF DISPOSAL RESTRICTION RELATING TO NATIONAL DEFENSE STOCKPILE TRANSACTION FUND BALANCE.—Subsection (b) of such section is amended—

(1) by striking out "(1)"; and

(2) by striking out "law," and all that follows and inserting in lieu thereof "law.".

SEC. 3314. AUTHORIZED PURPOSES FOR EXPENDITURES FROM THE NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) MAINTENANCE AND DISPOSAL OF MATERIALS.—Subparagraph (A) of section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)) is amended—

(1) by inserting ", maintenance, and disposal" after "acquisition"; and

(2) by striking out "section 6(a)(1)" and inserting in lieu thereof "section 6(a)".

(b) EXPENSES INCIDENTAL TO ANY STOCKPILE TRANSACTION.—Subparagraph (B) of such section is amended by striking out "such acquisition" and inserting in lieu thereof "any stockpile transaction".

SEC. 3315. MARKET IMPACT COMMITTEE.

Section 10 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–1) is amended—

(1) by redesignating subsection (a) as subsection (b) and, in that subsection (as so redesignated), by inserting "(1)" after "(b)";

(2) by redesignating subsection (b) as paragraph (2) and, in that paragraph (as so redesignated), by striking out "subsection (a)" and inserting in lieu thereof "paragraph (1)"; and

(3) by inserting after "SEC. 10." the following:

"(a)(1) The President shall appoint a Market Impact Committee composed of representatives from the Department of Agriculture, the Department of Commerce, the Department of Defense, the Department of Energy, the Department of the Interior, the Department of State, the Department of the Treasury, and the Federal Emergency Management Agency, and such other persons as the President considers appropriate. The representatives from the Department of Commerce and the Department of State shall be Cochairmen of the Committee.

"(2) The Committee shall advise the manager of the stockpile on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile that are proposed to be included in the annual materials plan submitted to Congress under section 11(b), or in any revision of such plan, and shall submit to the manager the Committee's recommendations regarding those acquisitions and disposals.

"(3) The annual materials plan or the revision of such plan, as the case may be, shall contain the views of the Committee on such effects, the recommendations submitted by the Committee, and, for each acquisition or disposal provided for in the plan or revision that is inconsistent with a recommendation of the Committee, a justification for the acquisition or disposal.".

TITLE XXXIV—CIVIL DEFENSE

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $152,565,000 for fiscal year 1993 for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

TITLE XXXV—PANAMA CANAL COMMISSION

SEC. 3501. SHORT TITLE.

This title may be cited as the "Panama Canal Commission Authorization Act for Fiscal Year 1993".

SEC. 3502. AUTHORIZATION OF EXPENDITURES.

(a) IN GENERAL.—Subject to subsection (b), for fiscal year 1993 the Panama Canal Commission is authorized to make such expenditures and, without regard to fiscal year limitations, to enter into such contracts and commitments, within the limits of funds and borrowing authority available to it in accordance with law, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1993. Expenditures in accordance with this title may be made from funds in the Panama Canal Revolving Fund.

(b) LIMITATION ON RECEPTION AND REPRESENTATION EXPENSES.—For fiscal year 1993, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than $51,156,000 for administrative expenses, of which not more than—

(1) $12,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) $6,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) $34,000 may be used for official reception and representation expenses of the Administrator of the Commission.

(c) PURCHASE OF PASSENGER VEHICLES.—Funds available to the Panama Canal Commission may be used for the purchase of passenger motor vehicles (including large heavy-duty vehicles) to be used to transport Commission personnel across the Isthmus of Panama. A passenger motor vehicle may be purchased with such funds only as necessary to replace another passenger motor vehicle of the Commission. No passenger motor vehicle may be purchased with such funds for a price in excess of $18,000.

SEC. 3503. HEALTH CARE.

Section 1321(e)(1) of the Panama Canal Act of 1979 (22 U.S.C. 3731) is amended by inserting after "health care services" the following: "provided by medical facilities licensed and approved by the Republic of Panama (and not operated by the United States)".

SEC. 3504. VESSEL TONNAGE MEASUREMENT.

Section 1602(a) of the Panama Canal Act of 1979 (22 U.S.C. 3792) is amended in the first sentence by inserting ", or its equivalent," after "net vessel tons of one hundred cubic feet each of actual earning capacity".

SEC. 3505. GENERAL PROVISIONS.

Expenditures authorized under this title may be made only in accordance with the Panama Canal Treaties of 1977 and laws of the United States implementing those treaties.

NATIONAL DEFENSE AUTHORIZATION ACT

The text of the original bill (S. 3138) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, as passed by the Senate on September 18, 1992, is as follows:

S. 3138

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Personnel Authorization Act for Fiscal Year 1993".

SEC. 2. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

(a) The Armed Forces are authorized strengths for active duty personnel as of September 30, 1993, as follows:

(1) The Army, 598,900, of whom not more than 88,855 shall be commissioned officers.

(2) The Navy, 535,800, of whom not more than 67,455 shall be commissioned officers.

(3) The Marine Corps, 181,900, of whom not more than 18,440 shall be commissioned officers.

(4) The Air Force, 449,900, of whom not more than 84,970 shall be commissioned officers.

SEC. 402. WAIVER AND TRANSFER AUTHORITY.

(a) WAIVER AUTHORITY.—The Secretary of Defense may waive an end strength prescribed in section 401 for any of the Armed Forces to the extent that the Secretary considers the waiver necessary to prevent personnel imbalances that would impair the long term combat readiness of that armed force.

(b) TRANSFER AUTHORITY.—(1) Upon determination by the Secretary of Defense that such action is necessary in order to prevent involuntary separations from the Armed Forces that would otherwise be necessary solely for the purpose of reducing the size of the Armed Forces below the authorized end strengths provided in section 401, the Secretary may transfer amounts appropriated to the Department of Defense pursuant to authorizations of appropriations in this division for fiscal year 1993. Amounts so transferred shall be merged with and be available for the same purposes as the appropriations to which transferred.

(2) A transfer made from one appropriation account to another under the authority of this section shall be deemed to increase the amount authorized for the appropriation account to which transferred by the amount transferred.

(3) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

SEC. 403. AUTHORITY TO ADJUST END STRENGTHS.

Subsection (c) of section 115 of title 10, United States Code, is amended to read as follows:

"(c)(1) Subject to paragraphs (1) and (2), the strength of an armed force at the end of a fiscal year may vary from the end strength authorized for that armed force pursuant to paragraph (1) or (2) of subsection (a) for such fiscal year to the extent that the Secretary of Defense determines that the variance is in the national interest.

"(2) The strength of the active-duty personnel of an armed force at the end of a fiscal year shall be within 0.5 percent below and 0.5 percent above the end strength authorized for that armed force pursuant to subsection (a)(1) for that fiscal year.

"(3) The strength of the Selected Reserve personnel of a reserve component at the end of a fiscal year shall be within 2 percent below or 2 percent above the end strength authorized for the Selected Reserve of that reserve component pursuant to subsection (a)(2) for that fiscal year.".

SEC. 404. REPEAL OF REQUIREMENTS FOR MINIMUM NUMBERS OF MEDICAL PERSONNEL.

The following provisions of law that limit reductions in the number of medical personnel of the Department of Defense are repealed:

(1) Section 711 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 115 note).

(2) Section 718(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 115 note).

SEC. 405. LIMITED EXCLUSION OF JOINT SERVICE REQUIREMENTS FROM A LIMITATION ON THE STRENGTHS FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.

(a) EXCLUSION.—Section 526 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) LIMITED EXCLUSION FOR JOINT DUTY REQUIREMENTS.—(1) The Chairman of the Joint Chiefs of Staff may designate up to 8 general officer and flag officer positions within joint duty requirements for exclusion from the limitations in subsection (a) that are applicable on and after October 1, 1995. General officers and flag officers in positions so designated may not be counted for the purposes of such limitations.

"(2) This subsection shall cease to be effective on October 1, 1998."

(b) TECHNICAL AMENDMENT.—Subsection (b) of such section is amended by striking out "(b)" and inserting in lieu thereof "(b) AUTHORIZED INCREASE.—".

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1993, as follows:

(1) The Army National Guard of the United States, 425,450.

(2) The Army Reserve, 296,230.

(3) The Naval Reserve, 141,545.

(4) The Marine Corps Reserve, 42,230.

(5) The Air National Guard of the United States, 119,400.

(6) The Air Force Reserve, 82,400.

(7) The Coast Guard Reserve, 15,150.

(b) ADJUSTMENTS.—Section 115 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The end strengths prescribed by law for the Selected Reserve of any reserve component for any fiscal year shall be proportionately reduced by—

"(A) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of that fiscal year; and

"(B) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of that fiscal year.

"(2) Whenever such units or such individual members are released from active duty, the end strength prescribed for the Selected Reserve of such reserve component for the fiscal year in which released shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.".

(c) TEMPORARY PROHIBITION ON ELIMINATING RESERVE COMPONENT UNITS.—(1) Except as provided in paragraph (2), no unit in the Selected Reserve of the Army, Navy, Air Force, or Marine Corps may be inactivated during fiscal year 1993.

(2) Paragraph (1) does not apply to the following:

(A) An inactivation of a unit which is the direct result of the closure or realignment of a military installation required pursuant to law.

(B) An inactivation of a reinforcing unit in the Naval Reserve that is associated directly with a decommissioned unit in the active component of the Navy.

(C) An inactivation of an aviation unit as a direct result of the phasing out of a weapon system from the active components and the reserve components by the end of fiscal year 1993.

(3) A unit of the Selected Reserve of the Army, Navy, Air Force, or Marine Corps may not be inactivated pursuant to an exception in paragraph (2) until the Secretary of Defense has submitted to the Committees on Armed Services of the Senate and House of Representatives the rationale for the proposed inactivation of that unit and the specific exception that applies.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1993, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 24,860.

(2) The Army Reserve, 12,862.

(3) The Naval Reserve, 22,055.

(4) The Marine Corps Reserve, 2,282.

(5) The Air National Guard of the United States, 9,081.

(6) The Air Force Reserve, 636.

Subtitle C—Military Training Student Loads

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS.

(a) ACTIVE FORCES.—For fiscal year 1993, the Armed Forces are authorized average military training loads for active forces as follows:

(1) The Army, 60,269.

(2) The Navy, 51,405.

(3) The Marine Corps, 19,016.

(4) The Air Force, 27,971.

(b) RESERVE COMPONENTS.—For fiscal year 1993, the Armed Forces are authorized average military training loads for reserve component forces as follows:

(1) The Army Reserve, 12,583.

(2) The Army National Guard, 10,529.

(3) The Naval Reserve, 1,892.

(4) The Marine Corps Reserve, 3,418.

(5) The Air Force Reserve, 1,529.

(6) The Air National Guard, 3,048.

(c) ADJUSTMENTS.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in subtitles A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

Subtitle D—Funding Authorization

SEC. 431. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces for military personnel in the total amount of $77,316,200,000.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Reserve Component Matters

SEC. 501. REALIGNMENT OF CERTAIN ACTIVE ARMY COMBAT SUPPORT AND COMBAT SERVICE SUPPORT POSITIONS TO RESERVE COMPONENTS.

(a) FINDING.—The Congress finds that the force structure of the active component of the Army contains approximately 19,000 positions for personnel having missions to provide combat support and combat service support to inactivated Army units formerly stationed in Europe.

(b) REALIGNMENT REQUIRED.—The Secretary of Defense shall ensure that, not later than September 30, 1993, the missions referred to in subsection (a) are transferred to the reserve components of the Army.

SEC. 502. LIMITATION ON REDUCTION IN NUMBER OF RESERVE COMPONENT MEDICAL PERSONNEL.

(a) LIMITATION.—The Secretary of Defense may not reduce the number of medical personnel in the Army National Guard of the United States or the Army Reserve below the number of such personnel in those reserve components on September 30, 1992.

(b) DEFINITION.—In subsection (a), the term "medical personnel" has the meaning given that term in section 115a(g)(2) of title 10, United States Code.

SEC. 503. ONE-YEAR EXTENSION OF CERTAIN RESERVE OFFICER MANAGEMENT PROGRAMS.

(a) GRADE DETERMINATION AUTHORITY FOR CERTAIN RESERVE MEDICAL OFFICERS.—Sections 3359(b) and 8359(b) of title 10, United States Code, are each amended by striking "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(b) PROMOTION AUTHORITY FOR CERTAIN RESERVE OFFICERS SERVING ON ACTIVE DUTY.—Sections 3380(d) and 8380(d) of such title are each amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(c) YEARS OF SERVICE FOR MANDATORY TRANSFER TO THE RETIRED RESERVE.—Section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 30, 1992.

SEC. 504. REENLISTMENT ELIGIBILITY OF CERTAIN FORMER RESERVE OFFICERS.

(a) LIMITATION FOR THE ARMY.—Section 3258 of title 10, United States Code, is amended—

(1) by striking out the last sentence;

(2) by inserting "(a)" before "Any"; and

(3) by adding at the end the following new subsection (b):

"(b) A person is not entitled to be reenlisted under subsection (a) if—

"(1) the person was discharged or released from active duty as a Reserve officer on the basis of a determination of—

"(A) misconduct;

"(B) moral or professional dereliction;

"(C) duty performance below prescribed standards for the grade held; or

"(D) retention being inconsistent with the interests of national security; or

"(2) the person's former enlisted status and grade was based solely on the participation by that person in a precommissioning program that resulted in the Reserve commission held by that person during the active duty from which the person was released or discharged.".

(b) LIMITATION FOR THE AIR FORCE.—Section 8258 of such title is amended—

(1) by striking out the last sentence;

(2) by inserting "(a)" before "Any"; and

(3) by adding at the end the following new subsection (b):

"(b) A person is not entitled to be reenlisted under subsection (a) if—

"(1) the person was discharged or released from active duty as a Reserve officer on the basis of a determination of—

"(A) misconduct;

"(B) moral or professional dereliction;

"(C) duty performance below prescribed standards for the grade held; or

"(D) retention being inconsistent with the interests of national security; or

"(2) the person's former enlisted status and grade was based solely on the participation by that person in a precommissioning program that resulted in the Reserve commission held by that person during the active duty from which the person was released or discharged.".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall apply to persons discharged or released from active duty as a commissioned officers in the Army Reserve or the Air Force Reserve, respectively, after the date of the enactment of this Act.

SEC. 505. STUDY OF EFFECTS OF OPERATIONS DESERT SHIELD AND DESERT STORM MOBILIZATIONS OF RESERVES AND MEMBERS OF THE NATIONAL GUARD WHO WERE SELF-EMPLOYED OR OWNERS OF SMALL BUSINESSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) The service of the members of the Armed Forces of the United States in Operations Desert Shield and Desert Storm was commendable.

(2) The Reserves and the members of the National Guard contributed to the readiness, preparedness, and combat capability of the coalition forces that participated in the liberation of Kuwait.

(3) The Reserves and the members of the National Guard ordered to active duty in connection Operations Desert Shield and Desert Storm who were self-employed or were owners of small businesses possibly suffered unique financial difficulties resulting from their absence from their businesses for such active duty service.

(b) STUDY AND REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) conduct a study regarding the economic and other effects on the Reserves and members of the National Guard referred to in subsection (a)(3) of being absent from their businesses for active duty service in connection Operations Desert Shield and Desert Storm; and

(2) submit a report on the results of the study to the Committees on Armed Services of the Senate and the House of Representatives.

(c) CONTENT OF REPORT.—The report shall include the following matters:

(1) The number of Reserves and members of the National Guard ordered to active duty in connection with Operations Desert Shield and Desert Storm who were self-employed or were owners of small businesses.

(2) A description of the businesses owned by those Reserves and members of the National Guard when such personnel were ordered to active duty.

(3) A detailed analysis of the economic effects on the businesses of such personnel resulting from the absence of such personnel for active duty service.

(4) A discussion of the factors that contributed to any financial hardship or gain for such businesses during the period of the absence of such personnel.

(5) The extent to which such personnel voluntarily separated from the Armed Forces, assumed an inactive status, or retired after being released from active duty.

(6) An analysis of the rates of such separations, change of status, and retirements.

Subtitle B—Service Academies

SEC. 511. LIMITATION ON ASSIGNMENT OF GENERAL OFFICERS.

(a) UNITED STATES MILITARY ACADEMY.—(1)(A) Chapter 403 of title 10, United States Code, is amended by inserting after section 4337 the following new section 4338:

"§ 4338. Limitations on faculty, staff, and support personnel

"(a) GENERAL OFFICERS.—Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of more than one general officer to permanent duty at the Academy at any time or to support the assignment of any general officer in a grade above major general to permanent duty at the Academy.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4337 the following new item:

"4338. Limitations on faculty, staff, and support personnel.".

(2) Subsection (c) of section 4335 of such title is repealed.

(b) UNITED STATES AIR FORCE ACADEMY.—(1)(A) Chapter 903 of such title is amended by inserting after section 9337 the following new section 9338:

"§ 9338. Limitations on faculty, staff, and support personnel

"(a) GENERAL OFFICERS.—Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of more than one general officer to permanent duty at the Academy at any time or to support the assignment of any general officer in a grade above major general to permanent duty at the Academy.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 9337 the following new item:

"9338. Limitations on faculty, staff, and support personnel.".

(2) Section 9334 of such title is amended—

(A) by striking out subsection (b); and

(B) in subsection (a), by striking out "(a)".

(c) EFFECTIVE DATE AND TRANSITION PROVISION.—(1) The amendments made by subsections (a) and (b) shall take effect on April 1, 1993.

(2) General officers who, on the date of the enactment of this Act, are assigned to permanent duty positions at the United States Military Academy and the United States Air Force Academy in excess of the number of such officers permitted by the amendments made by subsections (a) and (b) shall be reassigned before the effective date of such amendments.

(3) The Chairman of the Joint Chiefs of Staff may direct that one or more of the general officer positions referred to in paragraph (2) be allocated to meet unsatisfied requirements for general officer joint duty positions.

SEC. 512. ACADEMY PREPARATORY SCHOOLS.

Not later than April 1, 1993, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a plan for implementing the recommendations contained in the report of the Comptroller General of the United States, dated March 13, 1992, regarding the preparatory schools of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy.

SEC. 513. COMPOSITION OF ACADEMY FACULTIES.

Not later than April 1, 1993, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and House of Representatives recommended legislation for—

(1) establishing at the United States Military Academy and the United States Air Force Academy a faculty composed of approximately equal numbers of civilian and Armed Forces personnel; and

(2) phasing out the assignment of Armed Forces personnel as permanent professors at those academies.

SEC. 514. ACADEMY BANDS.

(a) UNITED STATES MILITARY ACADEMY.—Section 4338 of title 10, United States Code (as added by section 511(a)), is amended by adding at the end the following:

"(b) ENLISTED BANDS.—Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of any enlisted personnel for permanent duty in a military band for the Academy.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Section 6969 of such title is amended to read as follows:

"§ 6969. Naval Academy Band

"(a) Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of any enlisted personnel for permanent duty in the Naval Academy Band.

"(b) In determining years of service for the purpose of retirement, enlisted members of the Navy who have previously been assigned as leaders or second leaders of the Naval Academy Band shall be treated as if they had not been so assigned.".

(2) The item relating to such section in the table of sections at the beginning of chapter 603 of such title is amended to read as follows:

"6969. Naval Academy Band.".

(c) UNITED STATES AIR FORCE ACADEMY.—Section 9338 of such title (as added by section 511(b)) is amended by adding at the end the following:

"(b) ENLISTED BANDS.—Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of any enlisted personnel for duty in a military band for the Academy.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1993.

SEC. 515. NONINSTRUCTIONAL STAFF.

(a) UNITED STATES MILITARY ACADEMY.—Section 4338 of title 10, United States Code (as added by section 511(a) and as amended by section 514(a)), is further amended by adding at the end the following:

"(c) NONINSTRUCTIONAL STAFF.—Funds appropriated or otherwise made available for pay of armed forces personnel may not be used to pay armed forces personnel in noninstructional positions at the Academy who are not certified by the Inspector General of the Department of Defense as being directly involved in the administration of the faculty or cadets or in the maintenance of Academy facilities or equipment.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Chapter 603 of such title is amended by adding at the end the following new section:

"§ 6975. Limitations on faculty, staff, and support personnel

"Funds appropriated or otherwise made available for pay of armed forces personnel may not be used to pay armed forces personnel in noninstructional positions at the Academy who are not certified by the Inspector General of the Department of Defense as being directly involved in the administration of the faculty or midshipmen or in the maintenance of Academy facilities or equipment.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6974 the following new item:

"6975. Limitations on faculty, staff, and support personnel.".

(c) UNITED STATES AIR FORCE ACADEMY.—Section 9338 of such title (as added by section 511(b) and as amended by section 514(c)), is further amended by adding at the end the following:

"(c) NONINSTRUCTIONAL STAFF.—Funds appropriated or otherwise made available for pay of armed forces personnel may not be used to pay armed forces personnel in noninstructional positions at the Academy who are not certified by the Inspector General of the Department of Defense as being directly involved in the administration of the faculty or cadets or in the maintenance of Academy facilities or equipment.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1993.

SEC. 516. MAJOR TRAINING COMMAND JURISDICTION.

(a) UNITED STATES MILITARY ACADEMY.—Section 4331(a) of title 10, United States Code, is amended by adding at the end the following: "The Academy is under the supervision and control of the commander of the major Army command having jurisdiction over Army officer training programs.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Section 6951 of such title is amended by adding at the end the following: "The Academy is under the supervision and control of the major Navy command having jurisdiction over Navy officer training programs.".

(2)(A) The heading of such section is amended to read as follows:

"§ 6951. Location and administration".

(B) The item relating to that section in the table of sections at the beginning of chapter 603 of title 10, United States Code, is amended to read as follows:

"6951. Location and administration.".

(c) UNITED STATES AIR FORCE ACADEMY.—Section 9331(a) of such title is amended by adding at the end the following: "The Academy is under the supervision and control of the commander of the major Air Force command having jurisdiction over Air Force officer training programs.".

Subtitle C—Officer Personnel Policy

SEC. 521. OFFICER PERSONNEL MANAGEMENT PLANS.

(a) REPORT ON PLANNED OFFICER ACCESSIONS.—(1) Not later than April 1, 1993, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the plans of the military departments for the procurement of officer personnel during each of fiscal years 1993 through 1997.

(2) The report shall contain for each fiscal year for each military department the following:

(A) For each program of officer training resulting in a commission, the number of persons to be commissioned.

(B) Of the persons to be commissioned under the Reserve Officer Training Corps program, the number of persons receiving scholarships under that program and the number of persons not receiving scholarships under the program.

(C) Of the number of persons to be commissioned—

(i) the number necessary to meet immediate needs for active component personnel;

(ii) the number necessary to meet immediate needs for personnel for the Selected Reserve of the Ready Reserve of the reserve components; and

(iii) the number that will be assigned directly into the Individual Ready Reserve of the reserve components.

(b) REPORT ON PLANNED OFFICER ASSIGNMENTS.—Not later than April 1, 1993, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the types of assignments that the military departments plan for the commissioned officers who commence active duty for their initial period of obligated active duty service during each of fiscal years 1993 through 1997 after being commissioned upon completion of an officer training program, stated by officer training program. The report shall contain an analysis of the number of officers that are to be assigned for skills training and the number of officers that are to be assigned directly to occupational positions.

SEC. 522. EVALUATION OF EFFECTS OF OFFICER STRENGTH REDUCTIONS ON OFFICER PERSONNEL MANAGEMENT SYSTEMS.

(a) REQUIREMENT FOR REVIEW.—The Secretary of Defense shall provide for a federally funded research and development center that is independent of the military departments to review the officer personnel management system of each of the military departments and to determine and evaluate the effects of the post-Cold War officer strength reductions on that officer personnel management system.

(b) MATTERS TO BE CONSIDERED.—The review and evaluation shall include, for the officer personnel management system of each military department, the effects of the officer strength reductions on the following:

(1) The timing and opportunities for officer promotions.

(2) The expected lengths of officer careers.

(3) Other features of the officer personnel management system under the Defense Officer Personnel Management Act (Public Law 96–513; 94 Stat. 2835) and the provisions of law added and amended by that Act.

(4) Any other aspects of the officer personnel management system that the federally funded research and development center personnel conducting the review and evaluation consider appropriate or as directed by the Secretary of Defense.

(c) REPORT.—Not later than December 31, 1993, the federally funded research and development center shall submit to the Secretary of Defense a report on the results of the review and evaluation. Within 60 days after receiving the report, the Secretary shall transmit the report to the congressional defense committees. The Secretary may submit to such committees any comments that the Secretary considers appropriate regarding the matters contained in the report.

(d) FUNDING.—Funds appropriated for fiscal year 1993 pursuant to title II and made available for federally funded research and development centers shall be available for the conduct of the review and evaluation under this section.

SEC. 523. TEST ASSIGNMENT OF FEMALE MEMBERS TO COMBAT AIRCRAFT POSITIONS.

Section 550 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (105 Stat. 1370; 10 U.S.C. 113 note) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection (b):

"(b) ASSIGNMENTS TO COMBAT AIRCRAFT.—The Secretary of Defense shall require the conduct of test assignments of female members of each armed force to duty in combat aircraft of that armed force."; and

(3) in subsection (c), as redesignated by paragraph (1), by inserting "and pursuant to subsection (b)" after "subsection (a)".

SEC. 524. SELECTIVE EARLY RETIREMENT.

Section 638a(c) of title 10, United States Code, is amended by adding at the end the following:

"(3) In the case of an action under subsection (b)(2), the Secretary of the military department concerned may submit to a selection board convened pursuant to that subsection—

"(A) the names of all eligible officers described in that subsection in a particular grade and competitive category; or

"(B) the names of all eligible officers described in that subsection in a particular grade and competitive category who are also in particular year groups, specialties, or retirement categories, or any combination thereof, within that competitive category.".

SEC. 525. RETIREMENT OF CERTAIN LIMITED DUTY OFFICERS OF THE NAVY.

(a) REGULAR NAVY COMMANDERS.—Section 633 of title 10, United States Code, is amended by adding at the end the following: "During the period beginning on July 1, 1993, and ending on October 1, 1995, the preceding sentence shall not apply to an officer of the Navy designated for limited duty to whom section 6383 of this title applies.".

(b) REGULAR NAVY CAPTAINS.—Section 634 of title 10, United States Code, is amended by adding at the end the following: "During the period beginning on July 1, 1993, and ending on October 1, 1995, the preceding sentence shall not apply to an officer of the Regular Navy designated for limited duty to whom section 6383(a)(4) of this title applies.".

(c) MAXIMUM TENURE.—Subsection (a) of section 6383 of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraphs:

"(2) Except as provided in subsection (i), each regular officer of the Navy designated for limited duty who is serving in the grade of commander, has failed of selection for promotion to the grade of captain for the second time, and is not on a list of officers recommended for promotion to the grade of captain shall—

"(A) if eligible for retirement as a commissioned officer under any provision of law, be retired under that provision law on the date requested by the officer and approved by the Secretary of the Navy, except that the date of retirement may not be later than the first day of the seventh month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed for promotion to the grade of captain for a second time; or

"(B) if not eligible for retirement as a commissioned officer, be retired on the date requested by the officer and approved by the Secretary of the Navy after the officer becomes eligible for retirement as a commissioned officer, except that the date of retirement may not be later than the first day of the seventh calendar month beginning after the month in which the officer becomes eligible for retirement as a commissioned officer.

"(3) Except as provided in subsection (i), if not retired earlier, a regular officer of the Navy designated for limited duty who is serving in the grade of commander and is not on a list of officers recommended for promotion to the grade of captain shall be retired on the last day of the month following the month in which the officer completes 35 years of active naval service, exclusive of active duty for training in a reserve component.

"(4) Except as provided in subsection (i), each regular officer of the Navy designated for limited duty who is serving in the grade of captain shall, if not retired sooner, be retired on the last day of the month following the month in which the officer completes 38 years of active naval service, exclusive of active duty for training in a reserve component.

"(5) Paragraphs (2) through (4) shall be effective only during the period beginning on July 1, 1993, and ending on October 1, 1995.".

(d) LIMITATION ON DEFERRED RETIREMENT.—Subsection (i) of section 6383 of such title is amended by adding at the end the following: "During the period beginning on July 1, 1993, and ending on October 1, 1995, an officer of the Navy in the grade of commander or captain whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond age 62 or, if earlier, 28 years of active commissioned service if in the grade of commander or 30 years of active commissioned service if in the grade of captain.".

Subtitle D—Active Forces Transition Enhancements

SEC. 531. ENCOURAGEMENT FOR CONTINUING PUBLIC AND COMMUNITY SERVICE.

(a) PERMANENT PROGRAM.—(1) Chapter 58 of title 10, United States Code, is amended by inserting after section 1143 the following new section:

"§ 1143a. Encouragement of postseparation public and community service: Department of Defense

"(a) IN GENERAL.—The Secretary of Defense shall implement a program to encourage members and former members of the armed forces to enter into public and community service jobs after discharge or release from active duty.

"(b) PERSONNEL REGISTRY.—The Secretary shall maintain a registry of members and former members of the armed forces discharged or released from active duty who request registration for assistance in pursuing public and community service job opportunities. The registry shall include information on the particular job skills, qualifications, and experience of the registered personnel.

"(c) REGISTRY OF PUBLIC SERVICE AND COMMUNITY SERVICE ORGANIZATIONS.—The Secretary shall also maintain a registry of public service and community service organizations. The registry shall contain information regarding each organization, including its location, its size, the types of public and community service positions in the organization, points of contact, procedures for applying for such positions, and a description of each such position that is likely to be available. Any such organization may request registration under this subsection and, subject to guidelines prescribed by the Secretary, be registered.

"(d) ASSISTANCE TO BE PROVIDED.—(1) The Secretary shall actively attempt to match personnel registered under subsection (b) with public and community service job opportunities and to facilitate job-seeking contacts between such personnel and the employers offering the jobs.

"(2) The Secretary shall offer personnel registered under subsection (b) counselling services regarding—

"(A) public service and community service organizations; and

"(B) procedures and techniques for qualifying for and applying for jobs in such organizations.

"(3) The Secretary may provide personnel registered under subsection (b) with access to the interstate job bank program of the United States Employment Service if the Secretary determines that such program meets the needs of separating members of the armed forces for job placement.

"(e) CONSULTATION REQUIREMENT.—In carrying out this section, the Secretary shall consult closely with the Secretary of Labor, the Secretary of Veterans Affairs, the Secretary of Education, the Director of the Office of Personnel Management, appropriate representatives of State and local governments, and appropriate representatives of businesses and nonprofit organizations in the private sector.

"(f) DELEGATION.—The Secretary, with the concurrence of the Secretary of Labor, may designate the Secretary of Labor as the executive agent of the Secretary of Defense for carrying out all or part of the responsibilities provided in this section. Such a designation does not relieve the Secretary of Defense from the responsibility for the implementation of the provisions of this section.

"(g) DEFINITIONS.—In this section, the term 'public service and community service organization' includes the following organizations:

"(1) Any organization that provides the following services:

"(A) Elementary, secondary, or postsecondary school teaching or administration.

"(B) Support of such teaching or school administration.

"(C) Law enforcement.

"(D) Public health care.

"(E) Social services.

"(F) Any other public or community service.

"(2) Any nonprofit organization that coordinates the provision of services described in paragraph (1).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1143 the following new item:

"1143a. Encouragement of postseparation public and community service: Department of Defense.".

(b) DEPARTMENT OF VETERANS AFFAIRS RESPONSIBILITIES.—Section 1142(b)(4) of title 10, United States Code, is amended by inserting before the period at the end the following: ", including the public and community service jobs program carried out under section 1143a of this title".

(c) PRESEPARATION ASSISTANCE BY THE DEPARTMENT OF LABOR.—Section 1144(b) of such title is amended by adding at the end the following new paragraph:

"(8) Provide information regarding the public and community service jobs program carried out under section 1143a of this title.".

SEC. 532. TEACHER CERTIFICATION CREDIT FOR MILITARY EXPERIENCE.

(a) UNIFORM STATE STANDARDS AND PROCEDURES.—(1) The Secretary of Defense shall—

(A) develop proposed uniform standards and procedures for the granting of appropriate credit for service in the Armed Forces under State teacher certification or licensing procedures; and

(B) coordinate with appropriate agencies of each State to encourage the incorporation of such uniform standards and procedures into the State's teacher certification or licensing requirements.

(2) The uniform standards should reflect the value to the teaching profession of relevant skills and experience derived from service in the Armed Forces.

(b) DELEGATION TO THE SECRETARY OF EDUCATION.—The Secretary, with the concurrence of the Secretary of Education, may designate the Secretary of Education as the executive agent of the Secretary of Defense for carrying out all or part of the responsibilities provided in subsection (a). Such a designation does not relieve the Secretary of Defense from the responsibility for the implementation of such subsection.

SEC. 533. PROGRAM OF EDUCATIONAL LEAVE RELATING TO CONTINUING PUBLIC AND COMMUNITY SERVICE.

(a) PROGRAM.—Under regulations prescribed by the Secretary of Defense after consultation with the Secretary of Transportation and subject to subsections (b) and (c), the Secretary concerned may grant to an eligible member of the Armed Forces a leave of absence for a period not to exceed one year for the purpose of permitting the member to pursue a program of education or training (including an internship) for the development of skills that are relevant to the performance of public and community service. A program of education or training referred to in the preceding sentence includes any such program that is offered by the Department of Defense or by any civilian educational or training institution.

(b) ELIGIBILITY REQUIREMENT.—(1) A member may not be granted a leave of absence under this section unless the member agrees in writing—

(A) diligently to pursue employment in public service and community service organizations upon the separation of the member from active duty in the Armed Forces; and

(B) to serve in the Ready Reserve of an armed force, upon such separation, for a period of 4 months for each month of the period of the leave of absence.

(2)(A) A member may not be granted a leave of absence under this section until the member has completed any period of extension of enlistment or reenlistment, or any period of obligated active duty service, that the member has incurred under section 708 of title 10, United States Code.

(B) The Secretary concerned may waive the limitation in subparagraph (A) for a member who enters into an agreement with the Secretary for the member to serve in the Ready Reserve of a reserve component for a period equal to the uncompleted portion of the member's period of service referred to in that subparagraph. Any such period of agreed service in the Ready Reserve shall be in addition to any other period that the member is obligated to serve in a reserve component.

(c) TREATMENT OF LEAVE OF ABSENCE.—A leave of absence under this section shall be subject to the provisions of subsections (c) and (d) of section 708 of title 10, United States Code.

(d) EXCLUSION FROM END STRENGTH LIMITATION.—A member of the Armed Forces, while on leave granted pursuant to this section, may not be counted for purposes of any provision of law that limits the active duty strength of the member's armed force.

(e) DEFINITIONS.—In this section:

(1) The term "Secretary concerned" has the meaning given such term in section 101 of title 10, United States Code.

(2) The term "eligible member of the Armed Forces" means a member of the Armed Forces who is eligible for an educational leave of absence under section 708(e) of such title.

(3) The term "public service and community service organization" has the meaning given such term in section 1143a of such title (as added by section 531(a)).

(f) EXPIRATION.—The authority to grant a leave of absence under subsection (a) shall expire on September 30, 1995.

SEC. 534. TEMPORARY EARLY RETIREMENT AUTHORITY.

(a) RETIREMENT FOR 15 TO 20 YEARS OF SERVICE.—(1) The Secretary of the Army may, upon the member's request, retire a member of the Army who has the following years of service:

(A) In the case of a regular or reserve commissioned officer, between 15 and 20 years of service computed under section 3926 of title 10, United States Code.

(B) In the case of an enlisted member, between 15 and 20 years of service computed under section 3925 of such title.

(C) In the case of a warrant officer, between 15 and 20 years of active service computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(2) The Secretary of the Navy may, upon the member's request, retire a member of the Navy or Marine Corps who has the following years of active service:

(A) In the case of a commissioned officer or enlisted member, between 15 and 20 years.

(B) In the case of a warrant officer, between 15 and 20 years computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(3) The Secretary of the Air Force may, upon the member's request, retire a member of the Air Force who has the following years of service:

(A) In the case of a regular or reserve commissioned officer, between 15 and 20 years of service computed under section 8926 of title 10, United States Code.

(B) In the case of an enlisted member, between 15 and 20 years of service computed under section 8925 of such title.

(C) In the case of a warrant officer, between 15 and 20 years of active service computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(b) ADDITIONAL ELIGIBILITY REQUIREMENT.—In order to be eligible for retirement under subsection (a), a member of the Armed Forces shall register on the registry maintained under section 1143a(b) of title 10, United States Code (as added by section 531(a)) and receive counselling regarding public and community service job opportunities from the Secretary of Defense or another source approved by the Secretary.

(c) COMPUTATION OF RETIRED PAY.—A member or former member of the Armed Forces retired under subsection (a) shall be entitled to retired pay computed under the provisions of chapter 71, 371, 571, or 871 of title 10, United States Code, that would be applicable to such member or former member if—

(1) the member or former member had been retired under section 1293 (in the case of a retired warrant officer), 3911 (in the case of a retired commissioned Army officer), 3914 (in the case of a retired enlisted member of the Army), 6323 (in the case of a retired commissioned officer of the Navy), 8911 (in the case of a retired commissioned Air Force officer), or 8914 (in the case of a retired enlisted member of the Air Force) of such title upon completion of 20 years of service creditable for purposes of eligibility for retirement; or

(2) in the case of a retired enlisted member of the Regular Navy or Regular Marine Corps, the retired enlisted member had been retired under section 6326 of such title upon completion of 30 years of active service in the Armed Forces creditable for purposes of eligibility for retirement.

(d) FUNDING.—(1) Notwithstanding section 1463 of title 10, United States Code, and to the extent provided in appropriations Acts, the Secretary of each military department shall provide in accordance with this section for the payment of retired or retainer pay payable during the fiscal years covered by the other provisions of this subsection to members of the armed force under the jurisdiction of that Secretary who are being retired under the authority of this section.

(2) In each fiscal year in which the Secretary of a military department retires a member of the Armed Forces under the authority of this section, the Secretary shall credit to a subaccount (which the Secretary shall establish) within the appropriation account for that fiscal year for pay and allowances of active duty members of the armed force under the jurisdiction of that Secretary such amount as is necessary to pay the retired or retainer pay payable to such member for the entire initial period (determined under paragraph (3)) of the entitlement of that member to receive retired or retainer pay.

(3) The initial period applicable under paragraph (2) in the case of a retired member referred to in that paragraph is the number of years (and any fraction of a year) that is equal to the difference between 20 years and the number of years (and any fraction of a year) of service that were completed by the member (as computed under the provision of law referred to in subsection (a) that is applicable to that member) before being retired under this section.

(4) The Secretary shall pay the member's retired or retainer pay for such initial period out of amounts credited to the subaccount under paragraph (2). The amounts so credited with respect to that member shall remain available for payment for that period.

(e) COORDINATION OF BENEFITS.—A member of the Armed Forces retired under this section is not entitled to benefits under section 1174, 1174a, or 1175 of title 10, United States Code.

(f) TERMINATION OF AUTHORITY.—The authority under subsection (a) shall terminate on October 1, 1995.

SEC. 535. INCREASED EARLY RETIREMENT RETIRED PAY FOR PUBLIC OR COMMUNITY SERVICE.

(a) RECOMPUTATION OF RETIRED PAY.—(1) If a member or former member of the Armed Forces retired under section 534(a) or any other provision of law authorizing retirement from the Armed Forces (other than for disability) before the completion of at least 20 years of active duty service (as computed under the applicable provision of law) is employed by a public service or community service organization listed on the registry maintained under section 1143a(c) of title 10, United States Code (as added by section 531(a)), within the period of the member's enhanced retirement qualification period, the member's or former member's retired or retainer pay shall be recomputed effective on the first day of the first month beginning after the date on which the member or former member attains 62 years of age.

(2) For purposes of recomputing a member's or former member's retired pay—

(A) the years of the member's or former member's employment by a public service or community service organization referred to in paragraph (1) during the member's or former member's enhanced retirement qualification period shall be treated as years of active duty service in the Armed Forces; and

(B) in applying section 1401a of title 10, United States Code, the member's or former member's years of active duty service shall be deemed as of the date of retirement to have included the years of employment referred to in subparagraph (A).

(3) Section 1405(b) of title 10, United States Code, shall apply in determining years of service under this subsection.

(4) In this subsection, the term "enhanced retirement qualification period", with respect to a member or former member retired under a provision of law referred to in paragraph (1), means the period beginning on the date of the retirement of the member or former member and ending the number of years (including any fraction of a year) after that date which when added to the number of years (including any fraction of a year) of service credited for purposes of computing the retired pay of the member or former member upon retirement equals 20 years.

(b) SBP ANNUITIES.—(1) Effective on the first day of the first month after a member or former member of the Armed Forces retired under a provision of law referred to in subsection (a)(1) attains 62 years of age or, in the event of death before attaining that age, would have attained that age, the base amount applicable under section 1447(2) of title 10, United States Code, to any Survivor Benefit Plan annuity provided by that member or former member shall be recomputed. For the recomputation the total years (including any fraction of a year) of the member's or former member's active service shall be treated as having included the member's or former member's years (including any fraction of a year) of employment referred to in subsection (a)(1) as of the date when the member or former member became eligible for retired pay under this section.

(2) In this subsection, the term "Survivor Benefit Plan" means the plan established under subchapter II of chapter 73 of title 10, United States Code.

SEC. 536. OPPORTUNITY FOR CERTAIN ACTIVE-DUTY PERSONNEL TO ENROLL IN MONTGOMERY GI BILL PROGRAM WHILE BEING VOLUNTARILY SEPARATED FROM SERVICE.

(a) IN GENERAL.—(1) Subchapter II of chapter 30 of title 38, United States Code, is amended by inserting after section 3018A the following new section:

"§ 3018B. Opportunity for certain active-duty personnel to enroll while being voluntarily separated from service

"(a) Notwithstanding any other provision of law, an individual who—

"(1) is voluntarily discharged from the Armed Forces with an honorable discharge, or voluntarily released from active duty under honorable conditions (as characterized by the Secretary concerned), pursuant to a request for separation approved under section 1174a or 1175 of title 10,

"(2) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree,

"(3) in the case of any individual who has made an election under section 3011(c)(1) of this title, withdraws such election pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section,

"(4) in the case of any person enrolled in the educational benefits program provided by chapter 32 of this title makes an irrevocable election, pursuant to procedures referred to in paragraph (3) of this subsection, to receive benefits under this section in lieu of benefits under such chapter 32, and

"(5) elects to receive assistance under this section pursuant to regulations referred to in paragraph (3) of this subsection,

is entitled to basic educational assistance under this chapter.

"(b) An election or withdrawal of election permitted under subsection (a) of this section is not effective unless—

"(1) in the case of an individual separated from active duty more than 90 days after the date of the enactment of this section, the individual makes the election or withdrawal before the separation;

"(2) in the case of an individual separated from active duty on or after the date of the enactment of this section and within 90 days after that date, the individual makes the election or withdrawal within 90 days after the separation; and

"(3) in the case of an individual separated from active duty before the date of the enactment of this section, the individual makes the election or withdrawal within 90 days after such date.

"(c)(1) An individual described in subsection (a) of this section who makes a withdrawal referred to in subsection (a)(3) of this section shall pay $1,200 to the Secretary of Veterans Affairs. In the case of an individual who makes the withdrawal of election before being separated, any portion of the obligation to pay $1,200 may be discharged by reduction of that individual's basic pay.

"(2) Amounts received by the Secretary pursuant to paragraph (1) shall be credited to the appropriation available for the fiscal year in which received for the Department of Veterans Affairs for the payment of readjustment benefits.

"(d) A withdrawal of election referred to in subsection (a)(3) of this section is irrevocable.

"(e)(1) Except as provided in paragraph (3) of this subsection, an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (a)(4) of this subsection shall be disenrolled from such chapter 32 program as of the date of such election.

"(2) For each individual who is disenrolled from such program, the Secretary shall refund—

"(A) as provided in section 3223(b) of this title, to the individual the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title; and

"(B) to the Secretary of Defense the unused contributions (other than contributions made under section 3222(c) of this title) made by such Secretary to the Account on behalf of such individual.

"(3) Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to section 3222(c) of this title on behalf of any individual referred to in paragraph (1) of this subsection shall remain in such Account to make payments of benefits to such individual under section 3015(e) of this title.".

(2) The table of sections at the beginning of chapter 30 of such title is amended by inserting after the item relating to section 3018A the following new item:

"3018B. Opportunity for certain active-duty personnel to enroll while being voluntarily separated from service.".

(b) CONFORMING AMENDMENTS.—(1) Section 3013(d) of such title is amended by inserting "or 3018B" after "section 3018A".

(2) Section 3015(e) of such title is amended by inserting "or 3018B" after "section 3018A".

(3) Section 3035(b)(3) of such title is amended—

(A) in the matter above subparagraph (A), by inserting "or 3018B" after "section 3018A"; and

(B) in subparagraph (B), by inserting "or 3018B(a)(3)" after "section 3018A(a)(3)".

SEC. 537. ELIMINATION OF RECOUPMENT REQUIREMENT FOR RESERVE DUTY.

Paragraph (2) of section 1175(e) of title 10, United States Code, is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B), a member entitled to voluntary separation incentive payments who is also entitled to basic pay for active service shall forfeit an amount of voluntary separation incentive payable for the same period that is equal to the total amount of basic pay received.

"(B) Subparagraph (A) does not apply with respect to—

"(i) annual training; or

"(ii) active duty for training that is not active duty for a period of more than 30 days.".

SEC. 538. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN EMPLOYMENT, JOB TRAINING, AND OTHER ASSISTANCE.

Section 1144(e) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "$4,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$11,000,000 for fiscal year 1993 and $8,000,000 for each of fiscal years 1994 and 1995."; and

(2) in paragraph (2), by striking out "$1,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$6,500,000 for each of fiscal years 1993, 1994, and 1995.".

SEC. 539. CONTINUED HEALTH COVERAGE FOR MEMBERS AND DEPENDENTS UPON THE SEPARATION OF THE MEMBERS FROM ACTIVE DUTY AND FOR EMANCIPATED CHILDREN OF MEMBERS.

(a) MEMBERS AND EMANCIPATED CHILDREN.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1078 the following new section:

"§ 1078a. Continued health benefits coverage

"(a) PROVISION OF CONTINUED HEALTH COVERAGE.—The Secretary of Defense and the Director of the Office of Personnel Management shall jointly carry out a program in accordance with this section to provide persons described in subsection (b) with temporary health benefits under the program of continued health benefits coverage provided for former civilian employee of the Federal Government and other persons under section 8905a of title 5.

"(b) ELIGIBLE PERSONS.—The persons referred to in subsection (a) are the following:

"(1) A member of the armed forces who—

"(A) is discharged or released from active duty (or full-time National Guard duty), whether voluntarily or involuntarily, under other than adverse conditions, as characterized by the Secretary concerned;

"(B) immediately preceding that discharge or release, is entitled to medical and dental care under section 1074(a) of this title (except in the case of a member discharged or released from full-time National Guard duty); and

"(C) after that discharge or release and any period of transitional health care provided under section 1145(a) of this title, would not otherwise be eligible for any benefits under this chapter.

"(2) A person who—

"(A) ceases to meet the requirements for being considered an unmarried dependent child of a member or former member of the armed forces under section 1072(2)(D) of this title;

"(B) on the day before ceasing to meet those requirements, was covered under a health benefits plan under this chapter or transitional health care under section 1145(a) of this title as a dependent of the member or former member; and

"(C) would not otherwise be eligible for any benefits under this chapter.

"(c) NOTIFICATION OF ELIGIBILITY.—(1) The Director, in consultation with the Secretary of Defense, shall prescribe regulations to provide for persons described in subsection (b) to be notified of eligibility to receive health benefits under this section.

"(2) In the case of a member who becomes (or will become) eligible for continued coverage under subsection (b)(1), the regulations shall provide for the Secretary concerned to notify the member of the member's rights under this section as part of preseparation counseling conducted under section 1142 of this title or any other provision of other law.

"(3) In the case of a child of a member who becomes eligible for continued coverage under subsection (b)(2), the regulations shall provide that—

"(A) the member may submit to the Secretary concerned a written notice of the child's change in status (including the child's name, address, and such other information as the Director may require); and

"(B) the Secretary concerned shall, within 14 days after receiving that notice, inform the child of the child's rights under this section.

"(d) ELECTION OF COVERAGE.—In order to obtain continued coverage under this section, an appropriate written election (submitted in such manner as the Director may prescribe) shall be made as follows:

"(1) In the case of a member described in subsection (b)(1), the written election shall be submitted to the Director before the end of the 60-day period beginning on the later of—

"(A) the date of the discharge or release of the member from active duty;

"(B) the date on which the period of transitional health care applicable to the member under section 1145(a) of this title ends; or

"(C) the date the member receives the notification required pursuant to subsection (c).

"(2) In the case of a person described in subsection (b)(2), the written election shall be submitted to the Director before the end of the 60-day period beginning on the later of—

"(A) the date on which the person first ceases to meet the requirements for being considered an unmarried dependent child under section 1072(2)(D) of this title, or

"(B) the date the person receives the notification pursuant to subsection (c),

except that if the Secretary concerned determines that the person's parent has failed to provide the notice referred to in subsection (c)(3)(A) with respect to the person in a timely fashion, the 60-day period under this paragraph shall be based only on the date under subparagraph (A).

"(e) COVERAGE OF DEPENDENTS.—A person eligible under subsection (b)(1) to elect to receive coverage may elect coverage either as an individual or, if appropriate, for self and dependents. A person eligible under subsection (b)(2) may elect only individual coverage.

"(f) CHARGES.—(1) Under arrangements satisfactory to the Director, a person receiving continued coverage under this section shall be required to pay into the Employees Health Benefits Fund established under section 8909 of title 5 an amount equal to the sum of—

"(A) the amount determined under section 8905a(d)(1)(A)(i) of title 5;

"(B) an amount, not in excess of 10 percent of the amount referred to in subparagraph (A), that is necessary for administrative expenses, as determined under regulations prescribed by the Director; and

"(C) such additional amount determined by the Director to be necessary to ensure that outlays from the Fund as a result of the program established under this section do not exceed amounts paid under this paragraph.

"(2) If a person elects to continue coverage under this section before the end of the applicable period under subsection (d), but after the person's coverage under this chapter (including any transitional extensions of coverage) expires, coverage shall be restored retroactively, with appropriate contributions (determined in accordance with paragraph (1)) and claims (if any), to the same extent and effect as though no break in coverage had occurred.

"(g) CONTRIBUTION.—Subject to the availability of appropriations for the purpose of this section, if the basis for continued coverage under this section for a member of the armed forces under subsection (b)(1) is involuntary separation approved under section 1174a or 1175 of this title, contributions shall be made in accordance with subsection (f)(1), except that—

"(1) the amount to be paid by the member shall be equal to the employee contribution referred to in section 8905a(d)(1)(A)(i) of title 5; and

"(2) the Secretary of Defense shall pay into the Employees Health Benefits Fund, under arrangements satisfactory to the Director of the Office of Personnel Management, an amount equal to—

"(A) the agency contribution referred to in section 8905a(d)(1)(A)(i) of title 5; and

"(B) the amount described in subsection (f)(1)(B).

"(h) PERIOD OF CONTINUED COVERAGE.—(1) Continued coverage under this section may not extend beyond—

"(A) in the case of a member described in subsection (b)(1), the date which is 18 months after the date the member ceases to be entitled to care under section 1074(a) of this title and any transitional care under section 1145 of this title, as the case may be; and

"(B) in the case of a person described in subsection (b)(2), the date which is 36 months after the date on which the individual first ceases to meet the requirements for being considered an unmarried dependent child under section 1072(2)(D) of this title.

"(2) Notwithstanding paragraph (1)(B), if a person ceases to meet the requirements for being considered an unmarried dependent child of a member described in subsection (b)(1) during a period of continued coverage of that member for self and dependents under this section, extended coverage of that person under this section may not extend beyond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078 the following new item:

"1078a. Continued health benefits coverage.".

(b) TRANSITIONAL PROVISIONS.—The Director of the Office of Personnel Management shall provide a period for the enrollment for health benefits coverage under this section by members and former members of the Armed Services for whom the availability of transitional health care under section 1145(a) of title 10, United States Code, expires before section 1078a of such title, as added by subsection (a), is implemented.

(c) TERMINATION OF APPLICABILITY OF OTHER CONVERSION HEALTH POLICIES.—(1) No person may purchase a conversion health policy under section or 1145(b) of title 10, United States Code, on or after the date on which the Director of the Office of Personnel Management announces that section 1078a of such title is implemented. A person covered by such a conversion health policy on that date may cancel that policy and enroll in a health benefits plan under section 1078a of such title.

(2) No person may be covered concurrently by a conversion health policy under such section 1145(b) of title 10, United States Code, and a health benefits plan under section 1078a of such title.

(d) EFFECTIVE DATE.—Section 1078a of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1992.

Subtitle E—Guard and Reserve Transition Initiatives

SEC. 541. FORCE REDUCTION TRANSITION PERIOD DEFINED.

In this subtitle, the term "force reduction transition period" means the period beginning on October 1, 1991, and ending on September 30, 1995.

SEC. 542. MEMBER OF SELECTED RESERVE DEFINED.

In this subtitle, the term "member of the Selected Reserve" means—

(1) a member of a unit in the Selected Reserve of the Ready Reserve; and

(2) a Reserve designated pursuant to section 268(b) of title 10, United States Code.

SEC. 543. RESTRICTION ON RESERVE FORCE REDUCTION.

(a) IN GENERAL.—During the force reduction transition period, no unit in the Selected Reserve of the Ready Reserve of the Armed Forces may be inactivated and no member of the Selected Reserve may be involuntarily discharged from a reserve component of the Armed Forces or involuntarily transferred from the Selected Reserve before the Secretary of Defense has promulgated, implemented, and transmitted to the Committees on Armed Services of the Senate and House of Representatives regulations that govern the treatment of members of the Selected Reserve assigned to such units and members of the Selected Reserve that are being subjected to such actions.

(b) SAVINGS PROVISION.—Subsection (a) shall not apply to actions completed before the date of the enactment of this Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the prohibition in section 411(c).

SEC. 544. TRANSITION PLAN REQUIREMENTS.

(a) PURPOSE OF PLAN.—The purpose of the regulations referred to in section 543 shall be to ensure that the members of the Selected Reserve are treated with fairness, with respect for their service to their country, and with attention to the adverse personal consequences of Selected Reserve unit inactivations, involuntary discharges of such members from the reserve components of the Armed Forces, and involuntary transfers of such members from the Selected Reserve.

(b) SCOPE OF PLAN.—The regulations shall include—

(1) such provisions as are necessary to implement the provisions of this subtitle and the amendments made by this subtitle; and

(2) such other policies and procedures for the recruitment of personnel for service in the Selected Reserve of the Ready Reserve, and for the reassignment, retraining, separation, and retirement of members of the Selected Reserve, as are appropriate for satisfying the needs of the Selected Reserve together with the purpose set out in subsection (a).

(c) MINIMUM REQUIREMENTS FOR PLAN.—The regulations shall include the following:

(1) The giving of a priority to personnel referred to in section 543(a) for reassignment to Selected Reserve units not being inactivated.

(2) The giving of a priority to such personnel for transfer among the reserve components of the Armed Forces in order to facilitate reassignment to such units.

(3) A requirement that the Secretaries of the military departments take diligent actions to ensure that members of the reserve components of the Armed Forces are informed in easily understandable terms of the rights and benefits conferred upon such personnel by this subtitle, by the amendments made by this subtitle, and by such regulations.

(4) Such other protections, preferences, and benefits as the Secretary of Defense considers appropriate.

(d) UNIFORM APPLICABILITY.—The regulations shall apply uniformly to the Army, Navy, Air Force, and Marine Corps.

SEC. 545. INAPPLICABILITY TO CERTAIN DISCHARGES AND TRANSFERS.

The protections, preferences, and benefits provided for in regulations prescribed in accordance with this subtitle do not apply with respect to a member of the Selected Reserve who is discharged from a reserve component of the Armed Forces or is transferred from the Selected Reserve to another category of the Ready Reserve, to the Standby Reserve, or to the Retired Reserve—

(1) at the request of the member unless such request was made and approved under a provision of this subtitle or section 1331a of title 10, United States Code (as added by section 547);

(2) because the member no longer meets the qualifications for membership in the Se-

lected Reserve set forth in any provision of law as in effect on the day before the date of the enactment of this Act;

(3) under adverse conditions, as characterized by the Secretary of the military department concerned; or

(4) if the member—

(A) is immediately eligible for retired pay based on military service under any provision of law;

(B) is serving as a military technician, as defined in section 8401(30) of title 5, United States Code, and would be immediately eligible for an unreduced annuity under the provisions of subchapter III of chapter 83 of such title, relating to the Civil Service Retirement and Disability System, or the provisions of chapter 84 of such title, relating to the Federal Employees' Retirement System; or

(C) is eligible for separation pay under section 1174 of title 10, United States Code.

SEC. 546. FORCE REDUCTION PERIOD RETIREMENTS.

(a) TEMPORARY SPECIAL AUTHORITY.—During the period referred to in subsection (b), the Secretary concerned may grant a member of the Selected Reserve under the age of 60 years the annual payments provided for under this section if—

(1) as of October 1, 1991, that member has completed at least 20 years of service computed under section 1332 of title 10, United States Code, or after that date and before October 1, 1995, such member completes 20 years of service computed under that section;

(2) the member satisfies the requirements of paragraphs (3) and (4) of section 1331(a) of title 10, United States Code; and

(3) the member applies for transfer to the Retired Reserve—

(A) in the case of a member who has not received the notice required by section 1331(d) of that title before the date of the enactment of this Act, within one year after receiving such notice; and

(B) in the case of a member who received such a notice before the date of the enactment of this Act, within one year after that date.

(b) PERIOD OF APPLICABILITY.—The period referred to in subsection (a) is, with respect to a member of the Selected Reserve, the force reduction transition period, the period provided under paragraph (3) of that subsection for the member to submit an application, and the period necessary for taking action on that application.

(c) ANNUAL PAYMENT PERIOD.—An annual payment granted to a member under this section shall be paid for 5 years, except that if the member attains 60 years of age during the 5-year period the entitlement to the annual payment shall terminate on the member's 60th birthday.

(d) COMPUTATION OF ANNUAL PAYMENT.—(1) The annual payment for a member shall be equal to the amount determined by multiplying the product of 12 and the applicable percent under paragraph (2) by the monthly basic pay to which the member would be entitled if the member were serving on active duty as of the date the member is transferred to the Retired Reserve.

(2)(A) Subject to subparagraph (B) the percent applicable to a member for purposes of paragraph (1) is 5 percent plus 0.5 percent for each full year of service, computed under section 1332 of title 10, United States Code, that a member has completed in excess of 20 years before transfer to the Retired Reserve.

(B) The maximum percent applicable under this paragraph is 10 percent.

(e) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary concerned may limit the applicability of this section to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a).

(f) NONDUPLICATION OF BENEFITS.—A member transferred to the Retired Reserve under the authority of section 1331a of title 10, United States Code (as added by section 547), may not be paid annual payments under this section.

(g) FUNDING.—To the extent provided in appropriations Acts, payments under this section in a fiscal year shall be made out of amounts available to the Department of Defense for that fiscal year for the pay of reserve component personnel.

(h) HEALTH CARE BENEFITS.—A member of the Retired Reserve receiving annual payments under this section shall be treated as a member of the uniformed services entitled to retired or retainer pay for the purposes of the provisions of chapter 55 of title 10, United States Code.

SEC. 547. RETIREMENT WITH 15 YEARS OF SERVICE.

(a) AUTHORITY.—Chapter 67 of title 10, United States Code, is amended by inserting after section 1331 the following new section:

"§ 1331a. Temporary special retirement qualification authority

"(a) RETIREMENT WITH AT LEAST 15 YEARS OF SERVICE.—For the purposes of section 1331 of this title, the Secretary of a military department may—

"(1) during the period described in subsection (b), determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

"(A) as of October 1, 1991, has completed at least 15, and less than 20, years of service computed under section 1332 of this title; or

"(B) after that date and before October 1, 1995, completes 15 years of service computed under that section; and

"(2) upon the request of the member submitted to the Secretary within one year after the date of the notification referred to in paragraph (1), transfer the member to the Retired Reserve.

"(b) PERIOD OF AUTHORITY.—The period referred to in subsection (a)(1) is the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993 and ending on October 1, 1995.

"(c) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) The Secretary of the military department concerned may limit the applicability of subsection (a) to any category of personnel defined by the Secretary in order to meet a need of the armed force under the jurisdiction of the Secretary to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

"(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a) of the National Defense Authorization Act for Fiscal Year 1993.

"(d) EXCLUSION.—This section does not apply to persons referred to in section 1331(c) of this title.

"(e) REGULATIONS.—The authority provided in this section shall be subject to regulations prescribed by the Secretary of Defense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1331 the following new item:

"1331a. Temporary special retirement qualification authority.".

SEC. 548. SEPARATION PAY.

(a) ELIGIBILITY.—Subject to section 545, a member of the Selected Reserve who, after completing at least 6 years of service computed under section 1332 of title 10, United States Code, and before completing 15 years of service computed under that section, is involuntarily discharged from a reserve component of the Armed Forces or is involuntarily transferred from the Selected Reserve is entitled to separation pay.

(b) AMOUNT OF SEPARATION PAY.—(1) The amount of separation pay which may be paid to a person under this section is 15 percent of the product of—

(A) the years of service credited to that person under section 1333 of title 10, United States Code; and

(B) 62 times the daily equivalent of the monthly basic pay to which the person would have been entitled had the person been serving on active duty at the time of the person's discharge or transfer.

(2) In the case of a person who receives separation pay under this section and who later receives basic pay, compensation for inactive duty training, or retired pay under any provision of law, such basic pay, compensation, or retired pay, as the case may be, shall be reduced by 75 percent until the total amount withheld through such reduction equals the total amount of the separation pay received by that person under this section.

(c) RELATIONSHIP TO OTHER SERVICE-RELATED PAY.—Subsections (g) and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations, which shall be uniform for the Army, Navy, Air Force, and Marine Corps, for the administration of this section.

SEC. 549. WAIVER OF CONTINUED SERVICE REQUIREMENT FOR MONTGOMERY GI BILL BENEFITS.

(a) IN GENERAL.—The eligibility of a person referred to in subsection (b)—

(1) to be provided educational assistance under chapter 106 of title 10, United States Code, may not be terminated under section 2134(2) of that title, or

(2) to be provided educational assistance under chapter 30 of title 38, United States Code, may not be terminated under section 3012(a) of that title,

on the basis of the termination of that person's status as a member of the Selected Reserve under the circumstances described in subsection (b).

(b) APPLICABILITY.—Subsection (a) applies to a member of the Selected Reserve who, before completing the years of service in the Selected Reserve agreed to under section 2132(a) of title 10, United States Code, or the years of service required by section 3012(a) of title 38, United States Code, as the case may be, ceases to be a member of the Selected Reserve during the force reduction transition period by reason of the inactivation of his unit of assignment or by reason of involuntarily ceasing to be designated as a member of the Selected Reserve pursuant to section 268(b) of title 10, United States Code.

SEC. 550. COMMISSARY AND EXCHANGE PRIVILEGES.

The Secretary of Defense shall prescribe regulations to authorize a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period to continue to use commissary and exchange stores in the same manner as a member of the Selected Reserve for a period of one year after the later of—

(1) the date on which that person ceases to be a member of the Selected Reserve; or

(2) the date of the enactment of this Act.

SEC. 551. TEMPORARY CONTINUATION OF SERVICEMEN'S GROUP LIFE INSURANCE.

(a) CONTINUED COVERAGE.—For the purposes of section 1968(a) of title 38, United States Code, the 120-day period of coverage provided for under paragraph (4) of such section shall be extended to a 365-day period of coverage in the case of a former member of the Selected Reserve referred to in subsection (b).

(b) ELIGIBILITY.—Subsection (a) applies to a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period and is ready, willing, and able to perform the training described in section 1965(5)(B) of title 38, United States Code.

(c) PAYMENT OF PREMIUMS.—The total amount of the cost attributable to insuring a person under this section shall be paid from any funds available to the Department of Defense for the pay of reserve component personnel that the Secretary of Defense determines appropriate.

(d) IMPLEMENTATION.—The Secretary of Veterans Affairs shall take any contracting and other actions that are necessary to ensure that the provisions of this section are implemented promptly.

SEC. 552. APPLICABILITY AND TERMINATION OF BENEFITS.

(a) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may limit the applicability of a benefit provided under sections 548 through 551 to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a).

(b) INAPPLICABILITY TO CERTAIN SEPARATIONS AND REASSIGNMENTS.—Sections 548 through 551 do not apply with respect to personnel who cease to be members of the Selected Reserve under adverse conditions, as characterized by the Secretary of the military department concerned.

(c) TERMINATION OF BENEFITS.—The eligibility of a member of a reserve component of the Armed Forces (after having involuntarily ceased to be a member of the Selected Reserve) to receive benefits and privileges under sections 548 through 551 terminates upon the involuntary separation of such member from the Armed Forces under adverse conditions, as characterized by the Secretary of the military department concerned.

Subtitle F—Other Matters

SEC. 561. RETENTION ON ACTIVE DUTY OF ENLISTED MEMBERS WITHIN TWO YEARS OF ELIGIBILITY FOR RETIREMENT.

(a) IN GENERAL.—Chapter 59 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1176. Enlisted members: retention after completion of 18 or more, but less than 20, years of service

"(a) REGULAR MEMBERS.—A regular enlisted member who is selected to be involuntarily separated, or whose term of enlistment expires and who is denied reenlistment, and who on the date on which the member is to be discharged is within two years of qualifying for retirement under section 3914 or 8914 of this title, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, shall be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, unless the member is sooner retired or discharged under any other provision of law.

"(b) RESERVE MEMBERS.—A reserve enlisted member serving on active duty who is selected to be involuntarily separated, or whose term of enlistment expires and who is denied reenlistment, and who on the date on which the member is to be discharged or released from active duty is entitled to be credited with at least 18 but less than 20 years of service computed under section 1332 of this title, may not be discharged or released from active duty without the member's consent before the earlier of the following:

"(1) If as of the date on which the member is to be discharged or released from active duty the member has at least 18, but less than 19, years of service computed under section 1332 of this title—

"(A) the date on which the member is entitled to be credited with 20 years of service computed under section 1332 of this title; or

"(B) the third anniversary of the date on which the member would otherwise be discharged or released from active duty.

"(2) If as of the date on which the member is to be discharged or released from active duty the member has at least 19, but less than 20, years of service computed under section 1332 of this title—

"(A) the date on which the member is entitled to be credited with 20 years of service computed under section 1332 of this title; or

"(B) the second anniversary of the date on which the member would otherwise be discharged or released from active duty.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1176. Enlisted members: retention after completion of 18 or more, but less than 20, years of service.".

SEC. 562. LIMITATIONS ON ENLISTED AIDES.

(a) LIMITATION ON NUMBER.—Subsection (b) of section 981 of title 10, United States Code, is amended by striking out "300" and inserting in lieu thereof "240".

(b) LIMITATION ON ASSIGNMENTS.—Section 981 of such title is amended by adding at the end the following new subsection:

"(c) An enlisted member may be assigned or otherwise detailed to duty as an enlisted aide on the personal staff of an officer only if the officer is serving in the position of a commander.".

(c) CONFORMING AMENDMENTS.—(1) The heading for such section is amended to read as follows:

"§ 981. Limitations on enlisted aides".

(2) The item relating to that section in the table of sections at the beginning of chapter 49 is amended to read as follows:

"981. Limitations on enlisted aides.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1993.

SEC. 563. LIMITATION RELATING TO PERMANENT CHANGES OF STATIONS.

Of the funds appropriated to the Department of Defense for fiscal year 1993 for military personnel, not more than $2,863,110,000 is authorized to be made available for the costs of permanent changes of station.

SEC. 564. REDUCTIONS IN NUMBER OF PERSONNEL CARRYING OUT RECRUITING ACTIVITIES.

The average daily number of members of the Armed Forces serving on full-time active duty or full-time National Guard duty who, as a primary duty, carry out personnel recruiting activities during fiscal year 1994 may not exceed the number equal to 90 percent of the average daily number of members of the Armed Forces who, as a primary duty, carried out personnel recruiting activities while serving on full-time active duty or full-time National Guard duty during fiscal year 1992. The Secretary of Defense shall ensure that the number of such personnel who, as a primary duty, carry out such activities is reduced appropriately in fiscal year 1993 to achieve the reduction required for fiscal year 1994.

SEC. 565. JUNIOR RESERVE OFFICER TRAINING CORPS.

(a) REORGANIZATION OF TEXT.—Subsection (a) of section 2031 of title 10, United States Code, is amended by redesignating the first, second, and third sentences as paragraphs (1), (3), and (4), respectively.

(b) PURPOSE OF PROGRAM.—Subsection (a) of such section, as amended by subsection (a) of this section, is further amended by inserting after paragraph (1) the following new paragraph (2):

"(2) It is a purpose of the Junior Reserve Officers' Training Corps to instill in students in United States secondary educational institutions the values of citizenship, service to the United States, and personal responsibility, and an appreciation of self-worth.".

(c) INCREASED LIMITATION ON NUMBER OF UNITS.—Paragraph (3) of section 2031(a) of title 10, United States Code, as designated by subsection (a) of this section, is amended to read as follows:

"(3) The total number of units which may be established and maintained by all of the military departments under authority of this section may not exceed 3,500.".

(d) WAIVER OF PAY CONTRIBUTION BY SCHOOLS.—Section 2031(d)(1) of such title is amended by adding at the end the following: "The Secretary of the military department concerned may pay the entire additional amount to an institution if the Secretary determines that such action is in the national interest and in the interest of the community of that institution.".

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1993.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1993 shall not be made.

(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—Effective of January 1, 1993, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3.7 percent.

SEC. 602. TEMPORARY RATES OF BASIC PAY FOR CERTAIN NONCOMMISSIONED OFFICERS AND WARRANT OFFICERS AND FOR CERTAIN COLONELS AND NAVY CAPTAINS.

(a) RATES OF PAY.—For months beginning after December 31, 1992, and before October 1, 1995, the rate of monthly basic pay for a member of the uniformed services (entitled to such pay under section 204 of title 37, United States Code) in pay grade E–7, E–8, E–9, W–4, W–5, or O–6 with over 24, but under 26, years of service (computed under section 205 of such title) shall be as follows:

(1) For pay grade E–7, $2,359.30.
(2) For pay grade E–8, $2,639.70.
(3) For pay grade E–9, $2,977.70.
(4) For pay grade W–4, $3,430.90.
(5) For pay grade W–5, $3,827.30.
(6) For pay grade O–6, $5,417.70.

(b) ADJUSTMENTS.—The rates of monthly basic pay established under subsection (a) shall be adjusted in accordance with section 1009 of title 37, United States Code.

SEC. 603. EXTENSIONS OF AUTHORITIES RELATING TO PAYMENT OF CERTAIN BONUSES AND OTHER SPECIAL PAY.

(a) REENLISTMENT BONUS FOR CRITICAL SKILLS.—Section 308(g) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(b) ENLISTMENT BONUS FOR CRITICAL SKILLS.—Section 308a(c) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(c) AVIATOR RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(d) EXTENSION OF BONUS AUTHORITIES FOR RESERVE ENLISTMENTS, REENLISTMENTS, AFFILIATIONS, AND EXTENSIONS.—Sections 308b(f), 308c(e), 308e(e), 308h(g), and 308i(i) of title 37, United States Code, are each amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(e) EXTENSION OF SPECIAL PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE ASSIGNED TO HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(f) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1992" and inserting in lieu thereof "October 1, 1993".

(g) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(h) NURSE CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(i) SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 30, 1992.

Subtitle B—Other Matters

SEC. 611. REQUIREMENT FOR PROPOSAL ON CONCURRENT PAYMENT OF RETIRED OR RETAINER PAY AND VETERANS' DISABILITY COMPENSATION.

The Secretary of Defense shall—

(1) submit to the congressional defense committees the Secretary's recommendations for legislation—

(A) to permit the concurrent payment to members and former members of the Armed Forces of full retired or retainer pay and full compensation for service-connected disabilities payable under laws administered by the Secretary of Veterans Affairs; or

(B) to ensure by some other means that members and former members of the Armed Forces entitled to retired or retainer pay are not financially penalized by being entitled to compensation for service-connected disabilities payable under such laws; and

(2) reserve in the legislative contingency fund of the Department of Defense a sufficient amount to ensure the concurrent payment of full retired or retainer pay to members and former members entitled to disability compensation referred to in paragraph (1) in fiscal year 1994 in the event that such legislation is enacted.

SEC. 612. EXPANSION OF REIMBURSABLE ADOPTION EXPENSES.

(a) DEPARTMENT OF DEFENSE PROGRAM.—Section 1052(g) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking out "through adoption or by" and inserting in lieu thereof "through adoption, by"; and

(ii) by inserting ", or through a private placement" before the period at the end; and

(B) by striking out the second sentence;

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The term 'qualifying adoptions expenses' does not include any expense incurred—

"(A) for any travel performed outside the United States by an adopting parent, unless such travel—

"(i) is required by law as a condition of a legal adoption in the country of the child's origin, or is otherwise necessary for the purpose of qualifying for the adoption of a child;

"(ii) is necessary for the purpose of assessing the health and status of the child to be adopted; or

"(iii) is necessary for the purpose of escorting the child to be adopted to the United States or the place where the adopting member of the armed forces is stationed; or

"(B) in connection with an adoption arranged in violation of Federal, State, or local law."; and

(4) in paragraph (3), as redesignated by paragraph (2)—

(A) by striking out "and" at the end of subparagraph (C); and

(B) by striking out subparagraph (D) and inserting in lieu thereof the following new subparagraphs:

"(D) medical expenses, including hospital expenses of a newborn infant, for medical care furnished the adopted child before the adoption, and for physical examinations for the adopting parents;

"(E) expenses relating to pregnancy and childbirth for the biological mother, including counseling, transportation, and maternity home costs;

"(F) temporary foster care charges when payment of such charges is required to be made immediately before the child's placement; and

"(G) except as provided in paragraph (2), transportation expenses relating to the adoption.".

(b) COAST GUARD PROGRAM.—Section 514(g) of title 14, United States Code, is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking out "through adoption or by" and inserting in lieu thereof "through adoption, by"; and

(ii) by inserting ", or through a private placement" before the period at the end; and

(B) by striking out the second sentence;

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The term 'qualifying adoptions expenses' does not include any expense incurred—

"(A) for any travel performed outside the United States by an adopting parent, unless such travel—

"(i) is required by law as a condition of a legal adoption in the country of the child's origin, or is otherwise necessary for the purpose of qualifying for the adoption of a child;

"(ii) is necessary for the purpose of assessing the health and status of the child to be adopted; or

"(iii) is necessary for the purpose of escorting the child to be adopted to the United States or the place where the adopting member of the Armed Forces is stationed; or

"(B) in connection with an adoption arranged in violation of Federal, State, or local law."; and

(4) in paragraph (3), as redesignated by paragraph (2)—

(A) by striking out "and" at the end of subparagraph (C); and

(B) by striking out subparagraph (D) and inserting in lieu thereof the following new subparagraphs:

"(D) medical expenses, including hospital expenses of a newborn infant, for medical care furnished the adopted child before the adoption, and for physical examinations for the adopting parents;

"(E) expenses relating to pregnancy and childbirth for the biological mother, including counseling, transportation, and maternity home costs;

"(F) temporary foster care charges when payment of such charges is required to be made immediately before the child's placement; and

"(G) except as provided in paragraph (2), transportation expenses relating to the adoption.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as of October 1, 1990, and shall apply to qualifying adoption expenses incurred on or after that date for adoption proceedings initiated on or after that date.

SEC. 613. PROHIBITION ON THE ASSERTION OF LIENS ON PERSONAL PROPERTY BEING TRANSPORTED AT GOVERNMENT EXPENSE.

(a) TITLE 37.—Section 406 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(n) No carrier, port agent, warehouseman, freight forwarder, or other person involved in the transportation of property may have any lien on, or hold, impound, or otherwise interfere with, the movement of baggage and household goods being transported under this section.".

(b) TITLE 10.—Section 2634 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) No carrier, port agent, warehouseman, freight forwarder, or other person involved in the transportation of property may have any lien on, or hold, impound, or otherwise interfere with, the movement of a motor vehicle being transported under this section.".

SEC. 614. ADVANCE PAYMENTS IN CONNECTION WITH EVACUATIONS OF PERSONNEL.

(a) EXPANDED AUTHORITY.—Section 1006(c) of title 37, United States Code, is amended by striking out the first and second sentences and inserting in lieu thereof the following: "Under regulations prescribed by the Secretary concerned, an advance of pay to a member of a uniformed service who is on duty outside the United States, or other place designated by the President, of not more than 2 month's basic pay may be made to a member if the member or his dependents are ordered evacuated by competent authority. An advance of pay under this subsection is not subject to the conditions under which advances of pay may be made under subsection (a) or (b). An advance may be made on the basis of the evacuation of a member's dependents only if all dependents of members of the uniformed services are ordered evacuated from the place where the member's dependents are located. In the case of a member with dependents, the payment may be made directly to dependents previously designated by the member.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to evacuations on or after June 1, 1991.

SEC. 615. INCREASE IN RECOMPUTED RETIRED PAY FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.

(a) MEMBERS INITIALLY ACCESSED BEFORE SEPTEMBER 8, 1980.—Section 1402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) In the case of a member who is entitled to recompute retired pay under this section upon release from active duty served after retiring under section 3914 or 8914 of this title, the member's retired pay as recomputed under another provision of this section shall be increased by 10 percent of the amount so recomputed if the member has been credited by the Secretary concerned with extraordinary heroism in the line of duty during any period of active duty service in the armed forces.

"(2) The amount of the retired pay as recomputed under another provision of this section and as increased under paragraph (1) may not exceed the amount equal to 75 percent of the monthly rate of basic pay upon which the recomputation of such retired pay is based.

"(3) The determination of the Secretary concerned as to extraordinary heroism is conclusive for all purposes.".

(b) MEMBERS INITIALLY ACCESSED AFTER SEPTEMBER 7, 1980.—Section 1402a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) ADDITIONAL 10 PERCENT FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.—(1) In the case of a member who is entitled to recompute retired pay under this section upon release from active duty served after retiring under section 3914 or 8914 of this title, the member's retired pay as recomputed under another provision of this section shall be increased by 10 percent of the amount so recomputed if the member has been credited by the Secretary concerned with extraordinary heroism in the line of duty during any period of active duty service in the armed forces.

"(2) The amount of the retired pay as recomputed under another provision of this section and as increased under paragraph (1) may not exceed the amount equal to 75 percent of the retired pay base upon which the recomputation of such retired pay is based.

"(3) The determination of the Secretary concerned as to extraordinary heroism is conclusive for all purposes.".

(c) PROSPECTIVE APPLICABILITY.—No benefits shall accrue for months beginning before the date of the enactment of this Act by reason of the amendments made by this section.

SEC. 616. AUTHORIZED BENEFITS UNDER SPECIAL SEPARATION BENEFITS PROGRAMS.

(a) TRAVEL AND TRANSPORTATION BENEFITS.—Subsection (b)(2)(B) of section 1174a of title 10, United States Code, is amended by inserting after "chapter 58 of this title" the following: ", sections 404 and 406 of title 37, and section 503(c) of the National Defense Authorization Act for Fiscal Year 1991 (104 Stat. 1558; 37 U.S.C. 406 note)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of December 5, 1991.

SEC. 617. RETIRED PAY FOR PERSONS WHO WERE RESERVES OF AN ARMED FORCE BEFORE AUGUST 16, 1945.

(a) ELIGIBILITY FOR RETIRED PAY FOR NONREGULAR SERVICE.—Section 1331(c) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(3) he performed at least 20 years of service (computed under section 1332 of this title) after August 15, 1945.".

(b) EXCLUSION OF CERTAIN SERVICE FOR PURPOSES OF DETERMINING ENTITLEMENT FOR RETIRED PAY.—Section 1332(b) of such title is amended by adding at the end the following new paragraph:

"(8) Service before August 16, 1945, if eligibility for retired pay is based on section 1331(c)(3) of this title.".

(c) EXCLUSION OF CERTAIN SERVICE FOR PURPOSES OF COMPUTING RETIRED PAY.—Section 1333 of such title is amended—

(1) by striking out "For" and inserting in place thereof "(a) Except as provided in subsection (b), for"; and

(2) by adding the following new subsection:

"(b) Service before August 16, 1945, may not be counted under subsection (a) if eligibility for retired pay is based on section 1331(c)(3) of this title.".

SEC. 618. REFERENCES RELATING TO TRAVEL AND TRANSPORTATION BENEFITS.

Section 404(e) of title 37, United States Code, is amended—

(1) by striking out "Military Airlift Command" and inserting in lieu thereof "Air Mobility Command"; and

(2) by striking out "or Naval Aircraft Ferrying Squadrons," and inserting in lieu tnereof "Naval Aircraft Ferrying Squadrons, or any other unit determined by the Secretary concerned to be performing duties similar to the duties performed by such command or squadrons,".

SEC. 619. SUBSISTENCE REIMBURSEMENT RELATING TO ESCORTS OF FOREIGN ARMS CONTROL INSPECTION TEAMS.

(a) TRAVEL ALLOWANCE.—(1) Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 434. Subsistence reimbursement relating to escorts of foreign arms control inspection teams

"(a) Under uniform regulations prescribed by the Secretaries concerned, a member of the armed forces may be reimbursed for the reasonable cost of subsistence incurred by the member while performing duties as an escort of an arms control inspection team of a foreign country, or any member of such a team, while the team or the team member, as the case may be, is engaged in activities related to the implementation of an arms control treaty or agreement.

"(b) The authority under subsection (a) applies to the period during which the inspection team, pursuant to authority specifically provided in the applicable arms control treaty or agreement, is in the country where inspections and related activities are being conducted by the team pursuant to that treaty or agreement.

"(c) The authority under subsection (a) applies to a member of the armed forces whether the duties referred to in that subsection are performed at, near, or away from the member's permanent duty station.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by adding at the end the following new item:

"434. Subsistence reimbursement relating to escorts of foreign arms control inspection teams.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to duty performed on or after the date of the enactment of this Act.

TITLE VII—HEALTH CARE PROVISIONS

SEC. 701. APPOINTMENT OF CHIROPRACTORS AS COMMISSIONED OFFICERS.

(a) ARMY.—(1) Section 3068(a)(5) of title 10, United States Code, is amended—

(A) by striking out "and" at the end of subparagraph (D);

(B) by redesignating subparagraph (E) as subparagraph (F); and

(C) by inserting after subparagraph (D) the following new subparagraph:

"(E) the Chiropractic Section; and".

(2)(A) Chapter 335 of title 10, United States Code, is amended by inserting after section 3283 the following new section 3284:

"§ 3284. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Army may be appointed a regular commissioned officer in the Medical Service Corps of the Army.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3283 the following new item:

"3284. Appointment of chiropractors as commissioned officers.".

(3)(A) Chapter 337 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 3397. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Army may be appointed a reserve commissioned officer in the Medical Service Corps of the Army.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3396 the following new item:

"3397. Appointment of chiropractors as commissioned officers.".

(b) NAVY.—(1) Chapter 539 of such title is amended by inserting after the table of sections for such chapter the following new section 5571:

"§ 5571. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Navy may be appointed a regular commissioned officer or a reserve commissioned officer in the Medical Corps of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by inserting above the item relating to section 5582 the following new item:

"5571. Appointment of chiropractors as commissioned officers.".

(c) AIR FORCE.—(1) Section 8067 of such title is amended—

(A) by redesignating subsections (g), (h), and (i) as subsections (h), (i), and (j), respectively; and

(B) by inserting after subsection (f) the following new subsection (g):

"(g) Chiropractic functions in the Air Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary and who are designated as chiropractic officers.".

(2)(A) Chapter 835 of title 10, United States Code, is amended by inserting after section 8281 the following new section 8284:

"§ 8284. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Air Force may be appointed a regular commissioned officer in the Air Force for designation as a chiropractic officer.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8281 the following new item:

"8284. Appointment of chiropractors as commissioned officers.".

(3)(A) Chapter 837 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 8397. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Air Force may be appointed a reserve commissioned officer in the Air Force for designation as a chiropractic officer.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8396 the following new item:

"8397. Appointment of chiropractors as commissioned officers.".

(4) Section 8579 of such title is amended—

(A) by striking out "or biomedical sciences officer" and inserting in lieu thereof "biomedical sciences, or chiropractic officer"; and

(B) by striking out "or (i) of section 8067" and inserting in lieu thereof "(g), or (j) of section 8067".

(5) Section 8848(b) of such title is amended by striking out "section 8067 (a)–(d) or (g)–(i)" and inserting in lieu thereof "any of subsections (a) through (d) or (g) through (j) of section 8067".

SEC. 702. REVISIONS TO DEPENDENTS' DENTAL PROGRAM UNDER CHAMPUS.

(a) REPEAL OF AUTHORITY TO ESTABLISH SUPPLEMENTAL PLANS.—Section 1076a of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out "and supplemental" in the first sentence; and

(B) by striking out the last sentence;

(2) in subsection (b), by striking out paragraph (3);

(3) in subsection (d)—

(A) by striking out paragraph (2);

(B) by striking out "(1)" before "A basic"; and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(4) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) COPAYMENTS.—A member whose spouse or child receives care under a basic dental benefits plan shall—

"(1) pay no charge for care described in subsection (d)(1); and

"(2) pay 20 percent of the charges for care described in subsection (d)(2).".

(b) PREMIUM INCREASE.—Subsection (b)(2) of such section is amended by striking out "$10" and inserting in lieu thereof "$20".

(c) IMPROVEMENT IN BENEFITS.—Subsection (d) of such section, as amended by subsection (a)(3) of this section, is further amended by adding at the end the following new paragraph:

"(3) Orthodontic services, crowns, gold fillings, bridges, and complete or partial dentures.".

(d) COPAYMENT FOR ADDITIONAL BENEFITS.—Subsection (e) of such section, as amended by subsection (a)(4) of this section, is further amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(3) pay a percentage of the charges for care described in subsection (d)(3) that is determined appropriate by the Secretary of Defense, after consultation with the other administering Secretaries.".

(e) PROGRAM OF IMPROVED DEPENDENTS' DENTAL BENEFITS.—(1) The Secretary of Defense, after consulting with the other administering Secretaries, shall devise and implement a program for the improvement of the provision of dental benefits to dependents of members of the Armed Forces under the Civilian Health and Medical Program of the Uniformed Services.

(2) In this subsection:

(A) The term "administering Secretaries" has the meaning given such term in section 1072(3) of title 10, United States Code.

(B) The term "Civilian Health and Medical Program of the Uniformed Services" has the meaning given that term in section 1072(4) of such title.

(3) Of the funds authorized to be appropriated in section 301, $80,000,000 shall be available to the Secretary of Defense for carrying out paragraph (1).

(f) EFFECTIVE DATES AND SAVINGS PROVISION.—(1) The amendments made by subsections (a) and (b) shall take effect on the first day of the first month that begins after the date of the enactment of this Act. The amendments made by subsections (c) and (d) shall take effect on the date of the enactment of this Act.

(2) Spouses and children who, on the day before the date of the enactment of this Act, are covered by enrollments in supplemental dental benefits plans established under section 1076a of title 10, United States Code, may continue to receive benefits under such plan until the first day of the sixth month that begins after such date, subject to the premium requirement provided in paragraph (3) of section 1076a of title 10, United States Code, as such paragraph was in effect on the day before the effective date of the amendments made by subsection (a).

SEC. 703. SENSE OF CONGRESS REGARDING HEALTH CARE POLICY FOR THE UNIFORMED SERVICES.

It is the sense of Congress that—

(1) members and former members of the uniformed services, and their dependents and survivors, should have access to health care under the health care delivery system of the uniformed services regardless of the age or health care status of the person seeking the health care;

(2) such health care delivery system should include a comprehensive managed care plan;

(3) the comprehensive managed care plan should involve medical personnel of the uniformed services (including reserve component personnel), civilian health care professionals of the executive agency of such uniformed services, medical treatment facilities of the uniformed services, contract health care personnel, and the medicare system;

(4) the Secretary of Defense, the Secretary of Health and Human Services, and the Secretary of Transportation should continue to provide active duty personnel of the uniformed services with free care in medical treatment facilities of the uniformed services and to provide the other personnel referred to in paragraph (1) with health care at minimal cost to the recipients of the care; and

(5) the Secretaries referred to in paragraph (4) should offer additional health care options to the personnel referred to in paragraph (1) including, in the case of persons eligible for medicare under title XVIII of the Social Security Act, options providing for—

(A) the reimbursement of the Department of Defense by the Secretary of Health and Human Services for health care services provided such personnel at medical treatment facilities of the Department of Defense; and

(B) the sharing of the payment of the costs of contract health care by the Department of Defense and the Department of Health and Human Services, with one such department being the primary payer of such costs and the other such department being the secondary payer of such costs.

SEC. 704. MILITARY HEALTH CARE FOR PERSONS RELIANT ON HEALTH CARE FACILITIES AT BASES BEING CLOSED AND REALIGNED.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a joint services working group on the provision of military health care to persons who rely for health care on health care facilities at military installations being closed or realigned.

(b) MEMBERSHIP.—The members of the working group shall include the Assistant Secretary of Defense for Health Affairs, the Surgeon General of the Army, the Surgeon General of the Navy, the Surgeon General of the Air Force, or a designee of each such person, and one independent member appointed by the Secretary of Defense from among private citizens whose interest in matters within the responsibility of the working group qualify that person to represent all personnel entitled to health care under chapter 55 of title 10, United States Code.

(c) DUTIES.—(1) In the case of each closure or realignment of a military installation that will adversely affect the accessibility of health care in a facility of the uniformed services for persons entitled to such health care under chapter 55 of title 10, United States Code, the working group shall solicit the views of such persons regarding suitable substitutes for the furnishing of health care to those persons under that chapter.

(2) In carrying out paragraph (1), the working group—

(A) shall conduct meetings with persons referred to in that paragraph, or representatives of such persons;

(B) may use reliable sampling techniques;

(C) shall visit the areas where closures and realignments of military installations will adversely affect the accessibility of health care in a facility of the uniformed services for persons referred to in paragraph (1) and shall conduct public meetings; and

(D) shall ensure that members of the uniformed services on active duty, members and former members of the uniformed services entitled to retired or retainer pay, and dependents and survivors of such members and retired personnel are afforded the opportunity to express views.

(d) RECOMMENDATIONS.—With respect to each closure and realignment of a military installation referred to in subsection (c), the working group shall submit to the Congress and the Secretary of Defense the working group's recommendations regarding the alternative means for continuing to provide accessible health care under chapter 55 of title 10, United States Code, to persons referred to in that subsection.

(e) APPLICATION OF ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the joint services working group established pursuant to this section.

SEC. 705. PROGRAMS RELATING TO THE SALE OF PHARMACEUTICALS.

(a) PHARMACEUTICALS BY MAIL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense, in consultation with the administering Secretaries, shall—

(1) establish a program that permits eligible persons to obtain prescription pharmaceuticals by mail in connection with medical care furnished to such persons under chapter 55 of title 10, United States Code; and

(2) conduct the program in two or more regions selected by the Secretary, each of which consists of two or more States.

(b) RETAIL PHARMACY NETWORK.—(1) Not later than 18 months after such date, the Secretary of Defense, in consultation with the administering Secretaries, shall carry out the demonstration project described in paragraph (2).

(2) Under the demonstration project, the Secretary shall enter into one or more contracts or otherwise provide for the supply of prescription pharmaceuticals to eligible persons through a network of local retail pharmacies. The Secretary shall carry out the demonstration project in a region (selected by the Secretary) consisting of two or more States.

(c) ELIGIBLE PERSONS.—A person eligible to obtain pharmaceuticals under the program under subsection (a) or the demonstration project under subsection (b) is any person living in a State covered by the program or project who—

(1) is entitled to medical care under a contract for medical care entered into by the Secretary of Defense under section 1079 or 1086 of title 10, United States Code; or

(2) is over 65 years of age and resides in an area (as determined by the Secretary) that is affected by the closure of a health care facility of the uniformed services as a result of the closure or realignment of the military installation at which such facility is located.

(d) PURCHASE FEES.—(1) The Secretary of Defense, in consultation with the administering Secretaries, shall determine for the program and the demonstration project—

(A) subject to paragraph (2), the pharmaceuticals that may be obtained by eligible persons under the program or the demonstration project; and

(B) an appropriate fee, charge, or copayment to be paid by such persons for such pharmaceuticals obtained under the program or demonstration project.

(2) The Secretary shall, to the maximum extent practicable, ensure that the pharmaceuticals obtained under the program and the project are generic pharmaceuticals. The Secretary may provide that name brand pharmaceuticals be obtained in such circumstances as the Secretary of Defense determines appropriate.

(e) REPORT.—Not later than 2 years after the establishment of the program under subsection (a) and the demonstration project under subsection (b), the Secretary of Defense shall submit to Congress a report on the following:

(1) In the case of the program, the results of the program, recommendations, if any, for revision of the program, and a plan (including a schedule) for implementing the program throughout the United States.

(2) In the case of the demonstration project, the results of the project and the recommendations of the Secretary with respect to the advisability of making the project permanent.

(f) DEFINITIONS.—In this section, the terms "uniformed services" and "administering Secretaries" have the meanings given those terms in section 1072 of title 10, United States Code.

SEC. 706. ANNUAL BENEFICIARY SURVEY.

The administering Secretaries referred to in section 1072 of title 10, United States Code, shall conduct annually a formal survey of persons receiving health care under chapter 55 of such title in order to determine the following:

(1) The availability of health care services to such persons through the health care system provided for under that chapter, the types of services received, and the facilities in which the services were provided.

(2) The familiarity of such persons with the services available under that system and with the facilities in which such services are provided.

(3) The health of such persons.

(4) The level of satisfaction of such persons with that system and the quality of the health care provided through that system.

(5) Such others matters as the administering Secretaries determine appropriate.

SEC. 707. MAXIMUM ANNUAL AMOUNT FOR DEDUCTIBLES AND COPAYMENTS.

(a) REDUCED MAXIMUM ANNUAL AMOUNT.—Section 1086(b)(4) of title 10, United States Code, is amended by striking out "$10,000" and inserting in lieu thereof "$7,500".

(b) APPLICABILITY AFTER FISCAL YEAR 1992.—The amendment made by subsection (a) shall apply with respect to fiscal years beginning after September 30, 1992.

SEC. 708. CONTINUATION OF CHAMPUS COVERAGE FOR CERTAIN MEDICARE PARTICIPANTS.

(a) INCLUSION OF END STAGE RENAL DISEASE PATIENTS.—Section 1086(d)(2)(A) of title 10, United States Code, is amended by inserting before the semicolon the following: "or section 226A(a) of such Act (42 U.S.C. 426–1(a))".

(b) COVERAGE OF CARE PROVIDED SINCE SEPTEMBER 30, 1991.—The amendment made by subsection (a), and the amendment made by section 704(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1401), shall apply with respect to health care benefits or services received after September 30, 1991, by a person described in subsection (d)(2) of section 1086 of title 10, United States Code, if such benefits or services would have been covered under a plan contracted for under such section 1086.

(c) CONFORMING AMENDMENTS.—(1) Section 704 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1401) is amended by striking out subsection (c).

(2) Section 8097 of the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1197), is repealed.

SEC. 709. HOME HEALTH SERVICES UNDER CHAMPUS.

(a) ELIGIBILITY.—Section 1079(a) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (15);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(17) home health services and other services (including services described in paragraphs (1) through (16)) in connection with extraordinary physical or psychological conditions may be provided only through a program of individualized case management established by the Secretary of Defense and in a manner determined (under regulations prescribed by the Secretary) to be cost-effective and appropriate.".

(b) CONFORMING AMENDMENT.—Section 1077 of such title is amended—

(1) by adding at the end of subsection (a) the following new paragraph:

"(15) Home health services."; and

(2) in subsection (b), by striking out "The following" and inserting in lieu thereof "Except as provided in subsection (a)(15), the following".

SEC. 710. STUDY ON RISK-SHARING CONTRACTS FOR HEALTH CARE.

Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall—

(1) carry out a study of the feasibility and advisability of entering into risk-sharing contracts with eligible organizations described in section 1876 of the Social Security Act (42 U.S.C. 1395mm) to furnish health care services to persons entitled to health care in a facility of a uniformed service under section 1074(b) or 1076(b) of title 10, United States Code;

(2) if the Secretary determines that entry into such contracts is feasible and advisable, develop a plan for the entry into such contracts in accordance with the Secretary's determinations under the study; and

(3) submit to Congress a report on the results of the study and on the plan.

SEC. 711. COMPREHENSIVE STUDY OF THE MILITARY MEDICAL CARE SYSTEM.

Section 733 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 1071 note) is amended—

(1) in subsection (b), by inserting after paragraph (2) the following new paragraph:

"(3) A comprehensive review of the Federal employees health benefits program under chapter 89 of title 5, United States Code, in order to determine whether furnishing health care under a similar program to persons entitled to health care under chapter 55 of title 10, United States Code, would result in the effective provision of health care to such persons and would be cost effective."; and

(2) in subsection (d)—

(A) by redesignating paragraph (12) as paragraph (13); and

(B) by inserting after paragraph (11) the following new paragraph (12):

"(12) A discussion of the results of the review under subsection (b)(3) and the Secretary's recommendations of the basis of those results.".

SEC. 712. NATIONAL CLAIMS PROCESSING CENTER FOR CHAMPUS.

(a) Requirement.—(1) The Secretary of Defense, in consultation with the administering Secretaries, shall provide by contract for the operation of a claims processing center to be known as the "National Centralized Claims Processing System for CHAMPUS". The contract shall provide for the center to commence operations not later than 5 years after the date of the enactment of this Act.

(2) The Secretary shall use competitive procedures for entering into the contract under paragraph (1).

(b) Center Activities.—The claims processing center shall—

(1) maintain in electronic and written form appropriate information on health care services provided to covered beneficiaries by or through third parties under CHAMPUS or any alternative CHAMPUS program or demonstration project, including information on—

(A) the services to which such beneficiaries are entitled or eligible under an insurance plan, medical service plan, or health plan under CHAMPUS;

(B) the insurers, medical services, or health plans that provide such services; and

(C) the services available to beneficiaries under each insurance plan, medical service plan, or health plan, and the payment required of the beneficiaries and the insurer, medical service, or health plan for such services under the plan;

(2) receive in electronic or written form claims submitted by insurers, medical services, and health plans for services provided to covered beneficiaries;

(3) process, adjudicate, and pay (by electronic or other means) such claims; and

(4) provide the information described in paragraphs (1) and (2) and information on the matters referred to in paragraph (3) by telephone or other electronic means to covered beneficiaries, insurers, medical services, and health plans.

(c) Additional Requirement.—The Secretary shall ensure, to the maximum extent practicable, that claims submitted as described in subsection (b)(2) conform to the requirements applicable to claims submitted to the Secretary of Health and Human Services with respect to medical care provided under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

(d) Identification Card.—The Secretary shall take appropriate actions to determine whether the use by covered beneficiaries of a standard identification card containing electronically readable information will enhance the capability of the claims processing center to carry out the matters set forth in subsection (b).

(e) Definitions.—In this section:

(1) The terms "administering Secretaries" and "covered beneficiary" have the meanings given such terms in paragraphs (3) and (5) of section 1072 of title 10, United States Code, respectively.

(2) The term "CHAMPUS" means the Civilian Health and Medical Program of the Uniformed Services, as defined in paragraph (4) of that section.

SEC. 713. ALTERNATIVE HEALTH CARE DELIVERY METHODOLOGIES.

(a) Continuation of Health Care Reform Initiatives.—(1) During fiscal years 1993 through 1996, the Secretary of Defense shall continue to test a broad array of reform options for furnishing health care to persons who are eligible to receive health care under chapter 55 of title 10, United States Code.

(2) The health care reform options tested in accordance with paragraph (1) shall include CHAMPUS alternatives, the CHAMPUS Reform Initiative, catchment area management, coordinated care, and such other options as the Secretary of Defense considers appropriate.

(3) During fiscal year 1994, the Secretary shall conduct a study of the health care reform options tested as described in paragraph (1). The study shall compare the cost effectiveness of such options and the extent to which the persons who received health care under those options are satisfied with that health care. The Secretary shall report the results of the study to Congress.

(b) Continuation of CHAMPUS Reform Initiative in Hawaii and California.—(1) The Secretary of Defense shall ensure that a replacement or successor contract for the CHAMPUS Reform Initiative contract applicable to California and Hawaii is awarded in sufficient time for the contractor to begin to provide health care in California and Hawaii under the replacement or successor contract not later than August 1, 1993.

(2) The Secretary shall use competitive procedures for awarding a replacement or successor contract under paragraph (1).

(3)(A) Not later than June 1, 1994, the Secretary of Defense shall provide by contract for a person outside the Federal Government to perform an evaluation of the conduct of the CHAMPUS Reform Initiative in Hawaii and California. The evaluation shall cover each of the fiscal years during which the initiative is carried out in such States under the replacement or successor contract referred to in paragraph (1) and under the predecessor contracts. The evaluation shall include a comparison of the cost savings and claims experience resulting in each such fiscal year from carrying out the initiative in such States.

(B) Not later than 1 year after the date on which the contract for evaluation is entered into under subparagraph (A), the person making the evaluation shall submit to the Secretary of Defense and to Congress a report on the results of the evaluation.

(c) Inclusion of Positive Incentives for Enrollment Under the Coordinated Care Program.—(1) The Secretary of Defense shall modify the Policy Guidelines on the Department of Defense Coordinated Care Program to provide covered beneficiaries with additional positive incentives to enroll in the coordinated care program of the Department of Defense.

(2) The incentives may include—

(A) a reduction of the copayment and deductibles prescribed under sections 1079 and 1086 of title 10, United States Code, for covered beneficiaries who enroll in the coordinated care program;

(B) alternative cost-sharing requirements for certain types of care; and

(C) an expansion of the benefits provided under the coordinated care program beyond the benefits authorized under CHAMPUS.

(2) The modifications required under paragraph (1) shall permit health care demonstration projects in existence on the date of the enactment of this Act (including the CHAMPUS Reform Initiative, the catchment area management projects, the CHAMPUS select fiscal intermediary program in the Southeast Region, and the managed health care programs established in the Tidewater region of Virginia) and future managed care health care incentives undertaken by the Department of Defense to offer covered beneficiaries not enrolled in the coordinated care program the opportunity to use a preferred provider network of health care providers.

(3) In determining what level and types of positive incentives are likely to induce covered beneficiaries to enroll in the coordinated care program, the Secretary shall take into consideration the extent to which covered beneficiaries not enrolled in the program are permitted to choose health care providers without prior referral or approval.

(4) Subject to the availability of space and facilities and the capabilities of the medical or dental staff, the Secretary of Defense may not deny access to military treatment facilities to covered beneficiaries who do not enroll in the coordinated care program. However, the Secretary may establish reasonable admission preferences for covered beneficiaries enrolled in the program as an incentive to encourage enrollment.

(d) Definitions.—In this section:

(1) The term "CHAMPUS" has the meaning given the term "Civilian Health and Medical Program of the Uniformed Services", as defined in section 1072(4) of title 10, United States Code.

(2) The term "covered beneficiary" has the meaning given that term in section 1072(5) of such title.

(3) The term "CHAMPUS Reform Initiative" has the meaning given that term in section 702(d)(1) of the Department of Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 1073 note).

(4) The term "catchment area management" means the methodology provided for demonstration in accordance with section 731 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (10 U.S.C. 1092 note).

(5) The term "Policy Guidelines on the Department of Defense Coordinated Care Program" means the Policy Guidelines on the Department of Defense Coordinated Care Program that were issued by the Assistant Secretary of Defense for Health Affairs on January 8, 1992.

SEC. 714. MEDICAL AND DENTAL CARE FOR CERTAIN INCAPACITATED DEPENDENTS.

(a) Exclusion of Certain Incapacitated Dependents From CHAMPUS Coverage.—Section 1086(c) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "and 1072(2)(I)" after "section 1072(2)(E)"; and

(2) in paragraph (2), by inserting "or 1072(2)(I)" after "section 1072(E)".

(b) Applicability of Exclusion.—Section 1072(2) of title 10, United States Code, is amended—

(1) by striking out subparagraph (D) and inserting in lieu thereof the following:

"(D) an unmarried legitimate child, including an adopted child or stepchild, who—

"(i) has not passed his twenty-first birthday;

"(ii) has not passed his twenty-third birthday, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary and is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support; or

"(iii) is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a member or former member under clause (i) or (ii) and is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support;";

(2) by striking out "and" at the end of subparagraph (G);

(3) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof a semicolon and "and"; and

(4) by inserting after subparagraph (H) the following new subparagraph:

"(I) an unmarried legitimate child, including an adopted child or stepchild, who is incapable of self-support because of a mental or physical incapacity that did not exist while the child was a dependent of a member or former member under subparagraph (D)(i) or (D)(ii) and is, or was at the time of the member's or former member's death, dependent on him for over one-half of his support.".

SEC. 715. REPRODUCTIVE HEALTH SERVICES IN MEDICAL FACILITIES OF THE UNIFORMED SERVICES OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1074c the following new section:

"§ 1074d. Reproductive health services in medical facilities of the uniformed services outside the United States

"(a) PROVISION OF SERVICES.—A member of the uniformed services who is on duty at a station outside the United States (and any dependent of the member who is accompanying the member) is entitled to the provision of any reproductive health service in a medical facility of the uniformed services outside the United States serving that duty station in the same manner as any other type of medical care.

"(b) PAYMENT FOR SERVICES.—(1) In the case of any reproductive health service for which appropriated funds may not be used, the administering Secretary shall require the member of the uniformed service (or dependent of the member) receiving the service to pay the full cost (including indirect costs) of providing the service.

"(2) If payment is made under paragraph (1), appropriated funds shall not be considered to have been used to provide a reproductive health service under subsection (a). The amount of such payment shall be credited to the accounts of the facility at which the service was provided.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1074c the following new item:

"1074d. Reproductive health services in medical facilities of the uniformed services outside the United States.".

DEFENSE CONVERSION AND TRANSITION ASSISTANCE ACT

The text of the original bill (S. 3139) to improve the defense economic diversification, conversion, and stabilization activities of the Department of Defense; to authorize transition assistance for members of the Armed Forces adversely affected by reductions in Federal Government spending for national security functions; to clarify and improve the policies and programs of the Department of Defense concerning the national defense technology and industrial base, and for other purposes, as passed by the Senate on September 18, 1992, is as follows:

S. 3139

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Defense Conversion and Transition Assistance Act of 1992".

SEC. 2. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

TITLE III—OPERATION AND MAINTENANCE

Subtitle C—Defense Economic Diversification, Conversion, and Stabilization

SEC. 331. REVISION OF AUTHORITIES RELATING TO THE ECONOMIC ADJUSTMENT COMMITTEE.

(a) PERMANENT CHAIRMAN.—Subsection (b) of section 4004 of the Defense Economic Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101-510; 10 U.S.C. 2391 note) is amended to read as follows:

"(b) CHAIRMAN.—The Secretary of Defense shall be the Chairman of the Committee.".

(b) EXECUTIVE COUNCIL.—Section 4004 of such Act is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new subsection (c):

"(c) EXECUTIVE COUNCIL.—The Chairman shall establish an Executive Council of the Committee from appropriate representatives of the Department of Defense, the Department of Commerce, the Department of Labor, and the Small Business Administration. Under the direction of the Chairman, the Executive Council shall develop policies and procedures to ensure that communities, businesses, and workers substantially and seriously affected by reductions in defense expenditures are advised of the assistance available to such communities, businesses, and workers under programs administered by such departments and that agency.".

(c) NOTIFICATION OF ECONOMIC ADJUSTMENT PLANNING.—Section 4101(a) of such Act is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(3) by striking out "or" at the end of paragraph (1) (as so redesignated);

(4) by striking out the period at the end of paragraph (2) (as so redesignated) and inserting in lieu thereof "; or"; and

(5) by adding at the end the following new paragraph (3):

"(3) the lack of any follow-on contracts or other defense-related contract activity.".

SEC. 332. AUTHORIZATIONS OF APPROPRIATIONS FOR CERTAIN DEFENSE STABILIZATION ACTIVITIES.

(a) ASSISTANCE THROUGH THE ECONOMIC DEVELOPMENT ADMINISTRATION.—Section 4103(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2391 note) is amended by inserting "and for fiscal year 1993 $150,000,000" after "$50,000,000".

(b) DEFENSE CONVERSION ADJUSTMENT.—Section 4203(a) of such Act (10 U.S.C. 2391 note) is amended by inserting "and $50,000,000 for fiscal year 1993" after "fiscal year 1991".

SEC. 333. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Defense, in consultation with the Secretary of Education, shall provide financial assistance to local educational agencies in States as provided in this section.

(b) SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—(1) The Secretary of Defense shall provide financial assistance to an eligible local educational agency if, without such assistance, that agency will be unable (as determined by the Secretary of Defense in consultation with the Secretary of Education) to provide the students in the schools of the agency with a level of education that is equivalent to the minimum level of education available in the schools of the other local educational agencies in the same State.

(2) A local educational agency is eligible for assistance under this subsection for a fiscal year if—

(A) at least 30 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools of that agency in that fiscal year are military dependent students described in section 3(a) or 3(b) of Public Law 81-874 (20 U.S.C. 238(a)); or

(B) by reason of a consolidation or reorganization of local educational agencies, the local educational agency is a successor of a local educational agency that, for fiscal year 1992—

(i) was eligible to receive payments in accordance with Department of Defense Instruction 1342.18, dated June 3, 1991; and

(ii) satisfied the requirement in subparagraph (A).

(c) ADJUSTMENT PAYMENTS RELATED TO BASE CLOSURES AND REALIGNMENTS.—To assist communities in making adjustments resulting from reductions in the size of the Armed Forces, the Secretary of Defense shall transfer to the Secretary of Education funds to make payments to local educational agencies that are entitled to receive under section 3 of Public Law 81-874 (20 U.S.C. 238) payments adjusted in accordance with subsection (e) of such section by reason of conditions described in subparagraphs (A) through (C) of paragraph (1) of such subsection that result from closures and realignments of military installations.

(d) REPORT ON IMPACT OF BASE CLOSURES ON EDUCATIONAL AGENCIES.—(1) Not later than February 15 of each of 1993, 1994, and 1995, the Secretary of Defense, in consultation with the Secretary of Education, shall submit to Congress a report on the local educational agencies affected by the closures and realignment of military installations and by redeployments of members of the Armed Forces.

(2) Each report shall contain the following:

(A) The number of dependent children of members of the Armed Forces or civilian employees of the Department of Defense who entered the schools of the local educational agencies during the preceding school year as a result of closures, realignments, or redeployments.

(B) The number of dependent children of such members or employees who withdrew from the schools of the local educational agencies during that school year as a result of closures, realignments, or redeployments.

(C) The amounts paid to the local educational agencies during that year under Public Law 81-874 (20 U.S.C. 236 et seq.) or any other provision of law authorizing the payment of financial assistance to local communities or local educational agencies on the basis of the presence of dependent children of such members or employees in such communities and in the schools of such agencies.

(D) The projected transfers of such members and employees in connection with closures, realignments, and redeployments during the 12-month period beginning on the date of the report, including—

(i) the installations to be closed or realigned;

(ii) the installations to which personnel will be transferred as a result of closures, realignments, and redeployments; and

(iii) the effects of such transfers on the number of dependent children who will be included in determinations with respect to the payment of funds to each affected local educational agency under subsections (a) and (b) of section 3 of Public Law 81–874 (20 U.S.C. 238).

(e) DEFINITIONS.—In this section:

(1) The term "local education agency" has the meaning given that term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

(2) The term "State" has the meaning given that term in section 3(d)(3)(D)(i) of Public Law 81–874 (20 U.S.C. 238(d)(3)(D)(i)).

(3) The term "military dependent student" means a student that is a dependent child of a member of the Armed Forces.

(f) FUNDING.—Of the amounts appropriated for the Department of Defense for operation and maintenance in fiscal year 1993 pursuant to the authorization of appropriations in section 301—

(1) $50,000,000 shall be available for providing assistance to local educational agencies under subsection (b); and

(2) $8,000,000 shall be available for making payments to local educational agencies under subsection (c).

SEC. 334. IMPACT AID.

Section 3(e)(1) of Public Law 81–874 (20 U.S.C. 238(e)(1)) is amended in the matter following subparagraph (C) by inserting "shall not be less than 100 percent of the payment such agency received under subsections (a) and (b) for the preceding fiscal year," after "for such fiscal year".

SEC. 335. EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS.

(a) USE OF FUNDS.—Section 325(c) of such Act (29 U.S.C. 1662d(c)) is amended to read as follows:

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Grants made under subsection (a) may be used for any purpose for which funds may be used under section 314 or this part.

"(2) RESERVATION.—

"(A) IN GENERAL.—The Secretary shall reserve at least 10 percent of the funds appropriated to carry out this section for the purpose of making grants to States under subsection (a) to provide the reimbursement described in subparagraph (B).

"(B) REIMBURSEMENT.—A grant described in subparagraph (A) may be used to reimburse a State for the funds reserved by the State, pursuant to section 302(c), that—

"(i) are expended for rapid response assistance and basic readjustment services (not including support services) described in paragraphs (1) and (2) of section 314(a), respectively; and

"(ii) are delivered to eligible dislocated workers adversely affected by reductions in expenditures by the United States for defense or by closures of United States military installations, as determined in accordance with regulations of the Secretary of Defense.".

(b) NOTICE REQUIREMENTS.—Section 325 of such Act (42 U.S.C. 1662d) is amended by adding at the end the following new subsections:

"(e) NOTICE REQUIREMENTS.—

"(1) SECRETARY OF DEFENSE NOTICE REQUIREMENT.—To the extent practicable, the Secretary of Defense shall provide 6 months advance notice to a defense contractor of any cancellation of, or substantial reduction in, a defense contract, that will adversely affect the defense contractor.

"(2) DEFENSE CONTRACTOR NOTICE REQUIREMENT.—Not later than 2 weeks after a defense contractor receives notice under paragraph (1) of the cancellation of, or substantial reduction in, a defense contract, the contractor shall provide notice of such cancellation or substantial reduction to—

"(A)(i) each representative of employees whose work is directly related to the contract that is being canceled or substantially reduced and who are employed by the defense contractor; or

"(ii) if there is no such representative at that time, each such employee;

"(B) the State dislocated worker unit or office described in section 311(b)(2) and the chief elected official of the unit of general local government within which such adverse effect may occur.

"(3) CONSTRUCTIVE NOTICE OF TERMINATION FOR EMPLOYEES.—The notice provided under paragraph (2)(A) to the employees of a defense contractor shall be considered to be notice of termination to the employees for the purposes of determining whether such employees are eligible dislocated workers under this title, except where the employer has specified that the loss of such contract is not likely to result in plant closure or mass layoff. Any employee considered to be such a worker solely on the basis of such notice shall be eligible to receive services under section 314(b) and under paragraphs (1) through (14) of section 314(c).

"(4) DEFENSE CONTRACTOR.—For purposes of this subsection, the term 'defense contractor' means a private person producing goods or services pursuant to—

"(A) one or more defense contracts for not less than $500,000 entered into with the Department of Defense; or

"(B) one or more subcontracts—

"(i) entered into in connection with a defense contract; and

"(ii) for a total amount of not less than $500,000.".

SEC. 336. POLICY TO EXPEDITE ASSISTANCE.

(a) TRANSFERS.—In each case in which the Secretary of Defense is required under this Act or an amendment made by this Act to transfer funds to another department or agency of the Federal Government for the purpose of funding programs that provide assistance to recipients adversely affected by reduced spending by the Department of Defense, including communities and local educational agencies adversely affected by closures and realignments of military installations, and in each case in which the Secretary is authorized to make such a transfer and exercises the authority to do so, the Secretary shall make the transfer as expeditiously as is practicable.

(b) SPENDING.—In each case in which the Secretary of Defense is required under this Act or an amendment made by this Act to provide assistance to recipients adversely affected by reduced spending by the Department of Defense, including communities and local educational agencies adversely affected by closures and realignments of military installations, and in each case in which the Secretary is authorized to provide that assistance and exercises the authority to do so, the Secretary shall make the funds available for providing that assistance as expeditiously as is practicable. The Secretary shall expedite the processing of applications and other requests for such assistance, including applications for grants.

SEC. 337. ECONOMIC ADJUSTMENT PLANNING ASSISTANCE.

Notwithstanding any other provision of law, of the amount authorized to be appropriated to the Department of Defense for fiscal year 1993 for the Office of Economic Adjustment, 10 percent of such amount shall be available for providing financial assistance for economic adjustment planning in geographic areas in which a substantial portion of the economic activity or the population is dependent on Department of Defense expenditures, as determined by the Secretary of Defense.

Subtitle D—Department of Defense Civilian Personnel Transition Initiatives

SEC. 341. REEMPLOYMENT IN THE COMPETITIVE SERVICE.

(a) REEMPLOYMENT AFTER REDUCTION IN FORCE.—Subchapter I of chapter 35 of title 5, United States Code, is amended by adding at the end the following new section:

"§3505. Reemployment after reduction in force for certain employees

"(a) For purposes of this section, the term—

"(1) 'employee' means an employee of the Department of Defense, including each military department, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months; and

"(2) 'Secretary concerned' means—

"(A) the Secretary of the Army with respect to employees of the Department of the Army;

"(B) the Secretary of the Navy with respect to employees of the Department of the Navy;

"(C) the Secretary of the Air Force with respect to employees of the Department of the Air Force; and

"(D) the Secretary of Defense with respect to all other employees of the Department of Defense.

"(b) Subject to the provisions of subsection (c), if the Secretary concerned separates an employee from employment under regulations for a reduction in force under section 3502(a) of this title, and within 2 years after the date of such separation—

"(1) seeks to employ a person for a position in the competitive area which was the employee's competitive area at the time of the separation and the separated employee is qualified for appointment to that position, the Secretary shall offer the separated employee reemployment in such position before offering employment to any other person for such position; or

"(2) seeks to employ a person for the position from which such employee was separated or to perform the duties performed by such employee, the Secretary may not employ a contract employee or a temporary employee for such position or to perform the duties which were performed by the separated employee.

"(c) If the Secretary concerned separates employees from employment in positions in a competitive area under regulations for a reduction in force under section 3502(a) of this title, and within 2 years after the date of the last such separation seeks to employ persons in all or some of such positions, but not in a sufficient number to result in the reemployment of all such separated employees, the Secretary, before offering employment in any of those positions to any other persons, shall offer such separated employees (if qualified) reemployment in accordance with sections 3309 through 3317 of this title (and any other provision of law relating to the employment of preference eligibles) and on the basis of seniority in Federal Service.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 35 of title 5, United States Code, is amended by inserting after the item relating to section 3504 the following:

"3505. Reemployment after reduction in force for certain employees.".

SEC. 342. REEMPLOYMENT ASSISTANCE.

(a) REQUIREMENT THAT A GOVERNMENT-WIDE LIST OF VACANT POSITIONS BE MAINTAINED.—(1)(A) Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

"§ 3329. Government-wide list of vacant positions

"(a) For the purpose of this section, the term 'agency' means an Executive agency, excluding the General Accounting Office and any agency (or unit thereof) whose principal function is the conduct of foreign intelligence or counterintelligence activities, as determined by the President.

"(b) The Office of Personnel Management shall establish and keep current a comprehensive list of all announcements of vacant positions in the competitive service within each agency that are to be filled by appointment for more than one year and for which applications are being (or will soon be) accepted from outside the agency's work force.

"(c) Included for any position listed shall be—

"(1) a brief description of the position, including its title, tenure, location, and rate of pay;

"(2) application procedures, including the period within which applications may be submitted and a contact point for additional information; and

"(3) any other information which the Office considers appropriate.

"(d) The list shall be available to members of the public.

"(e) The Office shall prescribe such regulations as may be necessary to carry out this section. Any requirement under this section that agencies notify the Office as to the availability of any vacant positions shall be designed so as to avoid any duplication of information otherwise required to be furnished under section 3327 of this title or any other provision of law.".

(B) The table of sections at the beginning of chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3328 the following:

"3329. Government-wide list of vacant positions.".

(2) No later than 120 days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall begin providing the information on the list referred to in section 3329 of title 5, United States Code (as added by this subsection) by means of a toll-free telephone number (commonly referred to as an 800 number).

(b) TEMPORARY MEASURES TO FACILITATE REEMPLOYMENT OF CERTAIN DISPLACED FEDERAL EMPLOYEES.—(1) For the purpose of this subsection—

(A) the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code), excluding the General Accounting Office and the Department of Defense; and

(B) the term "displaced employee" means any individual who is—

(i) an employee of the Department of Defense who has been given specific notice that such employee is to be separated due to a reduction in force; or

(ii) a former employee of the Department of Defense who was involuntarily separated therefrom due to a reduction in force.

(2) In accordance with regulations which the Office of Personnel Management shall prescribe, consistent with otherwise applicable provisions of law, an agency shall, in filling a vacant position for which a qualified displaced employee has applied in timely fashion, give full consideration to the application of the displaced employee before selecting any applicant for employment from outside the agency for the position.

(3) A displaced employee is entitled to consideration in accordance with this subsection for the 12-month period beginning on the date such employee receives the specific notice referred to in paragraph (1)(B)(i), except that, if the employee is separated pursuant to such notice, the right to such consideration shall continue through the end of the 12-month period beginning on the date of separation.

(4)(A) This subsection shall apply to any individual who—

(i) became a displaced employee within the 12-month period ending immediately before the date of enactment of this Act; or

(ii) becomes a displaced employee on or after the date of enactment of this Act and before October 1, 1997.

(B) In the case of a displaced employee described in subparagraph (A)(i), for purposes of computing any period of time under paragraph (3), the date of the specific notice described in paragraph (1)(B)(i) (or, if the employee was separated as described in paragraph (1)(B)(ii) before the date of enactment of this Act, the date of separation) shall be deemed to have occurred on such date of enactment.

(C) Nothing in this subsection shall be considered to apply with respect to any position—

(i) which has been filled as of the date of enactment of this Act; or

(ii) which has been excepted from the competitive service because of its confidential, policy-determining, policy-making or policy-advocating character.

SEC. 343. REDUCTION-IN-FORCE NOTIFICATION REQUIREMENTS.

(a) IN GENERAL.—Section 3502 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) Except as provided in subsection (e), an employee may not be released from employment due to a reduction in force, unless—

"(A) such employee and such employee's exclusive representative for collective-bargaining purposes (if any) are given written notice, in conformance with the requirements of paragraph (2), at least 60 days before such employee is so released; and

"(B) if the reduction in force would involve the separation of a significant number of employees, the requirements of paragraph (3) are met at least 60 days before any employee is so released.

"(2) Any notice under paragraph (1)(A) shall include—

"(A) the personnel action to be taken with respect to the employee involved;

"(B) the effective date of the action;

"(C) a description of the procedures applicable in identifying employees for release;

"(D) the employee's ranking relative to other competing employees, and how that ranking was determined; and

"(E) a description of any appeal or other rights which may be available to the employee.

"(3) Notice under paragraph (1)(B)—

"(A) shall be given to—

"(i) the appropriate State dislocated worker unit or units (referred to in section 311(b)(2) of the Job Training Partnership Act (29 U.S.C. 1661(b)(2)); and

"(ii) the chief elected official of such unit or each of such units of local government as may be appropriate; and

"(B) shall consist of written notification as to—

"(i) the number of employees to be separated from service due to the reduction in force (broken down by geographic area or on such other basis as may be required under the regulations prescribed pursuant to paragraph (4));

"(ii) when those separations shall occur; and

"(iii) any other matter which might facilitate the delivery of rapid response assistance or other services under the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

"(4) The Office shall prescribe such regulations as may be necessary to carry out this subsection. The Office shall consult with the Secretary of Labor on matters relating to the Job Training Partnership Act.

"(e)(1) Subject to paragraph (3), upon request submitted under paragraph (2), the President may, in writing, shorten the period of advance notice required under subsection (d)(1) (A) and (B), with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable.

"(2) A request to shorten notice periods shall be submitted to the President by the head of the agency involved and shall indicate the reduction in force to which the request pertains, the number of days by which the agency head requests that the periods be shortened, and the reasons why the request is necessary.

"(3) No notice period may be shortened to less than 30 days under this subsection.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any personnel action taking effect on or after the last day of the 90-day period beginning on the date of enactment of this Act.

SEC. 344. ALLEVIATION OF ADVERSE EFFECTS OF BASE CLOSURES ON EMPLOYEES AT THE BASE.

(a) 1990 CLOSURE AND REALIGNMENT ACT.—Section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(e) ASSISTANCE FOR ADVERSELY AFFECTED EMPLOYEES.—(1) Unless a civilian employee of the Department of Defense employed at a military installation being closed or realigned under this part earlier receives an actual notice of termination, the date determined by the Secretary of Defense under paragraph (2) shall be considered to be the date of notice of termination to the employee for purposes of determining the employee's eligibility for assistance under the defense conversion adjustment program under section 325 of the Job Training Partnership Act (29 U.S.C. 1662d).

"(2) The date referred to in paragraph (1) is the date that is 12 months before the date on which the military installation is to be closed or the realignment of the installation is to be completed, as the case may be.".

(b) 1988 CLOSURE AND REALIGNMENT ACT.—Section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (title II of Public Law 100-526; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(d) ASSISTANCE FOR ADVERSELY AFFECTED EMPLOYEES.—(1) Unless a civilian employee of the Department of Defense employed at a military installation being closed or realigned under this part earlier receives an actual notice of termination, the date determined by the Secretary of Defense under paragraph (2) shall be considered to be the date of notice of termination to the employee for purposes of determining the employee's eligibility for assistance under the defense conversion adjustment program under section 325 of the Job Training Partnership Act (29 U.S.C. 1662d).

"(2) The date referred to in paragraph (1) is the date that is 12 months before the date on which the military installation is to be closed or the realignment of the installation is to be completed, as the case may be.".

SEC. 345. OTHER EMPLOYEE ASSISTANCE.

(a) DEPARTMENT OF DEFENSE EMPLOYEE SEPARATION BENEFITS.—(1) Subchapter IX of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§ 5597. Employee separation benefits for certain employees

"(a) For purposes of this section, the term—

"(1) 'employee' means an employee of the Department of Defense, including each military department, serving under an appointment without time limitation who has been currently employed for a continuous period of at least 12 months; and

"(2) 'Secretary concerned' means—

"(A) the Secretary of the Army with respect to an employee of the Department of the Army;

"(B) the Secretary of the Navy with respect to an employee of the Department of the Navy;

"(C) the Secretary of the Air Force with respect to an employee of the Department of the Air Force; and

"(D) the Secretary of Defense with respect to all other employees of the Department of Defense.

"(b) The Secretary concerned may authorize the payment of a civilian employee separation benefit to an employee who separates voluntarily from employment, by retirement or resignation, in accordance with the provisions of this section and any regulations prescribed by such Secretary.

"(c) Subject to subsection (g), a civilian employee separation benefit under this section may be offered to—

"(1) all employees at an installation or organization of the Department of Defense that is to be closed or reduced in force;

"(2) all employees in one or more occupational series or grades, or combinations or subdivisions thereof, at an installation or organization of the Department of Defense, when the Secretary concerned determines that the voluntary separation of such employee would—

"(A) increase placement opportunities for other employees affected by the closure or reorganization of installations or organizations of the Department of Defense;

"(B) reduce the need for involuntary separations as a result of such closure or reorganization; or

"(C) otherwise serve the personnel management needs of the Department of Defense.

"(d) An offer of a civilian employee separation benefit under this section shall be limited to a specific period of time, and the benefit shall be payable only to an employee whose voluntary separation, by resignation, or retirement, is effective during such period.

"(e) A civilian employee separation benefit under this section shall be paid in a lump sum, and shall be the lesser of—

"(1) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of this title if the employee were entitled to payment under such section; or

"(2) $20,000.

"(f)(1) The Secretary concerned shall take such actions as may be necessary to ensure that any employee to whom a civilian employee separation benefit is offered under this section is able to consider such offer freely without duress or coercion of any kind.

"(2) A declination of an offer of a civilian employee separation benefit under this section shall not have any effect on an employee's rights and benefits under any other provision of law.

"(g) An employee who retires entitled to an immediate annuity under section 8336 (other than under subsection (d)) or 8412 of this title is not eligible to receive a separation benefit under this section.

"(h) The Secretary concerned may prescribe such regulations as he determines necessary for the administration of this section.

"(i) No civilian employee separation benefit may be paid under this section with respect to a separation occurring after December 31, 1997.".

(2) The table of sections at the beginning of chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5596 the following:

"5597. Employee separation benefits for certain employees.".

(b) RESTORATION OF CERTAIN LEAVE.—Section 6304(d) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(3) For the purpose of this subsection, the closure of an installation of the Department of Defense, during the period beginning on October 1, 1992, and ending on December 31, 1997, shall be deemed to create an exigency of the public business and any leave that is lost by an employee of such installation by operation of this section (regardless of whether such leave was scheduled) shall be restored to the employee and shall be credited and available in accordance with paragraph (2).".

(c) REPORT.—At the end of each of fiscal year 1993 through fiscal year 1998, the Secretary of Defense shall submit to the President, the Congress, and the Director of the Office of Personnel Management a report on the effectiveness and costs of carrying out the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of enactment of this Act.

SEC. 346. CONTINUED HEALTH BENEFITS.

(a) IN GENERAL.—Section 8905a(d) of title 5, United States Code, is amended—

(1) in paragraph (1)(A) by striking "An individual" and inserting "Except as provided in paragraph (4), an individual";

(2) in paragraph (2) by striking "in accordance with paragraph (1))" and inserting "in accordance with paragraph (1) or (4), as the case may be)"; and

(3) by adding at the end the following:

"(4)(A) If the basis for continued coverage under this section is an involuntary separation from a position in or under the Department of Defense due to a reduction in force—

"(i) the individual shall be liable for not more than the employee contributions referred to in paragraph (1)(A)(i); and

"(ii) the agency which last employed the individual shall pay the remaining portion of the amount required under paragraph (1)(A).

"(B) This paragraph shall apply with respect to any individual whose continued coverage is based on a separation occurring on or after the date of enactment of this paragraph and before—

"(i) October 1, 1997; or

"(ii) February 1, 1998, if specific notice of such separation was given to such individual before October 1, 1997.".

(b) SOURCE OF PAYMENTS.—Any amount which becomes payable by an agency as a result of the enactment of subsection (a) shall be paid out of funds or appropriations available for salaries and expenses of such agency.

SEC. 347. THRIFT SAVINGS PLAN BENEFITS OF EMPLOYEES SEPARATED BY A REDUCTION IN FORCE.

(a) BENEFITS.—Section 8433(b) of title 5, United States Code, is amended by inserting "any employee who separates from Government employment pursuant to regulations under section 3502(a) of this title or procedures under section 3595(a) of this title in a reduction in force," after "chapter 81 of this title,".

(b) PROTECTIONS FOR SPOUSES.—Section 8435(c)(2)(A) of title 5, United States Code, is amended by inserting ", or who separates from Government employment pursuant to regulations under section 3502(a) of this title or procedures under section 3595(a) of this title in a reduction in force," after "8451 of this title".

(c) APPLICATION TO CIVIL SERVICE RETIREMENT SYSTEM EMPLOYEES.—Section 8351(b)(4) of title 5, United States Code, is amended by inserting ", separates from Government employment pursuant to regulations under section 3502(a) of this title or procedures under section 3595(a) of this title in a reduction in force," after "section 8337 of this title)".

SEC. 348. SKILL TRAINING PROGRAMS IN THE DEPARTMENT OF DEFENSE.

(a) AUTHORITY.—(1) Under regulations prescribed by the Secretary of Defense, the Secretaries of the military departments, and the Secretary of Defense with respect to employees of Department of Defense other than employees of the military departments, may provide not more than one year of training in training facilities of the Department to civilian employees of the Department of Defense who are separated from employment as a result of a reduction in force or a closure or realignment of a military installation.

(2) Training may be provided under this subsection during the period beginning on October 1, 1992, and ending on September 30, 1995.

(b) REGISTER OF TRAINING PROGRAMS.—Not later than February 1, 1993, the Secretary of Defense, in consultation with the Secretary of Labor and the Director of the Office of Personnel Management, shall publish a register of the skill training programs carried out by the Department of Defense. The register shall—

(1) include a list of the skill training programs;

(2) provide information on the location of such programs, the training provided under such programs, and the number of persons who may receive training under such programs; and

(3) identify the programs that provide training in skills that are useful to employees in the civilian work force.

SEC. 349. REPORT RELATING TO CONTINUING HEALTH BENEFITS COVERAGE OF CERTAIN TERMINATED EMPLOYEES OF DEFENSE CONTRACTORS.

(a) REPORT REQUIRED.—Not later than March 1, 1993, the Under Secretary of Defense for Acquisition shall submit to Congress a report on matters relating to the provision by contractors of the Department of Defense of continuing health benefits coverage to employees of such contractors who are involuntarily separated from such employment by reason of the termination or curtailment of defense contracts.

(b) CONTENT OF REPORT.—The report shall contain—

(1) an estimate of the number of employees referred to in subsection (a) who will be involuntarily separated from employment referred to in that subsection for the reason referred to in that subsection during each of fiscal years 1993 and 1994;

(2) an estimate of the number of such employees who will elect in each such fiscal year to receive continuation coverage under section 4980B of the Internal Revenue Code of 1986, and an estimate of the aggregate monthly costs that will be incurred during such fiscal years by such employees who make the elections;

(3) an estimate of the cost to the Department of Defense of providing continuing health benefits coverage to such employees in the same manner as continuing health benefits are provided to individuals under paragraph (4) of section 8905a(d) of title 5, United States Code, as added by section 346(a);

(4) an assessment of the capability of the employers of such employees to bear a portion or all of the costs estimated under paragraph (3) and a description of any current efforts by such employers to bear such costs; and

(5) recommendations relating to the optimal allocation of such costs between the Federal Government and such employers.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle D—Active Forces Transition Enhancements

SEC. 531. ENCOURAGEMENT FOR CONTINUING PUBLIC AND COMMUNITY SERVICE.

(a) PERMANENT PROGRAM.—(1) Chapter 58 of title 10, United States Code, is amended by inserting after section 1143 the following new section:

"§ 1143a. Encouragement of postseparation public and community service: Department of Defense

"(a) IN GENERAL.—The Secretary of Defense shall implement a program to encourage members and former members of the armed forces to enter into public and community service jobs after discharge or release from active duty.

"(b) PERSONNEL REGISTRY.—The Secretary shall maintain a registry of members and former members of the armed forces discharged or released from active duty who request registration for assistance in pursuing public and community service job opportunities. The registry shall include information on the particular job skills, qualifications, and experience of the registered personnel.

"(c) REGISTRY OF PUBLIC SERVICE AND COMMUNITY SERVICE ORGANIZATIONS.—The Secretary shall also maintain a registry of public service and community service organizations. The registry shall contain information regarding each organization, including its location, its size, the types of public and community service positions in the organization, points of contact, procedures for applying for such positions, and a description of each such position that is likely to be available. Any such organization may request registration under this subsection and, subject to guidelines prescribed by the Secretary, be registered.

"(d) ASSISTANCE TO BE PROVIDED.—(1) The Secretary shall actively attempt to match personnel registered under subsection (b) with public and community service job opportunities and to facilitate job-seeking contacts between such personnel and the employers offering the jobs.

"(2) The Secretary shall offer personnel registered under subsection (b) counselling services regarding—

"(A) public service and community service organizations; and

"(B) procedures and techniques for qualifying for and applying for jobs in such organizations.

"(3) The Secretary may provide personnel registered under subsection (b) with access to the interstate job bank program of the United States Employment Service if the Secretary determines that such program meets the needs of separating members of the armed forces for job placement.

"(e) CONSULTATION REQUIREMENT.—In carrying out this section, the Secretary shall consult closely with the Secretary of Labor, the Secretary of Veterans Affairs, the Secretary of Education, the Director of the Office of Personnel Management, appropriate representatives of State and local governments, and appropriate representatives of businesses and nonprofit organizations in the private sector.

"(f) DELEGATION.—The Secretary, with the concurrence of the Secretary of Labor, may designate the Secretary of Labor as the executive agent of the Secretary of Defense for carrying out all or part of the responsibilities provided in this section. Such a designation does not relieve the Secretary of Defense from the responsibility for the implementation of the provisions of this section.

"(g) DEFINITIONS.—In this section, the term 'public service and community service organization' includes the following organizations:

"(1) Any organization that provides the following services:

"(A) Elementary, secondary, or postsecondary school teaching or administration.

"(B) Support of such teaching or school administration.

"(C) Law enforcement.

"(D) Public health care.

"(E) Social services.

"(F) Any other public or community service.

"(2) Any nonprofit organization that coordinates the provision of services described in paragraph (1).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1143 the following new item:

"1143a. Encouragement of postseparation public and community service: Department of Defense.".

(b) DEPARTMENT OF VETERANS AFFAIRS RESPONSIBILITIES.—Section 1142(b)(4) of title 10, United States Code, is amended by inserting before the period at the end the following: ", including the public and community service jobs program carried out under section 1143a of this title".

(c) PRESEPARATION ASSISTANCE BY THE DEPARTMENT OF LABOR.—Section 1144(b) of such title is amended by adding at the end the following new paragraph:

"(8) Provide information regarding the public and community service jobs program carried out under section 1143a of this title.".

SEC. 532. TEACHER CERTIFICATION CREDIT FOR MILITARY EXPERIENCE.

(a) UNIFORM STATE STANDARDS AND PROCEDURES.—(1) The Secretary of Defense shall—

(A) develop proposed uniform standards and procedures for the granting of appropriate credit for service in the Armed Forces under State teacher certification or licensing procedures; and

(B) coordinate with appropriate agencies of each State to encourage the incorporation of such uniform standards and procedures into the State's teacher certification or licensing requirements.

(2) The uniform standards should reflect the value to the teaching profession of relevant skills and experience derived from service in the Armed Forces.

(b) DELEGATION TO THE SECRETARY OF EDUCATION.—The Secretary, with the concurrence of the Secretary of Education, may designate the Secretary of Education as the executive agent of the Secretary of Defense for carrying out all or part of the responsibilities provided in subsection (a). Such a designation does not relieve the Secretary of Defense from the responsibility for the implementation of such subsection.

SEC. 533. PROGRAM OF EDUCATIONAL LEAVE RELATING TO CONTINUING PUBLIC AND COMMUNITY SERVICE.

(a) PROGRAM.—Under regulations prescribed by the Secretary of Defense after consultation with the Secretary of Transportation and subject to subsections (b) and (c), the Secretary concerned may grant to an eligible member of the Armed Forces a leave of absence for a period not to exceed one year for the purpose of permitting the member to pursue a program of education or training (including an internship) for the development of skills that are relevant to the performance of public and community service. A program of education or training referred to in the preceding sentence includes any such program that is offered by the Department of Defense or by any civilian educational or training institution.

(b) ELIGIBILITY REQUIREMENT.—(1) A member may not be granted a leave of absence under this section unless the member agrees in writing—

(A) diligently to pursue employment in public service and community service organizations upon the separation of the member from active duty in the Armed Forces; and

(B) to serve in the Ready Reserve of an armed force, upon such separation, for a period of 4 months for each month of the period of the leave of absence.

(2)(A) A member may not be granted a leave of absence under this section until the member has completed any period of extension of enlistment or reenlistment, or any period of obligated active duty service, that the member has incurred under section 708 of title 10, United States Code.

(B) The Secretary concerned may waive the limitation in subparagraph (A) for a member who enters into an agreement with the Secretary for the member to serve in the Ready Reserve of a reserve component for a period equal to the uncompleted portion of the member's period of service referred to in that subparagraph. Any such period of agreed service in the Ready Reserve shall be in addition to any other period that the member is obligated to serve in a reserve component.

(c) TREATMENT OF LEAVE OF ABSENCE.—A leave of absence under this section shall be subject to the provisions of subsections (c) and (d) of section 708 of title 10, United States Code.

(d) EXCLUSION FROM END STRENGTH LIMITATION.—A member of the Armed Forces, while on leave granted pursuant to this section, may not be counted for purposes of any provision of law that limits the active duty strength of the member's armed force.

(e) DEFINITIONS.—In this section:

(1) The term "Secretary concerned" has the meaning given such term in section 101 of title 10, United States Code.

(2) The term "eligible member of the Armed Forces" means a member of the Armed Forces who is eligible for an educational leave of absence under section 708(e) of such title.

(3) The term "public service and community service organization" has the meaning given such term in section 1143a of such title (as added by section 531(a)).

(f) EXPIRATION.—The authority to grant a leave of absence under subsection (a) shall expire on September 30, 1995.

SEC. 534. TEMPORARY EARLY RETIREMENT AUTHORITY.

(a) RETIREMENT FOR 15 TO 20 YEARS OF SERVICE.—(1) The Secretary of the Army may, upon the member's request, retire a member of the Army who has the following years of service:

(A) In the case of a regular or reserve commissioned officer, between 15 and 20 years of service computed under section 3926 of title 10, United States Code.

(B) In the case of an enlisted member, between 15 and 20 years of service computed under section 3925 of such title.

(C) In the case of a warrant officer, between 15 and 20 years of active service computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(2) The Secretary of the Navy may, upon the member's request, retire a member of the Navy or Marine Corps who has the following years of active service:

(A) In the case of a commissioned officer or enlisted member, between 15 and 20 years.

(B) In the case of a warrant officer, between 15 and 20 years computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(3) The Secretary of the Air Force may, upon the member's request, retire a member of the Air Force who has the following years of service:

(A) In the case of a regular or reserve commissioned officer, between 15 and 20 years of service computed under section 8926 of title 10, United States Code.

(B) In the case of an enlisted member, between 15 and 20 years of service computed under section 8925 of such title.

(C) In the case of a warrant officer, between 15 and 20 years of active service computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(b) ADDITIONAL ELIGIBILITY REQUIREMENT.—In order to be eligible for retirement under subsection (a), a member of the Armed Forces shall register on the registry maintained under section 1143a(b) of title 10, United States Code (as added by section 531(a)) and receive counselling regarding public and community service job opportunities from the Secretary of Defense or another source approved by the Secretary.

(c) COMPUTATION OF RETIRED PAY.—A member or former member of the Armed Forces retired under subsection (a) shall be entitled to retired pay computed under the provisions of chapter 71, 371, 571, or 871 of title 10, United States Code, that would be applicable to such member or former member if—

(1) the member or former member had been retired under section 1293 (in the case of a retired warrant officer), 3911 (in the case of a retired commissioned Army officer), 3914 (in the case of a retired enlisted member of the Army), 6323 (in the case of a retired commissioned officer of the Navy), 8911 (in the case of a retired commissioned Air Force officer), or 8914 (in the case of a retired enlisted member of the Air Force) of such title upon completion of 20 years of service creditable for purposes of eligibility for retirement; or

(2) in the case of a retired enlisted member of the Regular Navy or Regular Marine Corps, the retired enlisted member had been retired under section 6326 of such title upon completion of 30 years of active service in the Armed Forces creditable for purposes of eligibility for retirement.

(d) FUNDING.—(1) Notwithstanding section 1463 of title 10, United States Code, and to the extent provided in appropriations Acts, the Secretary of each military department shall provide in accordance with this section for the payment of retired or retainer pay payable during the fiscal years covered by the other provisions of this subsection to members of the armed force under the jurisdiction of that Secretary who are being retired under the authority of this section.

(2) In each fiscal year in which the Secretary of a military department retires a member of the Armed Forces under the authority of this section, the Secretary shall credit to a subaccount (which the Secretary shall establish) within the appropriation account for that fiscal year for pay and allowances of active duty members of the armed force under the jurisdiction of that Secretary such amount as is necessary to pay the retired or retainer pay payable to such member for the entire initial period (determined under paragraph (3)) of the entitlement of that member to receive retired or retainer pay.

(3) The initial period applicable under paragraph (2) in the case of a retired member referred to in that paragraph is the number of years (and any fraction of a year) that is equal to the difference between 20 years and the number of years (and any fraction of a year) of service that were completed by the member (as computed under the provision of law referred to in subsection (a) that is applicable to that member) before being retired under this section.

(4) The Secretary shall pay the member's retired or retainer pay for such initial period out of amounts credited to the subaccount under paragraph (2). The amounts so credited with respect to that member shall remain available for payment for that period.

(e) COORDINATION OF BENEFITS.—A member of the Armed Forces retired under this section is not entitled to benefits under section 1174, 1174a, or 1175 of title 10, United States Code.

(f) TERMINATION OF AUTHORITY.—The authority under subsection (a) shall terminate on October 1, 1995.

SEC. 535. INCREASED EARLY RETIREMENT RETIRED PAY FOR PUBLIC OR COMMUNITY SERVICE.

(a) RECOMPUTATION OF RETIRED PAY.—(1) If a member or former member of the Armed Forces retired under section 534(a) or any other provision of law authorizing retirement from the Armed Forces (other than for disability) before the completion of at least 20 years of active duty service (as computed under the applicable provision of law) is employed by a public service or community service organization listed on the registry maintained under section 1143a(c) of title 10, United States Code (as added by section 531(a)), within the period of the member's enhanced retirement qualification period, the member's or former member's retired or retainer pay shall be recomputed effective on the first day of the first month beginning after the date on which the member or former member attains 62 years of age.

(2) For purposes of recomputing a member's or former member's retired pay—

(A) the years of the member's or former member's employment by a public service or community service organization referred to in paragraph (1) during the member's or former member's enhanced retirement qualification period shall be treated as years of active duty service in the Armed Forces; and

(B) in applying section 1401a of title 10, United States Code, the member's or former member's years of active duty service shall be deemed as of the date of retirement to have included the years of employment referred to in subparagraph (A).

(3) Section 1405(b) of title 10, United States Code, shall apply in determining years of service under this subsection.

(4) In this subsection, the term "enhanced retirement qualification period", with respect to a member or former member retired under a provision of law referred to in paragraph (1), means the period beginning on the date of the retirement of the member or former member and ending the number of years (including any fraction of a year) after that date which when added to the number of years (including any fraction of a year) of service credited for purposes of computing the retired pay of the member or former member upon retirement equals 20 years.

(b) SBP ANNUITIES.—(1) Effective on the first day of the first month after a member or former member of the Armed Forces retired under a provision of law referred to in subsection (a)(1) attains 62 years of age or, in the event of death before attaining that age, would have attained that age, the base amount applicable under section 1447(2) of title 10, United States Code, to any Survivor Benefit Plan annuity provided by that member or former member shall be recomputed. For the recomputation the total years (including any fraction of a year) of the member's or former member's active service shall be treated as having included the member's or former member's years (including any fraction of a year) of employment referred to in subsection (a)(1) as of the date when the member or former member became eligible for retired pay under this section.

(2) In this subsection, the term "Survivor Benefit Plan" means the plan established under subchapter II of chapter 73 of title 10, United States Code.

SEC. 536. OPPORTUNITY FOR CERTAIN ACTIVE-DUTY PERSONNEL TO ENROLL IN MONTGOMERY GI BILL PROGRAM WHILE BEING VOLUNTARILY SEPARATED FROM SERVICE.

(a) IN GENERAL.—(1) Subchapter II of chapter 30 of title 38, United States Code, is amended by inserting after section 3018A the following new section:

"§3018B. Opportunity for certain active-duty personnel to enroll while being voluntarily separated from service

"(a) Notwithstanding any other provision of law, an individual who—

"(1) is voluntarily discharged from the Armed Forces with an honorable discharge, or voluntarily released from active duty under honorable conditions (as characterized by the Secretary concerned), pursuant to a request for separation approved under section 1174a or 1175 of title 10,

"(2) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree,

"(3) in the case of any individual who has made an election under section 3011(c)(1) of this title, withdraws such election pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section,

"(4) in the case of any person enrolled in the educational benefits program provided by chapter 32 of this title makes an irrevocable election, pursuant to procedures referred to in paragraph (3) of this subsection, to receive benefits under this section in lieu of benefits under such chapter 32, and

"(5) elects to receive assistance under this section pursuant to regulations referred to in paragraph (3) of this subsection,

is entitled to basic educational assistance under this chapter.

"(b) An election or withdrawal of election permitted under subsection (a) of this section is not effective unless—

"(1) in the case of an individual separated from active duty more than 90 days after the date of the enactment of this section, the individual makes the election or withdrawal before the separation;

"(2) in the case of an individual separated from active duty on or after the date of the enactment of this section and within 90 days after that date, the individual makes the election or withdrawal within 90 days after the separation; and

"(3) in the case of an individual separated from active duty before the date of the enactment of this section, the individual makes the election or withdrawal within 90 days after such date.

"(c)(1) An individual described in subsection (a) of this section who makes a withdrawal referred to in subsection (a)(3) of this section shall pay $1,200 to the Secretary of Veterans Affairs. In the case of an individual who makes the withdrawal of election before being separated, any portion of the obligation to pay $1,200 may be discharged by reduction of that individual's basic pay.

"(2) Amounts received by the Secretary pursuant to paragraph (1) shall be credited to the appropriation available for the fiscal year in which received for the Department of Veterans Affairs for the payment of readjustment benefits.

"(d) A withdrawal of election referred to in subsection (a)(3) of this section is irrevocable.

"(e)(1) Except as provided in paragraph (3) of this subsection, an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (a)(4) of this subsection shall be disenrolled from such chapter 32 program as of the date of such election.

"(2) For each individual who is disenrolled from such program, the Secretary shall refund—

"(A) as provided in section 3223(b) of this title, to the individual the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title; and

"(B) to the Secretary of Defense the unused contributions (other than contributions made under section 3222(c) of this title) made by such Secretary to the Account on behalf of such individual.

"(3) Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to section 3222(c) of this title on behalf of any individual referred to in paragraph (1) of this subsection shall remain in such Account to make payments of benefits to such individual under section 3015(e) of this title.".

(2) The table of sections at the beginning of chapter 30 of such title is amended by inserting after the item relating to section 3018A the following new item:

"3018B. Opportunity for certain active-duty personnel to enroll while being voluntarily separated from service.".

(b) CONFORMING AMENDMENTS.—(1) Section 3013(d) of such title is amended by inserting "or 3018B" after "section 3018A".

(2) Section 3015(e) of such title is amended by inserting "or 3018B" after "section 3018A".

(3) Section 3035(b)(3) of such title is amended—

(A) in the matter above subparagraph (A), by inserting "or 3018B" after "section 3018A"; and

(B) in subparagraph (B), by inserting "or 3018B(a)(3)" after "section 3018A(a)(3)".

SEC. 537. ELIMINATION OF RECOUPMENT REQUIREMENT FOR RESERVE DUTY.

Paragraph (2) of section 1175(e) of title 10, United States Code, is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B), a member entitled to voluntary separation incentive payments who is also entitled to basic pay for active service shall forfeit an amount of voluntary separation incentive payable for the same period that is equal to the total amount of basic pay received.

"(B) Subparagraph (A) does not apply with respect to—

"(i) annual training; or

"(ii) active duty for training that is not active duty for a period of more than 30 days.".

SEC. 538. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN EMPLOYMENT, JOB TRAINING, AND OTHER ASSISTANCE.

Section 1144(e) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "$4,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$11,000,000 for fiscal year 1993 and $8,000,000 for each of fiscal years 1994 and 1995."; and

(2) in paragraph (2), by striking out "$1,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$6,500,000 for each of fiscal years 1993, 1994, and 1995.".

SEC. 539. CONTINUED HEALTH COVERAGE FOR MEMBERS AND DEPENDENTS UPON THE SEPARATION OF THE MEMBERS FROM ACTIVE DUTY AND FOR EMANCIPATED CHILDREN OF MEMBERS.

(a) MEMBERS AND EMANCIPATED CHILDREN.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1078 the following new section:

"§1078a. Continued health benefits coverage

"(a) PROVISION OF CONTINUED HEALTH COVERAGE.—The Secretary of Defense and the Director of the Office of Personnel Management shall jointly carry out a program in accordance with this section to provide persons described in subsection (b) with temporary health benefits under the program of continued health benefits coverage provided for former civilian employee of the Federal Government and other persons under section 8905a of title 5.

"(b) ELIGIBLE PERSONS.—The persons referred to in subsection (a) are the following:

"(1) A member of the armed forces who—

"(A) is discharged or released from active duty (or full-time National Guard duty), whether voluntarily or involuntarily, under other than adverse conditions, as characterized by the Secretary concerned;

"(B) immediately preceding that discharge or release, is entitled to medical and dental care under section 1074(a) of this title (except in the case of a member discharged or released from full-time National Guard duty); and

"(C) after that discharge or release and any period of transitional health care provided under section 1145(a) of this title, would not otherwise be eligible for any benefits under this chapter.

"(2) A person who—

"(A) ceases to meet the requirements for being considered an unmarried dependent child of a member or former member of the armed forces under section 1072(2)(D) of this title;

"(B) on the day before ceasing to meet those requirements, was covered under a health benefits plan under this chapter or transitional health care under section 1145(a) of this title as a dependent of the member or former member; and

"(C) would not otherwise be eligible for any benefits under this chapter.

"(c) NOTIFICATION OF ELIGIBILITY.—(1) The Director, in consultation with the Secretary of Defense, shall prescribe regulations to provide for persons described in subsection (b) to be notified of eligibility to receive health benefits under this section.

"(2) In the case of a member who becomes (or will become) eligible for continued coverage under subsection (b)(1), the regulations shall provide for the Secretary concerned to notify the member of the member's rights under this section as part of preseparation counseling conducted under section 1142 of this title or any other provision of other law.

"(3) In the case of a child of a member who becomes eligible for continued coverage under subsection (b)(2), the regulations shall provide that—

"(A) the member may submit to the Secretary concerned a written notice of the child's change in status (including the child's name, address, and such other information as the Director may require); and

"(B) the Secretary concerned shall, within 14 days after receiving that notice, inform the child of the child's rights under this section.

"(d) ELECTION OF COVERAGE.—In order to obtain continued coverage under this section, an appropriate written election (submitted in such manner as the Director may prescribe) shall be made as follows:

"(1) In the case of a member described in subsection (b)(1), the written election shall be submitted to the Director before the end of the 60-day period beginning on the later of—

"(A) the date of the discharge or release of the member from active duty;

"(B) the date on which the period of transitional health care applicable to the member under section 1145(a) of this title ends; or

"(C) the date the member receives the notification required pursuant to subsection (c).

"(2) In the case of a person described in subsection (b)(2), the written election shall be submitted to the Director before the end of the 60-day period beginning on the later of—

"(A) the date on which the person first ceases to meet the requirements for being considered an unmarried dependent child under section 1072(2)(D) of this title, or

"(B) the date the person receives the notification pursuant to subsection (c),

except that if the Secretary concerned determines that the person's parent has failed to provide the notice referred to in subsection (c)(3)(A) with respect to the person in a timely fashion, the 60-day period under this paragraph shall be based only on the date under subparagraph (A).

"(e) Coverage of Dependents.—A person eligible under subsection (b)(1) to elect to receive coverage may elect coverage either as an individual or, if appropriate, for self and dependents. A person eligible under subsection (b)(2) may elect only individual coverage.

"(f) Charges.—(1) Under arrangements satisfactory to the Director, a person receiving continued coverage under this section shall be required to pay into the Employees Health Benefits Fund established under section 8909 of title 5 an amount equal to the sum of—

"(A) the amount determined under section 8905a(d)(1)(A)(i) of title 5;

"(B) an amount, not in excess of 10 percent of the amount referred to in subparagraph (A), that is necessary for administrative expenses, as determined under regulations prescribed by the Director; and

"(C) such additional amount determined by the Director to be necessary to ensure that outlays from the Fund as a result of the program established under this section do not exceed amounts paid under this paragraph.

"(2) If a person elects to continue coverage under this section before the end of the applicable period under subsection (d), but after the person's coverage under this chapter (including any transitional extensions of coverage) expires, coverage shall be restored retroactively, with appropriate contributions (determined in accordance with paragraph (1)) and claims (if any), to the same extent and effect as though no break in coverage had occurred.

"(g) Contribution.—Subject to the availability of appropriations for the purpose of this section, if the basis for continued coverage under this section for a member of the armed forces under subsection (b)(1) is involuntary separation approved under section 1174a or 1175 of this title, contributions shall be made in accordance with subsection (f)(1), except that—

"(1) the amount to be paid by the member shall be equal to the employee contribution referred to in section 8905a(d)(1)(A)(i) of title 5; and

"(2) the Secretary of Defense shall pay into the Employees Health Benefits Fund, under arrangements satisfactory to the Director of the Office of Personnel Management, an amount equal to—

"(A) the agency contribution referred to in section 8905a(d)(1)(A)(i) of title 5; and

"(B) the amount described in subsection (f)(1)(B).

"(h) Period of Continued Coverage.—(1) Continued coverage under this section may not extend beyond—

"(A) in the case of a member described in subsection (b)(1), the date which is 18 months after the date the member ceases to be entitled to care under section 1074(a) of this title and any transitional care under section 1145 of this title, as the case may be; and

"(B) in the case of a person described in subsection (b)(2), the date which is 36 months after the date on which the individual first ceases to meet the requirements for being considered an unmarried dependent child under section 1072(2)(D) of this title.

"(2) Notwithstanding paragraph (1)(B), if a person ceases to meet the requirements for being considered an unmarried dependent child of a member described in subsection (b)(1) during a period of continued coverage of that member for self and dependents under this section, extended coverage of that person under this section may not extend beyond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078 the following new item:

"1078a. Continued health benefits coverage.".

(b) Transitional Provisions.—The Director of the Office of Personnel Management shall provide a period for the enrollment for health benefits coverage under this section by members and former members of the Armed Services for whom the availability of transitional health care under section 1145(a) of title 10, United States Code, expires before section 1078a of such title, as added by subsection (a), is implemented.

(c) Termination of Applicability of Other Conversion Health Policies.—(1) No person may purchase a conversion health policy under section or 1145(b) of title 10, United States Code, on or after the date on which the Director of the Office of Personnel Management announces that section 1078a of such title is implemented. A person covered by such a conversion health policy on that date may cancel that policy and enroll in a health benefits plan under section 1078a of such title.

(2) No person may be covered concurrently by a conversion health policy under such section 1145(b) of title 10, United States Code, and a health benefits plan under section 1078a of such title.

(d) Effective Date.—Section 1078a of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1992.

Subtitle E—Guard and Reserve Transition Initiatives

SEC. 541. FORCE REDUCTION TRANSITION PERIOD DEFINED.

In this subtitle, the term "force reduction transition period" means the period beginning on October 1, 1991, and ending on September 30, 1995.

SEC. 542. MEMBER OF SELECTED RESERVE DEFINED.

In this subtitle, the term "member of the Selected Reserve" means—

(1) a member of a unit in the Selected Reserve of the Ready Reserve; and

(2) a Reserve designated pursuant to section 268(b) of title 10, United States Code.

SEC. 543. RESTRICTION ON RESERVE FORCE REDUCTION.

(a) In General.—During the force reduction transition period, no unit in the Selected Reserve of the Ready Reserve of the Armed Forces may be inactivated and no member of the Selected Reserve may be involuntarily discharged from a reserve component of the Armed Forces or involuntarily transferred from the Selected Reserve before the Secretary of Defense has promulgated, implemented, and transmitted to the Committees on Armed Services of the Senate and House of Representatives regulations that govern the treatment of members of the Selected Reserve assigned to such units and members of the Selected Reserve that are being subjected to such actions.

(b) Savings Provision.—Subsection (a) shall not apply to actions completed before the date of the enactment of this Act.

(c) Rule of Construction.—Nothing in this section shall be construed to limit the prohibition in section 411(c).

SEC. 544. TRANSITION PLAN REQUIREMENTS.

(a) Purpose of Plan.—The purpose of the regulations referred to in section 543 shall be to ensure that the members of the Selected Reserve are treated with fairness, with respect for their service to their country, and with attention to the adverse personal consequences of Selected Reserve unit inactivations, involuntary discharges of such members from the reserve components of the Armed Forces, and involuntary transfers of such members from the Selected Reserve.

(b) Scope of Plan.—The regulations shall include—

(1) such provisions as are necessary to implement the provisions of this subtitle and the amendments made by this subtitle; and

(2) such other policies and procedures for the recruitment of personnel for service in the Selected Reserve of the Ready Reserve, and for the reassignment, retraining, separation, and retirement of members of the Selected Reserve, as are appropriate for satisfying the needs of the Selected Reserve together with the purpose set out in subsection (a).

(c) Minimum Requirements for Plan.—The regulations shall include the following:

(1) The giving of a priority to personnel referred to in section 543(a) for reassignment to Selected Reserve units not being inactivated.

(2) The giving of a priority to such personnel for transfer among the reserve components of the Armed Forces in order to facilitate reassignment to such units.

(3) A requirement that the Secretaries of the military departments take diligent actions to ensure that members of the reserve components of the Armed Forces are informed in easily understandable terms of the rights and benefits conferred upon such personnel by this subtitle, by the amendments made by this subtitle, and by such regulations.

(4) Such other protections, preferences, and benefits as the Secretary of Defense considers appropriate.

(d) Uniform Applicability.—The regulations shall apply uniformly to the Army, Navy, Air Force, and Marine Corps.

SEC. 545. INAPPLICABILITY TO CERTAIN DISCHARGES AND TRANSFERS.

The protections, preferences, and benefits provided for in regulations prescribed in accordance with this subtitle do not apply with respect to a member of the Selected Reserve who is discharged from a reserve component of the Armed Forces or is transferred from the Selected Reserve to another category of the Ready Reserve, to the Standby Reserve, or to the Retired Reserve—

(1) at the request of the member unless such request was made and approved under a provision of this subtitle or section 1331a of title 10, United States Code (as added by section 547);

(2) because the member no longer meets the qualifications for membership in the Selected Reserve set forth in any provision of law as in effect on the day before the date of the enactment of this Act;

(3) under adverse conditions, as characterized by the Secretary of the military department concerned; or

(4) if the member—

(A) is immediately eligible for retired pay based on military service under any provision of law;

(B) is serving as a military technician, as defined in section 8401(30) of title 5, United States Code, and would be immediately eligible for an unreduced annuity under the provisions of subchapter III of chapter 83 of such title, relating to the Civil Service Retirement and Disability System, or the provisions of chapter 84 of such title, relating to the Federal Employees' Retirement System; or

(C) is eligible for separation pay under section 1174 of title 10, United States Code.

SEC. 546. FORCE REDUCTION PERIOD RETIREMENTS.

(a) TEMPORARY SPECIAL AUTHORITY.—During the period referred to in subsection (b), the Secretary concerned may grant a member of the Selected Reserve under the age of 60 years the annual payments provided for under this section if—

(1) as of October 1, 1991, that member has completed at least 20 years of service computed under section 1332 of title 10, United States Code, or after that date and before October 1, 1995, such member completes 20 years of service computed under that section;

(2) the member satisfies the requirements of paragraphs (3) and (4) of section 1331(a) of title 10, United States Code; and

(3) the member applies for transfer to the Retired Reserve—

(A) in the case of a member who has not received the notice required by section 1331(d) of that title before the date of the enactment of this Act, within one year after receiving such notice; and

(B) in the case of a member who received such a notice before the date of the enactment of this Act, within one year after that date.

(b) PERIOD OF APPLICABILITY.—The period referred to in subsection (a) is, with respect to a member of the Selected Reserve, the force reduction transition period, the period provided under paragraph (3) of that subsection for the member to submit an application, and the period necessary for taking action on that application.

(c) ANNUAL PAYMENT PERIOD.—An annual payment granted to a member under this section shall be paid for 5 years, except that if the member attains 60 years of age during the 5-year period the entitlement to the annual payment shall terminate on the member's 60th birthday.

(d) COMPUTATION OF ANNUAL PAYMENT.—(1) The annual payment for a member shall be equal to the amount determined by multiplying the product of 12 and the applicable percent under paragraph (2) by the monthly basic pay to which the member would be entitled if the member were serving on active duty as of the date the member is transferred to the Retired Reserve.

(2)(A) Subject to subparagraph (B) the percent applicable to a member for purposes of paragraph (1) is 5 percent plus 0.5 percent for each full year of service, computed under section 1332 of title 10, United States Code, that a member has completed in excess of 20 years before transfer to the Retired Reserve.

(B) The maximum percent applicable under this paragraph is 10 percent.

(e) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary concerned may limit the applicability of this section to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a).

(f) NONDUPLICATION OF BENEFITS.—A member transferred to the Retired Reserve under the authority of section 1331a of title 10, United States Code (as added by section 547), may not be paid annual payments under this section.

(g) FUNDING.—To the extent provided in appropriations Acts, payments under this section in a fiscal year shall be made out of amounts available to the Department of Defense for that fiscal year for the pay of reserve component personnel.

(h) HEALTH CARE BENEFITS.—A member of the Retired Reserve receiving annual payments under this section shall be treated as a member of the uniformed services entitled to retired or retainer pay for the purposes of the provisions of chapter 55 of title 10, United States Code.

SEC. 547. RETIREMENT WITH 15 YEARS OF SERVICE.

(a) AUTHORITY.—Chapter 67 of title 10, United States Code, is amended by inserting after section 1331 the following new section:

"§ 1331a. Temporary special retirement qualification authority

"(a) RETIREMENT WITH AT LEAST 15 YEARS OF SERVICE.—For the purposes of section 1331 of this title, the Secretary of a military department may—

"(1) during the period described in subsection (b), determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

"(A) as of October 1, 1991, has completed at least 15, and less than 20, years of service computed under section 1332 of this title; or

"(B) after that date and before October 1, 1995, completes 15 years of service computed under that section; and

"(2) upon the request of the member submitted to the Secretary within one year after the date of the notification referred to in paragraph (1), transfer the member to the Retired Reserve.

"(b) PERIOD OF AUTHORITY.—The period referred to in subsection (a)(1) is the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993 and ending on October 1, 1995.

"(c) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) The Secretary of the military department concerned may limit the applicability of subsection (a) to any category of personnel defined by the Secretary in order to meet a need of the armed force under the jurisdiction of the Secretary to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

"(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a) of the National Defense Authorization Act for Fiscal Year 1993.

"(d) EXCLUSION.—This section does not apply to persons referred to in section 1331(c) of this title.

"(e) REGULATIONS.—The authority provided in this section shall be subject to regulations prescribed by the Secretary of Defense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1331 the following new item:

"1331a. Temporary special retirement qualification authority.".

SEC. 548. SEPARATION PAY.

(a) ELIGIBILITY.—Subject to section 545, a member of the Selected Reserve who, after completing at least 6 years of service computed under section 1332 of title 10, United States Code, and before completing 15 years of service computed under that section, is involuntarily discharged from a reserve component of the Armed Forces or is involuntarily transferred from the Selected Reserve is entitled to separation pay.

(b) AMOUNT OF SEPARATION PAY.—(1) The amount of separation pay which may be paid to a person under this section is 15 percent of the product of—

(A) the years of service credited to that person under section 1333 of title 10, United States Code; and

(B) 62 times the daily equivalent of the monthly basic pay to which the person would have been entitled had the person been serving on active duty at the time of the person's discharge or transfer.

(2) In the case of a person who receives separation pay under this section and who later receives basic pay, compensation for inactive duty training, or retired pay under any provision of law, such basic pay, compensation, or retired pay, as the case may be, shall be reduced by 75 percent until the total amount withheld through such reduction equals the total amount of the separation pay received by that person under this section.

(c) RELATIONSHIP TO OTHER SERVICE-RELATED PAY.—Subsections (g) and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations, which shall be uniform for the Army, Navy, Air Force, and Marine Corps, for the administration of this section.

SEC. 549. WAIVER OF CONTINUED SERVICE REQUIREMENT FOR MONTGOMERY GI BILL BENEFITS.

(a) IN GENERAL.—The eligibility of a person referred to in subsection (b)—

(1) to be provided educational assistance under chapter 106 of title 10, United States Code, may not be terminated under section 2134(2) of that title, or

(2) to be provided educational assistance under chapter 30 of title 38, United States Code, may not be terminated under section 3012(a) of that title,

on the basis of the termination of that person's status as a member of the Selected Reserve under the circumstances described in subsection (b).

(b) APPLICABILITY.—Subsection (a) applies to a member of the Selected Reserve who, before completing the years of service in the Selected Reserve agreed to under section 2132(a) of title 10, United States Code, or the years of service required by section 3012(a) of title 38, United States Code, as the case may be, ceases to be a member of the Selected Reserve during the force reduction transition period by reason of the inactivation of his unit of assignment or by reason of involuntarily ceasing to be designated as a member of the Selected Reserve pursuant to section 268(b) of title 10, United States Code.

SEC. 550. COMMISSARY AND EXCHANGE PRIVILEGES.

The Secretary of Defense shall prescribe regulations to authorize a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period to continue to use commissary and exchange stores in the same manner as a member of the Selected Reserve for a period of one year after the later of—

(1) the date on which that person ceases to be a member of the Selected Reserve; or

(2) the date of the enactment of this Act.

SEC. 551. TEMPORARY CONTINUATION OF SERVICEMEN'S GROUP LIFE INSURANCE.

(a) CONTINUED COVERAGE.—For the purposes of section 1968(a) of title 38, United States Code, the 120-day period of coverage provided for under paragraph (4) of such section shall be extended to a 365-day period of coverage in the case of a former member of the Selected Reserve referred to in subsection (b).

(b) ELIGIBILITY.—Subsection (a) applies to a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period and is ready, willing, and able to perform the training described in section 1965(5)(B) of title 38, United States Code.

(c) PAYMENT OF PREMIUMS.—The total amount of the cost attributable to insuring a person under this section shall be paid from any funds available to the Department of Defense for the pay of reserve component personnel that the Secretary of Defense determines appropriate.

(d) IMPLEMENTATION.—The Secretary of Veterans Affairs shall take any contracting and other actions that are necessary to ensure that the provisions of this section are implemented promptly.

SEC. 552. APPLICABILITY AND TERMINATION OF BENEFITS.

(a) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may limit the applicability of a benefit provided under sections 548 through 551 to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a).

(b) INAPPLICABILITY TO CERTAIN SEPARATIONS AND REASSIGNMENTS.—Sections 548 through 551 do not apply with respect to personnel who cease to be members of the Selected Reserve under adverse conditions, as characterized by the Secretary of the military department concerned.

(c) TERMINATION OF BENEFITS.—The eligibility of a member of a reserve component of the Armed Forces (after having involuntarily ceased to be a member of the Selected Reserve) to receive benefits and privileges under sections 548 through 551 terminates upon the involuntary separation of such member from the Armed Forces under adverse conditions, as characterized by the Secretary of the military department concerned.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Defense Conversion Policy for the National Defense Technology and Industrial Base

SEC. 801. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE POLICIES AND PLANNING.

(a) POLICIES AND PLANS FOR THE NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE.—Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 134 the following new chapter 135:

"CHAPTER 135—NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE

"Subchapter Sec.
"I. Policies and Planning 2261
"II. Dual-Use Technologies 2271
"III. Manufacturing Technology 2281
"IV. Miscellaneous Technology Base Policies and Programs 2291
"V. Definitions 2300

"SUBCHAPTER I—POLICIES AND PLANNING

"Sec.
"2261. Policy.
"2262. National Defense Technology and Industrial Base Council.
"2263. National defense technology and industrial base assessment.
"2264. National defense technology and industrial base plan.
"2265. National Defense Program for Analysis of the Technology and Industrial Base.

"§ 2261. Policy

"(a) POLICY OBJECTIVES FOR THE NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE.—It is the policy of Congress that the national defense technology and industrial base be capable of meeting the following national security objectives:

"(1) Supplying and equipping the force structure of the armed forces that is necessary to achieve the objectives set forth in the national security strategy report submitted to Congress by the President pursuant to section 104 of the National Security Act of 1947 (50 U.S.C. 404a), the policy guidance of the Secretary of Defense provided pursuant to section 113(g) of this title, and the multiyear defense program submitted to Congress by the Secretary of Defense pursuant to section 114a of this title.

"(2) Sustaining production, maintenance, repair, and logistics for operations of various durations and intensity.

"(3) Maintaining advanced research and development activities to provide the armed forces with systems capable of ensuring technological superiority over potential adversaries.

"(4) Reconstituting within a reasonable period the capability to develop and produce supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a major war, major national emergency, or major mobilization of the armed forces before the commencement of that war, national emergency, or mobilization.

"(b) POLICY OBJECTIVES RELATING TO DEFENSE CONVERSION.—It is the policy of Congress that the United States seek to achieve the national defense technology and industrial base objectives set forth in subsection (a) through enhanced opportunities for conversion of defense-dependent businesses and industrial and technology base sectors to dual-use capabilities.

"(c) CIVIL-MILITARY INTEGRATION POLICY.—It is the policy of Congress that the United States attain the national defense technology and industrial base objectives set forth in subsection (a) through acquisition policy reforms that have the following objectives:

"(1) Relying, to the maximum extent practicable, upon the commercial national defense technology and industrial base that is required to meet the national security needs of the United States.

"(2) Reducing the reliance of the Department of Defense on technology and industrial sectors that are economically dependent on Department of Defense business.

"(3) Reducing Federal Government barriers to the use of commercial products, processes, and standards.

"§ 2262. National Defense Technology and Industrial Base Council

"(a) ESTABLISHMENT.—There is a National Defense Technology and Industrial Base Council.

"(b) COMPOSITION.—The Council is composed of the following members:

"(1) The Secretary of Defense, who shall serve as Chairman.

"(2) The Secretary of Energy.

"(3) The Secretary of Commerce.

"(c) RESPONSIBILITIES.—The Council shall have the following responsibilities:

"(1) To provide overall policy guidance and direction to the military departments and the Defense Agencies, to ensure effective cooperation among departments and agencies of the Federal Government, and to provide advice and recommendations to the President, the Secretary of Defense, and the Secretary of Energy concerning—

"(A) the capabilities of the national defense technology and industrial base to meet the national security objectives of the United States;

"(B) programs for achieving the defense conversion objectives set forth in section 2261(b) of this title; and

"(C) changes in acquisition policy that strengthen the national defense technology and industrial base.

"(2) To prepare annually the assessment and plan required by sections 2263 and 2264 of this title, respectively.

"§ 2263. National defense technology and industrial base assessment

"(a) COMPREHENSIVE ASSESSMENT.—The National Defense Technology and Industrial Base Council shall prepare a comprehensive annual assessment of the capability of the national defense technology and industrial base to attain each of the objectives set forth in section 2261 of this title.

"(b) SECTOR CAPABILITY ANALYSIS.—(1) The annual assessment shall include a sector capability analysis composed of the following matters:

"(A) An analysis of the role of each sector in attaining each of the objectives set forth in section 2261 of this title.

"(B) An analysis of the current and projected capability of each sector to attain each such objective for each of the following periods:

"(i) The fiscal year during which the assessment is submitted to Congress pursuant to section 2264(l) of this title.

"(ii) The following fiscal year.

"(iii) The multiyear period covered by the multiyear defense program submitted under section 114a of this title during the fiscal year referred to in clause (i).

"(2) The analysis required by paragraph (1)(B) shall include, for each sector for each period described in paragraph (1)(B), an analysis of the present and projected capabilities of prime contractors, subcontractors, the Defense Industrial Reserve under section 2292 of this title, and departments and agencies of the Federal Government with respect to each of the following:

"(A) Research and development, including research and development regarding the critical technologies identified under subsection (f).

"(B) Application of critical technologies to the production of goods and the furnishing of services.

"(C) Test and evaluation.

"(D) Low rate production.

"(E) High volume production.

"(F) Repair and maintenance.

"(G) Design and prototyping.

"(H) Work force skills and capabilities, including improvements that build on the skill and experience of their work force.

"(c) FOREIGN DEPENDENCY CONSIDERATIONS.—In the preparation of the annual assessment the Council shall consider, for each sector, the following factors:

"(1) The availability of essential raw materials, special alloys, composite materials, components, subsystems, production equipment, facilities, special tooling, and production test equipment for—

"(A) the sustained production of systems fully capable of meeting the performance objectives established for those systems;

"(B) the uninterrupted maintenance and repair of such systems; and

"(C) the sustained operation of such systems.

"(2) The identification of items specified in paragraph (1) that are available only from sources outside the national defense technology and industrial base.

"(3)(A) The availability of alternatives for obtaining such items from within the national defense technology and industrial base if such items become unavailable from sources outside the national defense technology and industrial base.

"(B) An analysis of any military vulnerability that could result from the lack of reasonable alternatives.

"(4) The effects on the national defense technology and industrial base that result from foreign acquisition of firms in the United States.

"(d) FINANCIAL CONDITION ANALYSIS.—(1) The assessment shall include an analysis of the present and projected financial condition of each sector, for each period described in subsection (b)(1)(B).

"(2) In the analysis of the financial condition of each sector, the Council shall specifically consider the following matters:

"(A) Trends in the following:

"(i) Profitability.

"(ii) Levels of capital investment.

"(iii) Expenditures on research and development.

"(iv) Levels of debt.

"(B) The effects of actual and potential commercial sales.

"(C) The consequences of mergers, acquisitions, and takeovers.

"(D) The effects of Department of Defense financial policies, including the following:

"(i) Policies relating to progress payments or other financing by the Department of Defense.

"(ii) Policies relating to the return on contractor investment.

"(iii) Policies relating to the allocation of contract risk between the Department of Defense and a contractor.

"(E) The effects of expenditures in the sector by departments and agencies of the Federal Government other than the Department of Defense and the Department of Energy (for national security programs).

"(F) The analysis required by subsection (e).

"(e) ANALYSIS OF IMPACT OF DEPARTMENT OF DEFENSE REDUCTIONS.—(1) The annual assessment shall include an analysis of the impact of the terminations and significant reductions of major research and development programs and procurement programs of the Department of Defense on the capability of each sector to attain each of the objectives set forth in section 2261 of this title.

"(2) The programs referred to in paragraph (1) are those programs in which a termination or significant reduction in expenditures—

"(A) has taken place in the fiscal year before the fiscal year in which the annual assessment is submitted to Congress pursuant to section 2264(l) of this title; or

"(B) is provided for—

"(i) in the budget submitted pursuant to section 1105(a) of title 31 in that fiscal year; and

"(ii) in the multiyear defense program submitted with such budget pursuant to section 114a of this title.

"(3) In this subsection, the term 'significant reduction', with respect to expenditures for a program for a fiscal year, means that the amount provided for that program for that fiscal year in the budget, Acts authorizing appropriations, appropriations Acts, or the multiyear defense program for that fiscal year is less than the amount provided for that program for the preceding fiscal year in the budget, Acts authorizing appropriations, appropriations Acts, or the multiyear defense program, respectively, for that preceding fiscal year by at least—

"(A) the greater of—

"(i) the amount equal to 10 percent of the amount provided for that preceding fiscal year; or

"(ii) $5,000,000; or

"(B) a lesser amount determined significant by the Secretary of Defense or the Council.

"(f) CRITICAL TECHNOLOGY ANALYSIS.—(1) The annual assessment shall include a critical technology analysis that identifies the product and process technologies that are most critical for attaining the technology and industrial base objectives set forth in section 2261 of this title. The number of technologies so identified may not exceed 20. The analysis shall be prepared in consultation with the Critical Technologies Institute.

"(2) For each technology, the analysis shall include the following:

"(A) The reasons for selection of that technology as a technology critical to the Department of Defense.

"(B) The potential dual-use applications of that technology.

"(C) The relationship between the activities of the Department of Defense and other Federal agencies in the development of that technology.

"(D) The potential contributions that the private sector can be expected to make from its own resources in connection with the development of civilian applications for such technology.

"(E) A comparison of the position of the United States to the positions of other nations in the development of that technology, including the potential contributions that other nations can make to meeting the needs of the United States for that technology.

"(g) SECTOR VIABILITY ANALYSIS.—(1) The annual assessment shall include an analysis, for each of the periods described in subsection (b)(1)(B), of the following matters:

"(A) The extent to which each sector is—

"(i) dependent on defense expenditures to ensure continued viability;

"(ii) dependent on a mix of defense and nondefense Federal Government expenditures to ensure continued viability;

"(iii) dependent on a mix of Federal Government expenditures and other Federal Government programs to ensure continued viability; and

"(iv) sufficiently integrated with the commercial marketplace to ensure continued viability regardless of the level of Federal Government expenditures in the sector.

"(B) The extent to which each sector is capable of—

"(i) ongoing production with a present capability for high volume production;

"(ii) maintenance of a production base that can be converted to high volume production within a reasonable period of time; or

"(iii) reconstitution of a production base that can reinstate high volume production within a reasonable period of time.

"(2) The analysis shall specifically identify any sectors and any entities within sectors that should be considered for inclusion in the Defense Industrial Reserve under section 2292 of this title.

"(3) In this section:

"(A) The term 'defense expenditure' means an expenditure by—

"(i) the Department of Defense; or

"(ii) the Department of Energy for a national security program.

"(B) The term 'continued viability' means the capability to attain the technology and industrial base objectives set forth in section 2261 of this title.

"(h) ISSUANCE.—The Secretary of Defense shall prescribe by regulation a schedule for the completion of the annual assessment that ensures sufficient time for the consideration of the assessment in the preparation of the annual national defense technology and industrial base plan required by section 2264 of this title.

"§ 2264. National defense technology and industrial base plan

"(a) IN GENERAL.—The National Defense Technology and Industrial Base Council shall prepare an annual plan for ensuring, to the maximum extent practicable, that the policies and programs of the Department of Defense, the Department of Energy, and other departments and agencies of the Federal Government are planned, coordinated, funded, and implemented in a manner designed to attain each of the technology and industrial base objectives set forth in section 2261 of this title. The Council shall take into account the annual national defense technology and industrial base assessment prepared pursuant to section 2263 of this title in preparing the annual plan.

"(b) SECTOR VIABILITY GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, for each of the following:

"(1) Programs and policies of the Federal Government that are necessary to ensure the continued viability of each sector that is identified in the annual assessment as being economically dependent in whole or in part upon Federal Government programs or policies.

"(2) Programs and policies of the Federal Government that are necessary in each such sector—

"(A) to reduce each economic dependency of such sector on foreign sources that could create a military vulnerability; and

"(B) to provide for alternative sources in the event that the foreign sources become unavailable.

"(3) The composition and management of the Defense Industrial Reserve under section 2292 of this title.

"(c) MANUFACTURING TECHNOLOGY GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, for the following:

"(1) The National Defense Manufacturing Technology Program established under section 2281 of this title.

"(2) The support of manufacturing extension programs under section 2283 of this title.

"(3) Programs to enhance basic research in scientific disciplines relating to manufacturing technology through—

"(A) encouraging research in colleges and universities in the United States and in associated centers of excellence; and

"(B) establishing technology transfer mechanisms, and technology education and training mechanisms, that ensure that the results of such research are readily available to United States industry.

"(4) Programs for encouraging the use of computer-integrated manufacturing to improve manufacturing quality, reduce manufacturing costs, reduce production lead times, and improve maintenance.

"(5) Programs for enhancing Department of Defense use of concurrent engineering practices in the design and development of weapon systems.

"(6) Programs providing incentives for firms in the national defense technology and industrial base to use advanced manufacturing technology and processes and to invest in improved productivity.

"(7) Programs for encouraging research in colleges and universities and in other technology development and extension programs in the United States for the development of work systems that build on worker's skill and experience.

"(8) Programs for assisting in the transition to high performance work systems, including ongoing worker involvement in the evaluation, selection, and installation and operation of production technologies and associated organization or work.

"(d) CRITICAL TECHNOLOGIES GUIDANCE.—For each defense critical technology, the plan shall contain the following:

"(1) Specific guidance, including goals, milestones, and priorities, with respect to the development of the technology.

"(2) The specific funding requirements of the Department of Defense, the Department of Energy, and other departments and agencies of the Federal Government for the development of the technology for the 5 fiscal years following the fiscal year in which the plan is submitted pursuant to subsection (l).

"(3) A designation of the lead organization within the Department of Defense or the Department of Energy to be responsible for the development of the technology.

"(4) A summary description of the lead organization's plan for the development of the technology, including the milestone goals.

"(e) INTEGRATED FINANCING GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, to ensure that the financial policies of the Department of Defense and Department of Energy (for national security programs), including the policies identified in section 2263(d)(2)(D) of this title, are designed to meet the industrial and technology base policies set forth in section 2261 of this title.

"(f) CIVIL-MILITARY INTEGRATION GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, to encourage the effective integration of commercial products and processes into Federal Government acquisition practices with respect to the following:

"(1) Expanding the use of commercial specifications in place of Federal Government specifications.

"(2) Increasing the use of commercial manufacturing processes instead of processes specified by the Federal Government.

"(3) Reducing the extent of unique government regulatory requirements relating to accounting and acquisition.

"(4) Identifying and ensuring the effective application by the Department of Defense and the Department of Energy (for national security programs) of research, technologies, products, information, and practices developed by other departments and agencies of the Federal Government, State and local governments, colleges and universities, nonprofit organizations, and commercial enterprises.

"(5) Identifying effective mechanisms for transferring technology and related information, to the maximum extent practicable, from the Department of Defense and Department of Energy to other departments and agencies of the Federal Government, State and local governments, colleges and universities, nonprofit organizations, and commercial enterprises.

"(6) Ensuring, to the maximum extent practicable, that technology and related information are so transferred.

"(g) DEFENSE CONVERSION GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, for providing sectors and businesses at least partially dependent economically on national security expenditures with Federal Government assistance to convert from that dependence to economic viability without such dependence.

"(h) TECHNOLOGY AND INDUSTRIAL BASE WORK FORCE GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, to enhance the skills and capabilities of the work force, including high performance, high quality, and high flexibility production, in the national defense technology and industrial base.

"(i) MAJOR PROGRAM ACQUISITION GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, for enhancing the effectiveness of the major defense acquisition program regulations prescribed pursuant to section 2439 of this title.

"(j) ACQUISITION REFORM GUIDANCE.—(1) The plan shall include any recommended legislation that the Council considers appropriate for eliminating any adverse effect of Federal law on the capability of the national defense technology and industrial base to attain the objectives set forth in section 2261 of this title.

"(2) The plan shall provide specific guidance to ensure that maximum use is made of authority to waive regulations or conduct test programs in pursuit of such objectives.

"(k) FUNDING.—The plan shall ensure effective implementation of the guidance issued under this section by establishing funding priorities for each area of guidance identified under subsections (b) through (h) for each of the periods described in section 2263(b)(1)(B) of this title.

"(l) ISSUANCE.—(1) The Secretary of Defense shall provide the annual plan to the Secretaries of the military departments and the heads of the other elements of the Department of Defense not later than the date on which the Secretary provides such officials with the guidance required by section 113(g)(1) of this title. The Secretary of Energy and the Secretary of Commerce shall provide such guidance to appropriate officials within their respective departments.

"(2) The Secretary of Defense shall transmit to Congress, not later than March 31 of each year—

"(A) the plan prepared under this section, including any changes necessary to reflect the budget submitted by the President during that year under section 1105 of title 31; and

"(B) the national defense technology and industrial base assessment prepared pursuant to section 2263 of this title that pertains to such plan and budget.

"(3) The plan and assessment shall be submitted to Congress in classified and unclassified forms. Proprietary information that may be withheld from disclosure under section 552 of title 5 shall be provided only in the classified version.

"§ 2265. National Defense Program for Analysis of the Technology and Industrial Base

"(a) ESTABLISHMENT.—(1) The National Defense Technology and Industrial Base Council shall establish at an entity described in paragraph (3) a program to be known as the 'National Defense Program for Analysis of the Technology and Industrial Base'.

"(2) The Program shall be an element of the defense acquisition university structure established under section 1746 of this title.

"(3) As determined by the Chairman of the Council, the Program shall be administered by—

"(A) an existing federally funded research and development center;

"(B) a consortium of existing federally funded research and development centers and other nonprofit entities; or

"(C) another appropriate private sector research entity.

"(4) The Chairman shall ensure that there is appropriate consultation and coordination between the Program and the Critical Technologies Institute.

"(b) OVERSIGHT COMMITTEE.—The Program shall have an oversight committee composed of 3 members as follows:

"(1) The Under Secretary of Defense for Acquisition, or his designee, who shall serve as Chairman of the operating committee.

"(2) An official designated by the Secretary of Energy.

"(3) An official designated by the Secretary of Commerce.

"(c) MISSIONS.—The missions for the Program shall include, with respect to the national defense technology and industrial base, the following:

"(1) The assembly of timely and authoritative information.

"(2) Initiation of studies and analyses.

"(3) Provision of technical support and assistance to—

"(A) the Council in the preparation of the annual assessment required by section 2263 of this title and the annual plan required by section 2264 of this title;

"(B) the defense acquisition university structure and its elements; and

"(C) other departments and agencies of the Federal Government in accordance with guidance established by the Council.

"(4) Dissemination, through the National Technical Information Service of the Department of Commerce, of unclassified information and assessments for further dissemination within the Federal Government and to the private sector.".

(b) TECHNOLOGY AND INDUSTRIAL BASE PLANNING FOR MAJOR DEFENSE PROGRAMS.—(1) Chapter 144 of title 10, United States

Code, is amended by inserting after section 2438 the following new section:

"§ 2439. Major programs: technology and industrial base plans

"(a) ACQUISITION PLAN REQUIREMENTS.—The Secretary of Defense shall prescribe regulations requiring consideration of the national defense technology and industrial base in the development and implementation of acquisition plans for each major defense acquisition program.

"(b) CONTENT OF ACQUISITION PLANS.—The acquisition plan for each major defense acquisition program shall include provisions for the following:

"(1) An analysis of the capabilities of the national defense technology and industrial base to develop, produce, maintain, and support such program, including consideration of the factors set forth in section 2263(c) of this title.

"(2) Consideration of requirements for efficient manufacture during the design and production of the systems to be procured under the program.

"(3) The use of advanced manufacturing technology, processes, and systems during the research and development phase and the production phase of the program.

"(4) To the maximum extent practicable, the use of contract solicitations that encourage competing offerors to acquire, for use in the performance of the contract, modern technology, production equipment, and production systems (including hardware and software) that increase the productivity of the offerors and reduce life-cycle costs.

"(5) Encouragement of investment by United States domestic sources in advanced manufacturing technology production equipment and processes through—

"(A) recognition of the contractor's investment in advanced manufacturing technology production equipment, processes, and organization of work systems that build on workers' skill and experience, and work force skill development in the development of the contract objective; and

"(B) increased emphasis in source selections on the efficiency of production.

"(6) Expanded use of commercial manufacturing processes rather than processes specified by the Department of Defense.

"(7) Elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under Department of Defense contracts.

"(8) Expanded use of commercial products as set forth in section 2325 of this title.".

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 2438 the following new item:

"2439. Major programs: technology and industrial base plans.".

(c) IMPLEMENTATION.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including milestones for actions, to ensure the timely and thorough collection of information, completion of assessments, and issuance of plans required by the provisions of subchapter I of chapter 135 of title 10, United States Code, as added by subsection (a).

(2)(A) The first annual assessment required by section 2263 of such title shall be completed not later than September 30, 1993.

(B) The first annual plan required by section 2264 of such title shall be completed not later than November 15, 1993.

(C) The Secretary may prescribe regulations authorizing the presentation of information in a preliminary form in the first annual assessment and the first annual plan to the extent that the necessary information cannot reasonably be collected, analyzed, or presented in accordance with section 2263 or 2264, respectively, of title 10, United States Code, by the dates specified in subparagraphs (A) and (B).

(3) The National Defense Technology and Industrial Base Council shall establish the National Defense Center for Analysis of the Technology and Industrial Base not later than 6 months after the date of the enactment of this Act. The Secretary of Defense shall ensure that a contract solicitation is issued and a contract is awarded in a timely manner to facilitate the establishment of the Center within the period set forth in the preceding sentence.

SEC. 802. DEFENSE DUAL-USE TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAMS.

(a) DEFENSE DUAL-USE TECHNOLOGIES.—(1) Chapter 135 of title 10, United States Code (as added by section 801(a)), is amended by adding after subchapter II the following:

"SUBCHAPTER II—DUAL-USE TECHNOLOGIES

"Sec.
"2271. Defense dual-use critical technology partnerships.
"2272. Commercial-military integration partnerships.
"2273. Regional technology alliances assistance program.
"2274. Office for Foreign Defense Critical Technology Monitoring and Assessment.
"2275. Overseas foreign critical technology monitoring and assessment financial assistance program.
"2276. Encouragement of technology transfer.".

(2) Section 2523 of title 10, United States Code, (relating to defense dual-use critical technology partnerships) is—

(A) transferred to subchapter II of chapter 135 of such title (as added by paragraph (1));

(B) inserted following the table of sections; and

(C) redesignated as section 2271.

(3) Subchapter II of such chapter, as added by paragraph (1) and amended by paragraph (2), is further amended by inserting after section 2271 the following new section:

"§ 2272. Commercial-military integration partnerships

"(a) ESTABLISHMENT OF PARTNERSHIPS.—The Secretary of Defense shall conduct a program providing for the establishment of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between the Department of Defense and entities referred to in section 2271(b) of this title in order to encourage and provide for research, development, and application of technologies to attain the national defense technology and industrial base objectives set forth in section 2261 of this title.

"(b) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, and enter into cooperative agreements and other transactions pursuant to section 2371 of this title in order to establish the partnerships.

"(2) The Secretary may not enter into a partnership under this section for a period longer than 5 years.

"(3) The Secretary may provide a partnership with technical and other assistance to facilitate the achievement of the purposes of this section, subject to the limitations in subsection (c).

"(c) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The Secretary shall ensure that the amount of funds provided by the Secretary under a partnership does not exceed maximum authorized percentage of the total cost of partnership activities.

"(2) The maximum authorized percentage of Federal Government funding referred to in paragraph (1) for each year of a partnership is as follows:

"(A) 50 percent in the first year.

"(B) 40 percent in the second year.

"(C) 30 percent in the third year.

"(D) 20 percent in the fourth year.

"(E) 10 percent in the fifth year.

"(3)(A) The Secretary shall prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a partnership for the purpose of determining the share of the partnership costs that has been or is being undertaken by such participants.

"(B) The regulations shall also ensure that the in-kind contributions of nonprofit institutions and small businesses are considered included, to the maximum extent practicable, in the non-Federal Government share of the cost of the partnership.

"(d) SELECTION PROCESS.—Competitive procedures shall be used in the establishment of partnerships.

"(e) SELECTION CRITERIA.—The criteria for the selection of a proposed partnership for establishment under this section shall include the following:

"(1) The extent to which the program proposed to be conducted by the partnership advances and enhances the national defense industrial and technology base objectives set forth in section 2261 of this title.

"(2) The technical excellence of the program proposed to be conducted by the partnership.

"(3) The qualifications of the personnel proposed to participate in the partnership's research activities.

"(4) A likelihood that there will not be timely private sector investment in activities to achieve the goals and objectives of the proposed partnership other than through the partnership.

"(5) The potential effectiveness of the partnership in the further development and application of each technology proposed to be developed by the partnership for the industrial and technology base.

"(6) The extent of the financial commitment of the eligible firms to the proposed partnership.

"(7) The likelihood that the partnership will develop technologies that are sufficiently viable in the commercial sector so that such technologies will be available to meet the future reconstitution requirements and other needs of the Department of Defense described in the annual national defense technology and industrial base plan prepared under section 2264 of this title.

"(8) The likelihood that, within 5 years after the establishment of the partnership (or a lesser period established by the Secretary), Federal Government funding of the partnership will not be necessary.

"(9) Such other criteria as the Secretary prescribes.

"(f) DELEGATION OF AUTHORITY.—Subject to the authority, direction, and control of the Secretary of Defense and the Under Secretary of Defense for Acquisition, the Director of Defense Research and Engineering shall perform the duties of the Secretary of Defense under this section.".

(4) Section 2524 of title 10, United States Code (relating to critical technology application centers) is—

(A) transferred to subchapter II of chapter 135, as added by paragraph (1) and amended by paragraphs (2) and (3);

(B) inserted at the end of that subchapter; and

(C) amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"§ 2273. Regional technology alliances assistance program";

(ii) by striking out "regional critical technology application centers" in subsection (a) and inserting in lieu thereof "regional technology alliances";

(iii) by striking out "regional critical technology application center" in subsection (b) and inserting in lieu thereof "regional technology alliance";

(iv) by striking out "critical technology application center" and "center" each time such terms appear and inserting in lieu thereof "regional technology alliance"; and

(v) by striking out "2523" in subsection (g) and inserting in lieu thereof "2271".

(5) Section 2525 of title 10, United States Code (relating to the Office for Foreign Defense Critical Technology Monitoring and Assessment), and section 2526 of such title (relating to the overseas foreign critical technology monitoring and assessment financial assistance programs) are—

(A) transferred to subchapter II of chapter 135 of such title, as added by paragraph (1) and amended by paragraphs (2) through (4);

(B) inserted at the end of that subchapter; and

(C) redesignated as sections 2274 and 2275, respectively.

(6) Subsection (a) of section 2274 of such title (as redesignated by paragraph (5)) is amended by inserting "Critical" after "Foreign Defense".

(7) Section 2363 of title 10, United States Code (relating to encouragement of technology transfer), is—

(A) transferred to subchapter II of chapter 135 of such title, as added by paragraph (1) and amended by paragraphs (1) through (5);

(B) inserted at the end of that subchapter; and

(C) redesignated as section 2276.

(b) FUNDING.—Of the amounts authorized to be appropriated under section 201—

(1) $100,000,000 shall be available for defense dual-use critical technology partnerships;

(2) $50,000,000 shall be available for commercial-military integration partnerships;

(3) $100,000,000 shall be available for defense regional technology alliances; and

(4) $2,000,000 shall be available for the overseas critical technology monitoring and assessment financial assistance program.

SEC. 803. ESTABLISHMENT OF OFFICE OF TECHNOLOGY TRANSITION.

(a) ESTABLISHMENT.—(1) Subchapter II of chapter 135 of title 10, United States Code (as added by section 802), is amended by adding at the end the following:

"§ 2277. Office of Technology Transition

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish within the Office of the Secretary of Defense an Office of Technology Transition.

"(b) PURPOSE.—The purpose of the Office shall be to ensure, to the maximum extent practicable, that technology developed for national security purposes is integrated into the private sector of the United States in order to enhance the national defense technology and industrial base.

"(c) SPECIFIC DUTIES.—The head of the Office shall ensure that the Office—

"(1) monitors all research and development activities that are carried out by or for the military departments and Defense Agencies, including research and development that is conducted by or for—

"(A) the Strategic Defense Initiative Organization;

"(B) the Advanced Research Projects Agency; and

"(C) the Defense Nuclear Agency;

"(2) identifies all such research and development activities that use technologies, or result in technological advancements, having potential nondefense commercial applications;

"(3) serves as a clearinghouse for, coordinates, and otherwise actively facilitates the transition of such technologies and technological advancements from the Department of Defense to the private sector;

"(4) conducts its activities in consultation and coordination with the Department of Energy; and

"(5) provides private firms with assistance to resolve problems associated with security clearances, proprietary rights, and other legal considerations involved in such a transition of technology.

"(d) REPORTING REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives an annual report on the activities of the Office at the same time that the budget is submitted to Congress by the President pursuant to section 1105 of title 31. The report shall contain a discussion of the accomplishments of the Office during the fiscal year preceding the fiscal year in which the report is submitted.".

(2) The table of sections at the beginning of subchapter II of such chapter (as added by section 802) is amended by inserting after the item relating to section 2276 the following:

"2277. Office of Technology Transition.".

(b) SCHEDULE FOR ESTABLISHMENT.—The Office of Technology Transition shall commence operations within 180 days after the date of the enactment of this Act.

(c) REPORTING REQUIREMENTS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the establishment of the Office of Technology Transition. The report shall contain a description of the organization of the Office, the staffing of the Office, and the activities undertaken by the Office.

(2) Notwithstanding section 2277(d) of title 10, United States Code (as added by subsection (a))—

(A) the first report under that section shall be submitted not later than 1 year after the date of the enactment of this Act; and

(B) no additional report is necessary under that section in the fiscal year in which such first report is submitted.

SEC. 804. DEFENSE DUAL-USE MANUFACTURING TECHNOLOGY PROGRAMS.

(a) NATIONAL DEFENSE MANUFACTURING TECHNOLOGY PROGRAM.—(1) Chapter 135 of title 10, United States Code, as added by section 801(a) and amended by sections 802 and 803, is further amended by adding after subchapter II the following new subchapter:

"SUBCHAPTER III—MANUFACTURING TECHNOLOGY

"Sec.

"2281. National Defense Manufacturing Technology Program.

"2282. Defense advanced manufacturing technology partnerships.

"2283. Manufacturing extension programs.

"§ 2281. National Defense Manufacturing Technology Program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall establish a National Defense Manufacturing Technology Program to—

"(1) provide centralized guidance and direction, including goals, milestones, and priorities, to the military departments and the Defense Agencies on all matters relating to manufacturing technology;

"(2) direct the development and implementation of Department of Defense plans, programs, projects, activities, and policies that promote the development and application of advanced technologies to manufacturing processes, tools, and equipment;

"(3) improve the manufacturing quality, productivity, technology, and practices of businesses and workers providing goods and services to the Department of Defense;

"(4) promote dual-use manufacturing processes;

"(5) disseminate to such businesses information concerning improved manufacturing improvement concepts, including information on such matters as best manufacturing practices, product data exchange specifications, computer-aided acquisition and logistics support, and rapid acquisition of manufactured parts;

"(6) sustain and enhance the skills and capabilities of the manufacturing work force;

"(7) promote high-performance work systems, with development and dissemination of production technologies that build upon the skills and capabilities of the work force, high levels of worker education and training, and work force participation in the evaluation, selection, and implementation of new production technologies; and

"(8) ensure appropriate coordination between the manufacturing technology programs and industrial preparedness programs of the Department of Defense and similar programs undertaken by other departments and agencies of the Federal Government or by the private sector.

"(b) RELATIONSHIP TO NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE PLAN.—The Secretary shall ensure that the program is developed and implemented in accordance with the manufacturing technology guidance set forth in the national defense technology and industrial base plan prepared under section 2264 of this title.

"(c) ANNUAL REVISIONS.—The Secretary shall revise the program not later than March 15 of each year. Each revision shall identify each manufacturing technology program, project, or activity of the Department of Defense and the amounts provided for each such program, project, and activity in the budget submitted by the President under section 1105 of title 31 for the fiscal year beginning in that year.

"(d) PROGRAM LIMITATION.—A manufacturing technology program, project, or activity of the Department of Defense may be conducted only to the extent provided for in the National Defense Manufacturing Technology Program. However, such a program, project, or activity may be conducted in excess of the limitation in the preceding sentence if it is designated by the Secretary of Defense as a higher priority matter.

"(e) DELEGATION OF AUTHORITY.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform the duties of the Secretary of Defense under this section.".

(2) Section 203(d) of the National Defense Authorization Act for Fiscal Year 1992 and

1993 (Public Law 102-190; 105 Stat. 1315) is repealed.

(b) Defense Advanced Manufacturing Technology Partnerships.—(1) Section 2518 of title 10, United States Code (relating to defense advanced manufacturing technology partnerships), is—

(A) transferred to subchapter III of chapter 135 of such title, as added by subsection (a)(1);

(B) inserted at the end of that subchapter;

(C) redesignated as section 2282; and

(D) amended in subsection (d)(1) by striking out "section 2523(f)" and inserting in lieu thereof "section 2271(f)".

(2) Of the amounts made available pursuant to section 203(4), $25,000,000 shall be available for defense advanced manufacturing technology partnerships under section 2282 of title 10, United States Code, as transferred and redesignated by paragraph (1).

(c) Manufacturing Technology Extension Programs.—(1) Section 2517 of title 10, United States Code (relating to manufacturing extension programs), is—

(A) transferred to subchapter III of chapter 135 of such title, as added by subsection (a)(1) and amended by subsection (b);

(B) inserted at the end of that subchapter; and

(C) redesignated as section 2283.

(2) Of the amounts authorized to be appropriated under section 201, $100,000,000 shall be available for support of manufacturing technology extension programs under section 2283 of title 10, United States Code, as transferred and redesignated by paragraph (1).

(d) Defense Manufacturing Engineering Education Program.—Of the amounts authorized to be appropriated under section 201, $25,000,000 shall be available for defense manufacturing engineering education grants under section 2196 of title 10, United States Code.

(e) Defense Manufacturing Experts in the Classroom Program.—(1)(A) Section 2197 of title 10, United States Code, is amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"§ 2197. Manufacturing experts in the classroom";

(ii) in subsection (a), by striking out "managers and" in the matter above paragraph (1); and

(iii) by adding at the end the following new subsection:

"(e) Manufacturing Expert Defined.—In this section, the term 'manufacturing expert' means manufacturing managers and workers having experience in the organization of production and education and training needs and other experts in manufacturing.".

(B) The table of sections at the beginning of chapter 111 of such title is amended by striking out the item relating to section 2197 and inserting in lieu thereof the following:

"2197. Manufacturing experts in the classroom.".

(2) Of the amounts authorized to be appropriated under section 201, $5,000,000 shall be available for the manufacturing experts in the classroom program under section 2197 of title 10, United States Code.

SEC. 805. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE DUAL-USE ASSISTANCE EXTENSION PROGRAMS.

(a) Extension Programs.—Chapter 135 of title 10, United States Code, as added by section 801(a) and as amended by sections 802, 803, and 804, is further amended by adding at the end the following:

"SUBCHAPTER IV—MISCELLANEOUS TECHNOLOGY BASE POLICIES AND PROGRAMS

"Sec.

"2291. Defense dual-use assistance extension program.

"2292. Defense Industrial Reserve.

"§ 2291. Defense dual-use assistance extension program

"(a) Establishment of Program.—The Secretary of Defense, in consultation and coordination with the Secretary of Energy and the Secretary of Commerce, shall establish a program to achieve the national defense technology and industrial base objectives set forth in section 2261 of this title by providing support to entities referred to in subsection (b) for programs described in that subsection.

"(b) Programs Supported.—The Secretary may provide support under this section for programs sponsored by the Federal Government, regional entities, States, local governments, and private entities and nonprofit organizations that assist firms whose businesses and workers economically dependent on Department of Defense expenditures to acquire dual-use capabilities through the provision under those programs of the following services:

"(1) Assistance in converting from government-oriented management, production, training, business planning, and marketing practices to commercial practices.

"(2) Assistance in making improvements necessary for conversion to commercial markets and practices and in acquiring and using public and private sector resources, literature, and other information concerning—

"(A) research, development, and production processes and practices;

"(B) identification and development of technologies and products having the potential for defense and nondefense commercial applications;

"(C) marketing practices and opportunities;

"(D) identification of potential suppliers, partners, and subcontractors;

"(E) identification of opportunities for government support, including support through grants, contracts, partnerships and consortia;

"(F) enhancement of work force skills and capabilities, including development and introduction of high performance workplace systems, employee and participative management systems, workforce literacy programs, programs to encourage employee ownership, worker education and training, work force participation in the evaluation, selection, and implementation of new production technologies; and

"(G) trade and export assistance.

"(c) Assistance Authorized.—(1) The Secretary may make grants, enter into contracts, enter into cooperative agreements and other transactions pursuant to section 2371 of this title, and transfer funds to another department or agency of the Federal Government in carrying out this section.

"(2) Subject to subsection (d), the Secretary may provide a program referred to in subsection (b) with technical and other assistance.

"(d) Financial Commitment of Non-Department of Defense Participants.—(1) The Secretary shall ensure that the amount of funds provided by the Department of Defense for a program under this section does not exceed the maximum authorized percentage of the combined amount provided by the Department of Defense and all other sources of funding for the program for any year.

"(2) The maximum authorized percentage of Department of Defense funding referred to in paragraph (1) for each year of Department of Defense assistance for a program under this section is as follows:

"(A) 50 percent in the first year.

"(B) 40 percent in the second year.

"(C) 30 percent in the third and following years.

"(e) Selection Process.—Competitive procedures shall be used in the selection of programs to receive assistance under this section.

"(f) Selection Criteria.—The criteria for the selection of a program to receive assistance under this section shall include the following:

"(1) The extent to which the program advances and enhances the national defense industrial and technology base objectives set forth in section 2261 of this title.

"(2) The technical excellence of the program.

"(3) The qualifications of the personnel proposed to participate in the program's research activities.

"(4) A likelihood that there will not be timely private sector investment in activities that is sufficient to achieve the goals and objectives of the programs.

"(5) The potential effectiveness of the program in the conversion of businesses, including their work forces from capabilities that make the companies economically dependent on Department of Defense business to capabilities having defense and nondefense commercial applications.

"(6) The ability of the program to assist businesses, including their work forces, adversely affected by significant reductions in Department of Defense spending.

"(7) The extent of the financial commitment by sources other than the Department of Defense.

"(8) The extent to which the program would supplement, rather than duplicate, other available services.

"(9) The likelihood that, within 5 years after the commencement of assistance for a program under this section (or a lesser period established by the Secretary), Department of Defense assistance will not be necessary to sustain the program.

"(10) Such other criteria as the Secretary prescribes.

"(g) Delegation of Authority.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform the duties of the Secretary of Defense under this section.

"(h) Termination of Authority.—This section shall cease to be effective on September 30, 1997.".

(b) Funding.—(1) Of the amounts authorized to be appropriated under section 201, $200,000,000 shall be available for defense dual-use extension programs under section 2291 of title 10, United States Code (as added by subsection (a)), of which not less than $50,000,000 shall be made available to regional, State, and local government programs.

(2) Of funds authorized to be appropriated to the Department of Defense for fiscal year 1993 by this Act, the Secretary may transfer not more than $50,000,000 to the appropriations made available for the support of defense dual-use extension programs under such section 2291. Amounts so transferred shall be merged with, and be available for the same purpose and the same period as, the appropriations to which transferred. The authority to transfer funds under this para-

graph is in addition to any other transfer authority provided for the Secretary of Defense under this or any other Act.

SEC. 806. ADDITIONAL STATUTORY REORGANIZATION.

(a) TECHNOLOGY AND INDUSTRIAL BASE AMENDMENTS.—(1)(A) Subchapter IV of chapter 135 of title 10, United States Code, as added by section 805, is amended by adding at the end, without text, the following new section:

"§ 2292. Defense Industrial Reserve".

(B) The text of section 2 of the Defense Industrial Reserve Act (50 U.S.C. 451) is—

(i) transferred to section 2292;

(ii) inserted below the section heading; and

(iii) amended by striking out "In enacting this Act, it" and inserting in lieu thereof the following: "(a) DECLARATION OF PURPOSE AND POLICY.—It".

(C) The text of section 4 of that Act (50 U.S.C. 453) is—

(i) transferred to section 2292;

(ii) inserted following subsection (a), as designated in the amendment made by subparagraph (B)(iii); and

(iii) amended—

(I) by striking out "(a) To execute the policy set forth in this Act," and inserting in lieu thereof the following: "(b) POWERS AND DUTIES OF THE SECRETARY OF DEFENSE.—(1) To execute the policy set forth in this section,";

(II) by striking out "(1) determine" and inserting in lieu thereof "(A) determine";

(III) by striking out "(2) designate" and inserting in lieu thereof "(B) designate";

(IV) by striking out "(3) establish" and inserting in lieu thereof "(C) establish";

(V) by striking out "(4) direct" and inserting in lieu thereof "(D) direct";

(VI) by striking out "(5) direct" and inserting in lieu thereof "(E) direct";

(VII) by striking out "(6) authorize" and inserting in lieu thereof "(F) authorize";

(VIII) by striking out "(7) authorize" and all that follows through "(B) such institution" and inserting in lieu thereof "(G) authorize and regulate the lending of any such property to any nonprofit educational institution or training school whenever (i) the program proposed by such institution or school for the use of such property will contribute materially to national defense, and (ii) such institution";

(IX) by striking out "(b)(1) The Secretary" and inserting in lieu thereof "(2)(A) The Secretary";

(X) by striking out "(A) storage" and inserting in lieu thereof "(i) storage";

(XI) by striking out "(B) repair" and inserting in lieu thereof "(ii) repair";

(XII) by striking out "(C) overhead" and inserting in lieu thereof "(iii) overhead"; and

(XIII) by striking out "(2) The Secretary of Defense shall prescribe regulations" and inserting in lieu thereof "(B) The Secretary of Defense shall prescribe regulations".

(D) The text of section 3 of that Act (50 U.S.C. 452) is—

(i) transferred to section 2292;

(ii) inserted following subsection (b), as designated in the amendment made by subparagraph (C)(iii)(I); and

(iii) amended by striking out "As used in this Act—" and inserting in lieu thereof "(c) DEFINITIONS.—In this section:".

(2)(A) Chapter 135 of title 10, United States Code, as added by section 801(a) and amended by sections 802, 803, 804, and 805 and by paragraph (1), is further amended by inserting at the end the following subchapter:

"SUBCHAPTER V—DEFINITIONS

"Sec.
"2300. Definitions.

"§ 2300. Definitions

"In this chapter:

"(1) The term 'national defense technology and industrial base' means the persons and organizations that are engaged in research, development, production, or maintenance activities the majority of which are conducted within the United States and Canada.

"(2) The term 'dual-use' with respect to products, services, standards, processes, or acquisition practices, means products, services, standards, processes, or acquisition practices, respectively, that are capable of meeting requirements for private sector commercial acquisitions as well as public sector acquisitions.

"(3) The term 'dual-use critical technology' means a critical technology that has military applications and nonmilitary commercial applications.

"(4) The terms 'technology and industrial base sector' and 'sector' mean a group of public or private persons and organizations that engage in, or are capable of engaging in, similar research, development, or production activities.

"(5) The terms 'Federal laboratory' and 'laboratory' have the meaning given the term 'laboratory' in section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)).

"(6) The term 'critical technology' means a technology that is—

"(A) a national critical technology; or

"(B) a defense critical technology.

"(7) The term 'national critical technology' means a technology that appears on the list of national critical technologies contained in the most recent biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)).

"(8) The term 'defense critical technology' means a technology that appears on the list of critical technologies contained, pursuant to subsection (f) of section 2263 of this title, in the most recent national defense technology and industrial base assessment submitted to Congress by the Secretary of Defense pursuant to section 2264(1) of this title.

"(9) The term 'eligible firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) conducts a significant level of its research, development, engineering, and manufacturing activities in the United States; and

"(B) is a company or other business entity the majority ownership or control of which is by United States citizens or is a company or other business of a parent company that is incorporated in a country the government of which—

"(i) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations; and

"(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

Such term includes a consortium of such companies or other business entities, as determined by the Secretary of Commerce.

"(10) The term 'manufacturing technology' means techniques and processes designed to improve manufacturing quality, productivity, and practices, including quality control, shop floor management, inventory management, and worker training, as well as manufacturing equipment and software.

"(11) The term 'manufacturing extension program' means a public or private, nonprofit program for the improvement of the quality, productivity, and performance of United States-based small manufacturing firms in the United States.

"(12) The term 'United States-based small manufacturing firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) engages in manufacturing;

"(B) has less than 500 employees; and

"(C) is an eligible firm.".

(B) Until the first annual national defense technology and industrial base assessment is submitted to Congress by the Secretary of Defense pursuant to section 2264(1) of title 10, United States Code (as added by section 801(a)), the reference to the most recent such assessment in section 2300(8) of such title (as added by subparagraph (A)) shall be deemed to refer to the most recent annual critical defense critical technologies plan submitted to Congress by the Secretary of Defense pursuant to section 2522 of such title as in effect on the date of the enactment of this Act.

(3) The annual national defense technology and industrial base assessment submitted to Congress pursuant to section 2264(1) of title 10, United States Code (as added by section 801(a)), during each year through 1995 shall include a specific assessment of the capability of the domestic textile and apparel industrial base of the United States to support national defense mobilization requirements. Each such assessment shall include the following:

(A) An identification of textile and apparel mobilization requirements of the Department of Defense that cannot be satisfied on a timely basis by domestic industries.

(B) An assessment of the effect that any inadequacy in the textile and apparel industrial base would have on a mobilization.

(C) Recommendations for ways to alleviate any such inadequacy that the Secretary considers critical to national defense mobilization requirements.

(b) CONFORMING REORGANIZATION OF TITLE 10.—(1) Part IV of subtitle A of title 10, United States Code, is amended—

(A) by redesignating the chapter 135 (relating to encouragement of aviation) in effect on the day before date of the enactment of this Act as chapter 151; and

(B) by transferring such chapter, as so redesignated, within part IV of such subtitle so as to appear in sequence immediately before chapter 152.

(2) Such chapter is amended as follows:

(A) Sections 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, and 2279 are redesignated as 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, and 2539, respectively.

(B) Subsection (a) of section 2532, as so redesignated, is amended by striking out "section 2271" and inserting in lieu thereof "section 2531".

(C) Subsection (a) of section 2533, as so redesignated, is amended by striking out "section 2272" and inserting in lieu thereof "section 2532".

(D) Subsection (b) of section 2534, as so redesignated, is amended by striking out "sections 2272(f) and 2279 of this title but are not subject to section 2271(a)-(d) and 2272(a)" and inserting in lieu thereof "sections 2532(f) and 2539 of this title but are not subject to section 2531(a)-(d) and 2532(a)".

(c) TRANSFERS OF SECTIONS.—(1) Section 2504 of title 10, United States Code, is—

(A) transferred to subchapter II of chapter 138 of such title;

(B) inserted at the end of that subchapter;

(C) redesignated as 2350j; and

(D) amended in subsection (a)(1) by striking out "defense industrial base" and inserting in lieu thereof "defense technology and industrial base".

(2) Section 2505 of such title is—

(A) transferred to chapter 141 of such title, as amended by section 363 of this Act;

(B) inserted at the end of that chapter; and

(C) redesignated as section 2410d.

(3) Section 2507 of such title is—

(A) transferred to chapter 141 of such title, as amended by paragraph (2);

(B) inserted at the end of that chapter; and

(C) amended—

(i) by striking out subsection (c); and

(ii) by striking out the section heading and inserting in lieu thereof the following:

"§2410e. Miscellaneous limitations on the procurement of goods other than United States goods".

(4)(A) Section 2506 of such title is amended—

(i) in subsection (a)—

(I) by striking out "(a) Funds" and inserting in lieu thereof "(c) Procurement of Non-American Goods Generally.—(1) Funds";

(II) by striking out "(as defined in subsection (c))" in the matter above paragraph (1); and

(III) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as subparagraphs (A), (B), (C), (D), (E), (F), and (G), respectively;

(ii) in subsection (b), by striking out "(b) Consideration of the matters referred to in paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "(2) Consideration of the matters referred to in subparagraphs (A) through (F) of paragraph (1)"; and

(iii) in subsection (c)—

(I) by striking out "(c) In this section," and inserting in lieu thereof "(3) In this subsection,"; and

(II) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) The text of such section, as so amended, is transferred to section 2410e of title 10, United States Code, as added by paragraph (3), and is inserted following subsection (b) of that section.

(d) Conforming Repeals.—(1) Section 2330 of title 10, United States Code, is repealed.

(2)(A) Part IV of subtitle A of such title is amended by striking out chapters 148, 149, and 150.

(B) The tables of chapters at the beginning of subtitle A of such title and part IV of such subtitle are amended by striking out the items relating to chapters 148, 149, and 150.

(3) The Defense Industrial Reserve Act (50 U.S.C. 450 et seq.) is repealed.

(e) Tables of Sections.—(1) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2330.

(2) The table of sections at the beginning of subchapter II of chapter 138 of such title is amended by adding at the end the following:

"2350j. Defense memoranda of understanding and related agreements.".

(3) The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2363.

(4) The table of sections at the beginning of chapter 141 of such title, as amended by section 363 of this Act, is further amended by adding at the end the following:

"2410d. Offset policy: notification.

"2410e. Miscellaneous limitations on the procurement of goods other than United States goods.".

SEC. 807. SMALL BUSINESS INNOVATION RESEARCH PROGRAM IN THE DEPARTMENT OF DEFENSE.

(a) Amounts Available.—For each fiscal year after fiscal year 1993, funds authorized to be appropriated to a military department or a Defense Agency of the Department of Defense for research, development, test and evaluation shall be available for research activities and for research and development activities under the Small Business Innovation Research Program in amounts as follows:

(1) For fiscal year 1993, 1.5 percent of the extramural budget of such military department or Defense Agency for such activities for that fiscal year.

(2) For fiscal year 1994, 2 percent of the extramural budget of such military department or Defense Agency for such activities for that fiscal year.

(3) For fiscal year 1995, and each fiscal year thereafter, 2.5 percent of the extramural budget of such military department or Defense Agency for such activities for that fiscal year.

(b) Limitation on Program Awards.—Amounts paid to a small business concern by the Department of Defense under the Small Business Innovation Research Program for a project—

(1) in phase I under the program may not exceed $100,000; and

(2) in phase II under the program may not exceed $750,000.

(c) Commercial Applications Strategy.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Administrator of the Small Business Administration, shall develop and issue a strategy for effectuating the transition of successful projects under the Small Business Innovation Research Program from phase II under the program into phase III under the program.

(d) Program Management.—The Director of Defense Research and Engineering and the Director of the Office of Small and Disadvantaged Business Utilization of the Department of Defense shall be responsible for the participation of the military departments and Defense Agencies in the Small Business Innovation Research Program.

(e) Extension of Program.—Section 5 of Public Law 97-219 (15 U.S.C. 638 note) is amended—

(1) by striking out "Effective October 1, 1993, paragraphs" and inserting in lieu thereof "Paragraphs"; and

(2) by striking out "are repealed" and inserting in lieu thereof "shall cease to be effective with respect to departments and agencies of the Federal Government other than the Department of Defense on October 1, 1993, and are repealed effective October 1, 2000".

(f) Definitions.—In this section:

(1) The term "Small Business Innovation Research Program" means the Small Business Innovation Research Program carried out pursuant to paragraphs (4) through (7) of subsection (b) of section 9 of the Small Business Act (15 U.S.C. 638) and subsections (e) through (k) of such section.

(2) The term "extramural budget" has the meaning given that term in subsection (e)(1) of such section.

(3) The term "phase I", with respect to the Small Business Innovation Research Program, means the first phase described in subsection (e)(4)(A) of such section.

(4) The term "phase II", with respect to the Small Business Innovation Research Program, means the second phase described in subsection (e)(4)(B) of such section.

(5) The term "phase III", with respect to the Small Business Innovation Research Program, means the third phase described in subsection (e)(4)(C) of such section.

(g) Effective Date and Applicability.—This section shall take effect on October 1, 1992.

SEC. 808. DUAL-USE DEFENSE CONVERSION PRIORITY.

During fiscal year 1993, the Secretary of Defense shall give priority in the allocation of funds under subchapters II, III, and IV of chapter 135 of title 10, United States Code (as added by sections 802 through 805) and the Small Business Innovation Research Program referred to in section 807, to the maximum extent practicable, to programs, projects, and activities that provide significant assistance for converting the capabilities of businesses that are economically dependent on Department of Defense business to capabilities having defense and nondefense commercial applications.

SEC. 809. STATUTORY CHARTER FOR THE ADVANCED RESEARCH PROJECTS AGENCY.

(a) Statutory Charter.—(1) Subchapter II of chapter 8 of title 10, United States Code, is amended by adding at the end the following:

"§203. Advanced Research Projects Agency

"(a) In General.—The Advanced Research Projects Agency is a Defense Agency.

"(b) Director.—(1) The head of the agency is the Director.

"(2) The Director is appointed by the President, by and with the advice and consent of the Senate. The Secretary of Defense shall recommend persons for appointment to the position of Director.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Director shall perform the functions and duties provided in subsection (d).

"(c) Deputy Director.—(1) There is a Deputy Director of the agency who is appointed by the Director with the approval of the Secretary of Defense.

"(2) The Deputy Director shall perform such duties and exercise such authority as may be prescribed by the Director with the approval of the Secretary of Defense.

"(3) When there is a vacancy in the office of Director or in the absence or disability of the Director, the Deputy Director shall act as Director and perform the duties, and exercise the authority, of the Director until a successor is appointed or the absence or disability ceases.

"(d) Functions and Duties.—(1) The Advanced Research Projects Agency is the central research and development organization of the Department of Defense. It is a primary responsibility of the agency to maintain the technological superiority of the United States over the potential adversaries of the United States.

"(2) The agency shall—

"(A) together with United States industry, Federal laboratories, and colleges and universities, pursue—

"(i) imaginative and innovative research and development projects having significant potential for both military and commercial applications; and

"(ii) imaginative and innovative research and development projects having significant potential solely for military applications;

"(B) support and stimulate a national technology base that—

"(i) serves both civilian and military purposes through enhanced technology sharing and otherwise; and

"(ii) by so serving both purposes, increases the productivity of both the civilian and military sectors;

"(C) manage and direct the conduct of basic and applied research and development that exploits scientific breakthroughs and demonstrates the feasibility of revolutionary approaches for improved cost and performance of advanced technology having future military applications, including advanced technology also having future civilian applications; and

"(D) stimulate increased emphasis on prototyping in defense systems and subsystems—

"(i) by conducting prototype projects embodying technology that might be incorporated in joint programs, programs in support of deployed forces, or selected programs of the military departments; and

"(ii) on request of the Secretary of a military department, by assisting that military department in any prototyping program of the military department.

"(3) The agency may, when requested and supported by a department or agency of the Federal Government not primarily involved in the performance of national security functions, manage and direct the conduct of basic and applied research and development of any other advanced technology that can be applied to increase the capability of that department or agency to attain mission objectives of the department or agency.

"(e) OTHER DUTIES.—The agency shall perform any additional duties that the Secretary of Defense assigns.".

(2) The table of sections at the beginning of subchapter II of such chapter is amended by inserting at the end the following:

"203. Advanced Research Projects Agency.".

(b) RELATED AND OTHER DEFENSE RESEARCH AMENDMENTS.—(1)(A) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director, Advanced Research Projects Agency, Department of Defense.".

(B) Section 5316 of such title is amended by striking out the following:

"Director, Advanced Research Projects Agency, Department of Defense.".

(2)(A) Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Director of Defense Research and Engineering, Department of Defense.".

(B) Section 5315 of such title is amended by striking out the following:

"Director of Defense Research and Engineering.".

(3) Section 101(44)(B) of title 10, United States Code, is amended by inserting "by law or" after "designated".

(4) Section 2371(a) of such title is amended by striking out "Defense Advanced Research Projects Agency" and inserting in lieu thereof "Advanced Research Projects Agency".

(c) REFERENCE IN OTHER LAW.—Any reference in any other law to the Defense Advanced Research Projects Agency shall be deemed to refer to the Advanced Research Projects Agency.

SEC. 810. INDUSTRIAL DIVERSIFICATION PLANNING FOR DEFENSE CONTRACTORS.

(a) INCENTIVES.—(1) Not later than 120 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations to encourage defense contractors to engage in industrial diversification planning.

(2) Such regulations shall include—

(A) treatment of industrial diversification planning expenditures as allowable costs under Department of Defense contracts,

(B) treatment of industrial diversification research and development activities as permissible independent research and development expenditures, and

(C) such other incentives as the Secretary of Defense deems appropriate to encourage defense contractors to engage in industrial diversification planning.

(b) DEFINITION.—For purposes of this section, the term "industrial diversification" means conversion from government-oriented management, production, training, and marketing practices to practices that are compatible with the commercial marketplace.

SEC. 810A. CLARIFICATION OF PARTICIPANTS IN DEFENSE DUAL-USE CRITICAL TECHNOLOGY PARTNERSHIPS.

Section 2271(b) of title 10, United States Code (as redesignated by section 802(a)(2)), is amended by inserting "government-owned and operated industrial facilities," after "Federal laboratory or laboratories".

DEPARTMENT AND DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

The text of the original bill (S. 3140) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, as passed by the Senate on September 18, 1992, is as follows:

S. 3140

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Defense Authorization Act for Fiscal Year 1993".

SEC. 2. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

TITLE I—PROCUREMENT

Subtitle A—Funding Authorizations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Army as follows:

(1) For aircraft, $1,328,909,000.

(2) For missiles, $1,037,893,000.

(3) For weapons and tracked combat vehicles, $839,841,000.

(4) For ammunition, $764,280,000.

(5) For other procurement, $3,032,220,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for procurement for the Navy as follows:

(1) For fiscal year 1993 for aircraft, $5,950,477,000.

(2) For fiscal year 1993 for weapons, $3,538,948,000.

(3) For shipbuilding and conversion:

(A) For fiscal year 1993, $5,526,463,000.

(B) For fiscal year 1994, $482,200,000.

(4) For fiscal year 1993 for other procurement, $5,722,283,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Marine Corps in the amount of $690,127,000.

(c) TRANSFER AUTHORITY.—(1) To the extent provided in appropriations Acts, the Secretary of the Navy may transfer, out of the unobligated balance of the appropriations for the Navy for fiscal year 1992 for shipbuilding and conversion that remain available for obligation, $666,609,000 to the appropriations for the Navy for fiscal year 1993 for shipbuilding and conversion. The transfer authority under this subsection shall not extend the period of availability for obligation of amounts transferred pursuant to such authority.

(2) The transfer authority provided in paragraph (1) is in addition to any other transfer authority provided in this or any other Act.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Air Force as follows:

(1) For aircraft, $9,274,999,000.

(2) For missiles, $4,125,590,000.

(3) For other procurement, $8,100,970,000.

SEC. 104. DEFENSE AGENCIES.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Defense Agencies in the amount of $2,538,963,000.

SEC. 105. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Inspector General of the Department of Defense in the amount of $500,000.

SEC. 106. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $130,000,000.

(2) For the Air National Guard, $255,100,000.

(3) For the Army Reserve, $75,000,000.

(4) For the Naval Reserve, $75,000,000.

(5) For the Air Force Reserve, $40,000,000.

(6) For the Marine Corps Reserve, $55,000,000.

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521 note), in the amount of $517,300,000.

Subtitle B—Army Programs

SEC. 111. AH-64 APACHE HELICOPTER MODIFICATIONS.

Section 113 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1304) is repealed.

SEC. 112. ARMORED VEHICLE UPGRADES.

(a) TANK UPGRADES.—Notwithstanding any other provision of law, to the extent provided in appropriations Acts, funds received from the sale of tanks by the United States under the Arms Export Control Act during fiscal years 1990 and 1991 and sales of tanks by the United States under that Act after fiscal year 1992 shall be available, until expended, for the upgrading of tanks for fielding to the Army.

(b) INFANTRY VEHICLE UPGRADES.—Notwithstanding any other provision of law, to the extent provided in appropriations Acts, funds received from the sale of infantry fighting vehicles or armored personnel carriers by the United States under the Arms Export Control Act during fiscal years 1990 and 1991 and from the sale of such vehicles by the United States under that Act after fiscal year 1992 shall be available, until expended, for the upgrading of infantry fighting vehicles or armored personnel carriers for fielding to the Army.

SEC. 113. LIMITATION REGARDING CHEMICAL AGENT MONITORING PROGRAM.

The Improved Chemical Agent Monitor (ICAM) may not be procured for the Armed Forces until the Secretary of the Army—

(1) completes an analysis of the initial production test results of the Chemical Agent Monitor (CAM);

(2) submits to Congress a report containing a discussion of the reliability and consistency of the laboratory-tested and field-tested Chemical Agent Monitor; and

(3) determines, and notifies Congress in writing, that all design and production deficiencies of the Chemical Agent Monitor have been identified and corrected before the resumption of obligation of funds for procurements under the Chemical Agent Monitoring Program.

Subtitle C—Navy Programs

SEC. 121. SHIPBUILDING AND CONVERSION.

(a) CERTAIN PROGRAMS.—(1) Amounts authorized to be appropriated under section 102(a)(3) shall be available for the aircraft carrier replacement program as follows:

(A) For fiscal year 1993, $350,000,000.

(B) For fiscal year 1994, $482,200,000.

(2) Amounts authorized to be appropriated under section 102(a)(3)(A) shall be available for shipbuilding and conversion programs as follows:

For the CVN aircraft carrier refueling overhaul advance procurement program, $6,800,000.

For the CGN cruiser refueling overhaul advance procurement program, $30,439,000.

For the ARLEIGH BURKE guided missile destroyer program, $3,369,643,000.

For the LHD–1 amphibious assault ship program, $1,205,000,000.

For the sealift program, $225,000,000.

For the MHC–1 coastal minehunter program, $246,205,000.

For the oceanographic ship conversion program, $19,500,000.

For the service craft program, $126,028,000.

For outfitting, $385,321,000.

For post-delivery, $223,105,000.

For first destination transportation, $6,031,000.

(b) UNDISTRIBUTED REDUCTION.—The sum of the amounts provided under subsection (a) for fiscal year 1993 for the programs referred to in that subsection is reduced by $666,609,000 in order to be within the total amount authorized to be appropriated for that fiscal year under section 102(a)(3)(A).

(c) LIMITATION.—None of the funds authorized to be appropriated for fiscal year 1994 pursuant to section 102(a)(3)(B) may be obligated for advance procurement for the aircraft carrier replacement program until the Secretary of Defense—

(1) submits to the congressional defense committees the national defense technology and industrial base assessment required by section 2263 of title 10, United States Code, as added by section 801(a) of this Act; and

(2) submits to the Congress the next report (after the date of the enactment of this Act) relating to roles and missions of the Armed Forces that the Chairman of the Joint Chiefs of Staff is required to submit to the Secretary under section 153(b) of title 10, United States Code.

SEC. 122. AN/SLQ-32 ELECTRONIC WARFARE SYSTEMS.

None of the funds appropriated pursuant to section 102(a)(4) may be obligated for the AN/SLQ-32A (V)3 system until the Commander, Operational Test and Evaluation Force, has determined that such system has been proven to be operationally effective during operational testing.

SEC. 123. AIRBORNE SELF PROTECTION JAMMER.

None of the funds available to the Department of Defense for fiscal year 1993 or any fiscal year before fiscal year 1993 may be used for the procurement of the Airborne Self Protection Jammer system except for the payment of the costs of terminating existing contracts for the procurement of the Airborne Self Protection Jammer system.

SEC. 124. AV–8B HARRIER RADAR UPGRADE PROGRAM.

No funds appropriated or otherwise made available to the Department of Defense for fiscal year 1993 may be obligated for the AV–8B radar upgrade program or for the remanufacture of AV–8B aircraft requiring installation of a new fuselage.

SEC. 125. MODIFICATION OF F-14 AIRCRAFT.

The unobligated balance of the funds appropriated to the Navy for fiscal year 1992 and made available for modification of F–14 aircraft may be obligated for the modification of existing F–14 aircraft with new engines, subject to such limitations as may be provided in appropriations Acts.

SEC. 126. STRATEGIC SEALIFT REPORT.

(a) REPORT.—The Secretary of Defense shall submit to the Congress a report on the specific purposes for which the Secretary intends to obligate during fiscal year 1993 the funds available for the procurement of strategic sealift. The information in the report shall be presented by program, project, and activity.

(b) LIMITATION.—Funds appropriated to the Navy for procurement for shipbuilding and conversion and available for strategic sealift may not be obligated during fiscal year 1993 until 30 days after the date on which the Secretary of Defense submits the report required by subsection (a).

Subtitle D—Air Force Programs

SEC. 131. C–17 AIRCRAFT PROGRAM.

(a) FUNDING FOR PROGRAM.—Of the amount appropriated pursuant to section 103(1), not more than $1,829,540,000 shall be available for the C–17 aircraft program, of which—

(1) not more than $1,623,935,000 shall be available for procurement other than advance procurement and procurement of spare parts; and

(2) not more than $205,605,000 shall be available for advance procurement.

(b) LIMITATION.—None of the funds provided under subsection (a) for the C–17 aircraft program (other than funds for advance procurement) may be obligated before—

(1) the Secretary of Defense submits to the congressional defense committees the report referred to in section 133(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1310);

(2) the Air Force has accepted delivery of the fifth production aircraft under that program;

(3) the Director of Operational Test and Evaluation of the Department of Defense—

(A) has evaluated the performance of the C–17 aircraft with respect to critical operational issues after the first 50 flight hours of flight testing conducted during initial operational testing and evaluation of the aircraft; and

(B) has provided to the Secretary of Defense and to the congressional defense committees an early operational assessment of the aircraft regarding overall suitability of the aircraft and deficiencies in the aircraft relative to (i) the initial requirements and specifications for the aircraft, and (ii) the current requirements and specifications for the aircraft;

(4) the Secretary of the Air Force—

(A) has convened the Scientific Advisory Board—

(i) to determine the technical feasibility of carrying out a service life extension program for the C–141 aircraft fleet; and

(ii) to review programmed depot maintenance policies and practices for the C–141 aircraft fleet; and

(B) has taken action to limit the retirement of any operationally capable C–141 aircraft until a decision is made concerning a service life extension for the C–141 fleet;

(5) the Secretary of Defense has convened a special Defense Acquisition Board to review the C–17 aircraft program;

(6) the special Defense Acquisition Board has submitted to the Secretary of Defense a report on the C–17 aircraft program, including the matters described in subsection (c); and

(7) the Secretary of Defense has submitted the report of that board, including the material referred to in subsection (c), to the congressional defense committees.

(c) MATTERS TO BE INCLUDED IN REVIEW.—The review (referred to in subsection (b)(5)) that is conducted by the special Defense Acquisition Board shall include—

(1) an assessment by the Joint Requirements Oversight Council (JROC) of the adequacy of the requirements for the C–17 aircraft;

(2) an analysis by a federally funded research and development center of the cost and operational effectiveness of the C–17 aircraft program taking into consideration complementary mixes of other aircraft; and

(3) an affordability assessment of the program, performed by the Cost Analysis Improvement Group in the Office of the Assistant Secretary of Defense for Program Analysis and Evaluation.

(d) PROHIBITION RELATING TO PRODUCTION CAPABILITY.—None of the funds provided under subsection (a) for the C–17 aircraft program may be used to increase the current rate at which the contractor could produce C–17 aircraft.

(e) INITIATIVE ON COST, PERFORMANCE, AND MANAGEMENT.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish an initiative to maintain control over costs, contractor performance, and management performance within the C–17 aircraft program.

(2) The initiative shall include the following elements:

(A) The establishment of a management plan which provides for the decisions to commit to specified levels of production to be linked to progress in meeting specified program milestones, including testing milestones of such critical performance elements as—

(i) maximum range and maximum payload performance;

(ii) short airfield performance;

(iii) ground mobility in restricted airfield conditions;

(iv) low altitude parachute extraction capability;

(v) air drop capability; and

(vi) sustainable utilization rate performance.

(B) The establishment of a program for promoting increased interaction between the prime contractor and major program subcontractors on management and performance issues.

(C) The establishment of a senior management review group to report directly to the Under Secretary of Defense for Acquisition on the status of aircraft capability, program management, schedule, and cost.

(D) The establishment of a full performance matrix.

(3) Not later than April 1, 1993, the Secretary of Defense shall submit to the congressional defense committees a report on the initiative. The report shall include a description of the measures taken to implement the initiative, including actions taken with respect to each of the elements specified in paragraph (2), and a description of the criteria and milestones to be used in evaluating actual program performance against specified program performance.

(f) ADDITIONAL AMOUNT.—(1) Of the amounts appropriated for the Air Force for fiscal year 1993 for the procurement of aircraft pursuant to the authorization in section 103(1), $232,000,000 may be made available for the C-17 aircraft program in addition to amounts provided under subsection (a).

(2) Funds made available pursuant to paragraph (1) shall be subject to the limitation in subsection (b) and the prohibition in subsection (d).

(3) None of the funds made available pursuant to paragraph (1) may be obligated unless the Inspector General of the Department of Defense certifies to the congressional defense committees that the Air Force—

(A) took delivery of the fifth production aircraft not later than December 31, 1992; and

(B) has taken delivery of all C-17 aircraft in production lot III and has flown all of those aircraft from the final assembly site on or before August 31, 1993.

SEC. 132. CORRECTION OF FUEL LEAKS ON C-17 PRODUCTION AIRCRAFT.

(a) CERTIFICATION OF CONTRACTOR CORRECTION UNDER WARRANTY.—The Secretary of Defense shall (except as otherwise provided under subsection (b)) certify to the congressional defense committees that the repair of the fuel leaks on production C-17 aircraft will be carried out by the contractor (under the warranty provisions of the production contract for such aircraft) at no additional cost to the Government and with no additional consideration to the contractor for production aircraft under the C-17 program by reason of the repair of the C-17 fuel leaks.

(b) ALTERNATIVE TO CERTIFICATION.—If the Secretary of Defense is unable to make the certification referred to in subsection (a), the Secretary—

(1) shall carry out the repair of the fuel leaks at an Air Logistics Center in the United States; and

(2) shall submit to the congressional defense committees a report notifying the committees that the Secretary is unable to make such a certification and setting forth a schedule for conducting the repair of the fuel leaks pursuant to paragraph (1).

SEC. 133. F-16 SPARE PARTS AND SUPPORT EQUIPMENT.

Notwithstanding any other provision of law, the Secretary of the Air Force may sell any component, part, assembly, or material procured with funds appropriated for fiscal year 1990, 1991, or 1992 for advance procurement for F-16 aircraft and made available for the 24 F-16 aircraft identified for procurement in fiscal year 1993 by the Department of Defense in the document entitled "Procurement Programs (P-1)," dated January 29, 1992. The proceeds of the sale of such components, parts, assemblies, and material shall be available for the procurement of spare parts and support equipment for F-16 aircraft and for the liquidation of any liability of the Federal Government resulting from the termination of production of F-16 aircraft.

Subtitle E—Defense Agency Programs

SEC. 141. FUNDING FOR CERTAIN TACTICAL INTELLIGENCE PROGRAMS.

(a) AUTHORIZATION.—Of the funds authorized to be appropriated under section 104, $166,700,000 shall be available for modernizing EP-3 Aries aircraft or RC-135 Rivet Joint aircraft.

(b) ELECTION OF SYSTEM.—The Secretary of Defense shall determine whether to use all of the funds provided under subsection (a) for modernizing EP-3 Aries aircraft or to use all of such funds for modernizing RC-135 Rivet Joint aircraft. Such funds may not be used for modernizing both such aircraft systems.

(c) TRANSFER AUTHORITY.—(1) To the extent provided in appropriations Acts, and subject to the limitation in paragraph (2), the Secretary of Defense may transfer $166,700,000 to the Navy for procurement of aircraft or to the Air Force for procurement of aircraft.

(2) The Secretary of Defense may not transfer any funds under paragraph (1) until the date 30 days after the date on which the Secretary submits to the congressional defense committees a report containing the Secretary's determination on which of the two aircraft systems referred to in subsection (a) is better for meeting the tactical intelligence requirements of the commanders of the combatant commands.

(3) The transfer authority in paragraph (1) is in addition to any other transfer authority provided in this or any other Act.

SEC. 142. MH-47E/MH-60K HELICOPTER MODIFICATION PROGRAMS.

(a) REQUIRED TESTING.—Notwithstanding the requirements of subsections (a) (2) and (b) of section 2366 of title 10, United States Code, and the requirements of subsection (a) of section 2399 of such title—

(1) operational test and evaluation and survivability testing of the MH-60K helicopter under the MH-60K helicopter modification program shall be completed prior to full materiel release of the MH-60K helicopters for operational use; and

(2) operational test and evaluation and survivability testing of the MH-47E helicopter under the MH-47E helicopter modification program shall be completed prior to full materiel release of the MH-47E helicopters for operational use.

(b) REPEAL OF SUPERSEDED LAW.—Section 143 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-109; 105 Stat. 1313) is repealed.

Subtitle F—Strategic Programs

SEC. 151. TRIDENT II MISSILE.

(a) LIMITATION.—None of the funds appropriated pursuant to the authorization in section 102(a)(2) and made available for the advance procurement of Trident II missiles may be obligated until the report described in subsection (b), which was to have been submitted to the congressional defense committees not later than March 1, 1992, has been submitted to those committees.

(b) COVERED REPORT.—The report referred to in subsection (a) is the report, referred to in Senate Report No. 102-113, 102d Congress, 1st session, on the cost savings that could be obtained through multiyear procurement of the balance of the Trident II missiles to be produced at rates of 48, 60, and 72 missiles per year.

SEC. 152. NONSTEALTHY HEAVY BOMBER MODERNIZATION.

(a) SURVIVABILITY AND EFFECTIVENESS TESTING.—(1) The Secretary of Defense shall prepare and implement a plan for testing of the survivability and operational effectiveness of nonstealthy heavy bombers against a set of defenses and defended target arrays that are representative of a broad range of potential targets and defenses that such bombers might encounter during conventional conflicts during the next 20 years.

(2) The Secretary shall carry out paragraph (1) with the assistance of the Secretary of the Air Force, the Vice Chairman of the Joint Chiefs of Staff, the Director of Operational Test and Evaluation of the Department of Defense, and the independent panel established pursuant to section 121(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1379).

(3) The aircraft to be tested under the testing plan required under paragraph (1) include—

(A) B-52H bombers;

(B) B-1B bombers containing the current version of the ALQ-161 electronic countermeasures suite; and

(C) subject to paragraph (5), the one B-1B that contains an electronic countermeasures suite modified to the "CORE" configuration.

(4) The testing plan shall—

(A) be designed to encompass—

(i) cued and uncued defenses;

(ii) individual air defense systems as well as multiple air defenses; and

(iii) survivability and operational effectiveness with and without external assets for suppression or disruption of simulated enemy air defenses;

(B) require quantitative measurements that are adequate to permit extrapolation of test data to untested scenarios with reasonable confidence levels;

(C) be designed to permit the evaluation of alternative tactics for bomber penetration and weapons delivery and alternative tactics for defenses; and

(D) be designed to permit the evaluation of the contribution of advanced conventional munitions currently under development to the survivability and effectiveness of the aircraft.

(5) The Secretary may exempt the B-1B referred to in paragraph (3)(C) from testing under the testing plan if the Secretary determines, before implementing the testing plan, to terminate the procurement of the CORE electronics countermeasures system.

(b) REPORTING REQUIREMENTS.—(1) Upon the conclusion of the testing program provided for in the testing plan, the Secretary of Defense shall submit to the congressional defense committees a report, in unclassified and classified forms, on—

(A) the results of the testing and the implications of those results for—

(i) the future force structure requirements for nonstealthy heavy bombers, taking into account the capabilities of other weapon systems;

(ii) advanced conventional munitions capabilities; and

(iii) cost-effective measures, modifications, and upgrades for enhancing the survivability and operational effectiveness of the nonstealthy heavy bombers to be retained in the force structure; and

(B) the deficiencies in the numbers, performance, capability, and fidelity of air defense threats and threat simulators available for the operational testing, together with a detailed analysis of the cost and lead-times necessary for obtaining for testing purposes an adequate representation of current and likely future air defenses.

(2) Within 60 days after the date of the submission of the report under paragraph (1), the Comptroller General of the United States

shall review the report and the recommendations in the report and shall provide the congressional defense committees with his views on the report.

(c) FUNDING.—Of the funds made available pursuant to section 103 for fiscal year 1993, not more than $50,200,000 shall be available for modification of the B-1B bomber program, not more than $50,000,000 shall be available for interim contractor support, and not more than $70,000,000 shall be available for modifications of B-52 bomber aircraft.

(d) LIMITATION ON EXPENDITURE OF B-1B BOMBER FUNDS.—The Secretary of Defense may not obligate funds for the procurement of the "CORE" electronic countermeasures system until—

(1) the report required under subsection (b) is submitted to the congressional defense committees and a period of 60 days after the date of the submission elapses; and

(2) the Secretary certifies in writing to the congressional defense committees that the Director of Operational Test and Evaluation of the Department of Defense has reviewed the CORE electronic countermeasures system proposed to be acquired and has determined that the system is operationally suitable and operationally effective in meeting all B-1B defensive avionics system requirements.

SEC. 153. B-2 BOMBER AIRCRAFT PROGRAM.

(a) AMOUNT FOR PROGRAM.—Of the amount authorized to be appropriated pursuant to section 103(1), not more than $2,686,572,000 may be obligated for procurement for the B-2 bomber aircraft program.

(b) B-2 BUYOUT AND CURTAILMENT.—The funds referred to in subsection (a) may be obligated only for the purpose of completing procurement for the B-2 bomber aircraft program and paying all curtailment costs under the B-2 aircraft program.

(c) LIMITATION ON NUMBER OF B-2 AIRCRAFT.—A total of not more than 20 deployable B-2 bomber aircraft plus 1 test aircraft may be procured.

(d) LIMITATION ON OBLIGATION OF FUNDS.—None of the funds referred to in subsection (a) may be obligated unless and until—

(1) the Secretary of Defense submits to the congressional defense committees—

(A) the reports and certifications referred to in section 131(b)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1306);

(B) the report under subsection (e); and

(C) the report under subsection (f); and

(2) 30 days have elapsed since the date of the submission of the reports under subsections (e) and (f).

(e) REPORT ON LOW OBSERVABILITY AND SURVIVABILITY.—The report referred to in subsection (d)(1)(B) is a report submitted by the Secretary of Defense to the congressional defense committees that contains the following matters:

(1) The Secretary's assessment of the extent to which the B-2 aircraft will meet the original operational performance objectives that were established for the B-2 aircraft in order to ensure the high survivability of the aircraft, including an accounting of the specific low observability objectives that were not fulfilled in a B-2 flight test conducted during July 1991 and the effect on survivability (if any) of the currently projected low observable characteristics of the B-2 aircraft.

(2) A full description of the information upon which the assessment required by paragraph (1) is based, including all relevant flight test data.

(3) A full description of any actions planned to be taken to improve the B-2 aircraft's low observability capabilities beyond the capabilities that have been demonstrated in flight testing before the date of the submission of the report under this subsection, and the associated costs and benefits.

(4) A quantitative assessment by the Secretary of Defense of the likelihood that a B-2 aircraft having the low observable characteristics projected for the aircraft can survive in the execution in the future of its primary mission as a penetrating nonnuclear bomber as compared to the likelihood that a B-2 aircraft meeting all of the specifications contained in the current development contract can survive in the execution of such a mission.

(f) REPORT ON COST OF PROGRAM FOR 20 B-2 AIRCRAFT.—The report referred to in subsection (d)(1)(C) is a report submitted by the Secretary of Defense to the congressional defense committees that describes the total amount of the research, development, test, and evaluation costs, procurement costs, and other acquisition costs that are associated with a B-2 aircraft program to result in 20 deployable aircraft, including the costs of all planned modifications and retrofits, tooling, preplanned product improvements, support equipment, interim contractor support, initial spares, and any Government liability associated with curtailment.

(g) GAO REVIEW.—(1) The Comptroller General of the United States shall—

(A) review each report submitted pursuant to subsection (e) and (f); and

(B) provide the congressional defense committees with his comments on such reports.

(2) The Secretary of Defense shall transmit a copy of the reports to the Comptroller General at the same time that he transmits the reports to the congressional defense committees.

SEC. 154. SPACE SYSTEMS INVESTMENT STRATEGY.

(a) COST REDUCTION STRATEGY.—The Secretary of Defense shall develop a strategy for achieving substantial reductions in the cost of developing, acquiring, and supporting space systems operated by the Department of Defense.

(b) OPTIONS TO BE CONSIDERED.—In developing the strategy, the Secretary shall consider options to achieve reductions by fiscal year 2000 to amounts that are up to 25 percent below the costs incurred for such space systems in fiscal year 1992, measured in constant dollars.

(c) REPORT REQUIRED.—At the earliest practicable date, but not later than March 1, 1993, the Secretary shall submit to the congressional defense committees a report on the strategy required under subsection (a) and any recommendations that the Secretary considers appropriate regarding such strategy.

SEC. 155. GROUND WAVE EMERGENCY NETWORK.

Section 132 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1501) is amended by striking out "October 1, 1992" and inserting in lieu thereof "October 1, 1993".

Subtitle G—Chemical Demilitarization Program

SEC. 161. CHEMICAL WEAPONS STOCKPILE DISPOSAL PROGRAM.

(a) CHANGE IN STOCKPILE ELIMINATION DEADLINE.—Section 1412(b)(5) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(b)(5)), is amended by striking out "July 31, 1999" and inserting in lieu thereof "December 31, 2004".

(b) EVALUATION OF ALTERNATIVE TECHNOLOGIES.—Not later than December 31, 1993, the Secretary of the Army shall submit to Congress a report on the potential alternatives to the use of the Army's baseline disassembly and incineration process for the disposal of lethal chemical agents and munitions. The report shall include the following:

(1) An analysis of the report of the Committee on Alternative Chemical Demilitarization Technologies of the National Research Council of the National Academy of Science.

(2) Any recommendations that the National Academy of Sciences makes to the Army regarding the report of that committee and the Secretary's evaluation of those recommendations.

(3) A comparison of the baseline disassembly and incineration process with each alternative technology evaluated in the report of such committee that the National Academy of Sciences recommends for use in the Army Chemical Stockpile Disposal Program, taking into consideration each of the following factors:

(A) Safety.

(B) Environmental protection.

(C) Cost effectiveness.

(4) For each alternative technology recommended by the National Academy of Sciences, the date by which the Army could reasonably be expected to systematize, construct, and test the technology, obtain all necessary environmental and other permits necessary for using that technology for the disposal of lethal chemical agents and munitions, and have the technology available for full-scale chemical weapons destruction and demilitarization operations.

(5) A description of alternatives to incineration that are being developed by Russia for use in its chemical demilitarization program and an assessment of the extent to which such alternatives could be used to destroy lethal chemical weapons in the United States inventory of such weapons.

(c) LIMITATION.—(1) Except as provided in paragraphs (2) and (3), the Army may not carry out any site preparation for or construction of a disassembly and incinerator chemical agents disposal facility until the report required under subsection (b) is submitted to Congress.

(2) The limitation in paragraph (1) does not apply to any disassembly and incineration chemical agent disposal facility (of the 8 such facilities identified in the Army Chemical Stockpile Disposal Program) at which site preparation or construction has commenced before the date of the enactment of this Act.

(3) The limitation in paragraph (1) does not apply to:

(A) Facility design activities.

(B) The obtaining of environmental permits.

(C) Project planning.

(D) Procurement of equipment for installation in a facility.

(d) DESTRUCTION OF NONSTOCKPILE CHEMICAL MATERIAL.—(1)(A) Not later than February 1, 1993, the Secretary of the Army shall submit to Congress a report setting forth the Army's plans for destroying all chemical warfare material of the United States not covered by section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), that would be required to be destroyed if the United States became a party to a chemical weapons convention described in subparagraph (B).

(B) The chemical weapons convention referred to in subparagraph (A) is a chemical weapons convention that is substantially the same as the final draft of the proposed international Chemical Weapons Convention

(CWC) tabled by the Chairman of the United Nations Conference on Disarmament Ad Hoc Committee on Chemical Weapons on June 22, 1992 (CD/CW/WP.400/Rev.1).

(2) The chemical warfare material covered by the report shall include the following:

(A) Binary chemical munitions.

(B) Buried chemical munitions.

(C) Chemical munitions recovered from ranges.

(D) Chemical weapons production facilities.

(E) All other chemical warfare material referred to in paragraph (1).

(3) The report shall include the following:

(A) A list of all suspected locations (including ranges) of buried or unexpended chemical munitions.

(B) An estimate of the number of such munitions and, of that number, how many of such munitions are planned to be destroyed.

(C) An inventory of the former chemical weapons production facilities and previously contaminated storage containers and the plans for destroying those facilities and containers.

(D) An inventory of the binary chemical munitions and the plans for destroying those munitions.

(E) The locations at which the chemical warfare materials and facilities referred to subparagraphs (A) through (D) will be destroyed.

(F) A description of the use, if any, that will be made of the Chemical Agent and Munitions Disposal System (CAMDS) facility, Tooele, Utah, in the destruction of those chemical warfare materials, as well as possible future uses of that facility for the destruction of conventional munitions or for research and development of possible alternative technologies for the destruction of chemical munitions.

(G) For the chemical warfare materials that cannot be destroyed in place or on site, a description of the means to be used for transporting the materials to disposal facilities.

(H) An estimate of the cost of destroying such chemical warfare materials and facilities.

(I) An estimate of the time that will be necessary to destroy such chemical warfare materials and facilities and the Secretary's determination of the likelihood that such materials and facilities can be destroyed by December 31, 2004.

(J) A determination as to whether it is a realistic option to transport chemical agents and munitions currently stored at low-volume disposal sites to other locations for destruction instead of destroying those munitions at those sites, taking into consideration safety, cost effectiveness, and the potential obligations of the United States under a chemical weapons convention to transport substantial quantities of chemical warfare munitions and materials not in the United States stockpile of lethal chemical agents and munitions to various locations for destruction.

(4) As used in paragraph (3)(J), the term "low-volume disposal site" means any chemical agent disposal site identified in the Army Chemical Stockpile Disposal Program where 5 percent or less of the total United States stockpile of unitary chemical weapons is stored.

SEC. 162. PHYSICAL AND CHEMICAL INTEGRITY OF THE CHEMICAL WEAPONS STOCKPILE.

(a) REPORT REQUIRED.—Not later than May 1, 1993, the Secretary of the Army shall submit to Congress a report on the physical and chemical integrity of the existing chemical weapons that are contained in the chemical weapons stockpile of the United States and are stored within the 8 chemical weapons storage sites within the continental United States.

(b) CONTENT OF REPORT.—The report shall include the following matters:

(1) A critical analysis of the near-term, mid-term, and long-term storage life of all chemical materials and chemical munitions contained within the storage sites referred to in subsection (a).

(2) For each class of chemical munitions and chemical agents, an analysis of the overall frequency of leaks of the munitions and agents and the frequency of leaks of the munitions and agents at each storage site.

(3) For each class of munition and agent and for each storage site, a description of the finite risks and potential harm to human health and environmental quality that are associated with such catastrophic events as container breach, spontaneous munition ignition, and leak.

(4) A critical analysis of the risks associated with the storage of the chemical munitions and chemical agents in each class of chemical munitions and chemical agents that are stored at each storage site through December 31, 2004.

(5) A discussion of actions that could be taken to minimize or eliminate the risks identified in paragraphs (1) through (4).

Subtitle H—Authorization of Appropriations

SEC. 171. AUTHORIZATION OF APPROPRIATIONS.

In addition to the funds authorized to be appropriated by section 106, the following funds are authorized to be appropriated:

(a) For the Army National Guard:

(1) For 3 P-180 aircraft, $12,000,000.

(2) For night vision goggles, $20,000,000.

(3) For single channel ground airborne radio system, $10,000,000.

(4) For 6 C-26 aircraft, $23,000,000.

(5) For medium truck service life extension program, $15,000,000.

(6) For M113A3 conversion program, $15,000,000.

(b) For the Air National Guard:

(1) For night vision goggles, $5,000,000.

(c) For the Army Reserve:

(1) For medium truck service life extension program, $25,000,000.

(2) For 12 C-12J aircraft, $42,000,000.

(3) For night vision goggles, $20,000,000.

(4) For single channel ground airborne radio system, $10,000,000.

(d) For the Marine Corps Reserve:

(1) For night vision goggles, $10,000,000.

(2) For single channel ground airborne radio system, $5,000,000.

(3) For a C-20 aircraft for administrative support for the Marine Corps, $25,000,000.

(e) For the Air Force Reserve:

(1) For night vision goggles, $5,000,000.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorizations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army, $5,307,744,000.

(2) For the Navy, $8,921,805,000.

(3) For the Air Force, $14,070,731,000.

(4) For the Defense Agencies, $10,665,659,000, of which—

(A) $261,707,000 is authorized for the activities of the Deputy Director, Defense Research and Engineering (Test and Evaluation); and

(B) $12,983,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC RESEARCH AND EXPLORATORY DEVELOPMENT.

(a) FISCAL YEAR 1993.—Of the amounts authorized to be appropriated by section 201, $4,179,179,000 shall be available for basic research and exploratory development projects.

(b) BASIC RESEARCH AND EXPLORATORY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research and exploratory development" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

SEC. 203. MANUFACTURING TECHNOLOGY DEVELOPMENT.

Of the amounts authorized to be appropriated by section 201, $433,600,000 shall be available for manufacturing technology development as follows:

(1) For the Army, $61,000,000.

(2) For the Navy, $108,400,000.

(3) For the Air Force, $146,200,000.

(4) For the Office of the Secretary of Defense, $118,000,000.

SEC. 204. STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM.

Of the amounts authorized to be appropriated by section 201, $200,000,000 shall be available for the Strategic Environmental Research and Development Program.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. V-22 OSPREY AIRCRAFT PROGRAM.

(a) FISCAL YEAR 1993 FUNDING.—Of the funds authorized to be appropriated pursuant to section 201 or otherwise made available for the Navy for fiscal year 1993 for research, development, test, and evaluation, $755,000,000 may be used only for development, manufacture, and operational testing of 3 production representative V-22 Osprey aircraft in addition to the 3 production representative V-22 Osprey aircraft for which funds were authorized to be appropriated, and were appropriated, for fiscal year 1992.

(b) USE OF FUNDS FOR CURRENT AND PRIOR FISCAL YEARS.—The amount made available for fiscal year 1993 for the V-22 Osprey aircraft program pursuant to subsection (a) and the unobligated balances of the amounts that were authorized to be appropriated, and were appropriated, for preceding fiscal years and made available for the V-22 Osprey aircraft program may be used only for—

(1) the development and manufacture of a total of 6 production representative aircraft for operational testing; and

(2) the operational testing of such aircraft.

SEC. 212. REPORT ON V-22 OSPREY AIRCRAFT PROGRAM.

(a) REPORT REQUIRED.—The Commandant of the Marine Corps shall submit to the congressional defense committees a report on the crash of the V-22 Osprey prototype aircraft that occurred on July 20, 1992.

(b) CONTENT OF REPORT.—The report shall include a discussion of the following matters:

(1) The cause or causes of the crash.

(2) The extent to which a redesign of a system might be required to correct the condition or conditions that caused the crash.

(3) The effects of the crash on the cost, schedule, and technical risk of the V-22 Osprey development and testing program.

(c) SUBMITTAL DATE.—The Commandant shall submit the report on or before September 1, 1992. If the Commandant expects to be unable to submit the report by that date, the

Commandant shall notify the congressional defense committees of that expectation not later than August 16, 1992. The Commandant shall include in the notification the date on which he expects to submit the report.

(d) Limitation.—Not more than 50 percent of the amount appropriated for the Navy for fiscal year 1993 and made available for the V-22 Osprey aircraft program may be obligated until the Commandant has submitted the report required by subsection (a).

SEC. 213. SPECIAL OPERATIONS VARIANT OF THE V-22 OSPREY AIRCRAFT.

Of the amounts authorized to be appropriated pursuant to section 201(4), $15,000,000 shall be available for research, development, test, and evaluation in connection with the special operations variant of the V-22 Osprey aircraft.

SEC. 214. SHIPBOARD ELECTRONIC WARFARE PROGRAMS.

The Secretary of Defense shall specify in the Department of Defense budget request for fiscal year 1994 a separate program element for electronic warfare programs involving ship self-defense.

Subtitle C—Missile Defense Program

SEC. 221. MISSILE DEFENSE ACT AMENDMENTS.

(a) Implementation of Goal.—Section 233 of the Missile Defense Act of 1991 (part C of title II of Public Law 102-190; 10 U.S.C. 2431 note) is amended in subsection (b) by striking out "(b)" and all that follows through the end of paragraph (2) and inserting in lieu thereof the following:

"(b) Actions of the Secretary of Defense.—

"(1) Theater missile defense systems.—The Secretary of Defense shall develop advanced theater missile defense systems for deployment.

"(2) Initial ABM deployment.—The Secretary shall develop for deployment a cost-effective, operationally effective, and ABM Treaty-compliant antiballistic missile system at a single site as the initial step toward deployment of an antiballistic missile system described in section 232(a)(1) designed to protect the United States against limited ballistic missile threats, including accidental or unauthorized launches or Third World attacks. The system components to be developed shall include—

"(A) 100 ground-based interceptors, the design of which is to be determined by competition and downselection for the most capable interceptor or interceptors;

"(B) fixed, ground-based, antiballistic missile battle management radars; and

"(C) optimum utilization of space-based sensors, including sensors capable of cueing ground-based antiballistic missile interceptors and providing initial targeting vectors, and other sensor systems that are not prohibited by the ABM Treaty, including specifically the Ground Surveillance and Tracking System.".

(b) Follow-On Technology Research.—Subsection (c) of section 234 of such Act is amended to read as follows:

"(c) Transfer of Management Responsibility for Research and Development of Far-Term Follow-On Technologies.—

"(1) Transfer required.—

"(A) In general.—As the Strategic Defense Initiative Organization (SDIO) transitions from a broadly based research organization to a focused acquisition agency, maintaining responsibility for research and development of far-term follow-on technologies in that organization could distract management and result in funding shortfalls as the Strategic Defense Initiative Organization's priorities increasingly center on near-term deployment architectures. Accordingly, the Secretary of Defense shall transfer management and budget responsibility for research and development of all far-term follow-on technologies currently under the Strategic Defense Initiative Organization to the Defense Advanced Research Projects Agency (DARPA) or the appropriate military department, unless he determines and certifies to the congressional defense committees that transfer of a particular far-term follow-on technology currently under the Strategic Defense Initiative Organization would not be in the national security interests of the United States.

"(B) Definition.—In subparagraph (A), the term 'far-term follow-on technology' means a technology not likely to be incorporated into a weapon system within 10 to 15 years after the date of the enactment of this Act.

"(2) Report required.—

"(A) In general.—Not later than 90 days after the date of enactment of the National Defense Authorization Act for Fiscal Year 1993, the Secretary of Defense shall submit to the congressional defense committees a report identifying—

"(i) those programs, projects, and activities under the Other Follow-On Technologies program element for fiscal year 1993 which he is transferring to a military department or the Defense Advanced Research Projects Agency; and

"(ii) those programs, projects, and activities under the Other Follow-On Technologies program element which the Secretary certifies are necessary in the national security interests of the United States to maintain under the Strategic Defense Initiative Organization.

"(B) Definition.—In subparagraph (A), the term 'programs, projects, and activities under the Other Follow-On Technologies program element for fiscal year 1993' means the programs, projects, and activities listed under the Other Follow-On Technologies program element for fiscal year 1993 in the report submitted to the congressional defense committees on July 2, 1992 pursuant to section 233(b)(3) of this Act.".

(c) Research, Development, Test, and Evaluation Objectives for SDI Program Elements.—Section 236 of such Act is amended—

(1) in subsection (a), by striking out "by fiscal year 1996" in the second sentence;

(2) in subsection (b)(1), by striking out all after "United States,"; and

(3) in subsection (d), by inserting "but which are not likely to be incorporated into weapons within 10 to 15 years after the date of the enactment of this Act" before the period at the end.

(d) Review of Follow-On Deployment Options.—Section 238 of such Act is amended by striking out "of fiscal year 1996" in the first sentence.

SEC. 222. STRATEGIC DEFENSE INITIATIVE FUNDING.

(a) Total Amount.—Of the amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1993, not more than $3,800,000,000 may be obligated for the Strategic Defense Initiative, as follows:

(1) Of the amounts appropriated pursuant to title I for fiscal year 1993 or otherwise made available to the Department of Defense for procurement for fiscal year 1993, not more than $62,500,000 may be obligated for the Strategic Defense Initiative.

(2) Of the amounts appropriated pursuant to section 201 for fiscal year 1993 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1993, not more than $3,737,500,000 may be obligated for the Strategic Defense Initiative.

(b) Specific Amounts for the Program Elements.—Of the amount set forth in subsection (a)—

(1) not more than $2,090,000,000 shall be available for programs, projects, and activities within the Limited Defense System program element;

(2) not more than $997,500,000 shall be available for programs, projects, and activities within the Theater Missile Defenses program element;

(3) not more than $350,000,000 shall be available for programs, projects, and activities within the Space-Based Interceptors program element;

(4) not more than $400,000,000 shall be available for programs, projects, and activities within the Other Follow-On Systems program element; and

(5) not more than $400,000,000 shall be available for programs, projects, and activities within the Research and Support Activities program element.

(c) Transfer Authorities.—(1) Before the submission of the report required under subsection (e) and notwithstanding the limitations set forth in subsection (b), the Secretary of Defense may transfer funds among the program elements named in subsection (b).

(2) The total amount that may be transferred to or from any program element named in subsection (b)—

(A) may not exceed 10 percent of the amount provided in such subsection for the program element from which the transfer is made; and

(B) may not result in an increase of more than 10 percent of the amount provided in such subsection for the program element to which the transfer is made.

(3) Transfer authority may not be used for a decrease in funds identified in subsection (b)(2) for Theater Missile Defenses.

(4) Amounts transferred pursuant to paragraph (1) shall be merged with and be available for the same purposes as the amounts to which transferred.

(d) Construction of Authority in Relation to User Operational Evaluation System.—Nothing in this Act shall be construed to authorize the exercise of any option to fabricate or field elements of a User Operational Evaluation System at the initial anti-ballistic missile defense site.

(e) Reporting Requirement.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the allocation of funds appropriated for the Strategic Defense Initiative for fiscal year 1993. The report shall specify the amount of such funds allocated for each program, project, and activity under each program element.

SEC. 223. DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS.

(a) Use of Funds.—(1) Funds appropriated to the Department of Defense for fiscal year 1993, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1993 or for any fiscal year before 1993, may not be obligated or expended—

(A) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the development and testing described in the July 1992 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the July 1992 SDIO Report.

(2) The limitation under paragraph (1) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1993 if the transfer is made in accordance with section 1001 of this Act.

(b) Definition.—In this section, the term "July 1992 SDIO Report" means the report entitled, "1992 Report to Congress on the Strategic Defense Initiative," prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives by the Secretary of Defense pursuant to section 224 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1398; 10 U.S.C. 2431 note).

SEC. 224. LIMITATION REGARDING SUPPORT SERVICES CONTRACTS OF THE STRATEGIC DEFENSE INITIATIVE ORGANIZATION.

(a) Limitation.—Of the amounts that are appropriated to the Department of Defense for fiscal year 1993 pursuant to the authorizations of appropriations contained in this Act and are made available for the Strategic Defense Initiative Organization, not more than $100,000,000 may be expended for the procurement of support services.

(b) Definition.—In subsection (a), the term "support services" means—

(1) professional, administrative, and management support services;

(2) special studies and analyses; or

(3) services contracted for under section 3109 of title 5, United States Code.

Subtitle D—Other Matters

SEC. 231. MEDICAL COUNTERMEASURES AGAINST BIOWARFARE THREATS.

(a) Funding.—Of the amounts appropriated pursuant to section 201 for fiscal year 1993, not more than $59,670,000 shall be available for the medical component of the Biological Defense Research Program (BDRP) of the Department of Defense.

(b) Limitations.—(1) Funds appropriated or otherwise made available for the Department of Defense for fiscal year 1993 may be obligated and expended for product development, and for research, development, testing, and evaluation, of medical countermeasures against biowarfare threat agents only in accordance with this section.

(2) Of the funds made available pursuant to subsection (a), not more than $10,000,000 may be obligated or expended for research, development, testing, or evaluation of medical countermeasures against far-term validated biowarfare threat agents.

(3) Of the funds made available pursuant to subsection (a) and not made available pursuant to paragraph (2) for the purpose set out in that paragraph—

(A) not more than 80 percent may be obligated and expended for product development, or for research, development, testing, or evaluation, of medical countermeasures against near-term validated biowarfare threat agents; and

(B) not more than 20 percent may be obligated or expended for product development, or for research, development, testing, or evaluation, of medical countermeasures against mid-term validated biowarfare threat agents.

(c) Definitions.—In this section:

(1) The term "validated biowarfare threat agent" means a biological agent that—

(A) is named in the biological warfare threat list published by the Defense Intelligence Agency (DIA); and

(B) is identified as a biowarfare threat by the Deputy Chief of Staff of the Army for Intelligence in accordance with Army regulations applicable to intelligence support for the medical component of the Biological Defense Research Program.

(2) The term "near-term validated biowarfare threat agent" means a validated biowarfare threat agent that has been, or is being, developed or produced for weaponization within 5 years, as assessed and determined by the Defense Intelligence Agency.

(3) The term "mid-term validated biowarfare threat agent" means a validated biowarfare threat agent that is an emerging biowarfare threat, is the object of research by a foreign threat country, and will be ready for weaponization in more than 5 years and less than 10 years, as assessed and determined by the Defense Intelligence Agency.

(4) The term "far-term validated biowarfare threat agent" means a validated biowarfare threat agent that is a future biowarfare threat, is the object of research by a foreign threat country, and could be ready for weaponization in more than 10 years and less than 20 years, as assessed and determined by the Defense Intelligence Agency.

(5) The term "weaponization" means incorporation into usable ordnance or other militarily useful means of delivery.

SEC. 232. FUNDING FOR TECHNICAL SUPPORT WORKING GROUP ON COUNTER-TERRORISM.

(a) Total Amount.—Of the funds authorized to be appropriated for fiscal year 1993 under section 201, $10,000,000 shall be available for activities of the Technical Support Working Group on Counter-Terrorism.

(b) Amount for Allied Cooperation.—Of the amount available for the activities referred to in subsection (a), $3,000,000 shall be available for cooperation with other member nations of the North Atlantic Treaty Organization (NATO) and with major non-NATO allies (as defined in section 2350a(i)(3) of title 10, United States Code).

SEC. 233. MANUFACTURING TECHNOLOGY DEVELOPMENT PROGRAMS.

Manufacturing technology development programs conducted by or for the Department of Defense, including those programs for which funds are made available pursuant to section 203, shall include a focus on production technologies designed to build on and expand existing worker skills and experience in manufacturing production.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorizations of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army, $14,193,215,000.

(2) For the Navy, $20,371,281,000.

(3) For the Marine Corps, $1,453,515,000.

(4) For the Air Force, $16,876,477,000.

(5) For the Defense Agencies, $8,384,605,000.

(6) For the Army Reserve, $1,033,773,000.

(7) For the Naval Reserve, $878,792,000.

(8) For the Marine Corps Reserve, $74,821,000.

(9) For the Air Force Reserve, $1,213,887,000.

(10) For the Army National Guard, $2,251,213,000.

(11) For the Air National Guard, $2,512,475,000.

(12) For the National Board for the Promotion of Rifle Practice, $2,700,000.

(13) For the Defense Inspector General, $125,500,000.

(14) For Drug Interdiction and Counter-Drug Activities, Defense, $1,263,400,000.

(15) For the Court of Military Appeals, $5,893,000.

(16) For Environmental Restoration, Defense, $1,513,200,000

(17) For Humanitarian Assistance, $25,000,000.

(18) For the Defense Health Program, $9,507,072,000.

(19) For support for the 1996 Summer Olympics, $2,000,000.

(20) For support for the 1993 World University Games, $6,000,000.

(21) For support for the 1994 World Cup Games, $9,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

There is hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for the Defense Business Operations Fund, $1,123,800,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 1993 from the Armed Forces Retirement Home Trust Fund the sum of $62,728,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. HUMANITARIAN ASSISTANCE.

(a) Purpose.—(1) Funds appropriated pursuant to the authorization in section 301(17) shall be available for the purposes of section 2551 of title 10, United States Code, including the transportation of humanitarian relief for the people of Afghanistan and Cambodia.

(2) Of the funds authorized to be appropriated for fiscal year 1993 pursuant to section 301(17) for such purpose, not more than $3,000,000 shall be available for distribution of humanitarian relief supplies to displaced persons or refugees who are noncombatants, including those affiliated with the Cambodian non-Communist resistance, at or near the border between Thailand and Cambodia.

(b) Authority To Transfer Funds.—Under section 2551(b) of title 10, United States Code, the Secretary of Defense may transfer not more than $3,000,000 of the funds referred to in subsection (a)(1).

(c) Codification of Authority and Administrative Provisions.—(1) Chapter 151 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2551. Humanitarian assistance

"(a) Authorized Assistance.—To the extent provided in defense authorization Acts and appropriations Acts, funds authorized to be appropriated to the Department of Defense for a fiscal year for humanitarian assistance shall be used for the purpose of providing transportation of humanitarian relief and for other humanitarian purposes worldwide.

"(b) Authority To Transfer Funds.—To the extent provided in defense authorization Acts and appropriations Acts for a fiscal year, the Secretary of Defense may transfer to the Secretary of State funds appropriated for the purpose of this section to provide for—

"(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

"(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

"(c) TRANSPORTATION OF HUMANITARIAN RELIEF.—(1) Transportation for humanitarian relief provided with funds appropriated for the purposes of this section shall be provided under the direction of the Secretary of State.

"(2) Transportation for humanitarian relief provided with funds appropriated for the purposes of this section shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the armed forces.

"(d) AVAILABILITY OF FUNDS.—Funds appropriated for humanitarian assistance for the purposes of this section shall remain available until expended, to the extent provided in appropriation Acts.

"(e) STATUS REPORTS.—(1) The Secretary of Defense shall submit (at the times specified in paragraph (2)) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report on the provision of humanitarian assistance pursuant to this section.

"(2)(A) Whenever there is enacted a defense authorization Act that contains an authorization of appropriations for humanitarian assistance, a report referred to in paragraph (1) shall be submitted as provided in that paragraph not later than 60 days after the date of the enactment of that Act.

"(B) In addition to reports submitted as provided in subparagraph (A), a report shall be submitted under paragraph (1) not later than June 1 of each year.

"(3) Each report required by paragraph (1) shall cover all provisions of law, contained in defense authorization Acts, that authorize appropriations for humanitarian assistance to be available for the purposes of this section. A report submitted after all amounts appropriated pursuant to such a provision of law have been obligated shall not cover that provision of law.

"(4) Subject to paragraph (3), a report required by paragraph (1) shall contain (as of the date on which the report is submitted) the following information:

"(A) The total amount of funds obligated for humanitarian relief under this section.

"(B) The number of scheduled and completed flights for purposes of providing humanitarian relief under this section.

"(C) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of this title.

"(f) REPORT REGARDING RELIEF FOR UNAUTHORIZED COUNTRIES.—In any case in which the Secretary of Defense provides for the transportation of humanitarian relief to a country to which the transportation of humanitarian relief has not been specifically authorized by law, the Secretary shall notify the Committees on Appropriations and on Armed Services of the Senate and House of Representatives of the Secretary's intention to transport humanitarian relief to that country. The notification shall be submitted not less than 15 days before the commencement of the transportation of the humanitarian relief to that country.

"(g) DEFINITION.—In this section, the term 'defense authorization Act' means an Act that authorizes appropriations for one or more fiscal years for military activities of the Department of Defense, including the activities described in paragraph (7) of section 114(a) of this title.".

(2) The table of sections at the beginning of chapter 151 of such title is amended by adding at the end the following new item:

"2551. Humanitarian assistance.".

(d) REPEAL OF SUPERSEDED REPORTING REQUIREMENT.—Section 304 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1333) is amended by striking out subsection (f).

SEC. 305. SUPPORT FOR THE 1994 WORLD CUP GAMES.

(a) AUTHORITY TO PROVIDE SUPPORT.—The Secretary of Defense may provide logistical support and personnel services in connection with the 1994 World Cup Games to be held in the United States.

(b) PAY AND NONTRAVEL-RELATED ALLOWANCES.—(1) Except as provided in paragraph (2), the costs for pay and nontravel-related allowances of members of the Armed Forces for the support and services referred to in subsection (a) may not be charged to appropriations made pursuant to the authorization in section 301(21).

(2) Paragraph (1) does not apply in the case of members of a reserve component called or ordered to active duty to provide logistical support and personnel services for the 1994 World Cup Games.

SEC. 306. TRANSFER AUTHORITY.

(a) AUTHORITY.—The Secretary of Defense, to the extent provided in appropriations Acts, may transfer funds as provided in this section during fiscal year 1993.

(b) FROM THE DEFENSE BUSINESS OPERATIONS FUND.—(1) Not more than $3,054,000,000 may be transferred from the Defense Business Operations Fund to appropriations for operations and maintenance for fiscal year 1993 in amounts as follows:

(A) For the Army, $2,229,000,000.

(B) For the Navy, $94,500,000.

(C) For the Marine Corps, $58,500,000.

(D) For the Air Force, $672,000,000.

(2) A transfer under this subsection may be made only—

(A) to the extent that the military department concerned has received credit on the books of the Defense Business Operations Fund for unneeded secondary items returned to the Fund by that military department; or

(B) if the Secretary of Defense certifies to the congressional defense committees that the military department concerned has, to the greatest extent practicable, returned for credit on the books of the Defense Business Operations Fund all secondary items not needed by that military department that were under the control of such military department on October 1, 1992.

(c) FROM THE NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.—Not more than $612,000,000 may be transferred from the National Defense Stockpile Transaction Fund to appropriations for operation and maintenance of Defense Agencies for fiscal year 1993.

(d) TREATMENT OF TRANSFERS.—Amounts transferred under this section—

(1) shall be merged with and be available for the same purposes and the same period as the amounts in the accounts to which transferred;

(2) shall be deemed to increase the amount authorized to be appropriated for the account to which the amount is transferred by an amount equal to the amount transferred; and

(3) may not be expended for an item that has been denied authorization of appropriations by Congress.

(e) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—An increase under subsection (d)(2) in an amount authorized to be appropriated is in addition to an increase in that amount that results from a transfer of an authorization of appropriations pursuant to section 1001.

Subtitle B—Environmental Provisions

SEC. 311. EVALUATION OF USE OF OZONE-DEPLETING SUBSTANCES BY THE DEPARTMENT OF DEFENSE.

(a) EVALUATION OF USE OF CLASS I SUBSTANCES.—The Director of the Defense Logistics Agency shall evaluate the use of class I substances by the military departments and Defense Agencies. In carrying out the evaluation, the Director shall—

(1) determine the quantity of each class I substance that—

(A) is held in the inventory of each military department and Defense Agency on December 31, 1992;

(B) will be used by each military department and Defense Agency during 1992; and

(C) will be used by each military department and Defense Agency in each of 1993, 1994, and 1995;

(2) determine the quantity of each class I substance in the inventory of the military departments and Defense Agencies in each of 1993, 1994, and 1995 that can be reclaimed or recycled and reused by the military departments and Defense Agencies;

(3) determine the type and quantity of class I substances whose use will be critical to the missions of the military departments and Defense Agencies after 1995;

(4) determine the type and quantity of class I substances that must be stockpiled after 1995 in order to ensure the availability of such substances, including the availability of used, reclaimed, or rcycled class I substances for the missions referred to in paragraph (3);

(5) review the plans, if any, to reclaim, recycle, reuse, and maintain the stockpile referred to in paragraph (4); and

(6) identify each specific site, facility, or vessel in connection with which the President will seek an exemption pursuant to section 604(f) of the Clean Air Act (42 U.S.C. 7671c(f)) to permit the continued production or use of class I substances, and the type and quantity of each class I substance that will be produced or used in connection with the site, facility, or vessel.

(b) EVALUATION OF USE OF CLASS II SUBSTANCES.—The Director of the Defense Logistics Agency shall evaluate the use of class II substances by the military departments and Defense Agencies. In carrying out the evaluation, the Director shall—

(1) determine the quantity of each class II substances that—

(A) is held in the inventory of each military department and Defense Agency on December 31, 1992;

(B) will be used by each military department and Defense Agency during 1992; and

(C) will be used by each military department and Defense Agency in each of 1993, 1994, and 1995; and

(2) determine the quantity of each class II substance in the inventory of the military departments and Defense Agencies in each of 1993, 1994, and 1995 that can be reclaimed or recycled and reused by the military departments and Defense Agencies.

(c) REPORT.—(1) The Director of the Defense Logistics Agency shall submit to the congressional defense committees a report on the status of the evaluation required under subsection (a) not later than April 1, 1993.

(2) The Director of the Defense Logistics Agency shall submit to the congressional defense committees a report on the status of the evaluation required under subsection (b) not later than October 1, 1993.

(d) DEFINITIONS.—In this section: (1) the term "class I substance" means any substance listed under section 602(a) of the Clean Air Act (42 U.S.C. 7671a(a)).

(2) the term "class II substance" means any substance listed under section 602(b) of the Clean Air Act (42 U.S.C. 7671a(b)).

SEC. 312. REMOVAL OF REQUIREMENTS FOR USE OF CLASS I OZONE-DEPLETING SUBSTANCES IN CERTAIN MILITARY PROCUREMENTS.

(a) PROHIBITION ON CONTRACTS REQUIRING USE OF CLASS I OZONE-DEPLETING SUBSTANCES.—(1) No Department of Defense contract awarded, modified, amended, or extended on or after June 1, 1993, may include a specification or standard that requires the use of a class I ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard in the contract is approved by the senior acquisition official for the procurement covered by the contract. The senior acquisition official may grant the approval only if the senior acquisition official determines (based upon the certification of an appropriate technical representative of the official) that a suitable substitute for the class I ozone-depleting substance is not currently available.

(2) The senior acquisition official authorized to grant an approval under paragraph (1) shall be determined under regulations prescribed by the Secretary of Defense. A senior acquisition official may not delegate the authority provided in such paragraph.

(3) Beginning on October 1, 1993, each official who grants an approval authorized under paragraph (1) shall submit to the Secretary of Defense a quarterly report on all approvals granted during the quarter. The report shall include a brief description of the specifications or standards so approved.

(4) The Secretary shall promptly transmit to the Committees on Armed Services of the Senate and House of Representatives a compilation of the reports for each quarter that are submitted to the Secretary under paragraph (3). The Secretary shall transmit the compilation in classified and unclassified forms.

(b) COST RECOVERY.—In any case in which a Department of Defense contract is modified or a specification or standard for such a contract is waived at the request of a contractor in order to permit the contractor to use in the performance of the contract a substitute for a class I ozone-depleting substance or an alternative technology for a technology involving the use of a class I ozone-depleting substance, the Secretary of Defense may reimburse the contractor for the reasonable direct costs incurred by the contractor in the use of such substitute or alternative technology, including costs to justify and obtain the modification or waiver and costs of converting to the use of the substitute substance or alternative technology for the performance of that contract. Reimbursements under this subsection shall be consistent with the Federal Acquisition Regulation.

(c) DEFINITION.—In this section, the term "class I ozone-depleting substance" means any substance listed under section 602(a) of the Clean Air Act Amendments of 1990 (42 U.S.C. 7671a(a)).

SEC. 313. RISK SHARING IN ENVIRONMENTAL RESTORATION CONTRACTS OF THE DEPARTMENT OF DEFENSE.

(a) AUTHORITY.—Except as provided in paragraph (b), the Secretary of Defense may agree to hold harmless and indemnify any response action contractor for any liability arising out of the contractor's performance in carrying out or related to response actions under section 2701 of title 10, United States Code. Amounts expended pursuant to this section for indemnification of any response action contractor shall be considered governmental response costs.

(b) REQUIREMENT FOR RISK SHARING.—(1) Under regulations prescribed by the Secretary of Defense, the Secretary of a military department shall ensure, when appropriate, that contracts entered into by the Secretary of a military department for environmental restoration activities at military installations and former military installations provide for the military department and the contractors, subcontractors, and sureties on the contracts (and subcontracts under such contracts) to share the risk of liability resulting from such activities.

(2) PROHIBITION.—No contracts referred to in paragraph (1) shall provide indemnification to contractors for liability caused by the conduct of the contractor which was grossly negligent or which constituted intentional misconduct.

(3) LIMITATIONS.—A contract referred to in paragraph (1) which provides indemnification shall include deductibles and shall place limits on the amount of indemnification to be made available.

(c) AUTHORITY FOR CONTRACT PROVISION.—To carry out the requirement in subsection (b), the Secretary of a military department shall—

(1) identify the proposed contracts for environmental restoration activities at military installations and former military installations, or the portions of such proposed contracts, for which it is advisable to provide for the indemnification of the contractors, subcontractors, or sureties on the contracts (and any subcontractors of such contractors or subcontractors);

(2) include in the solicitations for proposals or bids for such contracts a clear statement that the United States will provide such indemnification to such contractors, subcontractors, and sureties; and

(3) in the event that the Secretary enters into such contracts, provide such indemnification.

(d) IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) prescribe regulations to carry out the requirements of this section; and

(2) submit to the Committees on Armed Services of the Senate and House of Representatives a plan for the implementation of such requirements.

(e) DEFINITION.—In this section, the term "military installation" has the meaning given such term in section 2687(e)(1) of title 10, United States Code.

SEC. 314. REQUIREMENT FOR IDENTIFICATION OF LAND ON WHICH NO HAZARDOUS SUBSTANCES OR PETROLEUM PRODUCTS OR THEIR DERIVATIVES WERE STORED, RELEASED, OR DISPOSED OF.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) is amended by adding at the end the following new paragraph:

"(4) IDENTIFICATION OF UNCONTAMINATED PROPERTY.—(A) In the case of real property owned by the United States that is part of a military installation on which is located a site listed on the National Priority List and on which the United States plans to terminate military operations pursuant to a base closure law, the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall identify the real property on which neither hazardous substances nor petroleum products or their derivatives were stored for 1 year or more, are known to have been released, or were disposed of. Such identification shall be based on an investigation of the real property to determine or discover the presence or likely presence of a release or threatened release of any hazardous substance or any petroleum product and its derivative, including aviation fuel and motor oil, on the real property. The identification shall consist, at a minimum, of—

"(i) a completed preliminary assessment and site investigation; and

"(ii) a review of each of the following sources of information concerning the current and previous uses of the real property:

"(I) A detailed search of Federal Government records pertaining to the property.

"(II) The recorded chain of title documents regarding the real property.

"(III) Aerial photographs that may reflect prior uses of the real property and that are reasonably obtainable through State or local government agencies.

"(IV) A visual inspection of the real property and any buildings, structures, equipment, pipe, pipeline, or other improvements on the real property, and a visual inspection of properties immediately adjacent to the real property.

"(V) A physical inspection of property adjacent to the real property, to the extent permitted by owners or operators of such property.

"(VI) Reasonably obtainable Federal, State, and local government records of each adjacent facility where there has been a release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, and which is likely to cause or contribute to a release or threatened release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property.

"(VII) Interviews with current or former employees involved in operations on the real property.

Such identification shall also be based on sampling, if appropriate under the circumstances. The results of the identification shall be provided immediately to the Administrator and State and local government officials and made available to the public.

"(B) The identification required under subparagraph (A) shall not be complete until concurrence in the results of the identification is obtained from the Administrator and from the appropriate State official.

"(C) The identification required under subparagraph (A) shall be made not later than 18 months after the military installation is selected for closure pursuant to the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note) or within 1 year after the date of enactment of this section, whichever is later. The concurrence from an appropriate State official required under subparagraph (B) shall be deemed to be obtained if, within 90 days after receiving a request for the concurrence, the State official has not acted (by either concurring or declining to concur) on the request for concurrence.

"(D) In the case of the sale of or transfer of title of any parcel of real property identified under subparagraph (A), the deed entered into for the sale or transfer of such property by the United States to any other person or entity shall contain—

"(i) a covenant warranting that any response action or corrective action found to be necessary as a result of the discovery, after the date of such sale or transfer, of previously unidentified hazardous substances or petroleum derivatives that were released or disposed of as a result of the actions of previous Federal Government operations, shall be conducted by the United States; and

"(ii) a clause granting the United States access to the property in any case in which a response action or corrective action is found to be necessary after such date at such property, or such access is necessary to carry out a response action or corrective action on adjoining or other property.

"(E) The head of the department, agency, or instrumentality of the United States with jurisdiction over the real property subject to this section may sell, lease, or otherwise transfer any right, title, or interest to the real property identified under subparagraph (A) without regard to whether the real property is or has been listed as a site on the National Priorities List.

"(F) Nothing in this paragraph shall affect, preclude, or otherwise impair the termination of Federal Government operations on real property owned by the United States.

"(G) In this paragraph:

"(i) The term 'military installation' has the meaning given that term in section 2687(e)(1) of title 10, United States Code.

"(ii) The term 'base closure law' means the following:

"(I) The Defense Base Closure and Realignment Act of 1990 (title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(II) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(III) Any provision of law authorizing the closure or realignment of a military installation that is enacted on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993.".

SEC. 315. CLARIFICATION OF COVENANT WARRANTING THAT REMEDIAL ACTION HAS BEEN TAKEN.

(a) CLARIFICATION.—Paragraph (3) of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) is amended by adding after the last sentence the following: "For purposes of subparagraph (B)(i), all remedial action described in such subparagraph has been taken if the construction and installation of an approved remedial design has been completed and the Administrator has determined that the remedy is operating properly and successfully. The carrying out of long-term pumping and treating, or operation and maintenance, after the Administrator has determined the remedy is operating properly and successfully, does not preclude the transfer of the property.".

(b) ACCESS TO PROPERTY.—Paragraph (3) of such section is further amended—

(1) by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof "; and"; and

(2) by adding after subparagraph (B) the following new subparagraph:

"(C) a clause granting the United States access to the property in any case in which a response action is found to be necessary at such property after the date of such transfer, or such access is necessary to carry out a response action on adjoining or other property after such date.".

SEC. 316. REQUIREMENT TO NOTIFY STATES OF CERTAIN LEASES.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), as amended by section 314, is further amended by adding at the end the following new paragraph:

"(5) NOTIFICATION OF STATES REGARDING CERTAIN LEASES.—(A) In the case of real property owned by the United States and used as a military facility on which any hazardous substance or any petroleum product or its derivatives (including aviation fuel and motor oil) was stored for one year or more, is known to have been released, or was disposed of, and on which the United States plans to terminate military operations pursuant to a base closure law, the head of the department, agency, or instrumentality of the United States having jurisdiction over the property shall notify the State in which the property is located of any lease entered into by the United States that will encumber the property beyond the date of termination of operations on the property. Such notification shall be made to the State at least 90 days before entering into the lease and shall include the length of the lease, the name of the person to whom the property is leased, and a description of the uses that will be allowed under the lease of the property and buildings and other structures on the property.

"(B) In subparagraph (A), the term 'base closure law' means the following:

"(i) The Defense Base Closure and Realignment Act of 1990 (title XXIX of Public 101–510; 10 U.S.C. 2687 note).

"(ii) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(iii) Any provision of law authorizing the closure or realignment of a military installation that is enacted on or after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993.".

SEC. 317. INDEMNIFICATION OF TRANSFEREES OF CLOSING DEFENSE PROPERTY.

(a) IN GENERAL.—(1) Except as provided in subsection (b), the Secretary of Defense shall hold harmless, defend, and indemnify in full the persons and entities described in paragraph (2) from and against all suits, claims, demands or actions, liabilities, judgments, and costs and other fees arising out of, or in any manner predicated upon, the release or threatened release of any hazardous substance or pollutant or contaminant as a result of Department of Defense activities at any military installation (or portion thereof) that is closed pursuant to a base closure law.

(2) The persons and entities described in this paragraph are the following:

(A) Any State (including any officer, agent, or employee of the State) that acquires ownership or control of any facility at a military installation (or any portion thereof) described in paragraph (1).

(B) Any political subdivision of a State (including any officer, agent, or employee of the State) that acquires such ownership or control.

(C) Any other person or entity that acquires such ownership or control.

(D) Any successor, assignee, transferee, lender, or lessee of a person or entity described in subparagraphs (A) through (C).

(b) EXCEPTION.—(1) The Secretary of Defense shall not hold harmless, defend, or indemnify any person or entity described in subsection (a)(2) from any suit, claim, demand or action, liability, judgment, or cost or other fee arising out of a release or threatened release described in subsection (a)(1) to the extent that such person or entity (or any officer, agent, or employee of the entity) caused or contributed to such release or threatened release.

(2) No indemnification may be afforded under this provision unless the person or entity making a claim for indemnification—

(A) notifies the Department of Defense in writing within two years after such claim accrues or begins action within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the Department of Defense;

(B) immediately furnishes to the Department of Defense copies of all pertinent papers the entity receives;

(C) furnishes evidence or proof of any claim, loss, or damage covered by this section in the manner and form the Department of Defense requires;

(D) complies with the directions of the Department of Defense and executes any authorizations in connection with the settlement or defense of the claim or action; and

(E) cooperates fully and completely with the Department of Defense, and provides to the Department of Defense, upon request, all manner of assistance, including access to the records and personnel of the entity, in defense or settlement of the claim or action.

(c) DEFINITIONS.—In this section:

(1) The terms "facility", "hazardous substance", "release", and "pollutant or contaminant" have the meanings given such terms under paragraphs (9), (14), (22), and (33) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, respectively (42 U.S.C. 9601 (9), (14), (22), and (33)).

(2) The term "military installation" has the meaning given such term under section 2687(e)(1) of title 10, United States Code.

(3) The term "base closure law" means the following:

(A) The Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note).

(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note).

(C) Section 2687 of title 10, United States Code.

(D) Any provision of law authorizing the closure or realignment of a military installation enacted on or after the date of the enactment of this Act.

SEC. 318. PROHIBITION ON USE OF ENVIRONMENTAL RESTORATION FUNDS FOR PAYMENT OF FINES AND PENALTIES.

None of the funds appropriated for fiscal year 1993 pursuant to the authorization of appropriations in section 301(16) may be used for the payment of fines or penalties unless the act or omission for which a fine or penalty is imposed arises out of activities funded by that appropriation.

SEC. 319. MODIFICATION OF CONTRACT INDEMNIFICATION AUTHORITY.

(a) MODIFICATION OF AUTHORITY.—Subsection (a) of section 2354 of title 10, United States Code, is amended by inserting "or any contract or contract under a program (including contracts for activities other than research and development) carried out under chapter 160 of this title," after "or both,".

(b) PAYMENT AUTHORITY.—Subsection (d)(2) of such section is amended by inserting "or for contracts or programs carried out under chapter 160 of this title, as the case may be," after "or both,".

SEC. 320. EXTENSION OF AUTHORITY TO ISSUE SURETY BONDS FOR CERTAIN ENVIRONMENTAL PROGRAMS.

(a) TITLE 10.—Section 2701(j) of title 10, United States Code, is amended by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

(b) CERCLA.—Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended—

(1) in subsection (e)(2)(C), by striking out "January 1, 1993" and inserting in lieu thereof "January 1, 1996,"; and

(2) in subsection (g)(5), by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

SEC. 321. PROHIBITION ON THE PURCHASE OF SURETY BONDS AND OTHER GUARANTIES FOR THE DEPARTMENT OF DEFENSE.

(a) PROHIBITION.—No funds appropriated or otherwise made available to the Department of Defense for fiscal year 1993 may be obligated or expended for the purchase of surety bonds or other guaranties of financial responsibility in order to guarantee the performance of any direct function of the Department of Defense.

(b) TECHNICAL AMENDMENT.—Section 335 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1342) is amended by striking out "or fiscal year 1993".

SEC. 322. LEGACY RESOURCE MANAGEMENT FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—There is established the Legacy Fellowship Program in Natural and Cultural Resource Management (in this section referred to as the "Legacy Fellowship Program"). The Legacy Fellowship Program is a part of the Legacy Resource Management Program established pursuant to section 8120 of the Department of Defense Appropriations Act, 1991 (Public Law 101-511; 104 Stat. 1905).

(b) PURPOSES.—The purposes of the Legacy Fellowship Program are as follows:

(1) To support the purposes of the Legacy Resource Management Program set forth in section 8120(b) of such Act.

(2) To provide training to civilian personnel and military personnel in the management of natural and cultural resources.

(c) FELLOWS.—(1) The Legacy Fellowship Program shall be composed of not less than 3 fellows who shall be appointed by the Deputy Assistant Secretary of Defense for Environment. Such fellows shall be appointed from among qualified persons in the military and civilian sectors.

(2)(A) Each fellow who is an officer or employee of the United States shall serve without compensation in addition to that received for the services as an officer or employee of the United States. Any such service shall be without interruption or loss of civil service status or privilege.

(B) The Deputy Assistant Secretary of Defense shall fix (in an amount the Deputy Assistant Secretary determines appropriate) the compensation of the fellows, if any, who are not officers or employees of the United States. Such fellows shall not be considered employees of the Federal Government other than for purposes of chapter 81 of title 5, United States Code.

(3) Fellows shall serve for a term of one year and may be reappointed for an additional term of one year.

(4) The Deputy Assistant Secretary of Defense shall assign the fellows to an agency, office, or other entity (other than the Office of the Deputy Assistant Secretary of Defense for Environment) that is responsible for the implementation of the Legacy Resource Management Program in the Department of Defense. Upon assignment, the fellow shall assist the agency, office, or entity in carrying out the purposes of the Legacy Resource Management Program.

(d) FUNDING.—Of the funds authorized to be appropriated in fiscal year 1993 for the Department of Defense and made available for the Legacy Resource Management Program, $100,000 may be used for the Legacy Fellowship Program. Such funds shall be available for obligation without fiscal year limitation.

SEC. 323. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.

In addition to the amounts otherwise authorized to be appropriated for fiscal years 1992 and 1993 in this Act there is authorized to be appropriated for such fiscal years—

(1) for Environmental Restoration, Defense, the total amount of $447,500,000; and

(2) for the Department of Defense Base Closure Account 1990 the total amount of $35,000,000.

Subtitle C—Defense Economic Diversification, Conversion, and Stabilization

SEC. 331. REVISION OF AUTHORITIES RELATING TO THE ECONOMIC ADJUSTMENT COMMITTEE.

(a) PERMANENT CHAIRMAN.—Subsection (b) of section 4004 of the Defense Economic Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101-510; 10 U.S.C. 2391 note) is amended to read as follows:

"(b) CHAIRMAN.—The Secretary of Defense shall be the Chairman of the Committee.".

(b) EXECUTIVE COUNCIL.—Section 4004 of such Act is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new subsection (c):

"(c) EXECUTIVE COUNCIL.—The Chairman shall establish an Executive Council of the Committee from appropriate representatives of the Department of Defense, the Department of Commerce, the Department of Labor, and the Small Business Administration. Under the direction of the Chairman, the Executive Council shall develop policies and procedures to ensure that communities, businesses, and workers substantially and seriously affected by reductions in defense expenditures are advised of the assistance available to such communities, businesses, and workers under programs administered by such departments and that agency.".

(c) NOTIFICATION OF ECONOMIC ADJUSTMENT PLANNING.—Section 4101(a) of such Act is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively;

(3) by striking out "or" at the end of paragraph (1) (as so redesignated);

(4) by striking out the period at the end of paragraph (2) (as so redesignated) and inserting in lieu thereof "; or"; and

(5) by adding at the end the following new paragraph (3):

"(3) the lack of any follow-on contracts or other defense-related contract activity.".

SEC. 332. AUTHORIZATIONS OF APPROPRIATIONS FOR CERTAIN DEFENSE STABILIZATION ACTIVITIES.

(a) ASSISTANCE THROUGH THE ECONOMIC DEVELOPMENT ADMINISTRATION.—Section 4103(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2391 note) is amended by inserting "and for fiscal year 1993 $150,000,000" after "$50,000,000".

(b) DEFENSE CONVERSION ADJUSTMENT.—Section 4203(a) of such Act (10 U.S.C. 2391 note) is amended by inserting "and $50,000,000 for fiscal year 1993" after "fiscal year 1991".

SEC. 333. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Defense, in consultation with the Secretary of Education, shall provide financial assistance to local educational agencies in States as provided in this section.

(b) SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—(1) The Secretary of Defense shall provide financial assistance to an eligible local educational agency if, without such assistance, that agency will be unable (as determined by the Secretary of Defense in consultation with the Secretary of Education) to provide the students in the schools of the agency with a level of education that is equivalent to the minimum level of education available in the schools of the other local educational agencies in the same State.

(2) A local educational agency is eligible for assistance under this subsection for a fiscal year if—

(A) at least 30 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools of that agency in that fiscal year are military dependent students described in section 3(a) or 3(b) of Public Law 81-874 (20 U.S.C. 238(a)); or

(B) by reason of a consolidation or reorganization of local educational agencies, the local educational agency is a successor of a local educational agency that, for fiscal year 1992—

(i) was eligible to receive payments in accordance with Department of Defense Instruction 1342.18, dated June 3, 1991; and

(ii) satisfied the requirement in subparagraph (A).

(c) ADJUSTMENT PAYMENTS RELATED TO BASE CLOSURES AND REALIGNMENTS.—To assist communities in making adjustments resulting from reductions in the size of the Armed Forces, the Secretary of Defense shall transfer to the Secretary of Education funds to make payments to local educational agencies that are entitled to receive under section 3 of Public Law 81-874 (20 U.S.C. 238) payments adjusted in accordance with subsection (e) of such section by reason of conditions described in subparagraphs (A) through (C) of paragraph (1) of such subsection that result from closures and realignments of military installations.

(d) REPORT ON IMPACT OF BASE CLOSURES ON EDUCATIONAL AGENCIES.—(1) Not later than February 15 of each of 1993, 1994, and 1995, the Secretary of Defense, in consultation with the Secretary of Education, shall submit to Congress a report on the local educational agencies affected by the closures and realignment of military installations and by redeployments of members of the Armed Forces.

(2) Each report shall contain the following:

(A) The number of dependent children of members of the Armed Forces or civilian employees of the Department of Defense who entered the schools of the local educational agencies during the preceding school year as a result of closures, realignments, or redeployments.

(B) The number of dependent children of such members or employees who withdrew from the schools of the local educational agencies during that school year as a result of closures, realignments, or redeployments.

(C) The amounts paid to the local educational agencies during that year under Public Law 81-874 (20 U.S.C. 236 et seq.) or any other provision of law authorizing the payment of financial assistance to local communities or local educational agencies on the basis of the presence of dependent children of such members or employees in such communities and in the schools of such agencies.

(D) The projected transfers of such members and employees in connection with closures, realignments, and redeployments during the 12-month period beginning on the date of the report, including—

(i) the installations to be closed or realigned;

(ii) the installations to which personnel will be transferred as a result of closures, realignments, and redeployments; and

(iii) the effects of such transfers on the number of dependent children who will be included in determinations with respect to the payment of funds to each affected local educational agency under subsections (a) and (b) of section 3 of Public Law 81-874 (20 U.S.C. 238).

(e) DEFINITIONS.—In this section:

(1) The term "local education agency" has the meaning given that term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

(2) The term "State" has the meaning given that term in section 3(d)(3)(D)(i) of Public Law 81-874 (20 U.S.C. 238(d)(3)(D)(i)).

(3) The term "military dependent student" means a student that is a dependent child of a member of the Armed Forces.

(f) FUNDING.—Of the amounts appropriated for the Department of Defense for operation and maintenance in fiscal year 1993 pursuant to the authorization of appropriations in section 301—

(1) $50,000,000 shall be available for providing assistance to local educational agencies under subsection (b); and

(2) $8,000,000 shall be available for making payments to local educational agencies under subsection (c).

SEC. 334. IMPACT AID.

Section 3(e)(1) of Public Law 81-874 (20 U.S.C. 238(e)(1)) is amended in the matter following subparagraph (C) by inserting "shall not be less than 100 percent of the payment such agency received under subsections (a) and (b) for the preceding fiscal year," after "for such fiscal year".

SEC. 335. EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS.

(a) USE OF FUNDS.—Section 325(c) of such Act (29 U.S.C. 1662d(c)) is amended to read as follows:

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—Grants made under subsection (a) may be used for any purpose for which funds may be used under section 314 or this part.

"(2) RESERVATION.—

"(A) IN GENERAL.—The Secretary shall reserve at least 10 percent of the funds appropriated to carry out this section for the purpose of making grants to States under subsection (a) to provide the reimbursement described in subparagraph (B).

"(B) REIMBURSEMENT.—A grant described in subparagraph (A) may be used to reimburse a State for the funds reserved by the State, pursuant to section 302(c), that—

"(i) are expended for rapid response assistance and basic readjustment services (not including support services) described in paragraphs (1) and (2) of section 314(a), respectively; and

"(ii) are delivered to eligible dislocated workers adversely affected by reductions in expenditures by the United States for defense or by closures of United States military installations, as determined in accordance with regulations of the Secretary of Defense.".

(b) NOTICE REQUIREMENTS.—Section 325 of such Act (42 U.S.C. 1662d) is amended by adding at the end the following new subsections:

"(e) NOTICE REQUIREMENTS.—

"(1) SECRETARY OF DEFENSE NOTICE REQUIREMENT.—To the extent practicable, the Secretary of Defense shall provide 6 months advance notice to a defense contractor of any cancellation of, or substantial reduction in, a defense contract, that will adversely affect the defense contractor.

"(2) DEFENSE CONTRACTOR NOTICE REQUIREMENT.—Not later than 2 weeks after a defense contractor receives notice under paragraph (1) of the cancellation of, or substantial reduction in, a defense contract, the contractor shall provide notice of such cancellation or substantial reduction to—

"(A)(i) each representative of employees whose work is directly related to the contract that is being canceled or substantially reduced and who are employed by the defense contractor; or

"(ii) if there is no such representative at that time, each such employee;

"(B) the State dislocated worker unit or office described in section 311(b)(2) and the chief elected official of the unit of general local government within which such adverse effect may occur.

"(3) CONSTRUCTIVE NOTICE OF TERMINATION FOR EMPLOYEES.—The notice provided under paragraph (2)(A) to the employees of a defense contractor shall be considered to be notice of termination to the employees for the purposes of determining whether such employees are eligible dislocated workers under this title, except where the employer has specified that the loss of such contract is not likely to result in plant closure or mass layoff. Any employee considered to be such a worker solely on the basis of such notice shall be eligible to receive services under section 314(b) and under paragraphs (1) through (14) of section 314(c).

"(4) DEFENSE CONTRACTOR.—For purposes of this subsection, the term 'defense contractor' means a private person producing goods or services pursuant to—

"(A) one or more defense contracts for not less than $500,000 entered into with the Department of Defense; or

"(B) one or more subcontracts—

"(i) entered into in connection with a defense contract; and

"(ii) for a total amount of not less than $500,000.".

SEC. 336. POLICY TO EXPEDITE ASSISTANCE.

(a) TRANSFERS.—In each case in which the Secretary of Defense is required under this Act or an amendment made by this Act to transfer funds to another department or agency of the Federal Government for the purpose of funding programs that provide assistance to recipients adversely affected by reduced spending by the Department of Defense, including communities and local educational agencies adversely affected by closures and realignments of military installations, and in each case in which the Secretary is authorized to make such a transfer and exercises the authority to do so, the Secretary shall make the transfer as expeditiously as is practicable.

(b) SPENDING.—In each case in which the Secretary of Defense is required under this Act or an amendment made by this Act to provide assistance to recipients adversely affected by reduced spending by the Department of Defense, including communities and local educational agencies adversely affected by closures and realignments of military installations, and in each case in which the Secretary is authorized to provide that assistance and exercises the authority to do so, the Secretary shall make the funds available for providing that assistance as expeditiously as is practicable. The Secretary shall expedite the processing of applications and other requests for such assistance, including applications for grants.

SEC. 337. ECONOMIC ADJUSTMENT PLANNING ASSISTANCE.

Notwithstanding any other provision of law, of the amount authorized to be appropriated to the Department of Defense for fiscal year 1993 for the Office of Economic Adjustment, 10 percent of such amount shall be available for providing financial assistance for economic adjustment planning in geographic areas in which a substantial portion of the economic activity or the population is dependent on Department of Defense expenditures, as determined by the Secretary of Defense.

Subtitle D—Department of Defense Civilian Personnel Transition Initiatives

SEC. 341. REEMPLOYMENT IN THE COMPETITIVE SERVICE.

(a) REEMPLOYMENT AFTER REDUCTION IN FORCE.—Subchapter I of chapter 35 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 3505. Reemployment after reduction in force for certain employees

"(a) For purposes of this section, the term—

"(1) 'employee' means an employee of the Department of Defense, including each military department, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months; and

"(2) 'Secretary concerned' means—

"(A) the Secretary of the Army with respect to employees of the Department of the Army;

"(B) the Secretary of the Navy with respect to employees of the Department of the Navy;

"(C) the Secretary of the Air Force with respect to employees of the Department of the Air Force; and

"(D) the Secretary of Defense with respect to all other employees of the Department of Defense.

"(b) Subject to the provisions of subsection (c), if the Secretary concerned separates an employee from employment under regulations for a reduction in force under section 3502(a) of this title, and within 2 years after the date of such separation—

"(1) seeks to employ a person for a position in the competitive area which was the employee's competitive area at the time of the separation and the separated employee is qualified for appointment to that position, the Secretary shall offer the separated employee reemployment in such position before offering employment to any other person for such position; or

"(2) seeks to employ a person for the position from which such employee was separated or to perform the duties performed by such employee, the Secretary may not employ a contract employee or a temporary employee for such position or to perform the duties which were performed by the separated employee.

"(c) If the Secretary concerned separates employees from employment in positions in a competitive area under regulations for a reduction in force under section 3502(a) of this title, and within 2 years after the date of the last such separation seeks to employ persons in all or some of such positions, but not in a sufficient number to result in the reemployment of all such separated employees, the Secretary, before offering employment in any of those positions to any other persons, shall offer such separated employees (if qualified) reemployment in accordance with sections 3309 through 3317 of this title (and any other provision of law relating to the employment of preference eligibles) and on the basis of seniority in Federal Service.".

(b) Table of Sections.—The table of sections at the beginning of chapter 35 of title 5, United States Code, is amended by inserting after the item relating to section 3504 the following:

"3505. Reemployment after reduction in force for certain employees.".

SEC. 342. REEMPLOYMENT ASSISTANCE.

(a) Requirement That a Government-Wide List of Vacant Positions Be Maintained.—(1)(A) Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

"§ 3329. Government-wide list of vacant positions

"(a) For the purpose of this section, the term 'agency' means an Executive agency, excluding the General Accounting Office and any agency (or unit thereof) whose principal function is the conduct of foreign intelligence or counterintelligence activities, as determined by the President.

"(b) The Office of Personnel Management shall establish and keep current a comprehensive list of all announcements of vacant positions in the competitive service within each agency that are to be filled by appointment for more than one year and for which applications are being (or will soon be) accepted from outside the agency's work force.

"(c) Included for any position listed shall be—

"(1) a brief description of the position, including its title, tenure, location, and rate of pay;

"(2) application procedures, including the period within which applications may be submitted and a contact point for additional information; and

"(3) any other information which the Office considers appropriate.

"(d) The list shall be available to members of the public.

"(e) The Office shall prescribe such regulations as may be necessary to carry out this section. Any requirement under this section that agencies notify the Office as to the availability of any vacant positions shall be designed so as to avoid any duplication of information otherwise required to be furnished under section 3327 of this title or any other provision of law.".

(B) The table of sections at the beginning of chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3328 the following:

"3329. Government-wide list of vacant positions.".

(2) No later than 120 days after the date of the enactment of this Act, the Director of the Office of Personnel Management shall begin providing the information on the list referred to in section 3329 of title 5, United States Code (as added by this subsection) by means of a toll-free telephone number (commonly referred to as an 800 number).

(b) Temporary Measures To Facilitate Reemployment of Certain Displaced Federal Employees.—(1) For the purpose of this subsection—

(A) the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code), excluding the General Accounting Office and the Department of Defense; and

(B) the term "displaced employee" means any individual who is—

(i) an employee of the Department of Defense who has been given specific notice that such employee is to be separated due to a reduction in force; or

(ii) a former employee of the Department of Defense who was involuntarily separated therefrom due to a reduction in force.

(2) In accordance with regulations which the Office of Personnel Management shall prescribe, consistent with otherwise applicable provisions of law, an agency shall, in filling a vacant position for which a qualified displaced employee has applied in timely fashion, give full consideration to the application of the displaced employee before selecting any applicant for employment from outside the agency for the position.

(3) A displaced employee is entitled to consideration in accordance with this subsection for the 12-month period beginning on the date such employee receives the specific notice referred to in paragraph (1)(B)(i), except that, if the employee is separated pursuant to such notice, the right to such consideration shall continue through the end of the 12-month period beginning on the date of separation.

(4)(A) This subsection shall apply to any individual who—

(i) became a displaced employee within the 12-month period ending immediately before the date of enactment of this Act; or

(ii) becomes a displaced employee on or after the date of enactment of this Act and before October 1, 1997.

(B) In the case of a displaced employee described in subparagraph (A)(i), for purposes of computing any period of time under paragraph (3), the date of the specific notice described in paragraph (1)(B)(i) (or, if the employee was separated as described in paragraph (1)(B)(ii) before the date of enactment of this Act, the date of separation) shall be deemed to have occurred on such date of enactment.

(C) Nothing in this subsection shall be considered to apply with respect to any position—

(i) which has been filled as of the date of enactment of this Act; or

(ii) which has been excepted from the competitive service because of its confidential, policy-determining, policy-making or policy-advocating character.

SEC. 343. REDUCTION-IN-FORCE NOTIFICATION REQUIREMENTS.

(a) In General.—Section 3502 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) Except as provided in subsection (e), an employee may not be released from employment due to a reduction in force, unless—

"(A) such employee and such employee's exclusive representative for collective-bargaining purposes (if any) are given written notice, in conformance with the requirements of paragraph (2), at least 60 days before such employee is so released; and

"(B) if the reduction in force would involve the separation of a significant number of employees, the requirements of paragraph (3) are met at least 60 days before any employee is so released.

"(2) Any notice under paragraph (1)(A) shall include—

"(A) the personnel action to be taken with respect to the employee involved;

"(B) the effective date of the action;

"(C) a description of the procedures applicable in identifying employees for release;

"(D) the employee's ranking relative to other competing employees, and how that ranking was determined; and

"(E) a description of any appeal or other rights which may be available to the employee.

"(3) Notice under paragraph (1)(B)—

"(A) shall be given to—

"(i) the appropriate State dislocated worker unit or units (referred to in section 311(b)(2) of the Job Training Partnership Act (29 U.S.C. 1661(b)(2)); and

"(ii) the chief elected official of such unit or each of such units of local government as may be appropriate; and

"(B) shall consist of written notification as to—

"(i) the number of employees to be separated from service due to the reduction in force (broken down by geographic area or on such other basis as may be required under the regulations prescribed pursuant to paragraph (4));

"(ii) when those separations shall occur; and

"(iii) any other matter which might facilitate the delivery of rapid response assistance or other services under the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

"(4) The Office shall prescribe such regulations as may be necessary to carry out this subsection. The Office shall consult with the Secretary of Labor on matters relating to the Job Training Partnership Act.

"(e)(1) Subject to paragraph (3), upon request submitted under paragraph (2), the President may, in writing, shorten the period of advance notice required under subsection (d)(1) (A) and (B), with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable.

"(2) A request to shorten notice periods shall be submitted to the President by the head of the agency involved and shall indicate the reduction in force to which the request pertains, the number of days by which the agency head requests that the periods be shortened, and the reasons why the request is necessary.

"(3) No notice period may be shortened to less than 30 days under this subsection.".

(b) Effective Date.—The amendment made by subsection (a) shall apply with respect to any personnel action taking effect on or after the last day of the 90-day period beginning on the date of enactment of this Act.

SEC. 344. ALLEVIATION OF ADVERSE EFFECTS OF BASE CLOSURES ON EMPLOYEES AT THE BASE.

(a) 1990 Closure and Realignment Act.—Section 2905 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(e) Assistance for Adversely Affected Employees.—(1) Unless a civilian employee of the Department of Defense employed at a military installation being closed or realigned under this part earlier receives an actual notice of termination, the date determined by the Secretary of Defense under paragraph (2) shall be considered to be the date of notice of termination to the employee for purposes of determining the employee's eligibility for assistance under the defense conversion adjustment program under section 325 of the Job Training Partnership Act (29 U.S.C. 1662d).

"(2) The date referred to in paragraph (1) is the date that is 12 months before the date on which the military installation is to be closed or the realignment of the installation is to be completed, as the case may be.".

(b) 1988 CLOSURE AND REALIGNMENT ACT.—Section 204 of the Defense Authorization Amendments and Base Closure and Realignment Act (title II of Public Law 100-526; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(d) ASSISTANCE FOR ADVERSELY AFFECTED EMPLOYEES.—(1) Unless a civilian employee of the Department of Defense employed at a military installation being closed or realigned under this part earlier receives an actual notice of termination, the date determined by the Secretary of Defense under paragraph (2) shall be considered to be the date of notice of termination to the employee for purposes of determining the employee's eligibility for assistance under the defense conversion adjustment program under section 325 of the Job Training Partnership Act (29 U.S.C. 1662d).

"(2) The date referred to in paragraph (1) is the date that is 12 months before the date on which the military installation is to be closed or the realignment of the installation is to be completed, as the case may be.".

SEC. 345. OTHER EMPLOYEE ASSISTANCE.

(a) DEPARTMENT OF DEFENSE EMPLOYEE SEPARATION BENEFITS.—(1) Subchapter IX of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§ 5597. Employee separation benefits for certain employees

"(a) For purposes of this section, the term—

"(1) 'employee' means an employee of the Department of Defense, including each military department, serving under an appointment without time limitation who has been currently employed for a continuous period of at least 12 months; and

"(2) 'Secretary concerned' means—

"(A) the Secretary of the Army with respect to an employee of the Department of the Army;

"(B) the Secretary of the Navy with respect to an employee of the Department of the Navy;

"(C) the Secretary of the Air Force with respect to an employee of the Department of the Air Force; and

"(D) the Secretary of Defense with respect to all other employees of the Department of Defense.

"(b) The Secretary concerned may authorize the payment of a civilian employee separation benefit to an employee who separates voluntarily from employment, by retirement or resignation, in accordance with the provisions of this section and any regulations prescribed by such Secretary.

"(c) Subject to subsection (g), a civilian employee separation benefit under this section may be offered to—

"(1) all employees at an installation or organization of the Department of Defense that is to be closed or reduced in force;

"(2) all employees in one or more occupational series or grades, or combinations or subdivisions thereof, at an installation or organization of the Department of Defense, when the Secretary concerned determines that the voluntary separation of such employee would—

"(A) increase placement opportunities for other employees affected by the closure or reorganization of installations or organizations of the Department of Defense;

"(B) reduce the need for involuntary separations as a result of such closure or reorganization; or

"(C) otherwise serve the personnel management needs of the Department of Defense.

"(d) An offer of a civilian employee separation benefit under this section shall be limited to a specific period of time, and the benefit shall be payable only to an employee whose voluntary separation, by resignation, or retirement, is effective during such period.

"(e) A civilian employee separation benefit under this section shall be paid in a lump sum, and shall be the lesser of—

"(1) an amount equal to the amount the employee would be entitled to receive under section 5595(c) of this title if the employee were entitled to payment under such section; or

"(2) $20,000.

"(f)(1) The Secretary concerned shall take such actions as may be necessary to ensure that any employee to whom a civilian employee separation benefit is offered under this section is able to consider such offer freely without duress or coercion of any kind.

"(2) A declination of an offer of a civilian employee separation benefit under this section shall not have any effect on an employee's rights and benefits under any other provision of law.

"(g) An employee who retires entitled to an immediate annuity under section 8336 (other than under subsection (d)) or 8412 of this title is not eligible to receive a separation benefit under this section.

"(h) The Secretary concerned may prescribe such regulations as he determines necessary for the administration of this section.

"(i) No civilian employee separation benefit may be paid under this section with respect to a separation occurring after December 31, 1997.".

(2) The table of sections at the beginning of chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5596 the following:

"5597. Employee separation benefits for certain employees.".

(b) RESTORATION OF CERTAIN LEAVE.—Section 6304(d) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(3) For the purpose of this subsection, the closure of an installation of the Department of Defense, during the period beginning on October 1, 1992, and ending on December 31, 1997, shall be deemed to create an exigency of the public business and any leave that is lost by an employee of such installation by operation of this section (regardless of whether such leave was scheduled) shall be restored to the employee and shall be credited and available in accordance with paragraph (2).".

(c) REPORT.—At the end of each of fiscal year 1993 through fiscal year 1998, the Secretary of Defense shall submit to the President, the Congress, and the Director of the Office of Personnel Management a report on the effectiveness and costs of carrying out the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective on the date of enactment of this Act.

SEC. 346. CONTINUED HEALTH BENEFITS.

(a) IN GENERAL.—Section 8905a(d) of title 5, United States Code, is amended—

(1) in paragraph (1)(A) by striking "An individual" and inserting "Except as provided in paragraph (4), an individual";

(2) in paragraph (2) by striking "in accordance with paragraph (1))" and inserting "in accordance with paragraph (1) or (4), as the case may be)"; and

(3) by adding at the end the following:

"(4)(A) If the basis for continued coverage under this section is an involuntary separation from a position in or under the Department of Defense due to a reduction in force—

"(i) the individual shall be liable for not more than the employee contributions referred to in paragraph (1)(A)(i); and

"(ii) the agency which last employed the individual shall pay the remaining portion of the amount required under paragraph (1)(A).

"(B) This paragraph shall apply with respect to any individual whose continued coverage is based on a separation occurring on or after the date of enactment of this paragraph and before—

"(i) October 1, 1997; or

"(ii) February 1, 1998, if specific notice of such separation was given to such individual before October 1, 1997.".

(b) SOURCE OF PAYMENTS.—Any amount which becomes payable by an agency as a result of the enactment of subsection (a) shall be paid out of funds or appropriations available for salaries and expenses of such agency.

SEC. 347. THRIFT SAVINGS PLAN BENEFITS OF EMPLOYEES SEPARATED BY A REDUCTION IN FORCE.

(a) BENEFITS.—Section 8433(b) of title 5, United States Code, is amended by inserting "any employee who separates from Government employment pursuant to regulations under section 3502(a) of this title or procedures under section 3595(a) of this title in a reduction in force," after "chapter 81 of this title,".

(b) PROTECTIONS FOR SPOUSES.—Section 8435(c)(2)(A) of title 5, United States Code, is amended by inserting ", or who separates from Government employment pursuant to regulations under section 3502(a) of this title or procedures under section 3595(a) of this title in a reduction in force," after "8451 of this title".

(c) APPLICATION TO CIVIL SERVICE RETIREMENT SYSTEM EMPLOYEES.—Section 8351(b)(4) of title 5, United States Code, is amended by inserting ", separates from Government employment pursuant to regulations under section 3502(a) of this title or procedures under section 3595(a) of this title in a reduction in force," after "section 8337 of this title)".

SEC. 348. SKILL TRAINING PROGRAMS IN THE DEPARTMENT OF DEFENSE.

(a) AUTHORITY.—(1) Under regulations prescribed by the Secretary of Defense, the Secretaries of the military departments, and the Secretary of Defense with respect to employees of Department of Defense other than employees of the military departments, may provide not more than one year of training in training facilities of the Department to civilian employees of the Department of Defense who are separated from employment as a result of a reduction in force or a closure or realignment of a military installation.

(2) Training may be provided under this subsection during the period beginning on October 1, 1992, and ending on September 30, 1995.

(b) REGISTER OF TRAINING PROGRAMS.—Not later than February 1, 1993, the Secretary of Defense, in consultation with the Secretary of Labor and the Director of the Office of Personnel Management, shall publish a register of the skill training programs carried out by the Department of Defense. The register shall—

(1) include a list of the skill training programs;

(2) provide information on the location of such programs, the training provided under

such programs, and the number of persons who may receive training under such programs; and

(3) identify the programs that provide training in skills that are useful to employees in the civilian work force.

SEC. 349. REPORT RELATING TO CONTINUING HEALTH BENEFITS COVERAGE OF CERTAIN TERMINATED EMPLOYEES OF DEFENSE CONTRACTORS.

(a) Report Required.—Not later than March 1, 1993, the Under Secretary of Defense for Acquisition shall submit to Congress a report on matters relating to the provision by contractors of the Department of Defense of continuing health benefits coverage to employees of such contractors who are involuntarily separated from such employment by reason of the termination or curtailment of defense contracts.

(b) Content of Report.—The report shall contain—

(1) an estimate of the number of employees referred to in subsection (a) who will be involuntarily separated from employment referred to in that subsection for the reason referred to in that subsection during each of fiscal years 1993 and 1994;

(2) an estimate of the number of such employees who will elect in each such fiscal year to receive continuation coverage under section 4980B of the Internal Revenue Code of 1986, and an estimate of the aggregate monthly costs that will be incurred during such fiscal years by such employees who make the elections;

(3) an estimate of the cost to the Department of Defense of providing continuing health benefits coverage to such employees in the same manner as continuing health benefits are provided to individuals under paragraph (4) of section 8905a(d) of title 5, United States Code, as added by section 346(a);

(4) an assessment of the capability of the employers of such employees to bear a portion or all of the costs estimated under paragraph (3) and a description of any current efforts by such employers to bear such costs; and

(5) recommendations relating to the optimal allocation of such costs between the Federal Government and such employers.

Subtitle E—Other Matters

SEC. 351. LIMITATIONS ON THE USE OF DEFENSE BUSINESS OPERATIONS FUND.

(a) Extension of Limitation on Period of Management.—Section 316(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1336; 10 U.S.C. 2208 note) is amended by striking out "the date of the enactment of this Act and ending on April 15, 1993" and inserting in lieu thereof "December 5, 1991, and ending on April 15, 1994".

(b) Technical Amendments.—(1) Section 316(a) of such Act is further amended by inserting "(in this section referred to as the 'Fund')" before the period at the end of the first sentence.

(2) Paragraphs (1) and (2) of section 316(b) of such Act are amended by striking out "the date of the enactment of this Act" and inserting in lieu thereof "December 5, 1991".

SEC. 352. LIMITATION ON OBLIGATIONS AGAINST DEFENSE BUSINESS OPERATIONS FUND.

(a) Limitation.—(1) The Secretary of Defense may not incur obligations against the supply management divisions of the Defense Business Operations Fund of the Department of Defense during fiscal year 1993 in a total amount in excess of 65 percent of the total amount derived from sales from such divisions during that fiscal year.

(2) For purposes of determining the amount of obligations incurred against, and sales from, such divisions during fiscal year 1993, the Secretary shall exclude obligations and sales for fuel, commissary and subsistence items, retail operations, repair of equipment, and the cost of operations.

(b) Exception.—The Secretary of Defense may waive the limitation described in subsection (a) if the Secretary determines that such waiver is critical to the national security of the United States. The Secretary shall immediately notify Congress of any such waiver and the reasons for such waiver.

SEC. 353. ANNUAL REPORT ON SECURITY AND CONTROL OF SUPPLIES.

(a) Annual Report.—Subsection (a) of section 2891 of title 10, United States Code, is amended by striking out "for each of fiscal years 1989, 1990, and 1991" and inserting in lieu thereof "for each of fiscal years 1992, 1993, and 1994".

(b) Content of Report.—Subsection (b) of such section is amended by adding at the end the following new paragraphs:

"(9) A summary description of the cases determined by the Secretary of Defense to be cases of major thefts of Department of Defense supplies during the fiscal year preceding the fiscal year in which the report is submitted, including any case involving a loss in an amount greater than $1,000,000 or a loss of sensitive or classified items.

"(10) The value, and an analysis, of in-transit losses that occurred during the fiscal year preceding the fiscal year in which the report is submitted.".

SEC. 354. REPEAL OF REQUIREMENT FOR GUIDELINES FOR FUTURE REDUCTIONS OF CIVILIAN EMPLOYEES OF INDUSTRIAL-TYPE OR COMMERCIAL-TYPE ACTIVITIES.

(a) Repeal.—Section 1597 of title 10, United States Code, is repealed.

(b) Table of Sections.—The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to section 1597.

SEC. 355. PROMOTION OF CIVILIAN MARKSMANSHIP.

(a) Authority of the Secretary of the Army.—(1) Section 4308 of title 10, United States Code, is amended to read as follows:

"§4308. Promotion of civilian marksmanship: authority of the Secretary of the Army

"(a) Program Required.—(1) The Secretary of the Army, under regulations approved by him upon the recommendation of the National Board for the Promotion of Rifle Practice, shall provide for—

"(A) the operation and maintenance of indoor and outdoor rifle ranges and their accessories and appliances;

"(B) the instruction of citizens of the United States in marksmanship, and the employment of necessary instructors for that purpose;

"(C) the promotion of practice in the use of rifled arms, the maintenance and management of matches or competitions in the use of those arms, and the issue (without cost to the United States) of the arms, ammunition, targets, and other supplies and appliances necessary for those purposes to gun clubs under the direction of the National Board for the Promotion of Rifle Practice that provide training in the use of rifled arms to youth, the Boy Scouts of America, 4-H Clubs, Future Farmers of America, and other youth-oriented organizations for training and competition;

"(D) the award to competitors of trophies, prizes, badges, and other insignia;

"(E) the loan or sale at fair market value of caliber .30 rifles, caliber .22 rifles, and air rifles, and the sale of ammunition at fair market value, to gun clubs that—

"(i) are under the direction of the National Board for the Promotion of Rifle Practice; and

"(ii) provide training in the use of rifled arms;

"(F) the sale at fair market value of arms (including surplus M-1 Garand rifles), ammunition, targets, and other supplies and appliances necessary for target practice to citizens of the United States over 18 years of age who are members of a gun club under the direction of the National Board for the Promotion of Rifle Practice;

"(G) the maintenance of the National Board for the Promotion of Rifle Practice, including provision for its necessary expenses and those of its members and for the Board's expenses incidental to the conduct of the Board's annual meetings;

"(H) the procurement of necessary supplies, appliances, trophies, prizes, badges, and other insignia, clerical and other services, and labor; and

"(I) the transportation of employees, instructors, and civilians to give or to receive instruction or to assist or engage in practice in the use of rifled arms, and the transportation and subsistence, or an allowance instead of subsistence, of members of teams authorized by the Secretary to participate in matches or competitions in the use of rifled arms.

"(2) Under the authority of paragraph (1)(C), the Secretary of the Army may issue for use in training and marksmanship competitions caliber .22 ammunition and caliber .30 ammunition to gun clubs that—

"(A) are under the direction of the National Board for the Promotion of Rifle Practice; and

"(B) provide training in the use of rifled arms to youth or to such youth-oriented organizations as the Boy Scouts of America, 4-H clubs, and Future Farmers of America.

"(b) Additional Authority.—The Secretary may—

"(1) provide personnel services (in addition to pay and nontravel-related allowances for members of the armed forces) in carrying out the Civilian Marksmanship Program; and

"(2) impose reasonable fees for persons and gun clubs participating in any program conducted by the Secretary for the promotion of marksmanship among civilians.

"(c) Amounts Collected.—Amounts collected by the Secretary under the Civilian Marksmanship Program, including the proceeds from the sale of arms, ammunition, targets, and other supplies and appliances under subsection (a), shall be credited to the appropriation available for the support of the Civilian Marksmanship Program and shall be available to carry out such program.

"(d) Authorization of Appropriations.—There is authorized to be appropriated for each fiscal year such sums as may be necessary to pay the personnel costs and other expenses of the Civilian Marksmanship Program in such fiscal year to the extent that the amounts available out of the revenues collected under the program are insufficient to defray such costs and expenses.

"(e) Definition.—In this section, the term 'Civilian Marksmanship Program' means the program carried out by the Secretary of the Army under this section and sections 4310 through 4312 of this title and includes the National Matches and small-arms firing schools referred to in section 4312 of this title.".

(2) The table of sections at the beginning of chapter 401 of such title is amended by strik-

ing out the item relating to section 4308 and inserting in lieu thereof the following:

"4308. Promotion of civilian marksmanship: authority of the Secretary of the Army.".

(b) AVAILABILITY OF RIFLE RANGES FOR ARMED FORCES AND CIVILIANS.—(1) Section 4309 of title 10, United States Code, is amended to read as follows:

"§4309. Rifle ranges: availability for use by members and civilians

"(a) RANGES AVAILABLE.—All rifle ranges constructed in whole or in part with funds provided by the United States may be used by members of the armed forces and by persons capable of bearing arms.

"(b) MILITARY RANGES.—(1) In the case of a rifle range referred to in subsection (a) that is located on a military installation, the Secretary concerned may establish reasonable fees for the use by civilians of that rifle range to cover the material and supply costs incurred by the armed forces to make that rifle range available to civilians.

"(2) Fees collected pursuant to paragraph (1) in connection with the use of a rifle range shall be credited to the appropriation available for the operation and maintenance of that rifle range and shall be available for the operation and maintenance of that rifle range.

"(3) Use of a rifle range referred to in paragraph (1) by civilians may not interfere with the use of the range by members of the armed forces.

"(c) REGULATIONS.—Regulations to carry out this section with respect to a rifle range shall be prescribed, subject to the approval of the Secretary concerned, by the authorities controlling the rifle range.".

(2) The table of sections at the beginning of chapter 401 of such title is amended by striking out the item relating to section 4309 and inserting in lieu thereof the following:

"4309. Rifle ranges: availability for use by members and civilians.".

(c) PAYMENT OF EXPENSES FOR NATIONAL MATCH COMPETITORS.—(1) Section 4313 of title 10, United States Code, is amended to read as follows:

"§4313. National matches and small-arms school: expenses

"(a) JUNIOR COMPETITORS.—(1) Junior competitors at National Matches, small-arms firing schools, and competitions in connection with National Matches and special clinics under section 4312 of this title may be paid a subsistence allowance in such amount as the Secretary of the Army shall prescribe.

"(2) A junior competitor referred to in paragraph (1) may be paid a travel allowance, in such amount as the Secretary of the Army shall prescribe, instead of travel expenses and subsistence while traveling. The travel allowance for the return trip may be paid in advance.

"(3) For the purposes of this subsection, a junior competitor is a competitor who is under 18 years of age or is a member of a gun club organized for the students of a college or university.

"(b) RESERVE COMPONENT PERSONNEL.—Appropriated funds available for the Civilian Marksmanship Program (as defined in section 4308 of this title) may be used to pay the personnel costs and travel and per diem expenses of a member of a reserve component for any active duty performed by the member in a fiscal year in support of the program after the end of that member's scheduled period of annual training for that fiscal year.".

(2) The item relating to section 4313 in the table of sections at the beginning of chapter 401 of such title is amended by striking out "rifle".

(d) EFFECTIVE DATE.—(1) This section and the amendments made by this section shall take effect on the earlier of—

(A) the date of the enactment of this Act; or

(B) October 1, 1992.

(2) If under paragraph (1) the amendments made by this section take effect before October 1, 1992, the amendments made by section 328 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1533) shall not take effect.

(3) If under paragraph (1) the amendments made by this section take effect on October 1, 1992, the amendments made by this section shall be considered executed immediately following the amendments made by section 328 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1533).

SEC. 356. PURCHASE OF ITEMS NOT EXCEEDING $100,000.

Funds appropriated pursuant to the authorization of appropriations in section 301 may be used to purchase items not exceeding $100,000 for each item.

SEC. 357. EXTENSION OF AUTHORITY FOR AVIATION DEPOTS AND NAVAL SHIPYARDS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES.

Section 1425(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1684) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

SEC. 358. REPEAL OF REQUIREMENT FOR COMPETITION PILOT PROGRAM FOR DEPOT-LEVEL MAINTENANCE OF MATERIALS.

Subsection (b) of section 314 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1337; 10 U.S.C. 2466 note) is repealed.

SEC. 359. OPTIONAL DEFENSE DEPENDENTS' SUMMER SCHOOL PROGRAMS.

Section 1402 of the Defense Dependents' Education Act of 1978 (title XIV of Public Law 95-561; 20 U.S.C. 921) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of Defense may provide optional summer school programs in the defense dependents' education system.

"(2) The Secretary shall provide in regulations for fees to be charged for the students enrolling in a summer school program under this subsection in amounts determined on the basis of family income.

"(3) The amounts received by the Secretary in payment of the fees shall be available to the Department of Defense for defraying the costs of conducting summer school programs under this subsection.".

SEC. 360. REVIEW OF MILITARY FLIGHT TRAINING ACTIVITIES AT CIVILIAN AIRFIELDS.

(a) REVIEW REQUIRED.—The Secretary of Defense shall provide for a review of the practices and procedures of the military departments regarding the use of civilian airfields in flight training activities of the Armed Forces.

(b) PURPOSE.—The purpose of the review is to determine whether the practices and procedures referred to in subsection (a) should be modified to better protect the public safety while meeting training requirements of the Armed Forces.

(c) SPECIAL REQUIREMENT.—In the conduct of the review, particular consideration shall be given to the practices and procedures regarding the use of civilian airfields in heavily populated areas.

SEC. 361. SALE TO KOREA OF OBSOLETE AMMUNITION FROM WAR RESERVE STOCKS.

Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the Secretary of Defense is authorized to sell to the Republic of Korea, at a price negotiated by the Secretary, all or any part of obsolete ammunition in the inventory of the Department of Defense which is intended for use as reserve stocks for Korea and is located in a stockpile in the Republic of Korea on the date of the enactment of this Act. Obsolete ammunition sold under the authority of this section shall be sold for not less than its salvage value, minus the costs of salvage.

SEC. 362. COOPERATIVE AGREEMENTS WITH ALLIES.

(a) ACQUISITION OF LOGISTICS SUPPORT, SUPPLIES, AND SERVICES FROM ALLIES.—Section 2341 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "in Europe and adjacent waters" and inserting in lieu thereof "outside the United States"; and

(2) in paragraph (2)—

(A) by striking out "in which elements of the armed forces are deployed (or are to be deployed)"; and

(B) by striking out "in such country or in the military region in which such country is located" and inserting in lieu thereof "outside the United States".

(b) LIMITATIONS ON AMOUNTS THAT MAY BE OBLIGATED OR ACCRUED BY THE UNITED STATES.—Section 2347 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "North Atlantic Treaty Organization" and inserting in lieu thereof "armed forces"; and

(B) by inserting "with other member countries of the North Atlantic Treaty Organization and subsidiary bodies of the North Atlantic Treaty Organization" after "(before the computation of offsetting balances)";

(2) in subsection (a)(2)—

(A) by striking out "in the military region affecting" and inserting in lieu thereof "involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with"; and

(B) by striking out "the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with such country";

(3) in subsection (b)(1)—

(A) by striking out "North Atlantic Treaty Organization" and inserting in lieu thereof "armed forces"; and

(B) by inserting "with other member countries of the North Atlantic Treaty Organization and subsidiary bodies of the North Atlantic Treaty Organization" after "(before the computation of offsetting balances)"; and

(4) in subsection (b)(2)—

(A) by striking out "in the military region affecting a country referred to in paragraph (1)" and inserting in lieu thereof "involving the armed forces"; and

(B) by striking out "from such country (before the computation of offsetting balances)" and inserting in lieu thereof "(before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to acquisitions of logistics support, supplies, and services under chapter 138 of title 10, United States Code, that are initiated on or after the date of enactment of this Act.

SEC. 363. PREFERENCE FOR PROCUREMENT OF ENERGY EFFICIENT ELECTRIC EQUIPMENT.

(a) REQUIREMENT FOR PREFERENCE.—(1)(A) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410c. Preference for energy efficient electric equipment

"(a) When cost effective, in establishing a new requirement for electric equipment referred to in subsection (b) and in procuring electric equipment referred to in that subsection, the Secretary of a military department or the head of a Defense Agency, as the case may be, shall provide a preference for the procurement of the most energy efficient electric equipment available that meets the requirement or the need for the procurement, as the case may be.

"(b) Subsection (a) applies to the following electric equipment:

"(1) Electric lamps.

"(2) Electric ballasts.

"(3) Electric motors.

"(4) Electric refrigeration equipment.".

(B) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 2410b the following new item:

"2410c. Preference for energy efficient electric equipment.".

(2) The amendments made by paragraph (1) shall apply to procurements for which solicitations are issued on or after the date that is 120 days after the date of the enactment of this Act.

(b) ELECTRIC LIGHTING DEMONSTRATION PROGRAM.—(1) The Secretary of Defense shall conduct a demonstration program for using energy efficient electric lighting equipment.

(2) The Secretary shall designate 50 facilities owned or leased by the Department of Defense for participation in the demonstration program under this subsection.

(3) The head of each facility designated pursuant to paragraph (2) and the Director of the Defense Logistics Agency shall jointly audit the electric lighting equipment at the facility in order—

(A) to identify any potential improvements that would increase the energy efficiency of electric lighting at that facility; and

(B) to determine the costs of, and the savings that would result from, such improvements.

(4) Except as provided in subsection (d)(4), on the basis of the results of the audit the head of the facility shall promptly convert to the use of electric lighting equipment at the facility that is more energy efficient than the existing electric lighting equipment to the extent that the conversion is cost effective.

(5) Energy efficient electric lighting equipment used under the demonstration program may include compact fluorescent lamps, energy efficient electric ballasts and fixtures, and other energy efficient electric lighting equipment.

(c) REFRIGERATION EQUIPMENT DEMONSTRATION PROGRAM.—(1) The Secretary of Defense shall conduct a demonstration program for using energy efficient refrigeration equipment.

(2) The Secretary shall designate 50 facilities owned or operated by the Department of Defense for participation in the demonstration program under this subsection.

(3) The head of each facility designated pursuant to paragraph (2) and the Director of the Defense Logistics Agency shall jointly audit the refrigeration equipment at the facility in order—

(A) to identify any potential improvements that would increase the energy efficiency of the refrigeration equipment at that facility; and

(B) to determine the costs of, and the savings that would result from, such improvements.

(4) Except as provided in subsection (d)(4), on the basis of the results of the audit the head of the facility shall promptly convert to the use of refrigeration equipment at the facility that is more energy efficient than the existing refrigeration equipment to the extent that the conversion is cost effective.

(d) GENERAL PROVISIONS FOR DEMONSTRATION PROGRAMS.—(1) The Secretary of Defense shall make the designations under subsections (b)(2) and (c)(2) not later than 180 days after the date of the enactment of this Act.

(2) The Secretary of Defense may designate a facility described in subsections (b)(2) and (c)(2) for participation in the demonstration program under subsection (b) and the demonstration program under subsection (c).

(3) The audits required by subsections (b)(3) and (c)(3) shall be completed not later than January 1, 1994.

(4) The head of a facility may not carry out a conversion described in subsection (b)(4) or (c)(4) if the conversion prevents the head of the facility from carrying out others improvements relating to energy efficiency that are more cost effective than that conversion.

SEC. 364. MADIGAN ARMY MEDICAL CENTER.

Of the funds authorized to be appropriated by title III for Operation and Maintenance, Army, $150,000 is authorized to be used for a program design and feasibility study to provide a residential program for military dependents with severe behavior disorders at Madigan Army Medical Center.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES.

(a) The Armed Forces are authorized strengths for active duty personnel as of September 30, 1993, as follows:

(1) The Army, 598,900, of whom not more than 88,855 shall be commissioned officers.

(2) The Navy, 535,800, of whom not more than 67,455 shall be commissioned officers.

(3) The Marine Corps, 181,900, of whom not more than 18,440 shall be commissioned officers.

(4) The Air Force, 449,900, of whom not more than 84,970 shall be commissioned officers.

SEC. 402. WAIVER AND TRANSFER AUTHORITY.

(a) WAIVER AUTHORITY.—The Secretary of Defense may waive an end strength prescribed in section 401 for any of the Armed Forces to the extent that the Secretary considers the waiver necessary to prevent personnel imbalances that would impair the long term combat readiness of that armed force.

(b) TRANSFER AUTHORITY.—(1) Upon determination by the Secretary of Defense that such action is necessary in order to prevent involuntary separations from the Armed Forces that would otherwise be necessary solely for the purpose of reducing the size of the Armed Forces below the authorized end strengths provided in section 401, the Secretary may transfer amounts appropriated to the Department of Defense pursuant to authorizations of appropriations in this division for fiscal year 1993. Amounts so transferred shall be merged with and be available for the same purposes as the appropriations to which transferred.

(2) A transfer made from one appropriation account to another under the authority of this section shall be deemed to increase the amount authorized for the appropriation account to which transferred by the amount transferred.

(3) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

SEC. 403. AUTHORITY TO ADJUST END STRENGTHS.

Subsection (c) of section 115 of title 10, United States Code, is amended to read as follows:

"(c)(1) Subject to paragraphs (1) and (2), the strength of an armed force at the end of a fiscal year may vary from the end strength authorized for that armed force pursuant to paragraph (1) or (2) of subsection (a) for such fiscal year to the extent that the Secretary of Defense determines that the variance is in the national interest.

"(2) The strength of the active-duty personnel of an armed force at the end of a fiscal year shall be within 0.5 percent below and 0.5 percent above the end strength authorized for that armed force pursuant to subsection (a)(1) for that fiscal year.

"(3) The strength of the Selected Reserve personnel of a reserve component at the end of a fiscal year shall be within 2 percent below or 2 percent above the end strength authorized for the Selected Reserve of that reserve component pursuant to subsection (a)(2) for that fiscal year.".

SEC. 404. REPEAL OF REQUIREMENTS FOR MINIMUM NUMBERS OF MEDICAL PERSONNEL.

The following provisions of law that limit reductions in the number of medical personnel of the Department of Defense are repealed:

(1) Section 711 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 115 note).

(2) Section 718(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 115 note).

SEC. 405. LIMITED EXCLUSION OF JOINT SERVICE REQUIREMENTS FROM A LIMITATION ON THE STRENGTHS FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.

(a) EXCLUSION.—Section 526 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) LIMITED EXCLUSION FOR JOINT DUTY REQUIREMENTS.—(1) The Chairman of the Joint Chiefs of Staff may designate up to 8 general officer and flag officer positions within joint duty requirements for exclusion from the limitations in subsection (a) that are applicable on and after October 1, 1995. General officers and flag officers in positions so designated may not be counted for the purposes of such limitations.

"(2) This subsection shall cease to be effective on October 1, 1998."

(b) TECHNICAL AMENDMENT.—Subsection (b) of such section is amended by striking out "(b)" and inserting in lieu thereof "(b) AUTHORIZED INCREASE.—".

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1993, as follows:

(1) The Army National Guard of the United States, 425,450.

(2) The Army Reserve, 296,230.

(3) The Naval Reserve, 141,545.

(4) The Marine Corps Reserve, 42,230.

(5) The Air National Guard of the United States, 119,400.

(6) The Air Force Reserve, 82,400.

(7) The Coast Guard Reserve, 15,150.

(b) ADJUSTMENTS.—Section 115 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) The end strengths prescribed by law for the Selected Reserve of any reserve component for any fiscal year shall be proportionately reduced by—

"(A) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of that fiscal year; and

"(B) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of that fiscal year.

"(2) Whenever such units or such individual members are released from active duty, the end strength prescribed for the Selected Reserve of such reserve component for the fiscal year in which released shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.".

(c) TEMPORARY PROHIBITION ON ELIMINATING RESERVE COMPONENT UNITS.—(1) Except as provided in paragraph (2), no unit in the Selected Reserve of the Army, Navy, Air Force, or Marine Corps may be inactivated during fiscal year 1993.

(2) Paragraph (1) does not apply to the following:

(A) An inactivation of a unit which is the direct result of the closure or realignment of a military installation required pursuant to law.

(B) An inactivation of a reinforcing unit in the Naval Reserve that is associated directly with a decommissioned unit in the active component of the Navy.

(C) An inactivation of an aviation unit as a direct result of the phasing out of a weapon system from the active components and the reserve components by the end of fiscal year 1993.

(3) A unit of the Selected Reserve of the Army, Navy, Air Force, or Marine Corps may not be inactivated pursuant to an exception in paragraph (2) until the Secretary of Defense has submitted to the Committees on Armed Services of the Senate and House of Representatives the rationale for the proposed inactivation of that unit and the specific exception that applies.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1993, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 24,860.

(2) The Army Reserve, 12,862.

(3) The Naval Reserve, 22,055.

(4) The Marine Corps Reserve, 2,282.

(5) The Air National Guard of the United States, 9,081.

(6) The Air Force Reserve, 636.

Subtitle C—Military Training Student Loads

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS.

(a) ACTIVE FORCES.—For fiscal year 1993, the Armed Forces are authorized average military training loads for active forces as follows:

(1) The Army, 60,269.

(2) The Navy, 51,405.

(3) The Marine Corps, 19,016.

(4) The Air Force, 27,971.

(b) RESERVE COMPONENTS.—For fiscal year 1993, the Armed Forces are authorized average military training loads for reserve component forces as follows:

(1) The Army Reserve, 12,583.

(2) The Army National Guard, 10,529.

(3) The Naval Reserve, 1,892.

(4) The Marine Corps Reserve, 3,418.

(5) The Air Force Reserve, 1,529.

(6) The Air National Guard, 3,048.

(c) ADJUSTMENTS.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in subtitles A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

Subtitle D—Funding Authorization

SEC. 431. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces for military personnel in the total amount of $77,316,200,000.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Reserve Component Matters

SEC. 501. REALIGNMENT OF CERTAIN ACTIVE ARMY COMBAT SUPPORT AND COMBAT SERVICE SUPPORT POSITIONS TO RESERVE COMPONENTS.

(a) FINDING.—The Congress finds that the force structure of the active component of the Army contains approximately 19,000 positions for personnel having missions to provide combat support and combat service support to inactivated Army units formerly stationed in Europe.

(b) REALIGNMENT REQUIRED.—The Secretary of Defense shall ensure that, not later than September 30, 1993, the missions referred to in subsection (a) are transferred to the reserve components of the Army.

SEC. 502. LIMITATION ON REDUCTION IN NUMBER OF RESERVE COMPONENT MEDICAL PERSONNEL.

(a) LIMITATION.—The Secretary of Defense may not reduce the number of medical personnel in the Army National Guard of the United States or the Army Reserve below the number of such personnel in those reserve components on September 30, 1992.

(b) DEFINITION.—In subsection (a), the term "medical personnel" has the meaning given that term in section 115a(g)(2) of title 10, United States Code.

SEC. 503. ONE-YEAR EXTENSION OF CERTAIN RESERVE OFFICER MANAGEMENT PROGRAMS.

(a) GRADE DETERMINATION AUTHORITY FOR CERTAIN RESERVE MEDICAL OFFICERS.—Sections 3359(b) and 8359(b) of title 10, United States Code, are each amended by striking "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(b) PROMOTION AUTHORITY FOR CERTAIN RESERVE OFFICERS SERVING ON ACTIVE DUTY.—Sections 3380(d) and 8380(d) of such title are each amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(c) YEARS OF SERVICE FOR MANDATORY TRANSFER TO THE RETIRED RESERVE.—Section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 30, 1992.

SEC. 504. REENLISTMENT ELIGIBILITY OF CERTAIN FORMER RESERVE OFFICERS.

(a) LIMITATION FOR THE ARMY.—Section 3258 of title 10, United States Code, is amended—

(1) by striking out the last sentence;

(2) by inserting "(a)" before "Any"; and

(3) by adding at the end the following new subsection (b):

"(b) A person is not entitled to be reenlisted under subsection (a) if—

"(1) the person was discharged or released from active duty as a Reserve officer on the basis of a determination of—

"(A) misconduct;

"(B) moral or professional dereliction;

"(C) duty performance below prescribed standards for the grade held; or

"(D) retention being inconsistent with the interests of national security; or

"(2) the person's former enlisted status and grade was based solely on the participation by that person in a precommissioning program that resulted in the Reserve commission held by that person during the active duty from which the person was released or discharged.".

(b) LIMITATION FOR THE AIR FORCE.—Section 8258 of such title is amended—

(1) by striking out the last sentence;

(2) by inserting "(a)" before "Any"; and

(3) by adding at the end the following new subsection (b):

"(b) A person is not entitled to be reenlisted under subsection (a) if—

"(1) the person was discharged or released from active duty as a Reserve officer on the basis of a determination of—

"(A) misconduct;

"(B) moral or professional dereliction;

"(C) duty performance below prescribed standards for the grade held; or

"(D) retention being inconsistent with the interests of national security; or

"(2) the person's former enlisted status and grade was based solely on the participation by that person in a precommissioning program that resulted in the Reserve commission held by that person during the active duty from which the person was released or discharged.".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall apply to persons discharged or released from active duty as a commissioned officers in the Army Reserve or the Air Force Reserve, respectively, after the date of the enactment of this Act.

SEC. 505. STUDY OF EFFECTS OF OPERATIONS DESERT SHIELD AND DESERT STORM MOBILIZATIONS OF RESERVES AND MEMBERS OF THE NATIONAL GUARD WHO WERE SELF-EMPLOYED OR OWNERS OF SMALL BUSINESSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) The service of the members of the Armed Forces of the United States in Operations Desert Shield and Desert Storm was commendable.

(2) The Reserves and the members of the National Guard contributed to the readiness, preparedness, and combat capability of the coalition forces that participated in the liberation of Kuwait.

(3) The Reserves and the members of the National Guard ordered to active duty in connection Operations Desert Shield and Desert Storm who were self-employed or were owners of small businesses possibly suffered unique financial difficulties resulting from their absence from their businesses for such active duty service.

(b) Study and Report Required.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) conduct a study regarding the economic and other effects on the Reserves and members of the National Guard referred to in subsection (a)(3) of being absent from their businesses for active duty service in connection Operations Desert Shield and Desert Storm; and

(2) submit a report on the results of the study to the Committees on Armed Services of the Senate and the House of Representatives.

(c) Content of Report.—The report shall include the following matters:

(1) The number of Reserves and members of the National Guard ordered to active duty in connection with Operations Desert Shield and Desert Storm who were self-employed or were owners of small businesses.

(2) A description of the businesses owned by those Reserves and members of the National Guard when such personnel were ordered to active duty.

(3) A detailed analysis of the economic effects on the businesses of such personnel resulting from the absence of such personnel for active duty service.

(4) A discussion of the factors that contributed to any financial hardship or gain for such businesses during the period of the absence of such personnel.

(5) The extent to which such personnel voluntarily separated from the Armed Forces, assumed an inactive status, or retired after being released from active duty.

(6) An analysis of the rates of such separations, change of status, and retirements.

Subtitle B—Service Academies

SEC. 511. LIMITATION ON ASSIGNMENT OF GENERAL OFFICERS.

(a) United States Military Academy.—(1)(A) Chapter 403 of title 10, United States Code, is amended by inserting after section 4337 the following new section 4338:

"§ 4338. Limitations on faculty, staff, and support personnel

"(a) General Officers.—Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of more than one general officer to permanent duty at the Academy at any time or to support the assignment of any general officer in a grade above major general to permanent duty at the Academy.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4337 the following new item:

"4338. Limitations on faculty, staff, and support personnel.".

(2) Subsection (c) of section 4335 of such title is repealed.

(b) United States Air Force Academy.—(1)(A) Chapter 903 of such title is amended by inserting after section 9337 the following new section 9338:

"§ 9338. Limitations on faculty, staff, and support personnel

"(a) General Officers.—Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of more than one general officer to permanent duty at the Academy at any time or to support the assignment of any general officer in a grade above major general to permanent duty at the Academy.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 9337 the following new item:

"9338. Limitations on faculty, staff, and support personnel.".

(2) Section 9334 of such title is amended—

(A) by striking out subsection (b); and

(B) in subsection (a), by striking out "(a)".

(c) Effective Date and Transition Provision.—(1) The amendments made by subsections (a) and (b) shall take effect on April 1, 1993.

(2) General officers who, on the date of the enactment of this Act, are assigned to permanent duty positions at the United States Military Academy and the United States Air Force Academy in excess of the number of such officers permitted by the amendments made by subsections (a) and (b) shall be reassigned before the effective date of such amendments.

(3) The Chairman of the Joint Chiefs of Staff may direct that one or more of the general officer positions referred to in paragraph (2) be allocated to meet unsatisfied requirements for general officer joint duty positions.

SEC. 512. ACADEMY PREPARATORY SCHOOLS.

Not later than April 1, 1993, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a plan for implementing the recommendations contained in the report of the Comptroller General of the United States, dated March 13, 1992, regarding the preparatory schools of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy.

SEC. 513. COMPOSITION OF ACADEMY FACULTIES.

Not later than April 1, 1993, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and House of Representatives recommended legislation for—

(1) establishing at the United States Military Academy and the United States Air Force Academy a faculty composed of approximately equal numbers of civilian and Armed Forces personnel; and

(2) phasing out the assignment of Armed Forces personnel as permanent professors at those academies.

SEC. 514. ACADEMY BANDS.

(a) United States Military Academy.—Section 4338 of title 10, United States Code (as added by section 511(a)), is amended by adding at the end the following:

"(b) Enlisted Bands.—Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of any enlisted personnel for permanent duty in a military band for the Academy.".

(b) United States Naval Academy.—(1) Section 6969 of such title is amended to read as follows:

"§ 6969. Naval Academy Band

"(a) Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of any enlisted personnel for permanent duty in the Naval Academy Band.

"(b) In determining years of service for the purpose of retirement, enlisted members of the Navy who have previously been assigned as leaders or second leaders of the Naval Academy Band shall be treated as if they had not been so assigned.".

(2) The item relating to such section in the table of sections at the beginning of chapter 603 of such title is amended to read as follows:

"6969. Naval Academy Band.".

(c) United States Air Force Academy.—Section 9338 of such title (as added by section 511(b)) is amended by adding at the end the following:

"(b) Enlisted Bands.—Funds appropriated or otherwise made available for the Department of Defense may not be used to support the assignment of any enlisted personnel for duty in a military band for the Academy.".

(d) Effective Date.—The amendments made by this section shall take effect on April 1, 1993.

SEC. 515. NONINSTRUCTIONAL STAFF.

(a) United States Military Academy.—Section 4338 of title 10, United States Code (as added by section 511(a) and as amended by section 514(a)), is further amended by adding at the end the following:

"(c) Noninstructional Staff.—Funds appropriated or otherwise made available for pay of armed forces personnel may not be used to pay armed forces personnel in noninstructional positions at the Academy who are not certified by the Inspector General of the Department of Defense as being directly involved in the administration of the faculty or cadets or in the maintenance of Academy facilities or equipment.".

(b) United States Naval Academy.—(1) Chapter 603 of such title is amended by adding at the end the following new section:

"§ 6975. Limitations on faculty, staff, and support personnel

"Funds appropriated or otherwise made available for pay of armed forces personnel may not be used to pay armed forces personnel in noninstructional positions at the Academy who are not certified by the Inspector General of the Department of Defense as being directly involved in the administration of the faculty or midshipmen or in the maintenance of Academy facilities or equipment.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 6974 the following new item:

"6975. Limitations on faculty, staff, and support personnel.".

(c) United States Air Force Academy.—Section 9338 of such title (as added by section 511(b) and as amended by section 514(c)), is further amended by adding at the end the following:

"(c) Noninstructional Staff.—Funds appropriated or otherwise made available for pay of armed forces personnel may not be used to pay armed forces personnel in noninstructional positions at the Academy who are not certified by the Inspector General of the Department of Defense as being directly involved in the administration of the faculty or cadets or in the maintenance of Academy facilities or equipment.".

(d) Effective Date.—The amendments made by this section shall take effect on April 1, 1993.

SEC. 516. MAJOR TRAINING COMMAND JURISDICTION.

(a) United States Military Academy.—Section 4331(a) of title 10, United States Code, is amended by adding at the end the following: "The Academy is under the supervision and control of the commander of the major Army command having jurisdiction over Army officer training programs.".

(b) UNITED STATES NAVAL ACADEMY.—(1) Section 6951 of such title is amended by adding at the end the following: "The Academy is under the supervision and control of the major Navy command having jurisdiction over Navy officer training programs.".

(2)(A) The heading of such section is amended to read as follows:

"§ 6951. Location and administration".

(B) The item relating to that section in the table of sections at the beginning of chapter 603 of title 10, United States Code, is amended to read as follows:

"6951. Location and administration.".

(c) UNITED STATES AIR FORCE ACADEMY.—Section 9331(a) of such title is amended by adding at the end the following: "The Academy is under the supervision and control of the commander of the major Air Force command having jurisdiction over Air Force officer training programs.".

Subtitle C—Officer Personnel Policy

SEC. 521. OFFICER PERSONNEL MANAGEMENT PLANS.

(a) REPORT ON PLANNED OFFICER ACCESSIONS.—(1) Not later than April 1, 1993, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the plans of the military departments for the procurement of officer personnel during each of fiscal years 1993 through 1997.

(2) The report shall contain for each fiscal year for each military department the following:

(A) For each program of officer training resulting in a commission, the number of persons to be commissioned.

(B) Of the persons to be commissioned under the Reserve Officer Training Corps program, the number of persons receiving scholarships under that program and the number of persons not receiving scholarships under the program.

(C) Of the number of persons to be commissioned—

(i) the number necessary to meet immediate needs for active component personnel;

(ii) the number necessary to meet immediate needs for personnel for the Selected Reserve of the Ready Reserve of the reserve components; and

(iii) the number that will be assigned directly into the Individual Ready Reserve of the reserve components.

(b) REPORT ON PLANNED OFFICER ASSIGNMENTS.—Not later than April 1, 1993, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the types of assignments that the military departments plan for the commissioned officers who commence active duty for their initial period of obligated active duty service during each of fiscal years 1993 through 1997 after being commissioned upon completion of an officer training program, stated by officer training program. The report shall contain an analysis of the number of officers that are to be assigned for skills training and the number of officers that are to be assigned directly to occupational positions.

SEC. 522. EVALUATION OF EFFECTS OF OFFICER STRENGTH REDUCTIONS ON OFFICER PERSONNEL MANAGEMENT SYSTEMS.

(a) REQUIREMENT FOR REVIEW.—The Secretary of Defense shall provide for a federally funded research and development center that is independent of the military departments to review the officer personnel management system of each of the military departments and to determine and evaluate the effects of the post-Cold War officer strength reductions on that officer personnel management system.

(b) MATTERS TO BE CONSIDERED.—The review and evaluation shall include, for the officer personnel management system of each military department, the effects of the officer strength reductions on the following:

(1) The timing and opportunities for officer promotions.

(2) The expected lengths of officer careers.

(3) Other features of the officer personnel management system under the Defense Officer Personnel Management Act (Public Law 96-513; 94 Stat. 2835) and the provisions of law added and amended by that Act.

(4) Any other aspects of the officer personnel management system that the federally funded research and development center personnel conducting the review and evaluation consider appropriate or as directed by the Secretary of Defense.

(c) REPORT.—Not later than December 31, 1993, the federally funded research and development center shall submit to the Secretary of Defense a report on the results of the review and evaluation. Within 60 days after receiving the report, the Secretary shall transmit the report to the congressional defense committees. The Secretary may submit to such committees any comments that the Secretary considers appropriate regarding the matters contained in the report.

(d) FUNDING.—Funds appropriated for fiscal year 1993 pursuant to title II and made available for federally funded research and development centers shall be available for the conduct of the review and evaluation under this section.

SEC. 523. TEST ASSIGNMENT OF FEMALE MEMBERS TO COMBAT AIRCRAFT POSITIONS.

Section 550 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (105 Stat. 1370; 10 U.S.C. 113 note) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection (b):

"(b) ASSIGNMENTS TO COMBAT AIRCRAFT.—The Secretary of Defense shall require the conduct of test assignments of female members of each armed force to duty in combat aircraft of that armed force."; and

(3) in subsection (c), as redesignated by paragraph (1), by inserting "and pursuant to subsection (b)" after "subsection (a)".

SEC. 524. SELECTIVE EARLY RETIREMENT.

Section 638a(c) of title 10, United States Code, is amended by adding at the end the following:

"(3) In the case of an action under subsection (b)(2), the Secretary of the military department concerned may submit to a selection board convened pursuant to that subsection—

"(A) the names of all eligible officers described in that subsection in a particular grade and competitive category; or

"(B) the names of all eligible officers described in that subsection in a particular grade and competitive category who are also in particular year groups, specialties, or retirement categories, or any combination thereof, within that competitive category.".

SEC. 525. RETIREMENT OF CERTAIN LIMITED DUTY OFFICERS OF THE NAVY.

(a) REGULAR NAVY COMMANDERS.—Section 633 of title 10, United States Code, is amended by adding at the end the following: "During the period beginning on July 1, 1993, and ending on October 1, 1995, the preceding sentence shall not apply to an officer of the Navy designated for limited duty to whom section 6383 of this title applies.".

(b) REGULAR NAVY CAPTAINS.—Section 634 of title 10, United States Code, is amended by adding at the end the following: "During the period beginning on July 1, 1993, and ending on October 1, 1995, the preceding sentence shall not apply to an officer of the Regular Navy designated for limited duty to whom section 6383(a)(4) of this title applies.".

(c) MAXIMUM TENURE.—Subsection (a) of section 6383 of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraphs:

"(2) Except as provided in subsection (i), each regular officer of the Navy designated for limited duty who is serving in the grade of commander, has failed of selection for promotion to the grade of captain for the second time, and is not on a list of officers recommended for promotion to the grade of captain shall—

"(A) if eligible for retirement as a commissioned officer under any provision of law, be retired under that provision law on the date requested by the officer and approved by the Secretary of the Navy, except that the date of retirement may not be later than the first day of the seventh month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed for promotion to the grade of captain for a second time; or

"(B) if not eligible for retirement as a commissioned officer, be retired on the date requested by the officer and approved by the Secretary of the Navy after the officer becomes eligible for retirement as a commissioned officer, except that the date of retirement may not be later than the first day of the seventh calendar month beginning after the month in which the officer becomes eligible for retirement as a commissioned officer.

"(3) Except as provided in subsection (i), if not retired earlier, a regular officer of the Navy designated for limited duty who is serving in the grade of commander and is not on a list of officers recommended for promotion to the grade of captain shall be retired on the last day of the month following the month in which the officer completes 35 years of active naval service, exclusive of active duty for training in a reserve component.

"(4) Except as provided in subsection (i), each regular officer of the Navy designated for limited duty who is serving in the grade of captain shall, if not retired sooner, be retired on the last day of the month following the month in which the officer completes 38 years of active naval service, exclusive of active duty for training in a reserve component.

"(5) Paragraphs (2) through (4) shall be effective only during the period beginning on July 1, 1993, and ending on October 1, 1995.".

(d) LIMITATION ON DEFERRED RETIREMENT.—Subsection (i) of section 6383 of such title is amended by adding at the end the following: "During the period beginning on July 1, 1993, and ending on October 1, 1995, an officer of the Navy in the grade of commander or captain whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond age 62 or, if earlier, 28 years of active commissioned service if in the grade of commander or 30 years of active commissioned service if in the grade of captain.".

Subtitle D—Active Forces Transition Enhancements

SEC. 531. ENCOURAGEMENT FOR CONTINUING PUBLIC AND COMMUNITY SERVICE.

(a) PERMANENT PROGRAM.—(1) Chapter 58 of title 10, United States Code, is amended by inserting after section 1143 the following new section:

"§ 1143a. Encouragement of postseparation public and community service: Department of Defense

"(a) IN GENERAL.—The Secretary of Defense shall implement a program to encourage members and former members of the armed forces to enter into public and community service jobs after discharge or release from active duty.

"(b) PERSONNEL REGISTRY.—The Secretary shall maintain a registry of members and former members of the armed forces discharged or released from active duty who request registration for assistance in pursuing public and community service job opportunities. The registry shall include information on the particular job skills, qualifications, and experience of the registered personnel.

"(c) REGISTRY OF PUBLIC SERVICE AND COMMUNITY SERVICE ORGANIZATIONS.—The Secretary shall also maintain a registry of public service and community service organizations. The registry shall contain information regarding each organization, including its location, its size, the types of public and community service positions in the organization, points of contact, procedures for applying for such positions, and a description of each such position that is likely to be available. Any such organization may request registration under this subsection and, subject to guidelines prescribed by the Secretary, be registered.

"(d) ASSISTANCE TO BE PROVIDED.—(1) The Secretary shall actively attempt to match personnel registered under subsection (b) with public and community service job opportunities and to facilitate job-seeking contacts between such personnel and the employers offering the jobs.

"(2) The Secretary shall offer personnel registered under subsection (b) counseling services regarding—

"(A) public service and community service organizations; and

"(B) procedures and techniques for qualifying for and applying for jobs in such organizations.

"(3) The Secretary may provide personnel registered under subsection (b) with access to the interstate job bank program of the United States Employment Service if the Secretary determines that such program meets the needs of separating members of the armed forces for job placement.

"(e) CONSULTATION REQUIREMENT.—In carrying out this section, the Secretary shall consult closely with the Secretary of Labor, the Secretary of Veterans Affairs, the Secretary of Education, the Director of the Office of Personnel Management, appropriate representatives of State and local governments, and appropriate representatives of businesses and nonprofit organizations in the private sector.

"(f) DELEGATION.—The Secretary, with the concurrence of the Secretary of Labor, may designate the Secretary of Labor as the executive agent of the Secretary of Defense for carrying out all or part of the responsibilities provided in this section. Such a designation does not relieve the Secretary of Defense from the responsibility for the implementation of the provisions of this section.

"(g) DEFINITIONS.—In this section, the term 'public service and community service organization' includes the following organizations:

"(1) Any organization that provides the following services:

"(A) Elementary, secondary, or postsecondary school teaching or administration.

"(B) Support of such teaching or school administration.

"(C) Law enforcement.

"(D) Public health care.

"(E) Social services.

"(F) Any other public or community service.

"(2) Any nonprofit organization that coordinates the provision of services described in paragraph (1).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1143 the following new item:

"1143a. Encouragement of postseparation public and community service: Department of Defense.".

(b) DEPARTMENT OF VETERANS AFFAIRS RESPONSIBILITIES.—Section 1142(b)(4) of title 10, United States Code, is amended by inserting before the period at the end the following: ", including the public and community service jobs program carried out under section 1143a of this title".

(c) PRESEPARATION ASSISTANCE BY THE DEPARTMENT OF LABOR.—Section 1144(b) of such title is amended by adding at the end the following new paragraph:

"(8) Provide information regarding the public and community service jobs program carried out under section 1143a of this title.".

SEC. 532. TEACHER CERTIFICATION CREDIT FOR MILITARY EXPERIENCE.

(a) UNIFORM STATE STANDARDS AND PROCEDURES.—(1) The Secretary of Defense shall—

(A) develop proposed uniform standards and procedures for the granting of appropriate credit for service in the Armed Forces under State teacher certification or licensing procedures; and

(B) coordinate with appropriate agencies of each State to encourage the incorporation of such uniform standards and procedures into the State's teacher certification or licensing requirements.

(2) The uniform standards should reflect the value to the teaching profession of relevant skills and experience derived from service in the Armed Forces.

(b) DELEGATION TO THE SECRETARY OF EDUCATION.—The Secretary, with the concurrence of the Secretary of Education, may designate the Secretary of Education as the executive agent of the Secretary of Defense for carrying out all or part of the responsibilities provided in subsection (a). Such a designation does not relieve the Secretary of Defense from the responsibility for the implementation of such subsection.

SEC. 533. PROGRAM OF EDUCATIONAL LEAVE RELATING TO CONTINUING PUBLIC AND COMMUNITY SERVICE.

(a) PROGRAM.—Under regulations prescribed by the Secretary of Defense after consultation with the Secretary of Transportation and subject to subsections (b) and (c), the Secretary concerned may grant to an eligible member of the Armed Forces a leave of absence for a period not to exceed one year for the purpose of permitting the member to pursue a program of education or training (including an internship) for the development of skills that are relevant to the performance of public and community service. A program of education or training referred to in the preceding sentence includes any such program that is offered by the Department of Defense or by any civilian educational or training institution.

(b) ELIGIBILITY REQUIREMENT.—(1) A member may not be granted a leave of absence under this section unless the member agrees in writing—

(A) diligently to pursue employment in public service and community service organizations upon the separation of the member from active duty in the Armed Forces; and

(B) to serve in the Ready Reserve of an armed force, upon such separation, for a period of 4 months for each month of the period of the leave of absence.

(2)(A) A member may not be granted a leave of absence under this section until the member has completed any period of extension of enlistment or reenlistment, or any period of obligated active duty service, that the member has incurred under section 708 of title 10, United States Code.

(B) The Secretary concerned may waive the limitation in subparagraph (A) for a member who enters into an agreement with the Secretary for the member to serve in the Ready Reserve of a reserve component for a period equal to the uncompleted portion of the member's period of service referred to in that subparagraph. Any such period of agreed service in the Ready Reserve shall be in addition to any other period that the member is obligated to serve in a reserve component.

(c) TREATMENT OF LEAVE OF ABSENCE.—A leave of absence under this section shall be subject to the provisions of subsections (c) and (d) of section 708 of title 10, United States Code.

(d) EXCLUSION FROM END STRENGTH LIMITATION.—A member of the Armed Forces, while on leave granted pursuant to this section, may not be counted for purposes of any provision of law that limits the active duty strength of the member's armed force.

(e) DEFINITIONS.—In this section:

(1) The term "Secretary concerned" has the meaning given such term in section 101 of title 10, United States Code.

(2) The term "eligible member of the Armed Forces" means a member of the Armed Forces who is eligible for an educational leave of absence under section 708(e) of such title.

(3) The term "public service and community service organization" has the meaning given such term in section 1143a of such title (as added by section 531(a)).

(f) EXPIRATION.—The authority to grant a leave of absence under subsection (a) shall expire on September 30, 1995.

SEC. 534. TEMPORARY EARLY RETIREMENT AUTHORITY.

(a) RETIREMENT FOR 15 TO 20 YEARS OF SERVICE.—(1) The Secretary of the Army may, upon the member's request, retire a member of the Army who has the following years of service:

(A) In the case of a regular or reserve commissioned officer, between 15 and 20 years of service computed under section 3926 of title 10, United States Code.

(B) In the case of an enlisted member, between 15 and 20 years of service computed under section 3925 of such title.

(C) In the case of a warrant officer, between 15 and 20 years of active service computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(2) The Secretary of the Navy may, upon the member's request, retire a member of the Navy or Marine Corps who has the following years of active service:

(A) In the case of a commissioned officer or enlisted member, between 15 and 20 years.

(B) In the case of a warrant officer, between 15 and 20 years computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(3) The Secretary of the Air Force may, upon the member's request, retire a member of the Air Force who has the following years of service:

(A) In the case of a regular or reserve commissioned officer, between 15 and 20 years of service computed under section 8926 of title 10, United States Code.

(B) In the case of an enlisted member, between 15 and 20 years of service computed under section 8925 of such title.

(C) In the case of a warrant officer, between 15 and 20 years of active service computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(b) ADDITIONAL ELIGIBILITY REQUIREMENT.—In order to be eligible for retirement under subsection (a), a member of the Armed Forces shall register on the registry maintained under section 1143a(b) of title 10, United States Code (as added by section 531(a)) and receive counseling regarding public and community service job opportunities from the Secretary of Defense or another source approved by the Secretary.

(c) COMPUTATION OF RETIRED PAY.—A member or former member of the Armed Forces retired under subsection (a) shall be entitled to retired pay computed under the provisions of chapter 71, 371, 571, or 871 of title 10, United States Code, that would be applicable to such member or former member if—

(1) the member or former member had been retired under section 1293 (in the case of a retired warrant officer), 3911 (in the case of a retired commissioned Army officer), 3914 (in the case of a retired enlisted member of the Army), 6323 (in the case of a retired commissioned officer of the Navy), 8911 (in the case of a retired commissioned Air Force officer), or 8914 (in the case of a retired enlisted member of the Air Force) of such title upon completion of 20 years of service creditable for purposes of eligibility for retirement; or

(2) in the case of a retired enlisted member of the Regular Navy or Regular Marine Corps, the retired enlisted member had been retired under section 6326 of such title upon completion of 30 years of active service in the Armed Forces creditable for purposes of eligibility for retirement.

(d) FUNDING.—(1) Notwithstanding section 1463 of title 10, United States Code, and to the extent provided in appropriations Acts, the Secretary of each military department shall provide in accordance with this section for the payment of retired or retainer pay payable during the fiscal years covered by the other provisions of this subsection to members of the armed force under the jurisdiction of that Secretary who are being retired under the authority of this section.

(2) In each fiscal year in which the Secretary of a military department retires a member of the Armed Forces under the authority of this section, the Secretary shall credit to a subaccount (which the Secretary shall establish) within the appropriation account for that fiscal year for pay and allowances of active duty members of the armed force under the jurisdiction of that Secretary such amount as is necessary to pay the retired or retainer pay payable to such member for the entire initial period (determined under paragraph (3)) of the entitlement of that member to receive retired or retainer pay.

(3) The initial period applicable under paragraph (2) in the case of a retired member referred to in that paragraph is the number of years (and any fraction of a year) that is equal to the difference between 20 years and the number of years (and any fraction of a year) of service that were completed by the member (as computed under the provision of law referred to in subsection (a) that is applicable to that member) before being retired under this section.

(4) The Secretary shall pay the member's retired or retainer pay for such initial period out of amounts credited to the subaccount under paragraph (2). The amounts so credited with respect to that member shall remain available for payment for that period.

(e) COORDINATION OF BENEFITS.—A member of the Armed Forces retired under this section is not entitled to benefits under section 1174, 1174a, or 1175 of title 10, United States Code.

(f) TERMINATION OF AUTHORITY.—The authority under subsection (a) shall terminate on October 1, 1995.

SEC. 535. INCREASED EARLY RETIREMENT RETIRED PAY FOR PUBLIC OR COMMUNITY SERVICE.

(a) RECOMPUTATION OF RETIRED PAY.—(1) If a member or former member of the Armed Forces retired under section 534(a) or any other provision of law authorizing retirement from the Armed Forces (other than for disability) before the completion of at least 20 years of active duty service (as computed under the applicable provision of law) is employed by a public service or community service organization listed on the registry maintained under section 1143a(c) of title 10, United States Code (as added by section 531(a)), within the period of the member's enhanced retirement qualification period, the member's or former member's retired or retainer pay shall be recomputed effective on the first day of the first month beginning after the date on which the member or former member attains 62 years of age.

(2) For purposes of recomputing a member's or former member's retired pay—

(A) the years of the member's or former member's employment by a public service or community service organization referred to in paragraph (1) during the member's or former member's enhanced retirement qualification period shall be treated as years of active duty service in the Armed Forces; and

(B) in applying section 1401a of title 10, United States Code, the member's or former member's years of active duty service shall be deemed as of the date of retirement to have included the years of employment referred to in subparagraph (A).

(3) Section 1405(b) of title 10, United States Code, shall apply in determining years of service under this subsection.

(4) In this subsection, the term "enhanced retirement qualification period", with respect to a member or former member retired under a provision of law referred to in paragraph (1), means the period beginning on the date of the retirement of the member or former member and ending the number of years (including any fraction of a year) after that date which when added to the number of years (including any fraction of a year) of service credited for purposes of computing the retired pay of the member or former member upon retirement equals 20 years.

(b) SBP ANNUITIES.—(1) Effective on the first day of the first month after a member or former member of the Armed Forces retired under a provision of law referred to in subsection (a)(1) attains 62 years of age or, in the event of death before attaining that age, would have attained that age, the base amount applicable under section 1447(2) of title 10, United States Code, to any Survivor Benefit Plan annuity provided by that member or former member shall be recomputed. For the recomputation the total years (including any fraction of a year) of the member's or former member's active service shall be treated as having included the member's or former member's years (including any fraction of a year) of employment referred to in subsection (a)(1) as of the date when the member or former member became eligible for retired pay under this section.

(2) In this subsection, the term "Survivor Benefit Plan" means the plan established under subchapter II of chapter 73 of title 10, United States Code.

SEC. 536. OPPORTUNITY FOR CERTAIN ACTIVE-DUTY PERSONNEL TO ENROLL IN MONTGOMERY GI BILL PROGRAM WHILE BEING VOLUNTARILY SEPARATED FROM SERVICE.

(a) IN GENERAL.—(1) Subchapter II of chapter 30 of title 38, United States Code, is amended by inserting after section 3018A the following new section:

"§ 3018B. Opportunity for certain active-duty personnel to enroll while being voluntarily separated from service

"(a) Notwithstanding any other provision of law, an individual who—

"(1) is voluntarily discharged from the Armed Forces with an honorable discharge, or voluntarily released from active duty under honorable conditions (as characterized by the Secretary concerned), pursuant to a request for separation approved under section 1174a or 1175 of title 10,

"(2) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree,

"(3) in the case of any individual who has made an election under section 3011(c)(1) of this title, withdraws such election pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section,

"(4) in the case of any person enrolled in the educational benefits program provided by chapter 32 of this title makes an irrevocable election, pursuant to procedures referred to in paragraph (3) of this subsection, to receive benefits under this section in lieu of benefits under such chapter 32, and

"(5) elects to receive assistance under this section pursuant to regulations referred to in paragraph (3) of this subsection,

is entitled to basic educational assistance under this chapter.

"(b) An election or withdrawal of election permitted under subsection (a) of this section is not effective unless—

"(1) in the case of an individual separated from active duty more than 90 days after the date of the enactment of this section, the individual makes the election or withdrawal before the separation;

"(2) in the case of an individual separated from active duty on or after the date of the enactment of this section and within 90 days after that date, the individual makes the election or withdrawal within 90 days after the separation; and

"(3) in the case of an individual separated from active duty before the date of the enactment of this section, the individual makes the election or withdrawal within 90 days after such date.

"(c)(1) An individual described in subsection (a) of this section who makes a withdrawal referred to in subsection (a)(3) of this section shall pay $1,200 to the Secretary of Veterans Affairs. In the case of an individual who makes the withdrawal of election before being separated, any portion of the obligation to pay $1,200 may be discharged by reduction of that individual's basic pay.

"(2) Amounts received by the Secretary pursuant to paragraph (1) shall be credited to the appropriation available for the fiscal year in which received for the Department of Veterans Affairs for the payment of readjustment benefits.

"(d) A withdrawal of election referred to in subsection (a)(3) of this section is irrevocable.

"(e)(1) Except as provided in paragraph (3) of this subsection, an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (a)(4) of this subsection shall be disenrolled from such chapter 32 program as of the date of such election.

"(2) For each individual who is disenrolled from such program, the Secretary shall refund—

"(A) as provided in section 3223(b) of this title, to the individual the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title; and

"(B) to the Secretary of Defense the unused contributions (other than contributions made under section 3222(c) of this title) made by such Secretary to the Account on behalf of such individual.

"(3) Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to section 3222(c) of this title on behalf of any individual referred to in paragraph (1) of this subsection shall remain in such Account to make payments of benefits to such individual under section 3015(e) of this title.".

(2) The table of sections at the beginning of chapter 30 of such title is amended by inserting after the item relating to section 3018A the following new item:

"3018B. Opportunity for certain active-duty personnel to enroll while being voluntarily separated from service.".

(b) CONFORMING AMENDMENTS.—(1) Section 3013(d) of such title is amended by inserting "or 3018B" after "section 3018A".

(2) Section 3015(e) of such title is amended by inserting "or 3018B" after "section 3018A".

(3) Section 3035(b)(3) of such title is amended—

(A) in the matter above subparagraph (A), by inserting "or 3018B" after "section 3018A"; and

(B) in subparagraph (B), by inserting "or 3018B(a)(3)" after "section 3018A(a)(3)".

SEC. 537. ELIMINATION OF RECOUPMENT REQUIREMENT FOR RESERVE DUTY.

Paragraph (2) of section 1175(e) of title 10, United States Code, is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B), a member entitled to voluntary separation incentive payments who is also entitled to basic pay for active service shall forfeit an amount of voluntary separation incentive payable for the same period that is equal to the total amount of basic pay received.

"(B) Subparagraph (A) does not apply with respect to—

"(i) annual training; or

"(ii) active duty for training that is not active duty for a period of more than 30 days.".

SEC. 538. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN EMPLOYMENT, JOB TRAINING, AND OTHER ASSISTANCE.

Section 1144(e) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "$4,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$11,000,000 for fiscal year 1993 and $8,000,000 for each of fiscal years 1994 and 1995."; and

(2) in paragraph (2), by striking out "$1,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$6,500,000 for each of fiscal years 1993, 1994, and 1995.".

SEC. 539. CONTINUED HEALTH COVERAGE FOR MEMBERS AND DEPENDENTS UPON THE SEPARATION OF THE MEMBERS FROM ACTIVE DUTY AND FOR EMANCIPATED CHILDREN OF MEMBERS.

(a) MEMBERS AND EMANCIPATED CHILDREN.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1078 the following new section:

"§1078a. Continued health benefits coverage

"(a) PROVISION OF CONTINUED HEALTH COVERAGE.—The Secretary of Defense and the Director of the Office of Personnel Management shall jointly carry out a program in accordance with this section to provide persons described in subsection (b) with temporary health benefits under the program of continued health benefits coverage provided for former civilian employee of the Federal Government and other persons under section 8905a of title 5.

"(b) ELIGIBLE PERSONS.—The persons referred to in subsection (a) are the following:

"(1) A member of the armed forces who—

"(A) is discharged or released from active duty (or full-time National Guard duty), whether voluntarily or involuntarily, under other than adverse conditions, as characterized by the Secretary concerned;

"(B) immediately preceding that discharge or release, is entitled to medical and dental care under section 1074(a) of this title (except in the case of a member discharged or released from full-time National Guard duty); and

"(C) after that discharge or release and any period of transitional health care provided under section 1145(a) of this title, would not otherwise be eligible for any benefits under this chapter.

"(2) A person who—

"(A) ceases to meet the requirements for being considered an unmarried dependent child of a member or former member of the armed forces under section 1072(2)(D) of this title;

"(B) on the day before ceasing to meet those requirements, was covered under a health benefits plan under this chapter or transitional health care under section 1145(a) of this title as a dependent of the member or former member; and

"(C) would not otherwise be eligible for any benefits under this chapter.

"(c) NOTIFICATION OF ELIGIBILITY.—(1) The Director, in consultation with the Secretary of Defense, shall prescribe regulations to provide for persons described in subsection (b) to be notified of eligibility to receive health benefits under this section.

"(2) In the case of a member who becomes (or will become) eligible for continued coverage under subsection (b)(1), the regulations shall provide for the Secretary concerned to notify the member of the member's rights under this section as part of preseparation counseling conducted under section 1142 of this title or any other provision of other law.

"(3) In the case of a child of a member who becomes eligible for continued coverage under subsection (b)(2), the regulations shall provide that—

"(A) the member may submit to the Secretary concerned a written notice of the child's change in status (including the child's name, address, and such other information as the Director may require); and

"(B) the Secretary concerned shall, within 14 days after receiving that notice, inform the child of the child's rights under this section.

"(d) ELECTION OF COVERAGE.—In order to obtain continued coverage under this section, an appropriate written election (submitted in such manner as the Director may prescribe) shall be made as follows:

"(1) In the case of a member described in subsection (b)(1), the written election shall be submitted to the Director before the end of the 60-day period beginning on the later of—

"(A) the date of the discharge or release of the member from active duty;

"(B) the date on which the period of transitional health care applicable to the member under section 1145(a) of this title ends; or

"(C) the date the member receives the notification required pursuant to subsection (c).

"(2) In the case of a person described in subsection (b)(2), the written election shall be submitted to the Director before the end of the 60-day period beginning on the later of—

"(A) the date on which the person first ceases to meet the requirements for being considered an unmarried dependent child under section 1072(2)(D) of this title, or

"(B) the date the person receives the notification pursuant to subsection (c),

except that if the Secretary concerned determines that the person's parent has failed to provide the notice referred to in subsection (c)(3)(A) with respect to the person in a timely fashion, the 60-day period under this paragraph shall be based only on the date under subparagraph (A).

"(e) COVERAGE OF DEPENDENTS.—A person eligible under subsection (b)(1) to elect to receive coverage may elect coverage either as an individual or, if appropriate, for self and dependents. A person eligible under subsection (b)(2) may elect only individual coverage.

"(f) CHARGES.—(1) Under arrangements satisfactory to the Director, a person receiving continued coverage under this section shall be required to pay into the Employees Health Benefits Fund established under section 8909 of title 5 an amount equal to the sum of—

"(A) the amount determined under section 8905a(d)(1)(A)(i) of title 5;

"(B) an amount, not in excess of 10 percent of the amount referred to in subparagraph (A), that is necessary for administrative expenses, as determined under regulations prescribed by the Director; and

"(C) such additional amount determined by the Director to be necessary to ensure that outlays from the Fund as a result of the program established under this section do not exceed amounts paid under this paragraph.

"(2) If a person elects to continue coverage under this section before the end of the applicable period under subsection (d), but after the person's coverage under this chapter (including any transitional extensions of coverage) expires, coverage shall be restored retroactively, with appropriate contributions (determined in accordance with paragraph (1)) and claims (if any), to the same extent and effect as though no break in coverage had occurred.

"(g) CONTRIBUTION.—Subject to the availability of appropriations for the purpose of this section, if the basis for continued coverage under this section for a member of the armed forces under subsection (b)(1) is involuntary separation approved under section 1174a or 1175 of this title, contributions shall be made in accordance with subsection (f)(1), except that—

"(1) the amount to be paid by the member shall be equal to the employee contribution referred to in section 8905a(d)(1)(A)(i) of title 5; and

"(2) the Secretary of Defense shall pay into the Employees Health Benefits Fund, under arrangements satisfactory to the Director of the Office of Personnel Management, an amount equal to—

"(A) the agency contribution referred to in section 8905a(d)(1)(A)(i) of title 5; and

"(B) the amount described in subsection (f)(1)(B).

"(h) PERIOD OF CONTINUED COVERAGE.—(1) Continued coverage under this section may not extend beyond—

"(A) in the case of a member described in subsection (b)(1), the date which is 18 months after the date the member ceases to be entitled to care under section 1074(a) of this title and any transitional care under section 1145 of this title, as the case may be; and

"(B) in the case of a person described in subsection (b)(2), the date which is 36 months after the date on which the individual first ceases to meet the requirements for being considered an unmarried dependent child under section 1072(2)(D) of this title.

"(2) Notwithstanding paragraph (1)(B), if a person ceases to meet the requirements for being considered an unmarried dependent child of a member described in subsection (b)(1) during a period of continued coverage of that member for self and dependents under this section, extended coverage of that person under this section may not extend beyond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078 the following new item:

"1078a. Continued health benefits coverage.".

(b) TRANSITIONAL PROVISIONS.—The Director of the Office of Personnel Management shall provide a period for the enrollment for health benefits coverage under this section by members and former members of the Armed Services for whom the availability of transitional health care under section 1145(a) of title 10, United States Code, expires before section 1078a of such title, as added by subsection (a), is implemented.

(c) TERMINATION OF APPLICABILITY OF OTHER CONVERSION HEALTH POLICIES.—(1) No person may purchase a conversion health policy under section or 1145(b) of title 10, United States Code, on or after the date on which the Director of the Office of Personnel Management announces that section 1078a of such title is implemented. A person covered by such a conversion health policy on that date may cancel that policy and enroll in a health benefits plan under section 1078a of such title.

(2) No person may be covered concurrently by a conversion health policy under such section 1145(b) of title 10, United States Code, and a health benefits plan under section 1078a of such title.

(d) EFFECTIVE DATE.—Section 1078a of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1992.

Subtitle E—Guard and Reserve Transition Initiatives

SEC. 541. FORCE REDUCTION TRANSITION PERIOD DEFINED.

In this subtitle, the term "force reduction transition period" means the period beginning on October 1, 1991, and ending on September 30, 1995.

SEC. 542. MEMBER OF SELECTED RESERVE DEFINED.

In this subtitle, the term "member of the Selected Reserve" means—

(1) a member of a unit in the Selected Reserve of the Ready Reserve; and

(2) a Reserve designated pursuant to section 268(b) of title 10, United States Code.

SEC. 543. RESTRICTION ON RESERVE FORCE REDUCTION.

(a) IN GENERAL.—During the force reduction transition period, no unit in the Selected Reserve of the Ready Reserve of the Armed Forces may be inactivated and no member of the Selected Reserve may be involuntarily discharged from a reserve component of the Armed Forces or involuntarily transferred from the Selected Reserve before the Secretary of Defense has promulgated, implemented, and transmitted to the Committees on Armed Services of the Senate and House of Representatives regulations that govern the treatment of members of the Selected Reserve assigned to such units and members of the Selected Reserve that are being subjected to such actions.

(b) SAVINGS PROVISION.—Subsection (a) shall not apply to actions completed before the date of the enactment of this Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the prohibition in section 411(c).

SEC. 544. TRANSITION PLAN REQUIREMENTS.

(a) PURPOSE OF PLAN.—The purpose of the regulations referred to in section 543 shall be to ensure that the members of the Selected Reserve are treated with fairness, with respect for their service to their country, and with attention to the adverse personal consequences of Selected Reserve unit inactivations, involuntary discharges of such members from the reserve components of the Armed Forces, and involuntary transfers of such members from the Selected Reserve.

(b) SCOPE OF PLAN.—The regulations shall include—

(1) such provisions as are necessary to implement the provisions of this subtitle and the amendments made by this subtitle; and

(2) such other policies and procedures for the recruitment of personnel for service in the Selected Reserve of the Ready Reserve, and for the reassignment, retraining, separation, and retirement of members of the Selected Reserve, as are appropriate for satisfying the needs of the Selected Reserve together with the purpose set out in subsection (a).

(c) MINIMUM REQUIREMENTS FOR PLAN.—The regulations shall include the following:

(1) The giving of a priority to personnel referred to in section 543(a) for reassignment to Selected Reserve units not being inactivated.

(2) The giving of a priority to such personnel for transfer among the reserve components of the Armed Forces in order to facilitate reassignment to such units.

(3) A requirement that the Secretaries of the military departments take diligent actions to ensure that members of the reserve components of the Armed Forces are informed in easily understandable terms of the rights and benefits conferred upon such personnel by this subtitle, by the amendments made by this subtitle, and by such regulations.

(4) Such other protections, preferences, and benefits as the Secretary of Defense considers appropriate.

(d) UNIFORM APPLICABILITY.—The regulations shall apply uniformly to the Army, Navy, Air Force, and Marine Corps.

SEC. 545. INAPPLICABILITY TO CERTAIN DISCHARGES AND TRANSFERS.

The protections, preferences, and benefits provided for in regulations prescribed in accordance with this subtitle do not apply with respect to a member of the Selected Reserve who is discharged from a reserve component of the Armed Forces or is transferred from the Selected Reserve to another category of the Ready Reserve, to the Standby Reserve, or to the Retired Reserve—

(1) at the request of the member unless such request was made and approved under a provision of this subtitle or section 1331a of title 10, United States Code (as added by section 547);

(2) because the member no longer meets the qualifications for membership in the Selected Reserve set forth in any provision of law as in effect on the day before the date of the enactment of this Act;

(3) under adverse conditions, as characterized by the Secretary of the military department concerned; or

(4) if the member—

(A) is immediately eligible for retired pay based on military service under any provision of law;

(B) is serving as a military technician, as defined in section 8401(30) of title 5, United States Code, and would be immediately eligible for an unreduced annuity under the provisions of subchapter III of chapter 83 of such title, relating to the Civil Service Retirement and Disability System, or the provisions of chapter 84 of such title, relating to the Federal Employees' Retirement System; or

(C) is eligible for separation pay under section 1174 of title 10, United States Code.

SEC. 546. FORCE REDUCTION PERIOD RETIREMENTS.

(a) TEMPORARY SPECIAL AUTHORITY.—During the period referred to in subsection (b), the Secretary concerned may grant a member of the Selected Reserve under the age of 60 years the annual payments provided for under this section if—

(1) as of October 1, 1991, that member has completed at least 20 years of service computed under section 1332 of title 10, United States Code, or after that date and before October 1, 1995, such member completes 20 years of service computed under that section;

(2) the member satisfies the requirements of paragraphs (3) and (4) of section 1331(a) of title 10, United States Code; and

(3) the member applies for transfer to the Retired Reserve—

(A) in the case of a member who has not received the notice required by section 1331(d) of that title before the date of the enactment of this Act, within one year after receiving such notice; and

(B) in the case of a member who received such a notice before the date of the enactment of this Act, within one year after that date.

(b) PERIOD OF APPLICABILITY.—The period referred to in subsection (a) is, with respect to a member of the Selected Reserve, the force reduction transition period, the period provided under paragraph (3) of that subsection for the member to submit an application, and the period necessary for taking action on that application.

(c) ANNUAL PAYMENT PERIOD.—An annual payment granted to a member under this section shall be paid for 5 years, except that if the member attains 60 years of age during the 5-year period the entitlement to the annual payment shall terminate on the member's 60th birthday.

(d) COMPUTATION OF ANNUAL PAYMENT.—(1) The annual payment for a member shall be equal to the amount determined by multiplying the product of 12 and the applicable percent under paragraph (2) by the monthly basic pay to which the member would be entitled if the member were serving on active duty as of the date the member is transferred to the Retired Reserve.

(2)(A) Subject to subparagraph (B) the percent applicable to a member for purposes of paragraph (1) is 5 percent plus 0.5 percent for each full year of service, computed under section 1332 of title 10, United States Code, that a member has completed in excess of 20 years before transfer to the Retired Reserve.

(B) The maximum percent applicable under this paragraph is 10 percent.

(e) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary concerned may limit the applicability of this section to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a).

(f) NONDUPLICATION OF BENEFITS.—A member transferred to the Retired Reserve under the authority of section 1331a of title 10, United States Code (as added by section 547), may not be paid annual payments under this section.

(g) FUNDING.—To the extent provided in appropriations Acts, payments under this section in a fiscal year shall be made out of amounts available to the Department of Defense for that fiscal year for the pay of reserve component personnel.

(h) HEALTH CARE BENEFITS.—A member of the Retired Reserve receiving annual payments under this section shall be treated as a member of the uniformed services entitled to retired or retainer pay for the purposes of the provisions of chapter 55 of title 10, United States Code.

SEC. 547. RETIREMENT WITH 15 YEARS OF SERVICE.

(a) AUTHORITY.—Chapter 67 of title 10, United States Code, is amended by inserting after section 1331 the following new section:

"§ 1331a. Temporary special retirement qualification authority

"(a) RETIREMENT WITH AT LEAST 15 YEARS OF SERVICE.—For the purposes of section 1331 of this title, the Secretary of a military department may—

"(1) during the period described in subsection (b), determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

"(A) as of October 1, 1991, has completed at least 15, and less than 20, years of service computed under section 1332 of this title; or

"(B) after that date and before October 1, 1995, completes 15 years of service computed under that section; and

"(2) upon the request of the member submitted to the Secretary within one year after the date of the notification referred to in paragraph (1), transfer the member to the Retired Reserve.

"(b) PERIOD OF AUTHORITY.—The period referred to in subsection (a)(1) is the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993 and ending on October 1, 1995.

"(c) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) The Secretary of the military department concerned may limit the applicability of subsection (a) to any category of personnel defined by the Secretary in order to meet a need of the armed force under the jurisdiction of the Secretary to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

"(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a) of the National Defense Authorization Act for Fiscal Year 1993.

"(d) EXCLUSION.—This section does not apply to persons referred to in section 1331(c) of this title.

"(e) REGULATIONS.—The authority provided in this section shall be subject to regulations prescribed by the Secretary of Defense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1331 the following new item:

"1331a. Temporary special retirement qualification authority.".

SEC. 548. SEPARATION PAY.

(a) ELIGIBILITY.—Subject to section 545, a member of the Selected Reserve who, after completing at least 6 years of service computed under section 1332 of title 10, United States Code, and before completing 15 years of service computed under that section, is involuntarily discharged from a reserve component of the Armed Forces or is involuntarily transferred from the Selected Reserve is entitled to separation pay.

(b) AMOUNT OF SEPARATION PAY.—(1) The amount of separation pay which may be paid to a person under this section is 15 percent of the product of—

(A) the years of service credited to that person under section 1333 of title 10, United States Code; and

(B) 62 times the daily equivalent of the monthly basic pay to which the person would have been entitled had the person been serving on active duty at the time of the person's discharge or transfer.

(2) In the case of a person who receives separation pay under this section and who later receives basic pay, compensation for inactive duty training, or retired pay under any provision of law, such basic pay, compensation, or retired pay, as the case may be, shall be reduced by 75 percent until the total amount withheld through such reduction equals the total amount of the separation pay received by that person under this section.

(c) RELATIONSHIP TO OTHER SERVICE-RELATED PAY.—Subsections (g) and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations, which shall be uniform for the Army, Navy, Air Force, and Marine Corps, for the administration of this section.

SEC. 549. WAIVER OF CONTINUED SERVICE REQUIREMENT FOR MONTGOMERY GI BILL BENEFITS.

(a) IN GENERAL.—The eligibility of a person referred to in subsection (b)—

(1) to be provided educational assistance under chapter 106 of title 10, United States Code, may not be terminated under section 2134(2) of that title, or

(2) to be provided educational assistance under chapter 30 of title 38, United States Code, may not be terminated under section 3012(a) of that title,

on the basis of the termination of that person's status as a member of the Selected Reserve under the circumstances described in subsection (b).

(b) APPLICABILITY.—Subsection (a) applies to a member of the Selected Reserve who, before completing the years of service in the Selected Reserve agreed to under section 2132(a) of title 10, United States Code, or the years of service required by section 3012(a) of title 38, United States Code, as the case may be, ceases to be a member of the Selected Reserve during the force reduction transition period by reason of the inactivation of his unit of assignment or by reason of involuntarily ceasing to be designated as a member of the Selected Reserve pursuant to section 268(b) of title 10, United States Code.

SEC. 550. COMMISSARY AND EXCHANGE PRIVILEGES.

The Secretary of Defense shall prescribe regulations to authorize a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period to continue to use commissary and exchange stores in the same manner as a member of the Selected Reserve for a period of one year after the later of—

(1) the date on which that person ceases to be a member of the Selected Reserve; or

(2) the date of the enactment of this Act.

SEC. 551. TEMPORARY CONTINUATION OF SERVICEMEN'S GROUP LIFE INSURANCE.

(a) CONTINUED COVERAGE.—For the purposes of section 1968(a) of title 38, United States Code, the 120-day period of coverage provided for under paragraph (4) of such section shall be extended to a 365-day period of coverage in the case of a former member of the Selected Reserve referred to in subsection (b).

(b) ELIGIBILITY.—Subsection (a) applies to a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period and is ready, willing, and able to perform the training described in section 1965(5)(B) of title 38, United States Code.

(c) PAYMENT OF PREMIUMS.—The total amount of the cost attributable to insuring a person under this section shall be paid from any funds available to the Department of Defense for the pay of reserve component personnel that the Secretary of Defense determines appropriate.

(d) IMPLEMENTATION.—The Secretary of Veterans Affairs shall take any contracting and other actions that are necessary to ensure that the provisions of this section are implemented promptly.

SEC. 552. APPLICABILITY AND TERMINATION OF BENEFITS.

(a) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may limit the applicability of a benefit provided under sections 548 through 551 to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a).

(b) Inapplicability to Certain Separations and Reassignments.—Sections 548 through 551 do not apply with respect to personnel who cease to be members of the Selected Reserve under adverse conditions, as characterized by the Secretary of the military department concerned.

(c) Termination of Benefits.—The eligibility of a member of a reserve component of the Armed Forces (after having involuntarily ceased to be a member of the Selected Reserve) to receive benefits and privileges under sections 548 through 551 terminates upon the involuntary separation of such member from the Armed Forces under adverse conditions, as characterized by the Secretary of the military department concerned.

Subtitle F—Other Matters

SEC. 561. RETENTION ON ACTIVE DUTY OF ENLISTED MEMBERS WITHIN TWO YEARS OF ELIGIBILITY FOR RETIREMENT.

(a) In General.—Chapter 59 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1176. Enlisted members: retention after completion of 18 or more, but less than 20, years of service

"(a) Regular Members.—A regular enlisted member who is selected to be involuntarily separated, or whose term of enlistment expires and who is denied reenlistment, and who on the date on which the member is to be discharged is within two years of qualifying for retirement under section 3914 or 8914 of this title, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, shall be retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, unless the member is sooner retired or discharged under any other provision of law.

"(b) Reserve Members.—A reserve enlisted member serving on active duty who is selected to be involuntarily separated, or whose term of enlistment expires and who is denied reenlistment, and who on the date on which the member is to be discharged or released from active duty is entitled to be credited with at least 18 but less than 20 years of service computed under section 1332 of this title, may not be discharged or released from active duty without the member's consent before the earlier of the following:

"(1) If as of the date on which the member is to be discharged or released from active duty the member has at least 18, but less than 19, years of service computed under section 1332 of this title—

"(A) the date on which the member is entitled to be credited with 20 years of service computed under section 1332 of this title; or

"(B) the third anniversary of the date on which the member would otherwise be discharged or released from active duty.

"(2) If as of the date on which the member is to be discharged or released from active duty the member has at least 19, but less than 20, years of service computed under section 1332 of this title—

"(A) the date on which the member is entitled to be credited with 20 years of service computed under section 1332 of this title; or

"(B) the second anniversary of the date on which the member would otherwise be discharged or released from active duty.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1176. Enlisted members: retention after completion of 18 or more, but less than 20, years of service.".

SEC. 562. LIMITATIONS ON ENLISTED AIDES.

(a) Limitation on Number.—Subsection (b) of section 981 of title 10, United States Code, is amended by striking out "300" and inserting in lieu thereof "240".

(b) Limitation on Assignments.—Section 981 of such title is amended by adding at the end the following new subsection:

"(c) An enlisted member may be assigned or otherwise detailed to duty as an enlisted aide on the personal staff of an officer only if the officer is serving in the position of a commander.".

(c) Conforming Amendments.—(1) The heading for such section is amended to read as follows:

"§ 981. Limitations on enlisted aides".

(2) The item relating to that section in the table of sections at the beginning of chapter 49 is amended to read as follows:

"981. Limitations on enlisted aides.".

(d) Effective Date.—The amendments made by this section shall take effect on April 1, 1993.

SEC. 563. LIMITATION RELATING TO PERMANENT CHANGES OF STATIONS.

Of the funds appropriated to the Department of Defense for fiscal year 1993 for military personnel, not more than $2,863,110,000 is authorized to be made available for the costs of permanent changes of station.

SEC. 564. REDUCTIONS IN NUMBER OF PERSONNEL CARRYING OUT RECRUITING ACTIVITIES.

The average daily number of members of the Armed Forces serving on full-time active duty or full-time National Guard duty who, as a primary duty, carry out personnel recruiting activities during fiscal year 1994 may not exceed the number equal to 90 percent of the average daily number of members of the Armed Forces who, as a primary duty, carried out personnel recruiting activities while serving on full-time active duty or full-time National Guard duty during fiscal year 1992. The Secretary of Defense shall ensure that the number of such personnel who, as a primary duty, carry out such activities is reduced appropriately in fiscal year 1993 to achieve the reduction required for fiscal year 1994.

SEC. 565. JUNIOR RESERVE OFFICER TRAINING CORPS.

(a) Reorganization of Text.—Subsection (a) of section 2031 of title 10, United States Code, is amended by redesignating the first, second, and third sentences as paragraphs (1), (3), and (4), respectively.

(b) Purpose of Program.—Subsection (a) of such section, as amended by subsection (a) of this section, is further amended by inserting after paragraph (1) the following new paragraph (2):

"(2) It is a purpose of the Junior Reserve Officers' Training Corps to instill in students in United States secondary educational institutions the values of citizenship, service to the United States, and personal responsibility, and an appreciation of self-worth.".

(c) Increased Limitation on Number of Units.—Paragraph (3) of section 2031(a) of title 10, United States Code, as designated by subsection (a) of this section, is amended to read as follows:

"(3) The total number of units which may be established and maintained by all of the military departments under authority of this section may not exceed 3,500.".

(d) Waiver of Pay Contribution by Schools.—Section 2031(d)(1) of such title is amended by adding at the end the following: "The Secretary of the military department concerned may pay the entire additional amount to an institution if the Secretary determines that such action is in the national interest and in the interest of the community of that institution.".

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1993.

(a) Waiver of Section 1009 Adjustment.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1993 shall not be made.

(b) Increase in Basic Pay, BAS, and BAQ.—Effective of January 1, 1993, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3.7 percent.

SEC. 602. TEMPORARY RATES OF BASIC PAY FOR CERTAIN NONCOMMISSIONED OFFICERS AND WARRANT OFFICERS AND FOR CERTAIN COLONELS AND NAVY CAPTAINS.

(a) Rates of Pay.—For months beginning after December 31, 1992, and before October 1, 1995, the rate of monthly basic pay for a member of the uniformed services (entitled to such pay under section 204 of title 37, United States Code) in pay grade E–7, E–8, E–9, W–4, W–5, or O–6 with over 24, but under 26, years of service (computed under section 205 of such title) shall be as follows:

(1) For pay grade E–7, $2,359.30.
(2) For pay grade E–8, $2,639.70.
(3) For pay grade E–9, $2,977.70.
(4) For pay grade W–4, $3,430.90.
(5) For pay grade W–5, $3,827.30.
(6) For pay grade O–6, $5,417.70.

(b) Adjustments.—The rates of monthly basic pay established under subsection (a) shall be adjusted in accordance with section 1009 of title 37, United States Code.

SEC. 603. EXTENSIONS OF AUTHORITIES RELATING TO PAYMENT OF CERTAIN BONUSES AND OTHER SPECIAL PAY.

(a) Reenlistment Bonus for Critical Skills.—Section 308(g) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(b) Enlistment Bonus for Critical Skills.—Section 308a(c) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(c) Aviator Retention Bonus.—Section 301b(a) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(d) Extension of Bonus Authorities for Reserve Enlistments, Reenlistments, Affiliations, and Extensions.—Sections

308b(f), 308c(e), 308e(e), 308h(g), and 308i(i) of title 37, United States Code, are each amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(e) EXTENSION OF SPECIAL PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE ASSIGNED TO HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(f) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1992" and inserting in lieu thereof "October 1, 1993".

(g) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(h) NURSE CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(i) SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(j) EFFECTIVE DATE.—The amendments made by this section shall take effect as of September 30, 1992.

Subtitle B—Other Matters

SEC. 611. REQUIREMENT FOR PROPOSAL ON CONCURRENT PAYMENT OF RETIRED OR RETAINER PAY AND VETERANS' DISABILITY COMPENSATION.

The Secretary of Defense shall—

(1) submit to the congressional defense committees the Secretary's recommendations for legislation—

(A) to permit the concurrent payment to members and former members of the Armed Forces of full retired or retainer pay and full compensation for service-connected disabilities payable under laws administered by the Secretary of Veterans Affairs; or

(B) to ensure by some other means that members and former members of the Armed Forces entitled to retired or retainer pay are not financially penalized by being entitled to compensation for service-connected disabilities payable under such laws; and

(2) reserve in the legislative contingency fund of the Department of Defense a sufficient amount to ensure the concurrent payment of full retired or retainer pay to members and former members entitled to disability compensation referred to in paragraph (1) in fiscal year 1994 in the event that such legislation is enacted.

SEC. 612. EXPANSION OF REIMBURSABLE ADOPTION EXPENSES.

(a) DEPARTMENT OF DEFENSE PROGRAM.—Section 1052(g) of title 10, United States Code, is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking out "through adoption or by" and inserting in lieu thereof "through adoption, by"; and

(ii) by inserting ", or through a private placement" before the period at the end; and

(B) by striking out the second sentence;

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The term 'qualifying adoptions expenses' does not include any expense incurred—

"(A) for any travel performed outside the United States by an adopting parent, unless such travel—

"(i) is required by law as a condition of a legal adoption in the country of the child's origin, or is otherwise necessary for the purpose of qualifying for the adoption of a child;

"(ii) is necessary for the purpose of assessing the health and status of the child to be adopted; or

"(iii) is necessary for the purpose of escorting the child to be adopted to the United States or the place where the adopting member of the armed forces is stationed; or

"(B) in connection with an adoption arranged in violation of Federal, State, or local law."; and

(4) in paragraph (3), as redesignated by paragraph (2)—

(A) by striking out "and" at the end of subparagraph (C); and

(B) by striking out subparagraph (D) and inserting in lieu thereof the following new subparagraphs:

"(D) medical expenses, including hospital expenses of a newborn infant, for medical care furnished the adopted child before the adoption, and for physical examinations for the adopting parents;

"(E) expenses relating to pregnancy and childbirth for the biological mother, including counseling, transportation, and maternity home costs;

"(F) temporary foster care charges when payment of such charges is required to be made immediately before the child's placement; and

"(G) except as provided in paragraph (2), transportation expenses relating to the adoption.".

(b) COAST GUARD PROGRAM.—Section 514(g) of title 14, United States Code, is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking out "through adoption or by" and inserting in lieu thereof "through adoption, by"; and

(ii) by inserting ", or through a private placement" before the period at the end; and

(B) by striking out the second sentence;

(2) by redesignating paragraph (2) as paragraph (3);

(3) by inserting after paragraph (1) the following new paragraph (2):

"(2) The term 'qualifying adoptions expenses' does not include any expense incurred—

"(A) for any travel performed outside the United States by an adopting parent, unless such travel—

"(i) is required by law as a condition of a legal adoption in the country of the child's origin, or is otherwise necessary for the purpose of qualifying for the adoption of a child;

"(ii) is necessary for the purpose of assessing the health and status of the child to be adopted; or

"(iii) is necessary for the purpose of escorting the child to be adopted to the United States or the place where the adopting member of the Armed Forces is stationed; or

"(B) in connection with an adoption arranged in violation of Federal, State, or local law."; and

(4) in paragraph (3), as redesignated by paragraph (2)—

(A) by striking out "and" at the end of subparagraph (C); and

(B) by striking out subparagraph (D) and inserting in lieu thereof the following new subparagraphs:

"(D) medical expenses, including hospital expenses of a newborn infant, for medical care furnished the adopted child before the adoption, and for physical examinations for the adopting parents;

"(E) expenses relating to pregnancy and childbirth for the biological mother, including counseling, transportation, and maternity home costs;

"(F) temporary foster care charges when payment of such charges is required to be made immediately before the child's placement; and

"(G) except as provided in paragraph (2), transportation expenses relating to the adoption.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as of October 1, 1990, and shall apply to qualifying adoption expenses incurred on or after that date for adoption proceedings initiated on or after that date.

SEC. 613. PROHIBITION ON THE ASSERTION OF LIENS ON PERSONAL PROPERTY BEING TRANSPORTED AT GOVERNMENT EXPENSE.

(a) TITLE 37.—Section 406 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(n) No carrier, port agent, warehouseman, freight forwarder, or other person involved in the transportation of property may have any lien on, or hold, impound, or otherwise interfere with, the movement of baggage and household goods being transported under this section.".

(b) TITLE 10.—Section 2634 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) No carrier, port agent, warehouseman, freight forwarder, or other person involved in the transportation of property may have any lien on, or hold, impound, or otherwise interfere with, the movement of a motor vehicle being transported under this section.".

SEC. 614. ADVANCE PAYMENTS IN CONNECTION WITH EVACUATIONS OF PERSONNEL.

(a) EXPANDED AUTHORITY.—Section 1006(c) of title 37, United States Code, is amended by striking out the first and second sentences and inserting in lieu thereof the following: "Under regulations prescribed by the Secretary concerned, an advance of pay to a member of a uniformed service who is on duty outside the United States, or other place designated by the President, of not more than 2 month's basic pay may be made to a member if the member or his dependents are ordered evacuated by competent authority. An advance of pay under this subsection is not subject to the conditions under which advances of pay may be made under subsection (a) or (b). An advance may be made on the basis of the evacuation of a member's dependents only if all dependents of members of the uniformed services are ordered evacuated from the place where the member's dependents are located. In the case of a member with dependents, the payment may be made directly to dependents previously designated by the member.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to evacuations on or after June 1, 1991.

SEC. 615. INCREASE IN RECOMPUTED RETIRED PAY FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.

(a) MEMBERS INITIALLY ACCESSED BEFORE SEPTEMBER 8, 1980.—Section 1402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) In the case of a member who is entitled to recompute retired pay under this section upon release from active duty served after retiring under section 3914 or 8914 of this title, the member's retired pay as recomputed under another provision of this section shall be increased by 10 percent of the amount so recomputed if the member has been credited by the Secretary concerned with extraordinary heroism in the line of duty during any period of active duty service in the armed forces.

"(2) The amount of the retired pay as recomputed under another provision of this section and as increased under paragraph (1) may not exceed the amount equal to 75 percent of the monthly rate of basic pay upon which the recomputation of such retired pay is based.

"(3) The determination of the Secretary concerned as to extraordinary heroism is conclusive for all purposes.".

(b) MEMBERS INITIALLY ACCESSED AFTER SEPTEMBER 7, 1980.—Section 1402a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) ADDITIONAL 10 PERCENT FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.—(1) In the case of a member who is entitled to recompute retired pay under this section upon release from active duty served after retiring under section 3914 or 8914 of this title, the member's retired pay as recomputed under another provision of this section shall be increased by 10 percent of the amount so recomputed if the member has been credited by the Secretary concerned with extraordinary heroism in the line of duty during any period of active duty service in the armed forces.

"(2) The amount of the retired pay as recomputed under another provision of this section and as increased under paragraph (1) may not exceed the amount equal to 75 percent of the retired pay base upon which the recomputation of such retired pay is based.

"(3) The determination of the Secretary concerned as to extraordinary heroism is conclusive for all purposes.".

(c) PROSPECTIVE APPLICABILITY.—No benefits shall accrue for months beginning before the date of the enactment of this Act by reason of the amendments made by this section.

SEC. 616. AUTHORIZED BENEFITS UNDER SPECIAL SEPARATION BENEFITS PROGRAMS.

(a) TRAVEL AND TRANSPORTATION BENEFITS.—Subsection (b)(2)(B) of section 1174a of title 10, United States Code, is amended by inserting after "chapter 58 of this title" the following: ", sections 404 and 406 of title 37, and section 503(c) of the National Defense Authorization Act for Fiscal Year 1991 (104 Stat. 1558; 37 U.S.C. 406 note)".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of December 5, 1991.

SEC. 617. RETIRED PAY FOR PERSONS WHO WERE RESERVES OF AN ARMED FORCE BEFORE AUGUST 16, 1945.

(a) ELIGIBILITY FOR RETIRED PAY FOR NONREGULAR SERVICE.—Section 1331(c) of title 10, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(3) he performed at least 20 years of service (computed under section 1332 of this title) after August 15, 1945.".

(b) EXCLUSION OF CERTAIN SERVICE FOR PURPOSES OF DETERMINING ENTITLEMENT FOR RETIRED PAY.—Section 1332(b) of such title is amended by adding at the end the following new paragraph:

"(8) Service before August 16, 1945, if eligibility for retired pay is based on section 1331(c)(3) of this title.".

(c) EXCLUSION OF CERTAIN SERVICE FOR PURPOSES OF COMPUTING RETIRED PAY.—Section 1333 of such title is amended—

(1) by striking out "For" and inserting in place thereof "(a) Except as provided in subsection (b), for"; and

(2) by adding the following new subsection:

"(b) Service before August 16, 1945, may not be counted under subsection (a) if eligibility for retired pay is based on section 1331(c)(3) of this title.".

SEC. 618. REFERENCES RELATING TO TRAVEL AND TRANSPORTATION BENEFITS.

Section 404(e) of title 37, United States Code, is amended—

(1) by striking out "Military Airlift Command" and inserting in lieu thereof "Air Mobility Command"; and

(2) by striking out "or Naval Aircraft Ferrying Squadrons," and inserting in lieu thereof "Naval Aircraft Ferrying Squadrons, or any other unit determined by the Secretary concerned to be performing duties similar to the duties performed by such command or squadrons,".

SEC. 619. SUBSISTENCE REIMBURSEMENT RELATING TO ESCORTS OF FOREIGN ARMS CONTROL INSPECTION TEAMS.

(a) TRAVEL ALLOWANCE.—(1) Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 434. Subsistence reimbursement relating to escorts of foreign arms control inspection teams

"(a) Under uniform regulations prescribed by the Secretaries concerned, a member of the armed forces may be reimbursed for the reasonable cost of subsistence incurred by the member while performing duties as an escort of an arms control inspection team of a foreign country, or any member of such a team, while the team or the team member, as the case may be, is engaged in activities related to the implementation of an arms control treaty or agreement.

"(b) The authority under subsection (a) applies to the period during which the inspection team, pursuant to authority specifically provided in the applicable arms control treaty or agreement, is in the country where inspections and related activities are being conducted by the team pursuant to that treaty or agreement.

"(c) The authority under subsection (a) applies to a member of the armed forces whether the duties referred to in that subsection are performed at, near, or away from the member's permanent duty station.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by adding at the end the following new item:

"434. Subsistence reimbursement relating to escorts of foreign arms control inspection teams.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to duty performed on or after the date of the enactment of this Act.

TITLE VII—HEALTH CARE PROVISIONS

SEC. 701. APPOINTMENT OF CHIROPRACTORS AS COMMISSIONED OFFICERS.

(a) ARMY.—(1) Section 3068(a)(5) of title 10, United States Code, is amended—

(A) by striking out "and" at the end of subparagraph (D);

(B) by redesignating subparagraph (E) as subparagraph (F); and

(C) by inserting after subparagraph (D) the following new subparagraph:

"(E) the Chiropractic Section; and".

(2)(A) Chapter 335 of title 10, United States Code, is amended by inserting after section 3283 the following new section 3284:

"§ 3284. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Army may be appointed a regular commissioned officer in the Medical Service Corps of the Army.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3283 the following new item:

"3284. Appointment of chiropractors as commissioned officers.".

(3)(A) Chapter 337 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 3397. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Army may be appointed a reserve commissioned officer in the Medical Service Corps of the Army.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3396 the following new item:

"3397. Appointment of chiropractors as commissioned officers.".

(b) NAVY.—(1) Chapter 539 of such title is amended by inserting after the table of sections for such chapter the following new section 5571:

"§ 5571. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Navy may be appointed a regular commissioned officer or a reserve commissioned officer in the Medical Corps of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by inserting above the item relating to section 5582 the following new item:

"5571. Appointment of chiropractors as commissioned officers.".

(c) AIR FORCE.—(1) Section 8067 of such title is amended—

(A) by redesignating subsections (g), (h), and (i) as subsections (h), (i), and (j), respectively; and

(B) by inserting after subsection (f) the following new subsection (g):

"(g) Chiropractic functions in the Air Force shall be performed by commissioned officers of the Air Force who are qualified under regulations prescribed by the Secretary and who are designated as chiropractic officers.".

(2)(A) Chapter 835 of title 10, United States Code, is amended by inserting after section 8281 the following new section 8284:

"§ 8284. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the Air Force may be appointed a regular commissioned officer in the Air Force for designation as a chiropractic officer.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8281 the following new item:

"8284. Appointment of chiropractors as commissioned officers.".

(3)(A) Chapter 837 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 8397. Appointment of chiropractors as commissioned officers

"A chiropractor who is qualified under regulations prescribed by the Secretary of the

Air Force may be appointed a reserve commissioned officer in the Air Force for designation as a chiropractic officer.".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8396 the following new item:

"8397. Appointment of chiropractors as commissioned officers.".

(4) Section 8579 of such title is amended—

(A) by striking out "or biomedical sciences officer" and inserting in lieu thereof "biomedical sciences, or chiropractic officer"; and

(B) by striking out "or (i) of section 8067" and inserting in lieu thereof "(g), or (j) of section 8067".

(5) Section 8848(b) of such title is amended by striking out "section 8067 (a)-(d) or (g)-(i)" and inserting in lieu thereof "any of subsections (a) through (d) or (g) through (j) of section 8067".

SEC. 702. REVISIONS TO DEPENDENTS' DENTAL PROGRAM UNDER CHAMPUS.

(a) Repeal of Authority To Establish Supplemental Plans.—Section 1076a of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out "and supplemental" in the first sentence; and

(B) by striking out the last sentence;

(2) in subsection (b), by striking out paragraph (3);

(3) in subsection (d)—

(A) by striking out paragraph (2);

(B) by striking out "(1)" before "A basic"; and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(4) by striking out subsection (e) and inserting in lieu thereof the following:

"(e) Copayments.—A member whose spouse or child receives care under a basic dental benefits plan shall—

"(1) pay no charge for care described in subsection (d)(1); and

"(2) pay 20 percent of the charges for care described in subsection (d)(2).".

(b) Premium Increase.—Subsection (b)(2) of such section is amended by striking out "$10" and inserting in lieu thereof "$20".

(c) Improvement in Benefits.—Subsection (d) of such section, as amended by subsection (a)(3) of this section, is further amended by adding at the end the following new paragraph:

"(3) Orthodontic services, crowns, gold fillings, bridges, and complete or partial dentures.".

(d) Copayment for Additional Benefits.—Subsection (e) of such section, as amended by subsection (a)(4) of this section, is further amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(3) pay a percentage of the charges for care described in subsection (d)(3) that is determined appropriate by the Secretary of Defense, after consultation with the other administering Secretaries.".

(e) Program of Improved Dependents' Dental Benefits.—(1) The Secretary of Defense, after consulting with the other administering Secretaries, shall devise and implement a program for the improvement of the provision of dental benefits to dependents of members of the Armed Forces under the Civilian Health and Medical Program of the Uniformed Services.

(2) In this subsection:

(A) The term "administering Secretaries" has the meaning given such term in section 1072(3) of title 10, United States Code.

(B) The term "Civilian Health and Medical Program of the Uniformed Services" has the meaning given that term in section 1072(4) of such title.

(3) Of the funds authorized to be appropriated in section 301, $80,000,000 shall be available to the Secretary of Defense for carrying out paragraph (1).

(f) Effective Dates and Savings Provision.—(1) The amendments made by subsections (a) and (b) shall take effect on the first day of the first month that begins after the date of the enactment of this Act. The amendments made by subsections (c) and (d) shall take effect on the date of the enactment of this Act.

(2) Spouses and children who, on the day before the date of the enactment of this Act, are covered by enrollments in supplemental dental benefits plans established under section 1076a of title 10, United States Code, may continue to receive benefits under such plan until the first day of the sixth month that begins after such date, subject to the premium requirement provided in paragraph (3) of section 1076a of title 10, United States Code, as such paragraph was in effect on the day before the effective date of the amendments made by subsection (a).

SEC. 703. SENSE OF CONGRESS REGARDING HEALTH CARE POLICY FOR THE UNIFORMED SERVICES.

It is the sense of Congress that—

(1) members and former members of the uniformed services, and their dependents and survivors, should have access to health care under the health care delivery system of the uniformed services regardless of the age or health care status of the person seeking the health care;

(2) such health care delivery system should include a comprehensive managed care plan;

(3) the comprehensive managed care plan should involve medical personnel of the uniformed services (including reserve component personnel), civilian health care professionals of the executive agency of such uniformed services, medical treatment facilities of the uniformed services, contract health care personnel, and the medicare system;

(4) the Secretary of Defense, the Secretary of Health and Human Services, and the Secretary of Transportation should continue to provide active duty personnel of the uniformed services with free care in medical treatment facilities of the uniformed services and to provide the other personnel referred to in paragraph (1) with health care at minimal cost to the recipients of the care; and

(5) the Secretaries referred to in paragraph (4) should offer additional health care options to the personnel referred to in paragraph (1) including, in the case of persons eligible for medicare under title XVIII of the Social Security Act, options providing for—

(A) the reimbursement of the Department of Defense by the Secretary of Health and Human Services for health care services provided such personnel at medical treatment facilities of the Department of Defense; and

(B) the sharing of the payment of the costs of contract health care by the Department of Defense and the Department of Health and Human Services, with one such department being the primary payer of such costs and the other such department being the secondary payer of such costs.

SEC. 704. MILITARY HEALTH CARE FOR PERSONS RELIANT ON HEALTH CARE FACILITIES AT BASES BEING CLOSED AND REALIGNED.

(a) Establishment.—The Secretary of Defense shall establish a joint services working group on the provision of military health care to persons who rely for health care on health care facilities at military installations being closed or realigned.

(b) Membership.—The members of the working group shall include the Assistant Secretary of Defense for Health Affairs, the Surgeon General of the Army, the Surgeon General of the Navy, the Surgeon General of the Air Force, or a designee of each such person, and one independent member appointed by the Secretary of Defense from among private citizens whose interest in matters within the responsibility of the working group qualify that person to represent all personnel entitled to health care under chapter 55 of title 10, United States Code.

(c) Duties.—(1) In the case of each closure or realignment of a military installation that will adversely affect the accessibility of health care in a facility of the uniformed services for persons entitled to such health care under chapter 55 of title 10, United States Code, the working group shall solicit the views of such persons regarding suitable substitutes for the furnishing of health care to those persons under that chapter.

(2) In carrying out paragraph (1), the working group—

(A) shall conduct meetings with persons referred to in that paragraph, or representatives of such persons;

(B) may use reliable sampling techniques;

(C) shall visit the areas where closures and realignments of military installations will adversely affect the accessibility of health care in a facility of the uniformed services for persons referred to in paragraph (1) and shall conduct public meetings; and

(D) shall ensure that members of the uniformed services on active duty, members and former members of the uniformed services entitled to retired or retainer pay, and dependents and survivors of such members and retired personnel are afforded the opportunity to express views.

(d) Recommendations.—With respect to each closure and realignment of a military installation referred to in subsection (c), the working group shall submit to the Congress and the Secretary of Defense the working group's recommendations regarding the alternative means for continuing to provide accessible health care under chapter 55 of title 10, United States Code, to persons referred to in that subsection.

(e) Application of Advisory Committee Act.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the joint services working group established pursuant to this section.

SEC. 705. PROGRAMS RELATING TO THE SALE OF PHARMACEUTICALS.

(a) Pharmaceuticals by Mail.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense, in consultation with the administering Secretaries, shall—

(1) establish a program that permits eligible persons to obtain prescription pharmaceuticals by mail in connection with medical care furnished to such persons under chapter 55 of title 10, United States Code; and

(2) conduct the program in two or more regions selected by the Secretary, each of which consists of two or more States.

(b) Retail Pharmacy Network.—(1) Not later than 18 months after such date, the Secretary of Defense, in consultation with the administering Secretaries, shall carry out the demonstration project described in paragraph (2).

(2) Under the demonstration project, the Secretary shall enter into one or more contracts or otherwise provide for the supply of prescription pharmaceuticals to eligible persons through a network of local retail pharmacies. The Secretary shall carry out the demonstration project in a region (selected by the Secretary) consisting of two or more States.

(c) Eligible Persons.—A person eligible to obtain pharmaceuticals under the program under subsection (a) or the demonstration project under subsection (b) is any person living in a State covered by the program or project who—

(1) is entitled to medical care under a contract for medical care entered into by the Secretary of Defense under section 1079 or 1086 of title 10, United States Code; or

(2) is over 65 years of age and resides in an area (as determined by the Secretary) that is affected by the closure of a health care facility of the uniformed services as a result of the closure or realignment of the military installation at which such facility is located.

(d) Purchase Fees.—(1) The Secretary of Defense, in consultation with the administering Secretaries, shall determine for the program and the demonstration project—

(A) subject to paragraph (2), the pharmaceuticals that may be obtained by eligible persons under the program or the demonstration project; and

(B) an appropriate fee, charge, or copayment to be paid by such persons for such pharmaceuticals obtained under the program or demonstration project.

(2) The Secretary shall, to the maximum extent practicable, ensure that the pharmaceuticals obtained under the program and the project are generic pharmaceuticals. The Secretary may provide that name brand pharmaceuticals be obtained in such circumstances as the Secretary of Defense determines appropriate.

(e) Report.—Not later than 2 years after the establishment of the program under subsection (a) and the demonstration project under subsection (b), the Secretary of Defense shall submit to Congress a report on the following:

(1) In the case of the program, the results of the program, recommendations, if any, for revision of the program, and a plan (including a schedule) for implementing the program throughout the United States.

(2) In the case of the demonstration project, the results of the project and the recommendations of the Secretary with respect to the advisability of making the project permanent.

(f) Definitions.—In this section, the terms "uniformed services" and "administering Secretaries" have the meanings given those terms in section 1072 of title 10, United States Code.

SEC. 706. ANNUAL BENEFICIARY SURVEY.

The administering Secretaries referred to in section 1072 of title 10, United States Code, shall conduct annually a formal survey of persons receiving health care under chapter 55 of such title in order to determine the following:

(1) The availability of health care services to such persons through the health care system provided for under that chapter, the types of services received, and the facilities in which the services were provided.

(2) The familiarity of such persons with the services available under that system and with the facilities in which such services are provided.

(3) The health of such persons.

(4) The level of satisfaction of such persons with that system and the quality of the health care provided through that system.

(5) Such other matters as the administering Secretaries determine appropriate.

SEC. 707. MAXIMUM ANNUAL AMOUNT FOR DEDUCTIBLES AND COPAYMENTS.

(a) Reduced Maximum Annual Amount.—Section 1086(b)(4) of title 10, United States Code, is amended by striking out "$10,000" and inserting in lieu thereof "$7,500".

(b) Applicability After Fiscal Year 1992.—The amendment made by subsection (a) shall apply with respect to fiscal years beginning after September 30, 1992.

SEC. 708. CONTINUATION OF CHAMPUS COVERAGE FOR CERTAIN MEDICARE PARTICIPANTS.

(a) Inclusion of End Stage Renal Disease Patients.—Section 1086(d)(2)(A) of title 10, United States Code, is amended by inserting before the semicolon the following: "or section 226A(a) of such Act (42 U.S.C. 426–1(a))".

(b) Coverage of Care Provided Since September 30, 1991.—The amendment made by subsection (a), and the amendment made by section 704(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1401), shall apply with respect to health care benefits or services received after September 30, 1991, by a person described in subsection (d)(2) of section 1086 of title 10, United States Code, if such benefits or services would have been covered under a plan contracted for under such section 1086.

(c) Conforming Amendments.—(1) Section 704 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1401) is amended by striking out subsection (c).

(2) Section 8097 of the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1197), is repealed.

SEC. 709. HOME HEALTH SERVICES UNDER CHAMPUS.

(a) Eligibility.—Section 1079(a) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (15):

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(17) home health services and other services (including services described in paragraphs (1) through (16)) in connection with extraordinary physical or psychological conditions may be provided only through a program of individualized case management established by the Secretary of Defense and in a manner determined (under regulations prescribed by the Secretary) to be cost-effective and appropriate.".

(b) Conforming Amendment.—Section 1077 of such title is amended—

(1) by adding at the end of subsection (a) the following new paragraph:

"(15) Home health services."; and

(2) in subsection (b), by striking out "The following" and inserting in lieu thereof "Except as provided in subsection (a)(15), the following".

SEC. 710. STUDY ON RISK-SHARING CONTRACTS FOR HEALTH CARE.

Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall—

(1) carry out a study of the feasibility and advisability of entering into risk-sharing contracts with eligible organizations described in section 1876 of the Social Security Act (42 U.S.C. 1395mm) to furnish health care services to persons entitled to health care in a facility of a uniformed service under section 1074(b) or 1076(b) of title 10, United States Code;

(2) if the Secretary determines that entry into such contracts is feasible and advisable, develop a plan for the entry into such contracts in accordance with the Secretary's determinations under the study; and

(3) submit to Congress a report on the results of the study and on the plan.

SEC. 711. COMPREHENSIVE STUDY OF THE MILITARY MEDICAL CARE SYSTEM.

Section 733 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (10 U.S.C. 1071 note) is amended—

(1) in subsection (b), by inserting after paragraph (2) the following new paragraph:

"(3) A comprehensive review of the Federal employees health benefits program under chapter 89 of title 5, United States Code, in order to determine whether furnishing health care under a similar program to persons entitled to health care under chapter 55 of title 10, United States Code, would result in the effective provision of health care to such persons and would be cost effective."; and

(2) in subsection (d)—

(A) by redesignating paragraph (12) as paragraph (13); and

(B) by inserting after paragraph (11) the following new paragraph (12):

"(12) A discussion of the results of the review under subsection (b)(3) and the Secretary's recommendations of the basis of those results.".

SEC. 712. NATIONAL CLAIMS PROCESSING CENTER FOR CHAMPUS.

(a) Requirement.—(1) The Secretary of Defense, in consultation with the administering Secretaries, shall provide by contract for the operation of a claims processing center to be known as the "National Centralized Claims Processing System for CHAMPUS". The contract shall provide for the center to commence operations not later than 5 years after the date of the enactment of this Act.

(2) The Secretary shall use competitive procedures for entering into the contract under paragraph (1).

(b) Center Activities.—The claims processing center shall—

(1) maintain in electronic and written form appropriate information on health care services provided to covered beneficiaries by or through third parties under CHAMPUS or any alternative CHAMPUS program or demonstration project, including information on—

(A) the services to which such beneficiaries are entitled or eligible under an insurance plan, medical service plan, or health plan under CHAMPUS;

(B) the insurers, medical services, or health plans that provide such services; and

(C) the services available to beneficiaries under each insurance plan, medical service plan, or health plan, and the payment required of the beneficiaries and the insurer, medical service, or health plan for such services under the plan;

(2) receive in electronic or written form claims submitted by insurers, medical services, and health plans for services provided to covered beneficiaries;

(3) process, adjudicate, and pay (by electronic or other means) such claims; and

(4) provide the information described in paragraphs (1) and (2) and information on the matters referred to in paragraph (3) by telephone or other electronic means to covered

beneficiaries, insurers, medical services, and health plans.

(c) ADDITIONAL REQUIREMENT.—The Secretary shall ensure, to the maximum extent practicable, that claims submitted as described in subsection (b)(2) conform to the requirements applicable to claims submitted to the Secretary of Health and Human Services with respect to medical care provided under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

(d) IDENTIFICATION CARD.—The Secretary shall take appropriate actions to determine whether the use by covered beneficiaries of a standard identification card containing electronically readable information will enhance the capability of the claims processing center to carry out the matters set forth in subsection (b).

(e) DEFINITIONS.—In this section:

(1) The terms "administering Secretaries" and "covered beneficiary" have the meanings given such terms in paragraphs (3) and (5) of section 1072 of title 10, United States Code, respectively.

(2) The term "CHAMPUS" means the Civilian Health and Medical Program of the Uniformed Services, as defined in paragraph (4) of that section.

SEC. 713. ALTERNATIVE HEALTH CARE DELIVERY METHODOLOGIES.

(a) CONTINUATION OF HEALTH CARE REFORM INITIATIVES.—(1) During fiscal years 1993 through 1996, the Secretary of Defense shall continue to test a broad array of reform options for furnishing health care to persons who are eligible to receive health care under chapter 55 of title 10, United States Code.

(2) The health care reform options tested in accordance with paragraph (1) shall include CHAMPUS alternatives, the CHAMPUS Reform Initiative, catchment area management, coordinated care, and such other options as the Secretary of Defense considers appropriate.

(3) During fiscal year 1994, the Secretary shall conduct a study of the health care reform options tested as described in paragraph (1). The study shall compare the cost effectiveness of such options and the extent to which the persons who received health care under those options are satisfied with that health care. The Secretary shall report the results of the study to Congress.

(b) CONTINUATION OF CHAMPUS REFORM INITIATIVE IN HAWAII AND CALIFORNIA.—(1) The Secretary of Defense shall ensure that a replacement or successor contract for the CHAMPUS Reform Initiative contract applicable to California and Hawaii is awarded in sufficient time for the contractor to begin to provide health care in California and Hawaii under the replacement or successor contract not later than August 1, 1993.

(2) The Secretary shall use competitive procedures for awarding a replacement or successor contract under paragraph (1).

(3)(A) Not later than June 1, 1994, the Secretary of Defense shall provide by contract for a person outside the Federal Government to perform an evaluation of the conduct of the CHAMPUS Reform Initiative in Hawaii and California. The evaluation shall cover each of the fiscal years during which the initiative is carried out in such States under the replacement or successor contract referred to in paragraph (1) and under the predecessor contracts. The evaluation shall include a comparison of the cost savings and claims experience resulting in each such fiscal year from carrying out the initiative in such States.

(B) Not later than 1 year after the date on which the contract for evaluation is entered into under subparagraph (A), the person making the evaluation shall submit to the Secretary of Defense and to Congress a report on the results of the evaluation.

(c) INCLUSION OF POSITIVE INCENTIVES FOR ENROLLMENT UNDER THE COORDINATED CARE PROGRAM.—(1) The Secretary of Defense shall modify the Policy Guidelines on the Department of Defense Coordinated Care Program to provide covered beneficiaries with additional positive incentives to enroll in the coordinated care program of the Department of Defense.

(2) The incentives may include—

(A) a reduction of the copayment and deductibles prescribed under sections 1079 and 1086 of title 10, United States Code, for covered beneficiaries who enroll in the coordinated care program;

(B) alternative cost-sharing requirements for certain types of care; and

(C) an expansion of the benefits provided under the coordinated care program beyond the benefits authorized under CHAMPUS.

(2) The modifications required under paragraph (1) shall permit health care demonstration projects in existence on the date of the enactment of this Act (including the CHAMPUS Reform Initiative, the catchment area management projects, the CHAMPUS select fiscal intermediary program in the Southeast Region, and the managed health care programs established in the Tidewater region of Virginia) and future managed care health care incentives undertaken by the Department of Defense to offer covered beneficiaries not enrolled in the coordinated care program the opportunity to use a preferred provider network of health care providers.

(3) In determining what level and types of positive incentives are likely to induce covered beneficiaries to enroll in the coordinated care program, the Secretary shall take into consideration the extent to which covered beneficiaries not enrolled in the program are permitted to choose health care providers without prior referral or approval.

(4) Subject to the availability of space and facilities and the capabilities of the medical or dental staff, the Secretary of Defense may not deny access to military treatment facilities to covered beneficiaries who do not enroll in the coordinated care program. However, the Secretary may establish reasonable admission preferences for covered beneficiaries enrolled in the program as an incentive to encourage enrollment.

(d) DEFINITIONS.—In this section:

(1) The term "CHAMPUS" has the meaning given the term "Civilian Health and Medical Program of the Uniformed Services", as defined in section 1072(4) of title 10, United States Code.

(2) The term "covered beneficiary" has the meaning given that term in section 1072(5) of such title.

(3) The term "CHAMPUS Reform Initiative" has the meaning given that term in section 702(d)(1) of the Department of Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 1073 note).

(4) The term "catchment area management" means the methodology provided for demonstration in accordance with section 731 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (10 U.S.C. 1092 note).

(5) The term "Policy Guidelines on the Department of Defense Coordinated Care Program" means the Policy Guidelines on the Department of Defense Coordinated Care Program that were issued by the Assistant Secretary of Defense for Health Affairs on January 8, 1992.

SEC. 714. MEDICAL AND DENTAL CARE FOR CERTAIN INCAPACITATED DEPENDENTS.

(a) EXCLUSION OF CERTAIN INCAPACITATED DEPENDENTS FROM CHAMPUS COVERAGE.—Section 1086(c) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "and 1072(2)(I)" after "section 1072(2)(E)"; and

(2) in paragraph (2), by inserting "or 1072(2)(I)" after "section 1072(E)".

(b) APPLICABILITY OF EXCLUSION.—Section 1072(2) of title 10, United States Code, is amended—

(1) by striking out subparagraph (D) and inserting in lieu thereof the following:

"(D) an unmarried legitimate child, including an adopted child or stepchild, who—

"(i) has not passed his twenty-first birthday;

"(ii) has not passed his twenty-third birthday, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary and is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support; or

"(iii) is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a member or former member under clause (i) or (ii) and is, or was at the time of the member's or former member's death, in fact dependent on him for over one-half of his support;";

(2) by striking out "and" at the end of subparagraph (G);

(3) by striking out the period at the end of subparagraph (H) and inserting in lieu thereof a semicolon and "and"; and

(4) by inserting after subparagraph (H) the following new subparagraph:

"(I) an unmarried legitimate child, including an adopted child or stepchild, who is incapable of self-support because of a mental or physical incapacity that did not exist while the child was a dependent of a member or former member under subparagraph (D)(i) or (D)(ii) and is, or was at the time of the member's or former member's death, dependent on him for over one-half of his support.".

SEC. 715. REPRODUCTIVE HEALTH SERVICES IN MEDICAL FACILITIES OF THE UNIFORMED SERVICES OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1074c the following new section:

"§ 1074d. Reproductive health services in medical facilities of the uniformed services outside the United States

"(a) PROVISION OF SERVICES.—A member of the uniformed services who is on duty at a station outside the United States (and any dependent of the member who is accompanying the member) is entitled to the provision of any reproductive health service in a medical facility of the uniformed services outside the United States serving that duty station in the same manner as any other type of medical care.

"(b) PAYMENT FOR SERVICES.—(1) In the case of any reproductive health service for which appropriated funds may not be used, the administering Secretary shall require the member of the uniformed service (or dependent of the member) receiving the service to pay the full cost (including indirect costs) of providing the service.

"(2) If payment is made under paragraph (1), appropriated funds shall not be considered to have been used to provide a reproductive health service under subsection (a). The amount of such payment shall be credited to the accounts of the facility at which the service was provided.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1074c the following new item:

"1074d. Reproductive health services in medical facilities of the uniformed services outside the United States.".

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Defense Conversion Policy for the National Defense Technology and Industrial Base

SEC. 801. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE POLICIES AND PLANNING.

(a) POLICIES AND PLANS FOR THE NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE.—Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 134 the following new chapter 135:

"CHAPTER 135—NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE

"Subchapter	Sec.
"I. Policies and Planning	2261
"II. Dual-Use Technologies	2271
"III. Manufacturing Technology	2281
"IV. Miscellaneous Technology Base Policies and Programs	2291
"V. Definitions	2300

"SUBCHAPTER I—POLICIES AND PLANNING

"Sec.
"2261. Policy.
"2262. National Defense Technology and Industrial Base Council.
"2263. National defense technology and industrial base assessment.
"2264. National defense technology and industrial base plan.
"2265. National Defense Program for Analysis of the Technology and Industrial Base.

"§ 2261. Policy

"(a) POLICY OBJECTIVES FOR THE NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE.—It is the policy of Congress that the national defense technology and industrial base be capable of meeting the following national security objectives:

"(1) Supplying and equipping the force structure of the armed forces that is necessary to achieve the objectives set forth in the national security strategy report submitted to Congress by the President pursuant to section 104 of the National Security Act of 1947 (50 U.S.C. 404a), the policy guidance of the Secretary of Defense provided pursuant to section 113(g) of this title, and the multiyear defense program submitted to Congress by the Secretary of Defense pursuant to section 114a of this title.

"(2) Sustaining production, maintenance, repair, and logistics for operations of various durations and intensity.

"(3) Maintaining advanced research and development activities to provide the armed forces with systems capable of ensuring technological superiority over potential adversaries.

"(4) Reconstituting within a reasonable period the capability to develop and produce supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a major war, major national emergency, or major mobilization of the armed forces before the commencement of that war, national emergency, or mobilization.

"(b) POLICY OBJECTIVES RELATING TO DEFENSE CONVERSION.—It is the policy of Congress that the United States seek to achieve the national defense technology and industrial base objectives set forth in subsection (a) through enhanced opportunities for conversion of defense-dependent businesses and industrial and technology base sectors to dual-use capabilities.

"(c) CIVIL-MILITARY INTEGRATION POLICY.—It is the policy of Congress that the United States attain the national defense technology and industrial base objectives set forth in subsection (a) through acquisition policy reforms that have the following objectives:

"(1) Relying, to the maximum extent practicable, upon the commercial national defense technology and industrial base that is required to meet the national security needs of the United States.

"(2) Reducing the reliance of the Department of Defense on technology and industrial sectors that are economically dependent on Department of Defense business.

"(3) Reducing Federal Government barriers to the use of commercial products, processes, and standards.

"§ 2262. National Defense Technology and Industrial Base Council

"(a) ESTABLISHMENT.—There is a National Defense Technology and Industrial Base Council.

"(b) COMPOSITION.—The Council is composed of the following members:

"(1) The Secretary of Defense, who shall serve as Chairman.

"(2) The Secretary of Energy.

"(3) The Secretary of Commerce.

"(c) RESPONSIBILITIES.—The Council shall have the following responsibilities:

"(1) To provide overall policy guidance and direction to the military departments and the Defense Agencies, to ensure effective cooperation among departments and agencies of the Federal Government, and to provide advice and recommendations to the President, the Secretary of Defense, and the Secretary of Energy concerning—

"(A) the capabilities of the national defense technology and industrial base to meet the national security objectives of the United States;

"(B) programs for achieving the defense conversion objectives set forth in section 2261(b) of this title; and

"(C) changes in acquisition policy that strengthen the national defense technology and industrial base.

"(2) To prepare annually the assessment and plan required by sections 2263 and 2264 of this title, respectively.

"§ 2263. National defense technology and industrial base assessment

"(a) COMPREHENSIVE ASSESSMENT.—The National Defense Technology and Industrial Base Council shall prepare a comprehensive annual assessment of the capability of the national defense technology and industrial base to attain each of the objectives set forth in section 2261 of this title.

"(b) SECTOR CAPABILITY ANALYSIS.—(1) The annual assessment shall include a sector capability analysis composed of the following matters:

"(A) An analysis of the role of each sector in attaining each of the objectives set forth in section 2261 of this title.

"(B) An analysis of the current and projected capability of each sector to attain each such objective for each of the following periods:

"(i) The fiscal year during which the assessment is submitted to Congress pursuant to section 2264(1) of this title.

"(ii) The following fiscal year.

"(iii) The multiyear period covered by the multiyear defense program submitted under section 114a of this title during the fiscal year referred to in clause (i).

"(2) The analysis required by paragraph (1)(B) shall include, for each sector for each period described in paragraph (1)(B), an analysis of the present and projected capabilities of prime contractors, subcontractors, the Defense Industrial Reserve under section 2292 of this title, and departments and agencies of the Federal Government with respect to each of the following:

"(A) Research and development, including research and development regarding the critical technologies identified under subsection (f).

"(B) Application of critical technologies to the production of goods and the furnishing of services.

"(C) Test and evaluation.

"(D) Low rate production.

"(E) High volume production.

"(F) Repair and maintenance.

"(G) Design and prototyping.

"(H) Work force skills and capabilities, including improvements that build on the skill and experience of their work force.

"(c) FOREIGN DEPENDENCY CONSIDERATIONS.—In the preparation of the annual assessment the Council shall consider, for each sector, the following factors:

"(1) The availability of essential raw materials, special alloys, composite materials, components, subsystems, production equipment, facilities, special tooling, and production test equipment for—

"(A) the sustained production of systems fully capable of meeting the performance objectives established for those systems;

"(B) the uninterrupted maintenance and repair of such systems; and

"(C) the sustained operation of such systems.

"(2) The identification of items specified in paragraph (1) that are available only from sources outside the national defense technology and industrial base.

"(3)(A) The availability of alternatives for obtaining such items from within the national defense technology and industrial base if such items become unavailable from sources outside the national defense technology and industrial base.

"(B) An analysis of any military vulnerability that could result from the lack of reasonable alternatives.

"(4) The effects on the national defense technology and industrial base that result from foreign acquisition of firms in the United States.

"(d) FINANCIAL CONDITION ANALYSIS.—(1) The assessment shall include an analysis of the present and projected financial condition of each sector, for each period described in subsection (b)(1)(B).

"(2) In the analysis of the financial condition of each sector, the Council shall specifically consider the following matters:

"(A) Trends in the following:

"(i) Profitability.

"(ii) Levels of capital investment.

"(iii) Expenditures on research and development.

"(iv) Levels of debt.

"(B) The effects of actual and potential commercial sales.

"(C) The consequences of mergers, acquisitions, and takeovers.

"(D) The effects of Department of Defense financial policies, including the following:

"(i) Policies relating to progress payments or other financing by the Department of Defense.

"(ii) Policies relating to the return on contractor investment.

"(iii) Policies relating to the allocation of contract risk between the Department of Defense and a contractor.

"(E) The effects of expenditures in the sector by departments and agencies of the Federal Government other than the Department of Defense and the Department of Energy (for national security programs).

"(F) The analysis required by subsection (e).

"(e) Analysis of Impact of Department of Defense Reductions.—(1) The annual assessment shall include an analysis of the impact of the terminations and significant reductions of major research and development programs and procurement programs of the Department of Defense on the capability of each sector to attain each of the objectives set forth in section 2261 of this title.

"(2) The programs referred to in paragraph (1) are those programs in which a termination or significant reduction in expenditures—

"(A) has taken place in the fiscal year before the fiscal year in which the annual assessment is submitted to Congress pursuant to section 2264(l) of this title; or

"(B) is provided for—

"(i) in the budget submitted pursuant to section 1105(a) of title 31 in that fiscal year; and

"(ii) in the multiyear defense program submitted with such budget pursuant to section 114a of this title.

"(3) In this subsection, the term 'significant reduction', with respect to expenditures for a program for a fiscal year, means that the amount provided for that program for that fiscal year in the budget, Acts authorizing appropriations, appropriations Acts, or the multiyear defense program for that fiscal year is less than the amount provided for that program for the preceding fiscal year in the budget, Acts authorizing appropriations, appropriations Acts, or the multiyear defense program, respectively, for that preceding fiscal year by at least—

"(A) the greater of—

"(i) the amount equal to 10 percent of the amount provided for that preceding fiscal year; or

"(ii) $5,000,000; or

"(B) a lesser amount determined significant by the Secretary of Defense or the Council.

"(f) Critical Technology Analysis.—(1) The annual assessment shall include a critical technology analysis that identifies the product and process technologies that are most critical for attaining the technology and industrial base objectives set forth in section 2261 of this title. The number of technologies so identified may not exceed 20. The analysis shall be prepared in consultation with the Critical Technologies Institute.

"(2) For each technology, the analysis shall include the following:

"(A) The reasons for selection of that technology as a technology critical to the Department of Defense.

"(B) The potential dual-use applications of that technology.

"(C) The relationship between the activities of the Department of Defense and other Federal agencies in the development of that technology.

"(D) The potential contributions that the private sector can be expected to make from its own resources in connection with the development of civilian applications for such technology.

"(E) A comparison of the position of the United States to the positions of other nations in the development of that technology, including the potential contributions that other nations can make to meeting the needs of the United States for that technology.

"(g) Sector Viability Analysis.—(1) The annual assessment shall include an analysis, for each of the periods described in subsection (b)(1)(B), of the following matters:

"(A) The extent to which each sector is—

"(i) dependent on defense expenditures to ensure continued viability;

"(ii) dependent on a mix of defense and nondefense Federal Government expenditures to ensure continued viability;

"(iii) dependent on a mix of Federal Government expenditures and other Federal Government programs to ensure continued viability; and

"(iv) sufficiently integrated with the commercial marketplace to ensure continued viability regardless of the level of Federal Government expenditures in the sector.

"(B) The extent to which each sector is capable of—

"(i) ongoing production with a present capability for high volume production;

"(ii) maintenance of a production base that can be converted to high volume production within a reasonable period of time; or

"(iii) reconstitution of a production base that can reinstate high volume production within a reasonable period of time.

"(2) The analysis shall specifically identify any sectors and any entities within sectors that should be considered for inclusion in the Defense Industrial Reserve under section 2292 of this title.

"(3) In this section:

"(A) The term 'defense expenditure' means an expenditure by—

"(i) the Department of Defense; or

"(ii) the Department of Energy for a national security program.

"(B) The term 'continued viability' means the capability to attain the technology and industrial base objectives set forth in section 2261 of this title.

"(h) Issuance.—The Secretary of Defense shall prescribe by regulation a schedule for the completion of the annual assessment that ensures sufficient time for the consideration of the assessment in the preparation of the annual national defense technology and industrial base plan required by section 2264 of this title.

"§ 2264. National defense technology and industrial base plan

"(a) In General.—The National Defense Technology and Industrial Base Council shall prepare an annual plan for ensuring, to the maximum extent practicable, that the policies and programs of the Department of Defense, the Department of Energy, and other departments and agencies of the Federal Government are planned, coordinated, funded, and implemented in a manner designed to attain each of the technology and industrial base objectives set forth in section 2261 of this title. The Council shall take into account the annual national defense technology and industrial base assessment prepared pursuant to section 2263 of this title in preparing the annual plan.

"(b) Sector Viability Guidance.—The plan shall provide specific guidance, including goals, milestones, and priorities, for each of the following:

"(1) Programs and policies of the Federal Government that are necessary to ensure the continued viability of each sector that is identified in the annual assessment as being economically dependent in whole or in part upon Federal Government programs or policies.

"(2) Programs and policies of the Federal Government that are necessary in each such sector—

"(A) to reduce each economic dependency of such sector on foreign sources that could create a military vulnerability; and

"(B) to provide for alternative sources in the event that the foreign sources become unavailable.

"(3) The composition and management of the Defense Industrial Reserve under section 2292 of this title.

"(c) Manufacturing Technology Guidance.—The plan shall provide specific guidance, including goals, milestones, and priorities, for the following:

"(1) The National Defense Manufacturing Technology Program established under section 2281 of this title.

"(2) The support of manufacturing extension programs under section 2283 of this title.

"(3) Programs to enhance basic research in scientific disciplines relating to manufacturing technology through—

"(A) encouraging research in colleges and universities in the United States and in associated centers of excellence; and

"(B) establishing technology transfer mechanisms, and technology education and training mechanisms, that ensure that the results of such research are readily available to United States industry.

"(4) Programs for encouraging the use of computer-integrated manufacturing to improve manufacturing quality, reduce manufacturing costs, reduce production lead times, and improve maintenance.

"(5) Programs for enhancing Department of Defense use of concurrent engineering practices in the design and development of weapon systems.

"(6) Programs providing incentives for firms in the national defense technology and industrial base to use advanced manufacturing technology and processes and to invest in improved productivity.

"(7) Programs for encouraging research in colleges and universities and in other technology development and extension programs in the United States for the development of work systems that build on worker's skill and experience.

"(8) Programs for assisting in the transition to high performance work systems, including ongoing worker involvement in the evaluation, selection, and installation and operation of production technologies and associated organization or work.

"(d) Critical Technologies Guidance.—For each defense critical technology, the plan shall contain the following:

"(1) Specific guidance, including goals, milestones, and priorities, with respect to the development of the technology.

"(2) The specific funding requirements of the Department of Defense, the Department of Energy, and other departments and agencies of the Federal Government for the development of the technology for the 5 fiscal years following the fiscal year in which the plan is submitted pursuant to subsection (l).

"(3) A designation of the lead organization within the Department of Defense or the Department of Energy to be responsible for the development of the technology.

"(4) A summary description of the lead organization's plan for the development of the technology, including the milestone goals.

"(e) Integrated Financing Guidance.—The plan shall provide specific guidance, including goals, milestones, and priorities, to ensure that the financial policies of the Department of Defense and Department of Energy (for national security programs), including the policies identified in section 2263(d)(2)(D) of this title, are designed to meet the industrial and technology base policies set forth in section 2261 of this title.

"(f) Civil-Military Integration Guidance.—The plan shall provide specific guidance, including goals, milestones, and priorities, to encourage the effective integration of commercial products and processes into Federal Government acquisition practices with respect to the following:

"(1) Expanding the use of commercial specifications in place of Federal Government specifications.

"(2) Increasing the use of commercial manufacturing processes instead of processes specified by the Federal Government.

"(3) Reducing the extent of unique government regulatory requirements relating to accounting and acquisition.

"(4) Identifying and ensuring the effective application by the Department of Defense and the Department of Energy (for national security programs) of research, technologies, products, information, and practices developed by other departments and agencies of the Federal Government, State and local governments, colleges and universities, nonprofit organizations, and commercial enterprises.

"(5) Identifying effective mechanisms for transferring technology and related information, to the maximum extent practicable, from the Department of Defense and Department of Energy to other departments and agencies of the Federal Government, State and local governments, colleges and universities, nonprofit organizations, and commercial enterprises.

"(6) Ensuring, to the maximum extent practicable, that technology and related information are so transferred.

"(g) Defense Conversion Guidance.—The plan shall provide specific guidance, including goals, milestones, and priorities, for providing sectors and businesses at least partially dependent economically on national security expenditures with Federal Government assistance to convert from that dependence to economic viability without such dependence.

"(h) Technology and Industrial Base Work Force Guidance.—The plan shall provide specific guidance, including goals, milestones, and priorities, to enhance the skills and capabilities of the work force, including high performance, high quality, and high flexibility production, in the national defense technology and industrial base.

"(i) Major Program Acquisition Guidance.—The plan shall provide specific guidance, including goals, milestones, and priorities, for enhancing the effectiveness of the major defense acquisition program regulations prescribed pursuant to section 2439 of this title.

"(j) Acquisition Reform Guidance.—(1) The plan shall include any recommended legislation that the Council considers appropriate for eliminating any adverse effect of Federal law on the capability of the national defense technology and industrial base to attain the objectives set forth in section 2261 of this title.

"(2) The plan shall provide specific guidance to ensure that maximum use is made of authority to waive regulations or conduct test programs in pursuit of such objectives.

"(k) Funding.—The plan shall ensure effective implementation of the guidance issued under this section by establishing funding priorities for each area of guidance identified under subsections (b) through (h) for each of the periods described in section 2263(b)(1)(B) of this title.

"(l) Issuance.—(1) The Secretary of Defense shall provide the annual plan to the Secretaries of the military departments and the heads of the other elements of the Department of Defense not later than the date on which the Secretary provides such officials with the guidance required by section 113(g)(1) of this title. The Secretary of Energy and the Secretary of Commerce shall provide such guidance to appropriate officials within their respective departments.

"(2) The Secretary of Defense shall transmit to Congress, not later than March 31 of each year—

"(A) the plan prepared under this section, including any changes necessary to reflect the budget submitted by the President during that year under section 1105 of title 31; and

"(B) the national defense technology and industrial base assessment prepared pursuant to section 2263 of this title that pertains to such plan and budget.

"(3) The plan and assessment shall be submitted to Congress in classified and unclassified forms. Proprietary information that may be withheld from disclosure under section 552 of title 5 shall be provided only in the classified version.

"§ 2265. National Defense Program for Analysis of the Technology and Industrial Base

"(a) Establishment.—(1) The National Defense Technology and Industrial Base Council shall establish at an entity described in paragraph (3) a program to be known as the 'National Defense Program for Analysis of the Technology and Industrial Base'.

"(2) The Program shall be an element of the defense acquisition university structure established under section 1746 of this title.

"(3) As determined by the Chairman of the Council, the Program shall be administered by—

"(A) an existing federally funded research and development center;

"(B) a consortium of existing federally funded research and development centers and other nonprofit entities; or

"(C) another appropriate private sector research entity.

"(4) The Chairman shall ensure that there is appropriate consultation and coordination between the Program and the Critical Technologies Institute.

"(b) Oversight Committee.—The Program shall have an oversight committee composed of 3 members as follows:

"(1) The Under Secretary of Defense for Acquisition, or his designee, who shall serve as Chairman of the operating committee.

"(2) An official designated by the Secretary of Energy.

"(3) An official designated by the Secretary of Commerce.

"(c) Missions.—The missions for the Program shall include, with respect to the national defense technology and industrial base, the following:

"(1) The assembly of timely and authoritative information.

"(2) Initiation of studies and analyses.

"(3) Provision of technical support and assistance to—

"(A) the Council in the preparation of the annual assessment required by section 2263 of this title and the annual plan required by section 2264 of this title;

"(B) the defense acquisition university structure and its elements; and

"(C) other departments and agencies of the Federal Government in accordance with guidance established by the Council.

"(4) Dissemination, through the National Technical Information Service of the Department of Commerce, of unclassified information and assessments for further dissemination within the Federal Government and to the private sector.".

(b) Technology and Industrial Base Planning for Major Defense Programs.—(1) Chapter 144 of title 10, United States Code, is amended by inserting after section 2438 the following new section:

"§ 2439. Major programs: technology and industrial base plans

"(a) Acquisition Plan Requirements.—The Secretary of Defense shall prescribe regulations requiring consideration of the national defense technology and industrial base in the development and implementation of acquisition plans for each major defense acquisition program.

"(b) Content of Acquisition Plans.—The acquisition plan for each major defense acquisition program shall include provisions for the following:

"(1) An analysis of the capabilities of the national defense technology and industrial base to develop, produce, maintain, and support such program, including consideration of the factors set forth in section 2263(c) of this title.

"(2) Consideration of requirements for efficient manufacture during the design and production of the systems to be procured under the program.

"(3) The use of advanced manufacturing technology, processes, and systems during the research and development phase and the production phase of the program.

"(4) To the maximum extent practicable, the use of contract solicitations that encourage competing offerors to acquire, for use in the performance of the contract, modern technology, production equipment, and production systems (including hardware and software) that increase the productivity of the offerors and reduce life-cycle costs.

"(5) Encouragement of investment by United States domestic sources in advanced manufacturing technology production equipment and processes through—

"(A) recognition of the contractor's investment in advanced manufacturing technology production equipment, processes, and organization of work systems that build on workers' skill and experience, and work force skill development in the development of the contract objective; and

"(B) increased emphasis in source selections on the efficiency of production.

"(6) Expanded use of commercial manufacturing processes rather than processes specified by the Department of Defense.

"(7) Elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under Department of Defense contracts.

"(8) Expanded use of commercial products as set forth in section 2325 of this title.".

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 2438 the following new item:

"2439. Major programs: technology and industrial base plans.".

(c) Implementation.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including milestones for actions, to ensure the timely and thorough collection of information, completion of assessments, and issuance of plans required by the provisions of subchapter I of chapter 135 of title 10, United States Code, as added by subsection (a).

(2)(A) The first annual assessment required by section 2263 of such title shall be completed not later than September 30, 1993.

(B) The first annual plan required by section 2264 of such title shall be completed not later than November 15, 1993.

(C) The Secretary may prescribe regulations authorizing the presentation of information in a preliminary form in the first annual assessment and the first annual plan to the extent that the necessary information cannot reasonably be collected, analyzed, or presented in accordance with section 2263 or 2264, respectively, of title 10, United States Code, by the dates specified in subparagraphs (A) and (B).

(3) The National Defense Technology and Industrial Base Council shall establish the National Defense Center for Analysis of the Technology and Industrial Base not later than 6 months after the date of the enactment of this Act. The Secretary of Defense shall ensure that a contract solicitation is issued and a contract is awarded in a timely manner to facilitate the establishment of the Center within the period set forth in the preceding sentence.

SEC. 802. DEFENSE DUAL-USE TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAMS.

(a) Defense Dual-Use Technologies.—(1) Chapter 135 of title 10, United States Code (as added by section 801(a)), is amended by adding after subchapter II the following:

"SUBCHAPTER II—DUAL-USE TECHNOLOGIES

"Sec.
"2271. Defense dual-use critical technology partnerships.
"2272. Commercial-military integration partnerships.
"2273. Regional technology alliances assistance program.
"2274. Office for Foreign Defense Critical Technology Monitoring and Assessment.
"2275. Overseas foreign critical technology monitoring and assessment financial assistance program.
"2276. Encouragement of technology transfer.".

(2) Section 2523 of title 10, United States Code, (relating to defense dual-use critical technology partnerships) is—

(A) transferred to subchapter II of chapter 135 of such title (as added by paragraph (1));

(B) inserted following the table of sections; and

(C) redesignated as section 2271.

(3) Subchapter II of such chapter, as added by paragraph (1) and amended by paragraph (2), is further amended by inserting after section 2271 the following new section:

"§ 2272. Commercial-military integration partnerships

"(a) Establishment of Partnerships.—The Secretary of Defense shall conduct a program providing for the establishment of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between the Department of Defense and entities referred to in section 2271(b) of this title in order to encourage and provide for research, development, and application of technologies to attain the national defense technology and industrial base objectives set forth in section 2261 of this title.

"(b) Assistance Authorized.—(1) The Secretary may make grants, enter into contracts, and enter into cooperative agreements and other transactions pursuant to section 2371 of this title in order to establish the partnerships.

"(2) The Secretary may not enter into a partnership under this section for a period longer than 5 years.

"(3) The Secretary may provide a partnership with technical and other assistance to facilitate the achievement of the purposes of this section, subject to the limitations in subsection (c).

"(c) Financial Commitment of Non-Federal Government Participants.—(1) The Secretary shall ensure that the amount of funds provided by the Secretary under a partnership does not exceed maximum authorized percentage of the total cost of partnership activities.

"(2) The maximum authorized percentage of Federal Government funding referred to in paragraph (1) for each year of a partnership is as follows:

"(A) 50 percent in the first year.
"(B) 40 percent in the second year.
"(C) 30 percent in the third year.
"(D) 20 percent in the fourth year.
"(E) 10 percent in the fifth year.

"(3)(A) The Secretary shall prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a partnership for the purpose of determining the share of the partnership costs that has been or is being undertaken by such participants.

"(B) The regulations shall also ensure that the in-kind contributions of nonprofit institutions and small businesses are considered included, to the maximum extent practicable, in the non-Federal Government share of the cost of the partnership.

"(d) Selection Process.—Competitive procedures shall be used in the establishment of partnerships.

"(e) Selection Criteria.—The criteria for the selection of a proposed partnership for establishment under this section shall include the following:

"(1) The extent to which the program proposed to be conducted by the partnership advances and enhances the national defense industrial and technology base objectives set forth in section 2261 of this title.

"(2) The technical excellence of the program proposed to be conducted by the partnership.

"(3) The qualifications of the personnel proposed to participate in the partnership's research activities.

"(4) A likelihood that there will not be timely private sector investment in activities to achieve the goals and objectives of the proposed partnership other than through the partnership.

"(5) The potential effectiveness of the partnership in the further development and application of each technology proposed to be developed by the partnership for the industrial and technology base.

"(6) The extent of the financial commitment of the eligible firms to the proposed partnership.

"(7) The likelihood that the partnership will develop technologies that are sufficiently viable in the commercial sector so that such technologies will be available to meet the future reconstitution requirements and other needs of the Department of Defense described in the annual national defense technology and industrial base plan prepared under section 2264 of this title.

"(8) The likelihood that, within 5 years after the establishment of the partnership (or a lesser period established by the Secretary), Federal Government funding of the partnership will not be necessary.

"(9) Such other criteria as the Secretary prescribes.

"(f) Delegation of Authority.—Subject to the authority, direction, and control of the Secretary of Defense and the Under Secretary of Defense for Acquisition, the Director of Defense Research and Engineering shall perform the duties of the Secretary of Defense under this section.".

(4) Section 2524 of title 10, United States Code (relating to critical technology application centers) is—

(A) transferred to subchapter II of chapter 135, as added by paragraph (1) and amended by paragraphs (2) and (3);

(B) inserted at the end of that subchapter; and

(C) amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"§ 2273. Regional technology alliances assistance program";

(ii) by striking out "regional critical technology application centers" in subsection (a) and inserting in lieu thereof "regional technology alliances";

(iii) by striking out "regional critical technology application center" in subsection (b) and inserting in lieu thereof "regional technology alliance";

(iv) by striking out "critical technology application center" and "center" each time such terms appear and inserting in lieu thereof "regional technology alliance"; and

(v) by striking out "2523" in subsection (g) and inserting in lieu thereof "2271".

(5) Section 2525 of title 10, United States Code (relating to the Office for Foreign Defense Critical Technology Monitoring and Assessment), and section 2526 of such title (relating to the overseas foreign critical technology monitoring and assessment financial assistance programs) are—

(A) transferred to subchapter II of chapter 135 of such title, as added by paragraph (1) and amended by paragraphs (2) through (4);

(B) inserted at the end of that subchapter; and

(C) redesignated as sections 2274 and 2275, respectively.

(6) Subsection (a) of section 2274 of such title (as redesignated by paragraph (5)) is amended by inserting "Critical" after "Foreign Defense".

(7) Section 2363 of title 10, United States Code (relating to encouragement of technology transfer), is—

(A) transferred to subchapter II of chapter 135 of such title, as added by paragraph (1) and amended by paragraphs (1) through (5);

(B) inserted at the end of that subchapter; and

(C) redesignated as section 2276.

(b) Funding.—Of the amounts authorized to be appropriated under section 201—

(1) $100,000,000 shall be available for defense dual-use critical technology partnerships;

(2) $50,000,000 shall be available for commercial-military integration partnerships;

(3) $100,000,000 shall be available for defense regional technology alliances; and

(4) $2,000,000 shall be available for the overseas critical technology monitoring and assessment financial assistance program.

SEC. 803. ESTABLISHMENT OF OFFICE OF TECHNOLOGY TRANSITION.

(a) Establishment.—(1) Subchapter II of chapter 135 of title 10, United States Code (as added by section 802), is amended by adding at the end the following:

"§ 2277. Office of Technology Transition

"(a) Establishment.—The Secretary of Defense shall establish within the Office of the Secretary of Defense an Office of Technology Transition.

"(b) PURPOSE.—The purpose of the Office shall be to ensure, to the maximum extent practicable, that technology developed for national security purposes is integrated into the private sector of the United States in order to enhance the national defense technology and industrial base.

"(c) SPECIFIC DUTIES.—The head of the Office shall ensure that the Office—

"(1) monitors all research and development activities that are carried out by or for the military departments and Defense Agencies, including research and development that is conducted by or for—

"(A) the Strategic Defense Initiative Organization;

"(B) the Advanced Research Projects Agency; and

"(C) the Defense Nuclear Agency;

"(2) identifies all such research and development activities that use technologies, or result in technological advancements, having potential nondefense commercial applications;

"(3) serves as a clearinghouse for, coordinates, and otherwise actively facilitates the transition of such technologies and technological advancements from the Department of Defense to the private sector;

"(4) conducts its activities in consultation and coordination with the Department of Energy; and

"(5) provides private firms with assistance to resolve problems associated with security clearances, proprietary rights, and other legal considerations involved in such a transition of technology.

"(d) REPORTING REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives an annual report on the activities of the Office at the same time that the budget is submitted to Congress by the President pursuant to section 1105 of title 31. The report shall contain a discussion of the accomplishments of the Office during the fiscal year preceding the fiscal year in which the report is submitted.".

(2) The table of sections at the beginning of subchapter II of such chapter (as added by section 802) is amended by inserting after the item relating to section 2276 the following:

"2277. Office of Technology Transition.".

(b) SCHEDULE FOR ESTABLISHMENT.—The Office of Technology Transition shall commence operations within 180 days after the date of the enactment of this Act.

(c) REPORTING REQUIREMENTS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the establishment of the Office of Technology Transition. The report shall contain a description of the organization of the Office, the staffing of the Office, and the activities undertaken by the Office.

(2) Notwithstanding section 2277(d) of title 10, United States Code (as added by subsection (a))—

(A) the first report under that section shall be submitted not later than 1 year after the date of the enactment of this Act; and

(B) no additional report is necessary under that section in the fiscal year in which such first report is submitted.

SEC. 804. DEFENSE DUAL-USE MANUFACTURING TECHNOLOGY PROGRAMS.

(a) NATIONAL DEFENSE MANUFACTURING TECHNOLOGY PROGRAM.—(1) Chapter 135 of title 10, United States Code, as added by section 801(a) and amended by sections 802 and 803, is further amended by adding after subchapter II the following new subchapter:

"SUBCHAPTER III—MANUFACTURING TECHNOLOGY

"Sec.

"2281. National Defense Manufacturing Technology Program.

"2282. Defense advanced manufacturing technology partnerships.

"2283. Manufacturing extension programs.

"§ 2281. National Defense Manufacturing Technology Program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall establish a National Defense Manufacturing Technology Program to—

"(1) provide centralized guidance and direction, including goals, milestones, and priorities, to the military departments and the Defense Agencies on all matters relating to manufacturing technology;

"(2) direct the development and implementation of Department of Defense plans, programs, projects, activities, and policies that promote the development and application of advanced technologies to manufacturing processes, tools, and equipment;

"(3) improve the manufacturing quality, productivity, technology, and practices of businesses and workers providing goods and services to the Department of Defense;

"(4) promote dual-use manufacturing processes;

"(5) disseminate to such businesses information concerning improved manufacturing improvement concepts, including information on such matters as best manufacturing practices, product data exchange specifications, computer-aided acquisition and logistics support, and rapid acquisition of manufactured parts;

"(6) sustain and enhance the skills and capabilities of the manufacturing work force;

"(7) promote high-performance work systems, with development and dissemination of production technologies that build upon the skills and capabilities of the work force, high levels of worker education and training, and work force participation in the evaluation, selection, and implementation of new production technologies; and

"(8) ensure appropriate coordination between the manufacturing technology programs and industrial preparedness programs of the Department of Defense and similar programs undertaken by other departments and agencies of the Federal Government or by the private sector.

"(b) RELATIONSHIP TO NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE PLAN.—The Secretary shall ensure that the program is developed and implemented in accordance with the manufacturing technology guidance set forth in the national defense technology and industrial base plan prepared under section 2264 of this title.

"(c) ANNUAL REVISIONS.—The Secretary shall revise the program not later than March 15 of each year. Each revision shall identify each manufacturing technology program, project, or activity of the Department of Defense and the amounts provided for each such program, project, and activity in the budget submitted by the President under section 1105 of title 31 for the fiscal year beginning in that year.

"(d) PROGRAM LIMITATION.—A manufacturing technology program, project, or activity of the Department of Defense may be conducted only to the extent provided for in the National Defense Manufacturing Technology Program. However, such a program, project, or activity may be conducted in excess of the limitation in the preceding sentence if it is designated by the Secretary of Defense as a higher priority matter.

"(e) DELEGATION OF AUTHORITY.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform the duties of the Secretary of Defense under this section.".

(2) Section 203(d) of the National Defense Authorization Act for Fiscal Year 1992 and 1993 (Public Law 102-190; 105 Stat. 1315) is repealed.

(b) DEFENSE ADVANCED MANUFACTURING TECHNOLOGY PARTNERSHIPS.—(1) Section 2518 of title 10, United States Code (relating to defense advanced manufacturing technology partnerships), is—

(A) transferred to subchapter III of chapter 135 of such title, as added by subsection (a)(1);

(B) inserted at the end of that subchapter;

(C) redesignated as section 2282; and

(D) amended in subsection (d)(1) by striking out "section 2523(f)" and inserting in lieu thereof "section 2271(f)".

(2) Of the amounts made available pursuant to section 203(4), $25,000,000 shall be available for defense advanced manufacturing technology partnerships under section 2282 of title 10, United States Code, as transferred and redesignated by paragraph (1).

(c) MANUFACTURING TECHNOLOGY EXTENSION PROGRAMS.—(1) Section 2517 of title 10, United States Code (relating to manufacturing extension programs), is—

(A) transferred to subchapter III of chapter 135 of such title, as added by subsection (a)(1) and amended by subsection (b);

(B) inserted at the end of that subchapter; and

(C) redesignated as section 2283.

(2) Of the amounts authorized to be appropriated under section 201, $100,000,000 shall be available for support of manufacturing technology extension programs under section 2283 of title 10, United States Code, as transferred and redesignated by paragraph (1).

(d) DEFENSE MANUFACTURING ENGINEERING EDUCATION PROGRAM.—Of the amounts authorized to be appropriated under section 201, $25,000,000 shall be available for defense manufacturing engineering education grants under section 2196 of title 10, United States Code.

(e) DEFENSE MANUFACTURING EXPERTS IN THE CLASSROOM PROGRAM.—(1)(A) Section 2197 of title 10, United States Code, is amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"§ 2197. Manufacturing experts in the classroom";

(ii) in subsection (a), by striking out "managers and" in the matter above paragraph (1); and

(iii) by adding at the end the following new subsection:

"(e) MANUFACTURING EXPERT DEFINED.—In this section, the term 'manufacturing expert' means manufacturing managers and workers having experience in the organization of production and education and training needs and other experts in manufacturing.".

(B) The table of sections at the beginning of chapter 111 of such title is amended by striking out the item relating to section 2197 and inserting in lieu thereof the following:

"2197. Manufacturing experts in the classroom.".

(2) Of the amounts authorized to be appropriated under section 201, $5,000,000 shall be available for the manufacturing experts in the classroom program under section 2197 of title 10, United States Code.

SEC. 805. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE DUAL-USE ASSISTANCE EXTENSION PROGRAMS.

(a) EXTENSION PROGRAMS.—Chapter 135 of title 10, United States Code, as added by section 801(a) and as amended by sections 802, 803, and 804, is further amended by adding at the end the following:

"SUBCHAPTER IV—MISCELLANEOUS TECHNOLOGY BASE POLICIES AND PROGRAMS

"Sec.
"2291. Defense dual-use assistance extension program.
"2292. Defense Industrial Reserve.

"§ 2291. Defense dual-use assistance extension program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense, in consultation and coordination with the Secretary of Energy and the Secretary of Commerce, shall establish a program to achieve the national defense technology and industrial base objectives set forth in section 2261 of this title by providing support to entities referred to in subsection (b) for programs described in that subsection.

"(b) PROGRAMS SUPPORTED.—The Secretary may provide support under this section for programs sponsored by the Federal Government, regional entities, States, local governments, and private entities and nonprofit organizations that assist firms whose businesses and workers economically dependent on Department of Defense expenditures to acquire dual-use capabilities through the provision under those programs of the following services:

"(1) Assistance in converting from government-oriented management, production, training, business planning, and marketing practices to commercial practices.

"(2) Assistance in making improvements necessary for conversion to commercial markets and practices and in acquiring and using public and private sector resources, literature, and other information concerning—

"(A) research, development, and production processes and practices;

"(B) identification and development of technologies and products having the potential for defense and nondefense commercial applications;

"(C) marketing practices and opportunities;

"(D) identification of potential suppliers, partners, and subcontractors;

"(E) identification of opportunities for government support, including support through grants, contracts, partnerships and consortia;

"(F) enhancement of work force skills and capabilities, including development and introduction of high performance workplace systems, employee and participative management systems, workforce literacy programs, programs to encourage employee ownership, worker education and training, work force participation in the evaluation, selection, and implementation of new production technologies; and

"(G) trade and export assistance.

"(c) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, enter into cooperative agreements and other transactions pursuant to section 2371 of this title, and transfer funds to another department or agency of the Federal Government in carrying out this section.

"(2) Subject to subsection (d), the Secretary may provide a program referred to in subsection (b) with technical and other assistance.

"(d) FINANCIAL COMMITMENT OF NON-DEPARTMENT OF DEFENSE PARTICIPANTS.—(1) The Secretary shall ensure that the amount of funds provided by the Department of Defense for a program under this section does not exceed the maximum authorized percentage of the combined amount provided by the Department of Defense and all other sources of funding for the program for any year.

"(2) The maximum authorized percentage of Department of Defense funding referred to in paragraph (1) for each year of Department of Defense assistance for a program under this section is as follows:

"(A) 50 percent in the first year.

"(B) 40 percent in the second year.

"(C) 30 percent in the third and following years.

"(e) SELECTION PROCESS.—Competitive procedures shall be used in the selection of programs to receive assistance under this section.

"(f) SELECTION CRITERIA.—The criteria for the selection of a program to receive assistance under this section shall include the following:

"(1) The extent to which the program advances and enhances the national defense industrial and technology base objectives set forth in section 2261 of this title.

"(2) The technical excellence of the program.

"(3) The qualifications of the personnel proposed to participate in the program's research activities.

"(4) A likelihood that there will not be timely private sector investment in activities that is sufficient to achieve the goals and objectives of the programs.

"(5) The potential effectiveness of the program in the conversion of businesses, including their work forces from capabilities that make the companies economically dependent on Department of Defense business to capabilities having defense and nondefense commercial applications.

"(6) The ability of the program to assist businesses, including their work forces, adversely affected by significant reductions in Department of Defense spending.

"(7) The extent of the financial commitment by sources other than the Department of Defense.

"(8) The extent to which the program would supplement, rather than duplicate, other available services.

"(9) The likelihood that, within 5 years after the commencement of assistance for a program under this section (or a lesser period established by the Secretary), Department of Defense assistance will not be necessary to sustain the program.

"(10) Such other criteria as the Secretary prescribes.

"(g) DELEGATION OF AUTHORITY.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform the duties of the Secretary of Defense under this section.

"(h) TERMINATION OF AUTHORITY.—This section shall cease to be effective on September 30, 1997.".

(b) FUNDING.—(1) Of the amounts authorized to be appropriated under section 201, $200,000,000 shall be available for defense dual-use extension programs under section 2291 of title 10, United States Code (as added by subsection (a)), of which not less than $50,000,000 shall be made available to regional, State, and local government programs.

(2) Of funds authorized to be appropriated to the Department of Defense for fiscal year 1993 by this Act, the Secretary may transfer not more than $50,000,000 to the appropriations made available for the support of defense dual-use extension programs under such section 2291. Amounts so transferred shall be merged with, and be available for the same purpose and the same period as, the appropriations to which transferred. The authority to transfer funds under this paragraph is in addition to any other transfer authority provided for the Secretary of Defense under this or any other Act.

SEC. 806. ADDITIONAL STATUTORY REORGANIZATION.

(a) TECHNOLOGY AND INDUSTRIAL BASE AMENDMENTS.—(1)(A) Subchapter IV of chapter 135 of title 10, United States Code, as added by section 805, is amended by adding at the end, without text, the following new section:

"§ 2292. Defense Industrial Reserve".

(B) The text of section 2 of the Defense Industrial Reserve Act (50 U.S.C. 451) is—

(i) transferred to section 2292;

(ii) inserted below the section heading; and

(iii) amended by striking out "In enacting this Act, it" and inserting in lieu thereof the following: "(a) DECLARATION OF PURPOSE AND POLICY.—It".

(C) The text of section 4 of that Act (50 U.S.C. 453) is—

(i) transferred to section 2292;

(ii) inserted following subsection (a), as designated in the amendment made by subparagraph (B)(iii); and

(iii) amended—

(I) by striking out "(a) To execute the policy set forth in this Act," and inserting in lieu thereof the following: "(b) POWERS AND DUTIES OF THE SECRETARY OF DEFENSE.—(1) To execute the policy set forth in this section,";

(II) by striking out "(1) determine" and inserting in lieu thereof "(A) determine";

(III) by striking out "(2) designate" and inserting in lieu thereof "(B) designate";

(IV) by striking out "(3) establish" and inserting in lieu thereof "(C) establish";

(V) by striking out "(4) direct" and inserting in lieu thereof "(D) direct";

(VI) by striking out "(5) direct" and inserting in lieu thereof "(E) direct";

(VII) by striking out "(6) authorize" and inserting in lieu thereof "(F) authorize";

(VIII) by striking out "(7) authorize" and all that follows through "(B) such institution" and inserting in lieu thereof "(G) authorize and regulate the lending of any such property to any nonprofit educational institution or training school whenever (i) the program proposed by such institution or school for the use of such property will contribute materially to national defense, and (ii) such institution";

(IX) by striking out "(b)(1) The Secretary" and inserting in lieu thereof "(2)(A) The Secretary";

(X) by striking out "(A) storage" and inserting in lieu thereof "(i) storage";

(XI) by striking out "(B) repair" and inserting in lieu thereof "(ii) repair";

(XII) by striking out "(C) overhead" and inserting in lieu thereof "(iii) overhead"; and

(XIII) by striking out "(2) The Secretary of Defense shall prescribe regulations" and inserting in lieu thereof "(B) The Secretary of Defense shall prescribe regulations".

(D) The text of section 3 of that Act (50 U.S.C. 452) is—

(i) transferred to section 2292;

(ii) inserted following subsection (b), as designated in the amendment made by subparagraph (C)(iii)(I); and

(iii) amended by striking out "As used in this Act—" and inserting in lieu thereof "(c) DEFINITIONS.—In this section:".

(2)(A) Chapter 135 of title 10, United States Code, as added by section 801(a) and amended by sections 802, 803, 804, and 805 and by paragraph (1), is further amended by inserting at the end the following subchapter:

"SUBCHAPTER V—DEFINITIONS

"Sec.

"2300. Definitions.

"§ 2300. Definitions

"In this chapter:

"(1) The term 'national defense technology and industrial base' means the persons and organizations that are engaged in research, development, production, or maintenance activities the majority of which are conducted within the United States and Canada.

"(2) The term 'dual-use' with respect to products, services, standards, processes, or acquisition practices, means products, services, standards, processes, or acquisition practices, respectively, that are capable of meeting requirements for private sector commercial acquisitions as well as public sector acquisitions.

"(3) The term 'dual-use critical technology' means a critical technology that has military applications and nonmilitary commercial applications.

"(4) The terms 'technology and industrial base sector' and 'sector' mean a group of public or private persons and organizations that engage in, or are capable of engaging in, similar research, development, or production activities.

"(5) The terms 'Federal laboratory' and 'laboratory' have the meaning given the term 'laboratory' in section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)).

"(6) The term 'critical technology' means a technology that is—

"(A) a national critical technology; or

"(B) a defense critical technology.

"(7) The term 'national critical technology' means a technology that appears on the list of national critical technologies contained in the most recent biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)).

"(8) The term 'defense critical technology' means a technology that appears on the list of critical technologies contained, pursuant to subsection (f) of section 2263 of this title, in the most recent national defense technology and industrial base assessment submitted to Congress by the Secretary of Defense pursuant to section 2264(1) of this title.

"(9) The term 'eligible firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) conducts a significant level of its research, development, engineering, and manufacturing activities in the United States; and

"(B) is a company or other business entity the majority ownership or control of which is by United States citizens or is a company or other business of a parent company that is incorporated in a country the government of which—

"(i) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations; and

"(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

Such term includes a consortium of such companies or other business entities, as determined by the Secretary of Commerce.

"(10) The term 'manufacturing technology' means techniques and processes designed to improve manufacturing quality, productivity, and practices, including quality control, shop floor management, inventory management, and worker training, as well as manufacturing equipment and software.

"(11) The term 'manufacturing extension program' means a public or private, nonprofit program for the improvement of the quality, productivity, and performance of United States-based small manufacturing firms in the United States.

"(12) The term 'United States-based small manufacturing firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) engages in manufacturing;

"(B) has less than 500 employees; and

"(C) is an eligible firm.".

(B) Until the first annual national defense technology and industrial base assessment is submitted to Congress by the Secretary of Defense pursuant to section 2264(1) of title 10, United States Code (as added by section 801(a)), the reference to the most recent such assessment in section 2300(8) of such title (as added by subparagraph (A)) shall be deemed to refer to the most recent annual critical defense critical technologies plan submitted to Congress by the Secretary of Defense pursuant to section 2522 of such title as in effect on the date of the enactment of this Act.

(3) The annual national defense technology and industrial base assessment submitted to Congress pursuant to section 2264(1) of title 10, United States Code (as added by section 801(a)), during each year through 1995 shall include a specific assessment of the capability of the domestic textile and apparel industrial base of the United States to support national defense mobilization requirements. Each such assessment shall include the following:

(A) An identification of textile and apparel mobilization requirements of the Department of Defense that cannot be satisfied on a timely basis by domestic industries.

(B) An assessment of the effect that any inadequacy in the textile and apparel industrial base would have on a mobilization.

(C) Recommendations for ways to alleviate any such inadequacy that the Secretary considers critical to national defense mobilization requirements.

(b) CONFORMING REORGANIZATION OF TITLE 10.—(1) Part IV of subtitle A of title 10, United States Code, is amended—

(A) by redesignating the chapter 135 (relating to encouragement of aviation) in effect on the day before date of the enactment of this Act as chapter 151; and

(B) by transferring such chapter, as so redesignated, within part IV of such subtitle so as to appear in sequence immediately before chapter 152.

(2) Such chapter is amended as follows:

(A) Sections 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, and 2279 are redesignated as 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, and 2539, respectively.

(B) Subsection (a) of section 2532, as so redesignated, is amended by striking out "section 2271" and inserting in lieu thereof "section 2531".

(C) Subsection (a) of section 2533, as so redesignated, is amended by striking out "section 2272" and inserting in lieu thereof "section 2532".

(D) Subsection (b) of section 2534, as so redesignated, is amended by striking out "sections 2272(f) and 2279 of this title but are not subject to section 2271(a)–(d) and 2272(a)" and inserting in lieu thereof "sections 2532(f) and 2539 of this title but are not subject to section 2531(a)–(d) and 2532(a)".

(c) TRANSFERS OF SECTIONS.—(1) Section 2504 of title 10, United States Code, is—

(A) transferred to subchapter II of chapter 138 of such title;

(B) inserted at the end of that subchapter;

(C) redesignated as 2350j; and

(D) amended in subsection (a)(1) by striking out "defense industrial base" and inserting in lieu thereof "defense technology and industrial base".

(2) Section 2505 of such title is—

(A) transferred to chapter 141 of such title, as amended by section 363 of this Act;

(B) inserted at the end of that chapter; and

(C) redesignated as section 2410d.

(3) Section 2507 of such title is—

(A) transferred to chapter 141 of such title, as amended by paragraph (2);

(B) inserted at the end of that chapter; and

(C) amended—

(i) by striking out subsection (c); and

(ii) by striking out the section heading and inserting in lieu thereof the following:

"§ 2410e. Miscellaneous limitations on the procurement of goods other than United States goods".

(4)(A) Section 2506 of such title is amended—

(i) in subsection (a)—

(I) by striking out "(a) Funds" and inserting in lieu thereof "(c) PROCUREMENT OF NON-AMERICAN GOODS GENERALLY.—(1) Funds";

(II) by striking out "(as defined in subsection (c))" in the matter above paragraph (1); and

(III) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as subparagraphs (A), (B), (C), (D), (E), (F), and (G), respectively;

(ii) in subsection (b), by striking out "(b) Consideration of the matters referred to in paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "(2) Consideration of the matters referred to in subparagraphs (A) through (F) of paragraph (1)"; and

(iii) in subsection (c)—

(I) by striking out "(c) In this section," and inserting in lieu thereof "(3) In this subsection,"; and

(II) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) The text of such section, as so amended, is transferred to section 2410e of title 10, United States Code, as added by paragraph (3), and is inserted following subsection (b) of that section.

(d) CONFORMING REPEALS.—(1) Section 2330 of title 10, United States Code, is repealed.

(2)(A) Part IV of subtitle A of such title is amended by striking out chapters 148, 149, and 150.

(B) The tables of chapters at the beginning of subtitle A of such title and part IV of such subtitle are amended by striking out the items relating to chapters 148, 149, and 150.

(3) The Defense Industrial Reserve Act (50 U.S.C. 450 et seq.) is repealed.

(e) TABLES OF SECTIONS.—(1) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2330.

(2) The table of sections at the beginning of subchapter II of chapter 138 of such title is amended by adding at the end the following:

"2350j. Defense memoranda of understanding and related agreements.".

(3) The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2363.

(4) The table of sections at the beginning of chapter 141 of such title, as amended by section 363 of this Act, is further amended by adding at the end the following:

"2410d. Offset policy: notification.
"2410e. Miscellaneous limitations on the procurement of goods other than United States goods.".

SEC. 807. SMALL BUSINESS INNOVATION RESEARCH PROGRAM IN THE DEPARTMENT OF DEFENSE.

(a) AMOUNTS AVAILABLE.—For each fiscal year after fiscal year 1993, funds authorized to be appropriated to a military department or a Defense Agency of the Department of Defense for research, development, test and evaluation shall be available for research activities and for research and development activities under the Small Business Innovation Research Program in amounts as follows:

(1) For fiscal year 1993, 1.5 percent of the extramural budget of such military department or Defense Agency for such activities for that fiscal year.

(2) For fiscal year 1994, 2 percent of the extramural budget of such military department or Defense Agency for such activities for that fiscal year.

(3) For fiscal year 1995, and each fiscal year thereafter, 2.5 percent of the extramural budget of such military department or Defense Agency for such activities for that fiscal year.

(b) LIMITATION ON PROGRAM AWARDS.—Amounts paid to a small business concern by the Department of Defense under the Small Business Innovation Research Program for a project—

(1) in phase I under the program may not exceed $100,000; and

(2) in phase II under the program may not exceed $750,000.

(c) COMMERCIAL APPLICATIONS STRATEGY.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Administrator of the Small Business Administration, shall develop and issue a strategy for effectuating the transition of successful projects under the Small Business Innovation Research Program from phase II under the program into phase III under the program.

(d) PROGRAM MANAGEMENT.—The Director of Defense Research and Engineering and the Director of the Office of Small and Disadvantaged Business Utilization of the Department of Defense shall be responsible for the participation of the military departments and Defense Agencies in the Small Business Innovation Research Program.

(e) EXTENSION OF PROGRAM.—Section 5 of Public Law 97-219 (15 U.S.C. 638 note) is amended—

(1) by striking out "Effective October 1, 1993, paragraphs" and inserting in lieu thereof "Paragraphs"; and

(2) by striking out "are repealed" and inserting in lieu thereof "shall cease to be effective with respect to departments and agencies of the Federal Government other than the Department of Defense on October 1, 1993, and are repealed effective October 1, 2000".

(f) DEFINITIONS.—In this section:

(1) The term "Small Business Innovation Research Program" means the Small Business Innovation Research Program carried out pursuant to paragraphs (4) through (7) of subsection (b) of section 9 of the Small Business Act (15 U.S.C. 638) and subsections (e) through (k) of such section.

(2) The term "extramural budget" has the meaning given that term in subsection (e)(1) of such section.

(3) The term "phase I", with respect to the Small Business Innovation Research Program, means the first phase described in subsection (e)(4)(A) of such section.

(4) The term "phase II", with respect to the Small Business Innovation Research Program, means the second phase described in subsection (e)(4)(B) of such section.

(5) The term "phase III", with respect to the Small Business Innovation Research Program, means the third phase described in subsection (e)(4)(C) of such section.

(g) EFFECTIVE DATE AND APPLICABILITY.—This section shall take effect on October 1, 1992.

SEC. 808. DUAL-USE DEFENSE CONVERSION PRIORITY.

During fiscal year 1993, the Secretary of Defense shall give priority in the allocation of funds under subchapters II, III, and IV of chapter 135 of title 10, United States Code (as added by sections 802 through 805) and the Small Business Innovation Research Program referred to in section 807, to the maximum extent practicable, to programs, projects, and activities that provide significant assistance for converting the capabilities of businesses that are economically dependent on Department of Defense business to capabilities having defense and nondefense commercial applications.

SEC. 809. STATUTORY CHARTER FOR THE ADVANCED RESEARCH PROJECTS AGENCY.

(a) STATUTORY CHARTER.—(1) Subchapter II of chapter 8 of title 10, United States Code, is amended by adding at the end the following:

"§ 203. Advanced Research Projects Agency

"(a) IN GENERAL.—The Advanced Research Projects Agency is a Defense Agency.

"(b) DIRECTOR.—(1) The head of the agency is the Director.

"(2) The Director is appointed by the President, by and with the advice and consent of the Senate. The Secretary of Defense shall recommend persons for appointment to the position of Director.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Director shall perform the functions and duties provided in subsection (d).

"(c) DEPUTY DIRECTOR.—(1) There is a Deputy Director of the agency who is appointed by the Director with the approval of the Secretary of Defense.

"(2) The Deputy Director shall perform such duties and exercise such authority as may be prescribed by the Director with the approval of the Secretary of Defense.

"(3) When there is a vacancy in the office of Director or in the absence or disability of the Director, the Deputy Director shall act as Director and perform the duties, and exercise the authority, of the Director until a successor is appointed or the absence or disability ceases.

"(d) FUNCTIONS AND DUTIES.—(1) The Advanced Research Projects Agency is the central research and development organization of the Department of Defense. It is a primary responsibility of the agency to maintain the technological superiority of the United States over the potential adversaries of the United States.

"(2) The agency shall—

"(A) together with United States industry, Federal laboratories, and colleges and universities, pursue—

"(i) imaginative and innovative research and development projects having significant potential for both military and commercial applications; and

"(ii) imaginative and innovative research and development projects having significant potential solely for military applications;

"(B) support and stimulate a national technology base that—

"(i) serves both civilian and military purposes through enhanced technology sharing and otherwise; and

"(ii) by so serving both purposes, increases the productivity of both the civilian and military sectors;

"(C) manage and direct the conduct of basic and applied research and development that exploits scientific breakthroughs and demonstrates the feasibility of revolutionary approaches for improved cost and performance of advanced technology having future military applications, including advanced technology also having future civilian applications; and

"(D) stimulate increased emphasis on prototyping in defense systems and subsystems—

"(i) by conducting prototype projects embodying technology that might be incorporated in joint programs, programs in support of deployed forces, or selected programs of the military departments; and

"(ii) on request of the Secretary of a military department, by assisting that military department in any prototyping program of the military department.

"(3) The agency may, when requested and supported by a department or agency of the Federal Government not primarily involved in the performance of national security functions, manage and direct the conduct of basic and applied research and development of any other advanced technology that can be applied to increase the capability of that department or agency to attain mission objectives of the department or agency.

"(e) OTHER DUTIES.—The agency shall perform any additional duties that the Secretary of Defense assigns.".

(2) The table of sections at the beginning of subchapter II of such chapter is amended by inserting at the end the following:

"203. Advanced Research Projects Agency.".

(b) RELATED AND OTHER DEFENSE RESEARCH AMENDMENTS.—(1)(A) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director, Advanced Research Projects Agency, Department of Defense.".

(B) Section 5316 of such title is amended by striking out the following:

"Director, Advanced Research Projects Agency, Department of Defense.".

(2)(A) Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Director of Defense Research and Engineering, Department of Defense.".

(B) Section 5315 of such title is amended by striking out the following:

"Director of Defense Research and Engineering.".

(3) Section 101(44)(B) of title 10, United States Code, is amended by inserting "by law or" after "designated".

(4) Section 2371(a) of such title is amended by striking out "Defense Advanced Research Projects Agency" and inserting in lieu thereof "Advanced Research Projects Agency".

(c) REFERENCE IN OTHER LAW.—Any reference in any other law to the Defense Advanced Research Projects Agency shall be deemed to refer to the Advanced Research Projects Agency.

SEC. 810. INDUSTRIAL DIVERSIFICATION PLANNING FOR DEFENSE CONTRACTORS.

(a) INCENTIVES.—(1) Not later than 120 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations to encourage defense contractors to engage in industrial diversification planning.

(2) Such regulations shall include—

(A) treatment of industrial diversification planning expenditures as allowable costs under Department of Defense contracts,

(B) treatment of industrial diversification research and development activities as permissible independent research and development expenditures, and

(C) such other incentives as the Secretary of Defense deems appropriate to encourage defense contractors to engage in industrial diversification planning.

(b) Definition.—For purposes of this section, the term "industrial diversification" means conversion from government-oriented management, production, training, and marketing practices to practices that are compatible with the commercial marketplace.

SEC. 810A. CLARIFICATION OF PARTICIPANTS IN DEFENSE DUAL-USE CRITICAL TECHNOLOGY PARTNERSHIPS.

Section 2271(b) of title 10, United States Code (as redesignated by section 802(a)(2)), is amended by inserting "government-owned and operated industrial facilities," after "Federal laboratory or laboratories".

Subtitle B—Acquisition Assistance Programs

SEC. 811. SMALL BUSINESS ADMINISTRATION CERTIFICATE OF COMPETENCY PROGRAM.

Section 8(b)(7) of the Small Business Act (15 U.S.C. 637(b)(7)) is amended by striking out the sentence following subparagraph (C) and inserting in lieu thereof the following:

"In the case of a contract entered into pursuant to the provisions of chapter 137 of title 10, United States Code, other than pursuant to simplified procedures referred to in section 2304(g) of such title, the Government procurement officer entering into the contract is not required to refer a determination of nonresponsibility made by that officer to the Administration unless the small business concern requests a determination of its responsibility, and the issuance of a certificate of responsibility, by the Administration. The solicitation for the contract shall contain a notice of the right of a small business concern to request the Administration to make a determination of its responsibility. For the purposes of that contract, the Administration is not required to process a request for certification of responsibility of a small business concern that is not submitted by that small business concern.".

SEC. 812. TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.

(a) Extension of Program.—Subsection (e) of section 834 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (15 U.S.C. 637 note) is amended by striking out "September 30, 1993" in the second sentence and inserting in lieu thereof "September 30, 1994".

(b) Fiscal Year 1994 Participants.—Such section is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) Fiscal Year 1994 Participants.—Only those contracting activities and contractors who negotiated subcontracting plans under demonstration projects conducted under the test program before October 1, 1993, may participate in demonstration projects conducted under the test program in fiscal year 1994.".

SEC. 813. EXTENSION OF TEST PROGRAM OF CONTRACTING FOR PRINTING-RELATED SERVICES FOR THE DEPARTMENT OF DEFENSE.

(a) Extension of Authority.—Section 843(e) of the National Defense Authorization Act, Fiscal Year 1989 (44 U.S.C. 502 note) is amended by striking out "October 1, 1993" and inserting in lieu thereof "October 1, 2000".

(b) Section Heading.—The heading of section 843 of such Act is amended to read as follows:

"SEC. 843. CONTRACT GOAL FOR DISADVANTAGED SMALL BUSINESSES IN PRINTING-RELATED SERVICES.".

SEC. 814. CONTRACT GOAL FOR DISADVANTAGED SMALL BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

(a) Extension of Requirement.—Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) is amended—

(1) in subsection (a), by striking out "and 1993" and inserting in lieu thereof "1993, 1994, 1995, 1996, 1997, 1998, 1999, and 2000"; and

(2) by striking out subsection (h).

(b) Actions To Attain Goal.—Subsection (e) of such section is amended—

(1) in the matter above paragraph (1), by striking out "subsection (a)—" and inserting in lieu thereof "subsection (a):";

(2) in paragraph (1), by striking out the period at the end and inserting in lieu thereof the following: "and shall actively monitor and assess the progress of the military departments, Defense Agencies, and prime contractors of the Department of Defense in attaining such goal. In making the assessment, the Secretary shall evaluate the extent to which use of the authority provided in paragraphs (2) and (3) and compliance with the requirement in paragraph (4) is effective for facilitating the attainment of the goal."; and

(3) in paragraph (3)—

(A) by inserting "(A)" after "(3)"; and

(B) by adding at the end the following new subparagraph:

"(B) Under procedures prescribed by the Secretary of Defense, a person may request the Secretary to determine whether the use of small disadvantaged business set asides by a contracting activity of the Department of Defense has caused a particular industry category to bear a disproportionate share of the progress made toward attainment of the goal established for that contracting activity for the purposes of this section. Upon making a determination that there has been that result, the Secretary shall take appropriate actions to limit the contracting activity's use of set asides in awarding contracts in that particular industry category.".

(c) Continued Access to Business Opportunities.—(1) Notwithstanding the regulations implementing section 806 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (10 U.S.C. 2301 note), a contract to furnish products or services to the Department of Defense shall be entered into in accordance with the requirements and the authority provided in section 1207(e) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) if—

(A) there is a reasonable expectation of receiving offers from 2 or more eligible small business concerns that have the capability to perform the contract; and

(B) on the date of the issuance of the solicitation for such contract, a graduate of the minority small business and capital ownership development program authorized under section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is furnishing the same (or substantially similar) products or services to the Department of Defense under a contract awarded pursuant to section 8(a) of that Act (15 U.S.C. 637(a)).

(2) The amendment made by paragraph (1) shall apply with respect to solicitations for contracts that are issued on or after the date 90 days after the date of the enactment of this Act.

(d) Section Heading.—The heading for such section is amended to read as follows:

"SEC. 1207. CONTRACT GOAL FOR DISADVANTAGED SMALL BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION.".

(e) Funding.—Of the amounts authorized to be appropriated for fiscal year 1993 pursuant to title II of this Act, $15,000,000 shall be available for such fiscal year for infrastructure assistance to historically Black colleges and universities and minority institutions under section 1207(c)(3) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note).

SEC. 815. PILOT MENTOR-PROTEGE PROGRAM.

(a) Funding.—Of the amounts authorized to be appropriated for fiscal year 1993 pursuant to title I of this Act, $55,000,000 shall be available for the pilot Mentor-Protege Program established pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note).

(b) Major Defense Acquisition Programs.—Of the amount provided in subsection (a), $25,000,000 shall be available for the direct reimbursement of developmental assistance costs incurred by mentor firms under major defense acquisition programs (as defined in section 2430 of title 10, United States Code) in the participation of such firms in the pilot Mentor-Protege Program.

(c) Regulations.—(1) Congress finds that the Secretary of Defense—

(A) has not published the Department of Defense policy for the pilot Mentor-Protege Program as required by the amendment made to section 831(k) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) by section 814(b)(4) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1425); and

(B) has not prescribed regulations for the reimbursement of the costs a mentor firm may incur under section 831(g)(2) of that Act.

(2) Congress expects the Secretary of Defense to publish the policy and prescribe the regulations.

(3) Within 15 days after the date of the enactment of this Act, the Secretary shall publish in the Department of Defense Supplement to the Federal Acquisition Regulation the Department of Defense policy for the pilot Mentor-Protege Program and the regulations, directives, and administrative guidance pertaining to such program as such policy, regulations, directives, and administrative guidance existed on December 6, 1991. Proposed modifications to that policy and any amendments of the matters published pursuant to the preceding sentence that are proposed in order to implement any of the amendments made by this section shall be published for public comment within 60 days after the date of the enactment of this Act and shall be published in final form within 120 days after such date.

(d) Determinations of Eligibility.—Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is amended by adding at the end the following new subsections:

"(o) Eligibility of Protege Firms for Certain Assistance.—Notwithstanding any other provision of law, the Small Business Administration may not determine a disadvantaged small business concern to be ineligible to receive any assistance authorized under the Small Business Act on the basis that such business concern has participated in the Mentor-Protege Program or has received assistance pursuant to any developmental assistance agreement authorized under such program.

"(p) LIMITATION ON DUPLICATIVE REVIEW.—Notwithstanding any other provision of law, the Small Business Administration may not require a firm that is entering into, or has entered into, an agreement under subsection (e) as a protege firm to submit the agreement, or any other document required by the Secretary of Defense in the administration of the Mentor-Protege Program, to the Small Business Administration for review, approval, or any other purpose.".

(e) STATUS DETERMINATIONS.—Section 831(c)(3) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is amended by striking out the second sentence and all that follows through "Administration" in the third sentence and inserting in lieu thereof the following: "The Secretary of Defense shall determine the status of such business concern as a disadvantaged small business concern pursuant to regulations prescribed by the Secretary. If at any time the business concern is determined by the Secretary".

(f) NONAFFILIATION TREATMENT.—Subsection (h) of section 831 the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is repealed.

(g) RETROACTIVE EFFECTIVE DATE.—The amendments made by subsections (d), (e), and (f) shall take effect as of November 5, 1990, and shall apply as if executed immediately after section 831 of the National Defense Authorization Act for Fiscal Year 1991 took effect.

SEC. 816. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM.

(a) AVAILABILITY OF AUTHORIZED APPROPRIATIONS.—Of the amounts authorized to be appropriated pursuant to section 301(5), $9,000,000 shall be available for fiscal year 1993 for carrying out the provisions of chapter 142 of title 10, United States Code.

(b) SPECIFIC PROGRAMS.—Of the amounts provided for in subsection (a), $600,000 shall be available for fiscal year 1993 for the purpose of carrying out programs sponsored by eligible entities referred to in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas referred to in subparagraph (B) of section 2411(2) of such title. If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow for effective use of the funds made available in accordance with this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

Subtitle C—Miscellaneous Acquisition Policy Matters

SEC. 821. EXTENSION OF PROGRAM FOR USE OF MASTER AGREEMENTS FOR PROCUREMENT OF ADVISORY AND ASSISTANCE SERVICES.

Section 2304(j) of title 10, United States Code, is amended in paragraph (5) by striking out "at the end of" and all that follows and inserting in lieu thereof "on September 30, 1994.".

SEC. 822. MAJOR DEFENSE ACQUISITION PROGRAM REPORTS.

(a) SELECTED ACQUISITION REPORTS FOR CERTAIN PROGRAMS.—Section 127(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (101 Stat. 1044; 10 U.S.C. 2432 note) is amended by striking out "at the end of each fiscal year quarter" and inserting in lieu thereof "in accordance with the provisions of subsection (b) of section 2432 of title 10, United States Code,".

(b) MINIMUM AMOUNT CRITERIA FOR MAJOR DEFENSE ACQUISITION PROGRAMS.—Section 2430 of title 10, United States Code, is amended—

(1) by designating the existing text as subsection (a);

(2) in paragraph (2) of that subsection, as so designated—

(A) by striking out "$200,000,000" and inserting in lieu thereof "$300,000,000";

(B) by striking out "1980" both places it appears and inserting in lieu thereof "1990"; and

(C) by striking out "$1,000,000,000" and inserting in lieu thereof "$1,800,000,000"; and

(3) by adding at the end the following new subsection:

"(b) The Secretary of Defense may adjust the amounts (and the base fiscal year) provided in subsection (a)(2) on the basis of Department of Defense escalation rates. An adjustment under this subsection shall be effective after the Secretary transmits a written notification of the adjustment to the Committees on Armed Services of the Senate and House of Representatives.".

(c) SELECTED ACQUISITION REPORTS.—(1) Subsection (a) of section 2432 of title 10, United States Code, is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) The term 'major contract', with respect to a major defense acquisition program, means each of the six largest prime, associate, or Government-furnished equipment contracts under the program that is in excess of $40,000,000.".

(2) Subsection (b) of such section is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) The Secretary of Defense may waive the requirement for submission of Selected Acquisition Reports for a program for a fiscal year if—

"(i) the program has not entered full scale development or engineering and manufacturing development;

"(ii) a reasonable cost estimate has not been established for such program; and

"(iii) the system configuration for such program is not well defined.

"(B) The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a written notification of each waiver under subparagraph (A) for a program for a fiscal year not later than 60 days before the President submits the budget to Congress pursuant to section 1105 of title 31 in that fiscal year.".

(3) Subsection (c)(2) of such section is amended by striking out the last sentence and inserting in lieu thereof the following: "The Secretary of Defense may approve changes in the content of the Selected Acquisition Report if the Secretary provides such Committees with written notification of such changes at least 60 days before the date of the report that incorporates the changes.".

(4) Subsection (c)(3)(C) of such section is amended by striking out clauses (i) through (vii) and inserting in lieu thereof the following:

"(i) Specification of the baseline production rate, defined as the rate or rates to be achieved at full rate production as assumed in the decision to proceed with production (commonly referred to as the 'Milestone III' decision).

"(ii) Specification, for each of the two budget years of production under the program, of the minimum sustaining production rate, defined as the production rate for each budget year that is necessary to keep production lines open while maintaining a base of responsive vendors and suppliers.

"(iii) Specification, for each of the two budget years of production under the program, of the maximum production rate, defined as the production rate for each budget year that is attainable with the facilities and tooling programmed to be available for procurement under the program or otherwise to be provided with Government funds.

"(iv) Specification, for each of the two budget years of production, of the current production rate, defined as the production rate for each budget year for which the report is submitted, based on the budget submitted to Congress pursuant to section 1105 of title 31.

"(v) Estimation of any cost variance—

"(I) between the budget year procurement unit costs at the production rate specified pursuant to clause (iv) and the budget year procurement unit costs at the minimum sustaining production rate specified pursuant to clause (ii); and

"(II) between the total remaining procurement cost at the production rate specified pursuant to clause (iv) and the total remaining procurement cost at the minimum sustaining production rate specified pursuant to clause (ii).

"(vi) Estimation of any cost variance—

"(I) between the budget year procurement unit costs at the current production rate specified pursuant to clause (iv) and the budget year procurement unit costs at the maximum production rate specified pursuant to clause (iii); and

"(II) between the total remaining procurement cost at the current production rate specified pursuant to clause (iv) and the total remaining procurement cost at the maximum production rate specified pursuant to clause (iii).

"(vii) Estimation of quantity variance—

"(I) between the budget year quantities assumed in the minimum sustaining production rate specified pursuant to clause (ii) and the current production rate specified pursuant to clause (iv); and

"(II) between the budget year quantities assumed in the maximum production rate specified pursuant to clause (iii) and the current production rate specified pursuant to clause (iv).".

(d) UNIT COST REPORTS.—(1) Subsection (a)(4)(C) of section 2433 of title 10, United States Code, is amended by striking out "(e)(2)(B)(ii)" and inserting in lieu thereof "(e)(2)(B)".

(2) Subsection (b) of such section is amended by striking out "7 days (excluding Saturdays, Sundays, and legal public holidays)" in the second sentence and inserting in lieu thereof "30 calendar days".

(3) Paragraphs (1)(A), (1)(B), (2)(A), and (2)(B) of subsection (c) of such section are amended by striking out "more than" each place it appears and inserting in lieu thereof "at least".

(4) Subsection (d) of such section is amended—

(A) by striking out "more than" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "at least"; and

(B) in paragraph (3) of such subsection—

(i) by striking out "more than" each place it appears and inserting in lieu thereof "at least"; and

(ii) by striking out "program within 30 days" and all that follows and inserting in lieu thereof "program. In the case of a determination based on a quarterly report submitted in accordance with subsection (b), the Secretary shall submit the notification to Congress within 45 days after the end of the quarter. In the case of a determination based on a report submitted in accordance with subsection (c), the Secretary shall submit the notification to Congress within 45 days after the date of that report. The Secretary shall include in the notification the date on which the determination was made.".

(5) Subsection (e) of such section is amended—

(A) in paragraph (1), by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) Except as provided in subparagraph (B), whenever the Secretary concerned determines under subsection (d) that the program acquisition unit cost or the current procurement unit cost of a major defense acquisition program has increased by at least 15 percent, a Selected Acquisition Report shall be submitted to Congress for the first fiscal-year quarter ending on or after the date of the determination or for the fiscal-year quarter which immediately precedes the first fiscal-year quarter ending on or after that date. The report shall include the information described in section 2432(e) of this title and shall be submitted in accordance with section 2432(f) of this title.";

(B) in paragraph (2), by striking out "current program acquisition cost" and inserting in lieu thereof "program acquisition unit cost or current procurement unit cost"; and

(C) in paragraph (3), by striking out "more than" each place it appears and inserting in lieu thereof "at least".

SEC. 823. REVISION OF RULES CONCERNING SEVERANCE PAY FOR FOREIGN NATIONALS.

(a) WAIVER AUTHORITY.—Section 2324(e) of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3)(A) Pursuant to regulations prescribed by the Secretary and subject to the availability of appropriations, the head of an agency awarding a covered contract may waive the application of the provisions of paragraphs (1)(M) and (1)(N) to that contract if the head of the agency determines that—

"(i) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for members of the armed forces stationed or deployed outside the United States;

"(ii) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

"(iii) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

"(B) The head of an agency shall include in the solicitation for a covered contract a statement regarding whether a waiver has been granted under subparagraph (A) in the case of that contract.

"(C) Subparagraph (A) does not apply with respect to a contractor that is owned or controlled directly or indirectly by citizens or nationals of a foreign country, as determined by the head of the agency awarding the contract to such contractor. The head of the agency shall make such determination in accordance with the criteria and policy guidance referred to in paragraph (2)(C).".

(b) APPLICABILITY.—(1) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to covered contracts (as defined in section 2324 of title 10, United States Code) that are entered into on or after that date.

(2) Notwithstanding paragraph (1), if the applicable head of an agency makes the determinations referred to in paragraph (3)(A) of section 2324(e) of title 10, United States Code (as amended by subsection (a)), with respect to a covered contract that was in force during the period beginning on October 1, 1991, and ending on the date of the enactment of this Act, the provisions of paragraphs (1)(M) and (1)(N) of such section shall not apply to the costs, if any, incurred by the contractor for the payment under the contract of severance pay to foreign national employees whose employment under the contract was terminated during such period.

(c) REPORT ON USE OF WAIVER AUTHORITY.—Not later than March 15 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the use of the waiver authority provided in section 2324(e)(3)(A) of title 10, United States Code (as added by subsection (a)), during the preceding year.

SEC. 824. PROHIBITION ON PURCHASE OF UNITED STATES DEFENSE CONTRACTORS BY ENTITIES CONTROLLED BY FOREIGN GOVERNMENTS.

(a) IN GENERAL.—No entity controlled by a foreign government may purchase or otherwise acquire a company engaged in interstate commerce in the United States that—

(1) is performing a Department of Defense contract, or a Department of Energy contract under a national security program, that cannot be performed satisfactorily unless that company is given access to information in a proscribed category of information; or

(2) during the previous fiscal year, was awarded—

(A) Department of Defense prime contracts in an aggregate amount in excess of $500,000,000; or

(B) Department of Energy prime contracts under national security programs in an aggregate amount in excess of $500,000,000.

(b) INAPPLICABILITY TO CERTAIN CASES.—The limitation in subsection (a) shall not apply to a purchase or other acquisition if—

(1) the Secretary of Defense determines that the purchase or other acquisition is necessary in order to ensure the availability of critical supplies or services that would not otherwise be reasonably available to the Department of Defense;

(2) the Secretary of Defense determines that the purchase or other acquisition is not detrimental to the national security interests of the United States; and

(3) the purchase or other acquisition is not suspended or prohibited pursuant to section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170).

(c) DEFINITIONS.—In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government, and

(B) any individual acting on behalf of a foreign government,

as determined by the President.

(2) The term "proscribed category of information" means a category of information that—

(A) with respect to Department of Defense contracts—

(i) includes special access information;

(ii) is determined by the Secretary of Defense to include information the disclosure of which to an entity controlled by a foreign government is not in the national security interests of the United States; and

(iii) is defined in regulations prescribed by the Secretary of Defense for the purposes of this section; and

(B) with respect to Department of Energy contracts—

(i) is determined by the Secretary of Energy to include information described in subparagraph (A)(ii); and

(ii) is defined in regulations prescribed by the Secretary of Energy for the purposes of this section.

SEC. 825. PROHIBITION ON AWARD OF CERTAIN DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY CONTRACTS TO COMPANIES OWNED BY AN ENTITY CONTROLLED BY A FOREIGN GOVERNMENT.

(a) IN GENERAL.—A Department of Defense contract or Department of Energy contract under a national security program may not be awarded to a company owned by an entity controlled by a foreign government if it is necessary for that company to be given access to information in a proscribed category of information in order to perform the contract.

(b) WAIVER AUTHORITY.—The Secretary may waive the application of subsection (a) to a contract award if the Secretary determines that the waiver is essential to the national security interests of the United States.

(c) DEFINITIONS.—In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government, and

(B) any individual acting on behalf of a foreign government,

as determined by the Secretary concerned.

(2) The term "proscribed category of information" means a category of information that—

(A) with respect to Department of Defense contracts—

(i) includes special access information;

(ii) is determined by the Secretary of Defense to include information the disclosure of which to an entity controlled by a foreign government is not in the national security interests of the United States; and

(iii) is defined in regulations prescribed by the Secretary of Defense for the purposes of this section; and

(B) with respect to Department of Energy contracts—

(i) is determined by the Secretary of Energy to include information described in subparagraph (A)(ii); and

(ii) is defined in regulations prescribed by the Secretary of Energy for the purposes of this section.

(3) The term "Secretary concerned" means—

(A) the Secretary of Defense, with respect to Department of Defense contracts; and

(B) the Secretary of Energy, with respect to Department of Energy contracts.

SEC. 826. DEPARTMENT OF DEFENSE INVENTION DISPOSITION POLICY.

(a) POLICY.—To the extent permitted by law, the policy of the Department of Defense with respect to the disposition of any invention usable in the manufacture of products that is made in the performance of a federally funded research and development contract, grant, or cooperative agreement award shall be the same or substantially the same as is applied to small business firms and nonprofit organizations under chapter 18 of title 35, United States Code.

(b) WAIVER.—In awards not subject to chapter 18 of title 35, United States Code, any of the rights of the Federal Government or obligations of the performer described in sections 202 through 204 of that title may be waived or omitted if, under regulations prescribed by the Secretary of Defense, it is determined that—

(1) the interests of the United States and the general public will be better served by the waiver or omission, including such cases as when the waiver or omission is necessary to obtain a uniquely or highly qualified performer; or

(2) the award involves cosponsored, cost-sharing, or joint venture research and development, and the performer, cosponsor, or joint venturer is making a substantial contribution of funds, facilities, or equipment to the work performed under the award.

(c) REQUIREMENT FOR CONFIDENTIALITY.—The Secretary of Defense should protect the confidentiality of invention disclosure, patent applications, and utilization reports required in performance or in consequence of awards to the extent permitted by section 205 of title 35, United States Code, or other applicable laws.

SEC. 827. CERTIFICATION OF CLAIMS FOR SHIPBUILDING CONTRACTS.

(a) CERTIFICATION.—Section 2405 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) If a certification referred to in subsection (b) with respect to a shipbuilding contract is determined to be deficient because of the position, status, or scope of authority of the person executing the certification, the contractor may resubmit the certification. The resubmitted certification shall be based on the supporting data that existed when the original certification was submitted. The appropriateness of the person executing the resubmitted certification shall be determined on the basis of applicable law in effect at the time of the resubmission.

"(2) If a certification is resubmitted pursuant to paragraph (1) within 30 days after the date on which the contracting officer for the contract notifies the contractor in writing of the deficiency in the original certification, the resubmitted certification shall be deemed to have been submitted at the time the original certification was submitted.".

(b) APPLICABILITY.—(1) Except as provided in paragraph (2) the amendment made by subsection (a) shall apply to certifications determined to be deficient on or after the date of the enactment of this Act.

(2) In the case of a certification referred to in subsection (b) of section 2405 of title 10, United States Code, that has been determined to be deficient for a reason set forth in subsection (c)(1) of that section (as added by subsection (a)) before the date of the enactment of this Act, a certification resubmitted pursuant to such subsection (c)(1) within 180 days after that date shall be deemed to have been submitted on the date of the submission of the original certification.

SEC. 828. AUTHORITY FOR THE DEPARTMENT OF DEFENSE TO SHARE EQUITABLY THE COSTS OF CLAIMS UNDER INTERNATIONAL ARMAMENTS COOPERATION PROGRAMS.

(a) AMENDMENT TO THE ARMS EXPORT CONTROL ACT.—Section 27(c) of the Arms Export Control Act (22 U.S.C. 2767(c)) is amended in the second sentence by striking out "and administrative costs" and inserting in lieu thereof "costs, administrative costs, and costs of claims".

(b) AMENDMENTS TO TITLE 10.—(1) Section 2350a(c) of title 10, United States Code, is amended by inserting "(including the costs of claims)" after "project" the second place it appears.

(2) Section 2350d(c) of such title is amended by inserting "and costs of claims" after "administrative costs".

SEC. 829. ADVANCE NOTIFICATION OF CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES.

(a) NOTIFICATION REQUIRED.—(1) Chapter 141 of title 10, United States Code, as amended by section 806, is further amended by adding at the end the following new section:

"§ 2410f. Advance notification of contract performance outside the United States

"(a) NOTIFICATION.—(1) A firm that is performing a Department of Defense contract for an amount exceeding $10,000,000, or is submitting a bid or proposal for such a contract, shall notify the Department of Defense in advance of any intention of the firm or any subcontractor of the firm to perform outside the United States any part of the contract that exceeds $500,000 in value and could be performed inside the United States.

"(2) If a firm submitting a bid or proposal for a Department of Defense contract is required to submit a notification under this subsection, the notification shall be included in the bid or proposal.

"(b) RECIPIENT OF NOTIFICATION.—The firm shall transmit the notification—

"(1) in the case of a contract of a military department, to such officer or employee of that military department as the Secretary of the military department may direct; and

"(2) in the case of any other Department of Defense contract, to such officer or employee of the Department of Defense as the Secretary of Defense may direct.

"(c) AVAILABILITY OF NOTIFICATIONS.—The Secretary of Defense shall ensure that the notifications (or copies) are maintained in compiled form for a period of 5 years and are available for use in the preparation of the national defense technology and industrial base assessment carried out under section 2263 of this title.

"(d) INAPPLICABILITY TO CONSTRUCTION CONTRACTS.—This section shall not apply to contracts for military construction.".

(2) The table of sections at the beginning of such chapter, as amended by section 806, is further amended by adding at the end the following new item:

"2410f. Advance notification of contract performance outside the United States.".

(b) EFFECTIVE DATE.—Section 2410d of title 10, United States Code (as added by subsection (a)), shall take effect 90 days after the date of the enactment of this Act.

SEC. 830. ALLOWABLE COSTS.

(a) PENALTIES.—Section 2324 of title 10, United States Code, is amended by striking out subsections (a), (b), (c), and (d) and inserting in lieu thereof the following:

"(a) The Secretary of Defense shall require that a covered contract provide that if the contractor submits to the Department of Defense a proposal for settlement of indirect costs incurred by the contractor for any period after such costs have been accrued and if that proposal includes the submission of a cost which is unallowable because the cost violates a cost principle in the Federal Acquisition Regulation or the Department of Defense Supplement to the Federal Acquisition Regulation, the cost shall be disallowed.

"(b)(1) If the Secretary determines that a cost submitted by a contractor in its proposal for settlement is expressly unallowable under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs, the Secretary shall assess a penalty against the contractor in an amount equal to—

"(A) the amount of the disallowed costs allocated to covered contracts; plus

"(B) interest (to be computed based on regulations issued by the Secretary) to compensate the United States for the use of any funds which the contractor has been paid in excess of the amount to which the contractor was entitled.

"(2) If the Secretary determines that a proposal for settlement of indirect costs submitted by a contractor includes a cost determined to be unallowable in the case of such contractor before the submission of such proposal, the Secretary shall assess a penalty against the contractor in an amount equal to two times the amount of the disallowed cost allocated to covered contracts.

"(c) The Secretary shall prescribe regulations providing for a penalty under subsection (b) to be waived in the case of a contractor's proposal for settlement of indirect costs when—

"(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal; or

"(2) the amount of unallowable costs subject to the penalty is insignificant.

"(d) An action of the Secretary under subsection (a) or (b)—

"(1) shall be considered a final decision for the purposes of section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605); and

"(2) is appealable in the manner provided in section 7 of such Act (41 U.S.C. 606).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply, as provided in regulations prescribed by the Secretary of Defense, with respect to proposals for settlement of indirect costs for contractor fiscal years for which the Federal Government has not formally initiated an audit of the proposals before that date.

SEC. 831. SCIENCE AND TECHNOLOGY FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Defense shall carry out a science and technology fellowship program in accordance with this section in order to enhance the ability of the Department of Defense to recruit and retain employees who are highly qualified in fields of science and technology.

(b) NUMBER OF FELLOWSHIPS.—The Secretary of Defense may designate up to 25 employees of the Department of Defense as science and technology fellows.

(c) COVERED POSITIONS.—In order to be eligible for designation as a science and technology fellow, an employee shall be serving in a science or technology position in the Department of Defense that involves the performance of duties likely to result in significant restrictions under law on the employment activities of that employee after leaving Government service.

(d) SUPPORT FOR 2-YEAR PERIOD OF RESEARCH AND TEACHING.—After a science and technology fellow completes 2 years of Federal Government service as an employee in a science or technology position in the Department of Defense, the Secretary of Defense shall support the employment of the fellow, in accordance with subsection (e), in research or teaching in a field related to Federal Government science and technology policy for 2 years.

(e) FORMS OF SUPPORT.—(1) If the fellow engages in research or teaching referred to in subsection (d) in the defense acquisition university structure of the Department of Defense or any other institution of professional education of the Federal Government, the Secretary of Defense shall continue the fellow as an employee of the Department of Defense in a grade or level at least equal to the grade or level of the position in which the fellow served in the Department of Defense as a fellow before undertaking such research or teaching.

(2) If the fellow terminates employment as a Federal employee and engages in research or teaching referred to in subsection (d) in a nonprofit institution of higher education, the Secretary of Defense shall pay the fellow a stipend at least equal to the rate of pay and the equivalent of the employee benefits that the fellow would have received under paragraph (1) if the fellow were engaging in that research or teaching in an institution of professional education of the Federal Government.

SEC. 832. ADVISORY AND ASSISTANCE SERVICES FOR OPERATIONAL TEST AND EVALUATION.

Paragraph (3) of section 2399(e) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following new subparagraph:

"(B) The limitation in subparagraph (A) does not apply to a contractor that has participated in such development, production, or testing solely as a representative of the Federal Government.".

SEC. 833. REGULATIONS RELATING TO SUBSTANTIAL CHANGES IN THE PARTICIPATION OF A MILITARY DEPARTMENT IN A JOINT ACQUISITION PROGRAM.

(a) REGULATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

(b) CONTENT OF REGULATIONS.—The regulations shall include the following provisions:

(1) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termination or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

(2) A provision that authorizes the Under Secretary of Defense for Acquisition to require a military department approved for termination or substantial reduction in participation in a joint acquisition program to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.

SEC. 834. RESTRICTION ON PURCHASE OF SONOBUOYS.

(a) LIMITATION.—The Secretary of Defense may not procure a sonobuoy manufactured in a foreign country unless United States firms that manufacture sonobuoys are permitted to compete on an equal basis with foreign manufacturing firms for the sale of sonobuoys in that foreign country.

(b) WAIVER AUTHORITY.—The Secretary may waive the limitation in subsection (a) with respect to a particular procurement of sonobuoys if the Secretary determines that such procurement is in the national security interests of the United States.

(c) DEFINITION.—In this section, the term "United States firm" has the meaning given such term in section 2505(d)(1) of title 10, United States Code.

SEC. 835. SHIPBUILDING TOTAL PROGRAM REPORTING.

Section 2431 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) In the application of subsection (b)(2) to reports regarding a shipbuilding program, the term 'units to be procured until procurement is completed' means the greater of—

"(1) the number of ships used in the cost and operational effectiveness analysis that supports a Milestone I decision for the program;

"(2) the number of ships used in the cost and operational effectiveness analysis that supports a Milestone II decision for the program; or

"(3) the total number of ships that would be procured under the program if the latest multiyear defense program submitted under section 114a of this title were implemented.".

SEC. 836. PURCHASE OF ANGOLAN PETROLEUM PRODUCTS.

The prohibition in section 316 of the National Defense Authorization Act for Fiscal Year 1987 (100 Stat. 3855; 10 U.S.C. 2304 note) shall cease to be effective on the date on which the President certifies to Congress that free, fair, and democratic elections have taken place in Angola after September 1, 1992.

SEC. 837. PROGRAM TO ENCOURAGE DIVERSIFICATION OF DEFENSE LABORATORIES.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense, acting through the Director of Defense Research and Engineering, shall establish and implement a program to be known as the Federal Defense Laboratory Diversification Program (hereafter in this section referred to as the "Program"). The purpose of the Program shall be to encourage greater cooperation in research and production activities carried out by defense laboratories and by private industry of the United in order to enhance and improve the products of such research and production activities.

(b) PROGRAM GOALS.—Under the Program, the defense laboratories shall carry out cooperative activities with private industry in order to promote the transfer (by the use or exchange of patents, licenses, cooperative research and development agreements and other cooperative agreements, and the use of symposia, meetings, and other similar mechanisms) of defense or dual-use technologies from the defense laboratories to private industry for the purpose of the commercial utilization of such technologies by private industry.

(c) DEVELOPMENT OF PLANS FOR PROGRAM.—The Director of Defense Research and Engineering shall develop and annually update a plan for each defense laboratory that participates in the Program under which plan the laboratory shall carry out cooperative activities with private industry to promote the transfers described in subsection (b).

(d) REPORTS ON SURVEY OF LABS AND IMPLEMENTATION OF PROGRAM.—(1) Not later than September 30, 1993, the Director of Research and Engineering shall submit to Congress a report containing the following:

(A) An assessment of the potential of each such laboratory to promote the transfers described in subsection (b).

(B) Recommendations on the manner in which each such laboratory might better promote such transfers.

(C) A description of the extent to which each such laboratory has implemented effectively the plan established for the laboratory under subsection (c) during the year preceding the date of the report.

(D) Recommendations of the Director for the improvement of the Program.

(e) DEFINITION.—In this section, the term "defense laboratory" means any laboratory owned or operated by the Department of Defense that carries out research in fiscal year 1993 in an amount in excess of $5,000,000.

SEC. 838. DEFENSE PRODUCTION ACT AMENDMENTS.

(a) INVESTIGATIONS OF CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS.—Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended—

(1) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) MANDATORY INVESTIGATIONS.—The President or the President's designee shall make an investigation, as described in subsection (a), in any instance in which an entity controlled by or acting on behalf of a foreign government seeks to engage in any merger, acquisition, or takeover of a person engaged in interstate commerce in the United States that could affect the national security of the United States. Such investigation shall—

"(1) commence not later than 30 days after receipt by the President or the President's designee of written notification of the proposed or pending merger, acquisition, or takeover, as prescribed by regulations promulgated pursuant to this section; and

"(2) shall be completed not later than 45 days after its commencement.

(b) CONSIDERATIONS OF THE PRESIDENT.—Section 721(f) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(f)) (as redesignated by subsection (a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period and inserting a comma; and

(3) by adding at the end the following new paragraphs:

"(4) the potential effects of the proposed or pending transaction on sales of military goods, equipment, or technology to any country—

"(A) identified by the Secretary of State—

"(i) under section 6(j) of the Export Administration Act of 1979, as a country that supports terrorism;

"(ii) under section 6(*l*) of the Export Administration Act of 1979, as a country of concern regarding missile proliferation; or

"(iii) under section 6(m) of the Export Administration Act of 1979, as a country of concern regarding the proliferation of chemical and biological weapons; or

"(B) listed under section 309(c) of the Nuclear Non-Proliferation Act of 1978 on the 'Nuclear Non-Proliferation-Special Country List' (15 C.F.R. Part 778, Supplement No. 4) or any successor list; and

"(5) the potential effects of the proposed or pending transaction on United States international technological leadership in areas affecting United States national security.".

(c) REPORT.—Section 721(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(f)) (as redesignated by subsection (a)) is amended to read as follows:

"(g) REPORT TO THE CONGRESS.—The President shall immediately transmit to the Secretary of the Senate and the Clerk of the House of Representatives a written report of the President's determination of whether or not to take action under subsection (d), including a detailed explanation of the findings made under subsection (e) and the factors considered under subsection (f).".

(d) SENSE OF THE CONGRESS REGARDING THE COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES.—It is the sense of the Congress that the President should include in the membership of the Committee on Foreign Investment in the United States (established by Executive Order No. 11858)—

(1) the Director of the Office of Science and Technology Policy; and

(2) the Assistant to the President for National Security.

(e) INTELLIGENCE STUDY.—

(1) IN GENERAL.—In order to assist the Congress in its oversight responsibilities with respect to section 721 of the Defense Production Act (as amended by this section), the Director of the Federal Bureau of Investigations and the Director of Central Intelligence shall jointly submit to the Congress a report that evaluates whether—

(A) there is credible evidence of a strategy by 1 or more foreign countries or companies to acquire United States companies involved in the research, development, or production of defense critical technologies of which the United States is a leading producer; and

(B) such strategy is intended as a means—

(i) of obtaining access to defense critical technologies that the foreign entity would not otherwise have; or

(ii) of gaining substantial control of the market for such technologies.

(2) SUBMISSION.—The report required under paragraph (1) shall be submitted—

(A) not later than 1 year after the date of enactment of this Act; and

(B) upon the expiration of every 4-year period thereafter.

SEC. 839. LANDSAT REMOTE-SENSING SATELLITE.

Notwithstanding the provisions of the Land-Remote Sensing Commercialization Act of 1984 (Public Law 98-365), the Department of Defense is authorized to contract for the development, procurement, and support to operations of Landsat 7 and subsequent Landsat vehicles.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—General Matters

SEC. 901. REPORT OF THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF ON ROLES AND MISSIONS OF THE ARMED FORCES.

(a) REPORT.—(1) The Secretary of Defense shall transmit to Congress a copy of the first report relating to the roles and missions of the Armed Forces that is submitted to the Secretary by the Chairman of the Joint Chiefs of Staff under section 153(b) of title 10, United States Code, after January 1, 1992.

(2) The Secretary shall transmit the report, together with his views on the report, within 30 days after receiving the report.

(b) ADDITIONAL MATTERS.—In addition to the matters required under such section 153(b), the Chairman shall include in the report referred to in subsection (a) the Chairman's comments and recommendations regarding the following matters:

(1) The extent to which the efficiency of the Armed Forces in carrying out its roles and missions can be enhanced by the elimination or reduction of duplication in the capabilities of, or by the consolidation or streamlining of organizations and activities within, the military departments and Defense Agencies.

(2) Changes in the operational tempo of forces stationed in the continental United States and changes in deployment patterns and operational tempo of forces deployed outside the United States.

(3) Changes in the readiness status of units based upon time-phased force deployment plans.

(4) Transfers of functions from the active components of the Armed Forces to the reserve components of the Armed Forces.

SEC. 902. VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF.

(a) DESIGNATION AS A MEMBER OF THE JOINT CHIEFS OF STAFF.—Section 151(a) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Vice Chairman.".

(b) CONFORMING AMENDMENTS.—(1) Section 154 of such title is amended—

(A) in subsection (c), by striking out "such" and inserting in lieu thereof "the duties prescribed for him as a member of the Joint Chiefs of Staff and such other";

(B) by striking out subsection (f); and

(C) by redesignating subsection (g) as subsection (f).

(2) Section 155(a)(1) of such title is amended by striking out "and the Vice Chairman."

SEC. 903. ASSISTANT TO THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF FOR NATIONAL GUARD AND RESERVE AFFAIRS.

Section 155 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h) ASSISTANT FOR NATIONAL GUARD AND RESERVE AFFAIRS.—(1) The Chairman of the Joint Chiefs of Staff shall establish on the Joint Staff the position of Assistant to the Chairman of the Joint Chiefs of Staff for National Guard and Reserve Affairs.

"(2) The Assistant to the Chairman shall be a commissioned officer in the reserve components.

"(3) The Assistant to the Chairman shall be the principal adviser to the Chairman of the Joint Chiefs of Staff on matters concerning the reserve components.

"(4) The staff of the Assistant to the Chairman shall be members of the reserve components within the end strengths authorized by law for the number of Reserves serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components.".

SEC. 904. ORGANIZATION OF THE OFFICE OF THE CHIEF OF NAVAL OPERATIONS.

(a) CONSOLIDATION OF NAVY HEADQUARTERS MANAGEMENT STRUCTURE.—The Secretary of the Navy shall consolidate and streamline the Navy headquarters establishments within the Office of the Chief of Naval Operations to reflect changes in the roles and missions of the Department of the Navy.

(b) ASSISTANT CHIEF OF NAVAL OPERATIONS FOR EXPEDITIONARY WARFARE.—(1) Section 5037 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) One of the Assistant Chiefs of Naval Operations shall be the Assistant Chief of Naval Operations for Expeditionary Warfare who shall be detailed from officers on the active-duty list of the Marine Corps.

"(2) An officer assigned to the position of Assistant Chief of Naval Operations for Expeditionary Warfare, while so serving, has the grade of lieutenant general without vacating his permanent grade. The Assistant Chief of Naval Operations for Expeditionary Warfare shall be appointed to that grade by the President, by and with the advice and consent of the Senate, for service in that position.

"(3) The principal duty of the Assistant Chief of Naval Operations for Expeditionary Warfare shall be to supervise the performance of all responsibilities of the Chief of Naval Operations regarding expeditionary warfare, including responsibilities regarding amphibious lift, mine warfare, naval fire support, aviation support, and other missions essential to supporting expeditionary warfare.".

(2) The Chief of Naval Operations shall transfer duties, responsibilities, and staff from other personnel within the Office of the Chief of Naval Operations as necessary to fully support the Assistant Chief of Naval Operations for Expeditionary Warfare.

(3) Paragraph (4) of section 525(b) of title 10, United States Code, is amended—

(A) in subparagraph (A), by inserting "or referred to in subparagraph (C)" after "subparagraph (B)"; and

(B) by adding at the end the following new subparagraph:

"(C) Subparagraph (C) applies to the Assistant Chief of Naval Operations for Expeditionary Warfare in addition to officers designated under subparagraph (B).".

SEC. 905. CERTIFICATIONS RELATING TO THE ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT AND THE SPECIAL OPERATIONS COMMAND.

(a) CERTIFICATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall (except as otherwise provided under subsection (b)) certify to the congressional defense committees the following:

(1) That the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict and the commander of the special operations command established pursuant to section 167 of title 10, United States Code, have been assigned the duties and functions specified for the Assistant Secretary and that commander, respectively, under law, the Unified Command Plan, and Department of Defense Directive No. 5138.3 (dated January 4, 1988).

(2) That the Assistant Secretary and the special operations command have been authorized the number of personnel necessary for the Assistant Secretary and the commander of the special operations command to perform such respective duties and functions.

(b) ALTERNATIVE TO CERTIFICATION.—If the Secretary of Defense is unable to make the certifications referred to in subsection (a) within the 120-day period provided in that subsection, the Secretary shall submit to the congressional defense committees a report notifying the committees that the Secretary is unable to make such certifications and setting forth the actions that the Secretary will take in order to enable the Secretary to make such certifications after the expiration of that period.

SEC. 906. JOINT OFFICER PERSONNEL POLICY.

(a) FIVE-YEAR EXTENSION OF AUTHORITY RELATING TO JOINT DUTY ASSIGNMENT AS

Prerequisite for Promotion to General or Flag Officer.—Section 619(e) of title 10, United States Code, is amended by striking out "January 1, 1994" in paragraphs (1) and (2)(E) and inserting in lieu thereof "January 1, 1999".

(b) Education and Experience Requirements.—Section 661(c)(1)(A) of such title is amended by inserting before the semicolon the following: "or successfully completes a program at a civilian institution of higher education leading to the award of a master's or higher degree".

(c) Length of Joint Duty Assignments.—(1) Subsection (f) of section 664 of such title is amended to read as follows:

"(f) Full Tour of Duty.—An officer shall be considered to have completed a full tour of duty in a joint duty assignment upon the successful completion by that officer of a joint duty assignment, or of an assignment within the officer's military department, if the officer is certified as having gained significant experience in joint matters in that assignment by—

"(1) in the case of an assignment in a unit or organization in a combatant command, the commander of the combatant command;

"(2) in the case of an assignment in a Defense Agency, the head of that Defense Agency; or

"(3) in the case of any other assignment, the Chairman of the Joint Chiefs of Staff.".

(2) Subsection (d)(1)(D) of that section is amended to read as follows:

"(D) a reassignment for unusual personal reasons (including extreme hardship and medical conditions) beyond the control of the officer or the armed forces or a reassignment to another joint duty assignment.".

(d) Conforming Amendments.—(1) Section 664 of such title is amended by striking out paragraph (3) of subsection (d) and subsections (g) and (h).

(2) Section 668(b)(1) of such title is amended by striking out "exclude—" and all that follows through the period at the end and inserting in lieu thereof "exclude assignments for joint training or joint education.".

SEC. 907. JOINT DUTY CREDIT FOR EQUIVALENT DUTY IN OPERATIONS DESERT SHIELD AND DESERT STORM.

(a) In General.—(1) The Secretary of Defense, upon a recommendation made in accordance with paragraph (3), shall credit an officer of the Armed Forces of the United States who has completed service described in paragraph (2) as having completed a full tour of duty in a joint duty assignment for the purposes of chapter 38 of title 10, United States Code.

(2) Paragraph (1) applies to any officer who, after August 1, 1990, and before October 1, 1991, performed service in an assignment in the Persian Gulf combat zone that—

(A) provided significant experience in joint matters; or

(B) involved frequent professional interaction of that officer with (i) units and members of any of the armed forces other than the officer's armed force, or (ii) an allied armed force.

(3) The Secretary shall take action under paragraph (1) in the case of any officer if that action is recommended, with the concurrence of the Chairman of the Joint Chiefs of Staff, by the Chief of Staff of the Army (for an officer in the Army), the Chief of Naval Operations (for an officer in the Navy), the Chief of Staff of the Air Force (for an officer in the Air Force), or the Commandant of the Marine Corps (for an officer in the Marine Corps).

(b) Inapplicability of Certain Reporting and Policy Requirements.—Officers for whom joint duty credit has been granted pursuant to subsection (a) shall not be counted for the purposes of paragraphs (7), (8), (9), (11), or (12) of section 667 of title 10, United States Code, and subsections (a)(3) and (b) of section 662 of such title.

(c) Information on Exercise of Authority To Be Included in Fiscal Year 1993 Annual Report.—The annual report submitted to Congress by the Secretary of Defense for fiscal year 1993 under section 113(c) of title 10, United States Code, shall include the following information:

(1) The total number of officers granted joint duty credit pursuant to subsection (a).

(2) The total number of such officers for each armed force.

(3) The total number of officers in each grade and each occupational specialty who have been granted joint duty credit pursuant to subsection (a).

(4) For each armed force, the total number of such officers in each grade and each occupational specialty who have been granted such credit.

(d) Definitions.—In this section:

(1) The term "joint matters" has the meaning given such term in section 668(a) of title 10, United States Code.

(2) The term "Persian Gulf combat zone" means the area designated by the President as the combat zone for Operation Desert Shield, Operation Desert Storm, and related operations for purposes of section 112 of the Internal Revenue Code of 1986.

SEC. 908. CINC INITIATIVE FUND.

(a) Authorized Recipients of Funds.—Subsection (a) of section 166a of title 10, United States Code, is amended in the first sentence by striking out "funds, upon request," and all that follows through the period and inserting in lieu thereof "funds to the commander of a combatant command, upon the request of the commander, or to the Director of the Joint Staff with respect to an area or areas not within the area of responsibility of a commander of a combatant command.".

(b) Authorized Activities.—Subsection (b)(7) of such section is amended by inserting "(including transportation, translation, and administrative expenses)" before the period at the end.

(c) Priority.—Subsection (c) of such section is amended by inserting before the period at the end the following:

"(c) Priority.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund or the provision of funds to the Director of the Joint Staff under subsection (a), should give priority consideration to—

"(1) requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds; and

"(2) the provision of funds to be used for activities with respect to an area or areas not within the area of responsibility of a commander of a combatant command that would reduce the threat to, or otherwise increase, the national security of the United States.".

(d) Limitations.—Subsection (e)(1)(C) of such section is amended to read as follows:

"(C) not more than $5,000,000 may be used to provide military education and training (including transportation, translation, and administrative expenses) to military and related civilian personnel of foreign countries as authorized by subsection (b)(7).".

SEC. 909. DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR EQUAL OPPORTUNITY.

(a) Requirement for Reestablishment of Position.—The Secretary of Defense shall reestablish within the Office of the Secretary of Defense the position of Deputy Assistant Secretary of Defense for Equal Opportunity and provide for the official in that position to carry out the same or similar duties that were formerly carried out by the Deputy Assistant Secretary of Defense for Equal Opportunity before that position was abolished.

(b) Staff Support.—The Secretary shall provide staff for the Deputy Assistant Secretary of Defense for Equal Opportunity in a sufficient number and with sufficient qualifications to enable the Deputy Assistant Secretary of Defense to perform the duties of the position effectively.

(c) Use of Resource Available.—The Secretary shall carry out the requirements of this section with the existing resources available to the Department of Defense.

SEC. 910. DELIVERY OF LEGAL SERVICES WITHIN THE DEPARTMENT OF DEFENSE.

Not later than 10 days after the date of the enactment of this Act, the Secretary of Defense shall rescind or revise the memorandum of the Deputy Secretary of Defense entitled "Ensuring Execution of the Laws and Effective Delivery of Legal Services", dated March 3, 1992.

SEC. 911. COMMISSION ON THE CONDUCT AND REVIEW OF INVESTIGATIONS IN THE DEPARTMENT OF DEFENSE.

(a) Establishment.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish a Commission on the Conduct and Review of Investigations in the Department of Defense.

(b) Membership.—The Commission shall be composed of 11 persons who have significant experience in the conduct or review of major investigations, as follows:

(1) Five officials of the Department of Defense, one of whom shall be the Inspector General of the Department of Defense and one of whom shall be the General Counsel of the Department of Defense.

(2) Three former officials of the Department of Defense who, during their Department of Defense service, had substantial responsibility for the conduct or review of major investigations.

(3) Three individuals who, during current or past service in the Federal Government, have had significant experience in the conduct or review of major investigations primarily involving Federal agencies other than the Department of Defense.

(c) Duties.—The Commission shall—

(1) review Department of Defense policies, procedures, and practices concerning the conduct and review of investigations; and

(2) in accordance with subsection (e)(1), make any recommendations for changes in such policies, procedures, and practices that the Commission considers appropriate.

(d) Review.—The matters reviewed by the Commission shall include the following:

(1) The training and qualifications of investigative personnel.

(2) The division of responsibilities among organizations with investigative, audit, and inspection functions within the Department of Defense.

(3) The coordination of activities among such organizations.

(4) Procedures for ensuring that such organizations are capable of, and responsive to, the needs of the unified combatant commands, the Defense Agencies, and other joint organizations.

(5) Procedures for ensuring that prompt and thorough investigations are conducted of allegations of misconduct concerning classified matters, operational matters, and the performance of persons in the chain of command.

(6) Procedures for ensuring that investigative organizations are not subject to improper command influence while also ensuring that such organizations are responsive to the investigative and inspection needs of the chain of command.

(7) Procedures for ensuring that there is timely and thorough coordination between organizations conducting investigations and officials within the chain of command who will be responsible for acting on the results of such investigations.

(8) Procedures for ensuring that there is a timely determination as to whether an investigation should be undertaken by a court of inquiry or other formal administrative board procedure.

(9) Procedures for ensuring that the rights of persons under the Uniform Code of Military Justice, administrative procedures, and other applicable laws and regulations are protected during the course of an investigation and subsequent review procedures.

(10) Guidance for ensuring that military and civilian officials in the chain of command receive timely instruction and advice on the procedures for undertaking appropriate management actions during the pendency of an investigation without interfering with the investigation or engaging in unlawful command influence.

(11) Procedures for ensuring that investigative materials are organized and presented in a manner that facilitates timely action by reviewing authorities.

(12) Such other matters related to the duties of the Commission as may be specified by the Secretary of Defense or the Commission.

(e) REPORT.—(1) Not later than November 15, 1993, the Commission shall transmit to the Secretary of Defense a report containing the results of its review under subsection (c) and its recommendations in accordance with that subsection.

(2) The Secretary shall transmit the report of the Commission, together with his comments and recommendations, to the congressional defense committees not later than December 15, 1993.

SEC. 912. SENSE OF CONGRESS ON COOPERATION BETWEEN THE ARMY AND THE MARINE CORPS.

(a) FINDINGS.—With respect to the roles and missions of the Army and Marine Corps, the Congress makes the following findings:

(1) Both the Army and the Marine Corps have long and proud traditions of service to the United States in times of war and peace.

(2) The Marine Corps and the Army provide complementary military capabilities that are necessary for carrying out the national military strategy of the United States.

(3) Operation Desert Shield and Operation Desert Storm demonstrated the complementary nature of those capabilities and the substantial degree to which the Army and the Marine Corps can effectively coordinate their activities and cooperate with each other.

(4) The availability of future Federal budget resources for the Army and the Marine Corps is likely to be significantly more limited than the Federal budget resources currently available for the Army and the Marine Corps.

(b) SENSE OF CONGRESS.—(1) It is the sense of Congress that the Army and the Marine Corps should intensify efforts to eliminate unnecessary duplication, to improve interservice coordination, and to specialize in areas in which each has a comparative advantage.

(2)(A) The Congress encourages the Chairman of the Joint Chiefs of Staff to examine whether—

(i) the Army should provide the Marine Corps with armor and heavy fire support needed for mid-intensity and high-intensity combat; or

(ii) the Marine Corps should be equipped with the armor, heavy artillery, and other weapons and sustainability needed to engage in mid-intensity and high-intensity combat independent of the other military services.

(B) In conducting the examination, the Chairman should consider the following actions:

(i) Designating Army artillery battalions equipped with the Multiple Launch Rocket System to support Marine amphibious forces afloat.

(ii) Designating Army tank battalions to support Marine amphibious forces afloat.

(iii) Equipping Maritime Prepositioning Ships with Multiple Launch Rocket System launchers and M1 tanks to be manned by Army units in support of Marine forces.

(iv) Transferring management of all prepositioning shipping on behalf of all of the Armed Forces to the Marine Corps.

(v) Transferring Army shipping and lighterage to the Navy.

(C) In the consideration of the actions referred to in subparagraph (B), the Chairman should evaluate the logistics, training, and operational implications of each action.

(D) If the Chairman recommends that the Marine Corps be equipped with the armor, heavy artillery, other weapons, and sustainability necessary for engaging in mid-intensity and high-intensity combat independent of the other services, the Chairman should determine, as part of the examination under this paragraph, the following:

(i) What additional procurement requirements and costs are necessary to equip the Marine Corps to meet the demands of mid-intensity and high-intensity combat.

(ii) The adequacy of current prepositioning programs, mine warfare capability, naval fire support, and night fighting capability to meet the demands of mid-intensity and high-intensity combat.

(3) The Chairman should consider the matters set forth in paragraphs (1) and (2) and the options for streamlining the roles and missions of the Army and the Marine Corps in the performance of his responsibilities under section 153(b) of title 10, United States Code.

SEC. 913. NATIONAL GUARD AND RESERVE COMPONENT OPERATIONAL SUPPORT AIRLIFT STUDY.

(a) STUDY REQUIRED.—The Secretary of Defense shall undertake a study of operational support airlift aircraft and administrative transport airlift aircraft operated by the National Guard and the reserve components.

(b) STUDY REQUIREMENTS.—The study required by subsection (a) shall include the following:

(1) An inventory of all operational support airlift aircraft and administrative transport airlift aircraft that are operated by the reserve components.

(2) The peacetime utilization rate of such aircraft.

(3) The wartime mission of such aircraft.

(4) The need for such aircraft for the future base force.

(5) The current age, projected service life, and programmed retirement date for such aircraft.

(6) A list of aircraft programmed in the fiscal year 1994 future years defense program to be purchased for the reserve components or to be transferred from the active components to the reserve components.

(7) The funds programmed in the fiscal year 1994 future years defense program for procurement of replacement operational support and administrative transport airlift aircraft, and the acquisition strategy proposed for each type of replacement aircraft so programmed.

(c) DEFINITION.—In this section, the term "future years defense program" means the multiyear defense program submitted to Congress pursuant to section 114a of title 10, United States Code.

SEC. 914. CONTINUING REQUIREMENT FOR REPORTING ON OPERATIONAL ACTIVITIES.

(a) IN GENERAL.—Chapter 2 of title 10, United States Code, is amended by inserting after section 116 the following new section 117:

"§ 117. Continuing requirement for reporting on operational activities

"(a)(1) The Secretary of Defense shall ensure that the Committees on Armed Services of the Senate and House of Representatives are fully and currently informed of all operational activities carried out by members of the armed forces or employees of the Department of Defense.

"(2) Matters covered by the War Powers Resolution (50 U.S.C. 1541 et seq.) shall be reported in accordance with the provisions of that resolution.

"(b) The head of any other department or agency (including the head of any independent establishment) of the Federal Government shall submit to the Committees on Armed Services of the Senate and the House of Representatives any information requested by either such committee relating to any operational activity referred to in subsection (a)(1).

"(c) Information required to be submitted under subsection (a) or (b) may not be withheld from a committee referred to in such subsection on the grounds that such information would constitute the unauthorized disclosure of classified information.

"(d) In this section, the term 'operational activity' means an activity that involves the introduction of a unit or units of the armed forces into the territory, including the airspace and waters, of another country for other than traditional peacetime military activities or routine support of such activities.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 116 the following new item:

"117. Continuing requirement for reporting on operational activities.".

SEC. 915. LIMITATION REGARDING SUBMISSION OF THE ROLES AND MISSIONS REPORT OF THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF.

(a) LIMITATION.—Not more than 50 percent of the total amount appropriated pursuant to an authorization of appropriations contained in title I or II of this Act that is made available for a program referred to in subsection (b) may be obligated for such program until 60 days after the Secretary of Defense—

(1) has submitted to Congress the budget request for fiscal year 1994 for the Department of Defense; and

(2) has submitted to the congressional defense committees a copy of the first report on assignment of roles and missions of the armed forces that the Chairman of the Joint Chiefs of Staff submits to the Secretary of Defense pursuant to section 153(b) of title 10, United States Code, after January 1, 1992.

(b) APPLICABILITY.—Subsection (a) applies to the following programs:

(1) The F-22 Advanced Tactical Fighter program.

(2) The F-18E/F fighter program.

(3) The AX/ATA attack aircraft program.

(4) The Patriot Product Improvement Program.

(5) The Hawk Product Improvement Program.

Subtitle B—Drug Interdiction and Counter-Drug Activities

SEC. 921. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES.

Section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 374 note) is amended—

(1) in subsection (a), by striking out "and 1993," and inserting in lieu thereof "1993, and 1994,";

(2) by adding at the end of subsection (b) the following new paragraphs:

"(9) Detection, monitoring, and communication of the movement of traffic at, near, and outside the geographic boundaries of the United States.

"(10) Linguist and intelligence analysis services.";

(3) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively;

(4) by inserting after subsection (b) the following new subsection (c):

"(c) The Secretary of Defense may not limit the requirements for which support may be provided under subsection (a) only to critical, emergent, or unanticipated requirements."; and

(5) in subsection (g)(2), as redesignated by paragraph (3), by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

SEC. 922. MAINTENANCE AND OPERATION OF EQUIPMENT.

Section 374(b)(2)(A) of title 10, United States Code, is amended by inserting "and land traffic at, near, and outside the geographic boundaries of the United States" before the period at the end.

SEC. 923. EXTENSION OF AUTHORITY TO TRANSFER EXCESS PERSONAL PROPERTY.

Section 1208(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 10 U.S.C. 372 note) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1997".

SEC. 924. COUNTER-DRUG SENSOR MIX STUDY.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Secretary of Defense shall—

(1) conduct a study of the land-based, sea-based, and air-based systems used by the Department of Defense in carrying out activities relating to the reconnaissance, detection, and monitoring of drug traffic; and

(2) submit to Congress a report on the results of the study.

(b) CONTENT OF REPORT.—The report shall include the following:

(1) An assessment of the capabilities, strengths, and weaknesses of the systems referred to in subsection (a).

(2) An evaluation of the feasibility and desirability of using airships to carry out the activities referred to in subsection (a).

(3) Recommendations regarding the optimal and most cost-effective combination of use of such systems to carry out such activities.

(c) LIMITATION ON OBLIGATION OF FUNDS.—(1) Except as provided in paragraph (2), none of the funds appropriated or otherwise made available for the Department of Defense for fiscal year 1993 pursuant to an authorization of appropriations in this Act may be obligated or expended for the procurement or upgrading of a counter-drug reconnaissance, detection, and monitoring system, for research and development with respect to such a system, or for the lease or rental of such a system until the Secretary submits to Congress the report required under subsection (a).

(2) Paragraph (1) shall not prohibit obligations or expenditures of funds for any procurement, upgrading, research and development, or lease of a system that is necessary to carry out the study required under subsection (a).

SEC. 925. DEMAND REDUCTION PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) The flow of illegal drugs into the United States has not declined appreciably in recent years.

(2) While interdiction of illegal drugs helps to reduce the flow of such drugs into the United States, reduction of demand for such drugs in the United States is the most effective way to reduce that flow.

(3) Members of the Armed Forces have been more successful than persons in other segments of society in reducing their use of illegal drugs.

(4) The active and reserve components of the Armed Forces have conducted a successful outreach program to reduce demand for illegal drugs in the vicinity of military installations and National Guard facilities.

(5) It is in the interest of the United States that, to the maximum extent practicable, the outreach program be expanded to include regions beyond the vicinity of military installations and National Guard facilities and to focus on youths, in general, and inner-city youths, in particular.

(b) DEMAND REDUCTION ACTIVITIES.—The Secretary of Defense shall conduct an outreach program in order to reduce demand for illegal drugs among youths. The Secretary shall conduct the program as follows:

(1) By providing travel and living allowances to members of the Armed Forces to permit such members to carry out the current demand reduction outreach program in areas beyond the vicinity of military installations and National Guard facilities.

(2) By establishing and operating camps for youths (including providing food and lodging) to provide programs and activities that encourage reduction in the demand by such youths for illegal drugs.

(3) By providing for opportunities in which appropriate personnel of the Armed Forces act as role models for youths.

(4) By providing self-worth, self-esteem, motivational, and basic skills training to youths.

(5) By providing substance abuse counseling and treatment services.

(6) By providing support for community drug treatment and prevention programs.

(7) By providing appropriate training to substance abuse counselors.

(8) By carrying out such other activities as the Secretary determines advisable to encourage the reduction in demand for illegal drugs among members of the civilian population of the United States.

(c) FUNDING.—Notwithstanding any other provision of law, funds available to the Department of Defense for drug interdiction and counter-drug activities may be used for carrying out the program described in subsection (b).

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1993 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $1,500,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1002. RESTATEMENT OF REQUIREMENT FOR MISSION BUDGET.

(a) IN GENERAL.—(1) Section 114a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) MULTIYEAR MISSION BUDGET.—(1) The Secretary of Defense shall submit to Congress a multiyear budget for the Department of Defense with the budget submitted pursuant to section 1105 of title 31. The multiyear budget shall be consistent with the multiyear defense plan required under subsection (a). In the multiyear budget the military programs within the Department of Defense shall be organized on the basis of major roles, missions, or forces of the Department of Defense.

"(2) The requirement in paragraph (1) is in addition to the requirements in any other provision of law regarding the format for the presentation regarding military programs of the Department of Defense in the budget submitted pursuant to section 1105 of title 31.".

(2) The amendment made by subsection (a) shall apply with respect to the budgets submitted to Congress under section 1105 of title 31, United States Code, for fiscal years after fiscal year 1993.

(b) CONFORMING REPEAL.—Section 1404 of the National Defense Authorization Act of Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1675; 10 U.S.C. 114a note) is repealed.

SEC. 1003. ADDITIONAL TRANSITION AUTHORITY REGARDING CLOSING APPROPRIATION ACCOUNTS.

Section 1405(b) of the National Defense Authorization Act for Fiscal Year 1991 (31 U.S.C. 1551 note) is amended by inserting after paragraph (7) the following new paragraph:

"(8) OBLIGATIONS AND ADJUSTMENTS OF OBLIGATIONS FOR EXPIRED BUT NOT CLOSED ACCOUNTS.—(A) Subject to subparagraphs (B), (C), and (D), in the case of an appropriation account for a fiscal year before fiscal year 1992 for which the period of availability for obligation has expired but which has not been closed under the provisions of section 1552(a) of title 31, United States Code, or paragraph (4) of this section, an obligation and an adjustment of an obligation may be charged to any current appropriation account of the Department of Defense that is available for the same purpose as the expired account if—

"(i) the obligation would have been properly chargeable to the expired account before the end of the period of availability of that account; and

"(ii) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense.

"(B) The total amount charged to a current appropriation account under subparagraph (A) may not exceed an amount equal to the lesser of—

"(i) one percent of the total amount of the appropriations for that account; or

"(ii) one percent of the total amount of the appropriations for the expired account.

"(C) No obligation or adjustment of an obligation may be charged pursuant to the provisions of this paragraph until the congressional defense committees are notified of the intent to make such a charge and a period of 30 days elapses after the notification is submitted.

"(D) Certifications.—No obligation or adjustment of an obligation may be charged pursuant to the provisions of this paragraph until the Secretary of Defense certifies to Congress—

"(i) That the limitations on expending and obligating amounts established pursuant to section 1341 of title 31, United States Code are being observed within the Department of Defense; and

"(ii) That reports on any violations of section 1341, whether intentional or inadvertent, are being submitted to the President and Congress immediately and with all relevant facts and a statement of actions taken as required by section 1351 of title 31, United States Code.".

Subtitle B—Supplemental Authorization of Appropriations for Operation Desert Storm

SEC. 1011. EXTENSION OF SUPPLEMENTAL AUTHORIZATIONS.

Sections 101, 102(c), and 106 of Public Law 102–25 (105 Stat. 78) are each amended by striking out "fiscal years 1991 and 1992" each place it appears and inserting in lieu thereof "fiscal years 1991, 1992, and 1993".

SEC. 1012. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.

(a) Authorization of Appropriations.—There is authorized to be appropriated to the Department of Defense for fiscal year 1992 in accordance with subsection (a) of section 101 of Public Law 102–25 (105 Stat. 78), to be available under subsection (b)(1) of such section, the sum of $429,000,000 for military personnel as follows:

(1) Army.—For the Army, $399,000,000.

(2) Navy.—For the Navy, $30,000,000.

(b) Increased Limitation on Authority for Transfer of Fiscal Year 1992 Authorizations.—The total amount of the transfer authority provided for the Secretary of Defense for fiscal year 1992 in Public Law 102–190 or any other Act is increased by the amounts of the funds appropriated pursuant to subsection (a) that are transferred to fiscal year 1992 appropriations accounts pursuant to sections 101 and 102(c) of Public Law 102–25, as amended by section 1011.

SEC. 1013. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1993.

(a) Authorization of Appropriations.—There is authorized to be appropriated to the Department of Defense for fiscal year 1993 in accordance with subsection (a) of section 101 of Public Law 102–25 (105 Stat. 78), to be available under subsection (b) of such section, the sum of $87,700,000 for military personnel as follows:

(1) Army.—For the Army, $29,300,000.

(2) Navy.—For the Navy, $35,300,000.

(3) Marine corps.—For the Marine Corps, $3,100,000.

(4) Air force.—For the Air Force, $20,000,000.

(b) Increased Limitation on Authority for Transfer of Fiscal Year 1993 Authorizations.—The amount of the transfer authority provided in section 1001 is increased by the amounts of the funds appropriated pursuant to subsection (a) that are transferred to fiscal year 1993 appropriations accounts pursuant to sections 101 and 102(c) of Public Law 102–25, as amended by section 1011.

SEC. 1014. RELATIONSHIP TO OTHER AUTHORIZATIONS.

The authorizations of appropriations in sections 1012 and 1013 are in addition to the amounts otherwise authorized to be appropriated to the Department of Defense for fiscal year 1992 and for fiscal year 1993 by any other provision of this Act or by any other Act enacted before the date of the enactment of this Act.

Subtitle C—Defense Maritime Logistical Readiness

SEC. 1021. FINDINGS.

The Congress finds that it is in the national security and economic interests of the United States for the United States to have a strong and economically viable industry of commercial oceangoing and intermodal transportation that uses privately owned and operated merchant vessels documented under the laws of the United States.

SEC. 1022. TRANSPORTATION OF DEPARTMENT OF DEFENSE CARGOES BY WATER.

(a) Use of Privately Owned United States Flag Vessels.—Chapter 157 of title 10, United States Code, is amended—

(1) by striking out section 2631;

(2) by striking out the item relating to that section in the table of sections for such chapter;

(3) by inserting above the table of sections the following:

"SUBCHAPTER II—MISCELLANEOUS";

and

(4) by inserting below the chapter heading the following:

"Subchapter Sec.
"I. Transportation of Cargoes by Water 2631
"II. Miscellaneous 2632

"SUBCHAPTER I—TRANSPORTATION OF CARGOES BY WATER

"Sec.
"2631. Purposes.
"2631a. Definitions.
"2631b. Procurement regulations and practices.
"2631c. Contingency planning.
"2631d. Vessels used.
"2631e. Transportation contracts.
"2631f. Logistics readiness agreements.
"2631g. Charges.

"§ 2631. Purposes

"The purposes of this subchapter are—

"(1) to clarify when it is necessary for privately owned and operated United States flag vessels to be used for transporting Department of Defense cargoes by water;

"(2) to establish standards for the procurement and pricing of services for the transportation of Department of Defense cargoes by water and for the distribution of the cargoes so transported;

"(3) to reduce to a minimum the number of cargo transportation vessels owned, chartered, controlled, or operated by or for the United States Government that are used for transporting Department of Defense cargoes in peacetime in competition with privately owned and operated commercial vessels;

"(4) to encourage and promote the development and maintenance of a financially strong, privately owned and operated fleet of United States flag merchant vessels;

"(5) to make the greatest practicable use of the transportation capacity and services of operators of privately owned United States flag merchant vessels for the transportation of Department of Defense cargoes by water; and

"(6) to limit the acquisition, for ownership by the United States Government, of cargo vessels that would duplicate the shipping capacity of the privately owned United States flag merchant vessels.

"§ 2631a. Definitions

"In this subchapter:

"(1) The term 'Department of Defense cargo' means any supplies, goods, or other cargo owned, leased, or provided to, for, or by the armed forces that are transported by water or by intermodal service including a water segment, except that such term does not include military cargo designated by the Secretary of Defense as sensitive when private contractors proposing to carry such cargo do not have the security clearances necessary for carrying such cargo.

"(2) The term 'supplies', with respect to transportation, means all property, except land and interests in land, that at the time of transportation is readily identifiable for eventual use by the armed forces. Such term includes public works, buildings and facilities, ships, floating equipment, and vessels of every character, type, and description (together with parts, subassemblies, accessories, equipment, machine tools, and related material), stores of all kinds, and end items.

"(3) The term 'goods' includes property of armed forces personnel and items intended for eventual sale within a commissary or exchange store.

"(4) The term 'other cargo' includes any item that is provided by, arranged by, donated by, sold at less than market value by, or funded or purchased on credit provided or guaranteed by, or for which the transportation is funded or financially supported by, the Department of Defense for any other department or agency of the Federal Government, any foreign government, any international organization, or any person.

"§ 2631b. Procurement regulations and practices

"The Secretary of Defense shall prescribe regulations (including procedures) and establish practices for the procurement of transportation by water and related distribution services for Department of Defense cargoes. The regulations and practices shall carry out section 2631 of this title and the purposes set forth in that section. The Secretary shall administer the implementation of the regulations and the required practices.

"§ 2631c. Contingency planning

"(a) Consideration of Private Capabilities.—The Secretary of Defense shall ensure that all studies and reports of the Department of Defense, and all actions taken in the Department of Defense, concerning sealift and related intermodal transportation requirements take into consideration the full range of the transportation and distribution capabilities that are available from operators of privately owned United States flag merchant vessels.

"(b) PRIVATE CAPACITIES PRESENTATIONS.—The Secretary shall afford each operator of a vessel referred to in subsection (a), not less often than annually, an opportunity to present to the Department of Defense information on its port-to-port and intermodal transportation capacities.

"(c) PRIVATE PARTICIPATION IN STUDIES AND REPORTS.—The Secretary shall ensure that each operator of a vessel referred to in subsection (a) is afforded an opportunity to participate in the development of studies referred to in that subsection and the preparation of reports referred to in that subsection.

"(d) CERTIFICATION REQUIREMENT.—The Secretary shall submit to the Secretary of Transportation, not less often than annually, a certification of compliance with the requirements of subsections (b) and (c).

"§ 2631d. Vessels used

"(a) PROHIBITION.—Except in time of war, in time of a national emergency declared by the President or Congress, or as provided in subsection (b)(3), vessels owned by the United States may not be operated in competition with privately owned United States flag commercial merchant vessels.

"(b) VESSELS TO BE USED.—(1) Department of Defense cargoes shall be transported on privately owned and operated United States flag commercial merchant vessels whenever such vessels are available with reasonable timeliness.

"(2) A privately owned United States flag merchant vessel under time charter or voyage charter to, or engaged under a contract of affreightment by, the United States may be used for the transportation of a Department of Defense cargo to the extent that vessels described in paragraph (1) are not available with reasonable timeliness.

"(3) A United States flag vessel owned, demise chartered, or otherwise controlled by the United States Government may be used for the transportation by water of Department of Defense cargoes to the extent that vessels described in paragraphs (1) and (2) are not available with reasonable timeliness.

"(4) Foreign flag vessels may be used for the transportation of Department of Defense cargoes to the extent that vessels described in paragraphs (1), (2), and (3) are not available with reasonable timeliness or when operated as a feeder ship in conjunction with a privately owned and operated United States flag liner vessel.

"(5) The availability of vessels with reasonable timeliness shall be determined in accordance with regulations prescribed by the Secretary of Defense.

"§ 2631e. Transportation contracts

"(a) PROHIBITED CONTRACT PROVISIONS.—(1) A contract for the transportation of Department of Defense cargoes by water, or for intermodal service that includes transportation by water, by a common carrier may not include terms or conditions which impair the ability of the contractor to own or operate foreign flag vessels in addition to the United States flag merchant vessels.

"(2) Except as provided in section 2631f(a) of this title and except in time of war or in time of a national emergency declared by the President or Congress, the contract may not include terms or conditions which interfere with the contractor's ability to meet its common carrier obligations to the general public.

"(b) INAPPLICABILITY OF FEE LIMITATION.—Section 2306(d) of this title shall not apply to contracts referred to in subsection (a).

"§ 2631f. Logistics readiness agreements

"(a) AGREEMENTS REQUIRED.—The Secretary of Defense shall enter into logistics readiness agreements with the contractors holding contracts referred to in section 2631e(a) of this title. The agreement with a contractor shall contain the terms and conditions under which the contractor shall, in time of war, national emergency, or foreign crisis, provide services to meet the transportation requirements projected under subsection (d). The agreement may also include provisions for the contractor to meet surge or other transportation requirements.

"(b) CAPACITY PROCURED.—(1) Except as provided in paragraph (2), the Secretary shall enter into logistics readiness agreements for capacity equal to at least the entire requirement projected under subsection (d).

"(2) The total capacity covered by logistics readiness agreements may be less than the capacity required by paragraph (1) to the extent that the contractors referred to in subsection (a) do not offer sufficient capacity to meet the entire requirement.

"(c) REQUIRED PROVISIONS.—A logistics readiness agreement shall contain the following provisions:

"(1) The basic terms for providing transportation and distribution services for Department of Defense cargoes.

"(2) The capacity and services guaranteed, including—

"(A) vessel transportation, intermodal services, and shoreside services; and

"(B) computer-tracking capabilities.

"(3) Provision for the negotiation, as needed, of additional terms and specific rates and charges for transportation and distribution services that become necessary to meet specific conditions of a war, national emergency, or foreign regional crisis.

"(d) COORDINATION OF POST-SURGE TRANSPORTATION REQUIREMENTS WITH THE SECRETARY OF TRANSPORTATION.—The Secretary of Defense shall submit to the Secretary of Transportation at least annually the Department of Defense projections of weekly post-surge requirements, in excess of normal peacetime requirements, for the transportation of Department of Defense cargoes to meet logistic and war fighting requirements in the event of war or other national emergency or in response to foreign regional crises.

"§ 2631g. Charges

"Notwithstanding any other provision of law, freight charges and other charges for services under a contract referred to in section 2631e of this title or a logistics readiness agreement referred to in section 2631f of this title shall be earned upon tender to and acceptance of the cargo by the contractor. If such amounts are not paid within 30 days after the submission of the contractor's invoice to the Department of Defense, a late payment charge shall accrue beginning on the thirty-first day after the date of the submission. The late payment charge shall accrue at the rate then in effect for interest payments under section 12 of the Contracts Disputes Act of 1978 (41 U.S.C. 611).".

(b) TRANSITION REQUIREMENT.—Within 30 days after the date of the enactment of this Act, the Secretary of Defense shall commence negotiations with contractors holding contracts referred to in subsection (a) of section 2631e of title 10, United States Code (as added by subsection (a)), for the purpose of entering into logistics readiness agreements referred to in section 2631f of such title (as added by subsection (a)). Within 180 days after that date, the Secretary shall enter into such agreements as are mutually acceptable to the Secretary and the contractors concerned. Each agreement entered into pursuant to this subsection shall be for an initial term of not less than 5 years.

SEC. 1023. MODERNIZING OTHER PROGRAMS.

(a) REQUIRED ACTIONS.—The Secretary of Defense and the Secretary of Transportation shall promptly take such actions as are appropriate to modernize, update, revise, or eliminate the current Sealift Readiness Program consistent with this subtitle and the amendments made by section 1022(a).

(b) PROHIBITED ACTIONS.—No agency of the United States Government may require a party to a logistics readiness agreement referred to in section 2631f of title 10, United States Code (as added by section 1022(a)), to enter into or remain enrolled in the Sealift Readiness Program or any similar program as a condition for being awarded a contract to provide transportation or distribution services, whether or not such contract is covered by section 2631e of such title.

Subtitle D—Technical Amendments

SEC. 1031. AMENDMENTS TO TITLE 10, UNITED STATES CODE.

(a) AMENDMENTS.—Title 10, United States Code, is amended as follows:

(1) The table of sections at the beginning of subchapter II of chapter 21 is amended by inserting "Sec." above "431.".

(2) Section 571(a) is amended by inserting a period at the end of each item in the table.

(3) Section 574(d)(3) is amended by striking out "active duty list" and inserting in lieu thereof "active-duty list".

(4) The heading of section 578 is amended by striking out the first semicolon and inserting in lieu thereof a colon.

(5) Section 581(d)(2) is amended by striking out "Board" both places it appears and inserting in lieu thereof "board".

(6) The table of sections at the beginning of chapter 33A is amended—

(A) by inserting "to be" in the item relating to section 576 after "Information"; and

(B) by striking out the first semicolon in the item relating to section 578 and inserting in lieu thereof a colon.

(7) Section 615 is amended—

(A) in subsection (b)(5), by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)"; and

(B) in subsection (d), by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(8) Sections 616(a), 617(a), 618(a)(1), and 618(a)(2) are each amended by striking out "section 615(a)" and inserting in lieu thereof "section 615(b)".

(9) Section 618(b) is amended by striking out "section 615(b)" in paragraphs (2)(A) and (4) and inserting in lieu thereof "section 615(c)".

(10) Section 628(b)(1) is amended by striking out "section 558" and inserting in lieu thereof "section 573".

(11) Section 945(a)(1) is amended by striking out "section 943(e)(1)(B) of this title (art. 143(e)(1)(B))" and inserting in lieu thereof "section 942(e)(1)(B) of this title (article 142(e)(1)(B))".

(12) Section 1052(b) is amended by inserting a close parenthesis before the period at the end.

(13) Section 1079(j)(2)(B) is amended by inserting a close parenthesis after "1395x(dd)(2)".

(14) Section 1104 is amended—

(A) by striking out "section 5011 of title 38" in subsections (a), (b), and (c) and inserting in lieu thereof "section 8011 of title 38"; and

(B) by striking out "section 5011A of title 38" in subsection (d) and inserting in lieu thereof "section 8011A of title 38".

(15) Section 1174a(c)(2) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "December 5, 1991".

(16) Section 1175 is amended—

(A) in subsection (a), by striking out "Reserve component" and inserting in lieu thereof "reserve component"; and

(B) in subsection(d)(1), by striking out "prior to the time this provision is enacted" and inserting in lieu thereof "before December 5, 1991".

(17) Section 1263(a) is amended by striking out "564 note" and inserting in lieu thereof "580 note".

(18) Section 1401(a) is amended by striking out "564" in the column in the table under the heading "For sections" and inserting in lieu thereof "580".

(19) Section 1581(b) is amended by striking out "the date of the enactment of this section" in paragraphs (1) and (2) and inserting in lieu thereof "December 5, 1991,".

(20) Section 1592 is amended by inserting "section" after "established under".

(21) Section 1733(b)(1)(B)(ii) is amended by striking out "1736(a)(3)" and inserting in lieu thereof "1737(a)(3)".

(22) Chapter 106 is amended—

(A) in section 2131(c)—

(i) by striking out "section 1795 of title 38" in paragraph (2) and inserting in lieu thereof "section 3695 of title 38";

(ii) by striking out "of this subparagraph, his or her" in paragraph (3)(B)(ii) and inserting in lieu thereof ", the individual's"; and

(iii) by striking out "of this paragraph." in paragraph (3)(C) and inserting in lieu thereof a period;

(B) in section 2133(b)—

(i) by striking out "section 1431(f) of title 38" in paragraph (2) and inserting in lieu thereof "section 3031(f) of title 38"; and

(ii) by striking out "section 1431(d) of title 38" in paragraph (3) and inserting in lieu thereof "section 3031(d) of title 38"; and

(C) in section 2136—

(i) by striking out "sections 1670" in subsection (b) and all that follows through "1792)" and inserting in lieu thereof "sections 3470, 3471, 3473, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3680(c), 3686(a), 3687, and 3692)"; and

(ii) by striking out "section 1673(b) of title 38)" in subsection (c)(1) and inserting in lieu thereof "section 3473(b) of title 38)".

(23) Section 2304(j)(3)(A) is amended by striking out "section 8(e) of the Small Business Act (15 U.S.C. 637(e))" and inserting in lieu thereof "section 8(d) of the Small Business Act (15 U.S.C. 637(d))".

(24) Section 2307(e) is amended by striking out "(l)" after "(e)" and inserting in lieu thereof "(1)".

(25)(A) Section 2322 is repealed.

(B) The table of sections at the beginning of chapter 137 is amended by striking out the item relating to section 2322.

(26) Section 2324 is amended—

(A) by striking out subsection (f)(5); and

(B) in subsection (l)—

(i) by striking out "subsection (e)(2)(C)" in paragraph (2) and inserting in lieu thereof "paragraph (3)"; and

(ii) by adding at the end the following new paragraph:

"(3) The committees named in this paragraph are—

"(A) the Committees on Armed Services and on Government Operations of the House of Representatives; and

"(B) the Committees on Armed Services and on Governmental Affairs of the Senate.".

(27) Section 2372(e)(1) is amended by striking out "on the day before" and all that follows through the semicolon and inserting in lieu thereof "on December 4, 1991;".

(28) Section 2391(b)(1)(C) is amended by striking out "publicly-announced" and inserting in lieu thereof "publicly announced".

(29) Section 2397(a)(1) is amended by striking out "that contract" and inserting in lieu thereof "that the contract".

(30) Section 2409 is amended by striking out subsection (d).

(31) Section 2503(6) is amended by striking out "section 2508" and inserting in lieu thereof "section 2522".

(32) Section 2507(d)(3)(A) is amended by striking out "government-owned" and inserting in lieu thereof "Government-owned".

(33) Section 2509(b) is amended—

(A) in paragraph (1), by striking out "section 2508" and inserting in lieu thereof "section 2522"; and

(B) in paragraph (5)(B)(ii), by striking out "five-year defense program" and inserting in lieu thereof "multiyear defense program".

(34) Section 2701(j) is amended by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1992 and 1993" and inserting in lieu thereof "December 5, 1991,".

(35) Section 2708 is amended—

(A) in subsection (b)(1)—

(i) by striking out "all contracts" and inserting in lieu thereof "each contract"; and

(ii) by striking out "all subcontracts under such contracts" and inserting in lieu thereof "any subcontract under any such contract"; and

(B) in subsection (d), by striking out "For purposes of' and inserting in lieu thereof "In".

(36) Section 2801(d) is amended by striking out "sections 2828(g) and 2830" and inserting in lieu thereof "sections 2830 and 2835".

(37) Section 2902(b)(9) is amended by striking out "non-voting" and inserting in lieu thereof "nonvoting".

(38) Section 6325(b) is amended by striking out "section 602 or 5721" and inserting in lieu thereof "section 602 (as in effect before February 1, 1992) or section 5721".

(39) Section 8252 is amended—

(A) by striking out "(a) Except as provided in subsection (b), in" and inserting in lieu thereof "In"; and

(B) by striking out subsection (b).

(b) Effective Date.—(1) Except as provided paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The amendment made by paragraph (30) of subsection (a) shall take effect as if enacted immediately following the enactment of Public Law 102-25 (105 Stat. 75).

SEC. 1032. CODIFICATION OF RECURRING PROVISION RELATING TO SUBCONTRACTING WITH CERTAIN NONPROFIT AGENCIES.

(a) Policy.—Section 2301 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d)(1) It is also the policy of Congress that qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to provide approved commodities and services as subcontractors and suppliers under contracts awarded by the Department of Defense.

"(2) In this subsection:

"(A) The term 'qualified nonprofit agency for the blind or other severely handicapped' means—

"(i) a qualified nonprofit agency for the blind, as defined in section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3)); and

"(ii) a qualified nonprofit agency for other severely handicapped, as defined in section 5(4) of such Act (41 U.S.C. 48b(4)).

"(B) The terms 'approved commodity' and 'approved service' mean a commodity and a service, respectively, that has been determined by the Committee for Purchase from the Blind and Other Severely Handicapped under section 2 of such Act (41 U.S.C. 47) to be suitable for procurement by the Federal Government.

"(C) The term 'Javits-Wagner-O'Day Act' means the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46-48c), commonly referred to as the Wagner-O'Day Act, that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), commonly referred to as the Javits-Wagner-O'Day Act.".

(b) Credit Under Small Business Subcontracting Plan.—(1) Chapter 141 of title 10, United States Code, as amended by section 829, is further amended by adding at the end the following new section:

"§ 2410g. Subcontracting plans: credit for certain purchases

"(a) Purchases Benefiting Severely Handicapped Persons.—In the case of a business concern that has negotiated a small business subcontracting plan with a military department or a Defense Agency, purchases made by that business concern from qualified nonprofit agencies for the blind or other severely handicapped shall count toward meeting the subcontracting goal provided in that plan.

"(b) Definitions.—In subsection (a):

"(1) The term 'small business subcontracting plan' means a plan negotiated pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) that establishes a goal for the participation of small business concerns as subcontractors under a contract.

"(2) The term 'qualified nonprofit agency for the blind or other severely handicapped' shall have the meaning given that term in section 2301(d)(2) of this title.

"(c) Termination.—This section shall cease to be effective at the end of September 30, 1994.".

(2) The table of sections at the beginning of such chapter, as amended by section 829, is further amended by adding at the end the following new item:

"2410g. Subcontracting plans: credit for certain purchases.".

SEC. 1033. AMENDMENTS TO OTHER LAWS.

(a) Public Law 102-190.—Effective as of December 5, 1991, the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190) is amended as follows:

(1) Section 232(b)(2) (105 Stat. 1321) is amended by striking out "United States and" and inserting in lieu thereof "United States and the".

(2) Section 234(a) (105 Stat. 1323) is amended by striking out "Follow-on" and inserting in lieu thereof "Follow-On".

(3) Section 702(b)(1)(C) (105 Stat. 1401) is amended by striking out "(15)(D)" and inserting in lieu thereof "(15)".

(4) Section 803(a)(1) (105 Stat. 1414) is amended by inserting open quotation marks at the beginning of the unquoted paragraphs (1), (2), and (3) (within the quoted material in such section).

(5) Section 806(c) (105 Stat. 1419) is amended by inserting a close parenthesis before the period at the end.

(6) Section 822(d)(1) (105 Stat. 1435) is amended by striking out "To the extent provided" and inserting in lieu thereof "Subject to such limitations as may be provided".

(7) Section 1049(b) (105 Stat. 1469) is repealed.

(8) Section 1063(d)(1) (105 Stat. 1476) is amended by striking out "of Public Law 101-25" and inserting in lieu thereof "of Public Law 102-25".

(9) Section 2870(2) (105 Stat. 1562) is amended by inserting "through" after "and all that follows".

(b) PUBLIC LAW 102-25.—Section 361(d) of Public Law 102-25 (105 Stat. 93) is amended by striking out "section 4108(e) of title 38," and inserting in lieu thereof "section 7423(e) of title 38,".

(c) MENTOR-PROTEGE PILOT PROGRAM.—Section 831(m) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is amended—

(1) in paragraph (2)(C), by striking out "637(a)(13)" and inserting in lieu thereof "637(a)(15)";

(2) by redesignating the second paragraph (6) and paragraph (7) as paragraphs (7) and (8), respectively; and

(3) in paragraph (8), as so redesignated, by striking out "section 46 of title 41, United States Code," and inserting in lieu thereof "the first section of the Act of June 25, 1938 (41 U.S.C. 46; popularly known as the 'Wagner-O'Day Act'),".

(d) TITLE 31, UNITED STATES CODE.—

(1) The items relating to sections 1551 and 1552 in the table of sections at the beginning of chapter 15 of title 31, United States Code, are amended to read as follows:

"1551. Definitions; applicability of subchapter.
"1552. Procedure for appropriation accounts available for definite periods.".

(2) The heading of section 1551 of such title is amended to read as follows:

"§ 1551. Definitions; applicability of subchapter".

(e) PUBLIC LAW 101-533.—Section 3(c)(2) of Public Law 101-533 (22 U.S.C. 3142) is amended by striking out "section 2368 of title 10" and inserting in lieu thereof "section 2522 of title 10".

SEC. 1034. MISCELLANEOUS TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 301d(c) is amended—

(A) in paragraph (2), by striking out "owned" and inserting in lieu thereof "owed"; and

(B) in paragraph (3), by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1991" and inserting in lieu thereof "November 5, 1990".

(2) Section 303a(b) is amended by striking out "301d," after "such sections".

(3) Section 406(g)(1)(A) is amended by inserting a semicolon after "title 10".

(4) Section 406b(d) by striking out "Section 420" and inserting in lieu thereof "Section 421".

(5) Section 559(c)(3)(A)(i) is amended by striking out "of this subparagraph".

(6) Section 1007(i)(3) is amended by striking out "and warrant officers" and inserting in lieu thereof ", warrant officers, and limited duty officers".

(b) REPEAL OF OBSOLETE PROVISION.—Section 301b of title 37, United States Code, is amended—

(1) by striking out subsection (j); and

(2) by redesignating subsection (k) as subsection (j).

(c) BASE CLOSURE ACT.—The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended—

(1) in section 2903(c)(4)—

(A) by striking out "(4)" the first place it appears; and

(B) by striking out the first sentence; and

(2) in section 2906, by striking out "(d) ACCOUNT" and inserting in lieu thereof "(e) ACCOUNT".

Subtitle E—Miscellaneous Matters

SEC. 1041. REPORT ON THE UNITED STATES STRATEGIC POSTURE IN THE MIDDLE EAST AND PERSIAN GULF REGION.

(a) REQUIREMENT FOR REPORT.—Not later than February 1, 1993, the Secretary of Defense shall submit to the congressional defense committees a report on the United States strategic posture in the Middle East and Persian Gulf region.

(b) CONTENT OF REPORT.—The report shall include a description of the following matters:

(1) The adequacy of United States power projection forces, strategic lift, forward deployed forces, prepositioned materiel, and force sustainability capabilities for protecting United States strategic interests in the Middle East and the Persian Gulf region and to ensure the security of Israel, Egypt, and Persian Gulf states friendly to the United States.

(2) United States policy, plans, and programs for ensuring Israel's military and technological superiority over potential threats.

(3) United States capabilities for assisting Israel in a military emergency and the adequacy of United States military assistance and technology transfer for ensuring that Israel has the capability to deter war and to defend its territory with minimal risk and loss of life.

(4) The state of strategic cooperation between the United States and Israel, including—

(A) a thorough assessment of options for prepositioning in Israel appropriate defense articles for use by the United States in the region; and

(B) an assessment of United States policies, plans, and programs for ensuring that maximum advantage is taken of Israel's strategic location and Israel's ability to provide unique options regarding military technologies and production.

(5) The adequacy of United States power projection forces, military assistance, arms transfers, and cooperation arrangements for ensuring that Egypt, as the leading Arab democracy and a key partner in the Camp David accords, is secure against outside threats and can play a major role in regional security efforts with the United States.

(6) The adequacy of United States power projection forces, military assistance, and arms transfers for protecting the Gulf Cooperation Council States.

(7) The adequacy of the capabilities of the United States and countries friendly to the United States for deterring and defending against long-range missile threats and the use of weapons of mass destruction in the Middle East and the Persian Gulf region.

(c) INTELLIGENCE ASSESSMENT.—As part of the report submitted pursuant to subsection (a), the Secretary of Defense shall provide a military threat assessment for the Middle East and Persian Gulf region. The intelligence assessment shall include a description of—

(1) the overall military threat to United States strategic interests in the Persian Gulf region;

(2) the overall military threat to Israel and the military threats to Israel from individual countries, including an assessment of the Arab-Israeli military balance and a discussion of the changes taking place in that balance;

(3) the military threats to Egypt;

(4) the military threats to the Gulf Cooperation Council States; and

(5) the threats to United States interests and to regional States friendly to the United States that result from the proliferation of long-range missiles and weapons of mass destruction.

(d) FORM OF REPORT.—The report may be submitted in classified and unclassified forms.

SEC. 1042. STUDY OF PROVIDING FORWARD PRESENCE OF NAVAL FORCES DURING PEACETIME.

(a) ANALYSIS REQUIRED.—The Secretary of Defense shall conduct an analysis of options for providing forward presence of naval forces during peacetime. The analysis shall include an evaluation of the following considerations:

(1) The requirements of the commanders of the combatant commands for providing naval forces for forward peacetime presence.

(2) The capacity of alternative groups of naval forces, including aircraft carriers, large amphibious ships, and large surface combatants, to fulfill the forward presence mission.

(3) Potential locations and associated costs for homeporting additional aircraft carriers or other naval forces overseas.

(4) Estimated operations cost differentials for supporting forward naval operations.

(5) Estimated investment cost differentials for supporting forward naval operations.

(6) Potential availability of facilities for supporting forward naval operations.

(7) Potential host nation support or other offset contributions.

(b) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report on the analysis required by subsection (a). Funds appropriated or otherwise made available to the Department of Defense for fiscal year 1994 may not be obligated for the aircraft carrier replacement program until the Secretary of Defense submits the report to the congressional defense committees.

SEC. 1043. PROHIBITION ON CONTRACTING WITH SUPPORTERS OF THE SECONDARY ARAB BOYCOTT OF ISRAEL.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, as amended by section 1032, is further amended by adding at the end the following new section:

"§ 2410h. Prohibition on contracting with supporters of the secondary Arab boycott of Israel

"(a) Under section 3(5)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2402(5)(A)), it is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person.

"(b)(1) Consistent with the policy referred to in subsection (a), no Department of Defense prime contract in excess of the small purchase threshold, as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), may be awarded to a foreign person, foreign company, or other foreign entity unless that person, company, or entity certifies to the Secretary of Defense that it does not comply with the secondary Arab boycott of Israel.

"(2) The Secretary of Defense may waive the prohibition in paragraph (1) in specific instances when the Secretary determines that the waiver is necessary in the national security interests of the United States. Within 15 days after the end of each calendar quarter, the Secretary shall submit to Congress a report identifying each contract for which a waiver was granted under this paragraph during such quarter.

"(c) Subsection (b) does not apply to contracts for consumable supplies, provisions, or services that are intended to be used for the support of the United States or of allied forces in a foreign country, or to contracts pertaining to the use of any equipment, technology, data, or services for intelligence or classified purposes, or to the acquisition or lease of any such equipment, technology, data, or services, by the United States Government in the interests of national security.".

(b) TABLE OF SECTIONS.—The table of sections at the beginning of such chapter, as amended by section 1032, is further amended by inserting after the item relating to section 2410d the following:

"2410h. Prohibition on contracting with supporters of the secondary Arab boycott of Israel.".

SEC. 1044. EMPLOYMENT AUTHORITY REGARDING CIVILIAN FACULTY MEMBERS OF THE DEFENSE LANGUAGE INSTITUTE FOREIGN LANGUAGE CENTER.

(a) IN GENERAL.—Section 4021 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "or the United States Army Command and General Staff College" and inserting in lieu thereof ", the United States Army Command and General Staff College, and the Defense Language Institute Foreign Language Center"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) APPLICATION TO CERTAIN FACULTY MEMBERS.—This section shall not apply with respect to professors, instructors, and lecturers employed at the Army War College or the United States Army Command and General Staff College if the duration of the principal course of instruction offered at the respective college is less than 10 months.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 4021. Army War College, United States Army Command and General Staff College, and Defense Language Institute Foreign Language Center: civilian faculty members".

(2) The item relating to such section in the table of sections for chapter 373 of such title is amended to read as follows:

"4021. Army War College, United States Army Command and General Staff College, and Defense Language Institute Foreign Language Center: civilian faculty members.".

(c) APPLICABILITY.—(1) Except as provided in paragraph (2), section 4021 of title 10, United States Code, shall not apply to a person who was employed as a professor, instructor, or lecturer at the Army War College or the United States Army Command and General Staff College before February 28, 1990.

(2) In the case of a person referred to in paragraph (1) who terminates employment as a professor, instructor, or lecturer at an institution referred to in that paragraph on or after February 28, 1990, section 4021 of title 10, United States Code, shall apply with respect to the employment of such person after that date as a professor, instructor, or lecturer at an institution other than the institution or institutions where that person was employed before that date.

(d) SAVINGS PROVISION.—In the case of a person who, on the day before the date of the enactment of this Act, is employed as a professor, instructor, or lecturer at the Defense Language Institute Foreign Language Center, the Secretary of the Army shall afford the person an opportunity to elect to be paid under the compensation plan authorized by subsection (b) of section 4021 of title 10, United States Code, or to continue to be paid under the General Schedule (with no reduction in pay) under section 5332 of title 5, United States Code.

SEC. 1045. ELECTION OF LEAVE OR LUMP-SUM PAYMENT FOR CERTAIN EMPLOYEES WHO MOVED BETWEEN NONAPPROPRIATED FUND EMPLOYMENT AND DEPARTMENT OF DEFENSE OR COAST GUARD EMPLOYMENT BEFORE APRIL 16, 1991.

(a) ELECTION OF LEAVE OR PAYMENT.—An employee referred to in subsection (b) of section 6308 of title 5, United States Code, who moved between a position referred to in the first sentence of that subsection and a position referred to in the second sentence of that subsection after December 31, 1986, and before April 16, 1991, shall be permitted to elect—

(1) to repay the lump-sum payment received under section 5551(a) of that title in lieu of annual leave and have the annual leave recredited to the employee's leave account; or

(2) to keep the lump-sum payment in lieu of that annual leave.

(b) DEADLINE FOR ELECTION.—An employee shall make an election authorized by subsection (a) within 90 days after receiving a written notification of the provisions of this section from the head of the agency currently employing the employee. An employee who does not make the election within that 90-day period shall be considered to have elected to keep the lump-sum payment.

(c) REPAYMENT OF LUMP-SUM PAYMENT.—An employee who elects to repay the lump-sum payment shall make the repayment not later than 2 years after the date of the election. The repayment by an employee shall be made in one payment of the entire amount of the lump-sum payment received by that employee in lieu of annual leave.

(d) LEAVE CREDITS.—Upon repayment of the lump-sum payment received by an employee, the employee shall be recredited with the annual leave associated with the lump-sum payment. The accounting for the recredited leave shall be separate from the accounting for other leave. Recredited annual leave shall be available until the first day of the third leave year following the leave year in which the leave is recredited.

SEC. 1046. FEDERAL CHARTER FOR MILITARY ORDER OF WORLD WARS.

(a) FEDERAL CHARTER.—The Military Order of the World Wars, a nonprofit corporation organized under the laws of the District of Columbia (in this section referred to as the "corporation"), is recognized as such and is granted a Federal charter.

(b) OBJECTS AND PURPOSES.—The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include the following:

(1) Promoting military service associations.

(2) Promoting patriotic education and military, naval, and air science.

(3) Defending the honor and integrity of the Federal Government and the Constitution.

(4) Fostering fraternal relations among all branches of the Armed Forces.

(5) Encouraging the adoption of a suitable policy of national security.

(6) Encouraging the commemoration of military service and the establishment of war memorials.

(c) PROHIBITION AGAINST DISCRIMINATION.—In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

(d) RESTRICTIONS.—(1) The corporation may not make any loan to any officer, director, or employee of the corporation.

(2) The corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

(3) The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities.

(e) AUDIT OF FINANCIAL TRANSACTIONS.—The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following:

"(75) The Military Order of World Wars.".

(f) ANNUAL REPORT.—The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by subsection (e). The report shall not be printed as a public document.

(g) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this section shall expire.

(h) TERMINATION.—The charter granted by this section shall expire if the corporation fails to comply with—

(1) any restriction or other provision of this section;

(2) any provision of its bylaws or articles of incorporation; or

(3) any provision of the laws of the District of Columbia that apply to corporations such as the corporation recognized under this section.

SEC. 1047. FEDERAL CHARTER FOR RETIRED ENLISTED ASSOCIATION, INCORPORATED.

(a) FEDERAL CHARTER.—The Retired Enlisted Association, Incorporated, a nonprofit corporation organized under the laws of the State of Colorado, is recognized as such and is granted a Federal charter.

(b) POWERS.—The Retired Enlisted Association, Incorporated, (in this section referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

(c) OBJECTS AND PURPOSES.—The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include—

(1) upholding and defending the Constitution of the United States;

(2) promoting health, prosperity, and scholarship among its members and their dependents and survivors through benevolent programs;

(3) assisting veterans and their dependents and survivors through a service program established for that purpose;

(4) improving conditions for retired enlisted service members, veterans, and their dependents and survivors; and

(5) fostering fraternal and social activities among its members in recognition that cooperative action is required for the furtherance of their common interests.

(d) SERVICE OF PROCESS.—With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

(e) MEMBERSHIP.—Except as provided in subsection (h), eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the articles of incorporation and bylaws of the corporation.

(f) BOARD OF DIRECTORS.—Except as provided in subsection (h), the composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

(g) OFFICERS OF CORPORATION.—Except as provided in subsection (h), the positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

(h) PROHIBITION AGAINST DISCRIMINATION.—In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of the directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age or national origin.

(i) RESTRICTIONS.—(1) No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this paragraph shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(2) The corporation may not make any loan to any officer, director, or employee of the corporation.

(3) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(4) The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities by virtue of this section.

(j) LIABILITY.—The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

(k) BOOKS AND RECORDS.—The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this subsection shall be construed to contravene any applicable State law.

(l) AUDIT OF FINANCIAL TRANSACTIONS.—The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101), as amended by section 1046 of this Act, is further amended by adding at the end the following:

"(76) The Retired Enlisted Association, Incorporated.".

(m) ANNUAL REPORT.—The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 2 of the Act referred to in subsection (l). The report shall not be printed as a public document.

(n) RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.—The right to alter, amend, or repeal this section is expressly reserved to the Congress.

(o) TAX-EXEMPT STATUS.—The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this section shall expire.

(p) EXCLUSIVE RIGHTS TO NAMES.—The corporation shall have the sole and exclusive right to use the names "The Retired Enlisted Association, Incorporated", "The Retired Enlisted Association", "Retired Enlisted Association", and "TREA", and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this subsection may be construed to conflict or interfere with rights that are established or vested before the date of the enactment of this Act.

(q) TERMINATION.—If the corporation fails to comply with any of the restrictions or provisions of this section, the charter granted by this section shall expire.

(r) DEFINITION.—For purposes of this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

SEC. 1048. PROGRAM TO COMMEMORATE WORLD WAR II.

(a) IN GENERAL.—The Secretary of Defense may, during fiscal years 1993 through 1995, conduct a program to commemorate the 50th anniversary of World War II and to coordinate, support, and facilitate other such commemoration programs and activities of the Federal Government, State and local governments, and other persons.

(b) USE OF FUNDS.—During fiscal years 1993 through 1995, funds authorized to be appropriated to the Department of Defense for operation and maintenance of Defense Agencies shall be available to conduct the program referred to in subsection (a).

(c) PROGRAM ACTIVITIES.—The program referred to in subsection (a) may include activities and ceremonies—

(1) to provide the people of the United States with a clear understanding and appreciation of the lessons and history of World War II;

(2) to thank and honor veterans of World War II and their families;

(3) to pay tribute to the sacrifices and contributions made on the home front by the people of the United States;

(4) to foster an awareness in the people of the United States that World War II was the central event of the 20th century that defined the postwar world;

(5) to highlight advances in technology, science, and medicine related to military research conducted during World War II;

(6) to inform wartime and postwar generations of the contributions of the Armed Forces of the United States to the United States;

(7) to recognize the contributions and sacrifices made by World War II allies of the United States; and

(8) to highlight the role of the Armed Forces of the United States, then and now, in maintaining world peace through strength.

(d) AUTHORITY OF THE SECRETARY.—(1) The Secretary of Defense may, in accordance with regulations prescribed by the Secretary, authorize the manufacture, reproduction, use, sale, or distribution of logos, trademarks, seals, and similar items for the program referred to in subsection (a), and grant exclusive or nonexclusive licenses for such purposes.

(2) The Secretary may, in furtherance of the program referred to in subsection (a) and in accordance with regulations prescribed by the Secretary, grant exclusive or nonexclusive licenses for any copyrighted material for which the Secretary holds an exclusive license or owns the copyright as transferred through assignment, bequest, or otherwise. Notwithstanding any other provision of law, any proceeds received as a result of these activities shall be deposited into the account established by subsection (e).

(e) ESTABLISHMENT OF ACCOUNT.—(1) There is established in the Treasury of the United States an account to be known as the "Department of Defense 50th Anniversary of World War II Commemoration Account" which shall be administered by the Secretary of Defense as a single account. There shall be deposited into the account all proceeds derived from activities described in subsection (d).

(2) The Secretary may use the funds in the account established in paragraph (1) only for the purpose of conducting the program referred to in subsection (a).

(3) Not later than 60 days after the termination of the authority of the Secretary to conduct the commemoration program referred to in subsection (a), the Secretary shall transmit to the Committees on Armed Services of the Senate and House of Representatives a report containing an accounting of all the funds deposited into and expended from the account or otherwise expended under this section, and of any amount remaining in the account. Unobligated funds which remain in the account after termination of the authority of the Secretary under this section shall be held in the account until transferred by law after the Committees receive the report.

(f) PROVISION OF VOLUNTARY SERVICES.—(1) Notwithstanding section 1342 of title 31, United States Code, the Secretary of Defense may accept from any person voluntary services to be provided in furtherance of the program referred to in subsection (a).

(2) A person providing voluntary services under this subsection shall be considered an

employee of the Federal Government for the purpose of chapter 81 of title 5, United States Code, relating to compensation for work-related injuries, and for the purpose of chapter 176 of title 28, United States Code, relating to tort claims. Such a person who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purpose by reason of the provision of such services.

(3) The Secretary of Defense may provide for reimbursement of incidental expenses which are incurred by a person providing voluntary services under this subsection. The Secretary of Defense shall determine which expenses are eligible for reimbursement under this paragraph.

SEC. 1049. ELIMINATION OF REPORTS REQUIRED BY LAW.

(a) UNDER TITLE 10.—(1) Section 673(b) of title 10, United States Code, is amended by striking out the last sentence.

(2) Section 2362 of such title is amended—

(A) by striking out subsection (c); and

(B) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

(3) Section 2401 of such title is amended—

(A) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) The Secretary may make a contract described in subsection (a)(1) if—

"(1) the Secretary has been specifically authorized by law to make the contract; and

"(2) the Secretary determines that such a lease is warranted based on an analysis of the cost to the United States (including lost tax revenue) of any such lease or charter arrangement compared with the cost to the United States of direct procurement of the aircraft or naval vessel by the United States.";

(B) by striking out subsection (e); and

(C) by redesignating subsection (f) as subsection (e).

(4) Section 2672a(b) of such title is amended by striking out the last sentence.

(5) Section 2823 of such title is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(6) Section 2854 of such title is amended—

(A) in subsection (a), by striking out "(a) Subject to subsection (b), the Secretary" and inserting in lieu thereof "The Secretary"; and

(B) by striking out subsection (b).

(7)(A) Section 2861 of such title is repealed.

(B) The table of sections at the beginning of chapter 169 of such title is amended by striking out the item relating to section 2861.

(8) Section 2864(b) of such title is amended by striking out "after the 21-day period" and all that follows and inserting in lieu thereof a period.

(9) Section 7308 of such title is amended by striking out subsection (c).

(10) Section 7309(b) of such title is amended by striking out the last sentence.

(b) REPEAL OF COMPARABLE BUDGETING REQUIREMENT.—(1) Section 2217 of title 10, United States Code, is repealed.

(2) The table of sections at the beginning of chapter 131 of such title is amended by striking out the item relating to section 2217.

(c) UNDER TITLE 37.—Section 1008(a) of title 37, United States Code, is amended by striking out the last sentence.

(d) UNDER OTHER LAWS.—(1) Section 18(a) of the Military Selective Service Act (50 U.S.C. App. 468(a)) is amended by striking out ", except that no order" in the first sentence and all that follows through the end of the second sentence and inserting in lieu thereof a period.

(2) Section 112 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1037) is amended by striking out subsection (c).

(3) Section 1309 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 10 U.S.C. 113 note) is repealed.

SEC. 1050. LIMITATION ON USE OF EXCESS CONSTRUCTION OR FIRE EQUIPMENT FROM DEPARTMENT OF DEFENSE STOCKS IN FOREIGN ASSISTANCE OR MILITARY SALES PROGRAMS.

(a) LIMITATION.—Excess construction or fire equipment from the stocks of the Department of Defense may be transferred to any foreign country or international organization pursuant to part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2301 et seq.) or section 21 of the Arms Export Control Act (22 U.S.C. 2761) only if—

(1) no department or agency of the Federal Government other than the Department of Defense and no State submits to the Defense Reutilization and Marketing Service a request for such equipment during the period for which the Defense Reutilization and Marketing Service accepts such a request; or

(2) the President determines that the transfer is necessary in order to respond to an emergency for which the equipment is especially suited.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to limit the authority to transfer construction or fire equipment under section 2547 of title 10, United States Code.

(c) DEFINITION.—In this section, the term "construction or fire equipment" includes tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, pumpers, fuel and water tankers, crash trucks, utility vans, rescue trucks, ambulances, hook and ladder units, compressors, and miscellaneous fire fighting equipment.

SEC. 1051. RESTRICTION ON OBLIGATION OF FUNDS FOR NEW MUSEUMS.

(a) PROHIBITION ON OBLIGATION OF FUNDS FOR CERTAIN NEW MUSEUMS.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense for fiscal year 1992 may not be obligated for the purposes of—

(1) the construction or capitalization of—

(A) the National D-Day Museum;

(B) the Airborne and Special Operations Museum; or

(C) the Naval Undersea Museum; or

(2) the renovation of the submarine U.S.S. Blueback for the Oregon Museum of Science and Industry.

(b) EXCEPTION.—The funds referred to in subsection (a) may be obligated for the purpose specified for a museum referred to in that subsection if, with respect to that museum, the Secretary of Defense certifies to Congress that—

(1) the use of Department of Defense funds for that museum is of a higher priority than the use of such funds for the expansion of any existing Department of Defense museum;

(2) in authorizing construction of a new Department of Defense museum, the Secretary would select that museum as one of the Secretary's first four choices for the construction of such a new museum; and

(3) the use of Department of Defense funds for that purpose would make a unique contribution to the mission of the military departments.

SEC. 1052. ARMY MILITARY HISTORY FELLOWSHIP PROGRAM.

(a) IN GENERAL.—Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4316. Military history fellowships

"(a) FELLOWSHIPS.—The Secretary of the Army shall prescribe regulations under which the Secretary may award fellowships in military history of the Army to the persons described in subsection (b).

"(b) ELIGIBLE PERSONS.—The persons eligible for awards of fellowships under this section are citizens and nationals of the United States who—

"(1) are graduate students in United States military history;

"(2) have completed all requirements for a doctoral degree other than preparation of a dissertation; and

"(3) agree to prepare a dissertation in a subject area of military history determined by the Secretary.

"(c) REGULATIONS.—The regulations prescribed under this section shall include—

"(1) the criteria for award of fellowships;

"(2) the procedures for selecting recipients;

"(3) the basis for determining the amount of a fellowship; and

"(4) the total amount that may be awarded as fellowships during an academic year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 4315 the following:

"4316. Military history fellowships.".

SEC. 1053. TRANSFER OF CERTAIN VESSELS.

The Secretary of the Navy shall transfer to the Department of Transportation the following vessels, to be assigned as training ships to Texas A&M University at Galveston, Texas, and to the Maine Maritime Academy at Castine, Maine, on the date of the decommissioning of such vessels:

(1) The U.S.N.S. Chauvenet (T–AG–29).

(2) The U.S.N.S. Harkness (T–AG–32).

SEC. 1054. REPEAL OF REQUIREMENT FOR CONSTRUCTION OF COMBATANT AND ESCORT VESSELS IN NAVY YARDS.

(a) REPEAL.—Subsection (a) of section 7299a of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—Subsections (b), (c), and (d) of section 7299a of title 10, United States Code, are redesignated as subsections (a), (b), and (c), respectively.

SEC. 1055. COOPERATIVE MILITARY AIRLIFT AGREEMENTS.

(a) LIQUIDATION OF CREDITS AND LIABILITIES.—Section 2350c(a)(2) of title 10, United States Code, is amended by striking out all after "liquidated" and inserting in lieu thereof "as agreed upon by the parties. Liquidation shall be either by direct payment to the country that has provided the greater amount of transportation or by the providing of in-kind transportation services to that country. The liquidation shall occur on a regular basis, but not less often than once every 12 months.".

(b) COUNTRIES ELIGIBLE FOR COOPERATIVE AGREEMENTS.—Section 2350c(e)(1) of such title is amended by striking out "or New Zealand" and inserting in lieu thereof ", New Zealand, Japan, and the Republic of Korea".

SEC. 1056. SPECIAL OPERATIONS FORCES.

(a) GRADE FOR CERTAIN COMMANDERS.—Section 1311(e) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 167 note) is amended by inserting after "the United States Pacific Command," the following: "the United States Southern Command, the United States Central Command,".

(b) REPEAL OF DUPLICATIVE PROVISIONS.—Subsections (c), (d), and (e) of section 9115 of Public Law 99–500 and subsections (c), (d), and (e) of section 9115 of Public Law 99–591 are repealed.

SEC. 1057. PERMANENT AUTHORITY TO PAY CERTAIN EXPENSES OF PERSONNEL OF DEVELOPING COUNTRIES FOR ATTENDANCE AT BILATERAL OR REGIONAL COOPERATION CONFERENCES.

Subsection (e) of section 1051 of title 10, United States Code, is repealed.

SEC. 1058. UNITED STATES COURT OF MILITARY APPEALS AMENDMENTS.

(a) UNIFIED FEDERAL RETIREMENT FOR JUDGES.—(1) Section 945 (article 145) of title 10, United States Code, is amended by adding at the end the following new subsection:

"(i)(1) A person appointed as a judge of the United States Court of Military Appeals shall be subject to the Federal Employees' Retirement System as of the date of the appointment.

"(2) Section 302 of the Federal Employees' Retirement System Act of 1986 (5 U.S.C. 8331 note) shall apply to a judge of the United States Court of Military Appeals who is subject to the Civil Service Retirement and Disability System on the day before the date on which the judge becomes subject to the Federal Employees' Retirement System under this section. In the application of section 302 of that Act to such judge, the judge shall be treated as having made an election under section 301 of that Act to become subject to the Federal Employees' Retirement System effective as of that date.

"(3) In this section:

"(A) The term 'Federal Employees' Retirement System' means the provisions of chapter 84 of title 5.

"(B) The term 'Civil Service Retirement and Disability System' means the provisions of subchapter III of chapter 83 of title 5.".

(2) The amendment made by paragraph (1) shall apply to persons who are appointed as judges of the United States Court of Military Appeals on or after the date of the enactment of this Act.

(3)(A) The amendment made by paragraph (1) shall also apply in accordance with this paragraph to judges of the United States Court of Military Appeals who served in regular active service as such on or after November 29, 1989, and before the date of the enactment of this Act.

(B) Except as provided in subparagraph (C), a judge referred to in subparagraph (A) shall be subject to the Federal Employees' Retirement System as of the later of November 29, 1989, or the date of the judge's appointment as a judge of the United States Court of Military Appeals.

(C) A judge referred to in subparagraph (B) who, on the day before the date as of which the judge would become subject to the Federal Employees' Retirement System under that subparagraph, was subject to the Civil Service Retirement and Disability System may elect to continue to be subject to the Civil Service Retirement and Disability System instead of the Federal Employees' Retirement System. A judge making that election shall submit the election in writing to the Director of the Office of Personnel Management within 10 days after the date of the enactment of this Act. The election is irrevocable.

(D) A judge who does not make an election pursuant to subparagraph (C)—

(i) shall receive a lump sum refund from the Civil Service Retirement and Disability Fund equal to the difference between the total amount deducted and withheld from the pay of the judge under section 8334 of title 5, United States Code, during the service as a judge of the court on and after November 29, 1989, and before the date of the enactment of this Act and the total amount that would have been deducted and withheld from the pay of the judge under section 8422 of such title during that service if the judge had been subject to the provisions of chapter 84 of that title during such service; and

(ii) may, within 2 years after the date of the enactment of this Act, deposit in the Thrift Savings Fund any amount not exceeding the difference between the total amount that the judge could have contributed to the Fund under section 8432(a) of title 5, United States Code, during the service referred to in clause (i) and the amount, if any, that was contributed to the Fund by the judge under section 8351 of such title during that service.

(E) A lump sum contribution shall be made to the Thrift Savings Fund in accordance with section 8432(c) of title 5, United States Code, for a deposit made by a judge pursuant to subparagraph (D)(ii). The amount of the contribution shall be equal to the total amount of the contribution that would have been made under that section during the service covered by the deposit if the total amount deposited had been deducted and withheld from the pay of the judge for contribution to the Thrift Savings Fund under section 8432(a) of that title in equal amounts monthly during that service. The lump sum contribution shall be made out of funds available for the pay of judges of the United States Court of Military Appeals for the fiscal year in which the deposit is made.

(F) Amounts deposited in the Thrift Savings Fund pursuant to subparagraphs (D)(ii) and (E) shall be deemed not to cause the contributions made to that Fund by or for a judge in the year of the deposit to exceed any limitation referred to in section 8432(d) or 8440(a)(3) of title 5, United States Code.

(G) In this paragraph:

(i) The term "Federal Employees' Retirement System" means the provisions of chapter 84 of title 5, United States Code.

(ii) The term "Civil Service Retirement and Disability System" means the provisions of subchapter III of chapter 83 of such title.

(b) CHIEF JUDGE.—(1) Section 943(a) (article 143(a)) of title 10, United States Code, is amended to read as follows:

"(a) CHIEF JUDGE.—(1) The chief judge of the United States Court of Military Appeals shall be the judge of the court in regular active service who is senior in commission among the judges of the court who—

"(A) have served for one or more years as judges of the court; and

"(B) have not previously served as chief judge.

"(2) In any case in which there is no judge of the court in regular active service who has served as a judge of the court for at least one year, the judge of the court in regular active service who is senior in commission and has not served previously as chief judge shall act as the chief judge.

"(3) Except as provided in paragraph (4), a judge of the court shall serve as the chief judge under paragraph (1) for a term of 5 years. If no other judge is eligible under paragraph (1) to serve as chief judge upon the expiration of that term, the chief judge shall continue to serve as chief judge until another judge becomes eligible under that paragraph to serve as chief judge.

"(4)(A) The term of a chief judge shall be terminated before the end of 5 years if—

"(i) the chief judge leaves regular active service as a judge of the court; or

"(ii) the chief judge notifies the other judges of the court in writing that such judge desires to be relieved of his duties as chief judge.

"(B) The effective date of a termination of the term under subparagraph (A) shall be the date on which the chief judge leaves regular active service or the date of the notification under subparagraph (A)(ii), as the case may be.

"(5) If a chief judge is temporarily unable to perform his duties as a chief judge, the duties shall be performed by the judge of the court in active service who is present, able and qualified to act, and is next in precedence.".

(2) For purposes of section 943(a) of title 10, United States Code, as amended by paragraph (1)—

(A) the person serving as the chief judge of the United States Court of Military Appeals on the date of the enactment of this Act shall be deemed to have been designated as the chief judge under such section; and

(B) the 5-year term provided in paragraph (3) of such section shall be deemed to have begun on the date on which such judge was originally designated as the chief judge under section 867(a) or 943 of title 10, United States Code, as the case may be, as that provision of law was in effect on the date of the designation.

SEC. 1059. AMENDMENTS TO THE UNIFORM CODE OF MILITARY JUSTICE.

(a) JURISDICTION.—Section 803(a) (article 3(a)) of title 10, United States Code, is amended to read as follows:

"(a) Subject to section 843 of this title (article 43), a person who is in a status in which the person is subject to this chapter and who committed an offense against this chapter while formerly in a status in which the person was subject to this chapter is not relieved from amenability to the jurisdiction of this chapter for that offense by reason of a termination of that person's former status.".

(b) CERTAIN ADJUDICATIONS AND POSTPONEMENTS OF SENTENCES.—(1) Section 857 (article 57) of such title is amended by adding at the end the following new subsection:

"(e)(1) In any case in which a court-martial sentences a person referred to in paragraph (2) to confinement, the convening authority may postpone the service of the sentence to confinement, without the consent of that person, until after the person has been permanently released to the armed forces by a State or foreign country referred to in that paragraph.

"(2) Paragraph (1) applies to a person subject to this chapter who—

"(A) while in the custody of a State or foreign country is temporarily returned by that State or foreign country to the armed forces for trial by court-martial; and

"(B) after the court-martial, is returned to that State or foreign country under the authority of a mutual agreement or treaty, as the case may be.

"(3) In this subsection, the term 'State' means a State of the United States, the District of Columbia, a Territory, and a possession of the United States.".

(2) Section 863 (article 63) of such title is amended—

(A) by striking out "imposed" in the second sentence and inserting in lieu thereof "approved"; and

(B) by inserting "approved" in the third sentence after "the pretrial agreement, the".

(c) OFFENSES.—(1)(A) Section 911 (article 111) of such title is amended to read as follows:

"§911. Art. 111. Drunken or reckless operation of a vehicle, aircraft, or vessel

"Any person subject to this chapter who—

"(1) operates or physically controls any vehicle, aircraft, or vessel in a reckless or wanton manner or while impaired by a substance described in section 912a(b) of this title (article 112a(b)), or

"(2) operates or is in actual physical control of any vehicle, aircraft, or vessel while drunk or when the alcohol concentration in the person's blood or breath is 0.10 grams of alcohol per 100 milliliters of blood or 0.10 grams of alcohol per 210 liters of breath, as shown by chemical analysis,

shall be punished as a court-martial may direct.".

(B) The item relating to section 911 in the table of sections at the beginning of subchapter X of chapter 47 of such title is amended to read as follows:

"911. 111. Drunken or reckless operation of a vehicle, aircraft, or vessel.".

(2) Section 918(3) (article 118(3)) of such title is amended by striking out "others" and inserting in lieu thereof "another".

(3) Section 920(a) (article 120(a)) of such title is amended—

(A) by striking out "with a female not his wife"; and

(B) by striking out "her".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply with respect to offenses committed on or after that date.

SEC. 1060. CIVIL-MILITARY COOPERATIVE ACTION PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) Many of the skills, capabilities, and resources that the Armed Forces have developed to meet military requirements can assist in meeting the civilian domestic needs of the United States.

(2) Members of the Armed Forces have the training, education, and experience to serve as role models for United States youth.

(3) As a result of the reductions in the Armed Forces resulting from the ending of the Cold War, the Armed Forces will have fewer overseas deployments and lower operating tempos, and there will be a much greater opportunity than in the past for the Armed Forces to assist civilian efforts to address critical domestic problems.

(4) The United States has significant domestic needs in areas such as health care, nutrition, education, housing, and infrastructure that cannot be met by current and anticipated governmental and private sector programs.

(5) There are significant opportunities for the resources of the Armed Forces, which are maintained for national security purposes, to be applied in cooperative efforts with civilian officials to address these vital domestic needs.

(6) Civil-military cooperative efforts can be undertaken in a manner that is consistent with the military mission and does not compete with the private sector.

(b) ESTABLISHMENT OF CIVIL-MILITARY COOPERATIVE ACTION PROGRAM.—Chapter 20 of title 10, United States Code, is amended—

(1) by adding at the end the following new subchapter:

"SUBCHAPTER II—CIVIL-MILITARY COOPERATION

"Sec.

"410. Civil-Military Cooperative Action Program.

"§410. Civil-Military Cooperative Action Program

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a program to be known as the 'Civil-Military Cooperative Action Program'. Under the program, the Secretary may, in accordance with other applicable law, use the skills, capabilities, and resources of the armed forces to assist civilian efforts to meet the domestic needs of the United States.

"(b) PROGRAM OBJECTIVES.—The program shall have the following objectives:

"(1) To enhance individual and unit training and morale in the armed forces through meaningful community involvement of the armed forces.

"(2) To encourage cooperation between civilian and military sectors of society in addressing domestic needs.

"(3) To advance equal opportunity.

"(4) To enrich the civilian economy of the United States through education, training, and transfer of technological advances.

"(5) To improve the environment and economic and social conditions.

"(6) To provide opportunities for disadvantaged citizens of the United States.

"(c) ADVISORY COUNCILS.—(1) The Secretary of Defense shall encourage the establishment of advisory councils on civil-military cooperation at the regional, State, and local levels, as appropriate, in order to obtain recommendations for projects and activities under the program and guidance for the program from persons who are knowledgeable about regional, State, and local conditions and needs.

"(2) The advisory councils should include officials from relevant military organizations, representatives of appropriate local, State, and Federal agencies, representatives of civic and social service organizations, business representatives, and labor representatives.

"(3) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to such councils.

"(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the provision of assistance under the program. The regulations shall include the following:

"(1) Rules governing the types of assistance that may be provided.

"(2) Procedures governing the delivery of assistance that ensure, to the maximum extent practicable, that such assistance is provided in conjunction with, rather than separate from, civilian efforts.

"(3) Procedures for appropriate coordination with civilian officials to ensure that the assistance—

"(A) meets a valid need; and

"(B) does not duplicate other available public services.

"(4) Procedures for the provision of assistance in a manner that does not compete with the private sector.

"(5) Procedures to minimize the extent to which Department of Defense resources are applied exclusively to the program.

"(6) Standards to ensure that assistance is provided under this section in a manner that is consistent with the military mission of the units of the armed forces involved in providing the assistance.

"(e) CONSTRUCTION OF PROVISION.—Nothing in this section shall be construed as authorizing—

"(1) the use of the armed forces for civilian law enforcement purposes; or

"(2) the use of Department of Defense personnel or resources for any program, project, or activity that is prohibited by law."; and

(2) by inserting below the chapter heading the following:

"Subchapter	Sec.
"I. Humanitarian Assistance	401
"II. Civil-Military Cooperation	410

"SUBCHAPTER I—HUMANITARIAN ASSISTANCE".

SEC. 1061. UNITED NATIONS PEACEKEEPING AND ENFORCEMENT REPORT.

(a) REPORT REQUESTED.—Not later than the date on which the President submits to Congress the budget for fiscal year 1994 under section 1105 of title 31, United States Code, the President shall transmit to Congress a report on the proposals of the Secretary General of the United Nations contained in his report to the Security Council entitled "Preventive Diplomacy, Peacemaking and Peacekeeping", dated June 19, 1992.

(b) CONTENT OF PRESIDENT'S REPORT.—The President's report shall contain a comprehensive analysis and discussion of the proposals of the Secretary General, including, in particular, the following:

(1) The proposal that contributions for peacekeeping and related enforcement activities be funded out of the National Defense function of the budget rather than the "Contributions to International Peacekeeping Activities" account of the Department of State.

(2) The assignment of responsibilities within the Executive branch if such contributions are funded, in whole or in part, out of the National Defense function.

(3) The proposal that the United States and other member states of the United Nations negotiate special agreements under Article 43 of the United Nations Charter to provide for those states to make armed forces, assistance, and facilities available to the Security Council of the United Nations for the purposes stated in Article 42 of that Charter, not only on an ad hoc basis but on a permanent on-call basis for rapid deployment under Security Council authorization.

(4) The proposal that member states of the United Nations commit to keep equipment specified by the Secretary General available for immediate sale, loan, or donation to the United Nations when required.

(5) The proposal that member states of the United Nations make airlift and sealift capacity available to the United Nations free of cost or at lower than commercial rates.

(6) Such other information as may be necessary to inform Congress on matters relating to the Secretary General's proposals.

SEC. 1062. CLARIFICATION OF SCOPE OF AUTHORIZATIONS.

No funds are authorized to be appropriated under this Act for the Federal Bureau of Investigation.

SEC. 1063. REDUCTION IN THE AUTHORIZED END STRENGTH FOR MILITARY PERSONNEL IN EUROPE.

(a) REDUCED END STRENGTH.—Subsection (c)(1) of section 1002 of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note), is amended by striking out "235,700" in the first sentence and all that follows and inserting in lieu thereof "100,000.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1995.

SEC. 1064. REPORT ON THE SELECTIVE SERVICE SYSTEM.

The Secretary of Defense, in consultation with the Director of the Selective Service System, shall submit, by April 30, 1993, a report to the President on the continued requirement for registration under the selective service system. The report shall contain, at a minimum, analyses on the effect of suspension of the requirement for registration on: (1) projected mobilization requirements, including the effect on the time it would take to increase the size of the Armed Forces in a national emergency; (2) recruiting in the Armed Forces; and (3) the organization and staffing of the selective service system. The report shall also contain the Secretary's recommendations based on the analyses. The President shall transmit the report to the Congress, by May 31, 1993, along with his advice on what actions, if any he plans to take on the report.

SEC. 1065. STATE EQUALIZATION PROGRAMS.

Paragraph (2) of section 5(d) of Public Law 81-874 (20 U.S.C. 239(d)(2)) is amended—

(1) by striking subparagraph (C) (as added by section 330(a) of Public Law 94-482); and

(2) by adding at the end the following new subparagraph:

"(D) Any State whose program of State aid was certified by the Secretary under subparagraph (C) for fiscal year 1988, but whose program was determined by the Secretary under subparagraph (C)(i) not to meet the requirements of subparagraph (A) for one or more of the fiscal years 1989 through 1992—

"(i) shall be deemed to have met the requirements of subparagraph (A) for each of the fiscal years 1989 through 1992; and

"(ii) shall not, beginning with fiscal year 1993, and notwithstanding any other provision of this paragraph, take payments under this title into consideration as provided under subparagraph (A) for any fiscal year unless the Secretary has previously certified such State's program for such fiscal year.".

SEC. 1066. BROADING MISSION OF NATO.

(a)(1) The North Atlantic Treaty Organization has, for more than forty years, successfully deterred aggression against Western Europe and North America by the armed forces of the Soviet Union and the Warsaw Pact;

(2) The Warsaw Pact no longer exists;

(3) The Soviet Union has devolved into a commonwealth of sovereign, independent republics;

(4) The members of the North Atlantic Treaty Organization share many common interests in deterring aggression, conflict and economic dislocation both within and beyond the geographic boundaries of Europe and North America: Now, therefore

(b) It is the sense of the Senate that the threat of East-West military confrontation has radically receded and, if the North Atlantic Treaty Organization is to continue to be relevant to the security interests of Western Europe and North America through the 1990's and beyond, the alliance's mission must be recrafted in order to enable it to address common transatlantic security concerns, including those beyond NATO's geographic boundaries. Therefore, the President of the United States is requested to open discussions with the heads of state of NATO's various member states, with a view to adapting the alliance to current realities.

SEC. 1067. REPORT ON INTERNATIONAL MINE CLEARING EFFORTS IN REFUGEE SITUATIONS.

(a) FINDING.—The Congress finds that an estimated 10-20 million mines are scattered across Cambodia, Afghanistan, Somalia, Angola, and other countries which have experienced conflict and that refugee repatriation and other humanitarian programs are being seriously hampered by the widespread use of anti-personnel mines in regional conflicts and civil wars.

(b) REPORT.—(1) The Secretary of Defense, in consultation with the Secretary of State, shall provide a report on international mine clearing efforts in situations involving the repatriation and resettlement of refugees and displaced persons.

(2) Such report shall include, though not be limited to—

(A) an assessment of mine clearing needs in countries to which refugees and displaced persons are now returning, or are likely to return within the near future, including, though not limited to, Cambodia, Angola, Afghanistan, Somalia and Mozambique, and an assessment of current international efforts to meet the mine clearing needs in the countries covered by the report;

(B) an analysis of the specific types of mines in the individual countries assessed, and the availability of technology and assets within the international community for their removal;

(C) an assessment of what additional technologies and assets would be required to complete, expedite or reduce the costs of mine clearing efforts;

(D) an evaluation of the availability of technologies and assets within the United States government which, if called upon, could be employed to augment or complete mine clearing efforts in the countries covered by the report; and

(E) an evaluation of the desirability, feasibility and potential cost of United States assistance on either a unilateral or multilateral basis in such mine clearing operations.

(3) Such report shall be made available to the Committees on Armed Services of the Senate and the House of Representatives within 180 days of the enactment of this Act.

SEC. 1068. SENSE OF CONGRESS RELATING TO THE AWARD OF THE NAVY EXPEDITIONARY MEDAL.

It is the sense of Congress that the President should award the Navy Expeditionary Medal to members of the Navy who served in Navy Task Force 16, culminating in the air-raid commonly known as the "Doolittle Raid on Tokyo", during April 1942, regardless of the time limitations on the consideration of such awards.

SEC. 1069. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.

(a) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1992 to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar $529,300,000 as follows:

(1) For Military Personnel:

(A) For the Navy, $10,700,000.

(B) For the Air Force, $58,200,000.

(C) For the Air Force Reserve, $8,800,000.

(D) For the Air National Guard, $1,900,000.

(2) For Operation and Maintenance:

(A) For the Army, $1,400,000.

(B) For the Navy, $142,900,000.

(C) For the Air Force, $228,000,000.

(D) For the Defense Agencies, $31,500,000.

(E) For the Army Reserve, $3,300,000.

(F) For the Air Force Reserve, $13,200,000.

(G) For the Army National Guard, $1,400,000.

(H) For the Air National Guard, $2,000,000.

(3) For Military Construction:

(A) For the Air Force inside the United States, $10,000,000.

(B) For the Air Force for family housing inside the United States, $16,000,000.

(b) AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1992 to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar $263,530,000 as follows:

(1) For military construction for the Navy outside the United States, $81,530,000.

(2) For military construction for the Air Force inside the United States, $66,000,000.

(3) For military construction for the Air Force outside the United States, $7,600,000.

(4) For family housing for the Navy outside the United States, $87,200,000.

(5) For family housing for the Air Force outside the United States, $21,200,000.

(c) EMERGENCY DESIGNATION.—The authorization of appropriations in subsection (b) are effective only to the extent that the appropriations are designated by the Congress as emergency appropriations for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 in an appropriations Act.

SEC. 1070. BENEFITS FOR SPOUSES AND FORMER SPOUSES OF MEMBERS WHO BECOME DISQUALIFIED FOR RETIRED PAY BY REASON OF MISCONDUCT INVOLVING ABUSE OF A DEPENDENT.

(a) IN GENERAL.—(1) Part II of subtitle A of title 10, United States Code, is amended by inserting after chapter 71 the following new chapter:

"CHAPTER 72—MISCELLANEOUS PROTECTIONS, RIGHTS, AND BENEFITS FOR DEPENDENTS

"Sec.

"1421. Annuity protection for spouses and former spouses of members losing eligibility for retired pay as a result of abuse of a dependent.

"1422. Other benefits.

"§ 1421. Annuity protection for spouses and former spouses of members losing eligibility for retired pay as a result of abuse of a dependent

"(a) REQUIREMENT TO PAY ANNUITY.—The Secretary of a military department shall, upon application, pay an annuity under this section to an eligible spouse or former spouse of a member (described in subsection (b)) of the armed force under the jurisdiction of that Secretary.

"(b) ELIGIBLE PERSONS.—A spouse or former spouse of a member of the armed forces is eligible to receive an annuity under this section if—

"(1) after the member becomes eligible to be retired on the basis of years of service, the member's eligibility to receive retired pay or retainer pay is terminated as a result of misconduct of the member or former member involving abuse of a dependent; and

"(2) the spouse or former spouse—

"(A) was the victim of the abuse and was married to the member at the time of that abuse; or

"(B) is a natural or adopted parent of a dependent child of the member who was the victim of the abuse.

"(c) ADVERSE ACTIONS COVERED.—This section applies with respect to terminations of eligibility to receive retired pay or retainer pay as a result of a conviction by a court-martial or an administrative separation from the armed forces.

"(d) AMOUNT OF ANNUITY.—(1) The amount of the annuity payable under this section to a spouse or former spouse of a member referred to in subsection (b)(1) shall be equal to the lesser of—

"(A) the percentage determined under paragraph (2) of the amount of the retired pay or retainer pay which the member would have received on the date on which the spouse's or former spouse's entitlement to that annuity becomes effective if the member had been retired from the armed forces entitled to receive retired or retainer pay on that date; or

"(B) the amount that is equal to such portion of the member's retired or retainer pay as is provided for in an applicable court order (as defined in section 1408(a) of this title), if any.

"(2)(A) In the case of spouse or former spouse who has been married to the member for 20 or more years, at least 20 of which were during the period the member performed service creditable in determining the member's eligibility for retired or retainer pay, the percent applicable under paragraph (1)(A) is 50 percent.

"(B) In the case of a spouse or former spouse not described in subparagraph (A), the percent applicable under paragraph (1)(A) is the percent (rounded to the nearest one percent) that is determined by—

"(i) multiplying 50 percent times the number of years during the member's service creditable in determining the member's eligibility for retired or retainer pay that the spouse or former spouse has been married to the member; and

"(ii) dividing the product computed under clause (i) by 20.

"(3) Whenever retired pay is increased under section 1401a of this title (or any other provision of law), the annuity payable under this section to the spouse or former spouse of a member referred to in subsection (b)(1) shall be increased at the same time. The annuity shall be increased by the percent by which the retired pay or retainer pay of the member would have been increased if the member were receiving retired or retainer pay.

"(e) COMMENCEMENT AND TERMINATION.—(1) The eligibility of a person to receive an annuity under this section on the basis of a termination of eligibility for retired or retainer pay shall become effective as of the first day of the month in which the action that terminates the eligibility for retired or retainer pay is taken, as determined under regulations prescribed by the Secretary of the military department concerned.

"(2) Eligibility to receive an annuity under this section with respect to a member referred to in subsection (b) shall terminate—

"(A) in the case of an annuitant who marries again after the effective date of the annuity before attaining 55 years of age, on the date of such marriage; and

"(B) in the case of an annuitant who resumes cohabitation with the member, on the date on which the cohabitation resumes.

"(3) A person's eligibility to receive an annuity under this section that is terminated under paragraph (2)(A) by reason of remarriage shall be resumed in the event of the termination of that marriage by the death of that person's spouse or by annulment or divorce. The resumption of payment of the annuity shall begin as of the first day of the month in which that marriage is so terminated. The monthly amount of the resumed annuity shall be the amount that would have been paid if the entitlement to the annuity had not been terminated.

"(f) APPLICATION FOR ANNUITY.—(1) An application for an annuity under this section shall be made in the form and manner prescribed by the Secretary of the military department concerned. The application shall include the certification of the applicant, under oath or by affirmation, that no circumstances exist that would terminate the eligibility of the applicant for that annuity under subsection (e).

"(2) No annuity shall be paid under this section to a spouse or former spouse of a member of the armed forces referred to in subsection (b)(1) unless the spouse or former spouse applies for that annuity within one year after the date of the action referred to in subsection (e)(1).

"(3) the spouse or former spouse certifies to the Secretary of the military department concerned that none of the circumstances described in subsection (e)(2) exist in the case of the spouse or former spouse.

"(g) RECERTIFICATION OF ELIGIBILITY.—The Secretary of the military department concerned may require a recipient of an annuity under this section to recertify, at any time or on a periodic basis, that no circumstances exist that would terminate the eligibility of the applicant for that annuity under subsection (e). Each certification shall be made under oath or by affirmation.

"(h) MEMBER TO HAVE NO CLAIM AGAINST ANNUITY.—Notwithstanding any other provision of law, a member of the armed forces referred to in subsection (b)(1) shall have no ownership interest in, or claim against, an annuity payable under this section to a spouse or former spouse of the member.

"(i) OFFSET OF PAYMENTS TO INCARCERATED MEMBER.—If in any month a member of the armed forces referred to in subsection (b)(1) is incarcerated for any period during that month and is entitled to receive any payment from the United States—

"(1) the amount so payable shall be withheld to the extent of the amount of annuity payments made with respect to that member under this section and not recouped pursuant to this subsection before that month; and

"(2) the entitlement of that member to the amount so withheld shall terminate.

"(j) DEFINITIONS.—In this section:

"(1) The term 'dependent' means a spouse or dependent child.

"(2) The term 'dependent child', with respect to a member of the armed forces referred to in subsection (a), means an unmarried legitimate child, including an adopted child or a stepchild of the member, who—

"(A) is under 18 years of age;

"(B) is incapable of self-support because of a mental or physical incapacity that existed before becoming 18 years of age and is or, at the time of the action described in subsection (e)(1) with respect to that member, was dependent on the member for over one-half of the child's support; or

"(C) if enrolled in a full-time course of study in an institution of higher education recognized by the Secretary of Defense for the purposes of this clause, is under 23 years of age and is or, at the time of the action described in subsection (e)(1), was dependent on the member for over one-half of the child's support.

"§ 1422. Other benefits

"A spouse or former spouse of a member of the armed forces referred to in subsection (b)(1) of section 1421 of this title shall be entitled, while receiving an annuity under that section—

"(1) to receive medical and dental care under the provisions of chapter 55 of this title to the same extent as a dependent of a retired member of the armed forces;

"(2) to use the commissary and exchange stores on the same basis as a dependent of a retired member of the armed forces; and

"(3) to receive any other benefits that a dependent of a retired member is entitled to receive on the basis of being a dependent of a retired member.".

(2) The tables of chapters at the beginning of subtitle A of such title and part II of such subtitle are amended by inserting after the item relating to chapter 71 the following:

"72. Miscellaneous protections,
rights, and benefits for dependents .... 1421".

(b) FUNDING FOR ANNUITIES.—Section 1463 of such title is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(5) annuities payable under section 1421 of this title.".

(c) APPLICABILITY.—(1) Section 1421 of title 10, United States Code (as added by subsection (a)), shall apply with respect to terminations of eligibility to receive retired or retainer pay that take effect before, on, or after the date of the enactment of this Act.

(2) Notwithstanding subsection (f)(2) of such section 1421, in the case of a spouse or former spouse claiming eligibility to receive an annuity under that section on the basis of a termination of eligibility to receive retired or retainer pay that took effect before the date of the enactment of this Act, no annuity shall be paid that spouse or former spouse under such section unless the spouse or former spouse applies for that annuity within one year after that date.

(3) No annuity shall accrue under such section 1421 for periods before the date of the enactment of this Act.

(d) REPORT ON OTHER ACTIONS.—(1) Not later than February 28, 1993, the Secretary of Defense shall transmit to the Congress a report on the actions taken and planned to be taken by the Department of Defense to reduce or eliminate disincentives for a dependent of a member of the Armed Forces abused by the member to report the abuse to appropriate authorities.

(2) The actions considered by the Secretary should include the provision of treatment, child care services, health care services, job training, job placement services, and transitional financial assistance for dependents of members of the Armed Forces referred to in paragraph (1).

(e) STUDY REQUIRED.—(1) The Secretary of Defense shall conduct a study in order to—

(A) determine the number of persons who became eligible to receive an annuity under section 1421 of title 10, United States Code (as added by subsection (a)), as of each of fiscal years 1980 through 1992;

(B) estimate the number of persons who will become eligible to receive an annuity under such section during each of fiscal years 1993 through 2000;

(C) determine, for each of fiscal years 1980 through 1992, the number of members of the Armed Forces who, after having completed at least one, and less than 20, years of service, were approved in that fiscal year for separation from the Armed Forces as a result of abuse of a spouse or dependent child; and

(D) estimate, for each of fiscal years 1993 through 2000, the number of members of the Armed Forces who, after having completed at least one, and less than 20, years of service in that fiscal year, will be approved in that fiscal year for separation from the Armed Forces as a result of abuse of a spouse or dependent child.

(2) The study shall include a thorough analysis of—

(A) the effects, if any, of appeals and requests for clemency in the case of courts-martial convictions on the entitlement to and the payment of annuities under section 1421 of title 10, United States Code (as added by subsection (a));

(B) the socio-economic effects on the dependents of members of the Armed Forces described in subsection (b) of such section that result from terminations of the eligibility of such members to receive retired or retainer pay; and

(C) the effects of separations of such members from the Armed Forces on the mission readiness of the units of assignment of such members when separated and on the Armed Forces in general.

(3) Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study.

SEC. 1071. LIMITATION RELATING TO NUCLEAR WEAPONS TESTING.

(a) MORATORIUM FOR 9 MONTHS.—No underground test of a nuclear weapon may be conducted by the United States after September 30, 1992, and before July 1, 1993.

(b) POST MORATORIUM TESTING BEFORE 1997.—On and after July 1, 1993, and before January 1, 1997, an underground test of a nuclear weapon may be conducted by the United States—

(1) only if—

(A) the President has submitted the annual report required under subsection (d);

(B) 90 days have elapsed after the submittal of that report in accordance with that subsection; and

(C) Congress has not agreed to a joint resolution described in subsection (d)(3) within that 90-day period; and

(2) only if the test is conducted during the period covered by the report.

(d)(1) Not later than March 1 of each year beginning after 1992, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, in classified and unclassified forms, a report containing the following matters:

(A) A schedule for resumption of the Nuclear Testing Talks with Russia.

(B) A plan for achieving a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996.

(C) An assessment of the number and type of nuclear warheads that will remain in the United States stockpile of active nuclear weapons on September 30, 1996.

(D) For each fiscal year after fiscal year 1992, an assessment of the number and type of nuclear warheads that will remain in the United States stockpile of nuclear weapons and that—

(i) will not be in the United States stockpile of active nuclear weapons;

(ii) will remain under the control of the Department of Defense; and

(iii) will not be transferred to the Department of Energy for dismantlement.

(E) A description of the safety features of each warhead that is covered by an assessment referred to in subparagraph (C) or (D).

(F) A plan for installing one or more modern safety features in each warhead identified in the assessment referred to in subparagraph (C), as determined after an analysis of the costs and benefits of installing such feature or features in the warhead, should have one or more of such features.

(G) An assessment of the number and type of nuclear weapon tests, not to exceed 5 tests in any period covered by an annual report under this paragraph and a total of 15 tests in the 4-fiscal year period beginning with fiscal year 1993, that are necessary in order to ensure the safety of each nuclear warhead in which one or more modern safety features are installed pursuant to the plan referred to in subparagraph (F).

(H) A schedule, in accordance with subparagraph (G), for conducting at the Nevada test site, each of the tests enumerated in the assessment pursuant to subparagraph (G).

(2) The first annual report shall cover the period beginning on the date on which a resumption of testing of nuclear weapons is permitted under subsection (c) and ending on September 30, 1994. Each annual report thereafter shall cover the fiscal year following the fiscal year in which the report is submitted.

(3) For the purposes of paragraph (1), "joint resolution" means only a joint resolution introduced after the date on which the Committees referred to in that paragraph receive the report required by that paragraph the matter after the resolving clause of which is as follows: "The Congress disapproves the report of the President on nuclear weapons testing, dated ____________." (the blank space being appropriately filled in).

(4) No report is required under this subsection after 1996.

(e)(1) Except as provided in paragraphs (2) and (3), during a period covered by an annual report submitted pursuant to subsection (d), nuclear weapons may be tested only as follows:

(A) Only those nuclear explosive devices in which modern safety features have been installed pursuant to the plan referred to in subsection (d)(1)(F) may be tested.

(B) Only the number and types of tests specified in the report pursuant to subsection (d)(1)(G) may be conducted.

(2)(A) One test of the reliability of a nuclear weapon other than one referred to in paragraph (1)(A) may be conducted during any period covered by an annual report, but only if—

(i) within the first 60 days after the beginning of that period, the President certifies to Congress that it is vital to the national security interests of the United States to test the reliability of such a nuclear weapon; and

(ii) within the 60-day period beginning on the date that Congress receives the certification, Congress does not agree to a joint resolution described in subparagraph (B).

(B) For the purposes of subparagraph (A), "joint resolution" means only a joint resolution introduced after the date on which the Congress receives the certification referred to in that subparagraph the matter after the resolving clause of which is as follows: "The Congress disapproves the testing of a nuclear weapon covered by the certification of the President dated ____________." (the blank space being appropriately filled in).

(3) The President may authorize the United Kingdom to conduct in the United States, within a period covered by an annual report, one test of a nuclear weapon if the President determines that it is in the national interests of the United States to do so. Such a test shall be considered as one of the tests within the maximum number of tests that the United States is permitted to conduct during that period under paragraph (1)(B).

(f) No underground test of nuclear weapons may be conducted by the United States after September 30, 1996, unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted.

(g) In the computation of the 90-day period referred to in subsection (c)(1) and the 60-day period referred to in subsection (e)(2)(A)(ii), the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded.

(h) In this section, the term "modern safety feature" means any of the following features:

(1) An insensitive high explosive (IHE).

(2) Fire resistant pits (FRP).

(3) An enhanced detonation safety (ENDS) system.

SEC. 1072. LANDMINE MORATORIUM ACT.

(a) This section shall be titled the "Landmine Moratorium Act of 1992".

(b) FINDINGS.—The Congress makes the following findings:

(1) Anti-personnel landmines, which are specifically designed to maim and kill people, have been used indiscriminately in dramatically increasing numbers, primarily in insurgencies in poor developing countries. Noncombatant civilians, including tens of thousands of children, have been the primary victims.

(2) Unlike other military weapons, landmines often remain implanted and undiscovered after conflict has ended, causing untold suffering to civilian populations. In countries like Afghanistan, Cambodia, Laos, Vietnam, and Angola, tens of millions of unexploded landmines have rendered whole areas uninhabitable. In Afghanistan, an estimated hundreds of thousands of people have been maimed and killed by landmines during the 14-year civil war. In Cambodia, more than 20,000 civilians have lost limbs and another 60 are being maimed each month from landmines.

(3) Over 35 countries are known to manufacture landmines, including the United States. However, the United States is not a major exporter of landmines. During the past ten years the Department of State has approved ten licenses for the commercial export of anti-personnel landmines valued at $980,000, and during the past five years the Department of Defense has approved the sale of 13,156 anti-personnel landmines valued at $841,145.

(4) The United States signed, but has not ratified, the 1981 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects. The Convention prohibits the indiscriminate use of landmines.

(5) When it signed the Convention, the United States stated: "We believe that the Convention represents a positive step forward in efforts to minimize injury or damage to the civilian population in time of armed conflict. Our signature of the Convention reflects the general willingness of the United States to adopt practical and reasonable provisions concerning the conduct of military operations, for the purpose of protecting noncombatants.".

(6) The Administration should submit the convention to the Senate for ratification, and the President should actively negotiate under United Nations or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer or export of anti-personnel landmines. This would be an appropriate response to the end of the Cold War and the promotion of arms control agreements to reduce the indiscriminate killing and maiming of civilians.

(7) The United States should set an example for other countries in such negotiations, by implementing a one-year moratorium on the sale, transfer or export of anti-personnel landmines.

(c) STATEMENT OF POLICY.—

(1) It shall be the policy of the United States to seek verifiable international agreements prohibiting the sale, transfer or export, and further limiting the use, production, possession and deployment of anti-personnel landmines.

(2) It is the sense of the Congress that the President should actively seek to negotiate under United Nations or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer or export of anti-personnel landmines.

(d) MORATORIUM ON TRANSFERS OF ANTI-PERSONNEL LANDMINES ABROAD.—For a period of 1 year beginning on the date of enactment of this Act—

(1) no sale may be made or financed, no transfer may be made, and no license for export may be issued, under the Arms Export Control Act, with respect to any anti-personnel landmine; and

(2) no assistance may be provided under the Foreign Assistance Act of 1961, with respect to the provision of any anti-personnel landmine.

(e) DEFINITION.—For purposes of this section, the term "anti-personnel landmine" means—

(1) any munition placed under, on, or near the ground or other surface area, or delivered by artillery, rocket, mortar, or similar means or dropped from an aircraft and which is designed to be detonated or exploded by the presence, proximity, or contact of a person;

(2) any device or material which is designed, constructed, or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act;

(3) any manually-emplaced munition or device designed to kill, injure, or damage and which is actuated by remote control or automatically after a lapse of time.

SEC. 1073. REPORT ON POSSIBLE REVISIONS TO THE NORTH ATLANTIC TREATY.

(a) FINDINGS.—The Congress finds that—

(1) when the North Atlantic Treaty was signed in 1949, the clear military threat to the security of Western Europe was the Soviet Union and its allies in Eastern Europe;

(2) since 1949 it has been clearly understood by the people of the Western World that the primary mission of NATO was to deter an attack from the Soviet Bloc;

(3) the dramatic changes in Europe since the fall of the Berlin Wall in 1989, and the subsequent dissolution of the Warsaw Pact and the Soviet Union have fundamentally changed the security situation in Europe;

(4) one of the consequences of the breakdown of 40 years of Communist rule in Eastern Europe and the former Soviet Union has been ethnic conflict throughout the region, particularly in the Balkans and the Republics of the Former Soviet Union;

(5) those fundamental changes in the security threats facing NATO member nations have caused confusion concerning the mission of NATO in the post-cold war world and the role of NATO military forces outside of the NATO Theater, particularly in the former Soviet Union; and

(6) a fundamental review of the North Atlantic Treaty is necessary, in light of the new security situation in Europe.

(b) REPORT.—The Secretary of Defense, in consultation with the Secretary of State, shall provide a report to the Congress, by April 1, 1993, which includes—

(1) a detailed analysis of the forseeable threats to the security of NATO member nations;

(2) a determination whether or not there is a requirement for the member nations of NATO to revise the North Atlantic Treaty of 1949 to meet the future challenges to their peace and security; and

(3) the extent to which the charter permits the use of NATO forces for peacekeeping purposes, given the steadily increased use of military forces for such purposes, and the range of missions that should be considered for such peacekeeping to protect the interests of member nations

SEC. 1074. POW/MIA STAMP.

(a) Congress finds that—

(1) the President has declared the POW/MIA issue to be of highest national priority;

(2) there are over 88,000 missing United States service personnel from World War II, the Korean War, and the Vietnam War;

(3) public awareness of the sacrifices which have been and may continue to be made by American prisoners of war and Americans missing in action is critical to advancing efforts to obtain the return of missing American service personnel.

(b) The Postmaster General shall issue a commemorative postage stamp in honor of American prisoners of war and Americans missing in action. Such a stamp shall be issued and sold for such a period as the Postmaster General shall determine.

SEC. 1075. SUPPORT FOR INTERNATIONAL NONPROLIFERATION ACTIVITIES.

(a) FINDINGS.—The Congress makes the following findings:

(1) The proliferation of nuclear, chemical and biological weapons and related technology and know how and of missile delivery systems remains a serious threat to international peace and security in the post-Cold War era.

(2) The United States should seek to limit the supply of nuclear, chemical and biological weapons, related technology and know how and of missile delivery systems, and the demand for such weapons and should undertake to reduce the threat from such proliferation.

(3) International nonproliferation activities serve the national security interests of the United States.

(4) The Department of Defense and the Department of Energy have expertise and equipment that has enhanced the effectiveness of international nuclear nonproliferation activities.

(5) The use of funds made available under the regular budget process one year in advance or the use of reprogrammed funds may be insufficient to satisfy the need for funds and other support for international nonproliferation activities.

(6) Greater flexibility may be needed to ensure the timely availability of funding to support international nonproliferation activities.

(b) ASSISTANCE FOR NONPROLIFERATION ACTIVITIES.—(1) Subject to the limitations and requirements provided in this section, during fiscal year 1993 the Secretary of Defense may furnish funds, supplies, and equipment to support international nonproliferation activities, including activities carried out by the International Atomic Energy Agency, that are designed to ensure more aggressive full-scope safeguards and more aggressive verification of compliance with the Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968.

(2) Assistance may be provided in the form of funds under paragraph (1) only if the amount in the "Contributions to International Organizations" account of the Department of State is insufficient or otherwise unavailable to meet the United States fair share of assessments for international nuclear nonproliferation activities.

(3) No assistance may be furnished pursuant to paragraph (1) unless the Secretary of Defense determines and certifies to the Congress 30 days in advance that the provision of such assistance—

(A) is in the national security interest of the United States; and

(B) will not adversely affect the military preparedness of the United States.

(4) No amount may be obligated for an expenditure pursuant to paragraph (1) unless the Director of the Office of Management and Budget determines that the expenditure will be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(5) In paragraph (1), the term "full-scope safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency.

(c) ASSISTANCE FOR INSPECTIONS REGARDING IRAQ.—During fiscal year 1993 the Secretary of Defense may provide funds for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.

(d) AUTHORITY SUBJECT TO APPROPRIATIONS ACTS.—The authority to provide assistance in the form of funds under subsection (b) or (c) may be exercised only to the extent and in the amounts provided in appropriations Acts.

(e) FUNDING LIMITATIONS.—(1) The total amount of the assistance provided in the form of funds under subsection (b) may not exceed $20,000,000.

(2) The total amount of the assistance provided in the form of funds under subsection (c) may not exceed $20,000,000.

(f) SOURCES OF ASSISTANCE.—(1) Funds provided as assistance under subsection (b) or (c) shall be derived from amounts made available to the Department of Defense for fiscal year 1993 or from balances in working capital accounts of the Department of Defense.

(2) Supplies and equipment provided as assistance under subsection (b) may be provided, by loan or donation, from existing stocks of the Department of Defense.

(g) REPORT REQUIRED.—Not less than 30 days before obligating any funds to provide assistance pursuant to subsection (b) or (c), the Secretary of Defense shall transmit to Congress a report on the proposed obligation. The report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance for which the Secretary of Defense plans to obligate such funds.

(h) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) Robust funding of nonproliferation activities and related technology development is essential to controlling the proliferation of nuclear, chemical, and biological weapons and their delivery vehicles, which remains one of the highest national security priorities of the United States;

(2) The President's initiative to increase funding for nonproliferation activities and related technology development in the Department of Energy is praiseworthy and represents a significant step toward an appropriate level of support for nonproliferation activities;

(3) The President should undertake to identify a full range of appropriate, high priority nonproliferation activities and related technology development programs, including particularly space-based detection systems, and should include full funding for these activities and technologies in the budget requests of the Department of Energy and the

Department of Defense for fiscal year 1994; and

(4) The Congress is committed to cooperating with the President in carrying out an effective policy designed to control the proliferation of weapons of mass destruction.

SEC. 1076. SUPPORT FOR PEACEKEEPING ACTIVITIES.

(a) FINDINGS.—The Congress makes the following findings:

(1) International peacekeeping activities contribute to the national interests of the United States in maintaining global stability and order.

(2) International peacekeeping activities take many forms and include observer missions, ceasefire monitoring, human rights monitoring, refugee and humanitarian assistance, monitoring and conducting elections, monitoring of police in the demobilization of former combatants, and reforming judicial and other civil and administrative systems of government.

(3) International peacekeeping activities traditionally involve the presence of military troops, police forces, and, in recent years, civilian experts in transportation, logistics, medicine, electoral systems, human rights, land tenure, other economic and social issues, and other areas of expertise.

(4) International peacekeeping interests serve both the foreign policy interests and defense policy interests of the United States.

(5) The normal budget process of authorizing and appropriating funds a year in advance and reprogramming such funds is insufficient to satisfy the need for funds for peacekeeping efforts arising from an unanticipated crisis.

(6) Greater flexibility is needed to ensure the timely availability of funding to provide for peacekeeping activities.

(b) AUTHORIZED SUPPORT FOR FISCAL YEAR 1993.—(1) Subject to paragraph (2), the Secretary may provide assistance for international peacekeeping activities during fiscal year 1993 in an amount not to exceed $300,000,000 in accordance with section 403 of title 10, United States Code, as added by subsection (c). Notwithstanding subsection (b) of that section, the assistance so provided may be derived from funds appropriated to the Department of Defense for fiscal year 1993 for operation and maintenance or from balances in working capital accounts.

(2) No amount may be obligated pursuant to paragraph (1) unless the expenditure of such amount has been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) AUTHORIZATION.—(1) Chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 403. International peacekeeping activities

"(a) AUTHORITY.—To the extent provided in defense authorization Acts and appropriations Acts, the Secretary of Defense may furnish assistance, by loan or contribution, in support of international peacekeeping activities of the United Nations or any regional organization of which the United States is a member.

"(b) FORMS OF ASSISTANCE.—Assistance provided under subsection (a) may include funds, supplies, and equipment. Any funds so provided shall be derived from amounts available to the Department of Defense for the fiscal year for which the assistance is provided.

"(c) LIMITATIONS RELATED TO AVAILABILITY OF STATE DEPARTMENT FUNDS.—Funds may be provided as assistance pursuant to subsection (a) for a fiscal year—

"(1) only if funds available to the Department of State for that fiscal year for contributions for international peacekeeping activities are insufficient or otherwise unavailable to meet the United States' fair share of assessments for international peacekeeping activities, as determined by the President; and

"(2) only to the extent that the United States' fair share of such assessments exceeds the amount that the President requests Congress to appropriate for the Department of State for such fiscal year for international peacekeeping activities.

"(d) CONSULTATION.—The Secretary of Defense shall consult with the Secretary of State before furnishing any assistance pursuant to subsection (a).

"(e) DETERMINATIONS REQUIRED.—No assistance may be furnished pursuant to subsection (a) unless the Secretary of Defense certifies to Congress that the provision of such assistance—

"(1) is in the national security interest of the United States; and

"(2) will not adversely affect the military preparedness of the United States.

"(f) ADVANCE NOTICE TO CONGRESS.—Not less than 30 days before obligating any funds for purposes of subsection (a), the Secretary of Defense shall transmit to Congress a report on the proposed obligation. The report shall—

"(1) specify the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation;

"(2) specify the activities and forms of assistance for which the Secretary of Defense plans to obligate such funds; and

"(3) include the certification required by subsection (e).

"(g) DEFINITION.—In this section, the term 'defense authorization Act' means an Act that authorizes appropriations for one or more fiscal years for military activities of the Department of Defense, including the activities described in paragraph (7) of section 114(a) of this title.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"403. International peacekeeping activities.".

SEC. 1077. NATIONAL DEFENSE SEALIFT FUND.

Chapter 131 of title 10, United States Code, is amended by adding at the end thereof the following new section 2218:

"§ 2218. National Defense Sealift Fund

"(a) There is established on the books of the treasury a fund to be known as the 'National Defense Sealift Fund,' shall be administered by the Secretary of Defense.

"(b) Funds may be deposited in the National Defense Sealift Fund only as specifically authorized in law.

"(c) Funds deposited in the National Defense Sealift Fund may be obligated and expended by the Secretary of Defense for—

"(1) research and development relating to National Defense Sealift;

"(2) construction, purchase, or conversion of sealift vessels for National defense purposes;

"(3) lease and operational and maintenance of sealift vessels for national defense purposes; and

"(4) other purposes relating to National Defense Sealift; but only to the extent such obligation or expenditure is specifically authorized in law.".

SEC. 1078. TECHNICAL AMENDMENT.

Section 603 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102-25, 105 Stat. 107) is amended—

(1) in subsection (b)(1), by adding at the end thereof the following new sentence: "Subsequent to the identification of the parcel of land pursuant to this subsection, the Secretary may, with the concurrence of appropriate representatives of Caroline County, Virginia, and the Commonwealth, make minor adjustments to the boundaries of the parcel of land identified so that the parcel of land conveyed pursuant to this section better serves the purposes intended by this section.";

(2) in subsection (c)(2)(A), by striking out "construct and operate on such parcel of land a regional correctional facility" and inserting in lieu thereof "provide for the construction and operation on such parcel of land a regional correctional facility";

(3) in subsection (c)(2)(B), by striking out "constructs and operates such facility" and inserting in lieu thereof "provides for the construction and operation of such facility"; and

(4) in subsection (d)(1)(A)(i), by striking out "24 months after the date of enactment of this Act" and inserting in lieu thereof "April 1, 1995".

Subtitle F—Civil-Military Youth Service Programs

SEC. 1081. NATIONAL GUARD CIVILIAN YOUTH OPPORTUNITIES PILOT PROGRAM.

(a) PROGRAM AUTHORITY.—During fiscal years 1993 through 1995 the Chief of the National Guard Bureau may conduct a pilot program to be known as the "National Guard Civilian Youth Opportunities Program".

(b) PURPOSE.—The purpose of the pilot program is to provide a basis for determining—

(1) whether the life skills and employment potential of civilian youths who cease to attend secondary school before graduating can be significantly improved through military based training provided by the National Guard; and

(2) whether it is feasible and cost effective for the National Guard to provide military based training to such youths for the purpose of achieving such improvements.

(c) CONDUCT OF PROGRAM IN 10 NATIONAL GUARD JURISDICTIONS.—The Chief of the National Guard Bureau may provide for the conduct of the pilot program in any 10 of the States, the Territories, the Commonwealth of Puerto Rico, or the District of Columbia.

(d) PROGRAM AGREEMENTS.—(1) To carry out the pilot program in a State, a Territory, the Commonwealth of Puerto Rico, or the District of Columbia, the Chief of the National Guard Bureau shall enter into an agreement with the Governor of the State, Territory, or Commonwealth or with the commanding general of the District of Columbia National Guard, as the case may be.

(2) Each agreement shall provide for the Governor or, in the case of the District of Columbia National Guard, the commanding general to establish, organize, and administer a National Guard civilian youth opportunities program.

(3) The agreement may provide for the Chief of the National Guard Bureau to reimburse the State, Territory, Commonwealth of Puerto Rico, or the District of Columbia, as the case may be, for civilian personnel costs attributable to the use of civilian employees of the National Guard in the conduct of the program.

(e) ELIGIBLE PARTICIPANTS.—(1) Persons referred to in subsection (b)(1) shall be eligible to participate in a National Guard civilian youth opportunities program under the pilot program.

(2) The Chief of the National Guard Bureau shall prescribe the standards and procedures for selecting the participants from among applicants for the program.

(f) AUTHORIZED BENEFITS FOR PARTICIPANTS.—(1) To the extent provided in an agreement entered into in accordance with subsection (d) and subject to the approval of the Chief of the National Guard Bureau, the persons selected for training in a National Guard civilian youth opportunities program under the pilot program may receive the following benefits in connection with that training:

(A) Allowances for travel expenses, personal expenses, and other expenses.

(B) Quarters.

(C) Subsistence.

(D) Transportation.

(E) Equipment.

(F) Clothing.

(G) Recreational services and supplies.

(H) Other services.

(I) A temporary stipend upon the successful completion of the training, as characterized in accordance with procedures provided in the agreement.

(2) A person may not receive a temporary stipend under paragraph (1)(I) while the person is a member of the Civilian Community Corps under subtitle H of title I of the National and Community Service Act of 1990 (as added by section 1082(a)). A person may not receive both that stipend and benefits under subsection (f) or (g) of section 195G of that Act (as so added).

(g) PROGRAM PERSONNEL.—(1) Personnel of the National Guard of a State, a Territory, the Commonwealth of Puerto Rico, or the District of Columbia in which a National Guard civilian youth opportunities program is conducted under the pilot program may serve on full-time National Guard duty for the purpose of providing command, administrative, training, or supporting services for that program. For the performance of those services, any such personnel may be ordered to duty under section 502(f) of title 32, United States Code, for not longer than the period of the program.

(2) Personnel so serving may not be counted for the purposes of—

(A) any provision of law limiting the number of personnel that may be serving on full-time active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components; or

(B) section 524 of title 10, United States Code, relating to the number of reserve component officers who may be on active duty or full-time National Guard duty in certain grades.

(3) A Governor participating in the pilot program and the commanding general of the District of Columbia National Guard (if the District of Columbia National Guard is participating in the pilot program) may procure by contract the temporary full time services of such civilian personnel as may be necessary to augment National Guard personnel in carrying out a National Guard civilian youth opportunities program under the pilot program.

(4) Civilian employees of the National Guard performing services for such a program and contractor personnel performing such services may be required, when appropriate to achieve a program objective, to be members of the National Guard and to wear the military uniform.

(h) EQUIPMENT AND FACILITIES.—(1) Equipment and facilities of the National Guard, including military property of the United States issued to the National Guard, may be used in carrying out the pilot program.

(2) Activities under the pilot program shall be considered noncombat activities of the National Guard for purposes of section 710 of title 32, United States Code.

(i) STATUS OF PARTICIPANTS.—(1) A person receiving training under the pilot program shall be considered an employee of the United States for purposes of the following provisions of law:

(A) The Internal Revenue Code of 1986.

(B) Title II of the Social Security Act (relating to Federal old-age, survivors, and disability insurance benefits).

(C) Subchapter I of chapter 81 of title 5, United States Code (relating to compensation of Federal employees for work injuries).

(D) Section 1346(b) and chapter 171 of title 28, United States Code, and any other provision of law relating to the liability of the United States for tortious conduct of employees of the United States.

(2) In the application of the provisions of law referred to in paragraph (1)(C) to a person referred to in paragraph (1)—

(A) the person shall not be considered to be in the performance of duty while the person is not at the assigned location of training or other activity or duty authorized in accordance with a program agreement referred to in subsection (d), except when the person is traveling to or from that location or is on pass from that training or other activity or duty;

(B) the person's monthly rate of pay shall be deemed to be the minimum rate of pay provided for grade GS-2 of the General Schedule under section 5332 of title 5, United States Code; and

(C) the entitlement of a person to receive compensation for a disability under such provisions of law shall begin on the day following the date on which the person's participation in the pilot program is terminated.

(3) A person receiving a stipend pursuant to subsection (f)(1)(I) shall be considered an employee for purposes of the provisions of law referred to in subparagraphs (A) and (B) of paragraph (1).

(4) A person referred to in paragraph (1) or (3) may not be considered an employee of the United States for any purpose other than a purpose set forth in that paragraph.

(j) FUNDING.—(1) To the extent provided in appropriations Acts, funds described in paragraph (2) shall be available for the pilot program.

(2) The funds referred to in paragraph (1) are as follows:

(A) Funds appropriated for pay, allowances, clothing, subsistence, gratuities, travel and related expense for personnel of the National Guard while on active duty or full-time National Guard duty.

(B) Funds appropriated for the National Guard for operation and maintenance.

(k) SUPPLEMENTAL RESOURCES.—(1) To carry out a National Guard civilian youth opportunities program under the pilot program, the Governor of a State, a Territory, or the Commonwealth of Puerto Rico or the commanding general of the District of Columbia National Guard, as the case may be, may supplement any funding made available pursuant to subsection (j) out of other resources (including gifts) available to the Governor or the commanding general.

(2) The provision of funds authorized to be appropriated for the pilot program shall not preclude a Governor participating in the pilot program, or the commanding general of the District of Columbia National Guard (if the District of Columbia National Guard is participating in the pilot program), from accepting, using, and disposing of gifts or donations of money, other property, or services for the pilot program.

(*l*) REPORT.—(1) Within 90 days after the end of the 1-year period beginning on the first day of the pilot program, the Chief of the National Guard Bureau shall submit to the congressional defense committees a report on the design, conduct, and effectiveness of the pilot program during that 1-year period. The report shall include an assessment of the matters set forth in paragraphs (1) and (2) of subsection (b).

(2) In preparing the report required by paragraph (1), the Chief of the National Guard Bureau shall coordinate with the Governor of each State, Territory, and the Commonwealth of Puerto Rico in which a National Guard civilian youth opportunities program is carried out under the pilot program and, if such a program is carried out in the District of Columbia, with the commanding general of the District of Columbia National Guard.

(m) DEFINITIONS.—In this section, the terms "Territory" and "full-time National Guard duty" have the meanings given those terms in section 101 of title 32, United States Code.

(n) AUTHORIZATION OF APPROPRIATIONS.—Of the funds authorized to be appropriated under section 301, $50,000,000 shall be available for the pilot program for fiscal year 1993.

SEC. 1082. CIVILIAN COMMUNITY CORPS.

(a) CIVILIAN COMMUNITY CORPS.—(1) Title I of the National and Community Service Act of 1990 (42 U.S.C. 12510 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle H—Civilian Community Corps

"SEC. 195. PURPOSE.

"It is the purpose of this subtitle to establish a Civilian Community Corps to provide a basis for determining—

"(1) whether residential service programs administered by the Federal Government can significantly increase the support for national service and community service by the people of the United States;

"(2) whether such programs can expand the opportunities for willing young men and women to perform meaningful, direct, and consequential acts of community service in a manner that will enhance their own skills while contributing to their understanding of civic responsibility in the United States; and

"(3) whether retired members and former members of the Armed Forces of the United States, members and former members of the Armed Forces discharged or released from active duty in connection with reduced Department of Defense spending, members and former members of the Armed Forces discharged or transferred from the Selected Reserve of the Ready Reserve in connection with reduced Department of Defense spending, and other members of the Armed Forces not on active duty and not actively participating in a reserve component of the Armed Forces can provide guidance and training under such programs that contribute meaningfully to the encouragement of national and community service.

"SEC. 195A. ESTABLISHMENT OF DEMONSTRATION PROGRAM.

"(a) IN GENERAL.—The Commission on National and Community Service shall establish the Civilian Community Corps Demonstration Program to carry out the purpose of this subtitle.

"(b) Program Components.—Under the Civilian Community Corps Demonstration Program the members of a Civilian Community Corps shall receive training and perform service in at least one of the following 2 program components:

"(1) A national service program.

"(2) A summer national service program.

"(c) Residential Programs.—Both program components are residential programs. The members of the Corps in each program shall reside with other members of the Corps in Corps housing during the periods of the members' agreed service.

"SEC. 195B. NATIONAL SERVICE PROGRAM.

"(a) In General.—Under the national service program, high school graduates and other youths between 17 and 25 years of age who are from economically, geographically, and ethnically diverse backgrounds shall work in teams on Civilian Community Corps projects.

"(b) Period of Participation.—Persons desiring to participate in the national service program shall enter into an agreement with the Director to participate in the Corps for a period of not less than 9 months and not more than 1 year, as specified by the Director, and may renew the agreement for not more than 1 additional such period.

"SEC. 195C. SUMMER NATIONAL SERVICE PROGRAM.

"(a) In General.—Under the summer national service program, a diverse group of youth between 14 and 18 years of age who are from urban or rural areas shall work in teams on Civilian Community Corps projects.

"(b) Necessary Participants.—The participants in the summer national service program shall include a significant number of economically disadvantaged youths.

"(c) Seasonal Program.—The training and service of Corps members under the summer national service program in each year shall be conducted after April 30 and before October 1 of that year.

"SEC. 195D. CIVILIAN COMMUNITY CORPS.

"(a) Director.—The Civilian Community Corps shall be under the direction of the Director of the Civilian Community Corps appointed pursuant to section 195H(c)(1).

"(b) Membership in Civilian Community Corps.—

"(1) Participants to be Members.— Persons participating in the national service program or the summer national service program shall be members of the Civilian Community Corps.

"(2) Selection of members.—The Director or the Director's designee shall select individuals for membership in the Corps.

"(3) Application for membership.—To be selected to become a Corps member an individual shall submit an application to the Director or to any other office as the Director may designate, at such time, in such manner, and containing such information as the Director shall require. At a minimum, the application shall contain information about the work experience of the applicant and sufficient information to enable the Director, or the superintendent of the appropriate camp, to determine whether selection of the applicant for membership in the Corps is appropriate.

"(c) Organization of Corps Into Units.—

"(1) Units.—The Corps shall be divided into permanent units. Each Corps member shall be assigned to a unit.

"(2) Unit leaders.—The leader of each unit shall be selected from among persons in the permanent cadre established pursuant to section 195H(c)(2). The designated leader shall accompany the unit throughout the period of agreed service of the members of the unit.

"(d) Camps.—

"(1) Units to be assigned to camps.—The units of the Corps shall be grouped together as appropriate in camps for operational, support, and boarding purposes. The Corps camp for a unit shall be in a facility or central location established as the operational headquarters and boarding place for the unit. Corps members may be housed in the camps.

"(2) Camp superintendent.—There shall be a superintendent for each camp. The superintendent is the head of the camp.

"(3) Eligible site for camp.—A camp may be located in a facility referred to in section 195K(a)(3).

"(e) Distribution of Units and Corps.—The Director shall ensure that the Corps units and camps are distributed in urban areas and rural areas in various regions throughout the United States.

"(f) Standards of Conduct.—

"(1) In general.—The superintendent of each camp shall establish and enforce standards of conduct to promote proper moral and disciplinary conditions in the camp.

"(2) Sanctions.—Under procedures prescribed by the Director, the superintendent of a camp may—

"(A) transfer a member of the Corps in that camp to another unit or camp if the superintendent determines that the retention of the member in the member's unit or in the superintendent's camp will jeopardize the enforcement of the standards or diminish the opportunities of other Corps members in that unit or camp, as the case may be; or

"(B) dismiss a member of the Corps from the Corps if the superintendent determines that retention of the member in the Corps will jeopardize the enforcement of the standards or diminish the opportunities of other Corps members.

"(3) Appeals.—Under procedures prescribed by the Director, a member of the Corps may appeal to the Director a determination of a camp superintendent to transfer or dismiss the member. The Director shall provide for expeditious disposition of appeals under this paragraph.

"SEC. 195E. TRAINING.

"(a) Common Curriculum.—Each member of the Civilian Community Corps shall be provided with between 3 and 6 weeks of training that includes a comprehensive service-learning curriculum designed to promote team building, discipline, leadership, work, training, citizenship, and physical conditioning.

"(b) Advanced Service Training.—

"(1) National service program.—Members of the Corps participating in the national service program shall receive advanced training in basic, project-specific skills that the members will use in performing their community service projects.

"(2) Summer national service program.—Members of the Corps participating in the summer national service program shall not receive advanced training referred to in paragraph (1) but, to the extent practicable, may receive other training.

"(c) Training Personnel.—

"(1) In general.—Members of the cadre appointed under section 195H(c)(2) shall provide the training for the members of the Corps, including, as appropriate, advanced service training and ongoing training throughout the members' periods of agreed service.

"(2) Coordination With Other Entities.—Members of the cadre may provide the advanced service training referred to in subsection (b)(1) in coordination with vocational or technical schools, other employment and training providers, existing youth service programs, or other qualified individuals.

"(d) Facilities.—The training may be provided at installations and other facilities of the Department of Defense, and at National Guard facilities, identified under section 195K(a)(3).

"SEC. 195F. SERVICE PROJECTS.

"(a) Project Requirements.—The service projects carried out by the Civilian Community Corps shall—

"(1) meet an identifiable public need;

"(2) emphasize the performance of community service activities that provide meaningful community benefits and opportunities for service learning and skills development;

"(3) to the maximum extent practicable, encourage work to be accomplished in teams of diverse individuals working together; and

"(4) include continued education and training in various technical fields.

"(b) Project Proposals.—

"(1) Development of proposals.—

"(A) Specific executive departments.—The Secretary of Agriculture, the Secretary of the Interior, and the Secretary of Housing and Urban Development shall develop proposals for Corps projects pursuant to guidance which the Director of the Civilian Community Corps shall prescribe.

"(B) Other sources.—Other public and private organizations and agencies, including representatives of local communities in the vicinity of a Corps camp, may develop proposals for projects for a Corps camp. Corps members shall also be encouraged to identify projects for the Corps.

"(2) Consultation requirements.—The process for developing project proposals under paragraph (1) shall include consultation with the Commission on National and Community Service, representatives of local communities, and persons involved in other youth service programs.

"(c) Project Selection, Organization, and Performance.—

"(1) Selection.—The superintendent of a Corps camp shall select the projects to be performed by the members of the Corps assigned to the units in that camp. The superintendent shall select projects from among the projects proposed or identified pursuant to subsection (b).

"(2) Innovative local arrangements for project performance.—The Director shall encourage camp superintendents to negotiate with representatives of local communities, to the extent practicable, innovative arrangements for the performance of projects. The arrangements may provide for cost-sharing and the provision by the communities of in-kind support and other support.

"SEC. 195G. AUTHORIZED BENEFITS FOR CORPS MEMBERS.

"(a) In General.—The Director of the Civilian Community Corps shall provide for members of the Civilian Community Corps to receive benefits authorized by this section.

"(b) Living Allowance.—The Director shall provide a living allowance to members of the Corps for the period during which such members are engaged in training or any activity on a Corps project. The Director shall establish the amount of the allowance at any amount not in excess of the amount equal to 100 percent of the poverty line that is applicable to a family of two (as defined by the Office of Management and Budget and revised annually in accordance with section

673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(c) OTHER AUTHORIZED BENEFITS.—While receiving training or engaging in service projects as members of the Civilian Community Corps, members may be provided the following benefits:

"(1) Allowances for travel expenses, personal expenses, and other expenses.

"(2) Quarters.

"(3) Subsistence.

"(4) Transportation.

"(5) Equipment.

"(6) Clothing.

"(7) Recreational services and supplies.

"(8) Other services.

"(d) SUPPORTIVE SERVICES.—To the extent practicable and as the Director determines appropriate, the Director shall provide each member of the Corps with health care services, child care services, counseling services, and other supportive services.

"(e) POST SERVICE BENEFITS.—Upon completion of the agreed period of service with the Corps, a member shall elect to receive the educational assistance under subsection (f) or the cash benefit under subsection (g).

"(f) EDUCATIONAL ASSISTANCE.—

"(1) AUTHORITY.—

"(A) CORPS MEMBERS COMPLETING AGREED SERVICE.—The Director shall provide educational assistance to each Corps member who—

"(i) completes a period of agreed service in the Corps; and

"(ii) elects to receive the assistance.

"(B) CORPS MEMBERS NOT COMPLETING AGREED SERVICE.—The Director may provide educational assistance to a Corps member who—

"(i) does not complete the period of agreed service; and

"(ii) requests the assistance.

"(2) AMOUNT.—

"(A) NATIONAL SERVICE PROGRAM.—The amount of the educational assistance provided to a Corps member under paragraph (1)(A) shall be—

"(i) in the case of a Corps member in the National Service Program, $5,000 for each period of agreed service in the Corps; and

"(ii) in the case of a Corps member in the Summer National Service Program, $1,000 for each period of agreed service in the Corps.

"(B) PRORATED AMOUNT FOR INCOMPLETE SERVICE.—The amount of the educational assistance provided to a Corps member under paragraph (1)(B) shall be determined by multiplying—

"(i) the amount that would be applicable to the member under subparagraph (A) if the member had completed the agreed period of service, by

"(ii) the percentage determined by dividing the period of the Corps member's service by the period of the Corps member's agreed period of service.

"An amount that is not an even multiple of $1 shall be rounded down to the next lower even multiple of $1.

"(C) ADJUSTMENT OF AMOUNT.—To the extent provided in appropriations Acts, whenever the maximum permissible grant amount for a year under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.) is increased, the amount of the educational assistance payment under subparagraph (A)(i) shall be increased to the amount equal to the sum of that maximum permissible grant amount (as increased) plus $2,500.

"(3) USES OF ASSISTANCE.—Educational assistance provided for a person under this subsection may be used only for—

"(A) payment of any student loan, whether from a Federal source or a non-Federal source; or

"(B) tuition, room and board, books and fees, and other costs of attendance (determined in accordance with section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll)) that are associated with attendance at an institution of higher education on a full-time basis.

"(4) APPLICATION.—To receive educational assistance under this section, a person shall submit to the Director such information and documentation as the Director may require. In the case of use of the educational assistance for expenses referred to in paragraph (3)(B), the information submitted to the Director shall include, as a minimum, the academic program and institution of higher education at which the educational assistance is to be used.

"(g) CASH BENEFIT.—

"(1) IN GENERAL.—The Director shall provide a cash benefit to each Corps member electing to receive the cash benefit.

"(2) AMOUNT.—The amount of the cash benefit payable to a member of the Corps shall be equal to 50 percent of the amount of the educational assistance that the member would have been entitled to receive under subsection (f) if the member had elected to receive the educational assistance.

"(h) OTHER POST SERVICE BENEFITS.—To the extent the Director considers appropriate, upon a Corps member's completion of the agreed period of service with the Corps, the Director shall provide the member with—

"(1) assistance for the member to pursue a high school diploma or the equivalent;

"(2) in addition to any educational assistance under subsection (f), other assistance for the member to pursue a degree at an institution of higher education; or

"(3) assistance for the member to obtain employment and support services as necessary and appropriate.

"SEC. 195H. ADMINISTRATIVE PROVISIONS.

"(a) BOARD.—The Board shall monitor and supervise the administration of the Civilian Community Corps Demonstration Program established under this subtitle. In carrying out this section, the Board shall—

"(1) approve such guidelines, recommended by the Director, for the design, selection of members, and operation of the Civilian Community Corps as the Board considers appropriate;

"(2) evaluate the progress of the Corps in providing a basis for determining the matters set forth in section 195; and

"(3) carry out any other activities determined appropriate by the Board.

"(b) EXECUTIVE DIRECTOR.—The Executive Director of the Commission on National and Community Service shall—

"(1) monitor the overall operation of the Civilian Community Corps;

"(2) coordinate the activities of the Corps with other youth service programs administered by the Commission; and

"(3) carry out any other activities determined appropriate by the Board.

"(c) STAFF.—

"(1) DIRECTOR.—

"(A) APPOINTMENT.—The Board, in consultation with the Executive Director, shall appoint a Director of the Civilian Community Corps. The Director may be selected from among retired commissioned officers of the Armed Forces of the United States.

"(B) DUTIES.—The Director shall—

"(i) design, develop, and administer the Civilian Community Corps programs;

"(ii) be responsible for managing the daily operations of the Corps; and

"(iii) report to the Board through the Executive Director.

"(C) AUTHORITY TO EMPLOY STAFF.—The Director may employ such staff as is necessary to carry out this subtitle. The Director shall, to the maximum extent practicable, utilize in staff positions personnel who are detailed from departments and agencies of the Federal Government and, to the extent the Director considers appropriate, shall request and accept detail of personnel from such departments and agencies in order to do so.

"(2) PERMANENT CADRE.—

"(A) ESTABLISHMENT.—The Director shall establish a permanent cadre of supervisors and training instructors for Civilian Community Corps programs.

"(B) APPOINTMENT.—The Director shall appoint the members of the permanent cadre.

"(C) EMPLOYMENT CONSIDERATIONS.—In appointing individuals to cadre positions, the Director shall—

"(i) give consideration to retired, discharged, and other inactive members and former members of the Armed Forces recommended under section 195K(a)(2);

"(ii) give consideration to former VISTA, Peace Corps, and youth service program personnel;

"(iii) ensure that the cadre is comprised of males and females of diverse ethnic, economic, professional, and geographic backgrounds; and

"(iv) consider applicants' experience in other youth service programs.

"(D) COMMUNITY SERVICE CREDIT.—Service as a member of the cadre shall be considered as a community service opportunity for purposes of section 534 of the National Defense Authorization Act for Fiscal Year 1993 and as employment with a public service or community service organization for purposes of section 535 of that Act.

"(3) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director, the members of the permanent cadre, and the other staff personnel shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The rates of pay of such persons may be established without regard to the provisions of chapter 53 of such title.

"(4) VOLUNTARY SERVICES.—Notwithstanding any other provision of law, the Director may accept the voluntary services of individuals. While away from their homes or regular places of business on the business of the Corps, such individuals may be allowed travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent, as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

"SEC. 195I. STATUS OF CORPS MEMBERS AND CORPS PERSONNEL UNDER FEDERAL LAW.

"(a) IN GENERAL.—Except as otherwise provided in this section, members of the Civilian Community Corps shall not, by reason of their status as such members, be considered Federal employees or be subject to the provisions of law relating to Federal employment.

"(b) WORK-RELATED INJURIES.—

"(1) IN GENERAL.—For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, members of the Corps shall be considered as employees of the United States within the meaning of the term 'employee', as defined in section 8101 of such title.

"(2) SPECIAL RULE.—In the application of the provisions of subchapter I of chapter 81 of title 5, United States Code, to a person referred to in paragraph (1), the person shall not be considered to be in the performance of duty while absent from the person's assigned post of duty unless the absence is authorized in accordance with procedures prescribed by the Director.

"(c) TORT CLAIMS PROCEDURE.—A member of the Corps shall be considered an employee of the United States for purposes of chapter 171 of title 28, United States Code, relating to tort claims liability and procedure.

"SEC. 195J. CONTRACT AND GRANT AUTHORITY.

"(a) PROGRAMS.—The Director may, by contract or grant, provide for any public or private organization to perform any program function under this subtitle.

"(b) EQUIPMENT AND FACILITIES.—

"(1) FEDERAL AND NATIONAL GUARD PROPERTY.—The Director shall enter into agreements, as necessary, with the Secretary of Defense, the Governor of a State, territory or commonwealth, or the commanding general of the District of Columbia National Guard, as the case may be, to utilize—

"(A) equipment of the Department of Defense and equipment of the National Guard; and

"(B) Department of Defense facilities and National Guard facilities identified pursuant to section 195K(a)(3).

"(2) OTHER PROPERTY.—The Director may enter into contracts or agreements for the use of other equipment or facilities to the extent practicable to train and house members of the Civilian Community Corps and leaders of Corps units.

"SEC. 195K. RESPONSIBILITIES OF OTHER DEPARTMENTS.

"(a) SECRETARY OF DEFENSE.—

"(1) LIAISON OFFICE.—

"(A) ESTABLISHMENT.—The Secretary of Defense shall establish an office to provide for liaison between the Secretary and the Civilian Community Corps.

"(B) DUTIES.—The office shall—

"(i) in order to assist in the recruitment of personnel for appointment in the permanent cadre, make available to the Director information in the registry established by section 531 of the National Defense Authorization Act for Fiscal Year 1993;

"(ii) provide other assistance in the coordination of Department of Defense activities with the Corps; and

"(iii) encourage Armed Forces recruiters to inform potential applicants for the Corps regarding service in the Corps as an alternative to service in the Armed Forces.

"(2) CORPS CADRE.—

"(A) LIST OF RECOMMENDED PERSONNEL.—The Secretary of Defense, in consultation with the liaison office established under paragraph (1) shall develop a list of individuals to be recommended for appointment in the permanent cadre of Corps personnel. Such personnel shall be selected from among members and former members of the Armed Forces referred to in section 195(3) who are commissioned officers, noncommissioned officers, former commissioned officers, or former noncommissioned officers.

"(B) RECOMMENDATIONS REGARDING GRADE AND PAY.—The Secretary of Defense shall recommend to the Director an appropriate rate of pay for each person recommended for the cadre pursuant to this paragraph.

"(C) CONTRIBUTION FOR RETIRED MEMBER'S PAY.—If a listed individual receiving retired or retainer pay is appointed to a position in the cadre and the rate of pay for that individual is established at the amount equal to the difference between the active duty pay and allowances which that individual would receive if ordered to active duty and the amount of the individual's retired or retainer pay, the Secretary of Defense shall pay, by transfer to the Commission on National and Community Service from amounts available for pay of active duty members of the Armed Forces, the amount equal to 50 percent of that individual's rate of pay for service in the cadre.

"(3) FACILITIES.—The Secretary of Defense, in consultation with the liaison office established under paragraph (1), shall identify, with the concurrence of the Secretary of the military department concerned, military installations and other facilities of the Department of Defense and, with the concurrence of the Chief of the National Guard Bureau, National Guard facilities that may be used, in whole or in part, by the Civilian Community Corps for training or housing Corps members. The installations and facilities need not be excess capacity or excess or surplus property.

"(b) SECRETARY OF LABOR.—The Secretary of Labor shall identify and assist in establishing a system for the recruitment of persons to serve as members of the Civilian Community Corps. In carrying out this subsection, the Secretary of Labor may utilize the Employment Service Agency or the Office of Job Training.

"SEC. 195L. ADVISORY BOARD.

"(a) ESTABLISHMENT AND PURPOSE.—There is established a Civilian Community Corps Advisory Board to advise the Director of the Civilian Community Corps concerning the administration of this subtitle and to assist in the development and administration of the Corps.

"(b) MEMBERSHIP.—The Advisory Board shall be composed of the following members:

"(1) The Secretary of Labor.

"(2) The Secretary of Defense.

"(3) The Secretary of the Interior.

"(4) The Secretary of Agriculture.

"(5) The Secretary of Education.

"(6) The Secretary of Housing and Urban Development.

"(7) The Chief of the National Guard Bureau.

"(8) Individuals appointed by the Director from among persons who are broadly representative of educational institutions, voluntary organizations, industry, youth, and labor unions.

"(9) The Chair of the Commission on National and Community Service.

"(c) INAPPLICABILITY OF TERMINATION REQUIREMENT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Board.

"SEC. 195M. ANNUAL EVALUATION.

"Pursuant to the provisions for evaluations conducted under section 179, and in particular subsection (g) of such section, the Commission on National and Community Service shall conduct an annual evaluation of the Civilian Community Corps programs under this subtitle.

"SEC. 195N. FUNDING LIMITATION.

"The Commission, in consultation with the Director, shall ensure that no amounts appropriated under section 501 are utilized to carry out this subtitle.

"SEC. 195O. DEFINITIONS.

"In this subtitle:

"(1) BOARD.—The term 'Board' means the Board of Directors of the Commission on National and Community Service.

"(2) CORPS.—The term 'Corps' means the Civilian Community Corps established under the Civilian Community Corps Demonstration Program.

"(3) CORPS CAMP.—The term 'Corps camp' means the facility or central location established as the operational headquarters and boarding place for particular Corps units.

"(4) CORPS MEMBERS.—The term 'Corps members' means persons receiving training and participating in projects under the Civilian Community Corps Demonstration Program.

"(5) DIRECTOR.—The term 'Director' means the Director of the Civilian Community Corps.

"(6) EXECUTIVE DIRECTOR.—The term 'Executive Director' means the Executive Director of the Commission on National and Community Service.

"(7) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(8) PROGRAM.—The term 'Program' means the Civilian Community Corps Demonstration Program established under section 195A.

"(9) SERVICE LEARNING.—The term 'service learning', with respect to Corps members, means a method—

"(A) under which Corps members learn and develop through active participation in thoughtfully organized service experiences that meet actual community needs;

"(B) that provides structured time for a Corps member to think, talk, or write about what the Corps member did and saw during an actual service activity;

"(C) that provides Corps members with opportunities to use newly acquired skills and knowledge in real life situations in their own communities; and

"(D) that helps to foster the development of a sense of caring for others, good citizenship, and civic responsibility.

"(10) SUPERINTENDENT.—The term 'superintendent', with respect to a Corps camp, means the head of the camp under section 195D(d).

"(11) UNIT.—The term 'unit' means a unit of the Corps referred to in section 195D(c).".

(2) TABLE OF CONTENTS.—The table of contents in section 1(b) of the National and Community Service Act of 1990 is amended by inserting after the item relating to section 190 the following:

"SUBTITLE H—CIVILIAN COMMUNITY CORPS

"Sec. 195. Purpose.
"Sec. 195A. Establishment of demonstration program.
"Sec. 195B. National service program.
"Sec. 195C. Summer national service program.
"Sec. 195D. Civilian Community Corps.
"Sec. 195E. Training.
"Sec. 195F. Service projects.
"Sec. 195G. Authorized benefits for Corps members.
"Sec. 195H. Administrative provisions.
"Sec. 195I. Status of Corps members and Corps personnel under Federal law.
"Sec. 195J. Contract and grant authority.
"Sec. 195K. Responsibilities of other departments.
"Sec. 195L. Advisory board.
"Sec. 195M. Annual evaluation.
"Sec. 195N. Funding limitation.
"Sec. 195O. Definitions.".

(b) REPORT AND STUDY REQUIREMENTS.—(1) Not later than 180 days after the date of the enactment of this Act, the Commission on National Community Service shall prepare and submit to the appropriate committees of Congress a progress report on the implementation of the provisions of subtitle I of the National and Community Service Act of 1990 (as added by subsection (a)). The progress report shall include an assessment of the activities undertaken in establishing and administering Civilian Community Corps camps and an analysis of the level of coordination of Corps activities with activities of other departments or agencies of the Federal Government.

(2) Not later than 90 days after the end of the 1-year period beginning on the first day of the Civilian Community Corps Demonstration Program established pursuant to section 195A of the National and Community Services Act of 1990 (as added by subsection (a)), the Board of Directors of the Commission on National and Community Service and the Director of the Civilian Community Corps shall prepare and submit to the appropriate committees of Congress a report concerning the desirability and feasibility of establishing the Civilian Community Corps as an independent agency of the Federal Government.

(c) FUNDING.—Of the amount authorized to be appropriated for fiscal year 1993 in section 301, $50,000,000 shall be available for the Civilian Community Corps Demonstration Program established pursuant to section 195A of the National and Community Service Act of 1990 (as added by subsection (a)).

SEC. 1083. COORDINATION OF PROGRAMS.

(a) COORDINATED ADMINISTRATION.—To the maximum extent practicable, the Chief of the National Guard Bureau, the Board of Directors and Executive Director of the Commission on National and Community Service, and the Director of the Civilian Community Corps shall coordinate the National Guard Youth Opportunities Program established pursuant to section 1081 and the Civilian Community Corps Demonstration Program established pursuant to section 195A of the National and Community Service Act of 1990 (as added by section 1082(a)).

(b) OBJECTIVES.—The officials referred to in subsection (a) shall ensure that—

(1) the programs referred to in subsection (a) are conducted in such a manner in relationship to each other that the public benefit of those programs is maximized;

(2) to the maximum extent appropriate to meet the needs of program participants, persons who complete participation in the National Guard Youth Opportunities Program and are eligible and apply to participate in the Civilian Community Corps under the Civilian Community Corps Demonstration Program are accepted for participation in that Program; and

(3) the programs referred to in subsection (a) are conducted simultaneously in competition with each other in the same immediate area of the United States only when the population of eligible participants in that area is sufficient to justify the simultaneous conduct of such programs in that area.

SEC. 1084. OTHER PROGRAMS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE.

(a) INCREASED COMMISSION ACTIVITIES.—It is the purpose of this section to increase the ability of the Commission on National and Community Service to expand non-residential programs that perform worthwhile urban and rural community projects that assist in the economic transition of localities affected by Department of Defense conversion. The Commission may also explore the potential for developing a program that would permit members of the Civilian Community Corps established under subtitle H of title I of the National and Community Services Act of 1990, as added by section 1082, to provide training to such participants at residential facilities and return them to their local communities for the service portion of their period of agreed service. To the extent practicable, such effort shall be coordinated with the National Guard Civilian Youth Opportunities Program authorized by section 1801 and with the Civilian Community Corps Demonstration Program established under section 195A the National and Community Services Act of 1990, as added by section 1082.

(b) FUNDING AND USE OF FUNDS.—(1) Of the amount authorized to be appropriated for fiscal year 1993 in section 301, $50,000,000 shall be available to the Board of Directors of the Commission on National and Community Service for activities under subtitles B, C, D, E, F, and G of the National and Community Service Act of 1990 (42 U.S.C. 12510 et seq.). Such amount shall be in addition to, and not a substitute for, amounts authorized to be appropriated under section 501 of such Act (42 U.S.C. 12681).

(2) In the use of the funds made available under paragraph (1), the Commission shall give special consideration to—

(A) programs located in communities where facilities of military installation (as defined in section 2687(e)(1) of title 10, United States Code) have been closed;

(B) programs that employ retired, inactive, or discharged military personnel;

(C) programs that involve military personnel participating in volunteer services;

(D) programs that test whether a non-residential, community based youth service corps can engender in young men and women a commitment to civic responsibility and involvement in their communities;

(E) programs that test whether such non-residential corps permit young people who have received military-based training to use their skills and knowledge to improve their communities; and

(F) programs that test whether retired, discharged or inactive members and former members of the Armed Forces can play a meaningful role in service-learning by acting as mentors, teachers, counselors and role models.

SEC. 1085. LIMITATION ON OBLIGATION OF FUNDS.

(a) CIVILIAN COMMUNITY CORPS DEMONSTRATION PROGRAM.—Funds made available pursuant to section 1082(c) may not be obligated during fiscal year 1993 for the Civilian Community Corps Demonstration Program under subtitle H of title I of the National and Community Service Act of 1990 (as added by section 1082(a)), unless expenditures for that program during fiscal year 1993 have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) OTHER COMMISSION ON NATIONAL AND COMMUNITY SERVICE PROGRAMS.—Funds made available pursuant to section 1084(b) may not be obligated during fiscal year 1993 for activities under subtitles B, C, D, E, F, and G of the National and Community Service Act of 1990 (42 U.S.C. 12510 et seq.), unless expenditures for such activities during fiscal year 1993 have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

Subtitle G—Nuclear Proliferation Control

SEC. 1091. IMPOSITION OF SANCTIONS.

(a) DETERMINATION BY THE PRESIDENT.—

(1) IN GENERAL.—Except as provided in subsection (b)(2), the President shall impose the applicable sanctions described in subsection (c) if the President determines that a foreign person or a United States person, on or after the date of the enactment of this section, has materially and with requisite knowledge contributed—

(A) through the export from the United States of any goods or technology that are subject to the jurisdiction of the United States, or

(B) through the export from any other country of any goods or technology that would be, if they were exported from the United States, subject to the jurisdiction of the United States,

to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device, whether or not the goods or technology is specifically designed or modified for that purpose.

(2) PERSONS AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.—Sanctions shall be imposed pursuant to paragraph (1) on—

(A) the foreign person or United States person with respect to which the President makes the determination described in that paragraph;

(B) any successor entity to that foreign person or United States person;

(C) any foreign person or United States person that is a parent or subsidiary of that person if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of that determination; and

(D) any foreign person or United States person that is an affiliate of that person if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of that determination and if that affiliate is controlled in fact by that foreign person.

(3) OTHER SANCTIONS AVAILABLE.—The sanctions which may be imposed for activities described in this subsection are in addition to any other sanction which may be imposed for the same activities under any other provision of law.

(4) DEFINITION.—For purposes of this subsection, the term "requisite knowledge" includes situations in which a person "knows", as "knowing" is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) or has "reason to know" the effect of such person's actions.

(b) CONSULTATION WITH AND ACTIONS BY FOREIGN GOVERNMENT OF JURISDICTION.—

(1) CONSULTATIONS.—If the President makes the determinations described in subsection (a)(1) with respect to a foreign person, the Congress urges the President to initiate consultations immediately with the government with primary jurisdiction over that foreign person with respect to the imposition of sanctions pursuant to this section.

(2) ACTIONS BY GOVERNMENT OF JURISDICTION.—In order to pursue such consultations with that government, the President may delay imposition of sanctions pursuant to this section for up to 90 days. Following these consultations, the President shall impose sanctions unless the President determines and certifies to the Congress that that government has taken specific and effective actions, including appropriate penalties, to

terminate the involvement of the foreign person in the activities described in subsection (a)(1). The President may delay the imposition of sanctions for up to an additional 90 days if the President determines and certifies to the Congress that that government is in the process of taking the actions described in the previous sentence.

(3) REPORT TO CONGRESS.—Not later than 90 days after making a determination under subsection (a)(1), the President shall submit to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives a report on the status of consultations with the appropriate government under this subsection, and the basis for any determination under paragraph (2) of this subsection that such government has taken specific corrective actions.

(c) SANCTIONS.—

(1) DESCRIPTION OF SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are, except as provided in paragraph (3) of this subsection, that the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from any person described in subsection (a)(2).

(2) DESCRIPTION OF SANCTIONS ON UNITED STATES PERSONS.—The United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the United States person or any parent, subsidiary, affiliate, or successor entity thereof, as described in subsection (a)(2).

(3) EXCEPTIONS.—The President shall not be required to apply or maintain sanctions under this section—

(A) in the case of procurement of defense articles or defense services—

(i) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

(ii) if the President determines that the person or other entity to which the sanctions would otherwise be applied is a sole source supplier of the defense articles or services, that the defense articles or services are essential, and that alternative sources are not readily or reasonably available; or

(iii) if the President determines that such articles or services are essential to the national security under defense coproduction agreements;

(B) to products or services provided under contracts entered into before the date on which the President publishes his intention to impose sanctions;

(C) to—

(i) spare parts which are essential to United States products or production,

(ii) component parts, but not finished products, essential to United States products or production, or

(iii) routine servicing and maintenance of products, to the extent that alternative sources are not readily or reasonably available;

(D) to information and technology essential to United States products or production; or

(E) to medical or other humanitarian items.

(d) TERMINATION OF SANCTIONS.—The sanctions imposed pursuant to this section shall apply for a period of at least 12 months following the imposition of sanctions and shall cease to apply thereafter only if the President determines and certifies to the Congress that—

(1) reliable information indicates that the foreign person or United States person with respect to which the determination was made under subsection (a)(1) has ceased to aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in that subsection; and

(2) the President has received reliable assurances from the foreign person or United States person, as the case may be, that such person will not, in the future, aid or abet any individual, group, or non-nuclear-weapon state in its efforts to acquire unsafeguarded special nuclear material or any nuclear explosive device, as described in subsection (a)(1).

(e) WAIVER.—

(1) CRITERION FOR WAIVER.—The President may waive the application of any sanction imposed on any person pursuant to this section, after the end of the 12-month period beginning on the date on which that sanction was imposed on that person, if the President determines and certifies to the Congress that the continued imposition of the sanction would have a serious adverse effect on vital United States interests.

(2) NOTIFICATION OF AND REPORT TO CONGRESS.—If the President decides to exercise the waiver authority provided in paragraph (1), the President shall so notify the Congress not less than 20 days before the waiver takes effect. Such notification shall include a report fully articulating the rationale and circumstances which led the President to exercise the waiver authority.

(f) DEFINITIONS.—For the purposes of this section—

(1) the term "foreign person" means—

(A) an individual who is not a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other entity which is created or organized under the laws of a foreign country or which has its principal place of business outside the United States; and

(2) the term "United States person" means—

(A) an individual who is a citizen of the United States or an alien admitted for permanent residence to the United States; or

(B) a corporation, partnership, or other entity which is not a foreign person.

SEC. 1092. ROLE OF INTERNATIONAL FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—The Secretary of the Treasury shall instruct the United States executive director to each of the international financial institutions described in section 701(a) of the International Financial Institutions Act (22 U.S.C. 262d(a)) to use the voice and vote of the United States to oppose any direct or indirect use of the institution's funds to promote the acquisition of unsafeguarded special nuclear material or the development, stockpiling, or use of any nuclear explosive device by any non-nuclear-weapon state.

(b) DUTIES OF UNITED STATES EXECUTIVE DIRECTORS.—Section 701(b)(3) of the International Financial Institutions Act (22 U.S.C. 262d(b)(3)) is amended to read as follows:

"(3) whether the recipient country—

"(A) is seeking to acquire unsafeguarded special nuclear material (as defined in section 11(6) of the Omnibus Nuclear Proliferation Control Act of 1992) or a nuclear explosive device (as defined in section 11(3) of that Act);

"(B) is not a State Party to the Treaty on Non-Proliferation of Nuclear Weapons; or

"(C) has detonated a nuclear explosive device; and".

SEC. 1093. AMENDMENTS TO THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT AND THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) BASIS FOR DECLARATION OF NATIONAL EMERGENCY.—Section 202 of the International Emergency Economic Powers Act (50 U.S.C. 1701) is amended by adding at the end thereof the following new subsection:

"(c) For the purpose of this section, the term 'any unusual and extraordinary threat' includes any international event that the President determines may involve the detonation by a non-nuclear-weapon state of a nuclear explosive device (as defined in section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992) or an action or activity that substantially contributes to the likelihood of the proliferation or detonation of such devices, including the acquisition by a non-nuclear-weapon state of unsafeguarded special nuclear material (as defined in section 11(6) of that Act).".

(b) SANCTIONS ON FINANCIAL INSTITUTIONS.—The Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by adding at the end thereof the following new title:

"TITLE VI—SANCTIONS ON FINANCIAL INSTITUTIONS

"SEC. 601. PRESIDENTIAL DETERMINATION.

"(a) IN GENERAL.—The prohibitions in section 603 shall be imposed on a financial institution if the President determines that such financial institution, on or after the date of the enactment of this section, has materially and with requisite knowledge contributed, through provision of financing or other services, to the efforts by any individual, group, or non-nuclear-weapon state to acquire unsafeguarded special nuclear material or to use, develop, produce, stockpile, or otherwise acquire any nuclear explosive device as these standards and terms are defined and would be applied under section 2 of the Omnibus Nuclear Proliferation Control Act of 1992.

"(b) PRESIDENTIAL ORDER.—Whenever the President makes a determination under subsection (a) with respect to a financial institution, the President shall issue an order specifying a date within 180 days of such determination on which the prohibitions in section 603 shall begin to apply to such institution.

"SEC. 602. ADDITIONAL ENTITIES AGAINST WHICH SANCTIONS ARE TO BE IMPOSED.

"The prohibitions described in section 603 shall also be imposed, pursuant to section 601, on—

"(1) any successor entity to the financial institution with respect to which the President makes such determination;

"(2) any foreign person or United States person that is a parent or subsidiary of such financial institution if that parent or subsidiary materially and with requisite knowledge assisted in the activities which were the basis of such determination; and

"(3) any foreign person or United States person that is an affiliate of such financial institution if that affiliate materially and with requisite knowledge assisted in the activities which were the basis of such determination and if that affiliate is controlled in fact by such financial institution.

"SEC. 603. PROHIBITIONS.

"The following prohibitions shall apply to a financial institution subject to a determination described in section 601 and to related entities described in section 602:

"(1) Ban on dealings in government finance.—

"(A) Designation as primary dealer.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, such financial institution as a primary dealer in United States Government debt instruments.

"(B) Government funds.—Such financial institution shall not serve as agent of the United States Government or serve as repository for United States Government funds.

"(2) Restrictions on operations.—Such financial institution shall not, directly or indirectly—

"(A) commence any line of business in the United States in which it was not engaged as of the date of the determination; or

"(B) conduct business from any location in the United States at which it did not conduct business as of the date of the determination.

"SEC. 604. CONDITIONS AND TERMINATION OF SANCTIONS.

"The same requirements for consultation with the foreign government of jurisdiction, where appropriate, and for termination of sanctions shall apply under this title as are provided in subsections (b) and (d), respectively, of section 2 of the Omnibus Nuclear Proliferation Control Act of 1992.

"SEC. 605. WAIVER.

"The President may waive the imposition of any prohibition imposed on any financial institution or other person pursuant to section 601 or 602 if the President determines and certifies to the Congress that the imposition of such prohibition would have a serious adverse effect on the safety and soundness of the domestic or international financial system or on domestic or international payments systems.±

"SEC. 606. DEFINITIONS.

"As used in this title—

"(1) the term 'financial institution' includes—

"(A) a depository institution, including a branch or agency of a foreign bank;

"(B) a securities firm, including a broker or dealer;

"(C) an insurance company, including an agency or underwriter;

"(D) any other company that provides financial services; or

"(E) any subsidiary thereof; and

"(2) the term 'requisite knowledge' includes situations in which a person 'knows', as 'knowing' is defined in section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) or has 'reason to know' the effect of such person's actions.".

SEC.1094. EXPORT-IMPORT BANK.

Section 2(b)(4) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(4)) is amended by inserting after "device" the following: "(as defined in section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992), or that any country has willfully aided or abetted any such non-nuclear-weapon state (as defined in section 11(4) of that Act) to acquire a nuclear explosive device or to acquire unsafeguarded special nuclear material (as defined in section 11(6) of that Act).".

SEC. 1094A. ELIGIBILITY FOR ASSISTANCE.

(a) Amendments to the Arms Export Control Act.—(1) The Arms Export Control Act (22 U.S.C. 2751 et seq.) is amended—

(A) in section 3 of such Act, by adding at the end thereof the following new subsection:

"(f) No sales or leases shall be made to any country that the President has determined is in material breach of its commitments to the United States under international treaties or agreements concerning the non-proliferation of nuclear explosive devices (as defined in section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992) and unsafeguarded special nuclear material."; and

(B) in section 40(d) of such Act, by adding at the end thereof the following new sentence: "For the purposes of this subsection, such acts shall include all activities that the Secretary determines willfully aid or abet the international proliferation of nuclear explosive devices to individuals or groups or willfully aid or abet an individual or groups in acquiring unsafeguarded special nuclear material (as defined in section 11(6) of that Act).".

(2) Section 47 of such Act is amended—

(A) by striking out "and" at the end of paragraph (7);

(B) by striking out the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(9) 'nuclear explosive device' has the same meaning given to that term by section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992.".

(b) Amendments to the Foreign Assistance Act of 1961.—

(1) Section 670(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a(a)(2)) is amended in the first sentence—

(A) by inserting "in any fiscal year" after "President"; and

(B) by inserting "during that fiscal year" after "certifies in writing".

(2) Section 670 of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a) is further amended by adding at the end thereof the following new subsection:

"(d) As used in this section, the term 'nuclear explosive device' has the same meaning given to that term by section 11(3) of the Omnibus Nuclear Proliferation Control Act of 1992.".

(3) Notwithstanding any other provision of law, Presidential Determination No. 82-7 of February 10, 1982, made pursuant to section 670(a)(2) of the Foreign Assistance Act of 1961, shall have no force or effect with respect to any grounds for the prohibition of assistance under section 670(a)(1) of such Act arising on or after the date of enactment of this Act.

(4) Section 620E(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2375(d)) is amended to read as follows:

"(d) The President may waive the prohibitions of section 669 of this Act with respect to any grounds for the prohibition of assistance under that section arising before the date of enactment of the Omnibus Nuclear Proliferation Control Act of 1992 to provide assistance to Pakistan if he determines that to do so is in the national interest of the United States.".

SEC. 1094B. ADDITIONAL AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

(a) Technical Amendments.—Section 670(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a(b)) is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively;

(2) in paragraph (3)(A) (as so redesignated), by striking "paragraph (3)" and inserting "paragraph (4)"; and

(3) in paragraph (4) (as so redesignated), by striking "paragraph (2)" and inserting "paragraph (3)".

(b) Additional Sanctions.—Section 670(b)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2429a) is amended to read as follows:

"(b)(1) Except as provided in paragraphs (3), (4), and (5), in the event that any country, after the date of enactment of the Omnibus Nuclear Proliferation Control Act of 1992—

"(A) transfers to a non-nuclear-weapon state—

"(i) a nuclear explosive device, or

"(ii) design information or components known by the transferor to be necessary for the recipient's completion of a nuclear explosive device,

"(B) is a non-nuclear-weapon state and—

"(i) receives a nuclear explosive device,

"(ii) receives design information or components necessary for the completion of a nuclear explosive device, or

"(iii) detonates a nuclear explosive device,

"(C) transfers to a non-nuclear-weapon state any design information or component (other than described in subparagraph (A)(ii)) which is determined by the President to be important to, and known by the transferring country to be intended by the recipient state for use in, the development or manufacture of any nuclear explosive device, or

"(D) is a non-nuclear-weapon state and has sought and received any design information or component (other than described in subparagraph (B)(ii)) which is determined by the President to be important to, and intended by the recipient state for use in, the development or manufacture of any nuclear explosive device,

the President shall forthwith impose sanctions against that country, including, as a minimum, those sanctions specified in paragraph (2).

"(2) The sanctions referred to in paragraph (1) are as follows:

"(A) Foreign assistance.—The United States Government shall terminate assistance to that country under this Act, except for urgent humanitarian assistance or food or other agricultural commodities.

"(B) Arms sales.—The United States Government shall terminate—

"(i) sales to that country under the Arms Export Control Act of any defense articles, defense services, or design and construction services, and

"(ii) licenses for the export to that country of any item on the United States Munitions List.

"(C) Arms sales financing.—The United States Government shall terminate all foreign military financing for that country under the Arms Export Control Act.

"(D) Denial of United States Government credit or other financial assistance.—The United States Government shall deny to that country any credit, credit guarantees, or other financial assistance by any department, agency, or instrumentality of the United States Government, including the Export-Import Bank of the United States, except that the sanction of this subparagraph shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities).

"(E) Multilateral development bank assistance.—The United States Government shall oppose, in accordance with section 701 of the International Financial Institutions Act (22 U.S.C. 262d), the extension of any loan or financial or technical assistance to that country by international financial institutions.

"(F) BANK LOANS.—The United States Government shall prohibit any United States bank from making any loan or providing any credit to the government of that country, except for loans or credits for the purpose of purchasing food or other agricultural commodities.

"(G) EXPORT PROHIBITION.—The authorities of section 6 of the Export Administration Act of 1979 shall be used to prohibit exports to that country of any goods and technology (excluding food and other agricultural commodities), except that such prohibition shall not apply to any transaction subject to the reporting requirements of title V of the National Security Act of 1947 (relating to congressional oversight of intelligence activities).".

(c) CONFORMING AMENDMENTS.—Section 670(b) of such Act (22 U.S.C. 2429a(b)) is further amended—

(1) in paragraph (3)(A) (as redesignated)—

(A) by striking "furnish assistance which would otherwise be prohibited" and inserting in lieu thereof "delay the imposition of sanctions which would otherwise be required"; and

(B) by striking "termination of assistance" and inserting in lieu thereof "imposition of sanctions";

(2) in paragraph (4) (as redesignated), by striking "termination of such assistance" and inserting in lieu thereof "imposition of such sanctions";

(3) by redesignating paragraph (5) (as redesignated by subsection (a)) as paragraph (6); and

(4) by inserting after paragraph (4) (as redesignated) the following:

"(5) Notwithstanding any other provision of law, the sanctions which are required to be imposed against a country under paragraph (1)(C) or (1)(D) shall not apply if the President determines and certifies in writing to the Committee on Foreign Relations and the Committee on Governmental Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives that the application of such sanctions against such country would have a serious adverse effect on vital United States interests. The President shall transmit with such certification a statement setting forth the specific reasons therefor.".

SEC. 1094C. REWARD.

Section 36(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708(a)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C);

(2) by inserting "(1)" immediately after "(a)"; and

(3) by adding at the end thereof the following:

"(2) For purposes of this subsection, the term 'act of international terrorism' includes any act substantially contributing to the acquisition of unsafeguarded special nuclear material (as defined in section 11(6) of the Omnibus Nuclear Proliferation Control Act of 1991) or any nuclear explosive device (as defined in section 11(3) of that Act) by an individual, group, or non-nuclear-weapon state, as defined in section 11(4) of that Act.".

SEC. 1094D. REPORTS.

(a) CONTENT OF ACDA ANNUAL REPORT.—Section 52 of the Arms Control and Disarmament Act (22 U.S.C. 2592) is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 52.";

(2) by striking "and" at the end of paragraph (4);

(3) by striking the period at the end of paragraph (5) and inserting in lieu thereof "; and";

(4) by adding at the end of paragraph (5) the following new paragraph:

"(6) a section of the report shall deal with any material noncompliance by foreign governments with their commitments to the United States with respect to the prevention of the spread of nuclear explosive devices by non-nuclear-weapon states or the acquisition by such states of unsafeguarded special nuclear material (as defined in section 11(6) of the Omnibus Nuclear Proliferation Control Act of 1992), including—

"(A) a net assessment of the aggregate military significance of all such violations;

"(B) a statement of the compliance policy of the United States with respect to violations of those commitments; and

"(C) what actions, if any, the President has taken or proposes to take to bring any nation committing such a violation into compliance with its commitments."; and

(5) by adding at the end thereof the following new subsection:

"(b) REPORTING CONSECUTIVE NONCOMPLIANCE.—If the President in consecutive reports submitted to Congress under this section reports that any designated nation is not in full compliance with its nonproliferation commitments to the United States, then the President shall include in the second such report an assessment of what actions are necessary to compensate for such violations.".

(b) REPORTING ON DEMARCHES.—(1) It is the sense of Congress that the Department of State should, in the course of implementing its reporting responsibilities under section 602(c) of the Nuclear Non-Proliferation Act of 1978, include a summary of demarches that the United States has issued or received from foreign governments with respect to activities which are of significance from the proliferation standpoint.

(2) For purposes of this section, the term "demarche" means any official communication by one government to another, by written or oral means, intended by the originating government to express—

(A) a concern over a past, present, or possible future action or activity of the recipient government, or of a person within the jurisdiction of that government, contributing to the global spread of unsafeguarded special nuclear material or of nuclear explosive devices;

(B) a request for the recipient government to counter such action or activity; or

(C) both the concern and request described in subparagraphs (A) and (B).

SEC. 1094E. TECHNICAL CORRECTION.

Section 133(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2160c) is amended by striking out "20 kilograms" and inserting in lieu thereof "5 kilograms".

SEC. 1094F. DEFINITIONS.

For purposes of this subtitle—

(1) the term "goods and technology" includes nuclear materials and equipment and sensitive nuclear technology (as defined in section 4 of the Nuclear Non-Proliferation Act of 1978), all export items designated by the President pursuant to section 309(c) of such Act, and all technical assistance requiring authorization under section 57b. of the Atomic Energy Act of 1954;

(2) the term "IAEA safeguards" means the safeguards set forth in an agreement between a country and the International Atomic Energy Agency, as authorized by Article III(A)(5) of the Statute of the International Atomic Energy Agency;

(3) the term "nuclear explosive device" means any device that is designed to produce an instantaneous release of an amount of nuclear energy from special nuclear material that is greater than the amount of energy that would be released from the detonation of one pound of trinitrotoluene (TNT);

(4) the term "non-nuclear-weapon state" means any country which is not a nuclear-weapon state, as defined by Article IX (3) of the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, London, and Moscow on July 1, 1968;

(5) the term "special nuclear material" has the meaning given to that term by section 11aa of the Atomic Energy Act of 1954 (42 U.S.C. 2014aa); and

(6) the term "unsafeguarded special nuclear material" means special nuclear material which is held in violation of IAEA safeguards or not subject to IAEA safeguards (excluding any quantity of material that could, if it were exported from the United States, be exported under a general license issued by the Nuclear Regulatory Commission).

Subtitle H—Arms Retooling and Manufacturing Support Initiative

SEC. 1095. SHORT TITLE.

This subtitle may be cited as the "Arms Retooling and Manufacturing Support Act of 1992".

SEC. 1096. POLICY.

It is the policy of the United States—

(1) to encourage, to the maximum extent practicable, nondefense commercial firms to use Government-owned, contractor-operated ammunition facilities of the Department of the Army;

(2) to use such facilities for supporting programs, projects, policies, and initiatives that promote competition in the private sector of the United States economy and that advance United States interests in the global marketplace;

(3) to increase the manufacture of products inside the United States that, to a significant extent, are manufactured outside the United States;

(4) to support policies and programs that provide manufacturers with incentives to assist the United States in making more efficient and economical use of Government-owned industrial plants and equipment for commercial purposes;

(5) to provide, as appropriate, small businesses, including socially and economically disadvantaged small business concerns and new small businesses, with incentives that encourage those businesses to undertake manufacturing and other industrial processing activities that contribute to the prosperity of the United States;

(6) to encourage the creation of jobs through increased investment in the private sector of the United States economy;

(7) to foster a more efficient, cost-effective, and adaptable armaments industry in the United States;

(8) to achieve, with respect to armaments manufacturing capacity, an optimum level of readiness of the defense industrial base of the United States that is consistent with the projected threats to the national security of the United States and the projected emergency requirements of the Armed Forces of the United States; and

(9) to encourage facility contracting where feasible.

SEC. 1097. ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE.

(a) REQUIREMENT FOR INITIATIVE.—The Secretary of the Army shall carry out a program to be known as the "Armament Retooling and Manufacturing Support Initiative" (hereafter in this Act referred to as the "ARMS Initiative").

(b) PURPOSES.—The purposes of the ARMS Initiative are as follows:

(1) To encourage commercial firms, to the maximum extent practicable, to use Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army for commercial purposes.

(2) To increase the opportunities for small businesses, including socially and economically disadvantaged small business concerns and new small businesses, to use such facilities for those purposes.

(3) To reduce the adverse effects of reduced Department of the Army spending that are experienced by States and communities by providing for such facilities to be used for commercial purposes that create jobs and promote prosperity.

(4) To provide for the reemployment and retraining of skilled workers who, as a result of the closing of such facilities, are idled or underemployed.

(5) To contribute to the attainment of economic stability in economically depressed regions of the United States where there are Government-owned, contractor-operated ammunition manufacturing facilities of the Department of Army.

(6) To maintain in the United States a work force having the skills in manufacturing processes that are necessary to meet industrial emergency planned requirements for national security purposes.

(7) To be a model for future defense conversion initiatives.

(8) To the maximum extent practicable, to allow the operation of Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army to be rapidly responsive to the forces of free market competition.

(9) Through the use of Government-owned, contractor-operated ammunition manufacturing facilities for commercial purposes, to encourage relocation of industrial production to the United States from outside the United States.

(c) MAXIMUM AVAILABILITY OF FACILITIES.—To the maximum extent practicable, the Secretary of the Army shall make the Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army available for the purposes of the ARMS Initiative.

SEC. 1098. FACILITY CONTRACTOR DEFINED.

In this subtitle, the term "facility contractor", with respect to a Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army, means a contractor that, under a contract with the Secretary of the Army—

(1) is authorized to manufacture ammunition or any component of ammunition at the facility; and

(2) is responsible for the overall operation and maintenance of the facility for meeting planned requirements in the event of an industrial emergency.

SEC. 1099. FACILITIES CONTRACTS.

(a) REQUIREMENT FOR ARMS CONTRACTS.—(1) In the case of each Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army that is made available for the ARMS Initiative, the Secretary of the Army shall, by contract, authorize the facility contractor—

(A) to use the facility for one or more years consistent with the purposes of the ARMS Initiative; and

(B) to enter into multiyear subcontracts for the commercial use of the facility consistent with such purposes.

(2) The authority in paragraph (1) may be exercised only to such extent and in such amounts as are provided in appropriations Acts.

Subtitle I—Defense Conversion and Transition Assistance

SEC. 1099A. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) The collapse of communism in Eastern Europe and the dissolution of the Soviet Union have fundamentally changed the military threat that formed the basis for the national security policy of the United States since the end of World War II.

(2) The change in the military threat presents a unique opportunity to restructure and reduce the military requirements of the United States.

(3) As the United States proceeds with the post-Cold War defense build down, the Nation must recognize and address the impact of reduced defense spending on the military personnel, civilian employees, and defense industry workers who have been the foundation of the national defense policies of the United States.

(4) The defense build down will have a significant impact on communities as procurements are reduced and military installations are closed and realigned.

(5) Despite the changes in the military threat, the United States must maintain the capability to respond to regional conflicts that threaten the national interests of the United States, and to reconstitute forces in the event of an extended conflict.

(6) The skills and capabilities of military personnel, civilian employees of the Department of Defense, defense industry workers, and defense industries represent an invaluable national resource that can contribute to the economic growth of the United States and to the long-term vitality of the national defense technology and industrial base.

(7) Prompt and vigorous implementation of a defense conversion and transition assistance program is essential to ensure that the defense build down is structured in a manner that enhances the long-term ability of the United States to maintain a strong and vibrant national defense technology and industrial base.

(b) POLICY.—(1) It is the policy of Congress that the United States attain its national defense objectives through the development and implementation of defense conversion and transition assistance programs that have the following objectives:

(A) Facilitating the transition of military personnel, civilian employees of the United States, and defense industry workers affected by the defense build down in a manner which recognizes the contributions of those individuals to the national defense and promotes continued national access to, and benefit from, their skills and capabilities.

(B) Assisting communities in adjusting to the impact of reduced defense spending in recognition of the contributions that such communities have made to the national defense of the United States.

(C) Strengthening the ability of the national defense technology and industrial base to meet the following national security objectives:

(i) Supplying and equipping the force structure necessary to meet near-term national security requirements.

(ii) Sustaining production, maintenance, repair, and logistics for operations of various durations and intensity.

(iii) Maintaining advanced research and development activities to provide the Armed Forces of the United States with systems capable of ensuring technological superiority over potential adversaries.

(iv) Reconstituting within a reasonable period the capability to develop and produce supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a major war, major national emergency, or major mobilization of the Armed Forces.

(D) Achieving the national defense technology and industrial base objectives described in subparagraph (C) by enhancing the opportunities for conversion of defense-dependent businesses to dual-use capabilities.

(2) It is the policy of Congress that not less than $1,200,000,000 of the funds authorized to be appropriated by this Act be available for defense conversion and transition assistance programs.

SEC. 1099B. ACTIVE FORCES TRANSITION ENHANCEMENTS.

Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities:

(1) The program to encourage members and former members of the Armed Forces to enter critical public and community service jobs after discharge or release from active duty as established pursuant to section 1143a of title 10, United States Code (as added by section 531(a)).

(2) The program to facilitate alternative teaching certification for personnel separating or retiring from the Armed Forces who choose to enter teaching based upon military experience and training, as provided in section 532.

(3) The program to grant educational leave to qualify for and enter public and community service, as authorized by section 533.

(4) The temporary early retirement authorities provided in sections 534 and 535.

(5) The authority for persons being voluntarily separated from active duty in the Armed Forces to enroll in the Montgomery GI Bill program under section 536.

(6) The revision of the recoupment requirement related to certain reserve duty, as provided under section 537.

(7) The program referred to in section 538 for certain employment, job training, and other assistance for members of the Armed Forces who are being separated from active duty.

(8) The temporary continued health coverage for members of the Armed Forces upon separation from active duty, as provided under section 1078a of title 10, United States Code (as added by section 539).

SEC. 1099C. GUARD AND RESERVE TRANSITION INITIATIVES.

Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities:

(1) The regulations required by sections 543 through 545 concerning inactivation of units of the Selected Reserve, involuntary discharge from a reserve component of the Armed Forces, and involuntary transfer from the Selected Reserve.

(2) The temporary authority for early retirements established under sections 546 and 547.

(3) The temporary authority for separation pay provided in section 548.

(4) The waiver of the continued service requirement for Montgomery GI Bill benefits under section 549.

(5) The transitional commissary and exchange privileges authorized by section 550.

(6) The temporary continuation of Servicemen's Group Life Insurance coverage provided under section 551.

SEC. 1099D. DEPARTMENT OF DEFENSE CIVILIAN PERSONNEL TRANSITION INITIATIVES.

(a) REQUIREMENT FOR REGULATIONS WITHIN 45 DAYS.—Not later than 45 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt implementation of the following programs and authorities, consistent with such guidance as may be issued by the Director of the Office of Personnel Management:

(1) The reemployment assistance requirements provided pursuant to sections 341 and 342.

(2) The reduction-in-force notification requirements provided pursuant to section 343.

(3) The commencement of eligibility for certain job training assistance to employees adversely affected by base closures and realignments, as established pursuant to section 344.

(4) The authority to continue health benefits established pursuant to section 346.

(5) The authority to pay benefits under the Thrift Savings Plan to employees separated by a reduction in force, as provided pursuant to section 347.

(6) The authority to establish skill training programs in the Department of Defense, as provided in section 348.

(b) REQUIREMENT FOR PROMPT IMPLEMENTATION.—The Secretary of Defense, subject to such regulations as may be prescribed by the Director of the Office of Personnel Management, shall ensure the prompt implementation of the authority established in section 345 to provide separation benefits and to restore certain leave.

SEC. 1099E. COMMUNITY TRANSITION INITIATIVES.

(a) ECONOMIC ADJUSTMENT.—The Secretary of Defense shall promptly establish implementation schedules to ensure that policies and procedures required pursuant to section 331 are issued not later than 90 days after the date of the enactment of this Act, and to ensure that communities, businesses, and workers substantially and seriously affected by reductions in defense expenditures are advised of the assistance available to such communities, businesses, and workers.

(b) ECONOMIC, CONVERSION, AND STABILIZATION ASSISTANCE.—Not later than 45 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations to ensure the prompt and effective delivery of assistance under the Defense Economic Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101-510; 10 U.S.C. 2391 note), as amended by sections 331 and 332, to communities, businesses, and workers substantially and seriously affected by reductions and defense expenditures.

(c) IMPACT AID.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt and effective implementation of the authority provided in section 333 to furnish assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.

SEC. 1099F. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE CONVERSION AND TRANSITION INITIATIVES.

(a) PUBLIC INFORMATION REQUIREMENT.—The Secretary of Defense shall promptly establish implementation schedules to ensure that, not later than 90 days after the date of the enactment of this Act, policies and procedures are issued to provide for wide public dissemination of the opportunities to participate in programs authorized pursuant to sections 802, 804, and 805.

(b) PROGRAMS IMPLEMENTATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including program objectives and schedules for implementation, to ensure the prompt and effective implementation of the following programs, requirements, and authorities:

(1) The defense dual-use technology research and development programs referred to in section 802.

(2) The defense dual-use manufacturing technology programs referred to in section 804.

(3) The national defense technology and industrial base dual-use assistance extension programs.

(4) The requirements and authorities provided under section 807 for the Small Business Innovation Research Program.

(c) COMMENCEMENT OF OPERATIONS BY THE OFFICE OF TECHNOLOGY TRANSITION.—Notwithstanding section 803(b) of this Act, the Office of Technology Transition established by section 803(a) shall commence operations not later than 120 days after the date of enactment of this Act.

TITLE XI—DEMILITARIZATION OF THE FORMER SOVIET UNION

Subtitle A—Short Title

SEC. 1101. SHORT TITLE.

This title may be cited as the "Former Soviet Union Demilitarization Act of 1992".

Subtitle B—Findings and Program Authority

SEC. 1111. DEMILITARIZATION OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

The Congress finds that it is in the national security interest of the United States—

(1) to facilitate, on a priority basis—

(A) the transportation, storage, safeguarding, and destruction of nuclear and other weapons of mass destruction of the independent states of the former Soviet Union;

(B) the prevention of proliferation of weapons of mass destruction and destabilizing conventional weapons of the independent states of the former Soviet Union, and the establishment of verifiable safeguards against the proliferation of such weapons;

(C) the prevention of diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries; and

(D) other efforts designed to reduce the military threat from the former Soviet Union;

(2) to support the conversion of the massive defense-related industry and equipment of the independent states of the former Soviet Union for civilian purposes and uses; and

(3) to expand military-to-military contacts between the United States and the independent states of the former Soviet Union.

SEC. 1112. AUTHORITY FOR PROGRAMS TO FACILITATE DEMILITARIZATION.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized, in accordance with this title, to establish and conduct programs described in subsection (b) to assist the demilitarization of the independent states of the former Soviet Union.

(b) TYPES OF PROGRAMS.—The programs referred to in subsection (a) are limited to—

(1) transporting, storing, safeguarding, disabling, and destroying nuclear, chemical, and other weapons of the independent states of the former Soviet Union, as described in section 212(b) of the Conventional Forces in Europe Treaty Implementation Act of 1991 (Public Law 102-228);

(2) establishing verifiable safeguards against the proliferation of such weapons;

(3) preventing diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries;

(4) facilitating the conversion of military technologies and capabilities and defense industries of the former Soviet Union into civilian activities;

(5) establishing science and technology centers in the independent states of the former Soviet Union for the purpose of engaging weapons scientists and engineers previously involved with nuclear, chemical, and other weapons of mass destruction in productive, nonmilitary undertakings; and

(6) expanding military-to-military contacts between the United States and the independent states of the former Soviet Union.

(c) RESTRICTIONS.—United States assistance authorized by subsection (a) may not be provided unless the President certifies to the Congress, on an annual basis, that the proposed recipient country is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons of mass destruction, if such recipient has an obligation under treaty or other agreement to destroy or dismantle any such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons;

(4) facilitating United States verification of any weapons destruction carried out under section 212 of the Conventional Forces in Europe Treaty Implementation Act of 1991 (Public Law 102-228);

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

Subtitle C—Administrative and Funding Authorities

SEC. 1121. ADMINISTRATION OF DEMILITARIZATION PROGRAMS.

(a) FUNDING.—(1) In recognition of the direct contributions to the national security interests of the United States of the activities specified in section 1112, funds transferred under sections 108 and 109 of Public Law 102-229 (105 Stat. 1708) are authorized to be made available to carry out subtitle B. Of the amount available to carry out such subtitle, not more than $20,000,000 may be made available for programs referred to in section 1112(b)(6), relating to military-to-military contacts.

(2) Section 221(a)(1) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102-228; 105 Stat. 1695) is amended—

(A) by striking "fiscal year 1992" and inserting "fiscal years 1992 and 1993"; and

(B) by striking out "$400,000,000" and inserting in lieu thereof "$800,000,000".

(3) Section 221(e) of such Act is amended—

(A) by inserting "for fiscal year 1992 or fiscal year 1993" after "under part B";

(B) by inserting "for that fiscal year" after "for that program"; and

(C) by striking out "for fiscal year 1992" and inserting in lieu thereof "for that fiscal year".

(b) TECHNICAL REVISIONS TO PUBLIC LAW 102-229.—Public Law 102-229 is amended—

(1) in section 108 (105 Stat. 1708), by striking out "contained in H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "(title II of Public Law 102-228)"; and

(2) in section 109 (105 Stat. 1708)—

(A) by striking out "H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "Public Law 102-228 (105 Stat. 1696)"; and

(B) by striking "of H.R. 3807".

Subtitle D—Reporting Requirements

SEC. 1131. PRIOR NOTICE OF OBLIGATIONS TO CONGRESS.

Not less than 15 days before obligating any funds made available for a program under subtitle B, the President shall transmit to the Congress a report on the proposed obligation. Each such report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance under subtitle B for which the President plans to obligate such funds.

SEC. 1132. QUARTERLY REPORTS ON PROGRAMS.

Not later than 30 days after the end of the last fiscal year quarter for fiscal year 1992 and each fiscal year quarter for fiscal year 1993, the President shall transmit to the Congress a report on the activities carried out under subtitle B. Each such report shall set forth, for the preceding fiscal year quarter and cumulatively, the following:

(1) The amounts expended for such activities and the purposes for which they were expended.

(2) The source of the funds obligated for such activities, specified by program.

(3) A description of the participation of all United States Government departments and agencies in such activities.

(4) A description of the activities carried out under subtitle B and the forms of assistance provided under that part.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the programs authorized under subtitle B.

TITLE XII—CUBAN DEMOCRACY ACT OF 1992

SEC. 1201. SHORT TITLE.

This title may be cited as the "Cuban Democracy Act of 1992".

SEC. 1202. FINDINGS.

The Congress makes the following findings:

(1) The government of Fidel Castro has demonstrated consistent disregard for internationally accepted standards of human rights and for democratic values. It restricts the Cuban people's exercise of freedom of speech, press, assembly, and other rights recognized by the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948. It has refused to admit into Cuba the representative of the United Nations Human Rights Commission appointed to investigate human rights violations on the island.

(2) The Cuban people have demonstrated their yearning for freedom and their increasing opposition to the Castro government by risking their lives in organizing independent, democratic activities on the island and by undertaking hazardous flights for freedom to the United States and other countries.

(3) The Castro government maintains a military-dominated economy that has decreased the well-being of the Cuban people in order to enable the government to engage in military interventions and subversive activities throughout the world and, especially, in the Western Hemisphere. These have included involvement in narcotics trafficking and support for the FMLN guerrillas in El Salvador.

(4) There is no sign that the Castro regime is prepared to make any significant concessions to democracy or to undertake any form of democratic opening. Efforts to suppress dissent through intimidation, imprisonment, and exile have accelerated since the political changes that have occurred in the former Soviet Union and Eastern Europe.

(5) Events in the former Soviet Union and Eastern Europe have dramatically reduced Cuba's external support and threaten Cuba's food and oil supplies.

(6) The fall of communism in the former Soviet Union and Eastern Europe, the now universal recognition in Latin America and the Caribbean that Cuba provides a failed model of government and development, and the evident inability of Cuba's economy to survive current trends, provide the United States and the international democratic community with an unprecedented opportunity to promote a peaceful transition to democracy in Cuba.

(7) However, Castro's intransigence increases the likelihood that there could be a collapse of the Cuban economy, social upheaval, or widespread suffering. The recently concluded Cuban Communist Party Congress has underscored Castro's unwillingness to respond positively to increasing pressures for reform either from within the party or without.

(8) The United States cooperated with its European and other allies to assist the difficult transitions from Communist regimes in Eastern Europe. Therefore, it is appropriate for those allies to cooperate with United States policy to promote a peaceful transition in Cuba.

SEC. 1203. STATEMENT OF POLICY.

It should be the policy of the United States—

(1) to seek a peaceful transition to democracy and a resumption of economic growth in Cuba through the careful application of sanctions directed at the Castro government and support for the Cuban people;

(2) to seek the cooperation of other democratic countries in this policy;

(3) to make clear to other countries that, in determining its relations with them, the United States will take into account their willingness to cooperate in such a policy;

(4) to seek the speedy termination of any remaining military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from any of the independent states of the former Soviet Union;

(5) to continue vigorously to oppose the human rights violations of the Castro regime;

(6) to maintain sanctions on the Castro regime so long as it continues to refuse to move toward democratization and greater respect for human rights;

(7) to be prepared to reduce the sanctions in carefully calibrated ways in response to positive developments in Cuba;

(8) to encourage free and fair elections to determine Cuba's political future;

(9) to prevent Cuba from evading the United States embargo of that country through a North American Free Trade Agreement;

(10) to request the speedy termination of any military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from the government of any other country; and

(11) to initiate immediately the development of a comprehensive United States policy toward Cuba in a post-Castro era.

SEC. 1204. INTERNATIONAL COOPERATION.

(a) CUBAN TRADING PARTNERS.—The President should encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of this title.

(b) SANCTIONS AGAINST COUNTRIES ASSISTING CUBA.—

(1) SANCTIONS.—The President may apply the following sanctions to any country that provides assistance to Cuba:

(A) The government of such country shall not be eligible for assistance under the Foreign Assistance Act of 1961 or assistance or sales under the Arms Export Control Act.

(B) Such country shall not be eligible, under any program, for forgiveness or reduction of debt owed to the United States Government.

(2) DEFINITION OF ASSISTANCE.—For purposes of paragraph (1), the term "assistance to Cuba"—

(A) means assistance to or for the benefit of the Government of Cuba that is provided by grant, concessional sale, guaranty, or insurance, or by any other means on terms more favorable than that generally available in the applicable market, whether in the form of a loan, lease, credit, or otherwise, and such term includes subsidies for exports to Cuba and favorable tariff treatment of articles that are the growth, product, or manufacture of Cuba; and

(B) does not include—

(i) donations of food to nongovernmental organizations or individuals in Cuba, or

(ii) exports of medicines or medical supplies, instruments, or equipment that would be permitted under section 1205(c) of this Act.

(3) APPLICABILITY OF SECTION.—This section, and any sanctions imposed pursuant to this section, shall cease to apply at such time as the President makes and reports to the Congress a determination under section 1208(a).

SEC. 1205. SUPPORT FOR THE CUBAN PEOPLE.

(a) PROVISIONS OF LAW AFFECTED.—The provisions of this section apply notwithstanding any other provision of law, including section 620(a) of the Foreign Assistance Act of 1961, and notwithstanding the exercise of authorities, before the enactment of this Act, under section 5(b) of the Trading With the Enemy Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979.

(b) DONATIONS OF FOOD.—Nothing in this or any other title shall prohibit donations of food to nongovernmental organizations or individuals in Cuba.

(c) EXPORTS OF MEDICINES AND MEDICAL SUPPLIES.—Exports of medicines or medical supplies, instruments, or equipment to Cuba shall not be restricted—

(1) except to the extent authorized by section 5(m) of the Export Administration Act

of 1979 or section 203(b)(2) of the International Emergency Economic Powers Act;

(2) except in a case in which there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;

(3) except in a case in which there is a reasonable likelihood that the item to be exported will be reexported; and

(4) except in a case in which the item to be exported could be used in the production of any biotechnological product.

(d) REQUIREMENTS FOR CERTAIN EXPORTS.—

(1) ONSITE VERIFICATIONS.—(A) Subject to subparagraph (B), an export may be made under subsection (c) only if the President determines that the United States Government is able to verify, by onsite inspections and other appropriate means, that the exported item is to be used for the purposes for which it was intended and only for the use and benefit of the Cuban people.

(B) EXCEPTION.—Subparagraph (A) does not apply to donations to nongovernmental organizations in Cuba of medicines for humanitarian purposes.

(2) LICENSES.—Exports permitted under subsection (c) shall be made pursuant to specific licenses issued by the United States Government.

(e) TELECOMMUNICATIONS SERVICES AND FACILITIES.—

(1) TELECOMMUNICATIONS SERVICES.—Telecommunications services between the United States and Cuba shall be permitted.

(2) TELECOMMUNICATIONS FACILITIES.—Telecommunications facilities are authorized in such quantity and of such quality as may be necessary to provide efficient and adequate telecommunications services between the United States and Cuba.

(3) LICENSING OF PAYMENTS TO CUBA.—(A) The President may provide for the issuance of licenses for the full or partial payment to Cuba of amounts due Cuba as a result of the provision of telecommunications services authorized by this subsection, in a manner that is consistent with the public interest and the purposes of this title, except that this paragraph shall not require any withdrawal from any account blocked pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(B) If only partial payments are made to Cuba under subparagraph (A), the amounts withheld from Cuba shall be deposited in an account in a banking institution in the United States. Such account shall be blocked in the same manner as any other account containing funds in which Cuba has any interest, pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(4) AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION.—Nothing in this subsection shall be construed to supersede the authority of the Federal Communications Commission.

(f) DIRECT MAIL DELIVERY TO CUBA.—The United States Postal Service shall take such actions as are necessary to provide direct mail service to and from Cuba, including, in the absence of common carrier service between the 2 countries, the use of charter service providers.

(g) ASSISTANCE TO SUPPORT DEMOCRACY IN CUBA.—The United States Government may provide assistance, through appropriate nongovernmental organizations, for the support of individuals and organizations to promote nonviolent democratic change in Cuba.

SEC. 1206. SANCTIONS.

(a) PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.—

(1) PROHIBITION.—Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

(2) APPLICABILITY TO EXISTING CONTRACTS.—Paragraph (1) shall not affect any contract entered into before the date of the enactment of this Act.

(b) PROHIBITIONS ON VESSELS.—

(1) VESSELS ENGAGING IN TRADE.—Beginning on the 61st day after the date of the enactment of this Act, a vessel which enters a port or place in Cuba to engage in the trade of goods or services may not, within 180 days after departure from such port or place in Cuba, load or unload any freight at any place in the United States, except pursuant to a license issued by the Secretary of the Treasury.

(2) VESSELS CARRYING GOODS OR PASSENGERS TO OR FROM CUBA.—Except as specifically authorized by the Secretary of the Treasury, a vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national, as defined in section 515.302 of the Office of Foreign Assets Control Treasury Regulations, has any interest may not enter a United States port.

(3) INAPPLICABILITY OF SHIP STORES GENERAL LICENSE.—No commodities which may be exported under a general license described in section 771.9 of title 15, Code of Federal Regulations, as in effect on May 1, 1992, may be exported under a general license to any vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest.

(4) DEFINITIONS.—As used in this subsection—

(A) the term "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft; and

(B) the term "United States" includes the territories and possessions of the United States and the customs waters of the United States (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401)).

(c) RESTRICTIONS ON REMITTANCES TO CUBA.—The President shall establish strict limits on remittances to Cuba by United States persons for the purpose of financing the travel of Cubans to the United States, in order to ensure that such remittances reflect only the reasonable costs associated with such travel, and are not used by the Government of Cuba as a means of gaining access to United States currency.

(d) CLARIFICATION OF APPLICABILITY OF SANCTIONS.—The prohibitions contained in subsections (a), (b), and (c) shall not apply with respect to any activity otherwise permitted by section 1205 or section 1207 of this title or any activity which may not be regulated or prohibited under section 5(b)(4) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)(4)).

SEC. 1207. POLICY TOWARD A TRANSITIONAL CUBAN GOVERNMENT.

Food, medicine, and medical supplies for humanitarian purposes should be made available for Cuba under the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 if the President determines and certifies to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that the government in power in Cuba—

(1) has made a public commitment to hold free and fair elections for a new government within 6 months and is proceeding to implement that decision;

(2) has made a public commitment to respect, and is respecting, internationally recognized human rights and basic democratic freedoms; and

(3) is not providing weapons or funds to any group, in any other country, that seeks the violent overthrow of the government of that country.

SEC. 1208. POLICY TOWARD A DEMOCRATIC CUBAN GOVERNMENT.

(a) WAIVER OF RESTRICTIONS.—The President may waive the requirements of section 1206 if the President determines and reports to the Congress that the Government of Cuba—

(1) has held free and fair elections conducted under internationally recognized observers;

(2) has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections;

(3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(4) is moving toward establishing a free market economic system; and

(5) has committed itself to constitutional change that would ensure regular free and fair elections that meet the requirements of paragraph (2).

(b) POLICIES.—If the President makes a determination under subsection (a), the President shall take the following actions with respect to a Cuban Government elected pursuant to elections described in subsection (a):

(1) To encourage the admission or reentry of such government to international organizations and international financial institutions.

(2) To provide emergency relief during Cuba's transition to a viable economic system.

(3) To take steps to end the United States trade embargo of Cuba.

(4) To enter into negotiations for a framework agreement providing for trade with Cuba.

SEC. 1209. EXISTING CLAIMS NOT AFFECTED.

Except as provided in section 1205(a), nothing in this title affects the provisions of section 620(a)(2) of the Foreign Assistance Act of 1961.

SEC. 1210. ENFORCEMENT.

(a) ENFORCEMENT AUTHORITY.—The authority to enforce this title shall be carried out by the Secretary of the Treasury. The Secretary of the Treasury shall exercise the authorities of the Trading With the Enemy Act in enforcing this Act. In carrying out this subsection, the Secretary of the Treasury shall take the necessary steps to ensure that activities permitted under section 1205 are carried out for the purposes set forth in this title and not for purposes of the accumulation by the Cuban Government of excessive amounts of United States currency or the accumulation of excessive profits by any person or entity.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this title.

(c) PENALTIES UNDER THE TRADING WITH THE ENEMY ACT.—Section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16) is amended—

(1) by inserting "(a)" before "That whoever"; and

(2) by adding at the end the following:

"(b)(1) The Secretary of the Treasury may impose a civil penalty of not more than $50,000 on any person who violates any license, order, rule, or regulation issued under this Act.

"(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

"(3) The penalties provided under this subsection may not be imposed for—

"(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

"(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.

"(4) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

"(5) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code.".

(d) APPLICABILITY OF PENALTIES.—The penalties set forth in section 16 of the Trading With the Enemy Act shall apply to violations of this title to the same extent as such penalties apply to violations under that Act.

(e) OFFICE OF FOREIGN ASSETS CONTROL.—The Department of the Treasury shall establish and maintain a branch of the Office of Foreign Assets Control in Miami, Florida, in order to strengthen the enforcement of this Act.

SEC. 1211. DEFINITION.

As used in this Act, the term "United States person" means any United States citizen or alien admitted for permanent residence in the United States, and any corporation, partnership, or other organization organized under the laws of the United States.

SEC. 1212. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this Act.

TITLE XIII—NATIONAL EDUCATION GOALS PANEL

SEC. 1301. PANEL ESTABLISHED.

(a) ESTABLISHMENT.—There is established within the Department of Education a National Education Goals Panel (hereafter in this title referred to as the "Panel").

(b) COMPOSITION.—

(1) IN GENERAL.—The Panel shall be composed of 14 members (hereafter in this title referred to as "members"), including—

(A) two members appointed by the President;

(B) eight Governors, three of whom shall be from the same political party as the President and five of whom shall be of the opposite political party of the President, appointed by the Chairman or Vice Chairman of the National Governors' Association, with each appointing those of his respective political party, in consultation with each other and in accordance with paragraph (2); and

(C) four Members of Congress appointed as follows:

(i) The Majority Leader of the Senate shall appoint 1 individual from among the Members of the Senate.

(ii) The Minority Leader of the Senate shall appoint 1 individual from among the Members of the Senate.

(iii) The Majority Leader of the House of Representatives shall appoint 1 individual from among the Members of the House of Representatives.

(iv) The Minority Leader of the House of Representatives shall appoint 1 individual from among the Members of the House of Representatives.

(2) SPECIAL APPOINTMENT RULES.—(A) The members appointed pursuant to paragraph (1)(B) shall be appointed as follows:

(i) If the Chairperson of the National Governors' Association is from the same political party as the President, then the Chairperson shall appoint 3 persons pursuant to such paragraph and the Vice Chairperson shall appoint 5 persons pursuant to such paragraph.

(ii) If the Chairperson of the National Governors' Association is from the opposite political party as the President, then the Chairperson shall appoint 5 persons pursuant to such paragraph and the Vice Chairperson shall appoint 3 persons pursuant to such paragraph.

(B) If the National Governors' Association has appointed a panel that meets the requirements of this subsection prior to the date of enactment of this Act, then the members serving on such panel shall be deemed to be in compliance with the provisions of this subsection and shall not be required to be reappointed pursuant to this subsection.

(c) TERMS.—The terms of service of members shall be as follows:

(1) EXECUTIVE BRANCH.—Members appointed under paragraph (1)(A) shall serve at the pleasure of the President.

(2) GOVERNORS.—Members appointed under paragraph (1)(B) shall serve a two-year term, except that the initial appointments under such paragraph shall be made to ensure staggered terms with one-half of the such member's terms concluding every two years.

(3) MEMBERS OF CONGRESS.—Members appointed under paragraph (1)(C) shall serve a term of four years.

(d) INITIATION.—The Panel may begin to carry out the duties of the Panel under this title when seven members of the Panel have been appointed.

(e) DATE OF APPOINTMENT.—The initial members shall be appointed not later than 60 days after the date of enactment of this Act.

(f) RETENTION.—In order to retain an appointment to the Panel, a member must attend at least two-thirds of the scheduled meetings of the Panel in any given year.

(g) VACANCIES.—A vacancy on the Panel shall not affect the powers of the Panel, but shall be filled in the same manner as the original appointment.

(h) TRAVEL.—Each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

(i) CHAIRPERSON SELECTION.—

(1) INITIAL SELECTION.—The members appointed under subsection (b)(2) shall select a Chairperson from among such members, except that after the expiration of the term of the member selected under this paragraph to serve as Chairperson as of October 1, 1991, or upon the termination of the tenure of such Chairperson, whichever is earlier, a majority of the members of the Council shall select the Chairperson from among the members.

(2) CONTINGENT SELECTION.—If no individual described in paragraph (1) assumes the position of Chairperson of the Council within 60 days of the date of the enactment of this Act, a majority of the members shall thereafter select a Chairperson from among the members.

SEC. 1302. FUNCTIONS.

(a) FUNCTIONS.—

(1) IN GENERAL.—The Panel shall—

(A) propose the indicators to be used to measure the National Education Goals and reporting progress toward their achievement, the baselines and benchmarks against which progress may be evaluated, and the format for an annual report to the Nation;

(B) select interim and final measures and appropriate measurement tools to be developed as necessary in each goal area;

(C) report on the Federal actions to fulfill its responsibilities to education, including funding the Federal financial role, providing more flexibility and controlling mandates that limit the States' ability to fund education;

(D) issue a report to the President, the Congress, the Governors, and the Nation annually on progress toward the National Education Goals;

(E) assure, through requirements for State reports, that student performance is reported in the context of other relevant information about student, school and system performance;

(F) identify gaps in existing educational data, make recommendations for improvements in the methods and procedures for assessments that would be appropriate to assessing progress toward the National Education Goals, propose changes in national and international measurement systems as appropriate and make recommendations to the President, the Congress, and the Governors for needed improvements;

(G) appoint members to the National Education Standards and Assessments Council; and

(H) in accordance with paragraph (2), issue certification of content and student performance standards and the criteria for assessments as world-class following submission of such certification by the National Education Standards and Assessments Council.

(2) SPECIAL RULE.—In the event the Panel denies certification to all or part of a certification of the National Education Standards and Assessments Council, all or part of a certification shall be returned to such Council with detailed written explanations for the denial.

(b) PERFORMANCE OF FUNCTIONS.—In carrying out its responsibilities, the Panel shall operate on the principle of consensus.

(c) DATA COLLECTION.—The Panel shall make arrangements with any appropriate entity to generate or collect such data as may be necessary to appropriately assess progress toward the National Education Goals.

SEC. 1303. ANNUAL REPORT CARD.

(a) IN GENERAL.—The Panel shall prepare and submit to the President, the appropriate committees of Congress, and the Governor of each State a National Report Card, that—

(1) sets forth an analysis of the progress of the United States toward achieving the National Education Goals; and

(2) may, as determined necessary by the Panel based on the findings of the Panel and an analysis of the views and comments of all interested parties—

(A) identify continuing gaps in existing educational data; and

(B) make recommendations for improvement in the methods and procedures of assessing educational attainment and strengthening the national educational assessment and information system of the Department of Education or any other appropriate Federal Government entity.

(b) CONTINUATION.—Based on the timetable established in section 1302, the Panel shall continue to issue a National Report Card on an annual basis for the duration of the existence of the Panel.

(c) FORMAT.—National Report Cards shall be presented in a form that is understandable to parents and the general public.

SEC. 1304. POWERS OF THE PANEL.

(a) HEARINGS.—

(1) IN GENERAL.—The Panel shall, for the purpose of carrying out this title, conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Panel considers appropriate.

(2) CONDUCT.—In carrying out this title, the Panel shall conduct public hearings in different geographic areas of the United States, both urban and rural, to receive the reports, views, and analyses of a broad spectrum of experts and the public regarding the Panel's functions described in section 1302(a).

(b) INFORMATION.—The Panel may secure directly from any department or agency of the United States information necessary to enable the Panel to carry out this title. Upon request of the Chairperson of the Panel, the head of a department or agency shall furnish such information to the Panel to the extent permitted by law.

(c) GIFTS.—The Panel may accept, use, and dispose of gifts or donations of services or property.

(d) POSTAL SERVICES.—The Panel may use the United States mail in the same manner and under the same conditions as other departments and agencies of the United States.

(e) ADMINISTRATIVE AND SUPPORTIVE SERVICES.—The Secretary of Education shall provide to the Panel, on a reimbursable basis, administrative support services as the Panel may request.

SEC. 1305. ADMINISTRATIVE PROVISIONS.

(a) MEETINGS.—The Panel shall meet on a regular basis, as necessary, at the call of the Chairperson of the Panel or a majority of its members.

(b) QUORUM.—A majority of the members shall constitute a quorum for the transaction of business.

(c) VOTING.—No individual may vote or exercise any of the powers of a member by proxy.

SEC. 1306. DIRECTOR AND STAFF; EXPERTS AND CONSULTANTS.

(a) DIRECTOR.—The Chairperson of the Panel shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a Director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

(b) APPOINTMENT AND PAY OF STAFF.—The Chairperson of the Panel may appoint personnel as the Chairperson considers appropriate without regard to the provisions of title 5, United States Code, governing appointments to the competitive service. The staff of the Panel may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates. The rate of pay of the staff of the Panel shall not exceed the rate of basic pay payable for GS-15 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—The Panel may procure temporary and intermittent services under section 3019(b) of title 5, United States Code.

(d) STAFF OF FEDERAL AGENCIES.—Upon the request of the Panel, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of that agency to the Panel to assist the Panel in its duties under this title.

SEC. 1307. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 through 2001 to carry out this title.

TITLE XIV—IRAN-IRAQ ARMS NON-PROLIFERATION ACT OF 1992

SEC. 1401. SHORT TITLE.

This title may be cited as the "Iran-Iraq Arms Non-Proliferation Act of 1992".

SEC. 1402. UNITED STATES POLICY.

(a) IN GENERAL.—It shall be the policy of the United States to oppose, and urgently to seek the agreement of other nations also to oppose, any transfer to Iran or Iraq of any goods or technology, including dual-use goods or technology, wherever that transfer could contribute to either country's acquiring chemical, biological, nuclear, or destabilizing numbers and types of advanced conventional weapons.

(b) SANCTIONS.—(1) In the furtherance of this policy, the President shall apply to Iran, Iraq, and those nations and persons who assist them in acquiring weapons of mass destruction all of the applicable sanctions and controls available to the United States under the Foreign Assistance Act of 1961, the Nuclear Non-Proliferation Act of 1978, the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, and title XVII of the National Defense Authorization Act for Fiscal Year 1991, and other relevant statutes, regarding the non-proliferation of weapons of mass destruction and the means of their delivery.

(2) The President should also urgently seek the agreement of other nations to adopt and institute, at the earliest practicable date, sanctions and controls comparable to those the United States is obligated to apply under this subsection.

(c) PUBLIC IDENTIFICATION.—The Congress calls on the President to identify publicly (in the report required by section 1407) any country or person that transfers goods or technology to Iran or Iraq contrary to the policy set forth in subsection (a).

SEC. 1403. APPLICATION TO IRAN OF CERTAIN IRAQ SANCTIONS.

The sanctions against Iraq specified in paragraphs (1) through (4) of section 586G(a) of the Iraq Sanctions Act of 1990 (as contained in Public Law 101-513), including denial of export licenses for United States persons and prohibitions on United States Government sales, shall be applied to the same extent and in the same manner with respect to Iran.

SEC. 1404. SANCTIONS AGAINST CERTAIN PERSONS.

(a) PROHIBITION.—If any person transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire destabilizing numbers and types of advanced conventional weapons, then—

(1) the sanctions described in subsection (b) shall be imposed; and

(2) in addition, the President is authorized to apply, in the discretion of the President, the sanctions described in subsection (c).

(b) MANDATORY SANCTIONS.—The sanctions to be imposed pursuant to subsection (a)(1) are as follows:

(1) PROCUREMENT SANCTION.—For a period of 2 years, the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the sanctioned person.

(2) EXPORT SANCTION.—For a period of 2 years, the United States Government shall not issue any license for any export by or to the sanctioned person.

(c) DISCRETIONARY SANCTION.—The sanction referred to in subsection (a)(2) is that the President may prohibit, for such period as the President may determine, the importation into the United States of any articles which are the product, manufacture, or growth of the sanctioned person.

SEC. 1405. SANCTIONS AGAINST CERTAIN FOREIGN COUNTRIES.

(a) PROHIBITION.—If the government of any foreign country transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire destabilizing numbers and types of advanced conventional weapons, then—

(1) the sanctions described in subsection (b) shall be imposed on such country; and

(2) in addition, the President may apply, in the discretion of the President, the sanctions described in subsection (c).

(b) MANDATORY SANCTIONS.—Except as provided in paragraph (2), the sanctions to be imposed pursuant to subsection (a)(1) are as follows:

(1) SUSPENSION OF UNITED STATES ASSISTANCE.—The United States Government shall suspend, for a period of 1 year, United States assistance to the sanctioned country.

(2) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director to each appropriate international financial institution to oppose, and vote against, for a period of 1 year, the extension by such institution of any loan or financial or technical assistance to the sanctioned country.

(3) SUSPENSION OF CODEVELOPMENT OR COPRODUCTION AGREEMENTS.—The United States shall suspend, for a period of 1 year, compliance with its obligations under any memorandum of understanding with the sanctioned country for the codevelopment or coproduction of any item on the United States Munitions List (established under section 38 of the Arms Export Control Act), including any obligation for implementation of the memorandum of understanding through the sale to the sanctioned country of technical data or assistance or the licensing for export to the sanctioned country of any component part.

(4) SUSPENSION OF MILITARY AND DUAL-USE TECHNICAL EXCHANGE AGREEMENTS.—The United States shall suspend, for a period of 1 year, compliance with its obligations under any technical exchange agreement involving military and dual-use technology between the United States and the sanctioned country that does not directly contribute to the security of the United States, and no military or dual-use technology may be exported from the United States to the sanctioned country pursuant to that agreement during that period.

(5) UNITED STATES MUNITIONS LIST.—No item on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) may be exported to the sanctioned country for a period of 1 year.

(c) DISCRETIONARY SANCTIONS.—The sanctions referred to in subsection (a)(2) are as follows:

(1) DENIAL OF MOST-FAVORED-NATION STATUS.—The President is authorized to suspend the application of nondiscriminatory trade treatment (most-favored-nation status) to the products of the sanctioned country.

(2) USE OF AUTHORITIES OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—The

President may exercise, in accordance with the provisions of that Act, the authorities of the International Emergency Economic Powers Act with respect to the sanctioned country, except for urgent humanitarian assistance.

SEC. 1406. WAIVER.

The President may waive the requirement to impose a sanction described in section 1403, in the case of Iran, or a sanction described in section 1404(b) or 1405(b), in the case of Iraq and Iran, 15 days after the President determines and so reports to the Committees on Armed Services and Foreign Relations of the Senate and the Speaker of the House of Representatives that to impose that sanction would jeopardize the national security interests of the United States. Any such report shall provide a specific and detailed rationale for such determination.

SEC. 1407. REPORTING REQUIREMENT.

(a) ANNUAL REPORT.—Beginning one year after the date of enactment of this title, and every 12 months thereafter, the President shall submit a report to the Committees on Armed Services and Foreign Relations of the Senate and the Speaker of the House of Representatives detailing—

(1) all transfers or retransfers made by any person or foreign government during the preceding 12-month period which are subject to any sanction under this title; and

(2) the actions the President intends to undertake or has undertaken pursuant to this title with respect to each such transfer.

(b) REPORT ON INDIVIDUAL TRANSFERS.—Whenever the President determines that a person or foreign government has made a transfer which is subject to any sanction under this title, the President shall, within 30 days after such transfer, submit to the Committees on Armed Services and Foreign Relations of the Senate and the Speaker of the House of Representatives a report—

(1) identifying the person or government and providing the details of the transfer; and

(2) describing the actions the President intends to undertake or has undertaken under the provisions of this title with respect to each such transfer.

(c) FORM OF TRANSMITTAL.—Reports required by this section may be submitted in classified as well as in unclassified form.

SEC. 1408. DEFINITIONS.

For purposes of this title—

(1) the term "advanced conventional weapons" includes—

(A) such long-range precision-guided munitions, fuel air explosives, cruise missiles, low observability aircraft, other radar evading aircraft, advanced military aircraft, military satellites, electromagnetic weapons, and laser weapons as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways;

(B) such advanced command, control, and communications systems, electronic warfare systems, or intelligence collection systems as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways; and

(C) such other items or systems as the President may, by regulation, determine necessary for purposes of this title;

(2) the term "cruise missile" means guided missiles that use aerodynamic lift to offset gravity and propulsion to counteract drag;

(3) the term "goods or technology" means—

(A) any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment; and

(B) any information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data;

(4) the term "person" means any United States or foreign individual, partnership, corporation, or other form of association, or any of their successor entities, parents, or subsidiaries;

(5) the term "sanctioned country" means a country against which sanctions are required to be imposed pursuant to section 1405;

(6) the term "sanctioned person" means a person that makes a transfer described in section 1404(a); and

(7) the term "United States assistance" means—

(A) any assistance under the Foreign Assistance Act of 1961 (other than the provision of urgent humanitarian assistance or medicine);

(B) sales and assistance under the Arms Export Control Act;

(C) financing by the Commodity Credit Corporation for export sales of agricultural commodities; and

(D) financing under the Export-Import Bank Act.

MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 1993

The text of the original bill (S. 3141) to authorize appropriations for fiscal year 1993 for military construction, and for other purposes, as passed by the Senate on September 18, 1992, is as follows:

S. 3141

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Construction Authorization Act for Fiscal Year 1993".

SEC. 2. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

TITLE XX—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1993".

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Anniston Army Depot	$105,300,000
	Fort McClellan	$4,200,000
Arizona	Fort Huachuca	$5,300,000
Arkansas	Pine Bluff Arsenal	$26,800,000
California	Sierra Army Depot	$2,450,000
Georgia	Fort Gillem	$2,700,000
	Fort Gordon	$23,000,000
	Fort McPherson	$10,200,000
	Hunter Army Airfield	$5,400,000
Hawaii	Schofield Barracks	$23,300,000
Kansas	Fort Riley	$13,200,000
Kentucky	Fort Knox	$15,600,000
Louisiana	Fort Polk	$7,400,000
Maryland	Aberdeen Proving Ground	$3,400,000
New Jersey	Fort Monmouth	$3,550,000
	Picatinny Arsenal	$6,050,000
New Mexico	White Sands Missile Range	$6,000,000
New York	United States Military Academy, West Point	$1,600,000
Oklahoma	Fort Sill	$1,500,000
Pennsylvania	Letterkenny Army Depot	$5,400,000
Texas	Fort Hood	$33,000,000
	Red River Army Depot	$3,600,000
Utah	Tooele Army Depot	$9,200,000
Virginia	Fort Belvoir	$1,200,000
	Fort Pickett	$5,800,000
CONUS Various	Classified Location	$2,700,000
	Classified Location	$700,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Germany	Grafenwoehr	$11,600,000
Kwajelein Atoll	Kwajalein	$52,800,000
OCONUS Classified	Classified Location	$1,000,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(6)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State	Installation	Purpose	Amount
Hawaii	Oahu Various	200 units	$23,000,000
Kentucky	Fort Campbell	96 units	$8,200,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(6)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $8,940,000.

SEC. 2103. DEFENSE ACCESS ROADS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(3), the Secretary of the Army may make advances to the Secretary of Transportation for design and construction of defense access roads under section 210 of title 23, United States Code, in the total amount of $2,400,000.

SEC. 2104. IMPROVEMENTS TO MILITARY FAMILY HOUSING.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(6)(A), the Secretary of the Army may improve existing military family housing in an amount not to exceed $155,860,000.

SEC. 2105. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,221,967,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $328,550,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $65,400,000.

(3) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $2,400,000.

(4) For unspecified minor military construction projects authorized by section 2805 of title 10, United States Code, $3,800,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $112,300,000.

(6) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $196,000,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,380,517,000, of which not more than $358,241,000 may be obligated or expended for the leasing of military family housing worldwide.

(7) For the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $133,000,000, to remain available until expended.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2106. INCREASE IN LIMITATION ON LEASING OF MILITARY FAMILY HOUSING WORLDWIDE BY THE DEPARTMENT OF THE ARMY.

Section 2105(a)(6)(B) the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1512) is amended by striking out "$360,783,000" and inserting in lieu thereof "$395,783,000".

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) Inside the United States.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Alaska	Adak Naval Air Station	$8,750,000
California	Camp Pendleton, Marine Corps Base	$25,500,000
	Lemoore, Naval Air Station	$680,000
	Port Hueneme, Naval Construction Battalion Center	$14,300,000
	Seal Beach, Naval Weapons Station	$2,150,000
	Twentynine Palms, Marine Corps Air-Ground Combat Center	$4,600,000
Connecticut	New London, Naval Submarine Base	$12,500,000
Florida	Cecil Field, Naval Air Station	$5,850,000
Georgia	Albany, Marine Corps Logistics Base	$6,800,000
Hawaii	Barking Sands, Pacific Missile Range Facility	$4,580,000
	Honolulu, Naval Communication Area Master Station, Eastern Pacific	$1,400,000
	Pearl Harbor, Naval Supply Center	$6,700,000
	Pearl Harbor, Navy Public Works Center	$24,900,000
Maryland	Indian Head, Naval Ordnance Station	$5,600,000
Mississippi	Gulfport, Naval Construction Battalion Center	$4,650,000
North Carolina	New River, Marine Corps Air Station	$3,600,000
	Cherry Point, Marine Corps Air Station	$4,680,000
Rhode Island	Newport, Naval Education and Training Center	$540,000
South Carolina	Charleston, Naval Weapons Station	$1,110,000
Tennessee	Memphis, Naval Air Station	$14,110,000
Texas	Corpus Christi, Naval Air Station	$4,900,000
	Kingsville, Naval Air Station	$20,120,000
Virginia	Dam Neck, Fleet Combat Training Center	$19,427,000
	Fort Story, Naval Station Annex	$5,650,000
	Little Creek, Naval Amphibious Base	$13,300,000
	Norfolk, Naval Air Station	$3,450,000
	Norfolk, Naval Station	$880,000
	Norfolk, Naval Supply Center	$12,400,000
	Oceana, Naval Air Station	$3,190,000
	Quantico, Marine Corps Combat Development Center	$5,000,000
	Yorktown, Naval Weapons Station	$1,100,000
Washington	Bangor, Trident Refit Facility	$1,550,000
	Bremerton, Puget Sound Naval Shipyard	$14,800,000
	Bremerton, Naval Inactive Ship Maintenance Facility	$1,200,000
	Everett, Naval Station	$5,600,000

(b) Outside the United States.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Greece	Souda Bay, Naval Support Activity	$7,600,000
Various Locations	Host Nation Infrastructure Support	$3,000,000

SEC. 2202. FAMILY HOUSING.

(a) Construction and Acquisition.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Navy: Family Housing

State	Installation	Purpose	Amount
California	Camp Pendleton Marine Corps Base	300 units	$30,600,000
	San Diego Navy Public Works Center	300 units	$30,400,000
Connecticut.	New London, Naval Submarine Base	100 units	$11,850,000
Hawaii	Kauai, Pacific Missile Range Facility	13 units	$2,330,000
	Oahu, Barbers Point Naval Air Station	70 units	$18,500,000
	Oahu, Kanehoe, Marine Corps Air Station	300 units	$96,800,000
	Oahu, Lynch Park	42 units	$7,000,000
	Oahu, Miller Park	114 units	$18,400,000
	Oahu, Moana Lua	100 units	$11,800,000
	Oahu, Pearl City Peninsula	132 units	$30,000,000
New Jersey	Earle, Naval Weapons Station	Community Center	$1,100,000
Washington.	Bangor/Bremerton Naval Complex	200 units	$19,500,000
West Virginia.	Sugar Grove, Naval Radio Station	8 units	$930,000

(b) Planning and Design.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $14,200,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in the amount of $198,340,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,542,036,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $265,567,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $10,600,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $5,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $72,942,000.

(5) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $491,750,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $696,177,000, of which not more than $104,470,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) Limitation of Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

SEC. 2205. POWER PLANT RELOCATION, NAVY PUBLIC WORKS CENTER, GUAM.

Section 2201(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2097) is amended—

(1) in the matter under the heading "GUAM" by striking out the item relating to the Navy Public Works Center and inserting in lieu thereof the following:

"Navy Public Works Center, $34,490,000."; and

(2) in the matter under the heading "PHILIPPINES" by striking out the item relating to the Navy Public Works Center, Subic Bay, and inserting in lieu thereof the following:

"Navy Public Works Center, Subic Bay, $570,000.".

SEC. 2206. REVISED AUTHORIZATIONS FOR CERTAIN MARINE CORPS PROJECTS.

(a) REVISED AUTHORIZATION.—Section 2201(a) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2095) is amended in the matter under the heading "NORTH CAROLINA" by striking out the items relating to Marine Corps Air Station, Cherry Point, and inserting in lieu thereof the following:

"Marine Corps Air Station, Cherry Point, $24,100,000.

(b) CONFORMING AMENDMENTS.—Section 2205(a) of such Act (102 Stat. 2099) is amended—

(1) by striking out "$2,369,875,000" and inserting in lieu thereof "$2,361,555,000"; and

(2) in paragraph (1), by striking out "$1,296,450,000" and inserting in lieu thereof "$1,288,770,000".

SEC. 2207. DEFENSE ACCESS ROADS, NAVAL STATION PASCAGOULA, MISSISSIPPI.

Using amounts appropriated pursuant to the authorization of appropriations in section 2205(a)(5) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1519), the Secretary of the Navy shall expend such amounts as the Secretary determines necessary for planning and design for defense access roads that are critical for access to Naval Station Pascagoula, Mississippi, as determined by the Secretary of the Navy.

SEC. 2208. MILITARY FAMILY HOUSING, NAVAL AIR STATION WHIDBEY ISLAND, WASHINGTON.

The Secretary of the Navy shall include in the budget request for the Navy for fiscal year 1994 a request for funds for the design of 300 family housing units at Naval Air Station Whidbey Island, Washington.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alabama	Gunter Air Force Base	$960,000
	Maxwell Air Force Base	$9,900,000
Alaska	Clear Air Force Station	$2,250,000
	Eielson Air Force Base	$40,950,000
	Elmendorf Air Force Base	$22,550,000
	Galena Airport	$4,850,000
	King Salmon Airport	$6,400,000
	Shemya Air Force Base	$3,350,000
Arizona	Davis-Monthan Air Force Base	$3,500,000
	Libby Air Force Base	$15,300,000
	Luke Air Force Base	$2,950,000
Arkansas	Little Rock Air Force Base	$3,860,000
California	Beale Air Force Base	$1,250,000
	Edwards Air Force Base	$24,500,000
	March Air Force Base	$2,250,000
	McClellan Air Force Base	$2,900,000
	Travis Air Force Base	$880,000
	Vandenberg Air Force Base	$26,250,000
Colorado	Peterson Air Force Base	$3,500,000
	United States Air Force Academy	$2,610,000
Delaware	Dover Air Force Base	$25,160,000
Florida	Cape Canaveral Air Force Station	$40,800,000
	Eglin Air Force Base	$1,680,000
	Homestead Air Force Base	$1,200,000
	Patrick Air Force Base	$7,700,000
Georgia	Moody Air Force Base	$4,380,000
	Robins Air Force Base	$11,500,000
Illinois	Scott Air Force Base	$960,000
Kansas	McConnell Air Force Base	$960,000
Louisiana	Barksdale Air Force Base	$29,120,000
Maryland	Andrews Air Force Base	$820,000
Massachusetts	Hanscom Air Force Base	$4,200,000
Mississippi	Keesler Air Force Base	$3,900,000
Missouri	Whiteman Air Force Base	$62,270,000
Montana	Malmstrom Air Force Base	$1,100,000
Nebraska	Offutt Air Force Base	$6,190,000
Nevada	Nellis Air Force Base	$6,980,000
New Jersey	McGuire Air Force Base	$8,970,000
New Mexico	Holloman Air Force Base	$11,420,000
North Carolina	Pope Air Force Base	$22,130,000
	Seymour Johnson Air Force Base	$5,230,000
North Dakota	Grand Forks Air Force Base	$6,500,000
	Minot Air Force Base	$8,650,000
Ohio	Wright-Patterson Air Force Base	$12,170,000
Oklahoma	Tinker Air Force Base	$21,280,000
	Vance Air Force Base	$2,350,000
South Carolina	Charleston Air Force Base	$32,150,000
	Shaw Air Force Base	$2,380,000
South Dakota	Ellsworth Air Force Base	$3,880,000
Texas	Brooks Air Force Base	$9,000,000
	Dyess Air Force Base	$7,300,000
	Goodfellow Air Force Base	$3,250,000
	Kelly Air Force Base	$21,360,000
	Lackland Air Force Base	$1,000,000
	Laughlin Air Force Base	$6,000,000
	Randolph Air Force Base	$1,250,000
	Sheppard Air Force Base	$6,990,000
Utah	Hill Air Force Base	$1,500,000
Virginia	Langley Air Force Base	$7,050,000
Washington	Fairchild Air Force Base	$2,510,000
	McChord Air Force Base	$2,540,000
Wyoming	F.E. Warren Air Force Base	$1,050,000
Various and Classified Locations.	Various Locations	$3,300,000
	Various Locations	$3,900,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and may carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Ascension Island	Ascension Island	$22,000,000
Germany	Rhein-Main Air Base	$3,100,000
Greenland	Thule Air Base	$24,900,000
Guam	Andersen Air Force Base	$3,090,000
Portugal	Lajes Field	$8,450,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State or Country	Installation	Purpose	Amount
California	Beale Air Force Base	Housing office	$306,000
	March Air Force Base	320 units	$25,351,000
Florida	Patrick Air Force Base	250 units	$22,500,000
Georgia	Moody Air Force Base	Housing maintenance facility	$290,000
	Robins Air Force Base	55 units	$3,153,000
Illinois	Scott Air Force Base	1,068 units	$60,000,000
Louisiana	Barksdale Air Force Base.	Housing maintenance and storage facility	$443,000
New Mexico	Cannon Air Force Base	361 units	$32,951,000
	Canon Air Force Base	Housing office	$480,000
North Dakota	Minot Air Force Base	Housing maintenance and storage facility	$286,000
South Carolina.	Shaw Air Force Base	Housing office	$351,000
Utah	Hill Air Force Base	82 units	$6,353,000
Portugal	Lajes Field	Water wells	$865,000

(b) PLANNING AND DESIGN.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $7,457,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(5)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $227,824,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,064,428,000 as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $604,990,000, of which $6,400,000 is authorized for the construction of a visual information training facility and $290,000 is authorized for construction of a television systems training facility, both located at Keesler Air Force Base, Mississippi.

(2) For military construction projects outside the United States authorized by section 2301(b), $61,540,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $12,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $95,000,000.

(5) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $348,610,000.

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $942,288,000, of which not more than $150,800,000 may be obligated or expended for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $40,000,000 (the balance of the amount authorized for construction of family housing at Scott Air Force Base, Illinois).

SEC. 2305. CHILD DEVELOPMENT CENTER RELOCATION, BUCKLEY AIR NATIONAL GUARD BASE, COLORADO.

Section 2301(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1770) is amended in the matter under the heading "COLORADO" by striking out the item relating to Lowry Air Force Base and inserting in lieu thereof the following:

"Buckley Air National Guard Base, $4,550,000.".

SEC. 2306. AUTHORIZED FAMILY HOUSING LEASE PROJECTS.

Subject to section 2835 of title 10, United States Code, the Secretary of the Air Force may enter into contracts for the lease of family housing units in the number of units shown, and at the net present value shown, for the following installations:

(1) Bolling Air Force Base, District of Columbia, 550 units, $54,200,000.

(2) Andrews Air Force Base, Maryland, 550 units, $54,200,000.

SEC. 2307. AUTHORIZED MILITARY HOUSING RENTAL GUARANTEE PROJECTS.

Subject to section 2836 of title 10, United States Code, the Secretary of the Air Force may enter into rental guarantee agreements for military housing in the number of units shown for the following installations:

(1) Elmendorf Air Force Base, Alaska, 302 units.

(2) Homestead Air Force Base, Florida, 308 units.

(3) Patrick Air Force Base, Florida, 409 units

(4) Offutt Air Force Base, Nebraska, 400 units.

SEC. 2308. TERMINATION OF AUTHORITY TO CARRY OUT CERTAIN PROJECTS.

(a) FISCAL YEAR 1992 PROJECTS.—(1) Section 2301 of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102-190; 105 Stat. 1521) is amended—

(A) under the heading "ALASKA", by striking out the item relating to Shemya Air Force Base and inserting in lieu thereof the following:

"Shemya Air Force Base, $10,300,000.";

(B) under the heading "ARIZONA", by striking out the item relating to Luke Air Force Base and inserting in lieu thereof the following:

"Luke Air Force Base, $6,000,000.";

(C) by striking out the following:

"MONTANA

"Conrad Strategic Training Range Site, $700,000.

"Havre Strategic Training Range Site, $700,000.";

(D) under the heading "NEW YORK", by striking out the item relating to Griffiss Air Force Base and inserting in lieu thereof the following:

"Griffiss Air Force Base, $1,500,000.";

(E) under the heading "SOUTH DAKOTA", by striking out the item relating to Ellsworth Air Force Base and inserting in lieu thereof the following:

"Ellsworth Air Force Base, $2,040,000."; and

(F) under the heading "TEXAS", by striking out the item relating to Sheppard Air Force Base and inserting in lieu thereof the following:

"Sheppard Air Force Base, $16,250,000.".

(2) Section 2305(a) of such Act (105 Stat. 1525) is amended—

(A) by striking out "$2,089,303,000" and inserting in lieu thereof "$2,054,713,000"; and

(B) in paragraph (1), by striking out "$778,970,000" and inserting in lieu thereof "$744,380,000".

(b) FISCAL YEAR 1991 PROJECTS.—(1) Section 2301 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101-510; 104 Stat. 1769) is amended—

(A) under the heading "GEORGIA", by striking out the item relating to Robins Air Force Base and inserting in lieu thereof the following:

"Robins Air Force Base, $8,700,000.";

(B) under the heading "MICHIGAN", by striking out the item relating to K.I. Sawyer Air Force Base and inserting in lieu thereof the following:

"K.I. Sawyer Air Force Base, $1,400,000."; and

(C) under the heading "OKLAHOMA", by striking out the item relating to Tinker Air Force Base and inserting in lieu thereof the following:

"Tinker Air Force Base, $53,350,000.".

(2) Section 2302(a) of such Act (104 Stat. 1773) is amended by striking out the item relating to Myrtle Beach Air Force Base, South Carolina.

(3) Section 2304(a) of such Act (104 Stat. 1773) is amended—

(A) by striking out "$1,922,733,000" and inserting in lieu thereof "$1,905,075,000";

(B) in paragraph (1), by striking out "$742,255,000" and inserting in lieu thereof "$724,855,000"; and

(C) in paragraph (7)(A), by striking out "$182,965,000" and inserting in lieu thereof "$182,707,000".

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2402(a)(1) and, in the case of the projects described in paragraphs (2), (3), and (4) of section 2402(c), other amounts appropriated pursuant to authorizations enacted after this Act for such projects, the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Defense Logistics Agency	Defense Reutilization and Marketing Office, March Air Force Base, California	$630,000
	Defense Reutilization and Marketing Office, Hill Air Force Base, Utah	$1,700,000
	Defense General Supply Center, Richmond, Virginia	$12,400,000
Defense Medical Facility Office	Elmendorf Air Force Base, Alaska	$160,000,000
	March Air Force Base, California	$18,000,000
	Fort Leonard Wood, Missouri	$3,000,000
	Fort Bragg, North Carolina	$250,000,000
	Millington Naval Air Station, Tennessee	$15,000,000
Defense Nuclear Agency	Eglin Air Force Base, Florida	$64,000,000
National Security Agency	Fort Meade, Maryland	$6,700,000
Strategic Defense Initiative Organization	Barking Sands, Hawaii	$2,500,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2402(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or location	Amount
Defense Medical Facilities Office	Classified Location	$8,000,000
Defense Nuclear Agency	Johnston Island	$1,500,000
National Security Agency	Classified Locations	$9,590,000
Strategic Defense Initiative Organization	Kwajelein	$22,000,000

SEC. 2402. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of $2,496,896,000 as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $112,200,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $41,090,000.

(3) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987 (division B of the National Defense Authorization Act, 1987 (Public Law 99-661; 100 Stat. 4035)), $27,000,000.

(4) For military construction projects at Portsmouth Naval Hospital, Virginia, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1640)), $16,000,000.

(5) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $12,508,000.

(6) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $10,000,000.

(7) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $61,818,000.

(8) For conforming storage facilities constructed under the authority of section 2404(a) of the Military Construction Authorization Act, 1987 (100 Stat. 4037), $3,580,000.

(9) For base closure and realignment activities as authorized by the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note), $440,700,000.

(10) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2687 note)), $1,743,600,000.

(11) For military family housing functions (including functions described in section 2833 of title 10, United States Code), $28,400,000, of which not more than $23,559,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) AUTHORIZATION OF UNOBLIGATED FUNDS.—Funds appropriated to the Department of Defense for fiscal years before fiscal year 1993 for military construction functions of the Defense Agencies that remain available for obligation on the date of enactment of this Act are hereby authorized to be made available, to the extent provided in appropriation Acts, for military construction projects authorized in section 2401(a) for the Defense Logistics Agency.

(c) Limitation of Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and subsection (b);

(2) $32,000,000 (the balance of the amount authorized for the construction of the Climatic Test Chamber at Eglin Air Force Base, Florida);

(3) $240,000,000 (the balance of the amount authorized for construction of the Army Medical Center at Fort Bragg, North Carolina); and

(4) $135,000,000 (the balance of the amount authorized for construction of the hospital at Elmendorf Air Force Base, Alaska).

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501, in the amount of $221,200,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1992, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $142,627,000; and

(B) for the Army Reserve, $36,505,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $15,715,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $229,679,000; and

(B) for the Air Force Reserve, $34,353,000.

SEC. 2602. REDUCTIONS IN CERTAIN PRIOR YEAR AUTHORIZATIONS OF APPROPRIATIONS FOR AIR FORCE RESERVE MILITARY CONSTRUCTION PROJECTS.

(a) Fiscal Year 1989.—Section 2601(3)(B) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2114) is amended by striking out "$63,600,000" and inserting in lieu thereof "$62,440,000".

(b) Fiscal Year 1990.—Section 2601(3)(B) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1645) is amended by striking out "$35,600,000" and inserting in lieu thereof "$29,050,000".

(c) Fiscal Year 1991.—Section 2601(3)(B) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1781) is amended by striking out "$37,700,000" and inserting in lieu thereof "$33,930,000".

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) Expiration of Authorizations After 3 Years.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 1995; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 1996.

(b) Exception.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before the later of—

(1) October 1, 1995; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 1996 for military construction contracts, land acquisition, family housing projects and facilities, or contributions to the North Atlantic Treaty Organization Infrastructure program.

SEC. 2702. EFFECTIVE DATES.

Titles XXI, XXII, XXIII, XXIV, XXV, and XXVI shall be in effect as of October 1, 1992, or the date of enactment of a Military Construction Authorization Act for Fiscal Year 1993, whichever is later.

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. AUTHORITY TO CARRY OUT ENERGY CONSERVATION CONSTRUCTION PROJECTS.

(a) Authority.—Section 2865 of title 10, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) The Secretary of Defense may carry out a military construction project for energy conservation not previously specifically authorized by law if funds previously authorized to be appropriated for military construction were authorized to be made available for such project. Such project shall be carried out using funds appropriated or otherwise made available for military construction projects.".

(b) Technical Amendment.—Subsection (e) of such section, as so redesignated, is amended by striking out "Beginning with fiscal year 1991 and by no later than December 31, 1991, and of each year thereafter," and inserting in lieu thereof "Not later than December 31 of each year,".

SEC. 2802. CLARIFICATION OF AUTHORITY TO LEASE NON-EXCESS PROPERTY.

(a) Clarification.—Subsection (b)(4) of section 2667 of title 10, United States Code, is amended by inserting ", in the case of the lease of real property," after "shall provide".

(b) Requirements Relating To Lease of Certain Equipment.—Such section is further amended by adding at the end the following new subsection:

"(g)(1) A weapons system or other equipment of the armed forces may not be exhibited at an international trade show or similar exhibition, and may not be transported to such show or exhibition for that purpose, unless the system or equipment is leased to the manufacturer of that system or equipment for that purpose. Each such lease shall provide for the payment by the lessee of consideration in an amount that is not less than the fair market value of the lease interest (including the costs incurred by the United States for transportation), as determined by the Secretary of the military department concerned.

"(2) Under regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may waive the application of paragraph (1) to the exhibition of a weapon system or other equipment at an international trade show or similar exhibition if the Secretary of that military department determines that the exhibition of that system or equipment at that trade show or other exhibition is in the national security interests of the United States.".

SEC. 2803. INCREASED THRESHOLD FOR MINOR CONSTRUCTION CARRIED OUT WITH OPERATION AND MAINTENANCE FUNDS.

(a) Increased Threshold.—Subsection (c) of section 2805 of title 10, United States Code, is amended in paragraph (1) by inserting "or for any unspecified military construction project commenced in fiscal year 1993, 1994, or 1995, not more than $1,000,000" before the period at the end.

(b) Report Relating to Construction.—Such subsection is amended by adding at the end the following new paragraph:

"(3) Not later than January 15 of the year following each of fiscal years 1993, 1994, and 1995, the Secretary of Defense shall submit to the Congress a report on any military construction projects carried out under this subsection during the preceding fiscal year whose cost exceeded $300,000.".

SEC. 2804. MORATORIUM ON OBLIGATION OF FUNDS FOR CONSTRUCTION OR ACQUISITION OF MILITARY FAMILY HOUSING.

(a) Restriction.—None of the funds appropriated or otherwise made available to a military department in fiscal year 1993 may be expended for contracts referred to in subsection (b) until the Secretary of that military department has solicited bids for the following:

(1) Contracts for the lease of military family housing units under section 2835 of title 10, United States Code, for—

(A) projects authorized under section 2207 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1519); and

(B) projects authorized under section 2307 of such Act (105 Stat. 1526).

(2) Military housing rental guarantee agreements under section 2836 of such title, for—

(A) projects authorized under section 2107 of such Act (105 Stat. 1512);

(B) projects authorized under section 2208 of such Act (105 Stat. 1520); and

(C) projects authorized under section 2308 of such Act (105 Stat. 1527).

(b) Applicability.—The limitation in subsection (a) applies to contracts for the construction, acquisition, or lease of military family housing (other than contracts for the replacement of existing Government-owned housing or the renewal of an expiring lease) that are entered into on or after October 1, 1992.

SEC. 2805. AUTHORITY TO CONSTRUCT REPLACEMENT FAMILY HOUSING UNITS.

(a) Authority to Construct Replacement Units.—Section 2825 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new subsection (c):

"(c)(1) The Secretary concerned may construct a replacement for a single family housing unit if—

"(A) the improvement of that housing unit has been authorized by law;

"(B) the Secretary determines that the improvement is no longer cost-effective by reason of a change in circumstances or in requirements relating to the unit; and

"(C) a period of 21 days elapses after the date on which the Secretary submits to the committees referred to in subsection (b)(1) a notice of the determination of the Secretary under subparagraph (B) and an economic analysis demonstrating that the construction under this subsection will be cost effective.

"(2) The amount that may be expended to construct a replacement unit under this subsection may not exceed the amount that is otherwise available to carry out the previously authorized improvement of the unit.".

(b) Conforming Amendment.—Section 2822(b) of such title is amended by adding at the end the following new paragraph:

"(5) Housing units constructed under section 2825(c) of this title.".

Subtitle B—Defense Base Closure and Realignment

SEC. 2821. BASE CLOSURE ACCOUNT MANAGEMENT FLEXIBILITY.

(a) Management Flexibility Under 1988 Act.—(1) Section 207(a)(2) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note) is amended—

(A) by inserting "(A)" after "(2)";

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(C) by amending clause (ii), as so redesignated, to read as follows:

"(ii) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose or funds contained in the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); and"; and

(D) by adding at the end the following new subparagraph:

"(B) The Secretary shall transmit written notice of, and justification for, each transfer under subparagraph (A)(ii) to the appropriate committees of Congress.".

(2) Section 207(a)(3)(A) of such Act is amended by striking out "204(a)" and inserting in lieu thereof "204".

(3)(A) Section 207(a)(5) of such Act is amended by striking "the authority of the Secretary to carry out a closure or realignment under this title" and inserting in lieu thereof "environmental restoration, community economic adjustment assistance, and disposal of property at bases selected for closure under this title".

(B) Section 207(a)(6) of such Act is amended by striking out "the authority of the Secretary to carry out a closure or realignment under this title," and inserting in lieu thereof "the activities referred to in paragraph (5),".

(b) Management Flexibility Under 1990 Act.—(1) Section 2906(a)(2) of the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510; 10 U.S.C. 2687 note) is amended—

(A) by inserting "(A)" after "(2)";

(B) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(C) by amending clause (ii), as so redesignated, to read as follows:

"(ii) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose or funds contained in the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note); and"; and

(D) by adding at the end the following new subparagraph:

"(B) The Secretary shall transmit written notice of, and justification for, each transfer under subparagraph (A)(ii) to the congressional defense committees.".

(2) Section 2906(b)(1) of such Act is amended by striking out "2905(a)" and inserting in lieu thereof "2905".

(3)(A) Section 2906(c)(2) of such Act is amended by striking out "after the termination of the Commission" and inserting in lieu thereof "after the termination of environmental restoration, community economic adjustment assistance, and disposal of property at bases selected for closure under this part".

(B) Section 2906(c)(3) of such Act is amended by striking out "after the termination of the Commission" and inserting in lieu thereof "after the termination of the activities referred to in paragraph (2)".

SEC. 2822. USE OF PROCEEDS OF THE TRANSFER OR DISPOSAL OF COMMISSARY STORE AND OTHER FACILITIES AND PROPERTY.

(a) Base Closures Under 1988 Act.—Section 204(b)(4)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note) is amended to read as follows:

"(C)(i) If any real property or facility acquired, constructed, or improved (in whole or in part) with commissary store funds or nonappropriated funds is transferred or disposed of in connection with the closure or realignment of a military installation under this title, a portion of the proceeds of the transfer or other disposal of property on that installation shall be deposited in a reserve account established in the Treasury to be administered and used by the Secretary for the purpose of acquiring, constructing, and improving—

"(I) commissary stores; and

"(II) real property and facilities for nonappropriated fund instrumentalities.

"(ii) The amount deposited under clause (i) shall be equal to the depreciated value of the investment made with such funds in the acquisition, construction, or improvement of that particular real property or facility. The depreciated value of the investment shall be computed in accordance with regulations prescribed by the Secretary of Defense.

"(iii) As used in this subparagraph:

"(I) The term 'commissary store funds' means funds received from the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of title 10, United States Code.

"(II) The term 'nonappropriated funds' means funds received from a nonappropriated fund instrumentality.

"(III) The term 'nonappropriated fund instrumentality' means an instrumentality of the United States under the jurisdiction of the Armed Forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.".

(b) Base Closures Under 1990 Act.—Section 2906(d) of the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510; 10 U.S.C. 2687 note) is amended to read as follows:

"(d) Disposal or Transfer of Commissary Stores and Property Purchased With Nonappropriated Funds.—(1) If any real property or facility acquired, constructed, or improved (in whole or in part) with commissary store funds or nonappropriated funds is transferred or disposed of in connection with the closure or realignment of a military installation under this part, a portion of the proceeds of the transfer or other disposal of property on that installation shall be deposited in the reserve account established under section 204(b)(4)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note).

"(2) The amount so deposited shall be equal to the depreciated value of the investment made with such funds in the acquisition, construction, or improvement of that particular real property or facility. The depreciated value of the investment shall be computed in accordance with regulations prescribed by the Secretary of Defense.

"(3) The Secretary may use amounts in the account (in such an aggregate amount as is provided in advance in appropriation Acts) for the purpose of acquiring, constructing, and improving—

"(A) commissary stores; and

"(B) real property and facilities for nonappropriated fund instrumentalities.

"(4) As used in this subsection:

"(A) The term 'commissary store funds' means funds received from the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of title 10, United States Code.

"(B) The term 'nonappropriated funds' means funds received from a nonappropriated fund instrumentality.

"(C) The term 'nonappropriated fund instrumentality' means an instrumentality of the United States under the jurisdiction of the Armed Forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.".

SEC. 2823. AUTHORITY TO TRANSFER FUNDS TO HOMEOWNERS ASSISTANCE PROGRAM.

Section 2832(b) of title 10, United States Code, is amended to read as follows:

"(b)(1) Subject to paragraphs (2) and (3), and notwithstanding subsection (i) of section 1013 of the Act referred to in subsection (a), the Secretary of Defense may transfer to the fund established pursuant to subsection (d) of such section 1013 any funds available for obligation from—

"(A) the Department of Defense Base Closure Account established by section 207 of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note); and

"(B) the Department of Defense Base Closure Account 1990 established by section 2906 of the Defense Base Closure and Realignment Act of 1990 (Public Law 101-510; 10 U.S.C. 2687 note).

"(2) Any funds transferred under this subsection shall be available for obligation and expenditure for the same purposes that funds appropriated to the fund established under subsection (d) of such section 1013 are available.

"(3) Amounts may be transferred under paragraph (1) only after the date on which the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives receive from the Secretary written notice of, and justification for, the transfer.".

SEC. 2824. DEMONSTRATION PROJECT FOR THE USE OF A NATIONAL RELOCATION CONTRACTOR TO ASSIST THE DEPARTMENT OF DEFENSE.

(a) USE OF NATIONAL RELOCATION CONTRACTOR.—Subject to the availability of appropriations therefor, the Secretary of Defense shall enter into a 1-year contract with a private relocation contractor operating on a nationwide basis in order to test the cost-effectiveness of using national relocation contractors to administer the Homeowners Assistance Program.

(b) REPORT ON CONTRACT.—Not later than 1 year after the date on which the Secretary of Defense enters into a contract under subsection (a), the Comptroller General shall submit to Congress a report containing the Comptroller General's evaluation of the effectiveness of using the national contractor for administering the program referred to in subsection (a). The report shall compare the cost and efficiency of such administration with the cost and efficiency of (1) the program carried out by the Corps of Engineers using its own employees, and (2) the use of contracts with local relocation companies at military installations being closed or realigned.

SEC. 2825. REVISION OF REQUIREMENTS RELATING TO BUDGET DATA ON BASE CLOSURES.

(a) COVERED FUNDING REQUESTS.—(1) Subsection (a) of section 2822 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1546; 10 U.S.C. 2687 note) is amended—

(A) by striking out "each military construction project" and inserting in lieu thereof "military construction relating to the closure or realignment of the installation"; and

(B) by striking out "the cost of such project" and inserting in lieu thereof "the cost of such construction".

(2) Subsection (b) of such section is amended—

(A) by striking out "of a military construction project" and inserting in lieu thereof "of military construction relating to the closure or realignment of an installation"; and

(B) by striking out "the project" and inserting in lieu thereof "the construction".

(b) INVESTIGATION BY INSPECTOR GENERAL.—Subsection (c) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "each military construction project" and inserting in lieu thereof "the military construction"; and

(B) by striking out "the project" and inserting in lieu thereof "such construction"; and

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph (2):

"(2) The Inspector General shall submit to the congressional defense committees a report describing the results of each investigation conducted under paragraph (1).".

SEC. 2826. CHANGE IN DATE OF REPORT OF COMPTROLLER GENERAL TO CONGRESS AND DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

Section 2903(d)(5)(B) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by striking out "May 15 of each year" and inserting in lieu thereof "April 15 of each year".

SEC. 2827. ANNUAL REPORT RELATING TO OVERSEAS MILITARY FACILITY INVESTMENT RECOVERY ACCOUNT.

Section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2687 note) is amended by adding at the end the following new subsection:

"(e) REPORT ON SPECIAL ACCOUNT.—(1) Not later than January 15 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the operations of the Department of Defense Overseas Military Facility Investment Recovery Account during the preceding fiscal year. The report shall include the following:

"(A) The amount of each deposit in the Account during that fiscal year, and the source of the amount.

"(B) The balance in the Account at the end of that fiscal year.

"(C) The amounts expended from the Account by each military department during that fiscal year.

"(D) With respect to each military installation for which money was deposited in the Account as a result of the release of real property or improvements of the installation to a host country during that fiscal year—

"(i) the total amount of the investment of the United States in the installation, expressed in terms of constant dollars of that fiscal year;

"(ii) the depreciated value (as determined by the Secretary of a military department under regulations prescribed by the Secretary of Defense) of the real property and improvements that were released; and

"(iii) the explanation of the Secretary for any difference between the amount paid to the United States for the real property and improvements and the depreciated value (as so determined) of that real property and improvements.

"(2) The Secretary of Defense shall prescribe regulations to carry out this subsection.".

Subtitle C—Land Transactions

SEC. 2831. MODIFICATION OF LAND EXCHANGE, SAN DIEGO, CALIFORNIA.

Section 837 of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1529) is amended—

(1) in subsection (a) by striking out "or the San Diego Energy Recovery Project, a joint powers agency of the city and county of San Diego (hereinafter in this section referred to as 'SANDER'),";

(2) by striking out subsection (c);

(3) by redesignating subsections (d) and (e) as subsections (f) and (g), respectively;

(4) by inserting after subsection (b) the following new subsections:

"(c)(1) In lieu of the conveyance of the 120 acres of land referred to in subsection (b) as consideration for the conveyance under subsection (a), the Secretary of the Navy may permit the City—

"(A) to convey to the Secretary other real property suitable for use, as determined by the Secretary, for military family housing;

"(B) to pay the Secretary an amount sufficient to satisfy the requirement referred to in the first sentence of subsection (d); or

"(C) to make both the conveyance described in subparagraph (A) and a payment described in subparagraph (B).

"(2) The Secretary may permit the alternative conveyance under paragraph (1) only if the Secretary determines that the City will use the 120 acres of land for purposes associated with the clean water program of the City that are compatible with the mission and operations of the adjacent Naval Air Station, Miramar.

"(d) The total value of the consideration provided to the United States under subsections (b) and (c) shall be at least equal to the fair market value of the lands conveyed under subsection (a), as determined by the Secretary. The City shall pay any difference to the United States.

"(e)(1) The Secretary may use any amounts received under this section solely for the purpose of acquiring in the area of San Diego, California, a suitable site for military family housing or for the purpose of constructing or acquiring by direct purchase not more than 200 units of military family housing in that area.

"(2) Any funds received by the Secretary under this section and not so used within 30 months after receipt shall be deposited into the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)).''; and

(5) in subsection (e), as redesignated by paragraph (3), by striking out "or SANDER or by the City and SANDER".

SEC. 2832. LAND ACQUISITION AND EXCHANGE, MYRTLE BEACH AIR FORCE BASE AND POINSETT WEAPONS RANGE, SOUTH CAROLINA.

(a) LAND CONVEYANCE.—The Secretary of the Air Force may convey to the State of South Carolina all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 3,744 acres and comprising the Myrtle Beach Air Force Base, South Carolina, or any portion of that parcel, together with any improvements thereon.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the State of South Carolina shall—

(A) convey to the United States all right, title, and interest of the State of South Carolina in and to the parcels of land (together with any improvements thereon) described to in paragraph (2); and

(B) pay to the United States an amount equal to the amount, if any, by which the fair market value of the land conveyed under subsection (a) exceeds the fair market value of the land conveyed under subparagraph (A).

(2) The parcels of land referred to in paragraph (1) are the following:

(A) The Poinsett Weapons Range, a parcel consisting of approximately 8,358 acres that is located in Sumter County, South Carolina, and is currently leased by the Air Force from the State of South Carolina.

(B) Other parcels contiguous to the Poinsett Weapons Range that—

(i) are owned by the State of South Carolina, including parcels acquired by the State of South Carolina for the purposes of satisfying the requirements of this subsection; and

(ii) the Secretary determines are necessary for the Air Force to improve or enlarge the configuration of the Poinsett Weapons Range to suit the needs of the Air Force as a bombing range.

(c) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the parcels of real property to be conveyed pursuant to subsections (a) and (b)(1)(A). Such determinations shall be final.

(d) USE OF FUNDS.—Any funds paid to the Secretary under subsection (b)(1)(B) shall be deposited in the Department of Defense Base Closure Account 1990 established under section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2687 note)) and shall be available for use in accordance with subsection (b) of such section 2906.

(e) RESERVATION FOR HARVESTING FOREST PRODUCTS.—The Secretary may accept the conveyance of the parcel of real property referred to in subsection (b)(1)(A) subject to a reservation permitting the harvesting of forest products on the parcel by the South Carolina State Forestry Commission. A reservation granted under this subsection shall be subject to such conditions as the Secretary may prescribe.

(f) DESCRIPTIONS OF PROPERTY.—The exact acreages and legal descriptions of the parcels of real property to be conveyed pursuant to subsections (a) and (b)(1)(A) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the State of South Carolina.

(g) REVERSIONARY INTEREST.—The major portion of the land to be conveyed by the State of South Carolina under subsection (b)(2) was originally conveyed to the South Carolina State Forestry Commission by the United States under the Bankhead-Jones Farm Tenant Act (50 Stat. 522; 7 U.S.C. 1000 et seq.), subject to reservation of mineral rights and subject also to a reversion of title if the State ceased to use such properties for public purposes. The conveyance of such land to the United States under subsection (b)(2) shall be deemed to be in compliance with the public purpose covenants imposed upon conveyance to the South Carolina State Forestry Commission.

(h) AUTHORITY TO ACQUIRE ADDITIONAL LAND.—Subject to section 2662(a) of title 10, United States Code, and to the extent provided in appropriations Acts, the Secretary may acquire such additional parcels of land in the vicinity of Poinsett Weapons Range, South Carolina, as the Secretary determines are necessary to enhance the usefulness of the Poinsett Weapons Range as a bombing range.

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the conveyances under this section that the Secretary determines appropriate to protect the interests of the United States.

SEC. 2833. MODIFICATION OF LAND EXCHANGE, BURLINGTON, VERMONT.

Section 2387 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1800) is amended—

(1) in subsection (b), by striking out "the Burlington, Vermont, area" and inserting in lieu thereof "the State of Vermont";

(2) in subsection (c)(1)(A), by striking out "$800,000" and inserting in lieu thereof "$600,000, with such payment to be made (before the date of the conveyance authorized by subsection (a)) in a lump sum, in yearly installments, or under such other terms and conditions as the Secretary determines to be in the interest of the United States";

(3) in subsection (c)(2), by striking out "January 1, 1993," and inserting in lieu thereof "June 1, 1995,"; and

(4) by adding at the end of subsection (c) the following new paragraph:

"(3) The Secretary may permit the City of Burlington, Vermont, to make alterations or improvements to the property referred to in subsection (a) before the Secretary conveys the property to the City. The making of such alterations and improvements pursuant to this paragraph shall be subject to terms and conditions that the Secretary determines to be appropriate and shall be subject to the prior approval of the Secretary.".

SEC. 2834. LEASE OF PROPERTY, NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease to the Union Pacific Railroad Company (in this section referred to as the "Company") not more than 15 acres of real property, together with improvements thereon, located at the Naval Supply Center, Oakland, California.

(b) TERM OF LEASE; RESTRICTIONS ON USE.—The lease (1) shall be for an initial period of not more than 25 years, (2) shall contain an option for the Company to extend the lease for an additional period of not more than 25 years, and (3) shall contain the restriction that the Company use the leased property only for freight transportation purposes.

(c) CONSIDERATION.—(1) As consideration for the lease of the real property under subsection (a), the Company—

(A) shall pay to the Navy the long-term fair market rental value of the leased property; and

(B) may be required to furnish additional consideration as provided in paragraph (2).

(2) The Secretary may require that the lease include a provision for the Company—

(A) to pay the Navy an amount (as determined by the Secretary) for the costs of replacing at the Naval Supply Center, Oakland, California, the facilities vacated by the Navy on the leased property or to construct the replacement facilities for the Navy; and

(B) to pay the Navy an amount (as so determined) for the costs of relocating Navy operations from the vacated facilities to the replacement facilities.

(d) USE OF FUNDS.—(1) Section 2667(d) of title 10, United States Code, shall apply to amounts paid under subsection (c)(1)(A) of this section.

(2) The Secretary may use amounts received under subsection (c)(2) to pay for constructing new facilities, or making modifications to existing facilities, that are necessary to replace facilities vacated by the Navy on the leased property and for relocating operations of the Navy from the vacated facilities to the replacement facilities.

(e) AUTHORITY TO DEMOLISH.—The Secretary may authorize the Company to demolish existing facilities on the leased property and, consistent with the restriction required by subsection (b)(3), construct new facilities on the property for the use of the Company.

(f) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the lease authorized under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2835. AUTHORITY TO LEASE PROPERTY AT NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

(a) LEASE AUTHORIZED.—The Secretary of the Navy may lease to the City of Oakland, California, or the Port of Oakland, California (in this section referred to as the "City" and the "Port", respectively), not more than 195 acres of real property, together with improvements thereon, located at the Naval Supply Center, Oakland, California.

(b) TERMS OF LEASE; RESTRICTION ON USE.—The lease (1) shall be for an initial period of not more than 25 years, (2) shall contain an option to extend the lease for an additional period of not more than 25 years, and (3) shall contain the restriction that the City or the Port (as the case may be) use the leased property in a manner consistent with Navy operations conducted at the Naval Supply Center.

(c) CONSIDERATION.—(1) As consideration for the lease of the real property under subsection (a), the City or the Port (as the case may be)—

(A) shall pay to the Navy the long-term fair market rental value of the leased property; and

(B) may be required to furnish additional consideration as provided in paragraph (2).

(2) The Secretary may require that the lease include a provision for the City or the Port (as the case may be)—

(A) to pay the Navy an amount (as determined by the Secretary) for the costs of replacing at the Naval Supply Center, Oakland, California, the facilities vacated by the Navy on the leased property or to construct the replacement facilities for the Navy; and

(B) to pay the Navy an amount (as so determined) for the costs of relocating Navy operations from the vacated facilities to the replacement facilities.

(d) LIMITATION ON ENTRY INTO LEASE.—The Secretary may not enter into the lease authorized by subsection (a) until 21 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of the terms of the proposed lease and a description of the consideration that the Secretary expects to receive under the lease.

(e) USE OF FUNDS.—(1) Section 2667(d) of title 10, United States Code, shall apply to amounts paid under subsection (c)(1)(A) of this section.

(2) The Secretary may use amounts received under subsection (c)(2) to pay for constructing new facilities, or making modifications to existing facilities, that are necessary to replace facilities vacated by the Navy on the leased property and for relocating operations of the Navy from the vacated facilities to the replacement facilities.

(f) AUTHORITY TO DEMOLISH.—The Secretary may authorize the City or the Port (as the case may be) to demolish existing facilities on the leased property and, consistent with the restriction required by subsection (b)(3), construct new facilities on the property for the use of the City or the Port.

(g) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with lease authorized by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(h) REPEAL OF SUPERSEDED AUTHORITY.—Section 2338 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1225) is repealed.

SEC. 2836. GRANT OF EASEMENT AT NAVAL AIR STATION MIRAMAR, SAN DIEGO, CALIFORNIA.

(a) AUTHORITY TO GRANT EASEMENT.—Subject to subsection (b), the Secretary of the Navy may grant to San Diego Gas and Electric Company (in this section referred to as "SDG&E") an easement on a parcel of real property consisting of approximately 120 acres that is located in the northeast portion of Naval Air Station Miramar, California (in this section referred to as the "Air Station"). The purpose of the easement is to enable SDG&E to construct, operate, and maintain an electric transmission substation and associated electric transmission lines.

(b) CONSIDERATION.—(1) In consideration for the grant of an easement to SDG&E under subsection (a), SDG&E shall pay to the United States an amount that is not less than the fair market value of that easement, as determined by the Secretary.

(2) The Secretary may accept from SDG&E, in lieu of payment of up to 50 percent of the agreed consideration, the following:

(A) The establishment of an alternative source of 12 kilovolts of electric power for the Air Station.

(B) Such improvements to the electrical distribution system of the Air Station as the Secretary designates for the purposes of this paragraph.

(c) USE OF PROCEEDS.—(1) The amounts of consideration paid under subsection (b) shall be deposited in the special account established for the Department of the Navy under section 2667(d)(1)(A) of title 10, United States Code.

(2) To the extent provided in appropriations Acts, of the sums in such account—

(A) there shall be available for facility maintenance and repair and for environmental restoration by the Department of the Navy the amount equal to 50 percent of the total agreed consideration for the grant of the easement under subsection (a); and

(B) there shall be available for facility maintenance and repair or environmental restoration of the Air Station, the amount equal to the excess (if any) of 50 percent of such total consideration over the amount equal to the sum of—

(i) the total cost incurred by SDG&E for the establishment of the alternative power source pursuant to subsection (b)(2)(A); and

(ii) the total cost of the improvements made by SDG&E pursuant to subsection (b)(2)(B).

(d) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property subject to the easement granted under this section shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by SDG&E.

(e) ADDITIONAL TERMS.—The Secretary may require any additional terms and conditions in connection with the grant of an easement under this section that the Secretary considers appropriate to protect the interests of the United States.

SEC. 2837. LAND CONVEYANCE, NAVAL RESERVE CENTER, SANTA BARBARA, CALIFORNIA.

(a) CONVEYANCE.—The Secretary of the Navy may convey to the City of Santa Barbara, California (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property consisting of approximately one acre, including improvements thereon, the location of the Santa Barbara Naval Reserve Center.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to the lesser of—

(1) $2,400,000; or

(2) the cost incurred by the Secretary in constructing a naval reserve center to replace the naval reserve center conveyed under subsection (a).

(c) CONDITIONS OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the following conditions:

(1) That the City enter into an agreement with the Secretary of Transportation for the City—

(A) to permit, at no cost to the Federal Government, the Coast Guard to remain in the space currently occupied by the Coast Guard in the facility referred to in subsection (a); or

(B) to provide the Coast Guard, at no cost to the Federal Government, with space in a facility acceptable to the Secretary of Transportation that is sufficient to replace the space referred to in subparagraph (A) from which the Coast Guard is displaced by the City.

(2) That the City enter into an agreement with the Administrator of the National Oceanic and Atmospheric Administration for the City—

(A) to permit, at no cost to the Federal Government, the National Oceanic and Atmospheric Administration (in this section referred to as "NOAA") to remain until May 1, 1993 (or a later date agreed to by the City and the Administrator of the National Oceanic and Atmospheric Administration), in the space currently occupied by NOAA in the facility referred to in subsection (a); or

(B) to provide NOAA until such date, at no cost to the Federal Government, with space in a facility acceptable to the Administrator of the National Oceanic and Atmospheric Administration that is sufficient to replace the space referred to in subparagraph (A) from which NOAA is displaced by the City.

(3) That the City enter into an agreement with the Secretary of the Navy for the City to permit the Navy to use, at no cost to the Federal Government, the naval reserve center referred to in subsection (a) until the replacement facility to be constructed in accordance with subsection (d) is suitable for occupancy by the Navy, as determined by the Secretary.

(d) REPLACEMENT CENTER.—The Secretary of the Navy shall use the amount paid by the City under subsection (b) to construct a naval reserve center to replace the naval reserve center conveyed pursuant to subsection (a). Such replacement center shall be constructed at the Naval Construction Battalion Center, Port Hueneme, California, or at another location determined by the Secretary to be suitable for such a center.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary of the Navy. The cost of such survey shall be borne by the City.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with the conveyance and agreements under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2838. CONVEYANCE OF WASTE WATER TREATMENT PLANT, FORT RITCHIE, MARYLAND.

(a) IN GENERAL.—The Secretary of the Army may convey to the Washington County, Maryland, Sanitary District (in this section referred to as the "Sanitary District") all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 4.5 acres, including a waste water treatment facility and other improvements located thereon, located at Fort Ritchie, Maryland.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a) the Sanitary District shall provide the Army with disposal services, waste water treatment services, and other related services at the facility. The value of the services provided the Army shall be equal to the fair market value of the property conveyed pursuant to subsection (a), as determined jointly by the Secretary and the Sanitary District.

(c) CONDITIONS.—The conveyance authorized under subsection (a) shall be subject to the following conditions:

(1) That the Sanitary District reserve 70 percent of the operating capacity of the waste water treatment facility referred to in subsection (a) for use by the Army in the event that such use is necessitated by a realignment of, or change in the operations of, the Army at Fort Ritchie, Maryland.

(2) That the Sanitary District ensure the compliance of the waste water treatment facility with applicable environmental laws, including the construction of any improvement and the satisfaction or any permit or license requirements that may be necessary to ensure such compliance.

(3) That the cost of the construction of the improvements referred to in paragraph (2) be borne by the Sanitary District and the Army according to the pro rata share of the operating capacity of the waste water treatment facility reserved to the Army and the Sanitary District, respectively.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the Sanitary District.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2839. ACQUISITION OF INTERESTS IN LAND, NAVAL RADIO STATION, JIM CREEK, WASHINGTON.

(a) AUTHORITY TO ACQUIRE.—The Secretary of the Navy may acquire all right, title, and interest (including timber rights) of any party in and to a parcel of land consisting of approximately 225 acres, or any portion of the parcel, located in Snohomish County, Washington, and comprising a portion of Naval Radio Station, Jim Creek, Washington.

(b) CONSIDERATION.—(1) As consideration for an interest acquired by the Secretary pursuant to the authority in subsection (a), the Secretary—

(A) shall pay the person conveying that interest, out of funds available to the Secretary for the acquisition of interests in real property (including funds available for the Legacy Resource Management Program), the amount determined under paragraph (2);

(B) shall, with the consent of that person, convey to such person all right, title, and interest of the United States in and to a quantity of merchantable timber at the Naval Radio Station, Jim Creek, determined under paragraph (2); or

(C) shall, with the consent of such person, make such a payment and such a conveyance to that person.

(2) The total of the amount paid a person pursuant to paragraph (1)(A), if any, and the fair market value of the quantity (to the extent of the interest) of merchantable timber conveyed to that person pursuant to paragraph (1)(B), if any, shall be equal to the fair market value of the property interest acquired from that person under subsection (a).

(c) OPTION TO PURCHASE.—The Secretary may purchase an option to purchase a property interest authorized to be acquired under subsection (a). The Secretary may use funds referred to in subsection (b)(1)(A) for the purchase of such an option.

(d) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the property interests acquired under subsection (a) and the merchantable timber, if any, conveyed under subsection (b). Such determinations shall be final.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of each parcel of real property an interest in which is acquired under subsection (a) or conveyed under subsection (b) shall be determined by a survey that is satisfactory to the Secretary and is conducted at no cost to the United States (except that the Secretary shall bear such cost in the case of a gift to the United States).

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the acquisitions authorized under subsection (a) and the conveyances, if any, authorized under subsection (b) that the Secretary determines necessary to protect the interests of the United States.

SEC. 2840. LAND CONVEYANCE, WILLIAMS AIR FORCE BASE, ARIZONA.

(a) IN GENERAL.—(1) The United States may acquire by condemnation or otherwise—

(A) all right, title, and interest of the State of Arizona (including any mineral rights) in and to the trust lands of the State of Arizona described in paragraph (2); and

(B) any trust mineral estate of the State of Arizona located beneath the surface estates of the United States in the lands described in paragraph (3).

(2) The trust lands referred to in paragraph (1)(A) are as follows:

(A) A parcel or parcels consisting of approximately 81,121 acres located in the Goldwater Aerial Gunnery Range, Yuma County and Maricopa County, Arizona, and used by the Air Force for activities relating to aerial gunnery and bombing practice.

(B) A parcel or parcels consisting of approximately 7,563 acres located in the Yuma Test Station, Yuma County, Arizona, and used by the Army for activities relating to field artillery testing.

(C) A parcel or parcels consisting of approximately 1,537 acres located in the Fort Huachuca East Range, Cochise County, Arizona, and used by the Army for activities relating to field training exercises.

(D) A parcel or parcels consisting of approximately 133 acres located in Davis-Monthan Air Force Base, Tucson, Arizona.

(E) A parcel consisting of approximately five acres located in section 14, T4N, R3E of the State of Arizona, Phoenix, Arizona, and used as part of the Arizona National Memorial Cemetery.

(3) The lands referred to in paragraph (1)(B) are as follows:

(A) A parcel or parcels consisting of approximately 50,355 acres located in the Goldwater Aerial Gunnery Range, Arizona.

(B) A parcel or parcels consisting of approximately 12,781 acres located in the Yuma Test Station, Arizona.

(C) A parcel or parcels consisting of approximately 12,943 acres located in the Fort Huachuca East Range, Arizona.

(b) CONSIDERATION.—As consideration for the acquisition by the United States of Arizona trust lands under paragraph (1)(A) of subsection (a) and any mineral rights under paragraph (1)(B) of that subsection, the Secretary of the Air Force shall convey to the State of Arizona all right, title, and interest of the United States in and to a parcel of real property located at Williams Air Force Base, Arizona, together with any improvements thereon, that is approximately equal in fair market value to the fair market value of the property and mineral rights acquired under that subsection.

(c) CONDITIONS.—The Secretary of the Air Force may make the conveyance described in subsection (b) only if—

(1) the fair market value of the real property and mineral rights acquired by the United States under subsection (a) is at least equal to the fair market value of the property conveyed by the Secretary of the Air Force under subsection (b);

(2) the conveyance of the Secretary of the Air Force to the State of Arizona under subsection (b) is accepted as full consideration for the conveyance of property and mineral rights to the United States under subsection (a) and terminates all right, title, and interest of all parties other than the United States in and to the property and mineral rights conveyed to the United States under subsection (a); and

(3) the Secretary of the Air Force has complied with all environmental protection, remediation, and restoration laws that are applicable to the disposal of the real property at Williams Air Force Base, Arizona, that is conveyed to the State of Arizona under subsection (b).

(d) RESTRICTION ON USE OF CERTAIN PROPERTY.—The Secretary of Veterans Affairs shall use as a cemetery any property referred to in paragraph (2)(E) of subsection (a) that is acquired by the United States under that subsection. Such use shall be subject to the provisions of chapter 24 of title 38, United States Code.

(e) LIMITATION ON CONVEYANCE AUTHORITY.—The conveyance of real property described in subsection (b) may not be made until adequate prior opportunity has been provided for the disposition of such property as provided in section 2905(b) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), except the requirement for disposition by public advertising.

(f) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary of the Air Force shall determine the fair market value of the parcels of real property to be acquired pursuant to subsection (a)(1)(A), the mineral rights to be acquired pursuant to subsection (a)(1)(B), and the parcel of real property to be conveyed pursuant to subsection (b). Such determinations shall be final.

(g) DESCRIPTIONS OF PROPERTY.—The exact acreages and legal descriptions of the parcels of real property to be acquired pursuant to subsection (a)(1)(A), the parcels of real property referred to in subsection (a)(1)(B), and the parcels of real property conveyed pursuant to subsection (b) shall be determined by surveys that are satisfactory to the Secretary of the Air Force and the State of Arizona. The cost of such surveys shall be borne by the State of Arizona.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require any additional terms and conditions in connection with the conveyance and acquisitions under this section that the Secretary determines appropriate to protect the interests of the United States.

SEC. 2841. REAL PROPERTY CONVEYANCE, NAVAL STATION PUGET SOUND, EVERETT, WASHINGTON.

(a) IN GENERAL.—(1) The Secretary of the Navy may convey to any person all right, title, and interest of the United States in and to the parcels of land described in paragraph (2).

(2) The parcels of land referred to in paragraph (1) are the following parcels of land located in the State of Washington:

(A) A parcel of land consisting of approximately 68 acres and comprising the naval family housing area at Paine Field, Snohomish County, Washington, together with improvements thereon.

(B) A parcel of land consisting of approximately 11 acres and comprising a portion of the naval family housing area at Pier 91, Seattle, Washington, together with improvements thereon.

(C) A parcel of land consisting of approximately 1 acre and comprising a portion of the naval family housing area at Pier 91, Seattle, Washington, that is not contiguous to the parcel referred to in subparagraph (B), together with improvements thereon.

(b) CONSIDERATION.—(1) In consideration for the conveyance of a parcel of land authorized in subsection (a), the person accepting the conveyance shall—

(A) pay the Secretary an amount equal to the fair market value of the parcel and any improvements located thereon; or

(B) convey to the United States all right, title, and interest of the person in and to a parcel of land, together with any improvements thereon, located in the area of the Naval Station Puget Sound, Everett, Washington, that the Secretary determines to be suitable for family housing for Naval Station Puget Sound and, if the fair market value of the parcel conveyed by the United States exceeds the fair market value of the parcel conveyed to the United States, pay to the Secretary the amount equal to such excess.

(2) The Secretary shall determine the fair market value of the parcels of land conveyed pursuant to subsection (a)(1) and the parcels of land, if any, conveyed pursuant to paragraph (1)(B).

(c) NOTICE TO COMMITTEES.—The Secretary may not enter into a conveyance or sale of real property, as the case may be, under this section until the Secretary has notified the congressional defense committees of the details of the proposed conveyance or sale, as the case may be, and a period of 21 days has elapsed following the day on which the committees receive the notification.

(d) USE OF FUNDS.—(1) To the extent provided in appropriations Acts, the Secretary shall use any amounts paid to the Secretary under subsection (b)(1) for the following purposes:

(A) Acquiring in the vicinity of Naval Station Puget Sound land that is suitable (as determined by the Secretary) for family housing for Naval Station Puget Sound.

(B) Acquiring or constructing not more than 350 units of family housing for Naval Station Puget Sound.

(2) If amounts referred to in paragraph (1) remain unexpended after the acquisition or construction of the family housing referred to in that paragraph, the Secretary shall deposit such unexpended amounts in the account established under section 204(h)(2) of the Federal Property and Administrative Services Act (40 U.S.C. 485(h)(2)).

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal descriptions of the parcels of land conveyed pursuant to this section shall be determined by surveys satisfactory to the Secretary.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2842. CONVEYANCE OF HASTINGS RADAR BOMB SCORING SITE, NEBRASKA.

(a) CONVEYANCE.—The Secretary of the Air Force may convey to Central Community College, Hastings, Nebraska (in this section referred to as the "College"), all right, title, and interest of the United States in and to three parcels of property located in Hastings, Nebraska, which have served as a support complex for the Hastings Radar Bomb Scoring Site.

(b) CONSIDERATION.—In consideration for the conveyance under subsection (a), the College shall pay to the United States an amount equal to the fair market value of the land conveyed under subsection (a), as determined by the Secretary.

(c) USE OF PROCEEDS.—The Secretary shall deposit the proceeds of the sale of property authorized by this section in the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the college.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2843. LAND CONVEYANCE, ABBEVILLE, ALABAMA.

(a) IN GENERAL.—The Secretary of the Army may convey, without consideration, to the City of Abbeville, Alabama, all right, title, and interest of the United States in and to a parcel of land consisting of approximately 4 acres, together with improvements thereon, the site of a proposed Army Reserve Center, Abbeville, Alabama.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the City of Abbeville, Alabama.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the conveyance under this section that the Secretary determines appropriate to protect the interests of the United States.

SEC. 2844. TERMINATION OF LEASE AND SALE OF FACILITIES, NAVAL RESERVE CENTER, ATLANTA, GEORGIA.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Navy may—

(1) negotiate the termination of the remaining lease of the Navy of 2.27 acres of land located at the Georgia Institute of Technology, Atlanta, Georgia (in this section referred to as the "Institute"); and

(2) sell to the Institute the Naval Reserve Center facilities located on such land.

(b) CONSIDERATION.—As consideration for the termination of the lease interest referred to in subsection (a)(1) and the sale of the facilities referred to in subsection (a)(2), the Institute shall pay the Secretary an amount equal to the aggregate of the fair market value of the remaining lease referred to in such subsection (a)(1) and the facilities referred to in such subsection (a)(2).

(c) USE OF FUNDS.—(1)(A) To the extent provided in appropriations Acts and subject to subparagraph (B), the Secretary shall use the amount paid by the Institute under subsection (b) to expand the Marine Corps Reserve Center to be constructed at Dobbins Air Force Base, Georgia, in a manner which permits the use of a portion of that Center as replacement facilities for the naval reserve facilities referred to in subsection (a)(1).

(B) The expanded portion of the Marine Corps Reserve Center described under subparagraph (A) shall be under the jurisdiction of the Marine Corps Reserve.

(2) If any portion of the amount referred to in paragraph (1) remains unexpended after the construction of the naval reserve facilities referred to in that paragraph, the Secretary shall deposit that portion in the account established under section 204(h) of the Federal Property and Administrative Services Act (40 U.S.C. 485(h)).

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with any section that the Secretary considers appropriate to protect the interests of the United States.

SEC. 2845. LAND CONVEYANCE, FORT CHAFFEE, ARKANSAS.

(a) CONVEYANCE.—The Secretary of the Army shall convey to the City of Fort Smith, Arkansas (in this section referred to as the "City"), all right, title, and interest (other than any oil, gas, or mineral interest) of the United States in and to a parcel of real property consisting of approximately 400 acres, together with improvements thereon, located at Fort Chaffee, Arkansas.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the city—

(1) shall provide the Army with such services at Fort Chaffee as the Secretary and the city shall jointly determine, the fair market value of which services shall be equal to the fair market value of the property conveyed pursuant to subsection (a); or

(2) shall—

(A) provide the Army with such services at Fort Chaffee as the Secretary and the city shall jointly determine; and

(B) in the event that the fair market value of the property conveyed pursuant to subsection (a) exceeds the fair market value of the services provided under subparagraph (A), pay to the Secretary the amount equal to such excess.

(c) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the parcel of real property to be conveyed under subsection (a) and the value of the services, if any, to be provided under paragraph (1) or (2) of subsection (b). Such determinations shall be final.

(d) USE OF PROCEEDS.—The Secretary shall deposit the amount of the consideration, if any, paid under subsection (b)(2)(B) in the account established under section 204(h) of the Federal Property and Administrative Services Act (40 U.S.C. 485(h)).

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcel of land conveyed pursuant to this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the conveyance under subsection (a) that the Secretary considers appropriate to protect the interests of the United States.

Subtitle D—Transfer of Jurisdiction of Rocky Mountain Arsenal

SEC. 2851. DEFINITIONS.

In this subtitle:

(1) The term "Arsenal" means the Rocky Mountain Arsenal in the State of Colorado.

(2) The term "hazardous substance" has the meaning given such term in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)).

(3) The term "refuge" means the Rocky Mountain Arsenal National Wildlife Refuge established pursuant to this subtitle.

SEC. 2852. TRANSFER OF JURISDICTION OVER ROCKY MOUNTAIN ARSENAL.

(a) MANAGEMENT PENDING TRANSFER.—Not later than 30 days after the date of the enactment of this Act, the Secretary of the Army and the Secretary of the Interior shall enter into a memorandum of understanding under which—

(1) the Secretary of the Army shall transfer to the Secretary of the Interior, without reimbursement, all responsibility to manage for wildlife and public use purposes the real property comprising the Rocky Mountain Arsenal in the State of Colorado, except the property and facilities described in subsection (c) or designated for disposal under section 2855; and

(2) the Secretary of the Interior shall establish and manage the real property described in paragraph (1) as a unit of the National Wildlife Refuge System.

(b) TRANSFER UPON COMPLETION OF REMEDIATION MEASURES.—

(1) IN GENERAL.—Upon the certification of the Administrator of the Environmental Protection Agency that the cleanup and remediation measures required at the Arsenal under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) have been completed (except for operation and maintenance associated with the measures), the Secretary of the Army shall transfer to the Secretary of the Interior jurisdiction over the real property comprising the Arsenal, except the property and facilities described in subsection (c) or designated for disposal under section 2855.

(2) COST.—The transfer shall be made without cost to the Secretary of the Interior.

(3) IMPROVEMENTS.—The transfer shall include any improvement on the property made by the Secretary of the Army if the Secretary of the Interior requests in writing that the improvement be transferred for refuge management purposes.

(4) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property subject to transfer under this subsection shall be determined by a survey that is satisfactory to the Secretary of the Army and the Secretary of the Interior. The Secretary of the Army shall bear any costs related to the survey.

(c) PROPERTY AND FACILITIES EXCLUDED FROM MEMORANDUM AND TRANSFER.—

(1) PROPERTY REQUIRED TO BE RETAINED BY THE SECRETARY OF THE ARMY.—

(A) IN GENERAL.—The Secretary of the Army shall retain jurisdiction, authority, and control over all real property at the Arsenal used for water treatment, the disposition of hazardous substances, or other purposes related to cleanup and remediation activities at the Arsenal.

(B) CONSULTATION WITH SECRETARY OF THE INTERIOR.—The Secretary of the Army shall—

(i) consult with the Secretary of the Interior regarding the identification and management of all real property retained under this paragraph; and

(ii) ensure that activities carried out by the Department of the Army on that property are, to the extent practicable, compatible with the wildlife and public use purposes of the real property at the Arsenal managed by the Secretary of the Interior.

(2) DISPOSITION FOR COMMERCIAL, HIGHWAY, OR OTHER PUBLIC PURPOSES.—The Secretary of the Army shall dispose of real property designated in subsection (a) of section 2855 in the manner provided for in such section.

(3) CONTINUATION OF LEASE OF PUBLIC FACILITIES.—

(A) IN GENERAL.—Nothing in this subtitle shall affect the validity or continued operation of leases of the Department of the Army in existence on the date of enactment of this subtitle that involve the real property at the Arsenal described in subparagraph (B).

(B) PROPERTY.—The property referred to in subparagraph (A) is—

(i) a parcel consisting of approximately 12.08 acres containing the South Adams County Water Treatment Plant and described in Department of the Army lease No. DACA 45-1-87-6121; and

(ii) a parcel consisting of approximately 63.04 acres containing a United States Postal Service facility and described in Department of the Army lease No. DACA 45-4-71-6185.

SEC. 2853. CONTINUATION OF JURISDICTION AND LIABILITY OF THE SECRETARY OF THE ARMY FOR ENVIRONMENTAL REMEDIATION.

(a) JURISDICTION OVER CLEANUP AND REMEDIATION ACTIVITIES.—

(1) IN GENERAL.—Notwithstanding the memorandum of understanding required under section 2852(a), the Secretary of the Army shall retain jurisdiction, authority, and control over the management of the real property at the Arsenal that is subject to the memorandum for purposes of conducting cleanup and remediation activities relating to environmental remediation of that property under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and other applicable laws.

(2) MANAGEMENT OF REFUGE.—The management by the Secretary of the Interior of the refuge established pursuant to section 2854 shall be subject to any cleanup and remediation activities relating to the environmental remediation of the property carried out by the Secretary of the Army under the laws referred to in paragraph (1).

(b) RESPONSIBILITY TO CONDUCT CLEANUP AND REMEDIATION ACTIVITIES.—Nothing in this subtitle shall relieve, and no action may be taken under this subtitle to relieve, the Secretary of the Army or any non-Federal party from any obligation or other liability to carry out or provide for the environmental remediation of the Arsenal under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and other applicable laws. Nothing in this subtitle is intended to restrict or define the level of cleanup on the Arsenal to be carried out under applicable laws.

(c) ADMINISTRATION OF UNITED STATES LIABILITY.—

(1) IN GENERAL.—All liability of the United States under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and other environmental laws for existing conditions, both known and unknown, at the Arsenal as of the date of enactment of this subtitle shall be the sole responsibility of those Federal agencies that had operations on the Arsenal resulting in the introduction of hazardous substances before the date of enactment of this Act.

(2) AFTER FINAL TRANSFER.—After final transfer under section 2852(b), the Secretary of the Army shall retain environmental liability as set forth in this section and shall be accorded all easements and access as may be reasonably required to carry out obligations arising out of the liability.

(d) CONSULTATION.—In carrying out environmental remediation activities with respect to the Arsenal, the Secretary of the Army shall consult with the Secretary of the Interior to ensure that the remediation is carried out in a manner consistent with the purposes for which the refuge is established under section 2854(c).

SEC. 2854. ESTABLISHMENT OF THE ROCKY MOUNTAIN ARSENAL NATIONAL WILDLIFE REFUGE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Interior shall establish a national wildlife refuge, to be known as the Rocky Mountain Arsenal National Wildlife Refuge, that consists of the real property required to be transferred under section 2852(b).

(2) NOTICE.—The Secretary of the Interior shall publish a notice of the establishment of the refuge in the Federal Register.

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of the Interior shall manage the refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and other applicable laws.

(2) CONSULTATION.—In developing plans for the management of fish and wildlife at, and public use of, the refuge, the Secretary of the Interior shall—

(A) consult with the head of the Colorado Department of Natural Resources and the heads of units of local government adjacent to the refuge; and

(B) provide an opportunity for public comment on the plans.

(c) PURPOSES OF THE REFUGE.—The refuge shall be established for the purposes of—

(1) conserving and enhancing populations of fish, wildlife, and plants within the refuge, including populations of waterfowl, raptors, passerines, marsh and water birds, and species presently or in the future listed as threatened or endangered;

(2) providing maximum fish and wildlife oriented public uses at levels compatible with the conservation and enhancement of wildlife and wildlife habitat;

(3) providing opportunities for compatible scientific research;

(4) providing opportunities for compatible environmental and land use education;

(5) conserving and enhancing the land and water of the refuge in a manner that will conserve and enhance the natural diversity of fish, wildlife, plants, and their habitats;

(6) protecting and enhancing the quality of aquatic habitat within the refuge; and

(7) fulfilling international treaty obligations of the United States with respect to fish and wildlife and their habitats.

(d) LIMITATIONS.—

(1) CLEANUP AND REMEDIATION ACTIVITIES.—

(A) IN GENERAL.—The management of the refuge by the Secretary of the Interior shall be subject to those cleanup and remediation activities relating to the environmental remediation of the Arsenal that are carried out by the Secretary of the Army under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and other applicable laws.

(B) EFFECT OF ESTABLISHMENT OF REFUGE.—The establishment of the refuge shall not limit, restrict, or modify in any way the ongoing environmental remediation conducted pursuant to applicable law at the Arsenal and surrounding areas, including—

(i) the substance or performance of any remedial investigation and feasibility study or endangerment assessment;

(ii) the contents and conclusions of any remedial investigation and feasibility study or endangerment assessment report; and

(iii) the selection of remedial actions for the Arsenal and surrounding areas.

(2) PROHIBITION AGAINST ANNEXATION.—Notwithstanding section 4(a)(2) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(2)), the Secretary of the Interior shall not permit the annexation of lands within the refuge by any unit of general local government.

(3) PROHIBITION AGAINST THROUGH ROADS.—Public roads may not be constructed through the refuge.

SEC. 2855. DISPOSAL OF CERTAIN REAL PROPERTY AT THE ARSENAL FOR COMMERCIAL, HIGHWAY, OR OTHER PUBLIC USE.

(a) PROPERTY DESIGNATED FOR DISPOSAL.—

(1) IN GENERAL.—The areas of real property at the Arsenal that are described in paragraph (2) are designated for disposal under this section for commercial, highway, or other public use purposes.

(2) PROPERTY.—The areas referred to in paragraph (1) are—

(A) a parcel of real property consisting of approximately 815 acres located at the Arsenal, the approximate legal description of which is section 9, T3S-R67W, the W2W2 of section 4 and the W4E2W2 of section 4, T3S-R67W, and the SW4SW4 of section 33, the W4E2W2 of section 33, and the W2NW4 of section 33, T2S-R67W, except for—

(i) a parcel consisting of approximately 63.04 acres containing a United States Postal Service facility and described in Department of the Army lease No. DACA 45-4-71-6185, which shall be subject to section 2852; and

(ii) the water wells located in buildings 385, 386, and 387 at the Arsenal and associated facilities and easements necessary to operate and maintain the water wells, which shall be subject to section 2852; and

(B) to permit the widening of existing roads, a parcel of real property of not more than 100 feet inside the boundary of the Arsenal on—

(i) the Northwest side of the Arsenal adjacent to Colorado Highway No. 2;

(ii) the Northern side of the Arsenal adjacent to 96th Avenue; and

(iii) the Southern side of the Arsenal adjacent to 56th Avenue.

(b) DISPOSAL.—

(1) DETERMINATION.—Not later than 180 days after the completion of remedial design for the Arsenal, the Secretary of the Army, with the concurrence of the Secretary of the Interior and after providing an opportunity for public comment, shall determine which parcels, if any, within the real property described in subsection (a)(2) shall be retained by the Secretary for cleanup and remediation measures.

(2) DISPOSAL.—After making the determination described in paragraph (1), the Secretary of the Army shall dispose of the remaining parcels in the manner provided for in this section. As cleanup and remediation measures on the retained parcels are completed, the Secretary of the Army shall dispose of the retained parcels in the same manner.

(3) NOTIFICATION.—The Secretary of the Army shall notify the State of Colorado and appropriate units of local government, including the City of Commerce City, Colo-

rado, of the proposed and final determinations made under this subsection.

(c) TRANSFER FOR HIGHWAY PURPOSES.—The Secretary of the Army shall convey those parcels of real property described in subsection (a)(2)(B) and available for disposal under subsection (b) to the State or the appropriate unit of general local government at no cost in order to allow for the improvement of public roads in existence on the date of the enactment of this subtitle or for the provision of alternative means of transportation.

(d) TRANSFER FOR SALE.—The Secretary of the Army shall transfer to the Administrator of General Services those parcels of the area of real property described in subsection (a)(2)(A) and available for disposal under subsection (b). The transferred property shall be sold in advertised sales as surplus property under section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), except that the provisions of such section relating to reduced-cost or no-cost transfers to other governmental entities shall not apply to the property.

(e) LIMITATIONS.—

(1) PERPETUAL RESTRICTIONS.—The disposal of real property under this section shall be subject to perpetual restrictions that—

(A) are attached to any deed to the property; and

(B) prohibit—

(i) the use of the property for residential or industrial purposes;

(ii) the use of groundwater located under, or surface water located on, the property as a source of potable water;

(iii) hunting and fishing on the property, except for hunting and fishing for nonconsumptive use subject to appropriate restrictions; and

(iv) agricultural use of the property, including all farming activities such as the raising of livestock, crops, or vegetables, but excluding agricultural practices used as part of environmental remediation activities or erosion control.

(2) DISPOSAL IN ACCORDANCE WITH ENVIRONMENTAL LAWS.—The disposal of property under this section shall be subject to the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(f) USE OF PROCEEDS.—Notwithstanding section 204(h)(2) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)(2)), any amounts realized by the United States from the sale of property as described in subsection (d) shall be transferred to the Director of the United States Fish and Wildlife Service to be used, to the extent provided for in appropriations Acts, to supplement the funds otherwise available for the construction of a visitor and education center at the refuge.

Subtitle E—Miscellaneous

SEC. 2861. ENERGY SAVINGS AT MILITARY INSTALLATIONS.

Section 2865(b) of title 10, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new subparagraph:

"(C) may, subject to paragraph (4), authorize the Secretary of a military department having jurisdiction over a military installation to enter into agreements with gas or electric utilities to design and implement cost-effective demand and conservation incentive programs (including energy management services, facilities alterations, and the installation and maintenance of energy saving devices and technologies by the utilities) to address the requirements and circumstances of the installation."; and

(2) by adding at the end the following new paragraph:

"(4)(A) If an agreement under paragraph (3)(C) provides for a utility to advance financing costs for the design or implementation of a program referred to in that paragraph to be repayed by the United States, the cost of such advance may be recovered by the utility under terms no less favorable than those applicable to its most favored customer.

"(B) Subject to the availability of appropriations, repayment of costs advanced under subparagraph (A) shall be made from funds available to a military department for the purchase of utility services.

"(C) An agreement under paragraph (3)(C) shall provide that title to any energy-saving device or technology installed at a military installation pursuant to the agreement vest in the United States. Such title may vest at such time during the term of the agreement, or upon expiration of the agreement, as determined to be in the best interests of the United States.".

SEC. 2862. NAVY MINE COUNTERMEASURE PROGRAM.

(a) EVALUATION.—(1) Not later than December 31, 1992, the Secretary of the Navy shall submit to the congressional defense committees and the Comptroller General of the United States a detailed report on actions and plans of the Navy for consolidation and centralization of control over forces assigned to the mine countermeasure mission. The report shall evaluate all facets of the mine countermeasure mission, including—

(A) proposed location of vessels, helicopters, and explosive ordinance detachment units;

(B) proposed command structure;

(C) proposed training policies; and

(D) proposed vessel procurement policies.

(2) The Comptroller General shall evaluate the report submitted under paragraph (1) and, not later than 30 days after the date of the submittal of the report, submit to the congressional defense committees an evaluation of the report.

(b) EVALUATION OF HOMEPORTS FOR MINE COUNTERMEASURES PROGRAM.—The report under subsection (a)(1) shall include a detailed evaluation and analysis of the use of Ingleside, Texas, as the planned homeport for all mine warfare ships, and a comparison of various alternative homeports for mine warfare ships (including an evaluation of the use of bases on the Atlantic Coast and the Pacific Coast as homeports for such ships).

(c) SUSPENSION OF CERTAIN ACTIVITIES PENDING RECEIPT OF REPORT.—The Secretary of the Navy may not take any action to relocate the functions and personnel of the Mine Warfare Command, the Fleet Mine Warfare School, the Mine Warfare Training Center, or any mine countermeasure helicopter squadron until 90 days after the date of the submittal of the report required under subsection (a)(1).

SEC. 2863. PROHIBITION ON EXPANSION OF CERTAIN MILITARY OPERATIONS AREAS.

In designating expanded military operations areas for training operations of aircraft of the Air National Guard and Air Force Reserve under training airspace modification initiatives implemented after the date of the enactment of this Act, the Secretary of the Air Force shall provide for such military operations areas within the geographic boundaries of areas that have been approved for tactical training on such date.

TITLE XXIX—CALVERTON PINE BARRENS PRESERVATION

SEC. 2901. SHORT TITLE.

This title may be cited as the "Calverton Pine Barrens Preservation Act".

SEC. 2902. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) The Pine Barrens, a forest of pine trees extending across Long Island, New York, protect and replenish the Island's sole-source aquifer and require well-planned protection strategies.

(2) The Department of Defense owns 3,234 acres of the Pine Barrens which serve as a buffer zone surrounding the Naval Weapons Industrial Reserve Plant in Calverton, New York, and provide numerous benefits to the public and wildlife.

(3) The General Services Administration has suggested selling portions of the Pine Barrens described in paragraph (2) and under Federal law, such portions could be sold for commercial development.

(4) The New York State Government and local governments have an interest in preserving the Calverton Pine Barrens in its natural state.

(b) PURPOSE.—The purpose of this title is to ensure that the Calverton Pine Barrens are never commercially developed and that they remain in their natural state in perpetuity.

SEC. 2903. CALVERTON PINE BARRENS PROHIBITED FROM BEING COMMERCIALLY DEVELOPED.

In the event that any part of the Calverton Pine Barrens is declared to be excess to the needs of the Department of the Navy, the Secretary of the Navy shall designate that part a protected tract. The protected tract, or any part thereof, may not be disposed of in any way that would allow commercial development to take place on it. If the protected tract, or any part thereof, is ever conveyed to an entity which uses it for commercial development, ownership of the protected tract shall revert to the United States.

SEC. 2904. DESCRIPTION OF THE CALVERTON PINE BARRENS.

The Calverton Pine Barrens is the land of not less than 3,234 acres located on Department of Defense land surrounding the Naval Weapons Industrial Reserve Plant in Calverton, New York.

DEPARTMENT OF ENERGY NATIONAL SECURITY ACT FOR FISCAL YEAR 1993

The text of the original bill (S. 3142) to authorize appropriations for fiscal year 1993 for defense activities of the Department of Energy, and for other purposes, as passed by the Senate on September 18, 1992, is as follows:

S. 3142

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Energy National Security Act for Fiscal Year 1993".

SEC. 2. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the

Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) OPERATING EXPENSES.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses incurred in carrying out weapons activities necessary for national security programs in the amount of $4,016,909,000, to be allocated as follows:

(1) For research and development, $1,283,900,000.

(2) For weapons testing, $309,500,000.

(3) For production and surveillance, $2,122,600,000.

(4) For program direction, $300,909,000.

(b) PLANT PROJECTS.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto) that are necessary for national security programs and are associated with weapons activities for which appropriations are authorized under subsection (a), as follows:

Project GPD–101, general plant projects, various locations, $27,650,000.

Project GPD–121, general plant projects, various locations, $26,350,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $2,700,000.

Project 93–D–123, complex-21, various locations, $26,000,000.

Project 92–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase IV, various locations, $35,000,000.

Project 92–D–122, health physics/environmental projects, Rocky Flats Plant, Golden, Colorado, $5,300,000.

Project 92–D–123, plant fire/security alarm systems replacement, Rocky Flats Plant, Golden, Colorado, $8,700,000.

Project 92–D–126, replace emergency notification systems, various locations, $10,900,000.

Project 91–D–127, criticality alarm and production annunciation utility replacement, Rocky Flats Plant, Golden, Colorado, $6,300,000.

Project 90–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $50,120,000.

Project 90–D–126, environmental, safety, and health enhancements, various locations, $9,200,000.

Project 88–D–104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 88–D–106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $34,400,000.

Project 88–D–122, facilities capability assurance program, various locations, $87,100,000.

Project 86–D–130, tritium loading facility replacement, Savannah River Plant, South Carolina, $4,865,000.

Project 85–D–105, combined device assembly facility, Nevada Test Site, Nevada, $3,610,000.

(c) CAPITAL EQUIPMENT.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for capital equipment not related to construction for weapons activities that is necessary for national security programs in the amount of $219,535,000.

(d) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (c) reduced by—

(1) $73,000,000 for reductions in weapons requirements;

(2) $78,200,000 for prior year balances; and

(3) $9,350,000 for departmental administration.

SEC. 3102. NEW PRODUCTION REACTORS.

(a) OPERATING EXPENSES.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses incurred in carrying out new production reactor activities necessary for national security programs in the amount of $184,028,000.

(b) ADJUSTMENTS FOR SAVINGS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (c) reduced by $150,000,000.

SEC. 3103. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) OPERATING EXPENSES.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses incurred in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $4,108,452,000, to be allocated as follows:

(1) For corrective activities—environment, $2,431,000.

(2) For corrective activities—defense programs, $7,386,000.

(3) For environmental restoration, $1,448,427,000.

(4) For waste management, $2,252,037,000.

(5) For technology development, $330,700,000.

(6) For transportation management, $19,335,000.

(7) For program direction, $48,136,000.

(b) PLANT PROJECTS.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto) that are necessary for national security programs and are associated with environmental restoration and waste management activities for which appropriations are authorized under subsection (a), as follows:

Project GPD–171, general plant projects, various locations, $83,285,000.

Project 93–D–172, electrical upgrade, Idaho National Engineering Laboratory, Idaho, $1,000,000.

Project 93–D–174, plant drain waste water treatment upgrades, Y–12 Plant, Oak Ridge, Tennessee, $1,800,000.

Project 93–D–175, industrial waste compaction facility, Y–12 Plant, Oak Ridge, Tennessee, $2,200,000.

Project 93–D–176, Oak Ridge reservation storage facility, K–25, Oak Ridge, Tennessee, $4,000,000.

Project 93–D–177, disposal of K–1515 sanitary water treatment plant waste, K–125, Oak Ridge, Tennessee, $1,500,000.

Project 93–D–178, building 374 liquid waste treatment facility, Rocky Flats Plant, Golden, Colorado, $2,700,000.

Project 93–D–180, environmental monitoring-RCRA groundwater monitoring installation, Richland, Washington, $8,700,000.

Project 93–D–181, radioactive liquid waste line replacement, Richland, Washington, $350,000.

Project 93–D–182, replacement of cross-site transfer system, Richland, Washington, $4,495,000.

Project 93–D–183, multi-tank waste storage facility, Richland, Washington, $10,300,000.

Project 93–D–184, 325 facility compliance/renovation, Richland, Washington, $1,500,000.

Project 93–D–185, landlord program safety compliance, Phase II, Richland, Washington, $849,000.

Project 93–D–186, 200 area unsecured core area fabrication shop, Richland, Washington, $1,000,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River, South Carolina, $2,000,000.

Project 93–D–188, new sanitary landfill, Savannah River, South Carolina, $2,000,000.

Project 92–D–171, mixed waste receiving and storage facility, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,000,000.

Project 92–D–172, hazardous waste treatment and processing facility, Pantex Plant, Amarillo, Texas, $1,900,000.

Project 92–D–173, nitrogen oxide abatement facility, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $7,000,000.

Project 92–D–177, tank 101–AZ waste retrieval system, Richland, Washington, $3,000,000.

Project 92–D–180, inter-area line upgrade, Savannah River, South Carolina, $3,170,000.

Project 92–D–181, fire and life safety improvements, Idaho National Engineering Laboratory, Idaho, $8,000,000.

Project 92–D–182, sewer system upgrade, Idaho National Engineering Laboratory, Idaho, $3,700,000.

Project 92–D–183, transportation complex, Idaho National Engineering Laboratory, Idaho, $5,860,000.

Project 92–D–184, Hanford infrastructure underground storage tanks, Richland, Washington, $3,700,000.

Project 92–D–185, road, ground, and lighting safety improvements, 300/1100 areas, Richland, Washington, $6,500,000.

Project 92–D–187, 300 area electrical distribution, conversion, and safety improvements, Phase II, Richland, Washington, $1,724,000.

Project 92–D–188, waste management, ES&H, and compliance activities, various locations, $1,000,000.

Project 92–D–402, sanitary sewer system rehabilitation, Lawrence Livermore National Laboratory, California, $5,500,000.

Project 92–D–403, tank upgrades project, Lawrence Livermore National Laboratory, California, $10,100,000.

Project 91–EM–100, environmental and molecular sciences laboratory, Richland, Washington, $28,500,000.

Project 91–D–171, waste receiving and processing facility, module 1, Richland, Washington, $21,800,000.

Project 91–D–172, high-level waste tank farm replacement, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $57,530,000.

Project 91–D–173, hazardous low-level waste processing tanks, Savannah River, South Carolina, $15,300,000.

Project 91–D–175, 300 area electrical distribution, conversion, and safety improvements, Phase I, Richland, Washington, $981,000.

Project 90–D–103 environmental, safety, and health improvements, various locations, Los Alamos National Laboratory, Los Alamos, New Mexico, $6,315,000.

Project 90–D–174, decontamination laundry facility, Richland, Washington, $7,442,000.

Project 90–D–175, landlord program safety compliance-I, Richland, Washington, $4,753,000.

Project 90–D–176, transuranic (TRU) waste facility, Savannah River, South Carolina, $5,000,000.

Project 90–D–177, RWMC transuranic (TRU) waste characterization and storage facility, Idaho National Engineering Laboratory, Idaho, $41,700,000.

Project 89–D–122, production waste storage facilities, Y–12 Plant, Oak Ridge, Tennessee, $4,200,000.

Project 89–D–172, Hanford environmental compliance, Richland, Washington, $44,950,000.

Project 89–D–173, tank farm ventilation upgrade, Richland, Washington, $7,000,000.

Project 89–D–174, replacement high-level waste evaporator, Savannah River, South Carolina, $15,795,000.

Project 89–D–175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $7,900,000.

Project 88–D–173, Hanford waste vitrification plant, Richland, Washington, $81,471,000.

Project 87–D–181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $1,904,000.

Project 87–D–180, burial ground expansion, Savannah River, South Carolina, $8,800,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, California, $2,755,000.

Project 83–D–148, nonradioactive hazardous waste management, Savannah River, South Carolina, $10,330,000.

Project 81–T–105, defense waste processing facility, Savannah River, South Carolina, $32,600,000.

(c) CAPITAL EQUIPMENT.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for capital equipment not related to construction for environmental restoration and waste management activities that is necessary for national security programs in the amount of $153,198,000, to be allocated as follows:

(1) For corrective activities—defense programs, $1,120,000.

(2) For waste management, $132,749,000.

(3) For technology development, $16,200,000.

(4) For transportation management, $465,000.

(5) For program direction, $2,664,000.

(d) ADJUSTMENTS FOR SAVINGS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (c) reduced by $13,137,000 for program savings and departmental administration.

(e) USE OF FUNDS.—From funds authorized to be appropriated pursuant to subsection (a) to the Department of Energy for environmental restoration and waste management activities, the Secretary of Energy may reimburse the cities of Westminster, Broomfield, Thornton, and Northglen, in the State of Colorado, $40,000,000 for the cost of implementing water management programs. Reimbursements for the water management programs shall not be considered a major Federal action for purposes of 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

SEC. 3104. DEFENSE MATERIALS PRODUCTION AND OTHER DEFENSE PROGRAMS.

(a) OPERATING EXPENSES.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses incurred in carrying out nuclear materials production and other defense programs necessary for national security programs as follows:

(1) For defense materials production, $1,375,475,000.

(2) For verification and control technology, $301,215,000.

(3) For nuclear safeguards and security, $96,837,000.

(4) For security investigations, $58,289,000.

(5) For Office of Security evaluations, $5,150,000.

(6) For nuclear safety, $25,490,000.

(7) For naval reactors development, including enrichment materials, $711,400,000.

(8) For education programs, $22,400,000.

(b) PLANT PROJECTS.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto) that are necessary for national security programs and are associated with new nuclear materials production activities and other defense programs for which appropriations are authorized under subsection (a), as follows:

(1) For defense materials production:

Project GPD–146, general plant projects, various locations, $32,260.

Project 93–D–147, domestic water system upgrade, Phase I, Savannah River, South Carolina, $1,000,000.

Project 93–D–148, replace high-level drain lines, Savannah River, South Carolina, $800,000.

Project 93–D–152, environmental modification for production facilities, Savannah River, South Carolina, $2,000,000.

Project 93–D–153, uranium recovery hydrogen fluoride system upgrade, Y–12 Plant, Oak Ridge, Tennessee, $2,400,000.

Project 92–D–140, F and H canyon exhaust upgrades, Savannah River, South Carolina, $12,500,000.

Project 92–D–141, reactor seismic improvement, Savannah River, South Carolina, $5,000,000.

Project 92–D–142, nuclear material processing training center, Savannah River, South Carolina, $11,700,000.

Project 92–D–143, health protection instrument calibration facility, Savannah River, South Carolina, $8,000,000.

Project 92–D–150, operations support facilities, Savannah River, South Carolina, $4,100,000.

Project 92–D–153, engineering support facility, Savannah River, South Carolina, $3,500,000.

Project 90–D–141, Idaho chemical processing plant fire protection, Idaho National Engineering Laboratory, Idaho, $1,553,000.

Project 90–D–149, plantwide fire protection, Phases I and II, Savannah River, South Carolina, $39,685,000.

Project 90–D–150, reactor safety assurance, Phases I, II, and III, Savannah River, South Carolina, $4,210,000.

Project 89–D–140, additional separations safeguards, Savannah River, South Carolina, $13,104,000.

Project 89–D–148, improved reactor confinement system, Savannah River, South Carolina, $4,240,000.

Project 86–D–149, productivity retention program, Phases I, II, III, IV, V, and VI, various locations, $11,651,000.

Project 86–D–152, reactor electrical distribution system, Savannah River, South Carolina, $5,647,000.

Project 85–D–145, fuel production facility, Savannah River Site, South Carolina, $17,000,000.

(2) For verification and control technology:

Project 90–D–186, center for national security and arms control, Sandia National Laboratories, Albuquerque, New Mexico, $10,000,000.

(3) For nuclear safeguards and security:

Project GPD–186, general plant projects, Central Training Academy, Albuquerque, New Mexico, $2,000,000.

(4) For naval reactors development:

Project GPN–101, general plant projects, various locations, $8,500,000.

Project 93–D–200, engineering services facilities, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,200,000.

Project 92–D–200, laboratories facilities upgrades, various locations, $7,500,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $13,600,000.

Project 90–N–103, advanced test reactor off-gas treatment system, Idaho National Engineering Laboratory, Idaho, $500,000.

Project 90–N–104, facilities renovation, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,900,000.

(c) CAPITAL EQUIPMENT.—Funds are authorized to be appropriated to the Department of Energy for fiscal year 1993 for capital equipment not related to construction for nuclear materials production and other defense programs that is necessary for national security programs as follows:

(1) For defense materials production, $80,900,000.

(2) For verification and control technology, $16,500,000.

(3) For nuclear safeguards and security, $5,327,000.

(4) For naval reactors development, $60,400,000.

(d) ADJUSTMENTS.—The total amount that may be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (c) reduced by—

(1) $400,000,000 for recovery of overpayment to the Savannah River Pension Fund;

(2) $27,082,000 for anticipated savings;

(3) $70,000,000 for reductions in production requirements; and

(4) $2,341,000 for departmental administration.

SEC. 3105. FUNDING USES AND LIMITATIONS.

(a) INERTIAL CONFINEMENT FUSION.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses and plant and capital equipment, $220,300,000 shall be available for the defense inertial confinement fusion program.

(b) FIRE PROTECTION AND COOLING OR REFRIGERATION SYSTEMS.—None of the funds appropriated or otherwise made available for the Department of Energy for fiscal year 1993 may be obligated for the design, purchase, or installation of any fire protection system or cooling or refrigeration system that utilizes Class I chlorofluorocarbons (as listed under section 602(a) of the Clean Air Act (42 U.S.C. 7671a(a)) unless the Secretary of Energy determines that an alternative system meeting the operational requirements of the Department of Energy is not commercially available.

(c) RECONFIGURATION OF NONNUCLEAR ACTIVITIES.—(1) None of the funds appropriated or otherwise made available for the Department of Energy for fiscal year 1993 may be obligated for the implementation of the reconfiguration of any nonnuclear activities of the Department of Energy until—

(A) the Secretary of Energy submits a report to the congressional defense committees that—

(i) contains an analysis of the projected costs and benefits of the proposed reconfiguration and any proposed alternatives to such reconfiguration (including the alternative of not reconfiguring such activities); and

(ii) sets forth an analysis of (I) the lifecycle costs and benefits of the reconfiguration, and (II) the discounted cash flow of such proposed alternatives;

(B) the Secretary certifies to the congressional defense committees that a discounted cash flow analysis demonstrates that the closure of each Department of Energy nonnuclear defense facility or activity identified for closure and each transfer of a nonnuclear activity is cost effective;

(C) the Secretary certifies to the congressional defense committees that the reconfiguration of nonnuclear activities of the Department of Energy will not increase technological, environmental, safety, or health risks relating to the operation of the nuclear weapons facilities of the Department; and

(D) 60 days have elapsed after the later of—

(i) the date of the submittal of the report under subparagraph (A); and

(ii) the date of the certification under subparagraph (B).

(2) This subsection may not be construed to prohibit the obligation of funds for the purpose of conducting any study or analysis that the Secretary determines necessary for assessing the cost-effectiveness, practicability, or feasibility of reconfiguring the activities of the Department of Energy to nonnuclear purposes.

(d) NEW PRODUCTION REACTORS.—None of the funds authorized to be appropriated by section 3102 shall be used to close out the new production reactor program until 30 days after the Secretary of Energy has submitted a plan to the congressional defense committees to continue work beyond the termination phase of the two existing new production reactor design teams to address key technical risks and intitiation of detailed design of two electric power producing reactor concepts, including an advanced light water reactor and the modular high temperature gas reactor to undertake the added mission of plutonium disposal. In addition, the plan shall address key technical risks of and fundamental technology for a linear accelerator for plutonium disposal and nuclear waste transmutation.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may not be taken until—

(A) the Secretary of Energy has submitted to the congressional defense committees a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by sections 3101, 3102, 3103, and 3104, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such actions necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY.

Funds appropriated pursuant to this title may be transferred to other agencies of Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN.

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary of Energy may carry out advance planning and construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In the case of any project in which the total estimated cost for advance planning and design exceeds $300,000, the Secretary shall notify the congressional defense committees in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such planning and design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—In addition to funds authorized to be appropriated for advance planning and construction design under sections 3101, 3102, 3103, and 3104, the Secretary of Energy may use any other funds available to the Department of Energy to perform planning, design, and construction activities for any Department of Energy defense activity construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, meet the needs of national defense, or protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b) does not apply to emergency planning, design, and construction activities conducted under this section.

(d) REPORT.—The Secretary of Energy shall promptly report to the congressional defense committees any exercise of authority under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated for operating expenses, plant, or capital equipment may remain available until expended.

Subtitle C—Miscellaneous

SEC. 3131. USE OF FUNDS FOR PAYMENT OF PENALTY ASSESSED AGAINST FERNALD ENVIRONMENTAL MANAGEMENT PROJECT.

The Secretary of Energy may pay to the Environmental Protection Agency, from funds appropriated to the Department of Energy for environmental restoration and waste management activities pursuant to section 3103, a stipulated civil penalty in the amount of $100,000 assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) against the Fernald Environmental Management Project.

SEC. 3132. PROHIBITION ON ENTRY INTO CERTAIN CONTRACTS FOR ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

Notwithstanding any other provision of law, the Secretary of Energy may not enter into a contract or other agreement for the performance of environmental restoration or waste management activities with any person who has been convicted of, has pleaded guilty to, or has otherwise been determined by a court of competent jurisdiction to have committed a criminal violation in connection with activities at a Department of Energy facility of any of the following laws:

(1) The Clean Air Act (42 U.S.C. 7401 et seq.).

(2) The Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(3) The Safe Drinking Water Act (42 U.S.C. 300f et seq.).

SEC. 3133. REQUIREMENT OF ANNUAL AUTHORIZATION OF APPROPRIATIONS FOR FUNDS FOR CERTAIN DEPARTMENT OF ENERGY NATIONAL SECURITY ACTIVITIES.

(a) REQUIREMENT.—Chapter 9 of the Atomic Energy Act of 1954 (42 U.S.C. 2121 et seq.) is amended by adding at the end the following new section:

"SEC. 93. ANNUAL AUTHORIZATION OF APPROPRIATIONS.—

"(a) No funds may be appropriated for any fiscal year to or for the use of the Department of Energy for national security programs of the Department, and no funds appropriated to or for the use of the Department of Energy for such programs may be obligated or expended for—

"(1) procurement of goods or services,

"(2) research, development, test or evaluation, or procurement or production related thereto,

"(3) nuclear weapons testing,

"(4) construction,

"(5) operation and maintenance of any defense nuclear facility, or

"(6) operation of the Department of Energy central office,

unless funds therefor have been specifically authorized by law.

"(b) In this section, the term 'defense nuclear facility' means—

"(1) a production or utilization facility under the control or jurisdiction of the Secretary of Energy that is operated for national security purposes, other than a facility that does not conduct atomic energy defense activities;

"(2) a nuclear waste storage or disposal facility under the control or jurisdiction of the Secretary; and

"(3) a nuclear weapons research facility under the control or jurisdiction of the Secretary (including the Lawrence Livermore, Los Alamos, and Sandia National Laboratories).".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of such Act is amended by inserting after the item relating to section 92 the following new item:

"Sec. 93. Annual authorization of appropriations.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act and shall apply to fiscal years after fiscal year 1992.

SEC. 3134. FUNDS AVAILABLE FOR OVERSIGHT.

Of the funds available to the Secretary of Energy for fiscal year 1993 for program management, including travel, $150,000 shall be available only for the purposes set forth in section 1108(g) of title 31, United States Code.

SEC. 3135. DEPARTMENT OF ENERGY CITIZEN ADVISORY GROUPS.

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Energy shall establish a citizen advisory group for each Department of Energy defense nuclear facility.

(b) MEMBERSHIP.—Each advisory group shall be composed of the following members:

(1) Five or more members appointed by the Secretary of Energy, of whom—

(A) at least one shall be an individual who lives in a community near the facility for which the advisory group is established;

(B) at least one shall be a member of an affected Indian tribe;

(C) at least one shall be a representative of a nationally recognized environmental organization;

(D) at least one shall be a representative of an environmental organization from the area in which the facility is located; and

(E) at least one shall be an individual having technical expertise in environmental restoration, waste management, or health care matters related to such restoration or waste management.

(2) Two members appointed by the Governor of the State in which the facility is located.

(3) Two members appointed by the Governor of any other State which is located within 50 miles of the facility.

(c) DUTIES.—Each advisory group shall, with respect to the Department of Energy defense nuclear facility for which it is established—

(1) review and evaluate the performance by the Department of Energy of environmental restoration, waste management, and health-related activities at the facility, including the adherence of the Department with any milestones or deadlines with respect to such activities that were agreed to by the Secretary of Energy in interagency agreements entered into with other Federal agencies;

(2) review and evaluate the adequacy of any oversight activities carried out with respect to the facility by the Environmental Protection Agency, the environmental agency of the State in which the facility is located, and other appropriate Federal and State agencies, including the adequacy of—

(A) any actions taken by such agencies to ensure the adherence of the Department of Energy with any milestones or deadlines that were agreed to by the Secretary in interagency agreements entered into with other Federal agencies;

(B) any actions taken by appropriate Federal and State agencies to ensure compliance by the Department of Energy with Federal or State laws requiring the performance of relevant health-related activities at the facility; and

(C) any existing or on-going health-related activities undertaken by the Department of Energy and other Federal and State agencies with respect to the facility;

(3) provide, at least once annually, to the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the heads of other appropriate Federal and State agencies—

(A) an evaluation of the policy and technical considerations of any significant decisions made by such agencies with respect to environmental restoration, waste management, and health-related activities at the facility, including decisions on the selection of waste management treatment technology, the selection of cleanup remedies for environmental restoration, and the design and conduct of health assessments; and

(B) recommendations on policy and technical matters with respect to the facility based upon the evaluation conducted under subparagraph (A);

(4) provide to the Secretary of Energy, the Administrator of the Environmental Protection Agency, and the Governor of the State in which the facility is located the views of persons in communities and regions located near, or effected by, the facility on the environmental restoration, waste management, and health activities conducted at the facility;

(5) submit annually to the Governor of the State in which the facility is located and to Congress a report on the activities of the advisory group during the preceding year, including the findings, assessments, and conclusions of the advisory group, and any recommendations of the advisory group on policy or technical matters based upon such findings, assessments, and conclusions; and

(6) perform any other activity the advisory group considers necessary to carry out its duties under this section.

(d) TECHNICAL ASSISTANCE.—The Secretary of Energy shall provide funding to each advisory group to permit the group to hire the technical, advisory, and support staff that the group determines necessary to carry out its duties under this section. The amount of such funding in any year may not exceed $250,000 per group.

(e) FUNDING.—Of the funds authorized to be appropriated in fiscal year 1993 for the Department of Energy for national security programs, $5,000,000 may be used to carry out this section.

(f) DEFINITION.—In this section, the term "Department of Energy defense nuclear facility" means—

(1) a production or utilization facility under the control or jurisdiction of the Secretary of Energy that is operated for national security purposes, other than a facility that does not conduct atomic energy defense activities;

(2) a nuclear waste storage or disposal facility under the control or jurisdiction of the Secretary; and

(3) a nuclear weapons research facility under the control or jurisdiction of the Secretary (including the Lawrence Livermore, Los Alamos, and Sandia National Laboratories).

SEC. 3136. NUCLEAR WEAPONS COUNCIL MEMBERSHIP.

Section 179(a)(1) title 10, United States Code, is amended to read as follows:

"(1) The Under Secretary of Defense for Acquisition.".

SEC. 3137. REVISED OFFSET FOR PAYMENTS FOR INJURIES BELIEVED TO ARISE OUT OF ATOMIC WEAPONS TESTING PROGRAM.

(a) REVISED OFFSET.—Section 6(c)(2)(B) of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended by striking out the following: "The amount of the offset under this subparagraph with respect to payments described in clauses (i) and (ii) shall be the actuarial present value of such payments.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to claims filed pursuant to section 4(a) of the Radiation Exposure Compensation Act before, on, or after the date of the enactment of this Act.

SEC. 3138. REPORTS ON THE DEVELOPMENT OF NEW PRODUCTION REACTOR CAPACITY.

(a) REPORT BY THE SECRETARY OF ENERGY.—(1) The Secretary of Energy shall annually submit to the congressional defense committees a report on the new production reactor program of the Department of Energy.

(2) The annual report shall include the following:

(A) An estimate of the date by which new production reactor capacity will be necessary in order to maintain the active and reserve stockpile of nuclear weapons of the United States.

(B) An estimate of the date on which construction of such capacity should begin in order to maintain the active and reserve stockpile.

(C) An assessment of the technical adequacy of the methods available for the production of tritium, including an assessment of the risk that each method may fail to produce tritium on a reliable basis within the period necessary for meeting the requirements of the United States.

(D) An assessment of the capability of the potential industrial suppliers of new production reactor capacity to design and construct such capacity by the date estimated pursuant to subparagraph (A).

(3)(A) The Secretary shall submit the annual report in 1993 and each year thereafter until the construction of the new production reactor is completed. The Secretary shall submit the report not later than 60 days after the date on which the President submits the budget to Congress under section 1105 of title 31, United States Code.

(b) PROGRAM OFFICE.—The Secretary shall maintain a program office for the new production reactor program until the new production reactor capacity becomes operational.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the technology chosen for new production reactor capacity shall be the technology that has the highest probability of successfully sustaining operation, the lowest risk of operational failure, and the lowest cost of construction and operation (including any revenues accruing to the United States from such operation).

SEC. 3139. TECHNOLOGY TRANSFER.

(a) EXPEDITED REVIEW OF AGREEMENTS WITH SMALL BUSINESSES.—Section 12(c)(5) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(5)) is amended—

(1) in subparagraph (C)(i), by striking out "Any agency" and inserting in lieu thereof "Except as provided in subparagraph (D), any agency"; and

(2) by adding at the end the following new subparagraph:

"(D)(i) Any non-Federal entity that operates a laboratory pursuant to a contract with a Federal agency shall submit to the head of the agency any cooperative research and development agreement that the entity proposes to enter into with a small business firm and the joint work statement required with respect to that agreement.

"(ii) A Federal agency that receives a proposed agreement and joint work statement under clause (i) shall review and approve, request specific modifications to, or disapprove the proposed agreement and joint work statement within 30 days after such submission. The agreement and joint work statement shall provide a 30-day period within which such action must be taken beginning on the date of the submittal of the agreement and joint work statement to the head of the agency.

"(iii) In any case in which an agency which has contracted with an entity referred to in clause (i) disapproves or requests the modification of a cooperative research and development agreement or joint work statement submitted under that clause, the agency shall transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.".

(b) TECHNOLOGY TRANSFER TO SMALL BUSINESSES.—(1) The Secretary of Energy shall establish a program to facilitate and encourage the transfer of technology to small businesses and shall issue guidelines relating to the program not later than May 1, 1993.

(2) For the purposes of this subsection, the term "small business" means a business concern that meets the applicable size standards prescribed pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(c) PROVISION OF INFORMATION ON COOPERATIVE RESEARCH.—The Secretary of Energy and the Secretary of Defense shall provide appropriate federally funded technology transfer centers with information on cooperative research and development agreements or other arrangements entered into with respect to laboratories of the Department of Energy and other departments and agencies of the Federal Government. The Secretaries shall provide such information within 60 days after the date on which such agreements are received and within 60 days after such agreements become effective.

(d) FUNDING.—Funds authorized to be appropriated to the Department of Energy and made available for laboratory directed research and development shall be available for cooperative research and development agreements or other arrangements applicable to laboratories of the Department of Energy and other departments and agencies of the Federal Government.

SEC. 3140. EXPANSION OF AUTHORITY TO LOAN PERSONNEL AND FACILITIES.

(a) AUTHORITY TO LOAN PERSONNEL.—Subsection (a)(1) of section 1434 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2074) is amended—

(1) by inserting "(A)" after "(1)";

(2) in the first sentence, by striking out "or construction management at the Hanford Reservation, Washington," and all that follows through the period, and inserting in lieu thereof the following: "or construction management—

"(i) at the Hanford Reservation, Washington, to loan personnel in accordance with this section to the community development organization known as the Tri City Industrial Development Council serving Benton and Franklin Counties, Washington; and

"(ii) at the Idaho National Engineering Laboratory, Idaho, to loan personnel in accordance with this section to any community-based organization."; and

(3) by striking out the second sentence and inserting in lieu thereof the following:

"(B) Any loan under subparagraph (A) shall be for the purpose of assisting in the diversification of the local economy by reducing reliance by local communities on national security programs at the Hanford Reservation and the Idaho National Engineering Laboratory.".

(b) FUNDING.—Subsection (a)(3) of such section is amended by inserting after the first sentence the following: "In each of fiscal years 1993 and 1994, the Secretary of Energy may not obligate or expend for loans of personnel under this section more than $250,000 with respect to the Hanford Reservation and more than $250,000 with respect to the Idaho National Engineering Laboratory.".

(c) AUTHORITY TO LOAN FACILITIES.—Subsection (b) of such section is amended by inserting "or the Idaho National Engineering Laboratory, Idaho," after "Hanford Reservation, Washington,".

(d) DURATION OF PROGRAM.—Subsection (c) of such section is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1994".

SEC. 3141. STUDY OF CONVERSION OF NEVADA TEST SITE FOR USE FOR SOLAR ENERGY PRODUCTION PURPOSES.

(a) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Energy, in consultation with the Secretary of Defense, the Administrator of the Environmental Protection Agency, and the Director of the Office of Technology Assessment, shall carry out and submit to Congress a study on the conversion, development, and utilization of the Nevada Test Site, Nevada, or one or more portions thereof, as a commercial facility for the development of solar energy research and production technologies.

(b) STUDY ELEMENTS.—In carrying out the study under subsection (a), the Secretary of Energy shall consider the following:

(1) The potential of the Nevada Test Site for solar energy production from a variety of solar energy production technologies, including technologies for the production of thermal energy and photovoltaic energy.

(2) The costs and benefits of the development of such energy production technologies, including the cost per kilowatt hour of energy production from each such technology and the potential market for the sale or use of energy produced by such technologies.

(3) The effect of the development of the Nevada Test Site for solar energy production on the economy and employment rates in the region in which the Nevada Test Site is located.

(4) The effectiveness of plans for retraining current employees at the Nevada Test Site for employment in the development, utilization, and marketing of solar energy production technologies.

(5) The effect of the development of various solar energy production technologies at the Nevada Test Site on the manufacturing and export economy of the United States.

(6) The extent to which the development of solar energy production technologies at the Nevada Test Site is compatible with current and proposed alternative uses of the Site, including the compatibility of such development with environmental restoration and other clear-up activities at the Site and with continuing use of the Site for limited nuclear testing.

Subtitle D—Defense Nuclear Work Force Restructuring

SEC. 3151. DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES WORK FORCE RESTRUCTURING PLAN.

(a) IN GENERAL.—(1) Subject to subsections (b) through (e) and not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall develop, issue, and commence implementation of a plan for the restructuring of the employee work force at Department of Energy defense nuclear facilities described in paragraph (2).

(2) The plan shall apply to—

(A) each Department of Energy defense nuclear facility the primary mission of which changes from weapons production and related activities to environmental restoration and waste management; and

(B) each Department of Energy defense nuclear facility that is scheduled for closure.

(C) any Department of Energy defense nuclear facility, including the Nevada Test Site, that will experience a reduction of 10 percent or more in the number of Department of Energy employees employed at the facility in any 12-month period.

(b) Plan Requirements.—In developing and implementing the plan referred to in subsection (a), the Secretary shall provide—

(1) that any changes in the functions or missions of facilities referred to in subsection (a)(2)(A) and any closures of facilities referred to in subsection (a)(2)(B) be carried out by means that minimize the economic effects of such changes or closures on Department of Energy employees at such facilities, including the provision of notice of such changes or closures not later than 120 days before the commencement of such changes or closures to such employees and the communities in which such facilities are located and the use of retraining, early retirement, attrition, and other similar means to minimize the number of terminations of employment that result from such changes or closures;

(2) that the employees whose employment in positions at such facilities will be terminated as a result of the restructuring plan receive first preference in any hiring by the Department of Energy (consistent with applicable employment seniority plans or practices of the Department of Energy and with section 3152 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1682)) after the issuance of the plan;

(3) that such employees be retrained as necessary and in a timely fashion for work in environmental restoration and waste management activities at such facilities or other facilities of the Department of Energy;

(4) that the Department of Energy provide relocation assistance to such employees who are transferred to other Department of Energy facilities as a result of the plan;

(5) that, in the case of any employee who expresses in writing an intent to seek employment outside the Department of Energy, the Department of Energy provide appropriate employment retraining, education, and reemployment assistance (including employment placement assistance) to such employee before the terminations of the employee's employment with the Department of Energy; and

(6) that the Department of Energy provide local impact assistance to communities that are affected by the restructuring plan and coordinate the provision of such assistance with—

(A) programs carried out by the Department of Labor pursuant to the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(B) programs carried out pursuant to the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (division D of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2391 note)); and

(C) programs carried out by the Department of Commerce pursuant to title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241 et seq.).

(c) Plan Updates.—Not later than 1 year after issuing the plan referred to in subsection (a) and on an annual basis thereafter, the Secretary shall issue an update of the plan. Each updated plan under this subsection shall—

(1) satisfy the requirements set forth in subsection (b), taking into account any changes in the function or mission of the Department of Energy defense nuclear facilities and any other changes in circumstances that the Secretary determines to be relevant;

(2) contain an evaluation by the Secretary of the implementation of the plan during the year preceding the report; and

(3) contain such other information and provide for such other matters as the Secretary determines to be relevant.

(d) Consultation.—(1) In developing the plan referred to in subsection (a) and any updates of the plan under subsection (c), the Secretary shall consult with the Secretary of Labor, labor organizations or other appropriate representatives of local and national collective-bargaining units of Department of Energy employees, appropriate representatives of departments and agencies of State and local governments, appropriate representatives of State and local institutions of higher education, and appropriate representatives of community groups in communities affected by the restructuring plan.

(2) The Secretary shall determine appropriate representatives of the units, governments, institutions, and groups referred to in paragraph (1).

(e) Submittal to Congress.—The Secretary shall submit the plan referred to in subsection (a) to Congress.

SEC. 3152. PROGRAM TO MONITOR DEPARTMENT OF ENERGY WORKERS EXPOSED TO HAZARDOUS AND RADIOACTIVE SUBSTANCES.

(a) In General.—The Secretary of Energy shall establish and carry out a program for the identification and on-going medical evaluation of current and former Department of Energy employees who are subject to significant health risks as a result of the exposure of such employees to hazardous or radioactive substances during such employment.

(b) Implementation of Program.—(1) The Secretary shall, with the concurrence of the Secretary of Health and Human Services, issue regulations to implement the program. Such regulations shall permit the Secretary of Energy, to the extent practicable, to—

(A) identify the hazardous substances and radioactive substances to which current and former Department of Energy employees may have been exposed as a result of such employment;

(B) determine the levels of exposure to such substances that present such employees with significant health risks;

(C) determine the appropriate number, scope, and frequency of medical evaluations and laboratory tests to be provided to such employees to permit the Secretary to evaluate fully the extent, nature, and medical consequences of such exposure;

(D) identify employees referred to in subparagraph (A) who received a level of exposure referred to in subparagraph (B); and

(E) make available the evaluations and tests referred to in subparagraph (C) to the employees referred to in subparagraph (D).

(2)(A) In determining the most appropriate means of carrying out the activities referred to in subparagraphs (A) through (E) of paragraph (1), the Secretary shall consult with the Secretary of Health and Human Services under the agreement referred to in subsection (c).

(B) The Secretary of Health and Human Services shall carry out the responsibilities of that Secretary under this subparagraph with the assistance of the Director of the Centers for Disease Control and the Director of the National Institute for Occupational Safety and Health.

(3) In prescribing the guidelines referred to in paragraph (1), the Secretary of Energy shall consult with representatives of the following entities:

(A) The American College of Occupational and Environmental Medicine.

(B) The National Academy of Sciences.

(C) The National Council on Radiation Protection.

(D) Any labor organization or other collective bargaining agent authorized to act on the behalf of employees of a Department of Energy defense nuclear facility.

(4) The Secretary shall notify each employee identified under paragraph (1)(D) and provided with any medical examination or test under paragraph (1)(E) of the identification and the results of any such examination or test. Each notification under this paragraph shall be provided in a form that is readily understandable by the employee.

(5) The Secretary shall collect and assemble information relating to the examinations and tests carried out under paragraph (1)(E).

(6) The Secretary shall commence carrying out the program described in this subsection not later than 1 year after the date of the enactment of this Act.

(c) Agreement with Secretary of Health and Human Services.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall enter into an agreement with the Secretary of Health and Human Services relating to the establishment of the program required under this section.

SEC. 3153. DEFINITIONS.

In this subtitle:

(1) The term "Department of Energy defense nuclear facility" means—

(A) a production facility or utilization facility (as that term is defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014)) that is under the control or jurisdiction of the Secretary of Energy and is operated for national security purposes (including the tritium loading facility at Savannah River, South Carolina, the 236 H facility at Savannah River, South Carolina; and the Mound Laboratory, Ohio), but the term does not include any facility that does not conduct atomic energy defense activities;

(B) a nuclear waste storage or disposal facility that is under the control or jurisdiction of the Secretary;

(C) a nuclear weapons research facility that is under the control or jurisdiction of the Secretary (including the Lawrence Livermore, Los Alamos, and Sandia National Laboratories); or

(D) any facility described in subparagraphs (A) through (C) that—

(i) is no longer in operation;

(ii) was under the control or jurisdiction of the Department of Defense, the Atomic Energy Commission, or the Energy Research and Development Administration; and

(iii) was operated for national security purposes.

(2) The term "Department of Energy employee" means any employee of the Department of Energy employed at a Department of Energy defense nuclear facility, including any employee of a management and operations contractor (or a subcontractor of such contractor) of the Department of Energy employed at such a facility.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD AUTHORIZATION

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 1993, $13,000,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

MILITARY PERSONNEL TRANSITION ACT

The text of the original bill (S. 3143) to authorize transition assistance for members of the Armed Forces adversely affected by reductions in Government spending for national security functions, and for other purposes, as passed by the Senate on September 18, 1992, is as follows:

S. 3143

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Personnel Transition Act of 1992".

SEC. 2. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle D—Active Forces Transition Enhancements

SEC. 531. ENCOURAGEMENT FOR CONTINUING PUBLIC AND COMMUNITY SERVICE.

(a) PERMANENT PROGRAM.—(1) Chapter 58 of title 10, United States Code, is amended by inserting after section 1143 the following new section:

"§ 1143a. Encouragement of postseparation public and community service: Department of Defense

"(a) IN GENERAL.—The Secretary of Defense shall implement a program to encourage members and former members of the armed forces to enter into public and community service jobs after discharge or release from active duty.

"(b) PERSONNEL REGISTRY.—The Secretary shall maintain a registry of members and former members of the armed forces discharged or released from active duty who request registration for assistance in pursuing public and community service job opportunities. The registry shall include information on the particular job skills, qualifications, and experience of the registered personnel.

"(c) REGISTRY OF PUBLIC SERVICE AND COMMUNITY SERVICE ORGANIZATIONS.—The Secretary shall also maintain a registry of public service and community service organizations. The registry shall contain information regarding each organization, including its location, its size, the types of public and community service positions in the organization, points of contact, procedures for applying for such positions, and a description of each such position that is likely to be available. Any such organization may request registration under this subsection and, subject to guidelines prescribed by the Secretary, be registered.

"(d) ASSISTANCE TO BE PROVIDED.—(1) The Secretary shall actively attempt to match personnel registered under subsection (b) with public and community service job opportunities and to facilitate job-seeking contacts between such personnel and the employers offering the jobs.

"(2) The Secretary shall offer personnel registered under subsection (b) counselling services regarding—

"(A) public service and community service organizations; and

"(B) procedures and techniques for qualifying for and applying for jobs in such organizations.

"(3) The Secretary may provide personnel registered under subsection (b) with access to the interstate job bank program of the United States Employment Service if the Secretary determines that such program meets the needs of separating members of the armed forces for job placement.

"(e) CONSULTATION REQUIREMENT.—In carrying out this section, the Secretary shall consult closely with the Secretary of Labor, the Secretary of Veterans Affairs, the Secretary of Education, the Director of the Office of Personnel Management, appropriate representatives of State and local governments, and appropriate representatives of businesses and nonprofit organizations in the private sector.

"(f) DELEGATION.—The Secretary, with the concurrence of the Secretary of Labor, may designate the Secretary of Labor as the executive agent of the Secretary of Defense for carrying out all or part of the responsibilities provided in this section. Such a designation does not relieve the Secretary of Defense from the responsibility for the implementation of the provisions of this section.

"(g) DEFINITIONS.—In this section, the term 'public service and community service organization' includes the following organizations:

"(1) Any organization that provides the following services:

"(A) Elementary, secondary, or postsecondary school teaching or administration.

"(B) Support of such teaching or school administration.

"(C) Law enforcement.

"(D) Public health care.

"(E) Social services.

"(F) Any other public or community service.

"(2) Any nonprofit organization that coordinates the provision of services described in paragraph (1).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1143 the following new item:

"1143a. Encouragement of postseparation public and community service: Department of Defense.".

(b) DEPARTMENT OF VETERANS AFFAIRS RESPONSIBILITIES.—Section 1142(b)(4) of title 10, United States Code, is amended by inserting before the period at the end the following: ", including the public and community service jobs program carried out under section 1143a of this title".

(c) PRESEPARATION ASSISTANCE BY THE DEPARTMENT OF LABOR.—Section 1144(b) of such title is amended by adding at the end the following new paragraph:

"(8) Provide information regarding the public and community service jobs program carried out under section 1143a of this title.".

SEC. 532. TEACHER CERTIFICATION CREDIT FOR MILITARY EXPERIENCE.

(a) UNIFORM STATE STANDARDS AND PROCEDURES.—(1) The Secretary of Defense shall—

(A) develop proposed uniform standards and procedures for the granting of appropriate credit for service in the Armed Forces under State teacher certification or licensing procedures; and

(B) coordinate with appropriate agencies of each State to encourage the incorporation of such uniform standards and procedures into the State's teacher certification or licensing requirements.

(2) The uniform standards should reflect the value to the teaching profession of relevant skills and experience derived from service in the Armed Forces.

(b) DELEGATION TO THE SECRETARY OF EDUCATION.—The Secretary, with the concurrence of the Secretary of Education, may designate the Secretary of Education as the executive agent of the Secretary of Defense for carrying out all or part of the responsibilities provided in subsection (a). Such a designation does not relieve the Secretary of Defense from the responsibility for the implementation of such subsection.

SEC. 533. PROGRAM OF EDUCATIONAL LEAVE RELATING TO CONTINUING PUBLIC AND COMMUNITY SERVICE.

(a) PROGRAM.—Under regulations prescribed by the Secretary of Defense after consultation with the Secretary of Transportation and subject to subsections (b) and (c), the Secretary concerned may grant to an eligible member of the Armed Forces a leave of absence for a period not to exceed one year for the purpose of permitting the member to pursue a program of education or training (including an internship) for the development of skills that are relevant to the performance of public and community service. A program of education or training referred to in the preceding sentence includes any such program that is offered by the Department of Defense or by any civilian educational or training institution.

(b) ELIGIBILITY REQUIREMENT.—(1) A member may not be granted a leave of absence under this section unless the member agrees in writing—

(A) diligently to pursue employment in public service and community service organizations upon the separation of the member from active duty in the Armed Forces; and

(B) to serve in the Ready Reserve of an armed force, upon such separation, for a period of 4 months for each month of the period of the leave of absence.

(2)(A) A member may not be granted a leave of absence under this section until the member has completed any period of extension of enlistment or reenlistment, or any period of obligated active duty service, that the member has incurred under section 708 of title 10, United States Code.

(B) The Secretary concerned may waive the limitation in subparagraph (A) for a member who enters into an agreement with the Secretary for the member to serve in the Ready Reserve of a reserve component for a period equal to the uncompleted portion of the member's period of service referred to in that subparagraph. Any such period of agreed service in the Ready Reserve shall be in addition to any other period that the member is obligated to serve in a reserve component.

(c) TREATMENT OF LEAVE OF ABSENCE.—A leave of absence under this section shall be subject to the provisions of subsections (c) and (d) of section 708 of title 10, United States Code.

(d) EXCLUSION FROM END STRENGTH LIMITATION.—A member of the Armed Forces, while on leave granted pursuant to this section, may not be counted for purposes of any provision of law that limits the active duty strength of the member's armed force.

(e) DEFINITIONS.—In this section:

(1) The term "Secretary concerned" has the meaning given such term in section 101 of title 10, United States Code.

(2) The term "eligible member of the Armed Forces" means a member of the Armed Forces who is eligible for an educational leave of absence under section 708(e) of such title.

(3) The term "public service and community service organization" has the meaning given such term in section 1143a of such title (as added by section 531(a)).

(f) EXPIRATION.—The authority to grant a leave of absence under subsection (a) shall expire on September 30, 1995.

SEC. 534. TEMPORARY EARLY RETIREMENT AUTHORITY.

(a) RETIREMENT FOR 15 TO 20 YEARS OF SERVICE.—(1) The Secretary of the Army may, upon the member's request, retire a member of the Army who has the following years of service:

(A) In the case of a regular or reserve commissioned officer, between 15 and 20 years of service computed under section 3926 of title 10, United States Code.

(B) In the case of an enlisted member, between 15 and 20 years of service computed under section 3925 of such title.

(C) In the case of a warrant officer, between 15 and 20 years of active service computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(2) The Secretary of the Navy may, upon the member's request, retire a member of the Navy or Marine Corps who has the following years of active service:

(A) In the case of a commissioned officer or enlisted member, between 15 and 20 years.

(B) In the case of a warrant officer, between 15 and 20 years computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(3) The Secretary of the Air Force may, upon the member's request, retire a member of the Air Force who has the following years of service:

(A) In the case of a regular or reserve commissioned officer, between 15 and 20 years of service computed under section 8926 of title 10, United States Code.

(B) In the case of an enlisted member, between 15 and 20 years of service computed under section 8925 of such title.

(C) In the case of a warrant officer, between 15 and 20 years of active service computed under section 511 of the Career Compensation Act of 1949, as amended (70 Stat. 114).

(b) ADDITIONAL ELIGIBILITY REQUIREMENT.—In order to be eligible for retirement under subsection (a), a member of the Armed Forces shall register on the registry maintained under section 1143a(b) of title 10, United States Code (as added by section 531(a)) and receive counselling regarding public and community service job opportunities from the Secretary of Defense or another source approved by the Secretary.

(c) COMPUTATION OF RETIRED PAY.—A member or former member of the Armed Forces retired under subsection (a) shall be entitled to retired pay computed under the provisions of chapter 71, 371, 571, or 871 of title 10, United States Code, that would be applicable to such member or former member if—

(1) the member or former member had been retired under section 1293 (in the case of a retired warrant officer), 3911 (in the case of a retired commissioned Army officer), 3914 (in the case of a retired enlisted member of the Army), 6323 (in the case of a retired commissioned officer of the Navy), 8911 (in the case of a retired commissioned Air Force officer), or 8914 (in the case of a retired enlisted member of the Air Force) of such title upon completion of 20 years of service creditable for purposes of eligibility for retirement; or

(2) in the case of a retired enlisted member of the Regular Navy or Regular Marine Corps, the retired enlisted member had been retired under section 6326 of such title upon completion of 30 years of active service in the Armed Forces creditable for purposes of eligibility for retirement.

(d) FUNDING.—(1) Notwithstanding section 1463 of title 10, United States Code, and to the extent provided in appropriations Acts, the Secretary of each military department shall provide in accordance with this section for the payment of retired or retainer pay payable during the fiscal years covered by the other provisions of this subsection to members of the armed force under the jurisdiction of that Secretary who are being retired under the authority of this section.

(2) In each fiscal year in which the Secretary of a military department retires a member of the Armed Forces under the authority of this section, the Secretary shall credit to a subaccount (which the Secretary shall establish) within the appropriation account for that fiscal year for pay and allowances of active duty members of the armed force under the jurisdiction of that Secretary such amount as is necessary to pay the retired or retainer pay payable to such member for the entire initial period (determined under paragraph (3)) of the entitlement of that member to receive retired or retainer pay.

(3) The initial period applicable under paragraph (2) in the case of a retired member referred to in that paragraph is the number of years (and any fraction of a year) that is equal to the difference between 20 years and the number of years (and any fraction of a year) of service that were completed by the member (as computed under the provision of law referred to in subsection (a) that is applicable to that member) before being retired under this section.

(4) The Secretary shall pay the member's retired or retainer pay for such initial period out of amounts credited to the subaccount under paragraph (2). The amounts so credited with respect to that member shall remain available for payment for that period.

(e) COORDINATION OF BENEFITS.—A member of the Armed Forces retired under this section is not entitled to benefits under section 1174, 1174a, or 1175 of title 10, United States Code.

(f) TERMINATION OF AUTHORITY.—The authority under subsection (a) shall terminate on October 1, 1995.

SEC. 535. INCREASED EARLY RETIREMENT RETIRED PAY FOR PUBLIC OR COMMUNITY SERVICE.

(a) RECOMPUTATION OF RETIRED PAY.—(1) If a member or former member of the Armed Forces retired under section 534(a) or any other provision of law authorizing retirement from the Armed Forces (other than for disability) before the completion of at least 20 years of active duty service (as computed under the applicable provision of law) is employed by a public service or community service organization listed on the registry maintained under section 1143a(c) of title 10, United States Code (as added by section 531(a)), within the period of the member's enhanced retirement qualification period, the member's or former member's retired or retainer pay shall be recomputed effective on the first day of the first month beginning after the date on which the member or former member attains 62 years of age.

(2) For purposes of recomputing a member's or former member's retired pay—

(A) the years of the member's or former member's employment by a public service or community service organization referred to in paragraph (1) during the member's or former member's enhanced retirement qualification period shall be treated as years of active duty service in the Armed Forces; and

(B) in applying section 1401a of title 10, United States Code, the member's or former member's years of active duty service shall be deemed as of the date of retirement to have included the years of employment referred to in subparagraph (A).

(3) Section 1405(b) of title 10, United States Code, shall apply in determining years of service under this subsection.

(4) In this subsection, the term "enhanced retirement qualification period", with respect to a member or former member retired under a provision of law referred to in paragraph (1), means the period beginning on the date of the retirement of the member or former member and ending the number of years (including any fraction of a year) after that date which when added to the number of years (including any fraction of a year) of service credited for purposes of computing the retired pay of the member or former member upon retirement equals 20 years.

(b) SBP ANNUITIES.—(1) Effective on the first day of the first month after a member or former member of the Armed Forces retired under a provision of law referred to in subsection (a)(1) attains 62 years of age or, in the event of death before attaining that age, would have attained that age, the base amount applicable under section 1447(2) of title 10, United States Code, to any Survivor Benefit Plan annuity provided by that member or former member shall be recomputed. For the recomputation the total years (including any fraction of a year) of the member's or former member's active service shall be treated as having included the member's or former member's years (including any fraction of a year) of employment referred to in subsection (a)(1) as of the date when the member or former member became eligible for retired pay under this section.

(2) In this subsection, the term "Survivor Benefit Plan" means the plan established under subchapter II of chapter 73 of title 10, United States Code.

SEC. 536. OPPORTUNITY FOR CERTAIN ACTIVE-DUTY PERSONNEL TO ENROLL IN MONTGOMERY GI BILL PROGRAM WHILE BEING VOLUNTARILY SEPARATED FROM SERVICE.

(a) IN GENERAL.—(1) Subchapter II of chapter 30 of title 38, United States Code, is amended by inserting after section 3018A the following new section:

"§ 3018B. Opportunity for certain active-duty personnel to enroll while being voluntarily separated from service

"(a) Notwithstanding any other provision of law, an individual who—

"(1) is voluntarily discharged from the Armed Forces with an honorable discharge, or voluntarily released from active duty under honorable conditions (as characterized by the Secretary concerned), pursuant to a request for separation approved under section 1174a or 1175 of title 10,

"(2) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree,

"(3) in the case of any individual who has made an election under section 3011(c)(1) of this title, withdraws such election pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section,

"(4) in the case of any person enrolled in the educational benefits program provided by chapter 32 of this title makes an irrevocable election, pursuant to procedures referred to in paragraph (3) of this subsection, to receive benefits under this section in lieu of benefits under such chapter 32, and

"(5) elects to receive assistance under this section pursuant to regulations referred to in paragraph (3) of this subsection,

is entitled to basic educational assistance under this chapter.

"(b) An election or withdrawal of election permitted under subsection (a) of this section is not effective unless—

"(1) in the case of an individual separated from active duty more than 90 days after the date of the enactment of this section, the individual makes the election or withdrawal before the separation;

"(2) in the case of an individual separated from active duty on or after the date of the enactment of this section and within 90 days after that date, the individual makes the election or withdrawal within 90 days after the separation; and

"(3) in the case of an individual separated from active duty before the date of the enactment of this section, the individual makes the election or withdrawal within 90 days after such date.

"(c)(1) An individual described in subsection (a) of this section who makes a withdrawal referred to in subsection (a)(3) of this section shall pay $1,200 to the Secretary of Veterans Affairs. In the case of an individual who makes the withdrawal of election before being separated, any portion of the obligation to pay $1,200 may be discharged by reduction of that individual's basic pay.

"(2) Amounts received by the Secretary pursuant to paragraph (1) shall be credited to the appropriation available for the fiscal year in which received for the Department of Veterans Affairs for the payment of readjustment benefits.

"(d) A withdrawal of election referred to in subsection (a)(3) of this section is irrevocable.

"(e)(1) Except as provided in paragraph (3) of this subsection, an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (a)(4) of this subsection shall be disenrolled from such chapter 32 program as of the date of such election.

"(2) For each individual who is disenrolled from such program, the Secretary shall refund—

"(A) as provided in section 3223(b) of this title, to the individual the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title; and

"(B) to the Secretary of Defense the unused contributions (other than contributions made under section 3222(c) of this title) made by such Secretary to the Account on behalf of such individual.

"(3) Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to section 3222(c) of this title on behalf of any individual referred to in paragraph (1) of this subsection shall remain in such Account to make payments of benefits to such individual under section 3015(e) of this title.".

(2) The table of sections at the beginning of chapter 30 of such title is amended by inserting after the item relating to section 3018A the following new item:

"3018B. Opportunity for certain active-duty personnel to enroll while being voluntarily separated from service.".

(b) Conforming Amendments.—(1) Section 3013(d) of such title is amended by inserting "or 3018B" after "section 3018A".

(2) Section 3015(e) of such title is amended by inserting "or 3018B" after "section 3018A".

(3) Section 3035(b)(3) of such title is amended—

(A) in the matter above subparagraph (A), by inserting "or 3018B" after "section 3018A"; and

(B) in subparagraph (B), by inserting "or 3018B(a)(3)" after "section 3018A(a)(3)".

SEC. 537. ELIMINATION OF RECOUPMENT REQUIREMENT FOR RESERVE DUTY.

Paragraph (2) of section 1175(e) of title 10, United States Code, is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B), a member entitled to voluntary separation incentive payments who is also entitled to basic pay for active service shall forfeit an amount of voluntary separation incentive payable for the same period that is equal to the total amount of basic pay received.

"(B) Subparagraph (A) does not apply with respect to—

"(i) annual training; or

"(ii) active duty for training that is not active duty for a period of more than 30 days.".

SEC. 538. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN EMPLOYMENT, JOB TRAINING, AND OTHER ASSISTANCE.

Section 1144(e) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "$4,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$11,000,000 for fiscal year 1993 and $8,000,000 for each of fiscal years 1994 and 1995."; and

(2) in paragraph (2), by striking out "$1,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$6,500,000 for each of fiscal years 1993, 1994, and 1995.".

SEC. 539. CONTINUED HEALTH COVERAGE FOR MEMBERS AND DEPENDENTS UPON THE SEPARATION OF THE MEMBERS FROM ACTIVE DUTY AND FOR EMANCIPATED CHILDREN OF MEMBERS.

(a) Members and Emancipated Children.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1078 the following new section:

"§1078a. Continued health benefits coverage

"(a) Provision of Continued Health Coverage.—The Secretary of Defense and the Director of the Office of Personnel Management shall jointly carry out a program in accordance with this section to provide persons described in subsection (b) with temporary health benefits under the program of continued health benefits coverage provided for former civilian employees of the Federal Government and other persons under section 8905a of title 5.

"(b) Eligible Persons.—The persons referred to in subsection (a) are the following:

"(1) A member of the armed forces who—

"(A) is discharged or released from active duty (or full-time National Guard duty), whether voluntarily or involuntarily, under other than adverse conditions, as characterized by the Secretary concerned;

"(B) immediately preceding that discharge or release, is entitled to medical and dental care under section 1074(a) of this title (except in the case of a member discharged or released from full-time National Guard duty); and

"(C) after that discharge or release and any period of transitional health care provided under section 1145(a) of this title, would not otherwise be eligible for any benefits under this chapter.

"(2) A person who—

"(A) ceases to meet the requirements for being considered an unmarried dependent child of a member or former member of the armed forces under section 1072(2)(D) of this title;

"(B) on the day before ceasing to meet those requirements, was covered under a health benefits plan under this chapter or transitional health care under section 1145(a) of this title as a dependent of the member or former member; and

"(C) would not otherwise be eligible for any benefits under this chapter.

"(c) Notification of Eligibility.—(1) The Director, in consultation with the Secretary of Defense, shall prescribe regulations to provide for persons described in subsection (b) to be notified of eligibility to receive health benefits under this section.

"(2) In the case of a member who becomes (or will become) eligible for continued coverage under subsection (b)(1), the regulations shall provide for the Secretary concerned to notify the member of the member's rights under this section as part of preseparation counseling conducted under section 1142 of this title or any other provision of other law.

"(3) In the case of a child of a member who becomes eligible for continued coverage under subsection (b)(2), the regulations shall provide that—

"(A) the member may submit to the Secretary concerned a written notice of the child's change in status (including the child's name, address, and such other information as the Director may require); and

"(B) the Secretary concerned shall, within 14 days after receiving that notice, inform the child of the child's rights under this section.

"(d) Election of Coverage.—In order to obtain continued coverage under this section, an appropriate written election (submitted in such manner as the Director may prescribe) shall be made as follows:

"(1) In the case of a member described in subsection (b)(1), the written election shall be submitted to the Director before the end of the 60-day period beginning on the later of—

"(A) the date of the discharge or release of the member from active duty;

"(B) the date on which the period of transitional health care applicable to the member under section 1145(a) of this title ends; or

"(C) the date the member receives the notification required pursuant to subsection (c).

"(2) In the case of a person described in subsection (b)(2), the written election shall be submitted to the Director before the end of the 60-day period beginning on the later of—

"(A) the date on which the person first ceases to meet the requirements for being considered an unmarried dependent child under section 1072(2)(D) of this title, or

"(B) the date the person receives the notification pursuant to subsection (c),

except that if the Secretary concerned determines that the person's parent has failed to provide the notice referred to in subsection (c)(3)(A) with respect to the person in a timely fashion, the 60-day period under this paragraph shall be based only on the date under subparagraph (A).

"(e) Coverage of Dependents.—A person eligible under subsection (b)(1) to elect to receive coverage may elect coverage either as an individual or, if appropriate, for self and dependents. A person eligible under subsection (b)(2) may elect only individual coverage.

"(f) Charges.—(1) Under arrangements satisfactory to the Director, a person receiving continued coverage under this section shall be required to pay into the Employees Health Benefits Fund established under section 8909 of title 5 an amount equal to the sum of—

"(A) the amount determined under section 8905a(d)(1)(A)(i) of title 5;

"(B) an amount, not in excess of 10 percent of the amount referred to in subparagraph (A), that is necessary for administrative expenses, as determined under regulations prescribed by the Director; and

"(C) such additional amount determined by the Director to be necessary to ensure that outlays from the Fund as a result of the program established under this section do not exceed amounts paid under this paragraph.

"(2) If a person elects to continue coverage under this section before the end of the applicable period under subsection (d), but after the person's coverage under this chapter (including any transitional extensions of coverage) expires, coverage shall be restored retroactively, with appropriate contributions (determined in accordance with paragraph (1)) and claims (if any), to the same extent and effect as though no break in coverage had occurred.

"(g) CONTRIBUTION.—Subject to the availability of appropriations for the purpose of this section, if the basis for continued coverage under this section for a member of the armed forces under subsection (b)(1) is involuntary separation approved under section 1174a or 1175 of this title, contributions shall be made in accordance with subsection (f)(1), except that—

"(1) the amount to be paid by the member shall be equal to the employee contribution referred to in section 8905a(d)(1)(A)(i) of title 5; and

"(2) the Secretary of Defense shall pay into the Employees Health Benefits Fund, under arrangements satisfactory to the Director of the Office of Personnel Management, an amount equal to—

"(A) the agency contribution referred to in section 8905a(d)(1)(A)(i) of title 5; and

"(B) the amount described in subsection (f)(1)(B).

"(h) PERIOD OF CONTINUED COVERAGE.—(1) Continued coverage under this section may not extend beyond—

"(A) in the case of a member described in subsection (b)(1), the date which is 18 months after the date the member ceases to be entitled to care under section 1074(a) of this title and any transitional care under section 1145 of this title, as the case may be; and

"(B) in the case of a person described in subsection (b)(2), the date which is 36 months after the date on which the individual first ceases to meet the requirements for being considered an unmarried dependent child under section 1072(2)(D) of this title.

"(2) Notwithstanding paragraph (1)(B), if a person ceases to meet the requirements for being considered an unmarried dependent child of a member described in subsection (b)(1) during a period of continued coverage of that member for self and dependents under this section, extended coverage of that person under this section may not extend beyond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078 the following new item:

"1078a. Continued health benefits coverage.".

(b) TRANSITIONAL PROVISIONS.—The Director of the Office of Personnel Management shall provide a period for the enrollment for health benefits coverage under this section by members and former members of the Armed Services for whom the availability of transitional health care under section 1145(a) of title 10, United States Code, expires before section 1078a of such title, as added by subsection (a), is implemented.

(c) TERMINATION OF APPLICABILITY OF OTHER CONVERSION HEALTH POLICIES.—(1) No person may purchase a conversion health policy under section or 1145(b) of title 10, United States Code, on or after the date on which the Director of the Office of Personnel Management announces that section 1078a of such title is implemented. A person covered by such a conversion health policy on that date may cancel that policy and enroll in a health benefits plan under section 1078a of such title.

(2) No person may be covered concurrently by a conversion health policy under such section 1145(b) of title 10, United States Code, and a health benefits plan under section 1078a of such title.

(d) EFFECTIVE DATE.—Section 1078a of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1992.

Subtitle E—Guard and Reserve Transition Initiatives

SEC. 541. FORCE REDUCTION TRANSITION PERIOD DEFINED.

In this subtitle, the term "force reduction transition period" means the period beginning on October 1, 1991, and ending on September 30, 1995.

SEC. 542. MEMBER OF SELECTED RESERVE DEFINED.

In this subtitle, the term "member of the Selected Reserve" means—

(1) a member of a unit in the Selected Reserve of the Ready Reserve; and

(2) a Reserve designated pursuant to section 268(b) of title 10, United States Code.

SEC. 543. RESTRICTION ON RESERVE FORCE REDUCTION.

(a) IN GENERAL.—During the force reduction transition period, no unit in the Selected Reserve of the Ready Reserve of the Armed Forces may be inactivated and no member of the Selected Reserve may be involuntarily discharged from a reserve component of the Armed Forces or involuntarily transferred from the Selected Reserve before the Secretary of Defense has promulgated, implemented, and transmitted to the Committees on Armed Services of the Senate and House of Representatives regulations that govern the treatment of members of the Selected Reserve assigned to such units and members of the Selected Reserve that are being subjected to such actions.

(b) SAVINGS PROVISION.—Subsection (a) shall not apply to actions completed before the date of the enactment of this Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the prohibition in section 411(c).

SEC. 544. TRANSITION PLAN REQUIREMENTS.

(a) PURPOSE OF PLAN.—The purpose of the regulations referred to in section 543 shall be to ensure that the members of the Selected Reserve are treated with fairness, with respect for their service to their country, and with attention to the adverse personal consequences of Selected Reserve unit inactivations, involuntary discharges of such members from the reserve components of the Armed Forces, and involuntary transfers of such members from the Selected Reserve.

(b) SCOPE OF PLAN.—The regulations shall include—

(1) such provisions as are necessary to implement the provisions of this subtitle and the amendments made by this subtitle; and

(2) such other policies and procedures for the recruitment of personnel for service in the Selected Reserve of the Ready Reserve, and for the reassignment, retraining, separation, and retirement of members of the Selected Reserve, as are appropriate for satisfying the needs of the Selected Reserve together with the purpose set out in subsection (a).

(c) MINIMUM REQUIREMENTS FOR PLAN.—The regulations shall include the following:

(1) The giving of a priority to personnel referred to in section 543(a) for reassignment to Selected Reserve units not being inactivated.

(2) The giving of a priority to such personnel for transfer among the reserve components of the Armed Forces in order to facilitate reassignment to such units.

(3) A requirement that the Secretaries of the military departments take diligent actions to ensure that members of the reserve components of the Armed Forces are informed in easily understandable terms of the rights and benefits conferred upon such personnel by this subtitle, by the amendments made by this subtitle, and by such regulations.

(4) Such other protections, preferences, and benefits as the Secretary of Defense considers appropriate.

(d) UNIFORM APPLICABILITY.—The regulations shall apply uniformly to the Army, Navy, Air Force, and Marine Corps.

SEC. 545. INAPPLICABILITY TO CERTAIN DISCHARGES AND TRANSFERS.

The protections, preferences, and benefits provided for in regulations prescribed in accordance with this subtitle do not apply with respect to a member of the Selected Reserve who is discharged from a reserve component of the Armed Forces or is transferred from the Selected Reserve to another category of the Ready Reserve, to the Standby Reserve, or to the Retired Reserve—

(1) at the request of the member unless such request was made and approved under a provision of this subtitle or section 1331a of title 10, United States Code (as added by section 547);

(2) because the member no longer meets the qualifications for membership in the Selected Reserve set forth in any provision of law as in effect on the day before the date of the enactment of this Act;

(3) under adverse conditions, as characterized by the Secretary of the military department concerned; or

(4) if the member—

(A) is immediately eligible for retired pay based on military service under any provision of law;

(B) is serving as a military technician, as defined in section 8401(30) of title 5, United States Code, and would be immediately eligible for an unreduced annuity under the provisions of subchapter III of chapter 83 of such title, relating to the Civil Service Retirement and Disability System, or the provisions of chapter 84 of such title, relating to the Federal Employees' Retirement System; or

(C) is eligible for separation pay under section 1174 of title 10, United States Code.

SEC. 546. FORCE REDUCTION PERIOD RETIREMENTS.

(a) TEMPORARY SPECIAL AUTHORITY.—During the period referred to in subsection (b), the Secretary concerned may grant a member of the Selected Reserve under the age of 60 years the annual payments provided for under this section if—

(1) as of October 1, 1991, that member has completed at least 20 years of service computed under section 1332 of title 10, United States Code, or after that date and before October 1, 1995, such member completes 20

years of service computed under that section;

(2) the member satisfies the requirements of paragraphs (3) and (4) of section 1331(a) of title 10, United States Code; and

(3) the member applies for transfer to the Retired Reserve—

(A) in the case of a member who has not received the notice required by section 1331(d) of that title before the date of the enactment of this Act, within one year after receiving such notice; and

(B) in the case of a member who received such a notice before the date of the enactment of this Act, within one year after that date.

(b) Period of Applicability.—The period referred to in subsection (a) is, with respect to a member of the Selected Reserve, the force reduction transition period, the period provided under paragraph (3) of that subsection for the member to submit an application, and the period necessary for taking action on that application.

(c) Annual Payment Period.—An annual payment granted to a member under this section shall be paid for 5 years, except that if the member attains 60 years of age during the 5-year period the entitlement to the annual payment shall terminate on the member's 60th birthday.

(d) Computation of Annual Payment.—(1) The annual payment for a member shall be equal to the amount determined by multiplying the product of 12 and the applicable percent under paragraph (2) by the monthly basic pay to which the member would be entitled if the member were serving on active duty as of the date the member is transferred to the Retired Reserve.

(2)(A) Subject to subparagraph (B) the percent applicable to a member for purposes of paragraph (1) is 5 percent plus 0.5 percent for each full year of service, computed under section 1332 of title 10, United States Code, that a member has completed in excess of 20 years before transfer to the Retired Reserve.

(B) The maximum percent applicable under this paragraph is 10 percent.

(e) Applicability Subject to Needs of the Service.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary concerned may limit the applicability of this section to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a).

(f) Nonduplication of Benefits.—A member transferred to the Retired Reserve under the authority of section 1331a of title 10, United States Code (as added by section 547), may not be paid annual payments under this section.

(g) Funding.—To the extent provided in appropriations Acts, payments under this section in a fiscal year shall be made out of amounts available to the Department of Defense for that fiscal year for the pay of reserve component personnel.

(h) Health Care Benefits.—A member of the Retired Reserve receiving annual payments under this section shall be treated as a member of the uniformed services entitled to retired or retainer pay for the purposes of the provisions of chapter 55 of title 10, United States Code.

SEC. 547. RETIREMENT WITH 15 YEARS OF SERVICE.

(a) Authority.—Chapter 67 of title 10, United States Code, is amended by inserting after section 1331 the following new section:

"§ 1331a. Temporary special retirement qualification authority

"(a) Retirement With At Least 15 Years of Service.—For the purposes of section 1331 of this title, the Secretary of a military department may—

"(1) during the period described in subsection (b), determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

"(A) as of October 1, 1991, has completed at least 15, and less than 20, years of service computed under section 1332 of this title; or

"(B) after that date and before October 1, 1995, completes 15 years of service computed under that section; and

"(2) upon the request of the member submitted to the Secretary within one year after the date of the notification referred to in paragraph (1), transfer the member to the Retired Reserve.

"(b) Period of Authority.—The period referred to in subsection (a)(1) is the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993 and ending on October 1, 1995.

"(c) Applicability Subject to Needs of the Service.—(1) The Secretary of the military department concerned may limit the applicability of subsection (a) to any category of personnel defined by the Secretary in order to meet a need of the armed force under the jurisdiction of the Secretary to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

"(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a) of the National Defense Authorization Act for Fiscal Year 1993.

"(d) Exclusion.—This section does not apply to persons referred to in section 1331(c) of this title.

"(e) Regulations.—The authority provided in this section shall be subject to regulations prescribed by the Secretary of Defense.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1331 the following new item:

"1331a. Temporary special retirement qualification authority.".

SEC. 548. SEPARATION PAY.

(a) Eligibility.—Subject to section 545, a member of the Selected Reserve who, after completing at least 6 years of service computed under section 1332 of title 10, United States Code, and before completing 15 years of service computed under that section, is involuntarily discharged from a reserve component of the Armed Forces or is involuntarily transferred from the Selected Reserve is entitled to separation pay.

(b) Amount of Separation Pay.—(1) The amount of separation pay which may be paid to a person under this section is 15 percent of the product of—

(A) the years of service credited to that person under section 1333 of title 10, United States Code; and

(B) 62 times the daily equivalent of the monthly basic pay to which the person would have been entitled had the person been serving on active duty at the time of the person's discharge or transfer.

(2) In the case of a person who receives separation pay under this section and who later receives basic pay, compensation for inactive duty training, or retired pay under any provision of law, such basic pay, compensation, or retired pay, as the case may be, shall be reduced by 75 percent until the total amount withheld through such reduction equals the total amount of the separation pay received by that person under this section.

(c) Relationship to Other Service-Related Pay.—Subsections (g) and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section.

(d) Regulations.—The Secretary of Defense shall prescribe regulations, which shall be uniform for the Army, Navy, Air Force, and Marine Corps, for the administration of this section.

SEC. 549. WAIVER OF CONTINUED SERVICE REQUIREMENT FOR MONTGOMERY GI BILL BENEFITS.

(a) In General.—The eligibility of a person referred to in subsection (b)—

(1) to be provided educational assistance under chapter 106 of title 10, United States Code, may not be terminated under section 2134(2) of that title, or

(2) to be provided educational assistance under chapter 30 of title 38, United States Code, may not be terminated under section 3012(a) of that title,

on the basis of the termination of that person's status as a member of the Selected Reserve under the circumstances described in subsection (b).

(b) Applicability.—Subsection (a) applies to a member of the Selected Reserve who, before completing the years of service in the Selected Reserve agreed to under section 2132(a) of title 10, United States Code, or the years of service required by section 3012(a) of title 38, United States Code, as the case may be, ceases to be a member of the Selected Reserve during the force reduction transition period by reason of the inactivation of his unit of assignment or by reason of involuntarily ceasing to be designated as a member of the Selected Reserve pursuant to section 268(b) of title 10, United States Code.

SEC. 550. COMMISSARY AND EXCHANGE PRIVILEGES.

The Secretary of Defense shall prescribe regulations to authorize a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period to continue to use commissary and exchange stores in the same manner as a member of the Selected Reserve for a period of one year after the later of—

(1) the date on which that person ceases to be a member of the Selected Reserve; or

(2) the date of the enactment of this Act.

SEC. 551. TEMPORARY CONTINUATION OF SERVICEMEN'S GROUP LIFE INSURANCE.

(a) Continued Coverage.—For the purposes of section 1968(a) of title 38, United States Code, the 120-day period of coverage provided for under paragraph (4) of such section shall be extended to a 365-day period of coverage in the case of a former member of the Selected Reserve referred to in subsection (b).

(b) Eligibility.—Subsection (a) applies to a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period and is ready, willing, and able to perform the training described in section 1965(5)(B) of title 38, United States Code.

(c) Payment of Premiums.—The total amount of the cost attributable to insuring a person under this section shall be paid from any funds available to the Department of Defense for the pay of reserve component personnel that the Secretary of Defense determines appropriate.

(d) IMPLEMENTATION.—The Secretary of Veterans Affairs shall take any contracting and other actions that are necessary to ensure that the provisions of this section are implemented promptly.

SEC. 552. APPLICABILITY AND TERMINATION OF BENEFITS.

(a) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may limit the applicability of a benefit provided under sections 548 through 551 to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 544(a).

(b) INAPPLICABILITY TO CERTAIN SEPARATIONS AND REASSIGNMENTS.—Sections 548 through 551 do not apply with respect to personnel who cease to be members of the Selected Reserve under adverse conditions, as characterized by the Secretary of the military department concerned.

(c) TERMINATION OF BENEFITS.—The eligibility of a member of a reserve component of the Armed Forces (after having involuntarily ceased to be a member of the Selected Reserve) to receive benefits and privileges under sections 548 through 551 terminates upon the involuntary separation of such member from the Armed Forces under adverse conditions, as characterized by the Secretary of the military department concerned.

MILITARY HEALTH CARE INITIATIVES ACT

The text of the original bill (S. 3144) to amend title 10, United States Code, to improve the health care system provided for members and former members of the Armed Forces and their dependents, and for other purposes, as passed by the Senate on September 18, 1992, is as follows

S. 3144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Health Care Initiatives Act of 1992".

SEC. 2. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

TITLE VII—HEALTH CARE PROVISIONS

SEC. 715. REPRODUCTIVE HEALTH SERVICES IN MEDICAL FACILITIES OF THE UNIFORMED SERVICES OUTSIDE THE UNITED STATES.

(a) IN GENERAL.—Chapter 55 of title 10, United States Code, is amended by inserting after section 1074c the following new section:

"§1074d. Reproductive health services in medical facilities of the uniformed services outside the United States

"(a) PROVISION OF SERVICES.—A member of the uniformed services who is on duty at a station outside the United States (and any dependent of the member who is accompanying the member) is entitled to the provision of any reproductive health service in a medical facility of the uniformed services outside the United States serving that duty station in the same manner as any other type of medical care.

"(b) PAYMENT FOR SERVICES.—(1) In the case of any reproductive health service for which appropriated funds may not be used, the administering Secretary shall require the member of the uniformed service (or dependent of the member) receiving the service to pay the full cost (including indirect costs) of providing the service.

"(2) If payment is made under paragraph (1), appropriated funds shall not be considered to have been used to provide a reproductive health service under subsection (a). The amount of such payment shall be credited to the accounts of the facility at which the service was provided.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1074c the following new item:

"1074d. Reproductive health services in medical facilities of the uniformed services outside the United States.".

NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE CONVERSION AND ASSISTANCE ACT

The text of the original bill (S. 3145) to amend title 10, United States Code, to clarify and improve the policies and programs of the Department of Defense concerning the national defense technology and industrial base; to encourage and assist the conversion of the national defense technology and industrial base to commercially competitive capabilities, and for other purposes, as passed by the Senate on September 18, 1992, is as follows:

S. 3145

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Technology and Industrial Base Conversion and Assistance Act of 1992".

SEC. 2. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Defense Conversion Policy for the National Defense Technology and Industrial Base

SEC. 801. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE POLICIES AND PLANNING.

(a) POLICIES AND PLANS FOR THE NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE.—Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 134 the following new chapter 135:

"CHAPTER 135—NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE

"Subchapter	Sec.
"I. Policies and Planning	2261
"II. Dual-Use Technologies	2271
"III. Manufacturing Technology	2281
"IV. Miscellaneous Technology Base Policies and Programs	2291
"V. Definitions	2300

"SUBCHAPTER I—POLICIES AND PLANNING

"Sec.
"2261. Policy.
"2262. National Defense Technology and Industrial Base Council.
"2263. National Defense Technology and Industrial Base Assessment.
"2264. National Defense Technology and Industrial Base Plan.
"2265. National Defense Program for Analysis of the Technology and Industrial Base.

"§2261. Policy

"(a) POLICY OBJECTIVES FOR THE NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE.—It is the policy of Congress that the national defense technology and industrial base be capable of meeting the following national security objectives:

"(1) Supplying and equipping the force structure of the armed forces that is necessary to achieve the objectives set forth in the national security strategy report submitted to Congress by the President pursuant to section 104 of the National Security Act of 1947 (50 U.S.C. 404a), the policy guidance of the Secretary of Defense provided pursuant to section 113(g) of this title, and the multiyear defense program submitted to Congress by the Secretary of Defense pursuant to section 114a of this title.

"(2) Sustaining production, maintenance, repair, and logistics for operations of various durations and intensity.

"(3) Maintaining advanced research and development activities to provide the armed forces with systems capable of ensuring technological superiority over potential adversaries.

"(4) Reconstituting within a reasonable period the capability to develop and produce supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a major war, major national emergency, or major mobilization of the armed forces before the commencement of that war, national emergency, or mobilization.

"(b) POLICY OBJECTIVES RELATING TO DEFENSE CONVERSION.—It is the policy of Congress that the United States seek to achieve the national defense technology and industrial base objectives set forth in subsection (a) through enhanced opportunities for conversion of defense-dependent businesses and industrial and technology base sectors to dual-use capabilities.

"(c) CIVIL-MILITARY INTEGRATION POLICY.—It is the policy of Congress that the United States attain the national defense technology and industrial base objectives set forth in subsection (a) through acquisition policy reforms that have the following objectives:

"(1) Relying, to the maximum extent practicable, upon the commercial national defense technology and industrial base that is required to meet the national security needs of the United States.

"(2) Reducing the reliance of the Department of Defense on technology and industrial sectors that are economically dependent on Department of Defense business.

"(3) Reducing Federal Government barriers to the use of commercial products, processes, and standards.

"§ 2262. National Defense Technology and Industrial Base Council

"(a) ESTABLISHMENT.—There is a National Defense Technology and Industrial Base Council.

"(b) COMPOSITION.—The Council is composed of the following members:

"(1) The Secretary of Defense, who shall serve as Chairman.

"(2) The Secretary of Energy.

"(3) The Secretary of Commerce.

"(c) RESPONSIBILITIES.—The Council shall have the following responsibilities:

"(1) To provide overall policy guidance and direction to the military departments and the Defense Agencies, to ensure effective cooperation among departments and agencies of the Federal Government, and to provide advice and recommendations to the President, the Secretary of Defense, and the Secretary of Energy concerning—

"(A) the capabilities of the national defense technology and industrial base to meet the national security objectives of the United States;

"(B) programs for achieving the defense conversion objectives set forth in section 2261(b) of this title; and

"(C) changes in acquisition policy that strengthen the national defense technology and industrial base.

"(2) To prepare annually the assessment and plan required by sections 2263 and 2264 of this title, respectively.

"§ 2263. National defense technology and industrial base assessment

"(a) COMPREHENSIVE ASSESSMENT.—The National Defense Technology and Industrial Base Council shall prepare a comprehensive annual assessment of the capability of the national defense technology and industrial base to attain each of the objectives set forth in section 2261 of this title.

"(b) SECTOR CAPABILITY ANALYSIS.—(1) The annual assessment shall include a sector capability analysis composed of the following matters:

"(A) An analysis of the role of each sector in attaining each of the objectives set forth in section 2261 of this title.

"(B) An analysis of the current and projected capability of each sector to attain each such objective for each of the following periods:

"(i) The fiscal year during which the assessment is submitted to Congress pursuant to section 2264(l) of this title.

"(ii) The following fiscal year.

"(iii) The multiyear period covered by the multiyear defense program submitted under section 114a of this title during the fiscal year referred to in clause (i).

"(2) The analysis required by paragraph (1)(B) shall include, for each sector for each period described in paragraph (1)(B), an analysis of the present and projected capabilities of prime contractors, subcontractors, the Defense Industrial Reserve under section 2292 of this title, and departments and agencies of the Federal Government with respect to each of the following:

"(A) Research and development, including research and development regarding the critical technologies identified under subsection (f).

"(B) Application of critical technologies to the production of goods and the furnishing of services.

"(C) Test and evaluation.

"(D) Low rate production.

"(E) High volume production.

"(F) Repair and maintenance.

"(G) Design and prototyping.

"(H) Work force skills and capabilities, including improvements that build on the skill and experience of their work force.

"(c) FOREIGN DEPENDENCY CONSIDERATIONS.—In the preparation of the annual assessment the Council shall consider, for each sector, the following factors:

"(1) The availability of essential raw materials, special alloys, composite materials, components, subsystems, production equipment, facilities, special tooling, and production test equipment for—

"(A) the sustained production of systems fully capable of meeting the performance objectives established for those systems;

"(B) the uninterrupted maintenance and repair of such systems; and

"(C) the sustained operation of such systems.

"(2) The identification of items specified in paragraph (1) that are available only from sources outside the national defense technology and industrial base.

"(3)(A) The availability of alternatives for obtaining such items from within the national defense technology and industrial base if such items become unavailable from sources outside the national defense technology and industrial base.

"(B) An analysis of any military vulnerability that could result from the lack of reasonable alternatives.

"(4) The effects on the national defense technology and industrial base that result from foreign acquisition of firms in the United States.

"(d) FINANCIAL CONDITION ANALYSIS.—(1) The assessment shall include an analysis of the present and projected financial condition of each sector, for each period described in subsection (b)(1)(B).

"(2) In the analysis of the financial condition of each sector, the Council shall specifically consider the following matters:

"(A) Trends in the following:

"(i) Profitability.

"(ii) Levels of capital investment.

"(iii) Expenditures on research and development.

"(iv) Levels of debt.

"(B) The effects of actual and potential commercial sales.

"(C) The consequences of mergers, acquisitions, and takeovers.

"(D) The effects of Department of Defense financial policies, including the following:

"(i) Policies relating to progress payments or other financing by the Department of Defense.

"(ii) Policies relating to the return on contractor investment.

"(iii) Policies relating to the allocation of contract risk between the Department of Defense and a contractor.

"(E) The effects of expenditures in the sector by departments and agencies of the Federal Government other than the Department of Defense and the Department of Energy (for national security programs).

"(F) The analysis required by subsection (e).

"(e) ANALYSIS OF IMPACT OF DEPARTMENT OF DEFENSE REDUCTIONS.—(1) The annual assessment shall include an analysis of the impact of the terminations and significant reductions of major research and development programs and procurement programs of the Department of Defense on the capability of each sector to attain each of the objectives set forth in section 2261 of this title.

"(2) The programs referred to in paragraph (1) are those programs in which a termination or significant reduction in expenditures—

"(A) has taken place in the fiscal year before the fiscal year in which the annual assessment is submitted to Congress pursuant to section 2264(1) of this title; or

"(B) is provided for—

"(i) in the budget submitted pursuant to section 1105(a) of title 31 in that fiscal year; and

"(ii) in the multiyear defense program submitted with such budget pursuant to section 114a of this title.

"(3) In this subsection, the term 'significant reduction', with respect to expenditures for a program for a fiscal year, means that the amount provided for that program for that fiscal year in the budget, Acts authorizing appropriations, appropriations Acts, or the multiyear defense program for that fiscal year is less than the amount provided for that program for the preceding fiscal year in the budget, Acts authorizing appropriations, appropriations Acts, or the multiyear defense program, respectively, for that preceding fiscal year by at least—

"(A) the greater of—

"(i) the amount equal to 10 percent of the amount provided for that preceding fiscal year; or

"(ii) $5,000,000; or

"(B) a lesser amount determined significant by the Secretary of Defense or the Council.

"(f) CRITICAL TECHNOLOGY ANALYSIS.—(1) The annual assessment shall include a critical technology analysis that identifies the product and process technologies that are most critical for attaining the technology and industrial base objectives set forth in section 2261 of this title. The number of technologies so identified may not exceed 20. The analysis shall be prepared in consultation with the Critical Technologies Institute.

"(2) For each technology, the analysis shall include the following:

"(A) The reasons for selection of that technology as a technology critical to the Department of Defense.

"(B) The potential dual-use applications of that technology.

"(C) The relationship between the activities of the Department of Defense and other Federal agencies in the development of that technology.

"(D) The potential contributions that the private sector can be expected to make from its own resources in connection with the development of civilian applications for such technology.

"(E) A comparison of the position of the United States to the positions of other nations in the development of that technology, including the potential contributions that other nations can make to meeting the needs of the United States for that technology.

"(g) SECTOR VIABILITY ANALYSIS.—(1) The annual assessment shall include an analysis, for each of the periods described in subsection (b)(1)(B), of the following matters:

"(A) The extent to which each sector is—

"(i) dependent on defense expenditures to ensure continued viability;

"(ii) dependent on a mix of defense and nondefense Federal Government expenditures to ensure continued viability;

"(iii) dependent on a mix of Federal Government expenditures and other Federal Government programs to ensure continued viability; and

"(iv) sufficiently integrated with the commercial marketplace to ensure continued viability regardless of the level of Federal Government expenditures in the sector.

"(B) The extent to which each sector is capable of—

"(i) ongoing production with a present capability for high volume production;

"(ii) maintenance of a production base that can be converted to high volume production within a reasonable period of time; or

"(iii) reconstitution of a production base that can reinstate high volume production within a reasonable period of time.

"(2) The analysis shall specifically identify any sectors and any entities within sectors that should be considered for inclusion in the Defense Industrial Reserve under section 2292 of this title.

"(3) In this section:

"(A) The term 'defense expenditure' means an expenditure by—

"(i) the Department of Defense; or

"(ii) the Department of Energy for a national security program.

"(B) The term 'continued viability' means the capability to attain the technology and industrial base objectives set forth in section 2261 of this title.

"(h) ISSUANCE.—The Secretary of Defense shall prescribe by regulation a schedule for the completion of the annual assessment that ensures sufficient time for the consideration of the assessment in the preparation of the annual national defense technology and industrial base plan required by section 2264 of this title.

"§ 2264. National defense technology and industrial base plan

"(a) IN GENERAL.—The National Defense Technology and Industrial Base Council shall prepare an annual plan for ensuring, to the maximum extent practicable, that the policies and programs of the Department of Defense, the Department of Energy, and other departments and agencies of the Federal Government are planned, coordinated, funded, and implemented in a manner designed to attain each of the technology and industrial base objectives set forth in section 2261 of this title. The Council shall take into account the annual national defense technology and industrial base assessment prepared pursuant to section 2263 of this title in preparing the annual plan.

"(b) SECTOR VIABILITY GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, for each of the following:

"(1) Programs and policies of the Federal Government that are necessary to ensure the continued viability of each sector that is identified in the annual assessment as being economically dependent in whole or in part upon Federal Government programs or policies.

"(2) Programs and policies of the Federal Government that are necessary in each such sector—

"(A) to reduce each economic dependency of such sector on foreign sources that could create a military vulnerability; and

"(B) to provide for alternative sources in the event that the foreign sources become unavailable.

"(3) The composition and management of the Defense Industrial Reserve under section 2292 of this title.

"(c) MANUFACTURING TECHNOLOGY GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, for the following:

"(1) The National Defense Manufacturing Technology Program established under section 2281 of this title.

"(2) The support of manufacturing extension programs under section 2283 of this title.

"(3) Programs to enhance basic research in scientific disciplines relating to manufacturing technology through—

"(A) encouraging research in colleges and universities in the United States and in associated centers of excellence; and

"(B) establishing technology transfer mechanisms, and technology education and training mechanisms, that ensure that the results of such research are readily available to United States industry.

"(4) Programs for encouraging the use of computer-integrated manufacturing to improve manufacturing quality, reduce manufacturing costs, reduce production lead times, and improve maintenance.

"(5) Programs for enhancing Department of Defense use of concurrent engineering practices in the design and development of weapon systems.

"(6) Programs providing incentives for firms in the national defense technology and industrial base to use advanced manufacturing technology and processes and to invest in improved productivity.

"(7) Programs for encouraging research in colleges and universities and in other technology development and extension programs in the United States for the development of work systems that build on worker's skill and experience.

"(8) Programs for assisting in the transition to high performance work systems, including ongoing worker involvement in the evaluation, selection, and installation and operation of production technologies and associated organization or work.

"(d) CRITICAL TECHNOLOGIES GUIDANCE.—For each defense critical technology, the plan shall contain the following:

"(1) Specific guidance, including goals, milestones, and priorities, with respect to the development of the technology.

"(2) The specific funding requirements of the Department of Defense, the Department of Energy, and other departments and agencies of the Federal Government for the development of the technology for the 5 fiscal years following the fiscal year in which the plan is submitted pursuant to subsection (l).

"(3) A designation of the lead organization within the Department of Defense or the Department of Energy to be responsible for the development of the technology.

"(4) A summary description of the lead organization's plan for the development of the technology, including the milestone goals.

"(e) INTEGRATED FINANCING GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, to ensure that the financial policies of the Department of Defense and Department of Energy (for national security programs), including the policies identified in section 2263(d)(2)(D) of this title, are designed to meet the industrial and technology base policies set forth in section 2261 of this title.

"(f) CIVIL-MILITARY INTEGRATION GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, to encourage the effective integration of commercial products and processes into Federal Government acquisition practices with respect to the following:

"(1) Expanding the use of commercial specifications in place of Federal Government specifications.

"(2) Increasing the use of commercial manufacturing processes instead of processes specified by the Federal Government.

"(3) Reducing the extent of unique government regulatory requirements relating to accounting and acquisition.

"(4) Identifying and ensuring the effective application by the Department of Defense and the Department of Energy (for national security programs) of research, technologies, products, information, and practices developed by other departments and agencies of the Federal Government, State and local governments, colleges and universities, nonprofit organizations, and commercial enterprises.

"(5) Identifying effective mechanisms for transferring technology and related information, to the maximum extent practicable, from the Department of Defense and Department of Energy to other departments and agencies of the Federal Government, State and local governments, colleges and universities, nonprofit organizations, and commercial enterprises.

"(6) Ensuring, to the maximum extent practicable, that technology and related information are so transferred.

"(g) DEFENSE CONVERSION GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, for providing sectors and businesses at least partially dependent economically on national security expenditures with Federal Government assistance to convert from that dependence to economic viability without such dependence.

"(h) TECHNOLOGY AND INDUSTRIAL BASE WORK FORCE GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, to enhance the skills and capabilities of the work force, including high performance, high quality, and high flexibility production, in the national defense technology and industrial base.

"(i) MAJOR PROGRAM ACQUISITION GUIDANCE.—The plan shall provide specific guidance, including goals, milestones, and priorities, for enhancing the effectiveness of the major defense acquisition program regulations prescribed pursuant to section 2439 of this title.

"(j) ACQUISITION REFORM GUIDANCE.—(1) The plan shall include any recommended legislation that the Council considers appropriate for eliminating any adverse effect of Federal law on the capability of the national defense technology and industrial base to attain the objectives set forth in section 2261 of this title.

"(2) The plan shall provide specific guidance to ensure that maximum use is made of authority to waive regulations or conduct test programs in pursuit of such objectives.

"(k) FUNDING.—The plan shall ensure effective implementation of the guidance issued under this section by establishing funding priorities for each area of guidance identified under subsections (b) through (h) for each of the periods described in section 2263(b)(1)(B) of this title.

"(l) ISSUANCE.—(1) The Secretary of Defense shall provide the annual plan to the Secretaries of the military departments and the heads of the other elements of the Department of Defense not later than the date on which the Secretary provides such officials with the guidance required by section 113(g)(1) of this title. The Secretary of Energy and the Secretary of Commerce shall provide such guidance to appropriate officials within their respective departments.

"(2) The Secretary of Defense shall transmit to Congress, not later than March 31 of each year—

"(A) the plan prepared under this section, including any changes necessary to reflect the budget submitted by the President during that year under section 1105 of title 31; and

"(B) the national defense technology and industrial base assessment prepared pursuant to section 2263 of this title that pertains to such plan and budget.

"(3) The plan and assessment shall be submitted to Congress in classified and unclassified forms. Proprietary information that may be withheld from disclosure under section 552 of title 5 shall be provided only in the classified version.

"§ 2265. National Defense Program for Analysis of the Technology and Industrial Base

"(a) ESTABLISHMENT.—(1) The National Defense Technology and Industrial Base Council shall establish at an entity described in paragraph (3) a program to be known as the 'National Defense Program for Analysis of the Technology and Industrial Base'.

"(2) The Program shall be an element of the defense acquisition university structure established under section 1746 of this title.

"(3) As determined by the Chairman of the Council, the Program shall be administered by—

"(A) an existing federally funded research and development center;

"(B) a consortium of existing federally funded research and development centers and other nonprofit entities; or

"(C) another appropriate private sector research entity.

"(4) The Chairman shall ensure that there is appropriate consultation and coordination between the Program and the Critical Technologies Institute.

"(b) OVERSIGHT COMMITTEE.—The Program shall have an oversight committee composed of 3 members as follows:

"(1) The Under Secretary of Defense for Acquisition, or his designee, who shall serve as Chairman of the operating committee.

"(2) An official designated by the Secretary of Energy.

"(3) An official designated by the Secretary of Commerce.

"(c) MISSIONS.—The missions for the Program shall include, with respect to the national defense technology and industrial base, the following:

"(1) The assembly of timely and authoritative information.

"(2) Initiation of studies and analyses.

"(3) Provision of technical support and assistance to—

"(A) the Council in the preparation of the annual assessment required by section 2263 of this title and the annual plan required by section 2264 of this title;

"(B) the defense acquisition university structure and its elements; and

"(C) other departments and agencies of the Federal Government in accordance with guidance established by the Council.

"(4) Dissemination, through the National Technical Information Service of the Department of Commerce, of unclassified information and assessments for further dissemination within the Federal Government and to the private sector.".

(b) TECHNOLOGY AND INDUSTRIAL BASE PLANNING FOR MAJOR DEFENSE PROGRAMS.—(1) Chapter 144 of title 10, United States Code, is amended by inserting after section 2438 the following new section:

"§ 2439. Major programs: technology and industrial base plans

"(a) ACQUISITION PLAN REQUIREMENTS.—The Secretary of Defense shall prescribe regulations requiring consideration of the national defense technology and industrial base in the development and implementation of acquisition plans for each major defense acquisition program.

"(b) CONTENT OF ACQUISITION PLANS.—The acquisition plan for each major defense acquisition program shall include provisions for the following:

"(1) An analysis of the capabilities of the national defense technology and industrial base to develop, produce, maintain, and support such program, including consideration of the factors set forth in section 2263(c) of this title.

"(2) Consideration of requirements for efficient manufacture during the design and production of the systems to be procured under the program.

"(3) The use of advanced manufacturing technology, processes, and systems during the research and development phase and the production phase of the program.

"(4) To the maximum extent practicable, the use of contract solicitations that encourage competing offerors to acquire, for use in the performance of the contract, modern technology, production equipment, and production systems (including hardware and software) that increase the productivity of the offerors and reduce life-cycle costs.

"(5) Encouragement of investment by United States domestic sources in advanced manufacturing technology production equipment and processes through—

"(A) recognition of the contractor's investment in advanced manufacturing technology production equipment, processes, and organization of work systems that build on workers' skill and experience, and work force skill development in the development of the contract objective; and

"(B) increased emphasis in source selections on the efficiency of production.

"(6) Expanded use of commercial manufacturing processes rather than processes specified by the Department of Defense.

"(7) Elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under Department of Defense contracts.

"(8) Expanded use of commercial products as set forth in section 2325 of this title.".

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 2438 the following new item:

"2439. Major programs: technology and industrial base plans.".

(c) IMPLEMENTATION.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including milestones for actions, to ensure the timely and thorough collection of information, completion of assessments, and issuance of plans required by the provisions of subchapter I of chapter 135 of title 10, United States Code, as added by subsection (a).

(2)(A) The first annual assessment required by section 2263 of such title shall be completed not later than September 30, 1993.

(B) The first annual plan required by section 2264 of such title shall be completed not later than November 15, 1993.

(C) The Secretary may prescribe regulations authorizing the presentation of information in a preliminary form in the first annual assessment and the first annual plan to the extent that the necessary information cannot reasonably be collected, analyzed, or presented in accordance with section 2263 or 2264, respectively, of title 10, United States Code, by the dates specified in subparagraphs (A) and (B).

(3) The National Defense Technology and Industrial Base Council shall establish the National Defense Center for Analysis of the Technology and Industrial Base not later than 6 months after the date of the enactment of this Act. The Secretary of Defense shall ensure that a contract solicitation is issued and a contract is awarded in a timely manner to facilitate the establishment of the Center within the period set forth in the preceding sentence.

SEC. 802. DEFENSE DUAL-USE TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAMS.

(a) DEFENSE DUAL-USE TECHNOLOGIES.—(1) Chapter 135 of title 10, United States Code (as added by section 801(a)), is amended by adding after subchapter II the following:

"SUBCHAPTER II—DUAL-USE TECHNOLOGIES

"Sec.
"2271. Defense dual-use critical technology partnerships.
"2272. Commercial-military integration partnerships.
"2273. Regional technology alliances assistance program.
"2274. Office for Foreign Defense Critical Technology Monitoring and Assessment.
"2275. Overseas foreign critical technology monitoring and assessment financial assistance program.
"2276. Encouragement of technology transfer.".

(2) Section 2523 of title 10, United States Code, (relating to defense dual-use critical technology partnerships) is—

(A) transferred to subchapter II of chapter 135 of such title (as added by paragraph (1));

(B) inserted following the table of sections; and

(C) redesignated as section 2271.

(3) Subchapter II of such chapter, as added by paragraph (1) and amended by paragraph (2), is further amended by inserting after section 2271 the following new section:

"§ 2272. Commercial-military integration partnerships

"(a) ESTABLISHMENT OF PARTNERSHIPS.—The Secretary of Defense shall conduct a program providing for the establishment of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between the Department of Defense and entities referred to in section 2271(b) of this title in order to encourage and provide for research, development, and application of technologies to attain the national defense technology and industrial base objectives set forth in section 2261 of this title.

"(b) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, and enter into cooperative agreements and other transactions pursuant to section 2371 of this title in order to establish the partnerships.

"(2) The Secretary may not enter into a partnership under this section for a period longer than 5 years.

"(3) The Secretary may provide a partnership with technical and other assistance to facilitate the achievement of the purposes of this section, subject to the limitations in subsection (c).

"(c) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The Secretary shall ensure that the amount of funds provided by the Secretary under a partnership does not exceed maximum authorized percentage of the total cost of partnership activities.

"(2) The maximum authorized percentage of Federal Government funding referred to in paragraph (1) for each year of a partnership is as follows:

"(A) 50 percent in the first year.

"(B) 40 percent in the second year.

"(C) 30 percent in the third year.

"(D) 20 percent in the fourth year.

"(E) 10 percent in the fifth year.

"(3)(A) The Secretary shall prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a partnership for the purpose of determining the share of the partnership costs that has been or is being undertaken by such participants.

"(B) The regulations shall also ensure that the in-kind contributions of nonprofit institutions and small businesses are considered included, to the maximum extent practicable, in the non-Federal Government share of the cost of the partnership.

"(d) SELECTION PROCESS.—Competitive procedures shall be used in the establishment of partnerships.

"(e) SELECTION CRITERIA.—The criteria for the selection of a proposed partnership for establishment under this section shall include the following:

"(1) The extent to which the program proposed to be conducted by the partnership advances and enhances the national defense industrial and technology base objectives set forth in section 2261 of this title.

"(2) The technical excellence of the program proposed to be conducted by the partnership.

"(3) The qualifications of the personnel proposed to participate in the partnership's research activities.

"(4) A likelihood that there will not be timely private sector investment in activities to achieve the goals and objectives of the proposed partnership other than through the partnership.

"(5) The potential effectiveness of the partnership in the further development and application of each technology proposed to be developed by the partnership for the industrial and technology base.

"(6) The extent of the financial commitment of the eligible firms to the proposed partnership.

"(7) The likelihood that the partnership will develop technologies that are sufficiently viable in the commercial sector so that such technologies will be available to meet the future reconstitution requirements and other needs of the Department of Defense described in the annual national defense technology and industrial base plan prepared under section 2264 of this title.

"(8) The likelihood that, within 5 years after the establishment of the partnership (or a lesser period established by the Secretary), Federal Government funding of the partnership will not be necessary.

"(9) Such other criteria as the Secretary prescribes.

"(f) DELEGATION OF AUTHORITY.—Subject to the authority, direction, and control of the Secretary of Defense and the Under Secretary of Defense for Acquisition, the Director of Defense Research and Engineering shall perform the duties of the Secretary of Defense under this section.".

(4) Section 2524 of title 10, United States Code (relating to critical technology application centers) is—

(A) transferred to subchapter II of chapter 135, as added by paragraph (1) and amended by paragraphs (2) and (3);

(B) inserted at the end of that subchapter; and

(C) amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"§ 2273. Regional technology alliances assistance program";

(ii) by striking out "regional critical technology application centers" in subsection (a) and inserting in lieu thereof "regional technology alliances";

(iii) by striking out "regional critical technology application center" in subsection (b) and inserting in lieu thereof "regional technology alliance";

(iv) by striking out "critical technology application center" and "center" each time such terms appear and inserting in lieu thereof "regional technology alliance"; and

(v) by striking out "2523" in subsection (g) and inserting in lieu thereof "2271".

(5) Section 2525 of title 10, United States Code (relating to the Office for Foreign Defense Critical Technology Monitoring and Assessment), and section 2526 of such title (relating to the overseas foreign critical technology monitoring and assessment financial assistance programs) are—

(A) transferred to subchapter II of chapter 135 of such title, as added by paragraph (1) and amended by paragraphs (2) through (4);

(B) inserted at the end of that subchapter; and

(C) redesignated as sections 2274 and 2275, respectively.

(6) Subsection (a) of section 2274 of such title (as redesignated by paragraph (5)) is amended by inserting "Critical" after "Foreign Defense".

(7) Section 2363 of title 10, United States Code (relating to encouragement of technology transfer), is—

(A) transferred to subchapter II of chapter 135 of such title, as added by paragraph (1) and amended by paragraphs (1) through (5);

(B) inserted at the end of that subchapter; and

(C) redesignated as section 2276.

(b) FUNDING.—Of the amounts authorized to be appropriated under section 201—

(1) $100,000,000 shall be available for defense dual-use critical technology partnerships;

(2) $50,000,000 shall be available for commercial-military integration partnerships;

(3) $100,000,000 shall be available for defense regional technology alliances; and

(4) $2,000,000 shall be available for the overseas critical technology monitoring and assessment financial assistance program.

SEC. 803. ESTABLISHMENT OF OFFICE OF TECHNOLOGY TRANSITION.

(a) ESTABLISHMENT.—(1) Subchapter II of chapter 135 of title 10, United States Code (as added by section 802), is amended by adding at the end the following:

"§ 2277. Office of Technology Transition

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish within the Office of the Secretary of Defense an Office of Technology Transition.

"(b) PURPOSE.—The purpose of the Office shall be to ensure, to the maximum extent practicable, that technology developed for national security purposes is integrated into the private sector of the United States in order to enhance the national defense technology and industrial base.

"(c) SPECIFIC DUTIES.—The head of the Office shall ensure that the Office—

"(1) monitors all research and development activities that are carried out by or for the military departments and Defense Agencies, including research and development that is conducted by or for—

"(A) the Strategic Defense Initiative Organization;

"(B) the Advanced Research Projects Agency; and

"(C) the Defense Nuclear Agency;

"(2) identifies all such research and development activities that use technologies, or result in technological advancements, having potential nondefense commercial applications;

"(3) serves as a clearinghouse for, coordinates, and otherwise actively facilitates the transition of such technologies and technological advancements from the Department of Defense to the private sector;

"(4) conducts its activities in consultation and coordination with the Department of Energy; and

"(5) provides private firms with assistance to resolve problems associated with security clearances, proprietary rights, and other legal considerations involved in such a transition of technology.

"(d) REPORTING REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives an annual report on the activities of the Office at the same time that the budget is submitted to Congress by the President pursuant to section 1105 of title 31. The report shall contain a discussion of the accomplishments of the Office during the fiscal year preceding the fiscal year in which the report is submitted.".

(2) The table of sections at the beginning of subchapter II of such chapter (as added by section 802) is amended by inserting after the item relating to section 2276 the following:

"2277. Office of Technology Transition.".

(b) SCHEDULE FOR ESTABLISHMENT.—The Office of Technology Transition shall commence operations within 180 days after the date of the enactment of this Act.

(c) REPORTING REQUIREMENTS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the establishment of the Office of Technology Transition. The report shall contain a description of the organization of the Office, the staffing of the Office, and the activities undertaken by the Office.

(2) Notwithstanding section 2277(d) of title 10, United States Code (as added by subsection (a))—

(A) the first report under that section shall be submitted not later than 1 year after the date of the enactment of this Act; and

(B) no additional report is necessary under that section in the fiscal year in which such first report is submitted.

SEC. 804. DEFENSE DUAL-USE MANUFACTURING TECHNOLOGY PROGRAMS.

(a) NATIONAL DEFENSE MANUFACTURING TECHNOLOGY PROGRAM.—(1) Chapter 135 of title 10, United States Code, as added by section 801(a) and amended by sections 802 and 803, is further amended by adding after subchapter II the following new subchapter:

"SUBCHAPTER III—MANUFACTURING TECHNOLOGY

"Sec.

"2281. National Defense Manufacturing Technology Program.

"2282. Defense advanced manufacturing technology partnerships.

"2283. Manufacturing extension programs.

"§ 2281. National Defense Manufacturing Technology Program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall establish a National Defense Manufacturing Technology Program to—

"(1) provide centralized guidance and direction, including goals, milestones, and priorities, to the military departments and the

Defense Agencies on all matters relating to manufacturing technology;

"(2) direct the development and implementation of Department of Defense plans, programs, projects, activities, and policies that promote the development and application of advanced technologies to manufacturing processes, tools, and equipment;

"(3) improve the manufacturing quality, productivity, technology, and practices of businesses and workers providing goods and services to the Department of Defense;

"(4) promote dual-use manufacturing processes;

"(5) disseminate to such businesses information concerning improved manufacturing improvement concepts, including information on such matters as best manufacturing practices, product data exchange specifications, computer-aided acquisition and logistics support, and rapid acquisition of manufactured parts;

"(6) sustain and enhance the skills and capabilities of the manufacturing work force;

"(7) promote high-performance work systems, with development and dissemination of production technologies that build upon the skills and capabilities of the work force, high levels of worker education and training, and work force participation in the evaluation, selection, and implementation of new production technologies; and

"(8) ensure appropriate coordination between the manufacturing technology programs and industrial preparedness programs of the Department of Defense and similar programs undertaken by other departments and agencies of the Federal Government or by the private sector.

"(b) Relationship to National Defense Technology and Industrial Base Plan.—The Secretary shall ensure that the program is developed and implemented in accordance with the manufacturing technology guidance set forth in the national defense technology and industrial base plan prepared under section 2264 of this title.

"(c) Annual Revisions.—The Secretary shall revise the program not later than March 15 of each year. Each revision shall identify each manufacturing technology program, project, or activity of the Department of Defense and the amounts provided for each such program, project, and activity in the budget submitted by the President under section 1105 of title 31 for the fiscal year beginning in that year.

"(d) Program Limitation.—A manufacturing technology program, project, or activity of the Department of Defense may be conducted only to the extent provided for in the National Defense Manufacturing Technology Program. However, such a program, project, or activity may be conducted in excess of the limitation in the preceding sentence if it is designated by the Secretary of Defense as a higher priority matter.

"(e) Delegation of Authority.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform the duties of the Secretary of Defense under this section.".

(2) Section 203(d) of the National Defense Authorization Act for Fiscal Year 1992 and 1993 (Public Law 102–190; 105 Stat. 1315) is repealed.

(b) Defense Advanced Manufacturing Technology Partnerships.—(1) Section 2518 of title 10, United States Code (relating to defense advanced manufacturing technology partnerships), is—

(A) transferred to subchapter III of chapter 135 of such title, as added by subsection (a)(1);

(B) inserted at the end of that subchapter;

(C) redesignated as section 2282; and

(D) amended in subsection (d)(1) by striking out "section 2523(f)" and inserting in lieu thereof "section 2271(f)".

(2) Of the amounts made available pursuant to section 203(4), $25,000,000 shall be available for defense advanced manufacturing technology partnerships under section 2282 of title 10, United States Code, as transferred and redesignated by paragraph (1).

(c) Manufacturing Technology Extension Programs.—(1) Section 2517 of title 10, United States Code (relating to manufacturing extension programs), is—

(A) transferred to subchapter III of chapter 135 of such title, as added by subsection (a)(1) and amended by subsection (b);

(B) inserted at the end of that subchapter; and

(C) redesignated as section 2283.

(2) Of the amounts authorized to be appropriated under section 201, $100,000,000 shall be available for support of manufacturing technology extension programs under section 2283 of title 10, United States Code, as transferred and redesignated by paragraph (1).

(d) Defense Manufacturing Engineering Education Program.—Of the amounts authorized to be appropriated under section 201, $25,000,000 shall be available for defense manufacturing engineering education grants under section 2196 of title 10, United States Code.

(e) Defense Manufacturing Experts in the Classroom Program.—(1)(A) Section 2197 of title 10, United States Code, is amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"§ 2197. Manufacturing experts in the classroom";

(ii) in subsection (a), by striking out "managers and" in the matter above paragraph (1); and

(iii) by adding at the end the following new subsection:

"(e) Manufacturing Expert Defined.—In this section, the term 'manufacturing expert' means manufacturing managers and workers having experience in the organization of production and education and training needs and other experts in manufacturing.".

(B) The table of sections at the beginning of chapter 111 of such title is amended by striking out the item relating to section 2197 and inserting in lieu thereof the following:

"2197. Manufacturing experts in the classroom.".

(2) Of the amounts authorized to be appropriated under section 201, $5,000,000 shall be available for the manufacturing experts in the classroom program under section 2197 of title 10, United States Code.

SEC. 805. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE DUAL-USE ASSISTANCE EXTENSION PROGRAMS.

(a) Extension Programs.—Chapter 135 of title 10, United States Code, as added by section 801(a) and as amended by sections 802, 803, and 804, is further amended by adding at the end the following:

"SUBCHAPTER IV—MISCELLANEOUS TECHNOLOGY BASE POLICIES AND PROGRAMS

"Sec.

"2291. Defense dual-use assistance extension program.

"2292. Defense Industrial Reserve.

"§ 2291. Defense dual-use assistance extension program

"(a) Establishment of Program.—The Secretary of Defense, in consultation and coordination with the Secretary of Energy and the Secretary of Commerce, shall establish a program to achieve the national defense technology and industrial base objectives set forth in section 2261 of this title by providing support to entities referred to in subsection (b) for programs described in that subsection.

"(b) Programs Supported.—The Secretary may provide support under this section for programs sponsored by the Federal Government, regional entities, States, local governments, and private entities and nonprofit organizations that assist firms whose businesses and workers economically dependent on Department of Defense expenditures to acquire dual-use capabilities through the provision under those programs of the following services:

"(1) Assistance in converting from government-oriented management, production, training, business planning, and marketing practices to commercial practices.

"(2) Assistance in making improvements necessary for conversion to commercial markets and practices and in acquiring and using public and private sector resources, literature, and other information concerning—

"(A) research, development, and production processes and practices;

"(B) identification and development of technologies and products having the potential for defense and nondefense commercial applications;

"(C) marketing practices and opportunities;

"(D) identification of potential suppliers, partners, and subcontractors;

"(E) identification of opportunities for government support, including support through grants, contracts, partnerships and consortia;

"(F) enhancement of work force skills and capabilities, including development and introduction of high performance workplace systems, employee and participative management systems, workforce literacy programs, programs to encourage employee ownership, worker education and training, work force participation in the evaluation, selection, and implementation of new production technologies; and

"(G) trade and export assistance.

"(c) Assistance Authorized.—(1) The Secretary may make grants, enter into contracts, enter into cooperative agreements and other transactions pursuant to section 2371 of this title, and transfer funds to another department or agency of the Federal Government in carrying out this section.

"(2) Subject to subsection (d), the Secretary may provide a program referred to in subsection (b) with technical and other assistance.

"(d) Financial Commitment of Non-Department of Defense Participants.—(1) The Secretary shall ensure that the amount of funds provided by the Department of Defense for a program under this section does not exceed the maximum authorized percentage of the combined amount provided by the Department of Defense and all other sources of funding for the program for any year.

"(2) The maximum authorized percentage of Department of Defense funding referred to in paragraph (1) for each year of Department of Defense assistance for a program under this section is as follows:

"(A) 50 percent in the first year.

"(B) 40 percent in the second year.

"(C) 30 percent in the third and following years.

"(e) Selection Process.—Competitive procedures shall be used in the selection of programs to receive assistance under this section.

"(f) Selection Criteria.—The criteria for the selection of a program to receive assistance under this section shall include the following:

"(1) The extent to which the program advances and enhances the national defense industrial and technology base objectives set forth in section 2261 of this title.

"(2) The technical excellence of the program.

"(3) The qualifications of the personnel proposed to participate in the program's research activities.

"(4) A likelihood that there will not be timely private sector investment in activities that is sufficient to achieve the goals and objectives of the programs.

"(5) The potential effectiveness of the program in the conversion of businesses, including their work forces from capabilities that make the companies economically dependent on Department of Defense business to capabilities having defense and nondefense commercial applications.

"(6) The ability of the program to assist businesses, including their work forces, adversely affected by significant reductions in Department of Defense spending.

"(7) The extent of the financial commitment by sources other than the Department of Defense.

"(8) The extent to which the program would supplement, rather than duplicate, other available services.

"(9) The likelihood that, within 5 years after the commencement of assistance for a program under this section (or a lesser period established by the Secretary), Department of Defense assistance will not be necessary to sustain the program.

"(10) Such other criteria as the Secretary prescribes.

"(g) Delegation of Authority.—Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Acquisition shall perform the duties of the Secretary of Defense under this section.

"(h) Termination of Authority.—This section shall cease to be effective on September 30, 1997.".

(b) Funding.—(1) Of the amounts authorized to be appropriated under section 201, $200,000,000 shall be available for defense dual-use extension programs under section 2291 of title 10, United States Code (as added by subsection (a)), of which not less than $50,000,000 shall be made available to regional, State, and local government programs.

(2) Of funds authorized to be appropriated to the Department of Defense for fiscal year 1993 by this Act, the Secretary may transfer not more than $50,000,000 to the appropriations made available for the support of defense dual-use extension programs under such section 2291. Amounts so transferred shall be merged with, and be available for the same purpose and the same period as, the appropriations to which transferred. The authority to transfer funds under this paragraph is in addition to any other transfer authority provided for the Secretary of Defense under this or any other Act.

SEC. 806. ADDITIONAL STATUTORY REORGANIZATION.

(a) Technology and Industrial Base Amendments.—(1)(A) Subchapter IV of chapter 135 of title 10, United States Code, as added by section 805, is amended by adding at the end, without text, the following new section:

"§ 2292. Defense Industrial Reserve".

(B) The text of section 2 of the Defense Industrial Reserve Act (50 U.S.C. 451) is—

(i) transferred to section 2292;

(ii) inserted below the section heading; and

(iii) amended by striking out "In enacting this Act, it" and inserting in lieu thereof the following: "(a) Declaration of Purpose and Policy.—It".

(C) The text of section 4 of that Act (50 U.S.C. 453) is—

(i) transferred to section 2292;

(ii) inserted following subsection (a), as designated in the amendment made by subparagraph (B)(iii); and

(iii) amended—

(I) by striking out "(a) To execute the policy set forth in this Act," and inserting in lieu thereof the following: "(b) Powers and Duties of the Secretary of Defense.—(1) To execute the policy set forth in this section,";

(II) by striking out "(1) determine" and inserting in lieu thereof "(A) determine";

(III) by striking out "(2) designate" and inserting in lieu thereof "(B) designate";

(IV) by striking out "(3) establish" and inserting in lieu thereof "(C) establish";

(V) by striking out "(4) direct" and inserting in lieu thereof "(D) direct";

(VI) by striking out "(5) direct" and inserting in lieu thereof "(E) direct";

(VII) by striking out "(6) authorize" and inserting in lieu thereof "(F) authorize";

(VIII) by striking out "(7) authorize" and all that follows through "(B) such institution" and inserting in lieu thereof "(G) authorize and regulate the lending of any such property to any nonprofit educational institution or training school whenever (i) the program proposed by such institution or school for the use of such property will contribute materially to national defense, and (ii) such institution";

(IX) by striking out "(b)(1) The Secretary" and inserting in lieu thereof "(2)(A) The Secretary";

(X) by striking out "(A) storage" and inserting in lieu thereof "(i) storage";

(XI) by striking out "(B) repair" and inserting in lieu thereof "(ii) repair";

(XII) by striking out "(C) overhead" and inserting in lieu thereof "(iii) overhead"; and

(XIII) by striking out "(2) The Secretary of Defense shall prescribe regulations" and inserting in lieu thereof "(B) The Secretary of Defense shall prescribe regulations".

(D) The text of section 3 of that Act (50 U.S.C. 452) is—

(i) transferred to section 2292;

(ii) inserted following subsection (b), as designated in the amendment made by subparagraph (C)(iii)(I); and

(iii) amended by striking out "As used in this Act—" and inserting in lieu thereof "(c) Definitions.—In this section:".

(2)(A) Chapter 135 of title 10, United States Code, as added by section 801(a) and amended by sections 802, 803, 804, and 805 and by paragraph (1), is further amended by inserting at the end the following subchapter:

"SUBCHAPTER V—DEFINITIONS

"Sec.
"2300. Definitions.

"§ 2300. Definitions

"In this chapter:

"(1) The term 'national defense technology and industrial base' means the persons and organizations that are engaged in research, development, production, or maintenance activities the majority of which are conducted within the United States and Canada.

"(2) The term 'dual-use' with respect to products, services, standards, processes, or acquisition practices, means products, services, standards, processes, or acquisition practices, respectively, that are capable of meeting requirements for private sector commercial acquisitions as well as public sector acquisitions.

"(3) The term 'dual-use critical technology' means a critical technology that has military applications and nonmilitary commercial applications.

"(4) The terms 'technology and industrial base sector' and 'sector' mean a group of public or private persons and organizations that engage in, or are capable of engaging in, similar research, development, or production activities.

"(5) The terms 'Federal laboratory' and 'laboratory' have the meaning given the term 'laboratory' in section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)).

"(6) The term 'critical technology' means a technology that is—

"(A) a national critical technology; or

"(B) a defense critical technology.

"(7) The term 'national critical technology' means a technology that appears on the list of national critical technologies contained in the most recent biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)).

"(8) The term 'defense critical technology' means a technology that appears on the list of critical technologies contained, pursuant to subsection (f) of section 2263 of this title, in the most recent national defense technology and industrial base assessment submitted to Congress by the Secretary of Defense pursuant to section 2264(1) of this title.

"(9) The term 'eligible firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) conducts a significant level of its research, development, engineering, and manufacturing activities in the United States; and

"(B) is a company or other business entity the majority ownership or control of which is by United States citizens or is a company or other business of a parent company that is incorporated in a country the government of which—

"(i) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations; and

"(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

Such term includes a consortium of such companies or other business entities, as determined by the Secretary of Commerce.

"(10) The term 'manufacturing technology' means techniques and processes designed to improve manufacturing quality, productivity, and practices, including quality control, shop floor management, inventory management, and worker training, as well as manufacturing equipment and software.

"(11) The term 'manufacturing extension program' means a public or private, nonprofit program for the improvement of the quality, productivity, and performance of United States-based small manufacturing firms in the United States.

"(12) The term 'United States-based small manufacturing firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) engages in manufacturing;

"(B) has less than 500 employees; and

"(C) is an eligible firm.".

(B) Until the first annual national defense technology and industrial base assessment is submitted to Congress by the Secretary of Defense pursuant to section 2264(1) of title 10, United States Code (as added by section 801(a)), the reference to the most recent such assessment in section 2300(8) of such title (as added by subparagraph (A)) shall be deemed to refer to the most recent annual critical defense critical technologies plan submitted to Congress by the Secretary of Defense pursuant to section 2522 of such title as in effect on the date of the enactment of this Act.

(3) The annual national defense technology and industrial base assessment submitted to Congress pursuant to section 2264(1) of title 10, United States Code (as added by section 801(a)), during each year through 1995 shall include a specific assessment of the capability of the domestic textile and apparel industrial base of the United States to support national defense mobilization requirements. Each such assessment shall include the following:

(A) An identification of textile and apparel mobilization requirements of the Department of Defense that cannot be satisfied on a timely basis by domestic industries.

(B) An assessment of the effect that any inadequacy in the textile and apparel industrial base would have on a mobilization.

(C) Recommendations for ways to alleviate any such inadequacy that the Secretary considers critical to national defense mobilization requirements.

(b) CONFORMING REORGANIZATION OF TITLE 10.—(1) Part IV of subtitle A of title 10, United States Code, is amended—

(A) by redesignating the chapter 135 (relating to encouragement of aviation) in effect on the day before date of the enactment of this Act as chapter 151; and

(B) by transferring such chapter, as so redesignated, within part IV of such subtitle so as to appear in sequence immediately before chapter 152.

(2) Such chapter is amended as follows:

(A) Sections 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, and 2279 are redesignated as 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, and 2539, respectively.

(B) Subsection (a) of section 2532, as so redesignated, is amended by striking out "section 2271" and inserting in lieu thereof "section 2531".

(C) Subsection (a) of section 2533, as so redesignated, is amended by striking out "section 2272" and inserting in lieu thereof "section 2532".

(D) Subsection (b) of section 2534, as so redesignated, is amended by striking out "sections 2272(f) and 2279 of this title but are not subject to section 2271(a)-(d) and 2272(a)" and inserting in lieu thereof "sections 2532(f) and 2539 of this title but are not subject to section 2531(a)-(d) and 2532(a)".

(c) TRANSFERS OF SECTIONS.—(1) Section 2504 of title 10, United States Code, is—

(A) transferred to subchapter II of chapter 138 of such title;

(B) inserted at the end of that subchapter;

(C) redesignated as 2350j; and

(D) amended in subsection (a)(1) by striking out "defense industrial base" and inserting in lieu thereof "defense technology and industrial base".

(2) Section 2505 of such title is—

(A) transferred to chapter 141 of such title, as amended by section 363 of this Act;

(B) inserted at the end of that chapter; and

(C) redesignated as section 2410d.

(3) Section 2507 of such title is—

(A) transferred to chapter 141 of such title, as amended by paragraph (2);

(B) inserted at the end of that chapter; and

(C) amended—

(i) by striking out subsection (c); and

(ii) by striking out the section heading and inserting in lieu thereof the following:

"§ 2410e. Miscellaneous limitations on the procurement of goods other than United States goods".

(4)(A) Section 2506 of such title is amended—

(i) in subsection (a)—

(I) by striking out "(a) Funds" and inserting in lieu thereof "(c) PROCUREMENT OF NON-AMERICAN GOODS GENERALLY.—(1) Funds";

(II) by striking out "(as defined in subsection (c))" in the matter above paragraph (1); and

(III) by redesignating paragraphs (1), (2), (3), (4), (5), (6), and (7) as subparagraphs (A), (B), (C), (D), (E), (F), and (G), respectively;

(ii) in subsection (b), by striking out "(b) Consideration of the matters referred to in paragraphs (1) through (6) of subsection (a)" and inserting in lieu thereof "(2) Consideration of the matters referred to in subparagraphs (A) through (F) of paragraph (1)"; and

(iii) in subsection (c)—

(I) by striking out "(c) In this section," and inserting in lieu thereof "(3) In this subsection,"; and

(II) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) The text of such section, as so amended, is transferred to section 2410e of title 10, United States Code, as added by paragraph (3), and is inserted following subsection (b) of that section.

(d) CONFORMING REPEALS.—(1) Section 2330 of title 10, United States Code, is repealed.

(2)(A) Part IV of subtitle A of such title is amended by striking out chapters 148, 149, and 150.

(B) The tables of chapters at the beginning of subtitle A of such title and part IV of such subtitle are amended by striking out the items relating to chapters 148, 149, and 150.

(3) The Defense Industrial Reserve Act (50 U.S.C. 450 et seq.) is repealed.

(e) TABLES OF SECTIONS.—(1) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2330.

(2) The table of sections at the beginning of subchapter II of chapter 138 of such title is amended by adding at the end the following:

"2350j. Defense memoranda of understanding and related agreements.".

(3) The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2363.

(4) The table of sections at the beginning of chapter 141 of such title, as amended by section 363 of this Act, is further amended by adding at the end the following:

"2410d. Offset policy: notification.

"2410e. Miscellaneous limitations on the procurement of goods other than United States goods.".

SEC. 807. SMALL BUSINESS INNOVATION RESEARCH PROGRAM IN THE DEPARTMENT OF DEFENSE.

(a) AMOUNTS AVAILABLE.—For each fiscal year after fiscal year 1993, funds authorized to be appropriated to a military department or a Defense Agency of the Department of Defense for research, development, test and evaluation shall be available for research activities and for research and development activities under the Small Business Innovation Research Program in amounts as follows:

(1) For fiscal year 1993, 1.5 percent of the extramural budget of such military department or Defense Agency for such activities for that fiscal year.

(2) For fiscal year 1994, 2 percent of the extramural budget of such military department or Defense Agency for such activities for that fiscal year.

(3) For fiscal year 1995, and each fiscal year thereafter, 2.5 percent of the extramural budget of such military department or Defense Agency for such activities for that fiscal year.

(b) LIMITATION ON PROGRAM AWARDS.—Amounts paid to a small business concern by the Department of Defense under the Small Business Innovation Research Program for a project—

(1) in phase I under the program may not exceed $100,000; and

(2) in phase II under the program may not exceed $750,000.

(c) COMMERCIAL APPLICATIONS STRATEGY.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Administrator of the Small Business Administration, shall develop and issue a strategy for effectuating the transition of successful projects under the Small Business Innovation Research Program from phase II under the program into phase III under the program.

(d) PROGRAM MANAGEMENT.—The Director of Defense Research and Engineering and the Director of the Office of Small and Disadvantaged Business Utilization of the Department of Defense shall be responsible for the participation of the military departments and Defense Agencies in the Small Business Innovation Research Program.

(e) EXTENSION OF PROGRAM.—Section 5 of Public Law 97-219 (15 U.S.C. 638 note) is amended—

(1) by striking out "Effective October 1, 1993, paragraphs" and inserting in lieu thereof "Paragraphs"; and

(2) by striking out "are repealed" and inserting in lieu thereof "shall cease to be effective with respect to departments and agencies of the Federal Government other than the Department of Defense on October 1, 1993, and are repealed effective October 1, 2000".

(f) DEFINITIONS.—In this section:

(1) The term "Small Business Innovation Research Program" means the Small Business Innovation Research Program carried out pursuant to paragraphs (4) through (7) of subsection (b) of section 9 of the Small Business Act (15 U.S.C. 638) and subsections (e) through (k) of such section.

(2) The term "extramural budget" has the meaning given that term in subsection (e)(1) of such section.

(3) The term "phase I", with respect to the Small Business Innovation Research Program, means the first phase described in subsection (e)(4)(A) of such section.

(4) The term "phase II", with respect to the Small Business Innovation Research Program, means the second phase described in subsection (e)(4)(B) of such section.

(5) The term "phase III", with respect to the Small Business Innovation Research Program, means the third phase described in subsection (e)(4)(C) of such section.

(g) EFFECTIVE DATE AND APPLICABILITY.—This section shall take effect on October 1, 1992.

SEC. 808. DUAL-USE DEFENSE CONVERSION PRIORITY.

During fiscal year 1993, the Secretary of Defense shall give priority in the allocation of funds under subchapters II, III, and IV of chapter 135 of title 10, United States Code (as added by sections 802 through 805) and the Small Business Innovation Research Program referred to in section 807, to the maximum extent practicable, to programs, projects, and activities that provide significant assistance for converting the capabilities of businesses that are economically dependent on Department of Defense business to capabilities having defense and non-defense commercial applications.

SEC. 809. STATUTORY CHARTER FOR THE ADVANCED RESEARCH PROJECTS AGENCY.

(a) STATUTORY CHARTER.—(1) Subchapter II of chapter 8 of title 10, United States Code, is amended by adding at the end the following:

"§ 203. Advanced Research Projects Agency

"(a) IN GENERAL.—The Advanced Research Projects Agency is a Defense Agency.

"(b) DIRECTOR.—(1) The head of the agency is the Director.

"(2) The Director is appointed by the President, by and with the advice and consent of the Senate. The Secretary of Defense shall recommend persons for appointment to the position of Director.

"(3) Subject to the authority, direction, and control of the Secretary of Defense, the Director shall perform the functions and duties provided in subsection (d).

"(c) DEPUTY DIRECTOR.—(1) There is a Deputy Director of the agency who is appointed by the Director with the approval of the Secretary of Defense.

"(2) The Deputy Director shall perform such duties and exercise such authority as may be prescribed by the Director with the approval of the Secretary of Defense.

"(3) When there is a vacancy in the office of Director or in the absence or disability of the Director, the Deputy Director shall act as Director and perform the duties, and exercise the authority, of the Director until a successor is appointed or the absence or disability ceases.

"(d) FUNCTIONS AND DUTIES.—(1) The Advanced Research Projects Agency is the central research and development organization of the Department of Defense. It is a primary responsibility of the agency to maintain the technological superiority of the United States over the potential adversaries of the United States.

"(2) The agency shall—

"(A) together with United States industry, Federal laboratories, and colleges and universities, pursue—

"(i) imaginative and innovative research and development projects having significant potential for both military and commercial applications; and

"(ii) imaginative and innovative research and development projects having significant potential solely for military applications;

"(B) support and stimulate a national technology base that—

"(i) serves both civilian and military purposes through enhanced technology sharing and otherwise; and

"(ii) by so serving both purposes, increases the productivity of both the civilian and military sectors;

"(C) manage and direct the conduct of basic and applied research and development that exploits scientific breakthroughs and demonstrates the feasibility of revolutionary approaches for improved cost and performance of advanced technology having future military applications, including advanced technology also having future civilian applications; and

"(D) stimulate increased emphasis on prototyping in defense systems and subsystems—

"(i) by conducting prototype projects embodying technology that might be incorporated in joint programs, programs in support of deployed forces, or selected programs of the military departments; and

"(ii) on request of the Secretary of a military department, by assisting that military department in any prototyping program of the military department.

"(3) The agency may, when requested and supported by a department or agency of the Federal Government not primarily involved in the performance of national security functions, manage and direct the conduct of basic and applied research and development of any other advanced technology that can be applied to increase the capability of that department or agency to attain mission objectives of the department or agency.

"(e) OTHER DUTIES.—The agency shall perform any additional duties that the Secretary of Defense assigns.".

(2) The table of sections at the beginning of subchapter II of such chapter is amended by inserting at the end the following:

"203. Advanced Research Projects Agency.".

(b) RELATED AND OTHER DEFENSE RESEARCH AMENDMENTS.—(1)(A) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Director, Advanced Research Projects Agency, Department of Defense.".

(B) Section 5316 of such title is amended by striking out the following:

"Director, Advanced Research Projects Agency, Department of Defense.".

(2)(A) Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Director of Defense Research and Engineering, Department of Defense.".

(B) Section 5315 of such title is amended by striking out the following:

"Director of Defense Research and Engineering.".

(3) Section 101(44)(B) of title 10, United States Code, is amended by inserting "by law or" after "designated".

(4) Section 2371(a) of such title is amended by striking out "Defense Advanced Research Projects Agency" and inserting in lieu thereof "Advanced Research Projects Agency".

(c) REFERENCE IN OTHER LAW.—Any reference in any other law to the Defense Advanced Research Projects Agency shall be deemed to refer to the Advanced Research Projects Agency.

SEC. 810. INDUSTRIAL DIVERSIFICATION PLANNING FOR DEFENSE CONTRACTORS.

(a) INCENTIVES.—(1) Not later than 120 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations to encourage defense contractors to engage in industrial diversification planning.

(2) Such regulations shall include—

(A) treatment of industrial diversification planning expenditures as allowable costs under Department of Defense contracts,

(B) treatment of industrial diversification research and development activities as permissible independent research and development expenditures, and

(C) such other incentives as the Secretary of Defense deems appropriate to encourage defense contractors to engage in industrial diversification planning.

(b) DEFINITION.—For purposes of this section, the term "industrial diversification" means conversion from government-oriented management, production, training, and marketing practices to practices that are compatible with the commercial marketplace.

SEC. 810A. CLARIFICATION OF PARTICIPANTS IN DEFENSE DUAL-USE CRITICAL TECHNOLOGY PARTNERSHIPS.

Section 2271(b) of title 10, United States Code (as redesignated by section 802(a)(2)), is amended by inserting "government-owned and operated industrial facilities," after "Federal laboratory or laboratories".

NATIONAL DEFENSE MULTIYEAR AUTHORIZATION ACT

For the text of the original bill (S. 3136) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, as passed by the Senate on September 18, 1992, please see S. 3114, this issue.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

For the text of the original bill (S. 3137) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activies of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, as passed by the Senate on September 18, 1992, please see S. 3114, this issue.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Sanders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session of the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations and treaty received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 12:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 454. Joint resolution to provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 238. An act for the relief of Craig A. Klein;

H.R. 454. An act for the relief of Bruce C. Veit;

H.R. 478. An act for the relief of Norman R. Ricks;

H.R. 712. An act for the relief of Patricia A. McNamara;

H.R. 3379. An act to amend section 574 of title 5, United States Code, relating to the authorities of the Administrative Conference; and

H.R. 5620. An act making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, September 21, 1992, he had presented to the President of the United States, the following enrolled bills:

S. 680. An act to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism in the United States, and for other purposes.

S.J. Res. 337. Joint resolution designating September 18, 1992, as "National POW/MIA Recognition Day", and authorizing display of the National League of Families POW/MIA flag.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3912. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, notice to Congress of the certification with regard to the Board for International Broadcasting; to the Committee on Appropriations.

EC-3913. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "United States Costs In the Persian Gulf Conflict and Foreign Contributions to Offset Such Costs"; to the Committee on Armed Services.

EC-3914. A communication from the Deputy Assistant Secretary of Defense (Requirements and Resources), transmitting, pursuant to law, a report on the military retirement system as of September 30, 1991; to the Committee on Armed Services.

EC-3915. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of a determination by the President under the Export-Import Bank Act of 1945 concerning Albania; to the Committee on Banking, Housing and Urban Affairs.

EC-3916. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, a report describing the status of multifamily housing; to the Committee on Banking, Housing and Urban Affairs.

EC-3917. A communication from the General Counsel of the Department of the Treasury, transmitting, a draft of proposed legislation to relieve the regulatory burden on depository institutions and credit unions that are doing business or that seek to do business in an emergency or major disaster area; to the Committee on Banking, Housing and Urban Affairs.

EC-3918. A communication from the Under Secretary of Commerce (Oceans and Atmosphere), transmitting, pursuant to law, notice of the designation for the Monterey Bay National Marine Sanctuary; to the Committee on Commerce, Science and Transportation.

EC-3919. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, notice of an extension of time for issuing a final decision in a certain legal case; to the Committee on Commerce, Science and Transportation.

EC-3920. A communication from the Administrator of the Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, a report of progress on developing and certifying the Traffic Alert and Collision Avoidance System; to the Committee on Commerce, Science and Transportation.

EC-3921. A communication from the Secretary of Health and Human Services, transmitting, for the information of the Senate, the comments of the Department of Health and Human Services relative to the bill S. 2481, the Indian Health Care Amendments of 1992; to the Select Committee on Indian Affairs.

EC-3922. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3923. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3924. A communication from the Acting Assistant General Counsel, Department of Energy, transmitting, pursuant to law, notice of meetings related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-3925. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3926. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-3927. A communication from the Administrator of General Services, transmitting, pursuant to law, a proposed prospectus for the United States Postal Service and the General Services Administration for a Federal Center in Philadelphia, Pennsylvania; to the Committee on Environment and Public Works.

EC-3928. A communication from the President of the United States, transmitting, pursuant to law, notice of the intent to enter into a North American Free Trade Agreement with the Governments of Mexico and Canada; to the Committee on Finance.

EC-3929. A communication from the President of the United States, transmitting, pursuant to law, a budget amendment for fiscal year 1993 providing for loan guarantees to Israel; to the Committee on Foreign Relations.

EC-3930. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to September 10, 1992; to the Committee on Foreign Relations.

EC-3931. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, notice of the provision of defense articles and services to the Organization of African Unity; to the Committee on Foreign Relations.

EC-3932. A communication from the Executive Assistant, Mortal, Welfare and Recreation Support Activity, Headquarters, United States Marine Corps, transmitting, pursuant to law, the annual report of the Retirement Plan for Civilian Employees of the United States Marine Morale, Welfare and Recreation Activities, the Morale, Welfare and Recreation Support Activity, and Miscellaneous Nonappropriated Fund; to the Committee on Governmental Affairs.

EC-3933. A communication from the Attorney General of the United States, transmitting, pursuant to law, the annual report on the operations of the private counsel debt collection project for fiscal year 1991; to the Committee on Governmental Affairs.

EC-3934. A communication from the Acting Chairman of the Administrative Conference of the United States, transmitting, pursuant to law, the annual report on agency activities under the Equal Access to Justice Act for fiscal year 1991; to the Committee on the Judiciary.

EC-3935. A communication from the Immediate Past National President of the Women's Army Corps Veterans' Association, transmitting, pursuant to law, the annual audit report of the Association dated June 30, 1991; to the Committee on the Judiciary.

EC-3936. A communication from the Assistant Attorney General (Legislative Affairs), transmitting a draft of proposed legislation entitled the "Orderly Phase-Down of Parole Act of 1992"; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 2849. A bill to restore the groundfish resources off the coast of New England, and for other purposes (Rept. No. 102-412).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2837. A bill to amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug (Rept. No. 102-413).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WOFFORD:

S. 3253. A bill to amend the Harmonized Tariff Schedule of the United States to correct the rate of duty on certain mixtures of caseinate; to the Committee on Finance.

By Mr. REID:

S. 3254. A bill to authorize the President to award a gold medal on behalf of Congress to Richard "Red" Skelton, and to provide for the production of bronze duplicates of such medal for sale to the public; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. SASSER:

S. 3255. A bill to amend chapter 81 of title 5, United States Code, to provide that persons convicted of certain crimes of fraud or who are incarcerated may not receive worker's compensation under such chapter, and for other purposes; to the Committee on Governmental Affairs.

By Mr. HATCH (for himself and Mr. KENNEDY):

S. 3256. A bill to amend the Public Health Service Act to authorize grants for construction at certain historically Black colleges and universities and similar institutions granting biomedical graduate degrees and enrolling substantial numbers of students from disadvantaged backgrounds, including racial and ethnic minorities; to the Committee on Labor and Human Resources.

By Mr. MOYNIHAN:

S. 3257. A bill to create a separate tariff classification for certain herbal liqueurs; to the Committee on Finance.

By Mr. GLENN:

S.J. Res. 339. A joint resolution to designate January 16, 1993, as "National Good Teen Day"; to the Committee on the Judiciary.

By Mr. BRADLEY (for himself and Mr. HATCH):

S.J. Res. 340. A joint resolution designating the week of February 14 through February 20, 1993, as "National Visiting Nurse Associations Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILL AND JOINT RESOLUTIONS

By Mr. WOFFORD:

S. 3253. A bill to amend the harmonized tariff schedule of the United States to correct the rate of duty on certain mixtures of caseinate.

CORRECTION OF CERTAIN DUTY RATES UNDER THE HARMONIZED TARIFF SCHEDULE

• Mr. WOFFORD. Mr. President, I rise today to introduce legislation to restore the duty rate on Tru-Pro 224 of 0.2 cent per pound, which was in the tariff schedules of the United States [TSUS], the old tariff schedule—retroactive to January 1, 1989, when the harmonized tariff schedule [HTS] the new tariff schedule, came into force.

For 4 years—1985–88—all imports of Tru-Pro 224 were consistently and properly classified by the U.S. Customs Service as a mixture in chief value of casein under item 493.17 of the TSUS. When the United States began planning to replace the TSUS with HTS, it was internationally agreed that an article that was classified under a given provision of the TSUS would be classified under the equivalent provision of the HTS. This was designed to assure, in particular, that the rate applicable to the product would note change. In the case of Tru-Pro 224, the equivalent provision was HTS subheading 3501.90.50, which covers casein derivative, at a rate of 0.44 cent per kilogram.

In spite of the international agreement, Customs reclassified Tru-Pro 224 under HTS subheading 1901.90.40, which covers various food preparations with dairy ingredients, at a rate of 16 percent. That translates into a duty of about 14 cents per pound, since the dutiable value of Tru-Pro 224 is today about 88.5 cents per pound. In other words, the 16 percent rate is about 70 times the 0.2 cent per pound rate.

The attached letter dated June 28, 1990, to the Australian Government, from the United States Trade Representative acknowledges the obligation of the United States Government to seek congressional approval of the restoration of the TSUS rate of 0.2 cent per pound. I ask unanimous consent that the text of the letter be printed in the RECORD.

Mr. President, I believe it is clear that the United States is obligated to restore the 0.2 cent per pound rate for Tru-Pro 224. It is equally clear that the restoration should be retroactive to January 1, 1989, when the HTS came into force. The application of the 16 percent rate has been unjustified since that date.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE U.S. TRADE REPRESENTATIVE,
Washington, DC, June 28, 1992.

Hon. NEAL BLEWETT,
Minister for Trade Negotiations,
Parliament House, Canberra.

DEAR DR. BLEWETT: I have the honor to refer to the discussions which have taken place between officials of our two countries to resolve certain concerns Australia has with the introduction of the Harmonized Tariff Schedule of the United States [HTSUS]. Pursuant to those discussions, this letter sets forth the understandings of our two governments of certain actions the United States will take with respect to its schedule, and of Australia's undertaking that it will lift its reservation on the United States GATT schedule XX as converted to the Harmonized System.

Australia's reservations concern three products:

a. Mixtures of non-fat dry milk and anhydrous butterfat containing over 5.5 percent but not over 45 percent by weight of butterfat, which prior to January 1, 1989 were classified to TSUS item 182.92 but which are now classified to HTSUS subheading 1901.90.30;

b. Dried mixtures containing less than 31 percent by weight of butterfat and consisting of not less than 17.5 percent by weight each of sodium caseinate, butterfat, whey solids containing over 5.5 percent by weight of butterfat, and dried whole milk, but not containing dried milk, dried whey, or dried buttermilk any of which contains 5.5 percent or less by weight of butterfat. Prior to January 1, 1989 these mixtures were classified to TSUS item 493.17 but are now classified to HTSUS subheading 1901.90.40;

c. Woven tapestry and woven upholstery fabrics of wool valued over $2 per pound, which prior to January 1, 1989 were classified to TSUS item 357.15 but which are now classified to HTSUS subheadings 5112.20.00 or 5112.30.00.

Under the Tariff Schedules of the United States [TSUS], the products described in paragraph (a) above, imported from Australia, were subject to a section 22 quota of 1,016,046 kilograms and a tariff rate of 16 percent ad valorem. Under the Harmonized Tariff Schedule of the United States [HTSUS] these products have been classified as articles of milk or cream, subject to a section 22 quota of 2,721 kilograms and a tariff rate of 17.5 percent ad valorem.

Under the TSUS, the products described in paragraph (b) above, imported from Australia, were free of any quota and subject to a tariff rate of 0.44 cents per kilogram. Under the HTSUS these products have been classified as edible preparations containing over 5.5 percent butterfat, subject to a section 22 quota of 1,016,046 kilograms and a tariff rate of 16 percent ad valorem.

Under the TSUS, the products described in paragraph (c) above, imported from Australia, were subject to a tariff rate of 7 percent ad valorem. Under the HTSUS these products have been classified as woven fabrics of combed wool containing less than 85 percent by weight of wool mixed mainly or solely with man-made filaments or man-made staple fibers, subject to a tariff rate of 48.5 cents per kilogram plus 38 percent ad valorem.

Section 1211(c) of the Omnibus Trade and Competitiveness Act of 1988 provides authority to modify the coverage of the section 22 quotas to restore the previous treatment in effect under the TSUS. This authority expires on June 30, 1990.

There is no executive authority to reduce tariffs on these products by more than certain specified proportions and amounts. Any tariff reductions greater than those specified proportions and amounts would require approval by the Congress of the United States.

It is understood that the Government of the United States will use the section 1211(c) authority to restore the pre-existing treatment with regard to quotas for products described in (a) and (b) above and will not oppose legislation to restore the pre-existing duty treatment of products described in (a), (b) and (c) above. Further, the Executive Branch of the U.S. Government will enter into an agreement, in the context of the Uruguay Round of multilateral trade negotiations, to restore tariff rates on products described in (a) and (b) to the levels applying immediately prior to 1 January 1989, and thereafter will seek Congressional approval of such restoration.

In these circumstances, Australia will not take any retaliatory measures, request any compensation, or take any measures in pursuit of any right it might have under Article XXVIII of the GATT, including recourse to Article XXIII, with respect to the products described in (a) or (b), on the understanding that action will be taken by the United States to restore pre-existing tariff and quota treatment to products described in (a) and (b) above by the time the United States formally notifies the GATT of its acceptance of the agreements associated with the Uruguay Round of multilateral trade negotiations. However, Australia will retain its GATT rights in relation to these products until such restoration has occurred.

It is further understood that:

(A) Australia will immediately withdraw its reservation on the United States GATT

Schedule XX as converted to the Harmonized System in all respects except with regard to products (a) and (b) above and initially negotiated rights not fully shown in the Schedule,

(B) Australia will notify the GATT to that effect,

(C) Australia will lift its reservation with respect to each of the products (a) and (b) above when the respective duty rates and the quota treatment on each is restored to the level applicable under the TSUS, and once all agreed initially negotiated rights accorded to Australia are shown in the United States GATT Schedule XX as converted to the Harmonized System, and

(D) The United States will immediately withdraw its reservation on Australia's GATT Schedule I as converted to the Harmonized System.

I have the honor to propose that, if the foregoing is acceptable to the Government of Australia, this letter and your confirmatory reply constitute the understandings of our two governments as of the date of your reply.

Sincerely,

CARLA A. HILLS.•

By Mr. REID.

S. 3254. A bill to authorize the President to award a gold medal on behalf of the Congress to Richard "Red" Skelton, and to provide for the production of bronze duplicates of such medal for sale to the public; to the Committee on Banking, Housing, and Urban Affairs.

AWARD OF CONGRESSIONAL GOLD MEDAL TO RED SKELTON

• Mr. REID. Mr. President, I rise today to honor a man who set out at the age of 10 in pursuit of a penny and a dream. With only the clothes on his back and his natural talent he achieved both, becoming one of America's greatest entertainers. I am speaking, Mr. President, of Red Skelton.

Red Skelton began his journey to stardom at the age of 10 when he signed up as a sidekick in a traveling medicine show. Knowing that show business was in his blood, Red continued touring, working his way up, performing in tent shows, circuses, burlesque, and eventually motion pictures. In an interview in Collier's magazine in 1950, Red stated his motivation for pursuing a career in comedy:

> All I want to do, * * * is make people laugh, to take the word "heartache" out of their vocabulary.

Mr. President, I don't know of a more admirable goal. I don't think there is anyone who can deny that wherever Red went, he did just that. He was in the business of lifting people's spirits, heightening their morale. And for Red it was not an occupation, but a way of life.

Red Skelton was also a true patriot. Who can forget the performance he gave during the Red Skelton Hour on January 14, 1969, of a grade school teacher trying to teach his students the true meaning of the Pledge of Allegiance.

> I've been listening to you boys and girls recite the Pledge of Allegiance all semester and it seems as though it is becoming monotonous to you. If I may, may I recite it to you and try to explain each word:
>
> I—me, an individual, a committee of one.
>
> Pledge—dedicate all of my worldly goods to give without self-pity.
>
> Allegiance—my love and devotion.
>
> To the Flag—our standard, old glory, a symbol of freedom. Wherever she waves, there is respect because your loyalty has given her a dignity that shouts freedom is everybody's job.
>
> Of the United—that means we have all come together.
>
> States—individual communities that have united into 48 great States—48 individual communities with pride and dignity and purpose, all divided with imaginary boundaries, yet united to a common purpose, and that's love for country.
>
> Of America.
>
> And to the Republic—a State in which sovereign power is invested in representatives chosen by the people to govern. And a government is the people and it's from the people to the leaders, not from the leaders to the people.
>
> For which it stands.
>
> One Nation—meaning so blessed by God.
>
> Indivisible—incapable of being divided.
>
> With liberty—which is freedom and the right of power to live one's life without threats or fear or some sort of retaliation.
>
> And justice—the principle of quality of dealing fairly with others.
>
> For all—which means it's as much your country as it is mine.

Red demonstrated his patriotism in the theater of war as well as on the television screen. He supported the war effort during World War II by selling a record number of U.S. war bonds. Red also served as a private in the U.S. Army, entertaining his fellow soldiers on transport ships and the Italian front. His efforts there compelled the former Senator from Vermont, Senator Stafford, to comment on the Senate floor on June 23, 1986, about his memories of serving on the U.S.S. *West Point* with Red Skelton.

> I can still remember Mr. Skelton going about the ship. There was always a constant group of men around him. They were always laughing.

Red Skelton has contributed much to our country—his talent, his time, and his charity. He has been honored by the American Veterans, the Freedom Foundation, the American Legion, and the Screen Actors Guild. He has been awarded the Cecil B. DeMille Award for outstanding contributions to the entertainment industry and has become an accomplished painter. It is now time for Congress to recognize his efforts, devotion, and contribution to the United States and its citizenry. I hope my colleagues will join me in authorizing the President to award a Congressional Gold Medal to Red Skelton in honor of a lifetime of achievement and goodwill.•

By Mr. SASSER:

S. 3255. A bill to amend chapter 81 of title 5, United States Code, to provide that persons convicted of certain crimes of fraud or who are incarcerated may not receive worker's compensation under such chapter, and for other purposes; to the Committee on Governmental Affairs.

LIMITATIONS ON RECEIVING WORKER'S COMPENSATION

• Mr. SASSER. Mr. President, I rise to offer a bill to reduce the number of fraudulent and unnecessary worker's compensation claims made against the Federal Government.

The legislation I offer today addresses two of the most obvious and flagrant abuses in the worker's compensation programs administered by the Federal Government.

No. 1, my legislation ensures that anyone convicted of worker's compensation fraud does not collect benefits after he is convicted.

If that person again seeks to collect worker's compensation at some point in the future, he will face a much heavier burden to prove the legitimacy of his claim than someone with no history of criminal convictions for worker's compensation fraud.

No. 2, my bill provides that a person on the worker's compensation payrolls who is incarcerated shall have all benefits suspended for the duration of his sentence, unless the individual has a family and worker's compensation payments comprise a third or more of the family income.

It's hard to believe, Mr. President, but I have found that some Government employees have been receiving worker's compensation even after being convicted of worker's compensation fraud. Others have received compensation despite being imprisoned for extended periods of time—even while their living expenses were being paid by the taxpayers.

Worker's compensation is intended to provide for the households of injured employees who are unable to work. It was not designed as an income supplement for those whose living expenses are already covered by the State.

In fact, sometimes these two abuses occur concurrently. Believe it or not, I have been informed of cases where a person is convicted of worker's compensation fraud and is sent to prison. He then collects worker's compensation benefits while serving time for worker's compensation fraud.

Despite these fraudulent activities, worker's compensation generally serves a noble purpose.

Worker's compensation is for the employee who—in the course of executing the duties of his job—is injured, or even loses his life.

Worker's compensation statutes require that when tragedy strikes, one's employer—in this case the Federal Government—must provide some compensation to the employee or his estate.

The employer need not be negligent or in any way responsible for the mishap which results in the disability.

Worker's compensation statutes reflect a policy decision that the injured worker should not bear the brunt of his ill fortune alone. The worker will not be left without an income while he is unable to work due to his injury.

For example, a worker sprains his back while lifting a heavy parcel at work. The injury prevents the worker from working for a period of time. Worker's compensation statutes ensure that this worker receives payments proportional to the severity of the injury until he can work again.

I think most of us agree that the Government's worker's compensation programs have served a noble purpose. Few would assert that these programs ought not to exist.

However, I believe that the worker's compensation programs as they are currently structured are susceptible to abuses.

This bill is the first legislation I have introduced in the course of my investigation of the Federal Government's worker's compensation programs.

Since January of this year, I have been working in conjunction with 64 inspectors general to investigate fraud and abuse in the worker's compensation programs of their individual agencies.

My investigation began when I received a letter this January from then-inspector general of the Tennessee Valley Authority, Mr. Norm Zigrossi.

Mr. Zigrossi informed me that over the past 2 years, 69 cases referred to the Department of Labor have resulted in the recovery of $2 million in fraudulent or erroneous claims and the avoidance of $21 million in future payments.

Additionally, 38 of these cases were referred for prosecution and have been successfully prosecuted as of January 1992.

Upon receiving this information on TVA's worker's compensation program, I contacted 63 other inspectors general requesting them to look into their agencies' worker's compensation programs.

My requests to these inspectors general have served two purposes.

One, these inspectors general have been alerted to the possibility of fraud in the worker's compensation programs at their agencies.

Two, I have already received some information on the type of fraud that is prone to happen.

Let me tell you about a few specific examples of cases where Government employees defrauded the Federal Government out of thousands of dollars. These examples were supplied to me by the current inspector general of TVA, Mr. William Hinshaw.

In 1978, an electrician sustained a back injury on the job at TVA. Since then, he has collected $247,601 in benefits. However, in March 1990, he pleaded guilty to worker's compensation fraud. From 1985 to 1989, he informed the Office of Worker's Compensation Programs [OWCP] he was unemployed when in fact he was the owner and operator of a heating and air-conditioning business. He was ordered to repay $77,350. This amount is being deducted from the benefits he still receives and will not be repaid until the year 2025.

A boilermaker-welder sustained a back injury in 1976, and he received workers compensation totaling $224,555 until May 1991. For 10 years, he claimed he was unemployed when in fact he earned a total of $200,000 as a boilermaker-welder, welder foreman, and truck driver. He was convicted of fraud and ordered to make a repayment of $91,405. It was also found that he received overcompensation of $182,599—but he has appealed this finding and there has been no attempt to reclaim it so far.

A TVA machinist injured his back in 1987. Since then, he has received compensation of $90,514. He claimed to be unemployed, when in fact he was the owner-operator of three convenience markets. He was sentenced to 3 months in jail and ordered to repay $38,860. He has set up a long-term repayment plan. However, he still receives $23,621 per year in tax-free worker's compensation benefits.

While my investigation is ongoing and has a long way to go before it will be complete, some of the problems it has revealed need to be addressed immediately.

Clearly, there is a lack of adequate safeguards currently in place. My legislation will seek to plug two of the most glaring holes in the dike.

I believe my legislation is a step in the right direction. However, the problem of waste in the worker's compensation system is broad and complex. Further action may well be necessary.

First, there must be stricter and more attentive enforcement of existing laws. I believe that my investigation has already assisted in this area by alerting scores of inspectors general to check into their worker's compensation programs.

It may also become apparent that further legislation will be necessary to tighten up the worker's compensation programs. I stand prepared to introduce such legislation, or take whatever action necessary to cut waste, fraud, and abuse, and conserve the taxpayers' scarce resources.•

By Mr. HATCH (for himself and Mr. KENNEDY):

S. 3256. A bill to amend the Public Health Service Act to authorize grants for construction at certain historically Black colleges and universities and similar institutions granting biomedical graduate degrees and enrolling substantial numbers of students from disadvantaged backgrounds, including racial and ethnic minorities; to the Committee on Labor and Human Resources.

MINORITY BIOMEDICAL RESEARCH CONSTRUCTION ACT

Mr. HATCH. Mr. President, I rise today to introduce the administration's proposal to initiate a new program of grants for the construction of research facilities at historically black colleges and universities [HBCU's] and similar institutions granting advanced biomedical science degrees.

This bill is a high priority for Health and Human Services Secretary Sullivan.

There is clearly a need for this legislation. A 1990 National Science Foundation Report, "Scientific and Engineering Research Facilities at Universities and Colleges: 1990," identified the lack of available space for research as an emerging impediment to the capability of minority institutions to conduct research.

Let me amplify. If you compare the space for research at major U.S. research centers to the space at HBCU's, the ratio is a compelling 16:1. And Dr. Sullivan advises me it is fair to extrapolate those findings to all minority institutions.

It is clear to this Senator, for one, that the minority institutions are at a substantial disadvantage.

Under the legislation I am introducing today, to be eligible for these grants, applicants must enroll substantial numbers of students from disadvantaged backgrounds.

In the past, federally supported construction of research facilities at those institutions did not occur because they did not support strong research programs.

But today, particularly with the rapid growth of the biotechnology industry, and this country's need to remain competitive in that field, institutions are emphasizing and encouraging more students to consider science careers—particularly biomedical science research careers. Thus, there is a real need to broaden the pool of institutions participating in research.

The National Institutes of Health [NIH] has, for many years, managed research programs targeted to disadvantaged and minority students to encourage them to obtain higher degrees in the biomedical sciences and to introduce them to biomedical research.

NIH also supports a program for providing faculty members from historically black colleges and universities with research experience at the NIH campus.

This bill will provide the means to build research facilities at these institutions and help make those institutions a part of the Nation's biomedical research program.

It will implement the President's budget request for fiscal year 1993—a clear demonstration of the administration's commitment to reach out to these institutions.

And, enactment of this legislation will prove our commitment as well.

• Mr. KENNEDY. Mr. President, I rise today to offer my support for the Minority Biomedical Research Construction Act.

Adequate research facilities and equipment are essential to the effectiveness of our national research efforts. There is increasing evidence that the Nation's biomedical research facilities are slowly deteriorating and that the great need for a new Federal construction program to replace outmoded facilities, relieve overcrowding, and accommodate changing research requirements must be addressed.

The Department of Health and Human Services told Congress in June 1989, in its "Report on Extramural Biomedical Research Facilities Construction," that the lack of adequate and appropriate space for research was a serious barrier to the full and active participation of historically black colleges and universities in biomedical research. These colleges and universities are heavily dependent on Federal, State, and local support for any construction or renovation effort. These institutions are not in a position to obtain private funds to support essential building programs. Lacking private resources, they are dependent upon Government support to continue their development. Without such support they will fall behind in their efforts to achieve their rightful role in biomedical research.•

By Mr. GLENN:

S.J. Res. 339. Joint resolution to designate January 16, 1993, as "National Good Teen Day"; to the Committee on the Judiciary.

NATIONAL GOOD TEEN DAY

• Mr. GLENN. Mr. President, I rise today to introduce a joint resolution designating January 16, 1993, as "National Good Teen Day." This day will commemorate those positive contributions that our Nation's youth make every day to our society.

The original concept of Good Teen Day and created by Mr. Robert Viencek, an English teacher at Salem City schools in Salem, OH. The Salem City schools commemorated this day on January 16, 1992. I believe that this day should be recognized on a national level.

Despite many negative stereotypes of American teens, the majority of our teenagers aspire to be integral and productive members of our society and will successfully reach that goal. Each of us was once a teenager. Teenagers represent the future of our great Nation and should be recognized for their contributions. Mr. TRAFICANT has introduced similar legislation in the House. Mr. President, I ask that the Senate designate January 16, 1993, as "National Good Teen Day."•

By Mr. BRADLEY (for himself and Mr. HATCH):

S.J. Res. 340. Joint resolution designating the week of February 14 through February 20, 1993, as "National Visiting Nurse Associations Week"; to the Committee on the Judiciary.

NATIONAL VISITING NURSE ASSOCIATIONS WEEK

• Mr. BRADLEY. Mr. President, I rise today with my distinguished colleague from Utah [Mr. HATCH] to introduce a joint resolution proclaiming the week of February 14 through February 20, 1993, as "National Visiting Nurse Associations Week."

Mr. President, the contributions that the Visiting Nurses Associations have made in caring for and improving the lives of thousands of Americans for more than a century are deserving of our recognition and support. The best way I can think of to highlight their special place in our country's health care system is to simply look at one of many people they provide needed care for every day.

Bobby, not his real name, is a 2-year-old boy in Springville, NY, who is suffering from a very rare disease called severe combined immune deficiency [SCID], a disease in which victims are sometimes referred to as "bubble babies." There are only 15 known SCID patients in the United States. Until recently, the future for these children was bleak—most died at an early age or faced a life of isolation in a plastic environment. A new drug called Adagen has recently been approved to treat the disease, making it possible for patients like Bobby to live independently outside of their plastic bubbles. The Visiting Nurse Association of Western New York in Amherst is helping Bobby to achieve his independence. The agency administers the weekly injections, monitors his condition, and provides the education his family needs to keep him at home with his parents and six brothers and sisters.

Bobby is one of the more than 2 million patients each year who benefit from the home health care service provided by the 422 Visiting Nurse Associations [VNA's] in the United States. VNA's are located in both rural and urban areas and provide a wide range of services that enable patients of all ages to live independently in their homes. More importantly, VNA's provide care to all who need it, regardless of their ability to pay. The role VNA's play in our health care system is indisputable. The availability of VNA services brings relief and support to the Americans who truly want to convalesce, recover, or spend their remaining days in the comfort of their own homes.

We are asking you to support this unique concept of health care by cosponsoring our joint resolution to designate February 14 through 20, 1993, as Visiting Nurse Associations Week. Last year, 51 Senators joined us in this effort to ensure that Visiting Nurse Associations obtain the recognition they deserve.

Mr. President, I would ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the point resolutions were ordered to be printed in the RECORD, as follows:

S.J. RES. 340

Whereas Visiting Nurse Associations have served homebound Americans since 1885;

Whereas such Associations annually provide home care and support services to more than 1,500,000 men, women, children, and infants;

Whereas such Associations serve 422 urban and rural communities in 45 States;

Whereas such Associations adhere to high standards of quality and provide personalized and cost-effective home health care and support, regardless of an individual's ability to pay;

Whereas such Associations are voluntary in nature, independently owned, and community based;

Whereas such Associations ensure the quality of care through oversight provided by professional advisory committees composed of local physicians and nurses;

Whereas such Associations enable hundreds of thousands of Americans to recover from illness and injury in the comfort and security of their homes;

Whereas such Associations ensure that individuals who are chronically ill or who have physical or mental handicaps receive the therapeutic benefits of care and support services in the home;

Whereas, in the absence of such Associations, thousands of patients with mental or physical handicaps or chronically disabling illnesses would have to be institutionalized;

Whereas such Associations provide a wide range of services, including health care, hospice care, personal care, homemaking, occupational, physical and speech therapy, "friendly visiting services", social services, nutritional counseling, specialized nursing care by registered nurses, and meals on wheels;

Whereas in each community serviced by such an Association, local volunteers support the Association by serving on the board of directors, raising funds, visiting patients in their homes, assisting patients and nurses at wellness clinics, delivering meals on wheels to patients, running errands for patients, working in the Association's office, and providing tender loving care; and

Whereas the need for home health care for young and old alike continues to grow annually: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 14 through February 20, 1993, is designated as "National Visiting Nurse Associations Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such weeks with appropriate programs, ceremonies, and activities.•

ADDITIONAL COSPONSORS

S. 1931

At the request of Mr. STEVENS, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of S. 1931, a bill to authorize the Air Force Association to establish a memorial in the District of Columbia or its environs.

S. 2511

At the request of Mrs. KASSEBAUM, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2511, a bill to exempt certain financial institutions from the examination requirements of the Community Reinvestment Act of 1977.

S. 2696

At the request of Mr. DOMENICI, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 2696, a bill to establish a comprehensive policy with respect to the provision of health care coverage and services to individuals with severe mental illnesses, and for other purposes.

S. 2918

At the request of Mr. GRAHAM, the name of the Senator from Wyoming [Mr. WALLOP] was withdrawn as a cosponsor of S. 2918, a bill to promote a peaceful transition to democracy in Cuba through the application of appropriate pressures on the Cuban Government and support for the Cuban people.

S. 2970

At the request of Mr. SASSER, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 2970, a bill to amend the Cash Management Improvement Act of 1990, and for other purposes.

S. 3195

At the request of Mr. GLENN, the names of the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Tennessee [Mr. SASSER] were added as cosponsors of S. 3195, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States' involvement in World War II.

S. 3221

At the request of Mr. LAUTENBERG, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 3221, a bill to deny most-favored-nation status to Serbia and Montenegro unless certain conditions are met.

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the names of the Senator from Tennessee [Mr. GORE], the Senator from Arkansas [Mr. PRYOR], and the Senator from Mississippi [Mr. COCHRAN] were added as cosponsors of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE JOINT RESOLUTION 328

At the request of Mr. COCHRAN, the names of the Senator from Mississippi [Mr. LOTT], the Senator from Montana [Mr. BURNS], and the Senator from Indiana [Mr. COATS] were added as cosponsors of Senate Joint Resolution 328, a joint resolution to acknowledge the sacrifices that military families have made on behalf of the Nation and to designate November 23, 1992, as "National Military Families Recognition Day."

SENATE JOINT RESOLUTION 330

At the request of Mr. KENNEDY, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 330, a joint resolution to designate March 1993 as "Irish-American Heritage Month."

SENATE RESOLUTION 326

At the request of Mr. SANFORD, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Resolution 326, a resolution to express the sense of the Senate that a National Institutes for the Environment should be established.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1993

INOUYE AMENDMENT NO. 3115

Mr. INOUYE proposed an amendment to the bill (H.R. 5504) making appropriations for the Department of Defense over the fiscal year ending September 30, 1993, and for other purposes; as follows:

On page 7 of the committee reported bill, after line 17, insert "(Including Transfer of Funds)";

On page 11 of the committee reported bill, after line 12, insert "(Including Transfer of Funds)";

On page 12 of the committee reported bill, after line 3, insert "(Including Transfer of Funds)";

On page 23 of the committee reported bill, after line 3, insert "(Including Transfer of Funds)";

On page 29 of the committee reported bill, on line 8, strike "(Including Transfer of Funds)";

On page 41 of the committee reported bill, after line 18, insert "(Including Transfer of Funds)";

On page 45 of the committee reported bill, after line 21, insert "(Including Transfer of Funds)";

On page 53 of the committee reported bill, after line 16, insert "(Including Transfer of Funds)";

On page 53 of the committee reported bill, on line 23, delete "may" and insert "shall" in lieu thereof;

On page 54 of the committee reported bill, on line 1, delete "may" and insert "shall" in lieu thereof.

On page 54 of the committee reported bill, on line 2, delete "may" and insert "shall" in lieu thereof.

On page 148 of the committee reported bill, after line 15, insert "(Transfer of Funds)";

BUMPERS (AND OTHERS) AMENDMENT NO. 3116

Mr. BUMPERS (for himself, Mr. METZENBAUM, Mr. WELLSTONE, and Mr. HOLLINGS) proposed an amendment to the reported amendment beginning on page 64, line 15 to the bill H.R. 5504, supra; as follows:

At the end of line 6, page 65, add the following new section:

"Notwithstanding any other provision of this bill, the amounts appropriated for the programs in support of the intelligence community of the federal government for the National Foreign Intelligence Program shall be reduced by $500,000,000; and the amounts appropriated for the programs in support of the intelligence community of the Federal Government for the Tactical Intelligence and Related Activities Program shall be reduced by $500,000,000."

AUTHORITY FOR COMMITTEES TO MEET

SELECT COMMITTEE ON POW/MIA AFFAIRS

Mr. BUMPERS. Mr. President, I ask unanimous consent for the Senate Select Committee on POW/MIA Affairs to meet Monday, September 21, 1992, at 8:30 a.m. in room 216 of the Hart Senate Office Building for hearings to examine the Paris Peace Accords: The Negotiations and the Aftermath.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NATIONAL ASSOCIATION OF SICKLE CELL DISEASE OF NEVADA

• Mr. REID. Mr. President, it is with pleasure that I rise to recognize and commend an outstanding organization, the National Association for Sickle Cell Disease of Nevada. The month of September has been set aside as National Sickle Cell Anemia Month, to help draw attention to a disease that affects thousands of people, and to inform communities about significant changes and events surrounding sickle cell.

At present, there is no cure for this disease, but there have been many promising developments in sickle cell research programs. Until a breakthrough is achieved, however, the focus of medical therapy continues to center on the relief of pain and treatment for health problems associated with the disease.

The Nevada chapter of the National Association was chartered 8 years ago to assist people diagnosed with this disease and to provide education and information about the hazards associated with sickle cell anemia. Since then, the NASCD of Nevada has developed a statewide newborn hemoglobinopathy screening program, and it has worked with the State of Nevada to establish a State advisory committee concerning sickle cell. Currently, the organization is developing a multidisciplinary pediatric sickle cell program under the auspices of the Nevada School of Medicine.

I am proud to commend all of the people who work with and support this organization. They are committed to providing education on the effects of sickle cell on individuals and their families, they bring together individuals and groups to work together on common goals, and they establish support groups to assist with patient counseling and referrals.

On September 26, NASCD of Nevada will host a fundraising banquet honoring well-known actor, Greg Morris, and Dr. Jack Lazerson. I know I join with all Nevadans in supporting this most worthwhile cause.•

TRIBUTE TO INEZ

• Mr. McCONNELL. Mr. President, I rise today to recognize the town of Inez in Martin County.

Inez is a small mountain community, located in the rugged Appalachian Mountains in eastern Kentucky. Hampered by sluggish economic growth in the past, Inez has begun to rebound and show signs of growth.

Inez and the surrounding areas rely on the coal industry for its economy. As much of this industry has become automated, the residents of Inez have had to make new concerted efforts to bring other industries to the area. Two local mining companies are using the newest technology to mine the local mountains in such a way as to remove their tops. Residents hope that the resulting flat land can be used for business. An airport has already been built on a leveled mountain, and a new lumber mill is coming to the region. The area has seen a dramatic improvement in its roads, arguably the finest in eastern Kentucky. These are just a few examples, of the economic resurgence of Inez.

The residents of Inez represent the charm of a small southern town. It is a community based on strong morals and values. A local hero is Russell Williamson, the high school basketball coach for nearly 30 years. He is a legend in the coaching community, leading this small town to two State championships during his coaching career.

I applaud these efforts of progress, making Inez one of Kentucky's finest towns.

Mr. President, please enter the following article from Louisville's Courier-Journal in today's CONGRESSIONAL RECORD.

The article follows:

INEZ

Inez is the town that refused to die.

Like a lot of mountain communities, the town is locked in isolation and rugged terrain and is saddled with sluggish economic growth.

But the survival of Inez goes beyond merely hanging on. The town lived through an attempt at euthanasia.

In 1941, community leaders decided to give up the town's charter, a poly designed to make Inez eligible for rural-road funds to pave Ky. 40.

But by 1980, when residents were ready to make Inez a city again, they discovered something unusual.

Somehow, the Kentucky secretary of state's office had never received notice that Inez was getting out of the city business. Although it had no mayor, no police department and no garbage-collection system, Inez had been incorporated all along.

Now, more than 50 years after that brush with extinction, Inez is caught in a new legal twist. The City Commission recently discovered that the city was breaking a state law by not collecting city taxes.

The commission has adopted a resolution endorsing a property tax, but a public outcry could hamper its chances. Already, Mayor Dave West has resigned over the issue.

For years, people were used to paying no city taxes. Instead, the city relied on receipts from the state coal severance tax. That's not unusual; Inez's economy depends almost entirely on coal.

"Ninety percent of my business comes from coal companies," said Kelly Goble, owner of Goble Signs, a small business that paints and sells signs and athletic trophies. "It's scary to look at my books because if they go, I'll go."

The town's commercial section is somewhat limited. There's the usual assortment; lawyers' offices, doctors' offices, a drugstore, a hardware store. But there are also a number of vacant buildings.

Maynard's Restaurant, where owner Sylvia Maynard can fill you in on the latest soap-opera story lines as she refills your coffee cup, is the town hangout. But much of the time, nobody's hanging out downtown.

"Anymore, you could shoot a shotgun right down the middle of town and nobody's there," said Martin County Judge-Executive John Callaham.

The coal industry—that sputtering engine that drives Eastern Kentucky economies in fits and starts—arrived late in Martin County. Though loaded with millions of tons of the mineral, Martin was too isolated to make mining feasible. The break came in the 1970s, after the Norfolk and Western Railroad built a spur up Wolf Creek.

It happened just in time for the energy crisis, just in time for the 1970s coal boom. And for a while, it changed life entirely.

"When I got out of high school in '55, you either drove over to West Virginia and went to work for Island Creek (Coal Co.), or you were born into a family business, or you worked for the government or the school system," Callaham said. "Or you left."

Callaham estimated that 75 percent of the students in his high school class left. Many went to Columbus, Ohio, which has a large Martin County enclave.

But when the coal companies came to Martin County, people found jobs near home. "It was a good time," Callaham said.

But only for a while. Automation soon followed, miners were replaced by machines, and much of the economic opportunity evaporated.

"That's how you get back to the welfare state," Callaham, said.

In symbolic terms, perhaps, Inez is the capital of the welfare state. It was forever tagged with that label when President Lyndon Johnson descended on the town in 1964 during the early stages of the War on Poverty.

The president was probably the most auspicious visitor Inez ever had. But not everyone remembers the visit fondly.

"I believe that was the first lesson in how a small community can be exploited in the media," said Mickey McCoy, a former mayor who teaches at nearby Sheldon Clark High School.

Reporters return to Martin County regularly to see whether poverty still pervades the community. It does.

But at the same time, there are signs of growth. Callaham said a lumber mill plans to locate in the county, bringing 50 jobs. And he has a plan for bringing more industries to the area; he has been to what used to be the mountaintop.

Two big coal companies, Martin County Coal Corp., and Martiki Coal Co., are mining mountains in such a way as to remove their tops. Such mountaintop-removal methods are relatively rare in the coal industry.

Callaham believes the resulting flat land can be used for businesses, and he works with coal officials to determine how the finished sites might be used. Already, an airport has been built atop a leveled mountain that was donated for public use by Pocahontas Land Corp.

But mountaintop removal notwithstanding, the county began to open up during the last decade as the state began improving roads.

Ky. 645 and Ky. 3—both of which connect Inez with U.S. 23—each boast four smooth lanes, a level design and modern construction.

There is no disputing it. The finest roads in Eastern Kentucky lead to Inez. There is only one problem: They also lead away.

"I guess they gave people a better way to get to Paintsville and Prestonsburg and Lexington," said Gordon Wright, owner of an Inez jewelry store.

There's also a nice bypass, called the "Russell Williamson Bypass." Williamson is without a doubt the town's true-blue living legend.

Between 1929 and 1956, Williamson coached the Inez High School Indians basketball team. He compiled a won-lost record of 892–108 and won the state high school basketball tournament. Twice.

Inez residents still talked about those small teams that whipped the rest of the state in 1941 and 1954. And Williamson sometimes shows visitors news clippings about his teams "so they won't think it's a fairy story."

He remembers the teams fondly. "Their strong point were that they were well-disciplined," he said.

Inez was founded in 1873, when Martin Countians moved the county seat from Warfield, which lies on the West Virginia border, to a more central location on Rockcastle Creek.

They named it Eden. But Kentucky already had a post office at a place called Eden, according to the Kentucky Historical Society. So the postmaster at nearby Louisa in Lawrence County named the new Eden post office "Inez," allegedly after his daughter.

Perhaps it was just as well. It would have been tough for the little town to avoid comparisons to the Biblical paradise, as in this reminiscence from a traveling preacher who visited in 1880:

"I hired a horse and rode through Martin County to its county seat, called Eden—the most misnamed place I ever saw. If the picturesque setting suggested Paradise, the moral condition was of a Paradise Lost. I never saw so much drunkenness or heard so much swearing."

A hundred and twelve years can make a difference. When a visitor recently spent several days in Inez, there was absolutely no evidence of drunkenness—Martin County is dry—and the swearing was pretty mild.

And the moral condition? Ask John Robinson, a local barber.

Robinson keeps photographs of every child under 12 who clambers up into his big chair for the first time. He has 700 photographs in all, each one pasted to the wall of his shop.

There are a couple of Mohawks, a few oddball-type haircuts. But the vast majority are close-cropped, responsible haircuts. Haircuts that speak to a simple and honorable moral code.

"And that's what they want," Robinson said. "It's not my doing. I'll cut it any way they want."

The photographs have another meaning to Robinson.

"When these boys are in college, they'll be coming back to look at their pictures," he said.

In that way, they might act as a kind of connection point, a touchstone for a generation of children who seem to be headed elsewhere.

At the Dairy Queen across from Sheldon Clark High School, Mickey McCoy, the teacher, was talking to some of his students about their plans after the year ends.

One wanted to become a music teacher somewhere besides Inez. One wanted to be a physical therapist anywhere but Inez.

They wanted out.

McCoy laughed. He understood.

As a teacher, he likes working with young people, "giving something back" to his hometown. And he likes living in the place he grew up, with a bunch of other people who are doing the same thing.

"It's a place where people can still ask, 'Who are your people?'" he said.

Still, he understood his students' feelings.

"When I got out of high school, I swore two things," he said. "One, I would never come back here. And two, I would never be a teacher."

By now, he's decided that none out of two ain't bad.

Population: (1990): Inez, 511; Martin County, 12,526.

Per capita income: (1988): $9,775—$3,017 below the state average.

Jobs: (1990): Total employment, 3,136. Mining/quarrying, 1,628; government, 562; wholesale/retail, 423; services, 195.

Media: Newspapers: The Mountain Citizen and The East Kentucky Sun, both weeklies.

Transportation: Air: Big Sandy Regional Airport, 15 miles. The nearest commercial service is Tri-State Airport, Huntington, W. Va., 58 miles. Rail. The nearest service is provided by Norfolk and Western Railway at Kermit, W. Va., 11 miles. There is also rail service to most of the coal mines in Martin County. Trucking. Two companies operate in Martin County, Roads: The county is served by KY 3, KY 645 and KY 40.

Education: Martin County Public Schools, 3,026 students.

Topography: Inez sits midway between the Tug and Lavisa forks of the Big Sandy River in the rugged Appalachian Mountains.

FAMOUS FACTS AND FIGURES

Russell Williamson, the revered basketball coach of Inez High School, compiled a 892–108 record over 27 years of coaching—a winning percentage of .891. He had had no formal coaching training when he took over the team in 1929 and, in fact, had never played basketball.

Inez was home to one of Kentucky's most vicious newspaper rivalaries—The Martin Countian vs. The Mercury. Headlines in each of the weekly newspapers were often taken up with negative stories about the other. The editors, John Kirk of The Mercury and Homer Marcum of the Martin Countian, filed several lawsuits against each other. In 1989, the papers were bought by the same company and combined.

Thanksgiving visitors to Martin County have a choice. They can celebrate in Turkey or Pilgrim. Other Martin County communities with nice names include Add, Tomahawk, Oppy and Pigeon Roost.

Martin County was created in 1870 and named for John P. Martin, a Kentucky congressman. The first county seat was established at Warfield, which lies about 10 miles east of Inez on the West Virginia border. The county seat was moved in 1873 after residents called for a more central location.•

SALUTING UNITED CEREBRAL PALSY OF SCHUYLKILL, CARBON AND NORTHUMBERLAND COUNTIES

• Mr. WOFFORD. Mr. President, it is with pleasure that I rise today to recognize 40 years of hard work, determination and accomplishment by the United Cerebral Palsy of Schuylkill, Carbon and Northumberland Counties. Today the organization provides services to 375 Pennsylvanians, from infants to senior citizens.

The group began modestly on September 12, 1952 when Mal Weaver Bartram called a meeting for any parents of disabled persons. This meeting led to an application to the national United Cerebral Palsy to become a local chapter of the organization. The application was approved and a charter granted originally for Schuylkill and later for Carbon and Northumberland Counties.

Since its first meetings in Mal Bartram's basement, the organization has grown and achieved many firsts in providing services for people with cerebral palsy. October 29, 1953, brought the first diagnostic clinic to the area. The first class for children with disabilities was initiated in the Pottsville School District, with other area school districts soon following suit.

United Cerebral Palsy also created a vocational rehabilitation program for its clients. The program started with the participants producing crafts that were locally sold and was later expanded to include subcontracting work for various industries. A greenhouse program to produce flowers, plants and vegetables, which culminated in the opening of the Mal Weaver Bartram Horticultural Center in 1988.

The United Cerebral Palsy of Schuylkill, Carbon and Northumberland Counties, in this its 40th year, continues to serve its community with infant programs, geriatric day programs and vocational instruction. It also seeks to educate the public on its clients needs, initiates action on the clients behalf by government and private institutions and encourages research for prevention and treatment for those with cerebral palsy.

I want to salute the hard work, dedication and perseverance of the United Cerebral Palsy of Schuylkill, Carbon and Northumberland Counties and wish them continued success.•

TRIBUTE TO ROSEMARIE COLEMAN

• Mr. DURENBERGER. Mr. President, I rise today to recognize a special person in my life and in the lives of many Minnesotans. Rosemarie Coleman has been a friend for many years. She raised six children before taking a job as a receptionist at the Metropolitan Council, where it was discovered that she could not type so well. As a result, her job expanded.

It became evident that Rosemarie's real talent was in making people feel welcome and important. That is an ability we cherish in government, and in short order Rosemarie found herself appointed as special assistant to the Chair of the Met Council. She held that post under five Met Council administrations.

One of the key functions of the Met Council is to build solid relationships between local units of government and the private sector—no easy task. The council can use all the Rosemarie Colemans it can get.

Friends have described Rosemarie as the quintessential people person and a one-woman welcoming party. I would add, simply, that Rosemarie is a wonderful friend. "My job is new every day," Rosemarie says of the challenges she has faced during her years at the Met Council. Too often people like Rosemarie work in the back offices of government where they go unrecognized by the public they serve. But they are absolutely essential. They spread good will, and somehow they manage to make the people they work for look good every time.

Mr. President, Rosemarie Coleman is retiring on September 25, 1992. She distinguished herself as a genuinely kind and caring public servant during her 17 years of service on the Metropolitan Council. We will miss her.•

NEW DIRECTIONS IN PUBLIC DIPLOMACY AND INTERNATIONAL BROADCASTING

• Mr. SIMON. Mr. President, one of the subjects we do not pay enough attention to in foreign policy is international broadcasting. We just had a hearing in the Foreign Relations Committee on the Hughes Commission report on whether it makes sense to establish a surrogate radio service to Communist nations in Asia, particularly China. I would like to set forth some preliminary thoughts on this subject.

First, let us be clear about one thing: objective news about events in China and the rest of Asia is desperately needed by the people of the region. One-fifth of the world's people live under a repressive and often brutal regime in China, people who today are being denied factual information about their own lives and the larger world around them. Reliable information and access to truthful broadcasts about events in their own countries, made available by Radio Free Europe, Radio Liberty, the BBC, Deutsche Welle, and other Western radios, was clearly one of the driving forces behind the freedom movements in Eastern Europe and the former Soviet Union. Why have we waited so long to do the same—except in minimal terms—for the oppressed peoples of Asia?

I can tell you why we have not embarked on any such project since January 1989: The Bush administration does not believe that this idea has merit. Their approach from day one has been to coddle the hard-liners in Beijing, fearing their reaction to any criticism. Whether it is human rights, the repression of the democracy movement at Tiananmen Square, the occupation of Tibet, or the sale of ballistic missiles to nations hostile to our interests, President Bush has been reluctant to stand up to them. But Congress ought to act, and act soon, to establish a surrogate service to the peoples of China and Asia.

On the subject of how precisely we go about broadcasting to China and other repressive regimes in Asia, I confess to some previous ambivalence. I supported the idea of setting up a commission to study this, and I am a cosponsor of Senator JOE BIDEN's bill to set up a "home" or "surrogate" service to China. I have not been too concerned about how this is done, and thought for a time that the Voice of America [VOA] might more quickly and cheaply do the job. But after reviewing the impressive report submitted last week by the Hughes Commission, I am persuaded that a new radio ought to be established, separate from the Voice of America, to be administered by the same quasi-private advisory board that oversees Radio Free Europe and Radio Liberty—the Board for International Broadcasting.

This is no slight on the fine work done by VOA over the years. But the reality is that VOA's primary mission is to tell America's story abroad, as supervised by the U.S. Information Agency and the Department of State. VOA offers U.S. and international news, U.S. Government opinions, music and features of American life, culture, and politics. Their main focus is America.

VOA, the BBC, Taiwanese, Japanese, and other national radios broadcast together a total of 350 hours a day to the People's Republic of China. But of these 350 hours of daily programming, less than one-tenth is in Mandarin or Cantonese—the rest is in English. About one one-hundredth of the Chinese language broadcasts is news, and about a hundredth of that hundredth is news about developments in China.

This is far too little hard news about Chinese events broadcast in Chinese languages. An independent radio that does not have to answer to the State Department, whose focus is objective news about the country receiving the broadcast—news denied the people of these countries by their governments—this is what we need. The Board for International Broadcasting has the expertise and experience operating a home service type of program, where the overwhelming majority of programming would be news and features about China, Burma, North Korea, Vietnam, Cambodia, Tibet, and Laos.

A majority of the Hughes Commission argued in this vein, recommending a new radio service to be called something like Asia Democracy Radio. Headquarters would be either in Los Angeles or San Francisco, to take advantage of the large numbers of Asian-Americans residing in California. As for cost, the commission reports that transmitter time can be leased from a number of existing sites around the world, rather than embarking on costly new transmitter projects. The commission states that one-time startup costs would be $30 million or less, and annual operating costs in the range of $35 to $39 million a year. Interestingly, while VOA maintains that they can set up a better and less expensive surrogate service, their cost estimates are roughly comparable—more expensive startup costs but lower annual costs, because they are talking about a much smaller operation than the Board for International Broadcasting.

And does the State Department, which ultimately oversees the Voice of America, really want anything more than a minor expansion of VOA's current services to China? Do they really want the people of China to know the truth about their own Government? Listen to the words of Acting Secretary of State Lawrence Eagleburger, saying that a:

> New, unproven surrogate service * * * will immediately be distrusted and viewed as hostile by the Chinese Government. * * * While China's media may be state controlled, China is not a closed society comparable to the Soviet Union in the 1950's. * * *

With all due respect to my friend Larry Eagleburger, China is still very much a closed society. It may not be the Soviet Union of the 1950's—although a visit to most of China would reveal close similarities—but it is still an oppressive, censor-rich country where ideas, opinions, and real news are strictly controlled.

So, Mr. President, we ought to proceed with a new surrogate radio under the Board for International Broadcasting. The conclusions of the Hughes Commission are sound. There should be a strong research and monitoring staff. The Hughes Commission was silent on this, but we should also set up an Asia Democracy Radio Research Institute similar to the Radio Free Europe/Radio Liberty Research Institute. It is one reason why the Radios are so competent, and is a worthy model for the new Radio. If funds allow, overseas branches could be established.

Where will we get the money to set up this surrogate service? There are several areas where we can get the money without adding new expenditures to the budget.

First, when we look within the international affairs budget function, several areas suggest themselves. We could make good on our pledge to show some restraint on arms transfers to sensitive regions, and offset the costs for the new Radio by taking money from the security assistance account. We are spending too much on arms for dubious results.

Another place to look is within the Board for International Broadcasting itself. We can appropriate initial sums next year by beginning the phaseout of Radio Free Europe/Radio Liberty [RFE/RL] and using those funds for startup costs. That phaseout, whatever the timetable we ultimately have, is inevitable. I count myself among the staunchest supporters of Radio Free Europe and Radio Liberty, but the reality is that they have largely fulfilled their mission now that the cold war is over. One reason the cold war is over is the intellectual and moral support given the captive nations by the Radios through the years. Asked recently about how important Radio Free Europe was during the period of martial law in Poland in the early 1980's, Lech Walesa said: "Could there be an Earth without the Sun?"

But those days are over. Lech Walesa is no longer an underground dissident, but the President of Poland. While President Walesa wants Radio Free Europe to continue unabated, I respectfully submit that its mission has been accomplished and its best work now lies in training and supporting the growth of independent media in Eastern Europe. Maintaining or increasing current broadcasting—the budget for the Radios will grow by $8 million in fiscal year 1993—can only retard this process.

We should start by phasing out, over a set period of time, the services of Radio Free Europe, and then proceed over a slightly longer timeframe to phase out Radio Liberty, giving the new States of the former U.S.S.R. additional time since their hard-won freedom is more recent. The RFE/RL Research Institute, on the other hand, should be preserved, for their analysis and research on events in the region is helpful. Some pruning may be necessary, but the basic structure and functions should remain intact.

The facts, Mr. President, are that listenership is declining in Eastern Europe and in most of the new countries of the former Soviet Union—particularly in Russia. Availability of news is much less of a problem than it was even a few years ago. An article in the June 12 edition of the independent newspaper, the Warsaw Voice, said that Radio Free Europe is not as influential as it used to be, and that some of the new Polish radio stations now reach more people.

According to surveys conducted by the Board for International Broadcasting over a 3-month period for each year, listenership in Bulgaria dropped from 18 percent in 1990 to 11 percent in 1991, with 1992 figures not yet available. In Hungary, the figures were 13 percent in 1990, 7 percent in 1991, and 5 percent in 1992. In Poland, listeners declined from 14 percent in 1990, to 13 percent in 1991, to 8 percent in 1992. In Romania, the drop was more dramatic, from 39 percent in 1990, to 14 percent in 1991, to 11 percent today. Only in Czechoslovakia was listenership fairly stable and relatively high, from 21 percent in 1990, to 25 percent in 1991, and back down to 21 percent in 1992.

In the former U.S.S.R., there has not been as much progress toward a free and independent media as I would like. But listenership is down there also. Weekly listenership in Georgia, for example, is 6 percent. In Uzbekistan, the most populous of the Central Asian States, it is 3 percent. In Ukraine, regular weekly listeners stand at 4 percent. And in Russia, the 1991–92 figures range from a low of 2 percent to a high of 10 percent. And most of these listeners are located in Moscow.

Radio Liberty ought to spend its remaining days training independent broadcasters and newspeople in the ex-Soviet Union. Regular listeners to our broadcasts are few because free media outlets have sprouted up in these now-sovereign republics. We ought to support free media in these new countries.

Finally, Mr. President, let me congratulate the hard-working and extremely competent staff at the Voice of America. VOA has served our Nation faithfully over the years, and provided a beacon of hope and inspiration to many oppressed peoples around the globe. Their mission remains a vital one, and they performed admirably during such recent crises as Tiananmen Square and the Moscow coup attempt. My guess is that next year we will be reviewing all our public diplomacy programs, including VOA, and that makes sense. But we ought to bear in mind that people in trouble the world over often turn to VOA, to hear what the United States is doing and thinking. As long as repressive, authoritarian governments exist that deny the truth to their own people, there will be a role for the Voice of America.

Mr. President, our most demanding foreign policy question through the end of this century will probably be the internal and external behavior of the People's Republic of China. There is no question that the Chinese leaders have the power to cause continuing problems for their neighbors, and possibly beyond Asia. We should do what we can to cultivate the successor generation, those who will take the helm from the old men ruling in Beijing. We ought to let the people of China know, in no uncertain terms, that we stand with those yearning for democracy and human rights and self-determination. And we must deliver a more forceful message to the current government that its actions carry consequences.

Beaming the truth to our friends in China and elsewhere in Asia is not, as the State Department views it, a hostile act. It is a friendly act, building a bridge to the vast majority who seek nothing more than to chart their own destinies. I can think of few better foreign policy and national security investments to make.•

REMOVAL OF INJUNCTION OF SECRECY

Mr. BUMPERS. Mr. President, I ask unanimous consent that the injunction of secrecy be removed from the headquarters agreement with the Organization of American States, Treaty Document No. 102–40, transmitted to the Senate today by the President, and ask that the treaty be considered as having been read the first time; that it be referred with accompanying papers to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The President's message is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to approval, I transmit herewith the Headquarters Agreement Between the Government of the United States of America and the Organization of American States ("the Agreement"), signed at Washington on May 14, 1992. I transmit also, for the information of the Senate, the Report of the Department of State with respect to this Agreement.

The Agreement will place the status of the Organization of American States ("OAS") in the United States on a clear legal basis and will underscore our commitment to the Organization. The Agreement in large measure elaborates and codifies the existing arrangements governing the presence of the headquarters of the OAS in the United States. However, it departs from existing arrangements in several respects. It extends diplomatic agent-level privileges and immunities to a small number of high level OAS officials. It exempts non-U.S. national OAS officials from state and local as well as federal income tax on their OAS earnings and benefits. It affords the OAS immunity from judicial process but in exchange for such immunity obligates the OAS to resolve certain (mainly commercial) disputes through a mutually agreed mechanism or, failing agreement, to submit such disputes to binding arbitration.

Although the Agreement provides that the U.S. will not exclude or expel OAS officials or experts for acts performed in their official capacity, Article XVII specifically states that "nothing in this Agreement shall be construed as in any way limiting the right of the United States to safeguard its own security, or its right completely to control the entrance of aliens into any territory of the United States."

Other provisions address the form and substance of the Official Travel Document; the procurement of communications facilities by the OAS; the disposition of the headquarters property in the event the OAS should cease to maintain headquarters in Washington; the provision of public services to the headquarters; and the privileges and immunities accorded OAS officials and experts.

No implementing legislation is required for the United States to perform its obligations under the Agreement. As a treaty, the Agreement will override federal, state, and local law with respect to privileges, immunities and exemptions to the extent such laws are inconsistent with its provisions. The provisions of the Agreement are not inconsistent with U.S. immigration laws, which will provide the basis for meeting the commitments established by the Agreement for the admission of aliens.

I recommend that the Senate give early and favorable consideration to the Agreement and give its advice and consent to approval.

GEORGE BUSH.

THE WHITE HOUSE, *September 21, 1992.*

ORDERS FOR TOMORROW

Mr. BUMPERS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 a.m. Tuesday, September 22; that following the prayer, the Journal of proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 9:30 a.m., with Senators permitted to speak therein for up to 10 minutes each; that on Tuesday, the Senate stand in recess from 12:30 p.m. until 2:15 p.m. in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BUMPERS. Mr. President, if there be no further business to come before the Senate today, I ask unanimous consent that the Senate stand in recess as previously ordered.

There being no objection, the Senate, at 7:48 p.m., recessed until Tuesday, September 22, 1992, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate September 21, 1992:

DEPARTMENT OF STATE

MARK JOHNSON, OF MONTANA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SENEGAL.

MARSHALL FLETCHER MCCALLIE, OF TENNESSEE, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF NAMIBIA.

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

ROBERT GREGORY JOSEPH, OF VIRGINIA, TO BE AN ASSISTANT DIRECTOR OF THE U.S. ARMS CONTROL AND DISARMAMENT AGENCY, VICE MANFRED EIMER.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

MARK MCCAMPBELL COLLINS, JR., OF THE DISTRICT OF COLUMBIA, TO BE U.S. EXECUTIVE DIRECTOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF 2 YEARS, VICE E. PATRICK COADY, TERM EXPIRED.

PEACE CORPS NATIONAL ADVISORY COUNCIL

FRANK B. HOWER, JR., OF KENTUCKY, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM OF 1 YEAR EXPIRING OCTOBER 6, 1992. (NEW POSITION)

FRANK B. HOWER, JR., OF KENTUCKY, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM EXPIRING OCTOBER 6, 1994. (REAPPOINTMENT)

CRAIG R. STAPLETON, OF CONNECTICUT, TO BE A MEMBER OF THE PEACE CORPS NATIONAL ADVISORY COUNCIL FOR A TERM EXPIRING OCTOBER 6, 1993. (REAPPOINTMENT)

DEPARTMENT OF JUSTICE

BLAINE B. GOFF, OF IOWA, TO BE U.S. MARSHAL FOR THE SOUTHERN DISTRICT OF IOWA FOR THE TERM OF 4 YEARS, VICE WARREN D. STUMP, RESIGNED.

CHARLES F. LITTLE, OF WEST VIRGINIA, TO BE U.S. MARSHAL FOR THE NORTHERN DISTRICT OF WEST VIRGINIA FOR THE TERM OF 4, YEARS VICE RONALD A. DONNELL, RESIGNED.

EXTENSIONS OF REMARKS

VA STEPS IN TO HELP HURRICANE VICTIMS

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. MONTGOMERY. Mr. Speaker, in the days since Hurricane Andrew unleashed its devastating force on the citizens of Florida and Louisiana, we have witnessed a wonderful outpouring of aid and support and learned of many heroic efforts to assist those who lived in the wake of the storm.

Though they will tell you they are just doing their jobs, I would like for my colleagues to know of the outstanding response of VA personnel to this disaster. From both a medical and benefits standpoint, the employees and volunteers who work in the VA system—both in the affected sites and from as far away as Washington and Arizona—continue to play a leading role in providing critical services to the storm's victims.

I would like to take this means to thank Tom Doherty, the Director of the Miami VA Medical Center, who earlier this year was honored by AMVETS as "Civil Servant of the Year" in recognition of his outstanding leadership and management abilities. Tom and all the VA people who have worked in this relief effort have earned commendation for their selflessness, compassion and dedication. Though the following report of their activities prepared by the VA Central Office is only a brief summary, it speaks of more than just someone doing their jobs.

VA ACTIONS IN RESPONSE TO HURRICANE ANDREW

FLORIDA MEDICAL

The Miami VA Medical Center is serving as a base for the Federal Emergency Management Agency, Disaster Medical Assistance Teams as well as providing them with pharmaceuticals.

Physical damage at the hospital has been brought under control. The air conditioning was out of service following the storm. VA engineers found a way to pump water into the air conditioning system from surrounding wells and a nearby creek, and had it functioning again within two days. There were five breaks in the city water main between the pumping station and the VAMC leaving the medical center without water. As a result, they were having bottled drinking water shipped in until the water main breaks were repaired. The VAMC Engineering Department pumped nonpotable water to several points on each floor of the hospital for use in washing and flushing lavatories. These conditions combined to challenge the staff while they kept the hospital operational. City water was restored to the medical center and certified for use by Monday morning, August 31, a week after the hurricane struck. Obtaining food and other supplies for the patients has not been a problem.

In the storm area, 14 private sector hospitals and 7 community nursing homes were evacuated. VAMC Miami proved its quality, preparedness, and the resolve of its dedicated staff by remaining operational.

A major clean-up effort is underway at the medical center to repair water damage and broken windows, and to remove fallen trees. They are receiving support from our surrounding facilities, when needed. The ambulatory care clinics at the medical center did not reopen until August 31; however, the outpatient clinics in Riviera Beach and Oakland Park reopened their doors to patients beginning the day after the hurricane.

Medical center activities have stabilized, and management is now working to provide food, clothing, and temporary shelter to over 300 medical center employees and their families who lost their homes and belongings to the storm.

Miami Area

Three fully staffed VA mobile clinics were ordered into the area. The health care teams provide medical services to anyone in need of care. Two were flown in by the Air Force (from Spokane, WA. and Prescott, AZ.) The third van was driven from Fayetteville, North Carolina. The bus size vans are staffed by physicians, nurses, medical technicians, and drivers. One was visited by the Chairman of the Joint Chiefs of Staff, General Colin Powell, who was very favorably impressed. By September 14, the mobile clinics had treated over 5,000 patients.

An emergency team, comprised of 40–50 medical personnel from the Bay Pines, Tampa and Gainesville VA Medical Centers, headed by VA's Medical Inspector Dr. Lewis Mantel, is providing humanitarian medical services at the Oakland Park VA Outpatient Clinic and the Miami VA Medical Center. Anyone seeking medical care can report to either facility. Any medical supplies needed by emergency medical providers are being made available through VA procurement stocks.

VA representatives at the FEMA Disaster Field Offices have assisted with contracting and acquiring scarce commodities. The VAMC Miami pharmacy has provided nonformulary items to the FEMA Field Medical Units.

FLORIDA BENEFITS

For those with VA benefits needs, mobile benefits information vans and staff have been sent to the Miami area and are operational. Additional benefits counselors are at emergency relief centers. They can provide aid in programs administered by VA including filing necessary forms, contacting insurance claims agents, encouraging lenders to be lenient with VA guaranteed loans, and ensuring appropriate continued student benefits.

Volunteers from the VA Regional Office arrived in the Miami area during the week following the storm to work in conjunction with FEMA at Disaster Application Centers.

The St. Petersburg Regional Office has imposed a 90-day moratorium on foreclosures and default notifications in the three county area (Broward, Dade, and Monroe).

Our Veterans Benefits Administration has made special arrangements to advise home owners calling for information on their home owners insurance and how to contact their claims agents. We have made special arrangements to expedite all requests for assistance.

We have identified more than 380 wards from our Fiduciary/Beneficiary System in South Dade County and we are attempting to contact all of them to determine if they are in need of food, clothing or shelter. If we are not successful in contacting the clients directly, then we will try to contact the guardian. If we are not successful, we will put additional Field Examiners in the area for one-on-one assistance.

Our Readjustment Counseling Service sent a team of stress counseling experts to the area to counsel victims and provide training and debriefing for caregivers. The counselors, including those who speak Spanish, have been at seven sites providing psychological services to victims, metropolitan police and fire departments, and the staff of several hospitals. At the request of the Dade County school system, VA has also provided stress counseling to school children. They are still currently working at the Miami Vet center. The medical center is also providing counseling, debriefing and training.

The U.S. Postal Service has begun delivering Treasury checks (to include VA Compensation and Pension checks) through remaining local post offices and mobile post offices. VA has issued news releases telling beneficiaries what to do if their checks are delayed.

LOUISIANA

New Orleans

The New Orleans Medical Center, as part of its effort prior to the arrival of the storm, boarded up exposed areas deemed to be at risk, and tested emergency generators and pumps. The only damage reported is an overturned guard shack at a remote parking lot. Many employees, especially the police and nursing staff, worked 36 hours straight to care for nursing home patients who were evacuated from community facilities.

Baton Rouge

The Baton Rouge Outpatient Clinic is reported to have suffered damage. In addition, the eye of the hurricane passed through the Baton Rouge National Cemetery and the state veterans nursing home. All suffered many fallen trees. A more thorough assessment of the damage is underway.

Alexandria

Hurricane Andrew was a tropical storm by the time it reached the VA Medical Center at Alexandria. There were some trees and limbs brought down but the damage was not extensive. In a humanitarian effort, the VAMC housed about 410 people from southern areas of the state. The medical center's average daily census is about 346 patients. VA officials found space for the additional people by utilizing vacant wards and other available areas.

In addition to providing temporary shelter, Alexandria established two day care centers for nearly 100 children who were part of the group. Of those fleeing the storm, 70 were from a community nursing home in New Orleans, and a few required medical treatment. By August 28, only one of the 410 people who

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

sought refuge was still at the Medical Center. This individual required hospitalization. Many employees worked overtime to care for our veteran patients, and the additional residents. Their efforts, under trying conditions, exemplify the VA's commitment to help the victims of this devastating storm.

Crisis Counseling

VA Readjustment Counseling Service has sent a team of stress counseling experts to the affected areas. They are assigned to five sites and have provided counseling to some 1,000 people and conducted crisis debriefings, group crisis counseling and screening. At many sites, Readjustment Counseling staff from our vet centers have been the first point of contact for disaster assistance applicants. At the Morgan City FEMA Center, Veteran Center counselors interviewed every relief applicant to determine veteran status and/or their need for crisis counseling.

HAWAII

Following Hurricane Iniki in the Hawaiian Islands, the VA Emergency Medical Preparedness Office staff provided assistance to VA facilities and the community. The outpatient clinic at Wailua was sent an emergency generator. They then offered mental health and primary care services to veterans and the community.

THE BROWN FOUNDATION: A SUPERFUND SUCCESS STORY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. MAZZOLI. Mr. Speaker, I would like to share with all my colleagues the testimony of Mr. Stanley F. Hugenberg, Jr., a trustee of the James Graham Brown Foundation of Louisville, KY, regarding the administration of the Federal Superfund Program.

The Brown Foundation has a long and distinguished record of philanthropy in our community bestowing gifts to many worthy causes in civic affairs, economic development, education, and health-related endeavors.

Mr. Hugenberg was asked to appear before the House Public Works Subcommittee on Investigations and Oversight to testify to the Brown Foundation's success in the cleanup of a hazardous waste site that was on the Superfund National Priorities List. The hazardous waste site had at one time been a property owned by the late Mr. Brown and subsequently the Brown Foundation was required to participate in the cleanup effort.

Reflecting the Brown Foundation's reputation in the realm of philanthropy, the trustees set in motion an aggressive and innovative program to remedy this situation.

Mr. Speaker, it has been my pleasure to work with the Brown Foundation trustees on this problem and a number of other projects more in line with their charitable tradition. In fact, I have spearheaded legislative efforts which permit the Brown Foundation—and other charitable organizations—to clean up environmentally unsound areas and, at the same time, contribute money to worthy charities.

On August 3, I was pleased to have joined my colleague from Kentucky, JIM BUNNING, in voting for H.R. 5644, a bill which treats costs incurred by a private foundation in cleaning up hazardous substances as charitable payments. I hope the Senate can act on H.R. 5644 favorably and then send it to the President's desk for his signature into law.

Mr. Hugenberg's report shows that good things can come of a mutually responsible and cooperative working relationship between the private sector and the Federal Government in the environmental field.

I commend the Brown Foundation for its leadership in yet another worthy cause and hope that all my colleagues in the House will draw inspiration from Mr. Hugenberg's comments and benefit from the Brown Foundation's trailblazing example.

TESTIMONY OF STANLEY F. HUGENBERG, JR.

Mr. Chairman and Members of the Committee. My name is Stanley F. Hugenberg, Jr. and I am a Trustee of the James Graham Brown Foundation, a non-profit charitable organization based in Louisville, Kentucky. The Foundation appreciates having received an invitation from this Committee to testify before it regarding the positive results the Foundation has had in working with the United States Environmental Protection Agency and the Florida Department of Environmental Regulation to implement an innovative technology to clean up an abandoned hazardous waste site.

By way of background, the James Graham Brown Foundation was formed by the late James Graham Brown, who died in 1969. The purpose of the Foundation is to assist worthy causes through a grant process. Our grants since the inception of the Foundation total over $127 million, and include such recipients as projects in the fields of civic affairs, economic development, education and health and general welfare. The Foundation is very proud of its record of gift giving, and has had the good fortune to have its assets grow from approximately $80 million at the time of Mr. Brown's death in 1969 to approximately $230 million today. The Foundation currently gives approximately $11.5 million to needy causes every year.

When Mr. Brown died in 1969, he bequeathed all of his assets to the James Graham Brown Foundation. One of the assets bequeathed to the Foundation was a wood preserving company that had operated facilities in three states, including a plant in Live Oak, Florida. Because of the Foundation's status as a non-profit charitable organization, the Foundation was required to divest itself of the wood preserving company pursuant to Internal Revenue Service guidelines. That divestiture was accomplished in 1980.

In 1983, the Brown Foundation was informed by U.S. EPA that an environmental problem had been discovered at a wood preserving facility located in Live Oak, Florida. This facility has previously been operated by a number of different companies, including one owned by Mr. Brown. Most of these other operators were now defunct. However, the Brown Foundation, by virtue of having received a bequest from Mr. Brown, was informed by EPA that it had responsibility to address environmental contamination at the Live Oak site, which had been placed on the Superfund National Priorities List. The Foundation, in cooperation with one other viable operator of the site, moved forward aggressively and in a responsible fashion to formulate a plan to determine the scope of any environmental contamination at the Live Oak site, and to develop remedial alternatives. The Foundation sought and received guidance from U.S. EPA on the process for conducting the investigation and for initiating a cleanup. In that regard, the Foundation retained an environmental consulting firm that had considerable experience in dealing with an innovative technology—biological degradation—to destroy any hazardous chemicals that may have been found in wood preservatives. The Foundation was fortunate to have located this expertise, and Mr. John Ryan of Remediation Technologies, the Foundation's consultant, will be speaking to you today about the technical aspects of the remedial effort.

From the very beginning of the Foundation's involvement with the Live Oak site, the Foundation adopted a policy of moving forward aggressively to correct the problem and to initiate corrective measures as quickly as possible to reduce any further threat to the environment posed by residual wood preservatives at the Live Oak site. The Foundation, like many others, had read in the newspapers about the slow pace with which the Superfund remedial process was conducted. The Foundation fully expected, based upon those media reports, that the cleanup process would be extremely slow and painful.

I am here today to tell you that our experience was just the opposite. When the Foundation proposed a creative technology that would quickly and efficiently detoxify this site, the U.S. EPA and FDER committed their resources to an accelerated remediation process. That process has led to a successful completion of the remediation at the site by biological degradation in less than 18 months. The Live Oak site is now a candidate for delisting from the National Priorities List under Superfund as a result of the prompt agency response. The Foundation is grateful for the cooperation given to it by U.S. EPA and FDER in attaining this common goal. In addition to cleaning up a Superfund site, the initiation of the corrective measures in a prompt fashion helped the Foundation to preserve its Trust for other charitable recipients. Had the process been a long, dragged out one, the Foundation would have surely incurred significant additional expenses, thereby depriving a number of charities of an opportunity to receive grants from the Foundation. I am here today to express the appreciation of the Brown Foundation to U.S. EPA and FDER for their assistance in bringing about a prompt solution to this problem. As a result of this positive experience, our Foundation has recently authorized an additional grant to U.S. EPA and the Department of Agriculture for research into additional biological degradation techniques that may be used to detoxify other sites like the Live Oak site. We believe that such an investment will benefit all citizens. Thank you for inviting me to speak to you today.

ANTI-HUNGARIAN ETHNIC OVERTONES OF SOCCER VIOLENCE IN SLOVAKIA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. LANTOS. Mr. Speaker, following a hotly contested soccer match last Wednesday in Bratislava, Slovakia, violence erupted between Hungarian supporters of the Ferencvaros team from Hungary and the Slovan Bratislava team from Slovakia. Violence involving soccer fans is hardly new and hardly surprising, given the intensity of competition and the rowdy reputation of the fanatic zealots who follow their home teams to key matches.

This outbreak of violence, however, raised new, ugly, and extremely serious questions about the anti-Hungarian overtones of the intemperate action by Slovak authorities. There seems to be no doubt in the accounts of the incidents that both Slovak and Hungarian fans were engaged in improper activities and that police action was probably appropriate.

It was outrageous and unacceptable, however, that at least some Slovak commandos wore black hoods to mask their identity. Furthermore, Hungarian officials who were present reported that Slovak police attacked Hungarian fans with particular brutality and did little against Slovak fans who were equally rowdy. The number of injuries officially reported seem to confirm that Hungarian Government assessement—14 or 15 Hungarians were treated for injuries, while only 1 Slovak was treated.

Mr. Speaker, over half a million ethnic Hungarians live in Slovakia. They have been subject to various forms of discrimination against them by Slovak authorities over many years, and to particular discrimination since the establishment of a Communist government in 1948. With the end of the Communist government in 1989, there was hope that conditions for the Hungarian minority in Slovakia would improve. Unfortunately, that has not been the case.

The revival of extreme Slovak nationalism—shown most graphically in the results of the recent elections in Slovakia and the decision by the Slovak Government to establish a separate independent and sovereign Slovak republic—raises serious questions about the treatment of ethnic Hungarians.

For ethnic Hungarians living in Slovakia, the unnecessary violence by masked police forces against Hungarians from Hungary at this soccer match raises the most serious questions of intimidation. The unnecessary police violence against Hungarians from Hungary attending this soccer match was really a message aimed at ethnic Hungarians in Slovakia: "Don't get out of line—we control the police."

Mr. Speaker, the rise of nationalist tendencies in Europe is a most serious threat to the peace, stability, and prosperity—not only of Slovakia—but of all of central and Eastern Europe as well. It is in the interest of the new government of Slovakia clearly and unequivocally to condemn any discrimination against its ethnic Hungarian citizens and take steps to assure that all citizens of the new state of Slovakia are treated fairly and without discrimination.

HONORING ANNETTE WEISS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. ENGEL. Mr. Speaker, today I join the friends and colleagues of Annette B. Weiss as they recognize her retirement after 35 years of teaching. A native daughter of the Bronx, Annette has served as a teacher, teacher trainer, coordinator, assistant principal, and most recently as principal of Public School 68. Her dedication to her profession and to her students has earned her a special place in the hearts of hundreds of people she has touched in a positive way.

Annette's activities have also extended to the Bronx community, where she has served as parent association president at both the Yeshiva Salanter and the SAR Academy, as well as secretary of the community board at Montefiore-Albert Einstein College of Medicine.

I am sure the people most proud of Annette's achievements are her loving family, including her husband of 39 years, their two children and three grandchildren. They are all also owed our thanks for allowing Annette to spend so much time helping her students and neighbors.

But most of all, the Bronx community extends its gratitude to Annette Weiss for devoting so much of herself to better the lives of so many young people. She surely stands as an inspiration to her students and a shining example to her colleagues. We wish Annette health and happiness in her retirement.

TRIBUTE TO GAIL DUNCAN-CAMPAGN

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. BONIOR. Mr. Speaker, on the evening of September 23, Gail Duncan-Campagn will be honored by receiving the "Alexander Macomb Citizen of the Year Award" at Penna's of Sterling Heights. I am very pleased to join the March of Dimes in paying tribute to a remarkable individual who has generously contributed her time and energy to our community.

Assuming an active role in our community is a responsibility we all share, but few of us fulfill. Gail Duncan-Campagn has unfailingly devoted herself to this task. While a dedicated and thorough professional for over 17 years, Ms. Duncan-Campagn has always been affiliated and involved with many community organizations. She has been involved with the Utica Business and Professional Women's Club, the Girl Scouts of Macomb County and the Greater Utica Optimist Club, to name a few.

Mr. Speaker, through her commitment and hard work, Gail Duncan-Campagn has touched countless lives as an active, responsible citizen. On this special occasion, I ask that my colleagues join me in saluting the fine accomplishments of Gail Duncan-Campagn and extend to her our best wishes for all her future endeavors.

GOODBYE TO THE KING OF THE NIGHT COURTS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mrs. SCHROEDER. Mr. Speaker, Mr. G. Van Standifer, commissioner of Midnight Basketball died last week at his home in suburban Maryland. Members of Congress on both sides of the aisle will mourn this loss, because Van Standifer's inspiring work with high risk youth touched us, motivating bipartisan enthusiasm for a proposal to fund midnight basketball on a demonstration basis throughout the country.

Van Standifer was recognized by the Points of Light Foundation; his program has hundreds of fans spanning corporate, nonprofit and volunteer sectors. This public/private partnership has spread to 34 cities, and the first National Conference of Midnight Basketball Leagues was held just this past summer.

In his "Letter from the Founder" in the July issue of the League Newsletter, Van Standifer explained that midnight basketball gives young men "hope and a reason to stand tall." Not only do players have to stay out of trouble to remain in the league, but they must also attend classes that lead to degrees, job skills and health awareness. Midnight Basketball gives them coaches, team owners and workshop leaders to look up to and to emulate. Families and friends attend games and cheer the players, having fun themselves and showing strong support for this wholesome alternative to late-night temptations on the street.

You do not have to be a great player to participate in the Midnight Basketball League—you just have to attend the practice and educational sessions regularly, and follow the coach's advice. Sometimes that advice is as basic as how to get your fingernails really clean before a job interview, but nobody ever cared enough to give it to these kids before.

Despite a large number of cosponsors for our midnight basketball bill, and inclusion of this proposal in the crime bill conference report, we have not yet been successful in funding midnight basketball during this Congress. I hope that we can move quickly now to express our appreciation for Mr. Van Standifer's dedication and vision by bringing this wonderful prevention program to more of the young people that meant so much to him.

AZERI ATTACKS AGAINST ARMENIAN POPULATION CONTINUE

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. OWENS of Utah. Mr. Speaker, as I rise today, gunfire is sounding in Armenia and Nagorno-Karabagh. Innocent victims are being killed and wounded every day. Just 2 days ago, a Parliament member of the Armenian Republic was shot down in Nagorno-Karabagh, the second member of the Armenian Parliament to be killed there by Azeri soldiers. The last rail link into Armenia was also blown up, effectively severing transport of desperately needed food, fuel and medical supplies into Armenia.

Despite cease-fire agreements, Azeri artillery attacks against the Armenian population in Karabagh continue. Blatant cease-fire violations by the Azeri are jeopardizing the CSCE's peace talks on Karabagh. After the breakdown of Karabagh talks last week in Rome, Azeri forces intensified their attacks on Armenian villages, in a pattern that is strikingly similar to Serbian aggression in Bosnia and Croatia. According to Russian radio, Azeri experts predict the resolution of Karabagh violence through the voluntary resettlement of Armenians into Armenia. Azerbaijani's Defense Minister asserts that peaceful coexistence with the Armenian population is an Azeri goal, but his claims are countered by the forcible ethnic cleansing of Azeri territory we are witnessing.

Eight months ago when I learned that our Government was to establish formal diplomatic relations with Azerbaijan, I protested. But Secretary Baker said that United States diplomatic representation in Baku was necessary to negotiate a peaceful resolution of the conflict. Despite continued gross violations of human rights in Azerbaijan against innocent Armenians, the State Department felt that Azeri Government promises of future good behavior were sufficient assurance for establishing full diplomatic ties with the newly independent Republic of Azerbaijan. Yet the deportations and bloodshed have only worsened.

Today I again urge our Government and also the U.N. Security Council to call for the deployment of U.N. peacekeeping troops in the autonomous Republic of Nagorno-Karabagh. In addition, we should encourage Russian President Boris Yeltsin's active involvement in removing Azerbaijani armed elements from Nagorno-Karabagh. As outlined in my Azeri Sanctions Act, our Government should not provide benefits and assistance to Azerbaijan until blockades and offensive force against Armenia and Armenians cease, and until the human rights of Armenians and other minorities within Azerbaijan's borders are restored.

The administration should press our Ambassador to Baku to make it clear to Azerbaijan's Government that Azeri aggression will not be rewarded, and will be countered by various diplomatic sanctions and possible other measures. If these unprovoked Azeri attacks continue, we should immediately withdraw our Ambassador from Baku until the Azeri siege and the resulting hardship and deprivation come to an end.

According to BBC radio, the Helsinki Human Rights Commission has appealed to the United Nations to actively mediate the spreading Azeri-Armenian confrontation—but, as we have seen elsewhere, the international community is indifferent and unwilling to become involved in areas of interethnic conflict. To justify their inaction, cynics claim that blame can be found on both sides; but, ladies and gentlemen, let us not confuse the victim with the aggressor. Before the violence in Karabagh spreads to other regions, the United States and its democratic friends must send a message to the Azeris that nationalist aggression does not pay—that the forcible changing of borders will not be accepted. If we are slow to recognize who is the victim and who is the perpetrator of such nationalist violence, we silently help to perpetrate this senseless violence and destruction.

America must make it painfully clear to Azerbaijan that human rights violations will not be tolerated, that aggression will not be countenanced, and that all blockades and violence must cease immediately or Azerbaijan risks economic and diplomatic isolation.

TRIBUTE TO BELLMAWR PARK VOLUNTEER FIRE CO.

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. ANDREWS of New Jersey. Mr. Speaker, on October 3, I will be attending a celebration in the town of Bellmawr Park commemorating the 50th anniversary of the Bellmawr Park Volunteer Fire Co. For the RECORD, I would like to submit a short history of this outstanding organization. I hope their success continues in the future.

BELLMAWR PARK VOLUNTEER FIRE CO. PROTECTING LIVES AND PROPERTY SINCE 1942—50 YEARS OF DEDICATED SERVICE OCTOBER 3, 1992

Bellmawr Park was built during the Second World War by the Federal Government to house workers that were employed in the defense industry, New York Ship, etc. The Federal Government managed this housing project until it was purchased by the tenants and became The Mutual Housing Corporation.

Because of the times, this community, like others, had a strong civil defense organization. Eleven of the Civil Defense Fire Wardens became Charter Members of what we now know as Station 33.

In the spring of 1942 there was a fire in a coal box that was attached to what is now known as 772 Carter Avenue. (then Edgemont Avenue) This fire was extinguished by the Civil Defense Fire Wardens with a garden hose.

After the Carter Avenue fire, the wardens felt the need for a fire department on the west side of town to assist the existing Bellmawr Fire Department that was, and is now, located on the east side of town. They met with the mayor and expressed their feelings. The mayor stated that if they could supply the facilities to house a new department, he would supply a truck.

The Civil Defense Fire Wardens met with the administrators of the government housing project and described their purpose and needs. The administrators, realizing the need, provided two W.P.A. "shacks," the necessary land, and the utilities that would be required.

The "shacks" were assembled and a 1920's vintage Reo fire truck was delivered. The Bellmawr Park Volunteer Fire Company was organized by the eleven fire wardens in November of 1942 and became a corporation on November 4, 1943. Our first President was John J. Sipple, and our first Fire Chief was Mike Bruno.

The Bellmawr Park Volunteer Fire Company Ladies Auxiliary was incorporated in 1945. The first President of the Auxiliary was Sue Sipple.

The years that followed were a lot of work and a lot of fun. The firemen and ladies worked well together.

In 1946 a new Ward LaFrance Pumper was purchased. The Ladies Auxiliary supplied the rear lights for this truck.

Looking forward, the members started a scrap drive to fund operations and expansion. On Saturday mornings, members used a Ford Model A Truck and a Ford Model B Truck to collect newspaper and other items that could be sold.

In the 1950's construction began on a new firehouse that was to replace the original building. This continued with constant improvements, additions, sweat, blood, and after the 1979 fire, many tears. The 1950's also brought Bingo, a 1948 American LaFrance Pumper, a new 1958 Oren Pumper, and a new 1959 Ford/Great Eastern Utility Truck.

In the 1960's a new 1963 Oren Pumper and a used 1947 American LaFrance Ladder Truck were purchased.

In the 1970's a new 1971 Imperial Pumper and a new 1978 Pierce Mini Pumper were purchased.

On June 13, 1979, disaster struck. Fire consumed our station. We saved our apparatus and a few momentos. A bronze plaque of the fireman's prayer that was presented to us by the Ladies Auxiliary in 1973 was twisted and discolored by the intense heat of the fire. Most of the discoloration has been removed from this plaque and it is now part of the memorial that was dedicated in memory of our deceased members in 1990. We elected not to straighten it, but to have its distorted form be a reminder of our heritage. Another thing that survived the fire is an antique safe that is still in use. It probably dates from the late 1800's.

One thing that surely was not lost in the fire was the Bellmawr Park Fire Company "SPIRIT." Our new building was erected and dedicated in just one year. This is a tribute to the officers and members that served at the time. Dedication was June 14, 1980.

The 1980's brought new challenges that were met. We purchased a new 1982 Grumman/FireSpire 106 foot Aerial Ladder Truck, a new 1988 Starcraft Rescue Boat, a new Hahn 1500 GPM Pumper, and a new chief's car.

In the 1990's we have added vehicle rescue equipment to our apparatus. With a Boy Scouts of American Charter, a Fire Explorers Post, "Junior Brigade," was organized in May 1991. A 1992 Road Rescue Utility Vehicle was acquired this year, but our towering achievement is a membership that exceeds 100.

The operation of our totally volunteer organization is presently funded by renting our social hall, hosting various parties, holding bingo on Wednesday evenings, and with an annual fund drive. The Ladies Auxiliary have fund raising projects, and they assist in all of our endeavors.

APPARATUS IN SERVICE 1992

1992 Road Rescue Utility Vehicle.
1988 Hahn 1500 GPM Pumper/Foam Unit.
1988 Ford Chief's Car.
1988 Starcraft 19' Marine Unit.
1982 Grumman/FireSpire Aerial ladder.
1971 Imperial 1250 GPM Pumper/Foam Unit.
12' Marine Unit (year unknown).

We the officers and members of the Bellmawr Park Volunteer Fire Company and Ladies auxiliary are proud to boast: over time, the faces of individual members serving our organization may change; however, as a unified group, Bellmawr Park Volunteer Fire Company's dedication to protecting the public always remains constant.

A TRIBUTE TO SECRETARY DERWINSKI'S 35 YEARS OF PUBLIC SERVICE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. CRANE. Mr. Speaker, many of my colleagues had the honor of serving in Congress with the current Secretary of Veteran's Affairs, Edward J. Derwinski. Recently, Secretary Derwinski was featured in an article in the September 4, 1992 edition of the Chicago Tribune lauding his years of public service as a Member of Congress, as Undersecretary of State for National Security Affairs, and as Secretary of Veterans' Affairs. Without a doubt, Secretary Derwinski, is most deserving of this tribute and I submit this article to my colleagues, who can attest to the accomplishments of his illustrious career.

WASHINGTON WAR HORSE

(By Michael Kilian)

WASHINGTON.—In the lean, preppy, Ivy League Bush administration, Loyola night-school grad Ed Derwinski is one of those guys who cannot easily button their suit jackets. Even in a pin-stripe suit, Derwinski seems pretty much what he was when he began his political career 36 years ago: the head of a mom-and-pop Polish savings and loan in Chicago's South Side neighborhood of Roseland.

Yet the affable, unpolished glad-hander has proven to be one of the smartest people in town.

With a political base that lay largely with the Kiwanis and local chamber of commerce, the then-29-year-old World War II Army veteran made a naive but successful run for a two-year term in the Illinois House. Twenty-three years in Congress and six in the State Department followed.

Now the Big Cheese, as he is known throughout his agency, is in his fourth year as the nation's first secretary of veterans affairs, a post recently elevated to Cabinet status and one that has embroiled him in constant controversy—including a recent call for his resignation by the Veterans of Foreign Wars.

But for all his time at the top of Washington's stuffy heap, the big, beefy, 65-year-old Derwinski remains an unassuming "Howya doin'," Chicago-style Republican pol, right down to his ultrashort, meatpackers-bowling-league haircut and a deep, rumbly, Midwestern-accented voice.

He's a shrewd, battle-scarred insider known best for, of all things, his friendliness and his principles. He's an almost religiously anticommunist conservative, but one with friends on both sides of the partisan fence and all over the ideological landscape. He's a consummate capital survivor, though he still considers himself first and foremost a Chicagoan and looks forward to the day when he'll return to his roots.

Derwinski runs the Department of Veterans Affairs, the largest bureaucracy in the federal government after the Defense Department—245,000 employees—and one where the bright-checked sports jackets that once were his trademark would not seem out of place.

But the Roseland Kiwanian made some of his most notable career achievements at the State Department, an arena famous for its Savile Row and Brooks Brothers haberdashery, its priestly clannishness and Brahmin snottiness, and the elegance with which its soft-spoken brotherhood is known to insert the political shiv into the collegial back.

Derwinski was the person officials turned to when they really had to get something done, especially if it involved working out an agreement behind a closed door.

After losing his congressional seat in an election after the 1981 reapportionment, Derwinski became one of the then-Secretary of State George Shultz's top aides and his chief trouble-shooter. In six weeks he settled nasty fishing disputes that had lasted 15 years, and handled other fractious matters. He ultimately rose to the lofty rank of undersecretary of state for national security affairs.

Many careerists in the State Department greeted his arrival there with resentment or snickers. Shultz's chief deputy, John Whitehead, was an entrenched foe of Derwinski's. Shultz's successor, James Baker, offered Derwinski an easy out: ambassadorial appointment either to Poland or to Yugoslavia. He declined, citing a conflict because of his hatred of communist governments. Two weeks later, his old friend George Bush called to ask him to join his Cabinet.

In Congress, Derwinski had been the second-ranking Republican on the House Foreign Affairs Committee and a leading behind-the-scenes operative. He was a delegate to the United Nations and a major player in the worldwide Interparliamentary Union, an international organization of members of parliamentary bodies.

His close friends and longtime contacts include not only President Bush, whom he first met in Congress, but also chiefs of state and foreign ministers all over the world. Iceland accorded him its highest honor in making him a commander of the Order of the Falcon—doubtless the only such honoree who keeps a stuffed Chicago Bears bear on his office couch.

No one in Washington is without enemies, and Derwinski has made his share. At its convention last month in Indianapolis, for example, the VFW adopted a resolution calling for his resignation and accusing him of failing to champion the needs of veterans. The American Legion and the Disabled American Veterans refrained from joining in.

Derwinski's recent ban on smoking and cigarette sales in the nation's 172 VA hospitals incurred the instant wrath of two leading spokesmen on veterans issues in the House, Reps. G.V. "Sonny" Montgomery (D–Miss.) and Harley Staggers (D–W. Va.).

A TOUGH CONSTITUENCY

Derwinski treats the VFW's complaints seriously, but as predictable opposition that comes with the job. "This is a tough job," he says. "We have a constituency that needs us, but is also very demanding."

The VFW leadership, which expressed similar displeasure with four of Derwinski's predecessors, had asked for his head earlier in his tenure, when he agreed to a request from the Bush administration POW–MIA negotiators to encourage Vietnamese cooperation by providing them with $250,000 in obsolete VA medical equipment that was going to be junked. Although the Vietnam War ended nearly 20 years ago, many veterans still view Hanoi as the enemy.

The VFW was outraged, too, by Derwinski's concurrence in a proposal by Louis Sullivan, secretary of health and human services, to allocate empty beds in two underused VA hospitals at Salem, Va., and Tuskegee, Ala., for the care of mostly indigent patients who had no other medical facilities available locally.

The main concern was that the move could start the VA hospital system down a slippery slope leading to its amalgamation into a network of federal welfare medical facilities.

Both controversial policies have been rescinded. The VFW supported Montgomery's and Staggers' efforts to overturn the smoking ban, some veterans arguing that the military once issued cigarettes with C-rations and is now trying to take them away.

A longtime non-smoker, Derwinski argues that it's not a veterans-rights issue but a health issue, that smoking areas have been set up in convenient outdoor shelters, that smoke-free hospitals are becoming the norm in the U.S. and that the VA hospitals could lose their accreditation if they don't go along.

SHAKING THE MONEY TREE

More baffling is the complaint that Derwinski has been shorting veterans in terms of spending. At a time of staggering federal deficits, when virtually every other federal department is being hit with freezes and cuts, Derwinski got an upfront, supplemental $700 million for VA health care out of Bush when he took over the job, and has increased VA hospital spending by $1 billion in each of the last three years despite stubborn opposition from budget director Richard Darman.

Even Rep. Lane Evans (D-Ill.), probably the VA's chief critic in the House, acknowledged Derwinski's effort. "The man is trying," Evans said.

Among Derwinski's challenges: Helping VA hospitals start specializing in geriatric medicine because of the age of World War II veterans, and accommodating the 10 percent of the nation's hospitalized AIDS patients who are among the 1.1 million veterans that VA hospitals treat every year.

Derwinski's supporters think he'll meet the challenges and survive the flak.

"I'll stand with my old friend Eddie," said U.S. Appeals Court Judge Abner Mikva. A former Illinois member of Congress and an outspoken liberal Democrat, Mikva is the ideological opposite of Derwinski, and they've frequently differed on partisan matters.

"He was always a joy to deal with," said Mikva, now one of the most powerful federal judges in Washington and often mentioned as a possible Democratic nominee for the Supreme Court. "He reflects what ought to happen to people after they get elected to public office. He has continued to grow and learn and has never lost sight of what he feels is best for the country."

Another admirer is Jeffery Bergner, a respected Washington foreign-policy consultant, author and adjunct professor on foreign affairs at Georgetown University. In the 1980s he was staff director of the Senate Foreign Relations Committee and a White House adviser.

"When you first see Ed," Bergner said, "you think that you're going to get bowled over by him—this large, forceful-sized guy. But beneath his exterior, he's actually a very subtle guy. He's always able to find the point [in disputes] at which agreement can be made—in a subtle way. He's done this in a lot of tough situations. He doesn't play to the grandstand. I think the problem [at the State Department] was that he's goal-oriented while they're process-oriented. I do greatly admire him."

"IF YOU'RE SO SMART. . ."

Derwinski's grandparents were typical of the Polish immigrants who settled in Chicago in the late 19th Century. One grandfather had been a peasant farmer, the other a factory worker. His father, Woziech, started a small savings and loan association in Roseland when those neighborhood institutions were established along ethnic lines.

"Our big breakthrough came when the Germans and other ethnic groups started making deposits," Derwinski said.

Derwinski served in the Pacific at the end of World War II and was among the first U.S. Army troops to occupy Japan.

When his father died in 1947, he took over the family business, eventually increasing its assets from $1 million to $13 million.

In a legislative remap in 1956, the machines of both political parties fixed it so the state senator and all three state representatives from Roseland's district would be from the south Chicago area on the other side of Lake Calumet. A neighborhood protest meeting was held, and young Derwinski was one of the angry speakers. He was told: "If you're so damn smart, why don't you run?"

Derwinski did, and with the help of the predominantly Republican Dutch ethnics of Roseland (the Polish vote being largely a lock for the Democrats), he won the primary and a seat in Springfield.

THE DIPLOMATIC THING

During his one term in the Illinois House, he and his liberal Democratic friend Mikva sponsored a bill that made history for receiving the fewest "aye" votes ever for a measure called on the House floor. It would have eliminated straight-ticket, one-pull voting.

"Ed and I cast the only votes for it," Mikva said. "Later, I remember treating him to a few drinks at a watering hole called the Lake Club. He was lamenting that he didn't think he stood a chance of getting re-elected. Next thing I knew, he got elected to Congress."

Derwinski became a friend of Bush's during their time in Congress. In 1980, when most other conservative Illinois Republicans were marching lockstep for Ronald Reagan, Derwinski went to the convention as an elected Bush delegate.

After Derwinski lost his remapped congressional seat in a primary fight in 1982, Bush and Shultz, another friend of Derwinski's from his Chicago days, tapped him for the post of State Department counselor.

He sat as a member of Shultz's inner circle, and was invariably sent in when negotiations being handled by careerists bogged down, securing treaties ending long-festering disputes over American navigation rights in Canada's Northwest Passage, Iceland's role in NATO, and all manner of fishing quarrels.

"You didn't need to know the diplomatic thing," he said. "What you had to know was enough about the country to know its politics and history. You had to know what they could give on and what they couldn't."

WHAT NEXT?

In 1960, Derwinski married Patricia Van Der Giesen, daughter of the then-mayor of South Holland. They had two children, both now grown.

The Derwinskis separated in 1983 and divorced in 1986. During the separation, Derwinski started dating Bonnie Hickey, a divorced, politically active Chicagoan from Bridgeport who had run unsuccessfully for the Metropolitan Sanitary District and Congress and headed other Republicans' campaigns. They married when Derwinski's divorce became final. They live in a condominium complex in Falls Church, Va., and for the last several years she has been the chief congressional liaison for the Immigration and Naturalization Service.

If Bush wins re-election, Derwinski says he'll ask to stay on in his present job. "It's a challenge," he says, "and I'm enjoying the challenge."

If Derwinski's long government career should come to an end for any reason, he doesn't plan to hang around Washington as so many retired public servants do.

"I've talked about this with Bonnie, and I think we'll go back to Chicago," he said. "We've always thought of ourselves as Chicagoans. Bonnie would like to work with companies in intergovernmental relations, but I'd like to share some of my experience and understanding with the next generation."

Added the compulsive, lifelong reader of history books, "I'd like to go into teaching."

VOTING RECORD

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. PEASE. Mr. Speaker, it has become my practice to insert periodically in the CONGRESSIONAL RECORD a list of key votes that I have cast in the U.S. House of Representatives.

The list is arranged in this manner: Each item begins with the rollcall vote number of the bill or resolution that the House was considering, followed by the bill number and a summary of the issue. This is followed by my own vote on the issue and the vote outcome.

This list of votes covers the period of January 28, 1992, through July 29, 1992.

KEY VOTES OF CONGRESSMAN DONALD J. PEASE

(4) H.R. 4095. Unemployment Benefits Extension. Authorizing $2.7 billion to extend unemployment benefits for an additional 13 weeks, permitting a total of 33 weeks in high-unemployment states and 26 weeks in the remaining states. Yes. Passed 404–8.

(17) H.R. 3490. Pay-per-Call Telephone Regulation. Ordering the Federal Communications Commission to issue regulations for the 900 pay-per-call telephone industry. Yes. Passed 381–31.

(34) H.R. 3844. Haitian Refugee Protection. Suspending temporarily actions to repatriate Haitians who were in the custody of U.S. officials before February 5, 1992; alloting 2,000 refuge admission slots to Haitians; requiring the president to report to Congress on the fate of repatriated Haitians; and other purposes. No. Passed 217–165.

(42) H. Con. Res. 287. FY 1993 Budget Resolution. Adopting "Plan B" to set spending levels for FY 1993, which would become effective if legislation to change the 1990 budget agreement and permit cuts in defense funds to be used to finance domestic spending increases fails; Plan B would double the president's defense cuts and use the savings for domestic programs and to reduce the budget deficit. Yes. Passed 224–191.

(43) H.R. 2212. Conditional MFN for China in 1992. Overriding the president's veto of the bill prohibiting the president from granting most-favored-nation (MFN) status to China for the year beginning July 3, 1992, unless he reports that China has made significant advances in the prevention of various human rights abuses, discouraging weapons proliferation, and remedying unfair trade practices. Yes. Passed 357–61.

(45) H. Res. 396. Disclosure of House Bank Abuses. Approving the disclosure of names of any members or former members who wrote a check that exceeded his/her balance at the House Bank and the number of such checks written from July 1, 1998, to October 3, 1991. Yes. Passed 426–0.

(54) H.R. 4210. 1992 Tax Bill. Creating a 20% tax credit against Social Security taxes for middle income families, to be replaced in 1994 with a permanent $300/child tax credit; instituting a new 36% top tax rate and a 10% surtax on millionaires; providing a graduated capital gains tax cut; restoring tax-deductible IRAs for all taxpayers; allowing penalty-free IRA withdrawals in certain circumstances. Yes. Passed 211–189.

(55) H.R. 4210. 1992 Tax Bill. Overriding the president's veto of H.R. 4210. Yes. Failed 211–215.

(66) H.R. 3732. Eliminate Budget Walls. Modifying the 1990 Budget Enforcement Act to allow the shifting of funds between defense, international and domestic appropriations. Yes. Failed 187–238.

(79) S. 3. Campaign Finance Reform. Limiting congressional campaign spending through incentives for candidates who agree to voluntary spending limits; cutting the amount candidates can accept from PACs and restricting "soft money" activities. Yes. Passed 259–165.

(84) H. Res. 423. Administrative Operation of the House. Abolishing the House Postmaster; creating an inspector general to oversee periodic audits of the House; transferring administrative and financial functions to a newly created director of non-legislative and financial services; eliminating certain "perks" in the House. Yes. Passed 269–81.

(87) H.R. 2967. Older Americans Act. Reauthorizing the programs under the Older Americans Act through FY 1995, revising the Social Security Earnings Test to double the amount a person between 65 and 69 can earn without having their Social Security benefits reduced. No. Passed 340–68.

(90) H.R. 4364. FY 1993–95 NASA Reauthorization. Amendment eliminating $2.3 billion designated for the Space Station Freedom. Yes. Failed 159–254.

(95) H.R. 3090. Family Planning Reauthorization. Reauthorizing Title X of the Public Health Service Act through FY 1997; also overturning the administration's "gag rule," thereby permitting abortion counseling upon request at federally funded family planning centers. Yes. Passed 268–150.

(107) H. Con. Res. 287. FY 1993 Budget Resolution. Instructing the House conferees to agree to Senate provisions concerning a joint resolution proposing to amend the Constitution to require a balanced federal budget. No. Passed 322–66.

(125) H.R. 5132. FY 1992 Disaster Relief Supplemental Appropriations. Providing $494,650,000 for disaster assistance and loans in response to the Los Angeles riots and flood damage resulting from the Chicago tunnel collapse. Yes. Passed 244–162.

(131) H. Con. Res. 320. Congressional Recognition of the 27th Constitutional Amendment. Recognizing the 27th Amendment, which states that a congressional pay raise shall not take effect until an intervening election has occurred. Yes. Passed 414–3.

(137) H.R. 4990. FY 1992 Rescissions. Rescinding $8.16 billion in previously approved FY 1992 budget authority, including $7.2 billion in defense, $761 million in domestic programs and $164 million in foreign aid; rescissions include funding cuts for the B–2 bomber, the Strategic Defense Initiative and the Seawolf nuclear submarine schedule. Yes. Passed 404–11.

(139) H. Con. Res. 287. FY 1993 Budget Resolution. Approving $1.516 trillion in budget authority for FY 1993, with a deficit of $327 billion. Yes. Passed 209–207.

(144) H.R. 776. National Energy Policy. Establishing policy to increase domestic energy production and conservation; overhaul the federal law concerning electric utilities; encourage the use of alternative motor fuels; provide tax incentives for renewable energy; and other purposes. Yes. Passed 381–37.

(147) H.R. 2507. National Institutes of Health Reauthorization. Reauthorizing NIH programs through FY 1996, and lifting the ban on fetal tissue transplant research utilizing fetal tissue resulting from an abortion. Yes. Passed 260–148.

(157) H.R. 5006. FY 1993 Defense Authorization. Amendment reducing by 40 percent the number of U.S. military stationed overseas by the end of FY 1995. Yes. Passed 225–177.

(160) H.R. 5006. FY 1993 Defense Authorization. Amendment authorizing an increase from $400 million to $650 million for programs designed to cut the nuclear weapons arsenal of the former Soviet Union. Yes. Passed 356–54.

(162) H.R. 5006. FY 1993 Defense Authorization. Amendment calling for further reductions in the nuclear weapons arsenals of the U.S. and other countries, including the former Soviet republics; calling for faster reductions under the Strategic Arms Reduction Treaty (START); and calling for an end of plutonium and highly enriched uranium production by 1995. Yes. Passed 278–135.

(164) H.R. 5006. FY 1993 Defense Authorization. Amendment instituting a one-year moratorium on the testing of nuclear weapons unless the president certifies that any of the former Soviet republics have tested nuclear weapons during that time. Yes. Passed 237–167.

(168) H.R. 5006. FY 1993 Defense Authorization. Amendment to cut funding for the Strategic Defense Initiative (SDI) by $2 billion, to repeal the Missile Defense Act of 1991, and to eliminate the Strategic Defense Initiative Organization. Yes. Failed 117–248.

(170) H.R. 5006. FY 1993 Defense Authorization. Amendment to prohibit any future production of new B–2 aircraft beyond the 15 already in development. Yes. Failed 162–212.

(172) H.R. 5006. FY 1993 Defense Authorization. Authorizing $270 billion for defense programs in FY 1993. No. Passed 198–168.

(187) H.J. Res. 290. Balanced-Budget Constitutional Amendment. Proposing a constitutional amendment to prohibit deficit spending unless a three-fifths majority in both the House and the Senate agree on a specific deficit amount or unless there is a declaration of war or military emergency enacted into law; requires the president to submit a balanced budget each fiscal year and requires a three-fifths majority of both chambers to increase the public debt. No. Failed 280–153 (two-thirds majority needed for passage).

(194) S. 250. National "Motor Voter" Registration. Requiring states to provide access to voter registration when applying for public certificates, such as a driver's or marriage license. Yes. Passed 268–153.

(201) H.R. 5373. FY 1993 Energy and Water Appropriations. Amendment rescinding $450 million previously allocated to fund the superconducting super collider. Yes. Passed 232–181.

(222) H.R. 2507. National Institutes of Health (NIH) Reauthorization. Overriding the president's veto of the bill reauthorizing funding for NIH programs through FY 1996 and lifting the ban on fetal tissue transplant research using tissue obtained from abortions. Yes. Failed 271–156 (two-thirds majority required for passage).

(236) H.J. Res. 517. Railroad Labor Dispute. Instituting a cooling-off period to ease the negotiation of unresolved labor disputes between particular railroads and striking employees and outlining an arbitration procedure which must be followed if no initial agreement is reached. Yes. Passed 248–140.

(242) H.R. 5429. Independent Social Security Administration. Establishing the Social Security Administration as an independent agency. Yes. Passed 350–8.

(267) H.R. 5260. Extended Unemployment Benefits. Providing 20 or 26 weeks of extended unemployment assistance to workers who exhaust their standard UI benefits between July 4, 1992, and March 6, 1993, unless the national unemployment rate falls below 7 percent, and enacting permanent changes to the extended benefits program to trigger emergency benefits automatically in future periods of high unemployment. Yes. Passed 396–23.

(268) H.R. 11. Urban Aid and Tax Bill. Providing tax incentives for the establishment for 50 enterprise zones in disadvantaged urban and rural areas and providing $2.5 billion over five years for job training and various community development programs in them; extending certain expiring tax provisions; repealing the tax on luxury items (yachts, furs, etc.); and raising the revenue to finance all provisions of the bill. Yes. Passed 356–55.

(272) H.R. 5100. Trade Bill. Amendment instructing the U.S. trade representative to enforce a limit on imported Japanese automobiles and to enforce a Japanese commitment to increase the use of U.S. made parts in American-manufactured Japanese cars. Yes. Passed 260-166.

(273) H.R. 5100. Trade Bill. Reauthorizing for five years the Super 301 program that requires the identification of countries imposing trade barriers to U.S. goods, negotiation to eliminate the barriers, and possible retaliation if negotiations fail; requiring the USTR to negotiate voluntary auto import limits with Japan; modernizing the Customs Service; strengthening U.S. anti-dumping and countervailing duties laws; and other purposes. Yes. Passed 280–145.

(274) S. 1150. Higher Education Act Reauthorization. Reauthorizing through FY1997 the Higher Education Act of 1965, extending eligibility for Guaranteed Student Loans to all students regardless of income and eligibility for Parent Loans to Undergraduate Students (PLUS) to all parents with no adverse credit histories; removing family home and farm equity from eligibility determination formulas for federal assistance; and increasing Pell Grant levels to $3,700. Yes. Passed 419–7.

(285) H.J. Res. 502. Disapproval of MFN for China in 1992. Disapproving the president's decision to extend most-favored-nation trade status to China in 1992. No. Passed 258–135.

(286) H.R. 5318. Conditional MFN for China in 1993. Prohibiting the president from granting most-favored status to China unless he reports that China has released and accounted for all prisoners from the Tiananmen Square demonstrations in 1989 and has made significant advances in resolving concerns over weapons procurement, human rights and trade violations. Yes. Passed 339–62.

(313) H.R. 4850. Cable Television Regulation. Instructing the Federal Communications Commission (FCC) to set a nationwide rate for basic cable service and regulate rates for other programming under certain circumstances in order to lower cable service rates for consumers and improve customer service. Yes. Passed 340–73.

(334) H.R. 5679. FY 1993 VA, HUD, and Independent Agencies Appropriations. Amendment cutting $1.2 billion for the Space Station, and dedicating the remaining $525 million to cover costs of closing down the program. Yes. Failed 181–237.

FREEZE DRIED BLOOD: A MODERN MILITARY MIRACLE

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. MOORHEAD. Mr. Speaker, I would like to share with you an excellent article on the Navy's Freeze-Dried Blood and related programs that appeared in the August 24, 1992, issue of the Navy Times.

As many of our colleagues are aware, there is a continual shortage of whole blood throughout the Nation. At times the shortfall is critical, especially in high density, metropolitan areas and in areas hit by natural disaster. The biggest problem is in the area of storage, transportation, and delivery of fresh red blood cells. Whole blood can only be kept at room temperature for approximately 30 minutes, therefore, it must be refrigerated until minutes before use. This has made delivery to the accident victim in remote areas or on the battlefield extremely problematic. The traditional solution has been to control hemorrhaging and then evacuate the patient as quickly as possible to a field hospital or other facility equipped for blood storage and transfusion. In most incidences, a saline solution is used to replace lost blood volume until evacuation is possible. But this does not replace the vital oxygen-carrying lost red blood cells that can mean the difference between life and death.

Refrigerated red blood cells last only 35–40 days. Frozen red cells have a longer shelf life, but require extensive postthaw washing with bulky equipment and sterile fluids to remove the toxic preservatives that are used in the freezing process. Frozen blood also requires special freezers and constant supply of electricity.

While the civilian blood centers have set out on their own research and development programs, the Navy has taken the Government lead in helping to solve the long-term blood storage problem. Working closely with their civilian counterparts, the Navy now has several promising blood programs—addressing different blood-related problems—on the horizon.

Perhaps the most promising is the breakthrough in Freeze-Dried Red Blood Cells processing. Cryopharm Corp. of Pasadena, CA, has developed a revolutionary approach to freeze-dry red blood cells as a cost effective and safe way of delivering red blood cells to the accident victim or combat casualty. The company began its research program in 1987 and has made significant advances including the first clinical tests on human volunteers. Cryopharm completed its 1992 initial clinical studies and the results were very encouraging. As the article below points out, the Navy is also pleased with the progress the research has made and is looking forward to utilizing this innovative solution to combat casualty care in the future.

Mr. Speaker, I hope our colleagues find this article as informative as I have.

[From the Navy Times, Aug. 24, 1992]

FREEZE-DRIED BLOOD: NAVY'S RESEARCH JUST MAY SAVE YOUR LIFE

(By Patrick Pexton)

WASHINGTON.—War is a bloody affair.

Combatants die as often from loss of blood as from the torn flesh left by shrapnel and bullets. And despite medevac helicopters, the percentage of deaths among seriously wounded soldiers has barely improved since World War II.

It was then that British doctors first learned casualties recovered faster when given blood transfusions. And what doctors have been searching for ever since has been a way to replace lost blood and fluids in the critical first hour after initial injury. It's during those 60 minutes when so many serious wounds turn deadly.

Such a breakthrough is now only a few years away.

Within as little as five years, wounded sailors and Marines may owe their lives to a new kind of first-aid—one that uses freeze-dried and artificial blood to replenish the loss of life-giving fluids.

With these blood products, in some cases injected into wounded right on the battlefield, a sailor or Marine may have a better than 90 percent chance of surviving a serious wound.

Navy researchers are largely responsible for these products, which will allow technicians to take blood substitutes closer to the front lines of battle. But the Navy has had help from the Army, from taxpayers and even from a pair of unlikely characters: fish and coffee.

JUST ADD WATER

The new blood products grew out of the Navy's 20 years of research and success with frozen blood, which is now deployed at sites throughout the globe, waiting to be thawed for wartime.

But despite years of Navy improvements to frozen blood—extending its shelf life, using less toxic preservatives—it remains bulky and requires electricity to be kept cold right up to its use in the body. As a result, its use is limited on the battlefield.

That left doctors thinking about freeze-dried blood—just like freeze-dried instant coffee. If blood could be freeze dried, they thought, it would be lightweight, small in volume, and could be kept at room temperature. Blood could be carried to the wounded, rather than the wounded taken to the blood. And freeze-dried blood, in even the rarest blood types, could be taken almost anywhere: aboard ships, submarines, space stations, civilian ambulances or even in an individual Marine's backpack.

Now Navy and private researchers have done it. They've transformed fresh, whole, human blood into a dry reddish powder, much like ground cinnamon. Just add sterile water and it saves lives.

But the road to freeze-dried blood has not been easy.

Just as freeze-dried coffee doesn't taste the same as fresh brewed, freeze-dried blood undergoes changes. Microscopic red blood cells are far more delicate than Colombian caffeine molecules and half of the blood cells can be destroyed outright in the freeze-drying process. Those that are left carry oxygen only half as efficiently.

So far, researchers have reached the point where reconstituted freeze-dried red blood cells have 80 percent of the effectiveness of the originals. But that's not quite good enough, and the rehydrated cells also are not lasting the normal 120-day life cycle of a red blood cell.

Two Navy contractors are trying to overcome the freeze-drying hurdles. Life Cell Corp., of The Woodlands, Texas, is working with $579,000 of Navy money and some U.S. Army money. Cryopharm, of Pasadena, Calif., is using $1.35 million awarded in 1990 for three years of research from the U.S. Naval Medical Research and Development Command.

How the two companies are doing their research are trade secrets. But in general, Cryopharm is looking at different kinds of non-toxic chemicals that will preserve the cells during the freezing and drying process, as well as improvements to the cooling and evaporation process itself. LifeCell is looking at freezing the blood faster and in tiny microdroplets, which would better safeguard the red blood cells.

Even more tantalizing, the companies are studying how to inactivate blood viruses, such as AIDS and hepatitis, through freeze drying.

WHY FEEZE DRY BLOOD?

The need for freeze-dried blood arises from how the body reacts to trauma and the limitations of wartime medical care.

The loss of bodily fluids from wounds can kill within 60 minutes. Fluid loss drops blood pressure, which leads to shock, and that, coupled with the loss of red blood cells, robs the body's ability to carry oxygen to vital organs, such as the brain and heart.

Because of the vital role that blood and fluids play in trauma care, the traditional approach to combat medicine has been to stop bleeding, get intravenous sterile fluids into the victim, and transport the patient to a place for blood transfusions and surgery. That's why medevac helicopters and MASH units were used in Korea and Vietnam, and why civilian hospitals have helicopters, paramedics and shock-trauma centers today.

The system works better in the civilian world, where hospitals are close by and accidents infrequent. In battle, casualties all tend to come flooding in at once and the hospitals can be far from the fighting.

The challenge for combat medicine then has always been first to buy time for the wounded, stabilizing the patient long enough to get to the next level of care.

A second and more modern challenge, however, is to provide enough blood in the first seven to 10 days of a war, which, given today's technology, is when most of the blood will be spilled.

"The challenge is to have a safe blood supply, [that is] free of disease, readily deployable, [has a] long storage life and is light in weight," said Capt. Edward. T. Flynn Jr., commanding officer of the Naval Medical Research and Development Command, which oversees blood research.

But meeting that goal is formidable. Fresh whole human blood spoils 30 minutes after being taken out of a refrigerator, and even under cooling lasts only 35 to 40 days. A corpsman, or a battalion aid station, cannot transport huge refrigerators, nor can they carry every blood type to match every downed Marine.

That's where the idea of freeze-dried blood came in. If blood could be freeze dried just like instant coffee, Navy doctors reasoned, its volume and weight could be greatly reduced and a corpsman could do battlefield transfusions just by adding sterile water.

FROZEN BLOOD

But nearly all of this frontier research in freeze-dried blood would never have happened without the Navy's pioneering work in frozen blood.

Before blood can be freeze dried, it first must be frozen without destroying the red blood cells, which carry oxygen, and the platelets, tiny cells that help blood clot.

If the freezing process is not done correctly, ice crystals form, rupturing the microscopic red blood cell walls, much as a water balloon would be damaged when the water within turned to ice.

But Dr. C. Robert Valeri and others at the Naval Blood Research Laboratory at the Boston University School of Medicine have mastered the freezing process for blood and the 20-year-old process is well-established and reliable.

First, the saline liquid inside the blood's red cells is removed, to protect the cells from crystallizing—and breaking down—during freezing and thawing. Next, the saline is replaced with glycerol, a preservative similar to antifreeze.

But the glycerol, which is toxic, has to be removed before the thawed red cells can be put back into a body.

The Navy is so adept at freezing blood that its shelf life is now up to 20 years—blood from the Vietnam era is still viable when thawed today. Led by the Navy, the Defense Department is now prepositioning 225,000 units of frozen blood around the world. The freezing is done at four Navy hospitals—Bethesda, Portsmouth, Great Lakes and San Diego.

Frozen blood banks—essentially big and very cold deep freezes at −90 degrees Celsius—are now aboard the Navy's two hospital ships, Mercy and Comfort, as well as many amphibious assault ships. Frozen blood was actually thawed, although never used, for Operation Desert Storm.

But frozen blood has some disadvantages.

Thawed blood has a short shelf life. The federal Food and Drug Administration has approved its use only up to 24 hours after thawing. That virtually requires that it be used near a hospital or ship freezer.

So Valeri and his researchers are now learning how to extend the shelf life of thawed blood up to 14 days, which would greatly add to its flexibility. That way, ships leaving the United States in an emergency could begin thawing blood during the cruise to a combat zone.

But there's another problem with frozen blood. Bulky and expensive freezers capable of the −80C temperatures are required to keep it all frozen. And it takes time, and two liters of sterile fluids, to thaw and cleanse each unit of frozen blood of the glycerol. To "de-glycerol" and thaw one unit of blood takes about an hour on an expensive machine, not nearly fast enough, or cheap enough, if the battle is raging.

A FISHY SOLUTION

So scientists are turning to cold fish in their search for a solution.

The winter flounder swims in northern oceans, where only submarines and ice breakers dare sail, in waters a micron above freezing. Yet the fish doesn't turn into an ice cube because of a protein it manufactures. It's a natural anti-freeze.

That protein, called hydroxyethyl starch, is being imitated and manufactured—genetically engineered—by Cryolife Inc., of Marietta, Ga. under one of several Navy research and development grants. Cryolife's goal is to use that non-toxic fish starch instead of the toxic glycerol. Frozen blood then no longer not need to be "washed" before use, providing for the first time an almost instant thaw-and-use blood product.

STERILE SWAMP WATER AND ARTIFICIAL BLOOD

WASHINGTON.—Freeze-dried blood is not the only path Navy blood researchers are pursuing.

Several other research programs promise improvements for battlefield medicine, including changing blood types, manufacturing artificial blood, freeze drying blood platelets, and making machines that can turn swamp water into sterile intravenous fluids.

If all of the programs prove successful, and economical, they will help transform the way sailors and Marines are treated.

BLOOD TYPING

Blood types are one more barrier to getting quantities of blood to the battlefield quickly because blood banks have to keep on hand A, B, O and the various positive and negative combinations of each blood groups.

Although Group O is the universally compatible blood, in a war situation it can be exhausted quickly. So Navy researchers are studying how to convert groups A and B into the universal O. Overall blood supply would effectively be doubled and physicians and corpsmen could simply reach for the blood bag without checking for compatability.

In fact, Navy researchers have already succeeded with Group B, using an enzyme found only in raw green coffee beans to split the B antigen, or marker, right off the red blood cell. Type B is transformed into type O.

ARTIFICIAL BLOOD

Another way to get blood to the battlefield, or to buy time for the wounded who cannot get a transfusion, is through artificial blood.

Navy researchers are working with two biotechnology firms to manufacture something called liposome-encapsulated hemoglobin. In layman terms, the researchers are making genetically engineered hemoglobin, the substance with red blood cells that carries oxygen, and encasing it in spheres of an artificial membrane to ease its passage through the bloodstream.

The advantage of LEH, as they are called, is that they potentially could do the oxygen-carrying work of blood, without the cumbersome and time-consuming process of collecting, freezing, freeze-drying or processing human blood.

Drs. Frances S. Ligler and Alan S. Rudolph at the Naval Research Laboratory's Center for Bio/Molecular Science and Engineering, are working with two biotechnology companies on this project.

The obstacles to full-scale production are making the liposomes sterile—they cannot be heat sterilized because high temperatures destroy them—and meeting FDA approval.

PLATELETS

Not only do wounded sailors and Marines need red blood cells to carry oxygen to vital organs, they need blood platelets to keep the blood clotting.

Platelets are even more unstable than red blood cells and cannot be stored for as long, fresh or frozen. But frozen platelets are already a fact, frozen as blood is with preservatives for up to two years, and possibly longer. Dr. C. Robert Valeri and his team at the Naval Blood Research Laboratory at the Boston University School of Medicine are working on extending the life of frozen platelets.

REFLUPS

The final chain in keeping combat casualties alive, apart from blood, is to get sterile intravenous fluids out to the battlefield, or as close to it as possible.

The Navy, working with the Army, is preparing a machine prototype which should be running by the end of this year. Called the REFLUPS machine, for resuscitative fluids production system, the device can take the dirtiest, scummiest water, anything from brackish oasis water to ship sludge, and purify it into sterile resuscitative fluids for battlefield or civilian disaster casualties. REFLUPS machines, ranging in price from $50,000 to $90,000 each, use highly effective reverse-osmosis filters to clean 80 to 100 liters of fluid per hour. The Navy should be getting 20 or 30 of the devices in the next few years.

REFLUPS will reduce the need for a long logistical line, stockpiles of sterile fluids and storage space on board ships.—Patrick Pexton.

WHY THE NAVY?

WASHINGTON.—It may seem odd that the Navy is the lead service on frozen and freeze-dried blood, rather than the Army, but Cmdr. Bruce Rutherford, head of the Navy's Blood Programs Office, says it is a natural fit.

The Navy and Marines, unlike other services, are constantly deployed and are often first on the scene in a war zone. They have to make do using what they brought with them, Rutherford explains.

The Navy blood research programs have cost about $5.5 million a year in recent years, and $3 million to $4 million a year going back several more. In the next three years, the Navy hopes to get an additional $7.5 million to bring all the programs to the production stage.

Most of the research programs are in the laboratory or animal research stage, but clinical trials on humans are in the offing—as long as the research and development money keeps flowing.

But compared to the cost of a single plane or helicopter, Navy researchers say the less than $100 million spent on blood research is a good investment, especially if it fulfills its promise of saving nine of 10 casualties.—Patrick Pexton.

HONORING REV. JULIUS SASPORTAS

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. ENGEL. Mr. Speaker, it is a distinct honor today to recognize the retirement of Rev. Julius Sasportas, the founder and spiritual leader of the Co-op City Baptist Church, after 22 years of faithful service to the church and community.

On Sunday, November 20, 1971, Reverend Sasportas held the first worship service of the Co-op City Baptist Church in a meeting room in the Dreiser community center. Nine people joined the congregation that day. Since that time, the church has grown and prospered, largely to the efforts of Reverend Sasportas. He now leaves to his successors a church community that has become an integral part of life in Co-op City.

Having planted the gospel like a seed, Reverend Sasportas can take great satisfaction in having seen a beautiful tree grow in the midst of our community. On behalf of the people of Co-op City, I thank Reverend Sasportas for all his efforts and wish him health and happiness in his retirement.

TRIBUTE TO STEPHEN P. YOKICH

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. BONIOR. Mr. Speaker, on the evening of September 23, Stephen P. Yokich will be honored by receiving the March of Dimes Alexander Macomb Citizen of the Year Award. This honor is bestowed upon individuals who are dedicated professionally and personally to improving our community. I am very pleased to pay tribute to a remarkable individual.

Mr. Stephen Yokich has been a dedicated fighter for union workers in Michigan and around the country for many years. Among some of his accomplishments for workers are improving health and safety conditions and developing employee assistance programs designed to help employees who have substance abuse or domestic and financial problems.

Assuming an active role in our community is a responsibility we all share, but few of us fulfill. Steve has unfailingly devoted himself to this task by being actively involved in many organizations such as the NAACP, the Coalition of Labor Union Women [CLUW] and the Michigan Cancer Foundation, to name a few.

Mr. Speaker, through his commitment and hard work Steve Yokich has touched countless lives. Knowing Steve as well as I do, I expect he will no doubt continue to do so.

On this special occasion, I ask that my colleagues join me in saluting the fine accomplishments of a friend and extend to him our best wishes.

A TRIBUTE TO PRISCILLA CELANO: SELFLESS COMMUNITY SERVANT

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. SOLARZ. Mr. Speaker, I rise today to pay tribute to an outstanding leader in the New York community. On October 14, 1992, Priscilla Celano will be honored for her nearly 15 years of public service by the Yeshiva Munchas Yehuba. This occasion gives me the opportunity to express my deep appreciation for her committed service to Brooklyn's Community Board 12 and to the citizens of New York.

Priscilla Celano was appointed to the position of district manager for community board 12 in 1983, after having served as assistant to the district manager since 1978. On a daily basis, she is deeply involved in handling and resolving complaints and emergencies of every description. While her position is a difficult and demanding one, Mrs. Celano has found the time to initiate many projects that were beneficial to the community.

Mrs. Celano has reached out to many people, giving help and hope to all. She has proved herself to be dedicated, aware, and sensitive to the concerns of others.

In addition to the accolade she will soon receive from the Yeshiva, Priscilla Celano has been given special recognition for her dedication and commitment by other organizations in the community. She is the recipient of awards and commendations from Kensington Merchants Association, Emunah Women, National Barrier Foundation, Brooklyn Chinese American Association, St. Catharine of Alexandria Rosary-Alter Society, Purim Parade, fire department, Dora Vaccaro Humanitarian Award, department of sanitation, and was CONO's Woman of the Year.

Regardless of Mrs. Celano's busy schedule, she is always available to assist someone with a problem. Ready with a helping hand and a reassuring smile, the people who live and prosper within the community have found a true champion in Priscilla Celano. At the present time, community board 12 is considered one of the most visible boards in the city. As district manager, she is an inspired "idea" person, projecting and formulating ideas about community needs for consideration by the board. Mrs. Celano looks upon each project as a challenge and she meets each challenge with determination and boundless creative energy. Mrs. Celano always gives instinctively of her time and energy. The citizens who live in the fine and caring community represented by community board 12 do so in part thanks to the efforts of a fine and caring lady, Priscilla Celano.

It is only appropriate that this decent and selfless woman, and the good deeds she has bestowed on her community, be recognized. I proudly do so today on the floor of the House of Representatives.

THE NATIONAL CENTER FOR FAMILY LITERACY

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. MAZZOLI. Mr. Speaker, it is with much pride that I share with our colleagues an article that appeared in Parade magazine on July 12, 1992. This article features the work of the National Center for Family Literacy and its founder and president, Ms. Sharon Darling.

Headquartered in my district in Louisville, KY, the National Center for Family Literacy is a 4-year-old private, nonprofit corporation which was founded on the premise that literacy skills can best be developed by involving families—both parents and children. The center's innovative programs allow adults the opportunity to cultivate employment and parenting skills, and also allow children to master preliteracy skills.

Ms. Darling's 25 years of experience in the field of adult literacy make her a national leader in the movement to address the tragedy of illiteracy. She is deeply committed to improving the lives of American families.

President Bush nominated Ms. Darling to serve as a member of the Board of the National Institute for Literacy, and she was confirmed by the U.S. Senate on September 17. As I stated in my letter of support for her nomination, she will make an enormous contribution to the Board's work of addressing the issue of illiteracy.

I am pleased that Ms. Darling and the National Center for Family Literacy have been the focus of nationwide attention. The text of the Parade magazine article follows:

[From the Parade Magazine, July 12, 1992]

WHERE PARENT AND CHILD LEARN TOGETHER

(By Michael Ryan)

"The Government estimates that about 83 million people in this country are illiterate," Sharon Darling told me one recent morning. "That does not mean just people who can't read at all. Most are people whose reading skills are not sufficient for them to do their jobs correctly."

When she gave me that startling statistic, Sharon Darling was preaching to the converted. That very morning, I had to help two adults read. A parking garage attendant was unable to figure out my claim check, and a rental car clerk misread the contract and gave me the wrong car. Both were grown people in their 20s who couldn't do their jobs correctly because they couldn't read well.

* * *

Sharon Darling has made adult literacy her life's work and passion. As president of the National Center for Family Literacy, she is also making a change in the lives of people who thought they were condemned by lack of education to an unending cycle of poverty, dead-end jobs or welfare.

"A few years ago, I was the director of adult education in Kentucky," Darling explained as we drove toward the Wheatley Elementary School in a rundown section of Louisville, Ky. "We had one of the highest proportions of adults without a high school diploma in the country. Then we realized that, when the children of these people went into school, 70 percent of them never graduated from high school. That's where the idea came from."

The idea Darling and her colleagues came up with was Family Literacy—and I saw it in action as soon as I walked down a corridor at Wheatley. In one room, about a dozen women were busily at work. Several were writing in workbooks, practicing spelling or math. Others were reading the day's newspaper or consulting with a teacher. Two huge, dark-tinted picture windows allowed them to see into an adjoining room. There, another teacher was working with a very different group of students. They were learning the names of colors and figuring out how to put pegs into holes of corresponding shapes. The students in this class, Darling explained, were 3 or 4 years old, and they were the children of the women in the first room. The students in both rooms seemed to be enjoying what they were learning.

As Sharon Darling sees it, getting parents and children into school to learn together is a major breakthrough. "All of these parents dropped out of school for one reason or another," she said. "Many of them were afraid of school and afraid of teachers. That translated into one generation after another of parents not having confidence to go into schools and take part of their child's education."

Evelyn Brown helped teach me how the concept works. "I've been out of school for 25 years," she said. "I have two boys, 4 and 6 years old, and I knew that if they started bringing homework home, and I didn't know what to do to help them, I'd be in bad shape." As she talked, Brown looked up from a workbook in which she was practicing spelling. Like all the adults in the program, she works at her own pace, concentrating on areas in which she needs to improve. "This is the first program that has provided child care," she explained, "so that I'm able to come and learn."

Promptly at 11 a.m., we moved to the next room for the daily session of PACT—Parent And Child Together. Here, the teacher Charlotte Williams explained, parents participate every day in their child's education. Evelyn Brown and her younger son, Bryant, played a game which helped him identify colors. Then the women sat in a circle with their children and talked about each youngster's progress.

"Parenting is an important part of this program," Sharon Darling told me. "Many parents don't realize how important they are to their child's education. The child is watching and learning from the parent all the time." For Evelyn Brown, the idea that she can help her sons to learn is thrilling. "I feel better that they've looking up to me," she said.

"We teach more than just literacy," Darling explained. In fact, the program asks each adult participant to commit to a year of classes, which will culminate in taking the examinations required for a GED—a high school equivalency certificate. In addition, adults are given instruction on parenting skills, dealing with spousal abuse and finding jobs. For the first time, they begin to see that their lives are filled with possibilities.

"I dropped out of high school when I got married," Lorrie Jorgensin told me. Without her diploma, she seemed doomed to dead-end jobs. "I've done everything from washing dogs to waittressing," she said as her son, James, clung to her for assurance. "But now I've taken all five of my GED tests, and I got my diploma last year." Even Lorrie seemed amazed that she had come this far—and exhilarated by what might come next. "I love computers. I've worked on some really advanced ones here. I'm going to college and studying computing."

Does Family Literacy really work? The program, in one form or another, is now in place in 38 sites in Kentucky. A grant from the Kenan Charitable Trust has helped establish it in Louisville, as well as in cities in North Carolina. A new grant from Toyota has helped it expand to 10 other cities. And the Bureau of Indian Affairs is trying it out on reservations across the country. More than 15,000 adults have been though the program, most of them women. (Men are eligible but seem more reluctant to admit that they need educational help.) "We're finding that 80 percent of the adults who commit to the program finish it," Sharon Darling told me. "And their children are performing better in school."

The numbers are good, but I found the best proof of how well Family Literacy is doing in Benita Ennis, a 31-year-old mother of six. "I left school at 14," she told me. "It was the biggest mistake of my life." Three years ago, Ennis decided to make some changes in her life. "I decided it was time to get off welfare," she said. Her desire to finish school put a strain on her marriage, she said, because her husband was opposed to the idea, but she enrolled in the Family Literacy program with her youngest daughter and stuck with it. She kept up with her studies, getting her GED and her first job in 1989. Ultimately, her marriage ended in divorce.

"The first time that welfare check wasn't in the mailbox, the kids came to me," she said. "They were worried. I told them there weren't going to be any more checks in the mailbox."

Ennis' daughter Patricia, who went through the program with her, is now entering second grade, and Ennis said that Family Literacy has been a powerful force in her daughter's life. "She's doing really well in school," Ennis noted. "The teachers say they can see the difference between her and the other kids." Ennis' older children also are staying in school—and talking about college. They now have a resource they never had before: a mother who can help inspire them with her own achievements and help them with their homework. And Benita Ennis is even planning on going to college herself. "If you knew me three years ago, you wouldn't recognize me today." She said. "I've changed that much."

The self-confidence—as well as the reading and math skills Ennis learned—have improved her prospects in life. She is laying the groundwork for her future by working 55 hours a week at two jobs. Part of the time, she is a teacher's aide in the Louisville schools, working in the Family Literacy program. Then she goes to her job as a cashier in a supermarket in an affluent section of Louisville.

"I'm friends with my customers," she said. "They talk to me. People ask if I get jealous or angry when, for instance, a woman tell some that she just took a trip to France. I don't. It just gives me something to work for. It reminds me that I have to work harder to reach my goals."

I wouldn't be surprised, someday in the not-too-distant future, to get a postcard from Benita Ennis. From Paris.

TRIBUTE TO UNITED CEREBRAL PALSY AND HABILITATION, INC.

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to an exceptional and caring organization that has been working for 40 years to better the lives of the developmentally disabled and other handicapped persons in Schuylkill, Carbon, and Northumberland Counties, PA. I am glad to tell my colleagues that United Cerebral Palsy of Schuylkill, Carbon, and Northumberland Counties [UCP] will celebrate its 40th anniversary of serving on September 26, 1992.

In 1952, Mrs. Mal Bartram and other parents in and around Pottsville, PA, were deeply concerned about the lack of services and opportunities for their handicapped and disabled children. They recognized a need to unite and bring their talents and resources together in order to help their disabled children live more productive and rewarding lives. Through dedication and perseverance, these concerned parents formed an organization that eventually grew into the United Cerebral Palsy of Schuylkill, Carbon, and Northumberland Counties. In October 1953 UCP held its first diagnostic clinic, and 1 year later the first class for handicapped children in the Pottsville School District met at Mount Hope School.

Mr. Speaker, in 1962 Habilitation, Inc., was founded to serve as the vocational rehabilitation program of UCP. Habilitation's first focus was on arts and crafts, but within 10 years participants in Habilitation's programs were serving as a key supplier for many businesses in the community and across the country.

UCP and Habilitation are committed to promoting the general welfare of the developmentally disabled and other handicapped individuals in Schuylkill, Carbon, and Northumberland Counties. UCP and Habilitation operate training centers, sponsor and promote research, and mount an educational campaign to keep all citizens aware of the needs of the disabled and handicapped in their communities.

Mr. Speaker, it is an honor for me to come before the House of Representatives and congratulate UCP and Habilitation on its 40 years of proud, effective, and compassionate service. I also know that my colleagues join me in saying thank you to the many remarkable people who have made UCP and Habilitation into the outstanding organization it is today.

THE FAMILY INVESTMENT ACT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mrs. SCHROEDER. Mr. Speaker, last week I joined with several of my colleagues to introduce the Family Investment Act of 1992 (H.R. 5973), a five-point legislative program that is absolutely essential to keep American families intact, stable, and self-sufficient. Together, these programs represent a core of a national policy that respects America's families, and provides real, much-needed help to families. I applaud Representatives BARBARA-ROSE COLLINS, DOWNEY, EVANS, GILMAN, GREEN, WILLIAM LEHMAN, MARTINEZ, and WHEAT, for cosponsoring this essential legislation. Senator ROCKEFELLER introduced similar legislation (S. 3243) in the Senate.

With the end of the legislative session quickly approaching, this package provides us with an opportunity to move ahead expeditiously on legislation that is already in the pipeline.

Four of the five components of the Family Investment Act have already passed one or both Houses of Congress with bipartisan support: The Family and Medical Leave Act, KIDSNET, parents and teachers, and family preservation.

The fifth component—safe children and communities—while new, addresses the not-so-new concern of the escalating violence in many of our communities.

Together, these five programs represent a bare bones, yet cost-effective strategy that will aid families, our economy, and most importantly, our children. Moreover, these programs are proactive, rather than reactive. They provide help to families before crises erupt, not after, when more money and more services are required to put families back together.

Commissions chaired by former Presidents, business leaders, and Members of Congress all agree that action on these fronts is long overdue and is urgently needed to ensure the survival of our next generation.

The Family and Medical Leave Act, which has now passed both Houses of Congress overwhelmingly twice, represents a reasonable balance of the needs of employers and employees. It would allow up to 12 weeks of unpaid leave following the birth or adoption of a child, or to care for a seriously ill parent, spouse, or child, or the employee's own medical treatment.

In these recessionary times, when parents are doing everything possible to hang onto their jobs, if they are forced to choose between their families and their jobs, families will lose. If we believe what we have been saying over these last few months, it's time to stand up and let families know that they don't have to neglect their families in times of crisis or childbirth. The Family and Medical Leave Act makes that choice unnecessary by providing parents with unpaid leave, allowing them to return to their jobs after the crisis has passed.

In order to become future productive workers and contributing members of our society, our children must grow up healthy, well-nourished, and well-educated. Title II of this bill, KIDSNET ensures that all of our Nation's children will get off to a good start in life by providing the most vulnerable among us with access to Head Start, WIC, and immunizations. KIDSNET declares these programs to be national emergencies in order to fund them under the balanced budget amendment, with the goal of full funding by 1996.

Many of you here today know that I have been pressing for KIDSNET for some time. Congress approved it once before as an amendment to the dire emergency aid bill last year, but it was dropped from the conference report because of a threatened veto by the President. Head Start, WIC, and Childhood Immunization are three of the most cost-effective programs that the Federal Government sponsors. It's high time that all of our vulnerable children had access to them.

Right now that isn't the case. Two-thirds of the low-income children eligible to participate in Head Start are excluded because of a lack of funding. At least 25 percent of children under the age of 4 have not been immunized against common preventable childhood diseases and nearly one-half of all low-income, nutritionally at-risk women, infants, and children do not participate in the WIC Program because of funding shortfalls.

The best business investments return $3–$4 per $1 invested. These three programs—WIC, Head Start, and Childhood Immunization—save up to $14 for every $1 invested. Not only do these programs save money, they represent an investment in our country's future.

The Parents as Teachers Program invests in strategies that support parents as their children's first teachers. The documented success of this program, which has been implemented statewide in Missouri and in other States, shows that it helps children prepare for school, leads to early identification and treatment of potentially disabling conditions, and involves parents in their children's education from an early age. Both parents and children reap the rewards with documented payoffs in enhanced intellectual and social development for the children, and more knowledge and understanding of parenting skills and the educational process for parents.

Title IV of the Family Investment Act—Family Preservation—provides increased support to assist struggling families to avert and deal effectively with crises and remain intact. It provides intensive services to parents at risk of abusing and/or neglecting their children to avoid the even more costly and destructive cycle of removing children from their families as the first and often the only response to dysfunctional families.

The cost of family preservation services ranges from $2,500 to $5,000 per family, and is even less per child, while the estimated annual cost of care in an institutional setting ranges from $10,000 to $50,000 per child.

By creating programs to help keep families together, we can preserve the economic, moral, and psychological benefits of stable and intact families. That is what real family values are all about.

Title V—the Safe Families and Communities Act—provides support for existing and new collaborative community-based efforts to improve the safety of children and their families. Too many of our Nation's children live in war zones—communities under seige by violence and drug abuse. These children have learned to duck for cover when playing outside and sometimes even within the confines of their own homes. They have to take precautions with what they wear for fear of having their clothing stolen or being misidentified as part of a gang.

This act will provide funding for efforts to prevent drug abuse, gang prevention, youth training, child care for school-age children, or other programs that members of the community decide will improve their safety.

For too long we have abandoned our families and stolen from our children. We have taken food from their mouths and replaced it with a fictional space defense system. We have traded in teachers' salaries for a stealth bomber for an obsolete war. Over the last decade we have incurred a national debt that will take our children their entire lives to pay off.

The Family Investment Act provides us with an opportunity to restore the covenant between us and our children and their families. It is our chance to put funds where they will improve the lives of our children and our families. By investing in our families, we ensure less Government interference, not more. We produce stability, not fracture. By investing in education and health, we create hope and ability where there otherwise would be deterioration and despair.

There is no time to waste. By supporting the Family Investment Act, we will be able to say to our children, "We have invested in you and in the future of our country."

PROSPECTS FOR PEACE BETWEEN ISRAEL AND ARAB NEIGHBORS ARE BRIGHT

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. OWENS of Utah. Mr. Speaker, the prospects for peace between Israel and her Arab neighbors have never been brighter. It wasn't too long ago when the thought of direct negotiations between Israelis and Arabs was not just improbable but impossible.

While there is still a long way to go, there is every reason to be optimistic. And the talks are not just in the bilateral sessions but in the multilateral sessions, where, despite a few bumps in the road, great promise lay ahead.

Economic, scientific, and environmental cooperation between Arabs and Israel portends a great future for the Middle East. Through cooperation, Middle Eastern countries stand the best chance of raising their standards of living, as well as breaking down the many barriers that have divided the region for decades.

Over 2 years ago, I introduced legislation to create a Middle East Development Bank to foster peace and cooperation by providing necessary capital for cooperative projects. As the following article in the Wall Street Journal notes, Israeli Foreign Minister Shimon Peres has also suggested the creation of a development bank to help form an economic foundation for development, growth, and cooperation.

The Middle East has seen more violence than any other region of the world. Today, with modern transportation shrinking the world dramatically, the entire world has an interest and a stake in a peaceful and economically vibrant Middle East.

ISRAEL'S PERES SEES KEY TO PEACE IN COOPERATIVE EFFORTS WITH ARABS

(By Amy Deckser Marcus)

JERUSALEM.—For Israeli Prime Minister Yitzhak Rabin, the various committees set up under the Madrid peace conference to address Middle Eastern water sharing, economic cooperation and arms control have been a sideshow to the peace talks under way in Washington. For Israeli Foreign Minister Shimon Peres, however, they are the main event.

Mr. Peres is Israel's leading proponent of the idea that developing joint Israeli-Arab projects under the auspices of the committees, particularly in the arena of economic cooperation, remains the key to breaking the current impasse in the peace talks over the territorial conflict. During recent visits to Russia, France and England, he tried to drum up support for proposals ranging from a Middle Eastern development bank to a water desalination plant in the Gaza Strip that would be powered by a nuclear reactor.

"The Middle Eastern countries can no longer afford to be economically isolated from each other," said Mr. Peres in an interview. "If we can create an economic dynamism that constantly improves the standard of living in the region, it will give impetus to the political process as well."

When U.S. Secretary of State James Baker established the Madrid peace conference, he set up committees that would meet at the same time that direct face-to-face negotiations between Israel and its Arab neighbors were taking place. The committees also include parties outside the immediate conflict such as Japan, the European Community and Saudi Arabia. At the time, there was a belief that broader regional issues might be relatively easier to solve and that any progress would enable headway to be made in the territorial dispute.

BOYCOTTED SESSIONS

So far, Syria and Lebanon have boycotted all of the sessions and Israel refused to attend the first round of talks on refugee and economic issues because of opposition over Palestinian representation. But Mr. Peres remains convinced that these discussions are the best forum for overcoming decades of mutual suspicion. He has even begun lobbying to raise the level of representation of the participants to foreign ministers and sent a message via the French government making that suggestion to Syria's President Hafez Assad.

"In the bilateral talks in Washington, we are trying to resolve the conflicts of the past," says Mr. Peres. "But it's in the multilateral negotiations where the future of the Middle East is being created."

In the interview, Mr. Peres proposed forming a Middle East free-trade zone between Israel and the Arab countries operating along the lines of the European common market. He also suggested founding a bank for Middle Eastern development based on the model of the European development bank, which was established more than a year ago in order to aid in the economic recovery of Eastern European countries. But he said his plan won't work unless the Arab countries agree to drop their economic boycott of Israel, which has become a symbol of Israeli economic isolation and has cost the economy an estimated $20 billion in lost exports and $16 billion in lost foreign investment, according to the Federation of Israeli Chambers of Commerce. "It is unfair that Israel has made confidence-building gestures without real reciprocity," said Mr. Peres.

Mr. Peres's vision of economic cooperation is the result of his belief that "what's driving the Syrians to try to make peace with Israel is their poor economy," says Akiva Eldar, diplomatic correspondent for Ha'aretz, an Israeli daily. "He believes that territorial compromise will be easier to reach if Israel also helps better the welfare of the Arab countries."

POWER STRUGGLE

Israeli political analysts say that Mr. Peres's actions must also be viewed against the background of the long and bitter power struggle between him and Mr. Rabin. Mr. Rabin awarded his longtime political rival the post of foreign minister on condition that the direct negotiations between Israel and the Arabs remain under the control of the prime minister's office. But Mr. Rabin agreed that the committees, with the exception of arms control, would be overseen by Mr. Peres's ministry. "Peres truly believes in economic cooperation but he also realizes that by upgrading the importance of the multilateral power," says Gerald Steinberg, a political scientist at Bar-Ilan University in Ramat Gan.

Despite the enthusiastic reception Mr. Peres and his ideas received in European capitals, Aharon Klieman, an Israeli foreign policy expert in Tel Aviv University, says it won't be easy coming up with the financing for the projects. "Europe and Japan just can't afford to put the Middle East over their own domestic and regional economic needs." said Mr. Klieman.

Nonetheless, Mr. Peres said that Israel must pursue economic cooperation with its neighbors as vigorously as a resolution to the territorial dispute. He said in a speech on Friday, "We understand very well that to be an island of prosperity in an ocean of poverty will be a mistake."

NAS MIRAMAR: AN ENVIRONMENTAL TRIBUTE

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. CUNNINGHAM. Mr. Speaker, the U.S. military has long been known more for environmental abuse than ecological concern.

Those days are over. Conservation is the future.

And leading the way is San Diego County's own Miramar Naval Air Station, whose Natural Resources Program has taken the top prize in the U.S. Navy's 1992 Natural Resources Conservation Award.

During 21 years of Navy service at Miramar, flying fighter jets and training "Top Gun" pilots, I often wondered why so many tiny puddles glistened below me on approach to the runway.

A closer look revealed that these vernal pools were home to numerous endangered species. They harbor the federally listed San Diego mesa mint and other species proposed for listing, such as the San Diego coyote-thistle, California Orcutt grass, and the Riverside fairy shrimp, all scarce and some unique in the world.

Nature has established a delicate and valuable ecological balance in the midst of a major military installation. Within Miramar's 24,000 acres lie the vernal pools—78 percent of San Diego County's vernal pool habitat is at Miramar—19 threatened or endangered species including the gnatcatcher, plus a broad wildlife corridor to allow unfettered travel of deer and bobcats and eagles and a mountain lion or two.

Under the leadership of commanding officer Captain Curtiss Schantz, NAS Miramar has developed and executed a detailed program of environmental preservation and research.

Without conservation today, Miramar's ecological treasures won't be available for our children to explore and learn about tomorrow. And that brings me to Capt. Schantz' second major environmental initiative at Miramar—education.

A child or a researcher can only learn so much about the environment from books and lectures. Valuable as they are, nothing teaches as well as hands-on experience. In our own backyard, NAS Miramar has opened its gates as wide as possible to accommodate everyone who wants to learn about and explore nature's bounty. And members of Miramar's own natural resources staff regularly visit schools, conducts biology and ecology programs for our children, and administers natural resources conferences on-base.

On September 25, 1992, the Air Station will show its concern for the environment by hosting an "Environmental Tribute." I commend my colleagues in Congress to join me in strong support of this tribute, and the kind of ecological work NAS Miramar has done.

Miramar's work is only the beginning.

As a member of the House Armed Services Committee, I intend to spread the message about Miramar's Natural Resources Program across California and the Nation. Especially in California, where military installations like Camp Pendleton, Fort Irwin, and Twentynine Palms are all situated in ecologically sensitive areas, the standard set by NAS Miramar serves as a shining example of how intensive military training can indeed coexist with environmental concern.

The same U.S. military that pursued a policy of environmental neglect for so many years now operates by a new standard: "We don't inherit the Earth from our ancestors, we borrow it from our children."

It's about time.

Let the permanent RECORD of the Congress of the United States show that the personnel of Miramar Naval Air Station have shown exceptional leadership in the fields of environmental preservation and reclamation, and succeeded in raising a high standard for the rest of America to follow.

FEDERAL COURT UPHOLDS SUBCOMMITTEE DECISION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. LANTOS. Mr. Speaker, on September 10, 1992, Judge Stanley S. Harris of the U.S. District Court for the District of Columbia ordered, in *United States* v. *Leonard Briscoe, Sr. and Lance Wilson,* No. 91–399 (D.D.C. Sept. 10, 1992), that the House motion to quash defendants Wilson and Briscoe's subpoenas for subcommittee records be granted. I am inserting a copy of the order for the record.

Defendants Briscoe and Wilson are being prosecuted by the Office of the Independent Counsel in connection with the HUD scandal. The scandal was, to a large degree, uncovered by the Employment and Housing Subcommittee and extensively investigated by it. The scandal was the subject of numerous hearings, see "Abuses, Favoritism, and Mismanagement in HUD Programs," hearings (parts I–VI) before the Subcommittee on Employment and Housing of the Committee on Government Operations, 101st Congress 1st–2d session (1989–90); and a specific report of our findings were published, "Abuse and Mismanagement At HUD," H.R. Rep. 977, 101st Congress second session (1990).

The defendants sought through subpoena to compel the subcommittee to produce any and all statements and interview notes for no fewer than 15 named individuals. A number of those named individuals gave important testimony, which was published in the hearings and report on HUD. Thus, the defendants attempted to compel the subcommittee to make available to them its preparation of witnesses for those vital legislative hearings. The subcommittee, through House counsel, asserted its absolute privilege pursuant to the speech or debate clause of the U.S. Constitution, which provides that "for any Speech or Debate in either House, they—the Senators and Representatives—shall not be questioned in any other place." U.S. Constitution article I, section 6, clause 1.

The defendants asserted in response that "the privilege under the Speech and Debate Clause is not absolute"; "that they are entitled to the records on the grounds that the privilege provided by the Speech and Debate Clause confers only qualified immunity which must give way to a criminal defendant's rights under the Fifth and Sixth Amendments * * * "; that "a waiver of the privilege already has occurred in that the Subcommittee has provided the Office of Independent Counsel [OIC] some access to the—published—materials of the Subcommittee;" that "the House has waived its privilege by publishing excerpts from its nonpublic interviews in its report entitled 'Abuse and Mismanagement at HUD.' "; that "the use of the Speech and Debate Clause" would "deny the defendants a 'meaningful opportunity to present a complete defense' ", that the case of *United States* v. *Ehrlichman,* 389 F.Supp. 95, 96–97 (D.D.C. 1974), aff'd on other grounds, *United States* v. *Liddy,* 542 F.2d 76, 83 (D.C. Cir. 1976) was "inapposite"; that "any such absolute privilege would be unconstitutional and that the invocation of such a privilege to shield exculpatory information either would not be tolerated or would require dismissal."

Primary support for the subcommittee's claim of absolute privilege in the Motion to Quash came from the Supreme Court's decision in *Eastland* v. *United States Servicemen's Fund,* 421 U.S. 491, 502 (1975), which applied the clause's protection to an investigation by a Senate subcommittee. The Supreme Court explained that the clause protects congressional committee investigations, like speech on the floor of the House or Senate, for being within the "legitimate legislative sphere" since [a] legislative body cannot legislate wisely or effectively in the absence of information. * * *" The Supreme Court decided that in that case a congressional committee's privilege against being "questioned in any other place" is an "absolute" one. Also of instrumental support was the D.C. Circuit's own decision in *Minpeco* v. *Conticommodity Services,* 844 F.2d 856 (D.C. Cir. 1988), in which the court upheld the quashing of a subpoena duces tecum for House subcommittee investigative records. There was no waiver in the subcommittee's publishing of parts of its investigation.3

By quashing the subpoenas, the District Court recognized the importance and constitutional independence of the subcommittee's HUD investigation.

[U.S. District Court for the District of Columbia, Criminal No. 91-399 (SSH)]

UNITED STATES OF AMERICA, PLAINTIFF, V. LEONARD EDWARD BRISCOE, SR., LANCE HENRY WILSON AND MAURICE DAVID STEIER, DEFENDANTS

(House Subcommittee on Employment and Housing, Subpoena Respondent)

ORDER

Upon consideration of the House Motion to Quash Defendants Wilson and Briscoe's Subpoenas for Records, and for good cause shown, it is hereby

Ordered that the House Motion to Quash is Granted.

STANLEY S. HARRIS,
U.S. District Judge.

BACK ON JOB, STRIKERS WONDER: WAS IT ALL WORTH IT?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, September 21, 1992

Mr. MICHEL. Mr. Speaker, last week I inserted into the RECORD a series of articles that were previously published in the Chicago Tribune. These articles detailed the economic forces that pit U.S. employers, unions, and workers against one another. I highly recommend this series to all of our colleagues and at this time I would like to insert the final article.

[From the Chicago Tribune, Sept. 10, 1992]

BACK ON JOB, STRIKERS WONDER: WAS IT ALL WORTH IT?

(Who ultimately wins or loses in the Peoria dispute many signal the future of American labor. Last in a series of the economic forces that pit U.S. employers, unions and workers against one another. Reported and written by Stephen Franklin, Peter Kendall and Colin McMahon.)

Jan Firmand couldn't believe it. First her union caved in after a 5½-month strike that got her absolutely nothing. Then Caterpillar turned her away from her transmission factory the first day she tried to go back to work.

And finally, when she did get back on the job, who was she teamed up with but the No. 1 line-crosser himself, Dick Owens.

Owens was one of the best machinists on the floor at Building KK, the kind others turned to when they had a problem—and a good guy to boot, Firmand thought.

But he was a scab.

Firmand hated calling people that, but that's what Owens was, he and the hundreds of other United Auto Workers who had crossed the picket lines during the union's fall-into-winter-into-spring walkout against Caterpillar Inc.

Not only had Owens abandoned the strike, but he had also talked about it repeatedly, becoming an unofficial spokesman for those who had crossed. And now there he was, in Firmand's work cell.

They would have to work side by side.

At Caterpillar factories across Illinois on April 20, almost a week after the UAW unilaterally ended its strike under Caterpillar's threat of hiring replacement workers, people began going back to work, bitter over so many things.

They were anrgy with the union for a failed strike that cost some of them $20,000 in wages. They were angry with their union brothers and sisters who had bowed to Caterpillar's threat rather than honor their own picket line. They were angry at those in Peoria community who stood not with them but with Caterpillar as the company vowed to replace the striking workers.

But most of all they were angry with Caterpillar itself for moving to hire outsiders to take their jobs, for forcing them to choose between their livelihoods and the organization that had helped them get to the middle class: their union.

Caterpillar Inc. had shown these workers and the United Auto Workers union who was boss.

For the first time in its history, the company continued to operate during a strike, turning out yellow bulldozers built by office workers and managers and retirees.

On April 13, when a federal mediator proposed resuming negotiations without preconditions, Caterpillar said no. Faced with what had become an inevitable rush of strikers through its picket lines, the union retreated and sent its people back to work under the company's final contract offer.

When those workers did return the next day, Caterpillar turned them away at the gate and told them they would be called back when needed, when the factories were up and running fully.

For workers, it was a day of humiliation.

The strike and its hollow ending left workers resentful. A day later, five Caterpillar workers where sitting around a table at Marty's Center Tap across from building JJ. They were in a surly mood, barking at the bartender and cursing repeatedly as they talked about their employer.

"I'll go in there every day," one worker said. "But I'll be damned if I ever work another day for that company."

Caterpillar had won its battle with the UAW, forcing its employees back onto the job on the company's terms. It is open to question, though, whether winning that battle will help the company win its larger war for global competitiveness.

And there are other questions.

Will Caterpillar's defeated union work force be a productive one, continuing to produce the quality machines that made the company successful? Or will resentment turn Caterpillar's skilled workers into indifferent clock-watchers?

Will the United Auto Workers again join with Caterpillar in devising partnerships that acknowledge the new realities of the marketplace? Or will the union carry its bitterness like yesterday's baggage, clinging to strategies, such as pattern bargaining, that may be outdated?

And even if there is a meeting of minds, won't Caterpillar continue to pare down its unionized work force? What union can repel the march of automation, or the cost advantages to be gained by outsourcing jobs or building more products overseas?

If American manufacturing can be viewed as a collection of Caterpillars, where does that leave tomorrow's blue-collar worker? And what becomes of cities like Peoria, struggling to develop good jobs to replace the vanishing manufacturing payrolls that once fueled their growth?

For now, the UAW says its fight is not over. Through a combination of "in-plant strategies"—slowdowns—and outside pressure campaigns like boycotts, the union hopes to force Caterpillar to abandon its final contract offer before resuming negotiations.

A resolution seems distant. The last time the two sides talked was June 2. Caterpillar last week presented the UAW with some modifications to this last proposal, but the union immediately labeled it more of the same. No further negotiations are on the horizon.

The company shrugs off the union's campaign as "a diversion" and vows to fire any worker who sloughs off on the job.

In the meantime, the men and women who went through the most bitter strike in the company's history go to their jobs every day. Few seem to know or care about any in-plant strategy. Most are disillusioned, with both the union and the company.

Many are counting the days until retirement, five, six, seven years away.

In the days and weeks following the UAW's suspension of its strike, the returning workers had to deal with anger, animosity—and one another.

To Jan Firmand, what Dick Owens did could not have been more wrong. She believed that the union had one thing going for it, solidarity, and that Owens and the others who crossed the picket lines had betrayed that principle.

The first day back at work after the strike, when Firmand was thrown together with Owens by chance, she told him how she felt. In a voice that still has the twang of her native Kentucky, Firmand told Owens he was dead wrong.

But she also cut him some slack.

"I don't approve of what you did," Firmand told Owens. "But that's neither here nor there. We have to work together."

During that first shift, Firmand saw Owens getting the cold shoulder from most workers. She made a point of making small talk with him, asking about his wife and kids.

"He's a swell person," Firmand said. "But he is so wrong on this issue."

By June, the bitterness Firmand felt toward Owens and the other line-crossers had subsided. She still blamed them for crippling the union, for robbing it of its ability to strike in the future, but two months had drained the vigor from her emotions.

"It's like, I don't care anymore who's crossed," she said. "That's old news."

Dick Owens had been news. He had spoken to community leaders about what it was like to be a working man caught in a struggle of titans. He had been quoted in newspapers and national magazines.

He had been on TV, talking about what it was like to have his home vandalized, his windows broken, his family terrified, because he crossed a picket line to save his job.

At a Kmart one day, Nancy Owens wrote a check to pay for some odds and ends. The cashier looked at Dick Owens' name printed on the check, then looked up at Nancy.

"Is this the Richard Owens?" the cashier asked.

Nancy Owens had wanted it to pass, this notoriety. Still, she was proud of her husband.

"You tell him," the cashier told Nancy Owens, "what he did was very courageous. The other ones that did that to your house were the cowards."

To Jimmie Toothman, bygones are not bygones. He still feels personally betrayed by those who crossed, and he makes his feelings clear.

"Sometimes I'll see this one guy I've known for a long time and I'll start to say hi," Toothman said, raising his right arm, then bringing it down quickly. "But then I catch myself."

To Jim Mangan, the stigma of being a line-crosser is less important than the principles that he said made him go back to work.

"Good lands," he said, "I'm going to survive if some of these sheep never talk to me again."

But his voice catches and his glance drops to the floor when he talks about it, and maybe it gnaws at him more than he can say.

"I wasn't a scab," he protested. "I went and took my job back, not someone else's. I don't need someone from Detroit telling me what to think—fanatics whose cause is not my cause."

Inside the plant, the union is now coaching Caterpillar workers in a perfectly legal form of guerrilla warfare. Called a "work-to-rule" strategy, it is a modern variation on the traditional worker slowdown.

The workers are being told by the union to wait for new instructions from a foreman after they finish one task, instead of just going on to the next. They are being coached to get a foreman's permission to take a lunch break—the time spent searching for the foreman is time lost.

The idea behind work-to-rule is not to do a sloppy job, but to do one so perfectly and so by-the-book that it takes longer.

It is the only leverage the union can find to use against the company. If enough union members follow that prescription, Caterpillar's production would indeed be hurt. And, if the UAW pulls it off, it would be the first time such an effort has worked against a major U.S. manufacturer.

While the UAW emphasizes that the campaign is in its infancy, it already indirectly claims success at Caterpillar's Aurora plant, where production fell to an all-time low between May and July.

It's impossible to say whether that slippage was the result of a concerted effort by workers or merely a malaise among disgruntled ones. It's possible, too, that the production falloff had nothing to do with labor.

Some workers have said they are so angry with Caterpillar they are willing to join a work-to-rule program. But the idea of it goes against the very nature of most UAW members at Caterpillar, skilled professionals who take pride in their work and in what they produce—the best-selling earthmovers in the world.

Throughout its dispute, the union had bragged that it represents the most committed and productive workers in the world. Now it was asking them to be the exact opposite, to change the way they've worked, change the way they've thought for the last 20 or 25 or 30 years.

Jan Firmand, Dick Owens, Jimmie Toothman, Chuck Lovingood and Jim Mangan said they are not prepared to do that.

"They are saying, 'Do your assigned task and nothing more.' But my parents brought me up differently than that," Mangan said. "If something's wrong and I have the ability to correct it * * * I feel that's my obligation as a good employee.

"Many, many others do those same types of things, and Caterpillar is a better company because of that."

Trying to bring other pressures to bear, the UAW began picketing Caterpillar dealers, asked potential customers to put off buying Caterpillar equipment until the company settles with the union.

Company executives were furious, charging that the union leadership in Detroit was willing to sacrifice the jobs of its members in Peoria to defend principles that mean little to most workers.

"The types of things we're seeing in Peoria are counterproductive," Caterpillar Group President Gerald Flaherty said last week. "I would submit to you that if [union leaders] spent more time trying to negotiate a contract * * * and less time trying to turn away customers, then everyone would be better served."

The UAW's call for a boycott has also angered some union members, who see the strategy as "shooting ourselves in the foot."

The day after UAW President Owen Bieber raised the specter of Caterpillar's going out of business because of its poor relations with the union, the phones at Local 974 offices lit up with calls from angry members. They saw Bieber's comments as not only a threat to the company, but to their jobs as well.

"Dammit," Chuck Lovingood thought. "The UAW ain't going to break Caterpillar."

"I think it's a lot of garbage from Detroit," said Lovingood's wife, Joyce.

"Me, too," Lovingood replied.

Getting unions and companies to agree on a common plan seems key to the survival of manufacturing—and good-paying blue-collar jobs—in America.

It also seems impossible.

Most unions view companies' talk of the pressures of the global marketplace as nothing more than an excuse to assault their unions' long-held expectations that wages will continue to grow.

In turn, corporate America worries about powerful foreign firms and trading blocs that can race ahead with the latest technological innovations or quickly shift work to countries with lower labor costs.

After watching industrial giants like American Motors Corp. disappear, some unions have begun to press for more job training, as well as a say in the decisions that affect their employers' future.

But what took place between the UAW and Caterpillar should hearten neither unions nor companies.

The UAW and Caterpillar tried to cooperate in the 1980s, with some success. Suggestions from union members through the company's Employee Satisfaction Process helped Caterpillar save money. And some workers took Caterpillar up on its offer to pay for schooling beyond their jobs.

Yet the cooperative programs never took root in some factories, leaving many UAW workers out in the cold. The UAW also balked at participating in the worker-training program—intended to improve workers' job skills—because the union said it excluded older workers. Millions of dollars that Caterpillar was to have spent on training workers therefore has not been used.

It's hard to see how Caterpillar—indeed, how the U.S.—can compete against skilled and well-prepared competitors in Europe and Asia if training, technology and productivity gains are sacrificed in the heat of labor strife.

But it's not hard to see that something needs to be done, and soon.

In all 26 basic industries, from electronics to machine tools, U.S. producers' share of the domestic market has shrunk since 1979. The U.S. auto and steel industries—once international giants—now stand in the shadows of foreign competitors.

Today manufacturers search the world for the best markets to sell their goods, as well as the most cost-efficient labor markets to make them. Blue-collar workers find their salaries, their jobs, their standard of living at risk.

U.S. manufacturers in the 1960s began shifting to non-union plants in the U.S., especially in the South. Today they span the globe—and many have landed in Mexico.

Mexican factory workers earn an average of $2.17 an hour in wages and benefits, compared with $11.52 for their American counterparts.

And here is a sobering fact for American unions: Mexican workers are just as productive.

"Many of the jobs are highly skilled, in very advanced plants whose quality and productivity rival the Japanese," said Harley Shaiken, a labor expert at the University of California at San Diego. "It really is a myth that Mexico is low-tech, labor intensive. And that is where the threat comes in."

In the Mexican maquiladoras manufacturing zone south of the U.S.-Mexico border, foreign firms can take advantage of tax breaks and an average wage of $1.73 an hour. Since 1980, the number of workers in this zone, specially set up for foreign ventures, has gone from 120,000 to 470,000, according to a leading economic forecasting group.

The list of firms with Mexican operations is like a Who's Who of U.S. and Japanese companies: General Motors, Chrysler, Ford, Smith Corona, Zenith Electronics, Sony, Toshiba, Hitachi. About 85 percent of the firms are from the U.S.

How companies and unions deal with competitive pressures is crucial. Caterpillar says it is trying to hold down wages and benefits to compete worldwide. This may be only a short-term solution, however, if the company sacrifices productivity.

In the same situation, major Japanese and European companies typically try to boost productivity through added training for workers, while avoiding American-style industrial confrontations.

Union leaders and some economic analysts point to this as proof that wages are not the crux of the matter. The real issue, they say, involves unit labor costs, the economic measure of output per worker.

Higher wages, the argument goes, are competitive with lower ones if the higher-paid workers produce more.

Although Caterpillar has boasted of its workers' productivity, it has not disclosed its unit labor costs.

With a relentless certainty, blue-collar jobs paying middle-class wages have vanished in the last 12 years, in Peoria and across America.

The combined effects of globalization, corporate shrinkage and automation have chopped 2.8 million factory positions since 1979.

Once uprooted, most of these workers have had trouble getting back on their feet.

Government studies show that only miners have fared worse than factory workers in finding new jobs since the 1980s. They are out of work the longest, and their wages drop by about 20 percent once they find new jobs.

Among black and Hispanic factory workers, the displacement is even more costly. It takes them longer, on average, than whites to find new jobs. They are more likely to drop out of the job market. And they lose health benefits more frequently, according to the U.S. Labor Department.

These are jobs like the 200 UAW positions that will disappear when Komatsu Dresser, Caterpillar's major competitor worldwide, shuts its plant in October in north suburban Libertyville. The company, a joint venture formed by Japan's Komatsu Ltd. and Dresser Industries, blamed the closing on the steep recession in the construction-equipment industry.

The current recession is likely to be much tougher for factory workers than the last five downturns, going back to 1969, according to the U.S. Labor Department.

After each of those recessions, at least half of the laid-off factory workers returned to their jobs. This time, 90 percent of those laid off since January 1990 are unlikely to return to their old jobs, the department said.

Guy Roberts, a 15-year veteran of General Motors Corp.'s Willow Run plant in Ypsilanti, Mich., will become one of these statistics. Willow Run, which produces Chevrolet Caprices, is among 21 plants GM plans to close by 1995 as it moves to eliminate about 50,000 blue-collar jobs and 24,000 white-collar positions.

Union officials are hoping for a miracle to save Willow Run, but they are also urging people to prepare for the shutdown.

Roberts plans to attend classes at a community college, although he is not sure which kind of class he'll take or what career they might lead him to.

"I don't know what the job is for the future," he said. "There doesn't seem to be much of a future for anything."

Buffeted by setbacks on almost every front, the UAW's ranks have plummeted by 610,000 members, or 40 percent, since a peak of 1.4 million in 1979. It has suffered declining membership in its auto, aerospace, agricultural implement and small-parts divisions.

The union has failed to organize a single U.S. plant owned by Japanese automakers and not linked to a U.S. partner. The union has just a few contracts among 250 Japanese autoparts makers in the U.S.

For some UAW workers, especially those in small factories, their major goal is not a better contract but simply holding on to what they have.

Charles Wilson knows this well. He is president of Local 453 in Chicago, which once had 4,600 members at 22 facilities across the city. Today it has about 800 members at seven plants.

His local is so financially strapped that it cannot afford a full-time president, so he works part-time at National Castings Inc. in Melrose Park.

To keep the factory open, National Castings' 500 workers began to accept wage cuts and other concessions in 1980. Not until the most recent contract, signed earlier this year, did the company boost hourly wages back up to pre-1980 levels, Wilson said.

"It is hard, but what are you going to do?" Wilson said as he sat in the grandstands among the guests last June at the UAW's 30th convention in San Diego.

Because his local had not paid its dues to the international, he could not join the 3,000 delegates. He could only watch as they staged loud, joyful rallies with balloons and posters on the vast convention hall floor, "spontaneous" events planned well in advance so the delegates would have a chance to feel good about something.

The union certainly did not feel good about the fight with Caterpillar, whose threat to use replacement workers was only one of many by U.S. companies.

According to the General Accounting Office, an arm of Congress, U.S. companies were much more likely to threaten strikers with replacement workers in the 1980s and 1990s than ever before in this century:

At M.C. Aerospace Corp. in Lake Orion, Mich., UAW members from Local 540 in nearby Pontiac faithfully picket against the small government defense contractor, even though they were replaced more than a year ago.

In negotiations during August 1991, M.C. Aerospace told the union it wanted to cut wages from a high of $14 to $8.75 an hour; to eliminate cost-of-living adjustments; to require workers to pay 50 percent of their health insurance coverage; to trim the number of holidays from 12 to seven; to end medical coverage for future retirees; and, finally, to halt the pension plan.

Forty-four workers struck, and their jobs were quickly filled by new employees who came in under the new, lower wages.

At a Peterbilt Motors Co. plant in Nashville on Aug. 1, UAW workers voted 284-84 to end a 3-month-old strike in the face of the company's threats to use replacement workers.

At J.T. Ryerson & Sons, a subsidiary of Inland Steel Industries Inc. of Chicago, Buddy Davis of the United Steelworkers union acknowledged the replacement weapon, counseling 480 workers to reject the company's final offer, but not to strike.

Partly due to the fear of replacement workers, many other union leaders have avoided strikes in recent years. Only 40 major strikes occurred in 1991, matching the post-World War II low set three years earlier.

The unions' nemesis—replacement workers—is not new.

Immigrant workers were hired before the Civil War to replace strikers in New York, and the barons of the steel and meatpacking industries used replacements at the turn of the century to bust strikes.

The practice's most ignoble moment came 100 years ago in Homestead, Pa., when steel baron Andrew Carnegie decided he no longer would deal with a union.

His partner, Henry Clay Frick, hired replacements for the 3,800 employees at Homestead Works, then brought in Pinkerton detectives and called on the state militia. Nine strikers and seven detectives were killed, and dozens were injured in clashes.

The strike was eventually crushed, the union's leaders were fired and blacklisted, the plant went non-union, wages dropped, and the union was shattered. It was a brutal lesson for organized labor.

But once the industrial unions began gaining power in the 1930s, thanks to efforts like those of the UAW and the United Mine Workers, the practice of hiring replacements to break strikes was minimal.

The U.S. Supreme Court had asserted in 1938 that companies could use replacement workers in strikes, but the ruling was little noticed. Labor was too powerful, its aims too popular, for companies to use replacements. Companies were reluctant to take on unions.

The decision by President Ronald Reagan to fire 12,000 air-traffic controllers in 1981, however, opened the door to a waive of replacement hirings, or at least the threat of them.

In 1985 and 1989, according to the General Accounting Office, employers threatened to use replacement workers in one-third of all strikes.

According to the Bureau of National Affairs, U.S. companies used replacement workers in 17 percent of the 407 strikes it studied in 1990, replacing a total of 11,500 union members.

A year later, according to the private research firm, businesses used replacements in 14 percent of the 322 strikes studied, putting 2,000 union members out of their jobs.

Greyhound Lines Inc. replaced 9,000 workers during a 1990 strike. The Chicago Tribune hired 800 replacements in 1985, and the New York Daily News which was then owned by Tribune Co., hired replacements during a 1991 strike by more than 2,000 employees.

These companies were able to bring in replacement workers in part because pro-union sentiment fell off dramatically after the 1970s.

In 1977, 39 percent of those questioned in a Gallup Poll said they had a great amount of confidence in organized labor. By 1991, that number had fallen to 22 percent.

A bill that would have greatly limited the use of permanent replacement workers was passed in the U.S. House in 1991 but was killed by a Republican filibuster in the Senate in June. Organized labor had lost again.

Given these defeats, it is no wonder that a dramatic shift has taken place in Peoria and across the nation over the last 20 years.

Factory workers' wages have stalled or slipped into reverse, putting blue-collar salaries even further behind white-collar ones. The least-educated workers and those permanently laid off from their factory jobs have fallen even further behind.

The major reason for the shift appears to be companies' decision to pay more for skilled labor, and less for unskilled. But it also comes from the decline in union membership, the flight of jobs to lower-wage states and to overseas, and pressures on firms in the global market.

The downward surge in wages helps explain the government's discovery that the middle class, as defined by individual income, shrank between 1969 and 1989. Many low-skill workers fell from the lower-middle class into the lower class.

Blue-collar workers' salaries, adjusted for inflation, tumbled 9.8 percent between December 1977 and June 1992, while white-collar salaries fell by about 2 percent, according to the U.S. Labor Department.

The downward pressure on wages has kept non-union and union workers far apart.

Union factory workers earned about $14.82 an hour in 1989, while non-union employees earned $9.49, according to the Economic Policy Institute, a liberal think tank in Washington, DC.

Young workers without seniority or the skills to find better jobs have also discovered how the odds against them have grown.

Couples who were 25 years old and younger in 1989 had $3,184 less in income to spend than their counterparts 22 years earlier, according to the Economic Policy Institute.

For workers between 25 and 34 years old, family incomes fell by half a percentage point yearly between 1979 and 1989—exactly the opposite of what had happened from 1967 on, according to the Economic Policy Institute. These facts of life are well understood in Peoria, where young people no longer count on a factory job.

Consider Brian and Melissi Bowers.

Melissi's father worked at Caterpillar, and her uncle, Chuck Lovingood, still works in the transmission factory. Brian's father is a salaried worker in East Peoria.

"Every young kid who grows up here, that's his dream, to work for Caterpillar," said Melissi's mother Sue Stanley, who owns the Glee Club Tavern across the street from Caterpillar's transmission plant in East Peoria. "All their fathers did."

Stanley's Glee Club has indirectly suffered from the changes going on at Caterpillar, in the Peoria area and across blue-collar America.

Before the big layoffs of 1982, a line would snake out the back door on paydays as men and women waited to cash their checks.

Sue stationed herself at a window cut into the kitchen wall, a pistol within easy reach, and dispensed $40,000 to $50,000 in cash each payday.

Her late husband, John, tended the bar, and in those days the guys kept him running. The Glee Club turned $1,500 to $1,900 in bar business each night.

Now, weeknights are no bigger than $350, weekend nights are no more than $600.

An electronic dartboard game covers the window in the kitchen wall. Stanley still cashes checks, but does it from a box behind the bar.

"I'm getting by," Stanley said.

That, too, is all that can be said of Stanley's daughter, Melissi, and her son-in-law, Brian.

Melissi and Brian belong to the new service economy, and their economic lifeline—Wal-Mart—is the symbol of the nation's spurt of low-wage jobs.

Brian, 23, earns $8 an hour driving a Forklift at Sam's Club, a Wal-Mart warehouse store. Melissi, 21, is a "team leader," or department head, in Wal-Mart's east Peoria store. Combined, their salaries are less than the lowest UAW paycheck at Caterpillar.

The Bowerses live with their 1½-year-old daughter, Brittni, in a 14-year-old trailer they recently bought for $3,000. Melissi's mother was on the verge of tears when she saw it. It really needed some work.

"But it is ours," Melissi told her mother.

"We look at what we've got and we feel thankful," Brian said. "We have good cars and we bought a trailer. We are thankful for what we have, but we want more."

Like the Bowerses, Peoria has seen the future, and it is not unskilled factory work.

Economic development officials are working to bring in small "information technology" companies, or white- and pink-collar offshoots of larger corporations—"back room" operations where, for example, claims or bills are handled.

To meet the labor needs of these businesses, the Peoria Area Private Industry Council is pouring money into job training and retraining programs. And Peoria educators are changing the way they teach.

With the help of both money and guidance from the Peoria Area Chamber of Commerce, School District 150 last year opened the first of what will be at least three specialized academies—basically schools within high schools that seek to prepare students for specific careers after graduation.

The academies are part vocational education, part on-the-job training. The order of the opening of the academies tells as much about 1990s Peoria as anything else. The business academy was the first to open; then the health-sciences academy, which opened this September. The manufacturing academy, meanwhile, will be last to open, scheduled for 1993.

The reason for this was simple, said Ed Bradle, director of the academies program: "We knew there were going to be more business jobs available for students."

Slogans like "Consider your options: High skills or low wages" are taped up all over the walls of the business academy, and officials say the emphasis is on continual worker improvement.

"We're trying to develop a commitment to lifelong learning," Bradle said.

Glen Waters has made that commitment, and prospered.

He joined Caterpillar in 1978 after working 17 years at General Electric in Morrison, Ill., about 30 miles northeast of the Quad Cities.

He had walked into GE a year out of Morrison High School as an unskilled laborer and worked his way up to a semi-skilled position.

He put in nearly 500 hours of his own time to take a manufacturing course offered by the company, but when GE refused to promote him to machinist, he bolted to join Caterpillar.

Like thousands of others, Waters was laid off from Caterpillar in the mid-1980s. But during that time, he earned an associate degree in electronics from Illinois Central College and moved up again shortly after his return to Caterpillar in 1988.

"When I got laid off, I wasn't looking back, I was looking ahead," Waters said. "I wasn't going back to the job I had."

Now Waters, 50, is an electrical repairman at Caterpillar's proving grounds. It's a Level 6 position, the highest among unionized employees, and he makes $19.41 an hour.

He ticks off his professional progression on a grizzled, calloused left hand, using the right index finger with the tip missing to count off. He lost the tips of two fingers in an accident at General Electric.

"See, this is nonskilled, semi-skilled, skilled and skilled with a degree," he said. "That's an associate degree, and I want to get a bachelor's now. . . . I want to be an engineer.

Worker preparation is a Waters mantra.

"There is a dividing line," he said. "You can see the difference between those that are out to improve themselves and those that are not.

"You talk about classes and some guys say, 'Well, I don't have time for that.' Those are the kinds of guys that are going to stay where they're at. Their jobs are going to fizzle out. They're going to make it to retirement and that's it."

In a speech to his class at Illinois Central College, Waters talked about a changing workplace in which, because of robotics and advanced machinery, "the need for the assembler and the laborer is no longer going to be there."

"We're going to see the day when there are only floor sweepers and engineers," Waters told the class. "You'll either have an education and a decent job, or you're going to be sweeping floors and picking with the chickens."

Jimmie Toothman's dad didn't much care whether his boy did his homework or got an education. There was plenty of work to go around back then, work a young man could get pretty easily, work like what the old man himself did at the Caterpillar factory.

Jimmie Toothman's 8-year old son gets A's and B's. He does his homework—his dad and mom make sure of that. He won't end up with the same good job Toothman now has, assembling tractors at Caterpillar's showcase plant in East Peoria. That job, Toothman acknowledged, may not even be there by the time his son is grown.

Jimmie and Joyce Toothman sat at the kitchen table of their modest home in Creve Coeur one night in August, talking about their four children's future in a world that is so unlike the one they grew up in.

They went over little Jimmie's homework with him as they talked. Outside, taking care of the two youngest Toothmans, 12-year-old Kimberly Toothman pondered what she wanted to be when she grows up.

She's not sure, but she has her orders:

"My dad says I'm going to be a doctor, and that's that.

Jimmie Toothman has learned one of the lessons of Caterpillar: The blue-collar road to the middle class likely will be closed to his children, and they must be equipped to take another path.

The challenges facing the Toothman family are not so different from those that confront the entire nation at the end of what has been called the American Century.

Unions must find new ways to stand up to—and work with—their employers. Companies must find ways to boost productivity and remain globally competitive, all the while ensuring the participation of a technically prepared work force.

And workers—whether in factories, office towers or high-tech research parks—must be willing and able to adapt to change. If they aren't, the world will change without them. Ask anyone in Peoria.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, September 22, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

SEPTEMBER 23

9:00 a.m.

Conferees

On S. 2, to promote the achievement of national education goals, to measure progress toward such goals, to develop national education standards and voluntary assessments in accordance with such standards, and to encourage the comprehensive improvement of America's neighborhood public schools to improve student achievement.

S-207, Capitol

10:00 a.m.

Labor and Human Resources

To hold hearings on issues relating to traumatic brain injury.

SD-430

10:30 a.m.

Conferees

On H.R. 5518, making appropriations for fiscal year 1993 for the Department of Transportation and related agencies.

S-126, Capitol

2:00 p.m.

Foreign Relations

African Affairs Subcommittee

To hold hearings to examine recent developments in South Africa.

SD-419

Judiciary

To hold hearings on national economic strategies for a global economy.

SD-226

SEPTEMBER 24

9:15 a.m.

Governmental Affairs

To hold hearings on reforming postal procurement and contracting, focusing on the Eagle Air Hub example.

SD-342

9:30 a.m.

Select on POW/MIA Affairs

To resume hearings to review the Paris Peace Accord negotiations and aftermath.

SH-216

10:00 a.m.

Foreign Relations

To hold hearings on the nominations of David J. Dunford, of Arizona, to be Ambassador to the Sultanate of Oman, John Cameron Monjo, of Maryland, to be Ambassador to the Islamic Republic of Pakistan, and William Arthur Rugh, of Maryland, to be Ambassador to the United Arab Emirates.

SD-419

Special on Aging

To hold hearings to examine Federal and State efforts to combat consumer fraud that targets the elderly, focusing on living trust scams, home repair and mail order fraud, and guaranteed giveaway scams.

SD-628

11:45 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine Federal and State efforts to combat fraud and abuse in the insurance industry, focusing on the Blue Cross/Blue Shield program of Maryland.

SD-342

2:15 p.m.

Foreign Relations

To hold hearings on S.J. Res. 325, to strengthen Congressional support for collective security participation under article 43 of the United Nations Charter, which provides for military actions necessary for the purpose of maintaining international peace and security.

SD-419

2:30 p.m.

Small Business

Business meeting, to mark up S. 2941, to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program to the year 2000.

SR-428A

SEPTEMBER 25

9:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to examine Federal and State efforts to combat fraud and abuse in the insurance industry, focusing on the Blue Cross/Blue Shield program of Maryland.

SD-342

10:00 a.m.

Finance

Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee

To hold hearings to examine the financial strength of the Pension Benefit Guaranty Corporation, which insures retirement benefits for over 40 million American workers.

SD-215

Select on Indian Affairs

Business meeting, to mark up S. 2977, to establish within the Bureau of Indian Affairs a program to improve the management of rangelands and farmlands and the production of agricultural resources on Indian lands, H.R. 2144, to extend Federal recognition to certain California Indian groups, S. 3155, to establish the National Indian Policy Research Institute, S. 3237, to limit the 4-year waiting period that certain tribal governments have been confronted with in administering Federal programs under the Indian Self-Determination Act, and proposed legislation relating to Indian education trust funds.

SR-485

SEPTEMBER 29

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research and General Legislation Subcommittee

To hold hearings on the implementation of the Alternative Agriculture Research and Commercialization (AARC) Act of 1990 (P.L. 101-81), focusing on the current activities of the AARC Board and future activities with regard to establishment of regional AARC centers and the development of patent and licensing agreements.

SR-332

10:00 a.m.

Foreign Relations

Business meeting, to consider pending calendar business.

SD-419

Judiciary

Patents, Copyrights and Trademarks Subcommittee

To hold hearings on international piracy of intellectual property.

SD-226

SEPTEMBER 30

9:00 a.m.

Finance

To continue hearings on issues relating to the North American Free Trade Agreement.

SD-215

SENATE—*Tuesday, September 22, 1992*

(Legislative day of Tuesday, September 8, 1992)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

For what the law could not do, in that it was weak through the flesh * * *.—(Romans 8:3), God has done.

Almighty God, perfect in truth and justice, the apostle Paul states precisely the fundamental limitation of law at its best. Speaking of God's perfect law, he knows it cannot produce righteousness because of the weakness of the flesh.

However hard they work, legislators cannot pass laws that cure human sinfulness. Many ignore the law, as in commonplace traffic violations. Many stubbornly refuse to obey it. Others find ways to get around the law. In addition to which, in our culture, morality and legality are not always identical. Our Founding Fathers understood this when they introduced the system of checks and balances into our political system. And the whole court system assumes human propensity to trespass.

Patient Father in heaven, encourage those responsible for legislation, often frustrated by the failure of citizens to keep the law, as they recall the experience of Moses, the great law giver, and his frustration. And help us all to realize that it takes more than law to produce an ordered society. It takes spiritual and moral renewal.

In His name who is the Giver of life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, September 22, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH I. LIEBERMAN, a Senator from the State of Connecticut, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. LIEBERMAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senate majority leader.

Mr. MITCHELL. Mr. President, am I correct in my understanding that the time for the two leaders has been reserved for their use later in the day and the Journal of proceedings has been approved to date?

The ACTING PRESIDENT pro tempore. The Senator is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, Members of the Senate, there will be a period for morning business extending until 9:30 a.m.

At 9:30 there will be a rollcall vote on a motion to instruct the Sergeant at Arms to request the presence of absent Senators. And then we will proceed to consideration of the Defense appropriations bill which was begun yesterday. It is my hope that we will be able to finish this bill today.

Senators are on notice that votes may occur at any time during the day and well into the evening, as long as it takes to complete action on the bill.

Tomorrow, we will begin action on the tax bill and urban aid package. And we will remain in session this week until that bill is completed, however long it takes.

Therefore, votes can occur, may occur at any time during the day on any day of this week, late evening sessions may occur, and Senators are on notice that we will remain in session this week until we complete action on the two measures which I have described, the Defense appropriations bill, and the tax bill urban aid legislation.

At 2:15 today, the Senate by a prior order will interrupt consideration of the Defense appropriations bill for two votes. One will be on the cable TV bill, and the other will be on the override of the President's veto of the voter registration bill.

Immediately upon the completion of those two votes, the Senate will return to consideration of the Defense appropriations bill, and it is my intention that we will stay in session today for as long as it takes to complete action on that bill.

I thank my colleagues for their cooperation. I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. There will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not to exceed 10 minutes.

The Chair recognizes the Senator from Colorado [Mr. WIRTH].

PRESIDENTIAL DEBATES

Mr. WIRTH. Thank you very much, Mr. President.

Today is debate day. Today is the first day of the Presidential debates. As you know, a national commission was established several years ago to make recommendations for this year's election. That commission which included the former chairman of the Republican Party, Frank Fahrenkopf, recommended three debates as you know, Mr. President, with a single moderator.

This format was recommended as a means of encouraging a wide-ranging discussion among the candidates. And Bill Clinton, Governor Clinton, of course agreed to the Commission's recommendations the day they were issued.

The commission recommended that the first debate occur today, Tuesday, September 22, in East Lansing, MI. The country of course has been looking forward to these debates. They should occur. Unhappily, Mr. President, George Bush is up to his same old tricks and has refused to debate.

Is there something new in the Bush bag of tricks, Mr. President? Not at all. In 1988, President Bush refused to debate Senator DOLE in Illinois. Bush avoided a challenge from Senator DOLE to debate. "The old debate ploy," Bush said when told that DOLE planned to rent an auditorium and appear on stage with a cardboard cutout of Bush, and tapes of the Vice President's statement if Bush refused to attend. Not a bad idea; maybe in East Lansing what we ought to do is get a cutout of the President, a cardboard cutout and have tapes of statements by the President since he is not going to be in East Lansing tonight for the debate that was agreed to by both parties.

Senator DOLE in 1988 said Bush "cannot claim Executive privilege until November." Senator DOLE challenged then Vice President Bush to debate

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

again saying "that is what we want to point up. He cannot hide from the Democrats. The American people are going to demand that sooner or later George Bush stand up and say 'I want America to go this way, and this is my plan for America.' He cannot claim Executive privilege all the way to November."

Mr. President, George Bush cannot claim Executive privilege now. The country wants him to debate. What happened this year?

Patrick Buchanan was concerned about it. Patrick Buchanan wanted the debate. He was the Republican challenger, and he said that "the Republicans might as well change their symbol from the elephant to the chicken," if Bush refused to debate him or make joint appearances. "Now under George Bush we have become the party that is afraid to debate." This is indicative of the establishment mentality led by George Herbert Walker Bush. That is from Pat Buchanan who, of course, had a position of significance prior to the Republican convention.

In 1988, James Baker who was advising the President then as he is now said "Debates have a way of freezing the campaign." In August of 1988, Vice President Bush refused to commit to more than two debates stalled negotiations between his campaign and the Dukakis campaign. Mr. Baker said of the negotiations: "There are other ways to campaign. Debates have a way of freezing the campaign. It is our view that a campaign is a continuing debate and the American people get bored by debates." The issue and the record goes on and on, Mr. President.

President Bush has declined the commission's recommendation. As a result, tonight's debate in East Lansing, as we all sadly know, will not take place, at least not with President Bush; maybe with the cardboard cutout. Bill Clinton will be in East Lansing to discuss the issues that are of concern to the American people, most importantly a strategy for getting the American economy moving again. Our country, as we all know, is confronting very difficult times. Our economy is in the third leg of a recession. The national debt continues to skyrocket; health care costs are accelerating; enormous environmental threats must be confronted.

We are at a critical moment in our history. What this country needs more than anything is a full debate on the challenges we face and the strategy for surmounting them. Debates among the Presidential candidates, history demonstrates, are one of the best opportunities in American politics for addressing these issues with the American people. Who can forget the debate of 1960? Vice President Nixon and soon to be President Kennedy were facing off. The American public had a clear choice, and could see the choice they were going to be facing at the polls the first Tuesday in November.

Unfortunately, President Bush has neglected that history. I suspect that Bush sees the polls and does not want an early debate to end this election outright. Coming from a candidate who said he will do anything to get reelected, I understand his concern.

I do not agree with his decision. I also suspect that there are a number of questions about the economy and his record that George Bush does not want to discuss. The American people want to hear a debate on strategies to create jobs, but George Bush does not want to air that debate, because he remembers that in 1988 he, Vice President Bush, candidate for President of the United States, pledged to create 30 million jobs in 8 years. Today, the number of private sector jobs has decreased by 40,000. George Bush still has 30 million to go.

The American people want to hear a debate of strategies to get our economy moving. However, apparently, President Bush does not want to talk about his economic record—the slowest period of economic growth of any post-World War II administration, during which 1.3 million manufacturing jobs have been lost, and more than 100,000 farms have been wiped out under George Bush alone.

President Bush has been trying to start a debate about the candidate's views on taxes, but he is reluctant to face Bill Clinton one-on-one because of his own record during the past 12 years, which shows that the wealthiest Americans received a $12,600 tax cut, while taxes went up for middle-class families. I might say that again, Mr. President. For the wealthiest Americans, they got a $12,672 tax cut; middle-class Americans got a $286 tax hike.

What about current proposals? Under the current proposals by President Bush, the wealthiest Americans will get another $14,000 tax cut, while middle class Americans, a paltry $50; at the same time, their Medicare benefits will be cut.

Now, only a month ago, the Bush-Quayle campaign was hammering away on the issue of so-called family values. Remember Houston? Now the President does not want to debate valuing families, which would force him to explain the tripling of health care costs and his veto of the Family Leave Act. I think the President is going to veto—and maybe he already has—the Family Leave Act. This is the party that stood up in Houston, and romped across the stage in the Astrodome and told everybody about family values. What is happening on the veto of a bill which gives parents 12 weeks of unpaid leave to care for a new baby or sick child?

Finally, let us have a full debate on the issue of trust. Perhaps, in that setting, we could debate President Bush's 1988 "read my lips" pledge and the new "never, ever" pledge of 1992. The American people read his lips, and now we can read his record. This is another reason the President may not want to debate. What did he mean, by the way, when he said, "never ever?" He said one thing one day, and the White House said something else the next day. Thank goodness we have a bit of interpretation because I thought for a minute people might believe what the President said.

The American people deserve a full debate, Mr. President. There ought to be more, not less face-to-face confrontations. Unfortunately, there will not be a debate tonight. Bill Clinton will be in East Lansing, and we are going to have to send that cardboard cutout by Federal Express. Where is the President?

In closing, I want to share with my colleagues the following quote:

> I believe he wants to avoid debates because he wants to avoid talking about his economic record. How do you debate the merits of an economic policy that has put 1.9 million American men and women out of work? What you do instead is sit in splendid isolation in the White House.

These are the words of George Bush on September 12, 1980.

It appears that he is following his own advice "sitting in splendid isolation in the White House" refusing to face the American people with the questions that ought to be faced, refusing to come out of the bunker and debate.

Mr. ROTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Delaware is recognized.

PRIVILEGE OF THE FLOOR

Mr. ROTH. Mr. President, I ask unanimous consent that James Grover, who is on my staff as a fellow be permitted to be on the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Delaware is recognized.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 3258 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Connecticut.

IN SUPPORT OF THE CONFERENCE REPORT ON S. 12

Mr. LIEBERMAN. Mr. President, later today the Senate will vote on the conference report on S. 12, the Cable Television Consumer Protection and Competition Act of 1992.

I would like to take these few moments during morning business to speak on this bill, because it is an issue that I have actually worked on before I came here.

I was attorney general of the State of Connecticut in 1984, when the Federal Government deregulated cable. I and many of my colleagues cried out against that action, because we felt that it left cable consumers facing cable companies that had a monopoly—facing no competition—in their areas according to a publicly granted franchise, and the States and franchises authorities were just deprived of regulation. The result we feared was inevitable increases in price and perhaps a lowering of quality. Certainly the increases in price have occurred. This bill, S. 12, in a balanced and thoughtful way, remedies that problem.

I regret, Mr. President, that President Bush indicated last week during House debate on this conference report that he would veto the cable consumer protection bill. It is sad to see the President turn a deaf ear to the legitimate concerns and interests of American consumers and to cave in to the unregulated cable monopolists. This is an example of knee-jerk deregulation at its worst.

Mr. President, there are cases where deregulation works and cases where it does not. But one case where it clearly cannot work is where there is no competition. And that is exactly the case when it comes to cable television.

This bill, first and foremost, addresses the principal concerns of American consumers, and that is the level of rates and customer service. It does this in two ways. First, it promotes the development of competition by lowering the barriers to entry of competitors into the marketplace. Competition, not Government intervention, is the best long-term regulator of this marketplace. Competition gives the best service and the best price. The conference report supports competition by making clear that local franchising authorities cannot create de facto exclusive local cable franchises by refusing to grant franchises to competitors. This is a provision originally proposed and supported by the administration.

The conference report also makes clear that, for the next 10 years, cable channels that are affiliated with cable operators cannot use their control of programming to restrict or impede retail competition by refusing to sell programming to cable's competitors. This provision is supported by every alternative provider of cable service—including the telephone companies that the administration often hails as the saviors of competition in this marketplace—precisely because it will be absolutely necessary to getting real competition off the ground. The provision is narrowly tailored to its purpose of promoting competition; it disappears in 10 years unless the FCC explicitly finds that it continues to be necessary to preserve and protect competition and diversity in programming.

Mr. President, while competition is the best regulator, the fact is that in most areas of our country there will not be genuine competition to cable for many years to come. Competition is not the magic elixir today. Even if we were to do what the administration wants and let telephone companies into the cable marketplace today, it would probably be a decade before those companies could serve even half the market, even in a small and highly urban State such as my own State of Connecticut. Consumers deserve some protection against monopolistic rates in the years before full competition arrives.

The conference report therefore provides that in those areas where no effective competition exists—and only those areas where no effective competition exists—the Federal Communications Commission is required to protect America's consumers against unreasonable rate increases. The FCC is directed to try to hold rates to the levels they would be at if real competition were in place now. It would not be confiscatory, it would allow the cable industry to continue to earn a profit, but it would ensure that Americans are not abused.

Every American who has to write out a check to the cable company every month knows why this protection is needed. Since deregulation, cable companies have raised rates nearly three times the rate of inflation, year after year. At first, cable claimed that these rate increases were due to catch up from rates that were artificially low due to regulation. But it has now been over 5 years since deregulation went into effect, and cable rates are still going up at nearly three times the rate of inflation. When will cable slow its rate increases? When will it feel it has caught up? We can't say, so we must make them stop.

Perhaps the President has not fully considered the effect of monopoly rates on the American public. When a monopolist sets prices at a level higher than the levels that would prevail under free, full, and fair competition, it means that every consumer who buys cable must pay more for cable service than they would otherwise have to pay. The Consumer Federation of America estimates that consumers are now paying $6 billion a year more for cable than they would if there was competition. If the President vetoes this legislation—and I hope he does not—the impact of American families will be the same as if he had agreed to a $6 billion tax increase and then gave that tax money to the cable industry.

When a monopolist charges more than a fully competitive market would allow, some consumers are also priced out of the market. Nothing illustrates this better than the case of Francis Behan, a resident of Springfield, VA, who contacted my office earlier this year. Mr. Behan and his wife are 72 years old. Like many other older Americans, they have some difficulty getting around. Consequently, they rely on television for much of their entertainment. But they are on a limited, fixed income, so they buy only the lowest priced basic tier, which is $13.95 per month.

Recently, Mr. and Mrs. Behan decided that they would like to add Home Team Sports, which was offered in their system as a premium, per-channel service, so that they would watch all the local sports team. The cost of Home Team Sports itself was another $13.95, which they were willing and able to pay. But then came the monopolist's catch. In order to add Home Team Sports they had to buy a deluxe basic tier at $28.95 per month, instead of their limited basic tier. Plus, the local cable company wanted an additional $25 in a one-time charge to provide this upgrade. The bottom line—for Mr. and Mrs. Behan to add Home Team Sports, it would cost them a one-time charge of $25, plus $42.90 per month. The real price of adding Home Team Sports comes to $28.95 a month. As Mr. Behan says, "It is like putting a gun to one's head and saying, If you want HTS, take tier I and II or else."

S. 12 would come to the rescue of Mr. and Mrs. Behan. If their cable company has no effective competition, the FCC would be required to ensure that the charges for both the limited basic tier and, if a complaint is made, the deluxe basic tier are reasonable. Just as significantly, if technologically possible in the Behan's cable system, the cable company would not be allowed to require the Behan's to buy the deluxe basic tier as a condition of buying Home Team Sports. They could buy the basic tier at $13.95, plus Home Team Sports at $13.95, saving $15 per month. This improves consumer choice by eliminating cable's ability to coerce them into buying a product—the deluxe basic tier—they do not want by tying it to the product they want, Home Team Sports. For the Behan's it allows them to reduce their monthly bill.

The President's letter asserts that S. 12, "will drive up cable industry costs, resulting in higher consumer rates, not rate reductions as promised by the supporters of the bill." While this parrots the theme of the National Cable Television Association's recent advertising campaign, it is also an astounding example of administration doublespeak. Let us take just the retransmission consent provision, which the administration and the cable industry now claim will raise cable rates.

Last January, when S. 12 was on the Senate floor, we considered a substitute offered by Senators WIRTH, KERRY, and PACKWOOD. The administration issued a statement of administration policy that explicitly supported the substitute. That substitute, which they endorsed, contained the same retransmission consent provisions that are in the conference report. If they were so interested in protecting consumers from the alleged evils of this provision, why did they support it a year ago?

The bald truth is that neither the NCTA nor the administration is protecting consumers. To hear the cable industry claim to be a savior of consumers is like the shark claiming to come to the rescue of the drowning man. The very thesis of their ad campaign—that somehow rates will not go up if you leave cable rate setting to the cable companies—contradicts almost 6 years of experience. Every chance they get, cable raises rates again. The cable industry has even tried manipulating consumers into opposing this legislation, in some instances coaching them and putting words in their mouths when they connect consumers to our offices.

As for the administration, it seems clear that they will support whatever they think will derail real cable reform. The administration seems more interested in protecting its friends in the cable industry—and its deregulatory campaign rhetoric—than in heeding the cries of desperate consumers who need protection from an unregulated monopoly.

Mr. President, I would rather see us take another tack. Let's leave cable's estimate $6 billion in monopoly profits in the hands of hard-pressed consumers, where it belongs, rather than giving it to the cable industry. Let us take the steps we can take—as this bill does—to introduce competition into the marketplace. Let us spur innovation and investment in alternative methods of delivering cable service that will compete with today's cable monopolists. And, in those systems where no competition exists, let us let the Federal Communications Commission protect consumers against unreasonable rate increases and drive rates back down toward competitive, rather than monopolistic levels.

Mr. President, I agree with President Bush's idea of a communications industry based on the principles of greater competition, entrepreneurship, and less regulation. That is what this bill will do: It lowers the barriers to a whole host of new competitors such as direct broadcast satellites, wireless cable, and even second or third traditional cable companies within a given franchise area; it helps these entrepreneurs, for a limited period, to get the tools—such as programming—they need to bring about a competitive marketplace; and in the end it will result in much less regulation since the competition we will nurture will become the regulator of the marketplace, automatically ending Government's role as the watchdog of rates.

Mr. President, it is time to bring an end to the era of unregulated monopolies in the communications industry. It is time to say "yes" to competition, "yes" to consumer rate protection until competition arrives, and "yes" to nationwide, adequate levels of customer service. It is time to say "yes" to S. 12. I strongly urge my colleagues to support the conference report, and to vote for its adoption.

Mr. President, to clear the air I would also like to take note of what cable is saying outside the beltway. A spokesman for Cox Cable of Omaha, NE, told the Omaha World-Herald last Thursday:

> We're not going to lose sleep over the passage of this bill. Good cable operators are not going to be in bad shape as a result of this bill passing.
>
> Rate regulation is not something we fear. We are very confident about our operation being held up to scrutiny at any level.

I will ask that a copy of that article be included in the RECORD.

Mr. President, I will also ask that a page entitled "What Wall Street Says About S. 12" be included in the RECORD. Let me read just one of these, from a Wall Street Journal article dated July 27, 1992:

> Despite the furor, the bill isn't expected to impair the industry's fortunes or its future, several analysts said. "On the whole, I would say the impact is nowhere near devastating," said Kenneth Goldman of Bear, Sterns & Co.

Mr. President, I ask unanimous consent to have this material printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Omaha World-Herald, Sept. 17, 1992]

HOUSE PASSES BILL AIMED AT CABLE TV

(By Paul Goodsell)

WASHINGTON.—Cable television rates would be regulated by the federal government under a bill that passed the House of Representatives Thursday, 280 to 128.

"It's not going to cut costs," said Rep. Doug Bereuter, R-Neb. "It's just going to lessen the escalation."

Bereuter voted for the House-Senate compromise on the bill, as did Reps. Peter Hoagland, D-Neb., Bill Barrett, R-Neb., Jim Ross Lightfoot, R-Iowa, and Fred Grandy, R-Iowa, Rep. Neal Smith, D-Iowa, voted against it.

The cable industry and Hollywood generally oppose the measure while broadcasters and consumer groups support it. The bill would grant new power to the Federal Communications Commission to regulate basic cable rates and review other charges.

Among other changes, the bill also would allow local broadcast stations to seek compensation from cable operators that pick up their over-the-air signals.

Cable industry forces, which are waging a television, newspaper and direct mail advertising campaign to turn the public against the bill, hope to stop the measure in the Senate. They contend that the legislation would result in higher costs to cable subscribers.

President Bush has said he would veto the bill because of its regulatory provisions.

Thursday's vote was a narrower victory for the bill's proponents, who garnered 340 votes for the House's earlier version in July. The Senate passed its version in January, 73 to 18.

Mike Kohler, communications director for Cox Cable Omaha Inc., said the compromise measure that passed Thursday was far better than the earlier versions of the bill.

"We're not going to lose sleep over the passage of this bill," Kohler said. "Good cable operators are not going to be in bad shape as a result of this bill passing."

Kohler said Cox Cable officials believed that they could justify their fees for basic cable service, which the bill defines narrowly as local broadcast and government access channels, not super-stations such as WGN in Chicago and TBS in Atlanta.

"Rate regulation is not something we fear," he said. "We are very confident about our operation being held up to scrutiny at any level."

In addition, he said, the new bill is more flexible on provisions that would require cable companies to use addressable converter boxes—a change that could mean higher rates and inconvenience; customers who have cable-ready televisions and VCRs.

Kohler said Cox opposed the retransmission provisions of the bill that give local broadcast stations a greater say in signals.

Stations would be able to seek compensation from cable operators, or they could demand that cable companies carry their signal for free.

Kohler said it was unfair to make cable companies and their subscribers pay for local broadcasts that non-cable customers receive over the air for free. Although local stations would be responsible for dealing with the cable companies, he said, television networks also will profit because they will not have to pay their local affiliates as much.

It is unknown how much clout local affiliates will have in demanding compensation, however, since they need to ensure that cable subscribers can receive their programming. Kohler said he could not say that the retransmission negotiations would mean higher local cable bills.

"The rhetoric on both sides at the national level was probably overstated," he said, "One side claimed that costs will soar, (while proponents of the bill) suggested that cable costs will come down. They're misleading people."

Barrett said the final compromise by a House-Senate conference committee represented an improvement from the earlier House version, which he opposed.

"I think the conference report was far more palatable to me." he said, "I thought it was a better bill by quite a bit. It's less onerous. it's less regulatory."

WHAT WALL STREET SAYS ABOUT S. 12

Fable: The cable industry has been proclaiming loudly on Capitol Hill that S. 12, the Cable Consumer Protection and Competition Act, would drastically handicap their business and devalue the industry's multibillion dollar investments.

Fact: Here's what Wall Street has to say about the cable bill:

"What is most likely to come out of conference would have a minor impact at most on cash flows."—Attributed to a Wall Street analyst, Multichannel News, 8/3/92.

"In our opinion the decline in interest rates will have a better positive impact on, than regulation will have a negative impact on, the [cable] industry."—Mark Riely, MacDonald Grippo Riely, Broadcasting, 2/10/92.

"Despite the furor, the bill isn't expected to impair the industry's fortunes or its future, several analysts said. On the whole, I would say the impact is nowhere near devastating, said Kenneth Goldman of Bear, Stearns & Co."—Wall Street Journal, 7/27/92.

"The impact [of retransmission consent] would be negligible."—Ned Zachar, Duff & Phelps analyst, Communications Daily, 7/28/92.

"Some analysts, such as Paine Webber's Chris Dixon, put the more likely cost of retransmission consent at about 10 cents per subscriber per month for each network affiliate, for a total of 30 cents per month. That's 1% of the average cable bill, and translates into a 1.5% loss in margin. 'That's not detrimental to the industry,' he says."—Broadcasting, 2/10/92.

"And while cable executives are upset about the Tauzin amendment in the House bill on program access, [John] Kornreich doesn't find it all that damaging in the long run."—Multichannel News, 8/3/92, referring to John Kornreich of Sandler Capital Management, a firm with 40 percent of its portfolio invested in cable stocks.

OLYMPIC GOLD MEDALIST AND DREAM TEAM MEMBER KARL MALONE

Mr. JOHNSTON. Mr. President, I salute today, an outstanding individual from Louisiana, an individual who possesses rare and unusual talents, strong moral character, and an undying loyalty to his home State, Louisiana.

I'm talking, of course, about Karl Malone, Olympic gold medal winner and star member of the dream team. Karl was a tremendous source of pride for all Americans this summer when he stood on the podium in Barcelona and received the Olympic's highest honor.

But there is so much more to Karl than his athletic prowess. This young man possesses an extraordinary depth of character that is unusual in today's professional athletes. He is an example for our youth, especially those children growing up in Louisiana. And this is not a responsibility he takes lightly.

When asked about the inspiration he provides for rural youth he replied:

> I want them to know they can fulfill their goals and dreams. Young people are so wrapped up in material things and that's not important. I want young people to know there is more to life than just bouncing a basketball.

Karl translates those thoughts into action. He spends a great deal of his free time at home, visiting his mother, and plans to return to Claiborne Parish after retiring to operate his own trucking company and ranch. His goal is to bring jobs to north Louisiana.

I applaud Karl Malone—not only for his extraordinary talent on the basketball court, but for his incredible strength of character off the court. Karl provides an example for all of us who build our lives far away from our hometown. It is important, not only to remember those you leave behind, but to give something back.

TRIBUTE TO NEW YORK CONGRESSMAN STEPHEN SOLARZ

Mr. DURENBERGER. Mr. President, I rise today to recognize a great public servant. I stand here to pay tribute to New York's 13th District Representative, Congressman STEPHEN SOLARZ, and to thank him for his many years of distinguished public service and contributions to the international affairs of the United States of America.

Congressman SOLARZ was already a two-term veteran of the Hill when I came to the Senate in 1978. Since then, I have been illuminated by his opinions in the form of regular and thorough analyses of foreign affairs issues. I have appreciated his input as I studied and traveled to such places as Laos, the Middle East, South and Central America, India, Pakistan, Bangladesh, and Nepal.

Congressman SOLARZ shared his expertise with the Nation and the world as a member of the House Select Committee on Intelligence and the Committee on Foreign Affairs. In August 1989, after the Paris Peace Conference on Cambodia broke down, he worked closely with Minnesotan Steve Young to flesh out a proposed peace plan that was signed in October 1991. Former Philippine President Cory Aquino calls him the Lafayette of the Philippine Revolution because of his efforts to expose the corruption of the Marcos regime. His hearings opened the door to democracy in that nation.

STEVE SOLARZ has been a leader in the movement to impose sanctions against the South African policies of apartheid, and he worked hard to maintain United States sanctions against Rhodesia. When Hong Kong reverts to Chinese control in 1997, the United States will maintain an interest, thanks to legislation he helped draft. Jewish communities around the world, especially those who are moving out of Syria, know his name for his tireless efforts on their behalf.

STEVE and I were among a handful of Members to support President Bush in the decision which came to be known as Desert Shield. It was a more difficult decision for, and had a bigger impact on him than myself.

These and many other accomplishments are testament to STEPHEN SOLARZ' dedication to positioning the United States as a leader among nations; a tireless protector of human rights and an advocate of democracy. Mr. President, I thank our friend, the Congressman from New York, for his years of dedicated public service, and wish him the very best in the months and years to come.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $4,036,813,721,516.07, as of the close of business on Friday, September 18, 1992.

Anybody familiar with the U.S. Constitution knows that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on Federal spending approved by Congress—spending over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes $15,716.07—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averaged out, amounts to $1,127.85 per year for each man, woman, and child in America—or, to look at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

TRIBUTE TO JOSEPH M. FARLEY

Mr. SHELBY. Mr. President, I am pleased to rise today to recognize the contributions and achievements of a leader in the American electric utility industry, particularly the nuclear energy industry. Joseph M. Farley this year retires as chairman of the board of Southern Nuclear Operating Co. corporate counsel of the Southern Co. in Birmingham, AL, and chairman of the American Nuclear Energy Council. It is because of his stewardship that nuclear energy, which provides more than 20 percent of this Nation's electricity and does so without polluting the environment, will be a viable option for our children's America.

With an engineering degree from Princeton, a law degree from Harvard, and service in the Navy as a lieutenant, Joe Farley has been a reliable and invaluable witness before countless congressional hearings as Members this year worked hard to draft national energy policy legislation. His integrity and ability to present the industry and its ratepayers' views before panels investigating everything from high-level waste disposal to restructuring the uranium enrichment enterprise helped to shape the national energy strategy bill as it stands today with the greatest achievements for nuclear energy in 40 years.

The energy bill—to truly serve as a comprehensive, forward-looking policy—contains nuclear energy plant licensing reforms to guarantee meaningful public participation in key decisions and investor predictability. Language to restructure the Federal Government's uranium enrichment enterprise to compete in the world market is being worked out in conference. What was once a deadlock between the Department of Energy and the State of Nevada on a high-level waste initiative is turning into progress. DOE just this past August received its final water permit, allowing scientists to fully proceed with site characterization of Yucca Mountain—as mandated by Congress in 1987—to determine if the site is suitable for a national high-level waste repository.

All of these milestones occurred with the assistance of the able leadership of Joe Farley. It is through his hard work and dedication, along with that of other industry leaders, that the 102d Congress stands on the brink of passing the first national energy policy for the good of the U.S. economy, environment, and national security.

Joe Farley's career in the nuclear industry is unparalleled. The Birmingham, AL native was elected president of Alabama Power in 1970. After serving 5 years as executive vice president of the utility, Farley rightfully became the namesake of twin 829-megawatt nuclear units which became operational in 1977 and 1981.

In 1989, Mr. Farley became executive vice president of the Southern Co., which serves more than three million people as the parent company of Alabama Power, Georgia Power, Gulf Power, Mississippi Power and Savannah Electric. The Southern Co. is one of the Nation's largest investor-owned electric utilities. Also in 1989, Mr. Farley, a past chairman of the board of directors for the Institute of Nuclear Power Operations, began his term as chairman of the American Nuclear Energy Council, which represents more than 100 utilities and organizations with interests in nuclear energy. In 1991, Mr. Farley became president and CEO of Southern Nuclear Operating Co., a subsidiary of the Southern Co.

Joe Farley has served the nuclear energy industry well and has led the American electric utility industry to the forefront as a major player in securing this Nation's productivity and stability. It is with great pleasure that I ask the U.S. Senate to honor Joe Farley for his dedication and effectiveness in this endeavor.

TRIBUTE TO SID NOWICK

Mr. WIRTH. Mr. President, the El Jebel Shriners will once again be honoring a singular Colorado citizen, Sid Nowick. An astonishingly effective physiotherapist, Sid has had a remarkably successful Denver practice for more than 50 years.

But ministering to the famous, the rich, or the politically powerful provides scarce satisfaction to Dr. Sid, compared to his deep commitment and happiness in working with those who need him most, the old and the young. His concern for the old and frail is reflected in his free treatment of so many and his constant badgering of political and medical authorities to do better for this needy group.

It is with kids, however, that Dr. Sid shines brightest. Children who have never walked do so today; hope has come to thousands of young people and their families. Pictures hanging in Sid's office testify to his remarkable talent. For many years he has worked through Shrine hospitals, and has been honored as Shriner of the Year for his work in helping thousands of young Americans. And his generosity does not stop there, for Sid travels to Israel nearly every year, where he works with young people and leaves behind his wonderfully human legacy. The following articles provide further descriptions of Sid's great work.

Now Sid has another goal—to provide free school lunches for all students. He is appalled that so many of our young people go to school hungry and return home even more so; and sharply criticizes programs that distinguish between rich and poor in school. He correctly urges us in the Senate to pass such a program and is working to mobilize Shriners nationwide to take up this challenge.

I agree with Sid and hope that a new administration will bring us closer to the goal of providing broad preventive and nutritional care to all our children. In the meantime, anyone who has worked with Dr. Sid, as he accompanies his skill with a constant, perceptive, and persuasive banter, will no doubt know that he will achieve this goal as well.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

TRI-SULOM TZEDAKAH WALL OF HONOR PAYS TRIBUTE TO SID NOWICK

When they wrote the lyrics "Hands Across the Ocean," they could very well have been describing the work of Sid Nowick.

Sid is a physical therapist who grew up in a Jewish orphanage in Denver. He never forgot that there are kids who needed help and might not be able to afford it. Sid has taken it upon himself to devote a substantial part of his professional practice to treating children with neuromuscular and other disabilities free of charge. He regularly treats dozens of children on an outpatient basis at a local El Jebel medical facility.

His healing hands have been credited with helping children afflicted with diseases like multiple sclerosis get back on their feet and walk again.

It is commonplace for Sid to spend his vacations working 18 hours a day at the Alyn Hospital for Handicapped Children in Jerusalem. In addition he applies his own novel methods of treatment to the children and shares his wealth of knowledge with the staff. He has donated several of his self-devised exercise machines to the hospital. He has reportedly refused to patent the machines which he spent 20 years creating because he wants them to be available to anyone who wishes to copy them.

Speaking of the beauty of one of the youngsters whose crippled arms he had just finished straightening, he said "I think the Almighty gives these children something special just to compensate."

In Denver, Sid plays a leading role in the Denver Friends of Alyn. He has said that the reason he returns to the States after working in the Israeli hospital is to raise funds for the continuation of the facility's work.

Sid has no compunction about telling a well-heeled patient on the table, "Now look here, I need your money for kids in Jerusalem who may walk if they get the right help . . . some of them give and some of them get mad, but I don't mind that."

With friends like Sid Nowick, who needs Angels!

[From the Jerusalem Post]

HEALING HANDS

(By D'Vora Ben Shaul)

With his crew-cut white hair and his burly chest and arms, Sid Nowick looks like a retired wrestler. But for patients at the Alyn Hospital for Handicapped Children in Jerusalem, and for the staff which cares for them, the only thing Nowick lacks is a halo.

Nowick, who is a physiotherapist from Denver, Colorado, is not a newcomer to the scene at Alyn: he has been a regular "visitor" for the past four years. And although he recently went back to the U.S. after a six-week stint at Alyn, where he and Phyllis Williams, his personal assistant for 20 years, often worked a non-stop 18-hour day with the patients there, he plans to return around Pessah.

Sid Nowick is an optimist, and 51 years of working with broken, battered and misformed human bodies has not dimmed that enthusiasm. For him, no case is hopeless.

And that is what brings Nowick back to Alyn time and time again: "They aren't putting the children away where no one will see them at Alyn," he says. "So many hospitals in the world do just that. At Alyn, they're trying to teach them to walk and so am I," he says.

But Nowick, who has donated two of his self-devised exercise machines to Alyn (machines that he spent 20 years creating and then refused to patent since he wants them available to anyone who wishes to copy them), also knows what good care for the handicapped costs, and that Israel just doesn't have the money.

"They need another $2m. a year here," he say, "and I've decided to find it for them. That's one reason I'm going back to the States now. That's where the money is."

Nowick has had a lot of famous patients and he showed me letters from them.

But for him it doesn't matter. Every person is special and with tears in his eyes he speaks of the beauty of a young handicapped girl he has just finished helping to do exercises to straighten her arm. "I think God gives these children something special just to compensate," he says.

Nowick, whose own practice is large and who has succeeded in training only one successor—his daughter—is known for the hard work he invests in his patients: "I haven't trained enough people," he says, "because they want to work just a few hours a day.

"When you're fighting for a patient's whole future, you have to remember that there are 24 hours in a day and that if you're only there for one or two hours, all the rest of the time things are slipping downhill."

For this reason he also has made gentle exercise machines where the patient often sleeps while the machine keeps on doing the manipulations.

Nowick is working in Denver with the Friends of Alyn Society and with the Friends of Alyn Society and with Rabbi Manuel Lederman, of the Hebrew Alliance there, who first told him about Alyn.

Nowick says he has no compunction about telling a rich patient on the table, "Now look here, I want some of your money for some kids in Jerusalem who may walk if they get the right help."

"Some of them give and some of them get mad," grins Nowick. "But I don't mind that."

SUCCESS IN THE REHABILITATION OF HANDICAPPED CHILDREN

Over 2,000 children in the past two years have been treated free of charge by the El Jebel Shrine medical staff and Empire Health Services for physical therapy. Crippled children and children with severe burns have been treated in the El Jebel Temple clinics in Denver, Grand Junction, and Loveland. Many children have been sent to St. Anthony's and Children's Hospital in Denver, Salt Lake City Hospital, Mayo Clinic, and the Galveston Burn Institute for further surgical intervention.

Dr. Louis M. Radetsky and Sid Norwick, in addition to their charitable work in Denver, travel several times a year to Jerusalem at their own expense, to perform therapeutic medical feats on the children at the ALYN Hospital. They have also donated more than $10,000 to ALYN.

The 250 bed hospital takes care of all refugee children, including Palestinians. "There is no discrimination whatsoever. It is all done free of charge. These kids wouldn't be able to afford this care."

Dr. Louis M. Radetsky, a native Denverite, is Medical Director Emeritus of El Jebel Shrine, and served as Medical Director for five years.

Dr. Radetsky serves as Hospital Inspector for Internal Medicine for ten western states for the American Hospital Association. He was Chief of Medicine at Rocky Mountain Hospital and staff physician at Beth Israel Hospital. He served initially on the cardiac rehabilitation unit board of directors for Rose Medical Center. Dr. Radetsky was the recipient of the ALYN Humanitarian Award in 1989.

Sid Nowick, Denver native, is a well known physical therapist and heads Empire Health Services. He began his physical therapy practice in 1956. In 1986 he was honored by ALYN for his frequent trips to ALYN in Israel over the past decade, and his continuing support of the orthopedic hospital and rehabilitation center in Jerusalem. Both Sid Nowick and Dr. Radetsky have been "Shriners of the Year" for two consecutive years.

Both men are planning to be at ALYN Hospital again in November 1992.

TRIBUTE TO SENATOR QUENTIN BURDICK

Mr. WIRTH. Mr. President, today I somberly rise to pay tribute to the passing of great Senator in our land, a trusted and revered colleague, and a dear friend—Senator Quentin Burdick.

In the time I have known Senator Burdick I have regarded him as an able legislator, a fierce protector of his State's interests, and a strong but fair Senator. From his humble beginnings on the dusty roads and plains of Williston, ND, Senator Burdick rose from breaking wild ponies on his father's ranch, to high school president, college football star, law school and law practice with his father, to Congress, and finally U.S. Senator. The ascension and chronology of Senator Burdick's life epitomizes the ideals of the American dream and pays tribute to a man dedicated to public service, North Dakota, and the United States of America.

Senator Burdick has a distinguished record as a savvy politician but his true devotion was to the people and affairs of his State. He was a personal politician bringing unparalleled representation for North Dakota to the House and Senate. He was truly a man of the people serving his State with vigor and hard nosed public policy sense but also with the soft touch of a representative who truly was concerned about the issues and welfare of his constituency. He was credited with shaking more hands in North Dakota than any other politician.

Burdick was a vigilant legislator, as a Congressman and member of the House Interior Committee, he concentrated on issues important to his district; agriculture and water issues. In the Senate as a member of the Senate Judiciary Committee, Senate Burdick was instrumental, in rewriting bankruptcy legislation. As chairman of the Environment and Public Works Committee, he presided over passing major highway and clean water legislation, over Presidential vetoes, and enacting the Clean Air Act of 1990 and the Intermodal Surface Transportation Act of 1991. Senator Burdick continued the tradition throughout his career of working hard to bring numerous public works projects to his State and further progressive legislation in Congress for the good of all Americans.

There have been few men who have served with such distinction and integrity in government as Quentin Burdick. I am deeply honored and proud to have known and worked with Senator Burdick in the Senate. I knew him as a principled Senator, true to his cause and thorough in his beliefs. His energy and character will be missed. I hope that the subsequent holders of Senator Burdick's seat, the citizens of North Dakota, and the United States, understand that the loss of ideas and humility of a decent man, a determined Senator, and a great American will be hard to replace. My sympathies go out to his wife JOCELYN; his six children; seven grandchildren, his brother and sister and staff.

RESIDENTS SPEAK OUT ABOUT HANFORD ISSUES

Mr. GORTON. Mr. President, I have contacted residents in my home State of Washington to solicit advice on several issues relating to the Hanford site and their relationship to the economic future of the tricities.

In the past several years, cleanup of defense wastes at Department of Energy sites has become a national priority. It is clear that residents of the tricities strongly support the cleanup program, but fear that funding will diminish as Members of Congress from nonhost States begin to view cleanup as siphoning funds away from other programs of more direct interest to them. Any such movement must be resisted, but this will be difficult unless cleanup itself can be done more efficiently.

It is also clear that an overwhelming majority of tricities residents agree that completion of WNP-1 is the appropriate option should Congress and the administration decide that construction of a new production reactor is necessary to meet U.S. security needs. Given the radical downsizing of the U.S. nuclear arsenal, however, it is uncertain if and when such a decision will be made.

In their comments on both of these issues, residents of the tricities emphasized that the experience and knowledge of the local work force make Hanford a superb location for model cleanup activities, Federal and private technology development, and safe materials production. I agree 100 percent with this assessment.

I would like to thank those that responded to my request for advice about the importance of these Hanford programs and their relationship to the tricities' economic future. Such constant communication with residents of the local community is very useful when these issues are considered in Congress.

I urge my colleagues to support continued funding for cleanup of the Hanford site. In addition, I encourage members of the tricities community to keep in contact with me on these and other important issues which are so vital in establishing and maintaining jobs and economic opportunities for all Washingtonians.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1993

The PRESIDING OFFICER. The Senate will now resume consideration of the pending business, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1933, and for other purposes.

The Senate resumed consideration of the bill.

QUORUM CALL

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 5]

Bryan
Coats
Cohen
Cranston
Kennedy
Leahy
Lieberman
Mitchell
Moynihan
Reid
Shelby
Stevens
Thurmond
Wirth

The ACTING PRESIDENT pro tempore. A quorum is not present.

The clerk will call the names of the absent Senators.

Mr. MITCHELL. Mr. President, I move that the Sergeant at Arms be instructed to request the presence of absent Senators, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Maine [Mr. MITCHELL].

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Maryland [Ms. MIKULSKI], and the Senator from West Virginia [Mr. ROCKEFELLER] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Wisconsin [Mr. KASTEN] is necessarily absent.

The result was announced—yeas 83, nays 13, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—83

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick, Jocelyn
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Gorton
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Metzenbaum
Mitchell
Moynihan
Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Roth
Rudman
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Stevens
Thurmond
Warner
Wellstone
Wirth
Wofford

NAYS—13

Bond
Gramm
Helms
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Smith
Specter
Symms
Wallop

NOT VOTING—4

Gore
Kasten
Mikulski
Rockefeller

So the motion was agreed to.

The ACTING PRESIDENT pro tempore. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BREAUX). Without objection, it is so ordered.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I ask unanimous consent that the committee amendment be set aside and Senator LEAHY be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Vermont.

AMENDMENT NO. 3117

(Purpose: To limit the use of funds of inactivation of units in the Selected Reserve of the Ready Reserve of the Armed Forces)

Mr. LEAHY. Mr. President, I thank the distinguished chairman and my good friend from Hawaii for setting aside the amendment which gives me an opportunity to send, as I do, an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Vermont.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 3117.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

(1) None of the funds appropriated by this Act may be used for the inactivation of any unit in the Selected Reserve of the Army, Navy, Air Force, or Marine Corps, except for—

(A) an inactivation of a unit which is the direct result of the closure or realignment of a military installation required pursuant to law;

(B) an inactivation of a reinforcing unit in the Naval Reserve that is associated directly with a decommissioned unit in the active component of the Navy; and

(C) an inactivation of an aviation unit as a direct result of the phasing out of a weapon system from the active components and the reserve components by the end of the fiscal year 1993.

(2) A unit of the Selected Reserve of the Army, Navy, Air Force, or Marine Corps may not be inactivated pursuant to an exception in paragraph (1) until the Secretary of Defense has submitted to the Committees on Appropriations and Armed Services of the Senate and House of Representatives the rationale for the proposed inactivation of that unit and the specific exception that applies.

Mr. LEAHY. Mr. President, this amendment mirrors a provision in the Defense Authorization Act that would place a 1-year moratorium on eliminating National Guard and Reserve units. In March, the Secretary of Defense, Mr. Cheney, presented Congress with a list of Guard and Reserve units the Pentagon would like to eliminate in fiscal year 1993. The Senate Armed Services Committee and the Defense Appropriations Subcommittee, on which I serve, subsequently held several hearings on this proposal. I should like to thank Senator INOUYE and Senator STEVENS for scheduling and holding a special hearing in April on alternatives to the administration plan.

I thank them because the hearings we held revealed that the administration cuts in the National Guard are too drastic. I think we have to rely more and not less on our Reserve Forces. Certainly those hearings demonstrated we should be relying more on our Reserve Forces, but I am afraid the Department of Defense has refused to recognize it, because these forces are cost effective and they provide an important way to maintain our force structure but to do it at a fraction of the cost needed to sustain active units.

For example, one Guard division costs only one-fourth or one-third as much to maintain as a comparable active division.

So I believe that a moratorium on cuts in the Guard and Reserves is required until the Pentagon comes up with a logical plan that properly realigns the Guard's role and mission.

It is not being parochial if I referred to what we found out in Vermont because I think it is indicative of what we see in many other States. If you look at Vermont, you see the Pentagon lacks a master plan on Guard Forces. Incredibly, the Army has proposed eliminating the first of the 86th Artillery Battalion headquartered in Williston, which has units in Burlington, Vergennes, and Waterbury, VT. Even though Vermonters strived to become the highest rated artillery battalion in the Northeast, the Army intends to replace the Vermont battalion with parts of other units from two other States that demonstrate as less qualified. That does not make any sense. You ought to keep the most qualified first and eliminate the least qualified first, not the other way around.

So long as Vermont remains as the most qualified, it ought to stay there.

In fact, in June, the Army graded the Vermont battalion once again. It was no surprise to me that Vermonters received the highest score possible. Incredibly, the units that are scheduled to replace the Vermonters failed to even complete the test. It makes no sense to me to penalize troops for being their best. Why disband one of your finest units and pay to activate, recruit, equip, and teach an entirely new unit? Keep the best, get rid of those that are not the best if you are going to be making cuts. Do not, in the sense of the economy, get rid of the best and keep those that are not the best, because it is going to cost you an awful lot more in the long run.

Also, let us remember the important role the Guard plays here at home. Deep cuts in the Guard may threaten the States' ability to respond to local disasters. Look at Florida, Hawaii, and Louisiana, and the tragedy in Los Angeles and see how important the Guard can be during these emergencies. The distinguished Presiding Officer of the U.S. Senate has seen, in the devastation of his own State, the difficulties faced. I mentioned the distinguished Presiding Officer because I know how extremely hard he worked for the State of Louisiana. In fact, nobody worked more tirelessly for that State to help in the disaster than he did.

So, I want to commend the distinguished chairman of the Appropriations Subcommittee, Mr. INOUYE, for the work he has done in behalf of our Reserve Forces. He also has seen and has spoken so strongly on the disasters in his own State of Hawaii. He knows how hard the Guard and Reserve Forces have worked there.

Because of the work of the subcommittee, we have restored more than 42,000 of the 50,000 cuts in the Army and National Guard alone. The 1-year moratorium on unit cuts, however, ensures that all our Reserve Forces will be protected. Congress has an opportunity to review how our military forces need to be structured to match shrinking defense budgets and current threats to our national security.

All this says, Mr. President, is that the Department of Defense should go back to the drawing boards. Will there be cuts? Of course, there are going to be cuts. There will be cuts in the Guard. There will be cuts in the Reserve. But when we make those cuts, let us have as a priority that we keep the best and cut first those that do not make the grade. But, also, let us answer the basic question. If we are going to be saving money throughout the Department of Defense, can we get more readiness for our dollar in the Guard and Reserves? In many areas we can. We ought to use that as a cost-saving factor; not get rid of the readiness we have at the least cost.

So, Mr. President, I hope the committee will accept this amendment.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I wish to commend the Senator from Vermont for this amendment. As he has stated most eloquently, the Guard has shown its mettle and demonstrated its worth in Desert Storm and Desert Shield. I am sure the people of Louisiana and the people of Florida, and I am certain the people of Hawaii, will most certainly stand up and cheer this amendment of Mr. LEAHY.

So, I am prepared to accept this amendment because it is in consonance with the policy statement made by the authorizing committee. I believe my colleague from Alaska will do the same.

Mr. STEVENS. Mr. President, I did discuss this matter with the Department of Defense people last night. As the Senator from Hawaii and Vermont know, they post a portion of the original provision in the authorization bill. This does track the authorization bill language. Under the circumstances, there is no reason to have a second vote on that. I am prepared to accept this amendment as being a portion of the authorization bill that should be reflected in this bill.

The PRESIDING OFFICER. Is there further debate?

Mr. LEAHY. Mr. President, I add Senator LAUTENBERG as a cosponsor of this amendment.

Mr. JEFFORDS. Mr. President, I rise in support of an amendment offered by my colleague from Vermont and commend him for this initiative. I join him in urging this body to think carefully about how we restructure our defense forces in the wake of the cold war. The primary threat to our national security—the Soviet Union—has evaporated. But that doesn't mean all threats are gone, as we saw so recently in the Middle East. We must remain capable of protecting American interests and of intervening when necessary in conflicts anywhere around the globe.

But national security is more than just defense strength. It is a strong economy, a vibrant educational system and a healthy society. And in all these areas, we are woefully in need of Federal assistance. Above all, we must reduce the size of the deficit, which threatens to strangle our entire economy. In every category of the Federal budget, we must learn how to do more for less. We must get better at accomplishing more with fewer resources.

We have before us today the defense budget, from which we will continue to have to cut funding by ever increasing amounts. And yet we tend to overlook one of the most obvious places where we can do more for less: the National Guard and Reserves. During Desert Storm, the Guard and Reserves proved once again that they can get the job done for fewer dollars. Yet, the Pentagon feels compelled to cut them as deeply as the active duty forces. I fail to see the logic in this and I have said so. We need to stretch our resources in every area of the Federal Government. And we know one area where they've proved they can do it. The Guard and Reserves are trained and ready to meet any national emergency. We have a national emergency today: not enough money to do all that needs to be done. And, as always, the Guard and Reserves are up to the challenge. Let's let them do it.

I would also like to take the time of my colleagues for one moment to speak about the 1st Battalion of the 86th Field Artillery, which the Pentagon wants to deactivate. This is a time of remarkable change, and for the most part, we rejoice in that change. In my mind, there is no better way to provide a credible defense in this new environment than to support units like the 1st of the 86th. As I review the history of Vermont's Artillery, and as I hear from Vermonters who are eager to serve in their units, I see no reason why a unit such as the 86th Field Artillery should be deactivated. It is units such as this that are able to provide the service that America needs as in this new era.

Vermonters have played a role in the U.S. Army Field Artillery since 1776. Forced by the Green Mountain Boys, the 1st Artillery Regiment served under the Continental Army as the colonies fought to secure and preserve the freedom that we all enjoy today. Since that time, artillerymen in Vermont have served both in peacetime as citizen soldiers, and have fought in their own National Guard units when mustered into Federal service.

The history of the 86th Field Artillery, as recorded by Lt. Michael Shoen, an officer in Service Battery, 1st of the 86th, begins in 1825, when the Huntington Light Artillery Company was formed. In 1861, the 86th Field Artillery was known as the 1st, 2d, and 3d Light Artillery Batteries of the Vermont Militia. Both the 1st and 2d Batteries were mustered into Federal service in 1861 to serve along with the 8th Vermont Volunteer Regiment under the command of Gen. Benjamin F. Butler, as the country was divided by the Civil War. From the Siege of Vicksburg to the Battle of the Wilderness the Vermont Artillery served the Union with distinction.

In 1870, a light artillery battery was formed in Springfield by Capt. William Rowell, a second battery was formed in Northfield by Capt. Charles Curtis and a third in Brattleboro by Capt. Levi Fuller. Fuller's battery answered the call to service during the Spanish-American War and remained in service until 1899.

Also in 1870, the cadets of Norwich University, the Nation's oldest private military school, were permitted to become part of the National Guard and by 1880 had formed a section of light artillery. The cadets eventually took over the duties of Fuller's battery and supported the 3d Battalion of the 1st Infantry Regiment. This artillery section grew to over 120 men and 80 officers in 1904 and received excellent reviews from the Regular Army inspectors. The Norwich cadet battery was converted to a squadron of cavalry and was mustered into service on the Mexican border in June 1916. The remaining batteries were temporarily disbanded, but members of these units continued to serve with distinction in the 101st and 103d Artillery Regiments during World War I.

During World War II, the 1st Light Battery was reorganized as the 206th Field Artillery Battalion and was assigned to the 43d Infantry Division. During World War II, the service battery and headquarters batteries were given credit for campaign participation in New Guinea, the Northern Solomons, and Luzon. In 1959, the 206th Field Artillery Battalion was reorganized as the 124th Field Artillery of the 43d Division. It was reassigned to the 86th Brigade in 1963. The Vermont Artillery received its designation as the 1st Battalion of the 86th Field Artillery, 50th Armored Division in 1964. The last change the 86th has seen was in 1988 when it was reassigned to the 26th Infantry Division, the Yankee Division. The 1st Battalion is currently composed of three firing batteries of 155mm self-propelled howitzers, a service battery, a headquarters battery, and a headquarters section.

Mr. President, once again, we are faced with the difficult task of providing the United States with a strong Armed Forces while doing so with a tighter budget. And in the Green Mountain tradition, Vermonters are doing their best to ensure that this happens. They must be supported in this effort, not cavalierly told their services are no longer necessary. I support the senior Senator from Vermont for offering this amendment, and I urge its adoption.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 3117) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I thank my distinguished colleagues and good friends from Hawaii and Alaska for their help in this amendment.

Mr. President, I am advised by the distinguished chairman of the Appropriations Subcommittee that they are waiting for other matters to come before the Senate. I will not taking from the time of the committee. I advise him that I will speak on somewhat of a different matter. I will be willing to yield the floor to the committee for their consideration any time they wish.

So, Mr. President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CABLE BILL

Mr. LEAHY. Mr. President, I am gratified to see that, after a 3-year struggle, Congress is finally sending a solid, proconsumer cable bill to the President for his signature. Unfortunately, President Bush has teamed up with the cable and Hollywood lobbies in an effort to torpedo the bill and frustrate the desire of American consumers for lower rates and better service.

THE CABLE MONOPOLY

This is a good bill that would do what is needed to tame the unregulated cable monopoly—put a lid on rising rates and encourage the development of real competition.

The cable industry is a $20 billion giant committed to one thing and one thing only—retaining its power to charge you what it wants and treat you as it pleases.

Even Ma Bell at her worst had to answer to local regulators. But cable companies answer to no one. If you want access to the programming that most Americans have come to rely upon, you go to your cable company or you go home.

If the cable company says your basic cable rates are going up to $16 or $19 or $24 dollars a month, your only choice is which pocket to reach into. If they say "we can't sell you HBO or Showtime unless you buy these other 50 channels first," you are stuck. And if they say you need a converter box and their $4-a-month remote control, you better forget about your VCR—it won't work the way you had planned.

They get us every which way there is. You buy a cable-ready TV set, forget about using it. They are going to make sure you have to buy their controls even if you did pay $100 extra for that cable-ready TV set. If you buy a programmable VCR, forget about using it.

They got you. When you say what about the fact that you do not make this work, their only answer is, buy more controls from us, buy extra VCR's. Buy more outlets. Buy, buy, buy. Maybe we ought to be saying bye, bye, bye to them and bring some competition back into this unregulated industry.

We are cable's captive audience.

And they are desperate to keep us right where we are—which is right where they want us.

Because, guess what—in the rare, lucky place where real competition does exist, cable rates are 20 to 50 percent lower. This makes sense. All of us know in our gut that if there were another cable company in town, or a wireless service, or a satellite system with window-size dishes—our cable rates would come down in a hurry and service calls would be made on the double.

CABLE'S ARGUMENT AGAINST THE BILL

Meanwhile, cable's handwringing routine about the dire consequences of this bill is getting pretty hard to take.

Cable acts as though this bill would commit the original sin of raising rates—as if the industry itself had not enthusiastically jacked rates up at every turn for the last 6 years. The truth is that this bill will keep rates—and cable's monopoly profits—down, which is exactly why cable is breaking the bank to defeat it.

I was in my office in Burlington, VT, the other evening, about 8:30, 9 o'clock, and all of the phones started lighting up. I started answering the phones. People were saying: "I got a call from my cable company that said call your Senator. We have to do something to keep cable rates down." I said, "Goodness, gracious me, when is the last time you ever heard your cable company say they want to keep rates down?" One Vermonter said to me, "I thought it was kind of strange. Usually, the only time I hear from my cable company is when they are jacking my rates up. I thought it was kind of strange they were calling me at home saying we have to do something to keep your rates down."

In fact, first off, she said, "I thought it was my neighbor calling and joking around." I said, "Do you think that possibly they are not telling you the truth when they say that is why they are calling you?" This Vermonter was very typical of a lot of people who have called me. They knew the cable company was not suddenly interested in keeping their rates down.

I have been getting these preprinted postcards and letters that cable companies have been sending out to Vermonters where they say, "Dear Senator LEAHY: Vote no on the cable bill." They are taking those preprinted, prestamped, preaddressed cards and letters, and they are striking out where it says "vote no," and they write in their own handwriting, "vote yes."

Cable also cries about the injustice of having to make its programs available to new competitors on fair terms.

This is like Goliath complaining that David should have to fight with his hands tied.

Satellite and wireless are not asking for any special favors—just for half as good a chance to compete as Congress gave cable in 1976 when we ordered broadcasters to make their programming available to cable for next to nothing.

In fact, when you think about it for a moment, the inconsistency of cable's position on the two provisions it hates the most is dazzling. Out of one side of its mouth cable claims a God-given right to get broadcast programming at no charge; out of the other side it claims a God-given right to withhold its own programming from satellite and wireless—regardless of price.

That kind of logic could give doubletalk a bad name.

SCARE TACTICS

But it is in the realm of scare tactics that the cable industry, joined by its Hollywood friends, has truly outdone itself. The Hollywood studios—unhappy with just one section of a 100-page bill—are using all their muscle and clout to derail the bill. And cable has pulled out all the brass-knuckled stops to frighten and mislead consumers.

Two weeks ago, I denounced the industry's disinformation campaign, built around citing so-called estimates by the Commerce Department that purport to prove that the bill would cause rates to rise. In fact, as revealed in the Washington Post, those estimates were prepared by the cable industry itself.

Now, as if manipulating and deceiving their customers were not enough, at least one cable company has stooped to monitoring its customers phone calls. As part of an effort to swamp Congress with constituent calls against the cable bill, one company called a multiple sclerosis victim and patched her into a Senate office. When an aide started defending the bill, the company which had secretly stayed on the line, terminated the call. This story is reported in the Richmond Times-Dispatch, and I ask that a copy of the article be placed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. So, in addition to questionable lobbying tactics, the cable industry may very well be in violation of the Federal wiretap statute. That law prohibits the interception of communications unless at least one party to the communication gives his or her consent. In the Times-Dispatch story, it looks as though no one consented.

A GOOD BILL

Mr. President, this is a good bill. Anyone who thinks that the way to hold down cable rates is to give the cable industry a continued license to charge you whatever they please is kidding himself.

Look at what 6 years of uncontrolled rate hikes have given us and ask yourself whether you really believe rates will be lower in the coming years if this bill is defeated.

The truth is that the only way to control rates is to regulate them now and pave the way for competition in the near future. That is what this bill would do.

The bill contains other valuable features, including provisions to ensure that home dish owners have access to programming on fair terms, provisions to establish customer service standards, and my own Cable Equipment Act, which will allow consumers to buy their own remote controls and help solve the problem of converter boxes that foul up the use of cable-ready TV's and VCR's.

On the matter of my Cable Equipment Act, I would like to clarify one point. My intent in introducing section 17 of this bill, and my colleagues' intent upon adding it to the bill, was to ensure that cable scrambling technologies not be allowed to interfere with normal functions of televisions and videocassette recorders.

I want to be clear that the language has no effect on nonscrambling technologies that are designed to prevent copying of copyrighted audiovisual works. I do not see how the language could be interpreted in that way, but concerns have been raised and I wanted to address them. Copy protection is an entirely different technology from scrambling. Copy protection prevents VCR's from being able to adequately copy a video signal that is received clearly by television. The signal is not scrambled, rather, it is altered to prevent a VCR from being able to copy it successfully. Copy protection and scrambling serve different purposes. While scrambling prevents unauthorized viewing, copy protection allows viewing but prevents unauthorized copying. These differences are significant and therefore section 17 of this bill should be read to apply only to scrambling.

Copy protection technologies are relatively new to the communications marketplace. We have yet to see their ultimate impact, but it is argued that they could lower costs of programming by reducing piracy. My subcommittee has carefully monitored the development and deployment of these new technologies and continues to evaluate their usefulness and effect. I want to be clear that my legislative language should not be interpreted in any way that would go beyond scrambling.

THE FIGHT CONTINUES

I am sorry to say that the fight for cable reform is not over, thanks to the President's veto pledge. Once again, special interests are threatening to steamroll the public interest.

Mr. President, anyone who has paid attention to what the American people have been telling us during the past year ought to know that they are fed up with this special interest game, tired of being manipulated and frustrated by a gridlocked White House.

It is time to turn a good bill into a good law. America's consumers deserve a break and we can give it to them.

It is passing strange, Mr. President, that anyone of us could call at random 100 of our constituents who have cable and ask if they think that there should be some competition in the cable industry or some control over their prices. I guarantee you at least 95 of those 100 would say "yes."

Also, I would remind all of my colleagues what I heard when the calls started coming in and I would recommend to Senators that maybe they ought to some evening, when the calls are coming into their office, pick up the phone and take a few of them at random as I do on most days. I like hearing what Vermonters have to say on any subject. Sometimes they tell me just how off base I might have been on something. But on this cable bill it is interesting the number who called in and said: "My cable company told me to call you, because they are concerned my rates went up. Since when have they been concerned about my rates? What is really going on?"

Notwithstanding millions and millions of dollars being spent by the cable industry to assure they can keep raising rates, the American public will not be fooled by it.

We ought to vote this bill through and the President ought to change his position and not veto it.

Each one of us as Senators have cable in our offices so we can watch the Senate floor and news programs, and so on. I suspect the White House gets it, too. In each one of those instances, neither we nor the occupants of the White House have to worry about the cost. But I tell you right now: My friends and neighbors in Vermont have to worry about the cost. Most people I talk to have to worry about the cost and most people I talk to feel they are not getting what they are paying for. They are right. We ought to acknowledge that they are right and pass this bill.

Mr. President, I yield the floor.

EXHIBIT 1

[From the Richmond Times-Dispatch, Sept. 17, 1992]

CABLE TV LOBBYING SPARKS CALLER ANGER

(By Peter Hardin)

For Sherri Wertz, disabled by multiple sclerosis and living on a fixed income, television isn't only a companion—it's "my best friend."

When a caller warned the Virginian that her cable bill might jump from $50 to $80 per month if Congress passes legislation for the government to regulate cable television, she was alarmed.

So she accepted the man's offer—on behalf of the National Cable Television Association—to have her call transferred to her senator's office free.

It was 10 or 15 minutes later, as Mrs. Wertz was listening to an aide to Sen. Charles S. Robb say cable operators might lose money under the bill, that the telephone line went dead.

Mrs. Wertz, who lives on the Peninsula, is furious.

First she was given misleading claims, she believes, then someone sympathetic to the cable operators who was eavesdropping cut her off at a strategic time.

"How dare you listen to a private conversation! It makes me angry," she fumed.

A spokesman for the industry group vehemently denied that any of the calls it helps transfer to Capitol Hill are listened to or cut off.

"We do not monitor those calls," said Carol Vernon of the National Cable Television Association.

Tempers are flaring as lobbying over a possible return to cable television regulation reaches a feverish pitch.

Backers say the regulation bill, scheduled for a vote in the House of Representatives today, is the most important piece of consumer legislation before the Congress.

The cable television industry has contended just as fiercely in a major advertising campaign that the legislation would create costs that would be passed on to the consumer and raise their bills.

With full-page advertisements in newspapers, direct mail pleas, inserts in cable bills and spots on cable television channels, opponents have managed to catch a lot of attention.

They've worked so feverishly that key sponsors of the legislation found it necessary to hold a last-minute news conference yesterday to denounce "the big fat lie" and appeal for support among their colleagues.

"Cable has been attempting to hoodwink consumers," declared Rep. Edward Markey, D-Mass., a leader of the bill's backers. He contends the bill is necessary to rein in rapidly rising cable rates.

Both the House and Senate are expected to pass the measure, a compromise of bills passed earlier by each chamber. It would regulate cable television rates for basic service.

But because the White House has threatened a veto, backers of the legislation are working to produce veto-proof margins of victory, especially in the Senate—where 34 votes will sustain a presidential veto.

In January, the Senate adopted its cable bill 73-18. Under pressure from the White House and other forces, however, it's uncertain how many senators will support the new version.

The bill approved by House and Senate conferees would require the Federal Communications Commission to set "reasonable" rates for basic cable service. That service would include local broadcast stations and government-access channels, such as C-SPAN, and public-access and community-affairs channels.

Customers of basic cable service would be able to choose to pay extra for such offerings as CNN, ESPN, HBO, Showtime, the Disney Channel, Nickelodeon and Discovery.

In addition, the bill would require that cable programming be made available to competitors, such as satellite-delivery systems.

And it would require cable companies to negotiate with local broadcast affiliates of the major networks—CBS, NBC, ABC, and Fox before carrying their signals.

The National Cable Television Association believes this provision could lead cable companies to pay large amounts to broadcasters, and expenses from the bill would have to be paid by cable subscribers.

Supporters of the bill, however, maintain that consumers are protected by the rate-regulation section and provisions for consumer action through the FCC if charges for expanded services go too high.

Two Virginians who have had an active role in the cable debate reflect some of the differences in viewpoints.

Rep. Thomas J. Bliley Jr., a Richmond area Republican, voted against the House bill in July. He said it could add as much as $5 billion onto cable bills and "stifle an industry which has brought to the American television consumers exactly what they want: more quality television."

Rate deregulation after congressional action in 1984 led to greater investment by cable programmers and such networks as Discovery Channel, Nickelodeon, ESPN, CNN and Black Entertainment Television, Bliley said.

The Virginian considers the new compromise "anti-consumer," his spokesman said, and will vote against it. Cable companies in his district haven't gouged constituents and he doesn't see a problem, the spokesman added.

Hollywood also has joined the battle against the bill, saying it doesn't treat fairly the studios that create many of the programs aired by broadcasters.

In the standoff between Mrs. Wertz of Virginia and the cable association, meanwhile, Mrs. Wertz may take heart in the experiences of others.

A spokesman for Sen. Richard, H. Bryan, D-Nev., said several callers who were transferred to Bryan's offices to talk about the cable bill were cut off after giving basic information—such as their names and viewpoint.

The spokesman said the cable company that transferred the callers may have wanted to get as many calls through to Bryan's staff as possible in a short time.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1993

The Senate continued with the consideration of the bill.

Mr. SASSER. Mr. President, I wonder if I might engage the distinguished chairman of the Defense subcommittee on a colloquy.

Mr. INOUYE. I would be very happy to do that.

Mr. SASSER. I thank the chairman for his customary courtesy and consideration.

As the chairman is aware, I had contemplated offering an amendment on the strategic defense initiative on this Defense appropriations bill. The amendment that I had prepared would have provided $3.55 billion for the strategic defense initiative, splitting the difference between the original Sasser-Bumpers amendment and the mark that is presently in the committee bill.

My goal in offering this amendment was to ensure that the committee of conference on the Defense appropriations bill would come back with a conference report with the level of $3.8 billion for the strategic defense initiative and no more. As Senators know that level is the compromise level supported by the majority of this body just last week after very prolonged debate.

I have had discussions with my friend, the distinguished chairman of the subcommittee, this morning. And he has assured me that the conference committee will return with the $3.8 billion level.

As I have every confidence in the distinguished chairman and I know that I can rely on him, and I also know that he does not give his assurances lightly, I am persuaded that we need not proceed with my planned amendment. I wonder if the chairman would wish to confirm my representation of our discussion or to add any additional comments at this time.

Mr. INOUYE. The Senator's representation of our discussion this morning is correct. I will publicly pledge to him and to my colleagues that I will do everything possible to return with a conference report on $3.8 billion, because I am well aware as a realist that to do otherwise would subject this measure to prolonged educational discussion which may make passage impossible. I will make certain that I can convince my colleagues in the House that $3.8 billion is the only number that we can agree upon. I will return with $3.8 billion.

Mr. SASSER. I thank the distinguished chairman for his comments and for his usual gracious consideration.

I might say to the chairman that I also had two other amendments that I was prepared to offer today, one dealing with the F-22, and another dealing with the new aircraft carrier construction. I will not offer those amendments for a rollcall vote. I would like to make at some period during the course of the day a statement regarding those two projects.

I thank the chairman for his consideration.

Mr. INOUYE. If the Senator wishes to begin the discussion on that and agree upon a time certain this afternoon for the vote, I think we can arrange that.

Mr. SASSER. As I said, I do not think we are going to need a rollcall vote on either one of these. I do not intend to pursue these amendments through to a conclusion. But I did want to put the chairman on notice at some juncture this afternoon—I would do it this morning but, unfortunately, I have to preside over a military construction appropriations conference—as soon as that conference is concluded and as soon as there is time this afternoon, I want to make a brief statement about both the F-22 Program and the new aircraft carrier.

Mr. INOUYE. We would be happy to accommodate the Senator.

Mr. SASSER. I thank the Senator.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3118

(Purpose: To prevent the use of tax dollars to support efforts by charitable organizations to compel the Boy Scouts of America to accept, as members or leaders, homosexuals, or other individuals who reject the Boy Scout's oath of allegiance to God and country)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 3118.

At the appropriate place in the Committee amendment on p. 142 lines 1-6, insert the following:

"Notwithstanding any other provision of law, the Office of Personnel Management is prohibited from including in the Combined Federal Campaign (the Federal Government's annual employee fundraiser for charities), and from contracting with, any organization which uses charitable contributions to compel, or attempt to compel, the Boy Scouts of America, Inc., or any other youth group, to accept as members or permit as leaders:

(1) homosexuals; or

(2) individuals who reject the group's oath of allegiance to God and country.".

The PRESIDING OFFICER. Is there objection to laying aside the pending amendment? Hearing none, it is so ordered.

Mr. HELMS. Mr. President, if this amendment sounds familiar, it is because the Senate already passed it by voice vote last week.

Several Senators have come to me and said, "Look, I want to vote on this amendment," and I think they ought to be accorded the opportunity to do that.

I tried to get the yeas and nays last week, but there was some confusion about the terms of an agreement to which I was not a party—an agreement by the way which precluded a recorded vote. But that is in the past. I do not fret about that at all. But I do think Senators ought to be given an opportunity to vote on this amendment.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair and I thank my friend, the distinguished manager of the bill, Senator INOUYE.

The question that this amendment raises—and it is a rhetorical question, of course—is this: Should the American taxpayers be required to provide tax funds to support efforts to require the Boy Scouts of America to accept, as leaders and as members, homosexuals—and other individuals who reject the Boy Scout oaths of allegiance to God and country?

Specifically, the pending amendment would prohibit the use of the taxpayers' money to support any organization that uses its charitable contributions to force the Boy Scouts of America, or any other voluntary youth association, to accept homosexuals or atheists as members or leaders. The amendment would also prohibit the Office of Personnel Management [OPM] from contracting with or including any such organization in the Combined Federal Campaign.

Last week in the Cloakroom, a couple of Senators said: "What is this Combined Federal Campaign?" I told them that the CFC, the Combined Federal Campaign, is the one and only authorized fundraising drive conducted among Federal employees. It is an enormous thing, Mr. President. It raises, as they say back home, a ton of money. And I do not want a penny of it to go to anyone who tries to strongarm the Boy Scouts of America on this issue or, for that matter, any other issue.

As I said, the Combined Federal Campaign [CFC] is the sole authorized fundraising drive conducted among Federal employees. Beginning in 1957, the Combined Federal Campaign has grown into the largest combined charity drive in the world. It is managed and overseen by the Office of Personnel Management [OPM]—which must approve every nonprofit organization on the CFC's national list of approved charities. If an organization is not on the CFC's approved list, it cannot receive federally sponsored donations.

Mr. President, the United Way of America estimates that the taxpayers' subsidy to defray the cost of administering the CFC Program for Federal employees is approximately $55 to $60 million a year.

Let me say again today, as I said last week, American taxpayers have no interest, and the Federal Government has no business, supporting or assisting in the slightest degree any organization that uses its tax deductible donations in efforts to blackmail the Boy Scouts into accepting homosexuals and atheists within their ranks or to force them to drop their members' pledge to God and country.

It is a sad day for this Nation when Congress even has to consider this issue. Who would have thought even 5 years ago that charities aided by the taxpayers would embark upon a campaign against the Boy Scouts of America because the Scouts have refused to lower their moral and religious standards to accommodate those bent on tearing down every last semblance of order and tradition in this country.

Yesterday, I had a long conversation with one of the top leaders of the Boy Scouts of America and he said, "Normally we do not endorse legislation. We do not get into the legislative process. But, Senator HELMS, I just want you to know that all of us deeply appreciate the stand you are taking."

I told the gentleman, "I have an equally deep appreciation for the Boy Scouts of America for what you did for my son who became an Eagle Scout and who, today, is one of the most responsible young men I know." I say that with great pride because that is the way I feel about Charles Helms.

But the Boy Scouts of America did a great deal to make a man of Charles Helms. And I am grateful. And I shall do everything I can for as long as I live to prevent the Boy Scouts of America from being assaulted in the manner that has been proposed and initiated by certain people and certain corporations in this country.

Mr. President, on February 20 of this year, the Washington Post reported that several radical homosexual groups, such as Queer Nation, had launched a national boycott of the United Way demanding that it withdraw funds from the Boy Scouts of America because the Scouts prohibit homosexuals from becoming Scouts or troop leaders.

The next day, the Washington Times reported that the local United Way of the Bay Area in San Francisco delivered an ultimatum to the Boy Scouts of America that the national office of the Boy Scouts would have to either: First, drop their prohibition on homosexuals and atheists; or second, grant troops in the San Francisco area an exemption from the requirement. Otherwise, that United Way chapter would withdraw the almost $1 million in funding it gives each year to San Francisco area Scout councils.

So the United Way of San Francisco did the homosexual movement's dirty work and threatened the Boy Scouts. And what was the reaction of a great American? I never met him but I will testify right now that he is a great American; his name is Buford Hill. Buford Hill is the Boy Scouts' regional director out there in San Francisco. He told the homosexuals and the local United Way, "Our values are not for sale, no matter what the price is."

Hurrah for him. And he made yet another statement that the vast majority of Americans would cheer—and a lot of them have. Mr. Hill said, "It is unthinkable to me that in a time when worries about drugs, crime, education, youth, and gangs are at an all time high, some would instead direct their efforts at attacking an organization that has been a bulwark for values and the family."

Hurrah for him. In the parlance of the Nation's youth, he told it like it is.

He is exactly right, Mr. President. Unfortunately, his organization, like the Catholic Church, has become just the latest bastion of ethical behavior in this country to come under attack from the rabidly militant and irrational homosexual lobby and those atheists who wish to take God out of each and every public function in this land.

And this Senator, at least, is not going to sit idly by and watch these radical militants—and that is what they are—attempt to destroy what the Boy Scouts have stood for, for 80 years without trying to do something about it.

As Blake Lewis, the Scouts' national spokesman put it:

> The Boy Scouts' policy has always been the same. We support traditional family values. We don't believe homosexuals provide a role model consistent with these family values. The Scout Oath and the Scout Law are not up for sale.

God bless Mr. Lewis for telling the truth and standing tall against the leftwing liberals' incessant assault on family values. He is a credit not only to the Boy Scouts and Scouting families, but to the entire Nation.

Mr. President, I have an article which was published sometime back by the magazine, U.S. News & World Report, about the Boy Scouts. It has some very interesting statistics.

The article says that almost half of American boys between ages 7 and 10 join the Cub Scouts and 20 percent of those go on to join the Boy Scouts proper. The Boy Scouts range in age from 11 to 18. That is what I meant when I said Boy Scouts proper. The Scouts, founded back in 1910, have about 4.3 million members and 1.2 million adult volunteers nationwide. I might add parenthetically, if I may talk about my own son who made it to Eagle Scout years ago, he is now an assistant Scoutmaster down in Winston-Salem.

Let us take a look at this absurd charge of discrimination made by the liberals against the Boy Scouts. The Scouts' answer has always been that they "will admit any boy who agrees to abide by the Scout oath and the Scout law." That is a pretty tough law, but an awful lot of young boys down through the past 80 years have managed to live up to it.

The Scout law says that a Scout is trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent.

The Scout oath, and every Scout has to say it every week, is this:

> On my honor as a Scout, I will do my best to do my duty to God and my country and to obey the Scout law; to help other people at all times; to keep myself physically strong, mentally awake and morally straight.

The leadership of the Boy Scouts of America have taken the legitimate and understandable position that the homosexual lifestyle is inconsistent with the standards of the Boy Scouts of America and with the purposes of the Boy Scouts of America. And good for them because they are absolutely correct.

The leadership of Boy Scouts of America wants the Boy Scouts to continue to pledge their allegiance to God and to country. And they are absolutely on the mark when they contend that tax dollars should not be used to help force them to do otherwise.

Mr. President, the so-called homosexual lifestyle is so focused on instant sexual gratification that the average homosexual male has between 20 and 106 different sex partners in a given year. I ask Senators, does that kind of reckless sexual behavior comport with the Scout's oath to stay morally straight or the Scout law's requirement that a Scout stay physically clean? Should the taxpayers' dollars be used to help force the Scouts to change the Scout oath and the Scout law that have stood for almost a century?

Mr. President, the efforts to force the Boy Scouts to accept homosexuals and other individuals who reject the Scout oath of allegiance to God and country have come from many quarters and directions.

In addition to San Francisco's United Way cutoff, the Chicago chapter of the United Way has put the Boy Scouts on probation but has not yet cut off funding. The Berkeley and San Francisco school districts have kicked all Scout troop meetings off school property. Wells Fargo Bank, Bank of America, and Levi Strauss & Co. together cut off almost $100,000 in funding to Scouts in the San Francisco area.

However, because of a customer backlash that caused withdrawals that some estimate as high as $150 million, Bank of America has retreated and resumed funding the Scouts. But despite the fact that many people have mailed their old jeans to Levi Strauss' headquarters in San Francisco and taken their money out of Wells Fargo Bank, both of those companies continue their boycott of the Scouts.

However, there have been victories for the Scouts. The Los Angeles and Orange County United Way chapters in California both voted down proposals to stop funding the Scouts. The courts in California also upheld the right of the Scouts' to usher out atheist twins and a homosexual troop leader. The courts accepted the Scouts' argument that as a private organization they have a constitutional right to set their own standards, guidelines, and admission criteria.

Mr. President, columnist William Murchison pointed out that, "what is strange and frightening, is that critics of the Scouts should try to ram their ideals down somebody else's throat. The Scouts aren't seeking to transform their critics, but nevertheless their critics want to remake the Scouts through lawsuits and funding cutoffs." Bill Murchison is absolutely right to point out who the real bigots are in this situation.

The pending amendment is obviously not going to put an end to all of the attacks on the Boy Scouts because of their strict adherence to traditional values and belief in God. But it will eliminate at least one avenue for using taxpayers' funds aid and abet the attack on the Boy Scouts—specifically by excluding from the Combined Federal Campaign organizations which use their charitable contributions to attempt to force the Scouts to accept homosexuals or atheists who reject the Scouts' pledge of allegiance to God and country.

I remind Senators that there are over 2,100 chapters of the United Way and the only chapters that would presently be affected by this amendment are the ones in San Francisco and Chicago that have cut off their funding, or threatened to, because the Boy Scouts of America will not change its policy on prohibiting homosexuals and atheists.

Mr. President, what makes the involvement of local United Way chapters in efforts to intimidate the Boy Scouts particularly insidious is that in the vast majority of cases, the Combined Federal Campaign's 530 local chapters in turn contract with the local United Way chapters not only to staff and run the CFC's charity drive in the area, but—get this—to do the actual distribution of donations from local Federal employees among the approved charities. Of course, before distributing those donations, the local United Way is also allowed to deduct a sizable amount from the Federal employees' donations as a fee for administering the CFC program.

And that is precisely what is happening in the San Francisco area because the local Combined Federal Campaign chapter does indeed contract with the local United Way of the Bay Area to staff and run the Federal Government's charity drive among its employees in the city.

Mr. President, if the pending amendment is adopted, the San Francisco United Way chapter could not continue to benefit from the Combined Federal Campaign in any way, from donations or from contractual fees, while it continues trying to intimidate the Boy Scouts by withholding charitable donations.

Mr. President, this amendment asks Senators to choose between the Boy Scouts of America on the one hand, or those who want to force the Boy Scouts to change their 80-year-old refusal to accept homosexuals and atheists.

This Senator says hooray for the Boy Scouts and their strong stand for what is right in the face of costly and venomous attacks by militant liberals. The Scouts have not caved in like the

United Way in San Francisco has. I urge Senators to support the Boy Scouts in this battle by voting for the pending amendment.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WOFFORD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3119

Mr. STEVENS. Mr. President, I send an amendment to the desk in behalf of Senator HELMS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. HELMS, proposes an amendment numbered 3119.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

"SEC. . NUISANCE AQUATIC VEGETATION IN LAKE GASTON, VIRGINIA AND NORTH CAROLINA.

(a) IN GENERAL.—The Secretary of the Army is authorized to undertake a program to control nuisance aquatic vegetation for the purpose of preserving the recreational uses of the waters of Lake Gaston, Virginia and North Carolina.

(b) In addition to amounts appropriated elsewhere in this Act, $200,000 is appropriated for the purposes described in subsection (a).".

Mr. STEVENS. Mr. President, this amendment pertains to Lake Gaston and is a small amendment authorizing specific work by the Corps of Engineers to match moneys provided by the State of North Carolina and several counties.

AQUATIC VEGETATION AMENDMENT

Mr. HELMS. Mr. President, my amendment authorizes the Secretary of the Army to spend up to $200,000 for fiscal year 1993 on a program to control hydrilla vegetation on Lake Gaston which is located on the Virginia-North Carolina line.

Hydrilla is an aquatic weed that infests lakes and ponds and is very harmful to marine life. It chokes the marine ecosystem of a lake, causing death to fish and other marine life. Its land based cousin is kudzu. Hydrilla is choking Lake Gaston and if it is not stopped it could spread down the Roanoke River basin, killing such species of fish as the striped bass.

Mr. President, if this problem is not brought under control now it will certainly bring further economic harm to the five North Carolina and Virginia counties surrounding the lake.

I have been contacted by many residents of both States about this hydrilla problem—many are businessmen whose livelihoods are dependent on Lake Gaston. It is true, I should point out, that Mrs. Helms and I own a small piece of property at the lake, but I do not want anyone in this Chamber to think I am proposing this out of self-interest. This affects thousands of people in North Carolina and Virginia.

Mr. President, I am not asking the Federal Government to foot the total bill for this operation. This project must be cost-shared by property owners, businesses, State, and local governments. Each of the five North Carolina and Virginia counties that surround the lake have contributed $3,000 annually for the past 6 years. Warren, Halifax, and Northampton Counties have proposed to contribute $25,000 in fiscal year 1993.

Additionally, the State of North Carolina has proposed an appropriation of $200,000 for fiscal year 1992–93 toward the control program. Last, a group of property owners has formed the Lake Gaston Weed Control Council and raised $99,000.

Mr. President, as required by Army Corps of Engineers regulations, Federal funds would match those raised at the State and local level. The Army Corps of Engineers has conducted similar projects at other lakes making them experts—it is nothing new.

Finally Mr. President, the language contained in my amendment is identical to an amendment attached to H.R. 5754, the Water Resources Development Act of 1992. I urge the Senate to adopt my amendment.

Mr. President, I ask unanimous consent that a letter from the North Carolina Secretary of Natural Resources and Community Development be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF NORTH CAROLINA, DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT.
Raleigh, NC, September 15, 1992.

Hon. JESSE HELMS,
U.S. Senate, Dirksen Building, Washington, DC.

DEAR SENATOR HELMS: Thank you for the opportunity to review your proposed amendment to S. 2734, The Water Resources Development Act of 1992, concerning nuisance aquatic vegetation at Lake Gaston.

The Department of Environment, Health, and Natural Resources strongly supports your proposed amendment. The nuisance weed hydrilla has infested Lake Gaston and is spreading rapidly. Because Lake Gaston has a stable water level and relatively clear water, the potential for spread of this weed to occupy almost all of the shoreline areas of the lake is great. This infestation can damage all recreational uses of the lake and if not controlled will greatly harm employment, income, and property values in the counties surrounding Lake Gaston in both North Carolina and Virginia.

It is urgent to attack the hydrilla infestation early before it has spread further. Our experience in aquatic weed control in North Carolina has shown that early action can control weed growth with the least possible expense and environmental impact. If you do not act immediately, the problem will be much more expensive and difficult to deal with.

The local governments surrounding Lake Gaston in both North Carolina and Virginia have formed a weed control council and are contributing funds toward the non-federal share of control. North Carolina State Government is also making funds available to match federal funds.

The North Carolina Aquatic Weed Council is working with the Lake Gaston Council to develop a scientifically sound and cost effective weed control strategy. We are working hard to make sure that the federal, state, and local expenditures for weed control are done as effectively as possible.

Thank you for your support for this serious economic and environmental problem affecting the two states.

Sincerely,

WILLIAM W. COBEY, Jr.

Mr. STEVENS. Mr. President, I have discussed this matter with the distinguished manager of the bill. I am authorized to accept this amendment in behalf of the committee. I urge its immediate adoption.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendment is agreed to.

The amendment (No. 3119) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, with the exception of the pending amendment that Senator HELMS has, an amendment that he has offered and is the pending business as I understand it, I ask unanimous consent that the remaining committee amendments be agreed to en bloc; that the bill, as thus amended, be regarded as original text for the purpose of further amendment: *Provided further*, That no points of order shall have been considered to have been waived by agreeing to my request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. It is my understanding, Mr. President—and I do make a parliamentary inquiry—there is no committee amendment, other than the amendment which Senator HELMS seeks to amend that is pending before the body.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3120

(Purpose: To appropriate funds for the purpose of the constructing an Assistive Technology & Research Center at the National Rehabilitation Hospital in Washington, DC)

Mr. INOUYE. Mr. President, I send to the desk an amendment proposed by Mr. DASCHLE for himself and Mr. DOLE and Mr. HARKIN and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment will be laid aside.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. DASCHLE, for himself, Mr. DOLE, and Mr. HARKIN, proposes an amendment numbered 3120.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, on line 3, before the period insert the following: "*Provided further*, That of the funds appropriated in this act for medical technology, $4,000,000 shall be used for Assistive Technology Center at the National Rehabilitation Hospital".

Mr. DASCHLE. Mr. President, today I am offering an amendment to secure funding for the National Rehabilitation Hospital in Washington, DC.

Many of my Senate colleagues are already familiar with the outstanding medical services provided by the National Rehabilitation Hospital, or NRH, located in northwest Washington. For those who are not, NRH is a private, nonprofit, specialty hospital providing comprehensive inpatient and outpatient medical rehabilitation services for persons with physical disabilities.

Since NRH opened in February 1986, outpatients have received more than 75,000 treatments through clinical services provided by the hospital. Moreover, some 3,500 inpatients have come to NRH from across the country and around the world to receive medical treatment that often simply is not available in their home State or country.

As a member of the Senate Veterans' Affairs Committee, I am particularly grateful to NRH for the rehabilitation services the hospital continues to provide for many of our Nation's veterans. The rehabilitation services received by our constituents and veterans at NRH assist them in adapting to disabilities resulting from traumatic brain injury, spinal cord injury, stroke, amputation, arthritis, postpolio syndrome, and other orthopedic and neurological conditions.

A primary goal at NRH is to return patients to gainful employment. A testament to the success of NRH in achieving that goal is the fact that 86 percent of former NRH patients have returned to living independently, and many have resumed employment, serving as productive members of society. Needless to say, this is an extraordinary achievement that our constituents and veterans with physical disabilities desperately need and rightfully deserve.

In addition to returning patients to gainful employment, NRH is a recognized center of excellence in evaluating products designed for persons with disabilities. For instance, NRH provides technical assistance to manufacturers throughout the country on the development of improved products for persons with disabilities.

In order for NRH to continue its strong research tradition, however, it is necessary to construct an assistive technology and research center. The proposed center would be located in a 35,000 square-foot addition to the existing NRH facility and would allow NRH the opportunity to continue researching and developing new technology for people with physical disabilities.

It is my understanding that the assistive technology and research center at NRH will expand research in a number of areas, including space technology, new Department of Defense voice and eye-gaze technology for persons with severe disabilities, and a wide range of assistive technology for the VA.

Mr. President, I feel strongly that this project will make a significant contribution to NRH's goal of returning patients to gainful employment. As a result, I am offering this amendment to provide $4 million for the construction of an assistive technology and research center at NRH. I strongly urge my colleagues to support this amendment for the men and women throughout the country with physical disabilities.

Mr. DOLE. Mr. President, I am pleased to support the amendment being offered by Senator DASCHLE to provide the necessary funding to establish an assistive technology and research center at the National Rehabilitation Hospital [NRH].

Under the direction of Edward Eckenhoff, the National Rehabilitation Hospital has led the way in comprehensive inpatient and outpatient medical rehabilitation for persons with physical disabilities. Eighty-six percent of former NRH patients have returned to living independently and many have resumed employment, serving once again as productive members of society. The leadership of those at NRH in the enhancement of rehabilitation technology and in returning patients to gainful employment is known throughout the country—let us provide the needed support to enable them to build on the strides they've made.

With the establishment of an assistive technology and research center, NRH will not only perpetuate their research and development in new technology to assist rehabilitation patients to return to the work force—but expand a number of research initiatives which include space technology, new Department of Defense voice and eye-gaze technology for veterans with disabilities, and a wide range of assistive technology for the Veterans' Administration.

Assistive technology application and research are absolutely critical to improving opportunities for people with disabilities in every aspect of life and certainly in the workplace. With the establishment of an assistive technology and research center, NRH will enable the individual with a disability to make personal choices and decisions through applied technology. Congress recognized the importance of making rehabilitation technology a priority in this year's reauthorization of the Rehabilitation Act. Now more than ever, we need to build on the gains we've made in assistive technology and weave this crucial element into all of our Nation's disability policies in bringing about greater opportunities for the individual with a disability.

I believe strongly this center will have an instrumental impact on the delivery of assistive technology to both the individual with a disability and the potential employer. Through greater technology application comes greater access to demonstrate one's abilities. The goal is no longer the correction of an individual so that he/she conforms to the environment, but to change the environment to conform or accommodate to the individual this will be done through the vision NRH has in enhancing assistive technology research.

I am pleased to be a cosponsor of this amendment and look forward to what is yet to come in developing assistive technology to both improve employment opportunities for people with disabilities and in building a stronger work force. I urge my colleagues to join me in supporting this important amendment.

Mr. INOUYE. Mr. President, this amendment has been referred to the managers of the bill. We have studied it and find it to be in order. We are ready to accept it.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3120) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3121

(Purpose: Department of Defense Household Goods Program)

Mr. STEVENS. Mr. President, I send an amendment to the desk for myself, Senator THURMOND, Senator HELMS, and Senator HOLLINGS, and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment will be laid aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, Mr. THURMOND, Mr. HELMS, and Mr. HOLLINGS proposes an amendment numbered 3121.

Mr. STEVENS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 157, line 10, add a new section:

"SEC. . None of the funds provided in this Act may be obligated to implement any test of changes in the Department's domestic interstate household goods program as proposed in the Federal Register on June 29, 1992."

Mr. STEVENS. Mr. President, this amendment addresses an issue that has been brought to the attention of this Senator and the Senator from South Carolina by individuals in our States concerned about possible changes in the process by which the Department procures personal property shipping and storage services.

As presented to this Senator, these changes could dramatically change the way DOD obtains these services, consistent recommendations proposed in two General Accounting Office reports.

As presented by representatives of local shipping and moving operators in Alaska, they are concerned these changes will be implemented with consideration to the special circumstances faced in small communities, where the military moving business represents a large share of their business.

It is my understanding that numerous other Members of both the House and Senate have raised this issue with officials of the Department and the Military Traffic Management Command, which coordinates these services.

The comment period under the Federal Register notice has been extended until October 1, 1992, from the planned date of August 28, 1992.

Because of this change, neither this committee nor the Armed Services Committee has been afforded an opportunity to review the Department's response to any comments on the proposed acquisition changes.

I have further been informed that the General Accounting Office intends to undertake an additional study of this issue, to address concerns raised over the success of this initiative as implemented in overseas moving and storage.

With the number of unresolved concerns surrounding this initiative, I am joining the senior Senator from South Carolina in proposing the amendment as the desk.

This amendment simply defers the implementation of these initiatives until fiscal year 1994—permitting the Department, industry and the Congress to evaluate the new GAO review.

Both the Armed Services Committee and the Appropriations Committee will monitor this plan and the new study, and work with DOD to ensure that moving costs are held down to the lowest possible level, while providing an acceptable level of service to military personnel and their dependents.

Mr. President, I move the adoption of the amendment.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3121) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3122

Mr. INOUYE. Mr. President, I send to the desk an amendment in behalf of Senator FOWLER and Senator NUNN and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment will be laid aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. FOWLER, for himself and Mr. NUNN proposes an amendment numbered 3122.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 91 . In addition to the $630,100,000 appropriated in this Act for the National Guard and Reserve components, $25,000,000 is appropriated for one C-20 aircraft for the Marine Corps Reserve.

Mr. NUNN. Mr. President, this amendment would include in the defense appropriation bill an additional appropriation from the Warner amendment authorizing additional funds for Guard and Reserve equipment.

The Marine Corps has expressed to us their need to have additional operational support airlift. There are pressing needs that are not currently met, and the Marine Corps needs an additional C-20 aircraft to meet those needs.

We are convinced this is a mission well suited to the Marine Corps Reserves. During a period of shrinking budgets, we need to rely more on our Reserve component forces where they are well suited to the mission, and this certainly is the case here.

I would envision that this additional aircraft would be based at the Naval Air Station at Andrews to provide the appropriate support airlift.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3122) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside in order to allow me to offer an amendment with the understanding that that amendment will immediately again become the pending business upon the disposition of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3123

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 3123.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 29, strike lines 5 and 6 and insert in lieu thereof the following: "$2,695,564,000, to remain available for obligation until September 30, 1995, except that no more than $90,000,000 may be obligated or expended for the Trident II missile."

Mr. BUMPERS. Mr. President, this is an amendment that I am offering for the purpose of discussion and, in a few minutes, I will withdraw that amendment and offer an amendment which I think is agreeable to the floor managers on the same subject, namely the D-5 missile. The D-5, of course, is popularly known as the Trident II missile. It is a very accurate missile; test results have been superb and it is being deployed on our Trident submarines.

Mr. President, there are two or three things to keep in mind as we discuss this. The first one being that we are not going to build 24 Trident submarines. We are going to build 18. No. 2, the Trident II missile, and I will refer to it in the future as the Trident II, would be deployed and is being deployed with eight warheads. Each Trident submarine carries 24 missiles. So, Mr. President, if you deployed 24 missiles, either the Trident I or the Trident II, on all of our Trident submarines, and each missile had eight warheads, you would be approximately 100 percent above the 1,750 warhead level ceiling provided for in the START Treaty agreement.

Everybody here can figure, and so you do not have to be a rocket scientist to know that if we go forward with what the Navy wants to do right now, namely build an additional 505 Trident II missiles, on top of the 218 we have right now, we will have thousands of warheads and hundreds of missiles that we cannot use.

Mr. President, eight of our existing Trident submarines are now equipped with the Trident I missile, and it is the Navy's intention to put the Trident II on the remaining 10.

These missiles are very expensive and my amendment, if we were going to take a vote on it, would obviously be defeated. I do not want to say I am tired of offering amendments and being defeated. I feel very comfortable and proud that I have tried over the last 60 days to make really monumental cuts in spending with virtually no success, and my guess is, having been around here as long as I have been, that if I were offering this amendment, I would not be much more successful—35 or 40 votes—so there is not much point in offering it. But we are talking about a savings over the next 25 years, if my amendment were to be voted on and approved and became law, of somewhere between $12 billion and $14 billion.

So, Mr. President, as I say, I am not going to belabor this for long, but there are some points that I want to make because they tie into the amendment that I will offer in a few minutes.

Here is our present inventory. Right now we have 419 Trident I missiles, and 192 of those are deployed on eight Trident submarines. We also have some deployed on Poseidon submarines, but those subs are being decommissioned, and the missiles will be available shortly. We test those Trident I missiles at the rate of six per year. I want to emphasize what the test rate is because that is very important. So we have 419 in our inventory. If you test 6 per year over a 20-year period, you would only use up 120 of them. So you still have a lot of Trident I missiles in the inventory today that you cannot use and will never use.

We have 218 Trident II missiles and that is the most modern. But, Mr. President, it has exactly the same warhead as the Trident I, the same warhead. The only thing that makes the Trident II desirable over the Trident I is accuracy. It is more accurate than a Trident I, though the Trident I is pretty good.

Under our amendment, we would allow roughly 40 more Trident II's to be built, the ones the Congress has already approved, which would be more than enough to outfit the remaining Trident submarines yet to be built and still allow an ample number for testing purposes.

Mr. President, the Navy says they need all 505 of those Trident II missiles because they want to test 12 to 16 per year. The one thing, Mr. President, that I do not understand, and I have never received a satisfactory answer about, is why we test the Trident I missile six per year, the MX at three per year, but they insist on testing the Trident II missile at up to 16 per year.

So one of the things my amendment would do and one of the arguments I make is that, if they tested the Trident II at the same level they test every other missile—and there is no reason I can find that they should not—even under their scenario, we do not need 505 more missiles.

Now, Mr. President, I want to stop here and also make another point. Under the START agreement, we are allowed 1,750 submarine-launched warheads. If our missiles have eight warheads each, you can see that the limit of all our missiles is 218.

Now, that is assuming that you leave eight warheads on each missile, which is what we are doing right now. The Trident I has eight warheads, the Trident II has eight warheads. So as we work toward coming into compliance with the START agreement with the Russians, if we deploy 218 missiles with 8 warheads each, we are at the limit; that is the most we can deploy, and everything else is for testing purposes.

Now, I am inclined to agree, if the Navy wants to test 16 a year just to keep some contractor—I do not know who builds the Trident II. Staff tells me it is Lockheed: I do not have anything against Lockheed; they are a perfectly good company; they are a good defense contractor, a good civilian contractor. But when you look at the fact that we now have 419 Trident I's, 218 Trident II's, we have in our inventory at this moment almost three times more missiles and warheads than we are going to be permitted in 6 or 7 years when we have to be in compliance with the START agreement.

Then if you add an additional 350 missiles, or more, which is what the Navy wants to do, to that number, look at it—799 missiles we could save. And I will come back to that chart in just a moment. Mr. President, that is no bean bag. We are talking about billions and billions of dollars we could save and ought to save.

Now, Mr. President, I do not want to get sanctimonious, but, as I say, I am absolutely convinced of the correctness of my position. Why do we want to have—we have now 637 missiles; they want 500 more. That would put us up to 1,100-plus missiles, both Trident I and Trident II missiles.

Now, Mr. President, when you consider the fact that the most we can deploy under a treaty which we have just signed is 218, it is the most incredible thing I have ever seen, and yet I have enough sense to know that nobody is paying much attention to this debate. I just came from the Interior Appropriations conference where there are about 12 Senators sitting around the table. if you went over to the Energy Committee, on which I am supposed to be sitting, you will find another 10, 15 Senators sitting around the table. And when everybody dispenses and comes in to vote and looks at that chart, they will say, "That sure is a funny looking chart, isn't it?" And they will vote "no."

There is no accountability in politics if you vote no. I know a Senator who stayed here a very long time, and I like him a lot personally, but his coin with his people was "you vote no." And I tell my constituents, when they are mad at some bureaucrat downtown because they are intruding into their business affairs, on a regular basis I fight with the same people they do, the bureaucrats. Bureaucrats love to say "no." and do you know why? They are never called to account if they say "no."

But I can tell you something else. You do not get in the history books and you do not amount to anything if you cannot say "yes." But here is a golden opportunity for people to say no to something that just looks crazy and, in my opinion, is crazy on its face. You ought to vote "no" to the Navy's proposal.

But Senators will not. I have enough sense to know. I have been beating my head against the wall here for 2 months and I have enough sense to know how this vote will turn out, even though, Mr. President, here is another opportunity for another $12 to $14 billion in savings.

Mr. President, you heard me mention a moment ago that we will have almost 1,100 missiles in our inventory, knowing full well that 218 is all we can use. So here is what we would save, almost 800, just one shy of 800 missiles. What are we thinking about? The Soviet Union does not exist anymore.

Somebody on the other side of the aisle will get up and say, yes, but there is that great big threat out there.

One way we could remove that threat, of course, would be to take the Russians up. They are trying to get us over there to dismantle their missiles and warheads for them. Do you know why we do not do it? We do not have the money. It is the best offer we have ever had. I used to say there are people in this body who, if the Russians offered to dismantle all of their missiles in front of the New York Times editorial board, would say it is a trick. There is just something about these things; they gather a momentum of their own.

But let me show you. If we were to test the Trident II missile, instead of at 16 a year, at 3 a year, you save 245 missiles over 25 years right there. And 3 a year is more than adequate to test the reliability of that missile. And instead of backfitting the Trident I missiles with the Trident II, if we just leave the Trident I on for their life expectancy, you save 192 there. And if you use the Trident I's that we now have and you test them at a rate of 3 a year, you save 148 more.

And then, Mr. President—and this is just a little bit tricky, but I want to make the point—we have this option. We have 18 Trident submarines each carrying 24 missiles, each missile armed with 8 warheads. Now, we have a choice, Mr. President. Instead of putting 24 missiles on board submarines with 8 warheads each, we can cut to 12. If you cut it in half to 12 missiles on each of our 18 Tridents and each missile with 8 warheads, you are within the START agreement.

The other thing you could do—and my guess is the Pentagon will opt for this, which I think is a bad mistake, and one of the reasons I am going to ask this to be studied thoroughly—the other option is to go ahead and put 24 missiles on board each submarine and, instead of having 8 warheads per missile, have 4 warheads per missile. That will get you down under the 1,750 warheads permitted by the START agreement.

I am going to strongly suggest, Mr. President, that we use 12 missiles per submarine rather than 24 because you save billions by doing that.

If we put 24 missiles on each submarine, with 4 warheads each, you are putting 12 missiles on there that you do not really need. You do not accomplish one thing that you do not accomplish with 12 missiles, 8 warheads each. Every warhead is individually targeted anyway. You do not miss any targets. I will tell you the whole thing is so bizzare.

Mr. President, here are your savings. Here is what the Navy says. They say, well, costs as much to retrofit the Trident I's almost as it will to go ahead and replace them with the Trident II's. The computations they use are complicated, and the computations we use are complicated, but I can tell you one thing for sure. The Navy is dead wrong to suggest that we are only going to save $2.6 billion if my amendment is agreed to. I promise you we are going to save $14 billion. As I have said time and time again on the floor of the Senate, Mr. President, it is not just the $14 billion. It is the three to four times that amount it is going to cost you over the lifetime of the program, because we are borrowing every dime of it. We are borrowing every dime of it, and are paying interest on it for the next 25 years.

So it is not just the $14 billion we could have saved by adopting my amendment. It is the $50 to $60 billion the taxpayers of this country are going to ultimately pay because when you compute compounded interest on it that is what it comes to.

I will tell you what the Navy and the Department of Defense did in making their computations saying the Bumpers amendment will only save $2.6 billion. First of all, they did not take into account the results of inflation. Bear in mind the Trident I, we started deploying that in 1979. So you have a lot of inflation that you are saving on it.

Number 2, the Trident I refurbishment cost is going to happen anyway. The Trident I refurbishment cost is going to cost $3 billion; save $3 billion if you factor in the inflation rate that would have occurred on Trident I. You save $3 billion if you do the Trident I refurbishment instead of using the Trident II. If you do not backfit the first 8 Trident submarines to accommodate the Trident II missile, you save $3 to $4 billion. The interest costs just during the building process, Mr. President, of doing what the Navy wants, you save $2.9 billion, and the savings arising from the new START agreement, namely cutting 214 missiles, you save $6 to $8 billion.

Finally, Mr. President, the Navy did not comply with its own orders. We have an OMB circular called A-94 where you have to compute the cost of money. They did not use the Defense Department's own Instruction 7041.3, and the Navy did not use their own instruction 7000.14B.

All of those things deal with money forgone, with the cost of money and a host of other things and not one single one of those instructions of the OMB letter were complied with. We did that. I have worked for months on this thing. My staff has worked for months on it. We have crunched these numbers over and over and over again.

So, Mr. President, that is my sermon. I personally think it is a good sermon. We are living in a whole new world. As I say, we just keep acting like Joe Stalin still is in charge of the Soviet Union. I just cannot believe we are embarked on building this many missiles and this many warheads that we do not need and cannot use.

So, Mr. President, I ask unanimous consent that I be permitted to withdraw the amendment that I just offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3123) was withdrawn.

Mr. BUMPERS. I further ask unanimous consent, Mr. President, that a cable—this is from General Chain, commander in charge of SAC, the Strategic Air Command, to the Joint Chiefs in Washington, dated April 11, 1990, be printed in the RECORD at this point.

That last cable, incidentally, Mr. President, deals with why three tests a year on the Peacekeeper, the MX, for example, is more than adequate. We know that it is very reliable by testing it three times a year.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PENTAGON OPERATIONS DIRECTORATE,
April 11, 1990.

Fm: CINCSAC Offutt AFB NE.

To: RUEKJCS/JCS Washington, DC; RUEAHQA/HQ USAF Washington, DC; RUVAFLC/HQ AFLC Wright Patterson AFB OH; RHDJSAA/HQ AFSC Andrews AFB MD; RUWQAAA/WSMC Vandenberg AFB CA; RUWQAAA/WTR Vandenberg AFB CA; RHFIAAA/15AF March AFB CA; RUCVNAF/BAF Barksdale AFB LA; RUWMBIA/1STRAD Vandenberg AFB CA; RUWMPFA/HQ BMO Norton AFB CA; RUWTDBA/90SMW F E Warren AFB WY; RUVHILL/Ogden ALC Hill AFB UT.

Subj: Peacekeeper follow-on operational test and evaluation.

1. I have set the test rate for SAC conducted Peacekeeper in Minuteman Silos (PIMS) follow-on operational test and evaluation (FOT&E) at three per year. While this rate will extend the initial characterization, I am confident that we already have a good understanding of the Peacekeeper weapon system. Further, I believe we have struck a prudent tradeoff between cost and operational testing. Three launches per year will enable us to reasonably monitor the health of this outstanding weapon system. We will continually review this rate to determine if a change is necessary due to performance of the system.

2. Three things have prompted me to take this approach:

A. First, engineering estimates of our ICBMs' capabilities have historically been proven to be very accurate as demonstrated by the results of our flight test programs.

B. Second, the results of initial testing of Peacekeeper from both an accuracy and reliability perspective have been phenomenal. Peacekeeper has proven itself much better than specification in both accuracy and reliability.

C. Third, the fiscal realities of the 1990s prohibit a classical statistical flight test program. Outside the prudent launch rate of 3/yr an estimated $85M per launch is too high a price to prove what we know—Peacekeeper is extremely reliable and is the most accurate ballistic missile system that America has produced.

3. The HQ SAC point of contact for PIMS testing is Maj. Steve Prebeck. He can be reached at the ICBM Test Division, XRTM, AV271-4288. BT

AMENDMENT NO. 3124

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. If there is no objection, the pending committee amendment will be set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 3124.

Mr. BUMPERS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

"The Secretary of Defense shall provide for the conduct of an independent study, with participation by one or more federally funded research and development centers, of the Trident missile system. A report containing the results of such study, together with the Secretary's comments and recommendations concerning the report shall be submitted to the Congressional defense committees, in classified and unclassified versions, on or before May 1, 1993. This report shall address, inter alia, the following issues:

"1. The relative merits and costs of continuing the Trident II missile production versus the refurbishment of existing Trident I missiles, taking into account such factors as inflation, appropriate regulations such as OMB Circular A-94 and DOD Instruction 7041.3, refurbishment costs for the Trident I that would be incurred anyway, the impact of the new START agreements, refurbishment requirements of the Trident II, and other related factors.

"2. The relative merits and costs of continuing with current plans to backfit the first eight Trident submarines with Trident II missiles versus their continuation with Trident I missiles, taking into account such factors as inflation, appropriate regulations such as OMB Circular A-94 and DOD Instruction 7041.3, refurbishment costs for the Trident I that would be incurred anyway, the impact of the new START agreements, refurbishment requirements of the Trident II, and other related factors.

"3. The relative merits and costs of taking anticipated SLBM warhead reductions under START in the following ways:

"a. by offloading individual warheads from missiles;

"b. by offloading missiles from submarines;

"c. by dismantling submarines;

"d. some combination of the above.

"4. Options for the United Kingdom to meet its strategic requirements in a situation where the United States procurement of Trident II missiles is terminated earlier than originally planned.

"5. The reasons why the costs stated for Trident I refurbishment are substantially greater than Minuteman III refurbishment.

"6. The reasons why strategic missile flight testing rates are substantially different for the Navy and Air Force, along with recommendations for uniform testing rates."

Mr. BUMPERS. Mr. President, this is legislative language to be inserted in the bill. I am not going to read it. But it says among other things: The Secretary of Defense shall provide for an independent study with participation by one or more federally funded research and development centers of the Trident missile system; a report containing the results of such study together with the Secretary's comments and recommendation shall be submitted to the congressional defense committees in both classified and unclassified versions on or before May 1, 1993, and they shall address the following items.

No. 1, the relative merits and costs of continuing the Trident II missile production versus the refurbishment of existing Trident I missiles, and taking into account the OMB circular and the instructions to DOD and Navy, as well as other factors.

No. 2, address the relative merits and costs of continuing with current plans to backfit the first eight Trident submarines with Trident II missiles versus their continuation with Trident I missiles, also taking into account their own instructions.

No. 3, address the relative merits and costs of taking anticipated SLBM warhead reductions under the START agreement in the following ways:

By offloading individual warheads form missiles or by offloading missiles from submarines, by dismantling submarines, or some combination of the above.

No. 4, options for the United Kingdom to meet its strategical requirements in a situation where the United States procurement of Trident II missiles is terminated earlier than originally planned.

Great Britain buys this missile also. We are asking them to study what the impact would be if the study recommended that the United States discontinue the production of this missile.

And there are a couple of other things in this. One, the reasons why strategic missile flight testing rates are substantially different for the Navy and Air Force along with recommendations for uniform testing rates.

Mr. President, this study is to be conducted at the behest of the Secretary to report back to the Armed Services Committees of the two Houses, as I say in classified and unclassified reports.

That study is essentially the very things I have talked about here this morning. I think it is an extremely important issue for the Congress to address, Mr. President. And it goes right to the heart not only of the START Agreement and our compliance with it, but it also goes right to the heart of the deficit and what we are going to do about it.

I yield the floor.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. If the Senator will yield for a question, I note that in the Senator's amendment, he has the date of May 1, and I believe that a study of this magnitude may require a bit more time than May 1, 1993.

Mr. BUMPERS. Let me say that the time is only important to me if we get it before the authorization or appropriations process starts next year, so that we can address it then. And I have no objection to that. I wanted to get it as soon as we could, so committees could hold hearings on it.

But if the Senator would like, let me suggest this. Let me suggest that we leave the language in, consult with the Pentagon, see what they think would be a suitable date, sometime before the appropriations process, which would give us time at least to look over their report, and we will change it in conference, and I will give you my word then on the floor that I will agree to some change.

Mr. INOUYE. With that assurance, Mr. President, I am prepared to accept the amendment.

Mr. STEVENS. Mr. President, I will accept the amendment.

The PRESIDING OFFICER. The question occurs on the amendment.

The amendment (No. 3124) was agreed to.

Mr. BUMPERS. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, there is something I have never done before on the floor of the Senate as far as personal staff is concerned, but I want to publicly thank Bruce MacDonald of my staff, who has worked tirelessly on this amendment for about 8 months and has talked to everybody in the United States from the production of the Trident II missile to the appropriate people in the START Agreement, the Navy, everybody. It has been a real monumental task for him. He has come up with unbelievable numbers and other data that has been very helpful to me, and I think to the Senate.

I yield the floor.

Mr. JEFFORDS addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

ADDITIONAL COSPONSOR

Mr. JEFFORDS. Mr. President, I ask unanimous consent that I be added as a cosponsor to Senator LEAHY's amendment No. 3117.

The PRESIDING OFFICER. Without objection, it is so ordered.

The pending business is the Helms amendment to the committee amendment.

Mr. WIRTH. Mr. President, I ask unanimous consent to address the Senate for 5 minutes as in morning business for the purpose of introducing legislation.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, I would like to make certain that the previous order will be placed into effect following Senator WIRTH's statement.

The PRESIDING OFFICER. That would be the regular order.

The Senator from Colorado is recognized.

Mr. WIRTH. I thank the Chair.

(The remarks of Mr. WIRTH pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

There being no objection, the Senate, at 12:38 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the clerk will report the conference report to S. 12.

The bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 12) to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of September 14, 1992.)

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. FOWLER. Mr. President, this effort to address the concerns of cable consumers and to protect them from mistreatment and unfair pricing at the hands of cable monopolies has been in the works for several years. I had just begun serving as a senator when concerns about pricing began to surface, and I know I have read many a letter from constituents on this subject since then.

I also know that the Senate has responded to these concerns. The Commerce Committee has held hearings, and various pieces of legislation have been drafted to provide greater consumer protection, and a more level playing field among various technologies that transmit programming.

I also believe that this attention by Congress has had a very real impact on the cable industry. It has, for example, established its own industrywide guidelines for improving consumer service—where some real and very aggravating problems existed. Local franchises were forced to respond to consumer discontent translated into congressional action.

Perhaps even more importantly, we recently saw a significant change in the regulatory climate for cable operators. On October 25 of last year, the FCC adopted a new definition of effective competition—which could effectively reregulate up to a third of the cable industry. Since less than a year has passed since the change, we don't know the full impact—but we do know that there has been plenty of pressure on cable to act more like a service industry and less like a monopoly.

The conference report on S. 12, the Cable Television Consumer Protection and Competition Act of 1992, is the latest byproduct of these efforts to prevent abuses in the industry. In January, most of us voted in favor of S. 12, hoping that in the end, we would be able to produce regulation that would effectively address the problems of cable subscriber rates and customer service.

While I certainly respect and commend the hard work and the undeniably good intentions of our Senate conferees, I have decided to vote against the conference report on S. 12 out of concern for the detrimental impact of this bill in its present form.

I am concerned that the cable bill reported from conference will raise, not lower, cable rates. One major concern is that the bill gives broadcast stations the right to charge cable systems for the right to carry them through the retransmission consent provisions. The bill, however, establishes no guidelines as to what a reasonable charge for carriage would be, and it is unclear just how much retransmission consent may cost.

The retransmission consent and must carry provisions are intended to ensure that television stations can continue to compete with cable. The cable industry has certainly benefited from being able to transmit broadcast television signals. After all, broadcast television signals were the sole programming of the early cable television systems. Television stations in turn benefited from increased clarity of their signal going into homes and an expanded viewing audience. The cable industry and television stations are at completely different points today than they were at the inception of the cable industry. However, I question whether the problems and concerns of the broadcast television stations are best addressed through retransmission consent and must carry. I believe that further examination of the cable copyright system, the current system governing the relationship between cable and television stations, should be undertaken before any new regulations are imposed.

In addition, the bill imposes an extremely complex and all-encompassing regulatory structure on cable television. The FCC is required to adopt nearly 30 new regulations, governing not only consumer cable rates and service standards but, for example, the wholesale rates charged by program service to cable systems and to other technologies, the terms of programming contracts between cable systems and program networks, the technology of cable-ready television sets, and many other subjects.

Again, I realize that the sponsors of this legislation do not intend for any costs associated with this legislation, including any expenses associated with regulation, to be passed on to the consumer. As a practical matter, however, these costs will be borne somewhere—if not in higher prices, then in fewer services to cable consumers.

I think there is every reason to believe that the burden of this regulation will dry up investment in new cable plant, programming, and technology. While the cable industry has certainly benefited from the deregulation of the mid-1980's, we should not impose overkill reregulation that cripples an industry very much in demand—in or efforts to correct the industry's excesses. And we do not want to force a shift in investment from basic cable services to more expensive premium services which would remain unregulated. This would only increase the cost of cable services people want in the long run. If this happens, fewer consumers will benefit from new sports and entertainment programming.

Finally, I am concerned about the ability of S. 12 to produce its intended result for cable consumers—reasonable rates and quality customer service. There are nearly 11,000 cable systems operating across the United States that, if found to be facing a lack of competition, would fall under the regulatory jurisdiction of the FCC according to the provisions of S. 12. How capable is the FCC of imposing and enforcing these regulations, in addition to all its present responsibilities? Will we in Congress be faced with a new round of complaints as to the ineffectiveness of another government agency? Or will we eventually be required to appropriate additional funds to ensure that the FCC is able to implement the mandates in this legislation? If we are serious about giving the FCC these added responsibilities, it will need another $20–$40 million a year to fulfill these obligations. Unless we are prepared to provide those funds, we will merely be passing a law with no substance.

In this larger context, we should ask ourselves what type of communications policy S. 12 is helping to usher in. The information age is upon us, and communication and ready access to information are becoming increasingly important. We should consider whether S. 12 will enhance or hinder our ability to transmit information and communicate with one another. We should consider whether we should not focus more on promoting more competition through wireless cable and other new technologies—instead of through more bureaucratic regulation.

I continue to support cable legislation narrowly focused on preventing abusive rate increases, improving customer service and promoting competition, such as the so-called Wirth-Gore compromise of the last Congress, or the Packwood-Kerry amendment proposed earlier this year. But I cannot support the regulatory overkill contained in S. 12 as it returns to us from conference.

I don't believe it addresses the concerns that have been brewing since I began serving in the Senate. It has, somehow in the legislative process, been diverted toward other issues. I believe the bill before us would harm a very promising and vibrant industry in a time when we desperately need some economic bright spots. At the same time, I don't believe it would provide the kind of help consumers are looking for. For those reasons, I urge my colleagues to join me in voting against the conference report on S. 12.

SHOPPING SERVICE STATIONS IN S. 12

Mr. GRAHAM. I would like to ask the distinguished chairman of the Commerce Committee for clarification about the conference agreement on the treatment of shopping service stations under the must-carry provisions of the cable bill, S. 12.

Mr. HOLLINGS. I would be pleased to do so.

Mr. GRAHAM. Thank you. The amendment I offered to section 614 of S. 12, which was approved by a 64-33 vote of the full Senate, required the Federal Communications Commission to determine whether television stations predominantly utilized for sales presentations are serving the public interest. I see that the conferees have modified this provision in paragraphs f(1) and f(2) to exclude shopping service stations from the must-carry protections pending the outcome of the proceeding required under my amendment. In addition, the modified language allows the FCC up to 270 days to complete its proceeding on this issue.

I have three specific questions I would like to ask regarding this amended provision.

First, is it correct that the revised section gives the FCC the authority to determine the nature of the proceeding it conducts, as long as the Commission meets the section's requirements for appropriate notice and opportunity for public comment?

Mr. HOLLINGS. Yes, the Senator's interpretation is correct.

Mr. GRAHAM. I would also like to ask about the effect of the 270-day deadline established in the conference report. Is it the conferees' intention that 270 days after enactment be the maximum amount of time for the FCC to complete its rulemaking, but that the Commission may complete its consideration of this matter at an earlier date?

Mr. HOLLINGS. Certainly. So long as the notice and public comment requirements are met, there is no minimum time for consideration of this issue established by the conference agreement.

Mr. GRAHAM. Thank you. Finally, let me seek assurance on another critical point. Is it correct to say that, under the terms of this provision, whenever the FCC makes its determination—whether in 270 days or less—those stations which it decides serve the public interest will be promptly certified as local commercial television stations and will be treated the same as other local commercial television stations under the mandatory carriage provisions of this legislation?

Mr. HOLLINGS. That, too, is a correct interpretation.

Mr. GRAHAM. I appreciate the willingness of the chairman to clarify these issues. Further, I thank him for his leadership on this bill, and particularly on this critical matter of the treatment of shopping service stations under the mandatory carriage provisions of the bill.

The commitment by him and by Senators INOUYE, DANFORTH, and PACKWOOD on this issue has been the key to this beneficial outcome.

Mr. HEFLIN. Mr. President, for the past several years, I have heard many complaints from consumers about the rate increases imposed by their cable companies. There have also been a number of complaints about customer service. In most areas, cable companies operate as a monopoly, with no competing multichannel distributor in the area and effectively, with no competition. In my State of Alabama, for example, there are only a very few areas where there are competing cable companies. This bill, S. 12, is designed to bring regulation to a monopoly situation in order to control rates, improve customer service and promote effective competition. There are some cable companies who have not abused this monopolistic authority, but there are some that have.

As a general philosophy, I believe that all monopolies need regulation. That is why power companies that sell electricity and telephone companies must file an application for any increase in rates with a State regulatory agency which then determines the rates. Any monopoly is a potential danger to consumers unless it is regulated. I apply this same philosophy to the cable situation.

Since most cable operators have no other cable company competing with them in their area, they should bear the burden of proving that any increase in charges is merited. In that situation, there should also be a regulatory body, the Federal Communications Commission, investigating whether or not there is justification for such increases.

During the course of congressional consideration of this bill, there has been a lot of misinformation distributed. However, when the actual terms of this legislation are carefully considered, one sees that this bill regulates rates only where competition does not already exist; where competition exists, there is no rate regulation. The bill also directs the establishment of minimum customer service standards as well as standards to increase compatibility between television sets, VCR's, and cable systems. In implementing these and other regulatory provisions of the bill, the Federal Communications Commission is instructed to ensure that rate increases do not result.

The bill further gives the FCC and cable operators new authority to restrict indecency and obscenity on cable. This is much-needed authority.

Mr. President, the cable industry currently operates as a monopoly in virtually every area of our country. In the end, I believe that this bill will protect consumers from potential abuses by some monopolistic powers and spur competition to eliminate the existence of a monopoly in this vitally important information and entertainment service industry.

Mr. SPECTER. Mr. President, after extensive consideration and discussions with both sides on this complex issue, I am voting in favor of the conference report on the cable bill with substantial reluctance. I vote for the report because of the fundamental principle that at least some regulation is warranted in any industry which has a monopoly or virtual monopoly on any given product or service although cable was not so regulated in its early days.

I supported the Packwood amendment in the Senate which provided for less regulation in order to provide leverage in conference for lesser regulation in the final bill, but unfortunately, that did not happen.

In supporting this conference report, I am also mindful of the fact that the cable industry defeated legislation in the final days of the 101st Congress in 1990, which, in retrospect, would have been much better from the cable industry's point of view.

I have even rethought this reluctant vote in the light of a television commercial which I saw in Pennsylvania on Sunday on behalf of the proponents of the bill. Without any reason, explanation or substantive argument, the commercial simply called upon Pennsylvanians to urge me to stay with my earlier vote in favor of the bill and then asked the viewers to call my office with the telephone number given.

No one has more respect for the first amendment provisions of freedom of speech and the right to petition elected representatives than I. A citizen has every right to argue in favor of his/her cause and urge others to support his/her position with elected officials. However, I question advertising without a reason which borders on, if it does not actually cross the line of, harassment. I resist the temptation to alter my fragile conclusion on this basis, noting the advertising barrage on the other side.

Because of the problems in the pending legislation, it is my view that Congress should again address this entire subject early in the next Congress. Without discussing the many provisions of the bill which concern me, I will note one provision of importance relating to the dual benefits given to the broadcasters on must-carry and the right to negotiate for compensation.

Several years ago, broadcasters urged me to support a must-carry provision. Later, broadcasters urged me to support a statutory provision which accorded them the right to compensation. It seems to me that the broadcasters can legitimately take the position that they want one or the other provision, but not both.

In a free market, it is reasonable that neither party should give up a property right without a bargained consent from the other side. The broadcasters have a property right in a signal and the cable transmitter has a property right in the use of its system for transmission. Accordingly, it would be reasonable that any arrangement should be subject to mutual consent with whatever compensation, if any, is agreed upon.

As a matter of public policy, it would be reasonable to establish must-carry requirements so that cable viewers, especially in remote areas, would get the signals of network broadcasters.

However, I question legislation which gives broadcasters the right to insist on must-carry and at the same time have the right not to allow such transmission if they do not get adequate compensation. This is only one of many provisions which, I think, should be revisited early in the 103d Congress.

During the past month, I have received numerous requests for meetings, mostly from the cable industry, all of which I have honored. Had the cable industry been as diligent early on or pressed issues for floor votes, which could have been easily done in the Senate, the result might have been different on key provisions such as the must-carry compensation issue or even the entire bill.

At bottom, I conclude that this bill is better than no bill at all, but many issues should be revisited by Congress early next year.

Mr. BRADLEY. Mr. President, I rise today in support of the conference report on the cable bill. I believe it promotes competition and protects consumers from anticompetitive activity.

Mr. President, the vast majority of Americans have no power of choice as to their cable provider. Of the 11,000 cable systems in America, less than 0.5 percent compete with another cable system in the geographic area covered by their franchise. Where competing systems have emerged in communities, they have often been merged with existing systems. The benefits of cable television are so great that they should be available to as many people as possible But the absence of competition within the cable industry makes this virtually impossible.

In 1984, Congress encouraged the development of cable by restricting local government's ability to regulate basic rates. The 1984 Cable Communications Policy Act deregulated rates for about 97 percent of all cable systems and actions by the FCC to implement the act further freed the industry.

While deregulation encouraged the growth responsible for many of the positive developments I have discussed, it also allowed the cable companies to raise their rates. According to a 1991 GAO study, monthly rates for the most popular basic cable service increased by 61 percent from January 1987, when deregulation took effect, to April 1991, from an average per subscriber of $11.71 to $18.84. This rate of growth is three times that of inflation.

In my home State of New Jersey, Mr. President, cable rates have increased 70 percent since deregulation. In the city of Newark, rates have increased 130 percent. We all agree that cable has made more information and entertainment available to Americans. But these rate increases are excessive, and must be controlled if Americans are to continue benefiting from this very important service. If cable companies were subject to competition, they would be unable to impose these rate increases.

The conference report contains several provisions which protect consumers and promote competition within the cable and multichannel video industries. It allows the FCC and local governments to regulate the price of basic cable in communities that are not subject to effective competition, limits the ability of cable operators to wield unreasonable influence over programmers, and limits the ability of cable programmers to discriminate against noncable, multichannel video providers. It also establishes national consumer service standards for cable operators and contains must-carry provisions which ensure that educational and public-interest television stations are carried by cable operators.

Mr. President, I am very proud of the fact that this year's cable bill includes a franchise renewal provision which makes clear that local franchising authorities are not required to finish their investigation of a franchise owner's performance within a 6-month period, as has been suggested by the cable industry, ensuring that local authorities have a sufficient amount of time to conduct a thorough investigation of the cable franchise prior to considering its renewal application.

I have considered arguments against this bill, especially arguments that it would result in an increase in subscribers' rates in contrast to the expressed intent of the bill's sponsors. Several of my colleagues have suggested that the retransmission consent and buy-through provisions of this bill would force cable operators to pass on higher costs to consumers. Because I believe rate increases resulting from these provisions would turn the purpose of this bill on its head, I feel the need to address these concerns.

Mr. President, I believe these assertions do not give adequate consideration to the effect of the prohibition against unreasonable rate increases which is the cornerstone of this bill. In areas that lack effective competition, the FCC or local authorities must determine if rates are reasonable, unnecessary rate increases in these areas would not occur. This mandate is stressed in the language of the conference report which directs the FCC to consider the effect of retransmission consent on subscribers' rates.

The bill's retransmission consent provision allows a broadcaster whose signal is used by a cable operator to negotiate terms for the use of that signal or take advantage of must-carry rules which would require that it be carried on the cable operator system. I believe that most broadcasters will opt for must-carry while a significant number of other broadcasters will negotiate nonmonetary terms, such as channel position, for the use of their signal. Whatever terms are negotiated will only last for 3 years. Thus, the vast majority of cable operators will, in my opinion, not incur significant increases in cost due to the retransmission consent provision.

Similarly, the buy-through provision which was added to the cable bill by the House should not result in an increase in cable rates. While the enforcement of this provision would have required some cable operators to sell additional equipment to cable subscribers, the bill provides for a 10-year grace period before the provision takes effect and directs the FCC to waive the provision altogether when it is shown not to be cost effective.

Government regulation is never an adequate substitute for the discipline of the market. But where consumers cannot vote with their pocketbooks for lack of competition, Government has a duty to protect their interests. Hopefully, sufficient competition will soon develop in this industry to eliminate the need for Government regulation. Because that day has not yet arrived, I support this legislation.

Mr. President, the apparent positive aspects of this bill outweigh what some speculate to be the negative aspects. Overall, I believe the bill provides important protections for consumers and should be supported.

Mr. SANFORD. Mr. President, I rise to support the conference report accompanying S. 12, the Cable Television Consumer Protection and Competition Act. This bill, which the Consumer Federation of America has called the most important consumer protection legislation in this decade, has generated considerable interest and controversy. I want to speak directly to a few of the issues within this bill of importance to North Carolinians.

First of all, it is important to note the intended purpose of this bill. The purpose of S. 12 is to promote competition in the video marketplace and protect cable customers from unreasonable and burdensome cable rate increases. It is important to clearly indicate the purpose of this bill because the cable association has conducted a multimillion-dollar lobbying effort against this legislation and has convinced many cable consumers that S. 12 will in fact increase cable rates. The bill stuffers and television advertisements I have seen have failed to mention a couple of key facts.

Fact No. 1. Under this legislation, the Federal Communications Commission and local city councils will be authorized to ensure that cable rates are reasonable. For the first time since the cable industry was deregulated, cable customers will be protected from outrageous cable rate increases. For the first time in many years, cable customers in cities such as Morganton, Asheville, and Charlotte will enjoy some relief from cable rates that have increased well beyond the rate of inflation. This regulatory scheme will cease as soon as there is effective competition in the community. I am particularly supportive of this approach, because it reinforces my strong belief that competition is preferable to regulation. Unfortunately, the public has heard little rational discussion of the consumer protections against excessive rates.

Fact No. 2. This legislation includes many provisions which will encourage competition. Cable rates are 30 percent lower in those few areas where there is effective competition compared to those areas where no such competition exists. It bears repeating: Competition is preferable to regulation and this bill encourages competition in a number of important ways. Under this legislation, local franchising authorities may not unreasonably refuse to allow new cable systems to compete directly with existing cable operators. Furthermore, municipalities are permitted to operate their own cable systems. Another important provision of the cable bill mandates that for 10 years cable programmers who are affiliated with cable operators will not be permitted to grant exclusive contracts to cable operators unless the FCC determines that such contracts would be in the public interest.

Greater competition will be particularly helpful to many rural consumers in North Carolina and elsewhere. Competitors to cable, such as satellite dish vendors, which are so important in rural communities, will be able to obtain cable-owned programming at market prices. This increased access to programming will naturally mean more reasonable rates for satellite dish owners in rural communities, but increased competition will also serve to decrease cable rates in many areas.

Along with issues of regulation and competition, the television commercials and bill stuffers employed by the cable association have failed to mention this bill's treatment of horizontal concentration and vertical integration in the cable industry. Under this legislation, the FCC is directed to set limits on the number of subscribers a cable operator can reach nationwide and on the number of channels a vertically integrated programmer can occupy on a cable system. This is an important provision because cable operators and cable programmers often have common ownership. I understand that 10 of the 15 most popular basic cable networks are owned or controlled by multisystem cable operators. This has led some operators to discriminate in favor of programming in which they have an ownership interest. This has directly harmed the ability of any potential competitors to enter the market, provide an alternative to cable, and create pressure to lower prices. The FCC study required by this legislation will go a long way to providing competition and protecting cable consumers.

While there are procompetition and proconsumer issues that have been ignored by the cable association in their efforts to derail this legislation, a couple of issues have been exploited by them, particularly the issue of retransmission consent.

Briefly, retransmission consent is a provision which allows local broadcast stations to negotiate with cable operators for the right to retransmit the broadcasters' signals. Cable operators currently retransmit broadcast signals for free. Broadcasters who elect the retransmission consent option have the opportunity to negotiate for some form of compensation for the cable operator's use of their signals. Cable competitors do not presently enjoy the benefit of exemption from retransmission consent provisions. The inclusion of retransmission consent in this legislation is merely an attempt to even out the playing field.

I have heard from hundreds of constituents, perhaps more than a thousand, who have expressed outrage at the retransmission consent provision of this legislation. The reason I have heard from so many North Carolinians is that the bill stuffers employed by the cable association suggests that: First, this provision will result in a billion dollar bonanza for the networks; and second, this provision will make cable bills go up from $28 to $51.

I just want to quote from a letter the chairman of the Senate Commerce Committee sent to the New York Times, which by the way supports this legislation:

> It is flatly wrong to characterize the retransmission consent provision in the cable bill as "threatening subscribers with large rate hikes or diminished offerings. The bill expressly states that the Federal Communications Commission must consider the impact of retransmission consent on the rates for basic service and shall ensure that the regulations prescribed under this bill do not conflict with the Commission's obligations to ensure that such rates are reasonable. . . . Thus, it would be a direct violation of the statute for the FCC to permit retransmission consent to result in large rate hikes.

Senator HOLLINGS goes on to write that this bill will ensure that "cable rates are reasonable and stop the endless rate hikes that many communities have faced and will continue to face." The Senator concludes his letter by agreeing with the basic premise of the New York Times editorial in support of the cable bill. He states:

> As you note in your editorial, the cable industry's assertions that this bill, and specifically the retransmission consent provision, will result in rate increases are nothing more than scare tactics designed to mislead consumers.

I am not here today to suggest that this legislation is perfect. Instead, I want to make clear to a number of interested and concerned consumers in North Carolina the intent of this legislation and why it is so important to cable consumers. I also think it important to clear up any confusion surrounding the misleading cable association lobbying campaign. Too often, the facts surrounding this legislation have been ignored or twisted. In taking a close look at this legislation, in meeting with broadcasters and cable operators from my home State, and in listening to the frustrations and concerns of a large number of cable consumers in my State about rate increases and inadequate service, I decided to support both S. 12 when the Senate considered it earlier this year and the conference report before us today. It is clear to me that if we fail to pass this legislation, we will continue to see exorbitant rate increases.

I urge my colleagues to pass this conference report and provide some much needed relief to cable consumers.

I thank the Chair and yield the floor.

Mr. HELMS. Mr. President, I oppose this conference report on the cable legislation because it will impose costly new regulation on the cable industry. In so doing, it will reach into each subscriber's pocket twice: First, the monthly cable rates are likely to increase; and second, the Government will be spending more tax dollars to pay the bureaucrats to do the regulating—and of course, all taxpayers will be paying for that, too.

Mr. President, what is needed is more competition, not more stifling regulation.

Here's how this legislation will work: First, the cable bill contains a provision called retransmission consent that will require cable companies to pay ABC, CBS, NBC, and the other television networks for carrying their channels. For example, if you watch NBC on regular television it is free, but if you watch NBC on cable this legislation will force cable companies to pay for it, and this new charge will obviously be passed along to cable subscribers.

Mr. President, I was in a management capacity with a television station in Raleigh before my election to the Senate in 1972. Back then, television stations were eager for cable companies to carry their broadcasts. It gave us additional viewers, which helped us with our advertising revenue. It never occurred to any TV station to try to charge the cable companies.

Mr. President, this cable legislation requires cable rates to be regulated by the Federal Government—which the Government itself estimates will cost the taxpayers an additional $100 million a year. The local city councils can also get into the act of regulating rates, which adds another layer of bureaucracy.

Furthermore, the legislation requires cable companies to install so-called addressable systems in all homes, so that subscribers can get pay-per-view type programs. It is estimated that this technology could cost $5.8 billion.

Mr. President, instead of more regulation and more Federal spending, Congress should promote competition. As any student of the free enterprise system knows, competition is the most effective way to assure the best service for the lowest price.

Mr. President, this legislation is not in the best interest of America—nor of cable subcribers.

Mr. WELLSTONE. Mr. President, on January 31, 1992, the Senate passed S. 12, the Cable Television Consumer Protection Act. This measure would allow State and local governments once again to regulate cable television rates in certain circumstances.

Since deregulation of the cable industry in 1984, cable television rates have skyrocketed. While some areas have seen an expansion of cable services, others have seen customer service deteriorate. I believe that the main reason for these problems is that cable television is an unregulated monopoly. The industry quite simply does not face the usual competitive pressure to upgrade services and keep rates down.

Until there are multichannel alternatives to cable in the television marketplace, there is a strong need for greater regulation of the cable industry. But because of the diverse localized nature of the industry, State and local governments—not the Federal Government—are best suited to regulate cable operators.

For these reasons, I generally favor S. 12 as it was originally introduced. During consideration of this legislation by the Senate Commerce Committee, amendments were added which addressed other issues, including a provision which would authorize cable companies to negotiate with television stations regarding the terms for carrying their signals—so-called retransmission consent authority. Because I was concerned that this amendment had the potential to increase consumer costs and reduce service, I raised these issues during the Senate floor debate on this bill in January.

In response to my concerns, the chairman of the Senate Commerce Committee's Subcommittee on Communications supported an amendment which will require the Federal Communications Commission [FCC] to adopt regulations to minimize any rate increase caused by the retransmission consent provisions of the legislation. Further, the distinguished chairman of the subcommittee included a statement in the RECORD of the Senate's consideration of the bill which expresses the intent of the Senate to maintain local service at its current level. Moreover, the committee's legal counsel has stated that existing law provides the FCC with both the direction and the authority to ensure that the retransmission consent provision will not result in a loss of local TV service.

I had been prepared to offer an amendment mandating a much stronger provision on these two points. However, the actions of the chairman of the subcommittee made it unnecessary to press further. Representatives of the Consumer Federation of America agreed that the amendment supported by the subcommittee chairman and the stated assurances about local service improved the consumer protections of the bill.

On July 23, 1992, the House of Representatives passed H.R. 4850, a bill similar to S. 12. The differences between the two bills have been resolved by a conference committee comprised of designated members of the House and Senate. Now the Senate is asked to vote on the compromise bill that has been reported out of that committee.

The bill before the Senate today is a great victory for consumers. It represents a significant shift in policy, and an important restructuring of Government authority. In taking this action, the Congress is recognizing that there are limits to the free market arguments which we have heard so much of the last 12 years. The simple fact of the matter is that sometimes there is no competition, or there is inadequate competition to allow the market to set prices by itself. Also, sometimes the market makes decisions which are not entirely in the public interest. In these cases, there is a clear role for Government action.

Unlike some past Federal regulation, this bill does not seek to establish a massive Federal regulatory bureaucracy—instead it tries to work through local governments. This is an approach which I support and believe has application in other areas such as energy policy.

However, while I enthusiastically support giving local governments the authority to regulate the rates charged for basic service when there is no effective competition, I continue to have concerns about the potential impact upon rates and service of the retransmission consent provisions of this legislation. I note with some reassurance that the conference committee has retained the amendment adopted by the Senate requiring the FCC to adopt regulations to minimize any rate increase caused by these provisions. In addition, economic and consumer experts have asserted that any resulting pressure for increased compensation should be absorbed by the industry's excess profits and not borne by the consumer.

For these reasons, I do not hesitate in supporting passage of S. 12, the Cable Television Consumer Protection Act. After all of the lobbying and all of the advertisements, we all know that this bill comes down to protecting the rights of American consumers and that's why I am for it.

If any of my colleagues still have doubts about this point, I can only suggest that they ask themselves a simple question, "Who do you think really represents the interest of American consumers? On one side we have Hollywood's lobbyists, the cable industry's lobbyists, and President Bush. They say to vote "no." On the other side we have the Consumer Federation of America, the National Council of Senior Citizens, the National Consumers League, the U.S. Conference of Mayors, and the National Association of Counties. They urge us to vote "yes."

There really is no doubt which is the proconsumer vote—the Senate should overwhelmingly approve this bill. I only hope that the President reconsiders his position because a veto could cost consumers in Minnesota and across the country billions of dollars in monopoly payments to the cable industry.

Mr. DECONCINI. Mr. President, I rise today, in opposition to the conference report on the cable bill. I voted against S. 12, the Senate cable bill, because I have always firmly believed that the solution to the problems with cable rates and services lies in increased competition not Government regulation.

Moreover, my objection to the cable bill also surrounds the issue of retransmission consent. Retransmission consent/must carry was a provision that was inserted in the Senate bill by my friend from Hawaii, Senator INOUYE. Retransmission consent/must carry was added to the cable bill to enable those broadcast stations that are in significant demand to negotiate the terms and conditions under which cable operators may retransmit the broadcast signal. It also enables broadcast stations that cater to a more limited audience to demand that cable must-carry them so that all cable subscribers will continue to have access to these stations.

I support the goal of the Senator from Hawaii that strives to promote the continued vitality of free, over-the-air broadcasts. However, when retransmission consent was added in the Senate Commerce Committee, I expressed concern, as chairman of the Patents, Copyrights and Trademarks Subcommittee, over the impact that it might have upon the copyright compulsory license. The compulsory license gives cable operators the legal right to retransmit copyrighted programming in return for a statutory fee. In essence, the broadcaster provides the signal and program producers provide the programming content. I was concerned that an amendment that changes the rights of broadcasters regarding the retransmission of their signal might effect the rights of program providers regarding the retransmission of their programs.

At first, we requested report language to clarify that the authority of the broadcaster to negotiate over the terms of the retransmission of their signal did not extend to authorize broadcasters to negotiate for the right to retransmit the program content. And then I, along with my ranking member, Senator HATCH, commissioned a study by the Copyright Office of the cable compulsory license. I had hoped that the study, that was examining among other things the impact of S. 12's retransmission consent upon the compulsory license, would be completed before the floor debate on S. 12. Unfortunately, S. 12 was considered by the Senate before this extensive study was completed.

Therefore, during the debate on S. 12, I stated on the floor that I would seek to further examine the effect of retransmission consent upon the compulsory license, and I would not seek to hold up S. 12. However, I made it clear that if the provision of copyright law and S. 12 conflicted in any way I expected to participate in the conference between the Senate and the House in order to reconcile the provisions.

Subsequent to the passage of S. 12 the Copyright Office issued its report and concluded that retransmission consent is incompatible with the copyright compulsory license. I then conducted 2 days of hearings on the findings of the Copyright Office report. After careful thought and analysis, I too have concluded that retransmission consent, as embodied in S. 12, is incompatible with the cable compulsory license.

In short, retransmission consent removes the "compulsory" from the compulsory license. The compulsory license establishes the right of cable operators to retransmit copyrighted programming without the consent of the copyright holder. Retransmission consent grants the broadcaster the right to consent or to block the retransmission, by cable, of the broadcast signal that carries the programming. In effect, it enables broadcasters to lock the door to the copyrighted programming that cable operators are entitled to retransmit by virtue of the Copyright Act. Therefore, if retransmission consent is enacted into law, the cable compulsory license in the Copyright Act would need to be reconciled.

Moreover, aside from the legal conflict raised by retransmission consent, a policy problem is created as well. I do not believe that broadcasters should be able to negotiate freely in the marketplace for the retransmission of their signal while the program providers are denied the opportunity to negotiate for the terms and conditions of the retransmission of their copyrighted programs.

Unfortunately, I was denied an opportunity to participate in the conference on the cable bill. Ostensibly, the reason for rejecting me as a conferee was that there would be no copyright issue addressed in the conference. This position was predicated upon the fact that no House Judiciary Committee members would be at the conference table. However, neither the presence nor absence of House Judiciary Committee members was material to the existence of a copyright issue because the House bill did not contain retransmission consent. Therefore, due to the inclusion of retransmission consent in the Senate cable bill, a significant copyright issue was created that warranted resolution regardless of the absence of my House counterparts. While I deeply regret being unable to participate in the cable conference. I am committed to reforming the copyright compulsory license to ensure, at the very least, that the creators of the creative programming are given an opportunity to operate on a playing field that is level with cable operators and broadcasters.

Mr. DURENBERGER. Mr. President, I rise to express my support for S. 12 and to urge my colleagues to support this legislation.

Like many of my colleagues, I found this far from an easy decision to make. I have never been a proponent of widespread regulation. In fact, I voted for the repeal of cable regulation in 1984. However, upon examining the state of the cable industry since deregulation, I have found that cable rates have skyrocketed, increasing at three times the rate of inflation, while there has been a concurrent plunge in the quality of service.

Mr. President, this bill will not stifle competition as the cable companies have suggested because currently, there is no competition in 97 percent of the market. In the areas of the country where there is true competition in the cable industry, the rates are 30 percent of those in the monopolistic markets. Cable operators argue that they have substantially increased the scope of options available to their subscribers; in fact, they have had a substantial increase only in price.

Most of the innovation in the cable industry has come in the form of more pay channels or pay-per-view choices, while at the same time the basic rates have exhibited exponential increases. The shift toward pay-per-view maintains a cable monopoly over selected programming even in the face of competition.

In analyzing the nature of the cable television market, I have tried to determine if there exists a viable solution to the problems in the industry that could be addressed through market forces. My determination is that there are sufficient impediments to an effective market place to warrant the adoption of S. 12.

The truth is that cable operators benefitted from the boost which came with deregulation back in 1986, just as Congress intended. Cable access improved, programming increased 50 percent, and market share increased.

But Mr. President, the providers of cable service consolidated their operations through leveraged buyouts, accessibility to programming for competitors was greatly reduced, and rates increased well beyond the rates of inflation. While deregulation has achieved the goal of market expansion, it has unfortunately created a monopolistic rather than dynamic market.

Mr. President, I believe that business as usual will not achieve the goals of fair rates for consumers and a strong and competitive market for cable operators and programmers. In a vibrant market, businesses do not ignore consumer preferences with impunity. Without S. 12, rates will continue to go up while service declines; the power of the largest cable operators will continue to increase, and the barriers to entry of competitors will only grow higher and stronger.

The cable industry currently enjoys the status of an unregulated monopoly and takes advantage of consumers who have no choice but to accept the rising rates and deteriorating quality of service. Many of our constituents have complained that the cable operators are wholly unresponsive to consumer input. Currently, cable operators are in a position to ignore requests for services and complaints about customer service due to the complete lack of alternatives available to the customer.

This bill is vital in the effort to address the problems inherent in an unregulated monopolistic situation. Customers have absolutely no choice and no voice in their frustrating dealings with cable.

The only alternative available to the majority of cable customers is to simply not subscribe to cable at all. This is not a viable alternative, particularly in those rural areas where the only access one has to local broadcast stations is through subscription to cable.

When cable was in its infancy, it was granted the authority to retransmit local broadcasts without permission or compensation from the broadcasters. That was as it should have been when cable essentially provided an antenna service for those who were not able to receive broadcast signals by conventional means. The situation, however, has changed.

After regulation ceased, cable operators became active players in all aspects of broadcasting, and are now direct competitors with broadcasters. They compete for advertising revenues, present alternative programming, and are a potent force in negotiating for lucrative programming such as major sports broadcasts.

Currently, cable's congressional mandate to carry programming purchased and produced at the expense of over-the-air broadcasters gives cable operators a significant advantage over broadcasters. While the availability of network programming, local programming, and public television on cable systems is a significant selling point for cable operators, broadcasters receive no reciprocal benefit from cable operators. In effect, broadcasters subsidize a portion of cable programming; for cable operators, retransmission is a bonus, not a burden.

The retransmission consent portion of S. 12 will, in my judgment, ensure that FCC licensed broadcasters will not be hampered by the obligation to provide programming for their competitors in the advertising market. Under the 1934 Communications Act, broadcasters are not allowed to pick up other signals without consent. Retransmission consent would guarantee that cable operators should abide by the same rules.

Similarly, the must-carry regulation will benefit both local broadcasters and the communities which they serve by assuring that local signals are available through the local cable system. The combination of these two provisions will guarantee that broadcasters can effectively fulfill the purpose for which they were granted a license.

Neither one of these provisions would necessarily require cable subscribers to pay for local broadcast television.

Although my inclination is to look at regulation with a skeptical eye, the provisions of S. 12 represent a restrained approach. First, it prevents a patchwork of wild regulation by directing the FCC to establish a uniform standard under which local authorities can request to have regulatory authority. Second, regulation is only applicable to the basic tier of service and does not cover premium channels or relationships with programmers.

Third, cable operators are afforded rights of appeal to the FCC. Finally, despite the arguments of its detractors, this bill is not an example of onerous regulation and governmental interference. The regulation embodied in S. 12 is only applicable to those areas where effective competition does not exist and will be phased out upon the realization of such competition.

After long deliberation, Mr. President, I have determined that S. 12 is the best way to ensure that cable rates reflect market forces rather than indicating monopolistic prerogative. Implementation of the provisions of S. 12 are necessary to assure that cable rates and services are tied to positive market forces resulting in a discernible improvement in service, programming, and technology.

Mr. DODD. Mr. President I rise in support of this legislation just as I did in January of this year. The time for cable television reform has come, and I for one welcome its arrival.

The facts surrounding this matter have not changed since this body first debated this issue. The cable television industry maintains a virtual monopoly on the rates and services it provides to the American consumer. And as I have noted before, those monopolies hold a 99 percent noncompetitive advantage in most markets.

What that 99 percent market advantage means to the consumers in my home State of Connecticut is really quite simple—increased rates in the city of Hartford alone, cable television rates have risen 81 percent in the past 5 years. In Danbury the rates have risen 65 percent, and in Litchfield, the rates have soared an amazing 179 percent.

Nationwide, cable television rates have risen three items faster than the rate of inflation, and complaints of service and support are mounting daily. Clearly, industry reform is necessary.

Mr. President, this legislation has been one of the most actively lobbied issues to come before the Congress. Every cable viewer in America has been bombarded with advertisements, mailers, and even special messages enclosed inside monthly bills. This is an unfortunate attempt by cable operators to scare customers into action.

The Cable Television Consumer Protection and Competition Act is a watershed measure with clearly defined goals. It will stimulate competition, protect consumers, and guarantee that basic cable television service in this country will remain affordable and consistent across the Nation.

In closing, I would like to submit for the RECORD two very important articles which I feel summarize this critical debate.

The first is a powerful letter, published this morning by the Washington Post, written by Senator GORTON and my good friend and colleague Senator LIEBERMAN. Their comments outline what I believe are important arguments in support of this bill.

The second article, written by Mr. Tom Shales of the Washington Post, is perhaps one of the best descriptive outlines of the issues surrounding this bill. Both of these articles are strong, thoughtful essays accurately portraying the absolute necessity for this legislation.

Consumers deserve better, Mr. President. For this reason, I urge my colleagues to support this conference report.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

WHY YOU NEED THE CABLE BILL

(By Slade Gorton and Joseph I. Lieberman)

The Post, in its editorial on the cable TV bill now before the Senate ["Uncle Sam in Charge of Cable," Sept. 19], is like the doctor who diagnoses the disease but fails to prescribe the cure. The Post is right: Cable is a monopoly. The Post is also right that there needs to be more competition.

But The Post is wrong when it suggests that the cable bill—the Cable Television Consumer Protection and Competition Act—won't take real steps to speed the growth of competition. And it is also wrong when it concludes that, until competition comes, strong consumer rate protections are not in order. The evidence of the monopoly marketplace has already proven otherwise. Left to themselves, the cable companies have raised prices at nearly three times the rate of inflation since 1987.

It is hard to see what more this bill could do to increase competition, short of lifting the ban on telephone companies providing cable in their local service areas—a step the cable industry has fought tooth and nail. This bill includes a provision deemed essential for competition by FCC Chairman Al Sikes. It *requires* franchising authorities to grant second or even third franchises when reasonable requests for such franchises are made.

The bill takes an even more important step toward competition in its provisions governing programming. Let's face it: You can't have competition if the competitors have nothing to sell. It's unrealistic to expect a new direct broadcast satellite company, wireless cable company or even a start-up cable company that wants to compete with an existing cable company to have to produce its own version of CNN, Discovery or TNT at the same time it is building its local system. Today's cable giants didn't start that way either. That's why they still get the local broadcast channels free.

To fix this problem and accelerate the growth of competition, the bill prohibits cable companies that own both cable systems and programming from using their control of the programming to frustrate competition. Without this protection, cable companies can simply refuse to sell programming to start-up competitors or choose to charge exorbitant prices. To cite one example, satellite dish distributors today often pay as much as five times more than cable companies for the same programming.

But the bill doesn't create a permanent entitlement. These "access to programming" provisions disappear in 10 years unless the Federal Communications Commission finds they are still necessary to competition and extends them.

We cannot forget, though, that no matter what we do to spur competition, most consumers won't have choice in the marketplace for years. That's why the bill has interim rate protections for consumers that fill the gap until competition arrives.

The Post seems to suggest that the cable bill's rate protections cover too many services. But that's ignoring the market. If we only protected consumers from unjustified rates for basic cable, the cable monopolies could simply charge higher prices for an endless variety of services: equipment installation, tier changes and anything else a creative cable operative could dream up. If you don't cover the whole package of monopoly services, you haven't covered anything at all.

Consider the case of Francis Behan. A senior citizen living on a fixed income in Springfield, VA., he pays $13.95 a month for basic cable. When he decided that he wished to subscribe to the Home Team Sports cable channel, his cable company informed him that to do so he would have to subscribe to the next tier of service at a monthly cost of $28.95. Adding the one channel he wanted, then, would triple Mr. Behan's monthly cable bill—which is too high a price for him to pay. This bill would put an end to that racket.

The important thing to remember about this cable bill is that it spurs competition, and all its rate-protection provisions—including provisions cited by The Post—end when competition begins. We agree with The Post on this point. Competition is the best regulator. But until competition arrives, consumers deserve meaningful protection. That's what this bill is all about.

UNSOUND BITES TO KILL THE CABLE BILL

(By Tom Shales)

Commercials currently flooding cable TV channels tell you that if Congress passes a certain piece of pending legislation, an onerous financial burden will be placed on the cable industry and, as a result, your monthly cable bill will have to go up. Again.

Well that, ladies and gentleman, is a Big, Fat Lie.

The bill, S. 12, which has gone through months and months of wrangling and amending, could be debated on the Senate floor as early as tomorrow. Its provision include relief for cable subscribers who've seen cable rates increase at up to three times the rate of inflation in recent years and a tentative step toward encouraging competition for cable systems.

If there's one thing the cable people don't like, it's regulation. They consider it impertinent. And if there's another thing they don't like, it's the thought of competition.

Competition is their kryptonite. They turn green and start to ooze.

How is cable getting away with telling viewers that a bill designed to bring skyrocketing cable rates under control is actually going to drive them up further? "It's an incontestable fact that this is true," insists Elise Adde, spokeswoman for the National Cable Television Association (NCTA). "We know the cable business."

The NCTA says the part of the bill dealing with "retransmission consent" would force cable systems to pay local broadcasters for the TV signals they now get to pick up for nothing, and that this could result in costs of up to $1 billion a year to the industry. These costs would be passed on to Mr. and Mrs. America and all the saps at sea.

That $1 billion figure was supplied by, of all people, CBS Chairman Laurence Tisch, who was asked for an estimate at a congressional hearing once and apparently said the first thing that popped into his old bald head.

But Marty Franks, the CBS lobbyist in Washington who is helping to lead the charge for the bill, says that the $1 billion figure is nothing but hypothesis and that besides, the bill never stipulates that any fees be paid. It merely establishes that cable systems will have to negotiate for the rights to local signals that help keep them in business.

Instead of negotiating retransmission fees, the bill says, a broadcaster could invoke the "must carry" clause of the bill, which requires cable systems to make all local channels available to their subscribers. Must-carry was the law of the land until a court struck it down; Franks thinks the new version would pass muster, while the NCTA says it "almost certainly is unconstitutional."

These provisions may sound complicated and unwieldy, and they are, but they absolutely do not mean that cable systems would automatically be forced to raise rates.

What shocks Franks and others who support the bill (the Consumer Federation of America among them) is the virulence of the cable campaign. The two commercials run repeatedly; it's an all-out onslaught. One spot shows a man under an umbrella that rains on him; the message is that the consumer will get soaked by the bill. Another is set in a senator's office, where he chastises his staff for letting "special interests" ruin what was once a perfectly nice little cable bill.

The idea of the carnivorous cable lobby warning us about the power of "special interests" would be funny if it weren't so hilarious.

Both ads tell viewers to phone their representatives in Washington and urge them not to pass that evil cable bill, that spawn of Satan. Millions of cable subscribers have also received entreaties with their cable bills warning of the dread apocalypse brewing in Washington.

"They're scorching the earth with this ad campaign," Franks says. "Members of the House and Senate know they're distorting the truth. These guys are a little like the old railroad robber barons."

"The ad campaign is at best misleading," says consumer advocate Andrew Jay Schwartzman, whose Media Access Project supports the bill. "This is not the world's greatest cable bill, but on balance, we'll be a lot better off if it passes."

Cable thought it was going to get a "watered-down" bill, Franks says, but the voice of the people really was heard on Capitol Hill, a chorus of complaint against exorbitant cable rate increases and notoriously atrocious service.

That seems to have scared the bejeebers out of the cable industry. It may also be panicking at the thought of a Bill Clinton victory in November because Clinton, based on his record in Arkansas and his public statements, is no cable coddler the way George Bush is. Bush has threatened to veto virtually whatever cable legislation Congress sends him.

One NCTA spokeswoman claims the bill was toughened up "to embarrass President Bush in an election year," since a veto could be expected to lower his popularity even further. Will Bush follow through on the veto threat? "I'm not sure whether he's going to be that stupid," says Schwartzman. "But the leadership is certainly relishing the prospect of plopping this thing on his desk within the next couple of weeks."

You might think that if this year's cable bill were defeated, next year's version would be even tougher, especially if the Democrats win big, and that cable lobbyists would swallow hard and accept S. 12. And yet they are not only fighting it, but fighting it dirty.

One missive from the folks at NCTA warns that if those "burdensome must-carry obligations" are reimposed, then "as a result, some cable networks (such as C-SPAN and CNN) might have to be dropped."

Notice they don't threaten us with the loss of, say, the Nashville Network or the Comedy Channel or Ted Turner's imminent all-cartoon network. They don't threaten to drop plans for the forthcoming Sci-Fi Channel, which will recycle old network reruns like "Battlestar Galactica" and "Dark Shadows."

Oh no—somehow space would be found for these precious treasures. But C-SPAN and CNN, the two cable networks of most benefit to the public interest, they might just have to be dropped. This isn't just a threat; it's almost blackmail.

And in reality, systems that tried dropping CNN and C-SPAN would be courting public relations disaster as well as widespread subscriber revolt.

The cable lobby has been accused of playing fast and loose with other facts and figures. In August, House members received a letter from a Commerce Department official claiming the reregulation of cable could end up costing as much as $2.81 billion a year, according to seemingly independent studies. In fact, as was later revealed, virtually all the data in the studies were supplied by the NCTA.

"It simply establishes further what we already know," sighs Schwartzman. "Cable is a national monopoly with both the ability and a demonstrated history of abusing it. Any tactic to benefit their cause is okay with them, and the public be damned."

Despite the feverish advertising campaign and all the frenzied lobbying, the cable bill is expected to pass. Whether it does or not, the whole episode can be looked upon as one more chapter in a continuing, perhaps never-ending, saga: Cable vs. the American people. It would be nice if the good guys won one for a change.

Ms. MIKULSKI. Mr. President, I rise today in strong support of S. 12, the Cable Television Consumer Protection Act. People in Maryland and across America are paying too much for cable, and it is about time the Congress did something about it.

Passing this bill will take some important steps toward lower cable TV rates and better service. That is why I cosponsored this bill over a year ago, and why I continue to battle to get it through Congress.

I want to make it clear that I like cable television. I depend on it. My schedule does not allow me to plan when I'll be home, and with cable I can keep up with what's going on in the world. If I get home at 9, 10 or 11 at night, then I look to cable for breaking news, or even for reruns of Senate hearings that I could not attend myself.

And I know that many Marylanders truly need cable television. The elderly and those shut in their homes rely on cable as their link to the world. They rely on CNN on the Weather channel, and many use their televisions as a type of companionship. And they need to be guaranteed that they got good cable service at a fair price.

We've got great programming like the Discovery channel being put together right in Maryland. Discovery makes quality, informative programming that is seen across the country and overseas. But my experience, and that of many Marylanders, is that there are serious problems with the cable television industry.

Eight years ago Congress deregulated the cable television industry, hoping that competition would do a better job of keeping service good and prices down. Back then we looked at cable as David fighting the Goliath of the networks. Cable companies needed a boost to grow, and deregulation looked like the right way to go. Cable grew fast and got very expensive.

Cable rates are skyrocketing across my State of Maryland, and across the country. Cable rates are going up at three times the rate of inflation, and some studies say that consumers are being overcharged by $6 billion every year.

Those who depend on cable and those who use it for entertainment tell me their rates are too high—and they feel the pinch every month when they write out their checks to their local cable monopoly.

And high rates have often brought poor service along with them. Installations and repairs can be a nightmare. Many cable companies have telephone numbers that are always busy or never pick up. Even if you get through, you still have no guarantees on getting satisfaction. And you can't take your business elsewhere.

That's why Marylanders are telling me cable television should be regulated like a utility. Marylanders have a public service commission for telephones, electricity, and gas. They want something similar for cable. They want someplace to go when their rates go up too fast. They want someplace to turn when they get poor service.

That's why America needs S. 12. This bill gives the Federal Communications Commission and local governments the ability to protect cable viewers. It puts responsibility back on the cable monopolies we have across America.

If cable companies don't face competition—and not many do—then they will have to provide reasonable service at reasonable rates. If they are ignoring their customers, they have to answer to the FCC.

If they are overcharging and profiting at consumers' expense, their rates can be rolled back. S. 12 says that consumers will have the power to do something if their rates double in just a few years and they get keep getting bad service.

And this bill is fair. It doesn't punish the cable industry, it just encourages competition and, failing that, asks that cable companies price their services fairly and treat their customers with respect. S. 12 does allow cable companies a reasonable profit, but forbids profiteering and monopoly business practices that have cost consumers billions of dollars over the past few years.

That's why I'm cosponsoring the Cable Television Consumer Protection Act and why I'll keep battling to make sure cable viewers in Maryland are protected. I urge my colleague to join me in passing S. 12 and making sure that we straighten out the cable industry.

Mr. GRASSLEY. I would like to ask the distinguished Senator from Hawaii, Senator INOUYE, for a point of clarification concerning the so-called anti-buy-through provision of the conference report on S. 12. This provision would allow basic cable subscribers to subscribe to premium or pay-per-view services without being required to subscribe to enhanced basic or upper tiers of programming. While I applaud the intention of this provision to provide consumers with additional choice, I am concerned that this provision may require some cable operators to install addressable technology that could increase their costs of providing service.

Mr. INOUYE. The Senator from Iowa is correct. The purpose of this provision is to increase the options for consumers who do not wish to purchase upper cable tiers but who do wish to subscribe to premium or pay-per-view programs. In response to the concerns about costs expressed by some cable operators, however, the conferees on S. 12 gave cable operators 10 years to comply with this provision. Remember also that about 40 percent of our cable systems already have in place the technology necessary to meet this provision's requirements, and it is expected that soon a majority of cable systems will have that capability. But for those cable systems that cannot offer this service because the cost of installing addressable technology would force cable rates up, the conference report allows the FCC to grant waivers of this requirement if the Commission determines that compliance would require the cable operator to increase its rates.

Mr. GRASSLEY. This clarification is helpful. Of Iowa's 533 cable systems, 458 have fewer than 3,500 subscribers. In fact, 402 serve fewer than 1,000 subscribers. So, I am particularly concerned about the impact of this provision on small cable operators. Many of the cable operators in my State are small and have been providing cable service for a number of years. The potential costs of installing addressable technology could be significant. I am concerned that the wording of the waiver provision could make it difficult for small cable operators to obtain a waiver from the FCC. I also note that the conference report contains a provision to encourage the FCC to reduce the administrative burdens and the costs of compliance for cable systems that serve less than 1,000 subscribers. It is the Senator's intention that the FCC, in considering waivers of this requirement, should give special consideration to the costs that would be incurred by small cable operators in complying with the anti-buy-through provision?

Mr. INOUYE. The Senator from Iowa is correct again. It is my intention that the FCC should take particular account of the problems that small cable systems may have in complying with the anti-buy-through provision. I believe that cable systems that serve fewer than 1,000 subscribers should have reduced administrative burdens and that the FCC should give special consideration to the needs of small cable operators to receive waivers of the anti-buy-through provision.

Mr. GRASSLEY. And with regard to the actual process required of a cable operator to apply to the FCC for a waiver, seeking legal relief could be costly for the cable operator no matter what the size. Lawyers do not come cheaply. Is it the Senator's intention that the FCC establish a process for obtaining waivers that is not so complicated that it requires the services of lawyers, and that instead, cable operators themselves would be comfortable submitting waiver applications on their own?

Mr. INOUYE. That certainly is my intention. The FCC should do everything possible to minimize the complexity of this process, as it has done in some of its other proceedings. Cable operators, many of whom have limited resources, should not be burdened with unnecessary legal expenses in order to comply with these waiver applications.

Mr. GRASSLEY. I thank the Senator for this clarification.

Mr. KASTEN. Mr. President, I support the House Senate conference report to S. 12, the Cable Television Consumer Protection Act. This cable television reform legislation was developed in response to consumer complaints about rate increases that were three times inflation and deteriorating customer service. I also supported S. 12 when it passed the Senate in January 1992 by a vote of 73–18.

While the cable industry has provided a whole new option to the viewing public, the fact remains that the technologies that we foresaw as coming into being to provide competition for cable at the time of deregulation has not occurred. This bill would encourage competition to cable and regulate rates for basic cable service where there is no competition.

Competition is the engine that spurs innovation in this society, and protects the interests of the consumers by providing alternatives. The experience of those communities which have competing cable systems is that their rates are 30 percent below the rates of monopoly cable systems.

The rate regulation provisions of the bill do not apply to those systems which have competition, or where competitive service develops. Competition is encouraged by provisions prohibiting cities from granting monopoly franchises, and by adopting provisions for access to programming to help create the competitive systems envisioned when cable was deregulated.

Despite the claims of the cable companies, financial observers of the communications industry see little impact from this bill on the financial health of the industry.

Finally, the bill provides that the broadcast programming that is rebroadcast by cable would be subject to negotiations between local stations and local cable operators. Stations may elect to just be carried for no charge, or negotiate for payment, but risk no carriage at all. In either of these cases rates would not increase at all.

This legislation has been hotly debated in the television industry. Those on both sides of the argument mounted public relations campaigns to sway public opinion and congressional votes in their favor. There is no question that the public relations campaigns had a real impact—I received thousands of calls and letters on this issue.

My responsibility is to the people of Wisconsin. And their chief concern, which they voiced loudly and clearly in their letters and calls to me, was keeping their cable rates under control.

I do not believe that this bill will increase cable rates and that, in fact, it will control future rate increases. It is ironic that this bill was developed precisely because cable operators were instituting sharp rate increases. Milwaukee saw two, double-digit increases in the span of less than a year.

The Consumer Federation of America has called this the most important consumer legislation of the 102d Congress. It refutes the charges of rate increases, and estimates that S. 12 could save consumers up to 30 percent of their annual $20 billion cable bill. This would amount to a $6 billion savings, not increased charges to cable customers.

In closing, I have heard from many parties on both sides of this issue. Massive campaigns have been generated using the media we are talking about here—television—and consumers have responded. However, I think it is instructive to list those who favor this bill: Consumer Federation of America, National Council of Senior Citizens, National Consumers League, U.S. Conference of Mayors, National Rural Electric Cooperative Association, National League of Cities, National Association of Broadcasters, AFL-CIO, and the National Association of Counties. Also, I have received a letter from the Wisconsin AARP State Legislative Committee and Capital City Task Force representing 700,000 Wisconsin members. They have voted unanimously in May, and again in August, to support cable legislation. They urge that we respond to the negative, incorrect and misleading newspaper ads * * * by voting yes on the cable reregulation bill.

Opposed to this bill are the National Cable Television Association and the Community Antenna Television Association.

On balance, I believe that this bill will help to rectify the rate and customer service problems that our constituents have complained about. It will encourage competition, and not apply where there is competition. Therefore, I support the conference report to S. 12 because I believe that the evidence demonstrates that it will, in fact, help keep cable costs under control.

Mr. SEYMOUR. Mr. President, for nearly 4 years, Congress has been trying to write legislation that will put a stop to the rapid growth in fees that some consumers pay for cable television.

I do not think the American people will find many in Congress who disagree that cable rates and other practices should be controlled. The question is how best do we control rates and service.

I strongly believe that competition is the best method to keep prices low on any consumer good, and I support measures that achieve this goal. In fact, last January, I supported a cable bill that emphasized competition rather than regulation. When that failed, I reluctantly supported a regulatory measure because I believe that some regulation is needed in areas where competition will be slow in coming, and to ensure cable service quality. However, I made it clear last January that the final cable bill that we send to the President had to contain fewer burdensome regulations, and more measures to promote competition.

That did not happen. The final cable bill that was crafted by a joint House-Senate conference committee is loaded with burdensome regulations that are unnecessarily excessive and unworkable. This final measure would introduce 30 new regulations into an already overregulated economy. One provision, retransmission consent, is particularly troublesome because it is bound to cost consumers money. Indeed, retransmission consent and the other regulatory provisions threaten to harm two important California industries, film and T.V. producers, and advanced telecommunications manufacturers. Therefore, I could not in good conscience vote for an otherwise well-intended bill, because it would have an unnecessary adverse impact on a California economy struggling to recover.

Mr. President, you will recall that, last January, I was one of the first Members of this body that raised some concerns about retransmission consent. I had hoped that these concerns would be addressed when the House of Representatives considered the bill.

What happened?

The House removed retransmission consent from its cable bill to avoid a full and thorough investigation of the issue by the House Judiciary Committee. And the House-Senate conference committee adopted the Senate's provision, even though I and a large number of my colleagues in both Houses of Congress had serious practical and legal questions about this issue.

In short, Mr. President, my questions on retransmission consent went unanswered.

Specifically, retransmission consent requires local cable operators to negotiate with and pay TV broadcasters for the right to carry the broadcasters' signals. However, this provision runs contrary to current law, which gives cable operators the right to carry these local TV programs free of charge. The result is that TV and film producers—the owners of the programs we see on television—would have less control over the use of their programming than the broadcasters who package and transmit the programs. And it would also result in cable consumers paying for a product that non-cable consumers get for free.

The U.S. programming industry is an essential part of our economy, especially in California. In fact, California's entertainment industry is one of our Nation's leading exporters, employing tens of thousands of Americans and returning $3.5 billion in surplus balance of trade to the United States each year. This industry produces the programs we watch, not the signal itself. The cable bill rewards the signal, and not the programming, and the cable consumers will pay for that reward.

This sends a wrong message about one of America's most important industries. It is a message foreign governments are sure to get and like. American TV programming is very popular abroad, and U.S. programmers already face hostile and unfair trade practices from foreign governments. This bill will encourage foreign governments to enact provisions similar to retransmission consent, costing our economy tens of millions of dollars in lost revenue.

Furthermore, the excessive rate regulations in this bill will place on hold the expected expansion of cable into fiber optics and other advanced telecommunications fields. A number of California fiber optics and information service industries fear that this bill unnecessarily threatens much-needed job growth in California.

Cable consumers expect and deserve quality cable service at a low price. Competition must be our best long-term answer, with responsible regulation a short-term solution where competition does not exist. There is little in this bill that will promote competition, and much in this bill that will impose unnecessary costs on California's economy. I have a duty to protect the consumer, but I also have a duty to prevent undue hardship to my State, especially at a time when it is struggling valiantly to recover. That is why a majority of the California congressional delegation opposed the cable bill in the House of Representatives. That is why I must oppose the cable bill today.

I strongly hope that, should a presidential veto be sustained, the Congress will pursue responsible legislation that benefits consumers without hurting workers, one that promotes competition and innovation, not regulation and economic stagnation. The people of my State deserve nothing less than a balanced, responsible approach.

Mr. KERRY. Mr. President, in January of this year, when the Senate debated and ultimately passed the cable television legislation that reappears before us today in the form of a conference report, I joined with several colleagues to craft and offer a substitute amendment for the bill approved by the Commerce Committee and which subsequently was approved in substantially the same form by the Senate.

I said at the time that the bill language that was approved made me extremely uncomfortable in several key respects. My conclusion was then, and remains today, that S. 12 did not achieve anywhere near the correct balance between the effort to regulatorily assure that cable consumers are not victimized with unreasonable high prices and the necessity for market force incentives to assure that the quality and selection of cable programming will continue to increase.

The evidence over the past decade, in my judgment, is that increases in rates, some of them very large, have been experienced in a number of locales—by no means in all, but in a disturbing number. This has occurred on a sufficiently widespread basis that the consumers of the Nation have a right to expect Congress to act decisively to prevent further victimization.

But on the other side of the equation is my strong belief that this bill yields to a constant temptation: to kill with too much of a good thing. In an effort to be responsive to the legitimate complaints of those who have seen their cable rates climb beyond all reason, this legislation extends its reach in a way that I fear will stifle creativity, and undermine the quality and diversity of programming which are largely responsible for the favor in which cable is held by the public today. Ironically, the cable industry's political problems are exacerbated by its success: If no one wanted to watch cable, no one would subscribe, and cable rates would not be a compelling topic for congressional consideration. But it is important to keep in mind that cable's success has not been accidental. It has come with a lot of hard work by industry leaders. It has come with a lot of investment in innovative programming, coupled with a commitment to high quality and responsiveness to the viewing desires of the public. And to a significant extent, these were made possible by a healthy industry revenue stream.

The challenge to the Congress was to devise a mechanism for preventing abuses by applying just enough force. Intervention in the free marketplace should be only as extensive as necessary to accomplish the intended purpose. The unfortunate truth is that this bill failed to achieve this delicate and precise approach.

I am troubled, too, by the way in which the bill treats copyrights of programming. It is important to assure that inequities in market clout do not act to prevent some groups of Americans from gaining access to high-quality programs. But those who originate programming are entitled to a fair return on their effort and their investment, and I believe this bill will result in situations that produce neither. This among other peripheral but nonetheless very important issues must be addressed anew by the Congress in 1993. I am committed to reexamining the functioning of the copyright in the cable environment, and producing a policy which is carefully crafted and equitable.

But having touched lightly on some of the less-than-desirable features of the conference report, I nonetheless have concluded that the conference report is not so egregious that it warrants or would excuse a total failure of Congress to act on the cable issue this year—which will be the outcome if the Senate fails today to approve that conference report. And it is true that in some respects the conference report is a preferable bill to the bill passed in January by the Senate.

Based on all these factors I have decided that the need for governmental intervention outweighs the potential consequences of applying the hand of regulation too heavily, and so I will vote in favor of the report. While I no longer have the hope I had when I reluctantly voted for Senate passage of S. 12 that the House might craft a superior bill, I retain the conviction that Government should retain a careful focus on the objective of its policymaking. In the case of this bill, that should and must be the consumer of cable services, both current and future.

I am hopeful that my fears about the effects of overbearing regulation will prove to be unfounded. But if difficulties do emerge, I expect to be involved in remedial efforts.

If this legislation becomes law, with the signature of the President or over his objection, whichever he wishes, I urge the distinguished chairmen of the Senate Commerce Committee, Senator HOLLINGS, and of the Subcommittee on Communications, Senator INOUYE, and the two ranking members, JOHN DANFORTH and BOB PACKWOOD—who did such a masterful job of managing this legislation through an excruciating series of hurdles—to monitor its implementation carefully and to move expeditiously to highlight and remedy any significant problems that begin to emerge.

While some of the stories of rate gouging by cable companies are true in whole or in part, cable also is a remarkable free market success story, benefiting those who have bankrolled it to be sure, but just as surely benefiting the viewers who have greater choice and program quality than virtually anyone could have imagined as recently as 15 or 20 years ago. If this legislation becomes law, it must not be seen as a final conclusion or a comprehensive and flawless solution to all problems. It will make some things better, it will make some things worse, and it will require careful observation and response by the appropriate committees and subcommittees.

Mr. SASSER. Mr. President, in adopting the conference report on the Cable Television Consumer Protection and Competition Act, the Senate today is enacting important new rights for our Nation's cable viewers.

The bill will allow local governments to regulate the rates for basic cable service. It will give the Federal Communications Commission authority to review rates that are excessive, and in fact order reductions in these rates. The bill also requires cable programmers to make their programming available to other viewers—such as satellite dish owners—on a fair and nondiscriminatory basis.

This combination of fostering competition and regulating the rates of monopoly cable providers is the key to bringing about a fair and equitable market place where consumers have the widest possible choice of programs and they are assured that the rates they are paying are reasonable.

Many television viewers in my State of Tennessee have no choice but to subscribe to cable services. Because of the geography of Tennessee large areas of the State cannot receive clear television reception. Cable is often the only alternative—a cable service which under current law is unregulated and a monopoly.

Over and over, subscribers have been told that increased rates would mean better service and increased viewing choices. In far too many cases they have experienced worse service and are paying for programs they do not want but which generate increased profits for the cable companies.

Mr. President, since cable television was deregulated back in 1984, many of my constituents have experienced huge increases in their cable rates. Since 1984, cable rates have increased by more than 60 percent, more than three times the rate of inflation. Consumer groups estimate that cable users are being overcharged by some $6 billion per year.

This bill will reverse those trends and give cable subscribers some relief from rate increases.

I am also pleased that the bill includes strong must carry provisions. This is crucial to small, independent stations—and importantly to Christian broadcasters—who often find cable stations unwilling to carry them on the cable system.

There is another part of this bill that is very important to my State of Tennessee and in particular to Jamestown, TN. In 1977, Jamestown granted a 25-year exclusive franchise to a cable operator. This was long before anyone envisioned competition in the cable industry and when cable systems were viewed more as a public utility. In addition, it was felt that the city's ability to regulate rates would prevent unfair rate increases and protect consumers. In 1984, the city lost this safeguard with the deregulation of the cable industry.

The results were predictable: cable rates rose and service deteriorated. Finally, in frustration, the city built its own cable system. The original cable operator sued successfully in court to enforce its exclusive franchise and Jamestown residents are again dependent on a single programming provider.

Thus, I am very pleased that section 7(c)(2) states that:

> No provision of this Act shall be construed to prohibit a local or municipal authority that is also, or is affiliated with, a franchising authority from operating as a multichannel video programming distributor in the franchise area, notwithstanding the granting of one or more franchises by such franchising authority:

I am equally pleased at the language adopted by the conferees which states:

> The conferees believe that exclusive franchises are directly contrary to federal policy and to the purposes of S. 12, which is intended to promote the development of competition. Exclusive franchises artificially protect the cable operator from competition. Exclusive franchises artificially protect the cable operator from competition. Moreover, at the time most of the exclusive franchises were awarded, local authorities had the power to regulate the rates for basic cable service. However, the 1984 Cable Act repealed local authorities' ability to regulate rates.

Mr. President, I would argue that if the bill's requirement that local authorities allow new cable systems to compete with existing cable operators is to be fully effected, then it should apply to all existing exclusive franchises. Indeed, if the provision were applied only to franchises issued after enactment of S. 12, the section would serve little practical purpose. Few, if any, communities issue exclusive franchises today, nor are such franchises likely to be granted in the future.

Rather, the frustration of Federal policy arising from exclusive franchises today is, for the most part, the result of older exclusive franchises that remain in effect. They rest on assumptions about cable television law and operation that are no longer valid. Virtually all exclusive franchises in existence today—and the only ones likely to exist in the future—are franchises granted by smaller communities before the 1984 Cable Act was passed.

Indeed, for all practical purposes, the only exclusive franchises that exist today are franchises that were granted in the 1960's or 1970's or earlier. At that time, cable system technology and services were far less sophisticated than today. Cable service was itself a novel service, and local communities were far less knowledgeable about cable than they are today.

Accordingly, for the bill to serve its purpose of eliminating exclusive franchises as contrary to public policy, I believe the prohibition on exclusive franchises must apply to all existing exclusive franchises.

Mr. President, this bill has been subjected to an unprecedented negative campaign—a virtual disinformation campaign. The facts are that this bill will promote competition and it will control the exorbitant rate increases that our constituents have faced since cable deregulation in 1984.

I commend the Senate's action and I call on the President to take the side of the consumer and not veto this important legislation.

Mr. ADAMS. Mr. President, I rise today in strong support of the conference agreement on the Cable Television Consumer Protection Act (S. 12).

Thanks to a jump-start from Congress in the 1984 Cable Communications Policy Act, cable TV has become a fixture in many American homes. Unfortunately, along with this expanded access cable has also established a stranglehold over consumer pocketbooks. In more than 99 percent of the markets, only one cable company exercises control. Thanks to this system of monopoly, rates have increased by more than 60 percent nationwide.

Contrary to the recent wave of misinformation by the cable industry, S. 12 is a responsible approach toward reducing price gouging and encouraging increased competition in this monopolized industry. Where there is no effective competition, this legislation seeks to provide fair and responsible regulation of rates in order to protect consumers.

I would like to share with the Senate an example of the kind of public frustration rate hikes engender in the citizens of my State of Washington over the past few years. Late last year, a man from Tacoma sent me a cartoon in which someone reads a Christmas card to another: "At this joyous time of year we offer you this verse * * * expect another rate increase on January first." The second person replies: "I hate getting Christmas cards from the cable company!" The man from Tacoma also included a copy of his Christmas card: it was a notice from his local cable company raising rates on January 1, 1992. He circled the new monthly basic rate and inscribed "Again?"

With unemployment at more than 9 million people and the economy in a chronic recession, any rate increase has a harmful effect on American households. Rate increases have an especially harmful impact on people with fixed incomes. Cable TV has become a lifeline to the world for many senior citizens; and as the National Council of Senior Citizens points out, seniors on fixed incomes find it harder and harder to pay their skyrocketing cable rates.

Shocking rate increases for individual households since the 1984 Cable Communications Policy Act was enacted make the rate regulations of basic tier cable in S. 12 the most important provision in his bill. I have appended to my statement figures from the Consumer Federation of America showing cable rate increases in Washington State. The average rate increase since 1986 for our five markets was 85 percent.

Another significant section of this legislation provides for what is known as must carry. I am an ardent supporter of public television. The must carry provision is essential to protect public television and the rights of small independent commercial stations. Without this, these stations could be swept off cable or be saddled with obscure channel positions on the cable dial.

The must carry provision also guarantees the actual distribution of public television and small independent commercial TV stations. One station in Washington, KCJ Channel 17 in Yakima, has been trying for 2 years to get picked up by cable. This is the only locally owned, commercial television station not on cable. It also happens to be the only Hispanic station, which serves the large and growing Hispanic population in the Yakima Valley. This bill would help KCJ and Hispanic viewers in the valley. Without it, Hispanic viewers in the Yakima Valley and stations like KCJ are at the mercy of a cable system unburdened by the consumer-oriented benefits of free competition.

The retransmission consent provision of S. 12 requires more equity in the business relationship between local TV broadcasters and the cable companies. This provision takes a balanced approach. I believe some local affiliates of major TV networks when they predict their financial future is uncertain at best under cable deregulation. I do not want to see local TV stations fall into bankruptcy like many of our deregulated airlines.

Finally, the access to programming provisions is designed to stimulate new forms of transmitting, such as high definition satellite-transmitted TV and audio. This section will help U.S. industry pioneer new forms of communication. Clearly, this would also enhance our international competitiveness.

A Washington State senator recently wrote me that he receives hundreds of letters annually, from cable television customers complaining about poor service, increasing rates, and a lack of choice. This bill gives consumers a choice and is simply the right thing to do.

A mayor of a major city in the State of Washington recently wrote me the following note:

> For the past 2-1/2 years city staff has been engaged in refranchising negotiations with our local cable operator. We have discovered that few of the public benefits envisioned by the supporters of the 1984 Cable Act have come to fruition, and the process of crafting a franchise which meets the community's future cable-related needs and interests is frustrated for all sides involved.

The mayor goes on to point out that not only do he and his city council endorse S. 12, but so do the National League of Cities, the U.S. Conference of Mayors, and the National Association of Counties. Many local elected officials would like to see an even tougher bill. Wherever possible, we should fashion as strong a consumer bill as possible.

S. 12 also looks to future competition, especially from new wireless cable systems. Section 19 of S. 12 provides competitors of the existing cable system with fair access to programming. The Skyline Entertainment Network, a wireless system in Spokane, WA, claims that big cable system operators will try to maintain their monopolies by trying to weaken or eliminate the fair access provision in the bill. Skyline and a similar wireless system in Yakima, WA, are good examples of the type of new systems that section 19 will encourage.

Mr. President, before I conclude I would like to comment on the recent war of words that has come streaming across my television set over the past few weeks directing viewers to call their Senators and stop the cable bill. In the September 14 edition of the Washington Post, Tom Shales wrote a surprisingly cogent legislative analysis, for a television writer, on this issue. He wrote, "If there's one thing the cable people don't like, it's regulation. They consider it impertinent. And if there's another thing they don't like, it's the thought of competition. Competition is their kryptonite. They turn green and start to ooze."

Let's set the record straight. Responsible regulation to protect consumers and encourage competition is not misguided micromanagement of the cable industry, it is simply common sense. Consumers cannot continue to be burdened by the unrestrained hand of an expansionist monopoly over the cable marketplace. We, in this body, have a responsibility to the public to get the cable industry headed down the right road, and eventually toward a competitive market with the consumers' best interest at heart.

In conclusion, Mr. President, let me repeat: S. 12 is a good bill, it's a fair bill, and it gives consumers a choice. We need to restore reasonable regulation, balance, and sanity to today's cable marketplace. The conference agreement on S. 12 will help us accomplish this.

According to the Consumer Federation of America the following figures illustrate the extent of cable rate increases in the State of Washington:

CABLE RATE INCREASES

BREMERTON—TCI CABLEVISION OF WASHINGTON

1986—$11.95 for basic service (25 channels) (Nation Wide Cablevision Inc.).

Dec. 1991—$19.20 for limited basic (26 channels); $20.55 for expanded basic (31 channels).

Feb. 1992—$20.20 for limited basic (26 channels); $22.55 for expanded basic (31 channels).

Increase: December 1991—61% for similar offering; February 1992—69% for similar offering.

Note: There will be a 5% rate increase for limited basic service and a 10% increase for expanded basic service in February 1992.

PULLMAN—CABLEVISION

1986—$9.45 for basic (22 channels).

Dec. 1991—$6.23 for limited basic (12 channels); $20.55 for expanded basic (33 channels).

Increase: 117% for similar but expanded offering.

SEATTLE—TCI CABLEVISION OF SEATTLE INC.

1986—$10.55 for basic (14 channels) (Group W Cable of Seattle).

Nov. 1991—$20.00 for basic (35 channels).

Increase: 90% for basic service.

SPOKANE—COX CABLE SPOKANE

1986—$11.00 for basic (35 channels).

Dec. 1991—$19.91 for basic (33 channels).

Increase: 81% for basic service.

TOCOMA—TCI CABLEVISION OF TACOMA INC.

1986—$12.95 for basic (32 channels) (Group W of Tacoma).

Dec. 1991—$20.03 for limited basic (26 channels); $21.03 for expanded basic (31 channels).

Feb. 1992—$22.03 for expanded basic (33 channels).

Increase: December 1991—62% for similar offering; February 1992—70% for similar offering.

Note: There will be a 5% rate increase for expanded basic service in February 1992.

Mr. BIDEN. Mr. President, I support the conference report on the Cable Television Consumer Protection Act.

The Cable Television Consumer Protection Act will help put an end to the steady and excessive increases in monthly cable bills that consumers have suffered from during the past few years.

The people of Delaware, like consumers across the country, have seen monthly cable television bills grow steadily larger and larger. They believe they are paying too much—and they are. In less than 3 years' time, subscribers to cable television in Delaware saw their monthly charge for one service—not coincidentally a popular one—jump $7.

What accounts for these excessive increases in cable television rates?

When Congress deregulated the cable industry in 1984, it expected market forces to replace Government control. But competition remains absent from the cable television market.

In Delaware, as in most other States, cable franchises do not face any competition. They are unregulated monopolies. Nowhere in Delaware are there two sets of cable television lines serving the same residence. If there were competition, Delaware's cable customers could choose between two competing cable companies, then they could select the one with the best programming, service, and price. But not a single Delaware cable subscriber has this choice.

In the absence of normal market conditions, granting local governments the authority to control unreasonable rate increases makes sense. I support the cable reform bill because it restores the ability of local regulatory authorities, in combination with the Federal Communications Commission, to control increases in monthly cable bills.

An efficient, competitive cable television market is preferable to government regulation. Where competition truly exists, those markets will be exempted from the regulatory review established by this legislation. But in far too many cases, and for millions of consumers, those conditions are absent.

We should not allow baseless threats raised by cable companies to distract us from the bill's central purpose—restoring regulatory control to an industry that faces no competition. I hope that the President will not veto this bill, as he has threatened. The cable bill truly is proconsumer legislation, and cable customers will be the beneficiaries when it becomes law.

Mr. CHAFEE. Mr. President, nearly 8 months ago the Senate approved the

Cable Television Consumer Protection Act of 1992, S. 12. During that debate I expressed hope that Congress would enact legislation to address two problems that have plagued much of the cable television industry since deregulation, namely poor customer service and serious rate abuses.

This bill does address service and rate problems—but unfortunately it also proposes several additional provisions that could produce unintended, and potentially harmful, consequences for consumers.

The conference report devotes nearly 50 pages to legislative text. Yet just 8 of those pages are devoted to consumer service and rate regulation issues. In my view, the best thing that the Senate can do for consumers is strip the extraneous elements of the report and adopt a bone fide consumer bill.

The conference report does more harm than good, and could ultimately cost consumers in the form of higher monthly cable rates. As a result, I will be forced to oppose this conference report despite supporting the proconsumer elements of the bill.

Let me review this year's cable debate. In January, I supported the Packwood-Kerry-Stevens substitute amendment to the cable bill. I believed then and now, that it was a better approach to reform than S. 12. When the Packwood amendment was defeated, I voted to approve S. 12.

In my statement last January I indicated that neither the Packwood substitute nor S. 12 has achieved the proper balance that I was seeking to protect cable subscribers. I supported that legislation even though I opposed elements of the bill. In my view, it was important to keep cable reform advancing, and the Senate bill was the only hope for reform this year. I held out the hope that the House of Representatives, and later the Senate-House conference committee, would fine-tune the measure and produce a reasonable bill to correct abuses in the cable industry.

Unfortunatley, today's debate has turned into a slugfest between giant cable companies and the three networks about dividing the spoils of retransmission fees. It has become a battle between cable and the Hollywood studios about profits and royalty rights for television movies.

Somewhere in the middle of this fight is the consumer. Most Rhode Island cable subscribers could care less about such arcane terms such as program exclusivity, retransmission consent, copyright and antitrust provisions. Consumers want what I want—better service and fair rates.

For 3 years I have been prepared to support a consumer protection cable reregulation bill. But the bill before us today has gone well beyond a proconsumer piece of legislation. The extraneous regulatory and turf battle issues that are bogging down this legislation could very well wipe away the gains provided to consumers in the service and rate parts of the bill.

The bill's retransmission consent provisions are prime examples of a debate that has gone beyond its initial mission to help consumers.

Both S. 12 and the conference report contain provisions dealing with the so-called retransmission consent issue. Simply put, under this provision cable companies could be forced to negotiate with local broadcast stations—such as channel 6, 10, or 12 in Providence—in order to carry their signals on cable television. It would also permit broadcasters to charge a fee for cable's use of over-the-air signals.

There is a legitimate debate about who benefits more when a cable system carries broadcast signals—cable charges a fee for its services and gains an attractive marketing tool by retransmitting local and network broadcasts; and broadcasters benefit from expanded market penetration and improved signal reception.

My concern here is that the fee mechanism established in the bill would almost certainly harm consumers. If cable must pay a fee to broadcasters, then it must raise the revenue to cover these new costs. And where will cable get this revenue? Consumers would probably be forced to swallow these new costs—most likely in the form of rate increases.

In my view, this provision runs contrary to the spirit and original intent of this year's cable debate because the likely result would produce higher, not lower, rates for cable subscribers.

Another problem that I have with the bill centers around its program exclusivity provisions. Under this bill cable companies would be prohibited from developing a television program and then entering into a contract to sell that program under an exclusive arrangement.

For example, if C-Span developed a new program that was permitted to carry live broadcasts of Supreme Court arguments, the FCC could require C-Span to sell that programming not only to cable companies but to all competing companies that wanted to carry the Supreme Court broadcasts.

At first blush, this may seem like an innocuous provision. But upon closer examination the potential flaws of this section become apparent. Cable companies might be hesitant about investing heavily in new programming for fear that the benefit of that investment would be diluted when forced to share that programming with rival systems. Why would a company such as C-Span spend millions to arrange, develop, edit, analyze, and market a new program format if it knew that the FCC could require it to give up that unique programming to its television rivals? As a result, this provision would likely discourage cable from developing new and innovative television programming—and the consumer would be the loser.

Most Rhode Islanders subscribe to cable precisely because of the programming choices available. Some opt for cable for reception purposes, but most do so because of the range and selection of cable programming. They enjoy CNN, ESPN, MTV, and dozens of other channels. And they want new programming, too—foreign language shows, educational programming, additional entertainment channels. After all, superior programming is the main reason why families are willing to pay $30, $40, or $50 per month for cable.

Unfortunately, the exclusivity provision in this bill could jeopardize the steady stream of new programming that has come to define cable television. Cable consumers want Congress to be expanding the broadcast possibilities of cable—promoting interactive television and other innovations—not limiting them. If consumers were aware of the potential negative consequences of this provision, I am sure that many of them would call for its elimination from the bill.

Mr. President, when Congress examines an industry as sophisticated, as complicated, and as technologically innovative as cable television, legislators have an obligation to do no harm. I fear that this bill would do more harm than good.

For some, it may be tempting to support a bad bill rather than no bill at all. But my support for the legitimate consumer issues is outweighed by my opposition to extraneous matters such as retransmission consent and program exclusivity—and the consequences of these provisions upon consumers. This legislation goes too far and risks harming the very consumers for whom it is designed to help.

I regret that Congress has taken a good idea and—by adding new provision after new provision—turned it into bad legislation. Poor customer service and steep rate increases are major problems that need to be addressed. Consumers deserve a strong bill. Unfortunately, the conference report goes overboard; the ultimate loser in this year's battle is the cable subscriber who may have to wait until next year for genuine cable reform legislation.

Mr. DOMENICI. Mr. President, for quite some time, I have been concerned about the position of the cable television industry in our society. In many geographic regions, Americans clearly have benefited from cable's improved reception quality, while, across the board, the vast explosion of available programming has given options to our citizens that few even imagined a decade ago. We have not, however, been the beneficiaries of an unmitigated blessing. A mature cable industry has, in many areas, raised costs to customers at a rate several times that of inflation, and, in what frequently amounts to monopoly environments, provided services of such quality that they simply would not be tolerated in a competitive market.

The current regime for the cable television operators was created when the industry truly was in its infancy. While it held much promise for the future, it was clear that, without some assistance, this alternative form of television would not be able to compete with the already-existing networks. As a result, cable systems were given an environment which would encourage their development, including a provision which provided network signals to the cable stations without charge.

Today, cable television is a mature industry fully capable of maintaining itself in the open market. Indeed, in many areas it has become an unregulated monopoly with a natural motivation to maintain that status to the full extent possible.

While not a perfect solution, the Cable Television Consumer Protection and Competition Act of 1992, S. 12, provides a solid basis for reconciling current problems within the cable industry while establishing a framework for development of technologies to improve video programming in America's homes into the next century. Although generally skeptical of regulation as an economic mechanism, I believe that in this case the pervasiveness of local monopolies in the industry justifies the limited rate regulation contained in S. 12. Indeed, the conference report improves upon the original Senate version by further restricting the definition of the basic tier to which regulations would apply and by requiring the granting of licenses to competing cable companies in broadcast areas which can support multiple systems.

Recognizing cable's maturity, S. 12 takes several steps to build both equity and competitive alternatives into the home video market. The ability of cable systems to use network programming without consideration is terminated, thereby giving broadcasters the opportunity to receive payment for their products. Legislated regulatory requirements will prevent cable operators from passing these costs on to consumers. Moreover, cable-owned producers will be required to sell programs at comparable rates to all competing video suppliers. This will provide the basis by which new infant technologies can open the market to even greater competition, particularly for rural consumers who today still do not have access to cable.

The home video market will continue the dramatic evolution we have witnessed over the past several years. While S. 12 lays a framework for development of the industry into the next century, it will be imperative that the regulators and Congress monitor this sector closely to assure that provisions of the bill accomplish the goals established for them. There is potential, as in every regulated situation, for the costs of regulation to escalate and for the burdens imposed by the regulation to strangle the sector to the ultimate detriment of the consumer. It is particularly important that a newly regulated cable industry still retains the incentive to develop new and vibrant programming and technical products for the market and that true competition replaces government agencies as the arbiter in this market as quickly as possible.

Mr. McCONNELL. Mr. President, the Senate will shortly consider the conference report to the Cable Television Consumer Protection Act. I intend to vote for this legislation—as I did when S. 12 was debated in the Senate—because it will ensure competition within the cable industry.

We have all heard from our constituents complaining of high cable rates and cable company service. Some of us may have even experienced these problems firsthand. According to the Consumer Federation of America, since 1987 the price of cable has increased more than 60 percent—much faster than the rate of inflation—and in regions where competition already exists, cable rates are 30 percent lower than in areas where cable companies enjoy monopoly status.

As one who usually opposes Government regulation of private business, this is not an easy vote for me to cast. However, the cable bill does contain a provision that would terminate rate regulation when effective cable competition is established. My constituents know that I view this provision to be among the most important in the bill.

I have no doubt this conference report may be vetoed by the President. I find it somewhat unfortunate—even suspicious—that we are acting on this legislation near the end of this session of Congress, and, more interestingly, so close to the Presidential election. I do not know if the timing of the vote was influenced by any special interest group, as some have suggested, or if it is a result of election year politics. This bill has been around for 3 years, and I regret that Congress did not consider it sooner.

In closing, let me just say that a veto will change the playing field. As I fear this issue could become a political football, I intend to follow the cable bill to the President's desk. Should it return to Congress, I will closely survey the field to ensure the bill—and the President—do not fall victim to special interest maneuvering, and election year plotting.

Mr. RIEGLE. Mr. President, I strongly support efforts to regulate cable rates and ensure adequate customer service. We all know that over the past 5 years cable rates for the most popular tier of programming have increased by over 60 percent, much faster than the rate of inflation. Rates have risen far beyond the amount family incomes have increased. That means that cable rates are taking a larger and larger share of a family's income. For seniors on fixed incomes and for low and moderate wage earners in particular, increasing cable rates are putting a greater and greater strain on family budgets.

If these increased costs reflected only value of greater programming, the Senate would not be debating this legislation. However, this is not the case. The fact that most cable companies hold a monopoly over cable users provides them with the opportunity to raise rates in excess of that which would be allowed in a competitive market. A study conducted by an economist in the Department of Justice confirms this. That study found that at least 45 to 50 percent of the price increases since the mid-1980's were due to the cable industry's market power. According to the Consumer Federation of America, cable rates are 30 percent lower in areas in which there is effective competition.

Further, as prices have increased—far beyond the rate of inflation or any other usual basis for rate increases—cable customers have been increasingly dissatisfied with the service provided by cable companies. Delays in service calls frequently occur. Billing errors are difficult to correct. Complaints from customers go unanswered.

For these reasons, I strongly support cable rate regulation to mitigate the monopoly power of cable companies. I also support improved regulation of cable service to customers. These goals—lower customer cable rates and improved customer service—are the touchstones for my support for any legislation in this area.

Nonetheless, I have some concerns about the bill before us today. Some commentators, and not only cable companies, have argued that this bill contains such heavy regulation that it will not lower consumer costs, as intended, but in fact will raise cable rates.

Having examined the bill, and the arguments for and against it, I conclude that the regulation of rates and improvements in customer service make this bill more likely to help consumers than not. I am still troubled by some of the other provisions of this bill. To no one's surprise, it is not perfect. Yet I will vote for it in the hopes that it will attain its consumer protection goals.

I want to take this opportunity to discuss some of the provisions of this bill that have caused the greatest concern. First, the bill includes retransmission consent, which provides that cable companies are either required to carry a local broadcast signal or, at the broadcasters' option, negotiate for the right to carry the broadcast signal.

Concerns have been raised whether this provision is in the best interest of customers. Cable companies currently retransmit broadcast signals without compensation to the broadcast companies. If a cable company has to pay for retransmission, new costs may be transferred to cable customers. It is unclear how charging for something that is now free benefits cable customers. Finally, we do not know what this will cost.

I am somewhat comforted by the fact that the committee report clearly states that the FCC must ensure that retransmission consent does not conflict with the Commission's obligation to ensure that rates are reasonable. I hope the FCC uses this authority to ensure that retransmission consent will not result in increased rates for consumers.

Concerns have also been raised about provisions that require certain cable programming to be made available without requiring customers to buy larger programming packages. The benefits to consumers are clear—they get to buy what they want without paying for more than what they want. The risks of this provision are less clear—no one is certain how much this a la carte programming may cost the cable companies, or ultimately cable customers. Further, it may be necessary to put a cable box—an item despised by many cable users—in many homes.

Here again, I am pleased that the conference report contains some important protections that may mitigate against consumer rate increases. First, the bill allows cable companies to appeal to the FCC to waive these provisions if it can be demonstrated that the provisions would cause rates to increase. I urge cable companies to use this process when appropriate to keep rates low. The FCC should not hesitate to make use of this rule. Second, the conference report lengthens the time in which cable companies must comply with these requirements from 5 to 10 years.

Mr. President, I have other concerns with this bill. Nonetheless, I hope that this legislation will provide customers with low cost access to cable services. The Consumer Federation of America estimates that this legislation could save cable customers as much as $6 billion a year. To get my constituents their share of this savings, I support this bill.

Mr. LAUTENBERG. Mr. President, I rise in support of the conference agreement on S. 12, the cable bill. Viewed as a whole, this legislation is a positive step that, if properly implemented, should protect cable consumers from unreasonable price increases and help ensure better cable service. Although I recognize that it is not perfect legislation, few bills are.

Mr. President, cable rates have increased roughly three times the rate of inflation since cable was deregulated in 1984. In some areas, the rate of increase has been much higher.

Rates probably will continue to go up, with or without this legislation. However, if properly implemented by the FCC, the bill should at least hold basic rates to levels lower than they would otherwise be.

Mr. President, the cable industry plays an important role not only in our Nation's economy, but in the day-to-day lives of millions of Americans. Cable has increased the range and quality of programming for people throughout the country, and it has provided a great number of jobs and opportunities. Clearly, the industry deserves to be proud of its success.

Unfortunately, the tremendous growth of cable over the years has been accompanied by real problems. While rates in many areas have increased astronomically, the quality of service, based on input I've received from people in New Jersey, has often left much to be desired.

A primary reason for these problems is that, in most areas, cable has many of the attributes of a monopoly. I know cable operators argue that cable must compete with other forms of entertainment and news. And they have a point, to a degree. But, as I see it, the cable industry's product is largely unique and, if you asked most Americans, they'd probably agree. It's not enough to say that if cable consumers are forced to pay unreasonable rates to watch CNN they can always buy a newspaper. The comparison is really apples and oranges—they're distinctly different products.

Monopolies, by definition, are largely immune from the normal pressures of the free market. Without competition from other systems, consumers lack any leverage over cable operators with regard to price hikes or poor service. They can't go to a competitor. That's why limited government intervention is warranted on behalf of cable subscribers.

This bill is designed to address the problems caused by a lack of competition. It does this by enhancing competition, both between different cable operators, and between cable and other multichannel providers. Under the legislation, local franchising authorities may not unreasonably refuse to allow new cable systems to compete with existing cable operators. And other provisions are designed to protect prospective cable competitors, like wireless cable, from anticompetitive practices.

Together, these provisions eventually should enhance competition, contain price increases, and lead to better service. Until competition is established, however, some regulation of cable prices is necessary. Because while clearly cable may not be as essential as water or electricity, in today's information age, and given the centrality of television in the lives of so many Americans, it's very important. So in those areas where cable faces no real competition, consumers do need some protection.

Appropriately, the rate regulation proposed in this bill is relatively limited. It does not apply to any operator who faces real competition. And it leaves the industry with broad latitude to set prices for services other than those offered on the most basic tier. To the extent that basic rates are regulated, if properly implemented, the bill allows the industry to make needed investments, and to earn a fair return on those investments.

Mr. President, many have expressed reservations about other provisions in the bill that they contend could result in increases in cable rates. Perhaps most importantly, the industry objects to the so-called retransmission consent provision, which gives local broadcasters the right to negotiate payments from cable companies before giving the cable owner the authority to retransmit their signals.

I have had concerns about this provision's impact on consumers, and on cable rates. After review, it's apparent that there are conflicting views on the impact of this provision.

However, the bill explicitly provides the FCC authority to prevent broadcaster retransmission fees from causing cable rates to rise unreasonably. This is a critical safeguard, both for cable operators and consumers.

I know that many in the cable industry have argued that this provision will be ineffective. They suggest that, if retransmission consent imposes huge costs on the cable industry, there is nothing the FCC can do to prevent these costs from being passed on to consumers.

I have discussed this matter with the Commerce Committee. What they have told me is important and I want to get it on the record, to make this clear as a matter of legislative history.

As the committee explained, if a broadcaster is seeking to force a cable operator to pay an exorbitant fee for retransmission rights, the cable operators will not be forced to simply pay the fee or lose retransmission rights. Instead, cable operators will have an opportunity to seek relief at the FCC. The Commission can set a reasonable limit on what a broadcaster may charge, in light of the costs of comparable programming, and other factors. This should provide protection to consumers from increases due to broadcaster fees, if not other factors.

Finally, if a cable operator feels that a broadcaster's demands are excessive, nothing in the legislation prevents them from simply refusing to pay. And, the fact is, most broadcasters will have strong interest in ensuring that their signal is retransmitted over cable, so the pressures they'll be facing will be very real.

In conclusion, Mr. President, this bill is meant to contain prices; to provide protection for consumers against monopoly practices; and to secure better service for cable subscribers.

Mr. President, no bill is perfect. However, viewed as a whole, this legislation would improve the status quo, by promoting competition and providing important protections for cable consumers.

The PRESIDING OFFICER. The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. MACK (when his name was called). Present.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 74, nays 25, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—74

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Bond
Bradley
Breaux
Bryan
Bumpers
Burdick, Jocelyn
Byrd
Coats
Cochran
Cohen
Conrad
D'Amato
Danforth
Daschle
Dixon
Dodd
Domenici
Durenberger
Exon
Ford
Glenn
Gore
Gorton
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Pell
Pressler
Pryor
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Simon
Simpson
Specter
Thurmond
Warner
Wellstone
Wofford

NAYS—25

Boren
Brown
Burns
Chafee
Craig
Cranston
DeConcini
Dole
Fowler
Garn
Gramm
Helms
Lott
Lugar
Nickles
Packwood
Reid
Rudman
Seymour
Shelby
Smith
Stevens
Symms
Wallop
Wirth

ANSWERED "PRESENT"—1

Mack

So the conference report was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL VOTER REGISTRATION ACT—VETO

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of the President's veto message on S. 250, the National Voter Registration Act.

(The text of the President's veto message is printed on page 26145 of the CONGRESSIONAL RECORD of September 21, 1992.)

The Senate proceeded to consider the bill.

Mr BRADLEY. Mr. President, to urge my colleagues to vote to override the President's veto of the motor-voter bill.

We are a representative democracy. Every Member of this body holds his or her position because the citizens of his or her State put him or her in office. In turn, we represent the constituents of our States. But if only 36 percent of voting-aged Americans voted in the congressional elections of 1990, who are we representing? If we truly are a Government of the people and by the people, should not we aim for 100-percent participation? As lawmakers, it is our duty to do what we can to strengthen our democracy.

Barely half of all eligible voters participated in the 1988 Presidential election—the lowest rate in 64 years. This phenomenon can be addressed by changing our outmoded registration process. The process makes voting a painful task rather than a natural right. Voters no longer see it as an opportunity to opine within the system. Instead, they view the complexity of the system as a reason to stay out.

Simply stated, those who register vote. In the 1988 elections, 86 percent of those who registered voted. However, if 40 percent of the voting-age population woke up on election day and wanted to vote, they could not vote because they are not registered. In a 1990 study, the GAO recognized that difficulties involved in registration have affected voter turnout, suggesting that Congress consider making registration more convenient and accessible.

Difficulties in voter registration abound, Mr. President. The boards of election in some municipalities select registration deputies and decide when and where registration sites will be located. This can limit access to a wide variety of people. Registrar deputization can be a broad-scale voting impediment. While some boards of election accept most volunteer deputies, others make the process a taxing one by requiring extensive training, swear-ins, and complicated applications. The League of Women's Voters, supporters of this bill, has commented that, "restricted hours, inconvenient and hard-to-locate registration sites, restrictive deputization requirements, short time intervals before purging voters names from registration rolls, and inadequate ways of notifying those who are purged, are some of the barriers that discourage voter participation."

In addition, if poverty was not enough, there exist registration procedures and practices which prevent the poor from voting. Impediments such as opening registration sites only during regular work hours or making registration sites inaccessible by public transportation leave a large segment of our society without representation. Have we forgotten those who earn an hourly wage? Have we forgotten those who do not have access to a car?

The motor voter bill addresses all of the problems I just listed and establishes a clear, uniform registration process. Every citizen who renews or changes his address on a drivers license will also have the option of registering to vote. This registers and enfranchises 90 percent of our voting-age population.

The bill also provides for voter registration at other Government agencies, such as welfare, unemployment and vocational rehabilitation offices. For disabled citizens or low-income citizens who are less likely to have driver's licenses, agency registration is an important vehicle for political empowerment. The bill also provides for mail-in registration which will allow students and other citizens unable to reach a registration site to vote.

The President vetoed this bill, arguing that it would promote voter fraud. Nothing could be further from the truth. The fact is that 34 States and the District of Columbia have some form of motor-voter and none have experienced any significant fraud. In my opinion, the President's emphasis on voter fraud as a reason for opposing this bill simply masks his reluctance to attempt ways to involve more people in the electoral process. What is he afraid of? Motor voter is a good idea and I urge my colleagues to vote to override the President's veto.

Mr. DURENBERGER. Mr. President, I rise today to briefly explain my reasons for voting to override the President's vote of S. 250, the motor-voter bill.

As part of a Government that is based on the consent of the governed, this body should be alarmed by the few numbers of the governed who actually show up on election day to give consent.

In the 1988 Presidential election, 70 million eligible Americans were not registered to vote. Only about half of the voting age population bothered to cast their ballots. Among those 18 to 20 years old, only a third bothered to vote. And in the 1990 congressional elections, national voter turnout was a pitiful 36 percent.

The bright spot among these gloomy statistics is the voter turnout of Americans who are registered to vote at election time. Of those who were registered to vote in Presidential elections, around 85 to 90 percent actually did vote. This evidence suggests that if we increase the number of registered voters, we will increase the likelihood that people will vote.

The motor-voter bill has three main provisions that will encourage voter registration. The first section requires States to treat a driver's license application or renewal as an application for voter registration. Most States require licenses to be renewed every few years. By providing voter registration forms as part of the driver's license application, we will tap into that reservoir of potential voters.

The second section of this bill requires States to use a mail-in voter registration form. To avoid potential fraud, a State may require people who registered by mail to show up in person the first time they vote.

The third provision in this bill designates certain public and private sector locations to distribute and process voter registration applications. All offices providing public assistance, unemployment compensation, vocational rehabilitation, and State-funded programs that afford services primarily to persons with disabilities, will be equipped to register voters.

Currently, State election laws vary greatly in the number of obstacles to registration that potential voters must overcome. By making it cumbersome and inconvenient to vote, these States are effectively disenfranchising millions of Americans from the electoral process.

In Minnesota, we recognized the importance of making it convenient to register to vote. We implemented same-day voter registration a few years ago. Subsequently, we have had the highest voter turnout of any State in the Nation. It's hard to argue with success.

Mr. President, we need a uniform law that will tear down the obstacles to voter registration. We need to send a clear message to the American people that they have a stake and a say in the political process.

The motor-voter bill will facilitate voter registration across the United States, and will do this without encouraging abuse in the system. S. 250 contains tough antifraud and anticoercion provisions, including criminal penalties for wrongdoing.

Mr. President, we all benefit from increased participation in the electoral process. I encourage my colleagues to support increased voter participation by voting to override the veto of the motor-voter bill.

Mr. HARKIN. Mr. President, I rise today to speak strongly in favor of S. 250, the National Voter Registration Act. America needs this bill because our Government is quickly becoming a nonparticipatory democracy. Only 61 percent of the eligible voting age public is registered to vote and only half actually show up at the voting booth.

One of my proudest days in the U.S. Senate was when President Bush signed the Americans with Disabilities Act into law. I know it was the proudest day of a great many friends and colleagues on both sides of the aisle of the Senate as well. It was a historic day. A day when all Americans—young and old; rich and poor; female and male; black and white; those with disabilities and those of us without disabilities—came together on the White House lawn to rededicate ourselves once more to life, liberty and the pursuit of happiness—the American dream.

Since the Americans With Disabilities Act went into effect, a new feeling of belonging to the mainstream and becoming a part of our great American democracy is sweeping throughout the disability community. Part of this feeling of belonging is the promise of finally entering and being included in all areas of life, including the political process.

Unfortunately, our citizens with disabilities have voted at a rate of 12 percent lower than nondisabled Americans and only about 25 percent of the people with disabilities are registered to vote.

Furthermore, they register at a rate that is 6 points lower than the general population. Physical disability is often the reason cited for not registering to vote. One-half of all nondisabled voters age of 65 have cited that reason.

Furthermore, 50 percent of the nonvoting and nonregistered people with disabilities say that they would like to participate more, if the process were made easier. S. 250 provides them a way to perform this civic duty.

S. 250 does this by easing the registration process. It allows offices which receive State funds and who are mostly engaged in providing services to persons with disabilities to offer voter registration services during intake procedures, during recertification processes and during change-of-address procedures. This one-stop for civic business would go a long way to accommodating the special needs of individuals with disabilities whose time and resources are often even more stretched than the average citizen's.

Even more importantly for persons with disabilities, who often face transportation and affordability barriers, if the registration service is provided in an individual's home, the agency representative who actually goes to the home, as part of the agency's service proposition, can assist also with voter registration. This is a form of natural support that our Government agencies can easily execute to accommodate our citizens with disabilities. As in other sections of the bill, the client is guaranteed the right to vote and is protected from coercion or harassment by the agency's personnel.

Some argue that motor-voter might lead to voter fraud. But officials in States which already have enacted motor-voter legislation soundly reject these claims and note improvements in registration and voter turnout instead.

S. 250 is designed to streamline the voter registration process by permitting individuals to sign up at any public service agency in their State. In doing so, it will open up American democracy's greatest marketplace—that of the polling place—to those with disabilities as well.

S. 250 assails the problem of lack of participation in the democratic process at its root—the difficulty of registering. It would enable people with disabilities and their families—as well as millions of others—to sign up and register to vote at State motor vehicle offices, vocational rehabilitation offices, and protection and advocacy programs.

S. 250 would also permit nonprofit organizations of and for people with disabilities, such as independent living and parent training centers and some service providers to sign up new voters as well and thus allow such organizations to contribute to the democratic process in an innovative way.

Enormous gains have been made in swinging open doors of equal opportunity to Americans with disabilities of all ages, races, and income levels in our country through passage of the Americans With Disabilities Act. But now work must be done to ensure that individuals are truly able to exercise these hard-fought-for and newly acquired rights, including executing their civic responsibilities, such as voting.

History has taught us that it does little good to be entitled to civil rights on paper if people lack access to the basic means to exercise and realize these rights. Just as the Voting Rights Act of 1965 was needed to help African-Americans and others secure their full rights under the 1964 Civil Rights Act, so the National Voter Registration Act will enable Americans with disabilities, and others, to make real the promises of the Americans With Disabilities Act.

For these reasons, and for the good of America, I urge my colleagues on both sides of the aisle to vote for user-friendly voter registration, for passage of S. 250.

Mr. DODD. Mr. President, I rise today to support the override of President Bush's veto of the National Voter Registration Act.

This legislation addresses a problem that is too important to ignore—declining voter participation. If the President will not join in the effort to upgrade the voter registration system—which has received widespread support across this country—then we must act without him.

The statistics demonstrate the extent of the problem. In the 1988 Presidential election, only about 50 percent of the eligible population voted. In the 1990 elections, only 36 percent of eligible citizens voted.

Of course, this legislation will not guarantee that all citizens will exercise their right to veto—no legislation could. But this act will help to reverse this alarming trend. According to a study by the Congressional Research

Service, only about 61 percent of the eligible voting age population is registered to vote, but over 75 percent of registered voters in the country vote. Consequently, higher registration levels should result in a higher voter turnout.

This act would allow citizens to register when applying for a driver's license, by uniform mail registration, and at certain public agencies. With these improved registration measures in place, the number of people voting should increase and our democracy will be that much stronger.

Unfortunately, the President has vetoed this critical measure. He has rejected this carefully crafted attempt to increase voter participation and fallen back on the same old partisan politics. What is particularly discouraging is that the President offers no valid reasons for his veto.

For example, the President suggests that this measure may be unconstitutional. He argues that the act infringes upon the authority of the States.

However, article 1, section 4, of the Constitution gives Congress the power to make or alter laws regulating elections. Furthermore, the Supreme Court has ruled in numerous cases that States do not have exclusive authority over election procedures. Finally, the act contains provisions which ensure that State election officers will have some say in the development of specific registration procedures.

The President also claims that this legislation would create an unacceptable risk of fraud and corruption. He states that as a result of this act States may adopt election day registration systems and that may lead to more fraud. But there is no evidence to support the President's speculation.

In fact, States which have instituted mail registration procedures similar to those in this act have not experienced increased fraud. Furthermore, this act contains several provisions to protect against voter fraud including criminal penalties for anyone who commits or attempts to commit fraud. If anything, this legislation will help to deter election fraud.

Finally, the President argues that the act will be too costly for the States to implement. But the District of Columbia recently adopted motor-voter and it cost them 6 cents per registered voter to implement. Is that too much money to spend—6 cents per registered voter?

In fact, this legislation may actually save money. The Congressional Budget Office estimates that, as a result of streamlined procedures, local election officials could save from $7-$10 million each election year.

In the final analysis, this act is a comprehensive and cost-effective approach to the problem of low voter participation. It is widely supported across the country and should be enacted into law.

Unfortunately, the President's position is simply another chorus in the same old song—protect the status quo. But the problem is that the status quo just isn't good enough. We need to improve the registration process so that citizens will have better access to the democratic process. I urge my colleagues to vote to override the veto and enact this important step toward a stronger democracy.

Mr. BREAUX. Mr. President, I rise today in support of Senate Bill 250, the motor-voter bill; a bill which seeks to remove voter registration barriers which discourage many eligible American citizens from voting; a bill which President Bush ironically vetoed on the eve of our Independence Day holiday this summer.

Today in the United States of America, only 60 percent of eligible voters are in fact registered to vote. By removing significant unjust barriers to the voter registration process, S. 250 is predicted to increase that figure to more than 90 percent. While the President argues that more registration will do little to increase voter turnout, his mistaken conclusion misses an extremely important point. Just having a real ability to vote gives disenfranchised citizens an alternative to the violence of the streets. Not only does this legislation indicate the Government's intent to fight voter apathy and to encourage citizen participation in Government, in many ways it also provides hope to those who need it most.

S. 250 establishes national voter registration procedures for elections for Federal office. It provides a three prong approach to registration by allowing registration by: drivers' license application/motor-voter; mail-in; and agency-based options. The bill also prohibits purging of voter names from voting rolls simply due to nonvoting, and instead provides that States maintain the integrity of their voter registration rolls by uniform nondiscriminatory measures consistent with the Voting Rights Act of 1965. S. 250 also gives teeth to enforcement against registration fraud by providing for Federal criminal penalties for such conduct.

I am aware of the President's objections against this bill. He argues that S. 250 will impose new costs upon States which cannot afford them. He contends that mail registration invites fraud because it is difficult to verify the validity of a mailed-in form. I am convinced, however, that S. 250 addresses these objections. For example, registering voters as they get their driver's licenses should at least partially offset some of the costs incurred under current registration procedures. Likewise, voters who register at State departments of motor vehicles or at public agencies should be subject to a scrutiny of identification higher than that which they might receive under current procedures. The new Federal criminal penalties should further discourage fraudulent behavior. In sum, the nominal risk of these objectional events occurring is worth the benefit of more Americans being able to actively participate in American democracy. Hope is worth this nominal risk.

This legislation will not cure all that ails our democracy. S. 250 will however, attack one significant ailment; a voter registration process which discourages certain citizens in the United States from exercising their constitutional right to vote.

Ms. MIKULSKI. Mr. President, I rise today to show my support for this very important motor-voter legislation.

Mr. President, we know that voting is fundamental to our democratic system. Yet about 70 million eligible Americans—nearly 40 percent of those eligible—cannot vote because they are not registered.

Every election we see all kinds of reports about voter apathy and the low turnout of voters. But the facts are that in Presidential elections since 1968, voter turnout among registered voters has been 80 to 90 percent.

That is very good turnout and that shows me that the American people do care enough to participate in the democratic process when they can. We need to empower more people to participate.

Mr. President, we could go into all kinds of studies about why people are not registered, or we could get into a big debate about whether the real problem is voter registration or voter turnout, but I do not think that is the issue here.

The issue is—is this motor-voter law something that we, as Senators, can do to support the operation of democracy here in the United States?

Mr. President, we have fought many wars and done our best to support democracy in other lands—this is something we can do to spread democracy in our own country.

We must do what we can to spread democracy here.

Mr. President, I am proud that my own State of Maryland is one of the leading States to take active steps to encourage voter registration.

In Maryland, we have mail-in registration and hotline numbers so that Marylanders can request a voter registration form 24 hours a day, and that includes a special TDD hotline for Maryland's hearing impaired.

We have registration forms available in public buildings all over the State—in libraries, post offices, schools, and college campuses.

And now Maryland residents can even register at some offices of the department of motor vehicles. Last year, Prince Georges County opened a satellite office at the department of motor vehicles and as a result, registered over 5,000 voters. This new system works.

But, Mr. President, while my State is a frontrunner, people in other States are not as fortunate. They may not have the commitment and dedication that Maryland has to register voters. And we have to give all people every chance to vote.

It would be nice if American citizens all had unlimited amounts of time to track down registration offices that are sometimes located in hard-to-locate sites. Or to take time off work to register at offices open only during restrictive hours.

But the facts are that they do not. And having the time and transportation to track down registration offices should not be a test of a citizen's right to vote.

Let me say that again—it is important—voter registration procedures should not be a test of a citizen's right to vote.

Bureaucratic process should not put obstacles in the way of a citizen's right to vote.

We need to do whatever we can to make voter registration convenient and accessible for all citizens.

Mr. President, I urge my colleagues to join me in doing what we can to support and spread democracy at home—we must override the President's veto of the motor-voter bill.

The PRESIDING OFFICER. The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 62, nays 38, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—62

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick, Jocelyn
Byrd
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Wellstone
Wirth
Wofford

NAYS—38

Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Garn
Gorton
Gramm
Grassley
Hatch
Helms
Hollings
Kassebaum
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Rudman
Seymour
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

The PRESIDING OFFICER. On this vote, the yeas are 62 and the nays are 38. Two-thirds of the Senators present and voting, not having voted in the affirmative, the bill, on reconsideration, fails of passage.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1993

The PRESIDING OFFICER (Mr. KOHL). The Senate will now resume consideration of H.R. 5504, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3118

The PRESIDING OFFICER. The pending question is amendment No. 3118, which was offered to the committee amendment on page 142.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I see the floor manager. I would like to speak on the pending amendment if that is agreeable.

Mr. President, as I understand, the pending measure before the Senate now is the Helms amendment. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. There is no time limitation on that amendment?

The PRESIDING OFFICER. There is no time limitation.

Mr. KENNEDY. Mr. President, this amendment is blatantly unconstitutional, and it would set an ominous precedent for intrusion of Government regulations into private charities, and I urge the Senate to reject it.

The amendment would require the Office of Personnel Management to drop from the Combined Federal Campaign any charity that has withdrawn support for the Boy Scouts because that organization bars homosexuals and atheists.

Regardless of how Members feel about the admission rules of the Boy Scouts, we should not tell private charities like the United Way that they must continue to fund organizations which they have determined to be in violation of their own agency's antidiscrimination policy.

Let us understand clearly that the Combined Federal Campaign is designed to allow Federal employees to decide for themselves which charities their contributions will support. If Federal employees disagree with the views or actions of a particular charity, they simply need not designate that charity. There is no Federal mandate of any kind that funds go to any particular charity.

For purposes of administering the Combined Federal Campaign, the Federal Government has no business dictating the specific policies and views of these charities, only in making sure that they are bona fide foundations. That is the spirit and the purpose of the CFC. That principle is at the very heart of the freedom of expression and association protected by the first amendment.

In the 1985 case of Cornelius versus NAACP Legal Defense Fund, the Supreme Court ruled on a challenge to an Executive order barring legal defense and political advocacy organizations from the CFC. The Justices held that the campaign could adopt reasonable restrictions on the kinds of charities that could be included, but at the same time they made it clear that the first amendment prohibits the Campaign from discriminating against charitable organizations on the basis of the viewpoints of those organizations. In her opinion for the Court, Justice Sandra Day O'Connor stated that "The Government violates the first amendment when it denies access to a speaker solely to suppress the point of view he espouses."

The pending amendment clearly violates that fundamental first amendment principle. Indeed, it directs the Office of Personnel Management and the CFC to flaunt the Constitution by excluding from the Campaign charities that express their disagreement with the Boy Scouts' admission policy by withholding contributions.

This amendment sets an unsatisfactory precedent. Private charities support important social causes, often long before they enjoy universal acceptance. They should not be placed in fear that they will be excluded from a major fundraising drive like the Combined Federal Campaign for doing so.

If we force the United Way out of the CFC, what charity will be safe? Whose beliefs will be next? Federal employees contribute $250 million annually to the CFC, more than 50 percent of which goes to the United Way. These funds are making a critical difference in communities across the country—feeding the homeless, caring for the elderly, playing a major role in supporting hurricane victims in Florida, Louisiana, and Hawaii.

Is the Senate now prepared to deny this organization access to CFC's funds simply because they have a policy of nondiscrimination?

Charities should be free to decide for themselves to whom they will contribute, free from Government interference. Indeed, OPM regulations forbid the CFC to discriminate against charities on the basis of political affiliation of the organization. OPM must include in the campaign any organization that meets the eligibility criteria. The Helms amendment is flatly inconsistent with this rule and with the principle underlying the entire CFC campaign.

Finally, let me say to my colleagues that the time for the Senate to complete its business this year is short. There is still much important business to be done. The pending amendment is a transparent effort to bog down this legislation with a controversial political issue. It seeks to stir population prejudice, to divide us, and to distract us from the work that remains.

I urge the Senate to reject this amendment.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I rise to join with Senator KENNEDY and others to oppose this amendment. When this amendment was first proposed by the Senator from North Carolina last week on the Labor/HHS appropriations bill, I expressed my strong opposition to this blatant attempt to interfere with the right of private organizations to adopt policies of not contributing their funds to groups which discriminate against particular segments of society.

The Senator from North Carolina has attempted to characterize this amendment as protecting the right of groups like the Boy Scouts to determine their own membership policies. That is absolutely untrue. The Boy Scouts and their membership policies are not at issue here. This amendment is about whether the Federal Government is going to kick groups out of the Federal Combined Campaign Fund if they adopt policies against contributing to groups that discriminate on the basis of religion or sexual orientation.

These nondiscrimination policies are spreading throughout the country, in both the public and the private sectors, because more and more Americans are convinced that discrimination against individuals because of their religion or their sexual orientation is invidious discrimination and ought to be abolished just like other forms of discrimination.

The San Francisco United Way, like a number of local government entities, has adopted such a policy in my State. It will not contribute funds to groups that engage in this type of discrimination. A number of private charitable groups in California have similar policies. The Senator from North Carolina's amendment is aimed at forcing these groups to overturn their policies and donate funds to groups which have policies of discrimination. It is an attempt to force groups which believe that this form of discrimination is immoral and unjust to use their funds to support such policies.

Mr. President, the Boy Scouts is a private organization and has the ability to establish its own criteria for membership. But it does not have the right to force other organizations, against their moral beliefs, to support discriminatory policies.

This amendment is bad policy and opens the doors to the Federal Government intermeddling in a wide variety of ways. The Bush administration opposes abortion. Will we next see an amendment to bar groups that provide abortion services from the Federal Combined Campaign? That is not too far-fetched since in previous Congresses amendments were proposed to take tax exemptions away from health facilities that provided abortion services. This amendment opens the door to the Federal Government picking and choosing what groups can participate in the Federal Combined Campaign Fund on the basis of the organization's views on controversial issues. That is not what the Federal Combined Campaign Fund was designed and intended to do. Federal employees are free to designate their contributions in whatever way they wish and the Federal Government has no business attempting to limit the right of Federal employees to contribute to groups they support. If an employee does not wish to contribute to the United Way because of disagreement with its policies, the employee is free to direct his or her contributions elsewhere. Conversely, those Federal employees who support the United Way in its nondiscrimination policy should be free to contribute through the Combined Campaign Fund.

The Federal Government has no right to blackmail a local United Way into changing its nondiscrimination policy. It has no business trying to blackmail private organizations into donating money to groups with whom they disagree.

Mr. President, the amendment also has serious constitutional flaws, as Senator KENNEDY has noted. The Supreme Court has held that the Federal Government cannot restrict access to the Federal Combined Campaign Fund because of disagreement with the views of an organization. That is precisely what this amendment seeks to do—bar organizations from the Federal Combined Campaign Fund because they oppose discrimination on the basis of religion or sexual orientation.

Mr. President, this amendment is both unconstitutional discrimination against groups because of their positions on a matter of moral principle and repugnant public policy. It should be rejected.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I agree that organizations should not use their charitable contributions to compel groups receiving those contributions to choose certain individuals as leaders or to choose individuals who hold particular views on politics, patriotism, philosophy, or religion. As far as I'm concerned, linkage between charitable contributions and compelling the recipient organizations to take steps such as these is inappropriate.

My objection to the Helms amendment is that it focuses on just one group and on a particular set of beliefs and, in that way, is discriminatory. I could support an amendment that prohibited an organization from using its charitable contributions to compel any other organization to accept as members or permit as leaders any individual or group. I could also support an amendment that prohibited an organization from using its charitable contributions to compel any other organization to accept as members or permit as leaders any individual holding particular views on politics, patriotism, philosophy, or religion.

Mr. INOUYE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the Helms amendment.

Mr. INOUYE. And the yeas and nays have been ordered on that?

The PRESIDING OFFICER. That is correct.

Mr. INOUYE. May we proceed with the vote?

The PRESIDING OFFICER. Is there further debate on the Helms amendment?

Mr. METZENBAUM addressed the Chair.

The Chair recognizes the Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, I rise to oppose this amendment, and as has already been stated, I think that the amendment is unconstitutional. I think the Supreme Court has already spoken to the question of our attempting to tell the CFC what they can or cannot do.

When the Supreme Court said in Cornelius versus NAACP Legal Defense Fund that the Government violates the first amendment when it denies access to a speaker in order to suppress the point of view he espouses on an otherwise includable subject, you have in this case an obvious example of a viewpoint based on discrimination against protected speech.

I think it is absurd for us to be adopting it or considering it in this amendment. This is an armed services appropriations bill. This amendment belongs as much in this bill as almost anything under the Sun. It is totally off the wall. There is a kind of absurdity to bring it here. It is only an indication that a single Member is determined to cause Members of this body to have to vote in some way on some issue in which the word "homosexuality" is involved.

This Senator does not believe that it belongs here. This Senator does not believe it is in accord with free speech. He does not believe it is in accord with the freedom of expression that people ought to have, and should have, and does not believe that the Congress of the United States ought to be dictating to the Combined Federal Campaign what they should or should not do.

There is some question as to what this amendment even means. The author of the amendment says that the American taxpayers have no interest in, and the Federal Government has no business supporting or assisting in, the slightest degree any organization that uses tax deductible donations in efforts to blackmail the Boy Scouts into accepting homosexuals and atheists within their ranks or force them to drop their members pledge to God and country. That is not what the amendment says. The amendment does not say that at all. I urge upon my colleagues that they read it.

At another point the Senator from North Carolina says something totally different. He says specifically the pending amendment would prohibit the use of the taxpayers' money to support any organization that uses its charitable contributions to force the Boy Scouts of America or any other voluntary youth association to accept homosexuals or atheists as members of leaders.

The amendment would also prohibit the Office of Personnel Management from contracting with or including any such organization in the Combined Federal Campaign. That is two totally different things. One is the question of forcing the Boy Scouts of America or any other voluntary organization to accept homosexuals or atheists as members and then at an earlier point the Senator from North Carolina talks about using the tax donations in efforts to blackmail the Boy Scouts into accepting homosexuals and atheists within their ranks or to force them to drop the members pledge to God and country.

If you look at the amendment the amendment reads as follows:

> Notwithstanding any other provision of law, the Office of Personnel Management is prohibited from including in the Combined Federal Campaign (the Federal government's annual employee fundraiser for charities), and from contracting with, any organization which uses charitable contributions to compel, or attempt to compel, the Boy Scouts of America, Inc., or any other youth group, to accept as members or permit as leaders:
>
> (1) homosexuals; or
>
> (2) individuals who reject the group's oath of allegiance to God and country.

That amendment is referring to compelling the Boy Scouts to take certain acts. But then, when the Senator from North Carolina describes it, he is not talking about compelling those particular acts to compelling the Boy Scouts or any other youth group to accept as members, or permit as leaders, homosexuals or individuals rejecting the group's oath of allegiance to God and country. It is a totally different kind of reference.

That is what we get, Mr. President, when we come out here on the floor on an appropriations bill for the armed services, throw in an amendment that is totally irrelevant, to the issue before this body, and then say we are just going to put it on knowing that it is legislation on an appropriations bill, knowing that the rules of the Senate prohibit that, knowing that this is the kind of an issue that makes a number of Members uncomfortable, and then we expect people of this country to say what a great body the U.S. Senate is.

We ought to have the courage of our convictions and vote down this kind of an amendment. I understand the political implications, but the fact is there is only one right vote, and that vote is to turn down this amendment and I think that it is right when the rules of the Senate provided at an early point that you could not put legislation, in this instance totally unrelated legislation, on an appropriations bill.

Under those circumstances, Mr. President, unless somebody else wishes to be recognized, I am prepared to raise a point of order.

Mr. President, I hold the point of order. I understand another Member of the Senate is either coming or is here and ready to speak or would like to speak on this subject.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, am I recognized?

The PRESIDING OFFICER. Yes, the Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, two Latin expressions come to mind, having heard the able Senators discuss the pending amendment. One of them is res ipsa loquitur. I expected them to say exactly what they have said. Of course, in the main they were reading material written for them by their respective staffs.

The other Latin expression is reductio ad absurdum, because what they said is absurd on the face of it.

I expect that they will make the motion that the amendment is legislation on an appropriations bill. Let me raise a question on the Chair; a parliamentary inquiry, and the Parliamentarian will want to hear my question.

Is not it a fact that the underlying committee amendment is in itself legislation on an appropriations bill? That is the first inquiry I have.

The PRESIDING OFFICER. On its face, it is not clear whether or not the amendment is legislation.

Mr. HELMS. Well, I am tempted to ask the Chair, who would then inquire of the Parliamentarian, another question—the answer to which I already know. Is it not true that this appropriations bill is replete with amendments that constitute legislation on an appropriations bill?

The real issue before us is not whether particular amendments constitute legislation on an appropriations bill, but whether or not the other side is willing to vote on the pending amendment. They did not want to vote on it last week when I first offered it, and they do not want to vote on it now.

I agreed not to ask for the yeas and nays—to have a rollcall vote—last week because of an agreement I was not party to. However, several Senators have come to me since that time and said, "Look, Jesse, I want to vote on your amendment. It is a dandy amendment. It ought to pass."

So what we have here is obfuscation, Mr. President. I am almost tempted to call it false pretense. Because what the other side does not want is to vote on the amendment. It is a pious platitude for them to say the Senate ought not to be subjected to this sort of an amendment.

Senators should ask John Q. Public across America how he feels about this amendment. One Senator, and I will not identify him—he knows who he is—he had one of his staff members contact the Boy Scouts of America. He had heard what proved to be a false rumor that the Boy Scouts did not favor my amendment. And this staff member said, write me a letter so we can clobber old Helms.

To the consternation of that Senator's staff member, the leader of the National Boy Scouts of America, said, "I very much favor the amendment of Senator HELMS and I am grateful to him for raising it."

You see, Mr. President, the leadership of the Boy Scouts of America is in the forefront of trying to preserve what is left of moral standards in this country.

And that is what is at issue in this amendment. Not constitutionality, because that is absurd. I will be delighted to let them trot right over this afternoon to the Supreme Court and say, Justices of the Supreme Court, what do you think of the Helms amendment? And the Supreme Court would laugh them out of the building.

All this nonsense about constitutionality and legislation on appropriations bills is pretense—pious pretense—that we hear all the time when a question of moral judgment comes before the U.S. Senate. The Senate must either lead in matters of moral and cultural values or we are going to be a guilty party in the Nation's continuing moral disintegration.

Mr. President, I do not want to take a lot of time. I am going to appeal the ruling of the Chair. If I wanted to be difficult, I would then start at every point in the pending bill that constitutes legislation on appropriations bill and we would be here the rest of the day and into tomorrow night. That is the way every appropriations bill goes.

So, Mr. President, I am not surprised at anything said by the Senators today. I expected every syllable of it. I sat back in the cloakroom and watched the antics on television and chuckled. I must admit that I will be surprised if we do not see, in the news media tomorrow, the absurd assertion that the pending amendment constitutes homosexual bashing. It is not.

And I expect we are going to hear, over and over again, that the amendment is unconstitutional. We have so many Supreme Court Justices working in the news media these days, they know everything about everything.

The Senators who have spoken know what I am trying to do. And they do not want me to do it. So they have spoken out, which is their right. I do not criticize them for that. But as I watched them speak I could almost predict every sentence before they uttered it because I have heard it over and over and over again from all three of them.

My response is that this amendment is about the Boy Scouts, and specifically it is about: First, whether the Boy Scouts have a right to reject, as leaders and members, homosexuals and those who reject the Scouts oath of allegiance to God and country—I believe the great majority of Americans believe the Scouts do have this right; and second, whether our constituents' tax dollars should be used to support the United Way of San Francisco and others who are trying to force the Boy Scouts to admit, as leaders and members, homosexuals and atheists.

That, Mr. President is what this amendment is all about—the right of the Boy Scouts to avoid subjecting young boys to homosexual leaders and whether tax dollars will be used to subsidize the campaign being waged to coerce the Boy Scouts to accept homosexuals as scoutmasters.

I ask Senators, what parents are going to feel comfortable sending their young sons camping in the woods for a weekend with a scoutmaster who is an admitted homosexual?

Mr. President, just last year several of the major networks and other news media were attacking the Boy Scouts for not doing enough to catch and expel Scout leaders who were homosexual pedophiles?

Now, this year, the United Way of San Francisco is trying to force the Scouts to accept homosexuals as Scout leaders. That is despite the fact that as far back as 1972, the homosexual movement proclaimed as part of the infamous "gay rights platform" its intent to work for the removal of age-of-consent laws from State statutes in order to permit so-called voluntary sex with minors.

A study by two homosexuals titled "The Gay Report," found that 73 percent of homosexuals had at some time in their lives had sex with boys 16 to 19 years old or younger. That study also showed that 23 percent of homosexuals admitted to having sex with boys younger than 16 years old since the homosexual men had turned 20 years of age.

Mr. President, it is apparent that even the homosexual community recognizes the sexual interest many members of their movement have in young boys. For example, in a March 26 editorial this year, the San Francisco Sentinel—that city's premier homosexual publication—criticized efforts to exclude the North American Man-Boy Love Association [NAMBLA] from San Francisco's annual Gay Pride parade, calling the exclusion an example of homo-homophobia.

The editorial stated that:

> Loving a boy is a crime, but sodomy in Georgia is also a crime. So, should gay men stop having sex in Georgia because the government prohibits this? NAMBLA's position on sex is not unreasonable, just unpopular.

The editorial went on to say:

> The love between men and boys is the foundation of homosexuality. For the gay community to imply that boy-love is not homosexual love is ridiculous. We in the gay community need to understand that there is a difference between coercion, the kidnapping and raping of a child, and a loving consensual relationship between two people of different ages. We must not be seduced into believing misinformation from the press and the government. Child molesting does occur, but there are also positive sexual relations. And we need to support the men and the boys in those relationships.

Even the New York Post reported as long ago as 1979, Mr. President, that organized homosexual teachers in New York City reserved the right to have sexual relationships with children outside the classroom.

Mr. President, with so many in the homosexual community advocating sex with children, do we really want the taxpayers' money being used to force the Boy Scouts to allow homosexuals to serve as role models for our children, or to give them the opportunity to develop trusting relationships with young, impressionable little boys?

Mr. President, I doubt there are many parents who are going to take a chance by leaving his or her child in a Scout troop headed by a homosexual? As a result, forcing the Boy Scouts to accept homosexuals would ultimately destroy the Scouting movement, parents will remove their children from one troop after another and a great American institution will die.

Most Americans, certainly most parents, would say no to the present attack on the Scouts, and they also would say no to the use of their tax dollars to support such an attack under the aegis of the Federal Government.

I urge Senators to protect the wishes of the vast majority of taxpayers in this regard by supporting the pending amendment.

Now, Mr. President, I am fully prepared for the Parliamentarian to tell the Chair that the pending amendment is legislation on an appropriations bill, and I am going to follow by saying I appeal the ruling of the Chair. If that point of order is not made then I will urge Senators to adopt the pending amendment.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Minnesota [Mr. WELLSTONE].

Mr. WELLSTONE. Mr. President, I have a letter dated September 17, 1992. The letter is from the United Way of America, and it is addressed to Senator EDWARD KENNEDY. I would like to read for Senators who are trying to decide how to vote on this amendment portions of this letter.

I ask unanimous consent that the entire letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED WAY OF AMERICA,
Alexandria, VA, September 17, 1992.

Senator Edward Kennedy,
U.S. Senate, Washington, DC.

DEAR SENATOR KENNEDY: We would like to express our concern about an amendment proposed to the Labor Health and Human Services and Education Appropriations Bill that, as we understand it, would prohibit OPM from including in the Combined Federal Campaign (CFC) an organization that tried to compel another organization to accept as members or leaders, homosexuals or individuals who reject the groups' oath for God and Country. We believe that the effect of that proposal would be problematic for several reasons:

We believe that individuals have the right to make a personal choice about where their donations are targeted. The proposed amendment would prevent individuals from having available, through the CFC, the opportunity to contribute to organizations of their choice.

Basic decisions about charitable giving are local in nature. This amendment would appear to abridge the basic right of each community to set its own practices and standards with regard to charitable giving.

We are fearful that the exclusion or prohibition would open the door to wholesale exclusion and discrimination of other groups, based on factors that are not relevant to their ability to provide human services.

> Local United Ways administer 450 of the 461 CFC campaigns. Imposition of this restriction would seriously hamper—perhaps even make it impossible—for them to continue to manage the campaigns which benefit a wide variety of health and human service agencies.
>
> United Way of America and the 1,400 local United Ways nationwide are committed to non-discrimination.
>
> United Ways value the exceptional work of the Boy Scouts of America. Last year United Ways allocated over $85 million to this organization. We will continue to support the Boy Scouts.
>
> Each local community sets its own allocations guidelines based on local needs. Allocations should not be mandated from Washington. We are concerned about the precedent singling out one group; which groups might be next?
>
> Very truly yours,
>
> ROBERT M. BEGGAN.

Mr. WELLSTONE. Mr. President, I will just read what I think are relevant sections of the letter:

> We believe that the effect of that proposal would be problematic for several reasons.
>
> We believe that individuals have the right to make a personal choice about where their donations are targeted. The proposed amendment would prevent individuals from having available, through the CFC, the opportunity to contribute to organizations of their choice.
>
> Basic decisions about charitable giving are local in nature. This amendment would appear to abridge the basic right of each community to set its own practices and standards with regard to charitable giving.
>
> We are fearful that the exclusion or prohibition would open the door to wholesale exclusion and discrimination of other groups, based on factors that are not relevant to their ability to provide human services.
>
> Local United Ways administer 450 of the 451 CFC campaigns. Imposition of this restriction would seriously hamper—perhaps make it even impossible—for them to continue to manage the campaigns which benefit a wide variety of health and human service agencies.
>
> United Way of America and the 1,400 local United Ways nationwide are committed to nondiscrimination.

"United Way of America and the 1,400 local United Ways nationwide are committed to nondiscrimination"—committed to nondiscrimination. What this amendment says is that a United Way with a nondiscrimination policy would be cut off from the Combined Federal Campaign. That is what it says. Pure and simple; that if a United Way should have a policy of nondiscrimination, which is, as I understand it, the very best of what this country stands for, nondiscrimination according to gender, nondiscrimination according to race, nondiscrimination according to sexual orientation, then that United Way would be cut off from Combined Federal Campaign funding.

Mr. President, it is an outrageous amendment, and Senators should vote against it. They should vote against it on constitutional grounds. But they should also vote against it on the grounds of fundamental fairness, fundamental decency, and fundamental commitment to nondiscrimination.

I think it is important to meet this head on and talk about what is at issue. I was not here when Senator METZENBAUM from Ohio spoke on this matter, but I have to say that I think in part what this amendment is all about, unfortunately, is to take a group of citizens, specifically gay and lesbian people, and make them the target. This is an amendment which I do not believe represents the best tradition of this country. This is an amendment which tries to essentially punish United Way for having the commitment to nondiscrimination.

We are not going to make it as a country and we are not going to make it as a society unless we are a country and a society based upon toleration of other people, and respect for other people, and a commitment to other people. We are going to have to learn how to live with one another. We are not going to make it by victimizing other people. We are not going to make it by discriminating against other people. I think this amendment is an amendment which every Senator should vote against.

Mr. President, I yield the floor.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, the pending business is the Helms amendment?

The PRESIDING OFFICER. That is correct.

Mr. INOUYE. May we proceed to the vote, Mr. President?

Mr. METZENBAUM. Mr. President, is it a rollcall vote?

Mr. INOUYE. Yes, the yeas and nays have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Colorado [Mr. WIRTH] are necessarily absent.

The PRESIDING OFFICER (Mr. BRYAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 49, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—49

Bentsen
Bond
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Coats
Cochran
Conrad
Craig
Danforth
Daschle
Dixon
Dole
Domenici
Ford
Fowler
Garn
Gorton
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Johnston
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Pryor
Reid
Roth
Sanford
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop

NAYS—49

Adams
Akaka
Baucus
Biden
Bingaman
Boren
Bradley
Burdick, Jocelyn
Chafee
Cohen
Cranston
D'Amato
DeConcini
Dodd
Durenberger
Exon
Glenn
Graham
Harkin
Hatfield
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Riegle
Robb
Rockefeller
Rudman
Sarbanes
Sasser
Seymour
Simon
Specter
Warner
Wellstone
Wofford

NOT VOTING—2

Gore
Wirth

So the amendment (No. 3118) was rejected.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Hawaii [Mr. INOUYE] is recognized.

Mr. INOUYE. Mr. President, I urge adoption of the underlying amendment.

The PRESIDING OFFICER. The question is on agreeing to the underlying amendment.

Is there further debate on the underlying amendment?

Without objection, the underlying amendment is agreed to.

So the committee amendment at page 142, lines 1 through 6, was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio [Mr. GLENN].

AMENDMENT NO. 3125

(Purpose: To express the sense of Congress that certain commercial disputes in Saudi Arabia should be satisfactorily resolved)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

> The Senator from Ohio [Mr. GLENN], for himself and Mr. PELL, proposes an amendment numbered 3125.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the appropriate place in the bill, insert the following new section:
>
> **SEC. . SENSE OF CONGRESS REGARDING UNRESOLVED COMMERCIAL DISPUTES IN SAUDI ARABIA.**
>
> (a) FINDINGS.—The Congress finds that—

(1) the Department of Commerce has identified "18 major unsettled cases, involving 14 American firms with claims of approximately $500 million", in Saudi Arabia in a letter dated May 27, 1991, to the House Subcommittee on Europe and the Middle East;

(2) the Department has testified that many of these disputes "go back 8 to 10 years";

(3) the Department of Commerce has testified that "Saudi Arabia's commercial law has not kept pace with its great economic strides. The Kingdom's system of commercial regulation lacks an effective internationally accepted mechanism to resolve disputes with foreign firms.";

(4) the Department of Commerce has testified that "The United States has trading relationships with virtually all the nations in the Near East region. The only country in which we encounter a continual problem with unresolved commercial disputes is Saudi Arabia."; and

(5) failure to resolve these contractual disputes results in great hardship for the American businesses involved and their employees.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Government of the United States and the Government of Saudi Arabia should work diligently and without delay to resolve satisfactorily the outstanding commercial disputes identified in the Department of Commerce letter.

(c) REPORT.—Not later than February 1, 1993, the Secretary of Defense, after consultation with the Secretary of State and the Secretary of Commerce, shall submit a report to the Congress on the status of the process for the resolution of commercial disputes in Saudi Arabia and the prognosis for any of the 18 such disputes which remain unresolved.

Mr. GLENN. Mr. President, the purpose of this amendment is very simple. I want to send a wake up call to the Government of Saudi Arabia. I do not normally rise on the floor and be very critical of another Nation. I do not consider myself an enemy of the Saudis at all. I have been there on a number of occasions. I have always been received hospitably and I have enjoyed myself while there.

In May of this year the House Subcommittee on Europe and the Middle East held a hearing on the subject of commercial disputes in Saudi Arabia. Let me quote a few relevant sections of the statement of Mr. Karl Reiner, Acting Deputy Assistant Secretary of Commerce.

Mr. Reiner said:

> Unfortunately, in our view, the adaption of Saudi Arabia's commercial law has not kept pace with its great economic strides. The Kingdom's system of commercial regulation lacks an effective internationally accepted mechanism to resolve disputes with foreign firms. While the number of disputes relative to the volume of trade is not large, many of them are not resolved because of the strictures of the Saudi system. These dispute eventually turn into problems in U.S.-Saudi relations.

Mr. Reiner went on to say:

> Commercial disputes linger for years despite the best efforts of the American Embassy in Riyadh, Members of Congress and the Commerce Department to bring about settlement. We do not, quite frankly, consider the environment in Saudi Arabia to be particularly conducive to the equitable settlement of commercial problems.

He continues:

> We know of 18 major unsettled cases, involving 14 American firms with claims of approximately $500 million. Many go back 8 to 10 years. Both large and small American firms have been affected. Disputes with Saudi Arabian Government agencies account for 13 of the cases, and one is with a private Saudi citizen.

My colleagues may ask if such commercial disputes are not a normal consequence of international business. In response let me again quote Mr. Reiner. He said:

> The United States has trading relationships with virtually all the nations in the Near East region. The only country in which we encounter a continual problem with unresolved commercial disputes is Saudi Arabia.

Mr. President, I have a particular interest in this. Although it affects a number of States which I will detail later, I do have a particular interest, because 1 of those 14 American firms is from Ohio, Bucheit International, an engineering and construction firm in Youngstown. When I explain what this company has been through, I hope my colleagues will understand why I feel compelled to focus a bright light on this issue by requiring an administration report. And let me say, that I intend to be here next year and I do not rule out additional steps if these matter remain unaddressed, and that is not an idle threat.

I first was introduced to this problem 8 years ago, in 1984. Three years earlier, Bucheit International had contracted with His Royal Highness Prince Mishal bin Abulaziz Al-Saud, a senior member of the Saudi royal family, to build a shopping center in Riyadh. By the spring of 1984 the project was substantially complete but a dispute had developed between Bucheit and Prince Mishal chiefly over responsibility for cost overruns and project delays. A principal cause of the delay was Prince Mishal's failure to obtain timely permission to tear down a mosque located on the property. Rather than work the matter out with Bucheit or submit the dispute to arbitration as called for in the contract—the contract had foreseen there might be problems in a number of areas, so they worked out in the contract an arrangement for arbitration—Prince Mishal, however, in spite of that held 15 of Bucheit's employees hostage, refusing to allow them to leave Saudi Arabia. They refused to give them their passports back and to give them their exit visas. This was in attempt to force Bucheit to accede to his demands. I did not hear about this until a little while after it had been in effect. I believe as I recall it was several weeks that these people were literally held hostage in Saudi Arabia.

Clearly that sort of behavior was completely out of bounds. In addition to contacting the Department of State, I picked up the phone and called His Royal Highness Prince Bandar, the Saudi Ambassador in Washington, and told him in the strongest terms that Prince Mishal's action violated every norm of international behavior and something had to be done immediately. Shortly thereafter, the Bucheit employees were allowed to leave Saudi Arabia. Subsequently Bucheit and representatives of Prince Mishal met in Geneva, Switzerland, to resolve the underlying contractual dispute. A settlement agreement was signed and Bucheit posted a $1.3 million letter of credit against any default under the settlement agreement.

Most unfortunately, Prince Mishal refused to honor the terms of the settlement agreement. Despite the fact that there was no violation of the terms of that agreement by Bucheit, Mishal fraudulently took the $1.3 million provided in Bucheit's letter of credit. Bucheit has been seeking justice ever since. Failure to resolve this matter has had a devastating impact on this small Youngstown business. Once on Engineering News Record's list of top 400 U.S. general contractors, Bucheit is now virtually out of business I am told. Another of the companies on the Commerce Department's list, Sanderson and Porter, went bankrupt after failing to collect from the Saudis.

I have continued to try to help Bucheit and to his everlasting credit my colleague from Youngstown, Congressman JIM TRAFICANT, has worked tirelessly on this matter, has appeared before the committee, given testimony on this, talked to the State Department and done everything that had to be done, but to no avail.

The Department of Commerce has been very cooperative in pushing for a resolution. Unfortunately, when the commercial counselor at the Embassy in Riyadh tried, on two separate occasions, to talk to Prince Mishal about using the arbitration clause in the contract to settle the dispute, the Prince refused to see him or authorize his agents to discuss the matter. The State Department in Washington and the U.S. Embassy in Riyadh, up to and including the Ambassador, have also been involved. There have been numerous meetings, innumerable telephone calls, and reams of correspondence. All to no avail.

The bottom line is that Prince Mishal has absolutely refused Bucheit's offers to negotiate a settlement or arbitrate the dispute as called for in the original contract. And there is simply no effective and accessible judicial or administrative mechanism which Bucheit can use to resolve his contractual claims. No Saudi attorney will touch a case involving such a high ranking member of the royal family. There is no Saudi court, tribunal, or other decisionmaking body where Bucheit can go to get his case heard.

The situation for Bucheit and the others on the Commerce Department's list is simply intolerable. U.S. citizens engaged in commercial dealings in a foreign country—particularly one with whom we enjoy quite friendly and cooperative relations—have a right to expect timely and equitable resolution of contractual disputes.

In the spring of last year the Saudi Embassy contacted Bucheit to discuss a potential settlement. Agreement was reached on a figure but the Embassy then said they needed approval from Riyadh. We are still waiting for Riyadh's response. As a result of the House hearing in May, the United States and Saudi Arabia named high level officials tasked with trying to resolve the outstanding commercial disputes and recommend a way to avoid such problems in the future. To date, these officials have not met.

I would point out this is not just a parochial, Ohio concern that I am on the floor about today. There are a number of these companies that are from other States. We did not have time today to organize all of these States here and take a lot of time on this Defense appropriations bill, when time is so short before the end of this session. But I do wish to read these in.

I hope these staffs listening in the offices, and those Senators on the floor here today, will note some of their States are involved.

These are American commercial disputes in Saudi Arabia.

CONSTRUCTION

From Alabama: Blount International versus King Saudi University; date initiated: 1984; amount claimed: $45–$110 million.

Contract changes increased costs from $1.7 billion to $2 billion. Negotiations resulted in settlement of final amount of $1.9 billion. The new Rector of King Saudi University refused to accept settlement. Matter is before Grievance Board.

From Ohio: Bucheit International versus Prince Mishal; date initiated: 1984; amount claimed: $11.5 million.

Officials of the Saudi Embassy in Washington and Mr. Bucheit negotiated settlement that quashed Saudi tax claim and would pay Bucheit International $1.6 million. The recommendation was forwarded to Riyadh in June 1991.

From Corpus Christi, TX: Casey & Glass, Inc. versus Saudi Arabian National Guard; date initiated: 1978; amount claimed: $267,968.

Completion of contract delayed. Firm has filed claim for costs incurred. Saudi Arabian National Guard has rejected claim.

From Alabama: Halbert-Howard Companies versus Ministry of Agriculture & Water; date initiated: 1983; amount claimed: $15–$20 million.

Claim is for work done on the Jeddah Water System. Firm claims that materials provided by the ministry were delivered late. Firm won a $6.8 million preliminary judgment from the Grievance Board. Both the firm and the Ministry have appealed the decision.

From Pennsylvania: Westinghouse Saudi Arabia versus Saudi Electricity Corporation; date initiated: 1985; amount claimed: $150 million.

Dispute over payment for work on two powerplants completed in 1986. Involves issues of performance testing, and modifications to the original specifications. Negotiations continue between the parties.

DESIGN AND ENGINEERING

From Omaha, Nebraska: Leo A. Daly versus Ministry of Health, Pension Fund Directorate of the Ministry of Finance and National Economy, the Ministry of Industry and Electricity, the Royal Commission for Jubail and Yanbu, and the Ifta's Organization; date initiated: 1990, amount claimed: $6.2 million.

Claim is for architectural and engineering work done in association with the Saudi Consulting House.

From Florida: RSH International versus Ministry of Municipal & Rural Affairs, Deputy Minister of Town Planning; date initiated: 1985; amount claimed: $38,000.

The claim involves development plan work for the Tabuk Region. The firm claimed $3.5 million and has accepted $1 million in a negotiated settlement. Claims of $38,000 remain outstanding.

From New Jersey: Sanderson & Porter versus Saline Water Conversion Corporation (SWCC); Date Initiated: 1978; Amount Claimed: $30–$112 million.

Claim is for work done on three water desalination plants for the Saline Water Conversion Corporation.

BANKING

From Illinois: Continental Illinois Bank versus King Saudi University; Date Initiated: 1985; Amount Claimed: $13.5 million.

The bank provided an advance payment bond for a contractor. The contractor was terminated, and the bond called. Claim is for an overdraw on the bond. Also:

First Chicago National Bank versus Ministry of Industry and Electricity; Date Initiated: 1988; Amount Claimed: $6.9 million.

Bank won a $6.9 million judgment against the Electricity Corporation from the Saudi Grievance Board in 1990. Despite the judgment, the bank has been unable to collect reward. Also:

Also First National Bank of Chicago versus Ministry of Public Works and Housing; Date Initiated: 1990; Amount Claimed: $35–$40 million.

Bank claims the ministry owes it and other banks for financing they provided to build the Ministry's headquarters building. The Ministry claims it is not satisfied with the completed work.

SUPPLY

From Pennsylvania: Aydin Systems Division versus Royal Saudi Air Force; Date Initiated: 1986; Amount Claimed: $13.6 million.

Firm claimed loss on project due to devaluation of currency and work change orders. Case went to the Grievance Board. In September 1991, the Board ruled against the firm and denied additional payments.

From Santa Monica, CA: National Medical Enterprises versus Ministry of Interior, Ministry of Defense and Aviation and Ministry of Health; Date Initiated: 1988; Amount Claimed: $13.5 million.

There are six claims against three ministries for Hospital Management Services. All the claims are pending decision by the Grievance Board.

From Palatine, IL: Square D Ltd. versus Ministry of Defense & Aviation; Date Initiated: 1987; Amount Claimed: $817,636.

Sold material to construction firm controlled by the Ministry of Defense and Aviation. Firm has been unable to collect from the Ministry.

From Texas: Texscan Corporation versus Royal Commission for Jubail and Yanbu; Date Initiated: 1987; Amount Claimed: $273,111.

Firm provided equipment to its Saudi agent for installation. Royal Commission claims performance was unexceptable.

MISCELLANEOUS

From Ashland, OH: Ashland Technology versus Saudi Public Transportation Company; Date Initiated: 1987; Amount Claimed: $581,000.

General Audit Bureau held up payment because of $4.4 million in United States Social Security payments. General Audit Bureau wants reimbursement made to Saudi Government. Documentation provided by firm is under review by the General Audit Bureau.

And the last I have on my list, a Florida and New York Company: L. Michael Milbrath & Plaza Hotel, New York, NY versus HRN Prince Abdullah bin Jalawi; Date Initiated: 1990; Amount Claimed: $225,000.

Claim is for legal services and a business meeting in the Plaza Hotel in August 1988. The Prince declined to pay because the meeting was unsuccessful. Hotel charges have been paid by Saudi Arabian Embassy.

I read those into the RECORD so we will all understand this is not just an Ohio matter. It is a matter dealing with some dozen States here, or nearly that number. So it does apply. It shows the breadth, the extent of the Saudi's ignoring what are normal contracting and appeals procedures.

We have here what is basically a difference in our societies and how we approach these matters. In our United States, of course, every single individual is important and every business has laws they know they live up to, and they have legal recourse if something goes wrong.

Saudi Arabia is a monarch, of course. Authority flows down. And if one of the princes around the King, His Royal Highness—if one of the princes has a problem and he is not willing to live up to what is normal in international commerce, then things really fall apart. That is the situation in which we have found ourselves.

In that situation, the law is what the King or the Prince decides. And that is not good enough.

I point out to my Saudi friends, the Koran itself teaches fair dealing, not being as unfair as they have been in these cases.

We are totally fed up and frustrated with this endless run around. That is why I have offered this amendment. I want well-deserved and long overdue attention focused on this problem. We rise on this floor in the Senate and we make big speeches about restricting foreign aid to countries that expropriate American property, and that deal unfairly in other areas. What has happened to Bucheit and the others is essentially the same thing, except we have not risen, we have not forced our Government and the Saudi Government to do something about this.

So this amendment is just a first step. It merely requires that the DOD, reflecting also the views of the Secretary of State and Secretary of Commerce, report by the first of February on the status of these 18 cases, and most important, a plan to resolve them. So I say let us get these matters negotiated, arbitrated, otherwise settled. I was under the impression the amendment would be accepted.

I ask for any comments the floor managers might have, or I will be glad to answer any questions.

The PRESIDING OFFICER. The Chair recognizes the Senator from Hawaii [Mr. INOUYE].

Mr. INOUYE. Mr. President, the managers of this measure have had the opportunity to study this proposal and we find no objection to its consideration and adoption.

We have further discussed this amendment with interested parties and we have not heard any objections. So I support the adoption of this amendment.

Mr. PELL. Mr. President, I am pleased to join with Senator GLENN in proposing this amendment concerning commercial disputes between American companies and Saudi Arabia.

This is a very serious matter. The United States Commerce Department has identified 17 United States companies involved in commercial disputes in Saudi Arabia. These companies are owed as much as $500 million in unpaid fees. I would stress the fact that these are American companies who have conducted business transactions in Saudi Arabia in good faith, only to be left hanging when the bills came due.

By way of example, I have been involved personally in one such dispute, in which a United States firm entered into a joint venture with a Saudi Government-owned company. The United States firm signed a contract that delineated the responsibilities of the Saudis in terms that were crystal clear. Nonetheless, the Saudis reneged on the contract, refused to live up to their obligations, and left the American firm with no option but to incur significant debt to cover the shortfall. That debt has accrued massive interest during the time the American firm has attempted to secure its rightful payments, to the point where it is now owed $6.2 million.

In such a clear-cut case of nonpayment, it should be reasonable to expect a quick resolution. This case, however, has been festering for more than 12 years. When one considers that there are at least 16 similar cases involving American firms, it shows symptoms of a larger, systemic problem.

Saudi Arabia is an important, strategic ally. The relationship is mutually beneficial, and both sides stand much to gain by developing the relationship further. It is difficult to imagine, however, that we could engage in a cooperative, economic partnership when American companies are experiencing such difficulties because of inherent defects in the Saudi system.

I know that in addition to Senator GLENN and myself, a number of Senators and Members of Congress have pressed the Saudis to address this longstanding source of tension. The administration, as well, recently tried to raise the level of discussion with the Saudis on this matter, but to no avail.

This legislation would encourage the Saudis to take a long, close look at the problem. In taking this step, the Congress could demonstrate to the Saudis the depth of American frustration, and in my view we would help to promote a solution. We would also open the door to a closer examination of other cases involving Americans and Saudi Arabia, which are not strictly of a commercial nature, but encompass troubling charges of human rights violations.

I am pleased to join Senator GLENN in this effort, and I commend him for his leadership on this issue. I urge my colleagues to support us in sending a strong signal to Saudi Arabia by agreeing to this amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3125) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. Mr. President, I ask unanimous consent that Senator CLAIBORNE PELL be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I want to take the opportunity this afternoon to discuss what I perceive to be two highly expensive and highly questionable weapons systems that are included in the bill before the Senate today. I would characterize these two weapons systems as cold war relics. They are the F-22 advanced tactical fighter and a brandnew, nuclear-powered aircraft carrier.

As I indicated earlier this morning in a colloquy with the distinguished chairman of the subcommittee, Senator INOUYE, in the spirit of cooperation, I will not put these two programs to a test vote in the Senate this afternoon. I am not doing that, quite frankly, because of the tenor of the Senate at this time and the way my colleagues have voted on a number of other amendments to reduce defense expenditures, for such programs as the strategic defense initiative, the intelligence agencies of the U.S. Government, and the procurement of another cold war relic, the D-5 missile. I frankly do not think I would meet with any success. But I do think that fiscal responsibility and military reality demand that at least these two programs receive some comments on the floor of the Senate this afternoon.

Let me say at the outset that I understand and appreciate the work that has gone into this legislation, and I understand the various competing concerns that the distinguished chairman and the ranking member have had to merge into this bill. The chairman, Senator INOUYE, has done a skillful job, as he always does.

I think it is especially noteworthy that the chairman, Senator INOUYE, brings to the Senate a bill that is below its 602(b) allocation by some $5.3 billion in budget authority and $3.7 billion in outlays. In layman's terms, it means that Senator INOUYE is spending $3.7 billion less than he had the authority to spend in outlays and is reserving some $5.3 billion in contracting authority that would bind outlays in future years. So that will benefit the Treasury and the taxpayers and, because of Senator INOUYE's managing of this bill, the deficit will be $3.7 billion lower this year than it could have been.

So I would say that the committee's action brings us considerably closer to the day when we will meet our true security needs in a fiscally responsible manner. I think that slowly we are beginning to make progress and slowly, just as when you turn the helm on an enormous oceangoing vessel, we are beginning to feel the first almost imperceptible motions that indicate a response to the helm.

As many in this body have heard me say on more than one occasion, the fiscal circumstances of the U.S. Government have grown steadily more dismal over the past few years and certainly the past few months. The Congressional Budget Office, a nonpartisan, highly respected arm of the Congress, now projects that the structural deficit for fiscal year 1997—that is 5 years away—will be $291 billion.

When we say a structural deficit, what we are saying is that if and when we get to a full employment economy, which we certainly do not have now, when the economy is prospering, outlays from the Federal Treasury in 1997 will still outpace revenues by almost $300 billion. So even in a healthy economy, with all of our people working, we will still be spending almost $300 billion more than we take in.

Just to live within the spending constraints that the Congress and the President have already agreed to, we are going to have to reduce discretionary outlays by some $25 billion in the next 2 years. By discretionary outlays, I mean those expenditures of Federal dollars that are directly controlled by the Congress and by the President. Those are discretionary outlays, and we are going to have to reduce discretionary outlays by some $25 billion over the next 2 years.

That figure incorporates the defense spending reduction of $80 billion to $85 billion that has been proposed by the distinguished chairman of the Armed Services Committee, Senator NUNN, not the $44 billion advanced by the President. So even though Senator NUNN calls on spending reductions in military spending almost twice as high as those of the Bush administration, we are still going to be $25 billion above our budgetary limits over the next 2 years.

As we are continuing to outlay moneys for military expenditures at a very high level, the military threats facing the country have diminished greatly. Earlier this year, for example, the Pentagon was reduced to exercises of remarkable ingenuity to come up with several scenarios to justify their request for $1.4 trillion over the next 5 years. That figure bears repeating. The Pentagon is asking over the next 5 years for the expenditure of $1.4 trillion for the military.

This comes at a time when we are now providing our former adversary, the Soviet Union, with loan guarantees and direct economic aid. It comes at a time when we are helping to promote democracy in the former satellites in Eastern Europe, and by any standards our national security is not in imminent danger from military attacks. Yet, we here in this body continue to devote incredible sums, $285 billion this year alone, to defend ourselves in a world in which our significant adversaries have all but disappeared.

Perhaps no two conventional weapons programs better highlight the mindset that we are still locked into than the prospect of another nuclear aircraft carrier, and yet another new advanced tactical fighter known as the F-22. Just these two programs alone, a new nuclear aircraft carrier and the new F-22 advanced fighter, are going to cost the U.S. Treasury over $100 billion in the years ahead.

Well, let us discuss the case for a new multibillion-dollar nuclear-powered aircraft carrier. The U.S. Navy already has approximately 14 aircraft carriers, plus one carrier that is used for training purposes.

The administration itself says that it plans to reduce this level of 14 operating carriers to 12 carriers plus a trainer by 1995.

The U.S. Navy is already scheduled to take delivery of one new carrier this year, the CVN-73, named the U.S.S. *George Washington*, and two other nuclear aircraft carriers, brand new, are already in the pipeline, the CVN-74 christened the U.S.S. *John C. Stennis*, and the CVN-75 christened the U.S.S. *United States*.

The administration has requested and this committee bill approves funding to procure long-lead items for still another aircraft carrier.

Now, all of this—three new aircraft carriers coming on-line, being built, one to be delivered this year and the construction of another one, even though the administration itself says that the present level of 14 aircraft carriers must be reduced to 12 aircraft carriers by 1995—comes in a world where only a handful of aircraft carriers are operated by two or three other countries. I think the British have two. Both are of World War II vintage. They clang and clatter around the world. One was supposed to be retired not too long ago, but the British I think after the Falkland Islands incident decided to patch it up for 1 or 2 more years. And the French have two aircraft carriers. The former Soviets have one operational aircraft carrier. They are building another one, but nobody knows who owns it because the Russians and Ukrainians are fighting over these two aircraft carriers.

By any objective measure, no power in the world is a match for U.S. aircraft carriers. Bear in mind that only two countries which are our allies, Britain and France, have any aircraft carriers at all. They possess between them a maximum of four. They are all old, of World War II or shortly thereafter vintage. The Russians or Ukrainians, whoever owns it, have one operational carrier. They may get another one constructed. And here we are with 14 aircraft carriers in the inventory, plus a trainer carrier that is better than any of the carriers operated by the British or the French, and I daresay really better than the Russian-built carrier. Here we are, with 14 in the inventory, with 3 in the pipeline, for a total of 17, appropriating money to build another one.

Now, we have the finest aircraft carriers in the world, both in quality and obviously in quantity. The former Chairman of the Joint Chiefs of Staff indicated to me that he took General Akhromeyev, the former chief of the Soviet general staff, aboard one of our aircraft carriers and let me watch the operation of the aircraft as the carrier launched and recovered aircraft and as the carrier battle group went through its battle exercises. General Akhromeyev and his colleagues from the old Soviet Union were so impressed that they went home and told their associates, I was advised, that the U.S. Navy and particularly the aircraft carrier fleet represented a dire threat to the Soviet Union.

So everyone knows we have the best aircraft carriers, both by quality and certainly by quantity, yet here we are producing even more in the world in which we live.

The administration's plan for a reduction from 14 aircraft carriers which are now operational, plus the trainer, to a 12-carrier battle group would leave his country with the same number of carriers we had early in the 1980's, in the heart of the cold war. When the evil empire was still threatening us, we operated 12 aircraft carriers plus a trainer.

So we are building new aircraft carriers. We will mothball some of the older ones; and we will maintain a carrier fleet of 12.

Now, these are the realities, and the chairmen of both the House and Senate Armed Services Committees have publicly questioned the need for as many as 12 carrier battle groups in the post-cold-war world. In February of this year, the chairman of the House Armed Services Committee, Mr. ASPIN, advanced a defense plan that has been widely praised and accepted by a majority in the House that calls for a fundamental restructuring of the administration's so-called base force plan. Included in Congressman ASPIN'S plan was a proposal that 11 aircraft carrier battle groups were sufficient in light of a changed threat.

As long ago as April 1990, after the demise of the Warsaw Pact but several months before the disintegration of the Soviet Union, the distinguished chairman of the Senate Armed Services Committee, Senator NUNN, delivered on this floor a serious and I thought carefully thought out series of speeches detailing a new military strategy. In one of those speeches, Senator NUNN said that the Navy could possibly meet future requirements with as few as 10 aircraft carrier battle groups. Again, 10 carrier battle groups, bear in mind, when the old Soviet Union was still intact.

Despite the analysis offered by Chairman ASPIN, chairman of the House Armed Services Committee, despite the analysis offered by our own Senator NUNN, chairman of the Senate Armed Services Committee, both acknowledged experts in U.S. defense policy, we have before us in this bill a $350 million down payment on still another $5 billion aircraft carrier.

I ask my colleagues, at a time when we are running $350 billion deficits here in the United States of America, when we are running $300 billion deficits as far as the eye can see, when the major cities in this country are crumbling, when our people do not have adequate health care, when as a percentage of the budget the Federal Government is spending considerably less this year than it was in 1979 on the education of our people, where is the logic? Where is the recognition that the threat has greatly diminished if not evaporated? I ask my colleagues, where is the awareness of our dire fiscal situation?

But I daresay that if I brought this amendment to a vote on the floor of the U.S. Senate today, a majority of our colleagues would come to the floor and vote in favor of building yet another new aircraft carrier to the tune of $5 billion, even though we have three new aircraft carriers, one to be delivered this year, two more that will be delivered shortly, and we are going to reduce the force anyway from 14 aircraft carriers down to 12.

Let us focus on a second program—the F-22 advanced tactically fighter—that highlights the inconsistency between how we allocate our defense resources and the military realities that we face in the 1990's.

The administration plan calls for no less than five tactical aircraft programs: The F-22, the F-18EF, the AX, the multirole fighter, and the RAH-66 Comanche for a total program cost of $400 billion. One of these programs, the F-22 alone could cost $100 billion—$100 billion for a new advanced tactical fighter.

The committee knows, the Defense Appropriations Subcommittee knows, that these plans are unaffordable under even the most optimistic assessment of the resources likely to be available to the Defense Department in the years ahead. To the subcommittee's credit and to the chairman's credit, he acknowledges that. He understands it even if the administration does not.

So under the direction of Senator INOUYE, the committee scaled back the administration's plan this year and asked that a portion of the funding for these programs be held back until the Defense Department submits a coherent plan. The committee has reduced the administration's 1993 budget for these programs from over $4 billion to about $3.4 billion, and I commend the chairman and the committee for so doing.

But even with the committee's proposed cut from the administration's 1993 requested level, these programs would still receive an increase of about $700 million over the level of funding that the programs received in 1992; an increase of $700 million over the level that these advanced fighter aircraft programs received in 1992.

Acceleration over our level of effort last year is dubious for all of these programs. But I submit it is particularly questionable with regard to the F-22 advanced tactical fighter. First and foremost, the United States of America presently possesses the finest and most advanced fighter aircraft in the world, and they are called F-15's, and F-16's, and they are better than any other aircraft fighter aircraft being manufactured anywhere in the world. The superiority of these aircraft is unquestioned. They are unchallenged in the skies all across the world. But do not take my word for it.

Two countries, Taiwan and Saudi Arabia, who can buy any aircraft from any country that they wish to because they are wealthy countries, rich in resources, both looked across the spectrum at all the tactical fighter aircraft and air superiority fighters that are available in the world. Guess what? They decided to buy F-15's and F-16's, American fighters.

Second, given the present economic and social turmoil in the territory of the former Soviet Union, they are not going to be building a better fighter anytime soon. As proof of this assertion, let us just look at the fate of that star in the crown of communism, the facility that the old Communist rulers were most proud of in the Soviet Union, the Central Aero-Hydrodynamics Institute. That was the world's largest aerospace research center. It was the crown jewel of the former Soviet military complex—3 miles of runways. And on those runways at the institute were tested every major Soviet fighter, every Soviet airliner, and their spacecraft.

What is this institute doing now? What is the Aero-Hydrodynamics Institute doing in this world? Well, it is breaking off into a number of private firms, opening new lines of work, get this, and seeking foreign partners. They have opened a shoe factory using converted equipment once used to test Mig fighters. They are assembling ovens for the lumber and ceramics industries in the same gigantic room where the Soviet space shuttle was tested. They are setting up auto service centers, and fabricating and selling construction materials.

So clearly, there is no competition for a new advanced fighter coming from the former Soviet Union or from Russia.

Some say, yes, but there are other threats in the world. You have to be aware of that.

Mr. STEVENS. Mr. President, will the Senator yield right there?

Mr. SASSER. Yes; I am happy to yield.

Mr. STEVENS. Is the Senator saying to the Senate that the Soviets are not making a new fighter, that the Russians are not working on a new fighter?

Mr. SASSER. What I am saying is the Soviets no longer exist. I always lapse back into that. What I am saying is that the Russians are not in the process of producing a fighter aircraft that would be competitive, would be so competitive that we would need something like the F-22.

Mr. STEVENS. The Senator does not mean to indicate to the Senate that the production lines in Russia of fighter aircraft or tanks or trucks really, even the ships, have been shut down?

Mr. SASSER. No. I do not mean to indicate that because the Russians are still building, are seeking to build fighter aircraft, and seeking to market them around the world. But what I am saying is that these aircraft are so inferior to the presently produced American aircraft such as the F-15, the F-16, and the F-18 that nobody is buying them. Any country that has the money buys U.S. aircraft. If they do not buy those, they will buy French or British aircraft. But anyone who has the money who is not already hooked into the old Soviet military technology is not interested in buying Soviet military aircraft.

Yes. They are still pushing some down the production line. But those production lines I do not think are going to last much longer because there are no customers out there.

Now, what about our European allies; what are they doing with regard to producing a new generation jet fighter? Some say if we do not continue to modernize our aircraft at the same frenetic pace that we used during the cold war, that we will lose superiority to some of our NATO partners; or so say the advocates of these programs. According to recent news reports, U.S. dominance for designing and building combat aircraft is unlikely to be challenged by our allies either.

In June of this year, Germany announced it was pulling out of the joint partnership to pursue the development of a new European fighter. According to the German defense minister, Volker Ruehe, "the Eurofighter is dead."

Again, where is the logic that would have us spend $100 billion to win a race that no one else is running? I will tell you where the race is in aircraft. The race is with the Europeans and it will shortly be with the Japanese, and it is in commercial aircraft. That is where we ought to be devoting the expertise of those who design these super-sophisticated combat aircraft, the engineers who are involved in that, and the assembly line operations involved in that.

If we really want to be constructive, let us just take this same money that we are going to appropriate to build combat aircraft and give it to the commercial aircraft manufacturers and tell them to make us first and foremost. Let us not let our markets be lost to Airbuses and other emerging aircraft that we are going to be seeing coming on line soon from European countries, and perhaps Japan.

Well, Mr. President, I have opposed pouring money into what I perceive to be highly dubious projects for a long time. And I am going to continue to draw attention to these questionable expenditures, and I will oppose them every chance I get. But I have to accept reality, and the reality is that the votes are not yet here in the U.S. Senate to curtail these programs. But given our continued fiscal woes, and given the ever-tightening noose of the budget deficit, I do believe that next year is going to be a very different story indeed.

So, therefore, I want to put my colleagues on notice that I intend to revisit these issues next year in an effort to try to reduce what I perceive to be excessive military spending that is occurring at a time when the U.S. Treasury is on the verge of bankruptcy.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ROBB). Who seeks recognition?

NORTH BONNEVILLE LANGUAGE IN DEFENSE APPROPRIATIONS

Mr. ADAMS. Mr. President, to enable expansion of the Bonneville Dam on the Columbia River, the town of North Bonneville, WA, was condemned. In 1973, Congress required the Army Corps of Engineers to relocate the town, in section 83 of Public Law 93-251, but 20 years later, the town still does not have title to its new land and facilities, and the relocation effort has been mired in litigation.

My colleagues from Washington State in the other body, led by Congresswoman JOLENE UNSOELD, have included a legislative solution to the North Bonneville problem in their version of the water resources bill. They have secured clearance to include it in a funding bill.

To assure that the North Bonneville solution is enacted this year, would the chairman of the subcommittee, Chairman INOUYE, be agreeable to its inclusion in the Defense appropriations conference report, assuming the authorizing committee has no objection?

Mr. INOUYE. I would certainly be willing to consider the inclusion of North Bonneville language under such circumstances.

Mr. ADAMS. I thank the Senator.

AMENDMENT NO. 3126

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Mr. BREAUX and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. BREAUX, proposes an amendment numbered 3126.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 28, line 14, strike "$5,734,209,000" and insert in lieu thereof "$5,749,209,000".

At the appropriate place add the following general provision:

SEC. . Of the funds appropriated for "Aircraft Procurement, Navy", $15,000,000 shall be available only for acquisition of A-6E Mission Recorder/Reproducer Systems (MR/RS).

Mr. INOUYE. Mr. President, this amendment has been studied by the managers of this bill, and we find no objection to it.

Mr. STEVENS. We accept the amendment.

The PRESIDING OFFICER. Is there further debate.

The question is on agreeing to the amendment.

The amendment (No. 3126) was agreed to.

AMENDMENT NO. 3127

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Mr. CRANSTON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. CRANSTON, for himself and Mr. SEYMOUR proposes an amendment numbered 3127.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

"SEC. . In the event that the purchaser of the Sale Parcel at Hamilton Air Force Base in Novato, in the State of California, exercises its option to withdraw from the sale as provided in the Agreement and Modification, dated September 25, 1990, between the Department of Defense, the General Services Administration, and the purchaser, the purchaser's deposit of $4,500,000 shall be returned by the General Services Administration and funds eligible for reimbursement under the Agreement and Modification shall come from the funds made available to the Department of Defense by this Act."

Mr. INOUYE. Mr. President, this amendment has been studied and cleared by the managers. I find no objection to it.

Mr. STEVENS. The amendment is acceptable, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3127) was agreed to.

AMENDMENT NO. 3128

(Purpose: To provide funds for the T-45 training system engine competition development activity)

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Mr. DECONCINI and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. DECONCINI proposes an amendment numbered 3128.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, line 16, insert before the period: ": *Provided*, That in addition to the amount appropriated elsewhere in this paragraph, $25,000,000 is appropriated for the T-45 training system engine competition development activity".

Mr. INOUYE. Mr. President, this amendment has been studied by the managers of the bill. I find no objection to it.

Mr. STEVENS. We have no objection to it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3128) was agreed to.

AMENDMENT NO. 3129

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Senator DOLE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. DOLE, proposes an amendment numbered 3129.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, at the end of the paragraph entitled "National Guard and Reserve Equipment" insert the following:

"In addition to amounts appropriated elsewhere in this paragraph, $56 million is appropriated for 8 UH-60 helicopters for the Army National Guard."

Mr. INOUYE. Mr. President, this matter has been studied by the managers. I find no objection to it.

Mr. STEVENS. Mr. President, we accept the amendment.

Mr. DOLE. Mr. President, this amendment provides $56 million to purchase eight UH-60 *Blackhawk* helicopters for the National Guard. Four of these helicopters are for the Kansas National Guard.

My amendment begins a badly needed modernization program for the Kansas National Guard which has been flying a fleet of 1967 vintage UH-1 helicopters for over 25 years. That these aircraft are still flying today is a testimony to the expert care and maintenance given to them by the Kansas Guard. However, these helicopters have reached the end of their service life and safety and readiness demands that they be replaced as soon as practicable.

Throughout the years, the Kansas Guard has made effective use of their aviation assets—providing disaster assistance for storm and tornado victims, helping communities rebuild, and providing air ambulance service in emergencies. The Kansas Guard stands ready to help Kansans in peacetime and protect the Nation in war.

These helicopters will begin a modernization program that will bring the Kansas National Guard the most modern equipment. This will be safer, more cost effective, and provide increased readiness to this superb organization.

Mr. President, I strongly support this amendment and urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3129) was agreed to.

AMENDMENT NO. 3130

(Purpose: Uniformed Services Treatment facilities)

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Mr. GORTON and Mr. ADAMS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. GORTON, for himself and Mr. ADAMS, proposes an amendment numbered 3130.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 9032, before the period, insert:

"*: Provided further*, That the Department of Defense shall enter into participation agreements with the Uniformed Services Treatment facilities implementing the managed care program mandated under section 718(c) of the National Defense Authorization Act for fiscal year 1991 (Public Law 101-510; 104 Stat. 1587) which provides for such service delivery under such program beginning no later than October 1, 1993".

Mr. INOUYE. Mr. President, the managers of the bill have studied this amendment, and I find no objection.

Mr. STEVENS. We are prepared to accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3130) was agreed to.

AMENDMENT NO. 3131

(Purpose: To require that information relating to salaries and administrative expenses of the Department of Defense military departments and Defense Agencies be included in the budget submitted to the Congress)

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Mr. Graham and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. GRAHAM, proposes an amendment numbered 3131.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 157, between lines 9 and 10, insert the following:

SEC. 9132. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the Defense Agencies.

Mr. INOUYE. Mr. President, this amendment is acceptable to the managers.

Mr. STEVENS. We accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3131) was agreed to.

AMENDMENT NO. 3132

(Purpose: To transfer $1,000,000 from operation and maintenance, Air Force, to operation and maintenance, Army, in order to provide for military police training of Marine Corps personnel at Fort McClellan, Alabama)

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Mr. HEFLIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. HEFLIN, proposes an amendment numbered 3132.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 25, strike out "$13,422,198,000" and insert in lieu thereof "$13,423,198,000".

On page 9, line 2, insert before the period at the end the following: "*: Provided, further*, That $1,000,000 of the funds appropriated under this heading shall be available for providing military police training for Marine Corps personnel at Fort McClellan, Alabama".

On page 12, line 22, strike out "$16,205,216,000", and insert in lieu thereof "$16,204,216,000".

Mr. INOUYE. Mr. President, the managers on the part of the Senate have no objection to it.

Mr. STEVENS. Mr. President, we accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3132) was agreed to.

AMENDMENT NO. 3133

(Purpose: To provide for disaster assistance to commercial fishermen for losses arising from Hurricane Hugo, Hurricane Andrew, Hurricane Iniki, and other natural disasters.

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Mr. JOHNSTON and Mr. BREAUX and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. JOHNSTON, for himself and Mr. BREAUX, proposes an amendment numbered 3133.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities" to cover the cost of grants to persons engaged in commercial fisheries, as provided in section 308 of the Interjurisdictional Fisheries Act of 1986, as amended by this Act, $100,000,000 to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That such sums shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of such Act is transmitted by the President to Congress: *Provided further*, That section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended by adding at the end the following new subsection:

"(d) GRANTS TO COMMERCIAL FISHERMEN.—(1) In addition to the amounts authorized under subsections (a), (b), and (c), there are authorized to be appropriated to the Department of Commerce $100,000,000 for fiscal year 1992 to enable the Secretary to award grants to persons engaged in commercial fisheries, for uninsured losses determined by the Secretary to have been suffered as a direct result of a fishery resource disaster arising from Hurricane Hugo, Hurricane Andrew, Hurricane Iniki, or any other natural disaster. Amounts appropriated under this subsection shall remain available until expended.

"(2) The Secretary shall determine the extent, and the beginning and ending dates, of any fishery resource disaster under this subsection.

"(3) Eligibility for a grant under this subsection shall be limited to any person that has less than $2,000,000 in gross revenues annually, as determined by the Secretary.

"(4) A person may receive a grant under this subsection for up to 75 percent of any uninsured commercial fishery loss resulting from such a fishery resource disaster (to the extent that such losses have not been compensated by other Federal and State programs), but shall receive no more than $100,000 in the aggregate for all such losses suffered as a result of any particular fishery resource disaster.

"(5) the Secretary shall establish, after notice and opportunity for public comment, appropriate limitations, terms, and conditions for awarding grants under this subsection, including provisions specifying the means by which applicants must demonstrate claimed losses and limiting the aggregate amounts that may be paid to persons that are affiliated with each other or under common ownership.

"(6) As used in this subsection, the term 'person' means any individual or any corporation, partnership, trust, association, or other nongovernmental entity.".

Mr. JOHNSTON. Mr. President, I rise today to support the amendment to provide disaster assistance to commercial fishermen who suffered significant losses due to the wave of natural disasters that have plagued this industry in the past several years.

Gulf coast fishermen impacted by Hurricane Andrew, Hawaiian fishermen impacted by Hurricane Iniki, and South Carolina fishermen impacted by Hurricane Hugo realized combined losses of $100 million. The impact to Louisiana commercial fishermen alone is in excess of $50 million. Louisiana's Wildlife and Fisheries Department has determined that over 300 million freshwater and marine fish were washed ashore or killed through oxygen depletion.

Mr. President, independent commercial fishermen, who provide the Nation's seafood, have no established mechanism for seeking disaster relief. Unlike the farmer, Federal disaster relief in the form of grants is unavailable. Without this assistance these independent seafood harvesters will lose their livelihoods.

Mr. President, I urge my colleagues to grant equality to commercial fishermen by adopting this amendment.

Mr. BREAUX. Mr. President, commercial fishermen play a vital and critical role in the economy of Louisiana, the gulf coast, and the entire Nation. Fishermen have been severely damaged by Hurricanes Andrew, Iniki, and Hugo, and face huge losses not adequately covered by other disaster programs. I am calling on my colleagues to recognize the extent of the disaster that struck a major segment of this Nation's coastal industry, the commercial fisherman.

In the United States, the direct value of our commercial fishery is over $3.3 billion. The value of the Louisiana fish harvest was $243.6 million in 1991, Mr. President. Commercial fish landings for Florida in 1991 were $162.1 million, for Hawaii, $57.7 million, and for South Carolina, $28.5 million.

If the value of the processed fish products is considered, the total value of the fishery is $7 billion. Think of it, commercial fisheries is a $7 billion industry. Extend this value to consumer expenditures at restaurants, caterers, carry-out food services, the figure is $26.8 billion. The commercial marine fishing industry contributed, in value added terms, $16.5 billion to the gross national product in 1991. Commercial fishing is not a small industry.

However, as large as the U.S. commercial industry is, small commercial fishermen are the backbone of the fishing fleet. They are the harvesters of the fish and shellfish we consume. Many are mom-and-pop businesses with few financial resources to tide them over when the fish aren't there to harvest. They need help.

Louisiana's commercial fishermen face catastrophic losses to both marine and freshwater commercial fishery resources as a direct result of Hurricane Andrew. Headlines in Louisiana papers tell of massive fish kills as a result of the hurricane.

Mr. President, the Louisiana Department of Wildlife and Fisheries estimates that over 300 million freshwater and 10 million saltwater fish were killed as a result of this unprecedented disaster. The dollar value of the fish lost to the commercial fishermen for this fishery disaster is estimated to exceed $52 million.

The value of the Louisiana commercial catch, as I stated earlier, is $243.6 million. Mr. President, this means fish lost to the Louisiana commercial fishermen amounts to approximately 21 percent of the total fish harvest. Imagine losing 21 percent of the total fishery resources in other coastal States, like South Carolina, Hawaii, or Florida.

The economic hardship and social impacts of such a fishery resource natural disaster are staggering. With losses of this magnitude to commercial fishermen, many of these fishermen will be driven out of the industry. Whole cities and towns depending on commercial fishing will face severe economic effects of these hurricanes long after the other segments of the States have recovered.

When natural disasters hit farmers and the farming industry, farmers are provided Federal grants to maintain their families and farms until the next harvest season. These farmers provide the food for this Nation and we rely on their tradition of farming to maintain the food supply. Fishermen also provide food to this Nation. Seafood, which is increasingly more important to the American diet, is the product of commercial fishermen's labor.

Hurricane Andrew has devastated the Louisiana fishing industry and caused fish kills of great proportions. Without assistance, many commercial fishermen will be forced out of the fishing industry. It is only fair that commercial fishermen be compensated for losses, just as is the farmer.

This amendment will bring parity to the commercial fishermen who, like farmers, have suffered losses as a result of natural disasters. All commercial fishermen, not just those suffering losses as a result of hurricanes Andrew and Iniki, will be compensated for their fishery resource disaster losses. South Carolina commercial fishermen who suffered with Hurricane Hugo will be compensated. Commercial fishermen in other States will likewise be covered for losses suffered as a result of fishery resource disasters.

For these fisheries resource disaster grants, as designated by this amendment, the President must submit an emergency budget request for the entire amount as an emergency requirement. We would find it unconscionable if the President were not to make a request for this emergency, considering the unfathomable losses to the commercial fisheries resources as a result of the hurricanes.

Under this amendment, the Secretary of Commerce shall determine the extent and the beginning and ending dates of the commerical fishery natural disaster, and will identify the disaster as a fishery resource disaster. All fishery resource disasters, as determined by the Secretary, are eligible for this grant program.

This amendment will provide Federal grants, under the Interjurisdictional Fishery Act, to commercial fishermen for up to 75 percent of their direct, uninsured losses resulting from. Total grants to any fisherman are limited to $100,000. In addition, the Secretary will establish necessary guidelines to establish this grant program.

It is our intention, Mr. President, that the Secretary shall expedite the guideline process, minimizing the implementation period and ensuring the commercial fishing grants be available to qualifying fishermen as soon as possible. There should not be a massive Federal bureaucracy established, but streamlined and efficient process.

Mr. President, I urge my colleagues to join with me to help commercial fishermen who have suffered losses as a result of Hurricane Andrew and ask for their support of this important amendment.

Mr. INOUYE. Mr. President, I have no objection to the adoption of the amendment.

Mr. STEVENS. Mr. President, we have no objection.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3133) was agreed to.

AMENDMENT NO. 3134

(Purpose: Monitor Department of Defense interdiction and counternarcotics programs missions)

Mr. INOUYE. Mr. President, I send to the desk an amendment offered by Senators LOTT and COCHRAN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. LOTT, for himself and Mr. COCHRAN, proposes an amendment numbered 3134.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 52, line 7, before the period add: ": *Provided further*, From within the funds appropriated in this paragraph, the Secretary shall either lease or procure, and evaluate, an existing airship as an integrated sensor platform for detection and monitoring missions in the Department's Drug Interdiction and Counternarcotics program".

AIRSHIP TEST AND EVALUATION AMENDMENT

Mr. LOTT. Mr. President, the greatest national security threat facing our country right now is the continued flow of illegal drugs across our borders. While we have made some progress in combating this problem in recent years, there remains a need for more improvement.

Mr. COCHRAN. Mr. President, for the last several years we have dedicated an increasing amount of our military attention to the counterdrug mission. Our primary focus has been on the detection and monitoring of the ships and aircraft used to illegally transport drugs into this country.

Mr. LOTT. Mr. President, we can do more to improve our detection and monitoring capabilities. For example, today our entire gulf coast region remains largely unmonitored for the illegal transport of drugs into the United States. In addition, our military commanders have testified that they need more airborne early warning aircraft to assist in the detection and tracking of illegal aircraft.

Currently, high-cost AWAC's platforms are the primary source for critical tracking assignments—but they are not without problems. Not only are they very expensive to operate, but they are restricted from carrying host-nation forces in Latin America. We need to identify a capable, mobile, low-cost alternative which is not so heavily restricted that it prevents the participation of host-nation forces.

Mr. COCHRAN. Mr. President, we believe airships may be that low-cost alternative. But, in order to determine if they are effective alternatives, we need to conduct a test and evaluation of the airship as an effective alternative to existing airborne early warning platforms.

Mr. President, it should be noted that the Senate Armed Services Committee included an airship testing provision in the fiscal year 1993 Defense Authorization Act. I am also pleased to point out that the Assistant Secretary of Defense for Drug Enforcement Policy is fully aware of this testing provision and is very supportive.

Mr. LOTT. Mr. President, I wish to thank the senior Senator from Mississippi, as well as Senator SPECTER, for their assistance on this issue. I also appreciate the help and support of the rest of the Appropriations Committee for supporting our amendment.

Mr. INOUYE. Mr. President, I find no objection to its adoption.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3134) was agreed to.

AMENDMENT NO. 3135

(Purpose: To authorize the Secretary of Defense to transfer funds for the purpose of carrying out the Former Soviet Union Demilitarization Act of 1992)

Mr. INOUYE. Mr. President, I send to the desk an amendment offered for Senators NUNN, WARNER, LUGAR and STEVENS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. NUNN (for himself and Mr. WARNER, Mr. LUGAR, and Mr. STEVENS) proposes an amendment numbered 3135.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 182, strike out lines 6 through 9 and insert in lieu thereof the following:

SEC. 9110. (a) The Secretary of Defense may transfer to appropriate appropriation accounts for the Department of Defense, out of funds appropriated to the Department of Defense for fiscal year 1993, up to $400,000,000 to be available for the purposes authorized in the Former Soviet Union Demilitarization Act of 1992. Amounts so transferred shall be in addition to amounts transferred pursuant to the authority provided in section 108 of Public Law 102-229 (105 Stat. 1708).

(b) Of the funds transferred pursuant to this section—

(1) not less than $10,000,000 shall be available only for the study, assessment, and identification of nuclear waste disposal by the former Soviet Union in the Arctic region; and

(2) not less than $25,000,000 shall be available only for Project PEACE.

(c) The authority provided in section 108 of Public Law 102-229 (105 Stat. 1708) to transfer amounts appropriated for fiscal year 1992 shall continue to be in effect during fiscal year 1993.

(d) The transfer authority provided in this section shall be in addition to any other transfer authority contained in this Act.

Mr. NUNN. Mr. President, in S. 3114, the fiscal year 1993 defense authorization bill which the Senate passed just after midnight last Friday, we authorized an additional $400 million in transfer authority for the Nunn-Lugar nuclear and chemical weapons threat reduction program in fiscal year 1993. I would emphasize that this is transfer authority—that is, authority to the Defense Department funds and use them for this purpose. It is not a $400 million add-on to the defense budget. In combination with the $400 million Congress authorized and appropriated for the various Nunn-Lugar programs last year, the Senate version of the fiscal year 1993 defense authorization provides a total of $800 million for Nunn-Lugar purposes over the 2-year period, fiscal year 1992-93.

The House-passed version of the fiscal year 1993 defense authorization bill authorizes an additional $250 million for the Nunn-Lugar program in fiscal year 1993, which is $150 million less than the level the Senate now recommends. So that difference—$400 million in additional Nunn-Lugar funds in the Senate bill versus $250 million in the House bill—is now being addressed in our conference with the House.

On the appropriations side, I would note that the House passed version of the fiscal year 1993 defense appropriations bill followed the lead of the House-passed authorization bill and approved an additional $250 million in fiscal year 1993 for Nunn-Lugar programs.

Unfortunately, Mr. President, the Senate Appropriations Committee chose to provide no additional funds—zero—for the Nunn-Lugar program in fiscal year 1993.

The amendment that I am offering with Senators LUGAR and WARNER would correct that oversight and bring the Senate version of the fiscal year 1993 defense appropriations bill in line with the fiscal year 1993 Defense authorization bill we passed just 4 days ago. The amendment would designate an additional $400 million for Nunn-Lugar transfers in fiscal year 1993, to go along with the $400 million we approved last year.

Some Members might wonder why additional Nunn-Lugar funds are needed, since to date the Congress has been notified that only $185 million of the $400 million appropriated in fiscal year 1992 has been obligated or is proposed for obligation.

The answer, Mr. President, is that the Nunn-Lugar program is moving into important new nuclear and chemical threat-reduction areas that will require these additional funds. For example:

In the June 17, 1992 summit agreement signed by President Bush and Yeltsin at the Washington Summit—referred to as START II—the United States and Russia agreed that all START II reductions—including the complete elimination of all land-based MIRV'd missiles—would have to be accomplished by the year 2003. However, the summit agreement provides that if the United States assists Russia with financing the cost of these START II weapons eliminations, that deadline can be accelerated by 3 years, to the year 2000. At the Armed Services Committee hearings on START, Secretary Cheney testified that achieving this accelerated deadline for deMIRVing was in our national security interests and that the Nunn-Lugar program would be the mechanism for providing this assistance. So we will need additional Nunn-Lugar transfer next year to get started toward this new goal.

In conjunction with the Lisbon Protocol agreement in May 1992 that opened the door for ratification of the START I Treaty, Ukraine, Belarus, and Kazakhstan promised to eliminate or remove all nuclear weapons all strategic offensive arms from their territories by 1999. This denuclearization promise is a landmark achievement in our postwar nonproliferation endeavors. However, Ukraine is strapped for funds to carry out this commitment, and the United States has pledged to work with this new state in determining how we can help. The Nunn-Lugar program will be the mechanism for this financial assistance program as well.

Negotiations are making good progress in additional areas authorized in last year's Nunn-Lugar legislation, including assisting Russia with an accounting system for keeping firm control over all its nuclear warheads and missile material. Funds will be needed once talks on this program are finalized.

Finally, I would note that the Senate-passed fiscal year 1993 defense authorization bill includes an important broadening of the purposes for which Nunn-Lugar money can be expended. As specified in S. 3114, the basic authority for Nunn-Lugar activities is now being extended to include support for defense conversion in the States of the former Soviet Union and expanded military-to-military exchanges with these countries as well.

I would emphasize that the Nunn-Lugar moneys to be used for defense conversion activities in the former Soviet Republics is not foreign aid—it is not a give-away of United States tax dollars to Russian defense plants. Rather, the money is intended to go to United States contractors who would set up data banks and clearing houses in these States to assist United States businesses looking to invest their own funds in joint ventures or joint partnerships with former Soviet defense industries interested in converting to nonmilitary production.

In sum, Mr. President, there no question in my mind that we will need an additional $400 million for the Nunn-Lugar program next year on top of the $400 million already authorized for transfer in fiscal year 1992. I urge my colleagues to approve this amendment and thereby conform the bill to the mark we have already established in the authorization bill.

Mr. WARNER. Mr. President, I rise today as a cosponsor of the amendment offered by the Senator from Georgia to provide additional funding to assist in the demilitarization of the former Soviet Union. The amendment would make an additional $400 million in fiscal year 1993 DOD funds available for such activities under the Nunn-Lugar legislation enacted last year and would provide appropriations transfer authority at a funding level consistent with the Senate's action of last week on the fiscal year 1993 Defense authorization bill.

Last year, during the lengthy congressional debate on the original Nunn-Lugar legislation, Congress determined that providing assistance to dismantle and securely store the nuclear weapons of the Soviet Union was decidedly in the national security interest of the United States. I firmly believe that continued support for this program, among other things, is necessary to maintain the momentum for demilitarization and democratization in the former Soviet Union.

The Soviet Nuclear Threat Reduction Act of 1991, which was enacted last year, authorized up to $400 million of DOD funds to be used during fiscal year 1992 to assist in dismantling and safely transporting and storing the nuclear weapons of the former Soviet Union. On Friday of last week, the Senate passed the fiscal year 1993 Defense authorization bill, which provides an additional $400 million transfer authority for demilitarization of the former Soviet Union. In addition, the authorization provision adds defense conversion and military-to-military exchanges to the authorized program, and extends the availability of previously authorized and appropriated funds through fiscal year 1993.

The Nunn-Lugar legislation provided an incentive for the United States and Russia to establish a useful and effective channel of communication between the United States and the newly independent states of the former Soviet Union. Discussions in this forum have, among other things, contributed significantly to the achievement of the June 17 joint understanding between the United States and Russia on further strategic arms reductions.

Mr. President, some have raised questions about the need for additional funding at this time. I would point out that the dissolution of the former Soviet Union in December 1991 obviously hampered early efforts to formulate a coherent program under the Nunn-Lugar legislation. However, in the spring of 1992, ongoing discussions paid off and agreements were reached on a number of initiatives. In separate notifications in May, June, and August, Congress was notified that agreements have been reached, totaling $185 million, for the following purposes:

Establish an International Science and Technology Center in Russia and a similar organization in Ukraine;

Provide United States-produced storage containers and armored blankets, as well as upgrades to Russian railcars, to help ensure safe transportation and storage of nuclear weapons and fissile materials;

Help design a secure and ecologically sound storage facility for fissile material, as well as a fissile material control and accountability system, in Russia;

Provide nuclear weapons accident response equipment and training; and

Provide material, training, and services to facilitate safe and ecologically sound chemical weapons destruction in Russia.

Contracts to carry out these programs are currently proceeding through the normal acquisition process in the Department of Defense. It is my understanding that the contracts to carry out these activities will be awarded, to the greatest extent possible, to U.S. businesses. This is consistent with the provision in the Nunn-Lugar legislation that specified that any activities undertaken pursuant to this authority should draw upon U.S. technology equipment and U.S. technicians.

Discussions are ongoing with Russia, as well as with Ukraine and Belarus in particular, on additional demilitarization programs, such as nonproliferation activities and defense conversion. This amendment would ensure that sufficient funds would be available in a timely fashion when further agreements are reached with the former Soviet republics.

And of course, any obligation of these funds would be subject to a number of conditions which are somewhat more stringent than the original Nunn-Lugar legislation including:

Annual Presidential certification of the eligibility of any State to receive any assistance based on that State's demonstrated commitment of its own resources to demilitarization, as well as arms control compliance and respect for human rights; and

Notification to Congress of funding sources and proposed activities prior to obligating any funds, and quarterly reports on ongoing activities as well as planned future activities.

Mr. President, I would also point out that the use of DOD funds for programs under the Nunn-Lugar legislation is completely discretionary to the administration if no activities are identified which the administration believes should be funded under this program, then the administration would simply not start the process to obtain the necessary funding.

This amendment would also ensure that some funds would be available to assist the former Soviet Union, particularly Ukraine, in carrying out their obligations to destroy silos under the

START I Treaty and a prospective START II Treaty. These funds could also be used, as required, to assist in accelerating the implementation of a START II Treaty.

Mr. President, the Nunn-Lugar legislation of last year helped to establish a channel of communications with the former Soviet Union that has facilitated improved relations between our two nations. Most important, the activities funded under the Nunn-Lugar legislation serve the national security interest of the United States by reducing the threat to our own country. I believe the Senate must demonstrate a continued and significant commitment to assist in the demilitarization of the former Soviet Union, and I therefore urge the adoption of this amendment.

Mr. INOUYE. Mr. President, I have no objection to its acceptance.

The PRESIDING OFFICER. Is there debate?

The Senator from Alaska [Mr. STEVENS].

Mr. STEVENS. I thank the two Senators, Mr. NUNN and Mr. WARNER, particularly for adding to this amendment some language that I sought concerning research into the disposal of nuclear materials by the Soviets during the time of the extensive testing of nuclear weapons. Particularly, I am disturbed with reports of disposal of nuclear waste on tundra in the Arctic at places where it might be leached by runoff into the North Pacific, which is very vital to our country as well as Russia.

The PRESIDING OFFICER. Is there further debate?

Without objection, the amendment is agreed to.

The amendment (No. 3135) was agreed to.

AMENDMENT NO. 3136

(Purpose: To direct funds to certain bioremediation technology development efforts)

Mr. INOUYE. Mr. President, I send to the desk an amendment, proposed by Senators LEVIN and RIEGLE, and ask its immediate consideration.

The PRESIDING OFFICER. The Clerk will report the amendment.

The legislation clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. LEVIN, for himself and Mr. RIEGLE, proposes an amendment numbered 3136.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, line 23, add: "*Provided further*, That, of the funds provided under this heading, not less than $3,500,000 of this amount shall be granted in fiscal year 1993 to a nonprofit institution with expertise in applied environmental bioremediation technology, which includes experience in biological fluidized bed systems containing granular activated carbon as the microbial support medium, microbial cultures with proven ability to degrade nitrates, chlorinated aromatic compounds, benzene, toluene, and xylene, as well as an advanced monitoring system to ensure optimal control of electron donor feeds, for the purpose of establishing an advanced process integration, scale-up and applied technology demonstration program in environmental bioremediation restoration technology.

Mr. INOUYE. Mr. President, I urge adoption of this amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. STEVENS. There is no further debate.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3136) was agreed to.

AMENDMENT NO. 3137

(Purpose: Marine Corps Child Abuse Prevention Program)

Mr. INOUYE. Mr. President, I send to the desk an amendment proposed by Senator SEYMOUR and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. SEYMOUR, proposes an amendment numbered 3137.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 2 before the period, add: ": *Provided further*, That from within funds provided in this paragraph, $3,000,000 shall be available only for Marine Corps child abuse prevention program".

PARENT SUPPORT PROGRAM FUNDING

Mr. SEYMOUR. Mr. President, I rise to offer an amendment that would continue the U.S. Marine Corps Child Abuse Prevention Program funded in last year's bill. As a result of the committee's leadership and commitment to family advocacy in the military, the Senate included $3 million for advancing this program to all Marine Corps facilities, in fiscal year 1992, and it is my hope that the Senate will therefore consider providing fiscal year 1993 funding for continuing this effort.

The issues of child abuse and neglect are not only of great concern throughout this country but also within the military community, making this program a vital service. By continuing Federal support for the Parent Support Program, we will be able to foster the development of a strong program that can be applied to all branches of the military forces.

This program has been tested on a very successful demonstration program at Camp Pendleton by the Marine Corps and Children's Hospital of San Diego, though on a much smaller scale. The Parent Support Program at Camp Pendleton was modeled on Hawaii's Healthy Start Program and the Parent Aide Program began at San Diego Children's in 1976. These programs have the goal of preventing and decreasing the incidence of child abuse and neglect through a range of clinical, home visit and support services.

As a somewhat alarming measure of the need for such services throughout the military community, this program has provided in-home primary child abuse prevention services to 200 Marine Corps families and over 350 children at Camp Pendleton alone.

Initially, the Parent Support Program seeks to identify and target Marine dependents and their children, especially under the age of 2, who are experiencing social and psychological problems which are identified as leading risk factors for potential child abuse. The initial phases of interaction involve a series of interviews and assessments as well as the development of specific treatment goals. During the implementation stage, the program offers in-home support services, parent education, and further clinical assessment as necessary. Clinical supervisors oversee all of the cases undertaken by the program and determine all of the program objectives.

The program for all 18 USMC bases and training facilities, which received initial funding from Congress last year, is moving forward in a very similar manner, although when fully implemented, it will include an evaluation component for measuring the effectiveness of the services and treatments offered for assessing the future needs of military wives and families. As the program becomes firmly established in the Marine Corps, I believe it will serve as the model for the other branches of service. With this as a goal, the program must continue to receive Federal support in its formative years.

I understand, Mr. President, that this amendment has been cleared by the distinguished managers of the bill. I particularly want to recognize the outstanding leadership that Senators INOUYE and STEVENS have provided in fostering military family advocacy programs.

Mr. INOUYE. Mr. President, this amendment has been studied, and it is acceptable. I urge its immediate acceptance.

The PRESIDING OFFICER. Is there further debate?

Mr. STEVENS. I join in urging its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3137) was agreed to

AMENDMENT NO. 3138

(Purpose: Synthetic aperture radar digital terrain mapping)

Mr. INOUYE. Mr. President, I send to the desk a proposed amendment by Senator WALLOP and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. WALLOP, proposes an amendment numbered 3138.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 45, line 15, before the period, add: "; *Provided further*, That in addition to the amount appropriated elsewhere in this paragraph, $16,000,000 is appropriated for synthetic aperture radar digital terrain mapping".

Mr. INOUYE. Mr. President, this amendment is acceptable.

The PRESIDING OFFICER. Is there further debate?

Mr. STEVENS. The amendment is acceptable also to me.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3138) was agreed to.

AMENDMENT NO. 3139

(Purpose: Night Vision Equipment for Reserve Components)

Mr. INOUYE. Mr. President, I send to the desk an amendment offered by Mr. WARNER and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. WARNER, proposes an amendment numbered 3139.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, before the period, line 10, add: "; *Provided*, That in addition to the amount appropriated elsewhere in this paragraph, $40,000,000 is appropriated for Night Vision Equipment".

Mr. WARNER. Mr. President, the amendment I propose is straightforward and simple but, in my opinion, essential. It provides additional funding to procure night vision equipment for the Army Reserves and the Army National Guard.

The advantages provided to our forces in the Persian Gulf through the use of night vision equipment was evident in Operation Desert Storm. Our forces operated routinely at night because of the enhanced capabilities afforded by the high technology, latest generation night vision goggles and other devices.

The active components of our Army have made a significant investment in night vision equipment over the years which paid off significantly in the war in the Persian Gulf. In the future, we intend to place increased reliance on our Reserve components—the National Guard as well as the Reserves.

The Congress has recognized the importance of the Reserve components and has consistently supported their modernization. The Army National Guard and Army Reserves have acknowledged their shortfall in night vision equipment. It is important that we assist them in acquiring this important capability.

This amendment would provide $20 million for the Army National Guard and $20 million for the Army Reserves for night vision devices.

I appreciate the courtesy and attention of the floor managers to this amendment and I urge my colleagues to indicate once again the consistent and strong support of the Congress for the Reserve components by supporting this amendment.

Mr. INOUYE. I urge its immediate acceptance.

The PRESIDING OFFICER. Is there further debate?

Mr. STEVENS. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3139) was agreed to.

AMENDMENT NO. 3140

Mr. INOUYE. Mr. President, I send to the desk an amendment offered by Senator WARNER and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. WARNER, proposes an amendment numbered 3140.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 45, line 15, before the period, add: "; *Provided further*, That in addition to the amount appropriated elsewhere in this paragraph, $7,000,000 is appropriated for Laser Imaging Detection and Ranging (LIDAR)".

Mr. WARNER. Mr. President, as you are aware, one of the key intelligence issues facing our country today is the proliferation of chemical, biological, and nuclear weapons. We are also concerned about their means of delivery. Another major intelligence problem is narcotic processing. This amendment seeks to add $7 million to begin development of a light imaging detection and ranging system [LIDAR]. A state-of-the-art, national-level LIDAR capability can help identify production efforts in these areas.

Mr. INOUYE. Mr. President, I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. STEVENS. Mr. President, I urge its adoption, also.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 3140) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider en bloc the votes by which the amendments were agreed to and move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Hawaii [Mr. INOUYE].

Mr. INOUYE. Mr. President, that concludes the list of those amendments cleared by the managers of the bill. We have a few more remaining, but we feel that we should be able to foresee and resolve everything by 8:30 this evening.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, my good friend, the manager of the bill, just indicated that he would hope that we would be finished by 8:30. I think that is still possible; it is not 5:30 yet.

We still have, according to my count, 13 amendments that Senators have indicated they want to come over and offer. I would like to suggest that maybe we make a motion to proceed to third reading at 8:30 if these amendments have not been offered. I think there is no reason for us to wait here now for people who want to offer amendments. I have not seen some of them myself. I would be pleased to try and clear them very quickly.

But I do think that we ought to indicate that if it is possible to get through at 8:30, we should do that.

So I would like to have the two Cloakrooms send out word that this Senator intends to move to go to third reading unless there is an amendment pending at 8:30. I make that request to both Cloakrooms.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3141

(Purpose: To authorize the Secretary of the Interior to issue special-use permits to the City of Phoenix, the State of Arizona and the Department of Veterans Affairs for use of parcels of the Indian School property as described in PL 100–696)

Mr. INOUYE. Mr. President, I send to the desk an amendment on behalf of Senator McCAIN, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. McCAIN, proposes an amendment numbered 3141.

Mr. INOUYE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following section:

"(1) Notwithstanding the provisions of any other law, subject to the execution of a binding Trust Fund Payment Agreement as required by section 403 of Public Law 100-696 ("the Act"), the Secretary of the Interior is authorized to issue special-use permits or other licenses to the Department of Veterans Affairs for use of the parcels of property described in Section 402(f) and (g) of the Act and to the city of Phoenix, Arizona, for use of the parcel of property described in Section 402(e) of the Act and any other lands within the School Property that are to be conveyed to the city of Phoenix pursuant to a further exchange agreement between the city of Phoenix and the Baron Collier Company. The Secretary of Veterans Affairs is authorized to accept such permit or license and to transfer such permit or license to the State of Arizona for the 4.5 acres described in section 402(g) of Public Law 100-696 for the purposes described therein. Any permit or license issued pursuant to this section shall expire upon the closing of the Land Exchange, and shall be consistent with the provisions of the Exchange Agreement described in Section 402(b) of the Act and any amendment thereto. The Secretary is authorized to amend the Exchange Agreement, upon the written consent of the parties thereto, to effectuate this result.".

Mr. INOUYE. Mr. President, this amendment has been received and studied by the managers and also by the chairman and ranking member of the Interior Committee. We find no objection. I urge its adoption.

Mr. STEVENS. Mr. President, this amendment has been reviewed now very carefully. It is slightly modified from the first version that we had. This amendment, offered by Senator MCCAIN, is not totally acceptable, as stated by the Senator from Hawaii.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 3141) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that the following be the only amendments remaining in order to the defense appropriations bill; that the listed amendments be offered in the first degree and subject to relevant second-degree amendments, and that no motions to recommit be in order:

The 1st amendment, by Mr. BINGAMAN, on defense conversion; 2d amendment, Mr. BINGAMAN, on defense technology; 3d amendment, Mr. BINGAMAN, defense manufacturing; 4th amendment, Mr. BINGAMAN, United States-Japan management training; 5th amendment, by Mr. BINGAMAN, directors fund for math and science engineering; 6th amendment, by Mr. BINGAMAN, on Sematech; 7th amendment, by Mr. DOLE, on blood testing; 8th amendment, by Mr. DOLE, on drug interdiction aircraft; 9th amendment, by Mr. GRAHAM of Florida, on overhead expenses; 10th amendment, by Mr. GRAHAM, on reporting requirements of security forces; 11th amendment, by Mr. GRAHAM of Florida, on reporting requirements of DOD national emergency response; 12th amendment, by Mr. HARKIN, on the SDI; 13th amendment, Mr. INOUYE, on disaster assistance; 14th amendment, by Mr. NUNN, on modification of university earmarks; 15th amendment, by Mr. LAUTENBERG, on Arab boycott; 15th amendment, Mr. LEVIN, on TARDEC; 16th amendment, by Mr. LEVIN, on starbase-National Guard education.

Mr. STEVENS. Mr. President, will the Senator yield? There is another amendment of Senator CRANSTON that we are still trying to clear up. Will the Chairman list it too, please?

Mr. INOUYE. That is the 17th amendment, Senator CRANSTON.

Mr. STEVENS. It pertains to a patent extension.

Mr. INOUYE. The last amendment by Mr. PRYOR is on defense conversion.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the Senator from Hawaii? Without objection, it is so ordered.

Mr. INOUYE addressed the Chair.

Mr. STEVENS. Mr. President, may I ask the distinguished Senator from Hawaii if it is possible to set some order on this now so we might get an understanding when these amendments will be offered? Is that possible? There is only one that I know of right now that would require a vote. There may be others. I only know of one right now.

Mr. INOUYE. Mr. President, If I could be given 10 minutes, I will talk to some of them.

Mr. STEVENS. I thank my friend. There are no amendments other than the two from the Senator from Kansas on our side. I would be pleased to assist in any way I can.

The PRESIDING OFFICER. (Mr. WELLSTONE). Does any Senator seek recognition?

Mr. INOUYE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INOUYE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that an additional amendment be included in the list that we just submitted a few minutes ago. That is an amendment by Senator JOHNSTON. It relates to page 38, line 22, on AIDS.

The PRESIDING OFFICER. Without objection, the amendment will be included in the list.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I ask unanimous consent that I be allowed to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HARVARD/OXFORD SEMINAR

Mr. PRESSLER. Mr. President, I recently had the privilege to host many of my fellow Harvard law graduates and fellow Rhodes scholars for a public policy forum. On September 10, we gathered in the historic Russell Caucus room. C-SPAN was there to record the event and duly played it on television.

Several of our Senate colleagues graciously agreed to take part in the seminar and presented their thoughts on a variety of issues facing our country and the world. We were fortunate to have representatives from other branches of Government and the private sector as well.

Our colleague, Senator NANCY KASSEBAUM, brought a special guest to the seminar, Helen Suzman, a distinguished former Member of the South African Parliament for 36 years and vocal opponent of apartheid for all those years. Her remarks were very enlightening.

Senator RICHARD LUGAR, a fellow Rhodes scholar, gave an outstanding keynote luncheon address on foreign policy issues. Other Senators also provided special insights. Senator TIM WIRTH articulated his views on why so many Members are leaving Congress; Senator ALAN SIMPSON spoke very candidly about judicial nominations in the aftermath of the Clarence Thomas nomination battle; Senator JOHN WARNER detailed his recent trip to Bosnia-Hercegovina; Senator TRENT LOTT talked about serving in Congress and his efforts to find good people to run for Congress; Senators CLAIBORNE PELL and NANCY KASSEBAUM spoke on various aspects of U.S. foreign policy; and Senator BOB DOLE focused his remarks on the activities and responsibilities of Senate leaders.

Ken Bode, CNN correspondent and director of the Center for Contemporary Media at DePauw University, shared his views on media coverage of politics and the presidential race; Jay Stephens, U.S. attorney for the District of Columbia, talked about fighting crime in the Nation's Capital; Dick Wiley, former FCC chairman, discussed the role of the lawyer/lobbyist and Congress; Peter Monroe, President of the Resolution Trust Corporation Oversight Board, spoke about details of the S&L cleanup; and Stephen Trachtenberg, president of George Washington University, addressed the issue of running a university in the Nation's Capital.

It was my privilege to personally discuss some of the results of my recent trip to 10 Republics of the former Soviet Union and also to make some introductions and comments on each of the speakers.

This is the second public policy forum I have hosted here in the Senate, the first being held in 1987.

I also have held forums for my constituents from South Dakota.

I bring this to the attention of the Senate because many American voters are disgusted with the Congress and fed up with the system. A throw-the-bums-out sentiment is the prevailing mood of the voters. They feel cut off from the people who are supposed to represent them. These seminars provide an intimate view of several of the Senate's distinguished Members, allow for an exchange of ideas and an in-depth examination of our Nation's policies. I received an overwhelmingly positive response to this forum.

Let me say, Mr. President, that I think it is very important that we continue the dialog. We have many problems in this country. We have many problems in the way this body is functioning. But, on the other hand, what is the alternative? We have to make our institutions work.

There is much talk about limited terms and other mechanical means of solving our problems. But our problems will only be solved if the voters of America go to the polls and vote their conviction—study the issues and vote for candidates they believe in. The American public could completely change the House of Representatives every 2 years, they could change a third of the Senate every 2 years, and they have an opportunity to change the Presidency coming up.

Yet it seems that most of the anger is vented at the institution, and indeed we deserve much criticism and we should work hard to improve ourselves, but this institution will be no better than the people who elect it. I always tell people they need to study the issues and vote. Less than half of our people vote. Many of those do not study the voting records. I think that is a very important thing to remember.

So these seminars, I think, provide an important opportunity to sit down for a time and think a little. I will be doing this with the Sioux tribal presidents in South Dakota in the near future. We have nine different, separate Indian tribes and I meet occasionally with the leaders of those Indian tribes. We have a day we set aside to sit down and talk about the problems and how we can help the American Indians. This is another example of the usefulness of seminars or meetings.

As I mentioned, I received an overwhelmingly positive response to my recent Harvard/Oxford Seminar. I received some excellent letters from people who spent a day listening and asking questions of U.S. Senators. It amazes me how people outside of Washington seem to think this is a special privilege, but it is available really to many Americans if you watch the schedule of listening meetings held by your Senator or your Congressmen.

I know the Senator in the Chair holds listening meetings in his State. I hold listening meetings in my State where people can come and question us or criticize us or become more aware of our voting pattern. It bothers me that so many people are disgusted with Government but that many of them are the very ones most likely not to vote or more likely not to work to inform themselves. You cannot only depend on TV ads to inform yourself. You have to roll up your sleeves, get voting records, get statements, get information from groups with which you are affiliated, go to some meetings, listen, and learn.

Mr. President, the participants in my recent seminar appreciated the candor and insight shared by the speakers. Seminars, like the one I hosted, can be of valuable assistance in helping voters understand the workings of Congress and its Members. Because of the favorable response of speakers and participants I will continue to host and take part in future public policy forums.

I am pleased that people from 20 States, the District of Columbia and three foreign countries took part in my most recent seminar. They came from Pennsylvania, New York, New Jersey, Connecticut, California, Virginia, South Carolina, South Dakota, North Carolina, Vermont, Utah, Ohio, Georgia, Nebraska, Illinois, Maryland, Indiana, Florida, Massachusetts, Alabama, Belgium, Hong Kong, and Pakistan.

Mr. President, I ask unanimous consent that the program schedule for the seminar be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HARVARD LAW SCHOOL/RHODES SCHOLARS "WASHINGTON SEMINAR II," SEPTEMBER 10, 1992, SPONSORED BY U.S. SENATOR LARRY PRESSLER

MORNING SESSION, 325 RUSSELL SENATE OFFICE BUILDING, 9:00–11:45

Registration; 9:00–9:30.

Welcome by Senator Larry Pressler: 9:30–9:40.

Personal experiences and analysis of the 1992 Presidential race, Ken Bode—Correspondent, CNN: 9:45–10:15.

Why are so many Members leaving Congress? Senator Tim Wirth, Colorado: 10:15–10:45.

Fighting crime in the Nation's Capital: Can the war be won? Jay Stephens, U.S. Attorney for District of Columbia: 10:45–11:10.

Judicial nominations in the aftermath of the Clarence Thomas nomination battle, Senator Alan Simpson, Wyoming: 11:10–11:30.

Weapon Systems: Planning for the next five years, Senator John Warner, Virginia: 11:30–11:45.

LUNCHEON, 902 HART SENATE OFFICE BUILDING, NOON–1:30 P.M.

Foreign policy for the next five years, Senator Richard Lugar, Indiana.

AFTERNOON SESSION, 325 RUSSELL SENATE OFFICE BUILDING, 2:00–4:15 P.M.

The role of a Lawyer/Lobbyist and Congress, Dick Wiley, Former FCC Chairman: 2:00–2:20.

Highlights of S&L cleanup, Peter Monroe, President, Resolution Trust Corporation Oversight Board: 2:20–2:40.

How do we get good people to run for Congress? Senator Trent Lott, Mississippi: 2:40–3:00.

Overview of Foreign Policy, Senator Claiborne Pell, Rhode Island, Senator Nancy Kassebaum, Kansas, Helen Suzman, Former Member of South African Parliament: 3:00–3:30.

The role of a Republican leader, Senator Robert Dole, Kansas: 3:30–3:50.

Running a great university in the Nation's Capital, Stephen Trachtenberg, President, George Washington University: 3:50–4:10.

Reception, Mike Mansfield Room, U.S. Capitol Room 207: 5:00–7:00 p.m.

THE SIGNIFICANT ROLE OF TAX TREATIES IN U.S. TRADE POLICY

Mr. PRESSLER. Mr. President, as a member of both the Commerce and Foreign Relations Committees representing the State of South Dakota, in which agriculture is by far the leading industry, I often find myself arguing with officials from other countries about their unfair trading practices. For instance, since 1987, European Community agricultural subsidies have increased nearly 60 percent and are expected to total $43.54 billion this year. During that same period of time, U.S. agricultural subsidies have decreased 44 percent and are expected to total $13 billion this year.

I consider such practices on the part of other governments to be extremely counterproductive to a free and fair trading relationship. Indeed, my concern over this issue is one of the main reasons I have chosen to serve on the Foreign Relations and Commerce Committees. I consider my Foreign Relations Committee assignment to be particularly important in fighting for fair trade. It provides a forum for debating trade issues with officials from other countries.

However, Mr. President, when I raise issues such as unfair agricultural subsidies in meetings with foreign leaders, I have been confronted with counter arguments that America does not enter the free-trade debate with clean hands. One of their biggest concerns, especially on the part of European countries, is America's tax treatment of foreign corporations. It is their contention that various provisions of our laws make it more difficult for foreign corporations than domestically controlled corporations to do business in the United States. This, they argue, undercuts any claims this country may make that foreign governments unfairly restrict the ability of American products or companies to compete in the global marketplace.

In some ways, the world is becoming a much smaller place. Through direct and indirect investments across borders, the economies of many countries are becoming much more closely linked. In this arena, governments seek to promote exports and encourage foreign investments. Multinational corporations now conduct business in many different countries. Companies in one country attempt to sell their products and services in other countries. Of course, any time you have business transactions, you generate a taxable event.

The problem with cross-border investments and trade is that they generate income flows that are generally subject to tax in two jurisdictions—the country of the source of the income and the country of residence of the income recipient. Income tax laws are, by their nature, unilateral—that is, they do not look outside the borders of the country in which they are enacted to take into account their interplay with tax laws in other countries. This can result in a situation in which the tax laws of two countries govern the same transaction, resulting in double taxation.

Tax treaties, in theory, are designed to avoid double taxation by assigning a priority right to one country with respect to each type of transaction. Generally, tax treaties assign this priority right to the source country—most often defined as the country in which the income generating activity takes place. Where the primary taxing right is allocated to the source country, treaties then obligate the country of residence of the income recipient to relieve double taxation, either by exercising a residual taxing right and granting a foreign tax credit or by exempting the income which already has been taxed by the income source country. The United States generally has elected to use the foreign tax credit means of avoiding double taxation.

Some may ask, if we can provide for a foreign tax credit in our domestic income tax law, thereby avoiding double taxation, why do we need tax treaties? We need tax treaties because domestic law cannot take into account all possible complications that may arise between U.S. tax law and the tax laws of every other country with which cross-border business is conducted. For instance, the elimination of double taxation by a foreign tax credit requires different degrees of coordination between the United States and Great Britain than between the United States and Germany. In other words, tax treaties provide a specific bilateral coordination between the tax system of the United States and that of another country which would be impossible to achieve solely through our domestic income tax law.

Another important function of tax treaties is to allow for the exchange of information about taxpayers between the parties to the treaty that otherwise would not occur. This is vital if certain forms of tax avoidance are to be prevented. Finally, tax treaties are designed to provide a framework that minimizes the effect of tax considerations on business decisions affecting investment, trade, technology transfer and the provision of personal services.

Mr. President, this is how tax treaties are designed to work. Unfortunately, in practice they do not always work that way. Some have argued this is because the United States developed its present position on tax treaties in the 1960's, when international commerce was not as great and America was the primary exporter of capital in the world. Whatever the reason, both foreign concerns and some individuals in this country complain about the effectiveness of tax treaties in accomplishing their intended goals.

Foreign-controlled corporations [FCCs]—companies chartered in the United States and doing business in the United States that are owned or controlled by non-U.S. entities—often cry foul. These companies argue that, in some cases, provisions of our tax code violate tax treaties in force. They also maintain that various statutory provisions make it more difficult for FCC's than domestically controlled corporations to do business in the United States. All of this, they argue, undercuts any arguments this country may make that foreign governments unfairly restrict the ability of American companies to compete in the global marketplace.

On the other hand, some in this country believe FCC's and their foreign parents arrange their affairs improperly in order to reduce their U.S. tax burden. The Internal Revenue Service [IRS] believes it may be possible to raise more than $20 billion in additional taxes from the FCC's. I believe one of the candidates for President has raised this issue, if not both candidates for President.

Two measures—rate of return on assets and rate of return on sales—are used by the IRS and the Treasury Department to compare profit levels of FCC's versus U.S.-controlled corporations. And those two measures—rate of return on assets and rate of return on sales—are frequently used as the basis of an audit by the IRS of a foreign-controlled corporation.

I talk about all these things because double taxation treaties are approved in the Foreign Relations Committee and I have taken a special interest in this. The two indicators I just mentioned also have shown that FCC's are less profitable than domestically controlled companies. This is significant because FCC's consequently pay less in U.S. taxes. For instance, in 1988, the last year for which statistics are available, FCC's had an average rate of return on assets of 0.9 percent compared to 2.2 percent for U.S.-controlled companies; the rates of return on sales were 1.4 and 3.7 percent respectively.

A number of possible explanations have been advanced for the low profitability of FCC's. One is that foreign investments in the United States often take the form of mergers and acquisitions that result in revaluation of assets of the acquired company at current market value. A low rate of return of assets is to be expected following a merger or acquisition because revaluation means assets are valued at their present, generally higher, value.

A second reason for lower FCC profitability is related to the merger and acquisition scenario. It is generally true that any new or newly acquired business will encounter low profitability during the early years of the new investment.

Another possible reason for lower FCC profits is fluctuations in exchange rates. If a domestic corporation is a distributor for products it purchases from its foreign parent, its costs will rise and profits decline if the real value of the dollar declines against the currency of the foreign parent. Correspondingly, profits will rise if the real value of the dollar rises against the foreign currency.

What I am leading to here is, are we taxing foreign-controlled corporations fairly? This is a trade issue, Mr. President. We talk about the GATT, we talk about fair trade, we have numerous trade agreements, but tax policy has a great deal to do with fair trade. I am a free trader, but I am for fair trade. I want our corporations treated the same in foreign countries as we treat their companies here.

A 1991 Treasury Department study found that about one-half of the low profitability of FCC's can be explained by the factors I have just described. The Treasury study concluded that the only possible explanation remaining for the unidentified half of the FCC differential is transfer pricing manipulation.

Mr. President, I think we need to look at potential transfer pricing manipulation. Again, I think one of the candidates for President has talked about this. I think both parties have talked about it some.

Mr. President, I intend to discuss such issues as transfer pricing, recordkeeping requirements designed to enhance informational exchanges under tax treaties, and the interplay between tax treaties and U.S. income tax law in future speeches.

I also intend to talk about the possibility of creating one double taxation treaty with the European community as opposed to individual taxation treaties—to consider what the advantages and disadvantages might be to the American taxpayers.

My purpose today is to emphasize the fact that the tax treaty process is important. As with any other treaty, it is the constitutional duty of Members of the Senate to determine whether to consent to tax treaty ratification.

Unfortunately, regarding tax treaties, this process too often is given little attention. This may be one reason many individuals and corporations in this country and abroad complain that tax treaties fail to achieve tax fairness. Whatever the reasons, the implications for foreign trade are serious. If governments of other countries believe the United States treats their corporations unfairly, they may enact retaliatory legislation. At the very least, they will be much less willing to deal with us in terms of reducing their unfairly high export and production subsidies for agricultural and other products.

At the same time, if tax treaties allow foreign corporations to shift income in such a manner as to avoid a significant amount of their U.S. tax liability, the American taxpayer is being cheated out of revenue at a time when our most significant domestic problem is excessive Federal deficit spending. We need to take tax treaties more seriously. I believe that in the 1990's, tax treaties will play an increasingly important role in the development of U.S. foreign trade policy.

So, Mr. President, in conclusion, let me summarize. We have this very complicated issue of double taxation treaties. We are living in an era when we need to trade internationally.

My home State of South Dakota exports 70 percent of its grain and we have a great deal of manufacturing in my State. We have banking companies that work internationally. We have tourists from many countries who come to see Mount Rushmore and other wonderful places throughout the State. We had over 2 million tourists last year.

The point is, we are one world. The things that get a great deal of attention are the GATT and trade treaties, but tax treaties between countries do much to encourage trade if they are fair.

We do not want foreign-controlled corporations to be able to cheat on American-controlled corporations. We want fairness for that average American taxpayer who is a janitor or who is a farmer or who is a small businessman or who is a teacher. We want to have tax fairness.

So, Mr. President, I shall continue my search for fairness in this area. I am looking into the possibilities of advocating that we should have one tax treaty with the common market countries, as opposed to one with each country. Maybe that will not be my conclusion, but it is something I am looking into.

Mr. President, I hope my colleagues in this body will scrutinize very closely the double taxation treaties that will be coming through this body. We may have a number of double taxation treaties with the new states that are emerging from the old Soviet Union. We will have a number of renewals or revisions of existing tax treaties. These are very important to the American taxpayers. They are much ignored, and I intend to shed some light on them in this body.

Mr. President, I yield the floor.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HARKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1993

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3142

(Purpose: To transfer $200,000,000 from the strategic defense initiative to the Army for a peer reviewed breast cancer research program of the Army)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 3142.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, line 10, strike out lines 10 and 11 and insert in lieu thereof the following: "$5,297,737,000, to remain available until September 30, 1994: *Provided*, That $210,000,000 of the funds appropriated in this paragraph shall be available for a peer reviewed breast cancer research program of the Army: *Provided, further*, That the total amount available for the Defense Agencies for Research, Development, Test, and Evaluation shall be reduced to $8,301,222,000, to remain available for obligation until September 30, 1994: *Provided further*, That not more than $3,600,000,000 of the funds appropriated for the Defense Agencies for that purpose shall be available for the Strategic Defense Initiative: *Provided, further*, That".

Mr. HARKIN. Mr. President, I have been in consultation with the distinguished chairman of the Defense Appropriations Subcommittee. We want to bring this to a rapid close. I would be most appreciative if the chairman could reach some kind of time agreement.

Mr. INOUYE. If the Senator will yield, Mr. President, as I indicated to my friend from Iowa I am in the process now of conferring with the Republican Members to determine whether a time limitation can be placed. The Senator from Iowa wants 40 minutes, equally divided, with an up-or-down vote. I find no objection to that personally. But if he would give me just a few minutes, I will find out.

Mr. HARKIN. In the meantime I will go ahead.

Mr. INOUYE. Fine.

Mr. HARKIN. Mr. President, this amendment cuts the SDI by $200 million in budget authority to $3.6 from $3.8 billion. However it would leave $300 billion more than the number supported by the full Senate in August 1992, and would add $185 million to the Army's Breast Cancer Research Program funded at $25 million in the Defense Appropriations Committee bill.

Last week the Senator from New York [Mr. D'AMATO] offered a transfer amendment specifically to fund breast cancer research. Senator D'AMATO's amendment would have transferred $214 million from unobligated DOD research funds to breast cancer research.

Senator D'AMATO's amendment failed. But 43 Senators voted to transfer this money from Defense to cancer research, even though it violated the budget agreement. Many Senators wanted to support these transfer amendments, but could not justify violating the budget agreement.

Today, I am offering an amendment that does not violate the budget agreement. It does not break the firewalls, it just opens a door that is already there. Today, I am offering an opportunity to those Senators who supported the amendment offered by the Senator from New York to substantially increase breast cancer research, to make their vote really count.

My amendment costs $200 million in budget authority from the Star Wars Program and adds $185 million to the Breast Cancer Research Program currently included in the defense appropriations bill and funded within the

Army research, development, test and evaluation [RDT&E] account. This amendment is outlay neutral. The first year outlays from the SDI are slightly higher than the first year outlays from the Army Breast Cancer Program, resulting in no increase in outlays.

As a result of this amendment, the SDI Program would be cut from $3.8 to $3.6 billion, and the Army Breast Cancer Research Program would be increased from the $25 million recommended by the Defense Subcommittee of Appropriations and approved by the full Senate Appropriations Committee, to $210 million.

So again, we are taking $200 million away from SDI, from $3.8 to $3.6 billion, and we are increasing breast cancer research already funded by the Department of the Army from $25 to $210 million.

The amendment also stipulates that breast cancer projects within the Army program should be peer reviewed.

I know that some of our colleagues will argue that this amendment will gut SDI. Others will argue that we have already addressed the SDI funding level.

But my amendment cuts just $200 million from SDI, from $3.8 to $3.6 billion. This is still $300 million more than the level supported by the Senate 49–43 on August 7, 1992.

What has happened since August 7, 1992, to cause the Senate to approve a $500 million increase for SDI? As far as I can tell, the only major SDI action was the release of a GAO report that basically said the SDI Office exaggerated or lied to Congress regarding the success of four out of seven tests analyzed. Of the three SDI tests that were reported accurately, according to GAO, two were rated by SDI as failures.

This has all been debated before. I am just repeating for emphasis what Senator BUMPERS and others have brought up earlier on other SDI amendments.

To repeat, my amendment would leave $3.6 billion for SDI, or $300 million more than the level the Senate favored on August 7. This would be $200 million less than the level approved by the full Senate on September 17, when the Sasser/Bumpers amendment to set star wars funding at $3.3 billion failed by a vote of 48–50.

My amendment would add $185 million in budget authority to the Army's Breast Cancer Research Program.

Mr. INOUYE. Mr. President, will the Senator yield?

Mr. HARKIN. Yes, I yield.

Mr. INOUYE. If I may, I would like to propound a unanimous-consent request on the proposition we discussed.

Mr. HARKIN. I yield with the understanding after we finish with the unanimous-consent request I get my time back.

Mr. INOUYE. Mr. President, I ask unanimous consent that on this amendment the time be limited to 40 minutes equally divided, the time to be managed by the Senator from Iowa and the Senator from Hawaii with no second-degree amendments to be in order. At the conclusion of debate there will be an up-or-down, yea-or-nay vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, breast cancer has reached epidemic proportions in our Nation and its rate continues to escalate. Fully one of every nine American women will develop breast cancer in their lifetime; 180,000 of our wives, mothers, grandmothers, daughters, and friends will learn this year that they have breast cancer. Even more tragically, 46,000 American women will die this year alone from breast cancer, making it the leading cause of cancer deaths among women.

In my own State of Iowa, breast cancer is a large and growing problem. This year alone, as estimated by the University of Iowa, some 2,275 Iowa women will develop breast cancer, making up nearly a third of all new cancer cases among women in the State. And over 550 Iowa women will lose their lives.

Breast cancer has hit each of us, in one way or another. Whether it be a spouse, sibling, mother, or family friend. My only two sisters died of breast cancer. So I know the devastation it can bring.

Mr. President, this horrible disease preys on women of all ages, but it takes its heaviest toll on middle-aged and older women. About 80 percent of women with breast cancer are over the age of 50; the median age for being diagnosed with the disease is 63.

And while it is often overlooked, breast cancer will take the lives of some 300 American men this year.

Mr. President, the need for increased breast cancer research is made more pressing by the growing incidence of the disease. While we have made great strides in reducing the incidence of many forms of cancer, breast cancer has been on the rise.

The incidence of breast cancer has been going up about 2 percent a year since the 1970's, increasing from 82 cases per 100,000 women in 1973 to 110 cases per 100,000 people in 1988. Since 1973 the estimated number of new cases of breast cancer diagnosed per year has more than doubled, from 73,000 to 180,000.

Why is this? Some of the increase in reported cases may be attributable to an increase in the number of women who are getting mammograms. But we do not know the main cause or causes of the rise in cases. In fact, while what is known in general about breast cancer has increased somewhat over the past few years, we still know very little about the disease—what causes it, how to prevent or how to cure it.

According to the experts, risk factors, in addition to getting older, appear to include a family history of breast cancer, long-term estrogen therapy, and may include obesity, alcohol use, silicone implants, and dietary fat. However, fully 70 percent of all women newly diagnosed with breast cancer have none of these risk factors.

We need an all-out war on breast cancer. Twenty years ago, Richard Nixon declared an all-out war on cancer. Yet, we have spent more on military research and development, including SDI, in the last 30 months alone than we have on all biomedical research combined since the turn of the century.

Every time I state that fact the people are alarmed. They cannot believe it. In the last 30 months we have spent more money on military research and development, including SDI, than we have on all biomedical research.

That means cancer, heart, arthritis, polio—all biomedical research since the turn of the century. Think about that, in the last 30 months, we spent more on military research and development. Do you think we would have won the cold war if we made that kind of commitment to our military? Of course not.

We will not win the war against cancer until we commit to it the way we committed to winning the cold war. I am pleased to say, despite intense budget pressures, we were able to in the Senate-passed Labor, Health and Human Services fiscal year 1993 appropriations bill to include $220 million for breast cancer research at NIH. This represents a significant increase over last year's level of $133 million. But, Mr. President, much more needs to be done.

A recent gathering of some of the Nation's top breast cancer researchers concluded that an increase of $300 million is needed if we are to truly launch a full-scale war on breast cancer. This amendment, combined with the $25 million already appropriated by the defense bill before us today, would fully fund the Breast Cancer Research Program.

What do we need more research on? The experts say we need to increase our knowledge about the basic science of breast cancer; what is unique about it; how tumors develop; what promotes or suppresses the growth of breast cancer tumors.

Second, the experts argue that we need long-term, well-planned clinical trials to determine what the real impact of different presumed risk factors are. The NCI, National Cancer Institute, has begun work in this area, but much more is needed.

Third, we need to increase research designed to improve our ability to prevent breast cancer and detect breast cancer early. Behavioral research is needed to better understand the fears and other barriers to women getting mammograms and develop behavior-changing strategies targeted at high risk groups.

Fourth, existing treatments need to be more carefully evaluated and new treatments must be developed and tested.

So, Mr. President, the record is clear that for too long, women's health problems have not received the research they deserve. The amendment I offer now is a modest attempt to right that wrong. It is an opportunity to ease the fears nearly every woman has about breast cancer; the dread trip to their doctor's office can lead to them being told they are one of the 180,000 newly diagnosed cases each year. The increased funds this amendment would provide could mean the difference between finding a cure for breast cancer or not.

Mr. President, this amendment really comes down to priorities. What is more important, a potential cure or preventive measure for cancer or $200 million more for SDI?

That is really the issue to me and I believe to the vast majority of the American people. If we could bring them onto the floor of this Senate and let them vote on this amendment, I do not think anyone would have any doubt how it would turn out. Do they want to spend $200 million more for star wars, or do they want to spend $200 million more for breast cancer research? That is the issue, pure and simple.

If you could march the American people in here to vote on this, the vote would be overwhelming to put the money in breast cancer research. I daresay, if you marched American women in here and only American women to vote, it would be more than overwhelming. It would be 100 to nothing to transfer this money for breast cancer research.

To summarize, Mr. President, this amendment simply transfers money within title IV, the research and development, test and evaluation section of the Defense appropriations bill. Specifically, it cuts SDI by $200 million from $3.8 to $3.6 billion. It increases the Army's Breast Cancer Research Program from $25 to $210 million. This increase in breast cancer research, as I said, comes very close to the full funding recommended by our Nation's leading cancer research experts.

This is a clean amendment. It does not violate any budget agreement. It is not subject to a point of order.

The issue is priorities. Very simply, again, do we want to spend $200 million on star wars to protect us against a nonexistent enemy, or do we want to spend that money on breast cancer research to fight a very real enemy that is going to kill 46,000 American women this year? That is really the issue and, again, there may be talk about jobs that may be lost, but when we take $200 million and put it into breast cancer research, that creates jobs, good jobs, good paying jobs, with a good end result: Finding out more about the causes and cure of breast cancer.

So, Mr. President, the question comes down to this: star wars or breast cancer research? What are our priorities in the Senate?

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, it is rather difficult to argue against this proposal, but I will try my best.

The Congress of the United States, in fiscal year 1992, appropriated $25 million for cancer research to be carried on by the U.S. Army. Keep in mind that this is not the only agency doing research on breast cancer. We are talking about the U.S. Army, and when most people think of the Army, it is as a fighting force.

Of that amount that we appropriated, only $5 million has been obligated. The Army has not been able to obligate all $25 million. No one can argue against any effort designed to cure the scourge of breast cancer, and I am not standing here, Mr. President, to argue against that. I am for it. However, we have found that science and scientific research, if it is to be done properly, has to be done methodically, deliberately and not rapidly. What I am trying to suggest is that it would be impossible for the Department of the Army to spend $230 million in a 2-year period for breast cancer. Why? Because they just do not have the infrastructure at this time. They do not have the research personnel to allow the proper use of these funds. Indeed, as I pointed out, in 1 year's time, they have been able to obligate only $5 million. We would be tossing $230 million at the U.S. Army and asking these soldiers to conduct research on breast cancer.

Mr. President, I applaud the Senator's interest in this matter, but I find that I cannot agree with him that $230 million can be spent by the Department of Defense and, more specific, by the Department of the Army within the 2-year availability period of these funds.

So, Mr. President, I will be voting against this amendment, and I will urge my colleagues to do likewise. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, it is my understanding, in response to the distinguished chairman's comments, that the Department of the Army could contract or could work with the National Cancer Institute and the national cancer centers, of which there are, I believe, 57 around the United States, who are begging for money to do cancer research.

If the Army only spent $5 of the $25 million that was appropriated last year, then I suggest perhaps the Army is dragging its feet on this. It is not as though we do not have the places for the research.

Let me make it clear, the Army is not doing this research. The Army is taking this money and they are contracting out to do the research. They can do it with the National Cancer Institute at NIH. They can do it through peer review, and they can have NIH set this up for them. We have 57 cancer centers in the United States and they all need money. They are all begging for research dollars, especially to do breast cancer research.

Mr. President, let me make this clear, and I hope Senators listen to this. Right now at NIH we have requests coming in every year for research projects. We have peer review committees set up to go through the applications for research. They reject the ones that are not good research. We fund the good research. But, Mr. President, only one out of every four are funded. Think about that.

The fact is it is almost 70 percent—7 out of every 10 research projects deemed worthy of research by the NIH are not being funded. Seven out of ten are not being funded.

We need to put money into breast cancer research and the Department of the Army could do it. It is not that they cannot spend the money. NIH can do it and the national cancer centers can. So if they only spent 5 of 25, I suggest they are dragging their feet. I would like to know why. If we gave the Department of the Army $25 million last year for breast cancer research and they did not put it in the National Cancer Institute or the national cancer centers, some heads ought to roll on that one. They ought to be held accountable for that.

We can put up $210 million, which my amendment does, and let the Army contract with NIH, the National Cancer Institute and the national cancer centers of the United States, and they will tell them the research projects that ought to be funded. There is nothing wrong with that. So I hope that Senators will not think that simply because the Department of the Army would not spend the money we cannot make them spend the money. Of course we can.

If we speak loudly and forcefully and if we get a good vote on this amendment, believe me, Mr. President, the Department of the Army will put the money out there for breast cancern research, and I think we will have a new administration that will probably make them do it, too.

I yield the floor and reserve the remainder of my time.

Mr. INOUYE. Mr. President, I yield myself 2 minutes.

Mr. President, this bill says funds appropriated shall be available for peer review breast cancer research programs of the Army.

What the Senator from Iowa is proposing to do is what the Senate has already voted upon, and that is to uphold the so-called budget firewall. We have gone through many hours of debate on this issue of maintaining the integrity of defense appropriations and domestic appropriations. What the Senator from Iowa is now proposing is to appropriate money to a defense agency and having that agency transfer the funds to domestic agencies, NIH, the Cancer Research Institute, and cancer research centers. That would be in violation of the spirit and intent of the budget agreement that was reached after many, many months of, well, heartbreaking discussions on this so-called budget firewall.

I would like to suggest that this amendment is not quite honest. Are we appropriating the money for the Army to be used by the Army or are we appropriating moneys to the Army to be transferred to a domestic agency. That is what my friend from Iowa is suggesting. If that is the case, it is in violation of the intent and spirit of the law.

The PRESIDING OFFICER. (Mr. DODD). Who yields time?

Mr. STEVENS. Mr. President, will the Senator yield me a couple minutes?

Mr. INOUYE. I am pleased to yield 5 minutes to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 5 minutes.

Mr. STEVENS. Mr. President, I think we should congratulate the Senator from Iowa for being innovative and persistent in an attempt to obtain this money, and I sincerely say that. This amendment is similar to the one that was argued on the authorization bill. Those of us who have worked with the Senator from Iowa on the committee know his tremendous commitment to cancer research. The distinguished minority leader and I have talked to him at length about cancer research in the areas we know a great deal about now, prostate cancer.

I wish that there were some way to wave a wand and have additional money to fund all of the requests that are made for research. I am not sure actually, if we reviewed all of those requests for research, we would fund them. But I do know that a lot more money is needed for breast cancer research.

But this amendment is, as the Senator from Hawaii said, a nicely disguised attempt to have another vote on the amendment to take money out of the defense structure and put it directly into cancer research.

I am one who believes we ought to find some way to have greater controls over the moneys we are spending for research and development throughout our economy, but in this instance the only reason I wanted to speak was primarily to respond to the comments made by the Senator from Iowa about the amount of money we spent in the last 30 months; 3 years on research and development. It is true; we have spent a great deal of money. We have changed the Patriot from a ground-to-air missile, designed solely to deal with protection against attacking aircraft, to an antimissile defense system that proved itself in the Persian Gulf war, in my opinion.

We, through research, developed those smart bombs which the world saw in terms of the ability to guide our weapons and literally drop them within blocks of populated areas to knock out Saddam Hussein's military systems in the inner city. We have developed very esoteric systems to monitor the world literally through our satellites.

All of that money is what the Senator is talking about. And while I support the concepts he is talking about, about increasing funding for breast cancer, I also am mindful of the Constitution of the United States. It tells the Congress to provide for the common defense and promote the general welfare.

Our first duty in this Senate is to make sure that our defense structure is sufficient to meet the needs of America, and that is why we have brought this bill to the floor—that this amount of money is needed, in our opinion. We will confer later with the House and make adjustments in conference, but this is the amount of money that ought to be given to defense. It is $20 billion lower than the bill we offered last year in this Chamber. It is $100 billion less than the amount we would be presenting had it not been for the collapse of the Soviet Union.

I believe that in time we will make the transition the Senator from Iowa wishes to make, but I am compelled to oppose this amendment now for the reasons stated by the Senator from Hawaii. It does breach the budget agreement; furthermore, it is just not possible for the Department of the Army to legitimately spend this money. They would have to turn it over to NIH or some agency involved in civilian research. It would not literally be for the military, and that is why the amendment ought to be defeated.

At the appropriate time I will make a motion to table because I do not believe an amendment like this, which is really not a straight amendment, ought to be voted up or down.

I withdraw that. I understand the Senator from Hawaii now has promised the Senator from Iowa an up-or-down vote. I must say that if he had consulted me, I would have objected, but I will honor the commitment of the Senator from Hawaii to have an up-or-down vote. I do believe it should be a tabling motion because this is a repeat of the amendment which was offered by the Senator from Iowa on the authorization bill and defeated.

The PRESIDING OFFICER. Who yields time?

Mr. HARKIN. Mr. President, how much time remains?

The PRESIDING OFFICER. Six minutes, 21 seconds remains to the Senator from Iowa.

Mr. HARKIN. Mr. President, may I make a point of inquiry? Did the clock start running on the time right after the chairman asked for the time agreement, or did the time start running before then?

The PRESIDING OFFICER. The time began to run when the agreement was reached.

Mr. HARKIN. Mr. President, let me try to set the record straight.

First, let me ask unanimous consent to add Senator D'AMATO and Senator WELLSTONE as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I have the greatest respect for both the chairman and ranking member of the subcommittee. They know it. This does not break the firewalls at all.

To respond to a statement that this is not quite an honest amendment, quite frankly, it is more than honest; it is straightforward. To those who say that somehow the Army cannot do this, this would be violating the spirit, I ask unanimous consent to insert in the RECORD at this point page 158 of the House Appropriations Committee Report.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BREAST CANCER/AIDS RESEARCH

The Committee directs the Department of the Army to award, on a competitive basis, a grant of $7,000,000 only for a public institution in the northeast which is a recipient of a National Cancer Institute planning grant and conducts both breast cancer and AIDS research. Funding would support the investigation of the role of environmental chemicals, diet, and vitamins on breast cancer; the development of a repository of tumor tissue and blood samples to be biomarkers of breast cancer, and investigate the efficacy of various preventative treatments for HIV/tuberculosis-infected individuals, who live in urban areas with tuberculosis case rates of greater than 70 cases per 100,000.

The recipient institution will have prior demonstrated experience working with the Department of Defense and should be affiliated with a National Institutes of Health center of excellence.

Mr. HARKIN. It says on breast cancer research: The committee directs the Department of Army to award on a competitive basis a grant of $7 million only for a public institution in the Northeast which is a recipient of a National Cancer Institute planning grant and conducts both breast cancer and AIDS research.

The House Appropriations Committee has already directed breast cancer research to certain institutions.

My amendment does not say they have to turn it over to NIH. NIH could do the peer review and say to the Department of Army, "We have done the peer review. Here are all of the research projects we deem worthy of research." And all the Department of Army has to do is sign the check. Do not tell me the Department of Army cannot do it. Of course, they can do it. It is already in the House bill.

And, Mr. President, let me set one other thing straight in the RECORD. As far as medical research is concerned—I direct this to the ranking member of the committee—the Senate appropriations bill already includes $409.8 million for medical research. Do not tell me this is out of the purview of the Defense Appropriations Subcommittee. $409.8 million is in this bill before us for medical research and $428.7 million in the House bill.

So, obviously, DOD can spend money on medical research.

So I am saying, let us put another $185 million in for breast cancer research.

I yield—how much time do I have left?

The PRESIDING OFFICER. The Senator from Iowa has 3 minutes left.

Mr. HARKIN. I yield 2 of those minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. D'AMATO. Mr. President, we really have an epidemic in this country. It is almost a silent one, but it is raging nonetheless. The epidemic is breast cancer. It is going to strike 180,000 women this year.

Let me give you a sense of why I say an epidemic. More than 30 years ago, in 1960, 1 out of every 14 women would develop breast cancer in her lifetime. Last year the figure was 1 out of 10. That is almost a 40-percent increase. This year, it will be 1 out of 9, another 10-percent increase. There are some areas in New York—Long Island, in particular—where in certain communities the rate runs as high as 25 to 30 percent higher than in other areas of the State. This, indeed, is an epidemic. Much more has to be done, and more funds must be allocated.

We did increase the allocation by 65 percent in the Labor-HHS appropriations bill. Yet, we still do not have a tissue bank. We do not have a cancer registry system. We are behind in the kind of molecular biological research that must be done.

We talk about the mammograms being a great breakthrough. They are important, but they are not enough. The cancer cells are, in some cases, 7 years in developing before they can be detected by way of mammogram. We should have the kind of blood tests that would reveal this; and the kind of molecular biological research necessary to develop such a test can be done if we appropriate these funds.

That is why I join with my colleague from Iowa in supporting this amendment. It has to be done. We have not done nearly enough. We are way behind the curve.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. How much time do we have?

The PRESIDING OFFICER. The Senator from Iowa has 1 minute; the Senator from Hawaii has 9 minutes, 17 seconds.

Mr. SPECTER. Mr. President, I am pleased to cosponsor the amendment offered by my good friend from Iowa, Senator HARKIN, which adds $185 million to the Army research account for breast cancer research. Senator HARKIN has demonstrated outstanding leadership on this issue, which is one which he and I attempted to address in the fiscal year 1993 Labor, HHS, and Education Appropriations bill. Although we had sought to provide an additional $300 million for breast cancer research at the National Institutes of Health in that bill, budget constraints only allowed us to provide $220 million for this vital issue.

During the considering of the Labor, HHS bill on September 16, 1992, I joined Senator HARKIN in sponsoring an amendment to add $4.1 billion to the Labor, HHS accounts to increase the appropriations for a variety of underfunded domestic programs including breast cancer research. Unfortunately, this amendment which would have added $170 million for breast cancer research at the National Institutes of Health was not agreed to by the Senate.

Subsequently, on September 17, 1992, my distinguished colleague from New York, Senator D'AMATO, offered an amendment to the Labor, HHS Appropriations bill to provide a total of $434 million for breast cancer research, which would have been a $300 million increase over the fiscal year 1992 level. This amendment also failed to win Senate approval.

Mr. President, currently, 1 in 9 women in the United States will develop breast cancer in her lifetime. Breast cancer is now the most frequent cancer in women, and is the leading cause of death among women under age 65. In 1991, an estimated 175,000 American women developed breast cancer, and 44,500 women died from this disease. In my home State of Pennsylvania, the American Cancer Society estimates that in 1991 10,300 women developed breast cancer, and 2,600 women died from this tragic disease.

Mr. President, we must find a cure for breast cancer as soon as possible, and I am pleased to support the Harkin amendment which will enable us to more vigorously pursue this goal.

Mr. HARKIN. Mr. President, for those Senators watching on television, this amendment reduces star wars by $200 million, transfers that money over to breast cancer research. The bill already has $409.8 million in it for medical research. So do not let anyone tell you we cannot do this in this bill. Of course, we are. We are already doing it. It does not violate the budget agreement.

Mr. President, here is the kicker in the whole amendment. This amendment slightly reduces the fiscal year 1993 budget deficit by $250,000. So Senators have a chance not to violate the budget agreement, to shift some money over for breast cancer research, and it can be put out there. The House bill already does it. In the House of Representatives bill, they are already doing it. We can do it here.

Third, it will slightly reduce the deficit. We cannot get a much better deal than that, Mr. President.

I urge adoption of the amendment. I yield the remaining time.

Mr. INOUYE. Mr. President, I yield the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to amendment 3142 of the Senator from Iowa.

Mr. HARKIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Tennessee [Mr. GORE], and the Senator from Colorado [Mr. WIRTH], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from North Carolina [Mr. HELMS], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Idaho [Mr. SYMMS], are necessarily absent.

The PRESIDING OFFICER (Mr. HARKIN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 89, nays 4, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—89

Adams
Akaka
Baucus
Bentsen
Bingaman
Bond
Boren
Breaux
Brown
Bryan
Bumpers
Burdick, Jocelyn
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Glenn
Gorton
Graham
Gramm
Grassley
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kasten
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles

Nunn
Packwood
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Seymour
Shelby
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone
Wofford

NAYS—4

Garn
Hatch
Smith
Wallop

NOT VOTING—7

Biden
Bradley
Gore
Helms
Rudman
Symms
Wirth

So the amendment (No. 3142) was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—S. 5, VETO MESSAGE

Mr. MITCHELL. Mr. President, I will now propound a unanimous-consent agreement which has been cleared with the Republican leader.

I ask unanimous consent that the veto message on S. 5, the family leave bill, be considered received, the reading by waived, that it be spread upon the Journal, and that the majority leader may return to its consideration at any time after consultation with the Republican leader.

The PRESIDING OFFICER. Is there objection?

The Chair hears none, and it is so ordered.

UNITED STATES-MEXICO FREE-TRADE AGREEMENT

Mr. RIEGLE. Mr. President, I rise to speak on a matter relating to a hearing we had this morning in the Senate Finance Committee. That hearing was with regard to the proposed United States-Mexico Free-Trade Agreement.

We heard very important testimony from a representative of labor in this country, of working people, about the major deficiencies and problems that are built into that agreement. I would recommend to my colleagues that they avail themselves of the testimony of the secretary-treasurer of the AFL-CIO who spoke today and presented that very important information.

In the course of that discussion today, we were talking about the issue of the full court propaganda effort being mounted by the Mexican Government to try to steamroll into place this free-trade agreement that has been proposed by the Bush administration.

Just 2 days ago, the National Journal, which is a highly respected journal that publishes each week an account of issues before the Congress, presented an article on the question of who is lobbying on the United States-Mexico Free-Trade Agreement on behalf of the Mexican Government.

Lo and behold, it turns out, according to their article, that one of the chief lobbyists, I say to the Presiding Officer, is the former Trade Representative from our own Government, Mr. William Brock. He, of course, is a former Senator, and a colleague known to many of us, who served, very importantly, as our chief Trade Representative representing this Government. He has now been hired by the Mexican Government—that is right, hired by the Mexican Government—to represent their interests in this trade agreement and is being paid, according to this National Journal, $30,000 a month—$30,000 a month—for his services.

That is a $360,000 a year salary being paid by the Mexican Government through a firm here in Washington to Mr. Brock, our former U.S. Trade Representative. That is more money on an annual salary basis than we pay the President of the United States.

Now, why would the Mexican Government hire the former top trade official of our Government to come in here as a hired gun—one of many—to try to steamroll this free trade agreement through the Congress?

It is obvious that they want to trade on his background, his influence. I asked the question today, rhetorically: did they hire him because of his charming personality? Did they hire him because of his great smile? I do not think so. There are a lot of people with good personalities and great smiles that have not been hired for that kind of lobbying job.

My point is this: We ought to have a law in this country which makes it illegal for top trade officials in our Government to be able to turn right around and go to work for a foreign government to try to ram through trade propositions for the good of those governments. We ought to prohibit that because it is not right. It is not right that he should serve in that capacity. And he is not the only one. Many of the top trade officials from the Reagan years and the Bush and Quayle years have gone right through the revolving door. They left Government service with all of that information, all of that inside know-how, and turned right around and gone to work for foreign governments. Their job is to come in here and press their case, which I think in many instances is adverse to this country.

This proposed United States-Mexico Free-Trade Agreement is a jobs program for Mexico, plain and simple. In fact, already the three automobile companies—Ford, Chrysler, and GM—have located 70 plants in Mexico even without a free-trade agreement. And there will be many hundreds more from companies across the United States.

The Maytag Appliance Co. indicated the other day they are not going to be able to continue to manufacture on a competitive basis and make capital investments in new plant and job creation in America if they have to contend with low-cost labor and the absence of environmental standards in Mexico. They just cannot do it.

Last month in this country, we lost 167,000 manufacturing jobs. That is what the Bureau of Labor Statistics testified before the Joint Economic Committee. That is just in 1 month.

We have a jobs crisis in America; we are losing jobs every single day—blue-collar jobs and white-collar jobs. Jobs are hemorrhaging out of this country. They are going to Communist China; they are going to the old Soviet Union; they are going to Mexico; they are going to Japan in very substantial numbers. People in this country, whether they have a Ph.D. or line experience or important craft skills, just cannot find work. Tonight, we have over 15 million people in the United States who are unemployed or have given up looking for work because they are discouraged or are only able to work part time because they cannot find full-time work.

Here we have a former Trade Representative of this Government, one of the top officials of our Government, going to work at $30,000 a month for the Government of Mexico to ram this trade agreement down the throat of this country.

It is not right. It is not right to pay somebody $360,000 a year to trade off that influence and trade off that know-how when it is adverse to the interests of this country. That is a salary higher than we pay the President of the United States. It is not right, and we ought to prohibit it. The same should hold true with all the rest of these people who have left the Reagan administration and the Bush administration, have gone through the revolving door, and are out there making tens of thousands, hundreds of thousands, millions of dollars representing foreign governments as they take advantage of this country and as they take jobs out of this country.

This is just the latest case. But people ought to know about it. There was a story the other day in the National Journal—and I will put it in the RECORD—where the Government of Mexico is committing over $100 million in a PR and propaganda campaign to sell this country on this so-called free-trade agreement with Mexico.

We do not need a jobs program for Mexico. We need one for America. The Bush administration has had an economic program for every country in the world except our own. They have this jobs program for Mexico. They have had a program for Kuwait, a program for Communist China, the old Soviet Union. You name the country, they have a program—an economic program except for this country. That is why the jobs are disappearing and why the people of this country are so concerned about the economic future.

I think that the former Trade Ambassador owes this country a little more than that. I do not think he ought to be a hired gun for the Government of Mexico on this issue. I do not think it is right.

I thank the Chair. I yield the floor.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WASHINGTON UPDATE: POLICY AND POLITICS IN BRIEF

(By Peter H. Stone)

Mexico is a recent convert to the Washington lobbying and consulting game, but to judge from its blitz for the proposed North American free-trade agreement, it's a fast learner.

Since early last year, Mexico has assembled a top-drawer collection of Washington public relations specialists, lobbyists, lawyers and consultants, including some veteran officials from the upper echelons of the Office of the U.S. Trade Representative (USTR). All this firepower does not come cheap; the Mexican government has reported spending more than $5 million annually on the effort and that tally doesn't include spending by private-sector interests.

"It's clear that the Mexicans are taking a page from the book of not only U.S. multinationals but also from the Japanese and the Europeans," said Jeff Faux, the president of the Economic Policy Institute, a liberal Washington think tank that has criticized the proposed pact.

For Mexico, the stakes are high. The agreement that the United States, Mexico and Canada concluded last month will, if approved by Congress and the other two countries, phase out all tariffs among the three nations over 15 years. Mexico is eager to lure U.S. industries across the border to tap its abundant supply of cheap labor. Some economists predict that Mexico—now the third-largest U.S. trading partner—could soon move ahead of Japan into the No. 2 position.

And, so, the Mexican government is trying to touch all the political bases.

In Washington, it has hired leading Democratic and Republican lobbying firms to woo Congress, veterans of USTR to provide insight into the Bush Administration's inner workings, high-powered lawyers to deal with the complex details of negotiations and a public relations firm to handle the news media.

The Mexicans have also hired three Hispanic-owned PR firms in California, Texas and Florida to do grass-roots campaigns focusing on the Hispanic communities in those states.

Among the USTR alumni who have been working for the Mexicans are Bill Brock, a former Labor Secretary and U.S. Trade Representative and now senior partner of the Brock Group, and Michael B. Smith, a former deputy trade representative who now heads SJS Advanced Strategies Inc., a unit of the Washington law firm of Steptoe & Johnson. Brock provides the Mexicans with political and policy counsel on trade and labor. Smith, until earlier this summer, worked for a coalition of 500 Mexican companies, advising them on what proposals might fly in Washington.

Mexico's congressional lobbying team is composed of two staunchly Republican firms, Gold and Liebengood and Charles E. Walker Associates, and two Democratic ones, Public Strategies Washington Inc. and TKC International Inc. Public Strategies is headed by Joseph P. O'Neill, a former top aide to Senate Finance Committee chairman Lloyd Bentsen, D-Texas, a major player on the proposed agreement.

Another type of specialized lobbying clout is being provided by TKC, a unit of the Washington consulting firm Keefe Co. TKC is headed by Gabriel Guerra-Mondragon, a 15-year veteran of the foreign service who was a special assistant to the U.S. ambassador to Mexico from 1980–1983. In an interview, Guerra-Mondragon said that he is doing "some work with Hispanic [groups] and labor unions" to promote the proposed agreement.

Working closely with the consultants and lobbyists is the PR giant Burson-Marsteller, which since early 1991 has had a $323,000-per-month contract to handle communications for Mexico. Burson-Marsteller, in turn, pays Brock $30,000 a month and Gold and Liebengood $27,000 a month, said Richard A. Moore, a senior vice president at Burson who is in charge of the account.

Part of Burson's mission is to counter critics who say that lax environmental regulation in Mexico would encourage polluting industries to move there from the United States. The PR firm has produced fact sheets and brochures touting Mexico's environmental cleanup efforts, and has set up meetings between Mexican officials and environmental groups in the United States.

With so many players involved, Mexico has tried to coordinate their activities by holding weekly meetings at the Mexican Embassy.

The intensity of the free-trade campaign is a departure from Mexico's past practice. Hermann von Bertrab, the director of the Mexican Embassy office overseeing the free-trade agreement, said that historically, Mexico felt threatened by the United States and didn't lobby at all. "We were self-centered. The Congress was nonexistent," he said.

Besides paying new attention to Congress, the Mexicans are trying to muster support in the Hispanic community. The three Hispanic PR firms hired by Mexico have been working with Hispanic media outlets and with local and regional Hispanic groups to build grass-root support for the pact.

The Mexicans have also retained the services of three well-connected Hispanic politicos: former New Mexico Gov. Toney Anaya; former Navy Secretary Edward Hidalgo; and Abelardo Valdez, a private attorney in Washington who has done stints at the U.S. Agency for International Development and in the Carter White House as chief of protocol.

To handle the nitty-gritty details of treaty negotiations, the Mexicans have turned to Washington lawyers with trade expertise such as Robert Herzstein of the Washington office of the New York city-based law firm of Shearman & Sterling. Herzstein, who was then at the Washington law firm of Arnold & Porter, worked for Canada on the Canadian free-trade pact in 1988 and is now Mexico's lead counsel. A few other law firms, including Los Angeles-based O'Melveny & Myers, have been tapped by the legal team.

While Mexico has adapted quickly to Washington's ways, some critics voice misgivings about the revolving door between the U.S. government and Mexico's consulting and lobbying team in the capital.

"What's bothersome to a lot of people is when you hire all the alumni of the White House trade office," observed Charles Lewis, the director of the Center for Public Integrity, a nonpartisan group that has studied foreign influence in Washington. "Even if they say they're not lobbying, it's suborning silence. They've bought the best talent that money can buy."

Faux notes that critics of the pact have been roundly attacked as tools of special interests such as unions or environmental groups. "But meanwhile," Faux said, "the real special interests are the K Street lobbyists who have infested this negotiating process."

Mexico is clearly enthusiastic about its new use of Washington lobbyists, though. "We're really just discovering the U.S. as a social and political situation," von Bertrab said.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1993

The Senate continued with the consideration of the bill.

MODIFICATION TO AMENDMENT NO. 3142

Mr. STEVENS. Mr. President, I ask unanimous consent that amendment No. 3142 be amended as follows: In line 9 on page 1, the figure read $8,301,221,000. That figure should be replaced by the figure $8,501,222,000; that in line 1, page 2, the figure $3.6 billion be replaced by the figure $3.8 billion. I send this to the desk.

Mr. HARKIN. Mr. President, reserving the right to object, we have talked about this. I want to make it clear for the record that unanimous-consent request that the Senator has sent to the desk—the Senator might explain it a little bit further—I want to make sure that this keeps the same amount of money for breast cancer research, to the Department of the Army, as was just adopted by the Senate.

Mr. STEVENS. Mr. President, the Senator's amendment would remain intact except that the figures would be changed to leave the SDI figure still intact, but to add to the amount available for the Department of the Army the amount of the Senator's amendment for $200 million for breast cancer. The remainder of the Senator's amendment, the language is not altered in any way by my unanimous-consent request.

Mr. HARKIN. I appreciate the Senator's clarification. I have no objection.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The modification to amendment (No. 3142) is as follows:

"On line 9 on page 1, the figure "$8,301,222,000" be replaced by the figure "$8,501,222,000", and that in line 1 on page 2, the figure "$3,600,000,000" be replaced by the figure "$3,800,000,000".

Mr. STEVENS. Mr. President, I move to reconsider the action on amendment, as so amended.

Mr. INOUYE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, may I congratulate the Senator from Iowa?

Many of us had our heartstrings sort of stretched by that amendment that he has offered. He has convinced us to find a way to achieve what he sought and what I think all of us wish to do. I myself am pleased with the result.

AMENDMENT NO. 3144

(Purpose: An amendment to lease, modify, and transfer aircraft for the purposes of counter narcotics)

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. DOLE, proposes an amendment numbered 3144.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

"SEC. . Of the funds appropriated for drug interdiction and counter narcotics, $35,000,000 shall be appropriated for the purposes of modifying with improved radars and FLIRs and leasing up to 15 T-47 aircraft."

Mr. INOUYE. We have looked over the amendment. We have no objection.

Mr. STEVENS. Mr. President, we support the minority leader's amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 3144) was agreed to.

AMENDMENT NO. 3145

(Purpose: To appropriate funds for the STARBASE youth education program)

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. LEVIN, proposes an amendment numbered 3145.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After line 7, page 17, add the following: "and to establish the STARBASE youth education program.".

Strike line 10 and place in lieu thereof: "$2,191,677,000".

Mr. INOUYE. Mr. President, I ask unanimous consent that a letter dated July 15 from the Chief of the National Guard Bureau be made part of the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENTS OF THE ARMY AND
THE AIR FORCE, NATIONAL GUARD
BUREAU,
Washington, DC, July 15, 1992.

Hon. CARL LEVIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEVIN: Thank you for your June 24, 1992, letter concerning the STARBASE 1 program.

The National Guard Bureau enthusiastically supports the invaluable learning environment STARBASE 1 provides. Selfridge Air National Guard Base is prepared to serve as the administrative center for the program. I support this selection as Selfridge has done an outstanding job with the STARBASE 1 pilot program.

For your information at least 10 states have expressed an interest in participating in an expanded STARBASE 1 program. As you have seen, STARBASE 1 provides the kind of real-world, hands-on science and math experiences today's young people need to keep America competitive in the future.

I hope this information is helpful. I thank you for your interest and support.

Sincerely,

JOHN B. CONAWAY,
Lieutenant General, U.S. Air Force Chief, National Guard Bureau.

Mr. INOUYE. Mr. President, we have studied the amendment. We find no objection. We ask for its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 3145) was agreed to.

AMENDMENT NO. 3146

(Purpose: To appropriate funds for Army advanced automotive development)

Mr. INOUYE. Mr. President, I send an amendment by Mr. LEVIN and ask for its immediate consideration.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. LEVIN, proposes an amendment numbered 3146.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

After line 3, page 39, add the following: "and for advanced automotive development for future Armored Systems Modernizations applications."

Strike line 10, page 38, and place in lieu thereof: "$5,122,737,000, to remain available for".

Mr. INOUYE. Mr. President, this amendment is acceptable.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. STEVENS. I have no further debate on the amendment. I support the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 3146) was agreed to.

AMENDMENT NO. 3147

(Purpose: To express the sense of the Senate regarding evaluation by the Army Corps of Engineers of new concrete construction technologies for use in the construction of Department of Defense facilities in regions susceptible to hurricanes)

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. AKAKA (for himself, Mr. MACK, and Mr. INOUYE), proposes an amendment numbered 3147.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 157, between lines 9 and 10, insert the following:

SEC. 9132. It is the sense of the Senate that—

(1) the Corps of Engineers of the Army should evaluate new concrete construction technologies in order to identify technologies that, if used in the construction of Department of Defense facilities in regions susceptible to hurricanes, would prevent future hurricanes striking those regions from causing the extensive level of damage to those facilities that Hurricane Andrew and Hurricane Iniki caused at installations and facilities of the Department of Defense in Florida and Hawaii, respectively; and

(2) the Secretary of Defense should ensure that, to the extent that it is cost effective to do so, concrete construction technologies identified in accordance with paragraph (1) be used in the construction of facilities of the Department of Defense in those regions in the future.

Mr. INOUYE. Mr. President, this amendment should be adopted.

Mr. STEVENS. Mr. President, I support the adoption of this amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3147) was agreed to.

AMENDMENT NO. 3148

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. JOHNSTON, proposes an amendment numbered 3148.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 38, line 22, after the words "of the", delete the remainder of the proviso and insert the following:

"GP-160 vaccine: *Provided further*, That funds in the preceding proviso shall be obligated, unless the Secretary of Defense, the

> Director of the National Institutes of Health, or the Commissioner of Food and Drugs certifies, in writing, within six months of enactment of this Act, that such large-scale Phase III investigation should not proceed, including an assessment of the vaccine and reasons for the certification."

Mr. INOUYE. Mr. President, we recommend the adoption of the amendment.

Mr. STEVENS. I support the amendment, Mr. President.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3148) was agreed to.

AMENDMENT NO. 3149

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Hawaii [Mr. INOUYE], for Mr. NUNN, proposes an amendment numbered 3149.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 115, line 12, insert before the period at the end the following: ": *Provided further*, That the funds made available by this section may be obligated only in accordance with a merit based selection process, utilizing recommendations of a peer review process, consistent with the provisions of section 2361(a) of title 10, United States Code: *Provided further*, That the Secretary of Defense shall select persons to participate in such peer review process only from the faculty or staff of institutions that are members of the National Association of State Universities and Land Grant Colleges or the American Association of State Colleges and Universities.".

Mr. NUNN. Mr. President, according to the Office of Technology Assessment, in its recent report entitled "Building Future Security"—June 1992:

> The Nation's universities have traditionally been strong in long-term basic research. Although basic research in universities is small in dollar terms when compared to the DOD budget, it is the primary source of fundamental scientific advances and, just as importantly, to the training of future scientists and engineers.

Taking note of the pressure to reduce spending during the defense build-down, OTA warned:

> Without offsetting actions, DOD support for research in colleges and universities could decline as the overall defense budget shrinks. Thus, the DOD will miss some of the benefits of basic university research it has enjoyed for many years. The DOD would also have less chance to train the next generation of scientists and engineers and familiarize them with the Nation's defense needs.

As the pace of procurement decreases, it is essential to ensure that a robust research and development capability is available to maintain technological superiority over potential adversaries, to support reconstitution in the event that expanded military forces are required. University research is a vital component in this effort. Moreover, as our national defense technology and industrial base objectives focus increasingly on dual-use capabilities, university research activities can have a powerful impact on the overall economy.

In recent years, congressional consideration of university research funding has been marked by a debate about "earmarking"—the statutory designation of funds for specific research at specific institutions of higher education. Although Congress has enacted a general requirement for competition in the awards of defense research contracts and grants—10 United States Code 2361—this statute has been superseded on occasion to provide funding for designated colleges and universities, without regard to merit based selection principles.

Section 9089 of the pending bill earmarks $96.45 million for grants to 12 colleges. This section also provides that the Secretary of Defense:

> Shall review the grants made available and specified by this section and shall award such amounts as he deems appropriate based on the potential contribution each proposed project may make to the national scientific and technical posture.

Although the discretion provided to the Secretary is an improvement over straight earmarking, it does not ensure that there would be a fair opportunity for other universities to compete for these funds.

My amendment would ensure that the funds earmarked in the bill could be awarded only on the basis of merit based procedures. In light of concerns previously raised about the willingness of the current peer review process to consider schools other than the well established research institutions, my amendment would also establish an alternative peer review procedure to evaluate the award of funds made available by section 9089.

I urge the adoption of the amendment.

Mr. INOUYE. Mr. President, the committee believes that these grants deserve funding.

However, the committee recognizes the objections of some members to such grants. That is the reason why the bill language gives flexibility to the Defense Secretary as to how much funding actually will be awarded.

This is the same formulation already approved by Congress.

There is no need for an amendment to require further competition. If the Secretary does not think the grants meet established criteria, he does not have to award any funds. However, I will reluctantly accept this amendment.

The committee understands objections to noncompetitive grants. However, such grants are often used to level the playing field in the award of defense research dollars.

These grants are a way for the nonestablishment schools to compete with the Harvard's, Stanford's, and MIT's which have made it a big business to obtain Federal grants.

These large institutions have an unfair advantage over smaller, more regionally dispersed colleges and universities.

Some of the establishment institutions have abused their preeminent position and have overbilled the Federal Government for hundreds of millions of dollars.

This waste and abuse by the big schools which overwhelm the competition for research grants shows that the competition system is flawed and must be improved.

The overwhelming amount of defense research money going to universities is subject to such abuses. That total is about $1.4 billion.

Congress should focus on this problem instead of the very small amount of funds embodied in these discretionary grants.

Mr. INOUYE. Mr. President, we find the amendment acceptable.

Mr. STEVENS. Mr. President, I support the amendment.

The PRESIDING OFFICER. If there is no further, the question is on agreeing to the amendment.

The amendment (No. 3149) was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that actions on all previous amendments be reconsidered en bloc, and that the motion to lay that on the table be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3150

(Purpose: To reduce the amount available for obligation for salaries and administrative expenses of the Department of Defense, the military departments, and the Defense Agencies to the amount obligated for such purposes during fiscal year 1992)

Mr. INOUYE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Hawaii [Mr. INOUYE], for Mr. GRAHAM, proposes an amendment numbered 3150.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 157, between lines 9 and 10, insert the following:
>
> SEC. 9132. (a) Subject to subsection(b), the amount expended from the appropriation

under title II of this Act in fiscal year 1993 for salaries and expenses relating to the administrative activities, of the Department of Defense, the military departments, and the Defense Agencies may not exceed the amount expended during fiscal year 1992 for such salaries and expenses under title II of the Defense Appropriation Act, 1992 (Public law 102–172; 105 Stat. 1152), exclusive of any OPM authorized pay increase or benefits.

(b) The President may waive the limitation described in subsection (a) if he deems it to be in the national interest, or to accomplish other management reform initiatives under the Defense Management Review or the establishment of the Defense Business Operating Fund.

Mr. INOUYE. Mr. President, this amendment has been studied. We approve of the adoption.

Mr. STEVENS. We support the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 3150) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3151

(Purpose: To require the Secretary of Defense to transmit to Congress a report on whether to participate in an international rapid deployment force for use in international crises in the Western Hemisphere)

Mr. INOUYE. Mr. President, I send an amendment to the desk on behalf of Mr. GRAHAM and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. GRAHAM, proposes an amendment numbered 3151.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 157, between lines 9 and 10, insert the following:

SEC. 9132. (a) The Secretary of Defense shall transmit to Congress a report on whether the United States should participate with other countries of the Western Hemisphere in an international rapid deployment force for use in international crises in the Western Hemisphere.

(b) The report shall include a discussion of, and the Secretary's recommendations regarding, the following matters:

(1) Whether a rapid deployment force should be established.

(2) The circumstances under which the rapid deployment force should be used for intervention in international crises in the Western Hemisphere.

(3) Whether the establishment of a rapid deployment force with the mission to engage in military operations in the Western Hemisphere in such an intervention is prohibited by, or inconsistent with, the Charter of the Organization of American States.

(4) How to ensure that the elements of the Armed Forces of the United States in the rapid deployment force are not introduced into situations involving life-threatening dangers without the specific approval of the United States under the laws of the United States, including the War Powers Resolution (50 U.S.C. 1541 et seq.).

(c) The Secretary shall submit the report required by subsection (a) at the same time as the President submits to Congress the budget for fiscal year 1994 pursuant to section 1105 of title 31, United States Code.

Mr. INOUYE. Mr. President, this has been cleared by both managers.

Mr. STEVENS. That is correct.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3151) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUYE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, we are ready now to go forward with the defense conversion amendment. In just a moment I will be sending that amendment to the desk. It is our anticipation and our hope that this amendment, which has been crafted over the last several hours—we have had a lot of negotiation about it—can be accepted on both sides of the aisle which will preclude the necessity for an actual rollcall vote.

Mr. President, at this time, so that our colleagues may have an opportunity to look at this amendment, I will send this amendment to the desk.

AMENDMENT NO. 3152

(Purpose: To provide appropriations for defense transition and reinvestment programs and on-going technology programs within the Department of Defense)

Mr. PRYOR. Mr. President, I send an amendment to the desk on behalf of myself, Mr. BINGAMAN, Mr. NUNN, Mr. LIEBERMAN, Mr. COATS, Mr. ROCKEFELLER, and Mr. BRYAN and ask for its immediate consideration.

The PRESIDING OFFICER. The Clerk will report the amendment.

The bill clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for himself, Mr. BINGAMAN, Mr. NUNN, Mr. LIEBERMAN, Mr. COATS, Mr. ROCKEFELLER, and Mr. BRYAN, proposes an amendment numbered 3152.

Mr. PRYOR. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 54, in line 4, strike out the period at the end of line 4, and insert the following in lieu thereof:

": *Provided further*, That of the funds appropriated in this paragraph, funds shall be available for the following programs in the following amounts:

"For Federal military and civilian personnel transition programs and community assistance programs as authorized by Congress, $470,000,000.

"For dual-use critical technology partnerships, $100,000,000.

"For commercial-military integration partnerships, $50,000,000.

"For regional technology alliances, $100,000,000.

"For defense advanced manufacturing technology partnerships, $25,000,000.

"For manufacturing engineering education programs, $30,000,000.

"For defense manufacturing extension programs, $100,000,000.

"For dual-use technology and industrial base extension programs, $200,000,000.

"For agile manufacturing and enterprise integration, $30,000,000.

"For advanced materials synthesis and processing partnerships, $30,000,000.

"For United States-Japan Management Training, $10,000,000.".

Mr. PRYOR. Mr. President, a very, very brief introduction to this amendment starts back in March 1992 when the majority leader, Senator MITCHELL, of Maine, appointed a 21-member defense transition task force from this side of the aisle to look at ways and means that we might take defense dollars and convert them into domestic use. We worked for some 3 to 4 months on the task force report, and I can say that this was one of the more pleasurable experiences that I have had in some 13 or so years in the U.S. Senate.

Ultimately, the recommendations that this task force made were agreed to by all 21 members of the task force.

Simultaneous to our side working on our recommendations, the Republican leader named the very distinguished Senator from New Hampshire [Mr. RUDMAN], to head up the task force with a similar mission on the other side of the aisle.

Some of the Democratic task force proposals already approved by the Senate or included in bills approved by Senate committees include SBA loan supplementals, and R&D tax credits. Senator MIKULSKI'S appropriations subcommittee included funding for NSF retraining of high-skill former defense workers. Senator JOHNSTON'S appropriations subcommittee included $140 million in its bill to fund cooperative R&D projects between DOE labs and private industry.

Senator HOLLINGS and his committee were deeply involved in making recommendations that represent a first step, and a true milestone in this transition that will take place from a defense-oriented economy and society into a private, domestic economy that will not rely so heavy on defense dollars.

One point that we must emphasize, Mr. President, is that today, the Federal budget contains about $70 billion, for research and development, but 60 percent of these research dollars are spent on defense-oriented projects. What we need to do is change that around, and we are beginning to do so with the defense conversion items that the task force has recommended.

We were very, very grateful to the Armed Services Committee for including language in its authorization bill, recently passed by the Senate, which reflected most of the recommendations of the 21-member task force and many of the recommendations of the task force on the other side of the aisle.

These particular recommendations of the Senate Armed Services Committee we had hoped to replicate here in the appropriations bill for the Defense Department, but we did not quite get the language that we wanted because there are other items in the defense appropriations language competing for the same dollars. So we thought that language needed to be strengthened and, therefore, we submit an amendment at this time sponsored by many members of the task force and many who have been involved in this.

We want to strengthen this language. We want to make certain that these items get a high priority. And with the efforts of Senator BINGAMAN and others, we feel that this amendment is going to carry out or reflect what the task forces on each side of the aisle have recommended to the Senate and to the Congress as a whole.

First, this amendment would fund recommendations of the defense and economic transition task force of the 21 Senators. These suggestions were most recently adopted as an amendment to the authorization bill. In this bill, $2 billion is going to be available for defense conversion, with discretion over which programs to fund given to the Secretary of Defense. Our amendment very simply seeks to provide direction regarding the expenditure of the funds, establishing a higher priority for those funds based on the task force's recommendation and the DOD authorization bill.

We think that this is a very constructive step forward, Mr. President. We are very proud to have had the opportunity to work with the staff and the distinguished chairman of the Subcommittee on Defense Appropriations, Senator INOUYE, and also the ranking member, our very good friend, who is very knowledgeable in these matters, the distinguished Senator from Alaska, Senator STEVENS.

Mr. President, at this point, I am going to yield the floor. I understand there are other Members who desire to speak. I reserve the right to close for the amendment.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I wish to compliment the Senator from Arkansas on the leadership he has provided throughout this process as chairman of this task force that the majority leader established for defense conversion. I think he has made a tremendous contribution in bringing this issue to the forefront in our deliberations on defense expenditures and other expenditures throughout the Federal budget. I think he is to be commended.

I also wish to commend Senator RUDMAN, who has taken a leadership role on the Republican side of the aisle with the task force that came to very, very similar conclusions to those which were reached in the task force that Senator PRYOR chaired. I had the good fortune to serve on that task force with Senator PRYOR and Senator LIEBERMAN and various others of us, and I was very proud of the work the task force did.

I think what it did was to pull together a consensus on an initiative that we need to be pursuing in the country in order to help defense industry transition into a post-cold-war world and to help workers into a transition into the post-cold-war world and also help the communities that are affected in the cutbacks in defense spending. All three of those priorities are reflected in the amendment that is being offered by Senator PRYOR and cosponsored by the rest of us.

Mr. President, I ask unanimous consent that Senator MIKULSKI be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I also point out that the Senator from Maryland has made a substantial contribution to the deliberations of the task force and to the proposals as they are being made here.

What this amendment does, in the area of defense conversion and defense conversion initiatives, is it takes the appropriations bill and brings it very closely into line with what we have tried to do in the authorizing bill.

Let me compliment the Senator from Hawaii and the Senator from Alaska for their willingness to work with Senator PRYOR and the rest of us in crafting this amendment. I think it is a major step in the right direction. It shows a bipartisan and a united effort to try to deal with this very important set of problems.

Let me just, if I could, address a couple of questions to the manager of the legislation, the Senator from Hawaii, the chairman of the Subcommittee on Defense Appropriations.

This amendment does not have any language in it to deal with ongoing defense technology programs, some of which are referred to in the report language accompanying the defense appropriations bill.

There are five particular programs that I want to just highlight, because they are ones which we specified funding for in the authorization bill. I know they are priorities of the Senator from Hawaii. I also want to be sure that these are items that will get the serious attention of the Senator when he goes to conference.

I know they are also items that the House of Reprentatives has included in their defense appropriations bill, in title 4, which is the R&D section, not in a defense conversion title.

The five items are first, Sematech, which is a very successful program that we have supported at the level of $100 million over the last 5 years and this year again at $100 million in the authorization bill; second, the high performance computing initiative, where the Senator from Tennessee, Senator GORE, took a real leadership role over the past 5 years in supporting that. This year we have $275 million in our authorizing bill, which was requested by the administration for this initiative, $68.6 million of which the Appropriations Committee has include in the conservation title, and I think this $68.6 million is a very high priority.

Third, high resolution display research which we authorized at $100 million. Fourth, advanced lithography research which was authorized at $75 million; and, finally, multi-chip modules research, where we authorized $51 million.

Those are all ongoing technology programs that I believe deserve to be funded at these levels, and I hope very much that the appropriations committee will be able to do that when they get into conference with the House and agree with the House that those are priorities.

If the Senator from Hawaii wishes to comment on that, I would appreciate it.

Mr. INOUYE. Mr. President, I can assure the Senator from New Mexico that every effort will be made to uphold the policy as set forth in the authorization bill, which will now be incorporated in the appropriations bill. Although I cannot speak for my counterparts in the House, I will do my best to convince them.

Mr. BINGAMAN. I appreciate that comment very much. I note the strong support that the Senator from Hawaii and the Senator from Alaska have given to these ongoing research and development initiates in the past, and I appreciate their continued support this year.

Mr. President, let me just summarize.

Mr. INOUYE. Mr. President, before proceeding, will the Senator yield for a question?

Mr. BINGAMAN. I certainly will.

Mr. INOUYE. By the adoption of this amendment, will this be in lieu of the six amendments that the Senator had originally proposed?

Mr. BINGAMAN. That is correct.

Mr. INOUYE. I thank the Senator.

Mr. BINGAMAN. Let me conclude by just summarizing what this amendment does, Mr. President.

The amendment essentially brings the appropriations bill into line with the authorizing bill in the defense conversion area. Specifically, it does so by adding $470 million to the $130 million that is already earmarked in the appropriations bill for military and civilian personnel transition programs and community assistance programs. This brings the total in these important areas to $600 million.

In addition, we add $675 million for defense transition and reinvestment programs aimed at helping the defense industry convert to a dual-use capability. Those are all in my view very worthwhile initiatives. They are ones which we worked hard on in the task force and they are ones which are authorized in the authorization bill, as the result of the work of the Defense Industry and Technology Subcommittee, which I have the honor to chair and on which Senator COATS serves very ably as ranking minority member. All of these programs require cost-sharing from non-Federal sources and all are to be administered on a competitive basis.

I compliment, again, the Senator from Arkansas for the leadership he has provided on the overall defense conversion initiative and I urge my colleagues to support the amendment.

I yield the floor.

CIVILIAN COMMUNITY CORPS

Mr. BOREN. Mr. President, one of the purposes of this defense bill is to appropriate money for programs to ease the economic and social dislocation associated with the conversion of the defense sector of our economy to civilian purposes. A provision in the Defense authorization bill is designed to allow retired or discharged military servicepersons the opportunity to instill in our Nation's youth a commitment to national service.

We have two pools of immense, and largely untapped, human resources in this country: the talented service men and women whose skills are no longer needed in the military, and the enthusiasm and promise of our Nation's youths who are seeking for a way to contribute to their society. A few generations ago, the country faced a similar situation. During the Great Depression, we had scores of unemployed adults with knowledge and skills that they wanted to share, and we had a new generation eager to learn. We therefore addressed an economic and social crisis with a straight-forward, action-oriented approach that used both these groups: the Civilian Conservation Corps.

Our current proposal builds on this idea and establishes a new CCC. We establish a Civilian Community Corps, designed to revitalize our communities, many of which are suffering economically and socially from the closing of military bases or other aspects of the downsizing of our Armed Forces, and designed to serve as an alternative route for young people to serve their country. This provision enjoys broad bipartisan support; Senators KENNEDY, NUNN, DOLE, WARNER, WOFFORD, MIKULSKI, SIMON, DOMENICI, REID, DIXON, MCCAIN, and SEYMOUR cosponsored the amendment that was accepted last week on the authorization bill. It is based on S. 2373, the Community Works Progress Act, which has several additional cosponsors, including Senators INOUYE, DASCHLE, LEVIN, BENTSEN, PRYOR, ROBB, HOLLINGS, BINGAMAN, DECONCINI, SPECTER, and CRANSTON.

I particularly appreciate Senator INOUYE's support of this provision. It is my understanding from the chairman of the Appropriations Subcommittee on Defense that some of the money appropriated for programs designed to facilitate the defense conversion will be used to establish a demonstration project of the Civilian Conservation Corps—a federally run, residential youth service program—and to fund nonresidential youth service corps that will be administered by the Commission on National and Community Service. I look forward to working with Senator INOUYE and the other cosponsors of this provision to ensure that the CCC and the other youth service programs play a role in decreasing the difficulties associated with the changes in the military sector of our economy.

The federally run, residential component of this program is based on the Civilian Conservation Corps established during the Great Depression. The CCC of the 1930's took 3 million young people, supervised or joined by 250,000 veterans of World War I, and put them to work on the land. They became the innovators of the largest conservation and natural resource revitalization program in the history of the United States, working in the Nation's parks, forests, national monuments, wilderness and private lands. In the space of 9 years, the CCC developed more than 800 State and National parks, 4,000 historical structures, 60,000 buildings, 38,500 bridges, and 97,000 miles of roads. They planted 4 billion trees, stocked 2 billion fish, stopped erosion on 200 million acres of land, and spent 4 million man-days fighting fire and floods.

Similarly, the new CCC is designed to offer our Nation's youth a chance to develop their sense of national pride and to allow military personnel a vital role in this process as mentors and teachers. We expect that enough funding will be appropriated to establish several CCC camps throughout the country, each one housing and teaching 200 to 300 young people. These camps will be located at military bases that either are closed or have excess capacity as a result of the defense conversion.

The CCC offers those talented military people who are being forced into early retirement because of changes in the world to take up leadership roles again. The CCC will be led by a retired military officer and other professionals who can provide leadership to the cadre of teachers, many drawn from a pool of retired, discharged or inactive servicepersons, and to the young corpsmembers. The Director will receive advice and resources from a variety of Federal entities, including the Department of Defense and the Department of Labor. In addition, the Director will draw on the advice and experience of many who have been involved in the youth service movement on the local level.

Moreover, the National Guard will be involved in the CCC, in part because the CCC will provide an opportunity for participants in the National Guard Military Youth Corps to continue their national service. As Senator NUNN observed last week, this program reincorporates and builds on the National Guard Youth Opportunities Pilot Program that is going to be tested in two States and that is targeted at youth at risk—unemployed, high school dropouts between the ages of 16 and 18.

Although I am convinced that a federally run, residential program provides our young people a significant opportunity to contribute their talents and enthusiasm to the country, I also believe that there are other ways to encourage national service. The Commission on National and Community Service currently grants money to fund youth service programs through schools, through full-time youth service corps, and through demonstration projects. The service opportunities funded by the Commission develop discipline, responsibility, teamwork, problem-solving skills, and self-esteem.

The Commission is therefore the ideal entity to oversee the development and implementation of another demonstration project. This program would establish several nonresidential youth corps that would allow young people, who had received training either in the National Guard Civilian Youth Opportunities Program or in the CCC, to return to their communities and participate in service projects. Importantly, these projects must serve additional, defense-related purposes. The Commission is instructed to fund projects that will also assist in the economic transition of localities affected by the defense conversion. The Commission will particularly consider programs that rely on retired, inactive, or discharged military personnel to provide training, teaching, and mentoring for the young corpsmembers.

Thus, this bill will test two models of national service: The CCC, a residential program that draws together young people from all areas of the country in a year-long experience of training and service; and nonresidential programs administered by the Commission that will allow young people to contribute to their communities, particularly to those locales profoundly affected by the defense conversion. Both models receive equal funding so that neither overshadows the other. Both allow meaningful involvement by both young people and military servicepersons.

CIVILIAN COMMUNITY CORPS

Mr. BOREN. Mr. President, the appropriations bill contains a general appropriation for assistance to communities and industries affected by the military drawdown. Last week, the Senate passed an amendment to the Defense authorization bill that established two national youth service programs designed to ease the economic and social dislocation associated with the defense conversion. Both these programs use closed military bases or excess capacity in military bases, draw on the talents of retired or discharged military service persons, and provide alternate routes for young people who desire to serve their country. In addition, the programs are targeted at communities that are suffering from defense conversion.

This amendment was cosponsored by Senators KENNEDY, DOLE, MIKULSKI, WARNER, NUNN, SIMON, DOMENICI, WOFFORD, DIXON, MCCAIN, SEYMOUR, and REID. It is based on provisions in S. 2373, the Community Works Progress Act, which has several additional cosponsors including Senators INOUYE, DASCHLE, LEVIN, BENTSEN, PRYOR, ROBB, HOLLINGS, BINGAMAN, DECONCINI, SPECTER, and CRANSTON.

The first program authorized by the defense bill is a residential, federally run Civilian Community Corps [CCC]. The CCC has both a year-long and a summer component and is designed to instill the ideal of community service in young men and women. The director of the CCC will be a retired military officer, and the Corps members will be trained and led by retired or discharged military service persons. The CCC camps will be located on closed military bases or on bases with excess capacity. The Department of Defense will provide necessary information to the CCC and help coordinate the programs.

The second program authorizes funding for nonresidential youth service programs that will be administered by the Commission on National and Community Service. The Commission is the entity that currently fosters youth service by funding local projects. This provision allows for additional funding for projects targeted at ameliorating the dislocation of the defense conversion.

Both programs are coordinated with the National Guard Youth Opportunities Program. Last week, the Senate authorized $50 million for the CCC and $50 million for the nonresidential programs.

It is my understanding that the chairman intends to ensure that some of the money appropriated to assist communities affected by the defense conversion is appropriated to these two worthwhile programs.

Mr. INOUYE. The Senator from Oklahoma is correct. It is my intention to use money appropriated for the defense conversion to fund these worthwhile programs. I am pleased that this provision, part of a bill that I have cosponsored, is included as part of the defense conversion package. I look forward to working with him to appropriate money for a robust demonstration program that can test the viability of a federally run, residential service program based on the CCC of the Great Depression. I also support funding for nonresidential programs under the Commission on National and Community Service aimed at easing the economic and social dislocation of the military drawdown.

Mr. BOREN. I appreciate the chairman's assistance in this matter and look forward to working with him during the conference on this bill.

DEFENSE CONVERSION

Mr. DECONCINI. Mr. President, it is my understanding that the legislation before us today includes a section providing $2 billion for defense conversion projects to enhance the capabilities of the U.S. Defense industry to compete in the commercial marketplace, and to assist the industry in improving its ability to satisfy the Nation's defense and commercial sector needs. My own State of Arizona provides a good example of a project which I believe fully satisfies the goals of the committee's defense conversion initiative. It is an innovative research project which is on the cutting edge of energy research and development.

This project centers on the development of a small-scale natural gas liquefier. This technology holds promise for military application, particularly for utilization in refueling nontactical vehicles at remote locations. The developmental phase of this revolutionary system has been completed with support from the U.S. Department of Energy's Small Business Innovation Research Program. However, before the natural gas liquefier is ready for commercialization, it must be refined, and a real-world demonstration must be conducted.

As the chairman is aware, the committee has recommended that, among other items, technological projects be supported by these defense conversion funds. Examples of some of these programs are mentioned in the report accompanying the bill. As the chairman will recall, I initially requested that $2 million be included in the bill for the development of a prototype liquefier and for the conversion of vehicles at Luke Air Force Base so that this technology can be evaluated. Military installations have been, and will continue to be, appropriate testing sites for alternative fuel demonstration projects.

With positive progress on the liquefier's development, and its promise for both military and commercial use, I am hopeful that this project can be supported within the scope of programs which the committee intended for the defense conversion account. I would appreciate the opinion of the distinguished floor manager on whether he shares my understanding that the natural gas liquefier project is an appropriate type of activity for funding through the defense conversion account.

Mr. INOUYE. I recall my colleague's discussion on this project in his requests to the committee. The natural gas liquefier to which you refer would meet the conditions laid out in the report concerning the defense conversion account. The defense conversion account to which the Senator is referring was created, in part, to support initiatives such as this.

Mr. DECONCINI. I appreciate the comments and clarifications of the Senator from Hawaii. I am also grateful for the support of my colleague from New Jersey, Mr. LAUTENBERG, who also contacted the chairman on this issue and who strongly supports this innovative project. I thank my friend and I yield the floor.

DEFENSE CONVERSION

Mr. D'AMATO. Mr. President, central to the success of defense conversion is product. Products should: First, be as similar to current output as possible to minimize retraining, retooling, and layoffs; second, emphasize societal payoff, with special concentration on potential balance of trade benefits; and third, avoid competition with established domestic production lines.

Thus far, conversion initiatives have been largely driven by questions of process. What will replace the tanks, aircraft, and ships defense contractors currently manufacture has received far less attention than that they stop.

The Senate Defense Appropriations Subcommittee has undertaken a little-noticed initiative to put considerations of product at the forefront of defense conversion. Anyone even vaguely familiar with the defense budget is aware that the DOD has played safe haven for a host of industrial policy refugees over the last several years. The subcommittee has sifted out these commercially oriented dual-use technology programs, lumped them together in a single defense conversion account, and provided the Secretary of Defense the authority to fund these critical technologies as he sees fit.

The beauty of this is that it keeps hot lines hot. All that changes is the label. No plant closings, no worker population shifts, no traumas. What was RDT&E, Defense agencies a moment ago is now Defense conversion.

The subcommittee's conversion initiative also has the virtue of bringing together the technologies that many believe will carry this country into the 21st century. By giving these projects of enormous civilian-military potential identity and collecting them in a package, rather than leaving them buried in the thousands of line items that make up the defense budget, it will make them easier to rescue when the budget firewalls come down next year and the Pentagon is torn apart.

Mr. President, the key issue, product, has been moved to the center of the defense conversion debate. I hope my colleagues will recognize the value of the subcommittee's work and give this initiative the fullest possible support both on the floor and in conference with the House.

DEFENSE CONVERSION ACTIVITIES

Mr. CHAFEE. Mr. President, I would like to express my support for the Defense appropriations bill for fiscal year 1993 and engage in a brief colloquy with the Senators from Alaska and Hawaii on the subject of defense conversion.

Title VII of this bill, defense reinvestment for economic growth, provides $2 billion for transition benefits for military and civilian employees of the Department of Defense, for assistance to communities and industries affected by the military drawdown, and for research and development activities. The committee report notes that—

> The major impact of a reduction in defense spending will be felt in those States and industries that rely heavily on defense. For many of these States and industries, the economic outlook—and thus, the potential to adjust to changes in defense spending—appears bleak.

In light of this information I would like the Senator's assurance that those States with high percentages of defense-related employees will be adequately addressed by this legislation.

Mr. INOUYE. I appreciate my colleague's concern and can assure him that the subcommittee has been and will continue to be sensitive to the needs of States severely impacted by the military drawdown.

Mr. CHAFEE. I thank the Senator for his assurance. It has been brought to my attention that there are several established programs throughout the country already assisting businesses to explore dual-use technologies and expanded domestic and international markets, as well as management and worker retraining opportunities. I believe these programs could play an integral part in assisting severely impacted communities cope with the military drawdown and the negative effect on their economies. Many of these programs have already initiated State and Federal level partnerships, including the operation of small business development centers and State world trade centers, and could play a key role in the conversion effort almost immediately.

Mr. STEVENS. The subcommittee is also aware of the existence of these programs and expects that they will play an important role in assisting defense-related businesses seeking new markets and new applications for their products and technologies as well as offering retraining opportunities at all levels.

Mr. CHAFEE. I thank the Senators for their remarks and look forward to working with the subcommittee on this important issue.

DEFENSE CONVERSION PROGRAMS

Mr. DODD. Mr. President, I rise in strong support of this amendment, and I want to commend Senator PRYOR for his attention to this very important subject.

Mr. President, one of the most important issues we face as we prepare for the eventual decline of our defense budgets is the dislocation those cuts will cause in local communities across the Nation. In Connecticut alone, defense cuts will eliminate roughly 35,000 jobs by the year 1997, taking their toll on hundreds of small businesses and thousands of working families across the State.

And across the Nation, these defense cuts are slowing the pace of what is already a meager economic recovery.

If we are going to make these cuts in our defense budget now—and it appears we will—we need to take care of the welders and the pipefitters and the architects who made those cuts possible. These people are truly the veterans of the cold war, Mr. President.

Let me start by commending in no uncertain terms the work done by the distinguished chairman of the Defense Appropriations Subcommittee, Senator INOUYE, for putting aside some $2 billion in funding for defense conversion activities. These funds will be absolutely critical in helping our defense workers, our local communities, and our high-technology industries make the transition to commercial activities.

I would also note that within that $2 billion, the bill also includes $80 million set aside for community assistance through the economic development administration and $50 million set aside for job training programs. These are terribly important programs, and I want to thank the chairman of the Defense Appropriations Subcommittee for including them.

What this amendment does, Mr. President, is to fill in the actual funding amounts for some of the rest of the conversion proposals put forth in this bill. The reason for this is very clear: Left on its own, the Bush Administration has not shown the ability or the inclination to choose how to distribute these funds.

To see why this is true, Mr. President, we only need to look at the record. Two years ago on this very bill, we set aside $150 million for job training programs for laid-off defense workers. The last time I checked, just 2 weeks ago, the administration had spent only $30 million on these job training programs. You would have trouble convincing this Senator, Mr. President, that the administration can't find enough former defense workers in this country who are out of work.

The programs we are funding with this amendment are absolutely critical, Mr. President, to the security and stability of our industrial base. In fact, in addition to the $130 million already set aside for communities and workers, this amendment sets aside nearly $1.2 billion in funding for various industry and work force transition initiatives—initiatives that are critical to the industrial base and the working men and women of our country.

Government-industry partnerships in critical technologies and dual use technologies. Regional alliances between industries, local governments and universities. Manufacturing extension programs. Manufacturing engineering education programs. Advanced materials synthesis and processing partnerships. All of these programs will have a clear impact on the capabilities of our industrial base.

Mr. President, this amendment is entirely in line with the underlying legislation now pending before this body. I think it strengthens the intent of this very important measure. Most importantly, it helps provide for a smooth transition for our Nation's defense industries and defense workers. I urge my colleagues to support this very important amendment.

FUNDING DEFENSE CONVERSION

Mr. PELL. Mr. President, as the sponsor of several legislative proposals dealing with defense adjustment and conversion, I support the amendment of the Senator from Arkansas [Mr. PRYOR].

I agree with his premise that the specific programs for defense conversion which we approved as part of the fiscal year 1993 Defense authorization bill ought to be funded by this bill. These programs—providing for partnerships to promote dual use technology, regional technology alliances and promotion of manufacturing engineering education programs—were carefully crafted responses to defined needs.

Moreover, they represented the results of task force efforts on both sides of the aisle to study the special problems resulting from the defense spenddown. I served on the Democratic task force headed so ably by Senator PRYOR, and I can testify to hard work and systematic study that went into our recommendations. Many of them were incorporated into the authorization bill and they certainly should be funded by this appropriation bill.

I am also pleased to note that the Pryor amendment would substantially augment the funding of the community adjustment programs of the Economic Development Administration and the job training programs of the Labor Department, adding $470 million to the $130 million provided by the bill.

These funds will build on the base established 2 years ago by the Riegle-Pell amendment to the fiscal year 1991 Defense authorization bill, which provided for the first allocation of $200 million to these programs for defense adjustment purposes.

With regard to the bill before us, as reported, I want to commend the Senator from Hawaii [Mr. INOUYE], and the members of the subcommittee for focusing on the problem of continuity of health care for defense industrial workers facing abrupt termination from their jobs as a result of curtailment or cancellation of defense contracts.

The provision in the bill requiring a study of this problem and recommendations for its solution parallels an amendment which I offered to the fiscal year 1993 Defense authorization bill which was accepted on the floor last week.

I know from the experience of many of my constituents that this is a problem of serious proportions. Several thousand employees of the Electric Boat Co. are being laid off as a result of the curtailment of the *Seawolf* submarine program face the reality of paying a $400-a-month premium to continue their company medical coverage after termination, which they can do under the so-called COBRA Program. For those surviving on unemployment benefits, there can be only one choice, and that is to drop their health insurance.

It was with this in mind that I proposed two legislative remedies in this Congress. S. 2690 which I introduced last May, would provide a Federal subsidy of 75 percent of an employee's premium for health insurance continued after separation under the so-called COBRA provisions, for a period of up to 36 months.

A slightly different approach was suggested in S. 2906, the Defense Industrial Diversification and Adjustment Act, which I introduced on June 29. It provided for a subsidy of 50 percent of the COBRA premium for 1 year, to be paid from a trust fund supported by contractor contributions.

I note that the authorization bill passed last week provides for temporary continuity of the Government's contribution to health insurance plans for two other important categories of defense personnel, namely civilian employees of the Department of Defense and for members of the uniformed services who have been separated because of cutbacks in defense spending.

It seems to me that the justification for providing assistance in extending insurance to these two categories applies equally to the men and women who have been providing the industrial sinew which helped us to win the cold war.

While industrial workers are employees of the private sector, they do comprise a unique category of people whose employment is determined by public policy and by world events. So I congratulate the committee for its attention to this matter and I hope that it will result in prompt relief for those who need it.

Mr. BOREN. Mr. President, last week the Senate in the discussion of the defense authorization bill authorized as a part of that bill a demonstration program for the Civilian Community Corps National Residential Youth Service Program that eases the economic and social dislocation of defense conversion.

It would involve those who are being forced out of the military early, in terms of their efforts to instruct and to help train young people and to lead projects, construction projects and other projects by young people who are disadvantaged. It would utilize excess military capability, equipment, and facilities in this effort. So it would really help us solve two problems at once in this country. One is the terrible waste of our talented young people with the kinds of problems we have had in our inner cities. We need to harness that talent with work that would bring self-respect and, at the same time, use the talents and capabilities of people with military experience who are now being forced out of the military and into transition into the civilian economy.

It was my understanding earlier from Senator INOUYE that money appropriated under this bill, whether specifically from the defense conversion section or some other section of the bill, as was the case in the authorization bill, could be utilized for this program and that he would work for this program in conference.

The program, I might say, has wide bipartisan support. There are 24 Members of the Senate, Democratic and Republican, who have been sponsors or cosponsors of this provision, either on the amendment that was offered or the original bill, including Senators NUNN and WARNER, including the distinguished manager of this bill, Senator INOUYE, including the two sponsors—two of the three sponsors of this particular amendment, Senator PRYOR and Senator BINGAMAN. Also, Senator KENNEDY, the distinguished Republican leader, Senators DOLE, WOFFORD, MIKULSKI, SIMON, DOMENICI, DIXON, MCCAIN, SEYMOUR, REID, DASCHLE, LEVIN, BENTSEN, ROBB, HOLLINGS, DECONCINI, SPECTER, and CRANSTON.

I certainly applaud the work that has been done by the task force on defense conversion. I appreciate very much the conversion and discussion we have already had with the distinguished manager of the bill on this subject.

I would like to address just a brief question, perhaps first to the Senator from Arkansas and then to the distinguished manager of the bill.

First, I ask the Senator from Arkansas if it is his intent with this amendment, that it would in any way jeopardize or bias the chances of the Civilian Community Corps Program from being ultimately funded out of any funds that might be available in this appropriations bill in conference?

Mr. PRYOR. Mr. President, if I may respond to my friend from Oklahoma, it is my understanding, after recently conversing with the distinguished chairman of the subcommittee on defense appropriations, Senator INOUYE and his staff—my understanding is that this will in no way jeopardize the CCC potential funding. In addition, they will make this a high priority item—I do not want to speak for the distinguished chairman and the ranking minority member—but they will take this to conference, and there will be a discussion in conference.

I would like to say, of course I am not on the committee and I certainly would not be a conferee. But I would like to say to my friend from Oklahoma, I am a cosponsor with the Senator from Oklahoma to fund the CCC. I think it is one of the finest ideas that we have. I think it has come full cycle. I think this is the moment for this country to seize again on this opportunity. And the leadership given by the Senator from Oklahoma and by the distinguished Senator from Pennsylvania [Mr. WOFFORD], I think, has been remarkable. It has brought this issue to the forefront once again. It is time now that this country do this.

I hope the conferees would look very favorably on refunding the CCC.

Mr. BOREN. Mr. President, I appreciate very much the comments of my colleague from Arkansas. And I appreciate the support he has voiced for this program, not only tonight but certainly previously in cosponsoring the original proposal. I do not want to belabor the point because my colleague, the distinguished Senator from Hawaii, has already been most generous in engaging in a discussion with me earlier about this. But now that this has come up in a slightly different context I would like to ask the Senator from Hawaii, the distinguished manager of the bill, if it would be still his intent to work for this program in conference and his feeling that the adoption of this amendment would not diminish its chances of being funded?

Mr. INOUYE. Mr. President, if I may respond?

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. I join the Senator from Arkansas in assuring our friend from Oklahoma that the adoption of the Bingaman amendment will in no way jeopardize the Boren proposal, the CCC proposal.

Further, may I assure him that in the conference with the House, this matter will be appropriately addressed. It will be given the highest priority. And I have every intention to see to it that it is funded with all the dollars that are necessary.

Mr. BOREN. Mr. President, I thank my colleague from Hawaii for his usual graciousness and his patience in this matter. I am very encouraged by the comments he just made.

In regard to this conversation we have had, it would be my intention, then, to support the amendment offered by the Senator from Arkansas and the Senator from New Mexico, and to not attempt to offer any separate proposal tonight on this subject, knowing as I do that the Senator from Hawaii will do exactly what he has said he will do.

I appreciate very much the support which he has voiced.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. LIEBERMAN] is recognized.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment offered by my colleagues from Arkansas, New Mexico, and others, and to say I am personally proud to be a cosponsor of it.

I rise fully in support of this amendment as a Senator from the State of Connecticut, which has been, as some use the term "defense-dependent." Let us just say that we have a lot of people in our State who have worked proudly over the years to build many of the weapons systems that helped us win the cold war.

It is really since revolutionary times that we have been proud to call ourselves in Connecticut an arsenal of democracy.

But now, as the cold war has ended and we begin to turn down our defense spending, we in Connecticut, the people who work in the defense industry, have been hit, have been hurt; people have lost their jobs.

We understand, in Connecticut, when there is talk of a peace dividend it may be a misnomer. It is not a dividend in the sense that a corporation, after it takes care of all its expenses, passes out the rest of the money painlessly to the shareholders in a dividend. The peace dividend—which we all appreciate—in this case has some real victims. It costs the people who have worked in the defense industry. We have an obligation to them, I think, for the work that they did in helping us win the cold war. But we have also an opportunity to view them and the businesses for which they work as a tremendous asset, an economic asset, an industrial asset upon which to build to the next great stage of America's economic history.

This amendment accepts that responsibility, meets that challenge, and creates that opportunity. This amendment will provide money to ease the transition of defense workers to nondefense jobs, to help communities such as those in Connecticut adjust to the defense cuts and base closures and to promote industrial diversification for the global commercial marketplace.

The amendment also sets the stage for a new, more relevant defense policy which recognizes the importance and necessity of dual-use products and technology, civilian and military.

Mr. President, this amendment, just as important, recognizes that absent a commitment to civilian technologies, economic growth and job creation, diversification is meaningless. The point is that we can retrain defense workers all we want, but unless we are creating jobs for them to fill, we have not really completed our task. We are going to leave them out there retrained and unemployed without an opportunity to fill a new job.

This amendment focuses on making investments today in technology and manufacturing and human capital which will pay dividends in the future. It does so without adding one additional dollar of spending to this appropriations bill. It simply earmarks some of the money already in the bill and, therefore, brings the bill into line with programs authorized just last week in the Department of Defense authorization bill.

Mr. President, in order to guarantee a smooth transition to this new era of our economic history, we have to provide a blueprint and fund specific programs for transition and reinvestment. So we cannot leave it up in the air. For some who may not share our commitment to this approach of transition, of diversification, of new economic opportunity left undefined, we may miss this opportunity and pass up the chance not only to fund defense transition initiatives, but to take advantage of the economic opportunity we have to use the assets that defense spending has created, assets both human and physical.

As the Senator from New Mexico suggested in colloquy with the distinguished chairman of the subcommittee, we may also lose funding for critical technology limited, such as Sematech, technology partnerships, manufacturing technology, advance material, dual use and manufacturing extension programs to name a few.

So I thank the chairman of the subcommittee for the reassurance he gave the Senator from New Mexico that he will do all he can in the conference committee to protect those vital programs like Sematech.

Mr. President, we are going to cut the defense budget. We are doing it right now. The question is, how will we do it? We have two choices before us: Either we can cut programs and troops and contracts without regard to the consequences of our action or, for a small fraction of the cost, we can protect our investment in our work force, in our industrial base, in our technological infrastructure and provide for an orderly, less painful, more constructive transition for the economic opportunities that we all want to lie ahead.

This amendment leads us down that latter, wiser course. For that, I thank the Senator from New Mexico for the leadership he has shown over the years. I thank the Senator from Arkansas, and the Senator from New Hampshire [Mr. RUDMAN], for the work they have done in the respective task forces to being forward these programs that are so constructive and responsive. Finally, I thank the distinguished chairman of the subcommittee, the Senator from Hawaii, the ranking Republican member, the Senator from Alaska, for taking all of these good ideas which would remain only good ideas and ultimately only theories without the dollars, the resources that this subcommittee has put behind them.

Mr. President, I support the amendment enthusiastically. I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER (Mr. AKAKA). The Senator from Indiana [Mr. COATS], is recognized.

Mr. COATS. Mr. President, I want to add my voice to those who are in support of this effort offered by the Senator from New Mexico and the Senator from Arkansas to provide a closer connection between the economic conversion packages in both the authorization and appropriations bills. I think it is important that the Senate speaks with one clear voice on this issue and that the defense appropriations bill reflect in greater detail the work of the Pryor-Rudman task forces on economic adjustment and defense conversion. We worked very closely together on the conversion package in the Senate Armed Services Committee. And while there are points on both sides where there may be some disagreement, I think the provisions in the Senate bill essentially reflect a consensus on most of the major issues.

We are in a very difficult transition period for defense workers. Those who contributed so significantly to our success in the past decade-and-a-half now find themselves in a personally difficult situation as they attempt to take some very finely tuned skills and convert them from military use to civilian use.

These are major challenges ahead. I think it is important that we assist in that process. I think that the consensus reached this evening moves us in that direction in a very significant way. My understanding is that the amendment would provide $470 million for military and civilian transition for the benefit program and community assistance programs as authorized by the Congress. This is in addition to the $130 million earmarked in the bill for the Economic Development Administration and the Department of Labor, for a total of $600 million as authorized by the Senate in the Defense authorization bill last Friday.

It is also my understanding that we will provide $675 million for the conversion programs contained in the authorization bill to help the defense industry reorient to a dual-use capability. These programs will encourage partnerships between Government and industry to develop dual-use technologies and manufacturing capabilities, encourage the Department of Defense to work with the Commerce Department and the States to fund manufacturing extension programs and regional technology alliances and other extension programs, as well as encourage the Department of Defense to work with the National Science Foundation to fund manufacturing engineering education programs in our universities.

Mr. President, a lot of work has gone into this effort. There is some still to do. It is important that as we make this difficult transition that we be sensitive to the impact on our industries and, most important, to the impact on the workers in those industries, those families and the communities in which those industries are located. I am proud to be a part of this effort and trust that we will be able to successfully make this conversion not only in this year but the years to follow.

Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska [Mr. STEVENS] is recognized.

Mr. STEVENS. Mr. President, I have been reviewing this matter for some time. I was one of those who was a complete supporter of the provisions in our bill before the Senate now, the Defense Department appropriations bill. I have spent some time going over these amendments. I am prepared to agree with my friend from Hawaii that we should accept the amendment because I believe that everything in this amendment is consistent—as a matter of fact, is identical to the provisions of the armed services bill that we agreed we would comply with this year. I do believe that there are a great many people who have worked on this issue.

I ask unanimous consent that Senators SEYMOUR, DOMENICI, and COATS be listed as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, it is very clear that in our conference, Senators GARN and DOMENICI will have a substantial amount of participation in the negotiations with the House on this amendment. I hesitate because, as I told the Members in the conferences prior to the presentation of this amendment at this time that I would favor not earmarking this money.

I have heard my good friend from Hawaii say he will be battling to uphold the Senate's position. I always do that. But I think the Senate should be aware of my feeling that we should have a commission to review all of these initiatives, an impartial group that would tell us just how much money we should continue to spend on these items listed in this amendment.

To a great extent, I have the feeling, and it has been expressed time and time again on the floor, that there is inertia behind some of the spending that we just cannot seem to have any impact on. And this is a good example in these areas. Some of this spending has been going on for 5 years at the rate that is specified in this amendment.

Now, as I indicated, those who are more familiar with it, with the area of this type of expenditure, have indicated these initiatives should be continued. Clearly, the Pryor-Rudman group has had a great deal of exposure to these issues this year, and on the basis of the advice of the Senators who worked with Senators PRYOR and RUDMAN and the advice that I received on my side of the aisle from Senators GRAMM, SEYMOUR, DOMENICI, MCCAIN, COATS, and others, I believe we have no alternative but to accept the earmarkings in this bill as well as we did in the armed services bill. And again, it is my understanding—and I hope that I am corrected here if I am wrong—that all of these earmarkings are identical to those which are contained in the armed services bill. In other words, we are not creating another conflict for ourselves by adopting this amendment because we have already said we will comply with the provisions of the earmarkings of the armed services bill to the best of our ability in the negotiations with the House.

So on the basis of that, I say to my friend from Hawaii, I am prepared to accept the amendment.

Also on a related matter, if I may, since I am on my feet, Mr. President, I ask unanimous consent that Mr. SPECTER be listed as an original cosponsor of amendment No. 3142.

I also renew my request that the Senators I mentioned previously be listed as cosponsors of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, as manager of this bill, I am pleased to add my congratulations to the Senator from New Mexico, the Senators from Arkansas and Connecticut, and to the Senator from Georgia and to the members of the task forces, Republican and Democrat, for coming forth with this defense conversion program.

As I indicated earlier, I will do my best to convince my colleagues in the House to adopt the amendment as we have presented it today. I will do my best.

Mr. STEVENS. Will the Senator yield for one last request.

I failed to add to my request that Senator COHEN be listed as a cosponsor of the pending amendment. I ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I urge its adoption.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. BINGAMAN] is recognized.

Mr. BINGAMAN. Mr. President, before we go to a vote, I just wanted to indicate the contribution, the significant contribution that the junior Senator from Indiana, who is the ranking member on the Subcommittee on Defense Industry Technology, which I have the honor of chairing on the Armed Services Committee, made in the crafting of many of these initiatives. He and his staff have worked very closely with myself and the staff on the majority side, Senator NUNN and various others of us on the Armed Services Committee in working on the legislation in the authorizing bill. I did want to commend the Senator from Indiana, for his very substantial contribution and I want to acknowledge that at this point.

I thank the Chair. I yield the floor.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. PRYOR] is recognized.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me.

Mr. President, I ask unanimous consent that 3 additional cosponsors be added to the pending amendment. Those three cosponsors are Senator WOFFORD, Senator DECONCINI, and Senator DODD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, once again I sincerely thank the distinguished chairman, Senator INOUYE, the ranking member of the subcommittee, Senator STEVENS, and their respective staffs for working with us in this particular matter.

We do think this amendment will strengthen the position of the Senate in going to conference with the House ultimately on the issue of defense conversion and transition. We also are most appreciative of the statements uttered on the floor and in our private discussions by Senator INOUYE about his supporting and advocating the position of the Senate. I certainly cannot speak for Senator RUDMAN's group and Senator COATS' group that have made such a valuable contribution, but I truly believe I can speak for the 21 members over on this side of the aisle who have worked since March on this issue in strongly urging our colleagues going to the conference to advocate the Senate position and try to nail down these dollars for this purpose.

Mr. President, once again I thank all of those who have participated and I yield the floor.

Mr. RIEGLE. Mr. President, I wonder if the Senator will yield briefly to me for just a question.

Mr. INOUYE. Please.

Mr. RIEGLE. I thank the Chairman.

In light of the changes that have been made in the negotiations on this amendment, while the package does not specifically include mention of high definition displays, am I correct in assuming that it will be the committee's intention to attempt to follow the earmarks in the Defense authorization bill when we get to conference?

Mr. INOUYE. There is a commercial that says, "It's in there." The Senator's amendment is in there.

Mr. RIEGLE. I thank the Chair. I ask unanimous consent to be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, will the Senator yield just one moment.

Mr. INOUYE. Yes.

Mr. STEVENS. I ask unanimous consent that my colleague, Senator MURKOWSKI, be added as a cosponsor.

Mr. PRYOR. Mr. President, if I might add one additional cosponsor, Senator ROBB of Virginia. I ask unanimous consent that he may be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I urge adoption of the amendment.

Mr. STEVENS. I support the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to amendment 3152.

The amendment (No. 3152) was agreed to.

Mr. INOUYE. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3153

(Purpose: To require prompt approval action on proposed interim leases for the use of installations and facilities of the Armed Forces being closed under a base closure law)

Mr. INOUYE. Mr. President, I send to the desk an amendment proposed by Senator PRYOR and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. PRYOR, for himself and Mr. BUMPERS, proposes an amendment numbered 3153.

Mr. INOUYE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 157, between lines 9 and 10, insert the following:

SEC. 9132. (a) Hereafter, whenever a State or local development authority or other State or local installation reuse entity submits to the Secretary of a military department for approval a proposed interim lease of a facility at a closing installation under the jurisdiction of that Secretary, the Secretary shall approve or disapprove the proposed interim lease within 60 days after the proposed interim lease is submitted to the Secretary.

(b) For purposes of this section, the term "closing", with respect to an installation, means an installation that is being closed pursuant to—

(1) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 102–510; 104 Stat. 1808; 10 U.S.C. 2687 note);

(2) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note); or

(3) section 2687 of title 10, United States Code.

Mr. INOUYE. Mr. President, this amendment is appropriate, and I support it.

Mr. STEVENS. There is no objection.

Mr. PRYOR. Mr. President, if I may, I ask unanimous consent that Senator BUMPERS, my distinguished colleague, be added as a cosponsor to the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Without objection, the amendment is in order.

The question is on agreeing to the amendment.

The amendment (No. 3153) was agreed to.

Mr. INOUYE. Mr. President, I ask unanimous consent that two technical corrections be made to the amendments adopted earlier today, and I believe the amendments are at the desk and I ask that they be incorporated into the amendments as passed.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I have been authorized to announce that Senator CRANSTON will withdraw his patent extension amendment, and that Senator LAUTENBERG will withdraw his Arab boycott amendment.

UNIFORMED SERVICES TREATMENT FACILITIES

Mr. GORTON. Mr. President, the amendment introduced for myself and Senator ADAMS will enable Uniformed Service Treatment Facilities [USTF] across the Nation to offer its beneficiaries a managed health care program on October 1, 1993. Mandated by Congress in Public Law 101–510, fiscal year 1991, the Department of Defense Authorization Act, the managed care program promises to provide an attractive benefit to beneficiaries at substantial cost savings to the Government. Consistent with congressional direction, the USTF's and the Department of Defense [DOD] USTF program staff have been working cooperatively for more than 2 years to develop this initiative. However, implementation already has been delayed well beyond congressional deadlines and I am concerned that any further delay will jeopardize the program.

In order to ensure that military beneficiaries be given the opportunity to participate in the USTF Managed Care Program, it is absolutely essential that the program be implemented without further delay. The amendment Senator ADAMS and I are offering today will do just that.

I thank both Senator INOUYE and Senator STEVENS for accepting this amendment.

On an unrelated issue, I take this opportunity to give my separate but equal support to a program which is also very important to improving military health care, the CHAMPUS Reform Initiative [CRI]. I am assured that the conferees on the DOD appropriations bill will recede to the House position and include Washington State as a player in the CHAMPUS Reform Initiative Program. I support this position and am pleased that Washington State military retirees, personnel, and their dependents will have the opportunity to participate in a health program which has proved both cost effective and user friendly in other areas of the country.

REORGANIZATION BY U.S. ARMY CORPS OF ENGINEERS

Mr. DOLE. Mr. President, section 9122 of this bill contains a restriction on the use of any of the funds contained in this bill or any other appropriation bill signed into law prior to the enactment of this bill for any reorganization undertaken by the U.S. Army Corps of Engineers.

Further, Mr. President, the bill which has jurisdiction over the civil programs of the corps is the energy and water bill. Amendment 21 in the conference report on that legislation contains a similar, although more detailed restriction on corps reorganization. The energy and water bill prohibits the use of any of the funds appropriated to the corps for closing any district office of the Army Corps of Engineers. I know in the past this is the concern that I and many of my colleagues have had.

Since that provision is contained in the energy and water bill, I ask the managers of this bill whether they would be willing to drop section 9122 in conference if the provision in the energy and water bill will be enacted.

Mr. INOUYE. Mr. President, the Senator from Kansas is correct. Matters dealing with the civil programs of the Army Corps of Engineers are usually contained in the energy and water appropriations bills. It is my understanding that a similar provision was contained in the appropriations for energy and water last year. I think it would be entirely appropriate to drop the provision in this bill if the provision in the energy and water bill will be enacted.

Mr. STEVENS. Mr. President, I concur with my colleague from Hawaii. The provision in the energy and water bill is more tailored to address the concern of our colleagues—to protect district offices of the Army Corps of Engineers while at the same time allowing the Army to achieve necessary management and cost savings. I understand the corps has no plans to close any district offices, has no objection to the language contained in the energy and water bill, and I would support deleting the provision from this bill if the provision in the energy and water bill will be enacted.

TACTICAL AVIATION MODERNIZATION PLAN

Mr. DECONCINI. Mr. President, would the distinguished manager of the bill yield for a brief colloquy to clarify the committee's reported bill as it pertains to the Army's aviation modernization program and, in particular, the AH-64 modernization program.

Mr. INOUYE. I would be pleased to yield to the senior Senator from Arizona for a colloquy.

Mr. DECONCINI. I thank my good friend from Hawaii for allowing me to clarify a point in the committee's tactical aviation modernization program. The chairman noted at the full committee markup that the $3.489 billion recommended by the committee did not specify funding for particular programs.

Mr. INOUYE. The distinguished Senator from Arizona states the situation correctly. It was the committee's intention to provide the same total amount as recommended by the Senate Armed Services Committee for the Army Comanche light armed scout helicopter, AH-64 Apache Longbow, AH-64 modifications, Navy F-18 E/F upgrade and AX advanced attack aircraft and Air Force F-22 advanced tactical fighter in the new tactical aviation modernization account.

Mr. DECONCINI. Am I also correct that the committee has provided sufficient funds, so that if the Secretary of Defense meets the committee's requirements and if he decides to fully fund the Apache and Comanche program, there is more than enough money in the new aviation account to fund all these efforts?

Mr. INOUYE. The Senator is correct. I noted that full funding for the Apache and Comanche modernization programs would require $749.809 million in fiscal year 1993. The tactical aviation modernization account has more than enough funding to provide this full amount.

Mr. DECONCINI. I thank the distinguished chairman of the Defense Subcommittee for his clarification and I appreciate his leadership in bringing this issue to the attention of the Senate by taking the action that he has in this bill.

THE NATIONAL GUARD

Mr. LAUTENBERG. Mr. President, I am pleased to be an original cosponsor of this amendment which would freeze the existing Reserve force structure and prevent any Army National Guard units, including the 10 division headquarters units, from being inactivated in fiscal year 1993.

This amendment which Senator LEAHY and I are introducing is consistent with provisions in the recently approved national defense authorization bill for fiscal year 1993. It was included in a list of recommendations on the National Guard and Reserves which 18 members of the Appropriations Committee, including myself and Senator LEAHY, sent to the chairman and ranking member of the Defense Appropriations Subcommittee. I ask unanimous consent that a copy of that letter be inserted in the RECORD following my remarks.

Mr. President, there are compelling reasons to support this amendment to prevent the inactivation of National Guard and Reserve units in fiscal year 1993. The role that the Guard and Reserves played in the Persian Gulf War demonstrated their value and effectiveness during a national crisis. As the defense budget declines, I am convinced that the Department of Defense should continue to invest in the Army National Guard. Its cost effective forces provide an important way to maintain force structure at a fraction of the cost needed to sustain active units.

A 1-year moratorium on cuts in the Guard and Reserve force structure is needed until the Defense Department presents a logical plan that properly realigns the Guard's roles and missions. The Pentagon's current proposal would reduce, over a 5-year span, some States' Army National Guard end strength by more than 50 percent, but cut others by less than 10 percent. The Defense Department has acknowledged this problem, and it has stated that it is developing measures to address these inequities.

After reviewing the Department of Defense's original plans, I can only hope that the Pentagon will learn from their mistakes. In my State of New Jersey, some of the force structure cuts that were in the Pentagon's original plans simply did not make any sense. Despite the Guard's record of service to New Jersey and our Nation, these plans would cut half of New Jersey's authorized Guard positions over a 5-year period. They also would eliminate the 50th Armored Division, which is headquartered in New Jersey.

It doesn't make sense for the Defense Department to eliminate the 50th Armored Division. The 50th Armored Division headquarters is a top notch facility. It's one of only two existing armored divisions in the National Guard. It's strategically located on an army base. And it shares space with the best and newest high-technology training facility in the country. It also has new headquarters facilities, and has ready access to an Air Force base and a military port.

Mr. President, a moratorium on the inactivation of Army National Guard and Reserve units in fiscal year 1993 will provide Congress with time to review the Pentagon's new plans. Additionally, Congress will be able to compare them to the Guard and Reserve force structure study that will be completed by RAND later this year.

I urge my colleagues to support this amendment which prevents the inactivation of National Guard and Reserve units in fiscal year 1993. We need to ensure that the Guard and Reserve total force policy continues as an integral part of our national security at home and abroad.

MULTICHIP MODULE

Mr. BUMPERS. Mr. President, I have some observations and questions concerning the committee's support for two multichip module [MCM] technology programs at DARPA. The first is the continuation of the advanced materials for MCM applications program and the second is a new initiative to address broader MCM issues. I would therefore like to engage in a colloquy on these important efforts with my esteemed chairman of the Defense Appropriations Subcommittee.

Mr. INOUYE. It would be my pleasure to discuss these issues with my good friend from Arkansas.

Mr. BUMPERS. I know my friend from Hawaii shares my support for maintaining a robust and growing electronics industry in this country. We have watched the electronics content of many military and commercial items soar in recent years. Aircraft avionics, sensors and guidance systems for precision weapons, advanced medical electronics, and engine control systems are but a few examples of the economic impact of modern electronics. The worldwide electronics market is currently estimated to be $650 billion and is projected to double by the turn of the century.

The electronics industry has impact all across the spectrum of the American economy. This industry currently employs 1.8 million people. If America maintains its current market share of 30 percent, we could add 1.8 million more jobs by the end of the decade. And if we could increase our market share to 45 percent, we could add another 1.8 million jobs.

Furthermore, it is my understanding that one of the next major steps for the electronics industry is the development and application of multichip module [MCM] technology. This approach involves the placement of many computer chips in close proximity on the same wafer. This density of packing of chips offers significant advantages in higher processing speeds and dramatic size reductions.

While America has lost world market share in the computer chip market, we now have the opportunity to act quickly to jumpstart this next phase of chip development and regain some of the share of the world electronics market we used to have. This area of technology has been the subject of a number of recent government, industry, and academic discussions and analyses. I note from the committee report that the committee recognizes the significance of this technology in its call for the Defense Department to provide accelerated funding for multichip module development from the $2 billion in funds provided in this bill in the defense conversion initiative.

Mr. INOUYE. The Senator is correct. The committee has encouraged the Defense Conversion Commission and the Secretary of Defense to consider funding multichip module development within the conversion account.

Mr. BUMPERS. MCM technology has the potential for a wide variety of military applications, from advanced avionics and signal processors to mobile military communications and portable military computers, and has relevance to many commercial applications.

At the same time, I hope the Committee will take note to Japan's increasing interest in multichip module technology. Control of this growing market by offshore producers could make the Defense Department dependent not just on foreign chips, but entire subsystems and systems from offshore sources. This would be harmful to U.S. security interests and would be a blow to the U.S. economy.

Mr. INOUYE. As my friend from Arkansas will recall, last year Congress provided funding for the Defense Advanced Research Projects Agency [DARPA] Advanced Materials for Advanced MCM Applications Program.

Mr. BUMPERS. Indeed, this program seeks to accelerate recent advances in materials sciences that will flow logically into conventional MCM developments. This program is seeking to integrate new advanced artificial diamond and high temperature superconducting materials into advanced multichip modules. Already an important demonstration of such an application of these materials has been demonstrated.

The combination of these two technologies will play a key role in allowing the United States to maintain a world lead in supercomputer technology. I believe that this program merits continued explicit funding at the level envisioned last year for fiscal year 1993. It is my belief that this program is important enough that it merits such funding. Does my colleague and friend concur?

Mr. INOUYE. The committee has noted the importance of this program in the report and I will do my best in conference on this matter.

Mr. BUMPERS. I thank the chairman of the Defense Appropriations Subcommittee. I want to turn now to a related issue, DARPA's conventional multichip module program. This program is designed to address the application of MCM technology to military systems in the near term. Advanced electronic packaging reflected in MCM technology has become the pacing technology that will control electronic system density and system performance.

Mr. INOUYE. Again, the committee's report language notes that MCM technology is relevant to the objectives established for defense conversion, and we have encouraged the Defense Conversion Commission to consider funding this program from the funds provided.

Mr. BUMPERS. I appreciate my friend's words on this. I take note that DARPA officials consider this multichip module initiative one of the highest priorities they have in the electronics field and plan to increase their funding request for this substantially in the coming year. But given the very fast pace by which developments in the electronics field proceed, it is important that this crucial technology program be accelerated as soon as possible.

For this reason I was disappointed that there was not explicit funding for this program in the bill but trust that the Defense Department will take heed of this colloquy and fund the conventional program at a significant level. Should the defense conversion account succumb to earmarking in the conference, I will work to ensure that this multichip module program is so funded explicitly.

Mr. INOUYE. I thank my friend from Arkansas. I, too, hope that the Department of Defense funds this program from the Defense conversion account.

Mr. BUMPERS. I thank my colleague.

Mr. INOUYE. Mr. President, that means all the amendments have been addressed and resolved.

I suggest their agreement.

I ask for a third reading.

Mr STEVENS. Mr. President, I ask unanimous consent that the statements to be offered by the Senators in support of either the amendments that we have just adopted or the amendment of the Senator from Iowa on breast cancer be placed in the RECORD when delivered—some of them will be delivered tonight, some will be delivered tomorrow—that they appear in the RECORD prior to passage tomorrow. One is on defense conversion, the other is on cancer.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I have a unanimous-consent request.

Mr. President, I ask unanimous consent that a colloquy be reported in the appropriate place in the RECORD, a colloquy between myself and the Senator from Hawaii [Mr. INOUYE] relative to the amendment that we have just adopted relative to the Eglin Air Force Base, and other bases where businesses are trying to acquire leases on certain properties and strengthen the time when there must be a response by the Air Force back to the companies.

I thank my colleague.

Mr. STEVENS. Mr. President, I have no objection. That will still be prospective.

Mr. PRYOR. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read the bill for the third time.

The bill was read for the third time.

Mr. INOUYE. Mr. President, on final passage, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. STEVENS. Mr. President, It is my understanding that vote will take place at 9:30 a.m. in the morning following the Prayer when we convene in the morning.

I ask unanimous consent that be the order, that vote on final passage take place immediately following the prayer when the Senate convenes on Wednesday morning.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska? Without objection, it is so ordered.

Mr. STEVENS. Mr. President, it is my understanding, and I do ask for parliamentary inquiry, the Senator from Hawaii and I have disposed of all amendments by the action we have taken; is that correct?

The PRESIDING OFFICER. The Senator is correct.

MORNING BUSINESS

Mr. PRYOR. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL OPTICIANS MONTH

Mr. STEVENS. Mr. President, as in morning business, I would note that January 1993 will be celebrated throughout the United States as National Opticians Month. I am pleased that an Alaskan, Larry E. Harper of Anchorage, is this year the president of the Opticians' Association of America, which is planning a number of events during January to highlight the contributions of opticians throughout the country.

Almost all Americans over the age of 65 need some help to see their best, and 60 percent of all Americans wear eyeglasses or contact lenses. Skilled opticians, trained in fitting and dispensing eyeglasses and contact lenses, provide expert assistance to many of us to make the most of our vision.

Through formal education programs, voluntary national certification and mandatory licensing in many States, and programs of continuing education, dispensing opticians acquire the skills and competence to guide eyewear consumers and to correctly, efficiently and effectively fill eyewear prescriptions. At the same time, retail opticians are an important part of the Nation's small business community and provide the competitive balance that keeps eyewear within the means of most Americans.

It is a pleasure to acknowledge the essential role of dispensing opticians as they help all of us to make the most of our precious eyesight. I commend them for their efforts and congratulate Larry Harper and his members or their accomplishments.

TRIBUTE TO DR. ALFRED HABEEB

Mr. COCHRAN. Mr. President, I salute Dr. Alfred Habeeb on the occasion of the dedication of the Alfred Habeeb Endowed Chair in Anesthesiology at the University of Alabama at Birmingham. It is one of only five endowed chairs in anesthesiology in the United States.

A native of Lebanon, Dr. Habeeb was the first Lebanese-American to study medicine in Mississippi, completing his education at the University of Mississippi and the University of Tennessee. Having practiced medicine for more than 54 years, he was a pioneer anesthesiologist in the South, laying the groundwork in Birmingham for one of the first academic departments of anesthesiology in the southeastern United States and supporting establishment of the first professional organization for anesthesiologists in the State of Alabama.

I am happy to pay tribute to Dr. Habeeb, and I ask unanimous consent that the publication, "A Legacy of Excellence," describing his significant contribution to medicine, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A LEGACY OF EXCELLENCE—ALFRED HABEEB, M.D. ENDOWED CHAIR IN ANESTHESIOLOGY

Friends and colleagues of Alfred Habeeb, M.D. are honoring his contributions to medicine and anesthesiology through the creation of the Alfred Habeeb Endowed Chair in Anesthesiology at The University of Alabama at Birmingham. While recognizing this distinguished physician and member of the Birmingham community, the establishment of this endowment will also provide an important source of income to enhance the academic endeavors of the field of medicine so well served by Dr. Habeeb during the past 50 years. The acknowledgement is particularly special since there are only five endowed chairs in anesthesiology in the United States today.

ALFRED HABEEB, M.D.

Dr. Habeeb studied medicine at the University of Mississippi and the University of Tennessee. During vacations he returned to his hometown of Vicksburg, Mississippi, to work in the clinic at Vicksburg Charity Hospital. He decided between his junior and senior years to move to TCI Hospital, now Lloyd Noland Hospital, for an internship following graduation. In 1940 Dr. Habeeb was asked to stay at TCI an extra year to provide much-needed assistance in the area of anesthesiology, and soon became chief of this service.

The field of physician-practiced anesthesiology was still very young, the American Board of Anesthesiology having come into existence just four years earlier. Dr. Habeeb traveled with Dr. Lloyd Noland, TCI's chief of surgery and medical director, studying the techniques of such notable pioneers in anesthesiology as Dr. John Lundy of the Mayo Clinic, Dr. Ralph Waters of the University of Wisconsin, Dr. John Adriani of Tulane, and others. Dr. Habeeb received his board certification in 1947.

Thus, Alfred Habeeb became a pioneer anesthesiologist in the South. His early efforts to establish physician-practiced anesthesiology in Alabama helped lay the groundwork for one of the first academic departments of anesthesiology in the southeastern United States. In the mid 1940's, such a department was begun at the The University of Alabama's School of Medicine in Birmingham. Along with the faculty of this department, Dr. Habeeb and his colleagues founded the state's first professional organizations for anesthesiologists, the Jefferson County Society of Anesthesiologists and the State of Alabama Society of Anesthesiologists. He served as president of both organizations, as well as a delegate to the Medical Association of the State of Alabama and the American Medical Association. Dr. Habeeb is a past president of the Birmingham Surgical Society and a founder of the Southern Section of the American Society of Anesthesiologists. He has been instrumental in the growth and development of anesthesiology in Alabama and the southeastern U.S. and has maintained a close professional relationship with the UAB faculty for 40 years.

Dr. Habeeb founded, with partners E. Bryce Robinson and Hiram Elliott, the first private anesthesiology practice in Alabama. Known today as Anesthesia Services of Birmingham, P.A., the firm is composed 22 physicians, many of whom were educated at The University of Alabama's School of Medicine. Since its founding the firm has provided anesthesiology services to nearly every hospital in Birmingham.

Dr. Habeeb has served his community in many other ways, and with the same total dedication he has shown his patients and his colleagues. He has been a member of the Rotary Club of Birmingham since 1962, first serving as an officer in 1973, eventually becoming president in 1985.

THE ALFRED HABEEB, M.D., ENDOWED CHAIR IN ANESTHESIOLOGY AT UAB

In 1987, a group of Alfred Habeeb's colleagues, affiliated with UAB, St. Vincent's Hospital and other institutions in Birmingham, moved to recognize Dr. Habeeb's influence on their respective careers. They chose to honor him by creating an endowed chair in anesthesiology, which will serve as an appropriate testimonial to his distinguished career in this field, while providing funds for the continued advancement of patient care, research, and education.

The Department of Anesthesiology at UAB has earned an international reputation for academic excellence and now ranks among the best of such departments in the nation. An increasing diversity of scientific training and scholarship makes the department a stimulating learning environment and an important contributor to the advancement of scientific knowledge in anesthesiology.

In order to continue this progress while pursuing new areas of inquiry, it is essential to provide endowments for recruiting and retaining exemplary faculty. Such funds provide support for gifted academicians and create an atmosphere of scholarly distinction which serves to attract additional funding. The principal of the endowment remains untouched while the interest is used to fund a faculty position and specific projects or research programs. Creation at UAB of a endowed chair in anesthesiology will recognize Dr. Habeeb for his contributions to the community, the state, and to medicine.

DEEDIE WRIGLEY HANCOCK

Mr. MCCAIN. Mr. President, I ask unanimous consent that a eulogy on behalf of Deedie Wrigley Hancock, a great Arizonan, be printed in the RECORD at this point.

There being no objection, the eulogy was ordered to be printed in the RECORD, as follows:

DEEDIE WRIGLEY HANCOCK EULOGY

(By Senator John McCain)

This world would be a better place if it had more people in it like Dorothy Wrigley Hancock, known to all as Deedie. Last June, this outstanding Arizonan and wife of Dr. Richard Hancock lost a courageous battle against cancer.

Deedie was a true lady in the best sense of the word. Though born to the wealth of the well-known Wrigley family of Chicago and Arizona, she showed the same interest and kindness to the lowliest stable hand as to the rich and powerful.

At the time of her death, Deedie was the owner and manager of Kaaba Arabian Enterprises of Scottsdale and was acknowledged throughout the world as one of its most outstanding breeders of Arabian horses, producing national and international champions. She even sold an Arabian to a Saudi Arabian prince. Her illness was the only thing that prevented her from going to Saudi Arabia to see how the horse was making out. It was her practice to always follow up on her Arabians after selling them.

Deedie rode horses before she learned to walk and taught her children, George, Misdee and Helen, to do the same. The tiny lady was a study in contrasts. She "retired" from the "Best Dressed in Chicago" list after topping it 10 years in a row. After turning to breeding full-time in 1969, she drove a tractor trailer so that she personally could transport her Arabians thousands of miles to horse shows all over the country. And she never hesitated to rise in the middle of the night in Scottsdale to assist in the birth of an Arabian.

Deedie had the distinction of being the first woman to serve as a governing member of the Arabian Horse Registry. She also was a founding member and director of the National Show Horse Registry.

Deedie's contributions to charity were personal as well as monetary. For instance, she counseled and found housing for Spanish-speaking immigrants for the Immigrant's Protective League, was a staff assistant of the American Red Cross and a board member of St. Luke's Hospital, the Phoenix Art Museum League, the Municipal Clerk's Educational Foundation and the Tersk Foundation.

Deedie's contributions to making the world a better place will live on as a standard to which all can aspire.

All Arizonans, indeed, all Americans are richer because of Deedie's life and contributions. We are all poorer at her loss. I extend my deepest sympathy to her friends, family and loved ones.

MEASURE TO BE PLACED ON THE CALENDAR—H.R. 5952

Mr. PRYOR. Mr. President, I ask unanimous consent that when the Senate receives from the House H.R. 5952, the prescription drug user fee bill, it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS' COMPENSATION RATE AMENDMENTS

Mr. PRYOR. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2322.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2322) entitled "An Act to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Compensation Rate Amendments of 1992".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DISABILITY COMPENSATION.

(a) 3.2 PERCENT INCREASE.—Section 1114 is amended—

(1) by striking out "$83" in subsection (a) and inserting in lieu thereof "$86";

(2) by striking out "$157" in subsection (b) and inserting in lieu thereof "$162";

(3) by striking out "$240" in subsection (c) and inserting in lieu thereof "$248";

(4) by striking out "$342" in subsection (d) and inserting in lieu thereof "$353";

(5) by striking out "$487" in subsection (e) and inserting in lieu thereof "$503";

(6) by striking out "$614" in subsection (f) and inserting in lieu thereof "$634";

(7) by striking out "$776" in subsection (g) and inserting in lieu thereof "$801";

(8) by striking out "$897" in subsection (h) and inserting in lieu thereof "$926";

(9) by striking out "$1,010" in subsection (i) and inserting in lieu thereof "$1,042";

(10) by striking out "$1,680" in subsection (j) and inserting in lieu thereof "$1,734";

(11) by striking out "$2,089" and "$2,927" in subsection (k) and inserting in lieu thereof "$2,156" and "$3,021", respectively;

(12) by striking out "$2,089" in subsection (l) and inserting in lieu thereof "$2,156";

(13) by striking out "$2,302" in subsection (m) and inserting in lieu thereof "$2,376";

(14) by striking out "$2,619" in subsection (n) and inserting in lieu thereof "$2,703";

(15) by striking out "$2,927" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$3,021";

(16) by striking out "$1,257" and "$1,872" in subsection (r) and inserting in lieu thereof "$1,297" and "$1,932", respectively; and

(17) by striking out "$1,879" in subsection (s) and inserting in lieu thereof "$1,939".

(b) SPECIAL RULE—The Secretary of Veterans Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 1115(1) is amended—

(1) by striking out "$100" in clause (A) and inserting in lieu thereof "$103";

(2) by striking out "$169" and '$52" in clause (B) and inserting in lieu thereof "$174" and "$54", respectively;

(3) by striking out "$69" and "$52" in clause (C) and inserting in lieu thereof "$71" and "$54", respectively;

(4) by striking out "$80" in clause (D) and inserting in lieu thereof "$83";

(5) by striking out "$185" in clause (E) and inserting in lieu thereof "$191"; and

(6) by striking out "$155" in clause (F) and inserting in lieu thereof "$160";

SEC. 4. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 1162 is amended by striking out "$452" and inserting in lieu thereof "$466".

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 1311 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	*Monthly rate*
	Monthly rate
E–1	*$636*
E–2	*655*
E–3	*673*
E–4	*715*
E–5	*734*
E–6	*750*
E–7	*786*
E–8	*831*
E–9	*[1]868*
W–1	*805*
W–2	*837*
W–3	*862*
W–4	*912*
O–1	*805*
O–2	*831*
O–3	*890*
O–4	*941*
O–5	*1,037*
O–6	*1,170*
O–7	*1,264*
O–8	*1,386*
O–9	*1,486*
O–10	*[2]1,631*

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $936.

"[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,747.";

(2) by striking out "$71" in subsection (b) and inserting in lieu thereof "$73";

(3) by striking out "$185" in subsection (c) and inserting in lieu thereof "$191"; and

(4) by striking out "$90" in subsection (d) and inserting in lieu thereof "$93".

SEC. 6. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) is amended—

(1) by striking out "$310" in clause (1) and inserting in lieu thereof "$320";

(2) by striking out "$447" in clause (2) and inserting in lieu thereof "$461";

(3) by striking out "$578" in clause (3) and inserting in lieu thereof "$596"; and

(4) by striking out "$578" and "$114" in clause (4) and inserting in lieu thereof "$596" and "$118", respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 1314 is amended—

(1) by striking out "$185" in subsection (a) and inserting in lieu thereof "$191";

(2) by striking out "$310" in subsection (b) and inserting in lieu thereof "$320"; and

(3) by striking out "$157" in subsection (c) and inserting in lieu thereof "$162".

SEC. 7. EFFECTIVE DATE FOR RATE INCREASES.

The amendments made by this Act shall take effect on December 1, 1992.

Amend the title so as to read: "An Act to amend title 38, United States Code, to increase, effective as of December 1, 1992, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.".

S. 2322, THE PROPOSED VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 1992

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I am very pleased that the Senate is considering S. 2322, the FY 1993 veterans' compensation-COLA bill. This measure would provide a cost-of-living adjustment in the rates of compensation paid to veterans with service-connected disabilities and the rates of dependency and indemnity compensation [DIC] paid to the survivors of veterans who died from service-connected conditions.

Mr. President, the Senate passed this measure by unanimous voice vote on July 28, 1992, the House passed its own COLA bill as a substitute to S. 2322 by a unanimous-consent voice vote on August 4, 1992. I am pleased that our colleagues in the House now have indicated they will agree to the Senate version.

Mr. President, we must attach the highest priority to meeting the Nation's responsibilities to these 2.2 million disabled veterans and 350,000 survivors of veterans who died as a result of their service. This is, and always has been, my No. 1 priority in veterans' affairs.

Through an annual COLA, we ensure that the value of these essential benefits is not eroded by inflation. Consistent with congressional practice over the past several years, the rates would increase by the same percentage as the increase in Social Security and VA pension benefits. The COLA would become effective on December 1, 1992, the same date that the increase for the other benefits takes effect.

The Congressional Budget Office estimated in February that the December 1, 1992, Social Security and VA-pension COLA will be 3.2 percent. The President's fiscal year 1993 budget estimated in January that the increase would be 3 percent. CBO estimates that a 3.2-percent COLA would cost $339 million in budget authority and $305 million in outlays over current law, but these costs already are included in the CBO and administration baselines for fiscal year 1993. Of course, the actual increase could be slightly different once the actual figure is calculated.

Mr. President, previous COLA legislation enacted by the Congress generally has specified the dollar amount by which each rate of disability compensation and DIC was increased. But this year, Congress is expected to adjourn before we know the inflation data that Congress uses to determine the COLA. Thus, we are proposing to enact the COLA—as we in the Senate originally proposed—be reference to the Social Security and VA-pension COLA. I expect that Congress will enact a technical bill early next year to codify the actual dollar amounts of the increased rates.

Mr. President, I express my appreciation to the distinguished ranking Republican member of the Senate committee, Mr. SPECTER, and all other members of the committee, as well as the chairman and ranking minority member of the House Committee on Veterans' Affairs, Mr. MONTGOMERY and Mr. STUMP, for their cooperation on this measure.

Mr. President, I also note the fine work of the committee staff members who worked on this legislation—on the minority staff, Quentin Kinderman, and Tom Roberts, and on the majority staff, Neil Koren, Michael Cogan, Bill Brew, and Ed Scott—and the House Committee on Veterans' Affairs staff—John Brizzi, Pat Ryan, and Mack Fleming for the majority and for the minority Sue Forrest and Carl Commenator.

Mr. President, I urge my colleagues the Senate to approve to this measure unanimously.

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate concur in the amendments of the House with a substitute amendment which contains the text of S. 2322 as passed by the Senate which I now send to the desk on behalf of Senator CRANSTON of California.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

AMENDMENT NO. 3154

(Purpose: To increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans)

The Senator from Arkansas [Mr. PRYOR], for Mr. CRANSTON, proposes an amendment numbered 3154.

Mr. PRYOR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1992".

SEC. 2. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1992, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2)(A) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Rate Amendments of 1991 (Public Law 102–152; 105 Stat. 985). The increase shall be made in such rates and limitations as in effect on November 30, 1992, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1992, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph (A), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (2 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 214(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1992, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2)(A) as increased under this section.

The PRESIDING OFFICER. Without objection, the unanimous consent request is agreed to.

Mr. PRYOR. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE REFERRED TO COMMITTEE ON FINANCE—S. 2323

Mr. PRYOR. Mr. President, I ask unanimous consent that calendar No. 639, S. 2323, relating to compensation payable to surviving spouses of service-disabled veterans be referred to the Committee on Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS' SURVIVORS' BENEFITS IMPROVEMENT ACT OF 1992

Mr. PRYOR. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 2323, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2323) to amend title 38, United States Code, to revise the rates of dependency and indemnity compensation payable to surviving spouses of certain service-disabled veterans, to provide supplemental service-disabled veterans' insurance for totally disabled veterans, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause, and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Survivors' Benefits Improvement Act of 1992".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. REVISION OF RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES OF VETERANS.

(a) DEATHS OF VETERANS BEFORE DECEMBER 1, 1992.—Subsection (a) of section 1311 is amended—

(1) by inserting "(1)" before "Dependency"; and

(2) by inserting at the end the following new paragraphs:

"(2) Subject to subsections (b) through (d) and except as provided in paragraph (3), dependency and indemnity compensation shall be paid to surviving spouses of veterans whose deaths

occur before December 1, 1992, at the rates provided in paragraph (1).

"(3) Each surviving spouse referred to in paragraph (2) for whom the rate of dependency and indemnity compensation payable under subsection (e)(2) exceeds the rate of such compensation payable under paragraph (1) shall be paid dependency and indemnity compensation at the rate specified in subsection (e)(2).".

(b) DEATHS ON OR AFTER DECEMBER 1, 1992.—Section 1311 is amended by adding at the end the following new subsections:

"(e)(1) Subject to subsections (b) through (d), the monthly rates of dependency and indemnity compensation payable for deaths occurring on or after December 1, 1992, shall be determined under this subsection.

"(2) Subject to paragraph (3), the monthly amount of dependency and indemnity compensation payable to the surviving spouse of a deceased veteran under this paragraph shall be the sum of $725 and the greater of—

"(A) an amount, if any, equal to—

"(i) in the case of a veteran having a disability rated as total (including a veteran so rated on the basis of the veteran's individual unemployability) for a total of ten or more years before the date of the veterans death, $200;

"(ii) in the case of a veteran having a disability so rated for a total of five years or more but less than ten years, $150;

"(iii) in the case of a veteran having a disability so rated for a total of one year or more but less than five years, $50; or

"(iv) in the case of a veteran having a disability so rated for less than one year, $0; or

"(B) an amount, if any, equal to—

"(i) in the case of a veteran who completed a period of active military, naval, or air service of thirty years or more, $100;

"(ii) in the case of a veteran who completed a period of such service of twenty years or more but less than thirty years, $70;

"(iii) in the case of a veteran who completed a period of such service of ten years or more but less than twenty years, $40; or

"(iv) in the case of a veteran who completed a period of such service of five years or more but less than ten years, $20.

"(3) In determining the period of a veteran's disability under subparagraph (A) of paragraph (2), only periods in which the veteran was married to the surviving spouse referred to in that paragraph shall be taken into account.

"(f) Dependency and indemnity compensation shall be paid to a surviving spouse for the first full calendar month following the death of a veteran in an amount that is the greater of—

"(1) 50 percent of the amount of compensation under chapter 11 of this title which the veteran received or was entitled to receive for the last full month prior to the date of the veteran's death; and

"(2) the amount payable in the case of such veteran pursuant to subsection (e)(2).".

(c) ADDITIONAL DIC FOR CHILDREN.—(1) Section 1311(b) is amended by striking out "$71 for each such child" and inserting in lieu thereof "$100 for each such child during fiscal year 1993, $150 for each such child during fiscal year 1994, and $200 for each such child during each fiscal year thereafter".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1992.

(d) PAYMENT FOR IMPLEMENTATION OF REVISIONS.—The costs of implementing, during fiscal year 1993, any revisions in the payment of dependency and indemnity compensation to surviving spouses under section 1311 of title 38, United States Code that result from the amendments made by subsections (a) and (b) shall be paid from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

SEC. 3. STUDY AND REPORT RELATING TO THE PROVISION OF BENEFITS TO SURVIVORS OF VETERANS AND MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—In accordance with the provisions of this section, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives the report on the study and recommendations of the Commission on the Study of Survivor Benefits with respect to the most appropriate combination of financial, health-care, educational, and other survivor benefits to meet the needs of survivors.

(b) COMMISSION.—

(1) ESTABLISHMENT.—There is established a commission to be known as the "Commission on the Study of Survivor Benefits" (in this section referred to as the "Commission").

(2) MEMBERSHIP.—The Commission shall be composed of 7 members of whom—

(A) one shall be an appropriate representative of the Department of Veterans Affairs, determined and appointed by the Secretary of Veterans Affairs;

(B) one shall be appropriate representative of the Department of Defense, determined and appointed by the Secretary of Defense;

(C) one shall be a representative of a veterans service organization recognized by the Secretary of Veterans Affairs under section 5902 of title 38, United States Code;

(D) one shall be a representative of an organization that represents surviving spouses; and

(E) three shall be experts (as determined by the Secretary of Veterans Affairs) on matters relating to survivor benefits who are not affiliated with the departments or organizations referred to in subparagraphs (A) through (D).

(3) CHAIRPERSON.—The chairperson of the Commission shall be chosen by the members of the Commission from among the three experts referred to in paragraph (2)(E).

(4) INITIAL MEETING.—The Commission shall hold its first meeting not later than 60 days after the date of the enactment of this Act.

(c) DUTIES OF COMMISSION.—(1) The Commission shall—

(A) evaluate the data and studies assembled by the National Academy of Sciences (or other entity) under subparagraphs (A) and (B) of subsection (d)(1) in light of the methods of analysis proposed by the National Academy of Sciences (or other entity) under subparagraph (C) of that subsection;

(B) based upon that evaluation, determine the adequacy of current and anticipated survivor benefits to meet the financial, health-care, educational, and other needs of the survivors who are provided such benefits; and

(C) submit to the Secretary of Veterans Affairs a report containing the recommendations of the Commission on the most appropriate combination of financial, health-care, educational, and other benefits to meet the current and anticipated needs of survivors.

(2) The Commission shall submit the report required under paragraph (1)(C) not later than December 1, 1993.

(d) STUDY AND REPORT OF PROVISION OF BENEFITS.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall enter into an agreement with the National Academy of Sciences (or other entity determined by the Secretary to have an expertise and objectivity that is similar to that of the National Academy of Sciences) pursuant to which agreement the National Academy of Sciences (or other entity) shall carry out and submit to the Chairperson of the Commission the study described by paragraph (2).

(2) The study required under paragraph (1) shall include the following:

(A) A review and compilation of data on current and proposed survivor benefits programs that will permit an assessment of the adequacy of such benefits programs, including information on—

(i) in the case of each current and proposed alternative survivor benefits program—

(I) each benefit provided;

(II) the survivors entitled to the benefit;

(III) the extent to which survivors are entitled to similar benefits under the program; and

(IV) the costs of providing such benefits under the program;

(ii) the extent to which current and anticipated benefits under current survivor benefits programs meet the current and anticipated financial, health-care, educational, and other needs of survivors; and

(iii) the differences, if any, in the survivor benefits provided under current and proposed survivor benefits programs to survivors of various categories of veterans and members of the Armed Forces (including survivors of veterans having service-connected disabilities, veterans without such disabilities, members of the Armed Forces who die during service in the Armed Forces, retired career members of the Armed Forces, and retired non-career members of the Armed Forces).

(B) A review and compilation of existing studies on the adequacy of survivor benefits provided under current and proposed survivor benefits programs to meet the financial, health-care, educational, and other needs of survivors.

(C) Recommendations relating to the data required for, and the methods of analysis appropriate to carry out, a comprehensive assessment and evaluation of the adequacy of current and proposed survivor benefits programs, including data and methods for an assessment and evaluation of—

(i) the feasibility and desirability of limiting the period of entitlement of survivors to survivor benefits;

(ii) the feasibility and desirability of modifying the provision of monetary benefits to survivors by—

(I) revising the term of payment of any such benefits;

(II) replacing the periodic payment of such benefits with a lump sum payment;

(III) providing such benefits through insurance or other premium-based payment mechanisms; or

(IV) carrying out any other revision or modification proposed before the date of the enactment of this Act by the Secretary of Veterans Affairs, the Secretary of Defense, the Secretary of Health and Human Services, or organizations recognized by the Secretary of Veterans Affairs under section 5902(a)(1) of title 38, United States Code;

(iii) the feasibility and desirability of modifying the provision of health-care benefits to survivors;

(iv) the feasibility and desirability of modifying the provision of benefits to children survivors; and

(v) the feasibility and desirability of consolidating, expanding, or otherwise modifying any program relating to the provision of survivor benefits.

(3) Not later than October 1, 1993, the National Academy of Sciences (or other entity) shall submit to the Chairperson of the Commission a report on the study required under paragraph (2). The report shall contain the matters described in that paragraph and any other matters with respect to survivor benefits that the National Academy of Sciences determines appropriate.

(e) REPORT OF THE SECRETARY OF VETERANS AFFAIRS.—(1) Not later than March 1, 1994, the Secretary of Veterans Affairs shall submit to the committees referred to in subsection (a) a report on the report submitted to the Secretary by the

Commission under subsection (c). The report of the Secretary shall include the following:

(A) The report submitted to the Secretary by the Commission, together with the comments of the Secretary thereon.

(B) The recommendations of the Secretary (including a proposal for legislation) on the most appropriate combination of survivor benefits to meet the current and anticipated financial, health-care, educational, and other needs of survivors.

(C) The comments and recommendations of the Secretary on such other matters relating to survivor benefits as the Secretary determines appropriate.

(2) In preparing the report required under this subsection, the Secretary shall permit at least one opportunity for meaningful public comment on the matters covered by the report.

(f) PRESERVATION OF CONFIDENTIALITY.—To the maximum extent practicable, the Secretary of Veterans Affairs shall ensure that the study carried out by the National Academy of Sciences (or other entity) under subsection (c), the report submitted by the Commission under subsection (d), and the report submitted by the Secretary under subsection (e) are carried out and submitted in a manner that is consistent with the privacy rights and interests of the survivors covered by such study and reports.

(g) FUNDING.—The cost of carrying out the study required under subsection (c) and the report required under subsection (d) shall be paid from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

(h) DEFINITIONS.—In this section:

(1) The term "survivor", in the case of a veteran or member of the Armed Forces who dies, means the surviving spouse or surviving dependent child of the veteran or member.

(2) The term "survivor benefit" means any monetary, health-care, educational, or other benefit paid, payable, or otherwise provided to survivors of veterans and survivors of members of the Armed Forces under the following:

(A) Laws administered by the Secretary of Veterans Affairs.

(B) Laws administered by the Secretary of Defense.

(C) The Social Security Act (42 U.S.C. 301 et seq.).

(3) The term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

SEC. 4. SUPPLEMENTAL SERVICE DISABLED VETERANS' INSURANCE FOR TOTALLY DISABLED VETERANS.

(a) IN GENERAL.—Subchapter I of chapter 19 is amended by inserting after section 1922 the following new section:

"§1922A. Supplemental service disabled veterans' insurance for totally disabled veterans

"(a) Any person insured under section 1922(a) of this title who qualifies for a waiver of premiums under section 1912 of this title is eligible, as provided in this section, for supplemental insurance in an amount not to exceed $20,000.

"(b) To qualify for supplemental insurance under this section a person must file with the Secretary an application for such insurance not later than the end of (1) the one-year period beginning on the first day of the first month following the month in which this section is enacted, or (2) the one-year period beginning on the date that the Department notifies the person that the person is entitled to a waiver of premiums under section 1912 of this title.

"(c) Supplemental insurance granted under this section shall be granted upon the same terms and conditions as insurance granted under section 1922(a) of this title, except that such insurance may not be granted to a person under this section unless the application is made for such insurance before the person attains 65 years of age.

"(d) No wavier of premiums shall be made in the case of any person for supplemental insurance granted under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 1922 the following new item:

"1922A. Supplemental service disabled veterans' insurance for totally disabled veterans.".

SEC. 5. INCREASE IN AMOUNT OF VETERANS' MORTGAGE LIFE INSURANCE.

(a) INCREASE.—Section 2106(b) is amended in the first sentence—

(1) by striking out "initial"; and

(2) by striking out "$40,000" and inserting in lieu thereof "$90,000".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 21 is amended by striking out the item relating to section 2106 and inserting in lieu thereof the following:

"2106. Veterans' Mortgage Life Insurance.".

SEC. 6. REDUCTION IN PENSION FOR VETERANS AND VETERANS' SURVIVORS WHO ARE RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) REDUCTION IN PENSION.—Paragraph (2) of section 5503(f) is amended to read as follows:

"(2)(A) Not more than $90 per month may be paid under chapter 15 of this title to or for any person described in subparagraph (B) for any period that a nursing facility furnishes such person with services covered by a Medicaid plan. The restriction in the preceding sentence applies to periods after the month of the person's admission to the nursing facility.

"(B) A person referred to in subparagraph (A) is a person—

"(i) who is covered by a Medicaid plan for services furnished such person by a nursing facility; and

"(ii) who is (I) a veteran who has neither spouse nor child, or (II) a surviving spouse who has no child.".

(b) CONFORMING AMENDMENTS.—Section 5503(f) is amended—

(1) in paragraph (3)—

(A) by striking out "a veteran" and inserting in lieu thereof "a person referred to in paragraph (2)(A)"; and

(B) by striking out "such veteran under paragraph (2) of this subsection" and inserting in lieu thereof "such person under such paragraph"; and

(2) in paragraph (4)—

(A) by striking out "A veteran" and inserting in lieu thereof "A person referred to in paragraph (2)(A)";

(B) by striking out "the veteran" both places it appears and inserting in lieu thereof "the person"; and

(C) by striking out "the veteran's" and inserting in lieu thereof "the person's".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on July 1, 1992, and apply with respect to months after June 1992.

(d) DELETION OF EXPIRATION DATE.—Section 5503(f) is amended by striking out paragraph (6).

SEC. 7. PERMANENT AUTHORITY TO CARRY OUT INCOME VERIFICATION.

(a) TITLE 38.—Section 5317 is amended by striking out subsection (g).

(b) INTERNAL REVENUE CODE OF 1986.—Section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 is amended by striking out the second sentence of the flush material.

(c) TECHNICAL AMENDMENTS.—Section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 is amended—

(1) in subclause (II), by striking out "415" and inserting in lieu thereof "1315"; and

(2) in subclause (III), by striking out "610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B)" and inserting in lieu thereof "1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)".

AMENDMENT NO. 3155

(Purpose: To limit the amount of costs of the implementation of compensation reform that are payable in fiscal year 1993 from amounts available for the payment of compensation and pension)

Mr. PRYOR. Mr. President, I send an amendment to the desk on behalf of Mr. CRANSTON and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for Mr. CRANSTON, proposes an amendment numbered 3155.

Mr. PRYOR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 12, strike out "The cost" and insert in lieu thereof "(1) Subject to paragraph (2), the cost".

On page 13, between lines 18 and 19, insert the following new paragraph:

(2) The amount paid under paragraph (1) in fiscal year 1993 from amounts available to the Department of Veterans Affairs for the payment of compensation and pension may not exceed $5,000,000.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3155) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time.

DEPENDENCY AND INDEMNITY COMPENSATION REFORM ACT OF 1992

Mr. PRYOR. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of H.R. 5008 relating to compensation to veterans' spouses and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5008) to amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, to increase the rate of payments for benefits under the Montgomery GI bill, and for other purposes.

AMENDMENT NO. 3156

(Purpose: To revise the rates of dependency and indemnity compensation payable to surviving spouses of certain service-disabled veterans, to provide for a study of the provision of benefits to survivors of veterans, and to provide supplemental service disabled veterans' insurance for totally disabled veterans)

Mr. INOUYE. Mr. President, on behalf of Senator CRANSTON, I send the text of S. 2323, as amended, in the form of an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for Mr. CRANSTON, proposes an amendment numbered 3156.

Mr. PRYOR. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, strike out line 3 and all that follows through page 12, line 18, and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Survivors' Benefits Improvement Act of 1992".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. REVISION OF RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES OF VETERANS.

(a) DEATHS OF VETERANS BEFORE DECEMBER 1, 1992.—Subsection (a) of section 1311 is amended—

(1) by inserting "(1)" before "Dependency"; and

(2) by inserting at the end the following new paragraphs:

"(2) Subject to subsections (b) through (d) and except as provided in paragraph (3), dependency and indemnity compensation shall be paid to surviving spouses of veterans whose deaths occur before December 1, 1992, at the rates provided in paragraph (1).

"(3) Each surviving spouse referred to in paragraph (2) for whom the rate of dependency and indemnity compensation payable under subsection (e)(2) exceeds the rate of such compensation payable under paragraph (1) shall be paid dependency and indemnity compensation at the rate specified in subsection (e)(2).".

(b) DEATHS ON OR AFTER DECEMBER 1, 1992.—Section 1311 is amended by adding at the end the following new subsections:

"(e)(1) Subject to subsections (b) through (d), the monthly rates of dependency and indemnity compensation payable for deaths occurring on or after December 1, 1992, shall be determined under this subsection.

"(2) Subject to paragraph (3), the monthly amount of dependency and indemnity compensation payable to the surviving spouse of a deceased veteran under this paragraph shall be the sum of $725 and the greater of—

"(A) an amount, if any, equal to—

"(i) in the case of a veteran having a disability rated as total (including a veteran so rated on the basis of the veteran's individual unemployability) for a total of ten or more years before the date of the veterans death, $200;

"(ii) in the case of a veteran having a disability so rated for a total of five years or more but less than ten years, $150;

"(iii) in the case of a veteran having a disability so rated for a total of one year or more but less than five years, $50; or

"(iv) in the case of a veteran having a disability so rated for less than one year, $0; or

"(B) an amount, if any, equal to—

"(i) in the case of a veteran who completed a period of active military, naval, or air service of thirty years or more, $100;

"(ii) in the case of a veteran who completed a period of such service of twenty years or more but less than thirty years, $70;

"(iii) in the case of a veteran who completed a period of such service of ten years or more but less than twenty years, $40; or

"(iv) in the case of a veteran who completed a period of such service of five years or more but less than ten years, $20.

"(3) In determining the period of a veteran's disability under subparagraph (A) of paragraph (2), only periods in which the veteran was married to the surviving spouse referred to in that paragraph shall be taken into account.

"(f) Dependency and indemnity compensation shall be paid to a surviving spouse for the first full calendar month following the death of a veteran in an amount that is the greater of—

"(1) 50 percent of the amount of compensation under chapter 11 of this title which the veteran received or was entitled to receive for the last full month prior to the date of the veteran's death; and

"(2) the amount payable in the case of such veteran pursuant to subsection (e)(2).".

(c) ADDITIONAL DIC FOR CHILDREN.—(1) Section 1311(b) is amended by striking out "$71 for each such child" and inserting in lieu thereof "$100 for each such child during fiscal year 1993, $150 for each such child during fiscal year 1994, and $200 for each such child during each fiscal year thereafter".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1992.

(d) PAYMENT FOR IMPLEMENTATION OF REVISIONS.—(1) Subject to paragraph (2), the costs of implementing, during fiscal year 1993, any revisions in the payment of dependency and indemnity compensation to surviving spouses under section 1311 of title 38, United States Code that result from the amendments made by subsections (a) and (b) shall be paid from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

(2) The amount paid under paragraph (1) in fiscal year 1993 from amounts available to the Department of Veterans Affairs for the payment of compensation and pension may not exceed $5,000,000.

SEC. 3. STUDY AND REPORT RELATING TO THE PROVISION OF BENEFITS TO SURVIVORS OF VETERANS AND MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—In accordance with the provisions of this section, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives the report on the study and recommendations of the Commission on the Study of Survivor Benefits with respect to the most appropriate combination of financial, health-care, educational, and other survivor benefits to meet the needs of survivors.

(b) COMMISSION.—(1) There is established a commission to be known as the "Commission on the Study of Survivor Benefits" (in this section referred to as the "Commission").

(2) The Commission shall be composed of 7 members of whom—

(A) one shall be an appropriate representative of the Department of Veterans Affairs, determined and appointed by the Secretary of Veterans Affairs;

(B) one shall be appropriate representative of the Department of Defense, determined and appointed by the Secretary of Defense;

(C) one shall be a representative of a veterans service organization recognized by the Secretary of Veterans Affairs under section 5902 of title 38, United States Code;

(D) one shall be a representative of an organization that represents surviving spouses; and

(E) three shall be experts (as determined by the Secretary of Veterans Affairs) on matters relating to survivor benefits who are not affiliated with the departments or organizations referred to in subparagraphs (A) through (D).

(3) The chairperson of the Commission shall be chosen by the members of the Commission from among the three experts referred to in paragraph (2)(E).

(4) The Commission shall hold its first meeting not later than 60 days after the date of the enactment of this Act.

(c) DUTIES OF COMMISSION.—(1) The Commission shall—

(A) evaluate the data and studies assembled by the National Academy of Sciences (or other entity) under subparagraphs (A) and (B) of subsection (d)(1) in light of the methods of analysis proposed by the National Academy of Sciences (or other entity) under subparagraph (C) of that subsection;

(B) based upon that evaluation, determine the adequacy of current and anticipated survivor benefits to meet the financial, health-care, educational, and other needs of the survivors who are provided such benefits; and

(C) submit to the Secretary of Veterans Affairs a report containing the recommendations of the Commission on the most appropriate combination of financial, health-care, educational, and other benefits to meet the current and anticipated needs of survivors.

(2) The Commission shall submit the report required under paragraph (1)(C) not later than December 1, 1993.

(d) STUDY AND REPORT OF PROVISION OF BENEFITS.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall enter into an agreement with the National Academy of Sciences (or other entity determined by the Secretary to have an expertise and objectivity that is similar to that of the National Academy of Sciences) pursuant to which agreement the National Academy of Sciences (or other entity) shall carry out and submit to the Chairperson of the Commission the study described by paragraph (2).

(2) The study required under paragraph (1) shall include the following:

(A) A review and compilation of data on current and proposed survivor benefits programs that will permit an assessment of the adequacy of such benefits programs, including information on—

(i) in the case of each current and proposed alternative survivor benefits program—

(I) each benefit provided;

(II) the survivors entitled to the benefit;

(III) the extent to which survivors are entitled to similar benefits under the program; and

(IV) the costs of providing such benefits under the program;

(ii) the extent to which current and anticipated benefits under current survivor benefits programs meet the current and anticipated financial, health-care, educational, and other needs of survivors; and

(iii) the differences, if any, in the survivor benefits provided under current and proposed survivor benefits programs to survivors of various categories of veterans and members of the Armed Forces (including survivors of veterans having service-connected disabilities, veterans without such disabilities, members of the Armed Forces who die during service in the Armed Forces, retired career members of the Armed Forces, and retired non-career members of the Armed Forces).

(B) A review and compilation of existing studies on the adequacy of survivor benefits provided under current and proposed survivor benefits programs to meet the financial, health-care, educational, and other needs of survivors.

(C) Recommendations relating to the data required for, and the methods of analysis appropriate to carry out, a comprehensive assessment and evaluation of the adequacy of current and proposed survivor benefits programs, including data and methods for an assessment and evaluation of—

(i) the feasibility and desirability of limiting the period of entitlement of survivors to survivor benefits;

(ii) the feasibility and desirability of modifying the provision of monetary benefits to survivors by—

(I) revising the term of payment of any such benefits;

(II) replacing the periodic payment of such benefits with a lump sum payment;

(III) providing such benefits through insurance or other premium-based payment mechanisms; or

(IV) carrying out any other revision or modification proposed before the date of the enactment of this Act by the Secretary of Veterans Affairs, the Secretary of Defense, the Secretary of Health and Human Services, or organizations recognized by the Secretary of Veterans Affairs under section 5902(a)(1) of title 38, United States Code;

(iii) the feasibility and desirability of modifying the provision of health-care benefits to survivors;

(iv) the feasibility and desirability of modifying the provision of benefits to children survivors; and

(v) the feasibility and desirability of consolidating, expanding, or otherwise modifying any program relating to the provision of survivor benefits.

(3) Not later than October 1, 1993, the National Academy of Sciences (or other entity) shall submit to the Chairperson of the Commission a report on the study required under paragraph (2). The report shall contain the matters described in that paragraph and any other matters with respect to survivor benefits that the National Academy of Sciences determines appropriate.

(e) REPORT OF THE SECRETARY OF VETERANS AFFAIRS.—(1) Not later than March 1, 1994, the Secretary of Veterans Affairs shall submit to the committees referred to in subsection (a) a report on the report submitted to the Secretary by the Commission under subsection (c). The report of the Secretary shall include the following:

(A) The report submitted to the Secretary by the Commission, together with the comments of the Secretary thereon.

(B) The recommendations of the Secretary (including a proposal for legislation) on the most appropriate combination of survivor benefits to meet the current and anticipated financial, health-care, educational, and other needs of survivors.

(C) The comments and recommendations of the Secretary on such other matters relating to survivor benefits as the Secretary determines appropriate.

(2) In preparing the report required under this subsection, the Secretary shall permit at least one opportunity for meaningful public comment on the matters covered by the report.

(f) PRESERVATION OF CONFIDENTIALITY.—To the maximum extent practicable, the Secretary of Veterans Affairs shall ensure that the study carried out by the National Academy of Sciences (or other entity) under subsection (c), the report submitted by the Commission under subsection (d), and the report submitted by the Secretary under subsection (e) are carried out and submitted in a manner that is consistent with the privacy rights and interests of the survivors covered by such study and reports.

(g) FUNDING.—The cost of carrying out the study required under subsection (c) and the report required under subsection (d) shall be paid from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

(h) DEFINITIONS.—In this section:

(1) The term "survivor", in the case of a veteran or member of the Armed Forces who dies, means the surviving spouse or surviving dependent child of the veteran or member.

(2) The term "survivor benefit" means any monetary, health-care, educational, or other benefit paid, payable, or otherwise provided to survivors of veterans and survivors of members of the Armed Forces under the following:

(A) Laws administered by the Secretary of Veterans Affairs.

(B) Laws administered by the Secretary of Defense.

(C) The Social Security Act (42 U.S.C. 301 et seq.).

(3) The term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

SEC. 4. SUPPLEMENTAL SERVICE DISABLED VETERANS' INSURANCE FOR TOTALLY DISABLED VETERANS.

(a) IN GENERAL.—Subchapter I of chapter 19 is amended by inserting after section 1922 the following new section:

"§ 1922A. Supplemental service disabled veterans' insurance for totally disabled veterans

"(a) Any person insured under section 1922(a) of this title who qualifies for a waiver of premiums under section 1912 of this title is eligible, as provided in this section, for supplemental insurance in an amount not to exceed $20,000.

"(b) To qualify for supplemental insurance under this section a person must file with the Secretary an application for such insurance not later than the end of (1) the one-year period beginning on the first day of the first month following the month in which this section is enacted, or (2) the one-year period beginning on the date that the Department notifies the person that the person is entitled to a waiver of premiums under section 1912 of this title.

"(c) Supplemental insurance granted under this section shall be granted upon the same terms and conditions as insurance granted under section 1922(a) of this title, except that such insurance may not be granted to a person under this section unless the application is made for such insurance before the person attains 65 years of age.

"(d) No wavier of premiums shall be made in the case of any person for supplemental insurance granted under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 1922 the following new item:

"1922A. Supplemental service disabled veterans' insurance for totally disabled veterans.".

SEC. 5. INCREASE IN AMOUNT OF VETERANS' MORTGAGE LIFE INSURANCE.

(a) INCREASE.—Section 2106(b) is amended in the first sentence—

(1) by striking out "initial"; and

(2) by striking out "$40,000" and inserting in lieu thereof "$90,000".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 21 is amended by striking out the item relating to section 2106 and inserting in lieu thereof the following:

"2106. Veterans' Mortgage Life Insurance.".

SEC. 6. REDUCTION IN PENSION FOR VETERANS AND VETERANS' SURVIVORS WHO ARE RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) REDUCTION IN PENSION.—Paragraph (2) of section 5503(f) is amended to read as follows:

"(2)(A) Not more than $90 per month may be paid under chapter 15 of this title to or for any person described in subparagraph (B) for any period that a nursing facility furnishes such person with services covered by a Medicaid plan. The restriction in the preceding sentence applies to periods after the month of the person's admission to the nursing facility.

"(B) A person referred to in subparagraph (A) is a person—

"(i) who is covered by a Medicaid plan for services furnished such person by a nursing facility; and

"(ii) who is (I) a veteran who has neither spouse nor child, or (II) a surviving spouse who has no child.".

(b) CONFORMING AMENDMENTS.—Section 5503(f) is amended—

(1) in paragraph (3)—

(A) by striking out "a veteran" and inserting in lieu thereof "a person referred to in paragraph (2)(A)"; and

(B) by striking out "such veteran under paragraph (2) of this subsection" and inserting in lieu thereof "such person under such paragraph"; and

(2) in paragraph (4)—

(A) by striking out "A veteran" and inserting in lieu thereof "A person referred to in paragraph (2)(A)";

(B) by striking out "the veteran" both places it appears and inserting in lieu thereof "the person"; and

(C) by striking out "the veteran's" and inserting in lieu thereof "the person's".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on July 1, 1992, and apply with respect to months after June 1992.

(d) DELETION OF EXPIRATION DATE.—Section 5503(f) is amended by striking out paragraph (6).

SEC. 7. PERMANENT AUTHORITY TO CARRY OUT INCOME VERIFICATION.

(a) TITLE 38.—Section 5317 is amended by striking out subsection (g).

(b) INTERNAL REVENUE CODE OF 1986.—Section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 is amended by striking out the second sentence of the flush material.

(c) TECHNICAL AMENDMENTS.—Section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 is amended—

(1) in subclause (II), by striking out "415" and inserting in lieu thereof "1315"; and

(2) in subclause (III), by striking out "610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B)" and inserting in lieu thereof "1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)".

On page 12, line 19, strike out "**304.**" and insert in lieu thereof "**8.**".

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I urge my colleagues to support S. 2323, the proposed Veterans' Survivors' Benefits Improvement Act of 1992, as reported by our committee on August 12, 1992, with a minor revision contained in a noncontroversial committee modification that I am submitting today. The reported measure, which I will refer to as the committee bill, would revise VA's system of dependency and indemnity compensation [DIC], require VA to conduct a study to determine the adequacy of veterans' survivor benefits, increase certain VA insurance benefits, and extend two cost-saving provisions from the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, and expand one of those provisions.

Mr. President, under current law, VA pays DIC to the survivors of service members or veterans who died from a disease or injury incurred or aggravated during military service. Survivors eligible for DIC include surviving spouses, unmarried children under the age of 18, certain helpless children age 18 or older, and children between the ages of 18 and 23 who are enrolled in school. As of May 1992, VA was paying DIC benefits to, or on behalf of, 275,857 surviving spouses, and 37,628 children. The basic purpose of the committee bill is to reform the DIC Program for these most deserving surviving spouses and children.

Mr. President, the committee bill is derived from S. 2323 as introduced and an amendment offered by the committee's ranking minority member, Senator ARLEN SPECTER, at the committee's June 24, 1992, meeting. Since the provisions of the committee bill are described in detail in the committee's report accompanying this measure, Senate Report No. 102-376, I will summarize the bill and briefly discuss certain provisions.

SUMMARY OF PROVISIONS

Mr. President, the committee bill would:

First, provide eligible surviving spouses with a basic DIC rate of $725 a month, plus additional amounts I will describe, in recognition of either the length of time the veteran was totally disabled while married to the surviving spouse, or the length of the veteran's service, whichever factor would provide greater benefits.

Second, provide additional monthly DIC based on the length of time during which the veteran was rated 100-percent disabled while married to the surviving spouse, as follows: Survivors of veterans rated at 100 percent for at least 1 year but less than 5 years while married to the veteran would qualify for an additional $50 a month, and the add on would increase to $150 for periods of at least 5 years but less than 10 years and to $200 for periods of at least 10 years.

Third, provide additional monthly DIC based on the length of the deceased veteran's military service, as follows: For 30 or more years of service, the surviving spouse would receive an add on of $100 a month; for at least 20 but less than 30 years of service, an additional $70 a month; for at least 10 but less than 20 years, $40 a month; and for at least 5 but less than 10 years, $20 a month.

Fourth, provide a special transitional rate of DIC for the month after the veteran's death, equal to either 50 percent of the disability compensation paid to the deceased veteran for the last full month before the veteran's death or the amount of DIC calculated under the new DIC provisions, whichever is greater.

Fifth, apply the new provisions to DIC paid to all eligible surviving spouses of veterans who died on or after December 1, 1992, and provide that surviving spouses of veterans who died before that date would receive the greater of their DIC payments under current law or the amount calculated under the new provisions.

Sixth, increase the additional amount payable to a surviving spouse with dependent children of the deceased veteran from the current level of $71 a month for each child to $100 per month beginning on December 1, 1993, to $150 a month during fiscal year 1994, and to $200 a month after fiscal year 1994.

Seventh, provide eligibility for up to $20,000 in additional service disabled veterans' insurance [SDVI] at regular premium rates, for totally disabled veterans who qualify for a waiver of premiums for the first $10,000 of SDVI.

Eighth, increase from $40,000 to $90,000 the maximum veterans' mortgage life insurance, which is paid to the survivors of certain veterans who had service-connected disabilities rated totally disabling.

Ninth, establish a Commission on the Study of Survivor Benefits to determined the adequacy of current and anticipated benefits to meet the financial, health care, educational, and other needs of survivors of those who die on active duty or as a result of a service-connected disability.

Tenth, require that the Commission be comprised of representatives of both the veteran and nonveteran communities, and rely in part on a separate study conducted by the National Academy of Sciences [NAS], or similar organization, under contract with the Secretary of Veterans Affairs.

Eleventh, require that: The NAS study compile and analyze relevant data for the use of the Commission and be submitted to the Commission by October 1, 1993; the Commission report to the Secretary of Veterans Affairs not later than December 1, 1993; the Secretary report to the Senate and House Committees on Veterans' Affairs not later than March 1, 1994.

Twelfth, make permanent the provision limiting pension payments to $90 a month for Medicaid-eligible veterans receiving VA needs-based pension who have no dependents and who are in nursing homes participating in Medicaid.

Thirteenth, expand the nursing home pension-reduction provision to cover similarly situated veterans' survivors who receive VA pension.

Fourteenth, make permanent the authority for VA to verify eligibility for needs-based benefits using income data from the Social Security Administration and the Internal Revenue Service.

Fifteenth, provide for the costs of implementing DIC reform in fiscal year 1993—which are estimated to be $5 million—to be paid from VA's compensation and pension account, thereby avoiding the imposition of a burden on general operating expenses account funding for the Veterans Benefits Administration.

The committee modification would expressly limit to $5 million the funds to be paid from VA's compensation and pension account for implementation of DIC reform in fiscal year 1993.

BACKGROUND

Mr. President, the surviving spouses of those who die from service-connected causes receive DIC at rates determined by the pay grade—service rank—of the deceased veteran. A surviving spouse also may receive additional allowances on behalf of the veteran's surviving children.

Mr. President, during the current Congress, the revision of the DIC programs has received extensive consideration. Veterans organizations agree that the current system is inequitable and needs reform. All of the veterans organizations that testified at the committee's March 20, 1992, hearing on S. 2323 as introduced agreed that the current DIC program does not provide compensation in an equitable manner.

In light of the widespread dissatisfaction with the current system, the President's fiscal year 1992 budget included a proposal to reform DIC. Last year, the House Committee on Veterans' Affairs added to H.R. 1175, the Persian Gulf war supplemental authorization bill, a DIC reform provision that is not included in the legislation enacted in Public Law 102-25. And, on August 10, 1992, the House passed a different version of DIC reform in H.R. 5008.

Mr. President, the present DIC system is based on the assumption that the service rank of the deceased veteran accurately reflects the financial resources that the veteran would have contributed to the surviving family if the veteran had not died from a service-connected condition or during service. But, most new DIC recipients are survivors of either veterans who died after serving in the military or noncareer enlisted personnel or junior officers whose military rank does not reflect their income potential in civilian life. Rank-based DIC payments for those survivors have little relation to the family's then current or expected standard of living at the time of the service member's or veteran's death.

Mr. President, the current system also fails to consider the length and severity of a veteran's disability. Spouses of totally disabled veterans often devote much of their lives to helping to care for the veteran, foregoing career and educational opportunities. These survivors depend much more on DIC to maintain their standard of living.

Moreover, the current system also imposes severe financial hardship on a family facing the transition from long-term, relatively large disability compensation payments for totally disabled veterans to much smaller DIC payments for the veteran's surviving family.

For example, in one DIC case with which I am familiar, a 100-percent service-disabled, blinded veteran had received monthly compensation of $3,599. His wife passed up educational and career opportunities to help provide needed care for the veteran. When the veteran died, the compensation stopped and his surviving spouse became eligible for monthly DIC of just $635. After 41 years of marriage, the surviving spouse was forced to make dramatic and painful changes in lifestyle due to the reduced income and lack of alternatives for self-sufficiency that might have been available if she had not had to devote so much time to caring for her disabled husband.

Mr. President, under the current system, survivors of lowranking veterans receive inequitably low compensation. Moreover, the annual cost-of-living adjustments provided by Congress apply the same percentage increase for all DIC rates, thus producing greater dollar increases for surviving spouses of higher ranking officers and widening the disparity between spouses of higher ranking and lower ranking veterans.

COMMITTEE BILL

Mr. President, the committee bill was derived from a historic proposal presented to our committee and its counterpart in the House last year by a consortium of veterans and military organizations. The organizations included AMVETS, the Blinded Veterans of America, the Disabled American Veterans, the Non-Commissioned Officers Association, the Paralyzed American Veterans, The American Legion, and the Veterans of Foreign Wars.

The coalition incorporated the diverse views of its members into a comprehensive proposal based on three fundamental principles:

First, providing a uniform, minimum rate to all beneficiaries;

Second, providing an additional payment based on the veteran's disability; and

Third, providing an additional payment based on the veteran's length of service.

Mr. President, the committee bill satisfies these fundamental principles. It would provide each surviving spouse with a basic monthly rate of compensation of $725. An amendment to S. 2323 that I offered at the committee's July 24 meeting increased the basic rate from $650 in the bill as introduced to $725, in response to several witnesses' testimony that the $650 rate was inadequate and should be at least $700. The increased base rate is the highest rate possible within the committee's budget limitations, balancing the costs of the other DIC reform provisions.

This basic rate will help ensure that all surviving spouses receive appropriate, adequate compensation for the loss of the veteran's financial support. The basic rate in the committee bill is equivalent, on an inflation-adjusted basis, to the DIC that will be provided to survivors of veterans whose pay grade was E-5 in fiscal year 1993. Even without any additional DIC, the committee bill would increase compensation for over half of the survivors of veterans whose highest pay grade in service was in the enlisted ranks.

The additional DIC that the committee bill would provide—up to $200 a month based on the veteran's total disability—would reduce the large difference between the disability compensation provided to the veteran and DIC provided to the surviving spouse. I believe that the compensation provided to surviving spouses must recognize the continuing financial impact of the deceased veteran's disability.

The committee bill would provide an additional amount of DIC based on the length of the deceased veteran's military service, as the veterans groups recommended. Based on testimony at the committee's hearing by organizations representing surviving spouses of service members who died on active duty, the committee bill improves and expands on provisions in the bill as introduced by providing additional compensation based on length of the veteran's service.

Mr. President, groups representing survivors of service members who died on active duty testified at the committee's March 20 hearing that these survivors and survivors of veterans with a severe, long-term disability should be compensated equally. I believe that survivors of service members who die on active duty represent a very deserving, important segment of DIC beneficiaries. However, I do not believe, as these groups contended, that the survivors of those who die from service-connected disabilities after being discharged should be paid less DIC than the surviving spouse of those who die of service-connected disorders while serving on active duty.

DIC is provided as partial financial compensation for the loss of family income resulting from the untimely death of a service member or veteran as a result of his or her service to our country. I recognize that no Government benefit ever can compensate for the emotional loss of the veteran—a loss that every DIC recipient, by definition, has suffered. In developing this bill, I have not attempted to place relative values on the emotional losses of various categories of DIC recipients, but instead have focused on the financial consequences of the service member's or veteran's death, taking into account the probable financial impact of a long-term total disability and length of military service.

Mr. President, the bill we are considering today represents the product of over a year of very careful consideration of the issues involved. I have listened and responded to the concerns of all those involved with the DIC Program, including the veterans organizations, VA, members of the committee, organizations representing survivors of those who died on active duty, and military organizations. I am convinced that this bill represents a reasonable, fair, and long overdue reform of the DIC system.

Mr. President, it has been a pleasure to work with the distinguished ranking minority member of the committee, Senator SPECTER, on this measure and I am very grateful to him and the other members of the committee for their help and cooperation in developing this legislation. I express my appreciation to the staff who worked so hard on this legislation—on the minority side, Charlie Battaglia, Quentin Kinderman, and Tom Roberts; the committee's editorial director, Roy Smith; and on the majority staff, Neil Koren, Michael Cogan, Bill Brew, and Ed Scott.

Mr. President, I also am very grateful to the distinguished chairman of the Finance Committee, Mr. BENTSEN, for his excellent cooperation in arranging for prompt consideration of this measure. Consistent with Senator BENTSEN'S record of strong support for veterans and their families, he graciously agreed to an order referring the bill to the Finance Committee—because of that committee's shared jurisdiction over the provision involving the use of the IRS and Social Security Administration data to verify VA pension-income information—and to immediately discharge the Finance Committee from further consideration of the bill so that it could be acted upon by the full Senate today.

Mr. President, I am delighted that we have been able to develop a measure that will improve benefits for veterans' survivors and has the strong support of all the major veterans groups.

Mr. President, I urge all of my colleagues to support this important measure.

Mr. AKAKA. Mr. President, I rise in strong support of S. 2323, the Veterans Survivors Benefits Improvement Act of 1992, as reported from committee. This legislation would significantly reform the dependency and indemnity compensation [DIC] program of benefits for survivors of service members or veterans who died from a service-connected condition.

The DIC program is long overdue for change. Most veterans organizations agree that the current system is inequitable for two major reasons: First, current DIC payments are based on the deceased veteran's rank; second, they fail to recognize the financial hardships experienced by his or her survivors in making the transition from the higher payments made under disability compensation, particularly for a veteran who was in the enlisted ranks, to the smaller payments made to survivors under the DIC Program.

The legislation we are considering today would reduce the disparity in DIC payments that exists across the ranks, by creating a basic DIC rate of $725 for all surviving spouses, with add ons that recognize the length of time a veteran was 100 percent disabled while married or the length of the veteran's service. In addition, S. 2323 would help ease a spouse's or family's transition from disability compensation to DIC by providing a transitional rate of DIC for a month after the veteran's death.

Perhaps the best thing about this measure is that, aside from addressing inequities in the current DIC system, no survivors currently receiving DIC payments would suffer any reduction in benefits, and many would experience an increase. S. 2323 would give all DIC beneficiaries whose veteran spouses died before December 1 of this year the option to receive payments under either the current system or the new system proposed in this legislation, whichever are greater.

In closing, I would like to recognize the leadership of Senator CRANSTON, the chairman of the Veterans' Affairs Committee, in bringing this measure before us today. He and his staff—principally Ed Scott, Bill Brew, Michael Cogan, and Neil Koren—worked very hard in crafting the central features of this bill and in educating the Members of this body about the importance of reforming the DIC system.

Mr. President, I urge my colleagues to support this important legislation, which will result in fairer levels of compensation for the most deserving spouses and children of deceased veterans.

Mr. SPECTER. Mr. President, as ranking Republican member of the Committee on Veterans' Affairs, I am pleased to support passage of S. 2323.

This bill would provide relief to most of the survivors of service members and veterans who gave their lives for their country and to preserve our freedom. These survivors receive benefit payments under the Dependency and Indemnity Compensation [DIC] Program administered by the Department of Veterans Affairs.

Generally, this bill would replace the current system of benefit payments based on the military pay grade held by the servicemember or veteran. S. 2323 would establish a new system of payments whose central feature is a single base rate of $725 per month, resulting in immediate increases to the surviving spouses of those who served in the lower military pay grades. Those spouses, Mr. President, comprise more than half of those currently receiving DIC.

In addition, S. 2323 would provide additional compensation based on length of military service, or length of total disability as well as additional compensation for surviving children. The bill would also provide additional insurance coverage for present and future service members and veterans to ease the transition of their surviving spouses from disability compensation to the lower amount of income under DIC.

Mr. President, the Committee on Veterans' Affairs, the Department of Veterans Affairs and most notably, surviving spouses have long believed that there are shortcomings in the present DIC program. Nevertheless, while this legislation will increase the amount of payments to surviving spouses, there is still no study upon which to determine whether the increases we are providing are really adequate. Accordingly, the bill includes a provision, which I introduced at markup, which would provide authority for an independent panel to determine the adequacy of support to surviving spouses of servicemembers and veterans and would authorize a comprehensive analysis of data for this panel by the National Academy of Science. Thus, I regard this reform as an interim measure. In the next Congress, we may need to address again the issue of DIC reform.

Until now we have lacked any consensus on how to proceed to reform the program. Despite years of public debate, there has been no agreement on how best to address the issue equitably.

In the past 2 years, a remarkable process has taken place. Beginning with the leadership of the veterans service organizations and the Department of Veterans Affairs, considerable debate and compromise has resulted in general consensus in the veterans community on the best way to meet the needs of these survivors within the ever-present budgetary constraints.

This bill, the first DIC reform effort in many years, is the result. The Congress must continue to move forward and make progress on this important goal of better support to the surviving spouses of veterans.

Enactment of S. 2323 would provide much needed relief to a population that is predominately elderly, female, and economically deprived. This is also a population for whom support is an important obligation of this Government. No survivor of a service member or veteran who gave his or her life for our country should live in poverty. Passage of S. 2323 is an important step in resolving this problem.

In closing, I would like to thank the staff who worked so hard to prepare this bill: Neil Koren, Michael Cogan, Bill Brew, and Ed Scott from the majority staff, and Quent Kinderman, Charlie Battaglia, and Tom Roberts from my staff.

Mr. President, many survivors of service members and veterans have suffered inadequate income for years because their spouses served at low pay grades in the military. Their deaths, perhaps many years later, were at a time when their way of life bore little resemblance to their military experience. The current system of DIC is generally viewed as inequitable treatment for people to whom we have a strong obligation to do right. S. 2323 represents a good compromise to correct some of the problems in the current program with the resources available.

S. 2323 is a laudable and carefully crafted effort to correct some inequities in this essential program. I urge my colleagues to support S. 2323.

Mr. PRYOR. The question is on agreeing to the amendment.

The amendment (No. 3156) was agreed to.

Mr. PRYOR. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill, having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 5008), as amended, was passed.

Mr. PRYOR. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PRYOR. Mr. President, I send a title amendment to the desk and ask that it be agreed to.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Amend the title to read as follows:

To amend title 38, United States Code, to revise the rates of dependency and indemnity compensation payable to surviving spouses of certain service-disabled veterans, to provide supplemental service disabled veterans' insurance for totally disabled veterans, and for other purposes.

Mr. PRYOR. Mr. President, I ask unanimous consent that Calendar No. 639 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 300TH ANNIVERSARY OF THE COLLEGE OF WILLIAM AND MARY

Mr. STEVENS. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 345) to express the sense of the Senate to commend and congratulate the College of William and Mary in Virginia on the occasion of the 300th anniversary of its founding.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Alaska?

There being no objection, the Senate proceeded to consider the resolution.

Mr. WARNER. Mr. President, in 1689, 87 years before the American Revolution and 100 years before the ratification of the Constitution of the United States, a revolution of a very different kind was occurring on British shores. Not a drop of blood was spilled during the sequence of events which has come to be known as the Glorious Revolution, but the implications for Great Britain were as significant as any military coup.

The remarkable state of affairs which drove James II from the throne and brought the new monarchs, William III and Mary II, from The Netherlands to London would have important consequences in the American Colonies besides bringing drastic change to the nature of British Government.

Perhaps the single greatest legacy William and Mary left the New World was the establishment of a college in Virginia which bears their names. In 1693, the Reverend James Blair finally succeeded in obtaining from the crown both funds and a charter for a college in the colonial capital of Williamsburg. Next year, that venerable school will celebrate the 300th anniversary of the granting of its royal charter, an event which has great significance not only for Virginia, but for the Nation.

William and Mary has dubbed itself the "alma mater of a nation," referring to the number of its graduates and faculty who were instrumental in the founding of the new Nation and the long list of statesmen and jurists who are numbered on its alumni rolls. Although Harvard had been in operation for more than 50 years before the college in Virginia was established, it is William and Mary that is most closely connected with the formation of the new country.

It is not surprising that this college, housed originally in only a few graceful brick buildings, which sprang from the movement that brought parliamentary government and religious tolerance to Great Britain, should become, essentially, the fons et origio of the American intellect; rooted in democracy and the inalienable rights of mankind.

In fact, the College of William and Mary has set a standard for liberal arts education in this country throughout the 300 years of its existence. Nowhere is that fact more clearly displayed than on a plaque affixed to the wall of the Sir Christopher Wren Building on the campus, which lists the priorities of the college:

PRIORITIES OF THE COLLEGE OF WILLIAM AND MARY

First college in the United States in its antecedents, which go back to the College proposed at Henrico (1619). Second to Harvard University in actual operation.

First American college to receive its charter from the Crown under the Seal of the Privy Council, 1693. Hence it was known as "their Majesties' Royal College of William and Mary."

First and only American college to receive a coat-of-arms from the College of Heralds, 1694.

First college in the United States to have a full faculty, consisting of a President, six Professors, usher, and writing master, 1729.

First college to confer medallic prizes: the gold medals donated by Lord Botetourt in 1771.

First college to establish an inter-collegiate fraternity, the Phi Beta Kappa, December 5, 1776.

First college to have the elective system of study, 1779.

First college to have the Honor System, 1779.

First college to become a university, 1779.

First college to have a school of Modern Languages, 1779.

First college to have a school of Municipal and Constitutional Law, 1779.

First college to teach Political Economy, 1784.

First college to have a school of Modern History, 1803.

While William and Mary is rich in heritage, it is not lost in the past. Today, it is a modern university of the highest stature. It continues to serve as an intellectual doorway for young men and women; opening their minds to the possibilities of new ideas and new worlds just as it did for Thomas Jefferson and John Marshall in centuries past.

Mr. President, it has been my distinct pleasure to enjoy, during the course of my public service, a strong, respectful relationship with the College of William and Mary—its presidents, faculty, students, and alumni. I have been pleased to serve on the Tercentenary Observances Commission with my colleague, Senator ROBB, and my colleague from the House of Representatives, Mr. BATEMAN. It is with particular satisfaction that I now submit, on behalf of myself and Senator ROBB a resolution—identical to one submitted by Congressman BATEMAN and the Virginia delegation to the House—commending the College of William and Mary on its 300th anniversary.

Mr. ROBB. Mr. President, I rise today to join my colleague, Senator WARNER, in submitting this resolution to commemorate the 300th anniversary of our Nation's second oldest institution of higher learning, the College of William and Mary in Virginia. Chartered on February 8, 1693, by King William and Queen Mary, the college has endured three centuries and educated over 68,000 students. The college is proud to claim as alumni many early leaders of our Nation, including three Presidents, Thomas Jefferson, James Monroe, and John Tyler; a Chief Justice of the Supreme Court, John Marshall; and four signers of the Declaration of Independence, George Wythe, Benjamin Harrison, Carter Braxton, and Thomas Nelson, Jr.

From 1982 to 1986 I was privileged to serve as the 64th Governor of Virginia, a fact notable because nearly one-third of my predecessors were alumni of the College of William and Mary. Their accomplishments, and those of the alumni who have distinguished themselves across the Nation, are a testament to the college's commitment to education as the cornerstone of self-government. Described by George Washington as, "an object of veneration * * * and conducive to the true principles of national liberty," the college has not wavered in its dedication to these principles in its 300 years of service to State and Nation.

While firmly rooted in a distinguished past, the College of William and Mary's tradition of excellence extends well beyond the Colonial and Revolutionary periods, and today the college is one of the Nation's most highly regarded and selective public universities. As the college prepares to embark upon its fourth century under the leadership of Chancellor Warren Burger and President Timothy Sullivan, I join in celebrating and applauding its proud history.

The PRESIDING OFFICER. Without objection, the resolution and its preamble are agreed to.

The resolution (S. Res. 345), with its preamble, is as follows:

S. RES. 345

Whereas throughout their history, the people of the United States have recognized that an educated citizenry is important to a democracy, and to that end have supported universal education as well as the development of centers of advanced learning for the benefit of the general welfare;

Whereas on February 8, 1693, a royal charter was granted by King William III and Queen Mary II of England to found and establish "a certain place of universal learning" in the "good arts and sciences" to be known forever as the College of William and Mary in Virginia;

Whereas on December 4, 1779, after the United States gained its independence, Thomas Jefferson, the Governor of the Commonwealth of Virginia and a former student of the College of William and Mary, led an effort to reorganize the curriculum of the College of William and Mary which resulted in the creation of the first elective system of study in the United States, the establishment of an honor system that remains an integral part of the College of William and Mary today, and the creation of the first Chair of Law in the United States;

Whereas the students of the College of William and Mary, the second oldest institution of higher learning in the United States, have contributed to the general welfare for three centuries, so that it has accurately been said that the history of the College of William and Mary forms a significant part of the history of the United States;

Whereas among the distinguished alumni of the College of William and Mary are three Presidents of the United States, Thomas Jefferson, James Monroe, and John Tyler; Chief Justice John Marshall and three Associate Justices of the United States; more than 30 United States Senators; more than 60 members of the House of Representatives; eight members of Presidential cabinets; 27 Governors of ten States; and countless other public officials and leaders in business, industry, military service, science, and the arts;

Whereas the College of William and Mary and the town of Williamsburg have flourished together, fulfilling a prediction made in 1699 that "the College will help make the Town", and together constituting an historical treasure to be enjoyed and appreciated by the people of the United States and the world;

Whereas in the past 25 years, the College of William and Mary has established itself as a modern university with distinctive graduate programs and as a leader in higher education, while never wavering from its commitment to undergraduate liberal arts education as a foundation of a free society; and

Whereas the College of William and Mary prepares to embark upon its fourth century, it continues to educate men and women to be productive citizens in both public and private pursuits and to adapt its course of studies to the growing needs of the community and the Nation; Now, therefore, be it

Resolved, That it is the sense of the Senate to commend and congratulate the College of William and Mary in Virginia on the occasion of its 300th anniversary, to recognize the many contributions it has made to the well-being of the people of Virginia and the United States, and to express the hope of the people of the United States that the College of William and Mary will continue to grow and prosper in the centuries yet to come.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. PRYOR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VETO MESSAGE ON S. 5, THE FAMILY AND MEDICAL LEAVE ACT—MESSAGE FROM THE PRESIDENT—PM 276

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was ordered to lie on the table and be printed as a Senate document:

To the Senate of the United States:

I am returning herewith without my approval S. 5, the "Family and Medical Leave Act of 1992." This bill would mandate that public and private employers with 50 or more employees provide their employees with leave under certain circumstances.

I want to strongly reiterate that I have always supported employer policies to give time off for a child's birth or adoption or for family illness and believe it is important that employers offer these benefits. I object, however, to the Federal Government mandating leave policies for America's employers and work force. S. 5 would do just that.

America faces its stiffest economic competition in history. If our Nation is to succeed in an increasingly complex and competitive global marketplace, we must have the flexibility in our workplaces to meet this challenge. We must ensure that Federal policies do not stifle the creation of new jobs or result in the elimination of existing jobs. The Administration is committed to policies that create and preserve jobs throughout the economy—serving the most fundamental need of working families.

My Administration is also strongly committed to policies that foster a complementary relationship between work and family and encourage the development of a strong employer-employee partnership. If these policies are to meet the diverse needs of our Nation, they must be carefully, flexibly, and sensitively crafted at the workplace by employers and employees, and not in Washington, DC, through Government mandates imposed by legislation such as S. 5.

Therefore, I have transmitted to the Congress legislation to establish an alternative flexible family leave plan that will encourage small and medium-sized businesses to provide family leave for their employees.

My flexible family leave plan is based on a refundable tax credit for businesses that establish nondiscriminatory family leave policies for all their employees. A refundable tax credit of 20 percent of compensation—for a credit of up to $100 a week—to a maximum total credit of $1,200—would be available for all businesses with fewer than 500 employees, for a period of family leave up to 12 weeks in length. Family leave would include the birth or adoption of a child or the care of a seriously ill child, parent, or spouse. It also would cover a serious health condition that prevents the employee from performing his or her job. This approach will cover almost all workplaces—smaller companies that S. 5 does not cover that are less likely to provide leave to their employees. My plan covers about 15 million more workers than would be eligible under S. 5 and 20 times the number of workplaces. Those not affected by my plan work for large businesses, which generally have established family leave policies.

I want to emphasize again that my bill will help where the concern is most acute—with small and medium-sized businesses and the workers in those businesses. S. 5 misses these key workplaces by excluding businesses with fewer than 50 employees. We know that these hard-pressed small companies usually offer fewer benefits than large firms, that they generate most of our new jobs—in fact, they provide the majority of people with their first job—and that they are more likely to employ women and reentrants to the labor force. Under my proposal, many more of the millions of men and women employed by smaller businesses would be able to take advantage of family leave.

The tax credit approach to the family leave issue will provide the flexibility workers and employers need to enable them to establish the optimal package of benefits that meets their particular needs. This way the parties can decide which package of benefits is best suited to them. In addition, because a tax credit is not a mandate, it does not put struggling firms at an economic disadvantage in the global marketplace. It maintains the competitiveness of American business while providing the benefits American workers need. It provides positive incentives, not mandates with veiled costs that impede growth.

Both the House and Senate passed family leave legislation almost 1 year ago, but they have kept it in the filing cabinet until now. That is nearly an entire year with no action or any willingness to depart from a federally mandated approach, only an interest in politicizing the issue.

I have proposed a truly flexible family leave program. I am willing to work with the Congress to get it passed and signed into law immediately.

There appears to be a pattern here. Three years ago, my Administration had a fundamental disagreement with these same congressional committees on child care policy. It took the Democratic-controlled Congress more than a year to get the point—I would not buy a Government-controlled and mandated child care program. When they got serious, we rapidly hammered out flexible child care legislation patterned after my proposal, that allowed *individuals* to choose their benefits.

The same holds true for family leave. If the Congress is serious about encouraging family leave, I ask those Members of Congress who have joined me in the past in opposing Government mandates to work with me again. The Congress should pass a family leave bill quickly that provides positive incentives for family leave and is responsive to the needs of workers and employers.

GEORGE BUSH.

THE WHITE HOUSE, *September 22, 1992.*

MESSAGES FROM THE HOUSE

At 2:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks announced that the House agrees to the amendment of the Senate to the bill (H.R. 5318) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

The message also announced that the House has passed the bill (S. 2201) to authorize the admission to the United States of certain scientists of the Commonwealth of Independent States and the Baltic States as employment-based immigrants under the Immigration and Nationality Act, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5851. An act to establish the Commission on Information Technology and Paperwork Reduction.

ENROLLED BILLS SIGNED

A message from the House of Representatives announced that the Speaker has signed the following enrolled bills:

S. 12. An act to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes; and

H.R. 5318. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore [Mr. BYRD].

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment:

S. 526. A bill to extend for 10 years the patent for the drug Ethiofos (WR2721) and its oral analogue (Rept. No. 102–414).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 1165. A bill to extend the patent term of certain products (Rept. No. 102–414).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1506. A bill to extend the terms of the olestra patents, and for other purposes (Rept. No. 102–414).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

S. 2763. A bill to establish the Mike Mansfield Fellowship Program for intensive training in the Japanese language, government, politics, and economy (Rept. No. 102–415).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 2853. A bill to authorize appropriations for the United States Office of Special Counsel, and for other purposes (Rept. No. 102–416).

By Mr. GLENN, from the Committee on Governmental Affairs:

Report to accompany the bill (S. 3131) to reauthorize the independent counsel law for an additional 5 years, and for other purposes (Rept. No. 102–417).

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 2484. A bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Treaty Doc. 102–22. Protocol on Environmental Protection to the Antarctic Treaty (Exec. Rept. No. 102–54).

TEXT OF RESOLUTION OF ADVICE AND CONSENT TO RATIFICATION

Resolved, (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of the Protocol on Environmental Protection to the Antarctic Treaty, with Annexes, done at Madrid October 4, 1991, and an Additional Annex done at Bonn October 17, 1991.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROTH (for himself and Mr. STEVENS):

S. 3258. A bill to establish the American Industry Foundation to enhance the Nation's competitiveness in a global economy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ROCKEFELLER:

S. 3259. A bill to amend the Wild and Scenic Rivers Act for the purposes of determining the eligibility and suitability of designating a segment of the New River as a national wild and scenic river; to the Committee on Energy and Natural Resources.

S. 3260. A bill to modify the boundaries of the New River Gorge National River, the Gualey River National Recreation Area, and the Bluestone National Scenic River in West Virginia; to the Committee on Energy and Natural Resources.

By Mr. BIDEN (for himself, Mr. WIRTH, Mr. GORE, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mr. BINGAMAN, and Mr. LEAHY):

S. 3261. A bill to promote, as a priority in United States trade promotion programs, the export of United States goods and services to control or reduce pollution and to clean up existing pollution problems; to the Committee on Foreign Relations.

By Mr. BREAUX:

S. 3262. A bill to amend title 46, United States Code, to prohibit abandonment of barges, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MACK:

S. 3263. A bill to amend title 37, United States Code, to provide evacuation and transition assistance to dependents of members of the Armed Forces and civilian employees of the Federal Government who are affected by Hurricane Andrew, to provide homeowners assistance to such members and employees, and for other purposes; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. STEVENS (for Mr. WARNER (for himself and Mr. ROBB)):

S. Res. 345. A resolution to express the sense of the Senate to commend and congratulate the College of William and Mary in Virginia on the occasion of the 300th anniversary of its founding; considered and agreed to.

By Mr. WELLSTONE:

S. Con. Res. 137. A concurrent resolution to express the sense of Congress that the Comptroller General of the United States should conduct a study of the economic impacts of Order No. 636 of the Federal Energy Regulatory Commission on residential, commercial, and other end-users of natural gas, and that the Federal Energy Regulatory Commission should refrain from processing restructuring proceedings pursuant to the order during the 60-day period after the submittal to Congress of the results of the study; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROTH (for himself and Mr. STEVENS):

S. 3258. A bill to establish the American Industry Foundation to enhance the Nation's competitiveness in a global economy, and for other purposes; to the Committee on Commerce, Science, and Transportation.

INDUSTRY-GOVERNMENT COMPETITIVENESS DEMONSTRATION ACT OF 1992

Mr. ROTH. Mr. President, among the problems facing our country is our inability to make effective use of our research dollars. The United States spends more money on research than any other country in the world, yet we all too often lose product leadership and market share to other countries.

Too often innovations that originate in America are commercialized by other countries. VCR's, for example, were developed in the United States for use in television studios, but it was

Japan that commercialized them for use in the home. Fuzzy logic mathematics was developed in the United States, but it was the Japanese who took our innovation and commercialized it. They have used fuzzy logic in products such as automobile speed controls, automobile heater and air conditioning controls, and washing machine controls.

The consequence of our inability to commercialize our technologies is a declining market share for American industries and fewer good jobs for Americans. Between 1978 and 1991, the United States lost 200,000 jobs in automobile manufacturing alone and another 75,000 decrease was recently announced.

Mr. President, our problem can be stated in a nutshell. We as a country are failing to commercialize the fruits of our research. Other countries are taking our research and turning it into low-cost, high-quality products that appeal to consumers. As a consequence, America is losing good jobs to foreign competitors.

Why is this happening? People who try to answer this question quickly conclude that neither the problem nor the short-term solution lies in more research. In 1992, the United States will invest $159 billion in research and development, while Japan, who most see as our major competitor, will invest the equivalent of $90 billion. The problem is that American institutions, especially the Federal Government, have failed to focus on incremental product improvements and manufacturing processes; and the Government is too detached from the marketplace.

Today I am introducing legislation that would show a way to remedy this problem. My bill, designed as a demonstration program, would take a portion of our research and development budget and spend it in a wholly new way. My bill would establish a cooperative framework for Government to be responsive to industry needs in commercializing research discoveries and improving products and manufacturing processes. Industry would be required to set priorities, work together, and invest their own money in promising technologies. Government would in turn direct its efforts in support of these industry-set objectives.

My bill titled, "Industry-Government Competitiveness Demonstration Act of 1992," has five major components:

A research emphasis on design methods and manufacturing processes; the use of consortia and other programs to bridge the gap between government and industry; a new resource allocation process that leverages industry research dollars and links Federal funding to results; goals and performance measures; and accountability within the Federal Government.

Let me review the proposal in more detail. First, to aid commercialization my bill emphasizes research and development of design methods, manufacturing processes, and their linkage as well as government and consortia serving as a customer to help industry bridge the gap between research and product introduction.

Second, my bill employs techniques already demonstrated to be effective. In the most critical of those key technology areas where America's industry is losing market share to foreign competition, such as flat panel displays, I am proposing that consortia be established for a predetermined period.

In key technology areas where American industry is currently competitive but foreign competitors are investing aggressively in long-term research and development, such as contamination-free manufacturing, I am recommending the establishment of a pilot core research and development program that emphasizes commercialization.

My bill would also experiment with technology extension centers—modeled after agricultural extension centers—to help small businesses benefit from Government and industry research.

To help key technologies get a commercialization boost I am introducing what I am calling a National Need Program that will support a program in an area where there are pressing national needs that are rich in opportunities for key technology applications. For example, this program could help U.S. companies who are developing composite materials gain global market share in the structural materials business by using composite materials for bridge and highway maintenance.

Third, I am proposing a resource allocation process that will link spending to results. Industry panels will develop road maps and strategies for addressing commercialization issues on key technologies. These panels will evaluate and recommend the use of Federal R&D resources on the basis of a set of measures. Responsible Government agencies will provide a check and balance. In addition, funding for any key technology consortium will never exceed 25 percent of industry's investment for that key technology which ensures that Federal R&D spending doesn't replace industry spending.

Fourth, my bill requires the careful application of measurable performance goals, cost estimates, and program schedules to ensure that Federal research and development resources are effectively applied to address commercialization and competitiveness. We must measure the economic results of programs and the creation of jobs by a competitive industry, rather than being satisfied by theoretical or technical accomplishments. The American taxpayer is looking for results in the form of jobs. Nothing short of that is satisfactory, because we're using their money to help pay for the research and development.

Fifth, my bill calls for a new, temporary, streamlined Federal organization, the American Industry Foundation to establish programs that are accountable to the American people. A Technology Commercialization Office in the Foundation will be responsible for assuring and tracking the success of Federal research and development efforts related to commercialization. The Critical Technologies Institute, established by Congress last year, will help the American Industry Foundation by forming authoritative panels of industry experts who will provide industry input on the use of Federal R&D resources. These panels will also identify specific tax and regulatory barriers that hamper commercialization of specific technologies. The Critical Technologies Institute will also involve industry in coordinating, managing, and directing research and development programs. The role of industry in my bill assures that my bill is not an industrial policy where Government tells industry what to do. Rather it is a Government policy where Government responds to industry needs to ensure a technological edge for America and a continuing supply of good jobs for American workers.

Mr. President, additional money is not necessary to fund this experiment. I propose that the President be authorized $5 billion of reprogramming authority and that the funds be available over a 5-year period, so that Federal research and development funds can be redirected to support work at the American Industry Foundation. This is a one-time reprogramming event that affects only 1.3 percent of the Federal Government's research and development investment. Yet, this $5 billion Federal investment leverages another $15 billion in industry investment and is, therefore, significant enough to have a measurable economic impact. If my ideas are implemented, in 3 or 4 years from now, we will have hard data on the results of this approach. At that point, if it really works to the benefit of our economy, Congress may want to redirect much more of the Federal research and development budget to competitiveness.

Mr. President, these are the essential features of my bill. I hope that my colleagues will respond to the challenge to try bold, new, 21st century institutions that are mission-driven and produce measurable economic results, are managed on the basis of data and facts rather than parochial interests and promises, and are totally committed to serving their customer, the American taxpayer. I recognize that numerous other options have been proposed to increase the efficiency of the Federal investment in R&D and to give it greater economic impact. I encourage my colleagues to look at my ideas, provide comments, and offer suggestions. Americans recognize that something needs to be done. Congress will fail them if we do not take action. We must undertake an approach, such as the one I am proposing today, one that will lead to a much more competitive industry and one that will make federally funded research and development relevant to America's economy. Mr. President, the cold war is over. It is time for us to deal with our new No. 1 priority—our economy. Only in this way will we be able to realize the promise of a bright, prosperous, and peaceful future. Now is the time for action.

Mr. President, I ask unanimous consent that the full text of the bill, a section-by-section analysis, and letters endorsing this legislation appear in the RECORD.

There being no objection, the bill and additional items are ordered to be printed in the RECORD, as follow:

S. 3258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Industry-Government Competitiveness Demonstration Act of 1992."

SEC. 101. FINDINGS.

(1) Although American manufacturers have continued to improve their products, foreign competitors are excelling at the fast introduction of innovative product improvements that are appealing to consumers. This has resulted in a loss of market share for American business and a loss of manufacturing jobs in the United States.

(2) This job loss is not due to under investing in research and development; America's research and development investment has been much larger than any other nation's.

(3) This job is partially due to a failure of American research and development institutions; they have excelled in technological breakthroughs but they have not excelled at research that leads to product and process improvements that are critical to our economic future.

(4) This job loss is partially due to a failure of American corporations to commercialize new technologies, especially those that facilitate making improvements to products and processes.

(5) The Federal government has not invested in the commercialization of technologies that lead to improvements in commercial products and processes. The vast majority of the $76 billion the Federal government spends on research and development is focused on breakthroughs; only about $1 billion is spent on improvements in products and processes.

(6) This suggests that the Federal government and American corporations need to work together to make more effective use of America's research dollars. Yet, the complexity of commercialization demands that government and industry experiment with a variety of programs and processes to determine which will lead to job growth in America.

SEC. 102. GOAL AND OBJECTIVES.

The goal of this Act is to improve the global competitiveness of American corporations by determining the most efficient and effective way for making Federal research and development undertaken at universities and Federal laboratories responsive to industry needs. The objectives of the Foundation in performing its functions shall be:

(1) improve commercialization with emphasis on manufacturing enhancements, product design methods, and their linkage;

(2) increased global competitiveness of American corporations; and

(3) program success measured by the criteria described under Section 106.

SEC. 103. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is established the American Industry Foundation which shall be an independent establishment as defined under section 104 of title 5, United States Code. The Foundation shall be administered by a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(1) TECHNOLOGY COMMERCIALIZATION OFFICE.—There is established the Technology Commercialization Office within the Foundation. The Technology Commercialization Office shall be headed by a Deputy Director of the Foundation.

(2) INSPECTOR GENERAL.—There is established in the Foundation the Office of Inspector General. The Office shall be administered by the Inspector General and shall conduct audits and investigations of the activities performed under the provisions of this Act.

(b) DELEGATION AND ASSIGNMENT.—Except where otherwise expressly prohibited by law or otherwise provided by this Act, the Director may delegate any of the functions granted to the Director by this Act and any function transferred or granted to the Director after the effective date of this Act of such officers and employees of the Foundation as the Director may designate.

SEC. 104. MISSION.

The mission of the Foundation is to assure Federal support for rapid commercialization of technology by United States corporations, and the allocation of Federal research and development resources to support competitiveness improvement by United States corporations.

SEC. 105. FUNDING AND AUTHORIZATION OF EXPENDITURES.

(a) The President may transfer to the Foundation an amount not to exceed $5,000,000,000 of all funds appropriated for Federal research and development for fiscal years 1993 through 1997.

(b) The Director is authorized to enter into commitments and expend these funds in accordance with the provisions outlined in Section 107. Funding of activities during Fiscal Years 1993 through 1997 shall not exceed—

(1) $4,500,000,000 for consortia;

(2) $150,000,000 for core research and development programs;

(3) $100,000,000 for a technology extension center; and

(4) $250,000,000 for national need programs.

(c) These funds shall be allocated to accomplish the goal and objectives of Sec. 102 according to demonstrated performance as measured according to Sec. 106.

SEC. 106. PERFORMANCE MEASURES

The director shall establish objective measures of success for Foundation programs, including quantitative measures of global market share, productivity growth, number of American employees, industry investment, and sales growth of American corporations in key technologies and related products. Those gains attributable to Foundation activities shall be quantified and objectively compared to alternative programs for promoting competitiveness of U.S. industry, including but not limited to the Advanced Technology Program and technology activities at the Department of Commerce, the Manufacturing Technology Program (Mantech) at the Department of Defense, Cooperative Research and Development Agreements (CRADAs) in all Federal agencies, DARPA and DOE dual use programs, etc.

SEC. 107. PROGRAMS OF THE AMERICAN INDUSTRY FOUNDATION.

(a) CONSORTIA.

(1) FUNDING QUALIFICATIONS.—Efforts in key technology areas may be funded where the Director determines that American corporations

(A) lag behind foreign competition;

(B) are essential to the United States economy; and

(C) are working in areas where the United States possesses or has the capability to possess comparative advantage.

(2) CONSORTIA REQUIREMENTS.—The consortia funded under this section shall be established for a lifetime that is determined when they are established and shall

(A) emphasize projects that lead to the commercialization of cost-effective products by strengthening design methods, manufacturing processes, and their linkage;

(B) attract industry membership in each consortium including—

(1) those American corporations that make a significant portion of manufactured goods in the area of concentration of the consortium,

(2) small businesses, especially those serving as suppliers to a wide industry base, and

(3) those companies that use manufactured goods in the area of concentration of the consortium; and

(C) require minimum construction of facilities or operation of a large, privately owned, joint research and development facility.

(3) FUNDING LIMITATION.—Annual funding of a consortium that is provided by the director shall not exceed 25 percent of the annual American corporations' investment in research, development, and manufacturing in that key technology area addressed by the consortium.

(4) AUTHORIZATION OF FUNDING FOR FEDERAL LABORATORIES AND UNIVERSITIES.—The Director shall select and provide funding to federally-owned laboratories and/or universities for research and development activities in support of consortia. No federal funds shall be made available for consortia work performed at privately owned facilities.

(5) INTELLECTUAL PROPERTY RIGHTS.—All intellectual property developed in the execution of the work of a Foundation-funded consortium is the property of the consortium for 5 years. During this term the intellectual property may be licensed at no fee to members of the consortium. After five years this intellectual property becomes the property of the United States Government.

(b) CORE RESEARCH AND DEVELOPMENT PROGRAMS.

(1) FUNDING QUALIFICATIONS.—

The Director shall fund core research and development programs on the basis of a competition to conduct efforts in key technology areas essential to the United States economy where the Director determines that American corporations are—

(A) investing less in long-range research and development than foreign competitors; and

(B) operating or have the capability to operate successfully without government subsidy.

(2) CORE RESEARCH AND DEVELOPMENT REQUIREMENTS.—Core research and development programs shall—

(A) emphasize design methods, manufacturing processes and their linkage for key technologies where United States industry is willing and able to commit to the manufacturing investment required to commercialize such products; and

(B) be conducted at universities and federally-owned laboratories.

(3) FUNDING LIMITATIONS.—The Director shall not provide funding in excess of 10 percent of the annual United States industry investment in that technology area.

(4) AUTHORIZATION OF FUNDING FOR FEDERAL LABORATORIES AND UNIVERSITIES.—The Director is authorized to select and provide funding to federally-owned laboratories or U.S. based universities for core research and development activities needed to accomplish the objectives of this Act.

(5) INTELLECTUAL PROPERTY RIGHTS.—All intellectual property developed in the execution of Foundation-funded core research and development work is the property of the American Industry Foundation but may be licensed to U.S. industry without charge.

(c) TECHNOLOGY EXTENSION CENTER.

(1) FUNDING QUALIFICATIONS.—The Director shall fund in a competitive manner technology extension centers for the purpose of strengthening the competitiveness of business entities with less than 500 employees. These technology extension centers shall—

(A) provide commercialization assistance, including workshops on lean manufacturing methods to those companies located in the region surrounding the technology extension center, and

(B) conduct precompetitive research and development that emphasizes manufacturing technologies that are useful to manufacturing industry located in the region surrounding the technology extension center.

(2) FUNDING REQUIREMENTS AND LIMITATIONS.—The level of funding provided by the Foundation shall not exceed that provided (including funding for facilities and personnel) from other Federal sources.

(3) INTELLECTUAL PROPERTY.—All intellectual property developed in the execution of Foundation-funded work at a technology extension center is the property of that technology extension center.

(d) NATIONAL NEED PROGRAM.

(1) FUNDING QUALIFICATIONS.

(A) After conducting a competition, the Director shall fund programs in areas where there are pressing national needs and in areas that are rich in opportunities for key technology applications, especially those whose costs would be reduced and commercial applications increased by their use in a government program.

(B) Candidate programs include, but are not limited to—

(1) bridge and highway maintenance using advanced materials, remotely-interrogated embedded diagnostic sensors, and state-of-the-art digital compression and transmission;

(2) electronic incarceration and drug-detection systems that use non-intrusive on-person sensors, digital signal encryption and processing, advanced packaging, voice recognition, leading-edge data storage, pattern recognition, high definition flat panel displays, and advanced satellite communications systems technology;

(3) education and training systems that emphasize the development of disciplined-group problem solving and reasoning skills and make use of fiber optic local area networks, interactive workstations and computers, high definition flat panel displays visible in large classrooms, voice recognition technology, two-way video transmission, advanced data storage technology, and electronic textbooks, that include dynamic graphics; and

(4) health care diagnostics and maintenance screening systems that require no operation and use advanced on person intrusive and nonintrusive sensor technology, advanced computer aided diagnostics, advanced digital signal encryption, interactive video, voice recognition, and advanced pattern recognition technology.

(C) Program selection shall be made on the basis of—

(1) economic potential;

(2) national need; and

(3) probability of success as defined by the likelihood that a technology will be commercialized and self-sustaining, without further federal support beyond the end of this program.

(2) PARTICIPANT REQUIREMENTS.—The program that is funded shall consist of a partnership between one or more federally-owned laboratories, one or more universities, companies specializing in the development of the key technologies used in the project, and companies that are commercializing similar systems.

(3) FUNDING OF FEDERAL LABORATORIES, UNIVERSITIES, AND INDUSTRY.—The Director shall provide a federally owned laboratory or university selected for this program with all of the funds required to do this work. Work conducted at a privately-owned corporation shall be funded by sources other than the Federal Government.

(4) INTELLECTUAL PROPERTY RIGHTS.—All intellectual property developed in the execution of this work by Federally owned laboratories and universities is the property of the Federal Government.

SEC. 108. ASSESSMENT BY CRITICAL TECHNOLOGIES INSTITUTE.

(a) IN GENERAL.—The Critical Technologies Institute (in coordination with the Foundation) shall—

(1) establish a process for involving industry representatives, including existing consortia, in the selection of Federal research and development efforts in key technologies, evaluate their economic potential through strategic analysis and authoritative systems studies, and make recommendations to the Director;

(2) in areas of such key technologies select and recommend core research and development programs, consortia, and National need programs; and

(3) establish, coordinate, and serve as the facilitator of consortia, core research and development programs, and National need programs such that American industry representatives in each program adequately represent the U.S. manufacturing capacity and are responsible for all management and achievement of performance measures.

(b) SPECIFIC ACTIVITIES.—The Institute in coordination with the Foundation shall prepare and submit to the Director an Annual Report. In preparing the Annual Report, the Institute shall—

(1) assess the long-term outlook and United States industry competitiveness implications of all government funded key technology efforts including those funded by the Foundation;

(2) identify, and provide authoritative documentation on Federal rules, regulations, and tax policies that inhibit development and commercialization of key technologies;

SEC. 109. FEDERALLY OWNED LABORATORIES.

(a) All federally-owned laboratories may compete for work for the Foundation without regard to the importance of that work in fulfilling the laboratory's primary mission for the Federal agency owning or having administrative authority for the laboratory.

(b) The Federal agency that has administrative authority for a federally-owned laboratory shall not—

(1) prohibit the use of a laboratory for Foundation sponsored work;

(2) impede or delay Foundation sponsored work; or

(3) add Federal agency administrative charges to Foundation sponsored work.

(c) Support of the Foundation by a federally owned laboratory as requested by the Foundation shall not be subordinate to any other mission of that laboratory;

(d) If Foundation work conducted at a federally owned facility or university fails to fulfill measurable project objectives—

(1) The project, at the discretion of the Director, may be relocated to another institution, and

(2) Such federally owned institution no longer performing those projects shall have federal funding equivalent to those projects removed from its budget.

(e) The Director of the Foundation shall identify and report to Congress those federally owned laboratories performing work for the Foundation. The Congress shall annually review those laboratories not selected for Foundation work and those inadequately performing Foundation work for budget reductions or closure.

SEC. 110. DEFINITIONS.

For purposes of this title the term—

(1) "Director" means the Director of the American Industry Foundation established under section 102;

(2) "Foundation" means the American Industry Foundation established under section 102;

(3) "Intellectual property" means ideas and inventions produced by the Foundation activities;

(4) the term "Federal agency" has the meaning given to the term "agency" by section 551(1) of title 5, United States Code;

(5) the term "function" means any duty, obligation, power, authority, responsibility, right, privilege, activity, or program;

(6) the term "office" includes any office, administration, agency, institute, unit, organization entity, or component thereof;

(7) the term "American corporation" means a company incorporated in the United States of America that receives over 50 percent of its revenues from products manufactured in the United States;

(8) the term "Institute" means the Critical Technologies Institute; and

(9) the term "Annual Report" means the Annual Report that the Critical Technologies Institute prepares and submits to the Director.

SEC. 111. RULES.

The Director is authorized to prescribe, in accordance with the provision of chapters 5 and 6 of title 5, United States Code, such rules and regulations as the Director determines necessary or appropriate to administer and manage the functions of the Foundation.

SEC. 112. SEPARABILITY.

If a provision of this Act or its application to any person or circumstance is held invalid, neither the remainder of this Act nor the application of the provision to other persons or circumstances shall be affected.

SEC. 113. ADDITIONAL CONFORMING AMENDMENTS.

(A) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of the Congress, the Director shall prepare and submit to the Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this Act.

(b) SUBMISSION TO THE CONGRESS.—No later than 6 months after the effective date of this Act, the Director shall submit the recommended legislation referred to under subsection (a).

SEC. 114. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall be effective on and after 90 days after the date of the enactment of this Act.

SECTION-BY-SECTION ANALYSIS OF THE INDUSTRY-GOVERNMENT COMPETITIVENESS DEMONSTRATION ACT OF 1992

Sec. 101. Findings.

Sec. 102. Goal and objectives.

The goal of this act is to improve the global competitiveness of American industry by making Federal research and development undertaken at universities and Federal laboratories responsive to industry needs.

The objectives of the Foundation established by this act are:

(1) improved commercialization with emphasis on manufacturing process enhancements and product design methods;

(2) increased global competitiveness of American industry; and

(3) program successes measured by the criteria described under Section 106.

Sec. 103. Establishment.

Establishes the American Industry Foundation and designates its Director as a Presidential appointment. Establishes the Technology Commercialization Office in the American Industry Foundation and makes its head a Deputy Director of the Foundation. Establishes the Office of Inspector General in the American Industry Foundation.

Sec. 104. Mission.

Assure Federal responsiveness to U.S. industry in commercialization of technology to support improved competitiveness by United States corporations.

Sec. 105. Funding and authorization of expenditures.

Authorizes the President to transfer to the Foundation an amount not to exceed $5,000,000,000 of all funds appropriated for Federal research and development for fiscal years 1993 through 1997. The Director may expend these funds during Fiscal Years 1993 through 1997 without exceeding $4,500,000,000 for consortia; $150,000,000 for core research and development programs; $100,000,000 for a technology extension center; and $250,000,000 for national need programs. These funds shall be used to accomplish the goal and objectives of Sec. 102 and they shall be measured according to the performance measures in Sec. 106.

Sec. 106. Performance measures.—Requires the Director of the Foundation to establish objective measures of Foundation programs, including quantitative measures of global market share, productivity growth, number of American employees, industry investment, and sales growth of American corporations in key technologies and related products. Requires the Foundation to measure the results of programs and objectively compare them to alternative Federal programs for promoting technology advanced by American corporations.

Sec. 107. Programs of the American Industry Foundation.

(a) CONSORTIA.—Enables the Director to fund Federal laboratories and universities in areas: where the Director determines that American corporations lag behind foreign competition; that are essential to the United States economy; and where the United States possesses or has the capability to possess comparative advantage. The Director is authorized to spend in a particular area up to 25% of American industry's total investment (research, development, and manufacturing) in that area. The lifetime of each consortium will be determined when it is established. Each consortium will emphasize projects that lead to the commercialization of cost-effective products by strengthening design methods, manufacturing processes, and their linkage. Membership in each consortium will include those American corporations that make a significant portion of manufactured goods in the area of concentration of the consortium. Small businesses, especially those serving as suppliers to a wide industry base and those companies that use manufactured goods in the area of concentration of the consortium will also be included for membership.

Intellectual property rights are held for 5 years by the consortium managing the work. During this time it may be licensed at no fee to members of the consortium. After 5 years intellectual property becomes the property of the United States government.

(b) Core Research and Development.—Enables the Director to conduct a competition and fund Federal laboratories and universities to conduct core research and development programs for a key technology where there is evidence the United States is underinvested in long-range research and development and American corporations have the capability to operate successfully without government subsidy. These programs will emphasize design methods, manufacturing processes, and their linkage and be done in an area where United States industry is willing to invest in those manufacturing facilities required to commercialize the work. Authorizes the Director to provide funds up to 10 percent of the annual American industry investment in the technology area addressed by the program.

Intellectual property shall be the property of the American Industry Foundation but may be licensed to American industry without charge.

(c) Technology Extension Center.—Authorizes the Director to conduct a competition to select and fund technology extension centers that strengthen the commercialization skills and manufacturing capabilities of businesses with less than 500 employees that are located in the area surrounding the center. This center may also conduct research and development on lean and other advanced manufacturing technologies that are needed by these businesses. Federal funding shall not exceed that provided by other non-Federal sources.

Intellectual property belongs to the technology extension center.

(d) National-Need Program.—The Director is authorized to conduct a competition and fund federally-owned laboratories and universities to conduct programs where there are opportunities to apply key technologies to pressing national needs. Candidate programs include, but are not limited to bridge and highway maintenance, electronic incarceration, drug detection, education and training technology, and health care diagnostics. Program selection will be made on the basis of economic potential, national need, and probability of success as defined by the likelihood that a technology will be commercialized and self-sustaining, without Federal support beyond this program. Programs will be executed by a partnership between federally-owned laboratories, universities, companies specializing in the development of the key technologies used in the project, and companies that are commercializing similar systems.

All intellectual property developed in the execution of this work by Federally owned laboratories and universities is the property of the Federal government; however, it may be preferentially licensed to members of the partnerships without their payment of fees.

Sec. 108. Assessment by Critical Technologies Institute.—The Critical Technologies Institute will develop a process for involving American corporations in the selection of Federal research and development efforts in key technologies, evaluate their economic potential through strategic analysis and systems studies, and make recommendations to the Director. Recommendations shall include core research and development programs, consortia, and National need programs.

The Institute shall establish, coordinate, and serve as the facilitator of these programs and make sure that American corporate representatives in each program represent the U.S. manufacturing capacity and are responsible for all management and achievement of performance measures.

The Institute in coordination with the Foundation shall prepare and submit to the Director an Annual Report that assesses the long-term outlook and U.S. industry competitiveness implications of all government funded key technology efforts and identify those Federal rules, regulations, and tax policies that inhibit development and commercialization of key technologies.

Sec. 109. Federally owned laboratories.—All federally owned laboratories may compete for work for the Foundation without regard to the importance of that work in fulfilling the laboratory's primary mission.

The Federal agency that has administrative authority for a federally-owned laboratory shall not prohibit the use of a laboratory for Foundation sponsored work, impede or delay Foundation sponsored work, or add their administrative charges to Foundation sponsored work.

Support of the Foundation by a federally owned laboratory shall not be subordinate to any other mission of that laboratory.

If Foundation work conducted at a federally owned facility or university fails to fulfill measurable project objectives, the project may be relocated to another institution and that Federally owned institution no longer performing those projects shall have Federal funding equivalent to those projects removed from its budget.

The Director of the Foundation shall identify and report to Congress those federally-owned laboratories not performing or inadequately performing work for the Foundation. The Congress shall annually review such laboratories for budget reductions or closure.

Sec. 110. Definitions.

Sec. 111. Rules.

Sec. 112. Separability.

Sec. 113. Additional conforming amendments.

Sec. 114. Effective date.—Ninety days after the date of its enactment, this Act will be effective.

AEROSPACE INDUSTRIES ASSOCIATION,
Washington, DC, June 7, 1992.

Hon. WILLIAM V. ROTH,
U.S. Senate,
Washington, DC.

DEAR BILL: The Aerospace Industries Association (AIA) would like to take this opportunity to commend you on your foresight and diligence in seeking opportunities to promote U.S. competitiveness. Your legislative initiative, which seeks to streamline and make more effective this nation's research and development programs, is a good starting point for dialogue on the issue of the federal government's role in American competitiveness.

As we face a future of declining federal budgets it is imperative that industry and government work together to strengthen this nation's competitive position in an increasingly thriving global marketplace. Your innovative approach to R&D spending could enhance the taxpayers return on federal R&D expenditures. Instead of a government directed industrial policy, it is imperative that strategic technology plans be developed for and by industry which will allow a stronger voice in the decision making process in terms of resource management.

We sincerely appreciate the effort you have expended on behalf of the future of U.S. industry. If we can be of any further assistance to you or your staff please call upon us.

Sincerely,

DON FUQUA.

THE INSTITUTE OF ELECTRICAL AND ELECTRONIC ENGINEERS, INC.,
Washington, DC, July 14, 1992.

Hon. WILLIAM V. ROTH, Jr.,
U.S. Senate,
Washington, DC.

DEAR SENATOR ROTH: Thank you for the opportunity to comment on your proposed legislation, "Restructuring Federal Activities to Support Competitiveness Act of 1992". The Institute of Electrical and Electronic Engineers—United States Activities (IEEE-USA) Board represents 250,000 electrical engineers, physicists, and managers who work across the U.S. in all fields of technology. We feel that if passed, your bill would help to improve U.S. competitiveness and are happy to give it our general endorsement.

IEEE-USA recognizes America's economic competitiveness to be one of the most important issues facing our members and the nation at large. We believe that America's technical community has consistently made outstanding product innovations. But we are disturbed and perplexed that other nations often commercialize these innovations and reap the economic benefits and the high value-added jobs. Your bill, which would reorient large amounts of government sponsored R&D toward areas needed to develop and support commercial products, is a most needed change in government orientation.

Your bill highlights the existing Federal investment in research and development of $76 billion as a valuable resource that can help U.S. industry become more competitive. Redirecting a portion of this investment to commercially relevant work is immediately necessary to keep the U.S. R&D investment in commercially-relevant work from lagging behind that of foreign competitors. To do this your bill calls for the reprogramming of $5 billion of this investment over 5 years. We strongly endorse this experiment and would, in fact, have endorsed a larger restructuring of Federal R&D spending.

IEEE-USA has long emphasized the need for a stronger federal emphasis on technological competitiveness including a cabinet level voice for technology and manufacturing. Your proposal to reorganize the Department of Commerce and its Technology Administration as an independent American Industry Foundation charged with promoting the competitiveness of U.S. industry is an interesting and imaginative solution. Linking the American Industry Foundation to U.S. industry through the proposed Competitiveness and Commercialization Enterprise further ensures that the Foundation's programs would be relevant to industry needs.

While supportive of these goals, we do have some reservations, however, concerning the feasibility of achieving such a fundamental reorganization in the current political environment. For that reason, we recommend that you consider alternative approaches that can achieve the fundamental goals with a minimum of institutional resistance.

The United States, however, will not really become competitive until we are able to move the products we develop into mass manufacture, competitive in the global market. This demands modern manufacturing methods and equipment. Here we are inhibited by the inability to obtain long-term low cost patient capital from the American investment system. The Council on Competitiveness recently issued a report by the Harvard Business School on this problem, which we commend to you (copy attached). In order to solve this problem, IEEE-USA and the National Center for Manufacturing Sciences (NCMS) are working on a bill to provide a government corporation similar to Fannie Mae, which would encourage the flow of private capital for this purpose. We would appreciate any help you can give us in this area.

We thoroughly agree with your decision to emphasize consortia in your legislation. We believe that the success of such organizations as Sematech and NCMS provide evidence of the value of the consortia approach. In fact, we favor extending the consortia antitrust exceptions to include manufacturing of products since many products require manufacturing facilities beyond the cost that individual companies are able to cover.

Finally, as you know, a number of bills have recently been introduced in Congress on this subject, including H.R. 5229 by Congressman Walker and H.R. 5230/5231 by Congressmen Brown and Valentine. It is our hope that the two parties can get together and produce a compromise bill which will at least get us started on the road back to a competitive economy. We would appreciate any help you can give in this effort.

We deeply appreciate your willingness to step forward and be identified as a leader in this most important effort. IEEE-USA would be pleased to help you in any way we can in this effort which is so badly needed if our country is to prosper in the coming decades.

Sincerely,

ARVID G. LARSON, Ph.D.,
Vice President, Professional Activities and Chairman, United States Activities Board.

COUNCIL ON COMPETITIVENESS,
Washington, DC, June 25, 1992.

Senator WILLIAM V. ROTH, Jr.,
Senate Hart Building,
Washington, DC.

DEAR SENATOR ROTH: Thank you for sending the Council on Competitiveness your new bill on "Restructuring Federal Activities to Support Competitiveness" and soliciting our response. I have read it carefully and am happy to share my thoughts with you. As evidenced in Section 104 of the bill, we share many goals in common. The Council also shares your belief that additional money is not necessary, and that we should reprogram existing funds to focus on commercial technology issues. In addition, we agree with you that we need to strengthen R&D in core technologies that are vital to industrial competitiveness, to establish a strong nationwide technology extension system and to leverage the investment in the federal labs to support competitiveness.

Your bill contains a number of interesting proposals for reorganizing the Federal government, but the Council has not focused enough on this issue to comment on them. There is no question that we will need to realign the Federal apparatus to correspond more closely to the new priorities driving U.S. technology policy. The Council, however, is not yet in a position to give clear advice on specific proposals. For example, the Technology Administration in the Department of Commerce is currently funded at only $5 million and it is not clear that we should replace it with a new organization funded at $1 billion a year, or simply use additional funds to significantly strengthen and expand the existing Technology Administration. Similarly, the proposed Critical Technology Institute will attempt to solicit much of the industry input that we both believe that is so vital to sound public policy.

By Mr. ROCKEFELLER:

S. 3259. A bill to amend the Wild and Scenic Rivers Act for the purpose of determining the eligibility and suitability of designating a segment of the New River as a national wild and scenic river; to the Committee on Energy and Natural Resources.

S. 3260. A bill to modify the boundaries of the New River Gorge National River, the Gauley River National Recreation Area, and the Bluestone National Scenic River in West Virginia.

NEW RIVER IN WEST VIRGINIA

• Mr. ROCKEFELLER. Mr. President, today I am pleased to introduce two bills that share the goal of preserving and protecting natural resources in West Virginia for future generations and enhance West Virginia's growing tourism industry.

I am offering a bill to modify the boundaries of the New River Gorge National River, the Gauley National Recreation Area, and the Bluestone Scenic River. This boundary adjustment will increase resource protection of river headwaters and critical habitat for peregrine falcons, improve recreational opportunities, and assist in the protection of a Civil War battlefield.

This bill will add approximately 12,000 acres to the boundaries of three units of the National Park Service. According to CBO, only 80 acres of land would be purchased by the Federal Government as a result of this legislation. All of the acreage added to the Bluestone and Gauley units is currently owned by West Virginia and would not be acquired or operated by the Federal Government. The largest tract of land, the 7,000 acre Harry E. Ward tract, would be donated to the National Park Service.

The second bill that I am introducing would require a study of the New River within West Virginia and Virginia for the possible designation as a component of the National Wild and Scenic Rivers System and management under the Wild and Scenic Rivers Act. The segment of the New River covered by this bill extends 19.5 miles from the point in Virginia where U.S. Route 460 crosses the river downstream to the point of maximum summer pool elevation of Bluestone Lake in West Virginia.

Since the establishment of the New River National Gorge River, as a result of legislation introduced by the senior Senator from West Virginia, ROBERT C. BYRD, we have seen increased economic benefits result from an expanding travel and tourism industry. Over 700,000 visitors come to the New River unit each year. To build upon that, along with my colleague in the House, Congressman NICK RAHALL, I introduced the West Virginia National Interest River Conservation Act which designated parts of the Gauley, Meadow, and Bluestone as components of the Wild and Scenic Rivers Act. This bill was signed into law in 1988.

When Governor of West Virginia, and now as chairman of the Subcommittee on Foreign Commerce and Tourism, I have aggressively pursued policies and legislation that will increase tourism in my home State and the Nation. We must be doing something right. Tourism is the only industry that is showing a positive balance of trade. In 1991, there was a $16 billion surplus.

Representatives from the West Virginia Department of Tourism and Marketing just took part in a joint effort with Kentucky and North Carolina to market these States to German tourists. It was a resounding success. When asked what attracted German tourists to the region, the overwhelming response has been the natural resources and soft adventure, such as white water rafting and hiking.

In addition to attracting international tourists, West Virginia has a lot to offer those seeking an outdoor adventure close to home. As a result of improvements in West Virginia's highway system, southern West Virginia is less than 6 hours from the Washington, DC, metro area. In fact, about one-half of the Nation's population is an 8-hour drive from this area.

These bills seek to place portions of the New River under study, and expand the boundaries of the New River Gorge National River, the Gauley Recreation Area and the Bluestone National Scenic Rivers to include land being donated to the Federal Government, Carnifex Ferry Battlefield State Park, and the Pipestem State Park.

The areas covered in this legislation offer canoeing, hiking, fishing, and some of the best white water rafting in the eastern United States. In addition to this soft adventure, the area surrounding these three rivers abounds with examples of West Virginia's coal heritage and Civil War history.

I feel that both the New River study bill and the legislation modifying the boundaries of the New, Gauley, and Bluestone will enable southern West Virginia to continue to grow as a tourist destination. Also, this action will ensure that the natural, recreational, and cultural resources are managed in a manner that will allow for their enjoyment now and by future generations.

Both of these bills have been passed by the House of Representatives. Given the importance of tourism to West Virginia and the Nation, I ask that my colleagues give the legislation that I have introduced today favorable consideration.

Mr. President, I ask unanimous consent that both bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 3259

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "New River Wild and Scenic Study Act of 1992".

SEC. 2. DESIGNATION OF NEW RIVER AS A STUDY RIVER.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraph at the end thereof:

"( ) NEW RIVER, WEST VIRGINIA AND VIRGINIA.—The segment defined by public lands commencing at the U.S. Route 460 bridge over the New River in Virginia to the maximum summer pool elevation (one thousand four hundred and ten feet above mean sea level) of Bluestone Lake in West Virginia; by the Secretary of the Interior. Nothing in this Act shall affect or impair the management of the Bluestone project or the authority of any department, agency or instrumentality of the United States to carry out the project purposes of that project as of the date of enactment of this paragraph. The study of the river segment identified in this paragraph shall be completed and reported on within one year after the date of enactment of this paragraph.".

S. 3260

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY MODIFICATIONS.

(a) NEW RIVER GORGE NATIONAL RIVER.—Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15) is amended by striking out "NERI–80,023, dated January 1987" and inserting "NERI–80,028, dated January 1992".

(b) GAULEY RIVER NATIONAL RECREATION AREA.—Section 201(b) of West Virginia National Interest River Conservation Act of 1987 (16 U.S.C. 460ww) is amended by striking out "NRA–GR/20,000A and dated July 1987" and inserting "GARI–80,001 and dated January 1992".

(c) BLUESTONE NATIONAL SCENIC RIVER.—Section 3(a)(65) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(65)) is amended by striking out "WSR–BLU/20,000, and dated January 1987"; and inserting "BLUE–80,003, and dated January 1992".●

By Mr. BIDEN (for himself, Mr. WIRTH, Mr. GORE, Mr. ROCKEFELLER, Mr. LIEBERMAN, and Mr. BINGAMAN):

S. 3261. A bill to promote, as a priority in U.S. trade promotion programs, the export of U.S. goods and services to control or reduce pollution and to clean up existing pollution problems.

ENVIRONMENTAL AID AND TRADE ACT OF 1992

Mr. BIDEN. Mr. President, from the earliest days of Federal environmental legislation some two decades ago, the American political scene has been deluged by dire warning that the effort to curb pollution would carry unbearable costs. Like clockwork, each new proposal for tighter environmental controls has been followed inexorably by a claim that the new proposal, if implemented, would sound a death knell for a particular industry, if not for the American way of life.

Nor have years of experience to the contrary broken this cycle. Time after time, we hear claims:

That cleaning up our Nation's waters will threaten industries and precipitate economic ruin;

That fighting acid rain and urban air pollution will bankrupt our citizens and cause social disruption of unimaginable proportions;

That protecting natural resources means throwing hard-working people out of work;

In sum, that reducing pollution eliminates profits and eliminates jobs.

Mr. President, these claims—no matter how often they are repeated, no matter how persistently they reappear in our public debate—are wrong. They are wrong no matter how frequently they are used for purposes of political expediency, no matter how many times they are used to distort the real challenges and real issues that lie before us.

Most recently and most tragically, these misrepresentations were invoked by President Bush during his landmark trip to the South Summit in Rio—which I refer to as a landmark only because it represents one of the historic lows in the annals of American diplomacy.

Before and during the Rio summit, the President told the American people and the world that he would not be party to any agreement that would cost Americans their jobs. The implication was that a coordinated global effort to protect our planet from water pollution, ozone depletion, tropical forest loss, air pollution, and other threats would be ruinous to the American economy.

The President's message may have been pleasing to the ears of Americans on the political far-right, who instinctively hate—as they have since the days of Woodrow Wilson—all efforts at multilateral cooperation. The President's message may also have pleased certain leaders in American big business, who instinctively hate the imposition of any Government standard, whether it relates to automobile seatbelts, product labeling, or the dumping of toxic waste.

But the President's message was nonetheless little more than the propagation, once again, of a myth—a very dangerous myth.

The truth is that decades of experience with legally mandated environmental protection in our Nation has made it clear that economic progress does not require environmental degradation, that American prosperity does not require rivers that are biologically dead, or waste sites that spontaneously catch fire, or air that burns the eyes, or soils that cannot support life.

What we have found in this country, through a considerable body of experience over the past two decades, is that economic progress and prosperity are not, in the long term, at odds with environmental preservation. Economic progress and prosperity require environmental preservation.

This lesson is true not only for the United States but for the world. Brazil and Costa Rica have found that their forests are worth protecting for practical reasons of long-term development. Poland and Hungary have found that cleaner air makes for good economics. Russia and Thailand have found that clean water will help their countries' future.

Nations around the globe have recognized a fact: that the environment and the economy are linked—not in the way that President Bush asserted, but positively. A thriving economy requires a sound environment.

In defending his lack of leadership in Rio, the President used a profoundly ironic argument. He asserted that the United States should not be criticized for its failure to participate because we are the world leader in environmental protection and already have programs in place or planned that would meet the goals of the Rio meeting.

The multiple ironies of this assertion are best conveyed in three questions:

First, if the United States is already intending to achieve the goals set forth in the Rio treaties, why didn't we sign each of the Rio agreements rather than abdicating leadership? What did our refusal achieve other than a failure to create environmental protection obligations on the part of other nations?

Second, if the United States is the world leader in environmental protection—and if the President is proud of that, as he stated—does that not undermine the President's own contention that environmental protection is a threat to the American economy?

Third, and here lies the great irony, if the United States has attained leadership in the many technologies associated with environmental protection, do we not have a positive economic interest in seeing other nations commit to the use of such technologies? In other words, wouldn't an environmental revolution around the world actually have a sharply accelerating effect on the export of American products and technologies?

Mr. President, the assertion that the United States has a long record of leadership on environmental issues is absolutely correct. Our clean air, clean water, and Superfund laws, to name but a few, are landmarks in enlightened legislation. What the President failed to recognize is that those laws—and the response of the American market economy to those laws—have made many of our Nation's businesses world leaders in environmental pollution control technologies.

As the rest of the world catches up with our environmental standards, American businesses can put to valuable use their leadership and experience in this field.

But this opportunity could easily be lost. Our development of pollution control technologies and practices could become another example of a missed market—unless we realize that global environmental protection can mean more American jobs, not fewer; higher profits, not lower.

By failing to recognize the contradiction in his politically expedient assertion that environmental protection is bad for the economy, the President acted to scuttle an emerging international consensus to respond constructively to global climate change. The result was that rather than protecting the American economy, the President missed an important opportunity to help the American economy, both businesses and workers.

That is why I am introducing today, with Senators WIRTH, GORE, ROCKEFELLER, LIEBERMAN, and BINGAMAN, the Environmental Aid and Trade Act of 1992. This legislation is a first step toward a coherent set of policies and programs that will help American business in a rapidly growing global market in environmental goods and services.

This legislation is one of five legislative initiatives I have recently introduced to underpin an American foreign policy that is truly—not simply rhetorically—directed toward the construction of a new world order. these five pieces of legislation, and the philosophy and impetus behind them, are described in a series of speeches I gave in this Chamber earlier this summer.

The premise of the Environmental Aid and Trade Act of 1992 is that the basic export-promotion tools we need to help American businesses in the global environmental market are already in place, waiting to be focused on this important new objective. What our policy requires now is an understanding that environmental protection represents a tremendous opportunity for American businesses, not a burden: a recognition that jobs and the environment are not in conflict, but rather that global environmental protection can mean more jobs for Americans.

This bill, Mr. President, calls for five changes in the Federal Government: changes that would constitute our first concrete steps in responding to the profound advance in global environmental attitudes—an advance that has created what I would call a new environmental market.

First, within several key Federal agencies, the Environmental Aid and Trade Act mandates the designation of senior officers as coordinators for guiding the export-related programs of those agencies in support of our environmental goods and services industry. These key agencies are the State Department, the Commerce Department, the Export-Import Bank, the Overseas Private Investment Corporation, and the Trade and Development Program. Each of these agencies is equipped in some way to assist American businesses and workers make the most of the export opportunity before us.

Second, our bill would establish American Environmental Business Centers in countries that are major markets for our environmental products. The executive branch has already taken some tentative steps in this direction, but we need far more aggressive action. In this regard, our bill would establish a key competitor program, to improve our awareness of—and reaction to—efforts by other countries to enter and exploit the new environmental market. This preemptive approach will become increasingly important as other nations seek to build on their own experience with environmental protection.

Third, our bill calls for an expansion of the Trade Credit Insurance Program within AID, a program that multiplies the financial resources available for the export of the environmental technologies needed in many developing nations.

Fourth, the Environmental Aid and Trade Act would establish an environmental trade working group within the already-existing interagency body called the Trade Promotion Coordinating Committee. The TPCC was created within the executive branch to harness, into a united effort, the Federal agencies that have roles in promoting American exports. A specific environmental working group within that structure will ensure that these agencies focus particular attention on the potentially lucrative environmental market, at this critical moment when American businesses still hold a competitive edge.

Finally, our bill calls for an early study by OPIC directed toward the creation of a program to ensure companies that invest abroad against the risk of an unexpected reduction by the host government in environmental standards. A company that has invested abroad to produce products designed to meet a host government's environmental standards could conceivably find itself in a catastrophic position if the host government suddenly reduced or abandoned those environmental standards. This study would analyze whether a foreign government's reduction in environmental standards is an insurable risk like the risk of appropriation of company assets or the risk of deep devaluation of foreign currency—both risks against which OPIC now offers insurance coverage at an appropriate premium.

Mr. President, why should the U.S. Government focus special effort on a particular industry—that is, the cluster of goods and services that relate to the environment? The answer is twofold:

First, global environmental protection is a fundamental U.S. foreign policy interest. Citizens around the world are increasingly concerned about the deteriorating state of their surroundings; they want to reverse that slide for their own good and their children's; and we should recognize that their aspiration is consistent with and supportive of the American national interest. The American people can find neither security nor prosperity in a steadily deteriorating global environment.

That the Bush administration failed, infamously, to pursue this interest at the Earth summit represents a lost opportunity and a delay. But the American national interest remains, and must eventually be pursued through a new and focused policy.

Second, this special effort, though targeted on the environmental market, would serve the interests of American industries beyond those directly assisted by our bill. By now, it is well understood that no nation can expect to build a solid base of economic growth for future generations at the expense of its environment. By strengthening the American environmental industry, this legislative initiative will help our own efforts at environmental protection while building a strong export industry whose success will have a spillover effect on our entire economy.

A recent report on the environmental goods and services industry by the Organization for Economic Cooperation and Development [OECD] underscores the brilliant opportunity now available to American industry. "It is increasingly apparent," the report states, "that goods and services for pollution abatement and environmental protection is also a business opportunity."

That opportunity has in fact become, already, a $200 billion annual market and the projections are for steady growth. The OECD report projects this market to grow at an annual rate of 5.5 percent through the year 2000—to a $300 billion annual market worldwide.

Already, Mr. President, some 800,000 American workers are employed in the production of environmental goods and services. That is 800,000 jobs directly tied to pollution control, environmental protection, and environmental cleanup. Last year, the export of environmental products and services accounted for $4 billion of our Nation's exports. But this could be only the beginning—if we are smart and quick.

Mr. President, the emerging environmental market within the domestic American economy has proven to be highly conducive to success for smaller companies and innovative firms. But as in most industries, the larger American firms, at least thus far, have dominated in export sales because big companies have the resources to overcome the increased risks and greater complexity of the international market. Our bill will help lower those hurdles for all companies, but will be of greatest help to the thousands of smaller American firms that are developing environmental products, technologies, and services.

It is imperative, Mr. President, that we look forward—bringing to bear just a little of what President Bush derides as "the vision thing." As the 1990's unfold, the factors driving the demand for environmental goods and services will be spreading throughout the world. The unprecedented extent of participation in the Rio conference demonstrated that environmental protection is on the agenda of citizens around the globe.

The Rio conference embodied what is described in detail in the OECD report: "a consistent trend toward the application of more stringent standards in all product segments and most geographic regions." The OECD report describes how the global environmental market is being determined by increased "legislative controls related to pollution discharges to air, water, and more recently, land."

Nor do these laws and regulations represent the perverse growth of socialist bureaucracy. As described in a recent editorial in the Economist—hardly a friend of socialism—these new laws and regulations are "essential to make sure that polluters pay the true cost of their dirty deeds."

Even nations not heretofore considered strong on environmental protection are now taking steps to strengthen their pollution standards and enforcement:

In the former Communist world, Poland is rewriting its water and waste management laws. Bulgaria has adopted new environmental protection laws. In Russia, Ukraine, and other former Soviet Republics, the environment has become a top issue those countries must face.

In Latin America, slash-and-burn agriculture is now, for the first time, coming under constraint.

Along the Pacific rim, many of the countries that industrialized so rapidly in the 1960's and 1970's are now starting to deal with environmental problems they had largely ignored heretofore. Indonesia and Thailand have established new environmental agencies. Other countries are taking steps to equip existing environmental agencies with the authority and resources to bring about real improvements.

In all countries, environmental standards are moving forward, not being rolled back.

These developments will create buyers for American environmental products and services. To illustrate, only 5 percent of Malaysia's urban population has access to sewers and central treatment plants. In Manila, the largest city in the Philippines, only 15 percent of its residents are served by a sewer system. As those governments establish the laws and regulations to clean up their waterways and improve living conditions for their citizens, they will be looking to build dozens of water treatment plants and systems. These systems embody technologies with which American businesses have decades of design, construction, and operational experience.

Air pollution problems from Krakow to Seoul, and industrial waste problems from Basel to Taipei, are bringing similar demand forces to bear in those market sectors.

Mr. President, in the simplest and starkest terms—in terms of naked American self-interest—these developments represent potential sales of American businesses and jobs for American workers, if we give them to tools to crack those markets. That is precisely what the Environmental Aid and Trade Act aims to do.

As stated in the OECD report,

> Governments which view the environment industry in strategic terms and provide appropriate supports may be better placed to realize the ecological and economic benefits of a competitive environment sector.

Mr. President, let us make no mistake: there is urgency in this task for economic as well as environmental reasons. Our competitors in the global market are developing just such strategic plans to make the most of market openings:

Canada has begun an Environmental Industries Sector Initiative directed precisely at supporting that country's environmental industry in the world market.

Germany is providing research and development grants to help make its environmental industry a major player in the world market.

Japan has established a new research and development center to support its environmental businesses, and developed a technology development program to help bring innovative technologies to the world market.

These countries, Mr. President, have recognized the environmental changes sweeping the world. America must act on that recognition as well.

For over two decades, opponents of environmental protection have tried to fend off responsible action by rolling out the threat of job losses. But our domestic experience shows there need be no conflict between environmental protection and the overall prosperity of the American economy. Unfortunately, in Rio we saw the President reintroduce, on the international scene, the false notion that environmental protection is the enemy of economic prosperity. This was particularly perverse—in that the global environmental market now represents a potential path to increased American prosperity.

We simply cannot afford the delay of a mismanaged, underled effort at global environmental protection. The United States and other nations cannot afford further delay for environmental reasons. And American business and workers cannot afford further delay for economic reasons.

America must take the lead—in global environmental protection and in the global environmental market.

I ask unanimous consent that a copy of the Environmental Aid and Trade Act of 1992, and that two articles that address the issue of environmental exports, be printed in the RECORD.

I urge my colleagues to join us in supporting both American jobs and protection of the global environment by cosponsoring this legislation.

There being no objection, the material ordered to be printed in the RECORD, as follows:

S. 3261

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Environmental Aid and Trade Act of 1992".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the United States has long been a leader in environmental protection;

(2) companies in the United States are world leaders in the development and production of technologies, manufacturing processes, products, and services to control or reduce pollution and to clean up existing pollution problems;

(3) nations around the world are recognizing the importance of protecting their environment and natural resources, both for the long-term sustainability of their own economic development and for the protection of the earth's environment generally;

(4) as improved environmental standards are developed and implemented in more nations, additional markets will open for Americans firms with technologies, manufacturing processes, products, and services that they developed to meet environmental standards in the United States;

(5) the current global market for environmental products is estimated to be greater than $300,000,000,000 annually and is projected to $400,000,000,000 by the year 2000;

(6) American firms can be in the forefront of that market, but will have to be prepared for aggressive competition from firms in other countries;

(7) the role of the Federal Government is to assist American firms in the export of technologies, manufacturing processes, products, and services that will help protect the environment and natural resources around the globe; and

(8) the Federal Government's assistance can be built on a range of existing export promotion and financing programs and international environmental programs, and such assistance will be made more effective through better coordination of such programs and through the establishment of innovative efforts that reflect the unique conditions of the environmental goods and services market.

SEC. 3. ENVIRONMENTAL TRADE MANDATES FOR FEDERAL PROGRAMS.

(a) DEPARTMENT OF STATE.—The Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138, 105 Stat. 647), is amended by inserting after section 198 the following new section:

"SEC. 199. ENVIRONMENTAL TRADE PROMOTION.

"(a) POLICY.—It is the policy of the United States to foster the export of United States goods and services to control or reduce pollution and to clean up existing pollution problems. In exercising the powers and functions of the Department of State, the Secretary of State, shall give special emphasis to the development of strong environmental standards and regulations in countries around the world and to the support of sales of environmental goods and services.

"(b) DESIGNATION OF LIAISON.—To facilitate the emphasis referred to in subsection (a), the Secretary of State shall designate a senior official of the Department of State who shall—

"(1) advise the Secretary and other employees of the Department on—

"(A) efforts to strengthen environmental standards and regulations; and

"(B) ways of promoting the export of United States goods and services to be used in the control or reduction of pollution and in the clean up of existing pollution problems; and

"(2) serve as a liaison between the Department and other agencies which are members of the Environmental Trade Working Group of the Trade Promotion Coordination Committee.".

(b) AGENCY FOR INTERNATIONAL DEVELOPMENT.—The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by inserting after section 225 the following new section:

"SEC. 226. TRADE CREDIT INSURANCE PROGRAM FOR ENVIRONMENTAL GOODS AND SERVICES.

"(a)(1) It is the policy of the United States—

"(A) to develop and strengthen the capacity of developing countries to protect and manage their environment and natural resources; and

"(B) to foster the export of United States goods and services to control or reduce pollution and to clean up existing pollution problems.

"(2) To help promote the policies referred to in paragraph (1) and to coordinate between them, the Administrator of the agency primarily responsible for carrying out this part of this Act shall designate a senior official of the Agency who shall—

"(A) advise the Administrator and other employees of the Agency on ways of incorporating the export of United States goods and services into development projects for the control or reduction of pollution and the clean up of existing pollution problems;

"(B) manage the Trade Credit Insurance Program for Environmental Goods and Services; and

"(C) serve as a liaison between the Agency and the Export-Import Bank of the United States and other agencies which are members of the Environmental Trade Working Group of the Trade Promotion Coordination Committee.

"(b) To develop and strengthen the capacity of developing countries to protect and manage their environment and natural resources while fostering the export of United States goods and services to control or reduce pollution and to clean up existing pollution problems in developing countries, the President is authorized to provide guarantees to the Export-Import Bank of the United States (hereafter referred to as the 'Bank'), in order to satisfy the requirement of section 2(b)(1)(B) of the Export-Import Bank Act of 1945 that the Bank have reasonable assurance of repayment, for liabilities incurred by the Bank in connection with guarantees or insurance provided for the financing of the export of environmental goods and services to public or private purchasers in developing countries which the Bank determines would not otherwise provide reasonable assurance of repayment.

"(c)(1) Guarantees or insurance extended by the Bank and guaranteed pursuant to subsection (b) shall be provided by the Bank in accordance with criteria and procedures agreed to by the Administrator and the Bank.

"(2) The agreement referred to in paragraph (1) shall also provide for the establishment of a reserve fund by the Agency, with such funds made available to the reserve as the Administrator deems necessary to discharge liabilities under guarantees provided pursuant to subsection (b).

"(3) Such amounts of the funds made available to carry out this Act as the President determines are necessary may be made available to discharge liabilities under guarantees entered into pursuant to subsection (b). To the extent that any of such funds are paid out for a claim arising out of liabilities guaranteed pursuant to subsection (b), amounts received after the date of such payment, with respect to such claim, shall be credited to the reserve fund established pursuant to paragraph (2), shall be merged with the funds in such reserve, and shall be available for the purpose of payments by the Agency to the Bank for guarantees pursuant to subsection (b).

"(d) The authority to issue guarantees pursuant to subsection (b) may be exercised only to such extent or in such amounts as are provided in advance for environment and energy activities in appropriations Acts.

"(e) The aggregate amount of outstanding commitments pursuant to subsection (b) may not exceed $5,000,000,000 of contingent liability for loan principal during any fiscal year.

"(f) The Bank shall provide, without reimbursement, such administrative and technical assistance to the Agency as the Bank and the Administrator determine appropriate to assist the Agency in carrying out this section.

"(g) The Bank is authorized to charge fees and premiums in connection with guarantees or insurance guaranteed by the Agency pursuant to subsection (b) that the Bank determines would cover the Bank's administrative cost and the risk covered by the Agency's guarantees. Any amounts received by the Bank in excess of the estimated costs incurred by the Bank in administering such guarantees or insurance shall be credited to the reserve fund established pursuant to subsection (b), shall be merged with the funds in such reserve, and shall be available for the purpose of payments by the Agency to the Bank for guarantees pursuant to subsection (b).

"(h) Not later than February 1 of each year, the Administrator and the Bank shall prepare and transmit to the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate and to the Speaker of the House of Representatives a report on the guarantees and insurance provided by the Bank and guaranteed pursuant to subsection (b) which were extended or were outstanding during the preceding fiscal year.".

(c) OVERSEAS PRIVATE INVESTMENT CORPORATION.—The Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended—

(1) in paragraph (2) of section 231 (22 U.S.C. 2191(2)), by inserting "to investment projects that foster the export of United States goods and services to control or reduce pollution and to clean up existing pollution problems and" after "give preferential consideration"; and

(2) by adding at the end of section 233 the following new subsection:

"(e) The Corporation shall designate an officer of the Corporation to facilitate the Corporation's preferential consideration to investment projects that foster the export of United States goods and services to control or reduce pollution and to clean up existing pollution problems. Such officer shall—

"(1) advise the President and other officers of the Corporation on ways of promoting the export of United States goods and services to be used in the control or reduction of pollution and the clean up of existing pollution problems;

"(2) gather information concerning export opportunities for environmental goods and services;

"(3) disseminate to United States producers such information and information on the availability of Corporation support for such activities; and

"(4) serve as a liaison between the Corporation and other agencies which are members of the Environmental Trade Working Group of the Trade Promotion Coordination Committee.".

(d) REPORT.—

(1) SUBMISSION DATE.—Not later than 1 year after the date of enactment of this Act, the Overseas Private Investment Corporation (hereafter referred to as the "Corporation") shall submit a report to the President and to the Congress on the feasibility of an insurance program to protect eligible United States investors from the political risk associated with reductions by a foreign government in its environmental standards, regulations, and laws.

(2) CONTENTS.—The report shall include an assessment of—

(A) the impact that reductions in environmental laws and regulations could have on United States investments eligible for insurance by the Corporation;

(B) the need for United States companies to be insured against the financial cost of such reductions in environmental laws or standards, if any;

(C) the possible structure of such an insurance program, if needed;

(D) the estimated costs to businesses of such a program, and an assessment of its effect on the operations of the Corporation; and

(E) other insurance or financial activities that the Corporation could undertake to promote the export of United States environmental goods and services.

(e) TRADE AND DEVELOPMENT PROGRAM.—Section 661(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2351(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) It is the policy of the United States to foster the export of United States goods and services to control or reduce pollution and to clean up existing pollution problems. In exercising its powers and functions, the Trade and Development Program shall give special emphasis to the support of sales of environmental technologies, goods and services.

"(B) To facilitate the emphasis referred to in subparagraph (A), the Director of the Trade and Development Program shall designate an employee of the Program, who shall—

"(i) advise the Director and other employees of the Program on ways of promoting the export of United States goods and services to be used in the control or reduction of pollution and the clean up of existing pollution problems;

"(ii) gather information concerning export opportunities in multilateral and bilateral development projects for environmental goods and services;

"(iii) disseminate such information to United States producers and information on the availability of Trade and Development Program support for such activities; and

"(iv) serve as a liaison between the Program and other agencies that are members of the Environmental Trade Working Group of the Trade Promotion Coordination Committee.".

(f) THE DEPARTMENT OF COMMERCE.—The Export Enhancement Act of 1988 (15 U.S.C. 4721 et seq.) is amended by adding at the end the following new section:

"SEC. 2312. ENVIRONMENTAL TRADE PROMOTION.

"(a) POLICY.—It is the policy of the United States to foster the export of United States goods and services to control or reduce pollution and to clean up existing pollution problems.

"(b) SUPPORT OF SALES OF ENVIRONMENTAL GOODS AND SERVICES.—In exercising the powers and functions of the office of the Secretary of Commerce (hereafter referred to as the 'Secretary'), the Secretary shall place special emphasis on the support of sales of environmental goods and services.

"(c) DESIGNATION OF CHAIRPERSON.—To facilitate this emphasis, the Secretary shall designate a senior employee of the Department of Commerce as the chairperson of the Environmental Trade Working Group of the Trade Promotion Coordination Committee, as established under section 201(f) of the Export Enhancement Act of 1992. The duties of the chairperson shall include—

"(1) advising the Secretary and other employees of the Department of Commerce on ways of promoting the export of United States goods and services to be used in the control or reduction of pollution and the clean up of existing pollution problems; and

"(2) serving as a liaison between the Department of Commerce and other agencies that are members of the Environmental Trade Working Group of the Trade Promotion Coordination Committee.

"(d) SURVEYS AND OTHER INFORMATION.—To support the work of the Environmental Trade Working Group of the Trade Promotion Coordination Committee, the Secretary shall prepare, update on a regular basis, and make available to United States providers of environmental goods and services—

"(1) surveys of the existing markets and emerging market trends in developed countries for environmental goods and services;

"(2) surveys of the existing markets and emerging market trends in developing countries for environmental goods and services; and

"(3) a description of the export promotion programs for environmental goods and services of the members of the Environmental Trade Working Group of the Trade Promotion Coordination Committee.

"(e) KEY COMPETITOR PROGRAM.—

"(1) AUTHORIZATION.—The Secretary is authorized to establish the position of Environmental Competitor Program Officer in United States embassies in countries whose companies are determined to be important competitors for United States exports of environmental goods and services.

"(2) DUTIES.—The Environmental Competitor Program Officer shall—

"(A) assess the government assistance provided to producers of environmental goods and services in such countries for the purpose of determining the effect of such assistance on the competitiveness of United States products;

"(B) determine whether comparable United States assistance exists; and

"(C) make recommendations for additional United States assistance if such competitor assistance is determined to have a material effect on the competitiveness of United States companies in the international market.

"(f) ENVIRONMENTAL BUSINESS CENTERS.—

"(1) AUTHORIZATION.—The Secretary is authorized to establish environmental business centers in countries or regions that offer promising market possibilities for the exports of United States environmental goods and services. Such centers may be established in existing United States business centers in Eastern Europe and the independent states of the former Soviet Union or in existing United States regional trade centers.

"(2) PURPOSE.—The environmental business centers shall provide export promotion assistance to United States companies, including—

"(A) business services, including translators, secretarial services, communication services, and office space, to assist United States companies seeking export markets;

"(B) information on environmental standards and regulations in the country or region for which the office is responsible;

"(C) information on public and private sector entities that are in the country or region for which the office is responsible and that are potential customers for United States environmental goods and services;

"(D) information on technical and financial assistance available from various United States Government departments and agencies for the promotion of exports of United States environmental goods and services; and

"(E) support for trade delegations and trade shows assembled to establish and develop contracts between United States producers of environmental goods and services and their potential overseas customers.

"(3) FEES.—The environmental business centers established under this subsection are authorized to charge such fees as may be necessary to recover the cost of the business services authorized in paragraph (2)(A).".

(g) EXPORT-IMPORT BANK OF THE UNITED STATES.—Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is amended—

(1) by redesignating subparagraphs (C) through (G) as subparagraphs (D) through (H), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C)(i) It is the policy of the United States to foster the export of United States goods and services to control or reduce pollution and to clean up existing pollution problems. In exercising the powers and functions of the Bank, the Bank shall encourage the export of goods and services that have beneficial effects on the environment or mitigate potential adverse environmental effects. The Board of Directors shall name an officer of the Bank to advise the Board on ways that the Bank's programs can be used to support the export of such goods and services. The officer shall also act as a liaison between the Bank and the Agency for International Development and other departments and agencies which are members of the Environmental Trade Working Group of the Trade Promotion Coordination Committee.

"(ii) To support the policy set forth in clause (i), the Bank shall seek to maximize the aggregate loan, guarantee, and insurance authority available to it in any fiscal year to finance exports of environmental goods and services.".

SEC. 4. ENVIRONMENTAL TRADE WORKING GROUP OF THE TRADE PROMOTION COORDINATION COMMITTEE.

(a) ESTABLISHMENT AND PURPOSE.—The President shall establish the Environmental Trade Promotion Working Group (hereafter referred to as the "Working Group") as a subcommittee of the Trade Promotion Coordination Committee. The purpose of the Working Group shall be to address all issues with respect to the export promotion and export financing of United States goods and services to control or reduce pollution and to clean up existing pollution problems.

(b) MEMBERSHIP.—The members of the Working Group shall include 1 representative of each of the departments and agencies represented on the Trade Promotion Coordination Committee and 1 representative of the Environmental Protection Agency.

(c) CHAIRPERSON.—The Secretary of Commerce shall designate a chairperson of the Working Group from among senior employees of the Department of Commerce. In addition to the duties assigned to the chairperson under section 2312 of the Export Enhancement Act of 1988 (as added by section 3(f)), the chairperson shall—

(1) assess the effectiveness of United States Government programs for the promotion of exports of environmental goods and services;

(2) recommend improvements to such programs, including regulatory changes or additional authorities that may be necessary to improve the promotion of exports of environmental goods and services;

(3) ensure that the members of the Working Group coordinate their environmental trade promotion programs, including feasibility studies, technical assistance, business information services, and export financing; and

(4) assess, jointly with the Working Group representative of the Environmental Protection Agency, the extent to which the environmental trade promotion programs of the Working Group advance the environmental goals established in Agenda 21 by the United Nations Conference on Environment and Development at Rio de Janeiro and in other international environmental agreements.

(d) REPORT TO CONGRESS.—The chairperson of the Trade Promotion Coordination Committee shall include a report on the activities of the Environmental Trade Working Group as a part of the chairperson's annual report to the Congress on the activities of the Trade Promotion Coordination Committee.

SEC. 5. DEFINITIONS.

For purposes of this Act—

(1) the term "environmental technologies, goods, and services" means—

(A) products to control or reduce pollution and to remediate or manage existing pollution problems; and

(B) technologies, products, and processes (often referred to as "clean technologies") which minimize waste, conserve raw materials and energy, and reduce emissions and pollutants;

(2) the term "Agency" means the Agency for International Development;

(3) the term "Administrator" means the Administrator of the Agency for International Development; and

(4) the term "Bank" means the Export-Import Bank of the United States.

EC RUSHING TO CLEAN UP ENVIRONMENT

(By Patrick Oster)

BRUSSELS.—Earlier this year, a large chemical company in northern Europe contacted Pall Corp. of East Hills, N.Y., a leading maker of emissions filters.

The chemical company, which asked not to be identified, was discharging heavy metals into the atmosphere through its plastics manufacturing process. With the 12-nation European Community about to pass a new hazardous waste law regulating such metals, it wanted Pall to come up with a filter that would enable the chemical company's emissions to comply with the regulations.

"Our filters cost more, but. . . We've been doing this for some time now and have an edge in design know-how," said Adrian Fox, senior vice president for marketing for Pall's European operations, explaining why the European firm turned to a U.S. company to comply with a European law.

A handful of European countries have had strict environmental controls for years, but now similar calls are being made to experienced U.S. environmental firms by European companies that face a spate of recently enacted environmental laws and a growing list of pending ones.

After 20 years of dithering, the EC is suddenly passing environmental legislation with a frenzy, and American companies, which have been responding to similar U.S. laws for two decades, are well positioned to take advantage of the opportunity.

At stake is a market for environmental services that is expected to triple to $171 billion in Western Europe alone by the year 2000. The enormous environmental calamity left behind by communist regimes to the east will only add to this market.

Missing from this competition, so far, are Japanese companies, which have had three decades of experience in cleaning up their own country and lead the United States in a number of environmental technologies. How long they will remain out of the European market remains unclear.

Arvin Industries Inc. of Columbus, Ind., a leading maker of catalytic converters, is already grabbing a chunk of the market for environmental products and services. The new, EC-wide rules will force automakers early next year to install catalytic converters on all new cars to comply with U.S.-style emissions limits. The converters were required in the United States in 1975.

That means about 10 million converters will be needed. Analysts estimate Arvin will sell $400 million worth and either it or Tenneco Inc., another U.S. catalytic-converter maker, should emerge as market leader in a close European race.

Arvin, with $1.7 billion in worldwide sales, sold $450 million worth of mufflers, manifolds and some catalytic converters in Europe last year. To boost converter sales further, it recently acquired European automotive parts companies with factories in Britain and the Netherlands. Its 1993 customer list already includes France's Renault, Ford-Europe and Suzuki Motor Co.'s and Toyota Motor Corp.'s European operations.

Arvin spokesman John Brown offered an explanation: "If you were starting a new model with a catalytic converter, you might look to someone who has supplied large quantities to other major car manufacturers rather than experience all the potential start-up problems with someone who has never made the device before."

Just how long Arvin and other U.S. companies will have limited competition remains unclear.

In some European countries, such as Germany, Denmark, Switzerland and the Netherlands, environmental laws already match U.S. regulations, and local environmental companies, such as Switzerland's ABB Asea Brown Boveri AG, will be competitors for the new Europe-wide market. Most of these companies are based in northern Europe and the biggest markets will be in southern Europe, where some areas don't even have drinkable water and few local environmental champions exist. In these areas, seasoned U.S. firms, such as Waste Management Inc. And Browning-Ferris Industries, are expected to do extremely well.

The new Europe-wide environmental laws are partly a response to the growing importance of "green issues" in European politics, themselves a response to environmental conditions that have gotten so bad that the EC can't afford to wait any longer. Such laws also are sailing through because a recent EC court decision now allows a simpler approval process.

"U.S. environmental legislation is about 5 to 10 years ahead of EC legislation, especially in the enforcement area," said David Owen, head of research for Ecofin, a London-based environmental financial services firm. "There's quite a lot of pious talk here, but many laws are just lying around."

As a prime example of EC shortcomings, Owen noted that the Community has no enforcement agency to match the U.S. Environmental Protection Agency. The EC did approve an environmental agency in 1990 to collect data, but squabbling member countries so far have been unable to pick a headquarters city for the agency, which isn't functioning.

"American firms have benefited from being exposed to a more robust enforcement regime," said Owen. "They understand about liability. Europe is still naive about it."

Helping European firms cope with existing and proposed waste legislation is expected to provide the largest revenue for U.S. firms, especially those laws likely to create liabilities regarding cross-border transportation, incineration and disposal of hazardous wastes.

But European managers and city officials also will need help with EC laws that:

Will require, beginning June 30, 1993, that all municipal waste water be subjected to at least secondary treatment. Currently, the EC sets only quality standards for bathing and drinking water, which several Community countries ignore.

Commit the EC to reduce carbon dioxide emissions by 2000, partly through energy efficiency rules and tax incentives expected to encourage purchases of insulation, heating controls and other efficiency products.

Also in the works are EC proposals to:

Create a blueprint for overall control of air, water, waste, soil, noise and dust pollution caused by "dirty" industries including chemical, energy, metals, cement, asbestos, waste-disposal and paper and pulp companies. The system would operate along the permit system now used by the EPA.

Introduce voluntary environmental audits for other companies. Audits would be made public, creating pressure on nonparticipating companies to volunteer, and would be subject to periodic review by EC auditors.

Require that 60 percent of the 50 million tons of packaging produced annually in the EC be recovered for recycling or for incineration for energy. The eventual goal is 90 percent recovery. A stricter German law went into force last year.

Impose strict liability on landfill operators for adverse environmental effects from their operations, as well as require tougher technical standards for incinerators.

To position themselves to benefit from these changes, U.S. companies such as Waste Management and Browning-Ferris also have acquired local firms. Waste Management hopes such local contacts will help it win contracts for municipal waste-water treatment plants in cities such as Brussels, whose current treatment system is to dump its raw sewage into its waterways.

These city plants projects "will be mostly political decisions," said Ecofin's Owen. "You'll need local contacts."

In facing European competition, big U.S. firms will benefit from lower manufacturing and capital costs, said Brett Maxwell of First Analysis Corp., a Chicago firm that is raising venture capital to invest in smaller, privately held U.S. environmental firms.

Alameda Industries of Pleasanton, Calif., for example, has been negotiating with semiconductor manufacturers such as Philips Electronics NV of the Netherlands and Germany's Siemens AG to sell a reprocessing system to deal with used sulfuric acid, a hazardous byproduct of silicon-chip manufacturing. Alameda says its process lets chipmakers use the sulfuric acid again and eliminates a waste that used to be trucked away.

Aqua-Aerobics Systems, Inc. of Rockford, Ill., with some European sales already, hopes current and pending EC water-pollution legislation will boost its $21 million in sales last year of a cutting-edge tertiary filtration system.

Aspen Technology of Cambridge, Mass., is having success selling its new computer simulation technology to firms such as Germany's BASF AG and France's Rhone-Poulenc Rorer Inc. The technology lets companies see how environmental solutions would work without having to build a costly pilot project.

And wherever manufacturers go, consultants usually are not too far behind.

Environmental Resources Management Group of Exton, Pa., is trying to sell its services to help European firms through the intricacies of EC laws just the way they do with U.S. firms baffled by EPA regulations.

ENVIRONMENTAL EQUIPMENT SECTOR SET TO SURGE

(By John Zarocostas)

GENEVA.—The global market for pollution-reducing equipment and services will grow 5% to 6% a year and reach $300 billion annually by the year 2000, the Paris-based Organization for Economic Cooperation and Development estimated.

This growth will come mainly from consulting services, water and effluents treatment, waste management and air quality control, the OECD said in a report.

Spending on pollution-control technologies accounts for about 1.2% to 1.5% of the output of goods and services in most industrialized economies, which account for more than 80% of the world market.

It said more than 30,000 firms in North America, 20,000 companies in Europe and 9,000 in Japan are involved in the environment business, with a total work force of more than 1.7 million.

The report estimated that more than 40% of German pollution know-how and production is destined for markets abroad, while in the United States 10% of environmental products are exported. The United States is also a major importer of pollution technologies from Europe and Japan.

The study said most advanced markets and technologies have developed in countries where government regulations are strict.

The cost burden on environmental devices is evenly spread between the business and government sectors in most industrialized nations.

Green technologies now account for about 2% to 4% of total manufacturing investment in most rich nations.

The level of expenditure for environmental research and technology by OECD countries averages about 2% of total government outlays for research and development.

The biggest share of government R&D for environmental purposes is in the Netherlands. The Dutch spend 3.8% of total R&D on environmental projects, followed by Germany with 3.4% and Denmark with 3%. The United States is at the bottom of the list among major Western nations with only 0.5% of total R&D.

"These levels of R&D are very low and completely inadequate to meet requirements," said Gordon Mudge of the International Academy of the Environment.

He said little is still being spent on training to help build up technical expertise in many areas.

The OECD said firms in different countries are carving out niches in the market. The Germans are strong on water treatment, the Japanese adept at producing air pollution control measures, and the United States leading in the treatment and cleanup of hazardous wastes.

Mr. WIRTH. Mr. President, I am pleased to join Senators BIDEN, GORE, ROCKEFELLER, LIEBERMAN, BINGAMAN, and LEAHY today in introducing the Environmental Aid and Trade Act of 1992.

Over the last several months, Americans have been fed a constant diet of political rhetoric from the Bush White House about the false choice that supposedly must be made between jobs and the environment. This myth has been reinforced by inaction at the Rio summit, foot-dragging on the Clean Air Act—and a host of other efforts aimed at sending the message that environmentalism costs jobs. Just last week, George Bush again propagated this cynical and short-sighted message by attacking the Endangered Species Act as an assault on American jobs.

FROM RED MENACE TO GREEN MARATHON

The false choice of jobs versus the environment is not only wrong, it is harmful to American interests. The world is changing and changing rapidly, and the Bush administration is unwilling or incapable of leading this change. They just don't get it.

The Rio Earth summit was a historic watershed, marking the end of the cold war and the beginning of a new international order. Regrettably, the Bush administration was purposely "absent at the creation" of this new world, a lone dissenting voice among the industrialized democracies.

This abdication of leadership at Rio was doubly harmful: the world looked to America to lead and we failed in this first challenge of the new world order, and in so doing we undercut an enormous economic opportunity for the United States in the growing global market for green goods.

The Bush-Quayle administration has failed to see that environment and economics are positively linked—and will become increasingly so. The road from Rio is the beginning of a new competition for survival and well-being that America is superbly positioned to lead and to win. Rather than embracing this opportunity, the Bush White House runs away, rehearsing tired arguments about jobs versus the environment.

This "old think" appeals to special interests, but corrodes national purpose. It reinforces the status quo—correctly defined by Jack Kemp as "Latin for the mess we are in"—and ignores the opportunities for change.

Mr. President, Americans have built a great record of leadership and achievement on environmental issues—a record we are now squandering. We celebrated Earth Day over 20 years ago, and in the ensuing two decades put in place the most comprehensive set of environmental practices of any nation on Earth. We have been world innovators in environmental technology.

Today, environmental awareness is spreading across the globe as economies mature, populations proliferate, and threats to the ecosystem become more apparent. This translates into growing environmental markets for American technologies, goods, and services in the 1990's and beyond.

Bill Clinton understands this connection. Speaking at Drexel University on April 22, Governor Clinton stated:

> You can't have a healthy economy without a healthy environment, and you don't have to sacrifice environmental protection to get economic growth. Our competitors know that you can't have one without the other.

Our global competitors know it, Mr. President, and so should we.

To earn the payback on our environmental investment, we must develop a coordinated, aggressive program to export American-made technology that will promote clean development. Environmental policies can work to make America more competitive and generate more jobs—if we have the vision and the leadership to promote American environmental exports and encourage greater efficiency in U.S. industry.

ENVIRONMENTAL PROTECTION HELPS CREATE JOBS AT HOME

Today, nearly 70,000 businesses are engaged in environmental protection, recycling, and energy conservation in the United States, employing over 2 million Americans. This $130 billion environmental sector represents over 2 percent of GNP. By the end of this decade, environment and defense spending will represent equivalent shares of the GNP—approximately 3 percent. This is big business, and—unlike defense—it is growing. Jobs versus the environment?

The $130 billion spent in 1991 on pollution abatement and control generated $270 billion in total industry sales, $22 billion in corporate profits, and $76 billion in Federal, State, and local revenues. Total jobs dependent upon the environment sector, using standard multiplier effect analysis used by the Defense Department, is over 3.5 million. Jobs versus the environment?

Environmental business has been growing six times as fast as the overall U.S. economy. During the recession year of 1991, America's 40 largest environmental firms reported an average payroll increase of nearly 9 percent. Jobs versus the environment?

ENVIRONMENTAL PROTECTION IMPROVES COMPETITIVENESS

Pollution is another word for waste. The more efficient industry is, the less waste it generates, the less it pollutes, the more profitable it is. Greater energy efficiency and more efficient production technologies can keep costs down, save jobs and help our environment.

Many large U.S. corporations—Cummins Engines, 3M, Polaroid, Monsanto—are profiting from their environmental leadership. Smart CEO's know that they must become more efficient to stay competitive, simple truth that has escaped the attention of QUAYLE's Competitiveness Council. A recent survey of the chemical industry found that each dollar invested to reduce toxic waste resulted in new savings of $3.50. Jobs versus the environment?

The best evidence that tough environmental standards do not hamper competitiveness is the fact that the most successful economies have the toughest environmental standards, an argument detailed by Michael Porter in his book "Competitive Advantage of Nations." Germany and Japan currently require far more recycling than the United States achieves. Germany was among the first to commit to CO_2 reductions of 25 percent by the year 2005.

If the United States were as energy-efficient as Japan, we would save over $200 billion annually—money that could be used to save jobs and reinvest in America. Japan uses roughly half the energy that we do for the same domestic output, making them less polluting and more competitive. Jobs versus the environment?

German workers are paid on average $6.70 more per hour in wages and benefits than their American counterparts and yet continue to produce competitively priced products on the world market. Why? Because they use resources more efficiently that we do—and pollute less. Jobs versus the environment?

Our economic competitors recognize that the $3 trillion market in the 1990's for environmentally sound products are technologies is a real opportunity and are preparing for that race. We should be too.

The current global market for environmental goods and services totals nearly $300 billion. OECD estimates that this market will grow at 5.5 percent throughout the 1990's—an enormous economic opportunity.

Japan has already created a government-industry plan to produce environmentally sound technology for the future. Funded at $1 billion, this MITI-backed project, New Earth 21, is aimed to assure that environmental technologies will be to Japan's future what consumer electronics and efficient autos have been to its past. And Tokyo's generous offer of $8 billion in international environmental aid—twice the United States level—is aimed at one thing: business. Jobs versus the environment?

A top Japanese executive recently told Business Week magazine "In the future, access to international markets will depend on who has the most environmentally sound technologies. If U.S. companies don't move aggressively, we will see the same conflict in environmental technology that we see today between GM and Honda." Jobs versus the environment?

We are already beginning to lose our leadership position in environmental products. Today we export some $8 billion annually in environmental goods and services. Germany exports $11 billion, making it the world leader in green exports.

America pioneered solar energy development, but Japan and Germany now have 70 percent of the global market. Today over 70 percent of America's clean air technology is imported from overseas, mainly from Germany. Jobs versus the environment?

NEED FOR NEW LEADERSHIP

Where is the Bush administration in the face of this enormous challenge? Nowhere. This administration has turned its back on our own national self-interest in order to score stale ideological points with the right-wing of the Republican Party and to curry favor with business executives focussed on their next quarterly report.

Mr. Bush in his speech to the Detroit Economic Club on September 10 correctly stated that:

> America will only grow in the next century if we can compete globally in every part of the world. So we must seize every opportunity to open new markets, particularly those with the greatest potential for expansion.

The President is beginning to get the rhetoric right, but when it comes to action, he is still all nouns and no verbs. Mr. Bush claims that we must play to our strengths, then turns his back on one of the fastest growing markets in the 1990's.

The record is clear: Reagan-Bush-Quayle have failed to capitalize on the huge U.S. environmental market as a spur to innovation and export potential for American industry. The conclusion is equally clear: We cannot afford to stand idly by while our economic competitors again use American innovation to beat our brains out in global markets. We cannot afford further drift and lack of leadership.

We must translate the environmental activism of the 1960's and 1970's into export opportunities of the 1990's. As the early leader in the environmental movement, we have already made enormous investments in clean air, clean water, and clean soil. We need to cash in on those investments now.

The legislation we are introducing today would put the full force of the U.S. Government behind a concerted effort to promote, nurture, and sustain U.S. exports of environmental goods and services. This bill would:

Require the State Department, the Agency for International Development, the Overseas Private Investment Corporation, the Trade and Development Program, the Commerce Department, and the Export-Import Bank to give special emphasis to promoting the exports of environmental goods and services.

Require each agency to appoint a senior official to serve as that agency's lead on environmental exports and its liaison with other agencies on export promotion programs.

Direct the Export-Import Bank to maximize its loan, guaranty and insurance authority in support of the export of American environmental goods and services.

Establish a trade credit insurance program in AID for the guarantee of Export-Import Bank financing of environmental exports to developing countries.

Require the Department of Commerce to prepare market surveys of exports markets for environmental exports and to make the surveys as well as information on Federal export promotion programs available to U.S. producers of environmental goods and services.

Authorize the creation of environmental business centers in existing American business centers and at United States and foreign commercial service sites.

Establish an environmental trade working group as a statutory subcommittee of the Trade Promotion Coordination Committee, and requires the chairperson of the board to assess the effectiveness of Federal export promotion programs, to recommend improvements, to ensure that the programs of the several Federal agencies are coordinated, and to assess the extent to which these programs advance the goals established by international environmental agreements.

This legislation is a start. It is commonsense policy that the Bush-Quayle administration has lacked the vision to propose, much less implement. By better use of existing resources and programs, we can dramatically expand our share of this growing market—doing good for the environment and creating American jobs.

Let me assure my colleagues that this legislation is not intended to open up export markets for green goods at the expense of other U.S. exports. It is our hope that a focussed effort on U.S. environmental exports will be successful, and that we will be able to expand existing authorities to accommodate this burgeoning export potential. U.S. exports are not a zero sum game, and the record should be clear that the authors of this legislation do not intend to limit one or another export sector in favor of the environmental sector. Far from it.

I am pleased to be joined by Senators BIDEN, GORE, LIEBERMAN, BINGAMAN, ROCKEFELLER, and LEAHY, in introducing this bill today. Working with the distinguished chairman of the Senate Banking Committee, Mr. RIEGLE, and the ranking member of that committee, Mr. GARN, many of the key elements of this bill were adopted in floor action on the Export-Import Bank reauthorization bill on August 12.

Specifically, the Senate-passed bill included a provision to establish an environmental trade working group as a statutory subcommittee of the Trade Promotion Coordination Committee. That provision requires the chairperson of the Board to assess the effectiveness of Federal environmental export promotion programs, to recommend improvements to ensure that the environmental export promotion programs of Federal agencies are coordinated, and to assess the extent to which these programs advance the goals established by international environmental agreements.

Another provision in the Exim reauthorization bill requires the Department of Commerce to prepare surveys of markets for environmental exports and to make the surveys, as well as information on Federal export promotion programs, available to U.S. producers of environmental goods and services. Moreover, it would authorize the designation of a foreign commercial service officer to serve as the environmental export assistance officer in countries that offer a promising market or are serious competitors for environmental exports. The officer would work to identify market opportunities and analyze government assistance programs to our competitors in order to determine how we can improve our own programs.

These important provisions build upon section 105 of the Eximbank reauthorization, which was included in the bill in committee. This section provides for Eximbank procedures to consider the environmental effects of certain projects, and directs the Bank to encourage exports of environmental goods and services.

I look forward to working with Senator BIDEN and others to see that the remaining elements of the Environmental Aid and Trade Act of 1992 are incorporated in Senate Foreign Relations Committee legislation before we adjourn.

Mr. President, I ask unanimous consent that several articles relating to the international environmental marketplace be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Scientific American, April 1991]

ESSAY: AMERICA'S GREEN STRATEGY

(By Michael E. Porter)

Do strict environmental standards make American industry less competitive in international markets? Many observers answer yes. Richard Darman, director of the Office of Management and Budget, has quipped that "Americans did not fight and win the wars of the 20th century to make the world safe for green vegetables."

The conflict between environmental protection and economic competitiveness is a false dichotomy. It stems from a narrow view of the sources of prosperity and a static view of competition.

Strict environmental regulations do not inevitably hinder competitive advantage against foreign rivals; indeed, they often enhance it. Tough standards trigger innovation and upgrading. In my book The Competitive Advantage of Nations, I found that the nations with the most rigorous requirements often lead in exports of affected products.

Although the U.S. once clearly led in setting standards, that position has been slipping away. Until the passage of the Clean Air Act in 1990, itself the result of 12 years of foot-dragging, Congress had passed little environmental legislation since the mid-1970s. Today the U.S. remains the only industrialized country without a policy on carbon dioxide, and our leadership in setting environmental standards has been lost in many areas. Even Japan, a nation many think of as relatively unconcerned about the environment, has moved ahead of the U.S. in important fields. Japan's NO_x emission standards for vehicles are significantly more stringent than those in the U.S. and Europe: its stationary SO_x and NO_x standards are set in terms of rigorous daily (versus yearly) average hourly emissions.

As other nations have pushed ahead, U.S. trade has suffered. Germany has had perhaps the world's tightest regulations in stationary air-pollution control, and German companies appear to hold a wide lead in patenting—and exporting—air-pollution and other environmental technologies. As much as 70 percent of the air pollution-control equipment sold in the U.S. today is produced by foreign companies. Britain is another case in point. As its environmental standards have lagged, Britain's ratio of exports to imports in environmental technology has fallen from 8:1 to 1:1 over the past decade.

In contrast, the U.S. leads in those areas in which its regulations have been the strictest, such as pesticides and the remediation of environmental damage. Such leads should be treasured and extended. Environmental protection is a universal need, an area of growing expenditure in all the major national economies ($50 billion a year in Europe alone) and a major export industry. Without competitive technology, America will not only forsake a growth industry, but more and more of our own environmental spending will go to imports.

Even in the broad economy, strict environmental codes may actually foster competitiveness. Exacting standards seem at first blush to raise costs and make firms less competitive, particularly if competitors are from nations with fewer regulations. This may be true if everything stays the same except that expensive pollution-control equipment is added.

But everything will not stay the same. Properly constructed regulatory standards, which aim at outcomes and not methods, will encourage companies to re-engineer their technology. The result in many cases is a process that not only pollutes less but lowers costs or improves quality. Processes will be modified to decrease use of scarce or toxic resources and to recycle wasted by-products. The 3M Company, for example, estimates that its "Pollution Prevention Pays" program has saved $482 million since 1975, while eliminating more than 500,000 tons of waste and pollutants, and has saved another $650 million by conserving energy.

Strict product regulations can also prod companies into innovating to produce less polluting or more resource-efficient products that will be highly valued internationally. As a result of the U.S. proposed phaseout of chlorofluorocarbons (CFCs), for example, Du Pont and other American firms are pioneers in finding substitutes.

This is not to say that all companies will be happy about tough regulations: increased short-term costs and the need to redesign products and processes are unsettling at the least. The aversion to tough standards will be particularly strong in industries that feel threatened by international competition, as is too often the case in America today. The auto industry, for example, has been fighting mandates to improve fuel efficiency, even though meeting them could stimulate innovations that made products more competitive.

The strongest proof that environmental protection does not hamper competitiveness is the economic performance of nations with the strictest laws. Both Germany and Japan have tough regulations, and both countries continue to surpass the U.S. in GNP growth rates and rates of productivity growth. Japan has become a world leader in developing pollution-control equipment and cleaner, more efficient processes. It is noteworthy that in America many of the sectors subject to the greatest environmental costs have improved their international trade performance, among them chemicals, plastics, synthetics, fabrics and paints.

Turning environmental concern into competitive advantage demands that we establish the right kind of regulations. They must stress pollution prevention rather than merely abatement or cleanup. They must not constrain the technology used to achieve them, or else innovation will be stifled. And standards must be sensitive to the costs involved and use market incentives to contain them.

Because U.S. environmental regulations have traditionally violated these principles, the substantial amount we spend on protecting the environment has not yielded the benefits it could have. In the 1970s, for example, ambient air-quality standards encouraged tall smokestacks, some as high as 800 feet, which exported pollution somewhere else instead of reducing it. Even today most standards are met with end-of-pipe technology, where equipment is simply added to the end of a process.

The resurgence of concern for the environment, then, should be viewed not with alarm but as an important step in regaining America's preeminence in environmental technology. The Environmental Protection Agency must see its mandate as stimulating investment and innovation, not just setting limits.

In companies, the "Chicken Little" mindset that regulation inevitably leads to costs and an adversarial posture toward regulators must be discarded. Environmental protection can benefit America's competitiveness if we simply approach it properly.

[From Business Week, Feb. 24, 1992]

THE GREEN GIANT? IT MAY BE JAPAN

(By Neil Gross)

Two decades ago, Japan was choking on its own filth. Acrid clouds of photochemical smog from car and factory emissions assaulted residents of major cities. Then, two oil crises led to energy shortages and sent prices spiraling. That walloped Japan, a huge oil importer, harder than other industrial countries. Something had to be done.

So the government enacted draconian measures to clean things up. Other laws fostered energy efficiency—a byproduct of which is less pollution. Now, after years of investments that produced dramatic gains at home, Japan is looking abroad. Mitsubishi Heavy Industries Ltd. and Hitachi Ltd., among other, are criss-crossing Europe, Asia, and the U.S., striking deals on equipment or licensing their approach in everything from plant design to waste-water and air-pollution control. The Japanese have a lead over the U.S. and Germany in pollution technology for basic industry, and Tokyo is spending $4 billion a year to broaden the country's environmental skills. Jerry D. Newton, Far East marketing manager for environmental and geographic information systems at Digital Equipment Corp., has just returned from surveying such efforts. Japan, he confirms, "is starting to target the environmental market."

SEAWEED POWER? The green technologies being developed in Japan span a broad range of industries. Steelmakers, who spew out 25% of the country's carbon dioxide, a greenhouse gas, have slashed energy consumption per ton of steel by 20% since the mid-1970s. Already, the world's most energy-efficient producers, these companies hope to cut energy use a further 10 points with a new process, called direct iron-ore smelting, which is due out in 1994. Meanwhile, Toyota, Nissan, Honda, and Mazda are pushing hard to raise fuel efficiency and slash emissions. And Tokyo Electric Power recently unveiled an electric car that broke two world records. It hit a peak of 109 mph and drove 340 miles on a single battery charge at 25 mph—much farther than U.S. models go.

Innovation isn't limited to smokestack industries. Construction giants Taisei Corp. and Kajima Corp. have integrated systems for sorting and transporting waste within office buildings and complexes. Sanyo, Sharp, and Matsushita Electric Industrial dominate the world market for solar batteries, and Fuji Electric Co. leads in fuel-cell technology. Last year, Matsushita Battery Industrial Co. commercialized the world's first mercury-free alkaline batteries. It licensed the technology to Rayovac Corp., the No. 3 U.S. battery producer.

Now, the Japanese government is funding more exotic projects. The latest, led by the Ministry of International Trade & Industry (MITI), aims to use biotech to make hydrogen, the cleanest-burning of all fuels and one that experts think is the great hope for the 21st century. Making hydrogen now requires huge amounts of electricity to separate the gas from water. MITI's idea is to use gene-splicing and other techniques to boost the productivity of hydrogen-producing microbes in seaweed. If this works, MITI says, the benefits could far exceed those of solar cells and other energy sources it has backed so far.

Whenever possible, Japan is focusing on integrated systems that minimize waste—and create new markets. Nippon Steel Corp., for example, is converting coal ash to zeolite, a mineral used in water treatment. Researchers at the Japan Atomic Energy Research Institute, Chubu Electric Power Co., and Ebara Corp. are working on a project to convert sulfur and nitrogen oxides—the chief causes of acid rain—into ammonium sulfate and ammonium nitrate, which can be used in fertilizers. The technique has been licensed to research groups in the U.S., Poland, and Germany.

To be sure, Japan faces plenty of obstacles. U.S. and European competitors haven't been standing still. Japan produces some of the world's most advanced incinerators, for instance, but relatively few of the 2,000 in operation are rigged to produce electricity. The U.S. has the lead in such cogeneration systems, and the Energy Dept. funds leading research in a broad range of advanced energy technologies.

Moreover, as with earlier efforts in semiconductors and consumer electronics, Japan is starting from a small base. Domestic orders for environmental equipment last year totaled just $5.8 billion, and exports of such gear account for less than 10% of Japan's industrial production. Still, by the year 2000, Japanese companies will be cranking out $12 billion worth of waste incinerators, air-pollution equipment, and water-treatment devices a year, predicts the Japan Association of Industrial Machinery.

To expand overseas, Japan's strategy is to use joint ventures. In the U.S., Mitsubishi Heavy Industries have teamed up with Corning Inc. in Durham, N.C. to use chemical catalysts to remove nitrogen oxides from coal-fired power plants. Ebara has tapped Zurn Industries Inc., in Erie, Pa. to build industrial waste incinerators—and Ebara director Yoshio Hirayama expects joint venture sales of $160 million a year by 1993. Ishikawajima-Harima Heavy Industries has licensed its nitrogen-oxides removal technology for industry and power plants to America's largest boilermaker, Foster Wheeler Energy Corp.

Scrubbing up. Still, U.S. factories have a weak incentive to buy all this, given cheap energy prices and, by Japanese standards lax air-quality laws. In fact, although U.S. gross national product is only twice as big as Japan's, America's total emissions of sulfur and nitrogen oxides were many times those of Japan in 1990, says the Organization for Economic Co-operation & Development. The U.S. also accounts for 25% of the world's carbon-dioxide emissions, vs. less than 5% for Japan. "The need for new technology is apparent," says Katsuya Sato, senior technical officer at Japan's environment agency. "But the gap in energy prices and pollution standards will be a barrier." Even so, the Japanese see opportunity in the new Clean Air Act, which will take effect this decade.

In Europe, where companies such as Asea Brown Boveri Inc. have stayed on the technological cutting-edge and where plants are often better equipped than in the U.S., the Japanese have also been signing joint ventures. Ebara recently licensed its incinerator technology to Abfall Beseitigungs Technologien (ABT), which already has orders from the cities of Berlin and Macomer, Italy. And Mitsubishi is working the frontiers. "We're very interested in Northern Europe, as well as Poland and Czechoslovakia," says Mitsubishi Heavy general manager Kazuhiko Kusakabe.

Asia, however, is Japan's top priority. The government has earmarked Official Development Assistance (ODA) funds to subsidize environmental projects there. Last summer, for example, MITI proposed bundling aid projects aimed at energy development in China, Malaysia, and Indonesia with ODA subsidies for Japanese environmental equipment purchases.

As competition in environmental technologies heats up, Japan's moves could spark new trade tensions. But then again maybe not: Competitors will be hard-pressed to claim unfair trade when the issue is aiding the survival of planet Earth.

[From Science, May 22, 1992]

JAPAN BIDS FOR GLOBAL LEADERSHIP IN CLEAN INDUSTRY

(By Frederick S. Myers)

"In the past, Japan was criticized because we did not create new technology," says Ikuo Tomita, Director for Global Environmental Technology at the Ministry of International Trade and Industry (MITI). But as Tomita lists the innovative, high-technology environmental projects that MITI has begun as part of its strategy for sending world greenhouse gas emissions plunging by the year 2025, it's clear that he is determined to put the lie to that criticism. "This program is completely different," he says. "Japan wants to be a leader in global environmental technology."

Japan first laid out its comprehensive plans for a technical fix for global warming and ozone depletion in 1990, in MITI's "The New Earth 21—Action Program for the Twenty-First Century." New Earth 21 is a "vision," as the ministry calls its long-term strategic plans, and as such it comes with plenty of hype. The ultimate goal, says MITI, is "to undo the damage done to the earth over the past two centuries, since the Industrial Revolution." But this is no utopian dream: Like the "visions" that preceded Japan's conquest of world semiconductor markets, it signals a consensus in industry that it is time to move into a particular area of technology. And like earlier visions, New Earth 21 has spurred the formation of new government-industry-university joint research institutes, in this case aimed at transferring existing "clean" technologies to developing countries and—a longer-term goal—devising completely new technologies that would actually strip carbon dioxide out industry smokestacks.

That big-budget, long-term technological approach to global warming is unparalleled elsewhere. "[Even] in the United States remarks Tomita, "the Department of Commerce, the National Science Foundation, and the Environmental Protection Agency have no such programs for environmental technology development." And Japan's effort attracting plenty of plaudits abroad. National Academy of Engineering president Robert White, for example, has cited it as a potential nucleus for a global effort to develop and transfer clean technology—an effort likely be discussed next month in Rio de Janeiro the United Nations Conference on Environment and Development.

Japan is well positioned to take the lead environmental technology, as industry and government spokesmen are found of pointing out. Turn to the Ministry of Foreign Affair handbook on Japan's environmental policies and you'll find a proud boast in big, bold headlines: "Japan's carbon dioxide emission is about 4% of the world's total and one-fifth that of the United States." The figure is so low because Japan uses less energy per head (and per dollar of GDP) than any other advanced nation, thanks to the rapid response of industry to the 1970 oil shock.

"In retrospect," says Genya Chiba, who runs the Science and Technology Agency's Exploratory Research for Advanced Technology (ERATO) program, "the oil crisis was valuable in that it compelled Japan to draw on both technology and a flexible management system. As a result Japan was propelled into the emerging era of conservation and efficiency much faster than the nations that were less threatened. In some cases, within 2 or 3 years industrial oil consumption decreased by 20% to 30%."

To build on that record, MITI began work in 1990 to create the Research Institute of Innovative Technology for the Earth (RITE), intended to develop the environmental technologies New Earth 21 says will be needed early next century. Instead of searching for ways to improve energy efficiency (with lowered carbon dioxide emissions as a lucky byproduct), RITE is aiming toward schemes for stripping carbox dioxide out of industrial emissions and recycling the carbon.

Industry has responded enthusiastically. In the half-year after the institute was set up, $45 million came in from Japanese industry, adding to the $80 million in seed money provided by MITI. Every sector is represented: the huge electric utilities, engineering companies, car manufacturers, shipbuilders, electronics companies, steel manufacturers, and even clothing makers. All have their own environmental technology programs too—Tokyo Electric Power, for example, is searching for ways to extract carbon dioxide from smoke by chemical absorption—but they see involvement with RITE as essential to keep abreast of long-term technological change and the latest in government thinking.

Thanks to industry's largess, RITE is now able to spend about $28 million a year to support work by about 200 researchers. Half of the money goes toward the two big carbon dioxide fixation projects and the rest is divided among the remaining big projects, subsidies to private companies for the development of environmental technology, and grants for basic research. For the time being, all of the work is going on at the laboratories of the companies, universities, and MITI institutes that have joined RITE projects. But next year this will change when RITE's own laboratory is completed in the new "Kansai Science City" under construction near Osaka.

International participation in all RITE projects is welcome—a highly unusual arrangement for a Japanese institution—but at a price: Intellectual property rights on the fruits of research must be shared with RITE. Last year, applications for grants came in from the United Kingdom, the United States, Canada, Australia, and the Netherlands, says Hidefusa Miyama, director of Research Planning Department of RITE. Already, an Italian company has joined one large project on microbial generation of hydrogen, and a British group at the Agriculture and Food Research Council has won funding to study the uptake of methane by agricultural soils.

But the new technology being developed at RITE won't be ready for 20 years; until then Japan sees transferring its existing energy-efficient technology to the developing world as the best way to tackle global warming. The logic is simple: Most industrial countries can now hold their carbon dioxide emission at current levels or start to reduce them, says Tomita, but industrializing countries going for quick economic growth to support growing populations will pump out more greenhouse gases every year. He cites World Bank figures that show that developing countries will produce 44% of total carbon emissions in 2050, up from 20% now.

Japan's answer to the threat is the International Center for Environmental Technology Transfer (ICETT), which won MITI backing last year. Its objectives are ambitious: Tomita says it and an associated energy center are going to try "to train 10,000 people over the next 10 years" in energy conservation, pollution control technology, and environmental protection regulations. Most participants will come from developing countries and, as with other Japanese overseas programs, many will end up working for Japanese companies when they get back home. Naturally enough, their first choice of technology is likely to carry the "Made in Japan" label.

That's an unsettling prospect for some observers outside Japan, and they now have another cause for worry: a new United Nations Environment Program International Environmental Technology Center (UNEP/ITEC), first proposed by the then-Japanese Prime Minister Toshiki Kaifu at the Houston Summit of advanced nations in July 1990. Like RITE and ICETT, it will be built in Kansai Science City and should be up and running this fall. This added boost for Japan's technology-transfer activities is worrying presidential science adviser D. Allan Bromley, among others. Bromley has already voiced concerns that the decision to put the UN institute in Japan may mean U.S. industry has missed the environmental technology boat. But Miwako Kurosaka, senior researcher at the World Resources Institute in Tokyo, argues that Japan deserves the job: Its design and manufacturing skills will speed the effort to disseminate environmental technology before developing countries build polluting industries. And if Japan can sell environmental technology as fast as it sells video recorders, the world will surely be a better place.

A TECHNICAL FIX FOR THE GREENHOUSE

When Japanese government and industry get together to develop a new technology, they're in it for the long haul. And the national effort to seize the lead in technologies for reducing greenhouse gas emissions and protecting the ozone layer (see main text) is no exception. With government and industry promising funding for "at least 10 years," says Ikuo Tomita, director for global environmental technology at MITI, scientists at the Research Institute of Innovative Technology for the Earth (RITE) know that they can think really long-term in their quest for technological solutions to the problems of the global environment.

Five of RITE's suite of seven big projects have familiar goals: substitutes for the chlorofluorocarbon compounds that attack ozone, biodegradable plastics, improved bioreactors for low-energy synthesis of chemicals, production of hydrogen by bacteria, and recycling of steel scrap. But the two front-runners, sharing half of the total $28 million-a-year budget, are more unusual. Both projects aim at new methods for removing carbon dioxide from industrial exhaust gases. If they succeed, factories and power plants might one day run without net production of carbon dioxide.

One project, run by Hiroshi Kuwahara, general manager of Hitachi's Industrial Systems and Equipment Division, would harness biology. At the mercy of rainfall and soil quality, plants are normally working at less than optimal efficiency when they use sunlight to convert carbon dioxide into carbohydrates: RITE would outdo nature, placing algae capable of extraordinarily high rates of photosynthesis in a perfect environment: a nutrient bath at the ideal temperature, with sunlight piped in through special optical fibers that diffuse light through their sides to produce an even illumination. If the plan works, carbon dioxide bubbled into this algal heaven from industrial exhausts will simply vanish, turned straight into carbohydrate, which can in turn serve as a fuel or food source.

"To find the superior photosynthetic microorganisms, microalgae have been collected from lakes and hot springs," says Mamoru Kodama, chief scientist at the Marine Biotechnology Institute in Kamaishi, on the north Pacific coast of Japan. "Several species were found that could grow under carbon dioxide concentrations of 20%," he says. Screening of the organisms is now under way, and the biotechnologists are ready to try to improve the best the microbiologists can find. Meanwhile, physicists are developing new reflective coatings for solar collectors and new types of glass for light-diffusing optical fibers, biochemists are examining ways of turning end products into useful fuels or foodstuffs; and, at the top of the hierarchy, computer engineers are developing fuzzy logic controls that would operate the whole system automatically. Sixteen companies are involved in the work, including Hitachi, Asahi Glass and Sumitomo Chemical Company, each bringing its own special area of expertise. The goal is to have a test plant running early in the next century, at a projected total cost of $123 million.

But if biology can't gulp enough carbon dioxide, then maybe blunter chemical methods will work. Another group of 14 companies plus three of MITI's own research institutes, is also spending big—$77 million over 10 years—to create new kinds of selectively permeable membranes that could filter carbon dioxide out of high-volume, high-concentration industrial sources. "We have found two or three types of membrane with high efficiency for carbon dioxide separation, says Hiroshi Mano of Sumitomo, who directs the membrane research. The next step might be to turn the carbon dioxide into methanol, a fuel, by adding hydrogen in the presence of new high-performance metal catalysts. A copper-based catalyst already looks promising, says Taiki Watanabe, a researcher from Kawasaki Havy Industries who directs the catalyst side of the project. Together, the membrane and the catalyst could yield an elegant recycling scheme: When the methanol is burned, the carbon dioxide could be recovered and turned into fuel again. One way or another, it seems, RITE is determined to turn carbon dioxide from a problem into a profit center.

[From International Wildlife]

DOWN GERMANY'S ROAD

(By Curtis A. Moore)

The world's future begins in Germany, down a country lane and through a gate into tomorrow. You get to it on a two-lane road that winds across a field, then disappears over the crest of a hill.

There, nestled in a hollow near the tiny village of Neunburg just 20 miles from the border with Czechoslovakia, stands a glimmering complex of yellow and white, glass and steel, which converts solar radiation into electricity and, in turn, into hydrogen fuel. It is the experimental $38 million Solar Wasserstoff power plant.

By utility-company standards the futuristic plant, owned by a consortium of governments and industries, is minuscule; it generates only enough energy to supply the equivalent of 50 or 60 households. By every other standard, however, it is revolutionary. The fuel it produces to run cars and furnaces is zero-polluting and virtually limitless.

Even more important, Solar Wasserstoff symbolizes a strategy that may catapult Germany into a position of global economic dominance for years to come. Like dozens of other environmental miracles currently being nurtured in that country, the Wasserstoff operation is lean, mean, competitive and poised to take advantage of an expanding global marketplace—precisely because it is clean.

More than anywhere else on Earth, Germany is demonstrating that the greening of industry, far from being an impediment to commerce, is in fact a stimulus. From Bonn to Berlin, Germany's citizens, businesses and government have concluded that a robust economy and a safe environment are like the chicken and the egg: One leads to the other. "What we are doing here is economic policy, not environmental policy," says Edda Muller, chief aide to Germany's minister for the environment.

The impetus for that economic policy, however, began with an environmental shock wave: a phenomenon called Waldsterben, or "forest death." The term refers to a mysterious tree die-off, first noticed around 1979 or 1980, which has been linked to air pollution. In a nation with an almost mythic connection between its people and the forests, the specter of losing woods ranging from the fabled Black Forest of Hansel and Gretel to the graceful lindens of Berlin generated an irrepressible demand for action.

The result was the burgeoning of the world's first environmentally based Green political party. At one point the Greens claimed roughly one of every 12 members of the parliament, or Bundestag, and their grass-roots pressure pushed politicians inexorably toward tighter and tighter environmental controls.

Then, just as this upwelling of environmental fervor seemed to be subsiding, the meltdown and explosion in 1986 of the Soviet Union's Chernobyl nuclear power plant revived and strengthened it. As mothers fearfully kept their children indoors to avoid the hazard of nuclear fallout, and, as rumors of two-headed calves being born to exposed cattle swept the nation, environmentalism became a deep-seated national value.

Quickly, the zeal to make environmental improvements spread from smokestacks to cars, then to ozone-destroying chemicals, hazardous wastes and global warming. As a result, says Alan Miller of the Center for Global Change, a policy-analysis institute of the University of Maryland, "There is virtually no field of environmental protection where Germany does not stand out. It has the most rigorous controls of any nation, bar none—and that includes the United States."

In the space of ten years, Germany has vaulted into the vanguard of global environmental leadership, eclipsing the United States, Canada, Japan and even ecological hotbeds like Sweden. Although the Green Party has waned nationally, its policies have been usurped by the political mainstream and nurtured by a politician regarded as among the world's most conservative, Chancellor Helmut Kohl. As a result, Germany today is a nation which is:

Revolutionizing the junk business. In the car industry, a "take-back" program requires car companies to pick up and recycle junked cars of their make. New cars will soon roll off the assembly line with bar-coded parts and predesigned disassembly plants capable of dismantling an auto in 20 minutes. By 1994, similar requirements will be imposed on products ranging from yogurt containers to cameras.

Retrofitting all power plants. While politicians in North America were arguing about whether acid rain was fact or fantasy, Germany adopted rules requiring every power plant within its borders to slash by 90 percent the air pollutants that cause acid rain. By 1990, the German retrofit was complete. Today, while companies in the United States continue to bicker over the details of an acid rain program, Germans are selling Americans and the rest of the world antipollution technology and know-how.

Phasing out harmful atmospheric gases. In 1989, Germany mandated a ban by 1995—five years before the test of the world—on CFC gases, the primary culprits in the destruction of the ozone layer that protects Earth from the sun's ultra-violet radiation. The country had also committed to reducing emissions of carbon dioxide, principal cause of global warming, by 25 percent by the year 2005. There are the swiftest and toughest phasedowns in the world, and they required German industries to respond quickly.

Labeling environmentally friendly products. In 1977, the government's environment ministry began a labeling program to alert consumers to product brands that are less harmful to the environment than those of competing brands. The symbol, known as the Blue Angel, is laurel wreath encircling a blue figure with outstretched arms. The government licenses use of the label for about 3,500 products selected by an independent nine-member Environmental Label Jury. The Blue Angel program has unleashed a torrent of innovation among manufacturers, spawning new environmentally friendly products ranging from low-polluting paints to mercury-free batteries.

With such economic efficiencies now in place, Germany faces the tantalizing prospect of stealing a competitive edge over its industrial rivals for global markets. "Any country that does not emulate Germany's strategy will be at a competitive disadvantage in 10 or 20 years," says Konrad von Moltke, a senior fellow at the World Wildlife Fund who has written extensively on the country's new policies.

This cross-fertilization between environmental protection, government regulation and economic development has already begun making an impact in the marketplace. For example:

At the Ford auto plant in Cologne, managers complied with new requirements by modernizing the paint-spray line, cutting pollution by 70 percent and the cost of painting a car by about $60—a savings that makes German-made cars marginally more saleable.

At the "4P" plastic-film manufacturing and printing plant in Forchheim, where plastic bags for frozen french fries and other foods are printed and stamped by the millions, officials were forced by strict new pollution laws to cut emissions by 70 percent. They installed a recycling system that reclaims up to 90 percent of the plant solvents, saving so much money that the 4P pollution controls will not only pay for themselves but will actually start saving the company money as the price of solvents rises. A sister plant with a similar system already makes money by recapturing solvents, once again lowering the price of its service and increasing profit.

At the Knauf gypsum manufacturing plant in Iphofen, "scrubber sludge" (acidic wastes neutralized in a slurry of limestone and water) from nearby power plants is manufactured into wallboard, concrete and a wide array of other building materials. Knauf's program has proven so successful that it recently opened a new plant—at Sittingbourne, England, on the banks of the Thames River. There, waste exported from German power plants is manufactured into wallboard for the English market, generating annual sales of $48 million a year for Knauf. In the United States, such byproducts from pollution controls are dumped as useless waste.

At Siemens in Munich, the German conglomerate has made numerous inroads into foreign markets. Siemens makes the world's cleanest and most efficient gas turbines for generating electricity. Two have already been installed in Delaware at a Delmarva Power and Light facility, and the company is pushing hard to close sales in San Diego, California. Seimens also manufactures compact, high-efficiency fluorescent light bulbs, which were initially developed in the United States with funding from the Department of Energy. But it is the Germans who are making a profit selling the bulbs.

At Deutsche Voest-Alpine, based in Dusseldorf, engineers have developed and built the world's first cokeless steel mill. Long considered an essential step in the manufacture of steel, coking—the heating of scarce and expensive metallurgical coal in massive, airtight ovens—spews a noxious mixture of cancer-causing pollution. A second full-size facility has already been built in South Africa, and negotiations are underway to build another in the United States.

Such breakthroughs are likely to continue as Germany edges closer to a self-imposed target of reducing carbon dioxide emissions from the former West Germany by 25 percent and from the former East Germany by 30 percent, both by the year 2005. As the already efficient economy slims itself down further, this will mean:

Harnessing wasted energy. In most power plants and factories, only about one-third of the energy in coal, oil or gas is converted into electricity. The rest is vented as waste heat. Now, the German government is preparing regulations that require large and medium industries and utilities to market this waste energy. The energy can be used to heat or cool homes and factories, operate paper mills and chemical plants, and even generate additional kilowatts in power plants. Officials estimate that by using this waste heat, efficiency can be boosted to roughly 90 percent and air pollution—already at the world's lowest levels—can be chopped in half or more.

Cutting auto use. Other regulations on the drawing board will reduce pollution by forcing drivers out of gas-guzzling cars and onto public transit. Inner cities are systematically being closed to auto traffic, while fees for highway and bridge use are being raised. The government hopes that the number of bicycle riders in Germany, already at one of every 20 commuters, will double.

Recycling more than cars. Because products made from virgin raw materials can require 10 to 100 times the energy of those made from recycled goods, the car company "take-back" requirements now applicable to new vehicles are being extended to virtually all other products. By 1995, 72 percent of glass and metals must be recycled, along with 64 percent of paperboard, plastics and laminates. Incineration, even if used to generate power, is ruled out. Goods made from recycled materials require up to 95 percent less energy—savings that can make products less expensive and more competitive.

"Taking back" used products. Consumers will be required to begin paying deposits on bottles, paint cans and even soap boxes. Such products will bear a "green point" recycling symbol. "The ferocity of the new regulations is extraordinary," said the international business magazine The Economist.

To be sure, there are critics of the German strategy. Many question whether the country can achieve its environmental goals while maintaining a high standard of living and a social welfare system that is among the world's most comprehensive—all while undertaking the mammoth costs of reunifying the former East and West Germanies.

Gasoline prices have already been hiked by roughly 45 cents a gallon to help pay the estimated $128 billion cost of bringing the former East Germany up to West Germany's stringent environmental standards. New taxes on toxic waste, carbon dioxide and other pollutants are imminent. Now some industries are resisting.

When the government proposed yet another turn of the environmental screw in late 1991, the chairman of Hoechst, Germany's largest chemical company, complained bitterly, saying the government "had lost all sense of proportion." Wolfgang Hilger said stringent requirements had already forced Hoechst to halt production of some dyes and chemicals at a cost of $60 million, and another $48 million were threatened. Chemical firms, Hilger warned, "now have to study each new legislative proposal to see whether we can still afford to invest in Germany."

It is exactly these kinds of fears that have slowed cleanup in the United States, Canada and other developed countries. In the United States, for instance, the prevailing view among Bush Administration officials is that the inevitable consequence of environmental protection is a weakened economy and loss of jobs.

Increasingly, however, the marketplace results of the German experiment are discounting this view. Now many experts feel that if the United States and other industrial giants fail to take actions of their own to catch up, the Germans will be catapulted into the lead in many areas.

This makes sense to economists who have attempted to explain the dynamics underlying the debate. "Tough standards trigger innovation and upgrading," says Harvard Business School economist Michael Porter, whose 855-page multinational study of industrial economics, The Competitive Advantage of Nations, examined the impact of environmental regulations on competitiveness. "Nations with the most rigorous requirements often lead in exports of affected products," he adds, citing both Germany and Japan's air-pollution requirements.

"Although the U.S. once clearly led in setting standards," Porter continues, "that position has been slipping away. Today the U.S. remains the only industrialized country without a policy on carbon dioxide, and our leadership in setting environmental standards has been lost in many areas."

Roger Gale, a former senior official at both the U.S. Department of Energy and the U.S. Environmental Protection Agency, agrees. Investments in new technologies of the sort being deployed in Germany "accomplish the twin goals of improving environmental quality while improving competitiveness," says Gale, who now advises foreign and domestic utilities on the competitive implications of environmental regulations. "Gains in efficiency from investment in new technologies and services will provide a huge, long-term competitive advantage."

Meantime, there is no sign that the German public is growing weary of the pursuit of green policies. In fact, the government is now launching a series of innovative initiatives that capture the imagination. The most environmentally elegant may be an aggressive and focused program to commercialize what many energy experts consider to be the two perfect fuels: solar electricity and hydrogen.

Electricity can be generated from sunlight through the use of photovoltaic panels—devices commonly used on a small scale to power calculators and watches. Solar electricity is utterly silent, nonpolluting and more reliable than coal, oil or natural gas.

Trouble is, solar electricity costs up to five times that made from coal or oil. So, to bring down costs and gain hands-on experience with engineering details, Germany launched the Thousand Roofs program. Its aim is to install residential-scale solar-electric panels on roofs throughout the country by providing government purchase subsidies of up to 75 percent. The wildly successful program quickly doubled after the inclusion of roofs in the former East Germany.

For other uses, hydrogen is an equally perfect fuel: It can be produced by splitting water with electricity, a process called electrolysis. Then, in advanced engines, it produces only pure water and pure energy. Again, however, there's a hitch: While there's little doubt that hydrogen can be used for everything from home furnaces to cars, the infrastructure of pipelines, storage tanks and the like is lacking, as is extensive experience in using the highly explosive gas safely.

To gain this experience, the governments of Germany and Bavaria teamed with a handful of industrial partners, including BMW and aerospace giant Messerschmitt-Boelkow-Blohm (MBB), to build the Solar Wasserstoff plant. Using its outputs of zero-polluting electricity and hydrogen, German engineers are experimenting with different types of furnaces, cars, storage systems and other equipment to eliminate the devilish kinks that can spell the difference between success and failure. During off hours, the excess electricity is sold to the local utility and used to power nearby homes.

In addition, Germany's government is feeding money to Mercedes-Benz and BMW to hasten development of hydrogen-powered cars and trucks. If the ultimate goal of using solar-derived electricity to decompose water into oxygen and hydrogen is realized, Germany will convert itself to utterly nonpolluting fuels: solar electricity to run homes, shops and factories, with solar-derived hydrogen fueling the nation's cars, trucks, locomotives, planes and even ships and submarines.

It may be two or three decades before the investment in the Solar Wasserstoff plant pays off. But if threats such as global warming and ozone depletion prove to be the peril to human survival that many scientists predict, the path of Germany's future may prove to have been a road of another sort: a yellow brick road, bathed in sunlight—and paved with gold.

A CLEANER GERMANY FLEXES ITS MUSCLE

Although Germany is by no means the world leader in every field of environmental technology, it leads the pack overall. Consider the following:

Solar photovoltaics. Germany is now neck and neck with the United States for the lead in production of devices for generating electric power from sunlight. But German production is rising so fast that, as the former head of the U.S. program puts it, Germany will soon climb to first place.

High-efficiency turbines. Although General Electric remains the world's leader in manufacture of these machines for producing electricity, the German giant, Siemens, has produced what are, at least for the moment, the world's least polluting and most highly efficient models.

Motor vehicles. Germany is at the cutting edge of developing zero- and near-zero-polluting hydrogen cars, although these are unlikely to be commercially available for another decade or perhaps two. By century's end, says international consultant Michael Walsh, Germany could have a fleet of diesel-engine vehicles averaging 40 to 50 miles per gallon, compared to the 25 to 30 miles per gallon of conventional vehicles in North America, if trends continue.

Household appliances. German appliances historically have been smaller and more energy efficient than their North American counterparts, and they're becoming even more so. Washing machines, for example, have computer microchips that sense the weight of a load, metering soap and water accordingly.

Add-on pollution controls. When Germany embarked on a crash program to slash the power-plant pollutants that cause acid rain by 90 percent within a six-year period, it was forced to buy technology from the world's leading producer, Japan. Now, German firms have improved that technology and are aggressively marketing their own versions, challenging Japanese supremacy.

Atmospheric-gas recycling. Chlorofluorocarbons, or CFCs—the compounds destroying Earth's protective ozone shield—are used in refrigerants and in plastic-foam insulation in refrigerators. When an old refrigerator dies in Germany, it is hauled at no charge to one of 11 centers where the compressor's CFCs are drained. Then the CFC-laden insulation is extracted and crushed beneath exhaust hoods which capture the gases. These are then piped to barrels for storage and recycling by Hoechst Chemical.

"Green" foreign aid. In 1989-90 alone, Germany spent nearly $1 billion in foreign aid devoted to environmental protection, much of it tailored to stimulate demand for German technologies and services. For instance, solar-powered lights, wind-driven pumps and other nonpolluting sources of energy—many made in Germany—are being introduced in countries from Kenya to Peru. If current trends continue, developing nations will account for 40 percent of the world's energy consumption by the year 2010. Germany is betting that much of this new demand will be for technologies it is fostering.

[From the New York Times, Aug. 6, 1990]

FIGHTING GLOBAL WARMING IS GOOD FOR BUSINESS

(By David Doniger and Alan Miller)

WASHINGTON.—There is an air of familiarity to the White House's doomsday warnings against rapid action to combat global warming.

We are told that a severe cutback in the use of fossil fuels, which produce the carbon dioxide that is warming the atmosphere, is technically impossible and economically suicidal. This is exactly what we heard just a few years ago, when the idea of banning ozone-depleting chlorofluorocarbons was first proposed.

Today, however, with the recent adoption of a treaty to phase out the 10 worst ozone-depleting chemicals, things don't look nearly so bleak. Virtually every industry knows how it will eliminate these chemicals before the year 2000 deadline, and many firms already have. Cost estimates are melting away like an iceberg adrift in a tropical sea. The economy may even show a net savings from the ban.

The lesson of the ban on chlorofluorocarbons, or CFC's, is clear: When industry is forced to find alternatives it will, and without the dire consequences that are routinely forecast.

CFC's seemed indispensable when they were dirt cheap and available in unlimited quantity. If you've got something almost as inexpensive and plentiful as water, why look for substitutes? Thus it was no surprise that in 1982 the Environmental Protection Agency could identify substitutes for no more than a third of the chemicals' uses.

But with the discovery in 1985 of the ozone hole yawning over Antarctica, perceptions turned and the search for substitutes began in earnest. Today, breakthroughs are coming at increasing speed. Many companies have sharply cut ozone-depleting emissions just by eliminating waste or recycling used chemicals—usually saving money. Some industries are swimming in new alternatives.

For cleaning printed circuit boards, for example, the electronics industry has perfected new solvents made from water and detergents (one is even made from orange peels). For refrigeration and air conditioning, alternatives include new, less dangerous chemicals and even the revival (with modern safety precautions) of old coolants such as ammonia.

The best of the new cooling compounds and equipment, it now turns out, are more energy-efficient than their predecessors. According to the E.P.A., the energy savings could reach $5 billion in the 1990's and $100 billion over the next 85 years.

As alternatives mushroom, estimates of the overall cost to the U.S. economy have nose-dived. In 1988, the E.P.A. projected that cutting CFC's by 50 percent over 10 years would cost more than $3 billion. But just a year later, the agency found that a total phase-out by the year 2000 would cost less than its earlier estimate for doing just half as much.

In fact, thanks to the multibillion-dollar energy savings, the economy may show a net profit. And this is not to mention some $30 trillion in health and environmental damages avoided over the next 85 years.

The analogy between cutting CFC's and reducing the use of fossil fuels is very close.

Opportunities for cutting U.S. energy use—at enormous profit—are widespread. For example, applying known energy-efficiency improvements to seven types of home appliances would produce net savings of more than $50 billion over the next 20 years.

Responding to a United Nations report predicting a disastrous warming of 5 to 10 degrees Fahrenheit by 2100, six of the seven countries at the Houston economic summit meeting last month have announced major curbs in carbon dioxide emissions over the next 10 to 15 years. Only the Bush Administration persists in King Canute like denial.

Just as with CFC's, the new commitments are going to spur strong investment in energy efficiency and alternative power, producing a crop of currently unimagined technologies and options. The cost of cooling the greenhouse will tumble.

Germany, which already uses only half as much energy per unit of gross national product as the U.S., plans a 25 per cent cut in its carbon dioxide emissions by 2005, and expects a net savings to its economy. On competitive grounds alone, it should worry U.S. leaders that industry in other countries will get the jump on new energy technologies.

Short of total conversion, President Bush could take one immediate lesson from the ozone story and support a "carbon tax." Last year, after all, he endorsed a $5 billion tax on CFC's to cut emissions and trim the deficit. A carbon tax, based on the amount of carbon dioxide produced by each type of fuel, would yield billions while sharply reducing greenhouse emissions and it would spur U.S. investments in the new energy technologies needed to stay competitive in a greenhouse world.

[From the Wall Street Journal, May 28, 1992]

BUSH'S POLLUTER PROTECTIONISM ISN'T PRO-BUSINESS

(By Michael Silverstein)

As a businessman, I find the attitude of George Bush toward environmental laws (and the environment generally) incomprehensible.

In recent months the Bush administration has declared a moratorium on new environmental regulations and taken steps to ease enforcement of existing ones. Such an approach, from the business perspective, strikes me as absolutely cuckoo.

It seems based on a failure to understand the difference between environmental spending and environmental potlatching. Laws and regulations that force polluters to spend money on cleaning up the environment do not diminish the wealth of a nation. They transfer this wealth from polluters to polluter-cleaner-uppers and lay a foundation for greater future wealth.

The overall effects of this process over more than two decades have been extraordinarily positive. Not only have countless formerly high-polluting enterprises been forced to become less wasteful (i.e., less polluting) and thereby more competitive, not only has "the environment" become a force generating technological innovation on a scale as great as the defense or space program's, but a vital new component of the U.S. economy has emerged in the bargain—the environmental industry sector.

In 1991, this country's 65,000 to 70,000 environmental companies garnered an estimated $130 billion in sales. The 70 largest publicly traded firms in this group, with collective revenues of almost $30 billion, saw their revenues jump more than 18% last year. All told, some two million Americans now make their living doing some kind of environmental cleanup work.

The positive impact of this industry on the international trade standing of the U.S. has become striking. According to U.S. Commerce Department data, the world market for pollution control products and environmental services ("green goods") reached $370 billion last year. It continues to grow rapidly. Of this total, some $50 billion is traded among nations, with the U.S. winning a very respectable $6 billion of the business. And because of America's early involvement in this field, the U.S. still has positive trade balances with virtually every other nation of the world in this category—including Japan.

Beneficial effects for the U.S. economy of this trade go far beyond the well-known international involvement of a Waste Management Inc., whose foreign operations generated almost $1.1 billion in 1991. Increasingly, they also mean new business for such smaller firms as Isco (waste water samplers), Safety-Kleen (solvent recycling), Gundle Environmental (landfill liners), and Calgon Carbon (activated carbons).

The air, water and soil contamination problems becoming endemic around the world may be ecological disasters. But clearly, they represent enormous economic opportunities as well. Even countries like Taiwan and Mexico, which enjoyed pollution-based prosperity for a few years, are now sharply boosting their spending on green goods.

Taiwan, for example, where industrial growth has soared since the mid-1970s, now discards an estimated three million metric tons of hazardous wastes into its national environment annually. In some parts of the country, only 1% of the waste water and sewage is treated, and sulfur dioxide emissions from almost 12 million cars and motorcycles are staggeringly high. To combat these environmental ills, Taiwan's government and businesses plan to spend more than $20 billion by the end of this decade on pollution control equipment and environmental engineering and consulting.

U.S. companies, of course, now stand to get a hefty share of this kind of spending. Reducing our own domestic demand for environmental services and pollution control equipment by scaling back on environmental regulations, however, is sure to make us a less important player in such international green markets in times to come. After all, could a country be a successful car exporter without having a strong domestic car market or a developed road infrastructure? Why would anyone think a different set of rules applies to green goods?

The rationale for the Bush administration's current anti-environmental policies is that they help keep us competitive, boost corporate profits and protect jobs. This is nonsense. What these policies really do is temporarily insulate inefficient producers from the need to innovate and invest in new equipment, while penalizing an industry that is arguably the most dynamic element of the entire U.S. economy.

Bush administration policies in this realm are no more "pro-business" than policies of Soviet Bloc regimes during the 1970s and 1980s were "pro-industry." Both simply were (and are) aimed at temporarily shielding ossified, entrenched interests from the dictates of a changing world economic order.

These are a commonplace set of observations among hundreds of college instructors and thousands of executives in scores of industries. They are routinely discussed not only by officials in the Bush administration's own Environmental Protection Agency, but by officials in its Commerce Department, which is today actively promoting green exports in a variety of ways. So why is it not obvious to people at the helm of the Bush administration?

Regulation that promotes environmentally sound, efficiency-enhancing and innovation-producing activity is simply a jump start on the road toward a 21st century production and transportation system that is far less wasteful. If you don't generate pollution in the first place, you don't have to worry about cleanup costs, years later. Environmental regulation is a rocket assist until the real free market motors—consumer demand for greener products and international competition fostering manufacturing efficiency—kick in fully.

I can understand why Democratic activists, who see regulations as a punishment for corporate sin and an end in itself have not tumbled to the realities of a New Environmental Economics. But that people who claim to be good, solid market-oriented Republicans are missing the boat here is astounding. And destructive. And just plain dumb.

[From the National Journal, July 4, 1992]

A NUDGE TOWARD GREENER PASTURES

(By Graeme Browning)

Summer really puts my commitment to the environment to the test. Outside, I have no problem. My garden is organic, my composter is going strong and I'm a whiz at separating recyclables from regular trash. But inside it has to be cool or I'm miserable. When someone cuts back the air-conditioning to save energy and reduce the use of ozone-destroying chlorofluorocarbons (CFCs), I melt.

So it comes as a relief to hear that ICC Technologies, a Philadelphia research firm, has developed an ozone-friendly air-conditioner. An ICC spokesman says that the company's system not only will cool the air with the help of a dessicant, or drying agent, instead of CFCs, but also will use only a fraction of the energy that conventional air-conditioners do.

Could other American companies come up with technologies that protect the environment and still give consumers what they want? You bet, if they're encouraged, a growing number of voices in Washington are saying.

The first step is to get industry to think of "green" technologies—processes that have no negative impact on the environment—as potential money makers. This is hard to do when the rules of thumb in technology companies is that for every $1 spent on research and development, it takes $100 to bring to market a product that arises out of that research.

Engineers at a chemical company, for example, may have done enough basic research to formulate a solvent that breaks down into organic compounds after it is used. But company executives will rightly balk at investing the cash needed to produce the solvent in large enough quantities to sell to the public if they think few customers will buy it and the company will lose money.

A bill introduced on June 18 in the Senate could ease the path from lab to sales floor for green technologies. It would require 13 of the 17 national laboratories operated by the Energy Department to focus some of their considerable research talents on this area. Sen. Albert Gore Jr., D-Tenn., one of the bill's co-sponsors, envisions a process in which industry and the national labs work in tandem to develop technologies to the precommercial stage, saving industry money and giving the labs, which have concentrated on developing nuclear weapons, a new, beneficial mission in the post-Cold War era.

"To many business people in our nation are assuming that * * * you can only get environmentally friendly products at the expense of corporate profits. This must change," Gore said at a recent briefing for journalists.

Still, the use of fossil fuels is wreaking havoc on our air and water, and the world's population is expected to double by the middle of the next century, a new report by the authoritative World Resources Institute (WRI), a Washington-based think tank, warns. Step two, therefore, will require policy makers to do more than merely refocus one of two segments of the government.

The report, "Back to the Future: U.S. Government Policy Toward Environmentally Critical Technology," suggests that the government must foster the development of a broad spectrum of what it calls "environmentally critical" technologies. Such technologies would include not only improved versions of relatively old-hat concepts—solar-powered batteries, nuclear reactors and climate-controlled office buildings—but also such brave-new-world products as fuel cells that produce electricity by forcing atomic particles through a membrane.

These technologies are critical "because they not only help solve the next generation's environmental problems, but they also will promote the long-term competitiveness of the country," George R. Heaton, an adjunct associate professor at Worcester Polytechnic Institute and one of the report's three authors, said in an interview. "They're also the sorts of general processes private companies don't tend to invest in because they can't really 'own' them."

Maybe industry isn't investing in these things, but the United States' competitors are.

According to the WRI report, Japan's powerful Ministry of International Trade and Industry has spent more than $1 billion in the past two years to establish a research institute devoted to investigating greenhouse warming. Germany, Italy and the Netherlands are devoting about 10 per cent of their public research and development budgets to the study of such environmental technologies as waste management, radiation protection and low-emission processes to generate electricity and power cars.

As their governments place more emphasis on green technologies, foreign companies are also slowly beginning to respond with products that meet environmental needs.

Bayerische Motoren Werke AG, for example, has developed the E1, a four-seater sedan with a top speed of 75 miles per hour that runs on an electric motor powered by sodium-sulfur batteries. Goaded by a new German law, Mercedes-Benz AG has begun to build chemical codes into the resins it uses to make automobile bodies. When the cars are ready for the junk pile, the resin can be broken down and reused.

American scientists and engineers could easily come up with similar innovations if only the federal government would give then a nudge, say those who favor more support for green technologies.

Restructuring the government's regulatory policy on waste management and pollution control would also help, Heaton added. U.S. regulations demand only that industry use the "best available technology" to curb pollution—a standard open to varying interpretation—while regulations in Japan and Europe are much stricter, he said.

Setting similar standards in the United States would encourage innovation by giving smaller companies the incentive to bring risky new processes to market, Heaton said.

If the first process to show up involves air-conditioning, I, for one, will be all for it.

[From the Washington Post, May 3, 1992]

NOT FLYING DOWN TO RIO

(By Al Gore)

For the Bush administration, deciding whether the United States can afford to reduce emissions of carbon dioxide has all the seriousness of a rigged television game show: They know the answer before they ask the question. And the answer is "no."

That's the wrong answer. In fact, it's a dangerous answer, with severe consequences not just for the United States and for our economy, but also—because carbon dioxide is the principal cause of global warming—for the global economy, the global environment and for humanity.

There is an urgent need for a reality check. Urgent, because a draft agreement on climate change—a compromise released late Friday—leaves many goals unmet. This draft compromise comes as nations from around the world meet for the sixth time in an effort to craft a new international agreement to control emissions of carbon dioxide and confront global warming in time for the agreement to be signed at the Earth Summit in June.

Each time these nations have negotiated, intransigence from President Bush and his representatives has blocked progress. Now, there is a weak compromise, clouded by confusing and dense language and without any specific targets and timetables for action, but a compromise. Unfortunately, it appears as though the United States—instead of moving forward—has pulled every other nation back to craft an agreement far short of what could have been accomplished. A treaty without specific targets and timetables is a hollow promise. There is no assurance it will be kept and no promise of future benefit. This is the final negotiating session, and every indication is that the United States will continue to do all it can to weaken the language of any treaty.

That's why a reality check is needed. The administration is selectively sorting through the data to get the answers it wants, ignoring even the findings of its own agencies whenever they don't support the administration's advance conclusions.

For many months, the administration took the position that the United States cannot afford to stabilize emissions of carbon dioxide at 1990 levels by the year 2000—and sign the climate convention at the international Earth Summit—because the economic impact would be debilitating. However, the administration's most recent analysis, "U.S. Views on Global Climate Change," shows not only that we can afford to stabilize emissions but that voluntary energy conservation and other measures have brought the United States close to meeting the proposed targets and timetables—while actually enhancing business profits. What was once called too expensive is now called a bargain too good to pass up.

But instead of seizing this as a plausible justification for a change in position—and one that would be politically palatable to the president's conservative critics—the administration now argues that this good news means the United States doesn't need to sign an international agreement—or at least not one that actually requires us to do anything.

The economic analysis that supported the report's findings was debated intensely within the administration; it is unclear whether the conclusions were reached as much by politics as by facts. But, by the administration's own reckoning, the United States can nearly achieve stabilization of carbon dioxide emissions at 1990 levels by the year 2000, and—again by the administration's own reckoning—easily meet targets and timetables in language now being negotiated by other nations. The Bush administration has stubbornly blocked a binding commitment to these goals on the grounds that the United States, of all the world's developed nations, is uniquely unable to reach them.

Indeed, the administration has consistently endorsed the idea that business profits can only be hurt by the effort to curb global warming embodied in specific targets and timetables. For example, previous Department of Energy (DOE) analyses, such as the National Energy Strategy and the DOE Report to Congress, "Limiting Net Greenhouse Gas Emissions in the United States," concluded that many of the options now considered profitable would, in fact, hurt the economy. The administration justifies its stubborn opposition to a strict climate change agreement—indeed, to any serious U.S. effort to reduce emissions of carbon dioxide—by arguing we can't afford it.

But a closer look at the administration's own analyses of the costs and benefits discloses numerous examples of faulty analysis:

DOE emphasizes energy production over conservation in its modeling. That's what a National Research Council committee—put to work by the department to evaluate the analysis behind the National Energy Strategy—concluded. The committee's interim report offers a number of criticisms and points up fundamental flaws in the analysis DOE used to craft the energy strategy. How then can the Energy Department continue to use this energy plan, with its flawed analysis, to justify claims that aggressive conservation policies hurt the economy?

The National Energy Strategy analysis assumes that the U.S. gross national product will grow at an average annual rate of 3.2 percent between 1990 and 2000, while more realistic current estimates are between 2 and 2.5 percent. Even DOE's annual Energy Outlook, compiled by the Energy Information Administration, uses a 2.3 percent growth rate. These seemingly small differences have a tremendous impact on projections of carbon dioxide emissions.

For example, a 3.2 percent annual average growth rate will forecast an economy that is 9 percent larger over the course of a decade. The effect of this is to substantially inflate—perhaps as much as double—projections of the increases of carbon dioxide emissions, making the job of stabilizing or reducing emissions seem tougher than it will be in reality.

DOE's projections of future carbon dioxide emissions by the nation's electric utilities are based on an outdated 1986 industry forecast of the impact of utility-sponsored energy programs. But the industry updated its own analysis in 1990, forecasting that demand for electricity will grow by only 1.8 percent annually in the 1990s, significantly lower growth—and therefore, lower emissions—than DOE projected. DOE ignored the new information and built an analysis that makes the job of stabilizing emissions seem harder by setting the goal farther from us.

The Energy Department, apparently afraid that the price tag on energy efficiency will be too high, offers little conservation guidance to business, school districts and homeowners—as though none is needed or wanted. In fact, corporate America has a far different view of this situation.

Progressive electric utilities are becoming enormously successful with programs that encourage customers to invest in energy efficiency as an alternative to more expensive investments in new generating capacity. For example, energy conservation and efficiency will save Pacific Gas and Electric customers $2.4 billion over the next 10 years, money that will be available to strengthen the economy and create jobs. In the process, PG&E will reduce its carbon dioxide emissions by some 20 million tons.

DOE has recently ignored much of the energy analysis done by its own national laboratories. For example, researchers at Oak Ridge National Laboratory and other laboratories concluded that the nation could effectively and profitably stabilize energy use by the year 2000 and limit subsequent energy growth to less than 1 percent per year until 2010. But DOE's National Energy Strategy ignores the projection.

The fact is that we can create jobs, strengthen our economy and improve our performance in the global economy with energy efficiency and conservation technologies. The private sector is eager to respond to the stabilization challenge. Profitable energy conservation opportunities still exist in our diverse economy.

Indeed, we can create more jobs by expanding conservation than by expanding energy production. A recent study by Economic Research Associates concluded that new conservation investments in Louisiana would provide more than twice as many jobs as an expansion of conventional power generation—about 12,600 new jobs over 20 years. A similar study for Virginia reached similar findings.

These efforts are moving forward with little help from the administration. The moment is at hand for the President to start truly leading on the environment—at the upcoming Earth Summit as well as here at home. If we insist on a weak treaty with no binding commitments at Rio, we destroy our capacity to lead. We cannot keep searching for excuses instead of working for solutions.

Without agreement such as the climate-change treaty, with its specific deadlines and targets, there can be no assurances that what must happen, will happen: that carbon dioxide emissions will be reduced and global warming will be confronted. The situation is far more serious than is commonly understood.

The administration is stuck between its economic analysis and its political instincts. Maybe they don't trust the economic analysis. Or maybe they don't want to commit to a stabilization treaty because they don't believe that other developed nations are bargaining in good faith—and will renege if they encounter unwelcome economic consequences of a stabilization commitment.

In fact, other nations could also enhance their economic growth from committing to carbon dioxide stabilization. If we want to be competitive in tough global markets, it is in our self-interest to work to raise energy efficiency, increase energy conservation and reduce carbon dioxide emissions. If we don't, then other nations alone will benefit from creating a more productive economy.

[From Scientific American, April 1992]

ESSAY: A CASE OF DÉJÀ VU

(By Richard Elliot Benedick)

Memories are short. A scant five years ago there was no evidence of global depletion of the ozone layer. Skeptics maintained that the dangers were unproved, that better technologies were nonexistent and that the cost of developing such technologies would disrupt the economy.

The current debate about greenhouse warming conveys a distinct sense of déjà vu. The world again confronts a classic situation: weighing the risks of action and inaction in the face of uncertainties. Short-term costs loom large; long-term dangers seem remote.

Nature, however, is not in the habit of providing convenient early-warning signals. So astounded were scientists in the early 1980s to detect a dramatic seasonal drop in ozone levels over Antarctica that they spent two years rechecking their data. They soon discovered that satellites had dutifully been recording the ozone collapse for several years but had not raised any alert because the computers were programmed to reject such extreme data as anomalies.

The Antarctic ozone hole is an example of what scientists call a nonlinear response; that is the ozone layer kept absorbing ever more chlorine from man-made sources without revealing any problem, until the concentrations reached a breaking point, and collapse ensued. With respect to greenhouse warming, scientists warn that the billions of tons of carbon dioxide and other gases being emitted by modern industrial economies constitute an unpredictable experiment on the atmosphere. Are we approaching other unknown thresholds?

If we heed those who counsel deferring policy action on global warming, we are betting high stakes that clouds or oceans will offset for a while the intrusions into the atmosphere. If they are wrong, the consequences will be grave. Even the most dire predictions are now shown to have *underestimated* ozone loss caused by chlorofluorocarbons (CFCs). Had CFCs been permitted to continue growing, they would have wrought irreparable damage on the ozone layer. And yet at the time, powerful voices in government and industry strongly opposed regulations, on the grounds of incomplete scientific evidence.

Under these circumstances, the lesson for the policymaker seems clear: if we are to err, let us err on the side of caution. The very existence of scientific uncertainty about global warming should lead us to action rather than delay, especially when most of the international scientific community persistently warns of the risks.

Against this background, at least one country, Japan, has unveiled an aggressive program for improving energy efficiency and developing technology to combat the dangers threatening the environment. The program called Earth 21, clearly considers protecting the planet to be a commercial opportunity. Contrary to views in some influential circles in the U.S., environmental concern is not a pretext for central planning. Free-market forces can be harnessed to work for sustainable growth. For the market is essentially neutral with respect to the environment; relying solely on Adam Smith will not, as we have painfully learned, invariably lead to the right outcome.

It is our inadequate tools of economic analysis and accounting that often lead planners and investors to precisely the wrong decisions. Out-moded concepts of national accounting generally ignore the "externalities" of environmental damage and discount potential harm. A country's economy, for example, receives a double "boost" from production of toxic products and from their subsequent costly cleanup. Similarly, the more countries such as Malaysia and Indonesia destroy their tropical forests and export their patrimony, the more "growth" they register in their GNP. On a corporate level, the technique of discounting future values intrinsically minimizes the harm to future generations while predisposing managers toward investment decisions that maximize short-run profits.

Something is clearly wrong here. The outmoded system by which we measure income needs to be overhauled so that it reflects the future costs of environmental damage. Only then will financial markets reward environmental protection rather than regarding it as an irksome charge against current profits. Far-ranging benefits could flow from such a reform as markets begin receiving more balanced financial signals and their responses permeate the economy.

Here again, the experience with the ozone layer offers some lessons. Consumers showed that with the right information from the media, they were capable of changing purchasing habits abandoning or even boycotting CFC-propelled aerosol sprays. And the ozone treaty signed in Montreal in 1987 demonstrated that, with the proper stimulus, industry can change old habits.

Significantly, the Montreal Protocol on Substances that Deplete the Ozone Layer departed from the customary accommodation of environmental regulation to commercial convenience. It did not merely prescribe "best available technology" to replace CFCs. Rather the designers of the treaty mandated a timetable for deep cuts in consumption of these useful chemicals with full knowledge that the technology did not yet exist to achieve those cuts.

The treaty furnished an unmistakable market signal that made it worthwhile for companies to invest in research into new chemicals and processes they had previously eschewed. The rules of the market were modified, creating conditions that mobilized the vast financial and intellectual resources of the private sector to find solutions formerly claimed to be impossible.

Given the most recent scientific revelations on the ozone layer, we are fortunate that the Montreal Protocol stimulated entrepreneurship on behalf of an environmental objective that had previously been ridiculed. Was this a "radical" treaty, as some antiregulatory politicians argued? Far from it: the protocol was an expression of genuine faith in the market system, in its ability to respond to incentives. As it turned out, economists had vastly overestimated the costs of CFC alternatives and new technologies; some industries even lowered expenses by redesigning processes to do without CFC substitutes.

Market signals imposed by an innovative international treaty achieved results for protecting the ozone layer. I suspect we would find the same forces at work if we would focus on reducing dependence on fossil fuels in the current international negotiations on a climate treaty. The moment of truth will be a historic United Nations conference in Rio de Janeiro in June.

[From the Economist, Sept. 19, 1992]

JAPAN: MUCK INTO MONEY AGAIN

On the subject of pollution, Japanese businessmen are apt to sound smug. Since the 1970s, when anti-pollution demonstrators trapped businessmen in their buildings and the government hustled through 14 environmental laws in a single year, Japan has invested massively in pollution prevention. The country's businessmen like to tell each other that their pollution controls are the toughest in the world—and they are probably right.

But they are about to come under pressure to do more. Japan's attack on dirty air at home gave it a competitive edge in the world's markets for cars and air-pollution equipment. Now the government hopes to do much the same with global pollution. Japanese companies have been thinking up ways to get rid of ozone-depleting chlorofluorocarbons (CFCS): for instance, NEC, a computer manufacturer, now engraves electronic chips with lasers, a technique that costs less than older methods that used CFCS to clean the chips. The Keidanren, a big-business club, is talking to China about that fast-developing country's energy policy: China's filthy coal-fired plants, which Japan has the technology to clean, shower acid rain on Japan's forests.

Most intriguing, though, is the government's enthusiasm for ways to curb global warming by reducing Japan's output of carbon dioxide. The government has promised that, by the end of the century, the output of carbon dioxide per person will be held at the 1990 level. Japan's output of the gas stabilized in the 1970s (see chart), after a big rise in the oil price; after the yen price of oil collapsed in the early and mid-1980s, output of the gas began to rise again.

The main source of this increase has been transport: the boom of the 1980s led to a taste for petrol-guzzling cars. New Japanese cars averaged 13 km (eight miles) to the litre in 1981; by 1988 they did only 11.6 km. That is equal to 27.3 miles to the American gallon, less than the 28 miles per gallon achieved by the average new American car. Japan's car makers say the trend to bigger cars is continuing. Overall, the country's appetite for energy grew by 5 percent a year in the fiscal years of 1987 and 1988, and was still growing by 2.7 percent in 1991.

The international trade and industry ministry, MITI, is running a large programme of research into ways to curb the output of carbon dioxide, much of it paid for by the main fuel-gobbling industries. The government wonders whether to go further, and introduce economic rewards and punishments. As so often in Japanese environmental policy, the various interested ministries are at loggerheads.

The battleground is a new law to cover international environmental issues, promised by the prime minister, Kiichi Miyazawa. The environment agency would like the law to make it easier to introduce new green taxes. Its panel of experts on global warming has called for a carbon tax, to the indignation of industrialists.

MITI, though, wants to design the new law itself. It prefers a mixture of subsidies for energy conservation, and penalties on companies that use energy wastefully. But a lot of industrialists suspect that MITI, which has been deprived of some of its sway over companies by deregulation, sees energy conservation as a way to regain influence. They also think that those penalties might come to look surprisingly like a tax, whose proceeds would conveniently end up in MITI's budget, not in that of the finance ministry.

Not surprisingly, lots of Japanese companies are keen on the idea of subsidies to encourage investment in energy conservation. Other industrial countries might feel differently. If Japan were to subsidize some of its most successful export industries, in the virtuous cause of curbing global warming, some countries might decide that a level playing field was more important than a cool planet.

Mr. ROCKEFELLER. Mr. President, I am joined today by a distinguished group of colleagues, Senator BIDEN, Senator GORE, Senator WIRTH, Senator LIEBERMAN, Senator BINGAMAN, and Senator LEAHY, in introducing the Environmental Aid and Trade Act of 1992. This comprehensive bill gives us an unusual opportunity to take concrete, simultaneous action on two important issues that have meant a great deal to me, both as Governor of West Virginia and as one of West Virginia's U.S. Senators: improving our environment and improving our international competitiveness. Despite the attempts of the Bush campaign—unsuccessful attempts I am glad to say—to convince Americans that saving our environment will destroy our economy, other countries are increasingly learning what the people of West Virginia and the rest of this country already know: a prosperous economy requires a prosperous environment; protecting and cleaning the environment doesn't cost jobs, it creates jobs.

This increasing international awareness of the importance of protecting the environment, and of cleaning up existing pollution problems, is creating one of the fastest growing markets in the world. The global market for environmental goods and services is already more than $250 billion annually and is projected to nearly double by the year 2000. Unfortunately, because of the inadequate attention the Reagan and Bush administrations have given both to improving our environment and to improving our international competitiveness, American producers of environmental goods and services are not fully participating in this world market expansion. The Environmental Aid and Trade Act of 1992 will assist American firms to increase their share of this important market and to reduce the growing U.S. trade deficit.

The recent Earth Summit held in Rio de Janeiro was an example of how other governments increasingly recognize the fundamental connection between the economy and the environment, while President Bush falsely argues that the pursuit of a greener America will have adverse economic consequences. We saw that nations like Germany and Japan are looking to the future; their governments realize the advantages of an environmental economy; and as a result, their companies, with government support, are dominating the international market for environmental products. President Bush, on the other hand, is trying to convince Americans that protecting the U.S. environment will result in the loss of U.S. jobs; this shortsighted, false choice between the environment and jobs is in fact costing us both a better environment and more jobs; and as a result of this Government support, American companies are losing the race for domestic sales, as well as international sales.

We can see the results of the administration's attitude toward the environment and toward trade promotion in both our international environmental policies and in our international competitiveness. What we see is that other countries are doing more to preserve and to clean up the Earth's environment and that foreign competitors are taking over the environmental market, even in the United States. For example, American companies have already lost domination of the solar energy market, an area we pioneered, to Japan and Germany which now control 70 percent of the world market. Another example of what is happening is clean air technology, where the United States itself now imports over 70 percent of its needs, mostly from Germany which got into this market in the 1980's when the United States was paralyzed by inaction at the White House.

American companies, with support from their Government, have the ability to regain their leadership of the environmental goods and services industry. This judgment is recognized in a report entitled "The OECD Environment Industry: Situation, Prospects, and Government Politics," which was prepared by the OECD Secretariat earlier this year. The report states, "Governments which view the environment industry in strategic terms and provide appropriate supports may be better placed to realize the ecological and economic benefits of a competitive environment sector." The Environmental Aid and Trade Act of 1992 is designed to begin this process of realizing the ecological and economic benefits of a competitive environmental industry in the United States. There will be no quick fix, but with this bill we begin to promote a program that will enhance the environmental and economic conditions of our generation, as well as future generations.

Specifically, the Environmental Aid and Trade Act of 1992 will mandate the following efforts:

It will establish an explicit U.S. Government policy of promoting the export of environmental goods and services. It requires the appointment of senior officers from the State Department, Commerce Department, the Export-Import Bank, the Agency for International Development, the Overseas Private Investment Corporation, the Trade and Development Program, and other agencies to lead this effort.

It will establish an Environmental Trade Working Group of the Trade Promotion Coordinating Committee as a statutory body to "address all issues with respect to the export promotion and export financing of U.S. goods and services to control or reduce pollution and to clean up existing pollution problems" and to serve as the forum for coordinating the efforts of the many agencies involved.

It uses already appropriated funds to establish a new trade credit insurance program to assist developing countries to meet their pressing environmental import needs and, at the same time, to assist American companies to export their environmental goods and services. This program could easily result in $5 billion in additional exports and in additional environmental protection over the next several years.

It requires that the U.S. Government assist American companies in exporting their environmental goods and services by preparing surveys of existing markets and of emerging market trends for environmental goods and services in developed countries, as well as in developing countries, by preparing reports on the trade promotion services the U.S. Government makes available to U.S. businesses, and by comparing these services with the trade promotion services provided by the competition.

It establishes American Environmental Business Centers in countries which will be the key export markets for American environmental products. These centers will provide, on a reimbursable basis, additional trade promotion services.

In introducing this bill today, I am pleased to indicate that, because of the way we do business in the Senate, the Environmental Aid and Trade Act of 1992 has a couple of unusual features. The first, and most important of these unusual features, is that the provisions of the bill can be accomplished with no additional budget outlays. I repeat, all of the actions I just described can be accomplished within the existing budgets and with the existing personnel of the several agencies involved.

The second unusual feature is that much of the bill's comprehensive approach to environmental trade promotion has already been overwhelmingly passed by the Senate. This is because, with the full cooperation and support of Senator RIEGLE, Senator SARBANES, Senator GARN, and Senator MACK of the Banking Committee, I and the other sponsors of the Environmental Aid and Trade Act of 1992 introduced relevant portions of the bill as an amendment of the Export Enhancement Act of 1992, S. 2864, which passed without dissent in August.

Therefore, the Senate has already approved the establishment of an explicit U.S. policy on environmental trade promotion, the establishment of an Environmental Trade Working Group of the Trade Promotion Coordinating Committee as a statutory body, the establishment of American Environmental Business Centers, and the development of new trade promotion services for American exporters.

Mr. President, along with my cosponsors, I plan to bring the other sections of the Environmental Aid and Trade Act of 1992 to the Senate floor before the end of this session. These other sections of the comprehensive bill will deal with the international trade promotion activities of the Department of State, the Agency for International Development, the Trade and Development Program, and the Overseas Private Investment Corporation. It is our hope—and our expectation—that these proposals as well will be approved by the Senate this session, and that our House colleagues will join us in sending this legislation to the President for signature.

When these proposals are signed by law, they will help ensure that American environmental exporters are provided with the most efficient and effective trade promotion assistance in the world. Because of their experience in the very competitive U.S. environmental market, these firms have developed proven products that will be competitive internationally as well. The smaller companies which are so important in the U.S. environmental sector, however, often don't have the capital base or the knowledge of foreign markets that they need to become active internationally. This bill is especially designed to help these environmental firms, which are some of the most dynamic in our economy.

In West Virginia, for instance, there are environmental equipment companies like Winfield Industries in Clarksburg and environmental service companies like Touchstone Research Laboratory in Wheeling which can move actively into international business with the help of the programs established by this bill.

Winfield Industries manufactures hazardous waste containers for the medical sector, and is one of the most successful suppliers in the United States because of the high quality of its products. For the same reason, Winfield could be very successful internationally but to date its only export market is Canada. With the appropriate government support and encouragement, Winfield Industries will be able to expand its export sales significantly.

Touchstone Research Laboratory, Ltd., is one of the Nation's leading industrial problem-solving research firms and is one of the fastest growing companies in America. By helping U.S. manufacturers maximize their output with minimal environmental effect, it is helping our economy and our environment. Despite this expertise, Touchstone only this year has begun to move into international markets where its potential growth is enormous. The international efforts of Touchstone not only expand its own sales abroad but also, because Touchstone recommends U.S. environmental products and technology to its customers, will expand the international sales of other U.S. companies.

The Environmental Aid and Trade Act of 1992 will help companies like Winfield Industries and Touchstone Research Laboratory to initiate or to increase their international sales. This bill, by taking concrete, simultaneous action on two important issues, demonstrates that sound environment policy and sound economic policy are not incompatible. The programs mandated in this bill will help other countries with their environmental problems while creating employment in the United States and helping reduce our trade deficit. As part of my commitment to the creation of world class export promotion services for American companies and as part of my commitment to global environmental protection, I am proud to be a cosponsor of this legislation.

Mr. LIEBERMAN. Mr. President, I rise in support of legislation being introduced by Senators BIDEN, WIRTH, GORE, ROCKEFELLER, BINGAMAN, LEAHY, and myself—the Environmental Trade and Aid Act of 1992. This legislation continues work that I have done with Senators BOREN, BENTSEN, BYRD, and BAUCUS on trade and aid.

With this bill, we are helping American producers of cutting edge environmental technology be more competitive. The bill establishes programs at AID, the Import-Export Bank, the Trade and Development Program, and OPIC. It is estimated that the annual market for environmental products is more than $300 billion annually, and it is expected to increase to $400 billion by the year 2000.

Earlier this year, the Congressional Office of Technology Assessment [OTA] released a report, "Fueling Development: Energy Technologies for Developing Countries." In that report, OTA discussed the emerging new market for American environmental technology in the developing world. It described how we might best access this new market, helping these nations, and at the same time helping ourselves.

If we are to eliminate our trade deficit, we must aggressively pursue new export opportunities and market our best products. An independent study contracted by the Export-Import Bank's Advisory Board, undertaken by the former chief economist at AID, Dr. Ernest Preeg, estimated that we lose up to $5 billion annually in exports to developing countries because we don't pursue capital projects that would help our Nation's exporters. This means a loss of approximately 100,000 jobs annually, since the Department of Commerce estimates that for every $ 1 billion in exports, we create 20,000 new jobs. And we cannot afford this level of job loss, particularly since our economy remains so sluggish.

By passing this legislation, we would help to guarantee that as developing nations upgrade their environmental infrastructure, they will be doing so with American products made by American workers. With this bill, we are taking the "Buy America" campaign overseas.

It has always been my contention that sound environmental policy can be sound economic policy, and this bill proves the point.

By Mr. BREAUX:

S. 3262. A bill to amend title 46, United States Code, to prohibit abandonment of barges, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ABANDONED BARGE ACT OF 1992

• Mr. BREAUX. Mr. President, I am introducing a bill today that is intended to protect the waterways of the United States from serious environmental problems resulting from abandoned barges.

Abandoned barges have been used by so-called midnight dumpers for the disposal of hazardous wastes and waste oils. The General Accounting Office [GAO] has found that there are over 1,300 known abandoned vessels along U.S. waterways. They have been the cause of numerous water pollution incidents, including many incidents in my home State of Louisiana, that have cost the Federal Government millions of dollars in cleanup expenses. This legislation is designed to give the Coast Guard the authority to deal with these potential sources of pollution.

The bill prohibits owners or operators of barges over 100 gross tons from abandoning them on the navigable waters of the United States. In addition it directs the Secretary of Transportation to fine barge owners or operators up to $1,000 for each day that the vessel is deemed to be abandoned. The Secretary is also directed to require the owner or operator to remove the abandoned barges for which they are responsible. If the owner or operator does not remove the barge as specified, the Secretary is authorized to have it removed by a third party at the expense of the violating party.

The American Waterways Operators, the Coast Guard, the maritime industry, and the GAO have all been consulted in the drafting of this bill. There has been some concern that the bill may be inconsistent with Superfund and the Oil Pollution Act of 1990 [OPA]. However, I believe that its language has been worded so as not to supersede or conflict with either of them. Should an abandoned barge be used as a dump for oil or hazardous waste, nothing in this bill would affect the authority of the Coast Guard or any other agency from carrying out its responsibilities under Superfund or OPA. My intention is not to supersede Superfund or OPA but to get abandoned barges removed from our waterways and to stop the practice of abandoning barges and their use as dumps for hazardous waste.

Mr. President, I request that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3262

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Barge Act of 1992".

SEC. 2. ABANDONMENT OF BARGES.

(a) IN GENERAL.—Part B of subtitle II of title 46, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 47—ABANDONMENT OF BARGES

"Sec.
"4701. Definitions.
"4702. Abandonment of barge prohibited.
"4703. Penalty for unlawful abandonment of barge.
"4704. Removal of abandoned barges.
"4705. Liability of barge removal contractors.

"§ 4701. Definitions

"In this chapter—

"(1) 'abandon' means to moor, strand, wreck, sink, or leave a barge over one hundred gross tons unattended for longer than forty-five days.

"(2) 'barge removal contractor' means a person that enters into a contract with the United States to remove an abandoned barge under this chapter.

"(3) 'navigable waters of the United States' means waters of the United States, including the territorial sea.

"(4) 'removal' or 'remove' means relocation, sale, scrapping, or other method of disposal.

"§ 4702. Abandonment of barge prohibited

"(a) An owner or operator of a barge may not abandon it on the navigable waters of the United States. A barge is deemed not to be abandoned if—

"(1) it is located at a Federally- or State-approved mooring area;

"(2) it is on private property with the permission of the owner of the property; or

"(3) the owner or operator notifies the Secretary of the barge's location.

§ 4703. Penalty for unlawful abandonment of barge

"Thirty days after the notification procedures under section 4704(a)(1) are completed, the Secretary may assess a civil penalty of not more than one-thousand dollars for each day of the violation against an owner or operator that violates section 4702. A vessel with respect to which a penalty is assessed under this chapter is liable in rem for the penalty.

"§ 4704. Removal of abandoned barges

"(a) AUTHORITY TO REMOVE.—

"(1) IN GENERAL.—The Secretary may remove a barge that is abandoned after complying with the following procedures:

"(A) If the identity of the owner or operator can be determined, the Secretary shall notify the owner or operator by certified mail—

"(i) that if the barge is not removed it will be removed at the owners' or operators' expense; and

"(ii) of the penalty under section 4703.

"(B) If the identity of the owner or operator cannot be determined, the Secretary shall publish an announcement in—

"(i) a notice to mariners; and

"(ii) an official journal of the county in which the barge is located

that if the barge is not removed it will be removed at the owners' or operators' expense.

"(2) UNITED STATES NOT LIABLE.—The United States, and any office or employee of the United States is not liable to an owner or operator for damages resulting from removal of an abandoned barge under this chapter.

"(b) LIABILITY OF OWNER AND OPERATOR.—The owner or operator of an abandoned barge is liable, and an abandoned barge is liable in rem, for all expenses that the United States incurs in removing an abandoned barge under this chapter.

"(c) REMOVAL SERVICES.—

"(1) SOLICITATION.—The Secretary may, after providing notice under subsection (a)(1), solicit by public advertisement sealed bids for the removal of an abandoned barge.

"(2) CONTRACT.—After solicitation under paragraph (1) the Secretary may award a contract. The contract—

"(A) may be subject to the condition that the barge and all property on the barge is the property of the barge removal contractor; and

"(B) must require the barge removal contractor to submit to the Secretary a plan for the removal.

(3) COMMENCEMENT OF REMOVAL.—Removal of an abandoned barge may begin thirty days after the Secretary completes the procedures under subsection (a)(1).

"§4705. Liability of barge removal contractors

"(a) LIABILITY.—

"(1) IN GENERAL.—A barge removal contractor and its subcontractor are not liable for damages that result from actions taken or omitted to be taken in the course of removing a barge under this chapter.

"(2) EXCEPTIONS.—Subparagraph (1) does not apply—

"(A) with respect to personal injury or wrongful death; or

"(B) if the contractor or subcontractor is grossly negligent or engages in willful misconduct.".

"(b) APPLICATION TO CERTAIN BARGES.—One year after the date of enactment of this Act, the Secretary may assess a civil penalty under section 4703 against an owner or operator of a barge abandoned before June 11, 1992.

SEC. 3. CLERICAL AMENDMENT.

The analysis of subtitle II at the beginning of title 46, United States Code, is amended by inserting after the item relating to chapter 45 the following:

"47. Abandonment of barges .... 4701".

SEC. 4. NUMBERING OF BARGES.

Section 12301 of title 46, United States Code, is amended—

(1) by inserting "(a)" before "An undocumented vessel"; and

(2) by adding at the end the following:

"(b) The Secretary shall require an undocumented barge 100 gross tons operating on the navigable waters of the United States to be numbered.".•

By Mr. MACK:

S. 3263. A bill to amend title 37, United States Code, to provide evacuation and transition assistance to dependents of members of the Armed Forces and civilian employees of the Federal Government who are affected by Hurricane Andrew, to provide homeowners assistance to such members and employees, and for other purposes; to the Committee on Armed Services.

ASSISTANCE FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND CIVILIAN EMPLOYEES OF HOMESTEAD AIR FORCE BASE

Mr. MACK. Mr. President, I am delighted today to introduce this legislation which will provide vital assistance for the men and women of Homestead Air Force Base, and their families, as they respond to upheavals in their lives caused by Hurricane Andrew.

The provisions of this bill are simple. The first section allows payment of evacuation allowances for dependents as of August 23—the day Homestead's personnel and their families were ordered out—instead of August 28 as presently established. The second allows payment of departure allowances for the families of servicemembers who had been assigned overseas unaccompanied. Forty families were forced to evacuate the Homestead area, but are not now authorized payment of evacuation allowances as a result of existing regulations. The third expands the existing Housing Assistance Program to allow payments to servicemembers dislocated from Homestead. This provision was originally written to help those affected by base closures, but the victims of Hurricane Andrew need it even more. They have been ordered to alternate bases, but have no opportunity to repair their damaged homes for sale or rental. Under the Housing Assistance Program, the Government purchases homes at either 85 percent of their value or the amount of the outstanding mortgage, and insurance claims are credited against the Government's share.

In short, my bill will permit DOD to take three simple, measured steps in order to help the families of Homestead Air Force Base. Remember, these are the same people who have dedicated their lives to defending America. Thus, I urge all my colleagues to support this legislation, and extend a needed hand to the victims of Hurricane Andrew.

ADDITIONAL COSPONSORS

S. 1294

At the request of Mr. FOWLER, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1294, a bill to protect individuals engaged in a lawful hunt within a national forest, to establish an administrative civil penalty for persons who intentionally obstruct, impede, or interfere with the conduct of a lawful hunt, and for other purposes.

S. 1506

At the request of Mr. GLENN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1506, a bill to extend the terms of the olestra patents, and for other purposes.

S. 1622

At the request of Mr. KENNEDY, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 1622, a bill to amend the Occupational Safety and Health Act of 1970 to improve the provisions of such act with respect to the health and safety of employees, and for other purposes.

S. 1687

At the request of Mr. MCCAIN, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1687, a bill to increase the capacity of Indian tribal governments for waste management on Indian lands, and for other purposes.

S. 1777

At the request of Mr. ADAMS, the names of the Senator from Alaska [Mr. STEVENS], the Senator from West Virginia [Mr. ROCKEFELLER], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 1777, a bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

S. 1862

At the request of Mr. GRAHAM, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 1862, a bill to amend the National Wildlife Refuge System Administration Act of 1966 to improve the management of the National Wildlife Refuge System, and for other purposes.

S. 2113

At the request of Mr. SMITH, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 2113, a bill to restore the Second Amendment rights of all Americans.

S. 2204

At the request of Mr. DURENBERGER, the name of the Senator from Delaware [Mr. ROTH] was added as a cosponsor of S. 2204, a bill to amend title 23, United States Code, to repeal the provisions relating to penalties with respect to grants to States for safety belt and motorcycle helmet traffic safety programs.

S. 2484

At the request of Mr. KASTEN, the names of the Senator from Georgia [Mr. FOWLER], the Senator from Washington [Mr. GORTON], and the Senator from Rhode Island [Mr. CHAFEE] were added as cosponsors of S. 2484, a bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes.

S. 2652

At the request of Mr. BIDEN, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2652, a bill to provide enhanced penalties for commission of fraud in connection with the provision of or receipt of payment for health care services, and for other purposes.

S. 2792

At the request of Mr. KOHL, the name of the Senator from Florida [Mr. GRA-

HAM] was added as a cosponsor of S. 2792, a bill to amend and authorize appropriations for the continued implementation of the Juvenile Justice and Delinquency Prevention Act of 1974.

S. 2810

At the request of Mr. GORE, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 2810, a bill to recognize the unique status of local exchange carriers in providing the public switched network infrastructure and to ensure the broad availability of advanced public switched network infrastructure.

S. 2841

At the request of Mr. D'AMATO, the names of the Senator from Utah [Mr. GARN], the Senator from Hawaii [Mr. INOUYE], and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 2841, a bill to provide for the minting of coins to commemorate the World University Games.

S. 2914

At the request of Mr. DURENBERGER, the names of the Senator from North Carolina [Mr. HELMS], the Senator from South Dakota [Mr. DASCHLE], and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of S. 2914, a bill to direct the Secretary of Health and Human Services to make separate payment for interpretations of electrocardiograms.

S. 2941

At the request of Mr. RUDMAN, the names of the Senator from California [Mr. SEYMOUR], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 2941, a bill to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

S. 3002

At the request of Mr. ROCKEFELLER, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 3002, a bill to amend title XIX of the Social Security Act to provide for optional coverage under State medicaid plans of case-management services for individuals who sustain traumatic brain injuries, and for other purposes.

S. 3092

At the request of Mr. NUNN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 3092, a bill to amend the charter of the Group Hospitalization and Medical Services, Inc., to remove the partial exemption granted to the corporation from the insurance laws and regulations of the District of Columbia.

S. 3119

At the request of Mr. CONRAD, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 3119, a bill to establish a National Appeals Division of the Department of Agriculture to hear appeals of adverse decisions made by certain agencies of the Department, and for other purposes.

S. 3172

At the request of Mr. ROCKEFELLER, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 3172, a bill to amend section 337 of the Tariff Act of 1930 and title 28 of the United States Code to provide effective procedures to deal with unfair practices in import trade and to conform section 337 and title 28 to the General Agreement on Tariffs and Trade, and for other purposes.

S. 3195

At the request of Mr. GLENN, the names of the Senator from Mississippi [Mr. LOTT], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of S. 3195, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States' involvement in World War II.

S. 3243

At the request of Mr. ROCKEFELLER, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 3243, a bill to grant employees family and temporary medical leave, to treat the costs of the Head Start Program and other programs for children as emergency funding requirements, to provide aid to parents in providing the best possible learning environment for children, to promote investments in child welfare and family preservation, to reduce violence and improve the safety of children and their families, and for other purposes.

SENATE JOINT RESOLUTION 293

At the request of Mr. SASSER, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of Senate Joint Resolution 293, a joint resolution designating the week beginning November 1, 1992, as "National Medical Staff Services Awareness Week."

SENATE JOINT RESOLUTION 311

At the request of Mr. SEYMOUR, the names of the Senator from Connecticut [Mr. DODD] and the Senator from Oregon [Mr. HATFIELD] were added as cosponsors of Senate Joint Resolution 311, a joint resolution designating February 21, 1993, through February 27, 1993, as "American Wine Appreciation Week," and for other purposes.

SENATE JOINT RESOLUTION 321

At the request of Mr. KOHL, the names of the Senator from Nebraska [Mr. EXON], the Senator from Missouri [Mr. BOND], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 321, a joint resolution designating the week beginning March 21, 1993, as "National Endometriosis Awareness Week."

SENATE JOINT RESOLUTION 328

At the request of Mr. COCHRAN, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Maryland [Ms. MIKULSKI], the Senator from Maryland [Mr. SARBANES], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of Senate Joint Resolution 328, a joint resolution to acknowledge the sacrifices that military families have made on behalf of the Nation and to designate November 23, 1992, as "National Military Families Recognition Day."

SENATE JOINT RESOLUTION 332

At the request of Mr. SASSER, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from Alabama [Mr. HEFLIN], the Senator from Florida [Mr. GRAHAM], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of Senate Joint Resolution 332, a joint resolution to establish the month of October, 1992 as "Country Music Month."

SENATE JOINT RESOLUTION 333

At the request of Mr. DECONCINI, the names of the Senator from Nevada [Mr. REID], the Senator from Idaho [Mr. SYMMS], the Senator from Illinois [Mr. SIMON], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of Senate Joint Resolution 333, a joint resolution designating the week beginning February 7, 1993, as "Lincoln Legacy Week."

SENATE JOINT RESOLUTION 336

At the request of Mr. AKAKA, the names of the Senator from Missouri [Mr. BOND], the Senator from Louisiana [Mr. BREAUX], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Mississippi [Mr. COCHRAN], the Senator from Maine [Mr. COHEN], the Senator from Idaho [Mr. CRAIG], the Senator from New York [Mr. D'AMATO], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Florida [Mr. GRAHAM], the Senator from Utah [Mr. HATCH], the Senator from Wisconsin [Mr. KASTEN], the Senator from Massachusetts [Mr. KENNEDY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Maryland [Ms. MIKULSKI], the Senator from New York [Mr. MOYNIHAN], the Senator from Oregon [Mr. PACKWOOD], the Senator from Alaska [Mr. STEVENS], the Senator from Idaho [Mr. SYMMS], the Senator from South Carolina [Mr. THURMOND], the Senator from Virginia [Mr. WARNER], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of Senate Joint Resolution 336, a joint resolution designating the week beginning November 8, 1992, as "Hire a Veteran Week."

AMENDMENT NO. 3104

At the request of Mr. GLENN the name of the Senator from Nebraska

[Mr. EXON] was added as a cosponsor of amendment No. 3104 proposed to S. 3114, an original bill to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SENATE CONCURRENT RESOLUTION 137—RELATING TO CERTAIN ORDERS OF THE FEDERAL ENERGY REGULATORY COMMISSION

Mr. WELLSTONE submitted the following concurrent resolution; which was referred to the Committee on Energy and Natural Resources:

S. CON. RES. 137

Whereas Congress has declared that a purpose of the Department of Energy is to promote the continued good health of the small business firms, public utility districts, municipal utilities, and private cooperatives of the United States;

Whereas residential and commercial consumers, hospitals, schools, and other users that have been identified by Congress as high-priority users of natural gas depend on an affordable and reliable supply of natural gas;

Whereas on April 8, 1992, the Federal Energy Regulatory Commission adopted new regulations in Order No. 636;

Whereas the order forces significant changes in the structure of the various components of the natural gas industry that will significantly increase the cost of natural gas and have other adverse effects on residential, commercial, and other high-priority users;

Whereas the order will make residential, commercial, and other high-priority users pay all fixed costs of the national pipeline system, instead of only a reasonable share of the fixed costs;

Whereas the cost shift under the order will also increase the cost to consumers due to the wellhead price of natural gas;

Whereas the cost increases under the order will not benefit residential consumers who are nevertheless forced to pay all transition costs created by the restructuring of industry under the order;

Whereas the Federal Energy Regulatory Commission has not provided Congress with an analysis of the economic impact of the order on the classes of natural gas end-users (including higher fixed costs, higher wellhead costs, and new transition costs); and

Whereas the Federal Energy Regulatory Commission has not provided Congress with an analysis of the economic impact of the order on the geographic regions of the United States: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the Comptroller General of the United States should—

(A) conduct a study of the economic impacts of Order No. 636 of the Federal Energy Regulatory Commission that was adopted by the Commission on April 8, 1992, on the classes of natural gas end-users and the geographic regions of the United States; and

(B) not later than January 30, 1993, report the results of the study to Congress; and

(2) the Federal Energy Regulatory Commission should refrain from processing restructuring proceedings pursuant to the order during the 60-day period beginning on the date that the report is submitted to Congress.

• Mr. WELLSTONE. Mr. President, today I am submitting a concurrent resolution calling for a General Accounting Office [GAO] report on the economic impact of Federal Energy Regulatory Commission [FERC] Order 636. This resolution also expresses the sense of the Congress that FERC should delay further proceedings under that order until 60 days after the GAO submits its reports to Congress.

FERC Order 636 could cost consumers tens of billions of dollars. In recent weeks, I have heard loud protests from several municipal utilities in Minnesota about Order 636, universally opposing it. Some utility executives have said that this order will lead to a 50-percent price increase for residential natural gas consumers. Such an increase would wreak economic havoc in Minnesota and throughout much of the United States.

FERC Order 636 is a very complicated proceeding. Through it, FERC is seeking to further deregulate the already deregulated natural gas industry. It represents perhaps the most radical departure possible from historical natural gas regulation.

While Order 636 can appear to be a maze of regulatory intricacies, there is little question about its net effect—it will benefit the major gas producers and pipelines at the expense of existing gas consumers. It will cost consumers billions, particularly those in Northern and Midwestern States, while reaping windfall profits for the major gas companies.

The resolution I am introducing today does not try to reexamine all of the hundreds of aspects of Order 636. It focuses on the most important aspect—its economic impact. That is the key point about which Congress, and the public, need information—and need it before the order takes effect.

Given the extraordinary economic impact of this order, FERC should delay the taking of any further action to implement it until Congress has received GAO's independent review. Consider the following:

According to the American Public Gas Association, Order 636 will increase the utility bills of residential and small commercial consumers by several billion dollars a year!

According to Citizen Action, Order 636 will cost consumers more than $10 billion over the next several years. They estimate it will raise the average home's gas bills by more than $100 a year!

According to FERC, the order will have transition costs of billions of dollars. At least 90 percent of those costs will be paid for by current customers.

An independent economic analysis by GAO is also essential because FERC has failed to provide a credible analysis. Instead of an objective economic analysis, FERC has released with the final order a cost and benefits report. This report carries a disclaimer on its first page stating that it is merely a discussion paper and does not necessarily represent the views of the Commission, any individual Commissioner, the Commission staff, or any individual member of the Commission staff.

Despite the sweeping nature of this order, the Federal Energy Regulatory Commission has presented Congress and the public with platitudes for which it refuses to take responsibility. Not surprisingly, FERC has refused to provide the details and supporting documents for its so-called analysis when requested to do so under the Freedom of Information Act by Citizen Action.

Mr. President, I ask unanimous consent that three documents appear in the RECORD immediately following these remarks: a press statement criticizing FERC's cost and benefits report, prepared by Citizen Action; a Background Paper on FERC's Order No. 636, prepared by the American Public Gas Association; and the text of the resolution itself.

In conclusion, I urge my colleagues to join as cosponsors of this resolution to express their outrage at the irresponsible action of the Federal Energy Regulatory Commission.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FERC BLASTED FOR FLAWED AND BIASED ORDER 636 ECONOMIC ANALYSIS

Washington: Citizen Action, the nation's largest consumer organization, today released a sharply worded critique of the Federal Energy Regulatory Commission's economic analysis of Order 636, its pipeline restructuring rule.

According to Citizen Action, the economic analysis, prepared by the Office of Economic Policy, "is deeply flawed or deeply biased or both." Furthermore, "OEP's economic analysis 'just puts a number' on the proposed changes but does so by using questional assumptions and inconsistent methods."

"For example," said Edwin S. Rothschild, Citizen Action's Energy Policy Director, the analysis ignores the fact that residential and small commercial consumers will end up paying billions of dollars in higher bills with the excuse that 'income transfers' do not have an impact on 'net social benefits."

"This is the equivalent of calling a bank robbery an 'income transfer' rather than a crime," said Rothschild.

Citizen Action's critique faults the FERC for its lack of an econometric model, failing to state underlying assumptions for its choices of supply and demand forecasts and for failing to properly account for the costs and benefits to all of the sectors of the gas market.

"Ultimately," argued Rothschild, "the FERC's conclusion that the rule provides a $15 to $42 billion dollar increase in 'net social benefit' has all the credibility and mystery of the Loch Ness monster."

BACKGROUND PAPER ON FERC'S ORDER NO. 636

INTRODUCTION

On April 8, 1992, the Federal Energy Regulatory Commission ("FERC") issued Order No. 636 (formerly known as the "Mega-NOPR"), which was the Final Rule in Docket No. RM91-11-000. Order No. 636 mandates major alternations in the structure of services provided by interstate natural gas pipelines. The American Public Gas Association (APGA) and other natural gas consumers oppose specific provisions of Order No. 636 that will hurt this Nation's public gas systems and their customers.

There are approximately 1,000 public-owned gas systems in thirty-four states. These gas systems, which are located predominantly in small to medium-sized communities, serve almost 4 million gas consumers. Public gas systems are owned by and are accountable to the people they serve, and most are controlled by an elected governing board, such as a town council or utility board.

This following background paper explains how FERC's new regulations in Order No. 636 will lead to rate increases, while also threatening the availability and reliability of natural gas service for the Nation's residential and small business consumers of natural gas. APGA is therefore asking Congress to recognize the negative impacts of Order No. 636 on gas distributors and consumers and to intervene where necessary.

STRUCTURE OF THE NATURAL GAS INDUSTRY

Traditionally, natural gas industry regulation has had three major sets of players: (1) producers that explored for and developed gas at the"wellhead"; (2) interstate pipelines that purchased gas from the producers under long-term supply contracts, transported it across state lines, and then resold it at wholesale; and (3) local distribution companies ("LDCs") that purchased gas at their "citygates" from the pipelines and distributed it at retail predominantly to small residential and commercial end use consumers in defined service territories.

Under the Natural Gas Act of 1938 ("NGA"), the FERC regulates the rates the pipelines charged for their gas to ensure that the pipelines did not abuse their monopoly power over interstate gas service. The FERC regulates both the sales and transmission services of interstate pipelines. The prices which producers charged at the wellhead for natural gas were also regulated, starting in 1954; but Congress in the Natural Gas Policy Act of 1978 and the Wellhead Decontrol Act of 1989 deregulated wellhead sales of gas. Congress, however, did not modify the NGA to deregulate the rates which pipelines could charge to sell or transport gas.

In the 1980s, FERC began to advance its own philosophy of how the natural gas industry should be structured. In 1985, it effectively required interstate pipelines to "open up" their pipeline networks and to transport gas for third parties, which competed with the pipelines' own sales gas. The interstate pipeline business changed radically. The transportation of "third party" gas, which producers, marketers, and brokers sold directly to large industrial end users and LDCs, began to overtake the pipelines' own sales volumes. In turn, the pipelines could not sell the gas they had contracted to buy from producers under long-term "ironclad' supply contracts (known as "take-or-pay" contracts). This has led to extensive litigation and expensive settlements between the pipelines and producers. A substantial part of the cost of these "take-or-pay" settlements has been paid by gas consumers.

Now, in its Order No. 636, the FERC wants to complete the "transition" to its version of a supposedly deregulated interstate gas market. It is requiring the pipelines to "unbundle," or disassemble, their wholesale gas service into its constituent gas supply and transportation parts. It is deregulating the prices which pipelines can charge LDCs for their gas supplies. It is requiring all LDCs which presently hold gas sales contracts with interstate pipelines to become "transportation" customers of those pipelines and to negotiate new, deregulated gas supply arrangements with those pipelines or other gas suppliers. It is doing away with the pipelines' statutory obligations under the NGA to continue to transport and sell gas to LDCs in favor of complete reliance on private contracts. It is also changing the way pipelines will develop the rates they charge for the transportation portion of their service to LDCs by shifting more costs to "low load factor" LDCs, i.e. those which serve residential customers that require more gas in the winter than in the summer. In addition, it requires pipelines to curtail service to customers on a pro rata basis, which may deprive "high priority" and "human needs" users of needed gas service.

These changes are ill-advised (as well as illegal) and will increase the cost of gas service to residential and small business gas consumers. Order No. 636 will undercut the affordability and reliability of environmentally-sound and domestically-produced natural gas. Congress must act to protect high-priority consumers of natural gas and ensure that the FERC is carrying out its statutory obligations. Specifically, Congress should recognize the following points:

TRANSITION COSTS

Even FERC realizes the high cost of its new regulations requiring pipelines to accomplish the final "transition" to a deregulated market. The pipelines still hold thousands of long-term, relatively high-priced contracts to purchase gas from natural gas producers. These contracts will have to be reformed or bought out. In Order No. 636, FERC has told the pipelines as a practical matter that they could flow through 100% of any "transition costs" they incurred to their customers, primarily their "firm transportation" customers. No one can say how much consumers will be forced to pay. The Interstate Natural Gas Association of America ("INGAA"), the interstate pipelines' trade association, estimated that the pipelines will incur at least $2 billion in transition costs. However, a single major pipeline filed a settlement proposal in June 1992 to collect more than $587 million in transition costs. One thing is clear: since the LDCs, which provide gas service to residential consumers, will be "firm transportation" customers of the pipelines under the FERC's new regime, they will have to pay the lion's share of these costs and then pass them on to their residential and small business customers.

CHANGES IN TRANSPORTATION RATES

Under the Natural Gas Act, FERC has reviewed and approved the sales and transportation rates of interstate pipelines. Now FERC wants to get out of the business of reviewing pipeline rates for gas sales entirely. FERC says that it will only continue to review and approve pipeline transportation rates. But FERC is changing its method of setting pipeline transportation rates, in a way that will decrease the cost for large industrial or electric generation users while increasing costs to LDCs which provide gas service to residential and small business consumers.

Under FERC's past rate-setting formulas, pipeline costs were divided into two main categories: (1) "variable" costs (those costs that vary with the amount of gas pipelines move through their systems), and (2) "fixed" costs (those costs which do not vary with the volumes of gas moved). FERC has traditionally required the pipelines to recover their variable costs and certain types of fixed costs (including their "rate of return on equity," or profit) in charges levied on the gas volumes that actually moved through their systems. If the pipelines did not move enough gas, they would not recover these costs or make their allowed profits. Pipelines recovered their remaining fixed costs in charges that their customers paid "up front" every month, regardless of how much gas they actually used that month.

FERC now wants all pipelines to set their rates using a different method—the "Straight Fixed-Variable" ("SFV") method. Under SFV, all of a pipeline's fixed costs, including its profit, will be collected "up front" every month from its customers. Coupled with concerns with Order No. 636's restrictions on capacity allocation (which involves an LDCs ability to efficiently allocate its excess summer capacity), the new SFV method will (1) require residential and small business consumers served by the LDCs (which are paying the SFV's increased monthly charges) to pay billions of dollars more for their service; (2) guarantee that interstate pipelines recover all of their fixed costs and profits "up front," thus insulating them from business risks, and (3) remove the incentive for pipelines to operate efficiently.

Recognizing the outcry these increased costs would cause, FERC has proposed to "mitigate" the rate shock by phasing in SFV-related rate increases over four years. All this means is that some LDCs may not experience the full rate shock from the Commission's actions until 1996, though it does not in any way justify that rate shock.

CURTAILMENT

During the curtailment era of the 1970's, Congress enacted Title IV of the Natural Gas Policy Act ("NGPA"), which requires that high-priority or human needs users of natural gas—residential and small commercial consumers, schools, hospitals, and essential agricultural users—continue to receive gas in the event of curtailment by the interstate pipelines.

In Order No. 636, FERC concluded that these Title IV curtailment rules apply only to curtailments of pipeline sales gas, and not to curtailments of pipeline transportation service. (Because of the diminished role FERC foresees for pipeline sales gas in a deregulated market, Title IV will be rendered virtually irrelevant if FERC prevails.) FERC believes that if curtailment of pipeline transportation service is necessary, the affected pipeline should cut each of its customers' contracted-for capacity by an equal percentage. Curtailments can occur if a pipeline's capacity is "oversubscribed" on a cold winter day (much as an airplane can oversell its seats on a busy flight), or if a pipeline's capacity is decreased due to equipment failures or "Acts of Nature." In such cases, FERC's rules would permit pipelines to curtail transportation service to LDCs intended for residential consumers equally—on a *pro rata* basis—with all other service, even service meant for large industrial or electric generation customers that have the capability to switch to a fuel other than gas. This curtailment scheme could result in homes and hospitals and other human needs users being denied their gas supply, while industrial and electric generation users would continue to receive gas. Further, Order No. 636 does not require any sort of protection for human needs users in the event that third party gas supply (the main type of supply provided for in the Final Rule) fails.

This result is exactly what Congress intended to avoid in Title IV of the NGPA. Congress clearly intended to protect deliveries of gas to residential and small business consumers dependent on gas for heating their homes and offices on cold winter days. These consumers are clearly the most vulnerable, and FERC is taking "a head-in-the-sand" attitude with them by relying on the current abundance of gas and unpredictable market forces to keep curtailment a non-problem.

UNBUNDLING

LDCs have historically relied on interstate pipelines to provide a "bundled" (gas and transportation) service. FERC, however, in Order No. 636 is mandating the "unbundling" of these services by pipelines. Many LDCs would like to have the option of continuing to purchase bundled sales service in lieu of having to contract separately for gas supply and transportation services. In addition, bundled service provides LDCs with the ability to meet gas needs during unanticipated drops in temperature (so called "no notice" service). Even, the FERC, in Order No. 636, has acknowledged the need for no notice service. However, FERC has failed to justify in the Order its refusal to permit pipelines to provide bundled service among the menu of services available to customers.

PREGRANTED ABANDONMENT

LDCs have a public service obligation to provide gas to their local residential and small business customers, because these customers are completely dependent on gas service to heat their homes and businesses. Interstate pipelines have a similar public service obligation under the NGA to provide service to the LDCs serving these consumers, even if there was no current contract between a pipeline and the LDC customer.

In Order No. 636, FERC has effectively attempted to do away with the pipeline's statutory obligations to provide service to their LDC customers. Before Order No. 636, a pipeline had to obtain FERC's permission to "abandon service" to an LDC, which authorization could only be granted upon a showing of "public convenience and necessity." FERC is now trying to universally "pregrant" this abandonment authorization. Under this approach, a pipeline could stop providing firm transportation service to an LDC at the end of their contract, unless the LDC agrees to "reup" the contract by matching the highest price and term that any other potential customer will pay the pipeline for such service. This "matching" requirement will increase uncertainty in the industry and will drive up the costs of the firm transportation service that LDCs need to provide gas service to their residential and small business customers. Plus, it will put LDCs on an unlevel playing field with large industrial or electric generation users.

WHAT SHOULD BE DONE

The new regulations adopted by FERC in Order No. 636 force substantial changes in the structure of the various components of the natural gas industry. These changes may significantly increase the cost and threaten reliability and availability of natural gas for residential, commercial, and other high-priority users. Meanwhile, FERC has not provided Congress with an analysis of the economic impact of Order No. 636 on: (1) the various classes of natural gas end-users and (2) the geographic regions of the country. APGA is thus asking Congress to determine, through an impartial analysis, the economic impact, and other certain effects of Order No. 636 in the context of the concerns addressed in this background paper. FERC must not be permitted to proceed with processing Order No. 636 until this impartial analysis is complete and reviewed by Congress in the appropriate forum.

APGA has already asked FERC to confront these concerns and to "rehear" the Final Rule. Specifically, APGA has asked FERC, among other things; to: (1) at least attempt to quantify the transition costs which pipelines will incur as a result of Order No. 636 and to develop appropriate methods for recovering these costs from *all* industry participants; (2) reverse its decision to impose the SFV rate method on all pipelines by regulatory fiat (or to require permanent and substantial rate mitigation measures to avoid increased rates to LDCs serving residential and small business consumers if the SFV methods remains in place); (3) develop mechanisms to protect gas service to residential and small business consumers if there are renewed curtailment of gas supply or pipeline capacity; (4) require pipelines to continue to offer bundled gas service as an option; and (5) enforce the NGA's statutory protection against abandonment of service by pipelines to LDCs.•

SENATE RESOLUTION 345—COMMENDING AND CONGRATULATING THE COLLEGE OF WILLIAM AND MARY ON THE OCCASION OF THE 300TH ANNIVERSARY OF ITS FOUNDING

Mr. STEVENS (for Mr. WARNER, for himself and Mr. ROBB) submitted the following resolution; which was considered and agreed to:

S. RES. 345

Whereas throughout their history, the people of the United States have recognized that an educated citizenry is important to a democracy, and to that end have supported universal education as well as the development of centers of advanced learning for the benefit of the general welfare;

Whereas on February 8, 1693, a royal charter was granted by King William III and Queen Mary II of England to found and establish "a certain place of universal learning" in the "good arts and sciences" to be known forever as the College of William and Mary in Virginia;

Whereas on December 4, 1779, after the United States gained its independence, Thomas Jefferson, the Governor of the Commonwealth of Virginia and a former student of the College of William and Mary, led an effort to reorganize the curriculum of the College of William and Mary which resulted in the creation of the first elective system of study in the United States, the establishment of an honor system that remains an integral part of the College of William and Mary today, and the creation of the first Chair of Law in the United States;

Whereas the students of the College of William and Mary, the second oldest institution of higher learning in the United States, have contributed to the general welfare for three centuries, so that it has accurately been said that the history of the College of William and Mary forms a significant part of the history of the United States;

Whereas among the distinguished alumni of the College of William and Mary are three Presidents of the United States, Thomas Jefferson, James Monroe, and John Tyler; Chief Justice John Marshall and three Associate Justices of the United States; more than 30 United States Senators; more than 60 members of the House of Representatives; eight members of Presidential cabinets; 27 Governors of ten States; and countless other public officials and leaders in business, industry, military service, science, and the arts;

Whereas the College of William and Mary and the town of Williamsburg have flourished together, fulfilling a prediction made in 1699 that "the College will help make the Town", and together constituting an historical treasure to be enjoyed and appreciated by the people of the United States and the world;

Whereas in the past 25 years, the College of William and Mary has established itself as a modern university with distinctive graduate programs and as a leader in higher education, while never wavering from its commitment to undergraduate liberal arts education as a foundation of a free society; and

Whereas as the College of William and Mary prepares to embark upon its fourth century, it continues to educate men and women to be productive citizens in both public and private pursuits and to adapt its course of studies to the growing needs of the community and the Nation: Now, therefore, be it

Resolved, That it is the sense of the Senate to commend and congratulate the College of William and Mary in Virginia on the occasion of its 300th anniversary, to recognize the many contributions it has made to the well-being of the people of Virginia and the United States, and to express the hope of the people of the United States that the College of William and Mary will continue to grow and prosper in the centuries yet to come.

AMENDMENTS SUBMITTED

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1993

LEAHY (AND OTHERS) AMENDMENT NO. 3117

Mr. LEAHY (for himself, Mr. LAUTENBERG and Mr. JEFFORDS) proposed an amendment to the bill (H.R. 5504) making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

At the appropriate place in the bill, insert the following:

(1) None of the funds appropriated by this Act may be used for the inactivation of any unit in the Selected Reserve of the Army, Navy, Air Force, or Marine Corps, except for—

(A) an inactivation of a unit which is the direct result of the closure or realignment of a military installation required pursuant to law;

(B) an inactivation of a reinforcing unit in the Naval Reserve that is associated directly with a decommissioned unit in the active component of the Navy; and

(C) an inactivation of an aviation unit as a direct result of the phasing out of a weapon system from the active components and the reserve components by the end of fiscal year 1993.

(2) A unit of the Selected Reserve of the Army, Navy, Air Force, or Marine Corps may not be inactivated pursuant to an exception in paragraph (1) until the Secretary of Defense has submitted to the Committees on Appropriations and Armed Services of the Senate and House of Representatives the rationale for the proposed inactivation of that unit and the specific exception that applies.

HELMS AMENDMENT NO. 3118

Mr. HELMS proposed an amendment to the bill H.R. 5504, supra, as follows:

At the appropriate place in the Committee amendment on page 142, lines 1–6, insert the following:

"Notwithstanding any other provision of law, the Office of Personnel Management is prohibited from including in the Combined Federal Campaign (the Federal government's annual employee fund-raiser for charities), and from contracting with, any organization which uses charitable contributions to compel, or attempt to compel, the Boy Scouts of America, Inc., or any other youth group, to accept as members or permit as leaders:

(1) homosexuals; or

(2) individuals who reject the group's oath of allegiance to God and country.".

HELMS (AND ROBB) AMENDMENT NO. 3119

Mr. STEVENS (for Mr. HELMS, for himself and Mr. ROBB) proposed an amendment to the bill H.R. 5504, supra, as follows:

At the appropriate place in the bill insert the following:

"SEC. . NUISANCE AQUATIC VEGETATION IN LAKE GASTON, VIRGINIA AND NORTH CAROLINA.

(a) IN GENERAL.—The Secretary of the Army is authorized to undertake a program to control nuisance aquatic vegetation for the purpose of preserving the recreational uses of the waters of Lake Gaston, Virginia and North Carolina.

(b) In addition to amounts appropriated elsewhere in this Act, $200,000 is appropriated for the purposes described in subsection (a).".

DASCHLE (AND OTHERS) AMENDMENT NO. 3120

Mr. INOUYE (for Mr. DASCHLE, for himself and Mr. DOLE, Mr. HARKIN, and Mr. BREAUX) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 39, on line 3, before the period insert the following: ": *Provided further*, That of the funds appropriated in this act for medical technology, $4,000,000 shall be used for Assistive Technology Center at the National Rehabilitation Hospital".

STEVENS (AND OTHERS) AMENDMENT NO. 3121

Mr. STEVENS (for himself, Mr. THURMOND, Mr. HELMS, and Mr. HOLLINGS) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 157, line 10, add a new section:

"SEC. . None of the funds provided in this Act may be obligated to implement any test of changes in the Department's domestic interstate household goods program as proposed in the Federal Register on June 29, 1992."

FOWLER (AND NUNN) AMENDMENT NO. 3122

Mr. INOUYE (for Mr. FOWLER and Mr. NUNN) proposed an amendment to the bill H.R. 5504, supra, as follows:

SEC. 91 . In addition to the $630,100,000 appropriated in this Act for the National Guard and Reserve components, $25,000,000 is appropriated for one C–20 aircraft for the Marine Corps Reserve.

BUMPERS AMENDMENT NO. 3123

Mr. BUMPERS proposed an amendment to the bill H.R. 5504, supra, as follows:

At page 29, strike lines 5 and 6 and insert in lieu thereof the following: "$2,695,564,000, to remain available for obligation until September 30, 1995, except that no more than $90,000,000 may be obligated or expended for the Trident II missile.".

BUMPERS AMENDMENT NO. 3124

Mr. BUMPERS proposed an amendment to the bill H.R. 5504, supra, as follows:

At the appropriate place in the bill insert the following:

"The Secretary of Defense shall provide for the conduct of an independent study, with participation by one or more federally funded research and development centers, of the Trident missile system. A report containing the results of such study, together with the Secretary's comments and recommendations concerning the report shall be submitted to the Congressional defense committees, in classified and unclassified versions, on or before May 1, 1993. This report shall address, inter alia, the following issues:

"(1) the relative merits and costs of continuing the Trident II missile production versus the refurbishment of existing Trident I missiles, taking into account such factors as inflation, appropriate regulations such as OMB Circular A–94 and DOD Instruction 7041.3, refurbishment costs for the Trident I that would be incurred anyway, the impact of the new START agreements, refurbishment requirements of the Trident II, and other related factors.

"(2) the relative merits and costs of continuing with current plans to backfit the first eight Trident submarines with Trident II missiles versus their continuation with Trident I missiles, taking into account such factors as inflation, appropriate regulations such as OMB Circular A–94 and DOD Instruction 7041.3, refurbishment costs for the Trident I that would be incurred anyway, the impact of the new START agreements, refurbishment requirements of the Trident II, and other related factors.

"(3) the relative merits and costs of taking anticipated SLBM warhead reductions under START in the following ways:

"(A) by offloading individual warheads from missiles;

"(B) by offloading missiles from submarines;

"(C) by dismantling submarines; and

"(D) some combination of the above.

"4. Options for the United Kingdom to meet its strategic requirements in a situation where the U.S. procurement of Trident II missiles is terminated earlier than originally planned.

"5. The reasons why the costs stated for Trident I refurbishment are substantially greater than Minuteman III refurbishment.

"6. The reasons why strategic missile flight testing rates are substantially different for the Navy and Air Force, along with recommendations for uniform testing rates."

GLENN (AND PELL) AMENDMENT NO. 3125

Mr. GLENN (for himself and Mr. PELL) proposed an amendment to the bill H.R. 5504, supra, as follows:

At the appropriate place in the bill, insert the following new section;

SEC. . SENSE OF CONGRESS REGARDING UNRESOLVED COMMERCIAL DISPUTES IN SAUDI ARABIA.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Commerce has identified "18 major unsettled cases, involving 14 American firms with claims of approximately $500 million", in Saudi Arabia in a letter dated May 27, 1992, to the House Subcommittee on Europe and the Middle East;

(2) the Department has testified that many of these disputes "go back 8 to 10 years";

(3) the Department of Commerce has testified that "Saudi Arabia's commercial law has not kept pace with its great economic strides. The Kingdom's system of commercial regulation lacks an effective internationally accepted mechanism to resolve disputes with foreign firms.";

(4) the Department of Commerce has testified that "The United States has trading relationships with virtually all the nations in the Near East region. The only country in which we encounter a continual problem with unresolved commercial disputes is Saudi Arabia."; and

(5) failure to resolve these contractual disputes results in great hardship for the American businesses involved and their employees.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Government of the United States and the Government of Saudi Arabia should work diligently and without delay to resolve satisfactorily the outstanding commercial disputes identified in the Department of Commerce letter.

(c) REPORT.—Not later than February 1, 1993, the Secretary of Defense, after consultation with the Secretary of State and the Secretary of Commerce, shall submit a report to the Congress on the status of the process for the resolution of commercial disputes in Saudi Arabia and the prognosis for any of the 18 such disputes which remain unresolved.

BREAUX AMENDMENT NO. 3126

Mr. INOUYE (for Mr. BREAUX) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 28, line 14, strike "$5,734,209,000" and insert in lieu thereof "$5,749,209,000".

At the appropriate place add the following general provision:

SEC. . Of the funds appropriated for "Aircraft Procurement, Navy", $15,000,000 shall be available only for acquisition of A–6E Mission Recorder/Reproducer Systems (MR/RS).

CRANSTON (AND SEYMOUR) AMENDMENT NO. 3127

Mr. INOUYE (for Mr. CRANSTON, for himself and Mr. SEYMOUR) proposed an amendment to the bill H.R. 5504, supra, as follows:

At the appropriate place in the bill insert the following:

"SEC. . In the event that the purchaser of the Sale Parcel at Hamilton Air Force Base in Novato, in the State of California, exercises its option to withdraw from the sale as provided in the Agreement and Modification, dated September 25, 1990, between the Department of Defense, the General Services Administration, and the purchaser, the purchaser's deposit of $4,500,000 shall be returned by the General Services Administration and funds eligible for reimbursement under the Agreement and Modification shall come from the funds made available to the Department of Defense by this Act.".

DECONCINI AMENDMENT NO. 3128

Mr. INOUYE (for Mr. DECONCINI) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 41, line 16, insert before the period: ": *Provided*, That in addition to the amount appropriated elsewhere in this paragraph, $25,000,000 is appropriated for the T-45 training system engine competition development activity".

DOLE AMENDMENT NO. 3129

Mr. INOUYE (for Mr. DOLE) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 36, at the end of the paragraph entitled National Guard and Reserve equipment insert the following:

In addition to amounts appropriated elsewhere in this paragraph, $56 million is appropriated for 8 UH-60 helicopters for the Army National Guard.

GORTON (AND ADAMS) AMENDMENT NO. 3130

Mr. INOUYE (for Mr. GORTON, for himself and Mr. ADAMS) proposed an amendment to the bill H.R. 5504, supra, as follows:

At the end of Section 9032, before the period, insert: ": *Provided further*, That the Department of Defense shall enter into participation agreements with the Uniformed Services Treatment facilities implementing the managed care program mandated under section 718(c) of the National Defense Authorization Act for fiscal year 1991 (Public Law 101-510; 104 Stat. 1587) which provides for such service delivery under such program beginning no later than October 1, 1993".

GRAHAM AMENDMENT NO. 3131

Mr. INOUYE (for Mr. GRAHAM) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 157, between lines 9 and 10, insert the following:

SEC. 9132. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the Defense Agencies.

HEFLIN AMENDMENT NO. 3132

Mr. INOUYE (for Mr. HEFLIN) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 7, line 25, strike out "$13,422,198,000" and insert in lieu thereof "$13,423,198,000".

On page 9, line 2, insert before the period at the end the following: ": *Provided, further*, That $1,000,000 of the funds appropriated under this heading shall be available for providing military police training for Marine Corps personnel at Fort McClellan, Alabama".

On page 12, line 22, strike out "$16,205,216,000", and insert in lieu thereof "$16,204,216,000".

JOHNSTON (AND BREAUX) AMENDMENT NO. 3133

Mr. INOUYE (for Mr. JOHNSTON, for himself and Mr. BREAUX) proposed an amendment to the bill H.R. 5504, supra, as follows:

At the end of the bill, add the following:

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities" to cover the cost of grants to persons engaged in commercial fisheries, as provided in section 308 of the Interjurisdictional Fisheries Act of 1986, as amended by this Act, $100,000,000 to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That such sums shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of such Act is transmitted by the President to Congress: *Provided further*, That section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended by adding at the end the following new subsection:

"(d) GRANTS TO COMMERCIAL FISHERMEN.—(1) In addition to the amounts authorized under subsections (a), (b), and (c), there are authorized to be appropriated to the Department of Commerce $100,000,000 for fiscal year 1992 to enable the Secretary to award grants to persons engaged in commercial fisheries, for uninsured losses determined by the Secretary to have been suffered as a direct result of a fishery resource disaster arising from Hurricane Hugo, Hurricane Andrew, Hurricane Iniki, or any other natural disaster. Amounts appropriated under this subsection shall remain available until expended.

"(2) The Secretary shall determine the extent, and the beginning and ending dates, of any fishery resource disaster under this subsection.

"(3) Eligibility for a grant under this subsection shall be limited to any person that has less than $2,000,000 in gross revenues annually, as determined by the Secretary.

"(4) A person may receive a grant under this subsection for up to 75 percent of any uninsured commercial fishery loss resulting from such a fishery resource disaster (to the extent that such losses have not been compensated by other Federal and State programs), but shall receive no more than $100,000 in the aggregate for all such losses suffered as a result of any particular fishery resource disaster.

"(5) The Secretary shall establish, after notice and opportunity for public comment, appropriate limitations, terms, and conditions for awarding grants under this subsection, including provisions specifying the means by which applicants must demonstrate claimed losses and limiting the aggregate amounts that may be paid to persons that are affiliated with each other or under common ownership.

"(6) As used in this subsection, the term 'person' means any individual or any corporation, partnership, trust, association, or other nongovernmental entity.".

LOTT (AND COCHRAN) AMENDMENT NO. 3134

Mr. INOUYE (for Mr. LOTT, for himself and Mr. COCHRAN) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 52, line 7, before the period add: ": *Provided further*, from within the funds appropriated in this paragraph, the Secretary shall either lease or procure, and evaluate, an existing airship as an integrated sensor platform for detection and monitoring missions in the Department's Drug Interdiction and Counternarcotics program".

NUNN (AND OTHERS) AMENDMENT NO. 3135

Mr. INOUYE (for Mr. NUNN, for himself, Mr. WARNER, Mr. LUGAR, and Mr. STEVENS) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 132, strike out lines 6 through 9 and insert in lieu thereof the following:

SEC. 9110. (a) The Secretary of Defense may transfer to appropriate appropriation accounts for the Department of Defense, out of funds appropriated to the Department of Defense for fiscal year 1993, up to $400,000,000 to be available for the purposes authorized in the Former Soviet Union Demilitarization Act of 1992. Amounts so transferred shall be in addition to amounts transferred pursuant to the authority provided in section 108 of Public Law 102-229 (105 Stat. 1708).

(b) Of the funds transferred pursuant to this section—

(1) not less than $10,000,000 shall be available only for the study, assessment, and identification of nuclear waste disposal by the former Soviet Union in the Arctic region; and

(2) not less than $25,000,000 shall be available only for Project PEACE.

(c) The authority provided in section 108 of Public Law 102-229 (105 Stat. 1708) to transfer amounts appropriated for fiscal year 1992 shall continue to be in effect during fiscal year 1993.

(d) The transfer authority provided in this section shall be in addition to any other transfer authority contained in this Act.

LEVIN (AND RIEGLE) AMENDMENT NO. 3136

Mr. INOUYE (for Mr. LEVIN, for himself and Mr. RIEGLE) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 20, line 23, add: "*Provided further*, That, of the funds provided under this heading, not less than $3,500,000 of this amount shall be granted in fiscal year 1993 to a nonprofit institution with expertise in applied environmental bioremediation technology, which includes experience in biological fluidized bed systems containing granular activated carbon as the microbial support medium, microbial cultures with proven ability to degrade nitrates, chlorinated aromatic compounds, benzene, toluene, and xylene, as well as an advanced monitoring system to ensure optimal control of electron donor feeds, for the purpose of establishing an advanced process integration, scale-up and applied technology demonstration program in environmental bioremediation restoration technology.

SEYMOUR AMENDMENT NO. 3137

Mr. INOUYE (for Mr. SEYMOUR) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 12, line 2 before the period, add: "*Provided further*, That from within funds provided in this paragraph, $3,000,000 shall be available only for Marine Corps Child Abuse Prevention Program".

WALLOP AMENDMENT NO. 3138

Mr. INOUYE (for Mr. WALLOP) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 45, line 15, before the period, add: ": *Provided further*, That in addition to the amount appropriated elsewhere in this paragraph, $16,000,000 is appropriated for synthetic aperture radar digital terrain mapping".

WARNER AMENDMENT NO. 3139

Mr. INOUYE (for Mr. WARNER) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 36, before the period on line 10, add: ": *Provided*, That in addition to the amount appropriated elsewhere in this paragraph, $40,000,000 is appropriated for Night Vision Equipment".

WARNER AMENDMENT NO. 3140

Mr. INOUYE (for Mr. WARNER) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 45, line 15, before the period, add: ": *Provided further*, That in addition to the amount appropriated elsewhere in this paragraph, $7,000,000 is appropriated for Laser Imaging Detection and Ranging (LIDAR).".

MCCAIN AMENDMENT NO. 3141

Mr. INOUYE (for Mr. MCCAIN) proposed an amendment to the bill H.R. 5504, supra, as follows:

At the appropriate place insert the following section:

"(1) Notwithstanding the provisions of any other law, subject to the execution of a binding Trust Fund Payment Agreement as required by section 403 of Public Law 100-696 ("the Act"), the Secretary of the Interior is authorized to issue special-use permits or other licenses to the Department of Veterans Affairs for use of the parcels of property described in section 402(f) and (g) of the Act and to the city of Phoenix, Arizona, for use of the parcel of property described in section 402(e) of the Act and any other lands within the school property that are to be conveyed to the city of Phoenix pursuant to a further exchange agreement between the city of Phoenix and the Baron Collier Company. The Secretary of Veterans Affairs is authorized to accept such permit or license and to transfer such permit or license to the State of Arizona for the 4.5 acres described in section 402(g) of Public Law 100-696 for the purposes described therein. Any permit or license issued pursuant to this section shall expire upon the closing of the Land Exchange, and shall be consistent with the provisions of the Exchange Agreement described in section 402(b) of the Act and any amendment thereto. The Secretary is authorized to amend the Exchange Agreement, upon the written consent of the parties thereto, to effectuate this result.".

HARKIN (AND OTHERS) AMENDMENT NO. 3142

Mr. HARKIN (for himself, Mr. D'AMATO, Mr. WELLSTONE, and Mr. SPECTER) proposed an amendment to the bill H.R. 5504, supra; as follows:

On page 38, line 10, strike out lines 10 and 11 and insert in lieu thereof the following: "$5,297,737,000, to remain available until September 30, 1992: *Provided*, That $210,000,000 of the funds appropriated in this paragraph shall be available for a peer reviewed breast cancer research program of the Army: *Provided further*, That the total amount available for the Defense Agencies for Research, Development, Test, and Evaluation shall be reduced to $8,301,222,000, to remain available for obligation until September 30, 1994: *Provided further*, That not more than $3,600,000,000 of the funds appropriated for the Defense Agencies for that purpose shall be available for the Strategic Defense Initiative: *Provided further*, That".

ENTERPRISE ZONES TAX INCENTIVES ACT

WALLOP AMENDMENT NO. 3143

(Ordered to lie on the table.)

Mr. WALLOP submitted an amendment intended to be proposed by him to the bill (H.R. 11) to amend the Internal Revenue Code of 1986 to provide tax incentives for the establishment of tax enterprise zones, and for other purposes, as follows:

SECTION 1.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Energy Conservation and Production Incentives

SEC. 1. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

(a) EXCLUSION.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(5) qualified transportation fringe."

(b) QUALIFIED TRANSPORTATION FRINGE.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED TRANSPORTATION FRINGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

"(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

"(B) Any transit pass.

"(C) Qualified parking.

"(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

"(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

"(B) $160 per month in the case of qualified parking.

"(3) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) TRANSIT PASS.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

"(i) on mass transit facilities (whether or not publicly owned), or

"(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

"(B) COMMUTER HIGHWAY VEHICLE.—The term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least 6 adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

"(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

"(II) on trips during which the number of employees transported for such purposes is at least ½ of the adult seating capacity of such vehicle (not including the driver).

"(C) QUALIFIED PARKING.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

"(D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

"(E) EMPLOYEE.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

"(5) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amounts contained in paragraph (2)(A) and (B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $1, such increase shall be rounded to the next lowest multiple of $1.

"(6) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2))."

(c) CONFORMING AMENDMENT.—Subsection (i) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits provided after December 31, 1992.

SEC. 2. EXCLUSION OF ENERGY CONSERVATION SUBSIDIES PROVIDED BY REGULATED PUBLIC UTILITIES.

(a) GENERAL RULE.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 3. ENERGY CONSERVATION SUBSIDIES PROVIDED BY REGULATED PUBLIC UTILITIES.

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income shall not include the value of any subsidy provided by a regulated public utility to a customer for the purchase or installation of any energy conservation measure.

"(2) LIMITATION ON EXCLUSION FOR NONRESIDENTIAL PROPERTY.—In the case of any subsidy provided with respect to any energy conservation measure referred to in subsection (c)(1)(C), only 65 percent of such subsidy shall be excluded from gross income under paragraph (1).

"(b) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of the amount excluded under subsection (a) for any subsidy which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount excluded under subsection (a) which was provided with respect to such property.

"(c) ENERGY CONSERVATION MEASURE.—

"(1) IN GENERAL.—For purposes of this section, the term 'energy conservation measure' means—

"(A) any residential energy conservation measure with respect to a dwelling unit,

"(B) any commercial energy conservation measure with respect to dwelling units in a building containing 5 or more dwelling units, and

"(C) in the case of subsidies provided on or after January 1, 1994—

"(i) any commercial energy conservation measure with respect to property other than dwelling units, and

"(ii) any specially defined energy property.

"(2) OTHER DEFINITIONS.—For purposes of this subsection—

"(A) RESIDENTIAL ENERGY CONSERVATION MEASURE.—The term 'residential energy conservation measure' has the meaning given to such term by section 210(11) of the National Energy Conservation Policy Act (as in effect on the date of the enactment of this section).

"(B) COMMERCIAL ENERGY CONSERVATION MEASURE.—The term 'commercial energy conservation measure' means any installation or modification primarily designed to reduce the consumption of petroleum, natural gas, or electricity. Such term includes the items referred to in any subparagraph of section 710(b)(5) of the National Energy Conservation Policy Act (as in effect on the day before the date of the enactment of the Conservation Service Reform Act of 1986).

"(C) SPECIALLY DEFINED ENERGY PROPERTY.—The term 'specially defined energy property' has the meaning given to such term by section 48(l)(5) of this title (as in effect on the day before the date of the enactment of the Revenue Reconciliation Act of 1990).

"(D) DWELLING UNIT.—The term 'dwelling unit' has the meaning given such term by section 280A(f)(1).

"(d) EXCEPTION.—This section shall not apply to any payment to or from a qualified cogeneration facility or qualifying small power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 136 and inserting:

"Sec. 136. Energy conservation subsidies provided by regulated public utilities.
"Sec. 137. Cross reference to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1992.

SEC. 179A. DEDUCTIONS RELATING TO CLEAN-FUEL VEHICLES.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 179 the following new section:

"SEC. 179A. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

"(a) GENERAL RULE.—There shall be allowed as a deduction an amount equal to the cost of—

"(1) any qualified clean-fuel vehicle property, and

"(2) any qualified clean-fuel vehicle refueling property.

The deduction under the preceding sentence with respect to any property shall be allowed for the taxable year in which such property is placed in service.

"(b) LIMITATIONS.—

"(1) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—

"(A) IN GENERAL.—The cost which may be taken into account under subsection (a) with respect to any motor vehicle shall not exceed—

"(i) in the case of a motor vehicle not described in clause (ii) or (iii), $2,000,

"(ii) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

"(iii) $50,000 in the case of—

"(I) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

"(II) any bus which has a seating capacity of at least 20 adults (not including the driver).

"(B) PHASEOUT.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2001, the limit otherwise applicable under subparagraph (A) shall be reduced by—

"(i) 25 percent in the case of property placed in service in calendar year 2002,

"(ii) 50 percent in the case of property placed in service in calendar year 2003, and

"(iii) 75 percent in the case of property placed in service in calendar year 2004.

"(2) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—

"(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a) with respect to qualified clean-fuel vehicle refueling property placed in service during the taxable year at a location shall not exceed the excess (if any) of—

"(i) $100,000, over

"(ii) the aggregate amount taken into account under subsection (a) by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years.

"(B) RELATED PERSON.—For purposes of this paragraph, a person shall be treated as related to another person if such person bears a relationship to such other person described in section 267(b) or 707(b)(1).

"(C) ELECTION.—If the limitation under subparagraph (A) applies for any taxable year, the taxpayer shall, on the return of tax for such taxable year, specify the items of property (and the portion of costs of such property) which are to be taken into account under subsection (a).

"(c) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified clean-fuel vehicle property' means property which is acquired for use by the taxpayer and not for resale, the original use of which commences with the taxpayer, with respect to which the environmental standards of paragraph (2) are met, and which is described in either of the following subparagraphs:

"(A) RETROFIT PARTS AND COMPONENTS.—Any property installed on a motor vehicle which is propelled by a fuel which is not a clean-burning fuel for purposes of permitting such vehicle to be propelled by a clean-burning fuel, but only to the extent such property is—

"(i) an engine (or modification thereof) which may use a clean-burning fuel, or

"(ii) used in the storage or delivery to the engine of such fuel, or the exhaust of gases from combustion of such fuel.

"(B) ORIGINAL EQUIPMENT MANUFACTURER'S VEHICLES.—A motor vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled by a clean-burning fuel, but only to the extent of the portion of the basis of such vehicle which is attributable to an engine which may use such fuel, to the storage or delivery to the engine of such fuel, or to the exhaust of gases from combustion of such fuel.

"(2) ENVIRONMENTAL STANDARDS.—Property shall not be treated as qualified clean-fuel vehicle property unless—

"(A) the motor vehicle of which it is a part meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled, or

"(B) in the case of property described in paragraph (1)(A), such property meets all applicable Federal and State emissions-related certification, testing, and warranty requirements.

"(3) ONLY INCREMENTAL COST TAKEN INTO ACCOUNT.—If a vehicle may be propelled by both a clean-burning fuel and any other fuel, only the incremental cost of permitting the use of the clean-burning fuel shall be taken into account.

"(d) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY DEFINED.—For purposes of this section, the term 'qualified clean-fuel vehicle refueling property' means any property (not including a building and its structural components) if—

"(1) such property is of a character subject to the allowance for depreciation,

"(2) the original use of such property begins with the taxpayer, and

"(3) such property is for the storage or dispensing of a clean-burning fuel (not including electricity) into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLEAN-BURNING FUEL.—The term 'clean-burning fuel' means—

"(A) natural gas,

"(B) liquefied natural gas,

"(C) liquefied petroleum gas,

"(D) hydrogen,

"(E) electricity, and

"(F) any other fuel at least 85 percent of which is 1 or more of the following: methanol, ethanol, any other alcohol, or ether.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(3) COST OF RETROFIT PARTS INCLUDES COST OF INSTALLATION.—The cost of any qualified clean-fuel vehicle property referred to in subsection (c)(1)(A) shall include the cost of the original installation of such property.

"(4) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any deduction allowable under subsection (a) with respect to any property which ceases to be property eligible for such deduction.

"(5) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(6) BASIS REDUCTION.—

"(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(f) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004."

(b) DEDUCTION FROM GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—The deduction allowed by section 179A."

(c) CONFORMING AMENDMENTS.—

(1) Section 1016(a) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 179A(e)(6)(A)."

(2) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179 the following new item:

"Sec. 179A. Deduction for clean-fuel vehicles and certain refueling property."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after June 30, 1993.

SEC. 4. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE SOURCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 45. ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

"(a) GENERAL RULE.—For purposes of section 38, the renewable electricity production credit for any taxable year is an amount equal to the product of—

"(1) 1.5 cents, multiplied by

"(2) the kilowatt hours of electricity—

"(A) produced by the taxpayer—

"(i) from qualified energy resources, and

"(ii) at a qualified facility during the 10-year period beginning on the date the facility was placed in service, and

"(B) sold by the taxpayer to an unrelated person during the taxable year.

"(b) LIMITATIONS AND ADJUSTMENTS.—

"(1) PHASEOUT OF CREDIT.—The amount of the credit determined under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

"(A) the amount by which the reference price for the calendar year in which the sale occurs exceeds 8 cents, bears to

"(B) 3 cents.

"(2) CREDIT AND PHASEOUT ADJUSTMENT BASED ON INFLATION.—The 1.5 cent amount in subsection (a) and the 8 cent amount in paragraph (1) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(3) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANCING.—The amount of the credit determined under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

"(A) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

"(i) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

"(ii) proceeds of an issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103, and

"(iii) the aggregate amount of subsidized energy financing under a Federal, State, or local program provided in connection with the project, and

"(B) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

The amounts under the preceding sentence for any taxable year shall be determined as of the close of the taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ENERGY RESOURCES.—The term 'qualified energy resources' means—

"(A) wind, and

"(B) closed-loop biomass.

"(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

"(3) QUALIFIED FACILITY.—The term 'qualified facility' means any facility originally placed in service by the taxpayer after December 31, 1993 (December 31, 1992, in the case of a facility using closed-loop biomass to produce electricity), and before July 1, 1999.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to electricity the production of which is within—

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

"(2) COMPUTATION OF INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICE.—

"(A) IN GENERAL.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor and the reference price for the preceding calendar year in accordance with this paragraph.

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GNP implicit price deflator for the calendar year and the denominator of which is the GNP implicit price deflator for the calendar year 1992. The term 'GNP implicit price deflator' means the first revision of the implicit price deflator for the gross national product as computed and published by the Department of Commerce.

"(C) REFERENCE PRICE.—The term 'reference price' means, with respect to a calendar year, the Secretary's determination of the annual average contract price per kilowatt hour of electricity generated from the same qualified energy resource and sold in the previous year in the United States.

"(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a facility in which more than 1 person has an interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such persons in proportion to their respective interests in the gross sales from such facility.

"(4) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to such a person by another member of such group.

"(5) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end thereof the following new paragraph:

"(8) the renewable electricity production credit under section 45(a)."

(c) Limitation on Carryback.—Subsection (d) of section 39 is amended by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2), and by adding at the end thereof the following new paragraph:

"(3) No carryback of renewable electricity production credit before effective date.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45 (relating to electricity produced from certain renewable resources) may be carried back to any taxable year ending before January 1, 1993."

(d) Clerical Amendment.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 45. Electricity produced from certain renewable resources."

(e) Effective Date.—The amendments made by this section shall apply to taxable years ending after December 31, 1992.

SEC. 5. REPEAL OF MINIMUM TAX PREFERENCES FOR DEPLETION AND INTANGIBLE DRILLING COSTS OF INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.

(a) Depletion.—

(1) Paragraph (1) of section 57(a) (relating to depletion) is amended by adding at the end thereof the following new sentence: "Effective with respect to taxable years beginning after December 31, 1992, and before January 1, 1998, this paragraph shall not apply to any deduction for depletion computed in accordance with section 613A(c).".

(2) Subparagraph (F) of section 56(g)(4) is amended to read as follows:

"(F) Depletion.—

"(i) In general.—The allowance for depletion with respect to any property placed in service in a taxable year beginning after December 31, 1989, shall be cost depletion determined under section 611.

"(ii) Exception for independent oil and gas producers and royalty owners.—In the case of any taxable year beginning after December 31, 1992, and before January 1, 1998, clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A(c)."

(b) Intangible Drilling Costs.—

(1) Section 57(a)(2) is amended by adding at the end the following new subparagraph:

"(E) Exception for independent producers.—

"(i) In general.—In the case of any taxable year beginning after December 31, 1992, and before January 1, 1998, this paragraph shall not apply to any taxpayer which is not an integrated oil company (as defined in section 291(b)(4)).

"(ii) Limitation on aggregate benefit.—The aggregate reduction in alternative minimum taxable income by reason of clause (i) for any taxable year shall not exceed 40 percent (30 percent in case of taxable years beginning in 1993) of the alternative minimum taxable income for such year determined without regard to clause (i) and the alternative tax net operating loss deduction under subsection (a)(4)."

(2) Clause (i) of section 56(g)(4)(D) is amended by adding at the end thereof the following new sentence: "In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992, and before January 1, 1998.".

(c) Conforming Amendments.—

(1) Subsection (h) of section 56 is amended by adding at the end thereof the following new paragraph:

"(9) Suspension.—No deduction shall be allowed under this subsection for any taxable year beginning after December 31, 1992, and before January 1, 1998."

(2) Clause (ii) of section 59(a)(2)(A) is amended by striking "and the" and inserting ", section 57(a)(2)(E), and the".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 6. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS.

(a) In General.—Subparagraph (B) of section 4681(b)(1) (relating to amount of tax) is amended to read as follows:

"(B) Base tax amount.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical is the amount determined under the following table for such calendar year:

"Calendar year:	Base tax amount:
1992	$1.85
1993	2.75
1994	3.65
1995	4.55."

(b) Conforming Amendments.—

(1) Rates retained for chemicals used in rigid foam insulation.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

(A) by striking "15" and inserting "13.5", and

(B) by striking "10" and inserting "9.6".

(2) Floor stock taxes.—

(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking "1993, and 1994" and inserting "1993, 1994, and 1995, and July 1, 1992".

(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

(i) by inserting "or July 1" after "January 1", and

(ii) by inserting "or December 31, respectively," after "June 30".

(c) Effective Date.—The amendments made by this section shall apply to taxable chemicals sold or used on or after July 1, 1992.

SEC. 7. TREATMENT OF CERTAIN OZONE DEPLETING CHEMICALS.

(a) Treatment of Certain Halons.—The table contained in subparagraph (A) of section 4682(g)(2) is amended to read as follows:

"In the case of:	The applicable percentage is:	
	For sales or use during 1992	For sales or use during 1993
Halon-1211	4.5	3.0
Halon-1301	1.4	0.9
Halon-2404	2.3	1.5".

(b) Chemicals Used for Sterilizing Medical Instruments.—

(1) In general.—Subsection (g) of section 4682 is amended by adding at the end thereof the following new paragraph:

"(4) Chemicals used for sterilizing medical instruments.—

"(A) Rate of tax.—

"(i) In general.—In the case of—

"(I) any use after June 30, 1992, and before January 1, 1994, of any substance to sterilize medical instruments, or

"(II) any qualified sale during such period by the manufacturer, producer, or importer of any substance,

the tax imposed by section 4681 shall be the applicable percentage (determined in accordance with the following table) of the amount of such tax which would (but for this subparagraph be imposed).

In the case of sales or use during:	**The applicable percentage is:**
1992	90.3
1993	60.7.

"(ii) Qualified sale.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser to sterilize medical instruments, or

"(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(B) Overpayments.—If any substance on which tax was paid under this subchapter is used after June 30, 1992, and before January 1, 1994, by any person to sterilize medical instruments, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

"(i) the tax paid under this subchapter on such substance, or

"(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacture, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph."

(c) Effective Date.—The amendments made by this section shall apply to sales and uses on or after July 1, 1992.

SEC. 8. PERMANENT EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

(a) General Rule.—Paragraph (2) of section 48(a) (defining energy percentage) is amended—

(1) by striking "Except as provided in subparagraph (B), the" and inserting "The",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraph (C) as subparagraph (B)

(b) Effective Date.—The amendments made by subsection (a) shall take effect on June 30, 1992.

SEC. 9. NUCLEAR DECOMMISSIONING FUNDS.

(a) Repeal of Investment Restrictions.—Subparagraph (C) of section 468A(e)(4) (relating to special rules for nuclear decommissioning funds) is amended by striking "described in section 501(c)(21)(B)(ii)".

(b) Reduction in Rate of Tax.—Paragraph (2) of section 468A(e) is amended—

(1) by striking "at the rate equal to the highest rate of tax specified in section 11(b)" in subparagraph (A) and inserting "at the rate set forth in subparagraph (B)", and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) Rate of tax.—For purposes of subparagraph (A), the rate set forth in this subparagraph is—

"(i) 22 percent in the case of taxable years beginning in calendar year 1994 or 1995, and

"(ii) 20 percent in the case of taxable years beginning after December 31, 1995."

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1993. Section 15 of the Internal Revenue Code of 1986 shall not apply to any change in rate resulting from the amendment made by subsection (b).

SEC. 10. FACILITIES FOR PRODUCTION OF CERTAIN FUELS.

Subsection (f) of section 29 is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (1)(B), a facility for production of qualified fuels referred to in subparagraph (B)(ii) or (C) of subsection (c)(1) shall be treated as placed in service before January 1, 1993, if such facility is placed in service before January 1, 1996, pursuant to a written binding contract in effect on December 31, 1992, and at all times thereafter before such facility is placed in service."

SEC. 11. TREATMENT UNDER LOCAL FURNISHING RULES OF CERTAIN ELECTRICITY TRANSMITTED OUTSIDE LOCAL AREA.

(a) IN GENERAL.—Subsection (f) of section 142 (relating to local furnishing of electric energy or gas) is amended to read as follows:

"(f) LOCAL FURNISHING OF ELECTRIC ENERGY OR GAS.—For purposes of subsection (a)(8)—

"(1) IN GENERAL.—The local furnishing of electric energy or gas from a facility shall only include furnishing solely within the area consisting of—

"(A) a city and 1 contiguous county, or

"(B) 2 contiguous counties.

"(2) TREATMENT OF CERTAIN ELECTRIC ENERGY TRANSMITTED OUTSIDE LOCAL AREA.—

"(A) IN GENERAL.—A facility shall not be treated as failing to meet the local furnishing requirement of subsection (a)(8) by reason of electricity transmitted pursuant to an order of the Federal Energy Regulatory Commission under section 211 or 213 of the Federal Power Act (as in effect on the date of the enactment of this paragraph) if the portion of the facility financed with tax-exempt bonds is not greater than the portion of the use of the facility which is in the local furnishing of electric energy (determined without regard to this paragraph).

"(B) SPECIAL RULE FOR EXISTING FACILITIES.—In the case of a facility financed with bonds issued before the date of an order referred to in subparagraph (A) which would (but for this subparagraph) cease to be tax-exempt by reason of subparagraph (A), such bonds shall not cease to be tax-exempt bonds (and section 150(b)(4) shall not apply) if, to the extent necessary to comply with subparagraph (A)—

"(i) bonds are defeased not later than the 90th day after the date such order was issued, and

"(ii) bonds are redeemed not later than the earliest date on which such bonds may be redeemed."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued before, on, or after the date of the enactment of this Act.

Subtitle B—Other Revenue Provisions

SEC. 12. REPEAL OF EXEMPTION FROM COMMUNICATIONS TAX FOR NEWS SERVICES.

(a) GENERAL RULE.—Subsection (b) of section 4253 (relating to exemption for news services) is hereby repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall take effect on January 1, 1993.

SEC. 13. EXCEPTION FROM PRO RATA ALLOCATION OF INTEREST EXPENSE OF FINANCIAL INSTITUTIONS TO TAX-EXEMPT INTEREST FOR SMALL ISSUERS INCREASED TO $20,000,000.

(a) IN GENERAL.—Subparagraphs (C) and (D) of section 265(b)(3) are each amended by striking "$10,000,000" each place it appears and inserting "$20,000,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 1992.

SEC. 14. DISCLOSURES OF INFORMATION FOR VETERANS BENEFITS.

(a) IN GENERAL.—Section 6103(l)(7)(D) (relating to program to which rule applies) is amended by striking "September 30, 1992" in the last sentence and inserting "September 30, 1997".

(b) CONFORMING AMENDMENT.—Section 5317(g) of title 38, United States Code, is amended by striking "September 30, 1992" and inserting "September 30, 1997".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 30, 1992.

SEC. 15. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

"(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

"(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

"(3) IRS INITIATED ADJUSTMENTS.—Notwithstanding any other provision, if an adjustment, initiated by or on behalf of the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after July 1, 1992.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after July 1, 1992 regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after July 1, 1992 regardless of the taxable period to which such refund relates.

SEC. 16. INFORMATION REPORTING WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.

(a) GENERAL RULE.—Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

"(h) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.—

"(1) PAYOR.—If any taxpayer claims a deduction under section 163 for qualified residence interest on any seller-provided financing, such taxpayer shall include on the return claiming such deduction the name, address, and TIN of the person to whom such interest is paid or accrued.

"(2) RECIPIENT.—If any person receives or accrues interest referred to in paragraph (1), such person shall include on the return for the taxable year in which such interest is so received or accrued the name, address, and TIN of the person liable for such interest.

"(3) FURNISHING OF INFORMATION BETWEEN PAYOR AND RECIPIENT.—If any person is required to include the TIN of another person on a return under paragraph (1) or (2), such other person shall furnish his TIN to such person.

"(4) SELLER-PROVIDED FINANCING.—For purposes of this subsection, the term 'seller-provided financing' means any indebtedness incurred in acquiring any residence if the person to whom such indebtedness is owed is the person from whom such residence was acquired.".

(b) PENALTY.—Paragraph (3) of section 6724(d) (relating to specified information reporting requirement) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(E) any requirement under section 6109(f) that—

"(i) a person include on his return the name, address, and TIN of another person, or

"(ii) a person furnish his TIN to another person."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle C—Federal Tax Exemption for Uranium Enrichment Corporation; Limitation on Borrowing Authority

SEC. 17. FEDERAL TAX EXEMPTION; LIMITATION ON BORROWING AUTHORITY.

(a) FEDERAL TAX EXEMPTION.—Subsection (l) of section 501 (relating to governmental corporations exempt from tax) is amended by adding at the end thereof the following:

"(4) The Uranium Enrichment Corporation established under section 1301 of the Atomic Energy Act of 1954.

Paragraph (4) shall cease to apply as of the first day on which any stock issued by the Uranium Enrichment Corporation is held by any person other than the Federal Government."

(b) LIMITATION ON BORROWING AUTHORITY.—

(1) Chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER III—RESTRICTION ON BORROWING AUTHORITY OF CERTAIN GOVERNMENT-RELATED CORPORATIONS

"§3141. Limitation on borrowing authority of Uranium Enrichment Corporation

"The Uranium Enrichment Corporation established pursuant to section 1301 of the Atomic Energy Act of 1954 may borrow (directly or indirectly) from the Treasury only to the extent, and in the manner, provided in section 1405 of such Act (as in effect on the date of the enactment of this section).".

(2) The chapter analysis for chapter 31 of title 31, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER III—RESTRICTION ON BORROWING AUTHORITY OF CERTAIN GOVERNMENT-RELATED CORPORATIONS

"3141. Limitation on borrowing authority of Uranium Enrichment Corporation.".

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, FISCAL YEAR 1993

DOLE AMENDMENT NO. 3144

Mr. INOUYE (for Mr. DOLE) proposed an amendment to the bill H.R. 5504, supra, as follows:

At the appropriate place in the bill, insert the following

"SEC. . Of the funds appropriated for drug interdiction and counter narcotics, $35,000,000 shall be appropriated for the purposes of modifying with improved radars and FLIRs and leasing up to 15 T-47 aircraft.".

LEVIN AMENDMENT NOS. 3145 AND 3146

Mr. INOUYE (for Mr. LEVIN) proposed two amendments to the bill H.R. 5504, supra, as follows:

AMENDMENT NO. 3145

After line 7, page 17, add the following: "and to establish the STARBASE Youth Education Program.".

Strike line 10 and place in lieu thereof: "$2,191,677,000".

AMENDMENT NO. 3146

After line 3, page 39, add the following: "and for advanced automotive development for future Armored Systems Modernizations applications.".

Strike line 10, page 38, and place in lieu thereof: "$5,122,737,000, to remain available for".

AKAKA (AND OTHERS) AMENDMENT NO. 3147

Mr. INOUYE (for Mr. AKAKA, for himself, Mr. MACK, and Mr. INOUYE) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 157, between lines 9 and 10, insert the following:

SEC. 9132. It is the sense of the Senate that—

(1) the Corps of Engineers of the Army should evaluate new concrete construction technologies in order to identify technologies that, if used in the construction of Department of Defense facilities in regions susceptible to hurricanes, would prevent future hurricanes striking those regions from causing the extensive level of damage to those facilities that Hurricane Andrew and Hurricane Iniki caused at installations and facilities of the Department of Defense in Florida and Hawaii, respectively; and

(2) the Secretary of Defense should ensure that, to the extent that it is cost effective to do so, concrete construction technologies identified in accordance with paragraph (1) be used in the construction of facilities of the Department of Defense in those regions in the future.

JOHNSTON AMENDMENT NO. 3148

Mr. INOUYE (for Mr. JOHNSTON) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 38, line 22, after the words "of the", delete the remainder of the proviso and insert the following: "GP-160 vaccine: *Provided further*, That funds in the preceding proviso shall be obligated, unless the Secretary of Defense, the Director of the National Institutes of Health, or the Commissioner of Food and Drugs certifies, in writing, within six months of enactment of this Act, that such large-scale phase III investigation should not proceed, including an assessment of the vaccine and reasons for the certification.".

NUNN AMENDMENT NO. 3149

Mr. INOUYE (for Mr. NUNN) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 115, line 12, insert before the period at the end the following: ": *Provided further*, That the funds made available by this section may be obligated only in accordance with a merit based selection process, utilizing recommendations of a peer review process, consistent with the provisions of section 2361(a) of title 10, United States Code: *Provided further*, That the Secretary of Defense shall select persons to participate in such peer review process only from the faculty or staff of institutions that are members of the National Association of State Universities and Land Grant Colleges or the American Association of State Colleges and Universities.".

GRAHAM AMENDMENTS NOS. 3150 AND 3151

Mr. INOUYE (for Mr. GRAHAM) proposed two amendments to the bill H.R. 5504, supra, as follows:

AMENDMENT NO. 3150

On Page 157, between lines 9 and 10, insert the following:

SEC. 9132. (a) Subject to subsection (b), the amount expended from the appropriation under title II of this Act in fiscal year 1993 for salaries and expenses relating to the administrative activities of the Department of Defense, the military departments, and the Defense Agencies may not exceed the amount expended during fiscal year 1992 for such salaries and expenses under title II of the Defense Appropriation Act, 1992 (Public Law 102-172; 105 Stat. 1152), exclusive of any OPM authorized pay increase or benefits

(b) The President may waive the limitation described in subsection (a) if he deems it to be in the national interest, or to accomplish the management reform initiatives under the Defense Management Review or the establishment of the Defense Business Operating Fund.

AMENDMENT NO. 3151

On page 157, between lines 9 and 10, insert the following:

SEC. 9132. (a) The Secretary of Defense shall transmit to Congress a report on whether the United States should participate with other countries of the Western Hemisphere in an international rapid deployment force for use in international crisis in the Western Hemisphere.

(b) The report shall include a discussion of, and the Secretary's recommendations regarding, the following matters:

(1) Whether a rapid deployment force should be established.

(2) The circumstances under which the rapid deployment force should be used for intervention in international crises in the Western Hemisphere.

(3) Whether the establishment of a rapid deployment force with the mission to engage in military operations in the Western Hemisphere in such an intervention is prohibited by, or inconsistent with, the Charter of the Organization of American States.

(4) How to ensure that the elements of the Armed Forces of the United States in the rapid deployment force are not introduced into situations involving life-threatening dangers without the specific approval of the United States under the laws of the United States, including the War Powers Resolution (50 U.S.C. 1541 et seq.).

(c) The Secretary shall submit the report required by subsection (a) at the same time as the President submits to Congress the budget for fiscal year 1994 pursuant to section 1105 of title 31, United States Code.

PRYOR (AND OTHERS) AMENDMENT NO. 3152

Mr. PRYOR (for himself, Mr. BINGAMAN, Mr. NUNN, Mr. LIEBERMAN, Mr. COATS, Mr. ROCKEFELLER, Mr. BRYAN, Mr. SEYMOUR, Mr. DOMENICI, Mr. COATS, Ms. MIKULSKI, Mr. COHEN, Mr. WOFFORD, Mr. DECONCINI, Mr. DODD, Mr. RIEGLE, Mr. MURKOWSKI, and Mr. ROBB) proposed an amendment to the bill HR. 5504, supra, as follows:

On page 54, in line 4, strike out the period at the end of line 4, and insert the following in lieu thereof:

": *Provided further*, That of the funds appropriated in this paragraph, funds shall be available for the following programs in the following amounts;

"For federal military and civilian personnel transition programs and community assistance programs as authorized by Congress, $470,000,000.

"For dual-use critical technology partnerships, $100,000,000.

"For commercial-military integration partnerships, $50,000,000.

"For regional technology alliances, $100,000,000.

"For defense advanced manufacturing technology partnerships, $25,000,000.

"For manufacturing engineering education programs, $30,000,000.

"For defense manufacturing extension programs, $100,000,000.

"For dual-use technology and industrial base extension programs, $200,000,000.

"For agile manufacturing and enterprise integration, $30,000,000.

"For advanced materials synthesis and processing partnerships, $30,000,000.

"For United States-Japan Management Training, $10,000,000.".

PRYOR (AND BUMPERS) AMENDMENT NO. 3153

Mr. INOUYE (for Mr. PRYOR, for himself and Mr. BUMPERS) proposed an amendment to the bill H.R. 5504, supra, as follows:

On page 157, between lines 9 and 10, insert the following:

SEC. 9132. (1) Hereafter, whenever a State or local development authority or other State or local installation reuse entity submits to the Secretary of a military department for approval a proposed interim lease of a facility at a closing installation under the jurisdiction of that Secretary, the Secretary shall approve or disapprove the proposed interim lease within 60 days after the proposed interim lease is submitted to the Secretary.

(b) For purposes of this section, the term "closing", with respect to an installation, means an installation that is being closed pursuant to—

(1) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 102–510; 104 Stat. 1808; 10 U.S.C. 2687 note);

(2) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note); or

(3) section 2687 of title 10, United States Code.

VETERANS COMPENSATION RATE AMENDMENTS OF 1992

CRANSTON AMENDMENT NO. 3154

Mr. PRYOR (for Mr. CRANSTON) proposed an amendment to the amendments of the House to the bill (S. 2322) to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1992".

SEC. 2. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs, shall, as provided in paragraph (2), increase, effective December 1, 1992, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2)(A) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by Veterans' Compensation Rate Amendments of 1991 (Public Law 102–152; 105 Stat. 985). The increase shall be made in such rates and limitations as in effect on November 30, 1992, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1992, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph (A), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (2 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 214(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1992, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2)(A) as increased under this section.

VETERANS COMPENSATION AMENDMENTS

CRANSTON AMENDMENT NO. 3155

Mr. PRYOR (for Mr. CRANSTON) proposed an amendment to the bill (S. 2323) to amend title 38, United States Code, to revise the rates of dependency and indemnity compensation payable to surviving spouses of certain service-disabled veterans, to provide supplemental service disabled veterans' insurance for totally disabled veterans, and for other purposes, as follows:

On page 13, line 12, strike out "The cost" and insert in lieu thereof "(1) Subject to paragraph (2), the cost".

On page 13, between lines 18 and 19, insert the following new paragraph:

(2) The amount paid under paragraph (1) in fiscal year 1993 from amounts available to the Department of Veterans Affairs for the payment of compensation and pension may not exceed $5,000,000.

DEPENDENCY AND INDEMNITY COMPENSATION REFORM ACT OF 1992

CRANSTON AMENDMENT NO. 3156

Mr. PRYOR (for Mr. CRANSTON) proposed an amendment to the bill (H.R. 5008) to amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, to increase the rates of payments for benefits under the Montgomery GI bill, and for other purposes, as follows:

On page 1, strike out line 3 and all that follows through page 12, line 18, and insert in lieu thereof the following:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Survivors' Benefits Improvement Act of 1992".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. REVISION OF RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES OF VETERANS.

(a) DEATHS OF VETERANS BEFORE DECEMBER 1, 1992.—Subsection (a) of section 1311 is amended—

(1) by inserting "(1)" before "Dependency"; and

(2) by inserting at the end the following new paragraphs:

"(2) Subject to subsections (b) through (d) and except as provided in paragraph (3), dependency and indemnity compensation shall be paid to surviving spouses of veterans whose deaths occur before December 1, 1992, at the rates provided in paragraph (1).

"(3) Each surviving spouse referred to in paragraph (2) for whom the rate of dependency and indemnity compensation payable under subsection (e)(2) exceeds the rate of such compensation payable under paragraph (1) shall be paid dependency and indemnity compensation at the rate specified in subsection (e)(2).".

(b) DEATHS ON OR AFTER DECEMBER 1, 1992.—Section 1311 is amended by adding at the end the following new subsections:

"(e)(1) Subject to subsections (b) through (d), the monthly rates of dependency and indemnity compensation payable for deaths occurring on or after December 1, 1992, shall be determined under this subsection.

"(2) Subject to paragraph (3), the monthly amount of dependency and indemnity compensation payable to the surviving spouse of a deceased veteran under this paragraph shall be the sum of $725 and the greater of—

"(A) an amount, if any, equal to—

"(i) in the case of a veteran having a disability rated as total (including a veteran so rated on the basis of the veteran's individual unemployability) for a total of ten or more years before the date of the veterans death, $200;

"(ii) in the case of a veteran having a disability so rated for a total of five years or more but less than ten years, $150;

"(iii) in the case of a veteran having a disability so rated for a total of one year or more but less than five years, $50; or

"(iv) in the case of a veteran having a disability so rated for less than one year, $0; or

"(B) an amount, if any, equal to—

"(i) in the case of a veteran who completed a period of active military, naval, or air service of thirty years or more, $100;

"(ii) in the case of a veteran who completed a period of such service of twenty years or more but less than thirty years, $70;

"(iii) in the case of a veteran who completed a period of such service of ten years or more but less than twenty years, $40; or

"(iv) in the case of a veteran who completed a period of such service of five years or more but less than ten years, $20.

"(3) In determining the period of a veteran's disability under subparagraph (A) of paragraph (2), only periods in which the veteran was married to the surviving spouse referred to in that paragraph shall be taken into account.

"(f) Dependency and indemnity compensation shall be paid to a surviving spouse for the first full calendar month following the death of a veteran in an amount that is the greater of—

"(1) 50 percent of the amount of compensation under chapter 11 of this title which the veteran received or was entitled to receive for the last full month prior to the date of the veteran's death; and

"(2) the amount payable in the case of such veteran pursuant to subsection (e)(2).".

(c) ADDITIONAL DIC FOR CHILDREN.—(1) Section 1311(b) is amended by striking out "$71 for each such child" and inserting in lieu thereof "$100 for each such child during fiscal year 1993, $150 for each such child during fiscal year 1994, and $200 for each such child during each fiscal year thereafter".

(2) The amendment made by paragraph (1) shall take effect on October 1, 1992.

(d) PAYMENT FOR IMPLEMENTATION OF REVISIONS.—(1) Subject to paragraph (2), the costs of implementing, during fiscal year 1993, any revisions in the payment of dependency and indemnity compensation to surviving spouses under section 1311 of title 38, United States Code that result from the amendments made by subsections (a) and (b) shall be paid from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

(2) The amount paid under paragraph (1) in fiscal year 1993 from amounts available to the Department of Veterans Affairs for the payment of compensation and pension may not exceed $5,000,000.

SEC. 3. STUDY AND REPORT RELATING TO THE PROVISION OF BENEFITS TO SURVIVORS OF VETERANS AND MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—In accordance with the provisions of this section, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives the report on the study and recommendations of the Commission on the Study of Survivor Benefits with respect to the most appropriate combination of financial, health-care, educational, and other survivor benefits to meet the needs of survivors.

(b) COMMISSION.—(1) There is established a commission to be known as the "Commission on the Study of Survivor Benefits" (in this section referred to as the "Commission").

(2) The Commission shall be composed of 7 members of whom—

(A) one shall be an appropriate representative of the Department of Veterans Affairs, determined and appointed by the Secretary of Veterans Affairs;

(B) one shall be an appropriate representative of the Department of Defense, determined and appointed by the Secretary of Defense;

(C) one shall be a representative of a veterans service organization recognized by the Secretary of Veterans Affairs under section 5902 of title 38, United States Code;

(D) one shall be a representative of an organization that represents surviving spouses; and

(E) three shall be experts (as determined by the Secretary of Veterans Affairs) on matters relating to survivor benefits who are not affiliated with the departments or organizations referred to in subparagraphs (A) through (D).

(3) The chairperson of the Commission shall be chosen by the members of the Commission from among the three experts referred to in paragraph (2)(E).

(4) The Commission shall hold its first meeting not later than 60 days after the date of the enactment of this Act.

(c) DUTIES OF COMMISSION.—(1) The Commission shall—

(A) evaluate the data and studies assembled by the National Academy of Sciences (or other entity) under subparagraphs (A) and (B) of subsection (d)(1) in light of the methods of analysis proposed by the National Academy of Sciences (or other entity) under subparagraph (C) of that subsection;

(B) based upon that evaluation, determine the adequacy of current and anticipated survivor benefits to meet the financial, health-care, educational, and other needs of the survivors who are provided such benefits; and

(C) submit to the Secretary of Veterans Affairs a report containing the recommendations of the Commission on the most appropriate combination of financial, health-care, educational, and other benefits to meet the current and anticipated needs of survivors.

(2) The Commission shall submit the report required under paragraph (1)(C) not later than December 1, 1993.

(d) STUDY AND REPORT OF PROVISION OF BENEFITS.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall enter into an agreement with the National Academy of Sciences (or other entity determined by the Secretary to have an expertise and objectivity that is similar to that of the National Academy of Sciences) pursuant to which agreement the National Academy of Sciences (or other entity) shall carry out and submit to the Chairperson of the Commission the study described by paragraph (2).

(2) The study required under paragraph (1) shall include the following:

(A) A review and compilation of data on current and proposed survivor benefits programs that will permit an assessment of the adequacy of such benefits programs, including information on—

(i) in the case of each current and proposed alternative survivor benefits program—

(I) each benefit provided;

(II) the survivors entitled to the benefit;

(III) the extent to which survivors are entitled to similar benefits under the program; and

(IV) the costs of providing such benefits under the program;

(ii) the extent to which current and anticipated benefits under current survivor benefits programs meet the current and anticipated financial, health-care, educational, and other needs of survivors; and

(iii) the differences, if any, in the survivor benefits provided under current and proposed survivor benefits programs to survivors of various categories of veterans and members of the Armed Forces (including survivors of veterans having service-connected disabilities, veterans without such disabilities, members of the Armed Forces who die during service in the Armed Forces, retired career members of the Armed Forces, and retired non-career members of the Armed Forces).

(B) A review and compilation of existing studies on the adequacy of survivor benefits provided under current and proposed survivor benefits programs to meet the financial, health-care, educational, and other needs of survivors.

(C) Recommendations relating to the data required for, and the methods of analysis appropriate to carry out, a comprehensive assessment and evaluation of the adequacy of current and proposed survivor benefits programs, including data and methods for an assessment and evaluation of—

(i) the feasibility and desirability of limiting the period of entitlement of survivors to survivor benefits;

(ii) the feasibility and desirability of modifying the provision of monetary benefits to survivors by—

(I) revising the term of payment of any such benefits;

(II) replacing the periodic payment of such benefits with a lump sum payment;

(III) providing such benefits through insurance or other premium-based payment mechanisms; or

(IV) carrying out any other revision or modification proposed before the date of the enactment of this Act by the Secretary of Veterans Affairs, the Secretary of Defense, the Secretary of Health and Human Services, or organizations recognized by the Secretary of Veterans Affairs under section 5902(a)(1) of title 38, United States Code;

(iii) the feasibility and desirability of modifying the provision of health-care benefits to survivors;

(iv) the feasibility and desirability of modifying the provision of benefits to children survivors; and

(v) the feasibility and desirability of consolidating, expanding, or otherwise modifying any program relating to the provision of survivor benefits.

(3) Not later than October 1, 1993, the National Academy of Sciences (or other entity) shall submit to the Chairperson of the Commission a report on the study required under paragraph (2). The report shall contain the matters described in that paragraph and any other matters with respect to survivor benefits that the National Academy of Sciences determines appropriate.

(e) REPORT OF THE SECRETARY OF VETERANS AFFAIRS.—(1) Not later than March 1, 1994, the Secretary of Veterans Affairs shall submit to the committees referred to in subsection (a) a report on the report submitted to the Secretary by the Commission under subsection (c). The report of the Secretary shall include the following:

(A) The report submitted to the Secretary by the Commission, together with the comments of the Secretary thereon.

(B) The recommendations of the Secretary (including a proposal for legislation) on the most appropriate combination of survivor benefits to meet the current and anticipated financial, health-care, educational, and other needs of survivors.

(C) The comments and recommendations of the Secretary on such other matters relating to survivor benefits as the Secretary determines appropriate.

(2) In preparing the report required under this subsection, the Secretary shall permit at least one opportunity for meaningful public comment on the matters covered by the report.

(f) PRESERVATION OF CONFIDENTIALITY.—To the maximum extent practicable, the Secretary of Veterans Affairs shall ensure that the study carried out by the National Academy of Sciences (or other entity) under subsection (c), the report submitted by the Commission under subsection (d), and the report submitted by the Secretary under subsection (e) are carried out and submitted in a manner that is consistent with the privacy rights and interests of the survivors covered by such study and reports.

(g) FUNDING.—The cost of carrying out the study required under subsection (c) and the report required under subsection (d) shall be paid from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

(h) DEFINITIONS.—In this section:

(1) The term "survivor", in the case of a veteran or member of the Armed Forces who dies, means the surviving spouse or surviving dependent child of the veteran or member.

(2) The term "survivor benefit" means any monetary, health-care, educational, or other benefit paid, payable, or otherwise provided

to survivors of veterans and survivors of members of the Armed Forces under the following:

(A) Laws administered by the Secretary of Veterans Affairs.

(B) Laws administered by the Secretary of Defense.

(C) The Social Security Act (42 U.S.C. 301 et seq.).

(3) The term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

SEC. 4. SUPPLEMENTAL SERVICE DISABLED VETERANS' INSURANCE FOR TOTALLY DISABLED VETERANS.

(a) IN GENERAL.—Subchapter I of chapter 19 is amended by inserting after section 1922 the following new section:

"§ 1922A. Supplemental service disabled veterans' insurance for totally disabled veterans

"(a) Any person insured under section 1922(a) of this title who qualifies for a waiver of premiums under section 1912 of this title is eligible, as provided in this section, for supplemental insurance in an amount not to exceed $20,000.

"(b) To qualify for supplemental insurance under this section a person must file with the Secretary an application for such insurance not later than the end of (1) the one-year period beginning on the first day of the first month following the month in which this section is enacted, or (2) the one-year period beginning on the date that the Department notifies the person that the person is entitled to a waiver of premiums under section 1912 of this title.

"(c) Supplemental insurance granted under this section shall be granted upon the same terms and conditions as insurance granted under section 1922(a) of this title, except that such insurance may not be granted to a person under this section unless the application is made for such insurance before the person attains 65 years of age.

"(d) No wavier of premiums shall be made in the case of any person for supplemental insurance granted under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 1922 the following new item:

"1922A. Supplemental service disabled veterans' insurance for totally disabled veterans.".

SEC. 5. INCREASE IN AMOUNT OF VETERANS' MORTGAGE LIFE INSURANCE.

(a) INCREASE.—Section 2106(b) is amended in the first sentence—

(1) by striking out "initial"; and

(2) by striking out "$40,000" and inserting in lieu thereof "$90,000".

(b) TECHNICAL AMENDMENT.—The table of sections at the beginning of chapter 21 is amended by striking out the item relating to section 2106 and inserting in lieu thereof the following:

"2106. Veterans' Mortgage Life Insurance.".

SEC. 6. REDUCTION IN PENSION FOR VETERANS AND VETERANS' SURVIVORS WHO ARE RECEIVING MEDICAID-COVERED NURSING HOME CARE.

(a) REDUCTION IN PENSION.—Paragraph (2) of section 5503(f) is amended to read as follows:

"(2)(A) Not more than $90 per month may be paid under chapter 15 of this title to or for any person described in subparagraph (B) for any period that a nursing facility furnishes such person with services covered by a Medicaid plan. The restriction in the preceding sentence applies to periods after the month of the person's admission to the nursing facility.

"(B) A person referred to in subparagraph (A) is a person—

"(i) who is covered by a Medicaid plan for services furnished such person by a nursing facility; and

"(ii) who is (I) a veteran who has neither spouse nor child, or (II) a surviving spouse who has no child.".

(b) CONFORMING AMENDMENTS.—Section 5503(f) is amended—

(1) in paragraph (3)—

(A) by striking out "a veteran" and inserting in lieu thereof "a person referred to in paragraph (2)(A)"; and

(B) by striking out "such veteran under paragraph (2) of this subsection" and inserting in lieu thereof "such person under such paragraph"; and

(2) in paragraph (4)—

(A) by striking out "A veteran" and inserting in lieu thereof "A person referred to in paragraph (2)(A)";

(B) by striking out "the veteran" both places it appears and inserting in lieu thereof "the person"; and

(C) by striking out "the veteran's" and inserting in lieu thereof "the person's".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on July 1, 1992, and apply with respect to months after June 1992.

(d) DELETION OF EXPIRATION DATE.—Section 5503(f) is amended by striking out paragraph (6).

SEC. 7. PERMANENT AUTHORITY TO CARRY OUT INCOME VERIFICATION.

(a) TITLE 38.—Section 5317 is amended by striking out subsection (g).

(b) INTERNAL REVENUE CODE OF 1986.—Section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 is amended by striking out the second sentence of the flush material.

(c) TECHNICAL AMENDMENTS.—Section 6103(l)(7)(D)(viii) of the Internal Revenue Code of 1986 is amended—

(1) in subclause (II), by striking out "415" and inserting in lieu thereof "1315"; and

(2) in subclause (III), by striking out "610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B)" and inserting in lieu thereof "1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)".

On page 12, line 19, strike out "**304.**" and insert in lieu thereof "**8.**".

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PATENTS, COPYRIGHTS AND TRADEMARKS

Mr. PRYOR. Mr. President, I ask unanimous consent that the Subcommittee on Patents, Copyrights and Trademarks of the Committee on the Judiciary, be authorized to meet during the session of the Senate on Tuesday, September 22, 1992, at 9:30 a.m. on "The Genome Project: The Ethics of Gene Patenting."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. PRYOR. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on September 22, 1992, at 3 p.m. to consider the following: Legislation to modernize the U.S. Customs Service; Senate Resolution 320, approving the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of Romania; legislation denying trade benefits to Serbia and Montenegro; a section 332 request regarding the economic impact of the North American Free-Trade Agreement; and a section 332 request regarding energy trade and investment barriers in the former Soviet Union.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. PRYOR. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on September 22, 1992, at 9 a.m. to hold a hearing on the North American Free-Trade Agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. PRYOR. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, September 22, 1992, at 10 a.m. to hold a hearing on the Open Skies Treaty, with 12 annexes—Treaty Document 102-37.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. PRYOR. Mr. President, I ask unanimous consent that the Full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, September 22, beginning at 10 a.m. to conduct a hearing on S. 2658, a bill to increase infrastructure investment.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERAN'S AFFAIRS

Mr. PRYOR. The Committee on Veterans' Affairs would like to request unanimous consent to hold a joint hearing with the House Veterans' Affairs Committee to receive testimony from the American Legion on Tuesday, September 22, 1992, in 334 Cannon Office Building, at 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. PRYOR. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs and the House Committee on Interior and Insular Affairs be authorized to meet on September 22, 1992, beginning at 10 a.m., in 485 Russell Senate Office Building, on S. 2977 and H.R. 5744, the Indian Agricultural Resources Management Act of 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. PRYOR. Mr. President, I ask unanimous consent that the Full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, September 22, beginning at 2 p.m., to conduct an oversight hearing to celebrate the 20th anniversary of the Clean Water Act; to assess past progress toward water quality goals; and to review future challenges for protecting water quality.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. PRYOR. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, September 22, 1992, at 9:30 a.m., to hold a hearing on "Allegations of Bias Within the Social Security Disability Program."

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON POW/MIA

Mr. PRYOR. Mr. President, I ask unanimous consent for the Senate Select Committee on POW/MIA Affairs to meet Tuesday, September 22, 1992, at 9 a.m. in room 216 of the Hart Senate Office Building for hearings to examine the Paris peace accords: the negotiations and the aftermath.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. PRYOR. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, September 22, 1992, at 10:30 a.m., for a hearing on "User Fees for the Food and Drug Administration."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

INDOOR AIR QUALITY ACT OF 1991

• Mr. LIEBERMAN. Mr. President, I wish to call attention to an important piece of legislation passed by the Senate last November, the Indoor Air Quality Act of 1991. This bill is pending approval in the House, and I hope to see it enacted into law before the end of the 102d session of Congress.

One provision in this bill contains some very simple wisdom in approaching the pressing problem of indoor air pollution. I was pleased to contribute to the provision that calls for further research on plants as a measure against indoor air pollution.

It might come as a surprise that plants are a wonderful purifier of indoor air pollution. But it also makes basic common sense to rely on nature to help us clean up our indoor air.

Many Americans think of pollution as something that only comes billowing out of smokestacks or automobiles. But that idea of pollution is as old fashioned as a model T Ford. The fact is that the indoor air that we breathe may actually be dirtier and unhealthier than the air we breathe outdoors.

The health hazards of indoor air pollution are becoming clearer and clearer as doctors chart the number of patients who complain of fatigue, dizziness, and respiratory problems for no apparent reason except that they live or work in buildings that can be hazardous to your health. Modern buildings—skyscrapers, hospitals, apartment complexes, hotels—are often built with a sealed air system that does not allow air to circulate naturally out the windows, so that noxious chemicals are sealed inside these airtight buildings. Many American officeworkers breathe polluted air every day of their working lives. The EPA estimates that the direct health costs of indoor pollution, the price we pay for this malady, exceed $1 billion a year. We lose billions more every year if we measure the costs of increased sick leave and reduced productivity due to indoor air pollution.

A few years ago, in 1989, NASA studied indoor air pollution. The NASA study discovered that we need more nature inside our office buildings and living spaces. In short, Mr. President, we need more plants to naturally dispose of waste in our indoor air.

Green plants are a smart way to reduce the plague of indoor air pollution. Besides making the environment look more cheerful, would any of us guess that philodendrons love to eat formaldehyde? Would we suspect that some flowering plants are good at getting rid of benzene? These facts give new meaning to the old story in the movie, "The Little Shop of Horrors." Plants are, as nature knows and man needs to remember, an efficient way to remove waste and revitalize stagnant air. As one scientist involved in the NASA study concluded, "man should be biologically wise enough to realize that sealing himself inside tightly constructed buildings without adding green living plants, nature's life support system, will create health problems."

Mr. President, I urge the Congress to pass this legislation, the Indoor Air Quality Act, into law. Next month, the Plants for Clean Air Council will be working to increase public awareness about the benefits of green plants in our indoor environments. I urge participation in this effort. Green plants not only make us happier, but healthier, too.•

TRIBUTE TO JOE MELTON, JR.: SUCCESSFUL LOUISVILLE BUSINESSMAN

• Mr. McCONNELL. Mr. President, I rise today to pay tribute to a Louisville native who has worked hard all of his life to turn a family business into a genuine American success story. Joe Melton, Jr., has taken his simple mom and pop grocery stores and watched them grow from one to eight stores which totaled over $25 million in sales last year. I know my colleagues will join me in recognizing this outstanding gentleman for his achievement.

Mr. Melton attributes his success to the fact that all of his stores are family owned and operated. He believes that this has allowed him to give special attention to the types of details that other larger stores have taken for granted. At a Melton Food Mart bag boys still carry out every order. Mr. Melton says it best when he says that the stores give service that just can't be found anywhere else.

Family is important to Mr. Melton and this spills over into his stores. There is at least one family member working in each of the eight Melton Food Marts. In fact, when Mr. Melton opened his first store in 1964, he worked the meat counter while his wife Jan worked as a cashier.

As proof of Mr. Melton's dedication to his stores and employees, one need only look at the number of employees who have stayed with him for extended periods. Many of the workers in Melton's have been with the stores for over 20 years. Many began as baggers and have moved on to become managers. Mr. Melton's dedication to his employees does not end with their work relationship, he has been known on more than one occasion to help out those in need. Lending money in times of financial crisis, or giving needed time off when family emergencies arose. He truly treats his employees as family.

Mr. President, I know that my colleagues join me in recognizing this wonderful Kentuckian. I ask that an article from the July 22 Business First be included in the RECORD.

The article follows:

BAGGING THE ODDS: MELTON MAKES MARK WITH STORES

(By Wayne Fowler)

Joe Melton Jr. has made a career of defying conventional wisdom. In 1964, when mom and pop grocery stores were fast going the way of trolley cars, Melton opened his first store.

In recent years, with the trend toward self-service operations as big as football fields, Melton Food Marts has successfully operated medium-sized stores where bag boys carry out every order.

"The secret to our success is that we're family owned and operated," says the 60-year-old Melton. "That's one of our slogans and why we're able to compete with the super stores.

"We run stores the old-fashioned way. We work in them. You'll find a Melton in practically every store.

"People appreciate knowing who they're shopping with. They like being recognized and called by name."

The Melton formula has proven successful. The eight stores that comprise the company totaled sales of over $25 million last year.

"We give our customers what they want, especially in service, meat and produce—something the big stores don't do," Melton says.

"We sell fresh fryers and process our own U.S. Choice carcass beef. The meat business has been the backbone of our business down through the years.

"We also have much higher labor costs than our competitors because we carry out every order. We give service that you just can't get anywhere else."

Melton's roots in the grocery business began in 1949 when his father bought a store at 5310 Valley Station Road. He and his five brothers worked in the store each day after school.

"The store was so small we couldn't stock during the day," Melton says. "So we had to wait until after the store closed. We'd get a truckload in, and Dad would go home. He'd lock the door so we couldn't leave. We were in there until eight the next morning."

In 1957, the elder Melton decided to sell his store and retire.

"It was a small store, and the big supermarkets were just beginning to move in," says Melton, a graduate of Valley High School and Western Kentucky University.

"All of us felt there wasn't much of a future in it. That's why none of us bought it."

Melton went to work for a paper company in Cincinnati, but left in 1964 when he refused to take a job in New York. Coincidentally, the store on Valley Station Road was for sale.

"Jan (his wife) and I barely had a nickel to our name," he says. "Dad loaned us a little, and I think we had $200 saved and $1,200 equity from selling our house.

"I had to convince Jan that we should go into business for ourselves. Her dad had managed a Kroger for 20 years, and she knew all the hours that went with it."

During their first years, Melton worked the meat counter in the rear of the store, and his wife worked as a cashier. When their first child, Brad, was born, he stayed in a playpen next to the checkout lane.

The couple worked seven years without a day off, and their effort yielded solid dividends.

The Meltons paid off their store in just two years and bought a second store, at Rockford Lane and Plaza Drive, two years after that. Three years later, they purchased their third store, on Flintlock Drive just off Dixie Highway.

In 1981, the Meltons opened a store on Frankfort Avenue, and in 1983 at Old Shepherdsville Road and Outer Loop.

Two of the Melton Food Marts are owned by Melton's brothers, and one by a former longtime employee. Melton sold the Valley Station Road store to his brother Paul in 1974, and helped brother Don open a store on Poplar Level Road in 1979.

Melton opened a store in the Prairie Center on Third Street Road in 1979, and built new corporate offices across the street in 1985.

"All of the stores operate as a group," Melton says. "I do the advertising and buying and so forth, and they pay a fee for their share."

Melton says he didn't mind the long hours he put into his business, but regrets not spending more time with his four children. Now with three grandchildren, he's thinking about retiring.

"We missed out on a lot of things with the kids," he says. "We're fortunate they've turned out as well as they have. I'm trying to spend more time with my grandchildren to make up for that."

In a move toward retirement, Melton sold three stores May 1 and turned the operations of a fourth over to longtime employees.

Daughter Kathy and her husband, Wayne, bought the Prairie View store, and Joe Melton III the Outer Loop store. Ron Wafford, who has been with Melton 24 years, purchased the Flintlock Drive store.

Melton plans to let several longtime employees run the Frankfort Avenue store "as long as they make a profit."

Melton will sell the Rockford Lane store to son Brad within a year. Daughter Robin Vincent and her husband, Don, also work with Melton, but don't plan on owning a store.

"One of my goals has been to have something to leave my family," Melton says. "It's nice to be able to do that."

When Melton uses the word "family," he includes employees, many of whom have been with him over 20 years.

"That's why I haven't just sold the Frankfort Avenue store," he says. "I wanted to give the employees there a chance to have a decent job and earn decent money.

"That's one of the things I've enjoyed most. So many young people have started and come up with me. And I've been able to help them improve their way of life.

"Some of them have gone on to be very successful, and they still come back to see me."

Jack Price left A&P 24 years ago to work for Melton because they had similar ideas about running a grocery store. He says Melton's concern for his employees is genuine.

"Joe is a taskmaster, and he can get bent out of shape like anybody else. But I can think of at least two stories that show the kind of guy he really is.

"One year we had a young woman with a little girl who worked for us and their trailer got burned down a couple of weeks before Christmas. They lost everything. The employees took up a collection that amounted to about $600.

"Well, when the check went to the woman, it was for $2,000. Nobody ever knew where the rest of the money came from, but I did. It was Joe."

Another time, a former Melton employee was implicated in a robbery at a convenience store where he worked.

"He had worked for us eight years," Price says. "He was a nice kid, but not cut out for management. When we heard what they had accused him of, we all knew there was no way he had done it.

"Joe got his personal lawyer, paid all the legal fees and got the boy out of trouble.

"Joe didn't do those things to get any credit. He wouldn't let me tell those stories for a long time."

Price has also been the beneficiary of Melton's largess. Several years ago, when Price's elderly father was seriously ill, Melton paid Price for many days when he was tending his father.

Ormond Ostroff, of Deming, Malone, Livesay and Ostroff, has observed Melton's concern for his employees during 20 years of being his accountant.

"He has a very unusual attitude," he says. "He's a very caring man when it comes to his employees. A lot of them are dedicated to him and have been with him a long time. He's given several the opportunity to go into business for themselves."

One employee, Marge Pate, began working for the Meltons when Joe Melton Sr. first owned the store on Valley Station Road. She has worked as a cashier, bookkeeper and office manager.

"I enjoy working for the Meltons," she says. "They're my employers, but they're also my friends."

Randy Collier, president of the Axton Candy and Tobacco Co., has a 20-year history dealing with Melton. He says Melton Food Marts is successful because of Melton's hands-on approach.

"He's a heck of a businessman," says Collier. "He doesn't leave a lot of details to someone else. He knows what's going on in his stores. If there's a problem, he corrects it right away.

"When he speaks, it's the gospel. He doesn't send word out to a store or department head who then does things his own way. He expects things to be done his way.

"And when he makes a decision, he gives it a lot of thought. He doesn't jump at immediate change."

When Collier was attempting to sign Melton up as a client in the early 1970s, Melton called him and asked for a meeting.

"I told him I was available just about any time," Collier recalls. "So, he says, 'Well, how about 10 o'clock tomorrow night?'"

"Now, I've had meetings that began anywhere from 6 a.m. to 6 p.m., and I've been in meetings that started at four and went to midnight, but never have I had a meeting at 10 o'clock."

After work, Collier spent several uneasy hours worrying because it was an important account.

"I walked in, and Joe introduced me to all of his store managers who were sitting there," Collier says. "Then he announces to everybody that from now on they were going to get all their cigarettes, candy and cigars from my company.

"He'd already thought about it and made up his mind. That's just the classic story about the way he runs his business."

Both Price and Melton's friend, Norm Gagel, say Melton may have a hard time retiring.

"It's going to be hard for him to leave the business," Gagel says. "He's worked hard all of his life, and it's hard to walk away because other people don't do things the same way you do. I know he really wants them (his children and employees) to do well."

Melton admits retirement may not come easy, but says he will be completely out of the business within two years.

"I'm going to stay around just a little longer to help the kids out if they need it," he says.

Melton bought a condominium in Fort Myers, Fla., several years ago and took up golf five years ago. He and his wife take lessons and he's gone from shooting 120 to 85.

Besides golf and his grandchildren, Melton plans to enjoy his success as well.

"We never really had any money when we were younger, and it was never really a goal to see how much money we could make," he says.

"We're not rich now, but we can pretty much go anywhere and do anything; and I'm going to enjoy it."

BIO: JOE MELTON, JR.

Title: Owner, Melton Food Marts.

Age: 60.

Hometown: Louisville.

Education: Bachelor of Education, Western Kentucky University.

Family: Wife: Jan; Children: Kathy Cheatham, 35; Joe III, 33; Robin Vincent, 30; Brad, 24.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received a request for a determination under rule 35 for Andrew S. Morton, a member of the staff of Senator LUGAR, to participate in a program in Germany, sponsored by Haus Rissen, International Institute for Politics and Economics, from August 11–19, 1992.

The committee determined that participation by Mr. Morton in this program, at the expense of Haus Rissen, was in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Mark Ashby, a member of the staff of Senator BREAUX, to participate in a program in Chile, sponsored by the Chilean American Chamber of Commerce, from August 30 to September 3, 1992.

The committee has determined that participation by Mr. Ashby in this program, at the expense of the Chilean American Chamber of Commerce, is in the interest of the Senate and the United States.•

TRIBUTE TO JIM FOX "PRACTICAL PRESERVATIONIST"

• Mr. MCCONNELL. Mr. President, today I rise to pay tribute to a fellow Louisvillian whose mark on the city has left an indelible impression. Jim Fox, president of FBM Properties has contributed greatly to a revitalized Louisville.

Mr. Fox's company is responsible for the virtual rebirth of many of Louisville's most historic buildings. The beauty of his operation however, is the fact that his company does not blindly look for projects. As Mr. Fox says, a building should not be preserved just because it's old and if it "doesn't add something to history, it should be torn down."

Mr. President, it is that type of no nonsense attitude which has lead to the undeniable success of FBM Properties. Known as dedicated and hard working, Fox is still able to describe his work as play. He combines his work ethic with common sense and kindness which allows him to be successful.

Mr. Fox has a very simple strategy for his properties, charge reasonable rents, keep them clean, and they will do well. There is no question that his formula has proven effective. Says one of his tenants, Mr. Fox is a "caring landlord. He is one of the most trustworthy people I know."

Many businessmen could learn from Mr. Fox's example, Mr. President. He never leverages one building to finance another project and avoids debts whenever possible. It is this type of conservative economic practice that has made Mr. Fox an extremely successful entrepreneur.

I ask my colleagues to join me in recognizing this outstanding Kentuckian who has given so much to the city of Louisville. I also ask an article from the July 13 Business First be included in the RECORD at this point.

The article follows:

FOX CASHED IN INSURANCE FOR REAL ESTATE MARKET

(By John Bowman)

Several years ago, when he learned his childhood home near Shelby Park had burned to the ground, Jim Fox drove to the site and retrieved one charred red brick from the rubble.

Today, it can be found in Fox's office at the headquarters of FBM Properties in downtown Louisville's Speed Building, bearing a small bronze plate inscribed with the words: "Boyhood Days," 701 E. St. Catherine.

The brick reminds Fox of his upbringing in the inner-city neighborhood, and of his parents—Ben and Cecilia Fox—who operated a small grocery in the area in the 1940s and '50s.

I'm sentimental," the 51-year-old Fox explains. "Things like that are important to me."

It would be easy to seize upon this story—to pinpoint Fox's sentimentality about his urban childhood and his fond memories of a long-gone house—maybe to view the preserved brick itself as a symbol of the driving force behind Fox's real estate management firm.

After all, over the past decade FBM Properties has made its name—and a good deal of money—by buying older commercial buildings, and either restoring them to their former grandeur or at least renovating them for modern uses.

In June, the company added the 11-story First Nationwide Building to its downtown Louisville portfolio, which also included the Speed Building, the 300 Building at Third and Main streets, and the McDowell Building at Third and Muhammad Ali Boulevard.

The trouble is, the truth intrudes on such a black-and-white analysis; and Fox himself—a once hard-driving, profit-minded insurance executive turned relaxed, low-key, even philosophical saver of old buildings—simply won't be pigeonholed neatly into a slot marked "preservationist."

In fact, the very word crosses Fox's lips much the same way the word "liberal" now falls from the mouths of many people who once proudly embraced the label: with only the slightest hint of—well, what is it. . . disdain?

Ask him point-blank if he is a preservationist, and Fox responds with a few well chosen words: "I'm a 'practical' preservationist."

Simply put, Fox says, he doesn't believe in "preserving something just because it's old."

If a building "doesn't have a practically re-adaptive use," Fox adds, "and if it doesn't add something to history, it should be torn down."

Does he mean to imply that mainstream preservationists often try to save buildings just because they're old?

"That's exactly what I'm saying."

Fox speaks softly, but he's certainly not soft-spoken.

He answers touchy questions with a directness normally restricted to someone who's not running for political office, doesn't belong to any social clubs and has long-since become financially secure enough to view his business as a hobby—all of which are true of James S. Fox.

Check in with his receptionist at the Speed Building, and Lady—Fox's six-year old Shih Tzu—might be the first rounding the corner to greet you.

Then comes Fox, his collar open: he stopped wearing a tie to work years ago.

Follow him into his office, careful not to step on the one-eyed chicken or various other of Lady's stuffed toys.

Only don't let the informal atmosphere fool you.

Fox says his work is his play. If so, he plays hard.

Connie, his wife of 12 years, says her husband works every day of the week.

"He works hard at his job; it's just that he doesn't do it in a necessarily traditional way."

The couple will go out to dinner, and Jim will want to drive downtown to make sure everythings's OK at FBM's buildings there, for instance.

A couple of Sundays ago, he decided the shrubs at the company's Nolan Building on Gardiner Lane didn't look just right—so he spent the afternoon trimming them himself.

"This is a very dedicated man to his properties—very dedicated," Connie Fox says.

Sometimes Fox catches himself calling them "his" properties. When he does, he corrects himself.

"I really don't feel anyone owns anything," he'll say. "I feel we're just custodians."

Maybe that's why he shows no desire to build his own monuments.

"I'm not a developer," he points out. "I've never built anything. I'm a real estate manager."

It's a second career for Fox, who graduated from the University of Louisville in 1963 with an accounting degree only to arrive at the disturbing conclusion that "I really wasn't a very good accountant."

He soon took a job as a field rep with Hartford Life Insurance Co.

In 1967, he borrowed $100,000 from his then father-in-law, Dr. James Ryan, and started his own insurance company.

He bought out Tom Storms—his original partner in the business—about a year later, and, in 1970, brought on Bruce Cohen as a minority partner.

Over the next several years, the business grew larger by buying up a string of other insurance agencies in the metro area—a strategy Fox says proved "very profitable."

The largest of the acquisitions came in 1977, with the purchase of the Citizens Fidelity Insurance Corp., a deal that also brought a third partner, Roger Puckett, to the company.

But by that time, Fox was already looking for something more in his life.

He found it in the 300 Building, a once-glorious stone structure on West Main Street that had seen better days.

Probably because he had come from a relatively poor financial background, Fox says, his main focus until then had been on business—"rather than on having balance in my life."

He paid $400,000 for the building, and—using money borrowed from Citizens Fidelity Bank & Trust Co. of Louisville—spent twice that amount to restore it.

The money, he says, "never entered my mind; I wanted to do something for myself." He took great pleasure in re-creating the building's original integrity.

Fox, Puckett & Cohen Insurance Co. moved from Watterson Tower into the restored structure, which is now one of several FBM properties on the National Registry of Historic Places.

Fox says a 1980 divorce from his first wife had a "dramatic impact" on him.

By the time he sold the insurance business in 1982, he had married Connie, whom he calls "a wonderful girl from Louisville." The sale of the firm—at an undisclosed price—left Fox financially secure, mentally drained and ready for a major change in his life.

His years building the insurance agency had left him "burned out a little," Connie says.

Fox finally ended a five-year employment contract with his former insurance agency—now called Robinson-Conner of Kentucky—three years early because "I wasn't doing justice to the job."

He and Connie traveled a lot—to China, Europe, Indonesia, Mexico.

"My thrust was toward fun, relaxation and doing the things I enjoy doing," Fox remembers.

He found time to form FBM in 1983, along with Robert Metts and current partner—and closest friend—Steve Baser; Metts later left the firm in an amicable departure, and was eventually replaced by Fox's son, Robert.

As FBM bought Bardstown Road Center, the Speed Building, the Nolan Building, the Elsby Building in New Albany and other properties, Fox found a new career and developed his own philosophy about real estate.

He decided that the old axiom of "location, location, location" is overrated, if not downright untrue.

As long as a property is visible from the street, Fox says, "the one major ingredient is price."

His strategy as a landlord is to buy right, renovate and pass along the savings to office and retail tenants.

The storefront in FBM's Speed and McDowell buildings are proof that retail shops can still make it downtown—if the price is right.

"You charge reasonable rents, you keep it clean, and if it's visible, I think they'll do well," he says.

And then there's service.

"If you have a problem, just pick up the phone and he's here—or Steve's here," says Doris Denney, who moved her Janus boutique to the McDowell Building from the Galleria in 1988.

Fox is "a caring landlord," says Denney. "He's one of the most trustworthy people I know."

Janus has been more profitable since the move, Denney says, because its expenses have been reduced drastically.

Fox says he'd extremely conservative in money matters. He always pays off mortgages in 10 years, figuring the buildings will need to be renovated again by then. He never leverages one building to finance another project.

And he's stuck with Citizens Fidelity ever since his first acquisition.

"He does not like debt," Citizens chairman Daniel Ulmer Jr. says with a laugh. Ulmer calls Fox "a first-class fellow who's always done what he's said he's going to do. I consider him to be a very shrewd and creative real estate investor."

Fox may have his own way of doing things—but he's not too stubborn to listen to others.

When Louisville Central Area wanted to create a downtown taxing district to provide better maintenance and security in the area, it needed an OK from owners of a majority of downtown property.

At first, LCA was unable to convince Fox, who viewed the idea as just another unneeded tax. He changed his mind only after he talked with each of his downtown tenants and found them solidly behind the idea.

Today, Fox is a member of the board that oversees the Downtown Management District.

Because he deals closely with his retail tenants, Fox provides an important perspective to the management board, according to Errol Frailey, president of LCA.

Frailey says he's not surprised to learn that, after just a few weeks of effort, Fox has signed a retail tenant to take 5,000 square feet of space once occupied by New Orleans House in the First Nationwide Building.

The space has been vacant since the restaurant closed four years ago.

"This guy understands the business," says Frailey. "He's very aggressive."

FBM owns suburban buildings, but Fox's heart is clearly in downtown Louisville.

"It's the pulse and lifeblood of our community," he says.

Since the purchase of the First Nationwide Building—Fox flew to Dallas and bought it at a court-ordered auction for just over $1 million—he "is working harder now than I've ever seen him work," says Connie.

But at the same time, she says, he's "mellowed a great deal" since leaving the insurance business.

Baser—who oversaw renovation of the 300 Building as Fox's general contractor and now performs the same task as his partner—says he's noticed little difference in Fox through the years.

"I guess he's calmed down a little," Baser allows, noting that when you're around someone every day you might not notice long-term changes.

Fox purposely keeps a low profile.

For instance, acquaintances say he provides space at far below market value to several charitable agencies—with the caveat that the beneficiaries not discuss the fact.

Fox says only that he feels i.'s important to give to charity.

To Connie's delight, Fox recently bought a boat—a 34-foot cruiser named "Jim's Con"—which is docked at the Captain's Quarter's Marina, not far from the couple's home on Boxhill Lane.

"I think it's important to have more than just work," she says. "It's something we can both share together."

But Fox says the buildings remain his number one hobby.

"I just like looking at 'em and keeping them clean," he says. "I'm proud of them—I'm damn proud of them.

"God's been good to me."

BIO: JAMES FOX

Title: President, FBM Properties.

Age: 51.

Hometown: Louisville.

Education: Bachelors degree in accounting, University of Louisville.

Family: Wife; Connie; Children; Steve, 26; Allison, 21; and stepsons Tony Handmaker, 28, and John Handmaker 25.●

ORDERS FOR TOMORROW

Mr. PRYOR. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand adjourned until 9:30 a.m., Wednesday, September 23, and when the Senate reconvenes on Wednesday, September 23, the Journal of proceedings be deemed approved to date, the call of the calendar waived, no motions or resolutions come over under the rule, and that the morning hour be deemed to have expired. I further ask unanimous consent that the time for the two leaders be reserved for their use later in the day, that following the prayer the Senate vote, without any intervening action or debate, on final passage of H.R. 5504, the Defense appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. PRYOR. Mr. President, if there is no further business to come before the Senate today, I now move that the Senate stand adjourned in accordance with the previous order until 9:30 a.m., Wednesday, September 23.

The motion was agreed to, and the Senate, at 9:41 p.m., adjourned until Wednesday, September 23, 1992, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, September 22, 1992*

The House met at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we seek to live our lives in ways that honor Your gift of creation, O God, we pray that our hearts will be open, not only to the demands of the day and the necessities of the moment, but we will be responsive to the value of justice that is Your will for us. May we see other people as partners, created by Your hand, sharing the resources and living in peace one with another. May we learn to grow in appreciation of our common destiny and our shared concerns so that together we will honor You and serve one another in the bonds of peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Texas [Mr. BARTON] please come forward and lead the House in the Pledge of Allegiance?

Mr. BARTON of Texas led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair announces that it will recognize 12 Members on each side for 1-minute requests.

THE PRESIDENTIAL DEBATES

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, former President Dwight Eisenhower did not mince words when he wrote:

> I have serious doubts about the value of debates in a Presidential election.

Having already declared himself a latter-day Harry Truman, President Bush has embraced Eisenhower's advice. On behalf of the President, the Bush-Quayle campaign has rejected tonight's debate with Bill Clinton.

The American people want some answers on the economy, health care, and jobs. They do not want sound bites. They want sound solutions.

So far, Bill Clinton is the only major candidate who has expressed an interest in debating the issues. Hopefully, the Bush-Quayle campaign will reverse its position and put its candidate before the voters as only a debate will permit.

Mr. Speaker, Harry Truman always spoke plainly. To the Bush-Quayle campaign, if your candidate can't stand the heat * * * get him out of the kitchen.

A ONE-PERSON DEBATE

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, I know a great way to make the Presidential candidate debate really interesting. Let us just have Clinton, alone, debate himself.

Take the issue of the draft. One side of Clinton can argue "From my work at Georgetown I came to believe that the draft system itself is illegitimate," as he stated in a letter in 1969. Then his alter position can reply "Clinton said he was never opposed to the draft," as stated in the Arkansas Democrat on June 8, 1982.

Then there is gun control. First he can argue "I'm not for gun control," from the Arkansas Gazette on November 2, 1990. Then he can counter with remarks made on the "Today" show—"I was an early and strong supporter of the Brady bill."

Last he can talk about term limits. Clinton's first response reflects a statement he made on "Meet the Press": "I think it's a decision that people ought to make. * * * I wouldn't rule out term limits." Clinton can then claim "I'm against term limits because I think that it takes choices away from the voters," as he said in the Boston Globe on July 7.

Yes, Mr. Speaker, Clinton debating himself on the issues the American people care about would indeed be interesting to watch. We finally might see where he stands on the issues, but I doubt it.

THE PRESIDENT CANNOT DEFEND HIS ECONOMIC RECORD

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, tonight was to have been a debate between two sharply differing visions. A debate between a plan that puts people first and takes charge of our economic future, and the record of a worn-out administration that clings to policies that failed us in the past.

But our President says that he will not show up. With his economic record, can you blame him?

Under President Bush, our country has suffered the worst economic performance since the Hoover administration—the longest downturn since the Great Depression.

By one economic measure after another, the Bush term will set new records for weakness.

Bush term economic growth stands at a record low one-half of 1 percent annually; and total cumulative growth will be only half as good as the worst postwar record.

President Bush is, in fact, the first negative productivity President.

Retail sales are off a record 4.4 percent. Investment in plants and equipment is off nearly 5 percent. Average annual housing starts fall some 200,000 short of the record low.

Although tonight's event in East Lansing will be won by default, the debate will go on across kitchen tables in homes across America. We need a leader who will get America back on the right track.

THE AMERICAN PEOPLE DESERVE THE TRUTH FROM GOVERNOR CLINTON

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, the Presidency of the United States is a position of trust.

While the American people do not expect candidates for the Nation's highest office to be perfect, they do expect them to be truthful.

Governor Clinton is in danger of losing the people's trust because he has not been truthful about his draft record.

He says he never received favorable treatment to stay out of the draft, but there is strong evidence that he did.

As a veteran, it is terrifying to think someone who organized protests against the draft, misled the ROTC to avoid the draft, and now says he knew

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

nothing about efforts to keep him out of the draft, could become Commander in Chief of our Armed Forces.

Mr. Clinton, the American people deserve an answer—a truthful one.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would remind Members that comments by Members should be directed to the Chair.

THE PRESIDENT'S RELUCTANCE TO DEBATE

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, today is September 22, the proposed date of the first Presidential debate. This date was carefully selected by a bipartisan commission and was accepted by the Democratic nominee.

But, unfortunately, there will be no debate tonight because President Bush has refused to appear.

Many people wonder why the President would hesitate to defend his record in an open forum. But how does one defend policies that have given tax breaks to the wealthy and paid for them by tax increases on working middle-class families?

During the 12 years of Reagan-Bush policies, the wealthiest Americans have been treated to a tax cut of more than $12,000, while working middle-class families have seen their taxes rise.

The President vetoed the economic recovery package passed by the Congress and he has opposed minimum wage increases, the extension of unemployment benefits and a bill to provide unpaid family and medical leave. He has even threatened to veto a bill to help bring cable prices back under control.

With a record like this, I can understand the President's reluctance to debate. But the Nation deserves to know. Middle-class families deserve an explanation.

DISAPPOINTED IN THE PRESIDENTIAL ELECTION

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, this is the first time I have been in the Congress during a Presidential election, and I must tell my colleagues that I am very disappointed.

I am very disappointed in the way Congress behaves, spending all of their time whining and complaining about what somebody else has or has not done when we are here to do something. That is our job, to do something, not to complain constantly and politick and posture for the Presidential election.

The role of Congress is to solve problems. The biggest problem, of course, is the economy. What we need to solve most of those problems is jobs. We need good jobs that people can depend upon. And jobs, in this system, come about when we have an incentive to invest, to create jobs. That is what it is all about, and this Congress and its leadership has not moved to do that.

□ 1210

Rather, we spend our time talking about somebody else. Why do we not take the bull by the tail and look the problem in the eye? We ought to be doing something about the economy here. We ought to be providing some incentives. We ought to be providing them so that there are opportunities for growth and productivity. We can do it. Let us start here.

THE STATE OF THE ECONOMY: WHY THERE IS NO DEBATE

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, regardless of positioning on the issues, clearly the American people are entitled to a full debate on these issues. Unfortunately, that will not happen. The President has indicated an unwillingness to debate. Is it format? Is it who asks the questions? Or is it the record that would have to be defended?

The economy is a fundamental issue that needs to be fully debated, and the facts are not pleasant. The worst record of economic growth since World War II has occurred in this administration: 3 million people unemployed, per capita income down, 4 million Americans added to the poverty rolls, and a deficit that is now approaching almost $4 trillion.

While the responsibility for these problems is not the President's alone, the responsibility to respond to these issues belongs to each candidate for President. They owe it to the American people to fully debate this issue. Mr. Clinton has indicated he is willing to do this. The President is not.

That says an awful lot about the President. It probably says more about the state of the economy.

TAX FAIRNESS FOR SENIOR CITIZENS WILL BE ABSENT FROM TONIGHT'S LEGISLATIVE DEBATE

(Mr. HASTERT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTERT. Mr. Speaker, is it not sad that we stand and listen to a lot of political chicanery, and we talk about the absence of debate, when tonight, tonight when we debate the Older Americans Act that is coming up on suspension, we will debate a bill that is absent of the tax fairness for senior citizens, absent from the amendment that this body passed almost overwhelmingly and the Senate passed in a different form to allow the Older Americans Freedom To Work Act to become law, to allow seniors that are 65 years of age to work and collect their Social Security and still earn and not be penalized at a marginal tax rate of 56 percent.

Yes, Mr. Speaker, it is sad that we cannot have true debate, and when we do pass legislation in this body and in the other body, that we are not subject to parliamentary chicanery to knock it off.

Senior citizens ought to be outraged. They ought to be upset about the behavior of the other body, sending the bill they are sending to us tonight.

THE PRESIDENT CAN FIND NO TIME FOR DEBATE HERE IN AMERICA

(Mr. ECKART asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ECKART. Mr. Speaker, in this year, an election year as it is, President Bush is running for reelection and he must be running scared. Not only is he afraid to face his record, he is afraid to face Bill Clinton in a real debate.

Here is a man, our President, who revels in his worldwide experience, confronting dictators, facing off with kings, showing up world-class bullies, and posing, smiles all around, with the leaders of the free world in every corner of the world. However, he cannot find time for the Governor of Arkansas.

President Bush will not go to Michigan to meet with Clinton. I will bet we could find him in Montreal or Mexico City with Mulroney or Salinas. What gives?

It is amazing to me that the man who told Saddam Hussein to read his lips somehow cannot find time for what the Bush campaign calls the failed Governor of a small State. I am not surprised. It took the United States only 1,300 days to win World War II, and President Bush 1,400 days to announce his economic plan.

We do not need a debate. Let us call it a summit. After all, George Bush has never met a summit he did not like. And just think, Mr. President, at this one with Bill Clinton you will not even need a translator.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Once again, the Chair would remind the Members to address comments to the Chair.

STAND UP, BILL CLINTON

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, will the real Bill Clinton please stand up?

The Democratic Presidential nominee has taken so many conflicting positions on so many issues it is hard to know what he wants to do with the country.

Is he in favor of a middle-class tax cut? First, he says he is. Then he says he is not.

How about term limits? First, he wouldn't rule them out. Now, he opposes them.

Gun control? First opposed, but later in favor.

The gulf war? First, said Clinton, we should continue sanctions. After victory: I supported the President all along.

The draft? Today, he says he never was opposed to it. Twenty years ago, though, he believed that the system itself was illegitimate.

What does Bill Clinton's casual regard for his own policy statements mean for the country? Can we trust a man who doesn't believe in his own rhetoric?

Will the real Bill Clinton please stand up?

THE PRESIDENT SHOULD DEBATE HIS OPPONENT

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, I am disappointed that President Bush has refused to participate today in the Presidential debates a bipartisan commission recommended.

George Bush should not have dodged this debate, and he should not try to dodge the American people.

They deserve to hear his answers to the question: What happened to the economic growth you promised, the deficit reduction you promised, and the new jobs you promised?

They deserve to hear his answer to the question of why he vetoed the family and medical leave bill.

They deserve to hear his plans for how he is going to help hardworking families with health care, student aid, and buying a home.

But the President does not want to debate these issues because he has nothing to say and nothing to show for 4 years in office.

Apparently, George Bush does not even want to talk about family values. Maybe that is because the last time this administration got in a debate on TV, DAN QUAYLE got clobbered by Murphy Brown.

THE PRESIDENT GIVES CONGRESS A WAKE-UP CALL ON FOREIGN AID

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, yesterday at the United Nations the President called for a fundamental overhaul of foreign aid. The cold war is over, and our $13 billion aid program is now an outmoded artifact. The one-half billion dollar foreign aid bureaucracy is a bloated dinosaur.

It is time the big spending liberals in Congress recognized the truth of what the President said. The liberals in Congress always blame the President if he goes overseas to search for peace and to seek peace and to work for peace, but they, on the other hand, will shovel billions of dollars that we do not have overseas, that our kids will have to pay for.

What we have here on Capitol Hill is business as usual: A foreign aid appropriations bill that spends more money that we do not have for programs that do not fit today's world, and which have no support among the American people.

The President has given the Congress a wake-up call on foreign aid. I hope that the liberal democrats in the Chamber are listening. If not, I hope the American people speak out strongly on November 3, in just 6 weeks from today.

PROPOSED HAZARDOUS WASTE STORAGE POSES A DANGER TO JEFFERSON COUNTY

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, earlier this month I appeared before the Kentucky Natural Resources and Environmental Protection Cabinet to testify against a proposal to store hazardous and carcinogenic waste at the Kosmos Cement Co.

Tonight in Louisville there will be a second public meeting, which I will not be able to attend because of the House session, dealing with a request to store hazardous waste made by BT Energy Co.

I am against both of the propositions, first because the stored hazardous waste could pose potential health hazards to the area and the county; and second, this hazardous material cannot magically appear in the southwest part of Jefferson County. It has to be transported there, and accidents occur in transportation.

Mr. Speaker, there has been a study recently of 68,000 separate hazardous material incidents occurring over a 10-year period which shows that total accidents are up 37 percent, truck and train accidents are up about 35 percent each, and more to the point, Mr. Speaker, injuries to people in hazardous material incidents are up 374 percent.

I hope the Kentucky cabinet does not permit either of these companies to be permitted to store this waste. It is a danger to our community.

□ 1020

FAIR AND OPEN COMPETITION

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, the American people expect and deserve the best telecommunications system in the world. The seven regional Bell Operating Cos. have the technology, available networks, and financial strength to help bring new information services to market immediately. Yet, legislation like H.R. 5096 would put heavy restrictions on the Bell's ability to develop and effectively market these new services, especially in areas like electronic publishing. How can this possibly be in the best interest of the American consumer?

Fair and open competition is the very best way to encourage the development of our industrial base and add new jobs to our weak economy. Let us make America first again. We should not support legislation that would prohibit some of our largest domestic companies from quickly bringing us into the information age.

If legislation restricting the Bell's ability to provide information services was passed, American consumers would be denied easy, affordable access to a rich array of information-age services and the growing division in this country between the information rich and the information poor would be prolonged indefinitely.

I believe the restrictive language in H.R. 5096 is designed specifically to protect newspapers and other special interests and not to promote competition. I don't feel that adding more Government regulation on American businesses is in the best interest of this country and ask my colleagues to vote "no" on the bill.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 3654. An act to provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic Games and the programs of the U.S. Olympic Committee, to reauthorize and reform the U.S. Mint, and for other purposes; and

H.R. 5126. An act to direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1435. An act to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, CO, to the Secretary of the Interior;

H.R. 4016. An act to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of;

H.R. 5677. An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes; and

H.R. 5006. An act to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4016) "An act to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MOYNIHAN, Mr. MITCHELL, Mr. LAUTENBERG, Mr. CHAFEE, and Mr. WARNER to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5006) "An act to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to proscribe personnel strengths for such fiscal year for Armed Forces, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. DIXON, Mr. GLENN, Mr. GORE, Mr. WIRTH, Mr. SHELBY, Mr. BYRD, Mr. WARNER, Mr. THURMOND, Mr. COHEN, Mr. MCCAIN, Mr. WALLOP, Mr. LOTT, Mr. COATS, Mr. MACK, and Mr. SMITH, to be the conferees on the part of the Senate.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 5677) "An act making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HARKIN, Mr. BYRD, Mr. HOLLINGS, Mr. INOUYE, Mr. BUMPERS, Mr. REID, Mr. ADAMS, Mr. CONRAD, Mr. SPECTER, Mr. HATFIELD, Mr. STEVENS, Mr. RUDMAN, Mr. COCHRAN, Mr. GRAMM, and Mr. GORTON, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 654. An act to amend title 35, United States Code, with respect to patents on certain processes;

S. 1002. An act to impose a criminal penalty for flight to avoid payment of arrearages in child support;

S. 2481. An act to amend the Indian Health Care Improvement Act to authorize appropriations for Indian health programs, and for other purposes;

S. 2528. An act to amend chapter 37 of title 38, United States Code, to establish a pilot program for furnishing housing loans to Native American veterans, and for other purposes;

S. 2707. An act to authorize the minting and issuance of coins in commemoration of the Year of the Vietnam Veteran and the 10th anniversary of the dedication of the Vietnam Veterans Memorial, and for other purposes; and

S. 3195. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the U.S. involvement in World War II.

The message also announced that Mr. CONRAD, be a conferee, on the part of the Senate, on the bill (H.R. 5503) "An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1992, and for other purposes."

RATIFICATION OF THE NEW HAMPSHIRE-MAINE INTERSTATE SCHOOL COMPACT

(Mr. SWETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWETT. Mr. Speaker, I rise to urge my colleagues to support H.R. 4841, the New Hampshire-Maine Interstate School Compact. I introduced this bill to ratify a compact which was enacted by the legislatures of both States in 1969 but was never approved by Congress as required. I am pleased that my colleagues, TOM ANDREWS and OLYMPIA SNOWE, of Maine, and BILL ZELIFF, of New Hampshire, have joined me in support of this legislation to finish a process which should have been completed 23 years ago.

The purpose of the compact is to allow the communities in our two States to make interstate arrangements, including binding legal agreements, if they choose. It does not compel either State to hold interstate discussions or to establish interstate school districts or committees, but it does give them the opportunity to do so.

Mr. Speaker, someone once said, "Procrastination is opportunity's natural assassin." After 23 years, we must no longer procrastinate. It is time to ratify this New Hampshire-Maine Interstate School Compact which will provide the citizens of our two States additional educational opportunities for our children. I ask for my colleagues' support of this important legislation.

EXCESSIVE BANK REGULATION

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, it has been said that too much of a good thing is a bad thing. I think that is what has happened to regulating the banking industry. In the Government's efforts to responsibly regulate financial institutions, it has gone beyond what is really needed.

This bureaucratic overreach has resulted in mountains of needless paperwork and hours of bank employees' time each year. A bank in my home State of Florida, is running a yearly tab of $175,000 just in compliance costs. In fact, Florida banks are spending more than $488 million per year just on compliance costs—and that's money that could be loaned to small businesses, farms, and families.

Recently, a bank in Gainesville, FL, handed me a huge thick stack of paperwork which a bank and customer has to fill out for just one mortgage. That is ridiculous.

Needless Government regulation can mean a reduction in services in rural areas. For example, we have already seen small community banks discontinue offering adjustable rate mortgages simply because of the number of regulations dictating how that product is to be offered.

Mr. Speaker, now is the time to roll back duplicative and needless regulations that get in the way of real growth and add nothing to safety and soundness.

PRESIDENTIAL VETOES ON FAMILY VALUES

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, who is kidding whom? If Mr. Bush and Mr. QUAYLE truly cared about the Murphy Browns of America and family values, the President would not have vetoed the civil rights bill, the President would not have vetoed the unemployment compensation bill, the President would not have vetoed the minimum wage bill and, Mr. Speaker, the President would not have vetoed the Family and Medical Leave Act.

In fact, after 12 years of Reagan and Bush, I am amazed, absolutely amazed that the Murphy Browns of America still have a job. I suggest that the Speaker of the Congress get on the phone and personally tell the President to either lead, follow, or get out of the way, and let America become what we should be once again.

ADMIRAL CROWE ON CLINTON'S DRAFT STATUS

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SCHEUER. Mr. Speaker, last Saturday retired Adm. William Crowe, the former Chairman of the Joint Chiefs of Staff under Presidents Reagan and Bush, endorsed Governor Clinton for President. In his words, the issue of Governor Clinton's draft status is "divisive and peripheral," and it "distracts attention from the fundamental concerns that beset our citizens today and threaten our Nation's unity."

Mr. Speaker, Admiral Crowe has risen to the top military post in our country. As Chairman of the Joint Chiefs of Staff and confidant to Presidents Reagan and Bush, he knows what it takes to perform the duties of Commander in Chief. Given his endorsement, Admiral Crowe clearly believes that Bill Clinton has the character, the leadership, and the integrity to lead this country in times of war, as well as peace.

Mr. Speaker, I'll take the word of Admiral Crowe on this issue—he has served his country with valor and distinction. He served in the active military, unlike over two-thirds of the Republicans in this House who were of draft age during the Vietnam war, who, like Governor Clinton, did not serve in the military for whatever perfectly legal reason. Mr. Speaker, I'd like to include the names of these Republicans who did not serve in the RECORD.

Yesterday, Mr. Speaker, only two days after Admiral Crowe dismissed the question of Governor Clinton's draft status, the President personally attacked the Governor on a partisan rightwing radio talk show. It is truly pathetic to see President Bush attempt to steer his campaign away from our pressing domestic problems—economy, jobs, health care—and focus obsessively on a 23-year-old nonissue. Let's let Admiral Crowe have the last word on the matter, and let's focus on the future.

MILITARY SERVICE RECORDS OF CONGRESSIONAL REPUBLICANS WHO WERE OF DRAFT AGE DURING THE VIETNAM WAR ERA

[Source: Almanac of American Politics 1992]

Criteria: The set "Of Draft Age" includes current Republican members of the House and Senate who were between the ages of 18 and 25 during the years 1963 to 1974. Note: Certain exceptions made for those Members who served in Vietnam despite being outside the age requirements.

Republican Senators of draft age who served in the U.S. military during the Vietnam era—7 members:

Sen. John McCain (R-AZ) b. 8/29/36.
Sen. Hank Brown (R-CO) b. 2/12/40.
Sen. Steve Symms (R-ID) b. 4/23/38.
Sen. Daniel Coats (R-IN) b. 5/16/43.
Sen. Bob Smith (R-NH) b. 3/30/41.
Sen. Larry Pressler (R-SD) b. 3/29/42.
Sen. Bob Kasten (R-WI) b. 6/19/42.

Republican Congressmen of draft age who served in the U.S. military during the Vietnam era—19 members:

John J. Rhodes (R-AR) b. 9/8/43.
Jim Kolbe (R-AZ) b. 6/28/42.
Frank Riggs (R-CA) b. 9/5/50.
Randy Cunningham (R-CA) b. 12/8/41.
Duncan Hunter (R-CA) b. 5/31/48.
Bill McCollum (R-FL) b. 7/12/44.
Cliff Stearns (R-FL) b. 4/16/41.
John Porter (R-IL) b. 6/1/35.
Bob Livingston (R-LA) b. 4/30/43.
Wayne Gilchrest (R-MD) b. 4/15/46.
Doug Bereuter (R-NE) b. 10/6/39.
William Zeliff (R-NH) b. 6/12/36.
David Martin (R-NY) b. 4/26/44.
Paul Gillmor (R-OH) b. 2/1/39.
John Boehner (R-OH) b. 11/17/49.
Tom Ridge (R-PA) b. 8/26/45.
Ron Machtley (R-RI) b. 7/13/48.
Sam Johnson (R-TX) b. 10/11/30.
Frank Wolf (R-VA) b. 1/30/39.

Republican Senators of draft age who did not serve in the U.S. military during the Vietnam era—6 members:

Sen. Connie Mack (R-FL) b. 10/29/40.
Sen. Larry Craig (R-ID) b. 6/20/45.
Sen. Mitch McConnell (R-KY) b. 2/20/42.
Sen. Richard Cohen (R-ME) b. 8/28/40.
Sen. Trent Lott (R-MS) b. 10/9/41.
Sen. Phil Gramm (R-TX) b. 7/8/42.

Republican Congressmen of draft age who did not serve in the U.S. military during the Vietnam era—50 Members:

Jon Kyl (R–AZ) b. 4/25/42.
Wally Herger (R–CA) b. 5/20/45.
Tom Campbell (R–CA) b. 8/14/52.
John Doolittle (R–CA) b. 10/30/50.
Elton Gallegly (R–CA) b. 3/7/44.
David Dreier (R–CA) b. 7/5/52.
Christopher Cox (R–CA) b. 10/16/52.
Bill Lowery (R–CA) b. 5/2/47.
Dana Rohrabacher (R–CA) b. 6/21/47.
Wayne Allard (R–CO) b. 12/2/43.
Christopher Shays (R–CT) b. 10/18/45 (Served in Peace Corps).
Gary Franks (R–CT) b. 2/9/53.
Craig James (R–FL) b. 5/5/41.
Porter Goss (R–FL) b. 11/26/38 (served in the C.I.A.).
Newt Gingrich (R–GA) b. 6/17/43.
Dennis Hastert (R–IL) b. 1/2/42.
Jim Leach (R–IA) b. 10/15/42.
Fred Grandy (R–IA) b. 6/29/48.
Jim McCrery (R–LA) b. 7/18/49.
Richard Baker (R–LA) b. 5/22/48.
Clyde Holloway (R–LA) b. 11/28/43.
Fred Upton (R–MI) b. 4/23/53.
Paul Henry (R–MI) b. 7/9/42 (served in Peace Corps).
Dave Camp (R–MI) b. 7/9/53.
Vin Weber (R–MN) b. 7/24/52.
Jim Ramstad (R–MN) b. 5/6/46.
Tom Coleman (R–MO) b. 5/29/43.
Chris Smith (R–NJ) b. 3/4/53.
Dick Zimmer (R–NJ) b. 8/16/44.
Jim Saxton (R–NJ) b. 1/22/43.
Steven Schiff (R–NM) b. 3/18/47.
Ray McGrath (R–NY) b. 3/27/42.
Bill Paxon (R–NY) b. 4/29/54.
Jim Walsh (R–NY) b. 6/19/47 (served in Peace Corps).
Charles Taylor (R–NC) b. 1/23/41.
Michael Oxley (R–OH) b. 2/11/44.
Bob McEwen (R–OH) b. 1/12/50.
John Kasich (R–OH) b. 5/13/52.
Curt Weldon (R–PA) b. 7/22/47.
Don Ritter (R–PA) b. 10/21/40.
Joe Barton (R–TX) b. 9/15/49.
Jack Fields (R–TX) b. 2/3/52.
Larry Combest (R–TX) b. 3/20/45.
Lamar Smith (R–TX) b. 11/19/47.
Tom DeLay (R–TX) b. 4/8/47.
Dick Armey (R–TX) b. 7/7/40.
Tom Petri (R–WI) b. 5/28/40.
Scott Klug (R–WI) b. 1/16/53.
Steve Gunderson (R–WI) b. 5/10/51.
Jim Sensenbrenner (R–WI) b. 6/14/43.

Republican Senators and Congressmen of draft age who legally avoided active service by serving in the National Guard—4 Members.

Sen. Don Nickles (R-OK) b. 12/6/48.
Robert Walker (R-PA) b. 12/23/42.
John Duncan (R-TN) b. 7/21/47.
Rod Chandler (R-WA) b. 7/13/42.

Republican Members of the House and Senate of draft age who legally avoided active service in the U.S. military during the Vietnam era: 60.

As a percentage of all eligible Republican members: 69%.

Republican Members of the House and Senate of draft age who served: 26.

As a percentage of all eligible Republican members: 21%.

TRIBUTE TO FLORIDA SHERIFFS YOUTH RANCHES

(Mr. PETERSON of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETERSON of Florida. Mr. Speaker, I am proud to announce that we have as visitors at the Capitol today a group of young men and women representing Florida Sheriffs Youth Ranches, a unique organization celebrating its 35th anniversary as a private child care agency dedicated to helping troubled, neglected, and unsupervised youngsters.

I am particularly proud that the youth ranches project began in my district when the Florida Sheriffs Association established the first Florida Sheriffs Boys Ranch on the banks of the Suwannee River. With only $5,000 and 140 acres of donated land, there were skeptics who viewed the Boys Ranch as nothing more than an impulsive and impractical dream. Yet, even in the face of such criticism, the Boys Ranch has prospered; 35 years later it has developed into a statewide network of child care facilities operating five year-round residential programs, a summer camping program, and a statewide family counseling service.

Even more noteworthy is the fact that the Florida Sheriffs Youth Ranches were founded by a group of concerned law enforcement officers. Although completely lacking in residential child care experience, the original members of the organization were successful in accomplishing their goal. This inordinate display of dedication to Florida's young people serves as a dramatic reminder that tough law enforcement officers have tremendous compassionate impulses under their stern, nonsense exteriors.

Mr. Speaker, since 1957 the Florida Sheriffs Youth Ranches have given over 6,500 boys and girls and their families quality assistance in addressing their problems. Funded almost entirely by private donations, this represents volunteerism at its absolute best. Today, I invite my colleagues to join me in a salute to the Florida Sheriffs Youth Ranches, and the generous citizens of Florida whose contributions have helped make it a reality.

□ 1230

COLLEAGUE RECOVERING WELL AFTER SURGERY

(Mr. JENKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JENKINS. Mr. Speaker, I would like to report that our colleague, the esteemed gentleman of the Tenth District of Georgia, The Honorable DOUG BARNARD, JR., is recovering rapidly and is out of intensive care following surgery last week. He underwent heart bypass surgery Friday, September 18 at the University Hospital in Augusta, GA.

He is in such good physical condition and doing so well that he is expected to be out of the hospital within the week and back to work within a few weeks. He hopes to come back to Washington before the end of the session but that depends on his doctors.

While he is recovering, he sends appreciation from him, his family and staff on the many calls, flowers, and get-well wishes received during the past week.

It has been my privilege to serve along with him as co-dean of the Georgia delegation for the past 3 terms and to serve with him in the House for 16 years. We will miss him during the last days of this session, and I know that the other members from Georgia and his friends here in the House would like to join me today in wishing him a speedy recovery and return.

FOUR HUNDRED CEO'S ENDORSE CLINTON FOR PRESIDENT

(Mr. SLATTERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLATTERY. Mr. Speaker, in the next few weeks there will be a number of desperate attempts made by the Bush campaign to distract the American voters from the real issue of this election, and that is: The economy. So we are going to be hearing a lot of irrelevancies about events of 23 years ago.

In the remaining days of this election both candidates should focus on the economic plans that they have to turn this Nation's economy around.

Yesterday, Mr. Speaker, in Chicago more than 100 corporate CEO's gathered to back Governor Clinton's plan to turn this Nation's economy around. That brings to over 400 CEO's who have endorsed his campaign.

In today's issue of Time magazine, a panel of independent economists judged Clinton's plan more aggressive in putting forth long-term solutions dealing with the underlying economic problems facing America.

Yesterday one of the CEO's in Chicago said:

> As a Republican who has voted for every Republican Presidential candidate since 1952, it has been an eye-opening experience to find that a Democratic Governor has a far better understanding of what America needs than does an incumbent Republican; eye-opening, but true.

That was Roger Johnson, chairman of the board of Western Digital Corp.

Mr. Speaker, I can understand why this administration wants to focus on the draft and not the real issue facing American voters, and that is: The economy.

I don't believe the American people are going to be distracted again by irrelevant events of the past.

They are rightfully focused on our Nation's economic future and the Presidential candidates should do the same.

WHAT DIRECTION WILL THE UNITED STATES OF AMERICA GO?

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROHRABACHER. Mr. Speaker, the real issue in the campaign is: What will happen to the United States of America and what direction the United States of America will go in if Mr. Clinton or Mr. Bush is elected?

Now, Admiral Crowe can endorse Mr. Clinton. Admiral Crowe can endorse an individual who does not know the difference between a Patriot missile and a Cruise missile. He can endorse someone who has no foreign policy expertise and knows nothing about the international relations of this country, who in fact does not even know what his opinion of the gulf war is.

The last time we elected a little-known liberal Democrat Governor from a small Southern State, it turned out to be an economic and foreign policy disaster for the United States of America. The people of this country suffered, the United States internationally suffered, and Ronald Reagan had to finally step forward and save the day when our economy was going right down the tubes, and internationally, communism and every two-bit tyrant around the world was on the offensive.

The American people will come to their senses on election day, I am sure.

CABLE CONSUMER PROTECTION AND COMPETITION ACT OF 1992

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, although last week the House approved the cable bill by an overwhelming bipartisan margin, President Bush has reiterated his intention to veto the bill. Since the administration has shown intense interest in Murphy Brown and Hollywood of late, let me pose the issue using words the White House may better understand.

Across the country "Ordinary People" every "Frankie and Johnny," every "Thelma and Louise"—know that when they are "Home Alone," there is "No Way Out"—no alternative to their local cable company. Its monopoly status is its "Lethal Weapon" when it comes to raising rates through the roof. Not surprisingly, the cable companies know the "Color of Money" and with their multimillion dollar disinformation campaign have proven themselves to truly be in "A League of Their Own."

The cable bill however, represents the people's chance to employ their "Lethal Weapon II." It will put an end to the skyrocketing rate hikes that have been "Driving Miss Daisy" and everyone else crazy since the industry was deregulated in 1984.

Mr. Speaker, it is my hope that later today, when this bill is sent up the road to "Casablanca," the President will "Do The Right Thing" and follow what should be his "Basic Instinct." President Bush should sign the cable bill so that we may finally "Broadcast News" to consumers of their "Deliverance" from outrageous monopoly rate hikes.

WHO HAS THE CHARACTER PROBLEM?

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, George Bush says that Bill Clinton lies, that he has a character problem. That is a little bit like the pot calling the kettle black.

It was George Bush on the news program not too long ago who said he would say anything to get reelected. And then he went out into the Midwest and told our farmers out there that he was going to subsidize them, pour billions of dollars in, even though he opposes subsidy. He says he is going to dole out more billions of dollars to re-start the M-1 tank and the tiltrotor airplane, neither one of which works. And he is doing this while veterans hospital beds are being closed.

He promised 30 million jobs; we have lost a million. And now he is promising more jobs through bad trade policy with Mexico and China. the only thing that he did promise and said—and I think he is correct—is that we need a change. Well, where has this man been for the past 4 years? It is no wonder he does not want to debate the issues.

END THE GRIDLOCK ON PENNSYLVANIA AVENUE

(Mrs. LOWEY of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. LOWEY of New York. Mr. Speaker, it's time for an update on traffic in the Capital City.

At this hour, most major roads are looking good, but we're experiencing the usual gridlock at 1600 Pennsylvania Avenue at the White House.

As you know, over the last 4 years, 31 vehicles have stalled at that address, blocking so many of us from reaching our families and our jobs.

The vehicles looked fine when they started down Pennsylvania Avenue. In fact, many of them were designed specifically to cost less and go further. But each of them ran into obstacles outside of the White House and they haven't been able to budge.

And now, it looks like seven additional vehicles are likely to join the pileup before the end of the year.

This gridlock is intolerable. Pennsylvania Avenue should be a thoroughfare, not an obstacle course. And we desperately need to make it easier to help Americans reach their families and their jobs.

So if our national traffic cop will not clear the wreckage off of his front lawn, then he should take one of the major roads out of the city.

UNITED STATES-CHINA ACT OF 1992

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and take from the Speaker's table the bill (H.R. 5318) regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-China Act of 1992".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—The Congress makes the following findings:

(1) On June 4, 1989, thousands of Chinese citizens courageously demonstrated that they were prepared to risk their lives and futures in pursuit of democratic freedom and respect for human rights.

(2) Despite this massive outpouring of desire for self-determination and observance of fundamental principles of human rights, the Government of the People's Republic of China, a member of the United Nations Security Council obligated to respect and uphold the United Nations charter and Universal Declaration of Human Rights, continues to flagrantly violate internationally recognized standards of human rights, including—

(A) torture and cruel, inhuman, or degrading treatment or punishment;

(B) arbitrary arrest, unacknowledged detention without charges and trial, and jailing of persons solely for the nonviolent expression of their political views; and

(C) use of prison labor to produce cheap products for export to countries, including the United States, in violation of international labor treaties and United States law.

(3) The Government of the People's Republic of China continues to deny Chinese citizens who have supported the prodemocracy movement and others, the right of free emigration despite having given a pledge to the Secretary of State to do so during his visit last year to China.

(4) The Government of the People's Republic of China continues to use army and police forces to intimidate and repress the Tibetan people who nonviolently seek political and religious freedom.

(5) The Government of the People's Republic of China continues to engage in unfair trade practices against the United States by raising tariffs, employing taxes as a surcharge on tariffs, using discriminatory customs rates, imposing import quotas and other quantitative restrictions, barring the importation of some items, using licensing and testing requirements to limit imports, and falsifying country of origin documentation to transship textiles and other items to the United States through Hong Kong and third countries.

(6) Although the Government of the People's Republic of China has pledged to adhere to the guidelines and parameters of the Missile Technology Control Regime, there are continuing reports of Chinese transfers of missile technology controlled by such regime to the Middle East, Africa, and Asia.

(7) The Government of the People's Republic of China continues to unjustly restrict and imprison religious leaders who do not adhere to the dogma and control of state-sponsored religious organizations.

(8) It is the policy and practice of the Government of the People's Republic of China's Communist Party to control all trade unions and suppress and harass members of the independent labor union movement.

(9) The Government of the People's Republic of China continues to harass and restrict the activities of accredited journalists and restrict broadcasts by the Voice of America.

(b) POLICY.—It is the sense of the Congress that—

(1) with respect to the actions of the People's Republic of China in the areas of human rights, weapons proliferation, and unfair trade practices the President should take such actions as necessary to achieve the purposes of this Act, including but not limited to—

(A) directing the United States Trade Representative to investigate and take necessary and appropriate action pursuant to section 301 of the Trade Act of 1974 with respect to the continuing unfair trade practices of the People's Republic of China which are determined to be discriminatory, and which unreasonably restrict United States commerce; and

(B) encouraging members of the Missile Technology Control Regime and other countries as appropriate, to develop a common policy concerning the People's Republic of China's transfer of missile technology to other countries;

(2) the sanctions being applied against the People's Republic of China on the date of the enactment of this Act should be continued and strictly enforced; and

(3) the President should direct the Secretary of Commerce to consult with leaders of American businesses who have significant trade or investments in the People's Republic of China, to encourage them to adopt a code of conduct which—

(A) follows basic internationally recognized human rights principles,

(B) seeks to ensure that the employment of Chinese citizens is not discriminatory in terms of sex, ethnic origin, or political belief,

(C) does not knowingly use prison labor,

(D) recognizes workers' rights to organize and bargain collectively, and

(E) discourages mandatory political indoctrination on business sites.

SEC. 3. MINIMUM STANDARDS WHICH THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA MUST MEET TO CONTINUE TO RECEIVE NONDISCRIMINATORY MOST-FAVORED-NATION TREATMENT.

Notwithstanding any other provision of law, the President may not recommend the continuation of a waiver for a 12-month period beginning July 3, 1993, under section 402(d) of the Trade Act of 1974 for the People's Republic of China unless the President reports in the document required to be submitted by such section that the government of that country—

(1) has taken appropriate actions to begin adhering to the provisions of the Universal Declaration of Human Rights in China and Tibet, and is fulfilling the commitment made to the Secretary of State in November 1991 to allow the unrestricted emigration of those citizens who desire to leave China for reasons of political or religious persecution, to join family members abroad, or for other valid reasons;

(2) has provided an acceptable accounting of Chinese citizens detained, accused, or sentenced as a result of the nonviolent expression of their political beliefs and, by the date of the enactment of this Act, has released citizens so detained, accused, or sentenced, to credibly demonstrate a good faith effort to release all those imprisoned as a result of the events which occurred during and after the violent repression in Tiananmen Square on June 3, 1989;

(3) has taken action to prevent export of products to the United States manufactured wholly or in part by convict, forced, or indentured labor and has agreed to allow United States Custom officials to visit places suspected of producing such goods for export;

(4) is cooperating with the United States in efforts to account for United States military or other government personnel taken prisoner, missing in action or otherwise unaccounted for as a result of their service in—

(A) the Korean conflict; or

(B) the Vietnam conflict; and

(5) has made overall significant progress in—

(A) ceasing religious persecution in the People's Republic of China and Tibet, and releasing leaders and members of religious groups detained, imprisoned, or under house arrest for expressing their religious beliefs;

(B) ceasing unfair trade practices against American businesses, and providing them fair access to Chinese markets, including lowering tariffs, removing nontariff barriers, and increasing the purchase of United States goods and services; and

(C) adhering to the guidelines and parameters of the Missile Technology Control Regime and

the controls adopted by the Nuclear Suppliers Group and the Australian Group on Chemical and Biological Arms.

SEC. 4. REPORT BY THE PRESIDENT.

If the President recommends in 1993 that the waiver referred to in section 3 be continued for the People's Republic of China, the President shall state in the document required to be submitted to the Congress by section 402(d) of the Trade Act of 1974, the extent to which the Government of the People's Republic of China has complied with the provisions of section 3, during the period covered by the document.

SEC. 5. NONDISCRIMINATORY TREATMENT FOR PRODUCTS FROM NONSTATE-OWNED ENTERPRISES.

(a) IN GENERAL.—Notwithstanding any other provision of law, upon the occurrence of any event described in subsection (b), nondiscriminatory treatment shall apply to any good that is produced or manufactured by a business, corporation, partnership, qualified joint venture, or other person that is not a state-owned enterprise of the People's Republic of China. Any such good that is marketed or otherwise exported by a state-owned enterprise of the People's Republic of China shall be ineligible for such nondiscriminatory treatment. Such nondiscriminatory treatment shall be in effect for the period of time the waiver referred to in section 3 would have been effective had it taken effect.

(b) EVENTS.—Nondiscriminatory treatment as described in subsection (a) shall apply if—

(1) the President fails to request the waiver referred to in section 3 and reports to the Congress that such failure was a result of his inability to report that the People's Republic of China has met the standards described in that section; or

(2) the President requests the waiver referred to in section 3, but a disapproval resolution described in subsection (c)(1) is enacted into law.

(c) DISAPPROVAL RESOLUTION.—

(1) IN GENERAL.—For purposes of this section, the term "resolution" means only a joint resolution of the two Houses of Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the extension of the authority contained in section 402(c) of the Trade Act of 1974 recommended by the President to the Congress on ________ with respect to the People's Republic of China because the Congress does not agree that the People's Republic of China has met the standards described in section 3 of the United States-China Act of 1992.", with the blank space being filled with the appropriate date.

(2) APPLICABLE RULES.—The provisions of sections 153 (other than paragraphs (3) and (4) of subsection (b)) and 402(d)(2) (as modified by this paragraph) of the Trade Act of 1974 shall apply to a resolution described in paragraph (1).

(d) DETERMINATION OF DUTY STATUS OF ENTERPRISES.—

(1) Subject to paragraph (2), the Secretary of the Treasury shall determine which businesses, corporations, partnerships, companies, or other persons are state-owned enterprises of the People's Republic of China for purposes of this Act and compile and maintain a list of such businesses, corporations, partnerships, companies, and persons.

(2) For purposes of making the determination required by paragraph (1), the following definitions apply:

(A)(i) The term "state-owned enterprise of the People's Republic of China" means a business, corporation, partnership, company, or person affiliated with or owned, controlled, or subsidized by the government of the People's Republic of China and whose means of production, products, and revenues are owned or controlled by a central or provincial government authority. A business, corporation, partnership, company, or person shall be considered to be state-owned if—

(I) its assets are primarily owned by a central or provincial government authority;

(II) a substantial proportion of its profits are required to be submitted to a central or provincial government authority;

(III) its production, purchases of inputs, and sales of output, in whole or in part, are subject to state, sectoral, or regional plans; or

(IV) a license issued by a government authority classifies the enterprise as state-owned.

(ii) Any business, corporation, partnership, company, or person that—

(I) is a qualified foreign joint venture or is defined by such authority as a collective or private enterprise; or

(II) is wholly owned by a foreign business, corporation, company, or person,

shall not be considered to be state-owned.

(B) The term "foreign joint venture" means any business, corporation, partnership, company, or person—

(i) which is registered and licensed in the agency or department of the government of the People's Republic of China concerned with foreign economic relations and trade as an equity, cooperative, or contractual joint venture; and

(ii) in which the foreign investor partner and the business, corporation, partnership, company, or person—

(I) combine their assets;

(II) share profits and losses; and

(III) jointly manage the venture.

(C) The term "qualified foreign joint venture" means a joint venture—

(i) in which the foreign investor partner holds or controls at least 33 percent of the investment;

(ii) in which the foreign investor partner is not a business, corporation, partnership, company, or other person of a country the government of which the Secretary of State has determined under section 6(j) of the Export Administration Act of 1979 to have repeatedly provided support for acts of international terrorism; and

(iii) which does not use state-owned enterprises of the People's Republic of China to export its goods or services.

(e) PETITION FOR CHANGE IN DUTY STATUS.—Any person who believes that a particular business, corporation, partnership, or company should be included on or excluded from the list compiled by the Secretary under subsection (d) may request that the Secretary review the status of the business, corporation, partnership, or company.

SEC. 6. SANCTIONS BY OTHER COUNTRIES.

If the President decides not to seek a continuation of a waiver in 1993 under section 402(d) of the Trade Act of 1974 for the People's Republic of China, he shall, during the 30-day period beginning on the date that the President would have recommended to the Congress that such waiver be continued, undertake efforts to ensure that members of the General Agreement on Tariffs and Trade take similar action with respect to the People's Republic of China.

SEC. 7. DEFINITIONS.

For the purposes of this Act:

(1) DETAINED AND IMPRISONED.—The terms "detained" and "imprisoned" include, but are not limited to, incarceration in prisons, jails, labor reform camps, labor reeducation camps, and local police detention centers.

(2) CONVICT, FORCED, OR INDENTURED LABOR.—The term "convict", "forced", or "indentured" labor has the same meaning given to such term by section 307 of the Tariff Act of 1930 (19 U.S.C. 1307).

(3) VIOLATIONS OF INTERNATIONALLY RECOGNIZED STANDARDS OF HUMAN RIGHTS.—The term "violations of internationally recognized standards of human rights" includes but is not limited to torture, cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges and trial, causing the disappearance of persons by the abduction and clandestine detention of those persons, secret judicial proceedings, and other flagrant denial of the right to life, liberty, or the security of any person.

(4) MISSILE TECHNOLOGY CONTROL REGIME.—The term "Missile Technology Control Regime" means the agreement, as amended, between the United States, the United Kingdom, the Federal Republic of Germany, France, Italy, Canada, and Japan, announced on April 16, 1987, to restrict sensitive missile-relevant transfers based on an annex of missile equipment and technology.

(5) SIGNIFICANT PROGRESS.—(A) The term "significant progress" in section 3, means the implementation of measures that will meaningfully reduce, or lead to the end of the practices identified in that section.

(B) With respect to section 3(4)(C), progress may not be determined to be "significant progress" if, after the date of the enactment of this Act, the President determines that the People's Republic of China has transferred—

(i) ballistic missiles or missile launchers for the M-9 or M-11 weapons systems to Syria, Pakistan, or Iran; or

(ii) material, equipment, or technology that would contribute significantly to the manufacture of a nuclear explosive device to another country, if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of such weapon.

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5318, the pending legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on July 21, 1992, the House passed H.R. 5318, the China MFN conditionality bill, by an overwhelming vote of 339-62. This bill establishes a number of new human rights, trade, and weapons nonproliferation conditions—in addition to those contained in current law—which China must meet in order for the President to recommend a continuation of China's most favored-nation status in 1993. Members will recall that, if China fails to satisfy these conditions, MFN treatment for Chinese exports to the United States will be withdrawn, but only for those exports produced or exported by Chinese state-owned enterprises. Exports from businesses or joint ventures that are not state-owned would continue to receive MFN treatment.

The Senate passed H.R. 5318 with an amendment on September 14, 1992, and returned the bill to the House. The Senate amendment was drafted in consultation with the principal House sponsors of this bill who agree with its content. Indeed, the Senate amendment in no way alters the fundamental nature or substance of the bill as passed by the House.

For that reason, I rise today to support passage of H.R. 5318, as amended by the Senate. Acceptance by the House of the Senate amendment will make a conference with the Senate unnecessary and allow us to expedite the bill to the President.

H.R. 5318, as amended, provides for less sweeping sanctions and greater Presidential flexibility than did a similar bill vetoed by the President earlier this year. It has been drafted in a way that constructively takes into account objections of the administration to past congressional initiatives in this area. The bill will provide additional negotiating leverage for the President in his future dealings with China, and will contribute significantly to our common goal of meaningful change in Chinese policy and behavior. For these reasons, I believe that the President should sign this important bill.

I strongly urge my colleagues to vote for H.R. 5318, as amended by the Senate.

□ 1240

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, once again we have before us H.R. 5318, an important and controversial piece of legislation which would impose stringent new conditions on trade with China.

The Senate amendments, which we will vote on today, are similar to the provisions of the House-passed bill and equally objectionable to the President. He has stated clearly his intention to veto the bill in its current form.

Should the United States continue to trade with China, even with its less than enlightened and sometimes brutal leadership? Should the Congress alone set the standards and impose conditions that are so at odds with the President?

The specter of an isolated China must be weighed against Congress' desire to independently reverse United States policy toward that most populous nation. We must bear in mind that current United States policy toward China is consistent, and indeed coordinated, with other major powers.

Other leverage besides a blanket withdrawal of MFN can and has been used by the United States and others to change Chinese practices. Through such leverage, the President has extracted Chinese cooperation on a variety of foreign policy fronts—from cooperation on peace initiatives in Cambodia to a unified position on Iraqi aggression. The United States has imposed sanctions to improve China's behavior on human rights and weapons technology transfer.

The President also has aggressively used United States trade laws to force China to open its markets to United States exports. On August 27, following an investigation under section 301, Ambassador Carla Hills announced a retaliation list amounting to $8 billion. If China does not agree to remove its barriers to market access by October 10, retaliation will go into effect.

These policies, including sanctions, are designed to achieve success—not just send signals.

We must work with the President to develop a unified position toward China that is realistic, effective, and does not undermine out own economic and foreign policy interests.

The constant bickering and confrontation over H.R. 5318 only serves to bring into question, in the mind of our allies and in the mind of China, the leadership abilities and trustworthiness of our great country. I believe the cost is too high.

Mr. Speaker, I urge my colleagues to stand behind the President and work with him as he grapples with difficult foreign policy issues with respect to China and other regions of the world. The self-indulgence of H.R. 5318 brings little credit to this body.

Mr. Speaker, I strongly urge my colleagues to vote "no" on the Senate amendments to H.R. 5318.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2½ minutes to the gentleman from Georgia [Mr. JONES].

Mr. JONES of Georgia. Mr. Speaker, I thank the distinguished chairman for yielding me this time.

Mr. Speaker a friend of mine named Shen Tong is in prison today in Red China. He was arrested recently for speaking to others about such things as freedom and democracy.

Shen Tong was a student leader at Tiananmen Square. He barely escaped with his life after the terrible massacre there, and came to the United States. As as student at Brandeis University he "kept the faith" by creating the democracy for China fund on whose advisory board I serve. He made friends everywhere he traveled in America with his sincerity, his idealism, his passion and commitment, his charm and charisma. And above all his deep love of his country and his youthful dream of democratic China.

The Chinese Government has assured her young exiles that if they returned they would face no reprisal, no harassment, no arrest. A few weeks ago, Shen Tong returned to his beloved homeland and now we do not know of his whereabouts or his well-being.

Mr. Speaker, in dealing with Red China we deal with a government which has a dreadful human rights record. The recent Asia Watch report on the treatment of political prisoners should be must reading for everyone considering this bill. We know of their use of prison labor, their transhipments, their violations of trade agreements, their violations of arms treaties.

Mr. Speaker, the American people question not only whether we should have MFN status with these tyrants, but whether we should do business with them at all. I personally, believe that MFN, with these simple basic conditions is the most prudent course for us to pursue at this time. In this way, we do not punish the private sector of foreign investors who are influencing China's economy in a positive way.

But conditional MFN says much more about who we are as a nation, as a people, than it does about the Butchers of Beijing. It says that our moral imperative is to put principle ahead of profit—that we still believe in some simple old fashioned notion of right versus wrong.

Mr. Speaker, there is an old song which I heard a lot during the civil rights movement of the 1960's. "Which side are you on, boys, which side are you on?"

I know which side I am on. I am on Shen Tong's side.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of this legislation. I urge its overwhelming adoption by the House, and I commend the Ways and Means Committee, and particularly the gentlewoman from California [Ms. PELOSI] and the gentleman from Ohio [Mr. PEASE] for bringing this important issue to the floor.

Mr. Speaker, Communist China's annual charade is now behind us. Communist China's annual effort to put up a facade of cooperation and reform in order to win a renewal of most-favored-nation trade status has now been exposed.

Within the past 2 weeks—and I do not think many people know this—China has unilaterally walked out of the international conference aimed at controlling the spread of dangerous weapons in the Middle East.

Also within the past 2 weeks, Communist China has revoked the agreement it supposedly reached with the United States last spring that would have provided a means for monitoring the observance of human rights in China.

This time, Mr. Speaker, China's sense of timing has evidently failed. The angry old men in the so-called Great Hall of the People evidently thought the MFN issue had been settled for another year—and so it is OK to go back to business as usual.

But the MFN issue has not been settled, my colleagues. The vote we will be taking here today is significant. We can place conditions on the renewal of Communist China's MFN for next year.

And now that the Beijing dictatorship has once again shown its true colors to the world, I urge every Member to do precisely that. Let us pass this bill by an overwhelming majority and let China know it cannot get off the hook.

Mr. Speaker, I urge everybody to vote for this bill, and I urge the President to sign it. I will be calling him this afternoon to ask him to do so.

□ 1250

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, the President is wrong when he threatens to veto this wise and sensible piece of legislation. I want to continue MFN to China, but I do not want to continue MFN to China under the regime or the policies of the China of today. Their people are being mistreated. Their foreign nationals, when they return to the country, are being mistreated. China is not behaving in the acceptable manner when it comes to nuclear proliferation.

Mr. Speaker, all of these things have got to change. Perhaps they will not change with this session of Congress. I do not know, but I hope they do.

But I want to say to the Chinese leaders as clearly as I can:

Gentleman, don't take any comfort by the veto of the President. It will soon become law in this United States, that the conditions that are laid down in this piece of legislation are our policy toward China. A great majority of the Members of Congress support it, and our will will not be thwarted. We expect you to change your behavior, or you'll lose your right to trade with us on an MFN condition.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support for H.R. 5318 as amended by the Senate. The original version of H.R. 5318 set down certain conditions that would have to be met before the People's Republic of China [PRC] could receive most-favored-nation [MFN] status. The Senate initiative would strengthen one of those conditions. It would require the Government of the People's Republic of China to account for and release citizens held as a result of the June 1989 Tiananmen Square massacre by the date of enactment of the bill. The original version of H.R. 5318 required this to take place prior to renewal of MFN.

Mr. Speaker, the Government of the People's Republic of China has shown absolutely no remorse whatsoever for its despicable slaughter of prodemocracy activists. To this day, it hunts down, imprisons, tortures and executes those Chinese citizens who have expressed the desire to live under a government like ours.

So many of my colleagues and I have on numerous occasions listed the arms, ballistic missile and nuclear technology deals the PRC has made, and continues to make with terrorist nations around the world. While our trade deficit has doubled in the last year and the communist government uses its largess to purchase advanced military hardware from what was once the Soviet Union, our workers lose their jobs to imprisoned prodemocracy activists toiling away in slave labor camps.

To add to all of this, many of our allies in the Pacific are deeply concerned about the PRC's renewed claims on the Spratley Islands and other territories as we shut down Subic, and leave behind a power vacuum in that region of the world.

Mr. Speaker, it is difficult to consider the situation that confronts us without some degree of outrage and disgust. Let us not continue to bankroll a Communist dictatorship that not only threatens stability in the Middle East and the Pacific but also seriously undercuts our workers and businesses struggling to get by during this time of economic slowness. Communist China is not some quaint struggling developing nation in the Third World seeking to slowly become another economic tiger like Taiwan, Singapore or Malaysia. It is a Communist adversary that we must take seriously and do all that we can to monitor and check its behavior.

Accordingly, I support H.R. 5318 and urge my colleagues to do so.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, I rise today to urge you, my colleagues, to support H.R. 5318, the United States-China Act of 1992. This bill looks a bit different than it did the last time we voted on it. The reason for the change? Some semantic refining on the part of Senator MITCHELL and our illustrious legislative partners in the other body.

This bill is the same in objective as the original H.R. 5318, which the House passed on July 21, by a vote of 339 to 62. What we have before us is a bill that conditions the extension of most-favored-nation [MFN] status for China on Beijing's demonstrating improvement in its human rights, trade, and weapons proliferation policies.

As was the case with the original House version of H.R. 5318, this Senate-amended version contains two tiers of conditions. The first, must-meet tier calls for the accounting of and release of political prisoners in China, including those detained because of their involvement in the Tiananmen Square prodemocracy demonstrations. Senator MITCHELL has also added to the first tier a condition requiring that China take action to stop the export of goods produced through prison labor.

The second tier includes additional human rights conditions as well as trade and weapons nonproliferation conditions. In this second tier, China is held only to achieving "overall significant progress." Furthermore, it is the President who determines whether this threshold has been met.

The United States-China Act gives the President additional discretion by targeting exports from state-owned enterprises in China, rather than exports from China in general. If the President were to determine that the People's Republic of China had not met the stated conditions, Washington would apply non-MFN tariff rates only to products being exported to the United States from state-owned enterprises in China.

Articles produced by foreign joint ventures, entirely foreign-owned businesses in China, and truly private, Chinese-owned firms would not be subject to these higher tariff rates even if the stated conditions were not met.

In short, the Senate-amended version of H.R. 5318 strikes a delicate balance between using the leverage that trade provides in order to bring about improvements in China's human rights, trade, and weapons policies and allowing the forces already working in China toward economic liberalization to continue.

I ask you to vote "yes" on passage of this legislation because there remains a tremendous need for the use of such trade leverage.

Just this month, the authorities in Beijing arrested Shen Tong, a prominent Chinese student leader who recently returned to China from exile in the United States Shen Tong, a 24-year-old graduate student at Boston University, was preparing to meet with foreign reporters to discuss his plans for setting up a chapter in China of the prodemocracy organization he heads.

The New York Times reported that Shen Tong was taken into custody by Beijing security forces on September 2, with no reason for detention stated, along with two other Chinese, with whom Shen was working. The condition and whereabouts of these individuals remains unknown.

I would also add that I find it hard to believe the concern of some that the use of trade leverage might evoke a backlash reaction from Beijing. Every month, the People's Republic of China has more and more to lose, in terms of hard currency earned through trade.

Recall that in 1989, mainland China ran a trade surplus with the United States of $6 billion, while in 1990, this figure climbed to $10.4 billion, and in 1991, $12.7 billion. This 1991 number put China second only to Japan in magnitude of trade surpluses with the United States.

The People's Republic of China-United States bilateral trade statistics for 1992 tell of an even more alarming imbalance. Figures for the initial two quarters of this year indicate that China is heading for a possible trade surplus of $20 billion.

In conclusion, I urge you once again to support the Senate-amended version of H.R. 5318. This is a good and reasonable piece of legislation. If signed into law, this bill would use the one effective tool we have to persuade Beijing to cease practices that have long been anathema to nations adhering to internationally recognized norms on human rights policy.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the respected minority leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I rise in opposition to H.R. 5318. Nothing substantive has been added to the issue since we last debated it in the House, and I will not repeat the arguments in favor of extending unconditional MFN status to China. I guess all the Members of the House know them as well as I do.

Let me just say this for the record: I believe one of the most important things the United States can do is to craft our China policy with intelligence and foresight, prudence and patience. That means we have to keep up our contacts with the Chinese people. Why threaten those contacts by giving the hard-line Communist rulers the excuse they need to retaliate against us and to punish the Chinese people?

One of the most eloquent proponents of the bill recently wrote:

> The Chinese Government is not going to endanger a trade relationship which may provide them with as much as $20 billion of our hard currency this year alone.

Now how can we be certain of that? It is precisely the fanatical element in Communist ideology that makes Communists unpredictable.

Going by our Western logic, Mr. Speaker, it was not in the interests of the Communists to slaughter innocent people in Tiananmen Square while the whole world was watching on television, but they did it, and they will do stranger things than that if it serves their ideological dogma.

So, please do not give us smug guarantees of logical, prudent, Communist reaction to economic stimuli that we in the West take so much for granted. We just cannot predict with a high degree of certainty whether pragmatism or fanaticism will shape Chinese Government policy. So, why risk what we have got?

Mr. Speaker, I support the President's farsighted course of action by seeking to extend unconditional MFN status to China, and, for the first time in the history of communism, the West has its own capitalist enclave in the very heart of a Communist dominated nation. So, I would ask my colleagues, Why risk losing this unique, historic opportunity?

In closing, Mr. Speaker, I simply urge my colleagues to vote no on this bill and, by doing so, support the cause of ultimate freedom in China for her people.

□ 1300

Mr. PEASE. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, at this very moment the struggle for democracy continues in Russia, in Ukraine, in all the states of the former Soviet Union and throughout Eastern Europe. Their road is difficult, but let's not diminish the importance of the transformation that is taking place. Men and women are free to voice their views and elect their governments and the threat of war between East and West has evaporated.

I raise their struggle for democracy because I believe the example of Eastern Europe and the former Soviet Union is instructive. Members of Congress and Presidents from both parties told those dictatorships we would not conduct business as usual so long as they trampled upon human rights. We used trade as a point of leverage. By denying MFN we brought economic pressure to bear. The leadership of the Soviet Union ultimately had to chose between democratization or continued economic isolation. They chose freedom.

The denial of normal trade relations created another kind of pressure. It acted as a moral sanction that made it clear the free world found their trampling of individual rights and human dignity repugnant. And those who led the courageous struggle for liberty were strengthened by the knowledge that the free world stood with them.

Today, as we once again consider a bill to condition the renewal of MFN for China, thousands are still imprisoned and subject to torture because they spoke out for freedom. The government in Beijing continues to sell weapons and military technologies to other despotic regimes. They continue their brutal occupation of Tibet. They close their markets to our products while running up a $15 billion trade surplus in 1992 alone, in part by selling us goods manufactured with slave labor.

The evidence is clear—the President's approach to the government in Beijing has failed. They kill, imprison, and torture those who struggle for freedom and we offer only mild rebukes. It is time once again to tell the dictatorship in Beijing that this body does not stand with them. We stand with those who languish in Chinese prisons because they wanted their country to be free.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I agree with the distinguished ranking member of the Ways and Means Committee, the gentleman from Texas, that H.R. 5318 is thoroughly objectionable. The Senate amendments offer no improvement to the House-passed version and should be opposed.

H.R. 5318 is an unvarnished attempt by Congress to usurp the executive powers of the President and his Secretary of State in conducting foreign policy with respect to China. The President will certainly veto this bill when it reaches his desk.

Removing MFN from China, which would be the direct consequence of this bill, will severely disrupt United States business interests there and undermine United States efforts to bring China into the mainstream of world economic and foreign policy practices. Also, it would significantly erode the ability of the United States to influence China's practices in the area of human rights.

United States policy, and the cooperative efforts of our allies such as Great Britain, France, Germany, and Japan, has succeeded in improving and redirecting China's behavior in ways that would have been inconceivable just a few short years ago. China's actions as a U.N. member, where it has supported or not opposed key United States objectives in a variety of regional crises, is but one example of welcomed changes to historical Chinese positions.

China also has acceded to the nuclear nonproliferation treaty and adhered to the missile technology regime guidelines. Through selected pressure, we have seen modest improvements on human rights and have reached landmark agreements on intellectual property rights and prison labor.

Also, through aggressive use of section 301 of our trade laws, the United States intends to see that China opens its markets to United States exports to a much greater degree than it has up to now. This is a results-oriented process.

On August 27, after an extensive investigation of Chinese trade practices, the United States announced a proposed retaliation list amounting to $8 billion against imports from China. If China does not agree to improve its practices by October 10, retaliation will go into effect immediately.

We must keep in mind that withdrawal of MFN would be devastating for the coastal regions of China, where market forces have made deep inroads, and to Hong Kong's free enterprise economy as well. With PRC sovereignty taking effect in 1997, it is critical that the United States cement its relationship with Hong Kong and not take actions that undermine its economic welfare.

Also, China and key GATT members have reached an agreement that will allow Taiwan to enter the GATT as a developed country undertaking full commitments and responsibilities. Taiwan's entry into the GATT cannot help but pressure mainland China to accept full GATT disciplines.

To force United States businesses out of China by enacting this bill is to throw away years of effort to bring Chinese practices into the mainstream of the world trading community.

Mr. Speaker, our relationship with China, a major power with over 1 billion people, is too important to indulge in efforts to split United States policy and undermine the President's efforts as H.R. 5318 does. The bill, though well-intentioned, is misguided and will imperial the relationship between the United States and China.

Mr. Speaker, Congress needs to find a way to work with the President on these important issues. H.R. 5318 is certainly contrary to that objective. I urge my colleagues to vote "no" on the Senate amendments to H.R. 5318.

Mr. PEASE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. APPLEGATE].

Mr. APPLEGATE. Mr. Speaker, George Bush promised 30 million new jobs 4 years ago when he became President. He told the people that. But we have lost a million jobs since that time. He now wants to give most-favored-nation status to Communist China with no conditions for human rights and no conditions for slave labor or child labor—things that we have done away with over the years. He would just allow China to send their cheap products made with forced labor into the United States to compete against American products and to cost American jobs. Veterans, American veterans who fought communism, are going to lose their jobs.

Now, this bill does have conditions that confront these particular problems, and I agree with that. I want to commend the gentlewoman from California, Ms. NANCY PELOSI, for the work she has done. But for the life of me, I cannot agree to vote for any bill unless we agree that we are going to trade on an equal economic basis. That is my primary basis of objection to the North American Free-Trade Agreement, which allows Mexico to come in on an unequal economic trade basis.

So, Mr. Speaker, I say to the Members that I regret having to do this, but I am going to oppose this bill.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, on this subject of China I am trying to figure something out. I voted for this measure the last time because I thought the chairman had no other choice. With the gentlewoman from California [Ms. PELOSI] at least they put some conditions on it.

When it comes to China, here is a classic case of a bunch of Communists who violate our trade laws, violate the arms agreements, shoot and massacre their own citizens in the public square, pay 17 cents an hour in wages, and smuggle their products through Hong Kong and put false labels on them. And now we are discussing granting China most-favored-nation trade status.

Here is the only thing I understand about it: Every time Congress grants China most-favored trade status, China screws the American worker. This is an easy vote for me. I will agree that granting MFN without conditions would be cardinal sin, and I commend the chairman and I commend the gentlewoman from California [Ms. PELOSI] for what they have done.

□ 1310

But for me, there are absolutely no conditions that could support me voting for a bunch of Communist dictators who should be put in jail. And if we are worried about human rights, let us get the United Nations to go over and straighten them out. Let us not screw every American job we have to develop a rights program in China.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I thank the gentleman very much for yielding time to me, and I rise in strong support of this very carefully crafted legislation.

If we could advance the cause of human rights in China by repealing MFN for the People's Republic, I would be the first to support such a move. But I fear that were we to do so, not only would we fail to bring the regime in Beijing to its knees, we would be more likely to precipitate a cracking down rather than an opening up of the Chinese political system.

On the other hand, if we were to renew most-favored-nation tariff status without any conditions whatsoever, as the administration would like us to do, I believe we would be unfaithful to our own values as a Nation. Moreover, we would also deprive ourselves of the potential leverage we have by virtue of China's desire for MFN to facilitate an improvement in the human rights situation in the most populous country in the world, and to advance other fundamental American interests in the region.

That is why I strongly support the bill before us, which establishes a set of entirely reasonable conditions which China would have to meet before MFN status can be renewed.

It will be argued that China, as a matter of tradition, history and policy, will simply be unwilling to meet these conditions and that this legislation is, therefore, the effective equivalent of taking MFN away entirely. But in fact, the Chinese met conditions in 1979 in order to get MFN status in the first place, when they agreed to the terms of the Jackson-Vanik amendment, which obligated them to permit freedom of emigration before they could qualify for MFN status.

If they could meet the conditions inherent and implicit in the Jackson-Vanik amendment in 1979, there is no reason why they cannot meet the conditions in this carefully crafted legislation before us today.

Mr. Speaker, I strongly support this legislation as a way of making it clear that the United States is on the side of democracy rather than dictatorship, of reform rather than repression, and that we will use the tools available to us to advance the cause of human rights and democracy in China while simultaneously protecting the interests of our consumers at home.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair wishes to advise that the gentleman from Illinois [Mr. ROSTENKOWSKI] has 5½ minutes remaining, and the gentleman from Texas [Mr. ARCHER] has 5 minutes remaining.

Mr. ARCHER. Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, to conclude debate, I yield the balance of my time to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the chairman for yielding time to me and for his leadership in bringing this legislation to the floor.

I also want to commend the gentleman from Ohio [Mr. PEASE], author of the legislation, for the very smart approach that this legislation has taken. This year our legislation is more sophisticated. We believe it has prospects for success in the House and in the Senate and more importantly, that it will succeed in having the prisoners released and some impact on our trade with China.

Mr. Speaker, in the interest of time, my colleagues, particularly the gentleman from Ohio [Mr. PEASE], went into what the legislation does in terms of conditioning renewal and also how different it is from last year. And the bill responds to concerns of Members on both sides of the aisle who believe, as I do, that we must encourage the rapid economic reform that is fueling growth in the private sector in China, southern China, Shanghi, and, therefore, by placing conditions on goods made or exported by state enterprises only, the bill pinpoints pressure on the Chinese regime and by removing MFN only on products made by State industries.

The conditions are workable and achievable. It is a smart bill. I believe that the legislation is necessary because of the huge and growing trade deficit: $6 billion in 1989, $9 billion in 1990. In 1991, it was $12 billion, and now, in 1992, projected to be around $18 billion, well into the $40 billion arena since Tiananmen Square, this because of the barriers to our trading into China.

But there are a few more reasons why this legislation is necessary. As we consider the bill today, the United States resolve regarding China is unclear.

Recent diplomatic signals by the administration have been inconsistent. For example, on Friday of last week, the White House condemned China's sale of nuclear technology to Iran only to then turn around and approve a $650 million high-tech satellite sale coveted by the Chinese Government. This was a very dangerous action. This announcement followed the highly visible arrest of prodemocracy leader Shen Tong earlier this month and a statement by the Chinese regime that it would withhold its cooperation on international arms talks in retaliation for United States weapons sales to Taiwan.

Mr. Speaker, this is also a critical time in China—it is not a time for mixed signals to the Chinese regime. In October, the Chinese leadership will convene a critically important Party Congress—a Congress which could determine what direction China will take, economically and politically, for at least the next 5 years.

It is important that, as they prepare for this Congress, China's leaders understand that United States resolve is firm—that we are willing to use our economic power to encourage fairer trade, a safer world and a freer political environment.

Since the killing in Tiananmen Square over 3 years ago, Democrats and Republicans in this House have come together repeatedly to support using our trade leverage to encourage an improved United States-China relationship based on principle.

Almost everyone in this House has supported these measures. Each year, as our trade deficit with China continues to grow, our leverage has increased and our approach has become more sophisticated. Meanwhile, the administration's diplomatic efforts have yielded little.

I would like to point out some contradictions in what the Chinese say and what they do.

For example, in November 1991 when Secretary Baker was told by the Chinese Government that all Chinese citizens who were not under arrest could leave the country, the administration said that progress had been made on human rights. Unfortunately, the Chinese Government never kept its promise. Several dissidents, including the wife of Wang Juntao, still have not been allowed to leave.

Recently, the Chinese Government had launched a campaign to woo home Chinese scholars studying abroad. They announced that those studying abroad would be allowed to return to China without fear of arrest. Unfortunately, they acted differently. In August, Shen Tong, a leader of the prodemocracy activists in Tiananmen Square, returned home to China because he believed that he could best work for democratic reform from within his own country.

Our colleagues have referred to his arrest, along with other human rights activists in China. To date, the administration and Congress have not received any of the information available on Shen Tong as regard to the whereabouts and condition of Shen Tong and other dissidents.

The Chinese Government's pledge to allow exiled students to return to China without fear of arrest is a hollow promise.

Last month, while American negotiators concluded a memorandum of understanding on prohibiting the illegal use of prison labor for producing exports, papers were smuggled out of China proving the Chinese Government's complicity in a system of prison factories for exports was real. Despite this revelation, the administration continues to claim progress.

The reality is that the current policy has yielded nothing in the 3 years since Tiananmen Square. The Chinese Government continues to erect barriers to our trade. It persists in selling dangerous technology to unstable Mideast regimes. And if I might say on that score, everybody who votes against this legislation should do so with great care in light of what China is doing in the nuclear proliferation business.

It refuses to release prodemocracy advocates. I urge my colleagues to support this legislation, and I hope that the President of the United States will sign it.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to strongly urge my colleagues to adopt H.R. 5318, the United States-China Act of 1992, legislation that would condition renewal of China's most-favored-nation [MFN] status upon that Government's institution of broad reforms in the areas of human rights, free trade and weapons proliferation.

Although our country has continued a dialog with the People's Republic of China since the horror of the Tiananmen Square massacre in 1989, it is clear that the repressive domestic policies of China have continued unabated.

Numerous prodemocracy activists still languish in prisons, such as in Lingyuan, where they are routinely subjected to torture and forced slave labor. Despite promises not to harm returning students, China's Government has reneged. Many students, like prominent leader Shen Tong, that relied on the Government's assurances of fairness have been taken into custody upon return. These students and those they have met with have been locked up in destinations unknown, hidden from public view. While China's Government claims political prisoners have been released, independent reports undercut the credibility of these claims; such as the case of Roman Catholic Bishop Fan, who was allegedly released yet was found dead with severe injuries, or noted activists Chen Ziming and Wang Juntao, who are still caged behind bars for their political beliefs.

While China has pillaged the human rights of her people in holding them captive, she has at the same time benefitted immensely from trade with the United States. With a $13 billion annual trade surplus with our Nation, China waves tangible proof for her people and the world to see that America is not truly concerned with China's repressive domestic policies. Hand in hand with this concern is the mushrooming trade deficit with China, expected to grow to $15 to $20 billion this year. Contributing to the growing deficit has been China's failure to open her markets to United States companies and to stop unfair trade practices, such as the infringement of United States intellectual property rights, the widespread use of prison slave labor and product transhipment to evade quotas. Central to controlling the trade deficit is for China to institute the market reforms she has promised.

Another alarming development has been China's actions discouraging the control of weapons proliferation. In helping Iran to develop nuclear power capability, many fear China's assistance will lay the foundation for development of nuclear weapons, an objective long sought by Iran's regime. Flush with cash from her surplus with the United States, China has invested massive sums in upgrading her military weaponry. In seeking to purchase modern aircraft carriers while obtaining SU–27 and SU–31 fighter interceptors and T–72 tanks from former Soviet republics, China has ignited fears in Asia of an escalating arms race. Against this backdrop, in response to Taiwan's F–16 fighter purchase, China has withdrawn from international arms control negotiations.

Mr. Speaker, our Nation cannot merely stand by, watch, and continue to conduct business as usual with the People's Republic of China—while she arrests and tortures prodemocracy activists, takes advantage of the United States through unfair trade practices, and assists questionable regimes in their quest for nuclear technology while substantially increasing her capacity to wreak destruction with high-tech weaponry.

In order to effect real change in these areas for China, the United States must exercise leverage through the most effective means available: Controlling the flow of U.S. dollars into the Communist economy. The bill before the House, H.R. 5318, by carefully tailoring economic sanctions against State-owned enterprises only, protects private businesses from increased tariffs while penalizing the Government should China fail to respond.

Mr. Speaker, conditioning MFN status for China's state-owned businesses upon demonstrated progress is an appropriate and fair way to encourage China to follow through with her pledged commitments in the areas of human rights, trade, and weapons control. I strongly support H.R. 5318 and urge my colleagues to pass the measure.

Mr. MARKEY. Mr. Speaker, President Bush supports the most favorable and lucrative trade status for China and has promised to veto any legislation that conditions most-favored-nation treatment on human rights.

Last year China had a trade surplus with the United States of over $15 billion—a surplus that many argue is the result of illegal trade practices such as the use of prison labor—including democracy activists—to make goods for export.

At the same time, the administration has completely failed in representing United States concerns for improved human rights conditions in China, and has turned a blind eye to China's involvement in the proliferation of weapons of mass destruction. It is obvious that the President's intent to give China a favorable trade balance has worked, but what has the President done for those fighting for democracy? What has become of U.S. standards for human rights and nonproliferation?

A recent press report has quoted State Department spokesman Richard Boucher as saying that the United States should consult with the other governments involved on what to do next with regards to China.

President Bush and Mr. Boucher, listen to the bipartisan voice of the U.S. Congress which has unanimously approved legislation to deny China MFN treatment. It is time that the United States send China a clear message that we will not tolerate their inhumane and reckless behavior. By denying or placing conditions on MFN, we can demonstrate not only our commitment to human rights and open emigration, but renewed American leadership in halting the spread of nuclear weapons.

I am outraged by China's complete indifference and lack of commitment to improving human rights conditions, fair trade practices and nuclear nonproliferation.

On September 5, 1992, prodemocracy activist Shen Tong, a constituent of my district, was arrested and has been detained by Chinese officials. Shen Tong was one of the founders of the Democracy for China Fund in Newton, MA, and had returned to the People's Republic of China [PRC] after Chinese officials announced that they would not arrest or prosecute democracy activists who returned.

In addition, the recent Chinese sale of a nuclear reactor to Iran is in violation of international nonproliferation agreements. Under the Markey amendment to the 1990 China sanctions law, as well as the authorities provided under the Nuclear Non-Proliferation Act of 1978, the United States already has the ability to deny China exports of sensitive nuclear and nuclear-related dual-use technology. Yet the President refuses to take action to protest China's irresponsible behavior. The People's Republic of China, however, has not hesitated to register its complaint of the sale of United States F-16's to Taiwan—in fact, China has announced that they will not take part in the next session of international nonproliferation talks.

Shen Tong's arrest and the China-Iran nuclear reactor sale are just recent events in China's legacy of disrespect for human rights and nonproliferation. In the past, press reports indicate that China has:

Continued to aid Pakistan's covert nuclear weapons program, including providing nuclear materials, nuclear weapons design information and critical information about nuclear reactor technology;

Secretly supplied a nuclear research reactor to Algeria and then denied to the world having ever done so;

Provided nuclear facility design information and nuclear technical training to Iran;

Supplied low-enriched uranium reprocessing technology to Iraq;

Transferred unsafeguarded heavy water to India;

Supplied unsafeguarded nuclear materials to Argentina;

Sold enriched uranium to Brazil;

Supplied nuclear reprocessing technology to North Korea; and

Obtained highly sensitive nuclear weapons secrets from the Livermore National Laboratory.

As long as the administration tolerates China's misbehavior, I can assure you that China will continue flagrant violations of human rights, illegal trade practices, and habit of exporting sensitive nuclear technologies to third world countries around the globe, including Iraq, Iran, Pakistan, and Algeria. A policy of constructive engagement failed miserably when the Reagan administration applied it to South Africa during the 1980's. Economic sanctions, not constructive engagement, convinced South Africa's Government to begin moving away from apartheid.

China's octogenarian leaders, the Butchers of Beijing, continue to violate international law in human rights, trade practices and nuclear proliferation. But President Bush, rather than protesting, fights to protect China's lucrative and favorable trade status with the United States. It's time for the President to stop protecting his cronies in Beijing and to start standing up for young like Shen Tong.

□ 1320

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and concur in the Senate amendment.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 5677, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION AND RELATED AGENCIES APPROPRIATIONS ACT, 1993

Mr. NATCHER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5677) making appropriations for the Departments of Labor, Health and Human Services, and Education and related agencies, for the fiscal year ending September 30, 1993, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. PURSELL

Mr. PURSELL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PURSELL moves that the managers on the part of the House at the conference on the disagreeing votes of the Houses on the bill, H.R. 5677, be instructed to insist on the House position with respect to Senate amendment numbered 234.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. PURSELL] will be recognized for 30 minutes, and the gentleman from Kentucky [Mr. NATCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Speaker, I yield myself such time as I may consume.

Mr. NATCHER. Mr. Speaker, would the gentleman from Michigan yield?

Mr. PURSELL. I am very pleased to yield to my chairman, the gentleman from Kentucky.

Mr. NATCHER. Mr. Speaker, we have no objection to the request of the gentleman from Michigan.

Mr. PURSELL. Mr. Speaker, I thank the gentleman. We appreciate his support.

Mr. Speaker, I rise in support of the motion to instruct conferees to insist upon the inclusion of House provisions which limit the funding available to OSHA. The funding limitation will only prevent OSHA from implementing regulations affecting mandatory use of seatbelts or motorcycle helmets, and mandatory driver safety awareness programs.

The limitation was included in the bill during House consideration. Under the strict rules of the House that were engineered to prevent funding limitations, supporters of the OSHA limitation amendment were required to defeat a motion to rise before we were allowed to offer the amendment. Because of the strong opposition to the harmful OSHA regulations, the House defeated the motion to rise and then agreed to the Livingston amendment by a voice vote. Unfortunately, the amendment was removed by the Senate.

Some Members were upset that they were not allowed the opportunity to go on record in support of the Livingston amendment which was strongly supported by the National Federation of Independent Businesses. Members will now have that opportunity by supporting the motion to instruct conferees.

OSHA first proposed the occupant protection in motor vehicles regulation in July 1990 and final regulations could be issued at any time.

These regulations are expected to include two mandates: First, employer accountability for employee seatbelt use, and second, employer-sponsored driver training programs.

It is true that seatbelt and helmet laws save lives. But employers should not be held responsible for their employees' seatbelt use. How will the employer monitor seatbelt use when their employees are on the road? Employers should concern themselves with running their businesses.

Driver training and licensing should remain the purview of State government. Thirty-six States have already enacted safety belt use laws. Merely duplicating State laws with rules that punish employers for their employees' action will not save lives.

This rule would spawn more litigation as injured third parties discover that the driver that hit them was not trained in strict accordance with the loosely written OSHA regulations.

Mr. Speaker, this is a terrible rule. We should not allow OSHA the opportunity to make this rule final. Therefore, I urge my colleagues to support the motion to instruct conferees.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Michigan [Mr. PURSELL].

The motion was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. NATCHER, SMITH of Iowa, OBEY, ROYBAL, STOKES, EARLY, HOYER, MRAZEK, WHITTEN, PURSELL, PORTER, YOUNG of Florida, WEBER, and MCDADE.

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5517, DISTRICT OF COLUMBIA SUPPLEMENTAL APPROPRIATIONS AND RESCISSIONS ACT, 1992

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the managers may have until midnight Tuesday, September 22, 1992, to file a conference report on the bill (H.R. 5517) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 5428, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1993

Mr. NATCHER. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight, Tuesday, September 22, 1992, to file a conference report on the bill (H.R. 5428) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 5006, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1993

Mr. ASPIN. Mr. Speaker, pursuant to clause 1 of rule XX, and by direction of the Committee on Armed Services, I move to take from the Speaker's table the bill (H.R. 5006) to authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin [Mr. ASPIN].

The motion was agreed to.

MOTION OFFERED BY MR. DICKINSON

Mr. DICKINSON. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. DICKINSON moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill, H.R. 5006, be instructed to insist on the House position with regard to the production of F-16 aircraft.

The SPEAKER pro tempore. The gentleman from Alabama [Mr. DICKINSON] will be recognized for 30 minutes, and the gentleman from Wisconsin [Mr. ASPIN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am offering what I consider a noncontroversial motion to instruct conferees on H.R. 5006, the fiscal year 1993 Defense authorization bill.

Let me get right to the point. When Secretary Cheney submitted his fiscal year 1993 budget, he proposed to buy 24 F-16 aircraft and then terminate all production. In both our House-passed Defense authorization and appropriation bills, we funded the 24 aircraft requested. However, we denied the money included in the budget request for termination costs and proposed to continue buying F-16's in fiscal year 1994.

We took this action for two reasons:

First, we did not want to shut down the only remaining Air Force fighter aircraft production line, recognizing that the development schedule of the new F-22 meant a 5- to 6-year production gap of any Air Force fighter aircraft.

Second, the Air Force indicated that it was considering an F-16 variant as one possible alternative for the next generation multirole fighter. In fact, Air Force Secretary Rice went on record last week indicating that he has recommended to Secretary Cheney that the Air Force continue to procure the F-16 beyond fiscal year 1993.

The Senate has disagreed and has terminated all F-16 procurement beginning in fiscal year 1993. I believe the situation in the Pentagon has changed with regard to the F-16 since the budget was submitted last January, which calls into question the wisdom of the Senate's decision.

Consequently, Mr. Speaker, my bipartisan proposal simply instructs our conferees to stand by the House position on the F-16 authorization. It is the right one for this Nation. Therefore, I urge my colleagues on both sides of the aisle to support this motion.

Mr. Speaker, I reserve the balance of my time.

Mr. ASPIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the motion offered by the gentleman from Alabama. We support the motion offered by the gentleman, and urge a vote in favor of that motion.

Mr. Speaker, I yield back the balance of my time.

Mr. DICKINSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Alabama [Mr. DICKINSON].

The motion was agreed to.

The SPEAKER pro tempore. The Speaker will appoint conferees upon the Speaker's return to the chair.

MOTION TO CLOSE CONFERENCE COMMITTEE MEETINGS

Mr. ASPIN. Mr. Speaker, I offer a motion.

The SPEAKER pro tempore. The clerk will report the motion.

The Clerk read as follows:

Mr. ASPIN moves that pursuant to rule XXVIII 6(a) of the House rules, the conference committee meetings between the House and the Senate on H.R. 5006, the fiscal year 1993 Department of Defense Authorization bill, be closed to the public at such times as classified national security information is under consideration, *Provided however*, That any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin.

On this motion the vote must be taken by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 394, nays 1, not voting 37, as follows:

[Roll No. 404]

YEAS—394

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski

Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Harris
Hastert
Hatcher
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weldon
Wheat
Whitten
Williams
Wilson
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zimmer

NAYS—1

Dingell

NOT VOTING—37

Andrews (ME)
Barnard
Boxer
Carr
Coleman (MO)
Conyers
DeFazio
Dicks
Edwards (OK)
Engel
Fish
Foglietta
Gephardt
Hansen
Hayes (LA)
Ireland
Jefferson
Jones
Kennedy
Kolter
Levine (CA)
Marlenee
McCrery
Miller (CA)
Miller (WA)
Mink
Moorhead
Oakar
Penny
Perkins
Ray
Savage
Smith (FL)
Sundquist
Wise
Wolpe
Zeliff

☐ 1352

Mr. WILSON changed his vote from "nay" to "yea."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MAZZOLI). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on both motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken later in the day.

EXTENSION OF NONDISCRIMINATORY TREATMENT WITH RESPECT TO THE PRODUCTS OF ROMANIA

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 512) to approve the extension of nondiscriminatory treatment with respect to the products of Romania.

The Clerk read as follows:

H.J. RES. 512

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves the extension of nondiscriminatory treatment with respect to the products of Romania transmitted by the President to the Congress on June 22, 1992.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. CRANE] will be recognized for 20 minutes.

PARLIAMENTARY INQUIRY

Mr. LANTOS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentlemen will state his parliamentary inquiry.

Mr. LANTOS. Mr. Speaker, I am opposed to House Joint Resolution 512 and I am seeking recognition under the rule.

The SPEAKER pro tempore. Is the gentleman from Illinois [Mr. CRANE] opposed to the bill?

Mr. CRANE. I am not opposed to the bill, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California [Mr. LANTOS] qualifies. The gentleman from California [Mr. LANTOS] will be recognized for 20 minutes and will control the time.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on House Joint Resolution 512, the joint resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr Speaker, I rise in support of House Joint Resolution 512, which extends most-favored-nation treatment to the products of Romania.

Romania has not received MFN treatment since 1988 when the Romanian Government decided to renounce renewal of MFN treatment subject to the freedom of emigration requirements. Accordingly, the President allowed the waiver of those requirements to expire and issued a proclamation withdrawing MFN treatment, which had been in effect for Romania since 1975.

A new bilateral commercial agreement including reciprocal nondiscriminatory treatment was signed with Romania in April of this year in response to Romania's progress toward democratic and economic reform. The President has also waived freedom of emigration requirements in response to assurances from the Romanian Government about its emigration practices.

Mr. Speaker, I want to emphasize that this resolution is an initiative of the administration which strongly supports the resolution. Testimony received by the Committee on Ways and Means at our public hearings also strongly supported MFN renewal in order to create a more favorable climate for business investment in Romania as well as increased United States export opportunities. Lower United States tariffs will also encourage continuation of democratic reforms toward an open market economy in Romania.

Mr. Speaker, I would like to make a comment about the scheduling of House Joint Resolution 512 today. Some Members have expressed concern about the need for the Romanian Government to demonstrate its commitment to democratic political reform by holding free and fair national elections scheduled on September 27 and by protecting the basic rights of ethnic minorities in Romania. I want to emphasize that the committee consulted with the administration which is pleased that the resolution is scheduled for floor action today. I also want to assure Members of the House and make it clear to the Government of Romania that the scheduling of floor action on House Joint Resolution 512 before the September 27 elections should not be interpreted as any lessening of concern about the democratic reform process in Romania. Rather, House consideration today is merely to expedite the legislation given the anticipated congressional adjournment in early October. I do not anticipate any Senate action on this resolution unless and until the elections are held in Romania.

I would also like to address concerns that have been expressed regarding the budgetary impact of this resolution. The Congressional Budget Office estimates that enactment of House Joint Resolution 512 would result in a revenue loss of $11 million in fiscal year 1993. In response to my request to the Office of Management and Budget concerning the pay-go implications under the Budget Enforcement Act, I have been informed that the current pay-go balance as of August 31 is sufficient to cover the proposed revenue loss from enactment of the resolution. I am including a copy of the OMB letter assuring us that enactment of this resolution will not trigger any mini-sequester of other programs.

With these understandings and assurances, I urge my colleagues to support House Joint Resolution 512.

Mr. Speaker, I include the following letter:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 11, 1992.
Hon. DAN ROSTENKOWSKI
Chairman, Committee on Ways and Means, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter dated July 30, 1992, regarding H.J. Res. 512 which would extend most-favored nation (MFN) treatment to the products of Romania. The action of your Committee in favorably reporting this resolution to the House is appreciated.

In your letter you requested that we inform the Committee of the "PAY-GO" balance, pursuant to the Budget Enforcement Act. The current PAY-GO balances as of August 31, 1992 is +$325 million. This amount is sufficient to cover the revenue loss of $11 million which the Congressional Budget Office estimates would result from the enactment of H.J. Res. 512. Of course, the enactment of additional legislation may also affect the current PAY-GO balance.

We are grateful for your continued help in obtaining favorable Congressional action on this important resolution.

Yours Sincerely,
ROBERT E. HOWARD,
Associate Director, National Security and International Affairs.

□ 1400

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I welcome the comments of my distinguished friend and colleague, the gentleman from Illinois [Mr. ROSTENKOWSKI], in underscoring that the timing of this legislation could not be less appropriate. Elections are scheduled in Romania for this Sunday, and the barely reconstructed Communist regime is running in these elections. Voting in favor of this legislation will be considered a vote of confidence in a regime which still largely depends on the hated Securitate, the secret police, to stay in power.

But I must say, Mr. Speaker, that the issue goes way beyond timing. Romania represents the least change among all of the countries of Eastern and Central Europe from the hated Communist dictatorships to what we have today. There is a persistent pattern of human rights violations involving all nationalities in Romania. There is a persistent pattern of violations against the rights of the Roman Catholic Church, the Protestant church and Jewish synagogues. There is a pattern of minority rights violations.

As a matter of fact, Mr. Speaker, the pseudo-Fascist mayor of Cluj is preventing the Hungarian population, which has lived there for 1,000 years, to have folk dances, to have schools in their own language, to have newspapers, to have radio programs, to have television programs.

It is the ultimate irony, Mr. Speaker, that, as we are getting ready right after this vote to deprive Yugoslavia of most-favored-nation treatment, as we should, that we are about to extend most-favored-nation treatment to a barely reconstructed Communist regime. I would like to bring just a few specific facts to the attention of my colleagues in this regard.

The anti-Communist revolution in Romania was hijacked by the remnants to the Romanian Communist Party, and the present leader of the country, Mr. Iliescu, is a barely reconstructed former Communist leader. As a matter of fact, his commitment to democratic procedures is not much different than is the commitment of Mr. Milosevic of Yugoslavia, who brought about the degree of bloodshed and tragedy to 2½ million displaced persons of that sorry land.

Mr. Speaker, of course, know that under Nicolae Ceausescu, Romania was the most despicable of all Communist dictatorships, and to a very large extent the basic power structure is unchanged in Romania today.

Mr. Speaker, county prefects, who are the depositories of local power, are appointed by the Central Government, and in overwhelmingly ethnic minority areas the county prefects have been fired because of their ethnic background. There is no freedom of religion in Romania. There is no freedom of press in Romania. As a matter of fact, Mr. Speaker, with the worsening economic conditions, both the previous Communist power structure and the newly emerging Fascist power structure are likely to take over that country.

It is mind boggling that the Department of State should request most-favored-nation treatment for Romania, something which that country has not had for years, just 4 days before an election that will set the framework for the social, economic and political structure of this country for years to come. Mr. Iliescu, the former Communist leader, whom we will be helping if we pass this joint resolution, will be able to consolidate his power, and religious and ethnic minorities will continue to suffer persecution, their rights will be denied, their opportunities for equal access to the law, to the media, to the schools in their own language, will be further restricted.

I would like to suggest, Mr. Speaker, that the Romanian revolution of 1989—and I do not need to remind this House that the only Communist leader in Central and Eastern Europe who was killed by his own people because of his cruelty was the former leader of Romania—the Romanian revolution has been hijacked by this regime now in power. They have changed their name. They have changed their facade. But the terror goes on. It was the leader of Romania who called in the miners to beat up the democratically oriented students on the main square of Bucharest. That was the Tiananmen Square of central Europe.

This is the man to whom we now want to give the favor so that next Sunday in the elections he can tell his people that the Congress of the United States is supporting this regime.

I urgently plead with my colleagues to overwhelmingly defeat this ill-advised joint resolution. Romania is not a democracy. Romania does not respect human rights. Romania does not respect religious rights of any religion. It does not provide for the degree of cultural autonomy that we take for granted in any civilized society.

Mr. Speaker, I trust that my colleagues will overwhelmingly defeat this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I rise in conditional support of House Joint Resolution 512, which approves the extension of nondiscriminatory tariff treatment for products from Romania. However, I want to make it clear that this is only the first step in the process of most-favored-nation approval. Those of us who agree in principle, will not support final approval of most favored nation if Romania cannot demonstrate the elections it will hold September 27 are verified to be without interference or intimidation.

The time is now to take the first step in reinstating so-called most-favored-nation status to Romania after many months of struggle by its new leadership to institute political and economic reforms.

Final action will await the outcome of Romanian elections on September 27, and will depend on a clear demonstration that these elections have been free and fair.

In 1988, under the leadership of dictator Ceausescu, Romania renounced most favored nation as a symbol of Western interference and set a course for economic isolationism that caused much suffering and hardship for Romanian citizens. After a bloody revolution in 1989, and the collapse of the Soviet economy, Romania has instituted hard-fought economic and political reforms.

By extending most favored nation to Romania, the United States will take an important step in recognizing the progress Romania has made in implementing the economic reforms necessary to reclaim its place in the international trading community.

Such factors have long been unwritten criteria for extension of most favored nation, and by our action today we are stating that we expect the Romanian Government to continue on a responsible course.

Romania's commitment to democratic principles will be tested again in the Presidential and parliamentary elections that are to take place September 27. It is important for these elections to be free and fair.

The United States and the world will be watching these elections to ensure that the electoral process is safeguarded and the civil rights of Hungarian minorities and others are fully protected. The Helsinki Commission and other groups have sent observers and continue to report their observations to Congress.

Thus far, those reports have been positive. But the rest of the campaign and the elections themselves, including any runoffs, will warrant continued scrutiny.

The action of the House today, of course, is not the final step in extending most favored nation. The Senate must also act and the President must sign the resolution.

What we are seeking is a free and fair election. If Romania continues to demonstrate a commitment to these basic democratic principles, then final approval of most favored nation will follow.

Mr. Speaker, I urge my colleagues to vote "yes" on House Joint Resolution 512 as a first step in the process. We will continue to watch with interest and concern the outcome of the Romanian elections next week.

□ 1410

Mr. LANTOS. Mr. Speaker, I yield 4 minutes to my distinguished friend and colleague, the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I rise today asking that my colleagues vote against House Resolution 512, to extend most-favored-nation to Romania. Simply put, passage today provides a propaganda bonanza for President Iliescu's newly renamed Democratic National Salvation Front party, and could easily tip the scales in Sunday's expected close election. This vote should be postponed until next week.

For more than 2 years, a clearly defined prerequisite for the conference of most-favored-nation has been the conduct of free and fair elections in that country. At the 11th hour, however, seemingly pressed by the congressional schedule, the vote on this powerful and singularly influential action by the Congress is scheduled. Nothing affecting United States-Romanian relations has ever been so ill-timed. Bring this resolution up next week, Mr. Speaker, not today. Members should be advised that our request for delay isn't being made frivolously nor at the 11th hour.

In July, 18 of my colleagues joined me in sending a letter—a copy of which I wish to submit for the RECORD—to the chairmen and ranking members of the Ways and Means Committee, as well as the Subcommittee on Trade. As outlined in that letter, the process of restoring most-favored-nation status presents the United States with a unique opportunity to encourage true and lasting democratic reform in Romania. My colleagues and I were seeking a delay in the final consideration of the United States-Romania trade agreement until after the Presidential and Parliamentary elections.

I was pleased to learn that the Ways and Means Committee did seem to comply with that sincere request. Chairman DAN ROSTENKOWSKI wrote me on August 3:

> I stated at the markup that House consideration of the resolution should not take place until after Romanian national elections are held in late September.

Having been given that assurance that indeed the vote would be postponed, 62 Members of this House signed a letter of explanation to Romanian President Ion Iliescu. In summary, the letter clearly stated that the United States Government and Congress have repeatedly communicated what was expected prior to the restoration of Romania's most-favored-nation status: free and fair elections; an independent media; civilian control of the Romanian Intelligence Service [SRI]; and the protection of human rights and civil liberties, including the rights of ethnic minorities.

Mr. Speaker, some have suggested that scheduling the vote in the House this week prior to the election is merely an incremental step toward trade normalization, and not the final step. Let us not be naive to think that the fine points of parliamentary procedure will be fully grasped by either Romania's less than independent media or the international media. We can be certain that approval of this resolution by the House will be seen in Romania as Congress giving its approval of the Iliescu regime. Mr. Speaker, this signal will do a grave disservice to the viable democratic parties in Romania; namely, the Democratic Convention of Romania which is locked in a tight race with Iliescu's party.

Mr. Speaker, our premature actions today—especially if the resolution succeeds—could well tip the balance in favor of Iliescu as his propaganda machine swings into action to frame today's most-favored-nations vote as an endorsement of him and his party by the House of Representatives.

Members may find it of concern to remember Bishop Laszlo Tokes, the minister around whose church—the Reformed Church of Timisoara—the Romanian revolution began in December 1990. Earlier this month, Bishop Tokes engaged in a hunger strike as an appeal for justice in his community and throughout the country. His fast brought attention to the disappointing lack of progress in establishing the rule of law in Romania and the continued discrimination against ethnic Hungarians. By our premature actions today, we may, however unwittingly, be sabotaging those reforms for a people who have suffered enough.

It is my true hope and prayer for the people of Romania that, out of Sunday's election, will come a stable and responsible Government—both President and Parliament—committed to the rule of law, economic and free-market reform, and protection of internationally recognized civil and human rights. The Romanian people have tasted in ever so small doses the privileges and responsibilities of freedom. At the same time, they have received a strong dose of the bitter fruits of a government unwilling and unable to divest itself of the ideologues of the former, Communist regime.

With the repeated delays of the local elections, first, and then delays of the national parliamentary elections, the Romanian people have expended their patience. Indeed, the people are ready for a change. We must not, in any way, appear to—or in fact—prejudice and influence the outcome of the election.

Again, I strongly urge my colleagues to vote against this resolution. We should wait until next week to cast our vote on most favored nation.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 22, 1992.

Chairman DAN ROSTENKOWSKI,
Committee on Ways and Means,
1102 Longworth HOB,
Washington, DC.

DEAR CHAIRMAN ROSTENKOWSKI: Now that the U.S.-Romania trade agreement has been submitted to Congress, we are writing to express our concerns regarding the current political climate in Romania and Congress' timing for consideration of the trade agreement.

We believe the eventual restoration of MFN status to be an important step for Romania as it faces up to its serious economic challenges. Indeed, we look forward to the day when Romania casts off the last vestiges of its autocratic legacy and becomes a full-fledged member of the family of democratic nations. Sadly, that day has not yet arrived.

As we understand it, the Administration had set down three markers for the restoration of Romania's MFN status: free and fair elections, an independent media, and civilian control of the Romanian Intelligence Service (SRI). We support these goals and would add a fourth: the protection of human rights and civil liberties, including the rights of national minorities. Before supporting the restoration of MFN, we will look for significant progress in these areas.

In the area of elections, once-promising progress has recently been set back. We are deeply troubled by the recent decision to postpone elections until the fall, a further setback for this fundamental test of democracy. Furthermore, the election law now under consideration would eliminate or severely restrict domestic observers, contravening the spirit of the CSCE Copenhagen Document. Other serious problems remain, notably the existence of a county prefect system which gives broad power to centrally-appointed officials.

We will also look for improvement in the tolerance and protection of an independent media. Independent and opposition reporters continue to be subject to harassment and arbitrary denial of press privileges. The long-awaited establishment of an independent nationwide television station has not yet been achieved. And, minority language television broadcasts—effectively halved under a February 3, 1991, order—have not been reinstated.

As for civilian control of the SRI, limited progress has been made to place this agency under suitable civilian control and to abandon ties with the former Securitate. Indeed, we view the recent appointment to the SRI leadership of Ion Talpes—a former advisor to President Ion Iliescu with well-established ties to the Securitate—as a serious setback. Furthermore, the Romanian Government has yet to adequately distance itself from extremist, SRI-supported entities such as the anti-Hungarian Vatra Romaneasca and anti-Semitic publications such as Romania Mare and Europa.

Finally, the protection of basic human and civil rights—especially where applicable to minorities—has been uneven at best. Two months ago, for example, the Mayor of the City of Cluj unilaterally canceled a conference involving an ethnic Hungarian political party and issued an autocratic ban on bilingual signs. He has also led efforts to evict the Hungarian youth organization Madisz and the Hungarian journal Korunk from their offices, and to fire the principal of the 400 year old ethnic Hungarian Samuel Brassai High School.

At the national level, Romanian officials continue to limit television broadcasts in Hungarian, refuse to re-open the Hungarian Bolyai University in Cluj, and have introduced a draft Education Law which would eliminate Hungarian-language instruction in all medical, technical and business schools. Furthermore, ethnic Hungarians and Gypsies who have been victims of anti-minority violence lack suitable legal protection and remedies, while many have been imprisoned on false charges.

Romania's march toward a democratic system of government and society has been halting, with many setbacks along the way. The government elected in May 1990, has been slow to approve and fully implement laws which would address the concerns outlined above. As with the local elections which were postponed again and again, the parliamentary elections have been postponed, thus eroding the confidence of the Romanian people and many in the U.S. Congress that the current Romanian leadership is truly ready to embrace democracy and its ideals.

The process of restoring MFN status presents the United States with a unique opportunity to encourage true and lasting democratic reform in Romania. We must not squander this singular opportunity. We would appreciate your willingness to delay final consideration of the U.S.-Romania trade agreement until after the parliamentary elections.

Sincerely,

TOM LANTOS,
CHESTER G. ATKINS,
DON RITTER,
HENRY A. WAXMAN,
MARCY KAPTUR,
BERNARD J. DWYER,
DICK SWETT,
CHRISTOPHER H. SMITH,
TONY P. HALL,
PHIL CRANE,
BILL GREEN,
DANA ROHRABACHER,
PETER A. DEFAZIO,
EDWARD F. FEIGHAN,
MARTIN FROST,
JIM SAXTON,
C. CHRISTOPHER COX,
ROBERT J. LAGOMARSINO,
EDOLPHUS TOWNS.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I am supporting today the House of Representatives acting to approve the extension of most-favored-nation status [MFN] to Romania. It has been a long road for Romania—a longer, and more difficult road toward democracy and a free market economy than in the other Eastern European countries freed from the shackles of communism. These people suffered mightily under Ceausescu and there has been continued suffering in Germany.

I have been active since January 1989 to enact legislation to extend MFN to Romania, Czechoslovakia, Bulgaria, and East Germany. Czechoslovakia received MFN quickly; German unification obviated the need for MFN for East Germany. It has taken longer for Bulgaria and Romania. Now it is Romania's turn.

The transition from communism has not been easy for Romania. But much progress has been made and the action by the House today is an expression of confidence in the Romanian people. MFN for Romania will encourage the growth of democracy and help Romania move more rapidly toward a free market economy. But the actual extension of MFN should not be granted until after the Romanian elections on September 27, 1992.

Last, but not least, United States trade with Romania has increased significantly since the fall of Ceausescu. Granting MFN should accelerate this trend and create new opportunities for American business.

Mr. Speaker, I strongly support the extension of MFN to Romania. These people have suffered enough and need this economic avenue for relief.

Mr. LANTOS. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Maryland [Mr. HOYER], the chairman of the Democratic caucus and the chairman of the Helsinki Commission.

Mr. HOYER. Mr. Speaker, I thank the distinguished gentleman from California for yielding time to me.

Frankly, Mr. Speaker, I had come to this floor with the intent to express reservations about the consideration of this legislation at this time and to then say that I thought I would support it at this time. I want to say now that I have decided that this is not what I will do.

As I sat here, I thought to myself that when I supported the retention of MFN for Romania and my good friend, the gentleman from Virginia, Mr. FRANK WOLF, argued against that, I was wrong at that time.

As I sat here and thought about what I was doing, I understood the chairman's problem, and it is a very real problem. We have a timing problem. But this is a bigger issue. There is no doubt that the revolution in Romania was far different than the revolution in every other one of the captive nations. There is not doubt either about the situation when the gentleman from California [Mr. LANTOS] makes an observation about the reservations have and that I believe every member of the Helsinki Commission, every member of the Committee on Ways and Means and the human rights caucus and others have about the progress being made and the real intent of those in power in Romania. That is of a different character than the issue that we have before us.

Therefore, I rise reluctantly in opposition because my good friend, the chairman of the Committee on Ways and Means, is bringing this not because he believes this is the best timing but because the crunch of our legislative scheduling has brought him to this point, and I understand that. But I think, Mr. Speaker, that at this point in time we ought to wait. At this point in time we ought to reserve judgment. At this point in time, on the eve of September 27, when the elections that have occurred in the past have clearly not met the international standards that other Eastern European emerging democracies have, I feel we should wait. Let me say this, however: There has been progress in Romania. We recognized that.

The Helsinki Commission will have a member of its staff in Bucharest on the 27th to see whether or not the commitment that has been made to democracy is, in fact, followed through. I hope that is the case, and if it is the case, then I would say we ought to revisit this matter. We will be here until probably October 4 or October 5.

□ 1420

I would think that because of the ramifications that this vote might have, the perception that it is somehow imprimatur to the Iliescu regime, which is not frankly a regime that I want to give my imprimatur to, or the imprimatur of the Helsinki Commission to, I would ask my fellow Members of this House to wait, reflect, let us consider what happens on the 27th. Let us revisit this issue on the 29th, the 30th the 1st, or the 2nd.

Mr. Speaker, I thank the gentleman from California [Mr. LANTOS] for yielding.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chairman would advise Members that the gentleman from California [Mr. LANTOS] has 6½ minutes remaining, and the gentleman from Illinois [Mr. ROSTENKOWSKI] has 10 minutes remaining.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I rise with the greatest possible reluctance in support of this bill. I would ask the chairman that perhaps at the end of the debate if the chairman could take a unanimous-consent motion, whereby the vote could be rolled over until next Wednesday.

I had a daughter who was in a mission project last year in Romania for a year. The Romanian people are hurting deeply and they could use this MFN. So I commend the chairman for moving the bill.

But I fear, Mr. Speaker, that everything that the gentleman from California [Mr. LANTOS] said and the gentleman from New Jersey [Mr. SMITH] said are true, and the Iliescu government, who are controlled, many of them in part, by the Ceausescu administration, will take this, and word will go out that this was a support of them.

I want the word to go out today to the Iliescu government that if this bill passes and they violate the rights of the Catholics, or the Jewish population, or the Hungarian population, or any other population, if the Securitate runs rampant or if any of these things come back, as the gentleman from California [Mr. LANTOS] and the gentleman from New Jersey [Mr. SMITH] said, I will do everything I can in my power to take away MFN. Because if they do not have free and fair and open elections, they ought to lose this, and they ought to lose it right away.

This administration should have the courage to take it away. And if they will not, the Congress will.

So I rise with the greatest reluctance. I want to thank the gentleman from Illinois [Mr. ROSTENKOWSKI], because frankly, I think what the gentleman is doing by getting a bill out whereby the good and decent people, not the Ceausescu people and not the Iliescu people will get it, will be good.

Mr. Speaker, I would ask the chairman if in his conscience he cannot think about and pray a little bit about it, and if there is a unanimous-consent motion whereby the vote can be rolled to next Wednesday, I will tell Members, I am not bargaining. I am going to vote for it today, I am going to vote for it next Wednesday.

Mr. Speaker, I think that in itself would send a message to Iliescu that a powerful chairman and everybody else feels this way, and I would respectfully urge that that consideration be given.

Whether it comes up today or whether it comes up next Wednesday, I am going to support it. But I think the gentleman from California [Mr. LANTOS], the gentleman from Maryland [Mr. HOYER], and the gentleman from New Jersey [Mr. SMITH], three Members who, frankly, have forgotten more about Romania than most of the body will ever know, I think make a very good point that by rolling the vote, we really can help tremendously the average person in Romania that we really want to help.

Mr. Speaker, I have looked forward to the day that I could stand in the well and support renewing most-favored-nation status to Romania with the intensity that I felt it should be taken away in 1989 when we witnessed the abysmal human rights record of the Ceausescu regime. I am supporting the measure today, albeit with reservations. I believe that it is 5 days premature to consider this resolution.

As you know, Mr. Speaker, Romania had long enjoyed MFN status through yearly renewals until mid-1988, when the Congress finally decided to do something about the dreadful human rights violations being committed by the dictatorship of Ceausescu and voted 232 to 183 to withdraw most-favored-nation [MFN] trading status. MFN was officially suspended on July 3, 1988, after Nicolai Ceausescu, sensing defeat, withdrew his request for renewal. During this process, I took an active role in assuring that Romania's status as a most favored nation did not continue by turning up the spotlight on Ceausescu's callous disregard for individual rights and personal dignity.

I first visited Romania in 1984 and witnessed a society being destroyed and a people without hope. The Ceausescu dictatorship was bulldozing synagogues and churches. The secret police, the dreaded Securitate, intimidated and harassed at will. The country was bleak and miserable.

Today, much has changed. Today, many improvements are apparent. Today is, in many ways, brighter. Yet, today, some things remain as they were. While Ceausescu is now gone, vestiges of the old system do remain.

Many of Romania's top leaders today held responsible party positions under Ceausescu and are not eager to discuss their pasts; more than half of the old Securitate still make up the police, the army, and a new agency known as the Romanian Intelligence Service. These are disturbing trends which deserve continued attention.

I have met with the Romanian leadership, talked to workers, visited with religious leaders and am convinced that withholding MFN from Romania over the past 4 years caused a dramatic and positive impact on the direction of the country since the revolution in 1989. There is no doubt that Romania still has a long way to go before it is listed among the most free and open societies. But the positive changes forged, in part, because of the weight of our trade relations, have been noteworthy. Nudged by the negotiating weight of MFN, the Romanian Government has held local elections which were, in large degree, free and fair. A constitution, albeit imperfect, was drafted and approved by the Romanian Parliament, and efforts have been made to establish a free, independent media.

Having closely observed these developments, I now believe the continued withholding of MFN for Romania has diminished value in promoting positive changes. I believe a point has been reached in our relations with Romania where it is counterproductive to continue withholding MFN. We now need to encourage the development of a strong, pluralistic society, rather than continue to isolate Romania from joining the international trade community. We should encourage the democratic roots that are struggling to take hold in Romania.

While I believe it is time to shift U.S. trade policy with Romania, honesty requires the Congress to continue to push for changes in many areas.

First, the continued role of the feared Securitate, now SRI, in Romanian society and the Government's tacit approval of various extremist, nationalistic, anti-Hungarian, and anti-Semitic voices of hate throw doubt on Romania's commitment to nurturing an open society. It is critical that the Romanian Government take measures to resolve this problem and to place intelligence services, paramilitary groups, internal security and police forces under strict guidelines in conformity with accepted international standards, enforced by appropriate civil authorities.

Second, despite the passage of an audio-visual law, Romania's commitment to an open print and broadcast media unfettered by state controls is questionable. Romania must begin the difficult process of implementation of the audio-visual law and provide for an independent, free broadcast and print media as quickly as possible.

The most significant next step toward establishing a true and lasting democracy in Romania, however, is to hold free and fair elections. The elections have been scheduled for September 27, 5 days from today. As you know, Mr. Speaker, historically Romania has experienced difficulties in holding an election that was not marred by controversy. This election, in fact, has been postponed several times, eroding what little confidence the citizens have in the Government.

Considering this measure before the September 27 elections, only 5 days from today, is therefore premature. I am disappointed that the leadership, in its haste to reward Romania, did not consider the delicate political situation that currently exists in that country. By scheduling consideration of House Joint Resolution 512 today, I am concerned that passage by the House could be used by the state-run media in Romania to influence the voters in what promises to be a close election. As all members are aware, the days just prior to an election are the most sensitive in developing impressions that are carried to the ballot box.

After an election in 1990 that was tainted by harassment, intimidation, and media monopolization, consideration of this resolution before the election on the 27th discredits policy established by the Congress and the administration to actively encourage free and fair elections in Romania. We have wisely held to this policy for 2½ years, why abandon it 5 days before the election?

I do believe the Romanian people want change. The Romanian people are aching for democracy, for opportunity, for jobs with decent wages and for an economy which provides affordable goods and products in a thriving market. Despite the poor timing for considering this resolution, the time has come for the United States to participate in Romania's development toward a pluralistic and open, free society and I urge the Congress to support the bilateral trade agreement with Romania and grant most-favored-nation trading status to Romania.

Mr. LANTOS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. ATKINS].

Mr. ATKINS. Mr. Speaker, I rise in opposition, strong opposition, to the extension of MFN to Romania.

Mr. Speaker, what we are doing if we pass this legislation today is clearly interfering and intervening in the Romanian elections. To pretend that it is any otherwise, to pretend that we can somehow explain to the Romanian people, 5 short days before their election, that somehow our granting them the single signal which they most seek from the West, the extension of MFN, that that was as a result of the legislative calendar, is absurd.

What we will do, and there is a cruel irony in this, at the time and with the legislation where we assure that MFN will only be granted if there is no interference in the Romanian election, we ourselves are interfering and tipping the balance in that election strongly to a government that is made up primarily of people who are recycled from the hated Ceausescu regime that has allied itself with the dangerous ultra-nationalist, the Romanian National Unity Party, which is the political arm of a neo-Fascist organization which has repeatedly attacked Romania's Hungarian, Jewish, and gypsy minorities.

Mr. Speaker, I would hope that we would defeat this resolution, that we would take it up at some point after the elections. I would hope that we would not repeat the tragic mistake that we made in 1975 when we extended MFN to Romania and pretended that the Ceausescu regime was something other than what it was.

Mr. Speaker, we have an opportunity today to stay out of the Romanian elections, to let them have free and fair elections, and then to consider what we will do with MFN.

Mr. LANTOS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I oppose passing this legislation extending most-favored-nation trading status with Romania at this time. I urge my colleagues to delay action on this measure until after the crucial Romanian elections this Sunday.

As the chairman of the International Republican Institute, a core grantee of the National Endowment for Democracy, I am well-informed about the real political situation in Romania today. Unfortunately, it is not the democratic success like its neighbors in Hungary and Bulgaria. Serious questions remain today about the Iliescu government's commitment to democratic and economic reforms; holding genuinely free and fair elections; improving human rights and civil liberties; promoting an independent media; and placing strict, publicly accountable civilian control over the Romanian intelligence service—the dreaded Securitate.

Actions speak louder than words. And, thus far, the actions of the Iliescu government have not been satisfactory. The print media remain restricted. The establishment of an independent nationwide television station has not yet been achieved. Minority language television broadcasts have been effectively halved by order.

The Romanian intelligence service has made limited progress to divorce itself from Dictator Ceausescu's murderous Securitate. Intimidation remains.

The protection of basic human and civil rights is below that of Romania's new democratic neighbors. The continued discriminatory treatment of ethnic minorities, like the Hungarians, is very disturbing.

On the electoral front, serious problems remain including the fair distribution of campaign resources and the rights of domestic election observers. These are not encouraging signs.

While the political situation in Romania is complex and is exacerbated by divided, disorganized opposition political parties, positively addressing the above concerns are key steps the Iliescu government can take to cast off the last vestiges of its dictatorial legacy and join its central European neighbors in the growing family of democratic nations.

It is because of this background that I oppose passing this MFN bill for Romania today. I am proud to have joined Representatives FRANK WOLF and CHRIS SMITH, two outstanding leaders here in Congress who fought for freedom in Romania long before the Berlin Wall collapsed, in helping revoke Romania's MFN status during Ceausescu's reign of terror. I believe denying Romania MFN status helped increase the pressure on the Communists controlling Romania. That ultimately resulted in the now famous Christmas revolution.

I am aware of the very positive role restoring MFN status can now play in encouraging the economic and democratic reforms Romania desperately needs. Without the economic incentives restoration of MFN provides, democratic reforms are hard to see and even harder to protect. However, I am very concerned that at this time—just 5 days before a key, tell tale election there—the Iliescu regime will use our vote here in the House to bolster its campaign. The claim will be made in Romania, despite its inaccuracy, that this vote in Congress signals American confidence in Iliescu's undelivered promises. Ironically, I believe the opposition is in a better position to implement the kind of changes we seek to foster with restoring MFN. Yet, our vote today may seriously hurt the opposition's electoral chances. The promise of MFN coupled with the residual fear of the Securitate may influence many to stick with a government that has yet to truly understand what democracy is all about. The last thing we should want is MFN privileges being used to perpetuate a regime building, rather than helping remove, obstacles to greater democratic and economic reform.

I believe it would be more prudent to wait until next week to vote on this measure. let us see just how free and fair the Romanian elections are on Sunday. I believe making our vote on MFN status contingent on free and fair elections will enhance the chances of a clean election. A free and fair election is the only way for the will of the Romanian people to be expressed. They are a key foundation to democracy building. As international democracy experts on the scene in Romania report, the status of MFN for Romania is powerful leverage.

I do recognize the schedule of Congress and the anxiousness of some to get this pressing item off our legislative agenda, regardless of its impact in Romania. Should this measure not be postponed, I strongly recommend the President withhold taking any action on it until after Sunday's elections. If these Romanian elections are not free and fair, which is to say at a minimum, an improvement over the flawed polls of the past, then I strongly recommend the President veto this measure and send a clear, direct signal to Bucharest.

I urge my colleagues to carefully consider the future of Romania and the real need to promote economic and democratic reforms there. Restoring MFN is part of the program—but only under the right conditions. Sunday's elections will give us a good indication if those conditions are being met. Let us not jeopardize those chances by helping those in power today in Bucharest who have been the obstacles to reform. I urge my colleagues to join me in requesting this vote be delayed until next week.

Mr. LANTOS. Mr. Speaker, I yield 1 minute to my friend, the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I rise in opposition to the MFN extension. I have been fortunate to be a witness to the election process in El Salvador, Nicaragua, and Guatemala, to assure that honest elections were held in those countries. Our Government stayed out of the way and allowed those countries to have it alone.

The coming elections in Romania are close and could go either way—pro-Communist if Iliescu were to win, or prochange for the other parties.

Anything positive from our Government at this time will have an unwanted effect in favor of the Communist Iliescu government. Let us not wrongly influence the election. Vote against House Joint Resolution 512, or postpone the vote until next week.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to express my respect for the distinguished chairman of the Committee on Ways and Means, the gentleman from Illinois [Mr. ROSTENKOWSKI]. I understand that the gentleman is bringing this up at the request of the administration. This is not the first time the administration has given us bad advice with respect to Central and Eastern Europe. They have given us bad advice with respect to Yugoslavia. Long after it was obvious that the country was breaking up, they insisted on preserving under Communist rule a unitary State.

To give Romania most-favored-nation treatment under the present circumstances would be a travesty. It would be the denial of our fundamental principles. And I will oppose this legislation until religious, press, academic, and all other freedoms are extended to all the citizens of Romania. We are a long way from that, and I urge all of my colleagues to defeat this joint resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. GRADISON. Mr. Speaker, as Congress rushes to complete legislation prior to adjournment in the next few days, fast-moving bills and conference reports may have budget implications of which Members should be aware. I have pointed out several of these instances already in statements in the CONGRESSIONAL RECORD, most recently on September 17 page 25422. Taken separately, these infractions and pay-go violations may seem small, but added together, they can have substantial consequences.

House Joint Resolution 512, the extension of nondiscriminatory treatment with respect to the products of Romania, is one such bill. According to the Congressional Budget Office, House Joint Resolution 512 has an unfinanced pay-go cost of $11 million. The Office of Management and Budget has indicated to Chairman ROSTENKOWSKI that, as a result of legislation passed earlier in the year, there currently is a surplus on the pay-go scorecard sufficient to cover the cost of this bill.

Unfortunately, some Members may be under the misimpression that there is a sizable amount in the pay-go account. The fact is, however, that the pay-go surplus is being depleted rapidly. Congress cannot pass all the bills which currently are relying on the pay-go surplus for financing without triggering a sequester of Medicare and many other popular programs. Congress and the administration will have to watch closely the pay-go scorecard balance in the remaining days of the 102d Congress.

Mr. GREEN of New York. Mr. Speaker, I rise in opposition to House Joint Resolution 512, legislation to extend most-favored-nation trading status to Romania.

Hopefully the day will soon come when I can wholeheartedly support MFN for Romania, but at this point I fear the House is voting prematurely. Free and fair elections have yet to occur in Romania. Equally important, before receiving MFN the Romanian Government must show a far greater respect for the human rights of Romania's minorities, especially that nation's 2.5 million long-repressed Hungarian community. Until such conditions are met in Romania, I do not favor the granting of MFN.

As I stated, the timing of this bill is absolutely inappropriate. On September 27—just 5 days from now—Romania will hold national elections. Many of us in the House had requested that the vote on Romania's MFN status be delayed until after those elections were over and had been evaluated by neutral observers. In fact, the Ways and Means Committee, accepting our arguments, had originally agreed to postpone this vote until after September 27. Why then are we being asked to vote prematurely on an issue of such great consequence to so many citizens in Romania?

Further, while free and fair elections are an extremely important element of democratization, other issues are equally critical. The rule of law must prevail, and human rights must be respected. In this area, I remain deeply concerned about the rights and welfare of Romania's ethnic minorities, and especially the 2.5 million strong Hungarian minority. The present Government has failed woefully to reverse decades of antiminority repression and disrespect for human rights.

For those reasons, I urge my colleagues to vote against the resolution before us today that seeks prematurely to grant MFN status for Romania. In doing so, we send a strong signal to the citizens of Romania that we are prepared to work them in support of true and lasting democratic reform and respect for the human rights of all.

□ 1430

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that the vote on this resolution be postponed until Wednesday next.

The SPEAKER pro tempore (Mr. MAZZOLI). The Chair would advise the gentleman that the Chair cannot entertain that segment without consulting with the leadership, and so the vote will go forward at this time, subject to the Chair's earlier announcement that the vote itself will be taken, if ordered, at the end of today.

Mr. SMITH of New Jersey. Mr. Speaker, might it be in order then at the time when the question is put later this afternoon?

The SPEAKER pro tempore. The gentleman will have the opportunity to raise whatever issues he wishes at the time the vote will occur under the Chair's earlier announcement, which is later today.

PARLIAMENTARY INQUIRY

Mr. WOLF. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. WOLF. Mr. Speaker, as I said, I am going to vote for the bill no matter what. If the chairman and the gentleman from New Jersey [Mr. SMITH] and the leadership on the Chair's side were to decide later on, if for some special reason, would it be possible to move it or is it absolutely set for a certain time?

The SPEAKER pro tempore. The Chair would once again advise the gentleman from Virginia, the Chair would have to consult with the leadership. Of course, if the leadership were to make a judgment of that sort, to postpone the vote, it is possible that the Speaker, by unanimous consent, could do that.

The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the joint resolution, H.J. Res. 512.

The question was taken.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

WITHDRAWAL OF MOST-FAVORED-NATION STATUS FROM THE FEDERAL REPUBLIC OF YUGOSLAVIA

Mr. ROSTENKOWSKI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5258) to provide for the withdrawal of most-favored nation status from the Federal Republic of Yugoslavia and to provide for the restoration of such status if certain conditions are fulfilled.

The Clerk read as follows:

H.R. 5258

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WITHDRAWAL OF MOST-FAVORED-NATION STATUS FROM THE FEDERAL REPUBLIC OF YUGOSLAVIA.

(a) IN GENERAL.—Except as provided in subsection (b), nondiscriminatory treatment shall not apply with respect to any goods that—

(1) are the product of the Federal Republic of Yugoslavia; and

(2) are entered into the customs territory of the United States on or after the 15th day after the date of the enactment of this Act.

(b) RESTORATION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding subsection (a), the President may restore nondiscriminatory treatment to goods that are the product of the Federal Republic of Yugoslavia 30 days after he certifies to the Congress that—

(1) such treatment would promote compliance with the provisions of the Final Act of the Conference on Security and Cooperation in Europe (also known as the "Helsinki Final Act"), particularly the provisions regarding human rights and humanitarian affairs; and

(2) the Federal Republic of Yugoslavia—

(A) has ceased its armed conflict with the other ethnic peoples of the region formerly comprising the Socialist Federal Republic of Yugoslavia; and

(B) has agreed to respect the borders of the 6 republics that comprised the Socialist Federal Republic of Yugoslavia under the 1974 Yugoslav Constitution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 20 minutes, and the gentleman from Illinois [Mr. CRANE] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the pending legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5258, a bill which provides that nondiscriminatory, most-favored-nation treatment shall not apply to any products of the Federal Republic of Yugoslavia. The bill authorizes the President to restore MFN treatment to such goods 30 days after he certifies to the Congress that two conditions have been met: First, such treatment would promote compliance with the Helsinki Final Act, particularly the human rights provisions; and second, that the Federal Republic has ceased its armed conflict with the other ethnic peoples of the former Yugoslavia and has agreed to respect the borders of the six Republics of the former Yugoslavia.

Comprehensive multilateral economic sanctions have been imposed against Serbia and Montenegro under this auspices of the United Nations, including a trade embargo imposed by the President as of May 30. However, most-favored-nation status continues to apply to all six former Yugoslav Republics.

While withdrawal of MFN status would not have a practical impact on trade with Serbia and Montenegro, this legislative action sends a clear message that the United States Congress condemns Serbia's aggression and brutality. The bill also sets forth specific and reasonable conditions for the resumption of normal trading relations.

Mr. Speaker, I urge my colleagues to support H.R. 5258.

Mr. Speaker, I reserve the balance of my time.

Mr. CRANE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this legislation, and the reason I do is because it smacks of selective indignation. In the committee, I introduced an amendment that would have included Croatia. And the representatives from our State Department, who at that time would not take a stand on Croatia, simply indicated that the State Department does not like to use MFN as a political weapon.

The fact is, we have embargoes against trade with Serbia right now, but I think it is important to recognize that the atrocities perpetuated under the guidance and supervision of the Fascist dictator Tudjman are no less than those perpetuated under the Fascist dictator Milosevic.

That does not begin to touch upon the Moslem atrocities that are going on in Bosnia-Hercegovina right now, too.

I am not in any way justifying the actions of any of the parties involved, but as one of our committee members stated from the other side of the aisle to the State Department official who was there when I introduced my amendment, it, in effect, is giving a green light to ongoing atrocities perpetuated by Croatia for the identical purposes that the Serbians, with Milosevic's support behind them, are engaged in the same thing. And I think that this kind of selective indignation is not tolerable. I think it is an offense and for that reason, even though I do not in any way condone the actions taken by any of the parties involved over there, I think this legislation should be rejected.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. LANTOS].

Mr. LANTOS. Mr. Speaker, I thank the distinguished chairman for yielding time to me.

I rise in strong support of his legislation. While my colleague is absolutely correct that not all the angels are on one side, it is self-evident that the overwhelming bulk of the bloodshed and assassinations and murder and displacement of human beings is the result of the actions of the Serbian Communist regime headed by Milosevic, and it is long overdue that we deny this regime most-favored-nation treatment.

It would have been unthinkable just 2 years ago to open our television sets and watch the slaughter at Sarajevo, to look at 2½ million displaced persons from what was the most advanced and prosperous nation in this part of the world. But with ethnic cleansing, with a degree of brutality unprecedented in recent times, we have seen the destruction of an entire nation.

The best estimates are that there are some 20,000 dead, some 2½ million displaced people, many of whom will die because the cold winter is about to set in.

At this stage, not to deny most-favored-nation treatment to Serbia and Montenegro would be unconscionable. And I strongly urge my colleagues to support this legislation.

Mr. CRANE. Mr. Speaker, I yield 5 minutes to our colleague, the gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Speaker, I rise in support of H.R. 5258 and want to thank you, Mr. Speaker, for your concern and sensitivity to this issue, and also thank Chairman ROSTENKOWSKI, Chairman GIBBONS, and ranking member CRANE and their staffs for their work to bring this bill quickly through the Ways and Means Committee so that the House could consider it today. I believe our consideration of H.R. 5258 is both timely and warranted.

In September 1991, I made a fact-finding trip with Representative CHRIS SMITH to what was then Yugoslavia to see firsthand the growing threat to a peaceful evolution of Central and Eastern Europe. During the trip we stressed reconciliation, military restraint, and negotiation. We promoted the democratic ideals so often championed in this body that land must not be acquired by conquest or frontiers adjusted by force.

On our return we learned with great disappointment that the situation had worsened. One of the cities we visited, Vukovar, is now only a shadow of the past. It is a ghost town, a graveyard for the perhaps thousands of residents that once gave it life.

This past August 27, I returned to the former Yugoslavia aboard a U.N. relief flight. I met with the brave men and women who are placing the food, blankets, and supplies into the hands of desperate Bosnians who are struggling for survival. During the trip I also met at length with President Dobrica Cosic and Prime Minister Milan Panic of the so-called Federal Republic of Yugoslavia and Serbian President Slobodan Milosevic. I inspected a Serbian-run prison camp in Bosnia-Hercegovina, met with church leaders and opposition leaders in Kosovo, and drove extensively throughout the region. It was a good opportunity to view first-hand the conditions and human rights violations which exist in the country and observe the effect of the U.N.-imposed sanctions.

I have concluded that the sanctions against Serbia and Montenegro must be tightened drastically. Judging by the long lines at the gas stations, sanctions are having an impact on fuel supplies; however, the number of heavy trucks I witnessed streaming in and out of the country indicate that money is changing hands, supplies are being delivered, and commerce continues. Rigidly enforced sanctions, while the impact is wide in scope, may help bring an end to this turmoil and tragedy.

Additional steps should be taken to secure the borders of Serbia and Montenegro. These include: placing international monitors along the borders and on the Danube River to maintain the embargo; the use of diplomatic and economic pressure on surrounding countries to deter violation of the sanctions; monitoring of vehicles transporting goods through Serbia-Montenegro to ensure that items are not unloaded in Serbia or Montenegro.

Concurrently, it is absolutely, imperative for our Congress to immediately withhold most-favored-nation trading status from Serbia by supporting H.R. 5258. This Congress should use every tool at its disposal to make it clear to the leaders of Serbia that they stand fully exposed to American action against the threat which they have caused to international order. Let this Congress take the lead in isolating the regime of Slobodan Milosevic and say with authority that such aggression will not be tolerated.

In practical terms trade is a superfluous issue in discussing appropriate actions with respect to Serbia. All trade with the pariah nation is prohibited under the U.N. Security Council imposed sanctions. There are no goods being traded from this country for which tariffs can be increased or decreased. However, the symbolism of the message is significant. The point must be pressed by this Congress that actions have their consequences: each death at the end of a Serbian-held gun further exiles Serbia from the community of civilized nations.

The American people daily on the evening news have scenes of bloodshed, the systematic destruction of cities, and the indiscriminate killing of civilians beamed into their living rooms. The Balkans have become a pit of nationalistic hatred and no parties are absolved from responsibility. There are no neutrals in this conflict. People are dying, ancient cities are being destroyed, families are being torn apart as fathers and sons are called to arms to protect their homes. It is clear that Serbia is set, not on advancing the interests of Serbian minorities through accepted, civilized means—democratic elections, peaceful negotiations—but rather Serbia and its leadership are involved in the elimination of political opposition, occupation of neighboring states, dislocation of citizens and, if necessary, the slaughter of every ethnic group except their own. We have a moral responsibility to respond to what is occurring in the former Yugoslavia and recognize that Europe, for a variety of reasons, lacks the political will and determination to establish a semblance of order in the Balkans. What will it take for America to take bold action to condemn this brutality?

The United States has a long tradition of idealism and moral leadership and a reputation for coming to the rescue of a stricken humanity. Yet there is hardly a murmur from this body decrying the murderous march of the Serbs. We cannot simply sit back and watch as Bosnia-Hercegovina, a country that held democratic elections and voted for independence and whose sovereignty was recognized in April, is carved up into cantons patrolled by lawless armed bands.

Mr. Speaker, I strongly urge Members to support withdrawing most-favored-nation trading status from Serbia for another reason. Once fighting in Bosnia-Hercegovina fades from the headlines, once the onslaught stops, it is likely that a lifting of trade sanctions will soon follow and business as usual will resume. H.R. 5258 sets forth specific and realistic conditions to be met before business as usual is resumed and makes clear to the Serbian leadership the consequences of their aggression and the terms for a restoration of normal trade relations. The conditions are: That the Federal Republic of Yugoslavia — Serbia-Montenegro — has, as certified by the President, ceased its armed conflict with the other ethnic peoples of the region formerly comprising the Socialist Federal Republic of Yugoslavia; has agreed to respect the borders of the six republics that comprised the Socialist Federal Republic of Yugoslavia under the 1974 Yugoslav Constitution; and that granting MFN would promote compliance with the provisions of the Final Act of the Conference on Security and Cooperation in Europe, particularly the provisions regarding human rights and humanitarian affairs.

This body has a responsibility to deliver leadership in this crisis. I am confident that my colleagues share my belief that immediate action is necessary and will support withdrawing most-favored-nation trading status from Serbia and Montenegro by voting for H.R. 5258.

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Mr. Speaker, let me just make a couple of other personal comments. There are good and decent people on all three sides here. There are wonderful and good and decent people in the Serbian background, the Croatian background, and the Moslem faith.

I think what this country needs, in addition to what this Congress may do here, is a spirit of reconciliation. I would call on the religious leaders, the Cardinal in Zagreb, who is a good person; the Patriarch in Belgrade; and the leader of the Moslem faith to come together, bind the wounds, perhaps appear on television from Sarajevo, and have a day of prayer and fasting. This was the original recommendation of Mr. SMITH last year, and it would do more good.

Man has messed up that country so badly, and I think that the spirit that comes in, the spirit of reconciliation by the religious leaders, breaking bread, fasting, and a day of prayer on television, may do even more than this resolution would ever do.

This resolution to put Congress on record for the people of this country, and again, I want to stress, there are bad things being done on all sides, there are bad things being done by all sides, and there are good and decent people on all sides. This resolution will help to focus it.

Lastly, I call on the religious leaders to bring that spirit of reconciliation about, whereby that land, which is one of the most beautiful countries in Europe, will have peace and healing; whereby young men and young women can walk the streets and not have to worry about being killed.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

Mr. CRANE. Mr. Speaker, I yield 4 minutes to our distinguished colleague, the gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman from Illinois for yielding time to me.

Mr. Speaker, I rise in opposition to H.R. 5258.

H.R. 5258 is an ill-advised and ill-timed effort, and does not reflect the reality on the ground in former Yugoslavia.

Mr. Speaker, this bill is discriminatory. The actions that it focuses on to be resolved for reinstatement of MFN status are being perpetrated in part or in whole by all sides in the bloody ethnic war coursing through the Balkans. In addition, sanctions on the part of the United States and the international community against the Federal Republic of Yugoslavia have already achieved much that removal of MFN would do.

In fact, I would point out to the supporters of H.R. 5258, that every single one of the conditions set for removal of MFN status from the Federal Republic of Yugoslavia also applies to the Republic of Croatia.

Documented evidence from international bodies implicate both the Republic of Croatia and all three sides of Bosnia-Hercegovina, as well as Serbia, in massive human rights violations as defined under the Helsinki Final Act, including ethnic cleansing, arbitrary killings, and a host of other major and minor violations.

The Republic of Croatia continues its armed conflict not only within its own Republic against the ethnic Serbian minority, including blatant attacks on U.N.-protected zones, but also has been documented as supplying troops and munitions for the fighting in Bosnia-Hercegovina, including attacks on the ethnic Moslem population of that Republic. The Bosnian-Moslems have been receiving both arms and terrorist troops from Islamic countries.

Ustashi Croats in Bosnia-Hercegovina have established their own autonomous canton called Herceg-Bosna, just as the unacceptable Serbs have, which stands in blatant contradiction to any agreement to respect the former Republican borders. Within Herceg-Bosna, the Croatian flag is flown, the Croatian military is active, and Croatian dinars are the official currency.

I have heard much rhetoric from my colleagues today regarding democracy. But there is some question, even today, of which of the former Yugoslav Republics, if any, have freedom of religion, freedom of the press, or any of the other rights enjoyed in a true democracy.

Mr. Speaker, in a phone call yesterday with the Yugoslavian Prime Minister Milan Panic, he expressed grave concern that the present economic sanctions will result in thousands more deaths this winter of children and elderly because of the lack of heat there. Now the 550,000 refugees who have been in Serbia from both Krajing and Bosnia-Hercegovina, including 90,000 Moslems, are being threatened with being turned out of the homes where they have been, and 400,000 have been in people's private homes, because they no longer can feed them or provide any heat for them.

Mr. Speaker, it is a bad situation all around. The danger of this bill, is that by condemning just one group's actions, it at the same time gives tacit approval to other groups that their similar actions are somehow tolerable. This is not and should not be the case.

A yea vote on this bill is a yea vote for continued death and destruction. All sides in the current crisis in the Balkans have blood on their hands. And any legislative effort by this House should reflect this reality.

I would urge my fellow Members to take a closer look at this bill, and at the situation on the ground in former Yugoslavia, and urge their nay vote on H.R. 5258.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Speaker, the situation in former Yugoslavia is very complex, but our responsibility to do the right thing has never been clearer. There is a massive violation of all kinds of rights going on in that tortured, troubled area. Yugoslavia no longer exists. It is apparent that the two republics that we take most-favored-nation away from today are the ones who have been the principal trouble-causers, but in this troubled part of the world there is no one who is not somewhat to blame.

Why did we act on this bill? Why did we withdraw most-favored-nation from these two republics? Because that is the bill we had before us. If any other Member of this Congress wants to withdraw most-favored-nation treatment from the rest of the Republics of Yugoslavia, let that Member come forward and introduce a bill. We will hear it. We will judge it.

☐ 1450

But this is the bill that we have. And I think Members ought to vote in favor of it today because a failure to do so would mark us as being wishy-washy on this whole question of how we treat people.

That is what this is all about. How do we treat human beings on this Earth, do we want to expend them like they are being expended now in this part of the world; do we want to sit here quietly and let this go on; or do we want to speak out?

If any other Members wants to speak out against any other of those republics, just let them come forward and introduce a bill and we will consider it. But vote for this today.

Mr. CRANE. Mr. Speaker, I yield 1 minute to our distinguished colleague, the gentleman from Michigan [Mr. BROOMFIELD].

Mr. BROOMFIELD. Mr. Speaker, I rise in support of the legislation before us today which would withdraw most-favored-nation [MFN] status from the Federal Republic of Yugoslavia. I commend Congressman FRANK WOLF for his personal interest in this ongoing tragedy and salute his leadership on this initiative.

This legislation is long overdue. In 1986, I introduced a resolution designed to deny Yugoslavia MFN status after a young Michigan resident was arrested in Kosovo. He was abused and given a 15-year sentence by Serbian officials. That innocent United States citizen was punished for having demonstrated in front of the Yugoslav Embassy in Washington in 1982. Fortunately, Serbian authorities learned of my concern and released the young man.

From that moment, I knew that there were serious human rights problems and other difficulties in Yugoslavia. I realized that our Government should not maintain business as usual with a brutal police state that had cleverly cloaked its repressive policies. Since the dissolution of Yugoslavia, its successor state, led by Serbia, has continued these human rights abuses that today we simply cannot ignore.

In promoting himself by playing on the nationalism of the Serbian people, Serbian President Milosevic destroyed that once unified federation. Serbian military aggression against Slovenia, Croatia, and Bosnia and the policy of ethnic cleansing have unnecessarily taken the lives of over 20,000 innocent human beings and displaced over 2 million. The brutality of the Serbian prison camps remind us of the terrible atrocities that were committed against another innocent population in Europe 50 years ago. The world today is shocked by this ongoing carnage.

We must work with the European Community and the United Nations to ensure that this policy of naked aggression in Croatia and Bosnia does not stand. Belgrade must learn that if it continues to bloody the innocent, it will be both politically and economically isolated.

Although denying MFN to the Federal Republic of Yugoslavia will not have an enormous impact on trade, this legislation will send a strong signal to the madmen in Belgrade: that the United States is tired of the senseless murder of men, women, and children and the wanton destruction of communities. It will tell Mr. Milosevic that Serbia will pay a high price for pursuing the mindless policy of destruction. It will drive home the message that the American people now see Mr. Milosevic and his regime as the new Nazis of Europe.

This legislation sends a necessary warning to those who continue to carry on the carnage in former Yugoslavia, and I strongly urge my colleagues to join me in supporting this resolution.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to our colleague, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise to express my strong support for H.R. 5258, a resolution to provide for the withdrawal of most-favored-nation status from the Federal Republic of Yugoslavia, and to provide for the restoration of such status if certain conditions are fulfilled. I commend the gentleman from Virginia [Mr. WOLF] for his outstanding and timely work on this measure.

For months we have watched the European community attempt to broker peace in the former Yugoslavia, but despite the efforts of Lord Carrington and our distinguished former Secretary of State, Cyrus Vance, the European community and the international community have been unable to bring about a permanent cessation of hostilities in Bosnia-Hercegovina.

Media accounts of the atrocities being perpetrated against the civilian population of Bosnia-Hercegovina are heart wrenching. We have heard of the despicable acts known as ethnic cleansing of regions inhabited by non-Serbs. We have seen human skeletons incarcerated in detention centers which are eerily reminiscent of the World War II concentration camps.

Throughout this crisis, officials of the International Committee of the Red Cross have been denied access to these camps, as well as prisoner of war camps throughout Bosnia-Hercegovina, despite article 143 of the 1949 Geneva Convention relative to the protection of civilian persons in time of war.

Humanitarian aid—food, medications, and other critically important goods, which are so badly needed to sustain life in Bosnia-Hercegovina are simply not getting through. They are not getting through because of the Serbian military and irregulars. I believe it is time for this body to take decisive action.

Mr. Speaker, this legislation will not have much of an effect on trade. But denying MFN status to Yugoslavia will send a strong signal to Mr. Milosevic and his fellow outlaws. Enough is enough. It is time to do whatever we can to pressure Belgrade politically and isolate Belgrade economically. Accordingly I urge the unanimous adoption of this measure.

Mr. CRANE. Mr. Speaker, I yield 2 minutes to our colleague, the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Speaker, I thank my friend for yielding me the time.

Mr. Speaker, I want to thank Congressman FRANK WOLF for his superb leadership on pushing for this withdrawal of MFN from the Federal Republic of Yugoslavia. We all know Serbia over the last year has been engaged, despite its repeated denials, in an effort to create a greater Serbia.

As the gentleman from Virginia [Mr. WOLF] pointed out, over a year ago when we were in Serbia and Croatia, and met President Milosevic, he denied having any designs on a greater Serbia. The facts over this last year, Mr. Speaker, clearly contradict those kinds of statements.

This has been a war of aggression. It has been a bloody war. There have been tens of thousands of people who have died or have been maimed, hundreds of thousands who have been left homeless. I would suggest that this kind of sanction bill is a good first step. It puts the House again on record as being against such terrible atrocities.

I would also remind my colleagues that much more has to be done. The United Nations for its part is trying to broker peace. The EC has tried repeatedly with cease-fires, only to fail in the end when the war would erupt again.

It has been largely one sided, although there is blame, as has been pointed out, to go all around. But again, the aggressor clearly has been Serbia, with Milosevic at the helm.

I ask Members to vote yes on this important bill. I think it sends a very clear message that aggression will not be tolerated by this body. Hopefully we will see that war come to an end as quickly as possible.

Mr. Speaker, I rise in opposition to H.R. 5258. Introduced in response to the expansionist actions of Serbian leader, Slobodan Milosevic, H.R. 5258 would deny MFN status to the Federal Republic of Yugoslavia, which consists solely of Serbia and Montenegro.

While Milosevic's atrocities in Bosnia have received the spotlight of world attention, Franjo Tudjman, the current dictator of Croatia and former Communist, continues to conduct himself in an equally lawless and despicable manner. He, too, controls military units which have been moving on Bosnia in an attempt to persecute ethnic Serbs and Moslems living there, and to carve out areas to incorporate under Croatia's control.

Indeed, I submit for the RECORD editorials from the New York Times and Washington Post condemning Tudjman's role in the devastation of Bosnia and endorsing the extension of the same sanctions to Croatia currently imposed against Serbia.

Not only is this legislation an inappropriate use of the most-favored-nation trade status, it will have absolutely no effect on trade with Yugoslavia. The United States has already imposed a trade embargo against the Milosevic regime. This bill unfairly singles out Serbia with no other purpose than to politicize an already tragic and gruesome war.

Last week in committee, I offered an amendment, which received bipartisan support, to expand this bill to include a denial of MFN for the products of Croatia. In my view, Croatia also bears significant responsibility for the blatant denial of democratic principles and the loss of innumerable innocent lives in the Republic of Bosnia-Hercegovina.

If Milosevic is to be internationally deplored for his aggression, Tudjman's wanton disrespect for the territorial and political integrity of Bosnia, and for the rights of ethnic minorities must also be condemned by this body. Lawless aggression should be severely sanctioned wherever it occurs in Eastern Europe. This legislation fails in that objective when Croatia is excluded. Therefore, I urge my colleagues to vote "no" on H.R. 5258.

Mr. CRANE. Mr. Speaker, I yield myself the remaining time.

The editorials referred to follow:

[From The Washington Post, July 7, 1992]

THE STAKES IN BOSNIA

A bitter irony unfolds in Sarajevo. Just as the United Nations opens up a humanitarian air bridge to the beleaguered city, the country—Bosnia—of which it is the capital is disappearing. Two-thirds of its territory is held by Serbs, who have proclaimed an independent ethnic Serbian state that looks to federation with Serbia. The other third is held by Croats, who have now proclaimed their own independent ethnic Croatian state that looks to federation with Croatia. Muslims, the largest community in Bosnia and the one with most to gain from keeping Bosnia multi-cultural and multi-religious, have been killed in the thousands, uprooted in the hundreds of thousands and reduced territorially and politically to near zero.

In the West, Serbia is commonly seen as the villain of the Yugoslav piece. Certainly the extremist government of Slobodan Milosevic so deserves. But do not overlook the extremist Croatian government of Franjo Tudjman. It has enjoyed largely uncritical favor on the basis of lying on the Western, anti-Communist, Christian side of Yogoslavia's cultural divide. But, in fact, President Tudjman has conspired as an equal with President Milosevic to carve up Bosnia, although his depredations are less well known.

Bosnia now is close to being erased from the map. Increasingly in respect to Yugoslavia the policy question is framed as a choice between military intervention and hand-wringing. But there are other alternatives. Right now the seven most powerful nations of the world, democracies all, are meeting in Munich; Boris Yeltsin is about to drop by. The eight could make the simple electrifying statement that they will not accept as a fact the forceful disappearance of the state of Bosnia, any more than they accepted the eradication of Kuwait. They could extend to Croatia the economic sanctions now in force against Serbia, and on the same grounds of a violation of a basic international rule compelling one nation to respect another's territorial and political integrity.

Let no one imagine that Muslim Bosnians, swallowed by Serbia and Croatia, will go gently into the night. The carving up of Bosnia means virtually endless war there and the almost certain escalation to Kosovo and Macedonia. Up to now it has been a matter of the relative standing of this ethnic group or that. Now it becomes a matter of the fate of nations. Coming to grips with the change is the task before the eight at Munich.

[From the New York Times, July 8, 1992]

CROATIA, THE BUTCHER'S APPRENTICE

Croatia, once seen as a victim of Serbian aggression, has now become a villain itself. While the Serbian strongman Slobodan Milosevic carves up most of the tiny neighboring republic of Bosnia, Franjo Tudjman of Croatia is trying to slice off his own slab.

His brazen lawlessness threatens to throw away what little international good will Croatia may have built up. If Mr. Tudjman does not withdraw his troops from Bosnia, he will deserve a stern international rebuke, including sanctions as tough as those imposed on Serbia.

Croatia's troops, which have held onto Croat-dominated areas of Bosnia near its borders, have now stormed into the interior and seized Mostar, a scenic city of Muslim mosques and Turkish bridges that is populated by Slavs of all backgrounds—Muslim, Serbian and Croatian. They're also moving on Sarajevo, still besieged by Serbian troops, putting U.N. peacekeepers in an even more precarious position.

As part of his expansionist program, Mr. Tudjman has encouraged Croats in Croatian-occupied Bosnia to proclaim their own "independent" republic, opening the way to incorporating that piece of Bosnian territory into Croatia at the expense of Muslim Slavs, the country's largest group.

Meanwhile, the United Nations is trying its best to prevent Bosnia from being carved up. It's not about to let Croatia become the protector of Croats in Bosnia, any more than it can permit Serbia to be the savior of Serbs there.

Within Croatia itself, Mr. Tudjman has unleashed his army against Serbian villages in the region of Krajina, disrupting the fragile cease-fire in the area. For that bit of bloody-mindedness he has justly earned the condemnation of the U.N. Security Council.

A statesman would seek to reassure the Serbs who still reside in Croatia by prosecuting violations of their rights. But Mr. Tudjman is instead encouraging the expulsion of Serbs from some Croatian-held areas. That means Serbs won't feel safe without a sustained international police force throughout Croatia.

Mr. Tudjman is behaving like the Communist general he once was, not the democrat his supporters like to portray. He's muzzling what's left of the independent press in Croatia by threats of imprisonment, and stifling election opponents by denying them television time.

Mr. Milosevic, the Serbian dictator, surely deserves the bulk of the blame for turning Bosnia into a slaughterhouse. The may be the butcher of Bosnia, but Franjo Tudjman is now his blood-spattered apprentice.

Mrs. VUCANOVICH. Mr. Speaker, I rise in opposition to H.R. 5258.

The current human rights situation in the Balkans is deplorable. Detention camps, ethnic cleansing campaigns, massacres, and atrocities are documented as having been perpetrated by all sides in the violence racking former Yugoslavia.

If the Helsinki Final Act is to be used as a yardstick against the actions of one group in the Balkans, it must also be applied to the others in the interest of obtaining a lasting peace in this area of the world. I repeat, all groups involved in the current fighting stand in blatant violation of the Helsinki accords.

In addition, the stipulations incorporated in this bill for removal of MFN status from the Federal Republic of Yugoslavia regarding the sanctity of borders also apply, in both word and deed, to the Republic of Croatia.

While the international community has been focused on Sarajevo and the actions of the Serbian minority in Bosnia-Hercegovina, the Croatian minority—openly aided by the Republic of Croatia and the Croatian military—has been participating in its own cynical land grab.

Ethnic Croats have proclaimed their own Republic of Herceg-Bosna and are active in ethnically cleansing this area. The Republic of Croatia has done the same to ethnic Serb enclaves in its territory.

These types of actions on the part of the Croatian Government and the three groups involved in the fighting in Bosnia-Hercegovina should not be tolerated by the United States. Passage of this bill would give tacit approval on the part of the United States to the abuses currently being perpetrated by the Republic of Croatia and the other two sides involved in the fighting in Bosnia-Hercegovina.

I urge my colleagues to vote "no" on H.R. 5258.

Mr. OWENS of Utah. Mr. Speaker, I rise in strong support of H.R. 5258, which calls for withdrawing MFN trade status from Yugoslavia. The former Yugoslav Republics of Serbia and Montenegro, masquerading as the successor states of Yugoslavia, have perpetrated a war of ethnic cleansing first in Croatia and now in Bosnia-Hercegovina, and have through their genocidal policies caused more destruction and bloodshed in Europe than we have seen since the end of World War II. Every day we hear a new horror. Today it is reported that over 200 Moslem prisoners—men and boys previously listed as missing—may have been shot at close range by a Serbian police unit in Bosnia. And this massacre is confirmed by two surviving eyewitnesses who somehow managed to escape.

The historic policy of a greater Serbia which has been systematically carried out by Serbia and Serbian President Milosevic, was the seed of the destruction we witnessed in Croatia, and is also at the core of the violence in Bosnia. Don't be fooled when the Republics that now call themselves Yugoslavia claim no responsibility for the war in Bosnia. The same tanks and rockets which destroyed 1,000 years of history in Dubrovnik are now being used to flatten the churches, mosques, schools, and hospitals in Sarajevo. Over half a million Croatian and Bosnian refugees have been forced from their homes, creating one of the greatest refugee crises this century in Europe. And the situation only continues to worsen.

International sanctions have been imposed on Serbia and Montenegro, yet the countries which call themselves Yugoslavia still refuse to sit down at the negotiating table. Serbians and Montenegrins complain that they have no cigarettes and must wait in long lines for gasoline—but these small deprivations have not swayed the people or their governments to change their course. This week the United Nations voted to rescind Yugoslavia's U.N. membership—although Serbia and Montenegro will still retain observer status in the international organization. The United States should reiterate to Serbia and Montenegro that the threat of international isolation is not an empty one. We should immediately withdraw most-favored-nation status from Yugoslavia, and should make it clear that we will not even consider restoring it until Serbia and Montenegro end their armed conflict with the former republics of Yugoslavia, and formally retreat to internationally recognized borders.

Mr. HOYER. Mr. Speaker, I rise in strong support as a cosponsor of H.R. 5258, which withdraws most-favored-nation status [MFN] from the Federal Republic of Yugoslavia and provides for its restoration only under certain conditions. This bill was introduced by our colleague from Virginia, Representative FRANK WOLF, who serves as one of the most active members of the Helsinki Commission and who has just returned from visiting the beleaguered city of Sarajevo, as well as Belgrade, Vojvodina, Kosovo, and Macedonia. He is to be commended for his commitment to the cause of human rights, not just in the former Yugoslavia but throughout east-central Europe.

This bill strips MFN from Serbia and Montenegro, the two Republics of the former Yugoslavia which proclaimed this new federation between them in April of this year. Together, they have become the pariah of Europe. Serbia's political leadership is responsible, first and foremost, for the horrifying scene in Bosnia-Hercegovina today, and for the denial of basic human rights and fundamental freedoms to other national or ethnic groups within their own borders. Even ethnic Serbs in Serbia cannot speak their views free from intimidation or persecution.

As Chairman of the Helsinki Commission, I have long advocated the responsible use of diplomatic and economic levers to promote human rights, and I can think of no more compelling case for doing so today than in the case of the new Yugoslavia.

Until peace has been restored and justice has been accomplished in Bosnia-Hercegovina, Belgrade should receive no benefit from the United States. Until human rights are respected in Kosovo and Vojvodina—indeed, throughout Serbia and Montenegro—Belgrade should obtain no advantage from the United States. Until the succession issue is genuinely settled by the mutual agreement of all parties, Belgrade should secure no gain from the United States. Until Helsinki principles are honored in word and deed, Belgrade should acquire no favored status from the United States. No less a message should be sent to Serbia and Montenegro.

Mr. Speaker, the U.N. General Assembly will decide on expelling the new Yugoslavia from this world organization, but first the current Prime Minister, Milan Panic, will be permitted to speak. Mr. Panic, and others within Serbia who may want to save their Republic from the catastrophic conditions in which it finds itself, should place responsibility for these conditions, and for our action here today, squarely on Serbian President Slobodan Milosevic and his supporters. They should use it to demand change, for their own benefit as for the benefit of the victims of aggression in Bosnia-Hercegovina and elsewhere.

As we take this action, we hold no grudge against the Serbian people and the democratic forces among them. As we take this action, we should be prepared to respond when we see real steps toward positive, more democratic change. But we should not respond until we do, whether it takes weeks, months or years.

Mr. CRANE. Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MAZZOLI). The question is on the motion offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] that the House suspend the rules and pass the bill, H.R. 5258.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 2194, FEDERAL FACILITY COMPLIANCE ACT OF 1992

Mr. ECKART submitted the following conference report and statement on the bill (H.R. 2194)—to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities:

CONFERENCE REPORT (H. REPT. 102-886)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2194) to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

TITLE I—FEDERAL FACILITY COMPLIANCE ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Facility Compliance Act of 1992".

SEC. 102. APPLICATION OF CERTAIN PROVISIONS TO FEDERAL FACILITIES.

(a) IN GENERAL.—Section 6001 of the Solid Waste Disposal Act (42 U.S.C. 6961) is amended—

(1) by inserting "(a) IN GENERAL.—" after "6001.";

(2) in the first sentence, by inserting "and management" before "in the same manner";

(3) by inserting after the first sentence the following: "The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local solid waste or hazardous waste regulatory program."; and

(4) by inserting after the second sentence the following: "No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local solid or hazardous waste law with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction (including, but not limited to, any fine or imprisonment) under any Federal or State solid or hazardous waste law, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction.".

(b) ADMINISTRATIVE ENFORCEMENT ACTIONS.—Such section is further amended by adding at the end the following new subsections:

"(b) ADMINISTRATIVE ENFORCEMENT ACTIONS.—(1) The Administrator may commence an administrative enforcement action against any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government pursuant to the enforcement authorities contained in this Act. The Administrator shall initiate an administrative enforcement action against such a department, agency, or instrumentality in the same manner and under the same circumstances as an action would be initiated against another person. Any voluntary resolution or settlement of such an action shall be set forth in a consent order.

"(2) No administrative order issued to such a department, agency, or instrumentality shall become final until such department, agency, or instrumentality has had the opportunity to confer with the Administrator.

"(c) LIMITATION ON STATE USE OF FUNDS COLLECTED FROM FEDERAL GOVERNMENT.—Unless a State law in effect on the date of the enactment of the Federal Facility Compliance Act of 1992 or a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government from penalties and fines imposed for violation of any substantive or procedural requirement referred to in subsection (a) shall be used by the State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in paragraphs (2) and (3), the amendments made by subsection (a) shall take effect upon the date of the enactment of this Act.

(2) DELAYED EFFECTIVE DATE FOR CERTAIN MIXED WASTE.—Until the date that is 3 years after the date of the enactment of this Act, the waiver of sovereign immunity contained in section 6001(a) of the Solid Waste Disposal Act with respect to civil, criminal, and administrative penalties and fines (as added by the amendments made by subsection (a)) shall not apply to departments, agencies, and instrumentalities of the executive branch of the Federal Government for violations of section 3004(j) of the Solid Waste Disposal Act involving storage of mixed waste that is not subject to an existing agreement, permit, or administrative or judicial order, so long as such waste is managed in compliance with all other applicable requirements.

(3) EFFECTIVE DATE FOR CERTAIN MIXED WASTE.—(A) Except as provided in subparagraph (B), after the date that is 3 years after the date of the enactment of this Act, the waiver of sovereign immunity contained in section 6001(a) of the Solid Waste Disposal Act with respect to civil, criminal, and administrative penalties and fines (as added by the amendments made by subsection (a)) shall apply to departments, agencies, and instrumentalities of the executive branch of the Federal Government for violations of section 3004(j) of the Solid Waste Disposal Act involving storage of mixed waste.

(B) With respect to the Department of Energy, the waiver of sovereign immunity referred to in subparagraph (A) shall not apply after the date that is 3 years after the date of the enactment of this Act for violations of section 3004(j) of such Act involving storage of mixed waste, so long as the Department of Energy is in compliance with both—

(i) a plan that has been submitted and approved pursuant to section 3021(b) of the Solid Waste Disposal Act and which is in effect; and

(ii) an order requiring compliance with such plan which has been issued pursuant to such section 3021(b) and which is in effect.

(4) APPLICATION OF WAIVER TO AGREEMENTS AND ORDERS.—The waiver of sovereign immunity contained in section 6001(a) of the Solid Waste Disposal Act (as added by the amendments made by subsection (a)) shall take effect on the date of the enactment of this Act with respect to any agreement, permit, or administrative or judicial order existing on such date of enactment (and any subsequent modifications to such an agreement, permit, or order), including, without limitation, any provision of an agreement, permit, or order that addresses compliance with section 3004(j) of such Act with respect to mixed waste.

(5) AGREEMENT OR ORDER.—Except as provided in paragraph (4), nothing in this Act shall be construed to alter, modify, or change in any manner any agreement, permit, or administrative or judicial order, including, without limitation, any provision of an agreement, permit, or order—

(i) that addresses compliance with section 3004(j) of the Solid Waste Disposal Act with respect to mixed waste;

(ii) that is in effect on the date of enactment of this Act; and

(iii) to which a department, agency, or instrumentality of the executive branch of the Federal Government is a party.

SEC. 103. DEFINITION OF PERSON.

Section 1004(15) of the Solid Waste Disposal Act (42 U.S.C. 6903(15)) is amended by adding the following before the period: "and shall include each department, agency, and instrumentality of the United States".

SEC. 104. FACILITY ENVIRONMENTAL ASSESSMENTS.

Section 3007(c) of the Solid Waste Disposal Act (42 U.S.C. 6927(c)) is amended as follows:

(1) The first sentence is amended by striking out "Beginning" and all that follows through "undertake" and inserting in lieu thereof "The Administrator shall undertake".

(2) The first sentence is further amended by striking out "Federal agency" and inserting in lieu thereof "department, agency, or instrumentality of the United States".

(3) The section is further amended by inserting after the first sentence the following new sentence: "Any State with an authorized hazardous waste program also may conduct an inspection of any such facility for purposes of enforcing the facility's compliance with the State hazardous waste program.".

(4) The section is further amended by adding at the end the following: "The department, agency, or instrumentality owning or operating each such facility shall reimburse the Environ-

mental Protection Agency for the costs of the inspection of the facility. With respect to the first inspection of each such facility occurring after the date of the enactment of the Federal Facility Compliance Act of 1992, the Administrator shall conduct a comprehensive ground water monitoring evaluation at the facility, unless such an evaluation was conducted during the 12-month period preceding such date of enactment.".

SEC. 105. MIXED WASTE INVENTORY REPORTS AND PLAN.

(a) Mixed Waste Amendment.—(1) Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is amended by adding at the end the following new section:

"SEC. 3021. MIXED WASTE INVENTORY REPORTS AND PLAN.

"(a) Mixed Waste Inventory Reports.—

"(1) Requirement.—Not later than 180 days after the date of the enactment of the Federal Facility Compliance Act of 1992, the Secretary of Energy shall submit to the Administrator and to the Governor of each State in which the Department of Energy stores or generates mixed wastes the following reports:

"(A) A report containing a national inventory of all such mixed wastes, regardless of the time they were generated, on a State-by-State basis.

"(B) A report containing a national inventory of mixed waste treatment capacities and technologies.

"(2) Inventory of wastes.— The report required by paragraph (1)(A) shall include the following:

"(A) A description of each type of mixed waste at each Department of Energy facility in each State, including, at a minimum, the name of the waste stream.

"(B) The amount of each type of mixed waste currently stored at each Department of Energy facility in each State, set forth separately by mixed waste that is subject to the land disposal prohibition requirements of section 3004 and mixed waste that is not subject to such prohibition requirements.

"(C) An estimate of the amount of each type of mixed waste the Department expects to generate in the next 5 years at each Department of Energy facility in each State.

"(D) A description of any waste minimization actions the Department has implemented at each Department of Energy facility in each State for each mixed waste stream.

"(E) The EPA hazardous waste code for each type of mixed waste containing waste that has been characterized at each Department of Energy facility in each State.

"(F) An inventory of each type of waste that has not been characterized by sampling and analysis at each Department of Energy facility in each State.

"(G) The basis for the Department's determination of the applicable hazardous waste code for each type of mixed waste at each Department of Energy facility and a description of whether the determination is based on sampling and analysis conducted on the waste or on the basis of process knowledge.

"(H) A description of the source of each type of mixed waste at each Department of Energy facility in each State.

"(I) The land disposal prohibition treatment technology or technologies specified for the hazardous waste component of each type of mixed waste at each Department of Energy facility in each State.

"(J) A statement of whether and how the radionuclide content of the waste alters or affects use of the technologies described in subparagraph (I).

"(3) Inventory of treatment capacities and technologies.—The report required by paragraph (1)(B) shall include the following:

"(A) An estimate of the available treatment capacity for each waste described in the report required by paragraph (1)(A) for which treatment technologies exist.

"(B) A description, including the capacity, number and location, of each treatment unit considered in calculating the estimate under subparagraph (A).

"(C) A description, including the capacity, number and location, of any existing treatment unit that was not considered in calculating the estimate under subparagraph (A) but that could, alone or in conjunction with other treatment units, be used to treat any of the wastes described in the report required by paragraph (1)(A) to meet the requirements of regulations promulgated pursuant to section 3004(m).

"(D) For each unit listed in subparagraph (C), a statement of the reasons why the unit was not included in calculating the estimate under subparagraph (A).

"(E) A description, including the capacity, number, location, and estimated date of availability, of each treatment unit currently proposed to increase the treatment capacities estimated under subparagraph (A).

"(F) For each waste described in the report required by paragraph (1)(A) for which the Department has determined no treatment technology exists, information sufficient to support such determination and a description of the technological approaches the Department anticipates will need to be developed to treat the waste.

"(4) Comments and revisions.—Not later than 90 days after the date of the submission of the reports by the Secretary of Energy under paragraph (1), the Administrator and each State which received the reports shall submit any comments they may have concerning the reports to the Department of Energy. The Secretary of Energy shall consider and publish the comments prior to publication of the final report.

"(5) Requests for additional information.—Nothing in this subsection limits or restricts the authority of States or the Administrator to request additional information from the Secretary of Energy.

"(b) Plan for Development of Treatment Capacities and Technologies.—

"(1) Plan requirement.—(A)(i) For each facility at which the Department of Energy generates or stores mixed wastes, except any facility subject to a permit, agreement, or order described in clause (ii), the Secretary of Energy shall develop and submit, as provided in paragraph (2), a plan for developing treatment capacities and technologies to treat all of the facility's mixed wastes, regardless of the time they were generated, to the standards promulgated pursuant to section 3004(m).

"(ii) Clause (i) shall not apply with respect to any facility subject to any permit establishing a schedule for treatment of such wastes, or any existing agreement or administrative or judicial order governing the treatment of such wastes, to which the State is a party.

"(B) Each plan shall contain the following:

"(i) For mixed wastes for which treatment technologies exist, a schedule for submitting all applicable permit applications, entering into contracts, initiating construction, conducting systems testing, commencing operations, and processing backlogged and currently generated mixed wastes.

"(ii) For mixed wastes for which no treatment technologies exist, a schedule for identifying and developing such technologies, identifying the funding requirements for the identification and development of such technologies, submitting treatability study exemptions, and submitting research and development permit applications.

"(iii) For all cases where the Department proposes radionuclide separation of mixed wastes, or materials derived from mixed wastes, it shall provide an estimate of the volume of waste generated by each case of radionuclide separation, the volume of waste that would exist or be generated without radionuclide separation, the estimated costs of waste treatment and disposal if radionuclide separation is used compared to the estimated costs if it is not used, and the assumptions underlying such waste volume and cost estimates.

"(C) A plan required under this subsection may provide for centralized, regional, or on-site treatment of mixed wastes, or any combination thereof.

"(2) Review and approval of plan.—(A) For each facility that is located in a State (i) with authority under State law to prohibit land disposal of mixed waste until the waste has been treated and (ii) with both authority under State law to regulate the hazardous components of mixed waste and authorization from the Environmental Protection Agency under section 3006 to regulate the hazardous components of mixed waste, the Secretary of Energy shall submit the plan required under paragraph (1) to the appropriate State regulatory officials for their review and approval, modification, or disapproval. In reviewing the plan, the State shall consider the need for regional treatment facilities. The State shall consult with the Administrator and any other State in which a facility affected by the plan is located and consider public comments in making its determination on the plan. The State shall approve, approve with modifications, or disapprove the plan within 6 months after receipt of the plan.

"(B) For each facility located in a State that does not have the authority described in subparagraph (A), the Secretary shall submit the plan required under paragraph (1) to the Administrator of the Environmental Protection Agency for review and approval, modification, or disapproval. A copy of the plan also shall be provided by the Secretary to the State in which such facility is located. In reviewing the plan, the Administrator shall consider the need for regional treatment facilities. The Administrator shall consult with the State or States in which any facility affected by the plan is located and consider public comments in making a determination on the plan. The Administrator shall approve, approve with modifications, or disapprove the plan within 6 months after receipt of the plan.

"(C) Upon the approval of a plan under this paragraph by the Administrator or a State, the Administrator shall issue an order under section 3008(a), or the State shall issue an order under appropriate State authority, requiring compliance with the approved plan.

"(3) Public participation.—Upon submission of a plan by the Secretary of Energy to the Administrator or a State, and before approval of the plan by the Administrator or a State, the Administrator or State shall publish a notice of the availability of the submitted plan and make such submitted plan available to the public on request.

"(4) Revisions of plan.—If any revisions of an approved plan are proposed by the Secretary of Energy or required by the Administrator or a State, the provisions of paragraphs (2) and (3) shall apply to the revisions in the same manner as they apply to the original plan.

"(5) Waiver of plan requirement.—(A) A State may waive the requirement for the Secretary of Energy to develop and submit a plan under this subsection for a facility located in the State if the State (i) enters into an agreement with the Secretary of Energy that addresses compliance at that facility with section 3004(j) with respect to mixed waste, and (ii) issues an order requiring compliance with such agreement and which is in effect.

"(B) Any violation of an agreement or order referred to in subparagraph (A) is subject to the waiver of sovereign immunity contained in section 6001(a).

"(c) SCHEDULE AND PROGRESS REPORTS.—

"(1) SCHEDULE.—Not later than 6 months after the date of the enactment of the Federal Facility Compliance Act of 1992, the Secretary of Energy shall publish in the Federal Register a schedule for submitting the plans required under subsection (b).

"(2) PROGRESS REPORTS.—(A) Not later than the deadlines specified in subparagraph (B), the Secretary of Energy shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a progress report containing the following:

"(i) An identification, by facility, of the plans that have been submitted to States or the Administrator of the Environmental Protection Agency pursuant to subsection (b).

"(ii) The status of State and Environmental Protection Agency review and approval of each such plan.

"(iii) The number of orders requiring compliance with such plans that are in effect.

"(iv) For the first 2 reports required under this paragraph, an identification of the plans required under such subsection (b) that the Secretary expects to submit in the 12-month period following submission of the report.

"(B) The Secretary of Energy shall submit a report under subparagraph (A) not later than 12 months after the date of the enactment of the Federal Facility Compliance Act if 1992, 24 months after such date, and 36 months after such date.".

(2) The table of contents for subtitle C of the Solid Waste Disposal Act (contained in section 1001) is amended by adding at the end the following new item:

"Sec. 3021. Mixed waste inventory reports and plan.".

(b) DEFINITION.—Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6902) is amended by adding at the end the following new paragraph:

"(41) The term 'mixed waste' means waste that contains both hazardous waste and source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).".

(c) GAO REPORT.—

(1) REQUIREMENT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the Department of Energy's progress in complying with section 3021(b) of the Solid Waste Disposal Act.

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall contain, at a minimum, the following:

(A) The Department of Energy's progress in submitting to the States or the Administrator of the Environmental Protection Agency a plan for each facility for which a plan is required under section 3021(b) of the Solid Waste Disposal Act and the status of State or Environmental Protection Agency review and approval of each such plan.

(B) The Department of Energy's progress in entering into orders requiring compliance with any such plans that have been approved.

(C) An evaluation of the completeness and adequacy of each such plan as of the date of submission of the report required under paragraph (1).

(D) An identification of any recurring problems among the Department of Energy's submitted plans.

(E) A description of treatment technologies and capacity that have been developed by the Department of Energy since the date of the enactment of this Act and a list of the wastes that are expected to be treated by such technologies and the facilities at which the wastes are generated or stored.

(F) The progress made by the Department of Energy in characterizing its mixed waste streams at each such facility by sampling and analysis.

(G) An identification and analysis of additional actions that the Department of Energy must take to—

(i) complete submission of all plans required under such section 3021(b) for all such facilities;

(ii) obtain the adoption of orders requiring compliance with all such plans; and

(iii) develop mixed waste treatment capacity and technologies.

SEC. 106. PUBLIC VESSELS.

(a) AMENDMENT.—Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is further amended by adding at the end the following new section:

"SEC. 3022. PUBLIC VESSELS.

"(a) WASTE GENERATED ON PUBLIC VESSELS.—Any hazardous waste generated on a public vessel shall not be subject to the storage, manifest, inspection, or recordkeeping requirements of this Act until such waste is transferred to a shore facility, unless—

"(1) the waste is stored on the public vessel for more than 90 days after the public vessel is placed in reserve or is otherwise no longer in service; or

"(2) the waste is transferred to another public vessel within the territorial waters of the United States and is stored on such vessel or another public vessel for more than 90 days after the date of transfer.

"(b) COMPUTATION OF STORAGE PERIOD.—For purposes of subsection (a), the 90-day period begins on the earlier of—

"(1) the date on which the public vessel on which the waste was generated is placed in reserve or is otherwise no longer in service; or

"(2) the date on which the waste is transferred from the public vessel on which the waste was generated to another public vessel within the territorial waters of the United States;

and continues, without interruption, as long as the waste is stored on the original public vessel (if in reserve or not in service) or another public vessel.

"(c) DEFINITIONS.— For purposes of this section:

"(1) The term 'public vessel' means a vessel owned or bareboat chartered and operated by the United States, or by a foreign nation, except when the vessel is engaged in commerce.

"(2) The terms 'in reserve' and 'in service' have the meanings applicable to those terms under section 7293 and sections 7304 through 7308 of title 10, United States Code, and regulations prescribed under those sections.

"(d) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall be construed as altering or otherwise affecting the provisions of section 7311 of title 10, United States Code.".

(b) TECHNICAL AMENDMENT.—The table of contents for subtitle C of such Act (contained in section 1001) is further amended by adding at the end the following new item:

"Sec. 3022. Public vessels.".

SEC. 107. MUNITIONS.

Section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924) is amended by adding at the end the following new subsection:

"(y) MUNITIONS.—(1) Not later than 6 months after the date of the enactment of the Federal Facility Compliance Act of 1992, the Administrator shall propose, after consulting with the Secretary of Defense and appropriate State officials, regulations identifying when military munitions become hazardous waste for purposes of this subtitle and providing for the safe transportation and storage of such waste. Not later than 24 months after such date, and after notice and opportunity for comment, the Administrator shall promulgate such regulations. Any such regulations shall assure protection of human health and the environment.

"(2) For purposes of this subsection, the term 'military munitions' includes chemical and conventional munitions.".

SEC. 108. FEDERALLY OWNED TREATMENT WORKS.

(a) AMENDMENT.—Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is further amended by adding at the end the following new section:

"SEC. 3023. FEDERALLY OWNED TREATMENT WORKS.

"(a) IN GENERAL.—For purposes of section 1004(27), the phrase 'but does not include solid or dissolved material in domestic sewage' shall apply to any solid or dissolved material introduced by a source into a federally owned treatment works if—

"(1) such solid or dissolved material is subject to a pretreatment standard under section 307 of the Federal Water Pollution Control Act (33 U.S.C. 1317), and the source is in compliance with such standard;

"(2) for a solid or dissolved material for which a pretreatment standard has not been promulgated pursuant to section 307 of the Federal Water Pollution Control Act (33 U.S.C. 1317), the Administrator has promulgated a schedule for establishing such a pretreatment standard which would be applicable to such solid or dissolved material not later than 7 years after the date of enactment of this section, such standard is promulgated on or before the date established in the schedule, and after the effective date of such standard the source is in compliance with such standard;

"(3) such solid or dissolved material is not covered by paragraph (1) or (2) and is not prohibited from land disposal under subsections (d), (e), (f), or (g) of section 3004 because such material has been treated in accordance with section 3004(m); or

"(4) notwithstanding paragraphs (1), (2), or (3), such solid or dissolved material is generated by a household or person which generates less than 100 kilograms of hazardous waste per month unless such solid or dissolved material would otherwise be an acutely hazardous waste and subject to standards, regulations, or other requirements under this Act notwithstanding the quantity generated.

"(b) PROHIBITION.—It is unlawful to introduce into a federally owned treatment works any pollutant that is a hazardous waste.

"(c) ENFORCEMENT.—(1) Actions taken to enforce this section shall not require closure of a treatment works if the hazardous waste is removed or decontaminated and such removal or decontamination is adequate, in the discretion of the Administrator or, in the case of an authorized State, of the State, to protect human health and the environment.

"(2) Nothing in this subsection shall be construed to prevent the Administrator or an authorized State from ordering the closure of a treatment works if the Administrator or State determines such closure is necessary for protection of human health and the environment.

"(3) Nothing in this subsection shall be construed to affect any other enforcement authorities available to the Administrator or a State under this subtitle.

"(d) DEFINITION.—For purposes of this section, the term 'federally owned treatment works' means a facility that is owned and operated by a department, agency, or instrumentality of the Federal Government treating wastewater, a majority of which is domestic sewage, prior to dis-

charge in accordance with a permit issued under section 402 of the Federal Water Pollution Control Act.

"(e) SAVINGS CLAUSE.—Nothing in this section shall be construed as affecting any agreement, permit, or administrative or judicial order, or any condition or requirement contained in such an agreement, permit, or order, that is in existence on the date of the enactment of this section and that requires corrective action or closure at a federally owned treatment works or solid waste management unit or facility related to such a treatment works.".

(b) TECHNICAL AMENDMENT.—The table of contents for subtitle C of such Act (contained in section 1001) is further amended by adding at the end the following new item:

"Sec. 3023. Federally owned treatment works.".

SEC. 109. SMALL TOWN ENVIRONMENTAL PLANNING.

(a) ESTABLISHMENT.—The Administrator of the Environmental Protection Agency (hereafter referred to as the "Administrator") shall establish a program to assist small communities in planning and financing environmental facilities. The program shall be known as the "Small Town Environmental Planning Program".

(b) SMALL TOWN ENVIRONMENTAL PLANNING TASK FORCE.—(1) The Administrator shall establish a Small Town Environmental Planning Task Force which shall be composed of representatives of small towns from different areas of the United States, Federal and State governmental agencies, and public interest groups. The Administrator shall terminate the Task Force not later than 2 years after the establishment of the Task Force.

(2) The Task Force shall—

(A) identify regulations developed pursuant to Federal environmental laws which pose significant compliance problems for small towns;

(B) identify means to improve the working relationship between the Environmental Protection Agency (hereafter referred to as the Agency) and small towns;

(C) review proposed regulations for the protection of the environmental and public health and suggest revisions that could improve the ability of small towns to comply with such regulations;

(D) identify means to promote regionalization of environmental treatment systems and infrastructure serving small towns to improve the economic condition of such systems and infrastructure; and

(E) provide such other assistance to the Administrator as the Administrator deems appropriate.

(c) IDENTIFICATION OF ENVIRONMENTAL REQUIREMENTS.—(1) Not later than 6 months after the date of the enactment of this Act, the Administrator shall publish a list of requirements under Federal environmental and public health statutes (and the regulations developed pursuant to such statutes) applicable to small towns. Not less than annually, the Administrator shall make such additions and deletions to and from the list as the Administrator deems appropriate.

(2) The Administrator shall, as part of the Small Town Environmental Planning Program under this section, implement a program to notify small communities of the regulations identified under paragraph (1) and of future regulations and requirements through methods that the Administrator determines to be effective to provide information to the greatest number of small communities, including any of the following:

(A) Newspapers and other periodicals.

(B) Other news media.

(C) Trade, municipal, and other associations that the Administrator determines to be appropriate.

(D) Direct mail.

(d) SMALL TOWN OMBUDSMAN.—The Administrator shall establish and staff an Office of the Small Town Ombudsman. The Office shall provide assistance to small towns in connection with the Small Town Environmental Planning Program and other business with the Agency. Each regional office shall identify a small town contact. The Small Town Ombudsman and the regional contacts also may assist larger communities, but only if first priority is given to providing assistance to small towns.

(e) MULTI-MEDIA PERMITS.—(1) The Administrator shall conduct a study of establishing a multi-media permitting program for small towns. Such evaluation shall include an analysis of—

(A) environmental benefits and liabilities of a multi-media permitting program;

(B) the potential of using such a program to coordinate a small town's environmental and public health activities; and

(C) the legal barriers, if any, to the establishment of such a program.

(2) Within 3 years after the date of enactment of this Act, the Administrator shall report to Congress on the results of the evaluation performed in accordance with paragraph (1). Included in this report shall be a description of the activities conducted pursuant to subsections (a) through (d).

(f) DEFINITION.—For purposes of this section, the term "small town" means an incorporated or unincorporated community (as defined by the Administrator) with a population of less than 2,500 individuals.

(g) AUTHORIZATION.—There is authorized to be appropriated the sum of $500,000 to implement this section.

SEC. 110. CHIEF FINANCIAL OFFICER REPORT.

The Chief Financial Officer of each affected agency shall submit to Congress an annual report containing, to the extent practicable, a detailed description of the compliance activities undertaken by the agency for mixed waste streams, and an accounting of the fines and penalties imposed on the agency for violations involving mixed waste.

TITLE II—METROPOLITAN WASHINGTON WASTE MANAGEMENT STUDY ACT

SEC. 201. SHORT TITLE.

This title may be cited as the "Metropolitan Washington Waste Management Study Act".

SEC. 202. FINDINGS.

The Congress finds that the I-95 Sanitary Landfill, in Lorton, Virginia, is located on Federal land, and the ultimate responsibility for maintaining environmental integrity at such landfill is on the Federal Government, as well as the signatories to the July 1981 I-95 Sanitary Landfill Memorandum of Understanding.

SEC. 203. ENVIRONMENTAL IMPACT STATEMENT

(a) ENVIRONMENTAL IMPACT STATEMENT.—Except as provided in subsection (b), in order to assure environmental integrity in and around properties owned by the Government of the United States, no expansion of the I-95 Sanitary Landfill shall be permitted or otherwise authorized unless—

(1) an environmental impact statement, pursuant to the National Environmental Policy Act, regarding any such proposed expansion has been completed and approved by the Administrator; and

(2) the costs incurred in conducting and completing such environmental impact statement are paid (A) from the landfill's so-called enterprise fund established pursuant to the July 1981 I-95 Sanitary Landfill Memorandum of Understanding, or (B) in accordance with some other payment formula based on past and projected percentage of the jurisdictional usage of the landfill.

(b) EXCEPTION.—(1) Notwithstanding subsection (a), the I-95 Sanitary Landfill may be expanded for the purpose of the ash monofill planned by the parties to the July 1981 I-95 Sanitary Landfill Memorandum of Understanding if such monofill, subject to paragraph (2), is used solely for the disposal of incinerator ash from such parties.

(2) The ash monofill referred to in paragraph (1) may be used for the disposal of solid waste for a maximum of 30 days whenever a resource recovery facility, or an incinerator and a resource recovery facility, operated for or by the parties to the July 1981 I-95 Sanitary Landfill Memorandum of Understanding is completely unavailable because of an emergency shutdown.

(c) LIMITATION.—After December 31, 1995, the I-95 Sanitary Landfill, including any expansions thereof, shall not be available to receive or dispose of municipal or industrial waste of any kind other than incinerator ash unless the conditions enumerated in subsection (a) are met.

(d) GENERAL.—Notwithstanding any other provision of this title, the parties of the July 1981 I-95 Sanitary Landfill Memorandum of Understanding, together with the Federal Government, shall continue to be responsible for maintaining environmental stability at the I-95 Sanitary Landfill, including any expansion, in accordance with applicable laws of the United States, the Commonwealth of Virginia, and the local jurisdictions in which the I-95 Sanitary Landfill is located.

SEC. 204. DEFINITIONS.

For purposes of this title:

(1) The term "expansion" includes any development or use, after May 31, 1991, of any lands (other than those lands which were used as a landfill on or before May 31, 1991) owned by the Government of the United States in and around Lorton, Virginia, for the purpose of, or use as, a sanitary landfill in accordance with the July 1981 I-95 Sanitary Landfill Memorandum of Understanding. The term also includes variances or exemptions from any elevation requirements relating to landfill operations established by the laws of the Commonwealth of Virginia, or any subdivision thereof, in connection with any such lands used on or before May 31, 1991.

(2) The term "lands owned by the Government of the United States" includes any lands owned by the United States, and any such lands with respect to which the Government of the District of Columbia has beneficial ownership.

(3) The term "July 1981 I-95 Sanitary Landfill Memorandum of Understanding" means the document titled "Memorandum of Understanding I-95 Resource Recovery, Land Reclamation, and Recreation Complex" that was executed July 22, 1981, and subsequently amended by supplemental agreements executed before May 31, 1991.

And the Senate agree to the same.

From the Committee on Energy and Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
DENNIS E. ECKART,
JIM SLATTERY,
GERRY SIKORSKI,
NORMAN F. LENT,
DON RITTER,
DAN SCHAEFER,

Mr. Bilirakis is appointed in lieu of Mr. Schaefer for consideration of that portion of section 2(b) of the House bill which adds section 6001(c) to the Solid Waste Disposal Act.

MICHAEL BILIRAKIS,

As additional conferees from the Committee on the Judiciary, for consideration of sec. 2(a) of the House bill, and sec. 103(a) of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
BARNEY FRANK,

G.W. GEKAS,

As additional conferee from the Committee on Merchant Marine and Fisheries, for consideration of sec. 304(a) of the Senate amendment, and modifications committed to conference:

GERRY STUDDS,

As additional conferees from the Committee on Public Works and Transportation, for consideration of secs. 102, 109, and 115–119 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
HENRY J. NOWAK,
JOHN PAUL HAMMERSCHMIDT,

As additional conferees from the Committee on Public Works and Transportation, for consideration of title IV of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
GUS SAVAGE,
ELEANOR H. NORTON,
HENRY J. NOWAK,
R.A. BORSKI,
JOHN PAUL HAMMERSCHMIDT,
BUD SHUSTER,
JAMES M. INHOFE,
Managers on the Part of the House.

MAX BAUCUS,
DANIEL PATRICK MOYNIHAN,
GEORGE MITCHELL,
FRANK R. LAUTENBERG,
JOHN H. CHAFEE,
ALAN K. SIMPSON,
DAVE DURENBERGER,
J. WARNER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2194) to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor and drafting and clarifying changes.

APPLICATION OF CERTAIN PROVISIONS TO FEDERAL FACILITIES

Senate amendment

Section 103 of the Senate bill amends section 6001 of the Solid Waste Disposal Act to add the word "management" and to provide that the federal, state, interstate, and local substantive and procedural requirements referred to therein include, but are not limited to, all administrative orders and all civil and administrative penalties and fines. The bill also provides that for the purposes of enforcing any such substantive or procedural requirements, including, but not limited to, any injunctive relief, administrative order, or civil or administrative penalty or fine, against a federal agency, the United States expressly waives any immunity otherwise applicable to the United States. The bill further provides that no agent, employee or officer of the United States shall be personally liable for any civil penalty under any federal or state solid or hazardous waste law with respect to any act or omission within the scope of his official duties. An agent, employee, or officer of the United States shall be subject to criminal sanctions (including any fine or imprisonment) under any federal or state solid or hazardous waste law, but no agency of or instrumentality of the executive, legislative, or judicial branch of the federal government is subject to any such sanction.

House amendment

The House bill contains a similar provision (section 2) but further defines the term "reasonable service charges" to include fees or charges assessed in connection with the processing and issuance of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a federal, state, interstate, or local solid waste or hazardous waste regulatory program.

Conference substitute

The conference substitute (section 102(a)) adopts the House provision with modifications to clarify that all civil and administrative penalties and fines includes penalties or fines that are punitive or coercive in nature or are imposed for isolated, intermittent or continuing violations. The conference substitute also makes clear that sovereign immunity is expressly waived with respect to any substantive or procedural provision of law respecting control, abatement or management of solid waste or hazardous waste. In doing so the conferees reaffirm the original intent of Congress that each department, agency, and instrumentality of the United States be subject to all of the provisions of federal, state, interstate, and local solid waste and hazardous waste laws and regulations. By adding the word "management" to the first sentence of the waiver, we confirm the federal government's obligation to comply with all solid and hazardous waste provisions at all sites, without exceptions. This waiver subjects the federal government to the full range of available enforcement tools, including but not limited to the mechanisms specifically listed in the language of the amendment, to penalize isolated, intermittent or continuing violations as well as to coerce future compliance. Thus, while this amendment overrules the Supreme Court holding in *U.S. Department of Energy* v. *Ohio*, 503 U.S. —, 118 L.Ed.2d 255 (1992), the scope of the waiver is not limited to either the civil penalties described in that decision or the enforcement tools specifically listed in section 6001. By subjecting the federal government to penalties and fines for isolated, intermittent, or continuing violations, the waiver also makes it clear that the federal government may be penalized for any violation of federal, state, interstate, or local law whether a single or repeated occurrence, notwithstanding the holding of the Supreme Court in *Gwaltney of Smithfield, Ltd.* v. *Chesapeake Bay Foundation, Inc.*, 484 U.S. 49 (1987).

The waiver for civil fines and penalties as added by the Federal Facility Compliance Act of 1992 takes effect on the date of enactment and is not intended to have retroactive effect. No agent, employee, or officer of the United States shall be personally liable for any civil penalty with respect to any act of omission within the scope of his or her official duties.

Criminal sanctions under any solid or hazardous waste law are specifically precluded by this section against any branch of the federal government; however, agents, employees or officers of the United States are subject to criminal sanctions.

ADMINISTRATIVE ENFORCEMENT ACTIONS

Senate amendment

The Senate bill (section 103(c)) provides that the Administrator of the Environmental Protection Agency (EPA) may commence an administrative enforcement action against federal agencies and requires that any such action be initiated in the same manner and under the same circumstances as it would be initiated against other persons. The section also requires that any voluntary resolution or settlement of an enforcement action be embodied in a consent order. The provision further provides that no administrative order issued to a federal agency shall become final until the federal agency has had the opportunity to confer with the Environmental Protection Agency.

House amendment

The House bill contains the identical provisions.

Conference substitute

In adopting the provision (section 102(b)), the conferees intend to reaffirm the original intent of the Solid Waste Disposal Act authorizing administrative enforcement actions against federal facilities. The conferees also intend that where EPA uses an administrative complaint pursuant to section 3008(a) to address particular types of violations detected at a private company or municipality the Administrator must use an administrative complaint to address the same types of violations at a federally facility.

LIMITATION ON STATE USE OF FUNDS

Senate amendment

The Senate bill contains no comparable provision.

House amendment

Section 2(c) of the House bill provides that funds collected by a state from the federal government from fines and penalties imposed for violation of any requirement referred to in subsection (a), may only be used for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement, unless the state's constitution requires that these funds be used in a different manner.

Conference substitute

The conference substitute (section 102(b)) provides that funds collected by a state from the federal government from fines and penalties imposed for violation of any requirement referred to in subsection (a) may only be used for environmental projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement, unless the state's constitution requires that these funds be used in a different manner, or the state has a statute in effect on the date of enactment of the Federal Facility Compliance Act requiring that the funds be used in a different manner. The requirement of a state constitution or a state law that the funds be used in a different manner includes a prohibition on earmarking of funds.

The conferees intend that when states impose fines or penalties on the federal government, those moneys should be used for projects designed to improve or protect the environment, or to defray the costs of environmental protection or enforcement. However, the conferees are aware that this limitation would be in direct conflict with certain state statutes and constitutional provisions. Therefore, the conferees determined that when a state statute in effect on the date of enactment of the Federal Facility Compliance Act, or a state constitution, requires that funds collected from fines and penalties be used in a different manner, including a prohibition on earmarking of such funds, the limitation contained in this section shall not apply.

EFFECTIVE DATES OF THE WAIVER

Senate amendment

The Senate bill (section 103), applies the amended waiver of sovereign immunity immediately. However, section 105 of the Senate bill modifies the requirements of section 3004(j) of the Solid Waste Disposal Act as they apply to those mixed waste streams at federal facilities for which technologies do not exist or sufficient treatment capacity is not yet available, so as to not require compliance with the storage requirements of section 3004(j) until December 31, 1993. The Administrator is authorized to grant case-by-case extensions, but no such extension could be granted beyond July 1, 1997.

House amendment

The House bill (section 2) makes the amended waiver of sovereign immunity applicable upon the date of enactment.

Conference substitute

The conference substitute (section 102(c)) specifies the effective dates for the amendments to section 6001 of the Solid Waste Disposal Act made by subsection 102(a) of the Federal Facility Compliance Act as follows:

Paragraph 102(c)(1) of the conference substitute provides that, except as provided in paragraphs (2) and (3), the amendments made by subsection 102(a) shall take effect on the date of enactment of the Federal Facility Compliance Act. Thus, for all violations other than the violations of section 3004(j) of the Solid Waste Disposal Act involving storage of mixed waste as specified in paragraphs (2) and (3), the waiver of sovereign immunity contained in subsection (a) (that is in addition to the existing waiver of sovereign immunity in section 6001 of the Solid Waste Disposal Act which was in effect prior to the date of effect on the date of enactment of the Federal Facility Compliance Act.

With respect to violations of the requirements of section 3004(j) of the Solid Waste Disposal Act involving the storage of mixed waste, the conference substitute delays for three years the effective date of the waiver of sovereign immunity added by the Federal Facility Compliance Act for fines and penalties, in order to provide the Department of Energy (DOE) with sufficient time to submit and obtain approval for plans for the development of treatment capacity and technologies for its facilities that generate and store mixed waste. The Department of Energy has stated that three years is both necessary and adequate to develop these plans. After the three-year period, for plans that have been approved and where a compliance order has been issued and is in effect, the DOE would be subject to fines and penalties for violations of such plans, but not for violations of section 3004(j) involving the storage of mixed waste.

Paragraph (c)(2) provides that, for three years after the date of enactment of the Federal Facility Compliance Act, the waiver of sovereign immunity in subsection (a) (that is in addition to the existing waiver of sovereign immunity in section 6001 which was in effect prior to the date of enactment of the Federal Facility Compliance Act) shall not apply to the federal government for violations of section 3004(j) of the Solid Waste Disposal Act involving storage of mixed waste that is not subject to an existing agreement, permit, or administrative or judicial order, so long as such waste is managed in compliance with all other applicable requirements. However, such waiver of sovereign immunity shall apply to violations of section 3004(j) at any time prior to the date three years after the date of enactment of the Federal Facility Compliance Act if such waste is not managed in compliance with all applicable requirements other than section 3004(j).

The phrase "(as added by the amendments made by subsection (a))" in this paragraph makes it clear that the specified delay in the effective date of the waiver of sovereign immunity in section 6001(a) of the Solid Waste Disposal Act for violations of section 3004(j) involving mixed waste applies only to that portion of the waiver in the Solid Waste Disposal Act that is substantively added by the Federal Facility Compliance Act. The waiver of sovereign immunity that was in effect prior to the date of enactment of the Federal Facility Compliance Act will continue to be effective, in full, after the date of enactment, and its applicability is not affected by this Act. Thus, for example, and not by limitation, injunctive relief, which has been available for violations of the requirements of the Solid Waste Disposal Act under section 6001 as it existed prior to the enactment of this Act, continues to be available for violations of the Solid Waste Disposal Act, including violations of section 3004(j) involving mixed waste, after the date of enactment of this Act, within or beyond the three year period following the date of enactment.

Subparagraph 102(c)(3)(A) provides that, except as provided in subparagraph (B), after three years after the date of enactment of the Federal Facility Compliance Act, the waiver of sovereign immunity in subsection (a) (that is in addition to the existing waiver of sovereign immunity in section 6001 which was in effect prior to the date of enactment of the Federal Facility Compliance Act) shall apply to the federal government for violations of section 3004(j) involving storage of mixed waste.

Subparagraph (B) provides that the waiver referred to in subparagraph (A) shall not apply for violations by the Department of Energy of section 3004(j) of the Solid Waste Disposal Act involving the storage of mixed waste, provided that the DOE is in compliance with an approved plan for the development of treatment capacities and technologies under section 3021(b) and is in compliance with an order requiring compliance with such plan.

Paragraph 102(c)(4) provides that the existing waiver of sovereign immunity in subsection (a) (that is in addition to the waiver of sovereign immunity in section 6001 which was in effect prior to the date of enactment of the Federal Facility Compliance Act) shall take effect on the date of enactment of this Act with respect to any agreement, permit, or administrative or judicial order existing on such date of enactment. This paragraph does not affect the applicability of the existing waiver of sovereign immunity in the Solid Waste Disposal Act that was in effect prior to the date of enactment of this Act. This paragraph ensures that the existing waiver contained in section 6001 of the Solid Waste Disposal Act as well as the additional waiver for all administrative orders and all administrative penalties and fines is fully applicable to Department of Energy agreements or orders at the Hanford, Washington; Rocky Flats, Colorado; and Savannah River, South Carolina facilities of the Department of Energy.

The Administrator of the Environmental Protection Agency is currently reviewing a Department of Energy petition for a one-year, case-by-case variance under section 3004(h) for mixed waste. In delaying the effective date for fines and penalties for violations of section 3004(j) involving storage of mixed waste, and in adopting the inventory reports and plan provisions of section 105, the conferees have obviated the need for EPA to pursue the case-by-case petition. Further, the conferees do not agree that a "binding contractual commitment" as the term is used in section 3004(h) of the Solid Waste Disposal Act includes an agreement between two or more federal departments, agencies, or instrumentalities.

DEFINITION OF PERSON

Senate amendment

Section 104 of the Senate bill amends the existing definition of, "person" contained in section 1004(15) of the Solid Waste Disposal Act to include each department, agency, and instrumentality of the United States.

House amendment

The House bill (section 3) provides that for the purposes of the Solid Waste Disposal Act the term "person" shall be treated as including each department, agency, and instrumentality of the United States.

Conference substitute

The conference substitute (section 103) adopts the Senate provision.

FACILITY ENVIRONMENTAL ASSESSMENTS

Senate amendment

Section 102 of the Senate bill requires the Administrator of EPA to undertake an annual inspection of each facility owned or operated by the United States that is subject to the Solid Waste Disposal Act, the Comprehensive Environmental Response, Compensation, and Liability Act, the Clean Air Act, the Clean Water Act, the Safe Drinking Water Act, and the Toxic Substances Control Act, to enforce compliance with these acts. Each annual inspection is to include an analysis of comprehensive groundwater monitoring. The records of such inspections are to be available to the public. The department, agency, or instrumentality owning or operating each such facility shall reimburse the EPA for the costs of the inspection.

House amendment

The House bill contains no comparable provision.

Conference substitute

The conference substitute (section 104) modifies the Senate provision and amends existing section 3007(c) of the Solid Waste Disposal Act, which requires annual inspections of federal facilities by the Administrator of EPA. The conference agreement provides that states with an authorized hazardous waste program under section 3006 may also conduct inspections for the purposes of enforcing the facilities' compliance with the state hazardous waste program. The EPA is to be reimbursed by the department, agency, or instrumentality owning or operating the facility for the costs of the inspection. With respect to the first inspection occurring after the date of enactment of the

Federal Facility Compliance Act of 1992, EPA is to conduct a comprehensive groundwater monitoring evaluation at the facility, unless such an evaluation was conducted during the 12-month period preceding the date of enactment.

Nothing in section 104 requires the comprehensive groundwater evaluation to address compliance with the Clean Water Act, the Oil Pollution Act or the Comprehensive Environmental Response, Compensation, and Liability Act.

MIXED WASTE STORAGE AND TREATMENT

Senate amendment

The Senate bill (section 105) amends section 3004(j) of the Solid Waste Disposal Act to provide relief to federal entities for mixed waste storage violations under existing section 3004(j). The Solid Waste Disposal Act requires that wastes subject to the ban on land disposal, such as mixed waste, be stored only in anticipation of treatment. EPA regulations limit the time of such storage to one year.

Under the Senate bill, until December 31, 1993, where technologies do not exist or sufficient treatment capacity is not yet available for treatment of mixed waste generated at federal facilities, mixed waste is required to be stored in compliance with all applicable requirements except existing section 3004(j). The Senate bill further provides that EPA may grant a one-year renewable variance from existing section 3004(j) requirements to any federal entity in cases where there is inadequate treatment capacity available or technologies do not exist. Such a variance may be granted after notice and comment and after consultation with appropriate state agencies in all affected states. EPA is prohibited from granting such extensions beyond July 1, 1997.

House amendment

The House bill contains no comparable provision.

Conference substitute

Inventories

The conference substitute requires the Secretary of Energy to submit to the Administrator and the governor of each state in which the Department of Energy (DOE) stores or generates mixed wastes a national inventory, on a state-by-state basis, of mixed waste. The inventory is required to be submitted not later than 180 days after enactment of the Federal Facility Compliance Act of 1992.

The inventory is to include, among other items: a description of each type of mixed waste at each Department of Energy facility in each state (including the name of the waste stream); the amount of each type of mixed waste that is stored at each DOE facility; an estimate of the amount of each type of mixed waste DOE expects to generate in the next five years; an inventory of waste that has not been characterized by sampling and analysis; technologies specified for the treatment of the hazardous waste component of the mixed waste, and a statement of whether and how the radionuclide content of the waste alters or affects the use of treatment technologies.

In addition, the inventory prepared by DOE is to include an estimate of the available treatment capacity for each identified mixed waste, a description of the treatment facilities (including those not considered in calculating treatment capacity and proposed treatment facilities), and information to support DOE's determination that no treatment technology exists for a particular waste stream.

Not later than ninety days after DOE has submitted the inventories, the Administrator and each state which receives the report shall submit any comments they may have to DOE. Nothing limits or restricts the authority of the states or the Administrator to request additional information from the Secretary of Energy.

Facility—Specific plan for development of treatment capacities and technologies

For each DOE facility at which mixed waste is stored or generated, DOE is required to develop a plan, under a new section 3021(b) of the Solid Waste Disposal Act, for developing treatment capacity and technologies for such mixed waste regardless of when it was generated. No plan is required for any facility subject to any permit establishing a schedule for treatment of mixed wastes, or to any existing agreement or administrative or judicial order governing the treatment of such wastes, to which the state is a party.

The plan covering mixed waste for which treatment technologies exist is to contain a schedule for submitting permit applications, entering into contracts, initiating construction, conducting systems testing, commencing operations, and processing backlogged and currently generated mixed wastes. For mixed waste for which no treatment technologies exist, each plan submitted by DOE is to provide a schedule for: (1) identifying and developing such technologies, (2) identifying the funding requirements for the identification and development of such technologies, (3) submitting treatability study exemptions, and (4) submitting research and development permit applications.

For all cases where DOE proposes radionuclide separation of mixed waste, or materials derived from mixed wastes, DOE is to provide an estimate of the volume of waste generated by each case of radionuclide separation, the volume of waste that would exist or be generated without radionuclide separation, the estimated costs of waste treatment and disposal if radionuclide separation is used compared to the estimated costs if it is not used, and the assumptions underlying such waste volume and cost estimates.

Each plan may provide for centralized, regional, or on-site treatment of mixed wastes, or any combination thereof.

Review, approval, revisions and waiver of plan

DOE is required to submit each plan to the state in which a DOE facility that generates or stores mixed waste is located if such state has (1) authority under state law to prohibit land disposal of mixed waste until the waste has been treated and (2) authority under state law to regulate the hazardous components of mixed waste and authorization from the Environmental Protection Agency under section 3006 of the Solid Waste Disposal Act to regulate the hazardous components of mixed waste. EPA has authorized 32 states to regulate the hazardous components of mixed waste, starting with Colorado in 1986, and most recently adding California in 1992.

DOE has provided information to the conferees indicating that the department has approximately 33 facilities in 15 states, not including the Hanford, Rocky Flats, and Savannah River facilities, that have mixed waste subject to the section 3004(j) storage prohibition. The conferees are aware that the vast majority of states in which these facilities are located currently meet both criteria set forth in section 3021(b) for becoming the approving authority for the plans required by that section. These include but are not limited to the following states: California, Colorado, Idaho, Illinois, Indiana, Kentucky, Nevada, New Mexico, New York, Ohio, Tennessee, and Texas.

Each state with current authority that meets the above requirements as well each state that obtains such authority in the future is qualified to approve DOE plans for DOE facilities that generate or store mixed waste in such state.

In reviewing each plan submitted to the state by DOE, each state shall consider the need for regional treatment facilities. In addition, the state shall consult with the Administrator and any other state in which a facility affected by a plan is located and consider public comments in making its determination on each plan. The state shall approve, approve with modifications, or disapprove each plan within 6 months after receipt of such plan.

Where a state in which a DOE facility that generates or stores mixed waste does not have the authority described in new section 3021(b)(2)(A) of the Solid Waste Disposal Act, DOE is to submit each plan to the Administrator of EPA and the state in which the facility is located. In reviewing the plan, the Administrator shall consider the need for regional treatment facilities. In addition, the Administrator shall consult with the state or states in which any facility affected by a plan is located and consider public comments in making a determination on a plan. The Administrator shall approve, approve with modifications, or disapprove the plan within 6 months after receipt of each plan.

Upon approval of each plan by the Administrator or the state, the Administrator shall issue an order under section 3008(a) of the Solid Waste Disposal Act, or the state shall issue an order under appropriate state authority, requiring compliance with each plan.

Once DOE has submitted a plan to the state or EPA, and before approval by the state or EPA, the state or EPA shall publish a notice of the availability of each submitted plan and make each plan available to the public upon request. Revisions to any plan are subject to the same process and requirements as each original plan. A state may waive the requirement for DOE to submit a plan for a facility located in such state if the state (1) enters into an agreement with DOE that addresses compliance at that facility with section 3004(j) of the Solid Waste Disposal Act with respect to mixed waste and (2) issues an order which requires compliance with such agreement and which is in effect. Any violation of such agreement or order is subject to the waiver of sovereign immunity contained in section 6001(a).

Schedule and progress reports

The requirement for DOE to publish a schedule and submit three annual progress reports will allow Congress to follow the Department's progress in developing the plans and entering into the orders necessary to bring it into compliance with section 3004(j).

The schedule and progress reports consist of information that DOE would be expected to develop independently for its own use in order to effectively and responsibly manage its activities to achieve compliance with section 3004(j). Not later than 18 months after the date of enactment of the Federal Facility Compliance Act the GAO is required to submit to the Congress a report on DOE's progress in complying with section 3021(b) of the Solid Waste Disposal Act.

DEFINITION OF MIXED WASTE

Senate amendment

Section 108 of the Senate bill defines the term "mixed waste" as waste that contains both hazardous waste and source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954.

House amendment

The House bill contains no comparable provision.

Conference substitute

The conference substitute (section 105(b)) adopts the Senate provision. This definition reflects the meaning of the term as used in current Nuclear Regulatory Commission and Environmental Protection Agency guidance, practice, and policy.

MIXED WASTE TREATMENT REGULATIONS

Senate amendment

Section 105(b) of the Senate bill provides that, not later than December 31, 1992, the Administrator of the Environmental Protection Agency is to promulgate regulations for mixed waste specifying those levels or methods of treatment which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized and exposure to radioactivity during treatment is minimized.

House amendment

The House bill contains no comparable provision.

Conference substitute

The conference substitute deletes the Senate amendment.

PUBLIC VESSELS

Senate amendment

Section 111 of the Senate bill provides that any solid or hazardous waste generated on a public vessel shall not be subject to storage, manifest, inspection, or recordkeeping requirements under the Solid Waste Disposal Act, until such waste is removed from the public vessel on which it was generated. The section provides that waste transferred directly from one public vessel to another shall not be considered to have been "removed from the public vessel on which it was generated" so long as it remains on a public vessel.

House amendment

The House bill contains no comparable provision.

Conference substitute

The conference substitute (section 106) provides that any hazardous waste generated on a public vessel shall not be subject to the storage, manifest, inspection, or recordkeeping requirements of the Solid Waste Disposal Act, until such waste is transferred to a shore facility, unless: (1) the waste is stored on the public vessel for more than 90 days after the public vessel is placed in reserve or is otherwise no longer in service; or (2) the waste is transferred to another public vessel within the territorial waters of the United States and is stored on such vessel or another public vessel for more than 90 days after the date of transfer.

This section of the conference report is intended to address the concern of the Department of Defense that military vessels that generate and store hazardous wastes during the performance of their duties not be considered Solid Waste Disposal Act-regulated entities until the hazardous waste is to be off-loaded at a port. It is not the intent of the conferees, however, that public vessels become floating, unregulated hazardous waste storage facilities; hazardous waste that is generated on any public vessel should be removed to a permitted treatment, storage, or disposal facility on shore as soon as that removal may be safely and feasibly accomplished.

The use of the terms "in reserve" and "otherwise no longer in service" thus is not intended to require that a vessel be formally "decommissioned," or that some official act need take place to formally remove a vessel from service before the allowable 90-day storage period begins to run. Rather, the conferees intend that these terms apply to a vessel that becomes inactive for what is to be any significant period of time, and that the allowable 90-day storage period begins to run as soon as the vessel becomes inactive.

In addition, the section provides that the allowable 90-day storage period begins to run as soon as the hazardous waste is transferred from the vessel on which it was generated to another public vessel, within the territorial waters of the United States. This provision is designed to prevent the avoidance of Solid Waste Disposal Act regulation through "continual transfer" or perpetual storage, by offloading waste from the vessel of generation to, for example, another vessel anchored at harbor, rather than to a shore facility.

MUNITIONS

Senate amendment

Section 113 of the Senate bill adds a new subsection (d) to section 1006 of the Solid Waste Disposal Act, which requires that the Secretary of Defense have responsibility for carrying out any requirement of Subtitle C of such Act related to the safe development, handling, use, transportation, and disposal of military munitions. Section 113 requires that the Secretary, with the concurrence of the Administrator of the Environmental Protection Agency, promulgate such regulations as may be necessary to carry out the purposes of new subsection (d).

House amendment

The House bill contains no comparable provision.

Conference substitute

The conference substitute (section 107) provides that, not later than six months after the date of enactment of the Federal Facility Compliance Act, the Administrator, after consulting with the Secretary of Defense and appropriate state officials, shall propose regulations to: (1) identify when military munitions become hazardous wastes for the purposes of Subtitle C, and (2) provide for the safe transportation and storage of such waste. The section further provides that the Administrator shall promulgate such regulations, after public notice and comment, not later than 24 months after the date of enactment of the Federal Facility Compliance Act. Such regulations shall assure protection of human health and the environment. The term "military munitions" is defined to include, for purposes of this subsection (new section 3004(y) of the Solid Waste Disposal Act, added by the conference substitute), chemical and conventional munitions.

The Department of Defense has indicated that having a regulatory determination identifying when military munitions become a hazardous waste for the purpose of regulation under Subtitle C would eliminate potential confusion in this area. The amendment adopted requires EPA to propose and issue regulations for all military munitions including those of the Department of Army. The conferees intend that EPA consult with the Department of Defense and appropriate state regulatory agencies in proposing the regulations and that all interested parties participate during the notice and comment period prior to promulgation of final regulations. The conferees intend that all parties work within the regulatory process.

Without this regulation, the issue of when the Solid Waste Disposal Act jurisdiction attaches to military munitions will likely be left to the courts. The conferees intend that this potential litigation be avoided, and that all the interested parties use the regulatory process to develop a fair and coherent approach to identifying when military munitions become a hazardous waste under the Solid Waste Disposal Act.

The conferees intend for EPA to also review possible conflicts in applicable treatment and disposal regulations between DOD and EPA. In doing so, EPA should examine DOD safety requirements and take them into account in promulgating any regulation necessary to protect human health and the environment.

The conferees also intend that the Administrator should make this determination for both conventional and chemical munitions. As passed by the Senate, the military munitions provision covered only the safe handling and disposal of conventional munitions, because a regulatory regime for the ultimate destruction of chemical munitions already exists. Since the focus of the military munitions provision has shifted from a requirement for new regulations for the disposal of munitions to a determination of when munitions become waste, and their safe transportation and storage, the conferees believe it is necessary to include chemical weapons within the scope of the provision. The expansion of the definition of military munitions to include chemical munitions does not affect any existing requirements for the destruction and disposal of chemical munitions imposed on the Department of Defense by either EPA or any state governmental agency.

FEDERALLY OWNED TREATMENT WORKS

Senate amendment

Section 112 of the Senate bill provides generally that any wastewater treatment works owned by a department, agency, or instrumentality of the federal government shall be considered to be managing a solid waste, but not a hazardous waste, if: (1) such wastewater treatment works receives and treats wastewater, the majority of which is domestic sewage; (2) no solid waste in any unit that is part of the wastewater treatment works exhibits any hazardous waste characteristic as determined pursuant to test methods and criteria established by the Administrator of EPA under Subtitle C of the Solid Waste Disposal Act unless such waste is removed from the treatment works and is managed as a hazardous waste; (3) the wastewater treatment works has a permit issued pursuant to section 402 of the Federal Water Pollution Control Act (FWPCA) and such permit includes conditions requiring that any industrial wastewater received by the treatment works is pretreated in accordance with national pretreatment standards established by the Administrator under section 307 of the FWPCA or, in the absence of an applicable pretreatment standard, in accordance with limits established under section 402(b)(8) of the FWPCA, and any solid waste rendered hazardous by an pretreated or non-compliant wastewater is removed to the extent practicable; and (4) the treatment works complies with any other permit conditions the Administrator or an authorized state may establish under section 402 of the FWPCA.

The section also provides that, notwithstanding the above, the owner of a wastewater treatment works is required to: (1) remove and manage as a hazardous waste any solid waste present in any unit of the treatment works that exhibits a hazardous characteristic; and (2) take corrective action with respect to any release or threatened release of a hazardous waste or hazardous constituent from the treatment works. Finally, the section clarifies that its provisions do not constitute a waiver of any requirement under Subtitle C of the Solid Waste Disposal Act with respect to any unit that is part of a wastewater treatment works that pretreats industrial waste prior to discharge to a treatment works.

House amendment

The House bill contains no comparable provision.

Conference substitute

The conference substitute (section 108) provides that, for purposes of section 1004(27) of the Solid Waste Disposal Act, the phrase "but does not include solid or dissolved material in domestic sewage" shall apply to any solid or dissolved material introduced by a source into a federally owned treatment works if: (1) such solid or dissolved material is subject to a pretreatment standard under section 307 of the Federal Water Pollution Control Act (FWPCA) and the source is in compliance with such standard; (2) for solid or dissolved material for which pretreatment standards have not been promulgated pursuant to section 307 of the FWPCA, the Administrator has promulgated a schedule for establishing a pretreatment standard pursuant to section 307 which would be applicable to such solid or dissolved material not later than seven years after enactment of this section, such standard is promulgated on or before the date established in the schedule, and after the effective date of such standard the source is in compliance with the standard; (3) for solid or dissolved materials not covered by (1) or (2), such solid or dissolved material is not prohibited from land disposal under subsections (d), (e), (f) or (g) of section 3004 of the Solid Waste Disposal Act because such material has been treated in accordance with section 3004(m); or (4) notwithstanding paragraphs (1), (2) or (3), such solid or dissolved material is generated by a household or person which generates less than 100 kilograms of hazardous waste per month unless such solid or dissolved material would otherwise be an acutely hazardous waste and subject to standards, regulations, or other requirements of the Solid Waste Disposal Act notwithstanding the quantity generated.

The conference substitute provides that it is unlawful to introduce into a federally owned treatment works any pollutant that is a hazardous waste.

The conference substitute provides that actions taken to enforce this section shall not require closure of a treatment works if the hazardous waste is removed or decontaminated and such removal or decontamination is adequate, in the discretion of the Administrator or an authorized state, to protect human health and the environment. However, the conference substitute also provides that nothing in this subsection shall be construed to prevent the Administrator or an authorized state from ordering the closure of a treatment works if the Administrator or state determines that such closure is necessary for the protection of human health and the environment, and that nothing in this subsection shall be construed to affect any other enforcement authorities available to the Administrator or a state under Subtitle C.

The conference substitute defines the term "federally owned treatment works" as a facility that is owned and operated by a department, agency or instrumentality of the federal government and that treats wastewater, a majority of which is domestic sewage, prior to discharge in accordance with a permit issued under section 402 of the Federal Water Pollution Control Act.

Finally, the conference substitute provides that nothing in this section shall be construed as affecting any agreement, permit, or administrative or judicial order, or any condition or requirement contained in such an agreement, permit, or order, that is in existence on the date of the enactment of this section and that requires corrective action or closure at a federally owned treatment works or solid waste management unit or facility related to such a treatment works.

Municipally- or state-owned sewage treatment plants, known as publicly owned treatment works, or "POTWs," operate under a policy called the "domestic sewage exclusion," which excludes domestic sewage from the definition of solid waste found in section 1004(27) of the Solid Waste Disposal Act. This policy excludes hazardous waste which may enter a POTW from coverage under the Solid Waste Disposal Act and prevents many POTWs from being treated as hazardous waste facilities. The domestic sewage exclusion does not currently apply to federally-owned treatment works.

The conference substitute has the effect of expanding the domestic sewage exclusion to federally owned treatment works, under certain conditions, to address the concerns of the Department of Defense.

However, the domestic sewage exclusion itself is considered by some to be poor public policy, resulting in the transfer of large amounts of hazardous materials to municipal sewage systems which are not prepared to deal with it. Accordingly, the conferees do not intend that the conference substitute regarding federally owned treatment works be interpreted as an endorsement of the domestic sewage exclusion. It is expected that in the future the Congress will address the issue of the domestic sewage exclusion and its applicability to both FOTWs and POTWs, including equitable treatment under the law taking into account their individual circumstances.

SMALL TOWN ENVIRONMENTAL PLANNING

Senate amendment

Section 108 of the Senate bill directs the EPA Administrator to establish a Small Town Environmental Planning Program to assist small towns with a population of less than 2,500 individuals with environmental regulation compliance. The program includes identification of environmental requirements applicable to small towns, a Small Town Ombudsman, and a study of the feasibility multi-media permitting for small towns.

House amendment

The House bill contains no comparable provision.

Conference substitute

The conference substitute (Section 109) adopts the Senate provision with the additions of an authorization limit of $500,000 for the appropriation of the Small Town Environmental Planning Program and a requirement that the Administrator terminate the Task Force not later than 2 years after its establishment.

The conference substitute requires the Administrator, under subsection (a), to establish a Small Town Environmental Planning (STEP) Program. Subsection (b) directs the Administrator to establish the STEP Task Force. At the Administrator's discretion, the Task Force is to be composed of representatives of small towns, state agencies, public interest groups and small town residents. The Task Force is to identify means to improve the working relationship between the EPA and small towns, identify the environmental regulations which pose significant compliance difficulties for small towns, review proposed regulations, and submit comments to improve the ability of small towns to comply with such proposed regulations. The Task Force is to identify means to regionalize environmental treatment systems and infrastructures between small towns to improve economic conditions, and provide any other assistance to the Administrator that the Administrator deems appropriate.

Subsection (c) requires the Administrator to identify and annually publish a compilation of regulations applicable to small towns and to develop effective means to timely notify small towns of proposed regulations.

Subsection (d) directs the Administrator to establish and staff an Office of the Small Town Ombudsman as an advocate for small towns, and each Regional Office of EPA shall identify a small town contact within that office, to provide assistance to small towns to facilitate the goals of the STEP Program.

Subsection (e) directs the Administrator to conduct a study, and report to Congress within 3 years after enactment of the Federal Facility Compliance Act, of the feasibility of a multi-media permitting program for small towns as a vehicle to balance full environmental regulatory compliance with the small town's available resources. This study is to consider a compliance schedule as a part of a permit, if a small town cannot fully comply with the law.

CHIEF FINANCIAL OFFICER REPORT

Senate amendment

Section 110 of the Senate bill requires the Chief Financial Officers of the affected agencies to submit an annual report to Congress: (1) detailing the estimated time and cost required for the development of adequate storage, treatment and disposal capacity for mixed wastes subject to the Solid Waste Disposal Act, (2) including a detailed description of any compliance activities expected to be accomplished during the reporting period, and (3) providing an accounting of any fines and penalties collected pursuant to the Solid Waste Disposal Act.

House amendment

The House bill contains no comparable provision.

Conference substitute

The conference substitute (section 110) modifies the Senate provision to require the Chief Financial Officers of the affected agencies to submit to Congress an annual report containing a description of the compliance activities undertaken by the agency for each mixed waste stream, and an accounting of any fines and penalties imposed on the agency for violations involving mixed waste.

METROPOLITAN WASHINGTON WASTE MANAGEMENT STUDY ACT

Senate amendment

Section 304 of the Senate bill prohibits expansion of the Lorton landfill ("Lorton"), located on federally-owned land in Fairfax County, Virginia, unless (1) an environmental impact statement (EIS) has been completed and approved by the EPA Administrator, and (2) the costs of conducting the EIS shall be paid from a fund established by the jurisdiction using Lorton. Notwithstanding the prohibition on expansion, Lorton may be expanded through construction of the planned ash monofill.

Unless an EIS is completed, the section provides that, after December 31, 1995, Lorton and any expansions thereof may only be used for the disposal of incinerator ash. The section requires the shutdown of the incinerator unless the EIS is completed as provided in the section.

House amendment

The House bill contains no comparable provision.

Conference substitute

The conference substitute (sections 201 through 204) prohibits expansion of Lorton unless (1) an environmental impact statement has been completed and approved by the EPA Administrator, and (2) the costs of conducting the EIS are paid from a fund established by the jurisdictions using Lorton. Notwithstanding the prohibition on expansion, Lorton may be expanded through construction of the planned ash monofill. The ash monofill may be used only for the disposal of incinerator ash, except that such monofill may be used for the disposal of solid waste for a maximum of 30 days if any of the jurisdictions using Lorton experience an emergency shutdown of (1) a resource recovery facility, or (2) a resource recovery facility and an incinerator.

After December 31, 1995, Lorton shall be available only for the disposal of incinerator ash, unless the EIS is completed as provided in the section.

REPRESENTATION AND REIMBURSEMENT OF FEDERAL EMPLOYEES IN CRIMINAL PROCEEDINGS

Senate amendment

Section 103(b) of the Senate bill authorizes the head of a federal department, agency, or instrumentality to provide legal representation for an employee in state criminal proceedings, provided that the actions for which the representation is requested reasonably appear to have been performed within the scope of the employee's employment, and providing representation would otherwise be in the interest of the United States.

Section 103(b) also authorizes the head of a federal department, agency, or instrumentality to reimburse an employee for reasonable defense costs in federal criminal proceedings, provided such employee is not indicted, for actions performed within the scope of his or her employment.

House amendment

The House bill contains no comparable provision.

Conference substitute

The conference substitute deletes the Senate provision.

It is the intent of the conferees that any federal employee who is sued, subpoenaed or charged in his or her individual capacity in a state criminal proceeding be entitled to the same protection that they now receive under the guidelines of the United States Department of Justice at 28 C.F.R. 50.15 (1990). Under those guidelines, the Department of Justice is authorized to provide legal representation for an employee in any state criminal proceeding, provided that the actions for which the representation is requested reasonably appear to have been performed within the scope of the employee's employment and that providing representation would otherwise be in the interest of the United States.

The Department of Justice guidelines do not currently address the question of whether the federal government should exercise its authority to reimburse a federal employee, provided such employee is not indicted, for reasonable defense costs in a federal criminal proceeding. The conferees believe that such reimbursement would provide needed protection to employees who are now forced to utilize limited personal assets to defend against charges that are later found insufficient to support an indictment.

Therefore, the conferees strongly encourage the Department of Justice to use its existing authority to develop and issue guidelines providing for the reimbursement of a federal employee for reasonable defense costs in a federal criminal proceeding, in cases in which (1) such employee is not indicted, (2) the actions for which reasonable defense costs are incurred reasonably appear to have been performed within the scope of the employee's employment, and (3) providing reimbursement would otherwise be in the interest of the United States.

SURETY BONDS

Senate amendment

With respect to federal facilities not included on the Superfund National Priorities List, section 109 of the Senate bill clarifies the liabilities and access to indemnification of sureties providing bonds for cleanup work. This provision is based on a comparable provision in section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

House amendment

The House bill contains no comparable provision.

Conference substitute

The conference substitute deletes the Senate amendment.

USE OF MINE WASTE TREATMENT CAPABILITIES

Senate amendment

Section 114 of the Senate bill authorizes the Administrator of the Environmental Protection Agency to utilize the mine waste treatment capabilities at the Department of Energy's Pittsburgh Energy Technology Center to help carry out the facility environmental assessments required by the Federal Facility Compliance Act.

House amendment

The House bill contains no comparable provision.

Conference substitute

The conference substitute deletes the Senate provision.

FEDERAL RECYCLING

Senate amendment

Section 202 of the Senate bill requires the Administrator of the Environmental Protection Agency to establish a program requiring all federal agencies to separate materials from solid waste for recycling. The provision would allow each agency to use the proceeds from its recycling program for any authorized activities of that agency. Section 202 also requires the Administrator to submit an annual report to Congress concerning compliance by federal agencies with recycling guidelines issued under section 6907 of the Solid Waste Disposal Act.

House amendment

The House bill contains no comparable provision.

Conference substitute

The conference substitute deletes the Senate provision.

ENERGY MANAGEMENT

Senate amendment

Section 401 of the Senate bill requires the Architect of the Capitol to undertake a program of analysis and retrofit of the Capitol buildings' lighting systems to replace incandescent lighting with efficient fluorescent lighting.

House amendment

The House bill contains no comparable provision.

Conference substitute

The conference substitute deletes the Senate provision.

From the Committee on Energy and Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
AL SWIFT,
DENNIS E. ECKART,
JIM SLATTERY,
GERRY SIKORSKI,
NORMAN F. LENT,
DON RITTER,
DAN SCHAEFER,

Mr. Bilirakis is appointed in lieu of Mr. Schaefer for consideration of that portion of section 2(b) of the House bill which adds section 6001(c) to the Solid Waste Disposal Act.

MICHAEL BILIRAKIS,

As additional conferees from the Committee on the Judiciary, for consideration of sec. 2(a) of the House bill, and sec. 103(a) of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
BARNEY FRANK,
G.W. GEKAS,

As additional conferee from the Committee on Merchant Marine and Fisheries, for consideration of sec. 304(a) of the Senate amendment, and modifications committed to conference:

GERRY STUDDS,

As additional conferees from the Committee on Public Works and Transportation, for consideration of secs. 102, 109, and 115–119 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
HENRY J. NOWAK,
JOHN PAUL
HAMMERSCHMIDT,

As additional conferees from the Committee on Public Works and Transportation, for consideration of title IV of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
GUS SAVAGE,
ELEANOR H. NORTON,
HENRY J. NOWAK,
R.A. BORSKI,
JOHN PAUL
HAMMERSCHMIDT,
BUD SHUSTER,
JAMES M. INHOFE,
Managers on the Part of the House.

MAX BAUCUS,
DANIEL PATRICK MOYNIHAN,
GEORGE MITCHELL,
FRANK R. LAUTENBERG,
JOHN H. CHAFEE,
ALAN K. SIMPSON,
DAVE DURENBERGER,
J. WARNER,
Managers on the Part of the Senate.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 3143. An act to authorize transition assistance for members of the Armed Forces adversely affected by reductions in Federal Government spending for national security functions, and for other purposes.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12) "An Act to amend title VI of the Communications Act of 1934 to ensure carriage on cable television of local news and other programming and to restore the right of local regulatory authorities to regulate cable television rates, and for other purposes.".

NATIONAL COMPETITIVENESS ACT OF 1992

The SPEAKER pro tempore. Pursuant to House Resolution 563 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5231.

□ 1458

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5231) to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance manufacturing technology development and transfer, to authorize appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes, with Mr. LANCASTER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, September 16, 1992, title I was open for amendment at any point.

Three hours and 33 minutes remain for consideration of the bill under the 5-minute rule.

Are there further amendments to title I?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

Mr. VALENTINE. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from North Carolina reserves a point of order on the amendment.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 1, after the enacting clause insert the following:

TITLE I—PUBLIC DEBT REDUCTION

SEC. 101. DESIGNATION OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT.-

(a) IN GENERAL.—Subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to returns and records) is amended by adding at the end the following new part:

"PART IX—DESIGNATION FOR REDUCTION OF PUBLIC DEBT

"Sec. 6097. Designation.

"SEC. 6097. DESIGNATION.

"(a) IN GENERAL.—Every individual with adjusted income tax liability for any taxable year may designate that a portion of such liability (not to exceed 10 percent thereof) shall be used to reduce the public debt.

"(b) MANNER AND TIME OF DESIGNATION.—A designation under subsection (a) may be made with respect to any taxable year only at the time of filing the return of tax imposed by chapter 1 for the taxable year. The designation shall be made on the first page of the return or on the page bearing the taxpayer's signature.

"(c) ADJUSTED INCOME TAX LIABILITY.—For purposes of this section, the term 'adjusted income tax liability' means income tax liability (as defined in section 6096(b)) reduced by any amount designated under section 6096 (relating to designation of income tax payments to Presidential Election Campaign Fund)."

(b) CLERICAL AMENDMENT.—The table of parts for such subchapter A is amended by adding at the end the following new item:

"Part IX. Designation for reduction of public debt."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 102. PUBLIC DEBT REDUCTION TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (Relating to trust fund code) is amended by adding at the end the following section:

"SEC. 9511. PUBLIC DEBT REDUCTION TRUST FUND.

"(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Public Debt Reduction Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Public Debt Reduction Trust Fund amounts equivalent to the amounts designated under section 6097 (relating to designation for public debt reduction).

"(c) EXPENDITURES.—Amounts in the Public Debt Reduction Trust Fund shall be available only for purposes of paying at maturity, or to redeem or buy before maturity, any obligation of the Federal Government included in the public debt. Any obligation which is paid, redeemed, or bought with amounts from such Trust Fund shall be canceled and retired and may not be reissued."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end the following new item:

"Sec. 9511. Public Debt Reduction Trust Fund."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after the date of the enactment of this Act.

SEC. 103. TAXPAYER-GENERATED SEQUESTRATION OF FEDERAL SPENDING TO REDUCE THE PUBLIC DEBT.

(a) SEQUESTRATION TO REDUCE THE PUBLIC DEBT.—Part C of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding after section 253 the following new section:

"SEC. 253A. SEQUESTRATION TO REDUCE THE PUBLIC DEBT.

"(a) SEQUESTRATION.—Notwithstanding sections 255 and 256, within 15 days after Congress adjourns to end a session (other than the One Hundred Second Congress), and on the same day as sequestration (if any) under sections 251, 252, and 253, but after any sequestration required by those sections, there shall be a sequestration equivalent to the estimated aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the last taxable year ending before the beginning of that session of Congress.

"(b) APPLICABILITY.—

"(1) IN GENERAL.—Except as provided by paragraph (2), each account of the United States shall be reduced by a dollar amount calculated by multiplying the level of budgetary resources in that account at that time by the uniform percentage necessary to carry out subsection (a). All obligational authority so reduced shall be done in a manner that makes such reductions permanent.

"(2) EXEMPT ACCOUNTS.—No order issued under this part may—

"(A) reduce benefits payable the old-age, survivors, and disability insurance program established under title II of the Social Security Act;

"(B) reduce payments for net interest (all of major functional category 900); or

"(C) make any reduction in the following accounts:

"Federal Deposit Insurance Corporation, Bank Insurance Fund;

"Federal Deposit Insurance Corporation, FSLIC Resolution Fund;

"Federal Deposit Insurance Corporation, Savings Association Insurance Fund;

"National Credit Union Administration, credit union share insurance fund; or

"Resolution Trust Corporation.".

(b) REPORTS.—Section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subsection (d)(1), by inserting ", and sequestration to reduce the public debt,";

(2) in subsection (d), by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) SEQUESTRATION TO REDUCE THE PUBLIC DEBT REPORTS.—The preview reports shall set forth for the budget year estimates for each of the following:

"(A) The aggregate amount designated under section 6097 of the Internal Revenue Code of 1986 for the last taxable year ending before the budget year.

"(B) The amount of reductions required under section 253A and the deficit remaining after those reductions have been made.

"(C) The sequestration percentage necessary to achieve the required reduction in accounts under section 253A(b)."; and

(3) in subsection (g), by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) SEQUESTRATION TO REDUCE THE PUBLIC DEBT REPORTS.—The final reports shall contain all of the information contained in the preview reports required under subsection (d)(5).".

(c) EFFECTIVE DATE.—Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985, the expiration date set forth in that section shall not apply to the amendments made by this Act. The amendments made by this Act shall cease to have any effect after the first fiscal year during which there is no public debt.

TITLE II—ANTITRUST

SEC. 201. FINDINGS.

The Congress finds that—

(1) the globalization of the economy makes antitrust law much less relevant today, and even counterproductive, than when it was developed;

(2) rapid technological change makes the creation of monopolies unlikely as the pace of product and process innovation accelerates;

(3) cooperative efforts in today's world are predominantly pro-competitive rather than anticompetitive; and

(4) changing the United States antitrust laws to mirror the realities of the way in which other countries enforce anticompetitive statutes would make United States industries more competitive internationally.

SEC. 202. MERGER ANALYSIS.

Section 7 of the Clayton Act (15 U.S.C. 18) is amended—

(1) in the first paragraph by striking "the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly" and inserting in lieu thereof "there is a significant probability that such acquisition will substantially increase the ability to exercise market power";

(2) in the second paragraph—

(A) by striking "the effect of" and inserting in lieu thereof "there is a significant probability that"; and

(B) by striking "may be substantially to lessen competition, or to tend to create a monopoly" and inserting in lieu thereof "will substantially increase the ability to exercise market power";

(3) in the third paragraph—

(A) by striking "the substantial lessening of competition" in the first sentence and inserting in lieu thereof "a substantial increase in the ability to exercise market power"; and

(B) by striking "lessen competition" in the second sentence and inserting in lieu thereof "increase the ability to exercise market power"; and

(4) by inserting after the third paragraph the following new paragraph:

"For purposes of this section, the ability to exercise market power is defined as the ability of one or more firms profitably to maintain prices above competitive levels for a significant period of time. In determining whether there is a significant probability that any acquisition will substantially increase the ability to exercise market power, the court shall duly consider all economic factors relevant to the effect of the acquisition in the affected markets, including (i) the number and size distribution of firms and the effect of the acquisition thereon; (ii) ease or difficulty of entry by foreign or domestic firms; (iii) the ability of smaller firms in the market to increase production in response to an attempt to exercise market power; (iv) the nature of the product and terms of sale; (v) conduct of firms in the market; (vi) efficiencies deriving from the acquisition; and (vii) any other evidence indicating whether the acquisition will or will not substantially increase the ability, unilaterally or collectively, to exercise market power.".

SEC. 203. COOPERATIVE PRODUCTION.

The National Cooperative Research Act of 1984 (15 U.S.C. 4301 et seq.) is amended—

(1) in section 1, by striking "National Cooperative Research Act of 1984" and inserting in lieu thereof "National Cooperative Research, Development, and Production Act";

(2) by striking "joint research and development venture" each place it appears and inserting in lieu thereof "joint research, development, or production venture";

(3) in section 2(a)(6)—

(A) by striking "or" in subparagraph (D);

(B) by striking subparagraph (E) and inserting in lieu thereof the following:

"(E) the production of any product, process, or service, or

"(F) any combination of the purposes specified in subparagraphs (A), (B), (C), (D), and (E),"; and

(C) by inserting "development, or production," after "the conducting of research,";

(4) in section 2(b)(1), by striking "conduct the research and development that is" and inserting in lieu thereof "carry out";

(5) by striking sections 2(b)(2) and 2(b)(3) and inserting in lieu thereof the following:

"(2) entering into any agreement or engaging in any other conduct restricting, requiring, or otherwise involving the marketing by such venture or by any person who is a party to such venture of any product, process, or service developed through or produced by such venture, other than—

"(A) the marketing by such venture of any product, process, or service to any person who is a party to such venture; or

"(B) the marketing of proprietary information, such as patents, rights in mask works protected under title 17 of the United States Code, know-how, and trade secrets; and

"(3) entering into any agreement or engaging in any other conduct—

"(A) to restrict or require the sale, licensing, or sharing by any person who is a party to such venture of inventions, developments, products, processes, or services not developed through or produced by such venture; or

"(B) to restrict or require participation by such a party in other unilateral or joint research, development, or production activities,

that is not reasonably required to prevent misappropriation of proprietary information contributed by any person who is a party to such venture or of the results of such venture.";

(6) in section 3, by striking "research and development markets" and inserting in lieu thereof "research, development, product, process, or service markets";

(7) in the heading to section 6, by striking "JOINT RESEARCH AND DEVELOPMENT VENTURE" and inserting in lieu thereof "JOINT RESEARCH, DEVELOPMENT, OR PRODUCTION VENTURE"; and

(8) in section 6(a) by inserting "(or, with respect to a venture involving the production of any product, process, or service, not later than 90 days after the effective date of the Fundamental Competitiveness Act of 1992)" after "enactment of this Act".

TITLE III—BUSINESS LIABILITY

Subtitle A—Findings

SEC. 301. FINDINGS.

The Congress finds that—

(1) the increasing amount of litigation in our society causes the wasteful use of time, money, and energy which could be better allocated to research, development, production, economic growth, and competitiveness;

(2) the multitude of professional and product liability suits has undermined the incentive and ability of businesses to bring new products to the market and has led professionals to be overly cautious in providing services to the community;

(3) the excessive number of law suits and the plethora of legal standards in the areas of professional and product liability for each State has led to exorbitant compliance costs for manufacturers and service providers;

(4) encouraging alternative dispute mechanisms to resolve both professional and product liability suits would reduce inordinate litigation cost and free capital for more productive enterprises; and

(5) providing uniform legal standards for both professional and product liability would eliminate costly litigation, promote professional and product innovation, reduce regulatory compliance costs, and make the United States more competitive internationally.

Subtitle B—Professionals' Liability Reform

SEC. 311. SHORT TITLE.

This subtitle may be cited as "Professionals' Liability Reform Act of 1992".

SEC. 312. PURPOSE.

The purpose of this subtitle is to establish uniform standards of liability for professionals who provide professional service—

(1) to promote greater uniformity and predictability with respect to liability arising out of such services;

(2) to facilitate the provision of such services through interstate commerce;

(3) to foster innovation by reducing the uncertainty of risk to professionals who provide professional services; and

(4) to encourage the States to support alternative methods for resolving professional liability disputes in order to reduce the costs of such disputes to professionals and their clients.

SEC. 313. SCOPE AND PREEMPTION.

(a) IN GENERAL.—(1) This subtitle governs any professional liability action brought in any Federal or State court against a professional.

(2) This subtitle shall preempt and supersede any State law to the extent that such law is inconsistent with this subtitle. This subtitle shall not preempt or supersede any State law that provides to professionals limitations of liability or defenses which are additional to limitations or defenses contained in this subtitle.

(b) HARM REQUIRED.—A claimant is not entitled to recover damages in a professional liability action except for damages which constitute harm as defined in section 416(4).

(c) CONSTRUCTION OF PROVISIONS.—Nothing in this subtitle shall be construed—

(1) to waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) to waive or affect any defense of sovereign immunity asserted by the United States;

(3) to affect the applicability of the Foreign Services Immunities Act of 1976 (28 U.S.C. 1602 et seq.);

(4) to preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) to affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) ALTERNATIVE PROCEDURES, STANDARDS, AND SYSTEMS.—Nothing in this subtitle shall prohibit States from developing or implementing alternative procedures, standards, or systems, which are not inconsistent with this subtitle, for—

(1) expediting the adjudication of professional liability claims,

(2) resolving professional liability disputes, and

(3) compensating harm caused by professional services.

(e) LIMITATION OF ACTIONS.—No professional liability action shall be maintained unless commenced within 3 years after the claimant discovered, or in the exercise of reasonable diligence should have discovered, that such claimant had suffered harm from professional services.

SEC. 314. DESCRIPTION OF PROFESSIONAL LIABILITY STANDARDS.

(a) Liability in General.—A professional shall not be liable for damages in any professional liability action unless the claimant establishes in addition to any other necessary elements of proof required by law—

(1) except as provided in subsection (b), that such professional negligently rendered professional services and such negligence was the proximate cause of harm to the claimant; or

(2) in the case of a claim for economic injury, that such professional negligently rendered professional services to or for the direct and intended benefit of the claimant, and such services were the proximate cause of the harm to the claimant.

(b) Existence of Certain Scientific, Medical, Legal, or Technical Information.—A professional shall not be liable in a professional liability action for harm caused by professional services rendered by such professional unless the claimant establishes that, at the time such services were rendered, knowledge of the circumstances that caused the harm and a practical means to eliminate such circumstances were reasonably available in light of scientific, medical, legal, or technical information existing at the time the professional services were rendered.

(c) Additional Limitations on Liability.—(1) A professional shall not be liable in a professional liability action in which—

(A) the professional's services were rendered to an agency of the Federal Government or of any State;

(B) the Federal Government or the State established or approved reasonably precise contract specifications material to the claim made against the professional; and

(C) the services rendered by the professional conformed to such specifications in all respects material to the claim.

(2) A determination by an agency of the Federal Government or the State that the services rendered by the professional are in compliance with contract specifications shall serve as conclusive evidence of such conformity.

(d) Periodic Payments.—(1) In any professional liability action in which the award of future damages exceed $100,000, no person may be required to pay for future loss in a single payment, but such person shall be permitted to make such payments periodically based on a projection of when damages are likely to occur.

(2) The court may require such person to purchase an annuity making such periodic payments, if the court finds a reasonable basis for concluding that the person may not make the periodic payments.

(3) The judgment of the court awarding such periodic payments may not be reopened at any time to contest, amend, or modify the schedule or amount of the payments in the absence of fraud.

(4) This subsection shall not be construed to preclude a settlement providing for a single payment.

(f) Collateral Source Benefits.—(1) Any award of damages to a claimant in a professional liability action shall be reduced by any other past or future payment or benefit covered by this subsection which the person has received or for which the person is eligible on account of the harm for which damages are awarded.

(2) As used in this subsection, the term "payment or benefit covered by this subsection" means—

(A) any payment or benefit by or paid, in whole or in part, by any agency or instrumentality of the United States, a State, or local government; and

(B) any payment or benefit by a worker's compensation system, a health insurance program, or income replacement program.

(3) This subsection shall not preempt or supersede any State law which provides that damage awards may be reduced by payments or benefits other than those covered by this section.

(4) This subsection shall not apply to any payments or benefits received before judgment if the application of this subsection would reduce the amount of income that would otherwise be considered under section 402(a)(17) of the Social Security Act.

(5) The amount by which an award of damages to an individual for an injury shall be reduced under paragraph (1) shall be an amount equal to the difference between—

(A) the total amount of the payments (other than such award) which have been made or which will be made to such individual to compensate such individual for such injury, minus

(B) the amount paid by such individual (or by the spouse or parent of such individual) to secure the payments described in subparagraphs (A) and (B) of paragraph (2).

(g) Limitation on Attorneys' Fees.—(1) Except as provided in paragraph (2), in any professional liability action in which claimant receives settlement proceeds or an award of damages, the amount of payments to such individual's attorney shall not exceed—

(A) 33⅓ percent of the first $250,000 recovered,

(B) 25 percent of the next $250,000 recovered, and

(C) 20 percent of any amount recovered in excess of $500,000.

(2) In any civil action to which paragraph (1) applies, the court may, after receiving a petition from the attorney representing the individual who receives settlement proceeds or an award of damages, permit such attorney to be paid an amount of fees in excess of the amount specified by such paragraph if the court determines that the petition has adduced evidence justifying such additional fees.

(h) Liability of Codefendants.—(1) Except as provided in paragraph (2), in a professional liability action, the trier of fact shall determine, with respect to each person responsible for the harm, the percentage of that person's responsibility for the harm for which the action was brought. If damages are awarded to the claimant in such action, a professional shall be liable, if otherwise liable to the claimant for damages, only for the percentage of the damages which equals the percentage of that professional's responsibility for the harm for which the action was brought.

(2) Paragraph (1) shall not apply with respect to persons engaged in concerted action which proximately caused the harm complained of by the claimant. For purposes of this subsection, the term "concerted action" means the participation in joint conduct by 2 or more persons who consciously and deliberately agreed to jointly participate in such conduct with actual knowledge of the wrongfulness of the conduct.

(i) Punitive Damages.—(1) Punitive damages may, if otherwise permitted by applicable law, be awarded to any claimant who establishes, by clear and convincing evidence, that the harm suffered was the result of conduct—

(A) manifesting a professional's malicious and reckless disregard of those persons who might be harmed as a result of the performance of professional service; and

(B) constituting an extreme departure from accepted standard of conduct.

(2) A failure to exercise reasonable care in choosing among alternative types of services, designs, formulations, instructions, or warnings does not, in and of itself, constitute the conduct described in paragraph (1).

(3) Punitive damages may not be awarded in the absence of a compensatory award.

(4) Punitive damages may not be awarded for the negligent provision of professional services.

(5) In determining whether punitive damages are to be awarded, the trier of fact shall consider—

(A) the likelihood at the relevant time that serious harm would arise from the professional's conduct described in paragraph (1),

(B) the degree of the professional's awareness of that likelihood,

(C) the duration of the conduct and any concealment of it by the professional,

(D) the attitude and action of the professional upon discovery of the conduct and whether the conduct has been terminated, and

(E) whether the harm suffered by the claimant was also the result of the claimant's—

(i) disregard for personal safety;

(ii) failure to provide the professional with all material information or other matters relevant to the rendering of professional services; or

(iii) disregard for the consequences of any action taken by the claimant in reliance on professional services.

(6) At the request of the professional, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(7) If the trier of fact determines that a professional has engaged in conduct described under paragraph (1), the court may award punitive damages. In determining the amount of such damages, the court shall consider—

(A) the factors described in paragraph (4),

(B) the profitability to the professional of the conduct for which punitive damages are to be awarded,

(C) the total effect of other punishment imposed or likely to be imposed upon the professional as a result of the conduct, including punitive damage awards to persons similarly situated to the claimant and the severity of civil or criminal penalties to which the professional has been or may be subjected.

(8)(A) A claimant's actual recovery of punitive damages awarded under paragraph (5) may not exceed 3 times the amount of compensatory damages awarded to such claimant.

(B) Any punitive damages awarded by the court in excess of the amount referred to in subparagraph (A) shall be paid—

(i) to the State in which the case is litigated, if the case is litigated in State court; or

(ii) to the Federal Government, if the case is litigated in Federal court.

(C) Notwithstanding subparagraph (B), the court may award attorneys' fees from such damages to the claimant's attorney as compensation for work attributable to obtaining an award of such damages.

(j) COUNSEL'S LIABILITY FOR FRIVOLOUS SUITS.—If the court finds in any professional liability action that such action was commenced—

(1) without a good faith belief by the attorney representing the claimant that there was a reasonable basis in law and in fact for recovery of the relief requested, or

(2) by such attorney merely for purposes of achieving a monetary settlement where there was no reasonable prospect for an award of damages,

the attorney shall be liable for costs, fees, and expenses, including attorney fees, reasonably incurred by the defendant.

SEC. 315. FORMATION OF RISK MANAGEMENT PROGRAMS.

(a) IN GENERAL.—Each State should encourage professional organizations, whose membership includes professionals who practice within the State, to put into effect risk management programs including peer review of professional office policies and practices, organization, and quality of performance.

(b) RECORDS INADMISSIBLE AS EVIDENCE.—Records of the implementation of and conclusions reached by such risk management programs, including peer review of professional office policies and practices, organization, and quality of performance, shall not be admissible in evidence against any professional who is the subject of such records.

SEC. 316. DEFINITIONS.

For purposes of this subtitle—

(1) the term "professional" means—

(A) any person engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or

(B) any person, who (i) has completed the courses of specialized intellectual instruction and study described in clause (iv) of subparagraph (A), and (ii) is performing related work under the supervision of a professional to qualify himself or herself to become a professional as defined in subparagraph (A);

(2) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof;

(3) the term "claimant" means any person—

(A) who has suffered harm from the provision of professional services and who brings a professional liability action, or

(B) who brings such an action on behalf of any person who has suffered harm from the provision of professional services or who brings such an action because a person suffered harm from such services;

(4) the term "harm" means—

(A) illness, bodily injury, or the death of the claimant,

(B) mental anguish of, or emotional harm to, the claimant caused by the claimant's illness or bodily injury,

(C) physical damage to property, or

(D) economic injury; and

(5) the term "professional liability action" means a civil action brought against a professional for personal injury, property damage, or harm suffered by the claimant because of the provision of professional services.

Subtitle C—Product Liability Fairness

PART I—GENERAL PROVISIONS

SEC. 321. SHORT TITLE.

This subtitle may be cited as the "Product Liability Fairness Act".

SEC. 322. DEFINITIONS.

As used in this subtitle, the term—

(1) "claimant" means any person who brings a civil action pursuant to this subtitle, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(2) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(3) "collateral benefits" means all benefits and advantages received or entitled to be received (regardless of any right any other person has or is entitled to assert for recoupment through subrogation, trust agreement, lien, or otherwise) by any claimant harmed by a product or by any other person as reimbursement of loss because of harm to person or property payable or required to be paid to the claimant, under—

(A) any Federal law or the laws of any State (other than through a claim for breach of an obligation or duty); or

(B) any life, health, or accident insurance or plan, wage or salary continuation plan, or disability income or replacement service insurance, or any benefit received or to be received as a result of participation in any prepaid medical plan or health maintenance organization;

(4) "commerce" means trade, traffic, commerce, or transportation (A) between a place in a State and any place outside of that State; or (B) which affects trade, traffic, commerce, or transportation described in clause (A);

(5) "commercial loss" means economic injury, whether direct, incidental, or consequential, including property damage and damage to the product itself;

(6) "economic loss" means any pecuniary loss resulting from harm which is allowed under State law;

(7) "exercise of reasonable care" means conduct of a person of ordinary prudence and intelligence using the attention, precaution, and judgment that society expects of its members for the protection of their own interests and the interests of others;

(8) "harm" means any harm recognized under the law of the State in which the civil action is maintained, other than—

(A) loss or damage caused to a product itself; and

(B) commercial loss;

(9) "manufacturer" means (A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product); (B) a product seller with respect to all aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or (C) any product seller not described in clause (B) which holds itself out as a manufacturer to the user of a product;

(10) "noneconomic loss" means loss caused by a product other than economic loss or commercial loss;

(11) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(12) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(13) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state (A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient; (B) which is produced for introduction into trade or commerce; (C) which has intrinsic economic value; and (D) which is intended for sale or lease to persons for commercial or personal use; the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(14) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(15) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 323. PREEMPTION.

(a) This subtitle governs any civil action brought against a manufacturer or product seller, on any theory, for harm caused by a product. A civil action brought against a manufacturer or product seller for loss or damage to a product itself or for commercial loss is not subject to this subtitle.

(b) This subtitle supersedes any State law regarding recovery for harm caused by a product only to the extent that this subtitle establishes a rule of law applicable to any such recovery. Any issue arising under this subtitle that is not governed by any such rule of law shall be governed by applicable State or Federal law.

(c) Nothing in this subtitle act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) supersede any Federal law, except the Federal Employees Compensation Act and the Longshoremen's and Harbor Workers' Compensation Act;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede any statutory or common law, including an action to abate a nuisance, that authorizes a State or person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief resulting from contamination or pollution of the environment, or the threat of such contamination or pollution.

(d) As used in this section, the term "environment" has the meaning given to such term in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

(e) This subtitle shall be construed and applied after consideration of its legislative history to promote uniformity of law in the various jurisdictions.

SEC. 324. JURISDICTION OF FEDERAL COURTS.

The district courts of the United States shall not have jurisdiction over any civil action pursuant to this subtitle, based on section 1331 or 1337 of title 28, United States Code.

SEC. 325. EFFECTIVE DATE.

(a) This subtitle shall take effect on the date of its enactment and shall apply to all civil actions pursuant to this subtitle commenced on or after such date, including any action in which the harm or the conduct which caused the harm occurred before the effective date of this subtitle.

(b) If any provision of this subtitle would shorten the period during which a manufacturer or product seller would otherwise be exposed to liability, the claimant may, notwithstanding the otherwise applicable time period, bring any civil action pursuant to this subtitle within one year after the effective date of this subtitle.

PART II—OUT OF COURT PROCEDURES

SEC. 331. EXPEDITED PRODUCT LIABILITY SETTLEMENTS.

(a) Any claimant may bring a civil action for damages against a person for harm caused by a product pursuant to applicable State law, except to the extent such law is superseded by this part.

(b) Any claimant may, in addition to any claim for relief made in accordance with State law, include in such claimant's complaint an offer of settlement for a specific dollar amount.

(c) The defendant may make an offer of settlement for a specific dollar amount within sixty days after service of the claimant's complaint or within the time permitted pursuant to State law for a responsive pleading, whichever is longer, except that if such pleading includes a motion to dismiss in accordance with applicable law, the defendant may tender such relief to the claimant within ten days after the court's determination regarding such motion.

(d) In any case in which an offer of settlement is made pursuant to subsection (b) or (c) of this section, the court may, upon motion made prior to the expiration of the applicable period for response, enter an order extending such period. Any such order shall contain a schedule for discovery of evidence material to the issue of the appropriate amount of relief, and shall not extend such period for more than sixty days. Any such motion shall be accompanied by a supporting affidavit of the moving party setting forth the reasons why such extension is necessary to promote the interests of justice and stating that the information likely to be discovered is material, and is not, after reasonable inquiry, otherwise available to the moving party.

(e) If the defendant, as offeree, does not accept the offer of settlement made by a claimant in accordance with subsection (b) of this section within the time permitted pursuant to State law for a responsive pleading or, if such pleading includes a motion to dismiss in accordance with applicable law, within thirty days after the court's determination regarding such motion, and a verdict is entered in such action equal to or greater than the specific dollar amount of such offer of settlement, the court shall enter judgment against the defendant and shall include in such judgment an amount for the claimant's reasonable attorney's fees and costs. Such fees shall be offset against any fees owed by the claimant to the claimant's attorney by reason of the verdict.

(f) If the claimant, as offeree, does not accept the offer of settlement made by a defendant in accordance with subsection (c) of this section within thirty days after the date on which such offer is made and a verdict is entered in such action equal to or less than the specific dollar amount of such offer of settlement, the court shall reduce the amount of the verdict in such action by an amount equal to the reasonable attorney's fees and costs owed by the defendant to the defendant's attorney by reason of the verdict, except that the amount of such reduction shall not exceed that portion of the verdict which is allocable to noneconomic loss and economic loss for which the claimant has received or will receive collateral benefits.

(g) For purposes of this section, attorney's fees shall be calculated on the basis of an hourly rate which should not exceed that which is considered acceptable in the community in which the attorney practices, considering the attorney's qualifications and experience and the complexity of the case.

SEC. 332. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) In lieu of or in addition to making an offer of settlement under section 431 of this part, a claimant or defendant may, within the time permitted for the making of such an offer under section 431 of this part, offer to proceed pursuant to any voluntary alternative dispute resolution procedure established or recognized under the law of the State in which the civil action for damages for harm caused by a product is brought or under the rules of the court in which such action is maintained.

(b) If the offeree refuses to proceed pursuant to such alternative dispute resolution procedure and the court determines that such refusal was unreasonable or not in good faith, the court shall assess reasonable attorney's fees and costs against the offeree.

(c) For the purposes of this section, there shall be created a rebuttable presumption that a refusal by an offeree to proceed pursuant to such alternative dispute resolution procedure was unreasonable or not in good faith, if a verdict is rendered in favor of the offeror.

PART III—COURT PROCEDURES

SEC. 341. CIVIL ACTIONS.

A person seeking to recover for harm caused by a product may bring a civil action against the product's manufacturer or product seller pursuant to applicable State or Federal law, except to the extent such law is superseded by this subtitle.

SEC. 342. UNIFORM STANDARDS OF PRODUCT SELLER LIABILITY.

(a) Notwithstanding the provisions of section 441 of this part, in any civil action for harm caused by a product, a product seller other than a manufacturer is liable to a claimant, only if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant;

(B) the product seller failed to exercise reasonable care with respect to the product; and

(C) such failure to exercise reasonable care was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product;

(B) the product failed to conform to the warranty; and

(C) the failure of the product to conform to the warranty caused the claimant's harm.

(b)(1) In determining whether a product seller is subject to liability under subsection (a)(1) of this section, the trier of fact may consider the effect of the conduct of the product seller with respect to the construction, inspection, or condition of the product, and any failure of the product seller to pass on adequate warnings or instructions from the product's manufacturer about the dangers and proper use of the product.

(2) A product seller shall not be liable in a civil action subject to this part based upon an alleged failure to provide warnings or instructions unless the claimant establishes that, when the product left the possession and control of the product seller, the product seller failed—

(A) to provide to the person to whom the product seller relinquished possession and control of the product any pamphlets, booklets, labels, inserts, or other written warnings or instructions received while the product was in the product seller's possession and control; or

(B) to make reasonable efforts to provide users with those warnings and instructions which it received after the product left its possession and control.

(3) A product seller shall not be liable in a civil action subject to this part except for breach of express warranty where there was no reasonable opportunity to inspect the product in a manner which would or should, in the exercise of reasonable care, have revealed the aspect of the product which allegedly caused the claimant's harm.

(c) Notwithstanding subsection (b), a product seller shall be treated as the manufacturer of a product and shall be liable for harm to the claimant caused by a product as if it were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action might have been brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

SEC. 343. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) Punitive damages may, if otherwise permitted by applicable law, be awarded in any civil action subject to this part to any claimant who establishes by clear and convincing evidence that the harm suffered was the result of conduct manifesting a manufacturer's or product seller's conscious, flagrant indifference to the safety of those persons who might be harmed by a product. A failure to exercise reasonable care in choosing among alternative product designs, formulations, instructions, or warnings is not of itself such conduct. Except as provided in subsection (b) of this section, punitive damages may not be awarded in the absence of a compensatory award.

(b) In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages regardless of whether a claim is asserted under this section. The recovery of any such damages shall not bar a claim under this section.

(c)(1) Punitive damages shall not be awarded pursuant to this section against a manufacturer or product seller of a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or medical device (as defined under section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) which caused the claimant's harm where—

(A) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging or labeling of such drug or device, and such drug was approved by the Food and Drug Administration; or

(B) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations. The provisions of this paragraph shall not apply (i) in any case in which the defendant withheld from or misrepresented to the Food and Drug Administration or any other agency or official of the Federal Government information that is material and relevant to the performance of such drug or device, or (ii) in any case in which the defendant made an illegal payment to an official of the Food and Drug Administration for the purpose of securing approval of such drug or device.

(2) Punitive damages shall not be awarded pursuant to this section against a manufacturer of an aircraft which caused the claimant's harm where—

(A) such aircraft was subject to pre-market certification by the Federal Aviation Administration with respect to the safety of the design or performance of the aspect of such aircraft which caused the claimant's harm or the adequacy of the warnings regarding the operation or maintenance of such aircraft;

(B) the aircraft was certified by the Federal Aviation Administration under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.); and

(C) the manufacturer of the aircraft complied, after delivery of the aircraft to a user, with Federal Aviation Administration requirements and obligations with respect to continuing airworthiness, including the requirement to provide maintenance and service information related to airworthiness whether or not such information is used by the Federal Aviation Administration in the preparation of mandatory maintenance, inspection, or repair directives.

The provisions of this paragraph shall not apply in any case in which the defendant withheld from or misrepresented to the Federal Aviation Administration information that is material and relevant to the performance or the maintenance or operation of such aircraft.

(d) At the request of the manufacturer or product seller, the trier of fact shall consider in a separate proceeding (1) whether punitive damages are to be awarded and the amount of such award, or (2) the amount of punitive damages following a determination of punitive liability. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(e) In determining the amount of punitive damages, the trier of fact shall consider all relevant evidence, including—

(1) the financial condition of the manufacturer or product seller;

(2) the severity of the harm caused by the conduct of the manufacturer or product seller;

(3) the duration of the conduct or any concealment of it by manufacturer or product seller;

(4) the profitability of the conduct to the manufacturer or product seller;

(5) the number of products sold by the manufacturer or product seller of the kind causing the harm complained of by the claimant;

(6) awards of punitive or exemplary damages to persons similarly situated to the claimant;

(7) prospective awards of compensatory damages to persons similarly situated to the claimant;

(8) any criminal penalties imposed on the manufacturer or product seller as a result of the conduct complained of by the claimant; and

(9) the amount of any civil fines assessed against the defendant as a result of the conduct complained of by the claimant.

SEC. 344. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) Any civil action subject to this part shall be barred unless the complaint is filed within two years of the time the claimant discovered or, in the exercise of reasonable care, should have discovered the harm and its cause, except that any such action of a person under legal disability may be filed within two years after the disability ceases. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

(b)(1) Any civil action subject to this part shall be barred if a product which is a capital good is alleged to have caused harm which is not a toxic harm unless the complaint is served and filed within twenty-five years after the time of delivery of the product. This subsection shall apply only if the court determines that the claimant has received or would be eligible to receive compensation under any State or Federal workers' compensation law for harm caused by the product.

(2) A motor vehicle, vessel, aircraft, or railroad used primarily to transport passengers for hire shall not be subject to the provisions of this subsection.

(3) As used in this section, the term—

(A) "time of delivery" means the time when a product is delivered to its first purchaser or lessee who was not involved in the business of manufacturing or selling such product or using it as a component part of another product to be sold;

(B) "capital good" means any product, or any component of any such product, which is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which was—

(i) used in a trade or business;

(ii) held for the production of income; or

(iii) sold or donated to a governmental or private entity for the production of goods, for training, for demonstration, or for other similar purposes; and

(C) "toxic harm" means harm which is functional impairment, illness, or death of a human being resulting from exposure to an object, substance, mixture, raw material, or physical agent of particular chemical composition.

(c) Nothing in this section shall affect the right of any person who is subject to liability for harm under this subtitle to seek and obtain contribution or indemnity from any other person who is responsible for such harm.

SEC. 345. UNIFORM STANDARDS FOR OFFSET OF WORKERS' COMPENSATION BENEFITS.

(a) In any civil action subject to this part in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, any damages awarded shall be reduced by the sum of the amount paid as workers' compensation benefits for such harm and the present value of all workers' compensation benefits to which the employee is or would be entitled for such harm. The determination of workers' compensation benefits by the trier of fact in a civil action subject to this part shall have no binding effect on and shall not be used as evidence in any other proceeding.

(b) A claimant in a civil action subject to this part who is or may be eligible to receive compensation under any State or Federal workers' compensation law must provide written notice of the filing of the civil action to the claimant's employer within 30 days of the filing. The written notice shall include information regarding the date and court in which the civil action was filed, the names and addresses of all plaintiffs and defendants appearing on the complaint, the court docket number if available, and a copy of the complaint which was filed in the civil action. A copy of such written notice shall be filed with the court and served upon all parties to the action. A claimant's failure to comply with the requirements of this subsection shall suspend the deadlines for filing responsive pleadings and commencing discovery in the civil action, until the claimant complies with the requirements of this subsection.

(c) In any civil action subject to this part in which damages are sought for harm for which the person injured is entitled to receive compensation under any State or Federal workers' compensation law, the action shall, on application of the claimant made at claimant's sole discretion, be stayed until such time as the full amount payable as workers' compensation benefits has been finally determined under such workers' compensation law.

(d)(1) Except as provided in paragraph (2) of this subsection, unless the manufacturer or product seller has expressly agreed to indemnify or hold an employer harmless for harm to an employee caused by a product, neither the employer nor the workers' compensation insurance carrier of the employer shall have a right of subrogation, contribution or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller if the harm is one for which a civil action for harm caused by a product may be brought pursuant to this subtitle.

(2) Paragraph (1) of this subsection shall not apply if the employer or the workers' compensation insurer of the employer establishes, and the trier of fact determines, that the claimant's harm was not in any way caused by the fault of the claimant's employer or coemployees. In order to establish this fact an employer or the workers' compensation insurer of the employer may intervene in a civil action filed by an employee at any time after the filing of a complaint. In the event that the civil action is resolved prior to obtaining a verdict by the trier of fact, any resolution of the action by settlement or other means shall afford the employer or the workers' compensation insurer of the employer an opportunity to participate and to assert a right of subrogation, contribution, or implied indemnity if the claimant's harm was not in any way caused by the fault of the claimant's employer or coemployees.

(e)(1) Except as provided in subsection (f), in any civil action subject to this part in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third-party tortfeasor may maintain any action for implied indemnity or contribution against the employer, any coemployee, or the exclusive representative of the person who was injured.

(2) Nothing in this subtitle shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm caused by a product in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer, any coemployee, or the exclusive representative of the person who was injured. Any action other than such a workers' compensation claim shall be prohibited, except that nothing in this subtitle shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee, where the claimant's harm was caused by such an intentional tort.

(f) Subsection (e) shall not apply and applicable State law shall control if the employer or the workers' compensation insurer of the employer, in a civil action subject to this part, asserts or attempts to assert, because of subsection (d), a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller.

SEC. 346. SEVERAL LIABILITY FOR NONECONOMIC DAMAGES.

(a) In any product liability action, the liability of each defendant for noneconomic damages shall be several only and shall not be joint. Each defendant shall be liable only for the amount of noneconomic damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility as determined under subsection (b) of this section. A separate judgment shall be rendered against such defendant for that amount.

(b) For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

(c) As used in this section, the term—

(1) "noneconomic damages" means subjective, nonmonetary losses including, but not limited to, pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consotium, injury to reputation and humiliation; the term does not include objectively verifiable monetary losses including, but not limited, medical expenses, loss of earnings, burial costs, loss of use of property, costs of repair or replacement, costs of obtaining substitute domestic services, rehabilitation and training expenses, loss of employment, or loss of business or employment opportunities; and

(2) "product liability action" includes any action involving a claim, third-party claim, cross-claim, counterclaim, or contribution claim in a civil action in which a manufacturer or product seller is found liable for harm caused by a product.

SEC. 347. DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS.

(a) In any civil action subject to this subtitle in which all defendants are manufacturers or product sellers, it shall be a complete defense to such action that the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug and that as a result of such intoxication or the influence of the alcohol or drug the claimant was more than 50 percent responsible for the accident or event which resulted in such claimant's harm.

(b) In any civil action subject to this subtitle in which not all defendants are manufacturers or product sellers and the trier of fact determines that no liability exists against those defendants who are not manufacturers or product sellers, the court shall enter a judgment notwithstanding the verdict in favor of any defendant which is a manufacturer or product seller if it is proved that the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug and that as a result of such intoxication or the influence of the alcohol or drug the claimant was more than 50 percent responsible for the accident or event which resulted in such claimant's harm.

(c)(1) For purposes of this section, the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law.

(2) As used in this section, the term "drug" means any non-over-the-counter drug which has not been prescribed by a physician for use by the claimant.

TITLE IV—LONG-TERM INVESTMENT

SEC. 401. SHORT TITLE.

This title may be cited as the "Long-Term Investment Promotion Act of 1992".

SEC. 402. FINDINGS.

The Congress finds that—

(1) there is an urgent need to extend the time horizons of industry in the United States and there is too much pressure to maximize short-term profits and shareholder value, often at the expense of long-term competitive viability;

(2) a fundamental cause of United States industry's preoccupation with short-term performance is the Securities and Exchange Commission's requirement for publicly-held corporations to report their financial status on a quarterly basis;

(3) a large and growing share of the capital of United States firms is owned by mutual funds and pension funds, and the managers of these funds are under constant pressure to maximize the current value of their portfolios since this is the principal criteria by which their performance is judged;

(4) because portfolio managers and stockholders evaluate a company's performance on the basis of quarterly financial reports, managers tend to emphasize short-term profits even when it raises possible conflicts with longer term investment;

(5) short-term business horizons can lead to underinvestment in technology development, human resources, total quality, and capital assets;

(6) a preoccupation with short-term business horizons worked before when America dominated the world economy but such an anti-investment and antimodernization approach seems ill-suited to a world characterized by rapid technological change, global competition based on quality and a constant need for bringing innovation into the marketplace;

(7) achievement of continuously improved technology and quality requires long-term investment in research, development, commercialization, and acquisition of new capital equipment; and

(8) in contrast to the short-term preoccupation in the United States, in Japan and Germany firms report their financial results on an annual rather than quarterly basis and this factor contributes to significantly longer time horizons, in some instances spanning many decades, for business decisions.

SEC. 403. ELIMINATION OF QUARTERLY REPORTS.

Section 13(a)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a)(2)) is amended by striking ", and such quarterly reports (and such copies thereof),".

TITLE V—COMPETITIVENESS RISK ASSESSMENT

SEC. 501. FINDINGS.

The Congress finds that—

(1) administrative action is too frequently propelled by a concern with politically visible results, at the expense of less apparent impacts;

(2) traditional regulatory cost-benefit analysis frequently fails to examine the effect of restrictive regulations on overall human welfare in terms of reduced health and safety, reduced consumer choice, substitution effects, and impeded technological advancement;

(3) in promulgating regulations, agencies often fail to examine the risk that their suppositions are erroneous, or to compare the risks of acting on faulty suppositions with the risks of inaction; and

(4) in analyzing new and existing regulations, there is a need for agencies to move beyond traditional cost-benefit analysis to risk-risk analysis which examines the factors described in paragraph (2).

SEC. 502. COMPETITIVENESS RISK ASSESSMENT.

No agency shall propose or promulgate a regulation without first analyzing its effects on the health and safety of consumers and workers, both directly and indirectly, including effects due to wage and job losses, price increases, product restrictions, technological delays, and substitution effects. In any such analysis, health and safety effects shall be expressed both in monetary terms and in terms of lives lost and injuries occurred. Such analysis shall also examine related distributional effects, describing any economic and social groups who will be disproportionately affected.

TITLE VI—DEPARTMENT OF MANUFACTURING AND COMMERCE

SEC. 601. SHORT TITLE.

This title may be cited as the "Department of Manufacturing and Commerce Act of 1992".

SEC. 602. FINDINGS.

The Congress finds that—

(1) a national strategy for maintaining and strengthening the United States industrial base is essential for our Nation's future economic well being;

(2) manufacturing is the force that creates jobs, drives economic growth and innovation in the United States, determines our standard of living, and ensures national security;

(3) faced with growing competition in the world marketplace, the United States preeminence in manufacturing is being threatened;

(4) the deployment of advanced manufacturing technologies is critical to United States competitiveness;

(5) technical training and education will be increasingly important for the manufacturing workforce of the future;

(6) manufacturers have not been given adequate opportunities to make use of Federal research, development, and educational resources;

(7) the consolidation of the Federal agencies and offices that directly support our manufacturing base should be examined so that our industrial sector might better utilize the resources of the Federal Government; and

(8) renaming the Department of Commerce will help redirect our policies and priorities towards manufacturing and foster the type of partnership between Government and industry that is necessary to keep United States manufacturers competitive in today's world marketplace.

SEC. 603. DEPARTMENT OF MANUFACTURING AND COMMERCE.

The Department of Commerce is hereby renamed as the Department of Manufacturing and Commerce, and all references in Federal law or regulation to the Department of Commerce or the Secretary of Commerce shall be deemed to be references to the Department of Manufacturing and Commerce or the Secretary of Manufacturing and Commerce, as appropriate.

SEC. 604. MANUFACTURING ADVISORY COMMISSION.

(a) ESTABLISHMENT.—The President shall establish a Manufacturing Advisory Commission (in this title referred to as the "Commission") to examine Federal agencies, programs, and offices responsible for manufacturing-related research and development, technology transfer, education, and trade for the purpose of preparing the report required under subsection (b).

(b) REPORT ON CONSOLIDATION.—Within 1 year after the date of enactment of this Act, the Commission shall prepare and submit to the Congress a report on the feasibility of consolidating the Federal agencies, programs, and offices described in subsection (a) into a single Office of Manufacturing within the Department of Manufacturing and Commerce.

(c) MEMBERSHIP.—The President shall appoint to the Commission a representative selection of members from the various industrial sectors and appropriate Government agencies.

TITLE VII—AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 701. AMENDMENT TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.

Section 12(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(a)) is amended by striking "may permit" and inserting in lieu thereof "shall permit, under authority of this or any other appropriate Act,".

SEC. 702. COPYRIGHT FOR SOFTWARE.

(a) Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended by adding at the end the following new subsection:

"(h) COPYRIGHT OF COMPUTER SOFTWARE.—Each Federal agency may secure copyright on behalf of the United States as author or proprietor in any computer software prepared in whole or in part by employees of the United States Government in the course of work under a cooperative research and development agreement entered into under the authority of subsection (a)(1) of this section, or under any other equivalent authority, notwithstanding the limitations contained in section 105 of title 17, United States Code; and may grant or agree to grant in advance to a collaborating party, licenses or assignments for such copyrights, or options thereto, retaining a nonexclusive, nontransferable, irrevocable, paid-up license to reproduce, adapt, translate, distribute, and publicly perform or display the computer software throughout the world by or on behalf of the Government and such other rights as the Federal agency deems appropriate.".

(b) Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended by adding at the end the following new paragraph:

"(14) 'Computer software' means a computer program, as defined in section 101 of title 17, United States Code, and any associated documentation, supporting materials, or user instructions.".

SEC. 703. ROYALTY PAYMENTS TO AUTHORS.

SEC. 3. (a) Section 14(a) (1)(A), (2), and (3) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a) (1)(A), (2), and (3)) is amended—

(1) by inserting "or computer software" after "inventions" each place it appears;

(2) by inserting "or computer software" after "invention" each place it appears;

(3) by inserting "or author" after "inventor" each place it appears;

(4) by inserting "or co-author" after "co-inventor" each place it appears;

(5) by inserting "or authors" after "inventors" each place it appears;

(6) by inserting "or co-authors" after "co-inventors" each place it appears; and

(7) by inserting "or author's" after "inventor's" each place it appears.

(b) Section 14(a)(1)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(B)) is amended—

(1) by inserting "or computer software" after "income from any invention";

(2) by inserting "or computer software was developed" after "the invention occurred";

(3) by inserting "or computer software" after "licensing of inventions" in clause (i);

(4) by inserting "or computer software which was developed" after "with respect to inventions" in clause (i); and

(5) by inserting "or computer software" after "organizations for invention" in clause (i).

(c) Section 14(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(c)) is amended by inserting "or author" after "including inventor".

SEC. 704. TECHNICAL AND CONFORMING AMENDMENTS.

Section 12(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)), is amended by inserting "or computer software" after "inventions" each place it appears.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

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Mr. WALKER. Mr. Chairman, this particular amendment is the same amendment as I offered the other day minus the revenue sections which the Chair ruled out of order, and we have subtracted the revenue sections from the bill—from the amendment—and are offering it in the same form except for those sections.

The CHAIRMAN. Does the gentleman from North Carolina insist on his point of order?

Mr. VALENTINE. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from North Carolina is recognized on his point of order.

POINT OF ORDER

Mr. VALENTINE. Mr. Chairman, the amendment offered is not in order because it contains tax provisions and under clause 5(b) of rule XXI, it is not in order to offer an amendment containing tax provisions during the consideration of a bill reported by a committee not having jurisdiction. The Committee on Science, Space, and Technology, which reported H.R. 5231, does not have jurisdiction over tax and tariff matters.

The CHAIRMAN. Does the gentleman from Pennsylvania [Mr. WALKER] wish to be heard on the point of order?

Mr. WALKER. I do, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized.

Mr. WALKER. Mr. Chairman, the gentleman is correct, it does amend the Internal Revenue Code. However, it does contain absolutely no tax measures in it. There are no revenue-raising measures in it. So therefore it seems to me, after looking at the Chair's opinion of the other day, it meets the test as laid down by the Chair the other day.

Mr. VALENTINE. Mr. Chairman, I would like to suggest to the Chair that, in addition, the amendment is not a germane amendment to the bill being considered, H.R. 5231. H.R. 5231 contains authorizations for the Department of Commerce's Technology Administration, establishes programs at the Department of Commerce to promote the development of manufacturing and critical technologies, including a financial assistance program, and amends the Fastener Quality Act.

The amendment amends the Internal Revenue Code and the Balanced Budget and Emergency Deficit Control Act of 1985. The intent of the section is to enable taxpayers to designate up to 10 percent of their tax liability to a public debt reduction trust fund. The purpose of the amendment is entirely different from that of the bill. Further, even if the gentleman's argument that his amendment addresses the same purpose of H.R. 5231, that is to say, competitiveness, is accepted, it is well established that an amendment to accomplish a similar purpose by an unrelated method not contemplated by the bill is not germane. Finally, Mr. Chairman, jurisdiction is also an element in germaneness, and the Committee on Science, Space, and Technology does not have jurisdiction over tax measures or the Budget Act.

The CHAIRMAN. Does the gentleman from Pennsylvania desire to be heard further on the point of order?

Mr. WALKER. I would.

Mr. Chairman, I would simply state that jurisdiction assigned to the Science, Space, and Technology Committee at the beginning of the year was to include competitiveness. Competitiveness does in fact cover a wide range of issues, including tax measures. In this particular instance, however, the tax revenue measures have been stricken from the amendment, and the only thing left is a question of reduction of the public debt.

Testimony before our committee indicates that reduction of public debt is in fact the chief competitiveness issue. Without taking up this issue, we are really not addressing the matter before us.

So I believe that this issue is in order and is jurisdictionally significant for our committee as the committee in charge of competitiveness in the Congress.

The CHAIRMAN (Mr. Lancaster). The Chair is prepared to rule unless either Member desires to be heard further.

The amendment offered by the gentleman from Pennsylvania amends several provisions of existing law not amended by the bill offered which go to the jurisdiction of other committees. Those include antitrust provisions, product liability and business liability tort reforms, deficit reduction by income tax checkoff, risk assessment, and other various provisions not in the jurisdiction of the Science and Technology Committee. The amendment, therefore, is ruled not germane to the bill.

Are there other amendments to title I?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

Mr. VALENTINE. Mr. Chairman, I reserve a point of order on this amendment also.

The Clerk read as follows:

Amendment offered by Mr. Walker: Page 1, after the enacting clause insert the following:

TITLE III—BUSINESS LIABILITY

Subtitle A—Findings

SEC. 301. FINDINGS.

The Congress finds that—

(1) the increasing amount of litigation in our society causes the wasteful use of time, money, and energy which could be better allocated to research, development, production, economic growth, and competitiveness;

(2) the multitude of professional and product liability suits has undermined the incentive and ability of businesses to bring new products to the market and has led professionals to be overly cautious in providing services to the community;

(3) the excessive number of law suits and the plethora of legal standards in the areas of professional and product liability for each State has led to exorbitant compliance costs for manufacturers and service providers;

(4) encouraging alternative dispute mechanisms to resolve both professional and product liability suits would reduce inordinate litigation cost and free capital for more productive enterprises; and

(5) providing uniform legal standards for both professional and product liability would eliminate costly litigation, promote professional and product innovation, reduce regulatory compliance costs, and make the United States more competitive internationally.

Subtitle B—Professionals' Liability Reform

SEC. 311. SHORT TITLE.

This subtitle may be cited as "Professionals' Liability Reform Act of 1992".

SEC. 312. PURPOSE.

The purpose of this subtitle is to establish uniform standards of liability for professionals who provide professional service—

(1) to promote greater uniformity and predictability with respect to liability arising out of such services;

(2) to facilitate the provision of such services through interstate commerce;

(3) to foster innovation by reducing the uncertainty of risk to professionals who provide professional services; and

(4) to encourage the States to support alternative methods for resolving professional liability disputes in order to reduce the costs of such disputes to professionals and their clients.

SEC. 313. SCOPE AND PREEMPTION.

(a) In General.—(1) This subtitle governs any professional liability action brought in any Federal or State court against a professional.

(2) This subtitle shall preempt and supersede any State law to the extent that such law is inconsistent with this subtitle. This subtitle shall not preempt or supersede any State law that provides to professionals limitations of liability or defenses which are additional to limitations or defenses contained in this subtitle.

(b) Harm Required.—A claimant is not entitled to recover damages in a professional liability action except for damages which constitute harm as defined in section 416(4).

(c) Construction of Provisions.—Nothing in this subtitle shall be construed—

(1) to waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) to waive or affect any defense of sovereign immunity asserted by the United States;

(3) to affect the applicability of the Foreign Services Immunities Act of 1976 (28 U.S.C. 1602 et seq.);

(4) to preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) to affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

(d) Alternative Procedures, Standards, and Systems.—Nothing in this subtitle shall prohibit States from developing or implementing alternative procedures, standards, or systems, which are not inconsistent with this subtitle, for—

(1) expediting the adjudication of professional liability claims,

(2) resolving professional liability disputes, and

(3) compensating harm caused by professional services.

(e) Limitation of Actions.—No professional liability action shall be maintained unless commenced within 3 years after the claimant discovered, or in the exercise of reasonable diligence should have discovered, that such claimant had suffered harm from professional services.

SEC. 314. DESCRIPTION OF PROFESSIONAL LIABILITY STANDARDS.

(a) Liability in General.—A professional shall not be liable for damages in any professional liability action unless the claimant establishes in addition to any other necessary elements of proof required by law—

(1) except as provided in subsection (b), that such professional negligently rendered professional services and such negligence was the proximate cause of harm to the claimant; or

(2) in the case of a claim for economic injury, that such professional negligently rendered professional services to or for the direct and intended benefit of the claimant, and such services were the proximate cause of the harm to the claimant.

(b) Existence of Certain Scientific, Medical, Legal, or Technical Information.—A professional shall not be liable in a professional liability action for harm caused by professional services rendered by such professional unless the claimant establishes that, at the time such services were rendered, knowledge of the circumstances that caused the harm and a practical means to eliminate such circumstances were reasonably available in light of scientific, medical, legal, or technical information existing at the time the professional services were rendered.

(c) Additional Limitations on Liability.—(1) A professional shall not be liable in a professional liability action in which—

(A) the professional's services were rendered to an agency of the Federal Government or of any State;

(B) the Federal Government or the State established or approved reasonably precise contract specifications material to the claim made against the professional; and

(C) the services rendered by the professional conformed to such specifications in all respects material to the claim.

(2) A determination by an agency of the Federal Government or the State that the

services rendered by the professional are in compliance with contract specifications shall serve as conclusive evidence of such conformity.

(d) Periodic Payments.—(1) In any professional liability action in which the award of future damages exceed $100,000, no person may be required to pay for future loss in a single payment, but such person shall be permitted to make such payments periodically based on a projection of when damages are likely to occur.

(2) The court may require such person to purchase an annuity making such periodic payments, if the court finds a reasonable basis for concluding that the person may not make the periodic payments.

(3) The judgment of the court awarding such periodic payments may not be reopened at any time to contest, amend, or modify the schedule or amount of the payments in the absence of fraud.

(4) This subsection shall not be construed to preclude a settlement providing for a single payment.

(f) Collateral Source Benefits.—(1) Any award of damages to a claimant in a professional liability action shall be reduced by any other past or future payment or benefit covered by this subsection which the person has received or for which the person is eligible on account of the harm for which damages are awarded.

(2) As used in this subsection, the term "payment or benefit covered by this subsection" means—

(A) any payment or benefit by or paid, in whole or in part, by any agency or instrumentality of the United States, a State, or local government; and

(B) any payment or benefit by a worker's compensation system, a health insurance program, or income replacement program.

(3) This subsection shall not preempt or supersede any State law which provides that damage awards may be reduced by payments or benefits other than those covered by this section.

(4) This subsection shall not apply to any payments or benefits received before judgment if the application of this subsection would reduce the amount of income that would otherwise be considered under section 402(a)(17) of the Social Security Act.

(5) The amount by which an award of damages to an individual for an injury shall be reduced under paragraph (1) shall be an amount equal to the difference between—

(A) the total amount of the payments (other than such award) which have been made or which will be made to such individual to compensate such individual for such injury, minus

(B) the amount paid by such individual (or by the spouse or parent of such individual) to secure the payments described in subparagraphs (A) and (B) of paragraph (2).

(g) Limitation on Attorneys' Fees.—(1) Except as provided in paragraph (2), in any professional liability action in which claimant receives settlement proceeds or an award of damages, the amount of payments to such individual's attorney shall not exceed—

(A) 33⅓ percent of the first $250,000 recovered,

(B) 25 percent of the next $250,000 recovered, and

(C) 20 percent of any amount recovered in excess of $500,000.

(2) In any civil action to which paragraph (1) applies, the court may, after receiving a petition from the attorney representing the individual who receives settlement proceeds or an award of damages, permit such attorney to be paid an amount of fees in excess of the amount specified by such paragraph if the court determines that the petition has adduced evidence justifying such additional fees.

(h) Liability of Codefendants.—(1) Except as provided in paragraph (2), in a professional liability action, the trier of fact shall determine, with respect to each person responsible for the harm, the percentage of that person's responsibility for the harm for which the action was brought. If damages are awarded to the claimant in such action, a professional shall be liable, if otherwise liable to the claimant for damages, only for the percentage of the damages which equals the percentage of that professional's responsibility for the harm for which the action was brought.

(2) Paragraph (1) shall not apply with respect to persons engaged in concerted action which proximately caused the harm complained of by the claimant. For purposes of this subsection, the term "concerted action" means the participation in joint conduct by 2 or more persons who consciously and deliberately agreed to jointly participate in such conduct with actual knowledge of the wrongfulness of the conduct.

(i) Punitive Damages.—(1) Punitive damages may, if otherwise permitted by applicable law, be awarded to any claimant who establishes, by clear and convincing evidence, that the harm suffered was the result of conduct—

(A) manifesting a professional's malicious and reckless disregard of those persons who might be harmed as a result of the performance of professional service; and

(B) constituting an extreme departure from accepted standard of conduct.

(2) A failure to exercise reasonable care in choosing among alternative types of services, designs, formulations, instructions, or warnings does not, in and of itself, constitute the conduct described in paragraph (1).

(3) Punitive damages may not be awarded in the absence of a compensatory award.

(4) Punitive damages may not be awarded for the negligent provision of professional services.

(5) In determining whether punitive damages are to be awarded, the trier of fact shall consider—

(A) the likelihood at the relevant time that serious harm would arise from the professional's conduct described in paragraph (1),

(B) the degree of the professional's awareness of that likelihood,

(C) the duration of the conduct and any concealment of it by the professional,

(D) the attitude and action of the professional upon discovery of the conduct and whether the conduct has been terminated, and

(E) whether the harm suffered by the claimant was also the result of the claimant's—

(i) disregard for personal safety;

(ii) failure to provide the professional with all material information or other matters relevant to the rendering of professional services; or

(iii) disregard for the consequences of any action taken by the claimant in reliance on professional services.

(6) At the request of the professional, the trier of fact shall consider in a separate proceeding whether punitive damages are to be awarded. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(7) If the trier of fact determines that a professional has engaged in conduct described under paragraph (1), the court may award punitive damages. In determining the amount of such damages, the court shall consider—

(A) the factors described in paragraph (4),

(B) the profitability to the professional of the conduct for which punitive damages are to be awarded,

(C) the total effect of other punishment imposed or likely to be imposed upon the professional as a result of the conduct, including punitive damage awards to persons similarly situated to the claimant and the severity of civil or criminal penalties to which the professional has been or may be subjected.

(8)(A) A claimant's actual recovery of punitive damages awarded under paragraph (5) may not exceed 3 times the amount of compensatory damages awarded to such claimant.

(B) Any punitive damages awarded by the court in excess of the amount referred to in subparagraph (A) shall be paid—

(i) to the State in which the case is litigated, if the case is litigated in State court; or

(ii) to the Federal Government, if the case is litigated in Federal court.

(C) Notwithstanding subparagraph (B), the court may award attorneys' fees from such damages to the claimant's attorney as compensation for work attributable to obtaining an award of such damages.

(j) Counsel's Liability for Frivolous Suits.—If the court finds in any professional liability action that such action was commenced—

(1) without a good faith belief by the attorney representing the claimant that there was a reasonable basis in law and in fact for recovery of the relief requested, or

(2) by such attorney merely for purposes of achieving a monetary settlement where there was no reasonable prospect for an award of damages,

the attorney shall be liable for costs, fees, and expenses, including attorney fees, reasonably incurred by the defendant.

SEC. 315. FORMATION OF RISK MANAGEMENT PROGRAMS.

(a) In General.—Each State should encourage professional organizations, whose membership includes professionals who practice within the State, to put into effect risk management programs including peer review of professional office policies and practices, organization, and quality of performance.

(b) Records Inadmissible as Evidence.—Records of the implementation of and conclusions reached by such risk management programs, including peer review of professional office policies and practices, organization, and quality of performance, shall not be admissible in evidence against any professional who is the subject of such records.

SEC. 316. DEFINITIONS.

For purposes of this subtitle—

(1) the term "professional" means—

(A) any person engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes; or

(B) any person, who (i) has completed the courses of specialized intellectual instruction and study describe in clause (iv) of subparagraph (A), and (ii) is performing related work under the supervision of a professional to qualify himself or herself to become a professional as defined in subparagraph (A);

(2) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof;

(3) the term "claimant" means any person—

(A) who has suffered harm from the provision of professional services and who brings a professional liability action, or

(B) who brings such an action on behalf of any person who has suffered harm from the provision of professional services or who brings such an action because a person suffered harm from such services;

(4) the term "harm" means—

(A) illness, bodily injury, or the death of the claimant,

(B) mental anguish of, or emotional harm to, the claimant caused by the claimant's illness or bodily injury,

(C) physical damage to property, or

(D) economic injury; and

(5) the term "professional liability action" means a civil action brought against a professional for personal injury, property damage, or harm suffered by the claimant because of the provision of professional services.

Subtitle C—Product Liability Fairness

PART I—GENERAL PROVISIONS

SEC. 321. SHORT TITLE.

This subtitle may be cited as the "Product Liability Fairness Act".

SEC. 322. DEFINITIONS.

As used in this subtitle, the term—

(1) "claimant" means any person who brings a civil action pursuant to this subtitle, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(2) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(3) "collateral benefits" means all benefits and advantages received or entitled to be received (regardless of any right any other person has or is entitled to assert for recoupment through subrogation, trust agreement, lien, or otherwise) by any claimant harmed by a product or by any other person as reimbursement of loss because of harm to person or property payable or required to be paid to the claimant, under—

(A) any Federal law or the laws of any State (other than through a claim for breach of an obligation or duty); or

(B) any life, health, or accident insurance or plan, wage or salary continuation plan, or disability income or replacement service insurance, or any benefit received or to be received as a result of participation in any prepaid medical plan or health maintenance organization;

(4) "commerce" means trade, traffic, commerce, or transportation (A) between a place in a State and any place outside of that State; or (B) which affects trade, traffic, commerce, or transportation described in clause (A);

(5) "commercial loss" means economic injury, whether direct, incidental, or consequential, including property damage and damage to the product itself;

(6) "economic loss" means any pecuniary loss resulting from harm which is allowed under State law;

(7) "exercise of reasonable care" means conduct of a person of ordinary prudence and intelligence using the attention, precaution, and judgment that society expects of its members for the protection of their own interests and the interests of others;

(8) "harm" means any harm recognized under the law of the State in which the civil action is maintained, other than—

(A) loss or damage caused to a product itself; and

(B) commercial loss;

(9) "manufacturer" means (A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product); (B) a product seller with respect to all aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or (C) any product seller not described in clause (B) which holds itself out as a manufacturer to the user of a product;

(10) "noneconomic loss" means loss caused by a product other than economic loss or commercial loss;

(11) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(12) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(13) "product" means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state (A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient; (B) which is produced for introduction into trade or commerce; (C) which has intrinsic economic value; and (D) which is intended for sale or lease to persons for commercial or personal use; the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(14) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs, or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(15) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, or any political subdivision thereof.

SEC. 323. PREEMPTION.

(a) This subtitle governs any civil action brought against a manufacturer or product seller, on any theory, for harm caused by a product. A civil action brought against a manufacturer or product seller for loss or damage to a product itself or for commercial loss is not subject to this subtitle.

(b) This subtitle supersedes any State law regarding recovery for harm caused by a product only to the extent that this subtitle establishes a rule of law applicable to any such recovery. Any issue arising under this subtitle that is not governed by any such rule of law shall be governed by applicable State or Federal law.

(c) Nothing in this subtitle act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) supersede any Federal law, except the Federal Employees Compensation Act and the Longshoremen's and Harbor Workers' Compensation Act;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede any statutory or common law, including an action to abate a nuisance, that authorizes a State or person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief resulting from contamination or pollution of the environment, or the threat of such contamination or pollution.

(d) As used in this section, the term "environment" has the meaning given to such term in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8)).

(e) This subtitle shall be construed and applied after consideration of its legislative history to promote uniformity of law in the various jurisdictions.

SEC. 324. JURISDICTION OF FEDERAL COURTS.

The district courts of the United States shall not have jurisdiction over any civil action pursuant to this subtitle, based on section 1331 or 1337 of title 28, United States Code.

SEC. 325. EFFECTIVE DATE.

(a) This subtitle shall take effect on the date of its enactment and shall apply to all civil actions pursuant to this subtitle commenced on or after such date, including any action in which the harm or the conduct which caused the harm occurred before the effective date of this subtitle.

(b) If any provision of this subtitle would shorten the period during which a manufacturer or product seller would otherwise be exposed to liability, the claimant may, notwithstanding the otherwise applicable time period, bring any civil action pursuant to this subtitle within one year after the effective date of this subtitle.

PART II—OUT OF COURT PROCEDURES

SEC. 331. EXPEDITED PRODUCT LIABILITY SETTLEMENTS.

(a) Any claimant may bring a civil action for damages against a person for harm caused by a product pursuant to applicable State law, except to the extent such law is superseded by this part.

(b) Any claimant may, in addition to any claim for relief made in accordance with State law, include in such claimant's complaint an offer of settlement for a specific dollar amount.

(c) The defendant may make an offer of settlement for a specific dollar amount within sixty days after service of the claimant's complaint or within the time permitted pursuant to State law for a responsive pleading, whichever is longer, except that if such pleading includes a motion to dismiss in accordance with applicable law, the defendant may tender such relief to the claimant within ten days after the court's determination regarding such motion.

(d) In any case in which an offer of settlement is made pursuant to subsection (b) or (c) of this section, the court may, upon motion made prior to the expiration of the applicable period for response, enter an order extending such period. Any such order shall contain a schedule for discovery of evidence material to the issue of the appropriate amount of relief, and shall not extend such period for more than sixty days. Any such motion shall be accompanied by a supporting affidavit of the moving party setting forth the reasons why such extension is necessary to promote the interests of justice and stating that the information likely to be discovered is material, and is not, after reasonable inquiry, otherwise available to the moving party.

(e) If the defendant, as offeree, does not accept the offer of settlement made by a claimant in accordance with subsection (b) of this section within the time permitted pursuant to State law for a responsive pleading or, if such pleading includes a motion to dismiss in accordance with applicable law, within thirty days after the court's determination regarding such motion, and a verdict is entered in such action equal to or greater than the specific dollar amount of such offer of settlement, the court shall enter judgment against the defendant and shall include in such judgment an amount for the claimant's reasonable attorney's fees and costs. Such fees shall be offset against any fees owed by the claimant to the claimant's attorney by reason of the verdict.

(f) If the claimant, as offeree, does not accept the offer of settlement made by a defendant in accordance with subsection (c) of this section within thirty days after the date on which such offer is made and a verdict is entered in such action equal to or less than the specific dollar amount of such offer of settlement, the court shall reduce the amount of the verdict in such action by an amount equal to the reasonable attorney's fees and costs owed by the defendant to the defendant's attorney by reason of the verdict, except that the amount of such reduction shall not exceed that portion of the verdict which is allocable to noneconomic loss and economic loss for which the claimant has received or will receive collateral benefits.

(g) For purposes of this section, attorney's fees shall be calculated on the basis of an hourly rate which should not exceed that which is considered acceptable in the community in which the attorney practices, considering the attorney's qualifications and experience and the complexity of the case.

SEC. 332. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) In lieu of or in addition to making an offer of settlement under section 431 of this part, a claimant or defendant may, within the time permitted for the making of such an offer under section 431 of this part, offer to proceed pursuant to any voluntary alternative dispute resolution procedure established or recognized under the law of the State in which the civil action for damages for harm caused by a product is brought or under the rules of the court in which such action is maintained.

(b) If the offeree refuses to proceed pursuant to such alternative dispute resolution procedure and the court determines that such refusal was unreasonable or not in good faith, the court shall assess reasonable attorney's fees and costs against the offeree.

(c) For the purposes of this section, there shall be created a rebuttable presumption that a refusal by an offeree to proceed pursuant to such alternative dispute resolution procedure was unreasonable or not in good faith, if a verdict is rendered in favor of the offeror.

PART III—COURT PROCEDURES

SEC. 341. CIVIL ACTIONS.

A person seeking to recover for harm caused by a product may bring a civil action against the product's manufacturer or product seller pursuant to applicable State or Federal law, except to the extent such law is superseded by this subtitle.

SEC. 342. UNIFORM STANDARDS OF PRODUCT SELLER LIABILITY.

(a) Notwithstanding the provisions of section 441 of this part, in any civil action for harm caused by a product, a product seller other than a manufacturer is liable to a claimant, only if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant;

(B) the product seller failed to exercise reasonable care with respect to the product; and

(C) such failure to exercise reasonable care was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product;

(B) the product failed to conform to the warranty; and

(C) the failure of the product to conform to the warranty caused the claimant's harm.

(b)(1) In determining whether a product seller is subject to liability under subsection (a)(1) of this section, the trier of fact may consider the effect of the conduct of the product seller with respect to the construction, inspection, or condition of the product, and any failure of the product seller to pass on adequate warnings or instructions from the product's manufacturer about the dangers and proper use of the product.

(2) A product seller shall not be liable in a civil action subject to this part based upon an alleged failure to provide warnings or instructions unless the claimant establishes that, when the product left the possession and control of the product seller, the product seller failed—

(A) to provide to the person to whom the product seller relinquished possession and control of the product any pamphlets, booklets, labels, inserts, or other written warnings or instructions received while the product was in the product seller's possession and control; or

(B) to make reasonable efforts to provide users with those warnings and instructions which it received after the product left its possession and control.

(3) A product seller shall not be liable in a civil action subject to this part except for breach of express warranty where there was no reasonable opportunity to inspect the product in a manner which would or should, in the exercise of reasonable care, have revealed the aspect of the product which allegedly caused the claimant's harm.

(c) Notwithstanding subsection (b), a product seller shall be treated as the manufacturer of a product and shall be liable for harm to the claimant caused by a product as if it were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action might have been brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

SEC. 343. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) Punitive damages may, if otherwise permitted by applicable law, be awarded in any civil action subject to this part to any claimant who establishes by clear and convincing evidence that the harm suffered was the result of conduct manifesting a manufacturer's or product seller's conscious, flagrant indifference to the safety of those persons who might be harmed by a product. A failure to exercise reasonable care in choosing among alternative product designs, formulations, instructions, or warnings is not of itself such conduct. Except as provided in subsection (b) of this section, punitive damages may not be awarded in the absence of a compensatory award.

(b) In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages regardless of whether a claim is asserted under this section. The recovery of any such damages shall not bar a claim under this section.

(c)(1) Punitive damages shall not be awarded pursuant to this section against a manufacturer or product seller of a drug (as defined in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(g)(1)) or medical device (as defined under section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) which caused the claimant's harm where—

(A) such drug or device was subject to premarket approval by the Food and Drug Administration with respect to the safety of the formulation or performance of the aspect of such drug or device which caused the claimant's harm or the adequacy of the packaging or labeling of such drug or device, and such drug was approved by the Food and Drug Administration; or

(B) the drug is generally recognized as safe and effective pursuant to conditions established by the Food and Drug Administration and applicable regulations, including packaging and labeling regulations. The provisions of this paragraph shall not apply (i) in any case in which the defendant withheld from or misrepresented to the Food and Drug Administration or any other agency or official of the Federal Government information that is material and relevant to the performance of such drug or device, or (ii) in any case in which the defendant made an illegal payment to an official of the Food and Drug Administration for the purpose of securing approval of such drug or device.

(2) Punitive damages shall not be awarded pursuant to this section against a manufacturer of an aircraft which caused the claimant's harm where—

(A) such aircraft was subject to pre-market certification by the Federal Aviation Administration with respect to the safety of the design or performance of the aspect of such aircraft which caused the claimant's harm or the adequacy of the warnings regarding the operation or maintenance of such aircraft;

(B) the aircraft was certified by the Federal Aviation Administration under the Federal Aviation Act of 1958 (49 App. U.S.C. 1301 et seq.); and

(C) the manufacturer of the aircraft complied, after delivery of the aircraft to a user, with Federal Aviation Administration requirements and obligations with respect to continuing airworthiness, including the requirement to provide maintenance and service information related to airworthiness whether or not such information is used by the Federal Aviation Administration in the preparation of mandatory maintenance, inspection, or repair directives.

The provisions of this paragraph shall not apply in any case in which the defendant withheld from or misrepresented to the Federal Aviation Administration information that is material and relevant to the performance or the maintenance or operation of such aircraft.

(d) At the request of the manufacturer or product seller, the trier of fact shall consider in a separate proceeding (1) whether punitive damages are to be awarded and the amount of such award, or (2) the amount of punitive damages following a determination of punitive liability. If a separate proceeding is requested, evidence relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible in any proceeding to determine whether compensatory damages are to be awarded.

(e) In determining the amount of punitive damages, the trier of fact shall consider all relevant evidence, including—

(1) the financial condition of the manufacturer or product seller;

(2) the severity of the harm caused by the conduct of the manufacturer or product seller;

(3) the duration of the conduct or any concealment of it by manufacturer or product seller;

(4) the profitability of the conduct to the manufacturer or product seller;

(5) the number of products sold by the manufacturer or product seller of the kind causing the harm complained of by the claimant;

(6) awards of punitive or exemplary damages to persons similarly situated to the claimant;

(7) prospective awards of compensatory damages to persons similarly situated to the claimant;

(8) any criminal penalties imposed on the manufacturer or product seller as a result of the conduct complained of by the claimant; and

(9) the amount of any civil fines assessed against the defendant as a result of the conduct complained of by the claimant.

SEC. 344. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) Any civil action subject to this part shall be barred unless the complaint is filed within two years of the time the claimant discovered or, in the exercise of reasonable care, should have discovered the harm and its cause, except that any such action of a person under legal disability may be filed within two years after the disability ceases. If the commencement of such an action is stayed or enjoined, the running of the statute of limitations under this section shall be suspended for the period of the stay or injunction.

(b)(1) Any civil action subject to this part shall be barred if a product which is a capital good is alleged to have caused harm which is not a toxic harm unless the complaint is served and filed within twenty-five years after the time of delivery of the product. This subsection shall apply only if the court determines that the claimant has received or would be eligible to receive compensation under any State or Federal workers' compensation law for harm caused by the product.

(2) A motor vehicle, vessel, aircraft, or railroad used primarily to transport passengers for hire shall not be subject to the provisions of this subsection.

(3) As used in this section, the term—

(A) "time of delivery" means the time when a product is delivered to its first purchaser or lessee who was not involved in the business of manufacturing or selling such product or using it as a component part of another product to be sold;

(B) "capital good" means any product, or any component of any such product, which is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986, and which was—

(i) used in a trade or business;

(ii) held for the production of income; or

(iii) sold or donated to a governmental or private entity for the production of goods, for training, for demonstration, or for other similar purposes; and

(C) "toxic harm" means harm which is functional impairment, illness, or death of a human being resulting from exposure to an object, substance, mixture, raw material, or physical agent of particular chemical composition.

(c) Nothing in this section shall affect the right of any person who is subject to liability for harm under this subtitle to seek and obtain contribution or indemnity from any other person who is responsible for such harm.

SEC. 345. UNIFORM STANDARDS FOR OFFSET OF WORKERS' COMPENSATION BENEFITS.

(a) In any civil action subject to this part in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, any damages awarded shall be reduced by the sum of the amount paid as workers' compensation benefits for such harm and the present value of all workers' compensation benefits to which the employee is or would be entitled for such harm. The determination of workers' compensation benefits by the trier of fact in a civil action subject to this part shall have no binding effect on and shall not be used as evidence in any other proceeding.

(b) A claimant in a civil action subject to this part who is or may be eligible to receive compensation under any State or Federal workers' compensation law must provide written notice of the filing of the civil action to the claimant's employer within 30 days of the filing. The written notice shall include information regarding the date and court in which the civil action was filed, the names and addresses of all plaintiffs and defendants appearing on the complaint, the court docket number if available, and a copy of the complaint which was filed in the civil action. A copy of such written notice shall be filed with the court and served upon all parties to the action. A claimant's failure to comply with the requirements of this subsection shall suspend the deadlines for filing responsive pleadings and commencing discovery in the civil action, until the claimant complies with the requirements of this subsection.

(c) In any civil action subject to this part in which damages are sought for harm for which the person injured is entitled to receive compensation under any State or Federal workers' compensation law, the action shall, on application of the claimant made at claimant's sole discretion, be stayed until such time as the full amount payable as workers' compensation benefits has been finally determined under such workers' compensation law.

(d)(1) Except as provided in paragraph (2) of this subsection, unless the manufacturer or product seller has expressly agreed to indemnify or hold an employer harmless for harm to an employee caused by a product, neither the employer nor the workers' compensation insurance carrier of the employer shall have a right of subrogation, contribution or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller if the harm is one for which a civil action for harm caused by a product may be brought pursuant to this subtitle.

(2) Paragraph (1) of this subsection shall not apply if the employer or the workers' compensation insurer of the employer establishes, and the trier of fact determines, that the claimant's harm was not in any way caused by the fault of the claimant's employer or coemployees. In order to establish this fact an employer or the workers' compensation insurer of the employer may intervene in a civil action filed by an employee at any time after the filing of a complaint. In the event that the civil action is resolved prior to obtaining a verdict by the trier of fact, any resolution of the action by settlement or other means shall afford the employer or the workers' compensation insurer of the employer an opportunity to participate and to assert a right of subrogation, contribution, or implied indemnity if the claimant's harm was not in any way caused by the fault of the claimant's employer or coemployees.

(e)(1) Except as provided in subsection (f), in any civil action subject to this part in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third-party tortfeasor may maintain any action for implied indemnity or contribution against the employer, any coemployee, or the exclusive representative of the person who was injured.

(2) Nothing in this subtitle shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm caused by a product in any action other than a workers' compensation claim against a present or former employer or workers' compensation insurer of the employer, any coemployee, or the exclusive representative of the person who was injured. Any action other than such a workers' compensation claim shall be prohibited, except that nothing in this subtitle shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee, where the claimant's harm was caused by such an intentional tort.

(f) Subsection (e) shall not apply and applicable State law shall control if the employer or the workers' compensation insurer of the employer, in a civil action subject to this part, asserts or attempts to assert, because of subsection (d), a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller or a lien against the claimant's recovery from the manufacturer or product seller.

SEC. 346. SEVERAL LIABILITY FOR NONECONOMIC DAMAGES.

(a) In any product liability action, the liability of each defendant for noneconomic damages shall be several only and shall not be joint. Each defendant shall be liable only for the amount of noneconomic damages allocated to such defendant in direct proportion to such defendant's percentage of responsibility as determined under subsection (b) of this section. A separate judgment shall be rendered against such defendant for that amount.

(b) For purposes of this section, the trier of fact shall determine the proportion of responsibility of each party for the claimant's harm.

(c) As used in this section, the term—

(1) "noneconomic damages" means subjective, nonmonetary losses including, but not limited to, pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation and humiliation; the term does not include objectively verifiable monetary losses including, but not limited, medical expenses, loss of earnings, burial costs, loss of use of property, costs of repair or replacement, costs of obtaining substitute domestic services, rehabilitation and training expenses, loss of employment, or loss of business or employment opportunities; and

(2) "product liability action" includes any action involving a claim, third-party claim, cross-claim, counterclaim, or contribution claim in a civil action in which a manufacturer or product seller is found liable for harm caused by a product.

SEC. 347. DEFENSES INVOLVING INTOXICATING ALCOHOL OR DRUGS.

(a) In any civil action subject to this subtitle in which all defendants are manufacturers or product sellers, it shall be a complete defense to such action that the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug and that as a result of such intoxication or the influence of the alcohol or drug the claimant was more than 50 percent responsible for the accident or event which resulted in such claimant's harm.

(b) In any civil action subject to this subtitle in which not all defendants are manufacturers or product sellers and the trier of fact determines that no liability exists against those defendants who are not manufacturers or product sellers, the court shall enter a judgment notwithstanding the verdict in favor of any defendant which is a manufacturer or product seller if it is proved that the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug and that as a result of such intoxication or the influence of the alcohol or drug the claimant was more than 50 percent responsible for the accident or event which resulted in such claimant's harm.

(c)(1) For purposes of this section, the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law.

(2) As used in this section, the term "drug" means any non-over-the-counter drug which has not been prescribed by a physician for use by the claimant.

TITLE IV—LONG-TERM INVESTMENT

SEC. 401. SHORT TITLE.

This title may be cited as the "Long-Term Investment Promotion Act of 1992".

SEC. 402. FINDINGS.

The Congress finds that—

(1) there is an urgent need to extend the time horizons of industry in the United States and there is too much pressure to maximize short-term profits and shareholder value, often at the expense of long-term competitive viability;

(2) a fundamental cause of United States industry's preoccupation with short-term performance is the Securities and Exchange Commission's requirement for publicly-held corporations to report their financial status on a quarterly basis;

(3) a large and growing share of the capital of United States firms is owned by mutual funds and pension funds, and the managers of these funds are under constant pressure to maximize the current value of their portfolios since this is the principal criteria by which their performance is judged;

(4) because portfolio managers and stockholders evaluate a company's performance on the basis of quarterly financial reports, managers tend to emphasize short-term profits even when it raises possible conflicts with longer term investment;

(5) short-term business horizons can lead to underinvestment in technology development, human resources, total quality, and capital assets;

(6) a preoccupation with short-term business horizons worked before when America dominated the world economy but such an anti-investment and antimodernization approach seems ill-suited to a world characterized by rapid technological change, global competition based on quality and a constant need for bringing innovation into the marketplace;

(7) achievement of continuously improved technology and quality requires long-term investment in research, development, commercialization, and acquisition of new capital equipment; and

(8) in contrast to the short-term preoccupation in the United States, in Japan and Germany firms report their financial results on an annual rather than quarterly basis and this factor contributes to significantly longer time horizons, in some instances spanning many decades, for business decisions.

SEC. 403. ELIMINATION OF QUARTERLY REPORTS.

Section 13(a)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a)(2)) is amended by striking ", and such quarterly reports (and such copies thereof),".

TITLE V—COMPETITIVENESS RISK ASSESSMENT

SEC. 501. FINDINGS.

The Congress finds that—

(1) administrative action is too frequently propelled by a concern with politically visible results, at the expense of less apparent impacts;

(2) traditional regulatory cost-benefit analysis frequently fails to examine the effect of restrictive regulations on overall human welfare in terms of reduced health and safety, reduced consumer choice, substitution effects, and impeded technological advancement;

(3) in promulgating regulations, agencies often fail to examine the risk that their suppositions are erroneous, or to compare the risks of acting on faulty suppositions with the risks of inaction; and

(4) in analyzing new and existing regulations, there is a need for agencies to move beyond traditional cost-benefit analysis to risk-risk analysis which examines the factors described in paragraph (2).

SEC. 502. COMPETITIVENESS RISK ASSESSMENT.

No agency shall propose or promulgate a regulation without first analyzing its effects on the health and safety of consumers and workers, both directly and indirectly, including effects due to wage and job losses, price increases, product restrictions, technological delays, and substitution effects. In any such analysis, health and safety effects shall be expressed both in monetary terms and in terms of lives lost and injuries occurred. Such analysis shall also examine related distributional effects, describing any economic and social groups who will be disproportionately affected.

TITLE VI—DEPARTMENT OF MANUFACTURING AND COMMERCE

SEC. 601. SHORT TITLE.

This title may be cited as the "Department of Manufacturing and Commerce Act of 1992".

SEC. 602. FINDINGS.

The Congress finds that—

(1) a national strategy for maintaining and strengthening the United States industrial base is essential for our Nation's future economic well being;

(2) manufacturing is the force that creates jobs, drives economic growth and innovation in the United States, determines our standard of living, and ensures national security;

(3) faced with growing competition in the world marketplace, the United States preeminence in manufacturing is being threatened;

(4) the deployment of advanced manufacturing technologies is critical to United States competitiveness;

(5) technical training and education will be increasingly important for the manufacturing workforce of the future;

(6) manufacturers have not been given adequate opportunities to make use of Federal research, development, and educational resources;

(7) the consolidation of the Federal agencies and offices that directly support our manufacturing base should be examined so that our industrial sector might better utilize the resources of the Federal Government; and

(8) renaming the Department of Commerce will help redirect our policies and priorities towards manufacturing and foster the type of partnership between Government and industry that is necessary to keep United States manufacturers competitive in today's world marketplace.

SEC. 603. DEPARTMENT OF MANUFACTURING AND COMMERCE.

The Department of Commerce is hereby renamed as the Department of Manufacturing and Commerce, and all references in Federal law or regulation to the Department of Commerce or the Secretary of Commerce shall be deemed to be references to the Department of Manufacturing and Commerce or the Secretary of Manufacturing and Commerce, as appropriate.

SEC. 604. MANUFACTURING ADVISORY COMMISSION.

(a) ESTABLISHMENT.—The President shall establish a Manufacturing Advisory Commission (in this title referred to as the "Commission") to examine Federal agencies, programs, and offices responsible for manufacturing-related research and development, technology transfer, education, and trade for the purpose of preparing the report required under subsection (b).

(b) REPORT ON CONSOLIDATION.—Within 1 year after the date of enactment of this Act, the Commission shall prepare and submit to the Congress a report on the feasibility of consolidating the Federal agencies, programs, and offices described in subsection (a) into a single Office of Manufacturing within the Department of Manufacturing and Commerce.

(c) MEMBERSHIP.—The President shall appoint to the Commission a representative selection of members from the various industrial sectors and appropriate Government agencies.

TITLE VII—AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 701. AMENDMENT TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.

Section 12(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(a)) is amended by striking "may permit" and inserting in lieu thereof "shall permit, under authority of this or any other appropriate Act,".

SEC. 702. COPYRIGHT FOR SOFTWARE.

(a) Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended by adding at the end the following new subsection:

"(h) COPYRIGHT OF COMPUTER SOFTWARE.—Each Federal agency may secure copyright on behalf of the United States as author or proprietor in any computer software prepared in whole or in part by employees of the United States Government in the course of work under a cooperative research and development agreement entered into under the authority of subsection (a)(1) of this section, or under any other equivalent authority, notwithstanding the limitations contained in section 105 of title 17, United States Code; and may grant or agree to grant in advance to a collaborating party, licenses or assignments for such copyrights, or options thereto, retaining a nonexclusive, nontransferable, irrevocable, paid-up license to reproduce, adapt, translate, distribute, and publicly perform or display the computer software throughout the world by or on behalf of the Government and such other rights as the Federal agency deems appropriate.".

(b) Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended by adding at the end the following new paragraph:

"(14) 'Computer software' means a computer program, as defined in section 101 of title 17, United States Code, and any associated documentation, supporting materials, or user instructions.".

SEC. 703. ROYALTY PAYMENTS TO AUTHORS.

SEC. 3. (a) Section 14(a) (1)(A), (2), and (3) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a) (1)(A), (2), and (3)) is amended—

(1) by inserting "or computer software" after "inventions" each place it appears;

(2) by inserting "or computer software" after "invention" each place it appears;

(3) by inserting "or author" after "inventor" each place it appears;

(4) by inserting "or co-author" after "coinventor" each place it appears;

(5) by inserting "or authors" after "inventors" each place it appears;

(6) by inserting "or co-authors" after "coinventors" each place it appears; and

(7) by inserting "or author's" after "inventor's" each place it appears.

(b) Section 14(a)(1)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(B)) is amended—

(1) by inserting "or computer software" after "income from any invention";

(2) by inserting "or computer software was developed" after "the invention occurred";

(3) by inserting "or computer software" after "licensing of inventions" in clause (i);

(4) by inserting "or computer software which was developed" after "with respect to inventions" in clause (i); and

(5) by inserting "or computer software" after "organizations for invention" in clause (i).

(c) Section 14(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(c)) is amended by inserting "or author" after "including inventor".

SEC. 704. TECHNICAL AND CONFORMING AMENDMENTS.

Section 12(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)), is amended by inserting "or computer software" after "inventions" each place it appears.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this amendment, the only thing the gentleman offered or argued previously was that the public debt reduction section was not acceptable to the gentleman. And this particular amendment now takes out the public debt reduction requirement and in fact deals with issues such as liability of business, the product liability, and other issues which testimony before our committee indicated were very much competitiveness issues.

So that the gentleman's previous argument which the Chair upheld dealt with the tax and revenue and debt indications. The Chair, in ruling the other day, made clear that the amendment was out of order because of revenue provisions, and there is no Internal Revenue Service amendments in this particular document.

And so I would ask that this amendment be approved. I do not believe that, based upon the Chair's previous ruling and on the representations by the gentleman previously, that this is in the same league as previous complaints.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from North Carolina [Mr. VALENTINE] insist on his point of order?

Mr. VALENTINE. I do, Mr. Chairman.

The CHAIRMAN. Does the gentleman wish to be heard on the point of order?

Mr. VALENTINE. I would like to be heard briefly.

Mr. Chairman, I think the amendment offered by the gentleman is not a germane amendment, and I think he realizes that. The amendment in the nature of a substitute to H.R. 5321, now being considered contains authorizations for the Department of Commerce's Technology Administration; establishes programs at the Department of Commerce to promote the development of manufacturing and critical technologies, including a financial assistance program; and amends the Fastener Quality Act.

The amendment of the gentleman from Pennsylvania furthermore would establish Federal liability professional and product liability standards and preempt the statutory and common law tort law in all of the 50 States. The purpose of the amendment is therefore entirely different than that of the bill. Further, even if the gentleman's argument that his amendment addresses the same purpose of H.R. 5231, that is, competitiveness, is accepted, it is well-established that an amendment to accomplish a similar purpose by an unrelated method not contemplated by the bill is not germane. Finally, jurisdiction is also an element in germaneness, and the Committee on Science, Space, and Technology does not have jurisdiction over professional or product liability or revisions of tort law.

The CHAIRMAN. The Chair is prepared to rule unless there is further discussion.

Mr. WALKER. Mr. Chairman, if I may be heard, we have had a changing story here. The gentleman has in fact presented a series of arguments that change each time we attempt to change this amendment to satisfy his previous objections. It is clear that the gentleman from North Carolina does not want any part of this language put before the House in any way, shape, or form, despite the fact that his own committee had testimony that this was important.

This amendment does in fact meet the objections the gentleman stated previously. The gentleman said that he was troubled by the debt provisions, that he was troubled by the tax provisions. This amendment contains none of those provisions. And in fact it goes to the heart of the competitiveness issue that this committee does have jurisdiction over. The fact is that the committee can hold hearings and consider legislation in these areas and that, but for the gentleman's objection, these matters could be brought to the floor.

So I would hope that the Chair would rule in favor of these amendments that meet all of the previous objections of the gentleman. But I will await the ruling of the Chair.

The CHAIRMAN pro tempore (Mr. LANCASTER). The Chair is prepared to rule.

The Chair would refer to his ruling just given a matter of minutes ago which spoke not only to the debt reduction provisions but also to other issues that are within the jurisdiction of other committees—including tort reform of various kinds, including product liability and professional liability—that are not within the jurisdiction of the Science, Space, and Technology Committee, but in fact similar identical legislation has been referred to committees of jurisdiction other than the Science, Space, and Technology Committee; and therefore, the Chair would rule that this amendment likewise is not germane to the bill and the point of order is sustained.

Are there further amendments to title I?

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AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

Mr. VALENTINE. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 1, after the enacting clause insert the following:

TITLE I—AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 701. AMENDMENT TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.

Section 12(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(a)) is amended by striking "may permit" and inserting in lieu thereof "shall permit, under authority of this or any other appropriate Act,".

SEC. 702. COPYRIGHT FOR SOFTWARE.

(a) Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended by adding at the end the following new subsection:

"(h) COPYRIGHT OF COMPUTER SOFTWARE.—Each Federal agency may secure copyright on behalf of the United States as author or proprietor in any computer software prepared in whole or in part by employees of the United States Government in the course of work under a cooperative research and development agreement entered into under the authority of subsection (a)(1) of this section, or under any other equivalent authority, notwithstanding the limitations contained in section 105 of title 17, United States Code; and may grant or agree to grant in advance to a collaborating party, licenses or assignments for such copyrights, or options thereto, retaining a nonexclusive, nontransferable, irrevocable, paid-up license to reproduce, adapt, translate, distribute, and publicly perform or display the computer software throughout the world by or on behalf of the Government and such other rights as the Federal agency deems appropriate.".

(b) Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended by adding at the end the following new paragraph:

"(14) 'Computer software' means a computer program, as defined in section 101 of title 17, United States Code, and any associated documentation, supporting materials, or user instructions.".

SEC. 703. ROYALTY PAYMENTS TO AUTHORS.

Sec. 3. (a) Section 14(a) (1)(A), (2), and (3) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a) (1)(A), (2), and (3)) is amended—

(1) by inserting "or computer software" after "inventions" each place it appears;

(2) by inserting "or computer software" after "invention" each place it appears;

(3) by inserting "or author" after "inventor" each place it appears;

(4) by inserting "or co-author" after "co-inventor" each place it appears;

(5) by inserting "or authors" after "inventors" each place it appears;

(6) by inserting "or co-authors" after "co-inventors" each place it appears;

(7) by inserting "or author's" after "inventor's" each place it appears.

(b) Section 14(a)(1)(B) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(B)) is amended—

(1) by inserting "or computer software" after "income from any invention";

(2) by inserting "or computer software was developed" after "the invention occurred";

(3) by inserting "or computer software" after "licensing of inventions" in clause (i);

(4) by inserting "or computer software which was developed" after "with respect to inventions" in clause (i); and

(5) by inserting "or computer software" after "organizations for invention" in clause (i).

(c) Section 14(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(c)) is amended by inserting "or author" after "including inventor".

SEC. 704. TECHNICAL AND CONFORMING AMENDMENTS.

Section 12(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)), is amended by inserting "or computer software" after "inventions" each place it appears.

Mr. VALENTINE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. VALENTINE. Reserving my point of order, Mr. Chairman, I would ask the gentleman from Pennsylvania if he would explain the amendment.

Before that, Mr. Chairman, if the gentleman will yield, I would ask the gentleman specifically if this is the amendment to the Stevenson-Wydler Technology Innovation Act of 1980, which was introduced in the subcommittee by our colleague, the gentlewoman from Maryland [Mrs. MORELLA].

Mr. WALKER. Mr. Chairman, the gentleman is correct.

The CHAIRMAN. The gentleman from North Carolina [Mr. VALENTINE] has reserved a point of order on the amendment.

The gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Chairman, this particular amendment is a bill that was already passed out of our committee. I do not exactly understand why this would be subject to a point of order. This one was passed out of our committee. It has not received any action. It is an important contribution because what it would do is allow the computer software to be a part of a consortia of business, and when consortia enter into it, it would protect this software and thereby assure that American businesses remain competitive.

It is something which I understand the administration favors. It is something which our committee has considered before. In fact, it was reported out of our committee, has received no further action.

This seems to me to be an entirely appropriate place for this language to be included in a bill which is going to move forward.

The gentlewoman from Maryland [Mrs. MORELLA] has promoted this particular concept.

I think is would enhance the bill to have this particular item included in it.

Mr. VALENTINE. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from North Carolina.

Mr. VALENTINE. I would ask the gentleman, Mr. Chairman, just to be sure we understand. Here today, is this the language that was adopted by the committee, after considering the legislation introduced in the subcommittee by the gentlewoman from Maryland [Mrs. MORELLA], or is it different language?

Mr. WALKER. As far as I know, it is exactly the same language.

Mr. VALENTINE. Would the gentleman inquire of his advisers, because it is important.

Mr. WALKER. It is exactly the same language that was included in my amendment. You all have obviously studied in detail the minority's amendment. It is exactly the same language as was included in that. I have simply taken this one section out now as an example of things that were in our amendment that were entirely within the committee's jurisdiction; so this language is precisely as it appeared in the minority substitute.

Mr. VALENTINE. Well, Mr. Chairman, if the gentleman will yield for a further question, we are prepared to accept the gentleman's amendment if we can be sure that it is the committee's reported language that amends the language of our colleague, the gentlewoman from Maryland [Mrs. MORELLA] introduced in the subcommittee and not something else. Now, is it or is it not?

Mr. WALKER. It is the language of the gentlewoman from Maryland [Mrs. MORELLA]. The gentlewoman from Maryland [Mrs. MORELLA] contributed to the minority substitute.

Mr. VALENTINE. Well, the gentleman does not have to get into all that. Is it as it was reported by the committee?

Mr. WALKER. It is my understanding that the language that we have before us is exactly as was reported by the subcommittee and is the language out of the bill of the gentlewoman from Maryland [Mrs. MORELLA]. We have simply taken the language of the gentlewoman from Maryland [Mrs. MORELLA] and included it in our substitute.

Mr. VALENTINE. And when the gentleman says the language before us, the gentleman is referring to the language in his amendment?

Mr. WALKER. The language before the House right now in this amendment, that is right.

Mr. VALENTINE. Well, with those assurances, Mr. Chairman, we withdraw the point of order against this amendment.

The CHAIRMAN. The point of order is withdrawn.

Mr. VALENTINE. Let me say finally, Mr. Chairman, that the gentleman acted surprised that we reserved the point of order. We reserved the point of order because we did know what was in the amendment.

The CHAIRMAN. Is there further discussion on the amendment?

If not, the question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The amendment was agreed to.

Mr. DELAY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just take this time because it was difficult for me to take time when the bill was first brought to the floor so that I could express myself on H.R. 5231 in its entirety.

Mr. Chairman, I am sorry to say, but I find the attempt by this body to pass off H.R. 5231 as the answer to America's competitiveness woes not only amusing but frightening.

The bill smacks of centralized industrial policy, that illogical and discredited equation where increased Federal intrusion added to higher spending is somehow supposed to equal better competitiveness. The fact is, Mr. Chairman, increasing Government intrusion in business and increasing Government spending are each by themselves excellent ways to further cripple America's ability to compete.

As if that were not bad enough, the bill's proponents intend to pay for the various programs from reductions in defense spending. They completely ignore the desperate need for deficit reduction which in itself would be a major step forward toward enhancing our Nation's competitiveness.

This country doesn't need the Federal Government to waste another $2.2 billion in taxpayer money to fund provisions and programs that clearly take us in the wrong direction. This bill is simply new spending to support special projects and technologies of special interest industries selected by a handful of the bill's proponents. My colleagues are gravely mistaken if they think the competitiveness of this country can be fundamentally improved by giving grants and loans to those select few industries whose lobbyists happen to be the most effective.

In the fact of this ill-conceived legislation, my colleague from Pennsylvania has attempted to amend this bill with a package of proposals that would address the true fundamental changes in policy that ought to be made in order to create an effective competitive environment in this country.

What we need to do is to provide incentives to spur investment, capital formation, and research and development, we need to reform our antitrust laws; we need product liability reform.

We must lower the cost of capital by reducing or eliminating the capital gains tax as our German and Japanese competitors did long ago. And yes, Members of Congress must learn to say no to special interests and cut spending, thereby reducing the deficit and freeing up capital it takes away from the private sector.

To improve our Nation's competitiveness, we need to stop shoveling unnecessary time-consuming paperwork on the desks of American business men and women; we must get control of the regulatory bureaucracy and implement a system for evaluating regulations for costs and benefits—and we must reject those that do not measure up.

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Our Nation's businesses are faced with a huge Federal bureaucracy of overzealous regulators controlled by liberal special interests, ignoring cost/benefit analysis and concerned with validating their own existence.

It is through this process that regulators classify children's teeth as toxic waste, force banks to make drive-through teller machines accessible to blind drivers, require hard hats to be disinfected before each use and dictate that employers must keep on hand at all times material safety data sheets that tell employees that submerging their head in water could lead to drowning.

In other words, Mr. Chairman, American businesses and entrepreneurs have suffered long enough from Federal ineptitude. The proposal before us and the refusal of this body to allow a real debate on the issue by ruling the amendment offered by the gentleman from Pennsylvania [Mr. WALKER] out of order simply perpetuates this incompetence.

Mr. Chairman, this bill is not a national competitiveness act. It demonstrates Congress' perennial failure to recognize either the solution or the problem. The problem is not that the Federal Government isn't spending enough money or making enough decisions for the private sector—quite the opposite—the incompetent and uncoordinated hand of Government is strangling our Nation's businesses.

American businessmen and women, struggling to regain their competitive edge don't need us to give them anymore promises and programs; they need us to sit down, shut up, and get out of the way.

So, Mr. Chairman, I urge my colleagues to vote against H.R. 5231.

Mr. WALKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to thank the gentleman from Texas [Mr. DELAY] for his statement. It seems to me that he is right on target and has figured out exactly what is going on here.

The fact is that this bill is called the National Competitiveness Act, Mr. Chairman, and simply does not get to the real underlying issues of competitiveness. It has been particularly disappointing that, when the minority sought to offer large blocks of the President's program, the President's economic program, on the floor as a part of this competitiveness effort, the majority did everything in their power, including points of order, in order to knock out that economic program.

Mr. Chairman, that has been typical of what has happened in this Congress now for the last many months. The President is consistently criticized by Members of this Congress for having no economic program. The fact is that everytime the Republicans try to bring that economic program to the floor, it is ruled out on points of order, it is not brought to the floor.

The gentleman from Texas [Mr. DELAY] has identified in detail the kinds of things that ought to be in a true economic program that makes this Nation internationally competitive. What we are now finding is those are the kinds of things we cannot discuss here.

The reason for that, Mr. Chairman, is pretty clear. As long as the economy is bad and as long as the economy is headed downhill, the majority thinks that they have some chance of capturing the Presidency and retaining their seats in the Congress. If the economy would actually get moving and things would begin to happen good in the economy, the fact is the majority might lose their political ability.

This is a very political bill that has been brought to the floor. The majority hopes to cover over the idea that they are doing something about competitiveness with this bill. The fact is that they are not. This is a phony bill, will do nothing to enhance competitiveness, but in the meantime what they are doing is rejecting real competitiveness ideas because in some way they might help the President.

I thank the gentleman from Texas [Mr. DELAY] for his statement. He has hit the nail right on the head. He understands fully what is happening in the House today, and I find it disturbing that we would waste the House time with a bill which is certainly going nowhere and which, at the very best, serves as a political document and will have no positive economic benefit in my view whatsoever.

Mr. Chairman, I yield back the balance of my time.

Mr. VALENTINE. Mr. Chairman, I move to strike the last word.

Mr. Chairman and my colleagues, the gentleman from Pennsylvania [Mr. WALKER] has noticed in the record some 80 amendments. Under the rule, as I understand it, we are restricted to 4 hours. If he wants us to use the time with these bursts of 5 minutes, then we will play that game with him. His last statement was full, I suggest, of inaccuracies and distortions. The administration does not support the gentleman's legislation, and I suggest to him that he cannot show any documentary evidence that he does.

Now the gentleman from Texas [Mr. DELAY], our esteemed friend, he lifts himself up and comes over here to make a speech about the same old stuff that we have heard every time this matter has been brought before this Chamber. Last week and this week he talked about all this stuff that is in the proposal of the gentleman from Pennsylvania [Mr. WALKER] that would change the Tax Code, that would change tort law, and these gentlemen, Mr. Chairman and my colleagues, understand full well that these matters are beyond the jurisdiction of the Committee on Science, Space, and Technology.

The gentleman from Pennsylvania [Mr. WALKER] must, in fairness, recognize the fact that when all these questions came up in the committee, all he wanted to do was to graft his legislation on to our little competitiveness bill, and that was what he stated to the Members, which was an indication that he thought our bill was OK. He just wanted to add all of the things from his bill when he knew we did not have jurisdiction over such things.

I suggest, Mr. Chairman, that the matters which he keeps on talking about, some of which might be useful, but I know and our staff knows, and he knows and his staff knows, and most of the Members on this side, most of the Members on that side, know that it is not within our jurisdiction. These matters have to emanate from different committees.

So, I suggest to the gentleman:

"If you want to get in the amendment, let's go ahead with it without repeating stuff that we have heard over and over again and are tired of."

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

The text of the title II is as follows:

TITLE II—MANUFACTURING

SEC. 201. SHORT TITLE.

This title may be cited as the "Manufacturing Technology and Extension Act of 1992".

SEC. 202. FINDINGS, PURPOSE, AND STATEMENT OF POLICY.

(a) FINDINGS.—Congress finds and declares the following:

(1) United States manufacturers, especially small businesses, require the adoption and implementation of both modern and advanced manufacturing and process technologies to meet the challenge of foreign competition.

(2) The development and deployment of modern and advanced manufacturing technologies are vital to the Nation's economic growth, standard of living, competitiveness in world markets, and national security.

(3) New developments in flexible, computer-integrated manufacturing, electronic manufacturing communications networks, and other new technologies make possible dramatic improvements across all industrial sectors in productivity, quality, and the speed with which manufacturers can respond to changing market opportunities.

(4) The Department of Commerce's Technology Administration can continue to play an important role in assisting United States industry to develop, test, and deploy modern and advanced manufacturing technologies.

(b) PURPOSE.—It is the purpose of Congress in this title to help ensure the continued leadership of the United States in manufacturing by enhancing the Department of Commerce's technology programs to—

(1) provide, consistent with applicable provisions of law, to the greatest extent possible, within 5 years after the date of enactment of this Act, domestic manufacturers, especially small and medium-sized companies, with access to Federal advice and assistance in the development, deployment, and improvement of modern manufacturing technology; and

(2) encourage, facilitate, and promote the development and adoption of advanced manufacturing technologies by the private sector.

(c) STATEMENT OF POLICY.—Congress declares that it is the policy of the United States that—

(1) Federal agencies, particularly the Department of Commerce, shall work with industry and labor to ensure that within 10 years of the date of enactment of this Act the United States is second to no other nation in the development, deployment, and use of advanced manufacturing technology;

(2) because of the importance of manufacturing and advanced manufacturing technology to the Nation's economic prosperity and defense, all the major Federal research and development agencies shall place a high priority on the development and deployment of advanced manufacturing technologies, and shall work closely with United States industry to develop and test those technologies; and

(3) the Department of Commerce, particularly the Technology Administration, shall serve as the lead civilian agency for promoting the development and deployment of advanced manufacturing technology, and other Federal departments and agencies which work with civilian industry shall be encouraged, as appropriate and consistent with applicable statutes and duties, to work with and through the programs of the Department of Commerce.

(d) CONSTRUCTION.—Nothing in this title shall be construed as modifying the duties and responsibilities of the Department of Energy with regard to its technology resources and expertise in matters under its jurisdiction.

SEC. 203. ROLE OF THE DEPARTMENT OF COMMERCE.

The Department of Commerce shall, consistent with the policies and purposes of section 202, be the lead civilian agency of the Federal Government for working with United States industry and labor to—

(1) develop new generic advanced manufacturing technologies; and

(2) encourage and assist the deployment and use of advanced manufacturing equipment and techniques throughout the United States.

SEC. 204. COMMERCE TECHNOLOGY ADVISORY BOARD.

(a) ESTABLISHMENT.—There is established a Commerce Technology Advisory Board (in this section referred to as the "Advisory Board").

(b) COMPOSITION.—The Advisory Board shall be composed of at least 17 members, appointed by the Under Secretary from among individuals who, because of their experience and accomplishments in technology development, business development, or finance are exceptionally qualified to analyze and formulate policy that would improve the global competitiveness of industries in the United States. The Under Secretary shall designate 1 member to serve as chairman. Membership of the Advisory Board shall be composed of—

(1) representatives of—

(A) United States small businesses;

(B) other United States manufacturers;

(C) universities and independent research institutes;

(D) State and local government agencies involved in industrial extension;

(E) national laboratories;

(F) industrial, worker, and professional organizations; and

(G) financial organizations; and

(2) other individuals that possess important insight to issues of national competitiveness.

(c) DUTIES.—The duties of the Advisory Board shall include advising the Secretary, the Under Secretary, and the Director regarding—

(1) the development and implementation of policies that the Advisory Board considers essential to industrial productivity and technology growth and adoption, with priority given to policies that would benefit small businesses;

(2) the development and rapid application of advanced technologies including advanced manufacturing technologies; and

(3) the planning, execution, and evaluation of programs under the authority of the Technology Administration.

(d) Meetings.—(1) The chairman shall call the first meeting of the Advisory Board not later than 90 days after the date of enactment of this Act..

(2) The Advisory Board shall meet at least once every 6 months, and at the call of the Under Secretary.

(e) Travel Expenses.—Members of the Advisory Board, other than full-time employees of the United States, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code, while engaged in the business of the Advisory Board.

(f) Consultation.—In carrying out this section, the Under Secretary shall consult with other agencies, as appropriate.

(g) Termination.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Board.

SEC. 205. ROLE OF THE TECHNOLOGY ADMINISTRATION IN MANUFACTURING.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by adding at the end the following new title:

"TITLE III—MANUFACTURING TECHNOLOGY

"SEC. 301. ADVANCED MANUFACTURING SYSTEMS AND NETWORKING PROJECTS.

"(a) Program Direction.—The Secretary, through the Under Secretary and the Director, shall establish a Department of Commerce Advanced Manufacturing Program (in this title referred to as the 'Advanced Manufacturing Program') which shall include advanced manufacturing systems and networking projects.

"(b) Program Goal.—The goal of the Advanced Manufacturing Program is to create collaborative multiyear technology development programs involving United States industry and, as appropriate, other Federal agencies, the States, and other interested persons, in order to develop, refine, test, and transfer design and manufacturing technologies and associated applications, including advanced computer integration and electronic networks.

"(c) Program Components.—The Advanced Manufacturing Program shall include—

"(1) the advanced manufacturing research and development activities at the Institute; and

"(2) one or more technology development testbeds within the United States, selected in accordance with procedures, including cost sharing, established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), whose purpose shall be to develop, refine, test, and transfer advanced manufacturing and networking technologies and associated applications through a direct manufacturing process.

"(d) Activities.—The Advanced Manufacturing Program, under the coordination of the Secretary, through the Director, shall—

"(1) test and, as appropriate, develop the equipment, computer software, and systems integration necessary for the successful operation within the United States of advanced design and manufacturing systems and associated electronic networks;

"(2) establish at the Institute and the technology development testbed or testbeds—

"(A) prototype advanced computer-integrated manufacturing systems; and

"(B) prototype electronic networks linking manufacturing systems;

"(3) assist industry to develop, and implement voluntary consensus standards relevant to advanced computer-integrated manufacturing operations, including standards for networks, electronic data interchange, and digital product data specifications;

"(4) help to make high-performance computing and networking technologies an integral part of design and production processes where appropriate;

"(5) conduct research to identify and overcome technical barriers to the successful and cost-effective operation of advanced manufacturing systems and networks;

"(6) facilitate industry efforts to develop and test new applications for manufacturing systems and networks;

"(7) involve, to the maximum extent practicable, both those United States companies which make manufacturing and computer equipment and those companies which buy the equipment, with particular emphasis on including a broad range of company personnel in the Advanced Manufacturing Program and on assisting small and medium-sized manufacturers;

"(8) identify training needs, as appropriate, for company managers, engineers, and employees in the operation and applications of advanced manufacturing technologies and networks, with a particular emphasis on training for production workers in the effective use of new technologies;

"(9) work with private industry to develop standards for the use of advanced computer-based training systems, including multimedia and interactive learning technologies; and

"(10) exchange information and personnel, as appropriate, between the technology development testbeds and the Network created under section 303.

"(e) Testbed Awards.—(1) In selecting applicants to receive awards under subsection (c)(2) of this section, the Secretary shall give particular consideration to applicants that have existing computer expertise in the management of business, product, and process information such as digital data product and process technologies and customer-supplier information systems, and the ability to diffuse such expertise into industry, and that, in the case of joint research and development ventures, include both suppliers and users of advanced manufacturing equipment.

"(2) An industry-led joint research and development venture applying for an award under subsection (c)(2) of this section may include one or more State research organizations, universities, independent research organizations, or Regional Centers for the Transfer of Manufacturing Technology (as created under section 25 of the National Institute of Standards and Technology Act).

"(f) Advice and Assistance.—(1) Within 6 months after the date of enactment of this title, and before any request for proposals is issued, the Secretary shall hold one or more workshops to solicit advice from United States industry and from other Federal agencies, particularly the Department of Defense, regarding the specific missions and activities of the testbeds.

"(2) The Secretary shall, to the greatest extent possible, coordinate activities under this section with activities of other Federal agencies and initiatives relating to Computer-Aided Acquisition and Logistics Support, electronic data interchange, flexible computer-integrated manufacturing, and enterprise integration.

"(3) The Secretary may request and accept funds, facilities, equipment, or personnel from other Federal agencies in order to carry out responsibilities under this section.

"(g) Application of Antitrust Laws.—Nothing in this section shall be construed to create any immunity to any civil or criminal action under any Federal or State antitrust law, or to alter or restrict in any manner the applicability of any Federal or State antitrust law.

"SEC. 302. DEPLOYMENT OF ADVANCED AND MODERN MANUFACTURING TECHNOLOGIES AND PRACTICES.

"(a) In General.—The Secretary, through the Under Secretary and the Director, shall work with representatives of State and local governments, manufacturing extension programs, private industry, worker organizations, and academia to encourage and support the use of both advanced manufacturing technologies, including those developed by the Advanced Manufacturing Program, and current best available modern manufacturing technologies and practices to large, medium-sized, and small manufacturing firms throughout the United States.

"(b) Mechanisms.—The Secretary, through the Under Secretary and the Director, shall carry out this responsibility through—

"(1) the National Manufacturing Outreach Network established under section 303;

"(2) the Manufacturing Technology Centers, Local Manufacturing Offices, and State Technology Extension Program supported under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k-1);

"(3) a National Quality Laboratory, which is hereby established within the Institute, the purpose of which is to assist private sector quality efforts and to serve as mechanism by which United States companies and the Institute can work together to advance quality management programs and to share and, as appropriate, develop manufacturing best practices;

"(4) appropriate activities of the Technology Administration's Office of Technology Policy; and

"(5) such other means as may be appropriate or otherwise authorized by law.

"SEC. 303. NATIONAL MANUFACTURING OUTREACH NETWORK.

"(a) Establishment and Purpose of Network.—There is hereby established a National Manufacturing Outreach Network (in this section referred to as the 'Network'). The Network shall organizationally and electronically link centers and other organizations throughout the United States that are engaged in manufacturing or technology extension and outreach activities. The Secretary, acting through the Under Secretary and the Director, shall implement and coordinate the Network in accordance with an initial plan to be prepared and submitted to Congress within 6 months after the date of enactment of this title and a 5-year plan to be submitted to the Congress within a year after the date of enactment of this title and to be updated annually. The purpose of the Network is to assist United States manufacturers, especially small and medium-sized firms, to expand and accelerate the use of modern manufacturing practices, and to accelerate the development and use of advanced manufacturing technology.

"(b) Manufacturing Outreach Centers.—United States Government and private sector organizations, actively engaged in technology or manufacturing extension activities, are eligible for participation in this program as Management Outreach Centers. Participants may include Federal, State, and local government agencies, their extension programs, and their laboratories; centers and local manufacturing offices established under section 25 of the National Institute of Standards and Technology Act; small business development centers; and appropriate programs run by professional societies, worker organizations, industrial organizations, for-profit or nonprofit organizations, universities, community colleges, and technical schools and colleges. The Secretary shall establish terms and conditions of participation and may provide financial assistance, on a cost-shared basis and through competitive, merit-based review processes, to nonprofit or government participants throughout the United States to enable them to—

"(1) join the Network and disseminate its information services to United States manufacturing firms, particularly small and medium-sized firms; and

"(2) strengthen their efforts to help small and medium-sized United States manufacturers to expand and accelerate the use of modern and advanced manufacturing practices.

"(c) COMMUNICATIONS INFRASTRUCTURE.—The Department of Commerce shall provide for an instantaneous, interactive communications infrastructure for the Network to facilitate interaction among Manufacturing Outreach Centers and Federal agencies and to permit the collection and dissemination in electronic form, in a timely and accurate manner, of information described in subsection (d). Such communications infrastructure shall, wherever practicable, make use of existing computer networks. Communications infrastructure arrangements, including user fees and appropriate electronic access for information suppliers and users shall be addressed in the 5-year plan prepared under subsection (f)(2).

"(d) CLEARINGHOUSE.—(1) The Secretary shall develop a clearinghouse system, using the National Technical Information Service and private sector information providers and carriers where appropriate, to—

"(A) identify expertise and acquire information, appropriate to the purpose of the Network stated in subsection (a), from all available Federal sources, providing assistance where necessary in making such information electronically available and compatible with the Network;

"(B) ensure ready access by United States manufacturers and other interested private sector parties to the most recent relevant available such information and expertise; and

"(C) to the extent practicable, inform such manufacturers of the availability of such information.

"(2) The clearinghouse shall include information available electronically on—

"(A) activities of Manufacturing Outreach Centers and the users of the Network;

"(B) domestic and international standards from the Institute and private sector organizations and other export promotion information, including conformity assessment requirements and procedures;

"(C) the Malcolm Baldrige Quality program, and quality principles and standards;

"(D) federally funded technology development and transfer programs;

"(E) responsibilities assigned to the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation under section 102 of this Act;

"(F) how to access data bases and services; and

"(G) other subjects relevant to the ability of companies to manufacture and sell competitive products throughout the world.

"(e) PRINCIPLES.—In carrying out this section, the Department of Commerce shall take into consideration the following principles:

"(1) The Network shall be established and operated through cooperation and co-funding among Federal, State, and local governments, other public and private contributors, and end users.

"(2) The Network shall utilize and leverage, to the extent practicable, existing organizations, data bases, electronic networks, facilities, and capabilities.

"(3) The Network, and the communications infrastructure provided for under subsection (c), shall be subject to all applicable provisions of law for the protection of trade secrets and business confidential information.

"(4) Local or regional needs should determine the management structure and staffing of the Manufacturing Outreach Centers. The Network shall strive for geographical balance with the ultimate goal of access for all United States small and medium-sized manufacturers.

"(5) Manufacturing Outreach Centers should have the capability to deliver outreach services directly to manufacturers, actively work with, rather than supplant, the private sector, and to the extent practicable, maximize the exposure of manufacturers to demonstrations of modern technologies in use.

"(6) Manufacturing Outreach Centers shall focus, where possible, on the development and deployment of flexible manufacturing practices applicable to both defense and commercial applications.

"(7) The Department of Commerce shall develop mechanisms for—

"(A) soliciting the perspectives of manufacturers using the services of the Manufacturing Outreach Centers; and

"(B) evaluating the effectiveness of the Manufacturing Outreach Centers.

"(f) PLAN AND REPORTS.—(1) Within 6 months after the date of enactment of this title, the Secretary, after consultation with the Under Secretary, the Director, the Commerce Technology Advisory Board, and a cross-section of potential participants, shall submit a report to Congress—

"(A) describing how the Technology Administration will carry out its responsibility to create, operate, and support the Network, including interactive linkage of Manufacturing Outreach Centers to the programs of the Technology Administration and other appropriate Federal agencies;

"(B) identifying the Federal, State, local, and other appropriate organizations which the Secretary believes should be eligible to join the Network as Manufacturing Outreach Centers and those organizations eligible to apply for Department of Commerce support to connect to the Network and receive and disseminate its services;

"(C) establishing criteria and procedures for the selection of organizations to receive Department of Commerce services and financial assistance as part of the Network program; and

"(D) evaluating the need for and the benefits of a National Conference of States on Industrial Extension, similar in structure to the National Conference on Weights and Measures, and, if the Secretary determines that such a Conference is advisable, developing, in consultation with the States and other interested parties, a plan for the establishment, operation, funding, and evaluation of such a Conference.

"(2) Within 1 year after the date of enactment of this title, the Secretary, in consultation with the Under Secretary, the Director, and the Commerce Technology Advisory Board, shall prepare and submit to the Congress a 5-year plan for implementing and expanding the Network. Such plan shall identify appropriate methods for expanding the Network in a geographically balanced manner, including a merit-based process for the selection of additional Manufacturing Outreach Centers. In selecting Manufacturing Outreach Centers, and in awarding financial assistance to such Centers, the Under Secretary shall ensure that manufacturers using the Network are consulted as to the past performance of applicants. Such 5-year plan shall include a detailed implementation plan and cost estimates and shall take into consideration and build on the report submitted under paragraph (1).

"(3) Beginning with first year after submission of the 5-year plan under paragraph (2), the Secretary shall annually report to the Congress, at the time of the President's annual budget request to Congress, on—

"(A) progress made in carrying out this section during the preceding fiscal year;

"(B) changes proposed to the 5-year plan;

"(C) performance in adhering to schedules; and

"(D) any recommendations for legislative changes necessary to enhance the Network.

The report under this paragraph submitted at the end of the fourth year of operation of the Network shall include recommendations on whether to terminate the Network or extend it for a specified period of time.

"SEC. 304. ROLE OF THE SECRETARY AND OTHER EXECUTIVE AGENCIES.

"(a) SECRETARY.—The Secretary, acting as appropriate through the Under Secretary and the Director, shall—

"(1) consult with other Federal agencies, including the Department of Defense and the Department of Energy, to ensure consistent and, where possible, coordinated efforts to promote the development and adoption of modern and advanced manufacturing technologies;

"(2) assist the Office of Science and Technology Policy in its efforts to coordinate the manufacturing technology activities of the various Federal agencies; and

"(3) in carrying out the programs and other responsibilities set forth in this title, consult with representatives of industry, labor, and academia on ways to enhance manufacturing capabilities, including close consultation with the Commerce Technology Advisory Board.

The Secretary shall annually report to Congress on actions taken under this subsection.

"(b) FEDERAL AGENCIES.—To the extent permitted by other law, other Federal agencies shall assist the Secretary in carrying out this title.

"SEC. 305. AMERICAN WORKFORCE QUALITY PARTNERSHIPS.

"(a) PROGRAM AUTHORIZED.—The Secretary, in consultation with the Secretary of Education and the Secretary of Labor, may make grants to eligible applicants having applications approved under this section to establish and operate American workforce quality partnership programs in accordance with the provisions of this section. The Secretary shall award grants on a competitive basis to pay the Federal share for American workforce quality partnership programs to establish workforce training consortia between industry and institutions of higher education.

"(b) GRANT PERIOD.—Grants awarded under this section may be for a period of 5 years.

"(c) GENERAL AUTHORITY.—Each grant recipient shall use amounts provided under the grant to develop and operate an American workforce quality partnership program.

"(d) CONTENTS OF PROGRAM.—An American workforce quality partnership program shall establish partnerships between—

"(1) one or more technology-based or manufacturing sector firms, in conjunction with a labor organization where available or worker representative group or employee representatives; and

"(2) a local community or technical college or other appropriate institutions of higher education, or a vocational training institution or consortium of such education institutions,

to train the employees of the industrial partners through both workplace-based and classroom-based programs of training.

"(e) FEDERAL SHARE.—The Federal share of the cost of an American workforce quality partnership program may not exceed 50 percent of the total cost of the program. The non-Federal share of such costs may be provided in-cash or in-kind, fairly valued. The total contribution of the proposed partnership should reflect a substantial contribution on the part of the industrial partners and appropriate contributions of the education partners, local or State governments, and other appropriate entities.

"(f) APPLICATIONS.—

"(1) IN GENERAL.—Each eligible applicant that desires to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) PLAN.—Each application submitted under this subsection shall contain a plan for the development and implementation of an American workforce quality partnership program under this section. Such plan shall—

"(A) show a demonstrated commitment, on the part of the industrial partners, to adopt total quality management strategies or other plausible strategies to renew its competitive edge;

"(B) demonstrate the need for Federal resources because of the long-term nature and risk of such an investment, the inability to finance such ventures because of the high cost of capitalization, intense competition from foreign industries, or such other appropriate reasons as may limit the industrial partners' ability to launch programs where worker training and development is a substantial component;

"(C) demonstrate long-term benefit for all partners and the local economy, through an enhanced competitive position of the industrial partners, substantial benefits for regional employment, and the ability of the education partners to further their capabilities to educate and train other nonpartnership-affiliated individuals wishing to obtain or upgrade technical, technological, industrial management and leadership, or other industrial skills;

"(D) make full, appropriate, and innovative use of industrial and higher education resources and other local resources such as facilities, equipment, personnel exchanges, experts, or consultants;

"(E) provide for the establishment of an advisory board in accordance with subsection (h);

"(F) include an explanation of the industrial partners' plans to adopt new competitive strategies and how the training partnership aids that effort; and

"(G) include assurances that the eligible entity will maintain its aggregate expenditures from all other sources for employee training at or above the average level of such expenditures in the 2 fiscal years preceding the date of enactment of the National Competitiveness Act of 1992.

"(3) APPROVAL.—The Secretary shall approve applications based on their potential to create an effective American workforce quality partnership program in accordance with this section.

"(A) CRITERIA.—In reviewing grant applications, the Secretary shall give significant consideration to the following criteria:

"(i) Saliency of argument for requiring a Federal investment.

"(ii) Commitment of partnership to continue operation after the termination of Federal funding.

"(iii) The likelihood that the training will lead to long-term competitiveness of the industrial partners and contribute significantly to economic growth.

"(iv) The likelihood that the partnership will benefit the education mission of the education partners in ways outside of the scope of the partnership, such as developing the capability to train other nonpartnership-affiliated individuals in similar skills.

"(B) PRIORITY CONSIDERATION.—The Secretary shall give priority consideration to industries which are threatened by intense foreign competition important to the long-term national economic or military security of the United States and industries which are critical in enabling other United States industries to maintain a healthy competitive position. In addition, the Secretary shall give priority to applicants in areas of high poverty and unemployment.

"(g) USE OF FUNDS.—

"(1) APPROVED USES.—Federal funds may be used for—

"(A) the direct costs of workplace-based and classroom-based training in advanced technical, technological, and industrial management, skills, and training for the implementation of total quality management strategies, or other competitiveness strategies, contained in the plan;

"(B) the purchase or lease of equipment or other materials for the purpose of instruction to aid in training;

"(C) the development of in-house curricula or coursework or other training-related programs, including the training of teachers and other eligible participants to utilize such curricula or coursework; and

"(D) reasonable administrative expenses and other indirect costs of operating the partnership which may not exceed 10 percent of the total cost of the program.

"(2) LIMITATIONS.—Federal funds may not be used for nontraining related costs of adopting new competitive strategies including the replacement of manufacturing equipment, product redesign and manufacturing facility construction costs, or salary compensation of the partners' employees. Grants shall not be made under this section for programs that will impair any existing program, contract, or agreement without the written concurrence of the parties to such program, contract, or agreement.

"(h) ADVISORY BOARD.—

"(1) Each partnership shall establish an advisory board which shall include equal representation from each of the following categories:

"(A) Multiple organizational levels of the industrial partners.

"(B) The education partners.

"(C) Labor organization representatives where available, worker representative groups, or employee representatives.

"(2) The advisory board shall—

"(A) advise the partnership on the general direction and policy of the partnership including training, instruction, and other related issues;

"(B) report to the Secretary after the second and fourth year of the program, on the progress and status of the partnership, including its strengths, weaknesses, and new directions, the number of individuals served, types of services provided, and an outline of how the program can be integrated into the existing training infrastructure in place in other Federal agencies and departments; and

"(C) assist in the revision of the plans (submitted with the application under subsection (f)(2)(F)) and include revised plans as necessary in the reports under subparagraph (B).".

SEC. 206. MISCELLANEOUS AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended by adding at the end the following new paragraphs:

"(14) 'Director' means the Director of the National Institute of Standards and Technology.

"(15) 'Institute' means the National Institute of Standards and Technology.

"(16) 'Assistant Secretary' means the Assistant Secretary of Commerce for Technology Policy.

"(17) 'Advanced manufacturing technology' includes—

"(A) numerically-controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving manufacturing and industrial production which advance the state-of-the-art; and

"(B) novel techniques and processes designed to improve manufacturing quality, productivity, and practices, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, inventory management, upgraded worker skills, and communications with customers and suppliers.

"(18) 'Modern technology' means the best available proven technology, techniques, and processes appropriate to enhancing the productivity of manufacturers.".

(b) REDESIGNATIONS.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

(1) by inserting immediately after section 4 the following new title heading:

"TITLE I—DEPARTMENT OF COMMERCE AND RELATED PROGRAMS";

(2) by redesignating sections 5 through 10 as sections 101 through 106, respectively;

(3) by striking section 21;

(4) by redesignating sections 16 through 20, and 22, as sections 107 through 112, respectively;

(5) by inserting immediately after section 112 (as redesignated by paragraph (4) of this subsection) the following new title heading:

"TITLE II—FEDERAL TECHNOLOGY TRANSFER";

(6) by redesignating sections 11 through 15 as sections 201 through 205, respectively;

(7) by redesignating section 23 as section 206;

(8) in section 4—

(A) by striking "section 5" each place it appears and inserting in lieu thereof "section 101";

(B) in paragraphs (4) and (6), by striking "section 6" and "section 8" each place they appear and inserting in lieu thereof "section 102" and "section 104", respectively; and

(C) in paragraph (13), by striking "section 6" and inserting in lieu thereof "section 102";

(9) in section 105 (as redesignated by paragraph (2) of this subsection) by striking "section 6" each place it appears and inserting in lieu thereof "section 102";

(10) in section 106(d) (as redesignated by paragraph (2) of this subsection) by striking "7, 9, 11, 15, 17, or 20" and inserting in lieu thereof "103, 105, 108, 111, 201, or 205";

(11) in section 202(b) (as redesignated by paragraph (6) of this subsection) by striking "section 14" and inserting in lieu thereof "section 204";

(12) in section 204(a)(1) (as redesignated by paragraph (6) of this subsection) by striking "section 12" and inserting in lieu thereof "section 202";

(13) in section 112 (as redesignated by paragraph (4) of this subsection) by striking "sections 11, 12, and 13" and inserting in lieu thereof "sections 201, 202, and 203";

(14) in section 206 (as redesignated by paragraph (7) of this subsection)—

(A) by striking "section 11(b)" in subsection (a)(2) and inserting in lieu thereof "section 201(b)"; and

(B) by striking "section 6(d)" in subsection (b) and inserting in lieu thereof "section 102(d)"; and

(15) by adding at the end of section 201 (as redesignated by paragraph (6) of this subsection) the following new subsection:

"(j) Additional Technology Transfer Mechanisms.—In addition to the technology transfer mechanisms set forth in this section and section 202 of this Act, the heads of Federal departments and agencies also may transfer technologies through the technology transfer, extension, and deployment programs of the Department of Commerce and the Department of Defense.".

SEC. 207. MANUFACTURING TECHNOLOGY CENTERS.

(a) Manufacturing Technology Centers.—Section 25 of the National Institute of Standards and Technology Act (15 U.S.C. 278k), is amended—

(1) by amending the section heading to read as follows: "MANUFACTURING TECHNOLOGY CENTERS";

(2) in subsection (c)(5), by striking "which are designed" and all that follows through "operation of a Center" and inserting in lieu thereof "to a maximum of one-third Federal funding. Each center which receives financial assistance under this section shall be evaluated during its sixth year of operation, and at such subsequent times as the Secretary considers appropriate, by an evaluation panel appointed by the Secretary in the same manner as was the evaluation panel previously appointed. The Secretary shall not provide funding for additional years of the Center's operation unless the evaluation is positive and the Secretary finds that continuation of funding furthers the goals of the Department. Such additional Federal funding shall not exceed one-third of the cost of the Center's operations";

(3) by striking subsection (d); and

(4) by adding at the end the following new subsections:

"(d) If a Center receives a positive evaluation during its third year of operation, the Director may, any time after that evaluation, contract with the Center to provide additional technology extension or transfer services above and beyond the baseline activities of the Center. Such additional services may include, but are not necessarily limited to, the development and operation of the following:

"(1) Programs to assist small and medium-sized manufacturers and their employees in the Center's region to learn and apply the technologies, techniques, and processes associated with systems management technology, electric commerce, or improving manufacturing productivity.

"(2) Programs focused on the testing, development, and application of manufacturing and process technologies within specific technical fields such as advanced materials or electronics fabrication for the purpose of assisting United States companies, both large and small and both within the Center's original service region and in other regions, to improve manufacturing, product design, workforce training, and production in those specific technical fields.

"(3) Industry-lead demonstration programs that explore the value of innovative nonprofit manufacturing technology consortia to provide ongoing research, technology transfer, and worker training assistance for industrial members. An award under this paragraph shall be for no more than $500,000 per year, and shall be subject to renewal after a 1-year demonstration period.

"(e) In addition to any assistance provided or contracts entered into with a Center under this section, the Director is authorized to make separate and smaller awards, through a competitive process, to nonprofit organizations which wish to work with a Center. Such awards shall be for the purpose of enabling those organizations to provide supplemental outreach services, in collaboration with the Center, to small and medium-sized manufacturers located in parts of the region served by the Center which are not easily accessible to the Center and which are not served by any other manufacturing outreach center. Organizations which receive such awards shall be known as Local Manufacturing Offices. In reviewing applications, the Director shall consider the needs of rural as well as urban manufacturers. No single award for a Local Manufacturing Office shall be for more than three years, awards shall be renewable through the competitive awards process, and no award shall be made unless the applicant provides matching funds at least equal to the amount received under this section.

"(f) In carrying out this section, the Director shall coordinate his efforts with the plans for the National Manufacturing Outreach Network established under section 303 of the Stevenson-Wydler Technology Innovation Act of 1980.".

(b) State Technology Extension Program.—(1) Section 26(a) of the National Institute of Standards and Technology Act (15 U.S.C. 2781(a)), is amended—

(A) by inserting immediately after "(a)" the following new sentence: "There is established within the Institute a State Technology Extension Program."; and

(B) by inserting "through that Program" immediately after "technical assistance".

(2) Section 26 of the National Institute of Standards and Technology Act (15 U.S.C. 2781) is amended by adding at the end the following new subsection:

"(c) In addition to the general authorities listed in subsection (b) of this section, the State Technology Extension Program also shall, through merit-based competitive review processes and as authorizations and appropriations permit—

"(1) make awards to States and conduct workshops, pursuant to section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988, in order to help States improve their planning and coordination of technology extension activities;

"(2) support industrial modernization demonstration projects to help States create networks among small manufacturers for the purpose of facilitating technical assistance, group services, and improved productivity and competitiveness;

"(3) support State efforts to develop and test innovative ways to help small and medium-sized manufacturers improve their technical capabilities;

"(4) support State efforts designed to help small manufacturers in rural as well as urban areas improve and modernize their technical capabilities, including, as appropriate, interstate efforts to achieve such end;

"(5) support State efforts to assist interested small defense manufacturing firms to convert their production to nondefense or dual-use purposes;

"(6) support worker technology education programs in the States at institutions such as universities, community colleges, labor education centers, labor-management committees, and worker organizations in production technologies critical to the Nation's future, with an emphasis on high-performance work systems, the skills necessary to use advanced manufacturing systems well, and best production practice; and

"(7) help States develop programs to train personnel who in turn can provide technical skills to managers and workers of manufacturing firms.".

SEC. 208. NATIONAL SCIENCE FOUNDATION MANUFACTURING ACTIVITIES.

(a) In General.—The Director of the National Science Foundation, after, as appropriate, consultation with the Secretary, the Under Secretary, and the Director, shall—

(1) work with United States industry to identify areas of research in manufacturing technologies and practices that offer the potential to improve United States productivity, competitiveness, and employment;

(2) support research at United States universities to improve manufacturing technologies and practices; and

(3) work with the Technology Administration and the Institute and, as appropriate, other Federal agencies to accelerate the transfer to United States industry of manufacturing research and innovations developed at universities.

(b) Engineering Research Centers and Industry/University Cooperative Research Centers.—The Director of the National Science Foundation shall strengthen and expand the number of Engineering Research Centers and strengthen and expand the Industry/University Cooperative Research Centers Program with the goals of increasing the engineering talent base versed in technologies critical to the Nation's future, with emphasis on advanced manufacturing, and of advancing fundamental engineering knowledge in these technologies. At least one Engineering Research Center shall have a research and education focus on the concerns of traditional manufacturers, including small and medium-sized firms that are trying to modernize their operations. Awards under this subsection shall be made on a competitive, merit review basis.

(c) Graduate Traineeships.—The Director of the National Science Foundation, in consultation with the Secretary, may establish a program to provide traineeships to graduate students at institutions of higher education within the United States who choose to pursue masters or doctoral degrees in manufacturing engineering.

(d) Manufacturing Managers in the Classroom Program.—The Director of the National Science Foundation, in consultation with the Secretary, may establish a program to provide fellowships, on a cost-shared basis, to individuals from industry with experience in manufacturing to serve for 1 or 2 years as instructors in manufacturing at 2-year community and technical colleges in the United States. In selecting fellows, the Director of the National Science Foundation shall place special emphasis on supporting individuals who not only have expertise and practicable experience in manufacturing but who also will work to foster cooperation between 2-year colleges and nearby manufacturing firms.

(e) PROGRAMS TO TEACH TOTAL QUALITY MANAGEMENT.—The Director of the National Science Foundation, in consultation with the Secretary, the Under Secretary, and the Director, may establish a program to develop innovative curricula, courses, and materials for use by institutions of higher education for instruction in total quality management and related management practices, in order to help improve the productivity of United States industry.

The CHAIRMAN. Are there any amendments to title II?

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 8, beginning on line 4, strike all through page 9, line 3.

Mr. VALENTINE. Mr. Chairman, I reserve a point of order against this amendment.

The CHAIRMAN. The gentleman from North Carolina [Mr. VALENTINE] has reserved a point of order, and the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes in support of his amendment.

Mr. WALKER. Mr. Chairman, I listened to the gentleman from North Carolina [Mr. VALENTINE] telling us why we cannot consider these things in the House. The fact is, all of the matters before us are in the jurisdiction of the House. The gentleman from North Carolina [Mr. VALENTINE] has done everything in his power to see to it that the House does not consider the issues that we have raised and so he can take it on his own volition to explain why the House cannot consider matters that no other committee came to the floor to object to. The only person objecting to bringing these things up, bringing up product liability, and business liability, and debt relief, and tax cuts and so on, the only person in the House objecting to doing those things was the gentleman from North Carolina, and there was nobody from any other committee who had any objections evidently. He was the only one.

But be that as it may, we will now look at the bill itself, and the bill contains a statement of policy in it which I think is a very troublesome statement because it is a statement of policy which suggests that what we ought to be doing is nationalizing American business and industry.

I have said before that each time the Democrats approach a problem in this country, what they want is more regulation, litigation, and taxation, that their approach to any issue before us is to litigate it, to regulate it, or to tax it. Give them an economic problem, and they send in the lawyers, the regulators, and the tax collectors.

Mr. Chairman, that is exactly what this statement of policy indicates that they are determined to do with this bill. If my colleagues look down through the bill, it implies that the Government, that the Government is the solution to our economic woes, that what we can do is have Government commend and control industry in such a way, and I quote from the bill, "to ensure," and that is a quote, some kind of commercial success. Well, the fact is that this is not something that the Government does very well. The Government does a pretty good job of imposing taxes on business, does a pretty good job of regulating businesses in all kinds of ways, and it does a very good job putting the lawyers to work looking at every little detail of how business does business. But it is a misguided, flawed approach to the idea of economic competitiveness to suggest that what we ought to be doing is nationalizing industries and going that route.

□ 1550

It seems to me that this statement of policy is not necessary in the bill. If they want to move this bill forward in a way that we can perhaps work with our Senate colleagues to improve it, that is one thing. But this statement of policy is one which really does move us toward the idea that nationalized business is the best business.

The Democrats did in fact entitle their bill the National Competitiveness Act. The reason for that was the direction that they move. I would suggest that what we at least want to do is strike policies that suggest that nationalization of business is in the best interests of the country.

The CHAIRMAN. Does the gentleman from North Carolina [Mr. VALENTINE] insist on his point of order?

Mr. VALENTINE. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The gentleman from North Carolina [Mr. VALENTINE] is recognized for 5 minutes.

Mr. VALENTINE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do oppose the amendment. Sometimes I wonder if I have wax in my ears when the gentleman from Pennsylvania [Mr. WALKER] begins to pontificate. Now the gentleman goes, and as I understand him, accuses me or somebody with trying to nationalize part or all of American industry. That is ridiculous and the gentleman knows it.

Mr. Chairman, we listened to testimony in attempting to decide what contribution we could make to the question of the loss of our competitiveness position in this country. We held hearings over a period of 1½ years, heard some 100 witnesses, and, as a result of what we were told, we undertook to place in this legislation what we thought the national policy should be to begin a new era of cooperation and mutual respect between the American industry and the American Government.

That is a policy that we undertook to set out to put in the English language and to put in this legislation, and we do not make any apology for it. We are proud of it.

I might say that as this bill worked its way through the subcommittee and through the full committee, I went to the Republicans on the subcommittee and I said to them, both publicly and privately, this is what we think should be done for our country. If you have got different ideas about it, if you think we have stated it in improper or incorrect English, tell us so.

Everything moved along smoothly until the gentleman from Pennsylvania [Mr. WALKER], in his inimitable fashion, decided to attempt to sabotage our effort in every way possible.

Mr. Chairman, I suggest that to support and vote for the amendment of the gentleman from Pennsylvania [Mr. WALKER] will be like rending the heart from this legislation. It will leave the words, it will leave the punctuation, it will leave the language, but the legislation will be devoid of its sense of direction.

Mr. Chairman, I would urge my colleagues to stand with this committee in opposition to the efforts of the gentleman from Pennsylvania [Mr. WALKER] to eviscerate this legislation.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and on a division (demanded by Mr. WALKER) there were—ayes 3, noes 4.

So the amendment was rejected.

The CHAIRMAN. Are there any other amendments to title II?

AMENDMENTS EN BLOC OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer amendments and ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. VALENTINE. Mr. Chairman, I reserve a point of order against the amendments.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments en bloc offered by Mr. WALKER:

Page 8, line 21, delete "shall" and insert "should".

Page 9, line 4, delete "shall" and insert "should".

Page 9, line 19, delete "There is established" and insert "The Secretary may establish".

Page 9, line 22, delete "shall" and insert "should".

Page 10, line 20, delete "shall" and insert "should".

Page 11, line 9, delete "shall" and insert "may".

Page 11, line 12, delete "shall" and insert "should".

Page 11, line 16, delete "shall" and insert "may".

Page 12, line 11, delete "shall" and insert "may".

Page 12, line 25, delete "shall" and insert "may".

Page 13, line 14, delete "shall" and insert "may".

Page 16, line 7, delete "shall" and insert "may".

Page 16, line 12, delete "shall" and insert "should".

Page 17, line 7, delete "shall" and insert "may".

Page 17, line 17, delete "shall" and insert "may".

Page 18, line 16, delete "There is hereby established" and insert, "The Secretary may establish".

Page 18, line 18, delete "shall" and insert "may".

Page 18, line 23, delete "shall" and insert "may".

Page 19, line 22, delete "shall" and insert "may".

Page 20, line 12, delete "shall" and insert "may".

Page 20, line 24, delete "shall" and insert "may".

Page 21, line 16, delete "shall" and insert "may".

Page 22, line 12, delete "shall" and insert "should".

Page 22, line 14, delete "shall" and insert "should".

Page 22, line 18, delete "shall" and insert "should".

Page 22, line 22, delete "shall" and insert "should".

Page 23, line 3, delete "shall" and insert "should".

Page 23, line 13, delete "shall" and insert "should".

Page 23, line 17, delete "shall" and insert "should".

Page 24, line 3, delete "shall" and insert "should".

Page 25, line 9, delete "shall" and insert "should".

Page 25, line 11, delete "shall" and insert "may".

Page 25, line 16, delete "shall" and insert "should".

Page 25, line 19, delete "shall" and insert "should".

Page 25, line 20, delete "shall" and insert "should".

Page 26, line 15, delete "shall" and insert "should".

Page 27, line 10, delete "shall" and insert "may".

Page 42, line 6, delete "shall" and insert "should".

Page 42, line 25, delete "shall" and insert "may".

Page 44, line 16, delete "shall" and insert "may".

Page 45, line 8, delete "shall" and insert "may".

Page 45, line 16, delete "shall" and insert "should".

Page 46, line 11, delete "shall" and insert "may".

Page 48, line 10, delete "shall" and insert "may".

Page 48, line 14, delete "shall" and insert "may".

Page 48, line 25, delete "shall" and insert "may".

Page 56, line 3, delete "there is established" and insert "the Secretary may establish".

Page 56, line 7, delete "shall" and insert "may".

Page 56, line 15, delete "shall" and insert "should".

Page 57, line 8, delete "shall" and insert "may".

Page 57, line 11, delete "shall" and insert "should".

Page 100, line 19, delete "shall" and insert "may".

Page 101, line 18, delete after "Board" insert "if".

Page 101, line 19, delete "shall" and insert "may".

Page 102, line 22, delete "shall" and insert "may".

Page 104, line 15, delete "shall" and insert "may".

Page 105, line 13, delete "shall" and insert "should".

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this is an amendment to give the Secretary of Commerce some latitude in determining how we go about implementing the programs that are within this bill. What we have to know is whether or not the Departments' resources are sufficient to support the creation of the new programs that are in H.R. 5231.

We at the present time do not know all the budgetary and regulatory implications that some of these provisions have. All this amendment does is take all the shalls, all the mandates, and changes them to mays and shoulds. That simply gives the Secretary the appropriate flexibility to deal with this bill.

What the committee wants to do is mandate upon the Secretary a whole series of programs that nobody is sure we can afford.

When the committee first marked up this bill they said we were going to take the money out of defense spending. That is where we were going to get the money.

They have since dropped that language. We now have to assume that the only other place they can get the money is out of the funds presently allocated to the Department or by raising taxes. My guess is since they have not put anything in this bill saying that they are going to raise taxes in order to pay for it, they will not listen to any of our ideas about how one comes up with the money to pay for what they are doing.

That was the reason why this gentleman said I was willing to amend the majority's bill with my amendment. I figured out a way to pay for it. They have no way to pay for it.

So under my amendment what we do is give the Secretary of Commerce the kind of latitude that will allow the Secretary to determine what is important, what is not important, and whether or not we have the resources to do the job.

The Department is already charged with carrying out important duties with very limited resources. This amendment merely ensures that these new requirements can be dealt with as efficiently as possible. If what we are going to do is pull down the moneys for other very important duties to implement these, should not the Secretary at least have the ability to decide what is important and how it is important?

Under this bill these will become the single most important priorities of the Department, and the Secretary will have to spend the money, regardless of whether or not those are the most important priorities of the Department at any given time. That does not make any sense.

Mr. Chairman, this amendment also recognizes that many of the programs that are presently in place are very good programs and that these programs within the bill are new mandates on the bureaucracy which requires grants, loans, and new regulations. The Secretary of Commerce has not requested any of these new corporate subsidies, yet we are going to mandate upon the Secretary that she do all of these things without any idea of where the money is coming from.

In light of this, the Secretary would just have to start from scratch on program justifications and plans in order for any of these new Government programs to have a chance at success. The Secretary should have the maximum flexibility possible. This is a flexibility amendment that I think is entirely appropriate given the kinds of limited resources that the Government has these days.

The CHAIRMAN. Does the gentleman from North Carolina [Mr. VALENTINE] insist on his point of order?

Mr. VALENTINE. Mr. Chairman, I withdraw my point of order, but I move to strike the last word.

The CHAIRMAN. The gentleman from North Carolina [Mr. VALENTINE] is recognized for 5 minutes.

Mr. VALENTINE. Mr. Chairman, the gentleman from Pennsylvania [Mr. WALKER] fired so many bullets, most of which he had shot in his previous speech, that I do not need to go back and undertake to have something to say about every one of them.

□ 1540

What this would do, and he has put together several dozen amendments, and he simply goes in and says that where the word "shall" appears in the legislation that they would insert the word "should."

Now, if the gentleman really means, if he thinks that would improve the legislation, of course, he does not. This would really cut its throat. This is what it is all about, because these are the words whereby Congress, exercising its constitutional authority, says to the Executive that "you shall" do certain things.

Now, if we are going to see it changed to the word "should," then we have wasted a lot of time. We could just write them a letter and say, "We think you ought to consider" thus and so.

But what we have here is what we hope will be the will of this House, that the Executive will be required to do certain things to correct the competitiveness problems that exist in this country.

Let me say, finally, I will try not to use all the 5 minutes, that the gentleman continues to talk about spending the money and where is the money coming from and the deficit, as the gentleman from Texas back sometime ago.

I suggest that what we have here is only an expression of the way the Committee on Science, Space, and Technology feels that the appropriators should utilize a part of the funds that are available in this country for use of these purposes. This is an authorization bill.

We do not undertake to say where the money comes from.

For my part, I would like to see it come out of foreign aid. For my part, I would like to see it come from some of that money that the administration wanted to send to Soviet Russia that the gentleman supported a few days ago. But we do not have to get into that because we have a right, it is our duty and responsibility to say that we think this should be authorized.

And then it is up to the appropriations to make arrangements to say where it comes from.

So I urge my colleagues to stand again with the committee and vote against this amendment introduced by the gentleman from Pennsylvania.

The CHAIRMAN pro tempore (Mr. KLECZKA). The question is on the amendments offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and on a division (demanded by Mr. WALKER) there was—ayes 3, noes 4.

Mr. WALKER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 405]

ANSWERED "PRESENT"—395

Abercrombie
Ackerman
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Bacchus
Baker
Ballenger
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Chapman
Clay
Clement
Clinger
Coble
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Dannemeyer
Darden
Davis
de la Garza
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jontz
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Stokes
Studds
Stump
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

□ 1609

The CHAIRMAN pro tempore (Mr. KLECZKA). Three hundred ninety-five Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania [Mr. WALKER] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 148, noes 256, not voting 28, as follows:

[Roll No. 406]

AYES—148

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Clinger
Coble
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)

Machtley
Martin
McCandless
McCollum
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morrison
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Pursell
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stearns
Stump
Taylor (NC)
Thomas (CA)
Thomas (WY)
Upton
Vucanovich
Walker
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—256

Abercrombie
Ackerman
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Johnston
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moran
Morella
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wyden
Yates
Yatron

NOT VOTING—28

Alexander
Barnard
Boxer
Carr
Chandler
Coleman (MO)
Conyers
DeFazio
Foglietta
Hayes (LA)
Ireland
Jefferson
Jones
Kennedy
Levine (CA)
Lewis (CA)
Marlenee
McCrery
Miller (WA)
Mink
Moody
Oakar
Pease
Penny
Perkins
Sundquist
Vander Jagt
Wolpe

□ 1616

So the amendments were rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. KLECZKA). Are there further amendments to title II?

AMENDMENT OFFERED BY MR. CAMP

Mr. CAMP. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CAMP: Page 45, line 21, after "review basis." insert the following: "Such awards may include support for acquisition of instrumentation, equipment, and facilities related to the research and education activities of the Centers and support for undergraduate students to participate in the activities of the Centers.".

Mr. CAMP. Mr. Chairman, I am offering an amendment, along with my colleague, the gentleman from Michigan [Mr. HENRY], that will clarify the uses permitted by the National Competitiveness Act for those schools applying for engineering research grants under title II of the bill.

This amendment, which is not controversial and has the support of both the majority and the minority, would define the way school funds may be used. Schools that apply for the engineering research grants in this legislation are going to need the necessary instruments, equipment, and facilities to house research and education activities related to advanced manufacturing and technology. It is essential that these educational institutions have the ability to use the funding for these purposes. This amendment would allow hundreds of small schools to compete with huge universities for Federal funds. Thousands of rural students attending these schools will have access to the same opportunities for an advanced research and manufacturing education as their counterparts in larger communities attending larger universities.

Mr. Chairman, I urge my colleagues to support immediate passage of this important amendment.

Mr. VALENTINE. Mr. Chairman, will the gentleman yield?

Mr. CAMP. I yield to the gentleman from North Carolina.

Mr. VALENTINE. I thank the gentleman for yielding.

Mr. Chairman, we have read and are familiar with the amendment of the gentleman, and we are happy to accept it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan [Mr. CAMP].

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there any other amendments to title II?

□ 1620

Mr. CAMPBELL of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to speak about a part of the bill which I understand we will not be able to vote in favor of today. I regret that we will not. This was part of the Republican alternative on competitiveness, a part of the bill that I had drafted and been involved in since my first day in Congress.

The provision would improve the competitiveness of companies in the United States dealing in an international economy. Our companies have a major disadvantage. Our trading partners have different antitrust rules than the rules under which we operate.

One of the principal areas of difference that concerns me is in the joint venture area. American firms are often not permitted to work together in the joint venture area at the level of producing a manufactured product. We have an antitrust rule to assist firms to collaborate in research and development, but not in manufacturing.

It would be a tremendous advantage to American firms to be permitted to take their joint activity from the research and development area down into manufacturing.

Now, the difficulty is this. When we deal with foreign countries, those firms are permitted to collaborate and to put together joint production ventures. There are advantages to working together. Not only can you lower the cost to each individual firm because there is more than one participant in the joint venture, but you also lower the risk, the risk that your investment will go sour. In a joint venture, you have a smaller amount of money invested, and also you have more than one entity contributing into the design and actual production of the manufactured good.

Now, foreign countries permit this kind of joint venture in manufacturing. It would be permitted in the Republican substitute to the competitiveness bill. It was not, however, made in order, so we will not be able to vote in favor of that today, and I regret that.

Consider a further advantage of the joint venture that it can be done without costing the taxpayer a dime. We would not be here speaking about putting Federal money into a new program or into any particular project. We are speaking, rather, about money put in by the firms themselves; so we do not increase the deficit one bit. We free up sources of capital for innovation and development at a time when sources of capital are very hard to come by; the funds come from industry itself.

As I was researching this topic, I found it of interest that in Europe broader joint ventures are permitted under their antitrust laws. Indeed, the ratio of filings under their antitrust laws is running at about 10 to 1, compared with our filings under our antitrust laws for joint activity.

The difference is that in Europe joint activity is permitted to go beyond simply research and development; it can go into the manufacturing sector. As a result, over 20 percent of all joint ventures filed under the European antitrust laws are for joint production, not simply research and development.

Now, you might say that if another country allows these firms to get together, we can apply our antitrust laws against them and so eliminate their advantage.

Well, that is not the case. The reason is that these countries are manufacturing products that they would sell then into a third country. American antitrust laws could not reach the joint venture in Europe to make a new product sold in yet a third country, even if I were to grant that American antitrust laws were appropriate to reach to the joint activity of foreign competitors selling products into the United States. So we remain at a serious disadvantage.

We have the means of improving this by making the antitrust laws in America more as they are in the rest of the world. We have the means of providing a new source of capital that will not add to the budget deficit one bit. We have a new source of entrepreneurial talent that we already recognize in research and development, now able to be brought down to the manufacturing side as well.

Why should we not do it? The antitrust laws are a concern, but bear in mind the provision in the Walker substitute would have permitted this only if there was no antitrust risk, as determined by the Department of Justice or a court of law.

Bear in mind, finally, that if we permit companies to merge in the United States, and we do, we at the very least ought to allow them to joint venture where the market share percentages are the same. There can be no greater competitive risk if they are engaged in a joint venture than to allow them to merge.

Mr. Chairman, I conclude with my statement of regret that the Republican alternative was not made in order so that these joint competitive ventures might have been permitted.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 39, beginning on line 5, strike all through page 42 line 10.

Mr. VALENTINE. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from North Carolina reserves a point of order on the amendment.

The gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Chairman, I think this amendment is in order, too. It is a striking amendment.

Mr. Chairman, what I am trying to do is strike out of the bill a section of the bill that reneges on an agreement that was made when we passed the manufacturing centers legislation some years ago.

Several years ago, when the Senator from South Carolina proposed the idea of manufacturing centers, we decided that this was a good idea and that what ought to be done was put them in place and then they ought to be phased out as they became more mature.

The idea was that we ought not to have this as an on-going drain on the budget, but rather what we ought to do is have the Senators in place in a way that they actually did promote real activity and then were phased out of business.

In this bill, we reneged on that concept. The manufacturing centers, instead of being phased off Government support after 6 years, would be now allowed to become permanent, the exact opposite of the original intent.

Now, people wonder how we manufacture deficits in Washington and how spending takes place. Here is a good example, one where Congress started off with a good idea. The good idea was to put something in place for a short-term period in order to get manufacturing competence up, and then when it comes time to begin to look at phasing it out, Congress says, "Oh, no. We don't want to phase these out. We want to go ahead and make them permanent, put them permanently in place and have them as a consistent drain upon the taxpayer."

Now, this is one where Congress is going to have to take the blame. This is not one where the administration, for all the people who want to line up and say the administration is in favor of all this spending, this is one where the administration in their statement of the administration's program here said very clearly that this is one of the reasons why they oppose this bill. It is one of the reasons why they think that the bill is too expensive and why they believe that the bill should be vetoed. It is because we are taking something that was supposed to be temporary and making it permanent.

There is no need to go through and rewrite the section of the bill that is now there. All we do is confuse what is a relatively new program. This program is only 5 years old at the present time.

We could go ahead and allow these temporary centers to continue to go up, but to say that all the centers that are now in place shall now become drains on the permanent tax rolls just does not make any sense.

If there is one place we can find a correction, if there is one place where we ought to do something right in this bill, it is striking this section, keeping the program intent as it was originally and not going to the idea that the taxpayer has an ever-constant stream of revenue coming in.

I have said before, all the Democrats believe in terms of an economic program is more litigation, more regulation, and more taxation. Here is a case where this section of the bill is in favor of more regulation and more taxation, because it is the taxpayers who are going to have to support these permanent centers, when in fact what could happen is that we could stick with the original intent of the program and begin the process of phasing them out.

Mr. CAMPBELL of California. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from California.

Mr. CAMPBELL of California. Mr. Chairman, to the gentleman's knowledge, have there been any Federal programs in the gentleman's time in this body, which having been once established did not continue ad infinitum?

Mr. WALKER. The only thing that I can remember that we actually got rid of was the Revenue Sharing Program. There we had a program that was taking money out of the Federal coffers and giving it back to local government for worthwhile things; but nevertheless, that is one that we ended up terminating.

☐ 1630

But in this case, this is the exact opposite. Here we had a program where we had actually decided that the merits of the program were that the program should be sunsetted once it became mature and industries could begin to pay for them on their own, and what is happening here is now we are saying, "Oh, no, we don't like that idea now; let's keep the Government money flowing."

Mr. Chairman, will the gentleman yield further?

Mr. WALKER. I yield to the gentleman from California.

Mr. CAMPBELL of California. It seems to me, Mr. Chairman, and I would be interested in the gentleman's response, that, if something is worth doing, industry ought to be willing to pay for it. Maybe not at the start where there is this huge amount of risk, and maybe not with what we call a huge amount of positive externalities, but eventually, if it is going to be commercializable, it ought to be supportable by industry.

The concept, if the gentleman would yield further, that this is to be perpetually funded by the Government, is almost an admission that nobody else is willing to pay for it.

Mr. WALKER. It does defy the idea of competitiveness because, if we are going to be competitive in world economic affairs, our businesses are going to have to be competitive. It is not going to be our Government manufacturing centers that will be competitive. In fact, what our Government centers should be doing is helping make our businesses competitive, and, once they have achieved that, then industry itself can fund this. We do not have to go to the taxpayers.

And what we have happening there is we have already decided this whole program has failed, and we are now going to compound that failure by making the taxpayers pick up more of the tab.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. WALKER] has expired.

Does the gentleman from North Carolina [Mr. VALENTINE] insist on his point of order?

Mr. VALENTINE. We do not insist on the point of order, Mr. Chairman, but I move to strike the last word so I can speak in opposition to the gentleman's amendment.

The CHAIRMAN. The gentleman from North Carolina [Mr. VALENTINE] is recognized for 5 minutes.

Mr. VALENTINE. Mr. Chairman and Members of the House, the relative competitiveness of U.S. small- to medium-size manufacturers has eroded due to the slow integration of modern technologies and practices into their businesses. Recent studies on competitiveness by OTA and others have recommended strong Federal support for manufacturing extension services and centers.

Mr. Chairman and my colleagues, in the United States at this time there are in existence and operating five of these centers that the gentleman had so many unkind things to say about, and I must say that it is hard for us, hard for this Member, to track the gentleman because one time he is chasing a rabbit that way and another time this way because what he is complaining about now is a part of the bill which gives discretion to the Secretary of Commerce, gives the Secretary of Commerce authority, to extend funding for these centers beyond a 6-year period. It does not direct the Secretary of Commerce to do anything.

So, Mr. Chairman, I suggest to the gentleman from Pennsylvania [Mr. WALKER] that he ought to pay attention to the fact that here we have put in his "should" that he was talking about a while ago and not the "shall."

So, Mr. Chairman, in view of the situation that we are confronted with, I think on the minds of those who have facts on which to form an opinion about these centers is that they are needed, they are justified, they serve a useful purpose, and we want to make it so that the Secretary of Commerce can, if he thinks it is proper, extend their lives, and I urge my colleagues to again support the committee and to vote against the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

Mr. HENRY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am reminded of the words of the late Senator Everett Dirksen:

> On this issue I have friends for it, I have friends against it. When I vote, I intend to stick with my friends.

I have to admit, Mr. Chairman, that I rise with some degree of reluctance because of the respect I have for my ranking member on the Committee on Science, Space, and Technology and because I share his sense of outrage, quite frankly, at the inability of the minority to have an opportunity to put forth its amendments to this legislation, as it had hoped to do, and have an opportunity for straight up or down votes on those amendments. But I do want to say that I do think that this amendment in particular really guts a very important part of the bill, legislation which, in my judgment, is very much needed by way of protecting and promoting the manufacturing and industrial infrastructure of this Nation's economy.

I want to remind my colleagues of James Baker's parting words when he left the Department of State. In his farewell address to his employees there among other things he said:

> We need to support civilian R&D, and leading edge sectors and a research extension network to make our discoveries available to entrepreneurial business.

What this legislation seeks to do is to establish a network of manufacturing centers that will serve to reach out and service leading edge technologies in our economy.

Now, when we talk about whether or not this is Government subsidy or whether or not this is the right kind of competition, we have to consider what our economic competition is in itself doing. For example, the United States devotes two-tenths of 1 percent, two-tenths of 1 percent, of its Federal R&D budget to industry technology while Japan devotes 4.8 percent, and Germany 14.5 percent. Now the administration in its budget proposals for 1993 proposed to invest $17.8 million to support 7 manufacturing technology centers while Japanese expenditures for a similar program totaled nearly $500 million for 169 such centers in 1988.

Mr. Chairman, that is competition that we are competing against, an alliance of Government in terms of trying to enable manufacturing to adapt to a very rapidly changing technology, and of course the next section in this bill is technology extension centers across the Nation to do in manufacturing what we have so ably done in this country by way of agricultural extension, outreach, education, and supportive services in agriculture.

So, I see nothing insidious in the bill. Quite frankly, Mr. Chairman, I urge my colleagues to support the legislation and use some independent judgment in terms of reflecting on what they are hearing from manufacturers in their districts. I have to tell my colleagues that in my district my manufacturers have been calling for this kind of assistance and partnership with the Government.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, the problem which the gentleman from Michigan [Mr. HENRY] is describing though, it seems to me, is precisely why this amendment should be adopted. The idea behind these centers was that once we would get them on the ground and get them along, then industry would pick up the tab for them so that we could go ahead and fund more centers. If what we end up doing is having the Government pay for these centers, we will have less centers, not more.

Mr. HENRY. Reclaiming my time, Mr. Chairman, the concern here is that in some instances it may take a little longer than the five we have operating, and the seven that the administration envisions may not have gotten off to the jumpstart the gentleman and I had both hoped for and may, in fact, have seen their mission grow in an exponential fashion beyond anyone's wildest imagination.

Now I do not hear the gentleman giving the same kind of argument when we have terrible cost overruns in the super collider, and yet the chairman or executive director of the Council on Superconductivity is very anxious for this legislation to be adopted, and that is what we are talking about, the practical spinoff of so much of this high-physics legislation. When we have cost overruns or delays in space station *Freedom*, I do not hear these kinds of arguments.

That core research is very important, I understand that. That is hard, scientific R&D paid for by the American taxpayer. The question is: What percent of that expenditure ought to be directed to technology——

The CHAIRMAN. The time of the gentleman from Michigan [Mr. HENRY] has expired.

(On request of Mr. WALKER and by unanimous consent, Mr. HENRY was allowed to proceed for 2 additional minutes.)

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. The gentleman may recall that I am the guy who offered the amendment that got the $5 billion cap on the super collider, so I am willing to go after that, too. He may also recall that I am the guy who came to the floor with the cuts in the space program, as well, and offered them out here on the floor. So, I think I have a pretty good record in that regard.

□ 1640

I am perfectly willing to go after them there. But what the gentleman is suggesting here is that what started off as a program aimed at maturing a lot of manufacturing centers and then spinning them off to industry, cannot go on in the way it was originally conceived. That indeed we need to have the taxpayers more involved than was originally anticipated.

The problem is that some of the centers have not done so well. And why not? Because they were pork barreled in the first place.

The Senator from South Carolina who originally proposed the program just happened to get a center in South Carolina, and we have had other kinds of instances.

Now, if that is what we are doing here again, is putting these on the Government dole so that we can get a few more on the Government dole, so that a few more people can get pork, I am suggesting that maybe that is not a way that we are going to attain manufacturing competitiveness in the country.

From my view, what we ought to have is a provision which sticks with the original intent. Let us have manufacturing centers. If they succeed, the industry picks them up. If they do not succeed, let them go by the board and then put our money in ones that have a chance.

Mr. HENRY. Mr. Chairman, reclaiming my time, I would suggest, using that same argument, let us close down our land-grant colleges and universities because they did not finish their task in their first 5 years of existence.

Mr. WALKER. Mr. Chairman, if the gentleman will yield further, there was never a provision like this for our land-grant colleges. Our land-grant colleges were never conceived with the idea that after 5 years we would back out.

This program was specifically conceived with that in mind. Now we are changing the rules.

Mr. HENRY. Mr. Chairman, reclaiming my time, why should we not have a provision of partnership with our manufacturing and industrial sectors?

Mr. WALKER. Mr. Chairman, if the gentleman will yield, because one of the reasons for Government to have a partnership was to make certain that when the partnership matured, that industry would pick up the tab so we could go on to other kinds of partnerships.

What the gentleman is doing is suggesting that we ought to lock in that which is forever more. I suggest that is not the way you are going to get the kind of manufacturing centers that will ultimately make this Nation competitive.

Mr. CAMPBELL of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I ask to strike the last word to continue this last line of inquiry, which I thought was rather interesting. I have a brief comment, and I will yield to my colleagues on either side of the aisle who might wish to engage in this.

The first point I would make is we essentially have a debate here over whether we should have a revolving credit account or whether we should have a permanent investment of taxpayers' money. In different contexts, each has its value.

But when we present something as an experiment, a revolving credit account has a lot to recommend it. It says "Tell you what: we'll get you started. If it works, fine. We'll take that money back and it will go to somebody else. If it doesn't, well then, if it doesn't pass the test of commercialization, we won't."

You could do it the other way, and I know my colleague, the gentleman from Michigan [Mr. HENRY], is a thoughtful student of this issue, as is our chairman, for both of whom I have the highest regard.

But we are doing two different things. To have a revolving credit account makes an awful lot of good sense, if you expect there will be an occasion when you will replenish those funds out of a success. It does not say that we are against partnerships, it does not say that we are against progress. It does say that we simply wish to fund something on a revolving rather than a permanent basis.

The second point I rise to emphasize is that there is a major problem in my mind with a system that is not self-selecting, but rather designated by an agency of Government, to say which centers, to study what, and where.

The answers apparently will come through the political process. It would be far wiser if the system itself produced them.

The model I would have, for example, is a tax credit. If you wish to use the revolving credit funds, let it be used for that. Forgiveness of tax in the early years, replenish it later.

The problem with this system as adumbrated in the bill is a Government-selected subject matter and a Government-selected location.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. CAMPBELL of California. I will be pleased to yield to my colleague from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding. The gentleman has touched on I think two very important points here.

First of all, the gentleman points out why the administration issued such a strong statement opposed to this particular idea. Because what the administration is saying is we probably ought to have the program.

The gentleman from Michigan [Mr. HENRY] quoted from James Baker when he left the State Department. Baker said nothing which contradicts what I am saying here. Baker was simply making the point that we ought to have a successful program in terms of giving our manufacturing industries a chance to compete in the world.

That does not mean that you freeze in place things which the Government is doing which it is not doing very well. And as I pointed out before, one of the reasons why some of these centers are not working very well is because they did have a political selection process rather than an economic selection process.

I am not convinced that we are going to get the very best in competitiveness out of that which is done to pork barrel in one Senator's State or in some Representative's district.

Far better, as the gentleman points out, that we end up with a system that has businesses that will truly end up being competitive, deciding that they can use some help from the Government to get some things off the ground, and then pick up the tab later on themselves as they become more and more competitive in world markets.

Mr. CAMPBELL of California. Mr. Chairman, reclaiming my time, the other danger is a subtle one. If we continue to operate in this manner whereby we originally put forward a revolving credit idea, a loan idea, and then it becomes a permanent funding or a grant idea.

We have seen this in a thousand different areas in Government. Eventually, people will resist the initial judgment to have a loan or to have revolving credit, because we know, sure as the Sun rises tomorrow, it will be made permanent.

So I think it is wiser to stick with our original concept, and in this case I think the amendment of the gentleman from Pennsylvania [Mr. WALKER] is the appropriate way to go.

The CHAIRMAN pro tempore (Mr. KLECZKA). The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and on division (demanded by Mr. WALKER) there were—ayes 7, noes 15.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 135, noes 262, not voting 35, as follows:

[Roll No. 407]

AYES—135

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bereuter
Bilirakis
Bliley
Boehner
Bunning
Burton
Callahan
Campbell (CA)
Carper
Clinger
Coble
Combest
Coughlin
Cox (CA)
Cox (IL)
Crane
Cunningham
Dannemeyer
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Ewing
Fawell
Fields
Franks (CT)
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Houghton
Hunter
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
Martin
McCandless
McCollum
McDade
McEwen
McMillan (NC)
Michel
Miller (OH)
Molinari
Moorhead
Myers
Nagle
Nichols
Nussle
Orton
Owens (UT)
Oxley
Packard
Paxon
Petri
Porter
Quillen
Ramstad
Rhodes
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stump
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vucanovich
Walker
Weber
Weldon
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—262

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Bentley
Berman
Bevill
Bilbray
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Bruce
Bryant
Bustamante
Camp
Campbell (CO)
Cardin
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallegly
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Johnson (CT)
Johnson (SD)
Johnston
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Peterson (FL)
Peterson (MN)
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Russo
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wyden
Yates
Yatron

NOT VOTING—35

Barnard
Bateman
Boxer
Brown
Byron
Carr
Chandler
Coleman (MO)
Conyers
Downey
Edwards (OK)
Foglietta
Gaydos
Guarini
Hayes (LA)
Jefferson
Jenkins
Jones
Kennedy
Lancaster
McCrery
Miller (WA)
Mink
Montgomery
Oakar
Penny
Perkins
Pickett
Pursell
Ravenel
Sanders
Savage
Skelton
Sundquist
Wolpe

□ 1709

Mr. ANDERSON changed his vote from "aye" to "no."

Mrs. ROUKEMA, Mr. DOOLITTLE, and Mr. OWENS of Utah changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HENRY

Mr. HENRY. Mr. Chairman, I ask unanimous consent to proceed out of order for purposes of offering an amendment to title IV.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

Mr. VALENTINE. Mr. Chairman, reserving the right to object, we do not know what the amendment provides.

□ 1710

Mr. Chairman, if this is the gentleman's amendment which would rename the Department of Commerce the Department of Manufacturing and Commerce, then we accept the amendment.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore (Mr. ABERCROMBIE). Is there objection to the request of the gentleman?

There was no objection.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. HENRY: At the end of title IV, insert the following new section:

SEC. 408. DEPARTMENT OF MANUFACTURING AND COMMERCE.

The Department of Commerce is hereby renamed as the Department of Manufacturing and Commerce, and all references in Federal law or regulation to the Department of Commerce or the Secretary of Commerce shall be deemed to be references to the Department of Manufacturing and Commerce or the Secretary of Manufacturing and Commerce, as appropriate.

Page 2, after the item in the table of contents relating to section 407, insert the following new item:

Sec. 408. Department of Manufacturing and Commerce.

Mr. HENRY. Mr. Chairman, manufacturing is the force that creates jobs, drives economic growth and innovation, determines our standard of living, and ensures our national security. In fact, almost all forms of commerce originate or derive from manufacturing. As I mentioned in my earlier statement, Mr. Chairman, we must focus on how we might better coordinate our Federal policies so that they are developed and modified to the benefit of American manufacturers. As is called for in the amendment I am proposing, I believe our first step in this process should be to rename the Department of Commerce as the Department of Manufacturing and Commerce. This change must be more than symbolic. It must change the tone of the adversarial dialog that has long existed between Government and industry. It must also help redirect our policies and priorities toward manufacturing and foster the type of public/private partnership that will be increasingly necessary in the world marketplace of the 21st century.

Over the past several months, I have toured a number of the manufacturing facilities in Michigan. I have listened to scores of complaints and concerns about what the Federal Government is and isn't doing to help them survive. While some manufacturers point to education reform, some to technology application, and still others to trade policy, the underlying sentiment is that it is time for governmental action that puts manufacturing into the forefront of Federal policy decisions. A Manufacturing and Commerce Department would do so.

Unlike our foreign competitors, U.S. manufacturers don't have an agency speaking for them. In fact, the feeling out there is that we not only have to compete against growing foreign competition, but we must contend with overly burdensome regulation and red tape from a government that Congress has set up to work against us. A manufacturer who testified before the Technology and Competitiveness Subcommittee earlier this year put it this way:

> There are times when most of us in manufacturing truly believe that there has been a subsurface dislike toward, and distrust of us. If the Congress and the administration can positively change the tone of the relationship—toward a partnership—it is my belief that this will go a long way toward insuring the future success of manufacturing in the United States.

A Department of Manufacturing and Commerce cannot fix all that is wrong or maintain all that is right with our industrial sector. However, as part of H.R. 5231, it will set us on the proper course and create a foundation from which we can build a coherent economic competitiveness strategy. This amendment is similar to H.R. 4417 which is supported by the National Association of Manufacturers and the Automation Group among others. I hope my colleagues will support it.

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. HENRY. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding. This is an item that was a part of the Republican substitute, and the gentleman from Michigan felt that it was an important part of the Republican substitute, and I was happy to include it there.

The one problem I have is that we paid for it in the Republican substitute according to CBO estimates. What is going to pay the costs of it here, and how much does it cost?

Mr. HENRY. Reclaiming my time, Mr. Chairman, I do not think there is any significant cost whatsoever. The amendment does not involve any organizational restructuring. It is also crafted in such a way that it does not create any jurisdictional problems relative to transfer of jurisdictional in congressional committees. It really is an amendment which sends a message that among other things the prime purpose of the Department of Commerce is to advocate and represent the interests of America's manufacturers and its industrial sector.

This concept was first proposed to me by the gentleman who traveled with the President for the auto trade negotiations to Japan. It has attracted a great deal of interest and support. I want to thank my Republican colleague, the gentleman from Pennsylvania [Mr. WALKER], for having placed it in his original minority substitute, and I also want to express my appreciation to the gentleman from North Carolina [Mr. VALENTINE] for his expressing no objection to the amendment.

Mr. WALKER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I stated before, I have no objections to the general content of the gentleman's amendment and it was in fact included in the Republican substitute. But I asked a question and I did not get an answer. The gentleman said he does not think it will cost much money.

I am in fact the author of a bill to create a new Department of Science, Space, Energy, and Technology because I believe that we need to combine up some of these elements to make certain that the Government operates a little more efficiently. In my case we are absolutely going to eliminate Federal employees, and so on, by getting more efficiency.

The problem is that I also found that there are substantial costs to doing this kind of thing. For example, all of the stationery has to be changed, laws and rules have to be rewritten, regulations have to be redone, the departments have to be reemblemed. There have to be all kinds of offices across the country that have to have new signs put up and so on. And this does get into at least several million dollars. It is not that we are talking about tens of millions, but we are probably talking about hundreds of thousands and millions of dollars.

As I pointed out to the gentleman, in the Republican substitute, because of the nature of what we had done with our deficit reduction package, we were able to pay for these kinds of costs. The question I have here is, the chairman has accepted the gentleman's amendment, but where is this several million dollars of money going to come from?

Mr. HENRY. Mr. Chairman, will the gentleman yield so that I may respond?

Mr. WALKER. I am happy to yield to the gentleman from Michigan.

Mr. HENRY. Mr. Chairman, this is very different from a full-fledged departmental reorganization. As the gentleman knows, I am a cosponsor of his legislation as well, and of course his legislation involves actually a structural reorganization of several agencies and departments. This does not do so. It is really a title change.

Mr. WALKER. But let me reclaim my time to say that none of the things I mentioned are involved in a reorganization effort. Everything I just mentioned are things that have to be done if you change the name of the department. Just a name change involves a whole series of actions that have to be taken by the Government in order to accommodate this name change.

Mr. HENRY. If the gentleman will yield, I would simply say psychological stimulus of this to the manufacturing community in America will in fact generate such economic activity that the public dividends to be derived will more than offset any cost that he may fear.

Mr. WALKER. So there is a supply side argument the gentleman is saying here?

Mr. HENRY. A supply side argument, that is correct.

Mr. WALKER. That the simple name change in and of itself will generate all kinds of activity in the economy which will pay back dividends and revenues that will in fact pay several million dollars of costs for the gentleman's amendment, is that the argument I have just heard?

Mr. HENRY. I think the gentleman is not being thoroughly accurate in terms of the costs he assumes are associated with the name change. So I am just having a little bit of levity.

Mr. WALKER. It was the gentleman from North Carolina [Mr. VALENTINE] who has accepted this amendment, obviously without knowing what the cost of it was going to be. He has no answer about the cost for it. This is not a circus, it is a serious business when we are spending millions of taxpayers' dollars to do something about changing a name, and it seems to me that we ought to know where the money is coming from.

The gentleman has willy-nilly spent money throughout this bill. This bill amounts to $2.2 billion of taxpayers' money, and I am suggesting that we are adding a little bit of additional cost here, and we ought to know where the money is coming from. Is this going to come out of the defense moneys too, and if so, it seems to me that someone ought to realize that these things do not come at no cost.

I do not think I got an answer to my question. This provision is going to pass, and as I say, there is no great objection to changing the name. But in changing the name, we have added cost.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan [Mr. HENRY].

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there any further amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—CRITICAL TECHNOLOGIES

Subtitle A—Miscellaneous

SEC. 301. FINDINGS.

The Congress finds that—

(1) the rapid, effective use of a range of advanced technologies in the design and production of products has been a key factor in the success of foreign-based companies;

(2) our competitor nations in the global marketplace have been very successful in targeting critical emerging technologies, such as computers and advanced electronics, advanced materials applications, and biotechnology;

(3) investments in the development of civilian technology have tremendous long-term economic and employment potential;

(4) our most successful competitor nations in the global marketplace have created supportive structures and programs within their national governments to help their domestic industries increase their global market shares;

(5) agriculture and aerospace are two examples of industries that have achieved commercial success with strong support from the United States Government; and

(6) there is a need to strengthen the United States commitment to bridging the gap between research and development and the application of technology.

SEC. 302. STUDY OF SEMICONDUCTOR LITHOGRAPHY TECHNOLOGIES.

Within 9 months after the date of enactment of this Act, the Under Secretary shall, after consultation with the private sector and appropriate officials from other Federal agencies, submit to Congress a report on advanced lithography technologies for the production of semiconductor devices. The report shall include the Under Secretary's evaluation of the likely technical and economic advantages and disadvantages of each such technology, an analysis of current private and Government research to develop each such technology, and any recommendations the Under Secretary may have regarding future Federal support for research and development in advanced lithography.

Subtitle B—Advanced Technology Program

SEC. 321. DEVELOPMENT OF PROGRAM PLAN.

The Secretary, acting through the Under Secretary and the Director, shall, within 6 months after the date of enactment of this Act, submit to the Congress a plan for the expansion of the Advanced Technology Program established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), with specific consideration given to—

(1) closer coordination and cooperation with the Defense Advanced Research Projects Agency and other Federal research and development agencies as appropriate;

(2) establishment of staff positions that can be filled by industrial or technical experts for a period of one to two years;

(3) broadening of the scope of the program to include as many critical technologies as is appropriate;

(4) changes that may be needed when annual funds available for grants under the Program reach levels of $200,000,000 and $500,000,000; and

(5) administrative steps necessary for Program support of large-scale industry-led consortia similar to, or possibly eventually including, the Semiconductor Manufacturing Technology Institute.

SEC. 322. TECHNICAL AMENDMENTS.

Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is amended—

(1) in subsection (b)(1)(B)(ii), by striking "provision of a minority share of the cost of such joint ventures for up to 5 years" and inserting in lieu thereof "the option of provision of either—

"(I) a minority share of the cost of such joint ventures for up to 5 years; or

"(II) only direct costs, and not indirect costs, profits, or management fees, for up to 5 years"; and

(2) by adding at the end the following new subsection:

"(k) Notwithstanding subsections (b)(1)(B)(ii) and (d)(3), the Director may grant an extension of not to exceed 6 months beyond the deadlines established under those subsections for joint venture and single applicant awardees to expend Federal funds to complete their projects, if such extension may be granted with no additional cost to the Federal Government.".

Subtitle C—Technology Development Loans

SEC. 331. TECHNOLOGY DEVELOPMENT LOANS.

(a) AUTHORITY TO MAKE LOANS.—The Secretary may make loans—

(1) acting through the Under Secretary, to small and medium size businesses eligible for assistance under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), to the extent provided in section 504(b) of the Congressional Budget Act of 1974; or

(2) acting through critical technologies development companies licensed under section 351 of this title, to small and medium sized businesses eligible for assistance under subtitle D of this title, to the extent provided in section 355 of this title.

(b) PURPOSE.—Loans under this section shall be for sound financing of small and medium-sized businesses engaged in research, development, demonstration, or exploitation of advanced technologies and products, including those in fields such as automation, electronics, advanced materials, biotechnology, and optical technologies.

(c) INTEREST RATE, TERMS, AND CONDITIONS.—Loans under this section shall be made at an interest rate equal to the Government borrowing rate plus an insurance surcharge of up to 2 percent, and shall have other terms and conditions consistent with section 355(b) of this title.

Subtitle D—Critical Technologies Development

PART I—GENERAL PROVISIONS

SEC. 341. SHORT TITLE.

This subtitle may be cited as the "Critical Technologies Development Act of 1992".

SEC. 342. DEFINITIONS.

For purposes of this subtitle—

(1) the term "advanced technologies" means technologies eligible for assistance under the Advanced Technology Program established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n);

(2) the term "articles" means articles of incorporation for an incorporated body, and the functional equivalent, or other similar documents specified by the Under Secretary, for other business entities;

(3) the term "critical technologies" means technologies identified as critical technologies pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d));

(4) the term "Department" means the Department of Commerce;

(5) the term "executive agency" has the meaning given such term in section 105 of title 5, United States Code;

(6) the term "license" means a license issued by the Under Secretary under section 351;

(7) the term "licensee" means a critical technologies development company licensed under section 351;

(8) the term "preferred securities" means preferred stock or a preferred limited partnership interest or other similar security, as defined by the Under Secretary by regulation;

(9) the term "private equity capital" means the paid-in capital and paid-in surplus, on hand or legally committed to be provided, of a licensee organized as a corporation, or the partnership capital, on hand or legally committed to be provided, of a licensee organized as an unincorporated partnership, but does not include any funds—

(A) borrowed by the licensee from any source;

(B) obtained from the sale of preferred securities; or

(C) derived directly or indirectly from any Federal source;

(10) the term "qualified business concern" means an incorporated or unincorporated enterprise, organized under the laws of a State, if—

(A)(i) the business of such enterprise includes the pursuit of commercial applications described in section 9(e)(4)(C) of the Small Business Act (15 U.S.C. 638(e)(4)(C));

(ii) the principal business of such enterprise is the development or exploitation of a critical technology; or

(iii) such enterprise is eligible for assistance under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n); and

(B) such enterprise is principally engaged in the development or exploitation of inventions, technological improvements, new processes, or products not previously generally available (within the meaning of section 851(e)(1) of the Internal Revenue Code of 1986);

(11) the term "State" means several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States;

(12) the term "university sponsored licensee" means a critical technologies development company licensed under section 351 in which a single university or consortium of universities have at least a 25 percent investment interest in the private equity capital of such licensee; and

(13) the term "venture capital" means consideration for such common stock, preferred stock, or other financing with subordination or nonamortization characteristics, issued by a qualified business concern, as the Under Secretary determines to be substantially similar to equity financing, including subordinated debt with equity features which provides for interest payments contingent upon and limited to the extent of earnings.

SEC. 343. ESTABLISHMENT OF PROGRAM.

(a) ESTABLISHMENT.—In order to stimulate and facilitate the formation and growth of privately managed technology investment firms, for the purpose of encouraging and enhancing the ability of such firms to make available long-term, patient capital needed for the formation, development, and growth of United States business concerns that are engaged principally in the development or utilization of critical and other advanced technologies, and thereby to contribute to United States economic competitiveness, employment, and prosperity, there is established within the Technology Administration of the Department of Commerce a Critical Technologies Development Program. The Secretary, through the Under Secretary and under the provisions of this subtitle, shall, through such Program, provide for the selection, licensing, and financial and technical support of technology investment firms which in turn shall provide financial, management, and technical assistance to qualified business concerns.

(b) RESPONSIBILITIES.—(1) The Secretary, acting through the Under Secretary, and subject to the availability of appropriations, shall be responsible for carrying out this subtitle, and in doing so shall—

(A) consult with and, to the extent permitted by law, utilize the capabilities of other executive agencies, as appropriate, to ensure the efficient and effective implementation of this subtitle;

(B) explore, with other executive agencies, ways to avoid duplication of effort by consolidating the administration of the program established by this subtitle with any other similar Federal program, and as part of such consolidation may delegate administrative functions, as necessary and appropriate, to another executive agency; and

(C) consult with the Secretary of Energy on all policy matters related to the Critical Technologies Development Program that deal with development or utilization of energy technologies.

(2) To the extent permitted by law, other executive agencies shall assist the Under Secretary in carrying out this subtitle.

SEC. 344. ADVISORY COMMITTEE.

(a) Establishment.—The Under Secretary shall establish an independent advisory committee to advise the Under Secretary on matters related to policy, planning, operation, and performance of the critical technologies development program under this subtitle.

(b) Members.—The advisory committee shall be composed of at least 7 but not more than 13 members representing industry, small business, academia, and the financial community.

(c) Termination.—Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this section.

PART II—PROGRAM STRUCTURE AND OPERATION

SEC. 351. ORGANIZATION AND LICENSING.

(a) In General.—A licensee shall be an incorporated body or a limited partnership organized and chartered or otherwise existing under State law solely for the purpose of performing the functions and conducting the activities contemplated under this subtitle, which, if incorporated, has succession for a period of not less than 30 years unless sooner dissolved by its shareholders, and if a limited partnership, has succession for a period of not less than 10 years, and possesses the powers reasonably necessary to perform such functions and conduct such activities.

(b) Articles.—The articles of any licensee shall specify in general terms the objects for which the licensee is formed, the name assumed by such licensee, the area or areas in which its operations are to be carried on, the place where its principal office is to be located, and the amount and classes of its shares of capital stock. Such articles may contain any other provisions not inconsistent with this subtitle that the licensee may see fit to adopt for the regulation of its business and the conduct of its affairs. Such articles and any amendments thereto adopted from time to time shall be subject to the approval of the Under Secretary.

(c) Approval of Articles; Licensing.—The articles and amendments thereto shall be forwarded to the Under Secretary for consideration and approval or disapproval. In determining whether to approve a prospective licensee's articles and permit it to operate under the provisions of this subtitle, the Under Secretary shall give due regard, among other things, to the general business reputation, character, suitability, and demonstrated ability in the growth of qualified business concerns, of the proposed owners and management of the critical technologies development company, and the likelihood of successful operations of such company including adequate profitability and financial soundness. After consideration of all relevant factors, if the Under Secretary approves the company's articles and determines that the applicant satisfies the requirements of this subtitle, the Under Secretary may approve the company to operate under the provisions of this subtitle and issue the company a license for such operation.

SEC. 352. CAPITAL REQUIREMENTS.

(a) Capital Requirements and Management.—(1) The private equity capital of a licensee shall be adequate to ensure a reasonable prospect that the licensee will be operated soundly and profitably, and managed actively and prudently in accordance with its articles. Such private equity capital shall not be less than $10,000,000, except that, in the case of a university sponsored licensee, such private equity capital shall not be less than $5,000,000. At the time of issuance of a license, not less than 75 percent of the private equity capital of the licensee shall be available or committed to be available for new investment in accordance with section 355.

(2) The management and operational control of a licensee shall be carried out by the private sector.

(3) Private and public pension funds may contribute to the private equity capital of a licensee without restriction as to the amount of such contribution.

(4) State and local government entities may contribute not more than 40 percent of the total private equity capital of a licensee.

(b) Limitation on Stock Ownership.—The aggregate amount of shares in any such licensee or licensees which may be owned or controlled by any stockholder, or by any group or class of stockholders, may be limited by the Under Secretary.

SEC. 353. FINANCING.

(a) Authority To Purchase and Guarantee Preferred Securities.—To encourage and facilitate the formation and growth of a licensee, the Under Secretary may purchase nonvoting, nonparticipating preferred securities with mandatory redemption issued by a licensee, or guarantee the payment of 100 percent of the redemption price of and dividends on such preferred securities, to the extent provided in section 504(b) of the Federal Credit Reform Act of 1990. Such purchases and guarantees shall constitute direct loans and loan guarantees within the meaning of paragraphs (1) and (3) of section 502 of the Federal Credit Reform Act of 1990, respectively. A trust or pool acting on behalf of the Under Secretary may purchase preferred securities that are guaranteed under this subsection.

(b) Terms and Conditions of Preferred Securities.—(1) Guarantees and purchases of preferred securities under this section may be made on such terms and conditions as the Under Secretary shall establish by regulation or set forth in contract to ensure compliance with this section and to minimize the risk of loss to the United States in the event of default. Preferred securities issued under this section shall be of such sound value as to reasonably ensure that the requirements of paragraphs (3) and (4) will be satisfied.

(2)(A) Except as provided in subparagraph (B), preferred securities issued under this section shall be senior in priority for all purposes to all non-Federal equity interests in a licensee unless the Under Secretary, in the exercise of reasonable investment prudence and in considering the financial soundness of the licensee, determines otherwise.

(B) The equity interests of a university or consortium of universities in a licensee shall be equal in priority to Federal equity interests in such licensee for all purposes unless the Under Secretary, in the exercise of reasonable investment prudence and in considering the financial soundness of the licensee, determines otherwise.

(3) Preferred securities issued under this section shall be redeemed by the issuer not later than 10 years after their date of issuance for an amount equal to 100 percent of the original issue price plus any accrued and unpaid dividends. Redemption of such preferred securities may be extended by mutual consent for no more than 5 years beyond such expiration date.

(4) Preferred securities issued under this section shall pay dividends at a rate determined by the Secretary of the Treasury at the time of issuance to equal the then current average market yield on outstanding marketable debt obligations of the United States with remaining periods to maturity comparable to the time to required redemption of such preferred securities, plus such additional charge, if any, toward covering expected defaults and reasonable administrative costs of carrying out this subtitle as the Under Secretary may determine to be reasonable and appropriate. Such additional charge shall not exceed 2 percent.

(5) Dividends on preferred securities issued under this section shall be cumulative and preferred and paid out of net realized earnings and returns of capital available for distribution, as defined by the Under Secretary by regulation.

(6) The payment of dividends on preferred securities issued under this section may be deferred by the issuer until such time as, and to the extent that, the issuer realizes earnings and returns of capital available for distribution. Accumulated and unpaid dividends on such preferred securities shall be paid by the issuer before or at the time of redemption of the preferred securities and before any distribution of net realized earnings and returns of capital of the issuer to its non-Federal equity investors, except as provided in subsection (e)(2)(B) and (C). With respect to preferred securities issued under this section to a party other than the Under Secretary, during the time of any deferral under this paragraph, the Under Secretary shall make, on behalf of the issuer, required dividend payments to the holder of the preferred securities, its agents or assigns, or the appropriate central registration agent, if any. The authority to make dividend payments provided in this paragraph shall be limited to the extent of amounts provided in advance in appropriations Acts for such purposes.

(7) For purposes of this subsection, the term "dividends" means dividends on preferred stock and returns on preferred limited partnership interests or other similar securities, as defined by the Under Secretary by regulation.

(c) Limitations and Restrictions.—(1) Not less than 65 percent of the private equity capital of a licensee shall be invested or committed to be invested in qualified business concerns in accordance with its license, this subtitle, and regulations issued under this subtitle, before the Under Secretary may purchase or guarantee, or a trust or pool acting on behalf of the Under Secretary may purchase, preferred securities of the licensee under subsection (a).

(2) The total principal amount of debt, as evidenced by notes, bonds, debentures, or

certificates of indebtedness, plus the total face amount of preferred securities purchased or guaranteed by the Under Secretary under subsection (a), issued and outstanding from a licensee shall not exceed 200 percent of the private equity capital of the licensee.

(3) The total face amount of preferred securities purchased or guaranteed by the Under Secretary under subsection (a) and outstanding from a licensee or a combination of licensees which are commonly controlled, as defined and determined by the Under Secretary, shall not exceed $100,000,000.

(4)(A) If preferred securities issued under this section are outstanding, then the issuing licensee shall be subject to the following restrictions:

(i) The total principal amount of debt, as evidenced by notes, bonds, debentures, or certificates of indebtedness, of a licensee issued and outstanding may not exceed 50 percent of the private equity capital of the licensee.

(ii) The annual management expenses of a licensee shall not exceed 2.5 percent of its invested assets plus .5 percent of its cash and cash equivalents, unless the Under Secretary approves a greater amount which the Under Secretary determines to be reasonable and appropriate.

(B) For purposes of this paragraph, the term "management expenses" includes expenses incurred in the normal course of operations, but shall not include the cost of legal, accounting, and consulting services provided by outside parties and by affiliates of the licensee which are not normal practice in making and monitoring investments consistent with the purposes of this subtitle.

(d) USE OF PROCEEDS BY LICENSEES.—(1) A licensee issuing preferred securities under this section shall invest or commit to invest an amount equal to the face value of such preferred securities that are outstanding in the venture capital of qualified business concerns in accordance with section 355.

(2) At least 50 percent of the amount of investments required under paragraph (1) shall be for early stage financing as necessary to prove concepts and develop—

(A) preprototypes or prototypes of products that constitute a critical or other advanced technology; or

(B) services that utilize, in a meaningful and substantial manner, a critical or other advanced technology.

The Under Secretary may alter the percentage requirement under this paragraph to the extent necessary, in the determination of the Under Secretary, to achieve and maintain prudent investment diversification.

(3) Proceeds to a licensee derived from preferred securities issued under this section may be used by the issuer to redeem any preferred securities issued under this section that have been outstanding at least 5 years, as provided in subsection (b)(3).

(4) Proceeds to a licensee derived from preferred securities issued under this section that have not been invested pursuant to paragraph (1) or used for redemptions pursuant to paragraph (3) and are not reasonably needed for the operations of the licensee shall be invested in direct obligations of, or obligations guaranteed as to principal and interest by, the United States, or in certificates of deposit maturing within one year or less, issued by any institution the accounts of which are insured by the Federal Deposit Insurance Corporation.

(e) PROFIT DISTRIBUTION BY LICENSEES.—(1) Any distribution of net realized earnings and returns of capital made by a licensee that exceeds amounts required for the purposes stated in paragraph (2) shall be distributed pro rata to all investors entitled to such distributions. The United States shall receive no funds under this paragraph.

(2)(A) Except as provided in subparagraphs (B) and (C), any distribution of net realized earnings and returns of capital made by a licensee shall first be used to pay accumulated and unpaid dividends owed on outstanding preferred securities issued under this section and to satisfy the redemption requirements of subsection (b)(3).

(B) For purposes of subparagraph (A), the redemption requirements of subsection (b)(3) shall be considered to be satisfied if necessary and appropriate actions, as determined by the Under Secretary, have been undertaken by the licensee to ensure that such requirements will be satisfied.

(C) If a licensee is operating as a limited partnership or as a corporation described in subchapter S of chapter 1 of subtitle A of the Internal Revenue Code of 1986 or an equivalent pass-through entity for tax purposes, it may distribute to the partners or shareholders an amount equal to the estimated amount of Federal, State, and local income taxes due from such partners and shareholders on their share of undistributed taxable income for the current taxable year before payments described in subparagraph (A) are made.

(f) USE OF PAYMENTS TO THE UNITED STATES.—Amounts received by the United States from the payment of dividends and the redemption of preferred securities pursuant to this section, and fees paid to the United States by a licensee pursuant to this subtitle, shall be deposited in an account established by the Under Secretary and shall be available solely for carrying out this subtitle, to the extent provided in advance in appropriations Acts.

SEC. 354. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

(a) AUTHORITY TO ISSUE TRUST CERTIFICATES.—The Under Secretary is authorized to issue trust certificates representing ownership of all or a fractional part of preferred securities issued by licensees and guaranteed by the Under Secretary under this subtitle. Such trust certificates shall be based on and backed by a trust or pool approved by the Under Secretary and composed of preferred securities and such other contractual obligations as the Under Secretary may undertake to facilitate the sale of such trust certificates.

(b) GUARANTEE OF TRUST CERTIFICATES.—The Under Secretary is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Under Secretary or his agent for purposes of this section. Such guarantee shall be limited to the extent of the redemption price of and dividends on the preferred securities, plus any related contractual obligations, which compose the trust or pool.

(c) PREPAYMENTS AND REDEMPTIONS.—In the event that preferred securities or contractual obligations in such trust or pool are redeemed or extinguished, either voluntarily or involuntarily, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of redemption price and dividends such redeemed preferred security or extinguished contractual obligation represents in the trust or pool. Dividends or partnership profit distributions on such preferred securities and related contractual obligations, shall accrue and be guaranteed by the Under Secretary only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemption, whether voluntary or involuntary, of all preferred securities residing in the pool.

(d) FEES.—Except as provided in subsection (f)(2), the Under Secretary shall not collect a fee for a guarantee under this section.

(e) PAYMENT OF CLAIMS.—(1) In the event the Under Secretary pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the Under Secretary of ownership rights in the preferred securities residing in a trust or pool against which trust certificates are issued.

(f) REGISTRATION AND INTERMEDIARY OPERATIONS.—(1) The Under Secretary shall provide for a central registration of all trust certificates sold pursuant to this section. Such central registration shall include with respect to each sale, identification of each licensee, the interest rate or dividend rate paid by the licensee, commissions, fees, or discounts paid to brokers and dealers in trust certificates, identification of each purchaser of the trust certificate, the price paid by the purchaser for the trust certificate, the interest rate paid on the trust certificate, the fees of any agent for carrying out the functions described in paragraph (2), and such other information as the Under Secretary deems appropriate.

(2) The Under Secretary shall contract with an agent or agents to carry out on behalf of the Under Secretary the pooling and the central registration functions of this section including, notwithstanding any other provision of law, maintenance on behalf of and under the direction of the Under Secretary, such commercial bank accounts as may be necessary to facilitate trusts or pools backed by securities guaranteed or purchased under this subtitle, and the issuance of trust certificates to facilitate such poolings. Such agent or agents shall provide a fidelity bond or insurance in such amounts as the Under Secretary determines to be necessary to fully protect the interests of the Federal Government.

(3) Prior to any sale, the Under Secretary shall require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument.

SEC. 355. CAPITAL FOR QUALIFIED BUSINESS CONCERNS.

(a) PROVISION OF VENTURE CAPITAL.—Each licensee may provide venture capital to qualified business concerns, in such manner and under such terms as the licensee may fix in accordance with the regulations of the Under Secretary. Venture capital provided to incorporated qualified business concerns under this subsection may be provided directly or in cooperation with other investors, incorporated or unincorporated, through agreements to participate on an immediate basis.

(b) LOAN AUTHORITY.—Each licensee may make loans, directly or in cooperation with other lenders, incorporated or unincorporated, through agreements to participate on an immediate or deferred basis, to qualified business concerns to provide such concerns with funds needed for sound financing related to development or utilization of critical or other advanced technologies, subject to the following conditions:

(1) The maximum rate of interest for the licensee's share of any loan made under this

subsection shall be determined by the Under Secretary.

(2) Any loan made under this subsection shall have a maturity not exceeding 10 years.

(3) Any loan made under this subsection shall be of such sound value, or so secured, as to reasonably ensure repayment.

(4) Any licensee which has made a loan under this subsection may extend the maturity of or renew such loan for additional periods, not exceeding 5 years, if the licensee finds that such extension or renewal will aid in the orderly liquidation of such loan.

(c) State Usury Laws.—Any provision of the constitution or laws of a State which expressly limits the rate or the amount of interest or other charges related to a loan that may be charged or received by a licensee shall not apply to a loan made under subsection (b).

SEC. 356. LIMITATION ON AMOUNT OF ASSISTANCE.

If a licensee has issued preferred securities under section 353(a) and such securities are outstanding, then the aggregate amount of obligations and securities acquired and for which commitments may be issued by a licensee for any single qualified business concern shall not exceed 20 percent of the private equity capital of such licensee, unless the Under Secretary approves a greater amount.

SEC. 357. OPERATION AND REGULATION.

(a) Cooperation With Financial Institutions.—Wherever practicable the operations of a licensee, including the generation of business, may be undertaken in cooperation with banks or other investors or lenders, incorporated or unincorporated, and any servicing or initial investigation required for loans or acquisitions of securities by the licensee under the provisions of this subtitle may be handled through such banks or other investors or lenders on a fee basis. Any licensee may receive fees for services rendered to such banks and other investors and lenders.

(b) Use of Advisory Services; Depository or Fiscal Agents.—Each licensee may make use, wherever practicable, of the advisory services of the Federal Reserve System and of the Department of Commerce which are available for and useful to industrial and commercial businesses, and may provide consulting and advisory services on a fee basis and have on its staff persons competent to provide such services. Any Federal Reserve bank is authorized to act as a depository or fiscal agent for any licensee operating under the provisions of this subtitle.

(c) Regulations.—The Under Secretary is authorized to prescribe regulations governing the operations of licensees, and to carry out the provisions of this subtitle, in accordance with the purposes of this subtitle. Regulations to implement this subtitle shall be issued not later than 180 days after the date of enactment of this Act.

(d) Liability of the United States.—Nothing in this subtitle or in any other provision of law imposes any liability on the United States with respect to any obligations entered into, or stocks issued, or commitments made, by any licensee operating under the provisions of this subtitle.

SEC. 358. TECHNICAL ASSISTANCE FOR LICENSEES AND QUALIFIED BUSINESS CONCERNS.

(a) Technical Assistance.—The Secretary shall provide technical assistance and services, as appropriate and needed, to licensees and to qualified business concerns receiving financial assistance under this subtitle, and shall ensure that such qualified business concerns have ready access to assistance available under title II of this Act, or under any other Act, in order to aid such qualified business concerns in their development or utilization of critical or other advanced technologies. Technical assistance and services under this subsection shall include providing licensees and qualified business concerns with—

(1) an assessment of the technological and scientific feasibility of a project, or an analysis of a specific field of technical or scientific endeavor;

(2) improved access to technology developed by the Institute and assistance in obtaining access to technology developed by other Federal agencies and laboratories;

(3) expert analysis of the economics of technology development undertaken by a qualified business concern; and

(4) any other assistance or service that the Under Secretary determines, after consultation with licensees and qualified business concerns, is necessary and appropriate to enhance prospects for success and to reduce technical risk for licensees and qualifed business concerns.

(b) Fees.—The Secretary may charge fees for services and technical assistance provided under subsection (a) in amounts sufficient to cover the reasonable cost of such services and assistance. The Secretary may waive fees established under this subsection.

SEC. 359. ANNUAL AUDIT AND REPORT.

(a) Requirement.—The Under Secretary shall prepare, in consultation with the advisory committee established under section 344, and submit annually a report to the Congress containing a full and detailed account of operations under this subtitle. Such report shall include an audit setting forth the amount and type of disbursements, receipts, and losses sustained by the Federal Government as a result of such operations during the preceding fiscal year, together with an estimate of the total disbursements, receipts, and losses which the Federal Government can reasonably expect to incur as a result of such operations during the then current fiscal year.

(b) Contents.—In the annual report submitted under subsection (a), the Under Secretary shall also include full and detailed accounts relative to the following matters:

(1) The Under Secretary's plans to ensure the provision of licensee financing to all areas of the country and to all qualified business concerns, including steps taken to accomplish that goal.

(2) Steps taken by the Under Secretary to maximize recoupment of Federal Government funds incident to the inauguration and administration of the licensee program, and to ensure compliance with statutory and regulatory standards relating thereto.

(3) An accounting by the Treasury Department with respect to tax revenues accruing to the Federal Government from business concerns receiving assistance under this subtitle.

(4) An accounting by the Treasury Department with respect to both tax losses and increased tax revenues related to licensee financing of both individual and corporate business taxpayers.

(5) Recommendations with respect to program changes, statutory changes, and other matters, including tax incentives to improve and facilitate the operations of licensees and to encourage the use of their financing facilities by qualified business concerns.

PART III—ENFORCEMENT

SEC. 361. INVESTIGATIONS AND EXAMINATIONS.

(a) Reporting Requirements.—Each license issued under this subtitle shall require a licensee with outstanding preferred securities to provide the Under Secretary such information, including companies financed, disbursements made along with associated terms and conditions, receipts, portfolio valuation at cost and at estimated fair market value, and other financial statements, that the Under Secretary may require to determine, in a timely manner, compliance with this subtitle and regulations promulgated under this subtitle. Such reporting shall be—

(1) uniform for all licensees; and

(2) independently audited, at the expense of a licensee, in accordance with generally accepted auditing standards and submitted to the Under Secretary no later than 60 days after the end of a licensee's fiscal year, with interim unaudited financial statements provided to the Under Secretary no later than 45 days after the end of each 3-month period during a licensee's fiscal year.

The Under Secretary may exempt from making such reports any licensee which is registered under the Investment Company Act of 1940 only to the extent necessary to avoid duplication in reporting requirements.

(b) Valuations.—The Under Secretary shall, by regulation, establish guidelines for estimating the fair market value of investments held by a licensee as required under subsection (a). The board of directors of a corporate licensee and the general partners of a partnership licensee shall have the sole responsibility for making a good faith determination of the fair market value of investments held by such licensee, based on guidelines established under this subsection.

(c) Investigations.—The Secretary may make such investigations as the Secretary deems necessary to determine whether a licensee or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this subtitle, or of any rule or regulation under this subtitle or any order issued under this subtitle. The Secretary shall permit any person to file a statement in writing, under oath or otherwise as the Secretary shall determine, as to all the facts and circumstances concerning the matter to be investigated. For the purpose of any investigation, the Secretary is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, and documents which are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States. In case of contumacy by, or refusal to obey a subpoena issued to, any person, including a licensee, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, and documents; and such court may issue an order requiring such person to appear before the Secretary, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found.

(d) Examinations.—(1) Each licensee shall be subject to examinations made at the direction of the Under Secretary by examiners selected or approved by, and under the supervision of, the Under Secretary. The Under Secretary is authorized to enter into contracts with private parties to perform such examinations. The cost of such examinations, including the compensation of the examiners, may in the discretion of the Under Secretary be assessed against the licensee examined and when so assessed shall be paid by such licensee.

(2) Each licensee shall be examined at least every 2 years in such detail so as to determine whether or not—

(A) it has engaged solely in lawful activities and those contemplated by this subtitle;

(B) it has engaged in prohibited conflicts of interest;

(C) it has acquired or exercised illegal control of an assisted qualified business concern;

(D) it has invested more than 20 percent of its capital in any individual qualified business concern;

(E) it has engaged in relending, foreign investments, or passive investments; or

(F) it has charged an interest rate in excess of the maximum permitted by law.

(3) The Under Secretary may waive the examination—

(A) for up to one additional year if, in his discretion he determines such a delay would be appropriate, based upon the amount of debentures and preferred securities being issued by the licensee and its repayment record, the prior operating experience of the licensee, the contents and results of the last examination and the management expertise of the licensee; or

(B) if it is a licensee whose operations have been suspended while the licensee is involved in litigation or is in receivership.

SEC. 362. REVOCATION AND SUSPENSION OF LICENSES; CEASE AND DESIST ORDERS.

(a) GROUNDS FOR REVOCATION OR SUSPENSION.—A license may be revoked or suspended by the Secretary—

(1) for false statements allowingly made in any written statement required under this subtitle, or under any regulation issued under this subtitle by the Under Secretary;

(2) if any written statement required under this subtitle, or under any regulation issued under this subtitle by the Under Secretary, fails to state a material fact necessary in order to make the statement not misleading in the light of the circumstances under which the statement was made;

(3) for willful or repeated violation of, or willful or repeated failure to observe, any provision of this subtitle;

(4) for willful or repeated violation of or willful or repeated failure to observe, any rule or regulation of the Under Secretary authorized by this subtitle; and

(5) for violation of, or failure to observe, any cease and desist order issued by the Secretary under this section.

(b) CEASE AND DESIST ORDERS.—Where a licensee or any other person has not complied with any provision of this subtitle, or of any regulation issued pursuant thereto by the Under Secretary, or is engaging or is about to engage in any acts or practices which constitute or will constitute a violation of such subtitle or regulation, the Secretary may order such licensee or other person to cease and desist from such action or failure to act. The Secretary may further order such licensee or other person to take such action or to refrain from such action as the Secretary considers necessary to ensure compliance with such subtitle and regulations. The Secretary may also suspend the license of a licensee, against whom an order has been issued, until such licensee complies with such order.

(c) PROCEDURES.—Before revoking or suspending a license pursuant to subsection (a) or issuing a cease and desist order pursuant to subsection (b), the Secretary shall serve upon the licensee and any other person involved an order to show cause why an order revoking or suspending the license or a cease and desist order should not be issued. Any such order to show cause shall contain a statement of the matters of fact and law asserted by the Secretary and the legal authority and jurisdiction under which a hearing is to be held, and shall set forth that a hearing will be held before the Secretary at a time and place stated in the order. If after hearing, or a waiver thereof, the Secretary determines on the record that an order revoking or suspending the license or a cease and desist order should issue, the Secretary shall promptly issue such order, which shall include a statement of the findings of the Secretary and the grounds and reasons therefor and specify the effective date of the order, and shall cause the order to be served on the licensee and any other person involved.

(d) SUBPOENAS.—The Secretary may require by subpoenas the attendance and testimony of witnesses and the production of all books, papers, and documents relating to the hearing from any place in the United States. Witnesses summoned before the Secretary shall be paid by the party at whose instance they were called the same fees and mileage that are paid witnesses in the courts of the United States. In case of disobedience to a subpoena, the Secretary, or any party to a proceeding before the Secretary, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents.

(e) JUDICIAL REVIEW.—An order issued by the Secretary under this section shall be final and conclusive unless within 30 days after the service thereof the licensee, or other person against whom an order is issued, appeals to the United States court of appeals for the circuit in which such licensee has its principal place of business by filing with the clerk of such court a petition praying that the Secretary's order be set aside or modified in the manner stated in the petition. After the expiration of such 30 days, a petition may be filed only by leave of court on a showing of reasonable grounds for failure to file the petition theretofore. The clerk of the court shall immediately cause a copy of the petition to be delivered to the Secretary, and the Secretary shall thereupon certify and file in the court a transcript of the record upon which the order complained of was entered. If before such record is filed the Secretary amends or sets aside its order, in whole or in part, the petitioner may amend the petition within such time as the court may determine, on notice to the Secretary. The filing of a petition for review shall not of itself stay or suspend the operation of the order of the Secretary, but the court of appeals in its discretion may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition. The court may affirm, modify, or set aside the order of the Secretary. If the court determines that the just and proper disposition of the case requires the taking of additional evidence, the court shall order the Secretary to reopen the hearing for the taking of such evidence, in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file its modified or new findings and the amendments, if any, of its order, with the record of such additional evidence. No objection to an order of the Secretary shall be considered by the court unless such objection was urged before the Secretary or, if it was not so urged, unless there were reasonable grounds for failure to do so. The judgment and decree of the court affirming, modifying, or setting aside any such order of the Secretary shall be subject only to review by the Supreme Court of the United States upon certification or certiorari as provided in section 1254 of title 28, United States Code.

(f) ENFORCEMENT.—If any licensee or other person against which or against whom an order is issued under this section fails to obey the order, the Secretary may apply to the United States court of appeals, within the circuit where the licensee has its principal place of business, for the enforcement of the order and shall file a transcript of the record upon which the order complained of was entered. Upon the filing of the application the court shall cause notice thereof to be served on the licensee or other person. The evidence to be considered, the procedure to be followed, and the jurisdiction of the court shall be the same as is provided in subsection (e) for applications to set aside or modify orders.

SEC. 363. INJUNCTIONS AND OTHER ORDERS.

(a) IN GENERAL.—Whenever, in the judgment of the Secretary, a licensee or any other person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of any provision of this subtitle, or of any rule or regulation under this subtitle, or of any order issued under this subtitle, the Secretary may make application to the proper district court of the United States or a United States court of any place subject to the jurisdiction of the United States for an order enjoining such acts or practices, or for an order enforcing compliance with such provision, rule, regulation, or order, and such courts shall have jurisdiction of such actions and, upon a showing by the Secretary that such licensee or other person has engaged or is about to engage in any such acts or practices, a permanent or temporary injunction shall be granted without bond.

(b) EQUITY JURISDICTION.—In any such proceeding the court as a court of equity may, to such extent as it deems necessary, take exclusive jurisdiction of the licensee or licensees and the assets thereof, wherever located; and the court shall have jurisdiction in any such proceeding to appoint a trustee or receiver to hold or administer under the direction of the court the assets so possessed.

(c) TRUSTEESHIP OR RECEIVERSHIP.—The Under Secretary shall have authority to act as trustee or receiver of the licensee. Upon request by the Secretary, the court may appoint the Under Secretary to act in such capacity unless the court deems such appointment inequitable or otherwise inappropriate by reason of the special circumstances involved.

SEC. 364. CONFLICTS OF INTEREST.

For the purpose of controlling conflicts of interest which may be detrimental to qualified business concerns, to licensees, to the shareholders or partners of either, or to the purposes of this subtitle, the Under Secretary shall adopt regulations to govern transactions with any officer, director, shareholder, or partner of any licensee, or with any person or concern, in which any interest, direct or indirect, financial or otherwise, is held by any officer, director, shareholder, or partner of (1) any licensee, or (2) any person or concern with an interest, direct or indirect, financial or otherwise, in any licensee. Such regulations shall include appropriate requirements for public disclosure (including disclosure in the locality most directly affected by the transaction) necessary to the purposes of this section.

SEC. 365. REMOVAL OR SUSPENSION OF DIRECTORS AND OFFICERS.

(a) GROUNDS.—The Secretary may serve upon any director or officer of a licensee a written notice of its intention to remove him from office whenever, in the opinion of the Secretary, such director of officer—

(1) has willfully and knowingly committed any substantial violation of—

(A) this subtitle;

(B) any regulation issued under this subtitle; or

(C) a cease-and-desist order which has become final; or

(2) has willfully and knowingly committed or engaged in any act, omission, or practice which constitutes a substantial breach of his fiduciary duty as such director or officer,

and that such violation or such breach of fiduciary duty is one involving personal dishonesty on the part of such director or officer.

(b) TEMPORARY SUSPENSION.—In respect to any director or officer referred to in subsection (a), the Secretary may, if he deems it necessary for the protection of the licensee or the interests of the Secretary, by written notice to such effect served upon such director or officer, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the licensee. Such suspension and/or prohibition shall become effective upon service of such notice and, unless stayed by a court in proceedings authorized by subsection (d), shall remain in effect pending the completion of the administrative proceedings pursuant to the notice served under subsection (a) and until such time as the Secretary shall dismiss the charges specified in such notice, or, if an order of removal and/or prohibition is issued against the director or officer, until the effective date of any such order. Copies of any such notice shall also be served upon the interested licensee.

(c) HEARING; ORDER OF REMOVAL.—A notice of intention to remove a director or officer, as provided in subsection (a), shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon. Such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of such notice, unless an earlier or a later date is set by the Secretary at the request of (1) such director or officer and for good cause shown, or (2) the Attorney General of the United States. Unless such director or officer shall appear at the hearing in person or by a duly authorized representative, he shall be deemed to have consented to the issuance of an order of such removal. In the event of such consent, or if upon the record made at any such hearing the Secretary shall find that any of the grounds specified in such notice has been established, the Secretary may issue such orders of removal from office as he deems appropriate. Any such order shall become effective at the expiration of 30 days after service upon such licensee and the director or officer concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein). Such order shall remain effective and enforceable except to such extent as it is stayed, modified, terminated, or set aside by section of the Secretary or a reviewing court.

(d) STAY OF SUSPENSION OR PROHIBITION.—Within 10 days after any director or officer has been suspended from office and/or prohibited from participation in the conduct of the affairs of a licensee under subsection (b), such director or officer may apply to the United States district court for the judicial district in which the home office of the licensee is located, or the United States District Court for the District of Columbia, for a stay of such suspension and/or prohibition pending the completion of the administrative proceedings pursuant to the notice served upon such director or officer under subsection (a), and such court shall have jurisdiction to stay such suspension and/or prohibition.

(e) FELONIES INVOLVING DISHONESTY OR BREACH OF TRUST.—Whenever any director or officer of a licensee is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a felony involving dishonesty or breach of trust, the Secretary may, by written notice served upon such director or officer, suspend him from office and/or prohibit him from further participation in any manner in the conduct of the affairs of the licensee. A copy of such notice shall also be served upon the licensee. Such suspension and/or prohibition shall remain in effect until such information, indictment, or complaint is finally disposed of or until terminated by the Secretary. In the event that a judgment of conviction with respect to such offense is entered against such director or officer, and at such time as such judgment is not subject to further appellate review, the Secretary may issue and serve upon such director or officer an order removing him from office. A copy of such order shall be served upon such licensee, whereupon such director or officer shall cease to be a director or officer of such licensee. A finding of not guilty or other disposition of the charge shall not preclude the Secretary from thereafter instituting proceedings to suspend or remove such director or officer from office and/or to prohibit him from further participation in licensee affairs, pursuant to subsection (a) or (b).

(f) HEARINGS AND REVIEW.—(1) Any hearing provided for in this section shall be held in the Federal judicial district or in the territory in which the principal office of the licensee is located unless the party afforded the hearing consents to another place, and shall be conducted in accordance with the provisions of chapter 5 of title 5 of the United States Code. After such hearing, and within 90 days after the Secretary has notified the parties that the case has been submitted to it for final decision, the Secretary shall render a decision (which shall include findings of fact upon which his decision is predicated) and shall issue and cause to be served upon each party to the proceeding an order or orders consistent with the provisions of this section. Judicial review of any such order shall be exclusively as provided in this subsection. Unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (2) of this subsection, and thereafter until the record in the proceeding has been filed as so provided, the Secretary may at any time, upon such notice, and in such manner as he shall deem proper, modify, terminate, or set aside any such order. Upon such filing of the record, the Secretary may modify, terminate, or set aside any such order with permission of the court.

(2) Any party to such proceeding may obtain a review of any order served pursuant to paragraph (1) of this subsection (other than an order issued with the consent of the director or officer concerned, or an order issued under subsection (e) of this section), by filing in the court of appeals of the United States for the circuit in which the principal office of the licensee is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Secretary be modified, terminated, or set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record in the proceeding, as provided in section 2112 of title 28 of the United States Code. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall, except as provided in the last sentence of such paragraph (1), be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Secretary. Review of such proceedings shall be had as provided in chapter 7 of title 5 of the United States Code. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28 of the United States Code.

(3) The commencement of proceedings for judicial review under paragraph (2) of this subsection shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Secretary.

SEC. 366. UNLAWFUL ACTS.

(a) PARTICIPATION.—Wherever a licensee violates any provision of this subtitle or regulation issued thereunder by reason of its failure to comply with the terms thereof or by reason of its engaging in any act or practice which constitutes or will constitute a violation thereof, such violation shall be deemed to be also a violation and an unlawful act on the part of any person who, directly or indirectly, authorizes, orders, participates in, or causes, brings about, counsels, aids, or abets in the commission of any acts, practices, or transactions which constitute or will constitute, in whole or in part, such violation.

(b) BREACH OF FIDUCIARY DUTY.—It shall be unlawful for any officer, director, employee, agent, or other participant in the management or conduct of the affairs of a licensee to engage in any act or practice, or to omit any act, in breach of his fiduciary duty as such officer, director, employee, agent, or participant, if, as a result thereof, the licensee has suffered or is in imminent danger of suffering financial loss or other damage.

(c) DISQUALIFICATION.—Except with the written consent of the Secretary, it shall be unlawful—

(1) for any person hereafter to take office as an officer, director, or employee of a licensee, or to become an agent or participant in the conduct of the affairs or management of a licensee, if such person—

(A) has been convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

(B) has been found civilly liable in damages, or has been permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust; and

(2) for any person to continue to serve in any of the above-described capacities if such person—

(A) is hereafter convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

(B) is hereafter found civilly liable in damages, or is permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust.

SEC. 367. PENALTIES AND FORFEITURES.

(a) CIVIL PENALTY.—Except as provided in subsection (b) of this section, a licensee which violates any regulation or written directive issued by the Secretary or the Under Secretary shall forfeit and pay to the United States a civil penalty of not more than $1,000 for each day of the continuance of the licensee's failure to file a report required under section 361(a), unless it is shown that such failure is due to reasonable cause and not due to willful neglect. The civil penalties provided for in this section shall accrue to the United States and may be recovered in a civil action brought by the Secretary.

(b) EXEMPTIONS.—The Secretary may by rules and regulations, or upon application of an interested party, at any time previous to such failure, by order, after notice and opportunity for hearing, exempt in whole or in part, any licensee from the provisions of subsection (a) of this section, upon such terms and conditions and for such period of time as the Secretary deems necessary and appropriate, if the Secretary finds that such action is not inconsistent with the public interest or the protection of the Department. The Secretary may for the purposes of this section make any alternative requirements appropriate to the situation.

SEC. 368. JURISDICTION AND SERVICE OF PROCESS.

Any suit or action brought under section 357, 362, 363, 365, or 367 by the Secretary at law or in equity to enforce any liability or duty created by, or to enjoin any violation of, this subtitle, or any rule, regulation, or order promulgated thereunder, shall be brought in the district wherein the licensee maintains its principal office, and process in such cases may be served in any district in which the defendant maintains its principal office or transacts business, or wherever the defendant may be found.

SEC. 369. ANTITRUST SAVINGS CLAUSE.

This subtitle shall not be construed to modify, impair, or supersede the operation of the antitrust laws. For purposes of this section, the term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes the Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 13 et seq.), commonly known as the Robinson Patman Act, and section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

AMENDMENT OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WALKER: Page 47, strike all through page 99, line 13.

Mr. VALENTINE. Mr. Chairman, I reserve a point of order against the amendment.

Mr. WALKER. Mr. Chairman, what this amendment does, and again I think it is probably in order, is it strikes all of title III which is called the critical technology section. This is, in fact, a portion of the bill which is strongly opposed by the administration. The administration, in issuing their statement of objection to this bill, says very clearly that their basic objections are to the title III section.

□ 1720

What my amendment does is deletes the provision that five members of the President's Cabinet and other top officials are opposed to. The Secretaries of Commerce and Energy, the Administrator of SBA, the chairman of the Council of Economic Advisers, and the director of the Office of Science and Technology Policy will recommend a veto of this bill based upon this particular title.

Now, you may think that that sounds like a little bit of overkill. Well, this section is that bad.

What we are going to do is we are going to turn Government bureaucrats loose into the investment business. Let me repeat that: What they are going to do, under this particular provision of the bill, is take Government bureaucrats and put them into the investment business.

Now, despite the fact that the Department of Commerce's Technology Administration, where this money applies, does not have any financial expertise at all which is needed to administer this program; we are going to turn it over to them.

We are going to do so in a loan program that could cause an exposure to the taxpayer of $465 million. This is not a cheapie, this is very expensive, because what you have got is $100 million in the program leveraging $465 million of money at risk to the taxpayer because we are going to put it into the hands of people who have no expertise at all in the financial community.

Now, you can say that these technology people could be supplemented by finance experts. That is exactly what we need down at the Department of Commerce, or I guess it is with the Department of Commerce and Manufacturing. Having just made it the Department of Commerce and Manufacturing, now we are going to make them into an investment agency as well. They will now become Goldman Sachs or Salomon Bros. or whatever, I guess, in addition to being the new Department of Commerce and Manufacturing.

I would suggest that this kind of exposure to the taxpayer is not very wise and that a direct loan program is not the way that we ought to go in order to get our critical-technology needs met.

For one thing, this duplicates efforts that are already out there. The Small Business Administration already has programs which are almost exactly similar to this. So now we are going to come in and pile another $100 million program on top of it, which is the exact duplicate of a program already in place where they already have people administering and working in the program.

That is what we need to be doing too, creating duplicate efforts in Government. The American taxpayers are upset, the American taxpayers have had it with this Congress. We cannot seem to get our act together and do anything right. One of the things we do not do right is we spend money that we do not have and we spend it all over the place in duplicative programs.

This is an absolutely duplicative effort of what SBA is already doing, it is being put in the hands of people who do not know what they are doing, and it does so with a $465 million exposure to the taxpayers. I think that is a pretty expensive program. It is one that we cannot afford.

I would hope that my amendment would be approved to at least, if we are going to pass this bill, to at least save the taxpayers from a possible $465 million error.

The CHAIRMAN pro tempore (Mr. ABERCROMBIE). Does the gentleman from North Carolina [Mr. VALENTINE] withdraw his point of order?

Mr. VALENTINE. I do, Mr. Chairman.

Mr. Chairman, I move to strike the last word.

The CHAIRMAN pro tempore. The gentleman is recognized for 5 minutes.

Mr. VALENTINE. Mr. Chairman, let me read to my colleagues some words in English:

(b) PURPOSE OF THE FUND.—The purpose of the Fund shall be to provide program and project grants that will advance specific, market-oriented investment policy initiatives and reforms to encourage domestic and foreign investment. The Fund will also finance technical assistance for privatizing government-owned industries; enterprise development and business infrastructure; and worker training and education programs to develop supporting human capital.

Mr. Chairman, and my colleagues, that is what we seek to accomplish in the legislation that the gentleman from Pennsylvania wants to strike out. But I have read to you not from our bill but from the President's so-called economic growth package. I left out only the words "investment in Latin America and the Caribbean."

So I suggest to you, my colleagues, that the gentleman from Pennsylvania and those who are in league with him are attempting to delete from this legislation what their President and their party insists that we do for people overseas.

This is a fundamental and basic part of the legislation, Mr. Chairman and my colleagues. We followed the suggestions made by the Department of Energy in a memorandum dated August 11, 1992, which I will ask at the appropriate time be made a part of the RECORD. We have followed the suggestion of this administration and we have sought to provide for Americans what the President in his economic package seeks to provide for our friends overseas.

Here again I ask my colleagues to see this for what it is, an exercise or a game, some form or other that our friend is engaged in here today, that he comes one way this time and then he comes this way. He comes around, goes around, meets himself coming back.

I ask my colleagues again to reject Mr. WALKER's nonsense and support this committee.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the Technology Development Loan Program and the Critical Technologies Development Program would strengthen the Department of Commerce's ability to carry out one of its most important missions: To facilitate the more rapid commercialization of advanced technolgies.

This is a crucial issue.

U.S. companies face tremendous barriers in trying to commercialize the results of their research and development efforts.

Capital markets are often unwilling to risk investing in high technology development, and capital costs in the United States can be prohibitively high, especially for small- and medium-sized business in high-technology industries. In many cases, capital funds may not be available at all, especially for small companies.

Mr. Chairman, too often we have watched the fruits of U.S. R&D efforts languish unused, only to be translated into products by our competitors overseas.

Accordingly, Mr. Chairman, I authored legislation to enable the Department of Commerce to offer long-term technology development loans or other forms of capital incentives to U.S. high-technology companies. This is an important and needed addition to DOC's capabilities:

It will help U.S. companies move ideas from the lab to the marketplace;

It is an innovative way to address the problem of a lack of patient, low cost capital available to U.S. high-technology companies;

It will help the small- and medium-sized companies that are the chief source of high technology innovation in the United States;

It will be an effective way to maximize the use of scare Government resources—giving taxpayers more bang for their buck;

It will help prevent the loss of U.S. technologies to foreign competitors;

It will give the Commerce Department greater flexibility in working with U.S. industry to improve high technology competitiveness.

Very simply, Mr. Chairman, this program is good for high technology, and good for small business.

Unfortunately, the gentleman from Pennsylvania is opposed to this legislation. That opposition is consistent with the Bush administration's policy of supporting ideology over substance, and turning a deaf ear to the needs of America's commercial high-technology industries. This is especially evident since the President has supported similar legislation in the past for other industries.

I find it hard to understand why the administration can support these kinds of programs for the Department of Agriculture, and propose them for the Department of Energy, and then oppose them for our high-technology industries. These high-technology industries are our future.

The high-technology industries that this program supports represent our best chance for job growth. Our industry leaders understand this, which is why the list of industries that support the program reads like a "who's who" of the high-technology companies that are so vital to our economy: The American Electronics Association, the National Center for Manufacturing Sciences, the Semiconductor Industry Association, Semiconductor Equipment and Materials International [SEMI], the Aerospace Industries Association, and the National Venture Capital Association.

It also has the support of IBM, Intel, a former director of DARPA, Craig Fields, the Advanced Technology Coalition, Hewlett-Packard, the National Center of Manufacturing Sciences, the Semiconductor Research Corp., the Association for Manufacturing Technology, and many more.

This program will help create high-wage, high-technology jobs. I strongly urge my colleagues to support this program and oppose this amendment.

□ 1730

Mr. PACKARD. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, the gentleman from North Carolina accuses us of going this way and that way on this particular legislation.

The fact is that the reason we have to do that is because this legislation is written that way. It is a conglomeration of things that will not work, that do not get us anywhere and do it all on borrowed money.

It is a little like the old story of Christopher Columbus. The Democrats do not know where they are going. They do not know where they are when they get there, and they are going to do it all on borrowed money. This is a perfect example of that kind of a bill. This particular provision is a perfect example of that kind of a bill.

The administration has proposed some similar programs, they claim, and he cites some foreign policy objections.

Well, the gentleman cites programs for Third World countries. I happen to think a little bit more of this country than that. We are not a Third World economy. We are, in fact, the world's leading economy and we have people in this economy capable of making wise investment decisions if Government would simply get out of the way; but the problem is that we put more and more government in the way, and that is exactly what this bill does. This bill sets up more government bureaucracy and now what we are going to do in the Department of Commerce is set up a brand new investment unit to compete with other investment units. Now, that just does not make any sense. It is a perfect example of doing all the wrong things and doing it on borrowed money.

So Mr. Chairman, I would suggest that this is a very bad provision in the bill. What we need to do is defeat this provision in the bill by approving my amendment and assuring that we do not put the taxpayers in a position of perhaps losing $465 million.

We have too many instances already where the taxpayers have been hoodwinked by this Congress, saying that they are doing all kinds of good things, only to find out that there are big, big problems, when we finally find the program in place.

This is at least $100 million of spending and it is $465 million in exposure.

Mr. VALENTINE. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. I am happy to yield to the gentleman from North Carolina.

Mr. VALENTINE. Mr. Chairman, I would ask the gentleman from Pennsylvania, in view of those words, if he supports the part of President Bush's so-called economic growth package, H.R. 4150, that would do the very same thing that we are talking about for countries and people overseas. The gentleman is saying that he supports an effort to provide this advantage to people in Latin America and the Caribbean, but would deny it to Americans? If so, why?

Mr. WALKER. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Chairman, I thank the gentleman again for yielding to me.

I pointed out to the gentleman that there are some differences between Third World countries.

I realize that he and Bill Clinton and a lot of other people think that this has become a Third World economy. We are not. We are still the world's leading economy. We have economic problems in this country, but we ought to solve them the right way, rather than the wrong way.

I will tell you that I have my doubts that Bill Clinton supports the idea of $465 million of additional exposure. He keeps running around the country telling people that what he wants to do is cut back on deficits and he wants to do it by being responsible and by making the right investment decisions.

Having bureaucrats make investment decisions is not the right direction to go. This is the wrong kind of policy. This is a terrible idea, and I hope that my amendment will be approved so that we do not expose the taxpayers to another almost half a billion dollars of money that they certainly cannot afford.

Mr. PACKARD. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. ABERCROMBIE). The question is on the amendment offered by the gentleman from Pennsylvania [Mr. WALKER].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. WALKER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 131, noes 257, not voting 44, as follows:

[Roll No. 408]

AYES—131

Allard
Allen
Archer
Armey
Baker
Ballenger
Barrett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Campbell (CA)
Clinger
Coble
Combest
Cox (CA)
Crane
Cunningham
Dannemeyer
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Herger
Hobson
Holloway
Hopkins
Houghton
Hyde
Inhofe
Jacobs
James
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lowery (CA)
Machtley
Marlenee
McCandless
McCollum
McDade
McEwen
McMillan (NC)
Michel
Miller (OH)
Molinari
Moorhead
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Quillen
Ramstad
Rhodes
Ridge
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (OR)
Smith (TX)
Solomon
Stearns
Stump
Taylor (NC)
Thomas (CA)
Thomas (WY)
Vander Jagt
Vucanovich
Walker
Weber
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—257

Abercrombie
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Bonior
Borski
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Chapman
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dymally
Early
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fazio
Feighan
Flake
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hatcher
Hayes (IL)
Hefner
Henry
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jontz
Kanjorski
Kaptur
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McGrath
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moran
Morella
Murphy
Natcher
Neal (MA)
Neal (NC)
Nowak
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Price
Rahall
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ritter
Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Russo
Sabo
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Scheuer
Schroeder
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Waxman
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wyden
Yates
Yatron
Sanders
Savage
Schumer
Solarz
Sundquist
Wolpe

NOT VOTING—44

Ackerman
Alexander
Barnard
Blackwell
Boucher
Boxer
Carr
Chandler
Clay
Coleman (MO)
Conyers
Coughlin
Dwyer
Eckart
Edwards (CA)
Edwards (OK)
Fascell
Foglietta
Hayes (LA)
Ireland
Jefferson
Jones
Kennedy
Martin
McCrery
Meyers
Miller (WA)
Mink
Morrison
Mrazek
Murtha
Nagle
Oakar
Penny
Perkins
Poshard
Pursell
Rinaldo

☐ 1759

Messrs. SERRANO, HOYER, NEAL of Massachusetts, and RITTER, and Mrs. SCHROEDER changed their vote from "aye" to "no."

Messrs. GILCHREST, SHAYS, and ALLARD changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mrs. MORELLA. Mr. Chairman, I would like to thank Mr. WALKER for offering this amendment to include my bill in H.R. 5231, the National Competitiveness Act of 1992.

Throughout this Congress, we in the Science, Space, and Technology Committee, have been focusing on the ability of the United States to strengthen our stature in the global marketplace. To help bolster our ability to be internationally competitive, I introduced H.R. 191 to take advantage of our Federal laboratories—one of our Nation's greatest assets and a largely untapped resource of technical expertise.

I believe that the collaboration of Federal labs with industry, coupled with greater incentives in the laboratories, will ultimately work to the benefit of all Americans by enhancing our international competitiveness. H.R. 191 will provide Federal employees with the ability to obtain copyright protection for their works created in the course of their official duties.

In this Congress, we have heard from a broad spectrum of witnesses, from a series of Federal agency officials voicing the administration's support for the bill to members of academia, industry associations, and the Copyright Office, all in support of the bill.

Mr. Chairman, there exists a true bipartisan belief in this Congress that H.R. 191 is an important step to increase our international competitiveness and our Nation's economic growth. Yet while I believe H.R. 191 is vital, it is truly just a limited response to a specific problem. We must enact this legislation quickly, so that this Congress can continue to address the other major issues needed to maintain our American preeminence in technology.

☐ 1800

Mr. VALENTINE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. HOYER) having assumed the chair, Mr. ABERCROMBIE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 5231) to amend the Stevenson-Wydler Technology Innovation Act of 1980 to enhance manufacturing technology development and transfer, to authorize appropriations for the Technology Administration of the Department of Commerce, including the National Institute of Standards and Technology, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. DOWNEY. Mr. Speaker, unfortunately, I was unable to be here to vote on one bill. However, had I been here, I would have voted "no" on record vote 407.

PERSONAL EXPLANATION

Mr. PENNY. Mr. Speaker, due to a death in the family I was in my home district. Had I been here, I would have voted "aye" on rollcall 404, "aye" on rollcall 405, "aye" on rollcall 406, "aye" on rollcall 407, and "aye" on rollcall 408.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2194, FEDERAL FACILITIES COMPLIANCE ACT OF 1991, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–891) on the resolution (H. Res. 576) waiving all points of order against the conference report on the bill (H.R. 2194) to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities, and against consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

NOTIFYING MEMBERS OF COMMITTEE ON RULES PLANS REGARDING H.R. 5096 AND H.R. 1637

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute.)

Mr. MOAKLEY. Mr. Speaker, this is to notify Members of the House of the Rules Committee's plans regarding H.R. 5096, the Antitrust Reform Act of 1992, and H.R. 1637, the Black Lung Benefits Restoration Act of 1992. In order to assure timely consideration of the bill on the floor, the Rules Committee is considering rules that may limit the offering of amendments to both bills.

Any Member who is contemplating an amendment to H.R. 5096, the Antitrust Reform Act of 1992 should submit, to the Rules Committee in H–312 in the Capitol, 55 copies of the amendment and a brief explanation of the amendment no later than 5 p.m. on Friday, September 25, 1992.

Any Member who is contemplating an amendment to H.R. 1637, the Black Lung Benefits Restoration Act of 1992 should submit, to the Rules Committee in H–312 in the Capitol, 55 copies of the amendment and a brief explanation of the amendment no later than 12 noon, Tuesday, September 29, 1992.

We appreciate the cooperation of all Members in this effort.

U.S. CAPITOL POLICE JURISDICTION REFORM ACT

Mr. ROSE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1766) relating to the jurisdiction of the U.S. Capitol Police, with Senate amendments to the House amendments thereto, and to concur in the Senate amendments to the House amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments to the House amendments, as follows:

Senate amendments to House amendments: Page 3, of the House engrossed amendment, strike out all after line 8 over to and including line 12, on page 4.

Page 4, line 13, of the House engrossed amendment, strike out "103" and insert "102".

Page 5, line 4, of the House engrossed amendment, strike out "104" and insert "103".

Page 5, line 8, of the House engrossed amendment, strike out "105" and insert "104".

Page 5, line 10, of the House engrossed amendment, strike out "103" and insert "102".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

Mr. ROBERTS. Mr. Speaker, reserving the right to object, I shall not object. I simply want to take this time, under my reservation, to yield to the chairman of the full committee to explain the bill. I yield to the chairman for that purpose.

Mr. ROSE. Mr. Speaker, the Senate has accepted the new arrest authority and the expanded jurisdiction provisions for the Capitol Police which were passed by the House. The Capitol Police will be able to make arrests, while on duty, anywhere in the District of Columbia, if they witness a crime of violence or if necessary to avoid imminent loss of life or property. With the spread of violent crime on Capitol Hill, it is imperative that we assure Members, staff, visitors, and residents of an increased law enforcement presence in the area. While the Senate's version does not contain some of the key oversight provisions which I would have preferred, the swift passage of this legislation is an important step, especially in light of the recent tragic crimes which have been committed in this neighborhood.

I would like to thank, on my side of the aisle, the gentlewoman from the District of Columbia [Ms. NORTON] and the gentlewoman from Ohio [Ms. OAKAR] for their hard work and diligence in the passage of this measure.

Mr. ROBERTS. Mr. Speaker, continuing my reservation of objection, I wish to concur and associate myself with the remarks of the gentleman from North Carolina. I want to thank my colleagues on the subcommittee for their attention in finally bringing this legislation to the floor. And in particular, my colleague and dear friend, the gentleman from Alabama [Mr. DICKINSON], who has spent considerable time and personal effort and has been most tenacious in assisting to get the House leadership to move on the package.

Mr. Speaker, I yield to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. Mr. Speaker, I would like to take this opportunity to thank the chairman of the full committee, and my friend, the gentleman from Kansas [Mr. ROBERTS] and all others who have participated in bringing the bill to the floor at this time.

My friend, the gentleman from Kansas [Mr. ROBERTS], has alluded to the fact that I have had more than a passing interest in this bill, which is true. If I might relate a few instances, just to refresh my colleagues' recollection, just a very few months ago, during this year, Senator RICHARD SHELBY had a staffer killed, a young fellow, all my staff and he were very friendly.

He lived in Tuscaloosa. He was leaving his home, going to the corner store for a pack of cigarettes. A fellow came up to him and put a gun to his face, to his head and killed him for no apparent reason, wanted to get his money. And then decided, well, he would just kill him anyway, and he did. He shot him.

Then Gray Liddell, a young fellow attending a staff party up here on the Hill, one of my staffers was there, Bill Stiers, and he had a new Blazer he was proud of, and so he went out to check on it, four-wheel drive, red Blazer, and he saw some fellow messing with his car.

And he went on up and he said, "Hey, what are you doing, leave my car alone."

One of them just pulled out a gun and shot and killed him right there. This is all right here on the Capitol Hill complex.

I think we all know the story of our colleague, the gentleman from Michigan [Mr. TRAXLER], who was just walking down the street leaving the hotel over here, within a stone's throw of the Capitol. Walking to his car, fairly well-lighted place, fellow came up and mugged him, hit him with some instrument, left him unconscious, lying in the street. And it was the Capitol Hill Police that found him lying in the street.

They are the ones that came to his rescue and saw to it that he got to a hospital and medical attention, and he spent several days, as we all know, in the hospital.

Let me tell one little anecdote that I think tells the whole story. Most of us here remember our former colleague, Bob Wilson from California, who is now retired. But Bob lived up on the Hill, and he had a code with his wife. He would call home. If things were not right, she could indicate so.

A fellow had broken in the home, midday, got her butcher knife and was holding her captive. And when Bob called home and found out something was amiss, he tore out of his office here in the Rayburn Building, asked one of the policemen to come with him to his house because something was bad wrong. And he was told by the policeman, it was not in his jurisdiction. He could not go. He could not accompany Congressman Wilson to his home.

When Bob got there, the fellow fled, jumped over the fence, but he had held Bob's wife prisoner, hostage for an hour. And she wound up with a broken leg.

That was a case when a policeman on the Hill was told of an incident occurring, but he could not go because he did not have jurisdiction.

There are any number of anecdotes that we can relate.

My secretary, who lives on the Hill, had one fellow come over the fence at night, over the fence and stole a bicycle out.

□ 1810

She called the police and they said they could not patrol up there continuously. The Metropolitan Police did not have the manpower after midnight, and the Capitol Hill Police had no authority.

She also had a very strong feeling that there was a crack house being operated in the neighborhood. The Capitol Hill Police could do nothing about it. When I asked Jack Russ, who was then the Sergeant at Arms, he said they could ask them to drive by, but they really had no authority to do that. The Metropolitan Police simply did not have the manpower to put somebody in the neighborhood.

By allowing our Capitol Hill Police to go out of their way if they have a trouble call or are on notice that something is wrong, to give them the authority, and that is all we are doing, just give them concurrent authority with other Metropolitan Police, I think it will go a long way toward helping solve some of the crime problem up here on the Hill.

This is at no additional expense. We are not putting on any more people, we are not asking for any more payroll, simply giving them the concurrent authority. I think it is long past due.

I want to commend both of the gentlemen from the other side and this side. This is something that we should have done already. I certainly am enthusiastically in support of the bill.

Mr. ROBERTS. Mr. Speaker, it is these kinds of personal tragedies that underscore the need for the movement of this legislation.

Under my reservation of objection, again, Mr. Speaker, I yield to the gentleman from North Carolina [Mr. ROSE], the chairman of the full committee.

Mr. ROSE. Mr. Speaker, I thank the gentleman for yielding to me.

If the gentleman from Kansas would not object, may we yield now to the gentlewoman from the District of Columbia [Ms. NORTON], who I mentioned in my earlier comments has been a strong supporter of the legislation?

Mr. ROBERTS. The gentlewoman from the District of Columbia [Ms. NORTON] has been a very strong supporter, and exuded a great deal of leadership on this bill. I yield to the gentlewoman from the District of Columbia.

Ms. NORTON. Mr. Speaker, I would like to thank the chairman and ranking member of the Committee on House Administration for their extraordinary perseverance in breaking precedent with the 1948 boundaries which are now out of date for the Capitol Police.

Our brother, our colleague, the gentleman from Michigan [Mr. TRAXLER], was mugged within sight of the Capitol but outside of the boundaries of the Capitol Police. That is not our intent. All we are doing here is essentially revising the boundaries of the patrol area of the Capitol Police to reflect where the visitors, where the tourists, and yes, where some D.C. residents are.

The crime we have seen on Capitol Hill has escalated. It is not the highest crime area in the District of Columbia, but we have the largest police force per capita in the country, with good reason. There are times when we need all of them here on this Hill, and other times they should be available in a community that in fact abuts the Capitol.

This bill took enormous leadership here in the House. It got unanimous bipartisan support in committee. It has warm support not only from residents of the District who live on Capitol Hill, but from residents all over the District of Columbia.

What we have had to do, Mr. Speaker, is to have D.C. Police come into the Capitol Hill area up to and including the area directly abutting the Capitol. We put the Rapid Deploy Police here this week because we could not send our own Capitol Police out as near as 4th Street, where there was a brutal beating and rape.

Mr. Speaker, I rise, therefore, simply to say how much I appreciate the leadership that has been shown by the Committee on House Administration, the entire committee, but especially the chairman and ranking member, and the gentlewoman from Ohio [Ms. OAKAR], and by the House of Representatives in recognizing that the time had come for this landmark change.

Mr. ROBERTS. Mr. Speaker, continuing to reserve my right to object, I thank the gentlewoman for her contribution.

Before withdrawing my reservation of objection, I would like to point out to my colleagues that this legislation also establishes a joint and unified payroll for both House and Senate officers, something we have been working very hard to achieve for a number of years, and also provides a cost savings by authorizing a temporary lump-sum payment for retiring members from the force.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from North Carolina?

There was no objection.

A motion to reconsider was laid on the table.

ORDER OF BUSINESS

Mr. LANTOS. Mr. Speaker, I ask unanimous consent that my name be transposed with that of the gentleman from Michigan [Mr. BONIOR] in the special order calendar on September 23, 1992, and I do this with the concurrence of my colleague, the gentleman from Michigan [Mr. BONIOR].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas or nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, September 23, 1992.

The Chair would point out that the announcement includes the vote on the motion on House Joint Resolution 512 on which the yeas and nays have been previously ordered.

TECHNICAL AND MISCELLANEOUS CIVIL SERVICE AMENDMENTS ACT OF 1992

Mr. SAWYER. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2850), to make technical and conforming changes in title V, United States Code, and the Federal Employees Pay Comparability Act of 1990, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate Amendments

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Technical and Miscellaneous Civil Service Amendments Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to title 5, United States Code.
Sec. 3. Amendments to the Federal Employees Pay Comparability Act of 1990.
Sec. 4. Amendments relating to the Ethics in Government Act of 1978.
Sec. 5. Amendments to other provisions of law.
Sec. 6. Restoration of coverage of certain Federal personnel provisions to certain veterans health administration employees.
Sec. 7. Retroactive performance awards.
Sec. 8. Miscellaneous provisions.
Sec. 9. Effective dates.

SEC. 2. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

Title 5, United States Code, is amended—

(1) in the analysis for part II by striking, in the item relating to chapter 12, "Individual Right of Action" and inserting "Employee Right of Action";

(2) by striking the heading for former section 1209 (the text of which was redesignated as sections 1205 and 1206 by paragraphs (9) and (10), respectively, of section 3(a) of the Whistleblower Protection Act of 1989 (Public Law 101–12; 103 Stat. 18));

(3) by striking the heading for former section 1204 (which was redesignated as section 1211(b) by section 3(a)(6) of the Whistleblower Protection Act of 1989 (Public Law 101–12; 103 Stat. 17));

(4) in section 1305 by striking "section 3105," and inserting "sections 3105,";

(5) in section 2302(b)(8)(B) by striking "Special Counsel of the Merit Systems Protection Board," and inserting "Special Counsel,";

(6) in section 2304(b) by striking "(b) the" and inserting "(b) The";

(7) in section 3104(a)—

(A) by striking "(not to exceed 517)"; and

(B) by amending the second sentence to read as follows: "Any such position may be established by action of the Director or, under such standards and procedures as the Office prescribes (including procedures under which the prior approval of the Director may be required), by agency action.";

(8) in section 3109 by adding at the end thereof the following new subsections:

"(d) The Office of Personnel Management shall prescribe regulations necessary for the administration of this section. Such regulations shall include—

"(1) criteria governing the circumstances in which it is appropriate to employ an expert or consultant under the provisions of this section;

"(2) criteria for setting the pay of experts and consultants under this section; and

"(3) provisions to ensure compliance with such regulations.

"(e) Each agency shall report to the Office of Personnel Management on an annual basis with respect to—

"(1) the number of days each expert or consultant employed by the agency during the period was so employed; and

"(2) the total amount paid by the agency to each expert and consultant for such work during the period.";

(9) by amending section 3152 to read as follows:

"§3152. Limitation on pay

"Members of the FBI–DEA Senior Executive Service shall be subject to the limitation under section 5307.";

(10) in section 3323(b)(1) by striking "annuitant as defined by section 8331 of this title" and inserting "annuitant, as defined by section 8331 or 8401,";

(11) in section 3324—

(A) by amending the heading to read as follows:

"§3324. Appointments to positions classified above GS–15";

and

(B) in subsection (a) by amending paragraph (1) to read as follows:

"(1) to which appointment is made by the Chief Judge of the United States Tax Court;";

(12) in section 3325(b) by striking "section 3104(a)(7) of this title" and inserting "section 3104(c)";

(13)(A) by striking section 3342; and

(B) in the table of sections for chapter 33 by striking the item relating to section 3342;

(14) by amending the heading for section 3373 to read as follows:

"§3373. Assignment of employees to State or local governments";

(15) in section 3401(1)(iv) by striking "Virgin Island" and inserting "Virgin Islands";

(16) in section 3594(c)(1)(A) by striking "5108,," and inserting "5108,";

(17) in section 4109 by striking subsection (d);

(18) in section 4302(a) by striking the semicolon at the end and inserting a period;

(19) in section 4505a—

(A) in subsection (b)(2) by striking "chapter 12 or under" and inserting "chapter 12, chapter 71, or";

(B) in subsection (c) by inserting "of Personnel Management" after "Office"; and

(C) by striking subsection (d) and inserting the following:

"(d) The preceding provisions of this section shall be applicable with respect to any employee to whom subchapter III of chapter 53 applies, and to any category of employees provided for under subsection (e).

"(e) At the request of the head of an Executive agency, the President may authorize the application of subsections (a) through (c) with respect to any category of employees within such agency who would not otherwise be covered by this section.";

(20) in the heading for subchapter III of chapter 45 by striking "OFFICER" and inserting "OFFICERS";

(21) by amending section 4521 to read as follows:

"§4521. Definition

"For the purpose of this subchapter, the term 'law enforcement officer' means—

"(1) a law enforcement officer within the meaning of section 5541(3) and to whom the provisions of chapter 51 apply;

"(2) a member of the United States Secret Service Uniformed Division;

"(3) a member of the United States Park Police;

"(4) a special agent in the Diplomatic Security Service;

"(5) a probation officer (referred to in section 3672 of title 18); and

"(6) a pretrial services officer (referred to in section 3153 of title 18).";

(22) in the table of sections for chapter 51 by striking the item relating to section 5108 and inserting the following:

"5108. Classification of positions above GS–15.";

(23) in section 5108(a)(2) by striking the semicolon at the end and inserting a period;

(24) in the table of sections for chapter 53—

(A) in the item relating to section 5379 by striking "repayment." and inserting "repayments."; and

(B) by striking "Sec." immediately before the item relating to section 5391;

(25) in section 5302—

(A) in paragraph (1) by amending subparagraph (C) to read as follows:

"(C) chapter 74 of title 38, relating to the Veterans Health Administration (other than a position subject to section 7451 of title 38);"; and

(B) in paragraph (8)—

(i) in subparagraph (A) by striking "and" at the end; and

(ii) by adding after subparagraph (B) the following:

"(C) in the case of an employee receiving a retained rate of basic pay under section 5363, the rate of basic pay payable under such section; and";

(26) in section 5304—

(A) in subsection (a)(3)—

(i) by striking "Subject to paragraphs (4) and (5)," and inserting "Subject to paragraph (4),", and by striking "a comparative payment" and inserting "a comparability payment";

(ii) in subparagraph (H) by inserting "and" after the semicolon; and

(iii) in subparagraph (I) by striking the semicolon and inserting a period;

(B) in subsection (d)(1)(A) by inserting "(disregarding any described in section 5302(8)(C))" after "General Schedule", and by striking "annual";

(C) in subsection (e)—

(i) in paragraph (1) by inserting after the second sentence the following: "However, members under subparagraph (A) may be paid expenses in accordance with section 5703."; and

(ii) in paragraph (2)(A)(ii) by striking "annual survey" and inserting "surveys of pay localities", and by striking "industries," and inserting "industries";

(D) in subsection (g) by amending paragraph (2) to read as follows:

"(2) The applicable maximum under this subsection shall be level III of the Executive Schedule for—

"(A) positions under subparagraphs (A)–(E) of subsection (h)(1); and

"(B) any positions under subsection (h)(1)(F) which the President may determine.";

(E) in subsection (h)—

(i) in paragraph (1)—

(I) by amending subparagraph (F) to read as follows:

"(F) a position within an Executive agency not covered under the General Schedule or any of the preceding subparagraphs, the rate of basic pay for which is (or, but for this section, would be) no more than the rate payable for level IV of the Executive Schedule;";

(II) in clause (i) by striking "or" at the end;

(III) in clause (ii) by striking the period at the end and inserting "; or"; and

(IV) by adding at the end the following:

"(iii) a position to which subchapter II applies (relating to the Executive Schedule).";

(ii) in paragraph (2) by adding at the end the following:

"(C) Notwithstanding subsection (c)(4) or any other provision of law, but subject to paragraph (3), in the case of a category with positions that are in more than 1 Executive agency, the President may, on his own initiative, provide that each employee who holds a position within such category, and in the locality involved, shall be entitled to receive comparability payments. No later than 30 days before an employee receives comparability payments under this subparagraph, the President or the President's designee shall submit a detailed report to the Congress justifying the reasons for the extension, including consideration of recruitment and retention rates and the expense of extending locality pay."; and

(iii) in paragraph (3) by amending subparagraph (B) to read as follows:

"(B) shall take effect, within the locality involved, on the first day of the first applicable pay period commencing on or after such date as the President designates (except that no date may be designated which would require any retroactive payments), and shall remain in effect through the last day of the last applicable pay period commencing during that calendar year;";

(27) in section 5306(a)(1)(B) by striking "166b-3" and inserting "166b-3a";

(28) in section 5314 by striking each of the following: "Under Secretary of Education.", "Under Secretary of Health and Human Services.", "Under Secretary of the Interior.", and "Under Secretary of Housing and Urban Development.";

(29) in section 5332 by amending subsection (a) to read as follows:

"(a)(1) The General Schedule, the symbol for which is 'GS', is the basic pay schedule for positions to which this subchapter applies. Each employee to whom this subchapter applies, except an employee covered by the performance management and recognition system established under chapter 54, is entitled to basic pay in accordance with the General Schedule.

"(2) The General Schedule is a schedule of annual rates of basic pay, consisting of 15 grades, designated 'GS-1' through 'GS-15', consecutively, with 10 rates of pay for each such grade. The rates of pay of the General Schedule are adjusted in accordance with section 5303.";

(30) in section 5347(g)—

(A) by striking "(g) Members" and inserting "(g)(1) Except as provided in paragraph (2), members";

(B) by striking the second sentence; and

(C) by adding at the end the following:

"(2) The position of Chairman shall be considered to be a Senior Executive Service position within the meaning of section 3132(a), and shall be subject to all provisions of this title relating to Senior Executive Service positions, including section 5383.";

(31) in section 5371(b)—

(A) by striking "chapter 73" and inserting "chapter 74"; and

(B) by inserting "subchapter V of chapter 55," after "61," each place it appears;

(32) in section 5372(c) by striking "shall," and inserting "shall";

(33) in section 5375(2) by striking "GS-8," and inserting "GS-8";

(34) in section 5377—

(A) in subsection (a)(2)—

(i) in subparagraph (C) by striking "and" at the end;

(ii) in subparagraph (D) by striking the period at the end and inserting a semicolon; and

(iii) by adding after subparagraph (D) the following:

"(E) a position established under section 3104; and

"(F) a position in a category as to which a designation is in effect under subsection (i)."; and

(B) by adding at the end the following:

"(i)(1) For the purpose of this subsection, the term 'position' means the work, consisting of the duties and responsibilities, assignable to an employee, except that such term does not include any position under subsection (a)(2)(A)-(E).

"(2) At the request of an agency head, the President may designate 1 or more categories of positions within such agency to be treated, for purposes of this section, as positions within the meaning of subsection (a)(2).";

(35) in section 5383 by amending subsection (b) to read as follows:

"(b) Members of the Senior Executive Service shall be subject to the limitation under section 5307.";

(36) in subchapter IX of chapter 53 by striking the matter after the subchapter heading and before the heading for section 5391;

(37) in section 5401(1) by striking "(a)" and inserting "(A)", and by striking "(b)" and inserting "(B)";

(38) in section 5403(d) by striking "section 5305" and inserting "section 5303";

(39) in section 5519 by striking "section 6323(c) or (d) of this title" and inserting "section 6323(b) or (c)";

(40) in section 5541—

(A) in paragraph (1) by striking "and" at the end;

(B) in paragraph (2) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) 'law enforcement officer' means an employee who—

"(A) is a law enforcement officer within the meaning of section 8331(20) or 8401(17);

"(B) in the case of an employee who holds a supervisory or administrative position and is subject to subchapter III of chapter 83, but who does not qualify to be considered a law enforcement officer within the meaning of section 8331(20), would so qualify if such employee had transferred directly to such position after serving as a law enforcement officer within the meaning of such section;

"(C) in the case of an employee who holds a supervisory or administrative position and is subject to chapter 84, but who does not qualify to be considered a law enforcement officer within the meaning of section 8401(17), would so qualify if such employee had transferred directly to such position after performing duties described in section 8401(17) (A) and (B) for at least 3 years; and

"(D) in the case of an employee who is not subject to subchapter III of chapter 83 or chapter 84—

"(i) holds a position that the Office of Personnel Management determines would satisfy subparagraph (A), (B), or (C) if the employee were subject to subchapter III of chapter 83 or chapter 84; or

"(ii) is a special agent in the Diplomatic Security Service.";

(D) SENSE OF THE CONGRESS RELATING TO LAW ENFORCEMENT OFFICER PROVISIONS.—It is the sense of the Congress that—

(i) the provisions of section 5541(3) of title 5, United States Code (as added by section 2(40)(C) of this Act)—

(I) are enacted only for the purposes of pay and not for the purposes of retirement;

((II) do not reflect any intent of the Congress to change retirement eligibility standards for law enforcement officers; and

(ii) law enforcement officers in primary positions have different retirement eligibility standards than employees in supervisory or administrative positions because of the different requirements in their responsibilities.

(41) in section 5542—

(A) in subsection (a)(4)—

(i) by striking "officer (within the meaning of section 8331(20) or 8401(17))," and inserting "officer,"; and

(ii) by moving the indentation for the matter following subparagraph (B) 2 ems to the right; and

(B) in subsection (c) by amending the second sentence to read as follows: "In the case of an employee who would, were it not for the preceding sentence, be subject to this section, the Office of Personnel Management shall by regulation prescribe what hours shall be deemed to be hours of work and what hours of work shall be deemed to be overtime hours for the purpose of such section 7 so as to ensure that no employee receives less pay by reason of the preceding sentence.";

(42) in section 5544—

(A) in paragraphs (2) and (3) of subsection (a) by striking "2,080" each place it appears and inserting "2,087";

(B) by amending the last two sentences of subsection (a) to read as follows: "The first and third sentences of this subsection shall not be applicable to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to the first and third sentences of this subsection, the Office of Personnel Management shall by regulation prescribe what hours shall be deemed to be hours of work and what hours of work shall be deemed to be overtime hours for the purpose of such section 7 so as to ensure that no employee receives less pay by reason of the preceding sentence."; and

(C) by adding at the end the following:

"(c) The provisions of this section, including the last two sentences of subsection (a), shall apply to a prevailing rate employee described in section 5342(a)(2)(B).";

(43) in section 5547(c) by striking paragraph (3);

(44)(A) by striking section 5550;

(B) in the table of sections for chapter 55 by striking the item relating to section 5550;

(C) in section 5548(b) by striking "sections 5545(d) and 5550 of this title." and inserting "section 5545(d).";

(D) in section 6123(a)(1) by striking "5543(a)(1), 5544(a), and 5550" and inserting "5543(a)(1) and section 5544(a)"; and

(E) in section 6128—

(i) in subsection (a) by striking "5542(a), 5544(a), and 5550(2)" and inserting "5542(a) and 5544(a)"; and

(ii) in subsection (c) by striking "5544(a), 5546(a), or 5550(1)" and inserting "5544(a) or 5546(a)";

(45)(A) in subchapter VI of chapter 55 by adding at the end the following:

"§5553. Regulations

"The Office of Personnel Management may prescribe regulations necessary for the administration of this subchapter."; and

(B) in the table of sections for chapter 55 by adding after the item relating to section 5552 the following:

"5553. Regulations.";

(46) in the table of sections for chapter 57—

(A) by striking the item relating to section 5723 and inserting the following:

"5723. Travel and transportation expenses of new appointees and student trainees.";

and

(B) by adding after the item relating to section 5754 the following:

"5755. Supervisory differentials.";

(47) in the heading for section 5702 by striking "employee" and inserting "employees";

(48) in section 5723—

(A) by amending the heading to read as follows:

"§5723. Travel and transportation expenses of new appointees and student trainees";

and

(B) by striking subsection (d) and redesignating subsection (e) as subsection (d);

(49) in section 5724(a)(3)(A) by striking "Service;" and inserting "Service or as a director under section 4103(a)(8) of title 38 (as in effect on November 27, 1988);";

(50) in section 5901(a) by striking "5902)." each place it appears and inserting "5902)";

(51) in section 5948—

(A) in the first sentence of subsection (a) by striking "provisions of this section" and inserting "provisions of this section, section 5307,";

(B) in subsection (g)(1)—

(i) by amending subparagraph (D) to read as follows:

"(D) section 5371, relating to certain health care positions;";

(ii) by striking "or" at the end of subparagraph (H);

(iii) by striking "and" at the end of subparagraph (I); and

(iv) by inserting after subparagraph (I) the following:

"(J) section 5376, relating to certain senior-level positions;

"(K) section 5377, relating to critical positions; or

"(L) subchapter IX of chapter 53, relating to special occupational pay systems; and";

(52) in section 6303(a) by amending the second sentence to read as follows: "In determining years of service, an employee is entitled to credit for all service of a type that would be creditable under section 8332, regardless of whether or not the employee is covered by subchapter III of chapter 83.";

(53) in the second sentence of section 6304(e) by striking "date of" and inserting "date";

(54) in section 7112 by redesignating subsection (a)(1) as subsection (a);

(55) in section 7113 by redesignating subsection (a)(1) as subsection (a);

(56) in section 7701(c)(1) by amending subparagraph (A) to read as follows:

"(A) in the case of an action based on unacceptable performance described in section 4303 or a removal from the Senior Executive Service for failure to be recertified under section 3393a, is supported by substantial evidence; or";

(57) in section 8331—

(A) in paragraph (1)—

(i) in subparagraph (L) by striking "section 8347(p)(1)" and inserting "section 8347(q)(1)"; and

(ii) in clause (ii) by striking "section 8347(p)(2)" and inserting "section 8347(q)(2)"; and

(B) in paragraph (7) by striking "Gallaudet College," and inserting "Gallaudet University,";

(58) in the last sentence of section 8332(b) by striking "paragrpah (16)" and inserting "paragraph (16)";

(59) in section 8334(i) by redesignating the second paragraph (5) as paragraph (6);

(60) in section 8335(b) by amending the first sentence to read as follows: "A firefighter who is otherwise eligible for immediate retirement under section 8336(c) shall be separated from the service on the last day of the month in which such firefighter becomes 55 years of age or completes 20 years of service if then over that age.";

(61) in the second sentence of section 8337(a) by striking "if the employee if" and inserting "if the employee is";

(62) in section 8339 by redesignating the second subsection (o) as subsection (p);

(63) in section 8341 in subsections (b)(1) and (d) by striking "(o)," and inserting "(p),";

(64) in section 8347—

(A) by redesignating the second subsection (p) as subsection (q); and

(B) in paragraphs (1) and (2) of subsection (q) (as so redesignated) by amending subparagraph (A) of each to read as follows:

"(A) has not previously made an election under this subsection or had an opportunity to make an election under this paragraph;";

(65) in section 8421(a)(2) by adding a period at the end;

(66) in section 8423(a)(1)(B)(i) by striking "multipled" and inserting "multiplied";

(67) in section 8425(b)—

(A) by amending the first sentence to read as follows: "A member of the Capitol Police or firefighter who is otherwise eligible for immediate retirement under section 8412(d) shall be separated from the service on the last day of the month in which such member or firefighter becomes 55 years of age or completes 20 years of service if then over that age."; and

(B) in the second sentence by striking "become" and inserting "becomes";

(68) in section 8438(a)(7)(B) by striking "Federal Savings and Loan Insurance Corporation," and inserting "Federal Deposit Insurance Corporation,";

(69) in section 8440(a)(3) by inserting "section 401(k)(4)(B) of such Code and" after "subject to";

(70) in section 8440a(b)(1) by striking "subchapters III and VII of chapter 84 of this title" and inserting "this subchapter and subchapter VII";

(71) in section 8461(n)—

(A) in paragraphs (1) and (2) by amending subparagraph (A) of each to read as follows:

"(A) has not previously made an election under this subsection or had an opportunity to make an election under this paragraph;"; and

(B) in paragraph (2)(D) by striking "section 8347(p)" and inserting "section 8347(q)";

(72) in section 8478(a)(2)(B)(iii) by striking "Corporation or the Federal Savings and Loan Insurance";

(73) in the analysis for chapter 85 by adding after the item relating to section 8508 the following:

"8509. Federal Employees Compensation Account.";

(74) in section 8706 by redesignating subsection (g) as subsection (f);

(75) in section 8901—

(A) in paragraph (3)(A)(iv) by striking "section 8347(p)(2)" and inserting "section 8347(q)(2)"; and

(B) in paragraph (10)(C)(ii) by inserting a comma after "section 8341(h)";

(76) in section 8904(a) by striking "this section" each place it appears and inserting "this subsection";

(77) in section 8905—

(A) in subsection (b) by striking "this subchapter." and inserting "this chapter"; and

(B) in subsection (c)(1) by inserting a comma after "8341(h)"; and

(78) in section 8906—

(A) in subsection (b)(3) by inserting a period after "Office)"; and

(B) in subsection (c) by striking "and except" and inserting "and (except".

SEC. 3. AMENDMENTS TO THE FEDERAL EMPLOYEES PAY COMPARABILITY ACT OF 1990.

The Federal Employees Pay Comparability Act of 1990, as contained in the Treasury, Postal Service and General Government Appropriations Act, 1991 (Public Law 101–509; 104 Stat. 1427), is amended—

(1) in each of paragraphs (1) and (2) of section 109(b) (104 Stat. 1451) by striking "section 5305" and inserting "section 5303";

(2) in section 203 (104 Stat. 1456) by striking "5545(D)" and inserting "5545(d)";

(3) in section 209(a) (104 Stat. 1460)—

(A) by striking "or" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; or"; and

(C) by inserting at the end the following:

"(3) any combination of classes of positions described in paragraph (1) or (2) for which the President determines a recruiting difficulty exists.";

(4) in section 302 (104 Stat. 1462)—

(A) by striking "(A) DEFINITIONS.—" and inserting "(a) DEFINITIONS.—";

(B) by redesignating the section subsection (c) as subsection (d);

(C) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(D) by amending subsection (e) (as so redesignated) by striking "Code," and all that follows through the period and inserting the following: "Code (as in effect before the date of enactment of this Act), section 5305 of title 5, United States Code (as amended by section 101 of this Act), or any similar provision of law.";

(5) in section 402 (104 Stat. 1465) by striking "section 8331(20) or section 8401(17)" and inserting "section 5541(3)";

(6) in section 403(d) (104 Stat. 1465) by striking "section 303" and inserting "section 209";

(7) in section 404(a) (104 Stat. 1466) by striking "and any applicable special rate of pay under section 5305 of such title, as so amended, or any similar provision of law." and inserting "and, to the extent determined appropriate by the Office of Personnel Management, any applicable special rate of pay under section 5305 of such title, as so amended, or any similar provision of law (other than section 403).";

(8) in section 404(b) (104 Stat. 1466)—

(A) by striking "(b) Except" and inserting "(b)(1) Except";

(B) by striking "Trention" and inserting "Trenton"; and

(C) by adding at the end the following:

"(2) In the case of any area specified in paragraph (1) that includes a portion, but not all, of a county, the Office of Personnel Management may, at the request of the head of 1 or more law enforcement agencies, extend the area specified in paragraph (1) to include, for the purposes of this section, the entire county, if the Office determines that such extension would be in the interests of good personnel administration. Any such extension shall be applicable to each law enforcement officer whose post of duty is in the area of the extension."; and

(9) in section 405(a) (104 Stat. 1466) by striking "403 and 404" and inserting "403, 404, and 407".

SEC. 4. AMENDMENTS RELATING TO THE ETHICS IN GOVERNMENT ACT OF 1978.

(a) AMENDMENTS TO TITLE I OF THE ACT.—Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 101(f)—

(A) in paragraph (3) by striking "whose position" and all that follows through "for GS–16" and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule";

(B) in paragraph (6) by striking "whose basic rate of pay" and all that follows through "GS–16" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule";

(2) in section 109—

(A) in paragraph (8) by striking "who is paid" and all that follows through "Schedule" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule";

(B) in paragraph (13)(B)(i) by striking "who is compensated" and all that follows through "Schedule" and inserting "who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule"; and

(C) in paragraph (13)(B)(ii) by striking "compensated" and all that follows through "Schedule" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule".

(b) AMENDMENTS TO TITLE V.—Title V of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 501(a)(1) by striking "whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule under section 5332 of title 5, United States Code," and inserting "who occupies a position classified above GS–15 of the

General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule,";

(2) in section 501(a)(2) by striking "who becomes a Member or an officer or employee who is a noncareer officer or employee and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule during a calendar year," and inserting "who during a calendar year becomes a Member or an officer or employee who is a noncareer officer or employee and who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule,"; and

(3) in section 502(a) by striking "whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule" and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule".

(c) AMENDMENTS TO GIFT PROVISIONS.—Section 314(g) of the Legislative Branch Appropriations Act, 1992 (Public Law 102–90; 105 Stat. 470) is amended to read as follows:

"(g)(1) The amendments made by subsections (b) through (f) shall take effect on January 1, 1992.

"(2) The amendment made by subsection (a) shall take effect on January 1, 1993.".

SEC. 5. AMENDMENTS TO OTHER PROVISIONS OF LAW.

(a) OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—The Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388) is amended—

(1) in section 7101(c)(2) (104 Stat. 1388–332) by striking "took effect, subject to section 7104." and inserting "took effect."; and

(2) in section 7202(n) (104 Stat, 1388–340)—

(A) in paragraph (2) by striking "section 8347(p)(1)" each place it appears and inserting "section 8347(q)(1); and

(B) in paragraph (4) by striking "section 8347(p)(2)" and inserting "section 8347(q)(2)".

(b) FEDERAL PAY COMPARABILITY ACT OF 1970.—Section 5(a) of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a–2(a)) is amended by inserting "of title 5, United States Code," after "Whenever an adjustment under section 5303".

(c) PUBLIC LAW 100–446.—Section 8(c)(2) of Public Law 100–446 (2 U.S.C. 178g(c)(2); 102 Stat. 1786) is amended by striking the second sentence.

(d) PUBLIC LAW 102–198.—Section 7(c)(4) of Public Law 102–198 (105 Stat. 1625) is amended—

(1) in subparagraph (A) by striking "2440d" and inserting "8440d"; and

(2) in subparagraph (B) by striking "subchapter III of".

(e) PUBLIC LAW 102–233.—Section 21A(b)(9)(B)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(B)(i)), as amended by section 201 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233; 105 Stat. 1765), is amended by striking the last 3 sentences.

SEC. 6. RESTORATION OF COVERAGE OF CERTAIN FEDERAL PERSONNEL PROVISIONS TO CERTAIN VETERANS HEALTH ADMINISTRATION EMPLOYEES.

(a) IN GENERAL.—Section 7511(b) of title 5, United States Code, is amended—

(1) by amending paragraph (7) to read as follows:

"(7) whose position is within the Central Intelligence Agency or the General Accounting Office;";

(2) in paragraph (8) by striking "or" after the semicolon;

(3) in paragraph (9) by striking "title." and inserting "title; or"; and

(4) by adding at the end the following:

"(10) who holds a position within the Veterans Health Administration which has been excluded from the competitive service by or under a provision of title 38, unless such employee was appointed to such position under section 7401(3) of such title.".

(b) APPLICABILITY.—(1) The amendments made by subsection (a) shall apply with respect to any personnel action taking effect on or after the date of enactment of this Act.

(2) In the case of an employee or former employee of the Veterans Health Administration (or predecessor agency in name)—

(A) against whom an adverse personnel action was taken before the date of enactment of this Act,

(B) who, as a result of the enactment of the Civil Service Due Process Amendments (5 U.S.C. 7501 note), became ineligible to appeal such action to the Merit Systems Protection Board,

(C) as to whom that appeal right is restored as a result of the enactment of subsection (a), or would have been restored but for the passage of time, and

(D) who is not precluded, by section 7121(e)(1) of title 5, United States Code, from appealing to the Merit Systems Protection Board,
the deadline for bringing an appeal under section 7513(d) or section 4303(e) of such title with respect to such action shall be the latter of—

(i) the 60th day after the date of enactment of this Act; or

(ii) the deadline which would otherwise apply if this paragraph had not been enacted.

SEC. 7. RETROACTIVE PERFORMANCE AWARDS.

(a) IN GENERAL.—Section 7(b) of the Thrift Savings Plan Technical Amendments Act of 1990 (5 U.S.C. 3392 note; Public Law 101–335) is amended by adding at the end thereof the following new paragraph:

"(3) RETROACTIVE PERFORMANCE AWARDS.—If an individual elects under paragraph (2) to continue to be subject to performance awards, the head of the agency in which such individual is serving shall determine whether to grant retroactive performance awards for any fiscal years prior to fiscal year 1991 to such individual, and the amount of any such awards, without regard to the provisions of subsection (b) of section 5383 of title 5, United States Code, and subsections (b) and (c) of section 5384 of such title. Before granting an award, the head of the agency shall make a written determination that the individual's performance during the fiscal year for which the award is given was at least fully successful, and shall consider the recommendation of the agency's performance review board with respect to the award. No such award for performance during any fiscal year may be less than 5 percent nor more than 15 percent of the individual's rate of basic pay as of the end of such fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if enacted as a part of section 7 of the Thrift Savings Plan Technical Amendments Act of 1990.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) ELIMINATION OF DUPLICATIVE AMENDMENTS MADE BY THE DEFENSE ACQUISITION WORKFORCE IMPROVEMENT ACT.—Subsections (i) and (j) of section 1206 of the Defense Acquisition Workforce Improvement Act, as contained in the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1662, 1663), are repealed, and title 5, United States Code, shall read as if such subsections had not been enacted.

(b) PROVISIONS RELATING TO COMPARABILITY PAYMENTS IN 1994 AND 1995.—Notwithstanding section 5304 of title 5, United States Code, for purposes of any comparability payments scheduled to take effect under such section during calendar years 1994 and 1995, respectively—

(1) the report required by subsection (d)(1) of such section may be submitted not later than 1 month before the start of the calendar year for purposes of which it is prepared; and

(2) the surveys conducted by the Bureau of Labor Statistics for use in preparing any such report may be other than annual surveys, and shall, to the greatest extent practicable, be completed not later than 4 months before the start of the calendar year for purposes of which the surveys are conducted.

SEC. 9. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, this Act and the amendments made by this Act shall take effect as of the date of enactment of this Act.

(b) EXCEPTIONS.—(1) The amendment made by section 4(c) shall be effective as of December 31, 1991.

(2) The amendments made by section 5(d) shall be effective as of December 9, 1991.

(3) The amendments made by sections 2(13) and 2(17) shall be effective as of October 1, 1991.

(4) The amendments made by sections 2(11), 2(19), 2(29), and 2(38) shall be effective as of May 4, 1991.

(5) The amendments made by section 2(25) shall be effective as of February 3, 1991.

(6) The provisions of section 8(a) and the amendments made by sections 2(57)(A), 2(60), 2(64), 2(67), 2(71), 2(75)(A), 3(1), 3(4), 3(6), and 5(a) shall be effective as of November 5, 1990.

(7) The amendment made by section 2(52) shall be effective as of January 1, 1989, except that no amount shall become payable, as a result of the enactment of such amendment, under—

(A) subchapter VI of chapter 55 of title 5, United States Code, based on a separation that takes effect or an election that is made before the date of enactment of this Act; or

(B) section 5551(b) of title 5, United States Code, which is attributable to an individual's being excepted from subchapter I of chapter 63 of such title before the date of enactment of this Act.

(8) The amendment made by section 2(69) shall be effective as of November 10, 1988.

(9) The amendments made by sections 2(40), 2(41), 2(42), 2(43), and 3(5) shall be effective as of the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

(10) The amendments made by section 2(28) shall be effective as of the first day of the first applicable pay period beginning on or after November 5, 1990.

(11) The amendment made by section 2(49) shall apply with respect to a separation that takes effect on or after the date of enactment of this Act.

(12) The amendment made by section 5(e) shall apply with respect to any action (described in subclause (I) or (II) of the provisions struck by such amendment) occurring on or after the date of enactment of this Act.

Mr. SAWYER (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment to the bill, H.R. 2850, be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. MYERS of Indiana. Mr. Speaker, reserving the right to object, and I shall not object, I yield to the gentleman from Ohio [Mr. SAWYER] to explain what is in this bill.

Mr. SAWYER. Mr. Speaker, I thank the gentleman from Indiana for yielding to me for the opportunity to discuss the Senate amendment, which consists of the text of H.R. 2850 as passed by the House with a few changes.

The Senate amendment requires the Office of Personnel Management to issue regulations regarding the hiring and compensating of experts and consultants.

The amendment requires the President to report to Congress when he extends comparability payments to Federal employees who would otherwise not receive them.

The amendment expresses the sense of Congress that the expanded definition of eligibility for special pay for law enforcement officers does not reflect any intent of Congress to change retirement eligibility standards for law enforcement officers.

The amendment also contains the text of H.R. 4384, as passed by the House on March 12, 1992. That bill restores to certain employees of the Veterans Health Administration the right to appeal to the Merit System's Protection Board personnel decisions having an adverse impact on these employees.

Last, the Senate amendment makes a further technical change to Public Law 101-335, the Thrift Savings Plan Technical Amendments Act of 1990.

Mr. MYERS of Indiana. Mr. Speaker, continuing my reservation of objection, I thank the gentleman for his explanation.

When the bill passed the House, there were some objections from the administration. Fortunately, the conferees were able to resolve with the administration the differences they had.

The present conference report does have the full support of the administration as well as the Office of Personnel Management, which is very important at this late date in this session. So I thank my colleague for his explanation and being able to reconcile the differences here. We have a bill now that can be signed.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAWYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bill, H.R. 2850, and the Senate amendment thereto.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MEDICAID AND DEPARTMENT OF VETERANS AFFAIRS DRUG REBATE AMENDMENTS OF 1992

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2890) to establish limits on the price of drugs procured by the Department of Veterans Affairs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2890

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicaid and Department of Veterans Affairs Drug Rebate Amendments of 1992".

SEC. 2. TREATMENT OF PRESCRIPTION DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS OR PURCHASED BY CERTAIN CLINICS AND HOSPITALS.

(a) EXCLUSION OF PRICES FROM CALCULATION OF BEST PRICES FOR MEDICAID REBATE AGREEMENTS.—Section 1927(c)(1)(C) of the Social Security Act (42 U.S.C. 1396r-8(c)(1)(C)) is amended by striking "(excluding" and inserting "(excluding any prices charged to the Indian Health Service, the Department of Veterans Affairs, or a covered entity described in subsection (a)(5)(D), any prices charged under the Federal Supply Schedule of the General Services Administration, or any prices used under a State pharmaceutical assistance program by reference to prices charged to the Department of Veterans Affairs, and excluding".

(b) AGREEMENTS REQUIRED TO RECEIVE PAYMENT.—

(1) IN GENERAL.—The first sentence of section 1927(a)(1) of such Act (42 U.S.C. 1396r-8(a)(1)) is amended by striking "manufacturer)." and inserting "manufacturer) and an agreement described in paragraph (5) (with respect to drugs purchased by a covered entity on or after October 1, 1992), and must meet the requirements of paragraph (6).".

(2) AGREEMENTS DESCRIBED.—Section 1927(a) of such Act (42 U.S.C. 1396r-8(a)) is amended by adding at the end the following new paragraphs:

"(5) LIMITATION ON PRICES OF DRUGS PROCURED BY COVERED ENTITIES.—

"(A) AGREEMENT WITH SECRETARY.—An agreement described in this paragraph is an agreement between a manufacturer and the Secretary that provides that the amount required to be paid (taking into account any rebate or discount, as provided by the Secretary) to the manufacturer for covered outpatient drugs (other than drugs described in subparagraph (C)) procured by a covered entity (as defined in subparagraph (D)) does not exceed an amount equal to the average manufacturer price for the drug under this title in the preceding calendar quarter, reduced by the rebate percentage described in subparagraph (B).

"(B) REBATE PERCENTAGE DEFINED.—For a covered outpatient drug procured in a calendar quarter, the 'rebate percentage' is the amount (expressed as a percentage) equal to—

"(i) the average total rebate required under subsection (c) with respect to the drug (for a unit of the dosage form and strength involved) during the preceding calendar quarter; divided by

"(ii) the average manufacturer price for such a unit of the drug during such quarter.

"(C) EXCEPTION FOR DRUGS PROVIDED UNDER STATE PLANS.—Drugs described in this subparagraph are drugs procured by the entity for which payment is made by the State under the State plan.

"(D) COVERED ENTITY DEFINED.—In this subsection, the term 'covered entity' means an entity that meets the requirements described in subparagraph (E) and is one of the following:

"(i) A Federally-qualified health center (as defined in section 1905(l)(2)(B)).

"(ii) An entity receiving a grant under section 340A of the Public Health Service Act.

"(iii) A family planning project receiving a grant or contract under section 1001 of the Public Health Service Act.

"(iv) An entity receiving a grant under subpart II of part C of title XXVI of the Public Health Service Act (relating to categorical grants for outpatient early intervention services for HIV disease).

"(v) A State-operated AIDS drug purchasing assistance program receiving financial assistance under title XXVI of the Public Health Service Act.

"(vi) A comprehensive hemophilia diagnostic treatment center receiving a grant under section 501(a)(2) of the Social Security Act.

"(vii) A subsection (d) hospital (as defined in section 1886(d)(1)(B)) that the Secretary certifies—

"(I) is owned or operated by a unit of State or local government, is a public or private non-profit corporation which is formally granted governmental powers by a unit of State or local government, or is a private non-profit hospital which has a contract with a State or local government to provide health care services to low income individuals who are not entitled to benefits under title XVIII or eligible for assistance under the State plan under this title;

"(II) for the most recent cost reporting period that ended before the calendar quarter involved, had a disproportionate share adjustment percentage (as determined under section 1886(d)(5)(F))) greater than 12.5 percent or was described in section 1886(d)(5)(F)(i)(II); and

"(III) does not obtain covered outpatient drugs through a group purchasing organization or other group purchasing arrangement.

"(E) REQUIREMENTS FOR COVERED ENTITIES.—

"(i) PROHIBITING DUPLICATE REBATES.—A covered entity shall not request payment under the State plan for medical assistance described in section 1905(a)(12) with respect to a drug that is subject to an agreement under this paragraph if the drug is subject to the payment of a rebate to the State under this section.

"(ii) PROHIBITING RESALE OF DRUGS.—With respect to any covered outpatient drug that is subject to an agreement under this paragraph, a covered entity shall not resell or otherwise transfer the drug to a person who is not a patient of the entity.

"(iii) AUDITING.—A covered entity shall permit the Secretary and the manufacturer of a covered outpatient drug that is subject to an agreement under this paragraph with the entity (acting in accordance with procedures established by the Secretary relating to the number, duration, and scope of audits) to audit at the Secretary's or the manufacturer's expense the records of the entity that directly pertain to the entity's compliance with the requirements described in clauses (i) or (ii) with respect to drugs of the manufacturer.

"(iv) ADDITIONAL SANCTION FOR NONCOMPLIANCE.—If the Secretary finds, after notice and hearing, that a covered entity is in violation of a requirement described in clause (i) or clause (ii), the covered entity shall be liable to the manufacturer of the covered outpatient drug that is the subject of the violation in an amount equal to the reduction in the price of the drug (as described in subparagraph (A)) provided under the agreement between the entity and the manufacturer under this paragraph.

"(F) TREATMENT OF DISTINCT UNITS OF HOSPITALS.—In the case of a covered entity that is a distinct part of a hospital, the hospital shall not be considered a covered entity under this paragraph unless the hospital is otherwise a covered entity under this paragraph.

"(G) NOTICE TO MANUFACTURERS.—The Secretary shall notify manufacturers of covered outpatient drugs of the identities of covered entities under this paragraph, and of entities that no longer meet the requirements of subparagraph (E).

"(6) REQUIREMENTS RELATING TO DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS.—

"(A) IN GENERAL.—A manufacturer meets the requirements of this paragraph and applicable provisions of title 38, United States Code, if—

"(i) for each quarter beginning on or after January 1, 1993, the manufacturer makes available for procurement on the Federal Supply Schedule of the General Services Administration each drug or product of the manufacturer which—

"(I) is an innovator multiple source drug,

"(II) would be an innovator multiple source drug but for the application of the first sentence of subsection (k)(3), or

"(III) is a covered drug (as defined in subparagraph (E)(ii)); and

"(ii) with respect to each covered drug of the manufacturer (as defined in subparagraph (E)(ii)) procured by the Department of Veterans Affairs on or after October 1, 1992, the manufacturer has entered into and has in effect an agreement with the Secretary of Veterans Affairs under which—

"(I) in the case of a drug purchased under the depot contracting system or listed on the Federal Supply Schedule, the price charged may not exceed 76 percent of the non-Federal average manufacturer price (less the amount of any additional discount required under subparagraph (B)); and

"(II) the manufacturer is required to meet applicable requirements relating to reporting information to the Secretary of Veterans Affairs on drug prices and the Secretary's authority to audit the manufacturer's records.

"(B) ADDITIONAL DISCOUNT.—With respect to any covered drug the price of which is determined in accordance with an agreement under this paragraph, the manufacturer shall provide a discount in an amount equal to the amount by which—

"(i) the change in non-Federal price (as determined under subparagraph (E)(i)); exceeds

"(ii) the product of—

"(I) the non-Federal average manufacturer price of the drug during the 3-month period that ends one year before the last day of the month preceding the month during which the agreement goes into effect (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period preceding the month during which the agreement goes into effect as the Secretary of Veterans Affairs considers appropriate); and

"(II) the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average) between the last month of the period described in subclause (I) and the last month preceding the month during which the agreement goes into effect.

"(C) CALCULATION OF REBATES UNDER MULTI-YEAR CONTRACTS.—In the case of a covered drug of a manufacturer that has entered into a multi-year contract with the Secretary of Veterans Affairs under subparagraph (A)(ii) for the procurement of the drug, in applying subparagraph (B)(ii) to determine the amount of the discount provided with respect to the drug during a year that follows the first year for which the contract is in effect, any reference in such subparagraph to 'the month during which the agreement goes into effect' shall be considered a reference to the first month of such following year.

"(D) APPLICATION OF SURVEY REQUIREMENTS AND SANCTIONS.—The provisions of subparagraphs (B) and (C) of subsection (b)(3) shall apply to covered drugs and the Secretary of Veterans Affairs in the same manner as such provisions apply to covered outpatient drugs and the Secretary of Health and Human Services under such subparagraphs, except that references in such subparagraphs to prices or information reported or required under 'subparagraph (A)' shall be deemed to refer to information reported to the Secretary of Veterans Affairs pursuant to applicable requirements relating to reporting information to the Secretary of Veterans Affairs on drug prices.

"(E) DEFINITIONS.—In this paragraph:

"(i) CHANGE IN NON-FEDERAL PRICE.—The term 'change in non-Federal price' means, with respect to a covered drug that is subject to an agreement under this paragraph, an amount equal to—

"(I) the non-Federal average manufacturer price of the drug during the 3-month period that ends with the month preceding the month during which the agreement goes into effect (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period as the Secretary of Veterans Affairs considers appropriate); minus

"(II) the non-Federal average manufacturer price of the drug during the 3-month period that ends one year before the end of the period described in subclause (I) (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period preceding the period described in subparagraph (A) as the Secretary of Veterans Affairs considers appropriate).

"(ii) COVERED DRUG.—The term 'covered drug' means a drug or product which—

"(I) is a single source drug (as defined in subsection (k)(7)(A)(iv));

"(II) would be a single source drug but for the application of the first sentence of subsection (k)(3);

"(III) is a biological product identified under section 600.3 of title 21, Code of Federal Regulations; or

"(IV) is insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.".

"(iii) DEPOT.—The term 'depot' means a storage system operated by an agency of the Federal Government or by an entity with which such an agency contracts, through which drugs from various manufacturers are received, stored, and held for distribution to multiple health care facilities of an agency of the Federal Government. The term includes any warehousing and distribution arrangement whether Government-owned and operated, Government-owned and privately operated, or privately-owned and operated.

"(iv) NON-FEDERAL AVERAGE MANUFACTURER PRICE.—The term 'non-Federal average manufacturer price' means, with respect to a covered drug and a period of time (as determined by the Secretary of Veterans Affairs), the weighted average price of a single form and dosage unit of the drug that is paid by wholesalers to the manufacturer, taking into account any cash discounts or similar price reductions during that period, but not taking into account any prices paid by the Federal Government.

"(v) WEIGHTED AVERAGE PRICE.—The term 'weighted average price' means, with respect to a covered drug and a period of time (as determined by the Secretary of Veterans Affairs) an amount equal to—

"(I) the sum of the products of the average price per unit of each quantity of the drug sold during the period and the number of units of the drug sold during the period; divided by

"(II) the total number of units of the drug sold during the period.".

(3) CONFIDENTIALITY OF INFORMATION.—Section 1927(b)(3)(D) of such Act (42 U.S.C. 1396r-8(b)(3)(D)) is amended—

(A) by striking "this paragraph" and inserting "this paragraph or under an agreement with the Secretary of Veterans Affairs described in subsection (a)(6)(A)(ii)"; and

(B) by striking "Secretary" each place it appears and inserting "Secretary or the Secretary of Veterans Affairs".

(4) STUDY OF TREATMENT OF CERTAIN CLINICS AS COVERED ENTITIES ELIGIBLE FOR PRESCRIPTION DRUG DISCOUNTS.—

(A) STUDY.—The Secretary of Health and Human Services shall conduct a study of the feasibility and desirability of including entities described in subparagraph (C) as covered entities eligible for limitations on the prices of covered outpatient drugs under section 1927(a)(5) of the Social Security Act (as added by paragraph (2)).

(B) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under subparagraph (A), and shall include in the report—

(i) a description of the entities that are the subject of the study;

(ii) an analysis of the extent to which such entities procure prescription drugs; and

(iii) an analysis of the impact of the inclusion of such entities as covered entities under section 1927(a)(5) of the Social Security Act on the quality of care provided to and the health status of the patients of such entities.

(C) ENTITIES DESCRIBED.—An entity described in this subparagraph is an entity—

(i) receiving funds from a State for the provision of mental health or substance abuse treatment services under subpart I or II of part B of title XIX of the Public Health Service Act or under title V of such Act;

(ii) receiving funds under section 318 of the Public Health Service Act (relating to treatment of sexually transmitted diseases) or section 317(j)(2) of such Act (relating to treatment of tuberculosis) through a State or unit of local government; or

(iii) receiving funds from a State under title V of the Social Security Act for the provision of maternal and child health services that are furnished on an outpatient basis.

(c) BUDGET NEUTRALITY ADJUSTMENT.—Section 1927(c)(1)(B) of the Social Security Act (42 U.S.C. 1396r-8(c)(1)(B)) is amended—

(1) in clause (i), by striking "January 1, 1993," and inserting "October 1, 1992,";

(2) by striking "and" at the end of clause (i); and

(3) by striking clause (ii) and inserting the following:

"(ii) for quarters (or other periods) beginning after September 30, 1992, and before January 1, 1994, the greater of—

"(I) 15.7 percent of the average manufacturer price for the drug, or

"(II) the difference between the average manufacturer price for the drug and the best price (as defined in subparagraph (C)) for such quarter (or period) for such drug;

"(iii) for quarters (or other periods) beginning after December 31, 1993, and before January 1, 1995, the greater of—

"(I) 15.4 percent of the average manufacturer price for the drug, or

"(II) the difference between the average manufacturer price for the drug and the best price (as defined in subparagraph (C)) for such quarter (or period) for such drug;

"(iv) for quarters (or other periods) beginning after December 31, 1994, and before January 1, 1996, the greater of—

"(I) 15.2 percent of the average manufacturer price for the drug, or

"(II) the difference between the average manufacturer price for the drug and the best price (as defined in subparagraph (C)) for such quarter (or period) for such drug; and

"(v) for quarters (or other periods) beginning after December 31, 1995, the greater of—

"(I) 15.1 percent of the average manufacturer price for the drug, or

"(II) the difference between the average manufacturer price for the drug and the best price (as defined in subparagraph (C)) for such quarter (or period) for such drug.".

(d) REPORTS ON BEST PRICE CHANGES AND PAYMENT OF REBATES.—

(1) IN GENERAL.—Not later than 180 days after the expiration of each calendar quarter that begins on or after October 1, 1992, and ends on or before December 31, 1995, the Secretary of Health and Human Services shall submit a report to Congress that contains the following information relating to prescription drugs dispensed in the quarter (subject to paragraph (2)):

(A) With respect to single source drugs and innovator multiple source drugs (as such terms are defined in section 1927(k)(7) of the Social Security Act)—

(i) the percentage of such drugs whose best price (as reported to the Secretary under section 1927(b) of the Social Security Act) increased compared to the best price during the previous calendar quarter, and the amount of expenditures under State plans under title XIX of such Act attributable to such drugs;

(ii) the percentage of such drugs whose best price (as so reported) decreased compared to the best price during the previous calendar quarter, and the amount of expenditures under State plans under title XIX of such Act attributable to such drugs;

(iii) the percentage of such drugs whose best price (as so reported) was the same as the best price during the previous calendar quarter, and the amount of expenditures under State plans under title XIX of such Act attributable to such drugs;

(iv) the median and mean percentage increase (or decrease) in the best price of such single source drugs (as so reported) compared to the best price during the previous calendar quarter, weighted (in the case of the mean percentage increase or decrease) by the volume of drugs dispensed;

(v) the median and mean percentage increase (or decrease) in the best price of such innovator multiple source drugs (as so reported) compared to the best price during the previous calendar quarter, weighted (in the case of the mean percentage increase or decrease) by the volume of drugs dispensed; and

(vi) the median and mean percentage increase (or decrease) in the best price of all such drugs (as so reported) compared to the best price during the previous calendar quarter, weighted (in the case of the mean percentage increase or decrease) by the volume of drugs dispensed.

(B) With respect to all drugs for which manufacturers are required to pay rebates under section 1927(c) of the Social Security Act, the Secretary's estimate, on a State-by-State and a national aggregate basis, of—

(i) the total amount of all rebates paid under such section during the quarter, broken down by the portions of such total amount attributable to rebates described in paragraphs (1), (2), and (3) of such section;

(ii) the percentages of such total amount attributable to rebates described in paragraphs (1), (2), and (3) of such section; and

(iii) the amount of the portion of such total amount attributable to the rebate described in paragraph (1) of such section that is solely attributable to the application of subclause (II) of clause (i), (ii), (iii), (iv), or (v) of such paragraph.

(2) LIMITATION ON DRUGS SUBJECT TO REPORT.—No report submitted under paragraph (1) shall include any information relating to any prescription drug unless the Secretary finds that expenditures for the drug are significant expenditures under the medicaid program. In the previous sentence, expenditures for a drug are "significant" if the drug was one of the 1,000 drugs for which the greatest amount of the Federal financial assistance attributable to prescription drugs was paid under section 1903(a) of the Social Security Act during calendar year 1991.

(3) SPECIAL RULE FOR INITIAL REPORT.—For purposes of the first report required to be submitted under paragraph (1)—

(A) the Secretary shall submit the report not later than July 1, 1993; and

(B) the information contained in the report shall include information on prescription drugs dispensed during each calendar quarter that began on or after January 1, 1991, and ended on or before December 31, 1992.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to payments for calendar quarters (or periods) beginning on or after January 1, 1993 (without regard to whether or not regulations to carry out such amendments have been promulgated by such date).

SEC. 3. LIMITATION ON PRICES OF DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS.

(a) AGREEMENTS WITH SECRETARY OF VETERANS AFFAIRS.—(1) Subchapter II of chapter 81 of title 38, United States Code, is amended by adding at the end the following new section:

"§8126. Limitation on prices of drugs procured by Department

"(a) The Secretary shall enter into an agreement with each manufacturer (as defined in subsection (d)(5)) of innovator multiple source drugs (as defined in subsection (d)(4)) or covered drugs (as defined in subsection (d)(2)) under which—

"(1) beginning January 1, 1993, the manufacturer shall make available for procurement on the Federal Supply Schedule of the General Services Administration each drug or product of the manufacturer which is an innovator multiple source drug or a covered drug; and

"(2) with respect to each covered drug of the manufacturer procured by the Department on or after October 1, 1992, that is purchased under the depot contracting system (as defined in subsection (d)(3)) or listed on the Federal Supply Schedule, the price charged may not exceed 76 percent of the non-Federal average manufacturer price (less the amount of any additional discount required under subsection (b)).

"(b) With respect to any covered drug the price of which is determined in accordance with an agreement under this section, for calendar quarters beginning on or after October 1, 1992, the manufacturer shall provide a discount in an amount equal to the amount by which—

"(1) the change in non-Federal price (as determined under subsection (c)(1)); exceeds

"(2) the product of—

"(A) the non-Federal average manufacturer price of the drug during the 3-month period that ends one year before the last day of the month preceding the month during which the agreement goes into effect (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period preceding the month during which the agreement goes into effect as the Secretary considers appropriate); and

"(B) the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average) between the last month of the period described in subparagraph (A) and the last month preceding the month during which the agreement goes into effect.

"(c) In the case of a covered drug of a manufacturer that has entered into a multi-year contract with the Secretary under subsection (a)(2) for the procurement of the drug, in applying subsection (b)(2) to determine the amount of the discount provided with respect to the drug during a year that follows the first year for which the contract is in effect, any reference in such subsection to 'the month during which the agreement goes into effect' shall be considered a reference to the first month of such following year.

"(d) In this section:

"(1) The term 'change in non-Federal price' means, with respect to a covered drug that is subject to an agreement under this section, an amount equal to—

"(A) the non-Federal average manufacturer price of the drug during the 3-month period that ends with the month preceding the month during which the agreement goes into effect (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period as the Secretary considers appropriate); minus

"(B) the non-Federal average manufacturer price of the drug during the 3-month period that ends one year before the end of the period described in subparagraph (A) (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period preceding the period described in subparagraph (A) as the Secretary considers appropriate).

"(2) The term 'covered drug' means—

"(A) a drug described in section 1927(k)(7)(A)(iv) of the Social Security Act;

"(B) a drug that would be described in such section but for the application of the first sentence of section 1927(k)(3) of such Act;

"(C) any biological product identified under section 600.3 of title 21, Code of Federal Regulations; or

"(D) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.".

"(3) The term 'depot' means a storage system operated by an agency of the Federal Government or by an entity with which such an agency contracts, through which drugs from various manufacturers are received, stored, and held for distribution to multiple health care facilities of an agency of the Federal Government. The term includes any warehousing and distribution arrangement whether Government-owned and operated, Government-owned and privately operated, or privately-owned and operated.

"(4) The term 'innovator multiple source drug' means—

"(A) a drug described in section 1927(k)(7)(A)(ii) of the Social Security Act; or

"(B) a drug that would be described in such section but for the application of the first sentence of section 1927(k)(3) of such Act.

"(5) The term 'manufacturer' has the meaning given such term under section 1927(k)(5) of the Social Security Act.

"(6) The term 'non-Federal average manufacturer price' means, with respect to a covered drug and a period of time (as determined by the Secretary), the weighted average price of a single form and dosage unit of the drug that is paid by wholesalers to the manufacturer, taking into account any cash discounts or similar price reductions during that period, but not taking into account any prices paid by the Federal Government.

"(7) The term 'weighted average price' means, with respect to a covered drug and a period of time (as determined by the Secretary) an amount equal to—

"(A) the sum of the products of the average price per unit of each quantity of the drug sold during the period and the number of units of the drug sold during the period; divided by

"(B) the total number of units of the drug sold during the period.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8125 the following new item:

"Sec. 8126. Limitation on prices of drugs procured by Department.".

(b) REPORTING AND AUDITING OF PRICES REPORTED TO SECRETARY OF VETERANS AFFAIRS.—

(1) REPORTING REQUIREMENT.—The manufacturer of any covered drug the price of which is determined in accordance with an agreement entered into pursuant to section 8126 of title 38, United States Code (as added by subsection (a)) shall—

(A) not later than 30 days after the first day of the last quarter that begins before the agreement takes effect (or, in the case of the first such agreement that takes effect after the date of the enactment of this Act, not later than 30 days after the date of the enactment of this Act), report to the Secretary of Veterans Affairs the non-Federal average manufacturer price for the drug during the one-year period that ends on the last day of the previous quarter; and

(B) not later than 30 days after the last day of each quarter for which the agreement is in effect, report to the Secretary the non-Federal average manufacturer price for the drug during such quarter.

(2) APPLICATION OF MEDICAID SURVEY REQUIREMENTS AND SANCTIONS.—The provisions of subparagraphs (B) and (C) of section 1927(b)(3) of the Social Security Act shall apply to drugs described in paragraph (1) and the Secretary of Veterans Affairs in the same manner as such provisions apply to covered outpatient drugs and the Secretary of Health and Human Services under such subparagraphs, except that references in such subparagraphs to prices or information reported or required under "subparagraph (A)" shall be deemed to refer to information reported under paragraph (1).

(3) AUDITING.—In order to determine the accuracy of a drug price that is reported to the Secretary under paragraph (1), the Secretary may audit the relevant records of the manufacturer or of any wholesaler that distributes the drug.

(4) CONFIDENTIALITY OF INFORMATION.—Any information contained in a report submitted to the Secretary under paragraph (1) or obtained by the Secretary through any audit conducted under paragraph (3) shall remain confidential, except as the Secretary determines necessary to carry out this subsection and to permit the Comptroller General to review the information provided.

(5) DEFINITIONS.—In this subsection—

(A) the term "covered drug" has the meaning given such term in section 8126(c)(2) of title 38, United States Code (as added by subsection (a));

(B) the term "non-Federal average manufacturer price" has the meaning given such term in section 8126(c)(6) of such title; and

(C) the term "Secretary" means the Secretary of Veterans Affairs.

Amend the title so as to read: "A bill to amend title XIX of the Social Security Act to establish limits on the prices of prescription drugs procured by the Department of Veterans Affairs or purchased by certain clinics and hospitals, and for other purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

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Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that my 20 minutes be divided, since this bill was jointly referred, and that 10 minutes of my time be given to the gentleman from California [Mr. WAXMAN].

The SPEAKER pro tempore (Mr. SANGMEISTER). Is there objection to the request of the gentleman from Mississippi?

There was no objection.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2890 is a great bill that will give some fiscal relief to the VA health care system. The Department of Veterans Affairs health care system provides prescription drugs to millions of poor and disabled veterans every year. The VA will spend almost $1 billion for drugs this year. The Department of Defense also buys drugs at prices VA has negotiated.

Over the years, drug prices have increased at a rate far exceeding the rate of inflation. However, the price of drugs purchased by VA shot up dramatically early last year, when many manufacturers turned their backs on veterans to avoid giving bigger rebates to Medicaid.

In response to this dramatic increase in prices, which took an unexpected $100 million bite out of the money available for veterans' health care, our committee introduced H.R. 2890 which was jointly referred to the Committee on Energy and Commerce. Our committee reported the bill unanimously on November 25, 1991.

This legislation before us today is similar to the bill our committee reported last November in two important ways.

First, it excludes prices paid by VA for drugs from the Medicaid rebate formula; and

Second, it requires manufacturers to sell its drugs to the VA at a discount.

The bill before the House today does not include the price rollback provision contained in the legislation reported by our committee.

CBO data indicate that VA was generally able to obtain a median discount of 24 percent on drug purchases prior to the price increases caused by OBRA 1990. This bill would restore that discount. It would also provide means of assuring that manufacturers comply with this discount requirement and that prices do not increase too much in the future.

Mr. Speaker, in recommending this bill to my colleagues, I must say that it is an improvement over the bill recommended by our committee last year. These improvements have come about as a result of the efforts of several key members of the Subcommittee on Health and the Environment. I want to express my sincere appreciation for the work of the chairman of that subcommittee, Mr. WAXMAN, who saw the need for this and brought this legislation forward and the author of the compromise amendment which was reported by the Energy and Commerce Committee, Mr. BLILEY.

In addition, a member of that committee, RON WYDEN, worked very hard to keep this issue on the front burner and all veterans owe him their thanks.

I want to express the committee's appreciation for the support of the chairman and ranking minority member of the Energy and Commerce Committee, Mr. DINGELL and Mr. LENT.

Finally, I want to note the strong support for this bill demonstrated by all members of our own committee, especially, Mr. ROWLAND, Mr. SLATTERY, Mr. HARRIS, and Mr. BILIRAKIS, members of our committee who also sit on the Energy and Commerce Committee.

The compromise we have worked out with our distinguished colleagues is a good one, and I urge my colleagues to support the bill.

I would also like to thank the ranking minority member of the subcommittee, the gentleman from California [Mr. DANNEMEYER], for his help and his support in this legislation, and Mr. Andy Schneider, who is a staff member who helped us very much.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2890 which will finally bring relief to the Department of Veterans Affairs and its ability to provide needed prescription drugs to our Nation's veterans. The Committee on Veterans' Affairs has been working on a solution to the VA's problem of unprecedented and unanticipated pharmaceutical price hikes for well over a year now.

Although it is my belief that OBRA 90 did not intend to penalize the Department of Veterans Affairs, it most assuredly has. In April 1992, the VA reported to the Appropriations Subcommittee on HUD and Independent Agencies that the sudden drug price increases it was experiencing could cause cost increases of $149 million in fiscal year 1991. Of the $149 million, only $79 million could be attributed to normal inflation. The remainder, $92.6 million, is directly attributable to price increases by drug manufacturers in response to OBRA.

Any Member who has followed Veterans' issues even remotely must know that VA cannot absorb any unappropriated cost increases. Veterans have and will continue to suffer the effects of OBRA 90 until this body takes favorable action on a measure to reverse VA's current downhill trend.

H.R. 2890 as reported, attempts to recreate the level of pharmaceutical discounts VA was receiving prior to the enactment of Medicaid best-price law. It does not mandate price rollbacks, but does establish controls indexed to the urban Consumer Price Index on prices which have gone way out of control. This bill will not markedly affect the profits of the drug industry because VA represents only 1 percent of the pharmaceutical market. Most importantly, the bill provides that whatever prices VA is able to negotiate, such prices will be exempt from calculation of Medicaid rebates. It is my hope that exemption of the Federal supply schedule will eliminate the incentive drug companies had to increase VA prices.

As the chairman has stated, H.R. 2890 was also referred to the Energy and Commerce Committee. The result of their compromise as offered by Mr. BLILEY is reflected in this bill and it has bipartisan support. I want to extend my appreciation for the work on this bill to all the members of the Energy and Commerce Committee and in particular, the leadership of Chairmen DINGELL and WAXMAN, and ranking minority members, Mr. LENT and Mr. DANNEMEYER.

Mr. Speaker, veterans have waited for more than a year for final action on H.R. 2890. I urge my colleagues to support this bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. DANNEMEYER], the ranking member on the Subcommittee on Health and the Environment.

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, the necessity for this legislation can be aptly described as an illustration of the law of the unintended consequences. The reason I say that is because after World War II the drug industry, the pharmaceutical producers, frankly out of the goodness of their heart and a desire to help veterans that won World War II, reduced the price of drugs to the VA. They did this voluntary for eleemosynary purposes.

Then early in 1990, it was observed that these discounts were in existence and there was a desire on the part of some to achieve the same level of discounts for drugs that were sold and paid for by other Federal programs. The Congress passed this infamous act in the fall of 1990 called OBRA and said that any discount that was given by one drug company to anybody had to be given to others as well. Well when the drug companies looked at that they said well, if we continue to give a discount to the VA voluntarily we are going to dig ourselves into a hole. So they did a very natural thing. They stopped giving the discounts to the VA. This is why I call this legislation the law of unintended consequences.

Then when the discount for drugs was no longer available to the VA, the VA had a fixed amount of money, so the services that it could render to the veterans who came to their facilities for treatment was reduced. So this is why the gentleman from Mississippi [Mr. MONTGOMERY], chairman of the Veterans' Affairs Committee, and the gentleman from Arizona [Mr. STUMP], vice chairman of the committee, came to the House and said we have to do something about this. So we have done it.

The legislation here fixes the problem in the sense that drug companies will not be penalized if they continue to give discounts to the VA, and I have every reason to believe they will. Giving those discounts will not result in them being compelled to give it to other purchasers of drugs by whatever the Federal or State tax dollars may purchase.

And there is another little interesting illustration about this whole bill to show how this monster known as the Federal Government grows. When the reduction was achieved, or rather the legislation was adopted in 1990, OBRA, there were people around here who scored the reductions that would be achieved for other drug purchases as a savings that could then be expanded in the form of Medicaid, and that is what took place. We got the expansion of Medicaid, but we have not achieved the savings, and those expansions of Medicaid have now caused 49 Governors of the Union to write a letter to Congress saying will you please stop expanding Medicaid; you are bankrupting the States of the Union.

We still have to deal with the expansion of Medicaid that is bankrupting the States of the Union, and that is not resolved, unfortunately, in this legislation. Maybe that is too much to ask for Congress to do. But at least we are fixing the problem that resulted from the law of unintended consequences.

I would like to commend my colleagues, the gentleman from Mississippi [Mr. MONTGOMERY], the gentleman from New York [Mr. LENT], the gentleman from Arizona [Mr. STUMP], the gentleman from California [Mr. WAXMAN], and the gentleman from Virginia [Mr. BLILEY], and all of those who have made this legislation possible.

Mr. STUMP. Mr. Speaker, I reserve the balance of my time.

□ 1830

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation, which would correct the problems which the OBRA 90 Medicaid drug rebate provisions created for the Department of Veterans Affairs, federally funded clinics, and public hospitals.

I want to recognize Chairman MONTGOMERY and Representative STUMP for their tireless efforts to resolve this problem, and to thank them for their cooperation and support as the Committee on Energy and Commerce developed amendments to broaden their initial proposal to protect additional purchasers.

I also want to thank the gentleman from Michigan [Mr. DINGELL], the gentleman from Virginia [Mr. BLILEY], the gentleman from Maryland [Mr. MCMILLEN], the gentleman from Texas [Mr. HALL], and other members of the Committee on Energy and Commerce for their work on this bill. The gentleman from Oregon [Mr. WYDEN] and the gentleman from Kansas [Mr. SLATTERY] both made important contributions, even though the bill does not make all of the changes that they would like to have made. I know that Mr. WYDEN, in particular, is disappointed that the bill does not replace the best-price method for calculating the Medicaid basic rebate with a flat rebate approach that would have protected the Department of Veterans Affairs, Medicaid, and private purchasers from excessive drug price increases.

Finally, I want to thank Noah Wofsy of the House Legislative Counsel and Scott Harrison of the Congressional Budget Office for their assistance to the committee in developing this legislation.

Briefly, what the legislation would do is to protect the Department of Veterans Affairs and certain federally funded clinics and public hospitals from excessive price increases on outpatient prescription drugs. As a condition of receiving Federal Medicaid matching funds on their outpatient drugs, manufacturers will be required to enter into agreements with the Secretary of Veterans Affairs and the Secretary of Health and Human Services under which these protected purchasers will receive price reductions comparable to, or greater than, the reductions that manufacturers are currently required to give to the Medicaid Program. The bill creates these negotiating protections without disrupting the existing Medicaid rebate program or reducing savings to the States or Federal Government.

While I strongly support the bill as an essential first step in correcting the problems created by the OBRA 90 Medicaid Drug Rebate Program, I do not consider this matter fully resolved. In subcommittee, I offered an amendment that was not adopted that would have phased out, over the next 5 years, the Medicaid rebates required of generic drugs. These rebates are currently 10 percent of each drug's average manufacturer price; in 1994, this figure is scheduled to rise to 11 percent.

I continue to believe that there was no public policy justification for subjecting generic drug manufacturers to rebate requirements when the Medicaid Rebate Program was enacted in OBRA 90. There was simply no evidence that the Medicaid was cross-subsidizing other purchasers of generic drugs, as was the case with single-source drugs at that time, and there is no such evidence now. I am also concerned by the impact of the rebates on the financial viability of those generic manufacturers with the lowest net profits. A recent study by Dr. Stephen Schondelmeyer of the University of Minnesota indicates that generic firms lost almost 31 percent of their net income due to Medicaid rebates. The scheduled increase in the Medicaid rebate to 11 percent will only make matters worse. I hope that we will revisit this issue in the next Congress.

The bill before the House this evening represents a bipartisan compromise that has the support of the majority and minority on both committees of jurisdiction. According to the Congressional Budget Office, the bill would not increase Federal Medicaid outlays and would have no pay-as-you-go effect.

I urge by colleagues to suspend the rules and pass H.R. 2890 as amended.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. BILIRAKIS], the ranking member of the Subcommittee on Oversight and Investigations of the Committee on Veterans' Affairs.

Mr. BILIRAKIS. I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to express my strong support for this legislation because I believe our Veterans' Administration should be able to purchase prescription medicines at the same price as State Medicaid programs. Our veterans have put their lives on the line for our country, and certainly they must receive treatment no less than those on Medicaid—the least we can do for this great group of American patriots.

Mr. Speaker, being a member of both the Committee on Veterans' Affairs and the Committee on Energy and Commerce, I have had ample opportunity to consider this legislation. I supported the Veterans' Affairs Committee version of this bill when it came before the Veterans' Committee because I strongly believe the situation of the veterans and the cost of drugs in VA hospitals merited congressional action.

In July, my Energy and Commerce Health Subcommittee held a hearing addressing the concerns of the Veterans' Administration, the pharmaceutical industry, the public hospitals, the generic drug industry, the bulk purchasers of pharmaceutical products, and the State Medicaid offices. The Energy and Commerce Committee, thanks to the fine work of my colleagues HENRY WAXMAN and TOM BLILEY, and that of Chairman MONTGOMERY and Mr. STUMP, was able to come up with a compromise piece of legislation which addresses the immediate problems of the veterans and also reviews the concerns of the pharmaceutical manufacturers.

Mr. Speaker, I am convinced that all of these groups have very legitimate concerns about the Medicaid rebate law on prescription drugs. However, with the target adjournment date less than 2 weeks away, I believe our committee acted in a way that was satisfactory to all who were concerned with these issues. Immediate action is a must and so we are now taking it on this floor tonight. However, I imagine we will have to revisit this issue again next year.

In the meantime, I am pleased we were able to address the concerns of the veterans and I strongly support this legislation.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 2890, the Department of Veterans Affairs-Medicaid Drug Procurement Amendments of 1992, and I want to thank the gentleman from Mississippi, the distinguished chairman of the Veterans Committee Mr. MONTGOMERY, and the committee's ranking member, the gentleman from Arizona [Mr. STUMP], for bringing this measure before the House today.

The Omnibus Budget Reconciliation Act of 1990 attempted to reduce costs of pharmaceuticals to Medicaid by establishing a best-price policy, under which pharmaceutical manufacturers must give Medicaid a rebate on pharmaceuticals of 12.5 percent or the largest rebate given to any bulk customer. Federal matching payments to pharmaceutical manufacturers are conditioned on this rebate.

However, it appears that large volume purchasers of pharmaceuticals, such as the VA, are not receiving the discounts on drugs that they did prior to OBRA.

H.R. 2890 will extend the current pricing mechanism until fiscal year 1995, but will exclude the VA from the calculation of best price for setting rebates to Medicaid, thereby enabling pharmaceutical manufacturers to once again offer the VA discounts of the size prior to OBRA.

H.R. 2890 will also require pharmaceutical manufacturers to contract with the VA in order to receive Federal medical matching payments for pharmaceuticals.

I commend the chairman and the members of the committee for their continuing diligent efforts on behalf of our Nation's veterans and the VA. I believe it is important for the Congress to find every possible means of taking care of veterans in the current budgetary climate. Accordingly, I urge my colleagues to support H.R. 2890.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. I thank the gentleman for yielding this time to me. Mr. Speaker, I want to praise Chairman MONTGOMERY for all the great work that he has done on this legislation. Almost as soon as the ink was dry on the OBRA 1990 bill, our country started seeing huge price hikes inflicted on our veterans and on our public health clinics and on many other programs. Chairman MONTGOMERY and I began discussions on how to address this problem over a year ago. I want to thank him for all the work he has done.

As Members know, Chairman MONTGOMERY really sets the standards for all of us in terms of advocating for the veterans. I want to thank him for that. I also want to thank my chairman, the gentleman from California [Mr. WAXMAN], who has given an enormous amount of time to this effort and pushed hard to come up with an agreement to protect all the public sector buyers.

□ 1840

That is what I would really want to say to my colleagues. This is a good bill. It is a bill that ought to be passed because it is going to help a lot of veterans and a lot of public programs; but we should make no mistake about it, the drug companies are consistently trying a divide-and-conquer strategy. As soon as the ink is dry on this legislation, they are going to be looking for cracks and holes and opportunities to foist huge price hikes on other buyers.

My friend and colleague, the gentleman from California [Mr. DANNEMEYER], has said, and we have discussed it, and some folks, of course, will from time to time disagree with each other, that we are here because of the law of unintended consequences.

I would just say to our colleagues, we are not here as a result of unintended consequences. We are here as the result of the deliberate and aggressive lobbying of the drug companies to try to create a loophole in the OBRA 1990 law.

Many of us urged our colleagues in the House and in the Senate who were serving on the conference committee on the 1990 legislation to make sure there would not be any loopholes in the 1990 law by stipulating that the drug companies would have to give Medicaid the best price, but also the best price would have to be frozen at 1990 levels and then could not increase any faster than the rate of inflation. That would have prevented the kind of problems that we are seeing today that have to be corrected by the excellent legislation that Chairman MONTGOMERY, Chairman WAXMAN, the gentleman from Arizona [Mr. STUMP], and our colleagues on both sides of the aisle have worked on.

The drug price hikes that we have seen have been massive. The General Accounting Office has been investigating this for a number of years. They found that Nitrostat, a drug for chest pain, has shot up 274 percent in the last few years. Dilantin, another drug used by many veterans, has increased by almost 350 percent over the last few years. In fact, a number of drugs that were not even covered by the 1990 law have experienced huge price hikes. These price hikes have hurt our veterans, our public health facilities and many private buyers, nursing homes, HMO's, and others.

So what I would say to my colleagues is let us pass this legislation tonight, because it moves another step forward to linking all the public sector buyers together so that the drug companies cannot continue this divide-and-conquer strategy.

Let us pass this legislation which has bipartisan support, come back next year, build on this legislation so we have a true buyers' group that has clout in the marketplace, that can negotiate with drug companies, using marketplace principles. In this way we can drive down drug costs for consumers and force these companies to be real competitors in the market and persuade fewer of them to be price gougers.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 30 seconds.

I want to thank the gentleman from Oregon for his fine remarks in what he has just said, and others for their support.

Mr. Speaker, let me say, this is a good bill when you can get the gentleman from California [Mr. WAXMAN], the gentleman from California [Mr. DANNEMEYER], the gentleman from Arizona [Mr. STUMP], and myself to agree on this type of legislation.

Mr. WAXMAN. Mr. Chairman, I have nothing else to add than what the distinguished chairman of the Veterans Committee has already told our colleagues. I urge an aye vote, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, once again I would like to thank our distinguished chairman for his hard and diligent work on this measure and bringing it to the floor, and also the gentleman from California [Mr. WAXMAN] for the contribution he has made to help achieve this compromise.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, I rise today in support of H.R. 2890, the Department of Veterans Affairs-Medicaid Drug Procurement Amendments.

I am pleased to see that we are passing this legislation today. This bill ensures that the Department of Veterans Affairs will receive discounts on their prescription drug purchases which reflect the compromise that was worked out between Chairman MONTGOMERY and the ranking Republican member, Mr. STUMP.

Also, this bill guarantees Medicaid best price for certain disproportionate share hospitals and Public Health Service grantees, including community and migrant health centers, homeless health centers, hemophilia centers, different Ryan White AIDS Clinics, and family planning clinics.

I proposed this solution when the Energy and Commerce Subcommittee on Health and the Environment met last week. I believed we should fix the veterans' problem now, and change the underlying Medicaid law next year, if necessary. The data were inconclusive to change from a best price to a flat rebate under the Medicaid law. Plus, the States wanted to keep the best-price method. I believe this narrowly drawn solution to the veterans' problem is the way to go.

I urge all my colleagues support this legislation.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in support of H.R. 2890 and urge the swift House adoption of this measure to address the sizable increase in pharmaceutical prices experienced by the VA since the enactment of section 4401 of the Omnibus Budget Reconciliation [OBRA] of 1990.

The intent of this provision of OBRA was to reduce Medicaid expenditures for pharmaceuticals; however, the unintended result has been to dramatically increase pharmaceutical costs for the already strained VA medical budget.

Section 4401 of OBRA requires pharmaceutical manufacturers, as a condition of continuing to receive Medicaid business, to provide States with rebates based upon the manufacturer's best price. By allowing Medicaid programs to receive the best discounts given to any other customer, it was expected to save the Federal Government $1.9 billion, and State governments $1.5 billion, over 5 years. This law provided an exemption for certain Federal procurement through the depot distribution system in order to continue to allow the Federal Government to procure certain drugs at below market rates. However, the law did not exempt the Federal Supply Schedule [FSS], through which VA medical centers purchase about 50 percent of all their pharmaceuticals. The apparent result has been that pharmaceutical manufacturers have raised the prices on the FSS in order to preempt price reductions for Medicaid.

Mr. Speaker, the one certain result of this change in law has been to raise the cost of pharmaceuticals procurement for the VA. In testimony before the Veterans' Affairs Committee, Deputy Secretary Principi predicted a cost increase to VA of $117 million annually. There is likely to be a similar impact on the other Federal agencies which utilize the FSS, including the Department of Defense, Public Health Service, and the Indian Health Service. In addition, this committee has already received disturbing news that VA medical centers—lacking the budgetary latitude—have been forced to eliminate some drugs from their inventories.

Mr. Speaker, since we have an obligation to provide our Nation's veterans with the best possible health care—including access to the most effective pharmaceutical products, I urge the House to approve H.R. 2890. This measure will ease the burden on the VA and has the approval of both the Veterans' Affairs and Energy and Commerce Committees.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SANGMEISTER). The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 2890, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title XIX of the Social Security Act to establish limits on the prices of prescription drugs procured by the Department of Veterans Affairs or purchased by certain clinics and hospitals, and for other purposes.

A motion to reconsider was laid on the table.

OUTDOOR RECREATION ACT OF 1963 AMENDMENTS

Mr. KOSTMAYER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5001) to amend the Outdoor Recreation Act of 1963 to authorize the National Park Service and the U.S. Geological Survey to conduct a national river systems recreation assessment, as amended.

The Clerk read as follows:

H.R. 5001

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSES.

(A) FINDINGS.—The Congress finds that—

(1) the Secretary of the Interior, through the National Park Service, has the expertise to assess recreational, natural, cultural, and other river resource values; and

(2) the Secretary of the Interior, through the United States Geological Survey, has the capability of providing a comparative base for storing river resource information and a method of documenting changes in resources and a means of making this information available and accessible to government agencies and to the public.

(b) PURPOSES.—The purposes of this Act are to—

(1) declare the importance of natural river systems as essential to water quality, human health, biotic diversity, fish and wildlife, recreation, pollution assimilation and ecosystem integrity;

(2) enhance ongoing management of the Nation's river systems and their associated riparian resources;

(3) provide for regular reporting and ongoing information exchange about the status of rivers and their associated riparian resources along with a capability to show trends in the condition of these resources over time;

(4) establish a standardized and permanent national system containing available objective information about rivers and their riparian areas; and

(5) make such information available to the Federal, State, and local governments and public for the purposes of education, scientific inquiry, and agency decisionmaking.

SEC. 2. AMENDMENT OF OUTDOOR RECREATION ACT OF 1963.

The Outdoor Recreation Act of 1963 (16 U.S.C. 1901 and following) is amended by adding the following new section at the end thereof:

"SEC. 5. REPORT AND INFORMATION SYSTEM.

"(a) STATE OF THE NATION'S RIVERS REPORT.—

"(1) IN GENERAL.—The Secretary of the Interior (hereinafter in this section referred to as the 'Secretary') acting through the National Park Service, in consultation with the United States Geological Survey, shall enter into a contract or other appropriate arrangement with the National Academy of Sciences or with any other independent entity having appropriate scientific expertise to prepare a 'State of the Nation's River Systems' report providing an assessment of the status and trends of the Nation's river resources and their associated riparian resources (hereinafter in this section referred to as the 'report'). The report shall be prepared by an independent panel of experts in fields of biology, zoology, ecology, and related fields and shall be based on existing data and information relating to the chemical, physical, and biological elements and processes of river resources and their associated riparian resources. The contract or other appropriate agreement shall provide for the formation of a partnership with the States in the development of the report, which shall include financial assistance to the States for the States' efforts. The contract or other arrangement shall provide for updating the report every 5 years after publication of the initial report. The initial report shall contain guidelines on how each subsequent report shall be developed. Each such updated report shall utilize additional information which becomes available after the publication of the prior report, including the information obtained through the information system established in accordance with subsection (b). The initial report shall be submitted to the Congress within 18 months after the enactment of this section.

"(2) COMPONENTS OF THE REPORT.—The report shall include, but not be limited to, the following components:

"(A) An evaluation of the existing status and historic and projected future trends on a national and regional level related to the riverine resource characteristics.

"(B) Identification of current and potential threats to the riverine resource characteristics.

"(C) A list of river systems and river reaches in the Nation for each ecoregion (as defined by the Secretary), the riverine resources characteristics of which have the highest natural qualities with particular emphasis on free-flowing river systems.

"(D) A list of river systems and river reaches in the Nation for each ecoregion, the riverine resource characteristics of which are degraded but for which restoration is a feasible goal.

"(3) DISTRIBUTION OF REPORT.—Upon completion of the report, and following submission to Congress, the Secretary shall distribute the report to the heads of affected Federal departments, agencies, and instrumentalities, the States, including all State river management agencies and to the public. The report shall be utilized to improve the management of riparian areas under their respective jurisdictions. The Secretary shall utilize the report to educate the public on the importance of river systems and the issues and threats related to river systems nationwide.

"(b) INFORMATION SYSTEM.—

"(1) STANDARD METHODOLOGY.—Within 24 months after the enactment of this section, the Secretary, in consultation with the States and the heads of other affected Federal agencies, shall develop and publish a standard methodology, describing resource definitions, data collection, methods, and other items needed for a comprehensive information system relating to river and riparian zone resources. The Secretary shall incorporate into the methodology and framework of the information system knowledge obtained in the preparation of the initial report under subsection (a) regarding appropriate data needed to develop a long term riverine information system.

"(2) CENTRAL REPOSITORY.—Following publication of the standard methodology under paragraph (1), the Secretary shall establish a central repository for information relating to river and riparian zone resources which is obtained and assembled in accordance with such methodology. The Secretary shall provide technical and financial assistance to the States (and to other Federal agencies) as necessary to permit such States (and agencies) to obtain and compile information in accordance with the standard methodology, to periodically update such information, and to provide such information to the Secretary for inclusion in the central repository. All Federal agencies shall cooperate with the Secretary by providing such existing information as they may have relating to river and riparian zone resources.

"(c) COMPONENTS OF INFORMATION SYSTEM.—The information system prepared as provided in paragraph (1) shall include, but shall not be limited to—

"(1) a geographic identification of river systems and their associated riparian areas at a level of detail necessary to reflect the complete functioning of river systems;

"(2) a cartographic system able to sort information by State, river basin, ecoregion (as defined by the Secretary), resource type, and other useful categories; and

"(3) a geographic identification, to the extent possible from existing information, of resource characteristics presently and historically associated with each river system, including, but not limited to, each of the following:

"(A) Recreational uses.

"(B) Economic use of river and riparian area resources.

"(C) Social uses of river and riparian area resources.

"(D) Institutional constraints on resource use.

"(E) Condition of the biotic communities of both riverine and riparian zones.

"(F) Functional integrity of the stream system as a whole.

"(G) Basin and drainage characteristics.

"(H) Food (energy) sources available to the biotic community.

"(I) Water quality.

"(J) Habitat structure.

"(K) Flow regime.

"(4) The Secretary shall consistently and continually maintain the information system, add new information as it becomes available and revise existing information and information categories as necessary, in a manner useful to society and consistent with advances in knowledge about rivers and their associated riparian areas.

"(5) The Secretary shall make the information system available to the public, State, local, and Federal agencies in such manner and form as will promote education, scientific inquiry, and sound agency decisionmaking regarding river and riparian area resources and such agencies shall utilize information contained in such system in taking actions directly affecting such resources.

"(d) INFORMATION PROVIDED BY OTHER DEPARTMENTS, ETC.—Each department, agency, and instrumentality of the United States, shall cooperate with the Secretary in the preparation of the report (and updated reports) under subsection (a) and with the Secretary and State agencies obtaining and compiling under subsection (b), and shall, upon request, provide such information and data to the panel, the Secretary, and such State agencies as may be necessary to carry out the purposes of this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of this section such sums as may be necessary but not more than $650,000 to prepare the initial report required under subsection (a) and not more than $25,000,000 to develop the information system required under subsection (b).".

SEC. 3. DISCLAIMERS.

Nothing in this Act or the amendments made by this Act shall be construed to supersede or alter—

(1) any water right of any party (including the United States) arising under any other law of the United States or any State;

(2) rights of the individual States to regulate the allocation, flow, or management of the waters within their boundaries; or

(3) the terms or conditions of any compact entered into among any States allocating the quantity of water in any river or rivers between those States.

Federal agencies shall, when complying with the terms of this Act and the amendments made by this Act, cooperate fully with State and local agencies and their programs for managing the quality, quantity, and flow of water resources.

SEC. 4. OTHER LAWS.

Nothing in this Act, or in any amendment to another Act made by this Act, shall be construed as amending any provision of the Wild and Scenic Rivers Act (Public Law 90–542, as amended; 16 U.S.C. 1271 et seq.) or as affecting any designation made or study conducted pursuant to that Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. KOSTMAYER] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. KOSTMAYER].

GENERAL LEAVE

Mr. KOSTMAYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5001, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. KOSTMAYER. Mr. Speaker, I yield myself as much time as I may consume. I will not consume very much time this evening.

Mr. Speaker, in the middle 1980's the Bonneville Power Administration began a Regional Rivers Information System covering the rivers in the States of Washington, Oregon, Idaho, and Montana.

The purpose of this inventory was to determine in advance a number of things about rivers, water quality, their recreational value, the fish and wildlife values, the potential hydropower values on these rivers, and the land use issues along the banks of these rivers. All these issues were then computerized and placed in a data bank.

Mr. Speaker, this does really two important things. It saves time and it saves money. When an EIS is required for any number of things, for example, for a hydropower project which has been proposed on a river or a wild and scenic designation which has been proposed for any kind of commercial development, we have found that we were able to reduce the time it takes to perform that environmental impact by a full third and reduce its cost by one-half because of the information we have on these rivers.

This is an idea which originally was generated by the National Academy of Science. It makes, I think, good sense from a number of standpoints. It makes good economic sense. It makes good environmental sense.

This proposal would do the very same thing that we have done in the Northwest for all the rivers in this country.

We have spent a good deal of time and money degrading America's rivers. We ought to spend some time and a very modest sum preserving and protecting them, and that is precisely what this legislation would do.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Chairman KOSTMAYER has accurately and completely described this bill. I would have to say that I have very grave reservations about the need for this bill, about the duplication of existing programs and about its impact in tight financial times; however, I am pleased to rise in support of the bill, particularly in light of the bill's limitations on the cost of the program.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KOSTMAYER. Mr. Speaker, I want to thank the gentleman from Arizona for his cooperation, not only on this measure, but on so many measures which have come before our subcommittee. I hope I do the gentleman no harm in Arizona by commending him.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. KOSTMAYER] that the House suspend the rules and pass the bill, H.R. 5001, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NORTHERN CHEYENNE INDIAN RESERVED WATER RIGHTS SETTLEMENT ACT OF 1992

Mr. WILLIAMS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1607) to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes.

The Clerk read as follows:

S. 1607

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992".

SEC. 2. PURPOSES OF ACT.

(a) PURPOSES.—The purposes of this Act are:

(1) to achieve a fair, equitable, and final settlement of all claims to Federal reserved water rights in the State of Montana of—

(A) the Northern Cheyenne Tribe and its members and allottees; and

(B) the United States on behalf of the Northern Cheyenne Tribe and its members and allottees;

(2) to approve, ratify and confirm the Water Rights Compact entered into by the Northern Cheyenne Tribe and the State of Montana on June 11, 1991;

(3) to direct the Secretary of the Interior to enter into a cooperative agreement with the State of Montana for the planning, environmental compliance, design, and construction of the Tongue River Dam Project in order to—

(A) implement the Compact's settlement of the Tribe's reserved water rights claims in the Tongue River Basin;

(B) protect existing tribal contract water rights in the Tongue River Basin;

(C) provide 20,000 acre-feet per year of additional storage water for allocation to the Tribe and to allow the State to implement its responsibilities to correct identified Tongue River Dam safety inadequacies; and

(D) provide for the conservation and development of fish and wildlife resources in the Tongue River Basin;

(4) to provide for the enhancement of fish and wildlife habitat in the Tongue River Basin;

(5) to authorize certain modifications to the purposes and operation of the Big Horn Reservoir in order to implement the Compact's settlement of the Tribe's reserved water rights claims; and

(6) to authorize the Secretary of the Interior to take such other actions as are necessary to implement the Compact.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ALLOTTEE.—The term "allottee" means any person who owns land in trust on the Northern Cheyenne Reservation.

(2) COMPACT.—The term "Compact" means the Water Rights Compact entered into on June 11, 1991, by the Northern Cheyenne Tribe and the State of Montana.

(3) NORTHERN CHEYENNE FUND.—The term "Northern Cheyenne Fund" means the Northern Cheyenne Indian Reserved Water Rights Settlement Trust Fund established by section 6.

(4) RESERVATION.—The term "Reservation" means the Northern Cheyenne Reservation as established by Executive orders of November 26, 1884 and March 19, 1900.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of Montana.

(7) STATE WATER CONTRACTS.—The term "State water contracts" means contracts with the Montana Department of Natural Resources and Conservation (DNRC), or its successor State agency, to receive stored water from the National Resources and Conservation's storage rights in the Tongue River Reservoir.

(8) TONGUE RIVER DAM PROJECT.—The term "Tongue River Dam Project" means the project, conducted pursuant to the cooperative agreements between the Bureau of Reclamation and the State of Montana authorized by this Act and subject to conditions contained in the Compact and in the record of decision after completion of environmental review, to repair and enlarge the Tongue River Dam.

(9) TRIBAL WATER RIGHT.—The term "tribal water right" means the tribal water right as defined in the Compact.

(10) TRIBE.—The term "Tribe" means the Northern Cheyenne Tribe.

SEC. 4. RATIFICATION OF COMPACT.

(a) IN GENERAL.—Except as modified by this Act, the Water Rights Compact entered into by the Northern Cheyenne Tribe and the State of Montana is hereby approved, ratified, and confirmed.

(b) IMPLEMENTATION.—The Secretary shall implement the Compact as provided in this Act.

(c) ENTRY OF DECREE.—Except for the authorizations contained in subsections 7(b)(1) and 7(b)(2), the authorization of appropriations contained in this Act shall not be effective until such time as the Montana water court enters and approves a decree as provided in subsection (d) of this section. Notwithstanding the provisions of Article V. 2. of the Compact, for the purposes of the proceeding involving such a decree, the effective date of the Compact shall be the date of the enactment of this Act.

(d) FORM OF DECREE.—No later than 180 days after the date of the enactment of this Act, the United States, the Tribe, and the State of Montana shall jointly petition the Montana water court to enter and approve the "Proposed Decree" agreed to by the United States, the Tribe, and the State of Montana on May 5, 1992, or any amended version thereof.

SEC. 5. USE AND TRANSFER OF THE TRIBAL WATER RIGHT.

(a) ADMINISTRATION AND ENFORCEMENT.—As provided in the Compact, until the adoption and approval of a tribal water code, the Secretary shall administer and enforce the tribal water right.

(b) MEMBERS AND ALLOTTEES.—Any entitlement to reserved water of any tribal member or allottee shall be satisfied solely from the water secured to the Tribe by the Compact and shall be governed by the terms and conditions thereof. Such entitlement shall be administered by the Tribe pursuant to a tribal water code developed and adopted pursuant to Article III.A. of the Compact, or by the Secretary pending the adoption and approval of the tribal water code.

(c) TRANSFER OF THE TRIBAL WATER RIGHT.—

(1) IN GENERAL.—Subject to paragraph (2), the Northern Cheyenne Tribe, or persons or entities authorized by the Tribe, may enter into a service contract, lease, exchange, or other agreement providing for the delivery, use, or transfer of the tribal water right confirmed to the Tribe in the Compact.

(2) LIMITATIONS.—Any service contract, lease, exchange, or other agreement entered into under subsection (c)(1) shall be subject to approval by the Secretary, and the limitations and conditions set forth in the Compact, and may not permanently alienate any portion of the tribal water right.

SEC. 6. NORTHERN CHEYENNE INDIAN RESERVED WATER RIGHTS SETTLEMENT TRUST FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Northern Cheyenne Indian Reserved Water Rights Settlement Trust Fund".

(b) EXPENDITURES FROM NORTHERN CHEYENNE FUND.—Amounts in the Northern Cheyenne Fund shall be available, without fiscal year limitations, to the Secretary for expenditure by the Secretary or by the Tribe in accordance with the provisions of this Act.

(c) CONTENTS OF NORTHERN CHEYENNE FUND.—The Northern Cheyenne Fund shall consist of such amounts as are appropriated to it in accordance with the authorization provided by this Act, together with such amounts credited to it in accordance with section 7(e).

(d) USE OF NORTHERN CHEYENNE FUND.—The Tribe shall make $11,500,000 available from the Northern Cheyenne Fund to the State of Montana as a loan to assist financing Tongue River Dam Project costs, and such loan shall be repaid by the State to the Tribe. All other moneys appropriated to the Northern Cheyenne Fund pursuant to section 7(a), together with interest credited thereto, may be used by the Tribe for—

(1) land and natural resources administration, planning, and development within the Reservation;

(2) land acquisition by the Tribe within the Reservation; or

(3) any other purpose determined by the Tribe.

(e) PER CAPITA PAYMENTS.—Funds within the Northern Cheyenne Fund shall not be distributed on a per capita basis to members of the Tribe.

(f) CONGRESSIONAL INTENT.—Nothing in this Act is intended—

(1) to alter the trust responsibility of the United States to the Tribe; or

(2) to prohibit the Tribe from seeking additional authorization or appropriation of funds for tribal programs or purposes.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) TRIBAL FUNDS.—There are authorized to be appropriated to the Northern Cheyenne Fund for use by the Tribe $7,400,000 in fiscal year 1995, $9,000,000 in fiscal year 1996, and $5,100,000 in fiscal year 1997.

(b) TONGUE RIVER DAM PROJECT.—(1) There are authorized to be appropriated to the Northern Cheyenne Fund for use, in accordance with paragraph (2), for the Tongue River Dam Project:

(A) $700,000 in fiscal year 1993;

(B) $700,000 in fiscal year 1994;

(C) $15,300,000 in fiscal year 1995;

(D) $11,400,000 in fiscal year 1996; and

(E) $3,400,000 in fiscal year 1997.

(2) Moneys appropriated pursuant to paragraph (1) shall be available for use by the State of Montana and the Secretary for the planning, design, and construction of the Tongue River Dam Project in accordance with provisions of April 17, 1991, letter of agreement signed by the Northern Cheyenne Tribal Federal Negotiation Team and Montana Department of Natural Resources and Conservation. The Federal contribution is provided for development of additional capacity in the Tongue River Dam for storage of water secured to the Tribe in satisfaction of the Tribe's claims to water under the Compact.

(c) INDEXING OF AUTHORIZATION FOR CONSTRUCTION COSTS.—For the purposes of this section, the total estimated costs of construction of the Tongue River Dam Project, inclusive of noncontract costs, shall be $52,200,000 at the January 1991 price level. The project's annual authorization provided in subsection (b) and the Federal and State shares shall be adjusted up or down as may be required by reason of ordinary fluctuations in construction costs, as indicated by engineering cost indices applicable to the type of construction involved in the Tongue River Dam Project.

(d) FISH AND WILDLIFE ENHANCEMENT.—

(1) IN GENERAL.—The Secretary shall identify and develop features of the Tongue River Dam Project that provide for the enhancement of fish and wildlife habitats, in accordance with the Federal Water Project Recreation Act (16 U.S.C. 4601-12 et seq.).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Northern Cheyenne Fund, for expenditure by the Secretary, $1,800,000 in fiscal year 1996, and $1,700,000 in fiscal year 1997 for Fish and Wildlife Enhancement, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering costs indices after January 1991. The Tribe shall not be required to reimburse amounts expended pursuant to this section.

(e) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Northern Cheyenne Fund for fiscal year 1993, and each fiscal year thereafter, such sums as are necessary to carry out all necessary environmental compliances associated with the Compact, including mitigation measures adopted by the Secretary.

(f) OPERATION, MAINTENANCE, AND REPLACEMENT COSTS.—There are authorized to be appropriated to the Northern Cheyenne Fund, for fiscal year 1993, and each fiscal year thereafter, on a nonreimbursable basis, such sums as are necessary to pay the annual operation, maintenance, and replacement costs provided for in section 10(f).

(g) WITHOUT FISCAL YEAR DEFINITIONS.—All moneys appropriated pursuant to authorizations under this Act shall be available without fiscal year limitation.

SEC. 8. STATE CONTRIBUTIONS TO SETTLEMENT.

(a) The provisions of section 6(d) shall be subject to the State of Montana contributing the following amounts to the settlement:

(1) $5,000,000 for contract costs associated with repair of the Tongue River Dam Project;

(2) $11,500,000 to be contributed to the Northern Cheyenne Fund as repayment of the loan provided for in section 6(d);

(3) $4,200,000 of noncontract costs assumed by the State of Montana according to the terms of the letter of agreement on cost-sharing between the State of Montana and the United States dated April 17, 1991; and

(4) $1,100,000 for the Fish and Wildlife enhancement measures identified in section 7(d).

SEC. 9. BIG HORN RESERVOIR STORAGE.

(a) ALLOCATION FOR TRIBE.—

(1) IN GENERAL.—As provided in the Compact, the Secretary shall allocate 30,000 acre-feet per year of stored water in Big Horn Reservoir, Yellowtail Unit, Lower Bighorn Division, Pick-Sloan Missouri Basin Program, Montana, measured at the outlet works of the dam or at the diversion point from the Reservoir, for use or disposition by the Tribe for any purpose.

(2) PRIOR RESERVED RIGHTS.—This allocation shall be subject to the prior reserved water rights, if any, of any Indian tribe, or of persons claiming water through that tribe, to the water allocated in paragraph (1).

(b) PAYMENTS BY TRIBE.—

(1) IN GENERAL.—The Tribe shall not be required to make payments to the United States for the portion of the tribal water right stored in or used from the Big Horn Reservoir except for each acre-foot of stored water used or sold for municipal or industrial purposes. The Tribe shall pay annually to the United States an amount to cover the proportionate share of the—

(A) annual operation, maintenance and replacement costs for the Yellowtail Unit allocable to the amount of water for municipal and industrial purposes used or sold by the Tribe; and

(B) capital costs with appropriate interest for the Yellowtail Unit allocable to the amount of water for municipal and industrial purposes used or sold by the Tribe.

(2) ADJUSTMENT OF PAYMENTS.—The annual payments shall be reviewed and adjusted, as appropriate, to reflect the actual operation, maintenance, and replacement costs, and the actual capital costs, for the Yellowtail Unit.

(c) USE AND SALE OF WATER.—

(1) IN GENERAL.—Except for payments required to be made to the United States pursuant to subsection (b), the Tribe shall—

(A) set such rates as it considers proper for its use or sale of stored water; and

(B) retain all revenues from its use or sale of the stored water.

(2) HYDROPOWER GENERATION.—The United States shall retain the right to use any and all water stored in the Big Horn Reservoir for hydropower generation.

(d) AGREEMENT WITH TRIBE.—The Secretary shall enter into an agreement with the Tribe providing—

(1) for the Tribe's use or sale of water stored in the Big Horn Reservoir subject to the terms and conditions of the Compact; and

(2) for the collection and disposition of revenues in connection with water stored in the Big Horn Reservoir that is made available to the Tribe.

(e) MORATORIUM ON WATER MARKETING.—Notwithstanding any provision of this Act or the Compact, no portion of the allocation described in paragraph (1) of subsection (a) shall be sold or leased by the Tribe for a period of 10 years following the date on which the Compact becomes effective pursuant to Article V(A)(1) of the Compact or for a period of 10 years following any earlier date on which the allocation may become available to the Tribe, unless the Crow Tribe and the Northern Cheyenne Tribe agree otherwise.

(f) LIMITATION ON WATER MARKETING.—The Secretary may enter into contracts for the sale or lease of water to which the United States holds legal title and which is stored in the Big Horn Reservoir, except that with respect to any such contract—

(1) the Secretary provides notice to the Northern Cheyenne Tribe and the Crow Tribe of his intent to enter into a contract at least 120 days in advance of entering into such contract;

(2) the terms of the contract for sale or lease of water provide that the contract will not exceed a 2-year term, with a right of renewal following a 120-day notice period to the Northern Cheyenne Tribe and Crow Tribe; and

(3) the terms of the contract for sale or lease of water contain a provision that makes clear that the contract is subject to alteration or termination by the United States pending the resolution of claims to water by the Crow Tribe.

SEC. 10. TONGUE RIVER DAM PROJECT.

(a) IN GENERAL.—The Secretary shall enter into a cooperative agreement with the State of Montana for the planning, design, and construction of the Tongue River Dam Project in accordance with the provisions of the April 17, 1991, letter of agreement signed by the Northern Cheyenne Tribe Federal Negotiating Team and the Montana Department of Natural Resources and Conservation. The Secretary shall also enter into a cooperative agreement with the State of Montana for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) on the Tongue River Dam Project.

(b) OWNERSHIP.—Notwithstanding Federal participation in the Tongue River Dam Project, the Tongue River Dam shall remain in the ownership of the State of Montana.

(c) STATE OPERATION OF RESERVOIR.—Except as otherwise provided in the Compact, nothing in this Act shall affect the State's operation of the Tongue River Reservoir to fulfill State water contracts.

(d) CONGRESSIONAL INTENT.—Nothing in this Act is intended to subject holders of State water contracts from the Tongue River Reservoir who do not have a contract for Federal reclamation storage to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.).

(e) LAND TRANSFER.—

(1) Notwithstanding any other provisions of law, the Bureau of Land Management shall transfer to the Bureau of Indian Affairs in trust for the Northern Cheyenne Tribe the following described land:

T. 8 S., R. 40 E., P.M.M.
Sec. 26, N½SW¼
Sec. 27, N½SE¼
T. 8 S., R. 40 E., P.M.M.
Sec. 23, SW¼NE¼, N½SE¼
Sec. 24, NW¼SW¼.

(2) Nothing in this section is intended to address the jurisdiction of the Tribe or the State of Montana over the property being transferred.

(3) This transfer shall not be construed as creating a Federal reserved water right.

(f) PAYMENT OF THE TRIBE'S SHARE.—The Secretary, acting through the Bureau of Indian Affairs, shall continue to pay annually to the State of Montana on a nonreimbursable basis an amount to cover the proportionate share of the annual operation, maintenance and replacement costs for the Tongue River Dam allocable to the Tribe's stored water in the reservoir.

(g) EMPLOYMENT PREFERENCE.—Notwithstanding any other provision of law, the State shall require in all contracts and subcontracts relating to construction of the Tongue River Dam Project, a provision that the contractor and its subcontractors shall provide a hiring preference to Northern Cheyenne tribal members. The State and the Tribe shall enter into an agreement setting forth the manner in which the preference will be implemented and enforced.

SEC. 11. MISCELLANEOUS PROVISIONS.

(a) WAIVER OF SOVEREIGN IMMUNITY.—Notwithstanding the provisions of Article IV, Section G. of the Compact, the United States shall not be deemed to have waived its immunity from suit except to the extent provided in subsections (a), (b), and (c) of section 208 of the Act of July 10, 1952 (43 U.S.C. 666).

(b) EFFECT ON YELLOWSTONE RIVER COMPACT.—Nothing in this Act shall be construed to alter or amend any provision of the Yellowstone River Compact, as consented to in the Act entitled "An Act granting the consent of Congress to a Compact entered into by the States of Montana, North Dakota, and Wyoming relating to the waters of the Yellowstone River", approved October 30, 1951 (65 Stat. 663).

(c) EFFECT ON RIGHTS OF OTHER TRIBES.—Nothing in this Act is intended to quantify or otherwise adversely affect the land and water rights, or claims or entitlements to land or water, of an Indian Tribe other than the Northern Cheyenne Tribe.

(d) ENVIRONMENTAL COMPLIANCE.—In implementing the Compact, the Secretary shall comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 433–4335), and the Endangered Species Act (16 U.S.C. 1531 et seq.), and other applicable environmental Acts and regulations.

(e) EXECUTION OF COMPACT.—Execution of the Compact by the Secretary as provided for in section 4 shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance during the implementation phase of this settlement.

(f) BUREAU OF RECLAMATION DESIGNATED AS THE LEAD AGENCY.—With respect to the Tongue River Dam Project and uses of the Tribe's Big Horn Reservoir storage allocation, the Bureau of Reclamation is designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable environmental laws.

(g) BUREAU OF INDIAN AFFAIRS DESIGNATED AS THE LEAD AGENCY.—With respect to all other provisions of the Compact, the Bureau of Indian Affairs is designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable environmental laws.

SEC. 12. APPLICATION OF PROVISIONS REGARDING ALLOCATION OF WATER RESOURCES.

(a) FINDING.—Congress finds that the allocation of water resources to the Tribe under this Act is uniquely suited to the geographic, social, and economic characteristics of the area and situation involved.

(b) APPLICATION.—The provisions of this Act regarding the allocation of water resources to the Tribe shall not be construed to be applied to nor be precedent for any other Indian water right claims.

SEC. 13. EFFECTIVE DATE OF SETTLEMENT.

The settlement contained in this Act shall not become effective if a tribal referendum on the settlement is requested pursuant to the Northern Cheyenne Constitution within 60 days following the date of enactment of this Act, and the settlement fails to be approved in such referendum held within 120 days following the date of enactment of this Act. If the settlement does not become effective pursuant to this section, the United States (including the Secretary and all other officers), the State of Montana, and the Tribe are relieved of all rights, entitlements, duties, responsibilities and authorities conferred, imposed or created by this Act. If a referendum is not requested within such 60-day period, the settlement shall take effect upon the date next following the expiration of such 60-day period. If a referendum is requested within such 60-day period, and the settlement is approved in a referendum held within 120 days following the date of enactment of this Act, the settlement shall take effect on the date next following the date of such approval.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Montana [Mr. WILLIAMS] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Montana [Mr. WILLIAMS].

□ 1850

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1607, the Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992. This legislation comes before the House after many months of negotiation, drafting, amendments, and renegotiation of final language before leaving the Senate and the House Interior Committee.

In the House I introduced a similar bill to provide for modification of the Tongue River Dam, to protect the contract water rights, settle water rights claims and begin to correct the dam safety problems. The product of this effort is this bill which is supported by the Northern Cheyenne Tribe, the Montana Governors office, the State of Montana Department of Natural Resources and Conservation, the Tongue River Water Users Association, the White House, and the entire Montana Congressional Association.

This water rights settlement is the product of painstaking discussions of more than a decade. Enacting it will pave the way for the State and the tribe to improve both irrigation and flood control, and expand recreation on the Tongue River and Reservoir.

Congress needs to address the Federal trust responsibility to the Northern Cheyenne Tribe as well as allowing the long-awaited work to start on the repairs and expansion of the dam.

In closing, I add that we continue to protect tribal sovereignty with the provision in this legislation that allows for the Northern Cheyenne Tribe to call for a referendum on the final agreement, when the new tribal business council takes office this week.

I would urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in full support of S. 1607, the Northern Cheyenne Indian Reserved Water Rights Settlement Act. The gentleman from Montana [Mr. WILLIAMS] has adequately discussed the provisions of the bill, and I have nothing to add to that explanation.

I would add, though, having been involved in the negotiation and legislation of several Indian water rights claims for my home State of Arizona, I know both how important something like this is to the State and to the citizens of the State and also how very, very difficult it is to negotiate such a settlement and to get it to this point where we can act on it in legislation.

So, I would like to add my congratulations to all interested parties in Montana, and especially to the Montana congressional delegation. I am pleased to support this fair, equitable, and final settlement of all claims to Federal reserved water rights of the tribe, and I urge my colleagues to do the same.

Mr. MARLENEE. Mr. Speaker, I rise in support of S. 1607, The Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992. This bill will authorize Federal funds in an amount of $56.6 million to repair and enlarge the Tongue River Dam in southeastern Montana and settle a longstanding water rights claim for the Northern Cheyenne Tribe.

The rehabilitation of this dam is the number one priority water project in Montana of Gov. Stan Stevens. This dam has been a threat to the residents living along the Tongue River, including the Northern Cheyenne Reservation, and the community of Miles City since State engineers found it unsafe as early as 1976. Additionally, the Corps of Engineers, and the Bureau of Reclamation have identified the dam as structurally in need of repair. Every spring we pray and put our finger in the dam to hold it together. The dam has been at the point of massive breach a couple of times, and conservative estimates indicate that should a breach happen there would be major loss of life and a tremendous financial disaster wrought upon the citizens in the area. The bottom line is that this dam is in danger of collapse. Additionally, this bill is a significant step forward for both the Northern Cheyenne and the Crow Tribes that occupy adjoining reservation lands in southeastern Montana. This bill allows for the settlement of Federal water rights claims for the Northern Cheyenne by raising the dam some 4 feet and using the additional water to satisfy that claim. I want to specifically acknowledge the leadership exhibited by President Edwin Dahle of the Northern Cheyenne Tribe and Madame Chairman Clara Nomee, of the Crow Tribe in the settlement between these two tribes of this water compact, and the benefits it will provide for all Montanans. The State of Montana will contribute $21.8 million toward this project and the Federal Government will contribute $56.6 million to pay for dam repair and enlargement.

Additionally, I want to add the following clarifying statement on this bill, whereas, all of the parties to this settlement understand and agree that, except for $1.4 million in planning and design funds, Federal appropriations to implement this Act should be contingent on the Montana water court's entry and approval of a water rights decree. This means that until the decree is approved, the administration will not request appropriations to the Northern Cheyenne Fund, nor will the Congress add funds for the following: First, work on Tongue River Dam, second, disposition by the Northern Cheyenne Tribe, and third, fish and wildlife enhancement.

I join with the rest of the Montana delegation in urging its passage.

Mr. MILLER of California. Mr. Speaker, S. 1607, the Northern Cheyenne Indian Reserved Water Rights Settlement Act approves and ratifies the water rights compact between the Northern Cheyenne Indian Tribe and the State of Montana.

The act authorizes the repair and enlargement of the Tongue River Dam in order to correct very serious safety problems with the dam. The Army Corps of Engineers has classified this dam as an unsafe, high hazard structure. In addition, the dam will be enlarged to increase the storage capacity to accommodate 20,000 acre-feet of stored water for the benefit of the Northern Cheyenne Tribe.

The act would recognize the Northern Cheyenne Tribe's water right of 81,330 acre-feet as quantified in the compact. The tribal water right would come from a variety of sources including the Tongue River, the Big Horn Reservoir, and Rosebud Creek.

In addition, the act provides for the establishment of a trust fund for the Northern Cheyenne Indian tribe which is funded at $21.5 million. The act also authorizes $31.5 million for the enlargement and repair of the Tongue River Dam project. Finally, it authorizes $3.6 million for fish and wildlife enhancement on the Tongue River Dam project. The State of Montana will contribute $20.7 million for the repair and enlargement of the Tongue River Dam project and $1.1 million for fish and wildlife enhancement.

Mr. Speaker, this legislation will provide a fair and equitable settlement to the longstanding water rights claims of the Northern Cheyenne and I urge my colleagues to support this very important legislation.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. WILLIAMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on S. 1607, the legislation presently under consideration.

The SPEAKER pro tempore (Mr. SANGMEISTER). Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. WILLIAMS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Montana [Mr. WILLIAMS] that the House suspend the rules and pass the Senate bill, S. 1607.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

CONSENTING TO CERTAIN AMENDMENTS TO THE HAWAIIAN HOMES COMMISSION ACT

Mr. ABERCROMBIE. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 23) to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.

The Clerk read as follows:

S.J. RES. 23

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, as required by section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4), the United States hereby consents to the following amendments to the Hawaiian Homes Commission Act, 1920, as amended, adopted by the State of Hawaii in the manner required for State legislation:

Act 16 of Session Laws of Hawaii, 1986;
Act 85 of Session Laws of Hawaii, 1986;
Act 249 of Session Laws of Hawaii, 1986;
Act 36 of Session Laws of Hawaii, 1987;
Act 28 of Session Laws of Hawaii, 1989;
Act 265 of Session Laws of Hawaii, 1989;
Act 14 of Session Laws of Hawaii, 1990;

Act 24 of Session Laws of Hawaii, 1990;
Act 150 of Session Laws of Hawaii, 1990; and
Act 305 of Session Laws of Hawaii, 1990.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Hawaii [Mr. ABERCROMBIE] will be recognized for 20 minutes, and the gentleman from Arizona [Mr. RHODES] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Hawaii [Mr. ABERCROMBIE].

GENERAL LEAVE

Mr. ABERCROMBIE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Joint Resolution 23, the Senate joint resolution presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Hawaii?

There was no objection.

Mr. ABERCROMBIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on November 25, 1991, I introduced companion legislation to Senate Joint Resolutions 23 through 34 to provide the consent of the United States to certain amendments to the Hawaiian Homes Commission Act, 1920, as amended. These amendments were made in 1986, 1987, 1989, and 1990 through the enactment of laws by the State of Hawaii.

My legislation, House Joint Resolution 383, as passed unanimously by the House Interior and Insular Affairs Committee, of which I am a member, is identical to Senate Joint Resolution 23, the legislation which is before us for consideration today.

On July 9, 1921, the U.S. Congress enacted the Hawaiian Homes Commission Act. Thus began the role of the Federal Government on behalf of native Hawaiians. The Hawaiian Homes Commission Act was enacted to address the decline in native Hawaiian population and afforded recognition of a Federal obligation to alleviate the hardships imposed on native Hawaiians as a consequence of the overthrow of the Hawaiian Kingdom.

In 1959, Hawaii became a State. At this time the Department of Hawaiian Home Lands was established and administration of the act was transferred to the State. However, this transfer was with the understanding that the Federal Government was to continue to maintain certain oversight responsibilities. Among these oversight responsibilities is granting consent to State laws which amend the Hawaiian Homes Commission Act.

Unfortunately, although these amendments were introduced during the 101st Congress and passed by the Senate, the House of Representatives did not have the opportunity to act before Congress adjourned. I am grateful for the House's consideration today.

I can assure you the amendments included in Senate Joint Resolution 23 are all administrative in nature or increase benefits to lessees. None would diminish benefits or change the qualifications of lessees.

Enactment of this legislation will provide a Federal endorsement to the Hawaiian Homes Program in its efforts to accomplish its goal of providing shelter, sustenance, and dignity to native Hawaiians. Its aim is to provide Hawaiians an opportunity to chart their own course and decide their own fate.

Mr. Speaker, I thank the gentleman for this time to offer my comments and would like to submit a statement to be included in the RECORD from my Pacific colleague, Representative ENI FALEOMAVAEGA, in support of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in full support of Senate Joint Resolution 23. The gentleman from Hawaii [Mr. ABERCROMBIE] has adequately explained the provisions of the resolution, and I have nothing to add to that statement.

Since there were no hearings prior to the mark-up of this legislation, however, I would like to include in the RECORD for the edification of my colleagues a portion of an article from the American Indian Law Review outlining the development of the Hawaiian Homes Commission Act and the continuing trust responsibilities of the United States under that act.

[From Vol. 14, the American Indian Law Review 1, 24–37 (1989)]

(* * *)

AN ARGUMENT FOR INDIAN STATUS FOR NATIVE HAWAIIANS—THE DISCOVERY OF A LOST TRIBE

(By Richard H. Houghton III)

Hawaiian Trust Lands: Ola ka lawai'a i kahi po'o manu.[173]

(* * *)

The basis of the Hawaiian civilization was a complex system of land tenure[174] similar to the feudal system prevalent in Europe during the Middle Ages.[175] This system was based on land divisions of the major Hawaiian Islands,[176] each of which contained one or more large constituent geographic divisions called moku'aina.[177] Each moku'aina was divided into large tracts of between 100 to 100,000 acres called ahupua'a.[178] The boundaries of the ahupua'a generally followed natural land contours from a point on the summit of an island mountain down to the ocean[179] to form a wedge-shaped tract that included forest, agricultural, and coastal fishing lands.[180] As a result, the majority of ahupua'a were economically self-sufficient. Most ahupua'a were divided into smaller units called 'ili and 'ili kupono,[181] which in turn were subdivided into individual plots farmed by the general population, or maka'ainana.

A hierarchical social system paralleled this pattern of land division. Although the maka'ainana lived on their own plots of land, there was no concept of fee simple absolute ownership.[182] Rather, all the lands in a particular moku'aina belonged solely to the high chief, the ali'i 'ai moku,[183] who assigned the ahupua'a within his territory to his most important subchiefs or ali'i 'ai ahupua'a.[184] These ali'i passed on the process of infeudation and parceled out the smaller 'ili to lower-ranking chiefs called konohiki,[185] who were responsible for land administration and general government.[186] In return for these land grants, each societal level supplied goods or services to the level immediately superior to it. In sum, the government and landholdings were inextricably woven into the Native Hawaiian social fabric and formed the stylobate for the entire culture.

This system of feudal land tenure remained basically unchanged even when the first Hawaiian king, Kamehameha I (the Great), united all the islands into a single kingdom between 1794 and 1805.[187] After his conquests, Kamehameha became the ali'i 'ai moku of the entire island chain and thus exercised supreme authority, as sole owner[188] and government, over all the lands of the kingdom.[189] All Hawaiians held their lands at the King's pleasure; there were no inheritance rights and non-Hawaiians were excluded from holding land.[190]

Change eventually came, however, under pressure from Western influence after Kamehameha's death in 1819. Because of Hawaii's geographic position, it was becoming a principal trading center in the pacific basin and a large number of whites settled on the Islands. The results closely paralleled those of Western contact with the Indians on the mainland.[191] Increased settlement by whites caused the economy to change rapidly from one based on agriculture to one dependent on trade, and as the economy changed traditional Hawaiian culture changed with it. Under pressure from white settlers who wished to own land in fee simple, the King promulgated the Constitution of 1840 declaring that the land belonged collectively to the ali'i, and to the people, under the monarch's control.[192] Consequently, as whites began to acquire land under the new system, the traditional system began to collapse. Native population levels fell drastically and native land ownership fell with them.[193] In short, white settlement in areas populated by the native people had the same deleterious effects in Hawaii as on the mainland.[194]

These effects continued to intensify as more whites settled in the kingdom. Pressure from the growing number of westerners to make land available for development mounted on the government, and the result was the Great Mahele, the Great Division, of 1848.[194] In response to Western demands, King Kamehameha III divided the Hawaiian lands into private crown lands and government lands, the latter to be divided between the ali'i and the maka'ainana, thereby reaffirming the latter's collective right to the land.[196] More than eight thousand Native Hawaiian commoners received small plots of land, called kuleana, within the ahupua'a in which they lived.[197] Legislation enacted immediately after the last mahele between the King and the ali'i allowed each native tenant or hoa'aina to apply for this own kuleana.[198] However, these land grants proved largely ineffective for several reasons. First, the act limited the land available for kuleana grants because it only allowed the hoa'aina to apply for a grant of land that they had actually cultivated[199] plus a small house lot of not less than a quarter of an acre.[200] Second, a hoa'aina had to prove his claim before a Land Commission and pay the survey

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Footnotes at end of article.

costs.[201] However, many hoa'aina were too poor to pay for he survey,[202] or lacked the sophistication necessary to prove their claims. Third, many hoa'aina refrained from applying for kuleana because they feared reprisals by their ali'i or by land agents.[203] Finally, a later act of the legislature barred all hoa'aina claims not proven by 1985.[204] As a result, the majority of the Native Hawaiian people was separated from the land.[205] In addition, like the Indians on the mainland during the allotment period, many of those Native Hawaiians who were given land grants soon lost or sold the land because of their lack of understanding of a new and foreign land system or because of a need for money.[206] The increasing demands of white settlers thus brought about the swift destruction of the traditional Native Hawaiian land system, and by 1852 thousands of acres of land were owned by a few whites while Native Hawaiians owned only a tiny fraction.[207] By 1896 Native Hawaiians, like mainland Indians, had become a landless minority in their own country."

Furthermore, having asserted economic dominance over the kingdom by the late 1880s, the westerners turned to establish complete political control as well.[209] The principal white landowners founded the "Hawaiian League" in 1887 to increase their power at the expense of the monarchy.[210] In consequence, the whites staged a coup d'etat on July 6, 1887, and forced the king to promulgate a new constitution, the "Bayonet Constitution" of 1887, supplanting the power of the King with that of the white landowners.[211] Nevertheless, the whites were dissatisfied with limited power and in 1893, with the help of the United States, they overthrew the Hawaiian government and replaced it with their own.[212] The Republic of Hawaii was founded soon thereafter, and among its first official acts was the expropriation[213] of all crown lands without compensation to the Queen, Lili'uokalani.[214] The lands were immediately made available to westerners for purchase.

When Congress annexed Hawaii in 1898, the United States, without paying any compensation, took title to the crown and government lands expropriated from the Native Hawaiian people by the Republic.[215] In denying compensation to Queen Lili'uokalani or the Hawaiian people for the crown lands taken by the United States, the United States Court of Claims nevertheless recognized that Native Hawaiians had a collective right in the lands.[226] On July 9, 1921, Congress acknowledged an obligation to the indigenous people of Hawaii and their descendants by enacting the Hawaiian Homes Commission Act.[217] The Act established a land trust for the use and benefit of Native Hawaiians of about 200,000 out of the 2 million acres of public lands taken from the Native Hawaiian people.[218] The purpose of the trust, as proposed by the territorial legislature to Congress, was twofold: to recognize that the lands once belonging to the Kingdom of Hawai'i and now possessed by the United States were impressed with a trust relationship and belonged to the Native Hawaiian people,[219] and to provide an economic base for the improvement of the social and economic situation of that people.[220] Similarly, Congress was animated to restore some of Hawaii's lands to the Native Hawaiian people because "the Hawaiians were deprived of their lands without any say on their part."[221] In fact, the chairman of the House Committee on Territories noted that the motivating factor behind the legislation was identical to that behind similar land trust legislation relating to the mainland Indian tribes "[b]ecause we came to this country and took their land away from them . . . [a]nd if we can afford to [provide land trusts] for the Indians . . . why can we not do the same for the Hawaiians?"[222] In short, as with legislation dealing with other aboriginal groups on the mainland recognized by Congress, the Hawaiian Homes Commission Act set aside in collective trust a portion of the aboriginal lands acquired by the United States,[223] with the idea of providing for the protection and rehabilitation of Native Hawaiians who, like the Indians on the mainland, had their lands taken from them by white settlers and eventually the United States government.[224]

From 1921 to 1959 the land trust established by the Hawaiian Homes Commission Act was administered by the federal government. But when Hawaii was admitted to the Union, title to and administration of the trust was transferred to the state under section 5 of the Hawaii Admission Act[225] as a condition of statehood[226] and adopted as state law.[227] In accordance with this transfer, section 5 of the Admission Act provided that:

(b) the United States grants to the State of Hawaii, effective upon its admission into the Union, the United States' title . . . to all lands defined as "available lands" by section 203 of the Hawaii Homes Commission Act, 1920, as amended . . . (f) [t]he lands granted to the State of Hawaii by subsection (b) of this section . . . together with the proceeds from the sale or other disposition of any such lands, shall be held by said State as a public trust.[228]

The state in turn delegated its responsibility to the newly created Department of Hawaiian Home Lands, which was charged with administering the trust.[229] The functioning of the trust shows many similarities with Indian allotment lands on the mainland:[230] Native Hawaiians lease homesteads, highly restricted in their alienability, for periods of ninety-nine years;[231] only heirs as enumerated in the Act may inherit;[232] and the land cannot be commercially mortgaged[233] or subleased.[234]

Despite the transfer of the management of the trust to the state of Hawaii, the United States, as trustee and original settler of the trust, retained three powerful supervisory and enforcement controls to ensure the proper implementation of the trust.[235] First, if the Homelands Department concludes that lands not a part of the trust would better fulfill the Homes Commission Act's mandate, the Department can exchange those lands for others of equal value, but only with the approval of the U.S. Secretary of the Interior.[236] The Department of the Interior, the department charged with overseeing the government's relations with the Indian tribes, defines the relationship of the federal government to the trust as "[m]ore than merely ministerial . . . the United States can be said to have retained a role as trustee under the act while making the State the instrument for carrying out the trust."[237] Second, the federal government retains enforcement power over the trust.[238] The United States Department of Justice has stated that this power gives it "exclusive litigation authority if suit were brought by the United States to enforce the trust."[239] Finally, the Congress has reserved the right to review and approve all substantive changes in the Act.[240]

A trust relationship between the United States and Native Hawaiians, similar to that of the United States and the mainland Indians, survived the transfer to the state of Hawaii of the management of the corpus of the trust. A trust relationship between the United States and an Indian tribe retains full force until Congress expressly repudiates it by contrary legislation,[241] a repudiation that does not exist in the case of the Hawaiian Home Lands Trust. The United States has never sufficiently manifested withdrawal of its protection so as to sever completely the trust relationship.[242] On the contrary, in retaining supervisory powers Congress has evinced an intent to continue that relationship. Similarly, the United States has not severed its trust relationship with some mainland tribes simply by having delegated a portion of its trust responsibilities to the states.[243] Thus, although the state of Hawaii has assumed the administration of the land trust, this assumption of responsibility for the Native Hawaiians' welfare is insufficient to abrogate the federal trusteeship.[244]

Despite the dual responsibilities exercised over the trust by both the state of Hawaii and the federal government, more than sixty years after its inception the Hawaiian Homes program is a disappointing failure. Fewer than 15 percent of all Native Hawaiians have received homesteads under the program,[245] while some eight thousand applicants wait, some as long as thirty years,[246] to be awarded lands.[247] Out of the 200,000 acres of land originally set aside by Congress under the Act, only 27,000 acres have been distributed.[248] About 17,000 acres have been inexplicably lost,[249] and more than 16,000 acres have been withdrawn illegally by the state in contravention of the Act.[250] In fact, the state of Hawaii has neglected most of its responsibilities under the Act, and the state's actions have flown in the face of the state motto.[251] For example, the state of numerous occasions has exchanged trust lands for nontrust lands without first obtaining the permission of the Secretary of the Interior as required by law.[252] In addition, the state has diverted funds from the trust lands to pay for expenses unrelated to the trust[253] and leased lands to non-Hawaiians for extremely low rental fees.[254] In the face of these branches of trust on the part of the state, Native Hawaiians have brought numerous suits to enforce the provisions of the Act,[255] but have been unable to ameliorate the situation. The Hawaiian Home Lands Trust has thus been ineffective in returning Native Hawaiians to the lands set aside for the Congress.

Despite this failure, some Native Hawaiians live in distinctively native communities throughout the state.[256] The existence of these communities is important because some authorities require a showing that an aboriginal group inhabits distinct communities as part of the test used to establish tribal status.[257] Most live on the island of O'ahu[258] in towns such as Wai'anae populated primarily by Native Hawaiians.[259] Similar distinctive comunities also exist on other islands. For example, the Ke'anae Peninisula on the north coast of Maui is populated almost entirely by Native Hawaiians who maintain large traditional taro patches.[260] The most distinctively native community in Hawaii is the island of Hi'ihau, where all but a handful of the inhabitants are Native Hawaiians and where Hawaiian is still spoken as a daily language.[261]

FOOTNOTES

[173] Unlucky fishermen can still eat the head of their bait. Hawaiian proverb. This is a way of saying that one has not had good results.

[174] For a detailed discussion of this land tenure system, see E. Handy, supra note 68, at 81–93 (1965); J. Hobbs, supra note 72; Levy, supra note 72, at 848; M. Kelly, "Changes in Land Tenure in Hawaii, 1778–1850" (June, 1956) (unpublished thesis in the Univer-

sity of Hawaii Library). For an explanation of Hawaiian land and property terms, see Territory v. Bishop Tr. Co., 41 Haw. 358, 361–62 (1956).

[175] J. Jobbs, supra note 72, at 1; 1 R. Kuykendall, Hawaiian Kingdom, supra note 69, at 3.

[176] Hawai'i, Maui, Lana'i, Moloka'i, O'ahu, Kaua'i, and Ni'ihau. This does not include the island of Kahoolawe, which was seldom populated except by an occasional fishing party, or the smaller islands of the chain, such as Kaula or Molokini, which were uninhabited.

[177] J. Chinen, The Great Mahele: Hawaii's Land Division of 1848, at 3 (1958). See also L. Cannelora, The Origin of Hawaiian Land Title and the Rights of Native Tenants (1974) (available from the Security Title Corp., 1001 Bishop Street, Suite 1200, Honolulu, Hawaii).

[178] J. Chinen, supra note 177, at 1–3.

[179] Breach of Trust, supra note 7, at 3. For a description of the boundaries of the ahupua'a, see In re Boundaries of Pulehunui, 4 Haw. 29, 240–44 (1879).

[180] See Kalipi v. Hawaiian Tr. Co., 66 Haw. 1, 656 P. 2d 745, 749 (1982) (citing Boundaries of Pulehunui, 4 Haw. at 241). See also Palama v. Sheehan, 50 Haw. 298, 440 P. 2d 95 (1968).

[181] For a description of the differences between the ahupua'a, 'ili, and 'ili kupono, see Harris v. Carter, 6 Haw. 195, 206–07 (1877), where the Hawaii Supreme Court stated:

> [E]rroneous opinions have sometimes prevailed as to what are "Ahupuaas" and "Ilis." An Ahupuaa has been called the "unit" of land in this country; but is by no means a measure of area, for Ahupuaas vary exceedingly as to size. Many Ahupuaas are divided into Ilis; other Ahupuaas have no Ilis in them. . . . There are two kinds of Ilis. One, the Ili of the Ahupuaa, [is] a mere subdivision of the Ahupuaa for the mere convenience of the chief holding the Ahupuaa. . . . The other class were the "Ili Kupono." . . . These were independent of the Ahupuaa [and the chief of the ili kupono was independent of the chief of the ahupuaa].

[182] Levy, supra note 72, at 849; 1982 Handbook, supra note 2, at 798; Brief for the Queen Liliuokalani Tr., King Lunalilo Tr., Alu Like, Inc., & Association of Hawaiian Civic Clubs as Amici Curiae at 8, Hawaiian Housing Auth. V. Midkiff, 467 U.S. 229 (1984) (No. 83–141) [hereinafter Brief of Queen Liliuokalani Tr. as Amicus Curiae].

[183] Breach of Trust, supra note 7, at 3.

[184] Brief of the Office of Hawaiian Affairs as Amicus Curiae at 2–5, Hawaiian Housing Auth. v. Midkiff, 467 U.S. 229 (1984) (No. 83–141).

[185] E. Handy, supra note 68, at 38. See Brief of Hou Hawaiians as Amicus Curiae, supra note 72, at 6–7.

[186] E. Handy, supra note 68, at 38. See Brief of Hou Hawaiians as Amicus Curiae, supra note 72, at 6–7. Unlike the European serft, however, Native Hawaiians were not bound to the land or any particular chief, but were free to move. Dep't of Budget and Finance, State of Hawaii, Land and Water Resource Management in Hawaii 148 (1979) (Jon Van Dyke, team leader) [hereinafter Land Management].

[187] Id. at 7. For a description of the unification of the Islands, see R. Kuykendall, Hawaiian Kingdom, supra note 69, at 29–60; R. Tregaskis, The Warrior King: Hawaii's Kamehameha the Great (1973).

[188] But see United States v. Fullard-Leo, 331 U.S. 256, 266–69 (1947); Liliuokalani v. United States, 45 Ct. Cl. 418, 425 (1910). These mainland cases suggest that the Hawaiian kings did not own the land but held it in trust for the people. While this may have been the view later in the monarchy, see infra note 197 and accompanying text, cases from the Supreme Court of Hawaii suggest a different view under the first Kamehameha. See, e.g., Hawaiian Comm'l & Sugar Co. v. Wailuku Sugar Co., 15 Haw. 675, 680 (1904) ("the King was the sole owner . . . of the land and could do with [it] as he pleased").

[189] Brief of Hou Hawaiians as Amici Curiae, supra note 72, at 7.

[190] Id. at 7–8. As one voyager stated in 1818: "Europeans are not allowed to own land. They receive it on condition that after death it shall be returned to the king, and during their life time it is not transferable from one to another." 1 R. Kuykendall, Hawaiian Kingdom, supra note 69, at 60.

[191] 1982 Handbook, supra note 2, at 799.

[192] Land, although "owned" by the king, in theory belonged to the ali'i and the people under them. The preamble stated: "Kamehameha I, was the founder of the Kingdom, and to him belonged all the land . . . though it was not his own private property. It belonged to the chiefs, and the people in common, of whom Kamehameha I was the head, and had the management of the landed property," Haw. Const. of 1840, preamble, reprinted in Translation of the Constitution and Laws of the Hawaiian Islands Established in the Reign of Kamehameha III, at 11–13 (1842) [hereinafter Translation]; The Fundamental Law of Hawaii 3 (L. Thurston ed 1904) [hereinafter L. Thurston].

[193] The following table illustrates the alarmingly rapid drop in the Native Hawaiian population: Year and population: 1778, 300,000; 1832, 130,313; 1853, 71,019; 1860, 67,084; 1866, 58,765; 1872, 51,531; 1890, 40,622—R. Kuykendall, Hawaii: A History, supra note 67, at 298.

[194] Compare the effects of the allotment period on the mainland tribes. See generally, D. Otis, The Dawes Act and Allotment of Indian Lands (1973).

[195] Rules Adopted by Privy Council, Dec. 18, 1847, §4, 4 Privy Council Record 1 (1847). See P. Vitorsek, J. Reiley & R. Rediske, Principles and Practices of Hawaiian Real Estate 1 (8th ed. 1981). "The term mahele means to divide or apportion . . . [T]he Great Mahele of 1848 . . . accomplished the division of the undivided interest in land between the King on one hand and the chiefs and konohikis on the other." McBryde Sugar Co. v. Robinson, 54 Haw. 174, 182 n.5, 504 P.2d 1330, 1336 n.5, (McBryde I), aff'd on reh., 55 Haw. 260, 517 P.2d 26 (1973), appeal dismissed and cert. denied, 417 U.S. 962, and cert. denied, 417 U.S. 976 (1974). For a detailed description of the Great Mahele, see J. Chinen, supra note 177.

[196] Breach of Trust, supra note 7, at 3 n.1; Harris, 6 Haw. at 198, 200–01. The King received 984,000 acres, the ali'i 1 million acres, and the commoners 28,000. Id. at 4; Note, Midkiff v. Tom: The Constitutionality of Hawaii's Land Reform Act, 6 U. Haw. L. Rev. 561, 563 (1984).

[197] The Bishop Museum in Honolulu has determined the number to be 8,205. Levy, supra note 72, at 856 n.52.

[198] Act of Aug. 6, 1850, §1, [1850] Haw. Laws 202, reprinted in 2 Revised Laws of Hawaii 1925, at 2141; 1 R. Kuykendall, Hawaiian Kingdom, supra note 69, at 291–94.

[199] Act of Dec. 21, 1849, §6, [1850] Haw. Laws 202, reprinted in 2 Revised Laws of Hawaii 1925, 2142.

[200] Id.; Levy, supra note 72, at 853.

[201] Act of Dec. 10, 1845, ch. 7, §1, 2 [1847] Haw. Laws 107, reprinted in 2 Revised Laws of Hawaii 1925, at 2120. The Commission was charged with "the investigation and final ascertainment or rejection of all claims of private individuals, whether native or foreigners, to any landed property." Id.; Levy, supra note 72, at 853.

[202] The survey costs averaged less than $20. Brief of Hou Hawaiians as Amici Curiae, supra note 72, at 14.

[203] Levy, supra note 72, at 856 (citing T. Morgan, Hawaii—A Century Of Economic Charge 1778–1876, at 137 (1948)).

[204] Act Relating to the Board of Commissioners to Quiet Land Titles, [1853] Haw. Laws 26, reprinted in 2 Revised Laws of Hawaii 1925, at 2145.

[205] Levy, supra not 72, at 856.

[206] See, e.g., Kanakanui v. Leslie, 7 Haw. 223 (199). Compare the effects on mainland Indians of the General Allotment Act, ch. 119, 24 Stat. 388 (1887) (codified in scattered sections of 25 U.S.C. (1982)). See D. Otis, supra note 194. Traditionally, the Native Hawaiians believed that no human could own land permanently. Like the mainland Indians, they believed that it belonged to the gods; the people were merely trustees who administered the land for the gods and the good of the community and could not sell or misuse it. Brief of Queen Liliuokalani Tr. as Amicus Curiae, supra note 182, at 8–9; Beach of Trust, supra note 7, at 4.

[207] See Levy, supra note 72, at 860 n.80. By 1897, the white 9 percent of the population owned 67 percent of the taxable land; Hawaiians and part-Hawaiians, only 24 percent. A. Lind, An Island Community 57 (1938). In 1881, Native Americans owned more that 156 million acres of land. By 1934, they owned only 30 percent of that amount. F. Cohen, Handbook of Federal Indian Law 137–38 (Michie Co. ed. 1972); A. Josephy, The Indian Heritage of America 350–51 (1968) (Indians owned 138 million acres in 1887, which had fallen to 90 million acres by 1932).

[208] Report to the Joint Comm. on Hawaii, S. Doc. No. 151, 75th Cong., 3d Sess. 83 (1938); 1982 Handbook, supra note 2, at 800. Hawaiians and part-Hawaiians constituted a little under 35 percent of the population. A. Lind, Hawaii's People 27 (1967).

[209] See generally S. Stern, American Expansion in Hawaii 1842–1898 (1945).

[210] 3 R. Kuykendall, Hawaiian Kingdom, supra note 69, at 347–49.

[211] Compare Haw. Const. of 1864, art. XLV, reprinted in L. Thurston, supra note 192, at 174 (the upper legislature of the Hawaiian parliament was chosen by the king from .the Hawaiian ali'i class) with Haw. Const. of 1887 art. LIX, reprinted in L. Thurston, supra, at 88–89 (the upper legislature was chosen by taxpayers, many of whom were white, from a field of candidates limited to wealthy landowners, the vast majority of whom were white). The king's absolute veto power was changed to a veto which could be overridden by a two-third vote of the legislature. Haw. Const. of 1887, reprinted in R. Lydecker, Roster Legislature of Hawaii 1841–1918, at the 159 (1918). The overall voting power of Native Hawaiians was also reduced. Under the requirements of the new constitution, only one-fourth of the native population was eligible to vote. G. Daws, Atlas of Hawaii 26–27 (1970).

[212] See supra notes 129–132 and accompanying text.

[213] See Haw. Const. of 1894, art. XCV, [1895] Haw. Laws 118, reprinted in L. Thurston, supra note 192, at 237.

[214] See Liliuokalani, 45 Ct. Cl. 418.

[215] H.J. Res. 55, supra note 134, at §1; Liliuokalani, 45 Ct. at 436, 1982 Handbook, supra note 2, at 801, 804; Levy, supra note 72, at 863, See note, Hawaii's Ceded Lands, 3 U. Haw. L. Rev. 101 (1981).

[216] Liliuokalani, 45 Ct. Cl. at 428: The crown lands were the resourceful methods of income to sustain, in part at least, the dignity of the office to which they were were inseparably attached. When the office ceased to exist they became as other lands of the Sovereignty and passed to the defendants as part and parcel of the public domain.

[217] HHCA, supra note 140, at §1. For a detailed discussion of both the land and the legal aspects of the program, see generally H. Doi, supra note 145; Legislation Research Bureau, State of Hawaii, Land Aspects of the Hawaiian Homes Program (1964) (Report No. 1b) (A. Spitz, author).

[218] The Act defines a Native Hawaiian as a person of 50 percent or more of "the blood of the races inhabiting the Hawaiian Island previous to 1778." HHCA, supra note 1401, at §201(a)(7). On April 11, 1986, the House passed H.J. Res. 17 which, if passed by the Senate, would lower the blood quantum requirements for homestead eligibility to 25 percent for the surviving spouses and children of deceased leaseholders in order to allow them to continue living on their lands until the expiration of their lease. The bill was sponsored by Congress Daniel Akaka (D–Haw.) and is opposed by many Native Hawaiians. Hawaiian Homestead Rule May change. Honolulu Advertiser. Apr. 12, 1986, at A3.

[219] Proposed Amendments to the Organic Act of the Territory of Hawaii, Hearings Before the House Comm. on the Territories, 66th Cong., 1st Sess. 32 (1920) [hereinafter Proposed Amendments—1920]. The original Organic Act was the Act of Apr. 30, 1900, ch. 339, 31 Stat. 141 (set out in full at Haw. Rev. Stat. §1–28).

[220] See Proposed Amendments—1920, supra note 219, at 26, 38. In 1951, the Attorney General of Hawaii summarized the purpose of the Act as being: "to save the Native Hawaiian race from extinction by reason of its inability to meet successfully the economic and sociological changes brought about in the Islands." Legislative Auditor, State of Hawaii, Financial Audit of the Loan Funds of the Department of Hawaiian Home Lands 1979, at 4 (citing Haw. Att'y Gen. Op., Nov. 13, 1951).

[221] Proposed Amendments—1920, supra note 219, at 70.

[222] Proposed Amendments to the Organic Act of the Territory of Hawaii, Hearings on H.R. 7257 Before the House Comm. on the Territories, 67th Cong., 1st Sess. 141 (1921) [hereinafter Proposed Amendments—1921]. It is interesting to note that despite the paternalistic rhetoric surrounding the debate on the Act, its principal proponents were the sugar cane barons who were worried about homesteaders occupying cultivated sugar fields. See generally M. Vause, "Hawaiian Homes Commission Act, 1920: History and Analysis" (June, 1962) (unpublished thesis in the University of Hawaii Library).

[223] Ahuna, 64 Haw. 327, 640 P.2d 1161. While 200,000 acres of land were set aside, most of it was arid and of marginal agricultural value. Levy, supra note 72, at 865.

[224] Compare the purpose of the Allotment Act. 1972 Handbook, supra note 207, at 132.

[225] Act of Mar. 18, 1959, Pub. L. No. 86–3, 73 Stat. 4, as amended by Act of July 12, 1960, Pub. L. No. 86–624, §41, 74 Stat. 422 (set out but not codified at 48 U.S.C. prec. §§491–724 (1982)) (set out in full at Haw. Rev. Stat. §§1–78) [hereinafter Admission Act].

[226] Admission Act, supra note 225, at §4.

[227] Haw. Const. art. XII, §1.

[228] Admission Act, supra note 225, at §5(b).

[229] Haw. Rev. Stat. §26-17 (Supp. 1984).

[230] See D. Otis, supra note 194.

[231] HHCA, supra note 140, at §208(2).

[232] Id. §209.

[233] Id. §208(5).

[234] Id. A number of transactions resembling subleases made with various pineapple companies have, however, been approved by the state. See Legal Aspects of the Hawaiian Homes Program, supra note 145, at 14–16.

[235] For a general discussion of these powers, see Federal-State Tax Force on the Hawaiian Homes Comm'n Act, Report to the United States Secretary of the Interior and the Governor of the State of Hawaii 18–24 (1983) [hereinafter Task Force Report].

[236] HHCA, supra note 140, at §204(4); Admission Act, supra note 225, at §4.

[237] Letter from Frederick N. Ferguson, Deputy Solicitor, U.S. Dep't of the Interior, to Philip Montez, Regional Director, Western Regional Office, United States Comm'n on Civil Rights (Aug. 27, 1979). Contra Keaukaha-Panaewa Community Ass'n v. Hawaiian Homes Comm'n, 588 F.2d 1216, 1224 n.7 (9th Cir. 1978), cert. denied, 444 U.S. 826 (1979). The Hawaii legislature recently considered a bill which, if passed, would allow Native Hawaiians to sue the state over the administration of the Hawaiian Homes Commission Act. See Honolulu Advertiser, Mar. 21, 1986, at A–16, col. 1.

[238] Admission Act, supra note 225, at §5(f). Section 5(f) reads: (f) such lands . . . shall be managed and disposed of [by the State] for [the betterment of Native Hawaiians] and their use for any other object shall constitute a breach of trust for which suit may be brought by the United States.

[239] Letter from James W. Moorman, Assistant Attorney General, U.S. Dep't of Justice, to Philip Montez, Regional Director, Western Regional Office, United States Comm'n on Civil Rights (Aug. 13, 1979).

[240] Admission Act, supra note 225, at §4.

[241] United States v. Celestine, 215 U.S. 278 (1909); Santa Rosa Band of Indians v. Kings County, 532 F.2d 655 (9th Cir. 1975), cert. denied, 429 U.S. 1038 (1977).

[242] Cf. Joint Tribal Council of Passamaquoddy, 528 F.2d 370.

[243] Compare Admission Act, supra note 225, §§4, 5(b) (delegation to state of power over Hawaiian home lands) with Act of Aug. 15, 1953, Pub. L. 83–280, 67 Stat. 588 (section 7 repealed and reenacted as amended, 1968) (codified as amended at 18 U.S.C. §1162, 25 U.S.C. §§1321–1326, 28 U.S.C. §§1360, 1360 note (1982) ("Public Law 280") (delegation to several states of jurisdiction over mainland Indians). For a detailed discussion of Public Law 280, see generally Goldberg, Public Law 280: The Limits of States' Jurisdiction Over Reservation Indians, 22 U.C.L.A. L. Rev. 535 (1975).

[244] See Joint Tribal Council of Passamaquoddy, 528 F.2d at 380. Accord, Eric v. Secretary of the United States Dep't of Hous. & Urban Dev., 464 F. Supp. 44 (D. Alaska 1978).

[245] [1982–1983] Department of Hawaiian Home Lands Annual Report: Brief of Hou Hawaiians as Amici Curiae, supra note 72, at 29–30 n.11.

[246] Task Force Report, supra note 235, at 26. Some applicants were on the waiting list so long that they died before their names came up.

[247] Brief of Hou Hawaiians as Amici Curiae, supra note 72, at 28–29; Task Force Report, supra note 235, at 22. See Hawaiian Homestead Rule May Change, Honolulu Advertiser, Apr. 12, 1986, at A–3.

[248] 1982 Handbook, supra note 2, at 807 n.82; Brief of Hou Hawaiians as Amici Curiae, supra note 72, at 29–30 n.11.

[249] 1982 Handbook, supra note 2, at 807 n.82; Brief of Hou Hawaiians as Amici Curiae, supra note 72, at 29–30 n.11. In its 1978 report, the Homes Commission accounted for only 190,413 of the original 200,000 acres. [1977–1978] Department of Hawaiian Home Lands Annual Report 3.

[250] Letter from James Watt, Secretary of the Dep't of the Interior, to George Ariyoshi, Governor of Hawaii, at 4 (Dec. 3, 1980) (citing United States Comm'n on Civil Rights, Opportunities for Native Hawaiians: Hawaiian Homelands 16 (1976)). Between statehood and 1978, the state of Hawaii had transferred by executive order 16,863 acres of HHCA lands to other state entities for use as airports, schools, parks, and reserves. Id. According to the Attorney General of Hawaii, the Governor's power to set aside public lands by executive order does not extend to HHCA lands and thus these transfers were illegal. Haw. Att'y Gen. Op. 75–3 (Mar. 21, 1975). Accord, HHCA, supra note 140, §212 (Act provides that land not homesteaded may only be generally let).

[251] The state motto is "Ua mau ke ea o ka 'aina i ka pono," which means "the life of the land is perpetuated in righteousness." Haw. Rev. Stat. §5-9 (Supp. 1985).

[252] Letter from James Watt, supra note 250, at 2–3; Task Force Report, supra note 235, at 22. Section 204(4) of the HHCA, supra note 140, provides in part: "The Department of Hawaiian Home Lands may, with the permission of the Governor *and* the Secretary of the Interior . . . exchange the title to available lands for land publicly owned of an equal value." (Emphasis added.) As of 1980, only five of the numerous land exchanges had been submitted to the Department of the Interior for approval, the last one on March 16, 1967. Letter from James Watt, supra note 250, at 3. In addition, 1,700 acres of trust lands that had been surrendered had not been replaced, including lands that had been surrendered as early as 1962. Keaukaha-Panaewa Community Ass'n v. Hawaiian Homes Comm'n, No. CV 75–0260 (D. Haw. Sept. 9, 1976) (Findings of Fact 32), rev'd on other grounds, 588 F.2d 1216 (9th Cir. 1978), cert. denied, 444 U.S. 826 (1979).

[253] Legislative Auditor, State of Hawaii, Final Report on the Public Land Trust, Report to the Legislature of the State of Hawaii (Dec. 1986) (Report No. 86–17); Telephone interview with Kamuela Price, Federal-State Task Force on the Hawaiian Homes Commission Act, Apr. 12, 1986.

[254] Some land was leased to the United States Department of Defense for $1 per acre, and 16,000 acres were under lease to the Hawaiian Department of Land and Natural Resources for $5 per acre per year. Brief of Hou Hawaiians as Amici Curiae, *supra* note 72, at 29. Other lands have been leased to private concerns for equally low prices: 15,620 acres on Maui for $2 per acre per year, and 33,180 acres to the Parker cattle ranch on the island of Hawaii for $3.85 per acre per year.

[255] *See, e.g.*, Price v. State, No. CV 84–2444 (D. Haw. 1984) (action to compel state to apply proceeds from trust lands to betterment of Native Hawaiians), *aff'd*, 764 F.2d 623 (9th Cir. 1985); *Keaukaha*, No. CV 75–0260 (challenging state use of trust lands for flood control project); Aki v. Beamer, No. CV 76–0144 (D. Haw. 1976) (challenging validity of executive order setting aside trust lands as a park). *See* Letter from William Clark, Secretary of the U.S. Department of the Interior, to Kamuela Price, member of the Hou Hawaiians (May 8, 1984) (discussing suit by Hou concerning the proper administration of the HHCA).

[256] This is due primarily to the fact that, as land values skyrocket as a result of resort and other development, the number of areas in which Native Hawaiians can live or afford to purchase real estate continues to dwindle. Levy, *supra* note 72, at 866.

[257] *See, e.g.*, Montoya v. United States, 180 U.S. 261, 266 (1901) ("By a tribe we understand a body of Indians . . . inhabiting a particular though sometimes ill-defined territory"); 25 C.F.R. §54.7(b) (1980) (group must inhabit "a specific area").

[258] State of Hawaii, The State of Hawaii Data Book, A Statistical Abstract 8 (1974). The number is around 70 percent. While urban Native Hawaiians are severed from the land that forms such an important part of their cultural heritage, there is evidence to show that urban Indians do not lose their cultural identity. *See* 1 American Indian Policy Review Comm'n, Final Report 434 (1977).

[259] Telephone interview with Kamuela Price, Federal-State Task Force on the Hawaiian Homes Commission Act, Apr. 25, 1986. Other towns with primarily Native Hawaiian populations on the island of O'ahu include Nanakuli, Papakaleo, and Waimanalo.

[260] Taro is a large tropical plant with broad leaves and a starchy edible rootstalk. The root is cooked and pounded into a paste called *poi*, the staple of the Native Hawaiian diet.

[261] The entire island of Ni'ihau is owned by the Robinson family and serves as a ranch. Almost all of the island's inhabitants are Native Hawaiians who work for the ranch.

Mr. Speaker, I yield back the balance of my time.

Mr. ABERCROMBIE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before yielding back the balance of my time, I would like to thank the gentleman from Arizona [Mr. RHODES]. Being thanked both by myself and the gentleman from Pennsylvania [Mr. KOSTMAYER] may be a bit too much all in one day, but I do sincerely mean it. The gentleman from Arizona in his State and, I hope, myself and the gentlewoman from Hawaii [Mrs. MINK] in our State are the inheritors, if my colleagues will, of a rich legacy. We have a particular responsibility, and I, for one, am very, very appreciative of the gentleman's willingness and, may I say, eagerness to take up such issues as affect native Hawaiians as he does affecting all native Americans, particularly those in Arizona. I express my sincerest mahalo to the gentleman in thanking him for his kind remarks.

Mrs. MINK. Mr. Speaker, I rise today in support of Senate Joint Resolution 23, legislation to provide congressional consent to 10 amendments to the Hawaiian Homes Commission Act of 1920 which were enacted by the State of Hawaii between 1986 and 1992. This legislation is similar to House Joint Resolution 383 introduced in the House by Representative NEIL ABERCROMBIE and myself.

The legislation before the House today is necessary to fulfill the Congress' obligation to provide Federal oversight of the implementation of the Hawaiian Homes Commission Act of 1920.

The Hawaiian Homes Commission Act was enacted into law on July 9, 1921. The result of the efforts of Hawaii's Congressional Delegate Prince Jonah Kuhio Kalanianaole, the Hawaiian Homes Commission Act reserved 200,000 acres of former crown lands for the use of native Hawaiians. This was the first initiative by the Federal Government to recognize its responsibility for the difficulties and hardships imposed on the native Hawaiian people because of the overthrow of the Hawaiian Kingdom in 1892; to promote the well-being and self-sufficiency of native Hawaiians; and to preserve their native culture.

When Hawaii became a State in 1959, as a condition for statehood, the State of Hawaii assumed responsibility of the native Hawaiian trust lands under the newly created Department of Hawaiian Homelands.

The Department of Hawaiian Homelands, pursuant to provision of the Hawaiian Homes Commission Act provides direct benefits to native Hawaiians in the form of 99-year homestead leases at an annual rental of $1 for residential, agricultural, or pastoral purposes.

Hawaiian homelands are located on the islands of Oahu, Kauai, Molokai, Maui, and Hawaii, with a total estimated acreage of 187,713. of that total, 32,713 acres have been placed in homestead uses for residential, agricultural, or pastoral purposes as of December 31, 1990.

Other benefits provided by the department include financial assistant through direct loans or loan guarantees for home construction, home replacement or repair; for the development of farms and ranches; and for operation of water systems.

As a part of the agreement with the State of Hawaii, the Federal Government retained certain oversight responsibilities relating to the Hawaiian Homes Commission Act, including the requirement that the Congress approve any changes made by the State to the original act.

This legislation before us today would approve 10 amendments made to the act by the Hawaii State Legislature over the last 6 years. These changes are not controversial and mostly administrative in nature.

The substantive changes to the act approved by the State of Hawaii include the creation of enterprise zones within the Hawaiian homelands to promote native Hawaiian businesses and generate income in distressed areas; a new mortgage loan program that provide lessees on Hawaiian homelands with a new source of financing for home construction; additional authority to the Department of Hawaiian Homelands to acquire additional lands; the addition of water for agricultural operations as an allowable use for which the department can obtain water.

Administrative changes to the act include measures to facilitate the management of the Department of Hawaiian Homeland's finances; revisions to the department's procedure for the payment of net proceeds upon the surrender, cancellation, or termination of a homestead lease; removal of the ceiling of $50,000 on loans and loan guarantees for repayment of loans made to lessees for the repair, maintenance, purchase and erection of a dwelling; an increase in membership of the Hawaiian Homes Commission from eight to nine seats; and authorization for the department to extend the terms of homestead leases from 99 years to 199 years.

Mr. Speaker, for many these changes may seem like trivial matters that affect only a small group of individuals within our Nation. But for the people of Hawaii, the perpetuation of the Hawaiian homelands and any measures to facilitate the settlement of these lands by the native Hawaiian people is of utmost importance.

We, in Hawaii, take very seriously our responsibility to the people who inhabited these islands for many centuries before the discovery of this unique paradise; and so should the Federal Government.

I urge my colleagues to support this legislation which will help fulfill the commitment of the Congress and the United States to protect, preserve, and promote the well-being and self-sufficiency of the native Hawaiian people.

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in support of Senate Resolution 23, a joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act of 1920.

Mr. Speaker, I speak today as a Polynesian, and as a resident of the State of Hawaii while I was a child. While I am not old enough to have witnessed the almost complete destruction of the Hawaiian culture during the last century and early part of this century, I have had the opportunity to see some of its resurgence.

From the Hawaiian residents of the Island of Ni'ihau to the bowels of Waikiki Beach hotels, the Hawaiian culture is making a comeback. Not only are native Hawaiians learning their culture, but non-Hawaiians, some transplants from the U.S. mainland, some from the Orient, and some Kama'ainas, and all expressing enough interest to spend their time, and in some cases their money, to learn the dances, folklore, history, and skills of earlier residents of the islands.

The Hawaiian Homes Commission Act of 1920 has been an important step in this resurgence, and I am pleased to lend my name to today's legislation ratifying several amendments to the original act approved by the Hawaii State Legislature between the years of 1986 and 1990.

I want to recognize and thank Senators AKAKA and INOUYE, Congressman ABERCROMBIE, and Congresswoman MINK for their efforts in support of this bill as well as House Joint Resolution 383, a substantially similar bill.

Mr. ABERCROMBIE. Mr. Speaker, I have no further requests for time, and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Hawaii [Mr. ABERCROMBIE] that the House suspend the rules and pass the Senate Joint Resolution 23.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsidered was laid on the table.

□ 1900

OLDER AMERICANS ACT AMENDMENTS OF 1992

Mr. FORD of Michigan. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the House amendment to the Senate amendment to the bill (H.R. 2967) to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a 1993 National Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal year 1992 through 1995; and for other purposes.

The Clerk read as follows:

Senate amendment to House amendment to Senate Amendment

In lieu of the matter proposed to be inserted by the House amendment to the Senate amendment to the text of the bill, insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Older Americans Act Amendments of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I—OBJECTIVES AND DEFINITIONS

Sec. 101. Objectives.
Sec. 102. Definitions.

TITLE II—ADMINISTRATION

Sec. 201. Administration on Aging.
Sec. 202. Functions of Commissioner.
Sec. 203. Federal agency consultation.
Sec. 204. Consultation with State agencies, area agencies on aging, and Native American grant recipients.
Sec. 205. Federal Council on the Aging.
Sec. 206. Nutrition officer.
Sec. 207. Evaluation.
Sec. 208. Reports.
Sec. 209. Nutrition education.
Sec. 210. Authorization of appropriations.
Sec. 211. Study of effectiveness of State long-term care ombudsman programs.
Sec. 212. Study on board and care facility quality.
Sec. 213. Study on home care quality.

TITLE III—STATE AND COMMUNITY PROGRAMS ON AGING

Sec. 301. Purpose of grants for State and community programs on aging.
Sec. 302. Definitions.
Sec. 303. Authorization of appropriations; uses of funds.
Sec. 304. Allotment; Federal share.
Sec. 305. Organization.
Sec. 306. Area plans.
Sec. 307. State plans.
Sec. 308. Planning, coordination, evaluation, and administration of State plans.
Sec. 309. Disaster relief reimbursements.
Sec. 310. Availability of surplus commodities.
Sec. 311. Rights relating to in-home services for frail older individuals.
Sec. 312. Supportive services.
Sec. 313. Congregate nutrition services.
Sec. 314. Home delivered nutrition services.
Sec. 315. Criteria.
Sec. 316. School-based meals for volunteer older individuals and multigenerational programs.
Sec. 317. Dietary guidelines; payment requirement.
Sec. 318. In-home services.
Sec. 319. Preventive health services.
Sec. 320. Supportive activities for caretakers who provide in-home services to frail older individuals.

TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

Sec. 401. Statement of purpose.
Sec. 402. Priorities for grants and discretionary projects.
Sec. 403. Purposes of education and training projects.
Sec. 404. Grants and contracts.
Sec. 405. Multidisciplinary centers of gerontology.
Sec. 406. Demonstration projects.
Sec. 407. Special projects in comprehensive long-term care.
Sec. 408. Ombudsman and advocacy demonstration projects.
Sec. 409. Demonstration projects for multigenerational activities.
Sec. 410. Supportive services in federally assisted housing demonstration program.
Sec. 411. Neighborhood senior care program.
Sec. 412. Information and assistance systems development projects.
Sec. 413. Senior transportation demonstration program grants.
Sec. 414. Resource Centers on Native American Elders.
Sec. 415. Demonstration programs for older individuals with developmental disabilities.
Sec. 416. Housing demonstration programs.
Sec. 417. Private resource enhancement projects.
Sec. 418. Career preparation for the field of aging.
Sec. 419. Pension information and counseling demonstration projects.
Sec. 420. Authorization of appropriations.
Sec. 421. Payments of grants for demonstration projects.
Sec. 422. Responsibilities of Commissioner.

TITLE V—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

Sec. 501. Older American Community Service Employment Program.
Sec. 502. Coordination.
Sec. 503. Interagency cooperation.
Sec. 504. Equitable distribution of assistance.
Sec. 505. Authorization of appropriations.
Sec. 506. Dual eligibility.
Sec. 507. Treatment of assistance provided under the Older American Community Service Employment Act.

TITLE VI—GRANTS FOR NATIVE AMERICANS
Sec. 601. Applications by tribal organizations.
Sec. 602. Distribution of funds among tribal organizations.
Sec. 603. Applications by organizations serving Native Hawaiians.
Sec. 604. Distribution of funds among organizations.
Sec. 605. Authorization of appropriations.
TITLE VII—VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES
Sec. 701. Allotments for vulnerable elder rights protection activities.
Sec. 702. Ombudsman programs.
Sec. 703. Programs for prevention of elder abuse, neglect, and exploitation.
Sec. 704. State elder rights and legal assistance development program.
Sec. 705. Outreach, counseling, and assistance programs.
Sec. 706. Native American organization provisions.
Sec. 707. General provisions.
Sec. 708. Technical and conforming amendments.
TITLE VIII—AMENDMENTS TO OTHER LAWS; RELATED MATTERS
Subtitle A—Long-Term Health Care Workers
Sec. 801. Definitions.
Sec. 802. Information requirements.
Sec. 803. Reports.
Sec. 804. Occupational code.
Subtitle B—National School Lunch Act
Sec. 811. Meals provided through adult day care centers.
Subtitle C—Native American Programs
Sec. 821. Short title.
Sec. 822. Amendments.
Subtitle D—White House Conference on Aging
Sec. 831. White House Conference on Aging.
Sec. 832. Conference required.
Sec. 833. Conference administration.
Sec. 834. Policy committee; related committees.
Sec. 835. Report of the conference.
Sec. 836. Authorization of appropriations.
Sec. 837. Savings provision.
Sec. 838. Sense of the Congress.
Sec. 839. Technical amendments.
TITLE IX—GENERAL PROVISIONS
Sec. 901. Limitation on authority to enter into contracts.
Sec. 902. Regulations.
Sec. 903. Sense of Congress.
Sec. 904. Technical amendments.
Sec. 905. Effective dates; application of amendments.

TITLE I—OBJECTIVES AND DEFINITIONS

SEC. 101. OBJECTIVES.

Section 101(4) of the Older Americans Act of 1965 (42 U.S.C. 3001(4)) is amended by inserting ", including support to family members and other persons providing voluntary care to older individuals needing long-term care services" after "homes".

SEC. 102. DEFINITIONS.

(a) IN GENERAL.—Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended by adding at the end the following:

"(13) The term 'abuse' means the willful—

"(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or

"(B) deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

"(14) The term 'Administration' means the Administration on Aging.

"(15) The term 'adult child with a disability' means a child who—

"(A) is 18 years of age or older;

"(B) is financially dependent on an older individual who is a parent of the child; and

"(C) has a disability.

"(16) The term 'aging network' means the network of—

"(A) State agencies, area agencies on aging, title VI grantees, and the Administration; and

"(B) organizations that—

"(i)(I) are providers of direct services to older individuals; or

"(II) are institutions of higher education; and

"(ii) receive funding under this Act.

"(17) The term 'area agency on aging' means an area agency on aging designated under section 305(a)(2)(A) or a State agency performing the functions of an area agency on aging under section 305(b)(5).

"(18) The term 'art therapy' means the use of art and artistic processes specifically selected and administered by an art therapist, to accomplish the restoration, maintenance, or improvement of the mental, emotional, or social functioning of an older individual.

"(19) The term 'board and care facility' means an institution regulated by a State pursuant to section 1616(e) of the Social Security Act (42 U.S.C. 1382e(e)).

"(20) The term 'caregiver' means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law.

"(21) The term 'caretaker' means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) uncompensated care to an older individual who needs supportive services.

"(22) The term 'case management service'—

"(A) means a service provided to an older individual, at the direction of the older individual or a family member of the individual—

"(i) by an individual who is trained or experienced in the case management skills that are required to deliver the services and coordination described in subparagraph (B); and

"(ii) to assess the needs, and to arrange, coordinate, and monitor an optimum package of services to meet the needs, of the older individual; and

"(B) includes services and coordination such as—

"(i) comprehensive assessment of the older individual (including the physical, psychological, and social needs of the individual);

"(ii) development and implementation of a service plan with the older individual to mobilize the formal and informal resources and services identified in the assessment to meet the needs of the older individual, including coordination of the resources and services—

"(I) with any other plans that exist for various formal services, such as hospital discharge plans; and

"(II) with the information and assistance services provided under this Act;

"(iii) coordination and monitoring of formal and informal service delivery, including coordination and monitoring to ensure that services specified in the plan are being provided;

"(iv) periodic reassessment and revision of the status of the older individual with—

"(I) the older individual; or

"(II) if necessary, a primary caregiver or family member of the older individual; and

"(v) in accordance with the wishes of the older individual, advocacy on behalf of the older individual for needed services or resources.

"(23) The term 'dance-movement therapy' means the use of psychotherapeutic movement as a process facilitated by a dance-movement therapist, to further the emotional, cognitive, or physical health of an older individual.

"(24) The term 'elder abuse' means abuse of an older individual.

"(25) The term 'elder abuse, neglect, and exploitation' means abuse, neglect, and exploitation, of an older individual.

"(26) The term 'exploitation' means the illegal or improper act or process of an individual, including a caregiver, using the resources of an older individual for monetary or personal benefit, profit, or gain.

"(27) The term 'focal point' means a facility established to encourage the maximum collocation and coordination of services for older individuals.

"(28) The term 'frail' means, with respect to an older individual in a State, that the older individual is determined to be functionally impaired because the individual—

"(A)(i) is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or

"(ii) at the option of the State, is unable to perform at least three such activities without such assistance; or

"(B) due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.

"(29) The term 'greatest economic need' means the need resulting from an income level at or below the poverty line.

"(30) The term 'greatest social need' means the need caused by noneconomic factors, which include—

"(A) physical and mental disabilities;

"(B) language barriers; and

"(C) cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that—

"(i) restricts the ability of an individual to perform normal daily tasks; or

"(ii) threatens the capacity of the individual to live independently.

"(31) The term 'information and assistance service' means a service for older individuals that—

"(A) provides the individuals with current information on opportunities and services available to the individuals within their communities, including information relating to assistive technology;

"(B) assesses the problems and capacities of the individuals;

"(C) links the individuals to the opportunities and services that are available;

"(D) to the maximum extent practicable, ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate followup procedures; and

"(E) serves the entire community of older individuals, particularly—

"(i) older individuals with greatest social need; and

"(ii) older individuals with greatest economic need.

"(32) The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(33) The term 'legal assistance'—

"(A) means legal advice and representation provided by an attorney to older individuals with economic or social needs; and

"(B) includes—

"(i) to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the direct supervision of an attorney; and

"(ii) counseling or representation by a nonlawyer where permitted by law.

"(34) The term 'long-term care facility' means—

"(A) any skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a));

"(B) any nursing facility, as defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a));

"(C) for purposes of sections 307(a)(12) and 712, a board and care facility; and

"(D) any other adult care home similar to a facility or institution described in subparagraphs (A) through (C).

"(35) The term 'multipurpose senior center' means a community facility for the organization and provision of a broad spectrum of services, which shall include provision of health (including mental health), social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.

"(36) The term 'music therapy' means the use of musical or rhythmic interventions specifically selected by a music therapist to accomplish the restoration, maintenance, or improvement of social or emotional functioning, mental processing, or physical health of an older individual.

"(37) The term 'neglect' means—

"(A) the failure to provide for oneself the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness; or

"(B) the failure of a caregiver to provide the goods or services.

"(38) The term 'older individual' means an individual who is 60 years of age or older.

"(39) The term 'physical harm' means bodily injury, impairment, or disease.

"(40) The term 'planning and service area' means an area designated by a State agency under section 305(a)(1)(E), including a single planning and service area described in section 305(b)(5)(A).

"(41) The term 'poverty line' means the official poverty line (as defined by the Office of Management and Budget, and adjusted by the Secretary in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(42) The term 'representative payee' means a person who is appointed by a governmental entity to receive, on behalf of an older individual who is unable to manage funds by reason of a physical or mental incapacity, any funds owed to such individual by such entity.

"(43) The term 'State agency' means the agency designated under section 305(a)(1).

"(44) The term 'supportive service' means a service described in section 321(a).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1)(A) Sections 102(2), 201(c)(1), 211, 301(b)(1), 402(a), and 411(b) of the Older Americans Act of 1965 (42 U.S.C. 3002(2), 3011(c)(1), 3020b, 3021(b)(1), 3030bb(a), and 3031(b)) are amended by striking "Administration on Aging" and inserting "Administration".

(B) Section 503(a) of the Older American Community Service Employment Act (42 U.S.C. 3056a(a)) is amended by striking "of the Administration on Aging".

(2) Section 201(a) of the Older Americans Act of 1965 (42 U.S.C. 3011(a)) is amended in the first sentence by striking—

(A) "(hereinafter in this Act referred to as the 'Administration')"; and

(B) "(hereinafter in this Act referred to as the 'Commissioner')".

(3) Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022) is amended—

(A) by striking paragraphs (2) through (6), (9), (11), and (14) through (21); and

(B) by redesignating paragraphs (7) and (8) as paragraphs (2) and (3).

(4) Paragraphs (2)(A) and (4) of section 306(a) and sections 307(a)(9), 422(c)(3), 614(a)(6), and 624(a)(7) (42 U.S.C. 3026(a)(2)(A) and (4), 3027(a)(9), 3035a(c)(3), 3057e(a)(6), and 3057j(a)(7)) are amended by striking "information and referral" each place the term appears and inserting "information and assistance".

(5) Section 307(a)(10) of the Older Americans Act of 1965 (42 U.S.C. 3027) is amended by striking "section 342(1)" and inserting "section 342".

(6) Section 341(b) of the Older Americans Act of 1965 (42 U.S.C. 3030h) is amended by striking "caregivers" and inserting "caretakers".

(7) Section 342 of the Older Americans Act of 1965 (42 U.S.C. 3030i) is amended—

(A) by amending the heading to read as follows:

"DEFINITION OF IN-HOME SERVICES";

(B) by striking paragraph (2);

(C) in paragraph (1)—

(i) in subparagraph (E) by striking "; and" and inserting a period; and

(ii) by indenting 2 ems the left margin of subparagraphs (A) through (E) and redesignating such subparagraphs as paragraphs (1) through (5), respectively; and

(D) by striking "part—" and all that follows through "includes—", and inserting "part, the term 'in-home services' includes—".

(8) Section 507(1) of the Older American Community Service Employment Act (42 U.S.C. 3056e(1)) is amended by striking "poverty guidelines established by the Office of Management and Budget" and inserting "poverty line".

(9)(A) Section 211 of the Older Americans Act of 1965 (42 U.S.C. 3020b) is amended by striking "designated under section 305(a)(1)".

(B) Section 305(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(2)) is amended by striking "designated under clause (1)".

(C) Section 308(b)(3)(B)(iii) of the Older Americans Act of 1965 (42 U.S.C. 3028(b)(3)(B)(iii)) is amended by striking "designated under section 305".

(D) Section 426 of the Older Americans Act of 1965 (42 U.S.C. 3035e) is amended by striking "designated under section 305(a)(1)".

(E) Section 503(a) of the Older Americans Community Service Employment Act (42 U.S.C. 3056a(a)) is amended by striking "on aging designated under section 305(a)(1)".

(10)(A) Sections 202(a)(18), 307(a)(14), 308(b)(3)(B)(iii), 310(a)(1), 311(d)(1), and 411(a)(2) (42 U.S.C. 3012(a)(18), 3027(a)(14), 3028(b)(3)(B)(iii), 3030(a)(1), 3030a(d)(1), and 3031(a)(2)) are amended by striking "area agencies" and inserting "area agencies on aging".

(B) Section 305(b)(5)(A) (42 U.S.C. 3025(b)(5)(A)) is amended in the second sentence by striking "area agency" each place the term appears and inserting "area agency on aging".

(C) Sections 305(c)(2), 306(a)(5)(A)(ii), 306(a)(6)(F), 306(b)(2)(C), 307(a)(13)(B), 307(a)(13)(I), 307(a)(15)(B), and 341(b) (42 U.S.C. 3025(c)(2), 3026(a)(5)(A)(ii), 3026(a)(6)(F), 3026(b)(2)(C), 3027(a)(13)(B), 3027(a)(13)(I), 3027(a)(15)(B), and 3030h(b)) are amended by striking "area agency" and inserting "area agency on aging".

(D) Section 305(c) (42 U.S.C. 3025(c)) is amended in the first sentence, in the matter following paragraph (5), by striking "area agency" and inserting "area agency on aging".

(E) Sections 306(a)(6)(N), 307(a)(13)(H), and 307(a)(22) (42 U.S.C. 3026(a)(€)(N), 3027(a)(13)(H), and 3027(a)(22)) are amended by striking "area agency" each place the term appears and inserting "area agency on aging".

(F) Section 307(a)(1) (42 U.S.C. 3027(a)(1)) is amended by striking "agencies in" and inserting "agencies on aging in".

(G) Section 362 (42 U.S.C. 3030n) is amended in the section heading by striking "AREA AGENCIES" and inserting "AREA AGENCIES ON AGING".

(H) Section 411(b)(2) (42 U.S.C. 3031(b)(2)) is amended by striking "State and area agency" and inserting "State agency and area agency on aging".

(I) Section 412(a)(6) (42 U.S.C. 3032(a)(6)) is amended by striking "State and area agencies" and inserting "State agencies and area agencies on aging".

TITLE II—ADMINISTRATION

SEC. 201. ADMINISTRATION ON AGING.

(a) LIMITATION ON DELEGATION OF FUNCTIONS.—The last sentence of section 201(a) of the Older Americans Act of 1965 (42 U.S.C. 3011(a)) is amended by inserting "(including the functions of the Commissioner carried out through regional offices)" after "Commissioner" the first place it appears.

(b) COORDINATION.—Section 201(c)(3) of the Older Americans Act of 1965 (42 U.S.C. 3011(c)(3)) is amended—

(1) in subparagraph (B) by inserting ", with particular attention to services provided to Native Americans by the Indian Health Service" after "affecting older Native Americans";

(2) in subparagraph (F) by inserting ", including information (compiled with assistance from public or nonprofit private entities, including institutions of higher education, with experience in assessing the characteristics and health status of older individuals who are Native Americans) on elder abuse, in-home care, health problems, and other problems unique to Native Americans" after "Native Americans";

(3) in subparagraph (G) by striking "and" at the end;

(4) in subparagraph (H) by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

"(I) promote coordination—

"(i) between the administration of title III and the administration of title VI; and

"(ii) between programs established under title III by the Commissioner and programs established under title VI by the Commissioner;

including sharing among grantees information on programs funded, and on training and technical assistance provided, under such titles; and

"(J) serve as the effective and visible advocate on behalf of older individuals who are Indians, Alaskan Natives, and Native Hawaiians, in the States to promote the enhanced delivery of services and implementation of programs, under this Act and other Federal Acts, for the benefit of such individuals.".

(c) OFFICE OF LONG-TERM CARE OMBUDSMAN PROGRAMS.—Section 201 of the Older Americans Act of 1965 (42 U.S.C. 3011) is amended by adding at the end the following:

"(d)(1) There is established in the Administration the Office of Long-Term Care Ombudsman Programs (in this subsection referred to as the 'Office').

"(2)(A) The Office shall be headed by an Associate Commissioner for Ombudsman Programs (in this subsection referred to as the 'Associate Commissioner') who shall be appointed by the Commissioner from among individuals who have expertise and background in the fields of long-term care advocacy and management. The Associate Commissioner shall report directly to the Commissioner.

"(B) No individual shall be appointed Associate Commissioner if—

"(i) the individual has been employed within the previous 2 years by—

"(I) a long-term care facility;

"(II) a corporation that then owned or operated a long-term care facility; or

"(III) an association of long-term care facilities;

"(ii) the individual—

"(I) has an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or long-term care service; or

"(II) receives, or has the right to receive, directly or indirectly remuneration (in cash or in *kind) under a compensation arrangement with an owner or operator of a long-term care facility; or*

"(iii) the individual, or any member of the immediate family of the individual, is subject to a conflict of interest.

"(3) The Associate Commissioner shall—

"(A) serve as an effective and visible advocate on behalf of older individuals who reside in long-term care facilities, within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government regarding all Federal policies affecting such individuals;

"(B) review and make recommendations to the Commissioner regarding—

"(i) the approval of the provisions in State plans submitted under section 307(a) that relate to State Long-Term Care Ombudsman programs; and

"(ii) the adequacy of State budgets and policies relating to the programs;

"(C) after consultation with State Long-Term Care Ombudsmen and the State agencies, make recommendations to the Commissioner regarding—

"(i) policies designed to assist State Long-Term Care Ombudsmen; and

"(ii) methods to periodically monitor and evaluate the operation of State Long-Term Care Ombudsman programs, to ensure that the programs satisfy the requirements of section 307(a)(12) and section 712, including provision of service to residents of board and care facilities and of similar adult care facilities;

"(D) keep the Commissioner and the Secretary fully and currently informed about—

"(i) problems relating to State Long-Term Care Ombudsman programs; and

"(ii) the necessity for, and the progress toward, solving the problems;

"(E) review, and make recommendations to the Secretary and the Commissioner regarding, existing and proposed Federal legislation, regulations, and policies regarding the operation of State Long-Term Care Ombudsman programs;

"(F) make recommendations to the Commissioner and the Secretary regarding the policies of the Administration, and coordinate the activities of the Administration with the activities of other Federal entities, State and local entities, and nongovernmental entities, relating to State Long-Term Care Ombudsman programs;

"(G) supervise the activities carried out under the authority of the Administration that relate to State Long-Term Care Ombudsman programs;

"(H) administer the National Ombudsman Resource Center established under section 202(a)(21) and make recommendations to the Commissioner regarding the operation of the National Ombudsman Resource Center;

"(I) advocate, monitor, and coordinate Federal and State activities of Long-Term Care Ombudsmen under this Act;

"(J) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an annual report on the effectiveness of services provided under section 307(a)(12) and section 712;

"(K) have authority to investigate the operation or violation of any Federal law administered by the Department of Health and Human Services that may adversely affect the health, safety, welfare, or rights of older individuals; and

"(L) not later than 180 days after the date of the enactment of the Older Americans Act Amendments of 1992, establish standards applicable to the training required by section 712(h)(4).".

SEC. 202. FUNCTIONS OF COMMISSIONER.

(a) TECHNICAL AMENDMENTS.—Section 202(a) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)) is amended—

(1) in paragraph (3) by inserting "directly" after "(3)";

(2) in paragraph (11) by striking "provide for the coordination of" and insert "coordinate";

(3) in paragraph (18)—

(A) by inserting ", and service providers," after "agencies"; and

(B) by striking "the greatest economic or social needs" and inserting "greatest economic need or individuals with greatest social need, with particular attention to and specific objectives for providing services to low-income minority individuals"; and

(4) in paragraph (19)—

(A) in subparagraph (A) by inserting "or activity" after "service" each place it appears; and

(B) in subparagraph (C) by striking "and" at the end.

(b) FUNCTIONS.—Section 202(a) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)) is amended—

(1) in paragraph (20) by striking the period at the end and inserting a semicolon; and

(2) by adding at the end the following:

"(21)(A) establish and operate the National Ombudsman Resource Center (in this paragraph referred to as the 'Center'), under the administration of the Associate Commissioner for Ombudsman Programs, that will—

"(i) by grant or contract—

"(I) conduct research;

"(II) provide training, technical assistance, and information to State Long-Term Care Ombudsmen;

"(III) analyze laws, regulations, programs, and practices; and

"(IV) provide assistance in recruiting and retaining volunteers for State Long-Term Care Ombudsman programs by establishing a national program for recruitment efforts that utilizes the organizations that have established a successful record in recruiting and retaining volunteers for ombudsman or other programs;

relating to Federal, State, and local long-term care ombudsman policies; and

"(ii) assist State Long-Term Care Ombudsmen in the implementation of State Long-Term Care Ombudsman programs; and

"(B) make available to the Center not less than the amount of resources made available to the Long-Term Care Ombudsman National Resource Center for fiscal year 1990;

"(22) issue regulations, and conduct strict monitoring of State compliance with the requirements in effect, under this Act to prohibit conflicts of interest and to maintain the integrity and public purpose of services provided and service providers, under this Act in all contractual and commercial relationships, and include in such regulations a requirement that as a condition of being designated as an area agency on aging such agency shall—

"(A) disclose to the Commissioner and the State agency involved—

"(i) the identity of each nongovernmental entity with which such agency has a contract or commercial relationship relating to providing any service to older individuals; and

"(ii) the nature of such contract or such relationship;

"(B) demonstrate that a loss or diminution in the quantity or quality of the services provided, or to be provided, under this Act by such agency has not resulted and will not result from such contract or such relationship;

"(C) demonstrate that the quantity or quality of the services to be provided under this Act by such agency will be enhanced as a result of such contract or such relationship; and

"(D) on the request of the Commissioner or the State, for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds received or expended to provide services to older individuals;

"(23) encourage, and provide technical assistance to, States and area agencies on aging to carry out outreach to inform older individuals with greatest economic need who may be eligible to receive, but are not receiving, supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) (or assistance under a State plan program under such title), medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.), and benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), of the requirements for eligibility to receive such benefits and such assistance;

"(24) establish information and assistance services as priority services for older individuals;

"(25) develop guidelines for area agencies on aging to follow in choosing and evaluating providers of legal assistance;

"(26) develop guidelines and a model job description for choosing and evaluating legal assistance developers referred to in sections 307(a)(18) and 731(b)(2);

"(27)(A) conduct a study to determine ways in which Federal funds might be more effectively targeted to low-income minority older individuals, and older individuals residing in rural areas, to better meet the needs of States with a disproportionate number of older individuals with greatest economic need and older individuals with greatest social need;

"(B) conduct a study to determine ways in which Federal funds might be more effectively targeted to better meet the needs of States with disproportionate numbers of older individuals, including methods of allotting funds under title III, using the most recent estimates of the population of older individuals; and

"(C) not later than January 1, 1994, submit a report containing the findings resulting from the studies described in subparagraphs (A) and (B) to the Speaker of the House of Representatives and the President pro tempore of the Senate;

"(28) provide technical assistance, training, and other means of assistance to State agencies, area agencies on aging, and service providers regarding State and local data collection and analysis;

"(29) design and implement, for purposes of compliance with paragraph (19), uniform data collection procedures for use by State agencies, including—

"(A) uniform definitions and nomenclature;

"(B) standardized data collection procedures;

"(C) a participant identification and description system;

"(D) procedures for collecting information on gaps in services needed by older individuals, as identified by service providers in assisting clients through the provision of the supportive services; and

"(E) procedures for the assessment of unmet needs for services under this Act; and

"(30) require that all Federal grants and contracts made under this title and title IV be made in accordance with a competitive bidding process established by the Commissioner by regulation.".

(c) COMMUNITY-BASED LONG-TERM CARE PROGRAM.—Section 202(b) of the Older Americans Act of 1965 (42 U.S.C. 3012(b)) is amended—

(1) in paragraph (2) by striking "and" at the end;

(2) in paragraph (3) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) participate in all departmental and interdepartmental activities to provide a leadership role for the Administration, State agencies, and area agencies on aging in the development and implementation of a national community-based long-term care program for older individuals.".

(d) VOLUNTEER SERVICE COORDINATORS.—Section 202(c) of the Older Americans Act of 1965 (42 U.S.C. 3012(c)) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2)(A) In executing the duties and functions of the Administration under this Act and in carrying out the programs and activities provided for by this Act, the Commissioner shall act to encourage and assist the establishment and use of—

"(i) area volunteer service coordinators, as described in section 306(a)(12), by area agencies on aging; and

"(ii) State volunteer service coordinators, as described in section 307(a)(31), by State agencies.

"(B) The Commissioner shall provide technical assistance to the area and State volunteer services coordinators.".

(e) NATIONAL CENTER ON ELDER ABUSE.—Section 202 of the Older Americans Act of 1965 (42 U.S.C. 3012) is amended by adding at the end the following:

"(d)(1) The Commissioner shall establish and operate the National Center on Elder Abuse (in this subsection referred to as the 'Center').

"(2) In operating the Center, the Commissioner shall—

"(A) annually compile, publish, and disseminate a summary of recently conducted research on elder abuse, neglect, and exploitation;

"(B) develop and maintain an information clearinghouse on all programs (including private programs) showing promise of success, for the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

"(C) compile, publish, and disseminate training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

"(D) provide technical assistance to State agencies and to other public and nonprofit private agencies and organizations to assist the agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the special problems of elder abuse, neglect, and exploitation; and

"(E) conduct research and demonstration projects regarding the causes, prevention, identification, and treatment of elder abuse, neglect, and exploitation.

"(3)(A) The Commissioner shall carry out paragraph (2) through grants or contracts.

"(B) The Commissioner shall issue criteria applicable to the recipients of funds under this subsection. To be eligible to receive a grant or enter into a contract under subparagraph (A), an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(C) The Commissioner shall—

"(i) establish research priorities for making grants or contracts to carry out paragraph (2)(E); and

"(ii) not later than 60 days before the date on which the Commissioner establishes such priorities, publish in the Federal Register for public comment a statement of such proposed priorities.

"(4) The Commissioner shall make available to the Center such resources as are necessary for the Center to carry out effectively the functions of the Center under this Act and not less than the amount of resources made available to the Resource Center on Elder Abuse for fiscal year 1990.".

(f) NATIONAL AGING INFORMATION CENTER.—Section 202 of the Older Americans Act of 1965 (42 U.S.C. 3012), as amended by subsection (e) of this section, is amended by adding at the end the following:

"(e)(1)(A) The Commissioner shall make grants or enter into contracts with eligible entities to establish the National Aging Information Center (in this subsection referred to as the 'Center') to—

"(i) provide information about education and training projects established under part A, and research and demonstration projects, and other activities, established under part B, of title IV to persons requesting such information;

"(ii) annually compile, analyze, publish, and disseminate—

"(I) statistical data collected under subsection (a)(19);

"(II) census data on aging demographics; and

"(III) data from other Federal agencies on the health, social, and economic status of older individuals and on the services provided to older individuals;

"(iii) biennially compile, analyze, publish, and disseminate statistical data collected on the functions, staffing patterns, and funding sources of State agencies and area agencies on aging;

"(iv) analyze the information collected under section 201(c)(3)(F) by the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging, and the information provided by the Resource Centers on Native American Elders under section 429E;

"(v) provide technical assistance, training, and other means of assistance to State agencies, area agencies on aging, and service providers, regarding State and local data collection and analysis; and

"(vi) be a national resource on statistical data regarding aging;

"(B) To be eligible to receive a grant or enter into a contract under subparagraph (A), an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(C) Entities eligible to receive a grant or enter into a contract under subparagraph (A) shall be organizations with a demonstrated record of experience in education and information dissemination.

"(2)(A) The Commissioner shall establish procedures specifying the length of time that the Center shall provide the information described in paragraph (1) with respect to a particular project or activity. The procedures shall require the Center to maintain the information beyond the term of the grant awarded, or contract entered into, to carry out the project or activity.

"(B) The Commissioner shall establish the procedures described in subparagraph (A) after consultation with—

"(i) practitioners in the field of aging;

"(ii) older individuals;

"(iii) representatives of institutions of higher education;

"(iv) national aging organizations;

"(v) State agencies;

"(vi) area agencies on aging;

"(vii) legal assistance providers;

"(viii) service providers; and

"(ix) other persons with an interest in the field of aging.".

(g) OBLIGATION OF FUNDS.—Not later than March 1, 1993, the Commissioner shall obligate, from the funds appropriated under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) for fiscal year 1993—

(1) to carry out section 202(a)(21) of such Act (as added by subsection (b)(2) of this section), not less than the amount made available from appropriations for fiscal year 1990 under such Act for making grants and entering into contracts to establish and operate the National Long-Term Care Ombudsman Resource Center; and

(2) to carry out section 202(d)(4) of such Act (as added by subsection (e) of this section), not less than the amount made available from appropriations for fiscal year 1990 under such Act for making grants and entering into contracts to establish and operate the National Aging Resource Center on Elder Abuse.

(h) DEADLINE FOR DEVELOPMENT OF PROCEDURES.—Not later than 1 year after the date of the enactment of this Act, the data collection procedures required by section 202(a)(29) of the Older Americans Act of 1965 shall be developed by the Commissioner on Aging, jointly with the Assistant Secretary of Planning and Evaluation of the Department of Health and Human Services, after—

(1) requesting advisory information under such Act from State agencies, local governments, area agencies on aging, recipients of grants under title VI of such Act, and local providers of services under such Act; and

(2) considering the data collection systems carried out by State agencies in the States then identified as exemplary by the General Accounting Office.

Not later than 1 year after developing such data collection procedures, the Commissioner on Aging shall test such procedures, submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing the results of such test, and implement such procedures (as modified, if appropriate, to reflect such results).

SEC. 203. FEDERAL AGENCY CONSULTATION.

(a) IN GENERAL.—Section 203(a) of the Older Americans Act of 1965 (42 U.S.C. 3013(a)) is amended to read as follows:

"(a)(1) The Commissioner, in carrying out the objectives and provisions of this Act, shall coordinate, advise, consult with, and cooperate with the head of each department, agency, or instrumentality of the Federal Government proposing or administering programs or services substantially related to the objectives of this Act, with respect to such programs or services. In particular, the Commissioner shall coordinate, advise, consult, and cooperate with the Secretary of Labor in carrying out title V and with the ACTION Agency in carrying out this Act.

"(2) The head of each department, agency, or instrumentality of the Federal Government proposing to establish programs and services substantially related to the objectives of this Act shall consult with the Commissioner prior to the establishment of such programs and services. To achieve appropriate coordination, the head of each department, agency, or instrumentality of the Federal Government administering any program substantially related to the objectives of this Act, particularly administering any program referred to in subsection (b), shall consult and cooperate with the Commissioner in carrying out such program. In particular, the Secretary of Labor shall consult and cooperate with the Commissioner in carrying out the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

"(3) The head of each Federal department, agency, or instrumentality of the Federal Government administering programs and services substantially related to the objectives of this Act shall collaborate with the Commissioner in carrying out this Act, and shall develop a written analysis, for review and comment by the Commissioner, of the impact of such programs and services on—

"(A) older individuals (with particular attention to low-income minority older individuals) and eligible individuals (as defined in section 507); and

"(B) the functions and responsibilities of State agencies and area agencies on aging.".

(b) RELATED PROGRAMS.—Section 203(b) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)) is amended—

(1) in paragraph (16) by striking "and" at the end;

(2) in paragraph (17) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following:

"(18) the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs,

established under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750–3766b)).".

SEC. 204. CONSULTATION WITH STATE AGENCIES, AREA AGENCIES ON AGING, AND NATIVE AMERICAN GRANT RECIPIENTS.

The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended by inserting after section 203 the following:

"SEC. 203A. CONSULTATION WITH STATE AGENCIES, AREA AGENCIES ON AGING, AND NATIVE AMERICAN GRANT RECIPIENTS.

"The Commissioner shall consult and coordinate with State agencies, area agencies on aging, and recipients of grants under title VI in the development of Federal goals, regulations, program instructions, and policies under this Act.".

SEC. 205. FEDERAL COUNCIL ON THE AGING.

(a) ESTABLISHMENT.—Section 204(a) of the Older Americans Act of 1965 (42 U.S.C. 3015(a)) is amended—

(1) in paragraph (1)—

(A) in the second sentence by striking "Members shall serve for terms of three years" and inserting "Except as provided in subsection (b)(1)(A), members shall serve for terms of 3 years, ending on March 31 regardless of the actual date of appointment,"; and

(B) in the third sentence by inserting "from among individuals who have expertise and experience in the field of aging" after "appointed"; and

(2) in paragraph (2) by striking "1984" and inserting "1992".

(b) TERMS OF APPOINTMENT.—Section 204(b)(1)(A) of the Older Americans Act of 1965 (42 U.S.C. 3015(b)(1)(A)) is amended to read as follows:

"(A)(i) The initial members of the Federal Council on the Aging shall be appointed on April 1, 1993, as follows:

"(I) 5 members, who shall be referred to as class 1 members, shall be appointed for a term of 1 year;

"(II) 5 members, who shall be referred to as class 2 members, shall be appointed for a term of 2 years; and

"(III) 5 members, who shall be referred to as class 3 members, shall be appointed for a term of 3 years.

"(ii) Members appointed in 1994 and each third year thereafter shall be referred to as class 1 members. Members appointed in 1995 and each third year thereafter shall be referred to as class 2 members. Members appointed in 1996 and each third year thereafter shall be referred to as class 3 members.".

(c) DUTIES OF COUNCIL.—Section 204(d) of the Older Americans Act of 1965 (42 U.S.C. 3015(d)) is amended—

(1) in paragraph (2) by inserting before the semicolon at the end the following: "and of identifying duplication and gaps among the types of services provided under such programs and activities";

(2) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(3) by inserting after paragraph (1) the following:

"(2) directly advise the Commissioner on matters affecting the special needs of older individuals for services and assistance under this Act;".

(d) REPORTS.—Section 204(f) of the Older Americans Act of 1965 (42 U.S.C. 3015(f)) is amended by striking "such interim reports as it deems advisable" and inserting "interim reports".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 204(g) of the Older Americans Act of 1965 (42 U.S.C. 3015(g)) is amended to read as follows:

"(g) There are authorized to be appropriated to carry out this section $300,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995.".

SEC. 206. NUTRITION OFFICER.

Section 205(a) of the Older Americans Act of 1965 (42 U.S.C. 3016(a)) is amended—

(1) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end the following:

"(2)(A) The Commissioner shall designate an officer or employee who shall serve on a full-time basis and who shall be responsible for the administration of the nutrition services described in subparts 1, 2, and 3 of part C of title III and shall have duties that include—

"(i) designing, implementing, and evaluating nutrition programs;

"(ii) developing guidelines for nutrition providers concerning safety, sanitary handling of food, equipment, preparation, and food storage;

"(iii) disseminating information to nutrition service providers about nutrition advancements and developments;

"(iv) promoting coordination between nutrition service providers and community-based organizations serving older individuals;

"(v) developing guidelines on cost containment;

"(vi) defining a long range role for the nutrition services in community-based care systems;

"(vii) developing model menus and other appropriate materials for serving special needs populations and meeting cultural meal preferences; and

"(viii) providing technical assistance to the regional offices of the Administration with respect to each duty described in clauses (i) through (vii).

"(B) The regional offices of the Administration shall be responsible for disseminating, and providing technical assistance regarding, the guidelines and information described in clauses (ii), (iii), and (v) of subparagraph (A) to State agencies, area agencies on aging, and persons that provide nutrition services under part C of title III.

"(C) The officer or employee designated under subparagraph (A) shall—

"(i) have expertise in nutrition and dietary services and planning; and

"(ii)(I) be a registered dietitian;

"(II) be a credentialed nutrition professional; or

"(III) have education and training that is substantially equivalent to the education and training for a registered dietitian or a credentialed nutrition professional.".

SEC. 207. EVALUATION.

Section 206 of the Older Americans Act of 1965 (42 U.S.C. 3017) is amended—

(1) in the first sentence of subsection (a) by inserting after "related programs," the following:

"their effectiveness in targeting for services under this Act unserved older individuals with greatest economic need (including low-income minority individuals) and unserved older individuals with greatest social need (including low-income minority individuals),"; and

(2) by striking subsection (g) and inserting the following:

"(g)(1) Not later than June 30, 1994, the Commissioner, in consultation with the Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services, shall complete an evaluation of nutrition services provided under this Act, to evaluate for fiscal years 1992 and 1993—

"(A) their effectiveness in serving special populations of older individuals;

"(B) the quality of nutrition provided by such services;

"(C) average meal costs (including the cost of food, related administrative costs, and the cost of supportive services relating to nutrition services), taking into account regional differences and size of projects;

"(D) the characteristics of participants;

"(E) the applicability of health, safety, and dietary standards;

"(F) the appraisal of such services by recipients;

"(G) the efficiency of delivery and administration of such services;

"(H) the amount, sources, and ultimate uses of funds transferred under section 308(b)(5) to provide such services;

"(I) the amount, sources, and uses of other funds expended to provide such services, including the extent to which funds received under this Act are used to generate additional funds to provide such services;

"(J) the degree of nutritional expertise used to plan and manage coordination with other State and local services;

"(K) nonfood cost factors incidental to providing nutrition services under this Act;

"(L) the extent to which commodities provided by the Secretary of Agriculture under section 311(a) are used to provide such services;

"(M) and for the 8-year period ending September 30, 1992, the characteristics, and changes in the characteristics, of such nutrition services;

"(N) differences between older individuals who receive nutrition services under section 331 and older individuals who receive nutrition services under section 336, with specific reference to age, income, health status, receipt of food stamp benefits, and limitations on activities of daily living;

"(O) the impact of the increase in nutrition services provided under section 336, the factors that caused such increase, and the effect of such increase on nutrition services authorized under section 336;

"(P) how, and the extent to which, nutrition services provided under this Act generally, and under section 331 specifically, are integrated with long-term care programs;

"(Q) the impact of nutrition services provided under this Act on older individuals, including the impact on their dietary intake and opportunities for socialization;

"(R) the adequacy of the daily recommended dietary allowances described in section 339; and

"(S) the impact of transferring funds under section 308(b)(5) and how funds transferred under such section are expended to provide nutrition services.

"(2)(A)(i) The Commissioner shall establish an advisory council to develop recommendations for guidelines on efficiency and quality in furnishing nutrition services described in subparts 1, 2, and 3 of part C of title III.

"(ii) The council shall be composed of members appointed by the Commissioner from among individuals nominated by the Secretary of Agriculture, the American Dietetic Association, the Dietary Managers Association, the National Association of Nutrition and Aging Service Programs, the National Association of Meal Programs, the National Association of State Units on Aging, the National Association of Area Agencies on Aging, and other appropriate organizations.

"(B) Not later than June 30, 1993, the Commissioner, in consultation with the Secretary of Agriculture and taking into consideration the recommendations of the council, shall publish interim guidelines of the kind described in subparagraph (A)(i).

"(3) Not later than September 30, 1994, the Secretary shall—

"(A) submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate recommendations and

final guidelines to improve nutrition services provided under this Act; and

"(B) require the Commissioner to implement such recommendations administratively, to the extent feasible.

"(h) The Secretary may use such sums as may be necessary, but not to exceed $3,000,000 (of which not to exceed $1,500,000 shall be available from funds appropriated to carry out title III and not to exceed $1,500,000 shall be available from funds appropriated to carry out title IV), to conduct directly evaluations under this section. No part of such sums may be reprogrammed, transferred, or used for any other purpose. Funds expended under this subsection shall be justified and accounted for by the Secretary.".

SEC. 208. REPORTS.

(a) ANNUAL REPORT.—Section 207(a) of the Older Americans Act of 1965 (42 U.S.C. 3018(a)) is amended—

(1) in paragraph (3) by striking "and" at the end;

(2) in paragraph (4) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(5) a description of the implementation of the plan required by section 202(a)(17).".

(b) DEADLINE.—Section 207(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3018(b)(1)) is amended by striking "January 15" and inserting "March 1".

(c) REPORT ON EVALUATIONS.—Section 207(c) of the Older Americans Act of 1965 (42 U.S.C. 3018(c)) is amended—

(1) in paragraph (3) by striking "and" at the end;

(2) in paragraph (4) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(5) the effectiveness of State and local efforts to target older individuals with greatest economic need (including low-income minority individuals) and older individuals with greatest social need (including low-income minority individuals) to receive services under this Act.".

SEC. 209. NUTRITION EDUCATION.

Title II of the Older Americans Act of 1965 (42 U.S.C. 3011–3020d) is amended by adding at the end the following:

"SEC. 214. NUTRITION EDUCATION.

"The Commissioner and the Secretary of Agriculture may provide technical assistance and appropriate material to agencies carrying out nutrition education programs in accordance with section 307(a)(13)(J).".

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

Title II of the Older Americans Act of 1965 (42 U.S.C. 3011–3020d), as amended by section 209, is amended by adding at the end the following:

"SEC. 215. AUTHORIZATION OF APPROPRIATIONS.

(a) ADMINISTRATION.—For purposes of carrying out this Act, there are authorized to be appropriated for the Administration such sums as may be necessary for fiscal years 1992, 1993, 1994, and 1995.

"(b) SALARIES AND EXPENSES.—There are authorized to be appropriated for salaries and expenses of the Administration on Aging—

"(1) $17,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, $24,000,000 for fiscal year 1994, and $29,000,000 for fiscal year 1995; and

"(2) such additional sums as may be necessary for each such fiscal year to enable the Commissioner to provide for not fewer than 300 full-time employees (or the equivalent thereof) in the Administration on Aging.".

SEC. 211. STUDY OF EFFECTIVENESS OF STATE LONG-TERM CARE OMBUDSMAN PROGRAMS.

Not later than January 1, 1994, the Commissioner on Aging shall, in consultation with State agencies, State Long-Term Care Ombudsmen, the National Ombudsman Resource Center established under section 202(a)(21) of the Older Americans Act of 1965 (as added by section 202(b)(2) of this Act), and professional ombudsmen associations, directly, or by grant or contract, conduct a study, and submit a report to the committees specified in section 207(b)(2) of such Act, analyzing separately with respect to each State—

(1) the availability of services, and the unmet need for services, under the State Long-Term Care Ombudsman programs in effect under sections 307(a)(12) and 712 of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) to residents of long-term care facilities (as defined in section 102 of such Act);

(2) the effectiveness of the programs in providing the services to the residents, including residents of board and care facilities (as defined in section 102 of such Act) and of similar adult care facilities;

(3) the adequacy of Federal and other resources available to carry out the programs on a statewide basis in each State;

(4) compliance and barriers to such compliance of the States in carrying out the programs;

(5) any actual and potential conflicts of interest in the administration and operation of the programs; and

(6) the need for and feasibility of providing ombudsman services to older individuals (as defined in section 102 of such Act) who are not in long-term care facilities and who use long-term care services and other health care services, by analyzing and assessing current State agency practices in programs in which the State Long-Term Care Ombudsmen provide services to older individuals in settings in addition to long-term care facilities, taking into account variations in—

(A) settings where services are provided;

(B) the types of clients served;

(C) the types of complaints and problems handled;

(D) State regulation of long-term care provided in settings other than long-term care facilities; and

(E) possible conflicts of interest between the State Long-Term Care Ombudsman programs under such Act and area agencies on aging (as defined in section 102 of such Act) who provide to older individuals long-term care services both in such settings and in long-term care facilities.

SEC. 212. STUDY ON BOARD AND CARE FACILITY QUALITY.

(a) ARRANGEMENT FOR STUDY COMMITTEE.—The Secretary of Health and Human Services shall enter into an arrangement, in accordance with subsection (d), to establish a study committee described in subsection (c) to conduct a study through the Institute of Medicine of the National Academy of Sciences on the quality of board and care facilities for older individuals (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)) and the disabled.

(b) SCOPE OF STUDY.—The study shall include—

(1) an examination of existing quality, health, and safety requirements for board and care facilities and the enforcement of such requirements for their adequacy and effectiveness, with special attention to their effectiveness in promoting good personal care;

(2) an examination of, and recommendations with respect to, the appropriate role of Federal, State, and local governments in assuring the health and safety of residents of board and care facilities; and

(3) specific recommendations to the Congress and the Secretary, by not later than 20 months after the date of the enactment of this Act, concerning the establishment of minimum national standards for the quality, health, and safety of residents of such facilities and the enforcement of such standards.

(c) COMPOSITION OF STUDY COMMITTEE.—The study committee shall be composed of members as appointed from among the following:

(1) NATIONAL ACADEMY OF SCIENCES.—The members of the National Academy of Sciences with experience in long-term care. The members so appointed shall include—

(A) physicians;

(B) experts on the administration of drugs to older individuals, and disabled individuals receiving long-term care services; and

(C) experts on the enforcement of life-safety codes in long-term care facilities.

(2) RESIDENTS.—Residents of board and care facilities (including privately owned board and care facilities), and representatives of such residents or of organizations that advocate on behalf of such residents. Members so appointed shall include—

(A) residents of a nonprofit board and care facility; or

(B) individuals who represent—

(i) residents of nonprofit board and care facilities; or

(ii) organizations that advocate on behalf of residents of nonprofit board and care facilities.

(3) OPERATORS.—Operators of board and care facilities (including privately owned board and care facilities), and individuals who represent such operators or organizations that represent the interests of such operators. Members so appointed shall include—

(A) operators of a nonprofit board and care facility; or

(B) individuals who represent—

(i) operators of nonprofit board and care facilities; or

(ii) organizations that represent the interests of operators of nonprofit board and care facilities.

(4) OFFICERS.—

(A) STATE OFFICERS.—Elected and appointed State officers who have responsibility relating to the health and safety of residents of board and care facilities.

(B) REPRESENTATIVES.—Representatives of such officers or of organizations representing such officers.

(C) OTHER INDIVIDUALS.—Other individuals with relevant expertise.

(d) USE OF INSTITUTE OF MEDICINE.—The Secretary shall request the National Academy of Sciences, through the Institute of Medicine, to establish, appoint, and provide administrative support for the study committee under an arrangement under which the actual expenses incurred by the Academy in carrying out such functions will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such arrangement with the Academy.

(e) INVOLVEMENT OF OTHERS.—

(1) GOVERNMENT OFFICIALS.—The study committee shall conduct its work in a manner that provides for the consultation with Members of Congress or their representatives, officials of the Department of Health and Human Services, and officials of State and local governments who are not members of the study committee.

(2) EXPERTS.—The study committee may consult with any individual or organization with expertise relating to the issues involved in the activities of the study committee.

(f) REPORT.—Not later than 20 months after an arrangement is entered into under subsection (d), the study committee shall submit, to the Secretary, the Speaker of the House of Representatives, and the President pro tempore of the Senate, a report containing the results of the study referred to in subsection (a) and the recommendations made under subsection (b).

(g) BOARD AND CARE FACILITY DEFINED.—In this section, the term "board and care facility"

means a facility described in section 1616(e) of the Social Security Act (42 U.S.C. 1372e(e)).

(h) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $1,500,000 for fiscal year 1992 and such sums as may be necessary for subsequent fiscal years.

SEC. 213. STUDY ON HOME CARE QUALITY.

(a) ESTABLISHMENT STUDY OF COMMITTEE.—The Secretary of Health and Human Services shall enter into an arrangement, in accordance with subsection (d), to establish a study committee described in subsection (c) to conduct a study through the Institute of Medicine of the National Academy of Sciences on the quality of home care services for older individuals and disabled individuals.

(b) SCOPE OF STUDY.—The study shall include—

(1) an examination of existing quality, health and safety requirements for home care services and the enforcement of such requirements for their adequacy, effectiveness, and appropriateness;

(2) an examination of, and recommendations with respect to, the appropriate role of Federal, State, and local governments in ensuring the health and safety of patients and clients of home care services; and

(3) specific recommendations to the Congress and the Secretary, not later than 20 months after the date of the enactment of this Act, concerning the establishment of minimum national standards for the quality, health, and safety of patients and clients of such services and the enforcement of such standards.

(c) COMPOSITION OF STUDY COMMITTEE.—The study committee shall be composed of members appointed from among—

(1) individuals with experience in long-term care, including nonmedical home care services;

(2) patients and clients of home care services (including privately provided home care services and services funded under the Older Americans Act of 1965) or individuals who represent such patients and clients or organizations that advocate on behalf of such patients and clients;

(3) providers of home care services (including privately provided home care services and services funded under the Older Americans Act of 1965) or individuals who represent such providers or organizations that advocate on behalf of such providers;

(4) elected and appointed State officers who have responsibility relating to the health and safety of patients and clients of home care services, or representatives of such officers or of organizations representing such officers; and

(5) other individuals with relevant expertise.

(d) USE OF INSTITUTE OF MEDICINE.—The Secretary shall request the National Academy of Sciences, through the Institute of Medicine, to establish, appoint, and provide administrative support for the committee under an arrangement under which the actual expenses incurred by the Academy in carrying out such functions will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such arrangement with the Academy.

(e) INVOLVEMENT OF OTHERS.—

(1) MEMBERS AND OFFICIALS.—The committee shall conduct its work in a manner that provides for consultation with Members of Congress or their representatives, officials of the Department of Health and Human Services, and officials of State and local governments who are not members of the committee.

(2) INDIVIDUAL OR ORGANIZATION WITH EXPERTISE.—The committee may consult with any individual or organization with expertise relating to the issues involved in the activities of the committee.

(f) REPORT.—Not later than 20 months after an arrangement is entered into under subsection (d), the committee shall submit, to the Secretary, the Speaker of the House of Representatives, and the President pro tempore of the Senate, a report containing the results of the study referred to in subsection (a).

(g) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $1,000,000 for fiscal year 1992 and such sums as may be necessary for subsequent fiscal years.

TITLE III—STATE AND COMMUNITY PROGRAMS ON AGING

SEC. 301. PURPOSE OF GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING.

Section 301(a) of the Older Americans Act of 1965 (42 U.S.C. 3021(a)) is amended to read as follows:

"(a)(1) It is the purpose of this title to encourage and assist State agencies and area agencies on aging to concentrate resources in order to develop greater capacity and foster the development and implementation of comprehensive and coordinated systems to serve older individuals by entering into new cooperative arrangements in each State with the persons described in paragraph (2), for the planning, and for the provision of, supportive services, and multipurpose senior centers, in order to—

"(A) secure and maintain maximum independence and dignity in a home environment for older individuals capable of self care with appropriate supportive services;

"(B) remove individual and social barriers to economic and personal independence for older individuals;

"(C) provide a continuum of care for vulnerable older individuals; and

"(D) secure the opportunity for older individuals to receive managed in-home and community-based long-term care services.

"(2) The persons referred to in paragraph (1) include—

"(A) State agencies and area agencies on aging;

"(B) other State agencies, including agencies that administer home and community care programs;

"(C) Indian tribes, tribal organizations, and Native Hawaiian organizations;

"(D) the providers, including voluntary organizations or other private sector organizations, of supportive services, nutrition services, and multipurpose senior centers; and

"(E) organizations representing or employing older individuals or their families.".

SEC. 302. DEFINITIONS.

Section 302(1) of the Older Americans Act of 1965 (42 U.S.C. 3022(1)) is amended—

(1) in subparagraph (B) by striking "and" at the end;

(2) in subparagraph (C) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(D) encourage and assist public and private entities that have unrealized potential for meeting the service needs of older individuals to assist the older individuals on a voluntary basis.".

SEC. 303. AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS.

(a) AUTHORIZATION FOR PART B.—

(1) SUPPORTIVE SERVICES AND SENIOR CENTERS.—Section 303(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)(1)) is amended by striking "$379,575,000" and all that follows through "1991", and inserting "$461,376,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995".

(2) STATE LONG-TERM CARE OMBUDSMAN PROGRAMS.—Section 303(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)(2)) is amended to read as follows:

"(2) Funds appropriated under paragraph (1) shall be available to carry out section 712.".

(3) REPEAL RELATING TO OUTREACH.—Section 303(a)(3) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)(3)) is repealed.

(b) AUTHORIZATION FOR PART C.—

(1) CONGREGATE NUTRITION SERVICES.—Section 303(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3012(b)(1)) is amended by striking "$414,750,000" and all that follows through "1991", and inserting "$505,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995".

(2) HOME-DELIVERED NUTRITION SERVICES.—Section 303(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3012(b)(2)) is amended by striking "$79,380,000" and all that follows through "1991", and inserting "$120,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995".

(3) AUTHORIZATION OF APPROPRIATIONS FOR SCHOOL-BASED MEALS FOR OLDER INDIVIDUALS AND MULTIGENERATIONAL PROGRAMS.—Section 303(b) of the Older Americans Act of 1965 (42 U.S.C. 3023) is amended by adding at the end the following:

"(3) There are authorized to be appropriated $15,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, to carry out subpart 3 of part C of this title (relating to school-based meals for volunteer older individuals and multigenerational programs).".

(c) AUTHORIZATION FOR PART D (RELATING TO IN-HOME SERVICES).—Section 303(d) of the Older Americans Act of 1965 (42 U.S.C. 3012(d)) is amended by striking "$25,000,000" and all that follows through "1991", and inserting "$45,388,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995,".

(d) AUTHORIZATION FOR PART E (RELATING TO SPECIAL NEEDS).—Section 303(e) of the Older Americans Act of 1965 (42 U.S.C. 3012(e)) is amended by striking "Subject to" and all that follows through "1991", and inserting "There are authorized to be appropriated such sums as may be necessary for the fiscal years 1992, 1993, 1994, and 1995,".

(e) AUTHORIZATION FOR PART F (RELATING TO DISEASE PREVENTION AND HEALTH PROMOTION).—Section 303(f) of the Older Americans Act of 1965 (42 U.S.C. 3012(f)) is amended—

(1) by striking "Subject to subsection (h), there" and inserting "There"; and

(2) by striking "$5,000,000" and all that follows through "1991", and inserting "$25,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995,".

(f) AUTHORIZATION FOR PART G (RELATING TO SUPPORTIVE ACTIVITIES FOR CARETAKERS).—Section 303(g) of the Older Americans Act of 1965 (42 U.S.C. 3023(g)) is amended to read as follows:

"(g) There are authorized to be appropriated $15,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, to carry out part G (relating to supportive activities for caretakers).".

(g) REPEAL OF LIMITATION.—Section 303(h) of the Older Americans Act of 1965 (42 U.S.C. 3023(h)) is repealed.

SEC. 304. ALLOTMENT; FEDERAL SHARE.

(a) AMOUNT OF ALLOTMENTS.—Section 304(a) of the Older Americans Act of 1965 (42 U.S.C. 3024(a)) is amended—

(1) in paragraph (2) by striking "1984" and inserting "1987";

(2) by amending paragraph (3) to read as follows:

"(3) No State shall be allotted, from the amount appropriated under section 303(g), less than $50,000 for any fiscal year."; and

(3) in paragraph (4) by striking "satisfactory data available" and inserting "data available from the Bureau of the Census, and other reliable demographic data satisfactory".

(b) WITHHOLDING OF ALLOTMENTS.—Section 304(c) of the Older Americans Act of 1965 (42

U.S.C. 3024(c)) is amended by inserting "or the Commissioner does not approve the funding formula required under section 305(a)(2)(C)" after "requirements of section 307".

(c) Outreach Demonstration Projects.—Section 304(d)(1)(C) of the Older Americans Act of 1965 (42 U.S.C. 3024(d)(1)(C)) is amended to read as follows:

"(C) not less than $150,000 and not more than 4 percent of the amount allotted to the State for carrying out part B, shall be available for conducting outreach demonstration projects under section 706; and".

(d) Volunteer Services Coordinators.—Section 304 of the Older Americans Act of 1965 (42 U.S.C. 3024) is amended by adding at the end the following:

"(e) Grants made from allotments received under this title may be used for paying for the costs of providing for an area volunteer services coordinator (as described in section 306(a)(12)) or a State volunteer services coordinator (as described in section 307(a)(31)).

SEC. 305. ORGANIZATION.

(a) Planning; Consultation; Low-Income Minority Objectives and Focus.—Section 305(a) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)) is amended—

(1) by amending paragraph (1)(C) to read as follows:

"(C) be primarily responsible for the planning, policy development, administration, coordination, priority setting, and evaluation of all State activities related to the objectives of this Act;"; and

(2) in paragraph (2)—

(A) by amending subparagraph (C) to read as follows:

"(C) in consultation with area agencies, in accordance with guidelines issued by the Commissioner, and using the best available data, develop and publish for review and comment a formula for distribution within the State of funds received under this title that takes into account—

"(i) the geographical distribution of older individuals in the State; and

"(ii) the distribution among planning and service areas of older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority older individuals;";

(B) in subparagraph (D) by striking "for review and comment" and inserting "for approval";

(C) in subparagraph (E) by striking "and" at the end;

(D) by amending subparagraph (F) to read as follows:

"(F) provide assurances that the State agency will require use of outreach efforts described in section 307(a)(24); and"; and

(E) by adding at the end the following:

"(G)(i) set specific objectives, in consultation with area agencies on aging, for each planning and service area for providing services funded under this title to low-income minority older individuals;

"(ii) provide an assurance that the State agency will undertake specific program development, advocacy, and outreach efforts focused on the needs of low-income minority older individuals; and

"(iii) provide a description of the efforts described in clause (ii) that will be undertaken by the State agency.".

(b) Procedures; Review of Boundaries.—Section 305(b)(5) of the Older Americans Act of 1965 (42 U.S.C. 3025(b)(5)) is amended by adding at the end the following:

"(C)(i) A State agency shall establish and follow appropriate procedures to provide due process to affected parties, if the State agency initiates an action or proceeding to—

"(I) revoke the designation of the area agency on aging under subsection (a);

"(II) designate an additional planning and service area in a State;

"(III) divide the State into different planning and services areas; or

"(IV) otherwise affect the boundaries of the planning and service areas in the State.

"(ii) The procedures described in clause (i) shall include procedures for—

"(I) providing notice of an action or proceeding described in clause (i);

"(II) documenting the need for the action or proceeding;

"(III) conducting a public hearing for the action or proceeding;

"(IV) involving area agencies on aging, service providers, and older individuals in the action or proceeding; and

"(V) allowing an appeal of the decision of the State agency in the action or proceeding to the Commissioner.

"(iii) An adversely affected party involved in an action or proceeding described in clause (i) may bring an appeal described in clause (ii)(V) on the basis of—

"(I) the facts and merits of the matter that is the subject of the action or proceeding; or

"(II) procedural grounds.

"(iv) In deciding an appeal described in clause (ii)(V), the Commissioner may affirm or set aside the decision of the State agency. If the Commissioner sets aside the decision, and the State agency has taken an action described in subclauses (I) through (III) of clause (i), the State agency shall nullify the action.".

SEC. 306. AREA PLANS.

(a) Case Management Services.—Section 306(a)(2)(A) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(2)(A)), as amended by section 102(b)(4) of this Act, is amended by striking ", and information and assistance" and inserting ", information and assistance, and case management services".

(b) Identity of Focal Point.—Section 306(a)(3) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(3)) is amended—

(1) by inserting "(A)" after "(3)";

(2) by inserting "(including multipurpose senior centers operated by organizations referred to in paragraph (6)(E)(ii))" after "centers";

(3) by inserting "and" after the semicolon at the end; and

(4) by adding at the end the following:

"(B) specify, in grants, contracts, and agreements implementing the plan, the identity of each focal point so designated;".

(c) Objectives for Low-Income Minority Individuals.—

(1) Information and assistance services.—Section 306(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(4)) is amended by inserting before the semicolon at the end the following: ", with particular emphasis on linking services available to isolated older individuals and older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of individuals with such disease or disorders)".

(2) Outreach and information.—Section 306(a)(5) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(5)) is amended—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking "preference will be given to" and inserting "the area agency on aging will set specific objectives for"; and

(II) by striking "with particular attention" and inserting "include specific objectives for providing services";

(ii) in clause (ii)—

(I) in subclause (I) by striking "and" at the end;

(II) by amending subclause (II) to read as follows:

"(II) to the maximum extent feasible, provide services to low-income minority individuals in accordance with their need for such services; and"; and

(III) by adding at the end the following:

"(III) meet specific objectives established by the area agency on aging, for providing services to low-income minority individuals within the planning and service area; and"; and

(iii) in clause (iii)—

(I) by striking "and" at the end of subclause (I); and

(II) by adding at the end the following new subclause:

"(III) provide information on the extent to which the area agency on aging met the objectives described in clause (i);";

(B) by amending subparagraph (B) to read as follows:

"(B) provide assurances that the area agency on aging will use outreach efforts that will—

"(i) identify individuals eligible for assistance under this Act, with special emphasis on—

"(I) older individuals residing in rural areas;

"(II) older individuals with greatest economic need (with particular attention to low-income minority individuals);

"(III) older individuals with greatest social need (with particular attention to low-income minority individuals);

"(IV) older individuals with severe disabilities;

"(V) older individuals with limited English-speaking ability; and

"(VI) older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and

"(ii) inform the older individuals referred to in subclauses (I) through (VI) of clause (i), and the caretakers of such individuals, of the availability of such assistance; and"; and

(C) by adding at the end the following:

"(C) contain an assurance that the area agency on aging will ensure that each activity undertaken by the agency, including planning, advocacy, and systems development, will include a focus on the needs of low-income minority older individuals;".

(d) Coordination; Housing Arrangements; Telephone Listing.—Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)) is amended—

(1) in subparagraph (B) by inserting ", and timely information in a timely manner," after "assistance";

(2) in subparagraph (D) by inserting "(in cooperation with agencies, organizations, and individuals participating in activities under the plan)" after "community by";

(3) in subparagraph (E)—

(A) by inserting "(i)" after "(E)";

(B) by inserting "and" after the semicolon at the end; and

(C) by adding at the end the following:

"(ii) if possible regarding the provision of services under this title, enter into arrangements and coordinate with organizations that have a proven record of providing services to older individuals, that—

"(I) were officially designated as community action agencies or community action programs under section 210 of the Economic Opportunity Act of 1964 (42 U.S.C. 2790) for fiscal year 1981, and did not lose the designation as a result of failure to comply with such Act; or

"(II) came into existence during fiscal year 1982 as direct successors in interest to such community action agencies or community action programs;

and that meet the requirements under section 675(c)(3) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(3));";

(4) by amending subparagraph (H) to read as follows:

"(H) establish effective and efficient procedures for coordination of—

"(i) entities conducting programs that receive assistance under this Act within the planning and service area served by the agency; and

"(ii) entities conducting other Federal programs for older individuals at the local level, with particular emphasis on entities conducting programs described in section 203(b), within the area;";

(5) in subparagraph (I) by striking "emphasize the development" and all that follows through the semicolon at the end, and inserting "include the development of case management services as a component of the long-term care services;";

(6) in subparagraph (O) by striking "and" at the end;

(7) by striking subparagraph (P); and

(8) by adding at the end the following:

"(P) establish a grievance procedure for older individuals who are dissatisfied with or denied services under this title;

"(Q) enter into voluntary arrangements with nonprofit entities (including public and private housing authorities and organizations) that provide housing (such as housing under section 202 of the Housing Act of 1959 (12 U.S.C. 1701Q) to older individuals, to provide—

"(i) leadership and coordination in the development, provision, and expansion of adequate housing, supportive services, referrals, and living arrangements for older individuals; and

"(ii) advance notification and nonfinancial assistance to older individuals who are subject to eviction from such housing;

"(R) list the telephone number of the agency in each telephone directory that is published, by the provider of local telephone service, for residents in any geographical area that lies in whole or in part in the service and planning area served by the agency—

"(i) under the name 'Area Agency on Aging';

"(ii) in the unclassified section of the directory; and

"(iii) to the extent possible, in the classified section of the directory, under a subject heading designated by the Commissioner by regulation; and

"(S) identify the needs of older individuals and describe methods the area agency on aging will use to coordinate planning and delivery of transportation services (including the purchase of vehicles) to assist older individuals, including those with special needs, in the area;".

(e) State Long-Term Care Ombudsman Program.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)) is amended—

(1) in paragraph (9) by striking "and" at the end;

(2) in paragraph (10) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(11) provide assurances that the area agency on aging, in carrying out the State Long-Term Care Ombudsman program under section 307(a)(12), will expend not less than the total amount of funds appropriated under this Act and expended by the agency in fiscal year 1991 in carrying out such a program under this title;".

(f) Volunteers To Assist Older Individuals; Public Disclosure; Relationship With Private Sector; Assurances of Coordination and Access.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)), as amended by subsection (e) of this section, is amended by adding at the end the following:

"(12) in the discretion of the area agency on aging, provide for an area volunteer services coordinator, who shall—

"(A) encourage, and enlist the services of, local volunteer groups to provide assistance and services appropriate to the unique needs of older individuals within the planning and service area;

"(B) encourage, organize, and promote the use of older individuals as volunteers to local communities within the area; and

"(C) promote the recognition of the contribution made by volunteers to programs administered under the area plan;

"(13)(A) describe all activities of the area agency on aging, whether funded by public or private funds; and

"(B) provide an assurance that the activities conform with—

"(i) the responsibilities of the area agency on aging, as set forth in this subsection; and

"(ii) the laws, regulations, and policies of the State served by the area agency on aging;

"(14) provide assurances that the area agency on aging will—

"(A) maintain the integrity and public purpose of services provided, and service providers, under this title in all contractual and commercial relationships;

"(B) disclose to the Commissioner and the State agency—

"(i) the identity of each nongovernmental entity with which such agency has a contract or commercial relationship relating to providing any service to older individuals; and

"(ii) the nature of such contract or such relationship;

"(C) demonstrate that a loss or diminution in the quantity or quality of the services provided, or to be provided, under this title by such agency has not resulted and will not result from such contract or such relationship;

"(D) demonstrate that the quantity or quality of the services to be provided under this title by such agency will be enhanced as a result of such contract or such relationship; and

"(E) on the request of the Commissioner or the State, for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds such agency receives or expends to provide services to older individuals;

"(15) provide assurances that funds received under this title will not be used to pay any part of a cost (including an administrative cost) incurred by the area agency on aging to carry out a contract or commercial relationship that is not carried out to implement this title;

"(16) provide assurances that preference in receiving services under this title will not be given by the area agency on aging to particular older individuals as a result of a contract or commercial relationship that is not carried out to implement this title;

"(17) provide assurances that projects in the planning and service area will reasonably accommodate participants as described in section 307(a)(13)(G);

"(18) provide assurances that the area agency on aging will, to the maximum extent practicable, coordinate the services it provides under this title with services provided under title VI;

"(19)(A) provide an assurance that the area agency on aging will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits under this title, if applicable; and

"(B) specify the ways in which the area agency on aging intends to implement the activities; and

"(20) provide that case management services provided under this title through the area agency on aging will—

"(A) not duplicate case management services provided through other Federal and State programs;

"(B) be coordinated with services described in subparagraph (A); and

"(C) be provided by—

"(i) a public agency; or

"(ii) a nonprofit private agency that—

"(I) does not provide, and does not have a direct or indirect ownership or controlling interest in, or a direct or indirect affiliation or relationship with, an entity that provides, services other than case management services under this title; or

"(II) is located in a rural area and obtains a waiver of the requirement described in subclause (I).".

(g) Withholding of Area Funds.—Section 306 of the Older Americans Act of 1965 (42 U.S.C. 3026) is amended by adding at the end the following:

"(e)(1) If the head of a State agency finds that an area agency on aging has failed to comply with Federal or State laws, including the area plan requirements of this section, regulations, or policies, the State may withhold a portion of the funds to the area agency on aging available under this title.

"(2)(A) The head of a State agency shall not make a final determination withholding funds under paragraph (1) without first affording the area agency on aging due process in accordance with procedures established by the State agency.

"(B) At a minimum, such procedures shall include procedures for—

"(i) providing notice of an action to withhold funds;

"(ii) providing documentation of the need for such action; and

"(iii) at the request of the area agency on aging, conducting a public hearing concerning the action.

"(3)(A) If a State agency withholds the funds, the State agency may use the funds withheld to directly administer programs under this title in the planning and service area served by the area agency on aging for a period not to exceed 180 days, except as provided in subparagraph (B).

"(B) If the State agency determines that the area agency on aging has not taken corrective action, or if the State agency does not approve the corrective action, during the 180-day period described in subparagraph (A), the State agency may extend the period for not more than 90 days.".

SEC. 307. STATE PLANS.

(a) Compliance With Title III.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended—

(1) in the first sentence by inserting "the succeeding sentence and" after "provided in";

(2) by inserting after the first sentence the following:

"If the Commissioner determines, in the discretion of the Commissioner, that a State failed in 2 successive years to comply with the requirements under this title, then the State shall submit to the Commissioner a State plan for a 1-year period that meets such criteria, for subsequent years until the Commissioner determines that the State is in compliance with such requirements."; and

(3) in paragraph (3)(A)—

(A) by inserting "and transportation services" after "assistance"; and

(B) by adding at the end the following:

"To conduct the evaluation, the State agency shall use the procedures implemented under section 202(a)(29).".

(b) Procedures.—Section 307(a)(5) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(5)) is amended by adding at the end the following: "The State agency shall establish and publish procedures for requesting and conducting such hearing.".

(c) Fiscal Control and Fund Accounting.—Section 307(a)(7) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(7)) is amended—

(1) by inserting "(A)" after "(7)"; and

(2) by adding at the end the following:

"(B) The plan shall provide assurances that—

"(i) no individual (appointed or otherwise) involved in the designation of the State agency or an area agency on aging, or in the designation of the head of any subdivision of the State agency or of an area agency on aging, is subject to a conflict of interest prohibited under this Act;

"(ii) no officer, employee, or other representative of the State agency or an area agency on aging is subject to a conflict of interest prohibited under this Act; and

"(iii) mechanisms are in place to identify and remove conflicts of interest prohibited under this Act.

"(C) The plan shall provide assurances that the State agency and each area agency on aging will—

"(i) maintain the integrity and public purpose of services provided, and service providers, under the State plan in all contractual and commercial relationships;

"(ii) disclose to the Commissioner—

"(I) the identity of each nongovernmental entity with which the State agency or area agency on aging has a contract or commercial relationship relating to providing any service to older individuals; and

"(II) the nature of such contract or such relationship;

"(iii) demonstrate that a loss or diminution in the quantity or quality of the services provided, or to be provided, under this Act by such agency has not resulted and will not result from such contract or such relationship;

"(iv) demonstrate that the quantity or quality of the services to be provided under the State plan will be enhanced as a result of such contract or such relationship; and

"(v) on the request of the Commissioner, for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds the State agency and area agency on aging receive or expend to provide services to older individuals.".

(d) EVALUATION.—Section 307(a)(8) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(8)) is amended by adding at the end the following:

"In conducting such evaluations and public hearings, the State agency shall solicit the views and experiences of entities that are knowledgable about the needs and concerns of low-income minority older individuals.".

(e) EMPLOYMENT PREFERENCE.—Section 307(a)(11) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(11)) is amended by striking "governments," and all that follows through "older", and inserting the following:

"governments—

"(A) preference shall be given to older individuals; and

"(B) special consideration shall be given to individuals with formal training in the field of aging (including an educational specialty or emphasis in aging and a training degree or certificate in aging) or equivalent professional experience in the field of aging;".

(f) STATE LONG-TERM CARE OMBUDSMAN PROGRAM.—Section 307(a)(12) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(12)) is amended to read as follows:

"(12) The plan shall provide assurances that the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a State Long-Term Care Ombudsman program in accordance with section 712 and this title.".

(g) USE OF FUNDS; NUTRITION EDUCATION AND SANITARY HANDLING OF MEALS.—Section 307(a)(13) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(13)) is amended—

(1) in subparagraph (B) by inserting "(other than under section 303(b)(3))" after "available under this title";

(2) in subparagraph (F)—

(A) by striking "may" and inserting "will"; and

(B) by inserting "dietitians (or individuals with comparable expertise)," after "advice of";

(3) in subparagraph (H) by striking "and" at the end;

(4) in subparagraph (I) by striking the period at the end and inserting a semicolon;

(5) by adding at the end the following:

"(J) each nutrition project shall provide nutrition education on at least a semiannual basis to participants in programs described in part C;

"(K) each project shall comply with applicable provisions of State or local laws regarding the safe and sanitary handling of food, equipment, and supplies used in the storage, preparation, service, and delivery of meals to an older individual;

"(L) the State agency will monitor, coordinate, and assist in the planning of nutritional services, with the advice of a dietitian or an individual with comparable expertise; and

"(M) the State agency will—

"(i) develop nonfinancial criteria for eligibility to receive nutrition services under section 336; and

"(ii) periodically evaluate recipients of such services to determine whether they continue to meet such criteria.".

(h) LEGAL PROBLEMS.—Section 307(a)(15) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(15)) is amended—

(1) in subparagraph (C) by striking "and" at the end;

(2) in subparagraph (D) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(E) the plan contains assurances that area agencies on aging will give priority to legal assistance related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.".

(i) PROGRAMS FOR PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION.—Section 307(a)(16) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(16)) is amended in the matter preceding subparagraph (A)—

(1) by striking "that" the first place it appears and inserting a comma; and

(2) by striking ", if funds are not appropriated under section 303(g) for a fiscal year, provide that for such" and inserting "provide for a".

(j) LEGAL ASSISTANCE DEVELOPER.—Section 307(a)(18) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(18)) is amended by inserting "(one of whom shall be known as a legal assistance developer)" after "personnel".

(k) EXPENDITURES UNDER STATE LONG-TERM CARE OMBUDSMAN PROGRAM.—Section 307(a)(21) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(21)) is amended to read as follows:

"(21) The plan shall provide assurances that the State agency, in carrying out the State Long-Term Care Ombudsman program under section 307(a)(12), will expend not less than the total amount expended by the agency in fiscal year 1991 in carrying out such a program under this title.".

(l) OUTREACH AND INFORMATION.—Section 307(a)(24) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(24)) is amended to read as follows:

"(24) The plan shall provide assurances that the State agency will require outreach efforts that will—

"(A) identify individuals eligible for assistance under this Act, with special emphasis on—

"(i) older individuals residing in rural areas;

"(ii) older individuals with greatest economic need (with particular attention to low-income minority individuals);

"(iii) older individuals with greatest social need (with particular attention to low-income minority individuals);

"(iv) older individuals with severe disabilities;

"(v) older individuals with limited English-speaking ability; and

"(vi) older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and

"(B) inform the older individuals referred to in clauses (i) through (vi) of subparagraph (A), and the caretakers of such individuals, of the availability of such assistance;".

(m) ELDER RIGHTS REQUIREMENTS.—Section 307(a)(30) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(30)) is amended to read as follows:

"(30) The plan shall include the assurances and description required by section 705(a).".

(n) REQUIREMENTS.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended by striking paragraph (31) and inserting the following:

"(31)(A) If 50 percent or more of the area plans in the State provide for an area volunteer services coordinator, as described in section 306(a)(12), the State plan shall provide for a State volunteer services coordinator, who shall—

"(i) encourage area agencies on aging to provide for area volunteer services coordinators;

"(ii) coordinate the volunteer services offered between the various area agencies on aging;

"(iii) encourage, organize, and promote the use of older individuals as volunteers to the State;

"(iv) provide technical assistance, which may include training, to area volunteer services coordinators; and

"(v) promote the recognition of the contribution made by volunteers to the programs administered under the State plan.

"(B) If fewer than 50 percent of the area plans in the State provide for an area volunteer services coordinator, the State plan may provide for the State volunteer services coordinator described in subparagraph (A).

"(32) The plan shall provide assurances that special efforts will be made to provide technical assistance to minority providers of services.

"(33) The plan—

"(A) shall include the statement and the demonstration required by paragraphs (2) and (4) of section 305(d); and

"(B) may not be approved unless the Commissioner approves such statement and such demonstration.

"(34) The plan shall provide an assurance that the State agency will coordinate programs under this title and title VI, if applicable.

"(35) The plan shall—

"(A) provide an assurance that the State agency will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits under this title, if applicable; and

"(B) specify the ways in which the State agency intends to implement the activities.

"(36) If case management services are offered to provide access to supportive services, the plan shall provide that the State agency shall ensure compliance with the requirements specified in section 306(a)(20).

"(37) The plan shall identify for each fiscal year, the actual and projected additional costs of providing services under this title, including the cost of providing access to such services, to older individuals residing in rural areas in the State (in accordance with a standard definition of rural areas specified by the Commissioner).

"(38) The plan shall provide assurances that funds received under this title will not be used to pay any part of a cost (including an administrative cost) incurred by the State or an area agency on aging to carry out a contract or com-

mercial relationship that is not carried out to implement this title.

"(39) The plan shall provide assurances that preference in receiving services under this title will not be given by the area agency on aging to particular older individuals as a result of a contract or commercial relationship that is not carried out to implement this title.

"(40) The plan shall provide assurances that if the State receives funds appropriated under section 303(g) the State agency and area agencies on aging will expend such funds to carry out part G.

"(41) The plan shall provide assurances that demonstrable efforts will be made—

"(A) to coordinate services provided under this Act with other State services that benefit older individuals; and

"(B) to provide multigenerational activities, such as opportunities for older individuals to serve as mentors or advisers in child care, youth day care, educational assistance, at-risk youth intervention, juvenile delinquency treatment, and family support programs.

"(42) The plan shall provide assurances that the State will coordinate public services within the State to assist older individuals to obtain transportation services associated with access to services provided under this title, to services under title VI, to comprehensive counseling services, and to legal assistance.

"(43) The plan shall provide that the State agency shall issue guidelines applicable to grievance procedures required by section 306(a)(6)(P).

"(44) The plan shall include assurances that the State has in effect a mechanism to provide for quality in the provision of in-home services under this title.".

(o) APPROVAL OF STATE PLAN.—Section 307(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3017(b)(1)) is amended by inserting before the period at the end the following: ", except the Commissioner may not approve such plan unless the Commissioner determines that the formula submitted under section 305(a)(2)(D) complies with the guidelines in effect under section 305(a)(2)(C)".

(p) DETERMINATION OF DISAPPROVAL.—Section 307(c) of the Older Americans Act of 1965 (42 U.S.C. 3027(c)) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2) Not later than 30 days after such final determination, a State dissatisfied with such final determination may appeal such final determination to the Secretary for review. If the State timely appeals such final determination in accordance with subsection (e)(1), the Secretary shall dismiss the appeal filed under this paragraph.

"(3) If the State is dissatisfied with the decision of the Secretary after review under paragraph (2), the State may appeal such decision not later than 30 days after such decision and in the manner described in subsection (e). For purposes of appellate review under the preceding sentence, a reference in subsection (e) to the Commissioner shall be deemed to be a reference to the Secretary.".

(q) REPEAL OF EXPIRED PROVISION.—Section 307(f) of the Older Americans Act of 1965 (42 U.S.C. 3027(f)) is repealed.

(r) PROTECTION OF COMMERCIAL INFORMATION.—Section 307(g) of the Older Americans Act of 1965 (42 U.S.C. 3027(g)) is amended—

(1) by striking "(g)" and inserting "(f)(1)"; and

(2) by adding at the end the following:

"(2) Information disclosed under section 306(a)(14)(B)(i) or subsection (a)(7)(C)(ii)(I) may be disclosed to the public by the State agency or the State only if such information could be disclosed under section 552 of title 5, United States Code, by an agency of the United States.".

SEC. 308. PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS.

Section 308 of the Older Americans Act of 1965 (42 U.S.C. 3028) is amended—

(1) in subsection (a)(3) by inserting "been" after "which has"; and

(2) in subsection (b)—

(A) in paragraph (4)—

(i) by inserting "(A)" after "(4)";

(ii) in the first sentence—

(I) by inserting "and except as provided in subparagraph (B)" after "this title";

(II) by striking "received under section 303(b)(1) and (2), a" and inserting "received by a State and attributable to funds appropriated under paragraph (1) or (2) of section 303(b), the"; and

(III) by striking "a portion of the funds appropriated" and inserting "not more than 30 percent of the funds so received"; and

(iii) by adding at the end the following:

"(B) If a State demonstrates, to the satisfaction of the Commissioner, that funds received by the State and attributable to funds appropriated under paragraph (1) or (2) of section 303(b), including funds transferred under subparagraph (A) without regard to this subparagraph, for fiscal year 1993, 1994, 1995, or 1996 are insufficient to satisfy the need for services under subpart 1 or subpart 2 of part C, then the Commissioner may grant a waiver that permits the State to transfer under subparagraph (A) to satisfy such need—

"(i) an additional 18 percent of the funds so received for fiscal year 1993;

"(ii) an additional 15 percent of the funds so received for each of the fiscal years 1994 and 1995; and

"(iii) an additional 10 percent of the funds so received for fiscal year 1996."; and

(B) by striking paragraph (5) and inserting the following:

"(5)(A) Notwithstanding any other provision of this title and except as provided in subparagraph (B), of the funds received by a State attributable to funds appropriated under subsection (a)(1), and paragraphs (1) and (2) of subsection (b), of section 303, the State may elect to transfer not more than 30 percent for fiscal year 1993, not more than 25 percent for fiscal year 1994, not more than 25 percent for fiscal year 1995, and not more than 20 percent for fiscal year 1996, between programs under part B and part C, for use as the State considers appropriate. The State shall notify the Commissioner of any such election.

"(B)(i) If a State demonstrates, to the satisfaction of the Commissioner, that funds received by the State and attributable to funds appropriated under part B or part C (including funds transferred under subparagraph (A) without regard to this subparagraph) for fiscal year 1994 or 1995 are insufficient to satisfy the need for services under such part, then the Commissioner may grant a waiver that permits the State to transfer under subparagraph (A) to satisfy such need an additional 5 percent of the funds so received for such fiscal year.

"(ii) If a State demonstrates, to the satisfaction of the Commissioner, that funds received by the State and attributable to funds appropriated under part B or part C (including funds transferred under subparagraph (A) without regard to this subparagraph) for fiscal year 1996 are insufficient to satisfy the need for services under such part, then the Commissioner may grant a waiver that permits the State to transfer under subparagraph (A) to satisfy such need an additional 8 percent of the funds so received for such fiscal year.

"(C) At a minimum, the application described in subparagraph (A) shall include a description of the amount to be transferred, the purposes of the transfer, the need for the transfer, and the impact of the transfer on the provision of services from which the funding will be transferred. The Commissioner shall approve or deny the application in writing.

"(6) A State agency may not delegate to an area agency on aging or any other entity the authority to make a transfer under paragraph (4)(A) or (5)(A).

"(7) The Commissioner shall annually collect, and include in the report required by section 207(a), data regarding the transfers described in paragraphs (4)(A) and (5)(A), including—

"(A) the amount of funds involved in the transfers, analyzed by State;

"(B) the rationales for the transfers;

"(C) in the case of transfers described in paragraphs (4)(A) and (5)(A), the effect of the transfers of the provision of services, including the effect on the number of meals served, under—

"(i) subpart 1 of part C; and

"(ii) subpart 2 of part C; and

"(D) in the case of transfers described in paragraph (5)(A)—

"(i) in the case of transfers to part B, information on the supportive services, or services provided through senior centers, for which the transfers were used; and

"(ii) the effect of the transfers on the provision of services provided under—

"(I) part B; and

"(II) part C, including the effect on the number of meals served.".

SEC. 309. DISASTER RELIEF REIMBURSEMENTS.

Section 310 of the Older Americans Act of 1965 (42 U.S.C. 3030) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting "(and related supplies)" after "supportive services"; and

(B) by adding at the end the following:

"(3) If the Commissioner decides, in the 5-day period beginning on the date such disaster is declared by the President, to provide an amount of reimbursement under paragraph (1) to a State, then the Commissioner shall provide not less than 75 percent of such amount to such State not later than 5 days after the date of such decision."; and

(2) in subsections (a)(2) and (b)—

(A) by striking "5 percent" each place it appears and inserting "2 percent"; and

(B) by striking "for carrying out the purposes of section 422" each place it appears and inserting "to carry out title IV".

SEC. 310. AVAILABILITY OF SURPLUS COMMODITIES.

Section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a) is amended—

(1) in subsection (a)(4)—

(A) by designating the first sentence as subparagraph (A);

(B) by designating the second and third sentence as subparagraph (B), and indenting accordingly; and

(C) in subparagraph (A), as designated by subparagraph (A) of this paragraph, by striking "shall maintain" and all that follows, and inserting the following:

"shall maintain—

"(i) for fiscal year 1992, a level of assistance equal to the greater of—

"(I) a per meal rate equal to the amount appropriated under subsection (c) for fiscal year 1992, divided by the number of meals served in the preceding fiscal year; or

"(II) 61 cents per meal; and

"(ii) for fiscal year 1993 and each subsequent fiscal year, an annually programmed level of assistance equal to the greater of—

"(I) a per meal rate equal to the amount appropriated under subsection (c) for the fiscal year, divided by the number of meals served in the preceding fiscal year; or

"(II) 61 cents per meal, adjusted in accordance with changes in the series for food away

from home, of the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor, based on the 12-month period ending on July 1 of the preceding year."; and

(2) in subsection (c)—

(A) in paragraph (1)(A) by striking "$151,000,000" and all that follows through "1991", and inserting "$250,000,000 for fiscal year 1992, $310,000,000 for fiscal year 1993, $380,000,000 for fiscal year 1994, and $460,000,000 for fiscal year 1995"; and

(B) in paragraph (2)—

(i) by striking "(2) In" and inserting "(2)(A) Except as provided in subparagraph (B), in"; and

(ii) by adding at the end the following new subparagraph:

"(B) In each fiscal year, the final reimbursement claims shall be adjusted to use the full amount appropriated under this subsection for the fiscal year.".

SEC. 311. RIGHTS RELATING TO IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS.

Part A of title III of the Older Americans Act of 1965 (42 U.S.C. 3021–3030c) is amended by adding at the end the following:

"SEC. 314. RIGHTS RELATING TO IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS.

"(a) PROMOTION.—The Commissioner shall require entities that provide in-home services under this title to promote the rights of each older individual who receives such services. Such rights include the following:

"(1) The right—

"(A) to be fully informed in advance about each in-home service provided by such entity under this title and about any change in such service that may affect the well-being of such individual; and

"(B) to participate in planning and changing an in-home service provided under this title by such entity unless such individual is judicially adjudged incompetent.

"(2) The right to voice a grievance with respect to such service that is or fails to be so provided, without discrimination or reprisal as a result of voicing such grievance.

"(3) The right to confidentiality of records relating to such individual.

"(4) The right to have the property of such individual treated with respect.

"(5) The right to be fully informed (orally and in writing), in advance of receiving an in-home service under this title, of such individual's rights and obligations under this title.".

SEC. 312. SUPPORTIVE SERVICES.

Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended—

(1) in paragraph (3) by inserting "(including information and assistance services)" after "and services";

(2) in paragraph (3) by inserting before the semicolon at the end the following: ", including language translation services to assist older individuals with limited-English speaking ability to obtain services under this title";

(3) in paragraph (4)—

(A) by striking "or (C)" and inserting "(C)"; and

(B) by inserting "; or (D) to receive applications from older individuals for housing under section 202 of the Housing Act of 1959 (12 U.S.C. 1701Q)" before the semicolon at the end;

(4) by amending paragraph (6) to read as follows:

"(6) services designed to provide to older individuals legal assistance and other counseling services and assistance, including—

"(A) tax counseling and assistance, financial counseling, and counseling regarding appropriate health and life insurance coverage;

"(B) representation—

"(i) of individuals who are wards (or are allegedly incapacitated); and

"(ii) in guardianship proceedings of older individuals who seek to become guardians, if other adequate representation is unavailable in the proceedings; and

"(C) provision, to older individuals who provide uncompensated care to their adult children with disabilities, of counseling to assist such older individuals with permanency planning for such children;";

(5) in paragraph (7) by striking "physical activity and exercise" and inserting "physical activity, exercise, music therapy, art therapy, and dance-movement therapy";

(6) in paragraph (9) by striking "preretirement" and all that follows and inserting ", for older individuals, preretirement counseling and assistance in planning for and assessing future post-retirement needs with regard to public and private insurance, public benefits, lifestyle changes, relocation, legal matters, leisure time, and other appropriate matters;";

(7) in paragraph (11) by inserting before the semicolon the following: ", and of older individuals who provide uncompensated care to their adult children with disabilities";

(8) in paragraph (12) by inserting "and second career" after "including job";

(9) in paragraph (17) by inserting ", including information concerning prevention, diagnosis, treatment, and rehabilitation of age-related diseases and chronic disabling conditions" before the semicolon at the end;

(10) in paragraph (18) by striking "or" at the end;

(11) by redesignating paragraph (19) as paragraph (22); and

(12) by inserting after paragraph (18) the following:

"(19) services designed to support family members and other persons providing voluntary care to older individuals that need long-term care services;

"(20) services designed to provide information and training for individuals who are or may become guardians or representative payees of older individuals, including information on the powers and duties of guardians and representative payees and on alternatives to guardianships;

"(21) services to encourage and facilitate regular interaction between school-age children and older individuals, including visits in long-term care facilities, multipurpose senior centers, and other settings; or".

SEC. 313. CONGREGATE NUTRITION SERVICES.

Section 331(1) of the Older Americans Act of 1965 (42 U.S.C. 3030e(1)) is amended—

(1) by inserting "(except in a rural area where such frequency is not feasible (as defined by the Commissioner by regulation) and a lesser frequency is approved by the State agency)" after "week"; and

(2) by striking ", each of which" and all that follows through "Research Council".

SEC. 314. HOME DELIVERED NUTRITION SERVICES.

Section 336 of the Older Americans Act of 1965 (42 U.S.C. 3030f) is amended—

(1) by inserting "(except in a rural area where such frequency is not feasible (as defined by the Commissioner by regulation) and a lesser frequency is approved by the State agency)" after "week"; and

(2) by striking ", each of which" and all that follows through "Research Council".

SEC. 315. CRITERIA.

Section 337 of the Older Americans Act of 1965 (42 U.S.C. 3030g) is amended by inserting "the Dietary Managers Association," after "Dietetic Association,".

SEC. 316. SCHOOL-BASED MEALS FOR VOLUNTEER OLDER INDIVIDUALS AND MULTIGENERATIONAL PROGRAMS.

(a) ESTABLISHMENT OF PROGRAM.—Part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.) is amended by adding at the end the following:

"Subpart 3—School-Based Meals for Volunteer Older Individuals and Multigenerational Programs

"SEC. 338. ESTABLISHMENT.

"(a) IN GENERAL.—The Commissioner shall establish and carry out, under State plans approved under section 307, a program for making grants to States to pay for the Federal share of establishing and operating projects in public elementary and secondary schools (including elementary and secondary schools for Indian children operated with Federal assistance, or operated by the Department of the Interior, and referred to in section 1005(d)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711(d)(2)) that—

"(1) provide hot meals, each of which ensures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, to volunteer older individuals—

"(A) while such schools are in session;

"(B) during the summer; and

"(C) unless waived by the State involved, on the weekdays in the school year when such schools are not in session;

"(2) provide multigenerational activities in which volunteer older individuals and students interact;

"(3) provide social and recreational activities for volunteer older individuals;

"(4) develop skill banks that maintain and make available to school officials information on the skills and preferred activities of volunteer older individuals, for purposes of providing opportunities for such individuals to serve as tutors, teacher aides, living historians, special speakers, playground supervisors, lunchroom assistants, and in other roles; and

"(5) provide opportunities for volunteer older individuals to participate in school activities (such as classes, dramatic programs, and assemblies) and use school facilities.

"(b) FEDERAL SHARE.—The Federal share of the cost of establishing and operating nutrition and multigenerational activities projects under this subpart shall be 85 percent.

"SEC. 338A. APPLICATION AND SELECTION OF PROVIDERS.

"(a) CONTENTS OF APPLICATION.—To be eligible to carry out a project under the program established under this subpart, an entity shall submit an application to a State agency. Such application shall include—

"(1) a plan describing the project proposed by the applicant and comments on such plan from the appropriate area agency on aging and the appropriate local educational agency (as defined in section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891));

"(2) an assurance that the entity shall pay not more than 85 percent of the cost of carrying out such project from funds awarded under this subpart;

"(3) an assurance that the entity shall pay not less than 15 percent of such cost, in cash or in kind, from non-Federal sources;

"(4) information demonstrating the need for such project, including a description of—

"(A) the nutrition services and other services currently provided under this part in the geographic area to be served by such project; and

"(B) the manner in which the project will be coordinated with such services; and

"(5) such other information and assurances as the Commissioner may require by regulation.

"(b) SELECTION AMONG APPLICANTS.—In selecting grant recipients from among entities that submit applications under subsection (a) for a fiscal year, the State agency shall—

"(1) give first priority to entities that carried out a project under this subpart in the preceding fiscal year;

"(2) give second priority to entities that carried out a nutrition project under subpart 1 or title VI in the preceding fiscal year; and

"(3) give third priority to entities whose applications include a plan that involves a school with greatest need (as measured by the dropout rate, the level of substance abuse, and the number of children who have limited-English proficiency or who participate in projects under section 1015 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2025)).

"SEC. 338B. REPORTS.

"(a) REPORTS BY STATES.—Not later than 60 days after the end of a fiscal year for which a State receives a grant under this subpart, such State shall submit to the Commissioner a report evaluating the projects carried out under this subpart by such State in such fiscal year. Such report shall include for each project—

"(1) a description of—

"(A) persons served;

"(B) multigenerational activities carried out; and

"(C) additional needs of volunteer older individuals and students; and

"(2) recommendations for any appropriate modifications to satisfy the needs described in paragraph (1)(C).

"(b) REPORTS BY COMMISSIONER.—Not later than 120 days after the end of a fiscal year for which funds are appropriated to carry out this subpart, the Commissioner shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing, with respect to each State, the reports submitted under subsection (a) for such fiscal year.".

(b) LIMITATION ON ADMINISTRATIVE COSTS.—Section 303(c) of the Older Americans Act of 1965 (42 U.S.C. 3023(c)) is amended—

(1) by striking "parts B and C" and inserting "part B, and subparts 1 and 2 of part C,"; and

(2) in paragraph (2) by inserting "under subparts 1 and 2 of part C" after "nutrition services".

SEC. 317. DIETARY GUIDELINES; PAYMENT REQUIREMENT.

Part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.), as amended by section 316, is amended by adding at the end the following:

"Subpart 4—General Provisions

"SEC. 339. COMPLIANCE WITH DIETARY GUIDELINES.

"A State that establishes and operates a nutrition project under this part shall ensure that the meals provided through the project—

"(1) comply with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture; and

"(2) provide to each participating older individual—

"(A) a minimum of 33⅓ percent of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, if the project provides 1 meal per day;

"(B) a minimum of 66⅔ percent of the allowances if the project provides 2 meals per day; and

"(C) 100 percent of the allowances if the project provides 3 meals per day.".

"SEC. 339A. PAYMENT REQUIREMENT.

"Payments made by a State agency or an area agency on aging for nutrition services (including meals) provided under part A, B, or C may not be reduced to reflect any increase in the level of assistance provided under section 311.".

SEC. 318. IN-HOME SERVICES.

Section 342 of the Older Americans Act of 1965 (42 U.S.C. 3030i), as amended by section 102(b)(7) of this Act, is amended—

(1) in paragraph (4) by striking "and" at the end;

(2) in paragraph (5) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(6) personal care services; and

"(7) other in-home services as defined—

"(A) by the State agency in the State plan submitted in accordance with section 307; and

"(B) by the area agency on aging in the area plan submitted in accordance with section 306.".

SEC. 319. PREVENTIVE HEALTH SERVICES.

(a) PROGRAM AUTHORIZED.—Section 361 of the Older Americans Act of 1965 (42 U.S.C. 3030m) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide disease prevention and health promotion services and information at multipurpose senior centers, at congregate meal sites, through home delivered meals programs, or at other appropriate sites. In carrying out such program, the Commissioner shall consult with the Directors of the Centers for Disease Control and the National Institute on Aging.";

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

(b) DEFINITION.—Section 363 of the Older Americans Act of 1965 (42 U.S.C. 3030o) is amended to read as follows:

"SEC. 363. DEFINITION.

"As used in this part, the term 'disease prevention and health promotion services' means—

"(1) health risk assessments;

"(2) routine health screening, which may include hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, and nutrition screening;

"(3) nutritional counseling and educational services for individuals and their primary caregivers;

"(4) health promotion programs, including programs relating to chronic disabling conditions (including osteoporosis and cardiovascular disease) prevention and reduction of effects, alcohol and substance abuse reduction, smoking cessation, weight loss and control, and stress management;

"(5) programs regarding physical fitness, group exercise, and music, art, and dance-movement therapy, including programs for multigenerational participation that are provided by—

"(A) an institution of higher education;

"(B) a local educational agency, as defined in section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891); or

"(C) a community-based organization;

"(6) home injury control services, including screening of high-risk home environments and provision of educational programs on injury prevention (including fall and fracture prevention) in the home environment;

"(7) screening for the prevention of depression, coordination of community mental health services, provision of educational activities, and referral to psychiatric and psychological services;

"(8) educational programs on the availability, benefits, and appropriate use of preventive health services covered under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

"(9) medication management screening and education to prevent incorrect medication and adverse drug reactions;

"(10) information concerning diagnosis, prevention, treatment, and rehabilitation of age-related diseases and chronic disabling conditions, including osteoporosis, cardiovascular diseases, and Alzheimer's disease and related disorders with neurological and organic brain dysfunction; and

"(11) gerontological counseling; and

"(12) counseling regarding social services and followup health services based on any of the services described in paragraphs (1) through (11).

The term shall not include services for which payment may be made under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).".

(c) CONFORMING AMENDMENT.—Part F of title III of the Older Americans Act of 1965 (42 U.S.C. 3030m et seq.) is amended in the part heading by striking "PREVENTIVE HEALTH SERVICES" and inserting "DISEASE PREVENTION AND HEALTH PROMOTION SERVICES".

SEC. 320. SUPPORTIVE ACTIVITIES FOR CARETAKERS WHO PROVIDE IN-HOME SERVICES TO FRAIL OLDER INDIVIDUALS.

Part G of title III of the Older Americans Act of 1965 (42 U.S.C. 3021–3030p) is amended to read as follows:

"PART G—SUPPORTIVE ACTIVITIES FOR CARETAKERS WHO PROVIDE IN-HOME SERVICES TO FRAIL OLDER INDIVIDUALS

"SEC. 381. PROGRAM AUTHORIZED.

"The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to carry out a program to provide supportive activities for caretakers who provide in-home services to frail older individuals (including older individuals who are victims of Alzheimer's disease or related disorders with neurological and organic brain dysfunction). Such supportive activities may include—

"(1) providing training and counseling for such caretakers;

"(2) technical assistance to such caretakers to assist them to form or to participate in support groups;

"(3) providing information—

"(A) to frail older individuals and their families regarding how to obtain in-home services and respite services; and

"(B) to caretakers who provide such services, regarding—

"(i) how to provide such services; and

"(ii) sources of nonfinancial support available to them as a result of their providing such services; and

"(4) maintaining lists of individuals who provide respite services for the families of frail older individuals.

"SEC. 382. DEFINITIONS.

"For purposes of this part, the term 'in-home services' has the meaning given such term in section 342.

"SEC. 383. MAINTENANCE OF EFFORT.

"Section 344 shall apply with respect to funds made available under this part, in the same manner as such section applies to funds made available under part D.".

TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

SEC. 401. STATEMENT OF PURPOSE.

Section 401 of the Older Americans Act of 1965 (42 U.S.C. 3030aa) is amended in the matter preceding paragraph (1) by inserting "and publicly disseminate the results of the tests, to replicate such programs and services under this Act," after "individuals,".

SEC. 402. PRIORITIES FOR GRANTS AND DISCRETIONARY PROJECTS.

Section 402 of the Older Americans Act of 1965 (42 U.S.C. 3030bb) is amended by adding at the end the following:

"(d) The Commissioner shall, in developing priorities, consistent with the requirements of this title, for awarding grants and entering into contracts under this title, consult annually with State agencies, area agencies on aging, recipients of grants under title VI, institutions of higher education, organizations representing beneficiaries of services under this Act, and other organizations, and individuals, with expertise in aging issues.

"(e) The Commissioner shall ensure that grants and contracts awarded under this title—

"(1) are evaluated for their benefit to older individuals, and to programs under this Act; and

"(2) comply with the requirements under this Act.".

SEC. 403. PURPOSES OF EDUCATION AND TRAINING PROJECTS.

Section 410(3) of the Older Americans Act of 1965 (42 U.S.C. 3030jj(3)) is amended by inserting ", with particular emphasis on attracting minority individuals," after "qualified personnel".

SEC. 404. GRANTS AND CONTRACTS.

(a) IN GENERAL.—Section 411(a) of the Older Americans Act of 1965 (42 U.S.C. 3031(a)) is amended—

(1) in paragraph (1) by inserting "gerontology," after "(including mental health) care,";

(2) in paragraph (2)—

(A) by inserting "and counseling" after "nutrition"; and

(B) by inserting ", with special emphasis on using culturally sensitive practices" before the period; and

(3) by adding at the end the following:

"(5) To provide annually a national meeting to train directors of programs under title VI.".

(b) TRAINING OF SERVICE PROVIDERS.—Section 411 of the Older Americans Act of 1965 (42 U.S.C. 3031) is amended by adding at the end the following:

"(e) From amounts appropriated under 431(b), the Commissioner shall make grants and enter into contracts under this part to establish and carry out a program under which service providers (including family physicians, clergy, and other professionals) will receive training—

"(1) comprised of—

"(A) intensive training regarding normal aging, recognition of problems of older individual, and communication with providers of mental health services; and

"(B) advanced clinical training regarding means of assessing and treating the problems of older individuals;

"(2) provided by—

"(A) faculty and graduate students in programs of human development and family studies at an institution of higher education;

"(B) mental health professionals; and

"(C) nationally recognized consultants with expertise regarding the mental health problems of individuals residing in rural areas; and

"(3) held in public hospitals throughout each State in which the program is carried out.".

SEC. 405. MULTIDISCIPLINARY CENTERS OF GERONTOLOGY.

Section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032(a)) is amended—

(1) in the first sentence by inserting "counseling services," after "maintenance,"; and

(2) in paragraph (4) by inserting "social work, and psychology," after "education,".

SEC. 406. DEMONSTRATION PROJECTS.

Section 422 of the Older Americans Act of 1965 (42 U.S.C. 3035a) is amended—

(1) in subsection (a)(2) by striking "preventive health service programs" and inserting "disease prevention and health promotion programs (including coordinated multidisciplinary research projects on the aging process)";

(2) in subsection (b)—

(A) in paragraph (8) by striking "and" at the end;

(B) in paragraph (9) by striking "include" and all that follows and inserting the following: "include projects furnishing multigenerational services by older individuals addressing the needs of children, such as—

"(A) tutorial services in elementary and special schools;

"(B) after school programs for latchkey children; and

"(C) voluntary services for child care and youth day care programs;"; and

(C) by adding at the end the following:

"(10) meet the service needs of older individuals who provide uncompensated care to their adult children with disabilities, for supportive services relating to such care, including—

"(A) respite services; and

"(B) legal advice, information, and referral services to assist such older individuals with permanency planning for such children;

"(11) advance the understanding of the efficacy and benefits of providing music therapy, art therapy, or dance-movement therapy to older individuals through—

"(A) projects that—

"(i) study and demonstrate the provision of music therapy, art therapy, or dance-movement therapy to older individuals who are institutionalized or at risk of being institutionalized; and

"(ii) provide music therapy, art therapy, or dance-movement therapy—

"(I) in nursing homes, hospitals, rehabilitation centers, hospices, or senior centers;

"(II) through disease prevention and health promotion services programs established under part F of title III;

"(III) through in-home services programs established under part D of title III;

"(IV) through multigenerational activities described in section 307(a)(41)(B) or subpart 3 of part C of title III;

"(V) through supportive services described in section 321(a)(21); or

"(VI) through disease prevention and health promotion services described in section 363(5); and

"(B) education, training, and information dissemination projects, including—

"(i) projects for the provision of gerontological training to music therapists, and education and training of individuals in the aging network regarding the efficacy and benefits of music therapy for older individuals; and

"(ii) projects for disseminating to the aging network and to music therapists background materials on music therapy, best practice manuals, and other information on providing music therapy to older individuals; and

"(12)(A) establish, in accordance with subparagraph (B), nationwide, statewide, regional, metropolitan area, county, city, or community model volunteer service credit projects to demonstrate methods to improve or expand supportive services or nutrition services, or otherwise promote the wellbeing of older individuals;

"(B) for purposes of paying part or all of the cost of developing or operating the projects, in the fiscal year, make not fewer than three and not more than five grants to, or contracts with, public agencies or nonprofit private organizations in such State; and

"(C) ensure that the projects will be operated in consultation with the ACTION Agency and will permit older individuals who are volunteers to earn, for services furnished, credits that may be redeemed later for similar volunteer services."; and

(3) in subsection (d)(2)—

(A) by inserting "(A)" after the paragraph designation; and

(B) by adding at the end the following:

"(B) An agency or organization that receives a grant or enters into a contract to carry out a project described in subparagraph (A) or (B)(i) of subsection (b)(11) shall submit to the Commissioner a report containing—

"(i) the results, and findings based on the results, of such project; and

"(ii) the recommendations of the agency or organization, if the agency or organization provided music therapy, regarding means by which music therapy could be made available, in an efficient and effective manner, to older individuals who would benefit from the therapy.".

SEC. 407. SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE.

(a) IN GENERAL.—Section 423 of the Older Americans Act of 1965 (42 U.S.C. 3035b) is amended to read as follows:

"SEC. 423. SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE.

"(a) DEFINITIONS.—As used in this section:

"(1) PROJECT.—The term 'Project' means a Project to Improve the Delivery of Long-Term Care Services.

"(2) RESOURCE CENTER.—The term 'Resource Center' means a Resource Center for Long-Term Care.

"(b) RESOURCE CENTERS.—

"(1) GRANTS AND CONTRACTS.—The Commissioner shall award grants to, or enter into contracts with, eligible entities to support the establishment or operation of not fewer than four and not more than seven Resource Centers in accordance with paragraph (2).

"(2) REQUIREMENTS.—

"(A) FUNCTIONS.—Each Resource Center that receives funds under this subsection shall, with respect to subjects within an area of specialty of the Resource Center—

"(i) perform research;

"(ii) provide for the dissemination of results of the research; and

"(iii) provide technical assistance and training to State agencies and area agencies on aging.

"(B) AREA OF SPECIALITY.—For purposes of subparagraph (A) the term 'area of speciality' means—

"(i) Alzheimer's disease and related dementias, and other cognitive impairments;

"(ii) client assessment and case management;

"(iii) data collection and analysis;

"(iv) home modification and supportive services to enable older individuals to remain in their homes;

"(v) consolidation and coordination of services;

"(vi) linkages between acute care, rehabilitative services, and long-term care, facilities and providers;

"(vii) decisionmaking and bioethics;

"(viii) supply, training, and quality of long-term care personnel, including those who provide rehabilitative services;

"(ix) rural issues, including barriers to access to services;

"(x) chronic mental illness;

"(xi) populations with greatest social need and populations with greatest economic need, with particular attention to low-income minorities; and

"(xii) an area of importance as determined by the Commissioner.

"(c) PROJECTS.—The Commissioner shall award grants to, or enter into contracts with, eligible entities to support the entities in establishing and carrying out not fewer than 10 Projects.

"(d) USE OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an eligible entity may use funds received under a grant or contract—

"(A) described in subsection (b)(1) to pay for part or all of the cost (including startup cost) of establishing and operating a new Resource Center, or of operating a Resource Center in exist-

ence on the day before the date of the enactment of the Older Americans Act Amendments of 1992; or

"(B) described in subsection (c) to pay for part or all of the cost (including startup cost) of establishing and carrying out a Project.

"(2) REIMBURSABLE DIRECT SERVICES.—None of the funds may be used to pay for direct services that are eligible for reimbursement under title XVIII, XIX, or XX of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq., or 1397 et seq.).

"(e) PREFERENCE.—In awarding grants, and entering into contracts, under this section, the Commissioner shall give preference to entities that demonstrate that—

"(1) adequate State standards have been developed to ensure the quality of services provided under the grant or contract; and

"(2) the entity has made a commitment to carry out programs under the grant or contract with each State agency responsible for the administration of title XIX or XX of the Social Security Act.

"(f) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive funds under a grant or contract described in subsection (b)(1) or (c), an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(2) PROJECT APPLICATION.—An entity seeking a grant or contract under subsection (c) shall submit an application to the Commissioner containing, at a minimum—

"(A) information identifying and describing gaps, weaknesses, or other problems in the delivery of long-term care services in the State or geographic area to be served by the entity, including—

"(i) duplication of functions in the delivery of such services, including duplication at the State and local level;

"(ii) fragmentation of systems, especially in coordinating services to populations of older individuals and other populations;

"(iii) barriers to access for populations with greatest social need and populations with greatest economic need, including minorities and residents of rural areas;

"(iv) lack of financing for such services;

"(v) lack of availability of adequately trained personnel to provide such services; and

"(vi) lack of a range of chronic care services (including rehabilitative strategies) that promote restoration, maintenance, or improvement of function in older individuals;

"(B) a plan to address the gaps, weaknesses, and problems described in clauses (i) through (v); and

"(C) information describing the extent to which the entity will coordinate with area agencies on aging and service providers in carrying out the proposed Project.

"(g) ELIGIBLE ENTITIES.—

"(1) RESOURCE CENTERS.—Entities eligible to receive grants, or enter into contracts, under subsection (b)(1) shall be—

"(A) institutions of higher education; and

"(B) other public agencies and nonprofit private organizations.

"(2) PROJECTS.—Entities eligible to receive grants, or enter into contracts, under subsection (c) include—

"(A) State agencies; and

"(B) in consultation with State agencies—

"(i) area agencies on aging;

"(ii) institutions of higher education; and

"(iii) other public agencies and nonprofit private organizations.

"(h) REPORT.—The Commissioner shall include in the annual report to the Congress required by section 207, a report on the grants awarded, and contracts entered into, under this section, including—

"(1) an analysis of the relative effectiveness, and recommendations for any changes, of the projects of Resource Centers funded under subsection (b)(1) in the fiscal year for which the Commissioner is preparing the annual report; and

"(2) an evaluation of the needs identified, the agencies utilized, and the effectiveness of the approaches used by projects funded under subsection (c).

"(i) AVAILABILITY OF FUNDS.—The Commissioner shall make available for carrying out subsection (b) for each fiscal year not less than the amount made available in fiscal year 1991 for making grants and entering into contracts to establish and operate Resource Centers under section 423 as in effect on the day before the date of the enactment of the Older Americans Act Amendments of 1992.".

(b) OBLIGATION.—Not later than 60 days after the date of enactment of this Act, the Commissioner shall obligate, from the funds appropriated under section 431(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3037(a)(1)) for fiscal year 1992—

(1) not less than the amount described in section 423(i) of such Act (42 U.S.C. 3035b(i)) for carrying out section 423(b)(1) of such Act; and

(2) such sums as may be necessary for carrying out section 423(c) of such Act.

SEC. 408. OMBUDSMAN AND ADVOCACY DEMONSTRATION PROJECTS.

Section 427(a) of the Older Americans Act of 1965 (42 U.S.C. 3035f(a)) is amended by inserting ", legal assistance agencies," after "ombudsman program".

SEC. 409. DEMONSTRATION PROJECTS FOR MULTI- GENERATIONAL ACTIVITIES.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) is amended by adding at the end the following:

"SEC. 429. DEMONSTRATION PROJECTS FOR MULTIGENERATIONAL ACTIVITIES.

"(a) GRANTS AND CONTRACTS.—The Commissioner may award grants and enter into contracts with eligible organizations to establish demonstration projects that provide older individuals with multigenerational activities.

"(b) USE OF FUNDS.—An eligible organization shall use funds made available under a grant awarded, or a contract entered into, under subsection (a)—

"(1) to carry out a demonstration project that provides multigenerational activities, including any professional training appropriate to such activities for older individuals; and

"(2) to evaluate the project in accordance with subsection (f).

"(c) AWARDS.—In awarding grants and entering into contracts under subsection (a), the Commissioner shall give preference to—

"(1) eligible organizations with a demonstrated record of carrying out multigenerational activities; and

"(2) eligible organizations proposing projects that will serve older individuals with greatest economic need (with particular attention to low-income minority individuals).

"(d) APPLICATION.—To be eligible to receive a grant or enter into a contract under subsection (a), an organization shall submit an application to the Commissioner at such time, in such manner, and accompanied by such information as the Commissioner may reasonably require.

"(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant or enter into a contract under subsection (a) shall be organizations that employ, or provide opportunities for, older individuals in multigenerational activities.

"(f) LOCAL EVALUATION AND REPORT.—

"(1) EVALUATION.—Each organization receiving a grant or a contract under subsection (a) to carry out a demonstration project shall evaluate the activities assisted under the project to determine the effectiveness of multigenerational activities, the impact of such activities on child care and youth day care programs, and the impact on older individuals involved in such project.

"(2) REPORT.—The organization shall submit a report to the Commissioner containing the evaluation not later than 6 months after the expiration of the period for which the grant or contract is in effect.

"(g) REPORT TO CONGRESS.—Not later than 6 months after the Commissioner receives the reports described in subsection (f)(2), the Commissioner shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that assesses the evaluations and includes, at a minimum—

"(1) the names or descriptive titles of the demonstration projects funded under subsection (a);

"(2) a description of the nature and operation of the projects;

"(3) the name and address of the individual or governmental entity that conducted the projects;

"(4) a description of the methods and success of the projects in recruiting older individuals as employees and volunteers to participate in the project;

"(5) a description of the success of the projects retaining older individuals involved in the projects as employees and as volunteers; and

"(6) the rate of turnover of older individual employees and volunteers in the projects.

"(h) DEFINITION.—As used in this section, the term 'multigenerational activity' includes an opportunity to serve as a mentor or adviser in a child care program, a youth day care program, an educational assistance program, an at-risk youth intervention program, a juvenile delinquency treatment program, or a family support program.".

SEC. 410. SUPPORTIVE SERVICES IN FEDERALLY ASSISTED HOUSING DEMONSTRATION PROGRAM.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by section 409) is amended by adding at the end the following:

"SEC. 429A. SUPPORTIVE SERVICES IN FEDERALLY ASSISTED HOUSING DEMONSTRATION PROGRAM.

"(a) GRANTS.—The Commissioner shall award grants to eligible agencies to establish demonstration programs to provide services described in subsection (b) to older individuals who are residents in federally assisted housing (referred to in this section as 'residents').

"(b) USE OF GRANTS.—An eligible agency shall use a grant awarded under subsection (a) to conduct outreach and to provide to residents services including—

"(1) meal services;

"(2) transportation;

"(3) personal care, dressing, bathing, and toileting;

"(4) housekeeping and chore assistance;

"(5) nonmedical counseling;

"(6) case management;

"(7) other services to prevent premature and unnecessary institutionalization; and

"(8) other services provided under this Act.

"(c) AWARD OF GRANTS.—The Commissioner shall award grants under subsection (a) to agencies in a variety of geographic settings, including urban and rural settings.

"(d) APPLICATION.—To be eligible to receive a grant under subsection (a), an agency shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including, at a minimum—

"(1) information demonstrating a lack of, and need for, services described in subsection (b) in federally assisted housing projects in the geo-

graphic area proposed to be served by the applicant;

"(2) a comprehensive plan to coordinate with housing facility management to provide services to frail older individuals who are in danger of premature or unnecessary institutionalization;

"(3) information demonstrating initiative on the part of the agency to address the supportive service needs of residents;

"(4) information demonstrating financial, in-kind, or other support available to the applicant from State or local governments, or from private resources;

"(5) an assurance that the agency will participate in the development of the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) and seek funding for supportive services under the Department of Housing and Urban Development or the Farmers Home Administration;

"(6) an assurance that the agency will target services to low-income minority older individuals and conduct outreach;

"(7) an assurance that the agency will comply with the guidelines described in subsection (f); and

"(8) a plan to evaluate the eligibility of older individuals for services under the federally assisted housing demonstration program, which plan shall include a professional assessment committee to identify such individuals.

"(e) ELIGIBLE AGENCIES.—Agencies eligible to receive grants under this section shall be State agencies and area agencies on aging.

"(f) GUIDELINES.—The Commissioner shall issue guidelines for use by agencies that receive grants under this section—

"(1) regarding the level of frailty that older individuals shall meet to be eligible for services under a demonstration program established under this section; and

"(2) for accepting voluntary contributions from residents who receive services under such a program.

"(g) EVALUATIONS AND REPORTS.—

"(1) AGENCIES.—Each agency that receives a grant under subsection (a) to establish a demonstration program shall, not later than 3 months after the end of the period for which the grant is awarded—

"(A) evaluate the effectiveness of the program; and

"(B) submit a report containing the evaluation to the Commissioner.

"(2) COMMISSIONER.—The Commissioner shall, not later than 6 months after the end of the period for which the Commissioner awards grants under subsection (a)—

"(A) evaluate the effectiveness of each demonstration program that receives a grant under subsection (a); and

"(B) submit a report containing the evaluation to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

SEC. 411. NEIGHBORHOOD SENIOR CARE PROGRAM.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

"SEC. 429B. NEIGHBORHOOD SENIOR CARE PROGRAM.

"(a) DEFINITIONS.—As used in this section:

"(1) HEALTH AND SOCIAL SERVICES.—The term 'health and social services' includes skilled nursing care, personal care, social work services, homemaker services, health and nutrition education, health screening, home health aid services, and specialized therapies.

"(2) VOLUNTEER SERVICES.—The term 'volunteer services' includes peer counseling, chore services, help with mail and taxes, transportation, socialization, health and social services, and other similar services.

"(b) SERVICE GRANTS.—

"(1) IN GENERAL.—The Commissioner may award grants to eligible entities to establish neighborhood senior care programs, in order to encourage professionals to provide volunteer services to local residents who are older individuals and who might otherwise have to be admitted to nursing homes and to hospitals.

"(2) PREFERENCE.—In awarding grants under this section, the Commissioner shall give preference to applicants experienced in operating community programs and programs meeting the independent living needs of older individuals.

"(3) ADVISORY BOARD.—The Commissioner shall establish an advisory board to provide guidance to grant recipients regarding the neighborhood senior care programs. Not fewer than two-thirds of the members of the advisory board shall be residents in communities served by the grant recipients.

"(4) APPLICATION.—To be eligible to receive a grant under this section, an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require. Each application shall—

"(A) describe the activities in the program for which assistance is sought;

"(B) describe the neighborhood in which volunteer services are to be provided under the program, and a plan for integration of volunteer services within the neighborhood;

"(C)(i) provide assurances that nurses, social workers, and community volunteers providing volunteer services and an outreach coordinator involved with the project live in the neighborhood; or

"(ii)(I) reasons that it is not possible to provide such assurances; and

"(II) assurances that nurses, social workers, community volunteers and the outreach coordinator will be assigned repeatedly to the particular neighborhood; and

"(D) provide for an evaluation of the activities for which assistance is sought.

"(c) TECHNICAL RESOURCE CENTER.—The Commissioner shall, to the extent appropriations are available, enter into a contract with an applicant described in subsection (b)(2) to establish a technical resource center that will—

"(1) assist the Commissioner in developing criteria for, and in awarding grants to communities to establish, neighborhood senior care organizations that will implement neighborhood senior care programs under subsection (b);

"(2) assist communities interested in establishing such a neighborhood senior care program;

"(3) coordinate the neighborhood senior care programs;

"(4) provide ongoing analysis of and collection of data on the neighborhood senior care programs and provide such data to the Commissioner;

"(5) serve as a liaison to State agencies interested in establishing neighborhood senior care programs; and

"(6) take any further actions as required by regulation by the Commissioner.".

SEC. 412. INFORMATION AND ASSISTANCE SYSTEMS DEVELOPMENT PROJECTS.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

"SEC. 429C. INFORMATION AND ASSISTANCE SYSTEMS DEVELOPMENT PROJECTS.

"(a) GRANTS.—The Commissioner may—

"(1) make grants to State agencies, and, in consultation with State agencies, to area agencies on aging to support the improvement of information and assistance services, and systems of services, operated at the State and local levels; and

"(2) make grants to organizations to provide training and technical assistance to State agencies, area agencies on aging, and providers of supportive services—

"(A) to support a national telephone access service to inform older individuals, families, and caregivers about State and local information and assistance services funded under this Act; and

"(B) to support the improvement of information and assistance services, and systems of services, operated at the State and local levels.

"(b) APPLICATION.—To be eligible to receive a grant under subsection (a) an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may specify.

"(c) GUIDELINES.—The Commissioner shall establish guidelines for the operation of the national telephone access service described in subsection (a)(2)(A).

"(d) EVALUATION AND REPORT.—

"(1) EVALUATION.—The Commissioner shall conduct an evaluation of the effectiveness of the national telephone service described in subsection (a)(2)(A) in providing information and assistance services to older individuals, families, and caregivers about State and local information and assistance services.

"(2) REPORT.—Not later than January 1, 1995, the Commissioner shall submit the evaluation described in paragraph (1) to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

SEC. 413. SENIOR TRANSPORTATION DEMONSTRATION PROGRAM GRANTS.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

"SEC. 429D. SENIOR TRANSPORTATION DEMONSTRATION PROGRAM GRANTS.

"(a) ESTABLISHMENT.—The Commissioner shall establish and carry out senior transportation demonstration programs. In carrying out the programs, the Commissioner shall award grants to not fewer than five eligible entities for the purpose of improving the mobility of older individuals and transportation services for older individuals (referred to in this section as 'senior transportation services').

"(b) USE OF FUNDS.—Grants made under subsection (a) may be used to—

"(1) develop innovative approaches for improving access by older individuals to supportive services under part B of title III, nutrition services under part C of title III, health care, and other important services;

"(2) develop comprehensive and integrated senior transportation services; and

"(3) leverage additional resources for senior transportation services by—

"(A) coordinating various transportation services; and

"(B) coordinating various funding sources for transportation services, including—

"(i) sources of assistance under—

"(I) sections 9, 16(b)(2), and 18 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App.); and

"(II) titles XIX and XX of the Social Security Act (42 U.S.C. 1396 et seq. and 1397 et seq.); and

"(ii) State and local sources.

"(c) AWARD OF GRANTS.—

"(1) PREFERENCE.—In awarding grants under subsection (a), the Commissioner shall give preference to entities that—

"(A) demonstrate special needs for enhancing senior transportation services and resources for the services within the geographic area served by the entities;

"(B) establish plans to ensure that senior transportation services are coordinated with

general public transportation services and other specialized transportation services;

"(C) demonstrate the ability to utilize the broadest range of available transportation and community resources to provide senior transportation services;

"(D) demonstrate the capacity and willingness to coordinate senior transportation services with services provided under title III and with general public transportation services and other specialized transportation services; and

"(E) establish plans for senior transportation demonstration programs designed to serve the special needs of low-income, rural, frail, and other at-risk, transit-dependent older individuals.

"(2) RURAL ENTITIES.—The Commissioner shall award not less than 50 percent of the grants authorized under this section to entities located in, or primarily serving, rural areas.

"(d) APPLICATION.—An entity that seeks a grant under this section shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including at a minimum—

"(1) information describing senior transportation services for which the entity seeks assistance;

"(2) a comprehensive strategy for developing a coordinated transportation system or leveraging additional funding resources, to provide senior transportation services;

"(3) information describing the extent to which the applicant intends to coordinate the services of the applicant with the services of other transportation providers;

"(4) a plan for evaluating the effectiveness of the proposed senior transportation demonstration program and preparing a report containing the evaluation to be submitted to the Commissioner; and

"(5) such other information as may be required by the Commissioner.

"(e) ELIGIBLE ENTITIES.—Entities eligible to receive grants under this section shall be—

"(1) State agencies;

"(2) area agencies on aging; and

"(3) other public agencies and nonprofit organizations.

"(f) REPORT.—

"(1) PREPARATION.—The Commissioner shall prepare, either directly or through grants or contracts, annual reports on the senior transportation demonstration programs established under this section. The reports shall contain an assessment of the effectiveness of each demonstration project and recommendations regarding legislative, administrative, and other initiatives needed to improve the access to and effectiveness of transportation services for older individuals.

"(2) SUBMISSION.—The Commissioner shall submit the report described in paragraph (1) to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

SEC. 414. RESOURCE CENTERS ON NATIVE AMERICAN ELDERS.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

"SEC. 429E. RESOURCE CENTERS ON NATIVE AMERICAN ELDERS.

"(a) ESTABLISHMENT.—The Commissioner shall make grants or enter into contracts with not fewer than two and not more than four eligible entities to establish and operate Resource Centers on Native American Elders (referred to in this section as 'Resource Centers'). The Commissioner shall make such grants or enter into such contracts for periods of not less than 3 years.

"(b) FUNCTIONS.—

"(1) IN GENERAL.—Each Resource Center that receives funds under this section shall—

"(A) gather information;

"(B) perform research;

"(C) provide for the dissemination of results of the research; and

"(D) provide technical assistance and training to entities that provide services to Native Americans who are older individuals.

"(2) AREAS OF CONCERN.—In conducting the functions described in paragraph (1), a Resource Center shall focus on priority areas of concern for the Resource Centers regarding Native Americans who are older individuals, which areas shall be—

"(A) health problems;

"(B) long-term care, including in-home care;

"(C) elder abuse; and

"(D) other problems and issues that the Commissioner determines are of particular importance to Native Americans who are older individuals.

"(c) PREFERENCE.—In awarding grants and entering into contracts under subsection (a), the Commissioner shall give preference to institutions of higher education that have conducted research on, and assessment of, the characteristics and needs of Native Americans who are older individuals.

"(d) CONSULTATION.—In determining the type of information to be sought from, and activities to be performed by, Resource Centers, the Commissioner shall consult with the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging and with national organizations with special expertise in serving Native Americans who are older individuals.

"(e) ELIGIBLE ENTITIES.—Entities eligible to receive a grant or enter into a contract under subsection (a) shall be institutions of higher education with experience conducting research and assessment on the needs of older individuals.

"(f) REPORT TO CONGRESS.—The Commissioner, with assistance from each Resource Center, shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an annual report on the status and needs including the priority areas of concern of Native Americans who are older individuals.".

SEC. 415. DEMONSTRATION PROGRAMS FOR OLDER INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

"SEC. 429F. DEMONSTRATION PROGRAMS FOR OLDER INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.

"(a) DEFINITION.—As used in this section:

"(1) DEVELOPMENTAL DISABILITY.—The term 'developmental disability' has the meaning given the term in section 102(5) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(5)).

"(2) IN-HOME SERVICE.—The term 'in-home service' has the meaning given the term in section 342.

"(b) ESTABLISHMENT.—The Commissioner shall make grants to State agencies to provide services in accordance with subsection (c).

"(c) USE OF FUNDS.—A State agency may use a grant awarded under subsection (b) to provide services for older individuals with developmental disabilities, and for older individuals with caretaker responsibilities for developmentally disabled children, including—

"(1) child care and youth day care programs;

"(2) programs to integrate the individuals into existing programs for older individuals;

"(3) respite care;

"(4) transportation to multipurpose senior centers and other facilities and services;

"(5) supervision;

"(6) renovation of multipurpose senior centers;

"(7) provision of materials to facilitate activities for older individuals with developmental disabilities, and for older individuals with caretaker responsibilities for developmentally disabled children;

"(8) training of State agency, area agency on aging, volunteer, and multipurpose senior center staff, and other service providers, who work with such individuals; and

"(9) in-home services.

"(d) APPLICATION.—To be eligible to receive a grant under this section, a State agency shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.".

SEC. 416. HOUSING DEMONSTRATION PROGRAMS.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

"SEC. 429G. HOUSING DEMONSTRATION PROGRAMS.

"(a) HOUSING OMBUDSMAN DEMONSTRATION PROGRAMS.—

"(1) GRANTS.—The Commissioner shall award grants to eligible agencies to establish housing ombudsman programs.

"(2) USE OF GRANTS.—An eligible agency shall use a grant awarded under paragraph (1) to—

"(A) provide the services described in subparagraph (B) through—

"(i) professional and volunteer staff to older individuals who are—

"(I) participating in federally assisted and other publicly assisted housing programs; or

"(II) seeking Federal, State, and local housing programs; and

"(ii)(I) the State Long-Term Care Ombudsman program under section 307(a)(12) or section 712;

"(II) a legal services or assistance organization or through an organization that provides both legal and other social services;

"(III) a public or not-for-profit social services agency; or

"(IV) an agency or organization concerned with housing issues but not responsible for publicly assisted housing.

"(B) establish a housing ombudsman program that provides information, advice, and advocacy services including—

"(i) direct assistance, or referral to services, to resolve complaints or problems;

"(ii) provision of information regarding available housing programs, eligibility, requirements, and application processes;

"(iii) counseling or assistance with financial, social, familial, or other related matters that may affect or be influenced by housing problems;

"(iv) advocacy related to promoting—

"(I) the rights of the older individuals who are residents in publicly assisted housing programs; and

"(II) the quality and suitability of housing in the programs; and

"(v) assistance with problems related to housing regarding—

"(I) threats of eviction or eviction notices;

"(II) older buildings;

"(III) functional impairments as the impairments relate to housing;

"(IV) unlawful discrimination;

"(V) regulations of the Department of Housing and Urban Development and the Farmers Home Administration;

"(VI) disability issues;

"(VII) intimidation, harassment, or arbitrary management rules;

"(VIII) grievance procedures;

"(IX) certification and recertification related to programs of the Department of Housing and

Urban Development and the Farmers Home Administration; and

"(X) issues related to transfer from one project or program to another; and

"(3) AWARD OF GRANTS.—The Commissioner shall award grants under paragraph (1) to agencies in rural, urban, and other settings.

"(4) APPLICATION.—To be eligible to receive a grant under paragraph (1), an agency shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including, at a minimum—

"(A) an assurance that the agency will conduct training of professional and volunteer staff who will provide services through the housing ombudsman demonstration program;

"(B) in the case of an application submitted by an area agency on aging, an endorsement of the program by the State agency serving the State in which the program will be established, and an assurance by the State agency that the agency will work with the area agency in carrying out the program; and

"(C) a plan to involve in the demonstration program the Secretary of the Department of Housing and Urban Development, the Administrator of the Farmers Home Administration, any individual or entity described in paragraph (2)(A) through which the agency intends to provide the services, and other agencies involved in publicly assisted housing programs.

"(5) ELIGIBLE AGENCIES.—Agencies eligible to receive grants under this section shall include—

"(A) State agencies;

"(B) area agencies on aging; and

"(C) other nonprofit entities, including providers of services under the State Long-Term Care Ombudsman program and the elder rights and legal assistance development program described in chapters 2 and 4, respectively, of subtitle A of title VII.

"(b) FORECLOSURE AND EVICTION ASSISTANCE AND RELIEF SERVICES DEMONSTRATION PROGRAMS.—

"(1) GRANTS.—The Commissioner shall make grants to States to carry out demonstration programs to develop methods or implement laws—

"(A) to prevent or delay the foreclosure on housing owned and occupied by older individuals or the eviction of older individuals from housing the individuals rent;

"(B) to obtain alternative housing as a result of such foreclosure or eviction; and

"(C) to assist older individuals to understand the rights and obligations of the individuals under laws relating to housing ownership and occupancy.

"(2) NOTIFICATION PROCESS.—A State that receives a grant under paragraph (1) shall establish methods, including a notification process—

"(A) to assist older individuals who are incapable of, or have difficulty in, understanding the circumstances and consequences of foreclosure on or eviction from housing the individuals occupy; and

"(B) to coordinate the program for which such grant is received with the activities of tenant organizations, tenant-landlord mediation organizations, public housing entities, and area agencies on aging, to provide more effectively assistance or referral to services to relocate or prevent eviction of older individuals from housing the individuals occupy.

"(c) EVALUATIONS AND REPORTS.—

"(1) AGENCIES.—Each agency or State that receives a grant under subsection (a) or (b) to establish a demonstration program shall, not later than 3 months after the end of the period for which the grant is awarded—

"(A) evaluate the effectiveness of the program; and

"(B) submit a report containing the evaluation to the Commissioner.

"(2) COMMISSIONER.—The Commissioner shall, not later than 6 months after the end of the period for which the Commissioner awards a grant under subsection (a) or (b)—

"(A) evaluate the effectiveness of each demonstration program that receives the grant; and

"(B) submit a report containing the evaluation to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

SEC. 417. PRIVATE RESOURCE ENHANCEMENT PROJECTS.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

"SEC. 429H. PRIVATE RESOURCE ENHANCEMENT PROJECTS.

"(a) GRANTS.—

"(1) IN GENERAL.—The Commissioner may make grants to, and enter into contracts with, State agencies and area agencies on aging, to carry out demonstration projects that generate non-Federal resources (including cash and in-kind contributions), in order to increase resources available to provide additional services under title III.

"(2) MAINTENANCE OF RESOURCES.—Resources generated with a grant made, or contract entered into, under subsection (a) shall be in addition to, and may not be used to supplant, any resource that is or would otherwise be available under any Federal, State, or local law to a State, State agency, area agency on aging, or unit of general purpose local government (as defined in section 302(2)) to provide such services.

"(3) USE OF RESOURCES.—Resources generated with a grant made, or a contract entered into, under subsection (a) shall be used to provide supportive services in accordance with title III. The requirements under this Act that apply to funds received under title III by States to carry out title III shall apply with respect to such resources.

"(b) AWARD OF GRANTS AND CONTRACTS.—

"(1) REGIONAL DISTRIBUTION.—The Commissioner shall ensure that States and area agencies on aging in all standard Federal regions of the United States, established by the Office of Management and Budget, receive grants and contracts under subsection (a) on an equitable basis.

"(2) DISTRIBUTION BASED ON NEED.—Within such regions, the Commissioner shall give preference to applicants that provide services under title III in geographical areas that contain a large number of older individuals with greatest economic need or older individuals with greatest social need.

"(c) MONITORING.—The Commissioner shall monitor how—

"(1) grants are expended, and contracts are carried out, under subsection (a); and

"(2) resources generated under such grants and contracts are expended,

to ensure compliance with this section.".

SEC. 418. CAREER PREPARATION FOR THE FIELD OF AGING.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

"SEC. 429I. CAREER PREPARATION FOR THE FIELD OF AGING.

"(a) GRANTS.—The Commissioner shall make grants to institutions of higher education, historically black colleges or universities, Hispanic Centers of Excellence in Applied Gerontology, and other educational institutions that serve the needs of minority students, to provide education and training to prepare students for careers in the field of aging.

"(b) DEFINITIONS.—For purposes of subsection (a):

"(1) HISPANIC CENTER OF EXCELLENCE IN APPLIED GERONTOLOGY.—The term 'Hispanic Center of Excellence in Applied Gerontology' means an institution of higher education with a program in applied gerontology that—

"(A) has a significant number of Hispanic individuals enrolled in the program, including individuals accepted for enrollment in the program;

"(B) has been effective in assisting Hispanic students of the program to complete the program and receive the degree involved;

"(C) has been effective in recruiting Hispanic individuals to attend the program, including providing scholarships and other financial assistance to such individuals and encouraging Hispanic students of secondary educational institutions to attend the program; and

"(D) has made significant recruitment efforts to increase the number and placement of Hispanic individuals serving in faculty or administrative positions in the program.

"(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term 'historically black college or university' has the meaning given the term 'part B institution' in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

SEC. 419. PENSION INFORMATION AND COUNSELING DEMONSTRATION PROJECTS.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

"SEC. 429J. PENSION RIGHTS DEMONSTRATION PROJECTS.

"(a) DEFINITIONS.—As used in this section:

"(1) PENSION RIGHTS INFORMATION PROGRAM.—The term 'pension rights information program' means a program described in subsection (c).

"(2) PENSION AND OTHER RETIREMENT BENEFITS.—The term 'pension and other retirement benefits' means private, civil service, and other public pensions and retirement benefits, including benefits provided under—

"(A) the Social Security program under title II of the Social Security Act (42 U.S.C. 401 et seq.);

"(B) the railroad retirement program under the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.);

"(C) the government retirement benefits programs under the Civil Service Retirement System set forth in chapter 83 of title 5, United States Code, the Federal Employees Retirement System set forth in chapter 84 of title 5, United States Code, or other Federal retirement systems; or

"(D) the Employee Retirement Income Security Act (29 U.S.C. 1001 et seq.).

"(b) ESTABLISHMENT.—The Commissioner shall establish and carry out pension rights demonstration projects.

"(c) PENSION RIGHTS INFORMATION PROGRAMS.—

"(1) USE OF FUNDS.—In carrying out the projects specified in subsection (b), the Commissioner shall, to the extent appropriations are available, award grants to six eligible entities to establish programs to provide outreach, information, counseling, referral, and assistance regarding pension and other retirement benefits, and rights related to such benefits.

"(2) AWARD OF GRANTS.—

"(A) TYPE OF ENTITY.—The Commissioner shall award under this subsection—

"(i) four grants to State agencies or area agencies on aging; and

"(ii) two grants to nonprofit organizations with a proven record of providing—

"(I) services related to retirement of older individuals; or

"(II) specific pension rights counseling.

"(B) PANEL.—In awarding grants under this subsection, the Commissioner shall use a citizen advisory panel that shall include representa-

tives of business, labor, national senior advocates, and national pension rights advocates.

"(C) CRITERIA.—In awarding grants under this subsection, the Commissioner, in consultation with the panel, shall use as criteria—

"(i) evidence of commitment of an agency or organization to carry out a proposed pension rights information program;

"(ii) the ability of the agency or organization to perform effective outreach to affected populations, particularly populations identified as in need of special outreach; and

"(iii) reliable information that the population to be served by the agency or organization has a demonstrable need for the services proposed to be provided under the program.

"(3) APPLICATION.—

"(A) IN GENERAL.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including, at a minimum—

"(i) a plan for the establishment of a pension rights information program to serve a specific geographic area; and

"(ii) an assurance that staff members (including volunteer staff members) have no conflict of interest in providing the services described in the plan.

"(B) PLAN.—The plan described in paragraph (1) shall provide for a program that—

"(i) establishes a State or area pension rights information center;

"(ii) provides counseling (including direct counseling and assistance to individuals needing information) and information that may assist individuals in establishing rights to, obtaining, and filing claims or complaints related to, pension and other retirement benefits;

"(iii) provides information on sources of pension and other retirement benefits, including the benefits under programs described in subsection (a)(1);

"(iv) makes referrals to legal services and other advocacy programs;

"(v) establishes a system of referral to State, local, and Federal departments or agencies related to pension and other retirement benefits;

"(vi) provides a sufficient number of staff positions (including volunteer positions) to ensure information, counseling, referral, and assistance regarding pension and other retirement benefits;

"(vii) provides training programs for staff members, including volunteer staff members of the programs described in subsection (a)(1);

"(viii) makes recommendations to the Administration, the Department of Labor and other local, State, and Federal agencies concerning issues for older individuals related to pension and other retirement benefits; and

"(ix) establishes an outreach program to provide information, counseling, referral, and assistance regarding pension and other retirement benefits, with particular emphasis on outreach to women, minorities, and low-income retirees.

"(d) TRAINING PROGRAM.—

"(1) USE OF FUNDS.—In carrying out the projects described in subsection (b), the Commissioner shall, to the extent appropriations are available, award a grant to an eligible entity to establish a training program to provide—

"(A) information to the staffs of entities operating pension rights information programs; and

"(B) assistance to the entities and assist such entities in the design of program evaluation tools.

"(2) ELIGIBLE ENTITY.—Entities eligible to receive grants under this subsection include nonprofit private organizations with records of providing national information, referral, and advocacy in matters related to pension and other retirement benefits.

"(3) APPLICATION.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(e) DURATION.—The Commissioner may award grants under subsection (c) or (d) for periods not to exceed 18 months.

"(f) REPORT TO CONGRESS.—

"(1) PREPARATION.—The Commissioner shall prepare a report that—

"(A) summarizes the distribution of funds authorized for grants under this section and the expenditure of such funds;

"(B) summarizes the scope and content of training and assistance provided under a program carried out under this section and the degree to which the training and assistance can be replicated;

"(C) outlines the problems that individuals participating in programs funded under this section encountered concerning rights related to pension and other retirement benefits; and

"(D) makes recommendations regarding the manner in which services provided in programs funded under this section can be incorporated into the ongoing programs of State agencies, area agencies on aging, multipurpose senior centers, and other similar entities.

"(2) SUBMISSION.—Not later than 30 months after the date of the enactment of this section, the Commissioner shall submit the report described in paragraph (1) to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"(g) ADMINISTRATIVE EXPENSES.—Of the funds appropriated under section 431(a)(1) to carry out this section for a fiscal year, not more than $100,000 may be used by the Administration for administrative expenses in carrying out this section.".

SEC. 420. AUTHORIZATION OF APPROPRIATIONS.

Section 431 of the Older Americans Act of 1965 (42 U.S.C. 3037) is amended by striking subsections (a) and (b) and inserting the following:

"(a)(1) There are authorized to be appropriated to carry out the provisions of this title (other than the provision specified in subsection (b)) $72,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

"(2) Not less than 1 percent of the amount appropriated under paragraph (1) for each fiscal year shall be made available to carry out section 202(d).

"(b) There are authorized to be appropriated to carry out section 411(e), $450,000 for each of fiscal years 1992, 1993, 1994, and 1995.".

SEC. 421. PAYMENTS OF GRANTS FOR DEMONSTRATION PROJECTS.

Section 432(c) of the Older Americans Act of 1965 (42 U.S.C. 3037a(c)) is amended by striking "unless the Commissioner" and all that follows and inserting "unless the Commissioner—

"(1) consults with the State agency prior to issuing the grant or contract; and

"(2) informs the State agency of the purposes of the grant or contract when the grant or contract is issued.".

SEC. 422. RESPONSIBILITIES OF COMMISSIONER.

Section 433 of the Older Americans Act of 1965 (42 U.S.C. 3037b) is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) Not later than January 1 following each fiscal year, the Commissioner shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report for such fiscal year that describes each project and each program—

"(A) for which funds were provided under this title; and

"(B) that was completed in the fiscal year for which such report is prepared.

"(2) Such report shall contain—

"(A) the name or descriptive title of each project or program;

"(B) the name and address of the individual or governmental entity that conducted such project or program;

"(C) a specification of the period throughout which such project or program was conducted;

"(D) the identity of each source of funds expended to carry out such project or program and the amount of funds provided by each such source;

"(E) an abstract describing the nature and operation of such project or program; and

"(F) a bibliography identifying all published information relating to such project or program."; and

(2) by adding at the end the following:

"(c)(1) The Commissioner shall establish by regulation and implement a process to evaluate the results of projects and programs carried out under this title.

"(2) The Commissioner shall—

"(A) make available to the public each evaluation carried out under paragraph (1); and

"(B) use such evaluation to improve services delivered, or the operation of projects and programs carried out, under this Act.".

TITLE V—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

SEC. 501. OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM.

Section 502 of the Older American Community Service Employment Act (42 U.S.C. 3056) is amended—

(1) in subsection (a) by inserting "and who have poor employment prospects" after "or older";

(2) in subsection (b)(1)—

(A) in subparagraph (M) by inserting ", and eligible individuals who have greatest economic need, at least" after "individuals";

(B) by redesignating subparagraphs (N) and (O) as subparagraphs (O) and (P), respectively; and

(C) by inserting after subparagraph (M) the following:

"(N)(i) will prepare an assessment of—

"(I) the participants' skills and talents;

"(II) their need for supportive services; and

"(III) their physical capabilities;

except to the extent such project has, for the particular participant involved, an assessment of such skills and talents, such need, or such capabilities prepared recently pursuant to another employment or training program (such as a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.));

"(ii) will provide to eligible individuals training and employment counseling based on strategies that identify appropriate employment objectives and the need for supportive services, developed as a result of the assessment provided for in clause (i); and

"(iii) will provide counseling to participants on their progress in meeting such objectives and satisfying their need for supportive services;";

(3) in subsection (c)(1)(B) by striking "Director of the Office of Community Services of the Department" and inserting "Secretary";

(4) in subsection (d)(1) by striking "within a State such organization or program sponsor shall submit to the State agency on aging" and inserting "within a planning and service area in a State such organization or program sponsor shall conduct such project in consultation with the area agency on aging of the planning and service area and shall submit to the State agency and the area agency on aging"; and

(5) in subsection (e)(2)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "Not" and all that follows through "1981, the" and inserting "The"; and

(ii) by inserting ", and amend from time to time," after "issue";

(B) in subparagraph (A) by striking "and" at the end;

(C) in subparagraph (B) by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(C) require the coordination of projects carried out under such agreements, with the programs carried out under section 124 of the Job Training Partnership Act (29 U.S.C. 1534).".

SEC. 502. COORDINATION.

(a) Increasing Job Opportunities.—Section 503(a) of the Older American Community Service Employment Act (42 U.S.C. 3056a(a)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(2) by inserting "(1)" after the subsection designation; and

(3) by adding at the end the following:

"(2) The Secretary of Labor and the Commissioner shall coordinate the programs under this title and the programs under titles III, IV, and VI to increase job opportunities available to older individuals.".

(b) Coordination of Administration.—The first sentence of section 503(b)(1) of the Older American Community Service Employment Act (42 U.S.C. 3056a(b)(1)) is amended—

(1) by striking "If" and all that follows through "authorized to", and inserting "The Secretary shall";

(2) by inserting after the first sentence the following: "The Secretary shall coordinate the administration of this title with the administration of titles III, IV, and VI by the Commissioner, to increase the likelihood that eligible individuals for whom employment opportunities under this title are available and who need services under such titles receive such services."; and

(3) by adding at the end the following: "The preceding sentence shall not be construed to prohibit carrying out projects under this title jointly with programs, projects, or activities under any Act specified in such sentence.".

SEC. 503. INTERAGENCY COOPERATION.

Section 505 of the Older American Community Service Employment Act (42 U.S.C. 3056b) is amended—

(1) in subsection (a) by striking "of the Administration on Aging"; and

(2) by adding at the end the following:

"(d)(1) The Secretary shall promote and coordinate carrying out projects under this title jointly with programs, projects, or activities under other Acts that provide training and employment opportunities to eligible individuals.

"(2) The Secretary shall consult with the Secretary of Education to promote and coordinate carrying out projects under this title jointly with employment and training programs in which eligible individuals may participate that are carried out under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).".

SEC. 504. EQUITABLE DISTRIBUTION OF ASSISTANCE.

(a) Allocation.—Paragraphs (1) and (2) of section 506(a) of the Older American Community Service Employment Act (42 U.S.C. 3056d(a)) are amended to read as follows:

"(1)(A) Subject to subparagraph (B) and paragraph (2), from sums appropriated under this title for each fiscal year, the Secretary shall first reserve such sums as may be necessary for national grants or contracts with public agencies and public or nonprofit private organizations to maintain the level of activities carried on under such grants or contracts at least at the level of such activities supported under this title and under any other provision of Federal law relating to community service employment programs for older Americans in fiscal year 1978.

"(B)(i)(I) For each fiscal year in which the sums appropriated under this title exceed the amount appropriated under this title for fiscal year 1978, the Secretary shall reserve not more than 45 percent of such excess, except as provided in subclause (II), to carry out clauses (ii), (iii), and (v).

"(II) The Secretary shall reserve a sum sufficient to carry out clauses (iii) and (v).

"(III) The Secretary in awarding grants and contracts under this paragraph from the sum reserved under this paragraph shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts designed to achieve the allotment among the States described in paragraph (3) of this subsection.

"(ii) The Secretary shall reserve such sums as may be necessary for national grants or contracts with public or nonprofit national Indian aging organizations with the ability to provide employment services to older Indians and with national public or nonprofit Pacific Island and Asian American aging organizations with the ability to provide employment services to older Pacific Island and Asian Americans.

"(iii) If the amount appropriated under this title for a fiscal year exceeds 102 percent of the amount appropriated under this title for fiscal year 1991, for each fiscal year described in clause (iv), the Secretary shall reserve for recipients of national grants and contracts under this paragraph such portion of the excess amount as the Secretary determines to be appropriate and is—

"(I) at least 25 percent of the excess amount; or

"(II) the portion required to increase the amount made available under this paragraph to each of the recipients so that the amount equals 1.3 percent of the amount appropriated under this title for fiscal year 1991.

"(iv) From the portion reserved under clause (iii), the Secretary shall increase the amount made available under this paragraph to each of the recipients—

"(I) for each fiscal year before the fiscal year described in subclause (II), so that such amount equals, or more closely approaches, such 1.3 percent; and

"(II) for the first fiscal year for which the portion is sufficient to make available under this paragraph to each of the recipients the amount equal to such 1.3 percent, so that such amount is not less than such 1.3 percent.

"(v) For each fiscal year after the fiscal year described in clause (iv)(II), the Secretary shall make available under this paragraph to each of the recipients an amount not less than such 1.3 percent.

"(C) Preference in awarding grants and contracts under this paragraph shall be given to national organizations, and agencies, of proven ability in providing employment services to eligible individuals under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts, in the aggregate, among the States, taking into account the needs of underserved States, subject to subparagraph (B)(i)(III).

"(2)(A) From sums appropriated under this title for each fiscal year after September 30, 1978, the Secretary shall reserve an amount which is at least 1 percent and not more than 3 percent of the amount appropriated in excess of the amount appropriated for fiscal year 1978 for the purpose of entering into agreements under section 502(e), relating to improved transition to private employment.

"(B) After the Secretary makes the reservations required by paragraph (1)(B) and subparagraph (A), the remainder of such excess shall be allotted to the appropriate public agency of each State pursuant to paragraph (3).".

(b) Apportionment Within States.—Section 506(c) of the Older American Community Service Employment Act (42 U.S.C. 3056d(c)) is amended—

(1) by striking "and (2)" and inserting "(2)"; and

(2) by inserting before the period at the end the following: ", and (3) the relative distribution of (A) such individuals who are individuals with greatest economic need, (B) such individuals who are minority individuals, and (C) such individuals who are individuals with greatest social need".

(c) Technical and Conforming Amendments.—

(1) Section 502(c)(1), paragraphs (3) and (4) of section 506(a), and section 507(1) of the Older American Community Service Employment Act (42 U.S.C. 3056(c)(1), 3056d(a) (3) and (4), and 3056e(1)) are amended by striking "per centum" each place the term appears and inserting "percent".

(2) Section 502(e)(1) of the Older American Community Service Employment Act (42 U.S.C. 3056(e)(1)) is amended by striking "506(a)(1)(B)" and inserting "506(a)(2)(A)".

(3) Section 506(a)(4)(B) of the Older American Community Service Employment Act (42 U.S.C. 3056d(a)(4)(B)) is amended by striking "him" and inserting "the Secretary".

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

Section 508(a) of the Older American Community Service Employment Act (42 U.S.C. 3056f(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) $470,671,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993, 1994, and 1995; and";

(2) in paragraph (2) by striking "62,500" and inserting "70,000"; and

(3) by striking "clause" and inserting "paragraph".

SEC. 506. DUAL ELIGIBILITY.

The Older American Community Service Employment Act (42 U.S.C. 3056–3056g) is amended by adding at the end the following:

"SEC. 510. DUAL ELIGIBILITY.

"In the case of projects under this title carried out jointly with programs carried out under the Job Training Partnership Act, eligible individuals shall be deemed to satisfy the requirements of section 203 of such Act (29 U.S.C. 1603) that are applicable to adults.".

SEC. 507. TREATMENT OF ASSISTANCE PROVIDED UNDER THE OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT ACT.

The Older American Community Service Employment Act (42 U.S.C. 3056–3056g), as amended by section 506, is amended by adding at the end the following:

"SEC. 511. TREATMENT OF ASSISTANCE.

"Assistance furnished under this title shall not be construed to be financial assistance described in section 245A(h)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(1)(A)).".

TITLE VI—GRANTS FOR NATIVE AMERICANS

SEC. 601. APPLICATIONS BY TRIBAL ORGANIZATIONS.

Section 614(a) of the Older Americans Act of 1965 (42 U.S.C. 3057e(a)) is amended—

(1) in paragraph (10) by striking "and" at the end;

(2) in paragraph (11) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(12) contain assurances that the tribal organization will coordinate services provided under this part with services provided under title III in the same geographical area.".

SEC. 602. DISTRIBUTION OF FUNDS AMONG TRIBAL ORGANIZATIONS.

Title VI of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.) is amended by inserting after section 614 the following:

"SEC. 614A. DISTRIBUTION OF FUNDS AMONG TRIBAL ORGANIZATIONS.

"(a) Maintenance of 1991 Amounts.—Subject to the availability of appropriations to carry out this part, the amount of the grant (if any) made under this part to a tribal organization for fiscal year 1992 and for each subsequent fiscal year shall be not less than the amount of the grant made under this part to the tribal organization for fiscal year 1991.

"(b) Use of Additional Amounts Appropriated.—If the funds appropriated to carry out this part in a fiscal year subsequent to fiscal year 1991 exceed the funds appropriated to carry out this part in fiscal year 1991, then the amount of the grant (if any) made under this part to a tribal organization for the subsequent fiscal year shall be—

"(1) increased by such amount as the Commissioner considers to be appropriate, in addition to the amount of any increase required by subsection (a), so that the grant equals or more closely approaches the amount of the grant made under this part to the tribal organization for fiscal year 1980; or

"(2) an amount the Commissioner considers to be sufficient if the tribal organization did not receive a grant under this part for either fiscal year 1980 or fiscal year 1991.".

SEC. 603. APPLICATIONS BY ORGANIZATIONS SERVING NATIVE HAWAIIANS.

Section 624(a)(3) of the Older Americans Act of 1965 (42 U.S.C. 3057j(a)(3)) is amended by inserting "and with the activities carried out under title III in the same geographical area" before the semicolon at the end.

SEC. 604. DISTRIBUTION OF FUNDS AMONG ORGANIZATIONS.

Title VI of the Older Americans Act of 1965 (42 U.S.C. 3057 et seq.) is amended by inserting after section 624 the following:

"SEC. 624A. DISTRIBUTION OF FUNDS AMONG ORGANIZATIONS.

"Subject to the availability of appropriations to carry out this part, the amount of the grant (if any) made under this part to an organization for fiscal year 1992 and for each subsequent fiscal year shall be not less than the amount of the grant made under this part to the organization for fiscal year 1991.".

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

Section 633 of the Older Americans Act of 1965 (42 U.S.C. 3057n) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 633. (a) There are authorized to be appropriated $30,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, to carry out this title (other than section 615).

"(b) Of the amount appropriated under subsection (a) for each fiscal year—

"(1) 90 percent shall be available to carry out part A; and

"(2) 10 percent shall be available to carry out part B.".

TITLE VII—VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

SEC. 701. ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES.

The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended by adding at the end the following:

"TITLE VII—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

"Subtitle A—State Provisions

"CHAPTER 1—GENERAL STATE PROVISIONS

"SEC. 701. ESTABLISHMENT.

"The Commissioner, acting through the Administration, shall establish and carry out a program for making allotments to States to pay for the cost of carrying out vulnerable elder rights protection activities.

"SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

"(a) Ombudsman Program.—There are authorized to be appropriated to carry out chapter 2, $40,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

"(b) Prevention of Elder Abuse, Neglect, and Exploitation.—There are authorized to be appropriated to carry out chapter 3, $15,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

"(c) State Elder Rights and Legal Assistance Development Program.—There are authorized to be appropriated to carry out chapter 4, $10,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

"(d) Outreach, Counseling, and Assistance Program.—There are authorized to be appropriated to carry out chapter 5, $15,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

"SEC. 703. ALLOTMENT.

"(a) In General.—

"(1) Population.—In carrying out the program described in section 701, the Commissioner shall initially allot to each State, from the funds appropriated under section 702 for each fiscal year, an amount that bears the same ratio to the funds as the population of older individuals in the State bears to the population of older individuals in all States.

"(2) Minimum allotments.—

"(A) In general.—After making the initial allotments described in paragraph (1), the Commissioner shall adjust the allotments on a pro rata basis in accordance with subparagraphs (B) and (C).

"(B) General minimum allotments.—

"(i) Minimum allotment for States.—No State shall be allotted less than one-half of 1 percent of the funds appropriated under section 702 for the fiscal year for which the determination is made.

"(ii) Minimum allotment for territories.—Guam, the United States Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the funds appropriated under section 702 for the fiscal year for which the determination is made. American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated under section 702 for the fiscal year for which the determination is made.

"(C) Minimum allotments for ombudsman and elder abuse programs.—

"(i) Ombudsman program.—No State shall be allotted for a fiscal year, from the funds appropriated under section 702(a), less than the amount allotted to the State under section 304 in fiscal year 1991 to carry out the State Long-Term Care Ombudsman program under title III.

"(ii) Elder abuse programs.—No State shall be allotted for a fiscal year, from the funds appropriated under section 702(b), less than the amount allotted to the State under section 304 in fiscal year 1991 to carry out programs with respect to the prevention of elder abuse, neglect, and exploitation under title III.

"(D) Definition.—For the purposes of this paragraph, the term 'State' does not include Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"(b) Reallotment.—

"(1) In general.—If the Commissioner determines that any amount allotted to a State for a fiscal year under this section will not be used by the State for carrying out the purpose for which the allotment was made, the Commissioner shall make the amount available to a State that the Commissioner determines will be able to use the amount for carrying out the purpose.

"(2) Availability.—Any amount made available to a State from an appropriation for a fiscal year in accordance with paragraph (1) shall, for purposes of this subtitle, be regarded as part of the allotment of the State (as determined under subsection (a)) for the year, but shall remain available until the end of the succeeding fiscal year.

"(c) Withholding.—If the Commissioner finds that any State has failed to carry out this title in accordance with the assurances made and description provided under section 705, the Commissioner shall withhold the allotment of funds to the State. The Commissioner shall disburse the funds withheld directly to any public or nonprofit private institution or organization, agency, or political subdivision of the State submitting an approved plan containing the assurances and description.

"SEC. 704. ORGANIZATION.

"In order for a State to be eligible to receive allotments under this subtitle—

"(1) the State shall demonstrate eligibility under section 305;

"(2) the State agency designated by the State shall demonstrate compliance with the applicable requirements of section 305; and

"(3) each area agency on aging designated by the State agency and participating in such a program shall demonstrate compliance with the applicable requirements of section 305.

"SEC. 705. ADDITIONAL STATE PLAN REQUIREMENTS.

"(a) Eligibility.—In order to be eligible to receive an allotment under this subtitle, a State shall include in the State plan submitted under section 307—

"(1) an assurance that the State, in carrying out any chapter of this subtitle for which the State receives funding under this subtitle, will establish programs in accordance with the requirements of the chapter and this chapter;

"(2) an assurance that the State will hold public hearings, and use other means, to obtain the views of older individuals, area agencies on aging, recipients of grants under title VI, and other interested persons and entities regarding programs carried out under this subtitle;

"(3) an assurance that the State, in consultation with area agencies on aging, will identify and prioritize statewide activities aimed at ensuring that older individuals have access to, and assistance in securing and maintaining, benefits and rights;

"(4) an assurance that the State will use funds made available under this subtitle for a chapter in addition to, and will not supplant, any funds that are expended under any Federal or State law in existence on the day before the date of the enactment of this subtitle, to carry out the vulnerable elder rights protection activities described in the chapter;

"(5) an assurance that the State will place no restrictions, other than the requirements referred to in clauses (i) through (iv) of section 712(a)(5)(C), on the eligibility of entities for designation as local Ombudsman entities under section 712(a)(5);

"(6) an assurance that, with respect to programs for the prevention of elder abuse, neglect, and exploitation under chapter 3—

"(A) in carrying out such programs the State agency will conduct a program of services consistent with relevant State law and coordinated with existing State adult protective service activities for—

"(i) public education to identify and prevent elder abuse;

"(ii) receipt of reports of elder abuse;

"(iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance if appropriate and if the individuals to be referred consent; and

"(iv) referral of complaints to law enforcement or public protective service agencies if appropriate;

"(B) the State will not permit involuntary or coerced participation in the program of services described in subparagraph (A) by alleged victims, abusers, or their households; and

"(C) all information gathered in the course of receiving reports and making referrals shall remain confidential except—

"(i) if all parties to such complaint consent in writing to the release of such information;

"(ii) if the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; or

"(iii) upon court order;

"(7) an assurance that the State agency—

"(A) from funds appropriated under section 702(d) for chapter 5, will make funds available to eligible area agencies on aging to carry out chapter 5 and, in distributing such funds among eligible area agencies, will give priority to area agencies on aging based on—

"(i) the number of older individuals with greatest economic need, and older individuals with greatest social need, residing in their respective planning and service areas; and

"(ii) the inadequacy in such areas of outreach activities and application assistance of the type specified in chapter 5;

"(B) will require, as a condition of eligibility to receive funds to carry out chapter 5, an area agency on aging to submit an application that—

"(i) describes the activities for which such funds are sought;

"(ii) provides for an evaluation of such activities by the area agency on aging; and

"(iii) includes assurances that the area agency on aging will prepare and submit to the State agency a report of the activities conducted with funds provided under this paragraph and the evaluation of such activities;

"(C) will distribute to area agencies on aging—

"(i) the eligibility information received under section 202(a)(20) from the Administration; and

"(ii) information, in written form, explaining the requirements for eligibility to receive medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

"(D) will submit to the Commissioner a report on the evaluations required to be submitted under subparagraph (B); and

"(8) a description of the manner in which the State agency will carry out this title in accordance with the assurances described in paragraphs (1) through (7).

"(b) PRIVILEGE.—Neither a State, nor a State agency, may require any provider of legal assistance under this subtitle to reveal any information that is protected by the attorney-client privilege.

"SEC. 706. DEMONSTRATION PROJECTS.

"(a) ESTABLISHMENT.—From amounts made available under section 304(d)(1)(C) after September 30, 1992, each State may provide for the establishment of at least one demonstration project, to be conducted by one or more area agencies on aging within the State, for outreach to older individuals with greatest economic need with respect to—

"(1) benefits available under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) (or assistance under a State program established in accordance with such title);

"(2) medical assistance available under title XIX of such Act (42 U.S.C. 1396 et seq.); and

"(3) benefits available under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

"(b) BENEFITS.—Each outreach project carried out under subsection (a) shall—

"(1) provide to older individuals with greatest economic need information and assistance regarding their eligibility to receive the benefits and assistance described in paragraphs (1) through (3) of subsection (a);

"(2) be carried out in a planning and service area that has a high proportion of older individuals with greatest economic need, relative to the aggregate number of older individuals in such area; and

"(3) be coordinated with State and local entities that administer benefits under such titles.".

SEC. 702. OMBUDSMAN PROGRAMS.

Title VII of the Older Americans Act of 1965 (as added by section 701 of this Act) is amended by adding at the end the following:

"CHAPTER 2—OMBUDSMAN PROGRAMS

"SEC. 711. DEFINITIONS.

"As used in this chapter:

"(1) OFFICE.—The term 'Office' means the office established in section 712(a)(1)(A).

"(2) OMBUDSMAN.—The term 'Ombudsman' means the individual described in section 712(a)(2).

"(3) LOCAL OMBUDSMAN ENTITY.—The term 'local Ombudsman entity' means an entity designated under section 712(a)(5)(A) to carry out the duties described in section 712(a)(5)(B) with respect to a planning and service area or other substate area.

"(4) PROGRAM.—The term 'program' means the State Long-Term Care Ombudsman program established in section 712(a)(1)(B).

"(5) REPRESENTATIVE.—The term 'representative' includes an employee or volunteer who represents an entity designated under section 712(a)(5)(A) and who is individually designated by the Ombudsman.

"(6) RESIDENT.—The term 'resident' means an older individual who resides in a long-term care facility.

"SEC. 712. STATE LONG-TERM CARE OMBUDSMAN PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to be eligible to receive an allotment under section 703 from funds appropriated under section 702(a), a State agency shall, in accordance with this section—

"(A) establish and operate an Office of the State Long-Term Care Ombudsman; and

"(B) carry out through the Office a State Long-Term Care Ombudsman program.

"(2) OMBUDSMAN.—The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy.

"(3) FUNCTIONS.—The Ombudsman shall serve on a full-time basis, and shall, personally or through representatives of the Office—

"(A) identify, investigate, and resolve complaints that—

"(i) are made by, or on behalf of, residents; and

"(ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of—

"(I) providers, or representatives of providers, of long-term care services;

"(II) public agencies; or

"(III) health and social service agencies;

"(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

"(C) inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A)(ii) or services described in subparagraph (B);

"(D) ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;

"(E) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

"(F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;

"(G)(i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State;

"(ii) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and

"(iii) facilitate public comment on the laws, regulations, policies, and actions;

"(H)(i) provide for training representatives of the Office;

"(ii) promote the development of citizen organizations, to participate in the program; and

"(iii) provide technical support for the development of resident and family councils to protect the well-being and rights of residents; and

"(I) carry out such other activities as the Commissioner determines to be appropriate.

"(4) CONTRACTS AND ARRANGEMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the State agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

"(B) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in subparagraph (A) with—

"(i) an agency or organization that is responsible for licensing or certifying long-term care services in the State; or

"(ii) an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals.

"(5) DESIGNATION OF LOCAL OMBUDSMAN ENTITIES AND REPRESENTATIVES.—

"(A) DESIGNATION.—In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.

"(B) DUTIES.—An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency—

"(i) provide services to protect the health, safety, welfare and rights of residents;

"(ii) ensure that residents in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance;

"(iii) identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may

adversely affect the health, safety, welfare, or rights of the residents;

"(iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

"(v)(I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and

"(II) facilitate the ability of the public to comment on the laws, regulations, policies, and actions;

"(vi) support the development of resident and family councils; and

"(vii) carry out other activities that the Ombudsman determines to be appropriate.

"(C) ELIGIBILITY FOR DESIGNATION.—Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall—

"(i) have demonstrated capability to carry out the responsibilities of the Office;

"(ii) be free of conflicts of interest;

"(iii) in the case of the entities, be public or nonprofit private entities; and

"(iv) meet such additional requirements as the Ombudsman may specify.

"(D) POLICIES AND PROCEDURES.—

"(i) IN GENERAL.—The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.

"(ii) POLICIES.—In a case in which the entities are grantees, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies in consultation with the area agencies on aging. The policies shall provide for participation and comment by the agencies and for resolution of concerns with respect to case activity.

"(iii) CONFIDENTIALITY AND DISCLOSURE.—The State agency shall develop the policies and procedures in accordance with all provisions of this subtitle regarding confidentiality and conflict of interest.

"(b) PROCEDURES FOR ACCESS.—

"(1) IN GENERAL.—The State shall ensure that representatives of the Office shall have—

"(A) access to long-term care facilities and residents;

"(B)(i) appropriate access to review the medical and social records of a resident, if—

"(I) the representative has the permission of the resident, or the legal representative of the resident; or

"(II) the resident is unable to consent to the review and has no legal representative; or

"(ii) access to the records as is necessary to investigate a complaint if—

"(I) a legal guardian of the resident refuses to give the permission;

"(II) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and

"(III) the representative obtains the approval of the Ombudsman;

"(C) access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long-term care facilities; and

"(D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities.

"(2) PROCEDURES.—The State agency shall establish procedures to ensure the access described in paragraph (1).

"(c) REPORTING SYSTEM.—The State agency shall establish a statewide uniform reporting system to—

"(1) collect and analyze data relating to complaints and conditions in long-term care facilities and to residents for the purpose of identifying and resolving significant problems; and

"(2) submit the data, on a regular basis, to—

"(A) the agency of the State responsible for licensing or certifying long-term care facilities in the State;

"(B) other State and Federal entities that the Ombudsman determines to be appropriate;

"(C) the Commissioner; and

"(D) the National Ombudsman Resource Center established in section 202(a)(21).

"(d) DISCLOSURE.—

"(1) IN GENERAL.—The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the program, including records described in subsection (b)(1) or (c).

"(2) IDENTITY OF COMPLAINANT OR RESIDENT.—The procedures described in paragraph (1) shall—

"(A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and

"(B) prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless—

"(i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;

"(ii)(I) the complainant or resident gives consent orally; and

"(II) the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish; or

"(iii) the disclosure is required by court order.

"(e) CONSULTATION.—In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long-term care.

"(f) CONFLICT OF INTEREST.—The State agency shall—

"(1) ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;

"(2) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;

"(3) ensure that the Ombudsman—

"(A) does not have a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;

"(B) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;

"(C) is not employed by, or participating in the management of, a long-term care facility; and

"(D) does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; and

"(4) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as—

"(A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and

"(B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.

"(g) LEGAL COUNSEL.—The State agency shall ensure that—

"(1)(A) adequate legal counsel is available, and is able, without conflict of interest, to—

"(i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and

"(ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and

"(B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Ombudsman or such a representative; and

"(2) the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.

"(h) ADMINISTRATION.—The State agency shall require the Office to—

"(1) prepare an annual report—

"(A) describing the activities carried out by the Office in the year for which the report is prepared;

"(B) containing and analyzing the data collected under subsection (c);

"(C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;

"(D) containing recommendations for—

"(i) improving quality of the care and life of the residents; and

"(ii) protecting the health, safety, welfare, and rights of the residents;

"(E)(i) analyzing the success of the program including success in providing services to residents of board and care facilities and other similar adult care facilities; and

"(ii) identifying barriers that prevent the optimal operation of the program; and

"(F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers;

"(2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulations, and policies as the Office determines to be appropriate;

"(3)(A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding—

"(i) the problems and concerns of older individuals residing in long-term care facilities; and

"(ii) recommendations related to the problems and concerns; and

"(B) make available to the public, and submit to the Commissioner, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long-term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1);

"(4)(A) not later than 1 year after the date of the enactment of this title, establish procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Associate Commissioner for Ombudsman Programs, in consultation with representatives of citizen groups, long-term care providers, and the Office, that—

"(i) specify a minimum number of hours of initial training;

"(ii) specify the content of the training, including training relating to—

"(I) Federal, State, and local laws, regulations, and policies, with respect to long-term care facilities in the State;

"(II) investigative techniques; and

"(III) such other matters as the State determines to be appropriate; and

"(iii) specify an annual number of hours of in-service training for all designated representatives; and

"(B) require implementation of the procedures not later than 21 months after the date of the enactment of this title;

"(5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) unless the representative—

"(A) has received the training required under paragraph (4); and

"(B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;

"(6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under—

"(A) part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.); and

"(B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

"(7) coordinate, to the greatest extent possible, ombudsman services with legal assistance provided under section 306(a)(2)(C), through adoption of memoranda of understanding and other means; and

"(8) permit any local Ombudsman entity to carry out the responsibilities described in paragraph (1), (2), (3), (6), or (7).

"(i) LIABILITY.—The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

"(j) NONINTERFERENCE.—The State shall—

"(1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Commissioner) shall be unlawful;

"(2) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and

"(3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

"SEC. 713. REGULATIONS.

"The Commissioner shall issue and periodically update regulations respecting—

"(1) conflicts of interest by persons described in paragraphs (1) and (2) of section 712(f); and

"(2) the relationships described in subparagraphs (A) through (D) of section 712(f)(3).".

SEC. 703. PROGRAMS FOR PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.

(a) PURPOSE.—The purpose of this section is to assist States in the design, development, and coordination of comprehensive services of the State and local levels to prevent, treat, and remedy elder abuse, neglect, and exploitation.

(b) PROGRAMS.—Title VII of the Older Americans Act of 1965 (as added by section 701, and amended by section 702) is amended by adding at the end the following:

"CHAPTER 3—PROGRAMS FOR PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION

"SEC. 721. PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.

"(a) ESTABLISHMENT.—In order to be eligible to receive an allotment under section 703 from funds appropriated under section 702(b), a State agency shall, in accordance with this section, and in consultation with area agencies on aging, develop and enhance programs for the prevention of elder abuse, neglect, and exploitation.

"(b) USE OF ALLOTMENTS.—The State agency shall use an allotment made under subsection (a) to carry out, through the programs described in subsection (a), activities to develop, strengthen, and carry out programs for the prevention and treatment of elder abuse, neglect, and exploitation, including—

"(1) providing for public education and outreach to identify and prevent elder abuse, neglect, and exploitation;

"(2) ensuring the coordination of services provided by area agencies on aging with services instituted under the State adult protection service program;

"(3) promoting the development of information and data systems, including elder abuse reporting systems, to quantify the extent of elder abuse, neglect, and exploitation in the State;

"(4) conducting analyses of State information concerning elder abuse, neglect, and exploitation and identifying unmet service, enforcement, or intervention needs;

"(5) conducting training for individuals, professionals, and paraprofessionals, in relevant fields on the identification, prevention, and treatment of elder abuse, neglect, and exploitation, with particular focus on prevention and enhancement of self-determination and autonomy;

"(6) providing technical assistance to programs that provide or have the potential to provide services for victims of elder abuse, neglect, and exploitation and for family members of the victims;

"(7) conducting special and on-going training, for individuals involved in serving victims of elder abuse, neglect, and exploitation, on the topics of self-determination, individual rights, State and Federal requirements concerning confidentiality, and other topics determined to be a State agency to be appropriate; and

"(8) promoting the development of an elder abuse, neglect, and exploitation system—

"(A) that includes a State elder abuse, neglect, and exploitation law that includes provisions for immunity, for persons reporting instances of elder abuse, neglect, and exploitation, from prosecution arising out of such reporting, under any State or local law;

"(B) under which a State agency—

"(i) on receipt of a report of known or suspected instances of elder abuse, neglect, or exploitation, shall promptly initiate an investigation to substantiate the accuracy of the report; and

"(ii) on a finding of elder abuse, neglect, or exploitation, shall take steps, including appropriate referral, to protect the health and welfare of the abused, neglected, or exploited older individual;

"(C) that includes, throughout the State, in connection with the enforcement of elder abuse, neglect, and exploitation laws and with the reporting of suspected instances of elder abuse, neglect, and exploitation—

"(i) such administrative procedures;

"(ii) such personnel trained in the special problems of elder abuse, neglect, and exploitation prevention and treatment;

"(iii) such training procedures;

"(iv) such institutional and other facilities (public and private); and

"(v) such related multidisciplinary programs and services,

as may be necessary or appropriate to ensure that the State will deal effectively with elder abuse, neglect, and exploitation cases in the State;

"(D) that preserves the confidentiality of records in order to protect the rights of older individuals;

"(E) that provides for the cooperation of law enforcement officials, courts of competent jurisdiction, and State agencies providing human services with respect to special problems of elder abuse, neglect, and exploitation;

"(F) that enables an older individual to participate in decisions regarding the welfare of the older individual, and makes the least restrictive alternatives available to an older individual who is abused, neglected, or exploited; and

"(G) that includes a State clearinghouse for dissemination of information to the general public with respect to—

"(i) the problems of elder abuse, neglect, and exploitation;

"(ii) the facilities described in subparagraph (C)(iv); and

"(iii) prevention and treatment methods available to combat instances of elder abuse, neglect, and exploitation.

"(c) APPROACH.—In developing and enhancing programs under subsection (a), the State agency shall use a comprehensive approach, in consultation with area agencies on aging, to identify and assist older individuals who are subject to abuse, neglect, and exploitation, including older individuals who live in State licensed facilities, unlicensed facilities, or domestic or community-based settings.

"(d) COORDINATION.—In developing and enhancing programs under subsection (a), the State agency shall coordinate the programs with other State and local programs and services for the protection of vulnerable adults, particularly vulnerable older individuals, including programs and services such as—

"(1) area agency on aging programs;

"(2) adult protective service programs;

"(3) the State Long-Term Care Ombudsman program established in chapter 2;

"(4) protection and advocacy programs;

"(5) facility and long-term care provider licensure and certification programs;

"(6) medicaid fraud and abuse services, including services provided by a State medicaid fraud control unit, as defined in section 1903(q) of the Social Security Act (42 U.S.C. 1396b(q));

"(7) victim assistance programs; and

"(8) consumer protection and law enforcement programs, as well as other State and local programs that identify and assist vulnerable older individuals.

"(e) REQUIREMENTS.—In developing and enhancing programs under subsection (a), the State agency shall—

"(1) not permit involuntary or coerced participation in such programs by alleged victims, abusers, or members of their households;

"(2) require that all information gathered in the course of receiving a report described in subsection (b)(8)(B)(i), and making a referral described in subsection (b)(8)(B)(ii), shall remain confidential except—

"(A) if all parties to such complaint or report consent in writing to the release of such information;

"(B) if the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; or

"(C) upon court order; and

"(3) make all reasonable efforts to resolve any conflicts with other public agencies with respect to confidentiality of the information described in paragraph (2) by entering into memoranda of understanding that narrowly limit disclosure of information, consistent with the requirement described in paragraph (2).

"(f) DESIGNATION.—The State agency may designate a State entity to carry out the programs and activities described in this chapter.".

SEC. 704. STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT PROGRAM.

Title VII of the Older Americans Act of 1965 (as added by section 701 and amended by the preceding sections) is amended by adding at the end the following:

"CHAPTER 4—STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT PROGRAM

"SEC. 731. STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to be eligible to receive an allotment under section 703 from funds appropriated under section 702(c), a State agency shall, in accordance with this section and in consultation with area agencies on aging, establish a program to provide leadership for improving the quality and quantity of legal and advocacy assistance as a means for ensuring a comprehensive elder rights system.

"(2) COORDINATION AND ASSISTANCE.—In carrying out the program established under this chapter, the State agency shall coordinate, and provide assistance to, area agencies on aging and other entities in the State that assist older individuals in—

"(A) understanding the rights of the older individuals;

"(B) exercising choice;

"(C) benefiting from services and opportunities authorized by law;

"(D) maintaining the rights of the older individuals and, in particular, of the older individuals with reduced capacity; and

"(E) solving disputes.

"(b) FUNCTIONS.—In carrying out this chapter, the State agency shall—

"(1) establish a focal point for elder rights policy review, analysis, and advocacy at the State level, including such issues as guardianship, age discrimination, pension and health benefits, insurance, consumer protection, surrogate decisionmaking, protective services, public benefits, and dispute resolution;

"(2) provide an individual who shall be known as a State legal assistance developer, and other personnel, sufficient to ensure—

"(A) State leadership in securing and maintaining legal rights of older individuals;

"(B) State capacity for coordinating the provision of legal assistance;

"(C) State capacity to provide technical assistance, training and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons as appropriate; and

"(D) State capacity to promote financial management services for older individuals at risk of conservatorship;

"(3)(A) develop, in conjunction with area agencies on aging and legal assistance providers, statewide standards for the delivery of legal assistance to older individuals; and

"(B) provide technical assistance to area agencies on aging and legal assistance providers to enhance and monitor the quality and quantity of legal assistance to older individuals, including technical assistance in developing plans for targeting services to reach the older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority individuals;

"(4) provide consultation to, and ensure, the coordination of activities with the legal assistance provided under title III, services provided by the Legal Service Corporation, and services provided under chapters 2, 3, and 5, as well as other State or Federal programs administered at the State and local levels that address the legal assistance needs of older individuals;

"(5) provide for the education and training of professionals, volunteers, and older individuals concerning elder rights, the requirements and benefits of specific laws, and methods for enhancing the coordination of services;

"(6) promote, and provide as appropriate, education and training for individuals who are or might become guardians or representative payees of older individuals, including information on—

"(A) the powers and duties of guardians or representative payees; and

"(B) alternatives to guardianship;

"(7) promote the development of, and provide technical assistance concerning, pro bono legal assistance programs, State and local bar committees on aging, legal hot lines, alternative dispute resolution, programs and curricula, related to the rights and benefits of older individuals, in law schools and other institutions of higher education, and other methods to expand access by older individuals to legal assistance and advocacy and vulnerable elder rights protection activities;

"(8) provide for periodic assessments of the status of elder rights in the State, including analysis—

"(A) of the unmet need for assistance in resolving legal problems and benefits-related problems, methods for expanding advocacy services, the status of substitute decisionmaking systems and services (including systems and services regarding guardianship, representative payeeship, and advance directives), access to courts and the justice system, and the implementation of civil rights and age discrimination laws in the State; and

"(B) of problems and unmet needs identified in programs established under title III and other programs; and

"(9) for the purpose of identifying vulnerable elder rights protection activities provided by the entities under this chapter, and coordinating the activities with programs established under title III and chapters 2, 3, and 5, develop working agreements with—

"(A) State entities, including the consumer protection agency, the court system, the attorney general, the State equal employment opportunity commission, and other State agencies; and

"(B) Federal entities, including the Social Security Administration, Health Care Financing Administration, and the Department of Veterans' Affairs, and other entities.".

SEC. 705. OUTREACH, COUNSELING, AND ASSISTANCE PROGRAMS.

(a) PURPOSE.—The purpose of this section is to provide outreach, counseling, and assistance in order to assist older individuals in obtaining benefits under—

(1) public and private health insurance, long-term care insurance, life insurance, and pension plans; and

(2) public programs under which the individuals are entitled to benefits, including benefits under—

(A) the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

(B) the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(C) the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(D) the program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); and

(E) the program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

(b) PROGRAM.—Title VII of the Older Americans Act of 1965 (as added by section 701, and amended by the preceding sections) is amended by adding at the end the following:

"CHAPTER 5—OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM

"SEC. 741. STATE OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM FOR INSURANCE AND PUBLIC BENEFITS.

"(a) DEFINITIONS.—As used in this section:

"(1) INSURANCE BENEFIT.—The term 'insurance benefit' means a benefit under—

"(A) the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

"(B) the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(C) a public or private insurance program;

"(D) a medicare supplemental policy; or

"(E) a pension plan.

"(2) MEDICARE SUPPLEMENTAL POLICY.—The term 'medicare supplemental policy' has the meaning given the term in section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)).

"(3) PENSION PLAN.—The term 'pension plan' means an employee pension benefit plan, as defined in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)).

"(4) PUBLIC BENEFIT.—The term 'public benefit' means a benefit under—

"(A) the Federal Old-Age, Survivors, and Disability Insurance Benefits programs under title II of the Social Security Act (42 U.S.C. 401 et seq.);

"(B) the medicare program established under title XVIII of the Social Security Act, including benefits as a qualified medicare beneficiary, as defined in section 1905(p) of the Social Security Act;

"(C) the medicaid program established under title XIX of the Social Security Act;

"(D) the program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

"(E) the program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.);

"(F) the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.); or

"(G) a program determined to be appropriate by the Commissioner.

"(5) STATE INSURANCE ASSISTANCE PROGRAM.—The term 'State insurance assistance program' means the program established under subsection (b)(1).

"(6) STATE PUBLIC BENEFIT ASSISTANCE PROGRAM.—The term 'State public benefit assistance program' means the program established under subsection (b)(2).

"(b) ESTABLISHMENT.—In order to receive an allotment under section 703 from funds appropriated under section 702(d), a State agency shall, in coordination with area agencies on aging and in accordance with this section, establish—

"(1) a program to provide to older individuals outreach, counseling, and assistance related to obtaining insurance benefits; and

"(2) a program to provide outreach, counseling, and assistance to older individuals who may be eligible for, but who are not receiving, public benefits.

"(c) INSURANCE AND PUBLIC BENEFITS.—The State agency shall—

"(1) in carrying out a State insurance assistance program—

"(A) provide information and counseling to assist older individuals—

"(i) in filing claims and obtaining benefits under title XVIII and title XIX of the Social Security Act;

"(ii) in comparing medicare supplemental policies and in filing claims and obtaining benefits under such policies;

"(iii) in comparing long-term care insurance policies and in filing claims and obtaining benefits under such policies;

"(iv) in comparing other types of health insurance policies not described in clause (iii) and in filing claims and obtaining benefits under such policies;

"(v) in comparing life insurance policies and in filing claims and obtaining benefits under such policies;

"(vi) in comparing other forms of insurance policies not described in clause (v), in comparing pension plans, and in filing claims and obtaining benefits under such policies and plans as the State agency may determine to be necessary; and

"(vii) in comparing current and future health and post-retirement needs related to pension plans, and the relationship of benefits under such plans to insurance benefits and public benefits;

"(B) establish a system of referrals to appropriate providers of legal assistance, and to appropriate agencies of the Federal or State government regarding the problems of older individuals related to health insurance benefits, other insurance benefits, and public benefits;

"(C) give priority to providing assistance to older individuals with greatest economic need;

"(D) ensure that services provided under the program will be coordinated with programs established under chapters 2, 3, and 4, and under title III;

"(E) provide for adequate and trained staff (including volunteers) necessary to carry out the program;

"(F) ensure that staff (including volunteers) of the agency and of any agency or organization described in subsection (d) will not be subject to a conflict of interest in providing services under the program;

"(G) provide for the collection and dissemination of timely and accurate information to staff (including volunteers) related to insurance benefits and public benefits;

"(H) provide for the coordination of information on insurance benefits between the staff of departments and agencies of the State government and the staff (including volunteers) of the program; and

"(I) make recommendations related to consumer protection that may affect individuals eligible for, or receiving, health or other insurance benefits; and

"(2) in carrying out a State public benefits assistance program—

"(A) carry out activities to identify older individuals with greatest economic need who may be eligible for, but who are not receiving, public benefits;

"(B) conduct outreach activities to inform older individuals of the requirements for eligibility to receive such benefits;

"(C) assist older individuals in applying for such benefits;

"(D) establish a system of referrals to appropriate providers of legal assistance, or to appropriate agencies of the Federal or State government regarding the problems of older individuals related to public benefits;

"(E) comply with the requirements specified in subparagraphs (C) through (F) of paragraph (1) with respect to the State public benefits assistance program;

"(F) provide for the collection and dissemination of timely and accurate information to staff (including volunteers) related to public benefits;

"(G) provide for the coordination of information on public benefits between the staff of State entities and the staff (including volunteers) of the State public benefits assistance program; and

"(H) make recommendations related to consumer protection that may affect individuals eligible for, or receiving, public benefits.

"(d) ADMINISTRATION.—The State agency may operate the State insurance assistance program and the State public benefits assistance program directly, in cooperation with other State agencies, or under an agreement with a statewide nonprofit organization, an area agency on aging, or another public or nonprofit agency or organization.

"(e) MAINTENANCE OF EFFORT.—Any funds appropriated for the activities under this chapter shall supplement, and shall not supplant, funds that are expended for similar purposes under any Federal, State, or local program providing insurance benefits or public benefits.

"(f) COORDINATION.—A State that receives an allotment under section 703 and receives a grant to provide services under section 4360 of the Omnibus Reconciliation Act of 1990 (42 U.S.C. 1395b-4) shall coordinate the services with activities provided by the State agency through the programs described in paragraphs (1) and (2) of subsection (b).".

SEC. 706. NATIVE AMERICAN ORGANIZATION PROVISIONS.

Title VII of the Older Americans Act of 1965 (as added by section 701, and amended by the preceding sections) is amended by adding at the end the following:

"Subtitle B—Native American Organization Provisions

"SEC. 751. NATIVE AMERICAN PROGRAM.

"(a) ESTABLISHMENT.—The Commissioner, acting through the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging, shall establish and carry out a program for—

"(1) assisting eligible entities in prioritizing, on a continuing basis, the needs of the service population of the entities relating to elder rights; and

"(2) making grants to eligible entities to carry out vulnerable elder rights protection activities that the entities determine to be priorities.

"(b) APPLICATION.—In order to be eligible to receive assistance under this subtitle, an entity shall submit an application to the Commissioner, at such time, in such manner, and containing such information as the Commissioner may require.

"(c) ELIGIBLE ENTITY.—An entity eligible to receive assistance under this section shall be—

"(1) an Indian tribe; or

"(2) a public agency, or a nonprofit organization, serving older individuals who are Native Americans.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993, 1994, and 1995.".

SEC. 707. GENERAL PROVISIONS.

Title VII of the Older Americans Act of 1965 (as added by section 701, and amended by the preceding sections) is amended by adding at the end the following:

"Subtitle C—General Provisions

"SEC. 761. DEFINITIONS.

"As used in this title:

"(1) ELDER RIGHT.—The term 'elder right' means a right of an older individual.

"(2) VULNERABLE ELDER RIGHTS PROTECTION ACTIVITY.—The term 'vulnerable elder rights protection activity' means an activity funded under chapter 2, 3, 4, or 5 of this title.

"SEC. 762. ADMINISTRATION.

"A State agency or an entity described in section 751(c) may carry out vulnerable elder rights protection activities either directly or through contracts or agreements with public or nonprofit private agencies or organizations, such as—

"(1) other State agencies;

"(2) area agencies on aging;

"(3) county governments;

"(4) institutions of higher education;

"(5) Indian tribes; or

"(6) nonprofit service providers or volunteer organizations.

"SEC. 763. TECHNICAL ASSISTANCE.

"(a) OTHER AGENCIES.—In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of such Federal entities as may be appropriate.

"(b) COMMISSIONER.—The Commissioner shall provide technical assistance and training (by contract, grant, or otherwise) to persons and entities that administer programs established under this title.

"SEC. 764. AUDITS.

"(a) ACCESS.—The Commissioner, the Comptroller General of the United States, and any duly authorized representative of the Commissioner or the Comptroller shall have access, for the purpose of conducting an audit or examination, to any books, documents, papers, and records that are pertinent to financial assistance received under this title.

"(b) LIMITATION.—State agencies, area agencies on aging, and entities described in section 751(c) shall not request information or data from providers that is not pertinent to services furnished under this title or to a payment made for the services.".

SEC. 708. TECHNICAL AND CONFORMING AMENDMENTS.

(a) OMBUDSMAN PROGRAM.—

(1) SOCIAL SECURITY ACT.—

(A) Section 1819 of the Social Security Act (42 U.S.C. 1395i-3) is amended in subsections (c)(2)(B)(iii)(II) and (g)(5)(B) by striking "established under section 307(a)(12) of the Older Americans Act of 1965" and inserting "established under title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act".

(B) Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended in subsections (c)(2)(B)(iii)(II) and (g)(5)(B) by striking "established under section 307(a)(12) of the Older Americans Act of 1965" and inserting "established under title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act".

(2) OLDER AMERICANS ACT OF 1965.—

(A) Section 207(b) of the Older Americans Act of 1965 (42 U.S.C. 3018(b)) is amended—

(i) in paragraph (1)(A), by striking "section 307(a)(12)(C)" and inserting "titles III and VII in accordance with section 712(c)"; and

(ii) in paragraph (3)—

(I) by striking "by section 307(a)(12)(H)(i)" and inserting "under titles III and VII in accordance with section 712(h)(1)"; and

(II) by striking subparagraph (E) and inserting the following:

"(E) each public agency or private organization designated as an Office of the State Long-Term Care Ombudsman under title III or VII in accordance with section 712(a)(4)(A).".

(B) Section 301(c) of the Older Americans Act of 1965 (42 U.S.C. 3021(c)) is amended by striking "section 307(a)(12), and to individuals designated under such section" and inserting "section 307(a)(12) in accordance with section 712, and to individuals within such programs designated under section 712".

(C) Section 351(4) of the Older Americans Act of 1965 (42 U.S.C. 3030l(4)) is amended by striking "section 307(a)(12)" and inserting "titles III and VII in accordance with section 712".

(b) PROGRAMS FOR PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION.—Section 321(15) of the Older Americans Act of 1965 (42 U.S.C. 3030d(15)) is amended by striking "clause (16) of section 307(a)" and inserting "chapter 3 of subtitle A of title VII and section 307(a)(16)".

(c) OUTREACH PROGRAMS.—

(1) Section 202(a)(20) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)(20)) is amended by striking "under section 307(a)(31)".

(2) Section 207(c) of the Older Americans Act of 1965 (42 U.S.C. 3018(c)) is amended—

(A) in the first sentence, by striking "on the evaluations required to be submitted under section 307(a)(31)(D)" and inserting "on the outreach activities supported under this Act"; and

(B) in paragraph (1), by striking "outreach activities supported under section 306(a)(6)(P)" and inserting "the activities".

(3) Section 303(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)(1)) is amended by striking "for purposes other than outreach activities and application assistance under section 307(a)(31)".

(4) Section 307(a)(20)(A) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(20)(A)) is amended by striking "sections 306(a)(2)(A) and 306(a)(6)(P)" and inserting "section 306(a)(2)(A)".

TITLE VIII—AMENDMENTS TO OTHER LAWS; RELATED MATTERS

Subtitle A—Long-Term Health Care Workers

SEC. 801. DEFINITIONS.

As used in this subtitle:

(1) NURSING HOME NURSE AIDE.—The term "nursing home nurse aide" means an individual employed at a nursing or convalescent home who assists in the care of patients at such home under the direction of nursing and medical staff.

(2) HOME HEALTH CARE AIDE.—The term "home health care aide" means an individual who—

(A) is employed by a government, charitable, nonprofit, or proprietary agency; and

(B) cares for elderly, convalescent, or handicapped individuals in the home of the individuals by performing routine home assistance (such as housecleaning, cooking, and laundry) and assisting in the health care of such individuals under the direction of a physician or nurse.

SEC. 802. INFORMATION REQUIREMENTS.

(a) NATIONAL CENTER FOR HEALTH STATISTICS.—The Director of the National Center for Health Statistics of the Centers for Disease Control shall collect, and prepare a report containing—

(1) demographic information on home health care aides and nursing home nurse aides, including information on the—

(A) age, race, marital status, education, number of children and other dependents, gender, and primary language, of the aides; and

(B) location of facilities at which the aides are employed in—

(i) rural communities; or

(ii) urban or suburban communities; and

(2) information on the role of the aides in providing institution-based and home-based long-term care.

(b) DEPARTMENT OF LABOR.—The Secretary of Labor shall—

(1) collect, and prepare a report containing, information on home health care aides, including—

(A) information on conditions of employment, including—

(i) the length of employment of the aides with the current employer of the aides;

(ii) the number of aides who are—

(I) employed by a for-profit employer;

(II) employed by a nonprofit private employer;

(III) employed by a charitable employer;

(IV) employed by a government employer; or

(V) independent contractors;

(iii) the number of full-time, part-time, and temporary positions for the aides;

(iv) the ratio of the aides to professional staff;

(v) the types of tasks performed by the aides, the level of skill needed to perform the tasks, and whether the tasks are completed in a institution-based or home-based setting; and

(vi) the average number and range of hours worked each week by the aides; and

(B) information on availability of the employment benefits for home health care aides and a description of the benefits, including—

(i) information on health insurance coverage;

(ii) the type of pension plan coverage;

(iii) the amount of vacation leave;

(iv) wage rates; and

(v) the extent of work-related training provided; and

(2) collect, and prepare a report containing, information on nursing home nurse aides, including—

(A) the information described in subparagraphs (A) and (B) of paragraph (1); and

(B) information on—

(i) the type of facility of the employer of the aides, such as a skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a)), or an intermediate care facility within the meaning of section 1121(a) of the Social Security Act (42 U.S.C. 1320a(a));

(ii) the number of beds at the facility; and

(iii) the ratio of the aides to residents of the facility.

SEC. 803. REPORTS.

(a) REPORTS TO COMMISSIONER ON AGING.—

(1) TRANSMITTAL.—

(A) NATIONAL CENTER FOR HEALTH STATISTICS REPORT.—Not later than March 1, 1994, the Director of the National Center for Health Statistics of the Centers for Disease Control shall transmit to the Commissioner on Aging the report required by section 802(a).

(B) DEPARTMENT OF LABOR REPORTS.—

(i) HOME HEALTH CARE AIDES.—Not later than March 1, 1993, the Secretary of Labor shall transmit to the Commissioner on Aging a plan for the collection of the information described in section 802(b)(1). Not later than March 1, 1995, the Secretary of Labor shall transmit to the Commissioner on Aging the report required by section 802(b)(1).

(ii) NURSING HOME NURSE AIDES.—Not later than March 1, 1994, the Secretary of Labor shall transmit to the Commissioner on Aging the report required by section 802(b)(2).

(2) PREPARATION.—

(A) NATIONAL CENTER FOR HEALTH STATISTICS REPORT.—The report required by section 802(a) shall be prepared and organized in such a manner as the Director of the National Center for Health Statistics may determine to be appropriate.

(B) DEPARTMENT OF LABOR REPORTS.—The reports required by paragraphs (1) and (2) of section 802(b) shall be prepared and organized in such a manner as the Secretary of Labor may determine to be appropriate.

(3) PRESENTATION OF INFORMATION.—The reports required by section 802 shall not identify by name individuals supplying information for purposes of the reports. The reports shall present information collected in the aggregate.

(b) REPORT TO CONGRESS.—The Commissioner on Aging shall review the reports required by section 802 and shall submit to the appropriate committees of Congress a report containing—

(1) the reports required by section 802;

(2) the comments of the Commissioner on the reports; and

(3) additional information, regarding the roles of nursing home nurse aides and home health care aides in providing long-term care, obtained through the State Long-Term Care Ombudsman program established under sections 307(a)(12) and 712 of the Older Americans Act of 1965.

SEC. 804. OCCUPATIONAL CODE.

The Secretary of Labor shall include an occupational code covering nursing home nurse aides and an occupational code covering home health care aides in each wage survey of relevant industries conducted by the Department of Labor that begins after the date of enactment of this Act.

Subtitle B—National School Lunch Act

SEC. 811. MEALS PROVIDED THROUGH ADULT DAY CARE CENTERS.

(a) IN GENERAL.—Section 17(o)(2)(A)(i) of the National School Lunch Act (42 U.S.C. 1766(o)(2)(A)(i)) is amended by inserting ", or a group living arrangement," after "homes".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if the amendment had been included in the Older Americans Act Amendments of 1987.

Subtitle C—Native American Programs

SEC. 821. SHORT TITLE.

This subtitle may be cited as the "Native American Programs Act Amendments of 1992".

SEC. 822. AMENDMENTS.

The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended—

(1) in section 803 (42 U.S.C. 2991b)—

(A) by striking "Secretary" each place the term appears and inserting "Commissioner"; and

(B) in the first sentence of subsection (a)—

(i) by striking "Indian organizations" and inserting "Indian and Alaska Native organizations"; and

(ii) by striking "nonreservation area" and inserting "area that is not an Indian reservation or Alaska Native village";

(2) in section 803A (42 U.S.C. 2991b–1)—

(A) in subsection (a)(1)—

(i) by striking "one agency" and all that follows through "of Native Hawaiians" and inserting "the Office of Hawaiian Affairs of the State of Hawaii (referred to in this section as the 'Office')";

(ii) by striking "5-year"; and

(iii) in subparagraph (A) by striking "such agency or Native Hawaiian organization" and inserting "the Office";

(B) by striking "agency or organization to which a grant is awarded under subsection (a)(1) of this section" each place the term appears and inserting "Office";

(C) by striking "agency or organization" each place the term appears and inserting "Office";

(D) by striking "Secretary" each place the term appears and inserting "Commissioner";

(E) in subsection (a)(2) by inserting before the period at the end the following: "and a requirement that the grantee contribute to the revolving loan fund an amount of non-Federal funds equal to the amount of such grant";

(F) by striking subsection (b)(6);

(G) in subsection (f)(1) by striking "fiscal years 1988, 1989, and 1990 the aggregate amount of $3,000,000 for all such fiscal years" and inserting "each of the fiscal years 1992, 1993, and 1994, $1,000,000";

(H) by striking subsection (f)(3); and

(I) by striking subsection (g) and inserting the following:

"(g)(1) The Commissioner, in consultation with the Office, shall submit a report to the President pro tempore of the Senate and the Speaker of the House of Representatives not later than January 1 following each fiscal year, regarding the administration of this section in such fiscal year.

"(2) Such report shall include the views and recommendations of the Commissioner with respect to the revolving loan fund established under subsection (a)(1) and with respect to loans made from such fund, and shall—

"(A) describe the effectiveness of the operation of such fund in improving the economic and social self-sufficiency of Native Hawaiians;

"(B) specify the number of loans made in such fiscal year;

"(C) specify the number of loans outstanding as of the end of such fiscal year; and

"(D) specify the number of borrowers who fail in such fiscal year to repay loans in accordance

with the agreements under which such loans are required to be repaid.";

(3) after section 803A (42 U.S.C. 2991b-1) by inserting the following:

"ESTABLISHMENT OF ADMINISTRATION FOR NATIVE AMERICANS

"SEC. 803B. (a) There is established in the Department of Health and Human Services (referred to in this title as the 'Department') the Administration for Native Americans (referred to in this title as the 'Administration'), which shall be headed by a Commissioner of the Administration for Native Americans (referred to in this title as the 'Commissioner'). The Administration shall be the agency responsible for carrying out the provisions of this title.

"(b) The Commissioner shall be appointed by the President, by and with the advice and consent of the Senate.

"(c) The Commissioner shall—

"(1) provide for financial assistance, loan funds, technical assistance, training, research and demonstration projects, and other activities, described in this title;

"(2) serve as the effective and visible advocate on behalf of Native Americans within the Department, and with other departments and agencies of the Federal Government regarding all Federal policies affecting Native Americans;

"(3) with the assistance of the Intra-Departmental Council on Native American Affairs established by subsection (d)(1), coordinate activities within the Department leading to the development of policies, programs, and budgets, and their administration affecting Native Americans, and provide quarterly reports and recommendations to the Secretary;

"(4) collect and disseminate information related to the social and economic conditions of Native Americans, and assist the Secretary in preparing an annual report to the Congress about such conditions;

"(5) give preference to individuals who are eligible for assistance under this title, in entering into contracts for technical assistance, training, and evaluation under this title; and

"(6) encourage agencies that carry out projects under this title, to give preference to such individuals in hiring and entering into contracts to carry out such projects.

"(d)(1) There is established in the Office of the Secretary the Intra-Departmental Council on Native American Affairs. The Commissioner shall be the chairperson of such Council and shall advise the Secretary on all matters affecting Native Americans that involve the Department. The Director of the Indian Health Service shall serve as vice chairperson of the Council.

"(2) The membership of the Council shall be the heads of principal operating divisions within the Department, as determined by the Secretary, and such persons in the Office of the Secretary as the Secretary may designate.

"(3) In addition to the duties described in subsection (c)(3), the Council shall, within 180 days following the date of the enactment of the Native American Programs Act Amendments of 1992, prepare a plan, including legislative recommendations, to allow tribal governments and other organizations described in section 803(a) to consolidate grants administered by the Department and to designate a single office to oversee and audit the grants. Such plan shall be submitted to the committees of the Senate and the House of Representatives having jurisdiction over the Administration for Native Americans.

"(e) The Secretary shall assure that adequate staff and administrative support is provided to carry out the purpose of this title. In determining the staffing levels of the Administration, the Secretary shall consider among other factors the unmet needs of the Native American population, the need to provide adequate oversight and technical assistance to grantees, the need to carry out the activities of the Council, the additional reporting requirements established, and the staffing levels previously maintained in support of the Administration.";

(4) by striking section 804 (42 U.S.C. 2991c) and inserting the following:

"TECHNICAL ASSISTANCE AND TRAINING

"SEC. 804. The Commissioner shall provide, directly or through other arrangements—

"(1) technical assistance to the public and private agencies in planning, developing, conducting, and administering projects under this title;

"(2) short-term in-service training for specialized or other personnel that is needed in connection with projects receiving financial assistance under this title; and

"(3) upon denial of a grant application, technical assistance to a potential grantee in revising a grant proposal.";

(5) in section 805 (42 U.S.C. 2991d) by striking "Secretary" each place the term appears and inserting "Commissioner";

(6) in section 806 (42 U.S.C. 2991d-1) by striking "Secretary" each place the term appears and inserting "Commissioner";

(7) in section 807 (42 U.S.C. 2991e) by striking "Secretary" each place the term appears and inserting "Commissioner";

(8) in section 808 (42 U.S.C. 2991f) by striking "Secretary" each place the term appears and inserting "Commissioner";

(9) in section 809 (42 U.S.C. 2991g) by striking "Secretary" each place the term appears and inserting "Commissioner";

(10) in section 810 (42 U.S.C. 2991h)—

(A) by striking "Secretary" and inserting "Commissioner";

(B) by designating the text as subsection (a); and

(C) by adding at the end the following:

"(b) If an application is rejected on the grounds that the applicant is ineligible or that activities proposed by the applicant are ineligible for funding, the applicant may appeal to the Secretary, not later than 30 days after the date of receipt of notification of such rejection, for a review of the grounds for such rejection. On appeal, if the Secretary finds that an applicant is eligible or that its proposed activities are eligible, such eligibility shall not be effective until the next cycle of grant proposals are considered by the Administration.";

(11) in section 811 (42 U.S.C. 2992)—

(A) by striking "Secretary" each place the term appears and inserting "Commissioner";

(B) in subsection (a)—

(i) by inserting "(1)" after "(a)", and

(ii) by adding at the end the following:

"(2) The projects assisted under this title shall be evaluated in accordance with this section not less frequently than at 3-year intervals.";

(12) after section 811 (42 U.S.C. 2992) by inserting the following:

"ANNUAL REPORT

"SEC. 811A. The Secretary shall, not later than January 31 of each year, prepare and transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives an annual report on the social and economic conditions of American Indians, Native Hawaiians, other Native American Pacific Islanders (including American Samoan Natives), and Alaska Natives, together with such recommendations to Congress as the Secretary considers to be appropriate.";

(13) after section 812 (42 U.S.C. 2992a) by inserting the following:

"STAFF

"SEC. 812A. In all personnel actions of the Administration, preference shall be given to individuals who are eligible for assistance under this title. Such preference shall be implemented in the same fashion as the preference given to veterans referred to in section 2108(3)(C) of title 5, United States Code. The Commissioner shall take such additional actions as may be necessary to promote recruitment of such individuals for employment in the Administration.";

(14) by striking section 813 (42 U.S.C. 2992b) and inserting the following:

"ADMINISTRATION

"SEC. 813. Nothing in this title shall be construed to prohibit interagency funding agreements made between the Administration and other agencies of the Federal Government for the development and implementation of specific grants or projects.";

(15) in section 816(a) (42 U.S.C. 2992d(a))—

(A) by striking "1988" and all that follows and inserting "1992, 1993, 1994, and 1995."; and

(B) by striking "and 803A" and inserting a comma and "803A, subsection (e) of this section, and any other provision of this title for which there is an express authorization of appropriations;

(16) in section 816(b) (42 U.S.C. 2992d(b)) by striking "and 803A" and inserting a comma and "803A, 804, subsection (e) of this section, and any other provision of this title for which there is an express authorization of appropriations";

(17) in section 816(c)(1) (42 U.S.C. 2992d(c)(1))—

(A) by striking "(1) Except as provided in paragraph (2), there are" and inserting "There are"; and

(B) by striking "1988, 1989, 1990, and 1991" and inserting "1992, 1993, 1994, and 1995";

(18) by striking section 816(c)(2) (42 U.S.C. 2992d(c)(2));

(19) in section 816(d) by striking "1991,";

(20) in section 816 (42 U.S.C. 2992d) by adding at the end the following:

"(e)(1) For fiscal years 1992 and 1993, there are authorized to be appropriated such sums as may be necessary for the purpose of—

"(A) establishing demonstration projects to conduct research related to Native American studies and Indian policy development; and

"(B) continuing the development of a detailed plan, based in part on the results of the projects, for the establishment of a National Center for Native American Studies and Indian Policy Development.

"(2) Such a plan shall be delivered to the Congress not later than 30 days after the date of enactment of this subsection."; and

(21) in sections 802, 803(a), 806(a)(2), 808, and 815(2) (42 U.S.C. 2991a, 2991b(a), 2991d-1(a)(2), 2991f, and 2992c(2)) by striking "Alaskan Native" each place the term appears and inserting "Alaska Native".

Subtitle D—White House Conference on Aging

SEC. 831. WHITE HOUSE CONFERENCE ON AGING.

(a) NAME OF CONFERENCE.—The heading of title II of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended to read as follows:

"TITLE II—WHITE HOUSE CONFERENCE ON AGING"

(b) FINDINGS.—Section 201(a) of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended—

(1) in paragraph (1)—

(A) by striking "51,400,000 in 1986" and inserting "52,923,000 in 1990"; and

(B) by striking "101,700,000" and inserting "103,646,000";

(2) in paragraph (2) by striking "every 6" and inserting "every 8"; and

(3) by amending paragraph (3) to read as follows:

"(3) the out-of-pocket costs to older individuals for health care increased from 12.3 percent in 1977 to 18.2 percent in 1988,".

SEC. 832. CONFERENCE REQUIRED.

Section 202 of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended—

(1) in subsection (a) by striking "The President may call a White House Conference on Aging in 1991" and inserting "Not later than December 31, 1994 the President shall convene the White House Conference on Aging";

(2) in subsection (c) by striking paragraphs (1) through (6) and inserting the following:

"(1) to increase the public awareness of the interdependence of generations and the essential contributions of older individuals to society for the well-being of all generations;

"(2) to identify the problems facing older individuals and the commonalities of the problems with problems of younger generations;

"(3) to examine the well-being of older individuals, including the impact the wellness of older individuals has on our aging society;

"(4) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and improving the well-being of the aging;

"(5) to develop recommendations for the coordination of Federal policy with State and local needs and the implementation of such recommendations; and

"(6) to review the status and multigenerational value of recommendations adopted at previous White House Conferences on Aging."; and

(3) in subsection (d)(2) by adding at the end the following: "Delegates shall include individuals who are professionals, individuals who are nonprofessionals, minority individuals, and individuals from low-income families.".

SEC. 833. CONFERENCE ADMINISTRATION.

Section 203 of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by inserting "(including organizations representing older Indians)" after "appropriate organizations";

(B) in paragraph (3)—

(i) by striking "prepare and"; and

(ii) by inserting ", prepared by the Policy Committee," after "agenda";

(C) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively; and

(D) by inserting before paragraph (2), as so redesignated, the following:

"(1) provide written notice to all members of the Policy Committee of each meeting, hearing, or working session of the Policy Committee not later than 48 hours before the occurrence of such meeting, hearing, or working session,";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "assure" and inserting "and as part of the White House Conference on Aging, ensure";

(B) in paragraph (1), by striking "will" and inserting "shall";

(C) by striking paragraphs (2) and (3);

(D) by inserting after paragraph (1) the following:

"(2) the agenda prepared under subsection (a)(4) for the Conference is published in the Federal Register not later than 30 days after such agenda is approved by the Policy Committee, and the Secretary may republish such agenda together with the recommendations of the Secretary regarding such agenda,"; and

(E) by redesignating paragraphs (4) through (6) as paragraphs (3) through (5), respectively; and

(3) by adding at the end the following:

"(c) GIFTS.—The Secretary may accept, on behalf of the United States, gifts (in cash or in kind, including voluntary and uncompensated services), which shall be available to carry out this title. Gifts of cash shall be available in addition to amounts appropriated to carry out this title.

"(d) RECORDS.—The Secretary shall maintain records regarding—

"(1) the sources, amounts, and uses of gifts accepted under subsection (c); and

"(2) the identity of each person receiving assistance to carry out this title, and the amount of such assistance received by each such person.".

SEC. 834. POLICY COMMITTEE; RELATED COMMITTEES.

Section 204 of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended—

(1) by amending the heading to read as follows:

"SEC. 204. POLICY COMMITTEE; RELATED COMMITTEES.";

(2) in subsection (b) by striking "(b) OTHER COMMITTEES.—" and inserting the following:

"(2) OTHER COMMITTEES.—";

(3) in subsection (a)—

(A) by striking "(a) ADVISORY COMMITTEE.—The Secretary" and inserting "(b) ADVISORY AND OTHER COMMITTEES.—

"(1) IN GENERAL.—The President"; and

(B) by adding at the end the following: "The President shall consider for appointment to the advisory committee individuals recommended by the Policy Committee.";

(4) by inserting before subsection (b), as so redesignated, the following:

"(a) POLICY COMMITTEE.—

"(1) ESTABLISHMENT.—There is established a Policy Committee comprised of 25 members to be selected, not later than 90 days after the enactment of the Older Americans Act Amendments of 1992, as follows:

"(A) PRESIDENTIAL APPOINTEES.—Thirteen members shall be selected by the President and shall include—

"(i) 3 members who are officers or employees of the United States; and

"(ii) 10 members with experience in the field of aging, who may include representatives of public aging agencies, institution-based organizations, and minority aging organizations.

"(B) HOUSE APPOINTEES.—Four members shall be selected by the Speaker of the House of Representatives, after consultation with the Minority Leader of the House of Representatives, and shall include members of the Committee on Education and Labor of the House of Representatives, the Committee on Ways and Means of the House of Representatives, and the Select Committee on Aging of the House of Representatives. Not more than 3 members selected under this subparagraph may be associated or affiliated with the same political party.

"(C) SENATE APPOINTEES.—Four members shall be selected by the Majority Leader of the Senate, after consultation with the Minority Leader of the Senate, and shall include members of the Committee on Labor and Human Resources of the Senate, the Committee on Finance of the Senate, and the Special Committee on Aging of the Senate. Not more than 3 members selected under this subparagraph may be associated or affiliated with the same political party.

"(D) JOINT APPOINTEES.—Four members shall be selected jointly by the Speaker of the House of Representatives and the Majority Leader of the Senate, after consultation with the minority leaders of the House and Senate, and shall include representatives with experience in the field of aging, who may include representatives described in subsection (a)(1)(A)(ii). Not more than 2 members selected under this subparagraph may be associated or affiliated with the same political party.

"(2) DUTIES OF THE POLICY COMMITTEE.—The Policy Committee shall initially meet at the call of the Secretary, but not later than 30 days after the last member is selected under subsection (a). Subsequent meetings of the Policy Committee shall be held at the call of the chairperson of the Policy Committee. Through meetings, hearings, and working sessions, the Policy Committee shall—

"(A) make recommendations to the Secretary to facilitate the timely convening of the Conference;

"(B) formulate and approve a proposed agenda for the Conference not later than 60 days after the first meeting of the Policy Committee;

"(C) make recommendations for participants and delegates of the Conference;

"(D) establish the number of delegates to be selected under section 202(d)(2); and

"(E) formulate and approve the initial report of the Conference in accordance with section 205.

"(3) QUORUM; COMMITTEE VOTING; CHAIRPERSON.—

"(A) QUORUM.—Thirteen members shall constitute a quorum for the purpose of conducting the business of the Policy Committee, except that 17 members shall constitute a quorum for purposes of approving the agenda required by paragraph (2)(B) and the report required by paragraph (2)(E).

"(B) VOTING.—The Policy Committee shall act by the vote of the majority of the members present.

"(C) CHAIRPERSON.—The President shall select a chairperson from among the members of the Policy Committee. The chairperson may vote only to break a tie vote of the other members of the Policy Committee."; and

(5) in the first sentence of subsection (c)—

(A) by striking "Each such committee" and inserting "Each committee established under subsection (b)"; and

(B) by inserting ", and individuals who are Native Americans" before the period at the end.

SEC. 835. REPORT OF THE CONFERENCE.

Section 205 of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended—

(1) in subsection (a) by striking "60" and inserting "90";

(2) in subsection (b) by striking "Secretary, not later than 180" and inserting "Policy Committee, not later than 90";

(3) in subsection (c)—

(A) by striking "(c) FINAL REPORT.—The Secretary" and inserting the following:

"(c) REPORTS.—

"(1) INITIAL REPORT.—The Policy Committee";

(B) by striking "prepare a final report" and inserting "prepare and approve an initial report"; and

(C) by adding at the end the following:

"(2) Not later than 60 days after such initial report is transmitted by the Policy Committee, the Secretary shall publish such initial report in the Federal Register. The Secretary may republish a final report together with such additional views and recommendations as the Secretary considers to be appropriate."; and

(4) in subsection (d)—

(A) in the heading of such subsection by striking "SECRETARY" and inserting "POLICY COMMITTEE"; and

(B) by striking "Secretary" and inserting "Policy Committee".

SEC. 836. AUTHORIZATION OF APPROPRIATIONS.

Section 207 of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended to read as follows:

"SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for fiscal years 1992 through 1994 to carry out this title.

"(2) CONTRACTS.—Authority to enter into contracts under this title shall be effective only to the extent, or in such amounts as are, provided in advance in appropriations Acts.

"(b) AVAILABILITY OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), funds appropriated to carry out this title and funds received as gifts under section 203(c) shall remain available for obligation or expenditure until June 30, 1995, or the expiration of the one-year period beginning on the date the Conference adjourns, whichever occurs earlier.

"(2) UNOBLIGATED FUNDS.—Except as provided in paragraph (3), any such funds neither expended nor obligated before June 30, 1995, or the expiration of the one-year period beginning on the date the Conference adjourns, whichever occurs earlier, shall be available to carry out the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

"(3) CONFERENCE NOT CONVENED.—If the Conference is not convened before June 30, 1994, such funds neither expended nor obligated before such date shall be available to carry out the Older Americans Act of 1965.".

SEC. 837. SAVINGS PROVISION.

All personnel assigned or engaged under section 202(b) or section 203(a)(5) of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) as in effect immediately before the date of the enactment of this Act shall continue to be assigned or engaged under such section after such date notwithstanding the amendments made by this subtitle.

SEC. 838. SENSE OF THE CONGRESS.

It is the sense of the Congress that the White House Conference on Aging should consider the impact of the earnings test in effect under section 203 of the Social Security Act (42 U.S.C. 403) on older individuals who are employed.

SEC. 839. TECHNICAL AMENDMENTS.

(a) DEFINITIONS.—Section 206 of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended—

(1) in paragraph (1), by striking "means" and all that follows and inserting "has the meaning given the term in section 102(17) of the Older Americans Act of 1965 (42 U.S.C. 3002(17)),"; and

(2) in paragraph (4) by striking "authorized in subsection (b)".

(b) TABLE OF CONTENTS.—The table of contents of the Older Americans Act Amendments of 1987 (42 U.S.C. note) is amended—

(1) by striking the item relating to title II and inserting the following:

"TITLE II—WHITE HOUSE CONFERENCE ON AGING";

and

(2) by striking the item relating to section 204 and inserting the following:

"Sec. 204. Policy committee; related committees.".

TITLE IX—GENERAL PROVISIONS

SEC. 901. LIMITATION ON AUTHORITY TO ENTER INTO CONTRACTS.

Any authority to enter into contracts under this Act or an amendment made by this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriations Acts.

SEC. 902. REGULATIONS.

Except as otherwise specifically provided, the Secretary of Health and Human Services shall, not later than 120 days after the date of the enactment of this Act, issue proposed regulations to carry out the amendments made by titles I through VII.

SEC. 903. SENSE OF CONGRESS.

(a) IN GENERAL.—It is the sense of the Congress that a recipient of a grant or other Federal financial assistance awarded under this Act or an amendment made by this Act to assist the recipient in purchasing equipment or products should, in expending the assistance, purchase American-made equipment or products, respectively.

(b) NOTICE.—The Secretary of Health and Human Services shall provide procedures to inform such recipients of the sense of the Congress under subsection (a).

SEC. 904. TECHNICAL AMENDMENTS.

(a) The Older Americans Act of 1965 (42 U.S.C. 3001–3057n) is amended—

(1) in section 101(8) by striking "the vulnerable elderly" and inserting "vulnerable older individuals";

(2) in section 102(2) by striking "Virgin Islands" and inserting "United States Virgin Islands";

(3) in section 201(c)(3)—

(A) in subparagraphs (A)(i), (B), (E), and (G) by inserting "individuals who are" after "older" the first place it appears in each of such subparagraphs;

(B) in subparagraph (B) by striking "older Native Americans" the last place it appears and inserting "such individuals'; and

(C) in subparagraph (E) by striking "the Act" and inserting "this Act";

(4) in section 202—

(A) in subsection (a)—

(i) in paragraph (1) by striking "the elderly" each place it appears and inserting "older individuals";

(ii) in paragraph (15)—

(I) by striking "the elderly" and inserting "older individuals"; and

(II) by striking "older people" and inserting "such individuals"; and

(iii) in paragraphs (13), (15), (16), and (17) by striking "purposes" and inserting "objectives";

(B) in subsection (b)—

(i) in paragraph (1) by striking "with health systems agencies designated under section 1515 of the Public Health Service Act (42 U.S.C. 300l–4),"; and

(ii) in paragraph (3) by striking "the elderly" and inserting "older individuals";

(5) in section 203(b) by striking "purposes" the second place it appears and inserting "objectives";

(6) in section 204—

(A) in subsection (b)(4) by striking "the daily rate specified for grade GS–18 in section 5332" and inserting "the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316"; and

(B) in paragraphs (1), (3), and (4) of subsection (d), as amended by section 205(c), by striking "Americans" and inserting "individuals";

(7) in section 205(a)(1), as so redesignated by section 206—

(A) by striking "purposes" and inserting "objectives"; and

(B) by striking "to:" and inserting "to—";

(8) in section 207(a)(4) by striking "the greatest economic or social needs" and inserting "greatest economic need and older individuals with greatest social need";

(9) the last sentence of section 211 is amended by striking "purposes" and inserting "objectives";

(10) in section 304(a)(1)—

(A) by striking "aged 60 or older" each place it appears, and inserting "of older individuals";

(B) by striking "Virgin Islands" each place it appears and inserting "United States Virgin Islands"; and

(C) in the last sentence by striking "clause" and inserting "subparagraph";

(11) in section 305—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (D) by striking "the elderly" each place it appears and inserting "older individuals";

(II) in subparagraph (E) by striking "individuals aged 60 and older" and inserting "older individuals"; and

(III) in subparagraph (E) by striking "Indians" and inserting "individuals who are Indians"; and

(ii) in paragraph (2)—

(I) in the matter preceding subparagraph (A) by striking "clause" and inserting "paragraph";

(II) in subparagraph (D) by striking "subclause" and inserting "subparagraph"; and

(III) in subparagraph (E) by striking "the greatest economic or social needs" and inserting "greatest economic need and older individuals with greatest social need";

(B) in subsection (b)—

(i) in paragraphs (1) and (4) by striking "clause (1) of subsection (a)" and inserting "subsection (a)(1)"; and

(ii) in paragraph (2) by striking "designated under such clause" and inserting "designated under subsection (a)(1)"; and

(C) in subsection (d) by striking "clause" and inserting "paragraph";

(12) in section 306—

(A) in subsection (a)—

(i) in paragraph (1) by striking "Indians" and inserting "individuals who are Indians";

(ii) in paragraph (2)(B) by striking "elderly" and inserting "older individuals who are"; and

(iii) in paragraph (5)(A)(i) by striking "the greatest economic or social needs" and inserting "greatest economic need and older individuals with greatest social need"; and

(iv) in paragraph (6)—

(I) in subparagraph (D) by striking "the elderly" each place it appears and inserting "older individuals";

(II) in subparagraph (G) by striking "clause" and inserting "paragraph";

(III) in subparagraph (N) by striking "Indians" the first place it appears and inserting "individuals who are Indians"; and

(IV) in subparagraph (N) by striking "elder Indians in such area and shall inform such older Indians" and inserting "such individuals in such area and shall inform such individuals"; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) by inserting "on aging" after "area agency" the first place it appears; and

(II) by striking "clause" each place it appears and inserting "paragraph"; and

(ii) in paragraph (2)(D) by striking "clause" and inserting "paragraph";

(13) in section 307—

(A) in subsection (a)—

(i) in paragraph (8) by striking "the greatest economic or social needs" and inserting "greatest economic need and older individuals with greatest social need";

(ii) in paragraph (13)—

(I) in subparagraph (A) by striking "individuals aged 60 or older" and inserting "older individuals";

(II) in subparagraph (A) by striking "the elderly" and inserting "older individuals";

(III) in subparagraph (B) by striking "subclause" and inserting "subparagraph"; and

(IV) in subparagraph (I) by striking "elderly participants" and inserting "participating older individuals";

(iii) in paragraph (14)(D) by striking "clause" and inserting "subparagraph"; and

(iv) in paragraph (16)(B) by striking "clause" and inserting "paragraph"; and

(B) in subsection (b)(2) by striking "clause" and inserting "paragraph";

(14) in section 308(b)—

(A) in paragraphs (1)(B) and (2)(B) by striking "Virgin Islands" and inserting "United States Virgin Islands"; and

(B) in paragraphs (3)(B)(iii) and (4) by striking "purposes" each place it appears and inserting "objectives";

(15) in section 321(a)—

(A) in paragraph (4) by striking "elderly" and inserting "older";

(B) in paragraph (14)—

(i) by striking "older, poor individuals 60 years of age or older" and inserting "low-income older individuals"; and

(ii) by striking "the older poor" and inserting "low-income older individuals"; and

(C) in paragraph (15) by striking "clause" and inserting "paragraph";

(16) in section 402(b) by striking "Alcohol" and inserting "the Alcohol";

(17) in section 412(b) by striking "purposes" and inserting "objectives";

(18) in section 421(a) by striking "purposes" and inserting "objectives";

(19) in section 422—

(A) in the second sentence of subsection (a)(1) by striking "the rural elderly" and inserting "older individuals residing in rural areas";

(B) in subsection (b)—

(i) in paragraph (1) by striking "elderly" and inserting "older individuals who are";

(ii) in paragraph (2) by striking "the elderly" and inserting "older individuals";

(iii) in paragraph (6) by striking "the rural elderly" and inserting "older individuals residing in rural areas"; and

(iv) in paragraph (8) by striking "the rural elderly" and inserting "older individuals residing in rural areas";

(20) in section 602 by striking "older Indians, older Alaskan Natives, and older Native Hawaiians" and inserting "older individuals who are Indians, older individuals who are Alaskan Natives, and older individuals who are Native Hawaiians";

(21) in section 611(a)—

(A) in the matter preceding paragraph (1) by inserting "individuals who are" after "older"; and

(B) in paragraph (9) by striking "Indian elderly population" and inserting "population of older individuals who are Indians";

(22) in section 613 by inserting "individuals who are" after "older"; and

(23) in section 614(a)—

(A) in paragraph (7) by striking "Indians aged 60 and older" and inserting "older individuals who are Indians";

(B) in paragraph (8) by striking "clause" and inserting "paragraph"; and

(C) in paragraphs (1), (6), (8), and (10) by inserting "individuals who are" after "older" each place it appears.

(b) The Older Americans Community Service Employment Act (42 U.S.C. 3056 et seq.) is amended—

(1) in section 502(b)(1)—

(A) in subparagraph (C) by striking "1954" and inserting "1986"; and

(B) in subparagraph (J) by striking "persons" each place it appears and inserting "individuals"; and

(2) in paragraphs (3) and (4)(A) of section 506(a) by striking "Virgin Islands" each place it appears and inserting "United States Virgin Islands".

SEC. 905. EFFECTIVE DATES; APPLICATION OF AMENDMENTS.

(a) IN GENERAL.—Except as provided in section 811(b), any other provision of this Act (other than this section), and in subsection (b) of this section, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) FEDERAL COUNCIL ON AGING.—Incumbent members of the Federal Council on Aging may serve on the Council until their successors are appointed under section 204 of the Older Americans Act of 1965 (42 U.S.C. 3015) as amended by section 205 of this Act.

(2) STATE AND COMMUNITY PROGRAMS ON AGING.—The amendments made by sections 303(a)(2), 303(a)(3), 303(f), 304, 305, 306, 307, 316, 317, and 320 shall not apply with respect to fiscal year 1992.

(3) PROJECT REPORTS.—The amendments made by sections 410, 411, 413, 414, 415, 416, 418, and 419 shall not apply with respect to fiscal year 1992.

(4) COMMUNITY SERVICE EMPLOYMENT.—The amendments made by sections 501, 504, and 506 shall not apply with respect to fiscal year 1992.

(5) INDIAN AND NATIVE HAWAIIAN PROGRAMS.—The amendments made by sections 601 and 603 shall not apply with respect to fiscal year 1992.

(6) VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES.—The amendments made by title VII shall not apply with respect to fiscal year 1992.

The SPEAKER pro tempore (Mr. SANGMEISTER). Pursuant to the rule, the gentleman from Michigan [Mr. FORD] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 2967.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our action today marks the final chapter in a process which began last year to reauthorize the Older Americans Act of 1965. While I regret the delay, I am proud to bring to the floor legislation which focuses its attention on reauthorizing and continuing important nutrition and supportive service programs for this country's senior population.

If we do not act today, scores of senior programs throughout the country will be at risk. Federal funding will not be authorized for:

Congregate meals and senior meals on wheels programs;

Senior transportation, elder abuse prevention, homemaker assistance and referral services;

Ombudsman activities to protect seniors in long-term care situations;

The Community Service Employment for Senior Citizens, which presently employs more than 60,000 seniors;

A White House Conference on Aging to focus attention on the needs of older Americans; and

No Federal funds would be authorized for the 57 State units on aging, 670 area agencies on aging, 25,000 service providers under title III of the act, and 194 native American grantees under title VI.

On September 11, 1991, the House, by a vote of 385 to 0, first passed H.R. 2967—A straightforward reauthorization bill. Two months later, on November 12, 1991, the Senate passed its version of the Older Americans Act amendments unanimously, but only after adding to the bill an unrelated amendment by Senator MCCAIN. The McCain amendment would have repealed the Social Security earnings test—a matter under the jurisdiction of the Committee on Ways and Means—at an estimated cost of $27.3 billion over 5 years.

On April 9, 1992, the House responded to the Senate's action by voting 340 to 68 to return an amendment to the Senate consisting of a negotiated agreement on the Older Americans Act amendments as well as modestly liberalizing the Social Security earning's test. The Senate did not act on the House proposal for 8 months. Finally, on Tuesday, September 15, no objection was heard and the Senate, by a unanimous vote, approved the amendment we have before us—an amendment which sticks to the issue of reauthorizing the Older Americans Act of 1965.

The pending bipartisan package represents an agreement worked out between the respective committees of jurisdiction in the House and Senate and is described further in a joint explanatory statement submitted in the House by Congressman MARTINEZ in the CONGRESSIONAL RECORD of April 9, 1992, on pages H2629 through H2636, and in the Senate by Senator ADAMS in the CONGRESSIONAL RECORD of September 15, 1992, on pages S13497 through S13504.

As a Michigan native, I take particular pride in this bill. The Older Americans Act was the brainchild of Michigan's own Pat McNamara and Jim O'Hara more than a quarter of a century ago. The act has been tremendously successful in achieving its goals and funding a broad range of social programs.

Upon its enactment, H.R. 2967 will go far toward ensuring that this Nation's seniors have the nutritional and supportive services which serve as their real safety net—real help for their physical and social well-being. Since 1965, those who have given so much of themselves over a lifetime of family care, work, and contribution have turned to the programs of the Older Americans Act for sustenance and support.

The final verson of H.R. 2967 includes significant changes in the nutritional programs of the Older Americans Act, including meals delivered at seniors centers as well as home-delivered meals on wheels. The Older Americans Act Amendments of 1992 authorizes increased funding for nutrition programs at all levels and raises reimbursement rates for meals to sustain service. It expands availability of means in rural areas, creates a new program to encourage school-based meals in support of multigenerational programs and, for the first time, requires the appointment of a nutritional officer charged with overseeing the multimillion dollar nutrition programs which have served this Nation's seniors for a quarter of a century.

In addition, this legislation strengthens supportive services under the Act and adds new initiatives to assist older individuals in receiving health services, preventing elder abuse, and seeking out legal assistance, language assistance, and intergenerational support.

I would like to acknowledge the major contributions of Mr. MARTINEZ, the chairman of the Subcommittee on Human Resources and the author of this legislation, as well as the constructive role played by Mr. FAWELL, the ranking minority member of the subcommittee, in bringing this measure before us. This reauthorization of the Older Americans Act would not have been possible without their contributions and the bipartisan cooperation of my good friend, Mr. GOODLING.

I urge my colleagues to join me in support of this important measure.

Mr. Speaker, I wish to commend the gentleman from Pennsylvania [Mr. GOODLING], who has cooperated at every stage of the way and urge the passage of this legislation. It should not have been so difficult. One would think that a bill that passes the House unanimously would have been on the President's desk a long time ago and been signed into law. Unfortunately, it got delayed by other considerations not germane to this legislation. The fact that those provisions were dropped is in my mind no prejudice to anyone who has advocated those provisions. It is just the wrong place and the wrong time and we should not be jeopardizing this important legislation by issues that are not germane to the action we take here today.

The gentleman from Pennsylvania [Mr. GOODLING] is to be commended for once again putting partisanship aside and working with us at every stage of the way to assure the success of this legislation.

Mr. Speaker, I submit for the RECORD a letter from the American Association of Retired Persons endorsing this action here tonight. It is dated September 21, 1992, and should be laid out in full in the RECORD so the seniors will see that the foremost advocates for their programs are in agreement with the action we take here today.

AMERICAN ASSOCIATION
OF RETIRED PERSONS,
Washington, DC., September 21, 1992.

Hon. WILLIAM FORD,
Chairman, Committee on Education and Labor, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN FORD: The American Association of Retired Persons (AARP) congratulates you on your efforts to bring about the reauthorization of the Older Americans Act (OAA). As you know, the Association strongly supports the provisions of the OAA reauthorization (H.R. 2967).

This bill contains many significant improvements in social services for older citizens under the Act. AARP especially appreciates the provisions included for improved reporting, increased authorizations, more equitable funding under Title V, required tracking of higher service delivery costs in rural areas, improved targeting of services to low-income and minority elderly, and authorization of a 1993 White House Conference on Aging.

Again, the Association commends your leadership in developing and shepherding the OAA amendments through a challenging legislative environment. AARP extends its enthusiastic support for swift passage of H.R. 2967 in the House of Representatives.

Sincerely,

HORACE B. DEETS.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, several years ago in the city of Harrisburg in the heart of my district in Pennsylvania there occurred an incident which caught the headlines and was on TV screens across the Nation. A 90-year-old lady was forcibly evicted from her longtime residence because of a mixture of inequities that occurred with respect to her home.

It was not important that she was evicted, but how she was evicted. Many of us undertook then to see that perhaps we could unload to the public a new requirement, a new set of themes, that would forever banish from the American scene that kind of incident, to have an older American forcibly ejected from one's residence. So we introduced legislation which resulted in today's adoption of the Older Americans Act, one demonstration project, which, with the help of the gentleman from California [Mr. MARTINEZ], the gentleman from Michigan [Mr. FORD], and the gentleman from Pennsylvania [Mr. GOODLING], is now part of this momentous action that we take on the floor.

It would make possible that the States eager to prevent forcible evictions of older Americans allow agencies like the Department of Aging, the Area Agencies for the Aging, and others, to come to the side of the elderly person and make the transition to new housing or some other accommodation possible without having to resort to that indignity which gave rise to the introduction of our original legislation and which now finds its way into this excellent piece of legislation.

I commend everyone who has had something to do with this and personally thank them. I will report back to our constituents that when we keep in touch with what happens at home, it can have good results in the Congress of the United States.

Mr. FORD of Michigan. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MARTINEZ], the chairman of the subcommittee which worked so long and hard to get this legislation in the shape it is in now.

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Mr. MARTINEZ. Mr. Speaker, I would like to express my gratitude and the gratitude of my colleagues in the House to the Senate for finally passing out S. 3008, which is the companion bill to H.R. 2967. Mr. Speaker, a rose by any other name is still a rose, and finally we will be able to deliver a rose that our senior Americans have waited for almost a whole year.

The bill was in limbo all that time while the other body wrestled with an amendment that had no business being attached to the Older Americans Act. In the end, they used what I consider the best judgment and proposed a clean bill very similar to the bill that passed out of the House without a dissenting vote and one that passed out of the House again in April, absent extraneous Social Security provisions.

Mr. Speaker, there is a saying: Better late than never. My preference would have been far sooner. But in this case, I'm just glad we have a bill that we can send to the President for his signature. This is the third, and hopefully the last, time that we will pass this bill on the House side.

Mr. Speaker, we are pleased today, to bring the Older Americans Act reauthorization bill to the House for final approval. As coauthor of the legislation, we fashioned a bill which would strengthen both the services under the Older Americans Act and the administration of the act. The bill's changes would:

Reauthorize the bill for 4 years until 1995;

Boost commodity funding for nutrition services;

Improve targeting to the most vulnerable seniors;

Increase monitoring and evaluation of the program;

Increase funding for the Administration on Aging;

Create new elder abuse and ombudsman services;

Provide authority for a 1994 White House Conference;

And expand senior services, including new therapies, health prevention services, legal assistance, housing assistance, and adult care services.

While I agree that the Social Security earnings provisions should be changed, I did not agree with it being a part of the Older Americans Act. Eliminating the Social Security cap is an issue that is better dealt with on its own or as a part of another forum where it can be properly debated and acted on. This bill should deal only with the delivery of senior services.

And today we will finally allow for the delivery of improved services and programs to our Nation's elderly. By approving the bill today, we give recognition to our elderly citizens' very pressing service needs. We give recognition that our Nation's elderly have a right to the best services and programs we can afford. Today's vote will ensure that the seniors receive the services they are entitled to, after a lifetime of paying their dues.

I thank my colleagues for supporting this crucial senior services legislation.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, working seniors across the country should be outraged at this action taken by the other body to keep older Americans from having the freedom to work. Once again, this Congress has failed to do what the American people overwhelmingly want done.

The Older Americans Act reauthorization had included a provision to repeal the outdated, discriminatory Social Security earnings test, which penalizes seniors who need to keep working after they reach retirement age. But a few powerful Members of the other body decided that helping working seniors wasn't a priority and they thwarted the will of this House by repealing the language that liberalized the earnings test.

What happened last week is symptomatic of what's wrong with the legislative process here. Every time Congress has voted on the question of repealing the earnings test, seniors have won an overwhelming victory.

When the other body voted on an amendment to completely repeal the earnings test, it passed by a unanimous voice vote. And when the House voted on an amendment that raised the limit, it passed by a 340-to-68 vote.

You may ask then: What was the vote on striking the House amendment from the Older Americans Act? And here lies the problem. There was not a vote. Due to fancy legislative footwork, they stripped the amendment without a straight up or down vote on the merits.

If they want to deny America's working seniors tax fairness—if they want to continue to tax the wages of working seniors at a higher rate than millionaries—that's their prerogative. But they should be willing to stand up and say so.

The Social Security earnings test is a Depression-era relic that discriminates against senior citizens who need to work after they reach retirement age and begin to receive Social Security benefits. Under earnings test limits for 1992, seniors aged 65–69 who make more than $10,200 a year lose $1 in Social Security benefits for every $3 they earn over that limit. For a senior earning only $10,000 a year, that will mean an effective 56-percent marginal tax rate—nearly twice that of millionaires. That is just not fair.

No other demographic group in the country is so blatantly discriminated against; no other group faces such obstacles when they attempt to become productive and financially self-reliant.

We do not reduce Social Security benefits for those seniors receiving unearned interest of dividend income. Why should we penalize those seniors who want—or more important, who need—to remain in the work force to supplement their income?

We as a Nation can no longer afford to inhibit an entire group of people from remaining active in the labor force. The goal of remaining competitive in the global market demands that we reform our labor laws to meet the challenges of the future. Removing the antiquated and discriminatory Social Security earnings test would be one very large step America can take to achieve this.

The need for progrowth economic policies are more important now than ever. We need to encourage, not discourage, older Americans who want to work and contribute to society now if we want to see the economy expanding again. Repealing the earnings test is one of the most critical steps Congress can take to jump start the economy. Continuing to penalize seniors who need to work is simply unsound economic policy and unfair social policy.

Mr. Speaker, I have talked with many candidates running for seats in this House who agree the earnings test is unfair and they are willing to join the fight. Those who oppose tax fairness for seniors may have won this round, but we will be back next year to make sure that seniors get the tax fairness they deserve.

Mr. FORD of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN].

Mr. WYDEN. Mr. Speaker, I am pleased to stand before my colleagues today and to highlight just one of many important provisions in this legislation which will contribute materially to the health and safety of older Americans.

Section 212 of H.R. 2967 incorporates the provisions of H.R. 2552, a bill I introduced with Chairman ROYBAL in June 1991. A companion measure was introduced in the Senate by my colleague from the Northwest and chairman of the Senate Subcommittee on Aging, BROCK ADAMS. This legislation will create a National Commission on Board and Care Facility Quality. Under these provisions, the HHS Secretary is directed to contract with the National Academy of Sciences, Institute of Medicine, to develop recommendations to improve the quality of care provided in board and care facilities.

Chairman ROYBAL and I intend for this Commission to follow in the very successful footsteps of legislation I authored in 1982 with Chairman HENRY WAXMAN, which led to the Institute of Medicine's 1986 recommendations to improve the quality of care in nursing homes. This prestigious consensus contributed substantially to the far-reaching nursing home reform law enacted in OBRA 1987.

Under this legislation, the Commission would have the following two duties:

Examine the existing health, safety, and quality requirements for board and care facilities, as well as the effectiveness of their enforcement;

Make recommendations regarding the appropriate role for local, State, and Federal Governments in assuring the health and safety of board and care facility residents, including recommendations for minimum national standards and the enforcement of these standards.

Mr. Speaker, the need for this legislation was conclusively demonstrated in a series of hearings, begun more than 10 years ago by the distinguished late chairman of the Select Committee on Aging, Claude Pepper, carried on by the current chairman, ED ROYBAL.

The most recent of these hearings, held by the Aging Committee's Subcommittee on Health and Long Term Care in March this year, uncovered frightening new evidence that older people are subjected to wholesale warehousing and overdrugging in many of these so-called homes.

On October 1, it will have been 15 years to the day since the effective date of the Keys amendment, legislation Congress enacted with the aim of assuring regulatory oversight in these forgotten facilities. The Keys amendment to the Social Security Act was enacted as a result of joint hearings by the House and Senate Aging Committees, held to investigate a series of fatal fires in board and care homes.

And yet, in the subcommittee's hearing this year, members of the subcommittee were once again confronted with overwhelming evidence of executive branch indifference toward the residents of these facilities. We learned that the owners and staff working in many of these facilities indiscriminately drug seniors, fail to monitor their health needs, and are often unwilling to make trained staff available to assist the residents.

Mr. Speaker, these board and care facilities—programs that people expect to provide food, shelter, and protection to the elderly and disabled—are rapidly growing in numbers. And the key reason for their astonishing commercial success is they fill a significant gap in our society for many elderly and disabled Americans. These homes are perceived to be halfway between a personal residence and a nursing home, and initially may be perceived as a humane and inexpensive bargain for older people.

Instead, the evidence gathered by the subcommittee proves that many of these facilities have become fertile ground for elderly exploitation.

I know that many of my colleagues may have never heard of or seen any board and care homes. They are invisible in our neighborhoods. But make no mistake, they are there. An estimated 1 million Americans live in some 68,000 of these facilities. Most of the residents are elderly women. And the responsibility of the Congress for the quality of life and health care provided in these homes is inescapable, because the Federal Government pays for an enormous chunk of the tab for their care, through the Supplemental Security Income Program. The Medicaid Program spends many millions more to buy many of the prescription medicines ingested by the residents of these facilities.

These are not dry academic statistics to me. Since my days as codirector of the Oregon Gray Panthers, I have personally witnessed the problems I am describing here today. In the past year, the Health and Long Term Care Subcommittee conducted its investigation largely through unannounced visits to board and care facilities, and I personally visited several of these facilities myself.

I would like my colleagues to consider the following findings from actual visits to these facilities by me and other Members and staff from this body.

Residents of the board and care homes we visited were often overmedicated. Over 85 percent of the residents surveyed were on an average of three prescribed drugs every day, two of which were powerful psychoactive agents. Not one home maintained medical records which could justify the residents' use of these mind-altering drugs.

Many elderly residents showed symptoms of drug overdose and adverse drug reactions. Some were sleeping all day, others were lethargic or confused. And some showed the telltale signs of uncontrollable muscle spasms—a permanent side effect of long-term antipsychotic drug use. The subcommittee met one gentleman who already had these symptoms, but was still taking two of the same drugs that caused this irreversible syndrome.

Many board and care residents were simultaneously taking medications that are poisonous when they are taken together. Almost 30 percent of the residents that the subcommittee visited were on two or more medications that, in combination, jeopardize the health of the patient.

Board and care staff knew little about the risks and benefits of using even the most powerful pharmaceuticals. Just 25 percent of these paid caregivers could correctly answer half of the questions on a medication safety survey we gave them.

Physicians were all but invisible in these board and care homes. As evidence of this, the subcommittee found that the majority of prescriptions written for mind-altering drugs were filled and refilled for years without revision or cancellation by the resident's physician.

Drug therapy is, bar none, the most common form of health care intervention prescribed by doctors in America. But instead of responsible use of this therapy, in many board and care homes an overreliance on chemical restraints has taken the place of sensitive geriatric care. It's time for a long-lethargic Federal Government to say this will no longer be tolerated.

The first step toward a solution for the longstanding board and care home scandal is for the Federal Government to establish health and safety standards for these facilities. Under this legislation to reauthorize the Older Americans Act, this can be achieved by bringing together consumer advocates, providers, and health professionals to set forth the necessary standards to Congress.

Mr. Speaker, this provision establishing a National Commission on Board and Care Facilities is a groundbreaking event in long-term care policy, but it is by no means the only important provision relating to the health of older persons found in this legislation.

I would invite my colleagues to take note of a complementary program, also authorized by the Older Americans Act, which helps to improve the quality of life and health care provided in board and care facilities.

This extraordinarily cost-effective and successful national volunteer effort is called the Long-Term Care Ombudsman Program. The ombudsman network is made up of over 5,000 volunteer grassroots advocates in every State who are trained to speak up for the rights of older residents of board and care homes and other long-term care facilities. I commend it to my colleagues as a rare and shining example of a successful Government program that makes wise use of financial and human resources to make life a little better for the elderly and disabled.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Speaker, I am before the House tonight to support passage of the Older Americans Reauthorization Act, but it is with somewhat of a heavy heart.

We are considering a very different reauthorization act today because of tactics utilized by the other body. We had struck a compromise on the earnings test. We had first asked for total repeal and were told we could not get that through both bodies. So the gentleman from Illinois [Mr. HASTERT], the gentleman from Texas [Mr. ARMEY], the gentleman from North Carolina [Mr. BALLENGER], the gentleman from Florida [Mr. GOSS], all of us who have fought for this issue since we first came here agreed to a compromise.

That compromise would have raised the earnings test to $20,000 over the next 5 years. Hardly generous for the hundreds of thousands of seniors who have to work to make ends meet. But we didn't want to throw away this opportunity to get the Government off their backs, even a little bit.

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Now the bill comes back to the House with our compromise taken out. I am shocked and dismayed by this action. Senior citizens throughout the country will be more than shocked and dismayed. They will be shackled to arcane Social Security rules that penalize only the hard working.

The members of this committee who have worked so hard on this bill deserve our commendation and our support, but the Members of the House should also know that this issue will not die. We will be back in the 103d Congress to continue to pursue reformation of this antiquated penalty on the backs of our older citizens, and will keep working at it until we succeed.

Mr. FORD of Michigan. Mr. Speaker, I yield myself a minute.

Mr. Speaker, I would like to tell the gentleman who was just in the well that none of us were at all happy that the respective tax-writing committees could not work something out on this legislation. If they get something worked out and get it to the floor, I will join the gentleman from Arizona [Mr. RHODES] in voting for it.

We do not in any way want to preclude the success of that effort in the future by proceeding now. We feel a sense of urgency about getting this reauthorization done.

Mr. RHODES. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, I appreciate the gentleman's comments. I understand exactly where the gentleman is tonight. I understand he wants very much to have this reauthorization act passed. I join with the gentleman in that. I do understand the situation he found himself in, and sympathize with him, and will look forward to working with the gentleman on the Social Security issue alone.

Mr. FORD of Michigan. Mr. Speaker, I cannot let this moment pass without paying special tribute to the chairman of the subcommittee, the gentleman from California [Mr. MARTINEZ]. He went around this country and listened to seniors describe specifically how these programs were working and where they were having difficulty and how they could be improved. He even came to my congressional district in Michigan, and he listened very carefully to what they said. I was pleasantly surprised to see that some of the suggestions that were made by seniors there were accommodated when he drafted the bill.

Mr. Speaker, it has been a number of years since anybody responsible for the bill has put the effort into modernizing it and streamlining it to meet better the changing needs of senior citizens that the gentleman from California put into it. Not since it was originally passed did it have the kind of earnest attention that it has had with him as the chairman of the subcommittee. Every senior in the country ought to know that he has been doing that for them.

Mr. MARTINEZ. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from California.

Mr. MARTINEZ. Mr. Speaker, during the whole time we were doing this and holding these hearings, and we were especially happy that the gentleman from Michigan [Mr. FORD], as chairman of the full committee, did invite us to his district to listen to the seniors, and as we worked on this legislation and worked it out, we were in consultation with the staff and members of his committee and himself, so we appreciate the cooperation that we received from him as we presented the bill. It will go a long way to make this bill a success.

Mr. FORD of Michigan. Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Speaker, I support the reauthorization act. But I rise to express my extreme disappointment in the removal of an amendment to repeal the Social Security earnings test from the Older Americans Act. In stripping this amendment from the reauthorization bill, the other body has thwarted the will of its own majority who originally repealed the earnings test by a unanimous voice vote.

Under the current earnings test, seniors who make more than $10,200 annually, lose $1 in Social Security benefits for every $3 they earn over that limit. A senior earning only $10,000 a year would incur a 56-percent marginal tax rate. Mr. Speaker, that is nearly twice the amount paid by millionaires. Mr. Speaker, that is unconscionable.

Removing the amendment that would liberalize the Social Security earnings test hinders competitiveness in the global market, and erects a barricade to progrowth economics by discouraging an entire group of people from remaining in the labor force of this country. The earnings test was created during the Depression to force older workers out of the labor force and create job opportunities for younger workers. With a projected drop of 1.5 million in the work force by the end of the decade, coupled with 5 million retiring workers, it is evident that the earnings test has outgrown its usefulness and must be removed. To remove the earnings test would encourage much needed economic growth. Is the other body so bent on preventing President Bush from being reelected that they would stand in the way of economic growth? Can we afford the luxury of partisan politics in this time of economic turmoil?

Mr. Speaker, the answer to this question is obvious. We cannot allow the antifairness forces to prevail. We must expose the harm inflicted on seniors by the earnings test, and come back next year ready to work for the tax fairness they deserve.

Mr. GOODLING. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank the gentleman from the Commonwealth of Pennsylvania for yielding time to me.

Mr. Speaker, although the Older Americans Act is a beneficial piece of legislation, especially for southwest Florida, it could have been so much better. This legislation provides the support system for innovative and compassionate Federal programs for senior citizens. I must note that I am gratified this legislation codifies a long-standing practice of the Administration on Aging, that of using annually updated population estimates from the Bureau of the Census. This method is the most effective way to target programs to those who use them most. Since it is becoming more and more difficult to keep up with Florida's aged population, this provision will ensure that these programs reach the greatest number of people.

However, I, like so many of my colleagues, am greatly dismayed that the other body, after voting unanimously to repeal the Social Security earnings test, removed every trace of repeal efforts in this legislation. This action leaves the House of Representatives, which voted overwhelmingly for an earnings test liberalization, with no recourse. So here we are tonight with no way to do what we all agree we should. It is ironic, that as we approve funding for programs which seek to increase the independence of older Americans, we continue to constrain their earning potential at a time when they are most dependent on their income. The front page of today's Washington Post declares "Elderly See Interest Income Evaporate." The elderly individuals behind this headline are experiencing an unanticipated cut in retirement income—concurrently, they are unfairly penalized for every dollar they earn over the earnings test limit. The senior citizens of this country deserve the freedom to work and earn without penalty. If we can't do that for them today, we must assure them we will try again tomorrow.

The hard work done by my colleagues, the gentleman from Illinois [Mr. HASTERT], the gentleman from Arizona [Mr. RHODES], the gentleman from North Carolina [Mr. BALLENGER], and others, will continue, and, I predict, will succeed.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all I want to thank the gentleman from Michigan [Mr. FORD] and the gentleman from California [Mr. MARTINEZ] for the bipartisan effort that was put forth in order to bring some very, very important legislation before the Congress of the United States.

I also want to thank the gentleman from Illinois [Mr. FAWELL], who worked with them, and worked long hours to help put this legislation together.

Then I would be remiss if I did not thank staffers such as Lew Cowan, Lynn Selmser, Eric Jensen, Dan Adcock, and Alan Lopatin for their efforts.

Mr. Speaker, the legislation we consider today, reauthorizing the Older Americans Act, is long overdue and very, very important to senior citizens.

The reauthorization of this valuable program could no longer be delayed in order to accommodate legislation. I strongly support eliminating the Social Security cap, which is, as the chairman said, under the jurisdiction of another committee.

Senior citizens throughout the United States greatly appreciate the services they receive under the Older Americans Act. If you don't think seniors in your district appreciate this act, talk to them. Homebound seniors will tell you of the wonderful person who helps them get to the grocery store or the doctor's office or the person who brings them meals several times a day. They might talk about the congregate meals program or the activities they participate in at their local senior center. Others might tell you how the low-cost or free services provided through their local area agency on aging helped them with home repairs or something as simple as taking out their storm windows and putting in their screens in the spring.

These services allow senior citizens to remain in their homes longer and enjoy continuing independence. They let them know they are still a vital part of their community.

Many of the changes we are making to the Older Americans Act will improve and expand services to seniors. I am particularly pleased to see a provision requiring the Commissioner to participate and provide leadership within the Federal Government regarding the development and implementation of a national community-based long-term care program for older individuals. As my colleagues know, I have a long-term care proposal and the main thrust of my proposal is to keep senior citizens in their homes and in their community as long as possible, partially by using programs supported by the Older Americans Act. Needless to say, I am delighted to see this provision.

In closing, I would be remiss if I did not mention the fine services provided by the area agencies on aging in York, Adams, and Cumberland Counties in my congressional district. I frequently communicate with their offices, particularly when I am trying to respond to a senior constituent with a problem, and they are always willing—and usually able—to provide assistance. Area agencies throughout the United States provide invaluable assistance to senior citizens and they all deserve our appreciation and support.

Mr. Speaker, today we have an opportunity to reassure the aging community that our commitment to providing services to senior citizens is still as strong as ever. Enactment of this legislation will help ensure our Nation's senior citizens will continue to receive high-quality services from their local area agencies on aging. I urge its passage.

Mrs. LOWEY of New York. Mr. Speaker, It is indeed extremely gratifying to see that this bill, long delayed in the Senate due to an unrelated matter, will now meet with final approval in the Congress and be sent to the President.

This bill will significantly strengthen the Older Americans Act by authorizing funding for successful existing programs and necessary new initiatives, all of which are crucial to senior citizens all over our Nation. It is extremely important that we approve it before adjournment.

As a member of the Human Resources Subcommittee and an original cosponsor of H.R. 2967, I would like to take this occasion to congratulate Chairman FORD, ranking member GOODLING, Chairman MARTINEZ, and ranking member FAWELL for the fine job that they have done in crafting this final bill.

I am especially pleased that the bill incorporates several important new initiatives which I have advocated.

First, the bill includes the language of the Older Americans Health Promotion and Disease Prevention Act, H.R. 1739, which I introduced—along with Senator HARKIN in the other body—to significantly increase access to and participation in health promotion and disease prevention services.

The subcommittee's hearings made it clear that older Americans are able to benefit significantly from health promotion and disease prevention services. Moreover, at a time when health care costs continue to skyrocket, a strong emphasis on preventive health programs can cut health care costs significantly in the long run.

I believe the expansion of preventive health programs is an essential direction for the older Americans act to take at the present time, and I am extremely pleased that this important initiative is contained in H.R. 2967.

Second, this reauthorization bill makes clear that title III supportive services may include information and counseling regarding private pension rights, and it contains a key new demonstration project aimed at creating models for expanding information and counseling services for older Americans regarding their private pension rights.

These amendments are of great importance. Many older Americans—particularly surviving spouses—have little or no understanding of their private pension rights, and do not have anywhere to turn to get this essential information. I am hopeful that these new provisions of the act will help make a difference by shedding much-needed light on this complex and difficult subject, and by creating models for the provision of more comprehensive pension-related services in the future.

Mr. Speaker, the Older Americans Act sets forth important goals for our Nation—goals of providing our senior citizens with lives of freedom, opportunity, and dignity. I am convinced that the bill before us today will move our Nation significantly closer to meeting these goals, and I am proud to strongly support it. I urge all of my colleagues to do so as well.

Mr. BILIRAKIS. Mr. Speaker, I rise today in support of H.R. 2967, the Older Americans Act amendments. As a Member of Congress from the State of Florida, I have a deep personal interest in the reauthorization of the Older Americans Act. My State has a large number of full- and part-time residents who are over 60 years of age, thus, Florida has a tremendous need for federally funded services for the aged.

Although I firmly believe that the Older Americans Act should not be held hostage by any other issue, I will say that I am extremely disappointed that this legislation did not contain provisions to raise the Social Security earnings test for working older Americans. Mr. Speaker, I hope this issue will be revisited next year because this is an issue that affects the economic security of many older Americans. Many seniors, once they are entitled to Social Security benefits, want and need to continue to work but do not believe it is in their best interest because their benefits are reduced.

Mr. Speaker, if we raise the earnings test, I believe it will encourage more experienced employees to stay in the work force, and therefore, the employer will benefit because it allows newer employees the opportunity to learn from their more experienced coworkers.

Another concern I raised during the House debate on the Older Americans Act is the plight of the frail elderly. For the last few years, I have worked with my colleagues on education and labor, the administration on aging, and representatives from the White House to express my deep concern about the distribution of Older Americans Act Federal dollars to States. In my District, I have one of the largest concentrations of frail senior citizens in the country. I have been assured that the frail population will be considered when these dollars are given to the States, however, I want to reiterate my deep interest in protecting the needs of the frail elderly.

Let me conclude by saying that I am a strong supporter of this legislation and I believe that the programs that are funded through the Older Americans Act, such as meals-on-wheels, adult day care, and job training for seniors are very important ones that must be continued.

Mr. CLINGER. Mr. Speaker, I am pleased to see that Congress is finally taking action to approve the Older Americans Act reauthorization, H.R. 2967. The House first passed their version of reauthorization legislation unanimously on September 12, 1991. The Senate then passed its version of the bill by voice vote on November 12, 1991. However, included in the Senate version were changes to the Social Security earnings test, a highly controversial provision affecting the income of working seniors. This earning test provision would have raised the limits on how much older workers could earn without jeopardizing Social Security benefits.

I am a long-time supporter of eliminating, or at least liberalizing the earnings test. My belief is that the Federal Government should not penalize older Americans who want, or need to continue to work. However, the bill that was passed by the Senate and the House did not include funds to pay for the expanded benefits. In light of our budget deficit, I was compelled to vote against a bill that would have added $7 billion to our Nation's debt.

Now that the earnings test provision has been removed and the bill will not add to the deficit, I am pleased to be able to rise in support of this measure. This reauthorization bill includes many programs that benefit the citizens of Pennsylvania, including: supportive services such as senior centers; nutritional services such as congregate meals, home-delivered meals, and school-based meals; community service employment; and other various programs such as frail elderly in-home services, support for in-home caregivers, preventive health services, and long-term care assistance programs.

It is with great satisfaction that I am able to support passage of a bill that helps so many older Americans. Hopefully this action taken by the Congress, in conjunction with the Bush administration, will help elderly citizens live a more healthy and comfortable life.

Mr. ROYBAL. Mr. Speaker, as chairman of the Select Committee on Aging I rise in support of H.R. 2967, the Older Americans Act Amendments. The history of the Older Americans Act is one of great challenge and accomplishment but none greater than this last year. September 12 marked 1 year since the House of Representatives passed H.R. 2967, yet senior citizens across the country are still waiting for the passage of this bill.

Back in September 1991, it was generally accepted that this Congress would reauthorize the Older Americans Act due to the legislation's strong noncontroversial bipartisan support. However, a nongermane Senate amendment affecting the Social Security retirement earnings test, caused the bill to be stalled, despite earlier overwhelming approval by the House of Representatives and Senate. The reauthorization of the Older Americans Act no longer appeared to be a certainty.

The appropriations for the act also suffered, with many deserving programs not being funded because authorization had not been completed in time for the appropriations process. Already the first casualty of this stalemate has been the long awaited and long delayed White House Conference on Aging, which shut down its planning offices in July of this year due to the lack of authority to proceed under the current proposed amendments.

With adjournment rapidly approaching and numerous appropriations bills to complete before the 102d Congress concludes, it is a great comfort that the fate of elderly persons who depend upon the Older Americans Act to provide transportation, employment, supportive services, legal assistance, social services, home delivered meals, and congregate nutrition programs—which for many low income elderly provide the only hot meal of the day, will finally be resolved.

I believe the provisions offered here today, compliment and further clarify the purpose and intent of the act. These amendments provide greater focus in the act on the needs of the minorities and the frail and disabled elderly. I firmly believed that these amendments will enhance the aging network's ability to fulfill the critical role it now plays, and will increasingly play, in the lives of over 43 million Americans who are over the age of 60 and their families. I urge you to join me in supporting these amendments and demonstrating the Congress' commitment to a stronger Older Americans Act and to the people it serves.

Mr. FAWELL. Mr. Speaker, I rise today in support of the Older Americans Act for the third time. We passed this vital bill, that reauthorizes the Federal elderly programs, for the first time in September 1991, a whole year ago, and again in April of this year. But, as the ranking member on the subcommittee with jurisdiction for these programs, I'm glad to be here for the third time on this bill because this time we are at last passing the final version of this important legislation, that now can be sent to the President for his signature.

I only hope that passage of this bill is in time for Congress to appropriate the funds necessary to allow the hard-working area agencies on aging to properly serve this country's senior citizens; hard-working people like Jon Lavin who directs the AAA in the 13th Congressional District of Illinois.

Once again I thank Mr. GOODLING and Mr. MARTINEZ for their leadership on this bill, and I urge my colleagues to vote for the Older Americans Act one last time this Congress.

Ms. OAKAR. Mr. Speaker, once again, at this final stage of the process, I wish to commend Chairman FORD and subcommittee Chairman MARTINEZ for continued outstanding leadership toward improving the quality of life of older Americans. H.R. 2967, the Older Americans Act amendments before us today ensures the continuation of critical services which are vital to our senior citizens. These include supportive services, congregate and home delivered meals, the community service employment programs, and other initiatives dedicated to maintaining the health, vitality, and independence of older Americans. Current statistics indicate that malnutrition has been reported in 52 to 85 percent of all long-term care patients, and the focus of this bill on nutrition among the elderly comes at a very critical time.

Mr. Chairman, I must especially thank you and Mr. MARTINEZ for adopting the critical provisions of my legislation, H.R. 385, the Elder Abuse Prevention, Identification and Treatment Act of 1991. I would also like to take this opportunity to thank my Aging Committee Chairman, Mr. ROYBAL of California, who has always displayed tremendous leadership on these issues. Also, I must thank his wonderful staff at the Subcommittee on Health and Long-Term Care who have worked tirelessly on this bill.

I am now about to see the completion of my effort, nearly 12 years in the making, to comprehensively address the tragedy of elder abuse in our Nation. I began my investigation into abuse of the elderly with the support of our late colleague, Senator Claude Pepper who first coined the term "elder abuse." Well over a decade has passed since the Aging Committee's first report on the problem which called for the passage of my legislation. In 1990, a new report, issued under the leadership of our Aging Committee Chairman ROYBAL, found that since that first committee report the incidence of elder abuse has increased 50 percent. In the dozen years it has taken to get this bill enacted there have been over 15 million cases of elder abuse in the United States.

Before 1978 when I joined forces with the late, great, Hon. Claude D. Pepper, then chairman of the House Select Committee on Aging, to investigate the sad, terrible reality of elder abuse—the term "elder abuse" had never existed. An investigation was then undertaken by the House Select Committee on Aging resulting in the 1981 report entitled "Elder Abuse: An Examination of a Hidden Problem." This report documented the committee's tragic finding that over 1 million Americans are physically, financially, and emotionally abused by relatives or loved ones annually. The committee found that elder abuse was a hidden problem. Out of fear or dependence on their abusers, only one of every six elder abuse victims was likely to come to the attention of authorities. It was recommended that States enact statutes, analogous to State child abuse statutes, designating an agency to identify and assist elder abuse victims. In addition Congress was urged to enact legislation which would provide financial assistance to those States with elder abuse statutes in place.

Well over a decade after Chairman Pepper's landmark report, action to effectively address this problem remains elusive. Although Ohio enacted its protective services law for adults in 1981, and although 42 States and the District of Columbia have enacted elder abuse statutes since 1981, until today, the Congress has not reciprocated in a similar fashion.

Elder abuse is not decreasing. The fact is, the incidence of elder abuse is increasing. According to the National Resource Center on Elder Abuse, 140,000 cases of elder abuse were reported in 1990, which is a 10-percent increase over 1987. The National Resource Center believes that only 1 in 20 cases are reported. In 1990, 9,588 reports were made under the protective services law for adults in Ohio, a 16-percent increase over the previous year.

Some private initiatives are worthy of note such as Ohio's protective services consortium for older adults. The consortium is a network of over 60 hospitals and agencies and others, dedicated to preventing and treating elder abuse in a comprehensive and coordinated fashion through community education, advocacy, program planning, and clinical assessment. However, Federal guidance is needed.

In the 97th Congress, I joined Claude Pepper in introducing a bill to carry into effect the recommendation of the Aging Committee's 1981 recommendations. That is now my bill H.R. 385, contained in the legislation before us today. My bill proposes the establishment of a national center on elder abuse under the Secretary of Health and Human Services, charged with compiling, publishing, and disseminating information and programs and special problems related to elder abuse. In addition, the center will be authorized to conduct research into the causes, prevention, treatment, and national incidence of elder abuse, neglect and exploitation, and would provide funding through grants and demonstration projects with which States could conduct reporting, investigation, assessment, and treatment for cases.

The cost is very small when considered in the context of the whole problem. While some 40 percent of all reported abuse cases involve adults, 4.7 percent of State budgets for protective services are committed to elderly protective services. Some 82 percent of all adult cases of abuse involve elderly victims. Since 1981, the primary source of Federal funding for protective services, the social services block grant, has been cut in real terms, nearly one-fifth by direct cuts and inflation.

As a result of my work on the Pepper Commission, I have introduced legislation that would provide comprehensive health care coverage and coverage for long-term care for all Americans, H.R. 8. The fact that many seniors and their families are financially devastated by the cost of long-term illness, contributes greatly to the scope of elder abuse in this Nation. This is not just an elderly issue, it is a family issue. The burden placed on 70-year-old children to care for 90-year-old parents often results in these kinds of tragedies. We must adopt a national health plan that provides affordable long-term care to all Americans who need it.

We must continue to bring attention to the problem of elder abuse, although it's something we would rather not think about. In May 1990, the House Aging Committee released its latest report, aptly titled, "Elder Abuse: A Decade of Shame and Inaction." The report endorses the passage of my legislation. The report found that 1.5 million—1 in 20—older Americans fell prey to serious abuse or neglect in 1988—a 50-percent increase over the findings of the committee's landmark 1980 study. Most elder abuse occurs in the home and is committed by family members. Some 40 percent of all reported abuse in the United States is adult abuse—70 percent of adult abuse is elder abuse. Most of the abused are dependent upon their abusers, and many fear reprisal, or merely cannot overcome their instinctive love for their children to turn them in.

As a part of this 1990 study, I was involved in a major investigative study of nursing homes in the United States, conducted by the Subcommittee on Health and Long-Term Care, which in part included some surprise visits to Ohio board and care homes. We found that many of those patients were unnecessarily restrained, many seemed overmedicated, and some had infections or other afflictions that had been neglected. One recent study shows that over 80 percent of the use of antipsychotic drugs in older Americans is unnecessary.

Yet the problems that exist in our Nation's long-term care institutions represent only a small portion of the problem. Most elder abuse occurs in the home setting and is much more difficult to detect. The likelihood is that the incidence of elder abuse is likely to continue to worsen in our Nation. The 85-year-old-and-older group in our Nation is the fastest growing segment of our society. By the year 2020 the over 65 population will double to over 65 million.

We must address these problems. We must promulgate a decent standard of living for our own American people. Only in this type of environment can we thrive and prosper in our future as a nation. Today's agreement contains all of the essential provisions of my legislation, H.R. 385. As I have mentioned, my legislation is patterned after very successful Federal programs which address the terrible problem of child abuse. The Older American's Act reauthorization before us includes the language of my bill, H.R. 385, which calls for the creation of a National Center on Elder Abuse to conduct research and disseminate information to the States on all aspects of the problem. The bill before us authorizes funding for State grants and demonstration projects to address the problem of elder abuse, which like child abuse, occurs most often, not in institutional settings, but in the home. Grant funding will be used in a comprehensive effort to promote coordination among State and local authorities, social workers, and health professionals who are in a position to prevent, identify or treat the problem. The funding will also be available for training programs that give such people the tools they need to prevent elder abuse from occurring, identify the problem when it does occur, and to assist those who are affected.

It is difficult to believe that this problem is so prevalent in our Nation—we hate to even think about it. Yet, an estimated 1.5 million cases occurred in the United States last year. One out of every 20 older Americans fell prey to some form of serious abuse or neglect. It is an even greater shame that while only one out of every three child abuse cases is reported every year, only one out of every eight elder abuse cases gets reported to the proper authorities.

Mr. Speaker, this is a long-awaited day for the victims of elder abuse, fraud, and neglect in the United States, and for those dedicated professionals who struggle to assist them in the field. Passage of this Older Americans Act legislation is a tribute to Chairman FORD and his continued concern for the quality of life of our Nation's senior citizens. This scope of today's legislation is consistent with all of the great work we have done together in support of our Nation's Federal retirees in his tenure as chairman of the Committee on Post Office and Civil Service.

I repeat my thanks to human resources chairman, Mr. MARTINEZ of California, House Aging Committee Chairman ROYBAL, and the entire Education and Labor Committee for this excellent bill before us today. I must also thank all those who have cosponsored my legislation, H.R. 385, and I would like to thank our distinguished colleagues in the other body, Senator DENNIS DECONCINI and Senator BROCK ADAMS for putting this elder abuse legislation into the companion vehicle. Recently, Senator DECONCINI and I sent a letter to syndicated columnist Ann Landers regarding the impending vote on this elder abuse legislation. The letter was published throughout the Nation on September 8, and since then, my office has been inundated with inquiries and letters of support. I support the entire bill and I urge passage of this critical legislation.

Mr. HOUGHTON. Mr. Speaker, the Older American Act is important. All of us senior citizens know that. But I am distressed. The bill before us today does not include any increase in the Social Security earnings test. This is dead wrong.

What is the history of this issue? There have been bills introduced to repeal the earnings limitation totally, others would go part way. I began pushing for repeal of the test for seniors 65 to 70 when I first came to Congress nearly 6 years ago. But the cost of that was estimated to be $2.5 billion. So what I did was to introduce a bill scaling back my original proposal to include only seniors 67–70. The preliminary cost for that totaled around $900 million.

What Congress came up with instead was $2,000 per year increase in the earnings test. This would take the earnings limitation from the current $10,200 to $20,000 over 5 years. It was a different approach from what I had proposed, but I thought it was a fair compromise. But what do we have now after the 5-month hold-up in the Senate—an Older Americans Act back with no provisions at all in the earnings test. What a miscarriage of justice.

The argument we hear is that by repealing the earnings limitation, we would further increase our already out of control deficit. I disagree. I am suspicious of the cost figures. They are too neat, too simple—especially when considering that:

Today, 83 percent of all men and 92 percent of all women age 65 and over are retired—I mean—completely. They make no contribution to the Nation's annual output of goods and services;

If one-third of the men and women age 65 and over reentered the labor market, and earned as little as $5 per hour, national income would be increased by more than $100 billion—think of it; and

As producers, these men and women would generate as much as $35 to $45 billion a year in Social Security and income taxes.

So figures tell you what you want to tell you. Most actuarial estimates showing a loss in any of the bills are based on a so-called static analysis. That type of figure structuring would not turn up the above—only the loss of trust fund revenue would be shown.

But to get to the broader issue—I remember sitting in the stands during President Bush's Inaugural Address. In it he said, "We must bring the generations together, harnessing the unused talent of the elderly * * *" Being a senior citizen myself, isn't it a good way for him and for all of us to do something specific, not talk about it? Use the unused pool of the best talent of all—dedicated, experienced, and standard setting—by repealing or liberalizing the earnings limit. I may be missing something, but I feel it is that simple.

That is the opportunity we are passing up today.

Ms. SNOWE. Mr. Speaker, the bill before us today is H.R. 2967, the reauthorization of the Older Americans Act of 1991–92 which provides vital services to our Nation's older citizens. I am particularly concerned that this bill does not specifically address the needs of older workers and the way in which the Social Security earnings test penalizes older individuals who remain in the work force. It is my hope that Congress will not forget its commitment to older workers with the reauthorization of this act.

I am pleased, however, that this year's reauthorization bill incorporates all of the nine bills that I introduced. They address a wide range of concerns such as supportive services for family caregivers, preventive health services for osteoporosis and medication management, services for guardianship, equity for rural elderly, and coordination of transportation services.

As ranking member of the Select Committee on Aging's Human Services Subcommittee, I have been greatly concerned about the need of support for family caregivers. Family members, primarily women, provide 80 percent of the care and assistance needed by the frail elderly, often in addition to a full-time job. This supportive care is crucial in allowing older individuals to remain in their own homes and retain their independence and dignity. Providing this care is usually very rewarding, but stress and competing demands on the caregiver can also be physically, financially and emotionally exhausting. I introduced legislation to address this problem, and I am very gratified that H.R. 2967 authorizes my new program of supportive services for caregivers, and incorporates my bill for increased emphasis on outreach efforts to older individuals and their caretakers who are rural residents, isolated, or have Alzheimer's disease.

Access to information about available services is crucial for caregivers, older persons, and adult children who may be trying to find assistance for their parents in their own community—or across the country. Services through area agencies on aging are often difficult to find because area agencies across the country use different names and are located in different public and private sites. Therefore, I am pleased that my bill to require area agencies on aging to list themselves as such in telephone books is included in H.R. 2967. This uniform listing would assure that persons who wish to attain services can find them wherever they are.

This year, I held a subcommittee hearing and a forum in the Second District of Maine on the needs of the rural elderly. My district is the largest east of the Mississippi and is predominantly rural. In fact, 18 percent of the population is age 60 and over. Nationally, 25 to 30 percent of the Nation's older persons live in rural areas. The poverty rate of the rural elderly is considerably higher than the urban elderly. Generally, they have less access to services than their counterparts in the city.

During the hearings and forums that I held in my district, constituents testified about these problems and more, including the fact that due to distance and travel problems, it usually costs more to provide access services in rural areas. Therefore, I am very pleased that H.R. 2967 requires State agencies to identify the actual and projected additional costs of providing services in rural areas.

Rural elderly residents and service providers at events in my district also emphasized that adequate transportation is critical if older persons are to get the necessary medical, nutrition, and other services they need. In order to eliminate unnecessary duplication of services and to stretch scarce resources, increased coordination of transportation services for social services programs are essential. I am pleased that H.R. 2967 incorporates a bill I introduced requiring coordination of planning and delivery of transportation services.

Health promotion and disease prevention programs for older Americans at congregate meal programs, senior centers and other sites have been greatly expanded under H.R. 2967. These additional services should play a significant role in leading to a healthier older population, as well as preventing some illnesses and reducing the need for some medical services. I am pleased that two bills that I introduced are included in this package, specifically, medication management and expanded services for osteoporosis.

I am pleased that H.R. 2967 includes a waiver provision for additional authority to transfer funds between the congregate and home-delivered meals programs. Maine invests more in home-delivered meals than any other State because it is the most practical way to reach the elderly in remote rural areas. Great distances in rural areas and the lack of public transportation make home-delivered meals essential to meet the needs of our older, more frail rural citizens. This waiver, although it is capped, is important in preserving State flexibility to design services to meet the special needs of its older population.

H.R. 2967 would also include legislation that I introduced to help improve the many problems and abuses regarding guardianship, and the judicial process that transfers the decision-making responsibility from a person declared incapable of handling his or her own affairs to another person. At least 500,000 persons, particularly the elderly, are effected by this system, which severely limits their autonomy. Several provisions I introduced to help improve the guardianship system include information and training for guardianship and legal assistance for representation of wards—individuals who are allegedly incapacitated—and older individuals who are seeking to become guardians. In particular, I would like to stress the bill's new title VII for elder rights services, which gives special emphasis to elder abuse and ombudsman programs. H.R. 2967 also incorporates needed provisions to strengthen the Administration on Aging's administrative capabilities, and to require uniform data collection procedures in order to obtain valid information about services provided and needed under the Older Americans Act.

Mr. Speaker, many members have made valuable and major contributions to this reauthorization of the Older Americans Act. I want to commend my colleagues, Chairmen FORD and MARTINEZ, and ranking Republican members GOODLING and FAWELL, and their staffs on the House Education and Labor Committee, and the Human Resources Subcommittee, for their efforts in drafting this bill.

Again, I regret that this bill has removed the provision to liberalize the Social Security earnings limitation. I remain firm in my commitment to deal with this issue to ensure that all persons receive the Social Security benefits to which they are entitled.

Mr. Speaker, today, 1 out of every 6 Americans is age 60 or older. By the year 2030, 1 out of every 4 persons in this country will be age 60 or older. This dramatic population shift will greatly increase the need for community-based care and services for frail older persons and support for family caregivers. For almost 27 years, the Older Americans Act has provided the strength, basic principles, and flexibility to support and affirm the dignity and independence of millions of older Americans. As we move toward the 21st century, the leadership and resources of the aging network will be increasingly challenged. As a keynote law, the Older Americans Act is poised to meet the growing needs of our aging Nation today and in the future. I am pleased to have played a role in the 1991–92 reauthorization of the Older Americans Act.

Mr. GUNDERSON. Mr. Speaker, I am pleased to have this opportunity to speak in favor of H.R. 2967, the Older Americans Act amendments. This legislation is one of the most important initiatives the Congress will pass this year.

The Older Americans Act [OAA] is currently celebrating its 27th year of providing various social services to this Nation's seniors. Since its birth more than two decades ago, the Older Americans Act has focused on the health, employment, and social service needs of our seniors. The purpose of the OAA is to provide for the needs and interests of all seniors through an array of services: establishing senior citizen centers, providing congregate meals, furnishing home-delivered meals to our more vulnerable seniors, providing home health services, coordinating long-term care services, and developing elder abuse prevention programs.

One of the most effective components of the Older Americans Act is the seniors meals program. The nutrition program has served as the foundation for many seniors' programs. Western Wisconsin has over 169 meal sites that serve over 1 million meals annually to seniors in 19 counties.

Another outstanding program authorized under the Older Americans Act is the Senior Community Service Employment Program. This program provides subsidized, part-time employment to low-income seniors age 55 and older. Under the Senior Community Service Employment Program, participants work 20 hours per week and are employed in community service activities such as home health care agencies and adult day care facilities. The Senior Community Service Employment Program has provided employment to thousands of individuals throughout Wisconsin. In my home county of Trempealeau, seniors employed in the Senior Community Service Employment Program have worked on various landscaping and construction activities for the Osseo-Fairchild School District and for my hometown of Pleasantville.

At a time when many in this Chamber are focused on partisan politics, it is especially gratifying to see that this bill, the Older Americans Act Amendments of 1992, will pass the Congress in a bipartisan manner.

Mr. SHAW. Mr. Speaker, as the House considers the Older Americans Act amendments today, I want to express my support for the many programs this legislation helps to support, and also my disappointment at what has been left out of the bill. H.R. 2967 reauthorizes for 3 years Older Americans Act programs, including meals on wheels and preventive health and in-home care for senior Americans. I am pleased to support these provisions.

I am deeply disappointed, however, that the legislation we are considering today makes no mention of the Social Security earnings test, which will unfortunately continue to discriminate against senior Americans who want or have to work.

As thousands of senior Americans know, the earnings test means that Social Security beneficiaries now lose a portion of their monthly benefit check if they work and earn more than a certain amount. In 1992, seniors under age 65 who are drawing Social Security benefits may earn up to $7,440 without penalty. For every $2 earned above that amount, beneficiaries lose $1 in benefits. For seniors age 65 through 69, the earnings limit is set in 1992 at $10,200. For every $3 in earnings above that amount, seniors lose $1 in Social Security benefits. The earnings test does not apply to seniors age 70 and older.

Members will recall that the House voted 340 to 68 on April 9, 1992, to approve gradually raising the earnings test for beneficiaries aged 65 through 69 to $20,000 by 1997. Unfortunately, the legislation we have before us today does not include this provision, much less outright repeal of the earnings test, which I would prefer to see. The earnings test is a vestige of the early Depression-era days of the Social Security system, when it was designed to encourage older workers to retire in favor of younger workers. At a time when our economy needs seniors' experience and expertise, this unfair provision harms not only their interests, but our country's best interests as well.

Mr. RAHALL. Mr. Speaker, I am strongly in favor of H.R. 2967, a bill to reauthorize the Older Americans Act.

I regret very much the protracted negotiations that had to take place on the bill before we could get it to the floor for passage. The current law expires on September 30, 1992, and today's action will continue important nutrition and support services for the country's senior population.

The services the bill reauthorizes are: Congregate meals and senior meals-on-wheels programs; senior transportation, elder abuse prevention, homemaker assistance and referral assistance; ombudsman activities to protect seniors in long-term care situations; the Community Service Employment Program for senior citizens, which presently employs more than 60,000 seniors nationwide; a White House Conference on Aging to focus attention on the needs of older Americans; and Federal support for 57 State units on aging, 670 area agencies on aging, 25,000 service providers under title III of the act, and 194 native American grantees under title VI.

Mr. Speaker, on September 11, 1991, the House with my strong support, by a vote of 385 to 0, passed the bill, a straightforward reauthorization of the Older Americans Act. Two months later, on November 12, 1991, the Senate passed its version of the bill unanimously, but only after adding to the bill an unrelated amendment to repeal the Social Security earnings test—a matter under the jurisdiction of another committee—at an estimated cost of $27.3 billion over 5 years.

On April 9, 1992, the House responded to the Senate's action by voting 340 to 68, with my strong support in the affirmative, to return the bill to the Senate with an amendment with the House providing a more modest liberalizing of the Social Security earnings test. The Senate did not act on the House's amendment for 8 months.

This bill, then, represents our consensus, minus the previously adopted liberalization of the Social Security earnings test. I believe we will get back to work on the earnings test legislation next Congress, at which time it will receive my strong support, as it has in the past. The fact that it was dropped from the Older Americans Act is no prejudice to any Member of Congress who advocated the elimination of the earnings test limitation, it was just not germane to the bill before us and the controversy was placing older Americans in jeopardy by holding up final action on this measure. It was a sound decision to drop those provisions out of this bill in order to move it to enactment, with the understanding that advocates of repealing the Social Security earnings limitation would return to that endeavor at a later date.

The Older Americans Act will go far in ensuring that this Nation's seniors have the nutritional and support services they deserve—for it is these programs that provide the real safety net for older Americans on low, fixed incomes—providing real honest-to-goodness help for their physical and social well-being. They have given so much of themselves over a lifetime of family care, work, and contributions to their communities, and they continually turn to the Older Americans Act programs for sustenance and support. In addition to nutritional services at congregate sites and at home, the bill provides new initiatives to assist them in receiving health services, preventing elder abuse, and seeking out legal assistance, language assistance, and intergenerational support.

I am pleased that the Older Americans Act is well on its way to reauthorization so that older Americans everywhere will continue to be served by programs of vital importance to them.

Mr. SWETT. Mr. Speaker, today Congress is finally acting on the reauthorization of the Older Americans Act of 1965. This measure, H.R. 2967, is a long time in coming. The programs under the Older Americans Act are vital to America's senior citizens, particularly those over the age of 80, the fastest growing portion among the elderly. I urge my colleagues to support this measure.

The Older Americans Act has a demonstrated 25-year record of providing support to the States for programs which serve the needs of the elderly, including transportation, employment, and nutrition. Among the most popular programs funded under the OAA are meals-on-wheels and supported employment for the elderly. In New Hampshire, funds are disbursed to local governments and community-based groups through the State Division of Elderly and Adult Services.

Mr. Speaker, this reauthorization bill includes important new changes which target older people most in need, creates a new initiative for counseling and training of family caregivers, and strengthens provisions in the law relating to elder abuse. The bill also calls for convening of a White House Conference on Aging before December 31, 1994.

H.R. 2967 is an important step in ensuring that these programs keep pace with our rapidly growing elderly population. I believe that it is crucial for Congress to be able to complete action on the authorization bill before adjourning for this year. We should never allow this important program to be held hostage to election year politics. I urge my colleagues to support this bill which is so important to the interests of our growing elderly population.

Mrs. VUCANOVICH. Mr. Speaker, I stand today in strong support for the passage of H.R. 2967, the Older Americans Act amendments. This legislation calls for the reauthorization of several programs so vital to our senior citizens—programs that have provided the elderly with transportation, employment and meals for more than 25 years. I feel that this is one of the most important legislative tools we have to assure that older Americans have proper nourishment, are protected against abuse, and have new opportunities to live a full and useful life. These goals will likely be accomplished through passage of this legislation which includes such programs as Meals on Wheels, contains changes to target older people most in need—especially low-income minorities—and strengthens provisions related to abuse prevention.

I am pleased that this bill is finally being brought before the House for a final vote.

Mr. Speaker, although I will be pleased to see this legislation passed, I am disappointed that the other body removed an amendment which would have repealed the Social Security earnings test. This is a blatant act against our Nation's senior citizens who desire to remain a productive part of our work force by continuing to work after retirement age. I strongly support tax fairness for seniors and therefore support the effort to repeal the Social Security earnings test. Those who oppose tax fairness for seniors may have won this round, but I will continue the fight to extend equity to all seniors during the next Congress by working for a complete repeal of this unfair tax on seniors.

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Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SANGMEISTER). The question is on the motion offered by the gentleman from Michigan [Mr. FORD] that the House suspend the rules and concur in the Senate amendment to the House amendment to the Senate amendment to H.R. 2967.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment to the House amendment to the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

EDUCATION RESEARCH, DEVELOPMENT, AND DISSEMINATION EXCELLENCE ACT

Mr. OWENS of New York. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4014) to improve education in the United States by promoting excellence in research, development, and the dissemination of information, as amended.

The Clerk read as follows:

H.R. 4014

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Educational Research, Development, and Dissemination Excellence Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—GENERAL PROVISIONS REGARDING OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

Sec. 101. General provisions.
Sec. 102. Assistant Secretary for Educational Research and Improvement.
Sec. 103. Savings provision.
Sec. 104. Existing contracts.

TITLE II—BOARD OF GOVERNORS

Sec. 201. Establishment within Office of Educational Research and Improvement.

TITLE III—NATIONAL RESEARCH INSTITUTES

Sec. 301. Establishment within Office of Educational Research and Improvement.

TITLE IV—NATIONAL EDUCATION DISSEMINATION SYSTEM

Sec. 401. Establishment within Office of Educational Research and Improvement.

TITLE V—NATIONAL LIBRARY OF EDUCATION

Sec. 501. Establishment within Office of Educational Research and Improvement.

TITLE VI—LEADERSHIP FOR EDUCATIONAL TECHNOLOGY

Sec. 601. Office of Educational Technology.

TITLE VII—INTERNATIONAL EDUCATION PROGRAM

Sec. 701. International Education Program.

TITLE VIII—CERTAIN EDUCATIONAL IMPROVEMENT PROGRAMS

Sec. 801. Field readers.
Sec. 802. Commission extension.
Sec. 803. Buy American provisions.
Sec. 804. Functions of national assessment.

TITLE IX—BUDDY SYSTEM COMPUTER EDUCATION

Sec. 901. Short title.
Sec. 902. Purpose.
Sec. 903. Grant authorization.
Sec. 904. Program requirements.
Sec. 905. Applications.
Sec. 906. Use of funds.
Sec. 907. Evaluation.
Sec. 908. Definitions.
Sec. 909. Authorization of appropriations.

SEC. 2. FINDINGS.

The Congress finds as follows with respect to improving education in the United States:

(1) A majority of public schools in the United States are failing to adequately prepare their students. School restructuring alone will not allow the United States to achieve the national education goals set forth by the President and the governors of the States. An overwhelming campaign for educational improvement must be mounted in order to set in motion many strategies and models simultaneously. The Federal Government must support an extensive program of educational research, development, dissemination, replication and assistance to identify and support the best responses for the challenges ahead. A significant investment in attaining a deeper understanding of the processes of learning and schooling and developing new ideas holds the best hope of making a substantial difference to the lives of every school and student in the United States. The Office of Educational Research and Improvement of the Department of Education should be at the center of this campaign in order to coordinate such efforts.

(2) The Federal role in educational research has been closely identified with youths who are socioeconomically disadvantaged, belong to a language minority, or are disabled. However, in 1988, the Federal commitment to education was sufficient to serve not more than—

(A) 1 out of every 5 low-income children in need of preschool education;

(B) 2 out of every 5 children in need of remediation;

(C) 1 out of every 4 children in need of bilingual education; and

(D) 1 out of every 20 youths in need of job training.

(3) The failure of the Federal Government to adequately invest in educational research and development has denied the Nation a sound foundation on which to design school improvements, leading to a history of faddism and failed experimentation resulting in a dearth of research in the area of educationally at-risk students. This situation is of particular concern because at least half of the public school students in 25 of the largest cities of the United States are minority children, and demographers project that, by 2005, almost all urban public school students will be minority children or other children in poverty.

(4) The investment goal of the Federal research, development, and dissemination function should be at least 1 percent of the total amount of funds spent on education nationally.

(5) Nationwide model programs and reliable interventions should be demonstrated and replicated, and for such purposes, programs should be established to conduct research and evaluations, and to disseminate information.

(6) The Office of Educational Research and Improvement must develop a national dissemination policy that will advance the goal of placing a national treasure chest of research results, models, and materials at the disposal of the Nation's education decisionmakers.

(7) A Board of Governors should be established to ensure that an educational research and dissemination agenda is developed and implemented without partisan political interference.

(8) Existing research and development entities should adopt expanded, proactive roles and new institutions must be created to promote knowledge development necessary to accelerate the application of research knowledge to high priority areas.

(9) Greater use should be made of existing technologies in efforts to improve the Nation's educational system, including efforts to disseminate research findings.

(10) Minority educational researchers are inadequately represented throughout the Department of Education, but particularly in the Office of Educational Research and Improvement. The Office therefore must assume a leadership position in the recruitment, retention, and promotion of qualified minority educational researchers.

(11) The coordination of the mission of the Office of Educational Research and Improvement with that of other components of the Department of Education is critical. It must improve the coordination of the educational research, development, and dissemination function with those of other Federal agencies.

TITLE I—GENERAL PROVISIONS REGARDING OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 101. GENERAL PROVISIONS.

Section 405 of the General Education Provisions Act (20 U.S.C. 1221e) is amended to read as follows:

"OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

"SEC. 405. (a) DECLARATION OF POLICY REGARDING EDUCATIONAL OPPORTUNITY.—

"(1) IN GENERAL.—The Congress declares it to be the policy of the United States to provide to every individual an equal opportunity to receive an education of high quality regardless of race, color, religion, sex, age, disability, national origin, or social class. Although the American educational system has pursued this objective, it has not attained the objective. Inequalities of opportunity to receive high quality education remain pronounced. To achieve the goal of quality education requires the continued pursuit of knowledge about education through research, development, improvement activities, data collection, and information dissemination. While the direction of American education remains primarily the responsibility of State and local governments, the Federal Government has a clear responsibility to provide leadership in the conduct and support of scientific inquiry into the educational process.

"(2) MISSION OF OFFICE.—

"(A) The mission of the Office of Educational Research and Improvement shall be to provide national leadership in—

"(i) expanding fundamental knowledge and understanding of education;

"(ii) promoting excellence and equity in education; and

"(iii) monitoring the state of education.

"(B) The mission of the Office shall be accomplished in collaboration with researchers, teachers, school administrators, parents, students, employers, and policymakers.

"(b) PURPOSE AND STRUCTURE OF OFFICE.—

"(1) IN GENERAL.—The Secretary, acting through the Office of Educational Research and Improvement, shall carry out the policies set forth in subsection (a). In carrying out such policies, the Secretary shall be guided by the priorities established by the Board of Governors established in section 405A.

"(2) ADMINISTRATIVE STRUCTURE.—The Office shall be administered by the Assistant Secretary and shall include—

"(A) the Board of Governors established by section 405A;

"(B) the national research institutes established by section 405B;

"(C) the national education dissemination system established by section 405C;

"(D) the National Library of Education established by section 405D;

"(E) the National Center for Education Statistics established by section 406; and

"(F) such other units as the Secretary deems appropriate to carry out the purposes of the Office.

"(3) PRIORITIES IN RESEARCH AND DEVELOPMENT.—The Office shall, in accordance with the provisions of this section, seek to improve education in the United States through concentrating the resources of the Office on the following priority research and development needs:

"(A) The education of at-risk students.

"(B) The education and development of young children.

"(C) Student achievement in core subject areas through elementary and secondary school.

"(D) Postsecondary education, libraries, and lifelong learning for adults.

"(E) The improvement of schools through the restructuring and reform of school governance, policymaking, finance and management at the State, local, school building, and classroom level.

"(c) APPOINTMENT OF EMPLOYEES.—

"(1) IN GENERAL.—The Assistant Secretary may appoint, for terms not to exceed three years (without regard to the provisions of title 5 of the United States Code governing appointment in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or technical employees of the Office as the Assistant Secretary considers necessary to accomplish its functions, provided that—

"(A) at least 60 days prior to the appointment of any such employee, public notice is given of the availability of such position and an opportunity is provided for qualified individuals to apply and compete for such position;

"(B) the rate of basic pay for such employees does not exceed the maximum rate of basic pay payable for positions above GS-15, as determined in accordance with section 5376 of title 5, United States Code;

"(C) the appointment of such employee is necessary to provide the Office with scientific or technical expertise which could not otherwise be obtained by the Office through the competitive service; and

"(D) the total number of such employees does not exceed one-fifth of the number of full-time, regular scientific or professional employees of the Office.

"(2) REAPPOINTMENT OF EMPLOYEES.—The Assistant Secretary may reappoint employees described in paragraph (1) upon presentation of a clear and convincing justification of need, for one additional term not to exceed 3 years. All such employees shall work on activities of the Office and shall not be reassigned to other duties outside the Office during their term.

"(d) AUTHORITY TO PUBLISH.—

"(1) IN GENERAL.—The Assistant Secretary is authorized to prepare and publish such information, reports, and documents as may be of value in carrying out the purposes of sections 405 through 405D without further clearance or approval by the Secretary or any other office of the Department.

"(2) QUALITY ASSURANCE.—In carrying out such authority, the Assistant Secretary shall—

"(A) establish such procedures as may be necessary to assure that all reports and publications issued by the Office are of the highest quality; and

"(B) provide other offices of the Department with an opportunity to comment upon any report or publication prior to its publication when its contents relate to matters for which such office has responsibility.

"(e) ANNUAL REPORT ON ACTIVITIES OF OFFICE.—The Assistant Secretary shall transmit to the President and the Congress by not later than December 30 of each year an annual report which shall consist of—

"(1) a description prepared by the Director of each research institute of the activities carried out by and through such institute during the fiscal year for which such report is prepared and any recommendations and comments regarding such activities as the Director considers appropriate;

"(2) a description of the activities carried out by and through the national education dissemination system established by section 405C during the fiscal year for which such report is prepared and any recommendations and comments regarding such activities as the Assistant Secretary considers appropriate;

"(3) such written comments and recommendations as may be submitted by the Board concerning the activities carried out by and through each of the institutes and the national education dissemination system during the fiscal year for which such report is prepared and how such activities relate to the Research Policies and Priorities Plan developed by the Board;

"(4) a report on the personnel of the Office which shall set forth the number of employees of the Office, provide information concerning the gender, race, and civil service classification of such employees, and describe any personnel vacancies or projected future personnel needs of the Office;

"(5) a description of any technical or other assistance the Office has provided to the New American Schools Development Corporation (a nonprofit private organization incorporated under the law of the State of Virginia) during the fiscal year for which such report is prepared and an estimate of the aggregate cost (in cash or in kind) to the Federal Government of such assistance; and

"(6) such additional comments, recommendations, and materials as the Assistant Secretary considers appropriate.

"(f) COORDINATION.—With the advice and assistance of the Board, the Assistant Secretary shall establish and maintain an ongoing program of activities designed to improve the coordination of education research, development, and dissemination and activities within the Department and within the Federal Government, particularly within the priority research and development needs identified in section 405(b)(3), in order to—

"(1) minimize duplication in education research, development, and dissemination carried out by the Federal Government;

"(2) maximize the value of the total Federal investment in education research, development, and dissemination; and

"(3) enable all entities engaged in education research, development, and dissemination within the Federal Government to interact effectively as partners and take full advantage of the diverse resources and proficiencies which each entity has available.

"(g) ACTIVITIES REQUIRED WITH RESPECT TO COORDINATION.—In carrying out such program of coordination, the Assistant Secretary shall—

"(1) not later than 12 months after the date of the enactment of the Educational Research, Development, and Dissemination Excellence Act, make a report to the President and the appropriate committees of Congress which shall identify administrative and legislative changes necessary to improve the coordination of education research, development, and dissemination activities within the Department of Education, particularly within the priority research and development needs identified in section 405(b)(3), and to enable greater interaction among all entities engaged in such activities, including (but not limited to)—

"(A) State facilitators and other entities supported by the National Diffusion Network;

"(B) evaluation assistance centers and multifunctional source centers established by the Office of Bilingual Education and Minority Language Affairs;

"(C) research and development entities administered by the Office of Special Education programs;

"(D) the National Center for Research in Vocational Education;

"(E) regional centers established under section 5135 of the Drug-Free Schools and Communities Act of 1986;

"(F) chapter 1 technical assistance centers;

"(G) the research institutes established by section 405B;

"(H) national education research centers;

"(I) the Women's Educational Equity Act Publishing Center;

"(J) the Desegregation Assistance Centers;

"(K) the Office for Civil Rights dissemination activities; and

"(L) the national education dissemination system established by section 405C; and

"(2) not later than two years after the date of the enactment of the Educational Research, Development, and Dissemination Act—

"(A) compile (and thereafter regularly maintain) and make available a comprehensive inventory of all education research, development, dissemination activities, and expenditures being carried out by the Federal Government within the priority research and development needs identified in section 405(b)(3); and

"(B) make a report to the President and the appropriate committees of the Congress which shall identify administrative and legislative changes necessary to improve the coordination of all education research, development, and dissemination activities carried out within the Federal Government, particularly within the priority research and development needs identified in section 405(b)(3), and to enable greater interaction and exchange of information among all entities engaged in such activities, including—

"(i) the Department of Defense;

"(ii) the Department of Health and Human Services;

"(iii) the Department of Agriculture;

"(iv) the Department of Energy;

"(v) the Department of Housing and Urban Development;

"(vi) the Department of the Interior;

"(vii) the Department of Justice;

"(viii) the Department of Labor;

"(ix) the Department of Transportation;

"(x) the Department of Veterans Affairs;

"(xi) the Environmental Protection Agency;

"(xii) the National Aeronautics and Space Administration;

"(xiii) the Smithsonian Institution;

"(xiv) the White House Office of Science and Technology Policy;

"(xv) the National Science Foundation;

"(xvi) the National Endowment for the Arts;

"(xvii) the National Endowment for the Humanities; and

"(xviii) the Corporation for Public Broadcasting.

"(h) STANDARDS FOR CONDUCT AND EVALUATION OF RESEARCH.—

"(1) IN GENERAL.—The Assistant Secretary shall develop such standards as may be necessary to govern the conduct and evaluation of all research, development, and dissemination activities carried out by the Office to assure that such activities meet the highest standards of professional excellence. In developing such standards, the Assistant Secetary shall review the procedures utilized by the National Institutes of Health, the National Science Foundation, and other Federal agencies engaged in research and development and shall also actively solicit recommendations from the Secretary, the Board, the National Academy of Sciences, the American Educational Research Association and members of the general public.

"(2) CONTENTS OF STANDARDS.—Such standards shall at a minimum—

"(A) require that a system of peer review be utilized by the Office—

"(i) in reviewing and evaluating all applications for grants and cooperative agreements and bids for contracts;

"(ii) in evaluating and assessing the performance of all recipients of grants from and cooperative agreements and contracts with the Office;

"(iii) in reviewing and designating exemplary and promising programs in accordance with section 405C(d);

"(B)(i) specify the composition of peer review panels, the criteria for the selection of members of such panels, and describe the means by which potential members shall be identified so as to assure that such panels are broadly representative of individuals with expertise in matters relevant to the purposes of each such panel;

"(ii) prohibit the consideration of partisan affiliation in the selection of any member of a peer review panel;

"(iii) describe the general procedures which shall be used by each peer review panel in its operations;

"(iv) prohibit the participation by a member of a peer review panel in the review of any application in which such member has any financial interest; and

"(v) require that transcripts, minutes, and other documents made available to or prepared for or by a peer review panel will be available for public inspection to the extent consistent with the Freedom of Information Act, the Federal Advisory Committee Act, the Privacy Act, and other laws;

"(C)(i) describe the procedures which shall be utilized in evaluating applications for grants, proposed cooperative agreements, and contract bids;

"(ii) specify the criteria and factors which shall be considered in making such evaluations; and

"(iii) provide that any decision to fund a grant, contract, or cooperative agreement out of its order of ranking by a peer review panel shall be first fully justified in writing and that copies of such justification shall be transmitted to the Board, unless such action is required by some other provision of law;

"(D)(i) describe the procedures which shall be utilized in reviewing educational programs which have been identified by or submitted to the Secretary for evaluation in accordance with section 405C(d); and

"(ii) specify the criteria which shall be used in recommending programs as exemplary and promising; and

"(E)(i) require that the performance of all recipients of grants from and contracts and cooperative agreements with the Office shall be periodically evaluated, both during and at the conclusion of their receipt of assistance;

"(ii) describe the procedures and means by which such evaluations shall be undertaken, including—

"(I) the frequency of such evaluations;

"(II) the criteria, outcome measures, and other factors which shall be taken into account; and

"(III) measures to assure that on-site evaluations of performance shall be utilized to the extent appropriate and whenever practicable; and

"(iii) provide that the results of such evaluations shall be taken into account prior to any decision to continue, renew, or provide new funding to the entity being reviewed.

"(3) PUBLICATION AND PROMULGATION OF STANDARDS.—

"(A) The Assistant Secretary shall publish proposed standards—

"(i) which meet the requirements of subparagraphs (A), (B), and (C) of paragraph (2) not later than 1 year after the date of the enactment of the Educational Research, Development, and Dissemination Excellence Act;

"(ii) which meet the requirements of paragraph (2)(D) not later than 2 years after such date; and

"(iii) which meet the requirements of subparagraph (E) of paragraph (2) not later than 3 years after such date;

"(B) Following the publication of such proposed standards, the Assistant Secretary shall solicit comments from the Board and interested members of the public with respect to such proposed standards for a period of not more than 120 days. After giving due consideration to any comments which may have been received, the Assistant Secretary shall transmit such standards to the Board for its review and approval.

"(C) Upon the approval of the Board, the Assistant Secretary shall transmit final standards to the Secretary which meet the requirements of the particular subparagraphs of paragraph (2) for which they were developed. Such standards shall be promulgated by the Secretary as regulations and shall be binding upon all activities carried out with funds appropriated under section 405.

"(i) ADDITIONAL RESPONSIBILITIES OF THE ASSISTANT SECRETARY.—In carrying out the activities and programs of the Office, the Assistant Secetary shall—

"(1) be guided by the Research Priorities Plan developed by the Board;

"(2) ensure that there is broad and regular public and professional involvement from the educational field in the planning and carrying out of the Office's activities, including establishing teacher advisory boards for any program office, program or project of the Office as the Assistant Secretary deems necessary; and

"(3) ensure that the selection of research topics and the administration of the program are free from undue partisan or political influence.

"(j) DEFINITIONS.—For purposes of this section and sections 405A through 405D:

"(1) The term 'Assistant Secretary' means the Assistant Secretary for Educational Research and Improvement established by section 202 of the Department of Education Organization Act.

"(2) The term 'at-risk student' means a student who, because of limited English proficiency, poverty, geographic location, or educational or economic disadvantage, faces a greater risk of low educational achievement and has greater potential for dropping out of school.

"(3) The term 'Board' means the Board of Governors established by section 405A.

"(4) The term 'educational research' includes basic and applied research, development, planning, surveys, assessments, evaluations, investigations, experiments, and demonstrations in the field of education and other fields relating to education.

"(5) The term 'development'—

"(A) means the systematic use, adaptation, and transformation of knowledge and understanding gained from research to create alternatives, policies, products, methods, practices, or materials which can contribute to the improvement of educational practice; and

"(B) includes the design and development of prototypes and the testing of such prototypes for the purposes of establishing their feasibility, reliability, and cost-effectiveness.

"(6) The term 'technical assistance' means the provision of external assistance to facilitate the adoption or application of the knowledge gained from educational research and development and includes—

"(A) problem analysis and diagnosis;

"(B) assistance in finding, selecting, or designing suitable solutions and approaches to problems;

"(C) training in the installation and implementation of products, programs, policies, practices, or technologies; and

"(D) such other assistance as may be necessary to encourage the adoption or application of such knowledge.

"(7) The term 'dissemination' means the transfer of knowledge and products gained through research and includes—

"(A) the use of communication techniques to increase awareness of such knowledge and products;

"(B) the provision of comparative and evaluative information necessary to enable educators, school administrators, and others to assess and make informed judgments about the relevance and usefulness of such knowledge and products in specific settings;

"(C) the provision of support needed to adapt, apply, and utilize such knowledge and products in specific educational settings.

"(8) The term 'national education dissemination system' means the activities carried out by the Office of Reform Assistance and Dissemination established by section 405C.

"(9) The term 'Office' means the Office of Educational Research and Improvement established in section 209 of the Department of Education Organization Act.

"(10) The term 'national research institute' means an institute established in section 405B.

"(11) The terms 'United States' and 'State' include the District of Columbia and the Commonwealth of Puerto Rico.

"(i) AUTHORIZATION OF APPROPRIATIONS.—

"(1) NATIONAL INSTITUTES.—

"(A) For the purpose of carrying out section 405B, there is authorized to be appropriated $37,000,000 for fiscal year 1993.

"(B) For the purpose of carrying out the provisions of section 405B relating to the National Institute for Student Achievement, there are authorized to be appropriated $30,000,000 for fiscal year 1994, and such sums as are necessary for each of fiscal years 1995 and 1996.

"(C) For the purpose of carrying out the provisions of section 405B relating to the National Institute for the Education of At-Risk Students, there are authorized to be appropriated $25,000,000 for fiscal year 1994, and such sums as are necessary for each of fiscal years 1995 and 1996.

"(D) For the purpose of carrying out the provisions of section 405B relating to the National Institute for Innovation in Educational Governance, Finance and Management, there are authorized to be appropriated $20,000,000 for fiscal year 1994, and such sums as are necessary for each of fiscal years 1995 and 1996.

"(E) For the purpose of carrying out the provisions of section 405B relating to the National Institute for Early Childhood Learning, Families and Communities, there are authorized to be appropriated $15,000,000 for fiscal year 1994, and such sums as are necessary for each of fiscal years 1995 and 1996.

"(F) For the purpose of carrying out the provisions of section 405B relating to the National Institute of Postsecondary Education, Libraries, and Lifelong Learning, there are authorized to be appropriated $10,000,000 for fiscal year 1994, and such sums as are necessary for each of fiscal years 1995 and 1996.

"(2) NATIONAL EDUCATION DISSEMINATION SYSTEM.—

"(A)(i) For the purpose of carrying out subsections (b)(2) through (g) of section 405C, there are authorized to be appropriated $17,000,000 for fiscal year 1993, and such sums as are necessary for each of the fiscal years 1994 through 1996.

"(ii) Of the amount appropriated under clause (i) for any fiscal year, the Secretary shall make available not less than $7,175,000 to carry out subsection (f) of section 405C (relating to clearinghouses).

"(B) For the purposes of carrying out subsection (h) of section 405C (relating to SMARTLINE), there are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as are necessary for each of the fiscal years 1994 through 1996.

"(C) For the purposes of carrying out subsection (i) of section 405C (relating to electronic networking), there are authorized to be appropriated $10,000,000 for fiscal year 1993, and such sums as are necessary for each of the fiscal years 1994 through 1996.

"(D) For the purpose of carrying out subsection (j) of section 405C (relating to regional educational laboratories), there are authorized to be appropriated $37,000,000 for fiscal year 1993, and such sums as are necessary for each of the fiscal years 1994 through 1996. Of the amounts appropriated under the preceding sentence for a fiscal year, the Secretary shall obligate not less than 25 percent to carry out such purpose with respect to rural areas.

"(E) For the purpose of carrying out subsection (l) of section 405C (relating to the teacher research dissemination network) there are authorized to be appropriated $30,000,000 for fiscal year 1993, and such sums as are necessary for each of the fiscal years 1994 through 1996.

"(F) For the purpose of carrying out subsection (i) of section 405C (relating to the America 2000 Communities Special Assistance program), there are authorized to be appropriated $30,000,000 for fiscal year 1993, $50,000,000 for fiscal year 1994, and such sums as are necessary for each of the fiscal years 1995 and 1996.

"(3) NATIONAL EDUCATIONAL RESEARCH POLICY AND PRIORITIES BOARD.—Of the amounts appropriated under paragraphs (1) and (2) for any fiscal year, the Secretary shall make available 2 percent of such amounts, or $1,000,000, whichever is less, to the Board for the purpose of carrying out section 405A.

"(4) SALARIES AND EXPENSES.—For the purpose of carrying out the provisions of sections 405 through 405D relating to salaries and expenses, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1996.

"(5) ALLOCATIONS FOR GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—Of the amounts appropriated under paragraph (1) or (2) for any fiscal year, not less than 95 percent shall be expended to carry out the purposes described in such paragraphs through grants, cooperative agreements, or contracts.

"(6) LIMITATIONS ON APPROPRIATIONS.—No amounts are authorized to be appropriated under paragraph (1) or (2) for fiscal year 1994 or any fiscal year thereafter unless the Board has been appointed in accordance with section 405A.

"(7) RESTRICTIONS ON APPROPRIATIONS.—No funds appropriated under paragraphs (1) and (2) for any fiscal year may be used to support research and development activities in the area of student assessment except those activities which are carried out in accordance with subsection (i) of section 405B.

"(8) GRANT AUTHORIZED.—From the amounts appropriated under paragraph (1) for fiscal year 1994, the Secretary is authorized, in accordance with the provisions of this paragraph, to award a grant of not more than $5,000,000 to a public or private institution, agency or organization for a period not to exceed five years for the purpose of conducting a State-by-State poll to determine the perceptions of recent graduates of secondary schools, their instructors in institutions of higher education, parents of recent such graduates, and employers of recent such graduates on how well schools have prepared students for further education or employment. The grant shall be awarded on a competitive basis and shall be matched on a two-to-one basis, with the Federal Government contributing one-third of the total costs of the poll.".

SEC. 102. ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH AND IMPROVEMENT.

Subsection (b) of section 202 of the Department of Education Organization Act is amended by adding at the end thereof:

"(3) There shall be in the Department an Assistant Secretary for Educational Research and Improvement who shall be—

"(A) appointed by the President, by and with the consent of the Senate;

"(B) selected in consultation with the National Educational Research Policy and Priorities Board from among individuals who—

"(i) are distinguished educational researchers;

"(ii) have proven management ability; and

"(iii) have substantial knowledge of education within the United States.".

SEC. 103. SAVINGS PROVISION.

Notwithstanding any other provision of law, contracts for the regional educational laboratories, education resources information clearinghouses and research and development centers assisted under section 405 of the General Education Provisions Act on the date of the enactment of this Act shall remain in effect until the termination date of such contracts.

SEC. 104. EXISTING CONTRACTS.

Notwithstanding any other provision of law, contracts for the research and development centers assisted under section 405 of the General Education Provisions Act on the date of enactment of this Act shall remain in effect until the termination date of such contracts, except that the grants for such centers which terminate before the competition for the new centers described in section 405B(c) of such Act (as amended by section 301(a) of this Act) is completed may be extended until the time that the awards for such new centers are made.

TITLE II—BOARD OF GOVERNORS

SEC. 201. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

Part A of the General Education Provisions Act (20 U.S.C. 1221e et seq.) is amended by inserting after section 405 the following new section:

"BOARD OF GOVERNORS

"SEC. 405A. (a) IN GENERAL.—There is established within the Office a Board of Governors (hereafter in this section referred to as the 'Board').

"(b) FUNCTIONS.—It shall be the responsibility of the Board, acting through the Assistant Secretary—

"(1) to determine priorities that should guide the work of the Office and provide guidance to the Congress in its oversight of the Office;

"(2) to review and approve standards for the conduct and evaluation of all research, development, and dissemination carried out under the auspices of the Office pursuant to sections 405 through 405C; and

"(3) to regularly review and evaluate the implementation of its recommended priorities and policies by the Department and the Congress.

"(c) RESEARCH PRIORITIES PLAN.—The Board shall—

"(1) survey and assess the state of knowledge in education research, development and dissemination to identify disciplines and areas of inquiry within the priority research, development and dissemination needs identified in section 405(b)(3) in which the state of knowledge is insufficient and which warrant further investigation, taking into account the views of both education researchers and practicing educators;

"(2) consult with the National Education Goals Panel and other authorities on education to identify national priorities for the improvement of education;

"(3) actively solicit recommendations from education researchers, teachers, school administrators, cultural leaders, parents, and others throughout the Nation by convening periodic regional forums and through other means;

"(4) provide recommendations for the development, maintenance, and assurance of a strong infrastructure for education, research, and development in the United States; and

"(5) on the basis of such recommendations, develop a research priorities program which shall recommend priorities for the investment of the resources of the Office over the next 5-, 10-, and 15-year periods, including as priorities those areas of inquiry in which further research, development and dissemination—

"(A) is necessary to attain the goals for the improvement of education identified in paragraph (2);

"(B) promises to yield the greatest practical benefits to teachers and other educators in terms of improving education; and

"(C) will not be undertaken in sufficient scope or intensity by the other Federal and non-Federal entities engaged in education research and development.

"(d) CONTENTS OF PLAN—

"(1) IN GENERAL.—The research and priorities plan described in subsection (c) shall, at a minimum—

"(A) include goals for expenditures by the Office within the recommended priority areas;

"(B) set forth specific objectives which can be expected to be achieved as a result of such expenditure;

"(C) within each priority area, include recommendations as to the relative distribution of resources among and within the research institutes, national education dissemination system, and other entities engaged in education research and development;

"(D) include recommendations with respect to research and development on cross-cutting issues which should be carried out jointly by 2 or more of the research institutes; and

"(E) include an evaluative summary of the educational research and development activities undertaken by the Federal government during the preceding 2 fiscal years which shall describe—

"(i) what has been learned as a result of such activities;

"(ii) how such new knowledge or understanding extends or otherwise relates to what had been previously known or understood;

"(iii) the implications of such new knowledge or understanding for educational practice and school reform; and

"(iv) any development, reform, and other assistance activities which have utilized such knowledge or understanding and the effects of such efforts.

"(2) REPORT.—

"(A) Not later than 6 months after the first meeting of the Board and October 1 of every second year thereafter, the Assistant Secretary shall publish a report specifying the proposed research priorities of the Board and allow a 60-day period beginning on the date of the publication of the report for public comment and suggestions.

"(B) Not later than 90 days after the expiration of the 60-day period referred to in subparagraph (A), the Assistant Secretary shall submit to the President and the Congress a report specifying the research priorities of the Board and any public comment and suggestions obtained under such subparagraph.

"(e) ADDITIONAL RESPONSIBILITIES OF THE BOARD.—It shall also be the responsibility of the Board to—

"(1) provide advice and assistance to the Assistant Secretary in carrying out the coordination activities described in section 405;

"(2) make nominations to the Assistant Secretary of persons qualified to fulfill the responsibilities of the Director for each research institute established by section 405B after making special efforts to identify qualified women and minorities and soliciting and giving due consideration to recommendations from professional associations and interested members of the public;

"(3) advise and make recommendations to the President with respect to individuals who are qualified to fulfill the responsibilities of the Assistant Secretary for the Office of Educational Research and Improvement; and

"(4) review and approve standards for the conduct and evaluation of research developed by the Assistant Secretary pursuant to subsection (h) of section 405.

"(f) STANDING SUBCOMMITTEES.—

"(1) ESTABLISHMENT; FUNCTIONS.—The Board shall establish a standing subcommittee for each of the Institutes established by subsection (a) of section 405B and for the Office of Reform Assistance and Dissemination established by subsection (b) of section 405C which shall advise, assist, consult with and make recommendations to the Assistant Secretary, the Board, the Director of such entity and the Congress on matters related to the activities carried out by and through such entities.

"(2) COMPOSITION.—

"(A) Each standing subcommittee shall consist of 3 members of the Board and 6 additional individuals appointed by the Board who have significant experience in and knowledge of the disciplines relevant to the purposes of the entity for which the subcommittee is established.

"(B) The Board shall assure that the membership of each subcommittee includes both educational researchers and persons who are knowledgeable about the research, development and dissemination needs of practitioners, including classroom teachers, school administrators, and members of State or local boards of education.

"(g) POWERS OF THE BOARD.—In carrying out its functions, powers, and responsibilities, the Board—

"(1) shall, without regard to the provisions of title 5, United States Code, relating to the appointment and compensation of officers or employees of the United States, appoint a director to be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule who shall assist in carrying out and managing the activities of the Board and perform such other functions the Board determines to be necessary and appropriate;

"(2) shall hire its own staff through routine government procedures;

"(3) may arrange for the detail of staff personnel and utilize the services and facilities of any agency of the Federal Government;

"(4) may enter into contracts, or make other arrangements as may be necessary to carry out its functions;

"(5) may review any grant, contract, or cooperative agreement made or entered into by the Office;

"(6) may, to the extent otherwise permitted by law, obtain directly from any department or agency of the United States such information as it deems necessary to carry out its responsibilities;

"(7) may convene workshops and conferences, collect data, and establish subcommittees which may be composed of members of the Board and nonmember consultants (including employees of the Department) with expertise in the particular area addressed by such subcommittees; and

"(8) shall establish such rules and procedures to govern its operations as it considers appropriate, to the extent otherwise permitted by law.

"(h) MEMBERSHIP IN GENERAL.—

"(1) QUALIFICATIONS.—The members of the Board shall be eminent persons who, by virtue of their training, experience, and background, are exceptionally qualified to appraise the educational research and development effort of the Nation and to establish policies and priorities to govern future Federal investment in educational research, development, and dissemination.

"(2) BROAD REPRESENTATION.—Due consideration shall be given to the gender, race, and ethnicity of appointees to assure that the Board is broadly representative of the diversity of the Nation.

"(3) LIMITATION.—A voting member of the Board may not serve on any other governing or advisory board within the Department of Education.

"(4) CONFLICT OF INTEREST.—A voting member of the Board shall be considered a special Government employee for the purposes of the Ethics in Government Act of 1978.

"(i) SECRETARIAL APPOINTMENTS.—The Board shall consist of 18 members appointed by the Secretary. Of the members of the Board—

"(1) seven shall be appointed from among researchers in the field of education who have been nominated by the National Academy of Sciences (giving due consideration to recommendations made by the American Educational Research Association), including persons who are among the leading authorities on early childhood education and the education of at-risk students;

"(2) four shall be outstanding classroom teachers, no fewer than 2 of whom continue to work regularly in the classroom;

"(3) one shall be a Chief State School Officer;

"(4) one shall be a local education agency school superintendent or principal;

"(5) one shall be a member of a State or local board of education;

"(6) one shall be a professional librarian, school library media specialist, library administrator, or library science educator;

"(7) one shall be a parent with extensive experience in promoting parental involvement in education;

"(8) one shall be an individual from business and industry with significant experience in promoting private sector involvement in education; and

"(9) one shall be a State Governor.

"(j) REQUIREMENTS FOR NOMINATIONS BY THE NATIONAL ACADEMY OF SCIENCES.—

"(1) IN GENERAL.—In making nominations for the members of the Board described in subsection (i)(1), the National Academy of Sciences—

"(A) may not nominate any individual who is an elected officer or employee of such organization; and

"(B) shall nominate not less than 5 individuals for each of the positions on the Board for which such organization has responsibility for making nominations.

"(2) REQUEST FOR ADDITIONAL NOMINATIONS.—In the event that the Secretary determines that none of the individuals nominated by the National Academy of Sciences meets the qualifications for membership on the Board specified in subsection (i), the Secretary may request that such organization make additional nominations.

"(k) NOMINATIONS FOR BOARD MEMBERSHIP.—Prior to appointing any member of the Board, the Secretary shall actively solicit and give due consideration to recommendations of persons qualified for membership on the board from the National Education Association, the American Federation of Teachers, the National Parent-Teachers Association, the American Library Association, the American Association of School Administrators, the National Association of State Boards of Education, and other education-related organizations and interested members of the public.

"(l) EX OFFICIO MEMBERS.—The ex officio, nonvoting members of the Board shall be as follows:

"(1) The Secretary.

"(2) The Assistant Secretary.

"(3) The Director of Research for the Department of Defense.

"(4) The Director of Research for the Department of Labor.

"(5) The Director of the National Science Foundation.

"(6) The Director of the National Institutes of Health.

"(7) The chair of the National Endowment for the Arts.

"(8) The chair of the National Endowment for the Humanities.

"(9) The Librarian of Congress.

"(m) CHAIR.—The Board shall select a Chair from among its appointed members who shall serve for a renewable term of 2 years.

"(n) TERMS OF OFFICE.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the term of office of each voting member of the Board shall be 5 years.

"(2) EXCEPTIONS.—

"(A) Any individual appointed to fill a vacancy occurring on the Board prior to the expiration of the term for which the predecessor of the individual was appointed shall be appointed for the remainder of the term. A vacancy shall be filled in the same manner in which the original appointment was made.

"(B) The terms of office of the members of the Board who first take office after the date of the enactment of the Educational Research, Development, and Dissemination Excellence Act shall, as designated by a random selection process at the time of appointment, be as follows:

"(i) 2 years for each of 6 members of the Board.

"(ii) 3 years for each of 6 members of the Board.

"(iii) 5 years for each of 6 members of the Board.

"(3) PROHIBITION ON CERTAIN CONSECUTIVE TERMS.—An individual who has been a member of the Board for 10 consecutive years shall thereafter be ineligible for appointment during the 2-year period beginning on the date of the expiration of the 10th year.

"(o) MEETINGS OF BOARD.—

"(1) INITIAL MEETING.—The Secretary shall ensure that the first meeting of the Board is held not later than May 15, 1993.

"(2) SUBSEQUENT MEETINGS.—The Board shall meet quarterly, at the call of the Chair, and when at least one-third of the members of the Board make a written request to meet.

"(3) QUORUM.—A majority of the Board shall constitute a quorum.

"(4) OPEN MEETINGS.—The Government in the Sunshine Act (5 U.S.C. 552b) shall apply to meetings of the Board.".

TITLE III—NATIONAL RESEARCH INSTITUTES

SEC. 301. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

Part A of the General Education Provisions Act, as amended by section 201 of this Act, is amended by inserting after section 405A the following new section:

"NATIONAL RESEARCH INSTITUTES

"SEC. 405B. (a) ESTABLISHMENT OF INSTITUTES.—In order to fulfill the research and development purposes of the Office, and to carry out, in accordance with the standards established by the Board, a program of high-quality and rigorously evaluated research and development that is capable of improving Federal, State, and local education policies and practices, there are established within the Office the following institutes:

"(1) The National Institute for the Education of At-Risk Students.

"(2) The National Institute for Innovation in Educational Governance, Finance, and Management.

"(3) The National Institute for Early Childhood Learning, Families, and Communities.

"(4) The National Institute on Student Achievement.

"(5) The National Institute on Postsecondary Education, Libraries, and Lifelong Education.

"(b) DIRECTORS.—

"(1) IN GENERAL.—Each Institute established by subsection (a) shall be headed by a Director who shall be appointed by the Assistant Secretary from among persons who have significant experience and expertise in the disciplines relevant to the purposes of such Institute. Prior to making such appointment, the Assistant Secretary shall solicit and give due consideration to recommendations made by the Board of persons qualfied to fulfill the position.

"(2) TERM OF OFFICE.—The Director of each Institute shall serve for a term of 4 years. With respect to the annual rate of basic pay payable for the position of Director of any of such Institutes, such position shall be a position to which level IV of the Executive Schedule applies for purposes of section 5315 of title 5, United States Code.

"(3) REPORTING.—Each Director shall report directly to the Assistant Secretary regarding the activities of the Institute and shall work together to promote research syntheses across the Institutes.

"(c) AUTHORITIES AND DUTIES.—

"(1) IN GENERAL.—The Secretary, acting through the Director of each Institute, is authorized to conduct research, development, demonstration, and evaluation activities to carry out the purposes for which such Institute was established—

"(A) directly;

"(B) through grants, contracts, and cooperative agreements with institutions of higher education, regional educational laboratories, public and private organizations, institutions, agencies, and individuals, including—

"(i) research and development centers which are—

"(I) awarded competitively for a period of not less than 6 and not more than 10 years;

"(II) funded at not less than $2,000,000 annually in order to support a full range of basic research, applied research and dissemination activities; and

"(III) established by institutions of higher education, by institutions of higher education in consortium with public agencies or private nonprofit organizations, or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development;

"(ii) public-private research partnerships established by a State or local education agency in consort with a private organization and a team of educational researchers, for which the Federal share shall be limited to not more than 50 percent of the total costs of the project;

"(iii) meritorious unsolicited proposals for educational research and related activities;

"(iv) proposals that are specifically invited or requested by the Director, on a competitive basis; and

"(v) dissertation grants, awarded for a period of not more than 2 years and in a total amount not to exceed $20,000 to graduate students in the sciences, humanities, and the arts to support research by such scholars in the field of education;

"(C) through the provision of technical assistance; and

"(D) through the award of fellowships to support graduate study in educational research by qualified African-American, Hispanic, and other individuals from groups which have been traditionally underrepresented in the field of educational research which shall—

"(i) be awarded on the basis of merit for a period of 3 years; and

"(ii) provide stipends to each fellow in an amount which shall be set at a level of support comparable to that provided by the National Science Foundation Graduate Fellowships, except that such amounts shall be adjusted as necessary so as not to exceed each fellow's demonstrated level of need.

"(2) SCOPE AND FOCUS OF ACTIVITIES.—In carrying out the purposes for which each Institute is established, the Assistant Secretary, acting through the Director of each Institute, shall—

"(A) maintain an appropriate balance between applied and basic research;

"(B) significantly expand the role of field-initiated research in meeting the Nation's education research and development needs by reserving not less than 15 percent of the amounts available to each Institute in any fiscal year to support field-initiated research described in clauses (iii) through (v) of paragraph (1);

"(C) provide for and maintain a stable foundation of long-term research and development on core issues and concerns conducted through university-based research and development centers by reserving not less than one-third of the amounts available to each Institute in any fiscal year to support such research and development centers.

"(D) support and provide research information that leads to policy formation for State legislatures, State and local boards of education and other policy and governing bodies, to assist such entities in identifying and developing effective policies to promote student achievement and school improvement; and

"(E) coordinate the Institute's activities with the activities of the regional educational laboratories and with other educational service organizations in designing the Institute's research agenda and projects in order to increase the responsiveness of such Institute to the needs of teachers and the educational field and to bring research findings directly into schools to ensure greatest access at the local level to the latest research developments.

"(3) REQUIREMENTS REGARDING FINANCIAL ASSISTANCE.—No grant, contract, or cooperative agreement may be made under this section unless—

"(A) sufficient notice of the availability of, and opportunity to compete for, assistance has first been provided to potential applicants through notice published in the Federal Register and other means;

"(B) it has been evaluated through peer review in accordance with the standards developed pursuant to subsection (h) of section 405;

"(C) it will be evaluated in accordance with the standards developed pursuant to subsection (h) of section 405;

"(D) in the case of a grant, contract, or cooperative agreement which exceeds $500,000 for a single fiscal year or $1,000,000 for more than one fiscal year, the Secretary has complied with the requirements of paragraph (4); and

"(E) in the case of a grant, contract, or cooperative agreement to support a research and development center, all applications for such assistance have been evaluated by independent experts according to standards and criteria which include—

"(i) whether applicants have assembled a critical mass of high quality researchers sufficient to achieve the mission of the center;

"(ii) whether the proposed organizational structure and arrangements will facilitate achievement of the mission of the center;

"(iii) whether there is a substantial staff commitment to the work of the center;

"(iv) whether the directors and supporting staff should be substantially full-time employees; and

"(v) review of the contributions of primary researchers (other than researchers at the proposed center) to evaluate the appropriateness of such primary researcher's experiences and expertise in the context of the proposed center activities, and the adequacy of such primary researcher's time commitment to achievement of the mission of the center.

"(4) BOARD REVIEW OF CERTAIN PROPOSED GRANT AND CONTRACT ACTIONS.—

"(A) The Assistant Secretary may not solicit any contract bid or issue a request for proposals or applications for any grant or cooperative agreement the amount of which exceeds $500,000 in any single fiscal year or which exceeds an aggregate amount of $1,000,000 for more than one fiscal year unless the Board has had an opportunity to review such proposed grant, contract, or cooperative agreement action and to provide written comments to the Assistant Secretary with respect to whether—

"(i) the purposes and scope of the proposed action are consistent with the Research Priorities Plan; and

"(ii) the methodology and approach of the proposed action are sound and adequate to achieve its stated objectives.

"(5) HISTORICALLY UNDERUTILIZED RESEARCHERS AND INSTITUTIONS.—The Assistant Secretary, acting through the Director of each Institute, shall establish and maintain initiatives and programs to increase the participation in the activities of each Institute of groups of researchers and institutions who have been historically underutilized in Federal educational research activities, including—

"(A) researchers who are women, African-American, Hispanic, or other ethnic minorities;

"(B) promising young or new researchers in the field, such as postdoctoral students and recently appointed assistant or associate professors;

"(C) historically black colleges and universities and other institutions of higher education with large numbers of minority students;

"(D) institutions of higher education located in rural areas; and

"(E) institutions and researchers located in States and regions of the Nation which have historically received the least Federal support for educational research and development.

"(6) ADDITIONAL AUTHORITIES.—The Assistant Secretary, acting through the Director of each Institute—

"(A) may obtain (in accordance with section 3109 of title 5 but without regard to the limitation in such section on the period of service) the services of experts or consultants with scientific or professional qualifications in the disciplines relevant to the purposes of such Institute;

"(B) may not, notwithstanding any other provision of law, appoint, and employ any person in a position excepted from the competitive service under Schedule C;

"(C) may use, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, or local public agencies, with or without reimbursement therefor;

"(D) may accept voluntary and uncompensated services; and

"(E) may accept unconditional gifts made to the institute to support its activities.

"(d) NATIONAL INSTITUTE FOR THE EDUCATION OF AT-RISK STUDENTS.—

"(1) FINDINGS.—The Congress finds as follows:

"(A) The rate of decline in our urban schools is escalating at a rapid pace. Student performance in most inner city schools grows worse each year. At least half of all

students entering ninth grade fail to graduate 4 years later and many more students from high-poverty backgrounds leave school with skills that are inadequate for today's workplace. In 1988 the average National Assessment of Educational Progress (NAEP) reading score of white 17 year-olds was approximately 20 points higher than that of African-American 17 year-olds and 25 points higher than that of Hispanic 17 year-olds. None of the existing Federal educational research and development programs are adequately addressing this obvious emergency.

"(B) Rural schools enroll a disproportionately large share of the Nation's poor and at-risk students and yet often lack the means to address effectively the needs of these children. Intensive efforts must be made to overcome the problems of geographic isolation, declining population, inadequate financial resources and other impediments to the educational success of children residing in rural areas.

"(C) By the year 2000, an estimated 3.4 million school age children with limited English language proficiency will be entering the school system. The Federal Government must develop effective policies and programs to address the educational needs of this growing population of children who are at increased risk for educational failure.

"(D) An educational emergency exists in those urban and rural areas where there are large concentrations of children who live in poverty. The numbers of educationally disadvantaged children will substantially increase by the year 2020, when the number of impoverished children alone will be 16.5 million, a 33 percent increase over the 12.4 million children in poverty in 1987.

"(E) Minority scholars as well as institutions and groups that have been historically committed to the improvement of the education of at-risk students need to be more fully mobilized in the effort to develop a new generation of programs, models, practices, and schools capable of responding to the urgent needs of students who are educationally at-risk.

"(2) PURPOSE.—It shall be the purpose of the Institute for the Education of At-Risk Students to carry out a coordinated and comprehensive program of research and development to provide nonpartisan, research-based leadership to the Nation as it seeks to improve educational opportunities for students who are at-risk for educational failure, particularly children who reside in inner city and rural areas and children of limited English proficiency. Such program shall undertake research necessary to provide a sound basis from which to—

"(A) identify, develop, evaluate, and assist others to replicate and adapt interventions, programs, and models which promote greater achievement and educational success by at-risk students, including (but not limited to)—

"(i) methods of instruction and educational practices (including community services) which improve the achievement and retention of at-risk students;

"(ii) means by which parents and community resources and institutions (including cultural institutions) can be utilized to support and improve the achievement of at-risk students;

"(iii) the training of teachers and other educational professionals and paraprofessionals to work more effectively with at-risk students;

"(iv) the most effective uses of technology in the education of at-risk students; and

"(v) programs designed to promote gender equity in schools that serve at-risk students;

"(vi) methods of assessing the achievement of students which are sensitive to cultural differences, provide multiple methods of assessing student learning, support student acquisition of higher order capabilities, and enable identification of the effects of inequalities in the resources available to support the learning of children throughout the Nation; and

"(B) maximize the participation of those schools and institutions of higher education that serve the greatest number of at-risk students in inner city and rural areas, including model collaborative programs between schools and schools systems, institutions of higher education, cultural institutions, and community organizations.

"(e) NATIONAL INSTITUTE FOR INNOVATION IN EDUCATIONAL GOVERNANCE, FINANCE AND MANAGEMENT.—

"(1) FINDINGS.—The Congress finds as follows:

"(A) Many elementary and secondary schools in the United States—

"(i) are structured according to models that are ineffective and rely on notions of management and governance that may be outdated or insufficient for the challenges of the next century; and

"(ii) are unsuccessful in equipping all students with the knowledge and skills needed to succeed as citizens and in the working world.

"(B) New approaches are needed in the governance and management of elementary and secondary education with the United States at the State, local, school building and classroom level.

"(C) Not enough is known about the effects of various systems of school governance and management on student achievement to provide sound guidance to policymakers as they pursue school restructuring and reform.

"(D) A concentrated Federal effort is needed to support research, development, demonstration, and evaluation of approaches to school governance, finance and management which promise to improve education equity and excellence throughout the Nation.

"(2) PURPOSE.—It shall be the purpose of the Institute on Innovation in Educational Governance, Finance, and Management to carry out a coordinated and comprehensive program of research and development to provide nonpartisan, research-based leadership to the Nation as it seeks to improve student achievement through school restructuring and reform. Such program shall—

"(A) undertake research necessary to provide a sound basis from which to identify, develop and evaluate approaches in governance and management at the State, local, school building and classroom level which promise to improve educational equity and excellence, such as—

"(i) open enrollment programs, magnet schools and other systems through which parents may select the public schools and educational programs in which their children are enrolled;

"(ii) innovative school design, including lengthening the school day and the school year, reducing class size and building professional development into the weekly school schedule;

"(iii) effective approaches to organizing learning;

"(iv) effective ways of grouping students for learning so that a student is not labeled or stigmatized in ways that may impede such student's achievement;

"(v) effective approaches to organizing, structuring, and financing vocational education;

"(vi) the provision of financial and other rewards and incentives based on performance to improve student achievement;

"(vii) the use of regulatory flexibility on the State or district level to promote innovation and school restructuring;

"(viii) school-based management;

"(ix) the restructuring of school finance systems at the State and local level to promote greater equity in the distribution of resources for education and to maximize the allocation of such resources to support direct learning;

"(x) expanding the role of teachers in policymaking and administration at the school and district-wide level; and

"(xi) programs designed to increase the involvement of parents and families in the management and governance of schools and the education of their children;

"(xii) effective approaches to increasing the representation of women and minorities among leadership and management positions in education;

"(xiii) approaches to systemic reforms involving the coordination of multiple policies of each level of government to promote higher levels of student achievement;

"(xiv) approaches to coordinated services for children; and

"(xv) policies related to school to work transitions and preparing noncollege-bound students; and

"(B) undertake research and development activities necessary to provide information on the skills required for successful educational leadership at the State and local level and to enhance the ability of school leaders and administrators to improve the educational environment for all students.

"(3) RESEARCH ON EDUCATIONAL CHOICE.—In carrying out the duties of the Institute, the Director shall conduct or support research on whether and to what extent the quality of education in the United States would be improved by providing public funds to parents for the costs of attendance of their children at the elementary and secondary schools of the parents' choice.

"(f) NATIONAL INSTITUTE FOR EARLY CHILDHOOD LEARNING, FAMILIES, AND COMMUNITIES.—

"(1) FINDINGS.—The Congress finds as follows:

"(A) The Nation has set as a goal that all children should arrive at school ready to learn.

"(B) Despite efforts to expand and improve preschool programs, many children still reach school age unprepared to benefit from formal education programs.

"(C) Early intervention for disadvantaged children from conception to age five has been shown to be a highly cost-effective strategy for reducing later expenditures on a wide variety of health, developmental, and educational problems that often interfere with learning. Long-term studies of the benefits of preschool education have a demonstrated return on investment ranging from three to six dollars for every one dollar spent.

"(D) The Federal Government should play a central role in providing research-based information on early childhood education models which enhance children's development and ultimately their success in school.

"(2) PURPOSE.—The purpose of the National Institute for Early Childhood Learning, Families, and Communities is to support basic and applied research, compile existing research, develop effective models, offer in-depth technical assistance, and to otherwise assist States and communities in developing sound early childhood education policies and practices that include—

"(A) social and educational development of all infants, toddlers, and preschool children;

"(B) the role of parents and the community in promoting the successful social and educational development of children from birth to age five;

"(C) training and preparation of teachers and other professional and paraprofessional preschool and child care workers;

"(D) the structure and environment of early childhood education and child care settings which lead to improved social and educational development;

"(E) practices and approaches which sustain the benefits of effective preschool and child care programs;

"(F) effective learning methods and curriculum for early childhood learning, including access to current materials in libraries;

"(G) the importance of family literacy and parental involvement in student learning;

"(H) the impact that outside influences have on learning, including television, and drug and alcohol abuse; and

"(I) methods for integrating learning in settings other than the classroom, such as within families and communities, with a special emphasis on character development and the value of hard work.

"(3) CERTAIN REQUIREMENTS.—In carrying out its mission, the Institute shall—

"(A) place special emphasis on the special early childhood education needs of at-risk children, children with disabilities, and girls; and

"(B) ensure that its research and development program provides information that can be utilized in improving the major Federal early childhood education programs, including Head Start, Even Start, chapter 1 preschool programs, and part H of the Individuals with Disabilities Education Act.

"(g) NATIONAL INSTITUTE ON STUDENT ACHIEVEMENT.—

"(1) FINDINGS.—The Congress finds as follows:

"(A) The current achievement levels of students in the Nation are far below those that might indicate competency in challenging subject matter in English, mathematics, science, history, and geography and other areas, or across the subject areas.

"(B) Very few students demonstrate that they can use their minds well. In recent assessments, more students are gaining basic skills, yet fewer are demonstrating a grasp of higher-level applications of those skills.

"(C) During the past 20 years, relatively little has changed in how students are taught. Despite much research suggesting better alternatives, classrooms are still dominated by textbooks, teacher lectures, and short-answer activity sheets and unequal patterns of student attention.

"(D) Despite progress in narrowing the gaps, the differences in performance between white students and their minority counterparts remain unacceptably large. While progress has been made in reducing the gender gap in mathematics, it still remains at higher levels of problem solving. Too little progress has been made in reducing gender performance gaps favoring males in science and females in writing.

"(2) PURPOSE.—The purpose of the National Institute on Student Achievement is to carry out a coordinated and comprehensive program of research and development to provide research-based leadership to the Nation as it seeks to improve student achievement in English, mathematics, science, history, geography, and other subject areas and across the boundaries of the subject areas. Such program shall—

"(A) identify, develop, and evaluate innovative and exemplary methods to improve student knowledge at all levels in English, mathematics, science, history, geography, civics and government, foreign languages, arts and humanities, economics, and other subject areas, including (but not limited to)—

"(i) research and development on student learning and assessment in various subject matters;

"(ii) research and development on the effects of organizational patterns on the delivery of instruction, including issues of grouping and tracking, ungraded classrooms, and on the effects of various pedagogies, including the issues of technology in education;

"(iii) research and development on the best methods of teacher preparation;

"(iv) methods to improve the process of reading, the craft of writing, the growth of reasoning skills, and the development of information-finding skills;

"(v) enabling students to develop higher order thinking skills;

"(vi) methods to teach effectively all students in mixed-ability classrooms; and

"(vii) curriculum, instruction, and assessment, in vocational education; and

"(B) conduct basic and applied research in the areas of human learning, cognition, and performance, including research and development on the education contexts which promote excellence in learning and instruction, and motivational issues which provide a key to learning; and

"(C) identify, develop, and evaluate programs designed to enhance academic achievement and narrow racial and gender performance gaps in a variety of subject areas, including research and development on methods of involving parents in their children's education and ways to involve business, industry and other community partners in promoting excellence in schools.

"(h) NATIONAL INSTITUTE FOR POSTSECONDARY EDUCATION, LIBRARIES, AND LIFELONG LEARNING.—

"(1) FINDINGS.—The Congress finds as follows:

"(A) The American system of postsecondary education is foremost in the world in its achievement of both academic excellence and equity in access, but maintaining that preeminence requires renewed efforts to strengthen the quality of postsecondary education. Disappointing student performance on achievement tests and licensure examinations, declining rates of persistence and completion among minorities, and other troubling trends in the quality of postsecondary education must be addressed by the Nation as part of its overall drive to improve American education.

"(B) The need to improve our Nation's economic productivity to meet the competitive challenges of a new, international economy, coupled with high levels of mobility in the United States labor market and demographic changes in the workforce, now demands more and higher quality programs of learning and training in the American workplace.

"(C) The more than 1,000,000 men and women incarcerated in the Nation's prisons and jails are among the most severely educationally disadvantaged in the United States, with high rates of functional illiteracy and extremely low levels of educational attainment. Since an estimated 90 percent of these individuals are expected to be released by the end of the decade, the Nation must act to assure that our correctional system has the means to equip these Americans with the knowledge and skills they will need to participate productively in our society.

"(D) The development of a 'Nation of Students' capable of and committed to the pursuit of formal and informal lifelong learning is essential to sustain both national and individual economic success and to provide a nurturing environment in which all children and youth can learn and achieve. Historically the most effective community resource for lifelong learning, the Nation's public library system must expand and restructure its delivery of services to take full advantage of the potential of new information technologies to meet the needs of learning communities.

"(2) PURPOSE.—The purpose of the National Institute for Postsecondary Education, Libraries, and Lifelong Learning is to promote greater coordination of Federal research and development on issues related to adult learning and to carry out a program of research and development in adult learning to provide nonpartisan, research-based leadership to the Nation as it seeks to improve libraries, postsecondary education, and lifelong learning throughout the United States. Such program—

"(A) shall promote greater coordination, cooperation, and interaction among entities within the Federal Government which support research and development related to postsecondary education, libraries, and lifelong learning;

"(B) shall enable greater collaboration among entities within the Federal Government which support research and development related to postsecondary education, libraries, and lifelong learning by supporting research and development projects which are carried out jointly by such entities;

"(C) shall support research and development in those areas of postsecondary education, libraries, and lifelong learning which are not being addressed sufficiently by other entities within the Federal Government;

"(D) may include basic and applied research, development, replication, and evaluation activities in such areas as—

"(i) methods of assessing and evaluating individual, program, and institutional performance;

"(ii) the uses and applications of new technologies to improve program effectiveness and enhance student learning; and

"(iii) practices, policies, and programs which address the unique needs of adult learners, including—

"(I) institutional and classroom policies and practices at the postsecondary level necessary to improve matriculation, persistence, achievement and graduation by students who are economically disadvantaged, ethnic and racial minorities, women, older, working, and who have children;

"(II) instructional practices and programs which are effective in correctional settings;

"(III) new models of service delivery for public library systems which expand opportunities for lifelong learning;

"(IV) effective programs and approaches which promote greater access to and success by minorities in postsecondary programs which prepare them for scientific, technical, teaching, and health career fields;

"(V) effective approaches to work-based learning; and

"(VI) the most effective training methods for adults to upgrade education and vocational skills;

"(iv) the effectiveness of Historically Black Colleges and Universities, Tribally-Controlled Indian Community Colleges, women's colleges, and other special mission institutions in fulfilling their mission of providing access and equal opportunity in higher education;

"(v) the quality of higher education at all levels and the roles and responsibilities of regional and national accrediting agencies in assuring the quality and relevance of academic goals and objectives established by institutions of higher education;

"(vi) approaches to improving the productivity of colleges, community colleges, universities, and other postsecondary institutions;

"(vii) financial barriers to postsecondary educational opportunity, including—

"(I) the role of Federal programs authorized under title IV of the Higher Education Act and State grant and work programs in mitigating such barriers;

"(II) the impact of the rising total cost of postsecondary education on access to higher education; and

"(III) the extent and impact of student reliance on loans to meet the costs of higher education;

"(viii) opportunities for adults to continue their education beyond higher education and graduate school, in the context of lifelong learning and information-finding skills; and

"(ix) preparing students for a lifetime of work, the ability to adapt through retraining to the changing needs of the work force and the ability to learn new tasks.

"(3) INVOLVEMENT OF CERTAIN AGENCIES AND ORGANIZATIONS.—In promoting coordination and collaboration on research and development on issues related to postsecondary education, libraries, and lifelong learning, the Institute shall, as appropriate, seek the involvement of—

"(A) within the Department of Education—

"(i) the Office of Library Programs;

"(ii) the Office of Correctional Education;

"(iii) the Office of Vocational and Adult Education;

"(iv) the National Institute on Disability and Rehabilitation Research; and

"(v) the Office of Postsecondary Education;

"(B) the National Institute for Literacy;

"(C) the National Board for Professional Teaching Standards;

"(D) the Employment and Training Administration of the Department of Labor;

"(E) the Administration for Children and Families within the Department of Health and Human Services;

"(F) the National Institutes of Health;

"(G) the National Endowment for Humanities;

"(H) the National Endowment for the Arts;

"(I) the Bureau of Prisons of the Department of Justice;

"(J) the Department of Commerce; and

"(K) the Department of Defense.

"(4) In addition to the responsibilities described in paragraph (2), the Institute shall be responsible for managing the existing contract for the National Center on Literacy and assuring that the activities of such center are fully coordinated with those of the National Institute for Literacy.

"(i) RESEARCH ON ASSESSMENT.—The Secretary, acting through the Assistant Secretary, shall undertake a comprehensive, coordinated program of research and development in the area of assessment in accordance with the requirements of this subsection. Such program shall comply with the following:

"(1)(A) The program shall be carried out by—

"(i) each of the Institutes established by this section; and

"(ii) a research and development center which shall be jointly funded by all of the Institutes.

"(B) Such center shall—

"(i) conduct basic and applied research and engage in development, analysis, and evaluation in the area of assessment of student achievement;

"(ii) coordinate the research and development activities in the area of assessment undertaken by each of the Institutes; and

"(iii) working cooperatively with the regional educational laboratories, provide technical assistance to State and local education agencies in the design, development, and implementation of new forms of assessment.

"(2) The program shall include research and development in the following areas:

"(A) The validity, reliability, generalizability, fairness, costs, relative merits, and most appropriate uses of various approaches and methods of assessing student learning and achievement.

"(B) Methods and approaches to assessing student opportunities to learn (including the quality of instruction and the availability of resources necessary to support learning) and evaluating the quality of school environments.

"(C) The design, development, evaluation, and validation of model performance-based and other alternative or innovative formats or uses of assessments.

"(D) The impact of high-stakes uses of assessment on student performance and motivation, narrowing of curriculum, teaching practices, and test integrity.

"(E) The fairness and impact of various methods of assessment on children of different races, ethnicities, gender, socioeconomic status, English language proficiencies, and children with other special needs.

"(F) Standards of performance, quality, and validity for various methods of assessment and the means by which such standards should be developed.

"(G) Current and emerging testing practices of State and local education agencies within the United States, as well as other nations.

"(H) The diverse effects, both intended and unintended, of assessments as actually used in the schools, including effects on curriculum and instruction, effects on equity in the allocation of resources and opportunities, effects on equity of outcomes, effects on other procedures and standards for judging students and practitioners and possible inflation of test scores.

"(I) Identifying and evaluating how students with limited English language proficiency and students with disabilities are included and accommodated in the various assessment programs of State and local education agencies.

"(J) The feasibility and validity of comparing or equating the results of different assessments.

"(3) The program shall—

"(A) reflect recommendations made by the National Education Goals Panel (provided such panel has been authorized by law);

"(B) comply with the 'Standards for Educational and Psychological Tests' developed by the American Psychological Association, the National Council on Measurement in Education, and the American Educational Research Association;

"(C) be consistent with the 'Criteria for Evaluation of Student Assessment Systems' developed by the National Forum on Assessment; and

"(D) comply with the 'Code of Fair Testing Practices in Education' developed by the Joint Committee on Testing Practices.

For purposes of this subsection, the term 'development' means the development of prototypes for the purposes of research and evaluation.

"(j) COORDINATION OF RESEARCH ON CROSS-CUTTING ISSUES.—The Assistant Secretary shall promote the coordination of research and development activities among the Institutes established by subsection (a) to investigate those cross-cutting disciplines and areas of inquiry, such as assessment, the use of technology and the training of teachers and school administrators, which are relevant to the missions of more than one of the Institutes. Such activities shall—

"(1) address cross-cutting disciplines and areas of inquiry which have been proposed by the Assistant Secretary and are consistent with the research priorities identified by the Board;

"(2) be carried out jointly (1) by any one of the Institutes and—

"(A) one (or more) of the Institutes;

"(B) the National Center for Education Statistics; or

"(C) any research and development entity administered by other offices of the Department of Education or by any other Federal agency or Department; and

"(3) meet all the standards set by the Assistant Secretary and the Board for other research and development conducted by the Office.

"(k) PROGRAM ON TEACHING AND TEACHER EDUCATION.—

"(1) IN GENERAL.—The Assistant Secretary, in accordance with the requirements of this subsection, shall undertake a comprehensive, coordinated program of research in the area of teaching and teacher education to be carried out by each of the Institutes established by this section, including through research centers and field-initiated grants.

"(2) CERTAIN PURPOSES OF PROGRAM.—In carrying out the program established under paragraph (1), the Secretary shall conduct, directly or through grants and contracts, basic and applied research and analytical activities to further knowledge about, make recommendations, and improve—

"(A) the ability of classroom teachers and schools to assist new and diverse populations of students in successfully assimilating into the classroom environment;

"(B) the working conditions of teachers and other educational practitioners, including but not limited to the topics of—

"(i) teacher isolation;

"(ii) professional resources available to teachers;

"(iii) continuing educational and professional opportunities available to teachers;

"(iv) physical facilities and equipment, such as office space, telephone, computer access, and fax machines and television cable access available to teachers in the work environment;

"(v) opportunities for teachers to share information and resources with other teachers and education professionals;

"(vi) opportunities for advanced learning experience; and

"(vii) the reduction of stress in the teaching profession;

"(C) institutional program renewal and instruction; and

"(D) restructuring of State certification of teachers and teacher education standards.

"(3) CERTAIN ACTIVITIES.—In carrying out the program established under paragraph (1), the Secretary shall—

"(A) work with institutions of higher education engaged in the preparation of teachers and professional organizations of teacher educators and practitioners to encourage institutional program renewal and restructuring;

"(B) conduct, directly or through grants and contracts research on—

"(i) effective and reflective teaching for the preparation and continuing education of teachers;

"(ii) the use of computing and multi-made technology to advance the understanding and abilities of teacher educators and classroom teachers;

"(iii) the development and appraisal of curriculum and curriculum materials for the initial and continuing education of teachers and teacher educators; and

"(iv) strengthening the evaluation and dissemination of information on programs for continuing professional education and renewal of those who educate teachers for initial or advanced licensure or certification;

"(C) work with the national regional education laboratories, the ERIC clearinghouses, national education research library, and the National Center for Education Statistics to maximize information available, to prevent unnecessary duplication of efforts and resources, and to ensure the results of the centers work are widely available.

"(l) RESEARCH ON EDUCATIONAL TECHNOLOGY.—The Assistant Secretary shall undertake a comprehensive, coordinated program of research and development in the area of the uses and applications of technology in education in accordance with the requirements of this subsection. Such program shall meet the following requirements:

"(1) The program shall be carried out by each of the Institutes established by this section and a research and development center which shall be jointly funded by all of the Institutes. Such center shall—

"(A) conduct basic and applied research and engage in development, analysis, evaluation in the area of the uses and applications of technology to education; and

"(B) coordinate the research and development activities in the area of the uses and applications of technology to education undertaken by each of the Institutes;

"(2) The program shall include basic and applied research, development, policy analysis, and evaluation in the following areas:

"(A) The capabilities of current and emerging technologies and their possible uses in education.

"(B) The uses and applications of technology—

"(i) to improve instruction within all content areas in the school curriculum;

"(ii) to educate more effectively at-risk students and other students with special needs;

"(iii) to improve education in rural communities and other remote areas;

"(iv) to improve the assessment of student learning and achievement;

"(v) to deliver preservice and inservice training for teachers, librarians, and school administrators; and

"(vi) to deliver and improve professional development and continuing education programs.

"(C) The cost and educational effectiveness of technologies used in education.

"(D) Effective models and approaches for providing the preservice and inservice training and technical assistance necessary to enable teachers, librarians, and school administrators, cultural organizations, and others to use technology effectively in education.

"(E) The identification of barriers to greater use of technologies in education and potential approaches to eradicating or mitigating such barriers.

"(F) Methods and approaches which can be utilized by teachers, school administrators, and education policymakers, and educational programs in cultural institutions to evaluate the quality and most appropriate uses of software and other technologies designed for use in education.

"(G) Approaches to organizing and managing schools and classrooms to make the most effective use of technology in education.

"(3) The program shall be coordinated with related research and development activities undertaken by the Office of Special Education Programs, the National Science Foundation, the Department of Defense, and other Federal agencies.

"(m) TRANSITIONAL PROVISIONS.—

"(1) TEMPORARY REORGANIZATIONS.—Upon the enactment of the Educational Research, Development and Dissemination Excellence Act, the Secretary shall reorganize the research and development functions and activities of the Office into administrative units the purposes of which shall be the same as those for each of the national research institutes established in subsection (a). Such administrative units shall be responsible for planning and providing for the establishment of such institutes and shall cease to exist on the dates upon which each of the relevant institutes is established. The provisions of subsection (c) (relating to authorities and duties) shall apply to all activities undertaken by each such administrative unit.

"(2) DATES FOR ESTABLISHMENT OF INSTITUTES.—The National Institute for the Education of At-Risk Students, the National Institute for Innovation in Educational Governance, Finance, and Management, the National Institute for Early Childhood, Learning, Families, and Communities, the National Institute on Student Achievement, and the National Institute on Postsecondary Education, Libraries, and Lifelong Learning shall each be established effective October 1, 1993.".

TITLE IV—NATIONAL EDUCATION DISSEMINATION SYSTEM

SEC. 401. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

Part A of the General Education Provisions Act, as amended by section 301 of this Act, is amended by inserting after section 405B the following new section:

"NATIONAL EDUCATION DISSEMINATION SYSTEM

"SEC. 405C. (a) IN GENERAL.—

"(1) FINDINGS.—The Congress finds as follows:

"(A) In order to improve the American educational system for all students, achieve the national education goals, and provide for greater educational equity, policymakers, administrators, teachers, and parents must have ready access to the best information and methods available as a result of educational research and development.

"(B) The Office of Educational Research and Improvement should have as one of its primary purposes the dissemination of such information and methods in order to assist the national education reform effort.

"(C) All current resources within the Office, the Department, and other agencies that can help accomplish this goal should be coordinated by the Assistant Secretary so as to form a systematic process to accomplish these objectives.

"(D) Education research has the capacity to improve teaching and learning in our Nation's schools, however, teachers need training in the developmental skills necessary to translate research into practice and to allow them to become a cadre of knowledgeable practitioners and leaders in educational improvement.

"(E) Adequate linkages between research and development providers and practitioners are essential to ensuring that research on effective practice is useful, disseminated and supported with technical assistance to all educators, and that all educators are partners in the research and development process.

"(2) PURPOSE.—The purpose of this section is to—

"(A) create a national system of dissemination, development, and educational improvement in order to create, adapt, identify, validate, and disseminate to educators, parents, and policymakers those educational programs that have potential or have been shown to improve educational opportunities for all students; and

"(B) empower and increase the capacity of teachers to participate in the research and development process.

"(3) DEFINITION OF EDUCATIONAL PROGRAM.—For the purposes of this section, the term 'educational program' includes educational policies, research findings, practices, and products.

"(b) ESTABLISHMENT OF OFFICE.—

"(1) IN GENERAL.—There is established within the Office an Office of Reform Assistance and Dissemination (in this section referred to as the 'Dissemination Office') through which the Secretary shall carry out all functions and activities described in this section.

"(2) CERTAIN DUTIES.—The Dissemination Office shall—

"(A) identify educational programs that may merit being designated as exemplary or promising educational programs;

"(B) based solely on the educational merits and promise of such programs, select those to be designated as exemplary or promising;

"(C) provide technical and financial assistance to individuals and organizations in the process of developing promising educational programs in the priority areas identified in section 405(b)(3), but who might not, without such assistance, be able to complete necessary development and assessment activities;

"(D) nationally disseminate information regarding the exemplary and promising programs to educators, parents, and policymakers through a variety of means, including existing Department activities, education associations and networks, and communication technologies;

"(E) provide training and technical assistance regarding the implementation and adoption of such exemplary and promising programs by interested entities;

"(F) carry out a program of research on models for successful knowledge dissemination, and utilization, and strategies for reaching education policymakers, practitioners, and others interested in education; and

"(G) provide an annual report to the Secretary regarding the types of information, products, and services that teachers, schools, and school districts have requested and have determined to be most useful, and describe future plans to adapt Department of Education products and services to address the needs of the users of such information, products, and services.

"(3) ADDITIONAL DUTIES.—The Dissemination Office shall carry out and contain the following functions and activities:

"(A) A process for the identification of educational programs that work.

"(B) The educational resources information clearinghouses.

"(C) Dissemination through new technologies.

"(D) Smartline.

"(E) The Electronic Networking and Resource-Sharing for School Improvement program.

"(F) The regional educational laboratories.

"(G) Teacher Research Dissemination Network.

"(H) The America 2000 Communities Special Assistance Program.

"(I) The existing National Diffusion Network and its Developer-Demonstrator and State Facilitator projects.

"(J) Such other programs or entities the Secretary determines are consistent with the purposes for which the Dissemination Office is established.

"(c) IDENTIFICATION OF PROGRAMS.—

"(1) IN GENERAL.—The Assistant Secretary shall establish a process through which successful educational programs are actively sought out for possible dissemination through the national educational dissemination system. Such process shall, at a minimum, have the capability to—

"(A) work closely with the research institutes, centers, regional educational laboratories, the National Diffusion Network and its Developer-Demonstrator and State Facilitator projects, learning grant institutions established under the America 2000 Communities Special Assistance program, technical assistance centers established under chapter 1 of the Elementary and Secondary Education Act, the Women's Educational Equity Act Publishing Center, and other entities to identify successful educational programs at the regional, State, local, or classroom level;

"(B) review successful educational programs supported by the Department through all of its programs, including Chapter 1, Even Start, Drug-Free Schools and Communities Act of 1986, the Individuals With Disabilities Education Act, Bilingual Education, the Women's Educational Equity Act, and Adult and Vocational Education;

"(C) through cooperative agreements, review for possible inclusion in the system educational programs administered by the Departments of Health and Human Services (particularly the Head Start program), Labor and Defense, the National Science Foundation, and any other appropriate Federal agency; and

"(D) provide for an active outreach effort to identify successful educational programs through cooperative arrangements with State and local education agencies, teachers and teacher organizations, curriculum associations, foundations, private schools, institutions of higher education, and other entities that could enhance the ability of the Secretary to identify programs for possible inclusion in the dissemination system.

"(2) PRIORITY PROGRAMS.—In carrying out this subsection, the Secretary shall place a priority on identifying programs, products, and practices related to the priority research and development needs identified in section 405(b)(3).

"(d) DESIGNATION OF EXEMPLARY AND PROMISING PROGRAMS.—

"(1) IN GENERAL.—The Assistant Secretary, in consultation with the Board, shall establish 1 or more panels of appropriately qualified experts and practitioners to—

"(A) evaluate educational programs that have been identified by the Secretary under subsection (c) or that have been submitted to the Secretary for such evaluation by some other individual or organization; and

"(B) recommend to the Secretary programs that should be designated as exemplary or promising educational programs.

"(2) CONSIDERATIONS IN MAKING RECOMMENDATIONS.—In determining whether an educational program should receive a recommendation under paragraph (1), a panel established under such paragraph shall consider—

"(A) whether, based on empirical data, which may include but shall not be limited to test results, the program is effective and should thus be designated as exemplary and disseminated through the national dissemination system; or

"(B) whether there is sufficient evidence to lead a panel of experts and practitioners to believe that the program shows promise for improving student achievement and should thus be designated as promising and disseminated through the national dissemination system while it continues to be evaluated.

"(3) REQUIREMENT REGARDING APPROVAL OF PROGRAMS.—In seeking out programs for approval under paragraph (2), the Dissemination Office shall seek programs that may be implemented at the State, local, and classroom level.

"(4) REQUIREMENTS REGARDING PANELS.—

"(A) A panel shall not eliminate a program from consideration under this subsection based solely on the fact that it does not have one specific type of supporting data, such as test scores.

"(B) The Assistant Secretary may not designate a program as exemplary or promising unless a panel established under paragraph (1) has recommended that the program be so designated.

"(C) The Secretary shall establish such panels under paragraph (1) as may be necessary to ensure that each program identified or submitted for evaluation is evaluated.

"(D) Not less than ⅔ of the membership of a panel established under paragraph shall consist of individuals who are not officers or employees of the United States. Members of panels under paragraph (1) who are not employees of the United States shall receive compensation for each day engaged in carrying out the duties of the panel as well as compensation for their expenses.

"(e) DISSEMINATION OF EXEMPLARY AND PROMISING PROGRAMS.—

"(1) IN GENERAL.—In order to ensure that programs identified as exemplary or promising are available for adoption by the greatest number of teachers, schools, and local and State education agencies, the Assistant Secretary shall utilize the capabilities of—

"(A) the education resources information clearinghouses;

"(B) Smartline;

"(C) the regional educational laboratories;

"(D) the National Diffusion Network;

"(E) entities established under the America 2000 Communities Special Assistance Program;

"(F) technical assistance centers established under Chapter 1 of the Elementary and Secondary Education Act;

"(G) the National Library of Education; and

"(H) other public and private nonprofit entities, including existing education associations and networks, that have the capability to assist educators in adopting exemplary and promising programs.

"(2) REQUIREMENTS FOR ASSISTANT SECRETARY.—In carrying out paragraph (1), the Assistant Secretary shall ensure that all such entities are—

"(A) kept apprised of the availability of specific programs for dissemination;

"(B) provided technical assistance, if necessary, to carry out this dissemination function; and

"(C) involved in the national education dissemination system as specified by law.

"(f) EDUCATION RESOURCES INFORMATION CLEARINGHOUSES.—

"(1) IN GENERAL.—The Assistant Secretary shall establish a system of 16 education resource information clearinghouses having, at a minimum, the same functions and scope of work as the clearinghouses had on the date of the enactment of the Educational Research, Development, and Dissemination Excellence Act.

"(2) ADDITIONAL FUNCTIONS.—In addition to those functions already being carried out by the clearinghouses, such clearinghouses shall—

"(A) periodically produce interpretive summaries, digests, and syntheses of the results and findings of education-related research and development; and

"(B) contain and make available to users information concerning those programs designated as exemplary and promising under subsection (c).

"(3) COORDINATION OF ACTIVITIES.—The Assistant Secretary shall assure that the functions and activities of such clearinghouses are coordinated with the activities of the research institutes, the regional educational laboratories, learning grant institutions, other clearinghouses supported by the Department, the National Diffusion Network, and other appropriate entities within the Office and the Department.

"(4) SPECIAL RESPONSIBILITIES OF THE SECRETARY.—To assure that the information provided through such clearinghouses is fully comprehensive, the Secretary shall—

"(A) require that all reports, studies, and other resources produced directly or by grant or contract with the Department of Education are made available to clearinghouses;

"(B) establish cooperative agreements with the Departments of Defense, Health and Human Services, and other Federal agencies to assure that all education-related reports, studies, and other resources produced directly or by grant or contract with the Federal Government are made available to such clearinghouses.

"(5) COPYRIGHT PROHIBITED.—

"(A) No clearinghouse or other entity receiving assistance under this subsection may copyright or otherwise charge a royalty or other fee that—

"(i) is for the use or redissemination of any database, index, abstract, report, or other information produced with assistance under this subsection; and

"(ii) exceeds the incremental cost of disseminating such information.

"(B) For purposes of subparagraph (A), the incremental cost of dissemination does not include any portion of the cost of collecting, organizing, or processing the information which is disseminated.

"(g) DISSEMINATION THROUGH NEW TECHNOLOGIES.—

"(1) IN GENERAL.—The Assistant Secretary is authorized to award grants in accordance with this subsection to support the development of materials, programs, and resources which utilize new technologies and techniques to synthesize and disseminate research and development findings and other information which can be used to support educational improvement. Such grants shall be limited to not more than 50 percent of the total cost of developing such materials.

"(2) REQUIREMENTS.—In carrying out this subsection, the Assistant Secretary shall assure that—

"(A) grants are awarded to support a diverse range of technologies, including, but not limited to, CD-ROM, interactive video discs, personal computer software, and public broadcasting, cable, fiber, and satellite programming;

"(B) both formative and summative evaluations are undertaken as part of each development project;

"(C) the information and other resources disseminated as part of each development project have been evaluated and validated as part of the identification process described in subsections (c) and (d) of this section; and

"(D) priority in awarding grants is given to—

"(i) development projects which provide information and other resources related to effective approaches to educating at-risk students;

"(ii) development projects which provide information and other resources that parents, in particular, will find useful in a manner and format which is readily accessible and easy to understand; and

"(iii) a national multimedia, television-based project directed to homes, schools, libraries, cultural organizations, and after-school programs which demonstrates and disseminates effective ways to motivate and improve reading comprehension and writing coherence of elementary age students in high poverty areas.

"(h) SOURCES OF MATERIALS AND RESEARCH ABOUT TEACHING AND LEARNING FOR IMPROVING NATIONWIDE EDUCATION (SMARTLINE).—

"(1) ELECTRONIC NETWORK.—The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, shall establish and maintain an electronic network which shall, at a minimum, link—

"(A) each office of the Department of Education;

"(B) the research institutes established by section 405B;

"(C) the National Center for Education Statistics;

"(D) the National Library of Education;

"(E) entities engaged in research, development, dissemination, and technical assistance under grant, contract, or cooperative agreement with the Department of Education, including—

"(i) the ERIC Clearinghouses;

"(ii) national research and development centers;

"(iii) the regional educational laboratories;

"(iv) National Diffusion Network State Facilitators;

"(v) Chapter 1 Technical Assistance Centers;

"(vi) research and development entities supported by the Office of Special Education programs;

"(vii) evaluation assistance centers and multifunctional resource centers administered by the Office of Bilingual Education and Minority Language Affairs;

"(viii) the National Center for Research in Vocational Education;

"(ix) the Desegregation Assistance Centers; and

"(x) regional centers established under section 5135 of the Drug-Free Schools and Communities Act of 1986.

"(2) CERTAIN REQUIREMENTS FOR NETWORK.—The network described in paragraph (1) shall—

"(A) to the extent feasible, build upon existing national, regional, and State electronic networks and support video, telecomputing, and interactive communications;

"(B) at a minimum, have the capability to support electronic mail and file transfer services;

"(C) be linked to and accessible to other users, including State and local education agencies, institutions of higher education, museums, libraries, and others through the Internet and the National Research and Education Network; and

"(D) be provided at no cost (excluding the costs of necessary hardware) to the contractors and grantees described in subparagraph (E) of paragraph (1) and to educational institutions accessing such network through the Internet and the National Research and Education Network;

"(3) INFORMATION RESOURCES.—The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, shall make available through the network described in paragraph (1) the following—

"(A) information about grant and contract assistance available through the department;

"(B) an annotated directory of current research and development activities and projects being undertaken with the assistance of the Department;

"(C) information about publications published by the Department and, to the extent feasible, the full text of such publications;

"(D) statistics and data published by the National Center for Education Statistics;

"(E) syntheses of research and development findings;

"(F) a directory of other education-related electronic networks and databases, including information about the means by which they may be accessed;

"(G) a descriptive listing of materials and courses of instruction provided by telecommunications partnerships assisted under the Star Schools program;

"(H) resources developed by the ERIC Clearinghouses;

"(I) education-related software (including video) which is in the public domain;

"(J) a listing of instructional materials available through telecommunications to local education agencies through the Public Broadcasting Service and State educational television networks; and

"(K) such other information and resources the Assistant Secretary considers useful and appropriate.

"(4) EVALUATIONS REGARDING OTHER FUNCTIONS OF NETWORK.—The Assistant Secretary shall also undertake projects to test and evaluate the feasibility of using the network described in paragraph (1) for—

"(A) the submission of applications for assistance to the Department; and

"(B) the collection of data and other statistics through the National Center for Education Statistics.

"(5) SOFTWARE INTERFACES; INTELLIGENT GATEWAYS.—

"(A) Upon the completion of the study required by subparagraph (B), the Assistant Secretary is authorized to support the development of 1 or more software interfaces or intelligent gateways which can be used to access and search multiple education-related databases simultaneously in order to improve access to current information about teaching and learning by education researchers, teachers, librarians, administrators, parents, community members, and policymakers.

"(B) The Assistant Secretary shall provide for the conduct of an independent study of the feasibility and costs associated with developing and maintaining the software interfaces described in subparagraph (A). Such study shall—

"(i) identify a variety of options and strategies for the development and operation of such interfaces;

"(ii) identify the extent to which such interfaces are needed by various segments of the educational community, including education researchers, teachers, librarians, policymakers, school administrators, parents, and others;

"(iii) estimate the costs associated with developing and maintaining such interfaces;

"(iv) identify possible roles for the private sector in the development of such interfaces; and

"(v) determine whether such interfaces would be developed in the absence of Federal assistance.

The Assistant Secretary shall submit copies of the study required by this subparagraph to the appropriate authorizing and appropriations committees of the Congress.

"(6) TRAINING AND TECHNICAL ASSISTANCE.—The Assistant Secretary, acting through the Office of Reform Assistance and Dissemination, shall—

"(A) provide such training and technical assistance as may be necessary to enable the contractors and grantees described in subparagraph (E) of paragraph (1) to participate in the electronic network described in paragraph (1);

"(B) provide, through the regional laboratories and other means, technical assistance to State education agencies in the development of the electronic networking plans described in subsection (h); and

"(C) work with the National Science Foundation to provide, upon request, assistance to State and local education agencies, State library agencies, libraries, museums, and other educational institutions in obtaining access to the Internet and the National Research and Education Network.

"(i) ELECTRONIC NETWORKING AND RESOURCE-SHARING FOR SCHOOL IMPROVEMENT.—

"(1) AUTHORITY FOR GRANTS.—The Assistant Secretary is authorized, in accordance with the provisions of this subsection, to make grants to State educational agencies for the purposes of expanding and improving the use of electronic networking and resource-sharing among educational institutions, educators, school administrators, and parents throughout the Nation. Such grants shall be used to—

"(A) develop comprehensive plans to enable participation in electronic networking and resource-sharing, as well as access to the Smartline resources described in subsection (h), by all educational institutions within the State by the year 2000; and

"(B) carry out the provisions of such plans, giving first priority to those activities which are necessary to enable access and use of electronic networking and resource-sharing by local education agencies within the state which have the greatest number or percentage of chapter 1 eligible students.

"(2) CERTAIN REQUIREMENTS FOR PLANS.—Each such plan shall—

"(A) provide for the development of an electronic network to enable greater information and resource-sharing among educational institutions within the State which shall—

"(i) to the extent feasible, build upon existing electronic networks;

"(ii) be linked to and accessible to other users through the Internet and the National Research and Education Network;

"(iii) enable networking among public and school libraries and be consistent with State plan for interlibrary cooperation and resource-sharing under title III of the Library Services and Construction Act;

"(iv) be available to all educational institutions within the State by the year 2000; and

"(v) enable access to the network established by the Assistant Secretary under paragraph (1) of subsection (h) and the information resources made available through such network; and

"(B) be developed through a broadly participatory process which shall include consultation with technical experts, State and local educational policymakers, educational telecommunications providers, teachers, librarians, school administrators, parents, the business community, representatives of institutions of higher education, and community-based organizations;

"(C) identify potential uses for the network and the information resources available through such network by educational institutions within the State, including how such resources may be used to support learning in the classroom;

"(D) establish standards and a governance structure for such network;

"(E) identify professional development and technical support activities necessary to ensure that the personnel of educational institutions within the State have the skills necessary to participate fully and effectively in the electronic network;

"(F) identify strategies and activities necessary to promote use of and participating in such network by parents;

"(G) set out a schedule for the implementation of the plan; and

"(H) estimate the costs of implementing the plan and identify resources, including assistance available through other Federal programs, to meet such costs.

"(3) CONTINGENT AUTHORITY REGARDING IMPLEMENTATION.—If a State education agency already has a plan which meets the requirements of paragraph (2), such State education agency may use assistance provided under this subsection to support the implementation of such plan.

"(4) AWARD OF GRANTS.—

"(A) Except as provided in subparagraph (B), the Assistant Secretary shall award grants under this subsection to each State having an application approved under paragraph (5) in an amount which bears the same relationship to the amount appropriated to carry out this subsection as the amount such State received under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 bears to the amount received under such chapter by all States.

"(B) No State shall receive a grant pursuant to subparagraph (A) in an amount which is less than $100,000.

"(5) APPLICATION FOR GRANT.—Each State desiring a grant under this subsection shall submit to the Assistant Secretary an application at such time, in such manner, and accompanied by such information as the Assistant Secretary may reasonably require.

"(6) DURATION OF GRANT.—Grants awarded under this subsection shall be for a period of 1 year, which may be renewable for an additional 2 years.

"(7) DEFINITION.—For the purposes of this subsection, the term 'educational institution' includes State and local education agencies, institutions of higher education, libraries, museums, and education-related private foundations, community-based organizations which provide or support educational services, and education-related professional associations.

"(j) REGIONAL EDUCATIONAL LABORATORIES.—

"(1) REGIONAL EDUCATIONAL LABORATORIES.—The Secretary shall enter into contracts with public or private nonprofit entities to establish a networked system of 10 regional educational laboratories which serve the needs of each region of the Nation in accordance with the provisions of this subsection. For the purposes of this subsection, the term 'region' means 1 of the 10 geographic regions set forth in section 2(a) of part 707 of title 34, Code of Federal Regulations (34 CFR 707.2(a)), as published in number 157 of volume 53 of the Federal Register on August 15, 1988.

"(2) DUTIES.—Each regional educational laboratory receiving assistance under this subsection shall, with such assistance, assist State education agencies, intermediate education agencies, and local school districts in implementing broad-based, systemic school improvement strategies through the use of applied research and development activities. The regional educational laboratories shall support such system-wide reform efforts through—

"(A) the development of a plan for identifying needs and for serving the needs of the region by conducting a continuing survey of the educational needs, strengths and weaknesses within the region, including a process of open hearings to solicit the views of schools, teachers, administrators, parents, local educational agencies, librarians, and State educational agencies within the region;

"(B) the dissemination of information about programs designated as exemplary and promising under subsection (c) and other appropriate programs and practices;

"(C) the provision of support and technical assistance in—

"(i) replicating and adapting such exemplary and promising practices;

"(ii) the development of high-quality, challenging curriculum frameworks;

"(iii) the development of valid, reliable, fair systems of assessment which are based upon State or local curriculum frameworks and reflect recent advances in the field of educational assessment;

"(iv) the improvement of professional development strategies to assure that all teachers are prepared to teach a challenging curriculum;

"(v) expanding and improving the use of technology in education;

"(vi) the development of alternatives for restructuring school finance systems to promote greater equity in the distribution of resources;

"(vii) the development of alternative administrative structures which are more conducive to planning, implementing, and sustaining school reform and improved educational outcomes; and

"(D) the development of educational programs and practices that address State or regional needs in relating to their school reform efforts; and

"(E) facilitating communication between educational experts, school officials, and teachers, parents, and librarians, to enable such individuals to assist schools to develop a plan to meet the national education goals;

"(F) bringing teams of experts together to develop and implement school improvement plans and strategies;

"(G) the provision of training in—

"(i) the field of education research and related areas;

"(ii) the use of new educational methods; and

"(iii) the use of information-finding methods, practices, techniques, and products developed in connection with such training for which the regional educational laboratory shall be authorized to support internships and fellowships and to provide stipends; and

"(H) the provision of support and technical assistance (upon their request) to State facilitators funded through the National Diffusion Network.

"(3) NETWORKING.—In order to improve the efficiency and effectiveness of the regional laboratories, the governing boards of the ten regional laboratories shall establish and maintain a network to—

"(A) share information about the activities each is carrying out;

"(B) plan joint activities that would meet the needs of multiple regions;

"(C) create a strategic plan for the development of activities undertaken by the laboratories to reduce redundancy and increase collaboration and resource-sharing in such activities; and

"(D) otherwise devise means by which the work of the individual laboratories could serve national, as well as regional, needs.

"(4) ADDITIONAL DUTIES.—Each regional education laboratory receiving assistance under this subsection shall carry out the following activities:

"(A) Collaborate with the Institutes established under section 405B in order to—

"(i) maximize the use of research conducted through the Institutes in the work of such laboratory;

"(ii) keep the Institutes apprised of the work of the regional educational laboratories in the field; and

"(iii) inform the Institutes about additional research needs identified in the field.

"(B) Consult with the State educational agencies and library agencies in the region in developing the plan for serving the region.

"(C) Contribute to a fuller understanding of rural education and schools in the economic and cultural life of rural communities.

"(D) Develop strategies to utilize schools as critical components in reforming education and revitalizing rural communities in the United States.

"(E) Report and disseminate information on overcoming the obstacles faced by rural educators and rural schools.

"(F) Identify successful educational programs that have either been developed by such laboratory in carrying out its functions or that have been developed or used by others within the region served by the laboratory and make such information available to the Secretary and the network of regional laboratories so that they may be considered for inclusion in the national education development and dissemination system.

"(5) CERTAIN REQUIREMENTS.—In carrying out its responsibilities, each regional educational laboratory shall—

"(A) establish a governing board that—

"(i) is the sole entity that—

"(I) guides and directs the laboratory in carrying out the provisions of this subsection and satisfying the terms and conditions of the contract award;

"(II) determines the regional agenda of the laboratory, consistent with the priority research and development needs identified in section 405(b)(3); and

"(ii) reflects a balanced representation of the States in the region, as well as the interests and concerns of regional constituencies;

"(B) comply with the standards established by the Board under section 405A;

"(C) coordinate its activities, collaborate, and regularly exchange information with the institutes established under section 405C, the National Diffusion Network, and its Developer Demonstrator and State Facilitator projects, learning grant institutions and district education agents assisted under subsection (i), the ERIC Clearinghouses, and other entities engages in technical assistance and dissemination activities which are supported by other Offices of the Department of Education; and

"(D) allocate its resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, or local education agencies which may require special assistance from the laboratory.

"(6) Evaluations.—The Secretary shall provide for periodic, independent evaluations of each of the laboratories in carrying out the duties described in paragraph (1) in accordance with the standards developed by the Board and transmit the results of such evaluations to the relevant committees of the Congress, the Board, and the appropriate regional educational laboratory board.

"(7) Invitation regarding competition for awards of assistance.—Prior to awarding a grant or entering into a contract under this section, the Secretary shall invite applicants, including the existing regional educational laboratories, to compete for such award through notice in the Federal Register and in the publication of the Department of Commerce known as the Commerce Business Daily.

"(8) Application for assistance.—Each application for assistance under this subsection shall—

"(A) cover not less than a 5-year period;

"(B) describe how the applicant would carry out the activities required by this subsection; and

"(C) contain such additional information as the Secretary may reasonably require.

"(9) Rule of construction.—No regional educational laboratory receiving assistance under this subsection shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Department as authorized by law.

"(10) Advance payment system.—Each regional educational laboratory shall participate in the advance payment system at the Department of Education.

"(k) America 2000 Communities Special Assistance Program.—

"(1) Purpose.—The purpose of the American 2000 communities special assistance program is to provide targeted field-based, technical assistance to the Nation's most impoverished urban and rural communities to enable them to achieve the national education goals and other objectives for educational improvement through the continuous, intensified application and utilization of the results of educational research.

"(2) Grants for learning grant institutions and district education agents.—The Secretary is authorized to make grants in accordance with this subsection to eligible entities for the establishment of Learning Grant Institutions and District Education Agents within eligible communities to administer the America 2000 communities special assistance program.

"(3) Definition of eligible entity and eligible community.—For the purposes of this subsection:

"(A) The term 'eligible entity' includes any institution of higher education, regional education laboratory, National Diffusion Network project, national research and development center, public or private nonprofit corporation, or any consortium thereof that—

"(i) has demonstrated experience, expertise and commitment in serving the educational needs of at-risk students; and

"(ii) is, by virtue of its previous activities, knowledgeable about the unique needs and characteristics of the community to be served.

"(B) The term 'eligible community' means a unit of general purpose local government (such as a city, township, or village), a nonmetropolitan county, tribal village, or a geographically distinct area (such as a school district, school attendance area, ward, precinct or neighborhood), or any group of such entities that—

"(i) has a population of not less than 200,000 and not more than 300,000; and

"(ii) is located within one of the 50 congressional districts with the lowest median family income as determined by poverty indices established by 1990 United States Census.

"(4) Comprehensive America 2000 plan.—Each Learning Grant Institution receiving assistance under this subsection shall assist in the development of a comprehensive America 2000 plan for assuring educational success for all students in the community. Each such plan shall—

"(A) adopt the 6 national educational goals;

"(B) identify additional needs and goals for educational improvement within the community;

"(C) establish a comprehensive community-wide plan for achieving such goals;

"(D) develop a means for measuring the progress of the community in meeting such goals for improvement.

"(5) Implementation of community-wide plan.—Each learning grant institution receiving assistance under this subsection shall, utilizing the District Education Agent, provide assistance in implementing the community-wide plan for educational improvement by—

"(A) disseminating information throughout the community about exemplary and promising educational programs, practices, products, and policies;

"(B) assisting teachers, school administrators, other educational personnel, parents and others in—

"(i) tracking educational programs within the community which receive Federal financial assistance and identifying changes in such programs which are likely to improve student achievement;

"(ii) identifying, selecting and replicating exemplary and promising educational programs, practices, products, and policies in both in and out-of-school settings;

"(iii) applying educational research to solve specific problems in the classroom, home and community which impede learning and student achievement;

"(C) promoting the development of an integrated system of service delivery to children from birth through age 18 and their families by facilitating linkages and cooperation among—

"(i) local education agencies;

"(ii) health and social services agencies and providers;

"(iii) juvenile justice and criminal justice agencies;

"(iv) providers of employment training; and

"(v) child care, Head Start, and other early childhood agencies; and

"(D) mobilizing the resources of the community in support of student learning and high achievement by facilitating effective partnerships and collaboration among—

"(i) local education agencies;

"(ii) postsecondary educational institutions;

"(iii) public libraries;

"(iv) parents;

"(v) community-based organizations, neighborhood associations, and other civic and community organizations;

"(vi) child care, Head Start, and other early childhood agencies;

"(vii) churches, synagogues and other religious institutions;

"(viii) labor organizations; and

"(ix) business and industry.

"(6) Additional requirements for learning grant institutions.—In carrying out its responsibilities under this subsection, each learning grant institution receiving assistance under this subsection shall—

"(A) convene and regularly consult with an advisory board that is broadly representative of the community, including public and private elementary and secondary school teachers and administrators, parents, librarians, college and university faculty and administrators, Head Start and child care agencies, labor, business, local elected officials, and community leaders;

"(B) cooperate with the local education agency and, to the extent appropriate, the State education agency;

"(C) appoint a District Education Agent who shall be responsible, on a full-time basis, for directing the implementation of the community-wide plan. Such individual shall have significant experience and expertise in the field of education in—

"(i) addressing the needs of at-risk students; and

"(ii) conducting educational research and promoting the application of the results of such research to educational practice;

"(D) provide for such other professional and support personnel as may be necessary to implement the community-wide plan under the direction of the District Education Agent; and

"(E) coordinate its activities and work cooperatively with the National Diffusion Network State facilitators, regional laboratories, and other components of the Office to utilize most effectively Federal research, development, and dissemination resources in implementing the community-wide plan.

"(7) Application for grants.—Any eligible entity desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(A) include a comprehensive plan for meeting the objectives and requirements of this subsection; and

"(B) provide evidence of support for the application from local elected officials, the State education agency, the local education agency, parents, local community leaders, businesses, and other appropriate organizations.

"(8) Priority in making grants; duration and amount of grant.—Each grant made under this subsection shall be—

"(A) awarded on a competitive basis, with first priority given to those applications from communities within congressional districts with the lowest median family income;

"(B) made for a 5-year period, with funding for the second and each successive year in this period conditioned upon a determination by the Secretary that the grant recipient has complied with the conditions of the grants during the previous year; and

"(C) an amount equal to not less than $1,000,000 per year.

"(9) REQUIREMENT REGARDING CERTAIN CONGRESSIONAL DISTRICTS.—Not more and not less than one grant shall be awarded within each of the 50 congressional districts with the lowest median family income.

"(10) CONTINGENT AUTHORITY REGARDING APPLICATIONS FROM CHIEF STATE SCHOOL OFFICER.—In the event that no eligible entity submits an application to provide services under this subsection to an eligible community within one year after appropriations become available to fund such application, the Secretary shall permit and encourage the chief State school officer of the State in which the eligible community is located to submit an application under this subsection to provide services to such community. Such application shall provide for the carrying out of the program described in paragraphs (4) through (6) by the State education agency in conjunction with an eligible entity and shall otherwise meet all the requirements of this subsection.

"(11) TECHNICAL ASSISTANCE; EVALUATIONS.—In administering the program authorized under this subsection, the Secretary shall, either directly or through grant or contract with an eligible nonprofit agency—

"(A) upon request, provide technical assistance to eligible entities to assist in the development of a comprehensive plan to meet the requirements of this subsection and in the preparation of applications for assistance;

"(B) regularly provide technical assistance to learning grant institutions receiving assistance under this subsection to assist with the development and implementation of the community-wide plan for educational improvement;

"(C) provide for an independent evaluation of the activities assisted under this subsection, including—

"(i) the impact of the America 2000 communities special assistance program on children and families within each community, including (but not limited to) effects on the extent of educational achievement, rates of school retention and completion, and enrollment in program postsecondary educational programs; and

"(ii) whether an intensified effort to apply and utilize educational research within a limited geographic area significantly improves student learning and achievement; and

"(D) plan for the expansion of the America 2000 communities special assistance program throughout the remainder of the Nation beginning in fiscal year 1997.

"(l) TEACHER RESEARCH DISSEMINATION NETWORK.—

"(1) FINDINGS.—The Congress finds that—

"(A) education research, including research funded by the Office, is not having the impact on the Nation's schools that such research should;

"(B) relevant education research and resulting solutions are not being adequately disseminated to the teachers that need such research and solutions;

"(C) there are not enough linkages between the research and development centers assisted under this section, the regional educational laboratories described in subsection (k), the National Diffusion Network State facilitators, the Education Resources Information Clearinghouses, and the public schools, to ensure that research on effective practice is disseminated and technical assistance provided to all teachers;

"(D) the average teacher has almost no time to plan or engage in a professional dialogue with such teacher's peers about strategies for improving learning;

"(E) teachers do not have direct access to information systems or networks;

"(F) teachers have little control over what in-service education teachers will be offered; and

"(G) individual teachers are not encouraged to move beyond the walls of their classrooms to identify and use outside resources.

"(2) PROGRAM AUTHORIZED.—

"(A) The Assistant Secretary shall enter into contracts with regional educational laboratories, in partnership with 1 or more institutions of higher education in each State of its region, the National Diffusion Network, and other entities with demonstrated experience, expertise, and commitment in the areas of teacher research or teacher professional development, such as the national research and development centers, professional teacher organizations, and other qualified organizations and associations, in the region to carry out activities described in paragraph (3).

"(B) The Assistant Secretary shall enter into contracts under this subsection in an equitable manner and shall provide assistance on the basis of the number of schools, teachers, and students in each regional educational laboratory region with attention given to populations with special needs and the increased cost burden of service delivery in regions of sparse population.

"(C) Contracts under this subsection shall be awarded for a period of not less than 3 years.

"(3) PROGRAM ACTIVITIES.—

"(A) Each regional partnership described in paragraph (2)(A) entering into a contract under this subsection shall carry out programs of providing training to teachers relevant to the needs and problems of the schools and school districts where teachers, who participate in the programs, serve. The purpose of such programs shall be to—

"(i) educate teachers on how to acquire information about education research findings and best practices;

"(ii) provide teachers with current education research and development theory, skills, and practice as shall enable them to modify, design, develop, and adapt such findings and practices to effect local district and classroom outcomes that improve education;

"(iii) enable teachers to become actively involved in the applied research and development process;

"(iv) provide teachers the ability to become leaders in the utilization of applied research and to become active participants in the Federal research and development partnership;

"(v) enhance the ability of teachers to evaluate and choose effective education programs and curricula; and

"(vi) facilitate collaboration between the teacher change agent and the National Diffusion Network State facilitator.

"(B) Teachers that participate in training assisted under this subsection shall be known as "teacher change agents".

"(C) The program described in subparagraph (A) shall provide teacher change agents with training during the summer and at such other times as agreed to by the district, which shall—

"(i) give teacher change agents knowledge and guidance in using the existing educational improvement services and resources funded by the United States Department of Education and other major research organizations, including the products and work of the regional educational laboratories, professional teacher organizations, the National Diffusion Network, institutions of higher education, the Educational Research Information Centers, National Research Centers, National Research Institutes, State Departments of Education, local education agencies, and other nonprofit organizations participating in the improvement of education;

"(ii) provide teacher change agents with indepth knowledge about a number of products, programs, and processes developed by entities described in clause (i) that the teacher change agents judge most relevant to the needs of the district or districts they will serve;

"(iii) inform teacher change agents about government programs, including, but not limited, to programs in government agencies other than the Department of Education, which offer research opportunities, fellowships, and funding; and

"(iv) provide teacher change agents with instruction in technical assistance skills in order to increase their capacity to aid district and school site teacher teams responsible for leading school improvement activities at the district and school site level.

"(D) The school year activities described in subparagraph (A) shall provide teacher change agents participating in such program during the school year with—

"(i) opportunities to meet with other teacher change agents to exchange experiences;

"(ii) additional training or assistance as needed or requested;

"(iii) updates in education research, application, and findings; and

"(iv) opportunities to provide feedback into the educational research infrastructure regarding needed research and ways to improve the development and dissemination of information.

"(E) The regional partnership program may support educational improvement and reform activities such as—

"(i) training in applied research methodologies;

"(ii) assistance in conducting applied research;

"(iii) teacher research sabbaticals;

"(iv) video conferencing for additional training in order to reduce travel time and expenses;

"(v) training in developing and implementing effective teacher in-service training;

"(vi) training in change management, including strategies for restructuring schools, building local capacity, and generally strengthening the culture of schools so that schools are conducive and supportive of change, including training in interpersonal and leadership skills; and

"(vii) training in the appropriate use of technology to assist classroom teachers.

"(F) TEACHER RESPONSIBILITIES.—Teacher change agents shall, during the school year—

"(i) meet with other teachers and district or school site teacher teams to provide other teachers with knowledge about how to acquire information regarding education research findings and best practices, including what resources are available from the Department of Education and how to obtain products and technical services from the Department;

"(ii) meet with the National Diffusion Network State Facilitator to coordinate and not duplicate efforts in the dissemination of exemplary educational programs.

"(iii) help interested schools identify resources needed to address the school's needs and act as liaison between the school and the appropriate resource entities, such as regional educational laboratories, centers, national institutes, institutions of higher education, professional teacher organizations, scholars, consultants, and other schools and school districts that may be of assistance;

"(iv) teach other teachers how to use the products, programs, and processes in which the teacher was trained pursuant to paragraph (2)(C)(II);

"(v) work with other teachers and teacher teams to adapt identified exemplary practices, programs, and research results to implement school site or classroom improvements as desired, and provide follow-up activities throughout a 2-year period to ensure the successful adaptation and implementation of such programs in local schools; and

"(vi) inform teachers about how they can obtain Federal research funding, fellowships, and sabbaticals.

"(G) APPLICATION.—

"(i) IN GENERAL.—Each regional partnership desiring a contract under this subsection shall submit to the Secretary an application at such time, in such manner, and accompanied by such information as the Assistant Secretary may reasonably require.

"(ii) CONTENTS.—Each application described in clause (i) shall—

"(I) contain a plan acceptable to affected States and local education agencies for conducting the program to be assisted under this section;

"(II) contain assurances that the partnership requirements are fulfilled;

"(III) contain assurances that both district and school site teacher teams will be established to work in conjunction with the teacher change agent;

"(IV) contain a plan for the selection of district and school site teacher team participants and others as deemed appropriate by the teacher change agent and the regional partnership;

"(V) contain assurances that the regional partnership, in conjunction with the participating school districts, shall provide each teacher change agent with a stipend for the entire calendar year commensurate with such teacher's salary and travel expenses, to permit a teacher to participate in such program without incurring loss of income;

"(VI) contain assurances that each teacher change agent participating in the program shall receive an award of not more than $10,000 to be used by such teacher during the school year of such teacher's participation to purchase materials, support, and coordinate with other teachers or site teacher teams in the school district;

"(VII) contain assurances that such regional partnerships shall provide not more than $5,000 to each school district or group of school districts having an individual from such district or districts participating in the program assisted under this section for each of the 2 years following such participation to enable such school district or districts to continue efforts to improve dissemination of effective practices and programs within the district or districts;

"(VIII) contain assurances that representatives of State educational agencies, intermediate educational agencies, teacher centers, teacher educators at institutions of higher education, and school district in-service or curriculum specialists will be eligible to participate in the program assisted under this section if such individuals pay the cost of their participation; and

"(IX) contain an assurance that such regional partnership shall permit a teacher to participate in the program only after such partnership determines that the teacher will be afforded a full opportunity by the district to perform such teacher's responsibilities described in paragraph (3)(F).

"(4) TEACHER SELECTION AND ELIGIBILITY.—

"(A) NOMINATION.—Teacher participants in the program assisted under this subsection shall be nominated by their peers at the school district level.

"(B) ELIGIBILITY.—Each school district or group of school districts desiring to have teachers from such district or districts participate in the program assisted under this subsection shall provide the regional partnership with the names of such teachers, and an indication of the type of issues or problems on which each such teacher would like to receive information and training.

"(C) SELECTION.—

"(i) Teacher participants shall be selected by the regional partnerships in consultation with the State educational agencies in the region. Teacher participants shall be selected in such a manner so as to ensure an equitable representation of such teachers by State and school enrollment within the region.

"(ii) The number of teachers selected each year shall be determined in accordance with the amount of funding received by the regional partnership.

"(5) INDEPENDENT EVALUATION.—

"(A) IN GENERAL.—The Assistant Secretary shall provide for an independent evaluation of the program assisted under this subsection to determine the net impact and cost effectiveness of the program and the reactions of teachers and school districts participating in such program, including any career plan changes of participating teachers.

"(B) DATE.—The evaluation described in subparagraph (A) shall be submitted to the Congress within 6 months after the completion of the third year of the program.

"(C) FUNDING.—The Assistant Secretary may reserve not more than $250,000 of the amount appropriated under section 405(i)(2)(E) to carry out the evaluation described in this paragraph.".

TITLE V—NATIONAL LIBRARY OF EDUCATION

SEC. 501. ESTABLISHMENT WITHIN OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT.

Part A of the General Education Provisions Act, as amended by section 401 of this Act, is amended by inserting after section 405C the following new section:

"NATIONAL LIBRARY OF EDUCATION

"SEC. 405D. (a) IN GENERAL.—There is established within the Office a National Library of Education (hereafter in this section referred to as the 'Library'), which shall be maintained as a governmental activity. The Office shall carry out this section acting through the Library.

"(b) FUNCTIONS OF LIBRARY.—The functions of the Library are—

"(1) to provide a central location within the Federal Government for information about education;

"(2) to provide comprehensive reference services on matters related to education to employees of the Department of Education and its contractors and grantees, other Federal employees, and members of the public; and

"(3) to promote greater cooperation and resource sharing among providers and repositories of education information in the United States.

"(c) ONE-STOP INFORMATION AND REFERRAL SERVICE.—The Library shall establish and maintain a central information and referral service to respond to telephonic, mail and electronic and other inquiries from the public concerning—

"(1) programs and activities of the Department of Education;

"(2) publications produced by the Department of Education and, to the extent feasible, education related publications produced by the Departments of Labor, Health and Human Services, and other Federal agencies;

"(3) services and resources available to the public through the Office, including the ERIC Clearinghouses, the research institutes, and the national education dissemination system;

"(4) statistics and other information produced by the National Center for Education Statistics; and

"(5) referrals to additional sources of information and expertise about educational issues which may be available through educational associations and foundations, the private sector, colleges and universities, libraries and bibliographic databases.

The Library shall maintain and actively publicize a toll-free telephone number through which public inquiries to the Library may be made.

"(d) COMPREHENSIVE REFERENCE SERVICES.—The Library shall provide for the delivery of a full range of reference services on subjects related to education to employees of the Department and its contractors and grantees, other Federal employees, and members of the general public. Such services may include—

"(1) specialized subject searches;

"(2) search and retrieval of electronic databases;

"(3) document delivery by mail and facsimile transmission;

"(4) research counseling, bibliographic instruction, and other training services;

"(5) interlibrary loan services; and

"(6) selective dissemination of information services.

The Library shall first give priority in the provision of reference services to requests made by employees of the Department.

"(e) COOPERATION AND RESOURCE SHARING.—The Library shall promote greater cooperation and resource sharing among libraries and archives with significant collections in the area of education through such means as—

"(1) the establishment of information and resource sharing networks among such entities;

"(2) the development of a national union list of education journals held by education libraries throughout the United States;

"(3) the development of directories and indexes to textbook and other specialized collections held by education libraries throughout the United States; and

"(4) cooperative efforts to preserve, maintain and promote access to items of special historical value or interest.

"(f) ADMINISTRATION.—The Library shall be administered by an Executive Director who shall—

"(1) be appointed by the Assistant Secretary from among persons with significant training or experience in library and information science;

"(2) serve for a renewable term of 5 years; and

"(3) be paid at not less than the minimum rate of basic pay payable for GS-15 of the General Schedule.

"(g) TASK FORCE.—

"(1) IN GENERAL.—The Assistant Secretary shall appoint a task force of librarians, scholars, teachers, parents, and school leaders (hereafter in this paragraph referred to as the 'Task Force') to provide advice on the establishment of the Library.

"(2) PREPARATION OF PLAN.—The Task Force shall prepare a workable plan to establish the Library and to implement the requirements of this section.

"(3) CERTAIN AUTHORITIES.—The Task Force may identify other activities and functions for the Library to carry out, except that such functions shall not be carried out until the Library is established and has implemented the requirements of this section.

"(4) REPORT.—The Task Force shall prepare and submit to the Assistant Secretary not later than 6 months after the first meeting of the Task Force a report on the activities of the Library.

"(h) TRANSFER OF FUNCTIONS.—There are hereby transferred to the Library all functions of—

"(1) the Department of Education Research Library;

"(2) the Department of Education Reference Section; and

"(3) the Department of Education Information Branch.

"(i) COLLECTION DEVELOPMENT POLICY.—Not later than 180 days after the enactment of the Educational Research, Development, and Dissemination Excellence Act, the Executive Director shall promulgate a comprehensive collection development policy to govern the Library's operations, acquisitions, and services to users. Such collection development policy shall—

"(1) be consistent with the functions of the Library set out in subsection (b);

"(2) emphasize the acquisition and maintenance of a comprehensive collection of reference materials; and

"(3) avoid unnecessary duplication by putting a priority on meeting the information needs of the Library's users through cooperation and resource-sharing with other entities with significant collections in the field of education.

"(j) ARREARAGE AND PRESERVATION.—On the basis of the collection development policy promulgated under subsection (h), the Executive Director shall develop a multiyear plan which shall set forth goals and priorities for actions needed to—

"(1) eliminate within 3 years the arrearage of uncataloged books and other materials in the Library's collections; and

"(2) respond effectively and systematically to the preservation needs of the Library's collections, relying, whenever possible, upon cooperative efforts with other institutions to preserve and maintain the usability of books and materials in the Library's collections.".

TITLE VI—LEADERSHIP FOR EDUCATIONAL TECHNOLOGY

SEC. 601. OFFICE OF EDUCATIONAL TECHNOLOGY.

(a) AMENDMENT TO THE DEPARTMENT OF EDUCATION ORGANIZATION ACT.—Title II of the Department of Education Organization Act (20 U.S.C. 3411 et seq.) is amended by adding at the end the following new section:

"OFFICE OF EDUCATION TECHNOLOGY

"SEC. 216. There shall be in the Office of Educational Research and Improvement described in section 209 an Office of Educational Technology, established in accordance with section 405E of the General Education Provisions Act.".

(b) AMENDMENT TO THE GENERAL EDUCATION PROVISIONS ACT.—Part A of the General Education Provisions Act, as amended by section 501 of this Act, is amended by inserting after section 405D the following new section:

"SEC. 405E. OFFICE OF EDUCATIONAL TECHNOLOGY.

"(a) ESTABLISHMENT.—

"(1) OFFICE ESTABLISHED.—The Secretary shall establish within the Office of Educational Research and Improvement an Office of Educational Technology within 90 days of the date of enactment of the Office of Educational Research and Improvement Reauthorization Act of 1992.

"(2) DIRECTOR.—The Office of Educational Technology (hereafter in this section referred to as the 'Office') shall be headed by a Director, who shall be appointed by the Secretary and shall have demonstrated expertise and experience in the application of a broad range of technologies for instruction and educational management, and in planning and policy formulation pertaining to technology application at all levels in the education system. The Director shall be compensated at the rate of pay payable for level IV of the Executive Schedule.

"(b) ADVISORY BOARD.—

"(1) BOARD AUTHORIZED.—The Assistant Secretary is authorized to establish and maintain an advisory board to provide advice and assistance in carrying out the provisions of this section. The members of such board shall include persons with demonstrated competencies or expertise in developing technology systems who are known and respected among their peers and educators with experience in using technology in the classroom.

"(2) CONSULTATION WITH OTHER AGENCIES.—In appointing the members of the board, the Assistant Secretary shall, as appropriate, consult with the Secretary of Defense, the Director of the National Science Foundation, and the heads of other Federal agencies which administer programs relevant to the purposes of the Office.

"(c) AUTHORITIES.—

"(1) EXPERTS AND CONSULTANTS.—The Director may procure temporary and intermittent services under section 3019(b) of title 5, United States Code, if the individual performing such services, by virtue of such individual's education or training and experience, is eminently qualified to assist the Office in administering its functions.

"(2) STAFF OF FEDERAL AGENCIES.—Upon the request of the Secretary, the head of any department or agency of the United States is authorized to detail, on a reimbursable basis, any of the personnel of that department or agency to the Office to assist the Office in its duties under this subsection.

"(3) PERSONNEL.—In order to carry out the provisions of this section, the Director may appoint personnel in accordance with title 5, United States Code, and may compensate such personnel in accordance with the General Schedule described in section 5332 of title 5, United States Code.

"(d) FUNCTIONS OF THE OFFICE.—The Secretary, through the Office, shall—

"(1) provide leadership for policy development and coordinate technology related education activities within the Department of Education;

"(2) in collaboration with appropriate Department of Education offices and organizations and other offices and organizations, establish a process for the systematic evaluation of instructional programming that takes advantage of the capabilities of emerging technology infrastructures and systems, the organization and analysis of such information, and the dissemination through traditional and electronic means of information resulting from such evaluations to interested educators;

"(3) facilitate the transfer of education and training software from Federal agencies to the public and private sector (including State and local education agencies) by carrying out the activities authorized by the Training Technology Transfer Act of 1988 in accordance with the provisions of that Act;

"(4) work with the Federal Communications Commission, National Science Foundation, Department of Commerce and other Federal, State, and local government agencies to assure that national telecommunication policies address the needs and goals of educational agencies;

"(5) work with the Department of Defense and other Federal agencies to facilitate the adaptation and transfer of education and training software developed by such agencies for use by educational institutions throughout the Nation;

"(6) support and encourage cooperative efforts to develop compatibility and other technical standards for technology used by educational agencies through the Federal Coordinating Council for Science, Engineering and Technology and other means;

"(7) promote partnerships between business and education which will expand and improve the use of technology in education;

"(8) support the design and development of new instructional programming concepts and products that hold promise for stimulating new approaches to teaching and learning;

"(9) identify and analyze policy issues related to the use of technology in education;

"(10) administer the Star Schools Program and any other technology programs the Assistant Secretary deems appropriate;

"(11) consult, cooperate, and coordinate educational technology programs with analogous programs of other Federal agencies and initiate interagency agreements for joint funding of such programs;

"(12) work with each of the Institutes assisted under section 405 to ensure coordination of technology activities and policies and to guide such Institutes in the use of technology in carrying out the duties of such Institutes;

"(13) provide guidelines to establish a technology education repository to house existing educational technology, including programming designed for the purpose of locating and disseminating information requested by teachers, librarians, administrators and other members of the public utilizing Federal data banks in order to avoid duplication;

"(14) develop a proposal for a system to transfer to local school districts, schools, classrooms and libraries, nationwide the information described in paragraph (11) via computer systems, visual transmission systems, including open broadcast, closed circuit, cable, microwave, or satellite transmission, the use of video cassettes, video discs, fiber optics, and other systems or devices which produce visual images, and other technological methods; and

"(15) develop a proposal for—

"(A) developing a fair system for metering the use of the repository information described in paragraph (11) provided via an electronic network to local classrooms and libraries; and

"(B) appropriately charging for copyrighted materials and computer access time.

"(e) STUDY ON IMPLEMENTATION OF A NATIONAL TECHNOLOGY REPOSITORY AND TRANSFER SYSTEM.—

"(1) IN GENERAL.—Upon completion of the guidelines for a technology education repository described in subsection (d)(6) and the development of a system to transfer such information to local school districts, schools and classrooms in accordance with subsection (d)(7), the Secretary shall provide for an independent study to—

"(A) determine the estimated costs that would be incurred in the implementation of such repository and system; and

"(B) assess the availability of technology at the local school district, school and classroom level to access the educational technology to be transmitted.

"(2) SPECIAL RULE.—In carrying out the study described in paragraph (1), studies conducted by other Federal agencies may be utilized, if applicable.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out the activities of the Office, there are authorized to be appropriated $3,000,000 for the fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1996.".

TITLE VII—INTERNATIONAL EDUCATION PROGRAM

SEC. 701. INTERNATIONAL EDUCATION PROGRAM.

(a) PROGRAM ESTABLISHED.—The Secretary shall carry out an International Education Program in accordance with this section that shall provide for—

(1) the study of international education programs and delivery systems; and

(2) an international education exchange program.

(b) ASSESSMENT AND INFORMATION.—The Secretary shall award grants for the study, evaluation and analysis of education systems in other nations, particularly Great Britain, France, Germany and Japan. Such studies shall focus upon a comparative analysis of curriculum, methodology and organizational structure, including the length of the school year and school day. In addition, the studies shall provide an analysis of successful strategies employed by other nations to improve student achievement, with a specific focus upon application to schooling in our Nation.

(c) INTERNATIONAL EDUCATION EXCHANGE.—

(1) IN GENERAL.—(A) The Secretary shall carry out a program to be known as the International Education Exchange Program. Under such program the Secretary shall, on the basis of a peer review process, award grants to or enter into contracts with organizations with demonstrated effectiveness or expertise in international achievement comparisons, in order to—

(i) make available to educators from eligible countries exemplary curriculum and teacher training programs in civics and government education and economic education developed in the United States;

(ii) assist eligible countries in the adaptation and implementation of such programs or joint research concerning such programs;

(iii) create and implement educational programs for United States students which draw upon the experiences of emerging constitutional democracies;

(iv) provide a means for the exchange of ideas and experiences in civics and government education and economic education among political, educational and private sector leaders of participating eligible countries; and

(v) provide support for—

(I) research and evaluation to determine the effects of educational programs on students' development of the knowledge, skills and traits of character essential for the preservation and improvement of constitutional democracy; and

(II) effective participation in and the preservation and improvement of an efficient market economy.

(B) In carrying out the program described in subparagraph (A), the Secretary shall reserve in each fiscal year—

(i) 50 percent of the amount available to carry out this subsection for civics and government education activities; and

(ii) 50 percent of such amount for economic education activities.

(2) CONTRACT AUTHORIZED.—(A) The Secretary is authorized to contract with independent nonprofit educational organizations to carry out the provisions of this subsection. The Secretary shall enter into such contract through an open competition.

(B) The Secretary shall award at least 1 but not more than 3 contracts described in subparagraph (A) in each of the areas described in subclauses (I) and (II).

(C) The Secretary shall award contracts described in subparagraph (A) so as to avoid duplication of activities in such contracts.

(D) Each organization with which the Secretary enters into a contract pursuant to subparagraph (A) shall—

(i) be experienced in—

(I) the development and national implementation of curricular programs in civics and government education and economic education for students from grades kindergarten through 12 in local, intermediate, and State educational agencies and in private schools throughout the Nation with the cooperation and assistance of national professional educational organizations, colleges and universities, and private sector organizations;

(II) the development and implementation of cooperative university and school based in-service training programs for teachers of grades kindergarten through grade 12 using scholars from such relevant disciplines as political science, political philosophy, history, law, and economics;

(III) the development of model curricular frameworks in civics and government education and economic education;

(IV) the administration of international seminars on the goals and objectives of civics and government education or economic education in constitutional democracies (including the sharing of curricular materials) for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers; and

(V) the evaluation of civics and government education or economic education programs; and

(ii) have the authority to subcontract with other organizations to carry out the purposes of this subsection.

(3) ACTIVITIES.—The international education program described in this subsection shall—

(A) provide eligible countries with—

(i) seminars on the basic principles of United States constitutional democracy and economics, including seminars on the major governmental and economic institutions and systems in the United States, and visits to such institutions;

(ii) visits to school systems, institutions of higher learning, and nonprofit organizations conducting exemplary programs in civics and government education and economic education in the United States;

(iii) home stays in United States communities;

(iv) translations and adaptations regarding United States civics and government education and economic education curricular programs for students and teachers, and in the case of training programs for teachers translations and adaptations into forms useful in schools in eligible countries, and joint research projects in such areas;

(v) translation of basic documents of United States constitutional government for use in eligible countries, such as The *Federalist Papers*, selected writings of Presidents Adams and Jefferson and the Anti-Federalists, and more recent works on political theory, constitutional law and economics; and

(vi) research and evaluation assistance to determine—

(I) the effects of educational programs on students' development of the knowledge, skills and traits of character essential for the preservation and improvement of constitutional democracy; and

(II) effective participation in and the preservation and improvement of an efficient market economy;

(B) provide United States participants with—

(i) seminars on the histories, economics and governments of eligible countries;

(ii) visits to school systems, institutions of higher learning, and organizations conducting exemplary programs in civics and government education and economic education located in eligible countries;

(iii) home stays in eligible countries;

(iv) assistance from educators and scholars in eligible countries in the development of curricular materials on the history, government and economics of such countries that are useful in United States classrooms;

(v) opportunities to provide on-site demonstrations of United States curricula and pedagogy for educational leaders in eligible countries; and

(vi) research and evaluation assistance to determine—

(I) the effects of educational programs on students' development of the knowledge, skills and traits of character essential for the preservation and improvement of constitutional democracy; and

(II) effective participation in and improvement of an efficient market economy; and

(C) assist participants from eligible countries and the United States in participating in international conferences on civics and government education and economic education for educational leaders, teacher trainers, scholars in related disciplines, and educational policymakers.

(4) PRINTER MATERIALS AND PROGRAMS.—All printed materials and programs provided to foreign nations under this subsection shall bear the logo and text used by the Marshall Plan after World War II, that is, clasped hands with the inscription "A gift from the American people to the people of (insert name of country)".

(5) PARTICIPANTS.—The primary participants in the international education program assisted under this subsection shall be leading educators in the areas of civics and government education and economic education, including curriculum and teacher training specialists, scholars in relevant disciplines, and educational policymakers, from the United States and eligible countries.

(6) PERSONNEL AND TECHNICAL EXPERTS.—The Secretary is authorized to provide Department of Education personnel and technical experts to assist eligible countries establish and implement a database or other effective methods to improve educational delivery systems, structure and organization.

(7) DEFINITIONS.—For the purpose of this subsection the term "eligible country" means a Central European country, an Eastern European country, Lithuania, Latvia,

Estonia, Georgia, the Commonwealth of Independent States, any country that formerly was a republic of the Soviet Union whose political independence is recognized in the United States, and other developing democracies.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) ASSESSMENT AND INFORMATION.—For the purpose of carrying out subsection (b), there are authorized to be appropriated $1,250,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1996.

(2) ACHIEVEMENT COMPARISON.—For the purpose of carrying out subsection (c), there are authorized to be appropriated $1,250,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1996.

(3) INTERNATIONAL EDUCATION EXCHANGE.—For the purpose of carrying out subsection (d), there are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1996.

TITLE VIII—CERTAIN EDUCATIONAL IMPROVEMENT PROGRAMS

SEC. 801. FIELD READERS.

Section 402 of the Department of Education Organization Act (20 U.S.C. 3462) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Secretary"; and

(2) by adding at the end the following new subsection:

"(b) SPECIAL RULE.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may use not more than 1 percent of the funds appropriated for any education program that awards such funds on a competitive basis to pay the expenses and fees of non-Federal experts necessary to review applications and proposals for such funds.

"(2) APPLICABILITY.—The provisions of paragraph (1) shall not apply to any education program under which funds are authorized to be appropriated to pay the fees and expenses of non-Federal experts to review applications and proposals for such funds.".

SEC. 802. COMMISSION EXTENSION.

Section 102 of Public Law 102–62 is amended—

(1) in subsection (d), by striking "2" and inserting "3"; and

(2) in subsection (h), by striking "1991" and all that follows through "and 1993" and inserting "1992 through 1995".

SEC. 803. BUY AMERICAN PROVISIONS.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—No funds appropriated pursuant to this Act (including the amendments made by this Act) may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act").

(b) SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.—

(1) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided under this Act (including the amendments made by this Act), it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act (including the amendments made by this Act), the Secretary of Education shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

SEC. 804. FUNCTIONS OF NATIONAL ASSESSMENT.

(a) IN GENERAL.—Section 406 of the General Education Provisions Act (20 U.S.C. 1221e–1) is amended—

(1) in paragraph (1) of subsection (f), by striking "and 1993" and inserting "1993, and 1994";

(2) in subparagraph (C) of subsection (i)(2)—

(A) by redesignating clauses (iii), (iv), and (v) as clauses (iv), (v), and (vi), respectively;

(B) by inserting after clause (ii) the following:

"(iii) The National Assessment shall—

"(I) conduct, in 1994, a trial mathematics assessment for the 4th and 8th grades and a trial reading assessment for the 4th grade, in States that wish to participate, for the purpose of determining whether such assessments yield valid and reliable State representative data;

"(II) develop a trial mathematics assessment for the 12th grade, a trial reading assessment for the 8th and 12th grades, and a trial science assessment for the 4th, 8th, and 12th grades, to be administered in 1994 in States that wish to participate, for the purpose of determining whether such assessments yield valid and reliable State representative data; and

"(III) include in each such sample assessment referred to in subclauses (I) and (II) students in public and private schools in a manner that ensures comparability with the national sample."; and

(C) in clause (vi) (as redesignated by subparagraph (A) of this paragraph)—

(i) in the first sentence, by striking "and the fairness and accuracy of the data they produce" and inserting ", the fairness and accuracy of the data they produce, and important issues affecting the quality and integrity of the National Assessment"; and

(ii) by striking "paragraph (C)(i) and (ii)" and inserting "clauses (i), (ii), and (iii)".

(b) CONFORMING AMENDMENT.—Subparagraph (D) of section 405(f)(1) of the General Education Provisions Act (20 U.S.C. 1221e(f)(1)) is amended by striking "1993" and inserting "1994".

(c) ADDITIONAL REPORT.—

(1) IN GENERAL.—The Secretary shall provide for the organization that conducts the independent evaluation required by section 406(i)(2)(C)(vi) of the General Education Provisions Act to study and report to the Congress on—

(A) the process whereby achievement goals are set pursuant to section 406(i)(6) of such Act; and

(B) the ability of the National Assessment of Educational Progress to maintain valid data with respect to trends in student performance.

(2) TIME FOR SUBMISSION OF REPORT.—The report required by paragraph (1) shall be submitted as soon as practicable, but in any event not later than 120 days after the date of the enactment of this Act.

TITLE IX—BUDDY SYSTEM COMPUTER EDUCATION

SEC. 901. SHORT TITLE.

This title may be cited as the "Buddy System Computer Education Act".

SEC. 902. PURPOSE.

It is the purpose of this title to award demonstration grants to develop and expand public-private partnership programs which extend the learning experience, via computers, beyond the classroom environment in order to—

(1) enhance learning by providing students with the technological tools and guidance necessary to develop skills critical to educational growth and success in the workplace, including—

(A) mastery of fundamental computer technology and applications;

(B) improved written and visual communication skills;

(C) improved critical thinking and problem solving abilities; and

(D) improved ability to work in a collaborative, teamwork-driven environment;

(2) encourage parental involvement in education and total family use and understanding of computers and telecommunications through at-home applications; and

(3) establish foundations for life-long learning through improvement in education skills and student motivation and attitudes.

SEC. 903. GRANT AUTHORIZATION.

(a) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall conduct a program of awarding a grant to each of 3 States to enable such States to create a computer-based education project in accordance with the requirements of section 704 for children in—

(A) grades 4 through 6; or

(B) middle or junior high school.

(2) AWARD BASIS.—The Secretary shall award grants under this title on a competitive basis.

(3) PREFERENCE.—In awarding grants under this title, the Secretary shall give preference to applications—

(A) from States that have a demonstrated ability or commitment to computer-based technology education; and

(B) describing projects that serve school districts which serve a large number or percentage of economically disadvantaged students.

(b) SITE SELECTION AND PROJECT IMPLEMENTATION.—Site selection and implementation of the computer-based education projects assisted under this title shall take place not later than 9 months after funds are appropriated to carry out this title pursuant to the authority of section 909.

SEC. 904. PROGRAM REQUIREMENTS.

Each State receiving a grant to conduct a computer-based education project under this title shall—

(1) provide a continuous 3-year computer-based education project to—

(A) 2 consecutive groups of 4th, 5th, and 6th grade elementary school students during the period commencing with each such group's entry into 4th grade and ending the summer following each such group's completion of 6th grade; or

(B) 2 consecutive groups of middle or junior high school students during the period commencing with each such group's entry into the 1st grade taught at such middle or junior high school and ending the summer following each such group's completion of the last grade taught at such middle or junior high school.

(2) ensure that each student in each of the classes participating in the project shall participate in the project;

(3) conduct such project in not more than 7 public elementary, middle, or junior high schools within the State; and

(4) ensure that each student participating in the project shall have access to a computer—

(A) at school during the school year; and

(B) at home during the school year and summer.

SEC. 905. APPLICATIONS.

(a) APPLICATION REQUIRED.—In order to receive a grant under this title, the chief State school officer of a State shall submit an application to the Secretary in such form and containing such information as the Secretary may reasonably require. Such application shall include an assurance from the State educational agency that the State educational agency has made every effort to match on a dollar-for-dollar basis from private or public sources the funds received under this title, except that no such application shall be penalized or denied assistance under this title on the basis of the failure to provide such matching funds.

(b) APPLICATION PERIOD.—States shall be eligible to submit applications for assistance under this title during a 3-month period determined by the Secretary.

SEC. 906. USE OF FUNDS.

Grant funds under this title shall be used to provide hardware and software components to all sites, and training for classroom teachers as well as parents, administrators and technical personnel.

SEC. 907. EVALUATION.

The Secretary shall evaluate the demonstration program assisted under this title and shall report to the Congress regarding the overall effectiveness of such program.

SEC. 908. DEFINITIONS.

For the purpose of this title, the term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau.

SEC. 909. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of carrying out this title, there are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York [Mr. OWENS] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. OWENS].

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 4014.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4014, the Educational Research, Development, and Dissemination Excellence Act. This legislation reauthorizes and restructures the Office of Educational Research and Improvement to establish a world-class research and development system to guide and drive the national effort to improve education and achieve the national goals.

This legislation has been crafted through a uniquely open and participatory process. We have worked hard to put together a truly bipartisan, consensus bill. The Subcommittee on Select Education has held 15 hearings and heard from 92 witnesses about the kinds of changes which must be made in the structure and authorities of OERI. We have carefully considered and, in most cases, adopted the recommendations of two complementary studies of OERI completed by the National Academy of Sciences and the National Academy of Education. We have held more than 45 meetings with the Republican staff of the Education and Labor Committee drafting, discussing, and redrafting legislative language; many useful, and important provisions of this bill have been contributed by Mr. GOODLING and Mr. BALLENGER and their staffs. We met with the Department of Education on two occasions for line-by-line discussions of the legislation. We met twice with Senate staff to learn about their concerns and interests. And we gave an opportunity to present written and oral comments about the bill to any organization and individual who wanted to be heard. The end product of this lengthy, exhaustive process is a very strong, consensus bill which sets OERI on a bold, new course.

If we are to achieve the ambitious national educational goals promulgated by the President and the Nation's Governors, OERI must be moved from the periphery to the center of educational reform and innovation in America. It must become the locomotive which pulls and guides the national effort to improve education with sound, research-based leadership for change.

In every other realm of public policy, we recognize that a substantial investment in research and development is essential to provide us with the knowledge we need to guide and support our actions. In agriculture, in aeronautics, in medicine, in engineering, and in other sciences, a robust system of research and development shapes and drives decisionmaking. Research and development is recognized as an indispensable beacon to point the way.

This has not been the case with research and development in education. The Federal educational research and development system is held in low repute; in general, the knowledge it produces is not considered to be terribly useful to efforts to improve the quality of education. There has been no coherent or consistent long-term agenda; research priorities at OERI have rapidly fluctuated, shifting with changes in key personnel and administrations, and have been dominated by short-term and frequently partisan considerations. Research priorities have not been responsive to many of the needs and concerns of teachers, school administrators, and other practitioners. Critical areas of research, including the education of at risk students and early childhood development, have not received adequate attention. Efforts to translate the knowledge gained from educational research into real improvements in educational practice have been fragmented, sporadic, and ineffective. And largely as a result of the system's overall lack of credibility, educational research and development has been dangerously underfunded.

H.R. 4014 seeks to address these and other severe problems which now impair and afflict the Federal system of educational research and development.

First and foremost, the bill creates a stable, nonpartisan system of governance modeled upon the National Institutes of Health and the National Science Foundation to guide OERI's activities. An 18-member Board of Governors consisting of both educational researchers and representatives of teachers, parents, school administrators, and other stakeholders in the Nation's educational system is established to oversee and guide OERI. The Board's key function is to develop a comprehensive research priorities plan to end the incoherent, "flavor of the month" approach to research which has limited OERI's effectiveness for so long. This would be a long-term agenda for OERI's research and development efforts, reflecting a consensus of both educators and researchers, which would set out priorities and objectives for OERI, including areas which merit further inquiry and the most effective means of addressing them. This research priorities plan would provide guidance to the Department in its administration of OERI and the Congress in its oversight of these activities.

H.R. 4014 also realigns OERI's activities according to an Institute structure to provide an enduring focus for its efforts. Currently, OERI is organized by how it conducts research, with different units managing the research centers program, field-initiated research, and so forth, and not by what is being studied. This has contributed to the overall lack of coherence and stability at OERI. H.R. 4014 would restructure OERI's research and development activities according to an institute framework, with institutes focused in the following areas: the education of at-risk students; educational governance, finance, and management; early childhood learning, communities, and families; student achievement; and postsecondary education, libraries, and lifelong learning. These institutes would conduct research through the same means that OERI now employs, including through centers and field-initiated research.

To assure that the results of educational research are fully translated into real improvements in practice, H.R. 4014 creates an Office of Reform Assistance and Dissemination within OERI which would be responsible for managing and directing multiple efforts to synthesize, disseminate, and promote the use of knowledge gained through research. These efforts include the ERIC clearinghouses, the administration's Smartline telecommunications project, and the regional educational laboratories.

H.R. 4014 also establishes the America 2000 Communities Special Assistance Program, a new program which would provide continuous, field-based technical assistance in utilizing the results of educational research to improve education in communities located in the 50 congressional districts with the lowest median family income. In these most impoverished communities in America, there is an urgent need for a permanent, independent resource to support and guide efforts to improve education. This District Education Agent Program is inspired and derived from the county agricultural extension agent, a program which proved enormously successful in the first part of this century in transforming American agriculture, community by community, to a position of world dominance. Following the agriculture extension program model, a district education agent would be based in a learning grant institution and would work with the local community to develop and implement a comprehensive plan to improve education from the preschool to postdoctoral level. The agent will also help schools and community members review and evaluate the success of Federal educational programs within the community and assist in improving their implementation.

Although this innovative technical assistance initiative would be provided by H.R. 4014 only with the 50 poorest congressional districts, OERI would be directed to plan for the expansion of this pilot program to all 435 congressional districts beginning in fiscal year 1997.

Through these and other provisions, H.R. 4014 would restructure and reinvigorate OERI so that it can begin to provide the Nation with the research-based knowledge it needs to meet the national educational goals. Just as the National Institutes of Health guides the national effort to improve the practice of medicine and the health of our people, just as the National Science Foundation guides the national effort to improve the practice of science of engineering and to advance our knowledge in those disciplines, OERI would be invested with the means and authority to lead the national effort to improve the practice of education and to enhance the quality of educational opportunities available to our citizens. OERI would be placed at the center of an overwhelming campaign to improve education in America.

Not all elements of the bill are as strong as I would like them to be, however. In an effort to advance the reauthorization process, I am offering a compromise amendment to the legislation reported by the Education and Labor Committee which addresses concerns raised by the administration and House Republicans and incorporates key provisions of S. 1275, the OERI reauthorization legislation introduced by Senator PELL. I believe that this amendment weakens the bill in a number of respects, but I am offering it today because I am concerned that, given the short time remaining in the session, it is the only way we can hope to assure that reauthorization is completed this year.

The compromise amendment addresses every single major objection raised by Secretary of Education Lamar Alexander in his May 14, 1992 letter to the Education and Labor Committee concerning H.R. 4014. In particular, the amendment diminishes the authority of the Board, eliminates limitations on the Secretary's discretion in appointing members of the Board, and removes language limiting the use of GEPA section 405 funds for the development of curriculum frameworks. I understand that the administration would still like to see the authority of the Board further reduced so that it is solely an advisory board, but this is unacceptable to the committee. In its research and reform study, the National Academy of Sciences rejected the idea of an advisory board and emphasized the importance of creating a board at OERI which had policymaking authority far greater than that provided for in the compromise amendment. It should be noted that it was the Department of Education, not the Democratic Congress, which paid the Academy more than $1 million to perform that study. I cannot imagine why the administration would pay for such a study if it did not anticipate heeding its recommendations.

The compromise amendment also includes the most important provisions of S. 1275, the Senate reauthorization legislation. It increases the authorization for the Institute for Student Achievement to make it the largest institute, as in the Senate bill, and blends Senate language for the authorities, duties, and names of the institutes with comparable House provisions. The Board is renamed the OERI Board of Governors, the name of the Board in the Senate bill, the size of the Board is reduced, the duration of Board membership is increased to 5 years. The amendment also significantly expands the authority of the Assistant Secretary, providing that office with the authority to develop standards for the conduct and evaluation of research and with independent hiring authority, as in S. 1275. The compromise also includes three additional programs authorized in S. 1275: the Office of Education Technology, the Buddy System Computer Education Program, and the International Education Program.

We have added these and other provisions of S. 1275 to H.R. 4014 in the hope that, upon House passage of H.R. 4014, the Senate may take up this legislation, pass it, and send it on to the White House. In this way, we can assure that reauthorization will be enacted this year. That is only our hope, however; we cannot presume to tell the other body how to do its work. It is entirely up to the Senate leadership to determine how this matter should be handled.

I understand that there is a possibility that the Senate may pass this legislation with some additional amendments. This, again, is entirely a question for that body to decide. I want to emphasize, however, that any amendments which alter the size, composition, or authority of the Board will kill this legislation. The same is true of any changes to the structure of the authorization for the institutes. We have made enormous concessions in both these areas and to go further would be counterproductive.

Decades ago, it took the Congress and the President 3 years to agree on legislation establishing the National Science Foundation. The main point of contention was the authority of the National Science Board; the White House did not want the Board to have policymaking authority and the Congress did. Ultimately, reason prevailed and the NSB was invested with policymaking authority. No one today disputes the wisdom of that decision. The governance structure of the NSF is universally recognized as a success.

Just as it took the Congress 3 years to convince the White House of the importance of a policymaking board at the National Science Foundation, so, too, are we now prepared to stand fast to assure that there is a board at the helm of OERI which has some policymaking authority. We have made substantial concessions which have already significantly eroded the authority of the board in H.R. 4014. No further concessions will be made on this point.

Even with the concessions and changes made in this amendment, H.R. 4014 remains a strong and important piece of legislation. With this bill, we can provide meaningful support to the efforts of teachers, school administrators, parents and others to reform and improve the quality of our children's education. With this bill, we can assure that the kind of research-based knowledge they need will be systematically and abundantly produced by OERI. No longer will OERI be a faint and flickering light; it will be a powerful and reliable beacon for reform and change in education.

Mr. Speaker, to significantly improve education in America we need an overwhelming campaign. This legislation provides the Office of Educational Research and Improvement with the capability to lead this overwhelming campaign for the improvement of education.

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Mr. Speaker, I reserve the balance of my time.

Mr. GOODLING. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. BALLENGER], who was the chief negotiator and the construction foreman from our side of the aisle.

Mr. BALLENGER. Mr. Speaker, first of all, I would like to thank my senior member of our committee for those kind remarks.

Mr. Speaker, I am pleased to speak in support of H.R. 4014, the Educational Research, Development, and Dissemination Excellence Act.

This bill has gone through a long and intensive negotiation process between Mr. OWENS, Mr. GOODLING, and myself, and I thank Mr. OWENS for his willingness to compromise. The final product represents a bipartisan agreement that will improve the Federal education research and development effort without doing damage to the role of the executive branch.

As a businessman, I know firsthand the importance of research and development in the process of improving products and services. This is as true for our system of education as it is for automobiles and agriculture.

As a nation we spend over $300 billion on elementary and secondary education. The limited Federal role in supporting education R&D assures that this large investment is well spent and continues to move forward with innovations and proven methods. In my own district I have seen distance learning projects, based on cutting edge telecommunications, that have allowed students to take courses that would have been otherwise unavailable. This is the kind of work that OERI must continue to develop and disseminate.

It is my hope that this reauthorization will provide the administrative structure to lead our education R&D into the next century. Like American business, our schools must not only work harder, but they must also work smarter. I believe this legislation provides the support to make that happen.

I would like to take this opportunity to congratulate the chairman of the subcommittee, Mr. OWENS, who has spent a great deal of time and energy on this legislation. The product is a good one and deserves the support of all my colleagues.

Mr. GOODLING. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 4014, the Educational Research, Development and Dissemination Act. This legislation would authorize the important research and development function in the U.S. Department of Education, and I want to thank the gentleman from New York [Mr. OWENS] and the gentleman from North Carolina [Mr. BALLENGER] for their ability to construct a bipartisan bill with the help, of course, of the staffs, Dr. Hartman, Maria, Brady, and Laurence.

While this is a relatively small part of the Federal effort to improve education, I believe that it is crucial to bringing about reform. Most Federal education programs support educational services to students, and are very small components of a large service delivery system. The Federal Government is the primary supporter of educational R&D, and as such is the largest source of support for innovation and reform ideas.

When H.R. 41014 went through our committee, Republican Members had several problems with the bill. I am happy to say that these concerns have been largely addressed.

First, the Board of Governors has been given appropriate advisory responsibilities to the Secretary of Education, while continuing to serve an important function in shaping the research agenda of the agency.

Second, the Board of Governors is appointed by the Secretary of Education with recommendations from outside groups. The one exception to this is the nominations from the National Academy of Sciences. In this case the Secretary can request additional names until satisfied.

Third, the power of the Board to veto specific grants has been removed from the bill.

I want to thank Mr. OWENS for his willingness to work through these problems with us and his staff for their hard work in getting this bill to the floor.

I think this bill contains several innovations. These include: a strong Board to provide direction to the policy of OERI, an institute structure similar to the National Institutes of Health, and several new provisions that will improve the dissemination of research results to schools and teachers—where they are needed.

Again, I applaud Chairman OWENS and ranking member Mr. BALLENGER for their leadership in this area and urge my colleagues to support this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. OWENS of New York. Mr. Speaker, I yield myself such time as I may consume.

I would also like to thank the staff of both sides, Andy Hartman, Brady Goetz, Laurence Peters, Maria Cuprill, and the other staffs of the subcommittee.

Mr. FORD of Michigan. Mr. Speaker, I rise in support of H.R. 4014, the Educational Research, Development and Dissemination Excellence Act.

I wish first to commend Chairman MAJOR OWENS for his vision on restructuring and strengthening the research arm of the U.S. Department of Education as provided for by H.R. 4014. This legislation is the product of several years of his labor and reflects Mr. OWENS' ability to build a solidly based package, supported by researchers and policymakers in the field, and supported by both Democrats and Republicans on my committee.

The bill was originally scheduled to be considered under a rule so that Members would have had the opportunity to offer amendments. Due to the limited time available for the remainder of this session, this bill is being taken to the floor under suspension of the rules. All noncontroversial amendments submitted to the Rules Committee, which were offered by Republicans and Democrats alike, have been incorporated into the final bill.

I would also like to acknowledge the substantial contributions made by our ranking Republican Representative GOODLING and by Representative BALLENGER, ranking Republican on the Select Education Subcommittee. Their efforts have made the legislation that much stronger.

The major provisions of the bill include:

An independent policymaking board for Office of Educational Research and Improvement [OER] which includes education researchers, teachers, parents, school administrators, employers, and policymakers;

The authorization of five institutes to realign OERI according to a programmatic structure within the following five priority areas: First, the education of at-risk students; second, educational governance, finance, and management; third, early childhood learning, families and communities; fourth, student achievement, and fifth, postsecondary education, libraries, and lifelong learning;

A strengthened national dissemination system to carry out a broad range of dissemination and technical assistance activities to support reform and school improvement efforts undertaken by local education agencies, teachers, school administrators policymakers, parents and others.

The establishment of a national library of education to effect a central location within the Federal Government for information about education with comprehensive reference services available to both Department of Education employees and to the general public;

An authority which vests the Secretary of Education with the power to provide national leadership to promote the expansion of an improvements in the use of technology in education.

The bill also includes a number of provisions from S. 1275, the companion bill in the Senate, in an effort to expedite final passage of this legislation.

I believe this legislation will help to bring about needed stability within the Office of Educational Research and Improvement as it carries federal education research into the 21st Century. Despite early differences with the administration, I believe the bill before us has more than met the administration halfway in accommodating its concerns.

I urge my colleagues to approve this bill expeditiously.

Mr. MARTINEZ. Mr. Speaker, I rise in strong support of the Educational Research, Development and Dissemination Excellence Act. This legislation takes an important step to move education reform from rhetoric to reality by raising the quality of our Nation's educational research system, working to ensure that it is focused on central issues of school improvement, and strengthening the Federal system that translates research findings into improved instruction in our Nations' classrooms. This includes creation of a National Educational Research Policy and Priorities Board to provide independent and expert direction to improving our nation's educational research system, the establishment of National Research Institutes with a critical mass of funding and expertise to provide sustained effort to solve major problems in education, a system of educational labs with independent governance and a clear regional focus to translate educational research into forms useful to classroom teachers to improve education, and increased opportunity for field initiated research that helps keep the national research enterprise in touch with the real educational needs in our classrooms. Together these provisions maintain a clear and appropriate Federal role in educational research that targets dollars at national problems rather than displacing State and local activities that are better suited to meeting their local needs.

The legislation takes important steps toward better assessments and the better use of assessments needed as part of America's work to improve educational practice. All too often misassessment and mismeasures have worked to track and misplace students. Sometimes they have driven instruction in ways that undermine achievement rather than enhance it. The problems in accurate assessment appropriately used are often particularly important in education of students with disabilities, students with limited English proficiency, and other students who for a variety of reasons have often been mismeasured and miseducated. "Technical issues", such as accurately assessing students who don't speak English as a first language become major issues in many parts of our Nation. For example, in California one out of six students was born outside the Nation and one out of four does not speak English at home. Assessments that are valid, reliable, and fair, and used in ways that improve rather than undermine instruction and educational achievement are crucial—and this legislation works to encourage the development and use of such assessments. In authorizing R&D on standards of performance, quality, validity and reliability, it is our intent that all assessments must meet the same high technical and professional standards in design and in use. Therefore the legislation requires that the assessments comply with the Standards for Educational and Psychological Tests and other major codes of testing.

Finally, our Nation is at a critical point in history as technology is being adopted to provide effective education. I have worked closely with Chairman OWENS for development and inclusion of provisions in this legislation that help strengthen the appropriate use of technology in ways that improve educational research and dissemination to improve instruction.

In sum this is important legislation that moves to provide the foundations of a Federal education research and development system that has critical mass, that is sensitive to real educational needs of our Nation, and that is not inappropriately dominated by the inside the beltway educational fads of the moment. I urge my colleagues to join me in supporting this important legislation.

Mr. DELAY. Mr. Speaker, I would like to thank Congressman OWENS, Congressman BALLENGER, Congressman GOODLING, and any others who played a part in incorporating my school choice research amendment into H.R. 4014, the Educational Research, Development, and Dissemination Excellence Act.

The issue of parental school choice is an old one by now. Arguments have flown back and forth, forward and backward, with what seems to be no possible consensus. I believe it is time to start making an effort to work through all of the issues that have so entangled school choice so that some conclusions can be reached.

My amendment requires that the Director of the National Institute for Innovation in Educational Governance, Finance and Management, under the Department of Education's Office of Educational Research and Improvement, conduct research on parental school choice programs and their potential to improve the quality of education. School choice is one of the most controversial topics in education today. Regardless of any of our personal views on this issue, we owe it to the American people to examine it and determine the effects it might have on our education system.

H.R. 4014 states on page 7, line 18, that one of the missions of the Office of Educational Research and Improvement is to "provide national leadership in * * * promoting excellence and equity in education." I believe that allowing parents to choose the school their child attends would inspire healthy competition among schools, forcing them to work to attract students and giving them an incentive to improve. Our colleges and universities compete with each other, which does not preclude their being eligible to receive State and Federal assistance, and are the finest in the world. On the other hand, our primary and secondary schools, insulated from competition, are the worst in the industrialized world.

Line one of page 3 of H.R. 4014 states, "The Federal role in educational research has been closely identified with youths who are socioeconomically disadvantaged * * *". I, along with other proponents of school choice, believe that minorities and disadvantaged children gain the most under choice. Families with greater means can move to a nicer neighborhood or pay the tuition of a private school if they wish. The disadvantaged do not have these options.

My views, however, are irrelevant today because my purpose in offering this amendment is not to force these views on others. Rather, I am hoping to bring this discussion under close scrutiny. As H.R. 4014 states on page 1, this legislation is intended "to improve education in the United States by promoting excellence in research, development, and the dissemination of information." If even the possibility exists that school choice will improve the quality of education and assist those children and families most in need of help—as proponents of school choice claim—then we have a duty to pursue it.

I am certain the American people are tired of listening to our banter on reforming education—they want to see results. Arguments on school choice range from claims that it will destroy public schools and discriminate against the disadvantaged to claims that it is the catalyst that will spark innovation in management, teaching, and learning—the only program that means true reform in education. In light of these irreconcilable extremes of opinion, the best course of action available to us right now is to direct the Office of Educational Research and Improvement, through this educational research bill, to examine the issue of parental school choice and report its findings to Congress and the American people.

Mr. OWENS of New York. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SANGMEISTER). The question is on the motion offered by the gentleman from New York [Mr. OWENS] that the House suspend the rules and pass the bill, H.R. 4014, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUDIO HOME RECORDING ACT OF 1992

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3204) to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Audio Home Recording Act of 1992".

SEC. 2. IMPORTATION, MANUFACTURE, AND DISTRIBUTION OF DIGITAL AUDIO RECORDING DEVICES AND MEDIA.

Title 17, United States Code, is amended by adding at the end the following:

"CHAPTER 10—DIGITAL AUDIO RECORDING DEVICES AND MEDIA

"SUBCHAPTER A—DEFINITIONS

"Sec.
"1001. Definitions.

"SUBCHAPTER B—COPYING CONTROLS

"1002. Incorporation of copying controls.

"SUBCHAPTER C—ROYALTY PAYMENTS

"1003. Obligation to make royalty payments.
"1004. Royalty payments.
"1005. Deposit of royalty payments and deduction of expenses.
"1006. Entitlement to royalty payments.

"1007. Procedures for distributing royalty payments.

"SUBCHAPTER D—PROHIBITION ON CERTAIN INFRINGEMENT ACTIONS, REMEDIES, AND ARBITRATION

"1008. Prohibition on certain infringement actions.

"1009. Civil remedies.

"1010. Arbitration of certain disputes.

"SUBCHAPTER A—DEFINITIONS

"§ 1001. Definitions

"As used in this chapter, the following terms have the following meanings:

"(1) A 'digital audio copied recording' is a reproduction in a digital recording format of a digital musical recording, whether that reproduction is made directly from another digital musical recording or indirectly from a transmission.

"(2) A 'digital audio interface device' is any machine or device that is designed specifically to communicate digital audio information and related interface data to a digital audio recording device through a nonprofessional interface.

"(3) A 'digital audio recording device' is any machine or device of a type commonly distributed to individuals for use by individuals, whether or not included with or as part of some other machine or device, the digital recording function of which is designed or marketed for the primary purpose of, and that is capable of, making a digital audio copied recording for private use, except for—

"(A) professional model products, and

"(B) dictation machines, answering machines, and other audio recording equipment that is designed and marketed primarily for the creation of sound recordings resulting from the fixation of nonmusical sounds.

"(4)(A) A 'digital audio recording medium' is any material object in a form commonly distributed for use by individuals, that is primarily marketed or most commonly used by consumers for the purpose of making digital audio copied recordings by use of a digital audio recording device.

"(B) Such term does not include any material object—

"(i) that embodies a sound recording at the time it is first distributed by the importer or manufacturer; or

"(ii) that is primarily marketed and most commonly used by consumers either for the purpose of making copies of motion pictures or other audiovisual works or for the purpose of making copies of nonmusical literary works, including computer programs or data bases.

"(5)(A) A 'digital musical recording' is a material object—

"(i) in which are fixed, in a digital recording format, only sounds, and material, statements, or instructions incidental to those fixed sounds, if any, and

"(ii) from which the sounds and material can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.

"(B) A 'digital musical recording' does not include a material object—

"(i) in which the fixed sounds consist entirely of spoken word recordings, or

"(ii) in which one or more computer programs are fixed, except that a digital musical recording may contain statements or instructions constituting the fixed sounds and incidental material, and statements or instructions to be used directly or indirectly in order to bring about the perception, reproduction, or communication of the fixed sounds and incidental material.

"(C) For purposes of this paragraph—

"(i) a 'spoken word recording' is a sound recording in which are fixed only a series of spoken words, except that the spoken words may be accompanied by incidental musical or other sounds, and

"(ii) the term 'incidental' means related to and relatively minor by comparison.

"(6) 'Distribute' means to sell, lease, or assign a product to consumers in the United States, or to sell, lease, or assign a product in the United States for ultimate transfer to consumers in the United States.

"(7) An 'interested copyright party' is—

"(A) the owner of the exclusive right under section 106(1) of this title to reproduce a sound recording of a musical work that has been embodied in a digital musical recording or analog musical recording lawfully made under this title that has been distributed;

"(B) the legal or beneficial owner of, or the person that controls, the right to reproduce in a digital musical recording or analog musical recording a musical work that has been embodied in a digital musical recording or analog musical recording lawfully made under this title that has been distributed;

"(C) a featured recording artist who performs on a sound recording that has been distributed; or

"(D) any association or other organization—

"(i) representing persons specified in subparagraph (A), (B), or (C), or

"(ii) engaged in licensing rights in musical works to music users on behalf of writers and publishers.

"(8) To 'manufacture' means to produce or assemble a product in the United States. A 'manufacturer' is a person who manufactures.

"(9) A 'music publisher' is a person that is authorized to license the reproduction of a particular musical work in a sound recording.

"(10) A 'professional model product' is an audio recording device that is designed, manufactured, marketed, and intended for use by recording professionals in the ordinary course of a lawful business, in accordance with such requirements as the Secretary of Commerce shall establish by regulation.

"(11) The term 'serial copying' means the duplication in a digital format of a copyrighted musical work or sound recording from a digital reproduction of a digital musical recording. The term 'digital reproduction of a digital musical recording' does not include a digital musical recording as distributed, by authority of the copyright owner, for ultimate sale to consumers.

"(12) The 'transfer price' of a digital audio recording device or a digital audio recording medium—

"(A) is, subject to subparagraph (B)—

"(i) in the case of an imported product, the actual entered value at United States Customs (exclusive of any freight, insurance, and applicable duty), and

"(ii) in the case of a domestic product, the manufacturer's transfer price (FOB the manufacturer, and exclusive of any direct sales taxes or excise taxes incurred in connection with the sale); and

"(B) shall, in a case in which the transferor and transferee are related entities or within a single entity, not be less than a reasonable arms-length price under the principles of the regulations adopted pursuant to section 482 of the Internal Revenue Code of 1986, or any successor provision to such section.

"(13) A 'writer' is the composer or lyricist of a particular musical work.

"SUBCHAPTER B—COPYING CONTROLS

"§ 1002. Incorporation of copying controls

"(a) Prohibition on Importation, Manufacture, and Distribution.—No person shall import, manufacture, or distribute any digital audio recording device or digital audio interface device that does not conform to—

"(1) the Serial Copy Management System;

"(2) a system that has the same functional characteristics as the Serial Copy Management System and requires that copyright and generation status information be accurately sent, received, and acted upon between devices using the system's method of serial copying regulation and devices using the Serial Copy Management System; or

"(3) any other system certified by the Secretary of Commerce as prohibiting unauthorized serial copying.

"(b) Development of Verification Procedure.—The Secretary of Commerce shall establish a procedure to verify, upon the petition of an interested party, that a system meets the standards set forth in subsection (a)(2).

"(c) Prohibition on Circumvention of the System.—No person shall import, manufacture, or distribute any device, or offer or perform any service, the primary purpose or effect of which is to avoid, bypass, remove, deactivate, or otherwise circumvent any program or circuit which implements, in whole or in part, a system described in subsection (a).

"(d) Encoding of Information on Digital Musical Recordings.—

"(1) Prohibition on encoding inaccurate information.—No person shall encode a digital musical recording of a sound recording with inaccurate information relating to the category code, copyright status, or generation status of the source material for the recording.

"(2) Encoding of copyright status not required.—Nothing in this chapter requires any person engaged in the importation or manufacture of digital musical recordings to encode any such digital musical recording with respect to its copyright status.

"(e) Information Accompanying Transmissions in Digital Format.—Any person who transmits or otherwise communicates to the public any sound recording in digital format is not required under this chapter to transmit or otherwise communicate the information relating to the copyright status of the sound recording. Any such person who does transmit or otherwise communicate such copyright status information shall transmit or communicate such information accurately.

"SUBCHAPTER C—ROYALTY PAYMENTS

"§ 1003. Obligation to make royalty payments

"(a) Prohibition on Importation and Manufacture.—No person shall import into and distribute, or manufacture and distribute, any digital audio recording device or digital audio recording medium unless such person records the notice specified by this section and subsequently deposits the statements of account and applicable royalty payments for such device or medium specified in section 1004.

"(b) Filing of Notice.—The importer or manufacturer of any digital audio recording device or digital audio recording medium, within a product category or utilizing a technology with respect to which such manufacturer or importer has not previously filed a notice under this subsection, shall file with the Register of Copyrights a notice with respect to such device or medium, in such form and content as the Register shall prescribe by regulation.

"(c) Filing of Quarterly and Annual Statements of Account.—

"(1) Generally.—Any importer or manufacturer that distributes any digital audio recording device or digital audio recording medium that it manufactured or imported shall file with the Register of Copyrights, in such form and content as the Register shall prescribe by regulation, such quarterly and annual statements of account with respect to such distribution as the Register shall prescribe by regulation.

"(2) Certification, verification, and confidentiality.—Each such statement shall be certified as accurate by an authorized officer or principal of the importer or manufacturer. The Register shall issue regulations to provide for the verification and audit of such statements and to protect the confidentiality of the information contained in such statements. Such regulations shall provide for the disclosure, in confidence, of such statements to interested copyright parties.

"(3) Royalty payments.—Each such statement shall be accompanied by the royalty payments specified in section 1004.

"§ 1004. Royalty payments

"(a) Digital Audio Recording Devices.—

"(1) Amount of payment.—The royalty payment due under section 1003 for each digital audio recording device imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 2 percent of the transfer price. Only the first person to manufacture and distribute or import and distribute such device shall be required to pay the royalty with respect to such device.

"(2) Calculation for devices distributed with other devices.—With respect to a digital audio recording device first distributed in combination with one or more devices, either as a physically integrated unit or as separate components, the royalty payment shall be calculated as follows:

"(A) If the digital audio recording device and such other devices are part of a physically integrated unit, the royalty payment shall be based on the transfer price of the unit, but shall be reduced by any royalty payment made on any digital audio recording device included within the unit that was not first distributed in combination with the unit.

"(B) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have been distributed separately at any time during the preceding 4 calendar quarters, the royalty payment shall be based on the average transfer price of such devices during those 4 quarters.

"(C) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have not been distributed separately at any time during the preceding 4 calendar quarters, the royalty payment shall be based on a constructed price reflecting the proportional value of such device to the combination as a whole.

"(3) Limits on royalties.—Notwithstanding paragraph (1) or (2), the amount of the royalty payment for each digital audio recording device shall not be less than $1 nor more than the royalty maximum. The royalty maximum shall be $8 per device, except that in the case of a physically integrated unit containing more than 1 digital audio recording device, the royalty maximum for such unit shall be $12. During the 6th year after the effective date of this chapter, and not more than once each year thereafter, any interested copyright party may petition the Copyright Royalty Tribunal to increase the royalty maximum and, if more than 20 percent of the royalty payments are at the relevant royalty maximum, the Tribunal shall prospectively increase such royalty maximum with the goal of having no more than 10 percent of such payments at the new royalty maximum; however the amount of any such increase as a percentage of the royalty maximum shall in no event exceed the percentage increase in the Consumer Price Index during the period under review.

"(b) Digital Audio Recording Media.—The royalty payment due under section 1003 for each digital audio recording medium imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 3 percent of the transfer price. Only the first person to manufacture and distribute or import and distribute such medium shall be required to pay the royalty with respect to such medium.

"§ 1005. Deposit of royalty payments and deduction of expenses

"The Register of Copyrights shall receive all royalty payments deposited under this chapter and, after deducting the reasonable costs incurred by the Copyright Office under this chapter, shall deposit the balance in the Treasury of the United States as offsetting receipts, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest under section 1007. The Register may, in the Register's discretion, 4 years after the close of any calendar year, close out the royalty payments account for that calendar year, and may treat any funds remaining in such account and any subsequent deposits that would otherwise be attributable to that calendar year as attributable to the succeeding calendar year. The Register shall submit to the Copyright Royalty Tribunal, on a monthly basis, a financial statement reporting the amount of royalties under this chapter that are available for distribution.

"§ 1006. Entitlement to royalty payments

"(a) Interested Copyright Parties.—The royalty payments deposited pursuant to section 1005 shall, in accordance with the procedures specified in section 1007, be distributed to any interested copyright party—

"(1) whose musical work or sound recording has been—

"(A) embodied in a digital musical recording or an analog musical recording lawfully made under this title that has been distributed, and

"(B) distributed in the form of digital musical recordings or analog musical recordings or disseminated to the public in transmissions, during the period to which such payments pertain; and

"(2) who has filed a claim under section 1007.

"(b) Allocation of Royalty Payments to Groups.—The royalty payments shall be divided into 2 funds as follows:

"(1) The sound recordings fund.—66⅔ percent of the royalty payments shall be allocated to the Sound Recordings Fund. 2⅝ percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties described in section 1001(7)(A) and the American Federation of Musicians (or any successor entity) to be distributed to nonfeatured musicians (whether or not members of the American Federation of Musicians or any successor entity) who have performed on sound recordings distributed in the United States. 1⅜ percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties described in section 1001(7)(A) and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to nonfeatured vocalists (whether or not members of the American Federation Television and Radio Artists or any successor entity) who have performed on sound recordings distributed in the United States. 40 percent of the remaining royalty payments in the Sound Recordings Fund shall be distributed to the interested copyright parties described in section 1001(7)(C), and 60 percent of such remaining royalty payments shall be distributed to the interested copyright parties described in section 1001(7)(A).

"(2) The musical works fund.—

"(A) 33⅓ percent of the royalty payments shall be allocated to the Musical Works Fund for distribution to interested copyright parties described in section 1001(7)(B).

"(B)(i) Music publishers shall be entitled to 50 percent of the royalty payments allocated to the Musical Works Fund.

"(ii) Writers shall be entitled to the other 50 percent of the royalty payments allocated to the Musical Works Fund.

"(c) Allocation of Royalty Payments Within Groups.—If all interested copyright parties within a group specified in subsection (b) do not agree on a voluntary proposal for the distribution of the royalty payments within each group, the Copyright Royalty Tribunal shall, pursuant to the procedures specified under section 1007(c), allocate royalty payments under this section based on the extent to which, during the relevant period—

"(1) for the Sound Recordings Fund, each sound recording was distributed in the form of digital musical recordings or analog musical recordings; and

"(2) for the Musical Works Fund, each musical work was distributed in the form of digital musical recordings or analog musical recordings or disseminated to the public in transmissions.

"§ 1007. Procedures for distributing royalty payments

"(a) Filing of Claims and Negotiations.—

"(1) Filing of claims.—During the first 2 months of each calendar year after the calendar year in which this chapter takes effect, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Copyright Royalty Tribunal a claim for payments collected during the preceding year in such form and manner as the Tribunal shall prescribe by regulation.

"(2) Negotiations.—Notwithstanding any provision of the antitrust laws, for purposes of this section interested copyright parties within each group specified in section 1006(b) may agree among themselves to the proportionate division of royalty payments, may lump their claims together and file them jointly or as a single claim, or may designate a common agent, including any organization described in section 1001(7)(D), to negotiate or receive payment on their behalf; except that no agreement under this subsection may modify the allocation of royalties specified in section 1006(b).

"(b) Distribution of Payments in the Absence of a Dispute.—Within 30 days after the period established for the filing of claims under subsection (a), in each year after the year in which this section takes effect, the

Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Tribunal determines that no such controversy exists, the Tribunal shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a), after deducting its reasonable administrative costs under this section.

"(c) RESOLUTION OF DISPUTES.—If the Tribunal finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy. The Tribunal shall, before authorizing the distribution of such royalty payments, deduct its reasonable administrative costs under this section.

"SUBCHAPTER D—PROHIBITION ON CERTAIN INFRINGEMENT ACTIONS, REMEDIES, AND ARBITRATION

"§ 1008. Prohibition on certain infringement actions

"No action may be brought under this title alleging infringement of copyright based on the manufacture, importation, or distribution of a digital audio recording device, a digital audio recording medium, an analog recording device, or an analog recording medium, or based on the noncommercial use by a consumer of such a device or medium for making digital musical recordings or analog musical recordings.

"§ 1009. Civil remedies

"(a) CIVIL ACTIONS.—Any interested copyright party injured by a violation of section 1002 or 1003 may bring a civil action in an appropriate United States district court against any person for such violation.

"(b) OTHER CIVIL ACTIONS.—Any person injured by a violation of this chapter may bring a civil action in an appropriate United States district court for actual damages incurred as a result of such violation.

"(c) POWERS OF THE COURT.—In an action brought under subsection (a), the court—

"(1) may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain such violation;

"(2) in the case of a violation of section 1002, or in the case of an injury resulting from a failure to make royalty payments required by section 1003, shall award damages under subsection (d);

"(3) in its discretion may allow the recovery of costs by or against any party other than the United States or an officer thereof; and

"(4) in its discretion may award a reasonable attorney's fee to the prevailing party.

"(d) AWARD OF DAMAGES.—

"(1) DAMAGES FOR SECTION 1002 OR 1003 VIOLATIONS.—

"(A) ACTUAL DAMAGES.—(i) In an action brought under subsection (a), if the court finds that a violation of section 1002 or 1003 has occurred, the court shall award to the complaining party its actual damages if the complaining party elects such damages at any time before final judgment is entered.

"(ii) In the case of section 1003, actual damages shall constitute the royalty payments that should have been paid under section 1004 and deposited under section 1005. In such a case, the court, in its discretion, may award an additional amount of not to exceed 50 percent of the actual damages.

"(B) STATUTORY DAMAGES FOR SECTION 1002 VIOLATIONS.—

"(i) DEVICE.—A complaining party may recover an award of statutory damages for each violation of section 1002 (a) or (c) in the sum of not more than $2,500 per device involved in such violation or per device on which a service prohibited by section 1002(c) has been performed, as the court considers just.

"(ii) DIGITAL MUSICAL RECORDING.—A complaining party may recover an award of statutory damages for each violation of section 1002(d) in the sum of not more than $25 per digital musical recording involved in such violation, as the court considers just.

"(iii) TRANSMISSION.—A complaining party may recover an award of damages for each transmission or communication that violates section 1002(e) in the sum of not more than $10,000, as the court considers just.

"(2) REPEATED VIOLATIONS.—In any case in which the court finds that a person has violated section 1002 or 1003 within 3 years after a final judgment against that person for another such violation was entered, the court may increase the award of damages to not more than double the amounts that would otherwise be awarded under paragraph (1), as the court considers just.

"(3) INNOCENT VIOLATIONS OF SECTION 1002.—The court in its discretion may reduce the total award of damages against a person violating section 1002 to a sum of not less than $250 in any case in which the court finds that the violator was not aware and had no reason to believe that its acts constituted a violation of section 1002.

"(e) PAYMENT OF DAMAGES.—Any award of damages under subsection (d) shall be deposited with the Register pursuant to section 1005 for distribution to interested copyright parties as though such funds were royalty payments made pursuant to section 1003.

"(f) IMPOUNDING OF ARTICLES.—At any time while an action under subsection (a) is pending, the court may order the impounding, on such terms as it deems reasonable, of any digital audio recording device, digital musical recording, or device specified in section 1002(c) that is in the custody or control of the alleged violator and that the court has reasonable cause to believe does not comply with, or was involved in a violation of, section 1002.

"(g) REMEDIAL MODIFICATION AND DESTRUCTION OF ARTICLES.—In an action brought under subsection (a), the court may, as part of a final judgment or decree finding a violation of section 1002, order the remedial modification or the destruction of any digital audio recording device, digital musical recording, or device specified in section 1002(c) that—

"(1) does not comply with, or was involved in a violation of, section 1002, and

"(2) is in the custody or control of the violator or has been impounded under subsection (f).

"§ 1010. Arbitration of certain disputes

"(a) SCOPE OF ARBITRATION.—Before the date of first distribution in the United States of a digital audio recording device or a digital audio interface device, any party manufacturing, importing, or distributing such device, and any interested copyright party may mutually agree to binding arbitration for the purpose of determining whether such device is subject to section 1002, or the basis on which royalty payments for such device are to be made under section 1003.

"(b) INITIATION OF ARBITRATION PROCEEDINGS.—Parties agreeing to such arbitration shall file a petition with the Copyright Royalty Tribunal requesting the commencement of an arbitration proceeding. The petition may include the names and qualifications of potential arbitrators. Within 2 weeks after receiving such a petition, the Tribunal shall cause notice to be published in the Federal Register of the initiation of an arbitration proceeding. Such notice shall include the names and qualifications of 3 arbitrators chosen by the Tribunal from a list of available arbitrators obtained from the American Arbitration Association or such similar organization as the Tribunal shall select, and from potential arbitrators listed in the parties' petition. The arbitrators selected under this subsection shall constitute an Arbitration Panel.

"(c) STAY OF JUDICIAL PROCEEDINGS.—Any civil action brought under section 1009 against a party to arbitration under this section shall, on application of one of the parties to the arbitration, be stayed until completion of the arbitration proceeding.

"(d) ARBITRATION PROCEEDING.—The Arbitration Panel shall conduct an arbitration proceeding with respect to the matter concerned, in accordance with such procedures as it may adopt. The Panel shall act on the basis of a fully documented written record. Any party to the arbitration may submit relevant information and proposals to the Panel. The parties to the proceeding shall bear the entire cost thereof in such manner and proportion as the Panel shall direct.

"(e) REPORT TO COPYRIGHT ROYALTY TRIBUNAL.—Not later than 60 days after publication of the notice under subsection (b) of the initiation of an arbitration proceeding, the Arbitration Panel shall report to the Copyright Royalty Tribunal its determination concerning whether the device concerned is subject to section 1002, or the basis on which royalty payments for the device are to be made under section 1003. Such report shall be accompanied by the written record, and shall set forth the facts that the Panel found relevant to its determination.

"(f) ACTION BY THE COPYRIGHT ROYALTY TRIBUNAL.—Within 60 days after receiving the report of the Arbitration Panel under subsection (e), the Copyright Royalty Tribunal shall adopt or reject the determination of the Panel. The Tribunal shall adopt the determination of the Panel unless the Tribunal finds that the determination is clearly erroneous. If the Tribunal rejects the determination of the Panel, the Tribunal shall, before the end of that 60-day period, and after full examination of the record created in the arbitration proceeding, issue an order setting forth its decision and the reasons therefor. The Tribunal shall cause to be published in the Federal Register the determination of the Panel and the decision of the Tribunal under this subsection with respect to the determination (including any order issued under the preceding sentence).

"(g) JUDICIAL REVIEW.—Any decision of the Copyright Royalty Tribunal under subsection (f) with respect to a determination of the Arbitration Panel may be appealed, by a party to the arbitration, to the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the publication of the decision in the Federal Register. The pendency of an appeal under this subsection shall not stay the Tribunal's decision. The court shall have jurisdiction to modify or vacate a decision of the Tribunal only if it finds, on the basis of the record before the Tribunal, that the Arbitration Panel or the Tribunal acted in an arbitrary manner. If the court modifies the decision of the Tribunal, the court shall have jurisdiction to enter its own decision in accordance with its final judgment. The court may further vacate the decision of the Tribunal and remand the case for arbitration proceedings as provided in this section.".

SEC. 3. TECHNICAL AMENDMENTS.

(a) FUNCTIONS OF REGISTER.—Chapter 8 of title 17, United States Code is amended—

(1) in section 801(b)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding the following new paragraph at the end:

"(4) to distribute royalty payments deposited with the Register of Copyrights under section 1003, to determine the distribution of such payments, and to carry out its other responsibilities under chapter 10"; and

(2) in section 804(d)—

(A) by inserting "or (4)" after "801(b)(3)"; and

(B) by striking "or 119" and inserting "119, or 1007".

(b) DEFINITIONS.—Section 101 of title 17, United States Code, is amended by striking "As used" and inserting "Except as otherwise provided in this title, as used".

(c) MASK WORKS.—Section 912 of title 17, United States Code, is amended—

(1) in subsection (a) by inserting "or 10" after "8"; and

(2) in subsection (b) by inserting "or 10" after "8".

(d) CONFORMING AMENDMENT TO SECTION 337 OF THE TARIFF ACT OF 1930.—The second sentence of section 337(b)(3) of the Tariff Act of 1930 (19 U.S.C. 1337(b)(3)) is amended to read as follows: "If the Commission has reason to believe that the matter before it (A) is based solely on alleged acts and effects which are within the purview of section 303, 671, or 673, or (B) relates to an alleged copyright infringement with respect to which action is prohibited by section 1008 of title 17, United States Code, the Commission shall terminate, or not institute, any investigation into the matter.".

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from California [Mr. MOORHEAD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. BROOKS].

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Mr. BROOKS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3204. Of the many people who worked tirelessly on this bill, I first want to single out for praise my very dear friend and distinguished colleague, the gentlewoman from Illinois [Mrs. COLLINS], who chairs the Energy and Commerce Committee's Subcommittee on Commerce, Consumer Protection, and Competitiveness. Without her fine work and her subcommittee's sterling contribution, this compromise bill would never have been possible.

I also want to sincerely compliment the very thoughtful work done by the Judiciary Committee's Subcommittee on Intellectual Property and Judicial Administration. Its chairman, the gentleman from New Jersey [Mr. HUGHES] and its ranking minority member, the gentleman from California [Mr. MOORHEAD], both labored long and hard over this legislation. They can be justifiably proud of the product they have achieved, and the support that it has received from Members and interested parties alike.

I also thank my other fine friends and distinguished colleagues—the gentleman from Michigan [Mr. DINGELL], chairman of the Energy and Commerce Committee, and the gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Ways and Means Committee—for their leadership on this issue.

Everyone involved in H.R. 3204—whether in the private sector or in the Congress—has demonstrated through this legislation their willingness to help this country stay at the forefront of world technological change.

The primary legislative history upon enactment of this legislation will be found in House Report 102-873, part 1. In addition, since the time of passage by the three committees to whom H.R. 3204 was referred, our committees have agreed upon several changes. Those changes are contained in the compromise package on suspension now, and other Members will address them.

I want to address and emphasize the import of just one of those changes. Section 1006 of H.R. 3204 deals with entitlement to royalty payments under two newly created funds—the sound recording fund and the musical works fund. In H.R. 3204 as reported by the judiciary committee, there was a prefatory phrase—"notwithstanding any contractual obligations to the contrary"—found only in one of the funds. However, the allocation of royalties in both funds is set by statute. Thus, that prefatory phrase is being deleted by agreement as unnecessary. We intend the statutory allocation formula for both funds to control the royalty distribution.

As the Judiciary Committee stated on this point in House Report 102-873, part 1, which remains applicable to our agreement today:

> The committee intends the statutory allocations to fix the percentage of royalties that the various groups of interested copyright parties are to receive from the two funds. Contractual provisions, whether existing or future, that would alter these allocations are preempted by this bill. On the other hand, once the distribution of the royalty payment has been made according to the statutory allocation, the bill does not seek to place restrictions on how the recipients may spend their royalties.

Mr. Speaker, H.R. 3204 resolves over a decade of bitter disputes between the electronics and the music industries—with both sides willing to fight indefinitely because of the economic stakes involved in this issue. I recommended that they sue for peace. I am happy and proud that peace, not war, is now the order of the day. I urge my colleagues to vote "aye" on H.R. 3204.

Mr. Speaker, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3204.

I would like to commend our Judiciary Committee chairman, the gentleman from Texas [Mr. JACK BROOKS] and our subcommittee chairman, the gentleman from New Jersey [Mr. BILL HUGHES] and their staff for their thorough and painstaking analysis of these important but difficult issues. I also would like to commend our ranking member, the gentleman from New York [Mr. HAMILTON FISH] for his leadership and support of this issue.

Mr. Speaker, H.R. 3204 would make it clear that noncommercial taping of music by consumers is not a violation of copyright law. The debate over home taping of records goes back to 1970 when Congress first extended copyright protection for records but this legislation will end the 22-year-old debate and make it clear that home taping does not constitute copyright infringement.

The problem is that Japanese manufacturers are about to begin importing into the United States copying equipment making it possible to make quality copies of music discs. The compromise contained in H.R. 3204 provides that such new equipment will have a chip that will prevent any copying of the copies made by the new equipment. In other words, you can make as many noncommercial copies as you wish from the new machine but you will not be able, mechanically, to make a copy of the copy.

The bill also sets up a royalty fund by charging a fee for the sale of blank discs, not blank tapes, and sets a fee on each piece of new disc equipment sold in the United States. For the new equipment the royalty is 2 percent of the transfer price with a minimum fee of $1 and a maximum fee of $8 a machine. For blank discs the royalty fee is 3 percent of transfer price. Video recording equipment would not be affected, nor would dictation machines, telephone answering machines or professional recording equipment.

American music is the music of choice all over the world. However, pirating and taping have become an enormous problem for the American music community. Taping presently displaces sales amounting to about $1.5 billion a year, about one-third of the industry's annual revenues, and sales are the only means by which record companies are paid. The impact of displaced sales is obviously felt first by copyright owners and creators who earn their income from the sale of their prerecorded music. But it hurts everyone in the end because less music is produced. The releases of new albums have declined by 43 percent since 1978.

After months of debate with the interested parties I believe we have legislation that is good for all the industries involved and it is also good for the consumer and the country.

These new taping machines that are about to be shipped to this country will revolutionize existing taping technology. The new machines will capture and preserve recordings with near perfect fidelity. If this legislation is not enacted the displacement of sales caused by taping is sure to experience a quantum leap.

I am not aware of any opposition to this bill. It has the support of industry, the Copyright Office, the consumers and the administration.

I urge your support.

Mr. Speaker, I reserve the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey [Mr. HUGHES], chairman of the Subcommittee on Intellectual Property and Judicial Administration.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 3204, the Audio Home Recording Act of 1992, which I introduced along with the gentleman from Texas [Mr. BROOKS], chairman of the Judiciary Committee. H.R. 3204 is cosponsored by the gentleman from California [Mr. MOOREHEAD], the ranking Republican on the Subcommittee on Intellectual Property and Judicial Administration, which I chair, and by 90 other Members. H.R. 3204 enjoys widespread support because it protects the interests of consumers, copyright owners, and manufacturers and distributors of audio equipment. H.R. 3204 will facilitate the introduction of exciting new digital audio technologies whose entry into the U.S. market has been blocked by litigation. With the holiday season just around the corner, H.R. 3204 will create new manufacturing jobs and give retailers exciting new consumer electronics to market, important benefits in these difficult economic times.

H.R. 3204 is also landmark intellectual property legislation, placing the United States squarely in line with the growing international consensus on how to resolve the difficult issues of new technological uses of copyrighted works. One of those issues—home taping of music—has been of great concern to U.S. consumers. For more than two decades, a legal cloud has hovered over copying by consumers for private use. This was true even though the Supreme Court's 1984 Betamax decision permitted time-shifting of free broadcast television programming.

H.R. 3204 removes the legal cloud over home copying of prerecorded music in the most proconsumer way possible: It gives consumers a complete exemption for noncommercial home copying of both digital and analog music, even though the royalty obligations under the bill apply only to digitally formatted music. No longer will consumers be branded copyright pirates for making a tape for their car or for their children.

H.R. 3204 was introduced on August 11, 1991. Hearings were held by our subcommittee on February 19, 1992. H.R. 3204 as reported by our subcommittee and the full Judiciary Committee reflected months of hard work devoted to original rethinking and original redrafting in order to develop the best possible legislation. These labors paid off. H.R. 3204 in its current form preserves the essentials of the compromise agreement reached by record companies, hardware manufacturers, and musical interests, while protecting the broader public interest, in particular consumers and performers.

I would like to explain, briefly, the essential elements of H.R. 3204.

EXEMPTIONS FROM LIABILITY

One of the cornerstones of the bill is section 1008. This provision provides an exemption to consumers for noncommercial copying of both digital and analog musical recordings and an exemption from contributory copyright infringement for manufacturers and distributors of digital and analog audio recording devices and media. These exemptions are complete, notwithstanding the somewhat indirect phrasing of the section, which is couched in terms of a prohibition on the bringing of infringement actions.

INCORPORATION OF SERIAL COPYING CONTROLS

In order to protect the interests of copyright owners from widespread copying that would harm investment, the bill requires that digital audio recording devices and digital audio interface devices contain systems to prevent unauthorized serial copying of copyrighted works. The serial copy management system is one such system. Other systems may also be developed, though, and the bill provides criteria by which these systems may meet the legislation's requirements.

The purpose of these systems is to permit consumers to make copies directly from an authorized, prerecorded musical recording, but to prevent them from making copies from copies. This approach has the benefit of preserving consumers' right under the bill to make home copies and of preventing distribution of copies that might displace sales.

ROYALTY PAYMENTS

Modest royalty payments are required under the bill to compensate copyright owners from the obvious loss of some sales due to home copying. In the case of machines, this royalty is set at 2 percent of the transfer price of the machine, with a general cap of $8. In the case of blank tapes, the royalty is set at 2 percent of the transfer price of the tape. Only one royalty payment is made.

I am keenly aware of the concerns of computer users that due to the prevalence of digital media, they may have to pay a royalty for blank computer tapes. This will not happen. The bill excludes computer programs from the coverage of the legislation and through the definition of "digital audio recording medium," it carefully requires royalties only for tapes and the like that are primarily marketed or most commonly used by consumers for the purpose of making copies of digitally formatted music by digital audio recording devices.

There are many other important provisions in the bill, and I refer members to the Judiciary Committee report, House Report 102–873, part 1 for a full discussion of the details of the legislation. I will only point out here the differences between the bill as reported out by the Judiciary Committee and as taken up today.

DEFINITIONS

A number of definitions have been refined.

The definition of "digital audio interface device" has been revised to ensure that what is required is the communication of digital audio information and related interface data.

The definition of "digital audio recording device" has been revised to insert the phrase "of a type commonly distributed to individuals for use by individuals." This amendment clarifies that the defined term "digital audio recording device" refers to individual devices rather than a class of such devices.

The definition of "digital musical recording" has been revised to make clear that the exclusion for incidental material applies to both digital musical recordings and spoken work recordings.

The important definition of "serial copying" has been carefully revised so that there is no ambiguity about Congress' intention regarding when the prohibitions on multiple copying apply. The legislation is the result of concerns over the fidelity of digital to digital copying. At the same time, technology will shortly be introduced permitting the copying of an analog-formatted work onto digital format. Once in digital format, the work is susceptible to the same ease of copying found in works originally produced in digital format, albeit with a diminished fidelity.

H.R. 3024 addresses these issues in the following way through the definition of "serial copying." Consumers may make copies directly from a digital musical recording as distributed by the authority of the copyright owner for ultimate sale to consumers. However, by virtue of serial copy prevention systems mandated in section 1002 of the bill, copies from these copies may not be made. Where the work has been distributed by the copyright owner in analog format, but is copied by a consumer onto a digital format, no serial copy prevention encoding takes place. Thus, consumers may make two authorized copies, one in making the analog to digital transfer, and the second in making the first digital to digital copy. Copying from this second, digital copy would be prohibited by virtue of the serial copying prevention controls.

INCORPORATION OF COPYING CONTROLS

The bill as taken up today creates a three-tier approach: First, the serial copy management system [SCMS] automatically qualifies as satisfying section 1002's requirements for regulating the serial copying of copyrighted works; second, any future system that has the same functional characteristics as SCMS and which requires that copyright and generation status information be accurately sent, received, and acted upon between devices using that system's method or serial copying regulation and devices using SCMS also automatically qualifies as satisfying section 1002; third, other future systems that purport to regulate serial copying of copyrighted works must be certified in advance by the Secretary of Commerce before being distributed in digital audio recording devices.

DEPOSIT OF ROYALTY PAYMENTS

Section 1005 has been amended to make clear that all royalties are to be deposited in the Treasury as off-setting receipts.

ENTITLEMENT TO ROYALTY PAYMENTS

The bill taken up today eliminates the phrase "notwithstanding any contractual obligation to the contrary" from section 1006(b)(2)(B) of the bill as reported by the Judiciary Committee. This language, concerning distribution of royalties from the musical works fund, was not found in the parallel provision in section 1006(b)(1) concerning distribution of royalties from the sound recording fund. Pages 22-23 of the Judiciary Committee's report, House Report 102-873, part 1, discussed this inconsistency, and stated an intention that:

> The statutory allocations * * * fix the percentage of royalties that the various groups of interested copyright parties are to receive from the two funds. Contractual provisions, whether existing or future, that would alter these allocations are preempted by this bill. On the other hand, once the distribution of the royalty payment has been made according to the statutory allocation, the bill does not seek to place restrictions on how the recipients may spend their royalties. The presence of the prefatory language in the musical works fund, and its absence in the sound recording fund, is not intended to indicate a different result at either the distribution or post-distribution steps.

In order for there to be no ambiguity that the intention stated in report is carried out, the bill has been amended to delete the language from the musical works fund.

PROHIBITIONS ON CERTAIN INFRINGEMENT ACTIONS

The bill as reported by the committee deletes the reference to section 337 of the Tariff Act of 1930 in favor of placing the provision in a separate section at the end of the bill.

This concludes my discussion of the changes between the bill we take up today and the bill reported by the Judiciary Committee on August 11, 1992. I urge my colleagues to vote for H.R. 3204.

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Mr. Speaker, the legislation has been described both by the distinguished chairman and by the ranking Republican. I will not explain anymore in detail what is in the bill, but it is a major breakthrough that we have been trying for the better part of 10 years to resolve these very difficult issues. That would not be possible without the cooperation of the gentlewoman from Illinois [Mrs. COLLINS], the subcommittee chairman, who worked diligently on this legislation, my colleague, the gentleman from California [Mr. MOORHEAD], our staffs, Hayden Gregory and Bill Patry, who comes to us from the Copyright Office and has been very helpful, Tom Mooney and Joe Wolfe. They worked very hard and they should be congratulated on a very fine, well-balanced piece of legislation.

Mr. BROOKS. Mr. Speaker, I yield 3 minutes to the distinguished gentlewoman from Chicago [Mrs. COLLINS], the chairman of the Subcommittee on Commerce, Consumer Protection, and Competitiveness, of the Committee on Energy and Commerce.

Mrs. COLLINS of Illinois. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me say that we have worked tirelessly and for a very long time on this piece of legislation. I especially want to thank the chairman of the Committee on the Judiciary, the gentleman from Texas [Mr. BROOKS], and of the subcommittee, the gentleman from New Jersey [Mr. HUGHES], and the gentleman from California [Mr. MOORHEAD], the ranking minority member, and the gentleman from North Carolina [Mr. MCMILLAN], the ranking member of the Subcommittee on Commerce, Consumer Protection, and Competitiveness of the Committee on Energy and Commerce, for all the work that they have done on this in a spirit of comity. This is a piece of legislation that certainly needs to be done. I think it is a wonderful thing that we are able to move it now.

Mr. Speaker, digital audio recording technology is not new and neither is the bitter debate that persists between the recording industry, electronic industry and consumers regarding the legality of home taping. The Audio Home Recording Act of 1992 is designed to put an end to these debates and facilitates the wide scale introduction of digital audio recording technology to the American consumer. The substitute amendment to H.R. 3204 is a reflection of the work of the Energy and Commerce, Judiciary, and Ways and Means Committees on this important issue. I support the final passage of this legislation and urge the support of my colleagues.

Compact discs and compact disc players are examples of digital technology. In the mid-1980's, consumer electronics companies decided to market a new wave of digital audio technology to American consumers—the digital audio recorder. Unlike the familiar analog audio recorder, the digital audio recorder is capable of making virtually perfect copies of source music. With analog recorders, as one continues to make copies from copies, the sound quality deteriorates. With digital audio recorders, on the other hand, multigenerational copies—from the 1st generation to the 15th generation—maintain virtually perfect sound quality.

This remarkable, innovative digital audio technology was showcased in my district at the 1992 International Summer Consumer Electronics Show.

Due to the precision of digital audio recording technology, the recording companies, music publishers, artists, musicians and others in the recording industry have been afraid that the digital audio recorders will increase copying by consumers and illegal bootleg companies and thereby reduce sales and royalties. For this reason, the recording industry has threatened lawsuits against manufacturers that consider making digital audio recorders available to American consumers. The music publishers and songwriters eventually did sue a manufacturer. This has had a chilling effect on the manufacturers, who have not made digital audio recording technology widely available to American consumers.

Of course, the ultimate loser in this standoff has been the American consumer, having been denied wide access to revolutionary digital audio recording technology. This year, for the first time, the consumer electronics show was open to the public. To demonstrate their desire to have access to this technology, scores of consumers signed petitions at the show in support of the three song solution to the stalemate, which is embodied in this bill.

This compromise solution was reached through difficult negotiations by a coalition of the recording industry; songwriters and music publishers; electronics industry and groups that want consumers to continue to enjoy the benefits of private home taping.

There are three basic provisions of the legislation. First, it guarantees consumers the legal right to make analog or digital copies of musical recordings for noncommercial use. Also it prohibits lawsuits being brought against those that manufacture, import, or distribute a digital or analog audio recorder or medium.

Second, it requires all manufacturers and importers to pay a small royalty fee for every digital audio recorder and digital audio recording medium made available to American consumers. This money eventually will be distributed to copyright holders and creative artists.

Third, it requires all digital audio recorders to incorporate the serial copy management system, a system that has the same functional characteristics as the Serial Copy Management System or any other system certified by the Secretary of Commerce as prohibiting unauthorized serial copying. These systems will allow unlimited recording of original material, but will prevent recording of copied material.

Earlier this year, I introduced H.R. 4567, which embodied the compromise. I introduced the legislation to finally put an end to this most recent and potent dispute in the seemingly never-ending battle between the music and electronic industries regarding home taping: the pending introduction of the most advanced audio recording technology to date—the digital audio recorder—to the American consumer. Further, I wanted to make sure that songwriters, creative artists and American consumers did not end up with the short end of the stick in the resolution of this ongoing dispute.

H.R. 4567 was referred to three committees: Energy and Commerce, Judiciary, and Ways and Means. This is the first Congress in which audio home recording legislation has been referred jointly. Prior legislation, which only included serial copying limitation systems, was referred to the Energy and Commerce Committee.

The Subcommittee on Commerce, Consumer Protection and Competitiveness, which I chair, held hearings shortly after the bill's introduction. H.R. 4567 was reported out of the Energy and Commerce Committee on August 4, 1992, thus becoming the first audio home recording bill to be reported to the full House.

More recently, the Judiciary Committee and Ways and Means Committee reported a similar bill, H.R. 3204. The substitute amendment to H.R. 3204 before us today reflects a compromise between the three committees, and was introduced today by the chairs and ranking minority members of the Energy and Commerce Committee and Judiciary Committee and their legislative subcommittees. It reflects the work of the committees on H.R. 4567 and H.R. 3204. The legislative history of H.R. 4567 as well as H.R. 3204 is intended to apply to this bill as well.

In short, this bill combines benefits for creative artists, consumers and industry. It can lead the way in improving industry while providing songwriters and creative artists with deserved compensation and consumers with access to exciting technology.

Mr. Speaker, the substitute amendment before us is a combination of H.R. 4567, as reported out of the Energy and Commerce Committee, and H.R. 3204, as reported out of the Judiciary and Ways and Means Committees.

The amendment has the three-prong substantive element and the same spirit as H.R. 4567, some of the language between the bills are different. At this point, I would like to address some pertinent issues.

The scope of this legislation must remain clear. In review, and as clearly stated in the report to H.R. 4567, the audio home legislation before us is designed specifically to respond to the threat that the perfect copying capability of the digital audio recorder presents to those engaged in the professions of creating and introducing music into the American stream of commerce. The legislation would only cover digital audio recording technology, except to the extent that it specifically refers to analog recording in the provisions that deal with the prohibition of certain copyright infringement actions.

Concerning interface devices, the legislation is not meant to cover telecommunications systems and general purpose computers either directly or indirectly through their general purpose interfaces. Further, the legislation only applies to those interface devices that are generally marketed to and used by individuals.

In terms of recorders, the legislation applies only to digital audio recorders that are designed or marketed primarily for the making of digital audio copied recordings for private use. The recorder must be of a type that is commonly distributed to individuals for use by individuals. The legislation does not cover professional model devices or audio recording equipment designed and marketed primarily for the creation of recording resulting from the fixation of nonmusical sounds, such as dictation machines and answering machines. Also, it does not cover general purpose computers.

Spoken word recordings, such as audio books and books on tape are not covered by the legislation, even if they use ancillary music, such as any music that may be used to link chapters or as occasional background to the spoken words. However, in the case of music genre that frequently rely on spoken phrases, the provisions of the legislation apply.

With respect to recording media, the legislation is only intended to cover those media products primarily marketed or most commonly used by consumers in making digital audio recordings. The legislation would not cover any media products primarily marketed and most commonly used by consumers in making copies of other digitally stored material, including general purpose computer programs.

Also, the legislation does not cover products primarily marketed by the computer industry or most commonly used by its consumers to make copies of computer programs and data or products primarily marketed or most commonly used by consumers to make things other than digital audio copied recordings, such as recording media used to make copies of motion pictures or other audio-visual works or used in telecommunications systems.

Finally, the reported legislation would not cover multimedia products or general purpose computer programs.

The committee compromise requires all digital audio recorders and interface devices imported, manufactured or distributed in commerce in the United States to conform to the serial copy management system, a system that has the same functional characteristics as the serial copy management system or any other system certified by the Secretary of Commerce as prohibiting unauthorized serial copying.

H.R. 4567 as reported by Energy and Commerce Committee, provided similar requirements. In addition to the incorporation of the serial copy management system, H.R. 4567 specifically allowed the Secretary of Commerce to issue additional orders to implement the serial copy management system, if petitioned by an interested manufacturing or copyright party and the Secretary determined that to do so would be in accordance with the purposes of the legislation. The Secretary would have had to consult with the Register of Copyrights in the process of deciding whether or not to issue an order. There were several categories in which the Secretary would have been able to issue an order. They cover functionally equivalent alternatives, revised general standards, and standards for new devices.

The substitute amendment before us has streamlined the provisions of H.R. 4567, but still allows for the same result: a manufacturer will have several options from which to select to ensure compliance with the requirements of this act.

Mr. Speaker, with the exception of H.R. 3204 as reported by the House Judiciary Committee, all versions of the audio home taping bills this Congress—including H.R. 4567 as reported by Energy and Commerce Committee, H.R. 3204 as introduced and S. 1623 as passed by the Senate—were accompanied by the technical reference document, which sets forth the standards and specifications to provide for the incorporation of the serial copy management system.

The serial copy management system permits the recording of original source material, but does not allow recording from copies.

The Subcommittee on Commerce, Consumer Protection and Competitiveness is the only congressional forum this year to receive testimony specifically on the serial copy management system as defined in the technical reference document. Testimony was received from a variety of witnesses about the serial copy management system most notably Dr. Robert Hebner, Deputy Director, Electronics and Electrical Engineering Laboratory of the National Institute of Standards and Technology.

In addition, the National Institute of Standards and Technology has certified to both the Senate Judiciary and House Energy and Commerce Committees that the serial copy management system as defined in the Technical Reference Document does indeed set forth standards and specifications that adequately incorporate the intended functional characteristics to regulate serial copying and that are not incompatible with existing international digital audio interface standards and existing digital audio technology.

Hearings and subsequent correspondence indicated that the requirements of the serial copy management system would not represent a burden to American and smaller consumer-electronics manufacturers.

While our committee's work indicates that certain fears were unfounded, as a compromise to these concerned about the serial copy management system, the committee compromise does not specifically include the Technical Reference Document, but the serial copy management system is still defined in the legislative history via the reports filed by the Energy and Commerce Committee, House Judiciary Committee and Senate Judiciary Committee. It is our expectation that digital audio recorders will be manufactured in compliance with Technical Reference Document.

Mr. Speaker, the prohibition against certain copyright infringement suits is a significant prong in this legislation. While the language of H.R. 4567 and this substitute amendment are somewhat different, both pieces of legislation clearly establish that consumers cannot be sued for making analog or digital audio copies of musical recordings for noncommercial use.

Mr. MOORHEAD. Mr. Speaker, I yield myself one-half minute.

Mr. Speaker, I just want to join the others who are commending the members of the Committee on Energy and Commerce for the work they did on this bill also.

The gentlewoman from Illinois [Mrs. COLLINS] did an outstanding job as the chairman of the subcommittee.

The gentleman from New York [Mr. LENT] and the gentleman from North Carolina [Mr. MCMILLAN] have done excellent work, and one of the members of the staff that I did not mention was Marie McGlone, who did an outstanding job on the Judiciary Committee staff.

Mr. FISH. Mr. Speaker, I too would like to commend our chairman, the gentleman from Texas for his leadership in bringing this important legislation to the floor and the Copyright Subcommittee, especially the gentleman from New Jersey [Mr. HUGHES] and the gentleman from California [Mr. MOORHEAD] for all of the time and effort they put into the consideration and drafting of this legislation.

H.R. 3204 will facilitate the release into the U.S. market of new recording equipment used to copy musical discs. The introduction into the U.S. consumer market of this new equipment has been blocked due to disputes among hardware manufacturers, record companies, composers, and music publishers. The legislation before us today resolves those disputes by requiring that this equipment contain a new technology that prevents making a copy of a copy and by establishing a system of royalty payments on the new machines and on the blank discs.

At the same time, the bill resolves an issue that has been of great concern to consumers for the last two decades and that is the home taping of music. The bill makes clear that the home taping of music is not a violation of copyright law.

This legislation is sound, fair, and workable. Although a number of substantial changes have been made, the basic compromise of the parties remains intact. All creative and proprietary interests are accommodated. Consumers will benefit both from the diversity of creative works and from new recording technologies. The record companies will sell more records. The American creators will share the profits from this new technology. The public will have more music to enjoy.

Mr. Speaker, in my opinion, this legislation represents a historic compromise and will have a positive impact on protection for U.S. authors and copyright owners worldwide. It enjoys wide support with over 100 cosponsors from this House and the other body.

I urge its adoption.

Mr. MCMILLAN of North Carolina. Mr. Speaker, I rise today in strong support of H.R. 3204, the Digital Audio House Recording Act of 1991. This bill has been a long time in coming, and we have all worked very hard to see that this compromise agreement reached the floor.

This bill has a number of constructive provisions which can only help to bring this exciting new technology to the marketplace.

First, it implements the serial copy management system which is the fairest system I have seen for ensuring that consumers have the ability to make copies of recordings, while guaranteeing that this privilege is not abused. Second, it establishes a royalty fund on digital recorders and recording media to ensure that artists, composers, writers, and publishers are compensated for any abuse that does occur. Finally, it ensures that this technology will be available to the public by preventing the manufacturers or distributors of digital audio recorders from being sued for providing products the public wants.

This is landmark legislation which clears the way for the next generation of home audio equipment and it was only worked out after years of negotiation.

I would like to offer my thanks to everyone who worked so hard on this bill, especially the distinguished chairwoman from Illinois, Mrs. COLLINS, who demonstrated her leadership on this issue in the Energy and Commerce Committee.

Mr. Speaker, the consumers of America have waited long enough—I urge my colleagues to support this important measure.

Mr. LENT. Mr. Speaker, I join my colleagues in expressing support for H.R. 3204, the Audio Home Recording Act of 1991. At a time when we are concerned about additional barriers to our recovery from the recession, it is good to see a bill come forward that will bring a new technology to the marketplace, and with it, new jobs.

This compromise bill benefits everyone concerned—the manufacturers, the recording companies and artists, and, most importantly, the consumers. My distinguished colleague from North Carolina once referred to this bill as a win-win-win proposition, and I am inclined to agree.

H.R. 3204's requirements of the installation of the 'serial copy management system,' coupled with the royalty payment funds ensures that the consumer will have access to both current and future generations of digital recording technology. This opens new markets and opportunities for manufacturers, sellers, artists, and producers involved in the rapidly expanding digital audio marketplace.

I would like to thank all of those involved with crafting this compromise agreement, especially the ranking minority member of the Subcommittee on Commerce, Mr. MCMILLAN, and the chairman, Mrs. COLLINS. They deserve much thanks for their efforts in bringing this landmark legislation to the floor.

I urge all of my colleagues to support this legislation and yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of H.R. 3204, as amended, the Audio Home Recording Act of 1992. Passage of this bill will create the necessary legal environment for digital audio technology [DAT] to be commercialized in the United States.

Although DAT technology has been known since 1986, it has not generally been commercialized in this country because of legal uncertainties surrounding its use. DAT technology will allow consumers to make virtually perfect copies of sound recordings, both from the commercial originals and from copies of the originals. While this presents exciting new possibilities for the consumer at home, it also poses the threat that, without regulation, this technology could also lead to large numbers of illegal perfect copies of sound recordings being in circulation, thereby depressing legitimate commercial sales.

H.R. 3204 deals with these issues by providing for an intellectual property-based system regulating the use of DAT technology. It is a sound piece of legislation that is the culmination of nearly 6 years of work by three different Congresses. It has the support of the music recording industry, the electronic hardware industry, and all potentially affected copyright owners from music writers to music performers. The administration also supports this bill.

Finally, there is broad bipartisan support for this bill in the House, as evidenced by the overwhelming support this bill received in the three committees to which it was referred—Energy and Commerce, Judiciary, and Ways and Means.

Mr. Speaker, I urge my colleagues to support passage of this important bill.

Mr. MOORHEAD. Mr. Speaker, I yield back the balance of my time.

Mr. BROOKS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SANGMEISTER). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] to suspend the rules and pass the bill, H.R. 3204, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. BROOKS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1623) to amend title XVII, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1623

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Audio Home Recording Act of 1991".

SEC. 2. IMPORTATION, MANUFACTURE, AND DISTRIBUTION OF DIGITAL AUDIO RECORDING DEVICES AND MEDIA.

Title 17, United States Code, is amended by adding at the end the following:

"CHAPTER 10—DIGITAL AUDIO RECORDING DEVICES AND MEDIA

"SUBCHAPTER A—DEFINITIONS, PROHIBITION OF CERTAIN INFRINGEMENT ACTIONS, AND RULES OF CONSTRUCTION

"Sec.

"1001. Definitions.

"1002. Prohibition on certain infringement actions.

"1003. Effect on other rights and remedies with respect to private home copying or otherwise.

"SUBCHAPTER B—ROYALTY PAYMENTS

"1011. Obligation to make royalty payments.

"1012. Royalty payments.

"1013. Deposit of royalty payments and deduction of expenses.

"1014. Entitlement to royalty payments.

"1015. Procedures for distributing royalty payments.

"1016. Negotiated collection and distribution arrangements.

"SUBCHAPTER C—THE SERIAL COPY MANAGEMENT SYSTEM

"1021. Incorporation of the serial copy management system.

"1022. Implementing the serial copy management system.

"SUBCHAPTER D—REMEDIES

"1031. Civil remedies.

"1032. Binding arbitration.

"SUBCHAPTER A—DEFINITIONS, PROHIBITION OF CERTAIN INFRINGEMENT ACTIONS, AND RULES OF CONSTRUCTION

"§1001. Definitions

"As used in this chapter, the following terms and their variant forms mean the following:

"(1) An 'audiogram' is a material object (i) in which are fixed, by any method now known or later developed, only sounds (and not, for example, a motion picture or other audiovisual work even though it may be accompanied by sounds), and material, statements or instructions incidental to those fixed sounds, if any, and (ii) from which the sounds and material can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.

"(2) A 'digital audio copied recording' is a reproduction in a digital recording format of an audiogram, whether that reproduction is made directly from another audiogram or indirectly from a transmission.

"(3) A 'digital audio interface device' is any machine or device, now known or later developed, whether or not included with or as part of some other machine or device, that supplies a digital audio signal through a nonprofessional interface, as the term 'nonprofessional interface' is used in the Digital Audio Interface Standard in part I of the technical reference document or as otherwise defined by the Secretary of Commerce under section 1022(b).

"(4) A 'digital audio recording device' is any machine or device, now known or later developed, of a type commonly distributed to individuals for use by individuals, whether or not included with or as part of some other machine or device, the recording function of which is designed or marketed for the primary purpose of, and that is capable of, making a digital audio copied recording for private use, except for—

"(A) professional model products and

"(B) dictation machines, answering machines, and other audio recording equipment that is designed and marketed primarily for the creation of sound recordings resulting from the fixation of nonmusical sounds.

"(5)(A) A 'digital audio recording medium' is any material object in which sounds may be fixed, now known or later developed, in a form commonly distributed for ultimate sale to individuals for use by individuals (such as magnetic digital audio tape cassettes, optical discs, and magneto-optical discs), that is primarily marketed or most commonly used by consumers for the purpose of making digital audio copied recordings by use of a digital audio recording device.

"(B) Such term does not include any material object—

"(i) that embodies a sound recording at the time it is first distributed by the importer or manufacturer, unless the sound recording has been so embodied in order to evade the obligations of section 1011 of this title; or

"(ii) that is primarily marketed and most commonly used by consumers either for the purpose of making copies of motion pictures or other audiovisual works or for the purpose of making copies of nonmusical library works, including, without limitation, computer programs or data bases.

"(6) 'Distribute' means to sell, resell, lease, or assign a product to consumers in the United States, or to sell, resell, lease, or assign a product in the United States for ultimate transfer to consumers in the United States.

"(7) An 'interested copyright party' is—

"(A) the owner of the exclusive right under section 106(1) of this title to reproduce a sound recording of a musical work that has been embodied in an audiogram lawfully made under this title that has been distributed to the public;

"(B) the legal or beneficial owner of, or the person that controls, the right to reproduce in an audiogram a musical work that has been embodied in an audiogram lawfully made under this title that has been distributed to the public; or

"(C) any association or other organization—

"(i) representing persons specified in subparagraph (A) or (B), or

"(ii) engaged in licensing rights in musical works to music users on behalf of writers and publishers.

"(8) An 'interested manufacturing party' is any person that imports or manufacturers any digital audio recording device or digital audio recording medium in the United States, or any association of such persons.

"(9) 'Manufacture' includes the production or assembly of a product in the United States.

"(10) A 'music publisher' is a person that is authorized to license the reproduction of a particular musical work in a sound recording.

"(11)(A) A 'professional model product' is an audio recording device—

"(i) that is capable of sending a digital audio interface signal in which the channel status block flag is set as a 'professional' interface, in accordance with the standards and specifications set forth in the technical reference document or established under an order issued by the Secretary of Commerce under section 1022(b);

"(ii) that is clearly, prominently, and permanently marked with the letter 'P' or the word 'professional' on the outside of its packaging, and in all advertising, promotional, and descriptive literature, with respect to the device, that is available or provided to persons other than the manufacturer or importer, its employees, or its agents; and

"(iii) that is designed, manufactured, marketed, and intended for use by recording professionals in the ordinary course of a lawful business.

"(B) In determining whether an audio recording device meets the requirements of subparagraph (A)(iii), factors to be considered shall include—

"(i) whether it has features used by recording professionals in the course of a lawful business, including features such as—

"(I) a data collection and reporting system of error codes during recording and playback;

"(II) a record and reproduce format providing 'read after write' and 'read after read';

"(III) a time code reader and generator conforming to the standards set by the Society of Motion Picture and Television Engineers for such readers and generators; and

"(IV) a professional input/output interface, both digital and analog, conforming to standards set by audio engineering organizations for connectors, signaling formats, levels, and impedances;

"(ii) the nature of the promotional materials used to market the audio recording device;

"(iii) the media used for the dissemination of the promotional materials, including the intended audience;

"(iv) the distribution channels and retail outlets through which the device is disseminated;

"(v) the manufacturer's or importer's price for the device as compared to the manufacturer's or importer's price for digital audio recording de-

vices implementing the Serial Copy Management System;

"(vi) the relative quantity of the device manufactured or imported as compared to the size of the manufacturer's or importer's market for professional model products;

"(vii) the occupations of the purchasers of the device; and

"(viii) the uses to which the device is put.

"(12) The 'Register' is the Register of Copyrights.

"(13) The 'Serial Copy Management System' means the system for regulating serial copying by digital audio recording devices that is set forth in the technical reference document or in an order of the Secretary of Commerce under section 1022(b), or that conforms to the requirements of section 1021(a)(1)(C).

"(14) The 'technical reference document' is the document entitled 'Technical Reference Document for Audio Home Recording Act of 1991' in section 5 of this Act.

"(15)(A) The 'transfer price' of a digital audio recording device or a digital audio recording medium is—

"(i) in the case of an imported product, the actual entered value at United States Customs (exclusive of any freight, insurance, and applicable duty), and

"(ii) in the case of a domestic product, the manufacturer's transfer price (FOB the manufacturer, and exclusive of any direct sales taxes or excise taxes incurred in connection with the sale).

"(B) Where the transferor and transferee are related entities or within a single entity, the transfer price shall not be less than a reasonable arms-length price under the principles of the regulations adopted pursuant to section 482 of the Internal Revenue Code of 1986, or any successor provision to such section 482.

"(16) A 'transmission' is any audio or audiovisual transmission, now known or later developed, whether by a broadcast station, cable system, multipoint distribution service, subscription service, direct broadcast satellite, or other form of analog or digital communication.

"(17) The 'Tribunal' is the Copyright Royalty Tribunal.

"(18) A 'writer' is the composer or lyricist of a particular musical work.

"(19) The terms 'analog format', 'copyright status', 'category code', 'generation status', and 'source material', mean those terms as they are used in the technical reference document.

"§1002. Prohibition on certain infringement actions

"(a) CERTAIN ACTIONS PROHIBITED.—

"(1) GENERALLY.—No action may be brought under this title, or under section 337 of the Tariff Act of 1930, alleging infringement of copyright based on the manufacture, importation, or distribution of a digital audio recording device or a digital audio recording medium, or an analog audio recording device or analog audio recording medium, or the use of such a device or medium for making audiograms. However, this subsection does not apply with respect to any claim against a person for infringement by virtue of the making of one or more audiograms, or other material objects in which works are fixed, for direct or indirect commercial advantage.

"(2) EXAMPLE.—For purposes of this section, the copying of an audiogram by a consumer for private, noncommercial use is not for direct or indirect commercial advantage, and is therefore not actionable.

"(b) EFFECT OF THIS SECTION.—Nothing in this section shall be construed to create or expand a cause of action for copyright infringement except to the extent such a cause of action otherwise exists under other chapters of this title or under section 337 of the Tariff Act of 1930, or to limit any defenses that may be available to such causes of action.

"§1003. Effect on other rights and remedies with respect to private home copying or otherwise

"Except as expressly provided in this chapter with respect to audio recording devices and media, neither the enactment of this chapter nor anything contained in this chapter shall be construed to expand, limit, or otherwise affect the rights of any person with respect to private home copying of copyrighted works, or to expand, limit, create, or otherwise affect any other right or remedy that may be held by or available to any person under chapters 1 through 9 of this title.

"SUBCHAPTER B—ROYALTY PAYMENTS

"§1011. Obligation to make royalty payments

"(a) PROHIBITION ON IMPORTATION AND MANUFACTURE.—No person shall import into and distribute in the United States, or manufacture and distribute in the United States, any digital audio recording device or digital audio recording medium unless such person—

"(1) records the notice specified by this section and subsequently deposits the statements of account and applicable royalty payments for such device or medium specified by this section and section 1012 of this title, or

"(2) complies with the applicable notice, statement of account, and payment obligations under a negotiated arrangement authorized pursuant to section 1016 of this title.

"(b) FILING OF NOTICE.—

"(1) GENERALLY.—The importer or manufacturer of any digital audio recording device or digital audio recording medium, within a product category or utilizing a technology with respect to which such manufacturer or importer has not previously filed a notice under this subsection, shall file a notice with the Register, no later than 45 days after the commencement of the first distribution in the United States of such device or medium, in such form as the Register shall prescribe by regulation; provided, however, that no notice shall be required with respect to any distribution occurring prior to the effective date of this chapter.

"(2) CONTENTS.—Such notice shall—

"(A) set forth the manufacturer's or importer's identity and address,

"(B) identify such product category and technology, and

"(C) identify any trade or business names, trademarks, or like indicia of origin that the importer or manufacturer uses or intends to use in connection with the importation, manufacture, or distribution of such device or medium in the United States.

"(c) FILING OF QUARTERLY STATEMENTS OF ACCOUNT.—

"(1) GENERALLY.—Any importer or manufacturer that distributed during a given quarter any digital audio recording device or digital audio recording medium that it manufactured or imported shall file with the Register, in such form as the Register shall prescribe by regulation, a quarterly statement of account specifying, by product category, technology, and model, the number and transfer price of all digital audio recording devices and digital audio recording media that it distributed during such quarter.

"(2) PERIOD COVERED.—The quarterly statements of account may be filed on either a calendar or fiscal year basis, at the election of the manufacturer or importer.

"(3) STATEMENTS OF ACCOUNT FOR THE FIRST THREE QUARTERS.—For the first three quarters of any calendar or fiscal year, such statement shall—

"(A) be filed no later than 45 days after the close of the period covered by the statement; provided, however, that any quarterly statement that would be due within three months and 45 days of the effective date of this chapter shall not be filed until the next quarterly statement is due, at which time a statement shall be filed covering the entire period since the effective date of this chapter;

"(B) be certified as accurate by an authorized officer or principal of the importer or manufacturer;

"(C) be accompanied by the total royalty payment due for such period pursuant to section 1012 of this title.

"(4) STATEMENT OF ACCOUNT FOR THE FOURTH QUARTER.—The quarterly statement for the final quarter of any calendar or fiscal year shall be incorporated into the annual statement required under subsection (d) of this section, which shall be accompanied by the royalty payment due for such quarter.

"(d) FILING OF ANNUAL STATEMENTS OF ACCOUNT.—

"(1) GENERALLY.—Any importer or manufacturer that distributed during a given calendar or fiscal year (as applicable) any digital audio recording device or digital audio recording medium that it manufactured or imported shall also file with the Register a cumulative annual statement of account, in such form as the Register shall prescribe by regulation.

"(2) TIMING AND CERTIFICATION.—Such statement shall be filed no later than 60 days after the close of such calendar or fiscal year, and shall be certified as accurate by an authorized officer or principal of the importer or manufacturer.

"(3) INDEPENDENT REVIEW AND CERTIFICATION.—The annual statement of account shall be reviewed and, pursuant to generally accepted auditing standards, certified by an independent certified public accountant selected by the manufacturer or importer as fairly presenting the information contained therein, on a consistent basis and in accordance with the requirements of this chapter.

"(4) RECONCILIATION OF ROYALTY PAYMENT.—The cumulative annual statement of account shall be accompanied by any royalty payment due under section 1012 of this title that was not previously paid under subsection (c) of this section.

"(e) VERIFICATION.—

"(1) GENERALLY.—

"(A) The Register shall, after consulting with interested copyright parties and interested manufacturing parties, prescribe regulations specifying procedures for the verification of statements of account filed pursuant to this section.

"(B) Such regulations shall permit interested copyright parties to select independent certified public accountants to conduct audits in order to verify the accuracy of the information contained in the statements of account filed by manufacturers and importers.

"(C) Such regulations shall also—

"(i) specify the scope of such independent audits; and

"(ii) establish a procedure by which interested copyright parties will coordinate the engagement of such independent certified public accountants, in order to ensure that no manufacturer or importer is audited more than once per year.

"(D) All such independent audits shall be conducted at reasonable times, with reasonable advance notice, and shall be no broader in scope than is reasonably necessary to carry out the purposes of this subsection in accordance with generally accepted auditing standards.

"(2) INDEPENDENT CERTIFICATION.—The results of all such independent audits shall be certified as fairly presenting the information contained therein, on a consistent basis and in accordance with the requirements of this chapter and generally accepted auditing standards, by the certified public accountant responsible for

the audit. The certification and results shall be filed with the Register.

"(3) ACCESS TO DOCUMENTS IN EVENT OF DISPUTE.—In the event of a dispute concerning the amount of the royalty payment due from a manufacturer or importer resulting from a verification audit conducted under this section—

"(A) any interested manufacturing party audited pursuant to this subsection, and its authorized representatives, shall be entitled to have access to all documents upon which the audit results under this subsection were based; and

"(B) any representative of an interested copyright party that has been approved by the Register under subsection (h)(2) of this section shall be entitled to have access to all documents upon which the audit results under subsection (d) of this section were based, subject to the limitations of subsection (h)(2) of this section.

"(f) COSTS OF VERIFICATION.—

"(1) The costs of all verification audits that are conducted pursuant to subsection (e) of this section shall be borne by interested copyright parties, except that, in the case of a verification audit of a manufacturer or importer that leads ultimately to recovery of an annual royalty underpayment of 5 percent or more of the annual payment made, the importer or manufacturer shall provide reimbursement for the reasonable costs of such audit.

"(2) Except as may otherwise be agreed by interested copyright parties, the costs of a verification audit conducted pursuant to subsection (e) of this section shall be borne by the party engaging the certified public accountant. Any recovery of royalty underpayments as a result of the audit shall be used first to provide reimbursement for the reasonable costs of such audit to the extent such costs have not otherwise been reimbursed by the manufacturer or importer pursuant to this subsection. Any remaining recovery shall be deposited with the Register pursuant to section 1013 of this title, or as may otherwise be provided by a negotiated arrangement authorized under section 1016 of this title, for distribution to interested copyright parties as though such funds were royalty payments made pursuant to this section.

"(g) INDEPENDENCE OF ACCOUNTANTS.—Each certified public accountant used by interested copyright parties or interested manufacturing parties pursuant to this section shall be in good standing and shall not be financially dependent upon interested copyright parties or interested manufacturing parties, respectively. The Register may, upon petition by any interested copyright party or interested manufacturing party, prevent the use of a particular certified public accountant on the ground that such accountant does not meet the requirements of this subsection.

"(h) CONFIDENTIALITY.—

"(1) GENERALLY.—The quarterly and annual statements of account filed pursuant to subsections (c) and (d) of this section, and information disclosed or generated during verification audits conducted pursuant to subsection (e) of this section, shall be presumed to contain confidential trade secret information within the meaning of section 1905 of title 18 of the United States Code. Except as provided in paragraphs (2), (3), and (4) of this subsection, neither the Register nor any member, officer, or employee of the Copyright Office or the Tribunal, may—

"(A) publicly disclose audit information furnished under this section or information contained in quarterly or annual statements of account, except that aggregate information that does not disclose, directly or indirectly, company-specific information may be made available to the public;

"(B) use such information for any purpose other than to carry out responsibilities under this chapter; or

"(C) permit anyone (other than members, officers, and employees of the Copyright Office and the Tribunal who require such information in the performance of duties under this chapter) to examine such information.

"(2) PROCEDURES FOR ACCESS TO BE PRESCRIBED BY REGISTER.—(A) The Register, after consulting with interested manufacturing parties and interested copyright parties, shall prescribe procedures for disclosing, in confidence, to representatives of interested copyright parties and representatives of interested manufacturing parties information contained in quarterly and annual statements of account and information generated as a result of verification audits.

"(B) Such procedures shall provide that only those representatives of interested copyright parties and interested manufacturing parties who have been approved by the Register shall have access to such information, and that all such representatives shall be required to sign a certification limiting the use of the information to—

"(i) verification functions under this section, and

"(ii) any enforcement actions that may result from such verification procedures.

"(3) ACCESS BY AUDITED MANUFACTURER.—Any interested manufacturing party that is audited pursuant to subsections (e) of this section, and its authorized representatives, shall be entitled to have access to all documents filed with the Register as a result of such audit.

"(4) ACCESS BY CONGRESS.—Nothing in this section shall authorize the withholding of information from the Congress.

"§1012. Royalty payments

"(a) DIGITAL AUDIO RECORDING DEVICES.—

"(1) The royalty payment due under section 1011 of this title for each digital audio recording device imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 2 percent of the transfer price. However, only the first person to manufacture and distribute or import and distribute such device shall be required to pay the royalty with respect to such device.

"(2) With respect to a digital audio recording device first distributed in combination with one or more devices, either as a physically integrated unit or as separate components, the royalty payment shall be calculated as follows:

"(A) If the digital audio recording device and such other devices are part of a physically integrated unit, the royalty payment shall be based on the transfer price of the unit, but shall be reduced by any royalty payment made on any digital audio recording device included within the unit that was not first distributed in combination with the unit.

"(B) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have been distributed separately at any time during the preceding 4 quarters, the royalty payment shall be based on the average transfer price of such devices during those 4 quarters.

"(C) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have not been distributed separately at any time during the preceding 4 quarters, the royalty payment shall be based on a constructed price reflecting the proportional value of such device to the combination as a whole.

"(3) Notwithstanding paragraph (1) or (2) of this subsection, the amount of the royalty payment for each digital audio recording device or physically integrated unit containing a digital audio recording device shall not be less than $1 nor more than the royalty maximum. The royalty maximum shall be $8 per device, except that for a physically integrated unit containing more than one digital audio recording device, the royalty maximum for such unit shall be $12. During the 6th year after the effective date of this chapter, and no more than once each year thereafter, any interested copyright party may petition the Tribunal to increase the royalty maximum and, if more than 20 percent of the royalty payments are at the relevant royalty maximum, the Tribunal shall prospectively increase such royalty maximum with the goal of having no more than 10 percent of such payments at the new royalty maximum; provided, however, that the amount of any such increase as a percentage of the royalty maximum shall in no event exceed the percentage increase in the Consumer Price Index during the period under review.

"(b) DIGITAL AUDIO RECORDING MEDIA.—The royalty payment due under section 1011 of this title for each digital audio recording medium imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 3 percent of the transfer price. However, only the first person to manufacture and distribute or import and distribute such medium shall be required to pay the royalty with respect to such medium.

"(c) RETURNED OR EXPORTED MERCHANDISE.—

"(1) In calculating the amount of royalty payments due under subsections (a) and (b) of this section, manufacturers and importers may deduct the amount of any royalty payments already made on digital audio recording devices or media that are—

"(A) returned to the manufacturer or importer as unsold or defective merchandise; or

"(B) exported by the manufacturer or importer or a related person—

within two years following the date royalties are paid on such devices or media.

"(2) Any such credit shall be taken during the period when such devices or media are returned or exported, and the basis for any such credit shall be set forth in the statement of account for such period filed under section 1011(c) of this title.

"(3) Any such credit that is not fully used during such period may be carried forward to subsequent periods. If any returned or exported merchandise for which a credit has been taken is subsequently distributed, a royalty payment shall be made as specified under subsection (a) or (b) of this section, based on the transfer price applicable to such distribution.

"§1013. Deposit of royalty payments and deduction of expenses

"The Register shall receive all royalty payments deposited under this chapter and, after deducting the reasonable costs incurred by the Copyright Office under this chapter, shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest under section 1014, 1015, or 1016 of this title. The Register may, in the Register's discretion, four years after the close of any calendar year, close out the royalty payments account for that calendar year, and may treat any funds remaining in such account and any subsequent deposits that would otherwise be attributable to that calendar year as attributable to the next succeeding calendar year. The Register shall submit to the Copyright Royalty Tribunal, on a monthly basis, a financial statement reporting the amount of royalties available for distribution.

"§1014. Entitlement to royalty payments

"(a) INTERESTED COPYRIGHT PARTIES.—The royalty payments deposited pursuant to section 1013 of this title shall, in accordance with the procedures specified in section 1015 or 1016 of this title, be distributed to any interested copyright party—

"(1) whose musical work or sound recording has been—

"(A) embodied in audiograms lawfully made under this title that have been distributed to the public, and

"(B) distributed to the public in the form of audiograms or disseminated to the public in transmissions, during the period to which such payments pertain; and

"(2) who has filed a claim under section 1015 or 1016 of this title.

"(b) ALLOCATION OF ROYALTY PAYMENTS TO GROUPS.—The royalty payments shall be divided into two funds as follows:

"(1) THE SOUND RECORDINGS FUND.—66⅔ percent of the royalty payments shall be allocated to the Sound Recordings Fund. The American Federation of Musicians (or any successor entity) shall receive 2⅝ percent of the royalty payments allocated to the Sound Recordings Fund for the benefit of nonfeatured musicians who have performed on sound recordings distributed in the United States. The American Federation of Television and Radio Artists (or any successor entity) shall receive 1⅜ percent of the royalty payments allocated to the Sound Recordings Fund for the benefit of nonfeatured vocalists who have performed on sound recordings distributed in the United States. The remaining royalty payments in the Sound Recordings Fund shall be distributed to claimants under subsection (a) of this section who are interested copyright parties under section 1001(7)(A) of this title. Such claimants shall allocate such royalty payments, on a per sound recording basis, in the following manner: 40 percent to the recording artist or artists featured on such sound recordings (or the persons conveying rights in the artists' performances in the sound recordings), and 60 percent to the interested copyright parties.

"(2) THE MUSICAL WORKS FUND.—

"(A) 33⅓ percent of the royalty payments shall be allocated to the Musical Works Fund for distribution to interested copyright parties whose entitlement is based on legal or beneficial ownership or control of a copyright in a musical work.

"(B) Notwithstanding any contractual obligation to the contrary—

"(i) music publishers shall be entitled to 50 percent of the royalty payments allocated to the Musical Works Fund, and

"(ii) writers shall be entitled to the other 50 percent of the royalty payments allocated to the Musical Works Fund.

"(c) DISTRIBUTION OF ROYALTY PAYMENTS WITHIN GROUPS.—If all interested copyright parties within a group specified in subsection (b) of this section do not agree on a voluntary proposal for the distribution of the royalty payments within such group, the Tribunal shall, pursuant to the procedures specified in section 1015(c) of this title, allocate such royalty payments based on the extent to which, during the relevant period—

"(1) for the Sound Recording Fund, each sound recording was distributed to the public in the form of audiograms; and

"(2) for the Musical Works Fund, each musical work was distributed to the public in the form of audiograms or disseminated to the public in transmissions.

"§1015. Procedures for distributing royalty payments

"(a) FILING OF CLAIMS AND NEGOTIATIONS.—

"(1) During the first 2 months of each calendar year after the calendar year in which this chapter takes effect, every interested copyright party that is entitled to royalty payments under section 1014 of this title shall file with the Tribunal a claim for payments collected during the preceding year in such form and manner as the Tribunal shall prescribe by regulation.

"(2) All interested copyright parties within each group specified in section 1014(b) of this title shall negotiate in good faith among themselves in an effort to agree to a voluntary proposal for the distribution of royalty payments. Notwithstanding any provision of the antitrust laws, for purposes of this section such interested copyright parties may agree among themselves to the proportionate division of royalty payments, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf; except that no agreement under this subsection may vary the allocation of royalties specified in section 1014(b) of this title.

"(b) DISTRIBUTION OF PAYMENTS IN THE ABSENCE OF A DISPUTE.—Within 30 days after the period established for the filing of claims under subsection (a) of this section, in each year after the year in which this section takes effect, the Tribunal shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1014(c) of this title. If the Tribunal determines that no such controversy exists, it shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a) of this section, after deducting its reasonable administrative costs under this section.

"(c) RESOLUTION OF DISPUTES.—If the Tribunal finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy.

§1016. Negotiated collection and distribution arrangements

"(a) SCOPE OF PERMISSIBLE NEGOTIATED ARRANGEMENTS.—

"(1) Interested copyright parties and interested manufacturing parties may at any time negotiate among or between themselves a single alternative system for the collection, distribution, or verification of royalty payments provided for in this chapter.

"(2) Such a negotiated arrangement may vary the collection, distribution, and verification procedures and requirements that would otherwise apply under sections 1011 through 1015 of this title, including the time periods for payment and distribution of royalties, but shall not alter the requirements of section 1011(a), (b), or (h)(4), section 1012 (a) or (b), or section 1014 (a) or (b) of this title.

"(3) Such a negotiated arrangement may also provide that specified types of disputes that cannot be resolved among the parties to the arrangement shall be resolved by binding arbitration or other agreed upon means of dispute resolution.

"(4) Notwithstanding any provision of the antitrust laws, for purposes of this section interested manufacturing parties and interested copyright parties may negotiate in good faith and voluntarily agree among themselves as to the collection, distribution, and verification of royalty payments, and may designate common agents to negotiate and carry out such activities on their behalf.

"(b) IMPLEMENTATION OF A NEGOTIATED ARRANGEMENT.—

"(1) No negotiated arrangement shall go into effect under this section until the Tribunal has approved the arrangement, after full opportunity for comment, as meeting the following requirements.

"(A) The participants in the negotiated arrangement shall include—

"(i) at least two-thirds of all individual interested copyright parties that are entitled to receive royalty payments from the Sound Recording Fund,

"(ii) at least two-thirds of all individual interested copyright parties that are entitled to receive royalty payments from the Musical Works Fund as music publishers, and

"(iii) at least two-thirds of all individual interested copyright parties that are entitled to receive royalty payments from the Musical Works Fund as writers.

"(B) For purposes of subparagraph (A) of this paragraph, the determination as to two-thirds participation shall be based on annual retail sales of audiograms in which musical works or sound recordings of musical works are embodied. One or more organizations representing any of the types of individual interested copyright parties specified in the first sentence of this subsection shall be presumed to represent two-thirds of that type of interested copyright party if the membership of, or other participation in, such organization or organizations includes two-thirds of that type of interested copyright party based on annual retail sales of audiograms in which musical works or sound recordings of musical works are embodied.

"(C) The implementation of the arrangement shall include all necessary safeguards, as determined by the Tribunal, which ensure that all interested copyright parties who are not participants in the arrangement receive the royalty payments to which they would be entitled in the absence of such an arrangement under sections 1013 and either 1014(c) or 1015(b), whichever is applicable. Such safeguards may include accounting procedures, reports and any other information determined to be necessary to ensure the proper collection and distribution of royalty payments.

"(2) Notwithstanding the existence of a negotiated arrangement that has gone into effect under this section, any interested manufacturing party that is not a party to such negotiated arrangement shall remain subject to the requirements of sections 1011 and 1012 and may fully satisfy its obligations under this subchapter by complying with the procedures set forth therein.

"(c) MAINTENANCE OF JURISDICTION BY TRIBUNAL.—Where a negotiated arrangement has gone into effect under this section, the Tribunal shall maintain jurisdiction and shall (1) hear and address any objections to the arrangement that may arise while it is in effect, (2) ensure the availability of alternative procedures for any interested manufacturing party or interested copyright party that is not a participant in the negotiated arrangement, (3) ensure that all interested copyright parties who are not participants in the arrangement receive the royalty payments to which they would be entitled in the absence of such an arrangement under sections 1013 and either 1014(c) or 1015(b), whichever is applicable, (4) ensure that it has adequate funds at its disposal, received either through the Copyright Office or through the entity administering the negotiated arrangement, to distribute to interested copyright parties not participating in the arrangement the royalty payments to which they are entitled under section 1014(c) or 1015(b), including applicable interest, and (5) ensure that the requirements of section 1016(b)(1)(C) are met.

"(d) JUDICIAL ENFORCEMENT.—The Tribunal may seek injunctive relief in an appropriate United States district court to secure compliance with the requirements of subsection (c).

"SUBCHAPTER C—THE SERIAL COPY MANAGEMENT SYSTEM

"§1021. Incorporation of the serial copy management system

"(a) PROHIBITION ON IMPORTATION, MANUFACTURE, AND DISTRIBUTION.—

"(1) No person shall import, manufacture, or distribute any digital audio recording device or any digital audio interface device that does not

conform to the standards and specifications to implement the Serial Copy Management System that are—

"(A) set forth in the technical reference document;

"(B) set forth in an order by the Secretary of Commerce under section 1022(b) (1), (2), or (3) of this title; or

"(C) in the case of a digital audio recording device other than a device defined in part II of the technical reference document or in an order issued by the Secretary pursuant to section 1022(b) of this title, established by the manufacturer (or, in the case of a proprietary technology, the proprietor of such technology) so as to achieve the same functional characteristics with respect to regulation of serial copying as, and to be compatible with the prevailing method for implementation of, the Serial Copy Management System set forth in the technical reference document or in any order of the Secretary issued under section 1022 of this title.

"(2) If the Secretary of Commerce approves standards and specifications under section 1022(b)(4) of this title, then no person shall import, manufacture, or distribute any digital audio recording device or any digital audio interface device that does not conform to such standards and specifications.

"(b) PROHIBITION ON CIRCUMVENTION OF THE SERIAL COPY MANAGEMENT SYSTEM.—No person shall import, manufacture, or distribute any device, or offer or perform any service, the primary purpose or effect of which is to avoid, bypass, remove, deactivate, or otherwise circumvent any program or circuit which implements, in whole or in part, the Serial Copy Management System in a digital audio recording device or a digital audio interface device.

"(c) ENCODING OF INFORMATION ON AUDIOGRAMS.—

"(1) No person shall encode an audiogram of a sound recording with inaccurate information relating to the category code, copyright status, or generation status of the source material so as improperly to affect the operation of the Serial Copy Management System.

"(2) Nothing in this subchapter requires any person engaged in the importation, manufacture, or assembly of audiograms to encode any such audiogram with respect to its copyright status.

"(d) INFORMATION ACCOMPANYING TRANSMISSIONS IN DIGITAL FORMAT.—Any person who transmits or otherwise communicates to the public any sound recording in digital format is not required under this subchapter to transmit or otherwise communicate the information relating to the copyright status of the sound recording. However, any such person who does transmit or otherwise communicate such copyright status information shall transmit or communicate such information accurately.

"§1022. Implementing the serial copy management system

"(a) PUBLICATION OF TECHNICAL REFERENCE DOCUMENT AND CERTIFICATION.—Within 10 days after the date of enactment of this chapter, the Secretary of Commerce shall cause to be published in the Federal Register the technical reference document along with the certification from the National Institute of Standards and Technology, as such certification appears in the report of the Committee on the Judiciary to the Senate on the Audio Home Recording Act of 1991, that the technical reference document sets forth standards and specifications that adequately incorporate the intended functional characteristics to regulate serial copying and are not incompatible with existing international digital audio interface standards and existing digital audio technology.

"(b) ORDERS OF SECRETARY OF COMMERCE.—The Secretary of Commerce, upon petition by an interested manufacturing party or an interested copyright party, and after consultation with the Register, may, if the Secretary determines that to do so is in accordance with the purposes of this chapter, issue an order to implement the Serial Copy Management System set forth in the technical reference document as follows:

"(1) FUNCTIONALLY EQUIVALENT ALTERNATIVES.—The Secretary may issue an order for the purpose of permitting in commerce devices that do not conform to all of the standards and specifications set forth in the technical reference document, if the Secretary determines that such devices possess the same functional characteristics with respect to regulation of serial copying as, and are compatible with the prevailing method for implementation of, the Serial Copy Management System set forth in the technical reference document.

"(2) REVISED GENERAL STANDARDS.—The Secretary may issue an order for the purpose of permitting in commerce devices that do not conform to all of the standards and specifications set forth in the technical reference document, if the Secretary determines that—

"(A) the standards and specifications relating generally to digital audio recording devices and digital audio interface devices have been or are being revised or otherwise amended or modified such that the standards and specifications set forth in the technical reference document are not or would no longer be applicable or appropriate; and

"(B) such devices conform to such new standards and specifications and possess the same functional characteristics with respect to regulation of serial copying as the Serial Copy Management System set forth in the technical reference document.

"(3) STANDARDS FOR NEW DEVICES.—The Secretary may issue an order for the purpose of—

"(A) establishing whether the standards and specifications established by a manufacturer or proprietor for digital audio recording devices other than devices defined in part II of the technical reference document or a prior order of the Secretary under paragraph (1) or (2) of this subsection comply with the requirements of subparagraph (C) of section 1021(a)(1) of this title; or

"(B) establishing alternative standards or specifications in order to ensure compliance with such requirements.

"(4) MATERIAL INPUT TO DIGITAL DEVICE THROUGH ANALOG CONVERTER.—

"(A) GENERALLY.—Except as provided in subparagraphs (B) through (D), the Secretary, after publication of notice in the Federal Register and reasonable opportunity for public comment, may issue an order for the purpose of approving standards and specifications for a technical method implementing in a digital audio recording device the same functional characteristics as the Serial Copy Management System so as to regulate the serial copying of source material input through an analog converter in a manner equivalent to source material input in the digital format.

"(B) COST LIMITATION.—The order may not impose a total cost burden on manufacturers of digital audio recording devices, for implementing the Serial Copy Management System and the technical method prescribed in such order, in excess of 125 percent of the cost of implementing the Serial Copy Management System before the issuance of such order.

"(C) CONSIDERATION OF OTHER OBJECTIONS.—The Secretary shall consider other reasoned objections from any interested manufacturing party or interested copyright party.

"(D) LIMITATIONS TO DIGITAL AUDIO DEVICES.—The order shall not affect the recording of any source material on analog recording equipment and the order shall not impose any restrictions or requirements that must be implemented in any device other than a digital audio recording device or digital audio interface device.

"SUBCHAPTER D—REMEDIES

"§1031. Civil remedies

"(a) CIVIL ACTIONS.—Any interested copyright party or interested manufacturing party that is or would be injured by a violation of section 1011 or 1021 of this title, or the Attorney General of the United States, may bring a civil action in an appropriate United States district court against any person for such violation.

"(b) POWERS OF THE COURT.—In an action brought under subsection (a) of this section, the court—

"(1) except as provided in subsection (h) of this section, may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain such violation;

"(2) in the case of a violation of section 1011 (a) through (d) or 1021 of this title, shall award damages under subsection (d) of this section;

"(3) in its discretion may allow the recovery of full costs by or against any party other than the United States or an officer thereof;

"(4) in its discretion may award a reasonable attorney's fee to the prevailing party as part of the costs awarded under paragraph (3) if the court finds that the nonprevailing party has not proceeded in good faith; and

"(5) may grant such other equitable relief as it deems reasonable.

"(c) RECOVERY OF OVERDUE ROYALTY PAYMENTS.—In any case in which the court finds that a violation of section 1011 of this title involving nonpayment or underpayment of royalty payments has occurred, the violator shall be directed to pay, in addition to damages awarded under subsection (d) of this section, any such royalties due, plus interest calculated as provided under section 1961 of title 28, United States Code.

"(d) AWARD OF DAMAGES.—

"(1) SECTION 1011.—

"(A) DEVICE.—In the case of a violation of section 1011 (a) through (d) of this title involving a digital audio recording device, the court shall award statutory damages in an amount between a nominal level and $100 per device, as the court considers just.

"(B) MEDIUM.—In the case of a violation of section 1011 (a) through (d) of this title involving a digital audio recording medium, the court shall award statutory damages in an amount between a nominal level and $4 per medium, as the court considers just.

"(2) SECTION 1021.—In any case in which the court finds that a violation of section 1021 of this title has occurred, the court shall award damages calculated, at the election of the complaining party at any time before final judgment is rendered, pursuant to subparagraph (A) or (B) of this paragraph, but in no event shall the judgment (excluding any award of actual damages to an interested manufacturing party) exceed a total of $1,000,000:

"(A) ACTUAL DAMAGES.—A complaining party may recover its actual damages suffered as a result of the violation and any profits of the violator that are attributable to the violation that are not taken into account in computing the actual damages. In determining the violator's profits, the complaining party is required to prove only the violator's gross revenue, and the violator is required to prove its deductible expenses and the elements of profit attributable to factors other than the violation.

"(B) STATUTORY DAMAGES.—

"(i) DEVICE.—A complaining party may recover an award of statutory damages for each violation of section 1021 (a) or (b) of this title in the sum of not less than $1,000 nor more than $10,000 per device involved in such violation or

per device on which a service prohibited by section 1021(b) of this title has been performed, as the court considers just.

"(ii) AUDIOGRAM.—A complaining party may recover an award of statutory damages for each violation of section 1021(c) of this title in the sum of not less than $10 nor more than $100 per audiogram involved in such violation, as the court considers just.

"(iii) TRANSMISSION.—A complaining party may recover an award of damages for each transmission or communication that violates section 1021(d) of this title in the sum of not less than $10,000 nor more than $100,000, as the court considers just.

"(3) WILLFUL VIOLATIONS.—

"(A) In any case in which the court finds that a violation of section 1011 (a) through (d) of this title was committed willfully and for purposes of direct or indirect commercial advantage, the court shall increase statutory damages—

"(i) for a violation involving a digital audio recording device, to a sum of not less than $100 nor more than $500 per device; and

"(ii) for a violation involving a digital audio recording medium, to a sum of not less than $4 nor more than $15 per medium, as the court considers just.

"(B) In any case in which the court finds that a violation of section 1021 of this title was committed willfully and for purposes of direct or indirect commercial advantage, the court in its discretion may increase the award of damages by an additional amount of not more than $5,000,000, as the court considers just.

"(4) INNOCENT VIOLATIONS OF SECTION 1021.—The court in its discretion may reduce the total award of damages against a person violating section 1021 of this title to a sum of not less than $250 in any case in which the court finds that—

"(A) the violator was not aware and had no reason to believe that its acts constituted a violation of section 1021 of this title, or

"(B) in the case of a violation of section 1021(a) of this title involving a digital audio recording device, the violator believed in good faith that the device complied with section 1021(a)(1)(C) of this title, except that this subparagraph shall not apply to any damages awarded under subsection (d)(2)(A) of this section.

"(e) MULTIPLE ACTIONS.—

"(1) GENERALLY.—No more than one action shall be brought against any party and no more than one award of statutory damages under subsection (d) of this section shall be permitted—

"(A) for any violations of section 1011 of this title involving the same digital audio recording device or digital audio recording medium; or

"(B) for any violations of section 1021 of this title involving digital audio recording devices or digital audio interface devices of the same model, except that this subparagraph shall not bar an action or an award of damages with respect to digital audio recording devices or digital audio interface devices that are imported, manufactured, or distributed subsequent to a final judgment in a prior action.

"(2) NOTICE AND INTERVENTION.—Any complaining party who brings an action under this section shall serve a copy of the complaint upon the Register within 10 days after the complaining party's service of a summons upon a defendant. The Register shall cause a notice of such action to be published in the Federal Register within 10 days after receipt of such complaint. The court shall permit any other interested copyright party or interested manufacturing party entitled to bring the action under section 1031(a) of this title who moves to intervene within 30 days after the publication of such notice to intervene in the action.

"(3) AWARD.—

"(A) GENERALLY.—Except as provided in subparagraph (B), the court may award recovery of actual damages for a violation of section 1021 of this title pursuant to subsection (d)(2)(A) of this section to each complaining party in an action who elects to recover actual damages.

"(B) LIMITATIONS.—

"(i) If more than one complaining party elects to recover actual damages pursuant to subsection (d)(2)(A) of this section, only a single award of the violator's profits shall be made, which shall be allocated as the court considers just.

"(ii) If any complaining interested copyright party or parties elect to recover statutory damages pursuant to subsection (d)(2) of this section in an action in which one or more other complaining interested copyright parties have elected to recover actual damages, the single award of statutory damages permitted pursuant to paragraph (1) of this subsection shall be reduced by the total amount of actual damages awarded to interested copyright parties pursuant to subsection (d)(2)(A) of this section.

"(f) PAYMENT OF OVERDUE ROYALTIES AND DAMAGES.—The court may allocate any award of damages under subsection (d) of this section between or among complaining parties as it considers just. Any award of damages that is allocated to an interested copyright party and any award of overdue royalties and interest under subsection (c) of this section shall be deposited with the Register pursuant to section 1013 of this title, or as may otherwise be provided pursuant to a negotiated arrangement authorized under section 1016 of this title, for distribution to interested copyright parties as though such funds were royalty payments made pursuant to section 1011 of this title.

"(g) IMPOUNDING OF ARTICLES.—At any time while an action under this section is pending, the court may order the impounding, on such terms as it deems reasonable, of any digital audio recording device, digital audio interface device, audiogram, or device specified in section 1021(b) of this title that is in the custody or control of the alleged violator and that the court has reasonable cause to believe does not comply with, or was involved in a violation of, section 1021 of this title.

"(h) LIMITATIONS REGARDING PROFESSIONAL MODELS AND OTHER EXEMPT DEVICES.—Unless a court finds that the determination by a manufacturer or importer that a device fits within the exemption of subparagraph (A) or (B) of section 1001(4) of this title was without a reasonable basis or not in good faith, the court shall not grant a temporary or preliminary injunction against the distribution of such device by the manufacturer or importer.

"(i) REMEDIAL MODIFICATION AND DESTRUCTION OF ARTICLES.—As part of a final judgment or decree finding a violation of section 1021 of this title, the court shall order the remedial modification, if possible, or the destruction of any digital audio recording device, digital audio interface device, audiogram, or device specified in section 1021(b) of this title that—

"(1) does not comply with, or was involved in a violation of, section 1021 of this title, and

"(2) is in the custody or control of the violator or has been impounded under subsection (g) of this section.

"(j) DEFINITIONS.—For purposes of this section—

"(1) the term 'complaining party' means an interested copyright party, interested manufacturing party, or the Attorney General of the United States when one of these parties has initiated or intervened as a plaintiff in an action brought under this section; and

"(2) the term 'device' does not include an audiogram.

"§1032. Binding arbitration

"(a) DISPUTES TO BE ARBITRATED.—Any dispute between an interested manufacturing party and an interested copyright party shall be resolved through binding arbitration, in accordance with the provisions of this section, if—

"(1) the parties mutually agree; or

"(2) before the date of first distribution in the United States of the product which is the subject of the dispute, an interested manufacturing party or an interested copyright party requests arbitration concerning whether such product is or is not a digital audio recording device, a digital audio recording medium, or a digital audio interface device, or concerning the basis on which royalty payments are to be made with respect to such product.

"(b) ARBITRAL PROCEDURES.—

"(1) REGULATIONS FOR COORDINATION OF ARBITRATION.—The Register shall, after consulting with interested copyright parties, prescribe regulations establishing a procedure by which interested copyright parties will coordinate decisions and representation concerning the arbitration of disputes. No interested copyright party shall have the authority to request, agree to, or (except as an intervenor pursuant to subsection (c) of this section) enter into, binding arbitration unless that party shall have been authorized to do so pursuant to the regulations prescribed by the Register.

"(2) PANEL.—Except as otherwise agreed by the parties to a dispute that is to be submitted to binding arbitration under subsection (a) of this section, the dispute shall be heard by a panel of three arbitrators, with one arbitrator selected by each of the two sides to the dispute and the third arbitrator selected by mutual agreement of the first two arbitrators chosen.

"(3) DECISION.—The arbitral panel shall render its final decision concerning the dispute, in a written opinion explaining its reasoning, within 120 days after the date on which the selection of arbitrators has been concluded. The Register shall cause to be published in the Federal Register the written opinion of the arbitral panel within 10 days after receipt thereof.

"(4) TITLE 9 PROVISIONS TO GOVERN.—Except to the extent inconsistent with this section, any arbitration proceedings under this section shall be conducted in the same manner, subject to the same limitations, carried out with the same powers (including the power to summon witnesses), and enforced in the courts of the United States as an arbitration proceeding under title 9, United States Code.

"(5) PRECEDENTS.—In rendering a final decision, the arbitral panel shall take into account any final decisions rendered in prior proceedings under this section that address identical or similar issues; and failure of the arbitral panel to take account of such prior decisions may be considered imperfect execution of arbitral powers under section 10(a)(4) of title 9, United States Code.

"(c) NOTICE AND RIGHT TO INTERVENE.—Any interested copyright party or interested manufacturing party that requests an arbitral proceeding under this section shall provide the Register with notice concerning the parties to the dispute and the nature of the dispute within 10 days after formally requesting arbitration under subsection (a) of this section. The Register shall cause a summary of such notice to be published in the Federal Register within 30 days after receipt of such notice. The arbitral panel shall permit any other interested copyright party or interested manufacturing party who moves to intervene within 20 days after such publication to intervene in the action.

"(d) AUTHORITY OF ARBITRAL PANEL TO ORDER RELIEF.—

"(1) TO PROTECT PROPRIETARY INFORMATION.—The arbitral panel shall issue such orders

as are appropriate to protect the proprietary technology and information of parties to the proceeding, including provision for injunctive relief in the event of a violation of such order.

"(2) TO TERMINATE PROCEEDING.—The arbitral panel shall terminate any proceeding that it has good cause to believe has been commenced in bad faith by a competitor in order to gain access to proprietary information. The panel shall also terminate any proceeding that it believes has been commenced before the technology or product at issue has been sufficiently developed or defined to permit an informed decision concerning the applicability of this chapter to such technology or product.

"(3) TO ORDER RELIEF.—In any case in which the arbitral panel finds with respect to devices or media that were the subject of the dispute, that royalty payments have been or will be due under section 1011 of this title through the date of the arbitral decision, the panel shall order the deposit of such royalty payments pursuant to section 1013 of this title, plus interest calculated as provided under section 1961 of title 28, United States Code. The arbitral panel shall not award monetary or injunctive relief, as provided in section 1031 of this title or otherwise, except as is expressly provided in this subsection.

"(e) EFFECT OF ARBITRATION PROCEEDING ON CIVIL ACTIONS AND REMEDIES.—Notwithstanding any provision of section 1031 of this title, no civil action may be brought or relief granted under section 1031 of this title against any party to an ongoing or completed arbitration proceeding under this section, with respect to devices or media that are the subject of such an arbitration proceeding. However, this subsection does not bar—

"(1) an action for injunctive relief at any time based on a violation of section 1021 of this title; or

"(2) an action or any relief with respect to those devices or media distributed by their importer or manufacturer following the conclusion of such arbitration proceeding, or, if so stipulated by the parties, prior to the commencement of such proceedings.

"(f) ARBITRAL COSTS.—Except as otherwise agreed by the parties to a dispute, the costs of an arbitral proceeding under this section shall be divided among the parties in such fashion as is considered just by the arbitral panel at the conclusion of the proceeding. Each party to the dispute shall bear it own attorney fees unless the arbitral panel determines that a nonprevailing party has not proceeded in good faith and that, as a matter of discretion, it is appropriate to award reasonable attorney's fees to the prevailing party.".

SEC. 3. TECHNICAL AMENDMENTS.

(a) FUNCTIONS OF REGISTER.—Chapter 8 of title 17, United States Code is amended—

(1) in section 801(b)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding the following new paragraph at the end:

"(4) to distribute royalty payments deposited with the Register of Copyrights under section 1014, to determine, in cases where controversy exists, the distribution of such payments, and to carry out its other responsibilities under chapter 10"; and

(2) in section 804(d)—

(A) by inserting "or (4)" after "801(b)(3)"; and

(B) by striking "or 119" and inserting "119, 1015, or 1016".

(b) DEFINITIONS.—Section 101 of title 17, United States Code, is amended by striking "As used" and inserting "Except as otherwise provided in this title, as used".

(c) MASK WORKS.—Section 912 of title 17, United States Code, is amended—

(1) in subsection (a) by inserting "or 10" after "8"; and

(2) in subsection (b) by inserting "or 10" after "8".

SEC. 4. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on the date of the enactment of this Act or January 1, 1992, whichever date is later.

SEC. 5. TECHNICAL REFERENCE DOCUMENT FOR AUDIO HOME RECORDING ACT OF 1991.

SEC. 6. REPEAL OF SECTION 5.

Effective upon publication of the Technical Reference Document in the Federal Register pursuant to section 1022(a) of this title—

(a) section 5 of this Act shall be repealed, and

(b) section 1001(14) of this title shall be amended by striking "in section 5 of this Act" and inserting "as such document was published in the Federal Register pursuant to section 1022(a) of this title".

TECHNICAL REFERENCE DOCUMENT FOR THE AUDIO HOME RECORDING ACT OF 1991

INTRODUCTION

This Technical Reference Document is provided to facilitate the implementation of legislation relating to digital audio recording ("DAR") devices, known as the "Audio Home Recording Act of 1991" ("the Act").

This Technical Reference Document establishes the standards and specifications that are necessary to implement the Serial Copy Management System ("SCMS") under the Act. It draws in part from specifications proposed to the International Electrotechnical Commission ("IEC") in "IEC 958: Digital Audio Interface" (First edition 1989–03) and "Amendment Number 1 to IEC 958 (1989): Digital Audio Interface, Serial Copy Management System" (Reference 84(CO)126 submitted on June 21, 1991) (collectively, "IEC 958"), and "IEC 60A(CO)136 Part 6: Serial copy management system for consumer audio use DAT recorders". The standards and specifications set forth herein relate only to the implementation of SCMS via digital audio interface signals, DAR devices and digital audio interface devices. The standards and specifications set forth herein, as they may be amended pursuant to an order of the Secretary of Commerce under section 1022(b) of subchapter C of the Act, shall be considered determinative under the Act, regardless of any future action by the IEC or by a manufacturer or by an owner of a proprietary technology.

SCMS is intended to prohibit DAR devices from recording "second-generation" digital copies from "first-generation" digital copies containing audio material over which copyright has been asserted via SCMS. It does not generally restrict the ability of such devices to make "first-generation" digital copies from "original" digital sources such as prerecorded commercially available compact discs, digital transmissions or digital tapes.

Currently, the predominant type of DAR device offered for sale in the United States is the DAT recorder, which records and sends digital signals in accordance with the IEC 958 nonprofessional digital audio interface format. Additional types of DAR devices and interface formats are being or may be developed. The standards and specifications in this Technical Reference Document are not intended to hinder the development of such new technologies but require, in accordance with section 1021(a)(1)(A)–(C) of subchapter C of the Act, that they incorporate the functional characteristics of SCMS protection. In order for a DAR device to be "compatible with the prevailing method of implementing SCMS," to the extent DAR devices are capable of recording signals sent in a particular digital audio interface signal format, the SCMS information must be accurately received and acted upon by the DAR devices so as to correctly implement the same level of SCMS protection provided by that format. "Compatibility" does not require direct bit-for-bit correspondence across every interface signal format; indeed, particular interface signal formats may be recordable by some, but not all, DAR devices. To the extent that any digital audio interface device translates and sends signals in a form that can be recorded by a particular DAR device, however, "compatibility" requires that the SCMS information also be accurately translated and sent by the interface device, and accurately read and acted upon by the DAR device.

This document is in three parts. Part I section A sets forth standards and specifications constituting the functional characteristics for implementing SCMS in digital audio interface signals. Sections B and C then apply these standards and specifications in a specific reference for implementing SCMS in the IEC 958 nonprofessional digital audio interface format. Part II section A similarly first sets forth standards and specifications constituting the functional characteristics for implementing SCMS in DAR devices. Sections B and C then apply these standards and specifications in a specific reference for implementing SCMS with respect to the recording and play-back functions of nonprofessional model DAT recorders. Part III contains a series of charts that apply and correlate those codes that are mandated for implementation in DAT recorders by parts I–C and II–C of this document.

The terms "digital audio interface device," "digital audio recording device," "digital audio recording medium," "distribute," "professional model," and 'transmission" as used in this document have the same meanings as in the Act. "Generation status" means whether the signal emanates from a source that has been produced or published by or with the authority of the owner of the material, such as commercially released pre-recorded compact discs or digital tapes or a digital transmission (referred to herein as "original"); or whether the signal emanates from a recording made from such "original" material.

PART I. IMPLEMENTATION OF SCMS IN DIGITAL AUDIO INTERFACE FORMATS

Various consumer devices are capable of producing digital audio signals. Currently, for example, compact disc players, DAT recorders and analog-to-digital converters can send digital audio signals; future devices may include digital microphones or recordable compact disk devices. To enable communication between these different types of devices and a DAR device, it is necessary and desirable to establish common protocols or "interfaces" that mandate specific information in the digital audio output signal of each device. Digital signal interfaces may enable communication of different types of data. A "digital audio interface signal" communicates audio and related interface data as distinguished from, for example, computer or video data. Digital audio interface signal formats may be established for particular types of devices or uses. For example, interface protocols may exist for broadcast use, or for users of professional model products ("professional interface") or for nonprofessional model products ("nonprofessional interface") or for nonprofessional model products ("nonprofessional interface"). One such set of protocols already has been established in the document IEC 958. Sections B and C of part I summarize and mandate the implementation of SCMS in the IEC 958 nonprofessional interface.

Section A sets forth the standards and specifications for implementing SCMS in digital audio interface signals and devices.

(A) DIGITAL AUDIO INTERFACE STANDARD.—To implement the functional characteristics of SCMS in nonprofessional digital audio interface signal formats, whether presently known or developed in the future, the following conditions must be observed:

(1) The digital audio interface format shall provide a means to indicate—

(a) whether or not copyright protection is being asserted via SCMS over the material being sent via the interface; and

(b) whether or not the generation status of the material being sent via the interface is original.

(2) If the digital audio interface format has discrete professional and nonprofessional modes, the interface format and digital audio interface devices shall indicate accurately the professional or nonprofessional status of the interface signal. Such indication is referred to generically as a "channel status block flag".

(3) If the interface format has a discrete mode for sending data other than audio material, the interface format shall indicate accurately whether or not the interface signal contains audio material.

(4) If a digital audio interface device is capable of combining more than one digital audio input signal into a single digital audio output signal, and if copy right is asserted via SCMS over the material being sent in at least one of the input signals, then the device shall indicate in the output signal that copyright is asserted over the entire output signal. If copyright protection is asserted via SCMS over any of the input signals, and the generation status of that copyright-asserted signal is not original, then the entire output signal shall indicate that copyright is asserted and that the generation status is not original.

(5) Devices that are capable of reading original recordings and/or DAR media, and that are capable of sending digital audio signals that can be recorded by a DAR device, shall accurately read the copyright and generation status information from the media and accurately send that information.

(6) Devices having a nonprofessional digital audio interface shall receive and accurately send the copyright and generation status information.

(7) Professional devices that are capable of sending audio information in a nonprofessional digital audio interface format shall send SCMS information as implemented for that format. However, nothing shall prevent professional devices and/or recording professionals engaged in a lawful business from setting SCMS information according to the needs of recording professionals.

(8) If the audio signal is capable of being recorded by a DAR device and the interface format requires an indication of the type of device sending the signal via the interface, then the device shall send the most accurate and specific designation applicable to that device; for example, "Category Codes" as set forth in part I with reference to the IEC 958 nonprofessional interface.

(9) Devices that receive digital audio transmissions sent without copyright and generation status information shall indicate that copyright is asserted over the transmitted audio material and that the generation status is original. If the transmitting entity wishes to transmit copyright status information it shall do so accurately, and the information shall accurately be received and sent unaltered by the receiving device. In the case of Electronic Audio Software Delivery signal transmissions, the receiver shall accurately receive generation status information as sent by the transmitting entity so as to permit or restrict recording of the transmitted signals. "Electronic Audio Software Delivery" refers to a type of transmission whereby the consumer interactively determines what specific work(s) and/or events(s) are received. This includes, for example, "audio on demand" (electronic selection and delivery of sound recordings for copying) or "pay-per-listen" reception, as distinguished from regular broadcast or comparable cable radio programming services.

(10)(a) If the digital audio portion of an interface signal format is recordable by a "preexisting" type of DAR device, that is, one that was distributed prior to the distribution of the interface signal format, then the signal format shall implement the rules of SCMS so that the preexisting DAR device will act upon the rules of SCMS applicable to that DAR device.

(b) If a type of DAR device is capable of recording the digital audio portion of signals sent by a preexisting digital audio interface device, then the DAR device shall implement the rules of SCMS so that the DAR device will act upon the rules of SCMS applicable to that preexisting digital audio interface device's format.

(c) If a digital audio interface device is capable of translating a signal from one interface format to another, then the device also shall accurately translate and send the SCMS information.

(B) SUMMARY OF SCMS IMPLEMENTATION IN THE IEC 958 DIGITAL AUDIO INTERFACE.—Under IEC 958, SCMS is implemented via inaudible information, known as "channel status data", that accompanies a digital audio signal being sent to or by a DAR device via a nonprofessional digital audio interface. Like all digital data, channel status data consist of numerical information encoded as a series of zeros and ones. Each zero or one constitutes a "bit" of data in which both zero and one may impart information concerning the composition of the audio signal being sent to or by a DAR device. Bits represented in this Technical Reference Document as "X", rather than as zero or one, indicate that those bits may be either zero or one without affecting the specifications set forth herein.

Channel status data bits are organized into units of information, known as "blocks," relating to both the left and right stereo audio channels. Each block contains 192 bits of information, numbered consecutively from 0 to 191. Those channel status bits that are significant to the implementation of SCMS via the IEC 958 interface are included within channel status bits 0 through 15. Certain of these 16 bits identify professional or nonprofessional interfaces; some specify copyright assertion; and some identify the generation number of a recording. The remaining bits are "Category Codes" that describe the type of device sending the digital audio signal. More complete descriptions of these channel status bits are set forth in the remaining sections of this part I.

IEC 958 defines professional and nonprofessional interface formats for digital audio signals. An IEC 958 professional interface contains particular types of channel status data for such digital audio recording devices as would be used in professional model products. An IEC 958 nonprofessional interface contains different types of channel status data. The channel status data sent in a nonprofessional interface are incompatible with the channel status data in a professional interface; a DAR device cannot correctly read the channel status data sent in a professional interface.

The specifications summarized herein and mandated in section C apply only to devices that send or read an IEC 958 nonprofessional interface signal. To the extent that a professional device also may have a IEC 958 nonprofessional interface, such a professional device must be capable to sending channel status data via its nonprofessional interface in accordance with the standards set forth herein. However, nothing in this Technical Reference Document shall be interpreted to prevent a professional device having an IEC 958 nonprofessional interface and/or recording professionals engaged in a lawful business from permitting such channel status data bits to be set in accordance with the needs of recording professionals.

All devices having a digital audio output capable of supplying a digital audio signal to a DAR device through an IEC 958 nonprofessional interface must implement five types of codes located between Channel Status Bits 0 and 15. For the IEC 958 interface format, Channel Status Bits 0 through 15 are supplied in a digital audio output signal to a DAR device as follows:

(1) BIT 0.—Bit 0 (the "Channel Status Block Flag"), one of the "Control" bits, shall identify whether the channel status bits are for a professional or nonprofessional interface. Where Bit 0 is set as "1", the signal contains the channel status data required for a professional interface. Where Bit 0 is set as "0", the channel status data is suitable for a nonprofessional interface. The remaining bit assignments are mandated only with respect to a nonprofessional interface, that is, where Bit 0 is set as "0".

(2) BIT 1.—Bit 1, another of the "Control" bits, shall identify whether the signal being sent to or by the DAR device is a digital audio or a digital data signal. Where Bit 1 is set as "0", the signal is a digital audio signal. Where Bit 1 is set as "1", the signal is a digital data signal.

(3) BIT 2.—Bit 2 (the "C" Bit), another of the "Control" bits, shall identify whether copyright protection is asserted for the audio material being sent via the digital audio signal. Where the C Bit is set as "0", copyright protection has been asserted over the material being sent to the digital audio input of the DAR device. Where the C Bit is set as "1", either that material is not protected by copyright or no copyright protection has been asserted by the owner of that material. There are specific applications of the C Bit for three types of devices, as follows:

Compact disc players compatible with the standards set forth in IEC 908 (compact disc standard, Category Code 10000000) in effect as of the date of enactment of the Act indicate in the C Bit both the copyright and generation status of the signal. (See description of "Bit 15", infra.) Where the signal is original and copyright protection has been asserted, the C Bit ="0". Where no copyright protection has been asserted, the C Bit ="1". Where the signal is first-generation and copyright protection has been asserted, the C Bit will fluctuate between "0" and "1" at a rate of between 4–10 Hz.

Digital Receivers (Category Codes 001XXXXL and 0111XXXL) shall set the C Bit as "0", except that these devices shall send the C Bit as "1" only where the cable operator, broadcaster or other entity specifically transmits information indicating that no copyright protection has been asserted over the material.

Devices that combine digital audio input signals into one digital audio output signal for example, digital signal mixing devices) shall reflect whether copyright protection has been asserted in the C Bit for at least one of the input signals by setting the C bit as "0" in the resulting digital audio output signal.

Devices in the Category Codes for General ("00000000") and Present A/D Converters ("01100XXX") are not capable of sending copyright status information in the C Bit. The C Bit in the channel status data sent by these devices has no meaning.

There is no existing legal requirement that a copyright owner must assert protection over its material (and, therefore, set the C Bit as "0"). However, except as provided herein with respect to implementation in Digital Receivers (category codes 001XXXXL and 0111XXXL), a copyright owner may not set the C Bit as "0" for material that is not copyrighted or is in the public domain.

(4) BITS 3–7.—These bits are sent to and read by a DAR device, but specific bit settings for Bits 3–7 are not necessary for the implementation of SCMS. (Bits 6–7 are Music Production Program Block ("MPPB") flag bits.)

(5) BITS 8–14.—Bits 8–14 shall specify a "Category Code" that identifies the type of device that produces the digital audio signal sent to or by a DAR device. Using various combinations of zeros and ones, Bits 8–14 can define Category Codes for as many as 128 different devices that can provide digital audio signals to a DAR device. According to IEC 958, the first three to five Category Code bits (numbered Bits 8–10 through 8–12) describe general product groups, and the remaining Category Code bits specify particular devices within each product group. IEC 958 has assigned particular Category Codes to existing and anticipated product groups and devices, and has reserved additional Category Codes for future devices.

The Category Code issued by each particular device must reflect the most specific code applicable to that device, with the following exceptions:

Digital signal processing and mixing products receive digital audio signals from one or more sources and either process or combine them with other incoming digital audio signals. If all input signals come from analog-to-digital converters having a Category Code "01100XXX", these devices should issue the Category Code of an analog-to-digital converter rather than of the digital signal processing or mixing device.

Sampling rate converters and digital sound samplers come under the Category Codes for digital-to-digital converters. If an input signal to a sampling rate converter or digital sound sampler comes from an analog-to-digital converter having a Category Code "01100XXX", the sampling rate converter or digital sound sampler should issue the Category Code of the analog-to-digital converter.

These exception cases will permit two generations of digital copies from analog recordings, which currently is permitted under SCMS.

The relevance of these Category Codes to SCMS as implemented for devices having the IEC 958 nonprofessional interface is described in Section C and, specifically as to DAT recorders, in Part II Sections B and C.

(6) BIT 15.—Bit 15 (the "L" Bit) shall indicate the "generation status" of the digital audio signals being sent to or by a DAR device. "Generation status" means whether the signal emanates from a source that has been produced or published by or with the authority of the owner of the material, such as commercially released prerecorded compact discs or digital tapes or a digital transmission (referred to herein as "original"); or where the signal emanates from a recording made from such "original" material. In the latter case, a recording made directly from an "original" source is known as a "first-generation" copy; a recording made from a first-generation copy is a "second-generation" copy; and so forth. Because there is no restriction on the number of copies that can be made from material over which no copyright protection has been asserted, generation status is relevant only where copyright protection has been asserted over the signal. For most products, if the L Bit is set as "0", the source is a recording that is first-generation or higher. If the L Bit is set as "1", the source is "original." There are four specific categories of products which indicate generation status differently, as follows:

Compact disc players compatible with the specifications in IEC 908 (Category Code 10000000) are incapable of controlling the L Bit. These products signal generation status solely by means of the C Bit (Bit 2).

Digital audio output signals from all other laser-optical products (Category Code 100XXXXL) shall send the L Bit as "0" for "original" material and the L Bit as "1" for first-generation or higher recordings.

Digital Receivers (Category Codes 001XXXXL and 0111XXXL) shall set the L Bit as "0"; except in the case of receivers for Electronic Audio Software Delivery, which receivers shall send the L Bit as "1" only where the entity specifically transmits information indicating that the material should be treated as if it were first generation or higher.

Devices that combine more than one digital audio input signal into one digital audio output signal, such as digital signal processors or mixers, shall reflect in the L Bit of the output signal the highest generation status of any input containing material over which copyright protection has been asserted. Thus, where one or more of the constituent input signals contains material that is not original (that is, a first-generation copy) and over which copyright protection is asserted, then the device must reflect in the L Bit of the digital audio output signal a nonoriginal generation status. In all other cases, the device shall reflect in the L Bit that the output signal is original.

(C) MANDATORY SPECIFICATIONS FOR IMPLEMENTING SCMS IN THE IEC 958 DIGITAL AUDIO INTERFACE.—The following bit assignments for channel status data, as referenced in the provisions of IEC 958 paragraph 4.2.2 "Channel status data format for digital equipment for consumer use", shall be mandatory for devices implementing the IEC 958 interface:

(1) BITS 0–2 OF THE "CONTROL" BITS.—

(a) BIT 0 (THE "CHANNEL STATUS BLOCK FLAG"):

Bit 0="0"	Nonprofessional interface.
Bit 0="1"	Professional interface.

(b) BIT 1:

Bit 1="0"	Digital audio signals.
Bit 1="1"	Nonaudio (data) signals.

(c) BIT 2 (THE "C" BIT)—

(i) CASE 1:

Bit 2="0"	Copyright protection asserted.
Bit 2="1"	No copyright protection asserted or not under copyright.

(ii) CASE 2—COMPACT DISC PLAYERS.—For compact disc players compatible with IEC 908 (Category Code 10000000), the C Bit shall indicate:

Bit 2="0"	Copyright protection asserted and generation status is "original".
Bit 2="1"	No copyright protection asserted.

Where the Bit 2 fluctuates between '0" and "1" at a rate between 4–10 Hz, copyright protection has been asserted and the signal is first generation or higher.

(iii) CASE 3—DIGITAL RECEIVERS.—For Digital Receivers (Category Codes 001XXXXL and 0111XXXL), the C Bit shall indicate, where copyright information is transmitted to the digital receiver:

Bit 2="0"	Copyright protection asserted.
Bit 2="1"	No copyright protection asserted

Where no copyright information is transmitted to the receiver, the digital receiver shall set the C Bit as "0".

(iv) CASE 4—DIGITAL SIGNAL MIXERS.—Where a single digital audio output signal results from the combination of more than one digital audio input signal:

Bit 2="0"	Copyright protection asserted over at least one of the constituent digital audio input signals.
Bit 2="1"	For all of the constituent digital audio input signals, no copyright protection asserted or not under copyright.

(v) EXCEPTION CASE.—The C Bit has no meaning for A/D converters for analog signals that do not include status information concerning the C Bit and the L Bit (that is, A/D converters in Category Code 01100XXX).

(2) BITS 3–7.—Specific bit settings for Bits 3–7 are not necessary for the implementation of SCMS.

(3) CATEGORY CODE BITS 8–15:

(a) BITS 8–15.—The Category Codes that follow are established for particular product groups. Where Bit 15 is represented by "L" rather than a zero or one, Bit 15 (the "L" Bit) can be either a zero or one without affecting the Category Code. Where Bit 15 is represented by "X" rather than a zero or one, the device is not capable of issuing status information concerning the L Bit:

00000000	General. This category applies to products that are capable of sending channel status data but are not programmed to send such data in accordance with the specifications set forth in this Technical Reference Document because the products were manufactured before the effective date of the Act. This General Category Code shall not be used for products manufactured after the effective date of the Act.
0000001L	Experimental products not for commercial sale.
100XXXXL	Laser-optical products, such as compact disc players (including recordable and erasable compact disk players) and videodisc players with digital audio outputs.
010XXXXL	Digital-to-digital ("D/D") converters and signal processing products.
110XXXXL	Magnetic tape or disk based products, such as DAT players and recorders.
001XXXXL and 0111XXXL	Receivers of digitally encoded audio transmissions with or without video signals.
101XXXXL	Musical instruments, microphones and other sources that create original digital audio signals.
01100XXX	Analog-to-digital ("A/D") converters for analog signals without status information concerning the C Bit and the L Bit ("Present A/D converters").
01101XXL	A/D converters for analog signals which include status information concerning the C Bit and the L Bit ("Future A/D converters").
0001XXXL	Solid state memory based media products.

Particular devices within each product group defined above shall be assigned specific Category Codes in accordance with IEC 958. Manufacturers of any device that is capable of supplying a digital audio input to a DAR device must use the most specific Category Code applicable to that particular device. However, digital signal processing or digital signal mixing products in Category Code product group "010XXXXL" shall issue the Category Code for Present A/D converters where all the input signals have the Category Code for a Present A/D converter. Similarly, sampling rate converters in Category Code "0101100L" and digital sound samplers in Category Code "0100010L" shall issue the Category Code for Present A/D converters where the input signal comes from a Present A/D converter.

(b) BIT 15 (THE "L" BIT).—The L Bit shall be used to identify the generation status of the digital audio input signal as emanating from an "original" source or from a nonoriginal (that is, first-generation or higher) recording.

(1) CASE 1—GENERAL CASE.—For all Category Codes (except as explicitly set forth below), the L Bit shall indicate:

Bit 15="0"	First-generation or higher recording.

Bit 15="1"	*"Original" source, such as a commercially released prerecorded digital audiogram.*

(2) CASE 2.—LASER OPTICAL PRODUCTS.—The reverse situation is valid for laser optical products (Category Code 100XXXXL), other than compact disc players compatible with IEC 908 (Category Code 10000000). For laser optical products in Category Code 100XXXXL, the L Bit shall indicate:

Bit 15 = "1"	*First-generation or higher recording.*
Bit 15 = "0"	*"Original" recording, such as a commercially released prerecorded compact disc.*

(3) CASE 3.—DIGITAL RECEIVERS.—For Digital Receivers (Category Codes 001XXXXL and 0111XXXL), Bit 15 always shall be set as "0"; except for receivers for Electronic Audio Software Delivery, for which the L Bit shall indicate:

Bit 15 = "0"	*Generation status information transmitted as "original" material.*
Bit 15 = "1"	*Generation status information transmitted as for nonoriginal material, or nongeneration status information transmitted.*

(4) CASE 4.—DIGITAL SIGNAL MIXERS.—Where a single digital audio output signal results from the combination of more than one digital audio input signal:

Bit 15 = "0"	*One or more of those constituent digital audio input signals over which copyright protection has been asserted is first-generation or higher.*
Bit 15 = "1"	*All other cases.*

(5) EXCEPTION CASE.—The L Bit has no meaning for A/D converters for analog signals that do not include status information concerning the C Bit and the L Bit (that is, A/D converters in Category Code 01100XXX) and compact disc players in Category Code 10000000.

PART II. SERIAL COPY MANAGEMENT SYSTEM FOR DAR DEVICES AND NONPROFESSIONAL MODEL DAT RECORDERS

The intention of SCMS is generally to prevent DAR devices from making second-generation or higher "serial" digital recordings of "original" digital audio material over which copyright protection has been asserted through SCMS. SCMS does not prevent the making of a first-generation recording of such "original" digital audio material. As future technologies permit, SCMS may limit the digital recording by a DAR device of analog audio material over which copyright protection has been asserted to the making of only first-generation digital copies. However, because present technology does not identify whether analog audio material is protected by copyright, SCMS will not prevent the making of first- and second-generation digital copies of such material. SCMS will not restrict digital recording of material carrying an indication through SCMS that copyright protection has not been asserted. SCMS does not apply to professional model products as defined under the Act.

(A) GENERAL PRINCIPLES FOR SCMS IMPLEMENTATION IN DAR DEVICES.—To implement the functional characteristics of SCMS in DAR devices, whether presently known or developed in the future, the following conditions must be observed:

(1) A digital audio recording medium shall be capable of storing an indication of—

(a) whether or not copyright protection is being asserted over the audio material being sent via the interface and stored on the DAR medium; and

(b) whether or not the generation status of the audio material being sent via the interface and stored on the DAR medium is original.

(2) If the digital audio interface format being sent to and read by a DAR device has discrete modes for professional as well as nonprofessional purposes, the DAR device shall distinguish accurately the professional or nonprofessional status of the interface signal.

(3) If the interface format has a discrete mode for sending data other than audio material, the DAR device shall distinguish accurately whether or not the interface signal contains audio material.

(4) A DAR device capable of receiving and recording digital audio signals shall observe the following rules:

(a) Audio material over which copyright is asserted via SCMS and whose generation status is original is permitted to be recorded. An indication that copyright is asserted over the audio material contained in the signal and that the generation status of the recording is first generation shall be recorded on the media.

(b) Audio material over which copyright is not asserted via SCMS may be recorded, without regard to generation status. An indication that copyright is not asserted shall be recorded on the media.

(c) Audio material over which copyright is asserted via SCMS and whose generation status is not original shall not be recorded.

(5) DAR media shall store the copyright and generation status information as described herein during recording in a manner that the information can be accurately read.

(6) Devices that are capable of reading original recordings and/or DAR media, and that are capable of sending digital audio signals that can be recorded by a DAR device, shall accurately read the copyright and generation status information from the media and accurately send the information.

(7) DAR devices shall not be capable of recording digital audio signals transmitted in a professional digital audio interface format.

(8) DAR devices having a nonprofessional digital audio interface shall receive and accurately send the copyright and generation status information.

(9) Professional devices that are capable of sending audio information in a nonprofessional digital audio interface format shall send SCMS information as implemented for that format. However, nothing shall prevent professional devices and/or recording professionals engaged in a lawful business from setting SCMS information according to the needs of recording professionals.

(10) Digital audio signals that are capable of being recorded by a DAR device but that have no information concerning copyright and/or generation status shall be recorded by the DAR device so that the digital copy is copyright asserted and original generation status.

(11) If the signal is capable of being recorded by a DAR device and the interface format requires an indication of the type of device sending the signal via the interface, then the device shall send the most accurate and specific designation applicable to that device; for example, "Category Codes" as set forth in part I with reference to the IEC 958 nonprofessional interface.

(12) Except as may be provided pursuant to section 1022(b)(4) of subchapter C of the Act, a DAR device that is capable of converting analog input signals to be recorded in digital format shall indicate that the digital copy is copyright asserted and original generation status.

(13)(a) If the digital audio portion of an interface signal format is recordable by a "preexisting" type of DAR device, that is, one that was distributed prior to the distribution of the interface signal format, then the signal format shall implement the rules of SCMS so that the preexisting DAR device will act upon the rules of SCMS applicable to that DAR device.

(b) If a type of DAR device is capable of recording the digital audio portion of signals sent by a preexisting digital audio interface device, then the DAR device shall implement the rules of SCMS so that the DAR device will act upon the rules of SCMS applicable to the format of that preexisting digital audio interface device.

(c) If a digital audio interface device is capable of translating a signal from one interface format to another, then the device also shall accurately translate and send the SCMS information.

(B) SUMMARY OF MANDATORY SCMS SPECIFICATIONS FOR DAT RECORDERS.—SCMS, to be implemented for DAT machines, requires that a DAT machine must play-back and/or record specific inaudible data in a particular location on a DAT tape. According to IEC documents "IEC 60A(CO)130 part 1: Digital Audio Tape Cassette System (DAT) Dimensions and Characteristics" and "IEC 60A(CO)136 part 6: Serial copy management system for consumer audio use DAT recorders", that particular location on the digital audio tape consists of two bits known as "subcode ID6 in the main ID in the main data area" ("ID6").

(1) SCMS OPERATION WHEN PLAYING A DAT TAPE.—With respect to the play-back function, a DAT machine that is connected to a DAT recorder can provide digital audio output signals via a nonprofessional interface. In that circumstance, the DAT play-back machine functions as a digital audio interface device that must provide channel status data conforming to the general principles and specifications set forth in part I. SCMS as implemented for the IEC 958 nonprofessional interface format requires that when a DAT tape is played back, the DAT play-back machine reads the information from ID6 on the tape and then sends the corresponding channel status data (concerning Bit 2 "the C Bit" and Bit 15 "the L Bit"), along with the Category Code for a DAT machine, in its digital audio output signal. The channel status data to be sent in response to the various settings of ID6 are as follows:

(a) Where ID6 is set as "00", copyright protection has not been asserted over the material under SCMS. In response to ID6, the digital audio signal output of the DAT will provide the C Bit set as "1" and the L Bit set as "0".

(b) Where ID6 is set as "10", copyright protection has been asserted over the material under SCMS and the recording is not "original". In response to ID6, the digital audio output signal of the DAT will provide the C Bit set as "0" and the L Bit set as "0".

(c) Where ID6 is set as "11", copyright protection has been asserted over the material under SCMS and the recording is "original". In response to ID6, the digital audio output signal of the DAT will provide the C Bit set as "0" and the L Bit set as "1".

(2) SCMS OPERATION WHEN RECORDING ON DAT TAPE.—With respect to the recording function, SCMS governs the circumstances and manner in which a DAT recorder may record a digital audio input signal. A DAT recorder implementing SCMS information being sent in the IEC 958 nonprofessional interface format must be capable of acknowledging the presence or absence of specific channel status information being sent to the DAT recorder via its digital audio input. The DAT recorder then responds to that channel status information by either preventing or permitting the recording of that digital audio input signal. If recording is permitted, the DAT machine records specific codes in ID6 on the tape, so that when the tape is played back, the DAT machine will issue the correct channel status data in its digital audio output signal. The settings of ID6 to be recorded in response to particular IEC 958 channel status bit information are as follows:

(a) Where the C bit of the digital audio input signal is set as "0" (copyright protection asserted), the DAT recorder shall not record the input, except in three circumstances: (a) where the input is original material and the digital audio input signal comes from one of the products on the "Category Code White List" (section D below); (b) where the digital audio input signal contains an undefined Category Code (in which case only one generation of recording is permitted); or, (c) where the digital audio input signal comes from a product with a defined Category Code but the product currently is not capable of transmitting information regarding copyright protection (in which case, two generations of copying are possible). In circumstances (a) and (b) above, the DAT recorder will record "10" in ID6 to prevent further copying. In circumstance (c) above, the DAT recorder will record "11" in ID6 for the first-generation copy.

(b) Where the C Bit of the digital audio input signal is set as "1" (no copyright protection asserted or not copyrighted), the DAT recorder will record "00" in ID6, and unlimited generations of copying will be permitted.

(c) Where the C Bit of the digital audio input signal fluctuates between "0" and "1" at a rate of between 4–10 Hz, the signal is coming from a compact disc player compatible with IEC 908 (Category Code 10000000) which plays back a compact disc that is not an "original" and that contains material over which copyright protection has been asserted. The DAT recorder shall not record in this circumstance.

(d) The condition "01" in ID6 has been assigned no meaning within SCMS. Therefore, to prevent circumvention of SCMS, the DAT recorder shall not record "01" in ID6 on the tape.

(C) MANDATORY SPECIFICATIONS FOR IMPLEMENTING SCMS IN DAT RECORDERS IN THE IEC 958 FORMAT.—

(1) MANDATORY STANDARDS FOR DIGITAL AUDIO OUTPUT SIGNALS.—

(a) CATEGORY CODE BIT 15 (THE "L" BIT).—All nonprofessional model DAT recorders having a IEC 958 interface shall provide the Category Code "1100000L" in the channel status bits of the IEC 958 digital audio output signal. The status of the L Bit of the Category Code shall be provided in the digital audio output signal of the DAT recorder as follows, in accordance with the status of ID6:

When ID6 is "00", the digital audio output signal shall indicate in the L Bit of the Category Code that the output source is either a first-generation or higher DAT tape recorded from an "original" source, or an "original" commercially released prerecorded DAT tape of material over which copyright protection is not being asserted under SCMS. In either of these cases, the L Bit shall be set as "0", and the complete Category Code would be "11000000".

When ID6 is "10", the digital audio output signal shall indicate in the L Bit of the Category Code that the output source is a first-generation or higher DAT tape recorded from an "original" source (that is, L Bit="0"). The complete Category Code in this case would be "11000000".

When ID6 is "11", the digital audio output signal shall indicate in the L Bit of the Category Code that the output source is an "original" source, such as a commercially released prerecorded DAT tape (that is, L Bit="1"). The complete Category Code in this case would be "11000001".

(b) BIT 2 (THE "C" BIT).—All nonprofessional model DAT recorders having an IEC 958 nonprofessional interface shall provide an output code in the C Bit in the channel status bits of the IEC 958 digital audio output signal. The C Bit shall be applied in the digital audio output signal as follows, in accordance with the status of ID6:

When ID6 is "00", the C Bit shall be set as "1".

When ID6 is "10" or "11", the C Bit shall be set as "0".

(2) MANDATORY SPECIFICATIONS FOR RECORDING FUNCTIONS.—SCMS with respect to recording functions performed by a nonprofessional model DAT recorder receiving digital audio input signals in the IEC 958 nonprofessional interface format shall be implemented as follows:

(a) Digital audio input signals in which the C Bit is set as "0" shall not be recorded, except for the cases specified below in paragraphs b, d, and e.

(b) A DAT recorder may record a digital audio input signal in which the C Bit is set as "0", where the Category Code of the signal is listed in the "Category Code White List." The DAT recorder shall record "10" in ID6 on the tape in this case.

(c) For digital audio input signals in which the C Bit is set as "1", the DAT recorder shall record "00" in ID6 on the tape except for those cases specified below in paragraphs d and e.

(d) For digital audio input signals that contain Category Code information that is not defined in this document, the DAT recorder shall record "10" in ID6, regardless of the status of the C Bit or the L Bit.

(e) For digital audio input signals originating from a source identified as an A/D converter with the Category Code "01100XXL", or from other sources such as from A/D converters with the Category Code for "General" ("00000000"), the DAT recorder shall record "11" in ID6, regardless of the status of the C Bit or the L Bit. This requirement shall be applied to digital input signals that do not contain source information of the original signal before digitization, for example, and A/D converter that does not deliver source information.

(f) For digital input signals originating from an A/D converter with the Category Code "01101XXL", which can deliver original source information concerning the C Bit and L Bit even if the source is in analog format, the requirement stated above in paragraph e shall not be applied. The "Category Code White List" includes this Category Code.

(g) A DAT tape of "original" generation status over which copyright protection has been asserted shall contain "11" in ID6. A DAT tape of "original" generation status over which no copyright protection has been asserted shall contain "00" in ID6.

(h) A DAT recorder shall not record digital audio input signals where the C Bit alternates between "0" and "1" at a frequency of between 4 and 10 Hz and the Category Code is for a Compact disc digital audio signal ("10000000"), as in the case of digital audio input signals from recordable or erasable compact discs that are not "original" and that contain material over which copyright protection has been asserted.

(i) A nonprofessional model DAT recorder shall not record digital audio input signals sent from a professional interface, that is, where channel status Bit 0 is set as "1".

(j) The condition "01" in ID6 is not to be used.

(k) Category codes and the C Bit included in the channel status information of digital audio input signals being sent to or by a DAT recorder shall not be deleted or modified and shall be monitored continuously and acted upon accordingly.

(D) "CATEGORY CODE WHITE LIST".—

100XXXX0	*Laser optical product.*
010XXXX1	*Digital-to-digital converter and signal processing devices.*
110XXXX1	*Magnetic tape and disk based product.*
001XXXX0 and 0111XXX0	*Receivers of digitally encoded audio transmissions with or without video signals.*
101XXXX1	*Musical instruments.*
01101XX1	*Future A/D converter (with status information concerning the C Bit and L Bit).*
0001XXX1	*Solid state memory based media products.*
00000011	*Experimental products not for commercial sale.*

PART III. APPLICATION OF SCMS IN DAT RECORDERS IMPLEMENTING THE IEC 958 INTERFACE

The following charts apply and correlate those codes that are mandated under the Act to implement SCMS in nonprofessional model DAT recorders having an IEC 958 nonprofessional interface, in those situations contemplated by these standards. The columns in each of these charts identify the following information:

The "Signal Source" column describes the type of product sending the digital audio signal to a DAT recorder.

The three columns under the heading "Digital Audio Input Signal," that is, the signal sent to the DAT recorder, identify the correct channel status information in the C Bit, Category Code Bits 8–14 and the L Bit, respectively, which correspond to each product. (In each case, Bit 0 will be "0" to indicate that the signal is being sent in the IEC 958 nonprofessional interface format, and Bit 1 will be "0" to indicate that the signal consists of audio data.)

The next three columns under the heading "DAT Recorder Response" identify the response of the DAT recorder to the corresponding digital audio input signal. The column "ID6" specifies the code that the DAT recorder will record on the tape in ID6 in response to the digital audio input signal. The last two columns set forth the correct channel status information in the C Bit and L Bit that are sent in the digital audio output signal of a DAT recorder in response to the setting of ID6.

Each of the appropriate codes is set forth in the cases described below:

Case 1: Where copyright protection has been asserted over the digital audio input, and the source of the input is "original" material (Only first-generation recording permitted):

Signal Source	*Digital Audio Input Signal*			*DAT Recorder Response*		
	C Bit (Bit 2)	*Category code (Bits 8–14)*	*L bit (Bit 15)*	*ID6*	*C Bit (Bit 2)*	*L bit (Bit 15)*
Laser Optical	*0*	*100XXXX*	*0*	*10*	*0*	*0*
D/D converter	*0*	*010XXXX*	*1*	*10*	*0*	*0*
Magnetic prod.	*0*	*110XXXX*	*1*	*10*	*0*	*0*
Musical Instrum.	*0*	*101XXXX*	*1*	*10*	*0*	*0*
Future A/D conv.	*0*	*01101XX*	*1*	*10*	*0*	*0*
Digital Receiver	*0*	*001XXXX*	*0*	*10*	*0*	*0*

Case 1: Where copyright protection has been asserted over the digital audio input, and the source of the input is "original" material (Only first-generation recording permitted):—Continued

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C Bit (Bit 2)	L bit (Bit 15)
Digital Receiver	0	0111XXX	0	10	0	0
Experimental	0	0000001	1	10	0	0
Solid state dev.	0	0001XXX	1	10	0	0

Case 2: Where copyright protection has not been asserted over the digital audio input, and the source of the input is "original" material (First-generation and above recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C Bit (Bit 2)	L bit (Bit 15)
Laser Optical	1	100XXXX	0	00	1	0
D/D converter	1	010XXXX	1	00	1	0
Magnetic prod.	1	110XXXX	1	00	1	0
Musical Instrum.	1	101XXXX	1	00	1	0
Future A/D conv.	1	01101XX	1	00	1	0
Digital Receiver	1	001XXXX	0	00	1	0
Digital Receiver	1	0111XXX	0	00	1	0
Experimental	1	0000001	1	00	1	0
Solid state dev.	1	0001XXX	1	00	1	0

Case 3: Where copyright protection has been asserted over the digital audio input, and the source of the input to the DAT recorder is not "original" material (No recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C Bit (Bit 2)	L bit (Bit 15)
Laser Optical	0	100XXXX	1			
D/D converter	0	010XXXX	0			
Magnetic prod.	0	110XXXX	0			
Musical Instrum.	0	101XXXX	0			
Future A/D conv.	0	01101XX	0			
Experimental	0	0000001	0			
Solid state dev.	0	0001XXX	0			

Case 4: Where copyright protection has not been asserted over the digital audio input, and the source of the input to the DAT recorder is not "original" material (Second-generation and above recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C Bit (Bit 2)	L bit (Bit 15)
Laser Optical	1	100XXXX	1	00	1	0
D/D converter	1	010XXXX	0	00	1	0
Magnetic prod.	1	110XXXX	0	00	1	0
Musical Instrum.	1	101XXXX	0	00	1	0
Future A/D conv.	1	01101XX	0	00	1	0
Experimental	1	0000001	0	00	1	0
Solid state dev.	1	0001XXX	0	00	1	0

Case 5: Where the digital audio input signal includes Category Code information, but cannot provide information concerning copyright protection of the source (First- and second-generation recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C Bit (Bit 2)	L bit (Bit 15)
General	X	0000000	0	11	0	1
Present A/D Con	X	01100XX	X	11	0	1

Case 6: Where the digital input signal does not include a defined Category Code (First-generation recording permitted):

Signal Source	Digital Audio Input Signal			DAT Recorder Response		
	C Bit (Bit 2)	Category code (Bits 8–14)	L bit (Bit 15)	ID6	C Bit (Bit 2)	L bit (Bit 15)
Undefined	X		X	10	0	0

Case 7: Where copyright protection has been asserted over the digital audio input from a compact disc that is not an "original" by fluctuating the C Bit at a rate between 4–10 Hz (No recording permitted):

Signal Source	*Digital Audio Input Signal*			*DAT Recorder Response*		
	C Bit (Bit 2)	*Category code (Bits 8–14)*	*L bit (Bit 15)*	*ID6*	*C Bit (Bit 2)*	*L bit (Bit 15)*
CD Player	*0/1*	*1000000*	*X*			

Case 8: Where the digital signal transmitted to a Digital Receiver does not include information concerning copyright protection (Only first-generation recording permitted):

Signal Source	*Digital Audio Input Signal*			*DAT Recorder Response*		
	C Bit (Bit 2)	*Category code (Bits 8–14)*	*L bit (Bit 15)*	*ID6*	*C Bit (Bit 2)*	*L bit (Bit 15)*
Digital Receiver	*0*	*001XXXX*	*0*	*10*	*0*	*0*
Digital Receiver	*0*	*0111XXX*	*0*	*10*	*0*	*0*

Case 9: Where the digital signal transmitted to a receiver for Electronic Audio Software Delivery provides generation status information as if the status were first-generation or higher (No recording permitted):

Signal Source	*Digital Audio Input Signal*			*DAT Recorder Response*		
	C Bit (Bit 2)	*Category code (Bits 8–14)*	*L bit (Bit 15)*	*ID6*	*C Bit (Bit 2)*	*L bit (Bit 15)*
Digital Receiver	*0*	*001XXXX*	*1*			
Digital Receiver	*0*	*0111XXX*	*1*			

MOTION OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. BROOKS moves to strike out all after the enacting clause of the Senate bill, S. 1623, and to insert in lieu thereof the provisions of H.R. 3204, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 3204) was laid on the table.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on the legislation just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

SECURITIES INVESTOR PROTECTION AMENDMENTS OF 1992

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5726) to amend the Investment Advisers Act of 1940 to improve the supervision of investment advisers, to provide additional investor protections, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5726

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securities Investor Protection Amendments of 1992".

TITLE I—INVESTMENT ADVISER REGULATORY ENHANCEMENT AND DISCLOSURE

SEC. 101. SHORT TITLE.

This title may be cited as the "Investment Adviser Regulatory Enhancement and Disclosure Act of 1992".

SEC. 102. ADDITIONAL RESOURCES FOR INVESTMENT ADVISER SUPERVISION.

(a) AMENDMENT.—The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 203 the following new section:

"FEES FOR REGISTRANTS AND APPLICANTS

"SEC. 203A. (a) IN GENERAL.—The Commission is authorized, in accordance with this section, to collect fees to recover the costs of registration, supervision, and regulation of investment advisers and their activities. Such fees shall be collected, and shall be available, only to the extent provided in advance in appropriations Acts. No appropriation Act may authorize fees to be collected under this section during any fiscal year unless the amount appropriated by such Act for such costs for such fiscal year equals or exceeds the aggregate amount that may reasonably be expected to be collected by such fees. Such fees shall be deposited as an offsetting collection to the Commission's appropriation and may remain available for such purposes for the succeeding fiscal year. The costs covered by such fees shall be limited to the costs of Commission expenses for registration, examinations, and surveys of persons registered or required to register under this Act.

"(b) TIME FOR PAYMENT.—

"(1) NEW REGISTRANTS.—At the time of filing an application for registration under this title, the applicant shall pay to the Commission the fee specified in subsection (c). No part of such fee shall be refunded to the applicant. The filing of an application for registration under this title shall not be deemed to have occurred unless the application is accompanied by the fee required under this section.

"(2) ONGOING REGISTRANTS.—Each investment adviser whose registration is effective on the last day of its fiscal year shall pay to the Commission the fee specified in subsection (c). Such payment shall be made not later than 90 days after the end of its fiscal year, or at such other time as the Commission, by rule, shall determine, unless its registration has been withdrawn, canceled, or revoked prior to that date. No part of such fee shall be refunded to the investment adviser.

"(c) COST-BASED SCHEDULE OF FEES.—For any fiscal year for which fees are authorized to be collected by an appropriation Act, the amount of fees due from investment advisers in accordance with paragraphs (1) and (2) of subsection (b) shall be determined according to the following schedule:

"Assets under management	*Fee due:*
Less than $10,000,000	*$ 300*
$10,000,000 or more, but less than $25,000,000.	*$500*
$25,000,000 or more, but less than $50,000,000.	*$1,000*
$50,000,000 or more, but less than $100,000,000.	*$2,500*
$100,000,000 or more, but less than $250,000,000.	*$4,000*
$250,000,000 or more, but less than $500,000,000.	*$5,000*
$500,000,000 or more	*$7,000.*

"(d) ADJUSTMENT OF FEES.—The Commission may, by rule, adjust the fees specified in subsection (c) by a percentage not greater than the percentage change in the Consumer Price Index for All Urban Consumers; U.S. City Average, All Items Index (or a similar successor index of the Bureau of Labor Statistics of the Department of Labor)—

"(1) between the February 1992 version of such index and the most recent version of such index that is in effect; or

"(2) if one or more adjustments have been made under this section after the date of enactment of this section, between the version of such index in effect at the time of the most recent adjustment and the most recent version of such index that is in effect.

"(e) SUSPENSION FOR FAILURE TO PAY.—The Commission, by order, may suspend the registration of any investment adviser if it finds, after notice, that such investment adviser has failed to pay when due any fee required by this section. The Commission shall reinstate such reg-

istration upon payment of the fee (and any penalty due), if such suspension was based solely on the failure to pay the fee.

"(f) RULEMAKING.—The Commission may adopt such rules as are necessary to carry out this section.".

(b) EFFECTIVE DATE.—This section shall become effective upon the adoption by the Commission of implementing rules, under section 203A(f) of the Investment Advisers Act of 1940, as added by subsection (a).

SEC. 103. EXAMINATIONS AND SURVEYS.

The Investment Advisers Act of 1940 is amended by inserting after section 222 (15 U.S.C. 80b–22) the following new section:

"EXAMINATIONS AND SURVEYS

"SEC. 223. (a) PERIODIC EXAMINATIONS.—The Commission shall establish and periodically revise a schedule for the regular examination of investment advisers. Such schedule shall provide for more frequent examinations of certain investment advisers based on factors that the Commission determines increase the need for examination of those investment advisers, including the frequency of customer complaints, custody of funds, authority to exercise investment discretion, and receipt of commissions for the sale of investments recommended to clients. In addition, such schedule shall require more frequent examinations in order to—

"(1) assure that new investment advisers have adequate compliance procedures through examinations of investment advisers within approximately one year of their registration under section 203(a), taking into account the level of risk presented by advisers' activities; and

"(2) conduct follow-up examinations of investment advisers found to have deficiencies that may continue to present high risks to their clients.

"(b) SURVEYS OF UNREGISTERED PERSONS.—The Commission shall, within 3 years after the date of enactment of this section and periodically thereafter, provide for the conduct of a survey to determine the extent of, and reasons for, the failure of persons to register as required by this Act. The Commission shall, on the basis of such survey results, establish objectives for the reduction or elimination of such failures and shall include in annual reports to Congress (under section 23(b) of the Securities Exchange Act of 1934) submitted after completion of the first survey, a statement of such objectives, an evaluation of the success in attaining those objectives during the preceding year, and such recommendations as the Commission considers appropriate to assist in the attainment of those objectives. If the survey identifies any pattern of misinterpretation of the definition of investment adviser as the basis for such failures, the Commission's objectives shall include such rulemaking proceedings as may be required to correct such misinterpretation.

"(c) PROVISIONS NOT LIMITATION.—The provisions of this section shall not be construed to limit the authority of the Commission to conduct an examination or investigation at any time or to institute proceedings under section 203 or 209 of this Act or any other title.".

SEC. 104. DESIGNATION OF SELF-REGULATORY ORGANIZATIONS.

The Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) is amended by inserting after section 223 (as added by section 103 of this Act) the following new section:

"DESIGNATION OF SELF-REGULATORY ORGANIZATIONS

"SEC. 224. (a) DESIGNATION TO CONDUCT EXAMINATIONS.—The Commission, by rule, consistent with the public interest, the protection of investors, and the purposes of this title, may designate one or more self-regulatory organizations registered with the Commission under sections 6 or 15A of the Securities Exchange Act of 1934, to conduct periodic examinations of its members and affiliates of members to determine compliance with applicable provisions of this title and the rules and regulations thereunder. Such rules shall specify the minimum scope and frequency for such examinations and shall be designed to avoid unnecessary regulatory duplication or undue regulatory burdens. Such self-regulatory organization may discipline its members and affiliates of members for violations of the applicable provisions of this title and the rules and regulations thereunder pursuant to the standards and procedures set forth in sections 6, 15A, and 19 of the Securities Exchange Act of 1934. The penalties imposed by a self-regulatory organization for violations of this title shall not exceed those contained in subsections (e), (f), and (i) of section 203.

"(b) LIMITATION.—The Commission shall not exercise the designation authority contained in subsection (a) for members or affiliates of members if the primary business of the member and its affiliates is investment advisory activities. The Commission, by rule, may establish criteria for defining the term 'primary business'.

"(c) AUTHORITY TO IMPOSE FEES.—

"(1) IN GENERAL.—Any self-regulatory organization designated by the Commission to perform the examinations specified in subsection (a) shall have the authority to collect fees in accordance with this subsection.

"(2) LIMITATION.—The total fee paid by a registered investment adviser under this subsection shall not exceed an amount determined in accordance with rules prescribed by the Commission. Such rules shall require that the fees collected by a self-regulatory organization under this subsection—

"(A) cover only the costs of the self-regulatory organization's expenses for examinations conducted pursuant to subsection (a);

"(B) as to any investment adviser, bear a reasonable relationship to the costs of conducting an examination of that adviser pursuant to subsection (a); and

"(C) not exceed such portion of the fee authorized under section 203A as the Commission determines is allocable to the Commission's expenses for conducting such an examination.

"(3) REDUCTION OF SECTION 203A FEES.—The amount of any fee that a registered investment adviser is required to pay under section 203A with respect to any fiscal year shall be reduced by the amount paid to a self-regulatory organization in accordance with this subsection with respect to such fiscal year.

"(d) EFFECTIVE DATE OF RULE.—A rule prescribed by the Commission under this section shall not be effective until 90 days after the date on which the Commission submits to each House of Congress a report—

"(1) containing the text of the proposed rule and the reasons therefor;

"(2) describing the procedures to be used to coordinate the collection of fees by the Commission under section 203A and by a self-regulatory organization under the rule; and

"(3) containing such other information as may be necessary to describe the implementation and enforcement of the rule.

"(e) DEFINITION.—For purposes of this section, the term 'affiliate' shall mean any person directly or indirectly controlling, controlled by, or under common control with a member.".

SEC. 105. SUITABILITY AND OTHER ADVISER OBLIGATIONS.

(a) AMENDMENT.—Section 206 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–6) is amended to read as follows:

"PROHIBITED TRANSACTIONS BY INVESTMENT ADVISERS

"SEC. 206. (a) PROHIBITED CONDUCT.—It shall be unlawful for any investment adviser or any person associated with an investment adviser, by use of the mails or any means or instrumentality of interstate commerce, directly or indirectly—

"(1) to employ any device, scheme, or artifice to defraud any client or prospective client;

"(2) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client;

"(3) acting as principal for his own account, knowingly to sell any security to or purchase any security from a client, or acting as broker for a person other than such client, knowingly to effect any sale or purchase of any security for the account of such client, without disclosing to such client in writing before the completion of such transaction the capacity in which he is acting and obtaining the consent of the client to such transaction;

"(4) to engage in any act, practice, or course of business which is fraudulent, deceptive, or manipulative;

"(5) to provide investment advice to any client, other than in connection with impersonal advisory services, unless the adviser—

"(A) prior to providing any investment advice, and as appropriate thereafter, makes a reasonable inquiry into the client's financial situation, investment experience, and investment objectives;

"(B) reasonably determines that the investment advice is suitable for the client; and

"(C) maintains reasonable records, in accordance with such rules as the Commission shall prescribe, of the information obtained from the inquiries the adviser made in complying with this paragraph; or

"(6) to guarantee a client that a specific result will be achieved as a result of the investment advisory services.

"(b) EXEMPTIONS AND SPECIAL RULES.—

"(1) EXEMPTION.—The prohibitions of subsection (a)(3) shall not apply to any transaction with a customer of a broker or dealer if such broker or dealer is not acting as an investment adviser in relation to such transaction.

"(2) AUTHORITY TO DEFINE AND PRESCRIBE.—The Commission shall, for the purposes of subsection (a)(4), by rules define, and prescribe means reasonably designed to prevent, such acts, practices, and courses of business as are fraudulent, deceptive, or manipulative.

"(3) DEFINITION OF IMPERSONAL ADVISORY SERVICES.—As used in subsection (a)(5), the term 'impersonal advisory services' means any investment advisory services provided—

"(A) by means of written material or oral statements which do not purport to meet the objectives or needs of specific individuals or accounts;

"(B) through the issuance of statistical information containing no expression of opinion as to the investment merits of a particular security; or

"(C) by any combination of the foregoing services.".

(b) RULEMAKING REQUIRED.—The Commission shall prescribe rules for purposes of paragraph (5)(C) of section 206(a) of the Investment Advisers Act of 1940 (as added by subsection (a) of this section) within one year after the date of enactment of this Act.

SEC. 106. ADDITIONAL DISCLOSURE OBLIGATIONS OF INVESTMENT ADVISERS.

(a) ADDITIONAL OBLIGATIONS.—Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–4) is amended—

(1) by striking the heading of such section and inserting the following:

"PERIODIC REPORTS AND OTHER DISCLOSURE REQUIREMENTS";

(2) by inserting "(a) PERIODIC AND OTHER REPORTS.—" after "SEC. 204."; and

(3) by adding at the end the following new subsections:

"(b) BROCHURE REQUIRED.—

"(1) IN GENERAL.—Each person registered under section 203 of this title shall disseminate to each client or prospective client a document disclosing material facts concerning matters listed in paragraphs (2) and (3) and such other matters as the Commission shall prescribe. In order to provide for timely and effective disclosure of such facts and matters to clients, the Commission shall by rule prescribe the format of the document and the timing of its dissemination.

"(2) CONTENTS OF BROCHURE.—The document required by paragraph (1) shall include information concerning—

"(A) the education and business background of such person and of any associated person providing significant investment advisory services to the client,

"(B) compensation arrangements between the client and the investment adviser,

"(C) the nature of services offered,

"(D) business practices,

"(E) methods for obtaining information on the disciplinary history and registration of the investment adviser and persons associated with the investment adviser, and

"(F) conflicts of interest which could reasonably be expected to impair the rendering of disinterested advice.

"(3) PROMINENT DISCLOSURES.—Such document shall also prominently disclose—

"(A) that—

"(i) the registered person receives or may receive, directly or indirectly, sales commissions or other fees in connection with a purchase or sale effected on behalf of a client; or

"(ii) the registered person will not receive, directly or indirectly, any sales commission or other fees in connection with such purchase or sale, but the client may be charged a sales commission or other fee by another person in connection with such purchase or sale; and

"(B) that remedies may be available to the client with respect to disputes arising out of the advisory relationship.

"(4) DEFINITION.—The Commission shall define 'associated person providing significant investment advisory services to the client' by rule for purposes of this subsection.

"(c) TRANSACTION REPORTS.—

"(1) INITIAL DISCLOSURE.—Each person registered under section 203 shall disclose to each client, before a purchase or sale is effected on behalf of the client—

"(A) the total amount of sales commissions or other fees that may reasonably be expected to be charged or deducted in connection with the purchase or sale;

"(B) that the adviser will receive such amount or a portion of such amount, or, in the case of a transaction to be effected through a broker or a dealer that is a person associated or under common control with the adviser, that the broker or dealer is affiliated with the adviser and will receive such amount or portion of such amount; and

"(C) the existence of any compensation arrangement with an issuer or other third party with respect to the recommended transaction.

Such initial disclosure shall be in writing if the purchase or sale was recommended in writing. The Commission may, by rule, permit an investment adviser to omit disclosure required by this paragraph with the knowing written consent of the client.

"(2) CONFIRMATION.—After such purchase or sale is effected, the investment adviser shall transmit to each client a written statement that discloses—

"(A) the amount of sales commission or other fees that have been charged or deducted in connection with the purchase or sale; and

"(B) the information required to be disclosed by paragraph (1)(C).

"(3) COMMISSION RULES.—The written statement required under paragraph (2) shall be in such form and contain such information, and be provided in accordance with such rules, as the Commission shall prescribe. Such rules shall, to the extent consistent with the protection of investors, permit a confirmation statement of a broker or dealer that contains the information required by this subsection to be used as the written statement required by this subsection.

"(4) EXCEPTIONS.—This subsection shall not apply—

"(A) with respect to any purchase or sale for which the registered person, and any person associated or under common control with the registered person, will not receive any portion of the amount charged or deducted in connection with the purchase or sale, and will not receive any payment under a compensation arrangement required to be disclosed under paragraph (1)(C);

"(B) with respect to accounts for which the person is authorized to exercise investment discretion; or

"(C) with respect to any account for which the person is not acting as an investment adviser.

"(5) SPECIAL RULE.—The provisions of this subsection shall also apply to persons associated with an investment adviser effecting transactions for advisory clients through a broker or dealer with which the person is associated.

"(d) PERIODIC REPORTS.—

"(1) IN GENERAL.—Each person registered under section 203 of this title shall periodically provide to each client a written statement of—

"(A) the sales commissions and other fees paid by the client for all services provided by the registered person and any person associated or under common control with the registered person;

"(B) any amounts received directly or indirectly by the registered person, or any person associated or under common control with the registered person, pursuant to any compensation arrangement with an issuer or other third party with respect to the recommended transaction; and

"(C) such other matters as the Commission shall prescribe.

"(2) COMMISSION RULES.— The Commission shall prescribe by rule the format of the statement and timing of its delivery. Such rule shall require that the format and timing of delivery be designed to present the required information in a manner that readily permits clients to compare the costs charged by the investment adviser with the costs charged by other advisers for comparable services. In adopting such rules, the Commission shall require an investment adviser whose clients purchase or sell investment products through persons other than such adviser, or persons associated or under common control with such adviser, to indicate to its clients that such information concerning costs charged does not include commissions or other fees paid in connection with such purchases or sales. The Commission's rules under this subsection shall permit a periodic report of a broker or dealer that contains the information required by this subsection to be used as the periodic report required by this subsection. The Commission may, by rule, permit an investment adviser to provide the statement required by paragraph (1) no more frequently than annually if the client knowingly waives, in writing, the right to obtain such statement more frequently than annually.

"(3) EXCEPTION.—This subsection shall not apply with respect to any account for which the person is not acting as an investment adviser.

"(e) FACILITIES FOR FILING RECORDS AND REPORTS.—The Commission, by rule, may require any investment adviser—

"(1) to file with the Commission any fee, application, report, or notice required by this title or by the rules issued under this title through any person designated by the Commission for that purpose; and

"(2) to pay the reasonable costs associated with such filing.".

(b) RULEMAKING REQUIRED.—The Commission shall prescribe rules for purposes of subsections (b), (c), and (d) of section 204 of the Investment Advisers Act of 1940 (as added by subsection (a) of this section) within one year after the date of enactment of this Act.

SEC. 107. BOND REQUIREMENT.

Section 208 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–8) is amended by adding at the end the following:

"(e) BOND REQUIREMENT.—

"(1) IN GENERAL.—The Commission shall require, by rules for the protection of investors, that any investment adviser registered under section 203 who—

"(A) is authorized to exercise investment discretion, as defined in section 3(a)(35) of the Securities Exchange Act of 1934, with respect to an account,

"(B) has access to the securities or funds of a client, or

"(C) is an investment adviser of an investment company, as defined in section 2(a)(20) of the Investment Company Act of 1940,

shall obtain a bond from a reputable fidelity insurance company against larceny and embezzlement in such reasonable amounts and covering such officers, partners, directors, and employees of the investment adviser as the Commission may prescribe.

"(2) CONSIDERATIONS IN RULEMAKING.—In implementing paragraph (1), the Commission shall consider—

"(A) the degree of risk to client assets that is involved;

"(B) the cost and availability of fidelity bonds;

"(C) existing fidelity bonding requirements; and

"(D) any alternative means to protect client assets.".

SEC. 108. DISQUALIFYING CONDUCT.

(a) AMENDMENT.—Section 203(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3(e)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) has been convicted within ten years preceding the filing of any application for registration or at any time thereafter of any crime that is punishable by imprisonment for one or more years and that is not described in paragraph (2) of this subsection or of a substantially equivalent crime by a foreign court of competent jurisdiction.".

(b) CONFORMING AMENDMENTS.—Section 203 of such Act is further amended—

(1) in subsection (e)(6) (as redesignated by subsection (a) of this section, by striking "this paragraph (5)" and inserting "this paragraph (6)";

(2) in subsection (f)—

(A) by striking "paragraph (1), (4), (5), or (7)" and inserting "paragraph (1), (5), (6), or (8)"; and

(B) by striking "paragraph (3)" and inserting "paragraph (4)"; and

(3) in subsection (i)(1)(D), by striking "section 203(e)(5) of this title" and inserting "subsection (e)(6) of this section".

SEC. 109. CONFIDENTIALITY.

Section 208 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–8), as amended by section 107, is further amended by adding at the end the following new subsection:

"(f) DISCLOSURE OF CLIENT INFORMATION PROHIBITED.—

"(1) ADVISER DISCLOSURE.—It shall be unlawful for any investment adviser to disclose any personally identifiable financial information with respect to any client unless required by law to do so, or unless—

"(A) the client has been adequately informed of the proposed information disclosure, in accordance with rules prescribed by the Commission, and (i) has been afforded the opportunity, in accordance with such rules, to object to the disclosure, and (ii) has not objected or has affirmatively consented;

"(B) the information disclosed is necessary and appropriate in order to establish an advisory or brokerage account or to effect or attempt to effect a transaction for the client;

"(C) the information (i) is requested by representatives of the Commission, a State agency whose primary assignment is the regulation of the securities business, or a self-regulatory organization, or (ii) is requested by subpoena; or

"(D) the information is requested by the client's auditors or accountants.

"(2) SECONDARY DISCLOSURE.—It is unlawful for any person to whom information is disclosed for the purpose described in paragraph (1)(B) to use such information for any purpose other than the effectuation of the client's transaction.".

SEC. 110. FEDERAL-STATE COOPERATION.

Section 209 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–9) is amended by adding at the end the following new subsection:

"(f) FEDERAL-STATE COOPERATION.—

"(1) AUTHORITY.—The Commission is authorized to cooperate with State agencies whose primary assignment is the regulation of the securities business or any association of State securities officials they designate, and which, in the judgment of the Commission, could assist in obtaining greater effectiveness in Federal and State regulation of investment advisers. The Commission shall cooperate, coordinate, and may (in its discretion) share information with such agencies or associations for the purposes of carrying out the policies and purposes set forth in paragraphs (2) and (3).

"(2) POLICY.—It is the declared policy of this subsection that there should be greater Federal and State cooperation and coordination in the regulation of investment advisers in order to achieve—

"(A) maximum effectiveness of regulation, examination, and enforcement, and

"(B) maximum uniformity in Federal and State regulatory standards.

"(3) PURPOSE.—The purpose of this subsection is to engender cooperation between the Commission, any such agencies or associations, and other duly constituted securities associations in the following areas:

"(A) the sharing of information regarding the registration or exemption of investment advisers and the conduct of their business in the various States;

"(B) the development and maintenance of uniform examination standards and procedures; and

"(C) the development of a uniform exemption from registration for small investment advisers which can be agreed upon among several States or between the States and the Federal Government where consistent with the public interest and the protection of investors and the purposes of this Act.

Nothing in this subsection shall be construed as authorizing the preemption of State law.

"(4) STUDIES AND RECOMMENDATIONS.—In order to carry out these policies and purposes, the Commission shall conduct such studies and meetings as the Commission considers necessary. The Commission shall submit to Congress, not later than 2 years after the date of enactment of this subsection, any legislative recommendations necessary to carry out the policy and purpose of this subsection.".

TITLE II—FINANCIAL FRAUD DETECTION AND DISCLOSURE

SEC. 201. SHORT TITLE.

This title may be cited as the "Financial Fraud Detection and Disclosure Act".

SEC. 202. AMENDMENT TO SECURITIES EXCHANGE ACT OF 1934.

(a) AMENDMENT TO THE SECURITIES EXCHANGE ACT OF 1934.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following new subsection:

"(i) FRAUD DETECTION AND DISCLOSURE.—

"(1) AUDIT REQUIREMENTS.—Each audit required pursuant to this title of an issuer's financial statements by an independent public accountant shall include, in accordance with methods prescribed by the Commission, the following:

"(A) procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts;

"(B) procedures designed to identify related party transactions which are material to the financial statements or otherwise require disclosure therein; and

"(C) an evaluation of whether there is substantial doubt about the issuer's ability to continue as a going concern over the ensuing fiscal year.

"(2) REQUIRED RESPONSE TO AUDIT DISCOVERIES.—

"(A) INVESTIGATION AND REPORT TO MANAGEMENT.—If, in the course of conducting any audit pursuant to this title to which paragraph (1) applies, the independent public accountant detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have a material effect on the issuer's financial statements) has or may have occurred, the accountant shall, in accordance with methods prescribed by the Commission—

"(i)(I) determine whether it is likely that an illegal act has occurred, and (II) if so, determine and consider the possible effect of the illegal act on the financial statements of the issuer, including any contingent monetary effects, such as fines, penalties, and damages; and

"(ii) as soon as practicable inform the appropriate level of the issuer's management and assure that the issuer's audit committee, or the issuer's board of directors in the absence of such a committee, is adequately informed with respect to illegal acts that have been detected or otherwise come to the attention of such accountant in the course of the audit, unless the illegal act is clearly inconsequential.

"(B) RESPONSE TO FAILURE TO TAKE REMEDIAL ACTION.—If, having first assured itself that the audit committee of the board of directors of the issuer or the board (in the absence of an audit committee) is adequately informed with respect to illegal acts that have been detected or otherwise come to the accountant's attention in the course of such accountant's audit, the independent public accountant concludes that—

"(i) any such illegal act has a material effect on the financial statements of the issuer,

"(ii) senior management has not taken, and the board of directors has not caused senior management to take, timely and appropriate remedial actions with respect to such illegal act, and

"(iii) the failure to take remedial action is reasonably expected to warrant departure from a standard auditor's report, when made, or warrant resignation from the audit engagement,

the independent public accountant shall as soon as practicable and directly report its conclusions to the board of directors.

"(C) NOTICE TO COMMISSION; RESPONSE TO FAILURE TO NOTIFY.—An issuer whose board of directors has received a report pursuant to subparagraph (B) shall inform the Commission by notice within one business day of receipt of such report and shall furnish the independent public accountant making such report with a copy of the notice furnished the Commission. If the independent public accountant making such report shall fail to receive a copy of such notice within the required one-business-day period, the independent public accountant shall—

"(i) resign from the engagement; or

"(ii) furnish to the Commission a copy of its report (or the documentation of any oral report given) within the next business day following such failure to receive notice.

"(D) REPORT AFTER RESIGNATION.—An independent public accountant electing resignation shall, within the one business day following a failure by an issuer to notify the Commission under subparagraph (C), furnish to the Commission a copy of the accountant's report (or the documentation of any oral report given).

"(E) NOTICES AND REPORTS CONCERNING DEPOSITORY INSTITUTIONS.—In the case of an issuer that is a bank or savings association the deposits of which are insured in accordance with the Federal Deposit Insurance Act, the notices and reports required by subparagraphs (C) and (D) of this paragraph shall be submitted both to the appropriate Federal banking agency for such bank or savings association and to the Commission.

"(3) AUDITOR LIABILITY LIMITATION.—No independent public accountant shall be liable in a private action for any finding, conclusion, or statement expressed in a report made pursuant to subparagraph (C) or (D) of paragraph (2), including any rules promulgated pursuant thereto.

"(4) CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.—If the Commission finds, after notice and opportunity for hearing in a proceeding instituted pursuant to section 21C of this title, that an independent public accountant has willfully violated subparagraph (C) or (D) of paragraph (2) of this subsection, then the Commission may, in addition to entering an order under section 21C, impose a civil penalty against the independent public accountant and any other person that the Commission finds was a cause of such violation. The determination whether to impose a civil penalty, and the amount of any such penalty, shall be governed by the standards set forth in section 21B of this title.

"(5) PRESERVATION OF EXISTING AUTHORITY.—Except for paragraph (4), nothing in this subsection shall be construed to limit or otherwise affect the authority of the Commission under this title.

"(6) RIGHTS OF CONSERVATORS AND RECEIVERS OF DEPOSITORY INSTITUTIONS.—No action brought by a conservator or receiver appointed for a bank or savings association the deposits of which are insured in accordance with the Federal Deposit Insurance Act shall be considered to be a private action for purposes of paragraph (3).

"(7) DEFINITIONS.—As used in this subsection—

"(A) the term 'illegal act' means any action or omission to act that violates any law, or any rule or regulation having the force of law; and

"(B) the term 'appropriate Federal banking agency' has the meaning provided such term in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).".

(b) EFFECTIVE DATES.—As to any registrant that is required to file selected quarterly financial data pursuant to item 302(a) of Regulation S–K (17 CFR 229.302(a)) of the Securities and Exchange Commission, the amendments made by

subsection (a) of this section shall apply to any annual report for any period beginning on or after January 1, 1993. As to any other registrant, such amendment shall apply for any period beginning on or after January 1, 1994.

TITLE III—TRANSACTIONS FOR MANAGED ACCOUNTS

SEC. 301. PROHIBITED TRANSACTIONS.

Section 11(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(a)(1)) is amended—

(1) in subparagraph (E), by striking "(other than an investment company)";

(2) by striking "and" at the end of subparagraph (G);

(3) by redesignating subparagraph (H) as subparagraph (I); and

(4) by inserting after subparagraph (G) the following new subparagraph:

"(H) any transaction for an account with respect to which such member or an associated person thereof exercises investment discretion if such member—

"(i) has obtained, from the person or persons authorized to transact business for the account, express authorization for such member or associated person to effect such transactions prior to engaging in the practice of effecting such transactions;

"(ii) furnishes the person or persons authorized to transact business for the account with a statement at least annually disclosing the aggregate compensation received by the exchange member in effecting such transactions; and

"(iii) complies with any rules the Commission has prescribed with respect to the requirements of clauses (i) and (ii); and".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from New Jersey [Mr. RINALDO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, today we will debate and vote on legislation that seeks to heal some of the wounds inflicted on the confidence of the investing public by the go-go years of the 1980's. This legislation addresses two such areas of abuse: The problem of audit failures by accountants, and the problems of unscrupulous and self-interested financial planners.

The consequences of abuse in the investment adviser industry are not easily quantifiable, but are very pervasive. Mr. Speaker, the investment adviser business is the most unregulated sector of the securities industry today, and, perversely, it is the sector with which most individuals have the greatest day-to-day contact. The lack of regulation is due, in large part, to woefully inadequate levels of funding at the SEC. Such poor funding, which has produced a regulatory vacuum, is dangerous to those who mistakenly believe the term "registered investment adviser" denotes meaningful protection. But more than money alone is needed, and this bill provides those protections.

Auditors have also raised serious investor protection issues in recent years. The independent public accountant serves as the investor's surrogate within publicly traded companies. As such, he is a bulwark against fraud and misrepresentation, assuring investors that the financial statements they rely on are accurate and trustworthy. But recent abuses uncovered in the accounting industry have made investors question their ability to be able to derive that kind of information. This legislation insures that they will be mandated to do so. Finally this legislation contains a section to repeal the managed accounts provisions of section 11(a) of the Securities Exchange Act of 1934. While the committee report recognizes that this amendment may result in reduced brokerage costs, we are not requiring that whatever reductions may result be allocated in any specific way. Rather, as the committee reports explains, we expect that this amendment will be one of many factors influencing the negotiation of rates within the context of an intensely competitive brokerage industry.

As a package, this legislation provides a series of protections for investors and seeks to lower the overall costs of participation in the securities markets. While each of the three broad measures in the bill—auditing reform, financial planner regulation, and the repeal of the managed accounts provisions—started life as separate bills and are described in separate reports filed by the Committee on Energy and Commerce, they are all linked by the common goal of investor protection. The legislative history of this bill, as a result of this packaging, is the legislative history contained in the reports filed for each of the underlying bills. H.R. 5726, 4313, and 3047. I urge my colleagues to support this legislation.

Mr. Speaker, I wish to commend the gentleman from Oregon [Mr. WYDEN], and the gentleman from Virginia [Mr. BOUCHER] for their work on this legislation.

Mr. RINALDO. Mr. Speaker, I yield myself such time as I may consume.

The legislation before us this evening has been carefully designed by the Committee on Energy and Commerce and its Subcommittee on Telecommunications and Finance to improve the current financial reporting process, improve investment adviser regulation, and eliminate unnecessary costs in the mutual fund industry.

The fact remains, however, despite everything that has been said, that we have not produced a bill that everyone agrees on. There are outstanding concerns that the SEC, the accounting profession, and others have expressed. I am sympathetic with those concerns, and I intend to work actively with my colleagues in the conference with the other body in seeking to have them addressed.

Mr. Speaker, I am sure that the chairman of the Subcommittee on Telecommunications and Finance will join me to continue working to resolve outstanding issues with this legislation. I urge my colleagues to join me in pressing for needed improvements in the bill.

Mr. LENT. Mr. Speaker, I rise in support of H.R. 5726, the Investment Adviser Regulatory Enhancement and Disclosure Act of 1992. Investment advisers play an increasingly important role in assisting Americans planning for their financial future. Whether it is a billion dollar pension fund or an individual investor seeking the expert advice and execution services of an adviser/broker-dealer, or a small investor seeking a complete financial plan, investment advisers exert a powerful influence over the investment choices of consumers. In an era when the Bundesbank and Maastricht Treaty can roil financial markets, many investors believe that they need the help of a professional investment adviser when investing in securities.

The vast majority of advisers do an excellent job of guiding their clients through difficult investment choices, and help them select securities that balance risk and return. Unfortunately, there are a small number of advisers who have created a disproportionate amount of harm. While I dispute the inflated figures that are thrown around about advisory fraud, in the past year we have seen the scandal of Stephen Wymer who defrauded State and local pension funds and caused losses of perhaps $100 million. Other crooked advisers have hurt investors on a smaller scale. The Wymer incident and others like it indicate a need for Congress to take action. In part, because of these incidents, I am supporting H.R. 5726.

In 1940, Congress established a sound regulatory scheme to protect clients from abusive advisers. The Investment Company Act of 1940, as it has been amended by Congress, and administered by the Securities and Exchange Commission, protects clients from a wide-range of abuses. It ensures that clients know in advance what investment advice will cost them. It requires disclosure of conflicts of interests, material disciplinary backgrounds of advisers, and the background and experience of the persons who provide investment advice. These are current requirements; not the requirements of new legislation.

Mr. Speaker, the suitability requirements in this bill do not contain an explicit exemption for investment advice rendered to large, sophisticated investors, most of which are institutions of some type. However, the Energy and Commerce Committee is aware that in the relationship between institutional investors and the advisers retained to manage their assets, both parties bring to the table a level of knowledge or risk. This is quite different from the relationship that exists when relatively unsophisticated investors entrust their assets to an adviser.

This legislation requires that advisers act in a manner that is appropriate to the circumstances of the client. When a large client has sophisticated understanding of the markets and of investment risks, suitable investments are, as the committee reports states, those which are consistent with the stated objectives of the client. In adopting this legislation and in giving direction to the Securities and Exchange Commission, we would not want to see the suitability requirement in this bill applied to these investors and their advisers in a manner which produced undue and unnecessary burdens or potential liabilities.

Similarly, this bill requires that investment advisers obtain bonding against theft and embezzlement losses. This requirement is similar to that in the Senate bill, and is strongly supported by the SEC. This is an appropriate and reasonable requirement. The Investment Company Act currently contains a bonding requirement, and there are SEC rules in place, specifically rule 17G–1, which implement this requirement. That rule sets out a schedule of the amount of the bond required from an investment company, up to a maximum. While I have no doubt that the Commission will handle this new bonding requirement for investment advisers in a reasonable manner, it is important to emphasize that many large advisory firms manage hundreds of billions of dollars in assets. A maximum bonding level for advisers should, therefore, take into account the cost and availability of a bond, the risk of theft or embezzlement, and the question of physical custody, or lack of it, that large advisers have over the assets they manage. The Commission may want to consider a rule imposing a maximum level for bonding, like that in rule 17G–1. That would be appropriate to investment advisers as well. It would also be approprate for the SEC to use its exemptive authority to prevent duplicative coverage for adviser/broker dealers and advisers to investment companies.

With regard to transactional and periodic reporting, our committee recognized that there was a potential for placing unbearable burdens on small advisers and financial planners. Accordingly, changes have been made to the bill to provide for client waivers. Some types of compensation for example, are too attenuated, or are too minor and could be excluded from disclosure. Other information could be presented as aggregates. In enacting this legislation we act under the assumption that the SEC will adopt rules implementing the waiver provision of sections 204(c)(A) and 204(d)(2) among others. If thse provisions become law, I expect that the SEC will use its rulemaking authority wisely to balance costs and benefits.

I urge the adoption of H.R. 5726 by the House of Representatives.

Mr. LENT. Mr. Speaker, I rise in support of H.R. 4313, the Financial Fraud Detection and Disclosure Act.

Our Federal securities regulatory system is based upon the principle of complete, accurate, and timely reporting of information which is important to investors, regulators, and other users of corporate financial statements.

A key component of full and fair disclosure is the requirement that public companies have their financial statements audited by independent accountants.

The measure before us today will help to ensure the integrity of the financial reporting system by granting the Securities and Exchange Commission the authority to establish standards and procedures for the auditing process.

These procedures will require accountants to report any fraud they discover during the course of an audit to the company's management. If management fails to take appropriate remedial measures, then the auditor must promptly notify the SEC.

I believe that H.R. 4313 represents a fair and balanced improvement to the Federal securities laws as they apply to accountants who perform the crucial job of inspecting the financial statements of our Nation's publicly traded companies.

The bill makes sure that the investing public will receive necessary information in a timely manner without imposing unnecessary or overly burdensome obligations on auditors.

However, we cannot discuss increased auditor responsibilities without focusing on the legal liability crisis that currently threatens the U.S. accounting profession.

The litigation costs, jury awards and liability insurance associated with the present legal system are unnecessarily crippling the ability of our Nation's accounting firms to compete in the world marketplace.

In drafting this legislation, the challenge for us was to attempt to devise ways to reduce unwarranted lawsuits against accountants and their firms without protecting those who seek to cheat and steal. I believe that H.R. 4313 is a good example of a rational approach to the auditor liability problem.

Instead of establishing a peg on which any alert trial lawyer would surely hang a private lawsuit regardless of its merits, the bill provides civil penalties for auditors who fail to alert company executives, board members and Federal regulators when there is evidence of wrongdoing.

I believe that this is a serious and thoughtful step in precisely the right direction.

Mr. MARKEY. Mr. Speaker, today we will debate and vote on legislation that seeks to heal some of he wounds inflicted on the confidence of the investing public by the go-go years of the 1980's. That decade bred scores of abuses in the financial sector, many of which have proven immensely costly to the individual investor as well as to the American taxpayer. This legislation addresses two such areas of abuse: The problem of audit failures by accountants, and the problem of unscrupulous and self-interested financial planners.

The consequences of abuse in the investment adviser industry are not easily quantifiable, but are very pervasive. Mr. Speaker, the investment adviser business is the most unregulated sector of the securities industry today, and, perversely, it is the sector with which most individuals have the greatest day-to-day contact. The lack of regulation is due, in large part, to woefully inadequate levels of SEC funding. Such poor funding, which has produced a regulatory vacuum, is dangerous to those who mistakenly believe the term "registered investment adviser" denotes meaningful protection.

This lack of SEC supervision has grown increasingly worse in the past decade as the number of investment advisers registered with the SEC increased 340 percent and assets under their management soared by more than 1,200 percent. These figures can only be expected to multiply as investors—especially seniors—seek reasonable returns no longer available on accounts and CD's. At the same time as this explosive growth, SEC staff assigned to inspect these advisers has increased by only 28 percent—from 36 to 46. At this rate, each registered investment adviser can expect an inspection, on average, once every 25 to 30 years.

Abusive practices in the investment adviser context run the gamut from subtle abuses of undisclosed conflicts of interest and the release of confidential customer information to outright fraud and embezzlement. Doubtless, increased funding can help the SEC avoid a disaster along the lines of an Institutional Treasury Management, which cost small towns, counties, and government pension plans in Iowa, California, and Colorado millions of dollars. But money alone is not a cure-all for those intent on defrauding both investors and regulators.

Investors need protections up-front to arm themselves against advisers who are seeking to put improper financial ambitions first. Accordingly, this bill sets out certain disclosures the adviser has to make prior to engaging in any transactions, thus providing information that can assist consumers in making educated judgments about their financial future. An adviser's educational and business background and the amount of commission, if any, to be received by an adviser upon completion of a recommended transaction constitute such important information. Such basic disclosures should result in advisers recommending investments more tailored to their clients' financial needs and in investors making more informed investment decisions.

It should be noted that the vast majority of the financial planning and investment adviser community is made up of hardworking and ethical individuals. But the small minority that views the client as the proverbial sucker, in P.T. Barnum's parlance, has fueled skepticism about the profession as a whole. With proper regulation, this can change. The bill before us today will provide the SEC with the resources not only to inspect registered investment advisers, but also to search out those who are unregistered and actively flouting the law.

The independent public accountant serves as the investor's surrogate within publicly traded companies. As such, he is a bulwark against fraud and misrepresentation, assuring investors that the financial statements they rely on are accurate and trustworthy. But recent abuses uncovered in the accounting industry have made investors question the independence of public accountants, and hence, the validity of their certification of a company's financial health. This legislation seeks to restore the confidence of those investing in publicly traded companies by requiring independent public accountants actively to seek out fraud during the course of an audit and, if all else fails, to report suspected illegalities to the SEC.

Predictably, the fraudulent and irresponsible business practices of the 1980's have come home to roost. Just last year, the American taxpayer was asked to assume the costs of an additional $25 billion for the S&L bailout, a bailout which many argue could have been avoided if the frontline of defense—the accountants—had been more aggressive in identifying the fraudulent activities in the institutions that employed them. In an attempt to recoup some of its losses, the Federal Government is in the process of pursuing lawsuits against several accounting firms resulting from the firms' roles in the S&L debacle. For example, the RTC has 16 lawsuits pending seeking damages in excess of $900 million against accounting firms for the firms' alleged misconduct in the savings and loan disaster. The FDIC has 19 lawsuits seeking damages in excess of $2 billion against accounting firms for their audits or commercial banks. As of October 7, 1991, the FDIC and the RTC had settled 11 lawsuits against accounting firms, totaling more than $40 million for their roles in the savings and loan crisis.

Financial institutions, however, are not the only institutions that have fallen prey to fraudulent financial reporting. The failure of such nonfinancial institutions as College Bound Inc., Cascade International, and ZZZZ Best Illustrate that accountants were too often willing to ignore warning signs that something was amiss with the financial statements of these largely phantom companies. While most accountants would certainly shun such behavior, Congress nonetheless must attempt to correct the current imbalance in incentives that leads some auditors to shield their clients rather than to protect the public. It is our hope and expectation that this bill will head off any future financial debacles in this decade of rebuilding.

Finally, this legislation contains a section to repeal the managed accounts provisions of section 11(a) of the Securities Exchange Act of 1934. This repeal would lift the current statutory restrictions preventing money managers from using an affiliated broker-dealer to effectuate transactions on a national securities exchange. This current prohibition obtains even if such an affiliated broker provides better executions and charges lower commissions. In repealing this anachronistic prohibition, this legislation continues to protect investors by requiring prior investor authorization before a money manager can use an affiliated broker to effect transactions for a managed account. In addition, investors will continue to be provided with an annual statement disclosing the amount of compensation received by an affiliated broker for effecting such transactions. While the committee report recognizes that this amendment may result in reduced brokerage costs, we are not requiring that whatever reductions may result be allocated in any specific way. Rather, as the committee report explains, we expect that this amendment will be one of many factors influencing the negotiation of rates within the context of an intensely competitive brokerage industry.

As a package, this legislation provides a series of protections for investors and seeks to lower the overall costs of participation in the securities markets. While each of the three broad measures in the bill—auditing reform, financial planner regulation, and the repeal of the managed accounts provisions—started life as separate bills and are described in separate reports filed by the Committee on Energy and Commerce, they are all linked by the common goal of investor protection. The legislative history of this bill, as a result of this packaging, is the legislative history contained in the reports filed for each of the underlying bills. H.R. 5726, H.R. 4313, and H.R. 3047. I urge my colleagues to support this legislation.

Mr. BOUCHER. Mr. Speaker, more and more people are using financial planners and investment advisers to help them plan for their children's education and for their retirement years. Since 1981, the financial planning industry has grown dramatically from 5,100 to 17,500 registered investment advisers, and the assets they manage have increased from $450 billion in 1981 to more than $5 trillion today. Meanwhile, the Securities and Exchange Commission [SEC] has acknowledged that it does not have the resources to police the industry adequately.

The number of consumers who are losing their life savings through the activities of dishonest financial planners also is increasing. While most financial planners are conscientious and law abiding, recent studies indicate that consumers may be incurring avoidable losses of up to $1 billion annually as a result of financial adviser activities.

These losses occur in a variety of ways. Some are simply the result of outright theft. Others are the result of the churning of client accounts which exhausts the funds through unnecessary expenses. Some are through adviser incompetence.

A more typical form of abuse is a conflict of interest, which occurs when a planner encourages a client to purchase a financial product for which the planner receives a special fee or commission when the product is sold. In many instances the investment is totally unsuitable for the client, and the client is not informed of the special payment the adviser receives. While the adviser advertises himself as an objective source of financial advise, he is actually a salesperson for certain financial products.

The Investment Adviser Regulatory Enhancement and Disclosure Act of 1992 (H.R. 5726) addresses these significant problems in a number of ways.

First, the bill provides additional resources for investment adviser supervision by the SEC through the payment of a modest annual fee by advisers. Advisers currently pay a nominal onetime fee.

Second, it requires the SEC to conduct early inspections of new advisers, as well as more frequent inspections of all advisers, in order to stem abuses before they occur. We also require the SEC to conduct surveys to determine the extent of, and reasons for, the failure to register of persons required to do so under the Investment Advisers Act of 1940, and to report to Congress on the results of those surveys.

Third, we impose a suitability requirement to ensure that the investment products advisers recommend are suitable for the clients to whom they are being recommended, so that, for example, unsophisticated investors are not sold exotic, high-risk investments.

Fourth, we require investment advisers to give to prospective clients information concerning their education, business background, compensation arrangements, and the services they are offering. They also must disclose any conflicts of interest which could reasonably be expected to impair the rendering of disinterested advice.

Fifth, we require investment advisers to disclose to their clients before a purchase or sale the amount of sales commissions and fees they will be charged, whether the adviser will receive all or a portion of those commissions and fees, and whether the adviser will receive any third party payments, such as fees from the issuer of a security, for each transaction the adviser recommends. This information will enable clients to evaluate better whether the advice they are receiving is objective or has been influenced by the financial interest of the planner.

Sixth, investment advisers must provide their clients at least annually with written reports that include the sales commissions and fees paid by the clients, as well as any other amounts received by the adviser with respect to the clients' accounts. The purpose of this provision is to provide investors with a document they can use to compare the costs charged by their investment adviser with those charged by other advisers for comparable services.

Finally, we require investment advisers who have custody of client assets or who exercise investment discretion to obtain a fidelity bond in order to protect consumers from unscrupulous acts.

Our bill has been endorsed by groups representing consumers, regulators, and financial planners, including the Consumer Federation of America, the American Association of Retired Persons, the National Association of Personal Financial Planners, and the North American Securities Administrators Association.

H.R. 5726 will effectively address the growing abuses which are now common in the industry. I urge my colleagues to support its passage.

I would like to thank Chairman DINGELL, Chairman MARKEY, and Mr. RINALDO and their staffs for the time they have dedicated to bringing this bill to the floor of the House.

Mr. VENTO. Mr. Speaker, I rise in support of H.R. 5726, the Investment Adviser Regulatory Enhancement and Disclosure Act of 1992.

In this age of economic decline we are all learning to be financially cautious. Young and old are concerned about their future, their jobs, economic security, and ability to withstand economic difficulties caused by a catastrophic illness.

Financial planning has become a necessity for young families seeking a financially stable future. A lot of young people are trying to save money while looking for ways to invest. People are planning ahead for their child's education and their retirement, not to mention their first home or a long-awaited education. In their efforts to save these consumers are faced with a modern industry that offers countless options. Swamped by competing products ranging from certificates of deposit to partnerships in storage facilities, consumers are now looking for help.

Mr. Speaker, recent studies have already indicated that consumers may be losing up to $1 billion a year from fraud and incompetence. My office, along with the Minnesota Attorney General's office, is now getting more and more calls from constituents on abuses by the industry. It is due to this concern that I urge my colleagues to address this problem and support H.R. 5726, the Investment Adviser Regulatory Enhancement and Disclosure Act of 1992.

This act would require more thorough and more frequent inspections of investment advisers by the Securities and Exchange Commission [SEC], increase the fees paid by the investment advisers on their managed funds to the SEC for more inspections and surveys, require increased disclosure of advisers, fees, commissions and transactions, plus background information on advisers, and finally, the bill directs the SEC to require a fidelity bond for investment advisers with discretion over individual accounts.

To fill the void there is a new industry—financial advisers. Many financial advisers have served their consumers well with sound advice and profits. Other advisers have given sound advice, but due to other factors, the consumer has lost money. That prospect, losing money, is a risk that consumers should understand and expect.

There is, however, another type of financial adviser who provides poor or even inaccurate advice. It is especially because of such advisers that new regulation law and policy is needed.

This important bill is an important step forward toward accountability in helping people who are struggling with investment decisions today. I support this act and urge my colleagues to join with me. Mr. Speaker, Congress cannot protect consumers from investments and the risk inherent in the free market system. The Government cannot and should not be in the business of telling consumers where to invest their hard earned savings. Congress and the Government can, and should however, provide consumers with adequate information, a sound framework and information, so that they can make informed decisions as they select an investment adviser or counselor.

Mr. RINALDO. Mr. Speaker, I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 5726, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "An act to amend the Investment Advisers Act of 1940 to improve the supervision of investment advisers, to provide additional investor protections, to amend the Securities Exchange Act of 1934 to impose additional fraud detection and disclosure obligations on auditors of public companies, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5726, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

U.S.-FLAG PASSENGER VESSEL ACT OF 1992

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5257) to amend the coastwise trade laws to clarify their application to certain passenger vessels, as amended.

The clerk read as follows:

H.R. 5257

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Flag Passenger Vessel Act of 1992".

SEC. 2. COASTWISE TRANSPORTATION OF PASSENGERS.

(a) IN GENERAL.—Section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), is amended to read as follows:

"SEC. 8. COASTWISE TRANSPORTATION OF PASSENGERS.

"(a) IN GENERAL.—Except as otherwise provided by law, a vessel may transport passengers in coastwise trade only if—

"(1) the vessel meets the requirements of section 27 of the Merchant Marine Act, 1920 and section 2 of the Shipping Act, 1916 for engaging in the coastwise trade; and

"(2) for a vessel that is at least 5 net tons, the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement.

"(b) PENALTIES.—

"(1) CIVIL PENALTY.—A person operating a vessel in violation of this section is liable to the United States Government for a civil penalty of $1,000 for each passenger transported in violation of this section.

"(2) FORFEITURE.—A vessel operated in knowing violation of this section, and its equipment, are liable to seizure by and forfeiture to the United States Government.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'coastwise trade' includes—

"(A) transportation of a passenger from a place in any State or possession of the United States to any point outside of that State or possession and returning to that place, if during that transportation no passenger departs from the vessel in a foreign country; and

"(B) transportation of a passenger between points in the United States, either directly or by way of a foreign port; and

"(2) the term 'passenger' has the meaning that term has in section 2101 of title 46, United States Code, except that the term does not include a guest on a passenger vessel (as that term is defined in that section) who has not contributed consideration for carriage on board.".

(b) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding the amendment made by subsection (a), an ineligible vessel may engage in coastwise trade (as defined in that amendment) on a trade route, if—

(A) the vessel engaged, in the period beginning January 1, 1990, and ending January 1, 1992, in coastwise trade on that trade route; and

(B) within one year after the date of the enactment of this Act, the owner files with the Secretary of Transportation an affidavit certifying complaince with subparagraph (A) and listing each trade route on which the vessel engaged in coastwise trade in the period describe in subparagraph (A).

(2) EXPIRATION OF EXCEPTION.—This subsection does not apply to a vessel—

(A) after any date on which the vessel is sold after the date of enactment of this Act; or

(B) after the later of—

(i) January 1,1998;

(ii) January 1, 2001, if during the period beginning January 1, 1995, and ending January 1, 2001—

(I) each individual employed on the vessel is either a citizen of the United States or an alien lawfully admitted to the United States for permanet resident; and

(II) not more than 25 percent of the total number of individuals employed on the vessel are aliens lawfully admitted to the United States for permanent residence;

(iii) 20 years after the date on which the vessel was built; or

(iv) 20 years after the date of the completion of a major conversion (as defined in section 2101 of title 46, United States Code) of the vessel commenced before January 1, 1992.

(3) INELIGIBLE VESSEL DEFINED.—In this subsection, the term "ineligible vessel" means a vessel that is not eligible under chapter 121 of title 46, United States Code, for a certificate of documentation authorizing the vessel to engage in the coastwise trade.

(c) DOCUMENTATION OF VESSELS.—

(1) Notwithstanding the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may, before January 1, 1995, issue a certificate of documentation with a coastwise endorsement for the vessels Europa Sun (Panamanian registration number 17905–88) and Europa Star (Panamanian registration number 17845–88).

(2) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for the vessel M/V Helton Voyager (Spanish registration lista 2A–Folio–592) if—

(A) the person documenting the vessel entered a contract before May 21, 1992, to purchase the vessel;

(B) the vessel undergoes a major conversion (as defined in section 2101 of title 46, United States Code) in a United States shipyard after May 21, 1992, under a contract signed before January 1, 1993;

(C) the cost of the major conversion is more than the value of the vessel before the major conversion; and

(D) the major conversion is completed and the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement before January 1, 1994.

(d) EXISTING CONTRACTS.—Notwithstanding the amendment made by subsection (a), before May 21, 1997, a foreign vessel may engage in coastwise trade described in section 8(c)(1)(A) of the Act of June 19, 1886 (as amended by subsection (a)), if—

(1) the vessel did not engage in that coastwise trade before January 1, 1992;

(2) the owner of the vessel entered into a contract before May 21, 1992, to purchase the vessel;

(3) the owner or operator of the vessel entered into a binding terminal agreement with a port in the United States before May 21, 1992, for the operation of the vessel from that port;

(4) the vessel, when engaged in that coastwise trade, only operates from that port;

(5) the vessel is not sold by the owner; and

(6) the owner of the vessel files with the Secretary of Transportation a copy of the purchase contract, the terminal agreement, and any other evidence required by the Secretary to demonstrate that the owner of the vessel purchased the vessel for the purpose of engaging in that coastwise trade.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5257, the United States-Flag Passenger Vessel Act of 1992. This legislation was introduced on May 21, 1992, by Mr. TAYLOR of Mississippi for the purpose of closing a longstanding loophole in our maritime coastwise trade laws.

The loophole in current law allows foreign-flag, foreign-built, and foreign-crewed vessels to transport passengers from a port in the United States, beyond our territorial sea, and back to that same port. Normally, voyages from U.S. ports are reserved for U.S.-flag vessels, but foreign operators have found an exception in our maritime laws and are taking advantage of it by conducting these so-called voyages to nowhere. Generally, these types of voyages are viewed as part of the domestic commerce of the United States.

The legislation does not effect the legitimate foreign voyages of cruise ships that take passengers from the United States to a foreign country and then return to their original port of departure.

An equitable grandfather clause is included in H.R. 5257 that allows existing foreign-flag operators to continue to operate for up to 20 years in order to recoup their capital investment. Similarly, the bill allows those companies that have contracts to operate foreign-flag vessels, but whose vessels are not yet operating, to proceed for 5 years to fulfill their terminal agreements with our ports. These vessels owners made business decisions based on the law at that time, and it is only fair to allow them sufficient opportunity to phase-out these operations.

In addition, the owners of three foreign-flag vessels currently engaged in voyages to nowhere would like to place their ships under the U.S. flag that they have made a significant investment in these vessels by having them built or converted in U.S. shipyards.

H.R. 5257 creates jobs for U.S. shipyards and seagoing workers. It also ensures that these vessels, which transport millions of American citizens, are subject to full safety inspections by the U.S. Coast Guard.

Mr. Speaker, I urge my colleagues to strongly support the passage of H.R. 5257.

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Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to first congratulate the gentleman from Mississippi [Mr. TAYLOR] for his leadership in this particular legislation and a lot of legislation that is designed to create American jobs and to preserve jobs for not only his constituents, but constituents all over the country. I congratulate him on this particular bill.

Mr. Speaker, it is a pleasure for me to join my colleagues on the Merchant Marine and Fisheries Committee in supporting H.R. 5257, legislation to amend the coastwise trade laws of the United States to clarify their application to voyages to nowhere.

This legislation is designed to phase out foreign-flag vessels from that part of the cruise ship trade which involves vessels leaving one American port and going out into the ocean for a short period of time and returning to that same port. This practice—known as a voyage to nowhere—involves a large number of foreign-owned and foreign-flag vessels.

The Customs Service has rendered several administrative decisions that the Passenger Vessel Act of 1886, which states that "no foreign vessel shall transport passengers between ports or places in the United States, either directly or by way of a foreign port * * *", does not apply to these voyages to nowhere.

Mr. Speaker, as a result of these decisions, we have a rather anomalous situation. Currently, if someone operates a head boat, which takes passengers out into the ocean on a fishing trip, that boat is covered by the Passenger Vessel Act. However, if a vessel takes passengers from an American port out into the ocean for a dinner cruise or a day of entertainment, the Customs Service says the Passenger Vessel Act does not apply to that boat. The Merchant Marine and Fisheries Committee believes that this situation should be changed.

H.R. 5257 will ultimately require that all vessels departing U.S. ports to engage in voyages to nowhere will have to be U.S. flag, U.S. owned, and U.S. built. Because there are a number of existing foreign-flag vessels in this trade, this legislation sets up a phase-out scheme.

If a vessel is in a voyage-to-nowhere service before January 1, 1992, that vessel will be allowed to continue until it is either sold or until January 1, 1998. Under a number of conditions, this termination date could be extended—for example, a vessel currently in the trade could operate until it turns 20 years of age or 20 years after the vessel has undergone a major conversion.

This phaseout scheme is designed to mitigate the impact of this legislation on existing vessel owners who have ships and have operated them based on the existing legal regime. This timetable will enable them to pay off their mortgages and to recover their capital costs.

In addition, Mr. Speaker, this legislation acknowledges the existence of a number of contracts that some vessel owners have signed, such as a binding terminal agreement with a U.S. port for the operation of a vessel. If an operator signed such a contract before May 21, 1992, then that operator will be given an additional 5 years to honor that contract and to remain in operation.

Mr. Speaker, earlier this year the Congress took the first step toward giving American companies the opportunity to participate in some of these short ocean cruises that have become so popular. We changed the Federal law so American flag ships can have gambling operations on board under tightly controlled restrictions. Since so many of these voyages to nowhere involve dinners and entertainment, including some gambling operations, H.R. 5257 will continue the process of Americanizing many of these operations.

I would like to point out, Mr. Speaker, that this legislation does not affect most of the large ocean-going cruise ships which are involved in international trade. If a vessel leaves Miami and goes on a several-day trip to the Bahamas or some other foreign port, it will not fall within the scope of this new legislation.

The Merchant Marine Committee very carefully studied this legislation and held several hearings on this matter, receiving testimony from many interested and affected parties. I believe we have come up with a good bill that will have minimal impact on existing operations and will result in construction of new vessels in American shipyards. It will provide new opportunities for American businesses and American seamen to recognize benefits from this profitable cruise ship industry.

Mr. Speaker, I urge all of our colleagues to join the members from the Merchant Marine and Fisheries Committee and support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Mississippi [Mr. TAYLOR], the author of the bill.

Mr. TAYLOR of Mississippi. Mr. Speaker, I want to thank the chairman of the committee, the gentleman from Massachusetts [Mr. STUDDS], the gentleman from Michigan [Mr. DAVIS], the gentleman from New York [Mr. LENT] and the entire Committee on Merchant Marine and Fisheries for their tremendous cooperation on this bill.

Mr. Speaker, 80 percent of all the people who will get on a cruise ship this year in the entire world will be Americans, and they will spend somewhere between $8 and $10 billion, but about 98 percent of that money will be spent on foreign-flag, foreign-made, foreign-crewed vessels. The measure before the House tonight is an effort to bring that market back to America.

Mr. Speaker, it is a lot more than just tacking an American flag on the stern of a vessel. It says that the ship was made in America, it is crewed by Americans, it pays American corporate tax, it lives by the U.S. Coast Guard standards, which are the highest standards for safety in the world, and it lives by standards set by our predecessors over 200 years ago when they reserved coastwide commerce for Americans. That law has been subterfuged by the cruise-to-nowhere legislation in the past that allowed foreign-flag vessels to live in our ports, enjoy all the privileges of being Americans, without paying the cost of being an American, and I think it is about time those people who enjoyed the benefits of our shores started paying the costs of being here.

Mr. Speaker, I would have preferred to have closed the door on those vessels tonight, but, realizing political realities, we have allowed, as the gentleman from Michigan [Mr. DAVIS] said, ample opportunity for those people to recoup their losses with the knowledge that in the future the only people who can operate from our shores will be Americans.

Mr. Speaker, I also want to thank Mr. Walter Jones, who died last week and who was buried last week, for his tremendous cooperation in this measure. Without his help, Mr. Speaker, we never would have gotten this far.

At Mr. Jones' funeral there was a quote by a gentleman by the name of Everett Hale that I cannot remember in its entirety, but it says, in effect, there are some things that I can do and some things that I must do, and, with the grace of God, I will do. I have no misimpression that this bill is either the alpha or the omega as far as restoring maritime might, but it is a step in the right direction, and I want to thank my colleagues for doing those things that we must do.

Mr. LENT. Mr. Speaker, I am pleased to rise in support of H.R. 5257, legislation dealing with voyages to nowhere.

As the Members of this body may recall, earlier this year we approved legislation allowing gambling on a U.S.-flag vessel if the principle use of the vessel is not the operation of a gambling establishment and if the gambling activities begin after the vessel sails beyond a coastal State's waters. That bill was signed into law as Public Law 102-251 on March 9, 1992. This legislation that we are considering today is logical followup to that earlier bill.

H.R. 5257 amends the Passenger Vessel Act of 1886 to include the transportation of passengers on voyages to nowhere in addition to the current coverage of voyages between two points in the United States.

There are numerous foreign-flag vessels engaged in these voyages to nowhere operating from ports all around the coast. This bill will phase out these foreign-flag vessels on a timetable designed to enable the operators to make the best use of their existing vessels. The Merchant Marine and Fisheries Committee believes that it is time to give American companies the opportunity to build new ships in American shipyards and take advantage of the growing popularity of these short ocean cruises that so many Americans now enjoy.

I believe that H.R. 5257 meets all of our objectives in terms of promoting U.S. interests in this cruise trade. The bill also deals fairly with existing operators enabling them to continue using their ships for at least 5 years and, in some cases longer, in order to recognize a fair return on their financial investments.

Mr. Speaker, I strongly support this legislation and urge the Members of this body to do likewise.

Mr. DAVIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I, too, have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SANGMEISTER). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 5257, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

NEW ENGLAND GROUNDFISH RESTORATION ACT OF 1992

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5557) to amend the Magnuson Fishery Conservation and Management Act to provide for the restoration of New England stocks of groundfish, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5557

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "New England Groundfish Restoration Act of 1992".

SEC. 2. PURPOSES.

The purposes of this Act are to—

(1) ensure the timely recovery of depressed stocks of New England groundfish, the long-term stability of major New England groundfish stocks, and the consequent long-term viability of the New England fishing industry;

(2) meet the objectives of the Magnuson Fishery Conservation and Management Act by requiring implementation of conservation and management measures to eliminate overfishing and achieve optimum yields from stocks of New England groundfish;

(3) overturn the consent decree entered into by the Secretary of Commerce and the Conservation Law Foundation and reestablish clear lines of accountability between the New England Fishery Management Council and the Secretary of Commerce in developing an amendment to the Northeast Multispecies Fishery Management Plan that is designed to rebuild stocks of cod and yellowtail flounder within seven years and stocks of haddock within ten years;

(4) encourage the full enforcement of New England fishery management plans by authorizing the reimbursement of appropriate State agencies for expenses incurred in enforcing those plans;

(5) encourage negotiations with the Government of Canada for the purpose of improving the conservation of transboundary stocks of groundfish in the northwest Atlantic Ocean;

(6) redirect surplus fishing effort in the New England groundfish fishery through the development of commercial fisheries and markets for currently underutilized species of fish of the northwest Atlantic Ocean;

(7) require research into conservation gear engineering and technology in order to develop more selective fishing gear for New England groundfish; and

(8) require research into New England groundfish hatcheries and other shorebased fish production facilities.

SEC. 3. NEW ENGLAND GROUNDFISH RESTORATION PROGRAM.

(a) IN GENERAL.—Section 312 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857 note) is amended to read as follows:

"SEC. 312. NEW ENGLAND GROUNDFISH RESTORATION PROGRAM.

"(a) AMENDMENT OF NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN.—

"(1) PREPARATION BY COUNCIL.—

"(A) IN GENERAL.—Not later than April 1, 1993, or such later date as the Secretary determines is appropriate for effective conservation and management, the New England Fishery Management Council (hereafter in this section referred to as the 'Council') shall prepare and submit to the Secretary an amendment to the Plan that establishes conservation and management measures for New England groundfish designed to reduce fishing mortality to the extent necessary to eliminate overfishing of cod and yellowtail flounder stocks not later than seven years after the effective date of the amendment, and of haddock stocks not later than ten years after that effective date.

"(B) RECOMMENDATION FOR SCHEDULE OF CIVIL PENALTIES.—The Council shall submit to the Secretary with an amendment submitted under this paragraph a recommendation for a schedule of civil penalties for purposes of subsection (b), including a list of violations for which fishing permit sanctions shall be proposed under section 308(g).

"(C) REVIEW BY SECRETARY.—The Secretary shall give the review of an amendment submitted under this paragraph such priority consideration as may be necessary to ensure that, if approved, it will be implemented as soon as possible.

"(2) PREPARATION BY SECRETARY.—

"(A) IN GENERAL.—If the Council does not submit to the Secretary an amendment to the Plan in accordance with paragraph (1), the Secretary shall make a determination under section 304(c)(1)(A) that the Council failed to act within a reasonable period of time, and not later than three months after making such determination, the Secretary shall prepare such an amendment and issue such regulations as necessary to implement the amendment.

"(B) PROCEDURE.—In preparing an amendment under this subsection, the Secretary shall—

"(i) comply with the procedures established under section 304(c) for the preparation of amendments to fishery management plans by the Secretary;

"(ii) conduct public hearings on the amendment; and

"(iii) consult with representatives of the commercial and recreational fishing industries.

"(3) CONTENTS OF THE AMENDMENT.—

"(A) AUTHORITY TO SUSPEND FISHING UPON COUNCIL REQUEST.—In addition to meeting the requirements of section 303(a), the amendment prepared under this subsection shall provide for the immediate suspension of fishing, within five days after receipt of a request from the Council or its designee, in—

"(i) areas where New England groundfish are spawning; and

"(ii) areas where there are high concentrations of undersized New England groundfish.

"(B) NOTIFICATION REQUIREMENTS.—If the amendment prepared under this subsection establishes a moratorium on the issuance of new permits authorizing participation in the New England groundfish fishery, such amendment shall—

"(i) include a list of vessels that are eligible to participate in the fishery and a list of those notified under clause (ii);

"(ii) include a list of owners of vessels that are authorized to participate in the fishery in 1992 and whose participation may be precluded by such moratorium;

"(iii) require the Council to notify each person listed pursuant to clause (ii)

"(iv) provide for a timely appeals process, including an opportunity for a hearing before the Council; and

"(v) provide for a method for promptly including those vessels with successful appeals on the list under clause (i) of vessels that are eligible to participate in the fishery.

"(b) SCHEDULE OF CIVIL PENALTIES.—

"(1) IN GENERAL.—Simultaneously with the issuance of regulations implementing a Plan amendment prepared under this section, the Secretary shall issue a schedule of civil penalties which shall apply under section 308 for violations of this Act relating to the New England groundfish fishery.

"(2) CONTENT.—A schedule issued by the Secretary under paragraph (1) shall—

"(A) be based on the recommendation submitted by the Council under subsection (a)(1)(B); and

"(B) specify violations of the Act for which permit sanctions under section 308(g) shall be proposed.

"(3) EXPLANATION OF FAILURE TO ADOPT RECOMMENDATION OF COUNCIL.—The Secretary shall publish in the Federal Register a statement explaining why any part of the recommendation submitted by the Council under subsection (a)(1)(B) is not included in the schedule issued under this subsection.

"(c) STATE CONSERVATION AND MANAGEMENT MEASURES.—The Secretary—

"(1) shall, not later than one year after the effective date of the regulations implementing any amendment to the Plan prepared under this section, review the actions taken by each State represented on the Council to implement the amendment in the waters of such State (other than internal waters); and

"(2) may regulate fishing within the boundaries of such State only if the Secretary complies with section 306(b).

"(d) DEFINITIONS.—For purposes of this section—

"(1) NEW ENGLAND GROUNDFISH.—The term 'New England groundfish' means any member of a species of cod, flounder, haddock, pollock, hake, or other fish managed under the Plan.

"(2) OVERFISHING.—The term 'overfishing' has the meaning the term has in the Plan (as amended pursuant to subsection (a)).

"(3) PLAN.—The term 'Plan' means the Northeast Multispecies Fishery Management Plan approved by the Secretary in accordance with this Act, as in effect on the date of the enactment of the New England Groundfish Restoration Act of 1992.

"(e) USE OF APPROPRIATIONS.—

"(1) NEW ENGLAND STOCK DEPLETION.—All amounts appropriated for fiscal years 1993 through 1997 for use by the National Oceanic and Atmospheric Administration for information collection and analysis regarding New England stock depletion shall be used to carry out this section and funding research under section 304(h).

"(2) FISHERY CONSERVATION AND MANAGEMENT, GEORGES BANK.—All amounts appropriated for fiscal years 1993 through 1997 for use by the National Oceanic and Atmospheric Administration for National Marine Fisheries Service conservation and management operations regarding fisheries management programs, management of Georges Bank, shall be used to carry out the amendments made by the New England Groundfish Restoration Act of 1992.".

(b) RELATED MATTERS.—Section 305(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855(e)) is amended—

(1) by striking "subsection (c) or" and inserting in lieu thereof "subsection (a),"; and

(2) by inserting ", or section 312," immediately after "section 304 (a) and (b)".

(c) EFFECT OF AMENDMENTS ON EXISTING ACTIONS.—Except as may be required pursuant to the amendments made by this section—

(1) the New England Fishery Management Council shall not be required to approve under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) a rebuilding program for New England groundfish;

(2) the Secretary of Commerce shall not be required to take any action under that Act to prepare a program for the rebuilding of cod, yellowtail flounder, and haddock stocks in the northwest Atlantic Ocean; and

(3) the New England Fishery Management Council and the Secretary of Commerce shall not be required to perform any other act pursuant to their functions under that Act,

based upon any failure, before the date of the enactment of this Act, of the New England Fishery Management Council or the Secretary of Commerce to perform their functions under that Act.

(d) CONFORMING AMENDMENT.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by striking the item relating to section 312 and inserting in lieu thereof the following:

"Sec. 312. New England groundfish restoration program.".

SEC. 4. ENFORCEMENT.

Section 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting immediately after subsection (e) the following new subsection:

"(f) ENFORCEMENT OF NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN.—

"(1) ENFORCEMENT AGREEMENTS.—Before the end of the 12-month period beginning on the date of enactment of the New England Groundfish Restoration Act of 1992, the Secretary may, if requested by the Governor of a State represented on the New England Fishery Management Council, enter into an agreement under subsection (a) with the Governor to utilize the personnel, services, and equipment (including aircraft and vessels) of the marine law enforcement agency of that State to assist the Secretary in the enforcement of the Northeast Multispecies Fishery Management Plan. Any law enforcement officer who is authorized to enforce the provisions of the Northeast Multispecies Fishery Management Plan under this subsection may utilize the powers authorized under subsections (b) and (c).

"(2) REIMBURSEMENT.—An agreement with a State under this subsection shall provide, subject to the availability of appropriations, for reimbursement of the State for expenses incurred in detection and prosecution of violations of any fishery management plan approved by the Secretary and for sharing in the disposition of fines, penalties, seizures, and forfeitures.

"(3) COAST GUARD ENFORCEMENT WORKING GROUP.—

"(A) ESTABLISHMENT.—The Commander of the First Coast Guard District shall establish an informal fisheries enforcement working group to improve the overall compliance with and effectiveness of the regulations issued under the Northeast Multispecies Fishery Management Plan.

"(B) MEMBERSHIP.—The working group shall consist of members selected by the Commander, and shall include—

"(i) individuals who are representatives of various fishing ports located in the States represented on the New England Fishery Management Council;

"(ii) captains of fishing vessels that operate in waters under the jurisdiction of that Council; and

"(iii) other individuals the Commander considers appropriate.

"(C) NON-FEDERAL STATUS OF WORKING GROUP MEMBERS.—An individual shall not receive any compensation for, and shall not be considered to be a Federal employee based on, membership in the working group.

"(D) MEETINGS.—The working group shall meet, at the call of the Commander, at least four times each year. The meetings shall be held at various major fishing ports in States represented on the New England Fishery Management Council, as specified by the Commander.

"(4) USE OF FINES AND PENALTIES.—Amounts available to the Secretary under this Act which are attributable to fines and penalties imposed for violations of the Northeast Multispecies Fishery Management Plan shall be used by the Secretary pursuant to this section to enforce that Plan.".

SEC. 5. SEA SAMPLER PROGRAM.

Section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855) is amended by adding at the end the following new subsection:

"(i) SEA SAMPLER PROGRAM.—

"(1) Establishment.—The Secretary is authorized to establish a program, to be known as the Sea Sampler Program, for stationing individuals on board fishing vessels engaged in the fishery for New England groundfish (as that term is defined in section 312), who shall collect for the Secretary and the New England Fishery Management Council statistically reliable information necessary for the conservation and management of fisheries managed under the Northeast Multispecies Fishery Management Plan.

"(2) Voluntary program.—The Secretary may not require a vessel to have an individual on board under the Sea Sampler Program.

"(3) Restriction on use of information.—Information collected under the Sea Sampler Program may not be used for enforcement of this Act.

"(4) Treatment of sea samplers.—

"(A) In general.—An individual stationed on a vessel under this section shall be considered to be an observer on a vessel under section 114(e) of the Marine Mammal Protection Act of 1972 for purposes of paragraph (7) of that section.

"(B) Limitation.—This paragraph does not apply if the observer is engaged by the owner, master, or individual in charge of a vessel to perform any duties in service to the vessel.".

SEC. 6. UNITED STATES-CANADA FISHERY MANAGEMENT AGREEMENT.

(a) Negotiations.—Not later than one hundred and eighty days after the date of enactment of this Act, the Secretary of State, in consultation with the Secretary of Commerce, is authorized and encouraged to initiate negotiations with the Government of Canada for the purpose of entering into an international fishery agreement with Canada for the conservation and management of fisheries of mutual concern in the northwest Atlantic Ocean, with particular emphasis on transboundary stocks of groundfish and ensuring the success of New England groundfish restoration efforts pursuant to this Act.

(b) Contents of Agreement.—An agreement entered into pursuant to this section shall—

(1) provide for timely and periodic exchanges of scientific information relating to the conservation and management of fisheries stocks of mutual concern;

(2) provide for routine meetings between the officials of the United States and Canada responsible for the conservation and management of fisheries;

(3) establish procedures for the identification of conservation and management measures that would be mutually beneficial; and

(4) identify procedures for the implementation within each country of conservation and management measures identified as mutually beneficial.

(c) Consultative Committee.—

(1) Establishment.—The Secretary of State, in consultation with the Secretary of Commerce, shall establish a consultative committee to advise the Secretaries in the development and implementation of a fishery agreement pursuant to this section.

(2) Membership.—The membership of the Committee shall include representatives from the New England Fishery Management Council, the States represented on that Council, the Atlantic States Marine Fisheries Commission, the fishing industry, the seafood processing industry, and others knowledgeable and experienced in the conservation and management of fisheries.

(d) Application of Existing Law.—An agreement entered into pursuant to this section shall be subject to section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823).

(e) Letter.—Not later than one year after the date of enactment of this Act, and annually thereafter until the effective date of an agreement entered into pursuant to this section, the Secretary of State shall transmit to the Congress a letter describing activities of the Secretary under this section.

SEC. 7. DEVELOPMENT OF FISHERIES FOR UNDERUTILIZED SPECIES OF NORTHWEST ATLANTIC OCEAN.

(a) Program.—Title III of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) is amended by adding at the end the following:

"SEC. 314. DEVELOPMENT OF FISHERIES FOR UNDERUTILIZED SPECIES OF NORTHWEST ATLANTIC OCEAN.

"(a) Program.—

"(1) In general.—Not later than twelve months after the date of enactment of the New England Groundfish Restoration Act of 1992, the Secretary shall establish a program for the purpose of—

"(A) promoting development of commercial fisheries and markets for underutilized species of the northwest Atlantic Ocean;

"(B) developing alternative fishing opportunities to reduce fishing effort in the New England groundfish fishery; and

"(C) providing technical and financial support and assistance to United States fishermen and fish processors to make participation in fisheries for underutilized species of the northwest Atlantic Ocean economically viable.

"(2) Activities under program.—As part of a program under this section the Secretary may, subject to the availability of appropriations, award contracts, grants, and other financial assistance to—

"(A) persons who own or operate fishing vessels that are authorized under this Act to participate in the New England groundfish fishery, for activities which promote the purposes described in paragraph (1);

"(B) United States fish processors, for activities which make participation in fisheries for underutilized species of the northwest Atlantic Ocean economically viable for United States fishermen; and

"(C) citizens of the United States for the administration and management of the program.

"(3) Condition for participation.—As a condition of receiving any contract, grant, or other financial assistance under a program under this subsection, the Secretary shall require a person who owns or operates any fishing vessel that is authorized under this Act to participate in the New England groundfish fishery to temporarily surrender that permit to the Secretary during the duration of the contract, grant, or other assistance.

"(b) Fisheries Research and Development Projects.—The Secretary shall use amounts available to the Secretary under section 2 of the Act of August 11, 1939 (15 U.S.C. 713c–3; commonly referred to as the 'Saltonstall-Kennedy Act'), to fund grants for projects that promote development of fisheries for underutilized species of the northwest Atlantic Ocean.

"(c) Assistance of Other Agencies.—The Secretary shall actively seek the assistance of other Federal agencies in the development of fisheries for underutilized species of the northwest Atlantic Ocean, including assistance from the Secretary of Agriculture in including such underutilized species as agricultural commodities in the programs of the Foreign Agricultural Service for which amounts are authorized under the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359).

"(d) Management Plans for Underutilized Species.—The New England Fishery Management Council, in consultation with other appropriate Councils, shall develop fishery management plans as soon as possible for any underutilized species of the northwest Atlantic Ocean that is not covered under such a plan, in order to prevent overfishing of that species.

"(e) Underutilized Species Defined.—For purposes of this section, the term 'underutilized species of the northwest Atlantic Ocean' means any fish species of the northwest Atlantic Ocean that is identified, by the Director of the Northeast Fisheries Center of the National Marine Fisheries Service, as an underutilized species.".

(b) Priority for Research and Development.—Section 2 of the Act of August 11, 1939 (15 U.S.C. 713c–3; commonly referred to as the "Saltonstall-Kennedy Act") is amended by adding at the end the following new subsection:

"(f) Priority for Research and Development.—In making grants for projects and carrying out other activities under this section, the Secretary shall give priority to projects and activities that promote development of—

"(1) commercial fisheries for underutilized species (as that term is defined in section 314 of the Magnuson Fishery Conservation and Management Act); and

"(2) markets for any species of fish, that can promote full utilization of those species.".

(c) Conforming Amendment.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by inserting immediately after the item relating to section 313 the following new item:

"Sec. 314. Development of fisheries for underutilized species of northwest Atlantic Ocean.".

SEC. 8. NEW ENGLAND GROUNDFISH FISHERIES RESEARCH.

(a) Amendment to National Fisheries Research Plan.—Section 304(e)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(e)(1)) is amended in the first sentence by inserting immediately after "publication" the following: ", and specifically for the restoration of stocks of New England groundfish (as that term is defined in section 312)".

(b) New England Fisheries Research Program.—Section 304(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(e)) is amended by adding at the end the following:

"(4) Within nine months of the date of enactment of the New England Groundfish Restoration Act, the Secretary shall establish a research program at the Northeast Fisheries and Science Center of the National Marine Fisheries Service. The program shall include—

"(A) research into conservation gear engineering and technology in order to develop more selective fishing gear for New England groundfish;

"(B) research into the feasibility of enhancing New England groundfish stocks through the use of hatcheries and stock supplementation; and

"(C) other appropriate activities.".

SEC. 9. REQUIREMENT TO PROVIDE LEGAL ADVICE.

Section 302(f) of the Magnuson Fishery Conservation and Management Act (16 U.S.C.

1852(f)) is amended by adding at the end the following:

"(8) Not later than 30 days after receiving the request, the Secretary (acting through the General Counsel of the National Oceanic and Atmospheric Administration) shall provide a detailed response to any written request from a Council for legal advice regarding whether a management measure or other regulation is consistent with this Act.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, H.R. 5557—the New England Groundfish Restoration Act—is designed to ensure the timely recovery of depressed stocks of New England groundfish and the long-term prosperity of the New England fishing industry.

Today, in New England coastal waters, traditional stocks of cod, haddock, and flounder are overfished. Our fishermen are working twice as hard to catch just half of what they were a decade ago. Each year these depressed stocks are costing New England millions of dollars in lost revenues and thousands of jobs. It is clear that with proper management the rebuilt groundfish stocks could double—possibly triple—the catches of our fishermen.

Because it was clear that tough conservation measures were required, I introduced the New England Groundfish Restoration Act over a year ago. The bill is based on the simple principle that, if we are going to continue to have a billion dollar fishing industry in New England, we are going to need fish to sustain it. Since introducing the bill, I have met personally with many fishermen and their representatives to hear their concerns about the legislation and the general condition of the fishery.

The Fisheries and Wildlife Subcommittee held three hearings on the bill, we've listened to the suggestions of literally hundreds of New England fishermen and, as a result of their advice—friendly and otherwise—we issued a revised version of the legislation. The legislation was unanimously approved by the subcommittee on May 12, and the full committee on July 1.

Because the legislation originally contained matters outside the jurisdiction of our committee, the bill, H.R. 2919, was referred to two other committees. Those matters were deleted from the bill and, on July 2, we introduced a clean version of the legislation, H.R. 5557, which was referred solely to our committee. The bill we are now considering is virtually identical to H.R. 2919 as it was approved by the Merchant Marine and Fisheries Committee, and all the legislative history associated with H.R. 2919 should apply to H.R. 5557.

Very briefly, H.R. 5557: Requires the management council to submit an acceptable conservation program to the Secretary of Commerce by April 1, 1993 or such later date as the Secretary determines appropriate, and requires that overfishing be eliminated within 7 years; requires the council to prepare a civil penalty schedule—including tough mandatory sanctions on Federal fishing permits—to accompany the management program submission; and requires the rebuilding plan to include procedures for the prompt (within 5 days) closure to fishing of fish spawning.

Mr. Speaker, the New England Groundfish Restoration Act provides a comprehensive and realistic approach to rebuilding our stocks while recognizing the economic and social consequences of such a tremendous undertaking. The bill addresses the need for stronger and increased law enforcement, improved fisheries research and data collection, and the importance of increased cooperation with Canada. Most importantly, the legislation provides some economic alternatives for fishermen—through the development of domestic and international markets for underused species like cape shark and mackerel—as they cut back their effort on groundfish.

Our goal from the very beginning has been to encourage the New England Council to develop a solid rebuilding plan for groundfish, to give the council some additional tools to work with, to strengthen law enforcement and to provide economic alternatives to our fishermen. I believe H.R. 5557 meets this goal and will help create a system that fishermen believe in, one they will respect, and one that holds out the promise that future generations of fishermen will benefit from today's sacrifices.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5557. I would like to recognize the chairman for his dedication to this issue. I believe that the social and economic well-being of our citizens ought to be our first consideration in any matter that we consider on this floor. By attempting to manage the severely depleted fish stocks, this bill is working to maintain and eventually rebuild the once prosperous fishing industry in New England.

My hope, for both this bill and the next, is that we can continue to manage our marine resources while keeping the citizens working who rely on those resources for employment.

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Mr. STUDDS. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Speaker, I rise in support of H.R. 5557, the New England Groundfish Restoration Act, and I would like to commend Chairman STUDDS for his efforts and leadership on this issue and for bringing the committee to Rhode Island to hear our specific concerns.

The bill before us today is the result of months of hearings and meetings with all of the concerned parties, and it represents an attempt to preserve both our fishing industry and our environment.

This is a very difficult issue, and one of critical importance to New England, both from a conservation and an economic standpoint. New England groundfish stocks are at historically low levels, and it has been a difficult task to balance the need to rebuild the depleted stocks and to maintain our billion dollar New England fishing industry. This legislation is proof that we do not have to sacrifice one to preserve the other.

By giving the council more time to develop its management plan, we will assure that the plan is sound and supported by the fishermen. In addition, I am pleased that H.R. 5557 has incorporated many of the concerns and suggestions that I raised at the committee markup. H.R. 5557 includes provisions to direct NMFS to work with USDA to market underutilized species in foreign countries under existing USDA international assistance programs and to encourage negotiations with Canada to reach a bilateral agreement on groundfish conservation. These are both important additions to the original legislation.

I urge my colleagues to support H.R. 5557.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in strong support of H.R. 5557 and urge its adoption by the House.

Mr. Speaker, this bill was introduced by our colleague GERRY STUDDS, the chairman of the committee. Mr. STUDDS has labored long and hard to craft a bill which will allow proper conservation and management of the New England fisheries while providing incentives for development of other fisheries to keep American fishermen employed.

Mr. STUDDS has already explained the bill, so I will not go into detail here. I mainly want to make clear that, without the leadership of Mr. STUDDS, the New England fishing industry would be in worse shape than it is now. I want to express my strong support for the chairman on behalf of fishermen from throughout the United States and urge my colleagues to show their support by passing this bill.

Thank you, Mr. Speaker.

Ms. SNOWE. Mr. Speaker, I rise today to express my concerns about H.R. 5557. I know that the gentleman from Massachusetts has worked hard on finding a way to help resolve the current crisis in New England over groundfish stocks, and I believe that he has made a good faith effort.

But after speaking with fishermen in Maine, and after analyzing the present circumstances, I must conclude that H.R. 5557 will offer only a brief respite, after which we will be back to our present predicament of trying to find an equitable plan to ensure the conservation of the groundfish stocks. I also have reservations about congressional involvement in the management of the stocks. Legislation must be viewed as a last resort, and I do not think that we have reached that point at this time.

The bill before us stems from a successful 1991 lawsuit by the Conservation Law Foundation [CLF] and the Massachusetts Audubon Society against the Department of Commerce. The lawsuit resulted in a consent decree between the CLF and the National Marine Fisheries Service which directed the New England Fishery Management Council to produce a groundfish recovery plan by September 1, 1992.

That deadline has passed, however, and no plan has yet been produced. H.R. 5557 would take the positive step of overturning the consent decree, but it would then set a new deadline of December 15. If the council does not meet this deadline, the bill would require the National Marine Fisheries Service to produce one by March 1, 1993.

Mr. Speaker, I simply do not believe that this goal can be achieved. The council is still trying to assemble a discussion draft for a new round of public hearings. After these hearings, which will likely not be competed until the new year at the earliest, the council will then have to finalize its plan—a process which will take even more time.

Developing a conservation plan which minimizes the hardship on fishermen is a painstaking task. Great care must be taken to ensure that the concerns of the fishermen as well as the resource are addressed.

If we rush the process, we risk the likelihood of getting a plan which is not respected by the users of the fishery, and which will ultimately cause even more turmoil. We could get a plan which imposes an undue burden on the family fishermen who populate the small towns along the coast of my state, threatening a culture which began centuries ago before there was a United States of America. I firmly believe that sufficient time must be allotted to develop a sound plan.

A larger issue is whether Congress should get involved in the process at this time. I understand Mr. STUDDS' concern over the uncertainty of the present situation. But many fishermen in my State, as well as the State Commissioner of Marine Resources, believe that the CLF and the Fisheries Service will recognize the reality of the situation and negotiate a more reasonable timetable in which the council can produce a good conservation plan.

I think it is best to allow the parties currently engaged to try to work out a solution among themselves, as the Magnusson Act envisioned when it created the fishery management councils. The fishing community has put forth some good proposals such as increasing net mesh size, and they will need time to work with the council and the Fisheries Service to find common ground.

The council's draft proposal, released in March, could have very serious consequences, resulting in a decline of the small fishing boats in favor of fewer but larger vessels. Such an outcome would be unacceptable, as the small boats are the traditional backbone of the industry in Maine. Thus, the council needs to carefully analyze other proposals which taken into account the impact on family fisherman. Congressional involvement will only add new pressure from a different source on the parties trying to develop a plan, and I cannot see how this pressure would facilitate a resolution.

The best thing for Congress to do at this junction would be, in my opinion, to let the process continue. If that process fails to produce a consensus plan, then Congress may be called upon in the end. At this point, however, we do not know that the council, the Fisheries Service, the fisherman, and others interested in the groundfish stocks cannot agree upon the best possible plan without the aid of Congress. I think they can, and I would refrain from congressional action.

Mr. DAVIS. Mr. Speaker I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SANGMEISTER). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 5557, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

BEACHES, ENVIRONMENTAL ASSESSMENT, CLOSURE, AND HEALTH ACT OF 1991

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12) to amend the Federal Water Pollution Control Act and the Coastal Zone Management Act of 1972 to improve the quality of coastal recreation waters, and for other purposes, as amended.

The Clerk read as follows:

H.R. 12

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Beaches Environmental Assessment, Closure, and Health Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the Nation's beaches are a valuable public resource used for recreation by millions of people annually;

(2) the beaches of coastal States are hosts to many out-of-State and international visitors;

(3) tourism in the coastal zone generates billions of dollars annually;

(4) increased population has contributed to the decline in the environmental quality of coastal waters;

(5) pollution in coastal waters is not restricted by State and other political boundaries;

(6) each coastal State has its own method of testing the quality of its coastal recreation waters, providing varying degrees of protection to the public; and

(7) the adoption of standards by coastal States for monitoring the quality of coastal recreation waters, and the posting of signs at beaches notifying the public during periods when the standards are exceeded, would enhance public health and safety.

(b) PURPOSE.—The purpose of this Act is to require uniform procedures for beach testing and monitoring to protect public safety and improve the environmental quality of coastal recreation waters.

SEC. 3. WATER QUALITY CRITERIA AND STANDARDS.

(a) ISSUANCE OF CRITERIA.—Section 304(a) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)) is amended by adding at the end the following:

"(9) COASTAL RECREATION WATERS.—(A) The Administrator, after consultation with appropriate Federal and State agencies and other interested persons, shall issue within 18 months after the effective date of this paragraph (and review and revise from time to time thereafter) water quality criteria for pathogens in coastal recreation waters. Such criteria shall—

"(i) be based on the best available scientific information;

"(ii) be sufficient to protect public health and safety in case of any reasonably anticipated exposure to pollutants as a result of swimming, bathing, or other body contact activities; and

"(iii) include specific numeric criteria calculated to reflect public health risks from short-term increases in pathogens in coastal recreation waters resulting from rainfall, malfunctions of wastewater treatment works, and other causes.

"(B) For purposes of this paragraph, the term 'coastal recreation waters' means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar primary contact purposes.".

(b) STANDARDS.—

(1) ADOPTION BY STATES.—A State shall adopt water quality standards for coastal recreation waters which, at a minimum, are consistent with the criteria published by the Administrator under section 304(a)(9) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)(9)), as amended by this Act, not later than 3 years following the date of such publication. Such water quality standards shall be developed in accordance with the requirements of section 303(c) of the Federal Water Pollution Control Act (33 U.S.C. 1313(c)). A State shall incorporate such standards into all appropriate programs into which such State would incorporate water quality standards adopted under section 303(c) of the Federal Water Pollution Control Act (33 U.S.C. 1313(c)).

(2) FAILURE OF STATES TO ADOPT.—If a State has not complied with paragraph (1) by the last day of the 3-year period beginning on the date of publication of criteria under section 304(a)(9) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)(9)), as amended by this Act, the Administrator shall promulgate water quality standards for coastal recreation waters for the State under applicable provisions of section 303 of the Federal Water Pollution Control Act (33 U.S.C. 1313). The water quality standards for coastal recreation waters shall be consistent with the criteria published by the Administrator under section 304(a)(9) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)(9)), as amended by this Act. The State shall use the standards issued by the Administrator in implementing all programs for which water quality standards for coastal recreation waters are used.

SEC. 4. COASTAL BEACH WATER QUALITY MONITORING.

Title IV of the Federal Water Pollution Control Act (33 U.S.C. 1341-1345) is amended by adding at the end thereof the following new section:

"SEC. 406. COASTAL BEACH WATER QUALITY MONITORING.

"(a) MONITORING.—Not later than 9 months after the date on which the Administrator publishes revised water quality criteria for coastal recreation waters under section 304(a)(9), the Administrator shall publish regulations specifying methods to be used by States to monitor coastal recreation waters, during periods of use by the public, for compliance with applicable water quality standards for those waters and protection of the public safety. Monitoring requirements established pursuant to this subsection shall, at a minimum—

"(1) specify the frequency of monitoring based on the periods of recreational use of such waters;

"(2) specify the frequency of monitoring based on the extent and degree of use during such periods;

"(3) specify the frequency of monitoring based on the proximity of coastal recreation waters to pollution sources;

"(4) specify methods for detecting short-term increases in pathogens in coastal recreation waters; and

"(5) specify the conditions and procedures under which discrete areas of coastal recreation waters may be exempted by the Administrator from the monitoring requirements of this subsection, if the Administrator determines that an exemption will not impair—

"(A) compliance with the applicable water quality standards for those waters, and

"(B) protection of the public safety.

"(b) NOTIFICATION REQUIREMENTS.—Regulations published pursuant to subsection (a) shall require States to notify local governments and the public of violations of applicable water quality standards for State coastal recreation waters. Notification pursuant to this subsection shall include, at a minimum—

"(1) prompt communication of the occurrence, nature, and extent of such a violation, to a designated official of a local government having jurisdiction over land adjoining the coastal recreation waters for which a violation is identified; and

"(2) posting of signs, for the period during which the violation continues, sufficient to give notice to the public of a violation of an applicable water quality standard for such waters and the potential risks associated with body contact recreation in such waters.

"(c) FLOATABLE MATERIALS MONITORING PROCEDURES.—The Administrator shall—

"(1) issue guidance on uniform assessment and monitoring procedures for floatable materials in coastal recreation waters; and

"(2) specify the conditions under which the presence of floatable material shall constitute a threat to public health and safety.

"(d) DELEGATION OF RESPONSIBILITY.—A State may delegate responsibility for monitoring and posting of coastal recreation waters pursuant to this section to local government authorities.

"(e) REVIEW AND REVISION OF REGULATIONS.—The Administrator shall review and revise regulations published pursuant to this section periodically.

"(f) DEFINITIONS.—For the purposes of this section—

"(1) the term 'coastal recreation waters' means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar body contact purposes; and

"(2) the term 'floatable materials' means any matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.".

SEC. 5. STUDY TO IDENTIFY INDICATORS OF HUMAN-SPECIFIC PATHOGENS IN COASTAL RECREATION WATERS.

(a) STUDY.—The Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall conduct an ongoing study to provide additional information to the current base of knowledge for use for developing better indicators for directly detecting in coastal recreation waters the presence of bacteria and viruses which are harmful to human health.

(b) REPORT.—Not later than 4 years after the date of the enactment of this Act, and periodically thereafter, the Administrator shall submit to the Congress a report describing the findings of the study under this section, including—

(1) recommendations concerning the need for additional numerical limits or conditions and other actions needed to improve the quality of coastal recreation waters;

(2) a description of the amounts and types of floatable materials in coastal waters and on coastal beaches and of recent trends in the amounts and types of such floatable materials; and

(3) an evaluation of State efforts to implement this Act, including the amendments made by this Act.

SEC. 6. PARTICIPATION OF STATE COASTAL ZONE MANAGEMENT PROGRAMS.

(a) TECHNICAL ASSISTANCE.—Each coastal zone management agency of a State with an approved coastal zone management program under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) shall provide technical assistance to local governments within the State for ensuring that coastal recreation waters and beaches are as free as possible from floatable materials.

(b) CLEAN-UP OF COASTAL RECREATION WATERS AND BEACHES.—Section 306A of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455a) is amended—

(1) by adding at the end of subsection (b) the following:

"(4) Reduction of floatable materials in the State's coastal recreation waters by—

"(A) managing adjacent land uses so that floatable materials are not introduced into those waters;

"(B) encouraging public participation in reducing the amount of floatable materials that enter coastal recreation waters; and

"(C) sponsoring clean-up events at public beaches.";

(2) in subsection (c)(2)—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(C) by inserting after subparagraph (E) the following:

"(F) the acquisition of beach and coastal recreation water clean-up equipment."; and

(3) by adding at the end the following:

"(g) DEFINITIONS.—For the purposes of this section—

"(1) the term 'coastal recreation waters' means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar body contact purposes; and

"(2) the term 'floatable materials' means any matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.".

SEC. 7. GRANTS TO STATES.

(a) GRANTS.—The Administrator may make grants to States for use in fulfilling requirements established pursuant to section 3 and 4.

(b) COST SHARING.—The total amount of grants to a State under this section for a fiscal year shall not exceed 50 percent of the cost to the State of implementing requirements established pursuant to section 3 and 4.

SEC. 8. DEFINITIONS.

In this Act—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "coastal recreation waters" means Great Lakes and marine coastal waters commonly used by the public for swimming, bathing, or other similar body contact purposes; and

(3) the term "floatable materials" means any matter that may float or remain suspended in the water column and includes plastic, aluminum cans, wood, bottles, and paper products.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Administrator—

(1) for use in making grants to States under section 7 not more than $3,000,000 for each of the fiscal years 1993 and 1994; and

(2) for carrying out the other provisions of this Act not more than $1,000,000 for each of the fiscal years 1993 and 1994.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from Michigan [Mr. DAVIS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

Mr. STUDDS. Mr. Speaker, I rise in support of H.R. 12, the Beaches Environmental Assessment, Closure and Health Act of 1991. The purpose of the bill is to improve the methods we use to open and close beaches due to public health risks by: Improving the technical standards developed by EPA by which to measure health risks; providing a more reliable method for adoption of protective water quality standards by the States; and instituting a better program for monitoring the health and integrity of coastal water quality.

H.R. 12 was first introduced on January 3, 1991, by Representative HUGHES and others, and was referred jointly to the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation. Hearings were held on the bill on June 12, 1991, and the bill was reported favorably from the Merchant Marine Committee on November 20, 1991.

With the cooperation of the Public Works Committee and the chief sponsor of the legislation, Congressman HUGHES, our two committees have developed an amended text of the bill which we bring before the House today and I will turn to the sponsor of the bill to explain those provisions at the appropriate time.

Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. HUGHES], the principal author of this legislation.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 12, the Beaches Environmental Assessment, Closure, and Health Act, a bill which I introduced on behalf of myself and my friend and distinguished colleague, JIM SAXTON of New Jersey.

Indeed, I am very pleased that this bill is once again before the House of Representatives. A very similar version of this legislation was approved by the House on October 23, 1990, on a suspension vote of 326 to 89.

While the version before us today has one additional change, which I will explain later, the overall intent of the legislation has remained intact: To establish a uniform program for the testing and monitoring of our Nation's beaches and to ensure public notification during periods of decreased water quality.

This legislation was approved last Congress by both the Merchant Marine and Fisheries and Public Works and Transportation Committees because it represents a workable compromise to ensure that beaches everywhere will be safe for swimming.

I commend Mr. STUDDS, acting chairman of the Merchant Marine and Fisheries Committee, and Mr. ROE, chairman of the Public Works Committee, and Mr. NOWAK, the subcommittee chairman for bringing this bill to the floor today. This is a matter of great concern to me and my constituents. Accordingly, I am hopeful that we can move forward on this very important health and safety initiative and enact this bill into law this Congress.

Much of the coastal pollution legislation that we consider today addresses the issue of improving the quality of our Nation's coastal waters with an eye toward preserving important habitat for the plants and animals that live there.

My bill, however, is designed to protect human health and it does so in a simple and straightforward manner. The focus of the bill is to ensure that States have in place adequate beach testing programs, to provide protection from health risks, while allowing States flexibility in determining beach closures or in implementing stricter standards.

My own State of New Jersey has a stringent beach testing program that consists of weekly testing and, when necessary, closing of beaches during periods of high concentrations of bacteria in the water.

New Jersey currently spends an average of $325,000 a year on its beach monitoring program, which includes weekly testing at 350 sites, monthly inspections of wastewater treatment facilities, a helicopter overflight program, an indicator research program, and a 24-hour public information phone line.

People who live and vacation in New Jersey are now recognizing this stamp of approval provided by New Jersey and are assured that the waters are safe for swimming.

Few other States provide the same protection to the public. Many States test their beaches infrequently; during incidents of low-water quality, some States may issue only advisory warnings, while other coastal States have no beach monitoring program at all.

The problem which has led to much of the inconsistency among coastal and Great Lakes States is that EPA's criteria is not required to be adopted by States as standards. EPA does not address the importance of testing waters after short-term problems such as heavy rains or sewage treatment plant malfunctions, nor does it recommend action in the event that the water quality falls below the criteria. In addition, EPA does not issue guidance on beach cleanups, or public notification related to floatable debris.

I have attempted to address these inadequacies and ensure the sufficient protection of public health in H.R. 12, the Beaches Environmental Assessment, Closure, and Health Act of 1991.

Accordingly, this bill calls on EPA to review and revise their water quality criteria for pathogens in our Nation's coastal and Great Lakes recreation waters, establishes uniform standards for the monitoring and testing of those waters, and requires States to notify the local government and the public of the occurrence, nature, and extent of a violation of these water quality standards. The public has the right to know if they are at risk while using our Nation's beaches.

Specifically, the bill requires EPA to develop coastal recreational water quality criteria for pathogens within 18 months after enactment, and monitoring, testing, and posting regulations to be published 9 months after the development of criteria. The States have 3 years after the criteria are published to promulgate standards.

The bill requires EPA to issue regulations on procedures to test coastal recreation waters based on: How frequently a beach is used; proximity of pollution sources; and short-term increases of bacteria and viruses resulting from rainfall, malfunctions of wastewater treatment works, or other causes.

In order to address the concerns expressed by some States, this section has been amended by adding a provision which allows the administrator to specify the conditions and procedures under which discrete areas of coastal recreation waters may be exempted from the monitoring requirements of this act.

The length of the exemption and the frequency of review for exemptions are to be specified by the administrator in the development of regulations pertaining to this section and must be consistent with the overall goals of this act—that is, the exemption will not impair compliance with water quality standards or protection of public safety.

Further, the legislation requires States to post signs on beaches notifying the public of potential health risks during periods when the water quality does not comply with State coastal recreation water standards.

EPA, in cooperation with the National Oceanic and Atmospheric Administration, is required to conduct a study to develop better indicators for directly detecting the presence of bacteria and viruses which are harmful to human health. EPA must report on the findings of the study 4 years after the enactment of the bill; at this time, EPA must make recommendations on changes to the criteria.

In addition, EPA is required to develop guidance on uniform assessment and monitoring of marine debris. The bill encourages the participation of State coastal zone management agencies in reducing the amount of marine debris and in sponsoring cleanup events at public beaches and in coastal recreation waters.

The bill authorizes $1 million for each of fiscal years 1993 and 1994 for EPA to carry out its responsibilities in the act, and $3 million for EPA to make matching grants to States for use in carrying out the requirements set forth in this legislation.

I believe this bill is a great improvement to the shortcomings that currently exist in beach testing and monitoring. It provides a stamp of approval for States to proudly show people who live and vacation along the shore.

For coastal States, clean beaches and ocean waters serve as a major source of recreation and are the foundation of their tourism industry.

I believe this is good environmental legislation and I urge my colleagues' support.

Mr. DAVIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while I agree with the sentiments expressed by its author, I rise in opposition to this bill.

As I stated before when we were considering this measure in the 101st Congress, it is sad that we are worried about people getting sick by swimming in our coastal waters. The way to prevent this would be to ensure that coastal pollution doesn't occur in the first place by providing funds to end combined sewer overflows, which is the major reason for beach closings.

In any case, H.R. 12 attempts to make decisions regarding the risk that recreational waters pose for swimmers more uniform. This is a commendable end. However, I am concerned that the monitoring, testing, and posting requirements in this bill will be expensive and burdensome, especially for States with long coastlines like Alaska, Florida, California, and Michigan. The funds authorized in this bill for a nationwide program, $3 million, are simply inadequate. Why, Michigan alone estimates that it will cost $2 million to comply with this bill.

These expensive new requirements might be justified if we had any widespread evidence that people are getting very ill from swimming along our coasts. This doesn't seem to be the case, especially when the Natural Resources Defense Council reports over 2,000 beaches were closed last year under existing States' laws to protect public health. The system seems to be working. Let's not overhaul it.

Mr. STUDDS. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I also rise in strong support of H.R. 12. It is obvious from some of the statements that have already been made, this is a very important piece of legislation. I am here this evening basically wearing several hats, because I am a member of the Committee on Merchant Marine and Fisheries which reported the bill, and also my colleagues, the gentleman from New Jersey [Mr. HUGHES] and the gentleman from New Jersey [Mr. SAXTON], are the sponsors of the legislation.

I also wanted to point out that the Committee on Public Works, of which I am also a member, has reviewed the legislation, and we are very pleased to work with the Committee on Merchant Marine and Fisheries, with the gentleman from New Jersey [Mr. HUGHES] in particular.

I would just like to add on my own part that I believe that this is important legislation, not only for the State of New Jersey but for the Nation as a whole. Essentially I see it as a right-to-know bill. I think that the public has the right to know whether the waters along the coasts are swimmable and whether or not they are safe.

It is very important to the tourism industry, not only in New Jersey but throughout the country, and the public, I think, will gain as well as the tourism industry from having this legislation passed and signed into law.

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Mr. DAVIS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from Michigan for yielding time to me.

Mr. Speaker, colleagues may remember my strong opposition to this measure when it was last considered by this House. This time around, reservations remain but I withdraw my strenuous opposition because I recognize that there is an overwhelming need for action along the mid-Atlantic beaches. And, I am encouraged by improvements that have been included in the bill. Even so, I hope that the gentleman from New Jersey will be willing to revisit this issue if we find that H.R. 12 does little in the way of making our beaches safer, but does much damage to the pocketbooks of the State and local governments.

No one can fault this effort to make our beaches safer for swimmers. We all support this goal. However, I am very concerned about the cost involved in implementing the monitoring, testing, and posting requirements of this legislation.

As I interpret this bill, the Federal Government would require States to test coastal recreational waters on at least a weekly basis during periods of use by the public, which is year round for Florida. In return, Congress authorizes $3 million for the States for this purpose. Even assuming we can get the full appropriation, this amount is grossly inadequate.

My own State of Florida has a very detailed shoreline of nearly 8,500 miles—more than all the rest of the Eastern seaboard. When we last considered this measure, Florida alone estimated that the bill's testing requirements would cost at least $2.3 million.

Since the 3 million is not enough, State and local governments abutting coastal waters are going to have to foot the cost themselves. I do not know where they are going to get the money.

I am also concerned about the necessity for this legislation. Obviously Flordia cannot afford to jeopardize its lifeline-tourism—by allowing tourists and residents to swim in contaminated waters. But Florida, like every coastal State, already has a testing program for those areas where the need exists. In Florida, it is not weekly testing, it does not cover every mile of shoreline, but it has worked. With this tailored program, Florida closed nearly 300 beaches last year from time to time to protect public health.

The fact remains that the vast majority of Florida's waters are not located near pollution sources and are clean and safe. That is why I support the provision added by the committee amendment which would allow the EPA to exempt certain beach areas from the monitoring requirements if public health will not be adversely affected. This is a significant improvement in the bill, and I appreciate Congressman HUGHES' inclusion of this provision.

In conclusion, while I am supportive of the goal of safer coastal water, I am deeply concerned about the costs H.R. 12 imposes on already strapped States and local governments.

Mr. DAVIS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New Jersey [Mr. SAXTON], a member of our committee.

Mr. SAXTON. Mr. Speaker, I rise in support of H.R. 12, the clean beach bill. Simply put Mr. Speaker, this bill provides for consumer information and citizen protection to be uniformly extended along our Nation's coastline.

As stated, H.R. 12 requires the Environmental Protection Agency to establish numerical criteria for determining the water quality and contaminant levels of recreational beaches. These new criteria will then be made available for States to design and implement water quality standards and monitoring programs for their public beaches.

Because coastlines everywhere are not the same, this bill maintains the flexibility necessary for each State to develop a program specifically tailored for monitoring environmental conditions unique to their coastal recreation areas. At the same time, the numerical criteria used for determining contamination levels as harmful to human health will be uniform and based on science.

The fundamental premise of this bill is to ensure that the public sector act responsibility in providing full disclosure of information to the private citizenry utilizing a public resource. If these recreational waters were under private ownership, you can be assured that the first illness resulting from high counts of fecal coliform and raw sewage would be met with swift action in the courts, Congress and most of all, the press.

As a Representative of a coastal State, there are many State programs as well as communities which depend on seasonal dollars from the shore. People are encouraged to vacation at seaside hotels, participate in marine activities such as fishing, surfing, scuba diving or just relaxing on the beach. If we are to act in the same responsible manner we demand from the private citizenry, then these shore-side consumers have the right to be fully informed about the health condition of their public beaches along our coastline.

H.R. 12 will preserve the flexibility necessary to implement a fundamental criteria for human health. I urge my colleagues to support it.

Mr. HERTEL. Mr. Speaker, as chairman of the Subcommittee on Oceanography, Great Lakes and the Outer Continental Shelf, I am pleased to see that the House is considering H.R. 12, the Beaches Environmental Assessment, Closure and Health [BEACH] Act this evening. During consideration of this legislation by my subcommittee, I became convinced that uniform water quality protocols are necessary to ensure that swimmers at recreational beaches are safe. Allow me to provide some of the history of this legislation.

During the 101st Congress, in an effort to address concern about recreational water safety by establishing uniform Federal testing protocols, our colleague from New Jersey introduced the Beaches Environmental Assessment, Closure and Health [BEACH] Act, H.R. 4333, on March 20, 1990. The Committee on Merchant Marine and Fisheries reported the bill to the House of Representatives on September 13, 1990, with amendments by voice vote. H.R. 4333 was also reported from the Public Works and Transportation Committee with amendments on October 18, 1990.

The House of Representatives adopted H.R. 4333 on October 23, 1991—326 yeas to 89 nays—under suspension of the rules. Although the Senate Committee on Environment and Public Works reported the bill in the 101st Congress, objection to the scope of the bill for recreational communities was raised by one of the Senators and the BEACH bill was blocked rather than considered for a vote by the Senate. Sine die adjournment of the 101st Congress occurred prior to Senate passage of H.R. 4333.

To resume consideration of the Beach bill during the 102d Congress, Mr. HUGHES reintroduced the bill on January 3, 1991, with the text of H.R. 4333 as amended and passed by the House of Representatives in the 101st Congress. The new bill number in the 102d Congress is H.R. 12.

The Subcommittee on Oceanography, Great Lakes and the Outer Continental Shelf held hearings on the bill on June 12, 1991. A variety of interest groups testified in support of the bill. Subsequently, the subcommittee marked the bill up on October 1, 1991, without amendment.

On November 20, 1991, the Merchant Marine and Fisheries Committee held a markup session in which H.R. 12 was considered. First, the Subcommittee on Fisheries and Wildlife Conservation and the Environment discharged H.R. 12. Subsequently, one amendment was offered to provide for discretionary water quality monitoring and exemptions, in lieu of uniform standards compliance in the bill. After the amendment was defeated by a vote of 24 to 19, H.R. 12 was reported unanimously without amendment. The bill was subsequently reported by the Merchant Marine and Fisheries Committee on January 3, 1992.

The Public Works and Transportation Committee having jurisdiction over H.R. 12 has discharged the bill without amendment. Thus, the bill is presented to the House under suspension of the rules this evening.

At this point, I would like to include a few points of explanation about the bill before us. H.R. 12 amends the Federal Water Pollution Control Act and the Coastal Zone Management Act of 1972 to improve the quality of coastal recreational waters and to protect the public health through adequate testing programs for beach waters. The bill requires the Environmental Protection Agency [EPA] to issue regulations for testing coastal recreation waters commonly used by the public for swimming, including consideration of factors such as proximity to pollution sources, such as sewage outfalls, increase in bacterial and viral presence, and frequency of beach use by the public.

EPA's criteria for testing would be available 18 months after enactment of H.R. 12. States would be given 3 years from final publication of the criteria to promulgate water quality standards. Following implementation and based on periodic testing, States would be required to post signs on beaches failing to meet the minimum uniform water quality standard in order to notify the public of potential health risks.

Within 4 years of enactment, the bill would have EPA and the National Oceanic and Atmospheric Administration update testing criteria based on new research for detecting bacteria and viruses. EPA is also required to provide guidance on uniform assessment and monitoring of marine debris, including participation of State coastal zone management agencies.

The authorization levels in H.R. 12 are modest when compared to the public safety and health savings to the American public. The bill authorizes $1 million for fiscal year 1993 to carry out the act, and $3 million for matching funds to the States.

An amendment in the nature of a substitute will include a slight modification to H.R. 12 as reported by the Committee on Merchant Marine and Fisheries. This amendment assures that in complying with the uniform water quality standard for public beaches, States are not overburdened by requirements to monitor beach areas not commonly used by the public. This amendment should address the concerns of the Senate expressed in the 101st Congress and ensure enactment of H.R. 12 before sine die adjournment of the 102d Congress.

Mr. Speaker, I urge support for H.R. 12 by our colleagues.

Mr. NOWAK. Mr. Speaker, I am pleased to rise in support of the bill H.R. 12, the Beaches Environmental Assessment, Closure, and Health Act of 1991.

This bill was jointly referred to our Committee on Public Works and Transportation in recognition of our jurisdiction over pollution of navigable waters. Unfortunately our schedule did not permit us to formally consider this legislation. In view of the need to move this bill we have agreed to its consideration under suspension.

The purpose of the bill is to require uniform procedures for beach testing and monitoring to protect public safety and improve the environmental quality of coastal recreation waters.

The bill directs the administration of EPA, after consultation with appropriate Federal and State agencies and other interested persons, to issue within 18 months of enactment water quality criteria for pathogens in coastal recreation waters, including waters of the Great Lakes. A State must adopt water quality standards for coastal recreation waters which at a minimum are consistent with the criteria published by the administrator not later than 3 years following the date of publication of the criteria. These water quality standards are to be developed in accordance with the requirements of section 303(c) of the Federal Water Pollution Control Act. If a State does not adopt water quality standards within the 3-year period, then the Administrator is to promulgate water quality standards for coastal recreation waters for the State under applicable provisions of section 303 of the act.

The bill also directs the Administrator to publish regulations specifying methods to be used by States to monitor coastal recreation waters for compliance with applicable water quality standards. These regulations are to, among other things, require States to notify local governments and the public of violations of applicable water quality standards for recreation waters. The Administrator is also to issue guidance on uniform assessment and monitoring procedures for floatable materials in coastal recreation waters and specify the conditions under which the presence of floatable material shall constitute a threat to public health and safety.

The Administrator in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere is directed to conduct a study to provide additional information for use for developing better indicators for directly detecting in coastal recreation waters the presence of bacteria and viruses which are harmful to human health.

Each coastal zone management agency is to provide technical assistance to local governments within the State for ensuring that coastal recreation waters and beaches are as free as possible from floatable materials. In addition, the Coastal Zone Management Act is amended to include activities relating to a reduction of floatable materials in the States' coastal recreation waters.

The Administrator is authorized to make grants to States for adoption of water quality standards and implementation of the monitoring requirements. The grants are not to exceed 50 percent of the costs to the State. Total grants are authorized at $3 million for each of the fiscal years 1992 and 1993. In addition, there is authorized to be appropriated to EPA $1 million for each of the fiscal years 1992 and 1993 for carrying out the other provisions of the act.

Mr. Speaker, this bill will help to ensure the cleanliness and safety of the waters off our Nation's beaches and I urge its enactment.

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise to address provisions in H.R. 12, the Beaches Environmental Assessment, Closure, and Health Act of 1992. While I support its goals and some of its provisions, I continue to have concerns about the bill and its potential impact on the Nation's water quality programs.

First, Let me acknowledge the efforts of the bill's chief sponsor, the gentleman from New Jersey [Mr. HUGHES], and the two committees involved: The Public Works and Transportation Committee and the Merchant Marine and Fisheries Committee. Members are to be commended for their persistence and hard work on this issue.

However, I do have some general concerns about H.R. 12. I strongly agree coastal water quality problems exist—such as with pathogens and floatable materials. However, I question the general approach embodied in H.R. 12 and am concerned that the bill could more appropriately move in the context of Clean Water Act reauthorization legislation next Congress.

Like many others, I am concerned about the impact H.R. 12 might have on EPA's other priorities under its national water quality programs. I also question whether, at this juncture, EPA should be asked to focus its limited resources on beach water quality criteria and standards and monitoring regulations. We need to impose realistic requirements. States have had enough new Federal mandates without adequate funding.

Finally, Mr. Speaker, I would like to focus on a few specific provisions. With regard to coastal water quality criteria and standards, we intend that EPA and the States have sufficient flexibility to address the bill's requirements without neglecting other issues of equal or greater importance.

Earlier versions of the bill, dating back to the 101st Congress, could have diverted agency resources and personnel to the detriment of other important national needs. The bill before us today does a better job addressing this concern.

H.R. 12 also requires EPA to issue regulations to States for coastal water quality monitoring and for notifying the public about water quality standards violations. EPA should incorporate into these regulations as much flexibility and deference to the States as possible while still striving to meet the purposes of this legislation.

For example, monitoring regulations should allow for each State to develop a program that is responsive to and designed for its own particular needs. Some States simply may not have coastal water quality problems as severe as those in other States. It makes sense to design a program's scope and content based on actual need.

In closing, Mr. Speaker, H.R. 12 addresses a serious problem and I commend the bill's chief sponsor and other members for their hard work on moving the bill. However, I hope that we can make additional improvements to it if and when it moves further along in the legislative process.

Mr. DAVIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. SANGMEISTER). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill H.R. 12, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT DURING 5-MINUTE RULE ON WEDNESDAY, SEPTEMBER 23, 1992

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be permitted to sit on September 23, 1992, while the House is reading for amendment under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

INTERNATIONAL DOLPHIN CONSERVATION ACT OF 1992

Mr. STUDDS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5419) to amend the Marine Mammal Protection Act of 1972 to authorize the Secretary of State to enter into international agreements to establish a global moratorium to prohibit harvesting of tuna through the use of purse seine nets deployed on or to encircle dolphins or other marine mammals, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5419

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Dolphin Conservation Act of 1992".

SEC. 2. GLOBAL MORATORIUM TO PROHIBIT CERTAIN TUNA HARVESTING PRACTICES.

(a) IN GENERAL.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end the following:

"TITLE III—GLOBAL MORATORIUM TO PROHIBIT CERTAIN TUNA HARVESTING PRACTICES

"SEC. 301. FINDINGS AND POLICY.

"(a) FINDINGS.—The Congress finds the following:

"(1) The yellowfin tuna fishery of the eastern tropical Pacific Ocean has resulted in the deaths of millions of dolphins.

"(2) Significant awareness and increased concern for the health and safety of dolphin populations has encouraged a change in fishing methods worldwide.

"(3) United States tuna fishing vessels have led the world in the development of fishing methods to reduce dolphin mortalities in the eastern tropical Pacific Ocean and United States tuna processing companies have voluntarily promoted the marketing of tuna that is dolphin safe.

"(4) Nations harvesting yellowfin tuna in the eastern tropical Pacific Ocean have indicated their willingness to participate in appropriate multilateral agreements to reduce, and eventually eliminate, dolphin mortality in that fishery.

"(b) POLICY.—It is the policy of the United States to—

"(1) eliminate the marine mammal mortality resulting from the intentional encirclement of dolphins and other marine mammals in tuna purse seine fisheries;

"(2) secure appropriate multilateral agreements to reduce, and eventually eliminate, the mortality referred to in paragraph (1);

"(3) ensure that the market of the United States does not act as an incentive to the harvest of tuna caught in association with dolphins or with driftnets;

"(4) secure appropriate multilateral agreements to ensure that United States tuna fishing vessels shall have continued access to productive tuna fishing grounds in the South Pacific Ocean and elsewhere; and

"(5) encourage observer coverage on purse seine vessels fishing for tuna outside of the eastern tropical Pacific Ocean in a fishery in which the Secretary has determined that a regular and significant association occurs between marine mammals and tuna, and in which tuna is harvested through the use of purse seine nets deployed on or to encircle marine mammals.

"SEC. 302. INTERNATIONAL AGREEMENTS TO ESTABLISH GLOBAL MORATORIUM TO PROHIBIT CERTAIN TUNA HARVESTING PRACTICES.

"(a) IN GENERAL.—The Secretary of State, in consultation with the Secretary, may enter into international agreements which establish, in accordance with this title, a global moratorium of at least 5 years duration to prohibit harvesting tuna through the use of purse seine nets deployed on or to encircle dolphins or other marine mammals.

"(b) TERMS OF AGREEMENT.—Any agreement entered into under this section shall—

"(1) establish a moratorium described in subsection (a) which takes effect on March 1, 1994;

"(2) include an international research program and, notwithstanding the moratorium, authorize harvesting of tuna under that program;

"(3) provide for reviews and reports in accordance with section 304 on results of research conducted under the research program;

"(4) require each country that is a party to the agreement to take all the necessary and appropriate steps to ensure compliance with the moratorium; and

"(5) encourage each country that is a party to the agreement to seek, through bilateral and multilateral negotiations, to encourage other countries that participate in fisheries to which the agreement applies to become parties to the agreement.

"(c) COMPLIANCE BY UNITED STATES WITH MORATORIUM.—The moratorium authorized under subsection (a) may be terminated prior to December 31, 1999, with respect to the United States for the harvesting of tuna in the eastern tropical Pacific Ocean only if—

"(1) the Secretary submits to the Congress in accordance with section 304(b) a recommendation that the moratorium be terminated; and

"(2) the recommendation is approved by enactment of a joint resolution of approval.

"SEC. 303. RESEARCH PROGRAMS.

"(a) IN GENERAL.—An agreement entered into under section 302 shall—

"(1) establish an international research program to develop methods of fishing for large yellowfin tuna—

"(A) without setting nets on dolphins or other marine mammals; or

"(B) by setting nets on dolphins or other marine mammals with zero set-caused mortality;

"(2) require that proposals for research under the program be reviewed and authorized by a competent regional organization;

"(3) require that research under the program be conducted by dedicated vessels that—

"(A) are authorized to conduct that research by a competent regional organization; and

"(B) have on board in accordance with section 305(a)(2) an observer who is responsible to, and supervised by, a competent regional organization.

"(b) LIMITATIONS ON DOLPHIN MORTALITY.—For the eastern tropical Pacific Ocean, an agreement entered into under section 302 shall require that—

"(1) the total number of research sets on dolphins conducted pursuant to this section during the period beginning March 1, 1994, and ending December 31, 1999, shall not exceed 400 annually, and that the total annual dolphin mortality shall not exceed 1,000;

"(2) the Inter-American Tropical Tuna Commission shall establish a panel to review and report on the compliance of the international yellowfin tuna fishery fleet with the limits established in paragraph (1) and make recommendations as appropriate; and

"(3) the Inter-American Tropical Tuna Commission shall establish an Advisory Board of technical specialists from the international communities of scientists, government agencies, environmental groups, and the fishing industry, to assist that commission in efforts to coordinate, facilitate, and guide research.

"(c) FUNDING.—

"(1) IN GENERAL.—An agreement entered into under section 302 shall establish fair and equitable mechanisms for funding research conducted pursuant to this section.

"(2) PROCEEDS OF RESEARCH HARVESTS.—An agreement entered into under section 302 shall provide that the proceeds of any tuna harvested for the purpose of research conducted pursuant to this section should, to the extent possible, be used for funding research conducted pursuant to this section.

"(3) LIMITATION ON USE OF UNITED STATES FUNDING.—Funding provided by the United States for research shall be used only for the purpose of developing methods of fishing for large yellowfin tuna that do not involve intentionally encircling dolphins or other marine mammals.

"(d) REVIEW OF RESEARCH PROPOSALS.—The Marine Mammal Commission established under section 201 shall—

"(1) review all research proposals submitted to the Inter-American Tropical Tuna Commission; and

"(2) recommend an appropriate response to each of those proposals, to the United States Commissioners on the Inter-American Tropical Tuna Commission.

"SEC. 304. REVIEWS, REPORTS, AND RECOMMENDATIONS.

"(a) REPORTS BY THE SECRETARY.—The Secretary shall submit annual reports to the Congress which include—

"(1) results of research conducted pursuant to section 303;

"(2) a description of the status of stocks of yellowfin tuna;

"(3) an assessment of the economic impacts on the tuna industry and consumers caused by the moratorium established by agreements entered into under section 302;

"(4) an assessment of the effectiveness of the moratorium in protecting dolphin populations in the eastern tropical Pacific Ocean;

"(5) results of reviews conducted under section 305(c);

"(6) copies of any international agreements or undertakings authorized by or related to this title;

"(7) an assessment of the impact on fishery resources, other than yellowfin tuna, of methods of fishing for large yellowfin tuna in the eastern tropical Pacific Ocean that do not involve the intentional encirclement of dolphins; and

"(8) any other relevant information.

"(b) RECOMMENDATIONS OF THE SECRETARY.—If a competent regional organization under the auspices of which research is conducted pursuant to section 303, or any country which participates in such an organization, submits to the United States a recommendation that a moratorium established by agreements entered into under section 302 should be terminated prior to December 31, 1999, the Secretary shall—

"(1) review the information on which the recommendation is based;

"(2) consult with relevant Federal agencies, including the Marine Mammal Commission, and other interested persons; and

"(3) submit to the Congress a recommendation regarding the termination of the moratorium.

"SEC. 305. INTERNATIONAL COMMITMENTS.

"(a) LIMITATION ON APPLICATION OF BAN ON IMPORTS.—Except as provided in subsection (b), the Secretary of the Treasury shall not, under section 101(a)(2) (A) and (B), ban the importation of yellowfin tuna or yellowfin tuna products from a country that transmits to the Secretary of State a formal communication in which the country commits to—

"(1) implement a moratorium of at least 5 years duration beginning March 1, 1994, on the practice of harvesting tuna through the use of purse seine nets deployed on or to encircle dolphins or other marine mammals unless the moratorium is terminated in accordance with section 302(c);

"(2) require an observer on each vessel of the country larger than 400 short tons carrying capacity which engages in purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean, and ensure that at least 50 percent of all such observers are responsible to, and supervised by, a competent regional organization;

"(3) reduce the dolphin mortality resulting from purse seine net operations conducted by vessels of the country in 1992 to a level that is lower than such mortality in 1991 by a statistically significant margin; and

"(4) reduce the dolphin mortality resulting from purse seine net operations conducted by vessels of the country in the period beginning January 1, 1993, and ending February 28, 1994, to a level that is lower than such mortality in 1992 by a statistically significant margin.

"(b) SUBSEQUENT BANS ON FISH AND FISH PRODUCT IMPORTS FOR FAILURE TO COMPLY WITH COMMITMENTS.—

"(1) BAN ON IMPORTS OF YELLOWFIN TUNA AND YELLOWFIN TUNA PRODUCTS.—The Secretary, in consultation with the Secretary of State, shall periodically determine whether each country which has transmitted a formal communication expressing the commitments described in subsection (a) is fully implementing those commitments. If the Secretary determines that any such country is not implementing those commitments—

"(A) the Secretary shall notify the President and the Congress of that determination; and

"(B) 15 days after such notification, the Secretary of the Treasury shall ban the importation from that country of all yellowfin tuna and yellowfin tuna products.

"(2) BAN ON IMPORTS OF OTHER FISH AND FISH PRODUCTS.—

"(A) IN GENERAL.—If—

"(i) a country does not, within 60 days after the establishment with respect to that country of a ban on importation under paragraph (1)(B), certify and provide reasonable proof to the Secretary that the country has fully implemented the commitment described in subsection (a)(1) or has taken the necessary actions to remedy its failure to comply with the commitments described in subsection (a)(2), (3), and (4); and

"(ii) the Secretary does not, before the end of that 60-day period, certify to the President that the country has provided such certification and proof;

the President shall direct the Secretary of the Treasury to ban the importation from that country of all articles (other than those subject to an importation ban under paragraph (1)(B)) that are classified under one or more of those fish and fish product categories that the President, subject to subparagraph (B), considers appropriate to carry out this paragraph.

"(B) BAN CRITERIA.—The one or more fish and fish product categories to which the President imposes an import ban under subparagraph (A) with respect to a country must be a fish and fish product category or categories with respect to which the articles classified thereunder and imported from that country in the base year had an aggregate customs valuation equal to 40 percent of the aggregate customs valuation of all articles classified under all fish and fish product categories that were imported from that country during the base year.

"(C) DEFINITION OF BASE YEAR.—For purposes of subparagraph (B), the term 'base year' means the calendar year immediately occurring before the calendar year in which the import ban under subparagraph (A) commences with respect to the country.

"(3) DURATION OF IMPORT BANS.—Bans on importation imposed under paragraphs (1) and (2) with respect to a country shall continue in effect until the Secretary determines that the country is implementing the commitments described in subsection (a).

"(4) IMPLEMENTATION OF IMPORT BANS.—The Secretary of the Treasury shall take such action as may be necessary or appropriate to implement importation bans imposed under paragraphs (1) and (2).

"(c) REVIEWS AND REPORTS.—The Secretary, in consultation with the Secretary of State, shall—

"(1) periodically review the activities of countries which have transmitted to the Secretary of State formal communications expressing the commitments described in subsection (a), to determine whether those countries are complying with those commitments; and

"(2) include the results of those reviews in annual reports submitted to the Congress pursuant to section 304(a).

"SEC. 306. PERMITS FOR TAKING DOLPHINS.

"(a) ADDITIONAL RESTRICTIONS UNDER GENERAL PERMIT.—Notwithstanding section 104(h), the general permit issued to the American Tunaboat Association on December 1, 1980, shall be subject to the following additional restrictions:

"(1) Total dolphin mortalities (including mortalities resulting from research) authorized by the permit shall not exceed 1,000 during the period beginning January 1, 1992, and ending December 31, 1992, and 800 during the period beginning January 1, 1993, and ending March 1, 1994.

"(2) No purse seine net may be deployed under the permit on or to encircle any school of dolphins in which any eastern spinner dolphin (Stenella longirostris) or coastal spotted dolphin (Stenella attenuata) is observed prior to release of the net skiff.

"(3) The permit shall expire March 1, 1994, unless no major purse seine tuna fishing country enters into an agreement with the Secretary in accordance with section 302 before that date (notwithstanding any agreement under that section with a country that is not a major purse seine tuna fishing country).

"(4) If no major purse seine tuna fishing country enters into an agreement with the Secretary in accordance with section 302 before March 1, 1994, and notwithstanding any agreement under that section with a country that is not a major purse seine tuna fishing country—

"(A) the total dolphin mortalities authorized by the permit for each year after 1992, including mortalities caused by research, shall not exceed the number of dolphin mortalities which occurred under the permit during the preceding year;

"(B) the total dolphin mortalities occurring under the permit each year shall continue to be reduced by statistically significant amounts each year to levels approaching zero by December 31, 1999;

"(C) the permit shall be subject to any additional restrictions that the Secretary considers appropriate; and

"(D) the permit shall expire December 31, 1999.

"(b) PERMITS REQUIRED FOR TAKING DOLPHINS FOR RESEARCH PURPOSES.—An agreement entered into under section 302 shall not supersede or be interpreted to supersede any provision of this Act under which a permit under this Act is required for activities conducted pursuant to this title.

"(c) MAJOR PURSE SEINE TUNA FISHING COUNTRY DEFINED.—For purposes of this section, the term 'major purse seine tuna fishing country' means a country which on the effective date of this title has an active purse seine tuna fishing fleet of 20 or more vessels.".

"SEC. 307. PROHIBITIONS.

"(a) IN GENERAL.—It is unlawful—

"(1) for any person, after June 1, 1994, to sell, purchase, offer for sale, transport, or ship, in the United States, any tuna or tuna product that is not dolphin safe;

"(2) for any person or vessel that is subject to the jurisdiction of the United States, intentionally to set a purse seine net on or to encircle any marine mammal during any tuna fishing operation after February 28, 1994, except—

"(A) as necessary for scientific research approved by the Inter-American Tropical Tuna Commission;

"(B) in accordance with a recommendation that is approved under section 302(c)(2); or

"(C) as authorized by the general permit issued to the American Tunaboat Association on December 1, 1980 (including any additional restrictions applicable under section 306(a)), notwithstanding any agreement under section 302 with a country that is not a major purse seine tuna fishing country (as that term is defined in section 306(c));

"(3) for any person to import any yellowfin tuna or yellowfin tuna product or any other fish or fish product in violation of a ban on importation imposed under section 305(b)(1) or (2);

"(4) for any person to violate any regulation promulgated under this title;

"(5) for any person to refuse to permit any duly authorized officer to board a vessel subject to that person's control for purposes of conducting any search or inspection in connection with the enforcement of this title; and

"(6) for any person to assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in paragraph (5).

"(b) PENALTIES.—

"(1) CIVIL PENALTY.—A person that knowingly and willfully violates subsection (a) (1), (2), (3), (4), or (5) shall be subject to a civil penalty under section 105(a).

"(2) CRIMINAL PENALTY.—A person that knowingly and willfully violates subsection (a)(6) shall be subject to a criminal penalty under section 105(b).

"(c) CIVIL FORFEITURES.—Any vessel (including its fishing gear, appurtenances, stores, and cargo) used, and any fish (or its fair market value) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by this section shall be subject to forfeiture to the United States in the manner provided in section 310 of the Magnuson Fishery Conservation and Management Act.

"(d) DOLPHIN SAFE TUNA.—For purposes of this section, tuna or a tuna product is dolphin safe if—

"(1) it does not contain tuna that was harvested on the high seas by a vessel engaged in driftnet fishing, as that term is defined in section 4003 of the Driftnet Impact, Monitoring, Assessment, and Control Act of 1987;

"(2) in the case of tuna or a tuna product that contains tuna harvested in the eastern tropical Pacific Ocean, it is dolphin safe under subsection (d)(2) of the Dolphin Protection Consumer Information Act;

"(3) in the case of tuna or a tuna product that contains tuna harvested outside the eastern tropical Pacific Ocean by a purse seine vessel, it is accompanied by a written statement executed by the captain of the vessel certifying that no purse seine net was intentionally deployed on or to encircle dolphins during the particular voyage on which the tuna was harvested; and

"(4) in the case of tuna or a product that contains tuna harvested outside the eastern tropical Pacific Ocean by a purse seine vessel in a fishery in which the Secretary has determined that a regular and significant association occurs between marine mammals and tuna, and in which tuna is harvested through the use of purse seine nets deployed on or to encircle marine mammals, it is accompanied by a written statement executed by the captain of the vessel and by an observer, certifying that no purse seine net was intentionally deployed on or to encircle marine mammals during the particular voyage on which the tuna was harvested.".

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the National Marine Fisheries Service for carrying out section 303, $3,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.".

(b) CLERICAL AMENDMENT.—The table of contents at the end of the first section of that Act is amended by adding at the end the following:

"TITLE III—GLOBAL MORATORIUM TO PROHIBIT CERTAIN TUNA HARVESTING PRACTICES

"Sec. 301. Findings and policy.
"Sec. 302. International agreements to establish global moratorium to prohibit certain tuna harvesting practices.
"Sec. 303. Research program.
"Sec. 304. Reviews, reports, and recommendations.
"Sec. 305. International commitments.
"Sec. 306. Permits for taking dolphins.
"Sec. 307. Prohibitions.
"Sec. 308. Authorization of appropriations.".

(c) DEFINITIONS.—Section 3 of that Act (16 U.S.C. 1362) is amended by adding at the end the following:

"(15) The term 'fishery' means—

"(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

"(B) any fishing for such stocks.

"(16) The term 'competent regional organization'—

"(A) for the tuna fishery in the eastern tropical Pacific Ocean, means the Inter-American Tropical Tuna Commission; and

"(B) in any other case, means an organization consisting of those nations participating in a tuna fishery, the purpose of which is the conservation and management of that fishery and the management of issues relating to that fishery.

"(17) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B). If such nation certifies and provides reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States pursuant to this section, the Secretary shall, as soon as practicable after receiving complete information regarding certification and proof, make an affirmative finding that such nation does not constitute an intermediary nation for purposes of this section.".

SEC. 3. AMENDMENTS TO TUNA CONVENTIONS ACT OF 1950 AND SOUTH PACIFIC TUNA ACT OF 1988.

(a) TUNA CONVENTIONS ACT OF 1950.—The Tuna Conventions Act is amended—

(1) in section 3—

(A) in paragraph (b) by striking "and" after the semicolon at the end;

(B) in paragraph (c) by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(d) at least one shall be chosen from a nongovernmental conservation organization."; and

(2) in section 4 by inserting after "under the conventions," the following: "and from nongovernmental conservation organizations,".

(b) SOUTH PACIFIC TUNA ACT OF 1988.—Section 20(a) of the South Pacific Tuna Act of 1988 (16 U.S.C. 973r) is amended by striking "1988, 1989, 1990, 1991, and 1992" each place it appears and inserting "1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, and 2002".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. STUDDS] will be recognized for 20 minutes, and the gentleman from California [Mr. CUNNINGHAM] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. STUDDS].

□ 2040

Mr. STUDDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today I am pleased to bring before this body H.R. 5419, the International Dolphin Conservation Act of 1992.

When Congress passed the Marine Mammal Protection Act [MMPA] in 1972, one of the driving issues behind its passage was the issue before us today: the intentional encirclement and subsequent death of more than 6 million dolphins in the eastern tropical Pacific Ocean tuna purse seine fishery. The goal of the MMPA in 1972 was, as it is today, to reduce and eventually eliminate these mortalities.

In the 1988 amendments to the act, Congress enacted a number of provisions that helped to further reduce dolphin mortalities in this fishery and, in 1990, we passed the Dolphin Protection Consumer Information Act, which set national standards for labeling tuna as dolphin-safe. Without a doubt, these actions have resulted in a large reduction in annual dolphin kills, but they haven't served to stop the slaughter.

Last year, more than 25,000 dolphins died in the eastern Pacific tuna fishery. Today, we have the opportunity to finally put a halt to this intentional kill of federally protected marine mammals.

No other single wildlife issue has caused more public outrage than this one. Hundreds of letters, telephone calls, and petitions with thousands of signatures begging Congress to put a stop to this practice pour into the office of my Subcommittee on Fisheries and Wildlife Conservation each year. They come from virtually every State in the Nation—from schoolchildren, retired steelworkers, and consumers who demand dolphin-safe tuna in the marketplace.

The International Dolphin Conservation Act is the result of months of grueling negotiations among the interested parties. We have worked closely with both the minority and majority on the Merchant Marine and Fisheries Committee and the Committee on Ways and Means to address their concerns. Never before in my long history with this issue have I been able to bring before this body a bill that had the support of the environmental community, their millions of members, some sectors of the tuna industry, and the administration.

H.R. 5419 authorizes a 5-year global moratorium on the practice of intentionally setting purse seine nets on marine mammals beginning March 1, 1994, and eliminates all U.S.-permitted kills under the MMPA by 1999 if that moratorium does not occur; establishes a dolphin-safe tuna market in the United States; provides for research into alternative, dolphin-safe methods of fishing for yellowfin tuna; and reauthorizes and extends the treaty which assures access for U.S. vessels to productive dolphin-safe tuna fishing grounds in the western Pacific, where 45 U.S. boats now fish dolphin-safe.

The opponents of H.R. 5419 will decry it as unilateral action. Let me assure my colleagues that nothing could be further from the truth. They will ask you instead to support a proposal that sanctions the deaths of an additional 75,000 dolphins by the end of the decade. A slaughter of that magnitude is simply unacceptable to the American people, and the opponents of the bill know that. H.R. 5419 is not a response to the demands of a few environmentalists, it is in tune with a global movement that demands change, evident in the following actions:

The Presidents of both Venezuela and Mexico, the two nations now responsible for most of the dolphin mortalities in the eastern Pacific have committed to a global moratorium on setting nets on dolphin beginning in 1994.

The tuna fleets of both Panama and Ecuador are already fishing dolphin-safe.

The tuna processors of Spain and Italy are now dolphin-safe.

The European Commission has adopted a proposal for a regulation banning the use of purse seine nets by EC vessels for tuna fishing in association with dolphins.

Our own Government is dolphin-safe, and all the major U.S. tuna processors long ago committed to bringing only dolphin-safe tuna to the American consumer.

The opponents of the bill will claim that it destroys American jobs. In reality, the provisions of H.R. 5419 protect the more than 7,000 American jobs in dolphin-safe tuna processing plants in Puerto Rico, California, and American Samoa.

In short, Mr. Speaker, this bill is good for dolphins and good for American jobs. The seven U.S. vessels continuing to fish in the Pacific by killing dolphins are clearly out of touch with the demands of American consumers and, increasingly, consumers worldwide. The current provisions of the MMPA are outdated, and the act as it relates to this issue must be amended. This bill is long overdue, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. CUNNINGHAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to the bill. If it was true that 75,000 porpoise would be killed, I would rise in support of the gentleman from Massachusetts [Mr. STUDDS]. However, it is true that 50 boats on the west coast killed only 15 tuna, killed only 15 porpoise, after millions that were caught. They have a rate of 99$\frac{9}{10}$ percent of saving all porpoise. This is documented not by anyone in the administration, not by just individuals, but by the Government itself under restrictions and under observation.

Mr. Speaker, this bill will cost 1,500 fishermen and their families their jobs. Again, 99$\frac{9}{10}$ percent is tuna and porpoise free. This bill would regulate the U.S. tuna purse seine fleet out of business.

Mr. Speaker, in hearings, and I heard even here tonight in the Committee on Merchant Marine and Fisheries, we were told that foreign governments were supportive of this language.

That is not the case. We found that out in the committee as well. I have the letters, and I would like to submit them for the RECORD. We have a letter that was sent from the State Department, from Venezuela, in opposition to the language contained in 5419.

I quote:

> Based on the NAS and the IATTC assessment, Venezuela is convinced that a moratorium on fishing in connection with the dolphin in the ETP would be unwise, and indeed, in light of the IATTC international agreement could not be supported by Venezuela.

Colombia, Mexico, Vanuatu, and other nations have letters of the same content.

This legislation completely, and I will say completely, ignores the outstanding record of the dolphin mortality reduction by the international tuna fleet. In past years fishermen did kill a lot of porpoise, too many porpoise. As a matter of fact, they did not put them on the Endangered Species List, but they killed too many porpoise.

They have worked with special nets to where they drop these nets. Porpoise swim above the tuna. They drop the net, the porpoise swims out, and they are still able to kill the tuna. Only 15 porpoise were killed out of the millions caught, so I do not know where the gentleman gets 75,000, but it is not by American fishermen, and that is who would be affected by this bill.

It disregards the entire findings of the National Academy of Science report which concluded that there were in excess of 8 million dolphin. If there were in excess of 8 million dolphin, that still is not an excuse for killing dolphin. No one wants to see that. However, again, they are 99$\frac{9}{10}$ percent dolphin- and tuna-safe.

The tuna fishermen went to the author of this bill recently and offered a 100 percent porpoise-safe net in fishing. The argument they proposed was no, they do not want any encirclement. Why? It is because it puts the porpoise under stress. How about the 1,500 people and families that will be stressed when they lose their jobs, Mr. Speaker? It is beyond me.

More importantly, H.R. 5419 does not even acknowledge the recently concluded IATTC tuna-dolphin agreement which has been endorsed by all of these nations. That is the way to go.

Senator BREAUX in the Senate language supports this. There is a solid alternative available in the House. The Senate bill supports the IATTC agreement that was ratified June 18 in La Jolla, CA, by nine different nations and establishes a 7-year program that would effectively reduce dolphin take. The language also follows a congressionally mandated, and I say congressionally mandated, National Academy of Sciences report and recommendations that I mentioned earlier, and provides substantial protection for American shrimpers.

One of the things that would make someone mad is for amendments to be placed in a bill that have not even been concluded or looked at within the conference itself. Let me go through these and ask the Members to think about the reasons why.

I have already stated that nine nations signed the agreement, but there is an amendment now in this bill that has just been placed in there, without the committee looking at it, where it only takes one nation to trigger this bill, one nation. Why? Let me tell the Members why.

The gentleman from Louisiana [Mr. TAUZIN] had an amendment in there that would protect the shrimp. This bill, this amendment, was also taken out. I asked the Members why. The gentleman from Louisiana [Mr. TAUZIN] was going to speak, and I hope he shows up in time to speak on this. Why? Because he knew that Mexico disagreed with this bill. One of the reasons was the shrimp.

Mexico and the administration is pushing NAFTA. This is a NAFTA proposal, not an environmental proposal. Mexico objected, and now on this bill they think they may get that support.

I want to tell the Members, I go to Mexico almost monthly and I guarantee that Mexico, if they do sign this, they are going to reflag their vessels with Venezuela or Vanuata, and who is going to get hurt? Not the porpoise. What is going to get hurt is the 1,500 American jobs.

Another amendment that was placed in this, and I ask the Members why, NOAA could lift the moratorium as the rules read not, but there is an amendment that no, this has to pass the House and the Senate to life this moratorium. Why? Because the liberalness of this bill, they know exactly that a strong liberal chairman would have this passed in the House and the Senate. I object to that. Let us leave it in NOAA.

There is no merit to this bill. It is a cheap environmental vote. But what is the record of these Members on American families? What is their record between right and wrong?

I ask the Members, if we are saving 99.8 percent of our porpoises, Mr. Speaker, why do we have this bill? If the tuna industry says "We can do it at 100 percent" and they turn it down because there is stress on the porpoise, that is not right.

If the gentleman from Massachusetts [Mr. STUDDS] can show me that we are going to kill 75,000 dolphins, I will renege on everything that I have just said and I will come and support him. But that it is not the case.

□ 2050

The administration's view, and I quote, they "want to build on efforts to protect the tuna." The tuna and the porpoise are being protected. This is a NAFTA bill.

Mr. Speaker, my entire staff and groups asked me to step aside when the Tailhook convention came up. They said it was not politically correct. You say what does that have to do with the tuna bill. Well, there are a lot of folks who say that is a cheap environmental vote, and I have a perfect record. Sometimes you need to stand up. When we have Navy personnel that are being criticized that do not deserve it, and there are some that do, then we need to stand up and say yes or no, regardless of the political impact that it has. When we have a bill like this one that is wrong, we need to stand up and say that it is wrong.

This is an administration support of NAFTA, and it is the only reason that we are supporting this, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mr. STUDDS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. GOSS], who I assume supports this bill in spite of its liberalness.

Mr. GOSS. Mr. Speaker, I thank the gentleman from the Commonwealth of Massachusetts for yielding the time.

I will not comment about liberalism because we are talking about fish and other creatures, and I do not believe liberalness is part of the debate. But it will be before we get through.

Mr. Speaker, 20 years ago before I had the privilege of being a Member, colleagues with vision set the goal of reducing dolphin mortalities to zero with the enactment of the Marine Mammal Protection Act [MMPA]. Over the years, much progress has been made in this area, but we still have a long way to go. H.R. 5419 offers the bright hope that dolphin mortalities associated with the harvesting of yellowfin tuna in the eastern tropical Pacific [ETP] will be reduced to zero before the year 2000. Hopefully it won't be long before the practice of intentionally setting purse seine nets on dolphins in order to catch yellowfin tuna is considered a method of the past.

Mr. Speaker, because the demand for dolphin-safe tuna is quickly becoming a global demand, the timing of this legislation could not be better. It was only a few years ago that we tried to create a dolphin-safe market by imposing trade sanctions on countries that continue to fish dolphin unsafe. The threat of sanctions did work, but with limited success. H.R. 5419 provides a more effective solution for creating a dolphin safe market by, among other things, authorizing the Secretary of State to negotiate a 5-year global moratorium on encircling dolphins. In doing so, H.R. 5419 contemplates creating a level playing field for all tuna fleets.

Skeptics of H.R. 5419 have raised the concern that countries may commit solely for the purpose of being able to fish dolphin unsafe for the next 2 years without the threat of U.S. embargoes. As a sponsor of H.R. 5419, I assure you that this possibility was not overlooked. That is why H.R. 5419 has a strong penalty for any country that reneges on its commitment—in addition to imposing the trade sanctions that currently exist in the law, additional sanctions on all fish products will also be imposed. The financial losses of such an embargo will certainly outweigh the short-term gains of noncompliance.

As to the allegations that H.R. 5419 will effectively eliminate the U.S. tuna fleet, it is important to look at the facts. While it is true that only seven U.S.-flag tuna boats are still fishing in the ETP, 45 U.S. vessels that previously operated in the ETP are currently thriving in the western Pacific. Clearly it is time for the remaining seven vessels to employ alternative fishing methods or follow suit with the rest of the fleet.

This is not such an unreasonable request, especially since H.R. 5419 provides funding for research. Let us not forget that much research has already been conducted, and has been rewarded with favorable results.

Mr. Speaker, H.R. 5419 brings with it a level of fairness not yet seen in past efforts to eliminate the intentional encirclement of dolphins in the ETP. I have high hopes that this legislation will achieve its goal and will set an important precedent for future international cooperative efforts.

Mr. CUNNINGHAM. Mr. Speaker, I yield myself such time as I may consume and I would ask the gentleman from Florida [Mr. GOSS] to answer a question. Would my conservative friend from Florida answer is it not true that if these nations do not agree on this agreement and on this bill, that will reverse your position?

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Speaker, I have not reversed my decision on this bill. My suggestion is that my understanding is that the nations will in fact comply. But that is my understanding.

The gentleman has information to the contrary. There is a dispute about that. If in fact his position is correct, and other nations will not comply, this bill will not work.

Mr. CUNNINGHAM. I thank the gentleman.

Mr. Speaker, I yield 4 minutes to my friend, the gentleman from Illinois [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I thank my distinguished colleague for yielding me the time.

Mr. Speaker, I rise in strong support of H.R. 5419. This bill represents a sound compromise which will address environmental concerns about the practice of setting fishing nets around schools of dolphin to catch tuna, and to help resolve current disputes we have with out trading partners over enforcement provisions in the Marine Mammal Protection Act.

The language is supported by environmental groups and the administration.

In my view, it is a well crafted solution to a longstanding problem and I urge a yes vote.

The Marine Mammal Protection Act [MMPA] was enacted in 1972 for the purpose of protecting dolphins and other marine mammals from certain fishing practices and other human activities. In 1984 and 1990 this law was amended to require that each nation wishing to export tuna to the United States present documentation to the effect that it had a dolphin conservation program comparable to that of the United States tuna fleet.

Mexican exports of yellowfin tuna were embargoed under this provision in 1990.

Mexico challenged the United States embargo in the GATT, and in September 1991 a GATT panel found, in favor of Mexico, that the U.S. embargo discriminated against imports. The United States is currently blocking adoption of this panel report in the GATT.

Venezuelan exports of yellowfin tuna were also embargoed and Venezuela began a GATT case against the United States in May of this year.

In June, the European Community filed a third challenge to U.S. import restrictions after a Federal district court in California ruled that the MMPA also required a secondary embargo of tuna products from intermediary nations who may have imported tuna from one of the primary embargoed nations.

In order to resolve these disputes and with an eye toward achieving a multilateral solution which would reduce dolphin mortalities, the administration submitted a legislative proposal, similar to H.R. 5419 to Congress in March of 1992.

An international agreement subscribed to by major tuna exporters was achieved in May 1992. This agreement will limit dolphin mortalities in the eastern tropical Pacific to 19,500 next year and this number will fall to 5,000 by 1999.

H.R. 5419 will promote international cooperation in the protection of dolphins and other marine mammals. It will make it possible for the United States to lift the current ban on imports of tuna and tuna products from Mexico, Venezuela, and other countries which comply with international cooperation.

Mr. Speaker, this is a sound bill which resolves a longstanding international dispute in a way that improves environmental protection. Currently, 7,000 U.S. tuna cannery workers employed in the processing of imported tuna, have jobs which are at stake. Time is of the essence.

I urge my colleagues to support H.R. 5419.

□ 2100

Mr. CUNNINGHAM. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to ask a few questions of my colleague from San Diego, because it is difficult to listen to this act, this H.R. 5419, being described as the Dolphin Conservation Act when you realize at the same time that it is an act of extinction for many working families in this country, and particularly those who were involved in the netting of tuna fish.

Particularly what struck me when I listened to my colleague talking a number of times about how our tuna fleet has reacted to the call for dolphin conservation and how they have changed their methods of netting and how they have risked life and limb with fishermen actually getting down into the water when they employ their backdown method of netting, it troubles me greatly that our reward for those fishermen and for this tremendous reduction in dolphin mortality is to put them out of business.

I just want to ask my colleague: What have our fishermen done over the last several years in order to conserve dolphin; what have they embarked upon?

Mr. CUNNINGHAM. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I am happy to yield to the gentleman from California.

Mr. CUNNINGHAM. Mr. Speaker, first of all, our fishermen did take too many dolphin. They were killing literally hundreds of thousands of these animals. No one wants that.

Some of the environmentalists came in and protected them, and a pretty good bill.

What is happening now, they have developed a backdown system to where the porpoise swim above large tuna, and the tuna swim underneath of those porpoise. Where they have the nets and they have encircled them, they lower the nets so the higher-swimming porpoise can swim out. In one area, we even had a diver killed by a shark trying to let the porpoise out.

They have also agreed with a new net to lower it even lower to where 100 percent of those porpoise are released.

I would tell my friend, the gentleman from Massachusetts, if there is not international cooperation, then I will support his position, and if it is not just the American tuna fishers that are hurt with this, and we cannot save the dolphin, then I will support his position, but I truly believe that this is wrong.

Mr. HUNTER. So let me ask my colleague: What we are really doing here is we are rewarding American tuna fishermen who have been innovative, who have taken risks, who have even put their own people in the water to save dolphin and who have this backdown method, have employed their backdown method, who have now, as I understand, reduced dolphin mortality to the point where it is just a percent or two of what it was; it is 1 percent of what it was in the old days?

Mr. CUNNINGHAM. If the gentleman will yield further, it is 99.8 percent. It is even less than that.

Mr. HUNTER. So we are regarding our fishermen by emplacing a moratorium not on the bad guys but on our people? Is that accurate?

Mr. CUNNINGHAM. That is accurate.

Mr. HUNTER. What is the reasoning behind this? I would just like the gentleman to make all of us aware of the reasoning that would persuade this administration to embark on what seems to be a ludicrous position, that is, to reward our people who have done the right thing by closing them down.

Mr. CUNNINGHAM. This is difficult for me to say, because I am in support of NAFTA and the free-trade agreement, but I think the administration has a goal for NAFTA to pass. Mexico, of course, wants NAFTA, and it is trying to gain support from the other side of the aisle to pass this, and at the cost of American jobs, people are willing to do this. You know, the President was just in California saying, "How about people instead of owls?" How about tuna fishermen instead of 15 porpoise? You know, this is important, even at 15, let us reduce it. This is a total supposition, but, again, I say if we are killing porpoise in America, I will support the position of the author of this bill, but that is not the case.

Mr. HUNTER. I thank the gentleman for his time, and I would recommend defeat of this measure.

Mrs. SCHROEDER. Mr. Speaker, I rise in support of H.R. 5419, the International Conservation Act of 1992.

The International Conservation Act sets new standards for crafting international agreements on driftnet fishing of yellowfin tuna. The bill is simple. It says that the Secretary of State may enter into international moratoriums of tuna and fish trade with countries that use purse seine vessels for yellowfin tuna. The bill also encourages new methods of large yellowfin tuna that will not harm dolphins or other marine mammals. Finally, the bill mandates a series of reports to determine the status of yellowfin tuna populations, dolphin populations, and the economic impact of these necessary treaties.

Dolphins, whether they are swimming in the eastern Pacific, the western Pacific, or anywhere else, are in danger without the safeguards in H.R. 5419. If conservationists, environmentalists, canners, and fish processors agree on one thing, it is that there is no need for dolphins to die a brutal death caught in fishing nets. The International Dolphin Conservation Act will set a precedent throughout the world, and I want to thank Chairman STUDDS, Representative BARABARA BOXER, and Representative PORTER GOSS for their excellent leadership on this bill.

THE INTERNATIONAL DOLPHIN CONSERVATION ACT OF 1992 H.R. 5419

DESCRIPTION

H.R. 5419 was introduced on June 17, 1992, by Mr. Studds, Mrs. Boxer and Mr. Goss. The purpose of the bill is to amend the Marine Mammal Protection Act of 1972 (MMPA) by adding a new title that authorizes the Secretary of State to enter into international agreements to establish a moratorium to prohibit harvesting of tuna through the use of purse seine nets deployed on or to encricle dolphins and other marine mammals. The bill also establishes a process for lifting the current MMPA embargoes on tuna harvested by nations whose tuna fishing fleets kill dolphins in excess of U.S. standards. In addition, the bill establishes a "dolphin safe" market for tuna in the U.S. effective June 1, 1994.

H.R. 5419 also amends the Tuna Conventions Act of 1950 by adding a representative from a conservation organization as a U.S. Commissioner to the Inter American Tropical Tuna Commission and to its Advisory Committee. The bill additionally reauthorizes the South Pacific Tuna Act—which assures access to productive South Pacific tuna fishing grounds to U.S. vessels—through 2002.

BACKGROUND

For reasons not fully understood, schools of large yellowfin tuna associate with schools of dolphins in the eastern tropical Pacific Ocean (ETP). Since the late 1950's, fishermen have deployed large purse seine nets around dolphins to harvest the tuna swimming beneath them. Despite efforts by fishermen to release the encircled dolphins, some become trapped in the nets and drown.

Since 1981, the U.S. tuna fleet has operated under MMPA regulations that permit up to 20,500 dolphins to be killed annually. Improvements in dolphin release methods, combined with the fact that the U.S. fleet in the ETP has dwindled from more than 40 vessels to about 7 vessels in 1992, resulted in an actual U.S. dolphin mortality in 1991 of 1005 animals. During the same period, foreign fleets—primarily those of Mexico and Venezuela—have grown proportionately. In 1991, foreign fleets were responsible for the deaths of almost 25,000 dolphins in the ETP.

During the 1984 and 1988 reauthorizations of the MMPA, the act was amended to require that each nation wishing to export tuna to the U.S. document that it had adopted a dolphins conservation program "comparable" to that of the U.S. and that the average rate of mortality of its purse seine fleet was comparable to that of the U.S. fleet. If these requirements were not met, an embargo on the import of yellowfin tuna and tuna products from that nation would be invoked.

In August of 1990, Mexico's yellowfin tuna was embargoed under the comparability provisions. In accordance with the procedures of the General Agreement on Tariffs and Trade (GATT), Mexico then challenged the U.S. embargo, claiming it to be unfair trade practice. In September of 1991, a dispute panel convened by the GATT supported Mexico's challenge. That panel report now awaits action by the full GATT council of 108 member nations. Venezuela, whose tuna is also embargoed, has recently begun the GATT challenge process.

Mr. YOUNG of Alaska. Mr. Speaker, I very reluctantly rise in opposition to H.R. 5419 and urge its defeat by the House.

I regret that I have to take this position because the sponsor of this bill, my colleague GERRY STUDDS, has done a great deal to protect dolphins while still trying to meet the needs of U.S. fishermen. Unfortunately, in my view, this bill does more for dolphins than it does for people, and on that basis I cannot support it.

Our American tuna fleet has come a long way from the days when they killed tens of thousands of dolphins on the high seas. American fishermen have complied with every rule and regulation that we have imposed on them. The problem is not with American fleets, but with foreign tuna fleets that do not observe the same environmental rules. Unfortunately, the U.S. House of Representatives has no jurisdiction over foreign fleets, so it is our fishermen who are being punished.

Under this bill, U.S. tuna fishermen are being put out of business during the next 2 years. At the same time, while we have a lot of big talk about import embargoes and international agreements, we are still going to see foreign fleets killing dolphins in their tuna nets while American fishermen sit on the beach and collect unemployment checks.

Mr. Speaker, again, I want to commend Mr. STUDDS for what he is trying to do. He is a strong conservationist who believes in the sound management of fish and wildlife. He has bent over backward to try to protect dolphins and protect American fishermen. Unfortunately, in this case, the fishermen still lose and I cannot support the bill.

Mr. DAVIS. Mr. Speaker, I rise reluctantly in support of H.R. 5419, the International Dolphin Conservation Act. The administration has approached many Republican Members to stress the importance of moving this legislation and, because of this support, I will withhold my opposition. However, I will state that I would have preferred that all Members have the opportunity to introduce amendments to improve this legislation.

Very few will vote against the conservation of dolphins. However, there is a bigger picture behind the strategy designed in this legislation to save these dolphin populations. As I just stated, the social and economic well-being of our citizens ought to be our first consideration. However, this legislation removes U.S. fishing vessels from the eastern tropical Pacific Ocean. Even though U.S. vessels have been the leaders in reducing dolphin mortality, and stand as an example by which to compare other nations, we are still taking away the opportunity for those boats to fish, without guaranteeing that other nations will follow.

After all the work the Merchant Marine and Fisheries Committee and the Ways and Means Committee have put into clarifying and improving this language, there are still quite a few areas of controversy, quite a few Members are unhappy with this language, and Members should have the opportunity to offer amendments.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in support of H.R. 5419, as amended, the International Dolphin Conservation Act of 1992. This bill is intended to strengthen international cooperation in the protection of dolphins and other marine mammals, and to make it possible for the United States to lift the current ban on imports of tuna and tuna products from Mexico, Venezuela, and some 20 other countries.

The current ban on these imports was imposed under the provisions of the Marine Mammal Protection Act, beginning in 1990. This ban was successfully challenged by Mexico under the GATT and several other GATT challenges to this ban are pending. From the international trade perspective, passage of this bill is important because it will create the necessary domestic legal framework for the United States to bring itself into compliance with its international trading obligations under the GATT.

The Committee on Ways and Means has worked carefully with the Committee on Merchant Marine and Fisheries in Fashioning the provisions of H.R. 5419, dealing with import sanctions. While I understand that there may still be some misgivings by some Members about the bill, including the import provisions, I believe that the bill represents an acceptable legislative compromise that attempts to respond in a balanced way to the interests of all concerned parties. With respect to the import provisions, the bill takes into account the reasonable concerns raised about earlier versions of the bill by members of both the committee on Merchant Marine and Ways and Means. Moreover, I understand that the administration now supports this bill in its entirety.

Mr. Speaker, this bill deserves the support of all Members of the House, and I urge its passage.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 5419, the International Dolphin Conservation Act of 1992, as amended.

H.R. 5419, was ordered favorably reported, as amended, by the Committee on Merchant Marine and Fisheries on July 2. I would like to commend the chairman of that committee, the Honorable Walter B. Jones, and the ranking minority member the Honorable ROBERT W. DAVIS, as well as the chairman and ranking minority member of the Fisheries and Wildlife Subcommittee, the Honorables GERRY E. STUDDS, and DON YOUNG for their considerable efforts and leadership in crafting a compromise on this very complex and sensitive legislation.

The Committee on Foreign Affairs did not formally consider the measure. However, through an exchange of letters, and without prejudice to its jurisdiction, the committee indicated it has no substantive differences with the marine mammal provisions, which fall within the purview of the Foreign Affairs Committee.

The bill, which was very difficult to formulate, represents a delicate balance crafted among Congress, the administration, the tuna industry, and environmental groups. Although not all are wholly enamored of the bill, the text is nonetheless a major achievement in harmonizing the contentious interests involved.

Last year's ruling against the United States by the General Agreement on Tariff and Trade [GATT] necessitated a new international approach to dolphin protection. The GATT determination, followed a Mexican protest that the United States embargo of its tuna imports violated GATT trade provisions.

H.R. 5419, as amended is the latest phase in long standing United States efforts to promote dolphin protection. It is estimated to save 55,000 dolphins by the year 2000, while tuna fleets in the eastern tropical Pacific Ocean pursue alternative dolphin safe techniques. For some unknown reason, dolphins in that region swim over yellow fin tuna, and thus indicate to fishermen the location of the proposed catch. The purse seine fishing technique used to capture tuna also incidentally ensnares and kills dolphins.

The measure now before the House amends the Marine Mammal Protection Act, and sets forth new procedures for dolphin protection. Its key elements are the following: Calls for the Secretary of State to negotiate international agreements for a 5-year moratorium to ban the use of purse seine nets to encircle dolphins as a means to catch tuna effective March 1, 1994; lifts the embargo of tuna from countries which comply with the moratorium; calls for an international research program to seek dolphin-safe fishing methods; requires annual reports regarding research, stocks, economic impacts, moratorium effectiveness, inter alia; establishes a dolphin-safe tuna market in the United States; and promotes access to other fishing areas for U.S. tuna vessels.

Mr. Speaker, I urge the adoption of H.R. 5419, as amended.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 5419, the International Dolphin Conservation Act.

For several years, the United States has endeavored to protect marine mammals and threatened and endangered species from large-scale destruction such as that caused by setting on dolphins during the harvesting of yellowfin tuna. Indeed, in 1972 the Marine Mammal Protection Act was passed for the purpose of protecting marine mammals, including dolphins, from the adverse effects of human activities.

Several years ago, the United States employed new techniques and equipment to reduce the high number of dolphin mortalities associated with the harvesting of yellowfin tuna. While U.S. dolphin mortalities decreased substantially, dolphin mortalities caused by foreign tuna-fishing nations continued to increase.

Since the United States represented the largest market for canned tuna, the Marine Mammal Protection Act was amended in 1984 to restrict access to this market in the hopes of reducing dolphin mortalities by foreign nations. Accordingly, comparability standards were developed which required that each nation wishing to export tuna to the United States had to document that it had adopted a dolphin protection program comparable to that of the United States and that the average rate of incidental mortality was comparable to that of the U.S. fleet.

An automatic embargo on the import of yellowfin tuna and tuna products from that nation would be invoked if these requirements were not met. Consequently, tuna from Mexico and Venezuela are currently under embargo.

I believe that these embargoes have been effective in reducing dolphin mortalities. Unfortunately, however, these embargoes have triggered inconsistencies with GATT and potential GATT violations.

H.R. 5419 resolves the GATT problem by removing the comparability standards and immediately lifting the embargo on countries that commit to reducing dolphin mortalities and to implement a 5-year moratorium on setting on dolphins beginning in 1994. The bill also promotes international dolphin protection by establishing a dolphin-safe market effective June 1, 1994.

While I am uneasy about lifting the current embargoes, I am encouraged by the State Department's assurance that Mexico has agreed to implement dolphin-safe fishing practices.

This bill is the result of many hours of negotiation and represents a consensus among the State Department, U.S. Trade Representative, the Commerce Department, and the environmental community, including the Center for Marine Conservation.

H.R. 5419 will ultimately promote the goal of protecting dolphins through the elimination of dolphin mortalities in tuna purse seine fisheries on a worldwide basis. This is a rational bill and I urge my colleagues' support for its passage.

Mrs. MORELLA. Mr. Speaker, I rise to speak in support of the International Dolphin Conservation Act, of which I am a cosponsor. This bill authorizes the State Department to negotiate an international moratorium, for a minimum of 5 years, on the practice of deliberately encircling dolphins with purse seine nets in the harvesting of tuna. If nations comply with the global moratorium, the United States would lift its existing embargoes on tuna imports.

Since 1959, approximately 6 million dolphins have been killed in the eastern tropical Pacific by purse seine netting. It is in this region, where dolphin and tuna swim in close proximity, that this fishing method had created a problem. Because of the Marine Mammal Protection Act [MMPA] of 1972, its amendments and improved fishing techniques, U.S. tuna fishermen have drastically reduced the numbers of dolphins killed in this area. In 1991 they killed only about 1,000 in the eastern tropical Pacific whereas other fleets were responsible for almost 25 times that number.

Mexico and Venezuela, as well as the European Community, have challenged the United States ban on tuna imports as an unfair trade practice under the General Agreement on Tariffs and Trade [GATT]. Aimed at protecting the dolphin and resolving the GATT trade disputes, this bill is a compromise reached with commitments from both Mexico and Venezuela. It would have the moratorium become effective on March 1, 1994. Provisions are available for the United States withdrawal from the agreement for tuna fishing research if a regional international organization, the Commerce Department or Congress recommends withdrawal. This bill also establishes an international research program to create new methods of fishing for large yellowfin tuna and limits the number of netting attempts to 400 and the number of dolphins that can be killed annually to 1,000.

Almost all United States canners of tuna plan to label their tuna dolphin-safe since they do not purchase any caught in association with dolphins. As of June 1, 1994, this bill will prohibit the purchase, sale, or transport within the United States of any tuna or tuna product that was caught by fishing methods that kill dolphins.

I urge my colleagues to support H.R. 5419. It has enforcement provisions consistent with the MMPA and the Magnuson Fishery and Conservation and Management Act. It is a humane bill that will promote dolphin protection and resolve GATT trade disputes.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 5419, the International Dolphin Conservation Act.

For several years, the United States has endeavored to protect marine mammals and threatened and endangered species from large-scale destruction such as that caused by netting of dolphins during the harvesting of yellowfin tuna. Indeed, in 1972, the Marine Mammal Protection Act was passed for the purpose of protecting marine mammals, including dolphins, from the adverse effects of human activities.

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H.R. 5419 will ultimately promote the goal of protecting dolphins through the elimination of dolphin mortalities in tuna purse seine fisheries on a worldwide basis. This is a rational bill, and I urge my colleagues' support for its passage.

Mr. ANDERSON. Mr. Speaker, I rise in strong opposition to H.R. 5419, the International Dolphin Conservation Act of 1992. This bill masquerades as dolphin protection but will actually destroy American jobs.

In our rush to be environmentalists, somewhere we have forgotten our American tuna fishermen. With this legislation, they are being sacrificed on the altar of expediency and an environmentalism run amuck.

The U.S. tuna fleet has fully complied with the requirements of the Marine Mammal Protection Act, leading the world in dolphin-safe fishing practices. A mere 1,005 dolphin were killed by our fleet last year, while this year's deaths will come down to around 500. Our tuna fleet has done such a good job that the Mexican and Venezuelan fleets couldn't meet our standards and so were subject to the embargo provisions of the MMPA.

This embargo has created quite a sticky, embarrassing problem in our trade relations. The embargo was declared an illegal restraint of trade, precisely when the North American Free Trade Agreement has gone in search of support and must pass muster with those who fear that the agreement may weaken our environmental standards.

To put an end to that embargo, and appease environmental sentiment, the administration supports this bill and has created an unholy alliance with radical environmentalism. The premise of the legislation is alluringly simple: We immediately get rid of our illegal embargo and then place a moratorium on purse seine fishing. It would be easy to harken to this siren call. Unfortunately, the price to be paid is the death of our tuna fishing industry.

Simply put, our fishermen are being put out of business because they did too good a job. Because the tuna fishing fleets of other nations don't meet U.S. standards, we move to kill off the U.S. fleet. That is the strangest logic, yet it is the foundation of this bill. U.S. fishermen made the unlikely mistake of being too earnest in reducing dolphin mortality and are paying with their jobs for their good work.

This is a bill based not on facts, nor on the desire to construct good policy, but on the extremes of environmentalism. Let us not confuse this with any serious effort to protect dolphins as a species. We could follow the Inter-American Tropical Tuna Commission proposal, which would bring dolphin kill down to less than 5,000 per year, if we wanted to do that. The U.S. tuna industry has even offered to go further, to a level of zero mortality, but that offer has been refused in order to bring this misguided bill to the floor before this Congress comes to a close.

By sanctifying dolphins, by protecting a species that is not even remotely threatened, we appease the dolphin-loving sentiment of this Nation. Unfortunately, it comes at the price of criminalizing tuna purse seine fishing. We all love dolphins. We all love "Flipper." But do we kill off an industry that leads the world in benevolent fishing practices to protect a species which is not even remotely endangered? If we wanted to be truly democratic, we'd let the marketplace determine the fate of purse seine fishing. As it is, very few consumers are willing to buy tuna that is not certified as "dolphin-safe." The market for dolphin unsafe tuna is disappearing worldwide. As such, there is absolutely no reason to declare it as contraband and purse seine fishermen criminals.

Finally, we may just be setting ourselves up for the next round of environmental extremism. By forcing all the world's tuna fishing into the Western Pacific, where dolphin do not swim with tuna and thus there is no dolphin mortality, but where the fishing is almost all of young tuna, we very well could be provoking the overfishing of young tuna. Five years from now, I predict that we will hear about the demise of young tuna in the Western Pacific. The most vehement of those cries will come from the very environmental groups which support this bill.

U.S. tuna fishermen are a little like the lady tied up on the tracks with an approaching freight train coming at full speed. It saddens me that I can't stop that train. I only have my ability to vote "nay" on this misguided bill. I urge my colleagues to do likewise. Stand in defense of a once proud, prosperous industry and vote against this masquerade. I have included an editorial from today's Wall Street Journal which also speaks in opposition to this misguided, dangerous bill. Thank you, Mr. Speaker.

[From the Wall Street Journal, Sept. 23, 1992]

CAPE COD SEIZES THE PACIFIC

The House of Representatives is talking tuna and debating dolphins. Today it may vote on a measure by Rep. Gerry Studds, who represents Cape Cod, to clamp a moratorium by 1994 (meaning job losses) on a form of commercial fishing well outside the territorial waters of Mr. Studds's district: the warm Pacific waters off Latin America.

The practice at issue is the setting of purse-seine nets on dolphin colonies in order to catch the schools of yellow-fin tuna that swim below them. The only crews sure to be restricted by the moratorium would be the estimated 600 Southern Californians who work those waters in split shifts. That's why the San Diego-based American Tuna boat Association opposes Mr. Studds's bill, and why anyone worried about unemployment rates ought to be concerned as well.

Other nations with boats working that sea do not answer to the U.S. Congress, except insofar as they try to export tuna here; Mexico and Venezuela already face an embargo because of their high dolphin kills. Backers of the Studds bill believe it'll speed up getting international prohibitions on mass dolphin catches (Or whales, elsewhere), with tight oversight and observers on all big boats. The U.S. tuna industry considers that belief naive.

There has been a broadening regional consensus to cut down on the dolphin kills, and in fact this past July saw agreement among the Western Hemispheric nations on a plan to reduce the current annual toll of about 20,000 to below 5,000 by the end of this century. For context, there are perhaps eight million dolphin in the affected ocean area.

These gains would be achieved with technology and methods pioneered by the U.S. fleet, whose own dolphin kill will be down to about 500 this year, the industry says. A Studds moratorium could throw that progress over the side and prompt the other nations instead to opt for the tried-and-true ways of supplying their home markets in Europe and parts of the Far East.

To Greenpeace and its allies, gradual reductions in dolphin deaths, achieved within a cost-benefit frame work, are unacceptable. To them, the practice of targeting (terrorizing, they say) dolphins and possibly decimating some sub-species is immoral. They insist on finding a new approach to catching the eastern Pacific tuna. The industry, in the U.S. and abroad, doubts that prospect.

The oceans aren't defined by property rights, so environmental questions related to fishing are difficult to resolve with market principles. But in an age of secular spirituality, that wouldn't settle the argument because some people believe dolphins and other mammals have, if you will, their own human rights. So the House (and later, possibly, the Senate, where Senator John Kerry of Massachusetts has introduced similar legislation) will just have to balance the perceived harm to California fishermen, dolphins and trade relations.

We lean toward the prudence and progress of the current course, predating Studds. As for our Flipper friends, if the U.S. tunamen have truly reduced their dolphin killing rate to .02%, that's better than the residents of some of our urban areas can expect in their own homes and streets. Maybe the House of Representatives ought to be discussing that.

Mr. CUNNINGHAM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUDDS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SANGMEISTER). The question is on the motion offered by the gentleman from Massachusetts [Mr. STUDDS] that the House suspend the rules and pass the bill, H.R. 5419.

The question was taken.

Mr. CUNNINGHAM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. STUDDS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several bills just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

GRANTING CONSENT TO COMPACT CONCERNING THE DELAWARE RIVER PORT AUTHORITY

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5452) granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority.

The Clerk read as follows:

H.R. 5452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress consents to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey amending articles I, II, III, IV, XII, and XIII of the compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey entitled "Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties". The supplemental compact or agreement is substantially as follows:

(1) Article I of the "Agreement Between The Commonwealth of Pennsylvania and The

State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties'', as amended and supplemented, is amended to read as follows:

"The body corporate and politic, heretofore created and known as the Delaware River Joint Commission hereby is continued under the name of the Delaware River Port Authority (hereinafter in this agreement called the 'commission'), which shall constitute the public corporate instrumentality of the Commonwealth of Pennsylvania and the State of New Jersey for the following public purposes, and which shall be deemed to be exercising an essential governmental function in effectuating such purposes, to wit:

"(a) The operation and maintenance of the bridge, owned jointly by the 2 States, across the Delaware River between the city of Philadelphia in the Commonwealth of Pennsylvania and the city of Camden in the State of New Jersey, including its approaches, and the making of additions and improvements thereto.

"(b) The effectuation, establishment, construction, acquisition, operation, and maintenance of railroad or other facilities for the transportation of passengers across any bridge or tunnel owned or controlled by the commission, including extensions of such railroad or other facilities necessary for efficient operation in the Port District.

"(c) The improvement and development of the Port District for port purposes by or through the acquisition, construction, maintenance, or operation of any and all projects for the improvement and development of the Port District for port purposes, or directly related thereto, either directly by purchase, lease, or contract, or by lease or agreement with any other public or private body or corporation or in any other manner.

"(d) Co-operation with all other bodies interested or concerned with, or affected by the promotion, development or use of the Delaware River and the Port District.

"(e) The procurement from the Government of the United States of any consents which may be requisite to enable any project within its powers to be carried forward.

"(f) The construction, acquisition, operation and maintenance of other bridges and tunnels across or under the Delaware River, between the city of Philadelphia or the county of Delaware in the Commonwealth of Pennsylvania and the State of New Jersey, including approaches and the making of additions and improvements thereto.

"(g) The promotion as a highway of commerce of the Delaware River, and the promotion of increased passenger and freight commerce on the Delaware River and for such purpose the publication of literature and the adoption of any other means as may be deemed appropriate.

"(h) To study and make recommendations to the proper authorities for the improvement of terminal, lighterage, wharfage, warehouse and other facilities necessary for the promotion of commerce on the Delaware River.

"(i) Institution through its counsel, or such other counsel as it shall designate, or intervention in, any litigation involving rates, preferences, rebates, or other matters vital to the interest of the Port District; provided, that notice of any such institution of or intervention in litigation shall be given promptly to the Attorney General of the Commonwealth of Pennsylvania and to the Attorney General of the State of New Jersey, and provision for such notices shall be made in a resolution authorizing any such intervention or litigation and shall be incorporated in the minutes of the commission.

"(j) The establishment, maintenance, rehabilitation, construction and operation of a rapid transit system for the transportation of passengers, express mail, and baggage, or any of them, between points in New Jersey within the Port District and points in Pennsylvania within the Port District, and intermediate points. Such system may be established either by utilizing existing rapid transit systems, railroad facilities, highways, and bridges within the territory involved or by the construction or provision of new rail facilities where deemed necessary, and may be established either directly by purchase, lease, or contract, or by lease or agreement with any other public or private body or corporation, or in any other manner.

"(k) The performance of such other functions which may be of mutual benefit to the Commonwealth of Pennsylvania and the State of New Jersey insofar as concerns the promotion and development of the Port District for port purposes and the use of its facilities by commercial vessels.

"(l) The performance or effectuation of such additional bridge, tunnel, railroad, rapid transit, transportation, transportation facility, terminal, terminal facility, and port improvement and development purposes within the Port District as may hereafter be delegated to or imposed upon it by the action of either State concurred in by legislation of the other.

"(m) The unification of the ports of the Delaware River through (i) the acquisition or taking control of any terminal, terminal facility, transportation facility or marine terminal or port facility or associated property within the Port District through purchase, lease, or otherwise, or by the acquisition, merger, becoming the successor to or entering into contracts, agreements, or partnerships with any other port corporation, port authority, or port related entity which is located within the Port District, all in accordance with the applicable laws of the State in which the facility, corporation, or authority is located; (ii) the exercise of the other powers granted by this compact; or (iii) the establishment (whether solely or jointly with any other entity or entities) of such subsidiary corporation or corporations or maritime or port advisory committees as may be necessary or desirable to effectuate this purpose.

"(n) The planning, financing, development, acquisition, construction, purchase, lease, maintenance, marketing, improvement and operation of any project, including but not limited to any terminal, terminal facility, transportation facility, or any other facility of commerce or economic development activity; from funds available after appropriate allocation for maintenance of bridge and other capital facilities.''.

(2) Article II of the agreement is amended to read as follows:

"The commission shall consist of sixteen commissioners, eight resident voters of the Commonwealth of Pennsylvania and eight resident voters of the State of New Jersey, who shall serve without compensation.

"The commissioners for the State of New Jersey shall be appointed by the Governor of New Jersey with the advice and consent of the Senate of New Jersey, for terms of five years, and in case of a vacancy occurring in the office of commissioner during a recess of the Legislature, it may be filled by the Governor by an ad interim appointment which shall expire at the end of the next regular session of the Senate unless a successor shall be sooner appointed and qualify and, after the end of the session, no ad interim appointment to the same vacancy shall be made unless the Governor shall have submitted to the Senate a nomination to the office during the session and the Senate shall have adjourned without confirming or rejecting it, and no person nominated for any such vacancy shall be eligible for an ad interim appointment to such office if the nomination shall have failed of confirmation by the Senate.

"Six of the eight commissioners for the Commonwealth of Pennsylvania shall be appointed by the Governor of Pennsylvania for terms of five years. The Auditor General and the State Treasurer of said Commonwealth shall be ex officio commissioners for said Commonwealth, each having the privilege of appointing a representative to serve in his place at a meeting of the commission which he does not attend personally. Any commissioner who is an elected public official shall have the privilege of appointing a representative to serve and act in his place at any meeting of the commission which he does not attend personally.

"All commissioners shall continue to hold office after the expiration of the terms for which they are appointed or elected until their respective successors are appointed and qualify, but a period during which any commissioner shall hold over shall be deemed to be an extension of his term of office for the purpose of computing the date on which his successor's term expires.''.

(3) Article III of the agreement is amended to read as follows:

"The commissioners shall have charge of the commission's property and affairs and shall for the purpose of doing business constitute a board, but no action of the commissioners shall be binding unless a majority of the members of the commission from Pennsylvania and a majority of the members of the commission from New Jersey shall vote in favor thereof.

"Notwithstanding the above, each State reserves the right to provide by law for the exercise of a veto power by the Governor of that State over any action of any commissioner from that State at any time within 10 days (Saturdays, Sundays, and public holidays in the particular State excepted) after receipt at the Governor's office of a certified copy of the minutes of the meeting at which such vote was taken. Each State may provide by law for the manner of delivery of such minutes, and for notification of the action thereon.''.

(4) Article IV of the agreement is amended to read as follows:

"For the effectuation of its authorized purposes the commission is hereby granted the following powers:

"(a) To have perpetual succession.

"(b) To sue and be sued.

"(c) To adopt and use an official seal.

"(d) To elect a chairman, vice-chairman, secretary, and treasurer, and to adopt suitable bylaws for the management of its affairs. The secretary and treasurer need not be members of the commission.

"(e) To appoint, hire, or employ counsel and such other officers and such agents and employees as it may require for the performance of its duties, by contract or otherwise, and fix and determine their qualifications, duties, and compensation.

"(f) To enter into contracts.

"(g) To acquire, own, hire, use, operate, and dispose of personal property.

"(h) To acquire, own, use, lease, operate, mortgage, and dispose of real property and interests in real property, and to make improvements thereon.

"(i) To grant by franchise, lease, or otherwise, the use of any property or facility owned or controlled by the commission and to make charges therefor.

"(j) To borrow money upon its bonds or other obligations, either with or without security, and to make, enter into, and perform any and all such covenants and agreements with the holders of such bonds or other obligations as the commission may determine to be necessary or desirable for the security and payment thereof, including without limitation of the foregoing, covenants and agreements as to the management and operation of any property or facility owned or controlled by it, the tolls, rents, rates, or other charges to be established, levied, made, and collected for any use of any such property or facility, or the application, use, and disposition of the proceeds of any bonds or other obligations of the commission or the proceeds of any such tolls, rents, rates, or other charges or any other revenues or moneys of the commission.

"(k) To exercise the right of eminent domain within the Port District.

"(l) To determine the exact location, system, and character of and all other matters in connection with any and all improvements or facilities which it may be authorized to own, construct, establish, effectuate, operate, or control.

"(m) In addition to the foregoing, to exercise the powers, duties, authority, and jurisdiction heretofore conferred and imposed upon the aforesaid the Delaware River Joint Commission by the Commonwealth of Pennsylvania or the State of New Jersey, or both of the said 2 States.

"(n) To exercise all other powers not inconsistent with the constitutions of the 2 States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

"(o) To acquire, purchase, construct, lease, operate, maintain, and undertake any project, including any terminal, terminal facility, transportation facility, or any other facility of commerce and to make charges for the use thereof.

"(p) To make expenditures anywhere in the United States and foreign countries, to pay commissions, and hire or contract with experts or consultants, and otherwise to do indirectly anything which the commission may do directly.

"(q) To establish 1 or more operating divisions as deemed necessary to exercise the power and effectuate the purposes of this agreement.

"The commission shall also have such additional powers as may hereafter be delegated to or imposed upon it from time to time by the action of either State concurred in by legislation of the other.

"It is the policy and intent of the Legislature of the Commonwealth of Pennsylvania and the State of New Jersey that the powers granted by this article shall be so exercised that the American system of free competitive private enterprise is given full consideration and is maintained and furthered. In making its reports and recommendations to the Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey on the need for any facility or project which the commission believes should be undertaken for the promotion and development of the Port District, the commission shall include therein its findings which fully set forth that the facility or facilities operated by private enterprise within the Port District and which it is intended shall be supplanted or added to are not adequate.".

(5) Article XII of the agreement is amended to read as follows:

"The Commission shall, within 90 days after the end of each fiscal year, submit to the Governors and Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey a complete and detailed report of the following:

"(1) its operations and accomplishments during the completed fiscal year;

"(2) its receipts and disbursements or revenues and expenses during that year in accordance with the categories and classifications established by the commission for its own operating and capital outlay purposes;

"(3) its assets and liabilities at the end of the fiscal year, including the status of reserve, depreciation, special or other funds including debits and credits of these funds;

"(4) a schedule of bonds and notes outstanding at the end of the fiscal year;

"(5) a list of all contracts exceeding $100,000 entered into during the fiscal year;

"(6) a business or strategic plan for the commission and for each of its operating divisions; and

"(7) a five year capital plan.

"Not less than once every five years, the commission shall cause a management audit of its operational effectiveness and efficiency to be conducted by an independent consulting firm selected by the commission. The first management audit to be conducted shall commence within 3 years of the date of coming into force of the supplemental compact or agreement authorized by this 1991 amendatory act. This audit is in addition to any other audit which the commission determines to conduct from time to time.

"The commission shall, not later than 2 years after the date of the coming into force of the supplemental compact or agreement authorized by this 1991 amendatory act, prepare a comprehensive master plan for the development of the Port District. The plan shall include, but not be limited to, plans for the construction, financing, development, reconstruction, purchase, lease, improvement, and operation of any terminal, terminal facility, transportation facility or any other facility of commerce or economic development activity. The master plan shall include the general location of such projects and facilities as may be included in the master plan and shall to the maximum extent practicable include, but not be limited to, a general description of each such project and facility, the land use requirements necessary therefor, and estimates of project costs and of a schedule for commencement of each such project. Prior to adopting such master plan, the commission shall give written notice to, afford a reasonable opportunity for comment, consult with and consider any recommendations from States, county and municipal government, as well as commissions, public corporations and authorities, and the private sector. The commission may modify or change any part of the plan in the same form and manner as provided for the adoption of the original plan. At the time the commission authorizes any project or facility, the commission shall promptly provide to the Governor and Legislature of each State a detailed report on the project including its status within the master plan. The commission shall include within the authorization a status of the project or facility in the master plan and any amendment thereof, and no project shall be authorized if not included in the master plan or amendment thereof. Any project which has been commenced and approved by the commission prior to the adoption of the master plan shall be included, for informational purposes only, in the master plan. The commission shall provide notice of such on-going projects to those States, county and municipal governments, as well as entities in the private sector who would be entitled to such notice had the project not been commenced in anticipation of adopting the master plan, but there shall be no requirement that the project be delayed or deferred due to these provisions.

"In addition to other powers conferred upon it, and not in limitation thereof, the commission may acquire all right, title and interest in and to the Tacony-Palmyra bridge, across the Delaware River at Palmyra, New Jersey, together with any approaches and interests in real property necessary thereto. The acquisition of such bridge, approaches and interests by the commission shall be by purchase or by condemnation in accordance with the provisions of the Federal law consenting to or authorizing the construction of such bridge or approaches, or the acquisition of such bridge, approaches or interests by the commission shall be pursuant to and in accordance with the provisions of section 48:5-22 and 48:5-23 of the Revised Statutes of New Jersey, and for all the purposes of said provisions and sections the commission is hereby appointed as the agency of the State of New Jersey and the Commonwealth of Pennsylvania exercising the rights and powers granted or reserved by said Federal law or sections to the State of New Jersey and Commonwealth of Pennsylvania jointly or to the State of New Jersey acting in conjunction with the Commonwealth of Pennsylvania. The commission shall have authority to so acquire such bridge, approaches and interests, whether the same be owned, held, operated or maintained by any private person, firm, partnership, company, association or corporation or by any instrumentality, public body, commission, public agency or political subdivision (including any county or municipality) of, or created by or in, the State of New Jersey or the Commonwealth of Pennsylvania, or by any instrumentality, public body, commission, or public agency of, or created by or in, a political subdivision (including any county or municipality) of the State of New Jersey or the Commonwealth of Pennsylvania. None of the provisions of the preceding paragraph shall be applicable with respect to the acquisition by the commission, pursuant to this paragraph, of said Tacony-Palmyra bridge, approaches and interests. The power and authority herein granted to the commission to acquire said Tacony-Palmyra bridge, approaches and interests shall not be exercised unless and until the Governor of the State of New Jersey and the Governor of the Commonwealth of Pennsylvania have filed with the commission their written consents to such acquisition.

"Notwithstanding any provision of this agreement, nothing herein contained shall be construed to limit or impair any right or power granted or to be granted to the Pennsylvania Turnpike Commission or the New Jersey Turnpike Authority, to finance, construct, operate, and maintain the Pennsylvania Turnpike System or any turnpike project of the New Jersey Turnpike Authority, respectively, throughout the Port District, including the right and power, acting alone or in conjunction with each other, to provide for the financing, construction, operation, and maintenance of one bridge across the Delaware River south of the city of Trenton in the State of New Jersey; provided that such bridge shall not be constructed within a distance of 10 miles, measured along the boundary line between the Commonwealth of Pennsylvania and the State of New Jersey, from the existing bridge, operated and maintained by the commission, across the Delaware River between the city of Philadelphia in the Commonwealth of Pennsylvania and the city of Camden in the State of New Jersey, so long as there are any outstanding bonds or other securities or obligations of the commission for which the tolls, rents, rates, or other revenues, or any part thereof, of said existing bridge shall have been pledged. Nothing contained in this agreement shall be construed to authorize the commission to condemn any such bridge.

"Anything herein contained to the contrary notwithstanding, no bridge or tunnel shall be constructed, acquired, operated, or maintained by the commission across or under the Delaware River north of the boundary line between Bucks County and Philadelphia County in the Commonwealth of Pennsylvania as extended across the Delaware River to the New Jersey shore of said river, and any new bridge or tunnel authorized by or pursuant to this compact or agreement to be constructed or erected by the commission may be constructed or erected at any location south of said boundary line notwithstanding the terms and provisions of any other agreement between the Commonwealth of Pennsylvania and the State of New Jersey. Except as may hereafter be otherwise provided in conformity with Article IX hereof with respect to specific properties designated by action of the Legislatures of both of the signatory States, no property or facility owned or controlled by the commission shall be acquired from it by any exercise of powers of condemnation or eminent domain.".

(6) Article XIII of the agreement is amended to read as follows:

"As used herein, unless a different meaning clearly appears from the context:

"'Port District' shall mean all the territory within the counties of Bucks, Chester, Delaware, Montgomery, and Philadelphia in Pennsylvania, and all the territory within the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem in New Jersey.

"'Commission' shall mean the Delaware River Port Authority and, when required by the context, the board constituting the governing body thereof in charge of its property and affairs.

"'Commissioner' shall mean a member of the governing body of the Delaware River Port Authority.

"'Economic development activity' or 'economic development' means any structure or facility or any development within the Port District in connection with manufacturing, port-oriented development, foreign trade zone site development or research, commercial, industrial, or recreational purposes, or for purposes of warehousing or consumer and supporting services directly relating to any of the foregoing or to any authority project or facility which are required for the sound economic development of the Port District.

"'Terminal' shall include any marine, motor truck, motorbus, railroad, and air terminal or garage, also any coal, grain, and lumber terminal and any union freight and other terminals used or to be used in connection with the transportation of passengers and freight, and equipment, materials, and supplies therefor.

"'Transportation facility' and 'facilities for transportation of passengers' shall include railroads operated by steam, electricity, or other power, rapid transit lines, motor trucks, motorbuses, tunnels, bridges, airports, boats, ferries, carfloats, lighters, tugs, floating elevators, barges, scows, or harbor craft of any kind, and aircraft, and equipment, materials, and supplies therefor.

"'Terminal facility' shall include wharves, piers, slips, berths, ferries, docks, drydocks, ship repair yards, bulkheads, dock walls, basins, carfloats, floatbridges, dredging equipment, radio receiving and sending stations, grain or other storage elevators, warehouses, cold storage, tracks, yards, sheds, switches, connections, overhead appliances, bunker coal, oil, and fresh water stations, markets, and every kind of terminal, storage, or supply facility now in use, or hereafter designed for use to facilitate passenger transportation and for the handling, storage, loading, or unloading of freight at terminals, and equipment, materials, and supplies therefor.

"'Transportation of passengers' and 'passenger transportation' shall mean the transportation of passengers by railroad or other facilities.

"'Rapid transit system' shall mean a transit system for the transportation of passengers, express mail, and baggage by railroad or other facilities, and equipment, materials, and supplies therefor.

"'Project' shall mean any improvement, betterment, facility or structure authorized by or pursuant to this compact or agreement to be constructed, erected, acquired, owned, or controlled or otherwise undertaken by the commission. 'Project' shall not include undertakings for purposes described in Article I, subdivisions (d), (e), (g), (h), and (i).

"'Railroad' shall include railways, extensions thereof, tunnels, subways, bridges, elevated structures, tracks, poles, wires, conduits, powerhouses, substations, lines for the transmission of power, carbarns, shops, yards, sidings, turnouts, switches, stations, and approaches thereto, cars, and motive equipment.

"'Bridge' and 'tunnel' shall include such approach highways and interests in real property necessary therefor in the Commonwealth of Pennsylvania or the State of New Jersey as may be determined by the commission to be necessary to facilitate the flow of traffic in the vicinity of a bridge or tunnel or to connect a bridge or tunnel with the highway system or other traffic facilities in said Commonwealth or said State; provided, however, that the power and authority herein granted to the commission to construct new or additional approach highways shall not be exercised unless and until the Department of Transportation of the Commonwealth of Pennsylvania shall have filed with the commission its written approval as to approach highways to be located in said Commonwealth and the State Highway Department of the State of New Jersey shall have filed with the commission its written approval as to approach highways to be located in said State.

"'Facility' shall include all works, buildings, structures, property, appliances, and equipment, together with appurtenances necessary and convenient for the proper construction, equipment, maintenance, and operation of a facility or facilities or any 1 or more of them.

"'Personal property' shall include choses in action and all other property now commonly, or legally, defined as personal property, or which may hereafter be so defined.

"'Lease" shall include rent or hire.

"'Municipality' shall include a county, city, borough, village, township, town, public agency, public authority, or political subdivision.

"Words importing the singular number include the plural number and vice versa.

"Wherever legislation or action by the Legislature of either signatory State is herein referred to it shall mean an act of the Legislature duly adopted in accordance with the provisions of the Constitution of such State.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, under the Constitution, when two States or more make an agreement, we have to ratify it. They did, and we do.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we do, and Pennsylvania is connected with New Jersey, and we connect with the speaker.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FRANK of Massachusetts. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the legislation. It basically modifies the compact which governs the Delaware River Port Authority.

These revisions are necessary, although they have been approved by both Pennsylvania and New Jersey, because under the law we have to approve changes in the compact.

This will enable, in essence, the States of Pennsylvania and New Jersey, through the operations of the port authority, the Delaware Port Authority, to have broad economic powers. It enlarges the port district somewhat. It is a good bill, Mr. Speaker, and I urge my colleagues to support it.

Mr. Speaker, I would like to say that our good friend and colleague, the gentleman from Pennsylvania [Mr. FOGLIETTA] has been hospitalized and unfortunately cannot be with us tonight. He was one of the prime sponsors of the legislation involving the interstate compact. I know he wanted to be with us tonight and could not be. I just wanted to salute the gentleman from Pennsylvania for his yeoman's work in developing that legislative initiative.

Mr. FRANK of Massachusetts. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FOGLIETTA. Mr. Speaker, I rise today in strong support of H.R. 5452, legislation which will unify the ports of Philadelphia and southern New Jersey and lead to the creation of hundreds of new jobs throughout the Delaware Valley. I would also like to thank my colleagues Chairman JACK BROOKS, Chairman BOB ROE, and my friend BILL HUGHES for their hard work on this bill.

For far too long the ports of Philadelphia and southern New Jersey have been engaged in a struggle for each other's ocean-going cargo business, at the same time other ports have been busy luring trade and hundreds of jobs away from the Delaware Valley. In the heat of this battle it appears that many lost sight of the economic health and well being of the entire Delaware Valley.

As the founder of the Congressional Working Group on Delaware River Port Unification, I come before you today to express my support for this legislation and to urge my colleagues in the House of Representatives to join in support of this important bill and help us put an end to this rivalry. By unifying the ports of the Delaware Valley region and granting broad new economic development powers to the Delaware River Port Authority, we can move forward and create hundreds of jobs on both sides of the river.

The ports of the Delaware Valley are the economic engine which powers our regional economy. Nearly 100,000 men and women in the tristate area are employed in port-related activities, and commerce at the ports pumped nearly $4 billion into the regional economy last year. In these difficult economic times, I encourage my colleagues to lend their support to this bill so that the ports of the Delaware Valley can begin to retool and improve our competitive position so we can begin to attract new business and jobs.

Swift passage of this legislation will allow us to achieve these goals which our former colleague Jim Florio and I began pressing for several years ago by allowing the Delaware River ports to engage in important economic development projects and enhance the economic vitality of the region.

GENERAL LEAVE

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5452, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 5452.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GRANTING CONSENT TO THE NEW HAMPSHIRE-MAINE INTERSTATE SCHOOL COMPACT

Mr. FRANK of Massachusetts. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4841) granting the consent of the Congress to the New Hampshire-Maine interstate school compact.

The Clerk read as follows:

H.R. 4841

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT OF CONGRESS.

The Congress consents to the compact which was entered into between the States of New Hampshire and Maine providing for the establishment of an interstate school district, and was approved by the States of New Hampshire and Maine in 1969. The compact is substantially as follows:

"NEW HAMPSHIRE-MAINE INTERSTATE SCHOOL COMPACT

"ARTICLE I

"GENERAL PROVISIONS

"A. STATEMENT OF POLICY.—It is the purpose of this compact to increase the educational opportunities within the states of New Hampshire and Maine by encouraging the formation of interstate school districts which will each be a natural social and economic region with adequate financial resources and a number of pupils sufficient to permit the efficient use of school facilities within the interstate district and to provide improved instruction. The state boards of education of New Hampshire and Maine may formulate and adopt additional standards consistent with this purpose and with these standards; and the formation of any interstate school district and the adoption of its articles of agreement shall be subject to the approval of both state boards as set forth.

"B. REQUIREMENT OF CONGRESSIONAL APPROVAL.—This compact shall not become effective until approved by the United States Congress.

"C. DEFINITIONS.—The terms used in this compact shall be construed as follows, unless a different meaning is clearly apparent from the language or context:

"a. COMMISSIONER.—'Commissioner' shall refer to Commissioner of Education.

"b. ELEMENTARY SCHOOL.—'Elementary school' shall mean a school which includes all grades from kindergarten or grade one through not less than grade 6 nor more than grade 8.

"c. INTERSTATE BOARD.—'Interstate board' shall refer to the board serving an interstate school district.

"d. INTERSTATE SCHOOL DISTRICT.—'Interstate school district' and 'interstate district' shall mean a school district composed of one or more school districts located in the State of Maine associated under this compact with one or more school districts located in the state of New Hampshire and may include either the elementary schools, the secondary schools, or both.

"e. JOINT ACTION.—'Joint action' where joint action by both state boards is required, each state board shall deliberate and vote by its own majority, but shall separately reach the same result or take the same action as the other state board.

"f. MAINE BOARD.—'Maine Board' shall refer to the Maine State Board of Education.

"g. MEMBER SCHOOL DISTRICT.—'Member school district' and 'member district' shall mean a school administrative unit located either in Maine or New Hampshire which is included within the boundaries of a proposed or established interstate school district.

"h. NEW HAMPSHIRE BOARD.—'New Hampshire board' shall refer to the New Hampshire State Board of Education.

"i. PROFESSIONAL STAFF PERSONNEL.—'Professional staff personnel' and 'instructional staff personnel' shall include superintendents, assistant superintendents, administrative assistants, principals, guidance counselors, special educational personnel, school nurses, therapists, teachers, and other certificated personnel.

"j. SECONDARY SCHOOL.—'Secondary school' shall mean a school which includes all grades beginning no lower than grade 7 and no higher than grade 12.

"k. WARRANT.—'Warrant' or 'warning' to mean the same for both states.

"ARTICLE II

"PROCEDURE FOR FORMATION OF AN INTERSTATE SCHOOL DISTRICT

"A. CREATION OF PLANNING COMMITTEE.—The New Hampshire and Maine commissioners of education shall have the power, acting jointly to constitute and discharge one or more interstate school district planning committees. Each such planning committee shall consist of at least 2 voters from each of a group of 2 or more neighboring member districts. One of the representatives from each member district shall be a member of its school board, whose term on the planning committee shall be concurrent with his term as a school board member. The term of each member of a planning committee who is not also a school board member shall expire on June 30th of the third year following his appointment. The existence of any planning committee may be terminated either by vote of a majority of its members or by joint action of the commissioners. In forming and appointing members to an interstate school district planning board, the commissioners shall consider and take into account recommendations and nominations made by school boards of member districts. No member of a planning committee shall be disqualified because he is at the same time a member of another planning board or committee created under this compact or under any other provisions of law. An existing informal interstate school planning committee may be reconstituted as a formal planning committee in accordance with the provisions hereof, and its previous deliberations adopted and ratified by the reorganized formal planning committee. Vacancies on a planning committee shall be filled by the commissioners acting jointly.

"B. OPERATING PROCEDURES OF PLANNING COMMITTEE.—Each interstate school district planning committee shall meet in the first instance at the call of any member, and shall organize by the election of a chairman and clerk-treasurer, each of whom shall be a resident of a different state. Subsequent meetings may be called by either officer of the committee. The members of the committee shall serve without pay. The member districts shall appropriate money on an equal basis at each annual meeting to meet the expenses of the committee, including the cost of publication and distribution of reports and advertising. From time to time the commissioners may add additional members and additional member districts to the committee, and may remove members and member districts from the committee. An interstate school district planning committee shall act by majority vote of its membership present and voting.

"C. DUTIES OF INTERSTATE SCHOOL DISTRICT PLANNING COMMITTEE.—It shall be the duty of an interstate school district planning committee, in consultation with the commissioners and the state departments of education: to study the advisability of establishing an interstate school district in accordance with the standards set forth in paragraph A, its organization, operation and control, and the advisability of constructing, maintaining and operating a school or schools to serve the needs of such interstate district; to estimate the construction and operating costs thereof; to investigate the methods of financing such school or schools, and any other matters pertaining to the organization and operation of an interstate school district; and to submit a report or reports of its findings and recommendations to the several member districts.

"D. RECOMMENDATIONS AND PREPARATION OF ARTICLES OF AGREEMENT.—An interstate school district planning committee may recommend that an interstate school district composed of all the member districts represented by its membership, or any specified combination of such member districts, be established. If the planning committee does recommend the establishment of an interstate school district, it shall include in its report such recommendation, and shall prepare and include in its report proposed articles of agreement for the proposed interstate school district, which shall be signed by at least a majority of the membership of the planning committee, which set forth the following:

"a. The name of the interstate school district.

"b. The member districts which shall be combined to form the proposed interstate school district.

"c. The number, composition, method of selection and terms of office of the interstate school board, provided that:

"(1) The interstate school board shall consist of an odd number of members, not less than 5 nor more than 15;

"(2) The terms of office shall not exceed 3 years;

"(3) Each member district shall be entitled to elect at least one member of the interstate school board. Each member district shall either vote separately at the interstate school district meeting by the use of a distinctive ballot, or shall choose its member or members at any other election at which school officials may be chosen;

"(4) The method of election shall provide for the filing of candidacies in advance of election and for the use of a printed nonpartisan ballot;

"(5) Subject to the foregoing, provision may be made for the election of one or more members at large.

"d. The grades for which the interstate school district shall be responsible.

"e. The specific properties of member districts to be acquired initially by the interstate school district and the general location of any proposed new schools to be initially established or constructed by the interstate school district.

"f. The method of apportioning the operating expenses of the interstate school district among the several member districts, and the time and manner of payments of such shares.

"g. The indebtedness of any member district which the interstate district is to assume.

"h. The method of apportioning the capital expenses of the interstate school district among the several member districts, which need not be the same as the method of apportioning operating expenses, and the time and manner of payment of such shares. Capital expenses shall include the cost of acquiring land and buildings for school purposes; the construction, furnishing and equipping of school buildings and facilities; and the payment of the principal and interest of any indebtedness which is incurred to pay for the same.

"i. The manner in which state aid, available under the laws of either New Hampshire or Maine, shall be allocated, unless otherwise expressly provided in this compact or by the laws making such aid available.

"j. The method by which the articles or agreement may be amended, which amendments may include the annexation of territory, or an increase or decrease in the number of grades for which the interstate district shall be responsible, provided that no amendment shall be effective until approved by both state boards in the same manner as required for approval of the original articles of agreement.

"k. The date of operating responsibility of the proposed interstate school district and a proposed program for the assumption of operating responsibility for education by the proposed interstate school district, and any school construction; which the interstate school district shall have the power to vary by vote as circumstances may require.

"l. Any other matters, not incompatible with law, which the interstate school district planning committee may consider appropriate to include in the articles of agreement, including, without limitation:

"(1) The method of allocating the cost of transportation between the interstate district and member districts;

"(2) The nomination of individual school directors to serve until the first annual meeting of the interstate school district.

"E. HEARINGS.—If the planning committee recommends the formation of an interstate school district, it shall hold at least one public hearing on its report and the proposed articles of agreement within the proposed interstate school district in Maine, and at least one public hearing thereon within the proposed interstate school district in New Hampshire. The planning committee shall give such notice thereof as it may determine to be reasonable, provided that such notice shall include at least one publication in a newspaper of general circulation within the proposed interstate school district not less than 15 days, not counting the date of publication and not counting the date of the hearing, before the date of the first hearing. Such hearings may be adjourned from time to time and from place to place. The planning committee may revise the proposed articles of agreement after the date of the hearings. It shall not be required to hold further hearings on the revised articles of agreement but may hold one or more further hearings after notice similar to that required for the first hearings if the planning committee in its sole discretion determines that the revisions are so substantial in nature as to require further presentation to the public before submission to the state boards of education.

"F. APPROVAL BY STATE BOARDS.—After the hearings a copy of the proposed articles of agreement, as revised, signed by a majority of the planning committee, shall be submitted by it to each state board. The state boards may if they find that the articles of agreement are in accord with the standards set forth in this compact and in accordance with sound educational policy, approve the same as submitted, or refer them back to the planning committee for further study. The planning committee may make additional revisions to the proposed articles of agreement to conform to the recommendations of the state boards. Further hearings on the proposed articles of agreement shall not be required unless ordered by the state boards in their discretion. In exercising such discretion, the state boards shall take into account whether or not the additional revisions are so substantial in nature as to require further presentation to the public. If both state boards find that the articles of agreement as further revised are in accord with the standards set forth in this compact and in accordance with sound educational policy, they shall approve the same. After approval by both state boards, each state board shall cause the articles of agreement to be submitted to the school boards of the several member districts in each state for acceptance by the member districts as provided in paragraph G. At the same time, each state board shall designate the form of warrant, date, time, place, and period of voting for the special meeting of the member district to be held in accordance with paragraph G.

"G. ADOPTION BY MEMBER DISTRICTS.—Upon receipt of written notice from the state board in its state of the approval of the articles of agreement by both state boards, the school board of each member district shall cause the articles of agreement to be filed with the member district clerk. Within 10 days after receipt of such notice, the school board shall issue its warrant for a special meeting of the member district, the warrant to be in the form, and the meeting to be held at the time and place and in the manner prescribed by the state board. No approval of the superior court shall be required for such special school district meeting in New Hampshire. Voting shall be with the use of a check-list by a ballot substantially in the following form:

"Shall the school district accept the provisions of the New Hampshire-Main Interstate School Compact providing for the establishment of an interstate school district, together with the school districts of and, etc., in accordance with the proposed articles of agreement filed with the school district (town, city or incorporated school district) clerk?

"YES ( ) NO ( )

"If the articles of agreement included the nomination of individual school directors, those nominated from each member district shall be included in the ballot and voted upon, such election to become effective upon the formation of an interstate school district.

"If a majority of the votes present and voting in a member district vote in the affirmative, the clerk for such member district shall forthwith send to the state board in its state a certified copy of the warrant, certificate of posting, and minutes of the meeting of the district. If the state boards of both states find that a majority of the voters present and voting in each member district have voted in favor of the establishment of the interstate school district, they shall issue a joint certificate to that effect; and such certificate shall be conclusive evidence of the lawful organization and formation of the interstate school district as of its date of issuance.

"H. RESUBMISSION.—If the proposed articles of agreement are adopted by one or more of the member districts but rejected by one or more of the member districts, the state boards may resubmit them, in the same form as previously submitted, to the rejecting member districts, in which case the school boards thereof shall resubmit them to the voters in accordance with paragraph G. An affirmative vote in accordance therewith shall have the same effect as though the articles of agreement had been adopted in the first instance. In the alternative, the state boards may either discharge the planning committee, or refer the articles of agreement back for further consideration to the same or a reconstituted planning committee, which shall have all the powers and duties as the planning committee as originally constituted.

"ARTICLE III

"POWERS OF INTERSTATE SCHOOL DISTRICT

"A. POWERS.—Each interstate school district shall be a body corporate and politic, with power to:

"a. Acquire, construct, extend, improve, staff, operate, manage and govern public schools within its boundaries;

"b. Sue and be sued, subject to the limitations of liability hereinafter set forth;

"c. Have a seal and alter the same at pleasure;

"d. Adopt, maintain and amend bylaws not inconsistent with this compact, and the laws of the 2 states;

"e. Acquire by purchase, condemnation, lease or otherwise, real and personal property for the use of its schools;

"f. Enter into contracts and incur debts;

"g. Borrow money for the purposes set forth, and to issue its bonds or notes therefor;

"h. Make contracts with and accept grants and aid from the United States, the State of Maine, the State of New Hampshire, any agency or municipality thereof, and private corporations and individuals for the construction, maintenance, reconstruction, operation and financing of its schools; and to do any and all things necessary in order to avail itself of such aid and cooperation;

"i. Employ such assistants, agents, servants and independent contractors as it shall deem necessary or desirable for its purposes; and

"j. Take any other action which is necessary or appropriate in order to exercise any of the foregoing powers.

"ARTICLE IV

"DISTRICT MEETINGS

"A. GENERAL.—Votes of the district shall be taken at a duly warned meeting held at any place in the district, at which all of the eligible legal voters of the member districts shall be entitled to vote, except as otherwise provided with respect to the election of directors.

"B. ELIGIBILITY OF VOTERS.—Any resident who would be eligible to vote at a meeting of a member district being held at the same time shall be eligible to vote at a meeting of the interstate district. The town clerks in each Maine member district and the supervisors of the checklist of each New Hampshire district shall respectively prepare a checklist of eligible voters for each meeting of the interstate district in the same manner, and they shall have all the same powers and duties with respect to eligibility of voters in their districts as for a meeting of a member district.

"C. WARNING OF MEETINGS.—A meeting shall be warned by a warrant addressed to the residents of the interstate school district qualified to vote in district affairs, stating the time and place of the meeting and the subject matter of the business to be acted upon. The warrant shall be signed by the clerk and by a majority of the directors. Upon written application of 10 or more voters in the district, presented to the directors or to one of them, at least 25 days before the day prescribed for an annual meeting, the directors shall insert in their warrant for such meeting any subject matter specified in such application.

"D. POSTING AND PUBLICATION OF WARRANT.—The directors shall cause an attested copy of the warrant to be posted at the place of meeting, and a like copy at a public place in each member district at least 20 days, not counting the date of posting and the date of meeting, before the date of the meeting. In addition, the directors shall cause the warrant to be advertised in a newspaper of general circulation on at least one occasion, such publication to occur at least 10 days, not counting the date of publication and not counting the date of the meeting, before the date of the meeting. Although no further notice shall be required, the directors may give such further notice of the meeting as they in their discretion deem appropriate under the circumstances.

"E. RETURN OF WARRANT.—The warrant with a certificate thereon, verified by oath, stating the time and place when and where copies of the warrant were posted and published, shall be given to the clerk of the interstate school district at or before the time of the meeting, and shall be recorded by him in the records of the interstate school district.

"F. ORGANIZATION MEETING.—The commissioners, acting jointly, shall fix a time and place for a special meeting of the qualified voters within the interstate school district for the purpose of organization, and shall prepare and issue the warrant for the meeting after consultation with the interstate school district planning board and the members-elect, if any, of the interstate school board of directors. Such meeting shall be held within 60 days after the date of issuance of the certificate of formation, unless the time is further extended by the joint action of the state boards. At the organization meeting the commissioner of education of the state where the meeting is held, or his designate, shall preside in the first instance, and the following business shall be transacted:

"a. A temporary moderator and a temporary clerk shall be elected from among the qualified voters who shall serve until a moderator and clerk respectively have been elected and qualified.

"b. A moderator, clerk, a treasurer and 3 auditors shall be elected to serve until the next annual meeting and thereafter until their successors are elected and qualified. Unless previously elected, a board of school directors shall be elected to serve until their successors are elected and qualified.

"c. The date for the annual meeting shall be established.

"d. Provision shall be made for the payment of any organizational or other expense incurred on behalf of the district before the organization meeting, including the cost of architects, surveyors, contractors, attorneys, and educational or other consultants or experts.

"e. Any other business, the subject matter of which has been included in the warrant, and which the voters would have had powers to transact at any annual meeting.

"G. ANNUAL MEETINGS.—An annual meeting of the district shall be held between January 15th and June 1st of each year at such time as the interstate district may by vote determine. Once determined, the date of the annual meeting shall remain fixed until changed by vote of the interstate district as a subsequent annual or special meeting. At each annual meeting the following business shall be transacted:

"a. Necessary officers shall be elected.

"b. Money shall be appropriated for the support of the interstate district schools for the fiscal year beginning the following July 1st.

"c. Such other business as may properly come before the meeting.

"H. SPECIAL MEETINGS.—A special meeting of the district shall be held whenever, in the opinion of the directors, there is occasion therefor, or whenever written application shall have been made by 5 percent or more of the voters based on the checklists as prepared for the last preceding meeting, setting forth the subject matter upon which such action is desired. A special meeting may appropriate money without compliance with RSA 33:8 or RSA 197:3 which would otherwise require the approval of the New Hampshire superior court.

"I. CERTIFICATION OF RECORDS.—The clerk of an interstate school district shall have the power to certify the record of the votes adopted at an interstate school district meeting to the respective commissioners and state boards and, where required, for filing with a secretary of state.

"J. METHOD OF VOTING AT SCHOOL DISTRICT MEETINGS.—Voting at meetings of interstate school districts shall take place as follows:

"a. SCHOOL DIRECTORS.—A separate ballot shall be prepared for each member district, listing the candidates for interstate school director to represent such member district; and any candidates for interstate school director at large; and the voters of each member district shall register on a separate ballot their choice for the office of school director or directors. In the alternative, the articles of agreement may provide for the election of school directors by one or more of the member districts at an election otherwise held for the choice of school or other municipal officers.

"b. OTHER VOTES.—Except as otherwise provided in the articles of agreement or this compact, with respect to all other votes, the voters of the interstate school district shall vote as one body irrespective of the member districts in which they are resident, and a simple majority of those present and voting, at any duly warned meeting shall carry the vote. Voting for officers to be elected at any meeting, other than school directors, shall be by ballot or voice, as the interstate district may determine, either in its articles of agreement or by a vote of the meeting.

"ARTICLE V

"OFFICERS

"A. OFFICERS; GENERAL.—The officers of an interstate school district shall be a board of school directors, a chairman of the board, a vice-chairman of the board, a secretary of the board, a moderator, a clerk, a treasurer and 3 auditors. Except as otherwise specifically provided, they shall be eligible to take office immediately following their election; they shall serve until the next annual meeting of the interstate district and until their successors are elected and qualified. Each shall take oath for the faithful performance of his duties before the moderator, or a notary public or a justice of the peace of the state in which the oath is administered.

Their compensation shall be fixed by vote of the district. No person shall be eligible to any district office unless he is a voter in the district. A custodian, school teacher, principal, superintendent or other employee of an interstate district acting as such shall not be eligible to hold office as a school director.

"B. Board of Directors.—

"a. How chosen.—Each member district shall be represented by at least one resident on the board of school directors of an interstate school district. A member district shall be entitled to such further representation on the interstate board of school directors as provided in the articles of agreement as amended from time to time. The articles of agreement as amended from time to time may provide for school directors at large, as set forth. No person shall be disqualified to serve as a member of an interstate board because he is at the same time a member of the school board of a member district.

"b. Term.—Interstate school directors shall be elected for terms in accordance with the articles of agreement.

"c. Duties of board of directors.—The board of school directors of an interstate school district shall have and exercise all of the powers of the district not reserved herein to the voters of the district.

"d. Organization.—The clerk of the district shall warn a meeting of the board of school directors to be held within 10 days following the date of the annual meeting, for the purpose of organizing the board, including the election of its officers.

"C. Chairman of the Board.—The chairman of the board of interstate school directors shall be elected by the interstate board from among its members at its first meeting following the annual meeting. The chairman shall preside at the meetings of the board and shall perform such other duties as the board may assign to him.

"D. Vice-Chairman of the Board of Directors.—The vice-chairman of the interstate board shall be elected in the same manner as the chairman. He shall represent a member district in a state other than that represented by the chairman. He shall preside in the absence of the chairman and shall perform such other duties as may be assigned to him by the interstate board.

"E. Secretary of the Board.—The secretary of the interstate board shall be elected in the same manner as the chairman. Instead of electing one of its members, the interstate board may appoint the interstate district clerk to serve as secretary of the board in addition to his other duties. The secretary of the interstate board, or the interstate district clerk, if so appointed, shall keep the minutes of its meetings, shall certify its records, and perform such other duties as may be assigned to him by the board.

"F. Moderator.—The moderator shall preside at the district meetings, regulate the business thereof, decide questions of order, and make a public declaration of every vote passed. He may prescribe rules of procedure; but such rules may be altered by the district. He may administer oaths to district officers in either state.

"G. Clerk.—The clerk shall keep a true record of all proceedings at each district meeting, shall certify its records, shall make an attested copy of any records of the district for any person upon request and tender of reasonable fees therefor, if so appointed, shall serve as secretary of the board of school directors, and shall perform such other duties as may be required by custom or law.

"H. Treasurer.—The treasurer shall have custody of all of the monies belonging to the district and shall pay out the same only upon the order of the interstate board. He shall keep a fair and accurate account of all sums received into and paid from the interstate district treasury, and at the close of each fiscal year he shall make a report to the interstate district, giving a particular account of all receipts and payments during the year. He shall furnish to the interstate directors, statements from his books and submit his books and vouchers to them and to the district auditors for examination whenever so requested. He shall make all returns called for by laws relating to school districts. Before entering on his duties, the treasurer shall give a bond with sufficient sureties and in such sum as the directors may require. The treasurer's term of office is from July 1st to the following June 30th.

"I. Auditors.—At the organization meeting of the district, 3 auditors shall be chosen, one to serve for a term of one year, one to serve for a term of 2 years and one to serve for a term of 3 years. After the expiration of each original term, the successor shall be chosen for a 3 year term. At least one auditor shall be a resident of Maine, and one auditor shall be a resident of New Hampshire. An interstate district may vote to employ a certified public accountant to assist the auditors in the performance of their duties. The auditors shall carefully examine the accounts of the treasurer and the directors at the close of each fiscal year, and at such other times whenever necessary, and report to the district whether the same are correctly cast and properly vouched.

"J. Superintendent.—The superintendent of schools shall be selected by a majority vote of the board of school directors of the interstate district with the approval of both commissioners.

"K. Vacancies.—Any vacancy among the elected officers of the district shall be filled by the interstate board until the next annual meeting of the district or other election, when a successor shall be elected to serve out the remainder of the unexpired term, if any. Until all vacancies on the interstate board are filled, the remaining members shall have full power to act.

"Article VI

"Appropriation and Apportionment of Funds

"A. Budget.—Before each annual meeting, the interstate board shall prepare a report of expenditures for the preceding fiscal year, an estimate of expenditures for the current fiscal year, and a budget for the succeeding fiscal year.

"B. Appropriation.—The interstate board of directors shall present the budget report at the annual meeting. The interstate district shall appropriate a sum of money for the support of its schools and for the discharge of its obligations for the ensuing fiscal year.

"C. Apportionment of Appropriation.—Subject to the provisions of article VII, the interstate board shall first apply against such appropriation any income to which the interstate district is entitled, and shall then apportion the balance among the member districts in accordance with one of the following formulas as determined by the articles of agreement as amended from time to time.

"a. All of such balance to be apportioned on the basis of the ratio that the fair market value of the taxable property in each member district bears to that of the entire interstate district; or

"b. All of such balance to be apportioned on the basis that the average daily resident membership for the preceding fiscal year of each member district bears to that of the average daily resident membership of the entire interstate school district; or

"c. A formula based on any combination of the foregoing factors. The term 'fair market value of taxable property' shall mean the last locally assessed valuation of a member district in New Hampshire, as last equalized by the New Hampshire commissioner of revenue administration.

"The term 'fair market value of taxable property' shall mean the equalized grand list of a Maine member district, as determined by the Maine Bureau of Taxation.

"Such assessed valuation and grand list may be further adjusted by elimination of certain types of taxable property from one or the other or otherwise, in accordance with the articles of agreement, in order that the fair market value of taxable property in each state shall be comparable.

"Average daily resident membership of the interstate district in the first instance shall be the sum of the average daily resident membership of the member districts in the grades involved for the preceding fiscal year where no students were enrolled in the interstate district schools for such preceding fiscal year.

"D. Share of New Hampshire Member District.—The interstate board shall certify the share of a New Hampshire member district of the total appropriation to the school board of each member district which shall add such sum to the amount appropriated by the member district itself for the ensuing year and raise such sum in the same manner as though the appropriation had been voted at a school district meeting of the member district. The interstate district shall not set up its own capital reserve funds; but a New Hampshire member district may set up a capital reserve fund in accordance with RSA 35, to be turned over to the interstate district in payment of the New Hampshire member district's share of any anticipated obligations.

"E. Share of Maine Member District.—The interstate board shall certify the share of a Maine member district of the total appropriation to the school board of each member district which shall add such sum to the amount appropriated by the member district itself for the ensuing year and raise such sum in the same manner as though the appropriation had been voted at a school district meeting of the member district.

"Article VII

"Borrowing

"A. Interstate District Indebtedness.—Indebtedness of an interstate district shall be a general obligation of the district and shall be a joint and several general obligation of each member district, except that such obligations of the district and its member districts shall not be deemed indebtedness of any member district for the purposes of determining its borrowing capacity under Maine or New Hampshire law. A member district which withdraws from an interstate district shall remain liable for indebtedness of the interstate district which is outstanding at the time of withdrawal and shall be responsible for paying its share of such indebtedness to the same extent as though it had not withdrawn.

"B. Temporary Borrowing.—The interstate board may authorize the borrowing of money by the interstate district (1) in anticipation of payments of operating and capital expenses by the member districts to the interstate district and (2) in anticipation of the issue of bonds or notes of the interstate district which have been authorized for the purpose of financing capital projects. Such temporary borrowing shall be evidenced by interest bearing or discounted notes of the interstate district. The amount of notes issued in any fiscal year in anticipation of expense payments shall not exceed the amount of such payments received by the interstate district in the preceding fiscal year. Notes issued under this paragraph shall be payable within one year in the case of notes under clause (1) and 3 years in the case of notes under clause (2) from their respective dates, but the principal of and interest on notes issued for a shorter period may be renewed or paid from time to time by the issue of other notes, provided that the period from the date of an original note to the maturity of any note issued to renew or pay the same debt shall not exceed the maximum period permitted for the original loan.

"C. BORROWING FOR CAPITAL PROJECTS.—An interstate district may incur debt and issue its bonds or notes to finance capital projects. Such projects may consist of the acquisition or improvement of land and buildings for school purposes, the construction, reconstruction, alteration or enlargement of school buildings and related school facilities, the acquisition of equipment of a lasting character and the payment of judgments. No interstate district may authorize indebtedness in excess of 10 percent of the total fair market value of taxable property in its member districts as defined in article VI. The primary obligation of the interstate district to pay indebtedness of member districts shall not be considered indebtedness of the interstate district for the purpose of determining its borrowing capacity under this section. Bonds or notes issued under this section shall mature in equal or diminishing installments of principal payable at least annually commencing no later than 2 years and ending not later than 30 years after their dates.

"D. AUTHORIZATION.—An interstate district shall authorize the incurring of debts to finance capital projects by a majority vote of the district passed at an annual or special district meeting. Such vote shall be taken by secret ballot after full opportunity for debate, and any such vote shall be subject to reconsideration and further action by the district at the same meeting or at an adjourned session thereof.

"E. SALE OF BONDS AND NOTES.—Bonds and notes which have been authorized under this article may be issued from time to time and shall be sold at not less than par and accrued interest at public or private sale by the chairman of the school board and by the treasurer. Interstate district bonds and notes shall be signed by the said officers, except that either one of the 2 required signatures may be a facsimile. Subject to this compact and the authorizing vote, they shall be in such form, bear such rates of interest and mature at such times as the said officers may determine. Bonds shall, but notes need not, bear the seal of the interstate district, or a facsimile of such seal. Any bonds or notes of the interstate district which are properly executed by the said officers shall be valid and binding according to their terms notwithstanding that before the delivery thereof such officers may have ceased to be officers of the interstate district.

"F. PROCEEDS OF BONDS.—Any accrued interest received upon delivery of bonds or notes of an interstate district shall be applied to the payment of the first interest which becomes due thereon. The other proceeds of the sale of such bonds or notes, other than temporary notes, including any premiums, may be temporarily invested by the interstate district pending their expenditure; and such proceeds, including any income derived from the temporary investment of such proceeds, shall be used to pay the costs of issuing and marketing the bonds or notes and to meet the operating expenses or capital expenses in accordance with the purposes for which the bonds or notes were issued or, by proceedings taken in the manner required for the authorization of such debt, for other purposes for which such debt could be incurred. No purchaser of any bonds or notes of an interstate district shall be responsible in any way to see to the application of the proceeds thereof.

"G. STATE AID PROGRAMS.—As used in this section the term 'initial aid' shall include New Hampshire and Maine financial assistance with respect to a capital project, or the means of financing a capital project, which is available in connection with construction costs of a capital project or which is available at the time indebtedness is incurred to finance the project. Without limiting the generality of the foregoing definition, initial aid shall specifically include a New Hampshire state guarantee under RSA 195-B with respect to bonds or notes and Maine construction aid under section 3457. As used in this section the term 'long-term aid' shall include New Hampshire and Maine financial assistance which is payable periodically in relation to capital costs incurred by an interstate district. Without limiting the generality of the foregoing definition, long-term aid shall specifically include New Hampshire school building aid under RSA 198 and Maine school building aid under section 3457. For the purpose of applying for, receiving and expending initial aid and long-term aid an interstate district shall be deemed a native school district by each state, subject to the following provisions. When an interstate district has appropriated money for a capital project, the amount appropriated shall be divided into a Maine share and a New Hampshire share in accordance with the capital expense apportionment formula in the articles of agreement as though the total amount appropriated for the project was a capital expense requiring apportionment in the year the appropriation is made. New Hampshire initial aid shall be available with respect to the amount of the New Hampshire share as though it were authorized indebtedness of a New Hampshire cooperative school district. In the case of a state guarantee of interstate district bonds or notes under RSA 195-B, the interstate district shall be eligible to apply for and receive an unconditional state guarantee with respect to an amount of its bonds or notes which does not exceed 50 percent of the amount of the New Hampshire share as determined above. Maine aid shall be available with respect to the amount of the Maine share as though it were funds voted by a Maine school district. Payments of Maine aid shall be made to the interstate district, and the amount of any borrowing authorized to meet the appropriation for the capital project shall be reduced accordingly. New Hampshire and Maine long-term aid shall be payable to the interstate district. The amounts of long-term aid in each year shall be based on the New Hampshire and Maine shares of the amount of indebtedness of the interstate district which is payable in that year and which has been apportioned in accordance with the capital expense apportionment formula in the articles of agreement. The New Hampshire aid shall be payable at the rate of 45 percent if there are 3 or less New Hampshire members in the interstate district, and otherwise it shall be payable as though the New Hampshire members were a New Hampshire cooperative school district. New Hampshire and Maine long-term aid shall be deducted from the total capital expenses for the fiscal year in which the long-term aid is payable, and the balance of such expenses shall be apportioned among the member districts. Notwithstanding the foregoing provisions, New Hampshire and Maine may at any time change their state school aid programs that are in existence when this compact takes effect and may establish new programs, and any legislation for these purposes may specify how such programs shall be applied with respect to interstate districts.

"H. TAX EXEMPTION.—Bonds and notes of an interstate school district shall be exempt from local property taxes in both states, and the interest or discount thereon and any profit derived from the disposition thereof shall be exempt from personal income taxes in both states.

"ARTICLE VIII

"TAKING OVER OF EXISTING PROPERTY

"A. POWER TO ACQUIRE PROPERTY OF MEMBER DISTRICT.—The articles of agreement, or an amendment thereof, may provide for the acquisition by an interstate district from a member district of all or a part of its existing plant and equipment.

"B. VALUATION.—The articles of agreement, or the amendment, shall provide for the determination of the value of the property to be acquired in one or more of the following ways:

"a. A valuation set forth in the articles of agreement or the amendment.

"b. By appraisal, in which case, one appraiser shall be appointed by each commissioner, and a third appraiser appointed by the first 2 appraisers.

"C. REIMBURSEMENT TO MEMBER DISTRICT.—The articles of agreement shall specify the method by which the member district shall be reimbursed by the interstate district for the property taken over, in one or more of the following ways:

"a. By one lump sum, appropriated, allocated and raised by the interstate district in the same manner as an appropriation for operating expenses.

"b. In installments over a period of not more than 20 years, each of which is appropriated, allocated and raised by the interstate district in the same manner as an appropriation for operating expenses.

"c. By an agreement to assume or reimburse the member district for all principal and interest on any outstanding indebtedness originally incurred by the member district to finance the acquisition and improvement of the property, each such installment to be appropriated, allocated and raised by the interstate district in the same manner as an appropriation for operating expenses.

"The member district transferring the property shall have the same obligation to pay to the interstate district its share of the cost of such acquisition, but may offset its right to reimbursement.

"ARTICLE IX

"AMENDMENTS TO ARTICLES OF AGREEMENT

"A. Amendments to the articles of agreement may be adopted in the same manner provided for the adoption of the original articles of agreement, except that:

"a. Unless the amendment calls for the addition of a new member district, the functions of the planning committee shall be carried out by the interstate district board of directors.

"b. If the amendment proposes the addition of a new member district, the planning committee shall consist of all the members of the interstate board and all of the members of the school board of the proposed new member district or districts. In such case the amendment shall be submitted to the voters at an interstate district meeting, at which an affirmative vote of ⅔ of those present and voting shall be required. The articles of agreement together with the proposed amendment shall be submitted to the voters of the proposed new member district at a meeting thereof, at which a simple majority of those present and voting shall be required.

"c. In all cases an amendment may be adopted on the part of an interstate district upon the affirmative vote of voters thereof at a meeting voting as one body. Except where the amendment proposes the admission of a new member district, a simple majority of those present and voting shall be required for adoption.

"d. No amendment to the articles of agreement may impair the rights of bond or note holders or the power of the interstate district to procure the means for their payment.

"Article X

"Applicability of New Hampshire Laws

"A. General School Laws.—With respect to the operation and maintenance of any school of the district located in New Hampshire, New Hampshire law shall apply except as otherwise provided in this compact and except that the powers and duties of the school board shall be exercised and discharged by the interstate board and the powers and duties of the union superintendent shall be exercised and discharged by the interstate district superintendent.

"B. New Hampshire State Aid.—A New Hampshire school district shall be entitled to receive an amount of state aid for operating expenditures as though its share of the interstate district's expenses were the expenses of the New Hampshire member district, and as though the New Hampshire member district pupils attending the interstate school were attending a New Hampshire cooperative school district's school. The state aid shall be paid to the New Hampshire member school district to reduce the sums which would otherwise be required to be raised by taxation within the member district.

"C. Continued Existence of New Hampshire Member School District.—A New Hampshire member school district shall continue in existence, and shall have all of the powers and be subject to all of the obligations imposed by law and not herein delegated to the interstate district. If the interstate district incorporates only a part of the schools in the member school district, then the school board of the member school district shall continue in existence and it shall have all of the powers and be subject to all of the obligations imposed by law on it and not herein delegated to the district. However, if all of the schools in the member school district are incorporated into the interstate school district, then the member or members of the interstate board representing the member district shall have all of the powers and be subject to all of the obligations imposed by law on the members of a school board for the member district and not herein delegated to the interstate district. The New Hampshire member school district shall remain liable on its existing indebtedness; and the interstate school district shall not become liable therefor, unless the indebtedness is specifically assumed in accordance with the articles of agreement. Any trust funds or capital reserve funds and any property not taken over by the interstate district shall be retained by the New Hampshire member district and held or disposed of according to law. If all of the schools in a member district are incorporated into an interstate district, then no annual meeting of the member district shall be required unless the members of the interstate board from the member district shall determine that there is occasion for such an annual meeting.

"D. Suit and Service of Process in New Hampshire.—The courts of New Hampshire shall have the same jurisdiction over the district as though a New Hampshire member district were a party instead of the interstate district. The service necessary to institute suit in New Hampshire shall be made on the district by leaving a copy of the writ or other proceedings in hand or at the last usual place of abode of one of the directors who resides in New Hampshire, and by mailing a like copy to the clerk and to one other director by certified mail with return receipt requested.

"E. Employment.—Each employee of an interstate district assigned to a school located in New Hampshire shall be considered an employee of a New Hampshire school district for the purpose of the New Hampshire teachers retirement system, the New Hampshire state employees retirement system, the New Hampshire workmen's compensation law and any other law relating to the regulation of employment or the provision of benefits for employees of New Hampshire school districts except as follows:

"a. A teacher in a New Hampshire member district may elect to remain a member of the New Hampshire retirement system, even though assigned to teach in an interstate school in Maine.

"b. Employees of interstate districts designated as professional or instructional staff members, as defined in article I, may elect to participate in the teachers retirement system of either the State of New Hampshire or the State of Maine but in no case will they participate in both retirement systems simultaneously.

"c. It shall be the duty of the superintendent in an interstate district to:

"(1) advise teachers and other professional staff employees contracted for the district about the terms of the contract and the policies and procedures of the retirement systems;

"(2) see that each teacher or professional staff employee selects the retirement system of his choice at the time his contract is signed;

"(3) provide the commissioners of education in New Hampshire and in Maine with the names and other pertinent information regarding each staff member under his jurisdiction so that each may be enrolled in the retirement system of his preference.

"Article XI

"Applicability of Maine Laws

"A. General School Laws.—With respect to the operation and maintenance of any school of the district located in Maine, the provisions of Maine law shall apply except as otherwise provided in this compact and except that the powers and duties of the school board shall be exercised and discharged by the interstate board and the powers and duties of the superintendent shall be exercised and discharged by the interstate district superintendent.

"B. Maine State Aid.—A Maine school district shall be entitled to receive such amount of state aid for operating expenditures as though its share of the interstate district's expenses were the expenses of the Maine member district, and as though the Maine member district pupils attending the interstate schools were attending a Maine unit. Such state aid shall be paid to the Maine member school district to reduce the sums which would otherwise be required to be raised by taxation within the member district.

"C. Continued Existence of Maine School Districts.—A Maine school district shall continue in existence, and shall have all of the powers and be subject to all of the obligations imposed by law and not herein delegated to the interstate district. If the interstate district incorporates only a part of the schools in the member school district, then the school board of the member school districts shall continue in existence and it shall have all of the powers and be subject to all of the obligations imposed by law on it and not herein delegated to the district. However, if all of the schools in the member school district are incorporated into the interstate school district, then the member or members of the interstate board representing the member district shall have all of the powers and be subject to all of the obligations imposed by law on the members of a school board for the member district and not herein delegated to the interstate district. The Maine member school district shall remain liable on its existing indebtedness; and the interstate school district shall not become liable therefor. Any trust funds and any property not taken over shall be retained by the Maine member school district and held or disposed of according to law.

"D. Suit and Service of Process in Maine.—The courts of Maine shall have the same jurisdiction over the districts as through a Maine member district were a party instead of the interstate district. The service necessary to institute suit in Maine shall be made on the district by leaving a copy of the writ or other proceedings in hand or at the last and usual place of abode of one of the directors who resides in Maine, and by mailing a like copy to the clerk and to one other director by certified mail with return receipt requested.

"E. Employment.—Each employee of an interstate district assigned to a school located in Maine shall be considered an employee of a Maine school district for the purpose of the state retirement system, the Maine workmen's compensation law, and any other laws relating to the regulation of employment or the provision of benefits for employees of Maine school districts except as follows:

"a. A teacher in a Maine member district may elect to remain a member of the state retirement system of Maine, even though assigned to teach in an interstate school in New Hampshire.

"b. Employees of interstate districts designated as professional or instructional staff members, as defined in article I, may elect to participate in the state retirement system of the State of Maine or the teachers retirement system of the State of New Hampshire but in no case will they participate in both retirement systems simultaneously.

"c. It shall be the duty of the superintendent in an interstate district to:

"(1) advise teachers and other professional staff employees contracted for the district about the terms of the contract and the policies and procedures of the retirement system;

"(2) see that each teacher or professional staff employee selects the retirement system of his choice at the time his contract is signed;

"(3) provide the commissioners of education in New Hampshire and in Maine with the names and other pertinent information regarding each staff member under his jurisdiction so that each may be enrolled in the retirement system of his preference.

"ARTICLE XII

"MISCELLANEOUS PROVISIONS

"A. STUDIES.—Insofar as practicable, the studies required by the laws of both states shall be offered in an interstate school district.

"B. TEXTBOOKS.—Textbooks and scholar's supplies shall be provided at the expense of the interstate district for pupils attending its schools.

"C. TRANSPORTATION.—The allocation of the cost of transportation in an interstate school district, as between the interstate district and the member districts, shall be determined by the articles of agreement.

"D. LOCATION OF SCHOOLHOUSES.—In any case where a new schoolhouse or other school facility is to be constructed or acquired, the interstate board shall first determine whether it shall be located in New Hampshire or in Maine. If it is to be located in New Hampshire, RSA 199, relating to schoolhouses, shall apply. If it is to be located in Maine, the Maine law relating to schoolhouses shall apply.

"E. FISCAL YEAR.—The fiscal year of each interstate district shall begin on July 1st of each year and end on June 30th of the following year.

"F. IMMUNITY FROM TORT LIABILITY.—Notwithstanding the fact that an interstate district may derive income from operating profit, fees, rentals, and other services, it shall be immune from suit and from liability for injury to persons or property and for other torts caused by it or its agents, servants or independent contractors, except insofar as it may have liability under RSA 281, relating to workmen's compensation or may have undertaken such liability under RSA 412:3 relating to the procurement of liability insurance by a governmental agency and except insofar as it may have undertaken such liability under Maine laws relating to workmen's compensation or Maine laws relating to the procurement of liability insurance by a governmental agency.

"G. ADMINISTRATIVE AGREEMENT BETWEEN COMMISSIONERS OF EDUCATION.—The commissioners of education of New Hampshire and Maine may enter into one or more administrative agreements prescribing the relationship between the interstate districts, member districts, and each of the 2 state departments of education, in which any conflicts between the 2 states in procedure, regulations, and administrative practices may be resolved.

"H. AMENDMENTS.—Neither state shall amend its legislation or any agreement authorized thereby without the consent of the other in such manner as to substantially adversely affect the rights of the other state or its people hereunder, or as to substantially impair the rights of the holders of any bonds or notes or other evidences of indebtedness then outstanding or the rights of an interstate school district to procure the means for payment thereof. Subject to the foregoing, any reference herein to other statutes of either state shall refer to such statute as it may be amended or revised from time to time.

"I. SEPARABILITY.—If any of the provisions of this compact, or legislation enabling the same, shall be held invalid or unconstitutional in relation to any of the applications thereof, such invalidity or unconstitutionality shall not affect other applications thereof or other provisions thereof; and to this end the provisions of this compact are declared to be severable.

"J. INCONSISTENCY OF LANGUAGE.—The validity of this compact shall not be affected by any insubstantial differences in its form or language as adopted by the 2 states.

"ARTICLE XIII

"EFFECTIVE DATE

"A. This compact shall become effective when a bill of the Maine general assembly which incorporates the compact becomes a law in Maine and when it is approved by the United States Congress.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes, and the gentleman from Pennsylvania [Mr. GEKAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill would do for New Hampshire and Maine what the previous bill did for New Jersey and Pennsylvania, and they are equally entitled.

Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I was going to take 1 minute to see if I could speak faster than the gentleman from Massachusetts, but I may yield to the temptation to yield back the balance of my time after I tell you that this is also, pursuant to the Constitution, a compact between two States.

Mr. ANDREWS of Maine. Mr. Speaker, I would first like to thank the chairs and staff of both the Committee on the Judiciary and the Subcommittee on Administrative Law and Governmental Relations for their leadership and support for H.R. 4841, granting the consent of Congress for the New Hampshire-Maine Interstate School Compact. Working together with the Maine and New Hampshire congressional delegation and both the Maine and New Hampshire Departments of Education, I would also like to commend Congressman DICK SWETT for his leadership on this project.

Education of our youth is a critical issue. Towns across this Nation are finding it more difficult to offer programs due to budget cuts. Budget cuts have a ripple effect on students, teachers, and our Nation's economic future. Because of escalating costs in education our youth, in addition to decreased revenues, communities are forced to look for creative alternatives to educate their children properly. At Federal, State, and local levels, we must invest time and dollars in education now, to help students gain the skills necessary to succeed. With congressional ratification of this compact, an opportunity will be created for Maine and New Hampshire to combine resources and offer alternative means for educating students.

Acton, a small town in my district of Maine, has experienced a population boom. In fact, its secondary school population has doubled since the 1960's and is expected to double again within the next 10 years. Acton students currently attend Wells High School, which is part of the Wells-Ogunquit Community School District. While the quality of education provided to Acton students has been excellent, concerns have been raised about the long hours of travel between Acton and the Wells-Ogunquit area, the high transportation costs incurred, and the difficulty students encounter in trying to participate in extra-curricular activities. Furthermore, additional questions have surfaced over whether or not the State tuition rate is adequate to meet rising costs for expanded high school facilities at Wells High School.

Interaction between State school districts is becoming an alternative for communities to explore. The Maine State Department of Education has informed me that Acton has discussed possible educational options, such as an interstate school, for its secondary students with the towns of Wakefield and Milton, NH. Both towns have indicated they would welcome having Acton as part of their school district. Obviously, there are a number of complex issues in the formation of an interstate school district, such as State-required curriculums, tuition arrangements, and special and vocational education. Unfortunately, the primary obstacle to the formation of an interstate school district is the absence of a congressional ratification of the New Hampshire-Maine Interstate School Compact.

The purpose of this compact is to increase educational opportunities within the States of Maine and New Hampshire by encouraging the formation of interstate school districts. The intent of the legislation is to enable the towns in both States to determine if an interstate school is indeed feasible. The compact was originally passed and signed into law by both States in 1969. Granting congressional consent for this nonbinding compact will allow members of the communities in both States to discuss viable possibilities for such a school. It does not in any way commit or mandate any town to form a district or build a school.

It is imperative we encourage the expansion of educational opportunities for our youth through creative alternatives. Support for H.R. 4841, the New Hampshire-Maine Interstate School Compact, will do just that.

Mr. SWETT. Mr. Speaker, I rise today in support of H.R. 4841, the New Hampshire-Maine Interstate School Compact. I first want to thank Chairman BROOKS and the Judiciary Committee, and Chairman FRANK and the Subcommittee on Administrative Law and Governmental Relations for their fine work and expeditious action on behalf of this legislation.

I introduced this bill to ratify a compact which was enacted by the legislatures of both states in 1969 but was never approved by Congress as required. I am pleased that Congresswoman OLYMPIA SNOWE and Congressman TOM ANDREWS of Maine and Congressman BILL ZELIFF, my colleague from New Hampshire have joined me in support of this legislation to finish a process which should have been completed 23 years ago.

Our educational system faces severe fiscal restraints and limited resources as it struggles to provide quality education to our students. Local communities need the flexibility to pursue innovative solutions to their educational challenges. That is what the New Hampshire-Maine Interstate Compact is all about. New Hampshire's commissioner of education, Charles Marston, wrote, "The compact recognizes that border communities share more similarities than differences. Educational opportunities should not stop at the state line, whether you travel from east to west or west to east."

The purpose of the New Hampshire-Maine Interstate School Compact is to allow the communities in our two States to make interstate school arrangements, including binding legal agreements, if they choose. More specifically, its purpose as stated in article I is as follows:

> * * * to increase the educational opportunities within the states of New Hampshire and Maine by encouraging the formation of interstate school districts which will each be a natural social and economic region with adequate financial resources and a number of pupils sufficient to permit the efficient use of school facilities within the interstate district and to provide improved instruction. The state boards of education of New Hampshire and Maine may formulate and adopt additional standards consistent with this purpose and with these standards; and the formation of any interstate school district and the adoption of its articles of agreement shall be subject to the approval of both state boards as set forth.

This compact does not compel either State to establish interstate school districts, interstate committees or even to hold interstate discussions, it only permits them if desired. Maine's commissioner of education, Eve Bither, stated it best when she wrote, "The intent of this legislation is to enable towns from both States to combine their resources and form school districts if such a combination should prove economically and educationally feasible."

One can envision many situations where the existence of this interstate compact could provide benefits to the educational community. For example, it could shorten travel time to and from school. A student who lives on a border town in Maine may have to travel for hours to get to a school within the State. But if a New Hampshire-Maine cross-border school district were created as a result of this compact, that student could have the option of attending school in New Hampshire where he or she might only have to travel a matter of minutes to get to school. This would save the student time, and the taxpayers money.

The States of New Hampshire and Vermont have formed an interstate school district between the cities of Hanover, NH and Norwich, VT. Dresden School District is a success story which has brought the communities together around the common goal of educating their children. This has opened up a dialogue between the two States and helped each State to provide quality education to their students. It is this sort of collaboration I hope to see between the States of New Hampshire and Maine. I already know of two towns that are anxious to establish such a relationship and are only waiting for the congressional action which will enable them to do so. The passage of H.R. 4841 by this body today will bring that day closer.

Mr. Speaker, someone once said, "Procrastination is opportunity's natural assassin." After 23 years we must no longer procrastinate. It is time to ratify the New Hampshire-Maine interstate school compact which will provide the citizens of our two States additional educational opportunities for their children. I ask for my colleagues' support of this important legislation.

Ms. SNOWE. Mr. Speaker, and Members of the House, I would like to express my strong support for the legislation before you that grants consent of the Congress to the Maine-New Hampshire interstate school compact. Such a compact will allow Maine and New Hampshire to explore the formation of an interstate school compact between neighboring towns in Maine and New Hampshire.

Currently the town of Acton, ME, tuitions its secondary students to the Wells-Ogunquit Community School District, but the distance between these two towns has led to long hours of travel, high transportation costs, and difficulty for students to take part in extracurricular activities.

As a result of these concerns and others, Acton has participated with the surrounding districts, including towns in New Hampshire, to explore options for the education of their secondary students. By providing congressional ratification of the interstate school compact, Maine and New Hampshire will have an additional, and very promising, option to evaluate in this respect. I kindly request your support for this legislation, H.R. 4841, which enables Maine and New Hampshire to choose from the best educational options available.

Mr. GEKAS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. FRANK of Massachusetts. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4841, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and pass the bill, H.R. 4841.

The question was taken; and—two-thirds having voted in favor thereof—the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 2110

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968 EXTENSION

Mr. HUGHES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5716) to extend for 2 years the authorizations of appropriations for certain programs under title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended.

The Clerk read as follows:

H.R. 5716

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF PROGRAMS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by redesignating the last three paragraphs sequentially as paragraphs (7), (8), and (9);

(2) in paragraph (1)—

(A) by striking "each of the";

(B) by striking "years 1989, 1990, 1991, and 1992"; and

(C) by inserting after "fiscal" the following: "year 1992 and $33,000,000 for each of the fiscal years 1993 and 1994";

(3) in paragraph (2)—

(A) by striking "for each of the fiscal years 1989," and all that follows through "1990, 1991, and 1992"; and

(B) by inserting after "$30,000,000" the following: "for fiscal year 1992 and $33,000,000 for each of the fiscal years 1993 and 1994";

(4) in paragraph (3)—

(A) by striking "$25,500,000" and all that follows through "M, and N"; and

(B) by inserting in lieu thereof "such sums as may be necessary for fiscal year 1992 and $28,000,000 for each of the fiscal years 1993 and 1994 to carry out the remaining functions of the Office of Justice Programs and the Bureau of Justice Assistance other than functions under parts D, E, F, G, L, M, N, and O";

(5) in paragraph (5)—

(A) by striking "$900,000,000" and all that follows through "parts D and E of this title."; and

(B) by inserting in lieu thereof "such sums as may be necessary for fiscal year 1992 and $1,000,000,000 for each of the fiscal years 1993 and 1994 to carry out the programs under parts D and E (other than chapter B of subpart 2 of part E) of this title.";

(6) in paragraph (6)—

(A) by striking "$220,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992"; and

(B) by inserting in lieu thereof "such sums as may be necessary for fiscal year 1992, $245,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994";

(7) in paragraph (7), as redesignated—

(A) by striking "1991, 1992, and 1993"; and

(B) by inserting in lieu thereof "1992, 1993, and 1994"; (8) in paragraph

(8), as redesignated—

(A) by striking "$15,000,000" and all that follows through "part M of this title"; and

(B) by inserting in lieu thereof "such sums as may be necessary for fiscal year 1992,

$16,500,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994'';

(9) in paragraph (9), as redesignated—

(A) by striking ''$20,000,000'' and all that follows through ''fiscal years 1992 and 1993,''; and

(B) by inserting in lieu thereof ''such sums as may be necessary for fiscal year 1992, $22,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994'';

(C) by striking ''such parts'' in subsection (c) and inserting ''such part''.

The SPEAKER pro tempore (Mr. HUBBARD). Pursuant to the rule, the gentleman from New Jersey [Mr. HUGHES] will be recognized for 20 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. HUGHES].

Mr. HUGHES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 5716 is a straightforward reauthorization of programs under the Justice Assistance Act that provide Federal support to State and local law enforcement and antidrug efforts. These programs include the Edward Byrne Memorial State and Local Law Enforcement Assistance Program, which last year provided approximately $500 million in formula and discretionary grants to State and local law enforcement. They also include correctional options grants, the Public Safety Officers Benefits Program, rural drug enforcement grants, grants for closed-circuit televising of child abuse victims' testimony, and other essential programs. These programs are administered by three agencies within the Department of Justice: The Bureau of Justice Assistance, the Bureau of Justice Statistics, and the National Institute of Justice.

H.R. 5716 reauthorizes the programs and offices under the Justice Assistance Act, first established in 1984, and then reauthorized in 1988, that are due to expire at the end of fiscal year 1992. The bill makes no substantive changes in the content or nature of any of these programs. The authorizations are merely extended for 2 years at levels representative of a 10-percent increase over the levels authorized in 1988. This increase reflects an estimated inflation rate of 5 percent per year.

It is important that the authorizations for these essential programs not be allowed to lapse. This bill was reported by the Subcommittee on Crime and Criminal Justice and the Committee on the Judiciary by voice vote with bipartisan support. I urge my colleagues to support this bill.

Mr. Speaker, I want to commend our distinguished colleague, the gentleman from New York [Mr. SCHUMER], chairman of the Subcommittee on Crime and Criminal Justice, who could not be with us this evening. It is his legislation. I congratulate him on a very fine initiative. It is a good bill. I support it.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to H.R. 5716. This bill, in my opinion, represents one of the reasons why we have a $4 trillion national debt and a $400 billion Federal budget deficit projected for the current fiscal year.

I do so with a heavy heart because of my high respect for the gentleman from New Jersey [Mr. HUGHES] and my subcommittee chairman, the gentleman from New York [Mr. SCHUMER].

However, I am afraid that the authorizing subcommittee, in putting together this legislation, has really not looked into what this Congress, itself, found out about the mismanagement of the OJP programs.

Toward the end of the last Congress, a subcommittee of the Committee on Government Operations, headed by the gentleman from West Virginia [Mr. WISE] issued House Report 101–679, which inquired into programs administered by the Bureau of Justice Assistance. Questionnaire results demonstrate communications breakdown.

Because the legislation before us tonight does not change the OJP programs in any substantive manner, if this bill is passed what this Congress will be doing is merely pouring more money down programs which the investigative committee, the Committee on Government Operations, has found are solely lacking.

Now I would like to look at some of the conclusions that have been reached by the Committee on Government Operations in House Report 101–679.

First, the subcommittee found that generally the OJP, BJA programs have been plagued by a lack of follow-through and evaluation. There has been little or no objective analysis of the effectiveness of these programs and its use of taxpayers moneys which are shared with State and local government.

Consequently, I would ask are we the taxpayers getting what we are spending for?

Second, in recent years, congressional investigations revealed disturbing waste, inefficiencies, and delay as well as disparities between small and large police departments on how much Federal assistance they have received.

The House committee wrote State and local law enforcement officials across the Nation in an effort to collect data on the extent of their knowledge about the various programs administered by the Department of Justice Bureau of Justice Assistance. The committee noted that less than one-half of the respondents had any knowledge of direct grants for equipment purchase, individual officer grants, sting operations, administrative training, public education and criminal awareness programs, laboratory and forensic training, et cetera.

The committee noted there is very little participation in any of the programs.

The committee noted a stark, if not paradoxical, contrast: 30 of the 37 respondents felt that despite the potential benefit of applying for discretionary program funds, there was no point in making application.

The top reasons cited for not making application were, first, most of the funds had already been earmarked prior to the competitive bidding; second, there was an inadequate time period in which to obtain the application, compile the information necessary to complete it and submit it to the Justice Department prior to the deadline, and, third, because of the complications involved in compiling a multi-jurisdictional application, there was an inadequate time frame within which to meet application deadlines.

Using the BJA phone number listed in a recent discretionary program announcement, the committee called to check on that year's program announcement. The first call was placed in early October, and the staff was told the book would be available at the end of that month. The staff tried again in late October, and it was told it would be available in mid-November.

In mid-November the staff was told, ''next week.'' Committee staff waited 5 weeks and checked again, only to be told that it would be available at the end of January.

Another check was made in mid-February of the following year, and it was found that the publication would be available sometime that month. I echo the concerns of others who are troubled to think that potential program applicants are receiving the same run-around.

The confusion that surrounded this process did not end there, however. Despite the fact that the announcement appeared in the Federal Register, prospective grantees still did not have the ability to make applications.

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Incredibly, operators at this 800 number, listed for obtaining applications and information about the discretionary program, provided no help for prospective applicants. When a committee staff called to obtain a copy of the application kit, the operator informed the staff that it was unavailable and that she ''did not know when it would be sent down.''

Since a prospective grantee could not make application without the kit and many programs contained therein had tight deadlines, still another obstacle was placed in the path of a potential applicant.

This was one of the issues the Subcommittee on Government Information, Justice, and Agriculture, of the Committee on Government Operations, Chairman WISE, wrote the Attorney General on February 14, 1990.

Chairman WISE wrote:

> I have heard numerous complaints from police agencies that claim they have not been given adequate notification in the past to make an application. This claim is substantiated by the fact that last year's program announcement was published just days before some of the application due dates. In fact, about 19 of the programs had deadlines within 30 days and 12 others within 60 days from the time the book was received. Because many of the programs are multi-agency or multi-jurisdictional in nature, one could assume that planning and coordination would be required to make an effective application. These time constraints would seem to make this a very difficult task.

That is the end of the quote from the letter of Chairman WISE to the Attorney General.

The lack of applications in the face of pending deadlines created considerable criticism across the country, much of which was directed at congressional offices.

It is also clear from this report that medium- and smaller-sized local law enforcement agencies need more assistance and/or attention than they are currently receiving from the Federal Government. Many of the respondents indicated a lack of knowledge about what is available out there.

The biggest problem is the lack of education or awareness about many of the programs offered to local law enforcement agencies by the Federal Government. Many small and rural departments suggested that they have never asked for or received information on law enforcement grants. Typically, it is such departments which are unaware of grants and other assistance programs which could potentially help cure small town problems. Many smaller jurisdictions hold that larger agencies have a distinct edge in gaining more Federal money and technical assistance.

While OJP and BGA now have made some improvements, I am not satisfied that the problems that I allude to and which were alluded to in the Wise subcommittee report that plagued the operation of that function.

Now, we in Congress are supposed to conduct an oversight function, and also we are supposed to act on that oversight function. The oversight function of these programs was adequately done by the Committee on Government Operations during the last Congress. They published their report.

And what did the authors of this bill do upon receiving this report and listening to the criticisms that I have referred to? Absolutely nothing but give these programs a 5-percent annual raise for the next 2 years.

Now, our job here in these times of $400 billion Federal budget deficits, as well as a $4 trillion national debt, is to insist that the taxpayers' dollars be spent in the most efficient manner possible. This bill gets an "F" in doing that.

It seems to me that rather than to give a 10-percent increase over a 2-year period, the programs which have been so thoroughly criticized by the Democratic majority on the Subcommittee on Government Operations, headed by the gentleman from West Virginia [Mr. WISE], we ought to forget about this bill. Let these programs lapse and in the next Congress come in and do the job right, because if we pass this bill as it stands now, we are just throwing more money down the drain that the Wise subcommittee has indicated is inefficiently run, does not spread the money all over the country where it is needed, and completely ignored the small and rural law enforcement agencies that probably could do a better job with this money than the larger departments with bigger budgets.

Mr. RANGEL. Mr. Speaker, I rise in support of H.R. 5716, to reauthorize certain control programs.

This bill extends the authorizations of appropriations for a number of antidrug and anticrime programs administered by the Office of Justice Programs [OJP] in the Department of Justice and three of OJP's component bureaus: the Bureau of Justice Assistance [BJA], the National Institute of Justice [NIJ] and the Bureau of Justice Statistics [BJS]. All of these activities will expire at the end of the current fiscal year.

H.R. 5716 authorizes a total of approximately $2.8 billion—about $1.4 billion a year—to continue these programs and offices for 2 years, through fiscal year 1994. The bill makes no substantive changes in the existing law. It merely extends current programs and authorities for 2 years at funding levels that are 10 percent over existing amounts, reflecting an increase for inflation of 5 percent annually.

As Chairman of the Select Committee on Narcotics Abuse and Control, I am especially pleased that H.R. 5716 reauthorizes the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs. These programs, named in honor of the courageous, young New York City policy officer who was assassinated while protecting a witness in a major drug crimes trial, are the mainstay of Federal support to State and local law enforcement. The Byrne Programs provide assistance in the form of block grants and discretionary grants to help State and local agencies across the spectrum of the criminal justice system—police, prosecutors, courts, and prisons—combat drugs and violent crime. The vast bulk of such crime is primarily the responsibility of State and local law enforcement. But the Edward Byrne Program recognizes that drugs and crime are not just State and local problems; they are national problems and national responsibilities, as well. It recognizes that reducing drug trafficking and violent crime, much of it related to the illicit narcotics trade, requires a national response including a strong partnership among Federal, State, and local criminal justice agencies. Although Federal fiscal restraints have made it impossible to fully fund the Byrne grants in recent years, nearly $1.9 billion has been provided to State and local law enforcement since the program's inception in 1987, an important contribution to antidrug and anticrime efforts. I am proud to have been one of the sponsors of the original legislation, enacted as part of the Anti-Drug Abuse Act of 1986, that established the State and local law enforcement grant program and the author of the 1988 amendment that renamed the program in honor of Edward Byrne. I strongly support its reauthorization of H.R. 5716.

H.R. 5716 also reauthorizes the correctional options grant program, first enacted by the Congress in the Crime Control Act of 1990. This program authorizes Justice to make grants to public and private agencies for services and programs that are alternatives to incarceration, including boot camps. I sponsored correctional alternatives legislation in 1989 and was pleased to support the efforts of my Select Committee colleague, BILL HUGHES of New Jersey, who, as chairman of the Judiciary Crime Subcommittee, fashioned the correctional options grant authorization incorporated in the 1990 crime measure. Here again, Congress' ability to fund this program has not lived up to the high expectations we set for ourselves back then. Nonetheless, this program demonstrates our understanding that incarceration is not a viable, long-term solution to drugs and crime. Yes, criminal behavior must be punished, but most young violators who are incarcerated will eventually return to society, and the majority of these individuals have serious drug or alcohol problems that have contributed significantly to their criminal activity. The correctional options grant program provides support for efforts to prepare these individuals—through treatment, job training, education, and rehabilitation—to reenter society with the skills they need to live productive, drug-free lives. Correctional alternatives programs are showing their ability to reduce recidivism and thus the enormous costs of prisons and incarceration. I strongly support the $245 million a year authorized in H.R. 5716 for the correctional options grant program.

In addition, H.R. 5716 includes annual authorizations of $33 million for BJS; $33 million for NIJ; $28 million for administration and management of OJP and BJA; $16.5 million to support the Regional Information Sharing System [RISS]; $25 million for grants for closed-circuit televising of child abuse victims' testimony; and $22 million for rural drug enforcement grants. All of these authorizations support worthwhile antidrug and anticrime activities that deserve Federal financial support.

I commend Chairman JACK BROOKS, Subcommittee Chairman CHARLES SCHUMER, and the Judiciary Committee for bringing this important authorization bill to the floor. I urge my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

Mr. HUGHES. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from New Jersey [Mr. HUGHES] that the House suspend the rules and pass the bill, H.R. 5716, as amended.

The question was taken.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

CUBAN DEMOCRACY ACT OF 1992

Mr. TORRICELLI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5323) to promote a peaceful transition to democracy in Cuba through the application of appropriate pressures on the Cuban Government and support for the Cuban people, as amended.

The Clerk read as follows:

H.R. 5323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cuban Democracy Act of 1992".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The government of Fidel Castro has demonstrated consistent disregard for internationally accepted standards of human rights and for democratic values. It restricts the Cuban people's exercise of freedom of speech, press, assembly, and other rights recognized by the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948. It has refused to admit into Cuba the representative of the United Nations Human Rights Commission appointed to investigate human rights violations on the island.

(2) The Cuban people have demonstrated their yearning for freedom and their increasing opposition to the Castro government by risking their lives in organizing independent, democratic activities on the island and by undertaking hazardous flights for freedom to the United States and other countries.

(3) The Castro government maintains a military-dominated economy that has decreased the well-being of the Cuban people in order to enable the government to engage in military interventions and subversive activities throughout the world and, especially, in the Western Hemisphere. These have included involvement in narcotics trafficking and support for the FMLN guerrillas in El Salvador.

(4) There is no sign that the Castro regime is prepared to make any significant concessions to democracy or to undertake any form of democratic opening. Efforts to suppress dissent through intimidation, imprisonment, and exile have accelerated since the political changes that have occurred in the former Soviet Union and Eastern Europe.

(5) Events in the former Soviet Union and Eastern Europe have dramatically reduced Cuba's external support and threaten Cuba's food and oil supplies.

(6) The fall of communism in the former Soviet Union and Eastern Europe, the now universal recognition in Latin America and the Caribbean that Cuba provides a failed model of government and development, and the evident inability of Cuba's economy to survive current trends, provide the United States and the international democratic community with an unprecedented opportunity to promote a peaceful transition to democracy in Cuba.

(7) However, Castro's intransigence increases the likelihood that there could be a collapse of the Cuban economy, social upheaval, or widespread suffering. The recently concluded Cuban Communist Party Congress has underscored Castro's unwillingness to respond positively to increasing pressures for reform either from within the party or without.

(8) The United States cooperated with its European and other allies to assist the difficult transitions from Communist regimes in Eastern Europe. Therefore, it is appropriate for those allies to cooperate with United States policy to promote a peaceful transition in Cuba.

SEC. 3. STATEMENT OF POLICY.

It should be the policy of the United States—

(1) to seek a peaceful transition to democracy and a resumption of economic growth in Cuba through the careful application of sanctions directed at the Castro government and support for the Cuban people;

(2) to seek the cooperation of other democratic countries in this policy;

(3) to make clear to other countries that, in determining its relations with them, the United States will take into account their willingness to cooperate in such a policy;

(4) to seek the speedy termination of any remaining military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from any of the independent states of the former Soviet Union;

(5) to continue vigorously to oppose the human rights violations of the Castro regime;

(6) to maintain sanctions on the Castro regime so long as it continues to refuse to move toward democratization and greater respect for human rights;

(7) to be prepared to reduce the sanctions in carefully calibrated ways in response to positive developments in Cuba;

(8) to encourage free and fair elections to determine Cuba's political future;

(9) to request the speedy termination of any military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from the government of any other country; and

(10) to initiate immediately the development of a comprehensive United States policy toward Cuba in a post-Castro era.

SEC. 4. INTERNATIONAL COOPERATION.

(a) CUBAN TRADING PARTNERS.—The President should encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of this Act.

(b) SANCTIONS AGAINST COUNTRIES ASSISTING CUBA.—

(1) SANCTIONS.—The President may apply the following sanctions to any country that provides assistance to Cuba:

(A) The government of such country shall not be eligible for assistance under the Foreign Assistance Act of 1961 or assistance or sales under the Arms Export Control Act.

(B) Such country shall not be eligible, under any program, for forgiveness or reduction of debt owed to the United States Government.

(2) DEFINITION OF ASSISTANCE.—For purposes of paragraph (1), the term "assistance to Cuba"—

(A) means assistance to or for the benefit of the Government of Cuba that is provided by grant, concessional sale, guaranty, or insurance, or by any other means on terms more favorable than that generally available in the applicable market, whether in the form of a loan, lease, credit, or otherwise, and such term includes subsidies for exports to Cuba and favorable tariff treatment of articles that are the growth, product, or manufacture of Cuba; and

(B) does not include—

(i) donations of food to nongovernmental organizations or individuals in Cuba, or

(ii) exports of medicines or medical supplies, instruments, or equipment that would be permitted under section 5(c) of this Act.

(3) APPLICABILITY OF SECTION.—This section, and any sanctions imposed pursuant to this section, shall cease to apply at such time as the President makes and reports to the Congress a determination under section 8(a).

SEC. 5. SUPPORT FOR THE CUBAN PEOPLE.

(a) PROVISIONS OF LAW AFFECTED.—The provisions of this section apply notwithstanding any other provision of law, including section 620(a) of the Foreign Assistance Act of 1961, and notwithstanding the exercise of authorities, before the enactment of this Act, under section 5(b) of the Trading With the Enemy Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979.

(b) DONATIONS OF FOOD.—Nothing in this or any other Act shall prohibit donations of food to nongovernmental organizations or individuals in Cuba.

(c) EXPORTS OF MEDICINES AND MEDICAL SUPPLIES.—Exports of medicines or medical supplies, instruments, or equipment to Cuba shall not be restricted—

(1) except to the extent such restrictions would be permitted under section 5(m) of the Export Administration Act of 1979 or section 203(b)(2) of the International Emergency Economic Powers Act;

(2) except in a case in which there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;

(3) except in a case in which there is a reasonable likelihood that the item to be exported will be reexported; and

(4) except in a case in which the item to be exported could be used in the production of any biotechnological product.

(d) REQUIREMENTS FOR CERTAIN EXPORTS.—

(1) ONSITE VERIFICATIONS.—(A) Subject to subparagraph (B), an export may be made under subsection (c) only if the President determines that the United States Government is able to verify, by onsite inspections and other appropriate means, that the exported item is to be used for the purposes for which it was intended and only for the use and benefit of the Cuban people.

(B) EXCEPTION.—Subparagraph (A) does not apply to donations to nongovernmental organizations in Cuba of medicines for humanitarian purposes.

(2) LICENSES.—Exports permitted under subsection (c) shall be made pursuant to specific licenses issued by the United States Government.

(e) TELECOMMUNICATIONS SERVICES AND FACILITIES.—

(1) TELECOMMUNICATIONS SERVICES.—Telecommunications services between the United States and Cuba shall be permitted.

(2) TELECOMMUNICATIONS FACILITIES.—Telecommunications facilities are authorized in such quantity and of such quality as may be necessary to provide efficient and adequate telecommunications services between the United States and Cuba.

(3) LICENSING OF PAYMENTS TO CUBA.—(A) The President may provide for the issuance of licenses for the full or partial payment to Cuba of amounts due Cuba as a result of the provision of telecommunications services authorized by this subsection, in a manner that is consistent with the public interest and the purposes of this Act, except that this paragraph shall not require any withdrawal from any account blocked pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(B) If only partial payments are made to Cuba under subparagraph (A), the amounts withheld from Cuba shall be deposited in an account in a banking institution in the United States. Such account shall be blocked in the same manner as any other account containing funds in which Cuba has any interest, pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(4) AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION.—Nothing in this subsection shall be construed to supersede the authority of the Federal Communications Commission.

(f) DIRECT MAIL DELIVERY TO CUBA.—The United States Postal Service shall take such actions as are necessary to provide direct mail service to and from Cuba, including, in the absence of common carrier service between the 2 countries, the use of charter service providers.

(g) ASSISTANCE TO SUPPORT DEMOCRACY IN CUBA.—The United States Government may provide assistance, through appropriate nongovernmental organizations, for the support of individuals and organizations to promote nonviolent democratic change in Cuba.

SEC. 6. SANCTIONS.

(a) PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.—

(1) PROHIBITION.—Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

(2) APPLICABILITY TO EXISTING CONTRACTS.—Paragraph (1) shall not affect any contract entered into before the date of the enactment of this Act.

(b) PROHIBITIONS ON VESSELS.—

(1) VESSELS ENGAGING IN TRADE.—Beginning on the 61st day after the date of the enactment of this Act, a vessel which enters a port or place in Cuba to engage in the trade of goods or services may not, within 180 days after departure from such port or place in Cuba, load or unload any freight at any place in the United States, except pursuant to a license issued by the Secretary of the Treasury.

(2) VESSELS CARRYING GOODS OR PASSENGERS TO OR FROM CUBA.—Except as specifically authorized by the Secretary of the Treasury, a vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has any interest may not enter a United States port. For purposes of this paragraph, the term "Cuban national" means a national of Cuba, as the term "national" is defined in section 515.302 of title 31, Code of Federal Regulations, as of August 1, 1992.

(3) INAPPLICABILITY OF SHIP STORES GENERAL LICENSE.—No commodities which may be exported under a general license described in section 771.9 of title 15, Code of Federal Regulations, as in effect on May 1, 1992, may be exported under a general license to any vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest.

(4) DEFINITIONS.—As used in this subsection—

(A) the term "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft; and

(B) the term "United States" includes the territories and possessions of the United States and the customs waters of the United States (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401)).

(c) RESTRICTIONS ON REMITTANCES TO CUBA.—The President shall establish strict limits on remittances to Cuba by United States persons for the purpose of financing the travel of Cubans to the United States, in order to ensure that such remittances reflect only the reasonable costs associated with such travel, and are not used by the Government of Cuba as a means of gaining access to United States currency.

(d) CLARIFICATION OF APPLICABILITY OF SANCTIONS.—The prohibitions contained in subsections (a), (b), and (c) shall not apply with respect to any activity otherwise permitted by section 5 or section 7 of this Act or any activity which may not be regulated or prohibited under section 5(b)(4) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)(4)).

SEC. 7. POLICY TOWARD A TRANSITIONAL CUBAN GOVERNMENT.

Food, medicine, and medical supplies for humanitarian purposes should be made available for Cuba under the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 if the President determines and certifies to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that the government in power in Cuba—

(1) has made a public commitment to hold free and fair elections for a new government within 6 months and is proceeding to implement that decision;

(2) has made a public commitment to respect, and is respecting, internationally recognized human rights and basic democratic freedoms; and

(3) is not providing weapons or funds to any group, in any other country, that seeks the violent overthrow of the government of that country.

SEC. 8. POLICY TOWARD A DEMOCRATIC CUBAN GOVERNMENT.

(a) WAIVER OF RESTRICTIONS.—The President may waive the requirements of section 6 if the President determines and reports to the Congress that the Government of Cuba—

(1) has held free and fair elections conducted under internationally recognized observers;

(2) has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections;

(3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(4) is moving toward establishing a free market economic system; and

(5) has committed itself to constitutional change that would ensure regular free and fair elections that meet the requirements of paragraph (2).

(b) POLICIES.—If the President makes a determination under subsection (a), the President shall take the following actions with respect to a Cuban Government elected pursuant to elections described in subsection (a):

(1) To encourage the admission or reentry of such government to international organizations and international financial institutions.

(2) To provide emergency relief during Cuba's transition to a viable economic system.

(3) To take steps to end the United States trade embargo of Cuba.

SEC. 9. EXISTING CLAIMS NOT AFFECTED.

Except as provided in section 5(a), nothing in this Act affects the provisions of section 620(a)(2) of the Foreign Assistance Act of 1961.

SEC. 10. ENFORCEMENT.

(a) ENFORCEMENT AUTHORITY.—The authority to enforce this Act shall be carried out by the Secretary of the Treasury. The Secretary of the Treasury shall exercise the authorities of the Trading With the Enemy Act in enforcing this Act. In carrying out this subsection, the Secretary of the Treasury shall take the necessary steps to ensure that activities permitted under section 5 are carried out for the purposes set forth in this Act and not for purposes of the accumulation by the Cuban Government of excessive amounts of United States currency or the accumulation of excessive profits by any person or entity.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this Act.

(c) PENALTIES UNDER THE TRADING WITH THE ENEMY ACT.—Section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16) is amended—

(1) by inserting "(a)" before "That whoever"; and

(2) by adding at the end the following:

"(b)(1) The Secretary of the Treasury may impose a civil penalty of not more than $50,000 on any person who violates any license, order, rule, or regulation issued under this Act.

"(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

"(3) The penalties provided under this subsection may not be imposed for—

"(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

"(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.

"(4) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

"(5) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code.".

(d) APPLICABILITY OF PENALTIES.—The penalties set forth in section 16 of the Trading With the Enemy Act shall apply to violations of this Act to the same extent as such penalties apply to violations under that Act.

(e) OFFICE OF FOREIGN ASSETS CONTROL.—The Department of the Treasury shall establish and maintain a branch of the Office of Foreign Assets Control in Miami, Florida, in order to strengthen the enforcement of this Act.

SEC. 11. DEFINITION.

As used in this Act, the term "United States person" means any United States citizen or alien admitted for permanent residence in the United States, and any corporation, partnership, or other organization organized under the laws of the United States.

SEC. 12. EFFECTIVE DATE.

This Act shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey [Mr. TORRICELLI] will be recognized for 20 minutes, and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

Mr. LAGOMARSINO. Mr. Speaker, I understand that the gentleman from New York [Mr. RANGEL] intends to claim the time. Inasmuch as he is opposed to this legislation and I am not, I believe he is entitled to do that.

The SPEAKER pro tempore. Is the gentleman from California [Mr. LAGOMARSINO] opposed to the bill?

Mr. LAGOMARSINO. No, Mr. Speaker. I support it.

The SPEAKER pro tempore. Is the gentleman from New York [Mr. RANGEL] opposed to the bill?

Mr. RANGEL. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from New York [Mr. RANGEL] will be recognized for 20 minutes in opposition to the bill.

The Chair now recognizes the gentleman from New Jersey [Mr. TORRICELLI].

Mr. TORRICELLI. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, there are those who believe that a bipartisan foreign policy is now beyond our country.

The legislation we offer tonight is proof that is wrong. The Cuban Democracy Act has been endorsed by President Bush. It is supported by Governor Clinton. It has the support of the Democratic and the Republican leadership of the Foreign Affairs Committee of this House.

Indeed, it is the product of years of work by Chairman FASCELL, the gentleman from California [Mr. LAGOMARSINO], the gentleman from Florida [Mr. SMITH], the gentlewoman from Florida [Ms. ROS-LEHTINEN], and indeed in many respects embodies the work of the late Claude Pepper who worked so long in this House.

Indeed, Mr. Chairman, this bill is the result of 2 years of effort by many Members of this House on both sides of the aisle. It is a review of American foreign policy towards Cuba that has been left largely unchanged in 30 years.

As a policy, it is built on three fundamental pillars. First, to extend the embargo on trade against Cuba, not only against products of American companies from within our shores, but to their foreign affiliates, a policy made critical because of the collapse of the Soviet Union. Castro's Cuba is now making up for that loss of trade by trading with foreign affiliates of American corporations. This would again make the embargo whole.

Second, it is built on the experience of the collapse of communism in Eastern Europe. Our experience has been that those regimes, no matter how tightly controlled, no matter how strong their military ultimately fell from the power of ideas.

So we are opening communications of mail and telephone so that people will know the truth.

Third, we are opening the eyes of Cuba to the future, what Cuba will be like after Castro, a trade agreement with America, foreign assistance, making clear that our argument is with Castro and not the Cuban people.

Mr. Speaker, it is a sad irony of history that with Communist regimes collapsing around the world, one of the last that remains is only 90 miles from our shores. We cannot ignore that a Cuba that remains under Castro is inherently unstable, the threat of strife, mass migration.

□ 2130

This is a review of policy, I believe a proper change in policy.

Mr. Speaker, I ask unanimous consent that at this point in the RECORD, President Bush's statement and Governor Clinton's statement appear.

THE WHITE HOUSE,
Washington, September 22, 1992.

Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: The first and foremost objective of my Administration's policy toward Cuba is to encourage a peaceful transition to a democratic government. The Cuban people deserve the freedom to choose their leaders, to speak out freely, and to join the rest of Latin America in a truly democratic hemisphere.

I want you to know that I strongly support passage of H.R. 5323, the "Cuban Democracy Act." This legislation embodies many of the measures my Administration has taken to bring about a peaceful democratic transition in Cuba. Last April we took steps to increase pressure on the Castro regime by strengthening the embargo, and we are working closely with our allies to deny the regime the benefits of foreign assistance.

Our policy and the Cuban Democracy Act are not designed to hurt the Cuban people. This legislation offers incentives to encourage a transition to representative democracy in Cuba. When Cuba carries out free and fair elections, respects the basic human rights of its citizens, and takes the steps necessary to ensure representative democracy, we will be able to take steps to end the embargo. This legislation also provides a plan for helping a free and democratic Cuba get a promising start by encouraging U.S. trade and investment.

Mr. Speaker, I believe this is an important bill. Just as the Cuban regime faces its most serious crisis, this legislation is a strong statement to Castro and the Cuban leadership that ours is a bipartisan policy that enjoys the full support of the people of the United States, the Congress, and the Administration.

Sincerely,
GEORGE BUSH.

GOVERNOR BILL CLINTON REAFFIRMS SUPPORT FOR CUBAN DEMOCRACY ACT

I want to reaffirm my support for the Cuban Democracy Act, which has been introduced by Senator Bob Graham and Congressman Robert Torricelli, and is now being debated in Congress.

Fidel Casto remains one of the world's most ruthless dictators, and the Cuban people are deprived of the most basic human rights. At a time when most of Latin America has joined the community of democratic nations, his regime stands as an island of tyranny.

The dissolution of the Soviet Union offers the United States an important opportunity to increase pressure on Castro. But now that Cuba no longer receives Soviet economic subsidies, foreign companies and subsidiaries of U.S. companies in third countries are beginning to bring hard currency to Cuba through new trade openings.

The Cuban Democracy Act addresses this important issue by tightening the economic embargo against Castro. At the same time, this legislation has the added benefit of opening new contacts with the Cuban people by authorizing telecommunications services, mail delivery, and by encouraging donations of food and medicine.

As I have said before, I support the Cuban Democracy Act. I hope the Senate and House will pass the legislation introduced by Senator Graham and Congressman Torricelli.

The SPEAKER pro tempore (Mr. HUBBARD). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. TORRICELLI. Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from New York [Mr. RANGEL].

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, very few people in this House have more respect for the gentleman from New Jersey [Mr. TORRICELLI] than I, but I cannot understand why this bill, admittedly a change in our foreign policy as it relates to Cuba, can find itself on the Consent Calendar.

Indeed, Mr. Speaker, it appears to me that this bill is not just a legislative initiative, but it is more of a political statement, and I think the gentleman really, when he mentions President Bush or Governor Clinton, we might take a look at this as not being concerned so much about the future of the people living in Cuba as it is an appeal to the Cuban Americans in Dade County.

If we really take a look at where we are today, we do find that the Comnmunist nations that have fallen apart have done so internally. It has not been done as a result of the United States providing sanctions against them.

And if we take a look at Cuba today, without oil, without industry, without a sugar cane market, driven to bicycles and to oxen, a serious shortage of medicine and food, and at a time when really Castro looks like he is against the ropes, instead of at this time showing what democracy can do by having a showcase, opening up our gates, showing what competition is all about, exchanging students, having cultural exchanges and letting those poor people know the difference between a broken-down Communist dictator and a democracy, what do we decide to do?

Mr. Speaker, we decide that we are going to punish companies and subsidiaries that provide food and medicine.

Oh, there are provisions there if Castro allows someone over there with an American patch to be in Cuba to say that the medicine is being used, but one thing is abundantly clear: 90 percent of the export to these companies from subsidiaries to Cuba is food and medicine.

Mr. Speaker, it would appear to me that, when Cuba falls and is ripe for democracy, that we should not give them an opportunity to say that the pain and the misery that caused the falling was Americans and has American fingerprints on it. How can we, who advocate so much about free trade, be the ones that are saying that we are going to restrict it? How do we talk to our friends in the Caribbean Basin Initiative where we give tax incentives and encourage American businesses to go there? They all are doing business with Cuba. Cuba is one of the sister nations in the hemisphere. Are we going to now have sanctions against subsidiaries that are in the Dominican Republic? That are in Costa Rica? That are in Panama?

And what about our other trading partners in Great Britain and in Canada? How do we explain to them that we are going to provide sanctions against them; and every time Americans moved forward with sanctions, we always did it with some moral authority, either coming from the OAS or the United Nations; but this time America is begging to stand alone. As Cuba falls, we are going to say that we have taken this sledgehammer to make certain that the patient is dead.

I say to my colleagues, don't do this for the poor people in Cuba, and certainly don't do it for the rich people in Dade County. If we're going to really talk about a new Cuba, should not we have to take and review the people who fled who were friends of Batista? What do we want for a new Cuba? Who is going to come back and reorganize Cuba? Should we not be concerned of one thing, that before Batista was forced to flee that you had a country there with people who were ill educated, that were poor, that were sick, that had no access to health care? Would we not agree that, as bad as things have been under the dictatorship for those who were forced to remain behind, that life did improve?

Mr. Speaker, this is the time to show them that when the dictatorship finally falls, that instead of having return of those who supported Batista, that we have a return of democracy as we know it, and our type of democracy is competition and challenging of the ideas, and I truly believe that this great Republic of ours can beat back a broken-down Castro by showing what America is all about rather than denying food, and clothing and medicine to the people in Cuba.

I do not see why we would want to change a foreign policy on the Consent Calendar. This is a controversial bill. I say to my colleagues, it doesn't really make any difference which side you're on. We got people ready now to invade Cuba. We have other people that are cutting up the land in Cuba. For God's sake, I hope that we would consider this and vote down this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. TORRICELLI. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I strongly support passage of H.R. 5323, the Cuba democracy Act of 1992. When the gentleman from New Jersey [Mr. TORRICELLI] became chairman of the Western Hemisphere Affairs Subcommittee, he placed the issue of Castro's tyranny at the top of his agenda. I want to commend him for this welcome change from the past when we heard excuses for Castro's excesses rather than concern about his outlaw regime. I also want to commend the gentleman from Florida [Mr. FASCELL], the gentlewoman from Florida [Ms. ROS-LEHTINEN], the gentleman from Florida [Mr. GOSS], and the gentleman from Michigan [Mr. BROOMFIELD].

H.R. 5323 is the product of many hearings, meetings, and markups over the last 2 years. Four committees of the House reviewed the legislation after its passage in the Foreign Affairs Committee. The other body has overwhelmingly passed legislation virtually identical to H.R. 5323. President Bush strongly supports the Cuba Democracy Act. Seldom has a piece of legislation been so long in the making, so thorough in its review and so bipartisan in the end product.

Our passage of this measure—and its enactment into law—will send a clear and unmistakable signal to one of the world's last Communist dictators: the U.S. Congress and the administration will not accommodate a tyrant and we will not compromise in our drive for freedom in the hemisphere. Recent announcements about the suspension of the Cienfuegos nuclear program and the withdrawal of Russian troops show that Castro is feeling the international and internal heat. There is no better time than now to increase pressure for peaceful change.

H.R. 5323 will tighten the embargo on Cuba but will also allow direct support of the Cuban people—in a manner that Castro cannot manipulate for his own ends. President Bush has already taken a number of the steps called for in H.R. 5323: increased shipping restrictions and easing of telephone and mail links. The legislation offers positive incentives for a post-Castro regime and makes clear that our differences are not with the long-suffering Cuban people but with Castro and his thugs.

I urge my colleagues to support freedom and vote for the Cuban Democracy Act of 1992.

Mr. RANGEL. Mr. Speaker, I yield 5 minutes to the gentleman from New York [Mr. SERRANO].

Mr. SERRANO. Mr. Speaker, I thank the gentleman from New York [Mr. RANGEL] for yielding this time to me. I want to echo his words, first of all, that I am deeply distressed at this kind of a bill, which is probably one of the more important bills we have had this session. It comes up at this time and in this fashion rather than for a full viewing before this House with amendments and all the other rules that would be allowed if it had been brought up differently.

There are some people tonight who will probably argue that all we are doing is going back to a former embargo, that we in fact had blockaded the Cubans in a certain way for years, and that we opened up in the middle or in the late 1970's to give them an opportunity to change their ways, and that in fact they did not change their ways, and so we are going back to the old ways. But you cannot tell that to the people of Cuba who have been embargoed and blockaded now for over 30 years, and you certainly cannot tell those of us who have been watching closely that there has been much of a change.

□ 2140

The change is that for over 30 years we have said you cannot function in a certain way because we will tell you how you will function and who you will deal with. That has not worked.

Why we actually think if we are going to discuss about a change in Cuba that this approach now, which was the old approach that did not work then, is going to work now because Castro is in a different situation, is totally ridiculous. It does not make any sense.

What I am concerned about is what effect we are going to have on the people that we are supposed to be helping. The very poor in Cuba, the people that are hurting, are the ones that are going to hurt more than ever.

Now we are looking toward a Cuba, according to this bill, that is free and independent and full of democracy after Castro. Well, I wonder just how much in the dark the people are living in Cuba, or if they get enough information to know that it is this Congress, this group of people, and many people throughout this country, who are participating in bringing upon them more misery than they can ever imagine. Because we cannot kid ourselves. What we are doing here tonight and tomorrow is setting forth the mechanism to strangle the Cuban people, in the hope that by being strangled and by reaching a point of starvation they will rise up against their government.

They have not done it for 30 years, but now we are going to strangle them to the point where they will rise up. Yet everything we see on TV about other countries indicates to me, and it should indicate to everyone here, that when people are really, really hurting and hungry they are so busy looking for something to eat that the furthest thing from their mind is overthrowing any government. We can see that throughout the world.

But there are some people in this country who would like the change to come quickly, as the gentleman from New York [Mr. RANGEL] has said, because they have vested interests. The question is should those vested interests be the interests of a Congress, of a nation, of a foreign policy.

Certainly at 20 minutes to 10 it should not be a decision to be made that we are going to strangle people. The gentleman clearly states that over 90 percent of the trade that is going on now concerns food and medicine. Again people will get up tonight and say no, but we allow food and medicine; we just do not allow those people to trade with them who will provide them the food and medicine. We will then allow our Post Office to work in a different way, the mail service, the telephone, and that will be the change in ideas that will bring about democracy.

I must have been on another planet. It was not the 40 years of staring the Russians down that brought change. It was when they decided and when we allowed to open up that the people began to see things over there that we had over here which they started to demand from their government.

As long as we keep people isolated, as long as you keep people enclosed, as long as you keep the truth from people, you are as guilty, we are as guilty, as the person who supposedly is bringing upon them all this harm.

The Cuban people, interestingly enough, throughout these years have never stopped liking the American people. They have a problem with the American Government but they do not dislike the American people.

I wonder how wise it is for us now, at this time when they are hurting, like the gentleman from New York [Mr. RANGEL] has stated, to the point where they are driving bicycles, how they are going to feel about the fact that in the name of democracy and freedom we are finally going to bring hunger to an island that has been accused of a lot of things, but not hunger, in the last 20 years. Now we are going to bring hunger. Now we are going to stop medicine from coming in. Now we are going to stop people from being able to live a meager existence. We are then going to look forward, and this should be a concern for our policy makers, we are going to look forward to a point where they will then open their arms to us and say "Thank you for saving us."

This is wrong, and I hope we would all get together and defeat this bill.

Mr. TORRICELLI. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs, and indeed a voice that has been a leader in trying to being change to the imprisoned island of Cuba through all these years.

Mr. FASCELL. Mr. Speaker, I rise in support of the motion and urge my colleagues to vote for the Cuban Democracy Act.

The legislation before you represents a great deal of effort by the gentleman from New Jersey. It is a tribute to his tenacity and skill that we have this bill before us, a bill which was considered in great detail by the Foreign Affairs Committee but which also was reviewed and cleared for floor action by four other committees. Not only has the gentleman from New Jersey navigated an obstacle strewn course here in Congress but he has been able to gain for this bill the full support of both President Bush and Governor Clinton.

I also want to express my appreciation to all the other Members and staff who put in long hours of work on this bill. We likewise are indebted to those in the administration who worked with the committee in shaping this bill. Finally I want to commend the public at large, and particularly the Cuban-American community in Florida and throughout the Nation, for the part they played. The Cuban-American community has provided the inspiration and commitment which have energized those of us in public life to reach out to try and help the beleaguered citizens of Cuba achieve democracy. Members of the Cuban-American community and indeed many Americans both testified and wrote to us about this bill. Much of the helpful advice we received was incorporated in the bill before us. Like most complex legislation the bill before us represents compromises; it is not a perfect bill but it is a bill in which the Congress can look at with pride.

Mr. Speaker, it seems almost incomprehensible to me that for more than 30 years I have been speaking out in this Chamber against the brutal dictatorship of Fidel Castro. So much has changed in the world since Castro came to power. I myself faced the electorate in 16 general elections. Men have been to the Moon. Japan and Germany have emerged as major economic powers. The Soviet Communist empire has collapsed. The concepts of respect for individual human rights, the value of democratic government, and the importance of free market economies are accepted as never before all around the world.

Yet while the world was changing the people of a country on our own doorstep and its citizens, the brave people of Cuba, have been prevented from enjoying the benefits of the expansion of freedom and increased economic opportunity from much of the progress made in the world during the last third of a century. Cuba, a country rich in both its culture and in its economic promise, is being slowly returned to the Middle Ages through the stubborn and evil will of one man and the system of brutality he has shaped to control his country.

Fidel Castro has steadfastly refused to learn any of the lessons learned by leaders and peoples throughout the globe. He has clung to a set of theories about human nature that have been rejected in every corner of the world. He remains wedded to the outdated and mistaken slogans of his youth. His ideological delusions are compounded by his blind hatred for this country whose Government and people cheered the revolution that he ultimately betrayed.

The bill before us today seeks to hasten the day when Castro's grip is lifted from the neck of the Cuban people. That day can not come soon enough. The bill seeks to speed the transition to democracy, first by clarifying current U.S. policy, and second by setting forth a framework for what the United States is prepared to do if efforts are taken in Cuba to establish a democratic government. In that portion of the bill which would apply to Cuba today, the bill strengthens and expands the current economic embargo. But the bill also creates some flexibility in the embargo for food and medicine and expanded personal contact to signal unmistakably to the Cuban people that our quarrel is with their dictator, not with them.

There are those who have argued in good faith that our policy toward Castro has been too hostile, that we need to be more forthcoming, that we should take the first step. Well, I have supported such steps from time to time. Some have been made public and some have not. But every time we have tried a unilateral positive approach to seek peaceful progress in Cuba we have been rudely rebuffed by Castro. Other nations have tried and time and time again the answer is a total and unequivocal no. Only last month when hurricane Andrew decimated Miami and knocked out telephone links which allow families to talk to relatives in Cuba, Castro refused to let alternative links be established so Floridians could let their families know they were safe.

Let there be no mistake about the kind of man Fidel Castro really is. His dictatorship has murdered thousands in Cuba, forced millions—millions—into exile. He has trampled religion, crushed unions and sought to brainwash generations of children. His is a regime based on hate and fear.

From time to time I have heard the argument made that Castro has done some good things in areas such as healthcare or education that have resulted in expanded access by the Cuban people to important social services. No doubt some indices reflect improvement from 1959. Batista's Cuba was badly in need of drastic reform. In the time it has taken to bankrupt Cuba and when whatever small gains which might have been made are in danger of being lost, other countries have made monumental strides. The United States in 1959 had just begun to wrestle with racism and had not even begun to reconsider the role of women. In both vital areas of social progress we have made great progress and our efforts have set in motion worldwide struggles for equality benefiting women and minorities everywhere.

Just think for a moment what Cuba might be like today if Castro had lived up to his promises of democracy and individual liberty. Cuba would be a wealthy nation whose people undoubtedly would have benefited not only from the vast economic progress and

expansion of trade in the rest of the world but from the example of racial and social progress next door in the United States. Cuba might already be with Canada a full trade partner of the United States. It almost certainly would be a fourth member of NAFTA. But most importantly the people of Cuba would have been free, basking in a legacy of respect for law and freedom of expression. This view of what might have been is not delusion; one need only look at what the Cubans in Miami have achieved to know what might have been and what will someday be for all the people of Cuba.

Hasten the transition of Cuba to democracy, vote for H.R. 5323.

Mr. Speaker, at this point I would like to include in the Record copies of correspondence regarding H.R. 5323 between the Committee on Foreign Affairs and the following committees to which the bill was referred: Ways and Means, Energy and Commerce, and Post Office and Civil Service.

Congress of the United States,
Committee on Foreign Affairs, House of Representatives,
Washington, DC, July 29, 1992.

Hon. John Dingell,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

Dear Mr. Chairman: I am writing regarding H.R. 5323, the Cuban Democracy Act of 1992, which was jointly referred to the Committee on Energy and Commerce on June 4, 1992. As you may know, the Committee on Foreign Affairs reported this legislation on June 25, 1992 (House Report 102-615, Part I).

In order to expedite the consideration of this legislation by the House, I would request that the Committee on Energy and Commerce forego consideration of H.R. 5323 without prejudice to the committee's jurisdiction.

Your cooperation in his matter would be greatly appreciated.

With best wishes, I am,

Sincerely yours,

Dante B. Fascell,
Chairman.

House of Representatives,
Committee on Energy and Commerce,
Washington, DC, September 18, 1992.

Hon. Dante B. Fascell,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC.

Dear Mr. Chairman: I have received your letter dated July 29, 1992, with respect to H.R. 5323, the Cuban Democracy Act of 1992.

I have discussed the contents of your letter with Mr. Markey, Chairman of the Telecommunications and Finance Subcommittee, as well as with Mr. Lent, Ranking Member of the Committee, and Mr. Rinaldo, Ranking Member of the Subcommittee.

One of the provisions of the bill, relating to the authorities of the Federal Communications Commission (FCC), appears to be drafted in a manner that could be misinterpreted to be a limitation on the Commission's authority, rather than a preservation of Commission authority. The Committee staff has discussed this problem with the staff of the Committee on Foreign Affairs and has suggested an amendment to clarify that this provision is not intended to limit the existing authorities of the FCC. A copy of this proposed amendment is enclosed. It is my understanding that you would not object to clarifying this provision in the statutory text. It is my hope that this could be accomplished expeditiously when the full House considers the legislation. Subject to your agreement to this suggestion, our Committee will not object to being discharged from further consideration of the bill. This agreement does not constitute a waiver of our jurisdiction.

I trust that this letter is responsive to your request. I look forward to your reply. If I can be of further assistance, please do not hesitate to contact me.

With every good wish,

Sincerely,

John D. Dingell,
Chairman.

Congress of the United States,
Committee on Foreign Affairs,
Washington, DC, September 22, 1992.

Hon. John Dingell,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

Dear Mr. Chairman: I am writing with respect to your letter of September 18, 1992 regarding H.R. 5323, the Cuban Democracy Act of 1992.

It is my understanding that the original provision of H.R. 5323 regarding the Federal Communications Commission was not intended to limit the existing authorities of the FCC. Therefore, the Committee intends to incorporate your proposed amendment to that section in the version of the bill that will be considered by the House.

I am pleased that we have been able to reach agreement on this issue and that the Committee on Energy and Commerce will waive consideration of this legislation without prejudice to the jurisdiction of the Committee. I have requested that this legislation be scheduled for Floor consideration under suspension of the rules during the week of September 21, 1992.

With best wishes, I am,

Sincerely yours,

Dante B. Fascell,
Chairman.

Congress of the United States,
Committee on Foreign Affairs,
Washington, DC, July 20, 1992.

Hon. William Clay,
Chairman, Committee on Post Office and Civil Service, Cannon House Office Building, Washington, DC.

Dear Mr. Chairman: I am writing regarding H.R. 5323, the Cuban Democracy Act of 1992, which was jointly referred to the Committee on Post Office and Civil Service on June 4, 1992. As you may know, the Committee on Foreign Affairs reported this legislation on June 25, 1992 (House Report 102-615, Part I).

In order to expedite the consideration of this legislation by the House, I would request that the Committee on Post Office and Civil Service forego consideration of H.R. 5323 without prejudice to the committee's jurisdiction.

Your cooperation in this matter would be greatly appreciated.

With best wishes, I am,

Sincerely yours,

Dante B. Fascell,
Chairman.

House of Representatives, Committee on Post Office and Civil Service,
Washington, DC, July 23, 1992.

Hon. Dante B. Fascell,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC

Dear Mr. Chairman: In response to your letter of July 20, 1992, I am pleased to advise you that this Committee is willing to waive consideration, without prejudice to its jurisdiction, of H.R. 5323 (Cuban Democracy Act of 1992), which has been jointly referred to our Committees. I have no objection to your requesting the House to consider this matter.

With kind regards.

Sincerely,

William L. Clay,
Chairman.

Congress of the United States,
Committee on Foreign Affairs,
House of Representatives,
Washington, DC, September 15, 1992.

Hon. Dan Rostenkowski,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC

Dear Danny: I am writing with respect to H.R. 5323, the Cuban Democracy Act of 1992.

I have greatly appreciated your willingness to be of assistance in securing action on this bill by the Committee on Ways and Means. However, in view of the extremely short time that now remains, I have come to the conclusion that it would be better to proceed directly to the floor with the bill.

I have consulted with the Parliamentarian and, on the basis of his advice, intend to take the bill to the floor under suspension of the rules with the provisions within the jurisdiction of your committee deleted. These provisions include the following:

Page 5, lines 14–16.
Page 6, lines 16–18.
Page 11, line 24, through page 12, line 17.
Page 16, lines 19–20.

I take this action in part because, in seeking to negotiate time agreements in the Senate, it has already proven necessary to remove most of these provisions from the Senate version of the bill. Because of the time constraints, we are of course seeking to pass identical versions in each House.

Accordingly, I would no longer seek action by the Committee on Ways and Means on this bill.

Again, thank you very much for your cooperation.

Sincerely,

Robert G. Torricelli,
Chairman.

U.S. House of Representatives,
Committee on Ways and Means,
Washington, DC, September 16, 1992.

Hon. Robert G. Torricelli,
Chairman, Subcommittees on Western Hemisphere Affairs, Committee on Foreign Office Building, Washington, DC

Dear Bob: This is in response to your letter of September 15 and our conversation yesterday afternoon relative to H.R. 5323, the Cuban Democracy Act of 1992. In your letter, you request my concurrence in your proceeding to the suspension calendar with H.R. 5323 with the assurance that all provisions of the bill that fall within the jurisdiction of the Committee on Ways and Means would be deleted. Specifically, you indicated that the following provisions would be deleted from the bill prior to its being placed on the suspension calender:

Page 5, lines 14–16.
Page 6, lines 16–18.
Page 11, line 24, through page 12, line 17.
Page 16, lines 19–20.

I fully recognize your desire to expedite consideration of H.R. 5323 by the House, and understand that the Leadership shares your position. Therefore, based on your assurances that all provisions of jurisdictional interest to the Ways and Means Committee will be deleted from the bill and with the understanding that there is no precedent or prejudice to the Ways and Means Committee, I am willing to support your request to the Speaker to have the bill placed on the suspension calendar. I would request that our exchange of letters be included in the Congressional Record when H.R. 5323 is before the House.

Sincerely,

DAN ROSTENKOWSKI,
Chairman.

Mr. RANGEL. Mr. Speaker, I yield 7 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise in opposition to this bill. First, I want to echo the comments of my colleague, the gentleman from New York [Mr. RANGEL]. This bill should not be on suspension. This bill is worthy of far more extensive debate than we will be able to give it this evening.

□ 2150

As do my colleagues, I want to see the end of Fidel Castro's oppressive control of Cuba, but I cannot vote for a measure that promises to destabilize the Cuban economy but, in fact, costs United States jobs and delivers an increased market share to European suppliers, thus not undermining Castro at all.

Overall, H.R. 5323 has some commendable sections. It broadens communications between the Cuban people and the United States. It encourages free and fair elections. I have supported funding for Radio Marti. I want to see increased communications. I want to see ideas bring the fall of this dictator. But it attempts to tighten the noose around Castro's economic neck, in the belief that he can be hung and the economy strangled when, it fact, the market share American subsidiaries provide to Cuba is so small it is easily filled by European and Asian producers. And the only people that will be hurt are Americans who work hard and who care a lot about their jobs.

Unfortunately, this bill seeks to punish Castro by punishing United States companies, United States products, and worst of all, United States jobs. People in my district are concerned. Unemployment in Connecticut is high. People fear losing their jobs. Scheduled layoffs are already great, and this bill will increase those estimates.

Mr. Speaker, under section 6 of this bill, United States companies that do business with Cuba through subsidiaries in other countries will be harshly penalized. The authors of the bill claim that this is right and good, that it will hurt Castro and help destabilize his regime. I and many of my colleagues beg to differ.

First, sanctions like this inevitably backfire against U.S. interests. Have we forgotten the 1980 grain embargo against the then Soviet Union, when we sacrificed market share on the altar of political expedience? Have the farmers in your district forgotten the lost orders that were immediately filled by other suppliers from other countries.

Passage of this bill will not stop Cuba from buying elevators. They will just buy European elevators or Asian elevators instead of Connecticut elevators.

Second, it is clear to most observers that the Castro regime is in its twilight. It will not be long before new leaders emerge in Cuba and open the doors to democracy. Where will U.S. companies be at that point in time? If this bill passes, they will not be part of the Cuban market and will have to start from ground zero to sell American goods and services. Without this legislation, they will be there in a modest way, ready to expand, ready to help other American companies into a free Cuba, ready to rebuild the bond between America and Cuba that is so important to both nations.

Third, this bill will force American companies to fire-sale assets and cut jobs. Current law allows our companies to trade with Cuba in nonstrategic goods, subject to strict OFAC licensing requirements. This policy protects our U.S. companies that compete with foreign companies in third-country trade of commodities. But it also protects our companies from being forced to break the law of host governments that require firms in their country to trade with Cuba.

Let us look for a moment at the commodities trading issue. The proposed amendment would have the unintended effect of disadvantaging United States companies, even where there is no potential effect on Cuba. Some examples illustrate these adverse effects.

Only one significant U.S.-owned trader, Cargill, remains in the world's sugar market. Foreign-based firms could easily fill any gap created by Cargill's exit from that market.

World sugar trade frequently involves string trades, buying and reselling of the same cargo. No United States-owned company could participate in this market or any other commodity market involving string trades for fear of Cuba's unexpected surfacing as part of the string.

London sugar futures are a critical hedging vehicle for world sugar trade. Because Cuban sugar is now deliverable on London futures, United States-owned traders could not stand in for delivery in that market.

In sum, the share United States-owned firms have of agricultural trade directly affecting Cuba is small enough to be handled by non-United States firms alone without harm to Cuba. Yet potential Cuban involvement is large enough to close off United States-owned firms from trading in a substantially larger market, if subsidiaries of United States firms are excluded from all trade with Cuba.

In other words, the impact on commodities traders is far greater than the share of the commodities trading market that absorbs American products. This bill goes far beyond what it appears to do on its surface. But under current law, this bill also protects companies from costly double jeopardy.

Some countries, like Canada, have enacted blocking laws that specifically forbid forcing subsidiaries of United States companies operating on their soil from honoring the United States ban on trade with Cuba. The penalties are 5 years in jail and $10,000 fine. Yet if the United States subsidiary obeys the Canadian blocking law, the United States parent companies will be in violation of the Trading With the Enemy Act and subject to penalties which also are harsh. Is this sound trading policy? Is this good for Cuba? Is this good for America?

Mr. Speaker, If we want to destablize Cuba's dictator, let us pass the first sections of this bill that have to do with expanding communications and supporting free elections. Let American influence permeate the Cuban economy. Let our salesmen, technicians, engineers infiltrate his business community, and let our companies compete in world markets so that when Castro is gone, United States corporations will be at the head of the line to sell food, machinery, medical equipment and everything else American into Cuba.

Mr. Speaker, let America and Cuba build their future together.

I urge my colleagues to oppose this bill.

Mr. TORRICELLI. Mr. Speaker, may I inquire as to the time remaining on each side.

The SPEAKER pro tempore (Mr. HUBBARD). The gentleman from New Jersey [Mr. TORRICELLI] has 11 minutes remaining, and the gentleman from New York [Mr. RANGEL] has 2 minutes remaining.

Mr. TORRICELLI. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida [Ms. ROS-LEHTINEN], who has been a real inspiration in composing this bill and bringing it forward to this day.

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentleman for yielding time to me. Without his help, this bill would not be before us here tonight. As the only Cuban-American elected to serve in this distinguished body, and at a time when some misguided voices are arguing for weakening the 30-year-old United States embargo on Castro's Cuba, I am pleased to see legislation before us which would strengthen certain aspects of Castro's isolation.

There has been much discussion on the particular provisions of this bill. The Committee on Foreign Affairs, on which I serve, has held extensive hearings on United States policy toward Cuba. The final product has the support of President Bush and has already passed the other body.

What I would like to do tonight is highlight why we need to increase pressure on Cuba. As Communist regimes throughout the world have fallen to popular opposition, Castro remains unparalleled in his determination to retain power, his repression of fundamental liberties and his disregard for basic decency.

Castro's Cuba is a land where poets are forced to eat their poetry by the secret police, where psychiatric hospitals are a tool of state repression, and where armed mobs are organized to harass and assault those who dare to support freedom. No place in our hemisphere is less free than Castro's Cuba. And no government in the world deserves strict and effective United States sanctions more than Fidel Castro's outlaw regime.

Some have argued that tightening the embargo on Castro would allow him to blame the United States for Cuba's economic woes. Nothing could be further from the truth. This is the view put out by Castro's propaganda machine, but I do not believe that the Cuban people will accept Castro's lies, when he tries to blame three decades of state-sponsored terror, human rights abuses, foreign military disasters, and economic ruin on the actions of the North American Yankees. The Cuban people are smart enough to know that the fundamental problem in Cuba is Castro's totalitarian regime—not United States support for a free and democratic Cuba.

We must all work together to help move us toward the day for which I have prayed since I was forced to flee Cuba in 1960: the day a democratic Cuban Government which respects human rights and provides opportunity for its citizens comes to power.

□ 2200

Mr. TORRICELLI. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Florida [Mr. SMITH], a former member of the Committee on Foreign Affairs who indeed has done as much as anyone in this institution to bring this legislation forward.

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I want to commend the gentleman from New Jersey for the way that he has taken up this important issue, and the way he has brought the bill to the floor with basically a bipartisan, including the administration, support base.

Members have heard a lot tonight about what the bill would or would not do. They have heard a lot about the history. They have not heard so much about the people. My colleague, the gentlewoman from Miami, FL, ILEANA ROS-LEHTINEN, has talked a little bit about it.

Over the years in this island nation of millions of decent people, thousands upon thousands have been put in jail year after year to maintain Castro in power. Do not ever get this wrong. Do not ever lose sight. When the first wave of emigration from Cuba came onto the shores of the United States, it was because they were being chased out of their own country; not people that supported Batista, people that supported Cuba were being chased out of their own country by a man who stole the revolution from the original people who conceived it.

Democracy did not flourish in Cuba when Castro took power, it does not flourish today, and until he is gone, there will be no democracy. That is what this bill is all about, restoring democracy to the Cuban people and to the state, the nation of Cuba.

Many Cubans have come here and done very well. They have mainstreamed in America. They have become an important part of the infrastructure of many States in the country, certainly our own in Florida, and certainly in south Florida. They are to be commended for that, not chastised.

Do they want to go back? Many of them do, because even today, and I would tell my dear friend, the gentleman from New York [Mr. RANGEL], those are not people who supported Batista. Some of these people are only 40 today. They were only six or seven when they came here.

They want to go back, because their country where they came from, where their ancestors came from, is right now in the hands of a Communist dictator who has given the people nothing but who has sucked every ounce of their pride, of their democracy, of their rights to the Government to himself and left them, as he said, riding donkey carts.

This bill provides for a method, balancing the people's need against our interest in getting rid of Castro, as is the interest of the Cuban people. That is what the bill does, plain and simple.

Medicine, food, they are exempt from the prohibitions in this bill. They will be allowed into Cuba. What will not be? Liquor, that they cannot buy anyway; elevators, which only go in tourist hotels where no Cubans go and no Cubans work, there is no electricity to run elevators and anything else where the Cubans live; air conditioning. Nobody will be able to send that to Cuba. The point is, nobody has air conditioning. Nobody could afford it anyway, if you are a Cuban.

Oh, yes, if you are a foreign company, certainly. Where does the money go when it is brought in? To Castro's pockets, to make him better for foreign currency.

Other items that will not be allowed, no Cubans can buy nor have the money to buy. This bill will not deprive Cubans of anything. Mail will be increased, telecommunications will be increased, and the hope that the Cuban people will have, that very shortly there will be the capability to see Castro fall. That is what this bill will provide.

The human rights section of the United Nations recently condemned Cuba for his jailing and his failure to provide human rights. In this bill we are substituting the "wait and see" policy that we have had for many years with a good carrot and stick approach.

Finally, let me just say this. Since 1975, we have had a policy which was changed to the way we want to change it back because we wanted to extend the hand of friendship to Mr. Castro. All he did in the 20 years intervening was bite it off. He never responded one iota to our offer of friendship when we gave the loophole to allow trade. He knew what it was about. He said no.

Now is the time to say yes to the people of Cuba, to say yes to the Cuban-Americans, and to say yes to democracy for people who cannot say yes for themselves. With this bill we will in fact make Cuba a place where democracy can flourish and shortly will be available in this hemisphere to people we care a great deal about.

Mr. TORRICELLI. Mr. Speaker, no member of our subcommittee has done more to help with this legislation than the gentleman from Florida [Mr. GOSS], and I yield such time as he may consume to the gentleman.

Mr. GOSS. Mr. Speaker, I rise in very strong support of this act.

The foreign affairs committee has worked hard to forge solid legislation based on a strong bipartisan commitment to democratic reform in Cuba. Many have been consulted—much has been deliberated—and good, persistent leadership at the full committee and subcommittee levels has paid off.

It is my firm belief that H.R. 5323 will provide a measurable boost for the men and women in Cuba who seek those basic freedoms we often take for granted: the freedom to say what they choose; the freedom to profit from the fruits of their labor; and the freedom to vote for the government of their choice.

Further, by closing several loopholes in the current embargo and offering immediate assistance to the people of Cuba in the event of democratic reforms, H.R. 5323 will attack Fidel Castro's already crumbling power base.

Mr. Speaker, I do harbor some concern that certain transition provisions contained in this legislation are not flexible enough—I believe that our experience in witnessing the collapse of dictatorships in Latin America and Eastern Europe illustrates that we probably will not have the luxury of going directly and immediately from a Castro regime to full democracy as we know it. Personally, I would like to see greater latitude given to the administration to waive sanctions imposed in this bill, to make food and medicine available, and to allow suspension of the Cuban Adjustment Act once there is a change of government in Cuba.

Despite this concern, I am well satisfied with the general provisions of H.R. 5323, especially those that apply while Fidel Castro remains in power. These decisive measures are urgently needed to prevent Castro from reforming Cuba's economy just enough to ensure political survival, while maintaining his stranglehold on the country. Without real Democratic reform, token economic changes are meaningless; we must not allow businesses to inadvertently assist Fidel Castro's continued repression of the Cuban people.

I urge my colleagues to recognize this great opportunity to make a positive difference in Cuba today and tomorrow and to support the Cuban Democracy Act.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I also would like to point out, in closing, that this business about embargo that now we have the President of the United States and the leader of the free world supporting, and Governor Clinton, who is maintaining some type of lead, he is supporting, it is strange why these voices were so silent when people were talking about strengthening the embargo against Haiti.

If the Members would listen to the President and the State Department, they would say that they do not want to violate international treaties. They would tell us they have no control over the Europeans pumping oil into Haiti, and here we have a president in exile, and we have a ruthless military government that is killing thousands of people in Haiti and we cannot enforce an embargo against them, but all of a sudden if it is a question now of having a constituency that is different from the Haitian constituency, we would say that the embargo works.

However, it violates every international trade agreement. That is one of the reasons why it is rejected by the Committee on Ways and Means, and I am telling the Members that if we have friends in the Caribbean, there is not a country in the Caribbean that supports something like this. I would like to see what is going to happen as we encourage and give economic and tax incentives to the Caribbeans who are doing business with Cuba, that now we are going to turn around and give sanctions against the very same people that we are trying so hard to help.

I say, as all of my colleagues in opposition have said, we have the utmost respect for differences of opinion and we know it is a very emotional issue. We do not doubt the sincerity of the proponents of this legislation, but I think everyone should agree that this legislation should not be on the Suspension Calendar.

Mr. TORRICELLI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, much of this debate has properly centered on all of our concerns that in our common desire to rid Cuba of Castro, the poor are not afflicted, but the real answer for ending the plight of the poor, desperate people of Cuba is simply this: Communism must end in Cuba, because it is communism that took a rich land that fed its people, provided opportunity for them, and turned them to bankruptcy and poverty and desperation.

Still, for all of our work, this action tonight is taken with regret. We would like to be opening doors, establishing friendship, giving assistance, but the idea that voluntarily Mr. Castro will bring change to Cuba is the ultimate triumph of hope over reality.

Mr. Speaker, at long last we must take Mr. Castro at his own word. In his words, "There will be no change. It is communism or death." Those are not the words of invitation, despite all of our good intentions. We must deal with the reality.

□ 2210

The gentlewoman from Connecticut [Mrs. JOHNSON] argues that what is proper here is to engage in trade because it costs jobs in Connecticut or New Jersey or California, but that argument is not against our bill, that is against the embargo. The elements of which she speaks cannot be traded now for the last 30 years. Indeed that argument could be used against trade with Iraq or Libya or North Korea, but we have those embargoes now. We have them for a reason. We, even if it means the loss of economic opportunity, will not take advantage of people's misery under Saddam Hussein or Fidel Castro. Our policy is one of values, and even if America must stand alone, we will not profit if it means that those profits are going to go to secure the military regimes or the tyranny of others.

That policy is continued here today. No, we have no intention to hurt the poor of any country, and that is why in this legislation we do not further restrict donations of food or medicines. For the first time we open them to make sure that there is an avenue.

Since we started drafting this legislation, the first donations of food in years started to flow to Castro. But indeed, it is true as the gentleman from New York [Mr. RANGEL] has pointed out, we do not allow their sales by the foreign affairs of American corporations. Why? Because the sale of those foods by our own estimates of our intelligence community is that 90 percent of those foods do not go to the people of Cuba, they go to hard currency stores where they are sold to foreigners, or given to the military, or the elite of the Communist Party.

Mr. Speaker, we have spent months, indeed more than a year drafting this legislation as a strategy to open all communications, as the gentleman from New York [Mr. RANGEL] suggested we should, so that people go to Cuba and spread ideas, and talk about democracy, and read newspapers, and take our phone calls, and understand what is happening in the world with the birth of democracy again. But at the same time, we are not blind to reality. We will not have sales of products go to Cuba so that the profits of those sales maintain a security apparatus that brings only tyranny.

There is a reason why this has bipartisan support, because it has logic. I thank my colleagues for their support, and I thank the administration and Governor Clinton for their support, and for what I believe has been a worthwhile debate tonight.

Mr. BURTON of Indiana. Mr. Speaker, this is the end-game for Fidel Castro. His time is up. Almost all of his dictator friends are dead, in jail, or disgraced.

This is not the time to relax the pressure on this Communist dinosaur; this ruthless viscious tyrant, who has rightfully earned the contempt of his people.

I rise in enthusiastic support of H.R. 5323, the Cuban Democracy Act, and I commend the gentleman from New Jersey [Mr. TORRICELLI] for his outstanding leadership in promoting this excellent legislation.

There have been some concerns raised about certain aspects of this bill which I would like to address.

It has been erroneously stated that this bill will affect American jobs. The increased sanctions apply for foreign subsidiaries of American companies. So only foreign jobs are affected. The AFL–CIO support H.R. 5323. I hardly think they would do so if it had any adverse affect on American labor.

Any companies signing contracts with Castro's Cuba have to know that there is a good chance the contracts will not be honored by a free Cuba.

The Coast Guard reports a tremendous increase in the number of people attempting to flee Cuba on rafts. The fact that so many people would risk their lives in this fashion—only one-third actually make it to Florida. The rest either die at sea, or are apprehended by Cuban authorities, tells us all we need to know about life in Cuba under Fidel Castro.

We owe it to the people of Cuba to do our best to help them end their 30-year nightmare. This bill goes a long way toward doing just that.

Mr. ALEXANDER. Mr. Speaker, like the majority of Americans, I believe that people have an inalienable right to choose their own form of government. Natural law decrees that they have a right to participate in free and open elections to select their representatives in government.

However, a belief in those principals and support for those rights is no justification for enacting unwise and unworkable policy into law. The bill which we are considering, H.R. 5323, despite its fine sounding name, is bad news. I urge that it be defeated and sent back to the drawingboard.

H.R. 5323 is bad news for American workers, businesses, and industries, and this Nation's international trade balance. Its potential for disrupting U.S. international trade relations is well established by the record of the trade embargo that has been in effect for more than 30 years. The bill's trade provisions could further damage Arkansas and other U.S. farmers. It would continue to deny freedom to our Framers to seal their farm products freely on the world market.

The best that can be said about H.R. 5323 is that it caters to a small segment of the U.S. population who are willing to sacrifice the broader interests of the Nation to achieve their own narrow, parochial goals.

My primary opposition to this bill is based on two facts. It continues an agricultural products export embargo that is unenforceable but costs American farmers and workers money and jobs. And, its section 6(a)(1) provision almost certainly will harm efforts of United States farmers to development new export markets and maintain existing ones in nations other than Cuba.

Effectively, section 6(a)(1) is an invitation to non-Cuban foreign buyers to cite Cuba as a participant in related trade transactions as a means of escaping from contractual agreements to purchase United States agricultural products when the buyer finds those agreements less attractive than other potential transactions. Clearly this provision has the power to rob U.S. farmers' foreign market share, particularly where string trades are involved.

This provision would damage U.S. competitiveness at a time when our farmers, businesses, and industries are already struggling in the international market arena.

And, certainly the provision will be viewed as an arrogant attempt to infringe on the sovereign rights of our trading partners.

I am sure other speakers will provide you with information on the broader problems this bill would create for American producers. Therefore, I will keep my comments focused on a narrow issue. Yes, I have a parochial interest. It is the ability of Arkansas farmers to export their produce, retain their existing export market share, and the ability of the U.S. economy to benefit from those sales.

H.R. 5323, in its present form, includes provisions which would increase the problems Arkansas and other States' farmers have in finding export sales for their goods. In recommending this bill, the Committee on Foreign Affairs ignored the findings of expert witnesses from whom it had received testimony. The committee also ignored the findings of the National Commission on Agriculture Trade and Export Policy.

Testimony received by the Committee on Foreign Affairs during 1989 joint subcommittee hearings on issues relating to trade embargoes illustrate the facts available to the committee at the time it recommended H.R. 5323.

In 1989 Thomas Kay was administrator for the Foreign Agricultural Service of the U.S. Department of Agriculture. Testifying before the joint hearings he referred to the ineffectiveness of U.S. agricultural embargoes in bringing about policy changes in other nations, and said:

> Export limitations on agricultural commodities have been employed by the United States half a dozen times over the last few decades. However, none of the export controls for foreign policy or national security purposes has appreciably reduced the total flow of agricultural imports to the target country.
>
> Among all the commodities traded internationally, agricultural products are perhaps the most difficult to embargo for foreign policy or national security purposes. Agricultural commodities are the most unlikely to be successfully denied to a nation having the means to buy them somewhere else.

During that same hearing series, Thomas Hughes, who then was Assistant Secretary of Commerce for Export Enforcement, testified about the near futility of attempting to enforce selective U.S. agricultural export embargoes. Mr. Hughes said:

> From an enforcement perspective, it is extremely difficult to detect and enforce against violations of agricultural embargoes. This is true for at least three reasons.
>
> First, given the enormous global market in agricultural products, it is extremely difficult to track U.S. agricultural shipments and ensure that they do not reach embargoed destinations. Second, the fact that U.S. agricultural products are essentially indistinguishable from agricultural goods from non-U.S. sources makes the tracking and control of any embargoed shipments all the more difficult. And, third, the possibility of other countries purchasing U.S. agricultural products and then shipping their own products on to the embargoed destination makes circumvention of the embargo a ready possibility.

Embargoes on exports of U.S. agricultural commodities do not, and never have, achieved the foreign policy goals for which they were instituted. Agricultural commodities are fungible.

In 1988, 1989, and this year I have urged that changes be made in Federal laws which are damaging the ability of our farmers to export their products. This testimony was given in hearings of the Committee on Foreign Affairs and its subcommittees.

Today, I am asking that this House oppose any bill containing new provisions aimed at picking the pockets of farmers.

That is what existing Federal laws do when they are used to embargo agricultural exports for any reason other than war or armed conflict. It is what would be done by any new law, such as that proposed in H.R. 5323, which would restrict or condition export of U.S. agricultural products for any reason other than war or armed conflict.

Such laws only hurt American farmers, and American workers whose paychecks come from processing, packaging, marketing and transporting U.S. farm products and U.S. taxpayers.

Why?

Other producing nations sell where the United States won't sell. Instead of the dollars going into American pockets, U.S. policies are putting money into the pockets of foreign farmers and other foreign workers. These policies and laws deprive the United States of crucial opportunities to dry up some of the red ink in the Nation's international trade balance.

In its 1986 report, the National Commission on Agricultural Trade and Export Policy recommended that:

> * * * the federal government guarantee, except in time of national emergency, an absolute freedom from embargoes on agricultural exports to any nation, and an assurance of sanctity of contract in respect to export sales suspended under extraordinary circumstances.

The Commission had been established in 1984. It was charged with advising both the Congress and the President on ways to expand farm exports in order to improve the U.S. position in world trade.

In the 100th, the 101st, and this Congress I have introduced bills to correct the problem created by current law and policy.

Agriculture is a major segment of the economy of the First Congressional District of Arkansas, which I have the privilege of representing. Arkansans produce more rice than any other State in the Nation. In fact, First District grows more rice than any State other than Arkansas. In addition, Arkansas also is a major producer of poultry, soybeans, wheat, cotton, and grain sorghum.

No one in this Congress needs to be told that this Nation's international trade balance is in deep red ink. Exports of U.S. farm products help keep this red ink from being deeper. Furthermore, according to the U.S. Department of Agriculture exports of U.S. agriculture products derived from the national production of those I have identified as being important in Arkansas constituted 42 percent of the total value of American agricultural exports in 1989.

Failure to sell United States agricultural products to Cuba hasn't pushed that nation toward democracy. But, it is estimated that between 1965 and 1986, the embargo cost the United States nearly $2 billion in lost export sales of corn, cotton, potatoes, rice, wheat, wheat flour, dry milk, and poultry. Of that amount, $235 million was lost by my home State of Arkansas.

These estimates were part of the results of a study jointly conducted by the Center for Business and Economic Research at Arkansas State University [ASU] and the School for Advanced International Studies at Johns Hopkins University. Dr. John Kaminarides of the ASU Center presented the conclusions of the study during 1989 hearings conducted by subcommittees of the Committee on Foreign Affairs.

That study also concluded that, during the period examined, the embargo cost 4,500 American jobs related to those commodities, 675 of them in Arkansas.

Another study, this one prepared by the National Corn Growers Association, dealt with the 1973 short-supply embargo on oilseed exports to all countries. According to that study, the embargo reduced U.S. farm income by roughly $50 million.

Conventional wisdom is that the 1980 grain embargo on the Soviet Union did not decrease U.S. farm income. The conclusion is based on the fact that the Federal Government instituted emergency programs to alleviate the impact on farmers. These cost American taxpayers roughly $2.2 billion.

For at least 26 years the value of U.S. agricultural exports climbed. A decade ago that trend reversed. Before any recovery began, the slide took these sales back down to the 1977 level. That recovery is uncertain. In 1990, the value of agricultural export sales dropped again.

In the last decade farmer after farmer was forced out of agriculture as real net farm income took a beating. Even in 1990, net real farm income was an echo of 1962.

The bill which I have introduced in this Congress, the third Congress it has been offered, would prevent the President from prohibiting or curtailing the export to any country of agricultural commodities produced in the United States unless that country is engaged in war or military hostilities against the United States. It would change existing law to protect American interests from unwise embargoes of agricultural exports.

The language of my bill is needed for some very basic reasons. The same reasons apply to any new proposals which would further damage U.S. agricultural export efforts.

American farmers are in serious trouble. They need the income from exports. The U.S. trade balance is deep in red ink. America needs the foreign exchange earned by exports. Competition for shares of sales generated by international market is more fierce than it has ever been. The United States simply cannot afford to close itself off from any market for agricultural products.

But, perhaps the most important reasons for eliminating agricultural trade embargoes and for not placing new restrictions on U.S. agricultural exports are based on common sense.

First, American farmers are the most productive in the world. But, they are not the only producers seeking export sales. When the United States follows an agricultural sales embargo policy, only American farmers are shut out of the international market. Only American farmers and American export workers are hurt. And, as I have already indicated, they can cost U.S. taxpayers billions of dollars.

Second, if agricultural exports did not threaten America's security when they were made to the former Soviet Union and are made today to the People's Republic of China, the largest suriving Communist nation, they wil not endanger it when Arkansas rice, soybeans, poultry, wheat, cotton, and grain sorghum are sold to the vastly smaller nation of Cuba.

The antiagricultural embargo principle has been endorsed by a diverse array of groups. In addition to the National Commission on Agricultural Trade and Export Policy, they include:

The Farm Bureau Federation in the congressional district I represent and in Arkansas;

The American Agriculture Movement;

Riceland Foods which is the world's largest grain cooperative;

The Arkansas State Senate; and

News media in and out of Arkansas.

In conclusion, U.S. embargoes of agricultural commodity sales do not achieve their foreign policy or national security objectives and are extremely difficult to enforce but cost Americans income, jobs, and tax dollars.

Arkansas, and other American, farmers need help. The Nation's international trade balance needs help. It is in the national interest that U.S. producers be freed to export American agricultural commodities wherever there is a market. Existing laws must be changed to achieve that goal. And, there should be no new laws enacted which would make such export sales more difficult.

Mr. BERMAN. Mr. Speaker, none of us wants to see Fidel Castro in power a moment longer. The totalitarian nature of the regime, the absence of democracy in Cuba, and the credible allegations of human rights violations suggest that the Cuban people would be well rid of him. However, I am not sure that this bill will accomplish his fall from power. While I intend to vote for this bill, I am quite simply not persuaded that this bill's provisions weaken the regime's grip on the economy or the government.

I will vote for this bill because its authors have partially addressed some concerns that I had with the bill as it was originally drafted. In its original form, section 10(c), establishing substantial new civil penalties under the Trading With the Enemy Act, would have significantly hampered the freedoms of Americans to travel abroad, to carry the message of democracy and individualism to captive peoples desperate for contact with Americans, and to learn about international events so as to participate meaningfully in the setting of our foreign policy, as is their democratic right. The reach of section 10(c) would far transcend our relations with Cuba. It would affect activities in relationship to any country embargoed under the Trading With the Enemy Act [TWEA]. I have long been concerned that, even without the new penalties provided by H.R. 5323, the penalties presently available under TWEA have been used by the administration to intimidate United States scholars, prohibit attendance by Americans at scholarly and professional conferences, prevent purchase of news wire feeds and broadcasts of events of public interest, and to prevent Americans from communicating with people in Cuba and in other countries. Since the new civil penalties provided by H.R. 5323 would allow imposition of penalties at the unilateral decision of an administrative enforcement agency, there is a heightened concern about the repetition of such abuses.

Not only is this quite unnecessary for our national security, and a violation of the rights of Americans, it is counter-productive of our foreign policy. Experience suggests that contact with Americans has hastened rather than hampered the process of democratization in the former Soviet bloc, and that isolation has allowed repressive regimes elsewhere to flourish.

As a partial response to my concerns, the authors of H.R. 5323 included compromise language, exempting some activities from the new penalties. Under this compromise language several important activities would be protected from the imposition of these civil penalties. While the export, import, or transmission of information or informational materials are absolutely exempt from all regulation and prohibition under section 5(b)(4) of the Trading With the Enemy Act, the Treasury department has attempted to restrict them nevertheless. The present provision would prohibit Treasury from using its new more easily imposed powers to further attempt to restrict these entirely legal activities. The present provision would also ensure that Treasury does not impose these new penalties for activities that do not correspond to its excessively narrow definitions of what constitutes news gathering or research. Educational, religious, and human rights activities would also be exempt from the new penalties and forfeiture powers simply because the Treasury Department ought not to be in the business of deciding when Americans should and should not engage in such activities. I trust that Treasury will follow the clear intent of this provision, and that it will not attempt to use these new powers against any such activities.

The bill's authors also agreed to reduce the fines that may be imposed from an original figure of $100,000 to $50,000, in order to reduce the chilling effect on protected activities, and included administrative due process protections to provide additional protections.

For these reasons, I am reluctantly supporting this legislation. Given the broad support it enjoyed in the House, I considered it the better course to seek to mitigate some of its worst features.

Mr. RAMSTAD. Mr. Speaker, while the Cuban Democracy Act is a well-intentioned measure, our colleagues should note the harmful effects it could have on foreign subsidiaries of United States companies.

In fact, the certain cost of this legislation for United States businesses and their ability to compete in the international marketplace largely outweighs the uncertain benefits of the impact it would have on the Cuban Government and its economy.

At this time of economic stagnation, our Government cannot afford to burden American businesses with restrictive laws that do little for the cause of promoting Cuban democracy and prevent them from carrying out their trade operations.

If the United States unilaterally prohibits foreign-owned subsidiaries of United States firms from trading with Cuba, the end result will be the loss of United States competitiveness. Our purpose should be to increase the economic hardship of Cuba in order to force as change in Government, not to increase the economic hardship for United States companies.

In addition, since many countries prohibit engaging in an embargo against Cuba, this legislation would make subsidiaries of United State companies choose between the laws of their host country and the laws of the United States.

For example, the Canadian Government's blocking law was designed to prevent the United States from applying a law like the Cuban Democracy Act. If a United States company's subsidiary in Canada refuses to trade with Cuba, it could face penalties of up to 5 years in jail and $10,000 in fines.

Under current United States law, foreign subsidiaries of United States companies are permitted to trade nonstrategic goods between Cuba and third-party countries only under the strict licensing requirements prescribed by the Office of Foreign Assets Control. This system has allowed the preservation of the delicate balance between U.S. competitiveness and astute foreign policy.

Furthermore, our Nation's Trading partners have stated their strong opposition to this type of measure, saying it would constitute a blatant violation of their right to control the actions of companies doing business within their borders. Their opposition and concerns are understandable. If one of our trading partners were to impose its will on businesses operating inside our borders, Members of this body would be outraged.

Given these facts, I believe that this well-intentioned, but dangerous measure will not bring an end to communism in Cuba. It will only penalize U.S. companies in the short- and long-term by giving other countries the opportunity to increase market share.

I urge my colleagues to vote against this measure today.

Mr. BEREUTER. Mr. Speaker, this Member must rise in reluctant opposition to the Cuban Democracy Act in its current form. I say that this Member's opposition is reluctant because I fully share the goal of increasing the pressure on the totalitarian regime of Fidel Castro. At a time in history when peoples around the world are casting off the chains of totalitarianism, it is entirely proper that this body should increase the pressure on the brutal junta that has ruled Cuba for more than three decades.

Yet this Member is compelled to oppose this legislation so long as it retains its provisions prohibiting trade with Cuba by foreign subsidiaries of United States firms. This provision, commonly known as the Mack amendment, is so cumbersome and unwieldy that implementation of this provision would be counterproductive to the goals of the legislation. It needlessly antagonizes our friends and allies while failing to halt the importation of goods into Cuba.

Under current law, foreign subsidiaries of American companies are able to license trade in nonstrategic goods between Cuba and third countries, subject to strict licensing requirements. This is the same sort of policy that we apply to North Korea and Vietnam. We do this not because we wish to encourage trade with Cuba; rather, this is permitted as a simple recognition of the complexity of the modern international marketplace.

Placing such limitations on foreign subsidiaries—in effect, seeking to make U.S trade restrictions as universal as possible—places the United State in a terribly awkward position. We would be dictating to foreign subsidiaries of U.S. firms, companies that operate wholly outside of the United States, how they must behave. Friends and allies such as Canada, the United Kingdom, and the European Community have repeatedly expressed their steadfast opposition to what they view as an infringement of their sovereignty. Indeed, Canada already has enacted blocking legislation that is designed to respond to the Mack amendment. In effect, we would be telling foreign subsidiaries of U.S. companies that they must violate the laws of their host country.

This Member would also alert his colleagues that the Mack amendment seriously undermines U.S. subsidiaries that engage in agricultural trade. The world agricultural market is dominated by something called the string trade. In a string trade, the same bulk commodity can be bought and resold by any number of firms, from many different countries. The Mack amendment would prevent United States-owned companies from participating in this market for fear that Cuba might unexpectedly appear somewhere along the string. Moreover, foreign firms could effectively force the United States out of the international market in many commodities simply by including Cuba in the string of potential destinations. Let me make this absolutely clear—adoption of the Mack provision misses the mark and will undermine our competitiveness globally.

Mr. Speaker, this Member is steadfastly opposed to the brutal regime that continues to oppress the people of Cuba. It is altogether proper that this body should promote peaceful democratic change in Cuba. But in promoting this laudable goal, we should not enact provisions that, in the words of Acting Secretary of State Eagleburger, "would place U.S.-owned, foreign based corporate subsidiaries in the untenable position of choosing to violate U.S. law or a host country's law. These firms should not be punished because of the catch 22 in this provision."

At a time when we should be seeking ways to make the United States more competitive in the global marketplace, by the passage of this legislation we are preparing to shoot ourselves in our collective foot. The Mack amendment is bad for American business, harmful to our relations with our closest political and economic allies, and will not bring us any closer to the goal of democracy for Cuba. This Member would urge a "no" vote on this legislation.

Mr. BROOMFIELD. Mr. Speaker, I am pleased to add my support to H.R. 5323, the Cuba Democracy Act of 1992. I commend Committee Chairman FASCELL, Subcommittee Chairman TORRICELLI, subcommittee ranking Republican LAGOMARSINO, and all the others who have worked long and hard to see this body take steps to increase the pressure on the Castro dictatorship.

H.R. 5323 is also the product of diligent work by President Bush and the State Department in forging compromise legislation that we can all support. No one can question the commitment of the President to fostering democratic change in Cuba. In recent weeks, we have seen Castro announce the end of the nuclear power plant construction and the withdrawal of the Russian troops. Neither of these events would have happened without the leadership of the President on continuing pressure on the Castro regime.

Passage of H.R. 5323 will show that the United States speaks with one voice against Castro's tyranny. Castro is the one remaining Communist dictator left in the Western Hemisphere. While no one claims that this legislation will immediately bring the democracy that the Cuban people so richly deserve, passage will let Castro know there will be no deals with the United States as long as he clings to power.

I believe H.R. 5323 will increase the pressure on Castro and his cronies, and will help bring about genuine democracy in Cuba. I urge my colleagues to support its passage.

Mr. GILMAN. Mr. Speaker, the Committee on Foreign Affairs has spent more than a year examining options for United States policy toward Cuba. We have heard from a vast range of individuals representing all conceivable views on the issue of United States-Cuban relations. Chairman FASCELL and Subcommittee Chairman TORRICELLI deserve special credit for the careful and comphensive work in bringing H.R. 5323 to the floor tonight. Congressman BROOMFIELD and Congressman LAGOMARSINO also deserve commendation for their work in fashioning this bipartisan compromise.

Some of my colleagues have expressed concern that this legislation will allow Castro to blame the United States for its economic woes. Some of my colleagues are concerned that this legislation will adversely impact American business of the prohibition on foreign subsidiary trading. These are legitimate and serious concerns.

However, I support passage of H.R. 5323 because I believe there are times when we need to place our concern over what is moral and what is right at the forefront. Sanctions on South Africa did allow some South Africans to blame their problems on the United States—but sanctions were still the right policy to pursue. Not honoring the Arab boycott of Israel may cost some American firms business—but it is the right policy to pursue.

Finally, I would like to point out that H.R. 5323 contains positive incentives to increase the flow of information to the Cuban people. Section (5)e authorizes increased telecommunications links and section 5(f) authorizes the establishment of direct mail service. I believe provisions are precisely the kind of opening that ultimately will eliminate the Castro tyranny.

I urge my colleagues to support passage of H.R. 5323.

Mr. SHAW. Mr. Speaker, I rise in support of H.R. 5323, whose passage would advance the day when democracy returns to Cuba. As we all know, democracy and free elections have been on hold in Castro's Cuba for over 30 years.

That knowledge hits especially close to home in south Florida, to which thousands of Cubans have fled from Communist repression that continues to this day. Many south Floridians have personal knowledge of the difficulties of life in Castro's Cuba, having left friends and relatives behind in their search for freedom.

Mr. Chairman, the freedoms we enjoy in the United States will never be experienced in Cuba as long as Fidel Castro remains in control. It has been our national policy for three decades to practice an economic embargo against the Castro government, while we have always expressed our support for the Cuban people. H.R. 5323 is consistent with those aims. By tightening the embargo wherever practical, we would increase the pressure on Castro and his bankrupt regime to step aside and permit real democratic change to come to Cuba.

With the collapse of international communism and its patron in the Soviet Union, Communist Cuba has been left increasingly isolated. Now is the time for action on our part, to make sure that those forces are realized in Cuba as well. By stepping up American and international pressure to propel Cuba toward democratic, political, and economic change, this bill makes a bold and necessary step forward. I am pleased to lend my support to this vital effort.

Mr. TORRICELLI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from New Jersey [Mr. TORRICELLI] that the House suspend the rules and pass the bill, H.R. 5323, as amended.

The question was taken.

Mr. RANGEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. TORRICELLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PRESCRIPTION DRUG USER FEE ACT OF 1992

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5952) to amend the Federal Food, Drug, and Cosmetic Act to authorize prescription drug application, establishment, and product fees, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5952

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, REFERENCE, AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Prescription Drug User Fee Act of 1992".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title, reference, and table of contents.
Sec. 2. Findings.
Sec. 3. Fees relating to drugs.
"Sec. 735. Definitions.
"Sec. 736. Authority to assess and use drug fees.".
Sec. 4. Annual reports.
Sec. 5. Sunset.
Sec. 6. Conforming amendments to chapter VII.
Sec. 7. General conforming amendments.
Sec. 8. Animal drug user fee study.

SEC. 2. FINDINGS.

The Congress finds that—

(1) prompt approval of safe and effective new drugs is critical to the improvement of the public health so that patients may enjoy the benefits provided by these therapies to treat and prevent illness and disease;

(2) the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for review of human drug applications; and

(3) the fees authorized by this Act will be dedicated toward expediting the review of human drug applications as set forth in the goals identified in the letters of September 14, 1992, from the Commissioner of Food and Drugs to the Chairman of the Energy and Commerce Committee of the House of Representatives and the Chairman of the Labor and Human Resources Committee of the Senate.

SEC. 3. FEES RELATING TO DRUGS.

Chapter VII, as amended by section 6, is amended by adding at the end of subchapter C the following:

"PART 2—FEES RELATING TO DRUGS

"SEC. 735. DEFINITIONS.

"For purposes of this subchapter:

"(1) The term 'human drug application' means an application for—

"(A) approval of a new drug submitted under section 505(b)(1),

"(B) approval of a new drug submitted under section 505(b)(2) after September 30, 1992, which requests approval of—

"(i) a molecular entity which is an active ingredient (including any salt or ester of an active ingredient), or

"(ii) an indication for a use,

that had not been approved under an application submitted under section 505(b),

"(C) initial certification or initial approval of an antibiotic drug under section 507, or

"(D) licensure of a biological product under section 351 of the Public Health Service Act.

For purposes of this paragraph, such term does not include a supplement to such an application.

"(2) The term 'supplement' means a request to the Secretary to approve a change in a human drug application which has been approved.

"(3) The term 'prescription drug product' means a specific strength or potency of a drug in final dosage form—

"(A) for which a human drug application has been approved,

"(B) which was approved under an application submitted—

"(i) under section 505(b)(1), or

"(ii) under section 505(b)(2) after September 30, 1992 and which requests approval of—

"(I) a molecular entity which is an active ingredient (including any salt or ester of an active ingredient) that had not been approved in an application submitted under section 505(b), or

"(II) an indication for a use that had not been approved under an application submitted under section 505(b), and

"(C) which may be dispensed only under prescription pursuant to section 503(b).

Such term does not include whole blood or a blood component for transfusion, an allergenic extract product, or an *in vitro* diagnostic biologic product licensed under section 351 of the Public Health Service Act.

"(4) The term 'final dosage form' means, with respect to a prescription drug product, a finished dosage form which is approved for administration to a patient without further manufacturing.

"(5) The term 'prescription drug establishment' means a foreign or domestic place of business which is—

"(A) at one general physical location consisting of one or more buildings all of which are within 5 miles of each other, at which one or more prescription drug products are manufactured in final dosage form, and

"(B) under the management of a person that is listed as the applicant in a human drug application for a prescription drug product with respect to at least one such product.

For purposes of this paragraph, the term 'manufactured' does not include packaging.

"(6) The term 'process for the review of human drug applications' means the following activities of the Secretary with respect to the review of human drug applications and supplements:

"(A) The activities necessary for the review of human drug applications and supplements.

"(B) The issuance of action letters which approve human drug applications or which set forth in detail the specific deficiencies in such applications and, where appropriate, the actions necessary to place such applications in condition for approval.

"(C) The inspection of prescription drug establishments and other facilities undertaken as part of the Secretary's review of pending human drug applications and supplements.

"(D) Activities necessary for the review of applications for licensure of establishments subject to section 351 of the Public Health Service Act and for the release of lots of biologics under such section.

"(E) Monitoring of research conducted in connection with the review of human drug applications.

"(7) The term 'costs of resources allocated for the process for the review of human drug applications' means the expenses incurred in connection with the process for the review of human drug applications for—

"(A) officers and employees of the Food and Drug Administration, employees under contract with the Food and Drug Administration who work in facilities owned or leased for the Food and Drug Administration, advisory committees, and costs related to such officers, employees, and committees,

"(B) management of information, and the acquisition, maintenance, and repair of computer resources,

"(C) leasing, maintenance, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies, and

"(D) collecting fees under section 736 and accounting for resources allocated for the review of human drug applications and supplements.

"(8) The term 'adjustment factor' applicable to a fiscal year is the lower of—

"(A) the Consumer Price Index for all urban consumers (all items; U.S. city average) for August of the preceding fiscal year divided by such Index for August 1992, or

"(B) the total of discretionary budget authority provided for programs in the domestic category for the immediately preceding fiscal year (as reported in the Office of Management and Budget sequestration preview report, if available, required under section 254(d) of the Balanced Budget and Emergency Deficit Control Act of 1985) divided by such budget authority for fiscal year 1992 (as reported in the Office of Management and Budget final sequestration report submitted after the end of the 102d Congress, 2d Session).

The terms 'budget authority' and 'category' in subparagraph (B) are as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as in effect as of September 1, 1992.

"SEC. 736. AUTHORITY TO ASSESS AND USE DRUG FEES.

"(a) TYPES OF FEES.—Beginning in fiscal year 1993, the Secretary shall assess and collect fees in accordance with this section as follows:

"(1) HUMAN DRUG APPLICATION AND SUPPLEMENT FEE.—

"(A) IN GENERAL.—Each person that submits, on or after September 1, 1992, a human drug application or a supplement shall be subject to a fee as follows:

"(i) A fee established in subsection (b) for a human drug application for which clinical data (other than bioavailability or bioequivalence studies) with respect to safety or effectiveness are required for approval.

"(ii) A fee established in subsection (b) for a human drug application for which clinical data with respect to safety or effectiveness are not required or a supplement for which clinical data (other than bioavailability or bioequivalence studies) with respect to safety or effectiveness are required.

"(B) PAYMENT SCHEDULE.—

"(i) FIRST PAYMENT.—50 percent of the fee required by subparagraph (A) shall be due upon submission of the application or supplement.

"(ii) FINAL PAYMENT.—The remaining 50 percent of the fee required by subparagraph (A) shall be due upon—

"(I) the expiration of 30 days from the date the Secretary sends to the applicant a letter designated by the Secretary as an action letter described in section 735(6)(B), or

"(II) the withdrawal of the application or supplement after it is filed unless the Secretary waives the fee or a portion of the fee because no substantial work was performed on such application or supplement after it was filed.

The designation under subclause (I) or the waiver under subclause (II) shall be solely in the discretion of the Secretary and shall not be reviewable.

"(C) EXCEPTION FOR PREVIOUSLY FILED APPLICATION OR SUPPLEMENT.—If a human drug application or supplement was submitted by a person that paid the fee for such application or supplement, was accepted for filing, and was not approved or was withdrawn (without a waiver), the submission of a human drug application or a supplement for the same product by the same person (or the person's licensee, assignee, or successor) shall not be subject to a fee under subparagraph (A).

"(D) REFUND OF FEE IF APPLICATION NOT ACCEPTED FOR FILING.—The Secretary shall refund 50 percent of the fee paid under subparagraph (B)(i) for any application or supplement which is not accepted for filing.

"(2) PRESCRIPTION DRUG ESTABLISHMENT FEE.—Each person that—

"(A) owns a prescription drug establishment, at which is manufactured at least 1 prescription drug product which is not the, or not the same as a, product approved under an application filed under section 505(b)(2) or 505(j), and

"(B) after September 1, 1992, had pending before the Secretary a human drug application or supplement,

shall be subject to the annual fee established in subsection (b) for each such establishment, payable on or before January 31 of each year.

"(3) PRESCRIPTION DRUG PRODUCT FEE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each person—

"(i) who is named as the applicant in a human drug application for a prescription drug product which is listed under section 510, and

"(ii) who, after September 1, 1992, had pending before the Secretary a human drug application or supplement,

shall pay for each such prescription drug product the annual fee established in subsection (b). Such fee shall be payable at the time of the first such listing of such product in each calendar year. Such fee shall be paid only once each year for each listed prescription drug product irrespective of the number of times such product is listed under section 510.

"(B) EXCEPTION.—The listing of a prescription drug product under section 510 shall not require the person who listed such product to pay the fee prescribed by subparagraph (A) if such product is the same product as a product approved under an application filed under section 505(b)(2) or 505(j).

"(b) FEE AMOUNTS.—

"(1) SCHEDULE.—Except as provided in paragraph (2) and subsections (c), (d), (f), and (g), the fees required under subsection (a) shall be paid in accordance with the following schedule:

	Fiscal Year 1993	Fiscal Year 1994	Fiscal Year 1995	Fiscal Year 1996	Fiscal Year 1997
Drug application fee:					
Subsection (a)(1)(A)(i) fee	$100,000	$150,000	$208,000	$217,000	$233,000
Subsection (a)(1)(A)(ii) fee	$50,000	$75,000	$104,000	$108,000	$116,000
Fee revenue	$12,000,000	$18,000,000	$25,000,000	$26,000,000	$28,000,000
Annual establishment fee:					
Fee per establishment	$60,000	$88,000	$126,000	$131,000	$138,000
Fee revenue	$12,000,000	$18,000,000	$25,000,000	$26,000,000	$28,000,000
Annual product fee:					
Fee per product	$6,000	$9,000	$12,500	$13,000	$14,000
Fee revenue	$12,000,000	$18,000,000	$25,000,000	$26,000,000	$28,000,000
Total fee revenues	$36,000,000	$54,000,000	$75,000,000	$78,000,000	$84,000,000

"(2) SMALL BUSINESS EXCEPTION.—Any business which has fewer than 500 employees, including employees of affiliates, and which does not have a prescription drug product introduced or delivered for introduction into interstate commerce shall pay one-half the amount of the fee for human drug applications it submits and shall pay the entire amount of the fee for supplements it submits. For purposes of this paragraph, one business is an affiliate of another business when, directly or indirectly, one business controls, or has the power to control, the other business or a third party controls, or has the power to control, both businesses.

"(c) INCREASES AND ADJUSTMENTS.—

"(1) REVENUE INCREASE.—The total fee revenues established by the schedule in subsection (b)(1) shall be increased by the Secretary by notice, published in the Federal Register, for a fiscal year to reflect the greater of—

"(A) the total percentage increase that occurred during the preceding fiscal year in the Consumer Price Index for all urban consumers (all items; U.S. city average), or

"(B) the total percentage increase for such fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.

"(2) ANNUAL FEE ADJUSTMENT.—Subject to the amount appropriated for a fiscal year under subsection (g), the Secretary shall, within 60 days after the end of each fiscal year beginning after October 1, 1992, adjust the fees established by the schedule in subsection (b)(1) for the following fiscal year to achieve the total fee revenues, as may be increased under paragraph (1). Such fees shall be adjusted under this paragraph to maintain the proportions established in such schedule.

"(3) LIMIT.—The total amount of fees charged, as adjusted under paragraph (2), for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the review of human drug applications.

"(d) FEE WAIVER OR REDUCTION.—The Secretary shall grant a waiver from or a reduction of 1 or more fees under subsection (a) where the Secretary finds that—

"(1) such waiver or reduction is necessary to protect the public health,

"(2) the assessment of the fee would present a significant barrier to innovation because of limited resources available to such person or other circumstances,

"(3) the fees to be paid by such person will exceed the anticipated present and future costs incurred by the Secretary in conducting the process for the review of human drug applications for such person, or

"(4) assessment of the fee for an application or a supplement filed under section 505(b)(1) would be inequitable because an application for a product containing the same active ingredient filed by another person under section 505(b)(2) could not be assessed fees under subsection (a)(1).

In making the finding in paragraph (3), the Secretary may use standard costs.

"(e) EFFECT OF FAILURE TO PAY FEES.—A human drug application or supplement submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for filing by the Secretary until all fees owed by such person have been paid.

"(f) ASSESSMENT OF FEES.—

"(1) LIMITATION.—Fees may not be assessed under subsection (a) for a fiscal year beginning after fiscal year 1993 unless appropriations for salaries and expenses of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) are equal to or greater than the amount of appropriations for the salaries and expenses of the Food and Drug Administration for the fiscal year 1992 multiplied by the adjustment factor applicable to the fiscal year involved.

"(2) AUTHORITY.—If the Secretary does not assess fees under subsection (a) during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate, for human drug applications and supplements, prescription drug establishments, and prescription drug products at any time in such fiscal year notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

"(g) CREDITING AND AVAILABILITY OF FEES.—

"(1) IN GENERAL.—Fees collected for a fiscal year pursuant to subsection (a) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration and shall be available in accordance with appropriation Acts until expended without fiscal year limitation.

"(2) COLLECTIONS AND APPROPRIATION ACTS.—The fees authorized by this section—

"(A) shall be collected in each fiscal year in an amount equal to the amount specified in appropriation Acts for such fiscal year, and

"(B) shall only be collected and available to defray increases in the costs of the resources allocated for the process for the review of human drug applications over such costs for fiscal year 1992 multiplied by the adjustment factor.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

"(A) $36,000,000 for fiscal year 1993,
"(B) $54,000,000 for fiscal year 1994,
"(C) $75,000,000 for fiscal year 1995,
"(D) $78,000,000 for fiscal year 1996, and
"(E) $84,000,000 for fiscal year 1997,

as adjusted to reflect increases in the total fee revenues made under subsection (c)(1).

"(h) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.".

SEC. 4. ANNUAL REPORTS.

(1) FIRST REPORT.—Within 60 days after the end of each fiscal year during which fees are collected under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, the Secretary of Health and Human Services shall submit a report stating the Food and Drug Administration's progress in achieving the goals identified in section 2(3) of this Act during such fiscal year and that agency's future plans for meeting such goals.

(2) SECOND REPORT.—Within 120 days after the end of each fiscal year during which such fees are collected, the Secretary of Health and Human Services shall submit a report on the implementation of the authority for such fees during such fiscal year and on the use the Food and Drug Administration made of the fees collected during such fiscal year for which the report is made.

(3) COMMITTEES.—The reports described in paragraphs (1) and (2) shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

SEC. 5. SUNSET.

The amendments made by section 3 shall not be in effect after October 1, 1997 and section 4 shall not be in effect after 120 days after such date.

SEC. 6. CONFORMING AMENDMENTS TO CHAPTER VII

Chapter VII is amended—

(1) by striking out in the chapter heading "ADMINISTRATIVE PROVISIONS" and inserting in lieu thereof "AUTHORITY",

(2) by inserting before the section heading for section 701 the following:

"SUBCHAPTER A—GENERAL ADMINISTRATIVE PROVISIONS",

(3) by redesignating section 702A (21 U.S.C. 372a) as section 706 and by inserting it after section 705 (21 U.S.C. 375) and by redesignating section 712 (21 U.S.C. 379d) as section 711,

(4) by moving section 706 (21 U.S.C 376), as in effect on the date of the enactment of this Act, to the end of chapter VII, by redesignating the section as section 721, and by inserting before the section heading for the section the following:

"SUBCHAPTER B—COLORS",

(5) by inserting after section 721 (as so redesignated) the following:

"SUBCHAPTER C—FEES

"PART 1—FREEDOM OF INFORMATION FEES", and

(6) by inserting section 711 (21 U.S.C. 379c), as in effect on the date of the enactment of this Act, after the heading for part 1 of subchapter C and redesignating it as section 731.

SEC. 7. GENERAL CONFORMING AMENDMENTS.

To conform the Federal Food, Drug, and Cosmetic Act, to the amendments made to that Act by section 6(4), the following conforming amendments are made:

(1) Section 201(u) (21 U.S.C. 321(u) is amended by striking out "706" and inserting in lieu thereof "721".

(2) Section 301(i)(1) (21 U.S.C. 331(i)(1)) is amended by striking out "706" and inserting in lieu thereof "721".

(3) Section 301(j) (21 U.S.C. 331(j)) is amended by striking out "706" and inserting in lieu thereof "721".

(4) Section 402(c) (21 U.S.C. 342(c)) is amended by striking out "706" and inserting in lieu thereof "721".

(5) Section 403(i) (21 U.S.C. 343(i)) is amended by striking out "706" and inserting in lieu thereof "721".

(6) Section 403(m) (21 U.S.C. 343(m)) is amended by striking out "706" and inserting in lieu thereof "721".

(7) Section 408(g) (21 U.S.C. 346a(g)) is amended by striking out "706" and inserting in lieu thereof "721".

(8) Section 501(a)(4) (21 U.S.C 351(a)(4)) is amended by striking out "706" each place it occurs and inserting in lieu thereof "721".

(9) Section 502(m) (21 U.S.C. 352(m)) is amended by striking out "706" and inserting in lieu thereof "721".

(10) Section 520(g)(2)(A) (21 U.S.C. 360j(g)(2)(A)) is amended by striking out "706" and by inserting in lieu thereof "721".

(11) Section 601(e) (21 U.S.C. 361(e)) is amended by striking out "706" and inserting in lieu thereof "721".

(12) Section 602(e) (21 U.S.C. 362(e)) is amended by striking out "706" and inserting in lieu thereof "721".

(13) Section 4(g)(2)(D) of the Poultry Products Inspection Act (21 U.S.C. 453(g)(2'(D) is amended by striking out "706" and inserting in lieu thereof "721".

(14) Section 1(m)(2)(D) of the Federal Meat Inspection Act (21 U.S.C. 601) is amended by striking out "706" and inserting in lieu thereof "721".

(15) Section 4(a)(2)(D) of the Egg Products Inspection Act (21 U.S.C. 1033(a)(2)(D)) is amended by striking out "706" and inserting in lieu thereof "721".

SEC. 8. ANIMAL DRUG USER FEE STUDY.

(a) STUDY.—The Secretary, in consultation with manufacturers of animal drug products and other interested persons, shall undertake a study to evaluate whether, and under what conditions, to impose user fees to supplement appropriated funds in order to improve the process of reviewing applications (including abbreviated and supplemental applications) for new animal drugs under section 512 of the Federal Food, Drug, and Cosmetic Act. The study shall include—

(1) an assessment of the overall review process for animal drugs at the Center for Veterinary Medicine, including the number of applications received, and the average times for interim and final decisions on each type of application,

(2) the current allocation of funds to the animal drug review process,

(3) recommendations for goals for decision-making times on applications submitted to the Center for Veterinary Medicine and for additional resources required to meet the goals, and

(4) recommendations for supplementing the resources for the animal drug review process through user fees.

(b) COMPLETION.—The results of the study required by subsection (a) shall be presented no later than January 4, 1994, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have been struggling for years in this country find a way to speed up the process for the approval of breakthrough drugs. While many ideas have been proposed, in my view there are only two approaches that can work. We could water down the safety or efficacy standards applicable to drugs, but that would unacceptably undermine the public health. Or we could get the Food and Drug Administration more resources, but that has been almost impossible in recent years.

The Prescription Drug User Fee Act of 1992 is a groundbreaking bill because it will increase FDA resources without using the usual appropriations process. As a result, the public will benefit by getting access to lifesaving drugs sooner. The drug industry will profit from earlier approvals. And the FDA will gain credibility as it is able to make decisions in a timely manner.

The bill will raise approximately $325 million over 5 years. Dr. Kessler, Commissioner of the FDA, testified before the Health and Environment Subcommittee that the fees will enable the Agency to cut approval times about in half within 5 years. In other words, with these funds, the FDA has set a goal of 6 months for reaching decisions on most applications to market breakthrough drugs, and 12 months for most other applications.

In drafting the bill, we have worked closely with the Ways and Means and Appropriations Committees, to ensure that the fees in the bill are not a tax and that they can be dedicated to increasing the resources for the drug approval process.

This bill will raise user fees for human prescription drugs, and a trivial amount of fees from over-the-counter drugs. However, the OTC drug industry and the animal drug industry have already indicated an interest in exploring the user fee concept for their companies.

I am hopeful that the other industries regulated by the FDA, particularly the medical device and generic drug industries, will see the light once the benefits from this bill become apparent. It is unfortunate, but true I suspect, that user fees will be the only way in the future to improve Government regulation.

The bill under consideration differs from the bill reported by the Committee on Energy and Commerce in several relatively minor respects. The changes would protect certain small businesses, namely certain generic drug companies, from inclusion in the bill. These changes have been shared with the minority on the committee, and I know if no opposition to them. I am submitting a separate statement explaining these changes which I will ask to be included at the end of my statement.

Mr. Speaker, this bill represents a major accomplishment. Much of the credit goes to Mr. DINGELL who has long supported getting the FDA additional resources. I also want to acknowledge the help of Mr. LENT, the ranking minority member of the Energy and Commerce Committee, and Mr. DANNEMEYER, the ranking minority member of the Health and Environmental Subcommittee. Finally, I would like to thank our legislative counsel, David Meade, for his tireless work and skill in drafting the bill.

The bill has the support of the administration, the Pharmaceutical Manufacturers Association, the Industrial Biotechnology Association, the Nonprescription Drug Manufacturers Association, and the three trade associations that represent the generic drug industry.

I urge all Members to vote to adopt the bill.

STATEMENT OF FLOOR MANAGERS EXPLAINING CHANGES MADE AFTER COMMITTEE CONSIDERATION OF H.R. 5952

H.R. 5952 does not require companies to pay user fees for generic drugs approved under section 505(j) of the Federal Food, Drug and Cosmetic Act. However, in some cases, generic drugs are approved under section 505(b)(2). The bill reported by the committee would have required companies that obtain approval of drugs under section 505(b)(2) after September 1, 1992, to pay user fees.

Section 505(b)(2) describes new drug applications "for which the investigations * * * relied upon by the applicant for approval * * * were not conducted by or for the applicant and for which the applicant has not obtained a right of reference from the person by or for whom the investigations were conducted."

The change, made after the bill was reported by the committee but which is in the bill, would limit the section 505(b)(2) applications included within the definition of "human drug application"—section 735(1)(B), as added by section 3—to applications that request approval of first, molecular entity which is an active ingredient or second, an indication for a use that had not been approved under an application submitted under section 505(b). The committee intends that the term "indication" be given the meaning that it is given in the FDA's regulations, 21 CFR 201.57(c), 1992. This term would include an Rx to OTC switch. User fees would not be required for any other new drugs approved under section 505(b)(2).

A similar change is made in section 735(3), the definition of drug product. Section 735(3), as changed, includes all products approved under section 505(b)(1) and products approved after September 30, 1992, under section 505(b)2) which request approval of a molecular entity which is an active ingredient or an indication for a use that had not been approved under an application submitted under section 505(b). Since the definition of "establishment" is tied to the definition of "product," this change has the effect of making the same distinction for the purpose of establishment fees.

Section 736(a)(2)(A) has also been amended to exclude from triggering the establishment fee products approved under section 505(b)(2 or 505(j). The bill reported by the committee excluded products that were the same as products approved under sections 505(b)(2) and 505(j).

A new subparagraph (4) has been added to section 736(d) to permit the Food and Drug Administration to waive the fees for an application or supplement filed under 505(b)(1) where assessment of the fee would be inequitable because an application for a product containing the same active ingredient filed by another person under section 505(b)(2) could not be assessed fees under subsection (a).

Finally, sections 736 (c)(2), (f)(1), and (g)(2)(A) of the bill reported by the committee refer to amounts specified in appropriations acts or amounts that "can reasonably be expected to be" appropriated. The "reasonably be expected to be" language has been deleted from the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume and I rise in support of H.R. 5952.

In the past, when the House has adopted legislation providing for user fees, it has not been unusual for those user fees to go into the general fund and get lost into what I call the black hole of never-ending bottom. This is different in the sense that the fees that will be generated by these user fees will go into providing increased staff for the FDA to process the drug applications that are being filed, and I hope that with the adoption of this legislation we can expedite the approval process and reduce the length of time within which it takes to approve some of the drug applications that are now filed with the FDA.

For these reasons, Mr. Speaker, I am in support of this legislation.

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 5952, the Prescription Drug User Fee Act of 1992. This bill would authorize the Food and Drug Administration to collect prescription drug application, establishment and product fees.

The passage of this legislation will be an unusual and historic occasion. Not often—if ever—in the history of the Federal Government's regulation of private industry has there been an instance where the regulated industry has sought the opportunity to pay fees to regulators. However, this is the case today.

Recognizing the need for improvements in the new drug approval process, the research-based pharmaceutical industry has taken the position that it would be willing to pay user fees to the Food and Drug Administration: If those fees add to the existing FDA baseline appropriations; if they are fully dedicated to the approval of new drugs and biologics; if they are reasonable; and if they are based on a long-term commitment by the Government to the improvement of the drug and biologics approval process.

As a result of that willingness, Chairman WAXMAN, Congressman LENT and I, with the cooperation of Senators KENNEDY and HATCH, encouraged the pharmaceutical industry and the Food and Drug Administration to work together to develop a workable user fee program. Our respective staffs have spent much time and effort, working with the agency and the industry, to perfect the legislation we are considering today.

Under this historic bill, the industry is willing to pay for the much needed acceleration of the new drug and biologics approval process and the FDA is willing to commit to a number of specific and defined goals to accomplish that improvement. I congratulate both the industry and FDA for this achievement.

I want to emphasize my strong commitment to assuring that the revenues collected from the user fee program set up by this bill are to be additive to appropriated funds. They are to go to speeding up the drug approval process and to bolster the new Office of OTC Drug Evaluation. They are not be diverted for other purposes or to deficit reduction.

Commissioner Kessler, with the approval of the Office of Management and Budget, has established the goals FDA will seek to meet with the additional resources to be provided as a result of this bill. Those goals are reasonable and appropriate and the Energy and Commerce Committee expects that their implementation will be fully supported by the Department of Health and Human Services and by the Office of Management and Budget.

I will insert Commissioner Kessler's letter of September 14 and 21, 1992 in the RECORD.

The Subcommittee on Oversight and Investigations will carefully monitor the process that is being made in speeding up the drug approval process and I am confident the Committee will be prepared to take whatever action is appropriate to assure that the worthy purposes of this legislation are not frustrated.

Mr. Speaker, I urge my colleagues to vote in favor of this bill.

DEPARTMENT OF HEALTH
AND HUMAN SERVICES,
Rockville, MD, September 14, 1992.

Hon. JOHN DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

Hon. NORMAN LENT,
Ranking Minority Member, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR CHAIRMAN AND RANKING MEMBER: As you are aware, the Food and Drug Administration (FDA) has been working with representatives of the pharmaceutical and biological prescription drug industries, and staff of your Committee, to design a "user fee" proposal. Under this proposal, the additional revenues generated from fees paid by these industries would be dedicated for use in expediting the prescription drug review and approval process, in accordance with performance goals that have been developed by FDA in consultation with the industries. The Dingell/Waxman draft bill dated September 12, 1992, the "Prescription Drug User Fee Act of 1992," reflects the fee mechanisms developed in these discussions. The performance goals are specified below. I believe they represent a realistic projection of what FDA can accomplish, with industry cooperation, and the additional resources that would be provided by the bill.

The goals of the FDA Center for Drug Evaluation and Research (CDER) and the Center for Biologics Evaluation and Research (CBER) are summarized as follows:

Five-Year Goals (to be implemented by September 30, 1997):

1. Review and act on complete Product License Applications (PLAs), Establishment License Applications (ELAs), and New Drug Applications (NDAs) for priority applications within 6 months after submission date. (Major amendments received within 3 months of the action due date will extend the review timeframes by 3 months.)

2. Review and act on complete PLAs, ELAs, and NDAs for standard applications within 12 months after submission date. (Major amendments received within 3 months of the action due date will extend the review timeframes by 3 months.)

3. Review and act on priority amendments to PLAs or ELAs, and supplements to NDAs, within 6 months after submission date.

4. Review and act on amendments to PLAs or ELAs, and supplements to NDAs that do not require review of clinical data (e.g., manufacturing supplements/amendments), within 6 months after submission date.

5. Review and act on standard amendments to PLAs or ELAs, and supplements to NDAs that require review of clinical data (efficacy supplements/amendments), within 12 months after submission date.

6. Review and act on complete applications resubmitted following receipt of a non-approval letter within 6 months after the resubmission date.

The term "act on" is understood to mean the issuance of an action letter after the filing of an application. The action letter, if it is not an approval, or approvable letter, will set forth in detail the specific deficiencies and, where appropriate, the actions necessary to place the application in condition for approval.

Interim Backlog Goals:

1. Eliminate overdue backlog of NDAs within 24 months of initiation of user fee payments; that is, review and act on all NDAs on CDER's October 1, 1992, overdue list, within 24 months.

2. Eliminate overdue backlog of PLAs, ELAs, and amendments to PLAs within 24 months of initiation of user fee payments; that is, review and act on the backlog of all PLAs, ELAs, and PLA amendments in CBER on October 1, 1992, within 24 months.

3. Eliminate overdue backlogs of efficacy and manufacturing supplements to NDAs within 18 months of initiation of user fee payments; that is, review and act on all efficacy and manufacturing supplements to NDAs on CDER's October 1, 1992, overdue list, within 18 months.

Interim Application Goals:

FY 1994: 55 percent of NDA and PLA/ELA submissions received during FY 1994 are reviewed within 12 months. 55 percent of efficacy supplements/amendments received during FY 1994 are reviewed within 12 months. 55 percent of manufacturing supplements/amendments received during FY 1994 are reviewed within 6 months. 55 percent of resubmitted applications received during FY 1994 are reviewed within 6 months.

FY 1995: Each of the 55 percent goals of FY 1994 is increased to 70 percent.

FY 1996: Each of the 55 percent goals of FY 1994 is increased to 80 percent.

FY 1997: 90 percent of *each* of the 5-year goals is achieved.

FDA to provide annual performance reporting on achievement of goals starting November 30, 1994.

Additional Interim Goals:

1. Fifty percent of FDA incremental review staff recruited and on-board by first quarter of FY 1995. Total staff increment on-board by end of FY 1997.

2. Establish an industry/FDA working group upon initiation of the user fee program to develop and oversee joint programs to improve review times.

3. Implement project management methodology for all NDA reviews within 12 months of initiation of user fee payments, and for all PLA/ELA reviews within 18 months.

4. Implement performance tracking and monthly monitoring of CBER performance within 6 months of initial user fee payments. (CDER already has such a program.)

5. Adopt uniform CANDA standards during FY 1995.

6. Initiate a pilot CAPLAR program during FY 1993.

OMB has advised that there are no objections to the presentation of these views from the standpoint of the Administration's program. We appreciate the support of you and your staffs, the assistance of other Members of the Committee, the Appropriations Committee, and the Ways and Means Committee in reporting a user fee proposal this session.

Sincerely yours,

DAVID A. KESSLER, M.D.
Commissioner of Food and Drugs.

Rockville, MD, September 21, 1992.

Hon. JOHN DINGELL,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

Hon. NORMAN LENT,
Ranking Minority Member, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN AND RANKING MEMBER: Following discussions among Committee staff, the Nonprescription Drug Manufacturers Association, and the Food and Drug Administration (FDA), I am supplementing my letter to you dated September 14, 1992, concerning the "Prescription Drug User Fee Act of 1992."

In my earlier letter, we identified five-year and interim performance goals relating to the review of New Drug Applications and supplements for prescription drugs. Several of these goals apply also to the review of applications and supplements for over-the-counter (OTC) drugs. Specifically, Five-Year Goals numbers 2, 5 and 6 apply to certain OTC drug review activities. These goals relate to the review, within 12 months, of standard New Drug Applications (NDAs) and supplements (and 6 months in the case of resubmitted applications). By their terms, they cover the review of NDAs for drugs initially marketed OTC, and the review of NDAs and supplements to switch a product from prescription to OTC status. The Interim Application Goals also apply to OTC drug products; however, the Interim Backlog Goals do not apply. As improvements in project management systems, review times, and application standards develop under the Additional Interim Goals, and as they affect OTCs, these improvements will also be applied to OTC drug products.

User fees from OTC applications will assist in funding the application review activities of the FDA Center for Drug Evaluation and Research and its Office of OTC Drug Evaluation. Both the FDA and the Nonprescription Drug Manufacturers Association have stated their express intent to study other methods of raising funds for the Office of OTC Drug Evaluation possibly through user fees on OTC drug establishments or on OTC drug products, or by some other means.

OMB has advised that there is no objection to the presentation of these views from the standpoint of the Administration's program.

Sincerely yours,

DAVID A. KESSLER, M.D.
Commissioner of Food and Drugs.

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Mr. DANNEMEYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. (Mr. HUBBARD). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5952, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MAMMOGRAPHY QUALITY STANDARDS ACT OF 1992

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5938) to amend the Public Health Service to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mammography Quality Standards Act of 1992".

SEC. 2. CERTIFICATION OF MAMMOGRAPHY FACILITIES.

Part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by adding at the end the following new subpart:

"Subpart 3—Mammography Facilities

"SEC. 354. CERTIFICATION OF MAMMOGRAPHY FACILITIES.

"(a) Definitions.—As used in this section:

"(1) Accreditation body.—The term 'accreditation body' means a body that has been approved by the Secretary under subsection (e)(1)(A) to accredit mammography facilities.

"(2) Certificate.—The term 'certificate' means the certificate described in subsection (b)(1).

"(3) Certified facility.—The term 'certified facility' means a facility to which the Secretary has issued and, if appropriate, renewed a certificate in accordance with subsection (c).

"(4) Facility.—

"(A) In general.—The term 'facility' means a hospital, outpatient department, clinic, radiology practice, or mobile unit, an office of a physician, or other facility as determined by the Secretary, that conducts breast cancer screening or diagnosis through mammography activities. Such term does not include a facility of the Department of Veterans Affairs.

"(B) Activities.—For the purposes of this section, the activities of a facility include the operation of equipment to produce the mammogram, the processing of the film, the interpretation of the mammogram and the viewing conditions for that interpretation. Where procedures such as the film processing, or the interpretation of the mammogram are performed in a location different from where the mammogram is taken, the facility taking the mammogram shall be responsible for meeting the quality standards described in subsection (f).

"(5) Inspection.—The term 'inspection' means an onsite evaluation of the facility by the Secretary, or State agency on behalf of the Secretary.

"(6) Mammogram.—The term 'mammogram' means a radiographic image produced through mammography.

"(7) Mammography.—The term 'mammography' means radiography of the breast.

"(8) Survey.—The term 'survey' means an onsite physics consultation and evaluation performed by a medical physicist as described in subsection (f)(1)(E).

"(b) Certificate Requirement.—

"(1) Certificate.—No facility may conduct an examination or procedure described in paragraph (2) involving mammography after July 1, 1994, unless the facility obtains—

"(A) a certificate—

"(i) that is issued, and, if applicable, renewed, by the Secretary in accordance with subsection (c)(1);

"(ii) that is applicable to the examination or procedure to be conducted; and

"(iii) that is displayed prominently in such facility; or

"(B) a provisional certificate—

"(i) that is issued by the Secretary in accordance with subsection (c)(2);

"(ii) that is applicable to the examination or procedure to be conducted; and

"(iii) that is displayed prominently in such facility.

The reference to a certificate in this subsection and subsections (c) and (d) includes a provisional certificate.

"(2) Examination or procedure.—A facility shall obtain a certificate in order to—

"(A) operate equipment that is used to image the breast in performing mammography;

"(B) provide the interpretation of a mammogram produced by such equipment regardless of whether the interpretation is performed at a site different from where the mammography examination is performed; and

"(C) provide for the processing of film produced by such equipment, regardless of whether the processing is performed at a site different from where the mammography examination is performed.

"(c) Issuance and Renewal of Certificates.—

"(1) In general.—The Secretary may issue or renew a certificate for a facility if the person, entity, or agent described in subsection (d)(1) meets the applicable requirements of subsection (d) with respect to the facility. The Secretary may issue or renew a certificate under this paragraph for not more than 3 years.

"(2) Provisional certificate.—The Secretary may issue a provisional certificate for an entity to enable the entity to qualify as a facility. A provisional certificate—

"(A) may not be renewed and the applicant for a provisional certificate shall meet the requirements of subsection (d), except providing information required by subparagraphs (C) and (D) of subsection (d)(1), and

"(B) may be in effect no longer than 6 months from the date it is issued.

"(d) Application for Certificate.—The Secretary may issue or renew a certificate for a facility if—

"(1) the person or entity who owns or leases the facility or an authorized agent of the person, submits to the Secretary, in such form and manner as the Secretary shall prescribe, an application that contains at a minimum—

"(A) a description of the manufacturer, model, and type of each x-ray machine, image receptor, and processor operated in the performance of mammography through the facility;

"(B) a description of the procedures currently used to provide mammography, or other procedures related to the detection of cancerous or potentially cancerous breast tissue, at the facility, including—

"(i) the types of procedures performed and the number of such procedures performed in the prior 12 months;

"(ii) the methodologies for mammography; and

"(iii) the names and qualifications (educational background, training, and experience) of the personnel performing mammographies, the medical physicist surveying mammography equipment and providing oversight for the quality assurance program at the facility, and the physicians reading and interpreting the results from the procedures;

"(C) proof of on-site survey by a qualified medical physicist as described in subsection (f)(1)(E);

"(D) proof of accreditation in such manner as the Secretary shall prescribe; and

"(2) the person, entity, or agent submits to the Secretary—

"(A) a satisfactory assurance that the facility will be operated in accordance with standards established by the Secretary under subsection (f) to assure the safety and accuracy of mammography;

"(B) a satisfactory assurance that the facility will—

"(i) permit inspections under subsection (g);

"(ii) make such records and information available, and submit such reports, to the Secretary as the Secretary may require; and

"(iii) update the information submitted under paragraph (1) or this paragraph not later than 30 days after the date the information becomes incomplete or inaccurate; and

"(C) such other information as the Secretary may require.

The Secretary shall attempt to limit the information supplied by an applicant under paragraph (1) with respect to any information which the applicant has supplied to the accreditation body which accredited the applicant.

"(e) Accreditation.—

"(1) Approval of accreditation bodies.—

"(A) In general.—The Secretary may approve a private nonprofit organization or State agency to accredit facilities for purposes of subsection (d)(1)(D) if the accreditation body meets the standards for accreditation established by the Secretary as described in subparagraph (B) and provides the assurances required by subparagraph (C).

"(B) Standards.—The Secretary shall establish standards for accreditation bodies, including—

"(i) standards that require accreditation bodies to perform—

"(I) a review of clinical images from each facility required to have a certificate under subsection (b) not less often than every 3 years which review will be made by qualified practicing physicians; and

"(II) a review by qualified practicing physicians of a random sample of clinical images from such facilities in each 3-year period beginning July 1, 1994;

"(ii) standards that prohibit individuals conducting the review described in clause (i) from maintaining any contractual or financial relationship to the facility undergoing review;

"(iii) standards that limit the imposition of fees for accreditation to reasonable amounts.

"(C) Assurances.—The accrediting body shall provide the Secretary satisfactory assurances that the body will—

"(i) comply with the standards as described in subparagraph (B);

"(ii) comply with the requirements described in paragraphs (3) and (4);

"(iii) submit to the Secretary the name of any facility for which the accreditation body denies, suspends, withdraws, or revokes accreditation, or against which the body takes any other adverse action, within 48 hours of the action;

"(iv) notify the Secretary at least 60 days before the accreditation body changes the standards of the body; and

"(v) notify each facility accredited by the accreditation body if the Secretary withdraws approval of the accreditation body under paragraph (2), within 21 days of the withdrawal.

"(D) REGULATIONS.—The Secretary shall promulgate regulations under which the Secretary may approve an accreditation body.

"(2) WITHDRAWAL OF APPROVAL.—

"(A) IN GENERAL.—The Secretary shall promulgate regulations under which the Secretary may withdraw the approval of an accreditation body if the Secretary determines that the accreditation body does not meet the standards under subparagraph (B) of paragraph (1) and the requirements of clauses (i) through (iv) of subparagraph (C) of paragraph (1).

"(B) EFFECT OF WITHDRAWAL.—If the Secretary withdraws the approval of an accreditation body under subparagraph (A), the certificate of any facility accredited by the body shall continue in effect until the expiration of a reasonable period, as determined by the Secretary, for such facility to obtain another accreditation.

"(3) ACCREDITATION.—In determining whether or not to accredit a facility, an approved accreditation body shall—

"(A) require as a condition of accreditation that each facility undergo a survey at least annually by a medical physicist as described in subsection (f)(1)(E) to ensure that the facility meets the standard described in subsection (f)(1); and

"(B) monitor and evaluate such survey, as prescribed by the Secretary; and

"(C) apply standards equal to or more stringent than the relevant standards established by the Secretary under subsection (f).

"(4) COMPLIANCE.—To ensure that facilities accredited by an accreditation body will continue to meet the standards of the accreditation body, the accreditation body shall—

"(A) make onsite visits on an annual basis of a percentage of the facilities accredited by the accreditation body as determined by the Secretary;

"(B) report the results of such onsite visits to the Secretary on an annual basis; and

"(C) take such additional measures as the Secretary determines to be appropriate.

Visits made under subparagraph (A) shall be made after providing 48 hours notice.

"(5) REVOCATION OF ACCREDITATION.—If an accreditation body withdraws or revokes the accreditation of a facility, the certificate of the facility shall continue in effect until the later of—

"(A) 90 days after the facility receives notice of the withdrawal or revocation of the accreditation; or

"(B) the effective date of any action taken by the Secretary under subsection (h) or (i).

"(6) EVALUATION AND REPORT.—

"(A) EVALUATION.—The Secretary shall evaluate annually the performance of each approved accreditation body by—

"(i) inspecting under subsection (g)(2) a sufficient number of the facilities accredited by the body to allow a reasonable estimate of the performance of the body; and

"(ii) such additional means as the Secretary determines to be appropriate.

"(B) REPORT.—The Secretary shall annually prepare and submit to the Committee on Labor and Human Resources of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the National Mammography Quality Assurance Advisory Board established under subsection (o) a report that describes the results of the evaluation conducted in accordance with subparagraph (A).

"(f) QUALITY STANDARDS.—

"(1) IN GENERAL.—The standards referred to in subsection (d)(2)(A) are standards established by the Secretary which include—

"(A) standards that require establishment and maintenance of a quality assurance and quality control program at the facility that is adequate and appropriate to ensure the reliability, clarity, and accurate interpretation of mammographies and standards for appropriate radiation doses;

"(B) standards that require use of radiological equipment specifically designed for mammography, including radiologic standards and standards for other equipment and materials used in conjunction with the radiological equipment;

"(C) a requirement that personnel who perform mammography—

"(i)(I) be licensed by a State to perform mammographies; or

"(II) be certified as qualified to perform mammographies by an organization described in paragraph (2)(A); and

"(ii) meet minimum training standards for personnel who perform mammograms;

"(D) a requirement that mammograms be interpreted by a physician who is certified as qualified to interpret mammography by—

"(i)(I) a board described in paragraph (2)(B); or

"(II) a program that complies with the standards described in paragraph (2)(C); and

"(ii) meets training and continuing medical education requirements as established by the Secretary;

"(E) a requirement that individuals who survey mammography facilities be medical physicists—

"(i) licensed or approved by a State to perform such surveys, reviews, or inspections for mammography facilities;

"(ii) certified in diagnostic radiological physics or certified as qualified to perform such surveys by a board as described in paragraph (2)(D); or

"(iii) in the first 5 years after the date of the enactment of this section, who meet other criteria established by the Secretary which are comparable to the criteria described in clause (i) or (ii);

"(F) a requirement that a medical physicist who is qualified in mammography as described in subparagraph (E) survey mammography equipment and oversee quality assurance practices at each facility;

"(G) a requirement that—

"(i)(I) a facility that performs any mammogram maintain the mammogram in the permanent medical records of the patient for a period of not less than 5 years, or not less than 10 years if no additional mammograms of such patient are taken at the facility, or longer if mandated by State law; or

"(II) until such time as the patient should request that the patient's medical records be forwarded to a medical institution or a physician of the patient; and

"(ii)(I) a facility must assure the preparation of a written report of the results of the mammography examination signed by the interpreting physician;

"(II) such written report shall be provided to the patient's referring or primary care physician (if any);

"(III) if such a physician is not available or if there is not such a physician, the written report shall be sent directly to the patient; and

"(IV) if such report is sent to the patient, the report shall include a summary written in terms easily understood by a lay person; and

"(H) standards relating to special techniques for mammography of patients with breast implants.

Subparagraph (G) shall not be construed to limit a patient's access to the patient's medical records.

"(2) CERTIFICATION OF PERSONNEL.—The Secretary shall by regulation—

"(A) specify organizations eligible to certify individuals to perform mammographies, as required by paragraph (1)(C);

"(B) specify boards eligible to certify physicians to interpret mammograms as required by paragraph (1)(D);

"(C) establish standards regarding the qualifications for physicians described in subparagraph (B) for programs certifying the physicians, and

"(D) specify boards eligible to certify medical physicists who are qualified to survey mammography equipment and to oversee quality assurance practices at mammography facilities.

"(g) INSPECTIONS.—

"(1) ANNUAL INSPECTIONS.—

"(A) IN GENERAL.—The Secretary may enter and inspect certified facilities to determine compliance with the standards established under subsection (f). The Secretary may delegate to a State agency the authority to make such inspections.

"(B) IDENTIFICATION.—The Secretary, or State agency acting on behalf of the Secretary, may conduct inspections only on presenting identification to the owner, operator, or agent in charge of the facility to be inspected.

"(C) SCOPE OF INSPECTION.—In conducting inspections, the Secretary or State agency acting on behalf of the Secretary—

"(i) shall have access to all equipment, materials, records, and information that the Secretary or State agency considers necessary to determine whether the facility is being operated in accordance with this section; and

"(ii) may copy, or require the facility to submit to the Secretary or the State agency, any of the materials, records, or information.

"(D) ELEMENTS OF INSPECTION.—Inspections shall include an inspection of the beam quality, average glandular dose, film processing, phantom image quality of the mammography system, and other features as determined by the Secretary.

"(E) QUALIFICATIONS OF INSPECTORS.—Qualified individuals, as determined by the Secretary, shall conduct all inspections. The Secretary may request that a State agency acting on behalf of the Secretary designate a qualified officer or employee to conduct the inspections, or designate a qualified Federal officer or employee to conduct inspections. The Secretary shall establish minimum qualifications and appropriate training for inspectors and criteria for certification of inspectors in order to inspect facilities for compliance with subsection (f).

"(F) FREQUENCY.—The Secretary or State agency acting on behalf of the Secretary shall conduct inspections of each certified facility not less often than annually.

"(G) RECORDS AND ANNUAL REPORTS.—The Secretary or a State agency acting on behalf of the Secretary which is responsible for inspecting mammography facilities shall maintain records of annual inspections required under subsection (g) for not less than 7 years after the date of the inspection. Such a State agency shall annually prepare and submit to the Secretary a report concerning the inspections carried out under this paragraph. Such reports shall include a description of the facilities inspected and the results of such inspections.

“(2) INSPECTION OF ACCREDITED FACILITIES.—The Secretary shall inspect a sufficient number of the facilities accredited by each accreditation body to provide the Secretary with a reasonable estimate of the performance of such body.

“(3) INSPECTION OF FACILITIES INSPECTED BY STATE AGENCIES.—The Secretary shall inspect facilities inspected by State agencies acting on behalf of the Secretary to assure a reasonable performance by such State agencies.

“(4) TIMING.—The Secretary, or State agency, may conduct inspections under paragraphs (1), (2), and (3) after providing 48 hours of notice unless the Secretary waives the notice period or prescribes circumstances under which a shorter notice period for visits to a facility would be appropriate because the continued performance of mammographies at such facility threatens the public health.

“(h) SANCTIONS.—

“(1) IN GENERAL.—The Secretary may, in lieu of taking the actions authorized by subsection (i), impose the following sanctions:

“(A) Directed plans of correction.

“(B) Payment for the cost of onsite monitoring.

“(2) CIVIL MONEY PENALTIES.—The Secretary may assess civil money penalties in an amount not to exceed $10,000 for—

“(A) failure to obtain a certificate as required by subsection (b),

“(B) each failure by a facility to substantially comply with, or each day on which a facility fails to substantially comply with, the standards established under subsection (f) or the requirements described in clauses (i) through (iii) of subsection (d)(2)(B), and

“(C) each violation, or for each aiding and abetting in a violation of, any provision of, or regulation promulgated under, this section by an owner, operator, or any employee of a facility required to have a certificate.

“(3) PROCEDURES.—The Secretary shall develop and implement procedures with respect to when and how each of the sanctions is to be imposed under paragraphs (1) and (2). Such procedures shall provide for notice to the owner or operator of the facility and a reasonable opportunity for the owner or operator to respond to the proposed sanctions and appropriate procedures for appealing determinations relating to the imposition of sanctions.

“(i) SUSPENSION, REVOCATION, AND LIMITATION.—

“(1) IN GENERAL.—The certificate of a facility issued under subsection (b) may be suspended, revoked, or limited if the Secretary finds, after providing, except as provided in paragraph (2), reasonable notice and an opportunity for a hearing to the owner or operator of the facility, that the owner, operator, or any employee of the facility—

“(A) has been guilty of misrepresentation in obtaining the certificate;

“(B) has failed to comply with the requirements of subsection (d)(2)(B)(iii) or the standards established by the Secretary under subsection (f);

“(C) has failed to comply with reasonable requests of the Secretary for any record, information, report, or material that the Secretary concludes is necessary to determine the continued eligibility of the facility for a certificate or continued compliance with the standards established under subsection (f);

“(D) has refused a reasonable request of the Secretary, any Federal officer or employee duly designated by the Secretary, or any State officer or employee duly designated by the State, for permission to inspect the facility or the operations and pertinent records of the facility in accordance with subsection (g);

“(E) has violated or aided and abetted in the violation of any provision of, or regulation promulgated under, this section; or

“(F) has failed to comply with a sanction imposed under subsection (h).

“(2) ACTION BEFORE A HEARING.—

“(A) IN GENERAL.—The Secretary may suspend or limit the certificate of the facility before holding a hearing required by paragraph (1) if the Secretary makes the finding described in paragraph (1) and determines that—

“(i) the failure of a facility to comply with the standards established by the Secretary under subsection (f) presents an imminent and serious risk to human health; or

“(ii) a facility has engaged in an action described in subparagraph (D) or (E) of paragraph (1).

“(B) HEARING.—If the Secretary suspends or limits a certificate under subparagraph (A), the Secretary shall provide an opportunity for a hearing to the owner or operator of the facility not later than 60 days from the effective date of the suspension or limitation. The suspension or limitation shall remain in effect until the decision of the Secretary made after the hearing.

“(3) INELIGIBILITY TO OWN OR OPERATE FACILITIES AFTER REVOCATION.—If the Secretary revokes the certificate of a facility on the basis of an act described in paragraph (1), no person who owned or operated the facility at the time of the act may, within 2 years of the revocation of the certificate, own or operate a facility that requires a certificate under this section.

“(j) INJUNCTIONS.—If the Secretary determines that—

“(1) continuation of any activity related to the provision of mammography by a facility would constitute an imminent and serious risk to human health, the Secretary may bring suit in the district court of the United States for the district in which the facility is situated to enjoin continuation of the activity; and

“(2) a facility is operating without a certificate as required by subsection (b), the Secretary may bring suit in the district court of the United States for the district in which the facility is situated to enjoin the operation of the facility.

Upon a proper showing, the district court shall grant a temporary injunction or restraining order against continuation of the activity or against operation of a facility, as the case may be, without requiring the Secretary to post a bond, pending issuance of a final order under this subsection.

“(k) JUDICIAL REVIEW.—

“(1) PETITION.—If the Secretary imposes a sanction on a facility under subsection (h) or suspends, revokes, or limits the certificate of a facility under subsection (i), the owner or operator of the facility may, not later than 60 days after the date the action of the Secretary becomes final, file a petition with the United States court of appeals for the circuit in which the facility is situated for judicial review of the action. As soon as practicable after receipt of the petition, the clerk of the court shall transmit a copy of the petition to the Secretary or other officer designated by the Secretary. As soon as practicable after receipt of the copy, the Secretary shall file in the court the record on which the action of the Secretary is based, as provided in section 2112 of title 28, United States Code.

“(2) ADDITIONAL EVIDENCE.—If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order the additional evidence (and evidence in rebuttal of the additional evidence) to be taken before the Secretary, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may determine to be proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, by reason of the additional evidence so taken, and the Secretary shall file the modified or new findings, and the recommendations of the Secretary, if any, for the modification or setting aside of the original action of the Secretary with the return of the additional evidence.

“(3) JUDGMENT OF COURT.—Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to affirm the action, or to set the action aside in whole or in part, temporarily or permanently. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

“(4) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

“(l) FEES.—The Secretary shall, as part of the delegation to a State agency of inspection authority, limit the amount of fees which such State agency may impose for inspections to the costs of the State to make such inspections. The Secretary shall issue regulations establishing criteria for the establishment of fees by a State agency acting on behalf of the Secretary.

“(m) INFORMATION.—

“(1) IN GENERAL.—Not later than July 1, 1996, and annually thereafter, the Secretary shall compile and make available to physicians and the general public information that the Secretary determines is useful in evaluating the performance of a facility, including a list of facilities—

“(A) that have been convicted under Federal or State laws relating to fraud and abuse, false billings, or kickbacks;

“(B) that have been subject to sanctions under subsection (h), together with a statement of the reasons for the sanctions;

“(C) that have had certificates revoked, suspended, or limited under subsection (i), together with a statement of the reasons for the revocation, suspension, or limitation;

“(D) against which the Secretary has taken action under subsection (j), together with a statement of the reasons for the action;

“(E) whose accreditation has been withdrawn or revoked, together with a statement of the reasons of the withdrawal or revocation; and

“(F) that meets such other measures of performance as the Secretary may develop.

“(2) DATE.—The information to be compiled under paragraph (1) shall be information for the calendar year preceding the date the information is to be made available to the public.

“(3) EXPLANATORY INFORMATION.—The information to be compiled under paragraph

(1) shall be accompanied by such explanatory information as may be appropriate to assist in the interpretation of the information compiled under such paragraph.

"(n) STATE LAWS.—Nothing in this section shall be construed to limit the authority of any State to enact and enforce laws relating to matters covered by this section that are at least as stringent as this section or the regulations issued under this section.

"(o) NATIONAL ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—In carrying out this section, the Secretary shall establish an advisory committee to be known as the National Mammography Quality Assurance Advisory Committee (hereafter in this subsection referred to as the 'Advisory Committee').

"(2) COMPOSITION.—The Advisory Committee shall be composed of not fewer than 18, nor more than 24 individuals, who are not officers or employees of the Federal Government. The Secretary shall make appointments to the Advisory Committee from among—

"(A) physicians,

"(B) practitioners, and

"(C) other health professionals,

whose clinical practice, research specialization, or professional expertise include a significant focus on mammography. The Secretary shall appoint at least 5 individuals from among national breast cancer or consumer health organizations with expertise in mammography.

"(3) FUNCTIONS AND DUTIES.—The Advisory Committee shall—

"(A) advise the Secretary on appropriate quality standards and regulations for mammography facilities;

"(B) advise the Secretary on appropriate standards and regulations for accreditation bodies;

"(C) advise the Secretary in the development of regulations with respect to sanctions;

"(D) assist in developing procedures for monitoring compliance with standards under subsection (f);

"(E) make recommendations and assist in the establishment of a mechanism to investigate consumer complaints;

"(F) report on new developments concerning breast imaging that should be considered in the oversight of mammography facilities; and

"(G) perform other activities that the Secretary may require.

"(4) MEETINGS.—The Advisory Committee shall meet not less than quarterly for the first 3 years of the program and thereafter, at least biannually.

"(5) CHAIRPERSON.—The Secretary shall appoint a chairperson of the Advisory Committee.

"(p) CONSULTATIONS.—In carrying out this section, the Secretary shall consult with appropriate Federal agencies within the Department of Health and Human Services for the purposes of developing standards, regulations, evaluations, and procedures for compliance and oversight.

"(q) BREAST CANCER SCREENING SURVEILLANCE RESEARCH GRANTS.—

"(1) RESEARCH.—

"(A) GRANTS.—The Secretary shall award grants to such entities as the Secretary may determine to be appropriate to establish surveillance systems in selected geographic areas to provide data to evaluate the functioning and effectiveness of breast cancer screening programs in the United States, including assessments of participation rates in screening mammography, diagnostic procedures, incidence of breast cancer, mode of detection (mammography screening or other methods), outcome and follow up information, and such related epidemiologic analyses that may improve early cancer detection and contribute to reduction in breast cancer mortality. Such information systems should include information concerning the techniques for the practical application of, and compliance with such surveillance systems. Grants may be awarded for further research on breast cancer surveillance systems upon the Secretary's review of the evaluation of the program.

"(B) USE OF FUNDS.—Grants awarded under subparagraph (A) may be used—

"(i) to study—

"(I) methods to link mammography and clinical breast examination records with population-based cancer registry data;

"(II) methods to provide diagnostic outcome data, or facilitate the communication of diagnostic outcome data, to radiology facilities for purposes of evaluating patterns of mammography interpretation; and

"(III) mechanisms for limiting access and maintaining confidentiality of all stored data; and

"(ii) to conduct pilot testing of the methods and mechanisms described in subclauses (I), (II), and (III) of clause (i) on a limited basis.

"(C) GRANT APPLICATION.—To be eligible to receive funds under this paragraph, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(D) REPORT.—A recipient of a grant under this paragraph shall submit a report to the Secretary containing the results of the study and testing conducted under clauses (i) and (ii) of subparagraph (B), along with recommendations for methods of establishing a breast cancer screening surveillance system.

"(2) ESTABLISHMENT.—The Secretary shall establish a breast cancer screening surveillance system based on the recommendations contained in the report described in paragraph (1)(D).

"(3) STANDARDS AND PROCEDURES.—The Secretary shall establish standards and procedures for the operation of the breast cancer screening surveillance system, including procedures to maintain confidentiality of patient records.

"(4) INFORMATION.—The Secretary may require that facilities provide to the breast cancer screening surveillance system relevant data that could help in the research of the causes, characteristics, and prevalence of, and potential treatments for, breast cancer and benign breast conditions, if the information may be disclosed under section 552 of title 5, United States Code.

"(r) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(1) to award research grants under subsection (q), $1,200,000 for each of the fiscal years 1993 through 1997; and

"(2) to carry out other activities which are not supported by fees authorized and collected under subsection (l), $2,500,000 for fiscal year 1993, $12,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995, 1996, and 1997.".

POINT OF ORDER

Mr. DANNEMEYER. Mr. Speaker, I reserve a point of order.

The SPEAKER pro tempore. The gentleman will have to make his point of order, and he may proceed.

Mr. DANNEMEYER. Mr. Speaker, my point of order is basically this: When this legislation was taken up in the Committee on Energy and Commerce, this Member from California objected that there was not a quorum present in order to reach the requisite minimum of 23 to vote it out of the committee.

Before the vote was taken to move it out of committee, the chairman of the committee, the gentleman from Michigan [Mr. DINGELL], unilaterally declared the presence of a quorum, when in fact there were no more than 16 or 17 members present. That unilateral declaration of existence of a quorum, in my judgment, is a violation of the rules, because he did not count at all. He just sat there and said, like creating a fiction out of the air, "There is a quorum here."

When the vote was taken, at least when it was asked to be taken, I objected on the grounds that there was no quorum present. He said, "I already declared that there is a quorum."

I believe it is a violation of the rules of the House and the rules of the committee for a bill to come out of a committee without a quorum being present.

That is my point of order.

The SPEAKER pro tempore. Does the gentleman from California [Mr. WAXMAN] desire to be heard on the gentleman's point of order?

Mr. WAXMAN. Mr. Speaker, I do, indeed, wish to be heard.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, first of all, the presence or absence of a quorum during committee proceedings is entirely irrelevant to the matter before the House, which is consideration of a bill under the suspension of the rules. Even if it were relevant, the gentleman from California is dead wrong in asserting that regular order was not followed during committee proceedings.

The transcript of the committee September 17, 1992, markup clearly indicates a quorum was present at the time the committee voted to report this bill. In fact, prior to the vote, the Chair noted the presence of a quorum.

Mr. Speaker, I assert that the point of order is not well taken and should not be sustained by the Chair for those two reasons.

The SPEAKER pro tempore (Mr. HUBBARD). The suspension of the rules would suspend all rules inconsistent with the passage of the bill. The point or order, therefore, is overruled.

The gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5938, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, the purpose of this legislation is to assure the availability of high quality mammography services in the fight against breast cancer. The benefits of early detection of breast cancer through mammography in terms of saving lives and scarce health dollars are well-documented.

This is not an arcane issue. Breast cancer will affect almost every American—personally, or because of the illness of a loved one or friend. It is the most frequent cancer in women. One out of every nine American women will develop the disease during her lifetime. And, this year alone, almost 45,000 women will die from it.

Mr. Speaker, the bill before us establishes Federal quality standards for mammograms to protect against substandard providers and life-threatening care. The Secretary of HHS, working with the States and private accrediting organizations, would enforce appropriate requirements for the operation of mammography equipment and for the professionals who provide this vital service.

This legislation reflects the advice of experts in the field of mammography at the Department of Health and Human Services and in the private sector. We are especially grateful for the assistance of the congressional caucus for women's issues, and the leadership of Congresswoman SCHROEDER and Congresswoman LLOYD. In addition, a number of private organizations and agencies at the Department of Health and Human Services have given valuable assistance.

Mr. Speaker, I am proud to join Chairman DINGELL and our other colleagues in bringing this legislation to the House. This bill includes a number of technical changes to the measure reported by the Committee on Energy and Commerce which have been shared with both sides of the aisle.

I urge my colleagues to support this bill so that we can continue our efforts to improve women's health and save lives.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I agree with the concept underlying this bill; namely, that every woman should be able to receive a safe and accurate mammogram. It is a worthy goal and one and all, I think, can support this goal without reservation.

However, I do not agree that the extensive Federal regulatory structure established by this bill is necessary to accomplish its goal. Under the provisions of this bill, the Secretary of Health and Human Services will regulate every mammography facility in the country through setting standards both for facilities and for the organizations that accredit them. All mammography facilities, no matter how many patients they serve or whether they are freestanding or located in physicians' offices, will be subject to at least one and possible two or three inspections per year. Every facility will be subject to Federal civil penalties if it is not in compliance with the Secretary's standards.

Again, Mr. Speaker, I do not dispute the need for high-quality mammography. But the Federal Government absolutely should not be in the business of regulating the private practice of medicine to accomplish its goal.

I am dismayed that the Congress wants to do again what it did so recently with the Clinical Laboratory Improvement Act [CLIA]. That act put the Government in charge of every medical laboratory in the country. Developing the regulations to implement the act has been a nightmare for the Government and for the private-sector labs that are being regulated.

Recently the Health Care Financing Administration decided that some of its regulations published less than a year ago and in place for less than 1 month already need to be loosened. Already the Government is granting extensions from deadlines they just set in place. Why? Because these regulations, according to a statement made by the Administrator of HCFA are going to have a tremendous impact on physicians in the private practice of medicine.

Dr. James Todd, head of the American Medical Association, recently expressed delight that HCFA is already loosening some requirements, because, he said, the regulations placed an unbelievably heavy burden upon physicians.

When the CLIA regulations were published in February of this year, they generated more than 60,000 comments, an unprecedented number. Many of these comments expressed the same kinds of views I hold today, great and serious concern about the intervention of the Federal Government and the application of difficult and costly regulatory requirements on the private practice of medicine.

We are going to do it again with this bill which the House is considering today. By this legislation, we are on the verge of turning the private practice of medicine into the public practice of medicine.

Mr. Speaker, regrettably we are considering this legislation very late in the Congress. We are working under great time constraints. Again, we are rushing to the conclusion that the only way to solve the problem is through creating a massive Federal regulatory scheme.

I want to emphasize again that all of us agree there should be a way to ensure high-quality mammography. What we should be doing is trying to develop a way to do this at the State level where I think it belongs, and then all Members can wholeheartedly support this and without reservation.

□ 2230

If you had been to your dentist recently, you would find out that the Federal Government is now regulating dentists in America. Indeed, through the Federal regulatory practice, now get this, we are saying that the dentist can no longer take home his smock to wash it at home, as he or she may have done in the past. They are going to have to wash those smocks in a federally approved laundry with regulators from the Federal Government coming and inspecting this laundry. Or you can wash them on the facilities of the dentist, provided they are washed in certain ways that only the Federal regulatory authority is going to approve.

This is not my idea of how we are going to relieve the regulatory burden on the American private sector, and my reason for objecting to this bill. I do not want to take the practice of mammography down the same road that we have taken the dentists of America.

For these reasons, Mr. Speaker, I am opposed to this bill.

Mr. WAXMAN. Mr. Speaker, I am pleased at this time to yield 6 minutes to the gentlewoman from my own State of California [Ms. PELOSI].

Ms. PELOSI. I thank the gentleman for yielding this time to me, and I thank him for his good work in bringing this legislation to the floor. I know the gentleman from California [Mr. WAXMAN] and the gentleman from Michigan, Chairman DINGELL, have worked very hard on this legislation, which is very important to women and really, indeed, then to all the families of America.

I therefore rise in strong support of H.R. 5938, the Mammography Quality Standards Act.

I urge my colleagues to support this act, for many reasons. The figures are staggering. One in three women in our country will get breast cancer. Yet, a mammogram is the only screening test available to detect the deadly disease in women. This makes it absolutely necessary that the equipment, personnel, delivery of the procedure, and the facilities be the best quality possible. Chairman DINGELL's bill, as presented by my colleague, the gentleman from

California [Mr. WAXMAN], chairman of the subcommittee, would improve such services by establishing basic regulations to insure that each woman is receiving the proper care.

H.R. 5938 would amend the Public Health Service Act to improve the quality of equipment, screening services and facilities that perform mammographies by requiring certification and accreditation by the Department of Health and Human Services. This would insure better delivery of a basic health service that is necessary for every woman.

Mr. Speaker, this weekend I had my neighborhood meetings, and they focused on women's health issues, the first time we had had this subject as the specific charge of the meetings.

We had a very good turnout in a number of neighborhoods in San Francisco, and I was very pleased with the information that women brought to us. I told them about this legislation. They were very encouraged by it.

You know the statistics, they are staggering: 1 in 9 women will be afflicted by this disease and possibly die, and we are going in the wrong direction; we are going in the direction of 1 in 3 in a not-very-long time unless we have some intervention.

I wish that we had more money and better research so that we could have earlier detection than that which shows up in a mammogram. By then, for some women, it is too late, even in the earliest stages of detection.

However, that makes this legislation all the more important.

If a woman has a false negative and she proceeds on that basis, if she goes in for a mammogram—and it is difficult enough for us to get women to do that—but if when the woman goes in she is given information that indeed she has nothing to be concerned about and proceeds with that information and time goes by and we find out that indeed she had something to be concerned about, this is really obviously very harmful to her life and very shameful to our entire system.

Mr. WAXMAN. Mr. Speaker, will the gentlewoman yield?

Ms. PELOSI. I yield to the chairman of the subcommittee.

Mr. WAXMAN. I thank the gentlewoman for yielding to me.

Mr. Speaker, I just want to underscore that point. The horror of going and getting a mammogram and not having that mammogram give you the accurate information—a woman who gets a false negative and then does not act in order to stop the cancer from spreading because the test was not done correctly or because the machine was not functioning adequately, I must say it is disturbing to me to hear my colleague, the gentleman from California [Mr. DANNEMEYER], rail against this legislation because of the burdens of regulation, in order to assure through that regulation that these mammograms are going to do what they are purported to do; that is, give a measure of whether there is a cancer there, so that needed medical care can be administered.

The people who are going to have to subject themselves to the regulation—and all regulation is not bad—are the radiologists, people who give the screening, and they are supporting this bill because they want to make sure that there are standards in place that will give the assurance of accuracy for these tests.

I have heard the story about Mr. DANNEMEYER's dentist and how he had to take his smock home and he had to do this and he had to do that; I do not know whether that is true or not. But regulation is sometimes needed. And to say that regulation is not needed and kill this bill, as he would have us do, and then go on without women getting the accurate information from a mammogram is tantamount to our ignoring the reality that many of them will have a death sentence because the mammogram will not be done with adequate standards.

Mr. Speaker, I strongly join the gentlewoman from California [Ms. PELOSI] in urging the adoption of this bill. Regulation is not always bad; regulation can be very important to protect the public.

I think this bill is a reasonable, moderate, and carefully crafted one. I would hope it would be adopted.

Ms. PELOSI. I thank the gentleman for his comment. I join with my colleague from California in saying that every woman in America should be able to have the confidence that the only detection test available for breast cancer is being undertaken properly and is effective.

Mr. Speaker, I therefore urge my colleagues to support this significant legislation for women and thank the gentleman from Michigan [Mr. DINGELL], and the gentleman from California [Mr. WAXMAN], for their hard work on this legislation.

Mr. WAXMAN. Mr. Speaker, I reserve the balance of my time.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

I want to make very clear to the House and to my colleague, the chairman of the subcommittee, that I think it is appropriate for a level of government to approve and regulate and assure anyone who uses this facility that it is properly being administered and that the results are accurate. But I believe, in all sincerity, that belongs at the State level. The State level around America is the place where we regulate the practice of the healing professions. In fact, most professions of America are regulated at the State level.

I have not been able to find out any recommendation that the States have failed to undertake this responsibility.

Mr. WAXMAN. Mr. Speaker, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman.

Mr. WAXMAN. I thank the gentleman for yielding.

Well, if this is a problem, the States could certainly well act. But despite the glaring need for comprehensive regulations, only 20 percent of the States have comprehensive regulatory schemes in place. I think if they are going to act in such a lax manner, it is appropriate for the Federal Government to step in, because we are urging through our Government-funded health care programs, especially Medicare, that women get mammograms.

Why urge and pay for mammograms that are going to be incorrect? Let us get this regulation in place all over the country. Women deserve fair and honest reporting for their mammogram tests, good standards to be kept wherever they live, not just in 20 percent of the States.

Mr. DANNEMEYER. Mr. Speaker, reclaiming my time, I observe for the House that the gentleman from California, the chairman of the subcommittee, has been adroit and adept at the legislative process in developing Federal legislation as a carrot-and-stick to urge States to do something that he, in his judgment, believes is necessary to advance the practice of medicine or health care in America.

For the last 30 years we have example after example of that. But that is not this bill.

□ 2240

This bill just places the Federal Government into the forefront of the whole regulation process. It is remarkably new ground we are plowing here really by getting the Federal Government into an area that traditionally has been the business of the States. This is the major reason for my objection.

I will share, Mr. Speaker, my wife's experience of the tragedy of this disease just 10 years ago. She is alive today. Praise the Lord. She survived. A lot of women have not.

It is a tragedy of our country. We do not know what is causing it and it is appropriate that any woman who has a mammography have assurance that the result is going to be accurate. I accept that. I promote that; but I will say again, it belongs at the State level and not the Federal level.

For those reasons, Mr. Speaker, I am opposing this legislation.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 5938, the Mammography Quality Standards Act of 1992, and would like to commend the chairman of the Energy and Commerce Committee, Mr. DINGELL, for his efforts in bringing this measure to the floor.

Mr. Speaker, the House recently approved House Joint Resolution 393 which designated October 1992 as "Breast Cancer Awareness

Month." This is an important step to bring needed public attention to this dreadful disease, a needed step on the road to bring about the eventual extinguishment of breast cancer.

Unfortunately, much more is needed than mere awareness, as the benefits of early detection are wasted by poor quality health care service. Mammography screening has been shown to significantly reduce breast cancer mortality. However, this process becomes ineffective when it relies upon substandard equipment and underqualified personnel, a problem which seems to be increasing in detection centers across the United States.

Congress must take the next necessary step in the fight against breast cancer. H.R. 5938 does just that; it establishes the minimum standards for mammography facilities that are so desperately needed.

H.R. 5938 requires the Department of Health and Human Services to certify all facilities which operate mammography equipment, interpret mammograms, and process mammography films. Accreditation will only be awarded to facilities which pass quality assurance programs, and, both annual and random inspections.

Last, this bill establishes necessary research grants to study the effectiveness of breast screening.

Mr. Speaker, let us work to bring an end to this deadly disease. Let us assure women, who rely on mammograms as a screening device for breast cancer, that they will receive only quality medical services.

Accordingly, I urge my colleagues to vote in favor of this important measure.

Mrs. VUCANOVICH. Mr. Speaker, I rise today in support of H.R. 5938, the Mammography Quality Standards Act. I am living proof that mammography works to detect breast cancer, as it did 9 years ago when a mammogram first revealed that I had breast cancer.

While obtaining mammography is essential, making sure mammoraphy readings are accurate is just as important. Too many women are faced with false negative or false positive results, which can result in physical and emotional disaster. This legislation would ensure the safety and accuracy of mammography through standards established by the Department of Health and Human Services.

Although my own State of Nevada has established quality standards, it is one of the few States to have taken this initiative. To ensure quality in mammography for all women, we must develop nationwide standards. While I am supportive of this bill's intent, I am concerned that it may override mammography regulations which have been implemented in States like Nevada. In addition, I believe that Congress must address the issue of funding for States to complete inspection responsibilities as mandated by this legislation.

I am hopeful that the Department of Health and Human Services will consult such experts as the American College of Radiologists and States like Nevada when determining national standards. With a little effort and knowledge, these issues may be addressed appropriately.

Breast cancer is a serious disease that continues to affect one in nine women in the United States. Early detection is the best way to fight this disease. However, detection must be accurate to save a life.

I urge my colleagues to stand up for your constituents, stand up for the women in our Nation, and vote for H.R. 5938.

Ms. SNOWE. Mr. Speaker, the legislation before the House today, H.R. 5938, is of vital importance to women all over this country and I want to lend my voice in calling for access to quality mammograms. The Mammography Quality Standards Act takes major strides toward ensuring that women will be able to get the high quality and safe mammograms they need.

Thanks to the educational outreach of many women's health groups, women around the Nation have become increasingly aware of the need to examine their breasts regularly. The message is out that early detection of breast cancer saves lives, and women are now seeking mammograms in record numbers. Unfortunately, there's an important link missing from this equation. Mammogram results may not be accurate and may therefore give women a dangerously false sense of security regarding their state of health.

Members of the House, when you or I or any patient goes to his or her doctor for medical care, we expect that the instruments and equipment used are reliable, and trust that they will accurately detect any health problems we may have. But the current technology of mammography is not perfect and needs to be improved in specific areas addressed by the Mammography Quality Standards Act. Unless quality mammograms are assured, women will lose their confidence in the Nation's health delivery system, and may even lose their lives.

Less than one out of three mammogram facilities do not meet the voluntary standards set by the American College of Radiology. Overlapping Federal, State, and voluntary accreditation standards have led only to confusion, therefore putting women at risk of misdiagnosis. We need to address this problem with a uniform approach and H.R. 5938 does exactly that by requiring that all mammography facilities meet national standards. These standards are minimum quality standards for equipment, personnel and ongoing quality assurance. H.R. 5938 also requires facilities to be inspected every year and to be recertified every 3 years. This bill outlines tough standards and reasonable sanctions.

The congressional caucus for women's issues, which I cochair along with Congresswoman PATRICIA SCHROEDER, has worked long and hard to make women's health a priority. I urge you to join us in our efforts by voting for this important legislation that will improve the quality of mammograms, the best method available for early detection of breast cancer.

Mrs. LLOYD. Mr. Speaker, I rise today in strong support of H.R. 5938, the Mammography Quality Standards Act of 1992 and urge my colleagues to vote in favor of this long overdue, and urgently needed legislation. A bad mammogram can be worse than no mammogram at all because it may provide a false sense of security. This bill will ensure that every facility providing mammograms in our Nation meets quality and safety standards or is put out of the mammogram business, period.

Reports by both the American Cancer Society and the General Accounting Office have indicated that there are wide variations in image quality and radiation dose among the 11,000 mammography units in use across our country. Our current ad hoc system of Federal, State, and voluntary measures has failed to correct this problem. Only 10 States have adopted legislation in the area of the quality assurance and only half of all mammography providers meet the voluntary professional quality standards established by the American College of Radiology.

This situation has put women at risk, at a time when breast cancer rates continue to rise. Studies have shown that the death rate of breast cancer could be reduced by one-third through regular, quality screening. While we can't speed up the research to find the causes and a cure to this devastating disease, we can make a difference in saving the lives of thousands of women by passing this needed legislation today.

Representative SCHROEDER and I originally introduced this bill as the Breast Cancer Screening Safety Act and it is an integral part of the Women's Health Equity Act. I would like to express thanks to Chairman DINGELL and Chairman WAXMAN for their efforts and support for getting us here today, and to Senator ADAMS and his staff for their steadfast determination and hard work to ensure that mammograms are safe and reliable to the women who trust their lives to them.

Mrs. SCHROEDER. Mr. Speaker, today, I rise in support of the Breast Cancer Prevention and Safety Act of 1992.

MARILYN LLOYD and I first introduced this bill in the House in October, 1990 as the Breast Cancer Screening Safety Act of 1990. That bill simply sets minimum Federal standards of quality and safety for mammography services. It requires that a facility can only provide mammography screening services if it meets the national quality standards for personnel and equipment established by the bill.

Currently, too few facilities meet the voluntary professional standards established by the American College of Radiology [ACR] in 1987. Federal standards will ensure that mammograms will have good image quality, while limiting the patient's radiation dose, and that the mammogram will be interpreted accurately. Federal law currently regulates other medical procedures, such as PAP smears and blood tests.

There is no doubt that mammograms are key to the early detection of breast cancer. As we continue to urge women to get a mammogram, we must also guarantee them that their mammogram will be safe and accurate. This legislation gives women that assurance.

Too many tragic cases have occurred where a woman has a mammogram, receives a clean bill of health, and a few months later learns she has breast cancer. We can avoid such tragedy by making sure mammogram machines are in perfect working order and interpretations of the mammograms are accurate.

October is Breast Cancer Awareness Month. Let's pass this legislation so that this October, women can celebrate.

Ms. OAKAR. Mr. Speaker, I rise today in strong support of H.R. 5938, the Mammography Quality Standards Act of 1992. I wish to thank Health Subcommittee Chairman WAXMAN and the full Energy and Commerce Chairman DINGELL for their efforts to get this legislation to the floor before the close of the 102d Congress. I also appreciate the leadership taken by my colleagues, especially representative MARILYN LLOYD and representative PAT SCHROEDER in introducing the original version of this bill, of which I was an original cosponsor. This is responsible legislation that will save women's lives.

Mr. Speaker, over 8 years ago, at my urging, my former Chairman Claude Pepper held the first of many hearings on the need for quality mammography screening as standard coverage in every health policy, public and private, throughout our Nation. Over the years a constant essential thread throughout the discussions has been the need to set standards for this type of screening. When I first introduced my legislation to provide that Medicare benefit, one critical provision was the one which ensured strict quality standards for both the provider and the equipment used. I have always looked to the American College of Radiology [ACR] for guidance in putting forth a standard that would guarantee that mammograms are safe, affordable, and effective. I fought to ensure that the high safety standards of the ACR were maintained when that medicare benefit was finally implemented. When mammography screening became standard coverage under the Federal Employees Health Benefit Program and under the military CHAMPUS Program shortly thereafter, the same quality standards, based on the voluntary ACR model was applied.

Mr. Speaker, 44 percent of our Nation's health care is provided through public programs. I knew then that if we could get this benefit, along with meaningful quality standards to be included as part of our public policy, this would set the national standard for all health care plans. However, across the Nation today, compliance with certified standards for mammography screening is not required for all providers. A few years ago, only 20 percent of mammography centers were certified by the ACR and many disturbing reports emerged about missed cancers, over-exposure to radiation, and number of problems which were not regulated the State or Federal level.

Mr. Speaker, this bill before us today should provide women the assurance that they need that their mammograms are safely administered in an appropriate setting, on appropriate machinery, and interpreted by qualified professionals. The bill also provides for the establishment of a national screening advisory committee and a screening research program to continually assess and perfect the state of the art.

I think this addresses at least a part of the picture for women in this country. Until we have a real preventive treatment for breast cancer, or a cure—early detection through regular, quality mammography is a woman's best hope for survival of this killer. I hope from this point we can move forward to enact meaningful informed consent legislation for breast cancer patients. I will also continue to fight for all of the provisions of my bill, H.R. 5156, the National Breast Cancer Strategy Act, designed to attack breast cancer in a comprehensive fashion. Currently, there is no effective screening method, other than self breast exam, that can be recommended for the growing number of breast cancer patients under age 35. We need to develop better methods and new technologies for women of all ages. Yet, Mr. Speaker, this bill is an important, most vital, step in the process. Again, I thank the members of the Energy and Commerce Committee who have supported this bill, and my colleagues on the congressional caucus for women's issues for pushing this forward. I urge all of my colleagues to support this legislation.

Mrs. MINK. Mr. Speaker, I rise in strong support of H.R. 5938, the Mammography Quality Standards Act of 1992.

For too long, the issues surrounding women's health have been ignored, relegated to the depths of triviality and unimportance, at the expense of women's health and well-being. We cannot allow this situation to continue any longer.

H.R. 5938 is part of our attempt, in concert with other measures contained in the Women's Health Equity Act, to act on our intention to correct this condition of neglect and indifference to issues in women's health. The Women's Health Equity Act which includes funding for research on ovarian cancer, breast cancer, osteoporosis, and infertility, is part of an overall attempt to seek equitable treatment for women in health research and to address women's health concerns in the areas of research, health services and prevention. H.R. 5938 is part of this concerted effort to bring attention and support for issues in women's health.

H.R. 5938 establishes national quality standards for mammogram equipment and for physicians performing mammograms. This bill ensures that physicians performing mammograms be certified specifically for mammogram services, and ensures that women who submit to mammograms and rely on the results may be reasonably assured that the interpretation of these results are accurate and trustworthy.

Through experience, we have learned hard and bitter lessons. We have learned that the quality of a mammogram reading can differ widely, leading to deaths from breast cancer that might have been treatable. In response, H.R. 5938, and the Senate companion, S. 1777, establishes minimum Federal standards for image quality, radiation doses and interpretation of mammograms. These measures correct deficiencies in the current administration of mammograms in approximately 10,000 facilities nationwide. The cost of deficiencies in the administration of mammograms, and the rate of breast cancer and deaths from breast cancer, are too significant to be brushed aside any longer.

For the deficiencies that H.R. 5938 corrects, it does something else just as important. H.R. 5938 communicates to the American people, the values of this Congress. H.R. 5938 says to the American people that we will not allow deficiencies in our health care to continue unabated; it says to women across this Nation that we recognize the importance of being able to reasonably rely on the accuracy and trustworthiness of mammography test results; it says to all people that Congress has identified a health issue of importance and is willing to correct deficiencies affecting health and well-being of all women.

Mammography works when it is administered correctly and its results are interpreted correctly. More than 180,000 women will be diagnosed with breast cancer and more than 45,000 will die from the disease. Mammography has the potential to reduce the number of deaths significantly. The cost of deficiencies in the administration of mammograms are too significant to be unregulated any longer. This bill identifies and establishes national quality standards for mammogram equipment and for physicians performing mammograms, focusing attention on the critical importance of breast cancer prevention and ensuring the integrity of mammogram test results.

H.R. 5938 is a bill that chooses to defend the life of women across America. Mr. Speaker, on behalf of all women, I urge my colleagues to support H.R. 5938 and to vote in favor of its passage.

Mr. STUDDS. Mr. Speaker, I rise today to express my strong support of H.R. 5938, the Mammography Quality Standards Act of 1992. I commend the sponsors of this legislation, Representative PAT SCHROEDER, Representative MARILYN LLOYD, subcommittee Chairman HENRY WAXMAN, and full committee Chairman JOHN DINGELL, for their efforts in shepherding this critical legislation to the floor today.

This year more than 180,000 women will be diagnosed with breast cancer and more than 45,000 will die from the disease. According to the Breast Cancer Coalition, a national advocacy group, early detection through physical exams and mammograms reduces mortality from breast cancer by more than 30 percent. The survival rate for a woman with a localized tumor has risen to about 90 percent, largely because screening mammography catches them at the earliest stages.

Until we finally discover a cure for breast cancer, early detection through regular mammography screenings is our strongest weapon against breast cancer. However, reports in the media and a June hearing in the Energy and Commerce Subcommittee on Health and the Environment have documented wide variations in the quality of mammography facilities—from inaccurately calibrated equipment to poorly-trained lab personnel—which have seriously compromised the accuracy of mammograms in numerous cases. Fewer than half the facilities currently in operation meet the voluntary standards of the American College of Radiology.

As you know, Mr. Speaker, this is not an arcane, technical issue. It is quite literally a matter of life and death. A poor quality mammogram can result in delayed treatment, a more traumatic mastectomy rather than a lumpectomy, or even an avoidable death.

The Mammography Quality Standards Act of 1992 responds to this crucial public health threat by requiring imaging facilities to obtain a certificate to operate mammography equipment and to process and interpret mammograms. To qualify, facilities would need to meet Federal standards relating to the accuracy of imaging equipment, proficiency of laboratory technologists employed, and degree of medical supervision exercised by qualified radiologists.

Mr. Speaker, as an early cosponsor of the original version of this legislation in the House, I am heartened that this measure has progressed so swiftly through the legislative process. Millions of women across the Nation will benefit by the assurance of high quality breast imaging facilities. I urge my colleagues to support this bill.

Mr. LENT. Mr. Speaker, the goals of this legislation are commendable, and I support them.

Screening for early detection of breast cancer is a critical preventive health measure, encouraged by health and medical experts. This positive step can turn to tragedy, however, if the mammogram is of such poor quality, or is so incorrectly interpreted, that the individual receives false or misleading results.

There have been a number of recent reports that some mammography facilities are using equipment that is inappropriate or poorly calibrated, that the reading and interpretation of mammograms and even the development of the film are of variable quality, and that many mammograms are being taken by individuals who are not properly trained. These are situations which need to be remedied.

Mr. Speaker, I support this legislation.

I have no reservations about the goals of the bill or about whether, if implemented properly, the bill will achieve those goals.

I do have concerns about establishing a large Federal regulatory scheme, which involves the Federal Government in the private practice of physicians. I regret that we could not have considered this subject when we had more time to review a variety of options that could have achieved these same worthy goals with less intrusion of the Federal Government into the private sector.

Mr. DINGELL. Mr. Speaker, I rise in strong support of H.R. 5938, the Mammography Quality Standards Act of 1992.

Forty-six thousand women will die of breast cancer this year; 180,000 will be diagnosed with the disease. Mammography is perhaps our most potent preventive tool against this scourge—proper screening can reduce the death rate by 25 percent—but no universal and comprehensive quality assurance program exists.

Faulty mammography tests result in tragedy and death. They cost money; they result in messy and costly malpractice cases; but, they can be prevented.

Today, thousands of mammography facilities are virtually unregulated. They fail to meet even incomplete Federal and private standards. Women often don't know if this sensitive test is being done right. Experts agree that if millions more women were regularly screened, thousands of lives could be saved every year. But, as we encourage more women to be tested—which we must do—we must also guarantee that all facilities operate with precision and accuracy. The legislation does just this.

This legislation and the millions who undergo mammography owe a debt of gratitude to my colleagues, Congresswomen SCHROEDER and LLOYD, whose bill H.R. 3462 forms the basis of the House's action today, and who joined me in cosponsoring this bill.

Finally, the people of Michigan, who early recognized the gravity of this problem and moved aggressively with a program to correct deficiencies in mammography testing, deserve commendation. The Michigan program has been a beacon for other States; the great support for Federal legislation which public health officials in Michigan have offered has been an inspiration to us.

This legislation is designed to assure that all mammography done in this country is performed by properly trained personnel, and on properly operated equipment. It is a balanced bill which relies not only on Federal efforts but on States and private accrediting bodies to assure that the highest standards of quality are met.

The bill seeks to avert mistakes by requiring that facilities be comprehensively surveyed before being certified.

It maintains quality assurance through a variety of standards and through annual inspections.

Finally, the bill remedies problems through an array of sanctions including fines, suspensions and injunctive relief.

The bill has the same goal as mammography: To detect problems early and to correct them before damage is done. I urge my colleagues to support the bill.

Ms. HORN. Mr. Speaker, I rise in strong support of this important legislation to require the Department of Health and Human Services to certify facilities that perform mammography testing.

Breast cancer is the most common form of cancer for women and the second leading cause of cancer death. This year, over 180,000 women will be diagnosed, and 45,000 will die from breast cancer.

We can prevent these deaths, Mr. Speaker. If detected early, breast cancer is curable. According to medical experts, at least 30 percent of breast cancer deaths can be averted if women received regular mammography screening. We need to focus greater attention on these facts and promote effective detection and preventive services.

This bill addresses a very important component of effective breast cancer detection—quality assurance for mammography testing. The U.S. General Accounting Office found a wide variation in quality standards of mammography and noted that failure to comply with adequate standards can result in seriously compromised results. Yet, mammograms are 85 to 95 percent successful when performed under optimal conditions.

Only one-third of the mammography facilities in the United States have applied for accreditation and one-third of those failed certification on their first attempt. It just does not make sense to spend health care dollars on poor service that doesn't work.

I commend Congressmen DINGELL and WAXMAN who introduced H.R. 5938, as well as Congresswomen LLOYD and SCHROEDER for their work on this issue. This bill will focus on improving these services and saving lives. It is as simple as that. I ask my colleagues to support passage of this bill.

Mr. BILIRAKIS. Mr. Speaker, I rise in strong support of H.R. 5939, the Mammography Quality Standards Act of 1992. The National Cancer Institute estimates that 46,000 women will die from breast cancer this year and mammography screening has always been thought to be one of the best ways to reduce breast cancer deaths.

In recent months, there have been reports of women being given clean bills of health after having a mammogram, only to find out later that they did, indeed, have breast cancer the entire time. I find these incidents quite disturbing—women are being told over and over again that lives can be saved by early detection, yet when women are given the wrong diagnosis, due to inadequate screening methods, I believe Federal action is necessary.

H.R. 5938, of which I am an original cosponsor, would require the certification of all mammography centers by the Secretary of Health and Human Services. This includes all facilities that operate mammography equipment, interpret mammograms, and process mammography films.

I realize this legislation encourages more Federal Government regulation, however, if this legislation will save the life of one woman, I believe it is well worth it.

I urge my colleagues to support this legislation, which I believe could save the lives of many women.

Mr. DANNEMEYER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5938, as amended.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH REAUTHORIZATION ACT OF 1992

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 5673 to amend the Public Health Service Act to revise and extend the programs of the Agency for Health Care Policy and Research as amended.

The Clerk read as follows:

H.R. 5673

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDATORY REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Agency for Health Care Policy and Research Reauthorization Act of 1992".

(b) AMENDATORY REFERENCES.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to that section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

SEC. 2. ESTABLISHMENT AND GENERAL AUTHORITIES.

(a) ESTABLISHMENT.—Section 901(b) (42 U.S.C. 299(b)) is amended by inserting after "improvements in clinical practice" the following: "(including the prevention of diseases and other health conditions)".

(b) GENERAL AUTHORITIES.—Section 902 (42 U.S.C. 299a) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b), the following subsection:

"(c) HEALTH SERVICES TRAINING GRANTS.—The Administrator may provide training grants in the field of health services research related to activities authorized under subsection (a), to include pre- and post-doctoral fellowships and training programs, young investigator awards, and other programs and activities as appropriate.".

SEC. 3. DISSEMINATION.

Section 903 (42 U.S.C. 299a–1) is amended by adding at the end the following subsection:

"(e) INFORMATION CENTER.—

"(1) IN GENERAL.—There shall be established at the National Library of Medicine an information center on health services research, and on selected technology assessments and clinical practice guidelines produced by the Agency and other public and private sources.

"(2) IDENTIFICATION SYSTEM.—The Administrator shall ensure that information under paragraph (1) concerning clinical practice guidelines is collected and maintained electronically and in a convenient format. The Administrator, in consultation with the Director of the National Library of Medicine, shall develop and publish criteria for the inclusion of practice guidelines and technology assessments in the information center database.

"(3) INTERAGENCY AGREEMENT.—The Administrator shall enter into an agreement providing for the implementation of paragraph (1) with the Director of the National Library of Medicine.".

SEC. 4. HEALTH CARE TECHNOLOGY ASSESSMENT.

(a) IN GENERAL.—Section 904 (42 U.S.C. 299a–2) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; and"; and

(C) by adding at the end the following paragraph:

"(6) by conducting assessments and reassessments of existing and new health care technologies.";

(2) in subsection (b)(2)—

(A) by striking "cost-effectiveness,"; and

(B) by adding at the end the following sentence: "In carrying out such paragraph, the Administrator shall also consider the cost effectiveness of such technologies where cost information is available and reliable."; and

(3) in subsection (c) to read as follows:

"(c) AGENDA AND PRIORITIES.—

"(1) ESTABLISHMENT OF PRIORITIES.—In accordance with paragraph (2), the Administrator, in consultation with the Advisory Council established under section 921, shall establish an annual list of technology assessments under consideration by the Agency, including those assessments performed at the request of the Health Care Financing Administration and the Department of Defense and those assessments performed under subsections (d) and (f).

"(2) PUBLIC NOTICE.—The Administrator, in consultation with the Advisory Council, shall publish the list established in paragraph (1) annually in the Federal Register.";

(4) in subsection (d), to read as follows:

"(d) CONDUCT OF ASSESSMENTS.—

"(1) IN GENERAL.—The Administrator may conduct technology assessments in addition to those assessments performed at the request of the Administrator of the Health Care Financing Administration or of the Secretary of Defense.

"(2) CRITERIA.—The Administrator shall develop criteria for determining the priority of assessments performed under this subsection. Such criteria shall include—

"(A) the prevalence of the health condition for which the technology aims to prevent, diagnose, treat and clinically manage;

"(B) variations in current practice;

"(C) the economic burden posed by the prevention, diagnosis, treatment, and clinical management of the health condition, including the impact on publicly-funded programs;

"(D) aggregate cost of the use of technology;

"(E) the morbidity and mortality associated with the health condition; and

"(F) the potential of an assessment to improve health outcomes or affect costs associated with the prevention, diagnosis, or treatment of the condition."; and

(5) by adding at the end the following subsections:

"(e) DESCRIPTION OF PROCESS.—Not later than January 1, 1994, the Administrator shall develop and publish a description of the methodology used to establish priorities for technology assessment and the process used to conduct its technology assessments under this section.

"(f) PROGRAM OF INNOVATIVE ASSESSMENTS.—

"(1) IN GENERAL.—The Administrator may make grants to, or enter cooperative agreements or contracts with, entities described in paragraph (2) for the establishment of collaborative arrangements for the purpose of conducting assessments of experimental, emerging, existing, or potentially outmoded health care technologies, and for related activities. Such assessments may include controlled clinical trials, large simple trials, and other methodologies that can be conducted in partnership between the public and private sectors or among multiple government agencies.

"(2) ELIGIBLE ENTITIES.—The entities referred to in paragraph (1) are entities determined to be appropriate by the Administrator, which entities may include academic medical centers, research institutions, nonprofit professional organizations, public or private third party payers, other governmental agencies, and consortia of appropriate research entities established for the purpose of conducting technology assessments.

"(3) USE OF AWARD.—A grant, cooperative agreement, or contract under paragraph (1) may be expended for data collection, data analysis, protocol development, report development, dissemination and evaluation, and other activities determined to be appropriate by the Administrator. Such funds shall not be used for direct services.

"(4) APPLICATION FOR AWARD.—To be eligible to receive a grant, cooperative agreement, or contract under paragraph (1), an entity shall prepare and submit to the Administrator an application, at such time, in such form, and containing such information as the Administrator may require.

"(5) INTERAGENCY MEMORANDA OF UNDERSTANDING.—In carrying out paragraph (1), the Administrator may enter into memoranda of understanding with the heads of other Federal agencies.".

(b) REPORT REGARDING INNOVATIVE ASSESSMENTS.—Not later than January 1, 1994, the Administrator for Health Care Policy and Research shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report concerning the program established in section 904(f) of the Public Health Service Act (as added by subsection (a) of this section), including the plan of such Administrator for implementing the program.

SEC. 5. FORUM FOR QUALITY AND EFFECTIVENESS IN HEALTH CARE.

(a) REQUIREMENTS FOR GUIDELINES, STANDARDS, PERFORMANCE MEASURES, AND REVIEW CRITERIA.—

(1) ADDITIONAL REQUIREMENTS.—Section 912(b) (42 U.S.C. 299b–1) is amended—

(A) in paragraph (2), by striking "and" after the semicolon at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following paragraphs:

"(4) include information on risks and benefits of alternative strategies for prevention, diagnosis, treatment, and management of a given disease, disorder, or other health condition; and

"(5) include information on the costs of alternative strategies for the prevention, diagnosis, treatment, and management of a given disease, disorder, or other health condition, where cost information is available and reliable.".

(2) STUDY.—

(A) To assist in carrying out the requirements of section 912(b)(4) of the Public Health Service Act, as added by paragraph (1) of this subsection, the Administrator for Health Care Policy and Research shall conduct or support a study to develop methods for collecting and analyzing primary and secondary data to be used in generating cost estimates of alternative strategies for the prevention, diagnosis, treatment, and management of a given disease, disorder, or the health condition to be included in guideline documents.

(B) Not later than June 1, 1994, the Administrator for Health Care Policy and Research shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report concerning the study conducted under subparagraph (A).

(b) ADMINISTRATION OF OFFICE.—Section 911 (42 U.S.C. 299b) is amended by adding at the end the following sentence: "The Administrator shall carry out this part acting through the Director.".

(c) CONFORMING AMENDMENTS.—Part B of title IX (42 U.S.C. 299b et seq.) is amended—

(1) in section 912—

(A) in subsection (a)—

(i) in the first sentence, by striking "The" and all that follows through "shall" and inserting "The Administrator shall"; and

(ii) in the second sentence, by striking "Director" and inserting "Administrator"; and

(B) in subsection (c), by striking "Director" and inserting "Administrator";

(2) in section 913—

(A) in subsection (a), in the matter preceding paragraph (1), by striking "Director" and inserting "Administrator";

(B) in subsection (b), in the matter preceding paragraph (1), by striking "Director" and inserting "Administrator"; and

(C) in subsection (c), by striking "Director" each place such term appears and inserting "Administrator"; and

(3) in section 914—

(A) in subsection (b)—

(i) in paragraph (1), by striking "Director" and inserting "Administrator";

(ii) in paragraph (2), by striking "Director" and inserting "Administrator";

(iii) in paragraph (3), in the matter preceding subparagraph (A), by striking "Director" and inserting "Administrator"; and

(iv) in paragraph (4), by striking "Director" and inserting "Administrator";

(B) in subsection (c), in the first sentence, by striking "Director" and inserting "Administrator";

(C) in subsection (d), in the first sentence, by striking "Director" and inserting "Administrator"; and

(D) in subsection (e), by striking "Director" and inserting "Administrator".

(d) PEER REVIEW WITH RESPECT TO GRANTS AND CONTRACTS.—

(1) ESTABLISHMENT OF PEER REVIEW GROUPS.—Section 922(c)(2) (42 U.S.C. 299c-1(c)(2)) is amended—

(A) by striking "from among individuals" and all that follows through "virtue" and inserting "from among individuals who by virtue"; and

(B) by adding at the end the following sentences: "Officers and employees of the United States may not constitute more than 25 percent of the membership of any such group. Such officers and employees may not receive compensation for service on such groups in addition to the compensation otherwise received for duties carried out as such officers and employees.".

(2) CATEGORIES OF REVIEW.—Section 922(d)(1) (42 U.S.C. 299c-1(d)(1)) is amended to read as follows:

"(1) IN GENERAL.—With respect to technical and scientific peer review under this section, there shall be two categories of peer review groups as follows:

"(A) One category of such groups shall, subject to subparagraph (B), review applications with respect to research, demonstration projects, or evaluations.

"(B) The other category of such groups shall review applications with respect to dissemination activities or the development of research agendas (including conferences, workshops, and meetings). If the purpose of a proposal presented in an application is a matter described in the preceding sentence, the application shall be reviewed by the groups referred to in such sentence, notwithstanding that the proposal involves research, demonstration projects, or evaluations.".

(e) CERTAIN PROVISIONS WITH RESPECT TO DEVELOPMENT, COLLECTION, AND DISSEMINATION OF DATA.—Section 923 (42 U.S.C. 299c-2) is amended by adding at the end the following subsection:

"(c) AUTHORITY REGARDING CERTAIN REQUESTS.—Upon the request of a public or nonprofit private entity, the Administrator may tabulate and analyze statistics under arrangements under which such entity will pay the cost of the service provided. Amounts appropriated to the Administrator from payments made under such arrangements shall be available to the Administrator for obligation until expended.".

(f) PROCESS FOR DEVELOPMENT OF GUIDELINES AND STANDARDS.—

(1) MEMBERSHIP OF PANELS.—

(A) Section 913(c) (42 U.S.C. 299b-2(c)) is amended—

(i) by inserting after the subsection designation the following sentence: "The Administrator shall select the chairpersons and the members of the panels convened as well as other participants in the guideline process under this section."; and

(ii) by adding at the end the following sentences: "In making such selections, the Administrator shall ensure that a balance is maintained between individuals selected from academic settings and individuals selected without full-time academic appointments. At least two other members of such panels shall be individuals who do not derive their primary source of revenue directly from the performance of procedures discussed in the guideline. The Administrator shall ensure that at least one participant in the guideline process shall have expertise in epidemiology as well as familiarity with the clinical condition or treatment in question. The Administrator shall also ensure that at least one participant in the guideline process shall have expertise in health services research or health economics as well as familiarity with the clinical condition or treatment in question.".

(B) The amendments made by subparagraph (A) shall apply only with respect to panels convened under section 913 of the Public Health Service Act on or after the date of enactment of this Act.

(2) STUDY OF PROCESS.—

(A) The Administrator for Health Care Policy and Research shall conduct or support a study to evaluate the process described in section 913 of the Public Health Service Act for the development of guidelines, standards, and review criteria. The evaluation shall address—

(i) the optimal methods for setting priorities for guideline topics;

(ii) the different methods for generating guidelines, comparing the cost of producing the guidelines and the validity and utility of the guidelines produced; and

(iii) the methods for assessing the quality of practice guidelines, including an evaluation of the validity, reliability, and impact of the guidelines.

(B) Not later than June 1, 1995, the Administrator for Health Care Policy and Research shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report concerning the study conducted under subparagraph (A).

SEC. 6. PREVENTION.

(a) PROGRAM AGENDA.—Section 914(a)(2)(A) (42 U.S.C. 299b-3(a)(2)(A)) is amended—

(1) by striking clause (i);

(2) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(3) by inserting before clause (iii) (as so redesignated) the following clauses:

"(i) to improve methods for disease prevention;

"(ii) to improve methods of diagnosis, treatment, and clinical management for the benefit of a significant number of individuals;"; and

(b) DUTIES.—Section 912 (42 U.S.C. 299b-1) is amended by adding at the end the following subsection:

"(f) DEVELOPMENT OF CERTAIN GUIDELINES AND STANDARDS.—Not later than January 1, 1996, the Administrator shall ensure that a set of guidelines, standards, performance measures, and review criteria, are developed under subsection (a)(1) that address the prevention of not fewer than three conditions that account for significant national health expenditures. In carrying out this subsection the Administrator shall consult with the United States Preventive Services Task Force and other recognized experts in the field of disease prevention.".

SEC. 7. ADDITIONAL REQUIREMENTS.

Section 914 (42 U.S.C. 299b-3) is amended—

(1) in subsection (a)(2), by adding at the end the following subparagraph:

"(C) The Administrator shall develop and publish a methodology for establishing priorities for guideline topics. Such methodology may include the considerations described in section 904(c)(2) or 914(a)(2), and other considerations determined by the Administrator to be appropriate. Using such methodology, the Administrator shall establish and publish annually in the Federal Register a list of guideline topics under consideration."; and

(2) in subsection (e), by adding at the end the following sentence: "Evaluations shall be developed prior to the completion and release of the guideline, so that baseline data concerning practice patterns and health care costs may be obtained as part of the evaluation.".

SEC. 8. ADVISORY COUNCIL.

Section 921 (42 U.S.C. 299c) is amended—

(1) by striking subsection (d);

(2) by redesignating subsections (e) through (k) as subsections (d) through (j), respectively; and

(3) in subsection (e) (as so redesignated), by striking "subsection (e)" and inserting "subsection (d)".

SEC. 9. FINANCIAL CONFLICTS OF INTEREST.

Section 924 (42 U.S.C. 299c-3) is amended—

(1) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively; and

(2) by inserting before subsection (b) (as so redesignated) the following subsection:

"(a) FINANCIAL CONFLICTS OF INTEREST.—With respect to projects for which awards of grants, cooperative agreements, or contracts are authorized to be made under this title, the Administrator shall by regulation define—

"(1) the specific circumstances that constitute financial interests in such projects that will, or may be reasonably expected to, create a bias in favor of obtaining results in the projects that are consistent with such interests; and

"(2) the actions that will taken by the Administrator in response to any such interests identified by the Administrator.".

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 926 (42 U.S.C. 299c-5) is amended—

"(1) in subsection (a), to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title, there are authorized to be appropriated $115,000,000 for fiscal year 1993, $145,000,000 in fiscal year 1994, and $175,000,000 in fiscal year 1995."; and

(2) by adding at the end the following subsections:

"(c) INFORMATION CENTER.—For purposes of carrying out the activities under section 903(e), there are authorized to be appropriated $3,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

"(d) HEALTH CARE TECHNOLOGY ASSESSMENT.—For the purpose of carrying out technology assessment activities under section 904(d), there are authorized to be appropriated $2,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

"(e) PROGRAM OF INNOVATIVE ASSESSMENTS.—For purposes of establishing the program of innovative assessments under section 904(f), there are authorized to be appropriated $2,000,000 for fiscal year 1993, and such sums as may be necessary in each of the fiscal years 1994 and 1995.".

SEC. 11. EMERGENCY MEDICAL SERVICE FOR CHILDREN.

Section 1910 (42 U.S.C. 300w-9) is amended—

(1) in subsection (a), by striking "not more than four grants in any fiscal year" and inserting "grants"; and

(2) in subsection (d)—

(A) by striking "and $5,000,000" and inserting "$5,000,000"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1993 through 1997".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on H.R. 5673, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation provides for the reauthorization of the Agency for Health Care Policy and Research in the Department of Health and Human Services. This Agency was established by the Omnibus Budget Reconciliation Act of 1989, and is the successor agency to the National Center for Health Services Research and Health Care Technology Assessment.

AHCPR was created because we believed that the Federal Government has a responsibility to provide leadership in the conduct of health services research—research that is so essential to the formation of sound public health policies. Without better information and analysis of health care quality, costs, and outcomes, we cannot expect to manage our health care system effectively.

Mr. Speaker, this Agency is also the focal point for research on medical effectiveness and for the development of clinical practice guidelines. AHCPR has released 3 sets of practice guidelines earlier this year with an additional 14 scheduled for publication within the next 18 months. These guidelines are important in our efforts to improve the quality of care for patients, and also to assure that our scare resources for health care are used efficiently.

Mr. Speaker, this bill incorporates a number of changes to H.R. 5673 as reported by the Committee on Energy and Commerce. After consultations with Members on both sides of the aisle and with other interested parties, we have brought a revised bill to the House which will strengthen the Agency in several ways.

First, the bill expands the Agency's technology assessment activities, and provides new authority for the Agency to participate in collaborative agreements with other organizations engaged in technology assessments.

Second, the bill directs the Agency to work with the National Library of Medicine to establish an information center on health services research, technology assessments, and clinical guidelines—to ensure that such information is readily accessible to the public.

And, third, the bill directs the Agency to develop at least three new practice guidelines related to the prevention of disease.

Mr. Speaker, the work of this Agency is vital to our continuing efforts to reform our health care system. I want to thank the Members of our committee, especially Chairman DINGELL and our ranking minority member, Congressman LENT for their contributions and support of this legislation. I also want to acknowledge the work of the committee's staff—Donald Shriber, Michael Hash, Howard Cohen, Kay Holcomb, and Melody Hughson—for their assistance with this bill.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. DANNEMEYER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this legislation.

There is about $120 million in this bill. Essentially all it does is provide research and instruction to physicians on how they can better practice their profession.

In my opinion, this is an activity that should be conducted by the medical profession itself. It is nice to have it, but there is no reason or rationale as to why the taxpayers of America should be developing a bureaucracy in Washington to tell the physicians of this country how they should take care of their patients. That to me is the province of the medical profession through continuing education as part of the education process to be addressed in medical schools.

If we are looking for a way to reduce health care costs that some are seriously concerned are out of control, I know $120 million is not a lot of money, considering the tens of billions of dollars that the Federal government is spending every year, but if we are looking for a chance to reduce a Federal budget deficit that is adding $1.2 billion a day to the national debt, here is a modest way that we can find $120 million and say to the medical profession, "If you want to develop plans to educate the physicians of America as to how to take care of your patients, go to it. Don't come to the Federal taxpayers and ask us to do it for you."

Mr. WAXMAN. Mr. Speaker, the penny-wise and pound foolish axiom has to, I think in my opinion, be applied to the argument of the gentleman from California [Mr. DANNEMEYER].

Not to have research on what good practice that medicine might be, what appropriate standards would be useful for doctors to have throughout the country, seems to me to condemn us to be making mistakes, to practicing medicine excessively and inappropriately all over the country, and we are going to waste for more money by being ignorant about what are good health care standards than we are spending on this research to give us this vital information.

Mr. Speaker, I urge adoption of this bill so that we can have research that will give us more knowledge about outcomes from medical practice, standards for appropriate care, allow the medical professional to make the best judgments possible with the information gathered by their peers. This will clearly save lives and save money.

I think to deny this bill and support for this agency would be truly penny-wise and pound-foolish, so I urge adoption of this legislation.

Mr. LENT. Mr. Speaker, I support the reauthorization of the Agency for Health Care Policy and Research under the provisions of H.R. 5673. The bill represents a compromise between the House and Senate and is supported by the administration.

This Agency was created by Congress to conduct and support research designed to improve access to good quality, cost effective, medical care, and to assist health care providers through developing and disseminating clinical practice guidelines.

The research of this Agency is producing up-to-date information about diagnosis and treatment of some of the most serious, and most costly, illnesses and medical conditions that affect Americans. The Agency also evaluates new medical technology and advises the health care financing administration about reimbursement for the use of high-technology medicine.

Most importantly, the Agency disseminates information widely to the medical community so that we can be increasingly confident that health care providers will be up to date on state-of-the-art care, and that programs such as Medicare and Medicaid, as well as private organizations which pay for medical care, will be receiving a good value for their investment.

The bill is consistent with both the legislative goals and the budget of the President. I urge my colleagues to join me in supporting it.

Mr. DANNEMEYER. Mr. Speaker, I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 5673, as amended.

The question was taken.

Mr. DANNEMEYER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

EXTENSION OF A CERTAIN MEDICAID HEALTH MAINTENANCE ORGANIZATION WAIVER

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill

(H.R. 4252) to provide for a 3-year extension of a certain Medicaid health maintenance organization waiver as amended.

The Clerk read as follows:

H.R. 4252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF APPLICATION OF MEDICAID ENROLLMENT MIX REQUIREMENT TO DISTRICT OF COLUMBIA CHARTERED HEALTH PLAN, INC.

(a) IN GENERAL.—The Secretary of Health and Human Services shall waive the application of the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act to the entity known as the District of Columbia Chartered Health Plan, Inc., for the period described in section 2, if the Secretary determines that the entity is making continuous efforts and progress toward achieving compliance with such requirement.

(b) PERIOD OF APPLICABILITY.—The period referred to in subsection (a) is the period that begins on October 1, 1992, and ends on January 31, 1994.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from California [Mr. DANNEMEYER] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

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Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4252 was introduced by Mr. FORD of Tennessee on February 19. As amended by the Committee on Energy and Commerce, the bill would allow the Secretary of Health and Human Services provide temporary relief from a current Medicaid requirement to Chartered Health Plan, Inc., a for-profit HMO operating in the District of Columbia. This legislation will enable the D.C. Medicaid Program to contract with Chartered on a risk basis to provide services to Medicaid beneficiaries during the next 15 months.

Under current law, States cannot receive Federal Medicaid matching funds on payments made on a risk basis to HMO's or other prepaid plans unless those plans meet certain requirements. One of these, known as the 75/25 requirement, specifies that at least 25 percent of a plan's enrollees must be commercial—that is, not eligible for Medicaid or Medicare. The purpose of this requirement—which was first adopted by the Congress in 1976 in response to prepaid plan scandals in California—is to protect beneficiaries from underservicing and poor quality care.

The 75/25 enrollment mix requirement can be waived under current law for up to 3 years, so long as the plan demonstrates it is making progress toward meeting the requirement. In the case of Chartered health plan, this 3-year period expired on September 30, 1991. Since then, Chartered has been contracting with the D.C. Medicaid Program on a cost basis. As of this month, Chartered's enrollment stood at nearly 17,000; of these, about 16,400, or 96 percent, are Medicaid beneficiaries, women and children eligible for Aid to Families with Dependent Children.

The bill before us would allow the Secretary of HHS to waive the 75/25 enrollment mix requirement with respect to Chartered during the period October 1, 1992, through January 31, 1994, if the Secretary determines that Chartered is making continous efforts and progress toward achieving compliance. This is consistent with the temporary relief which the Congress extended to the Dayton Area Health Care Plan and the Tennessee Primary Care Network in separate pieces of legislation earlier this year. It will give us an opportunity to revisit the 75/25 requirement in the broader context of Medicaid managed care reform next year.

According to the Congressional Budget Office, this bill would have no cost to the Federal Government and no pay-as-you-go effect. I know of no opposition to the bill and urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. DANNEMEYER. I yield myself such time as I may consume, and I rise in support of this legislation. This is the third congressional waiver that the House and Congress have passed this year. We are going to be asked to grant a waiver on this repetitive basis. I think it is appropriate to reexamine the whole requirement that 75 percent, or no more than 75 percent, of the beneficiaries of an HMO be Medicaid. That, I hope, will be something that the next Congress will look at.

Ms. NORTON. Mr. Speaker, first let me thank my distinguished colleagues Mr. HAROLD FORD for introducing this legislation and Chairman HENRY WAXMAN of the Subcommittee on Health and the Environment for his efforts to bring this legislation to the floor today. I rise in strong support of H.R. 4252 as amended, legislation that is vital to the District of Columbia because it will allow D.C. Chartered Health Plan, an innovative and high-quality health maintenance organization, to continue providing health care services to many residents of the District who, like many other Americans, are in dire need of comprehensive health care.

D.C. Chartered Health Plan is a private managed-care organization that has been in existence since 1986. Currently, Chartered provides health care services to more than 14,000 low-income District of Columbia residents. Chartered's emphasis on preventive health care has resulted in a decrease in the number of unnecessary emergency room visits and overall improved health among its enrollees. Moreover, Chartered's long-term commitment to quality health care for low-income people has led this organization to take health care to the community by providing free services, such as vaccinations and blood pressure checks, in some of the neediest Washington neighborhoods.

Since 1988, D.C. Chartered has provided prepaid health care services to D.C. Medicaid enrollees. During this time Chartered has saved the District at least $3 million it otherwise would have spent with the traditional Medicaid Program. So you can see, this HMO not only provides quality health care, it gets the job done in a cost-effective way.

As many of my colleagues are aware, under current law Federal Medicaid funds are only available to match State expenditures under risk-based contracts with HMO's and other prepaid plans if at least 25 percent of the enrollees in the plan are not Medicaid or Medicare recipients, known as the 75/25 requirement. Between 1988 and 1991, Charter operated under an initial 3-year waiver of the 75/25 requirement as provided by law. As a relatively newly established HMO, Chartered has not yet been able to meet the 75/25 requirement because of difficulty in competing in the commercial market against major established plans. Chartered's initial waiver expired a year ago this month. Even after expiration of the waiver, the D.C. Medicaid Program maintained its contract with D.C. Chartered, with the hope that Chartered's waiver would be extended and thereby allow the District to renew its cost-based contract with Chartered. It is also worth noting that the waiver provided for in this bill is not retroactive, and therefore Chartered will be forced to absorb all of the costs for which it was not reimbursed under its current risk-based contract. This unfortunate fact further underscores the need to pass H.R. 4252 tonight.

Most importantly, unless D.C. Chartered is granted an extension of the waiver as this bill provides, this valuable health care resource will go out of business, thereby leaving a huge void in the health care services currently available to the neediest of D.C. residents. In these fiscally tight, cost-conscious times, D.C. Chartered stands as a glimmer of hope. It is a good business in the business of doing good, which makes good dollar sense. I urge my colleagues to pass H.R. 4252.

Mr. DANNEMEYER. Mr. Speaker, I yield back the balance of my time.

Mr. WAXMAN. Mr. Speaker, I, too, yield back the balance of my time.

The SPEAKER pro tempore (Mr. HUBBARD). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 4252, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to direct the Secretary of Health and Human Services to waive the application to the D.C. Chartered Health Plan, Inc., of the requirement under title XIX of the Social Security Act that limits the maximum number of individuals enrolled with a health maintenance organization who may be beneficiaries under the Medicare or Medicaid Programs.".

A motion to reconsider was laid on the table.

ORDER OF BUSINESS

Ms. PELOSI. Mr. Speaker, I ask unanimous consent to transpose the names of the gentleman from Michigan [Mr. BONIOR] with the gentleman from Ohio [Mr. STOKES] on the special order calendar on Wednesday, September 30, 1992.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

WHO'S TO BLAME FOR THE NATIONAL DEBT?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DANNEMEYER] is recognized for 5 minutes.

Mr. DANNEMEYER. Mr. Speaker and Members, one of the hotly debated matters around this country today is who is responsible for the addition to the national debt this year of close to $430 billion, the fact that we now have a national debt of close to $4 trillion. Just 12 years ago we passed the trillion dollar mark.

It is not unusual for the people of the country to be confused about who is at fault because the Democrats blame the Republicans, the House blames the Senate, the Congress blames the White House, and the people of America, the taxpayers of the country, shake their heads, scratch their heads, and they say, "I don't know who to believe anymore because Members of Congress take the well with increasing frequency and say, 'Well, Congress has appropriated less money than what the President has asked for.'"

All during the last 10 years, for instance, during the Reagan and Bush presidencies, Mr. Speaker, this Member from California has tracked this issue very carefully, and I have an analysis here beginning with 1982 through 1992 which contrasts each year with what the President asked to be spent with what Congress appropriated in response thereto. It is fair to say that in every year, except 1984, the reality is, the figures show, that Congress has appropriated far more money than the Presidents have asked to be spent. Indeed the total for the 10-year period of 1982 through 1992 is that Congress has appropriated $458 billion more than what the President, or Presidents Reagan and Bush, had asked to be spent.

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This breaks down to $83.7 billion less in defense in that 10-year period, $19.8 billion more for Medicare, $13.8 billion less for Social Security, $43 billion more for net interest, and an explosive $493.4 billion in all other. That all other includes mostly domestic discretionary and all of the categorical spending programs that were not previously specified in national defense, Medicare, Social Security, and net interest.

Each year is here. Members can look at this.

So what does this mean? It says to the American public, if you want to change the course that this Nation is currently pursuing of national bankruptcy, which some people say we will reach before the end of this decade when the exponential explosion of the national debt will reach the point that it will take all of the income of the Federal Government to pay the interest on the national debt, who is in the White House is a very important question, because Presidents can influence the work product of Congress by restraining growth in spending or encouraging it.

Admittedly, that is true. But if the American public wants to stop this direct flight, road, path to bankruptcy that Congress is currently taking, America, we must change who controls the Congress of the United States.

Spending and taxing levels of this country are set right here in this House and with the other body in the Senate. Presidents propose and Congress disposes.

Then you all say, "Well, Congressmen, that may be well and good. But how do I know where to find out what my Congressman has done with the stewardship of power or my Senator?"

You can contact the National Taxpayers Union. They are located here in Washington, DC at 325 Pennsylvania Avenue, SE. They have a nonpartisan, bipartisan analysis every year of every vote on spending and taxing issues that Congress casts. In the House for recent years there are about 150 of the 435 Members of this body that have never met a Federal spending program they did not like.

I have 19 of them from my State of California who fit into the category of big spenders in the analysis of the National Taxpayers Union: Mr. MATSUI, Mr. FAZIO, Ms. PELOSI, Mrs. BOXER, Mr. EDWARDS, Mr. LANTOS, Mr. MINETA, Mr. PANETTA, Mr. DOOLEY, Mr. LEHMAN, Mr. WAXMAN, Mr. ROYBAL, Mr. BERMAN, Mr. LEVINE, Mr. DIXON, Mr. MARTINEZ, Mr. ANDERSON, Mr. TORRES, Mr. BROWN. They are all fine Members, but they are big spenders.

If the American public wants to stop the course to bankruptcy, we must retire the big spenders from the Congress of the United States.

FEDERAL BUDGET—THE PRESIDENT VERSUS CONGRESS

[Outlay dollars in billions]

Function	President's requests			Actual outlays		
	WED[1]	CBO[2]	OMB[3]	WED	CBO	OMB
Fiscal year 1982:						
National defense	188.9	188.8	186.3	185.3	185.3	185.3
Medicare	46.6	47.1	43.2	46.6	46.6	46.6
Social security	159.6	154.7	156.7	156.0	156.0	156.0
Net interest	82.6	82.5	68.4	85.0	85.0	85.0
Other	217.8	221.1	253.6	272.8	255.5	272.9
Total	695.5	695.3	708.1	745.7	728.4	745.7
Fiscal year 1983:						
National defense	221.1	221.1	220.0	209.9	209.0	209.9
Medicare	55.4	55.4	51.0	52.6	52.6	52.6
Social security	173.5	173.5	175.3	170.7	170.7	170.7
Net interest	112.5	112.5	97.1	89.8	89.8	89.8
Other	195.1	195.1	230.1	285.3	273.0	285.3
Total	757.6	757.6	773.3	808.3	796.0	808.3
Fiscal year 1984:						
National defense	245.3	245.3	245.0	227.4	227.4	227.4
Medicare	59.8	59.8	59.8	57.5	57.5	57.5
Social security	178.2	178.2	178.9	178.2	178.2	178.2
Net interest	103.2	103.2	106.3	111.1	111.1	111.1
Other	262.0	262.0	273.4	277.6	276.6	227.5
Total	848.5	848.5	863.3	851.8	841.8	851.8
Fiscal year 1985:						
National defense	272.0	272.0	272.0	252.7	251.5	252.7
Medicare	69.7	69.7	69.8	65.8	64.3	65.8
Social security	190.6	190.6	190.6	188.6	190.2	188.6
Net interest	116.1	116.1	116.1	129.4	129.4	129.4
Other	277.1	277.1	291.7	309.8	301.4	309.7

FEDERAL BUDGET—THE PRESIDENT VERSUS CONGRESS—Continued

[Outlay dollars in billions]

Function	President's requests			Actual outlays		
	WED[1]	CBO[2]	OMB[3]	WED	CBO	OMB
Total	925.5	925.5	940.3	946.3	936.8	946.3
Fiscal year 1986:						
National defense	285.7	285.7	285.7	273.4	273.4	273.4
Medicare	67.2	67.2	67.2	70.2	70.2	70.2
Social security	202.2	202.2	202.4	198.8	198.8	198.8
Net interest	142.6	142.6	142.6	136.0	136.0	136.0
Other	276.0	276.0	276.1	311.9	311.6	311.6
Total	973.7	973.7	973.9	990.3	989.8	989.8
Fiscal year 1987:						
National defense	282.2			282.0		
Medicare	70.2			75.1		
Social security	212.2			207.4		
Net interest	148.0			138.6		
Other	281.4			300.7		
Total	994.0			1,003.8		
Fiscal year 1988:						
National defense	397.6			290.4		
Medicare	73.0			78.9		
Social security	219.4			219.3		
Net interest	139.0			151.7		
Other	295.3			323.7		
Total	1,024.3			1,064.0		
Fiscal year 1989:						
National defense	294.0			303.6		
Medicare	84.0			85.0		
Social security	233.8			232.5		
Net interest	151.8			169.1		
Other	330.6			352.4		
Total	1,094.2			1,142.6		
Fiscal year 1990:						
National defense	303.0			299.3		
Medicare	94.9			98.1		
Social security	246.7			248.6		
Net interest	170.1			184.2		
Other	337.1			421.6		
Total	1,151.8			1,251.8		
Cumulative:						
National defense	2,389.8	2,389.7	2,385.8	2,324.0	2,322.8	2,324.9
Medicare	620.8	621.3	613.1	629.8	628.3	629.8
Social Security	1,816.2	1,811.3	1,815.9	1,800.1	1,801.7	1,800.1
Net interest	1,165.9	1,165.8	1,139.3	1,194.9	1.194.9	1,194.9
Other	2,472.4	2,476.7	2,569.2	2,855.8	2,807.5	2,855.4
Total	8,465.1	8.464.8	8,523.3	8,804.6	8,755.0	8,804.1
Deviations fiscal year 1982–90[5]						
National defense	−65.8	−66.9	−61.8			
Medicare	+9.0	+7.0	+16.7			
Social Security	−16.1	−9.6	−15.8			
Net interest	+29.0	+29.1	+55.6			
Other	+383.4	+330.8	+286.2			
Total	+339.5	+290.2	+280.8			
Fiscal year 1991:						
National defense	303.3			372.3		
Medicare	98.6			104.5		
Social Security	264.8			269.0		
Net interest	173.0			194.5		
Other	393.6			481.7		
Total	1,233.3			1,323.0		
Fiscal year 1992:[6]						
National defense	295.2			307.3		
Medicare	113.7			118.6		
Social Security	288.6			286.7		
Net interest	206.3			198.8		
Other	542.1			564.0		
Total	1,445.9			1,475.4		
Deviations fiscal year 1991–92:[5]						
National defense	−17.9					
Medicare	+10.8					
Social Security	+2.3					
Net interest	+14.0					
Other	+110.0					
Total	+119.2					
Cumulative fiscal year 1982–92:[5]						
National defense	−83.7	−84.8	−79.7			
Medicare	+19.8	+17.8	+27.5			
Social Security	−13.8	−7.3	−13.5			
Net interest	+43.0	+43.1	+69.6			
Other	+493.4	+440.8	+396.2			
Total	+458.7	+409.6	+400.1			

[1] Representative W.E. Dannemeyer: President's budgets as submitted (FY 82 Reagan budget submitted in March, 1981; actual outlays as reported.

[2] Congressional Budget Office: President's budgets as submitted, excluding off-budget programs (FFB); actual outlays (updated), excluding off-budget programs.

[3] Office of Management & Budget: original budget requests adjusted for comparable accounting (defense includes imputed accruals for military retirement, Medicare includes premiums offsetting receipts, totals include off-budget outlays).

[4] Composite: estimated have been identical beginning in FY 1987.

[5] Actual outlays less President's requests.

[6] Estimated.

ACADEMIC PORK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN. Mr. Speaker, I rise today to bring attention to a disease that has infected the appropriations process of the U.S. Congress. It is the disease of earmarked appropriations for academic institutions, and it is out of control.

I am talking about academic pork—unauthorized, location-specific appropriations which bypass congressional debate and the peer review process. In many cases, these projects appear for the first time in appropriations conference reports—having never been the subject of a hearing or any other opportunity for Members of Congress to review the merit—let alone the details—of the proposed funding.

Before 1980, academic pork wasn't a problem. But over the past decade, this practice has spread like cancer. The total value of earmarked projects has risen seventyfold since 1980, according to a report which I released today by the Congressional Research Service. The net value of academic pork between fiscal year 1980 and fiscal year 1992 was more than $2.5 billion, with nearly 50 percent of this total being appropriated in the last 2 fiscal years. The fiscal year 1992 appropriations bills and reports contained 500 earmarked projects for academic institutions. That's right, 500 different earmarks, going to 170 institutions, for a net value of $707 million.

I am sure that many of these projects are meritorious. I am sure that their sponsors believe passionately in the wisdom of providing earmarks. But is this any way to spend precious taxpayers dollars, by letting a small handfull of members of the appropriations committees of the House and Senate specify which academic institutions should be the recipients each year of their largesse?

This Nation has an honored tradition of allocating research funding based on peer review. This process has established the United States as the world's leader in academic research. By subjecting project proposals to review by specialists who recognize and understand the strengths and weaknesses of such proposals, we achieve the maximum rate of return on the taxpayers' investment. This process has worked. Our academic research dollars should be allocated based on merit, and not politics. But politics is what rules in the academic pork barrel.

Supporters of earmarking argue that this practice promotes a more equitable distribution of research and development funding. However, as the Congressional Research Service shows, earmarking has not resulted in a significant boost in the distribution of research funding. The top 10 State recipients of Federal research funds have obtained one-third of earmarked dollars. Three of the top five recipients of Federal research dollars—Massachusetts, Pennsylvania, and New York—are among the top five beneficiaries of academic pork. To me, this does not seem like spreading the wealth; it seems like double dipping.

It is also argued that earmarks help make less prominent institutions more competitive for Federal research funds. This also appears to be a myth. According to the Congressional Research Service, institutions that have received large amounts of earmarked funding have completed no more effectively for peer-reviewed funds than they did before they received the earmarks.

Last Thursday night, this body took an important stand against academic pork by rejecting $94.8 million in academic pork that came our of nowhere. the money was not in either the original House or Senate Energy and Water appropriations bills. The Senate-passed bill had $300,000 for planning funds for three institutions. The House-passed bill had no money for earmarked research facilities. Yet the conference report contained $94.8 million in funds for 10 new energy, educational, and medical facilities. As I pointed out during the debate, the 10 specified projects were located in 8 States, of which 7 had important members on the House or Senate Committees on Appropriations.

Not a single one of these projects has received a specific authorization, even though the law states that appropriations shall be subject to authorizations. We received no details about these projects, except their names and locations. As the Congressional Research Service report demonstrates, this practice happens all the time. But it is wrong. It is a subversion of the law, a perversion of democracy, and a wasteful means of allocating scarce research dollars.

The source of these earmarks is no mystery: They are the creation of determined college and university officials who hire Washington, DC, lobbyists to press their case with elected officials on the appropriations committees. Thus, a partnership of self interested individuals collectively pass judgment on these earmarks—declaring them worthy of Federal investments and appropriate for direct funding. No peer review. No competitive bidding. Just clean and simple direct funding.

The Association of American Universities has long recognized the negative influence of academic pork and has tried to impose a moratorium on accepting earmarked funding. But this effort has failed. It has failed because those who have continued to play the game of landing pork projects have been winning. As a result, we are witnessing an escalating and corrosive spiral of unconstrained growth in academic pork. This spiral will continue until we put a stop to the process.

Last week, on the conference report to the Energy and Water appropriations bill, this body said "enough is enough." In voting for my amendment replacing $94.8 million in academic pork with a competitive, merit-review award process, we said that we have had our fill of these pork projects that creep into conference reports in the dark of night. I am not so naive to think that a single vote will stop this practice. Indeed, I fully expect additional appropriations conference reports to emerge with earmarks that are equally egregious. That is why I urge my colleagues to join me in a crusade against academic pork. I urge my colleagues to support further efforts during the remaining days of this Congress to reject academic pork, and to join me in supporting reforms in House rules and procedures to help curb this problem.

Specifically, I believe that we should adopt a House rule that prohibits unauthorized location-specific earmarks in appropriations bills. We should also amend House rules to limit the reach and impact of appropriations report language, and give authorizing committees for any earmarked fund in question a chance to disapprove waivers on points of order against appropriations legislation.

We must also work to understand the circumstances which are leading a growing number of colleges and universities to seek congressional earmarks. One of the underlying causes of this problem is that academic research facilities in this country are in need of repair, and the Government hasn't been responding to this need. Several studies have documented the need for a peer-reviewed program to fund academic research facilities. The administration has repeatedly blocked our efforts to create such a program. Without a means of improving the research infrastructure in the United States, institutions will continue to approach those officials in Congress who are closest to the purse strings in the hopes of getting a direct allocation.

Mr. Speaker, the American public is fed up with the shenanigans of elected officials who are abusing their positions. They want real reform that puts an end to self-serving actions, such as pork barrel funding. It is time for us all to say "enough is enough." I urge my colleague to take a stand against academic pork.

JUSTICE FOR ALEXIS CHAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DYMALLY] is recognized for 60 minutes.

Mr. DYMALLY. Mr. Speaker, I have just returned from visiting Alexis Chan Heung-Kong, who is being held in prison in Los Angeles, CA, to be extradited to the Crown Colony of Hong Kong on charges of alleged securities law violations that occurred 10 years ago. Mr. Chan is an American citizen who is currently challenging his extradition order before the U.S. Court of Appeals for the Ninth Circuit. The Department of State has indicated, however, that it may extradite Mr. Chan before he has had the opportunity to obtain any appellate court review of the validity of his extradition. After meeting with Mr.

Chan and learning about the facts of his case, I rise to express my firm belief that he should not be extradited now or in the future.

One of my principal concerns about Mr. Chan's case is that he may be extradited to what will become part of the People's Republic of China in 1997. The events of Tiananmen Square and their aftermath have demonstrated to us all that the Government in Beijing does not share our commitment to human rights.

If Mr. Chan is extradited, his criminal case will likely still be pending in court when the Hong Kong judicial system reverts to the control of the Chinese Government. It will probably be years before any charges are brought against him. The Hong Kong Government is not required by treaty to bring charges against Mr. Chan immediately upon his extradition. It is likely that Mr. Chan will be held without bail for at least 2 to 3 years while Hong Kong officials complete their investigation. When this is finally complete and Mr. Chan is formally charged, he has no guarantee of when his case will be tried in court. There is no speedy trial act in Hong Kong. In the meantime, the clock will be ticking for the independence and integrity of the Hong Kong judicial system.

The time will expire on July 1, 1997, when Hong Kong reverts to the Control of the People's Republic. At that point, Mr. Chan might still be imprisoned awaiting trial or his trial might be pending but not yet complete. If so, dire consequences may face Mr. Chan. According to the 1992 Report of Amnesty International:

> Trials [in the People's Republic of China] continue to fall far short of international standards for fairness. Minimum standards for trial are not provided for in Chinese law, such as the right to have adequate time and facilities to prepare a defense, the right to be presumed innocent until proven guilty in a court of law, and the right to cross-examinations of prosecution witnesses and to call defense witnesses. In practice, in China the verdict and sentence are often decided by the authorities before the trial. Extreme limitations on the role of defense lawyers, the use of torture to induce "confessions," and interference by political authorities in the judicial process are other major obstacles to fair trial.[1]

If Mr. Chan's trial is completed and his case is on appeal when the Communist government assumes control, he will face the real danger of having his case reviewed by a judiciary that is isolated from and indeed antagonistic toward the Western legal tradition. Under current Hong Kong law, criminal defendants have the right to direct review by the Court of Appeal and ultimately the Privy Council in London, England. In addition, as in the United States, prisoners may petition for habeas corpus review of their conviction and sentence. The Joint Declaration between China and Great Britain provides for the replacement of Hong Kong's current Court of Appeal with a Hong Kong Court of Final Appeal. The Joint Declaration stipulates that this court "may as required invite judges from other common law jurisdictions to sit as judges." Leading members of Hong Kong's legal profession have interpreted this provision to mean that the new "Court" would have discretion to invite as many Western judges as it wished to hear cases. In September 1991, however, British and Chinese officials agreed that the court would be allowed to invite only one foreign judge. The rest will presumably be controlled by the Government in Beijing. According to a recent article in the Los Angeles Daily Journal, this development "underscores the inherent distrust of the Chinese Government toward the development" of independent local government in Hong Kong.[2]

Even if Mr. Chan were exonerated of the charges against him, arising under present Hong Kong law, he faces the danger of being subject to prosecution in the People's Republic of China on new charges. The People's Republic of China's law criminalizes conduct that is legal under current Hong Kong law, and "provides for the prosecution of persons committing offenses in Hong Kong."[3] Although Hong Kong has a treaty obligation to the United States not to charge Mr. Chan with any offense beyond that set out in the extradition request, China has no similar duty because it is not a signatory to any extradition treaty with the United States. Thus, the People's Republic of China is free to prosecute Mr. Chan as it sees fit.

If Mr. Chan is convicted, he will be imprisoned in a penal system universally condemned for its harsh and inhumane conditions. According to Amnesty International:

> Torture and ill-treatment of prisoners continue[ ] to be reported [in Chinese prisons]. The methods of torture most commonly cited included severe beatings, shocks with electric batons and the use of shackles in positions deliberately intended to inflict pain. Deprivation of sleep or food, exposure to cold and being made to adopt exhausting physical postures were also reported to be common during interrogation.
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> Many prisoners were reported to have fallen ill owing to harsh prison conditions * * *."[4]

On June 8, 1991, the Hong Kong Legislative Council adopted a bill of rights, which incorporates some provisions of the International Covenant on Civil and Political Rights into Hong Kong Law.[5] As one recent commentator has noted, however, "China expressed concern over this statute," viewing it as a threat to the implementation of the basic law that will govern Hong Kong after 1997.[6] Although the Chinese Government has promised that it will honor the terms of the basic law and respect the democratic institutions in Hong Kong, it has reserved the right to suspend those laws and institutions if "national unity or security is endangered and Hong Kong is in a state of emergency."[7] Tiananmen Square taught us all that the government in Beijing will not hesitate to declare a state of emergency in order to harshly impose its view of the law on its citizens.

The PRC has also demonstrated that it cannot be trusted to keep its word with respect to prosecution of persons returning to its territory. Only last month prodemocracy student activist Shen Tong was arrested by Chinese authorities days after he returned to China relying upon the assurance of the Chinese Government that no criminal charges would be brought against returning students. It is therefore abundantly clear that on questions of human rights, the PRC simply cannot be trusted. Therefore, how can the U.S. Government entrust the life of Alexis Chan, an American citizen, to a judicial and penal system that will soon be controlled by the PRC?

Given the serious danger that would await Mr. Chan were he to be extradited, I would fervently hope that our Government would exercise the utmost care to ensure that he is afforded his full right as a U.S. citizen to his day in American courts before he is surrendered to Hong Kong authorities. Thus far, the Government has not assured anyone that Mr. Chan will be allowed to enjoy his rights as an American citizen. The Government has opposed Mr. Chan's efforts to obtain a stay of his extradition while his appeal is being heard by the ninth circuit. If Mr. Chan is extradited before his appeal is heard, the court of appeals will no longer have jurisdiction to hear his case, and his appeal will be dismissed without his having obtained any appellate court review.

Nazi war criminals and drug traffickers who are not even U.S. citizens have been given more appellate court review of their extradition orders than has Mr. Chan, who became a citizen of this country a few years ago. Surely he is at least entitled to the same protections.

Mr. Chan has a strong basis to challenge his extradition order. The charges against Mr. Chan all relate to alleged conduct that occurred approximately 10 years ago, between 1981 and 1983. If brought in a U.S. court, the charges against Mr. Chan would be barred by a 5-year statute of limitations. Under the applicable extradition treaty Mr. Chan may not be extradited if the U.S. statute of limitations has expired unless it is determined that Mr. Chan is a fugitive hiding from prosecutors.

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[1] Amnesty International Report 1992, p. 90.

[2] Frankie Fook-Iun Leung, "Preserving Hong Kong's Judicial Integrity," Los Angeles Daily Journal, p. 7 (Apr. 2, 1992).

[3] Gary N. Heilbronn, Criminal Procedure In Hong Kong, p. 74 (1990).

[4] Amnesty International Report 1992, p. 90.

[5] Ibid.

[6] Frankie Fook-Iun Leung, "Basic Conflicts May Impede Restructuring," Los Angeles Daily Journal, p. 7 (Apr. 1, 1992).

[7] Frankie Fook-Iun Leung, "Preserving Hong Kong's Judicial Integrity," Los Angeles Daily Journal, p. 7 (Apr. 2, 1992).

Mr. Speaker, I know Mr. Chan and his family and any suggestion that he has been a fugitive in Los Angeles is preposterous. Mr. Chan, his wife and four children, were processed through normal Hong Kong and U.S. immigration channels in 1983, and the Chan family lawfully and openly immigrated to the United States on September 14, 1983. Thereafter, Mr. Chan made several trips back to Hong Kong, as reflected in his passport, to wind up the family's affairs there and returned finally to the United States in March 1984. During his last visit, Mr. Chan voluntarily met with Hong Kong banking authorities and answered all of the questions posed to him. Shortly thereafter, Mr. Chan returned to the United States and resided with his family for approximately 4 years at the Los Angeles address he had provided in 1983 to both Hong Kong and U.S. immigration authorities. Mr. Chan and his family thereafter moved to a new address in September 1987, and he changed his driver's license accordingly and notified the Immigration and Naturalization Service of the change.

When Mr. Chan came to the United States from Hong Kong, he had no illicit motive but was simply immigrating with his family to accept a job in the United States. Indeed, it appears that Mr. Chan and his wife were simply returning to an adopted home with which they had longstanding ties; Mr. Chan having received his high school diploma in Mountain View, CA, in 1961, and having graduated from the University of San Francisco, in 1965, and his wife having graduated from the College of Holy Names in Oakland, CA, in 1964. Thus, Mr. Chan not only travelled frequently between Hong Kong and the United States, but spent a significant part of his life here before permanently immigrating in 1983.

Once in this country, Mr. Chan and his family lived openly, making no attempt to hide their whereabouts from government authorities. Mr. Chan applied for and earned a real estate and an insurance broker license from the State of California, submitting all necessary information regarding himself to State officials. He also graduated from law school in this country, and applied for admission to the bar of the State of California, responding truthfully to all questions on his application. These are not the actions of a fugitive hiding from prosecutors.

The Hong Kong authorities did not contact U.S. authorities regarding the whereabouts of Mr. Chan until November 1987—3 months before the end of the limitations period. The U.S. authorities quickly learned Mr. Chan's current address from the California Department of Motor Vehicles records. An FBI agent thereafter observed Mr. Chan's address on several occasions seeking to visually identify him. Although the agent did not observe Mr. Chan's presence on those occasions, he neither left word for Mr. Chan to contact him nor disclosed his presence to family members at the residence. The first time Mr. Chan or his family had any indication that the authorities were looking for him was when he was arrested while studying for the California bar examination in July 1989—well after the applicable 5-year statute of limitations had run.

Far from suggesting that Mr. Chan fled Hong Kong in 1983 and went into hiding in the United States to avoid prosecution in Hong Kong, the evidence shows that Mr. Chan lived openly in the United States and cooperated with U.S. authorities on every occasion on which his cooperation was sought. Mr. Chan must be given the chance to make this defense in our courts before he is sent to the courts and the penal system of what will ultimately be the PRC.

Mr. Chan has not been charged by Hong Kong officials with murder or any other heinous crime demanding severe punishment. The charges against him are for alleged securities law violations. Granted, such charges, if proven, would certainly warrant punishment. But Mr. Chan has already been imprisoned for almost 2 years while fighting his extradition. This period of imprisonment, served by Mr. Chan even before he has been convicted of any crime, is comparable to the time served by perhaps the two most notorious securities law violators in our Nation's history. One was imprisoned for 2 years, while the other spent 2 years and 11 days in jail.

Mr. Chan and his extended family came to the United States in the early 1980's seeking a better life for themselves in this country while escaping the uncertain and possibly dangerous future that awaits citizens of Hong Kong when it comes under the control of the People's Republic of China. The Chan family are entrepreneurs who have made significant contributions by creating jobs and opportunities for commerce for the citizens of California—a State in full recession, a State that can ill afford the disaffection of such an important family and community. They have all sought American citizenship, and are committed to fulfilling their responsibilities as American citizens.

This country has a legal and moral obligation to reciprocate with the full protection of Mr. Chan's rights as a United States citizen. Mr. Chan is entitled to his full day in appellate court. Ultimately, the merits of Mr. Chan's case and the irreparable harm that will befall him if extradited to Hong Kong, compel the conclusion that the Department of State should allow Alexis Chan to remain in this country.

More importantly, Mr. Chan has suffered enough. The Government must weigh the crimes of which he has been accused, the jail time he has already served, and the country to which he would ultimately be delivered before Alexis Chan's rights as an American citizen are cut short.

Mr. Speaker, let me conclude by emphasizing that Mr. Chan is an American citizen.

TRIBUTE TO HON. CHALMERS P. WYLIE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. REGULA] is recognized for 60 minutes.

GENERAL LEAVE

Mr. REGULA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject matter of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. REGULA. Mr. Speaker, I rise today to pay tribute to a fellow colleague and a member of the Ohio delegation who regrettably will be absent from this body when the House of Representatives convenes here on January 3, 1993, for the opening of the first session of the 103d Congress. This will be the first time in 26 years that my colleague has missed an opening day. The absence of my good friend CHALMERS WYLIE, with whom I have served since my election to Congress in 1972, will be most conspicuous on this floor, and with the House Committee on Banking, Finance and Urban Affairs, where he has served as ranking member during much of his tenure in Congress.

His extreme patience—and believe me, it takes patience in committee work—his superb wisdom and thoughtful counsel will be sorely missed. Also his leadership on the Joint Economic Committee has been vital to the formation of workable national economic policy. Perhaps in this day and age we are more sensitive to that than at any time in recent years.

The outstanding record of accomplishment that CHALMERS leaves with us after 26 year of service will long stand as a testimonial of his immense concern for people and quite appropriately for the constituents of the 15th Ohio Congressional District who saw fit to return him to the Congress on 12 consecutive occasions after first electing him in 1966, and each re-election was by a substantial margin.

This success was a reflection of his diligent attention to constituents and a recognition of dedicated service as a Member with an excellent voting record in excess of 90 percent.

While his achievements in several areas are numerous, affordable housing, the sharing of the American dream of home ownership, became his obsession, and as ranking member of the Banking Committee, he has been extremely effective in helping millions of Americans realize their dream of home ownership.

Today we hear the term "empowerment." This is a way that helps people get their own housing. CHALMERS WYLIE was way ahead of his time in his legislative activities in trying to bring housing to people, and certainly this reflects his concern for their well-being.

CHALMERS was one of the original sponsors of legislation in 1978 that created the Neighborhood Reinvestment Program. Ten years later he was one of the two lead sponsors of the Neighborhood Housing Services Expansion Act which was incorporated into the National Affordable Housing Act of 1990. In recognition of this lifelong commitment to better housing for all, the National Association of Home Builders in 1988 presented CHALMERS with its first—first—American Dream Award, and truly housing is the American dream.

He was also an original cosponsor of legislation creating the National Cooperative Bank. In this institution the conference room is dedicated to CHALMERS.

His extraordinary concern for all of the people of the 15th Ohio Congressional District was best demonstrated before CHALMERS was sworn in as a Member of the 90th Congress. Shortly after his election in 1966, CHALMERS drove to Washington from his home in Columbus to meet with officials of the Department of Housing and Urban Development on a grant application filed by the city of Columbus. When he left Washington a few days later he had acquired HUD's approval for the first project under a new department program. This project became the Blackburn Recreational Facility.

It is clear that CHALMERS was no amateur when he came to Congress. He had a little experience in the State legislature and in service to his Columbus community, and he came here knowing how to get it done from the first day.

Subsequent to his being sworn in, CHALMERS toured the village of Urbancrest, an impoverished, small community in his district just southwest of the Columbus corporate limits. He was appalled to find that it had no water or sewer facilities. By working with the village's mayor, HUD, and other Members of Congress, CHALMERS as a freshman Member was able to obtain the necessary funding for a safe and sanitary water and sewer system for the community.

One of the city's major recent success stories attesting to CHALMERS' efforts and proficiency in serving his constituents is Columbus City Center, a multimillion dollar upscale downtown mall.

□ 2310

This shopping plaza not only thrives, it is exceeding everyone's expectations, drawing crowds from throughout Ohio and neighboring States to enjoy a setting which replaced a blighted area near the State's capitol building. It was through CHALMERS' handiwork that the city of Columbus was able to obtain a $17 million UDAG grant to construct the shopping center and help bring new life to a deteriorating part of the city.

Again, the success of this, I think shows the vision of CHALMERS, because many projects of this type in other areas have not done very well, but this has been a great success story in Columbus.

The Authur G. James Cancer Hospital and Research Institute at the Ohio State University Hospital today offers hope for cancer patients from across the country. Because of CHALMERS' ability several years ago in obtaining crucial funding for the Ohio State University Cancer Research Center, our Nation now can boast of having one of the finest weapons we can employ in our on-going battle against this dreadful disease which has affected us all in one way or another.

I have to say, as an aside here, that his dedication to Ohio State goes beyond the hospital. He does not miss any of their football games or basketball games. I am not sure that they are always quite as successful in sports as they have been in getting cancer research done, but in any event, CHALMERS has a real loyalty to Ohio State and the Buckeyes.

And in that same context, veterans of Columbus and central Ohio are blessed with the first-of-its-kind facility that has been so successful that it literally has burst at the seams. This, of course, is the Department of Veterans Affairs Outpatient Clinic, which also is on the campus of the Ohio State University. Again, this is being ahead of the curve, because the idea of outpatient facilities for veterans today is accepted as one of the ways in which we meet the needs of our veterans population. But CHALMERS was a pioneer in bringing this to the State of Ohio and the Ohio State University.

Several years ago, CHALMERS, a member of the Veterans' Affairs Committee, was hearing testimony from then-VA Administrator Richard L. Roudebush, when he asked about the possibility of a joint venture between the VA and major medical centers for the treatment of our veterans.

Mr. Roudebush thought this was a good idea also and the result was the first of its kind outpatient clinic for veterans. When constructed, this facility was designed for 40,000 patient visits a year. Last year, medical personnel associated with the clinic experienced some 126,000 patient visits and soon will see a new clinic constructed to meet this need and to continue to negate lengthy trips for many veterans to other distant medical centers.

Truly, I think this is real evidence of leadership, because it is becoming clear that this is a most effective way to provide help to veterans. And I know that for my own experience that they appreciate the fact that they can get this care on an outpatient basis.

If structures are indicative of one's accomplishments, perhaps the greatest monument to CHALMERS' never-ending endeavors to serve his constituents remains in the wings. Its construction was virtually assured last week when House and Senate conferees agreed on a compromise $22 billion energy and water appropriations bill that includes $4.8 million for the west Columbus floodwall. This was the culmination of several years' work by CHALMERS and others here in Columbus to bring flood protection to a portion of Ohio's capital city which has been inundated by waters of the nearby Scioto River 3 times this century causing millions of dollars of damage and claiming some 93 lives.

The inclusion of construction funds in the appropriations bill virtually assures that this floodwall will be completed by the Army Corps of Engineers during the next decade. And by doing so CHALMERS, and others will have succeeded in bringing flood protection to an area which now supports 4,200 homes, 370 businesses, 26 industrial and institutional structures, including Mount Carmel Medical Center, and the Central Ohio Transit Authority's major bus and operating facility which houses equipment valued at $60 million. This floodwall holds untold promise of new residential, business and cultural development for a section of Columbus which has long been deprived because of the threat of floods.

And CHALMERS, maybe you could be the sidewalk superintendent when they build the floodwall, and that will keep you occupied now that you are leaving this body.

The achievements such as I have outlined will be bringing benefit to people for generations to come in the Columbus area, and each will stand as a monument to the dedication and the vision and the caring of our colleague, CHALMERS WYLIE.

As I mentioned previously, there are numerous accomplishments for CHALMERS P. WYLIE to showcase as results of his service to his constituents and to the communities he represents. However, perhaps none created greater excitement than the one just concluded at the Columbus Zoo by two 3-year-old panda bears on short-term loan from the Peoples Republic of China to help Columbus commemorate the 500th anniversary of the discovery of the New World.

Without CHALMERS' persistence, plus maybe a little help from a former colleague, George Bush, while President and Vice President, made it possible for these delightful animals to be viewed by nearly 1 million people who visited the zoo. so I particularly am sure that many young people and children, small children, have enjoyed the fruits of CHALMERS' tenacity in getting the panda bears for the Columbus Zoo.

Another dimension to our colleague is his patriotism, his caring for his Nation. Perhaps this was no more evident than his service to the United States and to his Nation in World War II. He served as a member of the U.S. Army and was decorated as an infantryman.

Almost every successful man has a supportive woman at his side, and CHALMERS is fortunate. For those of us that know Marjorie, we know he was very fortunate, indeed, to be able to draw from the vitality of his wife, Marjorie.

Her insight into constituent matters and events which affect the 15th District has always been a constructive help to CHALMERS in providing caring service to the people that he represents in his district. CHALMERS' has also had the loving support of his daughter Jacquelyn Poston and her husband Greg and their daughters Tammy and Pamela. His son Brad and Brad's wife Susan and their new son Bryan have also been towers of strength over the years.

I know that his family has been a great joy to CHALMERS and that they have been very much a part of his life here because of their own support or because of the support they have given him.

On a personal note, we will all miss CHALMERS and Marjorie. They have been part of our Ohio team. Mary and I have shared many good times with CHALMERS and Marjorie at the conventions and various other places. I personally have, in the years that I have been here, I have always valued CHALMERS' counsel on policy matters.

We sometimes stand back there behind the rail and say, how about this issue? How will it affect Ohio? Will this be beneficial to people?

It is something that I will miss greatly as the chance to discuss these questions with CHALMERS. We all know that oftentimes these are very difficult choices that we have to make, and it is great to have somebody whose judgment you trust and whose confidence you feel good about. And CHALMERS, I will miss that.

We in the Republican delegation in Ohio have enjoyed the leadership of CHALMERS as our chairman over the past 4 years.

□ 2320

Again, he always had the concern on appointments, on matters that affected us, as to what was best for the people.

As we prepare to close the book on 26 years of exceptional, exceptional congressional service by Congressman CHALMERS WYLIE, it is to his fine family that we all bid a fond adieu, and as the Bible says, CHALMERS, to you and Marjorie and your family, "Well done, thou good and faithful servants."

Mr. Speaker, at this point I include for the RECORD a letter from the mayor of the city of Columbus, and a statement from the Governor of Ohio:

STATE OF OHIO,
OFFICE OF THE GOVERNOR,
Columbus, OH, September 22, 1992.

IN RECOGNITION OF CONGRESSMAN CHALMERS P. WYLIE

It is my personal pleasure to congratulate Chalmers P. Wylie on the completion of an outstanding career as a member of the U.S. House of Representatives. His 26 years of active public service certainly have distinguished him as a diligent, determined representative of the 15th Congressional District of the State of Ohio.

During his years in Congress he has been active in obtaining numerous projects, programs, and grants for the people of Ohio, including the Job Training Partnership Act, which assisted in retraining displaced workers and provided training for individuals who were unemployed. He has spearheaded numerous grants for research at the Ohio State University Hospitals, Battelle Laboratories, Roche Biomedical Labs, Inc. and Ross Laboratories. His efforts have been helpful in locating a Veterans Administration Medical Clinic near the Ohio State University campus and the development of the Arthur G. James Cancer Hospital and Research Institute.

Congressman Wylie has been instrumental in improving and developing programs to provide housing. Whether it is subsidized housing for the elderly and low-income, or housing projects for individuals with special needs, and more recently programs for low-income families to purchase or rehabilitate homes, he has always been a voice for the people of Ohio. His work on the West Columbus Floodwall Project is finally coming to fruition, and we hope to see its completion before the year 2000.

It is obvious from his successes that he has given extensively and unselfishly of his time and talents to the State of Ohio and the United States as a whole. Congressman Wylie's efforts have surely improved the quality of life for many in Ohio, and he has clearly secured a legendary place in the history of this grand state.

On behalf of all Ohioans, I join his colleagues and many friends in extending my best wishes to Chalmers and his family for future good health, happiness and success in all future endeavors.

On this 22nd day of September, 1992;

GEORGE V. VOINOVICH,
Governor.

CITY OF COLUMBUS,
OFFICE OF THE MAYOR,
Columbus, OH, September 21, 1992.

Hon. CHALMERS WYLIE,
Columbus, OH

DEAR CHALMERS: Congratulations on the completion of an outstanding career with the United States House of Representatives. It is my pleasure, indeed, to commend you for your 26 years of service in Congress. It is because of your dedication and perseverance that you have made many invaluable contributions to the people of the City of Columbus and the 15th Congressional District of Ohio.

Your work on the Franklinton Area floodwall project is greatly appreciated. This opens broadly the horizons needed for a refreshing new look at what type of development can take place in the Franklinton Area.

You have worked long and hard and you leave a great heritage. I do wish you good health and continued success in the years ahead. I know you will continue to support The Ohio University Buckeyes in their academic and athletic endeavors. "GO BUCKS!"

Sincerely,

GREGORY S. LASHUTKA,
Mayor.

Mr. LEACH. Mr. Speaker, will the gentleman yield?

Mr. REGULA. I yield to the gentleman from Iowa.

Mr. LEACH. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, I am honored to join my colleagues in paying tribute to one of the truly great Members of this body, CHALMERS WYLIE. CHALMERS' years of public service span the two most momentous elements in change in this century: defeat of totalitarianism, first of the right in World War II, and then of the left with the ending of Communist domination of Eastern Europe and the former Soviet Union.

In the first circumstance, CHALMERS WYLIE traveled to France without a visa or visa card, and as a lieutenant led an infantry across France into German soil. Along the way he was awarded the Bronze and Silver Stars for bravery above and beyond the call of duty.

With the defeat of fascism, CHALMERS turned to elective office and championed the bipartisan foreign policy that provided the basis in the first instance for holding Soviet aggression, and in the second, for peaceful disintegration of Communist orthodoxy. In his 26 years in the House of Representatives, CHALMERS WYLIE stood out for his efforts to aid veterans, to improve Federal housing programs, to strengthen the financial services industry, to reverse the unmitigated growth of the Federal budget deficit, to promote sound and free market economic policies, and to support a progressive tax system that rewards, not punishes, families who save and invest for education, housing, and retirement.

While CHALMERS' legislative efforts and successes are numerous and span many areas of importance to the American people, the area with which I am most familiar is his service on the Committee on Banking, Finance and Urban Affairs.

Over the past decade and a half I have had the opportunity to work side-by-side with CHALMERS on some of the most important banking legislation of the century.

Since 1983 Chalmers has served with distinction as the ranking member of the Committee on Banking, Finance and Urban Affairs. His efforts and his message in leading the minority side of the committee have been consistent and clear: to ensure the safety and soundness of federally insured institutions, while improving the delivery of financial services to consumers and small business.

In particular, CHALMERS profoundly influenced the passage of such important bills as the Truth in Lending Act, the National Consumer Cooperative Bank Act, the Stewart B. McKinney Homelessness Assistance Act, and the Competitive Equality Banking Act, to name a few.

Above all, CHALMERS was the leader in recognizing the importance of requiring prudent levels of private sector risk capital as a quid pro quo for financial institutions being authorized federal deposit insurance. He understood early on that a strongly capitalized banking industry was the soundest protection against an unmitigated drain of the resources of the federal deposit insurance funds, and thus the taxpayer.

As early as 1982, before anyone imagined the financial meltdown that would eventually occur within the S&L industry, CHALMERS WYLIE was fighting to strengthen the capital of savings institutions.

For example, on May 10, 1982, the House considered a statute, H.R. 6267, to provide a Federal guarantee of the net worth of certain thrifts no matter what the level of losses contained in those institutions. CHALMERS offered an alternative which would have ended a significant aspect of phony accounting in the thrift industry.

His commonsense approach was objected to by the powerful S&L lobby. Unfortunately, they won, CHALMERS lost, and so did the public. A multi-billion-dollar mistake was made, but as the buck has been passed, it is instructive to note that when the majority in Congress fiddled, CHALMERS WYLIE kept faith with the taxpayer, not the interest groups.

It is often said that people can be put into one of three categories: those who are part of the problem, those who idly stand by in the wake of crisis, and those who are part of the solution.

When it comes to improving the safety and soundness of our financial services industry, CHALMERS WYLIE has always been part of the solution. More importantly, CHALMERS has, by his character and example, always brought credit to the House, and therefore ennobled the precept of public service.

The religious philosopher Reinhold Niebuhr once commented that the temper and integrity with which the political fight is waged is more important than the outcome of any issue.

In CHALMERS WYLIE, the people of Ohio have been served with unquestioned integrity and calm, decent temper. CHALMERS, you will be thoroughly missed. I join my colleagues in wishing you and your wife, Marjorie, best wishes and many years of happiness in your retirement.

Mr. REGULA. Mr. Speaker, I thank the gentleman for this contribution, and I yield to the gentleman from Ohio [Mr. GILLMOR].

Mr. GILLMOR. Mr. Speaker, I rise today to join my colleagues in paying tribute to an outstanding Member of the House, Congressman CHALMERS WYLIE, who will retire at the end of the 102d Congress.

It has been my pleasure to serve alongside CHALMERS WYLIE since I first came to the House in January, 1989. But that date is not the only milestone in my relationship with CHALMERS. For he and I share a special page in our political diaries. In 1966, I began my political career by being elected to the Ohio Senate. In that same year, CHALMERS left the Ohio Legislature to begin a promising career in the U.S. Congress.

I was 27 years old at the time. I was eager to serve, but quite aware of the limits of my experience. I decided that it would help me become a solid legislator if I kept my eye on people who made a difference, stood by their word, and fought for that in which they believed.

CHALMERS was catapulted to Washington that year by a series of prior achievements that earned him great respect. A decorated World War II veteran. Columbus city attorney. A close adviser to the Governor of Ohio. And 6 years of distinguished service in the Ohio House of Representatives.

He worked his way up the ranks in Congress while I attempted to do the same in the legislature. Over the years, I watched CHALMERS, got to know him. And I learned something that remains true today: when looking for an example of political and legislative leadership, one simply cannot do better than CHALMERS P. WYLIE.

The city of Columbus and its surrounding area, portions of which CHALMERS has represented for the last two and a half decades, has undergone tremendous change in recent times. A small town has become Ohio's largest city, vibrant with commerce, culture, and a winning public spirit. In a State more commonly known for an economy with an industrial and rural base, Columbus has become a national and international magnet for financial services, research, and retail.

Amidst these rapid waters of change, CHALMERS WYLIE has been an anchor for central Ohio. He has always been there for the people he represents. He has understood that progress is abetted by commitment to time-honored principles: Fiscal conservatism, a faith in free enterprise, and a hard-nosed determination to defend freedom. These are the principles that have guided CHALMERS WYLIE. It is his fidelity to them that makes clear a simple fact: central Ohio could not have had a better friend in Washington over the last 26 years than CHALMERS WYLIE.

I began by saying I have served with CHALMERS here in the House since 1989. That was also the year I was appointed to the Banking Committee, where CHALMERS served as ranking Republican member. It would be a turbulent and difficult year for the committee. The savings and loan industry had exploded like a firecracker, and the committee was charged with salvaging the remains, sweeping up the mess, and putting away the culprits.

On a personal level, CHALMERS was of enormous help to me, a source of guidance and support through the maze of complex issues. It has been that way during all of my 4 years on the Banking Committee, and I want to take this opportunity to publicly thank CHALMERS for it.

But to only focus on the wise counsel he gave me is to sell short CHALMERS' impact on the financial system on which every American depends. He was instrumental in the legislation that rescued the soundness of our banking system. His tireless work on behalf of depositors and the country earned CHALMERS the approbation of leaders of both political parties.

And so it has been with every issue. Housing, S&L crooks, veterans benefits, the list goes on. CHALMERS WYLIE, without exception, has championed performance over flamboyance, results over rhetoric, making a difference over just making a speech.

As he retires, I commend the gentleman from Ohio, Congressman CHALMERS WYLIE, for his contributions to the country in the past, and for the outstanding model of public service he leaves for the future. I wish him and Marjorie all the best in the years ahead.

☐ 2330

Mr. REGULA. I thank the gentleman for his recognition.

I yield to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. Mr. Speaker, I thank my colleague from Ohio [Mr. REGULA] for allowing us this opportunity to begin to express just a few of the feelings that we have towards the retirement of our distinguished colleague and beloved friend, CHALMERS WYLIE, from the Chamber.

Having served in Congress since 1966, and having distinguished himself throughout a lifetime of public service, we are honored merely to mention portions of his career that we acknowledge here tonight. And I thank my colleague for allowing us this opportunity.

As we mentioned, Mr. WYLIE came to Congress representing the 15th Congressional District in January 1967.

That district includes most of Franklin County and Columbus and all of Madison County.

It was indeed my privilege to represent Madison County and the Ohio General Assembly, and having worked with Congressman WYLIE where he was much beloved, and not only in that area, but throughout the entire country for his service to our Nation.

He was born on November 23, 1920. He attended Pataskala public schools, Otterbine College, Ohio State University, graduated from Harvard Law School, and received an honorary doctor of law degree from Otterbine College.

Congressman WYLIE then enlisted in the U.S. Army as a private. He obtained the rank of first lieutenant and served with the 30th Infantry Division throughout five European campaigns. Our friend, CHALMERS, was part of the first wave to land on D-day to begin to liberate Europe from totalitarian Nazism.

As a young man he was awarded a series of awards, not the least of which was the Silver Star Medal citation. If I could just refer to a portion of it in which is mentions that CHALMERS, a member of the 117th Infantry Regiment in the United States Army was awarded the Silver Star for gallantry in action on March 23, 1945 in Germany.

> When the aid station of which Lieutenant Wylie assistant battalion surgeon crossed the Rhine River the various sections were scattered and disorganized by heavy enemy artillery, mortar, and small arms fire. Lieutenant Wylie courageously moved from one end of the battalion sector to the other, contacting his men. Despite the intense fire, he reorganized his section and set up for operation. Then under concentrated hostile mortar fire he led the way into a minefield and evacuated wounded men. Lieutenant Wylie's fearless actions and ability to overcome all obstacles saved the lives of a number of wounded men. Entered military service from Ohio.

Indeed, to think of such a person who has continually given his life for his country, committed his entire career to public service, and to freedom and democracy, we are all honored by just acknowledging it here tonight.

I would like to make reference to the Bronze Star Medal citation that was given to Congressman WYLIE as a member of the Army for meritorious service during the period of August 1, 1944, through December 8, 1944, in France, Belgium, Holland, and Germany.

> As an assistant battalion surgeon, Lieutenant Wylie distinguished himself by his outstanding performance of duty. On two occasions Lieutenant Wylie made reconnaissance under the most hazardous conditions of front-line campaign to select locations for the battalion aid station, and the excellent sites he selected contributed to the quick treatment and evacuation of the wounded. His devotion to his men and his efficient and skillful performance under duress have won the admiration of his associates, reflecting credit on Lieutenant Wylie and the armed forces.

And on the United States of America.

I could go on and on certainly. The Purple Heart for being wounded in battle, as I mentioned on D-day in June 1944, landing and then going straight through the battle until victory. And as you all recall, the Battle of the Bulge, the final thrust, and that terrible winter in which the 30th Infantry Division of which CHALMERS was a member took the very thrust of that notorious attack in which all of the efforts of the enemy were concentrated to try to break through the joint United States and British forces that were moving them back into Germany.

I would like to make reference to the battle honors and what he endured during his many months that give us testimony as to what kind of a person CHALMERS WYLIE is, and what kind of a person has served with the 1st Battalion, 117th Infantry Regiment of the U.S. Army, cited for outstanding performance of duty and action against the enemy of August 7, 1944, during the battle.

> An aggressive enemy making a desperate attempt to drive to the sea * * * and to split Allied Forces in France, launched a combined infantry-tank attack in strength. The brunt of the assault was borne by the 1st Battalion, 117th Infantry. The powerful enemy force followed closely behind intense artillery and mortar fire, and struck violently, causing many casualties among the 1st Battalion front-line troops. In the face of numerically superior numbers, all available troops of the 1st Battalion, including clerks, messengers, and truck drivers were committed to action to fill gaps in the line. When the command post was overrun, the command group personally fought their way out. Throughout the entire battalion area, riflemen fought and outwitted hostile troops in fierce hand-to-hand fighting. Anti-tank gunners and rocket launcher teams, in the face of intense small arms fire, combined their attacks to annihilate numerous enemy tanks. Machine gunners remained steadfast and destroyed assulting enemy foot troops. In the midst of incessant and withering fire, personnel of the 1st Battalion remained at their posts unhesitatingly and performed magnificently. Throughout the courageous performance of the men in the battalion, the attack launched by the enemy's finest troops was successfully repulsed, and the brilliant victory attained was climaxed by a general withdrawal of the enemy from the entire sector. The outstanding courage, unflinching devotion to duty, and marked perseverance demonstrated by members of the 1st Battalion reflected the highest traditions of the armed forces.

And Mr. WYLIE.

It has been mentioned tonight, CHALMERS' many contributions, and I would like to just briefly touch on what he has done. It has been my privilege to serve with him as a member of the Veterans' Affairs Committee. Having been a veteran, and having risked his life for our freedom, he was very sympathetic and very committed to those who have borne the brunt of battle and worn our Nation's uniform. Mr. WYLIE was active in the area of veterans' affairs early in his legislative career, and he received, of course, as we have mentioned, the various awards and the Legion of Merit and others. And he is now a retired colonel in the U.S. Army Reserve.

He introduced and sponsored numerous bills, many of which became public law, to improve and expand assistance provided to American veterans. Among Congressman WYLIE's aims were bills to enhance disability and medical treatment for veterans, proposals to improve benefits to widows and children of those who died in foreign wars, and also successfully worked to expand the education and job training benefits for veterans, as well as the expansion of drug and alcohol rehabilitation programs.

When CHALMERS joined the Veterans' Affairs Committee in 1968, the Vietnam war, and young men and women sent to serve in that conflict were the focus of attention of all of our Nation, and CHALMERS was at the forefront of legislation to aid returning Vietnam veterans, their families, and those held prisoner by the North Vietnamese.

☐ 2340

Through CHALMERS' career on the Committee on Banking, Finance and Urban Affairs he worked to make the financial services industry more stable, healthy, and flexible enough to meet the credit needs of consumers and small businesses.

Mr. WYLIE has also focused on providing the regulators and the judicial system with the necessary means to ensure the safety and soundness and to prosecute those who fraudulently mismanaged federally insured institutions. CHALMERS' more recent efforts over the past decade included, in May 1982, during consideration of the Garn-St. Germain Act, Mr. WYLIE offered a substitute that would have greatly reduced the cost of the S&L crisis. The bill reported out of the Banking Committee would have permitted phony accounting by giving troubled S&L's federally guaranteed net worth certificates that would have guaranteed the net worth of an institution at 2 percent regardless of losses at the institution. The Wylie substitute would have conditioned Federal assistance on the implementation of certain supervisory actions and would have instead allowed for the issuance of an income-capital certificate. These capital certificates would be given by regulators in exchange for promissory notes which would carry a market rate of interest. Furthermore, the Wylie substitute allowed regulators to remove bad management. This amendment would have changed America's condition in the savings and loan situation, but it was defeated on the House floor by 155 to 209.

Mr. WYLIE saw what was coming and attempted to prevent it from taking place, and had we followed his leadership, how much better our Nation would have been blessed.

In 1985, Mr. WYLIE introduced H.R. 15, legislation to prohibit speculative activities in banks and thrifts, and to require S&L's to increase their capital. He also introduced H.R. 20, a bill to limit the activities of State-chartered thrifts; State-chartered thrifts contributed the greatest losses in the S&L crisis.

As we all know, 70 percent of the entire S&L dilemma came from State-chartered institutions in two major States.

In 1986, Mr. WYLIE introduced and fought for the full $15 billion recap bill for FSLIC. He later said that it was "absolutely essential" and that "anything less is inadequate." Finally, in 1987 Representative WYLIE's persistence to recapitalize FSLIC—funded through industry contributions—was approved for $10.8 billion.

In 1988, Mr. WYLIE introduced the Enhanced Enforcement Act of 1988, a bill to strengthen the enforcement actions of regulators against failing institutions. The bill was included as title IX of the Financial Institutions Reform Recovery and Enforcement Act of 1989 [FIRREA].

In 1989, Mr. WYLIE introduced the administration's savings and loan bill [FIRREA] and worked diligently to clean up the thrift crisis and protect depositors of which he had warned some 7 years earlier.

In 1990, Representative WYLIE introduced H.R. 5050, the Financial Crimes Prosecution and Recovery Act to make prosecution of thrift fraud a priority for the Justice Department and to give regulators and prosecutors the tools needed to seize assets pilfered from S&Ls.

In 1991, Representative WYLIE pushed for the industry-funded recap of the bank insurance fund included in the Federal Deposit Insurance Corporation Improvement Act of 1991 [FDICIA].

Finally, I would make note, I say to the gentleman from Ohio [Mr. REGULA], of our colleague's active leadership in the area of promoting home ownership and protecting the rights of the consumer as a member of the Committee on Banking, Finance and Urban Affairs.

His efforts have included the Fair Housing Act Amendments of 1988 which expands the enforcement and coverage for protection against discrimination for families with children and the handicapped. He has also supported the Fair Housing Initiatives Program to assist local government or nonprofit organizations to carry out programs to prevent or eliminate discriminatory housing practices.

Mr. WYLIE has long supported the Community Development Block Grant Program. He has supported the neighborhood accountability of mortgage lenders which enhances enforcement against red-lining to increase mortgage credit for central city neighborhoods and to ensure that all fees and discount points charged are reasonable and nondiscriminatory. He has worked for the passage of such important consumer provisions as the Truth in Savings Act, the Truth in Lending Act, and the Truth in Leasing Act. He has worked to enact the Equal Credit Opportunity Act. This bill prevents discrimination in issuance of credit based on race, color, religion, national origin, or age. Furthermore, Mr. WYLIE has supported the Debt Collection Practices Act which prohibits unfair and unethical practices by debt collectors.

He is a strong supporter of the balanced budget and Presidential line-item veto.

Indeed, in a lifetime of service to our country, I think it is important that we recapitulate a few of the areas in which the rest of the Nation and, indeed, this entire House look to him for leadership. Those are of the legislative nature, and on occasions like this, it is only appropriate that we take the liberty of the House to make some personal observations, and that is, as I mentioned, I was but a young candidate for office at age 23 in which I was running to represent Madison County in the Ohio General Assembly where the most famous and respected and beloved political leader in the area was Congressman WYLIE.

CHALMERS extended his hand of friendship and kindness to me at that time and has continued to do it repeatedly throughout my life.

He epitomizes every virtue that I admire, his honesty, his integrity, his commitment to others and to our Nation, his patriotism, his selfless giving of himself.

I remember the day about 40 hours after I was married, and my wife, who was stewardess for Pan American Airlines at the time, had made arrangements for us to take a honeymoon across the Atlantic. And I, of course, had never traveled much beyond Ohio and was anxious to go except that, being a young, energetic, committed State legislator who has all of these important things to deal with, had not secured for himself a passport, and it was very difficult to take a honeymoon in Europe when the groom had no passport.

I shall always be grateful that, upon descending upon Congressman WYLIE's office on the Monday following the Saturday evening wedding in which my wife and I were married, CHALMERS took us by the hand and secured the passport rapidly and escorted us to the House dining room. It is a moment in our lives that I shall always remember because of the very gracious manner in which CHALMERS treated Liz and me, as he has helped so many thousands of people throughout his lifetime.

I leave off somewhat as I began by saying that from the bottom of my heart, as one who has dealt with thousands of people in all walks of life, there is no one for whom I have greater affection or admiration, no one who epitomizes the principles of Christian governmental leadership and community service, loving affection for his family and his neighbors and his country than CHALMERS P. WYLIE.

Let us put it this way: The House of Representatives will feel the loss of the retirement of our colleague, and the shoes that shall be left empty and the seat that shall be vacated by Congressman WYLIE can never be filled by anyone as he has set the standard and has held up the example that all of us will admire throughout the rest of our entire lives.

I say to CHALMERS and to Marjorie, who naturally are friends, as all of us in this House would say of both of them, God bless you for what you have done for your country, and we wish you the very best in the years ahead and thank you for the contributions that you have made to our lives and to this House.

Mr. REGULA. Mr. Speaker, I thank the gentleman for his contribution.

I yield to the gentleman from Texas [Mr. JOHNSON].

Mr. JOHNSON of Texas. Mr. Speaker, as you all know, I came to the house only a year ago last May. As the new guy on the Banking Committee, it was important to me to find sound guidance from someone who knew the ropes. And I got that from CHALMERS WYLIE.

As the minority leader on the Banking Committee, CHALMERS has ensured that the Republican voice has been heard loud and clear. When you are in the minority, you can't expect to win a lot of battles, so it's important that you have a leader who can work effectively to get good legislation passed, and do his best to see that bad legislation doesn't. CHALMERS did this.

CHALMERS not only leads us on the Banking Committee, but he has also been a long-serving member of the Committee on Veterans' Affairs.

CHALMERS WYLIE is a decorated combat veteran of World War II. Among his decorations, he received the Silver Star, the Bronze Star, the Legion of Merit, and the Purple Heart.

As I was held for nearly 7 years as a prisoner of war in Vietnam, I greatly appreciate the efforts that CHALMERS made in Congress at that time to increase the awareness of our plight. He helped call to attention the fact that the North Vietnamese were not complying with the rules of the Geneva Convention governing prisoners of war. He also actively supported measures to show national concern for Vietnam POW's and those listed as missing in action.

Just as important he worked to see that the families of Vietnam veterans, prisoners of war, and those who paid the ultimate sacrifice, were provided for. He helped implement the expansion of the education and job training for returning veterans. His help is greatly appreciated by America's veterans and will not be forgotten.

I have had the chance to serve with CHALMERS for the better part of a year and a half, and the help he has given me has been immeasurable. I wish it wasn't coming to an end. I wish him good luck in his retirement and always hope for the best, thank you for your support and guidance. And for your service to America.

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Mr. REGULA. I thank the gentleman from Texas for his remarks.

Mr. MICHEL. Mr. Speaker, I am glad to be able to join our colleagues in paying tribute to our good friend, CHALMERS WYLIE, a fine Congressman and a true gentleman who will be leaving us after this Congress.

Chalmers has been serving our country ever since his outstanding record in five European campaigns during World War Two. He came to the House, after serving in the Ohio Legislature, in 1967. In 1981, he became ranking Republican member of the Committee on Banking, Finance and Urban Affairs. He has also performed admirably as a member of the Committee on Veterans' Affairs and the Joint Economic Committee.

As is so often the case with hard workers around here, CHALMERS, because of the quiet, capable, positive approach he takes to his work, didn't get—or seek—the media spotlight and so his record is known mainly to his constituents and his colleagues and those who know the intricacies of banking and urban affairs.

As leader of House Republicans, I have had the benefit of CHALMERS' low-key, knowledgeable and efficient approach to problems as he helped us craft reasonable, workable solutions to complex issues. CHALMERS' came to the House to work—not to pose, not to indulge in fancy rhetoric, not to seek the media spotlight, but to do the job for his constituents, his colleagues, and for the country. I wish that attitude were more prevalent these days.

And so, Mr. Speaker, I just want to say how very much I have enjoyed working with CHALMERS WYLIE. As someone said to me recently: "CHALMERS is there when you need him", a high compliment that perhaps only another Congressman can appreciate. On both sides of the aisle, we admire his qualities of quiet integrity and personal decency. He is truly "the distinguished gentleman from Ohio" and we are going to miss him around here.

Mr. MCCOLLEN. Mr. Speaker, I rise to join my colleagues in tribute to Representative CHALMERS WYLIE of Ohio on the occasion of his retirement from public service at the end of the Congress. He is a man who has served this country wisely and well for many years and in many capacities, but who will soon now close this present chapter of distinguished service as a Member of the House of Representatives of the U.S. Congress.

Not long after I was first elected to Congress, Mr. WYLIE became the ranking minority member of the Committee on Banking, Finance and Urban Affairs, a committee on which I have been privileged to learn from and work with him. For these many years, the gentleman from Ohio has led the Republicans of this committee with intelligence and sensitivity to the needs of the citizens and businesses of this country. In fact, his leadership has extended to members of the committee on both sides of the aisle as he has led many fights to reform and update the banking laws of the country.

Mr. WYLIE leaves behind a legacy of which he and citizens of the 15th District of Ohio can be proud. Although serving in the minority during all of his terms, he brought together coalitions to add important amendments to the banking legislation of this era. For example, the Enhanced Enforcement Act was included as title IX of the landmark savings and loan rescue bill, the Financial Institutions Reform, Recovery and Enforcement Act of 1989. Title IX was the result of a bill he had introduced the previous year to strengthen the authority of the savings and loan regulators to address the problems of failing thrifts. It is only unfortunate that Congress did not enact it sooner.

The country can also be proud of initiatives he has championed that have not yet been enacted into law. These are changes that should be adopted and some day will be if we are to maintain the health and vitality of our banking industry and the economic strength of our nation. One of the most significant collections of these reforms were brought together in the original comprehensive banking bill he introduced at the beginning of this Congress. Unfortunately, the final product of the legislative process last year scarcely resembled the initial proposal. It would be a fitting tribute if we could next year modernize our banking laws by putting into law the reforms he advocated. Indeed, we can best honor him if we will carry on the work which be began to strengthen the financial institutions industry and ensure that the taxpayers are protected from future failures and debacles.

Laws on housing and consumer protection have similarly benefited from his insights and effort. The Committee on Veterans' Affairs has also profited from the experience and understanding of this highly decorated veteran. From his position as ranking minority member for the House on the Joint Economic Committee he helped raise public and congressional awareness of the importance of a balanced budget and a Presidential line item veto, areas in which we must continue the work.

The Nation is better for the service of this strong advocate for progress and reform. Congress needs more men and women like Representative CHALMERS WYLIE of Ohio.

Mr. JACOBS. Mr. Speaker, his name is CHALMERS WYLIE, but at times one would be hard pressed to distinguish his caring and warm personality from that of Dan Dailey, the beloved movie star of former years.

Anybody who does not like CHALMERS WYLIE does not know CHALMERS WYLIE. His friendship is one of my treasures.

Mr. GALLO. Mr. Speaker, I want to join with my colleagues today to recognize the significant accomplishments of an esteemed Member of this body for 26 years, and a good friend. The gentleman from Ohio [Mr. WYLIE].

As the ranking Republican on the House Banking Committee, CHALMERS WYLIE has performed a very difficult job with great skill and candor. And, in the process of doing that job so well he has exemplified what we mean when we talk about grace under pressure.

CHALMERS WYLIE has worked very hard and very successfully to promote bipartisan cooperation in housing policy and in meaningful banking legislation—two of the most difficult assignments any Member of this body could undertake.

When I came to the House in 1985, CHALMERS WYLIE was one of the first Members to take the time to share with me some of his thoughts on the often complex issues faced by Congress.

His advice has always been welcome and his good counsel greatly appreciated, as we have worked together in a number of areas.

Mr. Speaker, I want to take this opportunity to thank our colleague Mr. REGULA from Ohio for his leadership in organizing this special order.

I join with my colleagues on both sides of the aisle in recognizing the many accomplishments of the gentleman from Ohio [Mr. WYLIE], and join with them also in wishing him all the best.

Mr. GRADISON. Mr. Speaker, I rise today to pay tribute to the dean of the Ohio Republican delegation, CHALMERS WYLIE, who will be retiring at the end of the 102d Congress. I also want to thank my friend from Ohio, RALPH REGULA, for taking this special order today.

CHALMERS WYLIE has had a distinguished career in service to his community and to his country. Now a retired colonel in the Army reserves, CHALMERS served with the 30th Infantry Division during World War II in five campaigns in Europe. He was decorated with the Silver Star, the Legion of Merit, the Bronze Star, the Purple heart, and the French Croix de Guerre with Oak Leaf Clusters. Following the war, he was a distinguished member of the Ohio bar and began his career in elective office in 1953 as city attorney for Columbus.

CHALMERS went on to serve in the Ohio House of Representatives from 1961 until 1966. In January 1967, he first took his seat in this Chamber.

When I arrived here in January 1975, CHALMERS was already a significant Member of this body and one I looked to for guidance and advice when I joined the Banking Committee as a freshman.

Early in his career, as a member of the Committee on Veterans' Affairs, in the midst of an unpopular war in Southeast Asia, CHALMERS WYLIE succeeded in his efforts to ensure that the Federal Government would properly assist and aid returning Vietnam veterans and their families. At a time when so many Americans looked upon Vietnam veterans with derision, a decorated veteran and Member of this House fought for their dignity.

In addition to his important work on behalf of the Nation's veterans, CHALMERS WYLIE has been at the center of the national debate on issues affecting the banking and financial services sector of the economy. As the ranking Republican member of the Committee on Banking, Finance and Urban Affairs, his name and his influence grace much of the critical legislation enacted in the last decade.

Members of the House have learned that whether they agreed or disagreed with our good friend from Columbus on banking and financial issues, the debate conducted by him has been honest, forthright, and well-informed. That is the mark of an effective legislator and a distinguished Member.

It has been a high honor to serve with CHALMERS WYLIE. I will always cherish our years of service together. I know that I am not alone when I say that this House will miss CHALMERS WYLIE. I wish my good friend well.

Mrs. ROUKEMA. Mr. Speaker, I rise tonight to speak in honor of one of the finest Members of this Chamber with whom I have had the pleasure to serve.

I am speaking of our colleague CHALMERS WYLIE, whom I have known through our association on the Banking Committee.

Since he was first elected to Congress in 1967, CHALMERS WYLIE has served on the Banking Committee where he has tirelessly worked to protect depositors, to modernize the banking system, and repeal outmoded banking laws that hinder a bank's ability to compete in today's financial marketplace and to help clean up and strengthen the savings and loan industry.

Having worked alongside CHALMERS since 1981 on the Banking Committee, and as battled-scarred veterans of the savings and loan debacle, I can attest to his commitment and dedication to a strong financial services system.

During the FSLIC recapitalization debate in the 1980's, Mr. WYLIE has sought to have the savings and loan industry, not the taxpayer, pay for the cleanup.

In 1985, he was one of the first Members of this body to warn the public about the pending S&L crisis and to insist that the Congress take prompt action to provide funding for the FSLIC insurance fund.

In April 1986, I joined Mr. WYLIE in supporting the administration's request for funds for the S&L cleanup. Had the Congress listened to him then and accepted his plan, billions of taxpayers dollars could well have been saved.

Over the years, and with his leadership and cooperation, we have worked successfully to recapitalize the S&L insurance fund, pass banking reform legislation, including the imposition of higher capital and risk-based premiums, and provide adequate funding for the RTC's efforts to close down failed thrifts.

Finally, and probably most importantly, CHALMERS WYLIE will be remembered for his persistent efforts to pass legislation to put those S&L officials who caused the S&L crisis in jail and to help direct the effort against organized money-laundering schemes.

CHALMERS WYLIE will be leaving us a legacy which we are all proud of and those of us on the committee who have worked with CHALMERS on all of these important and often difficult banking issues, will surely miss his insight, his commitment, and his dedication.

In addition to our long association on banking issues, as the ranking Republican on the Housing Subcommittee, I have had the pleasure of working very closely with my colleague from Ohio on several important legislative initiatives.

In 1987, we worked very closely on a HUD reform package which was designed to bring that Agency back from the brink of total impotence, corruption, and favoritism. His willingness to take the HUD scandals bull by the horns and make sure those events never happen again, was one of the primary reasons reform legislation was successfully adopted.

In the area of housing, CHALMERS and this Member worked very closely in 1990 to help fashion the most comprehensive rewrite of national housing policy in over a decade.

This legislation was a watershed in housing policy and was the first housing authorization bill signed into law since 1987. This bill authorized a new Federal, State, and local partnership program known as HOME and put a home ownership initiative proposed by Secretary Kemp into law.

In 1991, the Housing Subcommittee, with the help of our colleague, developed and passed much-needed legislation to regulate Government-sponsored enterprises. In the wake of the savings and loan scandal, this important legislation intended to mandate adequate capital levels for these entities and initiated a new affordable housing program.

Finally, this year, my colleague and I worked long and hard to achieve a housing reauthorization bill which is currently in conference. This bill not only continues the initiatives begun in 1990, but adds some important new programs such as the plan to address the mixing of nonelderly disabled persons in housing for the elderly.

In all of these matters, our colleague displayed a understanding of the problems and an intense desire to help provide solutions. His personal commitment to providing a strong Federal commitment to housing for the less fortunate has been an inspiration to us all.

CHALMERS, Dick joins me in extending to you and Marjorie our very best wishes for healthy and happy years together with your family.

Good luck.

Mr. HANCOCK. Mr. Speaker, we are here tonight to honor one of our retiring colleagues who will be sorely missed after over 20 years of distinguished service: CHALMERS WYLIE. First elected to public office in 1953, CHALMERS is an Ohio institution.

Born in Norwich, OH, graduating from Ohio State and Harvard Law School, CHALMERS served as Columbus city attorney and in the Ohio Legislature. Elected to Congress in 1967, CHALMERS is a decorated World War II veteran. His legislative record is no less honorable.

As the ranking minority member on the House Committee on Banking, Finance and Urban Affairs, he has tirelessly fought to keep the banking industry competitive and sound.

When I joined the Banking Committee last year, I was fortunate to be able to work more closely with CHALMERS. He, like I, understands that the availability of credit is the engine that drives our economy. When we stifle the ability of financial institutions to extend credit, we endanger our economy. His record leaves no doubt that his insight and leadership will be missed.

CHALMERS WYLIE is a serious and thoughtful man. He is one of the selfless few in this institution who quietly works getting things done, not chasing headlines, but providing leadership.

Many of his years on the Banking Committee have been during difficult times for the industry and our country. We have, no doubt, benefited greatly from his guidance and courage during these years.

CHALMERS, good luck and God bless.

Mr. RIDGE. Mr. Speaker, I do not enjoy farewells, and this year we are having far too many.

When a junior member of the minority party takes his seat on a committee, and the chairman comes from the old school and clearly has no interest in recognizing junior members from the minority party, it helps to have a steady, respected ranking member.

CHALMERS WYLIE has been that ranking member for the Banking Committee for my entire tenure in this Chamber.

I now sit on the first row with Mr. WYLIE. The years have seen turbulence beyond what any of us could have imagined in 1983, when I first took a seat and when he first became the lead Banking Committee Republican. Many members of the committee have left, some under less than favorable circumstances, and today I must honestly say the reputation of the Banking Committee is not what it once was—despite the valiant efforts by Mr. WYLIE and others. But we have done the work many wished to avoid. We have pushed for the bills that were not always popular, and we pursued causes that did not always prevail.

Mr. WYLIE has always been the steady, respected ranking member.

We have done the tough job of sorting out the savings and loan mess, pushing for full funding long before the country realized what was at stake—Mr. WYLIE took the lead on this issue. We have passed revolutionary housing bills to bring housing policy into the modern age. We have tried—valiantly, and without success—to do the same for banking policy. We have pushed for S&L crooks to go to jail, we have protected the FHA insurance fund, we have improved secondary market operations, and we have done countless other tasks too numerous to document here.

Mr. WYLIE has served his peers, his Presidents, and his country well. In truth, his service on the Banking Committee and in Congress has been just part of a life dedicated to this Nation. Not many of us know, for example, the extent of his record in war. It is exemplary. Not many of us know the details of his other public services. And none of us know what future public service he will provide—but I am sure he will provide it.

Mr. Speaker, I congratulate Mr. WYLIE for a spotless record during a very tough assignment. I have been proud to serve with him for every one of our 10 years together. I wish him the best and I hope, on the day I leave this Chamber, that I will have a record half as good as that of the gentleman from Ohio.

Mr. STEARNS. Mr. Speaker, I rise today to offer some personal thoughts on a Member who is retiring at the end of this Congress—CHALMERS P. WYLIE.

Mr. WYLIE has been a Member of this House for over 24 years. He has brought a standard of integrity and honesty that is second to none. I will miss his counsel and guidance. As a freshman Member of this body, it was my great good fortune to serve with him on both the House Veterans Affairs Committee and the House Banking Committee.

Every veteran in this country owes a debt of gratitude to CHALMERS WYLIE. His efforts on this committee included enhancement of disability and medical treatment benefits for veterans and the improvement of benefits for widows and children.

He is man that understands what it means to be a veteran, having served through five European campaigns. Although he would never let on, CHALMERS WYLIE has been decorated by his country through the awarding of the Silver Star, Legion of Merit, Bronze Star, and the Purple Heart.

When I joined the Banking Committee as a freshman, I was pleased to find a ranking member who solicited the thoughts and initiatives of every member of the committee. CHALMERS WYLIE has been a model leader for younger members to emulate. He respects every member of the committee, and is equally skilled at working with the majority to craft needed legislation and leading the minority.

CHALMERS WYLIE is not just a gracious and principled Member of the House, but also an effective leader. His efforts to reform the banking and savings and loan systems, promote fair housing, and support community development will benefit millions of Americans for many years to come.

We all know that 1993 will be a year of great change in the House of Representatives. Let us hope that this change brings us more men and women like CHALMERS WYLIE—men and women of experience and depth, intelligence and integrity, fairness, and wisdom.

Mr. McCANDLESS. Mr. Speaker, I have the privilege of serving on the Committee on Banking, Finance and Urban Affairs and the Committee on Government Operations. The ranking Republicans on both of those committees are retiring this year. I could not help but wonder whether there was a pattern here, but then I noticed that there has been a large number of other retirements in the House, so I have decided that it is probably nothing personal.

Our purpose today is to pay tribute to CHALMERS P. WYLIE. When he leaves office in January, CHALMERS will take with him a distinguished record of over 40 years of public service to the citizens of central Ohio, and to the Nation.

He interrupted his education to enlist in the Army during the Second World War. He rose through the ranks, obtaining the rank of first lieutenant, and was one of the most highly decorated individuals ever to serve in the House of Representatives.

After the war, CHALMERS completed his education with a degree from Harvard Law School. He became assistant city attorney of Columbus in 1949, was elected city attorney in 1953, became administrator of the Bureau of Workman's Compensation for the State of Ohio in 1957, was elected to the Ohio Legislature in 1961, and was elected to the House of Representatives in 1966.

In the career of CHALMERS P. WYLIE, success has followed success. To those who might say that he always rode the crest of the wave, I would remind them not to lose sight of the fact that CHALMERS, throughout his career, made the wave.

While in Congress, Congressman WYLIE further distinguished himself as an expert in the area of veterans affairs and banking. He became the ranking Republican of the Banking Committee in 1983, just as the industry was entering one of the most turbulent periods since the 1930's. The problems of the decade were serious, and CHALMERS' prudent leadership helped to find solutions.

I have appreciated the opportunity to serve with CHALMERS on the Banking Committee. His insight, experience, and subtle sense of humor will be missed.

However, I do regret that Congress has failed to enact two of Congressman WYLIE'S legislative goals—the balanced budget amendment and the line-item veto. Although he will not be here, I am hopeful that Mr. WYLIE'S efforts will have laid the groundwork so that the 103d Congress can enact both of those measures.

CHALMERS, I congratulate you on an outstanding career. While you will be missed here, I understand that there are some children in central Ohio who are very excited about the prospect of having their grandfather around a little more. I wish you and Marjorie all the best.

Mr. SENSENBRENNER. Mr. Speaker, the close of the 102d Congress will bring to an end the career of another highly respected Member of this body. CHALMERS WYLIE leaves behind a legacy difficult to parallel.

A much decorated World War II veteran, CHALMERS has displayed his love of flag and country with his efforts supporting veterans' benefits and a constitutional amendment outlawing flag desecration. Having seen firsthand the importance of military preparedness, he has long supported a peace-through-strength defense of our country.

I also learned to appreciate Representative WYLIE'S work ethic demonstrated as ranking Republican on the Banking Committee. He exhibited determination in pushing important regulatory changes and other legislative reforms, and assisted cooperative efforts to assure successful passage. He is a strong, principled, and gracious legislator and friend. The residents of Ohio's 15th District are losing a distinguished man and Representative.

I join my colleagues today in paying tribute to his 26 years of service to the House of Representatives and the Nation. May he find peace and prosperity in his future pursuits.

Mr. VENTO. Mr. Speaker, I want to join with my colleagues in praising our good friend and colleague, CHALMERS WYLIE.

I have been privileged to serve with CHALMERS on the House Banking Committee for the past 16 years. During that time, I have worked closely with him to revitalize our neighborhoods, to strengthen the regulation of our financial services industry, and to ensure that our deposit insurance system remains viable and that taxpayer dollars not be placed at risk.

In pursuit of those goals, CHALMERS WYLIE has worked on a bipartisan basis. I have been pleased to work with CHALMERS on proposals like the expansion of the Neighborhood Housing Services Expansion Act. This act improved and expanded the successful neighborhood reinvestment corporations to serve more areas and to provide more affordable housing opportunities to communities across the country.

Congressman WYLIE was able to join in support of the cooperative bank, a President Carter initiative that was considered in the first years that I served. Without Mr. WYLIE'S support, this measure would not be law or alive and working so successfully today.

Mr. Speaker, it is also important to note that CHALMERS WYLIE joined with me in my early efforts for legislative action to help the homeless. CHALMERS' support goes back over 10 years ago. While the final law today bears the name of the late Congressman Stewart McKinney, the first Republican member to help was Congressman WYLIE. He has maintained that good support for this needed program throughout the decade.

When Congress worked to address the S&L crisis, CHALMERS WYLIE was a strong advocate for closing the regulatory loopholes that had kept brain-dead S&L's open. Mr. WYLIE'S active support for my amendment to strengthen capital standards in the Financial Institutions Reform, Recovery and Enforcement Act [FIRREA] was crucial to its success. With that amendment, we were able to halt, once and for all, the bookkeeping hocus pocus that the S&L regulators had fostered. As the special interests renew their attacks against these standards next year, CHALMERS' firm commitment to tough regulations will surely be missed.

As congressional focus has shifted to the issue of bank profitability, CHALMERS WYLIE has overall pursued a reasoned approach. CHALMERS has been a leader in the view that to be viable, our Nation's banking industry must be modernized and allowed to compete in the financial marketplace and he has gained support from many for balanced proposals to attain such changes.

Today, CHALMERS and I agree that one key to a sound banking industry is the opportunity for interstate banking and branching. I was very pleased to have Congressman WYLIE join with me as the principal sponsors of the Interstate Banking Efficiency Act of 1992. This comprehensive interstate banking and branching bill was a strong consensus measure that set forth a responsible plan of action. This measure, which our colleague Congressman BEREUTER helped to draft, was originally adopted as an amendment to H.R. 6 by a vote of 366 to 4. It is unfortunate that we were not able to build upon this momentum and pass comprehensive banking and branching reform this year.

While the Vento-Wylie interstate banking and branching bill will not be acted upon, I am pleased that another one of our less dramatic, joint efforts, the Civil War Commemorative Coin Act has been approved by the Senate and will soon become law. This legislation will provide invaluable financial assistance in protecting an important part of our American Heritage, our Civil War battlefield sites.

Mr. Speaker, while CHALMERS WYLIE has been an invaluable ally, he has also been a formidable opponent. Clearly we have not agreed on every issue and when we disagreed, our debate and discussion resulted in a better product.

Mr. Speaker, I will miss the advice, cooperation, hard work, and spirit that is so evident in the role and work of CHALMERS WYLIE. I want to wish CHALMERS the very best as he moves on to new endeavors. He will be missed but we are all grateful for his contributions. Congressman CHALMERS WYLIE has made a positive and meaningful difference.

Mr. OXLEY. Mr. Speaker, I rise today to pay tribute to an exemplary politician, leader, and a gentleman: CHALMERS WYLIE.

For the past 26 years, CHALMERS WYLIE has conducted himself in an exemplary manner which has always catered to the needs of his constituents and district. He has always been mindful of the institutions and people that helped to create the person that he is. For example, he has introduced and cosponsored numerous bills which would provide improved assistance to veterans. As a veteran himself, Representative WYLIE realized the hardships they endured after they secured the freedom for our Nation. Therefore, he worked for legislation which would enhance the medical and disability benefits for veterans. He also sought to expand the education and job training programs, as well as drug and alcohol rehabilitation programs.

As a highly decorated and ambitious soldier himself, Representative WYLIE knows that these veterans need this legislation in order to help them get back on their feet at home after spending years on the front lines.

Representative WYLIE also sought to strengthen our country's financial institutions. These initiatives illustrated his vision in the world of banking. For example, he successfully managed to recapitalize the FSLIC through private funds. He also sought to limit the activities of State-chartered thrifts, institutions which eventually recorded the greatest losses in the savings and loan crisis.

After the crisis, Representative WYLIE introduced legislation to ensure that this would not happen again, and which would allow the victims of the failed savings and loans to recoup as much of their losses as possible. He introduced legislation which would have given the Justice Department the necessary tools to expeditiously prosecute violators of thrift fraud and to reclaim property looted from the failed thrifts.

Representative WYLIE also served the State of Ohio in the State legislature, a job which we have in common. Both in the State house and the Halls of Congress, he has given the interests of his constituents in Columbus the highest priority. Over 26 years and 13 Congresses, he has made Ohio a better place to live. With all of his accomplishments and integrity, I can say that if there were more Congressmen like CHALMERS WYLIE, the people of our Nation would not be talking about term limitations.

As a fellow Congressman and Ohioan, I will miss your presence here.

Mrs. MORELLA. Mr. Speaker, I would like to pay tribute to a colleague, CHALMERS WYLIE of Ohio's 15th District, who is retiring at the end of this Congress. Because he has been a respected colleague and friend, I will be saddened to see him depart.

Congressman WYLIE and I have worked together during the 102d Congress to shape anticredit crunch legislation. When I asked Congressman WYLIE, the ranking Republican on the Banking, Finance and Urban Affairs Committee, to incorporate language into the banking bill which would rationalize the regulatory process as it applies to construction loans on presold homes, he answered in the affirmative. He assisted me in making it easier for qualified borrowers to obtain credit for homes sold but not yet built. The amendment was accepted by the Banking Committee and adopted by the House of Representatives as part of the Resolution Trust Corporation funding bill. It was a pleasure to work with Congressman WYLIE to achieve a mutual goal.

I know that this story is but one illustration of the many instances in which colleagues, on both sides of the aisle, have cooperatively worked with Congressman WYLIE to achieve common aims. From his earliest days in the House, he has been recognized as a voice of quiet reason, rising to become an important policymaker on economic and financial issues.

My best wishes to Congressman WYLIE as he pursues new endeavors. Those with whom he will be working will be fortunate to have his calm, steady intelligence among them. Those of us who have had the opportunity to work with him will remember his fine personal and professional attributes.

Ms. OAKAR. Mr. Speaker, rarely has a public servant brought as much thoughtfulness, civility, and honor to the sometimes rough-and-tumble political behavior of this body, as has my good friend and colleague from Columbus, OH, CHALMERS WYLIE. For 26 years, the calm voice and constructive views of CHALMERS WYLIE have helped to temper partisan passions and soften the hard edges of debate, while counseling the necessity of bipartisanship in the solution of our country's problems. Congressman WYLIE's unwavering devotion to the conscientious fulfillment of his responsibilities as a legislator of National stature has endeared him to his constituents, his colleagues on both sides of the aisle in Congress, and to his countrymen.

CHALMERS WYLIE has served with distinction on the Banking, Veterans' Affairs, and the Joint Economic Committees, since his very first days in Congress. During the 16 years Congressman WYLIE and I have sat together on the Banking Committee, we have collaborated as fellow Ohioans and friends on many issues of mutual concern. I remember the times when the two of us sat for what seemed like endless hours of droning speeches in hearings or markups or the tense, intricate infighting of conferences, and never once did I see CHALMERS WYLIE lose his ingratiating smile or courtly manner.

Even in those tension-filled moments that recurred with distressing regularity as the Banking Committee wrestled with legislation to restore solvency to the thrift and savings industry, Congressman WYLIE resisted the temptation to partisanship and, instead, offered amendments intended to adequately recapitalize the Federal Savings and Loan Insurance Corporation and protect depositors.

While Mr. WYLIE and I have been members of the Housing Subcommittee, he has lent his considerable influence to the bipartisan passage of landmark legislation to improve Federal housing programs and permit public housing tenants to become homeowners. Congressman WYLIE'S steadfast determination to craft a bipartisan housing bill led him to work closely with Chairman GONZALES to reach agreement and fend off attempts to weaken or scuttle the bill.

Mr. Speaker, CHALMERS WYLIE's election to Congress in 1966 marked the triumphant next step in a career already distinguished by his service in Ohio government as an assistant State attorney general; city attorney; and then a State legislator. The people of his district, who have reelected him 12 times by comfortable margins, see in him qualities that I and my colleagues on the Banking Committee and in the House have seen for a long time: honor; integrity; and a fundamental decency of behavior that disarms distrust and induces a willingness to seek bipartisan consensus.

I personally extend to Congressman WYLIE my Heartfelt Gratitude for all of his kind words and good faith gestures over the years. He is a man of high principle and deep conviction, and I wish him and his wife, Marjorie, much good fortune and happiness in the years ahead.

Mr. MILLER of Ohio. Mr. Speaker, I have taken the House floor on countless occasions in the past 26 years in Congress to commend those who deserve our praise and remember those who are leaving this Chamber. Never before, however, have I faced the circumstances that I encounter today—expressing my sincere thanks and genuine appreciation to a personal friend, and fellow Ohioan, who came to Congress in my class and—now—departs as I depart.

More than likely, an interest in public service for CHALMERS began while at Otterbein College, or Ohio State, or Harvard when he was earning his law degree.

Once he completed law school in 1948, he put into practice his strong interest in public issues by becoming an assistant State attorney general in Ohio, after which he became city attorney for Columbus. He then served in the Ohio General Assembly and was elected to Congress in November 1966. He has been reelected to every Congress since.

His record in the House is solid—a record that both he and his constituents can be proud of. He has always been a very careful reader of the public's opinions and I have consistently been impressed by the singular fact that he, truly, cares for the input of those he represents throughout Ohio's 15th Congressional District.

This Nation has had the good fortune to have CHALMERS WYLIE on the powerful House Banking, Finance and Urban Affairs Committee. He's the ranking member, and his leadership on that prestigious committee has been apparent in the landmark legislation which has been brought to the House floor for consideration. CHALMERS is a doer—a legislator who legislates, a man who has seen what is necessary to the financial health and urban welfare of this great Nation and then makes it the business of the committee and Congress to provide a workable solution to the matter at hand. Whole industries—like housing, for example—can rise or fall with the provisions of laws crafted in the Banking Committee. For years, CHALMERS WYLIE has diligently dedicated himself to the honorable principle that the work of his committee should be to make America work as it should, and as was first envisioned by our Founding Fathers.

His dedicated service as a Member of Congress should come as no surprise. He came to Congress determined to make a difference—and he has. He came as a veteran of World War II. He enlisted in the Army as a private, then rose to the rank of first lieutenant. He served with the Army's elite 30th Infantry Division and left with a Bronze Star, Silver Star, Purple Heart, and Legion of Merit. He also served in the Army Reserves.

CHALMERS WYLIE and I came to the House together and we will leave here as a team, and teammates. He's been a neighbor with his office just down the hall from mine. More than anything else, he's an example: The kind of Member one can point to when others ask for an examle of what it takes to succeed in Congress. Next year, when our spots in the Congressional Directory have been taken by others, I am confident that the solid and good legislative works of CHALMERS will endure and remind us all that his service was exemplary and his priorities were in place.

I'll miss working with CHALMERS; and I wish him and his wife Marjorie all the very best in the future.

Mr. MONTGOMERY. Mr. Speaker, I want to thank the gentleman for taking this time today so we can pay tribute to our retiring colleague from Ohio, CHALMERS WYLIE. I have known CHALMERS as long as anyone in the Congress. He and I came to Washington together in 1967.

We struck up a friendship in that freshman class that has lasted for a quarter century. We became friends because we had a lot in common. We both were World War II veterans. CHALMERS entered the Army as a private and obtained the rank of lieutenant while serving through five campaigns in the European theater. He was a highly decorated veteran, including receiving the Silver Star, Bronze Star, Legion of Merit, and Purple Heart.

We also shared an interest in looking out for the needs of our veterans. In fact, CHALMERS has been in the Veterans' Affairs Committee longer than I have. I can say that the American veteran has had no better friend or stronger advocate over these past 26 years than CHALMERS WYLIE.

He has also been an outstanding member of the Banking and Urban Affairs Committee. As the ranking minority member, CHALMERS has been one of the leaders on banking issues over the years. I have always been impressed with the way he did his homework and how he understood the banking industry.

CHALMERS WYLIE is a gentleman in every respect and Members of Congress on both sides of the aisle are going to miss him. I am proud to have had the chance to serve with him for the past 26 years.

Mr. BENNETT. Mr. Speaker, I arise to praise the excellent work of CHALMERS WYLIE who is retiring from Congress at the end of this session. Now holding the position of ranking minority member of the Committee on Banking, Finance and Urban Affairs, CHALMERS WYLIE has proved himself a friend to all Members of this Congress because of his understanding, good will, and efforts to bring about constructive legislation at every point available to him. Certainly, many good laws have been enacted because of him and his persistence in upholding the high standards which we all aspire to in Congress. I hope that he and his family know that we who serve in Congress with him warmly acknowledge his fine achievements and especially appreciate the good will and friendship that he has shown in bringing about the legislative agenda which he has made possible.

Mr. QUILLEN. Mr. Speaker, it is a pleasure to rise and pay tribute in honor of a longtime friend and colleague from the 15th District of Ohio, CHALMERS P. WYLIE.

Ranking Republican on the House Committee on Banking, Finance and Urban Affairs, I have known CHALMERS since he began his service in the Congress back in 1967. I have watched the admiration for him grow over the years from fellow colleagues in both parties.

Before coming to Congress, CHALMERS had served his country in the military with merit, being decorated with the Silver Star, the Legion of Merit, the Bronze Star, the French Croix de Guerre Unit Oak Leaf Clusters, and the Purple Heart. He is now a colonel (retired) in the Army Reserves.

He has demonstrated the kind of service and dedication to which we all aspire, and we will miss his many contributions to our joint efforts.

Mr. Speaker, I salute his many years of service to our country, and I will miss his counsel and friendship.

Mr. HALL of Ohio. Mr. Speaker, I join my colleagues in honoring the distinguished gentleman from Ohio [Mr. WYLIE], who will be leaving the House of Representatives after 26 years of service to his State and to the Nation.

CHALMERS will be long remembered in the House for his service on the Banking Committee. As ranking Republican of the committee, he was an effective leader who was willing to compromise on procedure to move legislation forward but who did not compromise his ideals. He served during a time of great change in the banking industry and he faced many challenges in crafting legislation to maintain the stability of our financial institutions.

And, CHALMERS will be long remembered in Ohio's 15th District where he skillfully served his constituents.

I will miss my friend, colleague, and one of the leaders of the Ohio congressional delegation.

Mr. FLAKE. Mr. Speaker, it is with pleasure and sincere gratitude that I salute our fine colleague, Congressman CHALMERS P. WYLIE, who will retire at the end of the 102d Congress. In a bipartisan friendship, I have worked with CHALMERS on the Banking Committee since my arrival to the Congress. As the ranking member of the committee, CHALMERS has demonstrated his wisdom, leadership, and commitment to improving the quality of life in this Nation.

I was fortunate to work with CHALMERS on many different banking issues and in particular, housing issues. Over the years as a nonprofit sponsor of section 202 programs, I have especially appreciated CHALMERS' consistent support and improvement of this very valuable program to assist the housing needs of our Nation's elderly. CHALMERS has also displayed his commitment to the Nation's homeless in his consistent support of the McKinney Homeless Assistance Program.

CHALMERS will be missed by the Banking Committee as well as by the Congress. Toward that end I would like to thank him for his contributions and wish him relaxation and good health with his family in his retirement.

Mr. BAKER. Mr. Speaker, I rise this evening to pay tribute to the ranking member of the House Committee on Banking, Finance and Urban Affairs. I have enjoyed the privilege of serving under CHALMERS WYLIE'S leadership since I first joined the Banking Committee in January 1989. Mr. WYLIE'S retirement at the end of the 102d Congress marks the end of an accomplished era, and I would like to take a moment to express my appreciation for Mr. WYLIE'S lasting efforts and accomplishments.

In this era of partisan politics, Mr. WYLIE'S position as ranking member of the Banking Committee since 1981, could have been difficult. Instead, he acted as a statesman in the model of Henry Clay, the Great Compromiser. He formed a friendship with HENRY GONZALES, chairman of the Banking, Finance and Urban Affairs Committee, allowing him to be an active participant in committee business. His skillful, behind the scenes work allowed him to act as a liaison between the White House and the Democrat-controlled Banking Committee.

Mr. WYLIE involved himself in a wide range of banking issues, becoming the heart of the committee. Mr. WYLIE sponsored important legislation that would set new penalties for bank fraud and gave prosecutors new powers against savings and loan wrongdoers. He has also been responsible for promoting home ownership and protecting the rights of the consumer. He championed the rights of common man by working to enact the Equal Credit Opportunity Act which would prevent discrimination in issuance of credit based on race, color, religion, national origin or age.

Mr. WYLIE was also very active on the Veterans' Affairs Committee. He bravely served his country in World War II and was the recipient of many honors, including the Purple Heart and the Silver Star. Mr. WYLIE introduced and cosponsored numerous bills, to further the cause of fellow veterans.

The 15th Congressional District includes Columbus, OH, a major metropolitan area with a top-flight university and significant high-technology research centers. He also represents the values and beliefs of middle-America which we are sorely in need of today. Mr. WYLIE is beloved by his constituents and served them for 13 consecutive terms. He will be sorely missed by both his constituents and his colleagues in the House. I will genuinely miss CHALMERS WYLIE'S leadership the most on the House Banking, Finance and Urban Affairs committee.

Mr. GREEN of New York. Mr. Speaker, I rise today to pay tribute to my good friend and distinguished colleague, CHALMERS WYLIE, who, at the close of the 102d Congress, is retiring after 26 years of outstanding service.

I should also like to thank our colleague, Mr. CLARENCE MILLER, also of Ohio, for sponsoring tonight's special order in CHALMERS' honor.

Upon my arrival to Congress I had the privilege of working with the gentleman from Ohio on the House Banking Committee. Since then, as ranking minority member of the VA–HUD Appropriations Subcommittee we have frequently worked together on housing issues. His efforts on the Banking Committee have been tireless, and his commitment to our housing needs and the credit needs of consumers and small businesses is well known.

At this time, I should like to offer CHALMERS my very best upon his retirement. He has gained the deserved respect of all of those who have had the pleasure of working with him in this body. I know that our colleagues join me in thanking him for his dedication to the State of Ohio as well as the Nation as a whole.

Mr. STOKES. Mr. Speaker, I want to thank my colleague, the distinguished gentleman from Ohio [Mr. REGULA] for reserving this time to pay tribute to the dean of the Ohio Republican delegation, CHALMERS P. WYLIE. CHALMERS will be departing at the end of this legislative session, bringing to a close 26 years of distinguished service. His constituency, the State of Ohio, and our Nation has benefited greatly from his efforts.

CHALMERS WYLIE became the Representative to Congress from the 15th Congressional District of Ohio in 1967. In the Congress, he serves as the ranking minority member of the Committee on Banking, Finance and Urban affairs, as well as the ranking minority member on its Subcommittee on Financial Institutions Supervision, Regulation, and Insurance. He is also a member of the Subcommittee on housing and Community Development; and Consumer Affairs and Coinage.

As a member of the House Committee on Veterans' Affairs, CHALMERS serves on the Subcommittee on Compensation, Pension, and Insurance; and Education, Training and Employment. He is also the ranking minority member of the Joint Economic Committee where he serves on the Subcommittee on International Trade, Finance and Security Economics; and Monetary and Fiscal Policy.

Mr. Speaker, throughout his career on the Banking Committee, CHALMERS has worked to make the banking industry stable, healthy and flexible to meet the credit needs of consumers and small businesses. He has also focused his efforts on providing regulators and the judicial system with the necessary means to ensure safety and soundness and to prosecute those who mismanage federally insured institutions. Over the years, he has authored major legislation to address these issues.

Our colleague, CHALMERS WYLIE, has also been active in the area of veterans' affairs during his legislative career. He is, himself, a highly decorated veteran of World War II. A retired colonel in the Army Reserves, CHALMERS is the recipient of the Silver Star, Legion of Merit, Bronze Star, French Croix de Guerre Unit Oak Leaf Clusters, and the Purple Heart.

In the Congress, CHALMERS has introduced and cosponsored numerous bills, many of which became public law, to improve and expand the assistance provided America's military veterans. Included in this area is legislaiton to enhance the disability and medical treatment benefits of veterans, proposals to improve benefits to families of those who died in foreign wars, and job training benefits for veterans.

During my tenure in the House of Representatives, I have enjoyed a close association with CHALMERS WYLIE which reached across party lines. As dean of the Democratic delegation, I have worked with him on joint projects to benefit our State. He is a dedicated Member of this body; he is an experienced legislator; and he is conscientious and fair.

Mr. Speaker, CHALMERS also maintains close ties with the Community. He is a 33d Mason, a member of the North Broadway United Methodist Church, the Columbus and OHio State Bar Associations, and the Kiwanis Club. He and his wife, Marjorie, are the proud parents of two children; Jacquelyn and Bradley. They are also the proud grandparents of Tamara and Pamela Poston.

I join my colleagues today in paying tribute to CHALMERS WYLIE and wishing him and his family well. He will be greatly missed in this body. However, his record of legislative service to the State of Ohio and our Nation will never be forgotten.

Mr. ANNUNZIO. Mr. Speaker, it is with great pleasure that I rise this evening to say some words about my good friend and colleague, CHALMERS WYLIE. I have known CHALMERS for over 25 years and I have had the opportunity to serve with him on the Banking Committee since he came to Congress in 1967.

Over the years, CHALMERS and I have worked together on a number of legislative issues ranging from commemorative coins to the passage of the Electronic Funds Transfer Act. While funds transfers might seem to be a mundane issue, this single act resulted in the proliferation of millions of ATM machines, a consumer convenience that most people now take for granted.

More recently, CHALMERS and I have led the charge to penalize the miscreants that looted the savings and loan industry. Our rallying cry is "Jail the S&L Crooks". We have sponsored provisions to increase the criminal penalties for thrift fraud, to allow for civil money penalties of up to $1 million a day for flagrant violators and to increase funding for the Justice Department's prosecution of financial fraud. And, our efforts haven't ceased. We are currently working toward the passage of a bill to ensure that those bankers who are convicted of these crimes make full restitution of their fines and the money they stole.

I have also had the opportunity to work with CHALMERS on money laundering legislation. As my colleagues know, money laundering is the lifeblood of the international network that is smuggling drugs into our country. In 1989, I was shocked to learn that BCCI branches in Florida were allowed to remain open even after the bank was convicted of laundering funds for the Colombian cartels. Starting in 1990, I sponsored legislation that would require that a bank lose its charter if it is involved in money laundering. CHALMERS and I have worked hand in hand to get this legislation enacted into law. It has passed the House three times and we are currently working on a bill that we believe will pass both Houses.

I conclude my remarks by saying that it has been an honor to serve in this body with CHALMERS WYLIE. He is a man of the highest integrity and decency. This country and the citizens of Ohio have been fortunate to have a man of his caliber in the House of Representatives. CHALMERS, I wish you and Marjorie all the best in the years ahead.

Mr. BEREUTER. Mr. Speaker, today, I would like to pay tribute to my distinguished colleague from Ohio, the Honorable CHALMERS P. WYLIE. I have served with him since 1981 on the Banking Committee, during most of which time he was ranking minority member of the full Banking Committee and the Subcommittee on Financial Institutions.

Having served 11 years with CHALMERS WYLIE, I have the highest regard for his forward-looking, yet cautious approach to banking legislation.

CHALMERS WYLIE always sought legislation that would ensure a stable and healthy financial services industry, yet he was also intent on drafting the legislation to match the technological changes occurring in the marketplace.

CHALMERS WYLIE's legislative efforts of the last decade clearly show his foresight and interest in setting appropriate national policy for financial institutions. Some of his recent efforts include:

A far-sighted substitute which he offered in 1982 to the Garn-St Germain Act, that would have greatly reduced the cost of the S&L crisis. The bill reported out of the Banking Committee would have permitted phony accounting by giving troubled S&L's federally guaranteed net worth certificates that would have guaranteed the net worth of an institution at 2 percent regardless of losses at the institution. The Wylie substitute would have conditioned Federal assistance on the implementation of certain supervisory actions and would have instead allowed for the issuance of an income capital certificate. These capital certificates would be given by regulators in exchange for promissory notes which would carry a market rate of interest. Furthermore, the Wylie substitute allowed regulators to remove bad management. Unfortunately, this amendment was defeated on the floor, but it remains the kind of positive, correct initiative that should be remembered by his colleagues.

In 1985, Mr. WYLIE introduced H.R. 15, legislation to prohibit speculative activities in banks and thrifts, and to require S&L's to increase their capital. He also introduced H.R. 20, a bill to limit the activities of State-chartered thrifts; these thrifts contributed the greatest losses in the S&L crisis.

In 1986, Mr. WYLIE introduced and fought for the full $15 billion recap bill for FSLIC. He later said that it was "absolutely essential" and that "anything less is inadequate." Finally, in 1987, Mr. WYLIE's persistence to recapitalize FSLIC—funded through industry contributions—was approved for $10.8 billion.

In 1988, Mr. WYLIE introduced the Enhanced Enforcement Act of 1988, a bill to strengthen the enforcement actions of regulators against failing institutions. The bill was included as title 9 of the Financial Institutions Reform Recovery and Enforcement Act of 1989 [FIRREA].

Had the Wylie proposals been passed by Congress and enacted into law, the Federal Government would not have had to undertake the massive and very expensive cleanup of the savings and loan industry that is currently underway.

HOUSING LEGISLATION

In addition, CHALMERS WYLIE has been very active in promoting homeownership and protecting the rights of consumers. His efforts have included the Fair Housing Act Amendments of 1988, which expands the enforcement and coverage for protection against discrimination for families with children and the handicapped. He has also supported the Fair Housing Initiatives Program to assist local government or non-profit organizations to carry out programs to prevent or eliminate discriminatory housing practices.

CHALMERS WYLIE has long supported the Community Development Block Grant Program as well as legislation to prevent mortgage lenders from redlining central city neighborhoods, and instead, increasing mortgage credit to these areas.

In concluding these remarks about our distinguished colleague, it should be emphasized that CHALMERS WYLIE always made an effort to strike a balance between accommodating banks as well as ensuring consumer protections. Throughout the years, Mr. WYLIE was instrumental in shaping the Truth-in-Savings Act, the Truth-in-Lending Act, the Truth-in-Leasing Act, as well as enactment of the Equal Credit Opportunity Act. This bill prevents discrimination in issuance of credit based on race, color, religion, national origin, or age.

As a legislator, CHALMERS WYLIE was invariably polite and congenial. His door was always open—not only to his colleagues, but also to the administration, the bank regulatory agencies, and always to his constituents.

As ranking minority member, CHALMERS WYLIE undertook his responsibilities with great care and patience. It was his practice that, prior to major Banking Committee action, he would always consult with his Republican colleagues on the committee—from the most senior to the most junior—and listen to their concerns. He is renowned for tough scrutiny of committee budgets in a fashion that should please even his most fiscally conservative constituents.

CHALMERS WYLIE was also a dependable and congenial legislator; he has been a workhorse who stayed many late evenings in the House to get things accomplished. Over the years, Congressman WYLIE was also the administration's point-man on a number of significant banking bills, and defended those initiatives, even though sometimes they were difficult to advance. It was with CHALMERS WYLIE's help and guidance that the administration was able to have a number of its legislative proposals—addressing everything from housing, to additional enforcement authority for regulators, to a reform of the savings and loan industry—expedited and enacted into law.

I will miss him, personally, and we in the House will miss his many contributions to Congress and to the country.

Mr. RINALDO. Mr. Speaker, I rise today to pay tribute to our distinguished colleague, and my dear friend, CHALMERS P. WYLIE.

First elected to the U.S. House of Representatives in 1966, Congressman WYLIE has served the people of Ohio's 15th Congressional District for 26 consecutive years. During that time, he has risen to the ranking minority member position of the House Banking, Finance and Urban Affairs Committee. In this important post, Congressman WYLIE has helped to craft numerous pieces of banking, finance, and housing legislation over the years, including the Financial Institutions Reform Recovery and Enforcement Act of 1989 and the Fair Housing Act Amendments of 1988.

Congressman WYLIE also serves on the House Committee on Veterans' Affairs, and has introduced and supported numerous pieces of legislation to improve and expand the assistance provided to America's military veterans. His work on behalf of the Nation's veterans has focused particularly on legislation to improve the delivery of disability and health care benefits, as well as initiatives to enhance education and job training programs.

Looking back, it is easy to see how Congressman WYLIE'S devotion to his country and to public service came about. A decorated veteran of World War II, CHALMERS served with the 30th Infantry Division through 5 European campaigns, earning along the way the Silver Star, Legion of Merit, Bronze Star, French Croix de Guerre Unit Oak Leaf Clusters, and the Purple Heart. He is now a colonel, retired in the Army Reserves.

Service to the community followed. Congressman WYLIE was elected city attorney of Columbus, OH, in 1953; elected president of the Ohio Municipal League in 1957; and served three terms in the Ohio State Legislature from 1961 to 1966. In 1983, he received the Columbus Award for Civic Leadership from the Columbus Area Chamber of Commerce.

Congress is often judged by its actions as a whole, or by the misdeeds of a few, but seldom by the accomplishments and the integrity of its individual Members. CHALMERS WYLIE will retire at the end of the 102d Congress and leave behind a legacy of distinguished leadership, integrity, and a solid record of service to the people of Ohio and the country as a whole. This institution will be losing a great friend and a fine legislator, and I wish him well as he leaves Congress and takes up new challenges in the future.

Mr. BROOMFIELD. Mr. Speaker, at a time when this great institution is better known for conflict than cooperation it is particularly disheartening to hear of the retirement of someone who did more than most to bring harmony and bipartisanship to the business of governing the Nation.

CHALMERS WYLIE has been a hard-working, effective Member of Congress. In a body dominated by Democrats, it is particularly difficult for Republicans to have their names attached to any of the great legislative initiatives that pour forth from this Chamber, but CHALMERS has managed to put his mark on more than a few great bills affecting this Nation's important banking industry.

As ranking Republican on the Banking Committee he has been an effective advocate for Republican policies and an able spokesman for Republican administrations.

Yet what I most admire about CHALMERS is his willingness to take on some tough issues, issues that go to the heart of what it means to raise a family, to instill moral values in young children, to raise the moral climate of the country as a whole.

I suspect that CHALMERS has succeeded where others have failed because of his soft-spoken but serious convictions about family values. In his quiet, affable manner, he has convinced more than one majority in this body to face up to issues that many in Congress would just as soon sweep under the rug. For that, mothers and fathers all over America owe him a great deal of gratitude.

As a young man, CHALMERS served his country in World War II, winning many decorations as a combat infantryman. He has served in city, State, and national governments with the same determination. He has been a great public servant and a great American, and we will miss him.

Mr. CRANE. Mr. Speaker, CHALMERS WYLIE has decided to ring down the curtain on an outstanding congressional career. CHALMERS has served faithfully since first elected to this Chamber in 1966—over a quarter of a century ago.

Prior to his public service in civilian life, CHALMERS served his country in the military. As a young man, he enlisted in the Army as a private and rose to the rank of lieutenant. He fought in Europe with the 30th Infantry Division, seeing action in five campaigns. And he fought with valor. His decorations include the Purple Heart, Silver Star, Bronze Star, and the Legion of Merit. Following the war, he served in the Army Reserves, retiring as a colonel.

Before coming to this Chamber, he served as city attorney of Columbus and as a member of the State Legislature in Ohio. Here, in the House of Representatives, in recent years he has served as ranking minority member of the House Banking, Finance and Urban Affairs Committee. While on the Banking Committee, he led battles to block the expansion of Federal regulation, and to reduce the bulging size of the Federal Government. Among other accomplishments while serving on that committee, he played an important role in trying to bring order out of the chaos of the savings and loan crisis. He worked hard on the anti-money laundering bill, and his efforts to improve the Nation's housing have been recognized.

We wish only the best for our friend and colleague, CHALMERS WYLIE, who, after a life dedicated to his community, his State, and his Nation, is about to begin the retirement years he so richly deserves.

Mr. APPLEGATE. Mr. Speaker, it would be an understatement for anyone in this Chamber to say that more than just a few Members of Congress will be departing the House of Representatives at the end of the 102d Congress.

While we would like to recognize all of our colleagues who will leaving this year and remember all that they have done while serving here, there is certainly one Member from Ohio who most certainly deserves special recognition.

CHALMERS P. WYLIE has represented the 15th Congressional District of Ohio since January 1967, a record of public service which will total 26 years upon his departure at the end of this year.

As a fellow Member of the Ohio delegation, and a fellow member with CHALMERS on the Committee on Veterans' Affairs, I have always enjoyed working together on a number of key issues of interest and concern to the millions of Americans who have served in the defense of our Nation and the free world. His help in getting passed a number of important bills for veterans has always been critical.

CHALMERS has been heavily involved in the important legislation of this era dealing with banking and in rescuing the savings and loan institutions of the United States. If we had listened, as we should have, to CHALMERS' suggestions early on about the up and coming problems with the savings and loan sector, I'm certain that the costs on this bail-out would be tremendously less. His wisdom is, and has been invaluable.

Most of all, we cannot overlook the outstanding work that CHALMERS WYLIE has done on behalf of American consumers by protecting their rights and for potential homeowners by clearing the way for better home buying opportunities.

I've enjoyed these many years together and I, along with many other people in the House and Senate, will miss CHALMERS WYLIE upon his departure. I wish him and Marjorie all the very best.

Mr. BARNARD. Mr. Speaker, I rise today to speak in honor of one of the finest Members it has been the pleasure for me to serve with in Congress. I am speaking of CHALMERS P. WYLIE of Ohio who we are here to honor with this special order. I have known CHALMERS since my first days as a member of this body and I have particularly enjoyed working with him on the Banking Committee.

The area I have worked most closely with CHALMERS and hold him in the greatest esteem deals with our work on passing tough legislation that has been used to put the crooks in jail who have caused the S&L debacle. CHALMERS has worked with me to relentlessly push legislation to enhance the authority of law enforcement agencies to punish wrongdoers at financial institutions. This has been CHALMERS single minded pursuit and he has been extremely successful in passing legislation to that end.

Beginning in 1988, CHALMERS joined me to introduce H.R. 3929, the Depository Institutions Enhanced Enforcement Powers Act of 1988. This legislation included the first reforms of the banking agencies enforcement powers in over 10 years. The ideas in the bill were overwhelmingly supported by the regulators and the provisions were adopted by the Banking Committee as part of an omnibus banking bill. Unfortunately, the omnibus bill became hung up in a jurisdictional dispute and the enforcement provisions did not become law that year.

Undaunted, CHALMERS and I immediately reintroduced the legislation at the beginning of the 101st Congress. The bill was again incorporated into broader legislation by the Banking Committee, but this time Congress was able to enact it into law. Thanks in no small part to CHALMERS, title IX of FIRREA, also known as the Enhanced Enforcement Powers Act of 1989, became law on August 9, 1989. Some of the important reforms in title IX included:

Industrywide prohibition orders against persons who have committed misconduct at an insured institution;

Greater authority to impose civil money penalties up to $1,000 per day for violations of law, regulation or order;

Streamlined procedures to remove an insured bank's deposit insurance;

Enhanced removal authority for insiders who have committed misconduct;

The extension of enforcement authority to nonbank affiliates;

Greater power to remedy incomplete or inaccurate reports, and

Public disclosure of final enforcement orders.

The provisions of title IX were almost immediately used against Charlie Keating and David Paul in late 1989 and early 1990. The administrative actions taken against these notorious S&L crooks would not have been possible without our legislation. CHALMERS became one of the true hero's of the S&L debacle and we must recognize his contribution to this important piece of legislation.

However, CHALMERS did not stop there. In his work on both the Lincoln and Centrust hearings being pursued by the Banking Committee, CHALMERS joined me in becoming concerned that prosecutors were having difficulties with gaining criminal convictions against the S&L kingpins. With CHALMERS' help, we immediately set about putting together omnibus legislation to address these problems. We first introduced the Taxpayer Recovery Act of 1990 in conjunction with Senator DOLE which primarily dealt with bankruptcy reforms that would help pursue the ill-gotten gains of S&L crooks.

We then followed by introducing H.R. 5050, the Financial Crimes Prosecution and Recovery Act of 1990. During this time while Members on both sides of the aisle were directing much hyperbole against S&L crooks, CHALMERS was quietly and relentless pushing this complex financial crime legislation.

It took several months to get the Banking Committee and the House Judiciary Committee to consider this legislation. Eventually, it was brought to the house floor where CHALMERS offered amendments to toughen the bill's provisions and in particular make it easier for the regulators to seize the homesteads of S&L kingpins. The Wylie homestead amendment was successful and the bill was sent to conference.

In conference the bill became tied up with other crime legislation that was far more controversial, but CHALMERS was dogged in his determination to see the bill enacted. After negotiations that went through the night between CHALMERS, Chairman BROOKS, Chairman BIDEN, and I, we came to an agreement on final legislation. This bill, The Bank Crime Act of 1990, was passed as one of the last pieces of legislation of the 101st Congress. Some of the important reforms contained in that legislation included:

A new crime for the concealment of assets from the FDIC or RTC;

Increased restitution authority for the Government;

Authority for prosecutors and regulators to freeze the assets of individuals that may be culpable for the failure of an insured institution;

The Taxpayer Recovery Act of 1990 that prevents miscreants from using the bankruptcy code or State homestead exemptions to shield their assets;

A new Federal fraudulent conveyances statute;

Expanded civil forfeiture provisions; and

Expanded authority for the RTC and FDIC to trace assets overseas.

With the powers given to prosecutors in that bill, over 2,300 convictions have occurred in the last 2 years. These banking criminals were brought to justice by the quiet work of CHALMERS WYLIE.

We are going to miss CHALMERS' work on the Banking Committee but he has left a legacy here of which the people of his district in Ohio should be proud.

Mr. Speaker, on April 5 of this year, the Columbus Dispatch printed an editorial commenting on Representative WYLIE's decision to retire. I think this editorial is a fine tribute to CHALMERS' 26 years of distinguished service representing the people of Ohio's 15th Congressional District. I would ask that it be included in the RECORD immediately following my statement.

CHALMERS, I join my colleagues in wishing you and Marjorie all the best in your years of retirement.

[From the Columbus Dispatch, Apr. 5, 1992]

WYLIE RETIRES: LEGISLATOR SET HIGH STANDARD OF SERVICE

As Chalmers P. Wylie looks ahead to stepping down after 26 years in Congress, he should have the satisfaction of knowing that he did an outstanding job for his constituents in his 15th District.

People on both sides of the political aisle respected the Columbus Republican for his reserved, gentlemanly manner.

He was the epitome of the older-style politician, someone who was interested in getting things done through compromise, while eschewing the dead-end cutthroat politics endemic today. Congressional politics has taken on an almost internecine cast, making progress exceedingly difficult.

What Wylie has always been concerned about is doing the best job possible for the men and women who first sent him to the U.S. House in 1966 after a short stint in the General Assembly.

As Wylie himself once put it: "I find that being a congressman gives you an opportunity to do something for constituents and the community. Also you feel like you are a small part of something big.

Wylie, let it be said, was a big part of something big. His seniority finally elevated him to senior Republican on the House Banking Committee. There his easy, nonconfrontation manner helped him moderate the views of other Republicans on the committee and thus work more effectively with the Democratic leadership.

It is perhaps unfortunate that Wylie has chosen to step down at a time when members of Congress are under attack for a number of reasons, not the least of which is the House bank overdraft affair. Still, his constituents ought to believe him when he says he is retiring because 26 years in the saddle are enough, not because he fears a bare-knuckled campaign.

It is indeed time for him to relax and "smell the roses" as Wylie puts it.

When he made his decision a short time ago not to run again, the 71-year-old Wylie reflected on his accomplishments. And the first thing that came to his mind was the Blackburn Recreation Center, which he called "the first of its kind in the United States."

He might also have mentioned getting seed money for Columbus City Center, through an Urban Development Action Grant. And he was able to obtain federal funds for Urbancrest, cancer research at The Ohio State University, development of Mount Vernon Plaza and a whole string of community projects too numerous to mention.

Some who go to Washington get inflated egos and seldom rub shoulders with their constituents except at election time. Wylie was never that way.

In the Capitol, he thought taking time to visit with folks from home was as important as any other task, even if it was just a quick chat on the way to a committee meeting.

Wylie's low-key style served him well. That courtly demeanor helped him get along with the leadership of both parties and the man in the White House, whoever he was.

And he worked hard at being prepared on any issue he might have to deal with. Staff members of other legislators always gave him high marks for doing his homework.

Although his ranking on the House Banking Committee could have catapulted him into the spotlight, he did not seek that kind of notoriety.

As he once explained: "I don't put out press releases, and I've always said you can accomplish a lot in this world if you don't worry about who gets the credit * * *. In any legislature, there's a lot of credit to go around. I'm not the flamboyant type, and I've never made any effort to seek publicity."

Wylie was effective because he has never been an extremist, on any issue. He is a moderate, middle-of-the-road Republican. As he puts it: "I don't want to be considered as a hidebound conservative. And I certainly don't want to be thought of as a liberal."

Along with the bread-and-butter issues so important to the people in his district, he had the broad vision to be a supporter of organizations such as the International Monetary Fund, which he always correctly defended as a stabilizing force in worldwide lending.

Still, it will be his important service on the Banking Committee that sticks in most people's minds. In that arena, he has been unfairly criticized by some for allegedly sitting idly by while the multibillion-dollar savings and loan debacle was building.

The truth is, though, that Wylie recognized the roots of a catastrophe digging deeper into financial soil.

He offered a legislative remedy at an early date, only to be sidetracked by the Democratic leadership in the House.

Now Wylie can walk away from it all knowing that he fought the good fight, and that he put the interests of the people back home first. At a time when so much mud is being thrown, he can be satisfied that his hands are clean.

FURTHER TRIBUTE TO HON. CHALMERS WYLIE

The SPEAKER pro tempore (Mr. HUBBARD). Under a previous order of the House, the gentleman from Ohio [Mr. HOBSON] is recognized for 30 minutes.

Mr. HOBSON. Mr. Speaker, on behalf of the State of Ohio, I say to the gentleman from Ohio [Mr. WYLIE] that I would like to thank him for 26 years of outstanding service to the citizens of Ohio's 15th District and, frankly, to Ohio as a whole.

As a member of the Committee on Banking, Finance and Urban Affairs, you have always demonstrated a commitment to ensuring a healthy financial services industry. As a former member of that industry, I appreciate all that you have done.

CHALMERS, you have worked in a cooperative fashion, rising above partisan politics to do what is right for this Nation and the State of Ohio. We have all heard tonight about your decorations in World War II and how you fought for our Nation. You were truly one of our Nation's heroes.

In a time when it was difficult, you knew that it was necessary to come to the defense of the veterans and the veterans of the Vietnam conflict and their families. That was at a time when a lot of the rest of this country was not doing that.

Your leadership in that area was very well received and certainly important to all those families and the rest of the country.

When I was in the statehouse, we always used to look around, and Paul Hummer was a member of that house, and if something came up, we would say, "Somebody had better check with CHALMERS in Washington about that. Somebody had better check and see what is going on on this particular issue with that," because CHALMERS was the one who was close to us. I used to run into him in the parking lot and in the back of the chamber, back in the Ohio Senate in those days. We always appreciated your counsel and you always helped us out.

That is true since I have been a new Member of Congress in this term. I greatly appreciated your leadership since I have been here these last 2 years. You have been a mentor, teacher, a friend, and you have been the dean of our delegation.

Frankly, it is with regret that we lose you, CHALMERS as the dean of our delegation because you have been very helpful to all of us in the delegation whether we were new or whether we were RALPH REGULA, who has been here for a number of terms. You were always there to give us your counsel.

However, we know that you are going to continue to work with us, going to continue to watch what is going on, and we expect your calls.

Thank you for your many years of service, your friendship and your leadership. This House is certainly going to miss your being in it. Your shoes are going to be hard to fill.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. WYLIE].

Mr. WYLIE. Mr. Speaker, I checked with the Parliamentarian and found out that it is appropriate, if the Member wants to speak about a special order concerning him. Some Members do it and some do not. But I think I would like to express my special appreciation to my good friend, RALPH REGULA, for taking his special order and thank him for the most generous remarks that he has made about me.

RALPH and Mary are very special friends of Marjorie and me. We have enjoyed many happy, wonderful times together with them and through our association over the years we have more and more realized what super people Mary and RALPH are.

I know the hour is late and this is above and beyond the call of duty, but it is much appreciated by me, RALPH.

I am having this taped, so I am going to show it to Marjorie tomorrow. I doubt if she is still up, but still will want to know all about this.

I do thank you, DAVID, for taking the extra time and for your generous remarks also.

We have been associated in various endeavors over the years even before you came to Congress. I am pleased to have you make note of that. You are certainly one of the bright stars in the Congress right now. We look forward to your leadership in many years to come.

I want to take you up on going to some of those nice restaurants which you own and become so successful at back in Ohio.

I appreciate the wonderful remarks and generous remarks of the ranking-Republican-to-be, the gentleman from Iowa [Mr. LEACH]. Maybe he will be the chairman if we are really lucky. I thought for years that I might have an opportunity to be chairman of the Banking Committee and put in effect some of the philosophies that I think ought to be put into place. But JIM LEACH is a bright and knowledgeable Member and will certainly not be swayed by pressure.

It has been a real honor to serve with JIM LEACH, my friend from Iowa.

I want to express my appreciation to PAUL GILLMOR, who stayed up late tonight to do me the honor of his excellent remarks. He is an outstanding new member of the House Banking Committee and has had a distinguished career before he came to Congress as the majority leader in the Ohio Senate, and in other ways in public service.

But he and congressman HOBSON served together in the Senate. DAVE, I know you served as a second-ranking Republican in the Ohio Senate and you exemplified great leadership there along with PAUL GILLMOR.

I appreciate your friendship and that of PAUL and the nice things that you had to say here about me this evening.

BOB MCEWEN, BOB is one of my very good and best friends. He tells a wonderful story about him and Elizabeth. He came down here and got all antsy about it. We got into the car and drove down, and in about 5 hours had a passport, and he was on his way. I guess I will always be endeared to BOB and Elizabeth for that episode.

Another episode which I thought he might tell tonight which he has told sometimes: I was the parade chairman of the Steam Thrasher Parade over in Madison County. That is a big deal over there. The Steam Thrashers come in on the parade, they come in with their great antique steam thrashers. It is a joy to behold.

Anyhow, I was on the lead thrasher and I saw this young man walking along and I realized all of a sudden that it was BOB MCEWEN. I said, "What are you doing walking down there?" He said, "Well, I did not have any place to ride."

So I said, "Why don't you come up here and ride with me?" So we hung his sign out on the side of the steam thrasher and went on down the parade route. I would like to think that I maybe helped get him elected.

Now, you said some wonderful things about me, BOB. I am not sure where all this information came from. But I do need to correct the record on one thing. Your informant was not quite accurate as far as D-Day was concerned. I did not go in on D-Day. I went in shortly after D-Day. I did not think that ought to be left that way in the RECORD.

It was not long, very long after that, that I came in on the landing craft and got in a 6-by-6 and went over to the Cherbourg Peninsula.

But in coming over here today, I just jotted down some thoughts which I would like to leave with the Members of the House. I would like to express my appreciation to all the Members who took time during the special order to say something nice about me.

SAM JOHNSON of Texas: Excuse me, SAM, I would not overlook you. SAM JOHNSON has been an outstanding member of our Banking Committee. He has already bee reelected. So that is testimony to the confidence that his district has in him and the constituents of his district.

He does not have an opponent in the general election. So he can spend some time getting ready for the 103d session and getting ready for banking issues. I know he will do that.

But I have talked to SAM about our military service and the fact that he, and many Members may not know this, but he was an instructor for the Top Gun School.

□ 2400

We have had some fascinating conversations about that, and SAM, I appreciate your sticking around this evening to add your kind remarks to those of the other Members.

I want to thank everybody who has had some nice things to say about me and indicate how mindful I am of the honor I have had by being associated with them in what is still the greatest deliberative body in the world today.

As a young man I wondered as to my role in life and what I should do to best present myself to make appropriate contributions as I went through life. I must say that when I was first elected to Congress, I felt that being a Member of Congress suited my purpose as to my desire to try to make a contribution to the betterment of my community and to help those with problems and help with the challenge that faced our Nation. To me, being elected to the U.S. Congress is certainly one of the highest honors to which one could aspire. Being elected as a spokesman for your constituents, your friends, your neighbors, to help establish the rules by which our lives are governed, to be the liaison between the community and the Federal Government and to help people with their personal problems, at least to me, was the ultimate.

When I was elected to Congress, my wife, Marjorie, said, "Congratulations. You go serve, but we are living here."

Now, that may not be a direct quote, but that was in substance what she said. Her pronouncement was something that held me in good stead over the years, because I did not get Potomac fever. She did not allow me to do that. It allowed me to do my job when I was in Washington.

It also required me to go home every weekend. I was in the neighborhood, talking to neighbors and friends, people, being visible, and it allowed me to participate in civic and community projects.

I must say that the over 2,700 trips on the Iron Bird between Washington and Columbus became a little tiresome over the years.

But I have liked my job. I liked it, but I wish it had been in Columbus. I did not like my trips back and forth all that much.

I do not mean to be pretentious when I say that being a Member of Congress has not been an obsession with me. It has been a privilege. I was a partner in an excellent law firm, had a very successful law practice, but when offered the opportunity to run for Congress in 1966 in an open seat, I did not hesitate to take the plunge. I have never regretted my decision.

When I was first elected to Congress, Congress was among the most honored of all our professions. It made the top 10 list as one of the most honorable of all professions back in 1966. Today it probably would not make the top 50 list; but that will change and Congress will be restored to its rightful place of honor and dignity, because people will realize that the House of Representatives is a place where they can be heard and where their will will be done.

We will still have the best legislative system and the best Government in the world.

I wish I could have accomplished more while I was here, but I have no regrets for the effort I have made. I have no regrets for having served in Congress these many years.

I want to express my sincere thanks to the people of the 15th District for reelecting me 12 times. Being elected to political office is in many ways a matter of time and circumstance. Marjorie thought it was time that I spend more time with her and the family, and I thought the circumstances were such that I did not look forward with the necessary enthusiasm that is required to go through another campaign. So I think the time and circumstance seemed to be right for me not to seek reelection. I do not regret my decision, but I will miss being in Congress.

I am gratified by the hundreds of letters I have already received from many friends saying that they are sorry I am not running for reelection this year.

I hope as my constituents reflect on my service to them, they will always be able to say that Congressman WYLIE served them honorably and well.

Again, my sincere thanks to the gentleman from Ohio [Mr. REGULA] and other Members of the delegation, those who have been here this evening and who have expressed these complimentary remarks about my service.

Having nice things said about you like that is fine as long as you do not inhale, and I promise not to inhale.

So I say thanks for the honor. I want to thank Bill Schneider, who passed away several years ago, who was county chairman, and to my party and my constituents who have bestowed this honor upon me and have selected me to serve in Congress.

I express appreciation to my wife, Marjorie; our daughter, Jackie, and her husband, Greg; our granddaughters Tammy and Pamela, our son Brad and his wife, Susan, for their support over the years, and for the support I know I would receive from our new grandson, Bryan, who was 6 months old today, if I had decided to seek reelection.

So for all the vicissitudes of the office, for the disappointments, the criticisms, the long hours, the calls on weekends and nights, the rewards have been more than worth the effort, and I will miss it; but I know the time has come to march to a different drummer.

Again, I thank my friend, the gentleman from Ohio [Mr. HOBSON] and the gentleman from Ohio [Mr. REGULA]. What a pleasure it has been to serve with them.

Mr. HOBSON. Mr. Speaker, I yield to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Speaker, I thank the gentleman for yielding to me.

CHALMERS, I want to say in addition to those who have spoken here tonight that many Members have submitted statements for the RECORD. We had competition with the ball game tonight. Some of our star athletes had to be out performing on behalf of the Republicans and the Democrats, although I understand it was maybe rained out, and also because of the lateness of the hour.

You mentioned about constituents appreciating you. I would only add that your colleagues very much appreciate you, too. They are one of the toughest juries that you face in this responsibility, your colleagues. They made their judgments on an individual Member in a way that has nothing to do with party affiliation. You are highly regarded, highly respected by your colleagues on both sides of the aisle. That says more eloquently than words that your service has been dedicated, that it has been appreciated and respected by all who have served with you, and we wish you well.

Mr. HOBSON. Just one last comment, Mr. Speaker.

CHALMERS, I will take care of you. I will always have a table for you at the

Cooker Restaurant and the Fujihama in the years to come.

It has been a pleasure to serve with you, as I said before, and we wish Godspeed to both you and Marjorie, and pleasant years to come and service still to Ohio, I am sure.

CONFERENCE REPORT ON H.R. 5428

Mr. HEFNER submitted the following conference report and statement on the bill (H.R. 5428) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes:

Conference Report (H. Rept. 102–888)

The Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5428) "making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes," having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 17, 23, 25, 26, and 46.

That the House recede from its disagreement to the amendments of the Senate numbered 13, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, and 48, and agree to the same.

Amendment numbered 1:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$425,270,000*; and the Senate agree to the same.

Amendment numbered 2:

That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$110,000,000*; and the Senate agree to the same.

Amendment numbered 3:

That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$368,887,000*; and the Senate agree to the same.

Amendment numbered 4:

That the House recede from its disagreement to the amendment of the Senate numbered 4, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$70,000,000*; and the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$92,000,000*; and the Senate agree to the same.

Amendment numbered 7:

That the House recede from its disagreement to the amendment of the Senate numbered 7, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$262,116,000*; and the Senate agree to the same.

Amendment numbered 8:

That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$83,168,000*; and the Senate agree to the same.

Amendment numbered 10:

That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$60,000,000*; and the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$15,400,000*; and the Senate agree to the same.

Amendment numbered 16:

That the House recede from its disagreement to the amendment of the Senate numbered 16, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$160,122,000*; and the Senate agree to the same.

Amendment numbered 18:

That the House recede from its disagreement to the amendment of the Senate numbered 18, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,523,819,000*; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,039,680,000*; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$283,786,000*; and the Senate agree to the same.

Amendment numbered 24:

That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: *$1,211,727,000*; and the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 5, 9, 11, 12, 15, 19, 20, 47, 49, and 50.

Bill Hefner,
Lindsay Thomas,
Tom Bevill,
Bill Alexander,
Joseph D. Early,
Norm Dicks,
Vic Fazio,
Steny Hoyer,
Jamie L. Whitten,
Bill Lowery,
Mickey Edwards,
Tom DeLay,
Jim Lightfoot,
Joseph McDade,
Managers on the Part of the House.

Jim Sasser,
Daniel K. Inouye,
Harry Reid,
Wyche Fowler,
Robert C. Byrd,
Phil Gramm,
Jake Garn,
Ted Stevens,
Mark O. Hatfield,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5428) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

Items of General Interest

Conference Summary.—The conferees have agreed to comply with the overall spending level requested by the President for Military Construction, Family Housing and Base Closure. The conferees are concerned, however, that the level of reductions in the military construction portion might be too dramatic in view of the facility needs that exist. Below is a comparison of the President's budget request and the conference agreement as they relate to the fiscal year 1992 level.

[In millions of dollars]

	Fiscal year—		Conference agreement
	1992 Appropriation	1993 President's request	
Military construction	3,934	1,929	2,358
NATO infrastructure	225	221	60
Family housing	3,645	4,056	3,937
Base closure	759	2,184	2,034
Total	8,563	8,390	8,389

Reprogrammings.—The conferees note that the reprogramming process is available to allow for unforeseen cost increases on previously appropriated projects and for new projects which legitimately qualify under emergency construction authority that were not considered a requirement at the time of budget submission. The conferees are concerned that the emergency construction authority is being used indiscriminately on reprogramming requests and that, in some cases, the requirement was known during the budget preparation process but funds were not requested. The reprogramming process can be used to allow the Department to pay for new projects which legitimately qualify under emergency construction authority, and for new Reserve component projects, the requirement for which was not known in time to be included in the annual budget submission. The conferees expect the Office of the Secretary of Defense to more carefully review reprogramming requests in light of the conferee's concerns.

The conferees also agree that it would be appropriate to request reprogramming approval for funds to augment phase-funded projects.

Matters Addressed by Only One Committee.—The language and allocations set forth in House Report 102–580 and Senate Report 102–355 should be complied with unless specifically addressed to the contrary in the conference report and statement of the managers. Report language included by the House which is not changed by the report of the Senate or the conference, and Senate report language which is not changed by the conference is approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases in which the House or the Senate have directed the submission of a report from the Department of Defense, such report is to be submitted to both House and Senate Committees on Appropriations.

MILITARY CONSTRUCTION, ARMY

Amendment No. 1

The conference agreement appropriates $425,270,000 for Military Construction, Army instead of $534,520,000 as proposed by the House and $366,260,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Alabama—Anniston Army Depot: Ammunition demilitarization facility (Phase III)	−$99,300,000
Alaska—Fort Wainwright: Hangar	+4,550,000
Georgia—Fort Gordon: Maintenance facility	+10,000,000
Georgia—Fort McPherson: Barracks and dining hall	+10,200,000
Hawaii—Schofield Barracks: Sewage treatment plant modifications	+17,500,000
Kansas—Fort Riley: Rail head	+13,200,000
Maryland—Aberdeen Proving Ground: Fire/security station	+3,400,000
Mississippi—Camp McCain: Defense access roads (Funds provided under Army National Guard)	−19,000,000
Virginia—Fort Belvoir: Rail extension	+1,200,000
Virginia—Fort Lee: Personnel support center (Phase I)	−5,300,000
Germany—Grafenwoehr: Sanitary landfill expansion	−11,600,000
Kwajalein:	
Fuel containment facility upgrade	−1,200,000
Hazardous material facilities	−8,600,000
Unaccompanied personnel housing	−10,000,000
Unspecified worldwide locations	−14,300,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Alabama—Fort McClellan:	
Ammunition storage facility	$2,500,000
General instruction building	2,050,000
Vehicle maintenance shop	1,350,000
Arizona—Fort Huachuca: Intelligence facility	0
Colorado—Fitzsimons AMC:	
Central energy plant	19,400,000
Facilities engineer shop	6,000,000
Kentucky—Fort Knox:	
Airfield revitalization	7,100,000
Electrical distribution improvements	4,150,000
Water storage	4,350,000
New Jersey—Picatinny Arsenal:	
Electrical distribution system	3,800,000
Propellant surveillance lab	2,250,000
New York—Fort Drum:	
General purpose warehouse	8,900,000
MOUT	5,900,000
North Carolina—Fort Bragg: Extend All-American freeway	8,700,000
Texas—Corpus Christi Army Depot:	
Controlled-humidity warehouse	9,600,000
Metal finishing facility	11,600,000
Texas—Fort Bliss:	
Barracks modernization	13,800,000
Barracks modernization	11,160,000
Virginia—Fort Belvoir: Information systems facility	0
Unspecified Worldwide Locations—Unspecified minor construction	5,500,000

Alabama—Anniston Army Depot: Ammunition Demilitarization Facility (Phase III).—The conferees have deleted $105,300,000 to construct a chemical disposal facility at Anniston Army Depot, Alabama. The conferees also prohibit obligation of any military construction funds for construction of the chemical disposal facility at Anniston Army Depot until Congressional review has been completed of the Army's December 31, 1993, report to Congress on alternative technologies. This limitation does not apply to planning and design activities, the ongoing site preparation efforts, and other obligations necessary for support facilities and improvements.

Arizona—Fort Huachuca: Intelligence Facility.—The conferees agree that the Intelligence Facility at Fort Huachuca, at a cost of $5,300,000 qualifies for funding under the Base Closure Account. Therefore, the Army is directed to construct this project utilizing available funds under the Base Realignment and Closure Account, Part II.

Amendment No. 2

Earmarks $110,000,000 for study, planning, design, architect and engineer services instead of $124,300,000 as proposed by the House and $88,300,000 as proposed by the Senate.

MILITARY CONSTRUCTION, NAVY

Amendment No. 3

The conference agreement appropriates $368,887,000 for Military Construction, Navy instead of $396,059,000 as proposed by the House and $336,829,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Georgia—Albany Marine Corps Logistics Base: Upgrade storage warehouse	+$2,700,000
Illinois—Great Lakes Naval Training Center: Wastewater treatment facilities expansion	−730,000
Maryland—U.S. Naval Academy: Physical therapy/training/meeting center	−6,500,000
Mississippi—Gulfport: Applied instruction building	+4,650,000
North Carolina—New River: Physical fitness center	+3,600,000
North Carolina—MCAS Cherry Point:	
Operations facility	+3,000,000
Warehouse	+1,680,000
Rhode Island—Newport Naval Undersea Warfare Center: Underwater weapons technology R&D facility	−13,500,000
Virginia—Dam Neck: Land acquisition (181 acres)	−4,500,000
Unspecified Worldwide Locations:	
General Reduction	−8,280,000
Planning and design	−9,292,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Alaska—Adak Naval Air Station: Bachelor enlisted quarters	$0
California—Mare Island Naval Shipyard: Hazardous material storage facility	8,000,000
California—Miramar Naval Air Station: Fixed point aircraft utility support system	9,700,000
Hawaii—Pearl Harbor Naval Supply Center: Oil spill prevention	5,400,000
Indiana—NSWG, Crane: Microwave components facility	6,000,000
Maryland—NOS, Indianhead:	
Child care facility	2,290,000
Improve CAD/PAD facility	5,300,000
Maryland—Patuxent Naval Air Station: Advanced system integration facility (Phase I)	10,000,000
Mississippi—NAS Meridian: Child development center	1,100,000
Virginia—Fort Story: Navy bomb disposal training and evaluation facility	5,460,000
Virginia—Little Creek: Blast/paint facility	0
Virginia—NAS Norfolk: Physical security improvements	1,100,000
Virginia—Quantico: Command and staff college facility	0
Washington—Bremerton Puget Sound Naval Shipyard: Bachelor enlisted quarters	13,300,000
Greece—Souda Bay Crete Naval Support Activity: Bachelor enlisted quarters	7,600,000

Illinois—Great Lakes Naval Training Center: Wastewater Treatment Facilities Expansion.—Within funds available for unspecified minor construction, the Navy is directed to allot $730,000 for Wastewater Treatment Facilities at the Great Lakes Naval Training Center.

Virginia—Quantico: Command and Staff College Facility.—The conferees have denied, without prejudice, $5,000,000 in funding for a Command and Staff College Facility. A reprogramming request for this project will be considered if submitted.

Guam—Power Plant Relocation.—The fiscal year 1989 Appropriations Act provided $27,770,000 for a power plant at Subic Bay in the Philippines, but directed that funds could only be obligated for procurement of relocatable generators. The conferees direct the Secretary of the Navy to use the unobligated balance to fund construction of a power plant on Guam. This project is justified by expanded missions on Guam due to the relocation from Subic Bay provided that the scope is limited to support of Naval activities.

Amendment No. 4

Earmarks $70,000,000 for study, planning, design, architect and engineer services instead of $79,292,000 as proposed by the House and $62,942,000 as proposed by the Senate.

MILITARY CONSTRUCTION, AIR FORCE

Amendment No. 5

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *717,280,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $717,280,000 for Military Construction, Air Force instead of $698,599,000 as proposed by the House and $704,690,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Alabama—Maxwell AFB: Extension of runway	−$10,700,000
Alaska—Eielson AFB:	
Aircraft shelters	+27,000,000
Hydrant fuel system	11,400,000
Alaska—Elemendorf AFB: Aircraft shelters	+16,000,000
Arizona—Luke AFB: BOQ	+2,950,000
Arkansas—Little Rock AFB:	
Aeromedical staging facility	+1,250,000
Special operations facility	+950,000
Special operations facility	+950,000
California—Edwards AFB: Underground fuel storage tanks	+5,000,000
Florida—Eglin AFB: Climatic test chamber (Phase I)	+5,000,000
Florida—Homestead AFB: Fire training facility	−1,200,000
Georgia—Moody AFB: Fuel cell/nose dock	+3,600,000
Georgia—Robins AFB:	
JSTARS ramp and hydrant system	+9,700,000
JSTARS security improvement	+1,800,000
Louisiana—Barksdale AFB: Replace apron and hydrant system (Phase I)	+14,000,000
Massachusetts—Hanscom AFB: Child development center	+4,200,000
Missiouri—Whiteman AFB: General reduction (B–2)	−5,949,000
Nevada—Nellis AFB: Arming pad	+4,000,000
North Carolina—Pope AFB:	
Add/alter F–16 ops and logistics complex	+500,000
Add/alter C–130 ops and logistics complex	+700,000
Aircraft corrosion control facility	−5,500,000
Aircraft parts warehouses	+900,000
Alter ECM shop and POD storage facility	−620,000
Repair apron and widen runway pavement	+50,000
North Dakota—Minot AFB: Water system	+2,050,000
South Carolina—Charleston AFB: Squadron facility	+2,150,000
Texas—Brooks AFB: Academic complex	+8,900,000
Texas—Goodfellow AFB: Physical fitness center	+3,250,000
Virginia—Langley AFB: Base engineer complex (phase I)	−5,300,000
CONUS Various—Underground fuel storage tanks	+2,800,000
Germany—Rhein-Main AB: Upgrade wastewater treatment plant	−3,100,000
Greenland—Thule AB:	
Alter dormitory	−5,000,000
Dormitory	−11,000,000
Upgrade airfield pavement (phase III)	−8,900,000
Guam—Andersen AFB:	
Hazardous waste facility	−900,000
Underground fuel storage tanks (21 tanks)	−4,100,000
Underground fuel storage tanks (6 tanks)	−4,550,000
Portugal—Lajes Field: Wastewater treatment and disposal system	−2,500,000
Unspecified Worldwide Locations:	
General reduction	−28,100,000
Planning and design	−8,000,000
Unspecified minor construction	−5,000,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

California—Beale AFB: Security police operations facility	$4,350,000
California—McClellan AFB: Renovate depot plating shop	7,000,000
California—Travis AFB: Dormitory renovation	10,800,000
Colorado—U.S. Air Force Academy: Base operations facility	1,650,000
District of Columbia—Bolling AFB: Civil engineer complex	9,400,000
Mississippi—Keesler AFB: Add/alter child care center	2,650,000
Nevada—Nellis AFB: Aircraft apron	4,000,000
New Mexico—Cannon AFB: Alter dormitory	2,800,000
New Mexico—Kirtland AFB: Phillips laboratory consolidation	0
Oklahoma—Altus AFB: Community support facility	7,300,000
Oklahoma—Vance AFB: Airfield repair	2,350,000
Texas—Lackland AFB: High school/grade school facilities	8,000,000
Utah—Hill AFB:	
Advanced cruise missile add/alter non-destructive inspection facility	1,450,000
Engine test cell support facility	850,000
Upgrade electrical distribution system	2,300,000
Guam—Andersen AFB:	
Fire training facility	2,300,000
Hazardous waste management facility	790,000
Landfill	10,000,000
Portugal—Lajes Field: Fire training facility	950,000

California—Edwards AFB.—The conferees have included funds to proceed with construction of a large anechoic chamber at Patuxent Naval Air Station. The conferees are also aware that the Air Force is also planning improvements to Edwards test and evaluation capabilities, the goal of which the conferees also support, as test and evaluation facilities can produce significant cost savings over actual flight testing. The conferees request that the Secretary of Defense submit recommendations for improvements to the test and evaluation capabilities of the Air Force by February 1, 1993.

Florida—Eglin AFB: Climatic Test Chamber (Phase I).—The conference agreement provides funding of $5,000,000 to initiate phased-funding of the climatic test chamber. The conferees direct the Air Force to request additional funding for follow-on phases in the fiscal year 1994 budget submission.

North Carolina—Pope Air Force Base: Composite Wing.—The conferees have agreed to funding of $15,280,000 for construction of facilities to support a new composite wing at Pope Air Force Base. However, prior to obligation of any construction funds the Air Force is required to execute a Memorandum of Agreement with the Army regarding maintaining an adequate level of support for the 18th Airborne Corps at Fort Bragg, with a copy provided to the Committees on Appropriations. The conferees are also concerned that development of composite wings will require substantial facility investment. Therefore, prior to obligation of any construction funds for composite wing facilities at any location, the Air Force is required to submit a report outlining the Air Force's plans concerning the number and location of all composite wings and the potential total cost of composite wing facility requirements.

Ascension Island—Ascension Auxiliary Airfield: Power/Desalination Plant.—The conferees approve the reprogramming request of $22,000,000 for a cogeneration power plant and a water distillation plant for Ascension Auxiliary Airfield as requested by the Comptroller of the Department of Defense in his letter of May 16, 1992, contingent upon competitive procedures for contract award.

Portugal—Lajes Field: Wastewater Treatment and Disposal System.—The conferees recommend reducing the scope of the Wastewater Treatment Plant at Lajes Field as a result of force reductions in Europe. Therefore, the conference agreement appropriates $5,000,000 for this project rather than $7,500,000 as requested. The conferees expect that the Department will request reprogramming if full scope can be justified.

Amendment No. 6

Earmarks $92,000,000 for study, planning, design, architect and engineer services instead of $100,000,000 as proposed by the House and $75,000,000 as proposed by the Senate.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

Amendment No. 7

Appropriates $262,116,000 for Military Construction, Defense Agencies, instead of $308,176,000 as proposed by the House and $194,516,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Alaska—Elmendorf AFB: Hospital replacement (phase I)	+$15,000,000
Florida—Eglin AFB: Climatic test chamber (phase I) (funds provided under Air Force)	−32,000,000
Florida—Homestead AFB: Hospital construction (phase II)	−10,000,000
Hawaii—Barking Sands: Land easement	+5,400,000
Tennessee—Millington Naval Air Station: Hospital life safety/seismic upgrade (phase I)	−5,000,000
Germany—Grafenwoehr: Elementary school addition and renovation	−7,400,000
Classified Location:	
Strategic medical storage facility	−8,000,000
Southwester/NSA	+3,590,000
Unspecified Worldwide Locations—Contingency construction	−5,000,000
Unspecified Worldwide Locations—Planning and design:	
Defense level activities	−2,000,000
Defense medical support activity	−650,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

California—Beale AFB: Hospital utility/life safety upgrade	$3,500,000
Colorado—Fitzsimons AMC: Site work	2,000,000
District of Columbia—Walter Reed Army Medical Center: Army Institute of Research (phase I)	13,300,000
North Carolina—Fort Bragg: Add/alter section 6 schools	3,950,000
Virginia--National Capital Area: Relocation of water mains	3,000,000
Germany—Hohenfels: Elementary school addition and renovation	13,500,000
Johnston Island—DNA Headquarters Field Command: Garbage and refuse incinerator	1,500,000
Classified Location—Ops System Uninterruptible Power Source	6,000,000
Unspecified Worldwide Locations—Planning and Design: Strategic Defense Initiative Organization	0
Unspecified Worldwide Locations—General Reduction:	0

Florida—Homestead Air Force Base: Medical Facilities.—The Department of Defense shall redirect existing unobligated funds provided in Public law 102-136 for construction of medical facilities at Homestead Air Force Base, Florida, toward such construction as may be necessary to care for medical needs in the Homestead community as well as for the Air National Guard and Air Force Reserve units that may be assigned to Homestead Air Force Base.

Virginia—Fort Belvoir: Administrative Building.—The conferees approve the reprogramming of $17,000,000 for an administrative building as requested by the Principal Deputy Comptroller of the Department of Defense on June 1, 1992. The reprogramming approval is contingent upon none of the funds or proposed space within the administrative complex being used for personnel of the Defense Finance and Accounting Service.

Amendment No. 8

Earmarks $83,168,000 for study, planning, design, architect and engineer services instead of $85,818,000 as proposed by the House and $56,818,000 as proposed by the Senate.

Amendment No. 9

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which directs the Secretary of Defense to continue the construction of a Composite Medical Replacement Facility at Nellis Air Force Base, Nevada.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

Amendment No. 10

The conference agreement restores the matter stricken by said amendment, amended to appropriate $60,000,000 for North Atlantic Treaty Organization Infrastructure instead of $121,200,000 as proposed by the House and $0 as proposed by the Senate.

MILITARY CONSTRUCTION ARMY NATIONAL GUARD

Amendment No. 11

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$209,639,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $209,639,000 for Military Construction, Army National Guard instead of $160,665,000 as proposed by the House and $145,331,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Alabama—Fort Rucker: Add/alter unit training and equipment site	+$513,000
Alabama—Tuscaloosa: Armory	+437,000
Alabama—Union Springs: Armory	-13,000
Florida—Camp Blanding: MOUT range	+50,000
Florida—Cedar Hills (Jacksonville): Add/alter armory	+23,000
Georgia—Barnesville: Armory acquisition	+350,000
Indiana—Fort Wayne:	
Armory	+668,000
Organizational maintenance shop	-62,000
Kansas—Great Bend: Armory	+1,600,000
Kansas—Ottawa: Organizational maintenance shop	+397,000
Louisiana—Amite/Independence: Armory	+300,000
Louisiana—Lafayette: Organizational maintenance shop	+750,000
Louisiana—Ball: Renovate barracks	+400,000
Minnesota—Camp Ripley: Utility systems repair	-400,000
Minnesota—Rosemount: Organizational maintenance shop	+1,200,000
Mississippi—Camp McCain: Defense access roads	+19,000,000
Mississippi—Camp Shelby: Combined support facility	+5,400,000
Modified record range #1	+600,000
Modified record range #2	+675,000
Multi-purpose training range	+4,000,000
Missouri—Camp Crowder: Classroom	+421,000
Missouri—Whiteman AFB: Armory	-500,000
Nevada—Las Vegas/Clark County: Armory	-489,000
North Carolina—Fayetteville: Armory	+1,284,000
Oregon—La Grande:	
Armory	+2,299,000
Organizational maintenance shop	+1,220,000
Pennsylvania—Fort Indiantown Gap: Academic instruction building	-9,100,000
Rhode Island—N. Kingston: Add/alter armory/aviation facility	+3,300,000
South Carolina—Gaffney: Armory	+1,200,000
South Dakota—Camp Rapid: Combined support maintenance shop	-200,000
Tennessee—Dunlap: Armory	+790,000
Tennessee—Erin: Armory	+850,000
Tennessee—Monteagle: Armory	-160,000
Tennessee—Smyrna:	
Add/alter Army aviation support facility	-900,000
Combined support maintenance shop	-100,000
Texas—Greenville: Armory	-139,000
Texas—Kilgore: Armory addition/renovation	+45,000
Texas Stephenville: Add/alter armory	-1,000
Utah—Blanding: Armory	+1,150,000
Utah—St. George: Organizational maintenance shop Subshop	-139,000
Washington—Buckley: Armory	-153,000
Washington—Grandview: Armory	-102,000
Washington—Moses Lake: Armory	-129,000
West Virginia—Clarksburg: Hangar	+5,500,000
Wyoming—Camp Guernsey: Barracks upgrade (Phase II)	+1,109,000
Unspecified Worldwide Locations:	
Planning and design	+825,000
General reduction	+5,205,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Alabama—Cullman: Purchase building for DAS-3 class IX support	$400,000
Alabama—Oneonta: Organizational maintenance shop	461,000
Arizona—Marana: Picacho peak stagefield	3,041,000
California—Lakeport: Armory	1,580,000
Florida—Craig Field (Jacksonville):	
Armory expansion/rehabilitation	1,682,000

Add/alter organizational maintenance shop	368,000
Iowa—Camp Dodge:	
Training facility complex (Phase I)	4,600,000
Equipment maintenance shop	2,687,000
Minnesota—Camp Ripley: Combined support maintenance Shop/class IX (Phase I)	7,100,000
Mississippi—Key Field (Meridian): Add/alter aviation support facility	1,900,000
Nevada—Las Vegas/Clark County: USPFO warehouse	178,000
North Dakota—Bismark: Add/alter armory/aviation facility	0
Oklahoma—Camp Gruber: MOUT facilities	1,954,000
Oklahoma—Norman: Combined support maintenance complex (Phase I)	7,629,000
Oregon—Salem: Aviation taxi-way	1,200,000
Oregon—Clackamas/Camp Withycombe: Rifle range	1,500,000
Pennsylvania—Fort Indiantown Gap: Armory	7,500,000
Pennsylvania—Indiana: Armory	1,700,000
South Dakota—Fort Meade: Training site facilities expansion	805,000
Texas—Camp Bowie (Brownwood): Unit training and equipment site	1,319,000
Texas—Lubbock:	
Joint armed forces reserve center (Phase I)	7,937,000
Organizational maintenance shop	696,000
Texas—Mexia: Armory addition/renovation	566,000
Texas—San Angelo: Armory	1,767,000
Wisconsin—Fort McCoy: Training/education facility	10,712,000
Wisconsin—Marshfield:	
Armory	2,030,000
Vehicle storage facility	226,000
Guam—Barrigada: US property and fiscal office and warehouse	1,927,000

Hawaii-Armory Projects.—The conferees have included sufficient funds to complete design of armory projects for the Hawaii Army National Guard at Kunakakai, Molokai and Waiawa, Oahu. The Department is directed to request reprogrammings for $1,050,000 and $4,300,000 for construction of these projects.

North Dakota—Bismark: Add/Alter Armory/Aviation Facility.—The conferees have denied, without prejudice, $5,450,000 in funding for an Armory and Aviation facility. A reprogramming request for this project will be considered if submitted.

Pennsylvania—Fort Indiantown Gap: Academic Instruction Building.—The conferees have denied, without prejudice, $9,100,000 in funding for an Academic Instruction Building. A reprogramming request for this project will be considered if submitted.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

Amendment No. 12

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$287,559,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $287,559,000 for Military Construction, Air National Guard, instead of $230,209,000 as proposed by the House and $233,790,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Alaska—Eielson: Vehicle Maintenance Facility	+4,500,000
Colorado—Buckley ANGB (Aurora): Upgrade utilities/infrastructure	−12,000,000
Idaho—Boise Airport: Arm/disarm pads	+1,550,000
Illinois—O'Hare IAP: Repair aircraft ramp	+5,200,000
Kentucky—Standiford Airport: Relocation (Phase III)	+5,000,000
Massachusetts—Barnes MAP (Westfield):	
Add/alter fuel cell/corrosion control	+1,400,000
Avionics/weapons shop	+1,500,000
Engine shop	+800,000
Squadron operations	+900,000
Munitions storage/maintenance	+3,650,000
Massachusetts—Otis ANGB (Falmouth): Clinic	+1,600,000
Michigan—Phelps Collins Airport (Alpena): Alter Barracks	+3,800,000
Mississippi—Gulfport:	
Ramp upgrade	+10,800,000
Nebraska—Lincoln MAP:	
Fuel systems maintenance dock	+4,675,000
Squadron operations	+3,100,000
Alter support and communications	+2,400,000
North Dakota—Hector Field (Fargo): Vehicle maintenance facility	+2,600,000
Ohio—Springfield: Engine shop	+1,700,000
Oklahoma—Tulsa Airport:	
Squadron operations	+1,350,000
Add/alter OMS	+430,000
Add/alter machine shop	+400,000
Oregon—Kingsley Field (Klamath Falls):	
Supply warehouse	+2,575,000
Fire station	+1,230,000
Oregon—Portland IAP:	
Add/alter base civil engineer facility	+689,000
Hanger upgrade/site improvements	+6,151,000
Pennsylvania—State College: Communications training complex	−9,700,000
Texas—Ellington ANGB:	
Hanger modification	+1,700,000
Texas—Hensley: Warehouse	+4,250,000
Texas—Kelly AFB: Civil engineering facility	2,050,000
Utah—Salt Lake City: Base civil engineering complex	+1,850,000
Unspecified Worldwide Locations—Unspecified minor construction	+1,200,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Alabama—Birmingham MAP:	
Fire station	2,100,000
Vehicle maintenance complex	2,300,000
Arizona—Tucson IAP: Jet fuel storage complex	7,200,000
Illinois—Greater Peoria Airport:	
Civil engineering shop	2,200,000
Site preparation	1,550,000
Vehicle maintenance facility	2,200,000
Indiana—Fort Wayne: Runway improvements	6,039,000
Iowa—Des Moines: Add/alter operations facility	5,150,000
Iowa—Sioux City Map: Alter composite dining hall/medical training facility	1,200,000
Mississippi—Thompson Field: Add/alter vehicle maintenance shop	1,300,000
North Carolina—Stanly County/Badin: Communications electronics training facility	3,000,000
South Dakota—Foss Field (Sioux Falls): Munitions maintenance and storage complex	3,000,000
South Dakota—Sioux City:	
Fuel cell	0
Squadron operations	0
Replace tanks	0
Texas—Nederland: Vehicle maintenance facility	1,200,000
Wisconsin—Volk Field (Camp Douglas): Composite rapcon center/communications facility	2,600,000
Puerto Rico—Puerto Rico IAP:	
Add to aircraft parking apron	3,800,000
Composite squadron operations facility	2,800,000

Hawaii—Hickam Air Force Base.—The conferees have included sufficient funds to complete design of a consolidated support facility for the 154th Composite Group for the Hawaii National Guard at Hickam Air Force Base, Oahu. The Department is directed to request a reprogramming for $9,700,000 for construction of this project.

Hawaii—Barking Sands Air Station.—The conferees have included sufficient funds to complete design of Forward Air Control Point facilities for the 154th Tactical Control Squadron for the Hawaii Air National Guard at Barking Sands Naval Air Station, Kauai. The Department is directed to request a reprogramming for $8,500,000 for construction of this project.

MILITARY CONSTRUCTION, ARMY RESERVE

Amendment No. 13

Appropriates $42,150,000 for Military Construction, Army Reserve, as proposed by the Senate instead of $8,300,000 as proposed by the House. The conferees agree to the following additions to the amounts and line items as proposed by the House:

West Virginia—Clarksburg:	
Reserve center/Organizational maintenance shop	+$4,202,000
Add/alter area maintenance support activity	+1,156,000
West Virginia—Wheeling: Reserve center	+6,808,000
West Virginia—Weirton: Reserve center	+3,481,000

West Virginia—Bluefield: Reserve center	+1,921,000
West Virginia—Jane Lew: Reserve center	+1,566,000
West Virginia—Lewisburg: Reserve center/OMS	+1,631,000
West Virginia—Grantsville: Reserve center	+2,785,000
Unspecified worldwide locations:	
Planning and design	+3,000,000
Unspecified minor construction	+2,000,000
Reprogramming allowance	+5,300,000

Iowa—Fort Dodge: Army Reserve Center.—The conferees direct the Army Reserve to construct a new reserve facility at Fort Dodge at an estimated cost of $1,400,000, utilizing existing funds.

MILITARY CONSTRUCTION, NAVAL RESERVE

Amendment No. 14

Appropriates $15,400,000 for Military Construction, Naval Reserve instead of $9,900,000 as proposed by the House and $17,200,000 as proposed by the Senate. The conferees agree to the following addition to the amounts and line items proposed by the House:

Georgia—Dobbins AFB: Marine Corps Reserve Center	+$5,500,000

The conferees agree to fund the other item in conference at the level proposed by the House, as shown below:

Illinois—NAS Glenview: Child development center	$0

Illinois—Naval Air Station Glenview: Physical Fitness Facility.—The conferees direct the Naval Reserve to construct a Physical Fitness Facility at NAS Glenview, at an estimated cost of $5,600,000, utilizing existing funds. This project will replace a facility that was destroyed by fire in March of 1992.

Louisiana—Naval Support Activity New Orleans: Building Conversion.—The conferees direct the Naval Reserve to execute a building conversion project at NSA New Orleans, at an estimated cost of $2,400,000, utilizing existing funds.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

Amendment No. 15

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$29,900,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $29,900,000 for Military Construction, Air Force Reserve, instead of $34,330,000 as proposed by the House and $43,210,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items proposed by the House:

Arizona—Davis Monthan AFB:	
Add/alter aircraft maintenance facility	+$1,500,000
Munitions maintenance and storage	+930,000
Colorado—Peterson AFB: Avionics facility	+1,300,000
Florida—Homestead AFB:	
Construct hangar	−3,180,000
Squadron operations facility	−1,300,000
Illinois—O'Hare IAP: Aerospace ground equipment shop/storage	+50,000
Louisiana—New Orleans NAS: Avionics facility	+2,300,000
Michigan—Selfridge ANGB:	
Add/alter fuel systems maintenance hangar	+2,400,000
Add/alter facilities for conversion	+1,050,000
Ohio—Youngstown MAP: Aerial spray maintenance facility	+2,000,000
Unspecified Worldwide Locations: General reduction	−11,480,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Ohio—Youngstown MAP: Maintenance dock	$4,500,000
Utah—Hill AFB: Aircraft corrosion control/fuel systems maintenance facility	1,000,000
Wisconsin—Mitchell Field: Hangar acquisition	2,500,000
Unspecified Worldwide Locations—Planning and design	2,800,000

FAMILY HOUSING, ARMY

Amendment No. 16

Appropriates $160,122,000 for Construction, Family Housing, Army instead of $208,382,000 as proposed by the House and $127,340,000 as proposed by the Senate. The conferees agree to the following addition and deletion to the amounts and line items as proposed by the House:

Kentucky—Fort Campbell: 96 units	+$8,200,000
Construction Improvements	−56,460,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Alaska—Richardson: Improvement project	$0
Alaska—Fort Wainwright: Improvement project	0
Georgia—Hunter Army Airfield Reprogramming allowance	82,000
Texas—Fort Hood: 227 units	25,000,000
Virginia—Fort Pickett: 26 units	2,300,000

Construction Improvements.—The conference agreement appropriates $92,600,000 for construction improvements. The conferees direct that the following projects shall be executed within available funds:

Alabama—Fort McClellan: 162 units	$5,400,000
Alaska—Fort Richardson: 48 units	6,500,000
Alaska—Fort Wainwright: 56 units	5,700,000

Amendment No. 17

Appropriates $1,363,697,000 for Operation and Maintenance, Family Housing, Army as proposed by the House instead of $1,380,517,000 as proposed by the Senate.

Amendment No. 18

Appropriates a total of $1,523,819,000 for Family Housing, Army instead of $1,572,079,000 as proposed by the House and $1,507,857,000 as proposed by the Senate. This sum is derived from the conference agreement on amendments numbered 16 and 17.

FAMILY HOUSING, NAVY AND MARINE CORPS

Amendment No. 19

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$378,434,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $378,434,000 for Construction, Navy and Marine Corps instead of $339,640,000 as proposed by the House and $359,410,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

Hawaii:	
Naval Complex Oahu: 100 units	−$11,820,000
Miller Park: 114 units	+16,800,000
Lynch Park: 42 units	+6,370,000
MCAS Kaneohe: 220 units	+32,050,000
MCAS Kaneohe: 80 units	+11,920,000
Moana Lua: 100 units	+11,800,000
Pearl City Peninsula: 132 units	+23,590,000
NAS Barbers Point: 70 units	+14,650,000
West Virginia—Sugar Grove Naval Radio Station: 8 units	+930,000

The conferees agree to fund all other items in conference at the level proposed by the House, as shown below:

Hawaii—MCAS Kaneohe: Site preparation	$0
Washington—Bremerton/Kitsap County: 200 units	19,500,000

California—Public Works Center San Diego: New Family Housing.—The conferees approve the reprogramming request of $17,128,000 for 148 units of new family housing units for Public Works Center San Diego as requested by the Comptroller of the Department of Defense in his letter of July 3, 1992.

California—San Diego: Water Conservation.—The conferees are concerned over the rise in water and sewer rates in Southern California caused by the increasing occurrence of water shortages. This problem will have a serious impact on military family housing in the San Diego area. The San Diego region depends on imported water for more than 90 percent of its supply; without necessary improvements, urban Southern California faces probable water shortages even in non-drought years.

In San Diego, retrofit with ultra-low flush toilets is required at the time of sale for any residential or commercial property. To conserve water and reduce the long-term cost of water and sewer use to the Federal Government, the Navy is directed to install ultra-low flush toilets in all new family housing and to begin installation in existing units. This cost would be recovered through savings in water and sewer rates in approximately two years. The Navy is directed to report on its progress to the Committees on Appropriations by March 1, 1993.

Amendment No. 20

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the sum stricken and inserted by said amendment, insert: *$661,246,000*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement appropriates $661,246,000 for Operation and Maintenance, Family Housing, Navy and Marine Corps instead of $689,855,000 as proposed by the House and $696,177,000 as proposed by the Senate. The conferees agree to the following deletion to the amounts and line items as proposed by the House:

Maintenance of Real Property	–$28,609,000

Amendment No. 21

Appropriates $1,039,680,000 for Family Housing, Navy and Marine Corps instead of $1,029,495,000 as proposed by the House and $1,055,587,000 as proposed by the Senate. This sum is derived from the conference agreement on amendments numbered 19 and 20.

Family Housing, Air Force

Amendment No. 22

Appropriates $283,786,000 for Construction, Family Housing, Air Force instead of $332,954,000 as proposed by the House and $261,786,000 as proposed by the Senate. The conferees agree to the following additions and deletions to the amounts and line items as proposed by the House:

California—Beale AFB: Office	+$306,000
Florida—Patrick AFB: 250 units	+6,500,000
Georgia—Moody AFB: Maintenance facility	+290,000
Illinois—Scott AFB: Housing relocation, Phase I	+20,000,000
Louisiana—Barksdale AFB: Maintenance and storage facility	+443,000
New Mexico—Cannon AFB: Office	+480,000
North Dakota—Minot AFB: Maintenance and storage facility	+286,000
South Carolina—Shaw AFB: Office	+351,000
Contruction Improvements	–77,824,000

The conferees agree to fund the other item in conference at the level proposed by the House, as shown below:

California—March AFB: 320 units	$38,351,000

Amendment No. 23

Appropriates $927,941,000 for Operation and Maintenance, Family Housing, Air Force as proposed by the House instead of $942,288,000 as proposed by the Senate.

Amendment No. 24

Appropriates a total of $1,211,727,000 for Family Housing, Air Force instead of $1,260,895,000 as proposed by the House and $1,204,074,000 as proposed by the Senate. This sum is derived from the conference agreement on amendments numbered 22 and 23.

Base Realignment and Closure Account, Part I

Amendment No. 25

Appropriates $415,700,000 for the Base Realignment and Closure Account, Part I as proposed by the House instead of $440,700,000 as proposed by the Senate.

Base Realignment and Closure Account, Part II

Amendment No. 26

Appropriates $1,618,600,000 for Base Realignment and Closure Account, Part II as proposed by the House instead of $1,743,600,000 as proposed by the Senate.

General Provisions

Amendment Nos. 27 through 45

Delete "Hereafter," as proposed by the Senate. This has the effect of applying these provisions to fiscal year 1993 only.

Amendment No. 46

Restores language stricken by the Senate which states that certain defense access roads meet the certification requirements specified in Section 210 of Title 23 of the United States Code.

Amendment No. 47

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 125. (a) The environmental response task force established in section 2923(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1821) shall reconvene and shall, until the date (as determined by the Secretary of Defense) on which all base closure activities required under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 102 Stat. 2627) are completed—

(1) monitor the progress of relevant Federal and State agencies in implementing the recommendations of the task force contained in the report submitted under paragraph (1) of such section; and

(2) annually submit to the Congress a report containing—

(A) recommendations concerning ways to expedite and improve environmental response actions at military installations (or portions of installations) that are being closed or subject to closure under such title;

(B) any additional recommendations that the task force considers appropriate; and

(C) a summary of the progress made by relevant Federal and State agencies in implementing the recommendations of the task force.

(b) The task force shall consist of—

(1) the individuals (or their designees) described in section 2923(c)(2) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1821); and

(2) a representative of the Urban Land Institute (or such representative's designee), appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate.

and on page 9 of the House engrossed bill, H.R. 5428, strike line 4, and beginning on line 11 strike all after "restoration" down to and including "restoration" on line 17.

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement restores House language which extends the Defense Environmental Response Task Force through 1997 and directs an annual report. The conference agreement also amends the House language to include a representative of the Urban Land Institute as a member of the task force. In addition, the agreement deletes the last proviso under "Base Realignment and Closure, Part II" in order to eliminate duplicate language which has been enacted in the Disaster Assistance Supplemental Bill (H.R. 5620).

Amendment No. 48

Deletes House language which provided for a general reduction.

Amendment No. 49

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert: *126*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 50

Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the section number named in said amendment, insert: *127*

The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
ALABAMA		
ARMY		
ANNISTON ARMY DEPOT		
AMMUNITION DEMILITARIZATION FACILITY (PHASE III)..	105,300	---
FORT MCCLELLAN		
AMMUNITION STORAGE FACILITY..........................	---	2,500
GENERAL INSTRUCTION BUILDING.........................	---	2,050
VEHICLE MAINTENANCE SHOP.............................	---	1,350
WASTEWATER TREATMENT PLANT...........................	4,200	4,200
AIR FORCE		
GUNTER AFB		
UNDERGROUND FUEL STORAGE TANKS.......................	960	960
ARMY NATIONAL GUARD		
CULLMAN		
PURCHASE BUILDING FOR DAS-3 CLASS IX SUPPORT......	---	400
FORT RUCKER		
ADD/ALTER UNIT TRAINING AND EQUIPMENT SITE........	---	1,000
MONTGOMERY		
AVIATION POL COMPLEX.................................	400	400
ONEONTA		
ORGANIZATIONAL MAINTENANCE SHOP......................	---	461
TUSCALOOSA		
ARMORY...	---	2,273
UNION SPRINGS		
ARMORY...	---	800
AIR NATIONAL GUARD		
BIRMINGHAM MAP		
FIRE STATION...	---	2,100
REPLACE UNDERGROUND FUEL STORAGE TANKS............	500	500
VEHICLE MAINTENANCE COMPLEX..........................	---	2,300
TOTAL, ALABAMA.......................................	111,360	21,294
ALASKA		
ARMY		
FORT WAINWRIGHT		
HANGAR...	---	4,550
NAVY		
ADAK NAVAL AIR STATION		
BACHELOR ENLISTED QUARTERS...........................	8,750	---
AIR FORCE		
CLEAR AFS		
UNDERGROUND FUEL STORAGE TANKS.......................	2,250	2,250
EIELSON AFB		
AIRCRAFT SHELTERS....................................	---	27,000
HYDRANT FUEL SYSTEM..................................	11,400	11,400
UNDERGROUND FUEL STORAGE TANKS.......................	2,550	2,550
ELMENDORF AFB		
AIRCRAFT SHELTERS....................................	---	16,000
FIRE TRAINING FACILITY...............................	1,950	1,950
UNDERGROUND FUEL STORAGE TANKS.......................	4,600	4,600
GALENA AIRPORT		
UNDERGROUND FUEL STORAGE TANKS.......................	4,850	4,850
KING SALMON AIRPORT		
UNDERGROUND FUEL STORAGE TANKS.......................	6,400	6,400
SHEMYA AFB		
WASTE MANAGEMENT FACILITY............................	3,350	3,350
DEFENSE AGENCIES		
ELMENDORF AFB		
HOSPITAL REPLACEMENT (PHASE I).......................	---	15,000

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
AIR NATIONAL GUARD		
KULIS ANGB (ANCHORAGE)		
REPLACE UNDERGROUND FUEL STORAGE TANKS............	310	310
EIELSON		
VEHICLE MAINTENANCE FACILITY.......................	---	4,500
TOTAL, ALASKA................................	46,410	104,710
ARIZONA		
AIR FORCE		
DAVIS MONTHAN AFB		
DORMITORY..	---	3,500
LIBBY ARMY AIR FIELD		
UPGRADE AIRFIELD PAVEMENTS.........................	15,300	15,300
LUKE AFB		
BOQ..	---	2,950
NAVAJO ARMY DEPOT		
MINUTEMAN-VARIOUS FACILITIES.......................	3,900	3,900
ARMY NATIONAL GUARD		
MARANA		
PICACHO PEAK STAGEFIELD............................	---	3,041
AIR NATIONAL GUARD		
TUCSON IAP		
JET FUEL STORAGE COMPLEX...........................	---	7,200
AIR FORCE RESERVE		
DAVIS-MONTHAN AFB		
ADD/ALTER AIRCRAFT MAINTENANCE FACILITY............	---	1,500
MUNITIONS MAINTENANCE AND STORAGE..................	---	930
TOTAL, ARIZONA...............................	19,200	38,321
ARKANSAS		
ARMY		
PINE BLUFF ARSENAL		
AMMUNITION DEMILITARIZATION SUPPORT FACILITY......	15,000	15,000
HAZARDOUS WASTE LANDFILL EXPANSION................	11,800	11,800
AIR FORCE		
LITTLE ROCK AFB		
FIRE TRAINING FACILITY............................	710	710
AEROMEDICAL STAGING FACILITY......................	1,250	1,250
SPECIAL OPERATIONS FACILITY.......................	950	950
SPECIAL OPERATIONS FACILITY.......................	950	950
TOTAL, ARKANSAS..............................	30,660	30,660
CALIFORNIA		
ARMY		
SIERRA ARMY DEPOT		
AMMUNITION SURVEILLANCE FACILITY..................	2,450	2,450
NAVY		
CAMP PENDLETON MARINE CORPS BASE		
ELECTRICAL DISTRIBUTION SYSTEM UPGRADE............	3,800	3,800
MESS HALL EXPANSION...............................	1,960	1,960
SEWAGE TREATMENT PLANT MODIFICATIONS..............	19,740	19,740
LEMOORE NAVAL AIR STATION		
BATTERY SHOP......................................	680	680
MARE ISLAND NAVAL SHIPYARD		
HAZARDOUS MATERIAL STORAGE FACILITY...............	---	8,000

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
MIRAMAR NAVAL AIR STATION		
FIXED POINT AIRCRAFT UTILITY SUPPORT SYSTEM	---	9,700
PORT HUENEME NAVAL CONSTR BATTALION CTR		
BACHELOR ENLISTED QUARTERS	9,000	9,000
HAZARDOUS AND FLAMMABLE STOREHOUSE	5,300	5,300
SEAL BEACH NAVAL WEAPONS STATION		
ORDNANCE TRANSFER FACILITY	2,150	2,150
TWENTYNINE PALMS MARCORP AIR-GRND COMB CTR		
NON-POTABLE WATER SYSTEM IMPROVEMENTS	4,600	4,600
AIR FORCE		
BEALE AFB		
FIRE TRAINING FACILITY	1,250	1,250
SECURITY POLICE OPERATIONS FACILITY	---	4,350
EDWARDS AFB		
UNDERGROUND FUEL STORAGE TANKS	5,000	5,000
WASTEWATER TREATMENT PLANT	19,500	19,500
MARCH AFB		
UNDERGROUND FUEL STORAGE TANKS	2,250	2,250
MCCLELLAN AFB		
RENOVATE DEPOT PLATING SHOP	---	7,000
UNDERGROUND FUEL STORAGE TANKS	1,150	1,150
UPGRADE INDUSTRIAL WASTEWATER COLLECTION SYSTEM	1,750	1,750
TRAVIS AFB		
DORMITORY RENOVATION	---	10,800
UPGRADE SANITARY SEWER MAINS	880	880
VANDENBERG AFB		
UPGRADE ELECTRICAL POWER UTILITY SYSTEM	6,100	6,100
UPGRADE FIRE PROTECTION SYSTEM	4,150	4,150
WATER SUPPLY (STATE TIE-IN)	16,000	16,000
DEFENSE AGENCIES		
BEALE AFB		
HOSPITAL UTILITY/LIFE SAFETY UPGRADE	---	3,500
MARCH AFB		
ADD/ALTER HOSPITAL/LIFE SAFETY UPGRADE/UTILITIES	18,000	18,000
ARMY NATIONAL GUARD		
FRESNO AVIATION DEPOT		
REPAIR AND CONSTRUCTION OF HELICOPTER PADS	---	901
LAKEPORT		
ARMORY	---	1,580
LOS ALAMITOS		
JP-4 FUEL TANK REPLACEMENTS	---	1,553
TOTAL, CALIFORNIA	125,710	173,094
COLORADO		
ARMY		
FITZSIMONS AMC		
CENTRAL ENERGY PLANT	---	19,400
FACILITIES ENGINEER SHOPS	---	6,000
AIR FORCE		
PETERSON AFB		
ADD/ALTER DORMITORY	3,500	3,500
US AIR FORCE ACADEMY		
BASE OPERATIONS FACILITY	1,650	1,650
UNDERGROUND FUEL STORAGE TANKS	960	960
UPGRADE ENERGY MANAGEMENT AND CONTROL SYSTEM	1,650	1,650
DEFENSE AGENCIES		
FITZSIMONS AMC		
SITE WORK	---	2,000

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
AIR NATIONAL GUARD		
BUCKLEY ANGB (AURORA)		
REPLACE UNDERGROUND FUEL STORAGE TANKS	800	800
AIR FORCE RESERVE		
PETERSON AFB		
AVIONICS FACILITY	---	1,300
TOTAL, COLORADO	8,560	37,260
CONNECTICUT		
NAVY		
NEW LONDON NAVAL SUBMARINE BASE		
SUBMARINE DRYDOCK PIER	12,500	12,500
AIR NATIONAL GUARD		
BRADLEY FIELD (GRAMBE)		
REPLACE UNDERGROUND FUEL STORAGE TANKS	1,200	1,200
ORANGE ANGS (NEW HAVEN)		
REPLACE UNDERGROUND FUEL STORAGE TANKS	800	800
TOTAL, CONNECTICUT	14,500	14,500
DELAWARE		
AIR FORCE		
DOVER AFB		
DORMITORY	3,900	3,900
FIRE TRAINING FACILITY	910	910
HYDRANT FUELING SYSTEM	14,600	14,600
UNDERGROUND FUEL STORAGE TANKS	1,850	1,850
TOTAL, DELAWARE	21,260	21,260
DISTRICT OF COLUMBIA		
AIR FORCE		
BOLLING AFB		
CIVIL ENGINEER COMPLEX	---	9,400
DEFENSE AGENCIES		
WALTER REED ARMY MEDICAL CENTER		
ARMY INSTITUTE OF RESEARCH (PHASE I)	13,300	13,300
TOTAL, DISTRICT OF COLUMBIA	13,300	22,700
FLORIDA		
NAVY		
CECIL FIELD NAVAL AIR STATION		
JET ENGINE TEST CELL	5,850	5,850
AIR FORCE		
CAPE CANAVERAL AFS		
CENTAUR PROCESSING BUILDING	33,000	33,000
REPLACE CHILLER PLANT	2,500	2,500
WASTEWATER TREATMENT SYSTEM	5,300	5,300
EGLIN AFB		
CLIMATIC TEST CHAMBER (PHASE I)	---	5,000
FIRE TRAINING FACILITY	770	770
UPGRADE WASTEWATER TREATMENT PLANT	910	910
HOMESTEAD AFB		
FIRE TRAINING FACILITY	1,200	---
PATRICK AFB		
REGIONAL SEWER CONNECTION	7,700	7,700

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
DEFENSE AGENCIES		
EGLIN AFB		
CLIMATIC TEST CHAMBER (PHASE I)........................	32,000	---
ARMY NATIONAL GUARD		
CAMP BLANDING		
BACHELOR OFFICER QUARTERS..............................	---	958
MOUT RANGE...	---	2,450
CEDAR HILLS (JACKSONVILLE)		
ADD/ALTER ARMORY.......................................	---	1,480
CRAIG FIELD (JACKSONVILLE)		
ARMORY EXPANSION/REHABILITATION........................	---	1,682
ADD/ALTER ORGANIZATIONAL MAINTENANCE SHOP..............	---	368
AIR FORCE RESERVE		
HOMESTEAD AFB		
CONSTRUCT HANGAR.......................................	3,180	---
SQUADRON OPERATIONS FACILITY...........................	1,300	---
TOTAL, FLORIDA...	93,710	67,968
GEORGIA		
ARMY		
FORT GILLEM		
WATER DISTRIBUTION SYSTEM..............................	---	2,700
FORT GORDON		
MAINTENANCE FACILITY (PHASE I).........................	---	10,000
FORT MCPHERSON		
BARRACKS AND DINING HALL...............................	---	10,200
HUNTER ARMY AIRFIELD		
TACTICAL EQUIPMENT SHOP................................	---	5,400
NAVY		
ALBANY MARINE CORPS LOGISTICS BASE		
ABRASIVE BLAST FACILITY................................	4,100	4,100
UPGRADE STORAGE WAREHOUSE..............................	---	2,700
AIR FORCE		
MOODY AFB		
FIRE TRAINING FACILITY.................................	780	780
FUEL CELL/NOSE DOCK....................................	---	3,600
ROBINS AFB		
JSTARS RAMP & HYDRANT SYSTEM...........................	---	9,700
JSTARS SECURITY IMPROVEMENT............................	---	1,800
ARMY NATIONAL GUARD		
BARNESVILLE		
ARMORY ACQUISITION.....................................	---	350
AIR NATIONAL GUARD		
SAVANNAH MAP		
REPLACE UNDERGROUND FUEL STORAGE TANKS.................	740	740
NAVY RESERVE		
DOBBINS AFB		
MARINE CORPS RESERVE CENTER............................	---	5,500
TOTAL, GEORGIA...	5,620	57,570
HAWAII		
ARMY		
SCHOFIELD BARRACKS		
CHILD DEVELOPMENT CENTER...............................	5,800	5,800
SEWAGE TREATMENT PLANT MODIFICATIONS...................	---	17,500

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
NAVY		
BARKING SANDS PACIFIC MISSILE RANGE FACILITY		
AIRCRAFT PARKING APRON	4,580	4,580
HONOLULU NAVAL COM AREA MASTER STA EASTPAC		
ANTENNA SAFETY IMPROVEMENTS	1,400	1,400
PEARL HARBOR NAVAL SUPPLY CENTER		
HAZARDOUS AND FLAMMABLE STOREHOUSE	1,300	1,300
OIL SPILL PREVENTION	6,400	5,400
PEARL HARBOR NAVY PUBLIC WORKS CENTER		
WASTEWATER TREATMENT PLANT IMPROVEMENTS	24,900	24,900
DEFENSE AGENCIES		
BARKING SANDS		
LAND EASEMENT	5,400	5,400
TOTAL, HAWAII	49,780	66,280
IDAHO		
AIR NATIONAL GUARD		
BOISE AIRPORT		
ARM/DISARM PADS	---	1,550
REPLACE UNDERGROUND FUEL STORAGE TANKS	900	900
TOTAL, IDAHO	900	2,450
ILLINOIS		
AIR FORCE		
SCOTT AFB		
FIRE TRAINING FACILITY	960	960
AIR NATIONAL GUARD		
CAPITAL MAP (SPRINGFIELD)		
REPLACE UNDERGROUND FUEL STORAGE TANKS	750	750
GREATER PEORIA AIRPORT		
CIVIL ENGINEERING SHOP	---	2,200
SITE PREPARATION	---	1,550
VEHICLE MAINTENANCE FACILITY	---	2,200
O'HARE IAP (CHICAGO)		
REPAIR AIRCRAFT RAMP	---	5,200
NAVY RESERVE		
NAS GLENVIEW		
FUEL FARM MODIFICATIONS	6,500	6,500
AIR FORCE RESERVE		
O'HARE IAP (CHICAGO)		
AEROSPACE GROUND EQUIPMENT SHOP/STORAGE	---	1,700
TOTAL, ILLINOIS	8,210	21,060
INDIANA		
NAVY		
NSWG, CRANE		
MICROWAVE COMPONENTS FACILITY	---	6,000
ARMY NATIONAL GUARD		
FORT WAYNE		
ARMORY	---	3,400
ORGANIZATIONAL MAINTENANCE SHOP	---	800
AIR NATIONAL GUARD		
FORT WAYNE		
RUNWAY IMPROVEMENTS	---	6,039
TOTAL, INDIANA	---	16,239

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
IOWA		
ARMY NATIONAL GUARD		
CAMP DODGE		
TRAINING FACILITY COMPLEX (PHASE I)	---	4,600
EQUIPMENT MAINTENANCE SHOP	---	2,687
AIR NATIONAL GUARD		
DES MOINES		
ADD/ALTER OPERATIONS FACILITY	---	5,150
SIOUX CITY MAP		
ADD/ALTER FUEL CELL/CORROSION HANGAR BAY	---	1,850
ADD/ALTER SQUADRON OPERATIONS FACILITY	---	920
ALTER COMPOSITE DINING HALL/MEDICAL TRNG FACILITY	---	1,200
REPLACE UNDERGROUND FUEL STORAGE TANKS	1,200	1,200
TOTAL, IOWA	1,200	17,607
KANSAS		
ARMY		
FORT RILEY		
RAIL HEAD	---	13,200
AIR FORCE		
MCCONNELL AFB		
FIRE TRAINING FACILITY	960	960
ARMY NATIONAL GUARD		
GREAT BEND		
ARMORY	---	1,600
OTTAWA		
ORGANIZATIONAL MAINTENANCE SHOP	---	397
AIR NATIONAL GUARD		
FORBES FIELD (FORBES)		
JET FUEL STORAGE COMPLEX	4,500	4,500
TOTAL, KANSAS	5,460	20,657
KENTUCKY		
ARMY		
FORT KNOX		
AIRFIELD REVITALIZATION	---	7,100
ELECTRICAL DISTRIBUTION IMPROVEMENTS	---	4,150
WATER STORAGE	---	4,350
AIR NATIONAL GUARD		
STANDIFORD AIRPORT		
RELOCATION (PHASE III)	---	5,000
TOTAL, KENTUCKY	---	20,600
LOUISIANA		
ARMY		
FORT POLK		
AIRFIELD SAFETY UPGRADE	7,400	7,400
AIR FORCE		
BARKSDALE AFB		
FIRE TRAINING FACILITY	820	820
REPLACE APRON AND HYDRANT SYSTEM (PHASE I)	---	14,000
UNDERGROUND FUEL STORAGE TANKS	2,500	2,500
ARMY NATIONAL GUARD		
AMITE/INDEPENDENCE		
ARMORY	---	1,300
LAFAYETTE		
OMS	---	750

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
BALL		
RENOVATE BARRACKS	---	400
AIR FORCE RESERVE		
NEW ORLEANS NAS		
ADD/ALTER FACILITIES FOR CONVERSION	2,300	2,300
AIRCRAFT ENGINE AND INSPECTION SHOP	2,600	2,600
AIRCRAFT HANGAR FIRE PROTECTION	1,000	1,000
AVIONICS FACILITY	---	2,300
SOUND SUPPRESSOR	1,100	1,100
TOTAL, LOUISIANA	17,720	36,470
MAINE		
AIR NATIONAL GUARD		
BANGOR IAP		
AIRFIELD IMPROVEMENTS	---	17,300
MARYLAND		
ARMY		
ABERDEEN PROVING GROUND		
FIRE/SECURITY STATION	---	3,400
NAVY		
BETHESDA NAVAL MEDICAL RESEARCH INSTITUTE		
APPLICATIONS LABORATORY	5,600	---
NOS, INDIANHEAD		
CHILD CARE FACILITY	---	2,290
IMPROVE CAD/PAD FACILITY	---	5,300
PATUXENT NAVAL AIR STATION		
ADVANCED SYSTEM INTEGRATION FACILITY (PHASE I)	---	10,000
AIR FORCE		
ANDREWS AFB		
WASTEWATER SYSTEM REGIONAL CONNECTION-BRANDYWINE	400	400
WASTEWATER TREATMENT/DISP PLANT-DAVIDSONVILLE	420	420
DEFENSE AGENCIES		
FORT MEADE		
HEADQUARTERS FIRE EVACUATION ALARM SYSTEM	400	400
UTILITY DISTRIBUTION UPGRADE, OPS1 BUILDING	6,300	6,300
TOTAL, MARYLAND	13,120	28,510
MASSACHUSETTS		
AIR FORCE		
HANSCOM AFB		
CHILD DEVELOPMENT CENTER	---	4,200
ARMY NATIONAL GUARD		
CAMP EDWARDS		
TRAINING SITE FUEL DISPENSING FACILITY	500	500
AIR NATIONAL GUARD		
BARNES MAP (WESTFIELD)		
ADD/ALTER FUEL CELL/CORROSION CONTROL	---	1,400
AVIONICS/WEAPONS SHOP	---	1,500
ENGINE SHOP	---	800
SQUADRON OPERATIONS	---	900
MUNITIONS STORAGE/MAINTENANCE	---	3,650
REPLACE UNDERGROUND FUEL STORAGE TANKS	1,100	1,100
OTIS ANGB (FALMOUTH)		
ALTER WASTE WATER TREATMENT PLANT	15,000	15,000
CLINIC	---	1,600

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
WORCESTER ANGS		
REPLACE UNDERGROUND FUEL STORAGE TANKS	350	350
TOTAL, MASSACHUSETTS	16,950	31,000
MICHIGAN		
AIR NATIONAL GUARD		
PHELPS COLLINS AIRPORT (ALPENA)		
ALTER BARRACKS	---	3,800
SELFRIDGE ANGB (MT CLEMENS)		
REPLACE UNDERGROUND FUEL STORAGE TANKS	800	800
UPGRADE STORM DRAINAGE SYSTEM	600	600
WK KELLOGG REGIONAL AIRPORT (KELLOGG)		
REPLACE UNDERGROUND FUEL STORAGE TANKS	1,150	1,150
AIR FORCE RESERVE		
SELFRIDGE ANGB		
ADD/ALTER FUEL SYSTEMS MAINTENANCE HANGAR	---	2,400
ADD/ALTER FACILITIES FOR CONVERSION	---	1,050
HYDRANT FUEL SYSTEM	2,500	2,500
TOTAL, MICHIGAN	5,050	12,300
MINNESOTA		
ARMY NATIONAL GUARD		
CAMP RIPLEY		
COMBINED SUPPORT MAINT SHOP/CLASS IX (PHASE I)	---	7,100
UTILITY SYSTEMS REPAIR	---	5,400
ROSEMOUNT		
OMS	---	1,200
AIR NATIONAL GUARD		
MINN-ST PAUL IAP		
REPLACE UNDERGROUND FUEL STORAGE TANKS	850	850
TOTAL, MINNESOTA	850	14,550
MISSISSIPPI		
NAVY		
NAS MERIDIAN		
CHILD DEVELOPMENT CENTER	---	1,100
GULFPORT		
APPLIED INSTRUCTION BUILDING	---	4,650
AIR FORCE		
KEESLER AFB		
ADD/ALTER CHILD CARE CENTER	---	2,650
ALTER STUDENT DORMITORY	3,900	3,900
ARMY NATIONAL GUARD		
CAMP MCCAIN		
DEFENSE ACCESS ROADS	---	19,000
CAMP SHELBY		
COMBINED SUPPORT FACILITY	---	5,400
MODIFIED RECORD FIRE RANGE #1	---	600
MODIFIED RECORD FIRE RANGE #2	---	675
MULTI-PURPOSE TRAINING RANGE	---	4,000

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
KEY FIELD (MERIDIAN)		
ADD/ALTER AVIATION SUPPORT FACILITY	---	1,900
AIR NATIONAL GUARD		
GULFPORT		
RAMP UPGRADE	---	10,800
KEY FIELD (MERIDIAN)		
ADD/ALTER SQUADRON OPERATIONS FACILITY	930	930
FIRE STATION	1,250	1,250
THOMPSON FIELD (JACKSON)		
ADD/ALTER VEHICLE MAINTENANCE SHOP	---	1,300
TOTAL, MISSISSIPPI	6,080	58,155
MISSOURI		
AIR FORCE		
WHITEMAN AFB		
B-2 ADD/ALTER CHILD DEVELOPMENT CENTER	970	970
B-2 ADD/ALTER UTILITY SYSTEMS	6,800	6,800
B-2 ADD/ALTER COMMUNICATIONS CENTER	2,700	2,700
B-2 AIRCRAFT APRON, TAXIWAY, AND CONVOY ROADS	11,400	11,400
B-2 AIRCRAFT MAINTENANCE DOCKS	14,000	14,000
B-2 AIRCRAFT MAINTENANCE DOCKS	14,000	14,000
B-2 HYDRANT FUELING HARDSTANDS/PITS	9,700	9,700
B-2 HYDRANT FUELING SYSTEM	14,200	14,200
B-2 WEAPONS STORAGE FACILITIES	6,400	6,400
UNDERGROUND FUEL STORAGE TANKS	2,100	2,100
GENERAL REDUCTION (B-2)	---	-30,000
DEFENSE AGENCIES		
FORT LEONARD WOOD		
TROOP MEDICAL CLINIC	3,000	3,000
ARMY NATIONAL GUARD		
CAMP CROWDER		
CLASSROOM	---	421
WHITEMAN AFB		
ARMORY	---	2,400
TOTAL, MISSOURI	85,270	58,091
MONTANA		
AIR FORCE		
MALMSTROM AFB		
FIRE TRAINING FACILITY	1,100	1,100
AIR NATIONAL GUARD		
GREAT FALLS IAP		
ADD/ALTER MAINTENANCE HANGAR SHOP	2,800	---
ADD/ALTER AIRCRAFT SUPPORT EQUIPMENT SHOP	600	600
ADD/ALTER WEAPONS RELEASE SHOP	---	800
ARM/DEARM PADS	---	1,000
FIRE SUPPRESSION SYSTEM	---	1,000
UPGRADE FIRE STATION	700	700
TOTAL, MONTANA	5,200	5,200
NEBRASKA		
AIR FORCE		
OFFUTT AFB		
FIRE TRAINING FACILITY	840	840
HAZARDOUS MATERIALS STORAGE FACILITY	1,350	1,350
UNDERGROUND FUEL STORAGE TANKS	2,050	2,050
UPGRADE SANITARY/STORM SEWER SYSTEMS	1,950	1,950
AIR NATIONAL GUARD		
LINCOLN MAP		
DINING HALL	1,500	1,500
FUEL SYSTEMS MAINTENANCE DOCK	---	4,675
	---	3,100

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
SQUADRON OPERATIONS		
ALTER SUPPLY AND COMMUNICATIONS	---	2,400
TOTAL, NEBRASKA	7,690	17,865
NEVADA		
AIR FORCE		
NELLIS AFB		
AIRCRAFT APRON	---	4,000
ARMING PAD	---	4,000
FIRE TRAINING FACILITY	780	780
WASTEWATER SEWER EFFLUENT SYSTEM	2,200	2,200
ARMY NATIONAL GUARD		
LAS VEGAS/CLARK COUNTY		
ARMORY	---	4,100
COMBINED SUPPORT MAINTENANCE SHOP	---	1,854
ORGANIZATIONAL MAINTENANCE SHOP	---	1,358
USPFO WAREHOUSE	---	178
TOTAL, NEVADA	2,980	18,470
NEW JERSEY		
ARMY		
FORT MONMOUTH		
CHILD CARE CENTER	---	3,550
PICATINNY ARSENAL		
ELECTRICAL DISTRIBUTION SYSTEM	---	3,800
PROPELLANT SURVEILLANCE LAB	---	2,250
AIR FORCE		
MCGUIRE AFB		
UNDERGROUND FUEL STORAGE TANKS	5,600	5,600
UPGRADE SANITARY SEWER SYSTEM	2,400	2,400
UPGRADE STORM SEWER SYSTEM	970	970
ARMY NATIONAL GUARD		
FORT DIX		
STATE HEADQUARTERS	---	5,205
AIR NATIONAL GUARD		
MCGUIRE AFB		
AIRCRAFT PARKING APRON	8,700	8,700
COMPOSITE MAINTENANCE HANGAR	9,700	9,700
FUEL SYSTEMS MAINTENANCE DOCK	4,400	4,400
JET FUEL OPERATING STORAGE AND DISTRIBUTION SYSTEM	4,600	4,600
TOTAL, NEW JERSEY	36,370	51,175
NEW MEXICO		
ARMY		
WHITE SANDS		
BARRACKS RENOVATIONS	---	6,000
AIR FORCE		
CANNON AFB		
ALTER DORMITORY	---	2,800
HOLLOMAN AFB		
FIRE TRAINING FACILITY	820	820
WASTEWATER TREATMENT FACILITY	10,600	10,600
ARMY NATIONAL GUARD		
CLAYTON		
ARMORY	---	1,400

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
ROSWELL		
TRAINING FACILITY	---	3,000
SPRINGER		
ARMORY	---	1,209
TOTAL, NEW MEXICO	11,420	25,829
NEW YORK		
ARMY		
FORT DRUM		
GENERAL PURPOSE WAREHOUSE	---	8,900
MOUT	---	5,900
U S MILITARY ACADEMY		
WATER TREATMENT PLANT	1,600	1,600
AIR NATIONAL GUARD		
NIAGARA FALLS IAP		
AIRCRAFT PARKING APRON	7,000	7,000
ALTER AIRCRAFT MAINTENANCE SHOPS	3,000	3,000
FUEL SYSTEM MAINTENANCE DOCK	3,700	3,700
JET FUEL STORAGE COMPLEX	5,100	5,100
MAINTENANCE HANGAR	4,750	4,750
ROSLYN AIR GUARD STATION		
REPLACE UNDERGROUND FUEL STORAGE TANKS	450	450
SUFFOLK COUNTY AIRPORT		
JET FUEL STORAGE COMPLEX	3,700	3,700
REPLACE UNDERGROUND FUEL STORAGE TANKS	1,750	1,750
TOTAL, NEW YORK	31,050	45,850
NORTH CAROLINA		
ARMY		
FORT BRAGG		
EXTEND ALL-AMERICAN FREEWAY	---	8,700
NAVY		
NEW RIVER		
PHYSICAL FITNESS CENTER	---	3,600
MCAS CHERRY POINT		
OPERATIONS FACILITY	---	3,000
WAREHOUSE	---	1,680
AIR FORCE		
POPE AFB		
ADD/ALTER AERIAL PORT	1,950	1,950
ADD/ALTER F-16 OPS AND LOGISTICS COMPLEX	1,800	2,300
ADD/ALTER C-130 OPS AND LOGISTICS COMPLEX	1,800	2,500
AIRCRAFT CORROSION CONTROL FACILITY	5,500	---
AIRCRAFT PARTS WAREHOUSES	1,550	2,450
ALTER ECM SHOP AND POD STORAGE FACILITY	620	---
ALTER LIFE SUPPORT FACILITY	510	510
FLEET SERVICE OPERATIONS	950	950
MUNITIONS STORAGE COMPLEX	4,300	4,300
REPAIR APRON AND WIDEN RUNWAY PAVEMENT	2,350	2,400
SOUND SUPPRESSOR SUPPORT	820	820
SEYMOUR JOHNSON AFB		
ALTER DORMITORIES	4,450	4,450
FIRE TRAINING FACILITY	780	780
DEFENSE AGENCIES		
FORT BRAGG		
ADD/ALTER HOSPITAL (PHASE I)	10,000	10,000
ADD/ALTER SECTION 6 SCHOOLS	---	3,950

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
ARMY NATIONAL GUARD		
FAYETTEVILLE		
ARMORY	---	1,284
AIR NATIONAL GUARD		
STANLY COUNTY/BADIN		
COMMUNICATION ELECTRONICS TRAINING FACILITY	---	3,000
TOTAL, NORTH CAROLINA	37,380	58,624
NORTH DAKOTA		
AIR FORCE		
CAVALIER		
UNDERGROUND FUEL STORAGE TANKS	1,450	1,450
GRAND FORKS AFB		
ADD/ALTER SEWAGE TREATMENT/DISPOSAL SYSTEM	3,200	3,200
UNDERGROUND FUEL STORAGE TANKS	3,300	3,300
MINOT AFB		
ADD/ALTER SEWAGE LAGOON	5,400	5,400
FIRE TRAINING FACILITY	1,200	1,200
WATER SYSTEM	---	2,050
DEFENSE AGENCIES		
GRAND FORKS ABM SITE		
BARRACKS AND DINING FACILITY	12,800	---
AIR NATIONAL GUARD		
HECTOR FIELD (FARGO)		
VEHICLE MAINTENANCE FACILITY	---	2,600
TOTAL, NORTH DAKOTA	27,350	19,200
OHIO		
AIR FORCE		
WRIGHT-PATTERSON AFB		
FIRE TRAINING FACILITY	870	870
HAZARDOUS MATERIALS STORAGE FACILITY	5,800	5,800
UNDERGROUND FUEL STORAGE TANKS	5,500	5,500
ARMY NATIONAL GUARD		
MEDINA		
ARMORY	---	1,000
RAVENNA ARSENAL		
TANK RANGE	---	400
AIR NATIONAL GUARD		
MANSFIELD LAHM AIRPORT (MANSFIELD)		
JET FUEL STORAGE COMPLEX	3,750	3,750
SPRINGFIELD		
ENGINE SHOP	---	1,700
TOLEDO EXPRESS AIRPORT		
ADD/ALTER AVIONICS SHOP/ECM/WEAPONS RELEASE	---	880
ADD/ALTER FUEL SYSTEMS AND CORROSION CONTROL DOCK	---	1,300
ADD/ALTER SQUADRON OPERATIONS FACILITY	---	1,300
AIRCRAFT ENGINE SHOP	---	1,700
CONSTRUCT BASE WATER MAIN	740	740
SANITARY LIFT STATION	600	600
AIR FORCE RESERVE		
YOUNGSTOWN MAP		
AERIAL SPRAY MAINTENANCE FACILITY	---	2,000
MAINTENANCE DOCK	---	4,500
TOTAL, OHIO	17,260	32,040

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
OKLAHOMA		
ARMY		
FORT SILL		
FIRE STATION	---	1,500
AIR FORCE		
ALTUS AFB		
COMMUNITY SUPPORT FACILITY	---	7,300
TINKER AFB		
ADD/ALTER DEPOT METAL PLATING SHOP	10,200	10,200
ADD/ALTER DORMITORIES	4,050	4,050
DEPOT HAZARDOUS WASTE PROCESSING FACILITY	2,300	2,300
FIRE TRAINING FACILITY	780	780
UPGRADE INDUST WASTEWATER TREATMENT PLANT	3,950	3,950
VANCE AFB		
AIRFIELD REPAIR	---	2,350
ARMY NATIONAL GUARD		
CAMP GRUBER		
MOUT FACILITIES	---	1,954
NORMAN		
COMBINED SUPPORT MAINTENANCE COMPLEX (PHASE I)	---	7,629
AIR NATIONAL GUARD		
TULSA AIRPORT		
SQUADRON OPERATIONS	---	1,350
ADD/ALTER OMS	---	430
ADD/ALTER MACHINE SHOP	---	400
TOTAL, OKLAHOMA	21,280	44,193
OREGON		
ARMY NATIONAL GUARD		
LA GRANDE		
ARMORY	---	3,049
OMS	---	1,220
SALEM		
AVIATION TAXI-WAY	---	1,200
CLACKAMAS/CAMP WITHYCOMBE		
RIFLE RANGE	---	1,500
AIR NATIONAL GUARD		
KINGSLEY FIELD (KLAMATH FALLS)		
REPLACE UNDERGROUND FUEL STORAGE TANKS	1,000	1,000
SUPPLY WAREHOUSE	---	2,575
FIRE STATION	---	1,230
PORTLAND IAP		
ADD/ALTER BASE CIVIL ENGINEER FACILITY	---	1,389
HANGAR UPGRADE/SITE IMPROVEMENTS	---	6,151
REPLACE UNDERGROUND FUEL STORAGE TANKS	700	700
TOTAL, OREGON	1,700	20,014
PENNSYLVANIA		
ARMY		
LETTERKENNY ARMY DEPOT		
HAZARDOUS MATERIAL WAREHOUSE	5,400	5,400
ARMY NATIONAL GUARD		
FORT INDIANTOWN GAP		
ARMORY	---	7,500
INDIANA		
ARMORY	---	1,700

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
AIR FORCE RESERVE		
WILLOW GROVE ARF		
ALTER AGE/AVIONICS FACILITY..................	1,700	1,700
ENGINE INSPECTION AND REPAIR FACILITY.............	1,800	1,800
TOTAL, PENNSYLVANIA............................	8,900	18,100
RHODE ISLAND		
NAVY		
NEWPORT NAVAL EDUCATION AND TRAINING CENTER		
HAZARDOUS AND FLAMMABLE STOREHOUSE............	540	540
ARMY NATIONAL GUARD		
N. KINGSTON		
ADD/ALTER ARMORY/AVIATION FACILITY.............	---	3,300
TOTAL, RHODE ISLAND............................	540	3,840
SOUTH CAROLINA		
NAVY		
CHARLESTON NAVAL WEAPONS STATION		
HAZARDOUS WASTE STORAGE AND TRANSFER FACILITY.....	600	600
WATER DISTRIBUTION SYSTEM......................	510	510
AIR FORCE		
CHARLESTON AFB		
ADD/ALTER PHYSICAL FITNESS CENTER................	---	3,300
C-17 ADD/ALTER APRON/HYDRANT FUEL SYS (PHASE II)..	15,500	15,500
C-17 ADD/ALTER REGIONAL MAINTENANCE COMPLEX......	7,200	7,200
C-17 AIRCRAFT MAINTENANCE FACILITY...............	4,000	4,000
SQUADRON FACILITY..............................	2,150	2,150
SHAW AFB		
FIRE TRAINING FACILITY..........................	680	680
UNDERGROUND FUEL STORAGE TANKS....................	1,700	1,700
ARMY NATIONAL GUARD		
FOUNTAIN INN		
HAWK TRAINING PARK (PHASE II)....................	---	748
GAFFNEY		
ARMORY..	---	1,200
HODGES/WARE SHOALS		
HAWK TRAINING PARK (PHASE II)....................	---	578
PICKENS		
HAWK TRAINING PARK (PHASE II)....................	---	775
AIR NATIONAL GUARD		
MCENTIRE ANGB (EASTOVER)		
JET FUEL STORAGE COMPLEX........................	3,300	3,300
TOTAL, SOUTH CAROLINA..........................	35,640	42,241
SOUTH DAKOTA		
AIR FORCE		
ELLSWORTH AFB		
UNDERGROUND FUEL STORAGE TANKS....................	3,050	3,050
UPGRADE WASTEWATER TREATMENT PLANT................	830	830
ARMY NATIONAL GUARD		
CAMP RAPID		
COMBINED SUPPORT MAINTENANCE SHOP................	2,800	2,600
FORT MEADE		
TRAINING SITE FACILITIES EXPANSION................	---	805

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
AIR NATIONAL GUARD		
FOSS FIELD (SIOUX FALLS)		
MUNITIONS MAINTENANCE AND STORAGE COMPLEX	---	3,000
TOTAL, SOUTH DAKOTA	6,680	10,285
TENNESSEE		
NAVY		
MEMPHIS NAVAL AIR STATION		
AIRCRAFT FIRE AND RESCUE TRAINING FACILITY	9,060	9,060
FIRE AND CRASH RESCUE STATION	1,750	1,750
FIRE FIGHTING TRAINING MOCK-UP	3,300	3,300
DEFENSE AGENCIES		
MILLINGTON NAVAL AIR STATION		
HOSPITAL LIFE SAFETY/SEISMIC UPGRADE (PHASE I)	15,000	10,000
ARMY NATIONAL GUARD		
DUNLAP		
ARMORY	---	790
ERIN		
ARMORY	---	850
MONTEAGLE		
ARMORY	---	790
SMYRNA		
ADD/ALTER ARMY AVIATION SUPPORT FACILITY	---	2,600
COMBINED SUPPORT MAINTENANCE SHOP	---	5,400
AIR NATIONAL GUARD		
MEMPHIS IAP		
REPLACE UNDERGROUND FUEL STORAGE TANKS	1,100	1,100
TOTAL, TENNESSEE	30,210	35,640
TEXAS		
ARMY		
CORPUS CHRISTI ARMY DEPOT		
CONTROLLED-HUMIDITY WAREHOUSE	---	9,600
METAL FINISHING FACILITY	---	11,600
FORT BLISS		
BARRACKS MODERNIZATION	---	13,800
BARRACKS MODERNIZATION	---	11,160
FORT HOOD		
BARRACKS WITH DINING FACILITY	33,000	33,000
RED RIVER ARMY DEPOT		
HAZARDOUS MATERIAL STORAGE FACILITY	3,600	3,600
NAVY		
CORPUS CHRISTI NAVAL AIR STATION		
AIRFIELD LIGHTING SYSTEM	4,900	4,900
KINGSVILLE NAVAL AIR STATION		
CORROSION CONTROL HANGAR	10,120	10,120
ROTHR SITE PREPARATION	---	10,000
AIR FORCE		
BROOKS AFB		
ACADEMIC COMPLEX	---	8,900
DYESS AFB		
HYDRANT FUELING SYSTEM (PHASE I)	7,300	7,300
GOODFELLOW AFB		
PHYSICAL FITNESS CENTER	---	3,250
KELLY AFB		
C-17 ADD/ALTER INTEGRATION SUPPORT FACILITY	4,850	4,850
CHEMICAL WASTE STAGING FACILITY	970	970
FIRE TRAINING FACILITY	740	740

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
INDUSTRIAL WASTE PRETREATMENT FACILITY	2,500	2,500
RENOVATE INDUSTRIAL WASTEWATER COLLECTION SYSTEM	9,300	9,300
UNDERGROUND FUEL STORAGE TANKS	3,000	3,000
LACKLAND AFB		
HIGH SCHOOL/GRADE SCHOOL FACILITIES	---	8,000
UNDERGROUND FUEL STORAGE TANKS	1,000	1,000
LAUGHLIN AFB		
T-1 SPECIALIZED UPT MAINTENANCE SUPPORT	5,200	5,200
UNDERGROUND FUEL STORAGE TANKS	800	800
RANDOLPH AFB		
UNDERGROUND FUEL STORAGE TANKS	1,250	1,250
SHEPPARD AFB		
ENJJPT AIRCRAFT SUPPORT EQUIP MAINTENANCE FACILITY	490	490
ENJJPT STUDENT OFFICER HOUSING	4,750	4,750
UNDERGROUND FUEL STORAGE TANKS	1,750	1,750
DEFENSE AGENCIES		
FORT SAM HOUSTON		
HOSPITAL REPLACEMENT (PHASE VI)	27,000	27,000
ARMY NATIONAL GUARD		
CAMP BOWIE (BROWNWOOD)		
UNIT TRAINING AND EQUIPMENT SITE	---	1,319
GREENVILLE		
ARMORY	---	1,200
KILGORE		
ARMORY ADDITION/RENOVATION	---	660
LUBBOCK		
JOINT ARMED FORCES RESERVE CENTER (PHASE I)	---	7,937
ORGANIZATIONAL MAINTENANCE SHOP	---	696
MEXIA		
ARMORY ADDITION/RENOVATION	---	566
SAN ANGELO		
ARMORY	---	1,767
STEPHENVILLE		
ADD/ALTER ARMORY	---	590
AIR NATIONAL GUARD		
ELLINGTON ANGB		
HANGAR MODIFICATION	---	1,700
HENSLEY		
WAREHOUSE	---	4,250
KELLY AFB		
CIVIL ENGINEERING FACILITY	---	2,050
NEDERLAND		
VEHICLE MAINTENANCE FACILITY	---	1,200
TOTAL, TEXAS	122,520	222,765
UTAH		
ARMY		
TOOELE ARMY DEPOT		
HAZARDOUS MATERIAL STORAGE FACILITY	9,200	9,200
AIR FORCE		
HILL AFB		
ADV CRUISE MISSILE ADD/ALTER NON-DESTRUCTIVE INSPECTION FACILITY	1,450	1,450
ENGINE TEST CELL SUPPORT FACILITY	---	850
UPGRADE ELECTRICAL DISTRIBUTION SYSTEM	---	2,300
UNDERGROUND FUEL STORAGE TANKS	1,500	1,500
ARMY NATIONAL GUARD		
BLANDING		
ARMORY	---	1,150

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
ST GEORGE		
ARMORY	---	2,898
ORGANIZATIONAL MAINTENANCE SHOP/SUBSHOP	---	562
AIR NATIONAL GUARD		
SALT LAKE CITY		
BASE CIVIL ENGINEERING COMPLEX	---	1,850
AIR FORCE RESERVE		
HILL AFB		
AIRCRAFT CORROSION CNTRL/FUEL SYS MAINT FACILITY	---	1,000
TOTAL, UTAH	12,150	22,760
VERMONT		
AIR NATIONAL GUARD		
BURLINGTON IAP		
REPLACE UNDERGROUND FUEL STORAGE TANKS	800	800
VIRGINIA		
ARMY		
FORT BELVOIR		
INFORMATION SYSTEMS FACILITY	14,000	---
RAIL EXTENSION	---	1,200
FORT PICKETT		
SEWAGE TREATMENT PLANT	5,800	5,800
NAVY		
DAM NECK		
APPLIED INSTRUCTION BUILDING EXPANSION	---	13,727
UPGRADE WATER SYSTEM	---	1,200
FORT STORY		
NAVY BOMB DISPOSAL TRNG AND EVALUATION FACILITY	---	5,460
LITTLE CREEK		
BACHELOR ENLISTED QUARTERS	---	8,000
NAS NORFOLK		
PHYSICAL SECURITY IMPROVEMENTS	---	1,100
ORDNANCE HANDLING AREA	---	2,000
NORFOLK NAVAL STATION		
DREDGING	880	880
NORFOLK NAVAL SUPPLY CENTER		
COLD STORAGE WAREHOUSE	12,400	12,400
OCEANA NAVAL AIR STATION		
AVIONICS SHOP ADDITION	2,360	2,360
REFUELING VEHICLE SHOP	830	830
YORKTOWN NAVAL WEAPONS STATION		
HAZARDOUS WASTE STORAGE FACILITY	1,100	1,100
AIR FORCE		
LANGLEY AFB		
FIRE TRAINING FACILITY	780	780
POL/HYDRANT FUELING SYSTEM	970	970
DEFENSE AGENCIES		
NATIONAL CAPITAL AREA		
RELOCATION OF WATER MAINS	---	3,000
PORTSMOUTH NAVAL HOSPITAL		
HOSPITAL REPLACEMENT (PHASE IV)	16,000	16,000
ARMY NATIONAL GUARD		
RICHLANDS		
ARMORY AND ORGANIZATIONAL MAINTENANCE SHOP	---	2,137
TOTAL, VIRGINIA	55,120	78,944

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
WASHINGTON		
NAVY		
BANGOR TRIDENT REFIT FACILITY		
CAISSON MOORING PLATFORM	1,550	1,550
BREMERTON NAV INACTIVE SHIP MAINT FACILITY		
MOORING BUOY ELECTRICAL POWER	1,200	1,200
BREMERTON PUGET SOUND NAVAL SHIPYARD		
ABRASIVE BLAST MATERIAL HANDLING FACILITY	1,500	1,500
BACHELOR ENLISTED QUARTERS	13,300	13,300
BACHELOR ENLISTED QUARTERS	---	13,300
EVERETT NAVAL STATION		
OIL/WATER SEPARATOR SYSTEM	5,600	5,600
AIR FORCE		
FAIRCHILD AFB		
FIRE TRAINING FACILITY	960	960
UNDERGROUND FUEL STORAGE TANKS	1,550	1,550
MCCHORD AFB		
C-141 ADD/ALTER FLIGHT SIMULATOR FACILITY	1,650	1,650
FIRE TRAINING FACILITY	890	890
ARMY NATIONAL GUARD		
BUCKLEY		
ARMORY	---	1,575
GRANDVIEW		
ARMORY	---	1,500
MOSES LAKE		
ARMORY	---	1,675
TOTAL, WASHINGTON	28,200	46,250
WEST VIRGINIA		
ARMY NATIONAL GUARD		
CLARKSBURG		
HANGAR	---	5,500
ARMY RESERVE		
CLARKSBURG		
RESERVE CENTER/OMS	---	4,202
ADD/ALTER AREA MAINTENANCE SUPPORT ACTIVITY	---	1,156
WHEELING		
RESERVE CENTER	---	6,808
WEIRTON		
RESERVE CENTER	---	3,481
BLUEFIELD		
RESERVE CENTER	---	1,921
JANE LEW		
RESERVE CENTER	---	1,566
LEWISBURG		
RESERVE CENTER/OMS	---	1,631
GRANTSVILLE		
RESERVE CENTER	---	2,785
TOTAL, WEST VIRGINIA	---	29,050
WISCONSIN		
ARMY NATIONAL GUARD		
FORT MCCOY		
TRAINING/EDUCATION FACILITY	---	10,712
MARSHFIELD		
ARMORY	---	2,030
VEHICLE STORAGE FACILITY	---	226

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
AIR NATIONAL GUARD		
TRUAX FIELD (MADISON)		
HANGAR ALTERATION	---	2,250
ADD/ALTER FUEL SYSTEMS MAINTENANCE DOCK	---	2,000
VOLK FIELD (CAMP DOUGLAS)		
COMPOSITE RAPCON CENTER/COMMUNICATIONS FACILITY	---	2,600
REPLACE UNDERGROUND FUEL STORAGE TANKS	1,000	1,000
AIR FORCE RESERVE		
MITCHELL FIELD		
HANGAR ACQUISITION	---	2,500
TOTAL, WISCONSIN	1,000	23,318
WYOMING		
AIR FORCE		
FE WARREN AFB		
UNDERGROUND FUEL STORAGE TANKS	1,050	1,050
ARMY NATIONAL GUARD		
CAMP GUERNSEY		
BARRACKS UPGRADE (PHASE II)	---	1,109
TOTAL, WYOMING	1,050	2,159
CONUS CLASSIFIED		
AIR FORCE		
CLASSIFIED LOCATION		
AIRCRAFT MAINTENANCE DOCK	4,050	---
HYDRANT FUELING DISTRIBUTION SYSTEM	10,400	---
TOTAL, CONUS CLASSIFIED	14,450	---
CONUS VARIOUS		
ARMY		
VARIOUS CONUS LOCATIONS		
CLASSIFIED PROJECT	3,000	2,710
AIR FORCE		
CONUS VARIOUS		
UNDERGROUND FUEL STORAGE TANKS	3,300	2,800
TOTAL, CONUS VARIOUS	6,300	5,510
CANADA		
AIR FORCE		
VARIOUS LOCATIONS-CANADA		
FWD OPERATING LOCATIONS/DISPERSED OPERATING BASES	19,500	---
GERMANY		
ARMY		
GRAFENWOEHR		
SANITARY LANDFILL EXPANSION	11,600	---
AIR FORCE		
RHEIN-MAIN AB		
UPGRADE WASTEWATER TREATMENT PLANT	3,100	---
DEFENSE AGENCIES		
GRAFENWOEHR		
ELEMENTARY SCHOOL ADDITION AND RENOVATION	7,400	---
HOHENFELS		
ELEMENTARY SCHOOL ADDITION AND RENOVATION	13,500	13,500
TOTAL, GERMANY	35,600	13,500

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
GREECE		
NAVY		
SOUDA BAY CRETE NAVAL SUPPORT ACTIVITY		
BACHELOR ENLISTED QUARTERS	7,600	7,600
GREENLAND		
AIR FORCE		
THULE AB		
ALTER DORMITORY	5,000	---
DORMITORY	11,000	---
UPGRADE AIRFIELD PAVEMENT (PHASE III)	8,900	---
TOTAL, GREENLAND	24,900	---
GUAM		
NAVY		
ANDERSON AFB		
MAINTENANCE HANGAR	29,000	---
NAVAL STATION		
CHILD DEVELOPMENT CENTER	2,900	---
NAVAL SUPPLY DEPOT		
HAZARDOUS MATERIAL STORAGE	14,820	---
NAVAL MAGAZINE		
TOMAHAWK MAGAZINE	8,210	---
SHIP REPAIR FACILITY		
SHIP/SPARE STORAGE	5,200	---
AIR FORCE		
ANDERSEN AFB		
FIRE TRAINING FACILITY	2,300	2,300
HAZARDOUS WASTE MANAGEMENT FACILITY	790	790
LANDFILL	---	10,000
ARMY NATIONAL GUARD		
BARRIGADA		
US PROPERTY AND FISCAL OFFICE AND WAREHOUSE	---	1,927
TOTAL, GUAM	63,220	15,017
ICELAND		
NAVY		
KEFLAVIK NAVAL AIR STATION		
FUEL FACILITIES (PHASE VIII)	4,940	---
JOHNSTON ISLAND		
DEFENSE AGENCIES		
DNA HDQTRS FIELD COMMAND		
GARBAGE AND REFUSE INCINERATOR	1,500	1,500
ON-SITE INSPECTION AGENCY		
CHEMICAL DEMILITARIZATION HOUSING	4,600	---
TOTAL, JOHNSTON ISLAND	6,100	1,500
KWAJALEIN		
ARMY		
KWAJALEIN		
FUEL CONTAINMENT FACILITY UPGRADE	1,200	---
HAZARDOUS MATERIAL FACILITIES	8,600	---
POWER PLANT - ROI NAMUR ISLAND	33,000	---
UNACCOMPANIED PERSONNEL HOUSING	10,000	---

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
DEFENSE AGENCIES		
MISSILE RANGE		
GROUND SURVEILLANCE AND TRACKING SYSTEM COMPLEX	22,000	---
TOTAL, KWAJALEIN	74,800	---
PORTUGAL		
AIR FORCE		
LAJES FIELD		
FIRE TRAINING FACILITY	950	950
WASTEWATER TREATMENT AND DISPOSAL SYSTEM	7,500	5,000
TOTAL, PORTUGAL	8,450	5,950
PUERTO RICO		
AIR NATIONAL GUARD		
PUERTO RICO IAP		
ADD TO AIRCRAFT PARKING APRON	3,800	3,800
COMPOSITE SQUADRON OPERATIONS FACILITY	2,800	2,800
TOTAL, PUERTO RICO	6,600	6,600
UNITED KINGDOM		
DEFENSE AGENCIES		
CLASSIFIED LOCATION		
OPS SYSTEM UNINTERRUPTIBLE POWER SOURCE	6,000	6,000
OVERSEAS CLASSIFIED		
DEFENSE AGENCIES		
CLASSIFIED LOCATION		
STRATEGIC MEDICAL STORAGE FACILITY	8,000	---
SOUTHWESTER/NSA	---	3,590
TOTAL, OVERSEAS CLASSIFIED	8,000	3,590
NATO		
NATO INFRASTRUCTURE	221,200	60,000
WORLDWIDE UNSPECIFIED		
ARMY		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	112,300	110,000
UNSPECIFIED MINOR CONSTRUCTION	3,800	5,500
NAVY		
UNSPECIFIED WORLDWIDE LOCATIONS		
GENERAL REDUCTION		-8,280
PLANNING AND DESIGN	72,942	70,000
UNSPECIFIED MINOR CONSTRUCTION	5,000	5,000
AIR FORCE		
UNSPECIFIED WORLDWIDE LOCATIONS		
GENERAL REDUCTION	---	-28,100
PLANNING AND DESIGN	95,000	92,000
UNSPECIFIED MINOR CONSTRUCTION	12,000	7,000
DEFENSE AGENCIES		
UNSPECIFIED WORLDWIDE LOCATIONS		
CONTINGENCY CONSTRUCTION	10,000	5,000
PLANNING AND DESIGN		
STRATEGIC DEFENSE INITIATIVE ORGANIZATION	10,000	---

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
DEFENSE LEVEL ACTIVITIES	21,168	19,168
DEFENSE MEDICAL SUPPORT ACTIVITY	34,650	64,000
SUBTOTAL, PLANNING AND DESIGN	65,818	83,168
UNSPECIFIED MINOR CONSTRUCTION		
ON-SITE INSPECTION AGENCY	1,000	---
SPECIAL OPERATIONS COMMAND	700	700
JOINT CHIEFS OF STAFF	5,900	5,900
DOD DEPENDENT SCHOOLS	3,000	3,000
DEFENSE MEDICAL SUPPORT ACTIVITY	2,908	2,908
SUBTOTAL, UNSPECIFIED MINOR CONSTRUCTION	13,508	12,508
ARMY NATIONAL GUARD		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	3,100	5,000
UNSPECIFIED MINOR CONSTRUCTION	5,500	5,500
AIR NATIONAL GUARD		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	12,700	17,700
UNSPECIFIED MINOR CONSTRUCTION	3,800	5,000
ARMY RESERVE		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	5,900	8,900
UNSPECIFIED MINOR CONSTRUCTION	2,400	4,400
REPROGRAMMING ALLOWANCE	---	5,300
NAVY RESERVE		
UNSPECIFIED WORLDWIDE LOCATIONS		
PLANNING AND DESIGN	2,900	2,900
UNSPECIFIED MINOR CONSTRUCTION	500	500
AIR FORCE RESERVE		
UNSPECIFIED WORLDWIDE LOCATIONS		
GENERAL REDUCTION	---	-11,480
PLANNING AND DESIGN	2,500	2,800
UNSPECIFIED MINOR CONSTRUCTION	4,400	4,400
TOTAL, WORLDWIDE UNSPECIFIED	434,068	404,716
WORLDWIDE VARIOUS		
ARMY		
VARIOUS WORLDWIDE LOCATIONS		
CLASSIFIED PROJECT	1,700	---
NAVY		
VARIOUS LOCATIONS		
HOST NATION INFRASTRUCTURE SUPPORT	3,000	3,000
TOTAL, WORLDWIDE VARIOUS	4,700	3,000
FAMILY HOUSING, ARMY		
GEORGIA		
HUNTER ARMY AIRFIELD REPROGRAMMING ALLOWANCE	---	82
HAWAII		
VARIOUS OAHU (200 UNITS)	23,000	23,000
KENTUCKY		
FORT CAMPBELL (96 UNITS)	---	8,200
TEXAS		
FORT HOOD (227 UNITS)	---	25,000
VIRGINIA		
FORT PICKETT (26 UNITS)	---	2,300

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
CONSTRUCTION IMPROVEMENTS	143,660	92,600
PLANNING	8,940	8,940
SUBTOTAL, CONSTRUCTION	175,600	160,122
OPERATION AND MAINTENANCE		
FURNISHINGS ACCOUNT	52,036	47,036
MANAGEMENT ACCOUNT	93,678	93,678
MISCELLANEOUS ACCOUNT	1,973	1,973
SERVICES ACCOUNT	64,840	64,840
UTILITIES ACCOUNT	313,736	313,736
LEASING	358,241	358,241
MAINTENANCE OF REAL PROPERTY	495,836	484,016
INTEREST PAYMENTS	50	50
SUBTOTAL, OPERATION AND MAINTENANCE	1,380,390	1,363,570
PLUS APPROPRIATION FOR DEBT REDUCTION	127	127
TOTAL, FAMILY HOUSING, ARMY	1,556,117	1,523,819
FAMILY HOUSING, NAVY		
ALASKA		
ADAK NAVAL AIR STATION (46 UNITS)	11,820	---
CALIFORNIA		
MARINE CORPS BASE CAMP PENDLETON (300 UNITS)	30,600	30,600
NAVAL COMPLEX SAN DIEGO (300 UNITS)	30,400	30,400
CONNECTICUT		
NSB NEW LONDON (100 UNITS)	11,850	11,850
HAWAII		
BARKING SANDS PACIFIC MISSILE RANGE FAC (13 UNITS)	2,330	2,330
MILLER PARK (114 UNITS)	---	16,800
LYNCH PARK (42 UNITS)	---	6,370
MCAS KANEOHE (220 UNITS)	---	32,050
MCAS KANEOHE (80 UNITS)	---	11,920
MOANA LUA (100 UNITS)	---	11,800
PEARL CITY PENINSULA (132 UNITS)	---	23,590
NAS BARBERS POINT (70 UNITS)	---	14,650
NEW JERSEY		
NAVAL WEAPONS STATION EARLE (COMMUNITY CENTER)	1,100	1,100
WASHINGTON		
BREMERTON/KITSAP COUNTY (200 UNITS)	---	19,500
NAVAL SUBMARINE BASE BANGOR (200 UNITS)	19,500	19,500
WEST VIRGINIA		
SUGAR GROVE NAVAL RADIO STATION (8 UNITS)	930	930
GUAM		
PUBLIC WORKS CENTER (300 UNITS)	56,700	---
CONSTRUCTION IMPROVEMENTS	198,340	130,844
PLANNING	14,200	14,200
SUBTOTAL, CONSTRUCTION	377,770	378,434
OPERATION AND MAINTENANCE		
FURNISHINGS ACCOUNT	23,766	23,766
MANAGEMENT ACCOUNT	68,284	68,284
MISCELLANEOUS ACCOUNT	1,068	1,068
SERVICES ACCOUNT	41,549	41,549

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
UTILITIES ACCOUNT	194,110	194,110
LEASING	104,470	104,470
MAINTENANCE OF REAL PROPERTY	262,840	227,909
MORTGAGE INSURANCE PREMIUMS	90	90
SUBTOTAL, OPERATION AND MAINTENANCE	696,177	661,246
TOTAL, FAMILY HOUSING, NAVY	1,073,947	1,039,680
FAMILY HOUSING, AIR FORCE		
CALIFORNIA		
BEALE AFB (OFFICE)	306	306
MARCH AFB (320 UNITS)	25,351	38,351
FLORIDA		
PATRICK AFB (250 UNITS)	16,000	22,500
GEORGIA		
MOODY AFB (MAINTENANCE FACILITY)	290	290
ROBINS AFB (55 UNITS)	3,153	3,153
ILLINOIS		
SCOTT AFB		
HOUSING RELOCATION, PHASE I	---	20,000
LOUISIANA		
BARKSDALE AFB (MAINTENANCE AND STORAGE FACILITY)	443	443
NEW MEXICO		
CANNON AFB (361 UNITS)	32,951	32,951
CANNON AFB (OFFICE)	480	480
NORTH DAKOTA		
MINOT AFB (MAINTENANCE AND STORAGE FACILITY)	286	286
SOUTH CAROLINA		
SHAW AFB (OFFICE)	351	351
UTAH		
HILL AFB (82 UNITS)	6,353	6,353
PORTUGAL		
LAJES FIELD (WATER WELLS)	865	865
CONSTRUCTION IMPROVEMENTS	227,824	150,000
PLANNING	7,457	7,457
SUBTOTAL, CONSTRUCTION	322,110	283,786
OPERATION AND MAINTENANCE		
FURNISHINGS ACCOUNT	50,681	45,681
MANAGEMENT ACCOUNT	46,354	46,354
MISCELLANEOUS ACCOUNT	9,755	9,755
SERVICES ACCOUNT	26,633	26,633
UTILITIES ACCOUNT	261,052	261,052
LEASING	150,800	150,800
MAINTENANCE OF REAL PROPERTY	396,943	387,596
MORTGAGE INSURANCE PREMIUMS	70	70
SUBTOTAL, OPERATION AND MAINTENANCE	942,288	927,941
TOTAL, FAMILY HOUSING, AIR FORCE	1,264,398	1,211,727

INSTALLATION & PROJECT	BUDGET REQUEST	CONFERENCE AGREEMENT
FAMILY HOUSING, DEFENSE AGENCIES		
OPERATION AND MAINTENANCE		
FURNISHINGS ACCOUNT	1,893	1,893
MANAGEMENT ACCOUNT	194	194
MISCELLANEOUS ACCOUNT	8	8
SERVICES ACCOUNT	375	375
UTILITIES ACCOUNT	859	859
LEASING	23,559	23,559
MAINTENANCE OF REAL PROPERTY	1,512	1,512
TOTAL, FAMILY HOUSING, DEFENSE AGENCIES	28,400	28,400
HOMEOWNERS ASSISTANCE FUND		
OPERATING EXPENSES	133,000	133,000
BASE REALIGNMENT AND CLOSURE ACCOUNT, PART I		
BASE REALIGNMENT AND CLOSURE ACCOUNT PART I	440,700	415,700
BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II		
BASE REALIGNMENT AND CLOSURE ACCOUNT PART II	1,743,600	1,618,600
TOTAL, BASE REALIGNMENT AND CLOSURE ACCOUNTS	2,184,300	2,034,300

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1993 recommended by the Committee of Conference, with comparisons to the fiscal year 1992 amount, the 1993 budget estimates, and the House and Senate bills for 1993 follow:

New budget (obligational) authority, fiscal year 1992	$8,562,596,000
Budget estimates of new (obligational) authority, fiscal year 1993	8,389,833,000
House bill, fiscal year 1993	8,474,400,000
Senate bill, fiscal year 1993	8,197,067,000
Conference agreement, fiscal year 1993	8,389,000,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1992	−173,596,000
Budget estimates of new (obligational) authority, fiscal year 1993	−833,000
House bill, fiscal year 1993	−85,400,000
Senate bill, fiscal year 1993	+191,933,000

BILL HEFNER,
LINDSAY THOMAS,
TOM BEVILL,
BILL ALEXANDER,
JOSEPH D. EARLY,
NORM DICKS,
VIC FAZIO,
STENY HOYER,
JAMIE L. WHITTEN,
BILL LOWERY,
MICKEY EDWARDS,
TOM DELAY,
JIM LIGHTFOOT,
JOSEPH MCDADE,
Managers on the Part of the House.

JIM SASSER,
DANIEL K. INOUYE,
HARRY REID,
WYCHE FOWLER,
ROBERT C. BYRD,
PHIL GRAMM,
JAKE GARN,
TED STEVENS,
MARK O. HATFIELD,
Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BARNARD (at the request of Mr. GEPHARDT) for today and the balance of the week, on account of illness.

Mr. PENNY (at the request of Mr. GEPHARDT) for September 22 and 23, on account of death in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DANNEMEYER) to revise and extend their remarks and include extraneous material:)

Mr. DANNEMEYER, for 5 minutes each day, today and September 23 and 24.

Mr. RIGGS, for 60 minutes each day, September 23, 24, and 25.

(The following Members (at the request of Ms. PELOSI) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DYMALLY, for 60 minutes, today.

Ms. NORTON, for 60 minutes, today.

Mr. STOKES, for 60 minutes each day, on September 30 and October 2.

Ms. NORTON, for 60 minutes each day, on September 23, 24, and 25.

Mr. OBEY, for 60 minutes each day, today and on September 23, 24, 25, 28, 29, 30, October 1, 2, 3, 4, and 5.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HOBSON, today, for 30 minutes.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DANNEMEYER) and to include extraneous matter:)

Mr. PURSELL.
Mr. COUGHLIN.
Mr. PORTER.
Mr. SOLOMON.
Mr. GILMAN in 2 instances.
Mr. DUNCAN.
Mr. HORTON.
Mr. GEKAS.
Mr. CLINGER.
Mrs. VUCANOVICH.
Mr. CUNNINGHAM.
Mr. BROOMFIELD.
Mr. GUNDERSON.
Mr. RAMSTAD.
Mr. BILIRAKIS.

(The following Members (at the request of Ms. PELOSI) and to include extraneous matter:)

Mr. SOLARZ.
Mr. LANTOS.
Mr. YATRON.
Mr. KANJORSKI.
Mr. FASCELL in two instances.
Mr. ROE.
Mr. SABO.
Mr. APPLEGATE.
Mr. SMITH of Florida.
Mr. GUARINI.
Mr. THOMAS of Georgia.
Mr. KLECZKA.
Mr. JOHNSON of South Dakota.
Mr. NEAL of Massachusetts.
Mr. FOGLIETTA in two instances.
Mr. EDWARDS of California.
Mr. CLEMENT.
Mr. HAMILTON.
Ms. DELAURO.
Mr. RANGEL.
Mr. TRAFICANT.
Mr. DYMALLY.
Mr. HUBBARD.
Mr. ANTHONY.
Mrs. COLLINS of Michigan.
Mrs. SCHROEDER.
Mr. LEVIN of Michigan.
Mr. STOKES.
Mr. DE LUGO.
Mr. MATSUI.
Mr. SERRANO.
Mr. MARKEY.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2528. An act to amend chapter 37 of title 38, United States Code, to establish a pilot program for furnishing housing loans to Native American veterans, and for other purposes; to the Committee on Veterans' Affairs.

S. 2707. An act to authorize the minting and issuance of coins in commemoration of the Year of the Vietnam Veteran and the 10th anniversary of the dedication of the Vietnam Veterans Memorial, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 5318. An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 12. An act to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes.

ADJOURNMENT

Mr. MCEWEN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly, at 12 o'clock and 8 minutes a.m., the House adjourned until today, Wednesday, September 23, 1992, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4292. A letter from the Comptroller of the Department of Defense, transmitting a report of one violation involving the improper use of appropriations which occurred in the Department of the Air Force, pursuant to 31 U.S.C. 1351; to the Committee on Appropriations.

4293. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a letter from the Government of Mexico requesting the Department of State to convey to the Congress its concerns about the XXXIII (section 3301) of H.R. 5006, the Department of Defense Authorization for fiscal year 1993; to the Committee on Armed Services.

4294. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification that the President has determined that it is in the national interest to remove Albania from the application of subparagraph (2)(b)(2)(A) of the Export-Import Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4295. A letter from the President, Thrift Depositor Protection Oversight Board, transmitting the Board's report pursuant to section 21A(k)(9) of the Federal Home Loan Bank Act, as added by section 102(a)(3) of the Resolution Trust Corporation Funding Act of 1991; to the Committee on Banking, Finance and Urban Affairs.

4296. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the Department of the Air Force's proposed lease of defense articles to Singapore (Transmittal No. 20-92), pursuant to 22 U.S.C. 2796a(a); to the Committee on Foreign Affairs.

4297. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Turkey for defense articles and services (Transmittal No. 92-46), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

4298. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of intent to exercise authority under section 506(a)(2)(A)(i) of the Foreign Assistance Act of 1961, as amended, in order to provide military assistance to Colombia, pursuant to 22 U.S.C. 2318(b)(2); to the Committee on Foreign Affairs.

4299. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment sold commercially to Hong Kong (Transmittal No. DTC-34-92), pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

4300. A letter from the Administrator, General Services Administration, transmitting an informational copy of a lease prospectus, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4301. A letter from the Administrator, General Services Administration, transmitting an informational copy of a lease prospectus, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

4302. A letter from the Commission on Minority Business Development, Chairman, transmitting a copy of the final report of the U.S. Commission on Minority Business Development, pursuant to Public Law 100-656, section 505(b)(2)(A) (102 Stat. 3885); to the Committee on Small Business.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 2890. A bill to establish limits on the prices of drugs procured by the Department of Veterans Affairs, and for other purposes; with amendments (Rept. 102-384, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4542. A bill to prevent and deter auto theft; with an amendment (Rept. 102-851, Pt. 2). Ordered to be printed.

Mr. FORD of Michigan: Committee on Education and Labor. H.R. 5730. A bill to amend the Toxic Substances Control Act to reduce the levels of lead in the environment, and for other purposes; with amendments (Rept. 102-852, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5726. A bill to amend the Investment Advisers Act of 1940 to improve the supervision of investment advisers, to provide additional investor protections, and for other purposes; with an amendment (Rept. 102-883). Referred to the Committee of the Whole House on the State of the Union.

Mr. BROOKS: Committee on the Judiciary. H.R. 5716. A bill to extend for 2 years the authorizations of appropriations for certain programs under title I of the Omnibus Crime Control and Safe Streets Act of 1968. (Rept. 102-884). Referred to the Committee of the Whole House on the State of the Union.

Mr. STUDDS: Committee on Merchant Marine and Fisheries. H.R. 2919. A bill to amend the Magnuson Fishery Conservation and Management Act to provide for the restoration of New England stocks of groundfish, and for other purposes; with an amendment (Rept. 102-885, Pt. 1). Ordered to be printed.

Mr. DINGELL: Committee of Conference. Conference Report on H.R. 2194 (Rept. 102-886). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4252. A bill to provide for a 3-year extension of a certain Medicaid health maintenance organization waiver; with amendments (Rept. 102-887). Referred to the Committee of the Whole House on the State of the Union.

Mr. HEFNER: Committee of Conference. Conference Report on H.R. 5428. (Rept. 102-888). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5938. A bill to amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes; with an amendment (Rept. 102-889). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 4313. A bill to amend the Securities Exchange Act of 1934 to impose additional fraud detection and disclosure obligations on auditors of public companies; with an amendment (Rept. No. 102-890). Referred to the Committee of the Whole House on the State of the Union.

Mr. BEILENSON: Committee on Rules. House Resolution 576. Resolution waiving points of order against the conference report on the bill (H.R. 2194) to amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities, and against consideration of such conference report. (Rept. No. 102-891). Referred to the House Calendar.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5673. A bill to amend the Public Health Service Act to revise and extend the programs of the Agency for Health Care Policy and Research; with an amendment (Rept. No. 102-892). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. House Joint Resolution 383. Joint Resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920; with amendments (Rept. No. 102-893). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. S. 1607. A bill to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes. (Rept. No. 102-894). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 5952. A bill to amend the Federal Food, Drug, and Cosmetic Act to authorize prescription drug application, establishment, and product fees, and for other purposes; with an amendment (Rept. No. 102-895). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the Speaker:

[Omitted from the Record of September 18, 1992]

H.R. 4542. Referral to the Committee on Public Works and Transportation extended for a period ending not later than September 22, 1992.

[Submitted September 22, 1992]

H.R. 4542. The Committee on Public Works and Transportation discharged from further consideration of H.R. 4542.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SWETT (for himself, Mr. MCCRERY, Mr. HOLLOWAY, and Mr. BAKER):

H.R. 5981. A bill to direct the President to award the Navy Expeditionary Medal to officers and enlisted men of the U.S. Navy and Marine Corps who served on the ships of Task Force 16.1 and 16.2, including the U.S.S. *Hornet*, that participated in the raid led by Lt. Col. James H. Doolittle on Tokyo in April 1942; to the Committee on Armed Services.

By Mr. BROOKS (for himself, Mr. DINGELL, Mr. FISH, Mr. LENT, Mr. HUGHES, Mrs. COLLINS of Illinois, Mr. MOORHEAD, and Mr. MCMILLAN of North Carolina):

H.R. 5982. A bill to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes; jointly, to the Committees on the Judiciary, Energy and Commerce, and Ways and Means.

By Mr. ROSE (for himself, Mr. THOMAS of California, and Mr. ROBERTS):

H.R. 5983. A bill to establish in the Government Printing Office a means of enhancing electronic public access in the wide range of Federal electronic information; to the Committee on House Administration.

By Mr. ACKERMAN:

H.R. 5984. A bill to amend the Federal Aviation Act of 1958 to establish a maximum amount an air carrier may charge for changing the departure time or date or the arrival time or date for a prepaid airline ticket; to the Committee on Public Works and Transportation.

By Ms. DELAURO:

H.R. 5985. A bill to amend title XVIII of the Social Security Act to provide for coverage under part B of the Medicare Program of paramedic intercept services provided in support of public, volunteer, or nonprofit providers of ambulance services; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. GLICKMAN:

H.R. 5986. A bill relating to the tariff treatment of broomcorn; to the Committee on Ways and Means.

By Mr. KOSTMAYER:

H.R. 5987. A bill to amend the Farmland Protection Policy Act to extend the protections of such act to farmland zoned for residential or commercial development; to the Committee on Agriculture.

By Mr. LEWIS of Florida:

H.R. 5988. A bill to provide standards for imported tangerines and other citrus hybrids; jointly, to the Committees on Agriculture and Ways and Means.

By Mr. McEWEN:

H.R. 5989. A bill to provide for universal coverage and choice of health insurance, and for other purposes; jointly, to the Committees on Ways and Means, Energy and Commerce, Education and Labor, and the Judiciary.

By Mr. NOWAK:

H.R. 5990. A bill to amend the Federal Water Pollution Control Act to provide for assessments of contaminated sediments at areas of concern in the Great Lakes, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. OWENS of Utah:

H.R. 5991. A bill to amend title XVI of the Social Security Act to increase the level of assets permitted under the supplemental security income program, to eliminate the one-third reduction of benefits required for beneficiaries receiving in kind support or maintenance from the persons with whom they are living, and to provide that eligibility for, and the amount of, such benefits be determined without regard to certain trust transactions and without regard to the value of donated clothing; to the Committee on Ways and Means.

By Mr. SCHEUER:

H.R. 5992. A bill to modernize the technology and operations of the National Weather Service; to the Committee on Science, Space, and Technology.

By Mr. SHAYS (for himself and Mr. MFUME):

H.R. 5993. A bill to establish a program of mandatory national service for young people in the United States; jointly, to the Committees on Education and Labor, Ways and Means, Foreign Affairs, Energy and Commerce, and Post Office and Civil Service.

By Mr. TRAFICANT:

H.R. 5994. A bill to prohibit arms sales to Saudi Arabia until certain commercial disputes with Saudi Arabia are satisfactorily resolved; to the Committee on Foreign Affairs.

By Mr. HORTON (for himself and Mr. CLINGER):

H.R. 5995. A bill to amend the Federal Claims Collection Act of 1966, as amended by the Debt Collection Act of 1982; to amend the Deficit Reduction Act of 1984; and for other purposes; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. DYMALLY (for himself, Mr. GINGRICH, Mr. HOYER, Mrs. MORELLA, Mr. Towns, Mr. SCHEUER, and Mr. MINETA):

H.J. Res. 552. Joint resolution authorizing the Coalition for a National Memorial to Mahatma Gandhi to establish a memorial to Mahatma Gandhi in the District of Columbia or its environs; to the Committee on House Administration.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. CUNNINGHAM introduced a bill (H.R. 5996) for the relief of Charles Richmond; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. GUNDERSON, Mr. STEARNS, Mr. TAYLOR of Mississippi, Mr. RAMSTAD, Mr. ESPY, Mr. GEPHARDT, Mr. BACCHUS, Mr. BARTON of Texas, Mr. KOLBE, and Mr. RANGEL.

H.R. 78: Mr. PORTER.

H.R. 967: Mr. CRAMER.

H.R. 1188: Mr. PENNY and Mr. RHODES.

H.R. 1253: Ms. SLAUGHTER.

H.R. 1481: Mr. HANCOCK.

H.R. 1485: Mr. SCHIFF.

H.R. 1598: Mr. SUNDQUIST.

H.R. 2248: Mr. PRICE and Mr. EVANS.

H.R. 2385: Mr. RAVENEL, and Mr. SHAW.

H.R. 2890: Mr. CRAMER.

H.R. 3071: Mr. EWING.

H.R. 3598: Mr. VISCLOSKY.

H.R. 3849: Mr. LAFALCE and Mr. RIGGS.

H.R. 4206: Mr. GEJDENSON.

H.R. 4222: Ms. DELAURO.

H.R. 4280: Mr. GRANDY.

H.R. 4315: Mr. STUMP.

H.R. 4354: Mr. BONIOR.

H.R. 4399: Mr. OWENS of Utah.

H.R. 4418: Mr. WYLIE, Mr. PASTOR, Mr. FAWELL, and Mr. SENSENBRENNER.

H.R. 4542: Mr. HUGHES, Mr. EMERSON, Mr. WELDON, Mr. SKAGGS, Mr. BROWN, Mr. LEWIS of California, Mr. ANNUNZIO, Mr. CAMPBELL of Colorado, Mr. GEJDENSON, Mr. FORD of Tennessee, Mr. GIBBONS, Mr. ESPY, Mrs. MORELLA, Mrs. BYRON, Mr. BURTON of Indiana, Mr. WHEAT, Mr. DANNEMEYER, Mr. OBERSTAR, Mr. MILLER of California, Mr. SIKORSKI, Mr. KENNEDY, and Mr. COX of California.

H.R. 4543: Mr. BEREUTER.

H.R. 4961: Mr. YOUNG of Alaska.

H.R. 5020: Mr. ROE.

H.R. 5153: Mrs. VUCANOVICH.

H.R. 5216: Mr. BARNARD, Mr. LEHMAN of Florida, Mr. JAMES, and Mr. HARRIS.

H.R. 5229: Mr. PAXON.

H.R. 5250: Mr. SANGMEISTER, Mr. MCEWEN, Mr. PACKARD, and Mr. DURBIN.

H.R. 5263: Mr. EWING.

H.R. 5307: Mr. CRAMER and Mr. VISCLOSKY.

H.R. 5317: Mr. STALLINGS.

H.R. 5321: Mr. KOPETSKI, Mr. YOUNG of Alaska, Mr. SANGMEISTER, Mr. BILBRAY, Mr. STALLINGS, and Mr. SCHIFF.

H.R. 5340: Mr. WOLF, Mr. BLACKWELL, and Mr. ROE.

H.R. 5406: Mr. FAZIO.

H.R. 5434: Ms. DELAURO.

H.R. 5514: Mr. MOAKLEY.

H.R. 5542: Mr. HYDE.

H.R. 5665: Mrs. LLOYD.

H.R. 5684: Ms. KAPTUR.

H.R. 5703: Mr. UPTON, Mr. DELAY, and Mr. MOORHEAD.

H.R. 5710: Mr. HAYES of Louisiana.

H.R. 5711: Mr. MONTGOMERY and Mr. PORTER.

H.R. 5745: Mr. NEAL of North Carolina and Mr. RITTER.

H.R. 5777: Mr. DORGAN of North Dakota.

H.R. 5819: Mr. LIPINSKI, Mr. GUARINI, and Mr. GILMOR.

H.R. 5832: Mr. SAWYER and Mr. BEREUTER.

H.R. 5897: Mr. DOOLITTLE and Mr. RIGGS.

H.R. 5921: Mr. COMBEST, Mr. HANCOCK, Mr. TAUZIN, Mr. BLAZ, Mr. POSHARD, Mr. CAMP, Mrs. LLOYD, Mr. ARMEY, Mr. BALLENGER, Mr. MCCANDLESS, and Mr. IRELAND.

H.R. 5927: Mr. LEWIS of Florida, Mrs. BENTLEY, Mr. PORTER, and Mr. SENSENBRENNER.

H.R. 5938: Mr. MANTON, Mr. ROSE, Mr. STOKES, Mr. HOCHBRUECKNER, Mr. HARRIS, Mr. EVANS, Mr. MAZZOLI, Mr. BLACKWELL, and Ms. HORN.

H.R. 5947: Mr. ANDERSON, Mr. ALLEN, and Mr. BAKER.

H.R. 5957: Ms. SLAUGHTER, Mr. VISCLOSKY, Mr. SAWYER, and Mr. GEJDENSON.

H.J. Res. 380: Mr. MCEWEN, Mr. MCCANDLESS, Mr. ROGERS, Mr. OXLEY, Mr. FAWELL, Mrs. LLOYD, Mr. PANETTA, Mr. AUCOIN, Mr. DORGAN of North Dakota, and Mr. ALLEN.

H.J. Res. 399: Mr. BONIOR, Mr. FAZIO, and Mr. DICKINSON.

H.J. Res. 431: Mr. SCHIFF, Mr. HAYES of Louisiana, Mr. JOHNSON of Texas, Mr. SPRATT, Mrs. PATTERSON, Mr. MCEWEN, Mr. KASICH, Mr. MCCRERY, Mr. FLAKE, Mr. CHAPMAN, Mr. WILSON, Mr. SCHUMER, Mr. JENKINS, Mr. GEPHARDT, Mr. NEAL of North Carolina, Mr. WASHINGTON, Mr. RIDGE, Mr. BAKER, Mr. FRANK of Massachusetts, and Mr. SARPALIUS.

H.J. Res. 479: Mr. BROWDER, Mr. HOBSON, Mr. CARPER, Mr. OWENS of Utah, Mr. SOLOMON, Mr. ROE, Mr. BLILEY, and Mr. MYERS of Indiana.

H.J. Res. 484: Mr. PASTOR, Mr. MAVROULES, Mr. RUSSO, Mr. ACKERMAN, Mr. COX of California, Mr. DOOLITTLE, Mr. GEREN of Texas, Mr. HOCHBRUECKNER, Mr. HUBBARD, Mr. LANTOS, Mr. LEHMAN of Florida, Mr. MARKEY, Mr. RAVENEL, Mr. ROYBAL, Mr. CONYERS, and Mr. SKEEN.

H.J. Res. 489: Mr. ALLEN, Mr. LOWERY of California, Mr. MORAN, Mr. MURPHY, Mr. ROYBAL, Mr. TORRES, Mr. BACCHUS, Mr. KANJORSKI, Mr. QUILLEN, Ms. MOLINARI, Mr. ARMEY, Mr. KOLBE, Mr. DANNEMEYER, Mr. NAGLE, Mr. KILDEE, Mr. PASTOR, Mr. ABERCROMBIE, Mr. ROSE, Mr. PALLONE, and Mr. SCHEUER.

H.J. Res. 500: Mr. ASPIN, Mr. COOPER, Mr. ERDREICH, Mr. LAGOMARSINO, Mr. MCEWEN, Mr. NOWAK, Mr. PETERSON of Minnesota, Mr. SHARP, Mr. SMITH of Texas, Mr. YOUNG of Alaska, and Mr. DREIER of California.

H.J. Res. 531: Mr. MCCOLLUM, Mr. CLEMENT, Mr. BURTON of Indiana, Mr. MARTINEZ, Mr. MCDERMOTT, Mr. BACCHUS, and Mr. HAYES of Illinois.

H.J. Res. 534: Ms. MOLINARI, Mr. ROTH, Mr. WILSON, and Mr. HUTTO.

H.J. Res. 538: Mr. LEWIS of Florida, Mr. SKEEN, Mr. DYMALLY, Mr. FAZIO, Ms. MOLINARI, Mr. OLVER, Mr. DE LA GARZA, and Mr. NEAL of Massachusetts.

H.J. Res. 540: Mr. BUSTAMANTE, Mr. TANNER, and Mr. BILIRAKIS.

H.J. Res. 543: Mr. MORAN, Mr. HALL of Ohio, Mr. SOLOMON, Mr. KLUG, Mr. FISH, Mr. ERDREICH, Ms. NORTON, Mr. MCNULTY, Mr. BACCHUS, Mr. LAGOMARSINO, Mr. DEFAZIO, Mrs. BYRON, Mr. LIPINSKI, Mr. KLECZKA, Mr. JONTZ, Mr. ANNUNZIO, Mr. BUSTAMANTE, Mr. FAWELL, Mr. DIXON, Mr. PRICE, Mr. SABO, Mr. EMERSON, Mr. CRAMER, Mr. FLAKE, Ms. KAPTUR, Mr. DOOLITTLE, Mr. WAXMAN, Mr. DUNCAN, Mr. MCDERMOTT, Mr. WILSON, Mr. CON-

Yers, Mr. Spratt, Mr. Stallings, Mr. Sanders, Mr. Foglietta, and Mr. Horton.

H.J. Res. 546: Mr. Blackwell, Mr. Downey, Mr. Gallo, Mr. Ireland, Mr. Jones of Georgia, Mr. Kostmayer, Mr. Leach, Mr. McDermott, Mr. McHugh, Mr. Smith of Florida, Mr. Volkmer, Mr. Wyden, Mr. Kildee, Mr. Colorado, Mr. Moakley, Mr. Murtha, Mr. Thomas of Georgia, Mr. Callahan, Mr. Spence, Mr. Manton, Mr. Wilson, Mr. Wylie, Mrs. Byron, Mrs. Lowey of New York, Mr. Brown, Mr. Johnson of South Dakota, Mr. Chandler, Mr. Kennedy, Mr. Hutto, Mr. Abercrombie, Mr. Jenkins, Mr. Jefferson, Mr. Stenholm, and Mr. Pastor.

H.J. Res. 551: Mrs. Morella, Mr. Gallo, Mrs. Roukema, Mr. Smith of New Jersey, Mr. Dickinson, Mr. Hyde, Mr. Doolittle, Mr. Bacchus, Mr. Parker, Mr. Panetta, Mr. Roe, Mr. Montgomery, Mr. Johnson of South Dakota, Mr. Mazzoli, Mr. Lipinski, Mr. Beilenson, Mr. Moran, Mr. Dymally, Mr. Martinez, Mr. Walsh, Mr. Wolf, Mr. Gonzalez, Mr. Spratt, Ms. Norton, Mr. McCloskey, Mr. Hochbrueckner, Mr. Bevill, Mr. Visclosky, Mr. Hall of Texas, Mr. Lehman of Florida, Mr. Clinger, Mr. Bilirakis, Mr. Donnelly, Mr. Lewis of Florida, Mrs. Byron, Mr. Hutto, Mrs. Unsoeld, and Mr. Shaw.

H. Con. Res. 254: Mr. Borski.

H. Con. Res. 344: Mr. Green of New York, Mr. Carper, and Mr. Sawyer.

H. Con. Res. 354: Mr. AuCoin, Mr. Bilirakis, Ms. DeLauro, Mr. Dooley, Mr. Emerson, Mr. Engel, Mr. Erdreich, Mr. Fazio, Mr. Goodling, Mr. Hastert, Mr. Kildee, Mr. Lancaster, Mr. Skeen, Mr. Smith of Texas, Mr. Solarz, Mr. Stump, Mr. Vander Jagt, and Mr. Wilson.

H. Res. 515: Mr. Levin of Michigan, Mr. Sawyer, Ms. Horn, and Mr. Moody.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 918

By Mrs. VUCANOVICH:

—Page 2, line 3, delete "REFERENCES" and insert in lieu thereof "PURPOSE".

—Page 3, line 4, insert:

(a) It is the purpose of this Act to carry out the policies of the United States expressed in the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) and the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1601 and following).

—Page 3, line 4, delete "(a)" and insert "(b)".

—Page 3, lines 6–8, delete "on the first day of the first month following the date a mining claim is located under this Act" and insert "on the first day of September and ending on the thirty-first day of the following August."

—Page 5, line 8, delete "downstream of" and insert in lieu thereof "other than."

—Page 5, line 12, insert the phrase "allocated or converted under this Act" after the phrase "means a claim."

—Page 6, line 14, add the phrase "expenditures and/or undertakings made in pursuit of mineral activities, including without limitation," after the word "means."

—Page 6, line 15, insert the phrase "explore or" after the word "to.'

—Page 6, line 19, insert the phrase "and reclamation" after the word "activities."

—Page 6, line 21, delete "alone without" and insert in lieu thereof "together with."

—Page 6, line 22, delete the word"not."

—Page 7, line 3, insert "pursuant to specific authority under this act" after the phrase "mineral activities."

—Page 7, line 16, delete in subsection (c) the word "Act." and insert in lieu thereof "Act, and nothing in this Act shall be construed so as to apply to mineral activities and reclamation on private lands or state lands or any other lands not owned by the federal government."

—Page 7, line 24, insert "or"

—Page 8, lines 2 and 3, delete "section 204(f) or"

—Page 8, line 3, insert "the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714)., after the phrase "section 205 of"

—Page 8, line 3, delete "this Act".

—Page 8, line 11, insert "and the locatable minerals therein" after the phrase "of the claimed land"

—Page 8, line 13, insert "only" after the word "subject."

—Page 10, line 4, insert "no more than" prior to "40."

—Page 11, line 25, insert an additional sentence, "Such adjudication shall be final agency action subject to judicial review in the United States District Court for the district in which the claims are located. The U.S. District Court shall have jurisdiction without regard to the amount in controversy or to the citizenship of the parties."

—Page 13, line 4, delete "$5" and insert in lieu thereof "$2.50", and insert the phrase "(but not less than $100 per claim)" after the phrase "per acre."

—Page 13, line 5, delete "fifth" and insert in lieu thereof "tenth."

—Page 13, line 6, delete $10" and insert in lieu thereof "$5", insert the phrase "(but not less than $200 per claim)" after the phrase "per acre", and delete the term "sixth" and insert in lieu thereof the term "eleventh."

—Page 13, line 7, delete "tenth" and insert in lieu thereof "fifteenth."

—Page 13, line 8, delete "$15" and insert in lieu thereof "$7.50," insert the phrase "(but not less than $300 per claim)" after the phrase "per acre," and delete the term "eleventh" and insert in lieu thereof "sixteenth."

—Page 13, line 9, delete "fifteenth" and insert in lieu thereof "twentieth."

—Page 13, line 11, delete "$20" and insert in lieu thereof "$10", and insert the phrase "(but not less than $400 per claim)" after the phrase "per acre."

—Page 13, lines 11–16, delete "sixteenth" and all of lines 12–16, and insert in lieu thereof the phrase "the twenty-first diligence year following the location of the claim, and each diligence year thereafter."

—Page 14, line 10, delete the word "contiguous."

—Page 14, line 12, delete the word "contiguous."

—Page 14, line 18, insert the phrase "mineral activities such as those made for" after the phrase "those made for."

—Page 14, line 24, delete the word "and" and insert the phrase "and feasibility" after "engineering."

—Page 15, line 2, insert the phrase "and mining" after "exploration."

—Page 15, lines 6 and 7, delete item (G) in its entirety.

—Page 16, line 11, insert the phrase "including the inability to obtain required federal, state or local permits required for conducting mineral activities" after the word "action" and delete the word "or."

—Page 16, line 22, insert the word "or" after "thereon;" and insert a new item "(iii) pending deferment under Section 104(g) of this Act."

—Page 17, lines 20–22, delete the phrase "the date which is the last day of the third calendar month after the anniversary date of each diligence year for such claim" and insert in lieu thereof "December 31st of each year."

—Page 19, line 6, delete "subsection (d)" and insert in lieu thereof "this section".

—Page 19, line 7, delete "10" and insert in lieu thereof "30."

—Page 19, line 12, delete "subsection (d)" and insert in lieu thereof "this section"

—Page 19, lines 13 and 14, delete "within 10 days after date of the notice referred to in subsection (d)(2)" and insert in lieu thereof "within a reasonable period of time after notice from the Secretary."

—Page 19, lines 15–18, delete the phrase "and if the Secretary determines that such failure was justifiable or not due to a lack of reasonable diligence on the part of the claim holder, or that such failure was inadvertent."

—Page 19, line 19, insert the phrase "not more frequently than annually" after "authorized."

—Page 19, line 20, delete the word "such" and delete the phrase "as he deems necessary."

—Page 20, line 20, delete the phrase "the holder of" and insert in lieu thereof "seeking to conduct mineral activities pursuant to a plan of operations covering."

—Page 20, line 24, delete the phrase "the holder of" and insert in lieu thereof "seeking to conduct or conducting mineral activities pursuant to a plan of operations covering."

—Page 21, line 8, delete "or willfully" and insert in lieu thereof, "and willfully"

—Page 21, line 12, delete "or willfully" and insert in lieu thereof "and willfully"

—Page 21, line 16, insert "unreasonably" after "(3)."

—Page 21, line 21, insert "and no penalty under section 104" after the phrase "No civil penalty under this section"

—Page 22, line 10, delete in subsection (a) "February 6, 1991,". Insert in lieu thereof "the effective date of this Act,".

—Page 22, lines 12–14, delete in subsection (a) "unless the Secretary of the Interior determines that, for the claim concerned—"; delete lines 15–16 in subsection (a)(1). Insert in lieu thereof "unless a patent application or mineral survey application was filed with the Secretary for the claim concerned on or before the date 3 years after the effective date of this Act."

—Page 22, lines 17–22, delete subsection 107(a)(2).

—Page 22, lines 23–24, delete in subsection (a) "the Secretary makes the determinations referred to in paragraphs (1) and (2)" and insert in lieu thereof "a patent application or mineral survey application is so filed."

—Page 23, lines 2–3, delete in subsection (a) "Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States " and insert in lieu thereof "Act."

—Page 23, line 5, delete in subsection (b) "February 6, 1991." Insert in lieu thereof "the effective date of this Act."

—Page 23, lines 7–9, delete "unless the Secretary of the Interior determines that for the mill site concerned—"; delete subsection (b)(1), lines 10–12, Insert in lieu thereof "unless a patent application or mineral survey application for such land was filed with the Secretary on or before the date 3 years after the effective date of this Act."

—Page 23, lines 13–14, delete subsection 107(b)(2) in its entirety.

—Page 23, lines 15–16, delete in subsection (b) "the Secretary makes the determinations referred to in paragraphs (1) and (2)" and insert in lieu thereof "a patent application or mineral survey application is so filed"

—Page 23, lines 20–22, delete in subsection (b) "Act, unless and until such determinations are withdrawn or invalidated by the Secretary of State or by a court of the United States " and insert in lieu thereof "Act."

—Page 27, line 11, delete in subsection (a) "environment." and insert in lieu thereof "environment, and prevent unnecessary and undue degradation of the lands, provided, however, that such claim holders shall have the right to develop, produce and process locatable minerals discovered within their claims."

—Page 31, lines 4–8, delete subsection (d)(11) in its entirety and renumber accordingly.

—Page 32, lines 15–18, delete subsection (e)(7) in its entirety and renumber accordingly.

—Page 34, lines 15–23, delete subsections (g)(1)(C)–(D) in their entirety and renumber accordingly.

—Page 38, line 23, delete in subsection (j) "Secretary." and insert in lieu thereof "Secretary. The Secretary shall consider the costs and operational practicability when modifying plans of operation and the Secretary shall not modify or place restrictions or conditions on plans of operations that would cause mineral activities to be commercially impracticable."

—Page 43, line 23–25, page 44, lines 1–2, delete in subsection (m)(1) "restored to a condition capable of supporting the uses to which such lands were capable of supporting prior to surface disturbance, or other beneficial uses, provided such other uses are not inconsistent with applicable land use plans" and insert in lieu thereof "reclaimed to the extent that such reclamation is technologically and economically practicable considering the value of the minerals produced and the value of the land for other uses."

—Page 44, line 12, in subsection (n) after the word "establish", insert the words "reasonable and technologically and economically practicable".

—Page 44, delete in subsection (m)(3) lines 7–10 in their entirety.

—Page 44, lines 12–13, delete in subsection (n) ", but not necessarily be limited to,"

—Page 46, delete in subsection (n)(4) lines 3–24.

—Page 47, delete in subsection (n)(4) lines 1–2.

—Page 47, delete in subsection (n)(5) lines 3–14.

—Page 52, line 2, insert:

(p) If a claim holder establishes that mineral values remain in a mined area that could be produced in the future, the Secretary shall waive any of the requirements of this section that would impose an unreasonable additional cost on the resumption of mining

—Page 53, line 12, delete in subsection (b)(1) "determines" and insert in lieu thereof, "establishes by substantial evidence"

—Page 53, line 14, delete in subsection (b)(1), after the word "violation", insert "in any material respect"

—Page 53, line 16, delete in subsection (b)(1) "shall issue" and insert in lieu thereof, "may issue"

—Page 53, lines 21–22, delete in subsection (b)(1) "the Secretary or authorized representative finds that"

—Page 53, line 23, delete in subsection (b)(1) "he shall" and insert in lieu thereof ", the Secretary or authorized representative may"

—Page 53, lines 24–25, delete in subsection (b)(1) "all mineral activities or the portion thereof relevant to the violation" and insert in lieu thereof "the portion of mineral activities relevant to the violation."

—Page 54, lines 1–2, delete in subsection (b)(2) "determines" and insert in lieu thereof "establishes by substantial evidence"

—Page 54, lines 2–3, delete in subsection (b)(2) "that any condition or practice exists, or"

—Page 54, line 5, in subsection (b)(2) after the word "violation", insert "in any material respect"

—Page 54, line 6, delete in subsection (b)(2) "such condition, practice or" and insert in lieu thereof "that"

—Page 54, line 8, in subsection (b)(2)(A) after the word "imminent", insert "and significant"

—Page 54, line 10, delete in subsection (b)(2)(B) "significant, imminent" and insert in lieu thereof, "unnecessary, significant and imminent"

—Page 54, line 12, delete in subsection (b)(2) "shall" and insert in lieu thereof "may"

—Page 54, lines 13–14, delete in subsection (b)(2) "mineral activities or the portion thereof relevant to the condition, practice or violation" and insert in lieu thereof "the portion of the mineral activities relevant to the violation."

—Page 54, line 16, in subsection (b)(3)(A) after the word "(2)", insert "or a suspension order pursuant to section 201(g)(3)(B)"

—Page 54, line 18, delete in subsection (b)(3)(A) "condition" practice or"

—Page 54, line 22, delete in subsection (b)(3)(A) "shall" and insert in lieu thereof "may"

—Page 54, line 23, delete in subsection (b)(3)(A) "possible, and shall," and insert in lieu thereof "practicable, and may,"

—Page 55, line 8, delete in subsection (b)(3)(B) after the phrase "subsection (f)", insert "and an appeal to a court of competent jurisdiction. The operator or person conducting mineral activities shall have the right to continue mineral activities provided for in the plan of operations during such hearing and appeal unless the Secretary obtains an order from a court of competent jurisdiction that the operator or person conducting mineral activities must cease such mineral activities."

—Sec. 204. *Unsuitability Review*. should be deleted in its entirety. (page 66, line 23 through page 74, line 25)

—Page 82, line 13, in subsection (a) after the word "Enforcement" add "for lands and waters eligible for reclamation expenditures under Section 423 of this Act."

—Page 86, delete all of Section 402, lines 11–21, in their entirety and renumber accordingly.

—Page 86, line 16, delete "requirements." and insert in lieu thereof "requirements, provided that such fees shall not exceed $5.00 per claim."

—Page 88, line 25 of subsection (a)(1), delete "subsections (a), (b), (c), (d)(1), (f), and (h) of sec-" and insert in lieu thereof "subsections (a), (b), (c), (d)(1), (f), (g), and (h) of sec-"

—Page 92, delete lines 8–15 of subsection (e) and insert in lieu thereof, "(e) DISPOSITION OF LAND.—No mining claim shall be located under this Act on lands encumbered by a prior mining claim or mill site located under the general mining laws unless the claim or mill site located under the general mining laws is void or invalid under this section."

—Page 92, line 17 of subsection (f), delete the words "the date of enactment" and insert in lieu thereof "the effective date"; delete lines 20–21 of subsection (f) and insert in lieu thereof "laws governing such conflicts in effect on the effective date of this Act in a court of proper jurisdiction."

—Page 96, lines 6–7 of subsection (c)(2), delete the words "and the operation is fully engaged"

—Page 96, line 10 of subsection (c)(3), delete "make each of the following determinations:" and insert in lieu thereof "determine that"; delete in their entirety lines 11–19 of subsection (c)(3); line 20, delete "(D)"; lines 21–22, delete "other Federal requirements, and State" and in lieu thereof insert "applicable Federal and State requirements and"

—Page 76, line 19, add the following section:

"Sec. 406. Takings.

"Whenever the Secretary shall make a determination of unsuitability, the determination shall be deemed a taking of property under the Fifth Amendment of the United States Constitution and any person with a property interest in such lands deemed unsuitable for mining shall be entitled to just compensation therefor from the Secretary."

—Page 98, line 25 of subsection (a), delete "not"

—Page 99, line 1 of subsection (a), delete "until" and insert in lieu thereof "unless"; line 2, delete "valid" and insert in lieu thereof "invalid"

—Page 99, line 19 of subsection (c), delete "completion of the contest proceeding." and insert in lieu thereof "final judgment by a court of competent jurisdiction determining the validity of the claim."

—Page 100, line 2, delete "shall" and insert in lieu thereof "may"; delete lines 5–10 and insert in lieu thereof "10 years following the date of enactment of this Act, using appropriate indices for the mining industry, including but not limited to the price of mineral produced and the costs of operating a mine."

—Sec. 410. *Royalty*. should be deleted in its entirety (page 100, line 11 through page 102, line 14).

—Page 100, line 18, delete from subsection (a) "income from the production of such locatable minerals or concentrates, as the case may be." and insert in lieu thereof "value of such locatable minerals at the mouth of the mine."

—Page 102, line 5, delete from subsection (g) "income" and insert in lieu thereof "value"; line 7, add the following "Gross value shall be the value of locatable minerals at the mouth of the mine. Gross value may be defined as actual proceeds of sale of the locatable minerals or products therefrom, less the costs of beneficiation, processing, transportation to the point of sale, and less severance taxes levied upon the same locatable mineral or product by State or local government subdivisions."

—Page 104, add a new subsection (d) as follows:

"(d) PROTECTION OF VALID EXISTING RIGHTS.—Any person with a valid, existing right under the general mining laws, or any other law, which is rendered null or void by the operation of this section or any other part of this Act shall be entitled to bring an action under the Fifth Amendment of the United States Constitution for a taking of property and shall be entitled to compensation therefor."

EXTENSIONS OF REMARKS

FEDERAL CREDIT AND DEBT MANAGEMENT ACT OF 1992

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. HORTON. Mr. Speaker, it is with great pleasure that I am introducing at the request of the Bush administration, the Federal Credit and Debt Management Act of 1992. Enactment of this proposal would improve the collection of delinquent debt and establish policies to prevent new delinquencies.

This bill represents another in a long line of good government measures proposed or implemented by the Bush administration. Following enactment of the Chief Financial Officers Act of 1990, the new OMB Deputy Director Frank Hodsoll and the new controller at OMB's Office of Federal Financial Management Ed Mazur have worked hard to get the Federal Government's financial management house in order. They have done a fine job and I appreciate their assistance in crafting this legislation.

The measures proposed in this bill are much needed. At the end of fiscal year 1991, non-tax debt owed the Federal Government totaled about $230 billion; of this amount, $46 billion was delinquent. Outstanding Federal guarantees totaled $653 billion.

To increase Federal agencies' ability to collect delinquent debt, this proposal would:

First, require agencies to use aggressively all available debt collection techniques in a cost-effective manner.

Second, require agencies to refer all delinquent debt, including corporate debt, to the Internal Revenue Service [IRS] for offset against income tax refunds due the delinquent debtors.

Third, simplify the assessment of late fees on delinquent debt and authorize agencies to retain a portion of any increase in late fees recovered as a result of the new fee structure.

Fourth, permanently authorize the Attorney General to use private counsel to supplement Justice Department resources to litigate and collect Federal debts.

Fifth, clarify the authority of Federal agencies to use IRS address information in the collection of delinquent debt.

Sixth, require IRS to determine annually whether any Federal employees are delinquent on tax debt, in order to facilitate collection of the delinquent debt.

Seventh, clarify that agencies are not required to follow cumbersome administrative offset procedures when they have a common law right to offset in contract disputes.

Eighth, prohibit an individual or business currently delinquent on a debt to the Federal Government from receiving additional Federal financial assistance.

Ninth, establish government requirements for the management of guaranteed loans, including the use of agreements with private lenders and loan servicers.

Tenth, allow the reporting of nondelinquent consumer debt owed to the Federal Government to credit bureaus.

A much more detailed summary is attached to the end of these statements.

The Federal Credit and Debt Management Act of 1992 would increase receipts by $94 billion in fiscal year 1992, the fiscal year 1992 increase represents the net present value in 1992 of cash collections that will occur over several years, and by $10 million annually from fiscal year 1993 through fiscal year 1997.

I certainly understand that Congress is not likely to focus on the measure at this late date in the year. I do urge my colleagues on the Government Operations Committee to give this matter their earliest attention during the next Congress.

FEDERAL CREDIT AND DEBT MANAGEMENT ACT OF 1992

SECTION-BY-SECTION ANALYSIS

This bill, the "Federal Credit and Debt Management Act of 1992" (the "Act"), will improve the collection of delinquent Federal debt and establish policies to prevent new delinquencies. The analysis below summarizes and explains the key provisions of the Act.

Section 1, which amends 31 U.S.C. 3711, sets forth that Federal agencies, including the Department of Justice, for debt referred by other agencies, should be aggressive in pursuing the collection of delinquent debt owed to the United States. Agencies would be required to use each available debt collection tool in an appropriate and cost-effective manner.

Section 2, which amends 31 U.S.C. 3720A, provides that all business and individual Federal debt (other than child and spousal support (see 42 U.S.C. 664)) is eligible for referral to the tax refund offset program, including, in the case of the Department of Education, debt held by guarantee agencies on which reimbursement or reinsurance payments have been made by the Federal Government. In addition, debt is to be considered for referral to the refund offset program annually.

This section would authorize agency heads to certify to the Internal Revenue Service (IRS) that all reasonable efforts have been made to collect the debt being referred to IRS for offset. This change will allow participation in the offset program by agencies such as the Federal Deposit Insurance Corporation and the Resolution Trust Corporation.

A definition of "person" is added to this section solely for purposes of clarity. The addition of this definition is not intended to suggest that the term "person" in Section 3720A (or in other sections in Chapter 37 of Title 31) does not presently include the entities named in the definition.

Finally, this section provides for two exceptions to the effective date of the Act as defined in Section 14. First, offsets may not be made to an individual's refund payable prior to January 1, 1994, if the agency to which the debt is owed has not participated in the tax refund offset program prior to enactment. Second, offsets may not be made to refunds for business associations if the refunds are payable prior to January 1, 1995.

Section 3, which further amends 31 U.S.C. 3720A, clarifies that Federal agencies may use the mailing address of a delinquent debtor obtained from the IRS (as part of the refund offset program) for Federal-agency administered debt collection purposes, including referral of debt to the Department of Justice for litigation. Referral of debt to private collection agencies is not covered.

Section 4 adds section 3720B to Title 31 of the U.S. Code. This section prohibits any individual or business currently delinquent on a Federal debt, including a tax debt, from obtaining additional Federal financial assistance in the form of a loan or loan guarantee until the delinquent debt becomes current. Price support loans of the Commodity Credit Corporation are excepted from this provision. Only the head of the agency or the agency Chief Financial Officer can waive a debtor from the requirements of this section upon determining that such a waiver is in the best interests of the Federal Government. Agencies are expected to develop procedures to notify delinquent debtors of the provisions of this section.

Each agency with delinquent debts must develop a data base of debts originated at that agency which are delinquent, and share that data with other Federal agencies. Such a data base can be developed by several agencies working together. Any pre-existing data base that provides data on delinquent debt may be used to serve the purposes of this section. Because data on delinquent tax debts are confidential return information, the Internal Revenue Service is only required to make the information available to the extent provided in the Internal Revenue Code or authorities thereunder.

Finally, loan applicants are required to certify that they are not delinquent on any Federal debt, with the prospect of criminal penalties for applicants who knowingly make false statements.

Section 5 adds section 3720C to Title 31 of the United States Code. This section expands the authority of agencies to require the collection of taxpayer identifying numbers from individuals or businesses participating in direct and guaranteed loan programs. Entities doing business generally with the Federal Government (including those entities who receive grants, contracts, insurance, or licenses from the Federal Government) are included. This expansion of authority ensures that taxpayer identifying numbers are available if the entity becomes delinquent on a Federal debt in the future, thus increasing the effectiveness of the administrative offset program and the tax refund offset program, both of which are previously authorized programs.

Section 6, which adds section 3720D to Title 31 of the U.S. Code, establishes minimum Governmentwide requirements for the management of guaranteed loan programs to protect the financial interest of the Federal Government. Subsection (a) of section 3720D requires Federal agencies to establish stand-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ard agreements with lenders and either loan servicers or guaranty agencies (in the case of the Department of Education). In addition, agencies are required to monitor adequately their guaranteed loan programs by collecting information on the status of their respective guaranteed loan portfolios, as well as information on the performance of lenders, loan servicers, and guarantee agencies.

Subsection (b) of section 3720D provides Federal agencies with authority to collect fees to cover the costs of certification, recertification, and reviews of lenders, servicers, and guarantee agencies. In addition, Federal agencies are authorized to establish lender review boards to levy sanctions for failure to comply with agency regulations. Subsection (b) also authorizes agencies to establish lists of qualified loan servicers and to require that lenders use qualified loan servicers.

Subsection (c) of section 3720D authorizes the head of each agency with a guaranteed loan program to establish any necessary procedures and systems to carry out the provisions of section 3720D. Subsection (d) of section 3720D provides that the Secretary of the Treasury, in consultation with the Director of the Office of Management and Budget, shall promulgate Governmentwide and regulations regarding the implementation of section 3720D.

Section 7, which amends 31 U.S.C. 3717, simplifies the late charge fee structure. Subsection (a) of section 3717 consolidates and standardizes three late charges (late-payment interest, late-payment penalty, and administrative costs) into one late fee. In addition, the costs of collection levied by another agency or by a private contractor (for purposes such as salary offset, tax refund offset, and private collection agencies) can be added by the agency to the late fee. The late fee is tied to the average of the bond equivalent rates on 52-week Treasury bills auctioned during the calendar quarter ending June 30 of the prior fiscal year plus 18 percentage points, rounded to the nearest whole percent. Thus, the late fee may be adjusted annually in relation to changes in the cost of funds to the Government.

Subsection (b) of section 3717 allows an agency to define circumstances under which the late fee can be waived. This subsection authorizes agencies to suspend accrual of the late fee after six months (for example, when there is little or no likelihood of collection of the late fee after a debt is in default and the entire amount of the debt has been accelerated). Furthermore, the late fee will not be charged on debts related to overpayments of means-tested benefits when the overpayment is due to agency error or inadvertent beneficiary error.

Subsection (c) of section 3717 provides that this section does not apply to contracts in effect prior to the effective date of the section. Subsection (d) of section 3717 specifies that accrual of the late fee terminates when (1) the fee or the original claim is waived, (2) a court judgment is obtained, (3) a court-imposed fee is levied, or (4) the claim is written off or otherwise resolved. The subsection also provides that, for purposes of reporting to Treasury, the late fee will not be recorded after the claim is accelerated or six months after the claim became delinquent, whichever event occurs earlier. This provision ensures that agency receivables are not improperly inflated through continued reporting of accruing late charges on these claims.

Subsection (e) of section 3717 provides that the late fee shall not be charged if the amount due is paid within thirty days of the due date. Subsection (f) of section 3717 provides that the late fee shall not be compounded. Subsection (g) of section 3717 requires agencies to report annually to the Internal Revenue Service any written-off late charges that are income to the debtor under Federal tax laws.

Subsection (h) of section 3717 allows agencies to retain 50 percent of any increase in late fees collected as a result of the new fee structure to be used for specific credit management or debt collection improvements, as described in subsection (i) of section 3717. The other 50 percent is returned to the Treasury General Fund or appropriate trust fund. Funds not obligated in the year following collection will be returned to the General Fund of the Treasury. Finally, subsection (j) of section 3717 provides that agencies may recover interest on debt accruing prior to the date a demand letter is sent in cases where such interest can be considered to be part of the underlying debt. This is often the case, for example, where the debt arises as a result of fraudulent acts or misuse of Federal monies and the agency would charge interest from the date of the diversion to the date that full restitution is made.

Nothing in this section is intended to abrogate the Federal government's common law right to assess interest on amounts owed by a State.

Section 8, which amends 31 U.S.C. 3711, requires reporting of all commercial debt and delinquent consumer debt to credit reporting agencies on a periodic basis. Reporting of non-delinquent consumer debt is allowed. Each Federal agency is responsible for disclosing information only on those debts originated by that agency or, in the case of defaulted guaranteed loans, previously guaranteed by that agency. (For example, the Justice Department would not be required to report to credit reporting agencies on debts referred to the Justice Department by other agencies.) This section allows Federal credit reporting to be more consistent with private sector practice, thus making debt collection more effective. Debtors whose accounts are current with the Federal Government benefit from favorable credit reports to the credit bureaus. This section covers all claims, including those related to defaulted guaranteed loans. The section establishes the frequency of reporting and the information being reported.

Section 9, which amends 31 U.S.C. 3718, authorizes the Departments of Justice and the Treasury to enter into contracts to collect assets due the Federal Government. Subsection (a) permanently authorizes the Justice Department to retain private sector attorneys for the litigation and collection of delinquent debt. This authority includes debt referred to the Justice Department by other agencies for litigation and debt collection action. Under this subsection, private counsel can be used in any Federal judicial district that the Attorney General deems to be appropriate.

Subsection (b) authorizes the Department of the Treasury to enter into contracts to recover various unclaimed assets due to the U.S. Government. These assets include various misdirected payments, disbursements of funds from personal and corporate bankruptcies to which the Federal Government is entitled, bequests to the Government which have been misdirected, and unclaimed property.

Under subsection (c), contracts under subsections (a) and (b) may be paid for out of recoveries. In addition, under subsection (d), to the extent that payments are made in that manner, contracts are not limited by appropriation law. If payments are to be made otherwise, contracts would be effective only to the extent and in the amounts provided in appropriation law.

Section 10, which amends 26 U.S.C. 6331, requires the Secretary of the Treasury to determine on an annual or more frequent basis whether any Federal employees are delinquent on tax debt. The Secretary could use these determinations, as is currently authorized under 26 U.S.C. 6331, to request the employer agencies to levy the salary or wages of the Federal employees.

Section 11, which amends 31 U.S.C. 3716, provides that the procedures required in 31 U.S.C. 3716 for administrative offset do not apply to contract disputes which arise under the Contract Disputes Act of 1978 (41 U.S.C. 601 *et seq.*). Such contract disputes would be covered by the Contract Disputes Act, which sets up an administrative dispute mechanism for resolution of all contract disputes, including any relating to offset or recoupment.

Section 12, which amends 31 U.S.C. 3701, makes a technical correction to a reference to the Internal Revenue Code.

Section 13, which amends 26 U.S.C. 6103, makes a conforming change to the Internal Revenue Code.

Section 14 provides that the Act is effective upon enactment, except in two instances related to the Federal tax refund offset program as discussed in the analysis of Section 2.

DANIEL T. MURPHY, A DYNASTY PASSES

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. BROOMFIELD. Mr. Speaker, much has been made of the many members of the Michigan congressional delegation who will not be returning next year.

Those of us in Oakland County know, however, that the most dramatic change next year will not be the more than a half dozen new faces in our congressional delegation, but the retirement of Oakland County Executive Daniel T. Murphy.

Dan Murphy has the distinction of being Oakland County's first and only executive, and he has given 36 years of his life unselfishly to public service.

Dan entered elected life in Oakland County, MI, in 1956, the same year I was first elected to Congress.

Back then, Oakland County was a far cry from the thriving metropolitan community we know today. Instead, it was a small, primarily rural county. My congressional district encompassed virtually the entire county—next year at least 4 of Michigan's 16 members will represent a piece of Oakland County.

Oakland County's transformation is a testimonial to Daniel Murphy's vision, dedication, and tireless efforts on behalf of the citizens of southeastern Michigan.

Dan is a leader and a progressive thinker who always put the people of Oakland County and their needs before all else. Whether he was instituting a tornado siren alert that would allow Oakland County residents to sleep more soundly at night, creating a cultural affairs office that would heighten the intellectual and artistic level of the community, or establishing a mass screening service that would help detect breast cancer in women, Dan always has excelled in the business of helping people.

Dan's leadership in Oakland County has established Oakland as a model for other local governments, not only in Michigan but in other States and at the Federal level as well.

Recognizing that Oakland County had to look outward as well as inward to secure its future, Dan made a point of becoming knowledgeable about Federal policies and has become one of the leading members of the National Association of Counties. As Members of Congress, we often turn to Dan for his experience and knowledge of local government and of southeastern Michigan as we consider key Federal policy initiatives. Dan not only has lent us valuable insight into important local issues, but he also was a master at conveying the needs of local government on larger national issues.

Dan's efforts on behalf of Oakland County extended beyond our Nation's borders, into the area of foreign affairs and trade. As a representative of southeastern Michigan, Dan has participated in many overseas trade missions, meeting personally with the presidents of numerous foreign corporations and encouraging them to locate in the region, thereby creating jobs.

Daniel T. Murphy is a man to be revered. From his service to his country in World War II to his service to the citizens of Oakland County, MI, Dan has dedicated himself to improving the quality of life worldwide. His retirement should be viewed as a celebration of his outstanding service and many accomplishments. The citizens of Oakland County can be reassured that he has left the county—and the Nation—with a legacy which will carry into the 21st century.

DANIEL T. MURPHY

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. PURSELL. Mr. Speaker, I rise today to pay tribute to a man who has proven to be not only a friend and a mentor, but a State and national leader as well. He has channeled his experience and knowledge into the State of Michigan and helped to shape the direction of our fine State.

Daniel T. Murphy was born in Uniontown, PA and moved to Pontiac, MI at the age of 4. The son of a crane operator, DAN MURPHY worked in the Fisher body mailroom before his induction into the Army in 1943. After WWII, Dan Murphy worked in the county clerk's office while attending Wayne State University. Simultaneously, he attended law school and held a second job selling building supplies.

Appointed to the post of county register of deeds in 1956, he was re-elected in 1958 and held the position through 1963. He was then appointed chairman of the board of auditors, a post he held until 1974.

Elected as Oakland County's first county executive in 1974, he has since been re-elected four times. Some of his accomplishments include getting a 20-year solid waste management plan approved by the State, instituting a tornado siren alert, creating a cultural affairs office to service the intellectual and artistic needs of its citizens, establishing a mass screening service to detect breast cancer in women, initiating the Oakland University/Oakland County Student Intern Program, and establishing an Economic Development Group to meet the future needs of Oakland County. Dan Murphy has also donated hundreds of hours to professional and civic organizations.

Unlike many State government executives, Dan Murphy has extended his involvement from Michigan to the national and international levels. He served on the executive committee of the Transportation Research Board of the National Academy of Sciences. He also has served as chairperson of the Southeast Michigan Council of Governments and is a member of the Metropolitan Affairs Corp. He is past president of the National Association of County Administrators.

Over his 36 years of public service, Dan Murphy has been an outstanding citizen, worthy of respect. His national and international vision has benefited not only Oakland County but the entire State of Michigan, setting a fine example of leadership for others to follow.

Dan Murphy now lives with his wife in Sylvan Lake, MI. They have five grown children.

TRIBUTE TO DANIEL T. MURPHY

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. LEVIN of Michigan. Mr. Speaker, I first met Dan Murphy in the early 1960's when I was appointed to the board of supervisors. Dan's main job was to try to bring some order out of the chaos of a county government without a chief executive and an unwieldy legislative body. He surely worked hard at it, in conjunction with leadership on the board like my late Uncle Dave Levinson, who chaired the Ways and Means Committee for several decades. There were disagreements at specific moments as to which path to follow, but no one questioned Dan's commitment and dedication to his work.

The challenges increased when Dan Murphy became county executive and the spokesman for the county in regional and State meetings. With continued growth in Oakland County, no one can expect that Dan would leave his post without any unresolved problems and needs. As we face the tasks ahead, and especially at a time when work in government is under attack, it is fitting that we remember the long and loyal public service of Dan Murphy.

CONGRESSMAN DALE KILDEE HONORS DANIEL T. MURPHY: PUBLIC SERVANT

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. KILDEE. Mr. Speaker, I rise today to honor Mr. Daniel T. Murphy, a committed public servant who has dedicated over 36 years of his life to serving in elected office for our communities in Oakland County, MI. This year, Dan is retiring from his position as county executive for Oakland County, an office he has held since 1974.

Dan Murphy's family moved to Oakland County when he was 4 years old. After graduating from Oakland schools, attending Wayne State University, and serving 3 years in the U.S. Army during World War II, Dan took his first job with Oakland County with the registrar of deeds office in 1946. He was appointed the county's register of deeds in 1956, and subsequently reelected to that post and as county clerk, when the two offices were combined, through 1963. For the next 11 years, Dan served as chairman of the board of auditors.

But it has been Dan's long and illustrious service as Oakland County executive from his election in 1974 when the post was first created, until today, in which Dan has left his lasting impression on the communities and people of Oakland County, MI. During Dan's tenure, Oakland County witnessed tremendous growth in its population, economy, and infrastructure. Dan has provided sure and steady leadership to the county government during this boom time. He has worked tirelessly with the towns and townships of Oakland to find practical solutions to the difficult questions of roads and transportation, building and zoning codes, economic and community development, parks and recreation, and sanitation and solid waste management. County government provides the most basic human services that have a direct impact on people's lives. Dan Murphy has never lost sight of the fact that in the final analysis, his decisions, his actions, and his work would have a far greater effect on the standard of living of Oakland County residents than anything done on the State or Federal level.

Mr. Speaker, there is no question that Oakland County is a much better place in which to live, work, and raise a family because of Daniel T. Murphy. Dan epitomizes all that is best in public service—dedication, hard work, and a love of community and neighbors. Dan knows that public service means exactly that—serving people. It is only fitting that Dan's friends and neighbors should honor him in his final year of elected public service.

GOVERNMENT PRINTING OFFICE ELECTRONIC INFORMATION ACCESS ENHANCEMENT ACT OF 1992

HON. CHARLIE ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. ROSE. Mr. Speaker, I introduce today the Government Printing Office Electronic Information Access Enhancement Act of 1992. This bill is a first step toward enhancing the ability of the American people to more easily obtain information from the Federal Government.

This bill represents a bipartisan effort to encourage the dissemination of taxpayer-funded information and to bring the information resources of the Government closer to the people.

The text of the bill is as follows:

H.R.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Government Printing Office Electronic Information Access Enhancement Act of 1992".

SEC. 2. AMENDMENTS TO TITLE 44, UNITED STATES CODE.

(a) IN GENERAL.—Title 44, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 41—ACCESS TO FEDERAL ELECTRONIC INFORMATION

"Sec.

"4101. Electronic directory of Federal electronic information; online access to the Congressional Record and the Federal Register.

"4102. Fees.

"§4101. Electronic directory of Federal electronic information; online access to the Congressional Record and the Federal Register

"(a) IN GENERAL.—The Superintendent of Documents, under the direction of the Public Printer, shall—

"(1) maintain an electronic directory of Federal public information stored electronically; and

"(2) provide a system of online access to the Congressional Record, the Federal Register, and, as determined by the Superintendent of Documents, other appropriate publications distributed by the Superintendent of Documents.

"(b) DEPARTMENTAL REQUESTS.—To the extent practicable, the Superintendent of Documents shall accommodate any request by the head of a department or agency to include in the system of access referred to in subsection (a)(2) information that is under the control of the department or agency involved.

"(c) CONSULTATION.—In carrying out this section, the Superintendent of Documents shall consult—

"(1) users of the directory and the system of access provided for under subsection (a); and

"(2) other providers of similar information services

The purpose of such consultation shall be to assess the quality and value of the directory and the system, in light of user needs.

"§4102. Fees

"(a) IN GENERAL.—The Superintendent of Documents, under the direction of the Public Printer, may charge reasonable fees for use of the directory and the system of access provided for under section 4101, except that use of the directory and the system shall be made available to depository libraries without charge. The fees received shall be treated in the same manner as moneys received from sale of documents under section 1702 of this title.

"(b) COST RECOVERY.—The fees charged under this section should be set so as to recover the incremental cost of dissemination of the information involved, with the cost to be computed without regard to section 1708 of this title.".

(b) CLERICAL AMENDMENT.—The table of chapters for title 44, United States Code, is amended by adding at the end the following new item:

"41 Access to Federal electronic information.".

(c) SPECIAL RULE.—The directory and the system of access referred to in section 4101 of title 44, United States Code, as added by subsection (a), shall be operational not later than one year after the date of the enactment of this Act.

SEC. 3. FEASIBILITY STUDY BY THE SUPERINTENDENT OF DOCUMENTS.

(A) IN GENERAL.—The Superintendent of Documents, under the direction of the Public Printer, shall conduct a study of the feasibility of enhancing public access to Federal electronic information. In conducting the study, the Superintendent of Documents shall—

(1) consult the heads of departments and agencies of the Government, other users of Federal electronic information, and other persons likely to be affected by such enhanced public access;

(2) assess the maximum use feasible of computer systems, data storage systems, and retrieval software that are maintained by the departments and agencies of the Government to enhance access to Federal electronic information;

(3) determine the feasibility of providing access to Federal electronic information through a wide range of electronic networks, including the Internet and the National Research and Education Network;

(4) in conjunction with the National Institute of Standards and Technology and other appropriate persons, study the development of compatible standards for electronic publishing and dissemination throughout the Government;

(5) specify the development and maintenance costs of the directory and the system of access provided for under chapter 41 of title 44, United States Code;

(6) analyze the cost savings to be derived from the directory and the system of access; and

(7) obtain an independent evaluation of the utility and efficiency of the directory and the system of access.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Superintendent of Documents shall submit a report of the study to the Congress. The report shall include, as a separate part, the evaluation referred to in subsection (a)(7).

(c) DEFINITION.—As used in this section, the term "Federal electronic information" means Federal public information stored electronically.

THE COMMUNITY AMBULANCE SUPPORT ACT OF 1992

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Ms. DELAURO. Mr. Speaker, today I will introduce legislation to address a serious problem for our Nation's senior citizens and the volunteer ambulance services that serve many of our towns and communities. All too often, when seniors call for an ambulance, they get stuck for hundreds of dollars in bills for paramedic services.

This happens only when a nonprofit, community-sponsored, volunteer ambulance takes the patient to the hospital. When these volunteer ambulances borrow a highly trained paramedic from a commercial ambulance service, Medicare will not cover the cost of the paramedic services. Medicare will, however, cover these charges and more, when the bill comes from a commercial, for-profit ambulance service.

This discrepancy is both unfair and dangerous. Medicare currently favors more expensive commercial ambulance services over those sponsored by local communities and staffed with volunteers. If we do not change this technicality in Medicare law, lives could be endangered. Seniors who know they face hundreds of dollars in medical bills if they call their local ambulance may turn to a commercial service from outside their communities. A senior's reluctance to call the local ambulance may one day lead to tragedy: the extra distance a commercial ambulance has to travel to a scene may cost someone's life.

My bill, the Community Ambulance Support Act of 1992, would allow commercial paramedics to bill Medicare directly for their services when they respond to a call from a town-sponsored volunteer ambulance that does not have its own paramedics. These paramedic services would be covered at the same rate when they intercept with a volunteer ambulance as when they work as part of a commercial ambulance service.

This legislation will help ensure that seniors can continue to receive the high quality emergency health care they deserve. In addition, it will help financially strapped towns continue to provide this invaluable service to the entire community. Volunteer ambulances are part of a longstanding tradition of public service, and they deserve to be supported in their vital work.

This change may also, in the long run, save health care dollars. If the law remains the way it is now, many seniors will stop calling the volunteer ambulance corps altogether because they know they will have to pay for the paramedics out of their own pockets. Volunteer ambulances will disappear and everyone will rely on for-profit services, which charge Medicare not only for paramedic costs, but also for the salaries and costs of the entire service. If we allow this to happen, Medicare costs will only increase.

No senior should have to think twice when picking up the telephone in an emergency, simply because of badly written rules. What I seek to do is right a wrong that should never have happened in the first place.

NATIONAL POW/MIA RECOGNITION DAY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. GILMAN. Mr. Speaker, last Friday morning I had the pleasure of participating in our National POW/MIA Recognition Day Ceremony at the Pentagon. During the past year, the U.S. Government has initiated special efforts to account for the some 2,266 Americans still missing from the Vietnam war. The issue of American veterans who never returned home from their missions in Southeast Asia has again become an area of concern in the minds of the American people. Our American

Prisoners of War and Missing in Action who served our country courageously, are deserving of this day in their honor.

There is considerable evidence to support the fact that the governments of Vietnam, Laos, and Cambodia possess information that could help us account for these missing veterans. According to Vietnam's Ambassador to the United States, Trinh Xuan Lang, if the United States would stop making a condition of normalizing relations, Vietnam could readily settle our questions about Americans missing in action. Former KGB Maj. Gen. Oleg Kalugin alleged that at least three American prisoners in Hanoi had been interrogated by the Soviets in 1978. We should be encouraged by this and other evidence to redouble our efforts to locate any American prisoners still living in Southeast Asia.

I do not agree with those who argue that the time has come to deal with the Communist governments in Southeast Asia in a soft-hearted manner. The totalitarian states in that part of the world understand only firmness and determination. No matter how desperate they become in their pleas for diplomatic recognition and financial assistance, we should withhold any such consideration until we receive full cooperation and a full accounting.

Mr. Speaker, this week, a great deal of press attention has been generated by statements to the Senate select committee to the effect that the administration knew perfectly well 19 years ago that we were leaving American prisoners behind during our withdrawal from Vietnam. Other testimony has refuted these contentions.

Whatever the truth may be, I believe we should ask those who are making this allegation why they waited nearly two decades before coming forward with this information? The House Select Committee on POW's and MIA's, on which I served as a member during the existence of that committee, from 1975 to 1977, certainly would have welcomed this information at that time. Likewise, our House Task Force on POW's and MIA's, which has existed since 1977, extensively solicited and searched for any information of this nature.

The failure of these individuals to come forward prior to 1992 with these allegations, and with whatever evidence they may offer, is unconscionable. Common decency makes it clear to every man, woman, and child in the United States that it would have been far preferable to have evidence of living Americans in Southeast Asia in the 1970's rather than the 1990's. I am confident that eventually we will be able to get to the bottom of these allegations, and that the American people will be justified in their anger with regard to the suppression of this relevant information for far too long.

Mr. Speaker, we support National POW/MIA Day honoring these American heros to whom we are greatly indebted. As we commemorate this day, let us pledge to do all we can to support our Government's efforts to return our prisoners of war and missing in action to the safety of their homes, to their families and loved ones.

Mr. Speaker, I insert the remarks of retired Chief of Staff, and Special Presidential Emissary to Hanoi for POW/MIA Affairs, Gen. John W. Vessey, and Deputy Secretary of Defense, the Hon. Donald J. Atwood, at this point in the CONGRESSIONAL RECORD:

REMARKS BY GEN. JOHN W. VESSEY

Mr. Secretary, distinguished guests, and we surely have a lot of Distinguished Guests—you of the families of our missing, you former Prisoners of War, and you soldiers, sailors, airmen, Marines and Coast Guardsmen who are here to help us honor our missing comrades.

Thanks for letting me be a part of the ceremony.

We have several special days honoring those who have served our nation. On Veteran's Day we honor all of our Veterans. On Memorial Day we honor those who have given their lives in the Nation's Service.

Today, we Americans have set aside another day to honor a particular group of servicemen and women who have made particularly arduous sacrifice in the service of our Nation, our prisoners of war and those missing in action. Today is different from Memorial Day and Veteran's Day. Not only do we honor this particular group and remember their sacrifices, we also remind ourselves that we have an unpaid debt to those soldiers, sailors, airmen and Marines for whom we have not yet accounted.

We can never fully repay that debt, because there is no way to balance their sacrifices or the pain and anguish of their families. We can however, treat the family members with compassion and honesty, and we can diligently continue to search for their loved ones and the truth about their fates.

There are about 90,000 Americans unaccounted for from the wars of this last half century. The shape of the curve on a graph of those losses tells us a lot about our increasing ability to take care of our people. Nearly 79,000 missing from WW II, 8200 from the Korean War, 2265 from the Vietnam War and 0 from Desert Storm.

Recent astounding changes in the world situation give us new opportunities to search for our people. The President and cabinet—particularly the Secretaries of State and Defense have moved quickly to capitalize on these opportunities. A joint US-Russian Commission has been established to search for our people and information about their fates. North Korea has returned the remains of a few of the missing. Vietnam, Cambodia and Laos have all increased cooperation.

The Secretary of Defense has more than trebled the dedicated manpower and resources. A Deputy Assistant Secretary of Defense has been appointed to deal exclusively with the issue. A Joint Task Force has been established and is operating in Indochina. Its name signifies its mission. It is called Joint Task Force—"Full Accounting." The task force has offices in Hanoi, Phnom Penh, and Vientiane. We have had thousands of man-days of American investigators on the ground in Vietnam working with the Vietnamese investigators searching for information about people we thought had the best chance of being alive. As you can see we have a President, a Secretary of Defense and an acting Secretary of State who care and they are backing their cares with action.

We continue to urge more openness and fullest possible disclosure from the Governments of Indo-China. Although there are day-to-day frustrations, problems and disappointments, the general level of cooperation continues to improve, but to those governments, I must say, there is room for much more cooperation.

I am confident that we will achieve our objective of the fullest possible accounting. It is unlikely that we will account for everyone, but it is certain that we will make an honest, diligent search for everyone.

Last year the Senate formed a Select Committee to look into the matter. I'd like to say thanks to the Committee and its staff for its thorough look into the matter and particularly for its help in getting the message to the governments of other nations.

I want to say a special thanks to the soldiers, sailors, airmen and marines of the Joint Task Force and the service people and civilians of the Defense Intelligence Agency, for their very good work under difficult conditions.

Again thanks to all the Former POW's. To all those who have not returned we salute you; we will not forget you and we continue to search for you.

REMARKS BY DEPUTY SECRETARY ATWOOD

Thank you, and welcome everyone.

I'd like to offer a special welcome this morning to the former prisoners of war and the POW/MIA families who have joined us for this very important occasion.

Events such as these express our deep obligation to the Americans who served our country with such a valor in World War II, Korea, and Southeast Asia. And, we are reminded as well of our enduring responsibility to learn the fate of the missing and unaccounted for. We owe it to them, and we owe it to their families.

In the year that has passed since we last marked National POW/MIA Recognition Day, we have seen substantial progress on this key issue. President Bush, Secretary Cheney, and all of us in this administration are committed to the fullest possible accounting.

To the families of those missing, and to the friends and fellow soldiers of those who have not yet been accounted for, I want to reiterate that we are committed to this effort. There can be no doubt about our willingness to go anywhere, and do all we can to resolve what is a matter of the highest national priority.

Here at the Defense Department, we have vastly broadened our efforts to resolve the questions about our missing.

We are backing up our commitment with a substantial allocation of personnel. We now have over 400 people dedicated to this effort. That's up from 150 in July of last year. Since then, the operational unit of our POW/MIA effort—Joint Task Force Full Accounting—has more than quadrupled in size. Not only that, we have highlighted the importance of the Task Force by selecting a general officer as its new commander.

In July, as a further sign of our commitment to finding the answers everyone seeks, President Bush ordered the declassification of our POW/MIA files. Already we estimate we have made public approximately 82 thousand pages of documents. That's just the initial installment. By next summer we estimate we will have released over 2 million pages of material.

And, we have given the Senate Select Committee access to everything that we have in our files—let me underscore that, everything.

I know that the burden of uncertainty that so many families carry is a heavy load. There can be no doubt about our willingness to help lift this burden. Nothing is more important to this nation and this government than keeping faith with those who have given so much to our nation. We will not quit this search until the last question is answered, the last doubt resolved.

But we must not overlook the facts. The answers are not here in Washington as some would claim. The answers lie in Southeast Asia, in Vietnam, in Laos, in Cambodia, and in North Korea and in Russia. With the new openness we are seeing from Russia, we are extending our look to that nation. The answers are slow in coming, but we will not rest until we are certain we have them. We will continue to press all these governments for answers that the families of these heroes deserve.

With us today is a man whose dedication to resolving the POW/MIA question has earned him the respect of a nation. Our 10th Chairman of the Joint Chiefs of Staff, General John Vessey, was willing to devote his retirement years to this important matter because of his love of and respect for those who put on the uniform to serve this nation. It is that devotion to those willing to make the ultimate sacrifice that has made John Vessey one of the most respected men ever to lead our armed forces.

It is my pleasure to present our featured speaker for National POW/MIA Recognition Day, General John Vessey, the Special Presidential Emissary to Hanoi for POW/MIA Affairs.

SOUTH DAKOTA VOICE OF DEMOCRACY WINNER

HON. TIM JOHNSON

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. JOHNSON of South Dakota. Mr. Speaker, Megan Sebastian of Kimball, SD, was recently selected as a State winner in the Voice of Democracy broadcast scriptwriting contest conducted each year by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary. The contest theme for this year was "Meeting America's Challenge," and of the more than 147,000 students who participated in this year's contest, Megan also placed 13th at the national level. Mr. Speaker, I ask that Megan's winning script be reprinted in the CONGRESSIONAL RECORD. Megan deserves to be commended for her exceptional efforts in writing this script and participating in this contest. Her insights and enthusiasm will serve as a model to others her age.

MEETING AMERICA'S CHALLENGE

(By Megan E. Sebastian)

In 1491, Christopher Columbus faced a challenge. He believed he could reach the east by sailing west. Everyone knew he was wrong because no one had been able to do what he hoped to do. Columbus dreamed, dared and did what had to be done. Because of his dream, a new world was discovered.

In 1620, the pilgrims faced a challenge. They believed that a man had the right to worship his God without interference from the government. Everyone knew they were wrong because the government had always controlled religion. The pilgrims dreamed, dared, and did what had to be done. Because of their dream, religious freedom became one of the self-evident rights of a new country.

In 1787, George Washington and Thomas Jefferson faced a challenge. They believed that the people of America could govern themselves. Everyone knew they were wrong because only the rich and powerful knew how to govern a nation. They dreamed, dared, and did what had to be done. Because of their dream, a democracy was created.

In 1860, Abraham Lincoln faced a challenge. He believed that a nation divided against itself could not stand. Everyone knew he was wrong because people had owned slaves for hundreds of years. He dreamed, dared, and did what had to be done. Because of his dream, a race of people was freed from slavery, and a nation preserved.

In 1933, Franklin Delano Roosevelt faced a challenge. He believed he knew how to raise a nation up out of a Depression. Everyone knew it couldn't be done because many before him had failed. He dreamed, dared, and did what had to be done. Because of his dream, America rose to become one of the most economically stable countries in the world.

In 1963, Martin Luther King faced a challenge. He believed he could change a nation's attitude about racial prejudice. Everyone knew he was wrong because it's impossible to change age-old beliefs and customs. He dreamed, dared, and did what had to be done. Because of his effort, we have seen the birth of a new understanding between men of different races.

In the late months of 1991, America faces many challenges. We believe we must solve the education crisis, eliminate the deficit, bring the nation out of the recession, win the drug war, and find homes for the poor and the homeless. Everyone knows these challenges cannot be solved. As we focus on them, it seems that each will mean the end of life as we know it. The sky is falling and there is no escape. We will all be crushed.

And yet amazingly we did not perish yesterday, are alive today, and in spite of all our problems, I know we will be here tomorrow. The secret strength of America is that at each moment of crisis, when things are darkest, a champion has emerged—a Washington, a Lincoln, a Roosevelt, and yes, even a Schwarzkopf. As welcome as these heroes have been, they did not solve the challenge they faced by themselves. It was the American people—the white, black, yellow, Irish, German, Catholic, Jewish people—who for millions of individual reasons joined together to solve the problem.

That is the challenge of America: to unite as one people, to dream, to dare, and to do what has to be done.

IT'S DOWN TO THE LAST BLANK CHECK

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. EDWARDS of California. Mr. Speaker, our distinguished colleague from California, the Honorable GEORGE E. BROWN, Jr., has made some timely remarks in a recent edition of the Los Angeles Times. I found his examination of the scientific community's relationship with history, society, and politics to be both insightful and thought provoking.

I'm sure our colleagues would find much food for thought in this commentary, which I am pleased to enter into the RECORD.

The article follows:

[From the Los Angeles Times, Sept. 8, 1992]

IT'S DOWN TO THE LAST BLANK CHECK

(By George E. Brown, Jr.)

Science inexplicably has come to occupy a place in American culture somewhere alongside Plymouth Rock, Johnny Appleseed and the Bill of Rights. Science and the technology that it spawns are viewed as a cornerstone of our past, the strength of our present and the hope for our future.

An unofficial contract between the scientific community and society has arisen from these beliefs. This contract confers special privileges and freedoms on scientists, in the expectation that they will deliver great benefits to society as a whole.

The scientific community enthusiastically embraces this relationship. Our leading science journals publish an unending stream of editorials and articles citing past accomplishments while making the case for increased federal funds in support of research that can improve national health, protect the environment, free us from dependence on foreign oil and provide us with the tools to rejuvenate a stagnant economy and achieve a better quality of life.

The promise of science—a miracle cure—serves politicians, who always are looking for a tonic to sell to the public, and it serves scientists, who understandably seek to preserve their elevated position in our culture. But it may not serve society as advertised. Indeed, the promise of science may be at the root of our problems, because it is easier—politically, economically, socially, scientifically—to support more research than it is to change how we behave.

In truth, the path from scientific discovery to societal benefit is neither certain nor straight. Today there are more human beings living in abject poverty throughout the world than ever before. The gap in the standard of living between industrialized and developing nations continues to expand, fueled in large part by concentration of scientific and technological resources in the industrialized world.

At home, our global leadership in science and technology has not translated into leadership in infant health, life expectancy, rates of literacy, equality of opportunity, productivity of our workers or efficiency of resource consumption. Neither has it overcome a failing education system, decaying cities, environmental degradation, unaffordable health care and history's largest national debt. All this in a nation that spent $100 billion on civilian R&D last year, $30 billion more than any other nation on earth.

In the 45 years since World War II, the federal government has given the science community carte blanche, secure in the faith that the products of research would resolve the challenges that face us. Advocates for research—myself included—always have fallen back on the argument that we must support as much science as possible because we can't predict where the breakthroughs will come from or what the benefits will be.

The underlying assumption is that the imagination and initiative of our scientists and engineers, unfettered by political constraints, will lead inevitably to progress for society. But in reality, there is no such thing as unfettered research. Research choices made by even the most independent of scientists are contextual. For example, most basic researchers work within our academic system, which is organized around traditional disciplines and pressure to publish, and is structured so as to encourage specialization and discourage both radical approaches and interdisciplinary initiatives.

The disciplinary organization of the sciences and the relative distribution of resources that support these disciplines are much more a reflection of political history than of unconstrained pursuit of knowledge. For example, the strong federal commitment to supporting individual investigator research in physics—and to multibillion-dollar projects such as the Super-conducting Super Collider and the "Star Wars" missile defense program—derives directly from the dominance of nuclear physicists in policy-making circles, which in term derives directly from the success of the Manhattan Project, which was, in turn, made possible and necessary by the rise of Hitler, which stems rather more indirectly from the Treaty of Versailles. Research trajectories are highly dependent on the momentum of history, and changing these trajectories can be difficult; often, change is accomplished through political means—especially by shifting funding priorities—rather than through the play of unfettered scientific inquiry.

Yet we have developed an uncritical faith that wherever science leads us is where we want to go. We accept the argument that objective scientific knowledge leads to subjective benefit for humanity. We assume that society will absorb and disseminate those research results and technologies that make life better, while suppressing or controlling those that are threatening. We believe that all of our problems will be worked out as long as we keep generating new scientific ideas and new technologies based on those ideas. We create, as if incidentally, a self-perpetuating market niche for scientists.

But the fact is, we already have much of the knowledge and many of the technologies necessary to decrease population growth, increase energy efficiency, reduce and recycle wastes and improve public health and education throughout the world. What we lack are the social and economic systems that can assimilate and use the information and the hardware that are already in our possession.

Indeed, as the pace of technological development continues to accelerate, so does the speed with which we encounter new, unanticipated societal crises. The current debates over issues such as global climate change; energy production, consumption, and conservation; endangered species and disposal of hazardous waste all hinge on the expectation that science will provide the data and the technologies needed to overcome these challenges, many of which were caused by technological innovation in the first place. But there has never in human history been a long-term technological fix; there have merely been bridges to the next level of societal stress and crisis.

Society needs to negotiate a new contract with the scientific community. This contract must be rooted in the pursuit of explicit, long-term social goals, such as zero population growth, reduced generation of waste, reduced consumption of non-renewable resources, less armed conflict, less dependence on material goods as a gauge of wealth or success and greater opportunity for self-realization for all human beings. A new contract will measure the value of research and innovation not by number of publications or citations or patents, but by progress toward these specific goals. A new contract will focus not just on research at the frontiers of knowledge, but on the utilization of existing knowledge. A new contract will require an increased emphasis on exploring humankind's relationship with the surrounding world, through research in the oft-maligned disciplines of the social and interdisciplinary sciences.

Now is the time to begin drafting this new contract. We must not wait until increasing population, pollution, resource consumption and concentration of wealth become insurmountable obstacles to the well-being of society. Scientists and politicians must abandon the self-serving rhetoric that drives today's science agenda, and work together to ensure that tomorrow's scientific research better serves the needs of all humanity, not just a privileged few.

A TRIBUTE TO DONALD MITCHELL

HON. LINDSAY THOMAS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. THOMAS of Georgia. Mr. Speaker, this past Sunday family and friends joined together to pay final tribute to one of Georgia's leading citizens—Mr. Donald Mitchell of Woodbine, GA.

At times like these, when a death in the family occurs at such an early age, our faith in God and His wisdom is tested to the limit. But it is that same faith and the love of family and friends that give us the comfort and strength to go on.

Donald Mitchell will be sorely missed by all those persons fortunate enough to have known him. As an elected official, an educator, and a community leader and spokesperson, Donald Mitchell dedicated his life to helping others.

In memory of his distinguished service to his community, I would like my letter to Donald's mother, Mrs. Rebecca Mitchell, to be printed in the CONGRESSIONAL RECORD at this point:

MRS. REBECCA MITCHELL,
Woodbine, GA.

DEAR MRS. MITCHELL: Please let me again extend my most sincere sympathy to you and the entire Mitchell family on the sudden and tragic passing of your son, Don.

There are many influential people who come to the Nation's Capital, but there are very few who come here and make a difference—Donald Mitchell was one of those people.

He made a difference because of his sincerity, his intelligence, and his character. It was those qualities that made Don such an effective spokesman when he testified on Capitol Hill before lawmakers from across the country, and the decisions those lawmakers made because of Don's influence have had a profound affect on the lives of every citizen in Camden County. In my nearly ten years in the Congress, I would have to say that Don was one of the most effective individuals who assisted me in representing our District's needs. When Don talked, people paid attention.

Every person who lives in the three cities that make up Camden County can always remember what a great job Don did representing them at home and in Washington as Chairman of the Kings Bay Impact Coordinating Committee. You can remember as you look at your new schools, your new City Halls, your new courthouse, your new public safety complex, and your new library.

There are many people who might think that it was me and my staff that won approval of the impact aid money to help Camden County grow and prosper, but let me tell you that our strongest ally in winning the support of the Congress was Donald Mitchell. He was a dear friend to me and I will miss him.

God bless you, and please know that you are in my thoughts and prayers.

Sincerely,

LINDSAY THOMAS,
Member of Congress.

A TRIBUTE TO MARIBELLE "MITZIE" MACKENZIE

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. FOGLIETTA. Mr. Speaker, I rise today to honor Maribelle "Mitzie" Mackenzie, who has served from 1941 to 1991 as the center director of the Chinese Christian Church and Center in Philadelphia, PA. At the end of 1991, Mitzie retired from this position, but she continues to serve voluntarily until a new director is found. At the time of the appointment of a new director, Mitzie will become the center's director emeritus.

During her tenure, Mitzie has planned and implemented numerous programs at the center to meet the needs of the Asian people. These programs include a very successful kindergarten for preschool-age Asian children, a boys' club, teen groups, college and career programs, job placement for young persons as well as adults, and so many more very worthy efforts that have greatly benefited her community and the city of Philadelphia.

Notable among these activities are the English Speaking Language [ESL] classes to teach English to recently arrived children, youths, and adults. This program has helped thousands of people to obtain U.S. citizenship so that they could bring their families to the United States after as much as 40 years of separation. Mitzie initiated the first Health Screening Program in Chinatown, developed the Chinese Christian Church and Center playground, which has become the focal point of activities in the summer, and she has provided family care and services for all ages.

Mitzie was instrumental in sponsoring the first refugees from China living in Hong Kong, welcoming the first Vietnamese coming to Philadelphia in 1975, and helped sponsor the First Chinese New Year Party for ethnic Chinese from Vietnam in 1976.

Mitzie has devoted 50 years of her life in genuine loving service and dedication to the Asian community in Philadelphia. These efforts have forever endeared her to all of the people in the Asian community and the Greater Philadelphia area.

WEALTH, POVERTY, AND PERCEPTIONS

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. DUNCAN. Mr. Speaker, as I have said many times, nations all around the world are collapsing economically, and their people are suffering, due to too much government. They are being forced in the direction of free enterprise and private property, because socialism is ultimately doomed to fail, no matter where it is tried.

Yet people have to undergo terrible hardships once they have come under the control of a big government that has caved in. I hope that at the very time most of the rest of the world is coming in our direction, we do not make the mistake of moving in their direction, toward more and more government control, of every aspect of our society.

These points are made very articulately in the following column by economist Walter Williams.

I would like to call it to the attention of my colleagues and other readers of the RECORD.

[From the Washington Times, Sept. 17, 1992]

WEALTH, POVERTY, AND PERCEPTIONS

(By Walter Williams)

More than anything else, wealth results from a state of mind and a set of values. Government is not a source of wealth. Governments, including ours, are essentially parasitic; they consume and dispose of wealth produced by private individuals. Of course, government can make some people wealthier but only by plundering someone else. If we are truly concerned about the welfare of our fellow man, both at home and abroad, we'd better pay greater attention to just what creates wealth.

Some believe national wealth depends upon natural resources because we just happen to be rich and simultaneously blessed with bountiful natural resources. South America and Africa are also blessed with bountiful natural resources but are home to the world's most miserably poor people. On the other hand, Japan, Hong Kong, Taiwan, Great Britain and Switzerland are resource-poor but home to the world's more affluent people. Some will argue that Third World people are poor due to colonialism. Hogwash! The United States was a colony, and so were Canada, Australia and New Zealand; Hong Kong is still a colony. On the other hand, Ethiopia, Liberia, Tibet and Nepal were never colonies but are home to the poorest of the world's poor.

We can't ever give a complete explanation for why some people and nations are wealthy while others are miserably poor, but we have a pretty good idea. At the individual level, we can all agree that being well off at least requires motivation, self-discipline, self-respect, honesty and respect for others. All of these wealth-enhancing attributes are for naught unless, at the societal level, there is freedom of exchange, inviolability of private property, sanctity of contracts and protection of the right to earn. Tragically, these very institutions that permit the accumulation of wealth are a tyrant's first targets for takeover.

The role of private property is not understood well; thus, we fall prey to charlatans and quacks with hidden agendas. Private property creates the powerful inducement for people to voluntarily behave in socially responsible ways. For example since my home is privately owned, I reap the complete benefit (a higher selling price) from taking good care of it and bear the complete cost (lower selling price) of not taking care of it. Anything that weakens private property rights, such as nationalization and high taxes, tends to reduce incentives to do the socially responsible thing.

Contracts are the lubrication for economic activity and wealth creation. Without contracts, all economic activity collapses to day-by-day negotiation, and future activity commands a stiff penalty. Would you build a house, lend me money or work for me if you could not be reasonably assured that I would honor the terms of our agreement? Money manipulation leading to inflation destroys the value of contracts. For example, I promise you $10,000 (which can now buy a small car) for three carloads of May 1993 potatoes. Suppose, in the interim, Congress inflates the currency so that $10,000 can no longer buy the car. Will you honor your end of the deal?

When all is said and done, it is free people with free minds that account for the creation of wealth. Free people and free minds permit us to escape nature's stingy grip. Because of technological advance, one farmer's output can feed thousands. Computers save millions of hours, dollars, and perhaps lives. Plus, these valuable machines are getting cheaper and better all the time. You name me one thing that government does that's getting cheaper. If you are not a staunch defender of free exchange, sanctity of contracts, private property and the right to earn, then you're for impoverishment of your fellow man.

THE AMISTAD REVOLT

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Ms. DELAURO. Mr. Speaker, this week New Haven celebrates a unique and great event in the history of our city and our Nation. We commemorate the Amistad Revolt, in which dozens of captive Africans, bound for Cuba, rebelled against their enslavers and eventually won a legal battle for their freedom. The revolt was a crucial moment in the abolition movement, and profoundly shaped many subsequent efforts for racial justice. This weekend, New Haven remembers that moment, and invokes it in the ongoing struggle for racial harmony and human rights.

The Amistad Revolt began in 1839, when captives from Sierra Leone seized the merchant ship *La Amistad* and ordered their kidnapers to return to Africa. When the slavers instead sailed toward the United States, the *Amistad* was taken into custody in the Long Island Sound. The rebels were held in the New Haven jail while they defended their civil rights in court. Antislavery advocates across the country rallied to the Africans' cause, and after 2 years, the U.S. Supreme Court upheld a decision that freed them and allowed them to return home.

The Amistad controversy galvanized opposition to the injustices of slavery. The incident deeply affected countless Americans, both black and white, who hailed the captives' courageous assertion of their human rights. Led by Sengbe Pieh, Cinque, the heroic revolt has inspired generations of African-Americans, fighting to achieve the full citizenship they deserve.

To this day, New Haven's involvement in the Amistad case is a source of pride for our community. More than 150 years ago, local residents formed the Amistad committee to help defend and support the prisoners. Today, we can reflect on how much progress has been made in the battle for racial justice, and on what remains to be done. This weekend's celebration provides an opportunity for all of us to come together and remember the Africans' brave actions, and the courtroom victory that affirmed the justness of their efforts. Festivities include a musical performance, youth march, cultural festival, and religious convocation. Also featured is the dedication of an Amistad Memorial. The memorial—a statue of Cinque—will stand as a monument to the fearless individuals whose extraordinary experience should never be forgotten. That experience remains an inspiration for us all.

AUDIO HOME RECORDING ACT

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. CLEMENT. Mr. Speaker, I rise to acknowledge the most significant accomplishment on behalf of the music industry since I was elected to Congress nearly 5 years ago.

Today this House is expected to adopt the Audio Home Recording Act, precedent-setting legislation that for the first time will give songwriters, music publishers, and artists a percentage share of the sale of blank digital audiotape and DAT machines. Current analog casette recorders and tapes are not subject to this legislation.

For far too long the United States has lagged behind other countries in the protection of intellectual property rights. In the past writers and publishers received no payment for unauthorized copies made of their creations. Now the creators of musical compositions will finally receive the compensation they deserve for the works they create.

This legislation is very important to the music industry and to my district—Nashville, TN, where music is big business and contribute millions of dollars each year to our local economy.

And, I want to salute the many groups who worked for years for passage of this important legislation and who helped me persuade every member of the Tennessee Congressional delegation to cosponsor this bill.

CONCERN ABOUT MIA'S

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. SOLOMON. Mr. Speaker, I have spent a large part of this morning watching the hearings of the Senate's Commission looking into the questions of those of our MIA's in Southeast Asia who remain unaccounted for.

Mr. Speaker, as a former chairman of the House task force on prisoners and missing in action in Southeast Asia, I feel I have to voice my outrage over what I perceive to be some hypocrisy coming out of those hearings.

I am as concerned as anyone that we have a full accounting of what happened to our missing in southeast Asia.

I strongly supported the decision made by former President Reagan—and then-Vice

President Bush—immediately upon their election, to reopen the question of what happened to these men.

And, I remind my colleagues, Mr. Speaker, that he made that decision after the Carter administration had closed the books on the matter.

What bothers me about the Senate hearing I watched this morning is this: It seems that the very same party that has nominated a draft dodger for President—the very same party that was led by the get out of Vietnam at all costs crowd in the early 1970's—is now in the process of castigating former Government officials with the allegation that they did not do all they could have to force the Vietnamese to produce more information on those of our servicemen who we suspected might still be alive.

The very same officials who were then being forced by that party to withdraw our military forces as rapidly as possible.

They are castigating those former officials for not doing something—something that they left them powerless to do.

Mr. Speaker, I am sickened by such hypocritical hindsight.

I have heard it from many members of the same party when it comes to President Bush's more recent successful prosecution of Operation Desert Storm.

While many of them opposed President Bush's use of force to liberate Kuwait, they now castigate him for not carrying military actions further—even though he halted those actions out of concern that Iraqi lives not be needlessly wasted after seeing the damage our forces were inflicting on the fleeing Iraqi Army.

Mr. Speaker, as so often is the case, many of the members of the Democrat Party can only find wisdom in hindsight.

Let's hope that the American people don't find that out the hard way after November.

H.R. 918, THE MINERAL EXPLORATION AND DEVELOPMENT ACT OF 1992

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mrs. VUCANOVICH. Mr. Speaker, H.R. 918, the Mineral Exploration and Development Act of 1992, may be considered on the House floor later this week, or next. This is one of the most misnamed bills I have encountered in my five terms as a U.S. Congresswoman. It should be short-titled "The Latin American Exploration Incentive Act" because the bill would surely send our domestic mining industry and its capital offshore in search of a better investment climate.

To be candid about my intentions, I take this opportunity to print the following amendments, which I intend to offer during debate. Indeed, during this election year when economic viability is on everybody's mind, I intend to ask for a rollcall vote for each amendment in order for my colleagues to have an opportunity to put their vote where their economic rhetoric is.

The amendments follow:

AMENDMENT TO TITLE I, SEC. 101 OF H.R. 918

Page 2, line 3, delete "REFERENCES" and insert in lieu thereof "PURPOSE".

Page 3, line 4, insert:

(a) It is the purpose of this Act to carry out the policies of the United States expressed in the Mining and Minerals Policy Act of 1970 (30 U.S.C. 21a) and the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1601 and following).

Page 3, line 4, delete "(a)" and insert "(b)".

Page 3, lines 6–8, delete "on the first day of the first month following the date a mining claim is located under this Act" and insert "on the first day of September and ending on the thirty-first day of the following August."

Page 5, line 8, delete "downstream of" and insert in lieu thereof "other than."

Page 5, line 12, insert the phrase "located or converted under this Act" after the phrase "means a claim."

Page 6, line 14, add the phrase "expenditures and/or undertakings made in pursuit of mineral activities, including without limitation," after the word "means."

Page 6, line 15, insert the phrase "explore or" after the word "to."

Page 6, line 19, insert the phrase "and reclamation" after the word "activities."

Page 6, line 21, delete "alone without" and insert in lieu thereof "together with."

Page 6, line 22, delete the word "not."

Page 7, line 3, insert "pursuant to specific authority under this Act" after the phrase "mineral activities."

Page 7, line 16, delete in subsection (c) the word "Act." and insert in lieu thereof "Act, and nothing in this Act shall be construed so as to apply to mineral activities and reclamation on private lands or state lands or any other lands not owned by the federal government."

AMENDMENT TO TITLE I, SEC. 102 OF H.R. 918

Page 7, line 24, insert "or"

Page 8, lines 2 and 3, delete "section 204(f) or"

Page 8, line 3, insert "the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714)., after the phrase "section 205 of"

Page 8, line 3, delete "this Act".

Page 8, line 11, insert "and the locatable minerals therein" after the phrase "of the claimed land"

Page 8, line 13, insert "only" after the word "subject."

AMENDMENT TO TITLE I, SEC. 103 OF H.R. 918

Page 10, line 4, insert "no more than" prior to "40."

Page 11, line 25, insert an additional sentence, "Such adjudication shall be final agency action subject to judicial review in the United States District Court for the district in which the claims are located. The U.S. District Court shall have jurisdiction without regard to the amount in controversy or to the citizenship of the parties."

AMENDMENT TO TITLE I, SEC. 104 OF H.R. 918

Page 13, line 4, delete "$5" and insert in lieu thereof "$2.50", and insert the phrase "(but not less than $100 per claim)" after the phrase "per acre."

Page 13, line 5, delete "fifth" and insert in lieu thereof "tenth."

Page 13, line 6, delete "$10" and insert in lieu thereof "$5", insert the phrase "(but not less than $200 per claim)" after the phrase "per acre", and delete the term "sixth" and insert in lieu thereof the term "eleventh."

Page 13, line 7, delete "tenth" and insert in lieu thereof "fifteenth."

Page 13, line 8, delete "$15" and insert in lieu thereof "$7.50," insert the phrase "(but not less than $300 per claim)" after the phrase "per acre," and delete the term "eleventh" and insert in lieu thereof "sixteenth."

Page 13, line 9, delete "fifteenth" and insert in lieu thereof "twentieth."

Page 13, line 11, delete "$20" and insert in lieu thereof "$10", and insert the phrase "(but not less than $400 per claim)" after the phrase "per acre."

Page 13, lines 11-16, delete "sixteenth" and all of lines 12-16, and insert in lieu thereof the phrase "the twenty-first diligence year following the location of the claim, and each diligence year thereafter."

Page 14, line 10, delete the word "contiguous."

Page 14, line 12, delete the word "contiguous."

Page 14, line 18, insert the phrase "mineral activities such as those made for" after the phrase "those made for."

Page 14, line 24, delete the word "and" and insert the phrase "and feasibility" after "engineering."

Page 15, line 2, insert the phrase "and mining" after "exploration."

Page 15, lines 6 and 7, delete item (G) in its entirety.

Page 16, line 11, insert the phrase "including the inability to obtain required federal, state or local permits required for conducting mineral activities" after the word "action" and delete the word "or."

Page 16, line 22, insert the word "or" after "thereon;" and insert a new item "(iii) pending deferment under Section 104(g) of this Act."

Page 17, lines 20–22, delete the phrase "the date which is the last day of the third calendar month after the anniversary date of each diligence year for such claim" and insert in lieu thereof "December 31st of each year."

Page 19, line 6, delete "subsection (d)" and insert in lieu thereof "this section."

Page 19, line 7, delete "10" and insert in lieu thereof "30."

Page 19, line 12, delete "subsection (d)" and insert in lieu thereof "this section"

Page 19, lines 13 and 14, delete "within 10 days after date of the notice referred to in subsection (d)(2)" and insert in lieu thereof "within a reasonable period of time after notice from the Secretary."

Page 19, lines 15–18, delete the phrase "and if the Secretary determines that such failure was justifiable or not due to a lack of reasonable diligence on the part of the claim holder, or that such failure was inadvertent."

Page 19, line 19, insert the phrase "not more frequently than annually" after "authorized."

Page 19, line 20, delete the word "such" and delete the phrase "as he deems necessary."

Page 20, line 20, delete the phrase "the holder of" and insert in lieu thereof "seeking to conduct mineral activities pursuant to a plan of operations covering."

Page 20, line 24, delete the phrase "the holder of" and insert in lieu thereof "seeking to conduct or conducting mineral activities pursuant to a plan of operations covering."

AMENDMENT TO TITLE I, SEC. 105 OF H.R. 918

Page 21, line 8, delete "or willfully" and insert in lieu thereof, "and willfully"

Page 21, line 12, delete "or willfully" and insert in lieu thereof, "and willfully"

Page 21, line 16, insert "unreasonably" after "(3)."

Page 21, line 21, insert "and no penalty under section 104" after the phrase "No civil penalty under this section"

AMENDMENT TO TITLE I, SEC. 107 OF H.R. 918

Page 22, line 10, delete in subsection (a) "February 6, 1991,". Insert in lieu thereof "the effective date of this Act.".

Page 22, lines 12-14, delete in subsection (a) "unless the Secretary of the Interior determines that, for the claim concerned—"; delete lines 15-16 in subsection (a)(1). Insert in lieu thereof "unless a patent application or mineral survey application was filed with the Secretary for the claim concerned on or before the date 3 years after the effective date of this Act."

Page 22, lines 17-22, delete subsection 107(a)(2).

Page 22, lines 23-24, delete in subsection (a) "the Secretary makes the determinations referred to in paragraphs (1) and (2)" and insert in lieu thereof "a patent application or mineral survey application is so filed."

Page 23, lines 2-3, delete in subsection (a) "Act, unless and until such determinations are withdrawn or invalidated by the Secretary or by a court of the United States" and insert in lieu thereof "Act."

Page 23, line 5, delete in subsection (b) "February 6, 1991." Insert in lieu thereof "the effective date of this Act."

Page 23, lines 7-9, delete "unless the Secretary of the Interior determines that for the mill site concerned—"; delete subsection (b)(1), lines 10-12, Insert in lieu thereof "unless a patent application or mineral survey application for such land was filed with the Secretary on or before the date 3 years after the effective date of this Act."

Page 23, lines 13-14, delete subsection 107(b)(2) in its entirety.

Page 23, lines 15-16, delete in subsection (b) "the Secretary makes the determinations referred to in paragraphs (1) and (2)" and insert in lieu thereof "a patent application or mineral survey application is so filed"

Page 23, lines 20-22, delete in subsection (b) "Act, unless and until such determinations are withdrawn or invalidated by the Secretary of State or by a court of the United States" and insert in lieu thereof "Act."

AMENDMENT TO TITLE II, SEC. 201 OF H.R. 918

Page 27, line 11, delete in subsection (a) "environment." and insert in lieu thereof "environment, and prevent unnecessary and undue degradation of the lands, provided, however, that such claim holders shall have the right to develop, produce and process locatable minerals discovered within their claims."

Page 31, lines 4-8, delete subsection (d)(11) in its entirety and renumber accordingly.

Page 32, lines 15-18, delete subsection (e)(7) in its entirety and renumber accordingly.

Page 34, lines 15-23, delete subsections (g)(1)(C)-(D) in their entirety and renumber accordingly.

Page 38, line 23, delete in subsection (j) "Secretary." and insert in lieu thereof "Secretary. The Secretary shall consider the costs and operational practicability when modifying plans of operation and the Secretary shall not modify or place restrictions or conditions on plans of operations that would cause mineral activities to be commercially impracticable."

Page 43, lines 23-25, page 44, lines 1-2, delete in subsection (m)(1) "restored to a condition capable of supporting the uses to which such lands were capable of supporting prior to surface disturbance, or other beneficial uses, provided such other uses are not inconsistent with applicable land use plans" and insert in lieu thereof "reclaimed to the extent that such reclamation is technologically and economically practicable considering the value of the minerals produced and the value of the land for other uses."

Page 44, line 12, in subsection (n) after the word "establish", insert the words "reasonable and technologically and economically practicable"

Page 44, delete in subsection (m)(3) lines 7-10 in their entirety.

Page 44, lines 12-13, delete in subsection (n) ", but not necessarily be limited to,"

Page 46 delete in subsection (n)(4) lines 3-24.

Page 47 delete in subsection (n)(4) lines 1-2.

Page 47, delete in subsection (n)(5) lines 3-14.

Page 52, line 2, insert:

(p) If a claim holder establishes that mineral values remain in a mined area that could be produced in the future, the Secretary shall waive any of the requirements of this section that would impose an unreasonable additional cost on the resumption of mining

AMENDMENT TO TITLE II, SEC. 202 OF H.R. 918

Page 53, line 12, delete in subsection (b)(1) "determines" and insert in lieu thereof, "establishes by substantial evidence"

Page 53, line 14 in subsection (b)(1), after the word "violation", insert "in any material respect"

Page 53, line 16, delete in subsection (b)(1) "shall issue" and insert in lieu thereof "may issue"

Page 53, lines 21-22, delete in subsection (b)(1) "the Secretary or authorized representative finds that"

Page 53, line 23, delete in subsection (b)(1) "he shall" and insert in lieu thereof ", the Secretary or authorized representative may"

Page 53, lines 24-25, delete in subsection (b)(1) "all mineral activities or the portion thereof relevant to the violation" and insert in lieu thereof "establishes by substantial evidence"

Page 54, lines 1-2, delete in subsection (b)(2) "determines" and insert in lieu thereof "establishes by substantial evidence"

Page 54, lines 2-3, delete in subsection (b)(2) "that any condition or practice exists, or"

Page 54, line 5, in subsection (b)(2) after the word "violation", insert "in any material respect"

Page 54 line 6, delete in subsection (b)(2) "such condition, practice or" and insert in lieu thereof "that"

Page 54, line 8, in subsection (b)(2)(A) after the word "imminent", insert "and significant"

Page 54, line 10, delete in subsection (b)(2)(B) "significant, imminent" and insert in lieu thereof, "unnecessary, significant and imminent"

Page 54 line 12, delete in subsection (b)(2) "shall" and insert in lieu thereof "may"

Page 54, lines 13-14, delete in subsection (b)(2) "mineral activities or the portion thereof relevant to the condition, practice or violation" and insert in lieu thereof "the portion of the mineral activities relevant to the violation."

Page 54, line 16, in subsection (b)(3)(A) after the word "(2)", insert "or a suspension order pursuant to section 201(g)(3)(B)"

Page 54, line 18, delete in subsection (b)(3)(A) "condition, practice or"

Page 54, line 22, delete in subsection (b)(3)(A) "shall" and insert in lieu thereof "may"

Page 54, line 23, delete in subsection (b)(3)(A) "possible, and shall," and insert in lieu thereof "practicable, and may,"

Page 55, line 8, in subsection (b)(3)(B) after the phrase "subsection (f)", insert "and an appeal to a court of competent jurisdiction. The operator or person conducting mineral activities shall have the right to continue mineral activities provided for in the plan of operations during such hearing and appeal unless the Secretary obtains an order from a court of competent jurisdiction that the operator or person conducting mineral activities must cease such mineral activities."

AMENDMENT TO TITLE II, SEC. 204 OF H.R. 918

Sec. 204. UNSUITABILITY REVIEW. should be deleted in its entirety. (page 66, line 23 through page 74, line 25)

AMENDMENT TO TITLE III, SEC. 301(A) OF H.R. 918

Page 82, line 13, in subsection (a) after the word "Enforcement" add "for lands and waters eligible for reclamation expenditures under Section 423 of this Act."

AMENDMENT TO TITLE IV, SEC. 402 OF H.R. 918

Page 86, delete all of Section 402, lines 11-21, in their entirety and renumber accordingly.

AMENDMENT TO TITLE IV, SEC. 402 OF H.R. 918

Page 86, line 16, delete "requirements." and insert in lieu thereof "requirements, provided that such fees shall not exceed $5.00 per claim."

AMENDMENT TO TITLE IV, SEC. 404 OF H.R. 918

Page 88, line 25 of subsection (a)(1), delete "subsections (a), (b), (c), (d)(1), (f), and (h) of sec-" and insert in lieu thereof "subsections (a), (b), (c), (d)(1), (f), (g), and (h) of sec-"

Page 92, delete lines 8-15 of subsection (e) and insert in lieu thereof, "(e) DISPOSITION OF LAND.—No mining claim shall be located under this Act on lands encumbered by a prior mining claim or mill site located under the general mining laws unless the claim or mill site located under the general mining laws is void or invalid under this section."

Page 92, line 17 of subsection (f), delete the words "the date of enactment" and insert in lieu thereof "the effective date"; delete lines 20-21 of subsection (f) and insert in lieu thereof "laws governing such conflicts in effect on the effective date of this Act in a court of proper jurisdiction."

AMENDMENT TO TITLE IV, SEC. 405 OF H.R. 918

Page 96, lines 6-7 of subsection (c)(2), delete the words "and the operation is fully engaged"

Page 96, line 10 of subsection (c)(3), delete "make each of the following determinations:" and insert in lieu thereof "determine that:"; delete in their entirety lines 11-19 of subsection (c)(3); line 20, delete "(D)"; lines 21-22, delete "other Federal requirements, and State" and in lieu thereof insert "applicable Federal and State requirements and"

AMENDMENT TO TITLE IV, SEC. 406 OF H.R. 918

Page 76, line 19, add the following section: "SEC. 406. TAKINGS.

Whenever the Secretary shall make a determination of unsuitability, the determination shall be deemed a taking of property under the Fifth Amendment of the United States Constitution and any person with a property interest in such lands deemed unsuitable for mining shall be entitled to just compensation therefor from the Secretary."

AMENDMENT TO TITLE IV, SEC. 407 OF H.R. 918

Page 98, line 25 of subsection (a), delete "not"

Page 99, line 1 of subsection (a), delete "until" and insert in lieu thereof "unless"; line 2, delete "valid" and insert in lieu thereof "invalid"

Page 99, line 19 of subsection (c), delete "completion of the contest proceeding." and insert in lieu thereof "final judgment by a court of competent jurisdiction determining the validity of the claim."

AMENDMENT TO TITLE IV, SEC. 409 OF H.R. 918

Page 100, line 2, delete "shall" and insert in lieu there "may"; delete lines 5-10 and insert in lieu thereof "10 years following the date of enactment of this Act, using appropriate indices for the mining industry, including but not limited to the price of mineral produced and the costs of operating a mine."

AMENDMENT TO TITLE IV, SEC. 410 OF H.R. 918

SEC. 410. ROYALTY. should be deleted in its entirety (page 100, line 11 through page 102, line 14).

AMENDMENT TO TITLE IV, SEC. 410 OF H.R. 918

Page 100, line 18, delete from subsection (a) "income from the production of such locatable minerals or concentrates, as the case may be." and insert in lieu thereof "value of such locatable minerals at the mouth of the mine."

Page 102, line 5, delete from subsection (g) "income" and insert in lieu thereof "value"; line 7, add the following "Gross value shall be the value of locatable minerals at the mouth of the mine. Gross value may be defined as actual proceeds of sale of the locatable minerals or products therefrom, less the costs of beneficiation, processing, transportation to the point of sale, and less severance taxes levied upon the same locatable mineral or product by State or local government subdivisions."

AMENDMENT TO TITLE IV, SEC. 411 OF H.R. 918

Page 104, add a new subsection (d) as follows: "(d) PROTECTION OF VALID EXISTING RIGHTS.—Any person with a valid, existing right under the general mining laws, or any other law, which is rendered null or void by the operation of this section or any other part of this Act shall be entitled to bring an action under the Fifth Amendment of the United States Constitution for a taking of property and shall be entitled to compensation therefore."

A TRIBUTE TO SISTER MARY IGNATIUS KERRIGAN

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. FOGLIETTA. Mr. Speaker, I rise today to honor Sister Mary Ignatius Kerrigan for her contributions to the Chinatown community in Philadelphia, PA, as well as the entire city of Philadelphia.

Sister Mary was born and raised in Brooklyn, NY. She received her bachelor's degree in education from Saint Bernard's College in Alabama and her master's degree along with her post graduate's degree from Temple University in Philadelphia.

Sister Mary worked as an elementary teacher since 1953. In 1969, she came to the Chinatown section of Philadelphia to teach at the Holy Redeemer Chinese Catholic School and Church. In 1981, in recognition of her dedication and service to the children, Sister Mary was appointed principal of Holy Redeemer School. Throughout her tenure at Holy Redeemer School, she has been a dedicated religious administrator and teacher for many of the adults and children in the community.

In addition to her busy schedule with school and church work, Sister Mary was elected by the community to the board of the Philadelphia Chinatown Development Corp. She also served on the police advisory board. She is a member of the tenant selection committee of Dynasty Court and served on the PADOT Committee for the Vine Street Expressway as it was being built. Sister Mary was the regional leader in her order of the Missionary Servants. She is also the coordinator for the Principal's Association.

As of September 1992, Sister Mary moved on to the Queen of the Universe School in Bucks County where she will continue her dedicated work in education and social service as the principal of the school. Although Sister Mary is no longer a daily part of the Chinatown community, her presence and fine efforts will keep her always in the forefront of our minds.

WISCONSIN NATIVE PROUDLY SERVES OUR NATION

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. KLECZKA. Mr. Speaker, of the many duties a Member of Congress must perform, one that consistently provides me with great satisfaction is the recommendation of young men and women to our service academies.

One of my nominees to the Air Force Academy, Brian Sanford of Greendale, WI, was recently selected to enter the selective Euro-NATO Joint Jet Program. In this program, he will be one of 31 Academy graduates to receive advanced pilot training. I'd like to take this opportunity to congratulate Brian on the outstanding job he is doing serving our Nation. I would also like to include in the RECORD a recent article from the Greendale Village Life which further details Brian's record of excellence in leadership, academics and athletics.

[From the Greendale Village Life, Sept. 1992]

YOUNG GREENDALER FINDS SUCCESS IN AIR FORCE

(By Kim Sweet)

Like Tom Cruise in the movie Top Gun, Brian Sanford lives to fly, dreaming of soaring in a fighter plane wherever the U.S. Air Force might send him.

Unlike Cruise, he isn't a rebel. Sanford graduated from the U.S. Air Force Academy as a top student and leader, and will go on to be part of a select flight training group.

Sanford, 22, has returned to the Academy in Colorado Springs, Colo., where he is working as a research assistant in the management department. The 1988 graduate of Greendale High School hopes that the case studies he is researching will be published in a cadet textbook.

"I'm enjoying it because I get to see things from the other end of the stick," says Sanford, who only graduated from the Academy on May 27, 1992. But soon he will return to the life of a student.

In about six months, Sanford will enter the Euro-NATO Joint Jet Program to receive advanced pilot training. He was only one of 31 students in a class of over 1,000 people (although not all applied) to be accepted to the program.

"We're really excited for him that he's doing so well," said his mother, Adelle. "It's really only an elite few that receive what he did."

The program is run by NATO, with many of the instructors from Allied countries. Unlike the standard programs, training is done in the air rather than with simulators, and the lessons are tactically-oriented, involving maneuvers and formations in small planes.

"It's geared more to the fact that when you graduate you're going to be flying a fighter," he says in a voice hinting at both excitement and pride. Although he didn't like rollercoasters as a child, Sanford says his favorite aspect of flying is probably the speed.

He didn't come to the academy solely to be a pilot, but caught the long the summer between his freshman and sophomore years when he started to fly gliders, engineless planes.

"That's actually when I started to fall in love with flying," he said. "They're lots of fun to fly because we're flying at the base of the mountains and there's lots of thunderstorms."

Sanford started flying the gliders during the free time that opened up as a result of his decision not to return to the Academy's football team after his freshman year. He eventually became a glider instructor.

Sanford also kept busy with the Scuba Club, downhill skiing, helping out with the cadet basic training programs, and his leadership roles on group staff and as squadron commander. All this while maintaining a 3.4 grade point average.

His record of excellence began at Greendale High School, where he was a straight-A student for four years, the class president for three years, and a member of the variety football team for two years. He also was an Eagle Scout, and volunteered with the United Way.

"He's always been a very self-motivated person," said his mother, a registered nurse at St. Luke's Hospital, Milwaukee.

Neither she nor Brian's father, Alan, were in the military, and said Brian made the decision to enter on his own.

"We were very proud, very happy for him when he graduated. That was one of the goals that he had set, and he achieved it," Alan said. "We've raised all three of our boys to make their own decisions, and set their own goals and reach for them."

Brian's two brothers are 20-year-old twins, Mark and Dan, whom he described as "great guys." His parents, he said, "were really supportive, but they didn't push me one way or the other."

His friends, however, were less than encouraging. "I was pretty wild in high school and a lot of people didn't think I'd fit into the regimented life," Sanford admits. "They didn't think I would make it."

It is true that the Academy is tough, not only to go through but to get into. Those interested in the Academy must be appointed by a congressman and must have outstanding qualifications. Sanford, however, seems to be unfazed by the requirements, seeing his decision as more of a personal choice.

"It was really a great opportunity for me at the time. For one thing, we were at peace," he laughs. Sanford kids around a lot. "That was 1988. Glasnost and perestroika were big."

In a more serious vein, he added, "The prestige of being a military officer appealed to me. And being a pilot."

In addition to fueling his military career, appointment to the Air Force Academy provided him with a free four-year education and a bachelor's degree in management.

Sanford plans to earn his master's degree in business administration through the Air Force in a few years, but his vision of the future centers on flying. His ideal: "I'd be flying a General Dynamics F16 Fighting Falcon anywhere they want me to go. I don't care specifically where, as long as I have a good time."

He adds, "So far, I just love being in the military. I'd love to make a career of it."

AT WHAT COST THE DEATH PENALTY?

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. EDWARDS of California. Mr. Speaker, the tremendous cost of implementing the death penalty is often overlooked in the debate about capital punishment. As we look for ways to allocate our limited resources in the most effective manner, I commend to my colleagues the following op-ed article which appeared in my hometown newspaper, the San Jose Mercury News, this past Sunday. Gerald Uelmen, the distinguished dean of the Santa Clara University School of Law and a former Federal prosecutor, writes that "When we can't afford to pay for the educational bread our children need, paying for the circus of an occasional execution is an extravagant waste of public resources." The full text of Dean Uelmen's article follows:

[From the San Jose Mercury News, Sept. 20, 1992]

AT WHAT COST THE DEATH PENALTY?

(By Gerald F. Uelmen)

For 20 years, politicians and pollsters have asked California voters the wrong question about the death penalty. When asked simply if they favor the death penalty, Californians respond with an overwhelming "yes." Now, for the first time, Californians must be asked, "How much are you willing to pay to have a death penalty?"

Among the competing public priorities of educating our kids, housing our homeless, giving health care to our sick, keeping our parks and libraries open, and hiring police officers to patrol our streets, how high do you rank paying for the occasional spectacle of an execution?

The issue was recently presented in proceedings before a little-known body called the Commission on State Mandates. When the Legislature, under the leadership of then-Sen. George Deukmejian, restored the California death penalty in 1977, it enacted Penal Code Sec. 987.9, to provide that one accused of a capital offense can apply to the court "for funds for the specific payment of investigators, experts and others for the preparation of presentation of the defense."

From 1977 to 1990, the state reimbursed counties $77 million for judicially approved defense expenses pursuant to Sec. 987.9. In 1990, the Legislature unanimously appropriated $13 million for Sec. 987.9 funding, to ensure "uniform and reliable enforcement" of the death penalty in California.

Then-Gov. George Deukmejian vetoed the bill, suggesting the state had run out of money. The State Department of Finance adopted the position that funding these expenses was a county responsibility, since the decision to prosecute a case as a capital offense is made by the county district attorney.

The issue, of course, is whether the state or the county foots the bill. Options do not include simply refusing to provide the services that Sec. 987.9 makes available. In 1985, the U.S. Supreme Court ruled in an Oklahoma case that the federal constitutional guarantee of due process requires the government to foot the bill for psychiatric experts needed to defend an indigent in death penalty sentencing hearings.

In late July, by a vote of 3-2, the Commission on State Mandates rejected a claim for $8 million in reimbursement sought by Los Angeles County, declaring that counties must pick up the full tab for death penalty defense costs.

A predictable response will be an attempt to reduce those costs, by refusing more requests for defense investigators and experts. Perhaps a more appropriate response would be for county prosecutors to be more selective in the use of the death penalty, but that hardly seems likely.

In the wake of the Robert Alton Harris execution, California is headed for a record year, with more new death judgments coming down than in any of the past 10 years. In Santa Clara County, the grand jury recently returned an indictment seeking the death penalty for 12 Nuestra Familia prison gang members, a case that may set another record in the costs the county will have to pick up.

But counties might not even have the option of avoiding the costs by declining to seek the death penalty. When impecunious Calaveras County balked at the costs of a death penalty trial for Charles Ng, accused of torturing and murdering 12 victims in a mountain cabin, the state attorney general took over the prosecution. But the state has refused to provide Calaveras County with any funds to reimburse expenses for Ng's defense, insisting the county must pay those costs.

The reimbursement of defense experts is only a small part of the expense of death penalty trials. The biggest item on the bill is likely to be the fees paid to court-appointed lawyers. Death cases are very demanding in terms of time and expertise, and court-appointed legal fees are substantially less than experienced lawyers can command in private practice.

Nonetheless, as costs climb, counties are groping for ways to reduce the funding for death penalty defense work. Los Angeles County is proposing the use of "flat fee" contracts much like those used in Southern states, with no opportunity to renegotiate based on the peculiar circumstances of a particular case. The proposal has encountered stiff resistance from the Los Angeles County Bar Association.

If it comes to a standoff, with both the state and the counties refusing to pay, the courts may be left with no choice but to dismiss the death penalty demand and try a case simply as one punishable by life imprisonment without the possibility of parole. In 1983, the Rose Bird Court upheld a contempt of court judgment against a county auditor who refused to pay court-ordered reimbursements to a criminal defense attorney.

But even this power may be limited. In an effort to head off judicial restoration of budget cuts for court funding, the Legislature recently considered a constitutional amendment that limits the power of courts to order disbursement of tax funds. Although it was narrowly defeated, the proposal is likely to resurface.

Thus, California's love affair with the death penalty may crash on the shoals of fiscal reality. To be sure, there will be lots of politicians arguing that the solution is to treat death cases the same as other cases. Where mere liberty is at stake, we readily accept a wider margin of error, and find comfort in the hypocrisy of promising equal justice while we deliver two levels of justice to indigents and to those who can pay.

That kind of hypocrisy cannot be tolerated in death cases. The courts have always recognized that death is different, and cases where the state seeks to take the defender's life require a greater level of procedural protections and judicial scrutiny. As U.S. Supreme Court Justice Harry Blackmun recently observed, undercutting that premise "undermines the very legitimacy of capital punishment itself."

For years, California politicians have tripped over each other in their eagerness to promote the death penalty without ever reckoning how much it would cost. Today, when we can't afford to pay for the educational bread our children need, paying for the circus of an occasional execution is an extravagant waste of public resources.

You won't find a politician with the courage to even raise the question, though. President George Bush is bashing Congress because it hasn't passed his proposal to expand the number of federal offenses punishable by death from two to 53. At the same time, he's proposed a budget under which funds for the defense of indigents in criminal cases will run out in April.

TRIBUTE TO JUDGE JOSEPH DONOFRIO

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Judge Joseph Donofrio, the vanguard of justice and human dignity in the State of Ohio.

Judge Donofrio was admitted into the practice of law in 1955 and has served in numerous capacities, including Chief City Prosecutor in Youngstown, as a judge in the city's municipal court and as chief justice of the Ohio Courts of Appeals Association. In his 37 years of service, he has worked tirelessly to improve the human condition both in his hometown and throughout the State.

While serving as judge for the municipal court, Judge Donofrio established a court honor class to rehabilitate indigent, alcoholic offenders. He also organized and chaired the Committee on Homeless Alcoholics. This committee established the first halfway house in Youngstown for those suffering from the disease. The Donofrio House now offers hope to individuals caught in the web of alcoholism, crime, and poverty.

Mr. Speaker, mentally retarded citizens have also benefited from Judge Donofrio's efforts. As chairman and board member of the County Mental Health and Retardation Board, Judge Donofrio was instrumental in establishing a mental health officer post in the Youngstown Police Department. Now the mentally ill and those addicted to alcohol and drugs can be screened and directed to needed medical attention.

I am not surprised, Mr. Speaker, that Judge Donofrio was awarded the Ohio Supreme Court Award for Judicial Excellence. I am also grateful that he has chosen to share his considerable knowledge and expertise with the students of Youngstown State University as an instructor in the Criminal Justice Department.

Mr. Speaker, when men and women expend vast amounts of energy to succeed, they often take for granted those close to them. But Joseph Donofrio has preserved and cherished his family. I have seen firsthand the Donofrios and can tell you only of love and loyalty. His son, Gene, is striving to carry on his father's good works as a judge on the Ohio Court of Appeals. He recently won the primary, and I wish him all the best in November.

Thank you for the time, Mr. Speaker, to honor the compassion and vision of Judge Joseph Donofrio.

IN MEMORY OF EUGENE H. MORRISON

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. GILMAN. Mr. Speaker, I rise today to inform our colleagues of the passing of my dear friend and former classmate, as well as a prominent citizen of Middletown, NY, Mr. Eugene H. Morrison.

Eugene Morrison, who passed away on September 16, 1992, was the youngest of five children, born to John and Christine Morrison in 1921. After attending grade school in Middletown, and high school at the Harvey School in Katonah, NY, Mr. Morrison went on to graduate from the Massachusetts Institute of Technology in 1943. After graduation, he joined the U.S. Army where he served as general staff engineer officer in Italy for 2 years. He received an honorable discharge with the rank of captain in 1946.

Mr. Morrison began his business career as a terminal engineer at the Norfolk Terminal for Texaco, Inc.; but he soon resigned his position to become the assistant trust officer of the Orange County Trust Co. He became the president of that organization in 1962 and subsequently chairman of the board in 1970.

Mr. Morrison also served his community in many other capacities. He held positions ranging from director of the Federal Reserve Bank of New York to five terms as president of the Horton Memorial Hospital to member of the board of both the Orange County Home for Aged Women and the Orange County Golf Club.

Gene Morrison was a man of laudable character who was admired by many of his colleagues. Despite the success his father had achieved in the oil industry, Eugene worked hard as a young man to earn his weekly 25-cent allowance. This work ethic of his youth continued to manifest itself in every facet of his life throughout his 71 years. Eugene's colleague and predecessor as president of the Orange County Trust, Albert Juliano, said of him:

> He was a strong-willed man who once he set his sights on something beneficial for the community, he went all out to see that it became a reality.

Mr. Morrison was also a faithful supporter of the Orange County Community College Scholarship Fund and College Association. Morrison Hall was erected in memory of his continued support throughout the years. In recognition of Gene's philanthropy and community involvement, he received a nomination for the title of Colonel of the Commonwealth of Kentucky.

Mr. Speaker, Gene was a dear and close friend who I had learned to depend upon for sound and salient economic advice. Gene was a dependable guy who could always grasp the big picture on any given issue and accordingly offer dispassionate suggestions.

Mr. Speaker, Eugene Morrison was an outstanding contributor to society. His death is a great loss to our community of Middletown, NY and to our State and Nation. He was a close personal friend of mine and I encourage our colleagues to join in extending the deepest sympathies to his wife Clifford, his children Elizabeth, Martha, Eugene, and William, and his many other loved ones. His life should set an example to be emulated by all of us.

Someone once said that man's stay on this Earth is measured by the good deeds he performed during his lifetime. If that be the case, then Gene Morrison's debt to society is paid in full.

FISCAL YEAR 1992 DIRE EMERGENCY SUPPLEMENTAL APPROPRIATIONS BILL

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. COUGHLIN. Mr. Speaker, I would like to bring to the attention of my colleagues the administration's concerns with regard to title XII—Additional Assistance to Distressed Communities—of the Senate-passed version of H.R. 5620, the fiscal year 1992 dire emergency supplemental appropriations bill.

Title XII of the Senate-passed bill contains fiscal year 1993 funding for a number of programs, subject to the enactment of authorizing legislation, including $300 million for a block grant to distressed communities designated as tax enterprise zones and $200 million for new and existing Federal programs.

As indicated in a recent letter from Attorney General Barr to key members of the House and Senate Appropriations Committees, the administration is concerned that the funds in the Senate-passed bill are either not tied directly to the weed and seed strategy or are earmarked solely for tax enterprise zones.

The Weed and Seed Program is designed to ensure that Federal assistance to State and local law enforcement will be better coordinated with prevention and other demand reduction programs. It is a comprehensive, multi-agency plan to reclaim embattled neighborhoods by weeding out gang leaders, violent criminals, and drug dealers and seeding, or rejuvenating these areas with a wide range of anti-crime and drug prevention programs, as well as human service agency resources.

Economically distressed communities require the expansion and improvement of onsite social programs such as job training, Head Start, drug abuse treatment, literacy programs and programs targeted to high risk youth. These enhancements will be wasted, however, if progress is not also made in reducing the threat of crime. These additional funds for social service programs must be expended in coordination with law enforcement efforts as called for in the administration's weed and seed strategy.

It is my understanding that the administration supports title XII of H.R. 5620 as passed by the House last Friday, and I urge my colleagues to support appropriate authorizing legislation. For the RECORD, I am submitting a copy of Attorney General Barr's letter outlining the administration's views with regard to title XII of the Senate-passed bill:

OFFICE OF THE ATTORNEY GENERAL,
Washington, DC, September 17, 1992.

Hon. ROBERT C. BYRD,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. BYRD. The purpose of this letter is to reemphasize the Administration's views with respect to the funding provided to distressed communities under Title XII of H.R. 5620.

Title XII of the Senate passed bill contains FY 1993 funding for a variety of programs, subject to the enactment of authorizing legislation. Specifically, Title XII includes $300 million for a block grant to distressed communities designated as tax enterprise zones and $200 million in appropriations for four new and five existing federal programs. The Statement of Administration Policy clearly summarizes the problems with this title:

"The Administration objects to this new spending unless the funds are targeted more efficiently and effectively under the Weed and Seed Program. Additional spending for social service and economic development programs is questionable unless those funds are expended in coordination with law enforcement efforts."

The Weed and Seed Program, now operating in twenty communities throughout the country, is designed to effectively coordinate the delivery of social service spending with law enforcement activities while giving local communities the discretion to fashion a program that addresses local needs. In Trenton, New Jersey, for example, the local Weed and Seed steering committee has used limited federal resources complemented by state, local and private sector resources to fund a successful law enforcement effort, community policing program and Safe Haven initiative. Over 600 children per day have used "Safe Haven Schools" during the 1991–1992 academic year or during the summer of 1992. These schools are opened after hours to give the children of these neighborhoods a place, insulated from the fear of violence or intimidation by drug dealers, in which to do their homework, swim, play basketball, and other activities. In effect, "Safe Haven schools have become calm ports in stormy high-crime areas." For your reference, I am enclosing the "First Year" Report on Trenton Weed and Seed as prepared by the local steering committee.

Activities like Safe Haven schools and many others are in various stages of development throughout the country in these pilot and demonstration locations: Atlanta, GA; Chelsea, MA; Charleston, SC; Chicago, IL; Denver, CO; Ft. Worth, TX; Kansas City, MO; Los Angeles, CA; Madison, WI; Omaha, NE; Philadelphia, PA; Pittsburgh, PA; Richmond, VA; San Antonio, TX; San Diego, CA; Santa Ana, CA; Seattle, WA; Trenton, NJ; Washington, DC; Wilmington, DE.

In addition, communities like Springfield, Illinois; Benton Harbor, Michigan; Mobile, Alabama; Birmingham, Alabama; Savannah, Georgia; Providence, Rhode Island; Indianapolis, Indiana; and Miami, Orlando, Ft. Myers, Jacksonville, and St. Petersburg/Clearwater, Florida are interested in or are beginning to adopt the Weed and Seed strategy without additional funding in FY 1992. The resources for Weed and Seed requested by the President in his FY 1993 budget will enable these and many other communities to implement this innovative strategy for assisting distressed communities. H.R. 5620, however, does not provide the vital "seed" resources for these communities.

The funds provided in the Senate-passed bill are either not tied directly to the Weed and Seed strategy or are exclusively earmarked for tax enterprise zones. Since January, the Administration has consistently asked the Congress to appropriate $500 million under the Weed and Seed Program, particularly for "seed" or social service activities. In fact, 94% of the President's budget request for Weed and Seed activities is earmarked for "seed" programs.

H.R. 5620, as passed by the Senate, provides $200 million for new and existing programs. The legislation, however, does not tie these funds to the Weed and Seed strategy. The Administration cannot support this new spending unless these funds are targeted more effectively under the Weed and Seed program. In these difficult times, a business as usual approach to government spending and crime fighting is wasteful and inefficient.

H.R. 5620 also provides $300 million to the Interagency Council for tax enterprise zones under a block grant program. On the surface and without additional details, this appropriation raises several concerns for the Administration. First, the funds should not be limited to tax enterprise zones. The Interagency Council should have the flexibility to direct the use of these funds to the areas most in need. Second, the funds appropriated under the block grant program should not be strangled by Washington dictated formulas that smother local creativity and ignore community input. Third, the funds should be tied more closely to the Weed and Seed strategy, where law enforcement works hand in hand with social services agencies to comprehensively assist America's distressed communities.

Mr. Chairman, I urge the Committee to work with the Administration to make these critical changes in this legislation. The communities now implementing the Weed and Seed strategy and those who want to participate in the program are in dire need of "seed" resources. Working with State and local jurisdictions, we are effectively coordinating our law enforcement efforts to rid these neighborhoods of the most violent offenders and establish active community police programs. To balance the effort, the President has requested over $470 million in "seed" programs to assist these communities. I hope the Congress will respond by providing the "seed" resources so important to the success of the program.

Thank you for your timely consideration of this important legislation.

WILLIAM P. BARR,
Attorney General.

HUMAN RIGHTS IN TURKEY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. HAMILTON. Mr. Speaker, I wish to draw to the attention of my colleagues the latest in a series of letters exchanged with the Department of State regarding the human rights situation in Turkey. The last exchange appeared in the CONGRESSIONAL RECORD on Tuesday, November 26, 1991. The current exchange deals with the question of the existence of political prisoners in Turkey.

The Department's August 3, 1992 response is striking for the number of places where the Department states that information is lacking about the nature of human rights in Turkey. It underscored the need to improve our information and knowledge about this situation.

Once again, I wish to reiterate that Turkey is an important friend and ally of the United States. We have a broad agenda with the Government of Turkey. It is in our interest and in the interest of the future of the United States-Turkey relationship to ensure that serious human rights violations cease to occur in Turkey.

U.S. DEPARTMENT OF STATE,
Washington, DC, August 3, 1992.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs.

DEAR MR. CHAIRMAN: I am pleased to respond to the questions you raised in your letter of July 10 to Assistant Secretary Niles regarding the issue of political prisoners and other human rights abuses in Turkey.

On the overall human rights situation in Turkey, there is no better source of information and analysis than the Department's Report on Turkey in its Country Reports on Human Rights Practices for 1991. It provides as complete a review of human rights abuses in Turkey as available information permits.

Despite the care and attention to detail that characterizes that report, it does not establish the number of political prisoners in Turkey at that time or whether, in fact, there are such. In this connection, I can confirm Mr. Niles's statement June 23 that we have no information that there are people in prison in Turkey for specifically "political" offenses, such as, for example, belonging to a political organization. There are persons imprisoned in Turkey for activities which the government considers illegal, and which could be regarded as politically motivated: for example, members of the Kurdish Workers Party (PKK) convicted of carrying out terrorist acts. I do not, however, consider those detained for terrorist activity to be political prisoners. Rather, the PKK is a terrorist organization, recognized as such by most governments in the world, including the United States. As a consequence of intensified terrorist action in the southeast by the PKK, the parliament recently extended the state of emergency in that area for another four months.

We have no information on new cases of persons sentenced for what we would consider political activities since April 1991, when new anti-terrorist legislation abolished features of the criminal code which defined advocacy of beliefs, such as communism and Islamic fundamentalism, as "crimes." As are you, we are aware that the security courts still have the authority, in theory, to indict and convict persons who advocate separatism, threaten the unity of the state, or conduct "armed propaganda." The Turkish claim that such persons would not be political prisoners does not conform with international standards.

In this regard, we believe that Turkish state security prosecutors take an impermissibly broad view of what constitutes "separation"—as, for example, in their thus far unsuccessful efforts to prosecute Kurdish members of parliament for speaking Kurdish at the rostrum and for wearing Kurdish colors at their swearing-in ceremonies. As a consequence, the security courts may in the past have convicted and sentenced people for what outside observers would consider to be the legitimate expression of opinion. However, there are no estimates of the numbers of such convictions any more definite than those offered by the reports you cite, and these cannot be confirmed. Such estimates are made more difficult by pardons and amnesties (exact number unknown) that have been issued since the passage of the anti-terrorist law.

As regards the other specific questions you raised in your letter:

We do not accept a definition of "terrorist" drawn as broadly as in the Turkish anti-terror law. Our Human Rights Report characterized the Turkish definition as "broad and ambiguous" and susceptible to abuse. As noted in that report, the law's provisions are still pending judicial review.

In whatever manner "political prisoner" may be defined, we consider anyone detained for freedom-of-expression "offenses"—whether through ambiguity of the law, or abuse of the law by authorities—to be an appropriate subject of our concern.

Our working definition of "political prisoner" is broadly inclusive. To summarize, it includes persons who are incarcerated without charges, or on charges for offenses commonly held to be matters of belief, or for membership in a religious, social, racial, or national group. This definition extends our concern to persons prosecuted even under an ostensibly internationally acceptable law when the charges are trumped-up, or the trial unfair. Our definition also includes those convicted of politically-motivated acts in cases where the punishment is unduly harsh because of the person's race, religion, nationality, or social group. It does not include those who, regardless of their motivation, have gone beyond advocacy and dissent to commit acts of violence.

We are aware of the problem of torture in Turkey. Turkish Government figures show that more than 1400 cases of torture were investigated in 1991. The Turkish Human Rights Association reported 18 deaths of persons in police custody that same year. We continue to receive reports of torture, but the process of compiling full statistics for 1992 is not yet complete. We shall again report fully on this abuse, but we believe the record has improved since our last report in terms of the number of cases.

Thus the Department takes a very comprehensive view of what constitutes human rights abuses, as our annual reports amply demonstrate. We feel that abuse of human rights, as you suggest, does not depend solely on definitions of offenses, nor on numbers of convictions. Indeed, the whole range of issues involving human rights is a matter of serious concern in our bilateral relations with Turkey. We follow closely, for example, reports of unjustified detention, torture, and unsolved deaths of Kurdish activists. Since Mr. Niles met with the Subcommittee on

June 23, Ambassador Barkley again discussed our human rights concerns with the Turkish Minister for Human Rights on July 14 and urged Turkey's compliance with international human rights standards to which it has subscribed.

At the same time, we are encouraged by improvements that have occurred in Turkey since the restoration of democratic government. Although Turkey has faced during that period a growing threat from Dev Sol, PKK, and other terrorist groups, we believe that the long-term trend is good. Turkey has taken many significant steps, and we believe that the present government is committed to implementing democratic standards of human rights. As Mr. Niles stated in his testimony on June 23, the Government of Turkey is actively seeking ways in which those human rights abuses can be put in the past. For example, the government has presented to the parliament for its consideration judicial reform legislation which would limit pre-trial detention and guarantee attorney access at all stages of detention. I believe the Turkish authorities recognize that some of their procedures are simply unacceptable, not just because of international pressure but because of what kind of a country they want Turkey to be. We intend to continue to discuss abuses with Turkey in order to support that trend.

I hope this letter has been responsive to your concerns.

Sincerely,

JANET G. MULLINS,
Assistant Secretary,
Legislative Affairs.

HARRY DANIEL APPOINTED CHIEF RANGER OF THE VIRGIN ISLANDS NATIONAL PARK

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. DE LUGO. Mr. Speaker, I could not be more pleased that the National Park Service has chosen Harry Daniel to assume the position of Chief Ranger at the Virgin Islands National Park on St. John.

Harry Daniel has earned the respect of all segments of the local community for his involvement and for his outstanding record of achievement during 23 years of service with the Virgin Islands Police Department.

A recent editorial in the Virgin Islands Daily News, which I submit for the RECORD, is titled "An ideal choice," and sums up why Harry Daniel's selection for this job is such a good one.

Beyond Harry Daniel's unquestioned qualifications to be Chief Ranger, his appointment represents another milestone for the community: Harry is the first native St. Johnian to hold this important position in the more than 35 years the national park has been in operation in the Virgin Islands.

This is an important time for the park and the people of St. John. At my request, and with the support of our former colleague, Secretary of the Interior Manuel Lujan, and Assistant Secretary for Fish and Wildlife and Parks Governor Mike Hayden, the Interior Department recently examined closely park operations and park relations with the community. It became very clear that qualified Virgin Islanders were not being included in training and advancement, and that something has to be done.

Harry Daniel's appointment as Chief Ranger is an ideal first step. His credentials in law enforcement, his obligation to fairness, and his commitment to his community are important assets in building new bridges between the St. John people and the park administration and staff.

To Harry Daniel I extend my personal congratulations and my every wish for his success. In Harry Daniel the entire community places its confidence that his leadership will bring new strength and sensitivity to the Virgin Islands National Park.

AN IDEAL CHOICE

Harry Daniel's appointment as chief ranger for the National Park Service on St. John is sure to win universal accolades.

Daniel is an ideal choice for the job.

He's got the right kind of experience after 23 years with the V.I. Police Department.

He's got the respect of everyone in the community—young and old, black and white, rich and poor. That's no small factor given the charges of racism that have been leveled against the park service hierarchy in recent months.

He's got the community at heart, as evidence by his numerous community activities. So if anyone can win the community over to understand the park's inestimable value to St. John, Daniel is that someone.

Harry Daniel is the first St. Johnian to become chief ranger of the V.I. National Park. He starts Oct. 15. We have every confidence that he will do an outstanding job.

SALUTE TO NANCY AKABORI

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. MATSUI. Mr. Speaker, I rise today to salute Mrs. Nancy Akabori, Mr. Toko Fujii, Mrs. Frances Lee, and Mrs. Margaret Lim for their undivided support and continued leadership. On September 26, 1992 the Asian Community Center will be honoring these outstanding citizens at the sixth annual fundraiser for the Asian Community Nursing Home.

The Asian Community Nursing Home is guided and supported by the Asian Community Center and has been a successful and valuable caretaker for many senior citizens of the Sacramento community. Their dedicated staff, volunteers, and supporters have made this organization one of the most respectable nursing homes in the state. This year four individuals have been chosen as exemplary leaders of these successfully run enterprises.

Mrs. Nancy Akabori has volunteered her time between the Asian Community Center, its bingo operations and the Asian Community Nursing Home. She served on the board of directors of the Asian Community Center from January 1987 to January 1988 and has been a cochairperson for the annual nursing home fundraiser since it started in 1987.

Mr. Toko Fujii devoted his time serving on the Asian Community Center board of directors from July 1984 until January 1989. While serving on the board, he was instrumental on the finance, marketing, and fundraising committees. He currently is active as a cochairperson for the annual nursing home fundraiser and continues to volunteer at the community center's bingo hall.

As an active board member since 1980, Mrs. Frances Lee is well known for her responsible role for the Asian Community Center's bingo operations. As their bingo manager, Frances spends many hours coordinating and maintaining procedures for running the prosperous bingo hall, which has been successful enough to cover additional maintenance costs for the Asian Community Nursing Home. Frances also serves as the chairperson for the volunteers committee.

Since 1984, Margaret Lim, known to many as Peggy, has actively served on the board of directors of the Asian Community Center. She has served on the finance, marketing, fundraising, and volunteer services committees and always has time to volunteer for many activities at the Asian Community Center and the nursing home. Additionally, Peggy has been valuable as the cochairperson for the volunteer services committee.

Mr. Speaker, the Sacramento community is proud of the commitment from Nancy Akabori, Toko Fujii, Frances Lee, and Margaret Lim. I ask that my colleagues join me in saluting these outstanding leaders and their tireless dedication to the Asian Community Center and the Asian Community Nursing Home.

SALUTE TO THE 77TH U.S. ARMY RESERVE COMMAND AND THE 77TH INFANTRY DIVISION

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. SERRANO. Mr. Speaker, I rise today to salute the members of the 77th Infantry Division and the 77th U.S. Army Reserve Command [ARCOM]. This year, the 77th ARCOM celebrates its 25th anniversary and the 77th Infantry Division celebrates its 75th anniversary and I would like to take this opportunity to commemorate the contributions both these units have made to our Nation's history.

The 77th Infantry Division was organized at Camp Upton, Yaphank, NY, in 1917. It called itself the "Metropolitan Division" and was popularly known as the "Statute of Liberty Division" due to the huge number of soldiers in the division that came from New York City, among which were many courageous men from the Bronx. Six months after its formation, the 77th Infantry Division departed for Europe to fight in World War I where the unit remained 68 days in combat, fighting in four campaigns: Baccarat, Oise-Aisne, Aisne-Marne and Meuse-Argonne.

The 77th Infantry Division was deactivated following the end of World War I and was reactivated for World War II in the spring of 1942. At this point, the unit traveled to the Pacific for its first combat mission which was to help the Marines liberate Guam. During World War II, the 77th Infantry Division participated in five operations in three campaigns, never fighting in a losing campaign. The unit was once again deactivated in 1946 and the following year went on to become one of the six combat divisions of the Army Reserve. In 1967, the 77th Army Reserve Command was formed as part of the reorganization of the command structure of the Army Reserve.

Six units of the 77th ARCOM were called to active duty as a result of the Pueblo Crisis in 1968. Five of these units served in Vietnam and many unit members received decorations and awards for outstanding service. The 77th ARCOM also participated in the recent Persian Gulf war when approximately 3,500 soldiers, or one-quarter of the unit's strength, was mobilized.

Mr. Speaker, please join me today in celebrating the anniversaries of both these units and in expressing to all the courageous individuals who formed part of the 77th Infantry Division and the 77th ARCOM our deep appreciation for their heroic service to our Nation.

HUGH WECKERLY'S IDEAS TO REDUCE THE FEDERAL DEFICIT

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. CUNNINGHAM. Mr. Speaker, Americans are increasingly worried about the size of the Federal budget deficit, now exceeding $300 billion per year.

This past weekend, while meeting constituents in my San Diego, CA, district, Mr. Hugh Weckerly presented me with a brief paper that makes a lot of sense.

I am proud to enter Mr. Weckerly's paper into the permanent RECORD of the Congress of the United States, in hopes that it will be instructive to the Members of this body.

[Mr. Weckerly's paper follows:]

HOW TO BALANCE THE BUDGET

(By Hugh Weckerly)

There is a workable solution available to balance the Federal Budget in five years without increasing tax rates.

By implementing and combining the recommendations of the Grace Commission, the Heritage Foundation and the Citizens Against Government Waste (all non partisan, non profit, tax exempt taxpayer organizations) the President and Congress could give us a practical solution to our Federal budget problems.

The "Heritage 4% Solution" would establish a cap in spending growth that would still allow policy makers to spend more on all programs or even increase spending well over 4% for some programs if they cut back or terminate others to hold to the 4% total budget increase.

The Citizens Against Government Waste Special Report includes the unimplemented portions of the Grace Commission recommendations that have already saved $197.2 billion and spells out how the Federal Government can save a whopping $167 billion next year and a total of $922 billion over the next five years by identifying over 500 proposed savings with dollar amounts for each.

The Citizens Against Government Waste also recommends that Congress adopt the following items that are just as important to the process:

1. Adopt procedures to identify and eliminate pork barrel spending (a "pork barrel litmus test").
2. Privatize federal services that can be performed better at lower cost by the private sector.
3. Give the President authority to veto line items in spending bills (enhances his power to block special interest spending.)
4. Cut the top rate on the capital gains tax and index capital gains for inflation. (Proven revenue gainer. America is the only Western nation without an indexed capital gains tax).
5. Roll back increases in the social security payroll tax (Gives direct and immediate financial help to the poor and small business and boosts employment).
6. Double the tax exemption for children and bring back the Individual Retirement Account (IRA) and remove the penalties for first time home purchases (current tax code penalizes families and discourages savings.)
7. Repeal the job destroying and revenue loser luxury tax and all other tax increases legislated in the 1990 budget agreement.
8. Limit the number of terms members of Congress may serve (will reduce the power of special interests).

The recommendations of these citizen committees offer the necessary tools to obtain a balanced budget in five years or less without raising tax rates.

I would recommend three more proposals for consideration:

1. Reevaluate all entitlements (restore fairness to the budget).
2. No officer, committee, or other House authority, including the Rules Committee, shall allow any spending amendment that is not germane to the question before the House or agree with or allow any officer or committee of the Senate to present any such amendment to the House.
3. Interest dollar amounts due and paid to the Federal government from special low interest loans may be deducted as a business expense only to the extent that they exceed total non operating income received.

It is obvious that Federal spending must be controlled if we are ever to become fiscally responsible.

This proposal suggests the way to obtain a balanced budget without any big sacrifices to any one or more of our people.

It does not recommend a cut in any budget item dollar amounts.

It does identify over 500 budget items where the elimination of government waste would produce savings and does allow all the savings from programs where 4% increases were not necessary to be used to increase others.

A sustainable and eventually balanced budget should be attainable with all the options contained in this proposal.

A TRIBUTE TO JORGE MAS CANOSA

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. SMITH of Florida. Mr. Speaker, the September 1992 edition of South Florida magazine featured an article about my good friend and distinguished Cuban-American, Jorge Mas Canosa.

Many of us know Jorge as the man who, perhaps more than any other, has put the spotlight on Fidel Castro's tyranny in Cuba. That spotlight has allowed the world to learn about the ongoing tragedy of the Castro dictatorship. It has also won Mr. Mas Canosa the respect and support of fellow Cubans here, on the island, and throughout the world.

Mr. Speaker, I am proud of my friend Jorge and congratulate him for his very long list of accomplishments on behalf of his beloved Cuba. Rare is the person familiar with Washington politics that is unfamiliar with the effectiveness and success of the Cuban-American National Foundation. Jorge's is one of the more successful and prominent immigrant stories that I know. His success is representative of the Cuban-American community, whose rich and varied contributions in all facets of life have made south Florida and other communities throughout the country a better place in which to live.

MAS MACHO: THE MOST POWERFUL CUBAN IN AMERICA

(By Pat Jordan)

Jorge Mas Canosa, 52, is a Miami beekeeper and former milkman who made his fortune planting telephone cable and has a very busy-looking passport. It is stamped with the names of far-flung ports-of-call: Brazil, Argentina, El Salvador, Panama, Hungary, Honduras, Chile, Costa Rica, Guatemala, Portugal, Angola. It should also be stamped with the name of the American city he visits most frequently, Washington, since Mas still considers himself a foreigner in the country in which he's lived for more than 30 years.

Mas, as he is called by those who know him, visited Czechoslovakia shortly after Vaclav Havel assumed power and tutored him on capitalism. In mid-1991. Mas visited Nicaragua to congratulate Violeta Chamorro after she was elected president. He also visited Lisbon, where he helped broker the peace agreement between Angola's Castro-backed communist government and the Angolan rebel, Jonas Savimbi. And Mas visited Boris Yeltsin the week before the Soviets announced they were pulling their troops out of Cuba.

Sometimes people come to Mas. When Cuban rafters wash up on the shores of South Florida, the first name they are likely to mention is that of Jorge Mas Canosa. When President Bush wants to make a policy speech about Cuba, he sends Bernard Aronson, his assistant secretary of state for inter-American affairs, to deliver that message before Mas and the Cuban-American National Foundation, the powerful lobbying group Mas founded in 1981. Sometimes Bush comes and speaks to the CANF himself, or Mas goes to Washington and confers with the president. "I know him close enough to call," Mas says of Bush, "and even if I don't talk to him personally, I get his attention."

In 11 days last summer, Mas visited 10 foreign countries and was received by 10 heads of state. His visits had a single purpose, just as Mas has only a single purpose: to persuade those heads of state to help him drive Fidel Castro from power.

Jorge Mas Canosa is a trim, dapper, gray-haired little man who favors gray suits, tasseled black loafers and tinted eyeglasses indoors or out. Little is known about Mas, his personal life, his lifestyle, even his movements, until they are made. What is known about Mas is that he is a footnote to international politics who happens to be the most influential Cuban in the United States. He is also, according to friends, the man most likely to become the first democratically elected president of Cuba. To his enemies, he is the man they most fear becoming president of Cuba.

Mas sees the world in terms of conspiracies only he can unravel. He drives a bomb-proof Mercedes-Benz 560 SEL and has been known to carry a loaded .357 magnum in his briefcase. He debugs his house every few months. He is not afraid to act physically to defend a real or imagined slight. A few years ago he punched out his brother Ricardo over a business matter. Ricardo sued Mas for libel and won a judgment of more than $1 million.

Mas has established "a very profitable business" installing telephone line for Southern Bell, one that has made him a millionaire 10 times over. But more important, to him anyway, it has given him access to the corridors of power, especially in Washington.

He is a friend to presidents (Reagan, Bush) and an enemy (Kennedy). In 1975, when he wanted to start Radio Marti, he had a friend contact Sen. Edward M. Kennedy to ensure that the senator would not oppose their efforts. He didn't. In 1985, when he wanted to make sure Savimbi's rebels continued to get financial aid, he stopped by the late Sen. Claude Pepper's house. It was done, to the tune of $30 million.

Bernard Aronson says of Mas: "His views are taken very seriously by this administration * * * The stereotype of him—which holds that Mas is an intransigent demagogue—is not accurate."

It does not matter to Mas whether the men he courts are liberals or conservatives. It matters only that they stand on the "honorable" side of the only issue that concerns him: Castro's demise. It is his litmus test that determines which politicians receive contributions from the vast sums at his disposal—CANF directors contribute at least $10,000 a year to join; Mas contributes $50,000. "We never forget our friends," says Mas. "And we always remember our enemies."

Mas has a lot of enemies, besides Castro. Left-wing Cuban exiles who would like rapproachement with Castro. Right-wing Cuban exiles who want nothing less than a military invasion of Cuba. Americans who would like the United States to resume trade with Cuba.

Mas laughs. "I must be doing something right," he says. "Both the left and the right hate me."

Mas claims constantly he is misunderstood by Miami Anglos. When a Miami Herald editorial opposed a bill that would tighten the U.S. embargo of Cuba, Mas was furious. He paid for signs on buses that read in Spanish and English, "I don't believe the Herald!" He accused the Herald of being an unwitting tool of Castro, which to Mas was perfectly understood hyperbole. The Herald was not so understanding, especially when its newspaper boxes were destroyed or defaced, its offices received bomb threats, and its publisher's life was threatened.

Mas reserves his deepest scorn for those he considers Anglo apologists for Castro, like Wayne S. Smith, who believes that the best way to help Cuba is to encourage dialogue with Castro. Smith, a former U.S. diplomat in Havana, says the idea of Mas as president of Cuba is "bizarre. Most Cubans on the island fear him. He's too narrow and impassioned. He doesn't even understand democracy."

Mas describes Smith's views on Cuba as "the dream of a nice gentleman without a hat on a hot summer day." According to Mas, it is men like Smith who don't understand democracy and how it is intertwined with capitalism. Mas learned that the more money he made, the more access he got. His theory: Capitalism and democracy equals power.

"When Castro falls and the exiles move in," says Mas, "the biggest problem in Cuba will be its economy. We (exiles) have very carefully designed programs to start companies and businesses that will be partly owned by the Cuban people. They will accept us because we will give them jobs. The power of the free market will annihilate everything."

At 14, Mas broadcast slogans opposing the dictatorship of Fulgencio Batista over the radio and was arrested. After his release, his father promptly enrolled him in junior college in North Carolina. At 19, he flew back to Cuba after Batista was overthrown. When he grew disenchanted with Castro, he began broadcasting anti-Castro tirades. He was arrested again. After he was released, a friend found him distributing anti-Castro literature on a street corner. "You're crazy, man!" said the friend. Mas fled Cuba a second time, only to return in a PT boat during the Bay of Pigs fiasco.

He managed to escape a third time, to Miami, where he bought a small boat, armed it with missiles, and fired them at Havana. He rented a B-26 bomber, outfitted it with bombs and missiles, but couldn't find a country that would let him launch it toward Cuba. So he joined the U.S. Army, urged on by the CIA, and trained with other exiles for what they thought would be an invasion of Cuba. When he discovered that President Kennedy had no intention of launching them against Cuba, just as he'd had no intention of providing the Bay of Pigs rebels with air support, Mas quit in disgust. Kennedy then became the second-most hated man in Mas' life.

Even today, Mas does not apologize for his past acts of violence. "I am a man of strong feelings," he says.

In 1776, he would have been considered a patriot like Thomas Paine. In Cuba in 1898, he would have been considered a freedom fighter, like his grandfather who fought to free Cuba from Spain. But those were simpler times, when men's only recourse to freedom was physical acts of courage. Such acts are considered out of step in an age when international problems are debated at a table in a glass-walled skyscraper.

Mas claims he has tried to change with the times, to shed his caveman image. "I am a misunderstood man," he says. Then he goes on to admit that many of the criticisms are valid. He is passionate, prone to physical action, unbending, but only because his cause is just. And, of course, because he is Cuban, not American. He sees Americans as flaccid, emasculated, without passion. Which is why, he says, "I have never assimilated. I never intended to. I am a Cuban first. I live here only as an extension of Cuba. I live a Cuban life here. My friends, my social activities, they are all Cuban."

Mas says he did not come to this country like immigrants before him, hat in hand, looking to be fed. "I was a political exile," he says, "not an economic immigrant. I thought I'd return to Cuba in a few months, a year or two," When he finally realized that was not a realistic goal, he accommodated himself to his new country, but only up to a point. He became an American success, but only in ways that would lead him back to Cuba.

"I love America," he says. "I would die for it. I'd never have been so successful in Cuba. But people like me need to be fed with more than success."

In speeches, Mas often says, "Cuba is a bankrupt society on the verge of collapse * * * Castro will fall in a year or two." Mas is so sure of this that he has made arrangements to rent the Orange Bowl for a celebration on that day. He believes that Eastern Europe's economic problems will not befall Cuba after Castro, because 20 percent of the island's population is exiled to America. Those exiles understand the free market. They came to America with nothing, remade their lives, became successes, without welfare, and now they are strong enough financially to aid in Cuba's reconstruction. They will rebuild Cuba with private capital and American know-how. "And we won't ask the United States for anything," Mas says.

The offices of Mas' company, Church and Tower, are west of the Miami airport in an industrial area. Mas started his company, now a $60-million firm with about 500 employees, with only a trailer for an office. Bees built honeycombs underneath the trailer. Mas tried to shoo them away with a stick, but they wouldn't budge. The honeycombs grew apace with his business until Mas finally said to his help, "Goddamn it, leave the bees alone." Nowadays, Mas bottles his honey and gives it to friends.

Inside, Cuban-American secretaries in miniskirts talk in English to handsome young Cuban-American men. They grew up on McDonald's, MTV, Madonna, the Dolphins, Tom Cruise, Calvin Klein, BMWs and the American Revolution. Their parents told them stories of a different world, of congri and lechlón quincenas and carnavales, of campesino huts and the revolucíon that forever changed their lives. The parents were trying to instill in their children reverence for their homeland and the obsession to reclaim it. But the children missed the point. To them, those stories were not about a lost place, but of a lost time.

"No, Mr. Mas is not in," Mas' secretary, Ines Diaz, is saying into the telephone. She repeats this refrain to every caller in a monotone. Diaz's job is to protect her boss while remaining invisible herself. Once, though, she had a moment of notoriety. Her name appeared in Oliver North's diaries. So did that of her boss, beside a cryptic notation for $80,000. The Senate committee investigating North's Iran-Contra dealings never could connect Mas to North. Jack Blum, special counsel to the committee, finally threw up his hands. "We have more loose ends than a plate of spaghetti," he said. Mas said that maybe the notation referred to another Jorge Mas.

"No, Mr. Mas is not in." Diaz hangs up. She looks, without expression, across the room. "Mr. Mas will see you now."

Mas is one of those amiable, yet serious men not given to small talk. He says, through furrowed brows, "After the Bay of Pigs I was demoralized. I felt I couldn't trust our allies. It was a good lesson. I continued a little longer to think I would go back because I was obsessive about Cuba. * * * After 1968, I began working toward my own future."

Mas' activities brought him to the attention of other, wealthier exiles. In 1964, Jose M. Bosch, then president of Bacardi rum, gave Mas $10,000 to start Cuban Representation in Exile (RECE). In the early '70s, Mas used his RECE connections to get Vicente Rubiera, former head of the telephone workers' union in Cuba, to get him a job with Iglesias y Torres, a construction company. Rubiera introduced Mas to Southern Bell executives, who liked his aggressiveness. Shortly after, Mas persuaded Aristides

Sastre, president of Republic National Bank, to loan him $50,000 to buy Iglesias y Torres, which he promptly renamed Church and Tower, its English translation. Within a year, C&T was doing more than $1 million worth of business with Southern Bell. Mas used that money and the power it brought him to start Radio Marti, then CANF, and later TV Marti.

The one criticism Mas doesn't like to hear is that he's become Americanized. "My lifestyle has changed drastically," he says, despite his attempts to retain "a Cuban life." He skis at Vail. He has a season box seat for Dolphin games. He lives in a million-dollar Spanish-style mansion surrounded by a towering wall with an electronic gate.

He still rises at 6 a.m., still speaks only Spanish in his "Cuban house" with his wife, Irma ("very much a Cuban wife"), and his three sons, as he did with his father, who died in 1990.

Irma Mas, a soft, pretty blue-eyed blonde dressed in silk, summons her servant in Spanish as she sits in darkness at the outdoor bar overlooking the swimming pool. She is a reticent woman, either because she is not comfortable with English or because she is "very much a Cuban wife." The servants, dressed in white uniforms, appear with trays of Russian caviar on crackers.

Mas is giving a guest a tour of his sprawling grounds. He makes a sweeping gesture to encompass six towering royal palm trees planted beyond the pool. "For the six provinces of Cuba," he says. He leads his guests to an open-air hut. "I had it built by Seminole Indians. It's a campesino house, a poor man's house in Cuba." He sits in a lawn chair underneath the thatched roof. "When I come home from work, I relax here first. I fantasize that I'm back in Cuba. I'd give it all up for a house on a hill overlooking the bay in Santiago, where I was born."

Mas says his most immediate dream is to return to Santiago and live like a gentleman farmer. "Some horses, cattle," he says. "I'll grow every vegetable I can eat. I'll have peace of mind. Tranquility." He laughs. "Maybe in six months I'll be bored. I don't really know Cuba anymore. I only know the Cuba of my memories.

"I want to know Cuba now. To see its countryside, touch its people, provide them with the opportunities I had in this country. The Cuban people are hard-working, passionate, fun-loving, with great moral fiber. Castro has stolen their personality. Maybe it will be hard for me to go back. I will feel out of place. The toilets and phones won't work. Maybe I'll throw up my hands and say, 'I wanna go home.' Maybe it'll take three years to adjust. But I'll make the toilets work. I'll make Cuba the richest country in the Americas." Then he smiles. "Of course, if I go back now they will take me from the plane to the firing squad."

After dinner of fried plantains and pork, Mas and his guests retire to his living room, furnished with Mediterranean furniture and French and Spanish antiques. Irma appears with a bottle of Spanish brandy. "1866," says Mas. "A gift from the king of Spain." Irma hands him the bottle along with his digestion pill, which he takes first.

Later, Mas insists on driving his guests to the airport. "A taxi! Forget it!" he says. He drives and Irma sits beside him. As they drive through Little Havana, they hold hands over the gearshift, clasping and unclasping their fingers like young lovers. Mas' fingernails and cuticles, illuminated by the dashboard's light, are bitten to the quick.

Mas mentions that this is the neighborhood of a friend from the old days—whom he refers to as Tony Forte (not his real name). Each December, Tony tells Mas, "We'll spend this Christmas in Santiago, eh, Jorge? I'll drink to you in the Presidential Palace."

When they were younger, Tony lived next door to Irma. He introduced the two, and later, in Miami, Mas and Irma became engaged at Forte's house. Forte was a rebel with Castro—a tough, muscular man with a machine gun always at his side. When he fell out of favor with Castro, he fled to Miami, where he got a job managing a gym. Today, in his 60s, Forte is still tough and muscular and, more than Mas, has retained his Cuban past. He speaks accented English, still favors only frijoles negros, and still has an eye for the ladies. When three youths recently ran his car off the road, he challenged them to a fight. His face was bruised and swollen the next day. "You should see the other guys," he said, smiling.

Mas laughs at this story, and shakes his head. "Tony, he still only exercises his muscles." He taps his head.

Irma speaks for the first time. "Tony only wants to love the girls," she says.

Her husband says, "Tony never did adapt to America."

TRIBUTE TO CY WONG

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. DYMALLY. Mr. Speaker, I rise before you today to recognize a truly deserving individual who serves as a great, positive role model for countless Americans of color.

Cy Wong was born on December 11, 1937, in Gary, IN, a steel mill town 20 miles southeast of Chicago. He is the oldest of 13 children of Nathaniel and Olevia Donway Wong. In 1940 the family moved to Campti, LA, where Cy's parents had migrated from several years earlier. Wong had two sisters born in Gary, while five brothers and five sisters were born in Campti.

Cy Wong is a fourth generation mixed Chinese and black. His great-grandfather Phillip Wong, a first generation pioneer, immigrated into Louisiana on January 15, 1867, from Cuba with a Frenchman, Jules Honorat Normand who owned a plantation. Wong had come to work as an indentured agriculturalist for 5 years.

In 1872 Phillip married Lillie James, a woman of color, Creole. They had two sons and two daughters. In 1904 their son Emile Wong, Sr., a noted businessman in northwest Louisiana, married Nellie Washington, a mixed black and native American woman. They had five children including Cy's father Nathaniel.

Nathaniel Wong, Sr., the second son of Emile, took charge of the Wong estate and livestock operation following the death of his father in 1940. Cy's earliest recollections of that time are that he enjoyed feeding the cattle but disliked the less glamorous, albeit necessary task, of tending the hogs.

Wong attended Campti Rosenwald School, which later became Campti Junior High School, where he won many awards in academics, track and vocal music. While in school Cy sold newspapers, picked cotton and cut paper pulp wood to earn money and help his family. He was very trustworthy and proved to be an excellent organizer and problem solver. His commitment to academic excellence and self improvement continued while enrolled at Central High School in Natchitoches, LA. In addition to winning more awards, he proved to be a precocious baritone, reaching the lower octave with ease when he was 17.

Wong graduated from Central High School with honors and joined the U.S. Navy in 1956. He served as a seaman aboard two attack troop transports in the Pacific: the USS *Noble* and the USS *Paul Revere*. In 1958 while serving aboard the *Revere* he organized a singing group called The Reveres. He composed his first song for the group, "Petals from a Rose," for which the group won many talent shows throughout the Pacific. During this period Wong received the Navy's Good Conduct Medal.

Cy was honorably discharged from the Navy in 1960 and returned to Natchitoches, LA, where, in 1958 while on leave, he had met an elementary school teacher, Miss Betty Jean Batiste, fell in love and became engaged. On November 20, 1960 Cy married Betty and they later had one child: Faith Devona Wong.

Wong went to New York in January 1961 to promote several songs he had written. With very little success he ended up studying voice under noted vocal coach Mable Horsey for 3 months. Later in the year he moved to Los Angeles and began working in several clubs prior to signing a recording contract as a singer/songwriter with Nat King Cole's K–C records. Wong received recognition and remuneration for his composing efforts on his recorded records Della and Too Proud to Cry. Tel magazine voted him 1962's most promising star.

Unfortuntely, the company died with the demise of Cole in 1965 and Wong returned to working the night club circuit while managing the Dear Hearts, a young rock group from San Francisco for 2 years. He was successful getting them club work and television appearances, but a conflict with parents forced him to leave the act.

Wong decided to broaden his talent into the acting field. In 1968 he enrolled in the Professional Theater Workshop in Hollywood. Using the school as a springboard, Cy subsequently appeared in several productions in Los Angeles including American Hurrah, The Blood Knot, and Wuthering Heights.

In 1971 while working on ABC's daytime melodrama General Hospital, Wong enrolled full-time in Los Angeles City College and the California State University earning a bachelor of rrts in journalism and public relations in 1974.

Cy left ABC in 1978 and went to work at the Columbia Broadcasting Co., on the melodrama, "The Young and the Restless." Other television work to his credit include episodes of "Sanford and Son," "Hill Street Blues," and the CBS Movie of the Week "Perfect Gentlemen," in 1978.

Wong left the "Young and the Restless" in 1981 to research and write a motion picture script entitled "The Other Cowboys." He followed this project with research work on his Chinese heritage entitled "The Cross-Over," in 1983.

In 1985 Cy became a member of the Chinese Historical Society of southern California.

He was elected to the board of directors in 1989 as an interim member and was re-elected in 1991 for a 2-year term.

Mr. Speaker, I know my colleagues will want to join me in congratulating and honoring Mr. Cy Wong for his tremendous achievements. I think we can all agree that he does indeed serve as a great, positive role model of success, perseverance and hard work for all Americans, regardless of race, creed, or color.

"THE HURT IS REAL"; CONGRESS "RETREATS" FROM WASHINGTON

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. OWENS of New York. Mr. Speaker, the leadership has decided to shut down Congress and leave the grievances, anxieties, and pains of the American people to the two Presidential candidates. Some have indicated that this would be a contribution to a winning strategy for the frontrunning Democratic candidate. This oversimplified reasoning contends that a so-called discredited Congress has nothing useful to contribute to the current political dialogue. We are therefore racing to get out of town and out of sight. We are running away from the need for an extension of unemployment benefits. We are refusing to do our duty for the overwhelming majority of Americans who are demanding a civilized national health care program which covers everybody. We are abandoning any emergency effort to relieve 75 percent of the school districts which are presently suffering from wrenching budget cuts. Far from being a clever or smart move, this evacuation of the Capitol, this retreat from Washington, places the Democratically controlled Congress in a category close to the administration in the White House which is being firmly condemned for its lack of sensitivity and its coldness. The voters are ready to throw out an executive team that just can't understand that the hurt is real. Beware, Mr. Speaker, lest the escape from the spotlight by Congress be interpreted as another example of the failure of people in power to understand that the hurt is real. To be unemployed is a devastating experience. Democrats in Congress must at least stay long enough to pass an extension of unemployment benefits. All across America there are empty refrigerators and Congress must take steps to fill some of these empty refrigerators. The hurt is real.

The Hurt is Real

Cold Commander
The hurt is real
Why can't you feel
Your hype is flat
Words can't combat
Paydays that come and go
With nothing green to show
To hell with quota baiting
It won't work this time
Your greed is the crime
Capital gains ghouls
Played us for fools
You kicked us hard
With veto boots
But for your pals
You put out golden parachutes
The hurt is real
Why can't you feel
Your S and L hogs
Drained the treasury dry
Out of budget
You pushed hungry children
And left them to die
Enough kind and gentle play
Cold Commander
You can't stay
Blind Chief of Pain
Its judgment day
No more spin on the news
No more dopes to confuse
Don't tell me no tales
Bout Willie Horton
Family firesides and all that
Sentimental stuff
One empty refrigerator
Educates me enough
The hurt is real
Cold Commander
Why can't you feel?

TRIBUTE TO BERT "BUD" WHITED AND THE MEN OF THE U.S.S. "HORNET CV-8"

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. SWETT. Mr. Speaker, today I introduced H.R. 5981, a bill to award the Navy Expeditionary Medal to the officers and enlisted men of U.S. Navy and Marine Corps who served on the ships of Task Force 16.1 and 16.2, including the U.S.S. *Hornet* CV-8, that participated in the raid led by Lt. Col. James H. Doolittle on Tokyo in April 1942. This important piece of legislation will recognize the heroic efforts of Lieutenant Colonel Doolittle and his men on the 50th anniversary of their mission over Tokyo.

In early 1942, Japanese advances had resulted in declining American morale in the Pacific. On April 18, however, Jimmy Doolittle's successful foray in the face of overwhelming odds served as a turning point that led to an eventual Allied victory. No group had ever undertaken a more dangerous mission with less chance of survival. They were able to bomb Tokyo and other targets without a single loss from enemy fire.

Mr. Speaker, this attack so infuriated Japan's generals that later, during the Battle of Santa Cruz, the *Hornet* CV-8 became the target of a series of unrelenting attacks from enemy aircraft. Despite these efforts, the crew of the *Hornet* was able to shoot down all but two of the Japanese attack aircraft. It is now time to recognize the efforts of Doolittle's men who served on the U.S.S. *Hornet* and helped his squadron of B-25's realize a successful mission.

Mr. Speaker, in introducing this bill I would also like to recognize a constituent of mine, Bert "Bud" Whited, ADRC USN (Ret.), of Grantham, NH. In 1942, Bud Whited was a 20-year-old seaman, first class, in Scouting Squadron 8. He was aboard the *Hornet* when Doolittle led his raid and remained a part of his unit until the *Hornet* was sunk on October 26, 1942.

This year, Bud Whited will serve as co-host of the annual convention of the U.S.S. *Mustin* DD-413 and U.S.S. *Hornet* CV-8 to be held in Merrimack, NH in October. His tireless efforts on behalf of those who served under Lieutenant Colonel Doolittle and Admiral Halsey should be recognized as we commemorate the 50th anniversary of their heroic raid.

Mr. Speaker, I urge my colleagues to support this bill so that the men who served aboard the *Mustin* DD-413 and the *Hornet* CV-8 can receive the medals which they so richly deserve for their outstanding service to our country.

DESIGNATING THE YEAR 1993 AS "BLACK HISTORY YEAR"

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. RANGEL. Mr. Speaker, I include the following resolution:

Whereas, 1993 is the 130th anniversary of the issuance of the Emancipation Proclamation of 1863 which freed African-Americans from physical slavery;

Whereas, African-Americans have survived over 300 years of oppression in these United States and have overcome insurmountable odds in their pursuit for human rights;

Whereas, African-American youth can learn from the achievements of their ancestors and be themselves inspired to succeed;

Whereas, the American community at large will see the innumerable contributions that African-Americans have made to the United States of America in the fields of industry, education, and politics;

Whereas, the people of the United States should be encouraged to participate in the educational, organizational, and legislative endeavors that promote the commemoration of Black History Year;

Whereas, the commemoration of Black History Year will encourage corporations and advertising agencies to cooperate with African-American media in the promulgation of 1993;

Whereas, the dedication of an entire year affords ample time for cultural and religious organizations to reassess the goals of the African-American community as they prepare for the next 130 years;

Whereas, the commemoration of 1993 as Black History Year is also a fitting time, for African-Americans to chart a course for their survival and progress over the next 130 years;

Whereas, the fundamental principles and ideals of the Emancipation Proclamation have bonded all Americans regardless of their diverse cultures: Now, therefore, be it

Resolved, That the United States House of Representatives pause in its deliberations and memorialize its members to adopt this resolution; and be it further;

Resolved, That a copy of this resolution be transmitted to the President of the United States of America.

TRIBUTE TO NORMA STEWART

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. HUBBARD. Mr. Speaker, I want to pay tribute to a longtime friend and a beloved, outstanding lady, Norma Stewart, who died at age 59 last Thursday in my hometown of Mayfield, KY.

Norma Stewart, a lifelong resident of Graves County, KY, was a tremendous influence to the thousands of western Kentuckians who knew her. For the past 15½ years she has struggled with cancer, but she was an inspiration at all times to those with whom she came in contact.

Her husband, Joe Stewart, is the Graves County circuit court clerk and has served in this elective position for the past 11 years.

Norma Stewart was a very pretty, talented, personable lady. She had lots of friends and admirers. She lived for others.

She was a member of Pryorsburg United Methodist Church.

Many Graves Countians would agree with me that Joe and Norma Stewart have been for many years the most popular couple in the area.

Kirk Byrn III, owner of Byrn Funeral Home in Mayfield, said today that the hundreds who came by to visit with Norma Stewart's family last Friday and Saturday comprised one of the largest outpourings of affection and admiration he had ever seen.

Survivors, in addition to her husband, Joe Stewart, are her parents, Mr. and Mrs. Louis Jones of Mayfield; three daughters, Regina Clapp of Mayfield, Michelle Everett of Dresden, TN, and Deneice Story of Plant City, FL; two sisters, Virginia Abernathy of Union City, TN, and Karolyn King of Mayfield; one brother, Walton Jones of Mayfield, and four grandchildren.

My wife, Carol, and I extend our sympathy to Norma's husband, Joe, and the other members of her family.

WITHDRAW YUGOSLAVIA'S MFN STATUS

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. ANDERSON. Mr. Speaker, later today we will consider H.R. 5258, legislation to withdraw most-favored-nation trade status from what remains of the Federal Republic of Yugoslavia. I rise this morning to encourage all my colleagues to support this long-overdue measure.

More than a year ago, the people of Croatia, Slovenia, and Bosnia-Herzegovina boldly declared their independence from the Serbian-dominated totalitarian regime in Belgrade. Although they did not receive the support from the West that they expected and deserved, the newly independent republics have gamely resisted the vicious attacks and overwhelming might of the Yugoslavian Federal Army. That resistance, however, is taking a heavy toll on the people of the region.

We must do what we can to end the political and ethnic clashes, and help to establish peace in the Balkans. Withdrawal of Yugoslavia's MFN status will be a sign of our resolve to tolerate no more broken promises, shattered treaties, or blatant aggression from the Communists in Belgrade. I urge all of my colleagues to vote to withdraw most-favored-nation trade status from the Federal Republic of Yugoslavia.

TRIBUTE TO "THE CONDORS"

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. GEKAS. Mr. Speaker, I rise today to praise "The Condors" of Harrisburg, PA, as they celebrate their 10th anniversary on October 12, 1992. The Condors started as an informal social club of eight Harrisburg-area men that met once a month, but it has evolved into a group that has become selflessly involved in helping charities around central Pennsylvania.

They have participated in Muscular Dystrophy Association events that have benefitted that organization greatly. They have come to the help of a local church that was in need of replacing stained glass windows. They have contributed to local Jewish homes for the aged, and have assisted in local charity golf tournaments that benefit cancer research.

It is small, selfless efforts like these that all Americans can and should put forth to help their fellow citizens. The efforts of the Condors are indeed inspiring and heartening.

Mr. Speaker, I congratulate the Condors on the occasion of their 10th anniversary, and wish them many more years of good will and good fun.

HONORING THE FIRST ANNUAL 24-HOUR RELAY CHALLENGE

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. APPLEGATE. Mr. Speaker, there is probably not a single Member of the House of Representatives or the U.S. Senate who is unaware of the rapidly growing problems of drug and alcohol abuse among the youth of our Nation, and we are all deeply concerned over the possible marketing of tobacco products to underage Americans.

It is one thing to recognize and decry these trends, but it is truly honorable and commendable when concerned citizens take swift and strong action to combat these social evils which ruin family and health and which undercut the future of our children. Such citizens are to be found in Newark, OH, with the strong involvement of the Newark School District At-Risk Task Force, combined with the Police Athletic League of Newark and Licking County and the Board of Education, along with many others.

Starting on Saturday, September 26, 1992, these concerned and actively involved citizens will be sponsoring the First Annual 24-Hour Relay Challenge which will take place at the Evans Athletic Facility in Newark. This Challenge will strive to create a world for children which will be free of alcohol, drugs, and tobacco by bringing together youth and adults in this event which emphasizes exercise. Members of relay teams made up of ten participants each will run or walk at least one mile and will continue this process for the entire 24-hour period of the event. Proceeds from the event will be directed at obtaining materials, equipment, training associated with substance-free activities for our youth.

As stated by Glenn Cunningham, president of the Police Athletic League of Newark/Licking County, this event is about cops and kids, with youngsters joining with law enforcement officials to learn and understand the constructive influence of their elders when it comes to learning about constructive influence and the lessons of responsibility. As stated in their program, the 24-Hour Relay Challenge is a "win-win situation" which will bring students and community members together to experience a shared sense of purpose and accomplishment.

Mr. Speaker, I want to join with my colleagues in the U.S. House of Representatives in bestowing special honors on all of those participating in this First Annual 24-Hour Relay Challenge. Most of all, we should recognize those youth and those students who come to understand the importance of this program, not just for today, but for the rest of their lives as well. I wish all of them tremendous success, not only this coming weekend but also for every day which follows.

ACCESS TO INFORMATION IN NATIONAL INTEREST

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. ANTHONY. Mr. Speaker, as America prepares for the 21st century, our society continues to move from an industrial and manufacturing based culture to a more service-oriented culture, and access to information is a key component in allowing this change to occur.

In these early days of the Information Age, we are confronted with a growing gap between those who currently have access to information and those who do not. While the vast array of information available to Americans increases, the large bulk continues to be most accessible only to large businesses or those consumers who are able to afford sophisticated computer equipment.

This division has led numerous consumers to recognize that an advanced telecommunications network is vital to our country's ability to meet the economic challenges of the 21st century, and an advanced telecommunications network will only be stunted by the effects of restrictive, protectionist legislation such as H.R. 5096.

Last winter, I cosponsored H.R. 3515, but after much review and consideration, I have come to believe that Americans need easy, affordable access to information, and restrictive bills such as H.R. 5096 and H.R. 3515 will only hurt America in the end. The national interest can best be served by encouraging the largest number of participants to provide the fullest selection of telecommunications services and products.

TRIBUTE TO THE MAHONING COUNTY OUTSTANDING RURAL AND URBAN FAMILIES OF 1992

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. TRAFICANT. Mr. Speaker, it gives me great pride to stand here today to pay tribute to two families from my 17th Congressional District of Ohio. The Pincham family and the Less family were selected as the Urban and Rural Families of the Year by the Ohio Cooperative Extension Service and the Ohio State University.

Mr. Speaker, this award was presented at the Canfield Fair at the Mahoning County Fairgrounds this past Labor Day weekend. Mr. Speaker, as you know, I am very interested in farming and agriculture. Sometimes I think the cure for this country's ills is for some of its citizens to sweat for a few days working on a farm. Everyone is talking about family values these days. Well, no one has better and more true values then these two families.

The Francis and Jane Less family hails from Salem, OH, in Mahoning County. Francis and Jane have been married for 52 years and have been blessed with 7 children, 15 grandchildren, and 1 great-grandchild. The entire family has been active in 4-H, the Canfield Fair Board of Directors, the Greenford Library, the Cleveland Farmers Club, and the Mahoning County Extension.

On its rural farm, the Less family devotes 25 acres to an orchard, 100 acres to sweet corn, 240 acres to field corn, 60 acres to soybeans, and 15 acres to green beans. The farm is a model for agricultural conservation, as the Less family practices both soil and water conservation techniques.

Mr. Speaker, Houston Howard Pincham and Edna Dolores Pincham were selected as the Outstanding Mahoning County Urban Family of 1992 by the Mahoning County Extension Advisory Committee.

Edna and Howard Pincham came from different backgrounds but met and started a moving business in Youngstown. Edna grew up in rural Georgia, 7 miles from town on a family farm. Howard was reared in the urban setting of Youngstown, served his country in Korea, then took a job with Youngstown Sheet and Tube. Following their marriage, Howard and Edna founded H.H. Pincham Moving Co.

Edna volunteered much of her free time with many groups in Youngstown. These included the PTA, the U.S. Department of Education's Task Force on Excellence in Education, a member of the U.S. Department of Education Task Force on Absenteeism in the State of Ohio, the Childrens Services Board of Mahoning County, Mahoning County Food Bank, Homeless Coalition, Crime and Violence Task Force, YWCA, the United Way Planning Council, Arts Council, Playhouse Trustee, Mahoning County Chemical Dependency Board, and many others.

Howard volunteers at St. Elizabeths Hospital Medical Center and as a driver for the St. Elizabeth medical van to the Kimmelbrook Center. He has also served as a volunteer to the American Red Cross.

Edna and Howard have been models for their children and grandchild. They have been actively involved with the community and with 4-H activity. Edna continues to participate in the agricultural and homemaking components of family life as she served on the committee which originally organized Jubilee Gardens and remains concerned about the welfare of this project from year to year.

Mr. Speaker, I am happy to stand here today to pay tribute to these two families, the Less' and the Pincham's. I always enjoy speaking out about families that foster education and service through hard work and family values.

A TRIBUTE TO MRS. MARY BEARD

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, today I pay tribute to Mrs. Mary Beard who is retiring from the Springfield Armory Historical Association after 25 years of dedicated service.

Since the closing of the Springfield Armory in 1967, Mrs. Beard has worked to keep the Springfield Armory Historical Association working to provide information for members worldwide. As well as sending out newsletters to the members, she has also single-handedly kept the records for the organization which consisted of knowing member's addresses and making sure everyone paid their dues. Several times during the year, Mrs. Beard would publish a newsletter describing any new events that had happened in the organization. As well as organizing the records and the newsletter, twice a year Mrs. Beard would organize a picnic and a Christmas party which all the members would attend. Through her hard work, the Springfield Armory Historical Association remained an active organization.

At the end of the annual picnic, the Springfield Armory Historical Association will disband. This will also signify the end of Mrs. Beard's service for this association. From 1966 to the present Mrs. Beard organized and preserved this organization through her endurance and determination. Mrs. Beard is a remarkable citizen and I thank her for the exceptional work that she has done for her community.

HONORING ROBERT A. PIETROWSKY

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. ROE. Mr. Speaker, I rise today to pay special tribute to an outstanding individual, Mr. Robert A. Pietrowsky, for 20 years of faithful and distinguished service in the Federal Government, and particularly for his dedicated and untiring efforts as the now former Chief of the Passaic River Division of the U.S. Army Corps of Engineers' New York District.

As Division Chief, Mr. Pietrowsky managed and directed the Corps of Engineers' field operating office responsible for the flood control program for the Passaic River basin in northern New Jersey. The program includes the management of engineering-design activities for projects totalling almost $2 billion in construction. Most notable among these projects is the Passaic River flood protection project which I have wholeheartedly endorsed for many years. This project consists of over 20 miles of large underground deep-rock-tunnel diversions as well as surface elements including levees, channel widening, streambank restoration, fish and wildlife protection, wetlands protection and mitigation, and recreational facilities.

Mr. Pietrowsky's diligence and team leadership have been key to designing a project which is technologically functional, economically feasible, and environmentally sensitive. No small task considering the engineering complexity and magnitude of a project which will provide flood protection to over 20,000 homes and businesses in 36 towns and prevent over $100 million in average annual damages, all within one of the most densely populated regions in the country.

Using his deft management skills, Mr. Pietrowsky worked fervently to create a cooperative atmosphere among all involved resource agencies including the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service, National Marine Fisheries Service, the New Jersey Department of Environmental Protection and Energy, various environmental and business groups, and numerous officials on the Federal, State, and local levels. This cooperative effort has resulted in a comprehensive plan which exemplifies the kind of economically and environmentally sustainable engineering which will, I am certain, carry this country into the 21st century.

Always sensitive to the needs of the public he serves, Mr. Pietrowsky initiated an aggressive public information campaign for the project which facilitated communication between the Army Corps of Engineers and the public. This effort has and continues to provide citizens a means to ask questions, voice concerns, and request information while ensuring an accurate and timely response from the Federal Government.

Mr. Pietrowsky's rise to the position of chief of what is currently the largest civil works project in the country is a testament to the virtues of hard work and perseverance. Mr. Pietrowsky joined the Corps of Engineers in 1972 as an engineer after graduating with a civil engineering degree from the State University of New York at Stony Brook. He continued graduate studies at Polytechnic Institute of New York where he earned a master's degree in civil engineering in 1977. In the following year, he was selected for long-term training in the Corps' Water Resources Planning Associates Program. As he worked his way up the project management ladder, he authored or coauthored many reports while earning numerous awards for exceptional performance. The fruits of his labor were recognized in 1989, when, in only his second year as chief of the Passaic River Division, Mr. Pietrowsky won the prestigious New York Federal Executive Board's Executive Manager of the Year

Award. But the real highlight of Mr. Pietrowsky's career would come a year later as his leadership was instrumental in the processing of a high-quality report which facilitated his inclusion of the Passaic River project's authorization in the Water Resources Development Act of 1990. In authorizing the project, the act set a clear course for the future of flood protection in northern New Jersey.

Throughout his career Mr. Pietrowsky has maintained a "can-do" approach to every assignment he has been given. His enthusiasm, even temper, and positive attitude have ensured that momentary set-backs were just that, momentary. His resourcefulness during times of both fiscal and manpower constraints reflects his unwavering enthusiasm for his work.

Mr. Speaker, I am very proud to have worked with a man of this caliber. This pride, I am sure, is shared by his wife, Camille, and his entire family. I look forward to reading about Mr. Pietrowsky's future accomplishments as he continues his career with the Army Corps' Water Resources Support Center in Washington. Finally, as the corps would say, Mr. Pietrowsky has indeed brought great credit upon himself, the U.S. Army Corps of Engineers and the United States Government.

TRIBUTE TO THE HONORABLE MILLICENT FENWICK

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. GUARINI. Mr. Speaker, she was once called the conscience of the Congress. And indeed she was. Millicent Fenwick devoted her life to serving the needs of others. She will be missed for her style, her quick wit, and her humor. But most of all, she will be missed for her fierce determination to make this world a better place.

Millicent once said "Success, you see, is not the measure of a human being. The point is what are you trying to do." If this is true, then Millicent Fenwick was one of the most successful people I have ever known.

She began her political career in 1938, when she was elected to the Bernardsville Board of Education. Twenty years later she became the first woman ever elected to the borough council. She was a pioneer on the path toward equal rights and civil rights; in 1959 she became a member of the New Jersey Advisory Committee to the U.S. Commission on Civil Rights. She became a State assemblywoman in 1970, and then served as Director of Consumer Affairs.

In her 1947 bid for Congress, Millicent defeated Tom Kean—who would later be elected Governor of the Garden State—by just 70 votes in the Republican primary. She served in the House of Representatives for 8 years, and was on the House Foreign Affairs Committee on the House Banking Committee.

Millicent's concern for the common man extended well beyond the borders of her own State. She wrote the legislation that led to the formation of the Helsinki Commission, which was set up to protect human rights in the Soviet Union and Eastern Europe. After she left Congress, she was appointed United States Ambassador to the United Nations Food and Agriculture Organization in Rome, Italy. She worked on projects to help people of Third World countries improve their agricultural potential.

Millicent brought a real sense of compassion and commitment to the realm of politics. Her death is a tremendous loss not only to New Jersey, but to our entire Nation. She will go down in history as one of the most honorable politicians of her day. She touched many lives and made them better. She leaves a legacy that marked a life of excellence

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A TRIBUTE TO MRS. IRENE MANEKOFSKY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. FASCELL. Mr. Speaker, I rise today to recognize Mrs. Irene Manekofsky's efforts on behalf of Soviet Jewry and respect for international human rights. Mrs. Manekofsky, who recently passed away, was national president of the Union of Councils for Soviet Jews from 1979 to 1980 and president of the Washington Committee for Soviet Jews from 1973 to 1978.

It was Mrs. Manekofsky's steadfast devotion to the plight of Soviet Jews that helped heighten public awareness and congressional action on this issue. Irene's untiring devotion to the cause of freedom for the beleaguered Jewish minority in the former U.S.S.R. helped to educate and energize Congress. Her efforts helped secure passage of the Jackson-Vanik amendment and the creation of the Helsinki Commission, of which I had the privilege to serve as chairman from its inception in 1976 until 1985.

Mrs. Manekofsky was also the originator of the "Congressional Call to Conscience Vigil." This forum, still in existence today, provides an opportunity for Members of Congress to make statements on behalf of Soviet Jews and other victims of human rights abuses.

I am deeply grateful that I had the opportunity to work with Mrs. Manekofsky on human rights issues, which are of such grave international importance. I am also grateful that she was able to see firsthand the fruits of her labor—hundreds of thousands of Soviet Jews now free from the yoke of repression and discrimination and living in Israel and the United States. Twenty years ago, when Irene began her rescue efforts on behalf of Soviet Jews, this successful outcome was but a dream.

I am honored to pay tribute today to Irene Manekofsky and her enormous contribution to the cause of freedom for Soviet Jews. She will indeed be missed by those of us who knew her, but will remain a shining example of commitment and dedication which others may emulate, but never duplicate.

TRIBUTE TO CAPITOL POLICE SERGEANT KENNETH L. BURKHEAD

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. SABO. Mr. Speaker, as the 31st annual RollCall Congressional Baseball game is to be played this evening at 7 p.m. at Alexandria's Four Mile Run Stadium, let me take this opportunity to express my appreciation to Capitol Police Sgt. Kenneth L. "Buddy" Burkhead for his invaluable assistance to the Members over the years as a coach and personal confidant.

Sergeant Burkhead retires this year from the Capitol Police Force where he has served with unique distinction since July 18, 1966. He was appointed sergeant in 1975 and has served in various special capacities as bodyguard to speakers, advance arranger for various congressional funeral delegations, and assistant without portfolio to the Sergeant-at-Arms.

Through all these years Kenny has been active in the D.C. Metropolitan Police Boys and Girls Club, where he has devoted countless hours to the #8 Club at St. Albans and has served as coach and mentor to hundreds of appreciative youth in the metropolitan area. Fortunately for the Boys and Girls Club, he continues in that capacity despite his retirement from the Capitol Police force.

AUTOMOBILES AND UNEMPLOYMENT

HON. BARBARA-ROSE COLLINS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mrs. COLLINS of Michigan. Mr. Speaker, there are too many Americans out of work; there are too many Americans in my community who are out of work and hurting. The figures are startling. Close to 9 million Americans are unemployed; in Michigan, the unemployment rate is above the national average at 9 percent.

Nationally, over 1½ million new applications were filed for unemployment benefits during the first 3 weeks of February—averaging an astonishing 500,000 applications per week. At 12 percent, the official unemployment rate for my district is even higher. The unemployment rate among black males in Detroit is an astonishing 21 percent.

As we all know, there is a strong link between unemployment, the vitality of the U.S. economy, and the sales of motor vehicles. The U.S. auto industry accounts for 4 percent of the gross national products and employs one of every seven American workers. Just 13 years ago, one in every five jobs was auto related.

The dismal state of the auto industry is clearly shown in Big Three losses of $9.7 billion for the last six reported quarters. For employees, the 1991 losses have been calculated at $1 million an hour—for each hour of each day of the year.

And anyone from Michigan can tell you what it means when a company moves to cut excess capacity. It hurts our people and our communities. Over 9,000 of Michigan's best workers were affected by GM's recent round of plant closings. And GM announced in late 1991 that its overall plans call for 20,000 fewer salaried employees and 54,000 fewer hourly workers by the end of 1995.

With so many people out of work and so many people in need, it's hard for me to believe that Congress is seriously considering legislation that could jeopardize the jobs of 150,000 to 300,000 workers in the motor vehicle and related industries. This is especially depressing when you consider that the latest available data shows 111,000 workers in the motor vehicle industry are already on temporary or permanent layoff.

The legislation I am referring to would increase motor vehicle corporate average fuel economy [CAFE] standards by 40 percent or more. I am not an expert on the CAFE law, and I will not go into specific details about how this law hurts the people who live under it. I will only say that it is a terribly complex law which makes it very difficult for individuals to run their business and plan their product lineups.

While the debate will rage on about the effectiveness of the CAFE law, I can tell you now that raising CAFE standards will hurt my constituents and tens of thousands of other Americans. None of the Buicks, Cadillacs, Oldsmobiles, or Jeep Cherokees produced in my district meet the standards proposed in the CAFE bills, yet these vehicles provide excellent fuel efficiency and have been well received by both consumers and the press.

One effect of the current CAFE law that is not often disputed is that it hits domestic automakers, like GM, Ford, and Chrysler, the hardest. That is because these companies produce a full line of vehicles, including large family-size cars and trucks. Conversely, Asian-based manufacturers, which mainly produce small cars, have not been constrained, and some would say have been aided by the CAFE law in recent years.

The products built in my district in the Detroit metropolitan area are the result of hundreds of millions of dollars of investment and the proud labors of many thousands of workers. After years of criticism, American automakers apparently are now listening to their customers—and it shows.

That's why it bothers me so to see CAFE bills that take dead aim at these vehicles and the people who build them.

Consider the vehicle themselves. Cadillac's 1992 Seville STS was named Car of the Year by both Motor Trend and Automobile magazines and one of Car and Driver's "Ten Best."

Consider the plants. Employs' Detroit-Hamtramck plant was recently cited as one of the Nation's 10-best manufacturing facilities. The new Jeep Cherokee plant represents a $1 billion investment in Detroit's east side.

Consider the workers. Last year, Cadillac workers were honored with the prestigious Malcolm Balbridge Quality Award. Seventy percent of the workers at the new Chrysler plant are minorities with at least 26 years of seniority.

I am not surprised that most CAFE sponsors do not have car or truck assembly facilities in their communities. According to Michigan National Bank economist David G. Sowerby, CAFE increases would risk 64,000 jobs in Michigan alone—including auto suppliers. Over 165,000 Michigan citizens work in the supplier community; that is 1 of every 5 manufacturing jobs.

Over 1,000 organizations and companies, including over 100 from Michigan, are on record as opposing CAFE increases. Groups as diverse as the Michigan Association of Recreational Vehicles and Campgrounds, Traffic Safety Association of Michigan, and the seniors coalition have joined industry groups representing dealers and motor vehicle, steel, and tire manufacturers in opposing this CAFE legislation.

When over 1 million Americans tell a U.S. labor survey they have given up looking for employment, we simply cannot sustain any more legislation which further jeopardizes jobs. Recent events show the Big Three embarking on a painful new round of changes to remain competitive. Instead of adding to the problems of American automakers and workers, we should be helping them.

When you are considering new burdens for the motor vehicle industry, please keep in mind that the people of my district are hurting. Please keep in mind also that those who are working in the auto plants in my district take great pride in the products they build and the improvements they have made in the quality and reliability of their products. The years of hard work and attention to the needs of their customers are paying off. Please keep that in mind when next you are tempted to mandate changes in the products my constituents are producing.

I would also ask that this article, printed in the March 1992 edition of the National Black Monitor, by Mr. Rodney Coleman, executive director of urban and municipal affairs for General Motors Corp., be inserted into the RECORD.

[From the National Black Monitor, March 1992]

HIGHER CAR AND TRUCK FUEL ECONOMY STANDARDS HURT MINORITY EMPLOYMENT

(By Rodney A. Coleman)

A common thread surfaces in my meetings with local government and civic leaders. Over and over again, they talk about the importance of the auto industry to the local and national economy.

Today, there are over 13 million Americans employed in motor vehicle and related industries—which is one of every seven jobs. Only thirteen years ago, it was one of every five jobs! Even though Japanese manufacturers have opened American plants, over 200,000 U.S. motor vehicle and equipment manufacturing jobs have been lost in 1990, 111,000 industry workers were on classified temporary or permanent layoff.

Economists predict that another 150,000 to 300,000 jobs would be at risk if pending Federal legislation sponsored by Senator Richard Bryan (D-Nev.) is passed. This bill mandates a 40 percent increase in the Corporate Average Fuel Economy (CAFE) standard. CAFE is a weighted average of each auto manufacturers annual vehicle production and the fuel economy of the vehicles.

It's no wonder many local leaders are concerned about the possible effect this legislation would have on employment in their cities and elsewhere. The burgeoning cost of government regulation already threatens these jobs. According to the Motor Vehicle Manufacturers Association (MVMA), the typical 1991 new car cost over $16,000 taking over 24 weeks of the average family's income to purchase. This price includes over $2,500 worth of government-mandated fuel economy, emissions and safety equipment.

The cost of new regulations, like CAFE, will increase car prices even more. MVMA pegs the cost of implementing new clean air requirements alone at $8 billion to $10 billion annually.

Since less than 3 percent of U.S. vehicle sales meet the proposed fuel economy requirements, the legislation puts vehicle manufacturing jobs at risk at 42 assembly plants—posing a special risk to minorities. Minorities make up over 20 percent of total GM employment. Auto supplier plants, dealerships and other related business employment would also be affected.

In 1990, GM purchased $1.1 billion worth of goods and services from 1,500 minority suppliers, estimated to employ 40,000 minorities.

Minority unemployment is already on the rise. According to the National Center for Policy Analysis, Black unemployment was 21 percent eight years ago, fell to 11 percent, but is now 12 percent. Hispanic unemployment was 16 percent, dropped to seven, but is now 11 percent. We simply can't afford any more government programs which pose additional risks to minority employment.

Auto dealers have been hard hit too. Automotive News recently reported that the number of new-car dealerships has declined by one-third since 1958. In 1990, the Big Three lost 395 dealers—two percent of the total dealer body. Average dealer profits have also declined; last year, the average GM dealership's return on sales was only 0.3 percent. Unfortunately, the rate of unprofitability among minority dealers is even greater.

Since 1974, GM's fleet fuel economy increased 125 percent from 12 to 27 mpg. GM will continue to explore ways to improve fuel economy. But there is no economically practical technology yet available which would allow the average car to reach 40 mpg without undesirable trade-offs in size, weight and safety.

A recent study by Charles Rivers Associates concludes that achieving a CAFE level above that which is cost effective would cost consumers thousands of dollars over the value of fuel saved.

Experts say if vehicle choice is limited or costs increased, many consumers will opt to hold onto their present vehicles longer. An increase of just six weeks in the average ownership period is estimated to reduce new-vehicle sales by 500,000 units annually. Then the ripple effect will kick in. Reduced sales lead to reduced employment.

In addition, researchers warn that higher CAFE standards may actually increase total fuel consumption and pollution. That's because people will tend to keep their old vehicles longer, delaying the introduction of newer vehicles that achieve better fuel economy and emit fewer emissions.

Our Congressional representatives need to be reminded of the hidden impact that regulatory proposals, like CAFE, have on our neighbors as well as ourselves. Dick Warden, former UAW Legislative Director, recently told Congress: "The nation would be poorly served if fuel economy gains were achieved at the cost of thousands of high-productivity, high-wage jobs that cannot be replaced."

The U.S. auto industry is one of the necessary engines driving our economy—accounting for four percent of the annual gross national product—over $200 billion. When combined with the ripple effect of parts producers and suppliers, the vitality of the American motor vehicle industry is considerable.

For example, in 1989, the auto industry represented 77 percent of natural rubber purchases; 60 percent of malleable iron; 16 percent of aluminum; and 14 percent of U.S. steel production. The industry buys $1.9 billion of textile and textile products, $1.7 billion of radios and speakers, and $1.6 billion of glass.

That's why it is absolutely essential that all citizens, especially those who would be adversely affected by an onerous CAFE bill, let their members of Congress know that this is a poor piece of legislation.

EARTH TRAIN

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. PORTER. Mr. Speaker, on October 2, the Earth Train will roll into our Nation's Capital. I am pleased to have the honor of welcoming the motivated, visionary, and accomplished group of young leaders who are the passengers on the Earth Train. These young leaders of the next generation are participating in a long-term plan to educate, empower, and inspire millions of young people all over the world in order to create an environmentally healthier tomorrow.

Their goals will be reached through a variety of paths. They will assist students in developing community plans to effectively design and implement projects to better their local environment. The passengers of the Earth Train are also creating an international network allowing students to share and acquire information rapidly. Furthermore, they will assist young people in developing problem-solving skills, leadership characteristics, and community service ideals in order to enable effective leadership on environmental issues in the next century.

These visionaries represent a variety of diverse geographical, ethnic, and social backgrounds, yet all have individually contributed something enormously and uniquely beneficial to their community.

The student-teachers of Earth Train are an inspiration to me and I believe they will have the same effect on other Members of Congress. I am proud to welcome them to Washington and to be a member of the Earth Train Advisory Board. Mr. Speaker, Members of Congress, please join me in welcoming this gifted band of young visionaries to our Nation's Capital.

CONFERENCE REPORT ON S. 12

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. SYNAR. Mr. Speaker, I supported the conference report on S. 12, the Cable Television Consumer Protection and Competition Act of 1992 during its recent consideration on the House floor. I did so because in my view the root of the complaints about cable rates and cable service is the consumer's lack of competitive alternatives to cable television. Although not perfect, the conference report promotes competition in the cable industry, especially in the key area of providing fair access to television programming, and therefore deserves to be enacted into law.

The access to programming provisions in the conference report will ensure that television viewers in rural districts like my own will receive a broad range of programming at a fair price. The legislation prohibits cable-affiliated programmers, like HBO, CNN and the Discovery Channel, from engaging in unfair or deceptive practices to prevent cable's competitors from providing programming to consumers. This is critical for my district where many of my constituents rely on satellite dishes for their television programming. Right now some cable programmers refuse to even sell programming to home satellite dish distributors and those that do, charge the distributors an average of 500 percent more than they charge cable operators for the exact same programming. Cable programmers get away with this because they have no real competition. But when this bill is enacted, my constituents will have better cable television because cable operators won't be allowed to restrain their competition from providing the programming consumers want.

I also strongly support several other provisions in the conference report which consumer advocacy groups claim will save cable subscribers billions of dollars. Currently many cable operators force subscribers to purchase a higher-priced package of cable service prior to receiving access to premium services such as HBO, Showtime or the Movie Channel. The report ends this practice by requiring only that consumers subscribe to the lowest-cost, basic level of service prior to accessing premium programming. The conference report also requires cable companies to end arbitrary pricing for cable installation services and equipment rental fees for converter boxes and remote control devices. The legislation mandates that the prices charged by cable companies for equipment and services be fair and reasonably based on actual costs.

In addition, the conference report provides for a number of service enhancers that will benefit cable consumers. The measure allows cable companies to offer reasonable senior citizen discounts and discounts for other disadvantaged groups. The report also prohibits cable operators from charging subscribers for programming which was not affirmatively requested by the subscriber and requires cable companies to meet a prescribed minimum standard for customer service and consumer protection. In other areas, the legislation tells cable companies to increase the compatibility between their systems and cable-ready televisions and VCRs.

Aside from the many benefits the conference report will bring to cable consumers, there are two areas of the bill that trouble me—the measure's retransmission consent provisions and the Federal Communications commission's ability to adequately regulate the cable industry.

The retransmission consent provisions merit concern because they conflict with a traditional notion of intellectual property rights. Retransmission consent requires local television stations to elect between forcing a cable operator to carry the station on its cable system free of charge or negotiating with the cable operator over the terms and conditions under which the cable operator may retransmit its signal. A disturbing aspect of negotiation option is that it allows local broadcasters to profit from the transmission of television entertainment developed, and copyrighted, by programmers. I believe there are better ways than those presented in the report to protect the rights of copyright holders within the context of retransmission consent. Conveniently, the bill provides a 1-year phase-in period for retransmission consent during which time Congress can revisit the issue if it chooses.

I also have reservations about the Federal Communications Commission's ability to take on the plethora of new regulatory responsibilities mandated by the legislation. For some time I have criticized the FCC for its inability to adequately regulate the seven Regional Bell Operating Companies. The cable legislation requires the FCC to oversee thousands of cable companies in hundreds of local and regional markets. While I question whether the FCC is up to its new task, the primary purpose of the conference report is to promote cable competition. To that end the measure phases out FCC regulation when healthy, viable, competitive alternatives to cable have been established in the marketplace.

The conference report accompanying S. 12 is good legislation that deserves to be enacted into law. While it's not perfect, it will provide better cable programming, at a fairer price, to more consumers. Cable consumers deserve this bill, Congress should give it to them.

SUE KLINE KLUGER RECOGNIZED AS DISTINGUISHED DAUGHTER

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 22, 1992

Mr. KANJORSKI. Mr. Speaker, I rise today to recognize a remarkable woman, and a personal friend, from my district in Pennsylvania. Sue Kline Kluger has recently been named a Distinguished Daughter by Gov. Robert P. Casey and I am pleased to join the Governor in honoring Mrs. Kluger.

Currently, Sue serves as executive director of Leadership Wilkes-Barre of which she was a founding board member. Leadership Wilkes-Barre, a program which helps train local young men and women committed to community service, owes much of its success to the efforts of Sue Kluger. In addition, Mrs. Kluger's organizational skills have been evident in the community for many years through her service to a long list of causes and associations.

Sue serves or has served on the boards of almost 30 organizations including: The United Way of Wyoming Valley, National Association of Community Leadership, Rural Health Corporation, Penn State University, Wilkes-Barre Campus, Luzerne County Human Services, Greater Wilkes-Barre Chamber of Commerce, Junior League of Wilkes-Barre, Women's Division of the United Jewish Campaign, Rose Brader Awards, and the League of Women Voters to name just a few.

Since the early 1970's Mrs. Kluger has represented these boards of directors at educational conferences across the country, bringing her expertise in leadership back to serve her own community.

Sue is married to attorney Allan M. Kluger, president and senior partner of Hourigan, Kluger, Spohrer & Quinn. She holds a bachelor of arts from Goucher College and a masters of science from College Misericordia. Although Sue has been honored several times over the years for her community service, she would probably tell you that she takes the greatest pride in her three grown children, Elizabeth Kluger Cooper who is an attorney in Washington, DC, Joseph, an attorney in Wilkes-Barre, and Lawrence who is with Pennsylvania Blue Shield in Camp Hill, PA.

Mr. Speaker, I congratulate Sue Kline Kluger on being honored as a Distinguished Daughter of the Commonwealth of Pennsylvania and pay tribute to her commitment to her family and to the community.